

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2017-002522
Case No. 2010-CP-5743

RECEIVED
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SC Court of Appeals

Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, and
Upstate Lung & Critical Care Specialists, PC,

Appellants,

v.

Ray E. "Chuck" Thompson, and Charles M. Fogarty, MD,

Respondents.

**RECORD ON APPEAL
VOLUME IV**

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1 worked with Mr. Parham for the purpose of trying to get
2 Alliance Biomedical Research specifically added or
3 included as a plaintiff?

4 A. He admitted that he wrote in affidavit.

5 Q. I'm sorry?

6 A. He admitted that he wrote in affidavit. He admitted
7 that he had a conversation with Parham about lawsuit.

8 Q. And you admit that Alliance is not in the affidavit.

9 A. I agree, yes.

10 Q. So did he admit in his deposition that he had some
11 conversation --

12 A. Yes.

13 Q. -- or some letter with Parham wherein they discussed
14 adding Alliance Biomedical?

15 A. Yes.

16 Q. You're sure about that?

17 A. I'm not sure about that, but I admit that he had
18 discussion with Parham.

19 Q. Because when you say yes under oath, everybody in the
20 room thinks you're sure about it.

21 A. I am sure about---

22 Q. If you're not sure about it --

23 A. I'm sure---

24 Q. -- then you need to say I don't know.

25 MR. MANN:

1 One at a time.

2 EXAMINATION RESUMED BY MR. HENRIKSON:

3 A. Good point. I'm certain that Parham and Sokol have
4 discussed Alliance.

5 Q. No, no. The question was, are you certain under oath
6 that Dr. Sokol said in his deposition I spoke with
7 Parham or I communicated with Parham and suggested that
8 he get in Alliance Biomedical as a defendant? Are you
9 sure about that or not?

10 A. I am certain -- let me phrase it under oath what I am
11 certain of. I am certain that Parham and Sokol
12 discussed in affidavit to drag both entities in. I am
13 not certain to what degree Sokol knew that Alliance had
14 nothing to do with Greenville. I'm not certain of
15 that.

16 Q. And I appreciate the answer, but that wasn't the
17 question. The question was, are you certain or do you
18 have any knowledge whatsoever as to whether Dr. Sokol
19 in his deposition said in his deposition, yes, I worked
20 with Parham so I could get Alliance as a defendant?

21 A. I'm not certain, but I am certain that he discussed the
22 case on both, against Greenville and Alliance. I am
23 certain of that.

24 Q. And, yet, somehow he doesn't put Alliance in the
25 affidavit. Right?

1 A. well, you haven't seen e-mails.

2 Q. I have seen the affidavit.

3 A. But have you seen e-mails between the two?

4 Q. I have seen the affidavit.

5 A. One more time. Have you seen e-mails between the two?

6 MR. MANN:

7 Hold on.

8 EXAMINATION RESUMED BY MR. HENRIKSON:

9 Q. Here's how this works. I ask the questions, and you
10 answer them.

11 A. Okay. Yes, I have e-mails between the two, which is
12 Parham and Sokol, about Alliance.

13 Q. And you've got those?

14 A. Yes.

15 Q. Where are they?

16 A. I don't have them with me.

17 Q. I understand. I didn't ask you that. I said where are
18 they.

19 A. I have e-mails.

20 Q. Can you give them to your lawyer so he can give them to
21 me?

22 A. I can.

23 Q. Very good. So it was your contention that Dr. Sokol
24 and Mr. Parham were engaged in a scheme to extort money
25 out of Alliance Biomedical Research. Right?

1 A. My contention is entirely different than what you just
2 said.

3 Q. All right. Why don't you go to page 6 and look at
4 paragraph 31, and I'll just read that to you.

5 A. Sure.

6 Q. And you can tell me if I'm reading it right or not.
7 "Parham's letter was sent as a threat in order to
8 extort monies from the Plaintiff and GPR by
9 intentionally interfering with a business relationship
10 between GPR and GSK, an innocent third-party, in order
11 to blackmail a settlement from GPR."

12 A. But your question was Parham and Sokol. It wasn't
13 question about Parham.

14 Q. Well, you said Parham and Sokol were --

15 A. Well, you said---

16 Q. -- working together.

17 A. Well, it doesn't say anything about Sokol, does it?

18 Q. It doesn't in this one.

19 A. Well, your question about Parham and Sokol, and my
20 answer was no. But Parham, my answer is yes.

21 Q. You allege that Parham and Sokol --

22 A. Sokol has entirely different motive.

23 Q. -- had worked together in order to get Alliance
24 Biomedical sued.

25 A. It doesn't mean that they had the same -- it doesn't

1 mean that they had the same motivation. Sokol has a
2 different motivation.

3 Q. What is Sokol's motivation?

4 A. Sokol is a professional witness. Has testified in 700
5 cases. He could care less about whether it's
6 Greenville and so forth. He is selling -- in the
7 business of selling, selling his testimony and selling
8 his expertise. He couldn't -- he probably could care
9 less about that. Okay? He just signed it. All right?
10 He is in the business of collecting money from people
11 like you, Matt, from lawyers. That's his business.
12 That's what he does. Okay?

13 Q. Well, you said he only represents plaintiffs. Right?

14 A. He does. Oh, you're not representing plaintiffs. I'm
15 sorry. From people like Ellen. I'm sorry.

16 Q. No.

17 A. XYZ. Okay? That's what his business is. That's his
18 business model. Okay? So, and his business volume,
19 booming business volume. He gets 10,000 here, 15,000
20 here, 5000 here. It adds up. That's his business.
21 That's what he does. He is a professional expert
22 witness willing to say anything on the stand,
23 absolutely, in affidavit, on the stand, against anyone.
24 He could care less whether it's Greenville, whether
25 it's Alliance, whether it's anyone. He just signed it.

1 Parham signed it. Send me the check. I sign it.

2 Q. Your allegation was that Dr. Sokol was willing to say
3 anything requested by Parham regardless of its truth,
4 veracity, or medical accuracy. Correct?

5 A. That's exactly what the allegation is against Sokol.
6 It's not that he was trying to extort anything. He
7 just tried to collect for his affidavit.

8 Q. Well, he was part of the scheme, wasn't he?

9 A. Well, affidavit was part of the scheme, and he
10 initiated it. Without Sokol, no lawsuit against
11 Alliance. Okay? Never mind Greenville. Alliance
12 without his affidavit is not in. That's the direct
13 relation between Alliance and Sokol. No Sokol, no
14 lawsuit against Alliance.

15 Q. And Alliance at that time was owned by whom?

16 A. Feldman, Boscia, Clemons, Buice, Williams.

17 Q. And Greenville Pharmaceutical at that time was owned by
18 whom?

19 A. Feldman, Boscia, Clemons, and Buice.

20 Q. So the ownership is nearly identical. Is that right?

21 A. Well, it's not identical, but it's one-fourth.

22 Q. It's nearly identical except for one other person who
23 has an interest in Alliance. Is that right?

24 A. Hailey Williams is a big part of Alliance.

25 Q. I'm sure she is.

1 A. well, how is that identical?

2 Q. I didn't say that. I said nearly identical.

3 A. I object to word nearly.

4 Q. Almost? will you take almost?

5 A. But let me answer your question. I would put the word
6 commonality.

7 Q. The only difference is that one other person has an
8 ownership interest in Alliance. Right?

9 A. Huge difference.

10 Q. And what was that percentage?

11 A. Everybody has equal percentage.

12 Q. So that would be 20 percent?

13 A. well---

14 Q. If there are five people?

15 A. I already confess that I don't -- I'm not good in math,
16 but 20 percent sounds about right.

17 Q. I remember some math, and so if there are five people,
18 that's 20 percent each. Right?

19 A. I will agree with that if that's a question.

20 Q. Okay. And Alliance at that time, as I understand it,
21 was a corporation that existed only to provide legal
22 services for Greenville and other entities?

23 A. Alliance was developed in the most sophisticated
24 platform there is on the planet Earth. Alliance is
25 most important piece of entire equation.

1 Q. And was it providing legal services to Greenville
2 Pharmaceutical Research?

3 A. Yes, it did, as well, but the mission of Alliance was
4 not legal services. The mission of Alliance was
5 astronomically huge.

6 Q. Why did Alliance offer legal services? What was the
7 point of that?

8 A. Because Alliance employed a lawyer and a paralegal and
9 has ability to do so.

10 Q. Do you think the lawsuit against Alliance and
11 Greenville Pharmaceutical was an effort to extort money
12 out of one or both of those companies?

13 A. It was both. It was a frivolous lawsuit, and it was an
14 effort to extort money when we said we're not going to
15 pay.

16 Q. And it was a scheme by Parham and others to do that to
17 you?

18 A. I think it was just Parham. Parham and Smith was --
19 was incorporated by the judge. We didn't sue them.
20 The judge ruled that they must be in the lawsuit.

21 Q. And Dr. Sokol got summary judgment because there was no
22 evidence that he had Alliance in his affidavit?

23 A. It was no evidence that he wrote it, and judge
24 certainly did not allow discovery. I think we would
25 have discovered with e-mail that he was. But we

1 decided not to appeal it.

2 Q. So when you were trying to keep Dr. Sokol in and you
3 had those e-mails, did you give those to the judge?
4 Did you say, look, Judge, here are some e-mails that I
5 got that show that Dr. Sokol was trying to get Alliance
6 in? Did you show him those e-mails?

7 A. I wasn't there.

8 Q. Well, was your lawyer there?

9 A. Yes.

10 Q. Did you know it was going to happen? Did you know that
11 that hearing was going to take place?

12 A. I did.

13 Q. And did you know that the e-mails existed at that time?

14 A. I did.

15 Q. Did you make sure that the lawyer used those e-mails to
16 try to keep Dr. Sokol in?

17 A. Not my job.

18 Q. It wasn't your job?

19 A. No.

20 Q. Why wasn't it your job?

21 A. I'm not a lawyer.

22 Q. No, but you---

23 A. I employ lawyers.

24 Q. But you own the company. Right?

25 A. Yes. I am part owner of the company.

1 Q. So you don't think you had any responsibility to try to
2 make sure that your lawyer knew all of the facts and
3 had all of the information to properly represent
4 Alliance at that hearing?

5 A. I think that what I -- what I had he had.

6 Q. That doesn't answer the question. I mean, you had the
7 e-mails you said.

8 A. Yes.

9 Q. Did you give the e-mails to the lawyer?

10 A. I was involved in the decision not to appeal. I was
11 not involved -- I was not involved in the decision not
12 to pursue e-mails. Wasn't my decision.

13 Q. But you---

14 A. I'm not a lawyer.

15 Q. I know you're not a lawyer.

16 A. Matt, I'm not saying that anybody made a mistake. Did
17 you ever make a mistake as a lawyer?

18 Q. Never. I'm not asking if anyone made a mistake. What
19 I'm asking is, you had these e-mails that you're
20 telling me put Sokol completely together with Parham to
21 get Alliance in, and, yet, what I'm hearing from you is
22 those dynamite smoking-gun e-mails failed to make their
23 way into the motion for judgment, and Sokol, darn his
24 soul, gets away scot-free. Is that what you're saying?

25 MR. MANN:

1 Matt, I need to put an objection in there.

2 EXAMINATION RESUMED BY MR. HENRIKSON:

3 A. All right. I'm going to respond very, very, very
4 precisely to that. I had no idea.

5 Q. Okay. I will always accept that answer. If you say
6 you don't know, I will move on. How did Parham get
7 out?

8 A. Parham get out of what?

9 Q. Is this case still going against Parham?

10 A. Yeah.

11 Q. It's in appeal. Right?

12 A. Yeah.

13 Q. Okay. So---

14 A. He didn't get out.

15 Q. Well, summary judgment was granted against him, against
16 you.

17 A. I mean, the case against your client was dismissed on a
18 motion to dismiss.

19 Q. I'm glad you reminded me of that, but that really had
20 nothing to do with the answer to the question. Summary
21 judgment was granted against Alliance in favor of
22 whatever Smith Parham entity was a defendant. Is that
23 right?

24 A. Yeah, but that's why we have our system of justice.
25 That's why we have appellate court, Supreme Court,

1 Fourth Circuit, Supreme Court. It doesn't mean that
2 the judge is correct. I respect all of the judges.

3 Q. Didn't ask you any of that. I just asked you if they
4 got dismissed by summary judgment and you appealed it.

5 A. We had started our discussion with that. I believe I
6 said it three times.

7 Q. I think you did.

8 A. Well, so, I mean, it's not like I'm not answering your
9 question.

10 MR. MANN:

11 Shh. Nonresponsive. Move to strike.

12 EXAMINATION RESUMED BY MR. HENRIKSON:

13 Q. Does Greenville Pharmaceutical Research have medical
14 malpractice insurance?

15 A. Yes, it does.

16 Q. Really?

17 A. Yeah.

18 Q. Why?

19 A. It's umbrella. It's not just medical malpractice. It
20 covers everything. Okay? It covers many things. It
21 has malpractice insurance, as well.

22 Q. But nobody there practices medicine, according to you.
23 So why would you bother to have medical malpractice
24 insurance?

25 A. I think it's a requirement.

1 Q. Required by who?

2 A. By sponsor. For example -- for example, I have my own
3 medical malpractice. Greenville Pharmaceutical
4 Research doesn't provide medical malpractice.

5 Q. Again, we're getting off the tracks here. Why does
6 Greenville Pharmaceutical -- if there are no medical
7 practitioners in Greenville Pharmaceutical, you don't
8 have any doctors, you've got secretaries, you've got
9 bricks, you've got phones, why is there medical
10 malpractice insurance?

11 A. I don't know. I don't use it. I have my own, so I
12 don't know.

13 Q. Do all of the other entities have medical malpractice
14 insurance?

15 A. They do, but they don't provide mine.

16 Q. Didn't ask you that.

17 A. I don't know. I'm not involved with that. I don't
18 know. I have my own.

19 Q. You're an owner in every one of those things.

20 A. I have all of my own malpractice insurance.

21 Q. I got that. I got it covered. I'm asking---

22 A. So I don't know. I don't know why they have it. I
23 just don't know.

24 Q. Okay. For the other companies I didn't ask you why. I
25 just asked you do they have it.

1 A. I said they do, and I don't know why.

2 Q. Very good. How about Alliance Biomedical, does that
3 have medical malpractice insurance?

4 A. No.

5 Q. What kind of insurance does it have?

6 A. I'm not sure, but I know they don't have medical
7 malpractice insurance.

8 Q. Do they have legal malpractice insurance?

9 A. I don't know.

10 Q. You're offering legal services. Right?

11 A. I'm not sure.

12 Q. You're not sure if you're offering legal services?
13 Isn't that---

14 A. Not legal services, but I am not involved with whether
15 we provide legal malpractice. I'm sure we do, okay,
16 but I'm not sure of that.

17 Q. You're sure you do, but you're not sure of it?

18 A. I'm not sure.

19 Q. Okay.

20 A. Not involved with that type of decision-making.

21 Q. Now, in this case, you are -- one other thing I forgot
22 to ask you. The Greenville Pharmaceutical case, the
23 Bruce case, \$300,000 was paid on behalf of Greenville
24 Pharmaceutical to settle that matter. Is that right?

25 MR. MANN:

1 objection.

2 EXAMINATION RESUMED BY MR. HENRIKSON:

3 A. I'm not sure, but money was paid.

4 Q. I'm sorry?

5 A. Money was paid.

6 Q. You just don't know how much?

7 A. I'm not sure.

8 Q. But you agree that some payment was made?

9 A. Yes, I know that payment was made.

10 Q. Okay. Who represented Pharmaceutical Research in that
11 matter?

12 A. Ashby Davis.

13 Q. And who represented Alliance Biomedical in --

14 A. Milton Mann.

15 Q. Wait a second -- in the Bruce case before it was
16 dismissed?

17 A. Milton Mann.

18 Q. And Mr. Parham voluntarily dismissed Alliance. Is that
19 correct?

20 A. It was -- it was dismissed with prejudice.

21 Q. voluntarily?

22 A. After one year of litigation.

23 Q. voluntarily?

24 A. voluntarily after one year of litigation.

25 Q. voluntarily?

1 A. After one year of litigation.

2 Q. Yes or no, voluntarily?

3 A. Yes, I said that.

4 Q. I can sit here all day.

5 A. Yes. It wasn't voluntarily.

6 MR. MANN:

7 Motion to strike.

8 WITNESS:

9 Yes. Okay. Yes.

10 EXAMINATION RESUMED BY MR. HENRIKSON:

11 Q. You have offered internships to local colleges? When I
12 say "you," I mean the Alliance entities.

13 A. No.

14 Q. You don't?

15 A. No, we don't.

16 Q. Never?

17 A. Alliance does not.

18 Q. How about any of the other facilities?

19 A. Greenville did.

20 Q. Did anyone else do it?

21 A. No.

22 (Defendant's Exhibit Number 58 marked)

23 EXAMINATION RESUMED BY MR. HENRIKSON:

24 Q. Let me show you what is marked as Exhibit 58, and
25 Exhibit 58 is an e-mail from David Feldman. Who is

1 David Feldman?

2 A. Dave Feldman is my son.

3 Q. And what is his role in any of these entities?

4 A. None.

5 Q. None whatsoever?

6 A. None whatsoever.

7 Q. All right. Why was he writing an e-mail to Mr. Mann,
8 copied to you, regarding schools and internships?

9 A. It's his idea. He's a media guy. He made some
10 proposals.

11 Q. And there was a suggestion to start contacting upstate
12 schools about internship programs at their various
13 sites, and that would be the various entities that we
14 talked about previously?

15 A. We never have contacted anybody.

16 Q. Didn't ask about that. Is that what this e-mail was
17 suggesting?

18 A. Yeah, that's what he wrote. We didn't contact anyone.

19 Q. So you've never, ever done this before?

20 A. No. We haven't contacted anyone on behalf of Alliance.
21 (Defendant's Exhibit Number 59 marked)

22 EXAMINATION RESUMED BY MR. HENRIKSON:

23 Q. I'm going to show you 59. So Exhibit 59, it looks like
24 you responded to David?

25 A. Yeah.

1 Q. And he had given a you list of some schools or he had
2 listed -- to Milton he had listed USC Upstate,
3 Greenville Tech, Wofford, Furman on the previous e-
4 mail.

5 A. Right.

6 Q. And you responded, "No Bob Jones or Converse please,
7 exclamation point." Can you tell me why you didn't
8 want any interns from Bob Jones or Converse?

9 A. Because I told him that, if anything, it would be
10 Union. They're not close. One is in Greenville. One
11 is in Spartanburg. So we're already on track for them
12 for two people in Union where it was close.

13 Q. But you're saying, "No Bob Jones and no Converse
14 please, but Chester, for Union, has college and we are
15 already on track with them --

16 A. Yes.

17 Q. -- for two people"?

18 A. Union was something I would consider, but not people
19 that would be driving that far away. Bob Jones is in
20 Greenville.

21 Q. Right.

22 A. Not in Union.

23 Q. So is Greenville Tech, and you didn't say no Greenville
24 Tech people.

25 A. Yeah. I already -- I basically responded that we have

1 Union.

2 Q. And so is Furman, and you didn't say no Furman people.

3 A. No.

4 Q. Right?

5 A. No. Those were not even close. Neither Wofford. I
6 didn't say neither Furman, Wofford, Greenville Tech is
7 any good. Okay?

8 Q. And you said -- sorry?

9 A. I did not say Furman, Wofford, Greenville Tech, USC,
10 Bob Jones, Converse, none of them are any good. Okay?
11 And probably to his phone conversation. He may have
12 called, may have known somebody at Bob Jones. He has
13 lot of friends in this area. May have asked me. I
14 said no, we don't need those people. If anything, it's
15 Union. That's it. That was my response to his idea.
16 We have contact a couple of people in Union.

17 Q. I thought you said you never did any internships. So--
18 -

19 A. For Alliance, no. For Union. Union is not part of
20 Alliance.

21 Q. Well, why does your son reference the Alliance website?

22 A. Because Alliance website has links to different
23 entities. It has links. Remember, we discussed that
24 issue. I was constructing a platform. Constructing a
25 platform require name recognition. There was no legal

1 entity. It was a platform, which turned out to be I
2 was right. Don't want to pat myself on the back. That
3 was the biggest thing that we have done. Okay? A
4 platform -- was platform, which is, again,
5 collaboration with Europe, with China. You don't own
6 the sites. You collaborate. Collaboration platform to
7 me is the way to the future. You have to assemble --
8 you don't have to own sites. You have to assemble the
9 best sites in the one platform that speak in one voice.
10 That is what drives Greg, always have. Okay? It's not
11 how many sites you own. Okay? It's how many sites is
12 in your network. Okay? Network is not legal
13 ownership. It's a platform. Okay? That is assembling
14 the best of the best on one page. That is what purpose
15 of Greg Feldman, Alliance idea. That's all about it.
16 It's not about whether I own anything in Hong Kong.
17 Okay? whether I collaborate with Hong Kong. So if I
18 collaborate with Hong Kong, then according to Matt
19 Henrikson, I own Hong Kong.

20 Q. No.

21 A. I don't. Okay? But it would be on the website. I
22 hope so. That's what -- that is what the purpose of
23 Greg Feldman mind, that is what is most essential for
24 me, a platform that assemble around the globe the best
25 sites in the world.

1 Q. And I appreciate all that and I love letting witnesses
2 go, but sometimes you got to call in the border
3 collies, and I got to do that for this one.

4 A. Okay.

5 Q. I want to make sure that I just understand here that
6 when you responded, when your son said, "We need to
7 start contacting upstate schools about internship
8 programs at our sites, the Alliance website should
9 launch in the next two weeks, so I am plan to get Chris
10 and I put together a contact list for upstate schools,
11 see below, shall we divide and conquer," your response
12 to that was, "No Bob Jones or Converse please," in all
13 caps, exclamation point, "but Chester, for Union, has
14 college and we are already on track with them for two
15 people."

16 A. It was---

17 Q. Was that your response, yes or no?

18 A. Yes, but a phone conversation.

19 MR. MANN:

20 Ah-ah-ah-ah-ah.

21 WITNESS:

22 Yes. Okay.

23 MR. MANN:

24 You can answer yes or no questions yes or no.

25 WITNESS:

1 Okay. Yes. That was my response.

2 (Defendant's Exhibit Number 60 marked)

3 EXAMINATION RESUMED BY MR. HENRIKSON:

4 Q. Let me show you what is marked as Number 60. This
5 looks like the bio for Mr. Mann, and it looks like it
6 was sent from you to it looks like your son and to Mr.
7 Mann, and who's this other person?

8 A. She's a creative writer.

9 Q. And it appears to be what looks like a very, very nice
10 bio for Mr. Mann, but you say, "I took civil litigation
11 out. We need constructive approach." Can you tell me
12 what you meant by that?

13 A. Well, it's a research platform. It's not a legal
14 platform. So the research platform is not designed for
15 extraneous lawyer activities. It is designed to
16 project a platform expertise. Okay? It is designed to
17 protect a platform of collaboration around the globe.
18 Okay? So Mr. Mann had that expertise working for
19 Alliance Biomedical Research and providing services to
20 other entities. That is what I wanted to see on the
21 website.

22 Q. But some of those services involved civil litigation.
23 You just didn't want to put civil litigation on the
24 website because you wanted a constructive approach.

25 A. Yes.

1 Q. Okay. Now, you're claiming in this case attorney's
2 fees. What attorney's fees have you incurred in this
3 case?

4 A. Milton Mann.

5 Q. Tell me about that.

6 A. Ask me a question.

7 Q. Hmm?

8 A. Ask me a question.

9 Q. Okay. How much have you paid Milton Mann to represent
10 you in this lawsuit?

11 A. I don't know.

12 Q. And how are you paying Milton Mann to represent you in
13 this lawsuit?

14 A. He submit bills.

15 Q. He submits bills to you and then you pay them?

16 A. Yes. To Upstate Lung, too. It's not just me. Boscia,
17 me, and Upstate Lung.

18 (Defendant's Exhibit Number 61 marked)

19 EXAMINATION RESUMED BY MR. HENRIKSON:

20 Q. Let me show you Exhibit 61. This looks to be some kind
21 of agreement with Mr. Mann to provide legal services to
22 Alliance Biomedical Research. Is that correct?

23 A. Yes.

24 Q. And in that regard, he is paid a salary. Is that
25 right?

- 1 A. Yes.
- 2 Q. And is that his status now?
- 3 A. Yes. He's a salaried employee for Alliance Biomedical
- 4 Research.
- 5 Q. And part of his duties were to "legal advise/
6 representation for all companies involved," and that
7 included Upstate Lung and Critical Care?
- 8 A. Yes.
- 9 Q. S. Carolina Pharmaceutical Research?
- 10 A. Yes.
- 11 Q. Greenville Pharmaceutical Research?
- 12 A. Yes.
- 13 Q. Union Pharmaceutical Research?
- 14 A. Yes.
- 15 Q. Gaffney Pharmaceutical Research?
- 16 A. Yes.
- 17 Q. Alliance Biomedical Research?
- 18 A. Well, he works for Alliance Biomedical, but yes.
- 19 Q. Clinchfield?
- 20 A. Yes.
- 21 Q. FB&E?
- 22 A. Yes.
- 23 Q. What does FB&E stand for?
- 24 A. It's some real estate partnership.
- 25 Q. Feldman, Boscia, and who?

1 A. And Erb.

2 Q. Who?

3 A. Erb, E-r-b.

4 Q. Is that the company that we were trying to get the name
5 of earlier?

6 A. One of the real estate partnership, but the list is
7 much longer now. It's dated.

8 Q. And is there a more recent version of this which would
9 include 2010 through 2016?

10 A. No.

11 Q. Does this apply in 2010?

12 A. Don't know. It's not signed, so I don't know.

13 Q. This came from Mr. Mann's file. Is there some document
14 that you're aware of between Mr. Mann and any Greg
15 Feldman entity that indicates how he is paid?

16 A. I'm not aware of it.

17 Q. And when did Mr. Mann undertake this particular
18 relationship with Alliance Biomedical Research --

19 A. He came on board---

20 Q. -- full-time?

21 A. He came on board in November 2007, I believe.

22 Q. And at that time, was he also representing you or
23 Upstate or Dr. Boscia or Dr. Shantha in the Casey
24 matter?

25 A. No. He represented me -- not me -- S. Carolina against

1 Dr. Fogarty, but he worked for another firm. It had
2 nothing to do with us at the time.

3 (Defendant's Exhibit Number 62 marked)

4 EXAMINATION RESUMED BY MR. HENRIKSON:

5 Q. Let me show you 62. Is this an e-mail from you to
6 Spencer King wherein you're advising him that Mr. Mann
7 has become an attorney for Allied and he might be
8 involved with the malpractice action?

9 A. Yes.

10 Q. And, in fact, he did ultimately become involved in the
11 malpractice action?

12 A. Yes, he did.

13 Q. On whose behalf?

14 A. On behalf of Upstate Lung, Joe Boscia, and Greg
15 Feldman.

16 Q. And how did he bill for that?

17 A. Sent me bills.

18 Q. And you have those bills?

19 A. I don't know, but I'm sure we do.

20 Q. And did you advise Mr. King that Mr. Mann was going to
21 continue to function as personal counsel to Upstate
22 Lung and the individual defendants?

23 A. I did.

24 Q. And this is a full-time position for Mr. Mann?

25 A. Yes.

1 Q. And he was providing advice and representation for it
2 looks like about 11 or 12 companies?

3 A. Well, they grew up to that. Initially it wasn't that
4 many.

5 Q. Initially it was seven or eight?

6 A. Well, less than that.

7 Q. Whatever is in the list in 61?

8 A. Yeah.

9 Q. Did you ever have any discussions with Mr. Mann
10 regarding the expenses for a case that you may bring
11 against the current defendants in this case?

12 A. I never have.

13 Q. You've never talked about that?

14 A. No.

15 (Defendant's Exhibit Number 63 marked)

16 EXAMINATION RESUMED BY MR. HENRIKSON:

17 Q. Let me show you 63. This is an e-mail that's dated
18 June 30, 2009 from you to Mr. Mann. Is that correct?

19 A. Yes.

20 Q. And the subject is CMF Funding. What does CMF stand
21 for?

22 A. Charles Michael, I believe -- well, it's Dr. Fogarty.

23 Q. So you're talking about Dr. Fogarty funding. Is that
24 right?

25 A. The lawsuit, yes.

1 Q. So number one says, "33-33-25 percent, if we ever win"?

2 A. Right.

3 Q. What does that mean?

4 A. Well, this is not something I recall. So let me --
5 three defendants, Upstate Lung, Greg Feldman, and Joe
6 Boscia. It was also Shantha later on, but three
7 defendants. "We fund with money, but partially only,
8 through payments to Alliance," which he works for
9 Alliance. "You fund with your time. Credit card, we
10 need credit card, Feldman, Boscia, Milton," to pay for
11 the expenses of litigation. "Ann Coggin gets the
12 glimpse of charges, restaurants/resorts. She is not
13 part of our relationship, where a lot is 'understood'
14 not in stone and she doesn't need to be." So not in
15 stone. Okay? And the three defendants.

16 Q. So you were going to have you and Dr. Boscia -- I mean,
17 Dr. Shantha wasn't in your group.

18 A. Yeah. Upstate Lung, I believe.

19 Q. Okay. And in this case, you were going to have Mr.
20 Mann contribute to the credit card but not participate
21 in the percentage?

22 A. I'm not sure.

23 Q. No?

24 A. I'm not sure. I don't have any agreement.

25 Q. You don't have an agreement?

1 A. No.

2 Q. You were discussing this with Mr. Mann?

3 A. Right. It's a discussion, but there's no agreement.

4 Q. Okay. Was there ever an agreement?

5 A. No.

6 Q. How about the language that says, I think we have a
7 gentlemen's agreement?

8 A. Yeah. It's---

9 Q. Is that an agreement?

10 A. I don't have agreement.

11 Q. You don't have a written agreement signed by all the
12 parties?

13 A. I don't have written agreement.

14 Q. But you have an e-mail that says, I think we have an
15 agreement, and the response is, "I'm fine with that,"
16 from Mr. Mann. Correct?

17 A. That's correct.

18 (Defendant's Exhibit Number 64 marked)

19 EXAMINATION RESUMED BY MR. HENRIKSON:

20 Q. Let me show you Exhibit 64. These appear to be
21 invoices submitted by Milton Mann, Jr. to Alliance
22 Biomedical Research, LLC. Is that correct?

23 A. Yes.

24 Q. And the initial invoice, the first one I see here is
25 retainer for medical malpractice defense legal fees,

1 and that was \$40,000. Is that right?

2 A. Okay.

3 Q. And this is a case where you're being represented by
4 Mr. King initially. And when I say "you," I mean
5 Upstate, Dr. Feldman, and Dr. Boscia. And then after
6 Dr. Shantha gets out of the case, then you're also
7 being represented by Mr. Gunn. Correct?

8 A. No.

9 Q. Who did Mr. Gunn represent?

10 A. Joe Boscia.

11 Q. And so there was a 40,000-dollar retainer paid directly
12 to Mr. Mann?

13 A. To Alliance.

14 Q. To Alliance?

15 A. Yeah, Alliance Biomedical Research. He works for
16 Alliance. Alliance bill us.

17 Q. But this was for work that Mr. Mann was doing. Right?

18 A. Yeah. Alliance Biomedical Research, LLC provide legal
19 services to the several entities, Upstate Lung being
20 one of them.

21 Q. And there's no itemization for that, is there?

22 A. I don't see it.

23 Q. And then the next invoice starts at 319. It looks like
24 a 67,000-dollar invoice from January through August of
25 2010, which would include the trial, I think. Is that

1 right?

2 A. what day we talking about?

3 Q. we're talking about---

4 A. January through August?

5 Q. January through August is what it says.

6 A. Yes.

7 Q. So did Upstate Lung and Critical Care Specialists, PC
8 write a check for \$40,000 to Alliance Biomedical
9 Research?

10 A. I'm certain we did.

11 Q. And that would be somewhere in the Upstate Lung
12 accounting, if that happened?

13 A. I'm sure.

14 Q. Did you sign it? Who signs those checks?

15 A. All partners can sign it. I can sign it. I don't
16 remember which particular check I signed. Joe Boscia
17 can sign. David Erb can sign. No others can sign.
18 So, but it would be signed by somebody. So it would be
19 very easy track it down. The accountant would have it.

20 Q. We might get to that point.

21 A. Sure.

22 Q. So I make certain, Alliance Biomedical would have
23 received a check for \$40,000, and did Mr. Mann have an
24 interest in Alliance Biomedical Research at that point?

25 A. No.

1 Q. Mr. Mann was being paid a salary?

2 A. Salary plus bonuses.

3 Q. What was the salary at that time in 2010?

4 A. I believe it was 50,000, but I'm not sure. It may have
5 changed.

6 Q. And what were the bonuses based on?

7 A. I think that for time put in. This is on top of
8 salary, but I'm not -- I'm going to follow your advice.
9 I don't know.

10 Q. So when we look, we'll find a check for \$67,000 from
11 Upstate Lung to Alliance Biomedical --

12 A. Yes.

13 Q. -- for that?

14 A. Yes.

15 Q. And then the next one looks like November '07, which I
16 think is when you said Mr. Mann started?

17 A. Right.

18 Q. And it looks like only some of this, only 2.75 hours
19 has to do with the medical malpractice claim. Is that
20 correct?

21 A. He wasn't really involved until much later. That's
22 correct.

23 Q. And it looks like there is for December 2007, it looks
24 like---

25 A. What I'm looking at?

1 Q. Right now you're looking at---

2 A. Give me the number.

3 Q. 310.

4 A. 310. I'm looking at it now.

5 Q. I'm not sure what period this is for. It says November
6 '07, there's a charge for meeting with client re:
7 malicious prosecution claims, review e-mails regarding
8 same. And that was 1.75 entry. Do you know when that
9 occurred?

10 A. No.

11 Q. Did it occur sometime prior to December 2007?

12 A. I'm not sure.

13 Q. Well, it's on the invoice for December 2007. Is that
14 right?

15 A. Yes.

16 Q. Would it have occurred during that month or prior to
17 that month?

18 A. Prior to the month.

19 Q. So there would have been a 9950-dollar payment from
20 Upstate Lung to Alliance Biomedical?

21 A. Yes.

22 Q. And then 314, this doesn't appear to have a date.
23 There is a January retainer for medical malpractice
24 defense legal fees per Drs. Boscia and Feldman.

25 A. But check will contain the date.

1 Q. It says January to March, but we don't know what year,
2 but the check will say that?

3 A. Yes.

4 Q. And it looks like this might be '08? December '07 is
5 the one right before it. So '08? You're talking about
6 January and February of maybe '08?

7 A. Yeah. Yes.

8 Q. January through March retainer, looks like 6,000 was
9 paid, but there's no itemization of what was done. Is
10 that right?

11 A. I don't see it.

12 Q. The next one is 316, and it says legal services. And
13 the sheet before it says January through March, '09.
14 Retainer for medical malpractice---

15 A. I'm sorry, Matt. We're looking at 316?

16 Q. Yes.

17 A. Okay.

18 Q. Which is a retainer for medical malpractice defense
19 legal fees for August to December '09. Includes trial
20 prep for October, depositions, client meetings,
21 meetings with insurance carrier, meetings with co-
22 counsel, review of depositions, some other things, and
23 there's a 57,300-dollar amount. Is that correct?

24 A. What, we're looking at 316?

25 Q. 316.

1 A. That's correct.

2 Q. Then there's a "less professional discount." Can you
3 tell me with that refers to?

4 A. Don't know.

5 Q. You have no idea?

6 A. No.

7 Q. So the bill was cut in half, and you don't know why?

8 A. No, I don't.

9 Q. All right. And then there's August through December,
10 2009. The next page was 318.

11 A. Okay.

12 Q. If there is legal services for January through August,
13 and this looks like of 2010, and this looks a little
14 bit different than the invoice that I thought we saw
15 previously for that at page 319.

16 A. Okay. I'm looking at 318. After that, there is a
17 change in numbers. After that they say Mann 010373.
18 The number that I have 318, and then the number
19 changing.

20 Q. All right. Go to 319, please, and put your finger in
21 it.

22 A. I don't have 318.

23 Q. Yeah, you do.

24 A. No, I don't. 318, and then it goes to some different
25 number.

1 MR. MANN:

2 Same for me.

3 EXAMINATION RESUMED BY MR. HENRIKSON:

4 Q. So the one that is 319 is a 67,000-dollar charge
5 January through August 2010.

6 A. Yes.

7 Q. Then if we go to 318, which is further on, it says
8 legal services for January through August 2010.

9 A. Wait a second. 318 is the last one before the numbers
10 are changing. Right?

11 Q. Mm-hmm.

12 A. Yes?

13 Q. I think it is.

14 A. Let me look.

15 Q. Here's my 318.

16 A. Yeah. Okay.

17 Q. There appears to be some kind of discount there. Do
18 you have any idea what that's for?

19 A. No.

20 Q. Do you know why there would be two different invoices
21 for that same period of time?

22 A. I don't know.

23 Q. The next one is Mann 373, and that has May through
24 December 2009?

25 A. Mm-hmm. Yes.

1 Q. And there is some -- well, do you see any references to
2 the medical malpractice case here?

3 A. Now, you ask me a question, because I don't know. I've
4 never seen them. So you point out to me. If it is, I
5 don't see it.

6 Q. I don't see one.

7 A. Yeah. Maybe it is, but I don't know.

8 Q. And the next one is Mann 374, and that doesn't appear
9 to have any --

10 A. I don't see it.

11 Q. -- anything to do with the malpractice action. And
12 then back to Mann 375, the next one, again, it looks
13 like this is another one that has retainer for medical
14 malpractice defense. This looks like a repeat. There
15 was the discount that you weren't sure about.

16 A. I'm not sure about it.

17 Q. That appears to be a duplication. The next one January
18 to December '09 doesn't have anything on the medical
19 malpractice---

20 A. Which one? Give me the number, Matt, please.

21 Q. Sorry. It's Mann 376.

22 A. Yeah, I see that, but I don't see anything related to
23 malpractice.

24 Q. The next one is Mann 372?

25 A. Okay.

1 Q. Nothing there?

2 A. Okay.

3 Q. Although it talks about Chester building issues,
4 including foreclosure, appraisal, and purchase. Can
5 you tell me what that refers to?

6 A. Not sure. It's some kind of purchase, real estate.

7 Q. So Mr. Mann was doing work for, that's right, all the
8 real estate companies, as well?

9 A. Yes.

10 Q. Mann 368, nothing about the malpractice in there. Is
11 that correct?

12 A. I don't see it.

13 Q. As we go through the rest of these, I'm not seeing
14 anything else that has anything to do with the---

15 A. I take your word for it.

16 Q. Other than that which apparently there were some
17 duplications.

18 A. Is there any question about statement?

19 Q. Well, the very last page, let's go to the very last
20 page, Mann 881.

21 A. 316?

22 Q. 881, very last page.

23 A. Show it to me here where that is.

24 Q. Very last page.

25 A. Okay.

1 Q. And that is legal services for Dr. Feldman and Boscia
2 regarding Casey litigation, which includes travel to
3 Charleston for medical records. Can you tell me what
4 that refers to?

5 A. Not sure.

6 Q. Mr. Mann was charging for going to Charleston to get
7 medical records?

8 A. Apparently.

9 Q. And, again, this is a 30,000-dollar amount, and then
10 there's "less professional discount," and there's some
11 discount there for 9600, and then "less retainer paid
12 to date," and there's some discount there. Did you
13 have anything to do with preparing or receiving or
14 processing any of these invoices?

15 A. I had nothing to do with it.

16 Q. Who would have prepared or who would have processed
17 these at Upstate Lung and Critical Care?

18 A. The bills?

19 Q. Yeah.

20 A. Ann Coggin.

21 Q. Is she still there?

22 A. Yes.

23 Q. I did miss one. Let me go back to 308.

24 A. 308? Hold on. Let me find it. Mine starts on 312 for
25 some reason. Can you guys find it for me?

1 Q. It's in November '07, and it just has a reference to
2 the med mal claim in addition to some other it looks
3 like employment work. Is that correct?

4 A. Yes.

5 Q. Okay. Let's take just a short break, and then we can
6 move on quickly, if that's all right with everybody.

7 (Off the Record; 4:25 -- 4:55 p.m.)

8 (The deposition was suspended at 4:53 p.m. October 18, 2016
9 and resumed at 1:15 p.m. October 21, 2016.)

10 EXAMINATION RESUMED BY MR. HENRIKSON:

11 Q. Dr. Feldman, it's good to see you again this afternoon.
12 Tell me, if you will, about the corporate structure of
13 Upstate Lung.

14 A. I don't know what I can tell you other than it's owned
15 by myself, Boscia, Siddiqui, Abboy, and De La Cruz, six
16 physicians.

17 Q. Total of six?

18 A. Yes. There's two other doctors -- I mean, we're a
19 total group of ten, but those are six owners.

20 Q. And there are only six owners, and they're all
21 physicians?

22 A. They're all doctors.

23 Q. Okay. All doctors.

24 A. Yes.

25 Q. And is it an LLC, a PA, an Inc.? Do you know?

1 A. I'm not sure. I think it's PC. The name suggests it's
2 PC, professional corporation.

3 Q. And other than the owners, do any of the owners have
4 any titled positions within the corporation, such as
5 president or CEO or anything like that?

6 A. I'm not -- I'm not sure.

7 Q. Is there an ownership based on shares of stock?

8 A. No. It's equal.

9 Q. Everything is equal. So the six owners each own the
10 same percentage of the business?

11 A. Yes.

12 Q. Of the six, is there a more senior owner or a senior
13 partner?

14 A. I am the senior partner by far, but not -- but
15 ownership is equal.

16 Q. And understanding that ownership is equal, tell me how
17 you are senior partner by far.

18 A. I came -- I started the whole thing. I started in year
19 2000. Some of them were in high school. I mean,
20 that's what's senior that I attribute to. That's what
21 you're asking. Right?

22 Q. Yeah. That's what senior implies.

23 A. I'm senior partner just by being the oldest, and some
24 of us started the company.

25 Q. And as senior partner, are you sort of the leader of

1 the group?

2 A. Yes. You can say that I'm the leader.

3 Q. And do you make decisions on behalf of Upstate Lung?

4 A. Depends. Depends how routine it is. Generally, if
5 it's a serious decision, it has to be made by
6 everybody.

7 Q. But let me ask you this. Do you have annual meetings
8 of owners or shareholders to discuss specifically the
9 business of the corporation?

10 A. We don't have annual meeting, but we do have meetings
11 that we discuss.

12 Q. That wasn't a complete sentence. Do you want to finish
13 that thought?

14 A. I finished it.

15 Q. Okay. You have meetings --

16 A. We have meetings to discuss.

17 Q. -- to discuss what?

18 A. You asked when there's anything serious to discuss, we
19 have a meeting to discuss if anything is serious.

20 Q. So if anything comes up, then you have a meeting to
21 discuss it?

22 A. Yes.

23 Q. But you don't have meetings sort of annually or on a
24 regular basis?

25 A. No, we don't.

1 Q. Okay. Upstate Lung is a South Carolina corporation,
2 whatever form it may be? It was formed in South
3 Carolina?

4 A. Yes.

5 Q. And it's governed by the laws of the state of South
6 Carolina?

7 A. Yes.

8 Q. Let me ask you this. Since nine o'clock Monday morning
9 of this week, please tell me who you have had any
10 contact with, either by text, telephone, face-to-face,
11 e-mail, any kind of contact with where anything
12 whatsoever regarding the Casey case or this lawsuit or
13 anything related in any way to those matters was
14 referenced or mentioned at all.

15 MR. MANN:

16 Objection.

17 EXAMINATION RESUMED BY MR. HENRIKSON:

18 A. I sent e-mail to my attorney, Shantha, and Boscia. I
19 talked to Boscia on the phone. I talked to Milton on
20 the phone, although has nothing to do with anything,
21 but this is it.

22 Q. So you sent e-mails to Dr. Shantha and to Dr. Boscia?

23 A. I sure did.

24 Q. When did you send e-mails to Dr. Shantha? And, again,
25 our time frame is from Monday of this week at 9:00 a.m.

1 forward.

2 A. If I remember, it was wednesday morning, I think, if I
3 recall, like maybe 10 o'clock wednesday.

4 Q. And did you have any other contact with Dr. Shantha
5 this week other than send him some e-mails?

6 A. None.

7 Q. And when did you send e-mails to Dr. Boscia?

8 A. Same time. wednesday, I think it was.

9 Q. wednesday?

10 A. Yes.

11 Q. And did you have any contact with Dr. Boscia on
12 wednesday other than sending him those e-mails?

13 A. We had talked on the phone. When was my break in
14 deposition? When did we finish deposition? Was it
15 Tuesday?

16 Q. I think so.

17 A. Yeah. I talked to him Tuesday, Tuesday night.

18 Q. All right. Let me get to that in a second. So did you
19 talk to him wednesday on the phone?

20 A. No.

21 Q. So did you talk to him Monday night on the phone?

22 A. No. I have either Monday or Tuesday. I had to call
23 him every day because of patient.

24 Q. So let's go back. Did you talk to him Monday on the
25 phone, at any time on Monday?

1 A. I don't remember. I talk to him several times after
2 the depositions, because I need to discuss with him
3 patients. He covered for my patients, so I need to
4 discuss. So I may have called him Monday or Tuesday or
5 I may have called him Tuesday, but I don't remember.

6 Q. Let me ask you this. Between Monday and Tuesday, is it
7 an either/or? Did you call him one time and it was
8 either Monday or Tuesday, or could you have called him
9 Monday and Tuesday?

10 A. I could have called him either Monday or Tuesday or
11 both days.

12 Q. Okay. And on either of those days, on Monday or on
13 Tuesday, whether or not there's a phone call on one or
14 both of those days, did you at any time during those
15 phone calls have any conversation with Dr. Boscia that
16 referred to, related to, or touched in any way on the
17 Casey case or on this litigation?

18 A. Yeah, I did.

19 Q. And that was which nights?

20 A. Don't remember.

21 Q. Would you have talked to him about this case or the
22 Casey case on both occasions that you talked to him?

23 A. I could have. But mostly we talked about -- it's a
24 massive practice.

25 Q. And we're talking about a couple days ago.

1 A. Right. So focus of conversation, okay, the focus of
2 conversation is sign out. Okay? I have to cover him
3 the following day, which was wednesday. He needed to
4 sign out to me who I need to do, what procedures I need
5 to do, who is sick, who's not sick, and things like
6 that. Okay? And you asked me the question did I
7 discuss anything related to these matters, we did, but
8 I don't remember what day specifically, because we
9 mostly were talking about pretty significant medical
10 business. Okay? That he needed to cover, I needed to
11 cover him, what I need to cover, what I need to do,
12 who's coming, who is sick, you know, stuff like that.

13 Q. Right, and I appreciate---

14 A. So that -- you know, you asked me a question whether
15 anything was touched upon this litigation, yes.

16 Q. And you're not sure if that was Monday night, Tuesday
17 night, or both nights?

18 A. Correct.

19 Q. And when you e-mailed him on wednesday, you were
20 covering his patients for him while he was giving his
21 deposition. Correct?

22 A. He was scheduled to have that deposition. Okay? But
23 in my mind, I sent something, because I wasn't remember
24 was it in my box or what, okay, that I brought
25 something. I wasn't -- I didn't remember did I put it

1 in or not. That's what I sent.

2 Q. Let me ask the question again. Wednesday you were
3 covering his patients because you knew that he was here
4 giving a deposition. Correct?

5 A. That would be incorrect. I was covering my patient and
6 his patient.

7 Q. All right. Let me try that again. On Monday, in
8 addition to your regular duties and patient care, you
9 were also covering his patients -- on wednesdays.
10 Sorry. On Wednesday. Is that right?

11 A. I was covering the problems, not all his patients.

12 Q. Obviously not all of his patients.

13 A. I was covering the problems for him, yes, but I was
14 mostly covering my patients.

15 Q. Understood. But to the extent that you were covering
16 any patients for Dr. Boscia on Wednesday of this week,
17 you understood that the reason you were doing that and
18 the reason that Dr. Boscia was not doing that was
19 because Dr. Boscia was here where we are right now
20 giving a deposition in this case. Isn't that correct?

21 A. Matt, I'm going to ask you to reword your question.
22 What is the question?

23 Q. The question is---

24 A. Because you made a statement that long.

25 MR. MANN:

1 Wait, wait, wait.

2 EXAMINATION RESUMED BY MR. HENRIKSON:

3 Q. And that's fine. I can make a statement as long as I
4 like.

5 A. You do it, but what's the question?

6 MR. MANN:

7 Dr. Feldman, if you'll let him ask his questions
8 and give him answers, we will not be here till
9 midnight.

10 WITNESS:

11 well, I hope not.

12 MR. MANN:

13 And I have no desire to be here past 5 o'clock.
14 So please answer the man's questions.

15 WITNESS:

16 Do I have a right to qualify the question?

17 MR. MANN:

18 No. No, you don't. If you say I don't understand
19 the question --

20 WITNESS:

21 I don't understand the question.

22 MR. MANN:

23 -- that's all you need to say.

24 EXAMINATION RESUMED BY MR. HENRIKSON:

25 Q. Let me restate the question. I'm talking about

1 wednesday, which is two days ago this week. All right?

2 A. Right.

3 Q. So on wednesday, which I think is the 19th, you were
4 covering your patients and you were also covering some
5 patients on behalf of Dr. Boscia. Is that correct?

6 A. No.

7 Q. You were not covering any of Dr. Boscia's patients on
8 wednesday?

9 A. I did not. If problems would arise, I would, but no
10 problem came up.

11 Q. So there was nothing about any patient of Dr. Boscia's
12 on wednesday that you had to deal with. Is that your
13 testimony?

14 A. Yes, right.

15 Q. That is correct?

16 A. That's correct.

17 Q. Okay. And so there would have been no need for you to
18 contact Dr. Boscia on wednesday about any of his
19 patients?

20 A. No.

21 Q. Okay. You knew, however, that Dr. Boscia was not in
22 the office where he ordinarily would have been on
23 wednesday. Correct?

24 A. I did.

25 Q. And you knew that he was not there because he was here

1 giving a deposition in this case. Is that---

2 A. I knew that.

3 Q. So when you e-mailed him the things that you did on
4 wednesday, you understood that you were e-mailing them
5 to him at a time when he was in this room giving a
6 deposition and he was under oath. Isn't that correct?

7 A. Yes.

8 Q. Okay. Did you have any contact -- and if I asked you
9 this before, I apologize. Did you have any contact
10 other than e-mails that you sent to Dr. Shantha --

11 A. No.

12 Q. -- any time this week since Monday?

13 MR. MANN:

14 wait till he finishes.

15 EXAMINATION RESUMED BY MR. HENRIKSON:

16 A. No.

17 Q. Did you send Dr. Boscia any e-mails on Monday or
18 Tuesday?

19 A. I did not.

20 Q. Or any text messages?

21 A. I did not.

22 Q. When you did send e-mails to Dr. Boscia on wednesday,
23 did you also send any text messages to him?

24 A. No.

25 Q. When you sent e-mails to Dr. Boscia on wednesday, did

1 he respond in any way?

2 A. He called me.

3 Q. He called you?

4 A. Yes. He called me Monday night or Tuesday night or
5 both nights.

6 Q. Well, that's three nights. Did he call you Monday
7 night?

8 A. We discussed patient on several occasions. It could be
9 both Monday, could be Tuesday, could be Wednesday.
10 When was his deposition? Was his deposition Wednesday?

11 Q. Wednesday.

12 A. Yeah, we discussed Wednesday patients now what he has
13 to cover for me, I mean what has happened while he was
14 out. So I will say we discussed Monday, Tuesday, and
15 Wednesday night. That will be -- that will be most
16 likely than not, because we discussed things every day.

17 Q. And I think you've already told me that either Monday
18 and/or Tuesday night you discussed matters with him
19 touching on the Casey case or on this case.

20 A. We did.

21 Q. And then how about Wednesday, at any time on Wednesday
22 did you discuss with Dr. Boscia anything having to do
23 with this case or the Casey case?

24 A. We discussed the case, whether we discussed Wednesday,
25 Tuesday, or Monday I cannot tell you. Mostly we

1 discussed patients.

2 Q. And on Wednesday -- well, do you recall talking to him
3 on the phone at any time Wednesday prior to his
4 deposition being over?

5 A. I did not.

6 Q. You did not?

7 A. Did not.

8 Q. Is your testimony then that if you talked to him
9 Wednesday, it would have been after his deposition was
10 over?

11 A. Most likely.

12 Q. Most likely? Yes or no?

13 A. Most likely.

14 Q. Well, that leaves the door open. Did you talk to him
15 during his deposition or did you talk to him after his
16 deposition?

17 A. I most certainly remember talking to him after the
18 deposition. I have no recollection of talking to him
19 during the deposition at all.

20 Q. And how long did you talk to him on Wednesday?

21 A. A few minutes. Maybe five minutes.

22 Q. And that was to tell him nothing arose on any of your
23 patients today?

24 A. Pretty much. But -- but you asked me question whether
25 we discussed the case. We have, but that's the answer.

1 Q. I'm sorry?

2 A. Mostly we talk about the patients.

3 Q. Okay. Since Monday at 9 o'clock of this week, have you
4 had any e-mails or text messages that you either sent
5 to or you received from Mr. Mann or any person in Mr.
6 Mann's office?

7 MR. MANN:

8 Objection.

9 EXAMINATION RESUMED BY MR. HENRIKSON:

10 Q. You can answer. Let me just ask you, your attorney has
11 advised me that as for anything between Monday morning
12 at 9 o'clock and now he is completely and totally
13 waiving the attorney-client privilege. So you can
14 answer the question.

15 MR. MANN:

16 Wait, wait, wait. Hold on a second. Recommending
17 that Dr. Feldman waives the attorney-client privilege.
18 I think it's his to waive.

19 WITNESS:

20 Yeah. Thank you. We discussed care of---

21 MR. MANN:

22 Wait, wait, wait. You have to answer his yes or
23 no question.

24 WITNESS:

25 I have no problem with it.

1 MR. MANN:

2 Thank you.

3 EXAMINATION RESUMED BY MR. HENRIKSON:

4 A. Not a problem at all. But I'm just thinking that we,
5 me and Mann exchanged e-mails about Care Plus, real
6 estate related to the North Grove. There's several
7 very important issues that come up. We have not
8 exchanged any e-mails about Casey case.

9 Q. And that's true back to Monday morning at 9:00 a.m.?

10 A. Yes. I sent -- with exception to e-mail that I already
11 mentioned that I sent to Shantha, Mann, and Boscia.

12 Q. Right.

13 A. That's it.

14 Q. So other than those, which were also sent either to
15 Shantha or Boscia, and those were copied to Mr. Mann,
16 you have not sent --

17 A. No.

18 Q. -- to or received from Mr. Mann or anyone in his office
19 any e-mails or text messages?

20 A. I received a lot of e-mails, but nothing that has to do
21 with Casey.

22 Q. Relative to the Casey case or this case.

23 A. Neither text message or e-mails.

24 Q. Okay. Since Monday morning at 9:00 a.m., have you had
25 any face-to-face contact with Mr. Mann or any person in

1 his office where there was any discussion about the
2 Casey lawsuit or this lawsuit?

3 A. No, did not.

4 Q. Since Monday morning at 9 o'clock of this week, have
5 you had any phone calls with Mr. Mann or anyone in Mr.
6 Mann's office which relate to or referenced in any way
7 the Casey case or this litigation?

8 A. I did not.

9 Q. Other than Dr. Shantha, Dr. Boscia, and Mr. Mann or
10 anyone in Mr. Mann's office, since Monday of this week
11 at 9:00 a.m., have you discussed anything related to or
12 referencing the Casey case or this case with any other
13 person?

14 A. I saw Boscia this morning in my office, and we
15 exchanged a few things just this morning.

16 Q. And this being Thursday morning. Correct?

17 A. Today is Friday.

18 Q. Friday. I'm sorry. Today's Friday, yes.

19 A. Yeah. We been in office, me and Boscia, this morning,
20 and we sit -- our desks are just like that, you and me,
21 just like that, that same distance.

22 Q. Okay. Prior to this morning, going back to Monday at
23 9:00 a.m. of this week, did you have any face-to-face
24 meetings with Dr. Boscia at any time between Monday
25 morning at 9 o'clock and this morning when you had your

1 meeting with Dr. Boscia?

2 A. Absolutely not.

3 Q. And this morning, what time did you meet with Dr.
4 Boscia?

5 A. I didn't meet with him. We sit in front, just like
6 that. It was around maybe 11:00.

7 Q. Today?

8 A. Today.

9 Q. And what conversations did you have with Dr. Boscia
10 today about the Casey case or this litigation?

11 A. Can tell you verbatim. It was very brief. I can tell
12 you. Okay? If you ask me what I told him today, I can
13 tell you, but it's not very pleasant.

14 Q. That's kind of the question I asked. What
15 conversations did you have with Dr. Boscia today?

16 A. All right, I can tell you, but don't get upset.

17 Q. I'm not going to get upset.

18 A. All right. I told him that -- we have a brief
19 discussion that both you and Ellen most certainly
20 hiding the information from the court. That was the
21 extent of the discussion.

22 Q. And did Dr. Boscia say anything to you during that
23 discussion?

24 A. Pretty much no doubt. That's it.

25 Q. He said nothing other than the words no doubt?

1 A. Yeah, nothing else.

2 Q. And what were your exact words to Dr. Boscia this
3 morning when you met with him?

4 A. Just told you that just a minute ago. My exact words
5 is that these people, Ellen Cheek and Matt Henrikson,
6 are engaging in hiding stuff and deceiving the court.

7 Q. And in terms of how long was that conversation with Dr.
8 Boscia that related to the Casey case or this
9 litigation?

10 A. About a minute.

11 Q. One minute?

12 A. Uh-huh.

13 Q. And how long were y'all together in the same proximity
14 at your desk from you to me today?

15 A. We weren't seated at the desk. For example, today I
16 saw about 20 people. He probably saw more, because I
17 had business to attend which has nothing to do with
18 Casey between 9:00 and 10:00. I came to the office
19 late today. Okay? Maybe -- and between now and
20 deposition I was overwhelmed. Okay? I probably did
21 not have more -- even more than a minute to talk to
22 him, and we go from room to room. It's not like we're
23 sitting and discussing stuff. Okay? We have patients
24 lined up, and you have to go, and now we say medical
25 records and so forth. So that's what I was doing all

1 morning. I haven't been in office. I was at a meeting
2 in Greenville between 9:00 and 10:00, and then I had to
3 drive back to the office. I think I arrived about
4 10:35, and then I have a lot of things to do, and I saw
5 Boscia very briefly, and you asked me what the exchange
6 was, and I told you what the exchange was. I also told
7 you it may be unpleasant to you, but that's what it
8 was.

9 Q. Doesn't bother me.

10 A. All right.

11 Q. So with respect to the conversation you had with Dr.
12 Boscia, I want to make sure I'm clear about a couple
13 things. That's the only face-to-face conference or
14 meeting or get-together or occurrence where y'all were
15 together face-to-face since Monday morning at 9:00 a.m.
16 Is that right?

17 A. That's it.

18 Q. And that lasted about a minute?

19 A. Probably about a minute.

20 Q. I'm sorry?

21 A. About a minute, about one minute. I think so.

22 Q. And you have fully described to me every word that you
23 said to him and every word that he said to you during
24 that one-minute conversation this morning at 11
25 o'clock?

1 A. Yeah, that was pretty much extent of exchange.

2 Q. All right. Pretty much extent of the exchange means
3 there might be something else out there. I need to
4 know everything that you remember about that exchange.

5 A. Well, maybe you need to know, but I'm not a robot. I
6 gave you verbatim what I remember.

7 Q. Can you remember anything else other than what you've
8 said today?

9 A. No, I don't.

10 Q. All right. And so, to be sure, other than what you've
11 testified to just now about persons with whom you have
12 had any contact through any medium whatsoever since
13 Monday morning at 9 o'clock of this week would be what
14 you testified to about Dr. Shantha, Dr. Boscia, and Mr.
15 Mann or anyone from his office. Correct?

16 A. Absolutely.

17 Q. You have not had any contact through any medium
18 whatsoever with any other person in the world that
19 touched on a reference to or had anything to do with
20 the Casey case or this litigation.

21 A. I did not.

22 Q. Is that correct?

23 A. That's correct.

24 Q. Okay. If you can please go to, I think it's Exhibit
25 63? You've got all the exhibits in front of you. If

1 you'd like us to find 63 for you.

2 A. Please do.

3 Q. And it's not 63. I'm sorry about that.

4 A. This is 63.

5 Q. Okay, and that's my mistake. You can put that one
6 back. I apologize, Dr. Feldman. I'm having trouble
7 locating this one thing I'm trying to get. I
8 appreciate your patience. It was Dr. Feldman's
9 deposition in the Greenville case. Exhibit 56. I'm
10 sorry. Actually, this is the Alliance Biomedical
11 Research case, not the Greenville case. This is the
12 one that was pending in Pickens County. Do you recall
13 that?

14 A. I do.

15 Q. Do you recall in your deposition that you referred to
16 this case as a scheme that Mr. Parham had concocted to
17 extort money out of Alliance Biomedical and/or
18 Greenville Pharmaceutical Research?

19 A. Yes.

20 Q. And what was the extortion that was represented to you
21 in that case?

22 A. Threatened to write letters to one of our sponsors.

23 Q. Hadn't they already done that?

24 A. Who they?

25 Q. Mr. Parham or anyone on his behalf.

- 1 A. Clarify the question, please.
- 2 Q. Sure. Did Mr. Parham at any time write any letters to
- 3 any of your research sponsors?
- 4 A. He threatened to write a letter, and he wrote letter to
- 5 the IRB.
- 6 Q. So there was one sponsor. What is the IRB?
- 7 A. Institutional Review Board.
- 8 Q. And what is the Institutional Review Board?
- 9 A. It's a board that approves ethical consideration for
- 10 the studies.
- 11 Q. And is that for all studies everywhere or just some
- 12 studies somewhere?
- 13 A. Every study require IRB approval.
- 14 Q. And where is IRB located?
- 15 A. There's many of them. There's over hundred IRBs.
- 16 Q. And what IRB has jurisdiction over your studies?
- 17 A. All of them. IRB has jurisdiction over studies.
- 18 Q. And did Mr. Parham write every IRB in the country, or
- 19 who did he write to?
- 20 A. He wrote IRB, one of the largest IRBs. The name is
- 21 Schulman.
- 22 Q. Schumer?
- 23 A. Schulman, S-h-u-l-m-a-n [ph].
- 24 Q. Where is that located?
- 25 A. Don't know.

1 Q. So does the Schulman IRB regulate or approve studies
2 that any of your entities did at any time?

3 A. Numerous studies.

4 Q. I'm sorry?

5 A. Numerous studies.

6 Q. And tell me about the threat that was issued to you
7 about that.

8 A. He said if we don't settle, he is going to drag in GSK
9 into the -- into the lawsuit.

10 Q. Drag who in?

11 A. GSK is Glaxo-Smith-Kline. That's one of the drug
12 makers.

13 Q. Was that the sponsor of the study that Mr. Bruce was
14 associated with?

15 A. Mr. Bruce was never on any study, but this is a study
16 that he was considered for.

17 Q. And what was the basis, what is your understanding of
18 what the basis was for Mr. Parham indicating that he
19 would write a letter to the IRB?

20 A. He didn't tell us that he would write a letter. He
21 said that he is going to sue GSK.

22 Q. And did Mr. Parham ever tell you what his basis would
23 be for bringing in GSK if he did?

24 A. He issued a threat. He didn't talk to me.

25 Q. How did he issue the threat?

1 A. By letter.

2 Q. So in the letter what did Mr. Parham communicate to you
3 regarding why he would bring GSK into the Bruce case?

4 A. Don't recall, but my understanding was that he
5 threatened us to bring GSK in on whatever premise that
6 he has in his mind. I could not possibly read his
7 mind.

8 Q. And let me ask you this. Why would his bringing GSK
9 into the Bruce suit, why would that concern you at all?

10 A. It's very concerning that anybody contacting our
11 sponsors with extraneous stuff. Okay? It's a source
12 of extreme worry.

13 Q. Does the sponsor of a study have any responsibilities
14 to the research subjects?

15 A. If they were not in the study, none.

16 Q. I'm sorry?

17 A. If they weren't on the study, none. If the patient was
18 not on their study, they have no responsibility to the
19 subject.

20 Q. Okay, thank you. So the question really is if the
21 patient is in the study, what responsibilities, if any,
22 does the sponsor have for the research subject?

23 A. The drug is -- has been poisoned, spoliated, caused
24 patient damage, some was laced with Tylenol or was
25 laced with something, that's responsibility of sponsor,

1 to be sure that the product that is provided is of
2 highest purity and highest degree.

3 Q. Let me ask you this. When a potential research subject
4 comes to Greenville Pharmaceutical Research, is there
5 any kind of initial consent or document whereby the
6 potential research subject grants permission to have
7 Greenville Pharmaceutical Research collect his or her
8 medical records or do anything in furtherance of
9 screening that person for the study?

10 A. There's a consent for that.

11 Q. And then what information is given to the potential
12 research subject in that consent form?

13 A. There's no information. Consent obtained for him to
14 release information to us.

15 Q. Right. So is the research subject advised what type of
16 information will be gathered on him?

17 A. Yeah. Medical information. To collect any medical
18 information require consent. So you get a consent from
19 whoever you're going to get that medical information.

20 Q. And did Mr. Bruce sign such a consent?

21 A. I don't know.

22 Q. If Mr. Bruce did not sign such a consent, would it have
23 been proper for Greenville Pharmaceutical Research to
24 try to gather any medical information on him?

25 A. No. If -- it's required to sign consent to request

1 medical information for anybody. That is absolutely
2 required.

3 Q. And anyone who comes in to potentially be part of a
4 study, they're not being screened at that point,
5 because there's no information on which to screen them.
6 Is that right?

7 A. That's wrong.

8 Q. Okay. Tell me why that's wrong.

9 A. Because you take your own history.

10 Q. Okay. So tell me about that. Who at Greenville
11 Pharmaceutical Research takes any history from the
12 patient?

13 A. Coordinators, for the most part.

14 Q. What is the education level of the coordinators?

15 A. Very high.

16 Q. How high?

17 A. Highly trained.

18 Q. Like high school, college?

19 A. Could be high school, could be college, but more
20 importantly they're trained in the research, good
21 clinical practice in the CRC. They are clinically
22 certified research coordinators. So they have rigorous
23 training. You cannot take CRC test until you have two
24 years of research experience, and requirements are
25 extremely rigorous. It's almost like college.

1 Q. What does CRC stand for?

2 A. Certified Research Coordinator.

3 Q. And who looks at that information and decides whether
4 or not the potential subject, research subject moves
5 forward to the next step?

6 A. It varies. It depends on what next step is.

7 Q. Is there any consent signed to provide that initial
8 information, the history that goes to the coordinator?

9 A. The coordinator has obtained a history called source
10 document, and the source document is required to be
11 kept on file.

12 Q. Did you say subdocument?

13 A. Source. Source.

14 Q. Source document?

15 A. Source document.

16 Q. I got you.

17 A. So it becomes a source document.

18 Q. And my question is, the consent that you talked about
19 before, is that signed before or after the coordinator
20 takes the history of the potential subject, research
21 subject?

22 A. There is a consent for prescreen, yes, prescreen
23 consent, study consent. There's consent for different
24 eventualities. Prescreen consent is not study-
25 specific, meaning it's generic for any study.

1 Q. I appreciate that. The question really was what is the
2 sequence relative to the screening, which is the first
3 consent that they sign. Right?

4 A. Right.

5 Q. What is the sequence of that and then the coordinator
6 taking the history from the subject?

7 A. Yeah, the consent can be taken for participation in the
8 study, and then you can obtain information after
9 consent is taken. Taking consent is not participation
10 in the study. It's agreeing that if you qualify, you
11 can be in the study. What we call it is screen fail.
12 You took a consent -- okay, so the screen fail, you can
13 have a consent. Patient may go and so forth, but all
14 of a sudden medical information come in that disqualify
15 him. Okay? Signing consent does not make you a
16 research subject.

17 Q. I understand that, and let me make sure I'm explaining
18 the question properly. I'm going to identify two
19 events. All right? The first event is the patient
20 signs the very first consent given to them.

21 A. Right.

22 Q. Do you understand what that event is, the signing of
23 the initial consent?

24 A. No, I understand that for sure.

25 Q. And then the second event I'm going to ask you about is

1 the coordinator receiving personal or medical or some
2 kind of history from the subject. Right? That's event
3 number two.

4 A. Mm-hmm.

5 Q. You got that in your mind?

6 A. I got it.

7 Q. All right. Which event happens first?

8 A. It depends, because sometimes people come without
9 knowing what study going to be, called prescreen
10 consent, or sometimes they come for specific study.
11 The creator may call somebody, say we have a study that
12 fits your profile, if you're interested, come in. If
13 it's study-specific, then the patient may sign study-
14 specific consent after reading it, of course, that what
15 will entail on that particular study.

16 Q. And what I hear you saying is that, of those two
17 events, it doesn't matter which one happens first?

18 A. It does not.

19 Q. Okay. Now, was Alliance Biomedical Research damaged by
20 the Bruce suit?

21 A. Yes.

22 Q. How badly was Alliance Biomedical damaged by the Bruce
23 suit?

24 A. Horribly.

25 Q. Explain that to me.

1 A. well, probably delayed the deal that we finally was
2 able to conclude by -- by maybe 12 to 18 months.

3 Q. And tell me why there was that delay. What was it
4 about the filing of the Bruce suit and the conduct of
5 that litigation, tell me why any of that delayed any
6 business moves or business development that Alliance
7 wanted to engage in.

8 A. Can't really engage in the lawsuit when somebody
9 threatening you with any potential partners. This is a
10 very, very ethical business. You have to disclose
11 whats and why. So the lawsuit would have put on hold
12 any activity moving the platform forward, and that is a
13 no-no. You cannot be in the lawsuit and seeking
14 advance your business with strangers, which is
15 potential partners. This is not possible.

16 Q. And what business opportunities did Alliance Biomedical
17 miss during that 12- to 18-month period?

18 A. Well, we were in the process of contemplating an
19 expansion in North Carolina in particular and had to
20 put it on hold.

21 Q. And would that have required investment from other
22 people, or what would the expansion have required?

23 A. Expansion is extraordinarily sophisticated process.
24 You have to identify principal investigator. You have
25 to research a location. You have to train coordinators

1 and, more importantly, operation manager. To open a
2 site is a 8- to 12-months endeavor. It is a highly
3 sophisticated process. It is not taken with a --
4 lightly. It require enormous preparation. This type
5 of business is very regulated business. It is a highly
6 complex business. It require enormous training in
7 advance of even approaching somebody.

8 Q. So, as I understand it then, the business opportunities
9 that Alliance Biomedical was not able to pursue because
10 of the Bruce lawsuit was to expand into the two
11 locations in North Carolina that it ultimately expanded
12 into?

13 A. We did expand in North Carolina, yes, in two locations.

14 Q. Is that the total of the business opportunities that
15 Alliance was not able to perform when it wanted to
16 because of the Bruce lawsuit?

17 A. It derailed our entire thinking and what we were going
18 to do, and they just walked into our lives, okay, and
19 said, you know what, screw y'all, okay, I don't care.

20 Q. Excuse me?

21 A. Just like, you know, screw y'all, I mean, I don't care.
22 That's what the lawyer essentially did. I mean, I'm
23 going to sue.

24 Q. So let me just make sure I understand. The universe of
25 business opportunities that you say the lawsuit, the

1 Bruce lawsuit caused Alliance Biomedical to miss out on
2 was the expansion into the two sites in North Carolina?

3 A. Yeah, pretty much what had become two sites, but, more
4 importantly, he derailed our agenda.

5 Q. And tell me how it derailed your agenda.

6 A. Stop, just have to defend the lawsuit, and then move on
7 after the lawsuit is over.

8 Q. So is it your testimony that from the time the lawsuit
9 was filed until the time that the carrier paid \$300,000
10 on your behalf, on Alliance's --

11 MR. MANN:

12 Objection.

13 EXAMINATION RESUMED BY MR. HENRIKSON:

14 Q. -- Greenville Pharmaceutical's behalf, that Alliance
15 Biomedical was not able to pursue any business
16 opportunities or conduct any expansion business?

17 A. I want to correct you. You made an inaccurate
18 statement, so I can't ask about Alliance. Alliance was
19 dismissed with prejudice.

20 Q. All right. When was Alliance dismissed with prejudice?

21 A. In May of, I believe, 2012. So we didn't pay anything.

22 Q. Fair enough. I thought I corrected myself, but I may
23 have been wrong. When was the suit filed?

24 A. Well, litigation started that we were aware of in June
25 or July of 2011.

1 Q. And you said you become aware of it in July 2011?

2 A. Yeah, we were sent suit notice.

3 Q. When was the actual lawsuit filed?

4 A. I believe the same year, a few months later.

5 Q. And when did you first become aware that there was a
6 lawsuit? Where in the expansion stage into North
7 Carolina were you?

8 A. We were in advanced stage, planning, training, planning
9 several sites, two or three we were thinking at the
10 time, and we were developing a platform that would
11 eventually materialize just recently. So we were
12 working very, very hard moving in that direction, and
13 we stop.

14 Q. And whose decision was it to stop moving forward at
15 that time?

16 A. Everybody. You know, you have to defend the lawsuit
17 first. You can't do nothing.

18 Q. Okay. And---

19 A. No hiring, no coordinators, no operation manager, no
20 location, no one site, no two site, no three sites, no
21 -- no any site. Okay?

22 Q. And let me ask you this. Why couldn't you continue?
23 Why couldn't Alliance continue its expansion plans and
24 defend the lawsuit which was being defended by
25 attorneys hired for Alliance by Alliance's medical

1 malpractice carrier?

2 A. It's very expensive. To train operation manager, about
3 \$80,000. To train additional coordinators. So entire
4 operation would cost us \$150,000 before we even
5 started.

6 Q. So, again, the question is, what was it about -- now,
7 you weren't paying the JUA lawyers, were you, that were
8 representing you?

9 A. Well, who's the JUA lawyers?

10 Q. Who represented Alliance Biomedical in the Bruce---

11 A. Ashby Davis represented and his firm, and we weren't
12 paying them.

13 Q. You weren't paying him, okay.

14 A. No. But that was in Greenville. Milton Mann, we had
15 to pay him, yes. For Alliance he was employed, but for
16 any expansion, any contractual arrangement, any
17 meetings, we would have to pay him, too, but that would
18 be less expense than hiring operation manager or
19 coordinators for training. We train people who for --
20 well, it depends on their talent, but no less than six
21 to eight months.

22 Q. And Mr. Mann was on a salary at that time. Correct?

23 A. Yes, correct.

24 Q. So you were going to pay him whether there was a Bruce
25 lawsuit or not. Right?

1 A. On Alliance side?

2 Q. Alliance.

3 A. Yes, he was retained by -- he was working for Alliance,
4 so we would have to pay him, but that wasn't the
5 question. The question was whether we pay JUA lawyers
6 or Alliance. They did not defend Alliance. So we
7 didn't have to pay them anything.

8 Q. JUA did not defend Alliance?

9 A. No.

10 Q. Who was defending Alliance?

11 A. Milton Mann.

12 Q. And he as on salary from Alliance already. Correct?

13 A. So that may be, but expenses of traveling to Florida
14 back and forth and things like that, that's out-of-
15 pocket.

16 Q. He made two trips to Florida. Right?

17 A. He made two trips to Florida, correct. Paying --
18 right, paying expert witness to appear, which was
19 Sokol, was about another four or \$5000, to paying court
20 reporters and stuff like that, yeah. That's all
21 expenses. But the major expense for us of not starting
22 the new sites is the two sites would have cost us well
23 over \$250,000 in preparation. You just don't take that
24 risk.

25 Q. So let me make sure I understand what you're saying.

1 Are you saying that because you had to pay Mr. Mann's
2 expenses of going to Florida and paying for an expert's
3 deposition and some court reporters' fees, that it was
4 that expenditure that prevented you from continuing
5 with the training and development of the North Carolina
6 sites?

7 A. No.

8 Q. Then what specifically prevented you from continuing
9 with the development of the North Carolina sites after
10 the Bruce lawsuit was filed?

11 A. I answered your question previously, and I'm going to
12 answer it again.

13 Q. Okay.

14 A. The massive expense---

15 MR. MANN:

16 Move to strike.

17 EXAMINATION RESUMED BY MR. HENRIKSON:

18 A. The massive expense, okay, of organizing the site,
19 which takes eight to ten months and can approach
20 \$250,000 are not taken lightly. You don't hire people
21 when you don't know where they're going to be put to
22 work. It's just uncertainty of starting the site in a
23 environment where you don't know when you're starting.

24 Q. So let me make sure I follow what you're saying. The
25 enormous expense of training and hiring people and

1 developing other sites --

2 A. Right.

3 Q. -- you were going to do that if the Bruce case hadn't
4 been filed. Right?

5 A. Yeah, but to make a site profitable, it takes between
6 12 to 18 months. The one-year loss will translate in a
7 good site to about one million-dollar loss.

8 Q. The question was if you take the Bruce case out of the
9 equation, you were going to go to all that massive
10 expense and effort to open those North Carolina sites,
11 yes or no?

12 A. Not until Alliance suit was over. After Alliance suit
13 was over, yes.

14 Q. Didn't ask you about that. I asked you if you take the
15 Bruce case out of it --

16 A. Right.

17 Q. -- the plan was to expand into North Carolina. Right?

18 A. Yes.

19 Q. So if Bruce had never filed the suit, you would have
20 continued on schedule, gone through and opened your
21 sites in North Carolina. Right?

22 A. If Bruce case did not exist, yes.

23 Q. Okay, thank you.

24 MR. MANN:

25 Matt, I need a break when you get a chance.

1 MR. HENRIKSON:

2 All right.

3 MR. MANN:

4 Are we off the record?

5 MR. HENRIKSON:

6 Off the record.

7 (Off the Record; 2:05 -- 2:18 p.m.)

8 EXAMINATION RESUMED BY MR. HENRIKSON:

9 Q. We were talking about the Alliance Biomedical, how it
10 was affected by the Bruce suit, and to sort of set the
11 table for what I understood you to say is that the
12 damage to Alliance from the Bruce suit was that you had
13 to put on hold expansion into North Carolina because
14 Alliance's salary-employed lawyer incurred some
15 expenses assisting with the Bruce suit defense. Is
16 that correct?

17 A. Incorrect.

18 Q. Where am I wrong?

19 A. We talked about that we had to put on hold our
20 expansion because we were not able to proceed in
21 training, in executing our strategy until Alliance suit
22 was over.

23 Q. And why could you not continue to train people you were
24 already training because of the Bruce suit?

25 A. We weren't already training people.

1 Q. I thought you said you were in the advanced stages of
2 expansion and you were already training people. Is
3 that not true?

4 A. I never said that.

5 Q. Well, what did you say---

6 A. It's untrue.

7 Q. I'm sorry?

8 A. It's untrue.

9 Q. It's untrue, all right. So what was it about having to
10 defend the Bruce suit that made you unable to go train
11 people?

12 A. It's not being unable. It's putting our plans on hold.
13 You put plans on hold if your area is flooded. You
14 don't put the house until the flooded area dried up.
15 Same analogy. You do not start training people until
16 you dispose of the lawsuit.

17 Q. That sounds more like that was a business decision than
18 something you were forced to do. Is that true?

19 A. Well, I cannot really tell you what it sounds to you
20 like, but it's not true.

21 Q. Well, then tell me why it's not true.

22 A. I'll try to explain you one more time the business. I
23 think I answered your question, but I'm going to try it
24 one more time.

25 Q. Why don't you answer the question that's on the table,

1 which is tell me why it's not true that it was just a
2 business decision rather than something that you really
3 physically couldn't accomplish if you'd wanted to,
4 referring to continuing the expansion in the face of
5 the Bruce suit.

6 A. In the face of the Bruce suit, the plans for expansion
7 were put on hold.

8 Q. I understand that. Is that your answer to that
9 question?

10 A. Yes.

11 Q. And the decision to put the plans on hold, was it
12 something that Alliance decided to do as a business
13 decision, or was there some physical impediment that
14 prevented Alliance from expanding?

15 A. It was a business decision.

16 Q. Thank you. How about Greenville Pharmaceutical, was
17 Greenville Pharmaceutical planning on expanding
18 somewhere, or was that just one satellite research
19 center, research site?

20 A. It was planning on expanding.

21 Q. How does an individual research site expand?

22 A. It's open satellite office.

23 Q. Has Greenville Pharmaceutical opened a satellite
24 office?

25 A. Yes.

1 Q. When?

2 A. Anderson, South Carolina. I believe it was either 2012
3 or 2013. My memory is not precise on that.

4 Q. And tell me, why would that be considered an expansion
5 of Greenville Pharmaceutical and not an expansion of
6 Alliance or one of the Alliance entities?

7 A. Alliance don't operate in South Carolina.

8 Q. It didn't at the time or not anymore?

9 A. Never.

10 Q. Alliance Biomedical that was the defendant in the Bruce
11 suit, that has never operated in South Carolina?

12 A. Alliance Biomedical Research mission is not to open
13 sites in South Carolina.

14 Q. Because I understood you to spend about the last 30
15 minutes explaining to me that Alliance Biomedical
16 Research had to put its expansion into North Carolina
17 plans on hold because of the Bruce suit.

18 A. North Carolina yes. South Carolina no.

19 Q. So Alliance Biomedical Research, LLC is the entity that
20 employed Mr. Mann. Is that correct?

21 A. Yes.

22 Q. And that's the entity that provided legal services to
23 Greenville Pharmaceutical Research?

24 A. Yes.

25 Q. Among other research facilities?

1 A. Yes.

2 Q. And the Anderson site, tell me why that would be
3 considered an expansion of Greenville Pharmaceutical.

4 A. Greenville Pharmaceutical Research owns majority stake
5 in Anderson, South Carolina.

6 Q. It does now?

7 A. Well, it did until recently.

8 Q. Right. And so when you talked about the owners of
9 Anderson, I didn't understand that Greenville
10 Pharmaceutical was an owner.

11 A. Majority owner.

12 Q. Majority owner. So how much?

13 A. About 80 percent.

14 Q. Eighty percent. Does Greenville Pharmaceutical have an
15 ownership interest in any of the other sites that
16 existed either before the new corporation or now?

17 A. It did not and it does not now.

18 Q. Does Greenville Pharmaceutical have any interest,
19 ownership interest whatsoever in Anderson now?

20 A. Greenville Pharmaceutical Research has been pulled out
21 and sold with Anderson along with Greenville. It's one
22 entity. It's not separate entity. Greenville owns
23 Anderson, and the new company, Alliance Biomedical
24 Group -- not Group -- Alliance Biomedical Research
25 Holding has bought, among others.

1 Q. So that I understand that, Research Holding I
2 understood before owned 60 percent of all of those
3 entities, including Anderson. Is that right?

4 A. It's---

5 Q. Whatever the percentage is.

6 A. Yeah, it's totally incorrect. Okay? All those
7 companies were combined in one and that one company was
8 bought. So it's 60 percent not of Greenville but of
9 entire entity. Greenville, Spartanburg, whatever
10 became one company. That company was bought 60
11 percent.

12 Q. That company---

13 A. A merger. All the companies merged.

14 Q. They all merged into one.

15 A. Into one.

16 Q. And that included Greenville.

17 A. Yes, and Anderson which is owned by Greenville.

18 Q. And then 60 percent of that was bought by GPP.

19 A. Well, it was 100 percent was bought by the new company,
20 it merged, and then 60 percent of the new company was
21 GPP.

22 Q. So how was Greenville Pharmaceutical damaged by the
23 filing of the Bruce suit?

24 A. Put expansion into Anderson on hold.

25 Q. And when was there first an idea to expand into

1 Anderson on behalf of Greenville Pharmaceutical?

2 A. About the time of the lawsuit, all expansion plans
3 about the time of the lawsuit.

4 Q. And who were the people who were involved in developing
5 that expansion plan?

6 A. Greenville Pharmaceutical Research is owned by Anna
7 Buice, Greg Feldman, Joe Boscia, and Steve Clemons.

8 Q. So the four of y'all made that decision to look into
9 expanding into Anderson?

10 A. Yeah, we were looking for decision to expand Greenville
11 Pharmaceutical Research. Exactly where and how, the
12 plans were put on hold.

13 Q. So when was it decided that the site would be Anderson?

14 A. About 2012.

15 Q. 2012?

16 A. As soon as the lawsuit was over, we resumed our
17 business plan and decided we were going to open in
18 Anderson, a satellite.

19 Q. So tell me then, what was it about the filing of the
20 Bruce lawsuit that prevented Greenville Pharmaceutical
21 from advancing its plan to expand to another site?

22 A. Lawsuit puts a shadow on any business discussion. It's
23 a business decision not to pursue anything until the
24 lawsuit is over.

25 Q. Well, who would those business discussions have been

1 with?

2 A. It would be business discussion between the people
3 involved, but discussions to open the new site would be
4 with doctors or hospitals. It depends on different
5 plans, and those discussions were put on hold.

6 Q. Do hospitals have anything to do with the research
7 centers?

8 A. The business plans of different entities depends on the
9 circumstances. Certainly, the business plan to expand
10 in partnership with the hospitals is being developed
11 all the time. This is one of the areas that is very
12 promising.

13 Q. And what would the involvement of the hospitals be in
14 that context? would it be to refer or provide research
15 subjects?

16 A. Is it a general question? I don't understand your
17 question. Is it a general question or related to
18 Greenville?

19 Q. well, it's a general question right now.

20 A. Yeah. General question, hospitals employ many
21 physicians. Hospitals in environment where they are
22 not capable to effectively conduct research. So it's a
23 big area of expansion into partnership with hospitals
24 and universities.

25 Q. All right. Who---

1 A. Potential.

2 Q. Who have the PIs been at Anderson?

3 A. Dr. Charles Thompson.

4 Q. And had Dr. Thompson ever been involved with any other
5 entity that you had also been involved in prior to his
6 becoming PI at Anderson?

7 A. He was not.

8 Q. So when did you first contact Dr. Thompson about
9 working in Anderson?

10 A. In 2012, shortly after the lawsuit was -- went away.

11 Q. That lawsuit is still pending. Right?

12 A. That lawsuit was settled just so we can move on.

13 Q. The Bruce lawsuit.

14 A. Yes.

15 Q. But Greenville Pharmaceutical where you sued Mr. Parham
16 and Alliance where you sued Mr. Parham, those cases are
17 still pending?

18 A. Yes, but Dr. Thompson is not involved with Greenville.
19 He is -- he was owner of Anderson which partnership was
20 Greenville.

21 Q. Right, 80 percent of which was owned by Greenville.
22 Right?

23 A. Eighty percent was owned by Greenville, yes.

24 Q. And you said that was opened in 2015, you think,
25 Anderson?

1 A. Anderson was opened in 2012 or 2013, one of the two,
2 but discussion started in 2012.

3 Q. You said it was opened in 2012 or 2015?

4 A. 2013, Matt.

5 Q. 2013 or 2015?

6 A. 2015 has nothing to do with it. It was opened either
7 2012 or 2013. Okay? My memory fail me at the moment,
8 but the discussion with Dr. Thompson started in 2012,
9 and the site was opened shortly thereafter. So where
10 I'm blanking was it December or February of 2013, that
11 what I'm not really certain. I can look it up, but
12 discussions were ongoing in 2012.

13 Q. And during the pendency of the Bruce lawsuit, was there
14 any advancement of that plan or any discussions at all
15 about the expansion to Anderson---

16 A. None. Put on hold. It was not.

17 Q. At the time the lawsuit was filed, the status of the
18 expansion was it was just in the initial planning
19 stages, you didn't even know where you were going to
20 go. Is that right?

21 A. Yeah. We certainly entertain Anderson. We entertain
22 different areas, but the plan was put on hold to where
23 exactly and with who.

24 Q. And the current lawsuits being maintained by Greenville
25 Pharmaceutical and by Alliance against Parham and Smith

1 or Mr. Parham's estate or whoever the defendants may
2 be, Dr. Sokol, I guess he's still a defendant at some
3 point, or that's on appeal?

4 A. Yes, he is. He is defendant in Alliance case.

5 Q. Those lawsuits or those appeals are being handled by
6 what attorney on behalf of the plaintiffs in those
7 cases?

8 A. By Mr. Mann.

9 Q. In the course of those lawsuits, did Mr. Mann have to
10 incur any expenses?

11 A. Let's separate the two. On Alliance, he works for
12 Alliance. Okay? He does not work for Greenville. He
13 provides legal services to Greenville.

14 Q. I understand. I'll ask the question again. Whether he
15 is employed by or providing legal services for, is he
16 still generating expenses for Alliance and for
17 Greenville in the prosecution of the appeals in those
18 cases?

19 A. For Greenville yes. For Alliance, he employed by
20 Alliance. So the expenses would be traveling,
21 deposition expenses, of that nature.

22 Q. Aren't those the same expenses that he would have with
23 Greenville?

24 A. No. He doesn't work for Greenville. He would bill
25 Greenville.

1 Q. Is he not representing Greenville?

2 A. He representing Greenville, but he is -- doesn't work
3 for Greenville. He works for Alliance.

4 Q. I understand he's employed by Alliance, but he's
5 representing Greenville and he's representing Alliance.
6 Right?

7 A. Yes.

8 Q. And presumably they're two separate lawsuits. Right?

9 A. Yes.

10 Q. So there are separate expenses for each of the
11 lawsuits. Correct?

12 A. Yes.

13 Q. And he, as the attorney representing Greenville, is
14 incurring expenses on the Greenville lawsuit. Right?

15 A. Yes.

16 Q. And as the attorney for Alliance, he is incurring
17 expenses in the Alliance lawsuit. Correct?

18 A. Yes.

19 Q. And who pays the Greenville expenses?

20 A. Greenville.

21 Q. And who pays his fees -- well, let me ask you this.
22 How is Mr. Mann paid for working on the Greenville
23 Pharmaceutical appeal?

24 A. He bills.

25 Q. And does he bill or does Alliance bill?

1 A. well, it's Alliance bills for Mr. Mann's services.

2 Q. And what does Mr. Mann charge Greenville to work on
3 that case?

4 A. I don't know.

5 Q. what is your ownership -- well, before the merger and
6 the sale or acquisition by GPP, what was your interest
7 in Greenville?

8 A. It's owned equally.

9 Q. By how many?

10 A. By four.

11 Q. So 25 percent?

12 A. Yes.

13 Q. And prior to all of that, your interest in Alliance was
14 what?

15 A. It's owned equally by five. So it's 20 percent.

16 Q. Does Mr. Mann bill those two files or those two
17 separate cases separately?

18 A. He doesn't bill for Alliance. He bills for Greenville.

19 Q. So he's not sending any bills to Alliance?

20 A. He does not.

21 Q. How was Dr. Greg Feldman damaged by the Casey suit?

22 A. It's very, very hard to be accused of damaging
23 somebody's brain by proceeding with a procedure while
24 somebody's vital signs had been deteriorating, and all
25 of that spill in the community. It's very hard, even

1 hard today. It is very difficult to advance a positive
2 progressive agenda of creating a new medical company
3 under those conditions. I'm a creative man. I'm a
4 driving force behind many, many projects. I'm not an
5 expert, but you don't have to be an expert to
6 understand the psychology of hockey player like Sidney
7 Crosby or somebody who is creative when his creativity
8 is shut down. My Upstate Lung company, which is what -
9 - Upstate Lung and Critical Care Specialists start
10 losing referrals, start losing reputation. Patient
11 would refuse to see me. Patient would refuse to see
12 Boscia.

13 Q. Which patients refused to see you?

14 A. Just many patients we've been told anybody but Boscia
15 or Feldman. Practice start deteriorating.

16 Q. Let me go back to that.

17 A. Please do.

18 Q. Did any patient ever say to you I don't want to see you
19 because there's this lawsuit pending?

20 A. Just cancellation of appointments.

21 Q. I'm sorry?

22 A. Cancellation of the appointments.

23 Q. Did any patient ever say to you I don't want to see you
24 because of this lawsuit?

25 A. By cancellation. No.

1 Q. Okay, thank you. Any patient ever tell Dr. Boscia I
2 don't want to see you because of this lawsuit?

3 A. I don't know.

4 Q. And at the time the lawsuit was filed, how many
5 physicians were at Upstate Lung?

6 A. Four or five.

7 Q. And would any of those patients go see any of those
8 other three or four doctors?

9 A. I'm not sure.

10 Q. Do you have any proof or any evidence or any written
11 documentation of canceled appointments from the time
12 the lawsuit was filed forward that were patients who
13 never came back to you or Dr. Boscia?

14 A. Deterioration of our practice. We have documentation,
15 yes.

16 Q. Let me rephrase the question. Do you have any written
17 documentation or evidence of patients who stopped
18 coming to Upstate Lung or stopped coming to see you or
19 Dr. Boscia because of this lawsuit?

20 A. We have no written documentation.

21 Q. What evidence do you have that Dr. Feldman's reputation
22 suffered because of the filing of the lawsuit?

23 A. My practice has declined.

24 Q. Can you quantify how your practice declined?

25 A. We can.

1 Q. Tell me how.

2 A. We'll leave it to the expert to calculate, but the
3 practice of Greg Feldman, income from the practice of
4 Greg Feldman start dropping pretty precipitously.

5 Q. Well, I mean, that was your practice. So certainly you
6 have some understanding of how much it dropped. How
7 much did it?

8 A. About five to 600,000.

9 Q. I'm sorry?

10 A. Between somewhere around 600,000.

11 Q. So over what period of time did it drop 600,000? Are
12 you saying \$600,000?

13 A. Mm-hmm.

14 Q. You're saying yes for the court reporter? You just
15 need to say the word yes.

16 A. Yes.

17 Q. And over what period of time do you believe your
18 practice dropped \$600,000?

19 A. From about 2006 to about 2009.

20 Q. And then what happened after 2009?

21 A. I'll say to 2010. After the lawsuit was over, I just
22 basically tried to rebuild it. It start to -- it start
23 to rebuild right away. I tried to do different things,
24 go to different towns, go to satellite offices, tried
25 to do some more stuff, but pretty much about 600,000 is

1 a number that I think, but it's for experts to decide.
2 I don't concentrate on money. I concentrate on
3 patient. I concentrate on my business plans. I
4 concentrate on creating a magnificent company. That's
5 what I concentrate on. Okay? That concentration was
6 broken in half that was created by Greg. The company
7 was created by others I refuse to participate.

8 Q. Can you say that again?

9 A. Easley Pharmaceutical Research was opened. My heart
10 wasn't in it. I said I'm not opening it.

11 Q. Okay. So the---

12 A. I said I'm not a part of it. It's -- I have too much
13 on my plate to deal with the lawsuit.

14 Q. At the time that Easley opened, you were still part of
15 six or even other companies. Right? Or research
16 facilities?

17 A. Right, but between now and then when the lawsuit was
18 filed, it basically consume all my time just dealing
19 with this, emotionally primarily.

20 Q. Did this lawsuit, the Casey lawsuit damage any of the
21 research facilities?

22 A. I can tell you that S. Carolina Pharmaceutical Research
23 did great, did very well. Okay? And Casey lawsuit did
24 not damage S. Carolina. What it did damage, the
25 majority of damage is to shut down my creativity and

1 others, but mine primarily because I'm a driving force
2 behind Alliance concept and expansion, and that's
3 happened for several years just because of me being not
4 capable of dealing with anything but the lawsuit. We
5 started opening sites again in 2010.

6 Q. So from the time the lawsuit was filed, how many hours
7 a day or a week would you spend on this lawsuit?

8 A. Every minute.

9 Q. Every minute, 12 hours a day?

10 A. I've been tormented every minute. We spent --
11 emotionally or physically? Emotionally every minute.

12 Q. Physically?

13 A. It was hard for me to remember. I have probably
14 infringed on my lawyers more than I would wish I did.
15 I annoyed the heck out of Spencer King, I know, but I
16 not necessarily was helpful to them. But for me, I
17 spent extraordinary amount of time just reviewing the
18 literature, reading about it, just tried to understand
19 what's happening. It would be very difficult to
20 calculate number of hours. In thousands.

21 Q. Over what period of time?

22 A. Over the lawsuit from 2006 to 2010.

23 Q. In an average week---

24 A. Many thousands of hours.

25 Q. In an average week or month, how many hours would you

1 devote to the Casey lawsuit from 2006 when it was filed
2 until 2010 when the trial occurred?

3 A. Maybe a hour a day.

4 Q. One hour a day?

5 A. Maybe one hour a day I would be submerged into it from
6 2008 to 2010 primarily. Until 2008, we thought it was
7 just going to be dropped.

8 Q. I'm sorry?

9 A. Until 2008, we thought that the lawsuit was going to be
10 dropped. We were convinced it was going away.

11 Q. Are you saying---

12 A. But when it didn't, when it became really, really
13 involvement every day, probably sometime between 2008
14 and going into the -- MRI came out in 2008 in August.
15 After that, maybe two or three hours a day. After MRI,
16 after MRI has happened, I became submerged into it.

17 Q. So prior to the MRI, how many hours a day are you
18 spending on this, on average?

19 A. In 2006, I did not spend nothing on lawsuit. In 2007,
20 they start deposition being taken. I believe in August
21 2007, I start spending time. Probably prior to
22 deposition maybe 20 hours. In 2008, however, more
23 deposition start being taken, and that may be another
24 10 hours prior to every deposition. And after MRI came
25 in, it would be two or three hours a day every day.

1 Q. Did you cancel any patients from 2006 to 2010?

2 A. I don't remember.

3 Q. And I did ask you this question before and I did not
4 understand completely the answer. Were any of the
5 research facilities financially damaged because of the
6 Casey lawsuit?

7 A. There's a child and unborn child. The unborn child was
8 killed, which is creativity and creation of the sites.
9 So Alliance had been damaged, and others may have been
10 damaged by me not being able to do what I do, and what
11 I do is create sites along with others, but what I do,
12 I identified opportunities, I talked to people, I
13 created a condition of trust and condition of belief
14 which I have that we are the best in the world. That
15 was shot. That's unborn child. As far as the born
16 child is concerned, I'm not involved in many other
17 sites. I'm involved in S. Carolina. S. Carolina was
18 not damaged by Casey lawsuit, was not. Other sites I'm
19 not comfortable to comment on that, because I don't
20 have day-to-day involvement.

21 Q. What was your day-to-day involvement with S. Carolina
22 at the time?

23 A. I am a principal investigator, I'm a medical director,
24 and I am an owner, and every aspect of that involvement
25 in S. Carolina I'm involved in and have been. And I

1 was involved for many years with it.

2 Q. My understanding is your testimony is S. Carolina was
3 not touched by the Casey lawsuit. Is that correct?

4 A. S. Carolina was not touched by the Casey lawsuit.

5 Q. And you would have been the person most heavily
6 involved in S. Carolina in terms of its productivity.
7 Is that correct?

8 A. I wouldn't say that. I think that the most persons who
9 would be most involved in S. Carolina would be Anna
10 Buice, which is operation manager.

11 Q. You are the principal investigator and the medical
12 director and a 20-percent owner. Right?

13 A. Correct.

14 Q. And in 2006, how would you describe the division
15 between time that you spent doing research and how much
16 time you spent seeing medical patients? Do you
17 understand the distinction in what I'm asking you?

18 A. Ten percent---

19 Q. Let me make sure. Do you understand the distinction in
20 what I'm asking you?

21 A. I do.

22 Q. All right. Tell me what that breakdown is.

23 A. Ten percent research, 90 percent clinical practice.

24 Q. And in 2006, what were your income streams?

25 A. Upstate Lung start dropping precipitously. Income for

1 being principal investigator stayed the same. And
2 dividends start growing. The company start coming into
3 the -- into the fruition, start becoming the leading
4 organization in the nation.

5 Q. Let me make sure I get the question out right. I'm
6 just asking you to describe what were your sources of
7 income, what were the income streams that you had in
8 2006.

9 A. I received a salary from Upstate Lung. I received a
10 salary as principal investigator from S. Carolina. And
11 I received dividends from different medical research
12 companies.

13 Q. From Upstate Lung, did you receive any compensation
14 other than salary?

15 A. No.

16 Q. You were an owner of Upstate Lung. Correct?

17 A. Yes.

18 Q. And did Upstate Lung have any dividends paid or bonuses
19 or anything like that?

20 A. I'm not sure.

21 Q. From 2006 to 2010, did Upstate Lung hire any personnel?

22 A. I'm sure we did.

23 Q. In 2006, prior to the lawsuit being filed, how many
24 doctors, how many physicians were employed by or
25 otherwise working with or for Upstate Lung?

1 A. The owners were myself, Dr. Boscia, and Dr. Erb, but
2 our income distribution doesn't depend on ownership.
3 It's one dollar. You just -- you don't buy ownership
4 only. If you can pay your overhead. It doesn't have
5 any material distribution. All material distribution
6 is the same. Everybody's on productivity. So there is
7 no difference between being owner or employed
8 physician.

9 Q. The question was simply how many physicians worked at,
10 were employed by, owned, whatever you want to call it,
11 how many physicians worked at, for, or on behalf of
12 Upstate Lung prior to the lawsuit in 2006.

13 A. I'm not sure.

14 Q. Was there anyone other than you and Dr. Boscia and Dr.
15 Erb?

16 A. Yes. There was Dr. Abreu, A-b-r-e-a-u [pharmacy].

17 Q. Any others?

18 A. In 2005?

19 Q. 2006 prior to the lawsuit.

20 A. 2006. I believe it was four of us, but I may be
21 mistaken.

22 Q. In 2010, how many physicians were employed by or
23 otherwise worked for or on behalf of or at any site of
24 Upstate Lung, including any satellite offices?

25 A. Maybe six.

1 Q. During that 2006 to 2010 period, did any physicians
2 leave the employ or leave working for Upstate Lung?

3 A. Yeah, we lost doctors, yes.

4 Q. And who left?

5 A. Dr. Abreu left. There was Steciw. I believe it spells
6 S-t-i-e-s-i-e-u [ph], I think. Steciw. I can't spell
7 her name, but I'm not positive whether it was 2006 or
8 2007. Sometime there. So she left. We lost three
9 nurse practitioners. I don't remember their names.
10 But as far as the doctors are concerned, we lost two
11 doctors. We also lost pediatric pulmonologist, Dr.
12 Contreras, C-o-n-t-r-e-r-a-s, Contreras. And that -- I
13 don't remember the year, but it was within the lawsuit
14 we lost her. Three doctors we lost.

15 Q. Why did Dr. Abreu leave?

16 A. Don't really know. He got married to the -- his wife
17 is from Miami, and he went back to Miami.

18 Q. And the second one you mentioned, Dr. Steciw?

19 A. Steciw. I'm not sure how it's spelled.

20 Q. Okay. Why did she leave?

21 A. She left. I don't know.

22 Q. Where did she go?

23 A. I don't know.

24 Q. Why did Dr. Contreras leave?

25 A. Moved on.

1 Q. Just woke up one day, I want to go somewhere else?

2 A. Probably not enough money.

3 Q. In 2006, prior to the lawsuit, how many nurse
4 practitioners worked at or were employed by or worked
5 on behalf of Upstate Lung?

6 A. Two or three.

7 Q. And in 2010, how many nurse practitioners worked at or
8 were employed by Upstate Lung?

9 A. Two.

10 Q. What other classification of employee is at Upstate
11 Lung? Do you have RNs, administrative staff? What
12 other types of people work there other than doctors and
13 nurse practitioners?

14 A. We do have RNs. We have x-ray techs, secretaries.

15 Q. How many x-ray techs did you have in 2006?

16 A. I don't recall.

17 Q. How many did you have in 2010?

18 A. I don't recall.

19 Q. How many do you have now?

20 A. Two.

21 Q. Did you have more or fewer in 2006 or 2010 than you
22 have now?

23 A. Not sure.

24 Q. How many RNs did you have in 2006?

25 A. Don't remember.

1 Q. How many RNs did you have in 2010?

2 A. Not sure.

3 Q. How many RNs do you have now?

4 A. I believe we have four.

5 Q. Did you have more or fewer RNs in 2006 or 2010 than you
6 have now?

7 A. We have lot more now. We have a much bigger group.
8 We're a 10-man group now, a 10-man group, three nurse
9 practitioners. We have many more of everything.

10 Q. You had six in 2010, I think you described. When did
11 number seven come on board, physicians?

12 A. Got to look it up. I'm not sure.

13 Q. How about eight?

14 A. It's pretty significant growth between 2010 and today.

15 Q. Looks like it went from six to ten. Is that the number
16 of physicians?

17 A. You may be correct.

18 Q. I mean, that's what you told me.

19 A. Well, I mean, I'm working from my memory, you know. It
20 sounds about right.

21 Q. From 2010 to now, have any physicians left Upstate
22 Lung?

23 A. No, we haven't had anybody left.

24 Q. And who are the four new ones who have come since 2010?

25 A. Dr. Nancy Patel, Dr. Charles Thompson, Dr. Chris

1 Castillo, and I'm blanking whether Dr. Wan came in 2010
2 or 2009, and I'm not sure when she come. I don't
3 remember, but I think she came in 2010. So it would be
4 Dr. Wan.

5 Q. You described that you thought in 2006 your practice
6 was split 10 percent research and 90 percent clinical
7 patient care. Is that right?

8 A. It's a rough number. It's not scientific breakdown.
9 It's how I think it was.

10 Q. Sure. And when I say clinical patient care, I mean
11 excluding research subjects.

12 A. Yes.

13 Q. And what was the breakdown then of your income in 2006
14 related to those two categories?

15 A. Research, the dividends primarily were far bigger than
16 my salary at Upstate Lung.

17 Q. So what percentage of your income would you relate to
18 the research facilities, and what percentage of your
19 income would you relate to the clinical patient care
20 that was not related to research?

21 A. Not really sure.

22 Q. What was your Upstate Lung salary in 2006?

23 A. I don't remember.

24 Q. What was it in 2007?

25 A. I don't remember.

- 1 Q. Do you remember approximately what it was?
- 2 A. No.
- 3 Q. How about 2008?
- 4 A. Don't remember.
- 5 Q. No idea?
- 6 A. No idea.
- 7 Q. 2009?
- 8 A. Don't remember.
- 9 Q. No idea?
- 10 A. No.
- 11 Q. 2010?
- 12 A. Don't remember.
- 13 Q. No idea?
- 14 A. No.
- 15 Q. 2011?
- 16 A. Maybe about 400,000.
- 17 Q. 2012?
- 18 A. Don't remember. Probably similar.
- 19 Q. No idea? Similar?
- 20 A. Yeah.
- 21 Q. How about '13?
- 22 A. Maybe 300,000.
- 23 Q. '14?
- 24 A. About 300,000.
- 25 Q. '15?

1 A. About 300,000.

2 Q. Do you know why it dipped between 2011, 2012 and then
3 to 2013, 2014, 2015?

4 A. Insurance companies start paying less somewhere around
5 2011.

6 MR. HENRIKSON:

7 Can we take another short break, Milton?

8 MR. MANN:

9 Sure.

10 (Off the Record; 2:58 -- 3:20 p.m.)

11 EXAMINATION RESUMED BY MR. HENRIKSON:

12 Q. Dr. Feldman, in 2006 prior to the lawsuit, at how many
13 sites were you the principal investigator?

14 A. At one.

15 Q. How about 2007?

16 A. At one.

17 Q. 2008?

18 A. At one.

19 Q. 2009?

20 A. At one.

21 Q. 2010?

22 A. At one.

23 Q. '11?

24 A. One.

25 Q. '12?

1 A. One.

2 Q. '13?

3 A. One.

4 Q. '14?

5 A. One.

6 Q. '15?

7 A. One.

8 Q. Today?

9 A. One.

10 Q. If I were to represent to you that based on the tax
11 return information that you gave to us or that you gave
12 to your attorney and he produced to us, that in 2005
13 your adjusted gross income was \$181,827, would that
14 sound right?

15 A. Whatever those papers say would be right.

16 Q. I'm going to have to go through a few years, so just
17 humor me. If you know the answer, great. If you
18 don't, just let me know. In 2006, it looks like it
19 went to 221,367. Does that sound right?

20 A. Probably, yes.

21 Q. In 2007, it looks like it went to \$521,749. Does that
22 sound right?

23 A. Yes.

24 Q. In 2008, it looks like it went to \$999,730. Does that
25 sound correct?

1 A. Yes.

2 Q. In 2009, it looks it went to \$1,060,724. Does that
3 sound correct?

4 A. Yes.

5 Q. In 2010, it looks like it went to \$1,856,057. Does
6 that sound correct?

7 A. Yes.

8 Q. And then in 2011, it looks like it went to \$2,238,608.
9 Does that sound correct?

10 A. Yes.

11 Q. In the Alliance Biomedical Research case, you testified
12 -- there was a question that was asked of you. This is
13 Exhibit 56. And I'll just ask you the question and see
14 if you know the answer. You were asked the question,
15 quote, And I want to know all of the ways that Alliance
16 has lost money, end quote. And your answer, "And I
17 have promised you the expert opinion once it's
18 available to calculate the damages." Do you remember
19 getting that question and giving that answer in that
20 deposition?

21 A. Yes.

22 Q. Was that ever done?

23 A. No. It was not done. Maybe it was, but I'm not
24 involved with the answer.

25 Q. To your knowledge, did Alliance Biomedical Research,

1 Inc. ever hire any expert witnesses in the Alliance
2 versus Parham case?

3 A. Not sure. I'm not involved in that.

4 Q. In the Greenville Pharmaceutical case, were you deposed
5 in that case?

6 A. In Greenville Pharmaceutical case?

7 Q. Versus Parham.

8 A. I don't think I ever was deposed in the Greenville
9 Pharmaceutical case with Parham. I don't remember
10 that.

11 Q. Were you deposed in the Bruce case?

12 A. Yes, I was.

13 Q. In the Greenville Pharmaceutical case, are you aware of
14 ever having an expert witness attempt to calculate any
15 financial loss on behalf of Greenville Pharmaceutical?

16 A. I don't recall anybody ever attempting to do that.

17 Q. Have you spoken with any expert witness in this case?

18 A. Expert witness in this case? I don't recall speaking
19 to any expert witness in this case.

20 Q. Have you been made aware from any source other than
21 your attorney whether or not any material has been
22 supplied to any consultant other than Dessa Ballard?

23 MR. MANN:

24 Matt, excuse me, and I don't mean to interrupt,
25 but can you expand that to attorney or staff, attorney

1 staff?

2 EXAMINATION RESUMED BY MR. HENRIKSON:

3 Q. When I say attorney, I mean anybody in Mr. Mann's
4 office or who is associated with his law practice.

5 A. Yeah, he has -- he has a paralegal. I did discuss
6 issues with paralegal.

7 Q. Anyone else?

8 A. No.

9 Q. And I'm sorry I'm jumping around. I'm trying to finish
10 this up. The letter that Mr. Parham wrote to the IRB
11 in the Bruce case that you testified about earlier, did
12 the threat come before the letter?

13 A. Yes.

14 Q. And did the letter come before the filing of the
15 lawsuit?

16 A. It was within the lawsuit.

17 Q. It was what?

18 A. Several months into the lawsuit.

19 Q. So the lawsuit came first, and then there was a letter
20 that was actually written to the IRB?

21 MR. MANN:

22 Matt---

23 EXAMINATION RESUMED BY MR. HENRIKSON:

24 A. Can I answer the question?

25 Q. Go ahead and answer.

1 MR. MANN:

2 Objection. I'm sorry.

3 EXAMINATION RESUMED BY MR. HENRIKSON:

4 A. First there was a lawsuit. Second was a threat of the
5 GSK. The IRB came very last.

6 Q. Now, you've talked about discussions that you've had
7 this week or communication or contact you've had with
8 Dr. Shantha and Dr. Boscia, and I'm going to ask you,
9 have you ever suggested to any person in any litigation
10 that you're either involved in as a witness or a party
11 that you wanted a particular witness to testify to a
12 particular thing?

13 A. Never have I suggested to anyone. I'm a very
14 opinionated person. I may have strong opinions myself,
15 but I would not speak for anybody else what opinion
16 they might have.

17 Q. Who is Neil Parnes?

18 A. Parnes is a radiologist at Spartanburg Regional Medical
19 Center.

20 Q. Did Neil Parnes have any kind of role in the Casey
21 case?

22 A. He was designated expert witness and then dropped.

23 Q. Designated by whom?

24 A. By lawyers.

25 Q. Which lawyers?

- 1 A. King and Gunn.
- 2 Q. Was Dr. Parnes deposed?
- 3 A. Not sure.
- 4 Q. He was never deposed?
- 5 A. I'm not sure.
- 6 Q. Oh, you're not sure?
- 7 A. I was not present at his deposition.
- 8 Q. Did you review his deposition?
- 9 A. Perhaps.
- 10 Q. Do you recall what his testimony was?
- 11 A. Yes.
- 12 Q. What was his testimony?
- 13 A. His testimony I don't recall. I take it back. He was
- 14 dropped, and I was no longer interested.
- 15 Q. Do you recall whether or not his testimony was critical
- 16 of you or Dr. Boscia or Dr. Shantha in any way?
- 17 A. I don't recall.
- 18 Q. Do you recall whether or not after Dr. Parnes'
- 19 deposition that Mr. Casey then listed Dr. Parnes as an
- 20 expert witness on behalf of the plaintiff?
- 21 A. Don't recall.
- 22 Q. Do you recall that after Dr. Parnes' deposition that he
- 23 later changed his testimony in the form of an affidavit
- 24 which was presented to Mr. Casey's counsel by your
- 25 counsel?

1 A. I don't recall.

2 (Defendant's Exhibit Number 71 marked)

3 EXAMINATION RESUMED BY MR. HENRIKSON:

4 Q. Let me show you what's been marked as Exhibit 71. I'll
5 represent to you that Exhibit 71 is a Notice of Taking
6 Deposition by Mr. Casey's attorney setting the
7 deposition of Neil H. Parnes, M.D., and that was taken
8 on May 8, 2009. Does that appear to be what Exhibit 71
9 says?

10 A. Yes.

11 (Defendant's Exhibit Number 72 marked)

12 EXAMINATION RESUMED BY MR. HENRIKSON:

13 Q. Let me show you what is marked as Exhibit 72. Exhibit
14 72, does that appear to be a letter from Spencer King
15 to Ray Thompson? And Mr. King was your attorney.
16 Correct?

17 A. Mr. King was my attorney.

18 Q. And Exhibit 72, the first page is a letter that appears
19 to have been written September 14, 2009. Is that
20 right?

21 A. Yes.

22 Q. And the second page is Affidavit of Neil H. Parnes,
23 M.D., and it's signed apparently by Dr. Parnes, and
24 there is a notary indicating that it was signed
25 September 9, 2009. Is that correct?

1 A. Saying January 12, 2016.

2 Q. That's when the commission expires. It was actually
3 signed---

4 A. Oh, yeah, yeah. I see that, yes. I see that.

5 Q. So this is approximately three or four months after his
6 deposition. Is that right?

7 A. I don't know. I'm not sure.

8 Q. Whatever the difference between May 8 and September 9
9 is, that's how long it was from his deposition.
10 Correct?

11 A. Correct.

12 Q. All right. The affidavit reads that in his May 8
13 deposition, he testified that AP radiograph taken on
14 May 28, 2006 showed a possible metallic foreign body
15 that appeared to be in the aortic pulmonary window as
16 opposed to the left main stem bronchus. Does that
17 refresh your recollection as to what his deposition
18 testimony said in part?

19 A. It doesn't refresh my recollection, sir. That's
20 nonsense.

21 Q. Okay, that wasn't the question. Does that refresh your
22 recollection as to whether that's what Dr. Parnes
23 testified to in his deposition in May of 2006?

24 A. Not at all. That's not possible medically.

25 Q. You're not understanding the question, sir. I'm not

1 asking you whether it's medically correct or incorrect
2 or Chinese or anything.

3 A. I don't recall.

4 Q. I'm asking you---

5 A. I don't recall.

6 Q. That does not refresh your recollection as to his
7 deposition testimony?

8 A. I don't recall.

9 Q. The affidavit continues, "That your affiant, after
10 further review of the portable chest film concluded
11 that the patient was rotated to the right, causing it
12 to appear that the object is in the vicinity of the
13 aortic pulmonary window. Upon further review it is
14 more likely that the object in the left main stem
15 bronchus near the take-off of the left upper lobe
16 bronchus. This is the location of erythematous
17 granulation tissue in the drawing by Joseph A. Boscia,
18 III, M.D. of May 28, 2004." Is that what it says?

19 A. It does.

20 Q. Between Dr. Parnes' deposition in May of 2008 and his
21 affidavit which changes his testimony, his deposition
22 testimony in September of 2009 -- I was wrong about the
23 date. Sorry about that. They were both in 2009. Did
24 you have any communication with anybody regarding Dr.
25 Parnes' deposition testimony?

1 A. Lawyers.

2 Q. And what did you tell those lawyers?

3 A. Don't recall.

4 Q. Did you have any participation in or suggestion to any
5 of your lawyers to contact Dr. Parnes and ask him to
6 reconsider his opinion or prepare an affidavit?

7 A. I been involved with every single expert, possibly with
8 Parnes, as well, and I may have explained medically
9 what makes sense and what doesn't with every expert
10 witness. So I don't recall specifically Parnes, but
11 there has not been a witness I was not involved with.

12 Q. So let me just try this again. Did you ever suggest to
13 your counsel or anyone else that there was a particular
14 expression of testimony that you wanted Dr. Parnes to
15 testify to rather than what he did in his deposition?

16 A. Yeah, I most certainly did. If I would disagree with
17 expert witness, I would tell the lawyers why.

18 Q. Did you talk to Dr. Parnes at any time between his
19 deposition and the signing of his affidavit?

20 A. Don't recall.

21 Q. Did you suggest to your attorneys or anyone else that
22 they contact Dr. Parnes and ask him to reconsider his
23 deposition testimony?

24 A. I may have. Again, you know, I would express opinion
25 on every expert witness if it's medically inaccurate,

1 medically incorrect, or it doesn't make sense to me. I
2 would suggest to them, absolutely.

3 (Defendant's Exhibit Number 73 marked)

4 EXAMINATION RESUMED BY MR. HENRIKSON:

5 Q. Let me show you Exhibit Number 73. Does the first page
6 of Exhibit 73, which is Mann 7382, is that an e-mail
7 from you to Mr. Mann?

8 A. Yes.

9 Q. This is a series of e-mails that you sent to Mr. Mann,
10 and they are dated, all dated April 2, 2010. Is that
11 right?

12 A. You gave me the same e-mail. It's all the same.

13 Q. All these e-mails are exactly the same?

14 A. Exactly the same.

15 MR. MANN:

16 Matt, do we need to take a break?

17 MR. HENRIKSON:

18 Just a short one, yeah.

19 (Off the Record; 3:39 -- 3:42 p.m.)

20 EXAMINATION RESUMED BY MR. HENRIKSON:

21 Q. Would you agree that in Dr. Parnes' affidavit that he
22 recanted some of his testimony from his deposition and
23 he changed testimony which was favorable to the
24 plaintiff on a crucial issue from his sworn deposition
25 taken four months earlier?

1 A. Can you show me what you consider crucial? I'm just
2 asking. You said crucial. I want to see what you
3 consider crucial to answer the question.

4 Q. No. You can either answer it or you can't.

5 A. I don't -- I don't understand your question.

6 Q. The question is, do you agree or do you disagree that
7 Dr. Parnes recanted and changed some of his testimony
8 which was favorable to the plaintiff on a crucial issue
9 from his sworn deposition testimony taken four months
10 before the affidavit?

11 A. I'm unable to answer the question without understanding
12 what crucial is.

13 Q. Okay. Going to Exhibit 73, you indicated that these
14 were all the same e-mails. I'm going to ask you to
15 look at them again. The first one, page 1 which is
16 7382, that is -- they're all on Friday, April 2.
17 Correct?

18 A. They're all on Friday, April 2, right.

19 Q. And you think these are all the same e-mail?

20 A. They're different times.

21 Q. And they're slightly different in content. Correct?

22 A. They're not different in content.

23 Q. All right. The first one is on April 2, the first one
24 is at 3:21 p.m. Right?

25 A. Yes.

1 Q. And it's from you to Mr. Mann?

2 A. Yes.

3 Q. And the subject is "MRI, comma, how about something
4 like that?"

5 A. Yes.

6 Q. And the substance of the e-mail is, "I, Neil Parnes,
7 M.D., am board certified radiologist and licensed
8 physician in South Carolina." And it goes on to offer
9 an opinion about the MRI, doesn't it?

10 A. It does.

11 Q. And that is language that you drafted yourself because
12 you wanted Dr. Parnes to testify, to adopt and
13 incorporate and testify to that language. Isn't that
14 true?

15 A. Yes, that's true.

16 Q. So you're telling Dr. Parnes what you want him to say
17 in that case. Right?

18 A. I'm not. I was expressing my opinion of medical issue,
19 and if Dr. Parnes would disagree, he would not do that.

20 Q. But you were suggesting to him what you wanted him to
21 say.

22 A. I'm suggesting to him what's medical state-of-the-art,
23 not suggest it to him. I suggest it to my lawyers what
24 medical state-of-the-art is.

25 Q. You are suggesting to Dr. Parnes what it is that you

1 wished him to say in an affidavit. Isn't that right?

2 A. That's false.

3 Q. I'm sorry?

4 A. That's false.

5 Q. Okay. Let's go to the next one. It's still Exhibit
6 73. It's page 7380. And this one is at 4:42 on the
7 same day. Right?

8 A. Correct.

9 Q. About an hour and 20 minutes later?

10 A. Yes.

11 Q. Also from you to Mr. Mann?

12 A. Yes.

13 Q. Was there a response from Mr. Mann in between those two
14 e-mails?

15 A. I'm not -- I'm not sure.

16 Q. And the subject of this one is called "Compromise
17 Language of affidavit." Correct?

18 A. Show me where, what you're referring to.

19 Q. Do you see the word Subject up top?

20 A. "Subject, Compromise Language of affidavit," yes.

21 Q. That's what it says, okay. So you're clearly talking
22 about the language of an affidavit, and the first words
23 are, "I, Neil Parnes, M.D.," and so you are clearly
24 talking about language of an affidavit that you want
25 Neil Parnes to sign.

1 A. Yes.

2 Q. And this is language that you've drafted. Correct?

3 A. Yes.

4 Q. And on that one you have added the language that he is
5 an expert witness in the case. That's different than
6 the first two lines in the first one. Correct?

7 A. Yes.

8 Q. And then you have also added the language that vascular
9 ischemic injuries of permanent nature caused by
10 cerebral air or tissue emboli are defined as an
11 infarction of central nervous system tissue as
12 diagnosed or excluded by neuroimaging, such as MRI.
13 Correct?

14 A. Yes.

15 Q. So that language is different than the e-mail which the
16 subject title is compromise language of affidavit.

17 A. Yeah, but that's taken from the textbook.

18 Q. And then the third e-mail from you to Mr. Mann on this
19 day is then at 5:33 p.m. Is that correct?

20 A. Yes.

21 Q. That's about 50 minutes after the second e-mail. Is
22 that right?

23 A. Yes.

24 Q. And the subject of this one is "Bingo." Right?

25 A. Right.

1 Q. Can you tell me, what is the bingo nature of this e-
2 mail?

3 A. I found -- I found the journal, a journal that states
4 the same.

5 Q. The difference, though, is that instead of saying
6 vascular ischemic injuries of permanent nature caused
7 by cerebral aortic tissue emboli, the language which
8 was different in the second e-mail -- do you remember
9 that that we read?

10 A. I have the e-mail in front of me. I don't need to
11 remember. I can look at it.

12 Q. You've got four e-mails in front of you, don't you?

13 A. Yeah. I can look at all of them.

14 Q. You can separately. Right?

15 A. Tell me what you want me to look at.

16 Q. All right. We talked about just a minute ago the 4:42
17 e-mail, and the language that was different in the 4:42
18 e-mail in this set of e-mails that you previously
19 testified were the same e-mail, that the language that
20 changed from number one to number two is the three
21 lines that say vascular ischemic injuries of permanent
22 nature. Do you see that sentence?

23 A. Yeah, but I have different articles in front of me,
24 too. So that's what changed it from article to
25 article.

1 Q. The question is it moved from number one. Number two
2 has this new vascular ischemic language. Right?

3 A. Yes, correct.

4 Q. And then number three, which is at 5:33 p.m., the
5 vascular ischemic language---

6 A. Hold on. Wait a second. Wait a second. 5:33 p.m.,
7 what's the number on it?

8 Q. It's 7378.

9 A. Got it.

10 Q. The vascular ischemic injury language that we have
11 discussed has been removed and replaced with,
12 "Permanent vascular brain injury is defined as an
13 infarction of central nervous system tissue as
14 diagnosed or excluded by neuroimaging, such as MRI."
15 Correct?

16 A. Correct.

17 Q. Okay. And that is under the Bingo e-mail. Right?

18 A. Yes.

19 Q. And then the fourth e-mail, which is at 5:56 p.m. on
20 the same day, the subject of that is called "Vital
21 language." Correct?

22 A. Yes.

23 Q. And there new language appears, and the new language
24 is, "MRI of the brain is vital for the diagnosis or
25 exclusion of permanent vascular embolic brain

1 injuries." Isn't that correct?

2 A. Yes.

3 Q. And that's the change from Bingo to Vital language?

4 A. Yeah. It says exactly that. It says Vital.

5 MR. MANN:

6 Move to strike.

7 EXAMINATION RESUMED BY MR. HENRIKSON:

8 Q. And then the last e-mail in Exhibit 73 is at 8:27 p.m.
9 on that same day. Right?

10 A. Yes.

11 Q. Again from you to Mr. Mann?

12 A. Yes.

13 Q. And here the changing language has changed from the
14 vital language e-mail to, "Neuroimaging of the brain,
15 comma, such as MRI, is required for the diagnosis of
16 permanent vascular embolic brain injuries." Is that
17 correct?

18 A. Absolutely.

19 Q. And these are all various phrases that you are
20 suggesting to Mr. Mann that you want Dr. Parnes to
21 testify to. Isn't that correct?

22 A. Yes.

23 Q. Do you have any evidence that Mr. Thompson did anything
24 which was outside of the Casey litigation which caused
25 some damage to you that did not involve the Casey

1 litigation but did some damage to you?

2 A. Outside of Casey litigation?

3 Q. Yes.

4 A. Yes. He start writing letters to the board members.

5 Q. Board members of what?

6 A. Of Spartanburg Regional Medical Center.

7 Q. I'm sorry?

8 A. Spartanburg Regional Medical Center.

9 Q. And when did he write those letters?

10 A. Let me see.

11 MR. MANN:

12 No.

13 EXAMINATION RESUMED BY MR. HENRIKSON:

14 A. I think it was 2008, 2009.

15 Q. Did you bring some material with you today?

16 A. I have some materials.

17 Q. What did you bring with you today?

18 MR. MANN:

19 Just hand it to him, please. Whatever you

20 brought, please hand it to Matt.

21 EXAMINATION RESUMED BY MR. HENRIKSON:

22 Q. Dr. Feldman, when did you accumulate these records in
23 order to bring them here today?

24 A. Last night maybe.

25 Q. Since Monday morning at 9 o'clock, have you done any

1 other record review or research or made any efforts to
2 locate or review any documents or anything like that
3 other than collecting these documents which you have
4 brought here today?

5 A. I was responding to what Mrs. Cheek asked me to do, to
6 bring the evidence. What is here everything that Ms.
7 Cheek asked me to do. So I was looking exactly for her
8 information to the questions.

9 Q. And I appreciate that, and the question really was
10 other than getting these documents together -- and I
11 believe that on Tuesday you brought a notebook -- have
12 you looked at, searched or done any other record review
13 or research or anything else in connection with this
14 case since Monday of this week at 9 o'clock?

15 A. I may have.

16 Q. Well, what may have you done?

17 A. Looking at Thompson production.

18 Q. And what specifically were you looking for?

19 A. Mrs. Cheek asked me what is the evidence that the
20 records Exhibit 20 that she was talking about was the
21 last one. That was one of the issue I looked at. And
22 she has asked me questions that I now don't remember,
23 but back then I did. So I looked. I was looking to
24 assist her in bringing her where was the record
25 appeared on the chart. She asked me a question. So

1 that's what I was looking for. That's primarily what
2 it was, just recollecting what she asked me for. I
3 promised her to bring her evidence, direct evidence she
4 asked me for, and that's what I collected. That's not
5 -- it was target research.

6 MR. MANN:

7 Dr. Feldman.

8 EXAMINATION RESUMED BY MR. HENRIKSON:

9 Q. You can complete your answer if you want.

10 MR. MANN:

11 Go ahead.

12 EXAMINATION RESUMED BY MR. HENRIKSON:

13 A. It was target research to what Mrs. Cheek want.

14 Q. Dr. Feldman, when did you first ever develop the idea
15 that you possibly had any cause of action against Mr.
16 Casey or Dr. Fogarty or Mr. Thompson arising out of the
17 Casey lawsuit?

18 A. Would be MRI.

19 Q. I'm sorry?

20 A. MRI done under fake name.

21 Q. How about prior to that time? Was there any time when
22 you felt like you had any cause of action against Dr.
23 Fogarty, Mr. Thompson, or Mr. Casey?

24 A. Prior to MRI, no.

25 Q. I'm sorry?

1 A. Prior to MRI, no.

2 Q. No, okay. Prior to your discovery or learning about
3 the MRI -- and we're talking about the one that was
4 taken in North Carolina?

5 A. Yes.

6 Q. Prior to that time, had you ever done any research into
7 any possible causes of action --

8 A. Yes.

9 Q. -- against Mr. Casey, Mr. Thompson, or Dr. Fogarty?

10 A. Yes.

11 Q. And when did you first do that?

12 A. It was -- I was very interested in what has been
13 transpiring, and sometime after Casey deposition, maybe
14 2007.

15 Q. I'm sorry?

16 A. Maybe in 2007.

17 Q. When in 2007?

18 A. Don't recall exactly.

19 Q. And what research did you do?

20 A. Just Internet browsing.

21 Q. But what were you looking for? What were you browsing
22 on the Internet?

23 A. For example, abuse of process require willful act, and
24 I would research what willful act is. Conspiracy
25 require somebody being in the same room talking to one

1 another and having knowledge of the plan. So I learned
2 that from Internet, what conspiracy is. So I was
3 researching. I'm not a lawyer. I was researching
4 legal terms what exactly what -- what it means. I
5 researched malicious prosecution. I was interested in
6 what is exactly malicious prosecution is in the state
7 of South Carolina. And just legal research, what are
8 legal and legal definitions are. Just tried to educate
9 myself on -- I was researching whether there's any
10 frivolous lawsuit was actionable, whether has been any
11 lawsuits filed by physicians, successfully filed by
12 physicians on the basis of just being wrongfully
13 frivolous lawsuit. I couldn't find any of that. So I
14 was researching what is exactly is actionable and what
15 isn't.

16 Q. And abuse of process and civil conspiracy and malicious
17 prosecution were not causes of action that were brought
18 against you or Upstate Lung or Dr. Boscia or Dr.
19 Shantha in the Casey matter. Correct?

20 A. In the Casey matter?

21 Q. In the original Casey filing.

22 A. Yeah, that's correct.

23 Q. In 2006.

24 A. Right.

25 Q. So you were not researching causes of action that were

1 brought against you; you were researching causes of
2 action that you wanted to bring against Casey, Dr.
3 Fogarty, and Mr. Thompson. Correct?

4 A. I'll say to answer this -- it's incorrect. I was
5 researching what is the possible recourse of somebody
6 like me that was facing a frivolous lawsuit. I was not
7 able to find a recourse.

8 Q. Well, you did research on civil conspiracy and abuse of
9 process. Correct?

10 A. Yes.

11 Q. And isn't it true that at the time that you were doing
12 that research, that you formulated the opinion that you
13 had those causes of action against Dr. Fogarty, Mr.
14 Thompson, and Mr. Casey?

15 A. Yeah, I came to that conclusion in 2008 after MRI. I
16 came to that conclusion.

17 Q. Did you come to that conclusion any sooner than that?

18 A. Not before MRI, no.

19 Q. Let me ask you to look at Exhibit 69, which should be
20 in that stack right there.

21 A. You find it for me, please.

22 Q. Excuse me?

23 A. Find it for me, please.

24 Q. I'm going to ask the court reporter to find it for you

25 --

- 1 A. That's fine.
- 2 Q. -- if she doesn't mind doing that.
- 3 A. No problem. Thank you.
- 4 Q. Exhibit 69, that is an e-mail from you to Dr. Boscia on
5 August 11, 2007 at 2:49 p.m. Correct?
- 6 A. I do.
- 7 Q. And the subject is, "Check out South Carolina judicial
8 department, dash, opinions." Is that what it says?
- 9 A. I did it, yes.
- 10 Q. And this is something that you arrived at in the e-mail
11 that you created after you had done research into civil
12 conspiracy and abuse of process that you described to
13 me a little while ago. Correct?
- 14 A. I haven't arrived to any conclusion. It's research.
- 15 Q. Excuse me?
- 16 A. I haven't arrived to any conclusion. It's research.
17 That's a mental impression. Much more goes into the
18 conclusion than mental impressions.
- 19 Q. The question was, the writing that you have in this e-
20 mail was the result of your personal research into the
21 causes of action of civil conspiracy and abuse of
22 process. Correct?
- 23 A. That's false.
- 24 Q. That's false?
- 25 A. Mm-hmm.

1 Q. Then tell me where I'm wrong.

2 A. It's far more than this research into legal cases. In
3 legal cases you have to pull out legal precedents, you
4 have to pull out authoritative literature, legal
5 authoritative literature. It's very difficult to do
6 for a non-lawyer, because I am a medical doctor. It's
7 much easier for me to pull authoritative literature in
8 medicine like we discussed with Parnes. That's pretty
9 clear. That's authoritative literature in medicine.
10 But on legal issues, to pull out authoritative legal
11 issue, you need to research what S. Carolina [ph] court
12 decided, what appellate court decided, what this court
13 has decided, what -- you know, many, many things you
14 need to pull. This is a -- but yes, I was very
15 interested in the subject.

16 Q. So the question is, the content of Exhibit 69 is part
17 of the result of your specifically researching civil
18 conspiracy and abuse of process as causes of action in
19 the state of South Carolina. Correct?

20 A. That's false.

21 Q. All right. Tell me why that's wrong.

22 A. Well, it's wrong because all of that is a mental
23 impression. It's not conclusions.

24 Q. I didn't ask that. I didn't say the word conclusion in
25 that question, did I?

1 A. what did you ask?

2 Q. I asked you, isn't it true that the content of this e-
3 mail that you wrote is the result of personal research
4 that you did into the causes of action of civil
5 conspiracy and abuse of process in the state of South
6 Carolina, yes or no.

7 A. You're stating a question I don't understand. Clarify
8 it.

9 Q. All right. The content of this e-mail -- right?

10 A. Mm-hmm.

11 Q. It has B in bold, "B, period, civil conspiracy"?

12 A. Yes.

13 Q. And then it talks about the elements of civil
14 conspiracy in South Carolina, and there's some case law
15 and there's some language there. Right?

16 A. Yes.

17 Q. And then down below, there's reference to abuse of
18 process. Right?

19 A. Yes.

20 Q. It says, "Abuse of process that is already fact."
21 Right?

22 A. Yes.

23 Q. Here's my question. Were you born with this knowledge
24 of what civil conspiracy and abuse of process is in
25 South Carolina, or did you have to, I don't know,

1 browse on the Internet or do something to find out this
2 information?

3 A. Had to browse Internet.

4 Q. So did you browse on the Internet before you wrote this
5 e-mail?

6 A. Yes.

7 Q. So you browsed on the Internet and you were looking at
8 the topics of civil conspiracy and abuse of process as
9 causes of action in South Carolina, and after you did
10 some of that for some period of time you wrote this e-
11 mail. Correct?

12 A. Correct.

13 Q. Thank you. And civil conspiracy and abuse of process
14 were the two causes of action that you ultimately
15 brought against Dr. Fogarty, Mr. Casey, and Mr.
16 Thompson in the suit that we're sitting for here today.
17 Right?

18 A. Yes.

19 (Defendant's Exhibit Number 74 marked)

20 EXAMINATION RESUMED BY MR. HENRIKSON:

21 Q. And were you doing a lot of research into this at this
22 time?

23 A. Yes.

24 Q. And let me show you what is Exhibit 74. 74 is an e-
25 mail from you to you that talks about invasion of

1 privacy. Is that right?

2 A. I see that.

3 Q. Were you also looking into that?

4 A. At invasion of privacy?

5 Q. Yes.

6 A. I don't recall, but this is -- let me see. "The laws
7 also vary by state and nation. South Carolina has
8 strict law against invasion of privacy." This is
9 research on invasion of privacy.

10 Q. And this is dated June 14, 2007. Is that right?

11 A. It is.

12 Q. This is, again, an e-mail that you generated and then
13 you sent to yourself?

14 A. Yes, I did.

15 (Defendant's Exhibit Number 75 marked)

16 EXAMINATION RESUMED BY MR. HENRIKSON:

17 Q. Let me show you what's been marked as Exhibit 75. And
18 this is an e-mail that you initially sent to yourself
19 on June 14, 2007. Is that right?

20 A. I'm not sure, but one of the date I recognize August
21 27, Thursday, 16 August 2007, 7:43.

22 Q. Why don't you look at the one that's right below that.

23 A. It says June, Thursday, 14 June 2007.

24 Q. And does that appear to be the date of the original e-
25 mail?

1 A. It does.

2 Q. The e-mail to yourself.

3 A. Yes.

4 Q. Does that appear to be similar to the content of
5 Exhibit 74?

6 A. Correct.

7 Q. And in this e-mail you have forwarded it to your
8 attorney who was representing you, one of the attorneys
9 representing you in the Casey case, and you forwarded
10 it to that attorney on 16 August 2007. Right?

11 A. Wednesday, March 19, 2008.

12 Q. No. Look below, original message. It was sent from
13 you to Mr. Mann on Thursday, 16 August 2007 at 7:43
14 p.m. Is that correct?

15 A. Yes.

16 (Defendant's Exhibit Number 76 marked)

17 EXAMINATION RESUMED BY MR. HENRIKSON:

18 Q. Let me show you Exhibit 76. And this is an e-mail
19 where the original e-mail is from you to you dated
20 Friday, 17 August 2007 at 6:34 p.m. Is that correct?

21 A. Correct.

22 Q. And the subject is "Countersuit." Is that right?

23 A. Yes.

24 Q. And then it looks like there's a link to something
25 that's entitled "Fighting Fire with Fire: Physician

1 Countersuits." Is that right?

2 A. It does say that.

3 Q. So at least at August 17, 2007, you were thinking about
4 countersuits against the people who sued you in the
5 Casey case. Isn't that correct?

6 A. That's false.

7 Q. Why is that false?

8 A. It doesn't say anything about fighting fire with fire,
9 physician countersuits about anything, about anybody
10 there.

11 Q. I understand that, but in August of 2007, you had been
12 -- how many suits against you were pending at that
13 time?

14 A. I have no pending lawsuit. I have a lawsuit from Casey
15 against me. He's not a physician.

16 Q. I didn't ask you that, did I? You had one case against
17 you.

18 A. Yes.

19 Q. And that was Casey.

20 A. Yes.

21 Q. And you're doing this research in August of 2007, and
22 one of the articles or pieces of material that you turn
23 up in your research is something entitled Fighting Fire
24 with Fire, colon, Physician Countersuits. Right?

25 A. Yes.

1 Q. And you thought enough of that article that you sent it
2 to yourself. Is that right?

3 A. Yes.

4 Q. And this article or this is indicative that in August
5 2007 you are thinking about physicians making
6 countersuits when they have been sued. Isn't that
7 right?

8 A. Yes.

9 Q. Okay, thank you.

10 (Defendant's Exhibit Number 77 marked)

11 EXAMINATION RESUMED BY MR. HENRIKSON:

12 Q. I'm going to show you what is Number 77, and this is an
13 e-mail, the original e-mail that you sent to yourself
14 Friday, 17 August 2007 at 6:53 p.m. Correct?

15 A. This is August 7, 2008.

16 Q. Please look down at the original message.

17 A. August 2007. Friday, 17 August 2007.

18 Q. That's when you sent it from you to yourself. Right?

19 A. Yes, I did send it to myself.

20 Q. And you got this from the South Carolina Judicial
21 Department Opinions?

22 A. It looks like it.

23 Q. And this looks like a description or language from a
24 case regarding conspiracy. Is that right?

25 A. Yes, it is.

1 MR. HENRIKSON:

2 Milton, I might be able to shorten this. Can we
3 just take a short break?

4 MR. MANN:

5 Of course. Yes, sir.

6 (Off the Record; 4:15 -- 4:28 p.m.)

7 EXAMINATION RESUMED BY MR. HENRIKSON:

8 Q. Dr. Feldman, how much actual cash did you realize from
9 the acquisition of part of the amount of the
10 consolidated companies from GPP?

11 A. Well, some of it remain to be realized because it's in
12 escrow, but combined cash would be probably close to \$8
13 million.

14 Q. And what is the status of Alliance Biomedical Research
15 now?

16 A. It's a legal entity now.

17 Q. And who owns it? Is it part of the 60---

18 A. No.

19 Q. It doesn't exist?

20 A. No, it exists, but it's not -- the business was bought,
21 but not the company.

22 Q. Who is being paid to represent you and Dr. Boscia and
23 Upstate Lung in this case right now?

24 A. Alliance. Still the same.

25 Q. Alliance. It's separate from the new company?

1 A. well, the business was bought, not the company. The
2 contracts, the connections, platform. Okay? So the
3 company is no longer going to do any -- it's
4 accomplished its role, but it's not disappeared.

5 Q. Now it only provides legal services?

6 A. Yes.

7 Q. So it is a company that provides legal services and it
8 employs a lawyer?

9 A. Paralegal, lawyer, and some other people still, because
10 it's transition to like January 1, I believe. So
11 there's still some other people employed.

12 Q. So it continues to bill companies for legal advice?

13 A. Yeah. Upstate Lung, myself, Dr. Boscia. This is --
14 this is not a dissolved company. It sold its business.

15 Q. Right, I understand.

16 A. Okay.

17 Q. Does it still provide legal services to any of the
18 research facilities?

19 A. That hasn't been discussed yet, but it might, but that
20 issue has never been discussed yet.

21 Q. And I think you testified earlier that money that is
22 paid to Alliance Biomedical Research, Inc. on behalf of
23 work or in exchange for work done by Mr. Mann and his
24 staff, that is paid from whoever receives the benefit
25 of the work to Alliance Biomedical. Right?

1 A. I misunderstood the question.

2 Q. Yeah. You know what---

3 A. If I answer it incorrectly, I try my best.

4 Q. Sure.

5 A. Alliance billed everybody but Alliance for the work is
6 done by lawyers. That make sense?

7 Q. Yeah.

8 Q. But it does not bill an employer, Alliance. So
9 Alliance bill for legal work to whoever that legal work
10 is done for.

11 Q. Okay. And in this case, there was I think a 40,000-
12 dollar retainer that Upstate Lung paid to Alliance on
13 behalf of Mr. Mann becoming involved in the defense of
14 the Casey litigation. Is that correct?

15 A. That may be. I don't -- I don't know.

16 Q. We talked about that on Tuesday.

17 A. It could have been. I'm not involved with this. You
18 may know more than I do.

19 Q. Does Alliance Biomedical Research, Inc., the company
20 that employs Mr. Mann, does it have an escrow account?

21 A. No.

22 Q. Does Mr. Mann have an escrow account, as far as you
23 know?

24 A. As far as I know, no.

25 Q. Where did the retainer money go?

1 A. I'm not sure.

2 Q. Does Alliance Biomedical Research, Inc. or Mr. Mann do
3 any legal work for you personally aside from this case
4 that we're here for today?

5 A. Yes.

6 Q. And are you billed for that work?

7 A. Let me rephrase it. Nothing for me personally, but for
8 some entities, which would be real estate.

9 Q. We talked about your real estate holdings---

10 A. Right. Nothing really for Greg Feldman. Don't have a
11 -- Greg Feldman doesn't have any issue that require a
12 lawyer, but some research -- some real estate
13 partnerships, some real estate things that he does.

14 Q. The e-mail address that we've looked at, which I think
15 is Gfeld -- is that 3838@aol.com?

16 A. 3232.

17 Q. 3232@aol.com. How long have you had that e-mail
18 address?

19 A. Since '81. 1981.

20 Q. Do you use any other e-mail addresses?

21 A. Other e-mail addresses?

22 Q. Either personally---

23 A. I have other e-mail addresses, but I don't use them.

24 Q. What e-mail addresses do you have that you don't use?

25 A. I had e-mail address Greg.Feldman@Alliance

1 Biomedical.com

2 Q. And you do not use that?

3 A. No.

4 Q. Do you have any other e-mail addresses, whether you use
5 them or don't use them?

6 A. I have a Greg.Feldman@sbgi.com, but I never used it.

7 Q. And what's SBGI?

8 A. Select Biomedical Group International.

9 Q. Is Dr. Boscia involved in that company at all?

10 A. No.

11 Q. Any other e-mail addresses that you have that you do
12 not use?

13 A. That's it, not to my knowledge.

14 Q. What is your cell phone number?

15 A. 864-706-7993.

16 Q. Who is your provider?

17 A. Verizon.

18 Q. How long have you had that number?

19 A. Probably since I came to South Carolina.

20 Q. Do you have any other phone numbers that you use?

21 A. No.

22 Q. Dr. Feldman, I'm going to return your notebook to you
23 and I'm going to thank you for your patience, and I
24 don't have any other questions at this time. Thank
25 you.

1 MR. NICHOLS:

2 No questions.

3 MR. MANN:

4 No questions.

5 (There being no further questions, this deposition concluded
6 at 4:36 p.m.)

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CERTIFICATE OF REPORTER

I, ROSALIND POOLE WALTERS, a Notary Public in and for the State of South Carolina, do hereby certify that the foregoing 532 pages represents a true and accurate transcript of the deposition of GREGORY J. FELDMAN, M.D., which was taken by me on the 18th, 19th, and 21st days of October, 2016.

That the witness was first duly sworn to tell the truth, the whole truth and nothing but the truth of his own knowledge concerning this matter.

That I am not related to nor the employee of any of the parties hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Rosalind Poole Walters, CVR-M
Notary Public for South Carolina
Commission Expires: 12-18-16

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

William Mark Casey,

Plaintiff,

vs.

Gregory J. Feldman MD, Joseph
 A. Boscia III, MD, Upstate Lung and
 Critical Care Specialists PC, and
 Devendra Shantha MD,

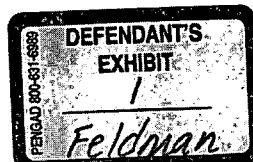
Defendants.

COMPLAINT

C.A. No. 2006-CP-42-~~1222~~ 1728
 (JURY TRIAL REQUESTED)

The Plaintiff, complaining of the acts of the Defendants above, would respectfully show unto this Court as follows:

1. That the Plaintiff is a citizen and resident of the County of Spartanburg, State of South Carolina.
2. That the Defendant, Gregory J. Feldman MD, upon information and belief, is a citizen and resident of the County of Spartanburg, State of South Carolina.
3. That the Defendant, Joseph A. Boscia III, MD, upon information and belief, is a citizen and resident of the County of Spartanburg, State of South Carolina.
4. That the Defendant, Upstate Lung and Critical Care Specialists PC, is an association organized and existing under the laws of South Carolina and engaged in substantial business in the County of Spartanburg, State of South Carolina.
5. At all times herein mentioned, Defendants Gregory J. Feldman MD and Joseph A. Boscia III, MD, acted both individually and as servants, agents and employees of Upstate Lung and Critical Care Specialists PC, acting within the course and scope of their employment. On or



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about May 28, 2004, the Plaintiff, William Mark Casey, was a patient of the Defendants, Feldman, Boscia and Upstate Lung and Critical Care Specialists PC. After the development of the physician-patient relationship, these Defendants were negligent, careless, reckless, willful and wanton in Mr. Casey's treatment, care, management, surgical evaluations and surgical procedures, all of which resulted in severe and extensive injury to the Plaintiff.

6. That the Defendant, Devendra Shantha MD, upon information and belief, is a citizen and resident of County of Spartanburg, State of South Carolina, and is employed as an anesthesiology physician doing substantial business in the County of Spartanburg, State of South Carolina. At all times herein mentioned involving Defendant Devendra Shantha MD, a physician-patient relationship existed with the Plaintiff, William Mark Casey. The Defendant, Devendra Shantha MD, was negligent, careless, reckless, willful and wanton in Mr. Casey's treatment, care, management, surgical evaluations and surgical procedures, all of which resulted in severe and extensive injury to the Plaintiff.

7. As a direct and proximate result of the negligence, carelessness, recklessness, willful and wantonness on the part of the Defendants, Mr. Casey suffered real and immediate physical and mental injuries including; but not limited to; a perforated bronchial wall allowing air bubbles to escape from the lung into adjacent blood vessels, causing air emboli with resultant loss of blood circulation to the brain causing permanent brain damage with cognitive dysfunction, memory loss, depression and other problems associated with brain damage. He has also endured physical pain and suffering, mental anguish and distress and will continue to suffer such damage in the future along with the problems from permanent brain damage as stated above. Mr. Casey's injuries are permanent and disabling to the point that he has been physically disabled from employment and has not worked since suffering the injuries stated herein and,

upon information and belief, Mr. Casey will be permanently disabled from employment with resulting loss of income. Mr. Casey has lost the normal enjoyment and quality of life, the ability to engage in social and physical activities in which he previously participated, and suffered embarrassment and humiliation along with causally related past and future medical expenses and other economic losses.

8. The injuries and damages sustained by the Plaintiff, William Mark Casey, are a direct and proximate result of the negligence, carelessness, recklessness, willfulness and wantonness on the part of the Defendants in failing to possess the degree of care, competence, judgment and skill ordinarily and customarily possessed by similar healthcare providers under similar circumstances, or in failing to exercise that degree of care, competence, judgment and skill ordinarily and customarily exercised by similar healthcare providers under similar circumstances, and in deviating from ordinary and customary standards of medical care in one or more of the following particulars, to wit:

A. As to Defendant Joseph A. Boscia III, MD:

- (1) In failing to obtain a complete history and physical examination of the patient, William Mark Casey, to include any history of aspirating a radiopaque/metallic foreign body, onset and details of physical problems and symptoms supporting aspiration of metallic foreign body;
- (2) In failing to obtain clinical correlation supporting ingestion of a metallic foreign body as recommended by the radiologist in his interpretation of the sole AP chest x-ray taken in the emergency room;
- (3) In failing to obtain appropriate diagnostic studies to include a complete set of PA and lateral chest x-rays and/or chest CT scans, which would have involved minimal risk to the patient, and which would have confirmed or eliminated the presence of a radiopaque/metallic foreign body in the patient's lung prior to subjecting the patient to a flexible bronchoscopy on May 28, 2004;
- (4) In engaging in flexible bronchoscopy surgical procedure on May 28, 2004, to remove a radiopaque/metallic foreign body from the lung without

first confirming the presence of said foreign body in the lungs, since this presence of said foreign body was the only indication for the procedure and there was no urgency given the patient's absence of any supporting history, symptoms, physical findings, for aspiration of said foreign body;

- (5) In failing to engage in conservative diagnostic treatment that would have revealed the patient did not have a radiopaque/metallic foreign body present in his lung, thereby eliminating the need for flexible bronchoscopic procedure on May 28, 2004, which, in fact, failed to show a radiopaque/metallic foreign body;
- (6) In failing to obtain washings or biopsies during the flexible bronchoscopy surgical procedure on May 28, 2004, (particularly with no visualization of metallic foreign body on bronchoscopy) for further laboratory diagnosis to provide indication for rigid bronchoscopy; or if washings or biopsies were obtained, in failing to have appropriate laboratory tests completed on the washings or biopsies to support the need for rigid bronchoscopy with YAG laser;
- (7) In failing to review the CT chest scan, (which he ordered four hours after the May 28, 2004, bronchoscopy), given that the bronchoscopy did not show any radiopaque/metallic foreign body and that the negative chest CT eliminated the need for the rigid bronchoscopy with YAG laser to remove said foreign body;
- (8) In failing to communicate to the patient that no radiopaque/metallic foreign body was visualized during the flexible bronchoscopy procedure and that the CT chest scan taken four hours after the flexible bronchoscopy on May 28, 2004, was also negative for the presence of a radiopaque/metallic foreign body in the patient's left upper lung or any area of his chest;
- (9) In failing, prior to the patient's discharge on May 29, 2004, to cancel the rigid bronchoscopy scheduled for June 3, 2004, to be done by Gregory J. Feldman MD, for removal of the radiopaque/metallic foreign body, given the finding of no foreign body on chest CT done the day before in addition to the findings of no signs or symptoms of aspiration and no visible foreign body on flexible bronchoscopy;
- (10) In failing to communicate during the period between May 29 and June 3, 2004, with his partner and co-physician responsible for managing the Plaintiff's medical care, Gregory J. Feldman MD, that the chest CT scan performed on May 28, 2004, was negative for a radiopaque/metallic foreign body in the patient's lung and that the rigid bronchoscopy for removal of the now non-existent radiopaque/metallic foreign body was, thus, no longer indicated;

- (11) In failing to properly follow Spartanburg Regional Medical Center's mandated Policies and Procedures for certain Standards of Care in place for the safety and proper treatment of the patient;
- (12) In failing to communicate the full extent of the errors and deviations of standard of care to the patient, William Mark Casey, and all appropriate Spartanburg Regional Medical Center officials and committees, as indicated, errors which were committed by this and/or the other Defendants that resulted in severe injuries to Mr. Casey, as set forth in Spartanburg Regional Medical Center's policy of Disclosure of Unanticipated Outcomes.

B. As to Defendant Gregory J. Feldman MD:

- (1) In failing to obtain a history and physical from the patient, thus failing to recognize patient's lack of symptoms (no wheezing, shortness of breath, cough or other symptoms typically associated with foreign body aspiration) did not support aspiration of the alleged radiopaque/metallic foreign body;
- (2) In failing to obtain clinical correlation of aspiration of and presence of radiopaque/metallic foreign body as opposed to an artifact above or below the chest on film;
- (3) In failing to review, consider or repeat conservative diagnostic treatment during the period of between May 29 and June 3, 2004, which should have caused him to cancel the rigid bronchoscopy previously scheduled for June 3, 2004;
- (4) In failing to order and review PA and lateral chest x-rays and review the previously obtained chest CT scan, which would have been the most reasonable next step, prior to the rigid bronchoscopy with YAG laser;
- (5) In failing to review patient's medical records from the patient's hospital admission on May 28, 2004, through patient's discharge on May 29, 2004, to include flexible bronchoscopy records and all diagnostic tests;
- (6) In failing to order additional diagnostic studies, in the absence of Dr. Boscia's visualization of said foreign body on previous bronchoscopy, and chest CT negative for said foreign body, to justify the need for proceeding with potentially life-threatening rigid bronchoscopy with YAG laser on June 3, 2004;
- (7) In failing to obtain proper Informed Consent from patient, discussing risks, potential benefits, and alternatives to rigid bronchoscopy with YAG

laser and failure to disclose negative test results, including absence of visible foreign body on fiberoptic bronchoscopy, and absence of foreign body on chest CT, prior to patient's arrival in operating room;

- (8) In failing to participate, or adequately participate, in the mandated "Time Out" meeting of the entire surgical team prior to the June 3, 2004, procedure which should have prevented the procedure from going forward;
- (9) In failing to exercise appropriate medical judgment and failure to consider the high risk of using rigid bronchoscopy with YAG laser and associated instrumentation to vaporize or remove a substantial radiopaque/metallic foreign body given the known risks of fire, perforation and air emboli from said procedure and the absence of any history in an asymptomatic patient with no cough, shortness of breath, wheezing, chest film atelectasis, or other indication for said high-risk invasive procedure;
- (10) In continuing to use the rigid bronchoscope with YAG laser and associated instrumentation to remove or vaporize what Defendant Feldman believed was a foreign body in the patient's lung, even though the expected foreign body was not visualized, subjecting the patient to the risk of fire in the lung and death had such radiopaque/metallic foreign body been present;
- (11) In continuing to use the rigid bronchoscope, YAG laser and associated instrumentation to remove tissue not knowing the character of said tissue, i.e., metallic foreign body, crown, or congenital abnormality, subjecting the patient to risks of fire, perforation and attendant complications;
- (12) In failing to correlate increased blood pressure and heart rate with a complication, such as perforation of the bronchial wall and continuing to attempt to remove non-existent radiopaque/metallic foreign body, despite destabilization of vital signs, including elevated blood pressure and increased pulse;
- (13) In failing to recognize the severity of the patient's symptoms and likelihood of bronchial wall perforation, and continuing the rigid bronchoscopic procedure for a substantial additional period of time, allowing continued air bubbles to escape from the lungs into the blood vessels, causing air emboli resulting in permanent brain damage to Mr. William Mark Casey;

- (14) In failing to properly follow Spartanburg Regional Medical Center's mandated Policies and Procedures for Standards of Care in place for the safety and proper treatment of the patient;
- (15) In failing to communicate the full extent of the errors and deviations of standard of care to the patient, William Mark Casey, and all appropriate Spartanburg Regional Medical Center officials and committees, as indicated, errors which were committed by this and/or the other Defendants that resulted in severe injuries to Mr. William Mark Casey, as set forth in Spartanburg Regional Medical Center's policy of Disclosure of Unanticipated Outcomes.

C. As to Defendant, Upstate Lung & Critical Care Specialists PC:

Defendants Gregory J. Feldman MD and Joseph A. Boscia III, MD, at all times herein mentioned were acting as agents and employees of Upstate Lung and Critical Care Specialists PC and were acting within the course and scope of their employment. Both Defendants Feldman and Boscia had a physician-patient relationship with the Plaintiff, William Mark Casey, and were jointly responsible for and involved in this patient's care. All allegations stated directly above or otherwise in this Complaint as to Defendants Feldman and Boscia are imputed to the Defendant Upstate Lung and Critical Care Specialists.

D. As to Defendant, Devendra Shantha MD:

- (1) In administering general anesthesia to the Plaintiff, William Mark Casey, on June 3, 2004, for removal of a radiopaque/metallic foreign body from the patient's lung or chest when he was aware prior to the procedure that the chest CT scan taken May 28, 2004, was negative for a radiopaque/metallic foreign body in the patient's chest;
- (2) In failing to communicate to the surgeon, Gregory J. Feldman MD, prior to the start of the procedure on June 3, 2004, that the chest CT scan taken May 28, 2004, was negative for the presence of a radiopaque/metallic foreign body in the patient's chest;
- (3) In failing to inform the patient during his Anesthesia Pre-Operative Evaluation that the surgical procedure for which he was scheduled (removal of radiopaque/metallic foreign body from the lung) was unnecessary given that the May 28, 2004, chest CT scan did not show said foreign body, and given that his knowledge that the chest CT, scan was negative;
- (4) In failing to participate, or adequately participate, in the mandated "Time Out" meeting of the entire surgical team prior to the June 3, 2004,

procedure which should have prevented the procedure from going forward;

- (5) In failing to immediately communicate to the surgeon, Defendant Gregory J. Feldman MD, as to the destabilization of the Plaintiff's vital signs during the procedure and allowing the procedure to continue for an additional substantial period of time, which ultimately resulted in Plaintiff's permanent injuries, including permanent brain damage;
- (6) In failing to properly follow the Spartanburg Regional Medical Center mandated Policies and Procedures for Standards of Care in place for the safety and proper treatment of the patient;
- (7) In failing to communicate the full extent of the errors and deviations of standard of care regarding the patient, William Mark Casey, to Spartanburg Regional Medical Center officials and committees, as indicated, errors which were committed by this and/or the other Defendants that resulted in severe injuries to Mr. William Mark Casey, as set forth in Spartanburg Regional Medical Center's policy of Disclosure of Unanticipated Outcomes.

9. The patient requests that he be awarded actual and punitive damages from the Defendants, jointly and severally, in an appropriate amount to be determined by a jury for the reasons stated in this Complaint.

WHEREFORE, based on the allegations set forth in this Complaint, Plaintiff prays:

- A. For a sum of actual and punitive damages as to each Defendant, jointly, and severally, in an amount to be determined by a jury;
- B. For the cost of this action; and
- C. For such other and further relief as the Court may deem just and proper.

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Attorneys for Plaintiff
P.O. Box 3408
Spartanburg, SC 29304
(864)585-8166; Fax: (864) 583-6927

Dated: May 24, 2006
Spartanburg, South Carolina

By: Chuck Thompson
RAY E. THOMPSON, JR.

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Gregory J. Feldman, MD, Joseph
A. Boscia III, MD, Upstate Lung and
Critical Care Specialists PC, and
Devendra Shantha, MD,

Plaintiffs,

vs.

William Mark Casey,
Ray E. "Chuck" Thompson, and
Charles M. Fogarty, MD.

Defendants.

Second Amended Complaint
(Jury Trial Demanded)

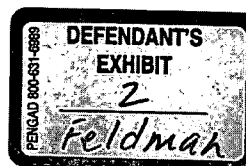
C. A. No. 2010-CP-42-5743

Now comes the Plaintiffs complaining of the Defendants and allege:

Venue and Jurisdictional Allegations

1. That Plaintiffs are citizens of the County of Spartanburg, State of South Carolina.
2. Defendants are, upon information and belief, citizens of the County of Spartanburg, State of South Carolina.
3. Venue and jurisdiction are vested in the Circuit Court of the Seventh Judicial Circuit in and for Spartanburg County, South Carolina.

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Factual Allegations

4. The medical malpractice action out of which this complaint arose was captioned *William Mark Casey v. Gregory J. Feldman, M.D., Joseph A. Boscia, III, M.D., Devendra Shantha, M.D. and Upstate Lung and Critical Care Specialists, PC*, filed in the Court of Common Pleas for Spartanburg County, Seventh Judicial Circuit, case number 2006-CP-42-1728.

5. In the medical malpractice action, Mr. William Mark Casey through his attorney, Mr. Ray E. "Chuck" Thompson, alleged Drs. Feldman, Boscia and Shantha breached the standard of care respecting his medical treatment and as a result of which Mr. Casey suffered permanent brain damage that rendered him totally disabled.

6. Mr. Casey sought actual and punitive damages arising out of certain treatment and care, which took place at the hands of the doctors from the period May 28, 2004 through June 3, 2004, that allegedly caused a profound neurological injury and permanent disability.

7. Essentially, Mr. Casey was admitted to Spartanburg Regional Medical Center with chest pain from his workplace at Michelin on May 28, 2004.

8. As part of the work-up, a chest x-ray was done on that date which revealed a small metallic density foreign body and clinical correlation was suggested.

9. Accordingly, Dr. Boscia performed a flexible bronchoscopy, which did not result in retrieval of a foreign object, but did reveal abnormal tissue.

10. Thereafter, Dr. Boscia referred Mr. Casey to his partner, Dr. Feldman, for a rigid bronchoscopy.

11. Mr. Casey was sent home until several days later on June 3, 2004 when he was admitted for the rigid bronchoscopy.

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12. Dr. Feldman performed that procedure with Dr. Shantha, who was the attending anesthesiologist.

13. At the close of the rigid bronchoscopy, Mr. Casey suffered a pneumothorax, a known risk, and was required to stay in the hospital through June 6, 2004.

14. Mr. Casey contended that as a result of the rigid bronchoscopy, he suffered irreversible and "permanent brain injury" as a result of the pneumothorax.

15. He claims, *inter alia*, that bubbles or air emboli migrated to his brain and caused his injury.

16. Following his release from the hospital, Mr. Casey began to complain of pacing the floor, forgetfulness, short-term memory loss and personality changes.

17. Based upon the assertions within Paragraph 16, Mr. Casey sought permanent disability from the Social Security Administration and Aetna Disability Insurance.

18. Mr. Casey came under the care of Charles Fogarty, M.D., another Spartanburg Pulmonologist, after Drs. Feldman and Boscia would not support Mr. Casey's disability claims.

19. To their misfortunes, Dr. Fogarty was well known by Drs. Feldman and Boscia, prior to the medical malpractice action in a very negative way.

20. Before Drs. Feldman and Boscia became partners within Upstate Lung and Critical Care Specialists, PC, Drs. Feldman and Fogarty had been partners for a number of years.

21. The Feldman/Fogarty separation from joint medical practice was so acrimonious, in 2000, the event was very well known within the medical community of Spartanburg.

22. In September of 2004, Drs. Feldman and Boscia formed a pharmaceutical research company, which Dr. Fogarty viewed as a threat to his own medical practice and research company.

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23. Prior to the medical malpractice action, Dr. Fogarty actively sought to interfere with Drs. Feldman's and Boscia's research company and their patient care.

24. As a result of Dr. Fogarty's efforts to hamper the business efforts of Drs. Feldman and Boscia, in 2005 they were forced to sue Dr. Fogarty to clear their names and in an effort to prevent further damage to their reputations and business.

25. The Complaint was captioned *S. Carolina Pharmaceutical Research v. Charles M. Fogarty, M.D.*, filed in the Court of Common Pleas for Spartanburg County, Seventh Judicial Circuit, case number 2005-CP-42-1085.

26. During the *S. Carolina* lawsuit, Dr. Fogarty, in a couple of ways, saw his involvement with Mr. Casey as a golden opportunity to retaliate against Drs. Feldman and Boscia for his perceived wrongs of them starting a research company and filing suit against him.

27. First, Dr. Fogarty continued masterminding the generation of the unfounded "permanent brain injury" claims to injure his business competitors by damage to their reputation and through bogging them down for years in the protracted litigation defending against his scheme.

28. The "permanent brain injury" theory, along with a number of associated allegations of causation due to alleged deviations from the standard of care by Drs. Feldman, Boscia and Shantha ("the scheme"), was developed by Dr. Fogarty from sometime in 2004 until he finally published it in the medical records on July 21, 2005.

29. Second, Dr. Fogarty directly benefited himself by derailing his business competitors' efforts in the *S. Carolina* litigation due to the tremendous pressure created in their lives by the publicizing of the baseless allegations of a "permanent brain injury" within the destructive scheme.

30. Dr. Shantha and ULCCS were merely collateral damage and included in the medical malpractice case as parties in an effort to damage Drs. Feldman and Boscia.

31. Despite a total lack of objective medical investigation into Mr. Casey's alleged neurological condition and having no qualifications within any neurological specialty, Dr. Fogarty hatched a theory that Mr. Casey had suffered a cerebral air embolism ("permanent brain injury"), thereby causing the personality changes and cognitive deficits of which Mr. Casey complained.

32. It is important to note that an admitted fact of the medical malpractice action was that Dr. Fogarty's theories of Mr. Casey's "permanent brain injury" were unsupported by any medical literature. In addition, it was uncontroverted that Mr. Casey suffered no permanent lung damage as a result of the procedures.

33. Dr. Fogarty performed no basic neurological examination of Mr. Casey.

34. Under Dr. Fogarty's "care," Mr. Casey was not referred to any neurological expert nor did Dr. Fogarty order an MRI study of the brain.

35. Although taking the lead in Mr. Casey's medical treatment and being the architect of the "permanent brain injury" scheme, Dr. Fogarty did not review any objective neurological test results for Mr. Casey.

36. Despite the complete absence of any objective support of the "permanent brain injury" scheme, Dr. Fogarty ensured that Mr. Casey's medical records prominently and categorically reflected his baseless injury assertions by inserting this in his office notes dated July 21, 2005.

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37. At all times material, Dr. Fogarty intended for his baseless injury assertions within Mr. Casey's medical records to be the basis for Mr. Casey to claim and receive disability benefits.

38. Furthermore, leading up to and during the litigation, Dr. Fogarty intended for his baseless permanent injury fabrications within Mr. Casey's medical records to be the cornerstone of orchestrated "expert" testimony that was designed to be used in ensuring the survivability of the medical malpractice case for as long as possible.

39. Dr. Fogarty actively sought to mislead the doctors and their attorneys of his level and the purpose of involvement in the litigation by seeing Mr. Casey within his research facility as opposed to his medical practice, which would have created medical records that could have been discovered.

40. In addition, Dr. Fogarty conducted complex medical testing on Mr. Casey at his research facility, yet he did not maintain the medical records in an effort to conceal the purpose of his involvement and in order to harm the doctors' discovery efforts thereby prolonging the medical malpractice case.

41. Until his deposition on December 22, 2008, Dr. Fogarty was very successful in shielding his role in the "permanent brain injury" scheme by his active efforts to obstruct and evade his deposition.

42. Dr. Fogarty and Mr. Thompson went to great lengths to ensure that Dr. Fogarty's role as an "expert" witness was concealed until the 11th hour from the doctors and their attorneys to further frustrate discovery efforts and to hide his level of involvement in the execution of the "permanent brain injury" scheme.

43. Despite the best efforts of Dr. Fogarty and Mr. Thompson in implementing the scheme, Mr. Casey testified during his deposition that no one told him he had a brain injury.

44. Even throughout his deposition, Dr. Fogarty continued his attempts to hide his role as a mastermind of the lawsuit and his level of involvement in the medical malpractice action by making material misrepresentations.

45. A more perfect cast of individuals could not have been available for Dr. Fogarty's use in his efforts of destruction aimed primarily at Drs. Feldman and Boscia.

46. Mr. Thompson's fiancée and agent worked within Dr. Fogarty's clinical practice, assisting in giving Dr. Fogarty and Mr. Thompson unfettered access to each other, off the record and behind the scene, which they used to full advantage in their formation and pursuit of the scheme.

47. Mr. Casey's sister worked at the hospital for more than a decade and knew very well the animosity between Drs. Fogarty and Feldman.

48. It was a simple matter in 2004, when Dr. Fogarty got wind of Mr. Casey's procedure, for him to convince Mr. Casey's sister to allow him to review some of the medical records and offer his practice group's help, ensuring Dr. Fogarty the leadership role in the "permanent brain injury" scheme.

49. Yet, that is not all of the connections between the Defendants. Mr. Thompson and Mr. Casey's sister dated in high school. Further, Mr. Thompson and Mr. Casey played team sports together in high school.

50. In summary, the Defendants were well acquainted with each other for years prior to their schemes against Drs. Feldman and Boscia.

51. Dr. Fogarty and Mr. Thompson willingly implemented Dr. Fogarty's "permanent brain injury" baseless claim with ruthless disregard for the rights of the Plaintiffs.

52. Prior to being brought to SRHS on May 28, 2004, Mr. Casey worked a very physically demanding job on the tire production line of Michelin.

53. At middle age, Mr. Casey was facing burn out from the punishing work and the natural aging process of his body.

54. In addition, Mr. Casey was struggling in several other areas of his life: financially due to excessive debt; going through a divorce; and having trouble with his children. Each of which were significant stressors in his life.

55. Before May 28, 2004, Mr. Casey suffered from depression; was taking pain medications; and had abused prescription drugs. Each fact is clearly documented within Mr. Casey's medical records.

56. Immediately following his hospitalization in June of 2004, Mr. Casey actively sought increases in his pain medications and support for his disability claims from Drs. Feldman and Boscia. These requests of Mr. Casey were not medically supported and therefore were denied.

57. Months after the hospitalization, Mr. Casey started to claim that he could no longer play golf or have relationships with women.

58. In 2004 and in addition to requesting "help" from Dr. Fogarty, arrangements were made for Mr. Casey to start seeking treatment from Joseph Grace, Ph.D., a psychologist and therapist in Spartanburg.

59. Dr. Grace saw Mr. Casey, on a semi-weekly basis following his alleged "permanent brain injury," and his medical records were in evidence in the medical malpractice action by agreement of the parties.

60. Contrary to the claims of Mr. Casey, the notes of Dr. Grace show that he was interacting with females and carrying on an active social life within the first year or year and a half after his supposed injury.

61. Additionally, Dr. Grace's notes show that Mr. Casey complained bitterly about the diminishment of his skills with his short game in playing golf and that he simply did not enjoy golf as much as he did before.

62. However, Mr. Casey's golf handicap printout from the South Carolina Golf Association showed that his golf handicap was lower after the supposed injury than it was prior thereto.

63. Clearly, Mr. Casey continued to play golf with a reasonable degree of frequency after the treatment and care by Drs. Feldman, Boscia and Shantha.

64. The notes of Dr. Grace also indicated that Mr. Casey had additional stressors at work in his life which pre-existed any treatment and care by Drs. Feldman, Boscia and Shantha and which experts acknowledged to be the type of forces that induce depression.

65. For example and from the notes of Dr. Grace, Mr. Casey had undergone a separation from his wife of many years, his teenage children were engaging in troublesome behavior, he had financial stresses which had caused the sale of his home on the golf course and he for many years had continued to work on an extremely demanding job which required large amounts of narcotic and non-narcotic pain medication to get through the day.

66. Jeffrey Smith, M.D., a psychiatrist who treated Mr. Casey subsequent to the alleged negligence, testified he saw no permanent psychiatric or behavioral injury, but only anxiety and depression and that Mr. Casey had not been honest with him about his pre-existing depression.

67. After a period of depression, Dr. Smith indicated Mr. Casey was able to return to the workforce in early 2006.

68. It is a well-accepted fact by the medical and scientific communities that a known side effect of narcotic pain medication misuse is depression or the worsening of preexisting depression.

69. For an unexplained reason within Mr. Casey's medical records, Dr. Fogarty abruptly doubled Mr. Casey's Hydrocodone prescription in February of 2006.

70. Hydrocodone is a narcotic pain medication and is one of the most widely abused prescription drugs in the United States.

71. Despite mandated state and federal regulations, Dr. Fogarty prescribed narcotics to Mr. Casey without the required medical documentation within Mr. Casey's medical records.

72. Mr. Casey was willing to do whatever it took to ensure his narcotic source and obtain disability benefits to keep him from returning to the backbreaking work at Michelin.

73. With a sure supply of narcotic, Mr. Casey was free to seek help obtaining disability monies.

74. Prior to the medical malpractice litigation, Mr. Casey's disability benefits were denied from the Social Security Administration on July 14, 2005 and Aetna Insurance Company for long-term benefits on May 28, 2006.

75. Following the denials, Mr. Casey turned to Dr. Fogarty and Mr. Thompson for help with his money issues and disability claim problems.

76. To "help" Mr. Casey and Mr. Thompson, as previously stated in the complaint, Dr. Fogarty ensured the development of the "permanent brain injury" scheme, which he infused into Mr. Casey's medical records for their use in the disability appeal and medical malpractice case.

77. In an effort to meet Mr. Casey's needs, thereby ensuring his continuation in the scheme, Mr. Thompson became active in seeking a reversal of his Aetna disability denials, despite not being his attorney in such matters because the denials did not suit his personal needs or agenda.

78. Mr. Thompson's initial efforts centered around the purposeful redaction of Mr. Casey's medical records that were provided to both treating physicians and retained expert witness with willful intent to make it appear that Mr. Casey suffered from a "permanent brain injury."

79. Despite the team's best efforts, Aetna fully rejected Mr. Casey's disability claim on October 13, 2006 in a letter addressed to Mr. Thompson.

80. In the rejection package, Aetna gave the team an analysis of the viability of the "permanent brain injury" claim, which included detailed reports from a Consulting Neuropsychologist and a Board Certified Neurologist.

81. In summary of the rejection, Aetna said that the speculations of Dr. Fogarty were not supported by objective neurological evidence or abnormal neurological examination findings.

82. Instead of heeding Aetna's review and addressing the stated concerns about the lack of any support for the existence of a legitimate "permanent brain injury" claim, the team continues to move forward with the medical malpractice scheme and fails to produce the Aetna report during discovery.

83. The Doctors' attorneys had to seek assistance from the Court to obtain a release from Mr. Casey to request the records directly from Aetna as opposed to Mr. Thompson merely turning over the report.

84. Mr. Thompson did place importance on one piece of information within the Aetna report, the need for an MRI study of the brain.

85. However, Mr. Thompson knew full well, based on the Aetna report, that a negative MRI study would be a death nail for the scheme.

86. Therefore in the cover of secrecy, Mr. Thompson, set the stage for an MRI to be performed on Mr. Casey's brain under a fictitious name and date of birth.

87. Mr. Thompson arranged for the test through his brother-in-law, a North Carolina general surgeon having no connection to Mr. Casey or the case, to be performed at an out of state hospital.

88. The Radiologist's report of the MRI test results stated that the MRI was negative.

89. Mr. Thompson received this report, and then continued to litigate the matter for eighteen months thereafter without revealing the MRI test or the radiology report.

90. To maintain the secrecy of the MRI test and findings, Mr. Thompson instructed his client to deny having any diagnostic medical tests, including specifically, the MRI, in his sworn deposition testimony less than seven months after the MRI was performed.

91. At all times material, Mr. Thompson despite being well aware of his duties to the Court pursuant to Rule 3.3, Candor Toward The Tribunal, willfully sought to injure the Plaintiffs by instructing Mr. Casey to lie under oath and by Mr. Thompson's failure to protect the candor of the proceedings within the medical malpractice case.

92. Ultimately, the Doctors' counsel only learned of the test fortuitously by virtue of an anonymous letter sent to attorney Spencer King.

93. The MRI test results were very important, inasmuch as it exposed the truth and totally confirmed the fact that Mr. Casey's "permanent brain injury" claim was nothing more than a scheme.

94. It was a materially important piece of evidence to the Doctors, which was withheld, concealed, and secreted from them by Mr. Casey and Mr. Thompson, with a very high degree of impropriety.

95. By the time the Doctors' counsel received the Casey affidavit confirming the MRI and the results of the MRI, in excess of thirty depositions had been taken.

96. This included all of the Doctors, eight treating physicians and five medical experts.

97. Once the MRI test and findings were brought into the light of day, Mr. Thompson continued the litigation in an effort to forestall an ethics complaint by Drs. Feldman and Boscia.

98. In addition, once the MRI test and findings were brought into the light of day, Mr. Thompson and Mr. Casey continued the litigation in an effort to forestall a counter lawsuit from Drs. Feldman and Boscia, thereby serving the agenda of Dr. Fogarty as well.

99. The medical malpractice action was tried before the Court and a jury in the Spartanburg County Court of Common Pleas, commencing May 11, 2010.

100. After 14 trial days, the jury returned a verdict in favor of the Doctors on May 28, 2010 after deliberating between two and two and one-half hours.

101. Mr. Thompson knew the lack of validity of Dr. Fogarty's theories respecting any deviation of the standard of care by Dr. Shantha, yet still sought to gain by the publishing and disseminating of the fraudulent theories of injuries by willfully prolonging the medical malpractice litigation.

102. Prior to the trial, Dr. Shantha had been dismissed from proceedings by a motion for summary judgment.

FIRST CAUSE OF ACTION
(Abuse of Process)

103. Plaintiffs reallege all above paragraphs, to the extent not inconsistent herewith, as if each is set forth *in toto* hereunder.

104. Defendants have misused the legal process of the medical malpractice action in an attempt to accomplish purposes for which said proceedings were not allowed by law, specifically, as set out below:

105. Mr. Casey, at all times material, knew he did not have a "permanent brain injury" and that the scheme was simply developed for the purposes of the lawsuit and not for any treatment or medical purpose.

106. Mr. Casey willfully used the legal proceeding of the medical malpractice claim in an effort to continue to obtain narcotic drugs by the submission of false information about his physical condition and lying under oath.

107. Mr. Casey willfully used the legal proceeding of the medical malpractice claim in an effort to continue receiving disability benefits by the submission of false information about his physical condition within his lawsuit/scheme.

108. Dr. Fogarty willfully used the legal proceedings of the medical malpractice claim, which he initiated, in an effort to damage the reputations of Drs. Feldman and Bosera by publishing and disseminating fraudulent theories of injuries of Mr. Casey and thereby materially prolonging the litigation for his direct benefit.

109. Dr. Fogarty willfully used the legal proceedings of the medical malpractice claim in an effort to economically damage the business interests of Drs. Feldman and Boscia in S. Carolina Pharmaceutical Research by publishing and disseminating fraudulent theories of injuries of Mr. Casey and by materially misrepresenting his involvement on behalf of the litigation team.

110. Mr. Thompson willfully used the legal proceedings to develop bogus "expert" witness testimony by the misleading redaction of medical records, which Mr. Thompson then used to seek Mr. Casey's disability benefits and to unnecessarily prolong the litigation.

111. Mr. Thompson willfully abused the legal process by using his court appointed powers to subvert the disability claims process for the purposes of manufacturing damages for use in the medical malpractice litigation scheme.

112. In addition, Mr. Thompson knew the lack of validity of Dr. Fogarty's theories respecting the "permanent brain injury" scheme, yet still sought to gain by the publishing and disseminating of the fraudulent theories of injuries by willfully prolonging the medical malpractice litigation.

113. Defendant Thompson willfully used the legal proceedings of the medical malpractice case in an effort to escape or forestall a report of his ethical breach to the South Carolina Bar respecting the suborning of perjury by his client.

114. Defendant Thompson willfully used the legal proceedings of the medical malpractice case in an effort to escape or forestall a counter lawsuit being filed against himself, Mr. Casey and Dr. Fogarty by continuing the litigation with full knowledge as to the lack of truthfulness in the "permanent brain injury" scheme and assertions of disability.

115. Plaintiffs have suffered damages, loss and harm, including but not limited to their reputations, money, emotional tranquility, and privacy.

116. Such damages, loss and harm were the proximate and legal result of the misuse of such legal process aforementioned.

SECOND CAUSE OF ACTION
(Civil Conspiracy)

117. Plaintiffs reallege all above paragraphs, to the extent not inconsistent herewith, as if each is set forth *in toto* hereunder.

118. Dr. Fogarty's role on behalf of Mr. Casey far exceeded the reasonable role of a treating physician or expert witness and at all times material, Mr. Thompson was well aware of this fact, even seeking to help him with his efforts.

119. Dr. Fogarty was the author of the "permanent brain injury" scheme, thereby seeking to ensure success for the venture in damaging Drs. Feldman and Boscia by unfairly trapping them in senseless litigation for years and at all times material, Mr. Thompson was well aware of this fact, even seeking to help him with his efforts.

120. Defendant Fogarty sought to professionally damage Drs. Feldman and Boscia, thereby increasing his own business value and productivity at the expense of the Plaintiffs' businesses and their loss of productivity and at all times material, Mr. Thompson was well aware of this fact, even seeking to help him with his efforts.

121. Dr. Fogarty was well aware that he was indispensable for Mr. Thompson in their common scheme to manufacture a pretext for the lawsuit and disability claim.

122. Further, Dr. Fogarty knew that Mr. Thompson would willingly turn a blind eye to any scheme to forward their abusing agenda regardless of how improbable the allegation of permanent injury may be.

123. Mr. Thompson was well aware that he was indispensable for Dr. Fogarty's destructive agenda in their common scheme to manufacture a pretext for claiming "damages" in the lawsuit and disability claim.

124. Mr. Thompson was very well aware that Dr. Fogarty would go to any length to advance his improbable and malicious scheme in an effort to hurt and to retaliate against Drs. Feldman and Boscia.

125. Between February 4, 2007 and 2009, Mr. Casey, in furtherance of Dr. Fogarty and Mr. Thompson's permanent brain damage conspiracy, willingly took part with Mr. Thompson, and other unnamed third party(ies) in the scheme to circumvent the Rules of Civil Procedure.

126. Mr. Casey, in furtherance of Dr. Fogarty and Mr. Thompson's scheme to establish civil liability against Drs. Feldman and Boscia for causing Mr. Casey fictitious permanent brain damage, agreed to conceal the fact that on February 4, 2007 he had an MRI study of his brain.

127. Mr. Casey, in furtherance of Dr. Fogarty and Mr. Thompson's permanent brain damage conspiracy, agreed and proceeded to lie under oath in his deposition of August 30, 2007, in a willful and knowing effort to conceal the existence of the MRI report and image disc dated February 4, 2007.

128. Mr. Casey willingly participated in the concealment of the MRI report and image disc dated February 4, 2007, of the MRI study of his brain, which he received at the conclusion of the MRI study performed in the out-of-state hospital on February 4, 2007.

129. Mr. Casey was fully aware that the February 4, 2007, MRI study had been arranged by Mr. Thompson.

130. Mr. Casey utilized an assumed name and fictitious date of birth, given to him by Mr. Thompson, when submitting to the February 4, 2007, MRI study.

131. Mr. Thompson solicited unnamed third-party(ies) to conceal Mr. Casey's MRI report and image disc that were dated February 4, 2007.

132. Mr. Casey solicited unnamed third-party(ies) to conceal his MRI report and image disc that were dated February 4, 2007.

133. Mr. Casey accepted funds from Mr. Thompson and/or unnamed third-party(ies) to pay for his February 4, 2007, MRI study, knowing that such payment was never to be reported or claimed within his lawsuit.

134. In 2008, Mr. Thompson and Dr. Fogarty, in furtherance of their permanent brain damage scheme, agreed for Dr. Fogarty to make material misrepresentations, under oath, during his deposition pursuant to Discovery in the original lawsuit.

135. As a direct and proximal result of the conspiracy between Dr. Fogarty, Mr. Thompson, and Mr. Casey, to concoct and disseminate permanent brain damage allegations, the Spartanburg Herald Journal unwittingly published fabricated allegations of the permanent brain damage and disability.

136. As a direct and proximal result of the conspiracy between Dr. Fogarty, Mr. Thompson, and Mr. Casey, to concoct and disseminate permanent brain damage allegations, the lives of Drs. Feldman and Boscia were instantly turned upside down, causing them additional and undue emotional distress, damage to their professional reputations, standing in the community, and loss of business, in combination resulting in an inability enjoy life, to create new businesses, and the continued harassment through litigation for an additional and unnecessary length of time.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
JAN 11 AM 10:34
A. HOPE BLACKLEY

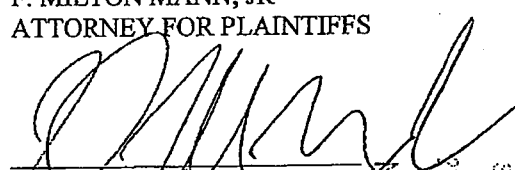
137. Special Damages incurred as a direct result of the allegations within the Second Cause of Action, include, but are not limited to, additional and unnecessary attorneys' fees pursuant to the recovery of the MRI disk from the out-of-state hospital; additional and undue emotional distress of being the victims of Defendants' fraudulent and senseless conspiracy scheme; additional and undue damage to Plaintiffs' professional reputations because of the newspaper article; and additional and undue accounting expenses and further damages to be ascertained through this lawsuit.

WHEREFORE, plaintiff prays that this court enter judgment:

- a. For a jury trial to be conducted in this matter;
- b. For actual and compensatory damages in an amount to be determined by the jury;
- c. For punitive damages in an amount to be determined by the jury; and
- d. For the cost of this action, including reasonable attorney's fees and for other such relief as appears just and equitable in the premises.

F. MILTON MANN, JR
ATTORNEY FOR PLAINTIFFS

BY:


F. Milton Mann, Jr., Esq., SC Bar #68250
1089 Boiling Springs Road
Spartanburg, South Carolina 29304
(864) 208-0359

October 11, 2011
Spartanburg, South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
OCT 11 AM 10:34
HODE BLACKLEY

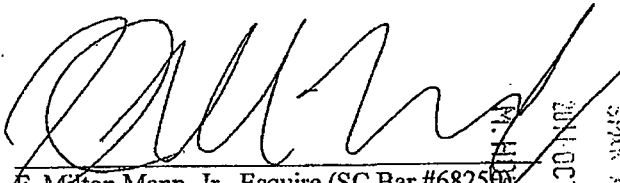
CERTIFICATE OF SERVICE

I, F. Milton Mann, Jr., attorney for the Plaintiffs, Gregory J. Feldman, M.D., Joseph A. Boscia, III, M.D., Upstate Lung and Critical Care Specialists, PC, and Devendar T. Shantha, M.D., do hereby certify that I have served a copy of the **Second Amended Complaint** by hand-delivery to the following addresses:

Joe Mooneyham, Esquire
1225 South Church Street
Greenville, South Carolina
Attorney for Defendant Mr. Casey

Matthew H. Henrikson, Esquire
Clarkson, Walsh, Terrell, Coulter, P.A.
1164A Woodruff Road
Greenville, South Carolina
Attorney for Defendant Mr. Thompson

Charles M. Fogarty, M.D.
c/o Spartanburg Medical Research
485 Simuel Road
Spartanburg, South Carolina 29303
Pro Se Defendant


F. Milton Mann, Jr., Esquire (SC Bar #68256)
Attorney at Law
1089 Boiling Springs Road
Spartanburg, South Carolina 29303
(864) 208-0359(864)-208-0233 - fax
Milton.mann@gmail.com

FILED
CLERK OF COURT
SPARTANBURG COUNTY
OCT 11 AM 10:34
M. H. BLACKLEY

October 11, 2011
Spartanburg, South Carolina

Davison, Burns H

From: Davison, Burns H
Sent: Friday, January 22, 2010 4:46 PM
To: gfeld3232@aol.com; milton.mann@gmail.com
Subject: RE: Simplify this

Greg:

I understand; but this is how it works.

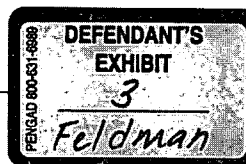
- a. I don't believe that this case can or will destroy you -- even in the highly unlikely event that Casey is successful.
- b. Most claims / lawsuits have the "feel" of extortion -- on the continuum of validity, the less valid the claim, the more it feels that way. Contrived proof undermines validity. Exaggeration by Plaintiffs (which are common) undermines validity. Obvious motivation of secondary gain, i.e. an award or malice, undermines validity.
- c. Once this underlying suit is won and the use of fabricated evidence is done in trial, or the case is dismissed; then one can explore whether they wish to pursue an abuse of process claim against a former adversarial attorney -- those are simply the "rules of engagement." In this underlying case, the rules protect attorneys from many types of inquiry via privilege or work product.
- d. Thompson would no more admit to having sat down with Fogarty to plan this scheme than Fogarty would. That gets proven through circumstantial evidence; which we have a good deal of. What more likely happened is Fogarty, having no love lost for you, saw Casey & thought -- "AHA! Feldman's screwed up, I'll get him." Either directly or indirectly (through Thompson's wife, for instance), the claim gets referred to Thompson and we're off to the races... Fogarty is thereafter driven by his feelings for you -- all of which is fairly apparent.
- e. In addition to exploring in depth the Professional Liability angle as to Thompson (which you and I have discussed), we are also exploring the alias medical testing in NC, insurance fraud, and social security fraud angles.
- f. Don't worry -- in the hourglass of trial preparation, four months is an eternity.

We are in the process of withdrawing all offers.

Be well my friend. Enjoy your weekend!

Burns...

From: gfeld3232@aol.com [mailto:gfeld3232@aol.com]
Sent: Friday, January 22, 2010 10:58 AM
To: milton.mann@gmail.com; Davison, Burns H
Subject: Simplify this



Burns, let me simplify this for you..

1. Plaintiff-Casey, Charles m. Fogarty, MD and his buddy Att Chuck Thompson have decided that they would frame Grg Feldman and his partner...with the Goal for Fogarty to destroy his main competitor with literally millions at stake for Fogarty in addition to long-standing and well-known to community visceral hate
2. Plaintiff and chuck were to extort money from Insurance Company

JUA 001000

Now our lawyers propose to try this case using regular 'channels'... and admittedly the scientific theories are so preposterous, that this approach has some validity..

3. What is in a shadow is a real truth, that this is not conventional Medical Malpractice Case, even if one to include many 'frivolous" lawsuits, where Plaintiff will fabricate or exaggerate his complains or injuries..

This is outright invention of the Medical record, "Medical" Diagnosis, and 'evidence'....And i am absolutely entitled to the discovery of the extent of this for my defence.... and I am absolutely entitled to depose Chuck Thompson, as he is vital part of the evidence as how it was concosted and executed..and evidence of the absolute necessity of this is overwhelming..I simply cannot ask anyone else, did you sit-down with Dr. Fogarty in Summer-Fall of 2004 to plan the strategy? (Disability, Brain Injury, ets)...

Greg

PS Burns, Again no response necessary

JUA 001001

From: gfeld3232@aol.com
Sent: Sunday, March 07, 2010 3:07 PM
To: Burns.H.Davison@marsh.com; milton.mann@gmail.com
Subject: Important!

What is foundation of the case?

July 21, 05 visit to Fogarty (that was than relied upon by waid, Jantz..ets)

And you have overwhelming evidence at your fingertips that this was prearranged...The scheme has also largely depended on Casey to lie about his Preexisting symptoms and Treatment , (hopelessness, worthlessness, Depression, drugs, ets)

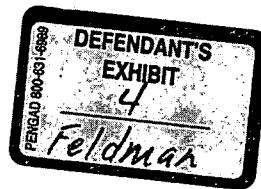
All you have to prove is that Chuck knew all about the visit and suborned perjury of both Fogarty and His Client that his Visit on July 21, 05 was spontaneous (Interrogatories answered falsely by his Client)

For Sure Judge will have enough evidence to grant ALL MOTIONS to prove this

(Communications Anthony-Chuck, Chuck-Fogarty, Depositions)

This is OVERWHELMING point in our Defence and Proven Lie on the Part of Fogarty

This is FAR Bigger than MRI....Do not drop it!





Lung and Chest Medical Associates

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Mary Lou Applebaum, M.D.
Beth V. Edwards, PA-C

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WILLIAM CASEY
77168
07-21-05

OFFICE NOTE

Chief Complaint

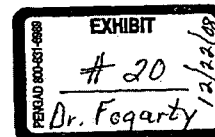
William Casey returns for follow up on his 7/19 visit. At that time he was having dry heaves and nausea and this was felt possibly to be an interaction between the Strattera and the Cymbalta and he was advised to discontinue these. Since then he is better. He continues to have chest pain, a squeezing sensation. This can be present without exercise although exacerbated by exercise.

We should note that it was this symptom that led him to go to the emergency room May 2004. Although the presenting complaint was chest pain, a chest film showed a metallic fragment overlying the chest. This was misinterpreted as being in the chest and the patient underwent bronchoscopy. And when the bronchoscopy did not show definite abnormality, but rather an area of erythema, he was scheduled for a laser bronchoscopy. He had the laser bronchoscopy complicated by pneumomediastinum with a lengthy two hour anesthesia. Since then, although the patient recovered from his pneumomediastinum and bilateral pneumothoraces with chest tubes, intubation and mechanical ventilation, since then he has had continued difficulties concentrating, staying focused and with his general energy.

He is not smoking.

Current Medicines

1. Advair 250/50 twice daily.
2. Combivent 1 puff four times daily as needed.
3. Ultram 50 mg four times daily as needed chest pain.
4. Lipitor 10 mg daily.
5. Lortab four times daily as needed.



Social History

He has been out of work now for a year and probably will be out of health insurance and probably lose his job since he has been unable to hold gainful employment in the interim in large part because of his difficulties with concentrating, staying focused. Although the issue of his chest pain still remains unresolved.
(Continued to next page)

000440

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

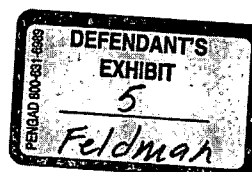
Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders



THOMPSON 003170

WILLIAM CASEY
77168
07-21-05
Page Two

Family History

Coronary artery disease and hyperlipidemia.

Review of Systems

He did have a cardiac catheterization several years back but his CT during the May 2004 admission prior to his laser bronchoscopy was normal range except for incidentally noted coronary calcification. No additional findings on cardiorespiratory, GI or GU review.

Physical Examination

Vital Signs: Wt. 176.6, BP 153/91, HR 78, RR 20 and SaO₂ is 98% on room air.

General: No acute distress.

Skin: Normal turgor.

HEENT: Pupils symmetric.

Neck: No jugular venous distention.

Chest: No wheezes, rales or rhonchi.

Cardiac: No murmur or gallop.

Abdomen: Bowel sounds present. The patient felt like he might have the heaves while in the office but no emesis. Bowel sounds present.

Extremities: No edema or clubbing.

Neurological: The patient had some readily apparent difficulty staying focused with answers to questions and had difficulties repeating numbers backward on a simple cognitive screen.

Laboratory Data

The vital capacity is 4.65 or 98% of predicted. The forced expiratory volume is 3.76 or 97% of predicted.

Today's cardiogram is normal range. Interestingly the cardiogram while he was in the hospital with his chest pain in May of last year showed nonspecific ST T-changes.

Impression

1. Chest pain.
2. Nausea and vomiting.
3. Persistent difficulty concentrating staying focused status post pneumomediastinum/pneumothorax complicating laser therapy in attempt for laser therapy for metallic artifact, which ultimately proved to be outside of chest.

(Continued to next page)

000439

THOMPSON 003171

WILLIAM CASEY

77168

07-21-05

Page Tree

Comment

With reference to the patient's GI symptoms they do seem improved since discontinuing the Strattera and this really did not help with his staying focused anyway. However he may still have some underlying pathology such as cholelithiasis or peptic ulcer disease and ultrasound of the gallbladder appears warranted. If symptoms persist we may consider an upper GI.

With reference to the patient's squeezing he does have risk factors for coronary artery disease in terms of his hyperlipidemia, family history and previous smoking and he did have coronary calcification incidentally noted on Spartanburg Regional Medical Center CT. A formal coronary calcium score may be indicated and if elevated may be an indication to proceed with more vigorous cardiac workup.

With reference to the patient's difficulty concentrating, he undoubtedly had air emboli given his lengthy duration of anesthesia and laser perforation of the endotracheal tree with resultant leakage of air into extra pleural and vascular extra pleural mediastinal and vascular spaces. Although he is fortunate not to have any gross motor deficit, he may well have a permanent neurologic deficit in which case the indication for taking medication may be moot and the patient may simply need to recognize that although he would like to go back to work, he may be chronically disabled by his neurologic impairment.

Plan

We will check back with the patient via phone with reference to his coronary calcium score and his gallbladder ultrasound. Further evaluation will proceed pending the results of above. Separately, we will review the patient's chart for him since he still has many questions about what happened during the hospital admission for his chest pain. We will review the patient's chart for him and try to put into lay language a summary of the chart with reference to what happened to him during the hospital admission for his chest pain last year.

Charles M. Fogarty, MD

CMF/ns

cc: Dr. Gonda

000438

THOMPSON 003172



Lung and Chest Medical Associates

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Mary Lou Applebaum, M.D.
Beth V. Edwards, PA-C

Fax: (864) 582-3750

WILLIAM CASEY
77168
07-21-05

OFFICE NOTE

Chief Complaint

William Casey returns for follow up on his 7/19 visit. At that time he was having dry heaves and nausea and this was felt possibly to be an interaction between the Strattera and the Cymbalta and he was advised to discontinue these. Since then he is better. He continues to have chest pain, a squeezing sensation, which can be present without exercise, although it is exacerbated by exercise.

We should note that it was this symptom that led him to go to the emergency room May 2004. Although the presenting complaint was chest pain, a chest film showed a metallic fragment. This was interpreted as being in the chest by the treating physician and the patient was referred for pulmonary consult and underwent rigid bronchoscopy within hours of his presentation. The bronchoscopy did not show a foreign body, but rather an area of erythema, and he was scheduled for a laser bronchoscopy the following week. The laser bronchoscopy was performed, with the patient under lengthy anesthesia for 1 hour and 50 minutes, and was complicated by pneumomediastinum.

Since the procedure the patient has ultimately recovered from his pneumomediastinum, bilateral pneumothoraces requiring chest tubes, intubation and mechanical ventilation. However, he has been unable to work and is now depressed over his long-term outlook.

Current Medicines

1. Advair 250/50 twice daily.
2. Combivent 1 puff four times daily as needed.
3. Ultram 50 mg four times daily as needed chest pain.
4. Lipitor 10 mg daily.
5. Lortab four times daily as needed.

Social History

He has been out of work now for a year and probably will be out of health insurance and a job, since he has been unable to hold gainful employment in the interim in large part because of his difficulties with concentrating and staying focused. The issue of his chest pain still remains unresolved. Cardiac evaluation was negative and his chest pain may be benign chest wall. On the plus side, he has quit smoking.

Continued...

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

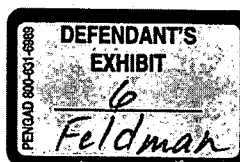
Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders



THOMPSON 059623

WILLIAM CASEY

77168

07-21-05

Page Two

Family History

Coronary artery disease and hyperlipidemia, as previously noted.

Review of Systems

A cardiac catheterization in 2000 did not show any critical narrowing. The CT prior to his laser bronchoscopy was normal range except for incidentally noted coronary calcification. No additional findings on cardiorespiratory, GI or GU review.

Physical Examination

Vital Signs: Wt. 178.6, BP 153/91, HR 78, RR 20 and SaO₂ is 98% on room air.

General: No acute distress.

Skin: Normal turgor.

HEENT: Pupils symmetric.

Neck: No jugular venous distention.

Chest: No wheezes, rales or rhonchi.

Cardiac: No murmur or gallop.

Abdomen: Bowel sounds present. The patient felt like he might have the heaves while in the office but no emesis.

Extremities: No edema or clubbing.

Neurological: The patient had difficulty staying focused with answers to questions and could not repeat five numbers backward on a simple cognitive screen, but could repeat four numbers.

Laboratory Data

The vital capacity is 4.65 or 98% of predicted. The forced expiratory volume is 3.78 or 97% of predicted.

Today's cardiogram is normal range. Interestingly the cardiogram while he was in the hospital with his chest pain in May of last year showed nonspecific ST T-changes.

Impression

1. Chest pain, probably chest wall.
2. Nausea and vomiting, improved.
3. Persistent difficulty concentrating staying focused.
4. Status post laser bronchoscopy complicated by pneumomediastinum and pneumothoraces.

Continued...

THOMPSON 059624

WILLIAM CASEY

77168

07-21-05

Page Three

Comment

With reference to the patient's GI symptoms they do seem improved since discontinuing the Strattera and this really did not help with his staying focused anyway. However, he may still have some underlying pathology such as cholelithiasis or peptic ulcer disease and ultrasound of the gallbladder appears warranted. If symptoms persist we may consider an upper GI.

With reference to the patient's squeezing pain, he does have risk factors for coronary artery disease in terms of his hyperlipidemia, family history, previous smoking and incidentally noted coronary calcification on Spartanburg Regional Medical Center CT. A formal coronary calcium score may be indicated and if elevated may be an indication to proceed with more vigorous cardiac workup. However, the chronicity increases the likelihood his chest pain is benign.

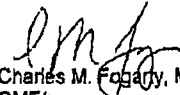
With reference to the patient's difficulty concentrating, air emboli have been reported as a common complication when there is laser perforation of the endotracheal tree with resultant leakage of air into extra pleural, vascular and mediastinal spaces. Although he is fortunate not to have any gross motor deficit, he may well have a permanent neurologic deficit in which case the indication for taking medication, such as Strattera, may be moot; the patient may simply need to recognize that although he would like to go back to work, he may be chronically disabled by his neurologic impairment/permanent brain damage.

Plan

We will check back with the patient via phone with reference to his coronary calcium score and his gallbladder ultrasound. Further evaluation will proceed pending the results of above.

Separately, we will review the patient's chart for him since he has many questions about the hospital admission for his chest pain, and try to put into lay language a summary of what happened during the hospital admission.

He is to check back with Dr. Grace regarding the persistence of his neurological impairment.


Charles M. Fogarty, MD
CMF/ns
cc: Dr. Gonda

THOMPSON 059625



Lung and Chest Medical Associates

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J.R. Dunn, F.N.R.

Wilson P. Smith, Jr., M.D.
E. Bert Knight, III, M.D.
Mary Lou Applebaum, M.D.
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WILLIAM CASEY
77168
07-21-05

OFFICE NOTE

Chief Complaint

William Casey returns for follow up on his 7/19 visit. At that time he was having dry heaves and nausea and this was felt possibly to be an interaction between the Straterra and the Cymbalta and he was advised to discontinue these. Since then he is better. He continues to have chest pain, a squeezing sensation, which can be present without exercise, although it is exacerbated by exercise.

We should note that it was this symptom that led him to go to the emergency room May 2004. Although the presenting complaint was chest pain, a chest film showed a metallic fragment. This was interpreted as being in the chest by the treating physician and the patient was referred for pulmonary consult and underwent bronchoscopy within hours of his presentation. The bronchoscopy did not show a foreign body, but rather an area of erythema, and he was scheduled for a laser bronchoscopy the following week. The laser bronchoscopy was performed, with the patient under lengthy anesthesia for 1 hour and 50 minutes, and was complicated by pneumomediastinum.

Since the procedure the patient has ultimately recovered from his pneumomediastinum, bilateral pneumothoraces requiring chest tubes, intubation and mechanical ventilation. However, he has been unable to work and is now depressed over his long-term outlook.

Current Medicines

1. Advair 250/50 twice daily.
2. Compivent 1 puff four times daily as needed.
3. Ultram 50 mg four times daily as needed chest pain.
4. Lipitor 10 mg daily.
5. Lortab four times daily as needed.

Social History

He has been out of work now for a year and probably will be out of health insurance and a job, since he has been unable to hold gainful employment in the interim in large part because of his difficulties with concentrating and staying focused. The issue of his chest pain still remains unresolved. Cardiac evaluation was negative and his chest pain may be benign chest wall. On the plus side, he has quit smoking.

Continued...

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

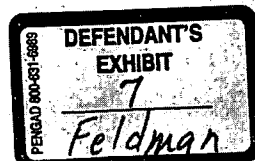
Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders



THOMPSON 036483

WILLIAM CASEY
77168
07-21-05
Page Two

Family History

Coronary artery disease and hyperlipidemia, as previously noted.

Review of Systems

A cardiac catheterization in 2000 did not show any critical narrowing. The CT prior to his laser bronchoscopy was normal range except for incidentally noted coronary calcification. No additional findings on cardiorespiratory, GI or GU review.

Physical Examination

Vital Signs: Wt. 176.6, BP 153/91, HR 78, RR 20 and SaO₂ is 98% on room air.

General: No acute distress.

Skin: Normal turgor.

HEENT: Pupils symmetric.

Neck: No jugular venous distention.

Chest: No wheezes, rales or rhonchi.

Cardiac: No murmur or gallop.

Abdomen: Bowel sounds present. The patient felt like he might have the heaves while in the office but no emesis.

Extremities: No edema or clubbing.

Neurological: The patient had difficulty staying focused with answers to questions and could not repeat five numbers backward on a simple cognitive screen, but could repeat four numbers.

Laboratory Data

The vital capacity is 4.65 or 98% of predicted. The forced expiratory volume is 3.76 or 97% of predicted.

Today's cardiogram is normal range. Interestingly the cardiogram while he was in the hospital with his chest pain in May of last year showed nonspecific ST T-changes.

Impression

1. Chest pain, probably chest wall.
2. Nausea and vomiting, improved.
3. Persistent difficulty concentrating staying focused.
4. Status post laser bronchoscopy complicated by pneumomediastinum and pneumothoraces.

Continued...

THOMPSON 036484

WILLIAM CASEY

77168

07-21-05

Page Three

Comment

With reference to the patient's chronic squeezing chest pain, he does have risk factors for coronary artery disease in terms of his hyperlipidemia, family history, previous smoking and incidentally noted coronary calcification on Spartanburg Regional Medical Center CT. A formal coronary calcium score may be indicated and if elevated may be an indication to proceed with more vigorous cardiac workup. However, the chronicity increases the likelihood his chest pain is benign.

With reference to the patient's GI symptoms they do seem improved since discontinuing the Strattera and this really did not help with his staying focused anyway. However, he may still have some underlying pathology such as cholelithiasis or peptic ulcer disease and ultrasound of the gallbladder appears warranted. If symptoms persist we may consider an upper GI.

With reference to the patient's difficulty concentrating, air emboli have been reported as a complication of laser bronchoscopy even without perforation of the endotracheal tree with resultant leakage of air into extrapleural, vascular and mediastinal spaces. Although he is fortunate not to have any gross motor deficit, he may well have a permanent neurologic deficit in which case the indication for taking medication, such as Strattera, may be moot; the patient may simply need to recognize that although he would like to go back to work, he may be chronically disabled by his neurologic impairment/permanent brain damage.

Plan

We will check back with the patient with reference to his coronary calcium score and his gallbladder ultrasound. Further evaluation will proceed pending the results of above.


Charles M. Fogarty, MD
CMF/ns

cc: Dr. Gonda
Dr. Grace

THOMPSON 036485

From: gfeld3232@aol.com
Sent: Monday, February 11, 2008 5:29 PM
To: sking@wardfirm.com; milton.mann@gmail.com
Subject: Fwd: Strattera

How is taking Strattera indicates Permanent Neurological damage, defies any logic..

Strattera

**Effective in patients with ADHD and co-existing anxiety
Strattera is clinically proven to reduce ADHD symptoms in
child and adolescent patients with ADHD and anxiety, and
does not induce anxiety in adult ADHD patients. (ADHD
attention-deficit disorder**

Not a stimulant

If you have previous experience with stimulant medication, you might have observed an immediate impact when it took effect and also when it stopped working. You will not experience this with Strattera, since it is not a stimulant.

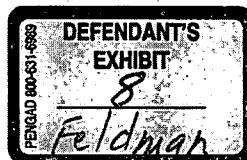
http://www.strattera.com/1_1_about_strattera/1_1_about.jsp

-----Original Message-----

From: GFeld3232@aol.com
To: GFeld3232@aol.com
Sent: Sun, 30 Sep 2007 11:51 am
Subject: Strattera

"Air emboli have been reported as a complication of laser bronchoscopy, even without perforation of the endotracheal tree, with result of leakage of air into extrapleural vascular and mediastinal space. Although he is fortunate not to have any gross mental deficit, he may well have a permanent neurological deficit which indicates taking medicines such as strattera." Fogarty record

Strattera



1

MANN 022840

Effective in patients with ADHD and co-existing anxiety
Strattera is clinically proven to reduce ADHD symptoms in
child and adolescent patients with ADHD and anxiety, and
does not induce anxiety in adult ADHD patients. (ADHD
attention-deficit disorder

Not a stimulant

If you have previous experience with stimulant medication, you might have observed an immediate impact when it took effect and also when it stopped working. You will not experience this with Strattera, since it is not a stimulant.

http://www.strattera.com/1_1_about_strattera/1_1_about.jsp

See what's new at [AOL.com](http://www.aol.com) and [Make AOL Your Homepage](#).

More new features than ever. Check out the new [AOL Mail](#)!

Milton Mann

From: gfeld3232@aol.com
Sent: Saturday, February 16, 2008 2:47 PM
To: sking@wardfirm.com; milton.mann@gmail.com
Subject: Get from Spencer

"Air emboli have been reported as a common complication of laser bronchoscopy, even without perforation of the endotracheal tree, with result of leakage of air into extrapleural vascular and mediastinal space. Although he is fortunate not to have any gross mental deficit, he may well have a permanent neurological deficit which indicates taking medicines such as strattera."

Spencer, above You have quoted from Fogarty record

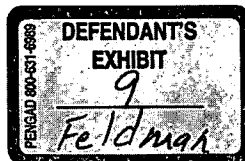
I cannot find this in the Lung and Chest record that you paralegal has provided! We are meeting on Tuesday and I have found series of an astonishing statements, but not this one!

1. Did you give me all Fogarty records?
2. Please locate source of the above Statement!

Greg

More new features than ever. Check out the new [AOL Mail!](#)

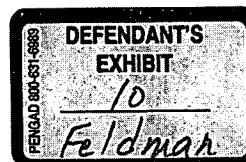
2/18/2008:



MANN 000098

From: Mitzi Higgins <mhiggins@wardfirm.com>
Sent: Tuesday, February 19, 2008 2:59 PM
To: Milton Mann
Cc: gfeld3232@aol.com
Subject: Questions for Fogarty
Attachments: Questions for Fogarty.wpd

Mitzi D. Higgins
Paralegal to H. Spencer King
The Ward Law Firm, P.A.
P.O. Box 3188
Spartanburg, SC 29304
Phone: 864-327-3048
Fax: 864-583-8961



QUESTION FOR DR. FOGARTY

1. Are you a pulmonologist?
2. The name of your practice.
3. Where is it located?
4. What physicians are with your group?
5. Do you have any employees with the group that are related to your knowledge, either by blood or marriage to any of the litigants or their attorney's in this case.
6. Give us your education and training.
7. Are you board certified? In what field?
8. Are you board certified in critical care?
9. Have you ever been board certified in critical care?
10. When were you last certified in critical care?
11. What is critical care?
12. Are you a radiological expert?
13. What training do you have in radiology.
14. Are you a neurological expert?
15. What training do you have in neurology?
16. Are you a neurosurgeon?
17. Do you have any neurosurgical experience?
18. Do you treat patient's with brain disease, brain injury or brain disorders?
19. Where do you have privileges?
20. Do you have privileges at Spartanburg Regional Hospital?
21. What do privileges mean?
22. When did you last have privileges at Spartanburg Regional?

MANN 022930

23. Do you have privileges at Mary Black Hospital?
24. When did you last have privileges at Mary Black Hospital?
25. Do you have privileges at any hospital?
26. Describe your practice.
27. The Plaintiff in this case, William Mark Casey was first seen by your partner Dr. Wilson Smith on July 14, 2004. He gave a history of a rigid bronchoscope performed by Dr. Feldman in _____ of 2003 to remove a metallic foreign body utilizing a yag laser and following the procedure Mr. Casey suffered a pneumothorax. Dr., what is a pneumothorax?
28. Did the history that Dr. Smith have also include catheterization and stress test that was performed in 2000, that Mr. Casey was a smoker, had a history of low back pain, that he came to Dr. Smith with complaints of fatigue, chest pain on exertion, anxious, and restless?
29. That the pulmonary function test performed was normal?
30. That Dr. Smith found no evidence of permanent injury to the lung from bronchial perforation.
31. That Dr. Smith considered he might be suffering post-traumatic stress disorder which is not a malady that your practice would treat and he was referred to a psychologist?
32. That on July 24, 2004 Dr. Smith received a telephone call according to the chart from Mr. Casey, that he was complaining of chest pain and chronic back pain and the decision was made to refer him to Pulmonary Rehabilitation? Where is that?
33. Did he go to Pulmonary Rehabilitation? Do you have records of that?
34. He was seen again on July 29, 2004 and an x-ray of the chest was normal, normal EKG, was there anything else done at that time by Dr. Smith?
35. On August 12, 2004 he had a negative stress test, still complaining of chest pain and tiredness.
36. On October 29, 2004 your group ordered records from Dr. Feldman and Spartanburg Regional, do you have those records?
37. On November 10, 2004 he came back again with chest pain with exertion and a statement from Dr. Grace who did not feel he could return to work. Was he prescribed Zoloff? For

MANN 022931

what? What is Zolof?

38. On July 19, 2005 he came in with vomiting for a week and his medications were
Cymbalta, which is what?
Staterra, which is what?
Combivent, which is what?
Ultram, which is what?
Lipitor, which is what?
Lortab, which is what?
Advair, which is what?
39. What are each of these prescriptions used for?
40. Do you know what the side effects are?
41. Did your group prescribe any?
42. On July 21, 2005 you first saw Mr. Casey. Why was the decision made to switch physicians?
43. What records did you bring pursuant to the subpoena duces tecum?
44. The physical exam that was done by you on July 21st found what? Was it normal?
45. You did a pulmonary function study. Was it normal?
46. You did labs. Were they normal?
47. His complaints were chest pain, squeezing like. Did you consider what the cause was?
48. His nausea and vomiting was improved. What did you believe was causing that?
49. He had difficulty concentrating. As to concentrating you put in your notes did you not,
"air embolism had been reported as a common complication where there is a laser
perforation of the endotracheal tube"
Can you point me to the authorities and source for that comment?
50. How common is air embolism?
51. An air embolism would be air to the brain, would it not?
52. Dr., you do not use a laser currently. When did you last use a laser?
53. Do you know what type lasers have been shown to result in any evidences of air embolism?
54. Would there not be gas cooled lasers?

MANN 022932

55. Would there not be a contact probe? Do you not know?
56. Do you know what type laser was used in this case?
57. Do you know how it is activated?
58. What would be the diagnostic studies to diagnosing an air emboli?
59. Would there not be objective findings?
60. Would you agree that he has no gross motor deficits opined that he "may have permanent neurological impairment or permanent brain damage".
61. What objective findings do you have to support either?
62. Based upon a probability of medical certainty doctor, are you opining that he has permanent neurological impairment or permanent brain damage as a result of an air embolism.
63. He has know neurological injuries either motor or sensory.
64. What is the basis to assert brain injury?
65. Pulmonary function studies that you did were normal. EKG was normal. You ordered a sonogram of the gallbladder and it was normal. GI series upper abdominal ultrasound was normal.
66. On August 4, 2005 the medications that he was taken were
Advair, who prescribed, for what?
Combivent, who prescribed, for what?
Ultram - chest pain, who prescribed?
Lipitor, who prescribed, for what?
Lortab, who prescribed, how much?
Examination at the time again was difficulty focusing.
67. You did not see him again until February 16, 2006, again difficulty concentrating and multi-tasking. The medications continued other than Tricor changed for Advair.
68. On July 7, 2006 he came to see you with a complaint of chest pain from moving furniture. What was done?
69. Doctor there was an article published in the Spartanburg Herald Journal on May 31, 2006 shortly after this lawsuit was filed. Have you seen that article?
70. Did you talk to a reporter?

MANN 022933

71. Did you distribute to anyone?
72. Have you seen the anesthesia records for the rigid bronchoscope of June 3, 2004?
73. Would you agree doctor that the report says that the surgery started at 12:06, the surgery concluded at 13:56, anesthesia started at 11:50 and anesthesia stopped initially at 14:24?
74. Do you conclude then that the lasering ended no later than 13:56?
75. That at 14:36 Mr. Casey developed a pneumothorax?
76. During the lasering procedure his condition was always stable, blood pressure was 100/70, OSats were stable with no destabilization of vital signs?
77. He was re-intubated and after _____ he was extubated, sent to the room, awake and responsive?
78. That anesthesia record and the record from Spartanburg Regional does not support an air embolism.
79. Doctor, are you a competitor of Dr. Feldman's?
80. Have you been in litigation with Dr. Feldman?
81. Do you intend to render any opinions at the trial of this case regarding the standard of care by Dr. Feldman or Dr. Boscia? What are those opinions?
82. In your opinion, did Mr. Casey suffer any permanent injury as a result of treatment by Dr. Boscia or Dr. Feldman?

MANN 022934

Casey v. Feldman
26-0266
Master Medical Summary

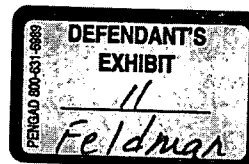
Medical records of Boiling Springs Family Practice (Dr. Gonda) received in answer to subpoena.

Medical records of Jay Grace, Ph.D. received from Attorney Boulter.

Medical Records from Lung and Chest Medical Associates received in answer to subpoena.

DOB: [REDACTED]
DOI: May 28, 2004

Page	Date	Provider	Summary
Gonda 1-2	9/21/92	Frank Gonda, M.D.	On call note from Dr. Cupstid: Received a call from Carol Casey this evening about 6:45. She says that 48 hrs. ago she witnessed her brother, Mark age 33, having a seizure episode. She was sitting with him on his deck when he seemed to fall asleep and slump in his chair. He then had projectile vomiting which was followed by a tensing of all his muscles and generalized shaking. He fell out of the chair and continued to have movements which by her description sound like a tonic/clonic seizure episode. Upon awakening sev. mins. later, he was transiently confused and drowsy. Soon felt back to normal although felt very fatigued. Pt did not seek that her brother reports that he is feeling well today. She set him up an appt. with Dr. Gonda for Wed, 9/23, but is concerned that he may need attention earlier, plus she wanted to describe the episode to me since she will not be able to accompany him to his appt. and will not be available at the time that he sees Dr. Gonda. Apparently there is no previous personal hx or family hx of seizure disorder. Mr. Casey is otherwise in good health and is very athletic. Told her I will speak with Dr. Gonda about the pt. and hopefully we can



KING 001575

Page	Date	Provider	Summary
			begin to arrange his work up before his appt. on Wed. Of course, if any changes in his condition occur prior to the Wed. appt., they should call immediately or have him come to the ER. Carol Casey's phone number is 587-1631. Mark Casey's phone number is 576-8269.
Gonda 1	9/23/92	Frank Gonda, MD	1. Syncope; 33 y/o white male comes in for the first time. Six days ago he was sitting on his deck talking to his sister. He had been working swing shifts and was very tired. He had had very little sleep. He had drank (sic) one beer. Also, he had taken a cold medicine a few days earlier and also a pain pill, which he does not know the name of, for some elbow pain. He was sitting there and he became rather nauseated, felt a little disoriented, and passed out. He does not recall anything else. His sister saw him slump over and thought he was joking. After about a minute he started gurgling and vomiting. He was unconscious for about 2 minutes and then came to. Sister said that his eyes did roll back in his head and his arms appeared stiff, but she did not see any jerking movements. He had no incontinence and did not bite his tongue. As soon as he came to he felt fine, was alert, oriented, no postictal state. He has no previous history of seizures. Pt. has no medical problems, is on no medication. Drinks a couple of beers maybe once or twice a month, and smokes less than 1/2 pack of cigarettes per day... ASSESSMENT: Syncopal episode. Differential diagnosis includes true syncope or fainting vs. a seizure. One could make a case for syncope based on a multitude of facts including lack of sleep, drinking one beer, cold medicine and a pain pill. I think seizure disorder needs to be ruled out despite that he had no

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Page	Date	Provider	Summary
			incontinence and was not postictal. PLAN: Pt. is scheduled for EEG and a CT scan of the brain at Mary Black next week. Will not start him on medications at this time unless he has a recurrence. Precautions given concerning repeated episodes in dangerous places such as driving.
Gonda 1-2	9/23/92	Frank Gonda, MD	CONTINUED Profile III also drawn today. May need to follow up with a neurology consult for second opinion. NOTE: Pt. scheduled for CT scan of brain on Wed 9/30/92 at MBMH also scheduled for EEG at 10 that same morning.
Gonda 3	10/5/92	Frank Gonda, MD	Mark comes back for a follow up. Feeling quite well. Has had no further episodes. See previous note. Had a CT scan which was normal. Also, EEG was normal. Dr. Ringle recommended if seizure disorder is highly suspected, should do a sleep deprived study. I have discussed results with patient. He and I both feel that this episode was probably a syncopal episode due to lack of sleep, having taken a narcotic pain pill, having drank one beer, and having been on some cold medications. Do not feel that this is a seizure as he was not postictal. For the present time will do no further studies unless he has another episode....
Gonda 3	1/4/93	Frank Gonda, MD	Conjunctivitis; URI;
Gonda 3	11/14/97	Frank Gonda, MD	Pt. scheduled for L-S spine at MBMH...
Gonda 3-4	11/14/97	Frank Gonda, MD	39 y/o male comes in w/low back pain for 1 year. It typically hurts more on the rt. side, but occasionally he feels it in both legs. He denies any bowel or bladder problem. He has been going to a

KING 001577

Page	Date	Provider	Summary
			chiropractor for a year. He has been to several. They all say he is out of alignment. They adjust him and he feels good for a while, but it recurs. He has a real strenuous job at work. He builds tires at Michelin. There is lots of bending, stooping, lifting, pulling, etc. He always hurts more by the end of the week, but come Monday his back feels better. he also has lots of problems with joints in his hands, primarily the PIP-joints. Occasionally they feel swollen and tender. He denies any urethritis and no recent eye problems. There is no family history of arthritis. The patient has been taking Advil, 2-3 times a day. This does give him some relief, but it always comes back. PE: ...Back exam reveals full range of motion, no tenderness whatsoever to palpation. Straight leg raise is negative...Exam of the hands reveals no obvious swelling, redness, deformity, or heat. There is a little bit of tenderness in several of the PIP-joints in both hands. Rest of joint exam is normal. ASSESSMENT: Chronic back pain and also joint pains of the hands. PLAN: LS-spine X-rays. Arthritis profile, at his request. Samples and prescription of Ultram, 50 mg...Explained to pt. that I may add a second medicine, that being an anti-inflammatory. See him back in a mo...
Gonda 3	11/17/97	Frank Gonda, MD	Called pt. told him all labs normal limits. Continue Ultram. Proceed with X-rays.
Gonda 4	1/7/98	Frank Gonda, MD	TC: Mom passed away; stiff from sitting at hosp.; wants pain med (Norflex called in)
Gonda 5	1/21/98	Frank Gonda, MD	Health Maintenance exam. Chronic low back pain; in no apparent distress.
Gonda 4	1/26/98	Frank Gonda, MD	Pt. notified re lipid panel rpt...begin otc niacin.

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Page	Date	Provider	Summary
Gonda 5	8/26/98	Frank Gonda, MD	In for meds refills. Still smoking 1/2 pack cigarettes per day...
Gonda 6	9/4/98	Frank Gonda, MD	TC regarding mail order Ultram;
Gonda 6	2/1/99	Frank Gonda, MD	Chronic back pain; comes in for checkup and med refill...PE reveals mild tenderness in the right lumbosacral area...Increase Ultram ...Add Darvocet-N 100... Precautions given concerning chronic use of this medicine...
Gonda 8	3/8/99	Frank Gonda, MD	TC wants to have Darvocet refilled at Patton Pharmacy;
Gonda 8	11/2/99	Frank Gonda, MD	Comes in for med refill; back is doing well; has cut down on Ultram, but is getting ready to go back to strenuous work at Michelin, so he will increase the dosage again. Plans to quit smoking tomorrow as he turns 41 tomorrow. Having intermittent troubles with erections...
Gonda 8	11/9/99	Frank Gonda, MD	TC from pharmacy re #720 Ultram; ok'ed.
Gonda 13	5/8/00	Frank Gonda, MD	Chronic low back pain. Darvocet does not help for this and he would to have Lortab. He has had it before with no troubles. Works 8 12-hour shifts per month, and he would only take the medicines during that time....Long discussion about narcotics. Have given him Lortab...Set him up for physical therapy. I would like for him to attend the rehabilitation program for the back.
Gonda 13	8/28/00	Frank Gonda, MD	Wrist pain for 2 mo. probably related to repetitive activity he does at Michelin...There is a little tenderness over a rather prominent distal ulna...X-ray negative for arthritic changes...He might need to come off of this job for a couple of weeks to let his wrist get better. If he needs to do this, he may have to go through Workman's Comp.

KING 001579

Page	Date	Provider	Summary
Gonda 13	8/29/00	Frank Gonda, MD	Can you call in pain meds; Lortab given....
Gonda 14	10/26/00	Frank Gonda, MD	Chronic low back pain; recheck and med refill...Renew Ultram, Lortab... This is supposed to last 6 months...Schedule for an MRI of his LS-spine. Schedule him for an appointment with the Chronic Pain Clinic...
Pain Center 1-8	11/9/00	Carolinas Center for Advanced Management of Pain	Patient Pain Profile... <u>Validity:</u> The patient's score on the Validity Index suggests that he was able to read the items and appropriately attended to item content. It appears that he approached the test in an open and honest manner. His score suggests that his test results can be interpreted with confidence. <u>Results Summary:</u> No significant interference in physical treatment is anticipated as a result of depression, anxiety, or somatization. <u>Clinical Interpretation:</u> The patient reports some concerns and problems with health-related issues than the normative community sample, but less somatic thought than most pain patients. He does report physical symptoms and problems, but health-related concerns do not occupy an excessive amount of his attention. He is probably not preoccupied with his physical problems, which he may perceive as temporary or as a relatively minor inconvenience. His Somatization scores suggests that he is not engaging in excessive somatic thought, and the clinician may expect treatment to proceed without somatic interference. The patient's depression score suggests that he has the same level of depression symptoms as the average community subject. However, he has considerably fewer symptoms of depression than the average pain patient. He is probably emotionally stable, optimistic, positive, self-confident, and well-balanced. His scores suggest

KING 001580

Page	Date	Provider	Summary
			that he does not have many problems with his sleep patters, energy level, appetite, or affect. He may be described by others as generally happy and satisfied, with varied interests. The patient's Anxiety score is average for community subjects, but considerably below average for pain patients. The patient may be described as adaptable, calm, relaxed, self-confident, reliable and secure. He probably takes a flexible approach
Pain Center 1-8	11/9/00	Carolinas Center for Advanced Management of Pain (Dr. Tollison)	CONTINUED to situations and events, and his scores suggests that he generally adapts well to change. He presents himself as emotionally comfortable, in control, and peaceful. He seems to be at ease in social situations, and his thinking and concentration are probably clear, focused, and appropriate. His item responses do not indicate nervousness or agitation. <u>Treatment Recommendation:</u> When evaluating the need for mental health treatment it is important to remember that the average patient is more depressed, anxious, and concerned with somatic complaints than the average community subject. All three of this patient's scores fall below the mean for pain patients, indicating that psychological issues should not interfere with physical treatment. In fact, these scores may indicate strengths that he can draw on during treatment.
Gonda 15	4/19/01	Frank Gonda, MD	In for med refill; had to increase Ultram because he was having increased back pain...
Gonda 9	9/7/01	Frank Gonda, MD	Follow up and med refill; added Zanaflex last time and helped dramatically...At times he has increased the dose of Ultram...I have warned him that the maximum dose is 400 mg per day and he is

KING 001581

Page	Date	Provider	Summary
			taking more than that...He has been smoking for 25 years. He has no interest in quitting...
Gonda 18	3/6/02	Frank Gonda, MD	Follow-up and med refills. In pain every day and again requesting Lortab. We have discussed Lortab before, and it is best that we stay away from this...PLAN: Counseled in detail. I still think it is a good idea to stay away from narcotics...
Gonda 18	8/13/02	Frank Gonda, MD	Pt. here for refill on meds; he has run out of medication because his wife was sneaking some of his medicines. After 20 years of marriage they are separating and getting a divorce. She is being treated for depression...He still has back pain everyday. It does not keep him from working although it makes work difficult. It does not keep him from playing golf...Counseled in detail. Pt. never went for his MRI. He says he cannot afford it and his insurance will not pay for it at this time...
Gonda 19	1/23/03	Frank Gonda, MD	Follow up and med refills...he appears stable.
Gonda 24	6/23/03	Frank Gonda, MD	Depressed; stable chronic low back pain;
Gonda 25	8/27/03	Frank Gonda, MD	Depression in pt with chronic low back pain; says Paxil not improving him at all; he has been buying Percocet 10 mg from friends and could easily take 2-3/day and has no trouble working with it...
Gonda 25	9/23/03	Frank Gonda, MD	Needs percocet refill...
Gonda 27	10/20/03	Frank Gonda, MD	Depression better on Effexor...daily backpain continues....scheduling for MRI;
Pain Center 9-10	10/31/03	MBMH (Radiology)	Hx: Chronic low back pain. MRI Lumbar Spine and Plain Film Lumbar Spine - IMPRESSION: Minimal osteoarthritic changes.

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Page	Date	Provider	Summary
			MRI of the Lumbar: IMPRESSION: No acute process identified.
Gonda 27	11/4/03	Frank Gonda, MD	Note: Epidural at MBMH on 11/6/03; no auth per Christi at Cigna.
Gonda 27	11/5/03	Frank Gonda, MD	Pt. states Percocet helped more than Lortab-given 60 on 10/20/03 and has 14 left (46 in 15 days). Told him he not get Percocet decreased to take Lortab as instructed; no early refills.
Gonda 28	11/7/03	Frank Gonda, MD	Telephone note: c/o LBP-chronic; Lortab not helping; To ER tonight; to office Monday a.m.
Gonda 28	12/15/03	Frank Gonda, MD	Had one epidural which made his pain worse; he was out of work for several days...suggested we go see another anesthesiologist at Regional...he did not want to see the ones at MBH.
Gonda 29	1/20/04	Frank Gonda, MD	TC: Refill Lortab and Viagra; states cannot go back for another epidural now because he is trying to pay last one off... "How can we be so depressed, so much pain, going through divorce and still have sex 2-3 x/wk? Lortab keeps increasing. No refills."
Gonda 29	2/10/04	Frank Gonda, MD	Follow up and med refill; he discontinued his Effexor and does not feel depressed; refills given.
Gonda 30	2/18/04	Frank Gonda, MD	Pt. notified of lipids;...
Gonda 30	5/4/04	Frank Gonda, MD	Follow up low back pain; pain is well-controlled...
Gonda 30	5/20/04	Frank Gonda, MD	Pt. states he called about his mail order and states he should receive Ultram on Tues. and needs enough at local pharmacy until then;
Chart 1-2	5/28/04	SRMC (Raja Paladugu)	Admission to SRMC with complaints of chest pain (Dr. Raja Paladugu).

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			Impression: (1) Non-cardiac chest pain most likely secondary to ____ in the left main bronchus. We will get pulmonary to see this patient for possible bronchoscopy and removal if possible. (2) Hypertension. The patient's blood pressure is elevated. Never told that he has been hypertensive before, although the patient has been noncompliant with medications and follow up and, hence, we will keep an eye on the blood pressure. We will place the patient on Lopressor 50 mg qd for now. Has multiple blood pressure readings in the emergency room. Continues to stay high diastolic of 109. (3) Elevated cholesterol. We will check a lipid profile in the morning.
Chart 3-4	5/28/04	SRMC (Joseph A. Boscia, III, MD)	<u>CONSULTATION BY DR. JOSEPH A. BOSCIA, III, MD</u> <u>History of Present Illness:</u> 46 y/o smoking male presented to hospital for chest pain. Initial CXR on admission showed what appears to be a foreign body in the left mainstem bronchus. I am being asked to comment on this. This pt. complains of pain in his chest that is sharp that goes directly straight to his back. There is a hx of cough. No hx of hemoptysis... <u>Social Hx:</u> He has a 25 pack year smoking hx. He works at Michelin... <u>Review of Systems:</u> Includes all mentioned in hx of present illness. Also, he has chronic back pain, occasional headaches, occasional constipation. All other review of systems are negative... <u>Physical Examination:</u> ...Chest X-rays have been reviewed in it does show what appears to be an irregular metallic foreign body in the left mainstem bronchus. <u>In Summary:</u> 46 y/o gentleman with what appears to be a foreign body in the left mainstem bronchus. He has consented to a fiber-optic bronchoscopy which would be the most reasonable next step. Will perform fiber-optic bronchoscopy to see if this foreign body is removable. If it is not removable or granulated in, than rigid bronchoscopy in the operating room will be

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			performed. Risks, benefits, and alternatives were discussed with Mr. Casey and he agrees to proceed with bronchoscopy."
Chart 5	5/28/04	SRMC (Joseph A. Boscia, III, MD)	OP REPORT - Bronchoscopy <u>Reason For Procedure:</u> 45 y/o male with what appears to be a foreign body... <u>Description of Procedure:</u> After informed consent was obtained, the right nostril was anesthetized with topical lidocaine. the bronchoscope was advanced to the trachea without difficulty. Trachea as well as right segmental and subsegmental bronchi were normal, patent, without bronchia pathology. However, upon entering the main stem bronchus, the distal end where the take off of the left upper lobe starts on the medial wall, there is a very erythematous area that was easily friable. No observable foreign body was noted. The airway post the erythematous take off of the left upper lobe was normal. The bronchoscope was withdrawn. The patient tolerated the procedure well.
Chart 6	5/28/04	SRMC (Raja Paldugu, MD)	Discharge Summary <u>Presentation and Hospital Course:</u> 45 y/o Caucasian male with hx of elevated cholesterol, hx of herniated disc, hx of arthritis, who apparently has been having vague chest discomfort every time when he goes to work. Pt. came in because of tightness that went straight to the back according to the emergency room physician; however, upon the workup the patient was found to have a left main bronchus containing some foreign body that was metallic in nature. It looks like a screw. It could have been dental filling. The patient was seen in consultation with Dr. Feldman who asked Dr. Boscia to do fiberoptic bronchoscopy and take a look

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			inside and see if he can get it out. Apparently the area was quite difficult to get to. Some bleeding was visualized on the left main bronchus and then tried to dig it out but couldn't find any piece of metal and, hence, he did not do it. The patient was to undergo rigid bronchoscopy a week or two weeks later in Dr. Feldman's office. We feel at this time that the patient does not need any further inpatient care...Follow up: The patient will follow up with Dr. Gonda in one week.
Chart 7-8	6/3/04	SRMC (Gregory J. Feldman, MD)	OP REPORT Procedure Performed: Rigid bronchoscopy with laser broncho. Endoscopist: Dr. Feldman Indications For Procedure: 45 y/o had been worked up by Dr. Paladugu and my partner, Dr. Dr. Boscia, with the finding of abnormal granulation tissue and abnormal subsegment in the left upper lobe corresponding to what appeared to be a crown foreign body on chest X-ray. The patient is now undergoing procedure in attempt to removal of chest X-ray abnormality suggestive of a crown; the patient does have a history of a missing crown. After general anesthesia was induced, the patient was intubated with a rigid bronchoscope, size 16, without any difficulty. Careful inspection of the tracheobronchial tree was undertaken. The entire bracheobronchial tree was examined, there was no finding of a foreign body, however a quite abnormal subsegment in the left upper lobe which appeared to be a pouch/granulation tissue has been identified. Laser of the area has been done with 45 watts over a 2-second period. Granulation tissue has been vaporized with the appearance of what appeared to be crown lying on the surface. With using 35 watts energy of the laser,

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			there was no possibility of removal of the crown because it was deeply imbedded, and laser energy was applied to the center of the crown and it has been vaporized. However, below the surface there has been no further foreign body seen. The assumption was made that the entire crown other than on the surface had been vaporized, and attempt to pull it with a biopsy forceps and passage of the basket was unsuccessful. The washings
Chart 7-8	6/3/04	SRMC (Gregory J. Feldman, MD)	(CONTINUED) were done of the area, and the procedure was terminated. The patient was extubated in recovery. Although the patient did quite well during the procedure, he suddenly developed considerable pneumomediastinum and having immediately arrived at the bedside, Dr. Nguyenduy's consultation has been obtained. The decision was done by Dr. Nguyenduy and myself to place a chest tube, because of the impossibility to rule out pneumothorax, however, chest X-ray does not show pneumothorax, there is no foreign body seen, and also endotracheal tube is in good position. The patient was intubated by Anesthesia prior to that. IMPRESSION: It is unclear to me at this point whether the laser went through the cartilage, and since I have not identified or pulled the crown itself, if in fact there was a crown it has been vaporized and is no longer seen on X-ray. At this point the patient will transfer to ICU, antibiotics will be administered for disruption of the bronchus and pneumomediastinum. This will be followed by CT surgery and certainly if air leak into the mediastinum would not stop, surgical intervention will be required. Hopefully, this can be avoided by conservative management, but is is uncertain to me at this time whether

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			the crown was vaporized or essentially the laser went through the highly abnormal area of the lung suggestive of closed congenital pouch rather than a foreign body, and significant irritation from previous bronchoscopy.
Chart 9-10	6/3/04	SRMC (Dr. Tuan Nguyenduy)	PRE OP DX: (1) Possible left tension _____. (2) Bronchial trauma status post rigid bronchoscopy and laser therapy. (3) Cigarette smoking. (4) Dyslipidemia. POST OP DX: Same. PROCEDURE: Emergency placement of a left thoracostomy tube... INDICATIONS: The patient is a 45 y/o white male who is status post a rigid bronchoscopy for possible foreign body aspiration and postoperatively in the recovery room he developed subcutaneous emphysema and respiratory distress requiring insertion of endotracheal tube. He then became stable and concern of a left pneumothorax because of his subacute emphysema. Was asked to put in an emergency left thoracostomy tube. PROCEDURE IN DETAIL: This is happening in the recovery room. Pt in supine position, intubated and ventilated on the respirator. The left chest was scrubbed and pained with Betadine solution. A 3 cm incision was made at the X-ray line that is just above the 2nd intercostal space. A quick dissection was carried through with subcutaneous tissue to the muscle using the Metzenbaum scissors down to the intercostal space. Then using a Kelly clamp, the left pleural space was entered without any problems. Digital examination was performed and the lung was mobile

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			and free from any adhesions at the site of entry. A 32 French trocar was inserted in the left pleural space without any problems with good air return which fogged the chest tube. The chest tube was anchored and stayed with 209 Prolene mattress sutures. The chest tube was then connected to collecting unit and placed on -20 cm water continuous wall suction. Postprocedure chest X-ray was obtained and showed that the tube is in good vision in left pleural space with extensive subacute and some continuous emphysema.
Chart 11-12	6/6/04	SRMC (Gregory J. Feldman, MD)	<u>DISCHARGE SUMMARY:</u> Final Diagnosis: (1) Status post recent bronchoscopy with laser for abnormal appearing airway, on flexible bronchoscopy suspected foreign body. (2) Complication of the procedure was pneumomediastinum and pneumothorax requiring chest tube insertion by Dr. Nguyenduy. (3) Ashtma and heavy smoking. (4) Disabling back pain with a bulging disk and arthritis, long. <u>PLAN:</u> The pt. is discharged home on prednisone 20 mg. qd, Percocet 1-2 pills tid, prn. Pt. will be seen in my office within a week. Diet and activity as tolerated. <u>HOSPITAL COURSE:</u> This is a pt. who underwent initial bronchoscopy by Dr. Boscia with finding of a quite irritated, blistered airway. Corresponding chest X-ray appeared to be missing dental material. The pt. underwent bronchoscopy for assumption of airway caused by retained foreign body. It appeared to be that there was granulation tissue; however, after laser was applied it became apparent that instead of a normal airway, it is a pouch and procedure

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			terminated with no foreign body recovered. Pt tolerated the procedure well; however, in recovery the pt. suddenly developed subacute emphysema and X-ray revealed pneumomediastinum with pneumothorax on the left side. A small chest tube was inserted. Pt. was kept on the respirator overnight. His subcu. air has subsided remarkably. Pt. felt much, much improved. He was extubated and transferred to the floor. Repeat chest X-ray showed pneumothoraces on both right and left but unchanged in size and small at the time of discharge. The pt. felt good with no complaints and was discharged home. We will assess in my office within the next two days. The patient has been instructed if he develops fever or increased subcu air or shortness of breath immediately to come back to see me.
Chart 13-24	6/8/04	Upstate Lung and Critical Care (Gregory J. Feldman, MD)	First Office Visit (Follow-up with Dr. Feldman) - Dr. Feldman's note - Doing well - see H&P; Status post pneumomediastinum status post laser procedure (unable to find foreign body - very _____) Pneumothorax; back pain; tobacco abuse; no work for 3 weeks. Referral to Pain Center.
Chart 25	6/11/04	Upstate Lung and Critical Care (Joseph A. Boscia, MD)	<u>Chest X-ray:</u> Findings: PA and lateral of the chest were obtained today. The heart, lungs, and bony structures are normal. Impression: Normal chest X-ray.
Chart 26-29	6/11/04	Upstate Lung and Critical Care	(TELEPHONE CALL) Upstate Lung and Critical Care - Pt's sister called to report her brother was in severe pain at chest tube site. Was taking Percodan w/no relief. Pt. has appt. w/Pain Center on 6/17/04 if not sooner. Dr. Boscia ordered Oxycontin until Pain Center could see him. I talked

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			to sister in front of Diane Foster, RN of danger of pt. continuing to take pain meds he had with Oxycontin. Sister told nurse she would remove all pain meds from his home and only leave with him what he could take q.d. Our office will continue to see if apt. with Pain Center can be sooner. Seen by Dr. Boscia - temp.; ____ pred.; status post pneumothorax; Plan: ZPack; ____
Pain Center 11-12	6/17/04	Carolinas Center for Advanced Management of Pain (Eugene Mironer, MD)	NEW PT. EVALUTION Hx of Present Illness: Mr. Casey is a 45 y/o Caucasian male who was seen in the office about 4 years ago with low back pain. He was advised to obtain an MRI scan, but never came back to the office. Today, he is here at the referral of Dr. Greg Feldman, complaining of mechanical low back pain as well as chest pain, right in the epigastric area. He describes this pain as dull and aching, and occasionally sharp and shooting. The pain is always present but the intensity differs throughout the day. Moving, lifting, and standing on a concrete floor makes the pain worse, while laying down on his side and medications alleviate his pain to some extent. The patient had one epidural steroid injection that did not help to decrease his pain. On review of his X-rays, this was not even an epidural, but position of the needle was much more superficial. He did have an MRI scan of his lumbar spine that shows mild degenerative changes at the L4-5 and L5-S1 disks, as well as low bulging, which is clearly not producing the symptoms that Mr. Casey is complaining about. There is muscle tenderness that still gives him some pain, but other than that, there are no new developments. He has no other concurrent diseases.

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			CURRENT MEDS: The patient is currently taking 8 Ultram per day, 2 Lortab per day, Bextra and Zanaflex occasionally... SOCIAL HISTORY: The patient still smokes. He denies drinking alcohol. He still complains of some sleep difficulties related to pain. PE: Height 5'8" and weight 165 pounds. The patient is awake, alert and oriented x three. He looks fairly depressed to me, but is in no acute distress. His gait is normal. HEENT exam: No abnormalities are found. Heart rate is regular. Abdomen is soft and nontender. Musculoskeletal exam: The patient has restriction on range of motion of his cervical spine. He has full extension but not flexion,
Pain Center 11-12	6/17/04	Carolinas Center for Advanced Management of Pain (Eugene Mironer, MD)	with fairly significant tenderness over the facet joints bilaterally, more on the right than on the left. No gross sensory loss or muscle weakness is found in any of his extremities. Straight leg raising is negative. Deep tendon reflexes are symmetrical. Sympathetic function is normal. Pain behavior signs are positive. DX: Chronic mechanical low back pain; rule out facet arthropathy/myofascial dysfunction pain; depression; chest wall pain of no muscular origin. PLAN: I discussed with the patient at length about the possibilities of treatment and I think that trying to do facet joint injections may be an option. We also may refer him to our physical therapy for something better than just exercising, which he received at Mary Black Hospital.
Chart 30	6/17/04	Carolinas Center for Advanced Management of Pain (Eugene	"Dear Dr. Feldman: Thank you for referring Mr. Casey to our pain clinic. He was seen about 3 1/2 years ago, after being referred by his family physician, Dr. Gonda. He was diagnosed with

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		Mironer, MD)	mechanical low back pain. I ordered an MRI scan of his lower back, but the pt. never returned. Today the pt's clinical features have not really changed except for Mr. Casey appearing to be more depressed. He is also having some epigastric pain but on examination, this looks as if it is coming from his chest wall. I think he may benefit from being seen by a gastroenterologist. As far as his low back pain is concerned, it is purely mechanical, and his MRI is practically normal with two slightly bulging disks that are obviously not his source of pain. He received an epidural steroid injection by a radiologist at Mary Black, which did not help. Firstly, according to the picture that I have seen, they never got the needle into the epidural space and, secondly, the patient did not have pain that can be alleviated with an epidural steroid injection. I discussed treatment options with Mr. Casey, and, again, I think he would benefit from diagnostic and, hopefully, therapeutic lumbosacral joint injections. If this would provide relief for only a short period of time, then we would set him up for specific therapy for his pain. Also, I believe Mr. Casey would benefit from seeing a psychologist or psychiatrist to treat his anxiety and depression. At this point, however, we will not address this issue..."
Chart	6/17/04	Upstate Lung and Critical Care (Nurse's Note)	TELEPHONE CALL - Pt. called office to complain of appointment at Dr. Mironer's. He felt he would get meds. He did not give him any. He reported he wanted to give him shots. Pt.'s not happy. I told him I could not question Dr. Mironer's care plan. Asked for Percocet 10 for pain. Pt. has long history of chronic pain prior to our service. PCP Dr. Gonda. Pt was told to call PCP if he has pain problems other than known to us. Pt. said he was taking

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			Zanaflex as many as needed to "pass out at night." Pt. was warned not to do that. Zanaflex not given by this office.
Chart 34-42	6/25/04	Upstate Lung and Critical Care	CONTINUED Nurse's Notes: Pt. and sister here this visit. Pt. came back for a return follow-u visit. Pt.'s sister started asking questions to Dr. Boscia re the rigid bronch. Sister (Carol Casey) wanted to know "why the urgency of doing a bronch.?" Explained to pt. that something was seen on the X-ray but he was unable to see it with the fibroptic-bronch but something was there. Pt. stated he did not have a problem with what Dr. Boscia had done. He reports he came to the hospital with pain in his chest reports pain continues. Pt. reported that all he wanted was something that would stop him from pacing all the time and be able to sleep at night. He reported that he has to take the Zanaflex prn just to sleep but he did not want to just be put to sleep he wanted to rest and stop pacing. Pt. reported he was able to rest and sit and watch TV before all this happened and now he just finds himself pacing. Dr. Boscia told patient he was not able to answer all his questions because the procedure he did should not have caused all these problems. Dr. Boscia suggested to them that they should talk with his partner who performed the other procedures. Pt's sister quickly said that she could see that they were not going to get any answers here. Encouraged her to make an appointment to see Dr. Feldman next week. She shook her head "no" that she would have "someone" contact us. At one point during the visit Mr. Casey stated, "I don't want no part of this; I just want to be able to rest and stop pacing." At one point the sister talked about all the expenses of the hospital bill.

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			Pt. told not to take Zanaflex and Lortab with Ambien.
Gonda 34	6/29/04	Frank Gonda, MD	"This 44 y/o white male is in here today with his sister. He has recently been in the hospital. Apparently he was having some chest pain while at work and was taken to Spartanburg Regional. The chest X-ray revealed a foreign metallic body in his chest. They thought it was a screw. Bronchoscopy was done which was negative. A repeat bronchoscopy was done with some sort of a laser treatment which resulted in a pneumothorax. He ended up on a respiratory and with a chest tube. He still has chest pain. He has not been back to work. Ever since then he has been nervous and anxious. He cannot sit still. He is restless. He does not sleep well. Patient has been having chest pains for two months. It is worse with exertion. He feels it like a squeezing or a fullness in his left chest. It is always on the left side. There is no SOB, some nausea, some diaphoresis occasionally. Since he has been out of work, he has had very little pain. The pain can come on while at work. He does a very strenuous job at Michelin. He can hurt for the entire eight or twelve hours of his shift. On occasion he has stopped because of the pain. The pain gets better, but then it comes back when he goes back to work. He has seen a cardiology four years ago. He had a slightly abnormal stress test which led to a heart catheterization which was normal. Patient continues to smoke a pack of cigarettes per day. He continues on a lot of pain medicine for his low back pain. O: Patient is in no distress. Blood pressure is 126/94. Pulse is 100. Wt is 169. Neck is supple with no thyromegaly. Lungs are clear with no wheezes. Heart is

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			regular with no murmur, no extrasystole. Abdomen is soft and non-tender. Left chest wall is exquisitely tender between two ribs, probably the sixth and seventh
Gonda 34	6/29/04	Frank Gonda, MD	CONTINUED ribs anteriorly just to the left of the sternum. Pressure reproduces his pain. Back reveals no CVA tenderness. Lower extremities reveal no edema. Straight leg raise is negative. A: Dx as above. I do not believe patient needs any cardiac evaluation or GI evaluation. He has no GI symptoms. I offered to set him up for gallbladder ultrasound or upper GI, but he declined at this time. P: He will continue current meds as listed in the chart. He will begin Zoloft, 50 mg one p.o.
Chart 43-46	7/7/04	Upstate Lung and Critical Care (Gregory J. Feldman, MD)	Feels tightness in chest. Also complains of soreness at chest tube site. States unable to sleep on that side. Feels like heart is racing at times. Feels better; complaining not strong/___O___; ___ lungs clear; Referred to pulmonary rehab; _____. Status post pneumomediastinum. Normal spirometry.
Lung & Chest 1-2	7/14/04	Lung & Chest Medical Associates	Referring Physician: Self-referred. Hx: Mr. Casey is a 45 y/o male who presents for evaluation of chest difficulties that began in May of this year when he presented to the emergency room at Spartanburg Regional Medical Center with a complaint of chest pain. A PA chest X-ray taken at that time suggested the possibility of a foreign body. He works for Michelin Tire Company. He

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			underwent a bronchoscopy, which was felt to be abnormal but no foreign body was identified. A subsequent CT scan done the same day did not confirm any abnormality. However it does mention that there is left anterior descending coronary calcifications. In 2000 he had a stress test and catheterization which was normal. Following this underwent a rigid bronchoscopy in attempt to identify foreign body and remove it. During that procedure he had a perforation of the bronchial wall by a laser which resulted in pneumomediastinum and respiratory distress. He required intubation and heavy sedation and was able to be extubated the following day. Since that time he notes fatigue during the day. He continues to have dyspnea and chest pain with exertion. He has become very anxious. His sister accompanying him for the interview notes that he seems to have experienced a change in his ability to tolerate stress and appears much more anxious and restless than she has known him to be in the past. He is a previous smoker for about 12 years but has not smoked in the past three weeks. He does snore but feels he sleeps well. He denies any hemoptysis, chronic cough or weight loss. He still has the chest pain. <u>PAST MEDICAL HISTORY:</u> Previous hemorrhoid surgery in 1994 and a hospitalization for evaluation of chest pain in 2000 for which he underwent cardiac cath...
Lung & Chest 1-2	7/14/04	Lung & Chest Medical Associates	<u>SOCIAL HISTORY:</u> He is divorced. He completed on year of college. He drinks occasional alcohol. He likes to play golf. He has been unable to play since his injury.

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			REVIEW OF SYSTEMS: Shows some arthritis which he manages with the Bextra. He has an elevated cholesterol for which he is on the Lipitor. He had an episode of rectal bleeding 10 years ago. He notes that he gets up three to four times during the night for micturition. He has disk problems and arthritis in his lower back... LABORATORY DATA: Pulmonary function studies show normal vital capacity and flow rates with a vital capacity of 4.7 liters, which is 99% of predicted and forced expiratory volume that is 98% of predicted. There was no change with bronchodilator. Flow volume loop showed no evidence of upper airway obstruction. Maximum voluntary ventilation was reduced at about 70 to 77% of predicted. IMPRESSION: 1. His pulmonary function is normal and chest X-ray does not show any evidence of sequelae of his bronchial perforation. The patient did not bring a recent follow up film. Pulmonary function studies are normal. I do not find any evidence for airway obstruction that would account for his problems. But I wonder if he suffers from a posttraumatic stress disorder related to his injury and intensive care unit experience. I would like to refer him to a psychologist for further evaluation. On his return we will get a follow up chest X-ray and a diffusion capacity and in view of his CT scan suggesting left anterior descending coronary artery calcification I believe a repeat stress test might be in order. - Wilson P. Smith, Jr., MD
Lung & Chest 17	7/22/04	Lung & Chest Dr. Wilson Smith	Telephone Call From Mr. Casey: "Pt. started trying to do some things this morning "to build stamina" and started having some chest pain after about 1 hr.,

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			15 minutes. Pt. talked for several minutes re: his inability to tolerate increased activity - not eve lifting heavy objects - pt. says with his chronic back pain and now pain I upper body. He's just upset - afraid he's going to do some damage to the injured lung." Refer to pulmonary rehab.
Gonda 35	7/27/04	Frank Gonda, MD	S: This 44 y/o white male is in for follow up of the above problems and for medicine refill. He has been on Lipitor now for four weeks continuously and needs lab work done to see if it has helped. He has been on Zoloft about 3 weeks and he thinks that he has mellowed out a little bit and is feeling a little bit better. He just got his prescription filled. He continues on his chronic back pain medicines of Ultram and Zanaflex and Bextra. No refills on that are needed. Those are mail order. He needs a refill on Lortab. He has had no side effects from the Lipitor or the Zoloft. He continues to have chest pain from his recent bronchoscopy and pneumothoracic chest tube. He has an appointment in a couple of days with Dr. Wilson Smith, the pulmonologist. The patient says that he has changed lung doctors because the others did not seem concerned over his problems. O: Patient is in no acute distress. BP is 120/76. Pulse is 76. Wt 178. Neck is supple with no thyromegaly. Lungs are clear with no wheezes. Heart is regular with no murmur. Abdomen is soft and non-tender. Back reveals decreased range of motion. Straight leg raise is negative. Mental status examination is normal. He is alert, oriented and coherent. Speech is not rapid or pressured. A: Dx as above. He appears stable. Of note is that he has not returned to work yet. P: Check a lipid profile and an ALT. Renew Lipitor, 20 mg one p.o. q p.m. #90

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			with one refill. This is for mail order. Adjust medicine if needed. Renew Zoloft 50 mg. on q day #30 with 2 refills. No mail order for that at this time. We will see him back in 2 months to see how he is doing for that. Renew Lortab, 100/500 one p.o. b.i.d. for pain #60 with 2 refills. Continue Ultram, Zanaflex and Bextra.
Lung and Chest 20	7/29/04	Lung & Chest Dr. Wilson P. Smith	Office Note: Mr. Casey returns for a follow up visit today. He is trying to resume activities. He has developed chest pain with exertion and so in view of the finding of coronary artery calcification on his CT scan and his exertional chest pain we will refer him for a Cardiolute stress test and consideration of pulmonary rehabilitation. EKG today is within normal limits and shows no acute changes.
Lung & Chest 21	7/29/04	Lung & Chest Dr. Wilson Smith	X-ray: PA & lateral of chest. Chest X-ray shows normal heart size and clear lung fields. IMPRESSION: Normal chest.
Lung & Chest 29	8/3/04	Lung & Chest Dr. Wilson Smith	Telephone Call From Mark Casey: Re: when is his appointment with Dr. Grace?
Grace 1-3	8/9/04	Jay Grace, Ph.D. Psychologist	Report of MMPI (Minnesota Multiphasic Personality Inventory-2) "usually realistic and practical. Open, honest - valid profile. Mod to severely dep; mod. anx. but good reality contact. Addiction prone and inclined to get irritable and argumentative when drunk or high. Demanding and emot. Dependent to such a degree that he is constantly frustrated. Inclined to take out his frustration on wives and girlfriends. Prone to develop ulcers and GI disturbances under stress. Also prone to sudden anx. & panic episodes. Overwhelmed with problems, guilt-ridden feelings of unworthiness and inadequacy. Despondent, slowed in thought and action. Self-centered, immature, and prone to disregard rules and

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			have conflicts with a authority figures. Obsessive thoughts which initiate compulsive behavior. Angry and resentful, suspicious of the motives of others. Rigid and _____ UNDATED MICHELIN ATTENDING PHYSICIAN'S REPORT (FOR EXTENDED LEAVES OF ABSENCE): <u>"...Date original medical leave of absence:</u> May 28, 2004. Expected date of return to work: 12/6/04 (estimate). <u>Physical findings (diagnosis):</u> Pt. is still suffering from some significant symptoms of major depressive disorder. His anxiety symptoms have decreased markedly but he is exhibiting moderate to severe anhedonia, lethargy, loss of motivation for all activities, decreased frustration tolerance, social withdrawal, and decreased concentration and memory. <u>Treatment and/or recommendation:</u> Weekly (cognitive restructuring) psychotherapy with me and pharmacotherapy with Dr. Jeffrey Smith, Greenville Psychiatrist. Pt. also being followed (evaluation and treatment) by Wilson Smith, MD, Spartanburg pulmonologist.
Grace 4	8/12/04	Jay Grace, Ph.D. Psychologist	<u>"...Date original medical leave of absence:</u> About 6/3/04. <u>Expected date of return to work:</u> 9/7/04 (Estimate) <u>Psychological findings (diagnosis):</u> Major depressive disorder, single episode, post traumatic stress disorder, and generalized anxiety disorder. <u>Psychotropic Medications:</u> Zoloft (an anti-depressant) and Soma (for initial and terminal sleep disturbances).
Lung & Chest 31	8/12/04	Lung & Chest Dr. Wilson Smith	Present Illness: Still gets tired with exertion...Dx: Chest pain; Plan: Neg stress.

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Gonda 35	8/17/04	Frank Gonda, MD	Discussed with Dr. Jay Grace - been seeing Mark x 3 weeks. Better on Zoloft but wants to increase. Still lots of anxiety. Increase Zoloft 100 mg 1 qd #30/2. CVS Reidville Road;
Chart 47	8/17/04	Upstate Lung and Critical Care	No show.
Gonda 35	9/10/04	Frank Gonda, MD	S: This 45 y/o white male is in for follow up on the above problems. He has been to the Pain Clinic. He is not satisfied with them and is not going back. He has been seeing Jay Grace who is a psychologist. Jay recently called and asked if we could increase Zoloft to 100 mg per day. He has been on the higher dose for three weeks and thinks the medicine has helped. Mark is seen today at the request of Jay Grace who suggests we switch him to Cymbalta. This is a combination drug. I believe it is an antidepressant with a mood stabilizer. I have not used it before and I do not have any experience and have not read about it. Mark continues to have this chronic low back pain. He continues to have chest pain. He has seen the pulmonologist who says his lungs are fine. Jay Grace also wants him to see an orthopaedics to evaluate his back pain to see if he can return to work at the same level at exertion that he has been doing in the past. Currently he continues on Ultram, Zanaflex, Lortab and Bextra. O: Pt is in no distress. BP 136/94. Pulse is 100. Wt 180. Mental status exam is normal. PE not done today. A: As above. P: Continue current medications. Schedule him an appointment with orthopaedist Dr. Glenn Scott to evaluate his chronic low back pain and his work capacity. Will discuss with Dr. Jay Grace concerning switching his medicines. I personally think it is too early to switch since he has only

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			been on the higher dose of Zoloft for 3 weeks. Nurse Note: Pt states he was sent here by Dr. Grace to discuss new med (Cymbalta) and ortho surg so pt can RTW; states 3 on pain scale - JOC Appt. made with Dr. Glenn Scott on 9/20/04 at 10 - D Hannon(?)
Grade 5-6	9/16/04	Jay Grace, Ph.D. (Psychologist)	Letter to Frank Gonda, MD: "I have been following Mark Casey on a weekly basis and saw him most recently on September 16, 2004. He reportedly has been taking Zoloft, 100 mg per day for about 8 weeks now as you prescribed. He estimated that he has gained about 50% benefit from Zoloft, but for about the past four weeks he seems to have plateaued and there appears to be no subjective or objective improvements. Thus, the following depressive symptoms persist: initial and terminal sleep disturbances, depressive affect most days with atypical cynicism, irritability with low frustration tolerance, anxiety and restlessness, atypical somatic symptoms, excessive worry, easily fatigued, and an inability to deal with normal life stresses. On 8/9/04, I administered to Mark the MMPI-II. The validity scales indicate that his test results are valid and the clinical picture is probably unchanged since that test administration. The clinical scales of his MMPI-II indicate that he is moderately depressed, moderately anxiety (sic), but in good reality contact. He is prone to develop ulcers and other GI disturbances under stress. Also, he is prone to sudden anxiety and panic episodes. Test results confirm that he is overwhelmed with problems, is guilt-ridden, and has feeling of inadequacy and unworthiness. He tends to be quite despondent and is slowed

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			in thought and action. Mark is also inclined to experience obsessional thoughts which trigger compulsive behaviors. His personality profile also indicates that he is angry and resentful, rigid and stubborn. He tends to be suspicious and inclined to question the motives of others. However, when not overwhelmed and depressed, he is likely to be much more adaptable, dependable and responsible. In addition, when not in an emotional crisis, he is probably realistic and practical and is viewed by others as sociable friendly and enthusiastic. Mark has a 20-plus year Michelin and reportedly has been a very po
Grace 6	9/16/04	Jay Grace, Ph.D. (Psychologist)	<u>CONTINUED:</u> history with Michelin and reportedly has been a very productive employee. He indicated, however, that he has been out of work since May 28th and several very recent phone calls from Michelin supervisors indicate that his job may be in jeopardy. Thus, it seems only reasonable that we accelerate his treatment in an effort to expedite his return to work. The simplest solution seems to be to increase his Zoloft to 150 mg per day. Another possibility would be to augment the therapeutic benefit of Zoloft with a second antidepressant such as Cymbalta. Cymbalta would probably be a good choice since it would be combining the serotonergic benefits of Zoloft with the noradrenergic benefits of Cymbalta. Also, the addition of BuSpar could be helpful in the treatment of Mark's numerous anxiety symptoms. If you are not comfortable, Frank, with a more complex psychotropic regimen, then either you or I can refer him to one of the Greenville psychiatrists with the recommendation that he be seen at

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			their earliest opening. Michelin is not really satisfied with Marking being out on a three and one-half month leave under the care of a family physician and psychologist for a psychiatric disorder. However, since it could take two to three weeks for Mark to be seen by a psychiatrist, please consider a medication increase/change in the meantime. Please advise. - Jay Grace
Scott 1	9/20/04	Glenn Scott, MD	45 y/o male pt was seen with complaints of chronic low back pain dating back several years. He is an employee of Michelin Tire Corp where he works on the production line. However, he has not worked since May 28. This has been for reasons other than his back, although he was advised to have his back evaluated prior to returning to work. He states that the job that he does is quite strenuous, that he works 12 hour shifts and he has a lot of pushing, pulling and rotation type movements associated with his job. He has worked for Michelin for about 20 years. He states that his back pain is relatively constant, but worse when he first wakes up the a.m. He also has some pain in the anterior aspect of his chest. He has had an extensive evaluation for cardiac disease which, apparently, has been non-revealing. His complete medical history was documented and reviewed. He smokes about a quarter of a pack of cigarettes a day, drinks socially but not excessively. Other than mentioned above, his review of systems, medical and social history and family history are non-revealing. On exam, the pt is a well developed male, wt 177, bp 102/74, pulse 88. Head is normocephalic. Pupils are equal and reactive and extra ocular muscles are intact. He shows good range of motion w/o spasm or tenderness in the

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			cervical spine. Also, motion is symmetrical from side to side. His upper extremities show good range of motion in the shoulders, elbows, wrists and hands. His muscular development is symmetrical and reflexes are symmetrical at the biceps, triceps and brachial radialis. He has good grip. His chest shows good expansion and contraction. There is no thoracic spasm or point tenderness. His heart has a regular rate and rhythm. Exam of the lumbar spine, again shows no visible or palpable sustained paravertebralspasm. He has a reversal of his lumbar curve as he flexes

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Scott 1	9/20/04	Glenn Scott, MD	CONTINUED and extends. There is no list and his motions from side to side are symmetrical. He has some increased pain on hyper extension and at the end ranges of rotation. Straight leg raising is negative for acute nerve root irritation. Reflexes are 2+ and symmetrical at the knee and ankle. He has normal motor strength and normal sensation. He has had previous X-rays done AP, lateral an spot of the lumbosacral junction. In addition, oblique X-rays were done today which showed some moderate degenerative changes in the facet joints at L4-5 and L5-S1. the disc space are fairly well maintained. Likewise, he had an MRI done on 10/31/03 at Mary Black. These films, as well as the radiologist's report, were reviewed. He has some moderate degenerative changes at L4-5 and L5-S1 with some mild bulging. There is no real lateralization, no herniation or direct nerve root compression. Arthritic changes in the facet joints are, again, noted. IMPRESSION: Degenerative lumbar spine and disc disease. I don't feel that these are advanced or acute changes, although certainly have the potential of gradual worsening with time. The condition has the potential to be aggravated or accelerated by strenuous and sustained activities, both occupationally and recreationally. In discussing his job a some length with him in the office today it does have strenuous aspects which potentially could be aggravating factors to his back. I don't see any reason why, at this point, he can't return to his regular job, but I feel it would be advisable for him to explore, with the company, different jobs that might become available that would be less demanding as far as his back is concerned. He currently is using nonsteroidal anti-inflammatory agents, is on a regular back exercise program and at

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Gonda 37	9/22/04	Frank Gonda, MD	Telephone conversation with psychologist Dr. Jay Grace who is following patient for anxiety an depression. Dr. Grace sent a note suggesting increasing Zoloft or adding Cymbalta. We discussed this today. I have no experience with this new medicine, and I felt uncomfortable adding it to the Zoloft. Therefore when Dr. Grace sees Mark later this week if he has not shown further improvement, patient will call and I will increase Zoloft to 150 mg qd. If he does not respond to that, we could switch him to Cymbalta or we could have a psychiatrist see him who may feel comfortable using both meds together.
Gonda 36	9/23/04	Frank Gonda, MD	Telephone note: Pt calling to see if he can up his Zoloft dosage to 50 mg. Continue Zoloft 1000 mg qd and and Zoloft 50 mg qd.
Grace 7	9/27/04	Jay Grace, Ph.D. (Psychologist)	<u>"...Date original medical leave of absence:</u> May 28, 2004. <u>Expected date of return to work:</u> Approximately 30 days. <u>Physical findings (diagnosis):</u> Initial and terminal sleep disturbance, depressive affect most day with atypical cynicism, irritability with low frustration tolerance, anxiety and restlessness, atypical somatic symptoms, excessive worry, easily fatigued, an inability to cope with normal life stresses, and decreased motivation. <u>Treatment and/or recommendations:</u> For all activities, continued cognitive, insight oriented psychotherapy, increase Zoloft to 150 mg qd (occurred 9/23/04), switch to or combine Cymbalta (see accompanying letter to Dr. Gonda), consider adding some BuSpar for anxiety, and refer to psychiatrist if not significantly improved in 3 weeks. <u>Dxs:</u> Major depressive disorder, single episode; post traumatic stress disorder,

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			resolving; generalized anxiety disorder.
Gonda 37	10/15/04	Frank Gonda, MD	Telephone note: Dr. Jay Grace called. Dr. has noticed that pt. has improved some in certain areas but feels that pt. needs to be referred to a psychologist. Want to know if you want to refer him or do you want him to. He suggests Dr. Jeff Smith or Dr. Tony Goodbar. Notified Dr. Grace he suggests to wait and discuss with Dr. Gonda on Monday due to Dr. Gonda being off.
Gonda 38	10/19/04	Frank Gonda, MD	S: This 45 y/o white male is in for follow up on the above problems and for medicine refill. His anxiety and depression are slightly improved on a higher dose of Zoloft. Psychologist Dr. Jay Grace has recommended a referral to a psychiatrist in Greenville. He continues with chronic low back pain. He has been out of work for about 5 months, but he is still in pain just about everyday, but not as bad. He does not feel he can return to work. He brings papers in for short-term disability. He saw orthopedist Dr Glenn Scott who felt that patient could proceed with his work. He had no problem with his returning to his current work, but he did recommend finding an alternative. Dr. Scott's dx was degenerative arthritis with bulging disks in the lumbosacral spine. Pt. does not believe that he can return to the work that he has been doing. O: Pt is in no acute distress. BP is 126/88. Pulse is 100. Wt is 177. Neck is supple with no thyromegaly. Lungs are clear with no wheezes. Heart is regular with no murmur. Abdomen is soft and non-tender. Back reveals decreased range of motion in all directions, no tenderness to palpation. Straight leg raises is weakly positive on the right. Strength in the lower extremities is normal. Deep tendon reflexes are 2+.

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			A: As above. P: Renew medications which include ... Schedule appt with Dr. Tony Goodbar, psychiatrist in Greenville. Check a lipid profile and an ALT. Adjust meds as needed. Papers for short term disability completed. Will be out of work for another 3 mo.
Grace 8-9	10/19/04	Jay Grace, Ph.D. (Psychologist)	Attending Physician Behavioral Health Statement (signed by Dr. Grace)
Chart 50	10/22/04	Upstate Lung and Critical Care	Request for records;
Gonda 38	10/29/04	Frank Gonda, MD	I faxed referral form as well as records to Dr. Goodbar. I called pt to let him know what's going on and he states he already has appt w/Dr. Smith on 11/10 at 4:20.
Lung & Chest 35	11/10/04	Lung & Chest Dr. Wilson Smith	4-5 cigs/day; Chest pain only with exertion; no dyspnea; when in yard working or walking up steps and _____ is _____. Dr. Grace does not feel ready to work; does not want to go..._____; Dx: Post traumatic stress; costochondritis as cause of chest pain;...
Grace 10	12/27/04	Jay Grace, Ph.D. (Psychologist)	"... <u>Date original medical leave of absence:</u> 5/28/04; <u>Expected date of return to work:</u> Hopefully 6 to 8 weeks (2/21/05 estimate); <u>Physical findings (diagnosis):</u> Major depressive disorder single episode, panic disorder with agoraphobia (Both Axis I diagnoses) <u>Treatment and/or recommendation:</u> Is being followed by a Greenville psychiatrist, Jeffrey Smith, MD, who prescribed Cymbalta 60mg qd and I have ben providing individual, biweekly, cognitive psychotherapy.
Gonda 38	1/12/05	Frank Gonda, MD	This 46 y/o white male returns for follow up of the above problems. Since I saw

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			him last he has seen a psychiatrist in Greenville by the name of Jeffrey Smith who has him on Cymbalta, 60 mg one a day. He is off of Zoloft. He does not think he is much better. He needs refills on his pain medicine and his Viagra. He still has back pain. He has not returned to work. He has seen several specialists for his pain and his lung problems. O: Pt is in no acute distress. BP is 116/84. Pulse 68. Wt 185. Lungs are clear with no wheezes. Heart is regular. Abdomen is soft and non-tender. Back reveals good range of motion. Straight leg raise is negative. \ A: As above. P: Continue follow ups with the specialists. Renew Lortab...See him back in 3 mo at which time he will be due his other medicines and lab updates.
Chart 48	2/8/05	Upstate Lung and Critical Care	SSA disclosure authorization;
Lung & Chest 36	2/15/05	Lung & Chest	SC Voc Rehab request for information;
Chart 49	2/15/05	Upstate Lung and Critical Care	SC Voc Rehab request for information;
Grace 11	2/17/05	Jay Grace, Ph.D. (Psychologist)	<u>"...Date original medical leave of absence:</u> 5/28/04; <u>Expected date of return to work:</u> Possibly by 4/11/05; <u>Physical findings (diagnosis):</u> Major depressive disorder, panic disorder with agoraphobia, dementia probably due to anxia. <u>Treatment and/or recommendation:</u> Pt is being followed by a Greenville psychiatrist, Jeffrey Smith, MD, who prescribed Cymbalta 60 mg, qd and I have been providing individual, bi-weekly cognitive psychotherapy.

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Grace 12	3/31/05	Jay Grace, Ph.D. (Psychologist)	Forgot about appt with me and has a blackout of most of that day. In fact, ____ told him he bumped car in parking lot which M. has no recollection of. Also has memory blanks of other interactions with others. <u>Travis:</u> Son had his car repossessed and lost his license for contempt of court (not paying fines). <u>Christen:</u> Daughter spent week recently in jail x 1 week. Travis working and Mark driving him to work - "under my thumb" Christen having to work or return to jail.
Gonda 39	4/5/05	Frank Gonda, MD	S: This 46 y/o white male is in for follow up on the above problems and for medicine refill. He denies chest pain or SOB. His appetite is good, and he moves his bowels well. He continues on Cymbalta from his psychiatrist. He thinks the anxiety and depression are fairly stable. He continues with chronic low back pain. This has not changed. He has no problems with any of his medications. O: Pt is in no distress. BP is up a little at 156/86. Pulse 100. Wt 187. Neck is supple with no thyromegaly or carotid bruits. Lungs are clear with no wheezes. Heart is regular with no murmur. Abdomen is soft with no organomegaly. Lower extremities reveal no edema. Straight leg raise is negative. Deep tendon reflexes are 2+. Back reveals fairly good range of motion. There is no tenderness to palpation at this time. A: As above. P: Renew medications which include....Will come back fasting in the morning for lipid profile and an ALT. Adjust medicines further as needed. Continue with psychiatrist. Follow up in

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			three months or pm.
Gonda 39	5/16/05	Frank Gonda, MD	Pt. notified labs no improvement in trigs and HDL. Go and do diet and exercise...
Scott 3-5	5/21/05	Glenn Scott, MD	SC Voc Rehab request for meds for SSD;
Grace 13-14	6/17/05	Jay Grace, Ph.D. (Psychologist)	Intellectual Assessment...Summary: A review of Mr. Mark Casey's school records reveal that he was administered three IQ tests between the ages of about 7 and 12 years old. The average of these three ability measures is about 112 which placed him at the 79 th percentile intellectually. Also, the vast majority of his achievement test scores between the 2 nd and 11 th grades are at or above the 65 th percentile. However, Mr. Case obtained a full scale IQ score of 97 (42 nd percentile) on intellectual testing administered in June 2005. Further, he earned very deficient scores on subtests involving processing speed (visual perception analysis; short-term visual memory; and visual-motor dexterity, speed and accuracy). IQ/intellectual----REST OF REPORT MISSING
Grace 15	6/20/05	SC Voc Rehab	Ltr. to Dr. Grace requesting follow-up information for disability determination.
Gonda 39	6/28/05	Frank Gonda, MD	S: This 46 y/o white male is in for refill on medications. He continues to have chronic low back pain. He remains out of work. He wakes up every morning with the same amount of pain. Since he has not been working, he has overall less pain. If he does any kind of yard work or house work his pain returns. He was recently switched to Mobic since Bextra was unavailable. He was also started on Tricor, and his Lipitor was reduced in half because triglycerides remained markedly elevated. He has had no side effects from the medication. He continues to see the psychiatrist in Greenville who now has

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			him on Cymbalta, 60 mg 2 a day and Adderal-SR 20 mg 2 a day. O: Pt is in no acute distress. Wt 184. BP 118/84. Pulse 68. Neck is supple with no thyromegaly. Lungs are clear with no wheezing. Heart is regular with no murmur. Abdomen is soft and non-tender. Back reveals mild tenderness in the lumbosacral area. There is discomfort with twisting and tilting. Straight leg raise is negative. Deep tendon reflexes are 2+. Motor and sensory are grossly intact. A: Chronic low back pain, stable. Really unchanged. P: Continue Mobic... No refills needed... A: Hyperlipidemia. P: Check lipid profile....Continue with the psychiatrist and his medications. See him back in 3 mo.
Grace 16-18	7/19/05	Jay Grace, Ph.D. (Psychologist)	Attending Physician Behavioral Health Statement
Lung & Chest 37-42	7/19/05	Lung & Chest Dr. Wilson Smith	Doesn't want to see Feldman; vomiting x 1 week; chest sore - tight; vomiting; dry heaves now; saw Dr. Fogarty with _____ several years ago - sister _____; pt. no longer smoking ...Dx: Nausea/vomiting; ? _____unreadable.
Lung & Chest 43-45	7/21/05	Lung & Chest Dr. Wilson Smith	Office note: <u>CHIEF COMPLAINT:</u> William Casey return for follow up on his 7/19 visit. At that time he was having dry heaves and nausea and this was felt possibly to be an interaction between the Strattera and the Cymbalta and he was advised to discontinue these. Since then he is better. He continues to have chest pain, a squeezing sensation, which can be present without exercise, although it is exacerbated by exercise. we should note that it was this symptom that led him to go to the emergency room May 2004.

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			Although the presenting complaint was chest pain, a chest film showed a metallic fragment. This was interpreted as being in the chest by the treating physician and the patient was referred for pulmonary consult and underwent rigid bronchoscopy within hours of his presentation. The bronchoscopy did not show a foreign body, but rather an area of erythema, and he was scheduled for laser bronchoscopy the following week. The laser bronchoscopy was performed, with the patient under lengthy anesthesia for 1 hour and 50 minutes, and was complicated by pneumomediastinum. Since the procedure the patient has ultimately recovered from his pneumomediastinum, bilateral pneumothoraces requiring chest tubes, intubation and mechanical ventilation. However, he has been unable to work and is now depressed over his long-term outlook... <u>Social History:</u> He has been out of work now for a year and probably will be out of health insurance and a job, since he has been unable to hold gainful employment in the interim in large part because of his difficulties with concentrating and staying focused. The issue of his chest pain still remains unresolved. Cardiac evaluation was negative and his chest pain may be benign chest wall. On the plus side, he has quit smoking...
Lung & Chest 43-45	7/21/05	Lung & Chest Dr. Wilson Smith	CONTINUED: <u>Laboratory Data:</u> The vital capacity is 4.65 or 98% of predicted. The forced expiratory volume is 3.76 or 97% of predicted. Today's cardiogram is normal range. Interestingly the cardiogram while he was in the hospital with his chest pain in May of last year showed nonspecific ST T-changes.

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			<u>IMPRESSION:</u> 1. Chest pain, probably chest wall. 2. Nausea and vomiting, improved. 3. Persistent difficulty concentrating staying focused. 4. Status post laser bronchoscopy complicated by pneumomediastinum and pneumothoraces. <u>Comment:</u> With reference to the patient's GI symptoms they do seem improved since discontinuing with Strattera and this really did not heap with his staying focused anyway. However, he may still have some underlying pathology such as cholelithiasis or peptic ulcer disease and ultrasound of the gallbladder appears warranted. If symptoms persist we may consider an upper GI. With reference to the patient's squeezing pain, he does have risk factors for coronary artery disease in terms of this hyperlipidemia, family history, previous smoking and incidentally noted coronary calcification on SRMC CT. A formal coronary calcium score may be indicated and if elevated may be an indication to proceed with more vigorous cardiac workup. However, the chronicity increases the likelihood his chest pain is benign. With reference to the patient's difficulty concentrating, air emboli have been reported as a common complication when there is laser perforation of the endotracheal tree with resultant leakage of air into extra pleural, vascular and mediastinal spaces. Although he is fortunate not to have any gross motor deficit, he may well have a permanent neurologic deficit in which case the indication for making medication, such as Strattera, may be moot; the patient may
Lung & Chest 43-47	7/21/05	Lung & Chest Dr. Charles Fogarty	CONTINUED: the patient may simply need to recognize that although he would like to go back to work, he may be chronically disabled by

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			his neurologic impairment/permanent brain damage. <u>Plan:</u> We will check back with the patient via phone with reference to his coronary calcium score and his gallbladder ultrasound. Further evaluation will proceed pending the results of above. Separately, we will review the patient's chart for him since he has many questions about the hospital admission for his chest pain, and try to put into lay language a summary of what happened during the hospital admission. He is to check back with Dr. Grace regarding the persistence of his neurological impairment.
Lung & Chest 48 - 50	7/28/05	Lung & Chest	SRMC US Gallbladder Report: Hx: Epigastric pain with nausea. Findings: Gallbladder is fluid filled. No stones are seen. Common duct is 5 mm which is normal. Pancreas and liver are unremarkable. Conclusion: Negative sonogram of the gallbladder. SRMC Double-contrast upper GI: Indication: Several week hx of nausea and vomiting. Findings: Under fluoroscopy the patient shows normal swallowing and esophageal motility. The esophagus distends normally. Note is made only of a single small distal esophageal mucosal cleft or diverticulum, this is only a few millimeteres in size. With valsava no hiatal hernia is seen. During assessment of the stomach several episodes of mild reflux into the distal esophagus were seen. The stomach distends normally with no abnormal mass or impression and no mucosal irregularity. The duodenal bulb is somewhat irregular, I do not see a discrete ulcer but this could be deformed from peptic ulcer disease. Contrast does freely progress through this into the

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			duodenum. In the third portion fo the duodenum there are 2 diverticula adjacent to one another. One is relatively prominent in size, equal to that of the duodenal bulb. No retrained material is seen within these and contrast freely progresses through this to the proximal small bowel. Impression: Small mucosal cleft or diverticulum noted in the distal esophagus. This is probably a normal variant although could represent focal change of mild esophagitis. A few episodes a very mild GE reflux were seen during this study. portion of the duodenum, one
Lung & Chest 48-50	7/28/05	Lung & Chest	CONTINUED: 2. Duodenal bulb somewhat deformed although no discrete ulcers seen. This could be change from peptic ulcer disease but there is no evidence of stricturing, contrast freely progresses into the proximal small bowel on this study. 3. 2 duodenal diverticula in the third portion of the duodenum, one of these is a giant diverticulum equal in size to the duodenal bulb. They otherwise appear unremarkable on this exam and are not likely of clinical significance.
Lung & Chest 52-53	8/4/05	Lung & Chest Dr. Charles Fógarty	Office Note: <u>Chief Complaint:</u> William Casey returns for follow up on his previous visit. Since we saw him he has had coronary calcium score and upper abdominal ultrasound. <u>Current Conditions:</u> 1. Chest pain. 2. Nausea and vomiting. 3. Persistent difficulty concentrating staying focused status post pneumomediastinum/pneumothorax complicating laser therapy in attempt for laser therapy for metallic artifact,

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			which ultimately proved to outside of chest...Neurological: The patient had some readily apparent difficulty staying focused with answers to questions and had difficulties repeating numbers backward on a simple cognitive screen... <u>Impression/Discussion/Plan:</u> The patient has been instructed in optimal use of aerosol therapy. The patient was instructed on diet with attention at maintaining muscle mass and achieving an ideal body weight. The patient is instructed in exercise to promote mucous clearance, maintain balance and muscle mass. The patient was given our cell phone number to call any time any interval problems develop before the next visit. The patient is to continue his current regimen. He will check back with us this fall.
Gonda 40	8/16/05	Frank Gonda, MD	Telephone note: Pt. states he has disability form to be filled out; (Dr. Gonda writes a note that says, "I don't do disability forms."
Gonda 41	8/17/05	Frank Gonda, MD	Telephone note re disability claim;
Grace 19	8/25/05	Jay Grace, Ph.D. (Psychologist)	"Mark now has Chuck Thompson and Ken Anthony representing him. Dr. Fogarty testing indicates that he has 98% normal lung capacity. Has had 2 fender-benders in past 9 months which did not happen to him prior to lung procedure. Mark scheduled for neuro. eval. in Chas. next week and has elected not to drive self 200 miles "because my mind wanders and I could have a wreck." Decreased attention/concentration and more extreme mind wandering than before surgery. Decreased concentration on golf course negatively impairs his short game. Can't compete in golf like he could. Golf was fun recreation but not anymore. Sleeps well on Ambien. Decreased appetite.

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			Still vomiting some - has vomited 4 out of past 5 days. Working in heat makes him vomit. Stress seems related to vomiting. Generally no pattern to vomiting. An OTC GI preparation was recommended."
Gonda 41	9/28/05	Frank Gonda, MD	S: This 46 y/o white male is in for follow up on the above problems and for medicine refill. He denies chest pain or SOB. His appetite is good and he moves his bowels well. Recently a psychiatrist changed his meds. Strattera was added but within a few days he was throwing up. He has continued to throw up for over 2 weeks. Dr. Fogarty, a pulmonologist, ordered an upper GI. As far as the patient knows the X-ray was normal. He was started on Prilosec over the counter and he is better. He has not thrown up in several days. His back pain is stable. He has no trouble with his medication. He denies muscle aches from Lipitor. O: Patients is in no acute distress. BP is up today at 162/104. Repeat BP by me was 138/100. Pulse 100. Wt 182. Neck is supple with no thyromegaly. Lungs are clear w/no wheezes. Heart is regular with no murmur. Abdomen is soft and non-tender. Lower extremities reveal no edema. Back reveals decreased range of motion with discomfort with movement and tenderness to palpitation in both lumbosacral areas. Review of upper GI report shows mild reflux into the distal esophagus and duodenal bulb irregularly, which could be from a peptic ulcer, but an ulcer was not seen. A: As above. P: ...Follow up in a few weeks if he is still having problems.
Gonda 41	12/20/05	Frank Gonda, MD	S: This 47 y/o white male is in for refills and lab work. Back pain continues the same. He is having no troubles with any of his medication. The psychiatrist still

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			has him on Remeron, and he thinks this has helped his depression. He is not worrying as much. I have told him today about potential increased risk of seizures when taking Ultram and antidepressants. He has been on both types of medicines for a long, long time and never had trouble. He understands that there is a risk, and he will consider stopping antidepressants. He will discuss with his psychiatrist. For the last several months, he has been on Tricor and Lipitor w/no side effects. His numbers have improved. O: Pt. is in no distress. BP is up a little at 134/96. Pulse is 100. Wt 184. Neck is supple with no thyromegaly. Lungs are clear w/no wheezes. Heart is regular w/o murmur.
Grace 21-25	2/3/06	Jay Grace, Ph.D. (Psychologist)	Attending Physician Behavioral Health Statement
Lung & Chest 58-61	2/16/06	Lung & Chest Dr. Charles Fogarty	Office Note: <u>Chief Complaint:</u> William Casey continues to have difficulty concentrating/multitasking. He has not had any further problems with nausea and vomiting since cutting back on his medication. He is followed by Dr. Gonda who increased the Lipitor to 20 mg daily and added Tricor. He continues to need 203 Lortab a day for his pain which at this point appears to be chest wall in etiology. <u>Current Conditions:</u> 1. Difficulty with multitasking, concentrating, status post pneumomediastinum/pneumothorax. 2. Chest wall pain. 3. Hyperlipidemia.... <u>Social Hx:</u> The patient has been unable to work since his laser surgery and is applying for disability...Neurological: Difficulty staying focused and concentrating on our conversation evident. <u>Laboratory Data:</u> The vital capacity is 4.17, 88% of predicted. FEV₁ 3.46, 90% of predicted.

KING 001621

Page	Date	Provider	Summary
			<u>Impression/Discussion/Plan:</u> The patient's lung function remains stable. His dilemma is that mentally he is not up to snuff as far as returning to his old job or returning the skills for a new equivalent job. He is now approaching two years out and it appears likely he has achieved his maximum improvement, i.e. it is unlikely as time goes forward that he will have improvement in his ability to concentrate and recall/perform make "executive type decisions"/thinking. The patient's lung function is in a range where he probably does not need to use the Combivent although he still has it on hand. He was encouraged to continue to try to exercise to maintain muscle mass, balance and coordination. He was instructed in diet with attention to his cholesterol and salt intake. He will check back the end of this summer/fall as needed.
Gonda 42	3/13/06	Frank Gonda, MD	Pt in for review; states 7 on pain scale...
Gonda 46	3/13/06	Frank Gonda, MD	This 47 y/o white male is in for follow up on the above problems and for medicine refill. He continues with the psychiatrist who has him on Adderall, Remeron and Ambien. He does not need a refill for his Lortab today because he says he got some from Dr. Fogarty. He does request a prescription for Norco. He says it is supposed to be safer on the liver. I told him I was not familiar with it and would have to read on it. Patients says he has increased stress, anxiety and depression because of pending law suit concerning the injury from when he had an endoscopy resulting in a pneumothorax. He has had problems ever since and he is waiting to go to trial. O: Pt. in no acute distress. Wt 185.5. BP 132/86. Pulse 88. Neck supple w/no thyromegaly. Lungs are clear w/no wheezes. Heart is regular w/no murmur.

KING 001622

Page	Date	Provider	Summary
			Abdomen is soft w/no organomegaly. Lower extremities reveal no edema. Back reveals full ROM and non tender. A: As above. P: Renew meds which include:...Continue meds from psychiatrist. Check the PDR. Norco is hydrocodone and Tylenol, same as Lortab. It does have a lower dose of Tylenol by 175 mg, which I think is insignificant. No rx for that given today. Check a lipid profile and ALT. FU 3 mo or prn.
Gonda 42	3/14/06	Frank Gonda, MD	Pt. notified labs; meds not working; continue Tricor, d/c Lipitor. Begin Vytorin ...
Gonda 46	3/16/06	Frank Gonda, MD	t/c records re mail-order forms;
Gonda 46	3/17/06	Frank Gonda, MD	Dr. Fogarty's office states pt. got Lortab 10 mg #150/5rf on 2/12/06 -
Gonda 55	4/14/06	Frank Gonda, MD	Pt. notified labs: lipids much better...
Gonda 55	6/13/06	Frank Gonda, MD	47 y/o white male is for follow up of the above problems. He has been on Vytorin along with Tricor for a couple of months w/no side effects. Lipids showed improvement. ALT was normal. He continues with chronic low back pain. He needs a refill on Lortab. He continues to have chest pains, no SOB. He is now involved in a lawsuit with the pulmonologist because of a collapsed lung. O: Pt. is in no distress. BP is 140/88. Pulse 80. Wt 188. Neck is supple, no thromegaly or carotid bruit. Lungs are clear, no wheezes. Heart is regular, no murmur. Abdomen is soft and non-tender. Back reveals fairly good range of motion, no tenderness. Straight leg raise is negative. A: As above. He appears stable. Lipids have improved. P: Renew Ultram...Lortab...FU 3 mo or prn.

KING 001623

Page	Date	Provider	Summary
Gonda 55	6/14/06	Frank Gonda, MD	Telephone note: Court date coming up - question regarding article in newspaper. Respects your opinion; has personal question. Requests you call. "5:45 pm no answer."
Pain Center 14-16	6/21/06	Carolinas Center for Advanced Management of Pain (Eugene Mironer, MD)	Report of facet injection;
Chart 34-42	6/25/06	Upstate Lung and Critical Care	Gets tired easily. Continues to have some chest tightness. Reports chronic back pain. Continues to have trouble resting. Sister reports he is pacing and he cannot sit down because he hurts. Pt. complains of pacing floors; continued not sleeping. Breath sounds are clear; Dx: Chronic pain; bronchitis. Plan: RTO with Feldman; Ambien for sleep. NOTES IN FILE: (Kim Smith, RTR) "1. Why such urgency of flexible bronch? Boscia: "window of opportunity." - had CT before discharge; - pt. went to hospital originally for chest pain. Boscia: "Pain predates us. He had the pain before this procedure." Pt. Sister - "He is having pain from this procedure." Boscia: "I want to be firm! Don't take Lortab, Zanaflex, Ambien together. It will suppress your respirations!" William Casey: "The only question I have for you is what can you do to help me stop walking in circles?"
Pain Center 17-18	6/26/06	Carolinas Center for Advanced Management of	Bills.

KING 001624

Page	Date	Provider	Summary
		Pain (Eugene Mironer, MD)	
Lung & Chest 63-67	7/7/06	Lung & Chest	...Dx: Neurocognitive impairment; chest wall pain..

KING 001625

From: gfeld3232@aol.com
Sent: Saturday, May 01, 2010 7:59 PM
To: sking@wardfirm.com; milton.mann@gmail.com
Subject: WAID-Fogarty
Attachments: Feldman Defendant's Memo in Sppt of Def Mtn to Dmss - rev 4-23.doc; Aetna Letters for Disability.pdf

PS I attached motion, cause it has WAID's evaluation in Aetna file attachments)...And in another note that Noel brought to Fogarty Deposition..he writes "Common Complication....Spencer, Do you have Fogarty attachnments to deposition? (I need to go over all of his attachments)

Fogarty, July 21, 05 progress note

"with reference to the patient's difficulty concentrating, he undoubtedly had air emboli given his lengthy duration of aneesthesia and laser perforation of the endotracheal tree with resultant leakage of air into extra pleural and vascular extra pleural mediastinal and vascular spaces. although he is fortunate not to have any gross motor deficit, he may well have a permanent neurological deficit in which case the indication for taking medication may be moot and the patient may simply need to recognise that although he would like to go back to work, he may be chronically disabled by his neurological impairment"

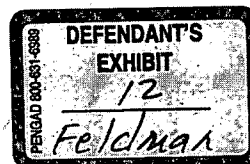
Compare to Waid note (probably minor, but curious) Waid writes:

Dr. Fogarty stated that with regard to Mr. Casey difficulty concentrating..(and Waid puts it in quote unquote)

"air emboli have been reported as a complication of laser bronchoscopy , even without perforation of the endotracheal tree with resultant leakage of air into extrapleural , vascular and mediastinal spaces"

1. First he quotes Fogarty (different quote)
2. No such record was found at Waid's office neither Fogarty note not above quote (removed)

But at this point they are trying to get him DISABILITY (other than mental..Aetna does not allow for mental)...and here we go Record generated!



MANN 005153

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Move to

Options

Finally!

From: **gfeld3232@aol.com**

Sent: Thu 8/16/07 4:14 PM

To: Brycesgrammie@hotmail.com; sking@wardfirm.com; dhill@wardfirm.com; Bronchnu@aol.com

There is not a single Report in the Literature of Permanent Psychological/Cognitive Dysfunction even after allerged or Suspected Air Embolus associated with Full Neurological Recovery....

ZERO!...It is pure Fabrication of human mind

As for Drugs? Several Thousand reports

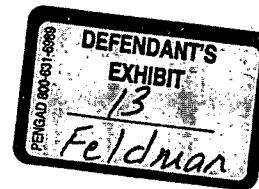
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<http://by101w.bay101.mail.live.com/mail/ReadMessageLight.aspx?Aux=4%2c0%2c63322...> 8/16/2007

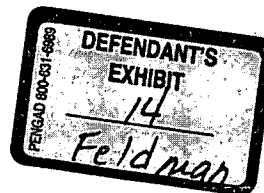
MANN 000101

From: gfeld3232@aol.com
Sent: Sunday, November 16, 2008 1:19 PM
To: milton.mann@gmail.com
Subject: Exclusion of the Testimony

1. Laser with Water Cooling..never been reported to produce Air Emboli. Exceedingly rare even with gas-cooling, not "Common" as asserted
2. Pulmonary Vein theory is Anatomically absurd
3. Neurological Brain Damage has never happened
4. No literature that Microemboli can even happen with Laser Procedure, never mind theory of going into the brain and producing Permanent Brain Damage
5. Biased and unqualified Expert

Amorgianos v. Nat'l R.R. Passenger Corp., 303 F.3d 256 (2d Cir. 2002). Worker alleges he developed asymmetric polyneuropathy and other neurological symptoms after exposure to xylene in paint at job site supervised by Amtrak. Jury at first trial returns multimillion dollar verdict against Amtrak, but district judge concludes that verdict is against weight of evidence and orders new trial, relying in large part on Amtrak evidence suggesting that worker's symptoms are fabricated (e.g., surveillance video of worker walking without apparent difficulty, medical records from subsequent car accident in which neurological symptoms made no appearance, Amtrak expert's opinion that worker suffers at most from pinched nerve). Case is reassigned to new trial judge. Amtrak then moves under *Daubert* to exclude testimony from worker's three experts: (1) Dr. Jacqueline Moline, worker's treating physician, who opines that worker suffers from neurological conditions caused by xylene exposure; (2) toxicologist Dr. Jonathan S. Rutchik, who opines on generic causation; and (3) industrial hygienist Jack Caravanos, who opines on general causation and exposure levels. District court strikes their testimony and awards summary judgment to Amtrak. **Exclusion affirmed.** Worker argues that district court was too aggressive in its gatekeeping and "traded a judicial robe for a white lab coat" by improperly weighing testimony's credibility rather than merely evaluating its reliability. But "[t]he district court's rigorous analysis of the methods that plaintiffs' experts used in reaching their opinions was appropriate given the facts of this case." District court did not err in conducting extensive analysis of underlying literature on which treating physician and toxicologist relied, nor in concluding that literature did not support finding of generic causation at relevant exposure levels. Trial court likewise acted within its discretion in rejecting industrial hygienist's estimates of xylene concentration, where expert failed to consider variables he acknowledged were relevant.

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Davison, Burns H

From: gfeld3232@aol.com
Sent: Sunday, May 02, 2010 8:52 AM
To: BGunn@holcombebomar.com; Davison, Burns H; milton.mann@gmail.com
Cc: sking@wardfirm.com
Subject: Finally

I just want to invite you to look at Fogarty Deposition in 2006 (in His Defamation Lawsuit)
Did you look?

Here What Fogarty sez (Spontaneously) no one asked!

"I just tried to help with Disability, and I said You do not need my records I can help you
other ways"

How Doctor can help Disability other ways without records? This is just mind-boggling! Of
course they all knew!

Judge already has ruled

1. Fogarty Bias comes-in in full (He just does not know extent/how that related to Casey
and Fraud being committed
2. MRI is not covered by any "claim"

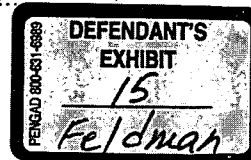
With all due respect, you guys remind me my USSR experience...Do not do that or this,
KGB may find-out...ets

There is no LEGITIMATE reason to suborn perjury (Work Product, admissibility, even
materiality, none!..when even legitimate, not Bogus like here)
And it is not just what has been done (perjury) But a necessity to prove that they KNEW it
was Fraud/no brain injury ever happened
And who else was involved in procuring this (Fogarty)

Of course I am entitled to depose Chuck on these issues! So I am denied, fine I can leave
with that! But not with doing nothing to bring this to light and attention of the Court (this
and possible higher courts) Before not after the Fact

And Motion to depose Chuck and reasons why..is Perfect Avenue ...And you can make
this So Powerful and yet so Simple what has transpired...

Judge already has ruled



JUA 001103

1. Fogarty Bias comes-in in full (And in case you do not know that that Defamation lawsuit is FULL of references to Casey case and damning Admissions..I just tried to help with Disability, You do not need my records I can help you other ways)
2. MRI is not covered by any "claim"

-----Original Message-----

From: gfeld3232@aol.com<<mailto:gfeld3232@aol.com>>

To: GFeld3232@aol.com<<mailto:GFeld3232@aol.com>>

Sent: Sat, May 1, 2010 4:32 pm

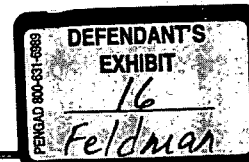
Subject: subornation

Few, if any, unethical acts by counsel are more heinous than subornation of perjury. It would be an anomaly to allow the subornation of perjury to be cloaked by an ethical rule, particularly one manifestly concerned with the administration of justice. As commentators have noted with regard to the crime-fraud exception to the attorney-client privilege, "[s]ince the policy of the privilege is that of promoting the administration of justice, it would be a perversion of the privilege to extend it to the client who seeks advice to aid him in carrying out the illegal or fraudulent scheme."

<http://openjurist.org/222/f3d/1133/united-states-of-america-robin-harris-v-virgilio-talao>

JUA 001104

Donna Laughridge



From: gfeld3232@aol.com
Sent: Saturday, April 24, 2010 10:29 PM
To: sking@wardfirm.com; milton.mann@gmail.com; Burns.H.Davison@marsh.com; Billy Gunn
Subject: Fogarty -Laser motion

Dr. Fogarty has no training in Laser Bronchoscopy and is not an expert. His last YAG laser bronchoscopy that he performed was more than 18 years ago, in 1992. Dr. Fogarty could not provide any literature in support of his testimony that water-cooled laser capable of causing air embolism by any mechanism. He has asserted that positive pressure ventilation is the course of YAG laser emboli. That hypothesis, indeed existed in 1992, but has long been refuted. IN 1998 the mechanism of YAG laser emboli has been established and scientifically proven by experiments conducted Yale Cardiac-Thoracic Surgeon Dr. George Tellides and this is accepted by all in the field.

"Transesophageal echocardiographic monitoring did not document systemic air emboli at lower coolant air flow rates or when the laser was not engaged. These findings do not support an alternative hypothesis that positive-pressure ventilation under conditions of pulmonary instrumentation with limited vision, superatmospheric pressure of intrathoracic gas, and pathologic consolidation processes encircling the pulmonary veins are responsible for systemic air emboli during laser bronchoscopy [15]. "

Many other experiments since that has proved that Positive Pressure Ventilation is not a cause of air emboli during bronchoscopy, theory long disproven

Moreover Dr. Fogarty has testified that he has relied on Uptodate, a widely recognised electronic textbook. page 62, line 20-22 "the way I usually start on these things is to use a reference called "Up-to-Date" which then they give you a general review"

UPTODATE QUOTE:

"Arterial air embolism very rarely complicates bronchoscopic laser resection and may produce myocardial ischemia or a cerebrovascular accident. (See "Air embolism".) Studies of laser procedures performed during continuous transesophageal echocardiographic monitoring suggest that air emboli are caused by coolant gas (which exits the bronchoscope under high flow/high pressure conditions to cool the laser probe) entering the pulmonary venules and gaining access to the systemic circulation [20]. The frequency of this complication may be reduced by maintaining the laser fiber coolant airflow at the minimum level and avoiding direct contact between the laser probe and tissue."

Defendants agree with Dr. Fogarty that Uptodate is a reliable and authoritative source of information on mechanism of YAG laser emboli . "Arterial air embolism very rarely complicates bronchoscopic laser resection and may produce myocardial ischemia or a cerebrovascular accident. (See "Air embolism".) Studies of laser procedures performed during continuous transesophageal echocardiographic monitoring suggest that air emboli are caused by coolant gas " But Dr. Fogarty is not, nor is he an expert on water-cooled YAG Laser Bronchoscopy

Dr. Fogarty should be precluded from using old outdated and unreliable literature. Water-cooled lasers have never been implicated in air embolism. Dr. Fogarty could not produce any and none exist. Positive Pressure Ventilation hypothesis causing air embolism has been refuted by scientific experiments long after Dr. Fogarty stopped using YAG laser in 1992

Dr. Fogarty should be precluded from using refuted old literature or literature on gas-cooled lasers that are not germane to this case to support his theories or believes.

Scientific evidence which is not grounded in the methods and procedures of science is no more than subjective belief or unsupported speculation. Unreliable evidence is of no assistance to the trier of fact and, therefore, inadmissible under Rule 702.

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January 15, 2008

Judy Wilbanks, Claims Specialist
JUA
PO Box 128
Greenville, C 29602

Re: William Mark Casey v. Gregory J. Feldman, MD, Joseph A. Boscia, III,
MD, Upstate Lung and Critical Care Specialists, PC, and Devendra
Shantha, MD
CA No.: 2006-CP42-1728
Our File No.: 26-0266

Dear Judy:

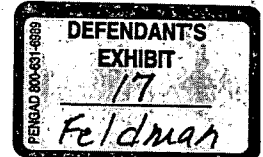
Let me review for you recent depositions that have been taken in this case by Plaintiff Attorney Chuck Thompson.

The deposition of Dr. Raja Paladuga was taken. Billy Gunn appeared, as did my partner, Jim Hudgens. Dr. Paladuga is a hospitalist who became involved in Mr. Casey's care in the emergency department on the afternoon of May 28, 2004. "Essentially, his testimony was that he examined Casey in the ER at 1320 on 5-28-04. He saw the portable chest x-ray which shows what appears to be a FB. He thought this was causing the patient a lot of problems. Dr. Feldman was in the ER so he asked Feldman to have a look. Feldman said let's get a flex bronchoscopy. Boscia was on call so he was notified.

Dr. P dictated a H&P at 1331. Dr. Boscia dictated a Consult Note at 1426. Dr. Boscia did the bronchoscopy and dictated an Op Note at 1437. A CT Lung Scan was ordered by Dr. Boscia which was done at 1805. Mr. Casey was kept overnight for observation then discharged the next day, 5-29-04. Dr. P did a discharge summary at 1435 on 5-29-04.

Dr. P had no further involvement with the patient and was not involved when Mr. Casey had the subsequent rigid bronchoscopy procedure on 6-3-04. But he was questioned extensively about what transpired on May 28 & 29. It soon became quite apparent that Thompson, by using the medical records and the hospital regulations, was trying to come up with as many "gotchas" as possible against the pulmonologists. The "highlights" of his testimony were along these lines:

- On average he spends about 30-45 minutes examining and talking to the patient and the family and dictating a H&P. As to Mr. Casey, he spent about 45 minutes



KING 000131

with him, no more. Implying, perhaps, that Dr. P *takes his time* with patients, far more so than do the pulmonologists.

- Dr. P's entries on the records included notations that Casey "felt fine." Thompson made a point of establishing that Dr. P did not consider that Casey was having a cardiac event. Casey did not give a history of a cough. He was not wheezing, did not c/o SOB, had no headaches, fever, chills, dizziness, or phlegm. Head, mouth and lung sounds were all normal, pulmonary exam was totally normal.
- Thompson next went to the portable CXR which showed no active cardiopulmonary disease and contained the radiologist's suggestion that, as to the FB, "clinical correlation is suggested." He agreed that the radiologist was suggesting further testing or whatever.
- Thompson went on to establish that Dr. P is not a pulmonary expert and that he was relying on the pulmonologists to see the patient "and answer the questions that we might have."
- Dr. Feldman did *not* suggest a lateral chest x-ray and this was never discussed. When Dr. P talked to Dr. Feldman he (Feldman) seemed convinced that the FB was inside Mr. Casey's chest. The possibility that this was *artifact* was not discussed. Dr. Feldman did not see Mr. Casey on May 28.
- [Possibly, Dr. Boscia's response time to the consult request was *not* documented, per hospital regs.]
- Casey was probably ambulatory when he left the ER.
- Casey left the ER at 1415. The procedure on 5-28-04 started 5 minutes later, at 1420, and was completed in 8 minutes, at 1428.
- Boscia's consult note was also "picked at" by Thompson, who asked Dr. P to agree that while Boscia did recite "There is history of cough," he nevertheless did not indicate whether it was still present. Nor did he mention how frequent, how long each episode, whether at night or during daytime, blah blah blah. Thompson just went on and *on* and *on* about the consult note. No mention of this 'n that 'n the other.
- Dr. P indicated that Boscia had mentioned something about Casey possibly swallowing a filling, something which he, Dr. P, regarded as of possible importance. But Boscia did not document this even though the hospital regs call for this.
- Thompson brought out that the hospital regs require that a H&P be in the patient's chart *before* a procedure is done, something that was not done by Boscia.

- Boscia saw no FB but did see "something embedded in the wall." There was bleeding, per Boscia, so he stopped the procedure. Dr. P agreed that the unsuccessful attempt itself could cause irritation.
- Boscia never suggested that they get a lateral x-ray.
- Boscia did not make Dr. P aware that he, Boscia, had ordered a CT scan. Dr. P did not become aware of this until the 29th. He, Dr. P, was not told that the scan was negative for metallic FB. Dr. P first saw the CT report at the time of his deposition. If he (Dr. P) had known of the CT result his discharge summary would have been different.
- Dr. Ryan, the radiologist, interpreted the portable CXR as showing a small metallic FB projecting *over the aortopulmonary window area*. While this testimony is somewhat fuzzy to me, I think Dr. P agreed with Thompson that this meant that the FB was outside of the bronchus and, this being the case, Dr. Boscia could not possibly have visualized the FB with the scope, even if a FB were indeed present.

Dr. Paladuga generally agreed that if there was no foreign body present on the CT that there was no basis for going forward with the rigid bronchoscope.

Gretchen Jolly, RN, was also deposed.

On June 3, 2004, Nurse Jolly was in the PACU, and first encountered Mr. Casey. He was noted to be "restless and combative," experiencing "air hunger," "struggling to breathe," very anxious, thrashing." Casey was sedated, sedated, reintubated put on a ventilator, and transported to ICU.

The chart did not contain a history and physical, which violates hospital policy. The preprinted consent form is deficient. There is not mention of "remove fb." There is no mention of specific risk. The language on the forms is not something a lay person would understand.

During the following day of depositions, Attorney Thompson took the entire day to depose two (2) pre-op nurses, Cynthia Bagwell and Meredith Brawley.

Ms. Brawley saw Mr. Casey the day preceding surgery. Her testimony really sifts down to the fact that there was no H&P or informed consent in the chart when it was dictated. Ms. Brawley called Dr. Feldman's office and was told they would be prepared by Dr. Feldman before the surgery.

Ms. Brawley testified that when she saw Mr. Casey the morning of the procedure, H&P and informed consent were not present and she called Dr. Feldman and his office told her the same thing.

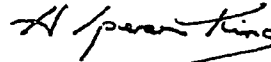
Apparently Dr. Feldman then filled out an informed consent, which is deficient in that it does not describe the procedure or the risks and complications. It is obviously a hurried document.

My synopsis of the case, at this point, is that the rigid bronchoscopy was a questionable procedure, especially in the face of a negative CT and that if Dr. Feldman was going to do the procedure, there should certainly have been a much more detailed and documented discussion with the plaintiff than is present. That is significant. We do not believe there is any anatomical connection between an air embolism and the pneumothorax. Although the pneumothorax unquestionably did come as a result of the rigid bronchoscopy, there apparently is no permanency.

We have another wave of depositions set next week, and I will review.

I am

Very truly yours,

A handwritten signature in black ink, appearing to read "H. Spencer King". The signature is written in a cursive, slightly slanted style.

H. Spencer King
The Ward Law Firm, P.A.

HSK/dch

FILE COPY

THE WARD LAW FIRM, P.A.

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April 17, 2009

Judy Wilbanks, Claims Specialist
JUA
PO Box 128
Greenville, SC 29602

Re: William Mark Casey v. Gregory J. Feldman, MD, Joseph A. Boscia, III,
MD, Upstate Lung and Critical Care Specialists, PC, and Devendra
Shantha, MD
CA No.: 2006-CP42-1728
Our File No.: 26-0266

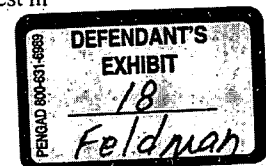
Dear Judy:

Please consider this as a our Pre-Trial Report in the above-referenced case.

We represent Gregory J. Feldman, M.D., Joseph A. Boscia, III., M.D. and Upstate Lung and Critical Care Specialists, P.C. Devendra Shantha, M.D., an Anesthesiologist, is represented by William U. Gunn. This case is set to be tried in Spartanburg County Court of Common Pleas beginning on June 1, 2009. We would expect the case to take at least a week.

PARTIES

William Mark Casey, date of birth 11/3/58, at the time of the incident on May 28, 2004, was 46 years old. He presented to the emergency room at Spartanburg Regional Medical Center with chest pain. A plain film x-ray revealed a metallic object allegedly in the left main stem bronchus. Defendant Boscia was consulted by the emergency room staff and did a flexible bronchoscopy which did not locate the object, but reportedly did find abnormal tissue. That procedure was followed by a rigid bronchoscopy by Defendant Feldman on June 3, 2004, along with lasering. As a result of that procedure, Mr. Casey developed a pneumothorax which is a complication of the procedure. Plaintiff contends that Mr. Casey not only suffered a bronchial, lung or chest injury but also contends that he has suffered neurological deficit because of an air embolism to the brain. Mr. Casey was a long time Michelin employee working as a tire builder and has not returned to work. He was declared disabled by the Social Security Administration due to Casey's claims that he is forgetful, lacks focus, has become a recluse, has no interest in living and that he has had drastic personality changes.



KING 000393

Doctors Boscia and Feldman are both regarded as very competent Pulmonologists and Critical Care Specialists. Dr. Feldman, the Senior Partner, is Russian and in my assessment is brilliant, but appears "scattered", chooses to talk and not listen, and his personality of "haste" brought about events that gave rise to this lawsuit.

Dr. Boscia is by far more calmer. In as much as his procedure did not result in any great injury or complications, he is not thought to be as much the focus as Dr. Feldman.

With respect to Dr. Shantha, the Anesthesiologist, I will let Mr. Gunn discuss his role in detail.

FACTS

Mr. Casey's academic record in high school was average. He has no formal education past high school. He worked for a short period of time at Lockwood Greene Engineers, then went to Michelin Tire where he had been for eighteen (18) years as a truck tire builder. This is an extremely physically demanding job. Mr. Casey, over the past several years preceding this event, had developed significant lower back pain caused by bulging but not herniated discs.

Mr. Casey was a good high school athlete playing most all sports and continued playing basketball and softball for Michelin and church league until recent years, but was still apparently a pretty active, above average golfer until March 2004.

In 2003, Mr. Casey and his wife separated and ultimately procured a divorce. The apparent cause was a disagreement over their teenage children, both of which were dysfunctional. Mr. and Mrs. Casey apparently disagreed on discipline of the children. While the divorce was apparently a long time coming, the only impact on Casey was that it caused severe economic stress as they lost a two person household income.

Shortly after, Mr. Casey began expressing to his family physician, Dr. Frank Gonda, his complaints of anxiety and depression which resulted in Dr. Gonda treating him with Paxil and Effexor, both anti-depressants, which the Plaintiff is trying to "play down" and actually lied about during his deposition. There is evidence in Dr. Gonda's records of intermittent drug abuse.

Mr. Casey had a fear of a heart attack. His father died relatively young with a massive myocardial infarction. Mr. Casey had a significant cardiovascular work-up the previous year which was found to be normal other than some high cholesterol and potential problems related to cigarettes.

After the procedure, he began complaining of restlessness, inability to sleep, depression, memory loss and being a recluse.

KING 000394

LIABILITY

Allegations of negligence as to Dr. Boscia are the following:

1. failing to follow up and review chest CT which he ordered and then assuming that Dr. Feldman was aware of the CT before proceeding with the rigid bronchoscopy.

Allegations of negligence as to Dr. Feldman are the following:

1. failure to review the chest CT;
2. proceeding with a rigid bronchoscopy;
3. not conducting proper pre-op "time out";
4. performance of an unnecessary procedure;
5. attempting to perform a dangerous and contradictive procedure, i.e. laser, evaporation, melting of a substantial metal object.

DEFENSE

With respect to the rigid bronchoscopy performed by Dr. Feldman, I think a jury will conclude that it was an unnecessary procedure and should not have been performed without significantly more discussion with Mr. Casey. In fact, if Dr. Feldman felt the need to proceed, there should have been much better documentation of the patient's appreciation. A pneumothorax is a complication but would not have occurred if the procedure had not been done.

It is not believed that the pneumothorax caused any permanent damage to the lungs or chest.

PLAINTIFF'S EXPERTS

The Plaintiff's experts are Dr. Charles M. Fogarty, M.D., a Pulmonologist who practices in Spartanburg. He is a former partner of Dr. Feldman. They intensely dislike each other. Dr. Fogarty has ventured into the area of brain dysfunction and concluded that Mr. Casey's difficulty concentrating comes from air emboli coming from the lengthy duration of anesthesia and laser preparation of the endotracheal tree, with resultant leakage of air into the extrapleural mediastinum and vascular spaces resulting in permanent neurological deficit, and that he is chronically disabled by virtue of this neurological impairment. He bases his opinions on heart bypass patients where a heart lung machine is used and may cause loss of some memory.

Michael A. Jantz, M.D., also a Pulmonologist and Critical Care Specialist at the University of Florida, Gainesville, has rendered similar opinions. It is unknown why Dr. Jantz has chosen to become involved in this case. He has never testified in a medical negligence case but is doing this one because he was approached and asked to do so, and is not charging for his time. His opinions are very similar to those of Dr. Fogarty.

KING 000395

Joseph Glover Grace, III., Ph.D., a Psychologist who performed a battery of psychological personality tests upon Mr. Casey concludes that he has had some neurological damage as a result of the event. As stated, Dr. Grace is not a medical doctor and goes far afield in his opinions.

Dr. Randolph Waid, also a Psychologist, performed a similar battery of psychological personality testing and reaches much the same conclusion as Dr. Grace.

DEFENDANTS' EXPERTS

William Alleyne, M.D., is a Pulmonologist and Critical Care Specialist in Rock Hill. We have used Dr. Alleyne in the past. He is an excellent witness. He will testify that in his opinion the pneumothorax was a complication of the rigid bronchoscopy but is not supportive in the necessity of doing the same.

He will also opine that he does not believe that Mr. Casey suffered an air embolism to the brain from a pneumothorax.

Kent Kistler, M.D., is a Neurologist in Greenville, South Carolina. He will testify that neurological injury would have shown immediate injury or interruption to the neurological system and likely detectable. In as much as there was none, he opines that there is evidence that there was no such neurological injury. He acknowledges that microbubbles may be introduced into the system but not likely the source of an injury.

Moreover, although Plaintiff had made an attempt to conceal same, we did learn that an MRI of the brain was performed on February 4, 2007, and was read by the Radiologist as normal.

DAMAGES

Mr. Casey at the time of the incident, was employed at Michelin, working 48 hours per week at \$22.50 per hour, showing an average weekly wage of \$1,080.00 with a work expectancy of 21 years and life expectancy of 32.78 years.

SETTLEMENT NEGOTIATIONS

There have been no settlement negotiations.

I am

Very truly yours,

H. Spencer King
The Ward Law Firm

HSK/mdh

KING 000396

RECEIVED

MAY 15 2009

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*ALSO MEMBER NORTH CAROLINA BAR

May 14, 2009

Judy Wilbanks, Claims Specialist
JUA
PO Box 128
Greenville, SC 29602

Re: William Mark Casey v. Gregory J. Feldman, MD, Joseph A. Boscia, III,
MD, Upstate Lung and Critical Care Specialists, PC, and Devendra
Shantha, MD
CA No.: 2006-CP42-1728
Our File No.: 26-0266

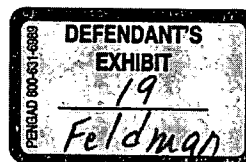
Dear Judy:

You asked for a supplement to my Trial Brief for evaluation. I can think of few cases that are any more difficult to evaluate than this.

If this case had proceeded as one might expect, the case would probably have had a value of about \$400,000-\$500,000. I think the jury would have concluded that the procedure done by Dr. Boscia of a flexible bronchoscopy is minimally invasive and that Boscia made a judgment call to do the procedure other than take additional plain film x-rays. However, Boscia and Feldman not reviewing the CT Boscia ordered at the conclusion of the flexible procedure, without finding a metallic foreign body and proceeding without discussions regarding the negative finding with Casey, clearly exposed him to the consequences of a pneumothorax and an unnecessary surgical procedure. While clearly traumatic and coupled with other stresses that he had gone through in the last year of marital split up, dysfunctional children, loss of his home, financial stress, and stresses at work made Casey a pretty attractive Plaintiff.

We have the additional ingredients of a greedy Plaintiff attorney who has tried to prove a disabling injury claiming neurocognitive dysfunction with disability which has precluded Casey from returning to gainful employment at Michelin which, his becoming a recluse and loss any quality of life. I do not believe this is anatomically possible.

Moreover, the attempted concealment of the MRI which was normal is perhaps an ethical violation by Chuck Thompson and is going to be very hard for them to explain to the satisfaction of the jury. Add to that Chuck Thompson's unusual if not bizarre conduct, causes me to think



JUA 000307

they may not be able to try this case. Not to say they have a monopoly on strange behavior, we ourselves have some other peculiar quirks.

If a jury concluded that Casey did in fact suffer a disabling injury to the brain as a result of the rigid bronchoscopy, the facts would support a large verdict. Clearly up until the time of the "metallic body" on May 28, 2004, Casey was functioning. He had been working a very hard job at Michelin for 21 years for which he was well paid. Although struggling, he was apparently getting his life back in order. The most damaging information we have is some evidence of abuse of prescriptive drugs. This perhaps could be accounted for by pre-existing back pain. Assuming a jury sides with Casey, then I think the verdict could be something in the 2 million to 2.5 million dollar range, taking into consideration that his annual earnings at Michelin were at \$55,000 and he had a roughly 21 year work expectancy. Taking into consideration the loss of quality of life, this could support a verdict of 2 to 2.5 million.

I doubt that a jury will go there. The Plaintiff will argue that if Boscia had ordered another plain film lateral view, it would likely have shown that there was no metallic body. I think the jury will find this to be a judgment call but the breakdown came when Boscia and Feldman chose not to look at the CT but concluded the abnormal tissue in the left main bronchus found by Boscia was sufficient justification for the rigid bronchoscopy. Not to have even read the CT and not conferring with the patient about the absence of the mysterious foreign body, in my judgment will cause a jury to conclude medical negligence. I look for a verdict of \$150,000 to \$500,000 with mid-range of \$200,000 to \$250,000. The reduction is a result of Plaintiff's Counsel's conduct.

There is some small chance of a defense verdict because of the conduct of Plaintiff's counsel, but no more than 20%.

I am

Very truly yours,



H. Spencer King
The Ward Law Firm

HSK/mdh

JUA 000308

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*ALSO MEMBER NORTH CAROLINA BAR
July 28, 2009

Greg Feldman, M.D.
Joseph Boscia, M.D.
Upstate Lung and Critical Care
1091 Boiling Springs Rd
Spartanburg, SC 29303-2248

F. Milton Mann, Jr., Esquire
1089 Boiling Springs Rd.
Spartanburg, SC 29303

Re: William Mark Casey v. Gregory J. Feldman, MD, Joseph A. Boscia, III,
MD, Upstate Lung and Critical Care Specialists, PC, and Devendra
Shantha, MD
CA No.: 2006-CP42-1728
Our File No.: 26-0266

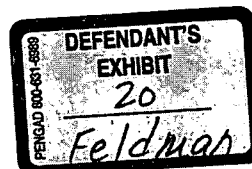
Dear Gentlemen:

First, let me express to you that I consider both Greg and Joe to be excellent physicians. If any member of my family or I ever have need for a Pulmonologist or Critical Care Specialist, I am quite happy that I know you.

Both of you are brilliant and generally excellent decision makers. However, I must tell you that I think that you are proceeding down an unwise course and uncharted waters.

You pay a premium to the JUA and PCF to provide you professional liability insurance. To release them from that obligation and assume personal risk of paying any judgment that might be rendered against you in the case of William Mark Casey, I do not consider to be prudent.

In my judgment, there are jury issues both as to liability and damages. A jury will have support from testimony and evidence should they choose to return a verdict against you. The Plaintiff's strongest position is that a procedure was performed without fully apprising patient plaintiff of all the circumstances, i.e. the negative CT scan. Other issues such as timing and documentation, I do not consider to be as significant. I consider the claim for cognitive dysfunction to be bogus. However, the case will be decided by a jury and it is impossible to predict what a jury will do with the case both as to liability and as to damages. The damages could be extraordinary. The economic loss projection numbers are \$1,056,890.00, that is certainly not a cap as to what the verdict might be. That said, I do not see any benefit to you to prevent settlement if it can be done reasonably. I do not see how this in any way advances your case against anyone that you may think has participated in bringing about this litigation.



JUA 000302

We have discussed developments in this case wherein Plaintiff and his attorneys have resorted to unacceptable, if not unethical conduct which largely contributes to what I consider to be an ability to settle the case reasonably inexpensively.

My role as defense counsel includes evaluating the case and apprising my client, i.e. you, and the JUA of my opinion as to value. You are free to accept or reject that opinion. Unless I am instructed otherwise, then I am going to proceed in preparation of this case for trial. There has been a vast amount of work done and there is still some left to do, then begins the task of final preparation. We want to leave no stone unturned. We want our presentation to be medically accurate, professional, crisp, show you as caring and competent physicians and what I perceive will be a completely opposite presentation from the harem, scarem, disjoined show that the Plaintiff will put on.

I am

Very truly yours,

H. Spencer King
The Ward Law Firm, P.A.

HSK/mdt

JUA 000303

bcc: Judy Wilbanks, Claims Specialist

JUA 000304

THE WARD LAW FIRM, P.A.

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October 19, 2009

PERSONAL & CONFIDENTIAL

Greg Feldman, M.D.
Upstate Lung and Critical Care
1091 Boiling Springs Rd
Spartanburg, SC 29303-2248

Re: William Mark Casey v. Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, Upstate
Lung and Critical Care Specialists, PC
CA No.: 2006-CP- 42-1728
Our File No.: 26-0266

Dear Greg:

As you are aware, Judge Hayes, with the discretion of a trial judge, has taken the case off the trial docket and is going to mediate. Judge Hayes is serving as the mediator. This is quite an unusual development. I can only assume that Judge Hayes believes that this case needs to be settled and I agree that if the case could be settled reasonably, this is an option that the JUA may wish to pursue.

You have argued that you did not believe that this case has legal or medical merit. I must tell you that it does. There is factual evidence and expert testimony that will be forth coming in the trial that unnecessary procedures were performed that resulted in damage to Mark Casey.

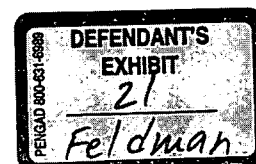
There is no "peer review" or any other pre-trial body that deals with the admissibility and/or weight of evidence.

When this case is called for trial, the trial judge will preside over the trial and decide admissibility of factually and medical evidence. The trial jury will decide the weight and credibility of evidence and arrive at a verdict. Errors in the trial would be determined by an appellant court.

The issues regarding perjury and contempt are not dealt with until after the conclusion of the trial and likely by the judge and not by adverse attorneys.

In any civil case there are three issues, liability, proximate cause and damages.

October 19, 2009



JUA 000239

Re: Casey v. Feldman
Page 2

With respect to liability, the issue in this case is whether or not you and Joe performed unnecessary procedures. Drs. Fogarty and Jantz will be allowed to testify that in their opinion you breached the standard of care. I do not believe that they will be prevented from testifying and the issue of liability will be issue for determination by the jury.

Proximate cause is again a jury issue. If the jury finds liability, it will proceed to consider damages. The first area of damages are actual damages that go with the pneumothorax and its consequences. There is no permanent pulmonary injury but there is evidence of medical expenses, economic loss, pain, suffering, etc. that the jury will consider. The next area of damages will be the air embolism. We believe that this is not anatomically possible, but advanced by Plaintiff's experts, the two pulmonologists and two psychologists. At the appropriate time, we will try to exclude testimony by these witnesses as not qualified to testify on these issues. What we believe to be a neurological issue, is not supported in the literature.

Our side has kept to the "high ground" and the Plaintiff's side has not. There is the Charlotte MRI, the earring in the pocket, concealed orchestration of the litigation by Dr. Fogarty, and Dr. Jantz's misrepresentation about his board certification. There are others. We do not want to loose that advantage.

We should take advantage of the mediation. If the case is not successfully mediated, it will be several months before the case is again set for trial. Finding two week terms for a case is difficult.

I have copied Milton Mann and Billy with this letter and if anything I have said to you is not correct, I welcome their criticism.

I am

Very truly yours,

signed electronically

H. Spencer King
The Ward Law Firm, P.A.

HSK/dch

cc: William U. Gunn, Esquire
Milton Mann, Esquire
Tim Ward
Judy Wilbanks

JUA 000240

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APR 12 2010

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Greenville, SC

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*ALSO MEMBER NORTH CAROLINA BAR

April 8, 2010

Burns H. Davison, Esquire
Claims Specialist
JUA
PO Box 128
Greenville, SC 29602

Re: William Mark Casey v. Gregory J. Feldman, MD, Joseph A. Boscia, III,
MD, and Upstate Lung and Critical Care Specialists, PC
CA No.: 2006-CP42-1728
Our File No.: 26-0266

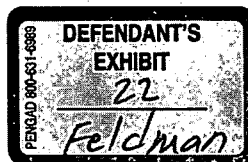
Dear Burns:

Please consider this as an amended pre-trial report.

We represent Gregory J. Feldman, M.D. and the practice group, Upstate Lung and Critical Care Specialists, P.C. William U. Gunn is now representing Joseph A. Boscia, III, M.D. The case is set to be tried in Spartanburg County Court of Common Pleas beginning May 10, 2010. The trial judge is The Honorable Roger Couch. This case should take two (2) weeks or longer to try.

PARTIES

William Mark Casey, date of birth 11/3/58, at the time of the incident on May 28, 2004, was 46 years old. He presented to the emergency room at Spartanburg Regional Medical Center with chest pain. A plain film x-ray revealed a metallic object allegedly in the left main stem bronchus. Defendant Boscia was consulted by the emergency room staff and did a flexible bronchoscopy which did not locate the object, but reportedly did find abnormal tissue. That procedure was followed by a rigid bronchoscopy by Defendant Feldman on June 3, 2004, along with laserling. As a result of that procedure, Mr. Casey developed a pneumothorax which is a complication of the procedure. Plaintiff contends that Mr. Casey not only suffered a bronchial, lung or chest injury but also contends that he has suffered neurological deficit because of an air embolism to the brain. Mr. Casey was a long time Michelin employee working as a tire builder and has not returned to work. He was declared disabled by the Social Security Administration due to Casey's claims that he is forgetful, lacks focus, has become a recluse, has no interest in living and that he has had drastic personality changes.



JUA 000147

FACTS

Mr. Casey's academic record in high school was average. He has no formal education past high school. He worked for a short period of time at Lockwood Greene Engineers, then went to Michelin Tire where he had been for eighteen (18) years as a truck tire builder. This is an extremely physically demanding job. Mr. Casey, over the past several years preceding this event, had developed significant lower back pain caused by bulging but not herniated discs.

Mr. Casey was a good high school athlete playing most all sports and continued playing basketball and softball for Michelin and church league until recent years, but was still apparently a pretty active, above average golfer until March 2004.

In 2003, Mr. Casey and his wife separated and ultimately procured a divorce. The apparent cause was a disagreement over their teenage children, both of which were dysfunctional. Mr. and Mrs. Casey apparently disagreed on discipline of the children. While the divorce was apparently a long time coming, the only impact on Casey was that it caused severe economic stress as they lost a two person household income.

Shortly after, Mr. Casey began expressing to his family physician, Dr. Frank Gonda, his complaints of anxiety and depression which resulted in Dr. Gonda treating him with Paxil and Effexor, both anti-depressants, which the Plaintiff is trying to "play down" and actually lied about during his deposition. There is evidence in Dr. Gonda's records of intermittent drug abuse.

Mr. Casey had a fear of a heart attack. His father died relatively young with a massive myocardial infarction. Mr. Casey had a significant cardiovascular work-up the previous year which was found to be normal other than some high cholesterol and potential problems related to cigarettes.

After the procedure, he began complaining of restlessness, inability to sleep, depression, memory loss and being a recluse.

PLAINTIFF'S EXPERTS

The Plaintiff's experts are Dr. Charles M. Fogarty, M.D., a pulmonologist who practices in Spartanburg. He is a former partner of Dr. Feldman. They intensely dislike each other. Dr. Fogarty has ventured into the area of brain dysfunction and concluded that Mr. Casey's difficulty concentrating comes from air emboli coming from the lengthy duration of anesthesia and laser preparation of the endotracheal tree, with resultant leakage of air into the extrapleural mediastinum and vascular spaces resulting in permanent neurological deficit, and that he is chronically disabled by virtue of this neurological impairment. He bases his opinions on heart bypass patients where a heart lung machine is used and may cause loss of some memory.

Michael A. Jantz, M.D., also a pulmonologist and critical care specialist at the University of Florida, Gainesville, has rendered similar opinions. He has never testified in a medical negligence case, but is doing this one because he was approached and asked to do so. Dr. Jantz is not charging for his time. Dr. Jantz and Dr. Fogarty have very similar opinions in this case.

JUA 000148

Joseph Glover Grace, III., Ph.D., a Psychologist who performed a battery of psychological personality tests upon Mr. Casey concludes that he has had some neurological damage as a result of the event. As stated, Dr. Grace is not a medical doctor and goes far afield in his opinions.

Dr. Randolph Waid, also a Psychologist, performed a similar battery of psychological personality testing and reaches much the same conclusion as Dr. Grace.

DEFENDANTS' EXPERTS

William Alleyne, M.D., is a Pulmonologist and Critical Care Specialist in Rock Hill. We have used Dr. Alleyne in the past. He is an excellent witness. He will testify that in his opinion the pneumothorax was a complication of the rigid bronchoscopy but is not supportive in the necessity of doing the same.

He will also opine that he does not believe that Mr. Casey suffered an air embolism to the brain from a pneumothorax.

Kent Kistler, M.D., is a Neurologist in Greenville, South Carolina. He will testify that neurological injury would have shown immediate injury or interruption to the neurological system and likely detectable. In as much as there was none, he opines that there is evidence that there was no such neurological injury. He acknowledges that microbubbles may be introduced into the system but not likely the source of an injury.

Moreover, although Plaintiff had made an attempt to conceal same, we did learn that an MRI of the brain was performed on February 4, 2007, and was read by the Radiologist as normal.

DAMAGES

Mr. Casey at the time of the incident, was employed at Michelin, working 48 hours per week at \$22.50 per hour, showing an average weekly wage of \$1,080.00 with a work expectancy of 21 years and life expectancy of 32.78 years. Plaintiff's medical expenses as of late 2009, were \$55,000.

LIABILITY

Taking personalities out of the evaluation, I would think the case has a value of \$400,000 to \$500,000. I anticipate the jury will conclude that the procedure done by Dr. Boscia, a flexible bronchoscopy, is minimally invasive. That Dr. Boscia made a judgment call to do the procedure rather than take other X-rays, and will not believe that to be a breach of the standard of care. However, the failure of Boscia and Feldman to review the CT that Dr. Boscia ordered at the conclusion of the flexible bronchoscopy, when that CT did not show a metallic foreign body, and then proceeding to the rigid bronchoscopy and lasering without discussions with Mr. Casey regarding the negative findings, exposed him to the consequences of a pneumothorax and an unnecessary surgical procedure, in my judgment do support medical negligence. The procedure and complications were certainly traumatic and, coupled with other stressors that Mr. Casey went through in the previous year, including divorce and dysfunctional children, loss of his home and

JUA 000149

financial stress, would otherwise make Mr. Casey a pretty attractive plaintiff if he were, in fact, candid. However, we must add to it the additional claim of neurocognitive dysfunction resulting from an air embolism, that I think the Plaintiff is going to have a very difficult time to prove. The attempt to conceal the Charlotte MRI which was normal, should be very damaging to the Plaintiff's case. Add to that Chuck Thompson's bizarre conduct further complicates the case. This is not to say the Plaintiff has a monopoly on strange behavior. We ourselves have some particular quirks.

If the jury concludes that Casey did in fact suffer a disabling injury to the brain as a result of the rigid bronchoscopy, the facts would support a large verdict. Clearly, up until the time of the "metallic body" on May 28, 2004, Mr. Casey was functioning. He had been working a very job at Michelin for 22 years, for which he was well paid. Although struggling, he was apparently getting his life back in order. The most damaging information we have is evidence of abuse of prescription drugs. This could perhaps be accounted for by pre-existing back pain. Assuming the jury finds for Case, I think the verdict could be something in the \$2,000,000 to \$2,500,000 range. Taking into consideration that his annual earnings at Michelin were \$55,000. Also, the loss of his quality of life causes me to believe that if the jury finds he has a permanent disabling injury, the verdict would be \$2-2.5 million.

The more likely scenario is that the jury will conclude the failure of Boscia and Feldman to consider the CT performed after the flexible bronchoscopy without including Casey in the decision to perform the procedure, will be interpreted by the jury as malpractice. Thus, Casey underwent an unnecessary procedure with the consequence causes me to conclude the case verdict range is between \$150,000 to \$500,000. There is some small chance of a defense verdict.

SETTLEMENT NEGOTIATIONS

The case has been mediated twice without success.

I am

Very truly yours,



H. Spencer King
The Ward Law Firm, P.A.

HSK/dch

cc: William U. Gunn, Esquire (via e-mail)

JUA 000150



Lung and Chest Medical Associates

Charles M. Fogarty, M.D.
J. Douglas Clark, M.D.
Rico V.I. Mendoza, M.D.
J.P. Elm, F.N.P.

Fax: (864) 585 - 2102

Wilson R. Smith, Jr., M.D.
E. Bert Knight, III, M.D.
Mary Lou Applebaum, M.D.
Beth V. Edwards, PA-C

Fax: (864) 582-3750

WILLIAM CASEY
77168
08-04-05

OFFICE NOTE

Chief Complaint

William Casey returns for follow up on his previous visit. Since we saw him he has had coronary calcium score and upper abdominal ultrasound.

Current Conditions

1. Chest pain.
2. Nausea and vomiting.
3. Persistent difficulty concentrating staying focused status post pneumomediastinum/pneumothorax complicating laser therapy in attempt for laser therapy for metallic artifact, which ultimately proved to be outside of chest.

Current Medicines

1. Advair 250/50 twice daily.
2. Combivent 1 puff four times daily as needed.
3. Ultram 50 mg four times daily as needed chest pain.
4. Lipitor 10 mg daily.
5. Lortab four times daily as needed.

Social History

No tobacco or alcohol.

Review of Systems

No additional findings on cardiorespiratory, GI or GU review.

Physical Examination

Vital Signs: Wt. 178, BP 120/74, HR 75, RR 22 and SaO₂ is 98% on room air.

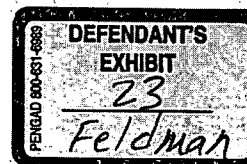
General: No acute distress.

Skin: Normal turgor.

HEENT: Pupils symmetric.

Neck: No jugular venous distention.

(Continued to next page)



000446

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders

THOMPSON 032157

WILLIAM CASEY

77168

08-04-05

Page Two

Physical Examination (Continued)

Chest: No wheezes, rales or rhonchi.

Cardiac: No murmur or gallop.

Abdomen: Bowel sounds present. The patient felt like he might have the heaves while in the office but no emesis. Bowel sounds present.

Extremities: No edema or clubbing.

Neurological: The patient had some readily apparent difficulty staying focused with answers to questions and had difficulties repeating numbers backward on a simple cognitive screen.

Laboratory Data

The ultrasound showed no pathological findings.

Impression/Discussion/Plan

The patient has been instructed in optimal use of aerosol therapy. The patient was instructed on diet with attention at maintaining muscle mass and achieving an ideal body weight. The patient is instructed in exercise to promote mucous clearance, maintain balance and muscle mass. The patient was given our cell phone number to call any time any interval problems develop before the next visit.

The patient is to continue his current regimen. He will check back with us this fall.

Charles M. Fogarty, MD
CMF/ns

000445

THOMPSON 032158

SPARTANBURG REGIONAL MEDICAL CENTER
Radiology Report

NAME: CASEY, WILLIAM
ORDERING PHYSICIAN: FOGARTY, CHARLES M
LOC: OPT DOB: [REDACTED] 58
Pt. Type: OPT

UNIT #: 000146220
CI#: 1480851
AN#: S0520101451

Exam
50041 XR G I SERIES
74246

Date: 07/28/05 0836
Ord Diag: 767.03-VOMITING ALONE

Double-contrast upper GI, 7/28/2005

Indication: Several week history of nausea and vomiting

Findings: Under fluoroscopy the patient shows normal swallowing and esophageal motility. The esophagus distends normally. Note is made only of a single small distal esophageal mucosal cleft or diverticulum, this is only a few millimeters in size. With Valsalva no hiatal hernia is seen. During assessment of the stomach several episodes of mild reflux into the distal esophagus were seen.

The stomach distends normally with no abnormal mass or impression and no mucosal irregularity. The duodenal bulb is somewhat irregular, I do not see a discrete ulcer but this could be deformed from peptic ulcer disease. Contrast does freely progress through this into the duodenum. In the third portion of the duodenum there are 2 diverticula adjacent to one another. One is relatively prominent in size, equal to that of the duodenal bulb. No retained material is seen within these and contrast freely progresses through this to the proximal small bowel.

Impression: Small mucosal cleft or diverticulum noted in the distal esophagus. This is probably a normal variant although could represent local change of mild esophagitis. A few episodes a very mild GE reflux were seen during this study.

2. Duodenal bulb somewhat deformed although no discrete ulcers seen. This could be change from peptic ulcer disease but there is no evidence of stricturing, contrast freely progresses into the proximal small bowel on this study.

2. 2 duodenal diverticula in the third portion of the duodenum, one of these is a giant diverticulum equal in size the duodenal bulb. They

FINAL

Page 1

Patient: CASEY, WILLIAM

MRN 000146220 Encounter: 0520101451 Page 1 of 2

000444

THOMPSON 032159

SPARTANBURG REGIONAL HEALTHCARE SYSTEM
SPARTANBURG REGIONAL MEDICAL CENTER
Radiology Report

NAME: CASEY, WILLIAM

ORDERING PHYSICIAN: FOGARTY, CHARLES M

LOC: OPT

Type: OPT

DOB: [REDACTED]/58

UNIT #: 000146220

CI#: 1480551

AN#: S0520101451

Checkin-Exam Code Summary
1480551-50041

otherwise appear unremarkable on this exam and are not likely of
clinical significance.

Read By: William T Joycemo

Released By: William T Joycemo

FINAL

Page 2

Patient: CASEY, WILLIAM

MRN: 000146220 Encounter: 0520101451

Page 2 of 2

000443

THOMPSON 032160

#7768
DOLV
7-21-05
no Apt.

SPARTANBURG REGIONAL HEALTHCARE SYSTEM
SPARTANBURG REGIONAL MEDICAL CENTER
Radiology Report
ACR Accredited Facility for Ultrasound

ME: CASEY, WILLIAM
ORDERING PHYSICIAN: FOGARTY, CHARLES M
LOC: OPT
Pt. Type: OPT
DOB: [REDACTED] /58

UNIT #: 000146220
CI#: 1480525
ANH: S0520101451

Exam
80073 US GALLBLADDER
78705

Date: 07/28/05 0812
Ord Diag: 787.03-VOMITING ALONE

Sonogram of the gallbladder. 7/28/2005.

History: Epigastric pain with nausea.

Findings: Gallbladder is fluid filled. No stones are seen. Common duct is 5 mm which is normal. Pancreas and liver are unremarkable.

Conclusion: Negative sonogram of the gallbladder.

Read By: John HarrillMD
Released By: John HarrillMD

FINAL

Page 1

000442

THOMPSON 032161



PIEDMONT IMAGING

Your Choice for MRIs & CT Scans

Name: Cathy Williams

Date of Scan: 7/25/07

Address: 240 Lightwood Farm Rd Woodville SC 29385

Telephone: (864) 682-9648

Date of Birth: [REDACTED] 1958

PROCEDURE

MULTISLICE HELICAL CT CORONARY ARTERY CALIUM SCORING (CACS)

TECHNIQUE

MultiSlice Helical 3.2 mm transaxial CT images were obtained at 1.5 mm intervals for evaluation of the proximal 6.0 cm of the coronary arteries. A computer-generated score is calculated based on the amount of calcification detected.

RESULTS

L MAIN 0-0 LAD 1.4 CIRCUMFLEX 0-0 R. CORONARY 0-0 TOTAL 1.4

CALCIUM SCORE GUIDELINES

Total Score	Plaque Burden	Risk Category	Probability of Significant CAD	Guidelines
0-1	No identifiable atherosclerotic plaque	Very Low	Very Unlikely	Reassurance while stressing adherence to general guidelines on diet and exercise.
1-10	Minimal identifiable plaque	Low	Unlikely	Follow the general guidelines on cardiovascular risk reduction.
11-100	Mild identifiable plaque	Moderate	Mild or minimal coronary stenosis likely	Risk factor medication is recommended, including daily aspirin and strict adherence to National Cholesterol Education Program or proposed modification.
101-400	Moderate identifiable plaque	Moderately High	Moderate likelihood of significant stenosis	Aggressive risk factor modification is recommended with stress testing preparatory to an exercise program. Daily aspirin is advised. Strict adherence to National Cholesterol Education Program or proposed modification.
Over 400	Extensive plaque burden	High	High likelihood of significant coronary stenosis	Very aggressive risk factor modification is recommended (including aspirin and a statin medication) with stress imaging and possibly angiography.

Coronary artery calcification is a specific marker for coronary atherosclerosis. The amount of calcification correlates with severity of coronary atherosclerosis and the probability of obstructive disease. A score of 0 indicates no coronary artery calcification and this implies the absence of significant angiographic coronary narrowing in 99% of cases. It does not absolutely rule out the presence of soft non-calcified plaque, especially in younger patients and those who smoke heavily. A high score indicates a significant plaque burden and the relative risk for future cardiovascular events. It should be understood that calcification is not site specific for stenosis but rather indicates the extent of atherosclerosis in the coronary arteries overall. The score may be used as a benchmark to measure subsequent disease development or assess preventative programs. Thank you for your confidence in our center.

Sincerely,

Raul Ceballos, Jr., MD
Radiologist

684 North Pine St. • Spartanburg, South Carolina 29303
864-542-0033 • Fax 864-542-0025

000441

THOMPSON 032162



Lung and Chest Medical Associates

Charles M. Fogarty, M.D.
J. Douglas Clark, M.D.
Ricó V. I. Mendoza, M.D.
J.P. Elm, F.N.P.

Fax: (864) 585 - 2102

Wilson P. Smith, Jr., M.D.
E. Bert Knight, III, M.D.
Mary Lou Applebaum, M.D.
Beth V. Edwards, PA-C

Fax: (864) 582-3750

WILLIAM CASEY
77168
07-21-05

OFFICE NOTE

Chief Complaint

William Casey returns for follow up on his 7/19 visit. At that time he was having dry heaves and nausea and this was felt possibly to be an interaction between the Strattera and the Cymbalta and he was advised to discontinue these. Since then he is better. He continues to have chest pain, a squeezing sensation. This can be present without exercise although exacerbated by exercise.

We should note that it was this symptom that led him to go to the emergency room May 2004. Although the presenting complaint was chest pain, a chest film showed a metallic fragment overlying the chest. This was misinterpreted as being in the chest and the patient underwent bronchoscopy. And when the bronchoscopy did not show definite abnormality, but rather an area of erythema, he was scheduled for a laser bronchoscopy. He had the laser bronchoscopy complicated by pneumomediastinum with a lengthy two hour anesthesia. Since then, although the patient recovered from his pneumomediastinum and bilateral pneumothoraces with chest tubes, intubation and mechanical ventilation, since then he has had continued difficulties concentrating, staying focused and with his general energy.

He is not smoking.

Current Medicines

1. Advair 250/50 twice daily.
2. Combivent 1 puff four times daily as needed.
3. Ultram 50 mg four times daily as needed chest pain.
4. Lipitor 10 mg daily.
5. Lortab four times daily as needed.

Social History

He has been out of work now for a year and probably will be out of health insurance and probably lose his job since he has been unable to hold gainful employment in the interim in large part because of his difficulties with concentrating, staying focused. Although the issue of his chest pain still remains unresolved.

(Continued to next page)

000440

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders

THOMPSON 032163

WILLIAM CASEY

77168

07-21-05

Page Two

Family History

Coronary artery disease and hyperlipidemia.

Review of Systems

He did have a cardiac catheterization several years back but his CT during the May 2004 admission prior to his laser bronchoscopy was normal range except for incidentally noted coronary calcification. No additional findings on cardiorespiratory, GI or GU review.

Physical Examination

Vital Signs: Wt: 176.6, BP 153/91, HR 78, RR 20 and SaO₂ is 98% on room air.

General: No acute distress.

Skin: Normal turgor.

HEENT: Pupils symmetric.

Neck: No jugular venous distention.

Chest: No wheezes, rales or rhonchi.

Cardiac: No murmur or gallop.

Abdomen: Bowel sounds present. The patient felt like he might have the heaves while in the office but no emesis. Bowel sounds present.

Extremities: No edema or clubbing.

Neurological: The patient had some readily apparent difficulty staying focused with answers to questions and had difficulties repeating numbers backward on a simple cognitive screen.

Laboratory Data

The vital capacity is 4.65 or 98% of predicted. The forced expiratory volume is 3.76 or 97% of predicted.

Today's cardiogram is normal range. Interestingly the cardiogram while he was in the hospital with his chest pain in May of last year showed nonspecific ST T-changes.

Impression

1. Chest pain.
2. Nausea and vomiting.
3. Persistent difficulty concentrating staying focused status post pneumomediastinum/pneumothorax complicating laser therapy in attempt for laser therapy for metallic artifact, which ultimately proved to be outside of chest.

(Continued to next page)

000439

THOMPSON 032164

WILLIAM CASEY

77168

07-21-05

Page Tree

Comment

With reference to the patient's GI symptoms they do seem improved since discontinuing the Strattera and this really did not help with his staying focused anyway. However he may still have some underlying pathology such as cholelithiasis or peptic ulcer disease and ultrasound of the gallbladder appears warranted. If symptoms persist we may consider an upper GI.

With reference to the patient's squeezing he does have risk factors for coronary artery disease in terms of his hyperlipidemia, family history and previous smoking and he did have coronary calcification incidentally noted on Spartanburg Regional Medical Center CT. A formal coronary calcium score may be indicated and if elevated may be an indication to proceed with more vigorous cardiac workup.

With reference to the patient's difficulty concentrating, he undoubtedly had air emboli given his lengthy duration of anesthesia and laser perforation of the endotracheal tree with resultant leakage of air into extra pleural and vascular extra pleural mediastinal and vascular spaces. Although he is fortunate not to have any gross motor deficit, he may well have a permanent neurologic deficit in which case the indication for taking medication may be moot and the patient may simply need to recognize that although he would like to go back to work, he may be chronically disabled by his neurologic impairment.

Plan

We will check back with the patient via phone with reference to his coronary calcium score and his gallbladder ultrasound. Further evaluation will proceed pending the results of above. Separately, we will review the patient's chart for him since he still has many questions about what happened during the hospital admission for his chest pain. We will review the patient's chart for him and try to put into lay language a summary of the chart with reference to what happened to him during the hospital admission for his chest pain last year.

Charles M. Fogarty, MD
CMF/ns
cc: Dr. Gonda

000438

THOMPSON 032165

000437



1. NO LrM6d: Filter: AC, Drift. FUKUDA.D

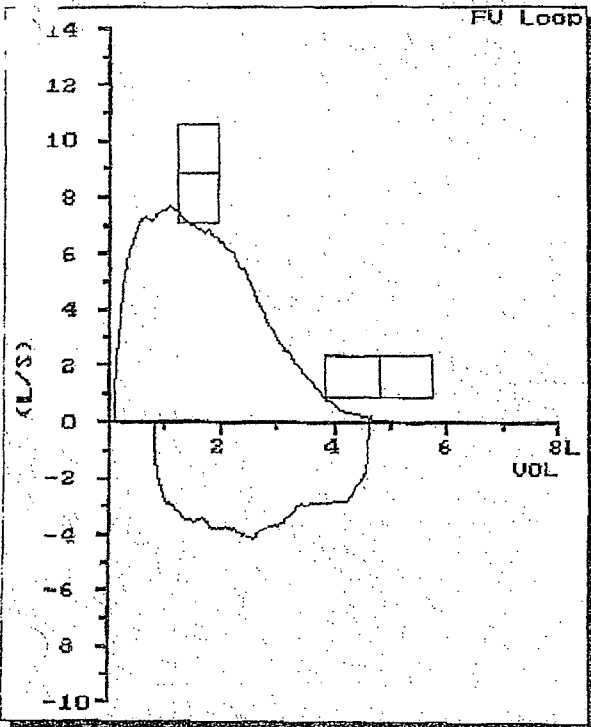
Lung and Chest Medical Associates
Multi Spiro B

ID: 77168 Casey, William
Ethnic: CAUCASIAN Height: 68.0 in. Sex: MALE Age: 46 Weight: 171.0 lb

MENTS:
E-BD COMMENTS:

LAST CALIBRATED: Thu Jul 21, 2005 7:36:40 am

TYPE	Test Date and Time	Exp. Time	Normals	Test#
Pre-BD:	Thu Jul 21, 2005 3:52:12 pm	5.9 secs	KNUDSON/IMTS	1
Expiratory	Actual Predicted	% of pred	Inspiratory	Actual
FVC	4.65 L 4.75 L	97.88 %	IVC	3.86 L
FEV 0.5	2.96 L 3.05 L	97.12 %	FIV1	2.95 L
FEV 1.0	3.76 L 3.87 L	97.21 %	PIF	4.26 L/S
FEV 3.0	4.40 L 4.51 L	97.51 %	FIF50	3.97 L/S
			FEF50/FIF50	135.01 %
FEV 0.5/FVC	63.77 % 64.27 %	99.22 %	Interpretation:	
FEV 1.0/FVC	80.82 % 81.38 %	99.31 %		
FEV 3.0/FVC	94.58 % 94.94 %	99.62 %		
PEF	7.56 L/S 8.67 L/S	87.17 %	NORMAL	
FEF 25-75%	3.91 L/S 3.95 L/S	99.06 %	MAX FVC	= 4.65L TEST # 1
FEF 75-85%	0.86 L/S 1.06 L/S	81.57 %	MAX FEV-1	= 3.76L TEST # 1
FEF 25	7.45 L/S 7.97 L/S	93.49 %		
FEF 50	5.37 L/S 4.62 L/S	116.05 %		
FEF 75	1.47 L/S 1.83 L/S	79.90 %		
FEF 1.2-1.2	7.00 L/S 7.31 L/S	95.75 %		



Legend
Pre-BD Test

Good Effort (NB)

000436

THOMPSON 032167

SPARTANBURG REGIONAL MEDICAL CENTER DEPARTMENT OF LABORATORY MEDICINE
101 E. WOOD STREET, SPARTANBURG, SOUTH CAROLINA 29301-3072/864-560-6212
DRS ORVITS, LOWRY, WREN, NELSON, RAINER, LAFRAM, MIMS, CALDWELL, BURKS & KIM

CASEY WILLIAM
16 YRS MALE
Dr. MENDOZA RICO
Location:

MRS: (00021000)4-62-20 Fin.No.:0520001851
DOB: 1958

Admitted: 19JUL05
Page: 1
Printed: 23JUL05
0558

INTERIM
PRIVATE OUT PT VISIT ABDOMINAL PAIN UNSPEC SITE

C H E M I S T R Y

HEPATIC PROFILES

Procedure:	TOI PROT	ALBUMIN	AST	ALT	ALK PHOS	BILI TOTAL	BILI DIR	BILI INDIR
Ref Range:	(6.1-8.0)	(3.5-4.9)	(12-33)	(9-29)	(36-108)	(.0-1.5)	(.0-.2)	(.2-1.4)
Units:	GM/DL	G/DL	IU/L	IU/L	IU/L	MG/DL	MG/DL	MG/DL
19JUL05 1600	6.9	4.4	14	18	80	.6	.1	.5

Patient Name: CASEY WILLIAM

Location:

PRIVATE OUT PT VISIT

END OF CHART.

Send to: DR RICO MENDOZA
2030 NORTH CHURCH AVE
SPARTANBURG

SC 29303

FAX to: 864-565-3102

000435

Emilio

THOMPSON 032168

CMF WPS MLA

EBK

JDC

RVM

Beth

Darla Lab

Lung and Chest Medical Associates

Name: William Casey

Chart#: 771168

Date: 7-19-05

Wt 174.9 Ht - B/P 129/85 H/R 85 RR 16 Temp 98.1 O2Sat 93 FIO2 -

- ☐ Cough ☐ Smoking
☐ Sputum ☐ Nausea
☐ Dyspnea ☐ Vomiting
☐ Wheeze ☐ Diarrhea
☐ Edema ☐ Chest Pain
☐ Palpitations ☐ Pain
☐ Oriented ☐ ETOH
☐ New Allergies ☐ Fever/chills

Present illness + reason for visit:

Doesn't want to see Jackson

Vomiting x 1 week - chest sore - tight

Saw Dr. Brown at house since year ago side

When was your last DEXA Bone Densitometry Testing done?

She got it then

Seeing new doctors?

no

For:

Hospitalizations or major life changes since last visit:

yes 6-05 - same

Meds. Review based on:

in bottle

on list

from memory

PHYSICAL EXAM:

WNL/NEG

ABN/POS

*General Appearance:

*Skin Targor:

*ENT:

*Mouth:

*Sinus:

*Neck:

*Chest/Lungs: Breath Sounds:

Wheezes:

Rales:

Effort:

Symmetry:

*Heart: Rhythm:

Murmurs:

Gallop:

Tones:

*Abdomen:

*Extremities:

*Mobility: Gait:

Reflexes:

Aides:

*Mental Status:

LAB ORDER: Spirometry

EKG

Sinus

CBC

Glu

PT

INR

O2Sat Rest 93%

Lung Vol

DLCO

U/A

CXR

ABG's

Bun

Cr

Urea

Theo

O2Sat Exercise

Office Treatment:

Education: Does pt want to quit smoking? Yes/No Other:

PT no longer smoker

Materials/counseling given:

Diagnosis:

Nausea/Vomiting

Plan:

✓ UGL RW stomach/pain etc.

Abn CXR (lung fluid), 793.1

? Structural/Constrictive

✓ LFT

Anticoagulant Circulating, 286.15

Pro Hypertensive

Ice in oral cavity

COPD, 496

Stop structural/constrictive

Cough, 786.2

Dyspnea, 786.09

Fatigue (general), 780.79

Fever, 780.6

ILD, 515

Monitoring (drug name), V48.6

Rhinitis, 477.9

Sleep Apnea/Disorders (nec), 780.53

Prescriptions:

Next appt: Weeks Months W/ CMF WPS EBK MLA JDC RVM PA NP Signature

Staff

Next Visit: Spiro LV DLCO PA PAL Sinus DEXA BLDWK

Other

000434

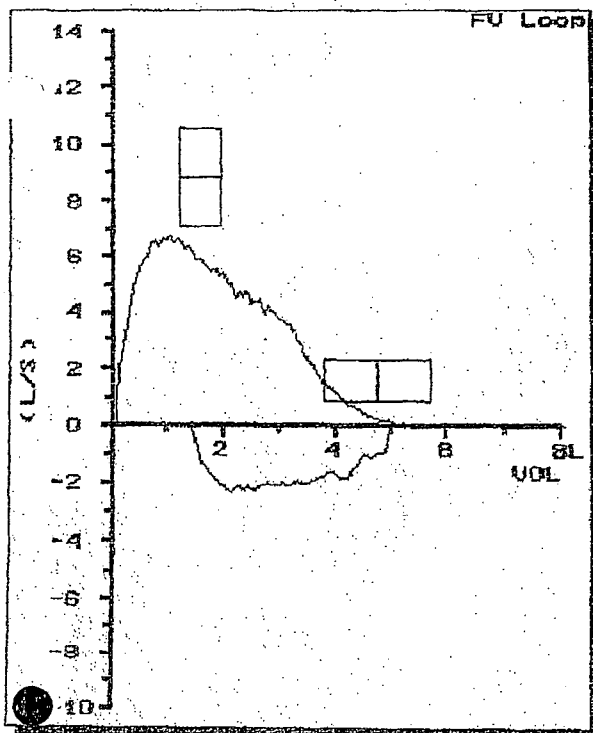
THOMPSON 032169

Lung and Chest Medical Associates Spiro A
 ID: 77168 Casey, William Mark
 Ethnic: CAUCASIAN Height: 68.0 in Sex: MALE Age: 46 Weight: 174.0 lb.

COMMENTS:
 Pre-BD COMMENTS:

ST CALIBRATED: Tue Jul 19, 2005 7:34:36 am

TYPE	Test Date and Time		Exp. Time	Normals	Test#
Pre-BD:	Tue Jul 19, 2005 11:57:55 am		6.3 secs	KNUDSON/IMTS	2
Expiratory	Actual	Predicted	% of pred	Inspiratory	Actual
FVC	5.02 L	4.73 L	106.19 %	IVC	3.61 L
FEV 0.5	2.75 L	3.04 L	90.50 %	FIV1	1.35 L
FEV 1.0	3.90 L	3.84 L	101.52 %	PIF	2.46 L/S
FEV 3.0	4.73 L	4.48 L	105.50 %	FIF50	2.20 L/S
				FEF50/FIF50	193.85 %
FEV 0.5/FVC	54.75 %	64.24 %	85.23 %	Interpretation:	
FEV 1.0/FVC	77.66 %	81.23 %	95.61 %		
FEV 3.0/FVC	94.18 %	94.79 %	99.35 %		
PEF	6.61 L/S	8.64 L/S	76.59 %	NORMAL	
FEF 25-75%	3.61 L/S	3.91 L/S	92.38 %	MAX FVC	= 5.02L TEST # 2
FEF 75-85%	0.90 L/S	1.04 L/S	87.31 %	MAX FEV-1	= 3.90L TEST # 2
FEF 25	6.15 L/S	7.95 L/S	77.37 %		
FEF 50	4.26 L/S	4.59 L/S	92.85 %		
FEF 75	1.40 L/S	1.81 L/S	77.15 %		
FEF 12-1.2	5.82 L/S	7.26 L/S	80.13 %		



Legend
 Pre-BD Test
 Good effort

000433

THOMPSON 032170

LUNG AND CHEST MEDICAL ASSOCIATES

2030 North Church Place, Spartanburg, SC 29303

CMF WPS EBK MLA JDC RVM BE
LAB REQUISITION

PATIENT NAME William C. Green CHART # 77168 DATE 7-19-05
SEX M RACE C B A H O
DIAGNOSIS _____

	DESCRIPTION	RESULTS	NORMAL VALUE	REPEATED VERIFIED RESULTS	INITIALS
	Theophylline		10-20 Mcg/dl		
	Glucose	<u>121</u>	70-110 Mg/dl		
	BUN	<u>29</u>	5-25 Mg/dl		
	Creatinine	<u>0.7</u>	0.5-1.4 Mg/dl		
	K+	<u>4.2</u>	3.5-5.1 Meq/dl		
	PT		14-18 sec		
	INR		2.0-3.0 Coumadin therapy		
			2.5-3.5 Prostatic Heart Valves		
	CBC				
	UA				
	HgbA1C	%	<7 %		
	Arterial Puncture				
	ABG's - FiO2				
	ABG's - PH		7.35-7.45		
	ABG's - PCO2		35-45 mmHg		
	ABG's - PO2		80-100 mmHg		
	ABG's - O2 Sat		95-98%		

URINALYSIS - MACROSCOPIC			
COLOR	_____	PH	_____
APPEARANCE	_____	PROTEIN	_____
GLUCOSE	_____	UROBILINOGEN	_____
BILIRUBIN	_____	NITRITE	_____
KETONES	_____	LEUKOCYTES	_____
SP. GR.	_____		

Rapid Strep Positive Negative
Z-Stai Flu Positive Negative

CMF _____ WPS _____ EBK _____ MLA _____ JDC _____ RVM _____ BE _____ Staff Q

Lab Requisition, 12-23-03

000432

THOMPSON 032171

2030 N CHURCH PLACE
SPARTANBURG SC 29303 JDC RVM/BE
864-582-6858 CMF WPS EBR MLA

William Casey

77168

07-19-05

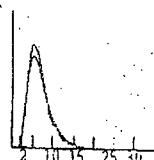
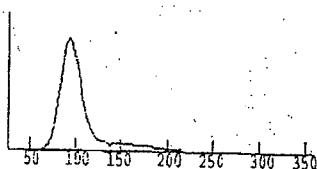
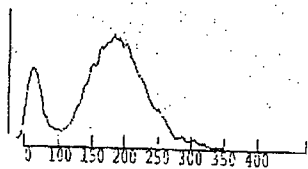
WB

09:58

Patient

Limits 1

WBC	13.7	H	$\times 10^3/\mu\text{L}$	4.5	11.0
LY	17.5	*L	%	20.5	51.1
MO	5.9	*	%	1.7	9.3
GR	76.6	*H	%	42.2	75.2
LY#	2.4	*	$\times 10^3/\mu\text{L}$	1.2	3.4
MO#	0.8	*H	$\times 10^3/\mu\text{L}$	0.1	0.6
GR#	10.5	*H	$\times 10^3/\mu\text{L}$	1.4	6.5
RBC	4.68		$\times 10^6/\mu\text{L}$	3.90	5.10
Hgb	14.8		g/dL	12.0	15.6
Hct	43.5		%	36.0	46.0
MCV	93.0		fL	85.0	98.0
MCH	31.7		pg	28.0	33.0
MCHC	34.0		g/dL	32.5	36.0
RDW	12.1		%	11.6	13.7
Plt	677	H	$\times 10^3/\mu\text{L}$	130	400
MPV	7.1	L	fL	7.8	11.0



000431

THOMPSON 032172

CMF WPS MLA

EBK JDC RVM Beth

Darla Lab

Lung and Chest Medical Associates

Name: Wm Casaux Chart#: 71168 Date: 11/10/04Wt 170.6 Ht 5'7" B/P 120/97 H/R 92 RR 18 Temp 95 O2Sat 95 FIO2 21

☒ Cough ☒ Smoking ☒ Present illness + reason for visit: 4-5 cigs/day
☒ Sputum ☒ Nausea
☒ Dyspnea ☒ Vomiting
☒ Wheeze ☒ Diarrhea
☒ Edema ☒ Chest Pain only on exertion No dyspnea
☒ Palpitations ☒ Pain when a good worker on
☒ Oriented ☒ ETOH some walks 5 days a week
☒ New Allergies ☒ Fever/chills is believed

When was your last DEXA Bone Densometry Testing done?

Seeing new doctors? 0 For: 0Hospitalizations or major life changes since last visit: 0Meds. Review based on: in bottle on list from memory

PHYSICAL EXAM: WNL/NEG ABN/POS

*General Appearance

*Skin Turgor

*ENT

*Mouth

*Sinus

*Neck

*Chest/Lungs: Breath Sounds

Wheezes

Rales

Effort

Symmetry

*Heart: Rhythm

Murmurs

Gallop

Tones

*Abdomen

*Extremities

*Mobility: Gait

Reflexes

Aides

*Mental Status

LAB ORDER: Spirometry EKG Sinus CBC Glu PT INR O2Sat RestLung Vol DLCO U/A CXR ABG's Bun Cre K+ Theo O2Sat Exercise

Office Treatment:

Education: Does pt want to quit smoking? Yes/No/Other:

Materials/counseling given:

Diagnosis:

Abn CXR (lung fluid), 793.1

Anticoagulant Circulating, 288.15

COPD, 496

Cough, 786.2

Dyspnea, 786.09

Fatigue (general), 780.79

Fever, 780.6

ILD, 515

Monitoring (drug name), V48.6

Rhinitis, 477.9

Sleep Apnea/Disorders (nec), 780.53

Prescriptions:

Next appt: Weeks Months W/ CMF WPS EBK MLA JDC RVM PA NP Signature WDC Staff gcNext Visit: Spiro L/V DLCO PA PAL Sinus DEXA BLDWK Other

09/29/04

000430

THOMPSON 032173

SPARTANBURG REGIONAL MEDICAL CENTER DEPARTMENT OF LABORATORY MEDICINE
101 E. WOOD STREET, SPARTANBURG, SOUTH CAROLINA 29303-3072/864-560-6212
DRS. DAVIS, LOWRY, WREN, NELSON, RAINIER, LAPHAM, HIMS, CALDWELL & BURKS

CASEY WILLIAM MR#: (0002)00014-61-20 Fin.No.: 0421101061 Admitted: 29JUL04
15 YRS MALE DOB: [REDACTED] /1958 Page: 1
DR. SMITH WILSON P INTERIM Printed: 06AUG04
Location: PRIVATE OUT PT VISIT ANEMIA NOC 0204

C H E M I S T R Y

REFERENCE LAB TESTS

Procedure:	TIBC *	IRON *	% SATURATION *
Units:	ug/dL	ug/dL	%
29JUL04 1340	434 EF	87 E	20 E
TIBC.....			Reference Range: 250-400
IRON.....			Reference Range: 40-190

TIBC should be ordered with iron for optimal utility.

* SATURATION. Reference Range:
15-50

8/9/04
WV

Symbols:
R = Right, L = Footnote
O = TIBC, IRON, & SATURATION performed at QUEST DIAGNOSTIC LAB - 13608 ORTEGA HIGHWAY, SAN JUAN CAPRISTRANO, CA. 92680

Patient Name: CASEY WILLIAM Location: PRIVATE OUT PT VISIT END OF CHART.

Send to: WILSON P SMITH MD
LUNG & CHEST
2030 NORTH CHURCH PLACE
SPARTANBURG SC 29303-0000
Fax to: 864-582-3750

REVIEWED BY: DATE: [REDACTED]
(DO NOT FILE IF NOT COMPLETE)

000428

THOMPSON 032175

Office Visit Confirmation Sheet

!!! Please fill out all blanks each time you visit our office.

Patient Name William Mack Casey Today's Date Aug 12 04

Doctor Smith Appt. Time 11:45 Arrival Time 11:40

Reason for visit:(check one) ☐ Having problems ☒ Regular follow-up

Please confirm your personal information for our records:

Address _____

Home phone # _____ Work Phone # 6 Other Phone # _____

Emergency contact name: Carole Casey Phone # _____

Type of Insurance: 1. B/C B/S 2. _____ 3. _____

E-mail address: _____

000427

10-21-04
patt
11/1

Cardiology

Consultants

Joseph R. Dorcha, M.D., F.A.C.C.
James R. Story, M.D., F.A.C.C.
F. Michael Eickman, M.D., F.A.C.C.
Barry L. Huey, M.D., F.A.C.C.

David G. Ike, M.D., F.A.C.C.
Larry E. Kibler, M.D., F.A.C.C.
Nalin K. Srivastava, M.D., F.A.C.C.
David J. Rodak, M.D., F.A.C.C.

Alejandro N. Lopez, M.D., F.A.C.C.
Kristen P. Nawabi, M.D.
John J. Gallagher, M.D., F.A.C.C.
Robin Simpkins, R.N., A.N.P., A.C.N.P.

NUCLEAR STRESS STUDY

NAME: CASEY, WILLIAM M.

DOB: [REDACTED]/58

DATE: AUGUST 2, 2004

CLINICAL HISTORY:

Mr. Casey is a 45-year-old patient of Dr. Gonda. The patient has also seen Dr. Srivastava. This study is ordered by Dr. Wilson Smith for evaluation of chest pain. The patient had an abnormal calcium score by CT. The patient also had a normal catheterization in the year 2000.

DESCRIPTION OF STUDY:

Resting images were obtained after the administration of 10 mCi of Cardiolite. The patient then underwent Bruce protocol stress testing completing 9 minutes of exercise achieving 10.1 mets and 87 percent of the predicted maximum heart rate. At peak exercise, 25 mCi of Cardiolite were administered.

FINDINGS:

The raw images revealed no significant lung uptake.

The SPECT images revealed normal perfusion on stress and rest images. There was no evidence for ischemia.

The gated images revealed normal systolic function with a calculated ejection fraction of 58 percent. There were no regional wall motion abnormalities present.

IMPRESSION:

Normal study.

COMMENT:

Previous Cardiolite in July of 2000 revealed inferior ischemia. This was subsequently found to be a false-positive study. This study is normal.

David G. Ike, M.D., F.A.C.C.
Cardiology Consultants, P.A.
DGI:MSM

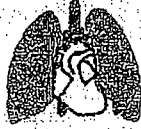
cc: Nalin K. Srivastava, M.D.
Frank E. Gonda, M.D.
Wilson P. Smith, Jr., M.D.

Date 8/2/04 by AS
DGLV 7/29/04 ponv 8-18-04

000426

1083 Boiling Springs Road • Spartanburg, SC 29303-2298 • (864) 583-8647 • Fax: (864) 542-2227

THOMPSON 032177



Lung and Chest Medical Associates

Charles M. Fogarty, M.D.
J. Douglas Clark, M.D.
Rico V. I. Mendoza, M.D.
J.P. Elch, F.N.P.

Fax: (864) 585-2102

Wilson P. Smith, Jr., M.D.
E. Bert Knight, III, M.D.
Mary Lou Applebaum, M.D.
Beth V. Edwards, PA-C
Cindy Edwards, F.N.P.

Fax: (864) 582-3750

WILLIAM CASEY

7-29-04

77168

OFFICE NOTE

Mr. Casey returns for a follow up visit today. He is trying to resume activities. He has developed chest pain with exertion and so in view of the finding of coronary artery calcification on his CT scan and his exertional chest pain we will refer him for a Cardiolute stress test and consideration of pulmonary rehabilitation. EKG today is within normal limits and shows no acute changes.

WPS

Wilson P. Smith, Jr., M.D.

WPSjr/ns

cc: Dr. Gonda

8/29/04

000425

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders

THOMPSON 032178

 * SPARTANBURG REGIONAL MEDICAL CENTER DEPARTMENT OF LABORATORY MEDICINE *
 * 101 E. WOOD STREET, SPARTANBURG, SOUTH CAROLINA 29303-3072/864-560-6212 *
 * DRS. DAVIS, LOWRY, WREN, NELSON, RAINER, LAPHAM, MIMS, CALDWELL \T\ BURKS *

 * CASEY WILLIAM MR#: (0002)00014-62-20 Fin.No.:0421101061 Admitted: 29JUL04
 * 45 YRS MALE DOB: 1958 Office Id: CUMULATIVE Page: 1
 * JR. SMITH WILSON P Printed: 03AUG04
 * Location: PRIVATE OUT PT VISIT ANEMIA NOS 2027

+++++
 + CHEMISTRY +
 +++++

-----REFERENCE LAB TESTS-----

Procedure:	TIBC g	IRON g	% SATURATION g
Units:	ug/dL	ug/dL	%
29JUL04 1340	434 Hf	87 f	20 f
TIBC.....			
IRON.....			

Reference Range:
 250-400
 Reference Range:
 40-190

TIBC should be ordered with iron for optimal utility.
 % SATURATION.. Reference Range:
 15-50

Symbols:
 H = High, f = Footnote
 g = TIBC, IRON, % SATURATION Performed at QUEST DIAGNOSTIC LAB - 33608 ORTEGA HIGHWAY, SAN JUAN CAPRISTEARO, CA. 92690
 %%END

000424

THOMPSON 032179



SPARTANBURG
Regional Healthcare System

☒ SAMC ☐ BJW ☐ HRC

PHYSICIAN OUTPATIENT ORDER FORM

SRHS ACCOUNT NUMBER (if applicable)

77168

MD AUTHORIZATION

W.R. Smith, MD 7-29-04

Patient Name	Casey, William	Age	79	DOB		Social Security #	
Address (Reside Mail Ad)		City		State		Zip Code	
						Telephone #	

Notification to Physicians and Other Persons Legally Authorized to Order Tests for Which Government Payment Reimbursement Will Be Sought: Medicare will pay only for tests that meet the Medicare coverage criteria and are reasonable and necessary to treat or diagnose an individual patient. Medicare does not pay the tests for which documentation, including the patient record, does not support that the tests were reasonable and necessary. Medicare generally does not cover routine screening tests even if the physician or other authorized test orderer considers the tests appropriate for the patient. Please provide an ICD-9 code for each test.

Services Request

Service/Date Requested	Diagnosis (ICD-9 required)	Service/Date Requested	Diagnosis (ICD-9 required)
	Dx Anemic		
	Dx Anemic		19010

Laboratory Services Request - NOTE - ICD-9 Code required

Diagnosis	Diagnosis	Diagnosis	Diagnosis
☐ Basic Metabolic Panel 82047	☐ Renal Panel 82048	☐ Urine C.A. & M 83784	☐ Urine 83540
☐ Cholesterol 82049	☐ Abnormal 82049	☐ Iron Binding Cap 83550	☐ IgG 82784
☐ Creatinine 82050	☐ BUN 82050	☐ IgA 82784	☐ IgM 82784
☐ BUN 82051	☐ Creatinine 82051	☐ LDH 83613	☐ Lithium 80178
☐ Sodium 82052	☐ CO ₂ 82052	☐ Lipase 83690	☐ LFT 83002
☐ Potassium 82053	☐ Creatinine 82053	☐ Magnesium 83723	☐ Phosphorus 84100
☐ Uric Acid 82054	☐ Glucose 82054	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82055	☐ Phosphorus 82055	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82056	☐ Phosphorus 82056	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82057	☐ Phosphorus 82057	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82058	☐ Phosphorus 82058	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82059	☐ Phosphorus 82059	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82060	☐ Phosphorus 82060	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82061	☐ Phosphorus 82061	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82062	☐ Phosphorus 82062	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82063	☐ Phosphorus 82063	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82064	☐ Phosphorus 82064	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82065	☐ Phosphorus 82065	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82066	☐ Phosphorus 82066	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82067	☐ Phosphorus 82067	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82068	☐ Phosphorus 82068	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82069	☐ Phosphorus 82069	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82070	☐ Phosphorus 82070	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82071	☐ Phosphorus 82071	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82072	☐ Phosphorus 82072	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82073	☐ Phosphorus 82073	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82074	☐ Phosphorus 82074	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82075	☐ Phosphorus 82075	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82076	☐ Phosphorus 82076	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82077	☐ Phosphorus 82077	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82078	☐ Phosphorus 82078	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82079	☐ Phosphorus 82079	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82080	☐ Phosphorus 82080	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82081	☐ Phosphorus 82081	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82082	☐ Phosphorus 82082	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82083	☐ Phosphorus 82083	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82084	☐ Phosphorus 82084	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82085	☐ Phosphorus 82085	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82086	☐ Phosphorus 82086	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82087	☐ Phosphorus 82087	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82088	☐ Phosphorus 82088	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82089	☐ Phosphorus 82089	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82090	☐ Phosphorus 82090	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82091	☐ Phosphorus 82091	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82092	☐ Phosphorus 82092	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82093	☐ Phosphorus 82093	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82094	☐ Phosphorus 82094	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82095	☐ Phosphorus 82095	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82096	☐ Phosphorus 82096	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82097	☐ Phosphorus 82097	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82098	☐ Phosphorus 82098	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82099	☐ Phosphorus 82099	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82100	☐ Phosphorus 82100	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82101	☐ Phosphorus 82101	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82102	☐ Phosphorus 82102	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82103	☐ Phosphorus 82103	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82104	☐ Phosphorus 82104	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82105	☐ Phosphorus 82105	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82106	☐ Phosphorus 82106	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82107	☐ Phosphorus 82107	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82108	☐ Phosphorus 82108	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82109	☐ Phosphorus 82109	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82110	☐ Phosphorus 82110	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82111	☐ Phosphorus 82111	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82112	☐ Phosphorus 82112	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82113	☐ Phosphorus 82113	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82114	☐ Phosphorus 82114	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82115	☐ Phosphorus 82115	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82116	☐ Phosphorus 82116	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82117	☐ Phosphorus 82117	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82118	☐ Phosphorus 82118	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82119	☐ Phosphorus 82119	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82120	☐ Phosphorus 82120	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82121	☐ Phosphorus 82121	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82122	☐ Phosphorus 82122	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82123	☐ Phosphorus 82123	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82124	☐ Phosphorus 82124	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82125	☐ Phosphorus 82125	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82126	☐ Phosphorus 82126	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82127	☐ Phosphorus 82127	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82128	☐ Phosphorus 82128	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82129	☐ Phosphorus 82129	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82130	☐ Phosphorus 82130	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82131	☐ Phosphorus 82131	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82132	☐ Phosphorus 82132	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82133	☐ Phosphorus 82133	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82134	☐ Phosphorus 82134	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82135	☐ Phosphorus 82135	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82136	☐ Phosphorus 82136	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82137	☐ Phosphorus 82137	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82138	☐ Phosphorus 82138	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82139	☐ Phosphorus 82139	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82140	☐ Phosphorus 82140	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82141	☐ Phosphorus 82141	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82142	☐ Phosphorus 82142	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82143	☐ Phosphorus 82143	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82144	☐ Phosphorus 82144	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82145	☐ Phosphorus 82145	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82146	☐ Phosphorus 82146	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82147	☐ Phosphorus 82147	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82148	☐ Phosphorus 82148	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82149	☐ Phosphorus 82149	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82150	☐ Phosphorus 82150	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82151	☐ Phosphorus 82151	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82152	☐ Phosphorus 82152	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82153	☐ Phosphorus 82153	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82154	☐ Phosphorus 82154	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82155	☐ Phosphorus 82155	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82156	☐ Phosphorus 82156	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82157	☐ Phosphorus 82157	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82158	☐ Phosphorus 82158	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82159	☐ Phosphorus 82159	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82160	☐ Phosphorus 82160	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82161	☐ Phosphorus 82161	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82162	☐ Phosphorus 82162	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82163	☐ Phosphorus 82163	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82164	☐ Phosphorus 82164	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82165	☐ Phosphorus 82165	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82166	☐ Phosphorus 82166	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82167	☐ Phosphorus 82167	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82168	☐ Phosphorus 82168	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82169	☐ Phosphorus 82169	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82170	☐ Phosphorus 82170	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82171	☐ Phosphorus 82171	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82172	☐ Phosphorus 82172	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82173	☐ Phosphorus 82173	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82174	☐ Phosphorus 82174	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82175	☐ Phosphorus 82175	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82176	☐ Phosphorus 82176	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82177	☐ Phosphorus 82177	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Calcium 82178	☐ Phosphorus 82178	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Creatinine 82179	☐ Phosphorus 82179	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Cholesterol 82180	☐ Phosphorus 82180	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ BUN 82181	☐ Phosphorus 82181	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Sodium 82182	☐ Phosphorus 82182	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Potassium 82183	☐ Phosphorus 82183	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Uric Acid 82184	☐ Phosphorus 82184	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Arterial Profile 82185	☐ Phosphorus 82185	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Direct Bilirubin 82186	☐ Phosphorus 82186	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Indirect Bilirubin 82187	☐ Phosphorus 82187	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Comprehensive Metabolic Panel 82188	☐ Phosphorus 82188	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Albumin 82189	☐ Phosphorus 82189	☐ Phosphorus 84100	☐ Phosphorus 84100
☐ Bilirubin, Total 82190	☐ Phosphorus 82190	☐ Phosphorus 84100	☐ Phosphorus 84100

CMF WPS MLA

EBK JDC RVM Beth

Darla Lab

Lung and Chest Medical Associates

Name: Wm Casey "Mark" Chart#: 77168 Date: 2/29/04Wt 175.4 Ht 5'10" B/P 139/86 HR 93 RR 18 Temp 98.6 O2Sat 95% P102 21

Present Illness + reason for visit:

☒ Cough ☒ Sputum ☒ Wheeze ☒ Dyspnea ☒ Chest Pain ☒ Palpitations ☒ Oriented ☒ New Allergies

☒ Smoked ☒ Nausea ☒ Vomiting ☒ Diarrhea ☒ Pain ☒ ETOH ☒ Fever/chills

Chest tightness
anxiety

When was your last DEXA Bone Densometry Testing done?

Seeing new doctors? For:

Hospitalizations or major life changes since last visit:

Meds. Review based on: in bottle on list from memory

PHYSICAL EXAM: WNL/NEG ABN/POS

*General Appearance _____
*Skin Turgor _____
*ENT _____
*Mouth _____
*Sinus _____
*Neck _____
*Chest/Lungs: Breath Sounds _____
Wheezes _____
Rales _____
Effort _____
Symmetry _____
*Heart: Rhythm _____
Murmurs _____
Gallop _____
Tones _____
*Abdomen _____
*Extremities _____
*Mobility: Gait _____
Reflexes _____
Aides _____
*Mental Status _____

LAB ORDER: Spirometry EKG Sinus CBC Glu PT INR O2Sat Rest
Lung Vol DLCO U/A CXR ABG's Bun Cre K+ Theo O2Sat Exercise

Office Treatment:

Education: Does pt want to quit smoking? Yes/No Other: If don't smoke quit

Materials/counseling given:

Diagnosis: Chest pain Stress pain
anxiety
cardiac

Plan: _____

Abn CXR (lung fluid), 793.1
Anticoagulant Circulating, 286.15
COPD, 496
Cough, 786.2
Dyspnea, 786.09
Fatigue (general), 780.79
Fever, 780.6
ILD, 515
Monitoring (drug name), V48.6
Rhinitis, 477.9
Sleep Apnea/Disorders (nec), 780.53

Prescriptions:

Next appt: Weeks Months W/ CMF WPS EBK MLA JDC RVM PA NP Signature Wm Casey Staff AP

Next Visit: Spiro L/V DLCO PA PAL Sinus DEXA BLDWK Other:

03/26/04

000422

THOMPSON 032181



Lung and Chest Medical Associates

Charles M. Fogarty, M.D.
J. Douglas Clark, M.D.
Rico V.I. Mendoza, M.D.
J.R. Elm, F.N.P.

Fax: (864) 585-2102

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Beth V. Edwards, PA-C
Cindy Edwards, F.N.P.

Fax: (864) 582-3750

WILLIAM CASEY

77168

07-29-04

X-RAY: PA & lateral of chest. Chest x-ray shows normal heart size and clear lung fields.

IMPRESSION: Normal chest.

Wilson P. Smith, Jr., M.D.
WPSjr/ns

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders

000421

THOMPSON 032182

[illegible]

THOMPSON 032183

2030 N. CHURCH ST.

CWF WPS ERK RVM

LUNG AND CHEST MEDICAL

SPARTANBURG, SC, 29303

MLA JDC DE

264:562-6856

File ID # 77168

Date: 07-29-04

Patient Name:

William Casey

Time: 13:43

WPS

DOB:

/ /

AGE:

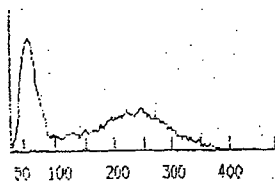
SEX:

DPR ID: 06

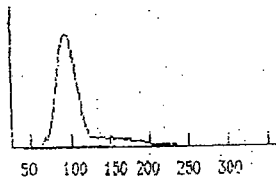
		Range #1			Range #1			Range #1			
WBC	7.8	$\times 10^3/\mu\text{L}$	4.5-11.0	RBC	4.54	$\times 10^6/\mu\text{L}$	3.90-5.10	PLT	473. H.	$\times 10^3/\mu\text{L}$	150-400.
LYM	36.2	%	20.5-51.1	Hgb	14.2	g/dL	12.0-15.6	MPV	5.9 L	fL	7.4-10.4
MDW	4.2	%	1.7-9.5	Hct	43.2	%	36.0-46.0				
GRN	59.6	%	42.2-75.2	MCV	95.2	fL	85.0-98.0				
LY#	2.8	$\times 10^3/\mu\text{L}$	0.7-4.9	MCH	31.2	pg	28.0-33.0				
MD#	0.3	$\times 10^3/\mu\text{L}$	0.1-0.9	MCHC	32.8	g/dL	32.5-36.0				
GR#	4.6	$\times 10^3/\mu\text{L}$	1.5-7.2	RDW	12.2	%	11.5-14.5				

Sample ID # 77168

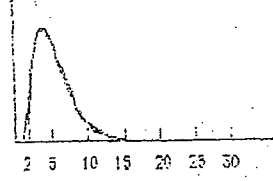
Analyzed Date & Time: 07-29-04 13:43

7/30/04
WPS

WBC HISTOGRAM



RBC HISTOGRAM



PLT HISTOGRAM

Sample ID # 77168

Analyzed Date & Time: 07-29-04 13:43

Microscopic Examination

Neutrophil	_____	Metamyelocyte	_____	Anisocytosis	_____	Retic	_____
Band	_____	Myelocyte	_____	Hypochromia	_____	Sedimentation Rate	_____
Lymphocyte	_____	Promyelocyte	_____	Polychromasia	_____		
Monocyte	_____	Stab	_____	Poikilocytosis	_____		
Eosinophil	_____	Atypical Lymphocyte	_____	Macrocytosis	_____		
Basophil	_____	HPSCs	_____	Microcytosis	_____		

Comments:

Requested by: _____

Reviewed by: _____

Date: _____

000419

THOMPSON 032184



MICHELIN

MICHELIN TIRE MANUFACTURING
US-3 Facility Personnel
Post Office Box 5049
Spartanburg, SC 29304
864-599-3157, Office
864-599-3222, Fax

ATTENDING PHYSICIAN'S REPORT
(FOR EXTENDED LEAVES OF ABSENCE)

Date: July 29, 2004

Employee's Name: William Mark Casey

Address: _____

Date original medical leave of absence: May 28, 2004

Expected date of return to work: Aug 14, 2004

Physical findings (diagnosis): chest pain w/d exertion

CT Scan shows coronary artery
calcification

Treatment and/or recommendation: _____

Stress test
Absence fr. work until Aug 16, 2004

WJ [Signature] M.D.

Address: _____

Telephone: _____

NOTE: Michelin employees may receive full or 60% pay during Medical Leave of Absence. Verification of information regarding this request for leave would be greatly appreciated. To assure continuity in the employee's pay, this form must be returned promptly. Your cooperation would be appreciated.

LCF/SP/FORMS/DLXITLV.DOC

000418

THOMPSON 032185

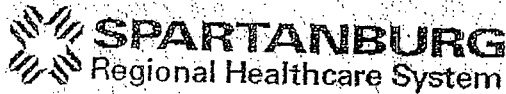
CHARLES M. FOGARTY, MD 065917 WILSON P. SMITH, MD 10518 E. BERT KNIGHT III, MD 8397
 MARY LOU APPLEBAUM, MD 12983 J. DOUGLAS CLARK, MD 19586
 BRENDA SPRINKLE, PA-C A544 CHARLES MASON, PA-C A566
 CHARLENE McCRAW, A.C.N.P.-C AG68077
 2030 North Church Place, Spartanburg, SC 29303 Telephone 582-0258

NAME <i>William Cozy</i>		DATE <i>7/29/04</i>	
ADDRESS			
LABEL DRUG NAME, STRENGTH & QUANTITY ☐ YES ☐ NO			
1	Rx SIG <i>please come in</i>	STRENGTH	QUANTITY
2	Rx SIG <i>Cozy for high for</i>	STRENGTH	QUANTITY
3	Rx SIG <i>check pain</i>	STRENGTH	QUANTITY
M.D. Dispense as Written		M.D. Substitution Permitted	
DEA		DEA	

LC-105

000417

THOMPSON 032186



**PULMONARY REHABILITATION PROGRAM
PHYSICIAN REFERRAL**

This patient is referred to the Spartanburg Regional Healthcare System Pulmonary Rehabilitation Program:

Name: William Mark Casey Referral Date: 7-23-04

Address: Wenduff, SC 29388

Home phone: _____ Work phone: 6 Date of Birth: 58

Diagnosis: Shortness of breath + chest pain MRN: _____

Cardiac Clearance: (To be completed by physician prior to beginning pulmonary rehab).

- ☐ Perform cardiopulmonary exercise stress test. Your patient will be scheduled to begin pulmonary rehab after receiving results of the exercise stress test.
- ☐ Do not perform cardiopulmonary exercise stress test. Attach documentation to support cardiac clearance.

Comments: _____

CONSULTS:

Physical Therapy

Reason for referral: Evaluation/Treatment of postural deficits, thoracic mobility deficits, musculoskeletal dysfunction and/or pain, gait deficits.

Evaluation/instruction in: proper body mechanics for ADL's and lifting, postural correction and strengthening techniques, therapeutic exercise, stretching, and osteoporosis education.

Occupational Therapy

Reason for referral: Evaluation of activities of daily living, functional training in self care and home management, training in energy conservation, work simplification, and adaptive techniques for daily living.

Respiratory Therapy

Reason for referral: Evaluation of Home and Exercise Oxygen System Requirements.

Evaluation/instruction in: Breathing retraining, Airway Clearance Techniques, Proper use inhaled medications.

Education/Classes:

Anatomy & Physiology of COPD; Pursed Lip/Diaphragmatic breathing techniques; Respiratory medications; Infection control techniques; Effective coughing techniques; Panic control/relaxation techniques; Nutrition assessment.

DURATION/FREQUENCY: 3 Days per week for 6 Weeks

PROGRESS DOCUMENTATION/OUTCOME MEASURES:

- Pre and post program sub-maximal treadmill test, 6 minute walk, Dyspnea Index, Pulmonary Functional Status Scale (PFSS), Tennetti Assessment Tool.
- Monitoring: Pulse oximetry, blood pressure, heart rate, respiratory rate, Borg RPE, Pain scale, weight.
- Discharge summary with report to referring physician.

POTENTIAL FOR REHABILITATION? (Please circle): Excellent Good Fair

ATTENDING PHYSICIAN: (print or type): Dr. William Smith

PHYSICIAN'S SIGNATURE William Smith

DATE: 7/23/04

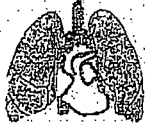
RETURN TO: Jack Robinson, RRT
Jenny Crocker, RRT
299 E-Pearl Street
Spartanburg, SC 29303

PHONE: (864) 560-4250
FAX: (864) 560-4245
email: jrobinson@srrhs.com

000416

101 EAST WOOD STREET • SPARTANBURG, SOUTH CAROLINA 29303 • 864-560-6000 Fax 864-560-6001

THOMPSON 032187



Lung and Chest Medical Associates

Charles M. Fogarty, M.D.
J. Douglas Clark, M.D.
Rico V.I. Mendoza, M.D.
J.R. Elm, F.N.P.

Fax: (864) 585-2102

Wilson R. Smith, Jr., M.D.
E. Bert Knight, III, M.D.
Mary Lou Applebaum, M.D.
Beth V. Edwards, PA-C
Cindy Edwards, F.N.P.

Fax: (864) 582-3750

WILLIAM CASEY

77168

07-14-04

dob: [REDACTED] 58

SS#: [REDACTED]

HISTORY AND PHYSICAL

REFERRING PHYSICIAN: Self-referred.

History Mr. Casey is a 45-year-old male who presents for evaluation of chest difficulties that began in May of this year when he presented to the emergency room at Spartanburg Regional Medical Center with a complaint of chest pain. A PA chest x-ray taken at that time suggested the possibility of a foreign body. He works for Michelin Tire Company. He underwent a bronchoscopy, which was felt to be abnormal but no foreign body was identified. A subsequent CT scan done the same day did not confirm any abnormality. However it does mention that there is left anterior descending coronary artery calcifications. In 2000 he had a stress test and catheterization which was normal. Following this underwent a rigid bronchoscopy in attempt to identify foreign body and remove it. During that procedure he had a perforation of the bronchial wall by a laser which resulted in pneumomediastinum and respiratory distress. He required intubation and heavy sedation and was able to be extubated the following day. Since that time he notes fatigue during the day. He continues to have dyspnea and chest pain with exertion. He has become very anxious. His sister accompanying him for the interview notes that he seems to have experienced a change in his ability to tolerate stress and appears much more anxious and restless than she has known him to be in the past. He is a previous smoker for about 12 years but has not smoked in the past three weeks. He does snore but feels he sleeps well. He denies any hemoptysis, chronic cough or weight loss. He still has the chest pain.

Past Medical History Previous hemorrhoid surgery in 1994 and a hospitalization for evaluation of chest pain in 2000 for which he underwent cardiac catheterization.

Current Medications

1. Lipitor 20 mgs a day.
2. Bextra 20 mgs daily.
3. Tramadol 50 mgs two tablets four times a day for pain.
4. Advair twice daily.
5. Combivent four times a day.

Allergies: No known drug allergies.

Family History His father died of a heart attack. He has a sibling who died of cancer.

Social History He is divorced. He completed one year of college. He drinks occasional alcohol. He likes to play golf. He has been unable to play since his injury.

(Continued to next page)

2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders

000415

THOMPSON 032188

WILLIAM CASEY

77168

07-14-04

Page Two

dob: [REDACTED] /58

SS#: [REDACTED]

Review of Systems Shows some arthritis which he manages with the Bextra. He has an elevated cholesterol for which he is on the Lipitor. He had an episode of rectal bleeding 10 years ago. He notes that he gets up three to four times during the night for micturition. He has disk problems and arthritis in his lower back.

Physical Examination

General: Middle-aged white male.

Vital Signs: BP 136/87, HR 100, Wt. 171, and SaO₂ is 95% on room air.

HEENT: Unremarkable. There is no jugular venous distention, cervical or supraclavicular adenopathy. The throat is clear.

Chest: Clear to auscultation.

Cardiac: Regular rate and rhythm without murmur or gallop.

Abdomen: Soft and nontender.

Extremities: No clubbing, cyanosis or edema.

Neurological: Motor strength appears 5/5 in all extremities. Cranial II through XII nerves are intact.

Laboratory Data

Pulmonary function studies show normal vital capacity and flow rates with a vital capacity of 4.7 liters, which is 99% of predicted and forced expiratory volume that is 98% of predicted. There was no change with bronchodilator. Flow volume loop showed no evidence of upper airway obstruction. Maximum voluntary ventilation was reduced at about 70 to 77% of predicted.

Impression

1. His pulmonary function is normal and chest x-ray does not show any evidence of sequelae of his bronchial perforation. The patient brought his outside films and he did not bring a recent follow up film. Pulmonary function studies are normal. I do not find any evidence for airway obstruction that would account for his problems. But I wonder if he suffers from a posttraumatic stress disorder related to his injury and intensive care unit experience. I would like to refer him to a psychologist for further evaluation. On his return we will get a follow up chest x-ray and a diffusion capacity and in view of his CT scan suggesting left anterior descending coronary artery calcification I believe a repeat stress test might be in order.

WPS

Wilson P. Smith Jr., MD

WPS/jrs

cc: Dr. Joseph Grace

000414

THOMPSON 032189

NAME ALK.

NG & CHEST MEDICAL ASSOCIA

#77108

PATIENT NAME

William Casey

DATE

7/14/09

PHYSICAL EXAM:

TEMP BP 136/87 Pulse 103 RESP HT WT 171 lb O2SAT OXIMETER 95 %

EENT:

SKIN:

NECK:

LUNGS:

HEART:

BREASTS:

ABDOMEN:

EXTREMITIES:

NEUROLOGICAL

LAB DATA:

X-RAYS: DATE

PFT'S: DATE

ABG'S: DATE

VALUE

VALUE

OTHER LABS:

IMPRESSION/DIAGNOSIS:

1.	HTP	post traumatic stress
2.		coronary calcification
3.	Diabetes	
4.		
5.		

PLAN:

1.	Refer to Psychiatrist
2.	stress test
3.	
4.	
5.	

NEWPT EXAM 8/19/97

DOCTOR

NURSING STAFF

000413

THOMPSON 032190

**Lung and Chest Medical Associates
Multi Spiro B**

ID: 77168 Casey, William
Ethnic: CAUCASIAN Height: 68.0 in Sex: MALE Age: 45 Weight: 171.0 lb

MENTS:
-BD COMMENTS:

LAST CALIBRATED: Wed Jul 14, 2004 7:53:26 am

Type	Test Date and Time	Exp. Time	Normals	Test#
Pre-BD:	Wed Jul 14, 2004 10:33:01 am	7.7 secs	KNUDSON/IMTS	1
Post-BD:	Wed Jul 14, 2004 10:45:34 am	6.0 secs	KNUDSON/IMTS	5

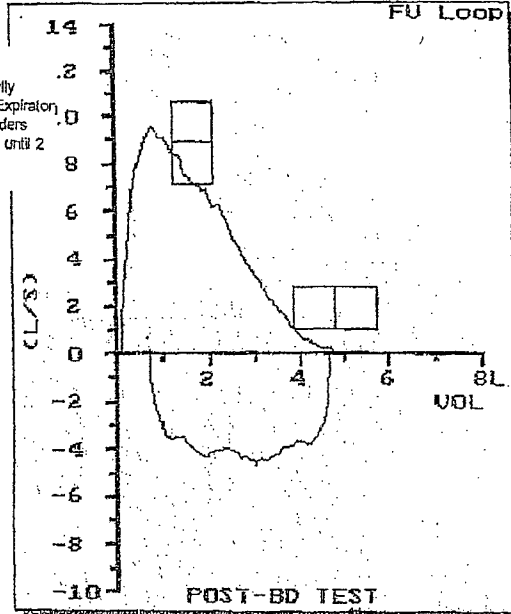
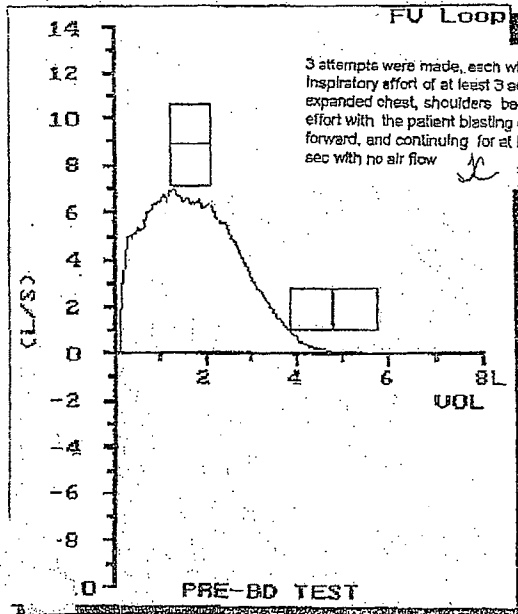
INTERPRETATION Pre: NORMAL

Post: NORMAL

Dilator: albuterol

Modifier: Not Clearly Improved

Expire	Pre-Medication		Post-Medication		Pre-Post Change		Pred Value
	Actual	% Pred	Actual	% Pred	Actual	% Chg	
FVC	4.72 L	99.31%	4.74 L	99.79%	0.02 L	0.48%	4.75 L
FEV 0.5	2.93 L	95.93%	3.08 L	100.90%	0.15 L	5.18%	3.05 L
FEV 1.0	3.78 L	97.77%	3.85 L	99.59%	0.07 L	1.87%	3.87 L
FEV 3.0	4.41 L	97.71%	4.48 L	99.40%	0.08 L	1.73%	4.51 L
FEV0.5/FVC	62.08%	96.60%	64.98%	101.11%	2.90%	0.99%	64.27%
FEV1.0/FVC	80.11%	98.44%	81.22%	99.80%	1.11%	0.29%	81.38%
FEV3.0/FVC	93.40%	98.39%	94.57%	99.61%	1.16%	0.26%	94.94%
PEF	6.88 L/S	79.33%	9.46 L/S	109.14%	2.58 L/S	37.57%	8.67 L/S
FEF 25-75%	3.86 L/S	97.89%	3.92 L/S	99.41%	0.06 L/S	1.55%	3.95 L/S
FEF 75-85%	0.83 L/S	78.50%	0.90 L/S	84.56%	0.06 L/S	7.71%	1.06 L/S
FEF 25	6.88 L/S	86.29%	8.26 L/S	103.61%	1.38 L/S	20.08%	7.97 L/S
FEF 50	5.40 L/S	116.87%	5.31 L/S	114.90%	-0.09 L/S	-1.69%	4.62 L/S
FEF 75	1.37 L/S	74.79%	1.51 L/S	82.30%	0.14 L/S	10.03%	1.83 L/S
FF .2-1.2	5.82 L/S	79.61%	8.48 L/S	116.03%	2.66 L/S	45.75%	7.31 L/S



000412

THOMPSON 032191

Lung and Chest Medical Associates
Multi Spiro B

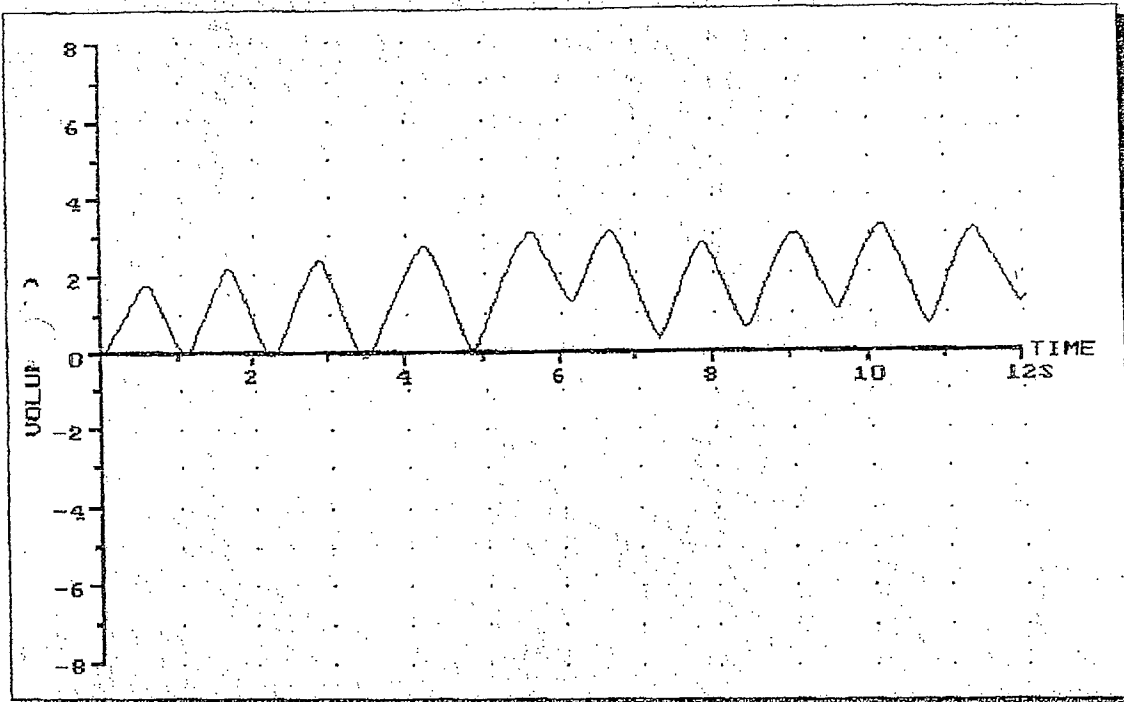
ID: 77168 Casey, William
Ethnic: CAUCASIAN Height: 68.0 in. Sex: MALE Weight: 171.0 lb
A 45 Maximal Voluntary Ventilation Wed Jul 14, 2004

Page 1

E	Test Date and Time	Exp. Time	Normals
Current:	Wed Jul 14, 2004 10:34:08 am	12.0 secs	KNUDSON/IMTS

Result	Rate	Total
Breaths	48.25 B/M	9.65 Breaths
MVV	117.79 L/M	4.74 L

Predicted MVV = 153.34 L/M
Percent of Predicted = 76.8 %



000411

THOMPSON 032192

Lung and Chest Medical Associates
Multi Spiro B

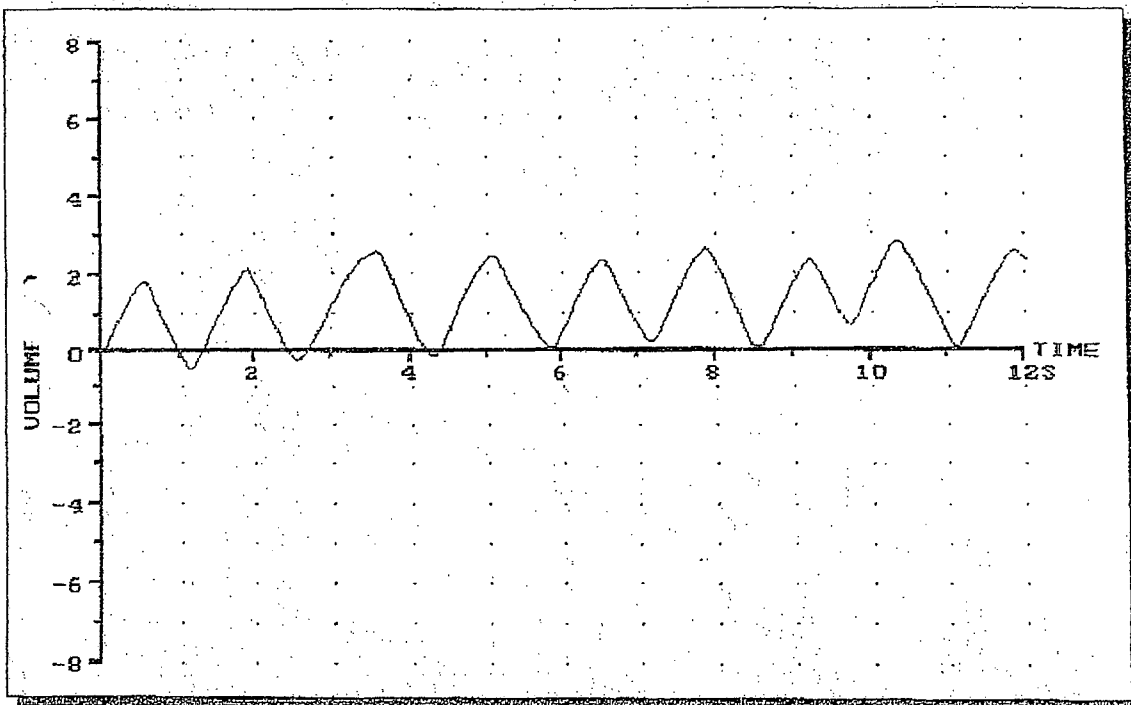
ID: 77168 Casey, William
Ethnicity: CAUCASIAN Height: 68.0 in. Sex: MALE Weight: 171.0 lb
45 Maximal Voluntary Ventilation Wed Jul 14, 2004

Page 1

TYPE	Test Date and Time	Exp. Time	Normals
Current:	Wed Jul 14, 2004 10:46:34 am	12.0 secs	KNUDSON/IMTS

Result	Rate	Total
Breaths	41.53 B/M	8.31 Breaths
MVV	107.47 L/M	4.91 L

Predicted MVV = 153.34 L/M
Percent of Predicted = 70.1 %



000410

THOMPSON 032193

Lung and Chest Medical Associates
MEDICAL HISTORY INFORMATION SHEET

CHART# 77168

DATE: July 14, 2004

Patient's Name William Mark Casey

Age 45 Sex M

How did you hear about us? _____

Who referred you to our office? _____

Who is your family doctor? Dr. Frank Gonda

I. Present Illness

1. What Health Problem has brought you to our office? not happy with current care provided - post operation for chest pain
2. How long have you had this problem? month Anxious have not
3. Does anything you do make the problem better or worse? exertion Sleeping
4. Have you lost weight recently? NO How much? _____ Were you trying to lose? ✓

II. Medicines and Inhalers (MD See Blue Sheet)

1. Patient, bring all your medicines with you when you come to our office (include any inhalers and over-the-counter medicines)
2. Are you ALLERGIC to any medications or food? NO Please list: Fatigue
Michelle
evening shift
very physical job
3. Check the space and enter date last received: PPD _____ Date _____, Tetnus _____ Date _____
Pneumonia vaccine _____ Date _____, Flu vaccine _____ Date _____
should be 1 yr

III. Lung History

1. Are you a smoker? NO How many packs per day? _____ How many years _____
2. If you have quit smoking, how many years did you smoke? 12 How many packs per day? _____
How long ago did you quit? 3 weeks
3. Do you have a chronic cough? NO How long? _____ Do you cough anything up? NO
If so what color? _____
4. Have you ever coughed up blood? NO
5. Do you get short of breath if you walk or climb steps? NO
6. Are you short of breath while you are resting? NO
7. Do you ever notice yourself wheezing? _____ What seems to make the wheezing worse? _____
8. Do you wake up tired? yes
9. Do you snore? yes
10. Do you have night sweats? sometimes Fevers? _____
11. When was your last chest x-ray? JUNE Where? Dr. Feldman
12. Potential Exposures:
 - a. Does anyone else in your home smoke? NO
 - b. Have you ever had a skin test for TB (tuberculosis)? NO When? _____
 - c. What were the results of the skin test, if you know? _____
 - d. Have you ever been exposed to TB? _____ When? _____

LC111 - 12-23-03

000409

THOMPSON 032194

- e. If you have been exposed to TB, have you had a skin test since then? _____
- f. Do you have indoor pets? _____ What kind? _____
- g. Have you been, or are you exposed to dust or fumes? _____ What kinds? _____
- h. Have you traveled out of the upstate area? _____

IV. Work History

1. What type of work do you do? production - 8 & 12 hr shifts (swing)
2. Have you done other types of work? yes Please list: paint shop - restaurant
3. Have you ever served in the military? no Where? _____

V. Past Medical History (Hospitalizations)

Have you ever been admitted to a hospital for an operation or illness? (Use Back of Page if necessary)

<u>Name of Hospital</u>	<u>When</u>	<u>Reason</u>
<u>MARY BLACK</u>	<u>1994?</u>	<u>hemorrhoid surgery</u>
<u>Regional</u>	<u>2000</u>	<u>chest pain</u>

VI. Family History (Use back of page if necessary)

1. Mother's Age? _____ Living? _____ Or died of _____
2. Father's Age? _____ Living? _____ Or died of Heart attack
3. Brother or Sister's Age? 44 Living? _____ Or died of Cancer
4. Brother or Sister's Age? 47 Living? ☒ Or died of _____
5. Brother or Sister's Age? 42 Living? ☒ Or died of _____

VII. Social History

1. Are you married? No Widowed? _____ Single? _____ Divorced? ☒
2. What was the highest grade you finished in school? 1 yr college
3. Do you drink alcoholic beverages (beer, wine, liquor)? yes How much? recreational
4. Have you ever used cocaine, marijuana or other street drugs? No How long has it been since you last used? _____
5. Have you ever received a blood transfusion? _____ When? _____
6. Do you have any hobbies (raising pigeons, woodwork shop, etc)? golf

VIII. Review of Systems

1. Do you wear glasses? yes
2. Do you have trouble hearing? no
3. Do you wear dentures? no
4. Do you have chest pain if you are just resting? _____ walking? _____ climbing steps? _____
5. What area of your chest hurts? _____
6. Have you ever been treated for heart trouble? _____
7. Have you ever been treated for high blood pressure? no
8. Do you have diabetes? no
9. Do you have a problem with nausea? _____ Vomiting? _____ Diarrhea? _____
Constipation? _____ Heartburn? _____
10. Have you ever vomited bright red blood? no

11. Have you ever had rectal bleeding? yes When? 10 yrs Ago
12. Have you ever has a "stomach x-ray"? _____ When? _____
13. Have you ever had a change in your appetite? NO More? _____ Less? _____
14. Have you ever had stomach ulcers? NO
15. Do you have any pain when you urinate? NO
16. Female patients: When was your last menstrual period? _____ Pap smear? _____
Who is your gynecologist? _____
18. Male patients: When was your last prostate exam? Never
Do you have trouble starting your stream when you urinate? NO
How many times do you usually get up at night to urinate? 3 or 4
19. Do you have any numbness or tingling in your arms or legs? NO
20. Do you ever have swelling in your feet or legs? yes - Feet sometimes

PLEASE COMPLETE THE FOLLOWING INFORMATION REGARDING PAST OR PRESENT CONDITIONS: Have you ever had or presently have any of the following:

MEDICAL CONDITION	NO	YES	WHEN DID YOU HAVE THIS	WHAT TREATMENT ARE YOU RECEIVING
ATHRITIS		☒	<u>current</u>	<u>Bextra</u>
ASTHMA	☒			
BLADDER INFECTION	☒			
BLOOD CLOTS IN LEGS	☒			
BLOOD CLOTS IN LUNGS	☒			
CANCER	☒			
CATARACTS	☒			
CHOLESTEROL (HIGH)		☒	<u>current</u>	<u>Lipitor</u>
CIRRHOSIS OF LIVER	☒			
COLON PROBLEMS	☒			
EMPHYSEMA	☒			
GLAUCOMA	☒			
HAY FEVER	☒			
HEPATITIS (YELLOW JAUNDICE)	☒			
KIDNEY FAILURE	☒			
KIDNEY STONES	☒			
PHLEBITIS	☒			
PNEUMONIA	☒			
PROSTATE PROBLEMS	☒			
RHEUMATIC FEVER	☒			
SEIZURES	☒			
SHINGLES	☒			
SINUS INFECTION	☒			
SKIN DISEASE	☒			
STROKE	☒			

Is there anything else you feel that the doctor needs to be aware of? (Use back of this page if necessary).

Have disc problems + arthritis in lower back

LC111 - 12-23-03

000407

THOMPSON 032196

Lung and Chest Medical Associates

Authorization of Use and Disclosure of Protected Health Information

(Page 1 of 2)

Appointment Reminders. Lung and Chest Medical Associates, Dr. Charles M. Fogarty, Dr. Wilson P. Smith, Dr. Mary Lou Applebaum, Dr. E. Bert Knight, Dr. J. Douglas Clark and/or Dr. Rico V. I. Mendoza may use your information to remind you about upcoming appointments. Typically, appointment reminders are made by a brief phone call, or non-specific message may be left on your answering machine. We may also use "appointment cards" to remind you about upcoming appointments. If you don't approve of these methods and would like alternative reminder methods (i.e. mail or e-mail) please indicate those methods in the space provided (samples of appointment reminders are available upon request):

How would you like to be contacted regarding appointments, treatment and/or other information pertinent to your healthcare and/or payment for your healthcare provided at Lung and Chest Medical Associates (Check all that apply)

☒ Regular Mail ☒ Home Telephone # 864 426-9131 ☒ Work Telephone # 864 680-5929
☐ Appointment Cards ☐ Email

Other: _____

If you have an answering machine, may we leave messages regarding appointments, treatment and/or other information pertinent to your healthcare and/or payment for your healthcare provided at Lung and Chest Medical Associates? (Check one)

☒ YES ☐ NO ☐ No Answering Machine Available

If "NO", how else may we contact you regarding this information?

- Are you interested in being made aware of the opportunity to participate in a research study that may apply to your case? ☒ Yes ☐ No
- Do you give your permission for your medical chart to be reviewed for consideration in research studies that apply to your case? ☒ Yes ☐ No
- Do you give your permission for your chart to be reviewed by staff from Spartanburg Pharmaceutical Research, Dr. Charles M. Fogarty, for consideration in research studies that apply to your case? ☒ Yes ☐ No

10/03

000406

THOMPSON 032197

Lung and Chest Medical Associates

Authorization of Use and Disclosure of Protected Health Information

(Page 2 of 2)

Persons Authorized to Receive Information:

Health information Lung and Chest Medical Associates collects or receives about you may be disclosed to the following persons:

680-9648 476-5222
Name of Relatives Carol Lynne Casey (sister) Gregg Casey (brother)
Name of Physicians Dr. Frank Garcia
Name of Pharmacy CVS Other _____

Use and Disclosure of Information:

☒ I authorize the person(s) listed above to receive all health information about appointments, treatment and/or other information pertinent to my healthcare and/or payment for my healthcare provided at Lung and Chest Medical Associates

☐ I do not authorize the following information to be disclosed to any other parties except to me as the patient (Please specify): _____

Other Uses and Disclosures. Disclosure of your health information or its use for any purpose other than those listed in the "Notice of Privacy Policies and Practices" brochure and / or consent require your specific written authorization. If you change your mind after authorizing a use or disclosure of your information you may submit a written revocation of the authorization. However, your decision to revoke the authorization will not affect or undo any use or disclosure of information that occurred before you notified us of your decision. You have the right to request restrictions on use and disclosure of your health information.

☐ I would like the following restrictions regarding the use and disclosure of my health information: _____

Expiration Date of Authorization

This authorization is effective through unlimited unless revoked or terminated by the patient or patient's personal representative. You should contact the **PRIVACY OFFICER** or other authorized representative to terminate this authorization.

Potential for Re-disclosure

The person or organization to which health information is sent may repeatedly disclose health information that is identified by this authorization. The privacy of this information may not be protected under the federal privacy regulations.

Signature William Mark Casey July 14 2004 William Mark Casey
Signature of Patient Date Name of Patient (Print or Type)

Signature of Patient Representative _____ Date _____ Relationship to Patient _____

10/03

000405

THOMPSON 032198

LUNG AND CHEST MEDICAL ASSOCIATES

Dr. Charles M. Fogarty, Dr. Wilson P. Smith, Jr., Dr. Mary Lou Applebaum, Dr. E. Bert Knight, III, Dr. J. Douglas Clark, Dr. Rica Mendoza

ACKNOWLEDGMENT OF RECEIPT OF
NOTICE OF PRIVACY PRACTICES

I have received a copy of the Notice of Privacy Practices. The Notice describes how my health information may be used or disclosed. I understand that I should read it carefully. I am aware that the Notice may be changed at any time. I may obtain a revised copy of the Notice by calling 864-582-6858, on Lung and Chest's website at lungandchest.com, or by requesting one at the Lung and Chest offices.

July 14, 2004
(Date)

William Mark Casey
(Signature*)
William Mark Casey
(Print or Type Name)

As the representative of the above individual, I acknowledge receipt of the Notice on his or her behalf.

Carole Lynne Casey
(Signature)

Sister
(Relationship)

July 14, 2004
(Date)

The patient _____ was provided with a Notice and Written Acknowledgment form by _____, who explained that signing the form merely indicates the patient's acknowledgment that he or she received the Notice, but the patient nonetheless refused to sign.

Staff signature

Date

12/11/03

000404

THOMPSON 032199

PATIENT INFORMATION

NAME William Mark Casey CHART # 771684UPS
 Mailing Address 240
 Set Address Woodruff SC 29388
 Date of Birth 1958 Age 45 Sex M Race W Marital Status Divorced
 Social security # [REDACTED] Tel. Home [REDACTED] Business [REDACTED]
 Your Employer/School Michelin Tire Corp Address [REDACTED]
 E-Mail address: MARKMARKKC@aol.com

Spouse's/Parent's Name [REDACTED] Spouse's/Parent's Employer [REDACTED]
 Are you, the patient, covered by spouse's/ parent's insurance? [REDACTED] Spouse's/Parent's Date of Birth [REDACTED]
 If yes, spouse's/parent's Social Security # [REDACTED]

Family Physician Dr. Frank Gonda
 Referring Physician (if different) [REDACTED]
 Emergency Contact Carolanne Casey

(Relationship) Sister (Phone) 864 650-7928



WILLIAM M CASEY
 ID: MIH251022977 ROUTINE \$20
 OV 20/35

In South Carolina 1-800-327-3238 PREADMISSION REVIEW REQUIRED Outside South Carolina 1-800-334-7287

LONG TERM INSURANCE AUTHORIZATION

I request payment of authorized benefits be made on my behalf to Charles M. Fogarty, MD, PA, Wilson P. Smith, MD, PA, E. Bert Knight, MD, PC, Mary Lou Applebaum, MD, PC, J. Douglas Clark, MD, PC and/or Rico Vicente L. Mendoza, MD, PA for any healthcare services rendered to me by that physician. I authorize any holder of medical information about me to release to Health Care Financing Administration and/or my other insurance companies any information needed to determine benefits payable. I understand I am responsible for any amounts approved but not covered by my insurance.

William Mark Casey
 (Patient's Signature)
July 14, 2004

Provident: This plan requires preadmission review for all hospital inpatient admissions. Report emergency admissions within 24 hours. Benefits for elective admissions may be reduced unless preadmission review is obtained. See telephone numbers on the form of this card.
 Members and Providers for on-line service 800 460 My Insurance Manager at www.SouthCarolinaBlues.com.
 Mental Health/Substance Abuse precertification and claims contest: CompPay at 1-800-537-5221
 Personnel Service Center (PSC) 1-877-425-7768
 BC/BS SC Customer Service at 1-888-775-2660
 First Advisor Nurse Line: 1-888-521-2583 (anytime)
 Members: For information regarding PPC Network Providers call 1-800-810-2553 (anytime)
 Hospital/Physician: Submit all claims to your local plan following standard procedure.
 Employee submitted claims, including dental, should be filed for BlueCross and BlueShield Piedmont Service Center, P.O. Box 5500 Greenville, SC 29616-0000.
 Plan (or Licensee Controlled Affiliate) provides administrative claims services only and does not assume any financial risk or obligation with respect to claims.
 Blue Cross and Blue Shield of South Carolina
 An independent licensee of the Blue Cross and Blue Shield Association

CASEY, WILLIAM MARK
 240 LIGHTWOOD FARM RD
 WOODRUFF SC 293887600

DL# [REDACTED]
 Expires: [REDACTED]

Class: D Hgt 5'00 Wgt 165
 Sex: M DOB: [REDACTED]
 Issued: 10-15-2003 42079 R 4



William Mark Casey
 Restrictions A

NEW PATIENT APPOINTMENTS
LUNG AND CHEST MEDICAL ASSOCIATES
2030 NORTH CHURCH PLACE
SPARTANBURG SC 29303

CMF RVM JDC
WPS MLA EBK

APPT DATE

7/14

APPT TIME

10

DATE July 7, 2004

PT NAME William M. Casper

DOB: [REDACTED] 158 SS# 0

REFERRING DOCTOR SOB

CONTACT 0 PH#

HOME # 860-9131 WK#

MAILING ADDRESS

REASON FOR VISIT Chest pain (not cardiac)

Went to ER - Felman, SC - wants to see
FAMILY PHYSICIAN

INSURANCE BCBS REFERRAL Y N

MEDICAL RECORDS

CHEST XRAY OR CT SCANS

COMMENTS:

QUESTIONNAIRE MAILED (A) BY

FO LOGGED BY

000402

THOMPSON 032201



Lung and Chest Medical Associates

Charles M. Fogarty, M.D.
J. Douglas Clark, M.D.
Rico V. I. Mendoza, M.D.
J.R. Elm, F.N.P.

Wilson P. Smith, Jr., M.D.
E. Bert Knight, III, M.D.
Mary Lou Applebaum, M.D.
Beth V. Edwards, PA-C
Cindy Edwards, F.N.P.

Fax: (864) 585 - 2102

Fax: (864) 582-3750

Patient Authorization to Release Medical Information

I hereby authorize employees, Medical Staff Members or other agents of (name of organization)

Upstate Lung & Critical Care and Spartanburg Regional
to use or disclose the following information about me:

For the following purposes:

☒ At the request of the undersigned individual
Other (describe):

The health information described above may be used or released to:

Lung & Chest Medical fax to 542-9043

This Authorization expires:

☒ On the following date: 12/31/2009 unless otherwise revoked by the patient, which is their right.

☐ When the following event occurs:

☐ No expiration (permitted only for authorizations used to create or maintain research databases or repositories)

I understand the information disclosed by this authorization may be subject to re-disclosure by the recipient and will no longer be protected by the Health Insurance Portability and Accountability act of 1996. The facility, its employees, officers and physicians are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized herein.

William Mark Casey X 10-22-2004 X 11-03-1958 X 251-02-2977
Patient Signature Date Date of Birth Social Security Number

William Mark Casey
Patient printed name

Maria J. Kimbrell
Witness Signature

The above individual is unable to consent because:

☐ Minor

☐ Incompetent

☐ Other (explain):

I therefore consent on behalf of the individual named above.

Signature

Relationship

Witness Signature

Date

Upstate Lung

Spartanburg Regional

H&P, last office notes,
any diagnostics

ER, Admission, Discharge,
Diagnostic Info, Bronch Report,
Cytology

6-4-04 2030 North Church Place, Spartanburg, South Carolina 29303 (864) 582-6858

Pulmonary Medicine

Critical Care

Bronchoscopy

Asthma Therapy

Sleep Disorders

000401

THOMPSON 032202

TRANSMISSION VERIFICATION REPORT

TIME : 10/22/2004 13:32
NAME : LUNG&CHEST MEDICAL
FAX : 8645823750
TEL : 8645826858
SER.# : BROJ2N537248

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

10/22 13:32
5736323
00:00:21
01
OK
STANDARD
ECM

*Typed Medical Record
release to Dr. Feldman's -
re: William Mark Casey*

*Maria
Kinbrell*

000400

THOMPSON 032203

HP OfficeJet
Personal Printer/Fax/Copier

Fax Log Report

Oct-29-04 02:56 PM

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
srnc med rec	OK	01	Sent	Oct-29	02:56P	00:00:36	0024c2030022

1.3.0 2.8

*Saved medical record
release to SRNC*

re: William Mark Cary

Mona Kinbrell CNA

10/29/04

000399

THOMPSON 032204

Upstate Lung and Critical Care Specialists

NAME William Casey

CHART# 11686

ALLERGIES NKA

ROUTINE MEDICATION LIST:

A black and white photograph of a notebook. The cover is dark and textured, with the word "ALLERGIES" written in large, white, outlined capital letters. The notebook is open, showing a lined page. The page has horizontal ruling lines. The word "ALLERGIES" is also written in cursive on the first line of the page. The notebook is resting on a surface with a grid pattern, possibly a tablecloth.

6.8041 kms

1025744

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UL-108

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THOMPSON 032205

Upstate Lung And Critical Care Specialists, P.C.

Name: Casey William M. Chart# 11686 Date: 8/17/04

Wt _____ Ht _____ B/P _____ H/R _____ RR _____ Temp _____ FiO2 _____

Cough _____ Smoking _____ Present Illness + reason for visit _____
 Sputum _____ Nausea _____ NO SHORE
 Dyspnea _____ Vomiting _____
 Wheeze _____ Diarrhea _____
 Edema _____ Chest Pain _____
 Palpitations _____ Pain _____
 Oriented _____ ETOL _____
 New Allergies _____
 Last Chest X-Ray _____

Physical Exam: ☒ WNL/NEG ☐ ABN/POS

* General Appearance _____
 * Skin/Turgor _____
 * ENT _____
 * Sinus _____
 * Mouth _____
 * Neck _____
 * Heart: Rhythm _____
 Murmurs _____
 Gallop _____
 Tones _____
 * Abdomen _____
 * Chest/Lungs:
 Breath Sounds _____
 Wheezes _____
 Rales _____
 Effort _____
 Symmetry _____
 * Extremities:
 * Mobility: Gait _____
 Reflexes _____
 Aides _____
 * Mental Status _____

LAB ORDER: Spirometry _____ EKG _____ Sinus _____ CBC _____ Glu _____ PT _____ INR _____ O₂Sat Rest _____
 Lung Vol _____ DLCO _____ U/A _____ CKR _____ ABG'S _____ Bud _____ Cre _____ K+ _____ Theo _____

O₂Sat Rest _____

Office Treatment _____

Education _____

Diagnosis _____ Plan _____

Prescriptions

Next Appt _____ Wks _____ Months W/GIF JAB DRE Signature _____ Staff _____

Next Visit: Spiro L/V DLCO PA PAL Sinus Dexa BLDWK _____ Other _____

000397

THOMPSON 032206

Upstate Lung And Critical Care Specialists, P.C.

F

Name: Casey William m Chart# 11686 Date 7-7-04
 Wt 171 Ht 5'8" B/P 144/88 HR 85 RR 18 Temp 98.6 FiO2 0.21
 Cough Some Smoking quit 2 yrs Present illness + reason for visit feels tightness
 Sputum occasional Nausea + in chest. Also at junction of
 Dyspnea exertion Vomiting - chest tube site. Stomach
 Wheeze Some Diarrhea + to sleep on that side. Feels
 Edema feet Chest Pain @ Chest tube site like heart is racing @ times
 Palpitations + Pain -
 Oriented yes ETOL -
 New Allergies -
 Last Chest X-Ray -

Physical Exam:

✓ WNL/NEG

✗ ABN/POS

* General Appearance Feels better
 * Skin/Turgor complan
 * ENT not stringy/crep
 * Sinus -
 * Mouth -
 * Neck -
 * Heart: Rhythm -
 Murmurs -
 Gallop -
 Tones -
 * Abdomen RUQ near 155's
 * Chest/Lungs: ca
 Breath Sounds -
 Wheezes -
 Rales -
 Effort -
 Symmetry -
 * Extremities: -
 * Mobility: Gait -
 Reflexes -
 Aides -
 * Mental Status -

LAB ORDER: Spirometry - EKG - Sinus - CBC - Glu - PT - INR - O2 Sat Rest 98
 Lung Vol - DLCO - U/A - CXR - ABG'S - Bun - Cre - K+ - Theo -
 O2 Sat Rest -
 Office Treatment Referred to Pul Rehab - Home PRN

Education -
 Diagnosis Appt - feels Plan PRN
57P pneumonia/

Prescriptions

Next Appt. - Wka - Months W/GIF - JAB - DRE - Signature - Staff -
 Next Visit: Spiro - L/V - DLCO - PA - PAL - Sinus - Dexa - BLDWK - Other -

000396

THOMPSON 032207

SPIROMETRY REPORT
PB100 SW Rev: J-J

UPSTATE LUNG AND CRITICAL CARE

TEST DATE: 07/07/04
TIME: 15:02

Patient Name: William Cosey

Patient ID: 11686 Age: 45 Height (in): 68 Weight (lbs): 171 Sex: Male Race Correction: No Smoker: Yes
Systolic Pressure (mmHg): 760 Temp (deg F): 70 BTPS Correction: 1.110 Sensor: FS200 Insp Code: None
it Cal Date: 07/07/04

FVC TEST DATA - Clinical Format

Measurement	PreMed	Pred	%Pred
FVC (L)	4.47	4.45	100%
FEV1 (L)	3.61	3.66	99%
%FEV1 (%)	80.76	82.42	98%
FEF25%-75% (L/S)	3.57	3.85	93%
PEF (L/S)	9.98	8.67	115%
FEV3 (L)	4.26	4.24	100%
FET (S)	4.95		

BEST TEST SUMMARY

PostMed %Pred %Change
Knudson 83 Adult Predicted Normals

Has consistent / severe

used yesterday, not

today

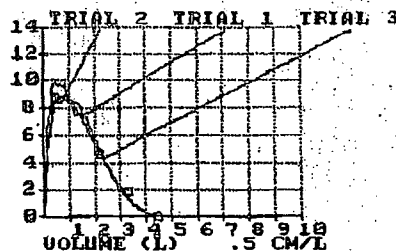
Variability: PreMed: FVC - 0.0%(0ml) FEV1 - 0.3%(10ml) PEF - 10.7%

PREMED

□ = PRED POINT

FLOW (L/S)

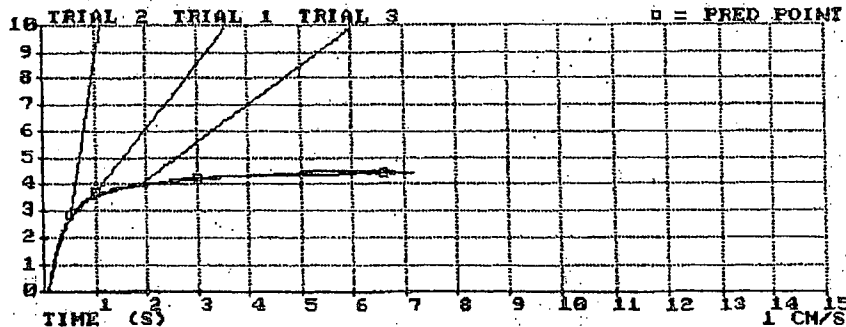
.25 CM/L/S



PREMED

VOLUME (L)

.5 CM/L



Interpretations:

Lung Age: 47 years

PREMED: Testing indicates normal spirometry.

Comments:

000395

THOMPSON 032208

1 of 3 pgs ①

TELEPHONE CALL BACK - UPSTATE LUNG AND CRITICAL CARE SPECIALISTS

DATE 06/25/04 TIME: AM/PM CHART# 11686 BY DF
(caller name/relation) / called RE: William Casey
TELEPHONE# PT PHONE#
DATE OF LAST VISIT NEXT APPT DATE DOB 58

#1: NEED DRUG REFILL (For patient doing well and no reason not to refill)

Drug Name: Strength: Freq:
Name of Pharmacy: Pharmacy Telephone#
Drug Called in: / am/pm BY
(Staff) (Doctor)

#2: PATIENT COMPLAINT

Pt and sister here this visit. Pt came back for a return follow-up visit. Patient's sister started asking questions to Dr. Boscia re: the rigid Bronch. Sister (Carol Casey) wanted to know "Why the urgency of doing a bronch". Explained to patient that something was seen on the x-ray but he was unable to see it w/ the fibroptic-branch but something was there.

Nursing Interventions/Advice Pt stated he did not have a psm with what Dr. Boscia had done. He reports he came to the hospital with pain in his chest re: psm continues. Pt reported that all he wanted was something that

Call 911 JUN 28 2004 Go to ER Appointment given in office
Referral(s) Instructions Accepted Yes No
(Date/Time) By: Dr. Jodi Boscia (Doctor)

000394

THOMPSON 032209

(9)

TELEPHONE CALL BACK - UPSTATE LUNG AND CRITICAL CARE SPECIALISTS

DATE ____ / ____ / ____ TIME: ____ AM/PM CHART# ____ BY ____

(caller name/relation) / ____ called RE: ____

TELEPHONE# ____ PT PHONE# ____

DATE OF LAST VISIT ____ NEXT APPT DATE ____ DOB ____

#1: NEED DRUG REFILL (For patient doing well and no reason not to refill)

Drug Name: ____ Strength: ____ Freq: ____

Name of Pharmacy: ____ Pharmacy Telephone# ____

Drug Called In: ____ / ____ am/pm BY ____
(Staff) (Doctor)

#2: PATIENT COMPLAINT

would stop him from pacing All the time and be able to sleep at night. He reported that he has to take the Zanaflex prn just to sleep but he did not want to just be put to sleep he just wanted to rest and stop pacing. Pt reported he was able to rest sit and watch TV before All Nursing Interventions/Advice this happened & now he just finds himself pacing. Dr. Boscia told patient he was not able to answer all his questions because the procedure he did should not have caused all these pms. Dr. Boscia suggested

Call 911 ____ Go to ER ____ Appointment given in office ____

Referral(s) ____ Instructions Accepted Yes ____ No ____

(Date/Time)

(Staff)

Boscia
(Doctor)

000393

THOMPSON 032210

3

TELEPHONE CALL BACK - UPSTATE LUNG AND CRITICAL CARE SPECIALISTS

DATE / / TIME: AM/PM CHART# BY
(caller name/relation) / called RE:

TELEPHONE# PT PHONE#

DATE OF LAST VISIT NEXT APPT DATE DOB

#1: NEED DRUG REFILL (For patient doing well and no reason not to refill)

Drug Name: Strength: Freq:

Name of Pharmacy: Pharmacy Telephone#

Drug Called in: / am/pm BY
(Staff) (Doctor)

#2: PATIENT COMPLAINT

to them that they should talk to his partner who performed the other procedures. Patient's sister quickly said that she ~~did~~ see that they were not going to get any answers here. Encouraged her to make an appointment to see Dr. Feldman next week. She shook her head "no" that she would have "someone" contact Nursing Interventions/Advice us. At ~~no~~ one point during the visit Mr. Casey stated "I don't want no parts of this. I just want to be able to rest & stop pacing." At one point the sister talked about all the expenses of the hospital bill.

Call 911 Go to ER Appointment given in office

Referral(s) Instructions Accepted Yes No

(Date/Time)

(Staff)

(Doctor)

Boscia

000392

THOMPSON 032211

Patient was given an Prescription
for Ambien And was Advised
not to take this medication
in conjunction with Cortab
And Zanaflex.

Diann Foster

000391

THOMPSON 032212

5:25:17 William Casey

1. Why such urgency of flexible
bronch?

Bosnia: "Window of opportunity"

- had CT before discharge

- Pt. went to hospital originally for
chest pain

Bosnia: "Pain predates us. He
had the pain before this
procedure."

Pt. Sister: "He is having pain
from this procedure!"

6:25:04 William Casey

Bosnia: "I want to be firm!
Don't take fentanyl, Zantrex & Ambien
together. It will suppress
your respirations!"

William Casey: "The only
question I have for you is
what can you do to help
me stop walking in circles?"

M.D. Signature

JAN 28 2004

For: Miller RTR

000390

THOMPSON 032213

Upstate Lung And Critical Care Specialists, P.C.

(1)

Name: Casey William M. Chart# 11086 Date 6/25/04 ^B

Wt 172 Ht 68 B/P 130/90 H/R 90 RR Temp FiO2 Rn

Cough occ Smoking + Present Illness + reason for visit gets tired easily
 Sputum occ Nausea continues to have same
 Dyspnea Vomiting chest tightness Reports
 Wheeze occ Diarrhea chronic back pain
 Edema Chest Pain continues to have trouble
 Palpitations occ Pain chronic back resting - sister reports
 Oriented yes ETOL Pain he is smoking And he cannot
 New Allergies Pain level 3 sit down because he hurts
 Last Chest X-Ray

Physical Exam: ☒ WNL/NEG ☒ ABN/POS

* General Appearance pt. c/o facem flans
 * Skin/Turgor could not sleeping
 * ENT See notes.
 * Sinus
 * Mouth
 * Neck
 * Heart: Rhythm
 Murmurs
 Gallop
 Tones
 * Abdomen
 * Chest/Lungs: Clear
 Breath Sounds
 Wheezes
 Rales
 Effort
 Symmetry
 * Extremities:
 * Mobility: Gait
 Reflexes
 Aides
 * Mental Status

LAB ORDER: Spigmen EKG Sinus CBC Glu PT INR O₂Sat Rest
 Lung Vol DLCO U/A CXR ABG'S Bun Cre K+ Theo 96%
 O₂Sat Rest

Office Treatment

Education

Diagnosis Chronic Pain Plan pt. c/o Feldman
fractures in 2 weeks
 ambulation sleep

Prescriptions

Next Appt. Wks Months W/GIF IAB DRE Signature Staff
 Next Visit: Spiro L/V DLCO PA PAL Sinus Dexa BLDWK Other

UL-121 Rev 8/03

000389

THOMPSON 032214

②
Pt. told not to take Xanax & Lorazepam
c. Ambien.

R

000388

THOMPSON 032215

DATE 6.22.04 TIME: AM/PM CHART# 11686 BY MEH

 (caller name/relation) 1 called RE: William Carey
 TELEPHONE# _____ PT PHONE# _____
 DATE OF LAST VISIT _____ NEXT APPT DATE _____ DOB _____

Drug Name: _____ Strength: _____ Freq: _____
Name of Pharmacy: _____ Pharmacy Telephone# _____
Drug Called in: _____ / _____ am/pm BY _____
(Staff) / (Doctor)

[illegible]

Miscellaneous Interventions/Additional

IT WAS TOLD TO 4PM
WHO WERE THERE
(150) (over)

JUN 22 2004
 given in office
 R.V.V.
 Accepted Yes No

(Date/Time) 11/11/78 (Staff) Dr. Foster (Doctor) 000239

THOMPSON 032216

Pt. said he was taking Zanaflex
as many as needed to "pass out"
@ night. Pt was warned not to
do that. Zanaflex not given by
this office.

000386

THOMPSON 032217

Upstate Lung And Critical Care Specialists, P.C.

Name: William M. CASEY Chart# 11686 Date 10-11-04

Wt 165 Ht 68" B/P 112/82 H/R 117 RR 18 Temp 100.0° FiO2 RA

Cough + Smoking +
Sputum brown Nausea -
Dyspnea + Vomiting -
Wheeze + Diarrhea -
Edema - Chest Pain -
Palpitations + Pain Chest tube
Oriented + ETOL acc 10/10

Present Illness + reason for visit

excreting all night
coughing up brown phlegm

New Allergies -
Last Chest X-Ray 10/8/04 USLCCS

WENT TO movie 10:00 PM. (2:50)
9:45 - felt nauseated. went to
bed to bed "Purge" took "
"Some Tacky medicine" (Cefep)

Physical Exam:

✓ WNL/NEG ✗ ABN/POS

* General Appearance

* Skin/Turgor

* ENT

* Sinus

* Mouth

* Neck

* Heart: Rhythm

Murmurs

Gallop

Tones

* Abdomen

* Chest/Lungs:

Breath Sounds

Wheezes

Rales

Effort

Symmetry

* Extremities:

* Mobility: Gait

Reflexes

Aides

* Mental Status

LAB ORDER: Spirometry

EKG

Sinus

CBC

Glu

PT

INR

Lung Vol

DLCO

U/A

CXR

ABG'S

Bun

Cr

K+

O₂ Sat Rest

Office Treatment:

Education

Diagnosis

Plan

Prescriptions

Next Appt

2 Wks

Months W/GIF

IAB

DRE

Signature

Staff

Other

Next Visit: Spiro

L/V

DLCO

PA

PAL

Sinus

Dexa

BLDWK

000385

THOMPSON 032218

2
Pt. told me he had talked to
A person of whom he saw then picture
while in my office about his condition.
I told him I wish he had not done
that because we do not speak of
any of our Pro with friends & family.
I would tell me free if he asks that
- did not know you.

Hawkins

000384

THOMPSON 032219

TELEPHONE CALL BACK - UPSTATE LUNG AND CRITICAL CARE SPECIALISTS

DATE 6/11/04 TIME: AM/PM CHART# 11686 BY MEH
(caller name/relation) 1 called RE: William Casey

TELEPHONE# PT PHONE#

DATE OF LAST VISIT NEXT APPT DATE DOB

#1: NEED DRUG REFILL (For patient doing well and no reason not to refill)

Drug Name: Strength: Freq:

Name of Pharmacy: Pharmacy Telephone#

Drug Called in: / am/pm BY
(Staff) (Doctor)

#2: PATIENT COMPLAINT

PT's sister called to report her brother
was in severe pain @ chest tube site.
was taking Percocet 5mg 2-3 @ a time every
4 hrs with no relief. PT has appt.
with Pain Center on 6/17/04 if not
sooner. Dr. Boscia ordered oxycodone 20mg
T BID only amount until Pain Center
Nursing Interventions/Advice could see (Rx written by
13 pills) T talked with sister in front of
Diana Foster RN of Charge if PT can't to
take pain med he had with oxycodone.
Sister told nurse she would remove

Call 911 Go to ER Appointment given in office

Referral(s) Instructions Accepted Yes No

(Date/Time)

(Staff)

(Doctor)

000383

THOMPSON 032220

H2

TELEPHONE CALL BACK - UPSTATE LUNG AND CRITICAL CARE SPECIALISTS

DATE 6/11/04 TIME: AM/PM CHART# BY MEH

(caller name/relation) called RE: William Casey

TELEPHONE# PT PHONE#

DATE OF LAST VISIT NEXT APPT DATE DOB

#1: NEED DRUG REFILL (For patient doing well and no reason not to refill)

Drug Name: Strength: Freq:

Name of Pharmacy: Pharmacy Telephone#

Drug Called in: / am/pm BY
(Staff) (Doctor)

#2: PATIENT COMPLAINT

*All pain meds from his home & only
leave with him what he could take
~~get~~ have G.D. Our office will call
to see if Appt with Pain center
can be made*

Nursing Interventions/Advice

Pax was picked up by M.D. Signature
JUN 11 2004

Call 911 Go to ER Appointment given in office

Referral(s) Instructions Accepted Yes No

(Date/Time)

(Staff)

(Doctor)

UL-124

000382

THOMPSON 032221

TELEPHONE CALL BACK - UPSTATE LUNG AND CRITICAL CARE SPECIALISTS

DATE 6/8/04 TIME: AM/PM CHART# 11680 BY MEH

(caller name/relation) called RE:

TELEPHONE# PT PHONE#

DATE OF LAST VISIT NEXT APPT DATE DOB

#1: NEED DRUG REFILL (For patient doing well and no reason not to refill)

Drug Name: Strength: Freq:

Name of Pharmacy: Pharmacy Telephone#

Drug Called in: / am/pm BY
(Staff) (Doctor)

#2: PATIENT COMPLAINT

UPSTATE LUNG AND CRITICAL CARE SPECIALISTS, P.C. 1091 BOILING SPRINGS ROAD SPARTANBURG, SC 29303 TELEPHONE (864) 573-6329 ☒ Gregory J. Feldman, MD 15835		1419 N. LIMESTONE ST. GAFFNEY, SC 29340 TELEPHONE (864) 467-9931 ☐ Joseph A. Boschi III, MD 22330		☐ David R. Erb, MD E53599	
NAME <u>William Carey</u>		DATE <u>6/8/04</u>			
ADDRESS <u> </u>					
LABEL DRUG NAME, STRENGTH & QUANTITY ☐ YES ☐ NO					
Nursing Int	1	Rx <u>A. will be out</u>	STRENGTH	QUANTITY	REFILL
		SIG <u>work for</u>			
		<u>100 mg 10 weeks</u>			
	2	Rx <u>until further</u>	STRENGTH	QUANTITY	REFILL
		SIG <u>evaluation</u>			
		<u>next 10/10/04</u>			
3	Rx <u>HUG. 17, 04 @ 10:30</u>	STRENGTH	QUANTITY	REFILL	
	SIG <u>10/10/04</u>				
M.D. <u>M.D. Slomkowski</u> Dispense as Written DEA <u> </u> UL-105					

Call 911 Go to ER Appointment given in office

Referral(s) Instructions Accepted Yes No

(Date/Time)

(Staff)

(Doctor)

000381

THOMPSON 032222

Upstate Lung And Critical Care Specialists, P.C.

Name: Casery, William Chart# 11686 Date 6/8/84

Wt 168 Ht 5'8" B/P 154/92 H/R 82 RR Temp FIO2

Cough + Smoking + Present illness + reason for visit HEU
 Sputum 0 Nausea 0
 Dyspnea 0 Vomiting 0 NO nonproductive coughing
 Wheeze little Diarrhea 0 little wheezing, some chest
 Edema 0 Chest Pain 0 pain + back pain
 Palpitations 0 Pain back
 Oriented + ETOL
 New Allergies 0
 Last Chest X-Ray OK 0-10 0 Patient has been instructed on the DANGERS of Smoking and the importance of Stopping.

Physical Exam: ✓ WNL/NEG ✗ ABN/POS Dated: 6/8/84 KMS

* General Appearance
 * Skin/Turgor Presumably
 * ENT
 * Sinus D - is now normal
 * Mouth
 * Neck
 * Heart: Rhythm
 Murmurs
 Gallop
 Tones
 * Abdomen Disability
 * Chest/Lungs: back pain
 Breath Sounds
 Wheezes for
 Rales
 Effort
 Symmetry - Could you
 * Extremities:
 * Mobility: Gait dry
 Reflexes
 Aides Presumably to see
 * Mental Status

LAB ORDER: Spirometry EKG Sinus CBC Glu PT INR O2 Sat Rest
 Lung Vol DLCO U/A CXR ABG'S Bun Cre K+ Theo 941
 O2 Sat Rest

Office Treatment

Education must quit smoking no work + green

Diagnosis Referred to Dr. [unclear] Next appt. 8/1/84

Presumably Presumably
Back pain Admission
Disability controlled

Prescriptions
 Text Appl. Wks Months W/GTF JAB DRE Signature Staff K. [unclear]
 Text Visit: Spiro LV DLCO PA PAL Sinus Dexa BLDWK Other

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THOMPSON 032223

UPSTATE LUNG AND CRITICAL CARE SPECIALISTS

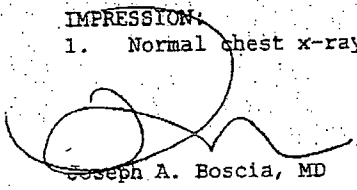
PATIENT NAME: William Casey
ACCOUNT #:
DATE:
JOB #: 199

CHEST X-RAY:

FINDINGS: PA and lateral of the chest were obtained today.
The heart, lungs, and bony structures are normal.

IMPRESSION:

1. Normal chest x-ray.



Joseph A. Boscia, MD

JAB:umt01
D: 06/11/04
R: 06/14/04
T: 06/15/04

000379 /

THOMPSON 032224



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Comprehensive Evaluation
and Medical Management

Diagnostic and
Therapeutic Injections

Implantable Pain
Control Systems

Neuroablative
Procedures

Dr. Feldman wants Appt ASAP (this week)

NEW PATIENT REFERRAL FORM

Patient Name: William Casey
D.O.B.: 1958 SS#: [REDACTED]
Address: _____
City: Woodruff State: SC Zip: 29388
Home Phone #: 486-9131 Alt. Phone #: Carol Casey 680-9648
Sister

Reason for referral: ☐ Consult Only
☒ Consult & TX
☐ Injection Only: _____ (type)
☐ Others: _____ (type)

Diagnosis: Bulging Disk Disabling pain
MRI of Back @ MCH

Insurance: BCBS (please send a copy of the card)

IS THIS A WORKMAN'S COMPENSATION INJURY? ☐ YES ☐ NO

IF YES: Carrier Information: _____

Adjuster/Case Manager: _____ Phone: _____

Referring Physician: Gregory Feldman

Office Address: 1091 Bolling Springs Rd

Office Phone#: 573-6370 Fax: 573-6323

Contact Person/Extension: Natalie Smith

PLEASE FAX MEDICAL RECORDS TO (864) 583-0390 WITH THIS REFERRAL FORM. APPOINTMENTS CANNOT BE MADE UNTIL BOTH ARE RECEIVED!

THE FOLLOWING PATIENT HAS AN APPOINTMENT WITH DR. _____

ON _____ AT _____, Scheduled by: _____

Carolinus Center for Advanced Management of Pain

68 McDowell Street
Asheville, NC 28801
828-232-1955

64 Bear Drive
Greenville, SC 29605
864-295-6399

279 East Kennedy Street
Spartanburg, SC 29302
864-583-0053

000378

THOMPSON 032225

Upstate Lung and Critical Care Specialists
HEALTH HISTORY
 (Confidential)

Name Wm Mark Casey Today's Date June 8, 2004
 Age 45 Birthdate 58 Sex M Date of last physical examination May 4, 2004
 Who is your primary/referring physician? Dr. Frank Gonda
 What is the reason for the visit? follow up w/ Dr. Feldman

SYMPTOMS: Check (✓) symptoms you currently have or have had in the past year.

GENERAL

- ☐ Chills
- ☐ Depression
- ☐ Dizziness
- ☐ Fainting
- ☐ Fever
- ☐ Forgetfulness
- ☐ Headache
- ☐ Loss of sleep
- ☐ Loss of weight
- ☐ Nervousness
- ☐ Numbness
- ☐ Sweats

MUSCLE/JOINT/BONE

Pain, weakness, numbness in:

- ☐ Arms ☐ Hips
- ☐ Back ☐ Legs
- ☐ Feet ☐ Neck
- ☐ Hands ☐ Shoulders

GENITO-URINARY

- ☐ Blood in urine
- ☐ Frequent urination
- ☐ Lack of bladder control
- ☐ Painful urination

RESPIRATORY

- ☐ Short of breath ☐ Cough
- ☐ Cough up blood ☐ Wheeze
- ☐ Loud snoring ☐ Excessive sleepiness

GASTROINTESTINAL

- ☐ Appetite poor
- ☐ Bloating
- ☐ Bowel changes
- ☐ Constipation
- ☐ Diarrhea
- ☐ Excessive hunger
- ☐ Excessive thirst
- ☐ Gas
- ☐ Hemorrhoids
- ☐ Acid Indigestion
- ☐ Nausea
- ☐ Rectal bleeding
- ☐ Stomach pain
- ☐ Vomiting

CARDIOVASCULAR

- ☒ Chest pain
- ☐ High blood pressure
- ☐ Irregular heart beat
- ☐ Low blood pressure
- ☐ Poor circulation
- ☐ Rapid heart beat
- ☐ Swelling of ankles
- ☐ Varicose veins
- ☐ Blood clots

EYE, EAR, NOSE, THROAT

- ☐ Bleeding gums
- ☐ Blurred vision
- ☐ Crossed eyes
- ☐ Difficulty swallowing
- ☐ Double Vision
- ☐ Earache
- ☐ Ear discharge
- ☐ Hay fever
- ☐ Hoarseness
- ☐ Loss of Hearing
- ☐ Nosebleeds
- ☐ Ringing in ears
- ☐ Sinus problems
- ☐ Vision-Flashes
- ☐ Vision-Halos

SKIN

- ☐ Bruise easily
- ☐ Hives
- ☐ Itching
- ☐ Change in moles
- ☐ Rash
- ☐ Scars
- ☐ Sore that won't heal

MEN ONLY

- ☐ Breast lump
- ☐ Erection difficulties
- ☐ Lump in testicles
- ☐ Penis discharge
- ☐ Sore on penis
- ☐ Prostate difficulties
- ☐ Other

WOMEN ONLY

- ☐ Abnormal Pap Smear
- ☐ Bleeding between periods
- ☐ Breast lump
- ☐ Extreme menstrual pain
- ☐ Hot flashes
- ☐ Nipple discharge
- ☐ Vaginal discharge
- ☐ Other

Date of last menstrual period _____
 Date of last Pap smear _____
 Have you had a mammogram? _____
 Date of mammogram _____
 Are you pregnant? _____
 Number of children _____

CONDITIONS: Check (✓) symptoms you have or have had in the past.

AIDS

- ☐ Alcoholism
- ☐ Anemia
- ☐ Anorexia
- ☐ Appendicitis
- ☐ Arthritis
- ☐ Asthma
- ☐ Bleeding Disorders
- ☐ Breast Lump
- ☐ Bronchitis
- ☐ Bulimia
- ☐ Cancer
- ☐ Cataracts

Chemical Dependency

- ☐ Chicken Pox
- ☐ Diabetes
- ☐ Emphysema
- ☐ Epilepsy
- ☐ Glaucoma
- ☐ Goiter
- ☐ Gonorrhea
- ☐ Gout
- ☐ Heart Disease
- ☐ Hepatitis
- ☐ Hernia
- ☐ Herpes

High Cholesterol

- ☐ HIV Positive
- ☐ Kidney Disease
- ☐ Liver Disease
- ☐ Measles
- ☐ Migraine Headaches
- ☐ Miscarriage
- ☐ Mononucleosis
- ☐ Multiple Sclerosis
- ☐ Mumps
- ☐ Pacemaker
- ☐ Pneumonia
- ☐ Polio

Prostate Problem

- ☐ Psychiatric Care
- ☐ Rheumatic Fever
- ☐ Scarlet Fever
- ☐ Stroke
- ☐ Suicide Attempt
- ☐ Thyroid Problems
- ☐ Tonsillitis
- ☐ Tuberculosis
- ☐ Typhoid Fever
- ☐ Ulcers
- ☐ Vaginal Infections
- ☐ Venereal Disease

000377

THOMPSON 032226

MEDICATIONS: List medications you are currently taking including inhalers and over the counter medicines.

PLEASE BRING WITH YOU

Name	Strength	Times Per Day	Name	Strength	Times Per Day
Baytra	80 mg	1			
Ultram	50 mg	2x4			
Zantac		1			
Loxib	10	1x2			

ALLERGIES

To indicate an allergy

PHARMACY NAME: CVS **Address:** Roadville Rd **PHONE:** _____

HOSPITALIZATION

YEAR	HOSPITAL	REASON for HOSPITALIZATION and OUTCOME
2000	Chest Pain	
1996	Thrombocytoid Surgery	

Have you ever had a blood transfusion? ☐ Yes ☒ No
If yes, please give approximate dates: _____

PHYSICIANS THAT YOU ROUTINELY VISIT:

NAME	ADDRESS	PHONE NUMBER
Dr. Frank Gonda	Bolton Springs	

PULMONARY HISTORY

Are you a smoker? ☐ No ☒ Yes If yes, how many packs? less than 1/2 pack How many years? 25 If you have quit, how many years did you smoke? _____ Packs per day? _____ How long did you quit? _____
Does anyone else in your home smoke? ☒ No ☐ Yes

Do you have a chronic cough? ☒ No ☐ Yes If yes, how long have you had it? _____ Did you cough anything up?
☐ No ☐ Yes What color are you coughing up? Have you ever coughed up blood? ☐ No ☐ Yes If yes, when? _____

Do you get short of breath if you walk or climb steps? ☒ No ☐ Yes At rest? ☐ No ☐ Yes At other times? ☐ No ☐ Yes
If yes, when? _____

Do you ever notice yourself wheezing? ☐ No ☐ Yes If yes, what make the wheezing worse? _____

When was your last Chest X-ray? 6-6-04 Where? Spartanburg Regional

Have you ever had a skin test for TB (Tuberculosis) ☐ No ☐ Yes If yes, When? _____

Have you ever been exposed to TB ☐ No ☐ Yes If yes, When? 110 Have you had skin test since being exposed? ☐ No ☐ Yes If yes, what kind? _____

Do you have indoor pets? ☐ No ☒ Yes If yes, what kind? LOBBER spaniel

Have you been or are you exposed to dust or fumes ☐ No ☒ Yes If yes, what kinds? Michelin - Haptone

Have you traveled out of the Upstate area? ☐ No ☒ Yes If yes, Where? _____

000376

THOMPSON 032227

SYMPTOMS:	SOCIAL HISTORY	OCCUPATIONAL CONCERNS
Check (\$) which substances you use and how much you use ☒ Caffeine <u>lattes</u> ☐ Street Drugs ☒ Tobacco <u>1 1/2 pack</u> ☒ Alcohol <u>social</u> ☐ Other	☐ Married ☒ Divorced ☐ Widowed ☐ Single ☐ Number of Children <u>2</u> ☐ Hobbies <u>Golf</u>	OCCUPATION: <u>Michael's Tree Building Trees</u> Check (\$) if your work exposes you to: ☐ Stress ☒ Heavy Lifting ☐ Hazardous Substances ☐ Other

FAMILY HISTORY

Parent's living? ☐ Yes ☒ No, ☐ Father's Age/Cause of Death 73 - fatal myocardial infarction
☐ Mother's Age/Cause of Death 72 - pneumonia, grandeur in hosp. - leading to renal + cardiac
 Siblings living? ☒ Yes ☐ No, ☐ Brother's Age/Cause of Death 43 - radiation from pulmonary artery complications
☐ Sister's Age/Cause of Death + bronchial tube infection resulting in rupture + blood
 Any additional Pulmonary family problems?

Immunization History

Flu Vaccine _____
 Pneumonia Vaccine _____

Do you have any other medical concerns that you would like to discuss with your doctor? ☐ Yes ☐ No

Wm Mark Casey
 Signature

6-8-04
 Date

1. Down well - feel rdp
 s/p pneumonia medication
 s/p safer procedure
 (Unable to find foreign
 body -> very abnormal
 findings)
 (Usual)
 C2

000375

THOMPSON 032228



CAROLINAS CENTER For Advanced Management of Pain

Comprehensive Evaluation
and Medical Management

Diagnostic and
Therapeutic Injections

Implantable Pain
Control Systems

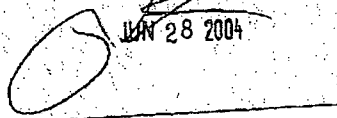
Neuroablative
Procedures

International Spinal Injection Society

Society for Private Practices in Pain Management

American Pain Society

M.D. Signature


JUN 28 2004

June 17, 2004

Gregory J. Feldman, M.D.
1091 Boiling Springs Road
Spartanburg, SC 29303

RE: CASEY, William

Dear Dr. Feldman:

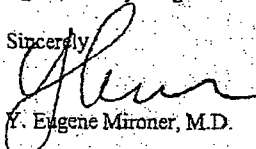
Thank you referring Mr. Casey to our pain clinic. He was seen about three and one-half years ago, after being referred by his family physician, Dr. Gonda. He was diagnosed with mechanical low back pain. I ordered an MRI scan of his lower back, but the patient never returned.

Today, the patient's clinical features have not really changed except for Mr. Casey appearing to be more depressed. He is also having some epigastric pain but on examination, this looks as if it is coming from his chest wall. I think he may benefit from being seen by a gastroenterologist. As far as his low back pain is concerned, it is purely mechanical, and his MRI is practically normal with two slightly bulging disks that are obviously not his source of pain. He received an epidural steroid injection by a radiologist at Mary Black, which did not help. Firstly, according to the picture that I have seen, they never got the needle into the epidural space and, secondly, the patient did not have pain that can be alleviated with an epidural steroid injection. I discussed treatment options with Mr. Casey, and, again, I think he would benefit from diagnostic and, hopefully, therapeutic lumbosacral joint injections. If this would provide relief for only a short period of time, then we would set him up for specific therapy for his pain.

Also, I believe Mr. Casey would benefit from seeing a psychologist or psychiatrist to treat his anxiety and depression. At this point, however, we will not address this issue.

Again, thank you again for allowing me to participate in the consultation and treatment of this patient.

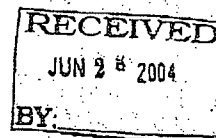
Sincerely,


E. Eugene Mironer, M.D.

YEM/ss/mds

cc: Frank E. Gonda, M.D.

(Dictated, not read)



Carolinus Center for Advanced Management of Pain

69 McDowell Street
Asheville, NC 28801
828-772-1055

54 Bear Drive
Greenville, SC 29605
864-295-6399

279 East Kennedy Street
Spartanburg, SC 29302
864-583-0053

000374

THOMPSON 032229

SPARTANBURG REGIONAL HEALTHCARE SYSTEM
SPARTANBURG, SC 29303

CONSULT Page 1 of 2
CASEY, WILLIAM
146220

Note: Document is draft unless signed.
<END FOOTER>

M.D. Signature

JUN 08 2004

CONSULT
PATIENT NAME: CASEY, WILLIAM
DOB: [REDACTED] 1958
MEDICAL RECORD #: 146220
ACCOUNT NUMBER: 414900306
DATE OF SERVICE:
ATTENDING PHYSICIAN: KOSER, ANDRAS
ROOM:

HISTORY OF PRESENT ILLNESS: This 46-year-old smoking male presented to the hospital for chest pain. An initial chest x-ray on admission showed what appears to be a foreign body in the left mainstem bronchus. I am being asked to comment on this. This patient complains of pain in his chest that is sharp that goes directly straight to his back. There is a history of cough. No history of hemoptysis.

PAST MEDICAL HISTORY: includes hypercholesterolemia. No history of hypertension or diabetes.

SOCIAL HISTORY: He has a 25 pack year smoking history. He works at Michelin.

FAMILY HISTORY: is noncontributory.

REVIEW OF SYSTEMS: Includes all mentioned in history of present illness. Also, he has chronic back pain, occasional headaches, occasional constipation. All other review of systems are negative.

PHYSICAL EXAMINATION: He appears well in no acute respiratory distress. Blood pressure is 150/90, pulse is 84. Pupils react to light. The oral mucosa is moist without thrush. Neck is supple. Heart is regular. Lungs are clear bilaterally. Abdominal exam reveal no hepatosplenomegaly. Extremities are without clubbing, cyanosis or edema. Skin is intact with no rashes. Joints are not inflamed. Neurologically, cranial nerves II through XII are intact without focality.

Chest x-rays been reviewed in it does show what appears to be an irregular metallic foreign body in the left mainstem bronchus.

IN SUMMARY: 46-year-old gentleman with what appears to be a foreign body in the left mainstem bronchus. He has consented to fiber-optic bronchoscopy which would be the

000573

THOMPSON 032230

most reasonable next step. Will perform fiber-optic bronchoscopy to see if this foreign body is removable. If it is not removable or granulated in, than rigid bronchoscopy in the operating room will be performed. Risks, benefits, and alternatives were discussed with Mr. Casey and he agrees to proceed with bronchoscopy.

Dictated by: JOSEPH A BOSCIA III, M.D.
D:05/28/2004 14:26:33
T:06/03/2004 11:25:39/1b
65506/64110

cc:
ANDRAS KOSEK, M.D., Admitting Physician

##END

Authenticated by Joseph A. Boscia, MD. On 6/07/04 5:08:48 PM

000372

THOMPSON 032231

SRHS

SRHS

8/5/ 004 6:17

PAGE 001/002

Fs. server

SPARTANBURG REGIONAL HEALTHCARE SYSTEM
SPARTANBURG, SC 29303

11/08/04

OF REPORTS

M.D. Signature

000371

THOMPSON 032232

Defendant.

2005-CP-42- 1085

FRANCIS HITCHCOCK

2005 APR 12 Fri 1:30

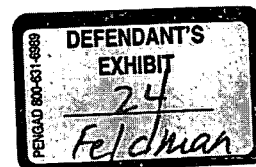
YOU ARE HEREBY SUMMONED and required to answer the Complaint, Plaintiff's Initial Interrogatories, Plaintiff's Initial Request for Production of Documents, in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscribers at their office at P. O. Box 1655, 200 Library Street, Spartanburg, South Carolina 29304, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

PERRIN, MANN, PATTERSON, PRESSLEY & MANN, L.L.P.

By:

E. Milton Mann, Jr. (S2 Bar #68250)
Attorneys for Plaintiff
Post Office Box 1655
Spartanburg, South Carolina 29304
(804) 582-5461 - Telephone
(864) 583-5235 - Telefax

April 22, 2005.



MAY 5 2005

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

S. Carolina Pharmaceutical
Research, Inc.,

Plaintiff,

v.

Charles M. Fogarty, M.D.,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE
SEVENTH JUDICIAL CIRCUIT

COMPLAINT
(Jury Trial Demanded)

2005-CP-42-1085

MARC KITCHENS

2005 APR 12 PM 3:30

Now comes the Plaintiff complaining of Defendant and alleges:

1. That Plaintiff is a corporation duly organized and existing under the laws of the State of South Carolina, which does business in the County of Spartanburg, State of South Carolina.

2. That the Defendant is, upon information and belief, a citizen of the County of Spartanburg, State of South Carolina.

3. Venue and jurisdiction are vested in the Court of Common Pleas in and for Spartanburg County, South Carolina.

**COUNT I: INTENTIONAL INTERFERENCE WITH PROSPECTIVE
CONTRACTUAL RELATIONS**

4. Since September 1, 2004, plaintiff has done business as a pharmaceutical research company under a various contracts whereby plaintiff would conduct research for certain pharmaceutical companies and whereby plaintiff is entitled to share in the profits to be received on account of contracts.

5. On or about March 23, 2005, the defendant, Charles M. Fogarty, M.D., acting on his own behalf, well knowing that plaintiff was entitled to share in the profit

MAY 5 2005

to be received by them on account of any contract with certain pharmaceutical companies, stated to certain pharmaceutical companies material misrepresentations and had admitted the impossibility of performing according to its terms the contract between defendant and certain pharmaceutical companies, and wherein defendant purported to cancel the contract with said pharmaceutical companies. The defendant intended to persuade certain pharmaceutical companies that plaintiff, by material misrepresentations and by admitting the impossibility of performance of the contract between certain pharmaceutical companies and defendant, to cancel forthcoming contracts.

6. These spoken statements by the defendant were without legal justification and malicious, and defendant knew that the statements were not true, or, if in any respect true, were not a sufficient cause for cancellation of the contract for pharmaceutical research and not a sufficient cause for procuring certain pharmaceutical companies to break their contract with plaintiff.

7. As a result of the conduct of the defendant, plaintiff has lost certain contracts with said pharmaceutical companies.

WHEREFORE, on Count I, plaintiff prays that this Court enter judgment:

- a. Requiring defendant to halt in any interference with pharmaceutical companies contracts with plaintiff; and
- b. Against the defendant for actual and compensatory damages in an amount to be determined by the jury; and
- c. For the cost of this action, including reasonable attorney's fees and for other such relief as appears just and equitable in the premises.

MAY 5 2005

COUNT II: DEFAMATION/SLANDER/LIBEL

8. The defendant, Charles M. Fogarty, M.D., during this time and hereafter mentioned was, and still is, a physician in the County of Spartanburg, State of South Carolina.

9. The plaintiff was, and still is, a pharmaceutical research company, and has been since September 1, 2004, and until the commission of the grievances hereinafter set forth, was not suspected of conduct, practices, or prejudice towards his constituents clients and/or patients.

10. The defendant has made false statements concerning the plaintiff, its employees and shareholders.

11. The defendant, contriving and intending to injure plaintiff and deprive the corporation of the respect, confidence and esteem peculiarly essential to plaintiff's profession and office, and contriving and intending to deprive plaintiff of their good name, reputation and the esteem of his constituents and clients, and to bring him into disastrous scandal, ridicule, and professional disrepute, before his constituents, clients, professional associates, friends, neighbors, acquaintances, and the public in general, and to hold plaintiff up to public scorn, contempt, ridicule and disgrace, did heretofore, on or about the 11th day of March, 2005, falsely and wrongfully accused plaintiff of dishonesty, theft and unprofessional conduct to local hospitals and pharmaceutical companies.

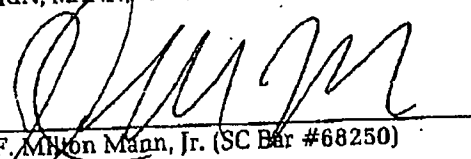
WHEREFORE, on Count II, plaintiff prays that this Court enter judgment:

- a. Against the defendant for actual and compensatory damages in an amount to be determined by the jury;

RECEIVED
MAY 5 2005

- b. Requiring defendant to halt relaying materially false and untrue statements concerning the plaintiff; and
- c. For the cost of this action, including reasonable attorney's fees and for other such relief as appears just and equitable in the premises.

PERRIN, MANN, PATTERSON, PRESSLEY & MANN, L.L.P.

By: 

F. Milton Mann, Jr. (SC Bar #68250)
Attorneys for Plaintiff
Post Office Box 1655
Spartanburg, South Carolina 29304
(864) 582-5461 - Telephone
(864) 583-5235 - Telefax

April 11, 2005

Spartanburg, South Carolina

2005 APR 12 PM 1:31
MARC KITCHENS

F:\Matters\21302\Complaint.vpd

05/05/2005 10:35

HOLCOMB, BOWMAN, GUNN, & BRADFORD - 95964710

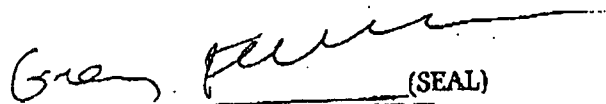
RECEIVED

MAY 5 2005

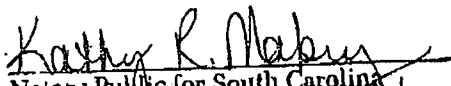
STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

VERIFICATION

PERSONALLY appeared before me GREGORY FELDMAN, President of S. Carolina Pharmaceutical Research, Inc. ("Company") who, after first being duly sworn, says: that he is the Plaintiff in the foregoing action; that he, in his capacity as President has read the foregoing Complaint; that the statements contained therein are true to the best of his knowledge except as to those stated to be based upon information and belief, as to which, he believes such matters to be true.


(SEAL)
GREGORY FELDMAN, PRESIDENT

SWORN to and subscribed
before me this 11 day
of April, 2005.


(SEAL)
Notary Public for South Carolina
My Commission expires: 09/08/2012

2005 APR 12 PM 1:31
MARC KITCHENS

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

S. CAROLINA PHARMACEUTICAL
RESEARCH, INC.

CIVIL ACTION COVERSHEET

Plaintiff(s)

2005 - CP - 42 - 1085

vs.

CHARLES M. FOGARTY, M.D.

Defendant(s)

(Please Print)
Submitted By: Milton Mann
Address: P.O. Box 1655
Spartanburg, SC 29304

SC Bar #: 68250
Telephone #: 864-582-5461
Fax #: 864-583-5235
Other:
E-mail: milton@ppmplaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

☐ Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ Employment (120) ☐ General (130) ☐ Breach of Contract (140) ☐ Other (199)	☐ Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) ☐ Other (299)	☒ Torts - Personal Injury ☐ Assault/Slander/Libel (300) ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☒ Other (399) ☐ Tortious Interference with Potential Business Contract	☐ Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499)
☐ Inmate Petitions ☐ PCR (500) ☐ Sexual Predator (510) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	☐ Judgments/Settlements ☐ Death Settlement (700) ☐ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Other (799)	☐ Administrative Law/Relief ☐ Reinstates Driver's License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture (840) ☐ Other (899)	☐ Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Administrative Law Judge (980) ☐ Public Service Commission (990) ☐ Employment Security Comm (991) ☐ Other (999)
☐ Special/Complex/Other ☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Other (699)		

Submitting Party Signature:

Date: 4/1/2005

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-76-10 et. seq.

SCCA / 234 (5/04)

Page 1 of 2

5100 282 NO.88

10:35 05/05/2005 HOLCOMB, BOWMAN, GUNN, & BRADFORD - 95964710

From: gfeld3232@aol.com
Sent: Monday, February 25, 2008 9:10 PM
To: milton.mann@gmail.com
Subject: Judge Thoughts

1. EVIDENCE of Drug plus Substance abuse

1. Dr. Gonda -Buying Percocet from Friends
2. Running out of Med early
3. Wife sneaking some of his meds
4. Non-disclosure of Doctor Shopping to other providers and Defendants.
5. Dr. Glace -When Getting High or Drink Alcohol
6. Dentists/Doctor Shopping
7. Hiding Pharmacies from Defendants

2. Evidence of Misconduct

Dr. Fogarty is withholding Records, including massive amount of Lortab prescriptions

Fogarty happens to be a major Accuser and Inventor of Air Embolus Theory against Competitors

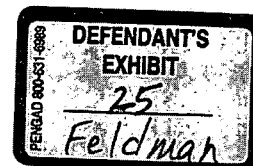
Air Embolus Theory appears shortly after Defamation Lawsuit Against him filed

Mr. Casey who is patient of Dr. Fogarty hiding that it was Fogarty, who was his major Drug supplier
(Had to be coordinated)

Casey hiding Diary of what doctors told him ("Written somewhere") and at the same time Records are missing

The Crowd interprets the Events for Disability Fraud (Resp Arrest, Coma, Air Embolus) but hides the Hospital Records that refute these bizarre Theories from Disability Board (With the help of Maria Kimbrell, who is wife of Chuck Thompson

More new features than ever. Check out the new [AOL Mail!](#)



From: gfeld3232@aol.com
Sent: Wednesday, August 26, 2009 8:09 AM
To: miltymann@gmail.com
Subject: Re: c'mon

HE STARTED ALL OF THIS IN 2004 BECAUSE OF PATHOLOGICAL HATE AND ALL HIS PEOPLE STARTING RESEARCH WITH ME. HE NEVER THOUGHT THAT THIS WOULD COME TO THIS.. NO ONE EVER READ GRACE OBSCURE SESSIONS

-----Original Message-----

From: miltymann@gmail.com
To: gfeld3232@aol.com
Sent: Tue, Aug 25, 2009 10:27 pm
Subject: Re: c'mon

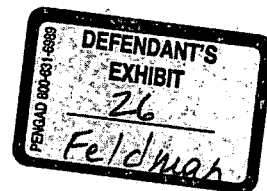
Oh this is priceless. And to think, the Fog started all this because he wanted to throw a wrench in the slander suit. I know he never thought it would go this far.
Sent from my Verizon Wireless BlackBerry

From: gfeld3232@aol.com
Date: Tue, 25 Aug 2009 22:08:45 -0400
To: <milton.mann@gmail.com>
Subject: c'mon

Chuck's own client Mark Casey did not tell Chuck that Fogarty is running tests on him?

What Wilson, will say that he did not know what Fogarty was doing with his patient Casey? Wilson will say that Fogarty did not tell Wilson that he is involved?..I bet you will love that, ah?

Earth is still a center of the Universe?



MANN 013720

From: gfeld3232@aol.com
Sent: Friday, April 23, 2010 1:00 PM
To: sking@wardfirm.com; milton.mann@gmail.com
Subject: Re: Fogarty and prior litigation

you got to seek admission of all of that (does not mean we use it! BUT JUDGE EDUCATION IS key!
STAFF IS INCREDIBLE

-----Original Message-----
From: gfeld3232@aol.com
To: sking@wardfirm.com
Sent: Fri, Apr 23, 2010 11:37 am
Subject: Re: Fogarty and prior litigation

it will be pretty clear that he tried to kill our fledling business..

Casey served same purpose same dates! starting August 04-

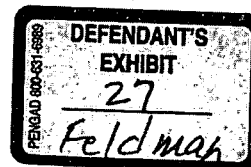
-----Original Message-----
From: gfeld3232@aol.com
To: sking@wardfirm.com
Sent: Fri, Apr 23, 2010 12:31 pm
Subject: Re: Fogarty and prior litigation

1. August 2004..is Key Research personel quit with several coming to me and starting competing Research Business
 2. Sept 04 he started to write numerous Inflammatory letters accusing us in "Stealing his list of patients, stealing his patients and all sorts of unethical behavior plus trashing our name
 3. We have learned about that from the Industry plus he interfered with Contracts awarded to us
 4. May 2005 we have filed Business Interference plus Defamation lawsuit
- (We collected lot of documents, all letters including0
5. Fogarty has also produced Casey Newspaper article among other thing send to Pharmaceutical Industry
 6. His deposition in that case was taken in Sept 2006

Casey Lawsuit was filed May 2006,

-----Original Message-----
From: Spencer King <sking@wardfirm.com>
To: gfeld3232@aol.com
Sent: Fri, Apr 23, 2010 12:01 pm
Subject: Fogarty and prior litigation

Give me a Readers Digest version ot that litigation



Sanford threatens special session

BY AARON GOULD SHEININ
AND JOHN O'CONNOR
The State

Gov. Mark Sanford is threatening to make lawmakers return to Columbia next week to vote on his many expected budget vetoes.

Upper that Legislators would consider waiting until after the June 13 primary, Sanford called vowed to use his power to force the General Assembly back to work next week. Whenever the House and Senate give final approval to the state budget this week, it is doubtful Sanford would be able to finish his review of the bill before lawmakers are required to adjourn at 5 p.m. Thursday. Vetoes from Sanford would stand unless the Legislature votes to override them. But if Sanford issues his vetoes after 5 p.m. Thursday, and he's promised to have them ready by Monday, the General Assembly has few options.

Lawmakers can agree to come back at a certain date, for a limited amount of time to take up the governor's vetoes. Or they can opt to let Sanford's vetoes — and any new program funding — remain on hold until January. It's important, Sanford said, that voters in the June 13 primary know whether their House member voted with the governor or with the Legislature.

F 0409



ALAN MARLER/VA

Bikers pedal their way up a stretch of the Blue Ridge Parkway near Little Switzerland, N.C. Parkway officials are stressing a share-the-road mentality for the 469-mile scenic drive.

Blue Ridge Parkway rangers stress driver-cyclist safety

Associated Press

ASHEVILLE, N.C. — The Blue Ridge Parkway may be a great way to get from place to place, but it is first and foremost a national park — devoted to recreation and relaxation.

That's the message rangers hope to impress this summer on drivers who may find themselves fuming as they come upon a slow-moving cyclist or a bulky recreational vehicle on "America's Favorite Drive."

"Parkway etiquette is a term I'd like to see used," district ranger Tim Francis said. "We're looking at a share the road idea — etiquette between bicyclists, pedestrians and motor vehicle users."

"We're trying to promote a share-and-benice-to-each-other type of environment. A lot of people feel the parkway is there for them

and for nobody else."

Rangers from the National Park Service, which rules the 469-mile road from Cherokee, N.C., to Waynesboro, Va., were trying to impress that attitude on parkway users at the start of the busy season on a road that sees 20 million visitors annually.

Chief Ranger John Garrison rangers would be looking in particular for drunken driving and speeding — but would also have an eye out for rule-breaking cyclists.

That means those who flout the laws that require them to stay to the right and ride in single file at all times. Cyclists also must have reflective clothing and use lights in low-light conditions, such as in tunnels.

"Bicycle use is up on the parkway — it's something we like to see," Garrison said.

Man sues lung specialists; claims surgery was botched

BY RACHEL E. LEONARD
Staff Writer

A 47-year-old Spartanburg County man says physicians at Upstate Lung and Critical Care Specialists carried out a botched, unnecessary procedure in 2004 that left him with permanent brain damage. A Spartanburg attorney, Chuck Thompson, who represents William Mark Casey, said his client is now disabled and can no longer work. According to

the lawsuit, a procedure in June 2004 caused Casey to suffer a perforated bronchial wall, allowing air bubbles to escape from his lung into blood vessels and into his brain.

The lawsuit names Spartanburg physicians Gregory Feldman, Joseph Boscia and anesthesiologist Devendra Shanthia. All of the doctors declined to comment on the litigation.

Thompson said the incidents alleged in the lawsuit occurred after Casey's employer sent

him to Spartanburg Regional Medical Center to be evaluated.

(He) was having some chest pain with exertion, and as a precautionary measure, they sent him to the emergency room," Thompson said.

Under the belief that Casey had inhaled a metallic object, Boscia performed a flexible bronchoscopy on the man on May 28, 2004, the lawsuit states.

On June 3 of that year, Feldman performed a rigid bron-

choscopy on Casey using a laser, even though a CT scan showed there was no such object lodged in the lung, according to the complaint.

It was during that surgery that Casey suffered a perforated bronchial wall, and the procedure was continued even after Casey's vital signs began to destabilize, the lawsuit states.

The action was filed last week in the Court of Common Pleas for Spartanburg County.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

S. Carolina Pharmaceutical
Research, Inc.

Plaintiff,

v.

Charles M. Fogarty, M.D.,

Defendant.

**DEFENDANT'S FIRST SUPPLEMENTAL
ANSWERS TO
PLAINTIFF'S INTERROGATORIES**

C.A. No. 2005-CP-42-1085

Charles M. Fogarty, M.D. ("Defendant") Defendant hereby supplements his answers to Plaintiff's Interrogatories to Defendant as follows:

General Objections

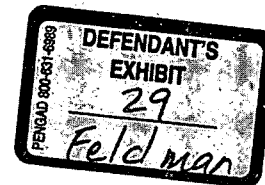
Defendant hereby incorporates his General Objections to Plaintiff's Interrogatories to Defendant as if set forth fully herein. Subject to and without waiving such objections, Defendant sets forth his specific responses and objections below.

Specific Responses

Interrogatory No. 2

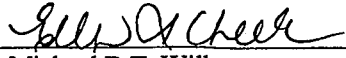
Question: Set forth a list of photographs, plats, sketches, accountings of money, or other prepared documents in possession of the party which relate to the claim or the defense in this case.

Answer: See document list attached hereto as Exhibit "A".



June 26, 2006

By: _____



Michael B.T. Wilkes

Ellen S. Cheek

MICHAEL WILKES LAW FIRM, P.A.

101 West St. John Street, Suite 200

Spartanburg, SC 29306

(864) 591-1113

Koger M. Bradford, Esquire

HOLCOMBE, BOMAR, GUNN &

BRADFORD, PA

P.O. Box 1897

Spartanburg, SC 29304

(864) 594-5303

Attorneys for Defendant

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

S. Carolina Pharmaceutical)
Research, Inc.)

Plaintiff,)

v.)

Charles M. Fogarty, M.D.,)

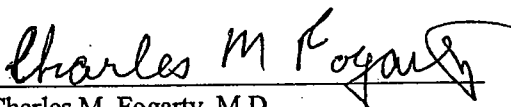
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

VERIFICATION

C.A. No. 2005-CP-42-1085

Personally appeared before me, Charles M. Fogarty, M.D., who being duly sworn states that he has read Defendant's First Supplemental Answers to Plaintiff's Interrogatories, and that the information contained therein is true and correct based on his knowledge and belief.


Charles M. Fogarty, M.D.

Sworn to and subscribed before me
this 26th day of June, 2006.


Notary Public for the State of South Carolina
My Commission Expires: 7/8/2012

EXHIBIT "A"

FOGARTY DOCUMENT LIST

Doc#	Description	Date
F001	Letter from Mann to Fogarty re: valuation reports and payment demand	11-18-04
F002-F017	Pamela Smith business evaluations for Sprinkle	11-15-04
F018-F021	Bradford letter to Mann responding to Sprinkle's payment demand	12-08-04
F022-F024	Bradford letter to Sprinkle enclosing 2004 distribution check for Research Partners Properties	01-31-05
F025-F063	Operating Agreement of Spartanburg Pharmaceutical Research, LLC	01-01-99
F064-F068	Equipment Lease Agreement between Charles M. Fogarty, M.D., P.A. and Spartanburg Pharmaceutical Research, L.L.C.	01-01-99
F069	Sprinkle Confidentiality Statement	02-08-99
F070	Sprinkle Confidentiality and Non-Disclosure Agreement	04-02-03
F071	Buice Confidentiality Statement	02-09-99
F072	Buice Confidentiality and Non-Disclosure Agreement	04-02-03
F073	Buice Confidentiality Statement	01-15-02
F074	Smith Confidentiality Statement	02-09-99
F075	Smith Confidentiality and Non-Disclosure Agreement	04-02-03
F076-F077	Research Partners General Ledger Activity information	11-05-04
F078-F081	Spartanburg Pharmaceutical Research Trial Balance as of 09-30-04	11-09-04
F082	Secretary of State information for Spartanburg Medical Research, L.L.C.	12-06-04
F083	Secretary of State information for S. Carolina Pharmaceutical Research, Inc.	11-29-04
F084	Secretary of State information for Research Partners, LLC	12-06-04
F085	Buice resignation letter	08-02-04
F086	Smith resignation letter	08-04-04
F087	Sprinkle resignation letter	08-09-04

F088	Sprinkle letter to Fogarty re: settlement of interest in Spartanburg Pharmaceutical Research, L.L.C.	08-09-04
F089- F090	Fogarty letter to Sprinkle re: membership in Spartanburg Pharmaceutical Research, L.L.C. and meeting with Attorney Demo	09-30-04
F091- F092	Smith letter introducing S. Carolina Pharmaceutical Research (with handwritten notes)	
F093- F097	ACRP Aspirational Code of Professional Ethics (with handwritten notes)	
F098- F101	Fogarty letter to King (AstraZeneca) re: Symbicort COPD study contracts (with fax covers and confirmations)	10-11-04
F102- F105	Fogarty letter to King (AstraZeneca) re: Symbicort COPD study contracts (with fax covers and confirmations)	10-11-04
F106- F108	Williams (SMR) letter to Richardson (CTMS) re: GlaxoSmithKline study concerns (with fax covers and confirmations)	11-02-04
F109- F113	Fogarty letter to Baumiller (Goodwyn IRB) re: study and patient information concerns	02-03-05
F114- F133	Fogarty letter to Schultz (Western IRB) re: unauthorized use of SMR protocol by SCPR	03-02-05
F134- F139	Fogarty letter to Goodwyn IRB re: request for consent form revision (with fax covers and confirmations)	03-14-05
F140- F148	Fogarty letter to Goodwyn IRB re: request for consent form revision (with fax covers and confirmations)	03-24-05
F149- F156	Fogarty letter to Goodwyn IRB re: request for consent form revision (with fax covers and confirmations)	03-24-05
F157- F170	Holt (Goodwyn IRB) letter to Fogarty approving request for consent form revision	04-04-05
F171- F177	Fogarty letter to Green (Sterling IRB) re: request for consent form revision (with fax covers and confirmations)	03-13-05
F178- F184	Fogarty letter to Green (Sterling IRB) re: request for consent form revision (with fax covers and confirmations)	03-13-05
F185- F193	Fogarty letter to Green (Sterling IRB) re: request for consent form revision (with fax covers and confirmations)	03-13-05
F194- F208	Holt (Goodwyn IRB) letter to Fogarty approving request for consent form revision	04-17-05
F209- F222	Green (Sterling IRB) letter to Fogarty approving request for consent form revision	04-18-05
F223- F236	Green (Sterling IRB) letter to Fogarty approving request for consent form revision	04-18-05
F237	Fogarty letter to Richardson (CTMS) re: request for GlaxoSmithKline ad change approval	04-18-05
F238- F238	Fogarty letter to Morris (GlaxoSmithKline) re: request for ad change approval	04-18-05
F259- F273	Rivers (Quintiles) letter to Fogarty re: Sepracor contract	04-20-05
F274	Sprinkle SRHS Release and Immunity	12-08-04

F275-277	Sprinkle SRHS credentialing questionnaire (completed by Fogarty)	01-10-05
F278	Buice SRHS Release and Immunity	12-09-04
F279-F281	Buice SRHS credentialing questionnaire (completed by Fogarty)	01-10-05
F282-F286	Shehan (Mary Black) letter to Fogarty re: Sprinkle staff appointment application	04-19-05
F287	Sprinkle Mary Black Consent and Release from Liability	03-30-05
F288	Greenville PR ad from <i>The Greenville News</i>	04-01-06
F289-F290	Sprinkle fax to Attorney Demo attaching inventory list	02-08-99
F291	Sprinkle email to Fogarty requesting cessation of management duties	02-20-04
F292	Clemons memo requesting deduction from paycheck per loan repayment agreement with Sprinkle	
F293	Terms of Employment Notice for Donald Williams	02-20-01
F294	Terms of Employment Notice for Steve Clemons	07-27-00
F295	Email exchange between Sprinkle and Nichols re: performance	05-20-03
F296	Email from Sprinkle to Rost re: List of Administrative Responsibilities	02-23-04
F297	Email from Fogarty re: Buice's last day	08-09-04
F298	Email from Fogarty to Rost re: exit interviews	08-13-04
F299	Email from Fogarty to Rost re: Sprinkle's status change	08-18-04
F300-F301	Email comment from Fogarty re: email exchange between Angie Williams and Smith re: training	08-26-04
F302-F303	Email comment from Fogarty re: Williams' having emailed Buice and Smith's CVs to Sprinkle	08-26-04
F304-F339	Buice CV	
F340-F371	Smith CV	
F372-F376	Email exchange between Clemons and Fogarty re: departure of Sprinkle, Buice and Smith	09-19-04
F377-F378	Email exchange between Fogarty and Buck Harvey (Community Research Partners) re: departure of Sprinkle, Buice and Smith	02-10-05
F379-F381	Email exchange between Fogarty and Rost re: departure of Sprinkle, Buice and Smith	09-21-04
F382	Note to file from Anita Morris and Fogarty re: AstraZeneca SunShine Teleconference (attaching Stasse email)	
F383	Email from Lisa Stasse (AstraZeneca) to Anita Morris	07-01-05
F384	Fax from Fogarty to Kevin Goodrum (AstraZeneca) re: pre-screening consent form (enclosing 07-01-05 letter and attachments)	07-01-05
F385-	Letter from Fogarty to Goodrum re: pre-screening consent form	07-01-05

F405	(attaching letter to Western IRB and enclosures thereto)	
F406	File memo regarding voicemail message left by Charlie Mason on 08-31-04 on Sprinkle's cell phone	08-17-05
F407	Tape of Mason voicemail to Sprinkle	08-31-04
F408	Rost memo re: Sprinkle's comments re: Feldman and Joe Alverson	06-09-06
F409	SHJ newspaper article re: Feldman/Boscia suit	05-31-06
F410- F422	Newspaper advertisements for SCPR and related entities	
F423- F425	Letter from Anita Morris to Steve Clemons re: concerns	02-07-04
F426	Statement signed by Fogarty, et al. re: investigation of Morris concerns re: Clemons	
F427	Sprinkle email to Rost re: administrative responsibilities	02-23-04
F428- F429	Sprinkle email to Rost re: administrative responsibilities	02-24-04
F430	Emails between and among Kaye Edge, Sprinkle and Rost re: Sepracor bookkeeping issue	10-06-03
F431	Email from Sprinkle to Rost re: Applebaum payment	07-01-03
F432	Email from Sprinkle to Mason re: leaving job	08-28-03
F433- 434	AstraZeneca memo re: SUN sites	04-11-06

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
S. Carolina Pharmaceutical Research, Inc.,)
Plaintiff,)
vs.)
Charles M. Fogarty, M.D,)
Defendant.)

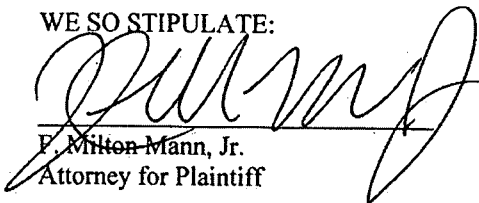
IN THE COURT OF COMMON PLEAS

C.A. No.: 2005-CP-42-1085

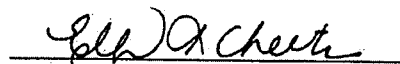
**STIPULATION OF DISMISSAL
WITH PREJUDICE**

The parties hereby stipulate to the dismissal with prejudice of all of Plaintiff's and Defendant's claims which were ever asserted in this action and any other claims which could have been asserted in this action, including but not limited to those claims asserted in Defendant's proposed counterclaim for attorney's fees and costs.

WE SO STIPULATE:

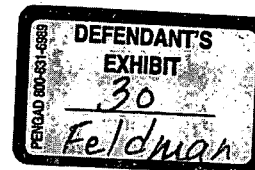

F. Milton Mann, Jr.
Attorney for Plaintiff

2/15/07
(Date Signed)


Ellen S. Cheek
Attorney for Defendant

2/15/07
(Date Signed)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
FEB 15 PM 2:58
MARC KITCHENS



From: gfeld3232@aol.com
Sent: Thursday, August 07, 2008 8:32 AM
To: milton.mann@gmail.com
Subject: Re:

| Doesn't matter if he should have produced it >>>

sURE IT DOES..FOR MALICIOUS PROSECUTION CHARGE AGAINST HIM

-----Original Message-----

From: Milton Mann <milton.mann@gmail.com>
To: gfeld3232@aol.com
Sent: Wed, 6 Aug 2008 10:42 pm
Subject: Re:

We're GOLDEN. lol. Which means, we're saying the same thing.

Usually, "expert" opinion mean's someone that is paid to testify. Anyway, I believe we may have hit upon a major find - the Aetna letter to Chucky boy. Doesn't matter if he should have produced it - matters, given the information, just what the hell did he do about it and why did he still think he had a viable claim??? Good stuff.

On Wed, Aug 6, 2008 at 10:35 PM, <gfeld3232@aol.com> wrote:

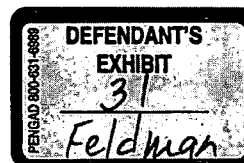
PATIENTS ARE STUPID! BUT INFO WAS GIVEN TO CHUCK BY SOMEONE..THAT IS MY POINT, INCLUDING FIRING LASER AFTER VITAL SIGNS STARTED TO DETERIORATE....THAT SOMEONE NEEDS TO BE NAMED (BY CHUCK OR HIS RECORDS..

I like Ugly, and we did request all expert opinions, we did not ask for expert opinion that only agree with chuck :)

But I understand we need to go through the process

-----Original Message-----

From: Milton Mann <milton.mann@gmail.com>
To: gfeld3232@aol.com
Sent: Wed, 6 Aug 2008 9:40 pm
Subject: Re:



Ok, hear me now - IT DOESN'T MATTER WHAT THE PLAINTIFF KNOWS OR DOESN'T KNOW ABOUT HIS/HER MEDICAL CONDITION. Really, it doesn't matter at all. Clients/patients are stupid for lack of a better word.

As to Chuck, I'll deal with him and it will be ugly. This isn't going to work on your timetable, but I give my word - he'll get his. You have to understand, our "smoking gun" had a very vested interest in shooting down Casey's claim and that hurts it's value. Outside medical reviews have been abused by the insurance companies

about as much as fake claims by patients. The judge will yawn if that's all we have. Really, the court isn't going to kill Chuck on just this - but it is a wonderful start.

On Wed, Aug 6, 2008 at 8:13 PM, <gfeld3232@aol.com> wrote:

16 Q. Has anybody told you that you have any brain damage
17 that resulted from Dr. Boscia and Feldman's care?
18 A. I've been told that it's possible.
19 Q. Possible? Okay. Anybody -- who told you it was
20 possible?
21 A. Well, Wilson Smith said it's possible. Dr. Fogarty
22 said it's possible. Dr. Gray said it's possible.
23 Dr. Ellis -- Dr. Smith said it's possible. All of
24 them, because if you -- **if you lost air to your**
25 brain during that procedure -- and that's just
0125
1 based on what I was saying about, you know,
2 conversations that people say we've had the night
3 before and I don't know what they're talking about.

18 Q. I asked you about if anybody had told you you had
19 brain damage.
20 A. No.
21 Q. Nobody has? Is that correct?
22 A. No.

**Milton I understand that it is to our benefit to proceed with the
depositions, but! that does not prevent us from filing countersuit or
summary motion or both?**

**If we wait we give Chuck more Credibility, like he has experts that
"let him" down**

We got a smoking gun!

It's time to go back to school! Get the latest trends and gadgets that make the grade on [AOL Shopping](#).

It's time to go back to school! Get the latest trends and gadgets that make the grade on [AOL Shopping](#).

It's time to go back to school! Get the latest trends and gadgets that make the grade on AOL Shopping.

THE WARD LAW FIRM, P.A.

ATTORNEYS AT LAW
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(864) 582-4365

JAMES W. HUDGENS
GENE ADAMS
H. SPENCER KING
EDWARD R. COLE
CATHY HOEFER MCCABE
ROBERT E. DAVIS*
JASON M. IMHOFF

*ALSO MEMBER NORTH CAROLINA BAR

RUFUS M. WARD (1908-1988)
L. PAUL BARNES (1931-1988)

233 SOUTH PINE STREET
SPARTANBURG, S.C. 29302

FAX, No. (864) 583-8981
E-mail: sking@wardfirm.com

Direct No. 864-591-2364

July 12, 2006

The Honorable Marcus Kitchens
Clerk of Court for Spartanburg County
PO Box 3483
Spartanburg, SC 29304

Re: William Mark Casey v. Gregory J. Feldman, MD, Joseph A. Boscia, III,
MD, Upstate Lung and Critical Care Specialists, PC, and Devendra
Shantha, MD

CA No.: 2006-CP42-1728

Our File No.: 26-0266

Dear Marc:

Enclosed for filing the original Answer To Complaint On Behalf of Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, and Upstate Lung and Critical Care Specialists, PC. We also enclose a copy of and our pre-addressed stamped envelope for return of the clocked copy.

By copy of this letter we are forwarding same to Plaintiff Attorney Thompson.

I am

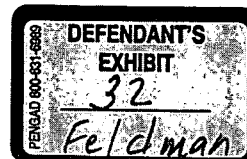
Very truly yours,

H. Spencer King
The Ward Law Firm, P.A.

HSK/dch

Enclosures

cc: Chuck Thompson, Esquire w/enclosure ✓
William U. Gunn, Esquire w/enclosure



THOMPSON 004799

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
William Mark Casey,	)	
	)	
Plaintiff,	)	
	)	C.A. No.: 2006-CP-42-1728
v.	)	
	)	
Gregory J. Feldman, MD, Joseph A.	)	ANSWER TO COMPLAINT ON BEHALF
Boscia, III, MD, Upstate Lung and Critical	)	OF GREGORY J. FELDMAN, MD, JOSEPH
Care Specialists, PC, and Devendra	)	A. BOSCIA, III, MD, AND UPSTATE LUNG
Shantha, MD,	)	AND CRITICAL CARE SPECIALISTS, PC
	)	
Defendants.	)	

Defendants, Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, and Upstate Lung and Critical Care Specialists, PC answering the complaint of the Plaintiff would show the Court:

FOR THE FIRST DEFENSE
Rule 12(b)(6)

1. The Plaintiff's complaint fails to state facts sufficient to constitute a cause of action for which relief can be granted, and therefore, the Defendants move for dismissal pursuant to Rule 12(b)(6), South Carolina Rules of Civil Procedure.

FOR A SECOND DEFENSE
(General Denial)

2. The allegations of the First Defense are incorporated herein by reference.

3. Admit the allegations of Paragraphs 1, 2, 3, and 4 of the Complaint.

4. With respect to the allegations of Paragraph 5, admits that Defendants Feldman and Boscia are servants, agents and employees of Upstate Lung and Critical Care Specialists, PC, and at all times were acting in the course and scope of their employment. And that Plaintiff was a patient of the practice group. The remaining allegations of Paragraph 5 are denied.

THOMPSON 004800

5. With respect to the allegations of Paragraph 6, admits the Defendant Shantha, upon information and belief, is a citizen and resident of the County of Spartanburg, and is an anesthesiologist. The remaining allegations of Paragraph 6 are denied.

6. The allegations of Paragraph 7, 8, 9, and all subparts and all prayers for relief are specifically denied.

7. Each and every allegation not herein admitted is denied and strict proof thereof is demanded.

FOR A THIRD DEFENSE
(Standard of Care)

8. The allegations of the First and Second Defenses are incorporated herein by reference.

9. At all times relevant to the matter set forth in the Complaint herein, this Defendants complied with generally accepted standards of medical care applicable to physicians rendering care to patients of the same or similar circumstances, and as a result thereof, these Defendants are in no way liable to the Plaintiff for the matter set forth in the Complaint.

FOR A FOURTH DEFENSE
(Consent)

10. The allegations of the First, Second and Third Defenses are incorporated herein.

11. The allegations of this Complaint are barred by the doctrine of consent.

FOR A FIFTH DEFENSE
(Waiver)

12. The allegations of the First, Second, Third and Fourth Defenses are incorporated herein.

13. The allegations of the Complaint are barred by the doctrine of waiver.

THOMPSON 004801

FOR A SIXTH DEFENSE
(Due Process)

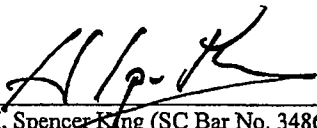
14. The allegations of the First, Second, Third, Fourth and Fifth Defenses are incorporated herein by reference.

15. The Plaintiff is not entitled to an award for punitive damages as an award of punitive damages violates the Commerce Clause and Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 3, of the South Carolina Constitution in that:

- (a) the judiciary's ability to correct a punitive damage award at the appellate level only upon a finding of passion, prejudice, or caprice is inconsistent with due process guarantees;
- (b) any award of punitive damages serving a compensatory function is inconsistent with due process guarantees;
- (c) the jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of meaningful standards and is inconsistent with due process guarantees;
- (d) even if it could be argued that a standard governing imposition of punitive damages exists, the standard is void for vagueness; and
- (e) the Plaintiff's claim for punitive damages violates the Commerce Clause and Due Process Clause of the Fourteenth Amendment of the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth and status of the Defendants.

THOMPSON 004802

WHEREFORE, having fully answered, Defendants Gregory J. Feldman, MD, Joseph A. Boscia, MD, and Upstate Lung and Critical Care Specialists, PC pray that the Complaint be dismissed, for the costs of this action and for such other and further relief as the Court deems just and proper.---


H. Spencer King (SC Bar No. 3486)
The Ward Law Firm, P.A.
Attorney for Defendants Gregory J. Feldman, MD,
Joseph A. Boscia, MD, and Upstate Lung and
Critical Care Specialists, PC
233 South Pine Street
PO Box 3188
Spartanburg, SC 29304-3188
(864) 591-2364

July 12th, 2006

THOMPSON 004803

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

William Mark Casey,

Plaintiff,

v.

Gregory J. Feldman, MD, Joseph A.
Boscia, III, MD, Upstate Lung and Critical
Care Specialists, PC, and Devendra
Shantha, MD,

Defendants.

C.A. No.: 2006-CP-42-1728

CERTIFICATE OF SERVICE

I hereby certify that a copy of Answer To Complaint On Behalf of Gregory J. Feldman,
Josepha A. Boscia, III, MD, and Upstate Lung and Critical Care Specialists, PC. was served upon
attorneys for Plaintiff this 12th day of July, 2005 by First Class Mail, postage prepaid,
addressed to the following:

Ray E. Thompson, Jr., Esquire
PO Box 3408
Spartanburg, SC 29304


Donna C. Hill, C.L.A.
Paralegal to H. Spencer King

THOMPSON 004804

BURTS, TURNER, RHODES & THOMPSON
ATTORNEYS AT LAW
260 NORTH CHURCH STREET
SPARTANBURG, S.C. 29306

SAM BURTS (1907 - 1982)
NOEL TURNER
RICHARD H. RHODES
RAY E. THOMPSON, JR.
M. NOEL TURNER, III

June 20, 2006

MAILING ADDRESS
P.O. BOX 3408 29304
PHONE: 864-583-8166
FAX: 864-583-6927

VIA HAND DELIVERY

William U. Gunn, Esq.
P.O. Box 1897
Spartanburg, SC 29304

RE: William Mark Casey

Dear Billy:

Enclosed please find a complete copy of the following medical records for Mark Casey as delivered from his medical providers:

1. Spartanburg Regional Medical Center - Diagnostics 2000
2. Spartanburg Regional Medical Center - Admission 5/28/04
3. Spartanburg Regional Medical Center - Admission 6/3/04
4. Upstate Lung & Critical Care - Drs. Feldman & Boscia
5. Carolinas Ctr. For Advanced Mgmt. of Pain - Dr. Eugene Mironer
6. Lung and Chest Medical - Dr. Charles Fogarty
7. Dr. Glenn Scott, Orthopedist
8. Dr. Jay Grace, Licensed Counseling Psychologist
9. Piedmont Psychiatric - Dr. Jeffrey Smith
10. Foothills Family Medicine - Dr. Frank Gonda

The charge from Kinko's to make this copy is \$37.54.

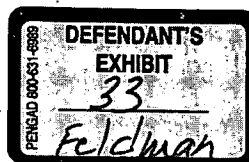
Also, my legal assistant, Ms. Karen Greer, has made several attempts to make contact with Spencer King with no success. If Spencer contacts you and wants a copy of these records, I have no objection to allowing him to copy them.

With warm regards,

I remain,
BURTS, TURNER, RHODES & THOMPSON

By: Ray E. Thompson, Jr.
RAY E. THOMPSON, JR.

RET:ar
Encl.



GUNN 001617

HOLCOMBE, BOMAR, GUNN & BRADFORD, P.A.

ATTORNEYS AT LAW

DENNY'S PLAZA

203 EAST MAIN STREET

SPARTANBURG, SOUTH CAROLINA 29306

MAILING ADDRESS:

P. O. BOX 1897

SPARTANBURG, SOUTH CAROLINA 29304

NEVILLE HOLCOMBE
1902-1983

HORACE L. BOMAR
1912-1994

WILLIAM U. GUNN
H. LELAND BOMAR
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ROBERT M. BARRETT
GINGER D. GOFORTH
WALTER M. WHITE
A. TODD DARWIN
STACEY CAMPBELL DAVIS
DAVID D. PROCTOR
J. HAYES WALSH

TELEPHONE (864) 594-5300

TELECOPIER (864) 585-3844

June 30, 2006

ROBERT L. WYNN, III, OF COUNSEL

Writer's Direct Dial
864-594-5301
E-Mail: bgunn@hbqb.com

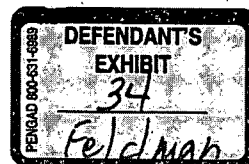
Ray E. Thompson, Jr., Esquire
Burts, Turner, Rhodes & Thompson
Attorneys at Law
P.O. Box 3408
Spartanburg, South Carolina 29304

RE: William Mark Casey vs. Gregory J. Feldman, M.D.,
Joseph A. Boscia III, M.D., Upstate Lung and Critical Care
Specialist PC, and Devendra Shantha, M.D.
C. A. Number: 2006-CP-42-1728

Dear Chuck:

Thanks for the extension. Thanks also for providing us with copies of the medical you have.

I now serve our Answer, Written Interrogatories, and Request for Production of Documents on behalf of Dr. Shantha.



KING 000321

June 30, 2006
Page 2

With best regards,

Yours very truly,

A handwritten signature in cursive script, appearing to read "W. U. Gunn".

William U. Gunn

WUG:dl
Enclosures

cc: H. Spencer King, Esquire

KING 000322

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG) SEVENTH JUDICIAL CIRCUIT

William Mark Casey,)
Plaintiff,) PLAINTIFF'S SUPPLEMENTAL
vs.) RESPONSES TO WRITTEN
) INTERROGATORIES OF
) DEFENDANTS FELDMAN
) & BOSCIA, MD, and UPSTATE
Gregory J. Feldman, MD, Joseph A.) LUNG AND CRITICAL CARE
Boscia, MD, Upstate Lung and Critical) SPECIALISTS, P.C. and
Care Specialists, PC, and Devendra) DEFENDANT DEVENDRA SHANTHA, MD
Shantha, MD,) C.A. No. 2006-CP-42-1728
Defendant.)

TO: SPENCER KING, ATTORNEY FOR DEFENDANTS JOSEPH A. BOSCIA, MD, GREGORY J. FELDMAN, MD, UPSTATE LUNG AND CRITICAL CARE SPECIALISTS, PC and BILLY GUNN, ATTORNEY FOR DEFENDANT DEVENDRA SHANTHA, MD

In compliance with Scheduling Order of Judge Roger L. Couch filed 08/16/07, the Plaintiff supplements his Interrogatory Responses to identify the following additional potential expert witnesses, which may be called on behalf of Plaintiff William Mark Casey in the trial of this case.

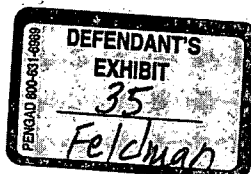
L. Randolph Waid, Ph.D.
Licensed Clinical Psychologist
Tidewater Executive Center
222 West Coleman Blvd.
Mr. Pleasant, SC 29464

Clinical Associate Professor in Psychiatry/Neurology at Medical University of S.C.

It is anticipated that Dr. Waid will offer expert opinion consistent with neuro-psychological evaluation performed on William Mark Casey, a copy of which has been provided to Defense counsel (Bates Nos. 557-564)

Joseph G. Grace, III, Ph.D.
853 N. Church Street, Ste. 510
Spartanburg, SC 29303

It is anticipated that Dr. Grace will offer expert testimony consistent with psychological evaluation, care, and treatment of William Mark Casey from approximately 8/4/04 and still continuing. Furthermore, it is anticipated Dr. Grace will offer expert



THOMPSON 029889

testimony and opinion as to permanent cognitive and brain injuries and mental and related physical dysfunction caused and initiated by Defendants' negligent medical care treatment rendered to Mr. Casey.

Dr. Benson Hecker
506 Pettigru Street
Greenville, SC 29601

Dr. Hecker is a vocational expert and is expected to testify that Mark Casey is unable to engage in gainful employment as a result of his current injuries, disabilities and deficits.

Dr. Charles Alford
209 Laurens Road
Building 4, Suite D
Greenville, SC 29607

Dr. Alford is an economist expected to testify as to Mr. Casey's causally related past and future economic losses. A copy of Dr. Alford's economic report is attached and may be supplemented.

Dr. Charles Fogarty
Lung and Chest Medical Associates
2030 North Church Place
Spartanburg, SC 29303

Dr. Fogarty is a board certified pulmonologist and will be asked to render expert testimony based on his review of Mr. Casey's medical and other records documenting his medical care and treatment and based on Dr. Fogarty's independent evaluation and treatment of Mr. Casey. Dr. Fogarty will be asked to address the standard of care required of the Defendant physicians, breaches thereof, proximate cause, and damages suffered by Mr. Casey. Defense counsel has a copy of records of Lung and Chest Medical Associates.

Dr. Wilson P. Smith, Jr.
Lung and Chest Medical Associates
2030 North Church Place
Spartanburg, SC 29303

Dr. Smith is a board certified pulmonologist and will be asked to render expert testimony based on his review of Mr. Casey's medical and other records documenting his medical care and treatment and based on Dr. Smith's independent evaluation and treatment of Mr. Casey. Dr. Smith will be asked to address the standard of care required

of the Defendant physicians, breaches thereof, proximate cause, and damages suffered by Mr. Casey. Defense counsel has a copy of records of Lung and Chest Medical Associates.

Dr. Bert E. Knight
Lung and Chest Medical Associates
2030 North Church Place
Spartanburg, SC 29303

Dr. Knight is a board certified pulmonologist and will be asked to render expert testimony based on his review of Mr. Casey's medical and other records documenting the medical care and treatment of Mr. Casey. Dr. Knight will be asked to address the standard of care required of the Defendant physicians, breaches thereof, proximate cause, and damages suffered by Mr. Casey.

Dr. Rico Mendoza
Lung and Chest Medical Associates
2030 North Church Place
Spartanburg, SC 29303

Dr. Mendoza is a board certified pulmonologist, who provided medical treatment to Mark Casey, and may be asked to render expert testimony based on his review of Mr. Casey's medical and other records documenting his medical care and treatment and based on Dr. Mendoza's independent evaluation and treatment of Mr. Casey. Dr. Mendoza may be asked to address the standard of care required of the Defendant physicians, breaches thereof, proximate cause, and damages suffered by Mr. Casey. Defense counsel has a copy of records of Lung and Chest Medical Associates.

Dr. Peter Ryan
Spartanburg Regional Medical Center
100 E. Wood Street
Spartanburg, SC 29303

Dr. Ryan is board certified radiologist and M.D. Dr. Ryan is expected to offer expert testimony as to his evaluations and interpretations – along with recommendations as to a portable chest x-ray taken of Mr. Casey on 05/28/04 and CT scan (chest) performed 05/29/04. Dr. Ryan reviewed both the portable x-ray and CT scan. Dr. Ryan will be asked to give expert opinion within the scope of his medical expertise concerning Mr. Casey's medical care and treatment and any act of omission or commissions by the Defendant physicians in providing medical care to Mr. Casey.

Jeffrey Leshman, MD – ER Medical Director
Raja Paladugu, MD – Internal Medicine-Hospitalist (sp??)

Andras Koser, MD – Internal Medicine-Hospitalist (sp??)

Each may be called as a witness by Mr. Casey to provide testimony and expert opinion within the scope of their medical expertise regarding the care and treatment rendered to Mr. Casey. Each of the three physicians above had involvement in Mr. Casey's medical care and treatment.

**Carole Fruscello, CRNA
Anesthesiology**

Ms. Fruscello may be called as a witness to provide testimony and possible expert opinion within the scope of her medical expertise - as to the medical care and treatment rendered to Mr. Casey of which she had involvement.

**Dr. Paul LePage
Regional Surgical Specialists
853 North Church Street
Spartanburg, SC 29303**

Dr. LePage is anticipated to testify consistent with Mrs. Carole Lynn Hyslop's summary in Plaintiff's Response to Interrogatory #1 as to Dr. LePage's involvement with Ms. Hyslop, Mr. Casey and Dr. Feldman on 06/06/04 at the Spartanburg Regional Medical Center. Dr. LePage reviewed Mr. Casey's chest x-ray which prompted the discussion regarding artifact and may have expert testimony to offer.

**Dee Furtect
Information Technology/Physician Office Management
Upstate Lung and Critical Care Specialist, PC**

Dee Furtect is believed to be the person who was employed by Upstate Lung and Critical Care Specialist, PC during the period Mr. Casey was a patient there. She is expected/anticipated to testify as an expert regarding Upstate Lung and Critical Care practices and procedures for the retention of medical records and scheduling of appointments, Upstate's computer system, patient information technology, acquisition and retention of documentation, maintenance of patient files, storage, and data input of Mark Casey.

**Dr. Frank Gonda
2212 Old Furnace Road
Boiling Springs, SC 29316**

Dr. Gonda is Mr. Casey's family physician. Dr. Gonda may be called as a witness and if so, is expected to provide expert testimony regarding medical treatment, evaluation and care he rendered to Mr. Casey, some of which may involve expert medical opinion.

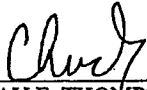
Dr. Tuan Nguyenduy
225 East Wood Street
Spartanburg, SC 29303

Dr. Nguyenduy is a surgeon was involved in immediate emergency care following procedure of 06/03/04. He may be called to render expert opinion regarding care and treatment of Mr. Casey, medical issues and potentially the standards of care in the pending litigation.

Plaintiff's counsel reserves the right to call expert witnesses identified by any Defendant, and this is to include each of the three Defendant Physicians.

Plaintiff's counsel reserves the right to call any healthcare provide involved in Mr. Casey's medical evaluation and treatment within the scope of their medical expertise. This interrogatory response to Defendants will be more fully supplemented as allowed by the progression of discovery.

BURTS, TURNER, RHODES & THOMPSON
Attorneys for Plaintiff
P.O. Box 3408
Spartanburg, SC 29304
(864)585-8166; Fax: (864) 583-6927

By: 

RAY E. THOMPSON, JR.

Dated: August 31, 2007
Spartanburg, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

William Mark Casey,)
)
Plaintiff,)

vs.)

Gregory J. Feldman MD, Joseph)
A. Boscia III, MD, Upstate Lung and)
Critical Care Specialists PC, and)
Devendra Shantha MD,)
Defendants.)

**AFFIDAVIT OF
FAXING AND MAILING**

C.A. No. 2006-CP-42-1728

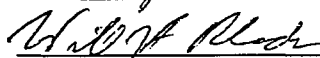
This is to certify that on the 31st day of August, 2007, the undersigned served Supplemental Response to Plaintiff's Supplemental Responses to Written Interrogatories of Defendants' Feldman & Boscia, MD and Upstate Lung and Critical Care Specialists, P.C. and Defendant Devendra Shantha, MD, by depositing a copy of the same into the United States Mail, postage pre-paid and in the correct amount to the following:

H. Spencer King, Esq.
The Ward Law Firm, PA
P.O. Box 3188
Spartanburg, SC 29304
Fax No.: 583-8961

William U. Gunn, Esq.
P.O. Box 1897
Spartanburg, SC 29304
Fax No.: 585-3844


ANGELA M. ROPER
Legal Assistant to Ray E. Thompson, Jr.

SWORN to before me this 31st
day of August, 2007.

 (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 3/14/2007

WILLIAM MARK CASEY

SHEET 1 PAGE 1

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
2 COUNTY OF SPARTANBURG C. A. NO. 2006-CP-42-1728
3
4 William Mark Casey,
5 Plaintiff,
6 vs.
7 Gregory J. Feldman, MD,
8 Joseph A. Boscia III, MD,
9 Upstate Lung and Critical
10 Care Specialists, PC, and
11 Devendra Shantha, MD,
12
13
14

Deposition of WILLIAM MARK CASEY

18 Pursuant to notice of deposition and/or agreement
19 in the above-entitled case, a deposition was taken on
20 the 29th day of August, 2007, commencing at
21 approximately 10:15 a.m. attended by counsel as
22 follows:
23
24
25

DEPOSITIONS AND..., INC.
(864) 585-0642

PAGE 3

WILLIAM MARK CASEY Index

	Page
1 Waiver.	4
2 Direct Examination by Mr. King.	4
3 Examination by Mr. Gum.	149
4 Re-direct Examination by Mr.	178
5 Certificate of Notary Public	180
6 Exhibits: (Attached to deposition)	
7 Defendants' Exhibit No. 1 Marked	138
8 Defendants' Exhibit No. 2 Marked	141

16 Deposition Reported By: Joanne S. Quebe, CR
17 Depositions And ..., Inc.
18 (864) 585-0642
19
20
21
22
23
24
25

DEPOSITIONS AND..., INC.
(864) 585-0642

PAGE 2

WILLIAM MARK CASEY

2

1 Appearances:
2 RAY E. (CHUCK) THOMPSON, JR. AND WILLIAM H. RHODES
3 Burtis, Turner, Rhodes and Thompson
4 260 North Church Street
5 Spartanburg, South Carolina 29306
6 Attorney for Plaintiff, William Mark Casey,
7
8 H. SPENCER KING, III, Esquire
9 Ward Law Firm
10 233 South Pine Street
11 Post Office Box 5663
12 Spartanburg, South Carolina 29304
13 Attorney for Defendants, Drs. Feldman & Boscia
14 And Upstate Critical Care Specialists;
15
16 WILLIAM U. GUNN, Esquire
17 Holcombe, Bonar, P.A.,
18 100 Dunbar Street, Suite 200
19 Spartanburg, South Carolina 29306
20 Attorney for Defendant, Dr. Devendra Shantha.
21

22 Also Attending: Dr. Gregory Feldman
23 Dr. Joseph A. Boscia, III
24 Mary Etta Howard
25

DEPOSITIONS AND..., INC.
(864) 585-0642

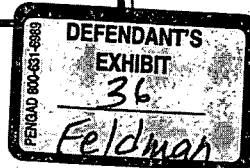
PAGE 4

WILLIAM MARK CASEY

4

1 Pursuant to notice and/or agreement to take
2 depositions, the within deposition was taken by the
3 above reporter, a notary public, as required under the
4 code of laws of South Carolina, 1976, section 19-17-10,
5 and circuit court rule 30, et al., by consent of all
6 parties at the Law Offices of The Ward Law Firm, 233
7 South Pine Street, Spartanburg, South Carolina.
8 WAIVER:
9 Counsel and the deponent agreed that both the
10 reading over of and signing of the deposition are hereby
11 dispensed with and WAIVED.
12 ** ** **
13 The deponent was duly sworn to tell the truth, the
14 whole truth, and nothing but the truth of his own
15 knowledge concerning the matter herein.
16 WILLIAM MARK CASEY, being duly sworn, testified as
17 follows:
18 DIRECT EXAMINATION BY MR. KING:
19 Q. You are William Mark Casey?
20 A. Yes.
21 Q. Mr. Casey, my name is Spencer King. I met you just
22 a very few minutes ago. I'm a lawyer here in
23 Spartanburg. We are in my office, about to begin
24 the taking of your deposition in a case that Mr.
25 Thompson and his law firm have filed against my

DEPOSITIONS AND..., INC.
(864) 585-0642



THOMPSON 010462

From: gfeld3232@aol.com
Sent: Wednesday, February 11, 2009 2:50 PM
To: milton.mann@gmail.com
Subject: Re:

We do not care if patient HAD AIR EMBOLUS

1. Fogarty asserted Air Embolus without review of the Records
Lied that it was first time he ever saw the patient
2. Asserted Laser firing after vital signs started to deteriorate

Combined with what has transpired the INTENT to INJURE is basically proven
Conspiracy Proven..

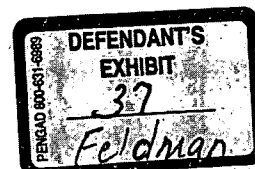
Medical Facts are not really important, INTENT is

PS ALL WE NEED are very few things!

CT SCAN Radiologist REPORT for sure
NC motion signed or executed by judge
That is it

(Ethics Complaint will be up for the Judge to report

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!



From: miltymann@gmail.com
Sent: Wednesday, December 02, 2009 9:22 AM
To: gfeld3232@aol.com
Subject: Re: Fwd: Response to FDA's EIR and Form FDA 483 for Dr. Feldman

Home run! That's great news.

Sent from my Verizon Wireless BlackBerry

From: gfeld3232@aol.com
Date: Wed, 02 Dec 2009 08:55:22 -0500
To: <milton.mann@gmail.com>
Subject: Fwd: Response to FDA's EIR and Form FDA 483 for Dr. Feldman

-----Original Message-----

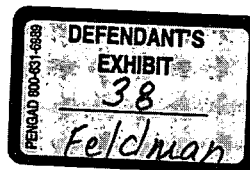
From: Anna Buice <abuice@carolinamedresearch.com>
To: gfeld3232@aol.com
Sent: Wed, Dec 2, 2009 8:27 am
Subject: FW: Response to FDA's EIR and Form FDA 483 for Dr. Feldman

Well, we were just given a gift. See below findings with the help of Tamera. Please keep this confidential.

Thanks,

Anna M. Buice, CCRC, CLR-C, CPT
Clinical Operations Manager
S. Carolina Pharmaceutical Research
1330 Boiling Springs Road
Suite 2100
Spartanburg, SC 29303

864-515-0092 phone
864-515-0094 fax



From: Tamera Norton Smith [mailto:tsmith@nortonaudits.com]
Sent: Tuesday, December 01, 2009 5:42 PM
To: Anna Buice
Cc: jsmith@nortonaudits.com
Subject: Response to FDA's EIR and Form FDA 483 for Dr. Feldman

Anna and Dr. Feldman: I have finished my review of the Establishment Inspection Report (EIR) and the Form FDA 483 from the FDA. I have read through this case now countless times to make sure I understand the facts as presented in these records. I also have performed a FDA database review and I feel very confident in my answer.

1. Dr. Gregory J. Feldman has not received an effective Form FDA-483, Inspectional Observations according to FDA's records. The 483 he did receive was issued for furtherance of

their sponsor investigation. Obviously the FDA understood the circumstances around this inspection. The FDA classified his inspection as follows:

- o His status to the August 2004 FDA inspection has been closed with a **Memo to File** (MTF). He should not report to any sponsor or IRB that he received the Form FDA 483. The records that you provided me should be held in a confidential manner and not shared with sponsoring organizations or IRBs.
- 2. He has another classification for an inspection on 04 Feb 2008 that is **No Action Indicated** (NAI). This is a good grading.
- 3. In the database, it does indicate a "**For Cause**" inspection was performed in 2004 and a "**Data Audit**" was performed in 2008. A sponsor at some point may ask about this **For Cause** inspection. Most sponsors only ask for if a 483 was issued.
- 4. If asked about the **For Cause**, I would explain that the FDA was investigating the sponsor's role in a registry study. I do not think you will be asked this very often.
- 5. You did receive a 483 but it is not indicated as **VAI or OAI**. The acronyms mean Voluntary Action Indicated (a 483 will be issued). Official Action Indicated means a 483 will be issued and a warning letter or other regulatory action. He is not classified as receiving a 483 again he is MTF in their database.
- 6. This is his link to the FDA's website:
<http://www.accessdata.fda.gov/scripts/cder/CLIL/index.cfm?fuseaction=Search.Search>
- 7. The Memo to File is not available for review. You could ask under the Freedom of Information (FOI) specifically for this memo. I am not sure they will release it. It may be considered an internal document.
- 8. Dr. Feldman should keep in mind that he should inform consent any patient or subject in all types of studies regardless of what a sponsor instructs. In this case, he was really, really lucky. The FDA was able to determine that the sponsor had misinformed him. Currently, the FDA would now maintain that he still needed to follow all regulations involving human subjects.

In short, my investigation indicates that the Form FDA 483 was not coded as actionable. This particular 483 should not be viewed as a typical 483. The circumstances are very unusual and the FDA graded it as such. Please let me know if you needed any further guidance or explanation of my findings.

Happy Holidays,

Tamera Norton Smith
NAI President and Senior Consultant
Norton Audits, Inc.
'Defining and Driving Clinical Research Excellence
100 Old Cherokee Road
Suite F
PMB 327
Lexington, SC 29072
803-233-4809, office
803-233-4819, facsimile
tsmith@nortonaudits.com
www.nortonaudits.com

From: Anna Buice <abuice@carolinamedresearch.com>
Sent: Wednesday, December 02, 2009 3:21 PM
To: gfeld3232@aol.com
Cc: 'Milton Mann'
Subject: FW: Response to FDA's EIR and Form FDA 483 for Dr. Feldman

Truly a gift. See the below response that Tamera has shared with our group. We will keep this under file in case we ever need this again:

Anna M. Buice, CCRC, CLR-C, CPT
Clinical Operations Manager
S. Carolina Pharmaceutical Research
1330 Boiling Springs Road
Suite 2100
Spartanburg, SC 29303

864-515-0092 phone
864-515-0094 fax

From: Tamera Norton Smith [mailto:tsmith@nortonaudits.com]
Sent: Tuesday, December 01, 2009 9:09 PM
To: abuice@carolinamedresearch.com
Subject: Re: Response to FDA's EIR and Form FDA 483 for Dr. Feldman

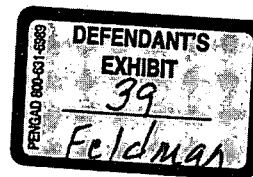
I went over this with Jeff today and he was so happy for Dr. Feldman and the whole research group. It was weird because I have been looking for a possible warning letter because of the 483. I could not find a warning letter - so I am like what did they grade him? The 483 was definitely warning letter level. When I had looked before the Memo to File was not there. I was so excited and glad the FDA did the right thing by him. As far as helping the attorney with his case - I don't think he needs the headache. If that lawyer has a case - they can subpoena him. So it was such a blessing today to me!! Let him know if he has any questions he can call or email me.

Happy Holidays,

Tamera Norton Smith
NAI President and Senior Consultant
Norton Audits, Inc.
'Defining and Driving Clinical Research Excellence'
100 Old Cherokee Road
Suite F
PMB 327
Lexington, SC 29072
803-233-4809, office
803-233-4819, facsimile
tsmith@nortonaudits.com
www.nortonaudits.com

----- Original Message -----

From: abuice@carolinamedresearch.com
To: Tamera Norton Smith



STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

WILLIAM MARK CASEY,

Plaintiff,

vs.

CASE NO. 2006-CP-42-1728

GREGORY J. FELDMAN, M.D., JOSEPH A.

BOSCIA, III, M.D., UPSTATE LUNG and

CRITICAL CARE SPECIALISTS, P.C., and

DEVENDRA SHANTHA, M.D.,

Defendants.

DEPOSITION OF: L. RANDOLPH WAID, Ph.D.

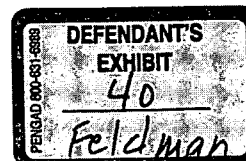
DATE: May 15, 2009

TIME: 10:20 a.m.

LOCATION: Offices of
L. Randolph Waid, Ph.D.
1459 Stuart Engals Blvd.
Suite 204-A
Mt. Pleasant, SC

TAKEN BY: Counsel for the Defendant

REPORTED BY: JENNIFER JESSE, Court Reporter



MANN 001786



Holcombe Bomar, P.A.

100 Dunbar Street, Suite 200
Spartanburg, SC 29306
P.O. Box 1897
Spartanburg, SC 29304

phone (864) 594-5300
fax (864) 585-3844

www.holcombebomar.com

E-mail: bgunn@holcombebomar.com
Direct Dial: 864-594-5301

William U. Gunn
H. Leland Bomar
Koger M. Bradford
Perry D. Boulter
William B. Darwin, Jr.
Robert M. Barrett
James H. Ritchie, Jr.*
Ginger D. Goforth
Walter M. White
A. Todd Darwin
David D. Proctor
Stacey Campbell Davis
J. Hayes Walsh

* - also admitted in NC

Neville Holcombe, 1902-1983
Horace L. Bomar, 1912-1994
Robert L. Wynn, III, Retired

September 5, 2007

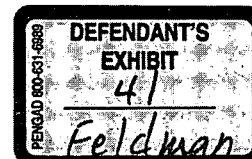
Ms. Judy Wilbanks
Marsh USA, Inc. / SC JUA
550 S. Main Street
Suite 600
Greenville, South Carolina 29601

RE: William Mark Casey v. Devendra Shantha, M.D., *et al.*
C. A. Number: 2006-CP-42-1728

Dear Judy:

On August 29, 2007, we went over to Spencer King's office for the taking of the deposition of the plaintiff Mark Casey. Mr. Casey appeared with his lawyers Chuck Thompson and Bill Rhodes. Spencer King was there on behalf of Dr. Feldman and his group, and his clients Dr. Boscia and Dr. Feldman were present, along with their office manager. I had notified Dr. Shantha of the taking of the plaintiff's deposition, but he declined to attend, and I assured him it was probably not important since he had only limited clinical contact with the patient. I think this was the right decision.

In any event, Mr. Casey is a courteous and decent fellow, who makes an above average impression. He resides at 419 Quail Ridge Circle in Boiling Springs, SC. Apparently, he pays rent to his brother-in-law, one David Hyslop. Mr. Casey says he lives alone.



KING 000232

September 5, 2007

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He is divorced from his ex-wife Donna Haulbrook. This was his only marriage. They married in March, 1982, and Mr. Casey says she was remarrying last weekend. She lives at Silver Lake, which is in the Lyman-Duncan-Wellford area.

Mr. Casey has a son Travis who is 24, and a daughter Kristin, who is 21. Kristin is married to a fellow by the name of McAbee now.

Mr. Casey says he was last employed on May 28, 2005, which is one year after the date his treatment with Dr. Feldman, which is the subject of this action, began. He worked at Michelin Tire here in Spartanburg, at the truck tire plant. The last day he actually appeared for work was May 28, 2004.

Plaintiff had been at Michelin for 21 years and had worked in quality assurance as well as being an extruder operator. He was on swing shift, and indicates this was very difficult and demanding physical labor. When he left in 2004, he was being paid \$22.50 per hour, with some overtime. It was a good job with good benefits and lots of hours.

Plaintiff says he never missed more than a day or two here and there. He recalls he had hemorrhoids some 15 years ago and was out for six weeks. With some prodding and recalling, he indicated Dr. Sovenhazy performed the hemorrhoidectomy on him.

Upon separation from Michelin, he is entitled to group medical insurance for a period of five years. He had a 401K, but he had to "get into that" and use it. Later I will explain that this was not necessarily as a result of any alleged malpractice or financial difficulty created thereby.

In response to Spencer's questions, Casey indicated there are many OSHA regulated chemicals used at Michelin.

Mr. Casey is a native of Roebuck and a 1977 graduate of Dorman High School. In high school, he had no learning disabilities of any type and after finishing high school he went to work at Lockwood Greene. He worked there for seven years running a blueprint machine, and then went to work at Michelin. He started Spartanburg Methodist College and went there for half a year but did not continue on. He has no other formal education.

At Dorman High, the plaintiff played football, basketball and baseball. He lettered for the varsity in these sports and was apparently a pretty good athlete. He now weighs 185 lbs., which is 20 lbs. heavier than he was before his treatment in the spring of 2004. He attributes this to his lack of physical activity. He says he used to play basketball all the time.

KING 000233

The plaintiff indicates he goes to church at First Baptist Church in Spartanburg. Previously, he went to Roebuck Baptist Church and played in a church league for Roebuck Baptist. He also played at one time for Michelin in an industrial league. His parents are both deceased. His father was Julian Carroll Casey, and his mother was Clara Hudson Casey. His father had a heart attack and then his mother had heart difficulties and was a diabetic. His brother Tommy died of cancer in 1998.

Casey's date of birth is [REDACTED], 1958. His brother Tommy was 45 at his death. His parents had Roebuck Fish Camp for about 30 years. It was closed for about 10 years from 1977 to 1987, and his sister Carol Hyslop owns it now. The plaintiff has smoked off and on since high school, which would be a period of 30 years. He says he now smokes about a half pack per day, although at other times he has perhaps smoked more. He drinks sparingly, according to his testimony.

The plaintiff says he takes a lot of medications.

He denies any arrests or convictions of any type, and denies he has ever been involved in any litigation of any type.

The plaintiff says he applied for social security disability when Michelin terminated him on the basis he could not go back to Michelin and run the machines there. On exertion, he has had chest pain and would start worrying about this, particularly in view of his family background. He has never had a heart attack. George Thomason was his attorney for social security purposes. He also says he has some back problems, with two bulging disks and arthritis in his low back. At one point, he injured himself on a leg machine at the Wellness Center at Michelin. He also reinjured his back swinging a driver on a golf course.

Since his injury in 2004, he has not played any basketball, but says he has played some golf. He played softball until he was 41 years of age and then began to get cramps. He apparently does not blame this on any malpractice. Also, he coached his children when they were young.

At one time, he lived on the golf course at Three Pines, which is down Highway 221 toward Woodruff. He played at Three Pines, and the best handicap he ever achieved was in the neighborhood of 11 to 13.

The plaintiff says he is no longer a member at Three Pines. He sold his home because of the divorce, and not because of his medical condition. He also indicates his divorce did not have anything to do with his medical condition and blames this mostly on the failure to communicate with his wife, and difficulties they were having in philosophies raising their children, particularly his daughter when she was a teenager.

KING 000234

At Three Pines, the plaintiff played with Brian Kinsey, Norman Paige, John Casey, Lonnie Blanchard, and Sam Latto. Todd Marshall was the pro. He has played three or four times in the last year. He is still permitted to play 12 times per year at Three Pines as someone's guest.

The plaintiff says that prior to 2004, he has some low back pain. For three weeks, he had been having some chest pain on exertion. That would cause him anxiety, because he thought he was having a heart attack. He admits that hard work contributed to his low back problems, but he never had any compensable accident at work.

Also, his brother had had a stroke.

Plaintiff says his family doctor was Dr. Gonda.

He says he has never had a stroke, with no treatment for depression and no treatment for anxiety. He did have difficulty with his daughter misbehaving when she was a teenager and had some problems with his son. His daughter eventually dropped out of school.

The plaintiff says he had two cardiac workups. He went to Spartanburg Regional in 2001 and then had a stress test and further workup. Something was seen on the stress test which worried the cardiologist, however a heart catheterization revealed nothing.

Dr. Gonda on one occasion sent the plaintiff to Dr. Mironer. Dr. Mironer gave him some injections in his back, and he missed work for a few days.

The plaintiff had never been to a psychologist or psychiatrist and had never had treatment by a chest doctor. He has never been in the military.

In 2004, the plaintiff had been having chest pain at work and his friends told him he should see a doctor. He ended up by going to the company nurse on May 28, 2004 and then before he knew it he was in an ambulance, being taken to the hospital. He does not remember who the company nurse was.

He was admitted from the emergency room, and a portable x-ray, EKG and blood pressure were taken. He said nobody knew what his problem was.

The first the plaintiff knew about the possible foreign object was when he talked with Dr. Boscia about what was on the x-ray. He had no reason to believe he might have something metal in his lung, but did say he had lost a filling a few years earlier. Dr. Boscia showed the plaintiff the actual film, and there was an object which looked exactly like a "diary key" to him. It is clear from the plaintiff's testimony he actually visualized this, and

KING 000235

to him it gave that physical appearance. In my view, that is helpful to all defendants in the case.

The plaintiff does not know how Dr. Boscia got involved. Nobody asked him who he wanted for a pulmonologist. His sister worked at the hospital (in the cafeteria) and knows all the doctors in town. Dr. Boscia told them they should remove this object.

The plaintiff agreed that they should try to remove the object. He did not object to going forward with the procedure and was told "they were going through his nose to try to go down and get it." He remembers the terms "bronchoscope" and "flexible".

The plaintiff says Dr. Boscia did not give him the option of waiting. He remembers nothing of substance about the procedure.

He woke up with Tipp Hall, a friend of his, present. He said his sister had gone to the bank, and talked with Dr. Boscia. Tipp is a family friend he went to church with.

Before the procedure, his sister was there. After the procedure, Dr. Boscia said he could not get the object and recommended his partner do it with a rigid bronchoscopy. A CAT scan was ordered and he remembers no further discussions with Dr. Boscia.

The symptom plaintiff was having back at that time was that he still had chest pain some three hours after he exerted himself. He describes it as "tightness".

The next day after the flexible bronchoscopy, the plaintiff met with Dr. Feldman. He came in and introduced himself, and said he would do the rigid bronchoscopy and that plaintiff needed to call and set this up on Monday. He also mentioned it would be done with a laser of some type. His sister was present and a friend, one Mackey Crofts, was also present. Plaintiff says his brother-in-law may well have been there too.

Dr. Feldman performed the procedure on June 3. The plaintiff had gone home on May 29, but came back on Wednesday for a pre-op. In the meantime, he did not work and stayed at home. He had chest pain, but it was not as intense as previously. He simply laid around watching ball games on television, etc.

In dealing with the doctors, the plaintiff says he did not ask a lot of questions. He does remember being in the pre-op area and saw the anesthesiologist (Dr. Shantha). He does not remember anything in particular about that. He says his sister had respect for both the anesthesiologists and Dr. Feldman.

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The plaintiff does not remember anything about procedure, and woke up a day later than he really expected. He was in the intensive care unit. He learned that he had swollen up with "subcu air". He had back pain when he woke up and some chest pain, but his back was his big problem. Dr. Feldman in, but he cannot recall what went on at that point. Plaintiff says he wanted to go home but they would not permit him to do so. One nurse in particular kept scolding him because he was turning the wrong way.

Plaintiff says he was hospitalized from a Thursday through a Monday and then Dr. Feldman told him not to do anything.

He remembers having an inability to sit down or get up and that he walked in circles. He just could not relax. He could not sit, sleep, or stop worrying, and does not know why.

He was told he had a pneumothorax. His back and chest were in pain.

The plaintiff was supposed to go back to work on August 17.

He met with Dr. Boscia in order to find out why he was walking in circles. Doctors Boscia and Feldman treated him after the procedure and the plaintiff was interested in whether he could work and play golf. There was essentially no explanation why he was walking around. He still walks around a lot and stays home most all the time.

The plaintiff went to see Dr. Wilson Smith, also a pulmonologist. He wanted to see Dr. Fogarty, but could not get in, so his sister arranged for him to see Dr. Smith. He had met previously with Dr. Boscia and Dr. Feldman. Dr. Boscia had indicated to him he would have to talk to Dr. Feldman about what the problem was, and finally he got a meeting scheduled with Dr. Feldman. During the meeting with Dr. Boscia, his sister got quite upset and "on the fly" he did get to see Dr. Feldman. His meeting with Dr. Feldman lasted less than five minutes and Dr. Feldman indicated he could not keep him out of work. This was on July 7. Other comments he can remember Dr. Feldman making were:

"I didn't read it"
"You must have thrown it up"
"It is fine to go back to work", and
"It is fine to play golf".

Plaintiff says that his question is once they knew there was a CT scan showing nothing, why did they still operate. His sister had the CT report.

Dr. Smith examined him and said he found no reason for the surgery, but he tried to "take up for his fellow doctors", but in the end said "they should not have operated".

KING 000237

September 5, 2007

Page 7

A chest x-ray was done which showed nothing abnormal.

Plaintiff says Michelin will drop you if you are not physically able to work. Dr. Smith used the word "depression" but plaintiff says he told him he was not depressed. Dr. Smith was concerned that the entire event had occurred. Mr. Casey said he wanted to get well. Dr. Smith could not answer questions as to what was wrong with him.

He claims Dr. Smith two or three times said "this should not have happened to you".

Dr. Smith also said, according to the plaintiff, that if Dr. Feldman had put a laser in his chest and he had metal in it, that was a mistake.

Plaintiff's social security check, which he lives on, is supposed to be \$1700, but about \$500 is offset. This is for wage garnishment, etc. Therefore, \$1100 is his only source of income. In this case he says he claims:

- (1) medical expenses for everything except trips to Dr. Gonda;
- (2) loss of two houses;
- (3) "blank spots" in his thought processes.

He complains that he had no dates in three years and has essentially lost interest in women. He used to enjoy their company.

Since all this arose, he has had one hospitalization, which was for a perforated ulcer. He says his sister took him, and he spent three to five days in the hospital, but this was probably unrelated to 2004 care.

After selling the house at Three Pines (which was due to the divorce), he wanted a \$160,000 house in a subdivision to be purchased from building Mike Kesley. However, he could not afford that, and ended up losing \$7,000 when he had to buy a cheaper house. He could not make the payments on that, therefore he got his 401K money out, caught up the mortgage, and then sold the house rather than having the mortgage foreclosed.

Mr. Casey does not think he has been seen by a neurologist. He sees Dr. Jeffrey Smith, a psychiatrist, and takes Mertazapine. He has been told by doctors he has "possible brain damage". All the doctors have told him this. He says he is nervous, anxious, and does not want to go on dates. He sleeps no more than three hours, and does not sleep well in his bed. He sleeps on a couch, and eats only once a day. He is fatigued, saying he is always tired.

KING 000238

When all is said and done, however, the record in this deposition is going to create a time-line which shows that the plaintiff's financial difficulties arose more from his divorce and imprudent decisions in dealing with his real estate, prior to the treatment in question, rather than as a result of the financial hardship from the treatment. Nevertheless, if a jury believes he is disabled as a result of malpractice, he has a substantial and significant claim for lost future income. Additionally, the case has significant danger if a jury accepts plaintiff's claim of brain injury, resulting in loss of enjoyment of life.

Summarizing his deposition, he appears to be a credible witness and decent, likeable guy. The involvement of his family with the Roebuck Fish Camp over the years, and his working there cannot be discounted insofar as jury knowledge of the family. However, his claim seems to be lacking insofar as objective, demonstrated evidence of brain injury. His complaints appear to be vague and nebulous, though he was able to obtain social security benefits.

Enclosed is a copy of a report from L. Randolph Waid, a licensed clinical psychologist in Mount Pleasant. He was referred there by Ken Anthony and Chuck Thompson, attorneys.

Dr. Waid opines the plaintiff presents as one with neuro cognitive deficits which would be consistent with a subcortical injury. He says the plaintiff's current neuro cognitive and emotional / behavioral deficits are likely due to a multifactorial idiology. He concludes by saying Casey has remained highly compromised with regard to cognitive, emotional, and physical functioning, rendering him unable to return to employment pursuits.

Plaintiff also lists Joseph G. Grace, III, Ph.D. here in Spartanburg as a potential expert.

Dr. Grace has been seeing Mr. Casey for some degree of time, and in his report of June 17, 2005, indicated that upon testing him, and comparing his IQ test results with ones done when he was young, the only reasonable conclusion is that he has experienced a neurological event which has diminished his ability to process information and perform in a number of areas as effectively as he once did.

Plaintiff has also identified Benson Hecker, Ph.D. of Greenville as a vocational expert. I do not believe we yet have a report from Dr. Hecker, but Hecker is a frequently used expert familiar to this writer. He has been at it for years. We expect he will testify that the plaintiff is in horrible shape, and cannot really be employed to do anything meaningful. Dr. Hecker's credibility is highly suspect, but sometimes juries buy into his lines.

KING 000239

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Plaintiff has also produced a report from Charles Alford, Ph.D., an economist. A copy of that is provided herewith. Dr. Alford, who usually comes across as a highly credible expert, concludes the plaintiff's total economic losses, based upon all his financial injuries, are \$1,056,890.00.

Remember we have an expert, Dr. Charlie Wallace of the Medical University of South Carolina, who is going to be supportive of Dr. Shantha.

We expect that soon the plaintiff's attorney will want to depose the defendant doctors and we will begin lining up depositions of the various damages witnesses of plaintiff. We have until October 15, 2007 to depose all of plaintiff's fact witnesses, and until November 15, 2007 to depose all of plaintiff's experts.

Trial will be on or after April 1, 2008.

This appears to be an appropriate time to submit our interim statement for legal services rendered and costs advanced, so I am taking the liberty of doing so.

We will keep you posted on all material developments.

With best regards,

Yours very truly,



William U. Gunn

WUG:dl
Enclosures

KING 000240

L. Randolph Waid, Ph.D.
Licensed Clinical Psychologist

Tidewater Executive Center
222 West Coleman Blvd.
Mt. Pleasant, S.C. 29464

Telephone
(843) 881-2778
Fax
(843) 881-6878

REPORT OF NEUROPSYCHOLOGICAL EVALUATION
Confidential-For Professional Use Only

Name: William Mark Casey

Age: 46 (DOB: [REDACTED]/58)

Sex: Male

Handedness: Right

Dates of Evaluation: August 30th and September 10th, 2005

Reason for Referral: William Mark Casey is a 46-year-old Caucasian male referred for neuropsychological evaluation through the offices of Ken Anthony, Esquire, and Ray E. Thompson, Jr., Esquire. The evaluation was conducted to assess Mr. Casey's brain behavior functions and emotional status. Mr. Casey's difficulties stem from medical procedures that were conducted due to recurrent chest pain in May of 2004. An emergent bronchoscopy was conducted following x-rays reportedly revealing a metallic fragment in the chest area. Reportedly, the bronchoscopy did not show a foreign body, but an area of erythema. The following week, Mr. Casey underwent a laser bronchoscopy that resulted in a perforation of the bronchial wall by the laser with resulting pneumomediastinum and respiratory distress necessitating intubation and heavy sedation. Subsequent to this, Mr. Casey has experienced disruptive symptomatology that has rendered him unable to return to employment capacities at the Michelin Company.

Relevant History: Mr. Casey was on time for his scheduled appointments. I reviewed with him the occurrence of chest pain for several weeks in May of 2004 while he was employed at resulting in him reporting it to the company nurse. Subsequently, he was transported to Spartanburg Regional Medical Center and underwent emergent evaluation. Medical records reveal that during the evaluation, Mr. Casey was found to have a left main bronchus containing some foreign body that was metallic in nature. Mr. Casey was seen in consultation by Dr. Feldman who asked Dr. Boscia to do a fiberoptic bronchoscopy. Reportedly, this procedure was undertaken but no piece of metal was found. Mr. Casey was discharged on 5/29/04.

Medical records reveal that Mr. Casey was re-admitted on June 3rd, 2004 and underwent an additional procedure conducted by Gregory Feldman, M.D. This involved bronchoscopy with laser. Acutely following the procedure, he developed considerable pneumomediastinum with reported pneumothorax on the left side. His condition necessitated placement of chest tubes, intubation and mechanical ventilation.

My understanding of Mr. Casey's case was assisted by review of the following medical records:

1. Extended medical records for treatment provided upon admission on 5/28/04 and 6/03/04.
2. Records from Spartanburg Regional Medical Center for procedures conducted in July of 2000.
3. Treatment records from Upstate Lung and Critical Care Specialists.
4. Treatment records from Lung and Chest Medical Associates.
5. Treatment records from Jeffrey Smith, M.D., Piedmont Psychiatric Services.
6. Treatment records from Joseph Grace, III, Ph.D.
7. Treatment records from Y. Eugene Mironer, M.D.
8. Mr. William Mark Casey's educational records from Spartanburg County School District #6.

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Review of records revealed that Mr. Casey experienced disruptive symptoms following the procedure conducted on June 3rd of 2004. Initial follow-up treatment was provided at Upstate Lung and Critical Care Specialists with Mr. Casey complaining of fatigue, sleep disturbance, chest tightness, as well as being agitated and "unable to sit down." There was also report of longstanding chronic back pain. There was conservative intervention including use of Ambien. Difficulties persisted, and there was referral to Carolina Center for Advanced Management of Pain. Mr. Casey underwent evaluation by Eugene Mironer, M.D. He was assessed with mechanical low back pain, depression, and chest wall pain of no muscular origin. There was discussion regarding his treatment options.

Medical records reveal that Mr. Casey sought further evaluation for his difficulties at the Lung and Chest Medical Associates. Evaluation by Wilson P. Smith, Jr., M.D. reviewed the recent surgical procedures, noting that Mr. Casey remained with dyspnea and chest pain with exertion. Dr. Smith assessed Mr. Casey as being very anxious with report from family members noting a change in his ability to tolerate stress. It was noted that Mr. Casey was unable to participate in golf and other recreational activities. Dr. Smith's impression was that pulmonary functioning was normal and chest x-rays failed to show any evidence of sequelae of his bronchial perforation. Dr. Smith expressed concern that Mr. Casey may be experiencing a Posttraumatic Stress Disorder related to his injury and intensive care unit experience. There was recommendation of referral for a psychologist for further evaluation.

Records reveal that Mr. Casey subsequently came under the care of Joseph G. Grace, III, Ph.D. Care appeared to commence on August 4th, 2004. Initial medication intervention was coordinated with Frank Gonda, M.D., Mr. Casey's family physician. Subsequently, there was referral for psychiatric care with Jeffrey Smith, M.D. Treatment has been directed toward Mr. Casey's depression, sleep disturbance, anxiety, restlessness, irritability with low frustration tolerance, and poor stress tolerance. There has been use of antidepressants and other medications. Psychiatric evaluation with Jeffrey Smith, M.D., was conducted in early November. Dr. Smith modified the medication regimen including stopping use of Zoloft and adding Cymbalta 60 mg. Dr. Smith's assessment was one of major depression, single episode, moderate.

In interview, Mr. Casey reported that he has continued under the care of Joseph Grace, III, Ph.D. as well as Jeffrey Smith, M.D. Medical records reveal that Mr. Casey underwent further evaluation at the Lung and Chest Medical Associates in July of 2005. On initial evaluation, he was experiencing dry heaves and nausea as well as chest pain and a squeezing sensation present without exertion. A cardiogram was normal and Dr. Fogarty's impression was chest pain, probably chest wall; nausea and vomiting improved; persistent difficulty concentrating and staying focused; status post laser bronchoscopy complicated by pneumomediastinum and pneumothorax. Dr. Fogarty further stated that Mr. Casey's nausea/vomiting symptoms have appeared to improve since discontinuing Strattera. Dr. Fogarty stated that with regard to Mr. Casey's difficulty concentrating, "air emboli have been reported as a complication of laser bronchoscopy, even without perforation of the endotracheal tree with resulting leakage of air into extrapleural, vascular, and mediastinal spaces. Although, he is fortunate not to have any gross motor deficit, he (Mr. Casey) may well have a permanent neurological deficit in which case the indication for taking medication such as Strattera may be mute."

Mr. Casey also underwent intellectual assessment by Joseph G. Grace, III, Ph.D., in June of 2005. Dr. Grace reviewed Mr. Casey's academic records, stating that Mr. Casey had undergone intelligence testing in the 2nd, 4th, and 6th grades with intellectual quotients in the high average range. Reportedly, academic achievement test scores were generally above the 65th percentile. Dr. Grace conducted intellectual testing with Mr. Casey earning a Full Scale I.Q. of 97, a Verbal I.Q. of 100, and a Performance I.Q. of 91. The test administered was the Wechsler Adult Intelligence Scale-III (WAIS-III). Dr. Grace opinioned that there was a significant discrepancy between Mr. Casey's early intellectual ability measures and the current I.Q. test results. Dr. Grace stated that the "only reasonable conclusion is that Mr. Casey has experienced a neurological event which has diminished his ability to process information and perform in a number of areas as effectively as he once did."

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In interview, Mr. Casey reported that he continues with fatigue and "lack of motivation." He reported that he lost his job at Michelin approximately one year ago. This has resulted in financial stressors. He reported that he was an active employee at Michelin, performing 12-hour shifts. Mr. Casey also complained of a decreased capacity for attention and memory. As Mr. Casey stated, "I can't remember things." He provided examples of absentmindedness as well as making misjudgments that have resulted in accidents. There was also report of being socially withdrawn and isolated. Mr. Casey reported being avoidant of crowds, offering that he'd rather "stay at home and not be bothered." He acknowledged continuing back pain that pre-existed the medical incidents of May/June, 2004.

With regard to motor functioning, there was no report of paralysis or lateralized weakness. Mr. Casey reported continuing muscle spasms affecting the lower back. He denied coordination/balance problems. He reported occasional numbness affecting the hands and feet. There was report of paresthesias in the back region.

With regard to cognitive processes, Mr. Casey reported a decreased capacity for attention/concentration with an easy distractibility. He reported an inability to think as quickly as before (bradyphrenia). He also stated, "I know I am more forgetful."

Mr. Casey reported a significant decline in his pursuit of social and recreational activities. This was particularly relevant to golf which he used to avidly pursue prior to his medical difficulties.

Medical History: Mr. Casey denied previous head or neck injury. There is a history of back pain associated with two bulging discs and arthritis. He has undergone previous hemorrhoidectomy as well as hospitalization for evaluation of chest pain in 2000, undergoing cardiac catheterization.

Mr. Casey denied history of psychiatric illness or need for formal treatment. He denied having lifelong problems with his nerves, depression, or mood swings. He is a rare, occasional consumer of alcohol. He denied history of excessive alcohol usage. He does not utilize illicit drugs. There has been no history of formal substance abuse treatment.

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Family History: Noncontributory for psychiatric illness and/or substance abuse problems. Family history is significant for diabetes in a mother and a heart attack in a father.

Psychosocial Review: Mr. Casey is a high school graduate. Reportedly, he was an active athlete while attending Dorman Senior High School in Spartanburg. He denied any repetition of grades or history of learning disabilities or Attention Deficit Disorder. Review of educational records confirmed him to be a high school graduate with a reported intellectual quotient of 113 attained in the 6th grade.

Mr. Casey reported that he was employed at the Michelin Company for over 20 years. His job title was manufacturing professional. He denied ever being in the military service. Mr. Casey attained a formal divorce from his wife after being married for 23 years. The couple were separated for several years before the divorce decree was attained in March of 2005. There are two biological children, a son, age 22, and a daughter, age 19.

Procedures: Wechsler Adult Intelligence Scale-III, Wechsler Memory Scale-III, California Verbal Learning Test-II, Stroop Test, Conner's Continuous Performance Test-II, Judgment of Line Orientation Test, Wisconsin Card Sorting Test, Trail Making Test, Controlled Oral Word Association Test, Paced Auditory Serial Addition Test, Seashore Rhythm Test, Speech Sounds Perception Test, Aphasia Screening Exam, Tactual Performance Test, Sensory Perceptual Examination, Finger Tapping Test, Grip Strength Test, Grooved Pegboard Test, Behavioral Dyscontrol Scale, Test of Memory Malingering, Word Memory Test, Personality Assessment Inventory, Ruff Neurobehavioral Inventory.

Examination Results

Neurobehavioral Status: Mr. Casey was on time for his scheduled appointments. He was appropriately attired with good personal hygiene. There was maintenance of appropriate eye contact. There was no evidence of psychomotor retardation or excitement. Mr. Casey was friendly and cooperative in his interactions with the examiner. There was no difficulty understanding instructional sets. He participated well in the evaluative process. He was observed to be somewhat fatigued following a lunch break. A second session was utilized to complete the evaluative process. Affect was mildly depressed, though psychological difficulties did not appear to interfere with his test performance. Specific assessment of effort was undertaken via administration of two symptom validity tests, the Test of Memory Malingering (TOMM) and Word Memory Test. Mr. Casey's performance on both of these tests was within stringent criteria consistent with our observation of providing good effort.

Language Functions: There was no aphasic or agnostic symptomatology. Mr. Casey's conversational speech was prosodic, fluent, of normal rate and tone with occasional slurring. There were no word finding difficulties in conversational speech. Mr. Casey's performance on a letter fluency test (T=45) was in the average range for an individual of his age and educational level. There was no evidence of receptive language dysfunction.

Sensory Perceptual/Motor Functions: Evaluation failed to reveal any evidence of imperceptions or suppressions affecting tactile or visual modalities during unilateral or bilateral stimulation paradigms. Mr. Casey demonstrated imperceptions and suppressions to left sided auditory stimulation. He performed efficiently on a tactile finger recognition test and made a few unsystematic errors on a Test of Graphesthesia. Mr. Casey had no difficulty recognizing gross tactile forms in each of his extremities.

Mr. Casey reports being right hand dominant. He ambulated without difficulty or need for assistance. He reported some residual low back pain that is aggravated by physically exerting activities. On a test demanding fine motor speed (Finger Tapping Test), he demonstrated bilateral slowness suggestive of moderate impairment. Assessment of grip strength revealed mild deviation from expected performance bilaterally. Mr. Casey's performance on a test demanding fine motor speed and dexterity (Grooved Pegboard Test) revealed deviation from expected performance bilaterally suggestive of mild impairment.

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Attention/Memory Functioning: Mr. Casey was errorless in his performance on an extended test of information and orientation. On the Stroop Test, he demonstrated slowed and impaired processing speed for word (T=29) and color (T=35) stimuli. He remained mildly slow, but without added decrement in his performance on a divided attentional task (T=40). Mr. Casey's performance on an attentional task demanding discrimination of rhythmic sounds was below average (T=41) for an individual of his age and educational level. On an attentional task demanding discrimination of speech sounds and matching them to their phonemes (T=36), his performance was suggestive of mild impairment. Mr. Casey's performance on WAIS-III tasks assessing working memory placed him at the 25th percentile. Mr. Casey was also administered the Paced Auditory Serial Addition Test (PASAT), a measure of information processing speed and attentional regulation. Mr. Casey was able to meet the demands of this test. Observation of test performance revealed an average initial trial performance with mild decrements in his performance as the trials became more rapid and demanding. Mr. Casey's total recall score on the PASAT was within the average range (T=57) for an individual of his age and educational level.

Mr. Casey was also administered the Conner's Continuous Performance Test-II to further assess his attentional capacities. Observation of test performance revealed slow responding coupled with lots of errors which is a distinctively problematic pattern that cannot easily be explained by response style. Generally, this pattern is a strong indicator of an attention related deficit. Mr. Casey was generally erratic in his responding, indicative of poor attention capacity. He was also substantially affected by the interstimulus interval. Specifically, responses became slower and a lot more erratic when the interstimulus interval was slowed from one second to two and four seconds. The finding may reflect limitations in his ability to adjust to change in task demands.

Mr. Casey was administered the Wechsler Memory Scale-III (WMS-III) to assess different components of anterograde memory. Mr. Casey was variable in his performance across WMS-III tasks. Mr. Casey's performance on tasks assessing immediate auditory memory placed him at the 34th percentile. Mr. Casey was less efficient in his performance on WMS-III tasks assessing immediate visual memory (10th percentile). He demonstrated an adequate ability to retain auditory (30th percentile) and visual (50th percentile) information after a period of delay. Mr. Casey's performance on WMS-III tasks assessing working memory was in the low average range (21st percentile).

Analysis of separate WMS-III scale performance revealed Mr. Casey to have an average ability to immediately learn and recall orally presented narrative passages. Mr. Casey was below average in his performance on a visual memory task demanding free recall of family pictorial stimuli. He demonstrated a low average ability to retain and recall previously learned narrative passages after a period of delay (percent retention =81). Mr. Casey was deficient in his performance on a visual memory task involving the immediate learning and reproduction of visual designs (2nd percentile). He demonstrated an adequate ability to retain and reconstruct previously learned visual designs after a period of delay (percent retention =77).

Mr. Casey was also administered the California Verbal Learning Test-II (CVLT-II), a repetitive word list learning task. Mr. Casey's total recall score after five administrations of the word list placed him at the 50th percentile compared to age related peers. Observation of test performance revealed significant deficit in his initial trial performance consistent with difficulties with attentional capacities and immediate learning. Yet, Mr. Casey showed a good ability to profit from repetitive administrations, demonstrating a good learning curve. He demonstrated difficulties in his ability to retain and recall word list information in a short and long delay, free and cued recall process. Assessment of learning characteristics revealed heavy reliance on recall from the recency region of the word list. There were no excessive intrusive errors. Mr. Casey was generally efficient in his performance on a recognition task demanding that he discriminate target from non-target words, though he made six false positive errors. Mr. Casey performed efficiently on a long delay, forced choice recognition test consistent with our observation of providing good effort.

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Visual Spatial/Visual Constructional Functions: There was no evidence of visual inattention or neglect processes. Nor was there evidence of constructional difficulties. Mr. Casey's performance on WAIS-III tasks assessing perceptual organizational skills placed him at the 63rd percentile. His performance was improved from that obtained in previous I.Q. testing conducted by Dr. Grace (47th percentile). On a test demanding fine discriminations of lines in space, Mr. Casey's performance was in the low average range (22nd percentile). On a visuographic sequencing test involving the serial processing of numbers, he was slow in the completion of the task (T=42) but without confusional error. When the task became more demanding, involving alternation between numbers and letters in sequential fashion, Mr. Casey's performance was within average limits (T=53).

Higher Reasoning/Problem Solving Abilities: Mr. Casey was able to inhibit and sequence fine motor movements on go-no go types of tasks. Mr. Casey performed efficiently on an executive functioning task involving letter fluency as well as being able to meet the set shifting skills associated with Trail Making Test-Part B.

Mr. Casey was re-administered the Wechsler Adult Intelligence Scale-III (WAIS-III) classifying his intellectual functioning to be in the average range with a Full Scale I.Q. of 96, a Verbal I.Q. of 91, and a Performance I.Q. of 104. Mr. Casey's Full Scale I.Q. places him at the 39th percentile. His performance was generally consistent with that obtained in previous evaluation conducted by Dr. Grace (FS I.Q.=97, V I.Q.=100, P I.Q.=104).

WAIS-III analysis revealed Mr. Casey to perform in the average range on tasks assessing perceptual organizational skills (63rd percentile). Mr. Casey was less efficient in his performance on WAIS-III tasks assessing verbal comprehension skills (32nd percentile). Mr. Casey's performance on tasks assessing working memory (25th percentile) was less efficient than that obtained in previous evaluation by Dr. Grace. Yet, Mr. Casey was more efficient with regard to his performance on processing speed tests (21st percentile) compared to that obtained by Dr. Grace (4th percentile).

Analysis of separate WAIS-III scale performance revealed significant strength on a task demanding attention to visual detail in the tangible environment (91st percentile).

Mr. Casey was administered the Wisconsin Card Sorting Test, which demands the ability to generate and discover the correct solution set as well as to shift the basis of one's responding when the externally imposed demands of the task necessitated this. Observation of test performance revealed Mr. Casey to readily identify the 1st correct hypothesis. Observation of test performance revealed that concentration difficulties interfered considerably with his effective problem solving abilities. Mr. Casey attained only four of the expected six categories but with an acceptable rate of perseverative errors (10%) and six failures to maintain set. The latter finding is consistent with disruption due to attention/concentration difficulties.

Mr. Casey was also administered the Tactual Performance Test (TPT) which demands keen kinesthetic/proprioceptive abilities as well as organizational/planning skills. Mr. Casey's initial dominant hand performance was above average (T=56). Yet, he demonstrated considerable difficulty profiting from this initial learning trial during his 2nd trial, non-dominant hand performance (T=36). Mr. Casey was improved in his 3rd trial, both hands performance (T=43). His incidental memory score (T=33) was suggestive of mild to moderate impairment. Yet, his location score (T=50) was in the average range.

Emotional/Mood State Functioning: Review of medical records revealed considerable concerns regarding Mr. Casey experiencing disruptive psychological difficulties as the result of his involvement in the medical incidents. There has been persistence of fatigue, agitation, and somatic symptomatology as well as concern regarding depression, anxiety, and posttraumatic stress.

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Milton Mann

From: gfeld3232@aol.com
Sent: Wednesday, July 09, 2008 10:10 PM
To: milton.mann@gmail.com
Subject: Missing in Action

1. Upstate Lung Records, including Nursing Report/warning of Drug Misuse/Dangers...not provided to SS
2. Dr. Mironer record of no factual basis for Back Pain-removed
3. Patient own History and Physical also removed

4. Dr. Fogarty 2005 "Definite Air Embolus" note also removed and not provided to SS
(it is also not in Dr. Gonda's record)

Which may allow him to claim, that after looking at the records he has decided not to send it! And he Fogarty has nothing to do with Thompson's claim....he has told him only possible throwing Thompson under the bus, would not make Thompson very happy :)...And of course Firing Laser after Vital Signs started to destabilise, was just an honest error, he was just misunderstood, looked at wrong time, patient cannot be retrained, is depression, he cannot exclude brain damage, just not sure..Resp Arrest, Coma, Anoxia..Thompson/Sister misunderstood, he did not see records said consistent with...

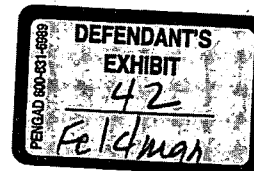
He tried to help Thompson with lawsuit, because he felt patient was wronged....

So we have only one recourse, lawsuit against both of them for manipulating the process...

we can also

1. get SS involved
2. DEA (after Narcotics Record straight
3. Summary Judgement (Disability on COPD, Back Pain, Depression (all preexisting conditions)

The Famous, the Infamous, the Lame - in your browser. [Get the TMZ Toolbar Now!](#)



8/13/2008

MANN 000023

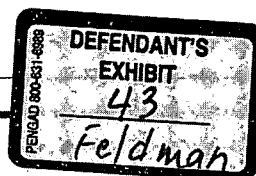
Deposition of Francisco Emilio Gonda, M.D.

August 14, 2008

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CONDENSED TRANSCRIPT AND CONCORDANCE
PREPARED BY: Sandra D. Baiger, Verbatim Reporter

Freelance Reporting Services
P. O. Box 170637
Spartanburg, SC 29301
Phone: 587-7050
FAX: 949-7099



THOMPSON 036186

Deposition of Francisco Emilio Gonda, M.D.
August 14, 2008

BSA

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Page 1

(1) STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
(2))
(3) COUNTY OF SPARTANBURG) C.A. # 06-CP-42-1728
(4) WILLIAM MARK CASEY,)
(5) PLAINTIFFS,)
(6) VERSUS)
(7) GREGORY J. FELOMAN, M.D., JOSEPH A.)
(8) BOSCIA, M.D., UPSTATE LUNG AND CRITICAL)
(9) CARE SPECIALISTS, P.C., AND DEVENDRA)
(10) SHANTHA, M.D.,)
(11) DEFENDANTS.)
(12)
(13) DEPOSITION OF
(14) FRANCISCO EMILIO GONDA, M.D.
(15)
(16) PURSUANT TO NOTICE OF DEPOSITION AND/OR AGREEMENT
(17) IN THE ABOVE-ENTITLED CASE, THE DEPOSITION OF FRANCISCO
(18) EMILIO GONDA, M.D., WAS TAKEN ON THE 14TH DAY OF AUGUST,
(19) 2008, COMMENCING AT THE HOUR OF 2:25 P.M., IN THE LAW OFFICES
(20) OF HOLCOMBE BOMAR, SPARTANBURG, SOUTH CAROLINA:
(21) REPORTED BY: MARCIE L. SMITH, VERBATIM REPORTER.
(22)
(23) FREELANCE REPORTING SERVICES
(24) Certified Verbatim Reporters
(25) Post Office Box 170637
Spartanburg, South Carolina 29301
(864) 587-7050 OR (864) 706-1241
FreelanceRpt@charter.net

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(16)
(17)
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(19)
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(21)
(22) (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL
(23) IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)
(24)
(25)

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(1) APPEARANCES:
(2)
(3)
(4) RAY E. THOMPSON, JR., ESQUIRE, AND
(5) M. NOEL TURNER, III, ESQUIRE, OF THE FIRM
(6) BURTS, TURNER, RHODES & THOMPSON
(7) P.O. BOX 3408
SPARTANBURG, SOUTH CAROLINA 29304
(8) ATTORNEYS FOR PLAINTIFF,
(9) WILLIAM U. GUNN, ESQUIRE, OF THE FIRM
(10) HOLCOMBE, BOMAR
P.O. BOX 1897
SPARTANBURG, SOUTH CAROLINA 29304
(11) ATTORNEY FOR DEFENDANT, DR. SHANTHA,
(12) H. SPENCER KING, ESQUIRE, OF
(13) THE WARD LAW FIRM
P.O. BOX 5663
SPARTANBURG, SOUTH CAROLINA 29304
(14) ATTORNEY FOR DEFENDANTS, DR. FELOMAN, DR. BOSCIA
(15) AND UPSTATE LUNG AND CARE.
(16) ALSO APPEARING: F. MILTON MANN, JR., ESQUIRE
(17)
(18) ALSO ATTENDING: MARK CASEY
(19)
(20)
(21)
(22)
(23)
(24)
(25)

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(1) STIPULATIONS:
(2) IT IS AGREED BY AND BETWEEN THE COUNSEL FOR THE PARTIES AS
(3) FOLLOWS:
(4) 1. THAT THIS DEPOSITION IS BEING TAKEN PURSUANT TO RULE 30
(5) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE;
(6) 2. THAT THE DEPONENT WAIVES RIGHT TO READ AND SIGN THE
(7) DEPOSITION TRANSCRIPT.
(8)
(9) FRANCISCO EMILIO GONDA, M.D., BEING DULY SWORN TO TELL THE
(10) TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH OF HIS OWN
(11) KNOWLEDGE CONCERNING THE MATTER HEREIN, TESTIFIED AS
(12) FOLLOWS:
(13)
(14) EXAMINATION BY MR. KING:
(15) Q. DOCTOR, GIVE US YOUR FULL NAME, PLEASE.
(16) A. MY NAME IS FRANCISCO EMILIO GONDA. I GO BY FRANK
(17) GONDA.
(18) Q. DR. GONDA, I MET YOU JUST A VERY FEW MINUTES AGO. MY
(19) NAME IS SPENCER KING. I INTRODUCED MYSELF TO YOU OFF
(20) THE RECORD. I, ALONG WITH MILTON MANN, WHO IS SEATED
(21) AT THE END OF THE TABLE, REPRESENT DR. GREG FELOMAN AND
(22) DR. JOE BOSCIA, WHO ARE DEFENDANTS IN A MEDICAL
(23) NEGLIGENCE CASE THAT HAS BEEN FILED BY WILLIAM MARK
(24) CASEY. TWO OF HIS ATTORNEYS ARE CHUCK THOMPSON AND
(25) NOEL TURNER, WHO ARE SEATED NOW NEXT TO YOU. THE OTHER

Page 1 to Page 4

THOMPSON 036187

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(1) DEFENDANT IN THIS CASE IS DR. DAVE SHANTHA, WHO IS
(2) REPRESENTED BY MR. GUNN. HE'S ALSO A DEFENDANT. AND
(3) THIS IS A LAWSUIT THAT ARISES OUT OF THE MEDICAL CARE
(4) AND TREATMENT THAT WAS RENDERED TO MR. CASEY. IT IS
(5) OUR UNDERSTANDING THAT YOU FOR A NUMBER OF YEARS HAVE
(6) BEEN A TREATING PHYSICIAN OF MR. CASEY. IS THAT
(7) CORRECT?
(8) A. THAT IS CORRECT.
(9) Q. AND WE HAVE SUBPOENAED YOU HERE TODAY FOR THE TAKING OF
(10) YOUR DEPOSITION FOR QUESTIONS RELATED TO YOUR KNOWLEDGE
(11) OF MR. CASEY'S MEDICAL CONDITIONS. IF AT ANY TIME I
(12) ASK YOU A QUESTION THAT YOU DON'T UNDERSTAND, JUST TELL
(13) ME YOU DON'T UNDERSTAND IT. I'LL RESTATE IT OR TRY TO
(14) CLEAR IT UP SO YOU DO UNDERSTAND IT. IT APPEARS THAT
(15) YOU HAVE BROUGHT THE CHART WITH YOU TODAY?
(16) A. YES, I HAVE.
(17) Q. THIS IS NOT A CLOSED BOOK EXAM. I KNOW YOU'VE TREATED
(18) MR. CASEY FOR A NUMBER OF YEARS. AND YOU ARE CERTAINLY
(19) FREE TO REFER BACK, AND I'M SURE WE WILL BE, REFER BACK
(20) TO YOUR NOTES AND RECORDS AT ANY POINT IN TIME THAT YOU
(21) WANT TO. THIS IS NOT A MARATHON. I HAVE NO IDEA HOW
(22) LONG IT'S GOING TO LAST. YOU CAN TAKE A BREAK OR
(23) RECESS AT ANY TIME FOR ANY REASON JUST BY SAYING CAN WE
(24) ADJOURN FOR A FEW MINUTES. AND WE'LL TAKE A BREAK.
(25) HAVE YOU EVER BEEN DEPOSED BEFORE?

Page 6

(1) A. I HAVE.
(2) Q. ABOUT HOW MANY TIMES?
(3) A. I THINK TWICE.
(4) Q. AND I ASKED YOU, THIS IS MR. CASEY'S CHART?
(5) A. YES, IT IS.
(6) Q. COULD I SEE IT, PLEASE, SIR.
(7) A. (WITNESS TENDERS ITEM)
(8) Q. DOCTOR, IT APPEARS TO ME THAT WE HAVE -- ASSUMING
(9) EVERYTHING IS COPIED, AND I ASSUME THAT'S WHAT YOUR
(10) OFFICE DID, IT SEEM THAT THERE'S ONLY PERHAPS TWO PAGES
(11) OF NOTES THAT WE DO NOT HAVE. IF YOU'D ALLOW US, I'LL
(12) ASK MY PARALEGAL TO STEP OUT AND HAVE SOMEBODY MAKE
(13) COPIES OF THESE TWO PAGES.
(14) (OFF THE RECORD DISCUSSION)
(15) EXAMINATION RESUMED BY MR. KING:
(16) Q. DOCTOR, WHERE IS YOUR PRACTICE?
(17) A. MY PRACTICE IS IN BOILING SPRINGS ON OLD FURNACE ROAD.
(18) IT'S FOOTHILLS FAMILY MEDICINE.
(19) Q. HOW LONG HAVE YOU BEEN PRACTICING MEDICINE IN
(20) SPARTANBURG?
(21) A. SINCE '89.
(22) Q. AND EDUCATION AND MEDICAL TRAINING?
(23) A. I WENT TO MEDICAL SCHOOL AT THE UNIVERSITY OF SOUTH
(24) CAROLINA. I DID MY RESIDENCY HERE AT SPARTANBURG AT
(25) THE GENERAL AT THAT TIME. I SPENT FOUR YEARS IN THE

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(1) AIR FORCE AND THEN I CAME HERE AFTER THAT.
(2) Q. AND IS YOUR PRACTICE A FAMILY PRACTICE? FAMILY
(3) MEDICINE?
(4) A. IT IS FAMILY MEDICINE.
(5) Q. DO YOU HAVE ANY PARTNERS?
(6) A. IN MY OFFICE I HAVE ONE OTHER PERSON, MELINDA DURHAM.
(7) AND SHE'S BEEN THERE PROBABLY TEN YEARS. SHE IS JUST
(8) PART TIME NOW.
(9) Q. SHE IS ALSO AN M.D.?
(10) A. SHE IS AN M.D.
(11) Q. ARE YOU BOARD CERTIFIED IN FAMILY MEDICINE?
(12) A. I AM BOARD CERTIFIED IN FAMILY MEDICINE.
(13) Q. DO YOU PRACTICE AT ANY HOSPITALS?
(14) A. WE HAVE NOT GONE TO THE HOSPITAL IN ABOUT FOUR OR FIVE
(15) YEARS.
(16) Q. DO YOU HAVE PRIVILEGES AT ANY HOSPITALS?
(17) A. I'M NOT SURE EXACTLY HOW THAT'S SET UP NOW. WE GAVE UP
(18) OUR PRIVILEGES SO THEY COULD BRING IN HOSPITALISTS TO
(19) MARY BLACK HOSPITAL. I THINK -- I THINK WE ARE STILL
(20) ALLOWED TO ADMIT PATIENTS, BUT I DON'T THINK WE EVER
(21) GAVE UP OUR PRIVILEGES COMPLETELY.
(22) Q. BUT IF I UNDERSTAND WHAT YOU JUST TOLD ME, YOU HAVE AN
(23) OFFICE PRACTICE --
(24) A. I HAVE AN OFFICE PRACTICE --
(25) Q. -- AS OPPOSED TO A HOSPITAL --

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(1) A. I HAVE NOT ADMITTED A PERSON IN PROBABLY FIVE YEARS.
(2) Q. DO YOU HAVE A GENERAL FAMILY PRACTICE?
(3) A. I WOULD SAY SO.
(4) Q. AND MARK CASEY HAS BEEN A PATIENT FOR YOURS WE'RE
(5) SHOWING SINCE 1992. AND I UNDERSTAND YOU DON'T HAVE
(6) THE BENEFIT OF YOUR CHART AT THIS POINT IN TIME.
(7) A. I THINK '92 IS PROBABLY RIGHT.
(8) Q. WHAT ELSE DO YOU HAVE WITH YOU?
(9) A. THAT'S ALL. IT'S JUST THE ENVELOPE THEY CAME IN.
(10) BY MR. KING:
(11) SINCE I'M NOW READY TO GO INTO THE RECORDS OF MR.
(12) CASEY, LET'S GO OFF THE RECORD TILL WE GET THE CHART
(13) BACK.
(14) (OFF THE RECORD)
(15) EXAMINATION RESUMED BY MR. KING:
(16) Q. ALL RIGHT, YOU HAVE YOUR CHART BACK NOW. LET ME ASK
(17) YOU IF YOU WILL GO TO THE FIRST VISIT THAT WE SHOW THAT
(18) YOU SAW MR. CASEY. THAT IS SEPTEMBER 23RD, 1992?
(19) A. THAT IS CORRECT.
(20) Q. IS CAROL HASLIP A PATIENT OF YOURS?
(21) A. SHE IS NOT.
(22) Q. MR. CASEY CAME --
(23) A. EXCUSE ME. IF SHE IS A PATIENT, I HAVEN'T SEEN HER IN
(24) YEARS. I DON'T KNOW IF I'VE EVER SEEN HER OR NOT. IT
(25) SEEMS LIKE I MAY HAVE ONCE OR TWICE YEARS AGO, BUT I

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(1) DONT --
 (2) Q. BUT NOT A REGULAR PATIENT?
 (3) A. NO.
 (4) Q. YOU SAW MR. CASEY SEPTEMBER 23RD, 1992, ACCORDING TO
 (5) YOUR RECORDS. AND HE GAVE YOU A HISTORY OF SOME SIX
 (6) DAYS BEFORE THAT HE'D HAD A POSSIBLE SEIZURE EPISODE?
 (7) A. CORRECT.
 (8) Q. TELL US ABOUT THE HISTORY THAT WAS GIVEN YOU.
 (9) A. WELL, I HAD INITIALLY GOTTEN A CALL FROM HIS SISTER,
 (10) WHO I'D KNOWN WHEN I WAS A RESIDENT AT THE HOSPITAL.
 (11) SO I KNEW WHO CAROL WAS. AND SHE CALLED ME AND TOLD ME
 (12) THE STORY. AND I'D NEVER SEEN MARK BEFORE. AND THEN
 (13) I GUESS TWO DAYS LATER SHE HAD MADE AN APPOINTMENT --
 (14) OR HE HAD MADE AN APPOINTMENT TO COME IN AND SEE ME.
 (15) AND APPARENTLY HE HAD HAD SOME SORT OF EPISODE WHERE HE
 (16) PASSED OUT AND HAD SOME JERKING TYPE MOVEMENTS AND
 (17) THREW UP. AND HE WAS UNCONSCIOUS FOR A COUPLE OF
 (18) MINUTES. AND HIS SISTER CAROL HAD WITNESSED THAT, AND
 (19) SHE SAID THAT HIS EYES HAD ROLLED BACK IN HIS HEAD AND
 (20) HIS ARMS APPEARED STIFF. SHE DID NOT NOTICE ANY
 (21) JERKING MOVEMENTS.
 (22) Q. I TAKE IT YOU EXAMINED HIM?
 (23) A. CORRECT.
 (24) Q. DID HE GIVE YOU A HISTORY THAT HE WAS TAKING SOME
 (25) MEDICATIONS?

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(1) I TAKE IT THAT DR. RINGEL WAS AT LEAST INVOLVED SOMEHOW
 (2) IN THE DIAGNOSTIC STUDIES. DID YOU CONCLUDE THAT IT
 (3) WAS LIKELY NOT A SEIZURE?
 (4) A. (WITNESS REVIEWS DOCUMENT) I FELT THAT IT WAS PROBABLY
 (5) A SYNCOPAL EPISODE AND NOT A SEIZURE. AND HE HAD HAD -
 (6) - HIS EEG WAS NORMAL, AND WE USED THAT AS PART OF THE
 (7) BASIS FOR THAT DETERMINATION.
 (8) Q. OKAY. NOW, THEN, THE NEXT VISIT HE COMES TO IS JANUARY
 (9) 4TH, 1993. AND THAT'S CONJUNCTIVITIS. NOTHING RELATED
 (10) TO A SEIZURE. IT'S A PROBLEM WITH AN EYE.
 (11) A. NO MENTION OF THAT THERE AT ALL.
 (12) Q. YOU SAW HIM FOR A PROBLEM WITH DRAINAGE IN THE EYE?
 (13) A. YES.
 (14) Q. AND THEN APPARENTLY THERE'S AN ABSENCE OF ABOUT FOUR
 (15) YEARS BEFORE YOU SEE HIM AGAIN?
 (16) A. THERE IS AN ABSENCE OF FOUR YEARS.
 (17) Q. AND DO YOU KNOW WHO HE SAW IN THAT FOUR YEAR PERIOD?
 (18) A. I DO NOT.
 (19) Q. NOW, WHEN HE COMES TO SEE YOU - ACTUALLY IS THERE A
 (20) CALL IN, IN EARLY '97?
 (21) A. ARE YOU TALKING ABOUT 11-17-97?
 (22) Q. I SEE A 1-17-97 ABOVE THAT? OR EXCUSE ME, IS THAT 11-
 (23) 17?
 (24) A. 11-14-97.
 (25) Q. EXPLAIN THOSE DATES TO ME. IT'S 11-14-97 AND 11-17-97

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(1) A. I HAVE WRITTEN DOWN THAT HE HAD HAD A BEER. HE HAD
 (2) TAKEN SOME COLD MEDICINE. HE HAD TAKEN A PAIN PILL,
 (3) WHICH HE DIDNT KNOW THE NAME OF. THAT'S THE ONLY
 (4) MEDICINES I HAVE WRITTEN DOWN.
 (5) Q. DO YOU KNOW WHO HAD SEEN AND TREATED MR. CASEY BEFORE
 (6) YOU STARTED SEEING HIM IN --
 (7) A. I DO NOT.
 (8) Q. YOU HAVE NO RECORD OF WHO --
 (9) A. I HAVE NO RECORD OF THAT.
 (10) Q. ALL RIGHT. DID YOU EXAMINE HIM?
 (11) A. YES, I DID.
 (12) Q. WAS THERE ANYTHING THAT YOU FOUND SIGNIFICANT IN THAT
 (13) EXAMINATION?
 (14) A. HIS EXAM WAS NORMAL.
 (15) Q. NOW, DID YOU SET HIM UP FOR SOME NEUROLOGICAL EXAMS?
 (16) A. I DID.
 (17) Q. WERE THOSE WITH DR. RINGEL?
 (18) A. C.T. SCAN WOULD HAVE BEEN AT THE HOSPITAL. AND I DONT
 (19) KNOW WHERE THE EEG WAS DONE. WHETHER IT WAS AT THE
 (20) HOSPITAL OR AT DR. RINGEL'S OFFICE. I CAN LOOK AND SEE
 (21) WHAT THE RECORD SAYS. I THINK IT WAS DR. RINGEL THAT
 (22) READ IT. IT WAS DONE AT MARY BLACK HOSPITAL.
 (23) Q. OKAY. NOW, THE NEXT NOTE I SEE IS OCTOBER 5TH. YOU
 (24) SAW HIM OCTOBER 5TH, '92. BUT YOU DESCRIBED THIS AS A
 (25) FOLLOW UP VISIT AND DR. RINGEL'S NAME IS MENTIONED. SO

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(1) A. YES.
 (2) Q. EXPLAIN THOSE TO ME. WHAT OCCURRED THEN?
 (3) A. HE WAS SEEN ON 11-14.
 (4) Q. OKAY.
 (5) A. AND WE SET HIM UP FOR X-RAYS OF HIS BACK. AND THAT'S
 (6) THE DOCUMENTATION THAT SAYS 11-14-97. AND THE NURSE
 (7) SAYS, I SCHEDULED PATIENT FOR L.S. SPINE AT MARY BLACK
 (8) HOSPITAL. PATIENT CAN GO ANY TIME WITH DOCTOR'S
 (9) ORDERS. AND THE REASON THAT'S IN THE CHART FIRST IS
 (10) BECAUSE SHE WROTE THAT BEFORE THE DICTATION WAS EVER
 (11) BACK. AND THEN ON 11-17, APPARENTLY I DID SOME LABS ON
 (12) HIM AT THAT DAY. AND HE HAD A CALL BACK TO SAY THAT
 (13) HIS LABS WERE NORMAL. AND TO CONTINUE THE MEDICINE I
 (14) HAD GIVEN HIM.
 (15) Q. AND HIS REASON FOR COMING TO SEE YOU ON NOVEMBER 14TH
 (16) OF 1997 WAS BACK PAIN?
 (17) A. YES.
 (18) Q. AND THE HISTORY THAT HE GAVE YOU WAS THAT IT HAD BEEN
 (19) ONE YEAR?
 (20) A. CORRECT.
 (21) Q. ONE YEAR HE'D BEEN HAVING PAIN?
 (22) A. CORRECT.
 (23) Q. AND DID HE GIVE YOU A HISTORY OF ANY INJURY OR ANY
 (24) ACCIDENT?
 (25) A. (WITNESS REVIEWS DOCUMENT) THERE'S NO MENTION OF AN

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- (1) ACCIDENT. JUST THAT HE DOES STRENUOUS ACTIVITY AT
(2) WORK.
(3) Q. WHAT DID HE TELL YOU ABOUT HIS JOB OR HIS WORK?
(4) A. BUILDING TIRES AT MICHELIN. LOTS OF BENDING AND
(5) STOOPING AND LIFTING AND PULLING.
(6) Q. NOW, DID YOU READ THE X-RAYS, OR DID YOU HAVE A
(7) RADIOLOGIST READ THEM?
(8) A. THE RADIOLOGIST READS THEM. THOSE WERE DONE AT THE
(9) HOSPITAL.
(10) Q. AND WHAT DID THEY SHOW?
(11) A. THE X-RAY WAS DONE ON 11-19-97 AT MARY BLACK HOSPITAL.
(12) AND IT WAS READ BY A RADIOLOGIST, DR. JOHN PATTERSON.
(13) AND THE IMPRESSION WAS NORMAL LUMBAR SPINE.
(14) Q. DID YOU PRESCRIBE ANY MEDICATIONS FOR HIM AT THIS TIME?
(15) A. HE WAS GIVEN A MEDICATION BY THE NAME OF ULTRAM. OR
(16) TRAMADOL IS THE GENERIC NAME.
(17) Q. DID YOU GIVE HIM SAMPLES OF THAT MEDICATION?
(18) A. SAMPLES AND PRESCRIPTION GIVEN.
(19) Q. AND WHAT WAS THE PRESCRIPTION?
(20) A. FIFTY MILLIGRAMS FOUR TIMES A DAY.
(21) Q. AND WHAT IS ULTRAM OR TRAMADOL?
(22) A. IT IS A NON NARCOTIC PAIN MEDICINE. IT IS NOT AN ANTI-
(23) INFLAMMATORY LIKE MOTRIN OR ADVIL.
(24) Q. IS IT OFTEN USED FOR ARTHRITIC TREATMENT?
(25) A. IT IS USED FOR ARTHRITIS. ANY KIND OF PAIN.

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- (1) FREQUENTLY USED AS AN ADD ON. IF SOMEBODY IS ALREADY
(2) TAKING ANTI-INFLAMMATORIES OR IF SOMEBODY CAN'T TAKE AN
(3) ANTI-INFLAMMATORY. OR IF YOU DON'T WANT TO GIVE
(4) SOMEBODY A NARCOTIC, YOU MAY USE THAT. HE HAD ALREADY
(5) BEEN TAKING ADVIL. I THINK I ADDED THAT TO HIS ADVIL.
(6) Q. OKAY. AND ADVIL IS A NON PRESCRIPTIVE SHELF ITEM?
(7) A. CORRECT.
(8) Q. THEN THERE'S A NOTE I SEE JANUARY 7TH, 1998. CAN YOU
(9) TELL US ABOUT THAT.
(10) A. I'M SORRY, WHICH DATE?
(11) Q. JANUARY 7TH, 1998.
(12) A. THAT'S A PHONE CALL.
(13) Q. TELL ME ABOUT THAT.
(14) A. THAT IS A PHONE CALL FROM MARK. IT'S TAKEN BY -- THE
(15) MESSAGE IS TAKEN BY ONE OF MY RECEPTIONISTS. HIS MOM
(16) HAD PASSED AWAY, AND HE'D BEEN AT THE HOSPITAL SITTING
(17) AND HIS BACK WAS SORE AND STIFF. AND HE WANTED TO KNOW
(18) IF HE COULD HAVE SOMETHING FOR THAT. HE WAS HAVING A
(19) LOT OF PAIN. SO I CALLED IN A MUSCLE RELAXER.
(20) Q. WHAT DID YOU CALL IN?
(21) A. THAT IS NORFLEX. 100 MILLIGRAMS TWICE A DAY.
(22) Q. IS THAT A MUSCLE RELAXER?
(23) A. CORRECT.
(24) Q. AND WHAT WAS THE DOSAGE?
(25) A. 100 MILLIGRAMS. A PRESCRIPTION FOR 20, WITH ONE

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- (1) REFILL.
(2) Q. OKAY. AND HOW OFTEN WAS HE TO TAKE THAT?
(3) A. TWICE A DAY.
(4) Q. SO ACTUALLY THAT WOULD HAVE BEEN TEN DAYS --
(5) A. TEN DAYS AND A REFILL IF NEEDED.
(6) Q. WHAT'S THE NEXT NOTATION, DOCTOR?
(7) A. THE NEXT NOTATION IN THE CHART IS A PHONE CALL FROM THE
(8) LAB TECH ADVISING HIM OF HIS LAB RESULTS. BUT THE NEXT
(9) VISIT WAS ON 1-21, WHEN HE CAME IN FOR A PHYSICAL.
(10) Q. THE LAB REPORT IS A LIPID PANEL, AND THAT HAS TO DO
(11) WITH CHOLESTEROL AND --
(12) A. THAT HAS TO DO WITH CHOLESTEROL.
(13) Q. AND THEN THE NEXT VISIT YOU SAID WAS JANUARY 21ST.
(14) 1998?
(15) A. YES.
(16) Q. AND WAS THAT A PHYSICAL EXAM? WAS THAT THE PURPOSE OF
(17) THAT EXAMINATION?
(18) A. CORRECT.
(19) Q. OKAY. AND HOW WAS HE DOING WITH THE BACK PAIN AT THAT
(20) POINT?
(21) A. MY NOTE SAYS THAT HIS BACK PAIN WAS DOING VERY WELL ON
(22) ULTRAM.
(23) Q. AND YOU HAVE SOME CONVERSATIONS WITH HIM AT THAT POINT
(24) ABOUT ENCOURAGING HIM TO STOP SMOKING CIGARETTES?
(25) A. (WITNESS REVIEWS DOCUMENT) YES, I DID.

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- (1) Q. AND YOU CONTINUED THE ULTRAM 50 MILLIGRAMS. EXPLAIN
(2) T.I.D. AND Q.I.D.
(3) A. THREE TIMES A DAY TO FOUR TIMES A DAY.
(4) Q. AND EACH PRESCRIPTION WAS 120 PILLS WITH FIVE REFILLS?
(5) A. CORRECT.
(6) Q. ARE THERE RESTRICTIONS OR SUGGESTIONS ABOUT HOW MUCH
(7) ULTRAM TO TAKE?
(8) A. THE MAXIMUM DOSE I THINK IS FOUR TIMES A DAY.
(9) Q. AND HOW MANY MILLIGRAMS?
(10) A. FIFTY EACH WOULD BE 200 MILLIGRAMS.
(11) Q. 200?
(12) A. I THINK THAT'S CORRECT.
(13) Q. THAT IS THE RESTRICTION ON THE DOSAGE?
(14) A. I WOULD HAVE TO LOOK UP AND SEE IF THAT'S THE MAXIMUM.
(15) BUT I THINK IT IS.
(16) Q. OKAY. THEN THE NEXT VISIT IS AUGUST 28TH, 1998?
(17) A. YES.
(18) Q. AND AT THAT POINT HOW IS HIS BACK AT THAT TIME?
(19) A. HE TELLS ME HE'S DOING WELL. THE ULTRAM HELPS HIS
(20) BACK, AND HE TAKES IT THREE TO FOUR TIMES A DAY.
(21) Q. AND YOU CONTINUED THE ULTRAM AGAIN, 50 MILLIGRAMS,
(22) THREE TO FOUR TIMES A DAY, AND AGAIN 120 PILLS WITH
(23) FIVE REFILLS?
(24) A. CORRECT.
(25) Q. THE SAME DOSAGE THAT YOU HAD GIVEN HIM IN JANUARY?

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- (1) A. CORRECT.
(2) Q. AND SO THIS IS BASICALLY A SIX MONTHS VISIT?
(3) A. CORRECT.
(4) Q. NOW, YOU ALSO AT THIS POINT, DID YOU ADD NIACIN AT THAT
(5) TIME?
(6) A. THE NOTE SAYS ENCOURAGED HIM TO GO BACK ON IT. SO HE
(7) MUST - WE MUST HAVE ADDED IT EARLIER AND THEN
(8) ENCOURAGED HIM TO CONTINUE IT OR TO GO BACK ON IT IF HE
(9) WASN'T USING IT. I'D HAVE TO LOOK BACK AND SEE.
(10) Q. AND THAT'S A CHOLESTEROL MEDICATION?
(11) A. IT IS.
(12) Q. OKAY. NOW, THEN, THE NEXT NOTATION IN YOUR CHART,
(13) DOCTOR?
(14) A. (WITNESS REVIEWS DOCUMENT)
(15) Q. AND AGAIN IT LOOKS LIKE A TELEPHONE CALL?
(16) A. HE WAS WANTING A MAIL ORDER PRESCRIPTION. INSTEAD OF
(17) BUYING IT MONTHLY, HE APPARENTLY HAD A MAIL ORDER
(18) BENEFIT FROM HIS INSURANCE. SO HE COULD GET IT THROUGH
(19) THE MAIL ORDER.
(20) Q. AND PERHAPS CHEAPER?
(21) A. CERTAINLY.
(22) Q. THE NEXT VISIT IS FEBRUARY 1ST, 1999?
(23) A. CORRECT.
(24) Q. AND HOW WAS HE AT THAT TIME?
(25) A. (WITNESS REVIEWS DOCUMENT) HE CAME IN FOR JUST A

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- (1) MEDICINE CHECK AND A REFILL. AND HE TELLS ME THAT THE
(2) ULTRAM AND TYLENOL SOMETIMES DON'T HELP. AND HE TELLS
(3) ME ABOUT THE TYPE OF JOB THAT HE DOES. AND THAT HE'S
(4) BUILDING A HOUSE. AND SOMETIMES HAS A LOT OF PAIN
(5) DURING THOSE DAYS WHEN HE'S WORKING.
(6) Q. OKAY. NOW, YOU CONTINUED THE ULTRAM. CORRECT, DOCTOR?
(7) A. CORRECT.
(8) Q. AND YOU ADDED DARVOCET?
(9) A. CORRECT.
(10) Q. WITH A PRESCRIPTION OF, IT SAYS, N-100. IS THAT THE
(11) DOSAGE?
(12) A. THAT IS THE DOSAGE OF THE MEDICINE.
(13) Q. TO TAKE EVERY FOUR TO SIX HOURS?
(14) A. FOR MODERATE PAIN.
(15) Q. EACH PRESCRIPTION CARRIED 60 PILLS AND ONE REFILL?
(16) A. CORRECT.
(17) Q. DOCTOR, WHAT IS DARVOCET?
(18) A. DARVOCET IS A COMBINATION PILL. IT HAS TYLENOL AND IT
(19) HAS A MILD NARCOTIC. PROPOXIPHENE IS THE NAME OF IT.
(20) Q. OKAY. DID YOU SUGGEST PHYSICAL THERAPY TO HIM, DOCTOR?
(21) A. YES, I DID.
(22) Q. AND DID HE DO THAT?
(23) A. DID NOT AT THAT TIME.
(24) Q. AND WHY NOT?
(25) A. MY NOTE SAYS HE WANTED TO WAIT TILL AFTER HE MOVED INTO

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- (1) HIS NEW HOUSE. AND APPARENTLY HE WAS SUPPOSED TO
(2) CHANGE JOBS AND WANTED TO SEE IF THAT WOULD HELP.
(3) Q. OKAY. IN YOUR NOTES YOU HAVE DOWN - I TAKE IT THAT
(4) "P" IS FOR PLAN?
(5) A. CORRECT.
(6) Q. PRECAUTIONS GIVEN CONCERNING CHRONIC USE OF THIS
(7) MEDICINE. IS THAT COMMENT, THAT PRECAUTION, RELATED TO
(8) THE DARVOCET?
(9) A. CORRECT. BECAUSE IT IS A NARCOTIC.
(10) Q. IS THAT A WARNING YOU GIVE WITH ALL NARCOTICS?
(11) A. I GIVE IT WITH ALL NARCOTICS. IT MAY NOT BE IN EVERY
(12) NOTE, BUT I GIVE IT. THAT'S MY STANDARD.
(13) Q. IS THERE ANY REASON THAT YOU WERE CONCERNED ABOUT THE
(14) NECESSITY OF GIVING A WARNING TO MR. CASEY AT THIS
(15) POINT ABOUT CHRONIC USE?
(16) A. I THINK THAT WAS PROBABLY A STANDARD WARNING.
(17) Q. OKAY. ALL RIGHT, NOW, THEN THE NEXT IS A TELEPHONE
(18) CALL IN?
(19) A. (WITNESS REVIEWS DOCUMENT) YES, IT IS.
(20) Q. AND THAT'S A MONTH LATER?
(21) A. IT LOOKS LIKE ABOUT A MONTH AND A WEEK MAYBE. FIVE
(22) WEEKS LATER.
(23) Q. AND WHAT WAS THE DOSAGE THAT YOU GAVE AT THAT POINT?
(24) AT THAT TIME?
(25) A. HE GOT A PRESCRIPTION FOR THAT DARVOCET N-100, AND HE

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- (1) GOT 60 WITH NO REFILLS.
(2) Q. SO HE GOT 60 PILLS, NO REFILLS. CORRECT?
(3) A. CORRECT.
(4) Q. AND THEN THE NEXT NOTE IS A PHARMACEUTICAL CALL FROM
(5) WAL-MART. TELL ME ABOUT THAT.
(6) A. (WITNESS REVIEWS DOCUMENT) HE WAS SEEN ON 11-2-99, AND
(7) HE WAS GIVEN A PRESCRIPTION FOR THE ULTRAM. AND BEFORE
(8) THE DICTATION MAKES IT BACK TO THE CHART, THERE IS A
(9) PHONE CALL FROM WAL-MART WANTING TO VERIFY THAT THAT
(10) WAS WHAT I HAD WRITTEN.
(11) Q. ARE THEY QUESTIONING -
(12) A. FOR THE ULTRAM.
(13) Q. ARE THEY QUESTIONING THE AMOUNT?
(14) A. YES.
(15) Q. AND YOU AT THAT POINT ON THE NOVEMBER 2ND VISIT, HE
(16) AGAIN WAS COMPLAINING AGAIN ABOUT HIS STRENUOUS WORK AT
(17) MICHELIN. DID YOU INCREASE THE ULTRAM DOSAGE?
(18) A. I DID. I THINK MAYBE EVEN THE TIME BEFORE THAT.
(19) Q. OKAY, SO THE -
(20) A. HE WAS TAKING ONE OR TWO AT A TIME NOW, INSTEAD OF JUST
(21) ONE.
(22) Q. SO THE PLAN HERE IS - AND THIS IS AGAIN NOVEMBER 2ND,
(23) 1999. THE ULTRAM WAS 50 MILLIGRAMS, ONE TO TWO, THREE
(24) TO FOUR TIMES A DAY?
(25) A. CORRECT.

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- (1) Q. AND YOU GAVE HIM 720 EACH PRESCRIPTION, WITH ONE
(2) REFILL?
(3) A. AND THAT WOULD BE TO LAST THREE MONTHS AND ANOTHER
(4) THREE MONTHS. SO SIX MONTHS TOTAL IS WHAT THAT SHOULD
(5) LAST.
(6) Q. EACH PRESCRIPTION IS THREE MONTHS?
(7) A. CORRECT.
(8) Q. AND THEN YOU ALSO CONTINUED HIM ON THE DARVOCET?
(9) A. CORRECT.
(10) Q. AND THERE YOU GAVE HIM AN ORDER FOR 100 MILLIGRAMS
(11) EVERY FOUR TO SIX HOURS AS NEEDED, 60 PILLS EACH
(12) PRESCRIPTION, AND YOU GAVE ONE REFILL?
(13) A. CORRECT.
(14) Q. OKAY. AT THIS POINT IN TIME, DOCTOR, IS MR. CASEY'S
(15) BACK GETTING PROGRESSIVELY WORSE? OR IS IT EPISODAL?
(16) A. HE MAY BE GETTING WORSE. HE MAY ALSO BE DEVELOPING A
(17) TOLERANCE TO THE MEDICINE, WHICH IS NOT UNCOMMON.
(18) THEREFORE, YOU END UP GIVING MORE EACH TIME YOU WRITE
(19) THE PRESCRIPTION.
(20) Q. OKAY. NOW, THE NEXT VISIT I SEE IS MAY 8TH, 2007?
(21) A. YES, SIR.
(22) Q. TELL ME ABOUT THAT VISIT.
(23) A. (WITNESS REVIEWS DOCUMENT) HE TELLS ME THAT HE HAS
(24) SOME SIGNIFICANT EPISODES OF BACK PAIN, ESPECIALLY WHEN
(25) HE WORKS 12 HOUR SHIFTS. AND THAT THE DARVOCET DOESN'T

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- (1) WORK ANYMORE. AND HE WOULD LIKE LORTAB. WHICH IS A
(2) STRONGER MEDICATION.
(3) Q. ALSO A NARCOTIC?
(4) A. ALSO A NARCOTIC.
(5) Q. AND LORTAB IS STRONGER?
(6) A. YES, SIR.
(7) Q. DOCTOR, IS IT UNUSUAL TO HAVE A PATIENT TELL THE DOCTOR
(8) WHAT TYPE MEDICATION HE NEEDS OR WANTS?
(9) A. IT'S COMMON.
(10) Q. IT IS COMMON?
(11) A. IT IS COMMON.
(12) Q. I WOULD HAVE THOUGHT OTHERWISE. HOW MUCH STRONGER IS
(13) LORTAB?
(14) A. THEY HAVE CHARTS THAT SHOW THE EQUIVALENCY. I DON'T
(15) KNOW IT. I WOULD SAY AT LEAST TWICE. I DON'T KNOW THE
(16) EQUIVALENCY OF THAT. THEY BOTH HAVE TYLENOL IN THEM,
(17) BUT THE LORTAB IS STRONGER. IF I HAD TO GUESS, MAYBE
(18) TWICE AS STRONG.
(19) Q. AS THE DARVOCET?
(20) A. AS THE DARVOCET.
(21) Q. NOW, AGAIN THERE'S YOUR NOTATION IN THE PLAN, AND THIS
(22) TIME YOU SAID LONG DISCUSSION ABOUT NARCOTICS. AGAIN,
(23) IS THIS WHAT YOU ALWAYS DO OR ARE YOU HERE HAVING
(24) CONCERNS ABOUT MR. CASEY'S USE OF NARCOTICS?
(25) A. I MAY BE HAVING CONCERNS. WE'VE KIND OF GRADUATED FROM

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- (1) ONE DRUG TO ANOTHER. THE LESSER ONES ARE NOT WORKING.
(2) SO THAT MAY BE A CONCERN THERE.
(3) Q. IS THIS IN KEEPING WITH WHAT YOU TOLD ME JUST A MINUTE
(4) OR TWO AGO ABOUT A BODY BUILDING UP A TOLERANCE?
(5) A. SURE.
(6) Q. SO AT THIS POINT YOU RENEWED THE ULTRAM, 50 MILLIGRAMS,
(7) TWO AT A TIME, THREE TO FOUR TIMES A DAY. IT'S 720
(8) WITH ONE REFILL. AGAIN, THAT WOULD BE A SIX MONTH
(9) SUPPLY?
(10) A. MM-HMM (AFFIRMATIVE RESPONSE).
(11) Q. AND THEN LORTAB. AND WHAT WOULD BE THE LORTAB AGAIN?
(12) WHAT'S THE LORTAB PRESCRIPTION?
(13) A. WHAT IS THE WHAT, NOW?
(14) Q. WHAT IS THE PRESCRIPTION? FIVE MILLIGRAMS TAKEN SIX TO
(15) EIGHT HOURS —
(16) A. EVERY SIX TO EIGHT HOURS FOR MODERATE PAIN.
(17) Q. TWENTY IN EACH PRESCRIPTION WITH FIVE REFILLS?
(18) A. CORRECT.
(19) Q. AGAIN, IS THAT THOUGHT TO BE A SIX MONTH SUPPLY?
(20) A. WELL, HE TELLS ME THAT HIS BACK PAIN IS REALLY BAD WHEN
(21) HE WORKS THE 12 HOUR SHIFTS, AND HE WORKS EIGHT OF
(22) THOSE. SO THE PURPOSE OF THAT PRESCRIPTION IS TO COVER
(23) THOSE 12 HOUR SHIFTS. WHEN HE SAYS HE HURTS MORE.
(24) Q. AND YOU'VE GOT THE COMMENT HERE, 20 PILLS SHOULD EASILY
(25) LAST HIM THE ENTIRE MONTH.

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- (1) A. YES.
(2) Q. AND YOU AGAIN RECOMMENDED PHYSICAL THERAPY?
(3) A. YES.
(4) Q. DID HE EVER DO IT?
(5) A. I HAVE A NOTE THAT SAYS WE SET HIM UP AN APPOINTMENT ON
(6) 5-11-2000.
(7) Q. DO YOU KNOW WHETHER HE WENT OR NOT?
(8) A. I HAVE A NOTE ON 10-26-2000 THAT HE TELLS ME THAT
(9) PHYSICAL THERAPY HELPED A LITTLE BIT. I CAN LOOK AND
(10) SEE IF I HAVE A NOTE FROM THE THERAPY DEPARTMENT.
(11) Q. WOULD YOU LOOK AND TELL ME WHERE THE PHYSICAL THERAPY
(12) WAS.
(13) A. IT SAYS WE MADE THE APPOINTMENT AT MARY BLACK HOSPITAL.
(14) Q. OKAY.
(15) A. AND I HAVE AN ORDER FORM FOR THERAPY. AND I HAVE A
(16) NOTE FROM THE THERAPIST.
(17) Q. DO YOU KNOW HOW LONG HE WENT TO THERAPY?
(18) A. (WITNESS REVIEWS DOCUMENT) THE THERAPIST SAYS IN THEIR
(19) NOTE THAT SHORT TERM GOALS AND LONG TERM GOALS WERE NOT
(20) MET. AND THE REASONS WERE, AND HE HAS IT CHECKED ON A
(21) CHECK LIST, THAT MULTIPLE REFUSALS OR NON COMPLIANT AND
(22) PHYSICIAN IS NOTIFIED.
(23) Q. WHO WAS THE PHYSICAL THERAPIST? I'M SORRY, DOCTOR, CAN
(24) YOU READ THAT.
(25) A. I CANNOT. THE FIRST NAME LOOKS LIKE SCOTT. I DON'T

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- (1) KNOW THE LAST NAME.
(2) Q. WHAT'S THE DATE OF THAT —
(3) A. MILLER. I THINK IT'S MILLER.
(4) Q. SCOTT MILLER. AND WHAT'S THE DATE OF THAT?
(5) A. 6-16-2000.
(6) Q. NOW, FOLLOWING THAT NOTE, SET HIM UP FOR PHYSICAL
(7) THERAPY, YOU ALSO HAVE THE COMMENT, I WOULD LIKE FOR
(8) HIM TO ATTEND A REHABILITATION PROGRAM FOR THE BACK,
(9) IS THAT SOMETHING DIFFERENT FROM PHYSICAL THERAPY?
(10) A. I THINK THAT'S PROBABLY PART OF THERAPY, BUT I DON'T
(11) RECALL. I THINK THAT'S PART OF THERAPY.
(12) Q. THEN THE NEXT ONE IS ANOTHER — IS THAT ANOTHER
(13) TELEPHONE ORDER? OR TELEPHONE CONVERSATION?
(14) A. GIVE ME A DATE.
(15) Q. AUGUST 29TH, 2000.
(16) A. (WITNESS REVIEWS DOCUMENT) YES, IT IS.
(17) Q. AND AGAIN I THINK WE MAY BE AHEAD OF THE —
(18) A. AHEAD OF THE DICTATION.
(19) Q. BECAUSE ACTUALLY YOU SAW HIM AS A PATIENT ON AUGUST
(20) 28TH. AND THEN I TAKE IT THIS TELEPHONE MESSAGE
(21) FOLLOWS THE NEXT DAY?
(22) A. CORRECT.
(23) Q. SO LET'S DO THEM IN SEQUENCE. ON AUGUST 28TH, HE SEES
(24) YOU FOR WRIST PAIN, WHICH I TAKE IT IS A NEW COMPLAINT?
(25) A. (WITNESS REVIEWS DOCUMENT)

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- (1) Q. I DON'T RECALL HIM COMPLAINING OF WRIST PAIN BEFORE.
(2) A. CORRECT.
(3) Q. AND AGAIN DOES HE ATTRIBUTE THAT TO WORK?
(4) A. MY NOTE SAYS HE THINKS IT IS PROBABLY RELATED TO THE
(5) REPETITIVE ACTIVITY HE DOES AT MICHELIN BUILDING TIRES.
(6) Q. BUT NOT CARPAL TUNNEL?
(7) A. I DID NOT CALL IT THAT.
(8) Q. AND THEN YOU ADDED A MEDICATION AT THAT POINT?
(9) A. YES, I DID.
(10) Q. AND THAT'S RELAFEN?
(11) A. RELAFEN, WHICH IS AN ANTI-INFLAMMATORY. ALONG THE
(12) LINES OF THE MOTRIN OR ADVIL.
(13) Q. AND YOU GAVE HIM 50 MILLIGRAMS TO TAKE —
(14) A. 500.
(15) Q. EXCUSE ME, 500 MILLIGRAMS TO TAKE TWO TO FOUR TIMES A
(16) DAY?
(17) A. TWO PILLS ONCE A DAY.
(18) Q. TWO PILLS ONCE A DAY, I'M SORRY. AND 60 IN EACH
(19) PRESCRIPTION, ONE REFILL?
(20) A. CORRECT.
(21) Q. AND HERE YOU SAY G.I. PRECAUTIONS GIVEN. CAN THIS
(22) CAUSE NAUSEA?
(23) A. IT CAN CAUSE NAUSEA, UPSET STOMACH, STOMACH BLEEDING.
(24) ANTI-INFLAMMATORIES ARE A COMMON CAUSE OF ULCERS.
(25) Q. NOW, LET'S GO BACK TO THE PHONE CALL THE NEXT DAY.

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- (1) TELL ME ABOUT THAT.
(2) A. (WITNESS REVIEWS DOCUMENT) HE WANTED SOMETHING
(3) STRONGER FOR PAIN. AND I STATED THAT HE WAS NOT DUE
(4) THE PRESCRIPTION. THAT HE HAD GOTTEN A PRESCRIPTION IN
(5) MAY OF 2000.
(6) Q. FOR THE LORTAB AND THE ULTRAM —
(7) A. FOR THE LORTAB. HE WAS NOT DUE, AND IT WAS SUPPOSED TO
(8) LAST SIX MONTHS.
(9) Q. AND THIS IS ONLY ABOUT NOT QUITE —
(10) A. THREE MONTHS. THREE AND A HALF MONTHS.
(11) Q. YES, THREE AND A HALF MONTHS. SO YOU REFUSED THAT
(12) REQUEST?
(13) A. YES.
(14) Q. DO YOU KNOW WHETHER OR NOT HE WAS OUT OF HIS
(15) MEDICATION?
(16) A. I DON'T KNOW THAT HE WAS OUT. I DON'T HAVE THAT
(17) WRITTEN DOWN.
(18) Q. BUT YOU REFUSED HIS REQUEST FOR ADDITIONAL PAIN
(19) MEDICATIONS?
(20) A. CORRECT.
(21) Q. IS THAT A CONCERN, DOCTOR? WHEN A —
(22) A. SURE.
(23) Q. IT IS?
(24) A. SURE IT IS.
(25) Q. NOW, THE NEXT VISIT IS OCTOBER 26TH, 2000; IS THAT

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- (1) CORRECT?
(2) A. (WITNESS REVIEWS DOCUMENT) YES.
(3) Q. AND HE COMES IN AND THE REASON AGAIN IS LOW BACK PAIN?
(4) A. CORRECT.
(5) Q. HE NOW IS TELLING YOU HE IS HAVING PAIN EVERY DAY. THE
(6) ORIGIN IS EITHER WORKING OR PLAYING BALL?
(7) A. CORRECT.
(8) Q. HE DOES TELL YOU AT THAT TIME THAT HE DID INCREASE THE
(9) LORTAB OVER WHAT THE PRESCRIPTION WAS, AND THAT'S WHY
(10) HE RAN OUT EARLY?
(11) A. CORRECT.
(12) Q. IS THAT WHAT HE TOLD YOU?
(13) A. (WITNESS INDICATES AFFIRMATIVE RESPONSE)
(14) Q. OKAY. YOU EXAMINED HIM AT THAT POINT?
(15) A. I DID.
(16) Q. AND I ASSUME THIS IS A LOW BACK EXAMINATION?
(17) A. CORRECT.
(18) Q. TELL US ABOUT THAT.
(19) A. MY NOTE SAYS THAT HE HAS NO DEFORMITY, AND HE HAS
(20) EXCELLENT RANGE OF MOTION. BUT HE HAS DISCOMFORT IN
(21) THE DIFFERENT MOVEMENTS THAT I PUT HIM THROUGH.
(22) TWISTING OR TILTING OR FORWARD BENDING, AND HE HAS
(23) TENDERNESS IN THE LOWER BACK. AND I DO NOT NOTE ANY
(24) MUSCLE SPASM. I STATE THAT HIS STRAIGHT LEG RAISE IS
(25) NEGATIVE. HIS REFLEXES ARE NORMAL AND STRENGTH AND

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- (1) SENSORY EXAM ARE NORMAL.
(2) Q. AND THE PLAN IS YOU RENEWED HIS MEDICATIONS. AND IF
(3) I'M RIGHT, DOCTOR, THIS IS THE SAME REFILLS THAT YOU
(4) HAD GIVEN HIM EARLIER BACK IN MAY OF 2000, AND HERE
(5) AGAIN IT'S SIX MONTHS FOR BOTH THE ULTRAM AND THE
(6) LORTAB?
(7) A. CORRECT.
(8) Q. OKAY. FIFTY MILLIGRAMS, TWO AT A TIME, OF THE ULTRAM,
(9) FOUR TIMES A DAY?
(10) A. CORRECT.
(11) Q. THAT'S 720 PILLS, ONE REFILL. LORTAB, FIVE MILLIGRAMS,
(12) ONE EVERY FOUR TO SIX HOURS, WITH 20 IN A PRESCRIPTION
(13) AND FIVE REFILLS?
(14) A. CORRECT.
(15) Q. AND YOU'VE EXPLAINED TO US HOW 20 EQUALS A MONTH OF
(16) PRESCRIPTIONS?
(17) A. WELL, INITIALLY WHEN THAT WAS WRITTEN, THAT WAS TO
(18) COVER THOSE 12 HOUR WORKDAYS.
(19) Q. OKAY. NOW, I SEE THE NEXT VISIT IS 9-7-01. CORRECT?
(20) A. (WITNESS INDICATES AFFIRMATIVE RESPONSE)
(21) Q. AND IT LOOKS LIKE A TELEPHONE ORDER, AND I CAN'T TELL
(22) WHAT THAT DATE IS.
(23) A. (WITNESS REVIEWS DOCUMENT)
(24) Q. IT LOOKS TO ME LIKE ZANAFLEX?
(25) A. 9-7-01. THERE'S A PHONE CALL ABOVE THAT. PROBABLY OUT

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- (1) OF SEQUENCE SOMEWHERE.
(2) Q. THAT'S THE SAME DATE?
(3) A. NO. THE NEXT VISIT IS ACTUALLY 4-19-01.
(4) Q. ALL RIGHT, DOCTOR, I DO NOT HAVE THAT ONE. EXCUSE ME,
(5) MAYBE I DO.
(6) A. THAT'S IT RIGHT THERE.
(7) Q. I DO. I'M SORRY, MY APOLOGIES. TELL ME ABOUT 4-19-01.
(8) AGAIN, IT'S FOR LOW BACK PAIN?
(9) A. IT IS FOR LOW BACK PAIN. AND HE INCREASED THE ULTRAM.
(10) IT SAYS THAT'S THE ONLY MEDICINE THAT HE'S TAKING. THE
(11) PREVIOUS NOTE MENTIONED THAT HE WAS SENT TO THE PAIN
(12) CLINIC AND SCHEDULED FOR AN MRI. THIS NOTE SAYS THAT
(13) HE WENT TO THE PAIN CLINIC, BUT DID NOT GO FOR THE MRI.
(14) AND THEY DIDN'T DO MUCH FOR HIM THERE.
(15) Q. ALL RIGHT, SO HE'S TELLING YOU THAT HE ON HIS OWN
(16) INCREASED HIS ULTRAM?
(17) A. YES.
(18) Q. BUT HE HAS QUIT TAKING THE LORTAB?
(19) A. HE TELLS ME THAT'S THE ONLY MEDICINE HE'S TAKING.
(20) Q. I.E., ULTRAM?
(21) A. CORRECT.
(22) Q. DID HE TELL YOU WHY HE DIDN'T DO THE MRI?
(23) A. HE TELLS ME HE HAD TOO MANY BILLS AND WAS NOT ABLE TO
(24) GO BECAUSE OF THAT. COULDN'T AFFORD TO HAVE IT DONE.
(25) Q. WERENT YOU BEING PAID BY MICHELIN'S GROUP INSURANCE

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- (1) FOR YOUR SERVICES?
(2) A. AM I PAID BY MICHELIN?
(3) Q. I SAID WERENT YOU BEING AT THAT POINT PAID BY MICHELIN
(4) FOR YOUR SERVICES --
(5) A. WHATEVER HIS INSURANCE IS.
(6) Q. RIGHT.
(7) A. NO, I'M NOT PAID BY MICHELIN. I'M PAID BY THE
(8) INSURANCE --
(9) Q. BY THE INSURANCE COMPANY THROUGH MICHELIN.
(10) A. YEAH. AND I DON'T KNOW WHO THAT INSURANCE WAS.
(11) Q. I UNDERSTAND. BUT DO YOU UNDERSTAND WHY THEY WOULDN'T
(12) PAY FOR THE MRI, IF HE HAS HEALTH --
(13) A. WELL, HE HAS A PORTION TO PAY.
(14) Q. THAT WOULD BE THE DEDUCTIBLE OR THE CO-PAY --
(15) A. THE DEDUCTIBLE, THE CO-PAY.
(16) Q. RIGHT.
(17) A. AND I HAVE NO IDEA WHAT IT WOULD BE. I HAVE PATIENTS
(18) SOMETIMES TELL ME THEY WANT 500 BUCKS UP FRONT OR
(19) SOMETHING. SO I DON'T KNOW WHAT IT WOULD BE.
(20) Q. AND I TAKE IT YOU DON'T DO MRIs, SO YOU PROBABLY DON'T
(21) KNOW HOW MUCH AN MRI IS?
(22) A. I KNOW THAT TODAY THEY CAN BE IN THE THOUSANDS. TWO
(23) THOUSAND OR THREE THOUSAND. I HAVE NO IDEA WHAT IT WAS
(24) THEN. WHETHER IT'S GONE UP OR DOWN.
(25) Q. ALL RIGHT. WHAT ABOUT YOUR EXAMINATION AT THAT POINT?

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- (1) A. HIS EXAM WAS REALLY THE SAME. THE ONLY THING I
(2) MENTIONED DIFFERENT IS THAT THERE APPEARS TO BE
(3) TENDERNESS IN SOME MUSCLES AND MAYBE A LITTLE MUSCLE
(4) SPASM.
(5) Q. OKAY. AND THE MEDICATION REFILLS AT THAT POINT?
(6) A. I GAVE HIM THE ULTRAM. SAME AS WE'D BEEN DOING.
(7) Q. SIX MONTH SUPPLY?
(8) A. SIX MONTHS. AND I ADDED A MUSCLE RELAXER. AND THAT'S
(9) CALLED ZANAFLEX.
(10) Q. AND WHAT WAS THE DOSAGE OF THE ZANAFLEX?
(11) A. IT'S A FOUR MILLIGRAM PILL, AND HE'S TO START WITH A
(12) HALF A PILL AT BEDTIME. HE COULD INCREASE IT EVERY
(13) THREE DAYS BY HALF A PILL. AND I HAD SOME SAMPLES OF
(14) THAT, AND I GAVE HIM SAMPLES AND A PRESCRIPTION.
(15) Q. THEN THE NEXT VISIT IS MARCH 6TH, 2002. AM I RIGHT
(16) THERE OR DID I MISS ONE? DID I MISS 9-7? 9-7, WAS
(17) THAT THE NEXT ONE?
(18) A. 4-19-01. THEN THE NEXT ONE WOULD BE 9-7-01.
(19) Q. TELL ME ABOUT 9-7-01.
(20) A. (WITNESS REVIEWS DOCUMENT) HE TELLS ME THAT THE
(21) ZANAFLEX HAS HELPED HIM DRAMATICALLY AND HE'S ABLE TO
(22) SLEEP WELL AT NIGHT -- ALL NIGHT. AND HE TELLS ME THAT
(23) SOMETIMES HE TAKES THREE OF THE ULTRAM FOUR TIMES A
(24) DAY. AND MY NOTE SAYS THAT I WARNED HIM THAT THE
(25) MAXIMUM DOSE WAS 400.

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- (1) Q. SO HE'S TAKING —
 (2) A. AND I TOLD YOU EARLIER THAT I'D HAVE TO LOOK UP THE
 (3) MAXIMUM DOSE, AND THERE'S MY MAXIMUM DOSE. ON THE
 (4) ULTRAM.
 (5) Q. SO 200 MILLIGRAMS IS THE ULTIMATE DOSE?
 (6) A. 400.
 (7) Q. 400 —
 (8) A. I TOLD YOU EARLIER I'D HAVE TO LOOK IT UP.
 (9) Q. RIGHT.
 (10) A. THAT I DIDN'T RECALL OFF THE TOP OF MY HEAD. AND I
 (11) TOLD YOU I THOUGHT IT WAS 200. BUT HERE I HAVE MAXIMUM
 (12) DOSE IS 400.
 (13) Q. WHAT IS HE TAKING?
 (14) A. HE'S TAKING 150 FOUR TIMES A DAY.
 (15) Q. SO THAT'S 600.
 (16) A. 600.
 (17) Q. WHAT IS THE DANGER OF TAKING MORE ULTRAM THAN THE 400
 (18) MILLIGRAM DOSAGE?
 (19) A. ULTRAM STILL HAS A POTENTIAL FOR ADDICTION. IT'S NOT
 (20) AN OPIOID AND IT'S NOT A NARCOTIC, PER SE. BUT IT
 (21) STILL HAS SOME POTENTIAL FOR ADDICTION. I THINK THAT'S
 (22) PROBABLY THE BIGGEST THING WITH IT. AND I'M SURE THE
 (23) PDR LISTS 10,000 SIDE EFFECTS.
 (24) Q. AND IF A PATIENT BECOMES ADDICTED TO ULTRAM, CAN THERE
 (25) BE WITHDRAWAL SYMPTOMS?

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- (1) A. I'M SURE THERE CAN BE.
 (2) Q. BUT AGAIN YOU HAD CONCERN ABOUT THE OVERUSE OF THE
 (3) ULTRAM?
 (4) A. CORRECT.
 (5) Q. SO YOU CONTINUED THE ULTRAM FOR SIX MONTHS, BUT DIDN'T
 (6) CHANGE THE DOSAGE?
 (7) A. KEPT HIM AT THE MAXIMUM DOSE.
 (8) Q. ALL RIGHT, AND YOU CONTINUED THE ZANAFLEX —
 (9) A. CONTINUED THE ZANAFLEX.
 (10) Q. FOR SIX MONTHS?
 (11) A. (WITNESS INDICATES AFFIRMATIVE RESPONSE)
 (12) Q. THERE'S NO MENTION OF LORTAB AT THIS POINT?
 (13) A. MY NOTE DOES NOT MENTION ANY LORTAB AT THAT POINT.
 (14) Q. ALL RIGHT, THEN IS THE NEXT VISIT MARCH 6TH, 2002?
 (15) A. CORRECT.
 (16) Q. AND AT THIS POINT HE'S COMPLAINING OF LOW BACK PAIN.
 (17) CORRECT?
 (18) A. CORRECT.
 (19) Q. AGAIN, DOCTOR, AT THE PREVIOUS VISIT DID YOU ADD
 (20) VIAGRA?
 (21) A. YES, I DID.
 (22) Q. AND THE ONLY MALADY THAT VIAGRA TREATS IS ERECTILE
 (23) DYSFUNCTION?
 (24) A. CORRECT.
 (25) Q. IT DOESN'T HAVE ANY OTHER PROPERTY OR TREATMENT

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- (1) BENEFIT?
 (2) A. I THINK IT'S BEEN EXPERIMENTED FOR SEVERAL OTHERS.
 (3) Q. BUT THAT'S NOT WHAT YOU WERE USING IT FOR? YOU WERE
 (4) USING —
 (5) A. I WAS USING IT FOR ERECTILE DYSFUNCTION.
 (6) Q. ALL RIGHT, AND SO WHEN YOU SEE HIM ON MARCH 6TH, 2002,
 (7) HE'S BACK FOR LOW BACK PAIN AND ERECTILE DYSFUNCTION
 (8) AGAIN?
 (9) A. CORRECT.
 (10) Q. HOW'S HIS BACK AT THIS POINT?
 (11) A. HE TELLS ME THAT HE CONTINUES WITH CHRONIC BACK PAIN.
 (12) THE MEDICINES THAT HE'S ON HELP, BUT HE STILL HAS PAIN
 (13) EVERY DAY. AND HE'S REQUESTING LORTAB.
 (14) Q. DOCTOR, I'M CONFUSED. I KNOW I'M TAKING YOU BACK SIX
 (15) YEARS, AND YOU MAY NOT BE ABLE TO ANSWER THIS. BUT
 (16) YOUR COMMENT IS HE HAS AGAIN REQUESTED LORTAB. WE HAVE
 (17) DISCUSSED LORTAB BEFORE AND IT IS BEST THAT WE STAY
 (18) AWAY FROM THIS. I THOUGHT THAT YOU HAD GIVEN HIM
 (19) LORTAB AND THAT HE HAD QUIT TAKING IT. HAVE I ERRED
 (20) SOMEWHERE HERE?
 (21) A. I DON'T THINK THE NOTE SAYS HE QUIT TAKING IT. I THINK
 (22) THE NOTE SAYS HE'S NOT TAKING IT.
 (23) Q. NOT TAKING IT. OKAY, EXCUSE ME.
 (24) A. WHICH COULD BE THAT HE'S OUT.
 (25) Q. OKAY.

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- (1) A. I ALSO HAVE A NOTE FROM THE PAIN SPECIALIST, WHO HAD
 (2) RECOMMENDED STAYING AWAY FROM NARCOTICS.
 (3) Q. THAT'S DR. MIRONER?
 (4) A. MIRONER I THINK IS HOW YOU PRONOUNCE IT. AND I DON'T
 (5) KNOW WHERE THAT FITS IN WITH THIS. WHETHER THAT HAS
 (6) SOMETHING TO DO WITH THAT OR NOT.
 (7) Q. SO ARE YOU REFUSING TO GIVE HIM LORTAB AT THIS POINT?
 (8) A. I DID NOT GIVE HIM ANY LORTAB ON THAT DAY.
 (9) Q. AND WHY NOT, DOCTOR?
 (10) A. AS YOU SAID, THAT WAS SIX YEARS AGO. IT MIGHT BE
 (11) RELATED TO THE NOTE FROM THE SPECIALIST, WHO SAID WE
 (12) SHOULD STAY AWAY FROM NARCOTICS. AND I CAN TRY TO FIND
 (13) THAT NOTE IF YOU GIVE ME A MINUTE.
 (14) Q. OKAY.
 (15) A. (WITNESS REVIEWS DOCUMENT) OKAY, I LOST WHICH NOTE WE
 (16) WERE ON. WHICH NOTE ARE WE ON?
 (17) Q. I DID, TOO.
 (18) A. 3-02?
 (19) Q. YES.
 (20) A. 3-6-02. HE SAW DR. MIRONER IN 2000. AND DR. MIRONER
 (21) SAYS IN HIS OPINION HE SHOULD NOT BE ON ANY OPIOIDS AT
 (22) THAT TIME.
 (23) Q. IS MR. CASEY GIVING YOU REASON AT THIS POINT, DOCTOR,
 (24) TO BE CONCERNED ABOUT DRUG ABUSE?
 (25) A. I THINK THAT'S POSSIBLE.

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(1) Q. OKAY. AND TELL ME ABOUT THE REST OF THE MARCH 6TH
(2) VISIT. YOU REFILLED THE ULTRAM?
(3) A. REFILLED THE ULTRAM. APPARENTLY HE WAS DOING MAIL
(4) ORDER, SO HE GOT A PRESCRIPTION FOR LOCAL PURCHASE, AND
(5) THAT'S WHAT THAT REFERS TO. HE GOT THE ONE THE 7-20 TO
(6) MAIL OFF AND THEN ONE FOR TWO WEEKS FOR LOCAL PURCHASE.
(7) AND THEN HE GOT A REFILL FOR THE ZANAFLEX.
(8) Q. NOW, DOCTOR, YOU ADDED ANOTHER MEDICATION, NEURONTIN?
(9) A. NEURONTIN, YES.
(10) Q. AND WHAT IS NEURONTIN, PLEASE, SIR?
(11) A. NEURONTIN IS A SEIZURE MEDICATION THAT IS FREQUENTLY
(12) USED FOR PAIN. NEUROPATHIC PAIN. THERE'S A COUPLE OF
(13) DIFFERENT ONES ALONG THAT LINE. AND THEY CAN BE USED
(14) FOR BACK PAIN. THEY'RE USED FOR HEADACHES. THEY'RE
(15) USED FOR PATIENTS THAT HAVE DIABETES, AND THEY HAVE
(16) NERVE PAIN IN THEIR FEET. THEY'RE USED FOR NERVE PAIN
(17) FROM SHINGLES. AND SO THEY'RE FREQUENTLY USED FOR
(18) PAIN, AND THEY ARE NOT NARCOTICS. SO NO PROBLEM WITH
(19) ADDICTION THERE.
(20) Q. SO WOULD YOU THINK THAT WAS A SAFER MEDICATION THAN
(21) LORTAB?
(22) A. YES.
(23) Q. AND YOU HAVE LISTED FOR ME A NUMBER OF BENEFITS THAT
(24) COME FROM THE USE OF NEURONTIN. BUT I TAKE IT THAT YOU
(25) GAVE IT TO HIM FOR PAIN?

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(1) A. PAIN.
(2) Q. AND THE BODY RESPONDS TO IT DIFFERENTLY THAN IT DOES.
(3) SAY, TO THE ULTRAM?
(4) A. YES, I WOULD THINK SO.
(5) Q. WHAT WAS THE NEURONTIN DOSAGE?
(6) A. THE NEURONTIN WAS 100 MILLIGRAMS STARTING AT BEDTIME
(7) AND THEN INCREASING.
(8) Q. AND YOU GAVE HIM 100 MILLIGRAMS EACH?
(9) A. IT'S 60 WITH TWO REFILLS.
(10) Q. THE NEXT VISIT I'M SHOWING, DOCTOR, IS AUGUST 13TH,
(11) 2002. TELL ME ABOUT THAT.
(12) A. (WITNESS REVIEWS DOCUMENT) MARK COMES IN FOR A
(13) MEDICINE REFILL, AND HE'S EARLY ON THE VISIT. LET ME
(14) LOOK AT THE LAST NOTE AND SEE WHERE HE IS.
(15) Q. 3-6, IS THAT RIGHT?
(16) A. HE WOULD BE A MONTH ---
(17) Q. A MONTH LATER?
(18) A. A MONTH EARLY MAYBE.
(19) Q. A MONTH EARLY, I'M SORRY.
(20) A. MAYBE TWO AND A HALF, THREE WEEKS EARLY. AND HE TELLS
(21) ME HE'S OUT OF MEDICINE BECAUSE HIS WIFE HAS BEEN
(22) TAKING SOME OF HIS MEDICINES.
(23) Q. DOCTOR, IS THAT AN EXCUSE THAT YOU HAVE HAD PATIENTS
(24) GIVE YOU BEFORE THAT TRANSLATES INTO ABUSE OF NARCOTICS
(25) BY THE PATIENT?

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(1) A. IT CAN BE. IF INTERESTED, I HAD SOMEONE CALL THE OTHER
(2) DAY THAT SAID HER DOG ATE HER XANAX. AND SHE WOULD
(3) GLADLY BRING ME THE BOTTLE AND SHOW ME THE CHEWED UP
(4) BOTTLE.
(5) (OFF THE RECORD DISCUSSION)
(6) EXAMINATION RESUMED BY MR. KING:
(7) Q. WHAT DID YOU DO FOR HIM AT THAT VISIT?
(8) A. HE TELLS ME THAT THE NEURONTIN DID NOT HELP. AFTER
(9) TAKING TWO MONTHS WORTH OF MEDICINE. HE STILL HAS BACK
(10) PAIN EVERY DAY. HE CONTINUES TO WORK. DOESN'T KEEP
(11) HIM FROM PLAYING GOLF. HE'S STILL SMOKING. AND VIAGRA
(12) WORKS WELL.
(13) Q. THE ULTRAM WAS REFILLED WITH THE SAME SIX MONTH SUPPLY?
(14) A. CORRECT.
(15) Q. THE ZANAFLEX ---
(16) A. ZANAFLEX, CORRECT.
(17) Q. SIX MONTHS SUPPLY?
(18) A. HE WAS TAKING TWO AT BEDTIME.
(19) Q. DOCTOR, AT THIS POINT DO YOU FEEL LIKE HIS BACK IS
(20) GETTING WORSE OR JUST CONTINUING ABOUT THE SAME?
(21) A. I THINK PROBABLY THE SAME. HE STILL HAS PAIN EVERY
(22) DAY. HE STILL WORKS. HE STILL PLAYS GOLF. I THINK
(23) PROBABLY THE SAME. MY NOTE DOESN'T SAY HE'S WORSE.
(24) Q. DOCTOR, DO YOU PLAY GOLF?
(25) A. I DO NOT.

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(1) Q. DO YOU HAVE ANY KNOWLEDGE OF WHAT THE GOLF SWING DOES
(2) TO LOW BACK PAIN?
(3) A. YES, I DO.
(4) Q. WHAT DO YOU UNDERSTAND IT DOES?
(5) A. WELL, YOU'RE ASKING FOR SPECIFIC TECHNICALITIES AND NO,
(6) I DON'T KNOW THAT. I KNOW THERE'S A LOT OF STRENUOUS
(7) ACTIVITY, AND THERE'S A LOT OF TWISTING AND MOVEMENT,
(8) AND A LOT OF STRESS ON THE MUSCLES, AND THE LIGAMENTS,
(9) AND THE TENDONS AND PROBABLY THE DISCS ALSO. SO -- AND
(10) I SEE OTHER PATIENTS WHO GOLF AND SOMETIMES HURT
(11) THEMSELVES.
(12) Q. NOW, IS THERE A PHONE MESSAGE -- AND AGAIN I'M NOT
(13) SURE, BUT I CAN'T READ THAT DATE --
(14) A. THAT'S PROBABLY 11-27-02.
(15) Q. TELL ME ABOUT THAT TELEPHONE CALL.
(16) A. THAT'S PROBABLY THREE MONTHS AFTER THAT LAST VISIT, AND
(17) HE'S TELLING ME THAT HE HURT HIS BACK. SO I GAVE HIM A
(18) PRESCRIPTION FOR 20 LORTAB.
(19) Q. WITHOUT ANY REFILLS?
(20) A. CORRECT.
(21) Q. FIVE MILLIGRAMS?
(22) A. CORRECT.
(23) Q. ALL RIGHT, THEN THE NEXT VISIT IS JANUARY 23RD, 2003?
(24) A. YES, SIR.
(25) Q. TELL ME ABOUT THAT VISIT.

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(1) A. (WITNESS REVIEWS DOCUMENT) HE COMES IN FOR MEDICINE
(2) REFILL. AND HE TELLS ME THAT HIS BACK PAIN IS STABLE
(3) AS LONG AS HE TAKES HIS MEDICATIONS. AND ON EXAM,
(4) PRETTY TYPICAL FROM ALL THE NOTES. A PRETTY NORMAL
(5) EXAM, EXCEPT TENDERNESS IN THE LOWER BACK. THE
(6) MUSCLES. AND I REFILLED THE SAME MEDICATIONS. THE
(7) ULTRAM AND THE ZANAFLEX.
(8) Q. SIX MONTHS OF EACH?
(9) A. YES, SIR.
(10) Q. OKAY. NOW, THEN, THE NEXT VISIT IS JUNE 23RD, 2003?
(11) A. CORRECT.
(12) Q. AND THERE IS A NEW DIAGNOSIS AT THIS POINT AS
(13) DEPRESSION?
(14) A. YES, SIR.
(15) Q. AND TELL ME ABOUT THE DEPRESSION.
(16) A. MARK GIVES ME SYMPTOMS OF DEPRESSION. HE SAYS THAT
(17) HE'S ANGRY AND FRUSTRATED AND MOODY AND HAS TROUBLE
(18) SLEEPING AND TROUBLE CONCENTRATING. HE'S LOST WEIGHT.
(19) DOES NOT ENJOY DAILY ACTIVITIES. HE STAYS SAD ALL THE
(20) TIME. AND HE TELLS ME THAT HE'S GOING THROUGH A
(21) DIVORCE.
(22) Q. BUT HE ALSO TELLS YOU THAT HE'S STILL WORKING?
(23) A. AND -- YES.
(24) Q. HE TELLS YOU HE'S STILL PLAYING GOLF THREE OR FOUR
(25) TIMES A WEEK?

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(1) A. YES, SIR.
(2) Q. BUT HE GIVES YOU A NUMBER OF SYMPTOMS THAT YOU IDENTIFY
(3) WITH DEPRESSION?
(4) A. YES.
(5) Q. ANGER, FRUSTRATION, MOODY, TROUBLE SLEEPING,
(6) CONCENTRATION, LOSS OF APPETITE.
(7) A. CORRECT.
(8) Q. NOT ENJOYING DAILY ACTIVITIES, SADNESS.
(9) A. CORRECT.
(10) Q. CAN THEY BE SIGNS OF ANYTHING OTHER THAN DEPRESSION?
(11) A. (NO RESPONSE)
(12) Q. AGAIN, DRUG ABUSE?
(13) A. I THINK THEY CERTAINLY COULD BE.
(14) Q. OKAY.
(15) A. I DON'T HAVE THAT IN MY NOTE, THOUGH. AGAIN, THAT'S
(16) ONE OF THOSE OPINION THINGS. I THINK THEY COULD BE,
(17) BUT I DON'T SAY THAT IN MY NOTE, SO I DON'T KNOW.
(18) Q. AT THIS POINT YOU REFILLED THE TWO MEDICATIONS, THE
(19) ULTRAM AND THE ZANAFLEX, AND YOU ADDED PAXIL?
(20) A. YES, SIR.
(21) Q. AND WHAT IS PAXIL, DOCTOR?
(22) A. THAT IS AN ANTI-DEPRESSANT. IT IS IN THE CLASS OF
(23) MEDICINES CALLED SSRI. AND THERE'S A GROUP OF
(24) MEDICINES, PROBABLY EIGHT OF THEM IN THAT GROUP,
(25) CALLED SELECTIVE SEROTONIN RE-UP TAKE INHIBITOR.

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(1) (OFF THE RECORD DISCUSSION)
(2) EXAMINATION RESUMED BY MR. KING:
(3) Q. AND WHAT DOES THAT DO, DOCTOR, TO THE BODY?
(4) A. IT WORKS IN THE BRAIN TO BLOCK THE UPTAKE OF SEROTONIN,
(5) WHICH IS A NEUROTRANSMITTER IN THE BRAIN. AND IT
(6) ALLOWS FOR THAT NEUROTRANSMITTER TO BE AVAILABLE TO
(7) WORK. AS OPPOSED TO BEING TAKEN UP AT THE OTHER END OF
(8) THE RECEPTOR SITE. SO IF HE HAS PROBLEMS WITH HIS
(9) SEROTONIN, THIS MAKES THE SEROTONIN THAT HE HAS MORE
(10) AVAILABLE. AND, THEREFORE, EASING THE DEPRESSION.
(11) Q. DOCTOR, I UNDERSTAND YOU'RE NOT A PSYCHIATRIST. SO I'M
(12) NOT TRYING TO TAKE YOU OUTSIDE OF YOUR FIELD.
(13) A. RIGHT.
(14) Q. BUT FROM A LAYMAN'S STANDPOINT, YOU KNOW A WORLD MORE
(15) THAN I. HOW DOES ANXIETY AND DEPRESSION PLAY TOGETHER?
(16) A. THEY FREQUENTLY CO-EXIST. AND A LOT OF THE SYMPTOMS
(17) CAN BE THE SAME. AND SOMETIMES YOU CAN BE TREATING
(18) ONE. AND AS IT GETS BETTER, THEN THE OTHER SYMPTOMS
(19) BECOME MORE PROMINENT. THEY CAN CERTAINLY BE THERE
(20) TOGETHER ALL ALONG. YOU FIX ONE, AND THE OTHER ONE
(21) SHOWS MORE. BUT THEY CAN CERTAINLY CO-EXIST.
(22) Q. THANK YOU FOR PUTTING THAT IN LAYMEN'S LANGUAGE FOR ME.
(23) SO YOU ADDED THE PAXIL TO HIS MEDICATIONS.
(24) A. CORRECT.
(25) Q. ALL RIGHT, THEN THE NEXT VISIT HE COMES TO SEE YOU ON -

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(1) - TWO MONTHS LATER. AUGUST 27TH, 2003, CORRECT?
(2) A. CORRECT.
(3) Q. AND HOW IS HE AT THIS TIME?
(4) A. (WITNESS REVIEWS DOCUMENT) HE TELLS ME THAT HE'S NOT
(5) ANY BETTER ON THE PAXIL AFTER TWO MONTHS OF TREATMENT.
(6) AND HE CONTINUES TO FEEL DOWN IN THE DUMPS. AND HE
(7) ATTRIBUTES IT ALL TO THE FAMILY PROBLEMS THAT HE'S HAD.
(8) Q. THAT IS A DIVORCE, OR A SEPARATION LEADING TO DIVORCE,
(9) FROM HIS WIFE AND SOME PROBLEMS WITH HIS CHILDREN,
(10) CORRECT?
(11) A. CORRECT.
(12) Q. AND THE PAXIL IS NOT HELPING IS WHAT HE TELLS YOU?
(13) A. CORRECT.
(14) Q. OKAY. AND HE ASKED ABOUT PERCOCET?
(15) A. YES, SIR.
(16) Q. WHAT IS PERCOCET, DOCTOR?
(17) A. THAT IS ANOTHER OPIOID. ANOTHER OPIUM DERIVATIVE. A
(18) NARCOTIC. AND A LITTLE BIT STRONGER.
(19) Q. THAN?
(20) A. THAN THE LORTAB.
(21) Q. THAN THE LORTAB?
(22) A. MM-HMM (AFFIRMATIVE RESPONSE). AND IT'S IN A DIFFERENT
(23) CLASS OF MEDICINE, TOO. THERE ARE DIFFERENT CLASSES OF
(24) MEDICATION, AND THAT ONE IS IN A DIFFERENT CLASS AND
(25) MORE CONTROLLED.

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- (1) Q. WHAT CLASS IS PERCOCET IN?
 (2) A. CLASS 2.
 (3) Q. AND LORTAB IS A CLASS 3?
 (4) A. A 3. AND DARVOCET IS A -- I BELIEVE THEY'RE BOTH CLASS
 (5) 3.
 (6) Q. AND HE TELLS YOU THAT HE'S BEEN BUYING THIS ON THE
 (7) STREET?
 (8) A. HE TELLS ME HE'S BEEN BUYING IT FROM FRIENDS AND HE
 (9) TAKES -- HE COULD EASILY TAKE TWO OR THREE A DAY. AND
 (10) HE HAS NO TROUBLE WORKING WITH IT.
 (11) Q. IS THAT AGAIN A CONCERN, DOCTOR?
 (12) A. PROBABLY.
 (13) Q. MOST PROBABLY?
 (14) A. PROBABLY. YOU WANT A MOST ON THERE?
 (15) Q. I WANT A MOST ON THERE.
 (16) A. IT RAISES FLAGS, HOW ABOUT THAT.
 (17) Q. I'LL ACCEPT RAISES FLAGS. FIRST OFF, IT'S ILLEGAL,
 (18) CORRECT?
 (19) BY MR. TURNER:
 (20) OBJECTION TO FORM.
 (21) EXAMINATION RESUMED BY MR. KING:
 (22) Q. THE QUESTION IS IT'S ILLEGAL, IS IT NOT?
 (23) A. IS WHAT ILLEGAL?
 (24) Q. TO TAKE PRESCRIPTIVE MEDICATIONS WITHOUT A PHYSICIAN'S
 (25) ORDER?

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- (1) A. (NO RESPONSE)
 (2) Q. IF YOU DON'T KNOW, JUST SAY YOU DON'T KNOW.
 (3) A. WELL, I'M TRYING TO LOOK AT WHETHER HE'S BUYING IT FROM
 (4) -- I THINK IT'S PROBABLY ILLEGAL TO BUY IT FROM
 (5) FRIENDS. IS WHAT YOU'RE TALKING ABOUT, CORRECT?
 (6) Q. CORRECT. AND TAKING TWO TO THREE A DAY, WHICH WOULD BE
 (7) 20 TO 30 MILLIGRAMS A DAY?
 (8) A. YES.
 (9) Q. TELL US, WHAT WOULD THAT DOSAGE BE?
 (10) A. PROBABLY MAYBE FOUR OR FIVE OF THE LORTAB A DAY. A
 (11) STRONGER PILL.
 (12) Q. AND DID YOU HONOR HIS REQUEST AND GIVE HIM PERCOCET?
 (13) A. I DID.
 (14) Q. AND WHAT WAS THE DOSAGE YOU GAVE?
 (15) A. I GAVE HIM TWICE A DAY, AND GAVE HIM 60 PILLS AND A
 (16) REFILL.
 (17) Q. AND THAT'S LESS THAN WHAT HE SAID HE WAS TAKING?
 (18) A. CORRECT. CORRECT.
 (19) Q. NOW, DID YOU ADD EFFEXOR AND TAKE AWAY THE PAXIL?
 (20) A. I DID.
 (21) Q. WHAT'S EFFEXOR?
 (22) A. EFFEXOR IS ANOTHER ANTI-DEPRESSANT. HE SAID THE OTHER
 (23) ONE WASN'T WORKING, SO I SWITCHED HIM TO EFFEXOR. AND
 (24) IT WORKS A LITTLE BIT DIFFERENT. IT ACTUALLY WORKS ON
 (25) TWO CHEMICALS IN THE BRAIN THAT ARE ASSOCIATED WITH

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- (1) DEPRESSION.
 (2) Q. DOCTOR, THERE'S A COMMENT, THERE ARE NO SUICIDAL OR
 (3) HOMICIDAL THOUGHTS. DID YOU ASK HIM THAT? TO PUT IT
 (4) IN YOUR NOTES, DID YOU ASK --
 (5) A. IF MY NOTE SAYS I DID, THEN I DID.
 (6) Q. AND THAT'S NOT A QUESTION YOU TYPICALLY ASK YOUR
 (7) PATIENTS?
 (8) A. THAT WOULD BE A QUESTION THAT I WOULD ASK PATIENTS THAT
 (9) ARE DEPRESSED. I MAY NOT ASK IT EVERY TIME. IT JUST
 (10) DEPENDS ON THE SITUATION. IF SOMEBODY COMES BACK MORE
 (11) DEPRESSED AND NOT HELPED ON THE MEDICATION, I MAY ASK
 (12) THAT.
 (13) Q. SO THE FACT THAT HE HAD NOT MADE IMPROVEMENT IN THE TWO
 (14) MONTHS IS SUPPORTIVE OF YOUR REASONING FOR --
 (15) A. CORRECT.
 (16) Q. -- ASKING THAT QUESTION?
 (17) A. SURE.
 (18) Q. NOW, THE NEXT IS A TELEPHONE CALL MESSAGE?
 (19) A. YES, SIR.
 (20) Q. TELL ME ABOUT THAT.
 (21) A. WELL, I PUT A REFILL ON THE PERCOCET. AND A CLASS 2
 (22) YOU CANNOT PUT REFILLS ON, AND THAT IS WHAT THAT IS
 (23) ABOUT. AND YOU CAN'T CALL THEM IN. IF I'M NOT
 (24) MISTAKEN, YOU CAN'T CALL THOSE IN EITHER. SO I
 (25) SWITCHED HIM BACK TO THE LORTAB.

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- (1) Q. AND WHAT WAS THE DOSAGE?
 (2) A. THAT WAS A HIGHER DOSE. PROBABLY MORE EQUIVALENT TO
 (3) THE PERCOCET, AND IT WAS TWICE A DAY FOR -- IT WAS A
 (4) 10, TWICE A DAY. SIXTY WITH NO REFILLS.
 (5) Q. SO THAT WOULD BE A ONE MONTH SUPPLY?
 (6) A. IF HE TOOK IT TWICE A DAY.
 (7) Q. AT THE TOP OF THE NEXT PAGE IT LOOKS LIKE 10-20-03.
 (8) THAT'S THE DATE OF THE VISIT. ALL RIGHT, THE NEXT
 (9) VISIT IS 10-20-03, DOCTOR, IS THAT CORRECT?
 (10) A. CORRECT.
 (11) Q. TELL ME ABOUT THAT VISIT.
 (12) A. HE COMES IN FOR FOLLOW UP ON THE DEPRESSION AND THE
 (13) BACK PAIN. HE TELLS ME THAT HIS DEPRESSION HAS
 (14) IMPROVED. HE'S HAVING A LITTLE BIT OF SIDE EFFECTS
 (15) FROM THE MEDICATION. BUT HE CONTINUES TO HAVE DAILY
 (16) PAIN. SOME DAYS IT'S WORSE THAN OTHERS. AND HE WAS
 (17) HAVING SOME NUMBNESS ON THE TOP OF HIS RIGHT FOOT.
 (18) Q. ANYTHING IN YOUR EXAM THAT IS NOTEWORTHY?
 (19) A. (WITNESS REVIEWS DOCUMENT) TENDERNESS IN THE BACK. MY
 (20) NOTE SAYS HE HAS DECREASED RANGE OF MOTION. THAT MEANS
 (21) WHEN I TWIST AND TURN HIM, HE DOESN'T MOVE AS EASY.
 (22) THERE'S PAIN WHEN YOU STRETCH HIS BACK OUT. EXTENSION.
 (23) BUT SENSORY EXAM WAS ESSENTIALLY NORMAL. MY NOTE SAYS
 (24) THERE MAY BE A SMALL AREA OF NUMBNESS ON THE RIGHT FOOT
 (25) AND ANKLE. AND WE SCHEDULED HIM FOR AN MRI, BECAUSE HE

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- (11) WAS HAVING NEW SYMPTOMS. BEING THE NUMBNESS.
(12) Q. NOW, THE MEDICATIONS AT THIS TIME ARE WHAT, DOCTOR? GO
(13) THROUGH THOSE WITH ME IF YOU CAN, DOCTOR.
(14) A. CONTINUE THE ULTRAM, AND HE WASN'T GIVEN A PRESCRIPTION
(15) FOR THAT. AND THE ZANAFLEX AND NO PRESCRIPTION FOR
(16) THAT WAS NEEDED.
(17) Q. THE COMMENT SAYS HE RARELY TAKES THIS BECAUSE IT MAKES
(18) HIM —
(19) A. BECAUSE IT MAKES HIM TOO SLEEPY.
(20) Q. IS THAT THE ZANAFLEX?
(21) A. THAT WOULD BE THE MUSCLE — THE ZANAFLEX.
(22) Q. THE EFFEXOR 75 MILLIGRAMS ONCE A DAY. AND 30 EACH
(23) REFILL WITH TWO REFILLS. SO THAT WOULD BE A THREE
(24) MONTH SUPPLY?
(25) A. CORRECT.
(26) Q. AND LORTAB?
(27) A. A THREE MONTH SUPPLY.
(28) Q. AND THE DOSAGE IS?
(29) A. THAT SHOWS TEN 500. BUT WHAT THAT REFERS TO IS 10
(30) MILLIGRAMS OF THE OXY — OF THE HYDROCODONE AND 500 OF
(31) TYLENOL. SO HE GETS ONE TWICE A DAY. IT'S 60 WITH TWO
(32) REFILLS.
(33) Q. AND BEXTRA IS ADDED?
(34) A. THAT'S AN ANTI-INFLAMMATORY.
(35) Q. OKAY. AND WHAT WAS THE DOSAGE OF BEXTRA?

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- (11) A. THAT'S A 10 MILLIGRAM, ONE A DAY.
(12) Q. AGAIN, YOU'RE ENCOURAGING THE MRI?
(13) A. CORRECT.
(14) BY MR. KING:
(15) LET'S TAKE A SHORT RECESS.
(16) (OFF THE RECORD)
(17) EXAMINATION RESUMED BY MR. KING:
(18) Q. DOCTOR, LET ME MAKE SURE WE'RE TOGETHER. I THINK THE
(19) LAST VISIT WE TALKED ABOUT WAS OCTOBER 20, 2003.
(20) A. OKAY.
(21) Q. THEN THERE ARE SOME HANDWRITTEN NOTES AT THE BOTTOM OF
(22) THAT. 11-4-03. TELL ME ABOUT THAT, PLEASE, SIR.
(23) A. (WITNESS REVIEWS DOCUMENT) NOVEMBER THE 5TH —
(24) Q. NOVEMBER THE 5TH IS THE NOTE AND NOVEMBER 4TH IS —
(25) A. OF '03. NOVEMBER 4TH — WELL, HE WAS SCHEDULED FOR AN
(26) EPIDURAL. THE HANDWRITTEN NOTE. I SUSPECT — LET ME
(27) LOOK. WE WENT FOR AN MRI. AND THE MRI OF THE LUMBAR
(28) SPINE SHOWED A COUPLE OF BULGING DISCS. SOME ARTHRITIC
(29) CHANGES. AND I REFERRED HIM FOR AN EPIDURAL STEROID
(30) INJECTION. AND THAT WAS DATED 11-3. MY NURSE GOT A
(31) HOLD OF HIM ON 11-4 AND SCHEDULED HIM AN APPOINTMENT
(32) FOR 11-6. AND THAT WOULD BE — THAT WOULD BE THAT NOTE
(33) THAT'S WRITTEN ON THE X-RAY REPORT, AND IT'S WRITTEN ON
(34) THE NOTE ITSELF ON THE PAGE. SO HE'S SCHEDULED FOR AN
(35) EPIDURAL.

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- (11) Q. AND THEN IS THE NEXT NOTE THE NEXT DAY, NOVEMBER 5TH,
(12) 2003?
(13) A. YES.
(14) Q. TELL ME ABOUT THAT NOTE.
(15) A. THAT'S A PHONE CALL, AND HE'S TELLING ME THAT THE
(16) PERCOCET HELPS MORE THAN THE LORTAB. AND WE TELL HIM
(17) THAT WE WEREN'T DOING THE PERCOCET. THAT WE WERE DOING
(18) THE LORTAB. AND SO WE DIDN'T CALL ANYTHING NEW IN.
(19) Q. ALL RIGHT.
(20) A. I PRESUME THAT'S SAYING THAT THE 60 LORTAB, HE ONLY HAD
(21) 14 LEFT IS WHAT HE'S REFERRING TO THERE.
(22) Q. SO HE'S TAKING MORE THAN YOU HAD —
(23) A. MORE THAN THE TWO A DAY. AND HE'S NOTIFIED THAT THERE
(24) WOULDN'T BE ANY EARLY REFILLS.
(25) Q. AND THEN DECEMBER 15TH, IS THAT THE DISCUSSION ABOUT
(26) THE EPIDURAL?
(27) A. HE HAD ONE EPIDURAL, AND IT SAYS THAT IT MADE THE PAIN
(28) WORSE.
(29) Q. DOCTOR, I SKIPPED SOMETHING. ON THE TOP OF THAT PAGE
(30) IT APPEARS THAT THERE IS A NOTE DATED 11-7-05. 11:30.
(31) HISTORY, COMPLAINS OF L.B.P. LOWER BACK PAIN.
(32) CHRONIC. LORTAB —
(33) A. NOT HELPING.
(34) Q. NOT HELPING.
(35) BY MR. GUNN:

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- (11) I THINK THAT'S 11-7-03.
(12) EXAMINATION RESUMED BY MR. KING:
(13) Q. I'M SORRY, IT IS 11-7-03.
(14) A. YOU WERE READING 11:30, THE TIME.
(15) Q. OKAY, 11:30 ON 11-7-03. READ THAT NOTE FOR ME, DOCTOR.
(16) A. IT'S A BRIEF HANDWRITTEN NOTE. HIS SISTER CALLED
(17) TELLING ME THAT HE WAS IN A LOT OF PAIN, AND THE
(18) MEDICINE WASN'T HELPING. AND I DID NOT CALL ANYTHING
(19) IN. AND I SUGGESTED THEY GO TO THE EMERGENCY ROOM AND
(20) THEN COME TO THE OFFICE ON MONDAY. I DON'T KNOW WHAT
(21) DAY OF THE WEEK THAT WAS.
(22) Q. AND YOU DON'T KNOW WHETHER THEY WENT TO THE EMERGENCY
(23) ROOM, OR WHAT WAS DONE?
(24) A. I DO NOT.
(25) Q. NOW, THEN ON DECEMBER 15TH, THAT'S THE NEXT TIME YOU
(26) SEE HIM?
(27) A. YES.
(28) Q. AND HOW IS HE AT THAT TIME?
(29) A. THAT'S WHEN HE TELLS ME THAT THE EPIDURAL MADE HIS PAIN
(30) WORSE. THAT IT DIDN'T WORK. FRUSTRATED THAT HE HAD TO
(31) PAY FOR THE SHOT AND IT DIDN'T HELP.
(32) Q. DIAGNOSIS AGAIN, CHRONIC LOW BACK PAIN AND DEPRESSION?
(33) A. CORRECT.
(34) Q. AND WHAT MEDICATIONS ARE YOU GIVING HIM UPON DISCHARGE
(35) AT THAT VISIT?

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- (1) A. DID THE SAME THING WITH THE ULTRAM.
(2) Q. SIX MONTHS?
(3) A. SIX MONTHS. THE EFFEXOR, WHICH IS THE ANTI-DEPRESSANT.
(4) AND THAT'S 90 DAYS, AND A REFILL. THE BEXTRA, WHICH IS
(5) THE ANTI-INFLAMMATORY. AND THAT'S ALSO FOR 90 DAYS.
(6) AND A REFILL. THOSE ARE MAIL ORDER. AND THEN A LOCAL
(7) LORTAB. AND I GAVE HIM 30 PILLS WITH NO REFILLS.
(8) Q. ALL RIGHT, THE NEXT TIME YOU SEE HIM, DOCTOR, IS WHEN,
(9) PLEASE, SIR?
(10) A. (WITNESS REVIEWS DOCUMENT) IT WOULD BE 5-4-04. SIX
(11) MONTHS LATER. AND THAT IS FOR BACK PAIN.
(12) Q. DOCTOR, DO YOU HAVE A 10-2-04?
(13) A. I HAVE A 10-19-04.
(14) Q. TELL ME ABOUT THAT VISIT.
(15) A. THE 5 COMES BEFORE THE 10. WHICH ONE DO YOU WANT? OR
(16) DID WE ALREADY DO THAT ONE?
(17) Q. THE LAST ONE I THINK WE DID WAS 12-15. AND THEN --
(18) A. THE FIRST ONE --
(19) Q. JANUARY, '04?
(20) A. FEBRUARY OF '04 WOULD BE THE NEXT ONE.
(21) Q. FEBRUARY 10, '04?
(22) A. FEBRUARY 10, '04.
(23) Q. TELL ME ABOUT THAT VISIT.
(24) A. HE TELLS ME THAT HE'S STOPPED HIS EFFEXOR. DOESN'T
(25) FEEL DEPRESSED. BEEN OFF OF IT A MONTH. STOPPED IT

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- (1) BECAUSE OF THE SIDE EFFECTS. AND NEEDED SOME REFILLS
(2) ON HIS VIAGRA. HE HAD BEEN TAKING THE BEXTRA TWICE A
(3) DAY. AND WANTED TO KNOW IF I'D GIVE A PRESCRIPTION FOR
(4) THAT HIGHER DOSE. CONTINUES WITH CHRONIC BACK PAIN.
(5) WORSE AFTER LONG DAYS AT WORK.
(6) Q. SO THE MEDICATIONS ON DISCHARGE WERE WHAT, PLEASE, SIR?
(7) A. EXCUSE ME?
(8) Q. THE MEDICATIONS ON DISCHARGE WERE WHAT?
(9) A. HE GOT A REFILL FOR THE VIAGRA. HE GOT A REFILL FOR
(10) THE LORTAB FOR THREE MONTHS. AND HE GOT A BEXTRA 20
(11) MILLIGRAM. I THINK HE WAS -- I CAN LOOK BACK. HE MUST
(12) HAVE BEEN TAKING TWO 10s. SO I INCREASED IT TO A 20.
(13) Q. AND HE'S TO RETURN IN THREE MONTHS?
(14) A. YES.
(15) Q. DOCTOR, AGAIN I THINK THIS NOTE IS 1-10-04. MAYBE 1-
(16) 20-04. AT THE TOP OF THAT PAGE DO YOU SEE A
(17) HANDWRITTEN NOTE, 1-20-04.
(18) A. WHAT'S AFTER IT OR WHAT'S -- THAT'S THE ONE I WAS JUST
(19) READING.
(20) Q. OKAY.
(21) A. OKAY, YOU WANT --
(22) BY MR. GUNN:
(23) 3:50 P.M.
(24) BY THE WITNESS:
(25) A. OKAY, THERE IT IS RIGHT THERE.

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- (1) EXAMINATION RESUMED BY MR. KING:
(2) Q. TELL ME ABOUT THAT, PLEASE, SIR.
(3) A. THOSE ARE -- THAT'S A PHONE CALL.
(4) Q. ON JANUARY 20TH?
(5) A. JANUARY 20, '04. IT SAYS THAT HE HAS A QUESTION ABOUT
(6) THE MRI. AND HE NEEDS REFILLS ON HIS MEDICATION. AND
(7) HE CAN'T GO BACK FOR ANOTHER EPIDURAL. STILL TRYING TO
(8) PAY OFF THE FIRST ONE.
(9) Q. WHAT'S THE NEXT NOTATION?
(10) A. WELL, I MAKE A COMMENT THAT HOW CAN HE BE SO DEPRESSED
(11) AND IN SO MUCH PAIN, GOING THROUGH A DIVORCE, BUT STILL
(12) HAVING SEX TWO OR THREE TIMES A WEEK. AND THE LORTAB
(13) KEEPS INCREASING, AND I DID NOT GIVE HIM A REFILL.
(14) Q. OKAY. ALL RIGHT, TURNING OVER, DOCTOR, IS THE NEXT
(15) VISIT 5-4-04?
(16) A. (WITNESS REVIEWS DOCUMENT)
(17) Q. MAY 4TH?
(18) A. THE NEXT VISIT IS 5-4-04.
(19) Q. AND APPARENTLY THERE HAD BEEN A TELEPHONE CALL ABOUT
(20) HIS CHOLESTEROL? HDL?
(21) A. CORRECT.
(22) Q. AND THOSE WERE LAB RESULTS?
(23) A. YES. HIS TRIGLYCERIDES WERE UP. HIS HDL, WHICH IS THE
(24) GOOD CHOLESTEROL, WAS REAL LOW. HE WAS MAILED SOME
(25) INFORMATION ON DIET, AND HE WAS ENCOURAGED TO EXERCISE

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- (1) AND TRY TO LOSE 15 POUNDS AND THEN REPEAT THE LAB IN
(2) THREE TO SIX MONTHS.
(3) Q. THEN THE 5-4-04 VISIT, TELL US ABOUT THAT, DOCTOR.
(4) A. THE NOTE IS FOR BACK PAIN. AND HE'S DOING WELL WITH
(5) THE MEDICATIONS AND DOESN'T NEED A REFILL ON VIAGRA.
(6) SAYS HIS PAIN IS WELL CONTROLLED. AND FAIRLY NORMAL
(7) EXAM. I RENEWED THE ULTRAM AND THE BEXTRA. THE LORTAB
(8) WITH ONE MONTH AND ONE REFILL. HE DIDN'T NEED REFILLS
(9) ON A COUPLE OF THE MEDICINES. MUST HAVE GOTTEN SOME
(10) BLOOD WORK ON HIM THAT DAY, BECAUSE THE NEXT DAY HE
(11) GETS SAMPLES OF A CHOLESTEROL MEDICINE. SO THAT'S
(12) PROBABLY BASED ON THE LAB.
(13) Q. SO THAT WAS LIPITOR --
(14) A. THAT WOULD BE THE 5-5 RIGHT ABOVE IT. YEAH, THE
(15) LIPITOR. THE VISIT WAS ON 5-4, AND WE PROBABLY DREW
(16) BLOOD ON THAT DAY. AND THEN HE GOT SAMPLES OF THE
(17) CHOLESTEROL MEDICINE THE NEXT DAY.
(18) Q. AND THERE'S AGAIN A TELEPHONE MESSAGE ON 5-20-04?
(19) A. YES, SIR.
(20) Q. TELL ME ABOUT THAT, DOCTOR.
(21) A. THAT'S JUST STATING THAT HIS MAIL ORDER HASN'T COME IN.
(22) AND HE NEEDS ENOUGH TO LAST UNTIL THEN.
(23) Q. ENOUGH ULTRAM --
(24) A. ENOUGH OF THE ULTRAM.
(25) Q. OKAY. AND THE NEXT VISIT, DOCTOR?

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(1) A. THE NEXT VISIT HE COMES IN WITH HIS SISTER, AND HE'S
(2) BEEN IN THE HOSPITAL. AND THAT'S WHEN HE TELLS ME
(3) ABOUT HIS INCIDENT. THEY THOUGHT HE HAD A FOREIGN BODY
(4) IN HIS -- A METALLIC BODY IN HIS CHEST. AND HE ENDED
(5) UP WITH A PNEUMOTHORAX. AND WAS ON A RESPIRATOR AND
(6) HAD A CHEST TUBE. WAS STILL HAVING CHEST PAIN. HAD
(7) NOT RETURNED TO WORK. HE COMPLAINED OF BEING NERVOUS
(8) AND ANXIOUS. NOT SLEEPING WELL. IT SAYS RESTLESS --
(9) HE IS RESTLESS. HE TELLS ME ABOUT HIS PAIN.
(10) Q. DOES HE COMPLAIN TO YOU ABOUT CHEST PAIN?
(11) A. HE STILL HAS CHEST PAIN. SQUEEZING, FULLNESS TYPE OF
(12) CHEST PAIN. ALWAYS ON THE LEFT SIDE. BUT SINCE HE'S
(13) BEEN OUT OF WORK, HE'S -- WELL, THAT'S KIND OF
(14) CONTRADICTORY RIGHT THERE. IT SAYS HE'S HAVING PAIN.
(15) AND THEN I SAY, HE'S HAD LITTLE PAIN SINCE HE'S NOT AT
(16) WORK.
(17) Q. NO SHORTNESS OF BREATH?
(18) A. THERE IS NO SHORTNESS OF BREATH. SOME NAUSEA. SOME
(19) DIAPHORESIS OCCASIONALLY.
(20) Q. YOU EXAMINED HIM, DOCTOR?
(21) A. I EXAMINED HIM. VITALS ARE STABLE. HIS DIASTOLIC
(22) PRESSURE MAY BE UP A LITTLE BIT. A 94. HIS LUNGS ARE
(23) CLEAR, HIS HEART IS NORMAL. HIS BELLY IS NOT TENDER.
(24) HE'S EXQUISITELY TENDER ON THE LEFT SIDE OF HIS CHEST.
(25) Q. OKAY. YOU DID DO A PHYSICAL EXAMINATION?

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(1) A. NOT A COMPLETE PHYSICAL. YES, I EXAMINED HIM. THAT'S
(2) WHAT I WAS DESCRIBING THERE.
(3) Q. DID YOU FIND ANY NEUROLOGICAL DEFICITS?
(4) A. THE ONLY NEUROLOGIC EXAM THAT I DID CONCERNING HIS BACK
(5) WOULD HAVE BEEN THAT HE HAD NO BACK TENDERNESS. AND I
(6) DID A STRAIGHT LEG RAISE ON HIM, WHICH TESTS FOR
(7) IRRITATION OF THE SCIATIC NERVE. AND IT WAS NEGATIVE.
(8) THAT'S THE ONLY NEUROLOGIC EXAM THERE.
(9) Q. BUT YOU MOVED HIS EXTREMITIES?
(10) A. CORRECT.
(11) Q. WHICH HE WAS ABLE TO DO?
(12) A. CORRECT.
(13) Q. DID HE APPEAR TO YOU TO BE COHERENT?
(14) A. I DON'T MENTION ANYTHING IN THE NOTE ABOUT ALERTNESS OR
(15) COHERENTNESS. IN EITHER WAY. THAT HE IS OR HE ISN'T.
(16) Q. BUT IF HE WERE NOT COHERENT --
(17) A. I WOULD THINK I WOULD HAVE SAID HE'S INCOHERENT.
(18) Q. AT THIS POINT DID YOU FIND ANY EVIDENCE OF BRAIN
(19) DAMAGE?
(20) A. NOT ACCORDING TO THIS NOTE, NO.
(21) Q. AND IF YOU DID, DOCTOR, YOU WOULD HAVE INCLUDED IT IN
(22) YOUR NOTES?
(23) A. I WOULD HOPE SO.
(24) Q. BECAUSE THAT WOULD BE A SIGNIFICANT CHANGE?
(25) A. I WOULD HOPE SO.

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(1) Q. WHAT ABOUT THE MEDICATIONS?
(2) A. WELL, HE COMPLAINED MORE OF ANXIETY. AND I GAVE HIM
(3) SAMPLES AND A PRESCRIPTION OF ZOLOFT, WHICH I'VE ALWAYS
(4) THOUGHT PROBABLY DID MORE FOR ANXIETY THAN SOME OF THE
(5) OTHERS. ZOLOFT IS ANOTHER ONE OF THE SSRIs. AND IT'S
(6) USED FOR DEPRESSION AND ANXIETY.
(7) Q. ANYTHING ELSE SIGNIFICANT IN THAT EXAMINATION, DOCTOR?
(8) A. (WITNESS REVIEWS DOCUMENT) NOT FROM MY NOTE, SIR.
(9) Q. DOCTOR, PACING, FATIGUE, NERVOUSNESS, ANXIETY,
(10) RESTLESSNESS, WHAT ARE THOSE SYMPTOMS OF?
(11) A. I INTERPRET THOSE AS ANXIETY.
(12) Q. AND THEN, DOCTOR, THE NEXT VISIT?
(13) A. 7-27 -- NO -- IS THAT IT?
(14) Q. THAT'S WHAT I'M SHOWING.
(15) A. 6-04 -- 7, YES.
(16) Q. AND HOW IS HE AT THIS POINT?
(17) A. HE COMES BACK FOR REFILLS. HE'S BEEN ON THE ZOLOFT FOR
(18) THREE WEEKS. HE THINKS HE'S MELLOWED OUT A LITTLE BIT
(19) AND FEELING BETTER. HE CONTINUES WITH HIS CHRONIC PAIN
(20) MEDICINES. THE ULTRAM, THE ZANAFLEX, AND THE BEXTRA.
(21) NEEDS A REFILL ON THE LORTAB. THE OTHERS ARE STILL
(22) GOOD. NO SIDE EFFECTS FROM THE TWO NEW MEDICINES, THE
(23) LIPITOR OR THE ZOLOFT. AND HE TELLS ME HE CONTINUES TO
(24) HAVE CHEST PAIN FROM THE BRONCHOSCOPY AND THE CHEST
(25) TUBE. AND HE'S GOING TO SEE A NEW LUNG DOCTOR.

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(1) Q. DR. SMITH?
(2) A. DR. WILSON SMITH.
(3) Q. NOW, THE AMOUNT OF LORTAB THAT WAS GIVEN AT THAT POINT
(4) WAS -- TELL ME WHAT THIS DOSAGE IS.
(5) A. THE LORTAB IS A 10-500, TWICE A DAY. SIXTY WITH TWO
(6) REFILLS.
(7) Q. THEN THE NEXT VISIT, DOCTOR, IS 9-10-04?
(8) A. (WITNESS REVIEWS DOCUMENT) YES, SIR.
(9) Q. BUT IN THE INTERIM, APPARENTLY YOU HAD SOME TELEPHONE
(10) CONVERSATIONS WITH A DR. GRACE? A DR. JAY GRACE?
(11) A. YES.
(12) Q. DO YOU KNOW DR. GRACE?
(13) A. I DO.
(14) Q. AND WHAT IS DR. GRACE? WHAT IS HIS PROFESSION?
(15) A. DR. GRACE IS A PSYCHOLOGIST. AND I KNEW HIM FROM THE
(16) RESIDENCY PROGRAM WHEN I DID MY RESIDENCY.
(17) Q. HE IS NOT A MEDICAL DOCTOR?
(18) A. HE IS A PHD.
(19) Q. NOT AN M.D.?
(20) A. NOT AN M.D.
(21) Q. HE CANNOT PRESCRIBE MEDICATIONS, CAN HE, DOCTOR?
(22) A. HE CANNOT PRESCRIBE.
(23) Q. AND HE IS CALLING YOU ABOUT WHAT?
(24) A. HE TELLS ME THAT HE'S BEEN SEEING MARK AND WANTED ME TO
(25) INCREASE THE ZOLOFT. BECAUSE HE WAS STILL HAVING LOTS

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(1) OF ANXIETY.
(2) Q. AND DID YOU DO THAT?
(3) A. WE INCREASED IT TO 100 MILLIGRAMS.
(4) Q. FROM?
(5) A. THE 50 THAT HE WAS INITIALLY STARTED ON.
(6) Q. AND THEN ON 9-10 - THAT WAS ROUGHLY THREE WEEKS -
(7) THIS CONVERSATION WITH DR. GRACE IS ROUGHLY THREE WEEKS
(8) AFTER YOU SAW MR. CASEY ON JULY 27TH, 2004. THEN MR.
(9) CASEY COMES BACK TO SEE YOU ON 9-10-2004, AGAIN ABOUT
(10) THREE WEEKS AFTER THE TELEPHONE CONVERSATION WITH DR.
(11) GRACE WHERE YOU INCREASED THE LORTAB DOSAGE?
(12) A. YES, SIR.
(13) Q. ALL RIGHT, TELL ME ABOUT HIS CONDITION ON SEPTEMBER 10,
(14) 2004.
(15) A. MARK TELLS ME THAT HE'S BEEN TO THE PAIN CLINIC, BUT IS
(16) NOT SATISFIED WITH THEM. HE SAYS HE'S NOT GOING BACK.
(17) HE'S BEEN SEEING DR. GRACE. AND ASKED IF I COULD
(18) INCREASE THE ZOLOFT, WHICH I DID.
(19) Q. YOU'D ALREADY DONE THAT?
(20) A. RIGHT.
(21) Q. OKAY.
(22) A. BEEN ON THE HIGHER DOSE FOR THREE WEEKS. AND HE THINKS
(23) THE MEDICINE HAS HELPED. AND DR. GRACE WANTED ME TO
(24) SWITCH HIM TO CYMBALTA. I THINK THERE'S A LETTER
(25) SOMEWHERE IN THE CHART FROM DR. GRACE REQUESTING THAT.

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(1) THAT WE HAVEN'T LOOKED AT. AT THAT TIME I THINK
(2) CYMBALTA WAS PRETTY NEW. I WASN'T FAMILIAR WITH IT. I
(3) HAD NOT USED IT. AND I DID NOT PUT HIM ON IT.
(4) Q. IT'S ALSO AN ANTI-DEPRESSANT?
(5) A. IT'S AN ANTI-DEPRESSANT.
(6) Q. AND YOU CHOSE NOT TO?
(7) A. BECAUSE I HAD NO EXPERIENCE WITH IT.
(8) Q. SO YOU CONTINUED THE MEDICATIONS AT THIS POINT WITH THE
(9) INCREASED DOSAGE OF ZOLOFT?
(10) A. CONTINUED CURRENT MEDS. SO I DIDN'T CHANGE ANYTHING.
(11) LEFT HIM ON THE 100. IT HAD ONLY BEEN THREE WEEKS, SO
(12) I DID NOT CHANGE IT OR INCREASE IT OR ANYTHING.
(13) Q. AND YOU SCHEDULED HIM AN APPOINTMENT WITH DR. GLENN
(14) SCOTT, WHO IS AN ORTHOPEDIST, FOR EVALUATION OF HIS
(15) BACK PAIN?
(16) A. YES.
(17) Q. THEN IS THERE ANOTHER CALL ON SEPTEMBER 23RD, TWO WEEKS
(18) LATER?
(19) A. SO WE'RE NOW TWO WEEKS LATER. WANTS TO KNOW IF WE CAN
(20) INCREASE THE ZOLOFT. SO WE ADDED ANOTHER 50 MILLIGRAMS.
(21) AND HE WAS TO CONTINUE THE 100 THAT HE HAD, WHICH WOULD
(22) HAVE BEEN A PRESCRIPTION, AND WE GAVE HIM SAMPLES OF
(23) THE 50 TO MAKE THE 150.
(24) Q. AND IS THIS DR. GRACE MAKING THIS CALL?
(25) A. THAT'S COMING FROM MARK.

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(1) Q. THAT'S COMING FROM MARK. OKAY. SO THE ZOLOFT HAS BEEN
(2) TAKEN FROM AUGUST 17TH, 2004, THROUGH SEPTEMBER 23RD,
(3) 2004. AND IT'S ACTUALLY BEEN INCREASED TWICE? WE
(4) STARTED AT 50 MILLIGRAMS BACK WHEN YOU SAW HIM ON JULY
(5) 27TH. HE WAS AT 50. AND NOW HE'S AT 150 MILLIGRAMS?
(6) A. HE WAS STARTED ON JUNE 29TH. HE WAS STARTED ON JUNE
(7) 29TH.
(8) Q. RIGHT.
(9) A. AT THE 50.
(10) Q. RIGHT.
(11) A. AND THEN WENT TO THE 100 AND THEN WENT TO THE 150.
(12) PROBABLY, WHAT, THREE WEEKS, FOUR WEEKS IN BETWEEN EACH
(13) ONE MAYBE.
(14) Q. AND IS THAT A PRETTY SIGNIFICANT DOSAGE, DOCTOR?
(15) A. NOT UNCOMMON. I THINK 200 IS USED FAIRLY OFTEN BY THE
(16) PSYCHIATRISTS.
(17) Q. ALL RIGHT. THEN ON SEPTEMBER 22ND, THERE'S ANOTHER
(18) MESSAGE REGARDING A TELEPHONE CONVERSATION WITH DR.
(19) GRACE?
(20) A. YES, SIR.
(21) Q. TELL ME ABOUT THAT ONE.
(22) A. (WITNESS REVIEWS DOCUMENT) ALL RIGHT, WAIT A MINUTE.
(23) ACTUALLY THAT TELEPHONE CONVERSATION COMES BEFORE THE
(24) OTHER CONVERSATION WITH MARK.
(25) Q. SO THAT RELATES TO INCREASING THE DOSAGE -

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(1) A. TO THE 150.
(2) Q. TO THE 150, OKAY.
(3) A. HE WANTS ME TO ADD THE CYMBALTA. AND AGAIN I SAID I
(4) HAD NO EXPERIENCE WITH IT, BUT I WAS WILLING TO
(5) INCREASE THE ZOLOFT. AND SO THEN THE NEXT DAY WE
(6) INCREASED THE ZOLOFT AND MARK CALLS. AND I THINK DR.
(7) GRACE SENDS ME A NOTE TO THAT EFFECT CONCERNING THE -
(8) INCREASING THE ZOLOFT OR ADDING THE CYMBALTA. OR
(9) SENDING HIM TO A PSYCHIATRIST.
(10) Q. AND THERE'S A TELEPHONE CONVERSATION APPARENTLY BETWEEN
(11) YOU AND DR. GRACE ON OCTOBER 15TH ABOUT SENDING HIM TO
(12) A PSYCHIATRIST, CORRECT?
(13) A. YES.
(14) Q. EITHER DR. SMITH, WHO I THINK HE'S ULTIMATELY GOING TO
(15) SEE, OR DR. TONY -
(16) A. GOODBAR.
(17) Q. GOODBAR, OKAY.
(18) A. AND I DON'T THINK I TALKED TO HIM. I THINK HE LEFT
(19) THAT MESSAGE. BECAUSE ALL I PUT ON THERE WAS OKAY TO
(20) REFER, SO IT WAS PROBABLY THE NURSE TOOK THE NOTE AND
(21) THEN I AGREED - I OKAYED IT.
(22) Q. THEN ON 10-19-04, IS THERE A CALL IN AGAIN FROM MR.
(23) CASEY SAYING HE'S OUT OF MEDICATIONS?
(24) A. A VISIT.
(25) Q. IT'S A VISIT?

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- (1) A. 10-19.
(2) Q. ALL RIGHT, TELL ME ABOUT THAT VISIT.
(3) A. MARK TELLS ME THAT HIS ANXIETY AND HIS DEPRESSION ARE
(4) BETTER ON THE HIGHER DOSE OF ZOLOFT. I MENTION AGAIN
(5) THAT DR. GRACE HAS RECOMMENDED REFERRAL TO A
(6) PSYCHIATRIST. HE CONTINUES WITH BACK PAIN. BEEN OUT
(7) OF WORK FOR FIVE MONTHS. HE SAYS HE'S STILL IN PAIN,
(8) BUT NOT AS BAD. HE DOESN'T FEEL LIKE HE CAN RETURN TO
(9) WORK. AND HE BRINGS PAPERS FOR SHORT TERM DISABILITY.
(10) HE HAD SEEN THE ORTHOPEDIST, DR. GLENN SCOTT. AND I
(11) THINK THERE'S A NOTE IN THE CHART TO THAT EFFECT ALSO
(12) FROM DR. SCOTT.
(13) Q. AND ACCORDING TO YOUR NOTE, DR. SCOTT DID NOT FEEL THAT
(14) HE WAS DISABLED?
(15) A. DR. SCOTT FELT THAT THE PATIENT COULD PROCEED WITH HIS
(16) WORK. HE HAD NO PROBLEM WITH HIS RETURNING TO THE
(17) CURRENT WORK, BUT HE DID RECOMMEND FINDING AN
(18) ALTERNATIVE.
(19) Q. AND DIAGNOSED HIM WITH DEGENERATIVE ARTHRITIS --
(20) A. AND BULGING DISCS.
(21) Q. AND BULGING DISCS. NOW, THERE'S A DIFFERENCE BETWEEN A
(22) BULGING DISC AND A HERNIATED DISC, CORRECT?
(23) A. CORRECT.
(24) Q. BULGING DISCS ARE GENERALLY NOT THOUGHT TO BE
(25) SURGICALLY --

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- (1) A. CORRECT.
(2) Q. BUT HERNIATED ARE SOMETIMES?
(3) A. SOMETIMES. NOT ALWAYS.
(4) Q. OKAY. AND THE MEDICATIONS THAT YOU HAD HIM ON AT THAT
(5) VISIT?
(6) A. HE GOT NEW PRESCRIPTIONS FOR THE ULTRAM. MAIL ORDER
(7) FOR THE ZANAFLEX. MAIL ORDER. AND THE LORTAB, AGAIN
(8) JUST THREE MONTHS WORTH. IT'S 60 WITH TWO REFILLS.
(9) Q. OKAY.
(10) A. HE GOT THE BEXTRA FROM MAIL ORDER. HE GOT THE LIPITOR
(11) FOR HIS CHOLESTEROL FROM MAIL ORDER. AND THE ZOLOFT
(12) FROM MAIL ORDER. AND HE WAS SCHEDULED AN APPOINTMENT
(13) WITH DR. TONY GOODBAR IN GREENVILLE.
(14) Q. THE PSYCHIATRIST?
(15) A. THE PSYCHIATRIST.
(16) Q. ALL RIGHT.
(17) A. AND I COMPLETED SHORT TERM DISABILITY PAPERS.
(18) Q. TO TAKE HIM OUT OF WORK FOR ANOTHER THREE MONTHS?
(19) A. YES, SIR.
(20) Q. ALL RIGHT. AND THEN HE COMES BACK ON JANUARY 25TH,
(21) 2005. IS THAT THE NEXT VISIT?
(22) A. THAT IS THE NEXT VISIT.
(23) Q. AND BY THIS TIME HE HAS NOW SEEN DR. JEFFREY SMITH.
(24) AND APPARENTLY THERE WAS SOME CONFUSION BETWEEN DR.
(25) SMITH AND DR. GOODBAR, BUT ULTIMATELY HE GOES TO SEE

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- (1) DR. SMITH?
(2) A. YEAH, I DON'T KNOW WHY HE ENDED UP -- YEAH.
(3) Q. NOW, AT THIS TIME DR. SMITH HAS NOW GOT HIM ON
(4) CYMBALTA?
(5) A. CORRECT.
(6) Q. AND WHAT'S THE CYMBALTA DOSAGE?
(7) A. THAT IS A 60 MILLIGRAM ONE A DAY.
(8) Q. AND HAS HE TAKEN HIM OFF THE ZOLOFT?
(9) A. HE IS OFF THE ZOLOFT.
(10) Q. AND THE MEDICATIONS THAT YOU LEFT HIM ON WHEN HE LEAVES
(11) THAT VISIT ARE THE LORTAB UNCHANGED?
(12) A. CORRECT.
(13) Q. TWO RENEWALS?
(14) A. TWO REFILLS FOR THREE MONTHS.
(15) Q. AND THE VIAGRA?
(16) A. AND THE VIAGRA.
(17) Q. ANYTHING ELSE?
(18) A. THAT IS IT. AND I JUST PUT DOWN THAT HE'S TO FOLLOW UP
(19) WITH HIS SPECIALIST. WHICH I GUESS WOULD BE THE
(20) PSYCHIATRIST.
(21) Q. DOCTOR, CAN IT BECOME PROBLEMATIC WHEN YOU HAVE MORE
(22) THAN ONE MEDICAL PROVIDER PROVIDING NARCOTIC
(23) MEDICATIONS TO A PATIENT?
(24) A. SURE. IT SURE CAN. SOMETIMES YOU DON'T KNOW WHAT
(25) OTHER PEOPLE ARE DOING. AND YOU CAN CERTAINLY BE

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- (1) GETTING FROM DIFFERENT PROVIDERS THE SAME THING. OR
(2) SIMILAR THINGS.
(3) Q. THEN THE NEXT VISIT IS APRIL 5TH, 2005.
(4) A. YES, SIR.
(5) Q. AND HOW WAS HE AT THIS POINT?
(6) A. HE TELLS ME THAT HE HAS NO CHEST PAIN OR SHORTNESS OF
(7) BREATH. HIS APPETITE IS GOOD. HIS BOWELS MOVE WELL.
(8) HE CONTINUES ON THE CYMBALTA. HE THINKS THE ANXIETY
(9) AND DEPRESSION ARE FAIRLY STABLE. BUT HE CONTINUES
(10) WITH BACK PAIN.
(11) Q. NOW, CYMBALTA WOULD TREAT BOTH THE ANXIETY AND THE
(12) DEPRESSION?
(13) A. THAT DOES BOTH.
(14) Q. AND DISCHARGE MEDICATIONS THAT YOU PRESCRIBE?
(15) A. AGAIN, THE ULTRAM, THE ZANAFLEX, THE VIAGRA, THE
(16) BEXTRA. WE INCREASED THE LIPITOR. I'M SURE WE GOT
(17) LABS SOMEWHERE IN THERE FOR THE INCREASE. NINETY DAYS
(18) WITH A REFILL ON ALL OF THEM. AND THEN THE LORTAB FOR
(19) THREE MONTHS.
(20) Q. SO FOR PAIN YOU HAVE HIM ON LORTAB, ULTRAM?
(21) A. LORTAB, ULTRAM, AND THEN THE ZANAFLEX. THE MUSCLE
(22) RELAXER.
(23) Q. THE MUSCLE RELAXER, OKAY. ALL RIGHT, THEN THE ONLY
(24) ANXIETY DEPRESSION MEDICATION THAT IS MENTIONED HERE IS
(25) THE CYMBALTA THAT DR. SMITH HAS PRESCRIBED?

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- (1) A. CORRECT.
(2) Q. ALL RIGHT. THEN THERE'S A CALL IN APPARENTLY ON MAY
(3) 16TH, 2005. IS IT TRICOR?
(4) A. YES.
(5) Q. WHAT IS THAT, PLEASE, SIR?
(6) A. TRICOR IS A MEDICATION THAT IS USED PRIMARILY FOR
(7) TRIGLYCERIDES. THOSE ARE THE FATS.
(8) Q. THAT GOES BACK INTO THE CHOLESTEROL PROBLEMS HE HAS?
(9) A. CORRECT.
(10) Q. AND THEN THERE'S A --
(11) A. AND HE GOT SAMPLES OF THAT.
(12) Q. THEN THE NEXT VISIT IS JUNE 28TH, 2005?
(13) A. YES, SIR.
(14) Q. AND HOW IS HE AT THAT POINT?
(15) A. HE CONTINUES WITH BACK PAIN. HE REMAINS OUT OF WORK.
(16) HE WAKES UP IN THE MORNING WITH THE SAME AMOUNT OF
(17) PAIN. HE TELLS ME THAT SINCE HE'S BEEN OUT OF WORK, HE
(18) HAS OVERALL LESS PAIN. BUT IF HE DOES ANY KIND OF YARD
(19) WORK OR HOUSEWORK, HIS PAIN RECURS. AND HE WAS
(20) SWITCHED FROM MOBIC TO BEXTRA, AND I DONT -- I CANT
(21) TELL YOU WHO DID THAT.
(22) Q. IT WASNT YOU?
(23) A. WELL, LET ME LOOK. IT MIGHT HAVE BEEN. WELL, WE SAW
(24) THE PREVIOUS NOTE, SO NO. IT WOULDNT HAVE BEEN ME.
(25) Q. NOW, WITH THE CYMBALTA, HAS THERE BEEN ADDERAL ADDED?

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- (1) A. WHICH NOTE ARE WE ON?
(2) Q. 6-28, THE FIRST PARAGRAPH. A-D-D-E-R-A-L - XR 20
(3) MILLIGRAMS.
(4) A. HE CONTINUES WITH THE PSYCHIATRIST WHO NOW HAS HIM ON
(5) CYMBALTA AND ADDERAL XR.
(6) Q. WHAT IS ADDERAL XR?
(7) A. ADDERAL IS A MIXTURE ACTUALLY OF FOUR MEDICATIONS. FOR
(8) ATTENTION DEFICIT DISORDER.
(9) Q. HOW DOES THAT DIFFER FROM CYMBALTA?
(10) A. WELL, CYMBALTA IS AN ANTI-DEPRESSANT. AND IT ACTUALLY
(11) WORKS SIMILAR TO THE EFFEXOR. I TOLD YOU IT WORKED ON
(12) TWO DIFFERENT CHEMICALS IN THE BRAIN. THAT'S WHAT
(13) CYMBALTA DOES. ADDERAL IS A RITALIN. ADDERAL IS LIKE
(14) A RITALIN. AND USED TO PRIMARILY -- PROBABLY 90% OF
(15) THE TIME TO HELP KIDS IN SCHOOL. IT IS USED IN SOME
(16) ADULTS WHO HAVE ATTENTION DEFICIT.
(17) Q. YOU DID PUT ON THE PRESCRIPTIONS, CONTINUE MOBIC,
(18) SAMPLE, 5 MILLIGRAMS, ONE FOUR TIMES A DAY. AND YOU
(19) CONTINUED THE ZANAFLEX, THE ULTRAM, AND RENEWED THE
(20) LORTAB.
(21) A. YES. BUT I DONT THINK I GAVE HIM REFILLS ON THOSE
(22) FIRST THREE. IF I SAID CONTINUE, I PROBABLY DIDNT
(23) GIVE HIM REFILLS. BUT I SAY RENEW ON THE LORTAB, SO
(24) THAT MEANS I GAVE HIM THAT ONE. THREE MONTHS WORTH.
(25) AND I MENTION NO REFILLS NEEDED.

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- (1) Q. ALL RIGHT, THEN THERE'S A TELEPHONE CALL ON AUGUST
(2) 16TH, 2005. TELL ME ABOUT THAT.
(3) A. AUGUST 16TH -- HE HAS A DISABILITY FORM. THE NOTE SAYS
(4) THAT WE HAVE THE FORM, AND MY NURSE TELLS HIM THAT WE
(5) DONT. AND THAT HE COULD GET THE FORM, AND I WOULD
(6) TAKE A LOOK AT IT AND SEE IF WE COULD FILL IT OUT. AND
(7) I PUT ON THE BOTTOM THAT I DONT DO DISABILITY. I
(8) DONT DO LONG TERM DISABILITY. I'LL PUT SOMEBODY OUT
(9) OF WORK FOR AN INJURY OR FOR SHORT TERM, BUT I DONT DO
(10) LONG TERM DISABILITY.
(11) Q. WHY IS IT THAT YOU DO NOT DO LONG TERM DISABILITY?
(12) A. I DISLIKE THEM.
(13) Q. AND THEN AUGUST 17TH, THERE'S ANOTHER TELEPHONE CALL
(14) AND THIS APPARENTLY IS NOTHING MORE THAN A CALL FROM
(15) THE AETNA ASKING ABOUT RECORDS.
(16) A. OKAY, AUGUST. (WITNESS REVIEWS DOCUMENT) AUGUST 17TH.
(17) APPARENTLY HE TALKED TO JAMIE, WHO IS MY NURSE, AND
(18) MARK WAS STATING THAT AETNA NEVER RECEIVED ANY
(19) INFORMATION ABOUT -- ANY RECORDS CONCERNING THE
(20) DISABILITY. AND JAMIE TOLD HIM THAT WE SENT THEM ON 4-
(21) 27. AND SOMETHING ABOUT THEY MAY NOT HAVE PAID FOR THE
(22) RECORDS. I CANT SPEAK TO THAT. THEREFORE, NEVER
(23) RECEIVED THEM. APPARENTLY MARK PAID TO HAVE THE
(24) RECORDS SENT, AND WE FAXED THEM AGAIN.
(25) Q. AND THEN THE NEXT VISIT IS SEPTEMBER 28, 2005?

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- (1) A. YES.
(2) Q. AND HOW IS HE AT THIS TIME?
(3) A. MARK COMES IN FOR REFILLS AND FOLLOW UP ON THE
(4) PROBLEMS. THE PSYCHIATRIST HAS CHANGED HIS
(5) MEDICATIONS. HE'S NOW ON STRATTERA. AND HE STARTED
(6) THROWING UP WITHIN A FEW DAYS OF TAKING THE MEDICINE.
(7) AND DR. FOGARTY, WHO IS ONE OF THE LUNG SPECIALISTS IN
(8) TOWN, ORDERED X-RAYS. AND AS FAR AS MARK KNEW, THE X-
(9) RAYS WERE NORMAL. AND HE WAS STARTED ON PRILOSEC,
(10) WHICH IS AN ANTACID, AND HE WAS BETTER. HAD NOT THROWN
(11) UP IN SEVERAL DAYS. HIS BACK PAIN WAS STABLE. HE WAS
(12) HAVING NO PROBLEMS WITH HIS MEDICATIONS, AND HE HAD NO
(13) MUSCLE ACHES FROM THE LIPTOR. AND I ASKED THAT
(14) BECAUSE THOSE MEDICINES CAN CAUSE ACHES AND PAINS.
(15) Q. IN THE SECOND LINE OF THAT OFFICE NOTE YOU PUT HE
(16) DENIES CHEST PAIN AND SHORTNESS OF BREATH.
(17) A. YES.
(18) Q. BUT HE IS GOING TO SEE A PULMONOLOGIST, DR. FOGARTY?
(19) A. APPARENTLY HE HAS SEEN DR. FOGARTY. AND DR. FOGARTY IS
(20) IN WITH DR. SMITH, WHO HE WAS SUPPOSED TO HAVE SEEN
(21) EARLIER.
(22) Q. WHAT IS STRATTERA?
(23) A. THAT IS A DIFFERENT MEDICATION FOR ATTENTION DEFICIT.
(24) AND IT IS NOT A STIMULANT LIKE RITALIN.
(25) Q. AND MEDICATIONS AT THAT TIME THAT YOU PUT HIM ON?

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(1) A. THE SAME RENEWAL. THE ULTRAM, THE VIAGRA, THE LORTAB
(2) FOR THREE MONTHS. THE LIPITOR HE DIDN'T NEED A REFILL
(3) FOR. THE TRICOR HE DIDN'T NEED A REFILL FOR. AND HE
(4) WAS TOLD TO CONTINUE THE OVER-THE-COUNTER PRILOSEC.
(5) Q. OKAY. THE NEXT VISIT, DOCTOR?
(6) A. DECEMBER 20TH.
(7) Q. AND AT THIS TIME WHAT'S GOING ON?
(8) A. THREE MONTHS LATER. BACK PAIN CONTINUES. NO TROUBLE
(9) WITH THE MEDICATIONS. HE'S NOW BEEN SWITCHED TO A
(10) DIFFERENT ANTI-DEPRESSANT.
(11) Q. IS THAT RIMERON?
(12) A. RIMERON, YEAH.
(13) Q. WHAT IS RIMERON?
(14) A. AN ANTI-DEPRESSANT. I DON'T USE THAT DRUG. I CAN'T
(15) TELL YOU MUCH ABOUT IT. MARK THINKS THAT IT'S HELPING
(16) HIS DEPRESSION. NOT WORRYING AS MUCH. AND I CAUTIONED
(17) HIM ABOUT A RISK OF TAKING TWO MEDICINES TOGETHER,
(18) WHICH WE'VE BEEN DOING ALL ALONG. I THINK SOMEWHERE
(19) ALONG IN HERE IT CAME TO MY ATTENTION THAT THERE IS
(20) POTENTIAL FOR SEIZURE WHEN YOU COMBINE CERTAIN
(21) MEDICINES. AND NOW ULTRAM HAS A BLACK BOX WARNING THAT
(22) SAYS CAUTION, CAREFUL WHEN USING WITH OTHER DRUGS.
(23) Q. AND HE HAD BEEN ON ULTRAM AT THIS POINT IN TIME FOR
(24) SEVERAL YEARS?
(25) A. FOR YEARS. NEVER HAD TROUBLE WITH IT.

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(1) Q. BUT HE'S ALSO USED MORE THAN THE RECOMMENDED DOSAGE AT
(2) TIMES?
(3) A. A VERY SHORT TIME, THOUGH, I THINK.
(4) Q. THAT'S WHEN YOU TALKED ABOUT THE MAXIMUM WAS 400
(5) MILLIGRAMS?
(6) A. RIGHT.
(7) Q. AGAIN, ARE YOU CONCERNED ABOUT DRUG USE?
(8) A. WELL, I'M KEEPING HIM - I AM ONLY GIVING HIM THREE
(9) MONTHS AT A TIME. AND IF YOU LOOK AT THE NOTES, EVERY
(10) ONE OF THEM FOR THE LAST TWO YEARS IS THREE MONTHS AT A
(11) TIME. HE MIGHT BE A DAY EARLY OR A WEEK EARLY, BUT -
(12) AND IT'S NOT GONE UP IN THOSE LAST TWO YEARS. IT
(13) HASN'T GONE UP. NOW, YOU ASKED ME EARLIER AM I WORRIED
(14) ABOUT GETTING MEDICINE FROM OTHER PEOPLE. I DON'T KNOW
(15) IF HE'S DOING THAT. I DON'T HAVE ANY REASON TO SUSPECT
(16) THAT RIGHT HERE. I DON'T KNOW. SO I'M NOT - YOUR
(17) QUESTION WAS AM I WORRIED ABOUT DRUG ABUSE. NOT FROM
(18) ME.
(19) Q. NOT FROM YOUR DOSAGE?
(20) A. NOT FROM ME.
(21) Q. NOT FROM YOUR DOSAGE.
(22) A. NOT FROM ME. AND I DON'T KNOW IF HE'S DOING SOMETHING
(23) ELSE. I CAN'T ANSWER FOR THAT.
(24) Q. MARCH 13TH, 2006, THERE'S A CALL IN?
(25) A. (WITNESS REVIEWS DOCUMENT) MARCH 13 IS A VISIT.

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(1) Q. OKAY, EXCUSE ME. TELL ME ABOUT THAT VISIT.
(2) A. MARK COMES IN FOR FOLLOW UP, AND HE NOW IS ON ADDERAL.
(3) RIMERON AND AMBIEN, WHICH IS A SLEEPING PILL. AND HE
(4) DOESN'T NEED -
(5) Q. LET ME INTERRUPT YOU, DOCTOR. DO I UNDERSTAND THIS
(6) NOTE THAT YOU TOOK IT THAT DR. SMITH WAS PRESCRIBING
(7) THOSE THREE MEDICATIONS?
(8) A. THAT'S WHAT MY NOTE SAYS. CONTINUES WITH THE
(9) PSYCHIATRIST WHO HAS HIM ON THOSE THREE.
(10) Q. OKAY.
(11) A. AND HE DOESN'T NEED A REFILL OF THE LORTAB, BECAUSE
(12) HE'S GETTING IT FROM - HE HAS GOTTEN SOME FROM DR.
(13) FOGARTY.
(14) Q. DOCTOR, MY SAME QUESTION. I ASKED YOU EARLIER ABOUT
(15) WHEN DR. SMITH ENTERS THE PICTURE. DR. SMITH
(16) PRESCRIBING MEDICATIONS. YOU PRESCRIBING MEDICATIONS.
(17) A. DR. FOGARTY.
(18) Q. WELL, BUT A LITTLE WHILE AGO WE HAD DR. SMITH HAD
(19) ENTERED AND NOW WE'VE GOT DR. FOGARTY PRESCRIBING
(20) MEDICATIONS. SO THERE ARE THREE PROVIDERS AT THIS
(21) POINT IN TIME. IS THAT A CONCERN OF YOURS?
(22) A. DR. SMITH - THERE'S TWO SMITHS IN HERE, YOU KNOW.
(23) Q. I UNDERSTAND, BUT WHAT I WAS ASKING ABOUT WAS - WHEN I
(24) SAY SMITH HERE, I'M REFERRING TO SMITH THE
(25) PSYCHIATRIST.

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(1) A. THE PSYCHIATRIST, YEAH.
(2) Q. AND THEN WHEN -
(3) A. WELL, HE'S NOT GIVING HIM ANY NARCOTICS.
(4) Q. WHO IS NOT?
(5) A. THE PSYCHIATRIST ISN'T GIVING HIM ANY NARCOTICS. THAT
(6) I KNOW OF.
(7) Q. NONE OF THOSE, ADDERAL, RIMERON, AMBIEN -
(8) A. NO.
(9) Q. NONE OF THOSE ARE NARCOTICS -
(10) A. NO, THEY'RE NOT NARCOTICS. AMBIEN IS A SLEEPING PILL.
(11) Q. AND WHAT ABOUT THE LORTAB?
(12) A. HE TELLS ME HE DOESN'T NEED A REFILL FOR THE LORTAB,
(13) BECAUSE HE IS GETTING THAT FROM FOGARTY.
(14) Q. BUT THAT IS A NARCOTIC?
(15) A. THAT IS A NARCOTIC.
(16) Q. ALL RIGHT.
(17) A. BUT HE DOES ASK ME FOR A DIFFERENT NARCOTIC BY THE NAME
(18) OF NORCO. AND I TOLD HIM I WASN'T FAMILIAR WITH IT.
(19) AND I WOULD CHECK ON IT. AND IT TURNS OUT IT'S REALLY
(20) THE SAME THING, EXCEPT HAS LESS TYLENOL IN IT.
(21) Q. THE SAME THING AS?
(22) A. LORTAB. EXCEPT IT HAS LESS TYLENOL ON IT.
(23) Q. SO WHAT MEDICATIONS DO YOU HAVE HIM ON, AS OPPOSED TO
(24) DR. SMITH AND DR. FOGARTY. WHAT DID YOU GIVE HIM?
(25) A. WE CONTINUED ON THE ULTRAM, THE ZANAFLEX, THE LIPITOR.

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- (1) HERE I AM GIVING HIM A PRESCRIPTION FOR THE MOBIC.
(2) INSTEAD OF THE BEXTRA. THE TRICOR. AND HE GETS 90
(3) DAYS, REFILLS ON EACH ONE. AND NO REFILL FOR THE
(4) LORTAB.
(5) Q. OKAY. AND THEN APPARENTLY THERE'S A NOTE DOWN THERE.
(6) MAYBE SEVERAL DAYS LATER, THAT DR. FOGARTY'S OFFICE
(7) STATES PATIENT GOT LORTAB TEN MILLIGRAMS, 150 TABLETS,
(8) FIVE REFILLS ON 2-12-06.
(9) A. MM-HMM (AFFIRMATIVE RESPONSE).
(10) Q. OKAY.
(11) A. CORRECT.
(12) Q. THE NEXT VISIT I SEE, DOCTOR, IS 6-13-06.
(13) A. YES, SIR.
(14) Q. NOW, APPARENTLY THERE ARE SOME MEDICATIONS THAT YOU
(15) HAVE ADDED. ARE THEY CHOLESTEROL MEDICATIONS THAT YOU
(16) GOT INVOLVED IN ON 4-12-06? IS THAT FOR CHOLESTEROL —
(17) —
(18) A. VYTORIN IS A CHOLESTEROL MEDICINE THAT HAS TWO THINGS
(19) IN IT. AND I'D HAVE TO GO BACK TO THE LAB TO SEE WHY I
(20) CHANGED IT.
(21) Q. BUT IT'S FOR CHOLESTEROL?
(22) A. IT IS A CHOLESTEROL MEDICINE.
(23) Q. THEN THERE'S A NOTE 6-14-06 HAVING TO DO WITH COURT
(24) DATE COMING UP. QUESTION REGARDING ARTICLE IN
(25) NEWSPAPER. RESPECTS YOUR OPINION. DO YOU KNOW WHAT

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- (1) THAT REFERS TO?
(2) A. I REMEMBER SEEING AN ARTICLE IN THE PAPER THAT THERE
(3) WAS A LAWSUIT, AND HE CALLED ME ABOUT IT. AND I CALLED
(4) HIM ONCE AND THERE WAS NO ANSWER, AND I DIDN'T CALL
(5) BACK.
(6) Q. SO YOU NEVER ACTUALLY TALKED TO HIM ABOUT IT?
(7) A. NEVER TALKED TO HIM.
(8) Q. SO YOU DON'T KNOW WHAT THE QUESTION WAS?
(9) A. CORRECT.
(10) Q. THEN YOU SEE HIM ON 6-13-06 —
(11) A. AND I CAN — WELL, YEAH, GO AHEAD. I'M SORRY.
(12) Q. I'M SORRY, DID YOU —
(13) A. YOU GOT IT.
(14) Q. 6-13-06 AND WHAT —
(15) A. I'VE BEEN TOLD NEVER TO SAY MORE THAN I'M ASKED FOR.
(16) SO THERE. 6-13?
(17) Q. YES, SIR.
(18) A. TAKING VYTORIN AND TRICOR. NO SIDE EFFECTS. LIPIDS
(19) ARE IMPROVED. HIS LIVER TEST WAS NORMAL. AND THAT WAS
(20) DONE JUST BECAUSE HE'S ON A LOT OF CHOLESTEROL MEDICINE
(21) NOW. AND SO THE LIVER TEST WAS NORMAL. CONTINUES WITH
(22) BACK PAIN. NEEDS A REFILL ON THE LORTAB. MY NOTE SAYS
(23) HE HAS NO CHEST PAIN OR SHORTNESS OF BREATH. AND HE IS
(24) NOW INVOLVED IN A LAWSUIT.
(25) Q. OKAY. THEN IS THE NEXT VISIT DECEMBER 6TH, 2006?

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- (1) A. (WITNESS REVIEWS DOCUMENT) YES.
(2) Q. AND WHAT —
(3) A. WE'RE OUT OF SEQUENCE NOW WHEN YOU TOOK THEM APART.
(4) (OFF THE RECORD DISCUSSION)
(5) BY THE WITNESS:
(6) A. WHICH ONE DID YOU SAY? DECEMBER 6TH?
(7) EXAMINATION RESUMED BY MR. KING:
(8) Q. DECEMBER 6TH. AM I CORRECT THAT THAT —
(9) A. I THINK THAT'S THE NEXT ONE.
(10) Q. AND HOW WAS HE AT THAT POINT?
(11) A. DENIES CHEST PAIN OR SHORTNESS OF BREATH. GOOD
(12) APPETITE, NORMAL BOWEL MOVEMENTS. NOT EXERCISING. PUT
(13) ON WEIGHT. BLOOD PRESSURE IS UP. CONTINUES TO HAVE
(14) BACK PAIN. HE SAYS IT'S STABLE, UNCHANGED, NO BETTER
(15) AND NO WORSE. CHEST PAIN HAS IMPROVED. HE HAS NOT
(16) BEEN SEEING THE LUNG DOCTOR ANYMORE. HE CONTINUES WITH
(17) THE PSYCHIATRIST, WHO HAS HIM ON ANTI-DEPRESSANTS AND
(18) SLEEPING PILLS. AND HE TELLS ME THAT HE'S NOT BEEN
(19) TAKING HIS CHOLESTEROL MEDICATION.
(20) Q. YOU CONTINUED YOUR MEDICATIONS?
(21) A. ENCOURAGED EXERCISE AND WEIGHT LOSS. ASKED HIM TO COME
(22) IN FOR SOME BLOOD PRESSURE CHECKS SINCE HIS PRESSURE
(23) WAS UP A LITTLE BIT. AND I RENEWED HIS CHOLESTEROL
(24) MEDICINES. HIS MOBIC. HIS ULTRAM. AND I GAVE HIM
(25) THREE MONTHS OF THE LORTAB. HE WASN'T SEEING THE LUNG

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- (1) DOCTOR ANYMORE, SO I GAVE HIM —
(2) Q. THEN THERE'S A TELEPHONE MESSAGE ON 12-20-06?
(3) A. I THINK THAT WAS JUST PROBABLY BECAUSE WE'D CHANGED THE
(4) MEDICINES SEVERAL TIMES. JUST DETERMINING WHICH ONES
(5) HE'S SUPPOSED TO BE ON. HE WAS CUTTING ONE OF THEM IN
(6) HALF. AND WE TOLD HIM JUST TO TAKE A WHOLE PILL. NOT
(7) HALF — NOT TO CUT THEM IN HALF. A WHOLE ONE OF EACH.
(8) THAT'S ALL THAT IS.
(9) Q. THEN IS THE NEXT ONE 4-27-07?
(10) A. 4-27-07? YES, SIR.
(11) Q. ALL RIGHT.
(12) A. AN EPISODE OF CHEST PAIN. WENT TO THE HOSPITAL. HAD
(13) AN ULCER. AND THE MOBIC WAS DISCONTINUED. I MENTIONED
(14) TO YOU THE ANTACIDS CAN CAUSE ULCER PROBLEMS. SO HE
(15) WAS PUT ON NEXIUM, AND HE WASN'T HAVING ANY MORE BELLY
(16) PROBLEMS.
(17) Q. YOU MAKE NOTE IN THERE, HE WILL CONTINUE HIS ANTI-
(18) DEPRESSANTS AND SLEEPING PILLS FROM HIS PSYCHIATRIST.
(19) HE WILL CONTINUE HIS PAIN PILL FROM DR. FOGARTY. IS HE
(20) BACK WITH DR. FOGARTY BY THIS TIME OR DO YOU UNDERSTAND
(21) WHAT WAS MEANT HERE?
(22) A. APPARENTLY. AND AGAIN HE DIDN'T GET A PRESCRIPTION —
(23) Q. FOR THE LORTAB FROM YOU?
(24) A. FOR THE LORTAB FROM ME.
(25) Q. OKAY. ALL RIGHT, THEN THE NEXT VISIT IS NOVEMBER 20TH,

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- (1) 2007.
(2) A. YES, SIR.
(3) Q. HOW IS HE AT THAT POINT?
(4) A. (WITNESS REVIEWS DOCUMENT) MARK TELLS ME THAT HE'S
(5) HAVING NO CHEST PAIN OR SHORTNESS OF BREATH. HE STILL
(6) SEES THE PSYCHIATRIST. STILL HAS HIM ON THE MEDICINES.
(7) AND I JUST MAKE REFERENCE TO THE ONES LISTED IN THE
(8) CHART. AND NOT WORKING. NOT EXERCISING. TELLS ME
(9) THAT HIS DEPRESSION IS STABLE. ON EXAM HIS BLOOD
(10) PRESSURE WAS BETTER. HE'S LOST A FEW POUNDS. I THINK
(11) NOW I'M OUT OF SEQUENCE. AND I RENEWED HIS ULTRAM AND
(12) HIS TRICOR AND HIS VYTORIN. AND HE WAS TAKING NEXIUM
(13) STILL FOR THE STOMACH, AND I GAVE HIM A PRESCRIPTION
(14) FOR THAT.
(15) Q. AND THEN THE NEXT VISIT IS 4-30-08?
(16) A. CORRECT.
(17) Q. IS THAT THE LAST VISIT?
(18) A. THAT IS THE LAST TIME I SAW -- WELL, LET ME MAKE SURE.
(19) I THINK IT IS, YES. THAT WAS FOR AN EAR INFECTION.
(20) Q. IS HE STILL YOUR PATIENT AS FAR AS YOU KNOW?
(21) A. WELL, MARK HASN'T BEEN DISMISSED. MARK WAS SEEN AS
(22) EARLY AS FOUR MONTHS AGO. SO I WOULD CONSIDER HIM MY
(23) PATIENT. UNLESS MARK HAS DISMISSED ME. I'M NOT
(24) TREATING SEVERAL THINGS ANYMORE.
(25) Q. BECAUSE OF DR. SMITH, THE PSYCHIATRIST --

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- (1) A. DR. SMITH IS TREATING ALL OF THAT STUFF. THE LUNG
(2) DOCTORS ARE TREATING THOSE THINGS. I'M NOT DOING ANY
(3) OF THOSE. AS A MATTER OF FACT, I NEVER GOT INVOLVED
(4) WITH THE LUNG OR THE CHEST ISSUE. SO I'M STILL
(5) TREATING HIS CHOLESTEROL AND ALL THAT OTHER STUFF AS
(6) FAR AS I KNOW. HE'S PROBABLY OUT OF MEDICINE BY NOW,
(7) THOUGH.
(8) Q. BUT YOU DO NOT KNOW WHO ALL IS PRESCRIBING HIM
(9) MEDICATIONS?
(10) A. JUST THE PEOPLE THAT HE TELLS ME THAT I HAVE HERE. AND
(11) I HAVE SOME NOTES FROM THE SPECIALISTS.
(12) Q. OKAY. DOCTOR, YOU'VE BEEN FOLLOWING HIM AS A PATIENT
(13) SINCE 1992. IS THAT CORRECT?
(14) A. CORRECT.
(15) Q. SO THAT'S LIKE 16 YEARS?
(16) A. YES, SIR.
(17) Q. SO YOU WOULD CONSIDER THAT YOU KNOW MR. CASEY'S HEALTH
(18) PRETTY WELL. AGREED?
(19) A. AGREED.
(20) Q. WHAT CHANGES, IF ANY, HAVE YOU SEEN IN EITHER HIS
(21) PHYSICAL OR MENTAL CONDITION OR EMOTIONAL SINCE JUNE OF
(22) 2000?
(23) A. PHYSICAL CHANGES, I DON'T THINK I'VE SEEN ANY. I THINK
(24) HE'S STILL -- I DON'T HAVE DOCUMENTATION THAT I'VE SEEN
(25) MENTAL CHANGES. AND SINCE I QUIT TREATING HIS

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- (1) DEPRESSION AND ANXIETY, I DON'T -- I DON'T SEE THAT I
(2) DOCUMENT ON HIS MENTAL STATUS ANYMORE. I DON'T
(3) DOCUMENT THAT HE'S ALERT OR ORIENTED OR DEPRESSED. SO
(4) I DON'T HAVE ANYTHING TO SAY WELL, MY NOTE SAYS THIS OR
(5) THAT. I THINK MARK ALWAYS LOOKS DEPRESSED. I DON'T
(6) THINK HE -- I DON'T THINK HE'S AS CHIPPER AS HE USED TO
(7) BE. I DON'T THINK HE'S AS -- HE'S NOT AS HAPPY AS HE
(8) USED TO BE, I KNOW THAT.
(9) Q. WELL, HE'S GONE THROUGH A DIVORCE.
(10) A. A DIVORCE, NOT WORKING, 14 DIFFERENT MEDICINES. I
(11) THINK -- I THINK THAT'S PROBABLY THE BIGGEST THING.
(12) EVEN THOUGH HE MAY TELL ME HIS DEPRESSION IS BETTER,
(13) MARK DOESN'T LOOK LIKE A HAPPY PERSON.
(14) Q. OKAY, I'M LOOKING AT THE NOTE ON NOVEMBER 20, 2007, AND
(15) YOU QUOTE THAT HE SAYS HIS DEPRESSION IS STABLE.
(16) A. MM-HMM (AFFIRMATIVE RESPONSE).
(17) Q. ANYTHING ELSE THAT YOU SEE DIFFERENT SINCE JUNE OF '04?
(18) A. HE'S OLDER. MAY HAVE AGED A LITTLE MORE QUICKLY THAN
(19) YOU NORMALLY WOULD IF YOU'RE NOT DEPRESSED AND HAVING
(20) ALL THIS STUFF. OF COURSE I DON'T KNOW WHAT I LOOKED
(21) LIKE FOUR YEARS AGO EITHER.
(22) Q. OF COURSE AS WE AGE, THAT CAN ACCOUNT FOR PHYSICAL BODY
(23) PAIN, ESPECIALLY IF WE'RE ATHLETIC? TRYING TO KIND OF
(24) OVERDO IT ON THE WEEKENDS?
(25) A. SURE.

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- (1) Q. DID YOU EVER FIND ANY EVIDENCE OF ANY NEUROLOGICAL
(2) INJURY?
(3) A. DID NOT.
(4) Q. BRAIN INJURY?
(5) A. I NEVER CHECKED HIM FOR BRAIN INJURY. AS A MATTER OF
(6) FACT, I HAVE A NOTE FROM DR. FOGARTY, AND I CAN'T
(7) REMEMBER IF WHEN I RECEIVED IT -- I HAVE IT INITIALED
(8) THAT I SIGNED IT. I HAVE IT INITIALED THAT I RECEIVED
(9) IT. BUT WHEN I WAS REVIEWING THESE NOTES THIS WEEK AND
(10) LAST WEEK, AND I CAME ACROSS THAT NOTE AND DR. FOGARTY
(11) SAYS HE HAS PERMANENT BRAIN DAMAGE, THAT TOOK ME BY
(12) SURPRISE. AND I DIDN'T RECALL EVER READING THAT
(13) BEFORE.
(14) Q. DR. FOGARTY SAYS HE HAS PERMANENT BRAIN INJURY?
(15) A. THERE'S A NOTE IN THERE THAT SAYS SOMETHING TO THAT
(16) EFFECT.
(17) Q. DO YOU HAVE THAT WITH YOU TODAY?
(18) A. YOU SHOULD HAVE IT ALSO.
(19) Q. DO YOU HAVE IT?
(20) A. I HOPE SO. UNLESS SOMEONE TOOK IT OUT. AND THAT TOOK
(21) ME BY SURPRISE, BECAUSE I HAD NEVER NOTICED THAT. THAT
(22) HAD NEVER CROSSED MY MIND. (WITNESS REVIEWS DOCUMENTS)
(23) I THINK THERE'S TWO.
(24) Q. DOCTOR, DO YOU MIND IF I LOOK OVER YOUR SHOULDER?
(25) A. NOT AT ALL. ALL RIGHT, THAT'S THE FIRST ONE.

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(1) Q. THE FIRST ONE IS A —
(2) A. SEPTEMBER OF '05.
(3) Q. THAT'S A LUNG AND CHEST MEDICAL ASSOCIATES OFFICE NOTE
(4) OF 7-21 —
(5) A. DR. FOGARTY.
(6) Q. DR. FOGARTY, SHOW ME WHAT YOU'RE REFERRING TO.
(7) BY MR. MANN:
(8) WHAT YEAR WAS THIS?
(9) BY MR. KING:
(10) '05.
(11) BY THE WITNESS:
(12) A. HERE HE SAYS UNABLE TO WORK AND IS NOW DEPRESSED OVER
(13) HIS LONG TERM —
(14) BY THE COURT REPORTER:
(15) I'M SORRY, I'M HAVING TROUBLE HEARING YOU.
(16) BY THE WITNESS:
(17) A. I'M SORRY, I WAS JUST READING THE NOTE. DR. FOGARTY
(18) SAYS HE HAS BEEN UNABLE TO WORK AND IS NOW DEPRESSED
(19) OVER HIS LONG TERM OUTLOOK. AND ON A NEUROLOGIC EXAM
(20) HE SAYS THE PATIENT HAS DIFFICULTY STAYING FOCUSED WITH
(21) ANSWERS TO QUESTIONS AND COULD NOT REPEAT FIVE NUMBERS
(22) BACKWARDS ON A SIMPLE COGNITIVE SCREEN, BUT COULD
(23) REPEAT FOUR NUMBERS. AND REFERENCE TO THE PATIENT'S
(24) DIFFICULTY CONCENTRATING AND — I DON'T RECALL THIS AT
(25) ALL. IF I GOT IT, I SAW A THREE PAGE LETTER AND I

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(1) STUCK IT IN THE CHART. I DON'T — BUT WHEN I READ THIS
(2) THE OTHER DAY, IT WAS LIKE I READ IT FOR THE FIRST
(3) TIME. HE HAS DIFFICULTY CONCENTRATING. AIR EMBOLI
(4) HAVE BEEN REPORTED AS COMPLICATION OF LASER
(5) BRONCHOSCOPY. EVEN WITHOUT A PERFORATION OF
(6) ENDOTRACHEAL TREE WITH RESULTANT LEAKAGE OF AIR INTO
(7) EXTRAPLEURAL, VASCULAR AND MEDIASTINAL SPACES.
(8) ALTHOUGH HE IS FORTUNATE NOT TO HAVE ANY GROSS MOTOR
(9) DEFICIT, HE MAY WELL HAVE A PERMANENT NEUROLOGIC
(10) DEFICIT. IN WHICH CASE THE INDICATION FOR TAKING
(11) MEDICINE SUCH AS STRATTERA MAY BE MOOT. THE PATIENT
(12) MAY SIMPLY NEED TO RECOGNIZE THAT ALTHOUGH HE WOULD
(13) LIKE TO GO BACK TO WORK, HE MAY BE CHRONICALLY DISABLED
(14) BY HIS NEUROLOGIC IMPAIRMENT/PERMANENT BRAIN DAMAGE.
(15) Q. AND YOU WERE SURPRISED TO SEE THAT?
(16) A. WHEN I READ THIS THE OTHER DAY REVIEWING THE CHART, I
(17) DIDN'T RECALL READING THAT.
(18) Q. DID YOU EVER FIND ANY EVIDENCE OF PERMANENT BRAIN —
(19) A. I DID NOT.
(20) Q. — INJURY?
(21) A. I DID NOT. AND THEN HE HAS ANOTHER PAGE IF YOU WANT TO
(22) SEE IT WHILE YOU'RE UP.
(23) Q. AND THAT SAYS PAGE TWO, DATED FEBRUARY 16, 2008.
(24) A. FEBRUARY 16TH.
(25) Q. AND READ THAT, PLEASE, SIR.

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(1) A. WILLIAM CASEY CONTINUES TO HAVE DIFFICULTY
(2) CONCENTRATING/MULTI TASKING. NEUROLOGIC: DIFFICULT
(3) STAYING FOCUSED AND CONCENTRATING DURING OUR
(4) CONVERSATION EVIDENT. AND THEN HIS DILEMMA IS THAT
(5) MENTALLY HE IS NOT UP TO SNUFF AS FAR AS RETURNING TO
(6) HIS OLD JOB OR RETURNING TO — THAT DOESN'T SOUND
(7) RIGHT. OR RETURNING TO SKILLS FOR NEW EQUIVALENT JOB.
(8) HE IS NOW APPROACHING TWO YEARS OUT, AND IT APPEARS
(9) LIKELY HE HAS ACHIEVED HIS MAXIMUM IMPROVEMENT, I.E.,
(10) IT IS UNLIKELY AS TIME GOES FORWARD THAT HE WILL HAVE
(11) IMPROVEMENT IN HIS ABILITY TO CONCENTRATE AND RECALL,
(12) PERFORM, MAKE EXECUTIVE TYPE DECISIONS, THINKING.
(13) Q. OKAY. DOCTOR, YOU MADE NO NOTE IN ANY OF YOUR
(14) EXAMINATIONS OF ANY DIFFICULTY IN MR. CASEY'S FOCUSING
(15) THAT I RECALL?
(16) A. I DON'T HAVE ANY TO THAT EFFECT IN MY NOTES.
(17) BY MR. KING:
(18) THANK YOU VERY MUCH. YOU HAVE BEEN VERY PATIENT.
(19) I'M SORRY THIS HAS TAKEN SO LONG.
(20) (OFF THE RECORD DISCUSSION)
(21) EXAMINATION BY MR. GUNN:
(22) Q. DR. GONDA, MR. KING HAS BEEN THOROUGH, SO I DON'T THINK
(23) I'LL TAKE NEARLY AS LONG. THERE'S A FEW THINGS THAT I
(24) WANT TO MAKE SURE I UNDERSTAND. ONE OF THE THINGS THAT
(25) YOU DO PERIODICALLY WITH A LONG TERM PRIMARY CARE

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(1) PATIENT LIKE MR. CASEY IS TO RECORD THEIR VITAL SIGNS
(2) AND THEIR WEIGHT IS THAT NOT CORRECT, SIR?
(3) A. CORRECT.
(4) Q. AND I NOTE THAT WHEN YOU FIRST SAW MR. CASEY, THAT HE
(5) WAS 170 AND 3/4 POUNDS. DOES THAT SOUND RIGHT LOOKING
(6) AT YOUR WEIGHT —
(7) A. THAT IS CORRECT.
(8) Q. — VITAL SIGN FLOW SHEET ON HIM?
(9) A. THAT IS CORRECT.
(10) Q. AND HIS WEIGHT APPEARS FROM 1992 ON UP TO...LET'S SAY,
(11) 2003, TO FLUCTUATE ROUGHLY WITHIN TEN POUNDS OF THAT.
(12) USUALLY TEN POUNDS UPWARDS. MOSTLY BETWEEN 170 3/4 ON
(13) UP AS HIGH AS 182 OR THEREABOUTS. IS THAT A FAIR
(14) BALLPARK ASSESSMENT?
(15) A. CORRECT.
(16) Q. AND THEN IT GOES DOWN IN 2003 TO 172. AND THEN BY MAY
(17) OF 2004, IT LOOKS LIKE HE'S BACK UP TO 180. IS THAT
(18) CORRECT, SIR?
(19) A. YES, SIR.
(20) Q. AND THEN SUBSEQUENT TO MAY OF 2004, IT LOOKS LIKE IT
(21) FLUCTUATES BACK DOWN, BUT REMAINS FOR THE MOST PART IN
(22) THE 170s AND 180s. IS THAT CORRECT?
(23) A. CORRECT.
(24) Q. AND AT ONE POINT THERE IT LOOKS LIKE IN SEPTEMBER OF
(25) 2004, IT GOT DOWN AS LONG AS 169. IS THAT RIGHT, SIR?

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- (1) A. JUNE OF '04.
(2) Q. YES, SIR. I THOUGHT IT LOOKED LIKE SEPTEMBER OF '04.
(3) PART OF MY SHEET IS CUT OFF.
(4) A. (WITNESS REVIEWS DOCUMENT) JUNE 29, '04, 169 POUNDS.
(5) Q. ALL RIGHT. FLUCTUATIONS IN THAT VICINITY, EVEN ON UP
(6) TO DATE, ARE NOT UNUSUAL FOR A FELLOW ENTERING HIS
(7) FORTIES, ARE THEY, SIR?
(8) A. FLUCTUATIONS ARE COMMON.
(9) Q. I MEAN THESE ARE NOT --
(10) A. NOT UNCOMMON.
(11) Q. NOT GROSSLY ABNORMAL AND --
(12) A. NOT --
(13) Q. -- WOULDNT TROUBLE YOU IN A PATIENT, WOULD THEY, SIR?
(14) A. ONLY IF I'M WORRIED ABOUT HIS CHOLESTEROL AND SO FORTH,
(15) WHICH WE'VE BEEN FOR A LONG TIME.
(16) Q. HIS CHOLESTEROL, AS I UNDERSTAND IT, WAS AN ONGOING
(17) PROBLEM BEFORE JUNE OF 2004, WAS IT NOT?
(18) A. (WITNESS REVIEWS DOCUMENT)
(19) Q. I MEAN THAT'S JUST KIND OF AN ONGOING --
(20) A. IT IS.
(21) Q. -- BATTLE HE'S GOING TO HAVE TO FIGHT?
(22) A. IT IS.
(23) Q. THAT'S KNOWN IN MEDICAL PARLANCE I GUESS AS
(24) HYPERLIPIDEMIA?
(25) A. HYPERLIPIDEMIA. HYPERCHOLESTEROLEMIA.

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- (1) Q. ALL RIGHT. LET ME ASK YOU, GENERALLY SPEAKING, FROM
(2) THE PATTERN IT LOOKS LIKE THE EVENT THAT BRINGS US ALL
(3) TOGETHER HERE IS SOMETHING THAT HAPPENED IN EARLY JUNE
(4) OF 2004. TO BE MORE PRECISE, 6-3-04. SO I'M GOING TO
(5) REFER TO THAT SIMPLY AS AN EVENT. IT LOOKS LIKE TO ME
(6) FROM FOLLOWING YOUR TESTIMONY AND LOOKING AT YOUR
(7) MEDICAL CHART ON MR. CASEY THAT PRE-EVENT, YOU TREATED
(8) HIM LONG TERM FOR PRIMARILY CHRONIC BACK PAIN.
(9) A. YES, SIR.
(10) Q. IS THAT CORRECT, SIR?
(11) A. YES, SIR.
(12) Q. AND THAT BACK PAIN WAS OFTEN ASSOCIATED WITH HIS HEAVY
(13) WORK AT MICHELIN?
(14) A. CORRECT.
(15) Q. AND THIS IS THE MAIN THING THAT CAUSED PRESCRIPTION OF
(16) VARIOUS MEDICATIONS FOR HIM?
(17) A. CORRECT.
(18) Q. I THINK AT ONE POINT I SAW IN YOUR NOTES THAT BEFORE
(19) THE EVENT HE CHARACTERIZED THE JOB AS SOME OF THE 12
(20) HOUR DAYS WERE ACTUALLY MURDER TO HIM. IS THAT
(21) CORRECT, SIR?
(22) A. I DON'T RECALL THE TERM. I'D HAVE TO LOOK BACK.
(23) Q. WELL, LET'S SEE.
(24) A. IS THAT TERM SIGNIFICANT?
(25) Q. WELL, I'M JUST TRYING TO GET AN IDEA -- NO, SIR, I'M

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- (1) SURE THAT LANGUAGE IS PROBABLY NOT SOMETHING IN YOUR
(2) MEDICAL PARLANCE AND SIMPLY SOMETHING HE --
(3) A. SURE.
(4) Q. -- I WOULD THINK YOU WERE TRYING TO QUOTE VERBATIM HIS
(5) --
(6) A. RIGHT.
(7) Q. -- COMPLAINT.
(8) A. RIGHT. 2-1-99. 12 HOUR DAYS ARE MURDER.
(9) Q. OKAY, RIGHT. I WAS SIMPLY RELATING THAT TO THE
(10) DIFFICULTY OF HIS EMPLOYMENT, AND THE PHYSICAL PAIN
(11) THAT IT CAUSED HIM. ONE OF THE OTHER THINGS THAT YOU
(12) TREATED HIM FOR IN ADDITION TO THE CHRONIC BACK PAIN
(13) WAS SOME DEPRESSION?
(14) A. YES, SIR.
(15) Q. AND HE HAD MEDICATIONS PRESCRIBED TO HELP HIM WITH
(16) THAT, TOO?
(17) A. CORRECT.
(18) Q. BEFORE THE EVENT, DID HE NOT, SIR?
(19) A. CORRECT.
(20) Q. AND THE DEPRESSION, AT LEAST IN PART, AND PER HIS
(21) HISTORY WAS BROUGHT ON A LOT BY HIS FAMILY SITUATION.
(22) THAT IS TO SAY A DIVORCE AND DIFFICULTIES THAT HE WAS
(23) HAVING WITH HIS CHILDREN.
(24) A. YES, SIR.
(25) Q. OKAY. PRIOR TO THE EVENT OF EARLY JUNE OF 2004, DID HE

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- (1) COMPLAIN EVER OF CHEST PAIN, OR DO YOU REMEMBER?
(2) A. HE HAD BEEN SEEN A COUPLE OF TIMES FOR CHEST PAIN I
(3) THINK THROUGH THE EMERGENCY ROOM. I DON'T THINK I EVER
(4) SAW HIM IN THE OFFICE, PER SE. I'D HAVE TO LOOK BACK
(5) AND LOOK AT EVERY NOTE.
(6) Q. BUT IN ANY EVENT, AFTER THIS EVENT THE THINGS THAT YOU
(7) SAW HIM AND TREATED HIM FOR WERE STILL THE SAME. THAT
(8) IS TO SAY THE CHRONIC LOW BACK PAIN.
(9) A. YES, SIR.
(10) Q. AND THE --
(11) A. CHOLESTEROL.
(12) Q. THE HIGH CHOLESTEROL. AND SOME DEPRESSION STILL.
(13) A. CORRECT.
(14) Q. AND SOME ANXIETY.
(15) A. YES, SIR.
(16) Q. I TAKE IT THAT EVEN THOUGH YOU DIDN'T NOTE ANYTHING IN
(17) YOUR MEDICAL CHART IN THE LAST THREE OR FOUR YEARS
(18) REGARDING HIS MENTAL STATE, THAT IF YOU HAD OBSERVED
(19) ANYTHING THAT WAS NOTICEABLE OR APPARENT TO YOU, YOU
(20) WOULD HAVE CHARTED THAT IN SOME FASHION?
(21) A. I WOULD HOPE SO.
(22) Q. BECAUSE IT COULD INTERFERE WITH HIS GIVING AN ACCURATE
(23) HISTORY OR HOW YOU WERE GOING TO TREAT HIM. IF I
(24) UNDERSTAND IT CORRECTLY, SIR.
(25) A. WELL, THAT --

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- (1) Q. THAT'S WHY YOU WOULD HAVE CHARTED IT?
(2) A. CORRECT.
(3) Q. LET ME ASK YOU THIS. WE TALKED A FEW MINUTES AGO ABOUT
(4) THE NOTATIONS FROM DR. FOGARTY, A PULMONOLOGIST, ABOUT
(5) THE POSSIBILITY OF TRAUMATIC BRAIN INJURY.
(6) A. YES, SIR.
(7) Q. AND NEUROLOGICAL DEFICITS IN MR. CASEY. YOU ARE WHAT
(8) WE KNOW AS A PRIMARY CARE PHYSICIAN, ARE YOU NOT, SIR?
(9) A. I AM.
(10) Q. AND HAVE BEEN BOARD CERTIFIED IN THAT FOR SOME, WHAT,
(11) 18 OR 19 YEARS?
(12) A. 25.
(13) Q. SIR?
(14) A. 25.
(15) Q. ALL RIGHT. YOU STARTED PRIVATE PRACTICE HERE IN '89?
(16) A. YES, SIR.
(17) Q. BEFORE THAT I GUESS YOU WERE IN PRACTICE IN THE AIR
(18) FORCE?
(19) A. FOUR YEARS IN THE AIR FORCE.
(20) Q. SO IN THE AIR FORCE DID YOU PRACTICE —
(21) A. FAMILY MEDICINE.
(22) Q. FAMILY MEDICINE, OKAY. SO YOU'VE GOT ABOUT 25 YEARS
(23) EXPERIENCE AS A PRIMARY CARE PHYSICIAN THEN.
(24) A. IT'S 23 TO BE EXACT, YES, SIR.
(25) Q. AND THE WAY I UNDERSTAND MEDICAL HIERARCHY IS PRIMARY

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- (1) CARE PHYSICIANS ARE KIND OF THE FIRST LINE. AND THEY
(2) SEE PATIENTS AS THEIR FAMILY DOCTOR, JUST LIKE YOU HAVE
(3) MR. CASEY. AND IF CONSULTS BY SPECIALISTS ARE
(4) NECESSARY, YOU DO A LOT OF THAT.
(5) A. YES, SIR.
(6) Q. YOU REFER THEM TO CONSULTANTS.
(7) A. CORRECT.
(8) Q. BE THEY ORTHOPEDISTS, CARDIOLOGISTS, NEUROLOGISTS,
(9) UROLOGISTS.
(10) A. CORRECT.
(11) Q. WHATEVER IS NEEDED.
(12) A. (WITNESS INDICATES AFFIRMATIVE RESPONSE)
(13) Q. NOW, IN THAT CONNECTION, I GUESS YOU BECOME FAMILIAR
(14) WITH IF YOU SUSPECT A CERTAIN THING IN A PATIENT, AND
(15) YOU GET READY TO GET A CONSULT, YOU SEND THEM TO
(16) CERTAIN PEOPLE. IF A FELLOW HAS GOT A SUSPECTED
(17) CARDIAC PROBLEM, FOR EXAMPLE, YOU WOULDN'T SEND THEM TO
(18) AN ORTHOPEDIST. YOU'D SEND THEM —
(19) A. CORRECT.
(20) Q. — TO A CARDIOLOGIST.
(21) A. CORRECT.
(22) Q. NOW, IN THAT CONNECTION, SIR, ARE PULMONOLOGISTS OR
(23) CHEST DOCTORS THE SPECIALISTS TO WHOM YOU WOULD REFER
(24) SOMEONE IF YOU SUSPECTED BRAIN DAMAGE, OR WOULD YOU
(25) MORE LIKELY SEND THEM TO A NEUROLOGIST OR SOMEBODY LIKE

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- (1) THAT —
(2) A. I WOULD GO TO A NEUROLOGIST, SURELY.
(3) Q. IN THE NORMAL COURSE OF THE WAY DOCTORS WORK, IS IT
(4) UNUSUAL TO SEE A PULMONOLOGIST MAKE A DIAGNOSIS OF
(5) TRAUMATIC BRAIN INJURY? AN ORIGINAL DIAGNOSIS OF THAT?
(6) A. I THINK THAT WOULD BE UNUSUAL. YEAH.
(7) BY MR. GUNN:
(8) I THINK THAT'S ALL I HAVE. EXCEPT WE WOULD LIKE
(9) TO MAKE YOUR CHART AN EXHIBIT.
(10) (DEFENDANT'S EXHIBIT NUMBER 1 MARKED, ATTACHED)
(11) (OFF THE RECORD DISCUSSION)
(12) BY MR. GUNN:
(13) THANK YOU, SIR.
(14) EXAMINATION BY MR. TURNER:
(15) Q. DR. GONDA, MY NAME IS NOEL TURNER. I, ALONG WITH CHUCK
(16) THOMPSON, WE REPRESENT MARK CASEY, WHO IS A PATIENT OF
(17) YOURS AND HERE WITH US TODAY. YOU ARE A FAMILY
(18) PHYSICIAN, CORRECT?
(19) A. CORRECT.
(20) Q. AND YOU'VE BEEN TREATING MARK CASEY SINCE 1992?
(21) A. CORRECT.
(22) Q. SINCE YOU'VE BEEN TREATING HIM, YOUR OPINION OF MR.
(23) CASEY. DO YOU BELIEVE YOU ALL HAVE A GOOD RELATIONSHIP
(24) AS A PATIENT/PHYSICIAN RELATIONSHIP?
(25) A. I THINK OVERALL PRETTY GOOD.

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- (1) Q. DO YOU BELIEVE MR. CASEY HAS BEEN TRUTHFUL AND HONEST
(2) WITH YOU IN YOUR OFFICE VISITS?
(3) A. I THINK IT'S ALWAYS HARD TO TELL WHO'S HONEST AND NOT
(4) HONEST WHEN YOU'RE TALKING NARCOTICS. IT'S VERY HARD
(5) TO TELL. YOU GIVE EVERYBODY THE BENEFIT OF THE DOUBT.
(6) YOU ALWAYS HAVE TO HAVE YOUR FLAGS UP. ALWAYS LOOKING
(7) AND ALWAYS BEING CAREFUL THAT YOU'RE NOT GETTING
(8) SWINDLED SOME KIND OF WAY OR — BUT ANY TIME THAT
(9) YOU'RE WRITING A LOT OF NARCOTICS, YOU HAVE TO ALWAYS
(10) BE CAREFUL.
(11) Q. AND YOU WERE WRITING NARCOTICS FOR MR. CASEY, CORRECT?
(12) A. YES, I HAVE.
(13) Q. AND SO YOU WOULD ALSO STATE AND AGREE THAT YOU WERE
(14) BEING VERY CAREFUL WHEN YOU WERE WRITING THOSE
(15) NARCOTICS FOR MR. CASEY?
(16) A. YES, I WAS.
(17) Q. AND BY WRITING THE NARCOTICS FOR MR. CASEY, WOULDN'T
(18) YOU AGREE THEN THAT YOU THINK THAT HE WAS BEING
(19) TRUTHFUL AND HONEST, RATHER THAN A DRUG SEEKING
(20) ACTIVITY?
(21) A. WELL, WHEN HE TELLS YOU THAT HE'S BUYING THEM FROM
(22) FRIENDS AND THEN HE'S GETTING THEM FROM ANOTHER DOCTOR.
(23) THAT ALWAYS PUTS UP RED FLAGS.
(24) Q. BUT THAT WOULD BE HONESTY IF HE TOLD YOU THAT HE GOT
(25) THEM FROM ANOTHER SOURCE —

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- (1) A. SURE.
(2) Q. WOULDN'T YOU AGREE THAT'S AN HONEST STATEMENT?
(3) A. SURE.
(4) Q. AND ON THAT DATE THAT HE TOLD YOU THAT HE HAD OBTAINED
(5) A PERCOCET OR TWO FROM SOMEONE ELSE, YOU ACTUALLY WROTE
(6) HIM A PERCOCET PRESCRIPTION, DIDN'T YOU?
(7) A. CORRECT.
(8) Q. AND IF YOU HAD HAD ANY CONCERNS THAT THERE WAS DRUG
(9) SEEKING CONDUCT ON MR. CASEY'S BEHALF AFTER HE TOLD YOU
(10) HE'D GOTTEN PERCOCET FROM SOMEONE ELSE, YOU WOULDN'T
(11) HAVE WRITTEN THAT PERCOCET NARCOTIC PRESCRIPTION FOR
(12) HIM, WOULD YOU?
(13) A. I WOULD NOT HAVE WRITTEN THAT. AND WHEN HE TOLD ME
(14) THAT HE'D GOTTEN IT FROM OTHER DOCTORS, I DIDN'T GIVE
(15) HIM ON THOSE DAYS.
(16) Q. AND THEN, THEREAFTER, YOU CONTINUED TO WRITE --
(17) A. CORRECT.
(18) Q. -- NARCOTIC MEDICATIONS FOR HIM?
(19) A. CORRECT.
(20) Q. AND HE HAS COMPLIED WITH THE TREATMENT AS FAR AS HE
(21) WENT FOR THE EPIDURAL THAT WAS REQUESTED?
(22) A. CORRECT.
(23) Q. AND THE MRI, THERE WAS SOME INSURANCE ISSUE, BUT HE DID
(24) GO FOR THE MRI, CORRECT?
(25) A. HE HAD THAT DONE.

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- (1) Q. AND PHYSICAL THERAPY, HE COMPLIED?
(2) A. DIDN'T GO MUCH TO THAT, NO.
(3) Q. OKAY.
(4) A. ACCORDING TO THE NOTE, HE WAS NON-COMPLIANT WITH
(5) THERAPY.
(6) Q. BUT HE DID GO, CORRECT?
(7) A. HE WENT. I DON'T KNOW HOW MANY TIMES, BUT HE WENT.
(8) Q. AND HE ALSO WENT TO THE PAIN CLINIC, BUT DID NOT FEEL
(9) LIKE THEY WERE VERY ACCOMMODATING, CORRECT?
(10) A. CORRECT.
(11) Q. ACCORDING TO YOUR NOTES.
(12) A. CORRECT.
(13) Q. WHEN YOU MEET WITH MR. CASEY, APPROXIMATELY HOW LONG
(14) ARE YOUR OFFICE VISITS?
(15) A. I THINK IT CAN VARY. A PHYSICAL MIGHT BE 30 MINUTES.
(16) AN EAR INFECTION, LIKE THE LAST VISIT, MIGHT BE FIVE
(17) MINUTES.
(18) Q. ALL RIGHT. FOR EXAMPLE, WHEN HE COMES IN LIKE ON 11-
(19) 14-97, AND IT SAYS 39 YEAR OLD WHITE MALE COMES IN WITH
(20) LOW BACK PAIN FOR ONE YEAR. I'LL LET YOU LOCATE THAT
(21) ONE.
(22) A. (WITNESS REVIEWS DOCUMENT)
(23) Q. I'M JUST USING IT AS AN EXAMPLE.
(24) A. SURE.
(25) Q. 11-14-97. SOMETHING LIKE THAT NOTE. APPROXIMATELY HOW

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- (1) MUCH TIME WOULD HAVE BEEN SPENT THERE?
(2) A. I WOULD SAY THAT'S PROBABLY A TEN TO TWELVE TO FIFTEEN
(3) MINUTE VISIT.
(4) Q. OKAY. AND IN THAT NOTE, WHILE WE'RE ON IT, HE
(5) INDICATES THAT HE HAS A REAL STRENUOUS JOB AT WORK.
(6) CORRECT?
(7) A. CORRECT.
(8) Q. AND IT INVOLVES BENDING, STOOPING, LIFTING AND PULLING?
(9) A. CORRECT.
(10) Q. AND WERE YOU AWARE THAT MR. CASEY HAD WORKED FOR
(11) MICHELIN FOR 22 CONTINUOUS YEARS?
(12) A. I DON'T KNOW THE NUMBER, NO.
(13) Q. YOU TREATED HIM FROM 1992 FORWARD, UNTIL HE WAS OUT OF
(14) WORK JUNE OF 2004?
(15) A. OKAY. YES, SIR.
(16) Q. AND AT LEAST DURING THAT PERIOD OF TIME, HE WAS WORKING
(17) FULL TIME AT MICHELIN?
(18) A. AT MICHELIN.
(19) Q. AND I NOTE THAT WHEN I GO THROUGH YOUR NOTES, I DO NOT
(20) SEE ANY OFFICE OR OUT OF WORK EXCUSES THAT YOU HAVE
(21) WRITTEN FOR MR. CASEY FOR MICHELIN. IS THAT CORRECT?
(22) A. THAT IS PROBABLY CORRECT.
(23) Q. AND I WOULD GO ON TO SAY THAT SINCE YOU DON'T SEE ANY
(24) OUT OF WORK EXCUSES IN YOUR NOTES, YOU COULD DEDUCE
(25) FROM THAT, THAT THIS IS A GENTLEMAN THAT IS A DEDICATED

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- (1) HARD WORKER AND NOT LOOKING FOR AN EASY LAYOFF?
(2) A. CORRECT.
(3) Q. WHEN HE HAD THE CHRONIC LOW BACK PAIN THAT WAS
(4) LEGITIMATE -- OR AT LEAST FROM THE OCTOBER 31ST, 2003
(5) MRI, IT SHOWED HE HAD BULGING DISCS, CORRECT?
(6) A. THAT MRI SHOWED BULGING DISCS. THAT DOESN'T EXPLAIN
(7) HIS PAIN, THOUGH.
(8) Q. AND HE ALSO HAD X-RAYS THAT SHOWED SPURRING AT THE L3-
(9) L4 AREA?
(10) A. SPURS INDICATE ARTHRITIS. ARTHRITIS CAN CERTAINLY GIVE
(11) YOU PAIN.
(12) Q. AND THEN AGAIN AUGUST 28TH OF 2000, WHICH IS THE
(13) INCIDENT HE CAME IN FOR THE WRIST. DO YOU RECALL THAT
(14) ONE? WE DISCUSSED IT EARLIER.
(15) A. YES.
(16) Q. AND IN THAT ONE IT STATES THAT HE HAD PAIN IN HIS WRIST
(17) FOR APPROXIMATELY TWO MONTHS, DOESN'T IT?
(18) A. CORRECT.
(19) Q. AND YET HE DID NOT ASK FOR AN OUT OF WORK EXCUSE FROM
(20) YOU FOR THAT?
(21) A. I DON'T HAVE ONE DOCUMENTED, NO.
(22) Q. OKAY. NO INDICATION HE'S ASKING TO GO ON DISABILITY?
(23) A. CORRECT.
(24) Q. NO INDICATION HE ASKED TO GO ON DISABILITY FROM YOU FOR
(25) HIS BACK?

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- (1) A. CORRECT.
(2) Q. AND IN FACT IN THE AUGUST 28TH, 2000 NOTE, YOU
(3) INDICATED THAT A SUGGESTION WOULD BE FOR MARK TO COME
(4) OFF HIS JOB FOR A COUPLE OF WEEKS. MAY HAVE TO GO
(5) THROUGH WORKERS' COMP.
(6) A. CORRECT.
(7) Q. AND TO YOUR KNOWLEDGE, HE DID NOT QUIT WORKING HIS JOB
(8) AT ALL, EVEN WITH THE WRIST INJURY, AND CONTINUED TO
(9) WORK IT FULL TIME, CORRECT?
(10) A. CORRECT.
(11) Q. AND AGAIN THAT WOULD BE INDICATIVE OF SOMEONE THAT IS
(12) MOTIVATED TO WORK?
(13) A. CORRECT.
(14) Q. YOU'RE ALSO AWARE THAT MARK - AND IT NOTES THAT HE
(15) EXERCISES REGULARLY UP THROUGH THIS JUNE, 2004
(16) INCIDENT?
(17) A. I THINK IT WAS MENTIONED A COUPLE TIMES THAT HE WAS
(18) EXERCISING AND PLAYING GOLF.
(19) Q. I'LL TAKE YOU TO YOUR JANUARY 21ST, 1998 NOTE.
(20) A. OKAY.
(21) Q. AND THAT STATES THERE, DOESN'T IT -
(22) A. HE EXERCISES REGULARLY.
(23) Q. AND YOU'RE AWARE THAT HE TOLD YOU HE'D BEEN PLAYING
(24) GOLF THREE TO FOUR TIMES A WEEK?
(25) A. YES, SIR.

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- (1) Q. THAT HE'S ATHLETIC?
(2) A. I DIDN'T USE THAT WORD, BUT HE EXERCISES AND HE PLAYS
(3) GOLF.
(4) Q. WERE YOU AWARE HE ALSO PLAYED WITH THE INDUSTRIAL
(5) LEAGUE AT MICHELIN SOFTBALL AND BASKETBALL
(6) COMPETITIVELY?
(7) A. I DON'T RECALL.
(8) Q. OKAY. WHEN MARK CAME TO SEE YOU IN ANY OF THE NOTES
(9) PRIOR TO JUNE OF 2004, AND REQUESTED ANY PRESCRIPTION
(10) MEDICATION, IT WAS IN ORDER FOR MR. CASEY TO CONTINUE
(11) TO WORK AND ALSO TO BE ABLE TO PLAY GOLF, CORRECT?
(12) A. CORRECT.
(13) Q. AND THAT'S A LEGITIMATE REASON TO PRESCRIBE PAIN
(14) MEDICATION FOR SOMEONE IF THEY WANT TO CONTINUE TO WORK
(15) AND TO BE ABLE TO ENJOY ACTIVITIES AND SPORTS?
(16) A. CORRECT.
(17) Q. AND WHEN YOU'D HAVE THESE OFFICE VISITS, HE'D COME IN
(18) EVERY COUPLE OF MONTHS TO GET THE REFILLS AND FOR
(19) FOLLOW UP, CORRECT?
(20) A. CORRECT.
(21) Q. AND NARCOTICS, THERE'S A POSSIBILITY THEY CAN BE HABIT
(22) FORMING OVER LONG TIME USE, CORRECT?
(23) A. CORRECT.
(24) Q. AND WHEN YOU PRESCRIBE NARCOTICS, YOU COUNSEL ANY
(25) PATIENT, WHETHER IT'S MR. CASEY OR ANYONE ELSE, THAT

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- (1) YOU'RE PRESCRIBING NARCOTICS FOR THAT THEY COULD BE
(2) HABIT FORMING?
(3) A. CORRECT.
(4) Q. AND IT ALSO CAN LEAD TO AN INCREASED EFFECT, WHERE YOU
(5) WOULD HAVE TO HAVE A MORE POTENT NARCOTIC PAIN RELIEVER
(6) IN ORDER TO GET THE SAME BENEFIT?
(7) A. CORRECT.
(8) Q. AND WOULD YOU STATE THAT THAT MAY HAVE BEEN THE REASON
(9) THAT PERCOCET - WHICH IS YOU SAID I THINK TWO TO THREE
(10) A DAY OF PERCOCET WOULD EQUAL ABOUT FOUR TO FIVE
(11) LORTAB?
(12) A. PROBABLY. THAT'S CORRECT.
(13) Q. AND SO -
(14) A. THERE IS A CHART THAT COMPARES, AND I DON'T KNOW IT.
(15) BUT THERE IS - YOU CAN LOOK AND CHECK THAT. BUT I
(16) DON'T KNOW THE EXACT EQUIVALENT.
(17) Q. BUT YOU WERE COMFORTABLE WHEN YOU PRESCRIBED THE
(18) PERCOCET FOR MR. CASEY, THAT THE PERCOCET WOULD CONTROL
(19) THE PAIN BETTER, BECAUSE IT WAS A BIT STRONGER NARCOTIC
(20) PAIN RELIEVER THAN WHAT HE HAD BEEN RECEIVING?
(21) A. CORRECT.
(22) Q. AND PAIN OF COURSE IS SUBJECTIVE AS WE ALL KNOW, ISN'T
(23) IT?
(24) A. CORRECT.
(25) Q. IN ONE OF YOUR NOTES YOU INDICATE THAT PAIN IN THE

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- (1) MORNING MR. CASEY INDICATES IS A SIX OUT OF TEN ON SOME
(2) DAYS.
(3) A. I DON'T RECALL THAT. WHERE IS THAT? OR I MAY HAVE.
(4) BUT I DON'T RECALL IT.
(5) Q. I'LL COME BACK TO THAT.
(6) A. OKAY.
(7) Q. LET ME ASK YOU THIS. HE'S WORKING 12 HOUR SHIFTS,
(8) RIGHT?
(9) A. YES, SIR.
(10) Q. AT MICHELIN. AND HE DID INDICATE TO YOU THAT THE PAIN
(11) MEDICINE ENABLED HIM TO WORK AND WORK FULL TIME AND
(12) ALSO FOR HIS ACTIVITIES OUTSIDE OF WORK?
(13) A. CORRECT.
(14) Q. SINCE PAIN IS SUBJECTIVE, IT IS POSSIBLE, ISN'T IT,
(15) THAT THE MEDICATION THAT YOU WERE PRESCRIBING MAY NOT
(16) HAVE BEEN SUFFICIENT TO FULLY CONTROL THE PAIN SYMPTOMS
(17) MR. CASEY WAS HAVING?
(18) A. IT IS POSSIBLE.
(19) Q. ON JUNE 23RD OF 2003, IN YOUR RECORD YOU INDICATE
(20) DEPRESSION. IF YOU'D FLIP TO THAT NOTE FOR ME.
(21) A. (WITNESS REVIEWS DOCUMENT) OKAY.
(22) Q. ALL RIGHT. AND THIS IS THE FIRST TIME THAT DEPRESSION
(23) WAS MENTIONED BY MR. CASEY THAT YOU NOTE, CORRECT?
(24) A. CORRECT.
(25) Q. AND NOW WITH DEPRESSION YOU INDICATED THAT SOMETIMES

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(11) FAMILY PROBLEMS OR FAMILY DYSFUNCTION OR MARRIAGE CAN
(12) CONTRIBUTE TO DEPRESSION OR GRIEF?
(13) A. THEY CAN.
(14) Q. AND IN THAT NOTE THE FIRST TIME THAT DEPRESSION IS
(15) MENTIONED, IT ACTUALLY STATES THAT MR. CASEY IS GOING
(16) THROUGH A DIVORCE, WHICH IS ACTUALLY A GOOD THING.
(17) A. THAT'S WHAT MY NOTE SAYS.
(18) Q. OKAY. AND BASED ON THAT, YOU'D AGREE THAT THE DIVORCE
(19) DID NOT SEEM TO BE A PROBLEM? THE FACT THAT HE WAS
(20) GOING THROUGH A DIVORCE WAS NOT INDICATED AS A PROBLEM
(21) TO YOU FOR DEPRESSION?
(22) A. I WOULD INTERPRET THAT AS MARK TELLING ME IT WAS A GOOD
(23) THING FOR HIM THAT HE WAS GOING THROUGH A DIVORCE. BUT
(24) THAT WOULD NOT BE MY OPINION OF HIS DIVORCE. THAT
(25) WOULD BE MARK TELLING ME THAT GOING THROUGH THIS
(26) DIVORCE WAS A GOOD THING FOR HIM.
(27) Q. BUT IF HE --
(28) A. I DON'T THINK I WOULD ADD THAT AS MY OPINION.
(29) Q. BUT IF MR. CASEY THOUGHT THAT THE DIVORCE WAS A GOOD
(30) THING FOR HIM, THAT WOULD NOT BE CONSISTENT WITH
(31) DEPRESSION FROM GOING THROUGH A DIVORCE, WOULD IT?
(32) A. IT'S STILL PRETTY TRAUMATIC. I THINK WHETHER IT'S A
(33) GOOD THING OR NOT A GOOD THING, I THINK IT CAN STILL
(34) MESS WITH YOU. AND I THINK IT CAN STILL BE VERY
(35) TRAUMATIC, WHETHER IT'S GOOD OR BAD. YOU MAY OR MAY

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(11) NOT KNOW THIS, BUT HAVING A CHILD -- HAVING A NEWBORN
(12) IS VERY REWARDING. BUT WOMEN GO THROUGH POSTPARTUM
(13) DEPRESSION RIGHT AFTERWARDS. SO EVEN THOUGH IT'S A
(14) GOOD THING, IT CAN STILL CAUSE DEPRESSION.
(15) Q. AND I'LL SAY THAT I'VE GOT A TWO AND A HALF YEAR OLD
(16) NOW AND SO I DO HAVE A LITTLE BIT -- NOT FROM THE
(17) POSTPARTUM MECHANISM, BUT JUST FROM HAVING A YOUNG
(18) CHILD --
(19) A. IT CAN BE VERY STRESSFUL. SO GOOD THINGS CAN BE
(20) STRESSFUL.
(21) Q. AND YOU CAN HAVE SOME GRIEF FROM THAT AND POSSIBLY SOME
(22) DEPRESSION.
(23) A. MM-HMM (AFFIRMATIVE RESPONSE).
(24) (OFF THE RECORD DISCUSSION)
(25) EXAMINATION RESUMED BY MR. TURNER:
(26) Q. AND YOU'D ALSO AGREE THAT AS MR. GUNN HAS STATED, THAT
(27) TEENAGERS CAN ALSO CAUSE YOU GRIEF --
(28) A. RIGHT.
(29) Q. -- AND SOME DEPRESSION?
(30) A. RIGHT.
(31) Q. BUT THAT'S GENERALLY, EVEN WITH A NEWBORN OR WITH A
(32) TEENAGER, THAT IS SORT OF A SITUATIONAL TYPE
(33) DEPRESSION?
(34) A. IT CAN BE SITUATIONAL. SURE.
(35) Q. AND THEN ONCE THEY GROW UP, OR THE CHILD GETS OLDER,

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(11) THE DEPRESSION AND THE GRIEF FROM IT RESOLVES? OR ELSE
(12) WE'D ALL BE DEPRESSED MOST OF OUR LIVES.
(13) A. I THINK FOR SOME PEOPLE THAT IS THE WAY IT WORKS. FOR
(14) MOST PEOPLE THAT IS THE WAY IT WORKS.
(15) Q. ALL RIGHT, NOW, WITH MR. CASEY. HE PUTS IN THERE
(16) THAT'S THE FIRST TIME THAT HE'S GOT THE TEENAGE KIDS,
(17) AND YOU SAID THAT'S NOT UNUSUAL, CORRECT? TO HAVE SOME
(18) DEPRESSION OR GRIEF WITH THAT?
(19) A. WHERE ARE WE READING? WHERE ARE YOU?
(20) Q. JUNE OF '03.
(21) A. (WITNESS REVIEWS DOCUMENT) I'M NOT SURE WHERE YOU'RE
(22) READING.
(23) Q. AND AS WE CONTINUE THROUGH THE NOTES, I WAS JUST
(24) STARTING -- THE FIRST INDICATION IS THE JUNE 23RD OF
(25) 2003.
(26) A. OKAY.
(27) Q. THAT'S THE FIRST MENTION THAT YOU'VE SEEN OF DEPRESSION
(28) BY MR. CASEY, CORRECT?
(29) A. CORRECT.
(30) Q. ALL RIGHT, AND THEN YOU PRESCRIBE PAXIL, CORRECT?
(31) A. CORRECT.
(32) Q. AND AS WE CONTINUE THROUGH THAT, HE IS -- THERE'S NO
(33) INDICATION THAT MARK IS NOT STILL WORKING FULL TIME AT
(34) MICHELIN.
(35) A. CORRECT.

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(11) Q. ALL RIGHT. AND THEN OCTOBER, 2003, THE DEPRESSION IS
(12) MARKEDLY IMPROVED ON THE EFFEXOR.
(13) A. CORRECT.
(14) Q. SO HE'S ACTUALLY GETTING BETTER. THE DEPRESSION IS
(15) GETTING BETTER?
(16) A. MM-HMM (AFFIRMATIVE RESPONSE).
(17) Q. AND THEN AGAIN AS WE GO THE LAST ONE IN -- THE NOTE IS
(18) DATED FEBRUARY 10TH OF 2004. BUT IN THAT NOTE IT
(19) STATES THAT THE PATIENT HAS DISCONTINUED HIS EFFEXOR,
(20) WHICH IS THE ANTI-DEPRESSANT, RIGHT?
(21) A. MM-HMM (AFFIRMATIVE RESPONSE).
(22) Q. ALL RIGHT. AND THEN WHAT DOES IT SAY RIGHT AFTER THAT?
(23) A. STOPPED IT ABOUT A MONTH AGO. HE WAS HAVING PROBLEM
(24) WITH DELAYED EJACULATION, SO HE DISCONTINUED IT.
(25) Q. AND IT ALSO SAYS HE DOES NOT FEEL DEPRESSED?
(26) A. CORRECT.
(27) Q. AND IF HE STOPPED IT A MONTH AGO, HE WOULD HAVE
(28) DISCONTINUED THE EFFEXOR IN AT LEAST JANUARY OF 2004?
(29) A. THAT WOULD SEEM SO. CORRECT.
(30) Q. AND YOUR NOTES FROM JANUARY, 2004, UNTIL JUNE, 2004, DO
(31) NOT INDICATE ANY PRESCRIPTIONS FOR ANY ANTI-
(32) DEPRESSANTS, DO THEY?
(33) A. (WITNESS REVIEWS DOCUMENT) CORRECT.
(34) Q. BASICALLY IT HAD RESOLVED, AND THERE WAS NO
(35) PRESCRIPTION FOR ANTI-DEPRESSANTS AFTER JANUARY OF

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- (1) 2004?
- (2) A. CORRECT.
- (3) Q. AND IN FACT HE STATES HE DOES NOT FEEL DEPRESSED?
- (4) A. CORRECT.
- (5) Q. WHEN YOU WOULD SEE MARK YOU DESCRIBED HIM -- AND TELL
- (6) ME AGAIN. BUT PRIOR TO JUNE OF 2004, WHEN YOU WOULD
- (7) SEE MR. CASEY COME IN, WAS HE HAPPY AND UPBEAT?
- (8) A. MORE SO THAN HE IS NOW IN THE LAST FEW VISITS. YES.
- (9) Q. ALL RIGHT.
- (10) A. UNLESS HE CAME IN COMPLAINING OF BEING DEPRESSED. THEN
- (11) HE WAS NOT HAPPY AND UPBEAT.
- (12) Q. BUT OTHER THAN JUST FROM THE JUNE, '03, UNTIL JANUARY,
- (13) '04, WHEN HE WAS ON ANTI-DEPRESSANT MEDICATION. WOULD
- (14) YOU SAY THAT MR. CASEY APPEARED TO BE HAPPY AND UPBEAT?
- (15) A. YES.
- (16) Q. AND YOU'D ALSO AGREE THAT THAT CHANGED ACCORDING TO
- (17) YOUR NOTES AFTER JUNE OF 2004?
- (18) A. IT CHANGED, CORRECT.
- (19) Q. AND IT CHANGED FOR THE WORSE, DIDN'T IT?
- (20) A. CORRECT.
- (21) Q. AND IF I COULD DIRECT YOU TO THE JUNE 29TH, 2004 NOTE.
- (22) THIS IS THE NOTE THAT IS FOLLOWING HIS JUNE 3RD, 2004
- (23) SURGERY.
- (24) A. MM-HMM (AFFIRMATIVE RESPONSE).
- (25) Q. AND IN THAT NOTE HE STATES THAT HE'S NOT BEEN BACK TO

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- (1) WORK AND EVER SINCE THEN NERVOUS, ANXIOUS, CANNOT SIT
- (2) STILL, RESTLESS, DOES NOT SLEEP WELL. IS THAT CORRECT?
- (3) A. CORRECT.
- (4) Q. AND THAT'S THE FIRST TIME THAT YOU SEE THOSE SYMPTOMS
- (5) OF RESTLESSNESS, NOT BEING ABLE TO SIT STILL, SINCE
- (6) YOU'VE BEEN TREATING MARK SINCE 1992, CORRECT?
- (7) A. CORRECT.
- (8) Q. NOW, EVEN WHEN YOU HAVE DEPRESSION YOU WOULD AGREE THAT
- (9) MEMORY LAPSES AND A DROP IN EXECUTIVE FUNCTION OR
- (10) ABILITY TO CARRY OUT EXECUTIVE FUNCTION, THAT'S NOT
- (11) GENERALLY ASSOCIATED WITH DEPRESSION, IS IT?
- (12) A. NO, YOU CAN HAVE PROBLEMS WITH MEMORY. YOU CAN HAVE
- (13) PROBLEMS WITH CONCENTRATION. VERY COMMON.
- (14) Q. NOW, I'M GOING TO GO BACK. THE JUNE 29TH, '04 NOTE.
- (15) PRIOR TO THAT, MR. CASEY HAD NOT ASKED YOU TO BE OUT OF
- (16) WORK OR GOTTEN AN EXCUSE, CORRECT?
- (17) A. CORRECT.
- (18) Q. AND HE WAS WORKING FULL TIME, 12 HOUR SHIFTS, ACCORDING
- (19) TO WHAT YOU HAVE IN YOUR NOTES?
- (20) A. CORRECT.
- (21) Q. AND THEN AFTER JUNE 3RD, 2004, IN THIS JUNE 29TH, 2004
- (22) NOTE, YOU'VE GOT A GENTLEMAN THAT NOW CANNOT SIT STILL.
- (23) HE'S RESTLESS, NERVOUS, ANXIOUS. CANT SLEEP. AND
- (24) THAT'S A MARKED DIFFERENCE FROM WHAT YOU HAD SEEN
- (25) BEFORE JUNE OF 2004 WITH MR. CASEY, ISN'T IT?

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- (1) A. CORRECT.
- (2) Q. AND THE ONLY NEUROLOGIC EXAM THAT YOU PERFORMED IS ON
- (3) THAT JUNE 29TH, 2004 NOTE. IF I'M NOT MISTAKEN, YOU
- (4) TESTIFIED EARLIER THAT THE STRAIGHT LEG RAISE IS
- (5) NEGATIVE; AND THAT WAS THE ONLY NEUROLOGIC EXAM YOU
- (6) PERFORMED ON MR. CASEY.
- (7) A. YOU HAVE TO DIFFERENTIATE BETWEEN NEUROLOGIC EXAM AND
- (8) MENTAL STATUS EXAM. NEUROLOGIC IS JUST CHECKING THE
- (9) NERVES. AND --
- (10) Q. ALL RIGHT, START WITH THAT ONE. IS THAT --
- (11) A. RIGHT THERE IS JUST CHECKING BECAUSE HE'S HAD PROBLEMS
- (12) WITH BACK PAIN. AND I RAISED HIS LEG UP TO SEE IF HE
- (13) WAS STILL HURTING IN HIS BACK. THAT WOULD NOT HAVE TO
- (14) DO WITH THE MENTAL PART.
- (15) Q. OKAY. LET'S START WITH THE NEUROLOGIC EXAM. THE
- (16) STRAIGHT LEG RAISE DEALING WITH HIS BACK.
- (17) A. MM-HMM (AFFIRMATIVE RESPONSE).
- (18) Q. THAT IS THE ONLY NEUROLOGIC EXAM THAT YOU PERFORMED ON
- (19) MR. CASEY?
- (20) A. CORRECT.
- (21) Q. SINCE YOU'VE BEEN TREATING HIM?
- (22) A. THAT DAY.
- (23) Q. BUT AS FAR AS A NEUROLOGIC EXAM, IN YOUR NOTES THAT'S
- (24) THE ONLY NEUROLOGIC EXAM THAT YOU HAVE PERFORMED IS ONE
- (25) DEALING WITH HIS BACK.

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- (1) A. CORRECT. I'VE ONLY DEALT WITH HIS BACK.
- (2) Q. NOW, DID YOU DO ANY TESTING -- AND I THINK THIS IS WHAT
- (3) YOU WERE GETTING AT BEFORE. ANY TESTING OF THE CRANIAL
- (4) NERVES, LIKE 1 THROUGH 12?
- (5) A. NOT THAT --
- (6) Q. AT ANY POINT?
- (7) A. NOT DONE.
- (8) Q. HAVE YOU DONE ANY COGNITIVE TEST ON MR. CASEY?
- (9) A. NOT SINCE THAT TIME WHEN I WOULD -- WHEN I WAS TREATING
- (10) HIM FOR DEPRESSION ASKING HIM THE QUESTIONS. I DID NOT
- (11) GIVE HIM A MENTAL STATUS EXAM AS FAR AS LIKE A MINI
- (12) MENTAL STATUS EXAM. COUNTING BACKWARDS, SPELLING WORDS
- (13) BACKWARDS. ADDITION AND SUBTRACTION. THERE WERE NONE
- (14) OF THOSE DONE FOR DEPRESSION OR ANXIETY.
- (15) Q. NONE OF THOSE WERE DONE?
- (16) A. NONE OF THOSE WERE DONE FOR DEPRESSION OR ANXIETY.
- (17) Q. AND WOULD IT BE FAIR TO SAY THAT DR. GRACE WAS INVOLVED
- (18) IN AUGUST OF 2004, AND YOU'VE HAD SOME CONTACT WITH DR.
- (19) JAY GRACE, HAVEN'T YOU? THE PSYCHOLOGIST?
- (20) A. YES.
- (21) Q. AND THEN DR. JEFF SMITH, YOU AND DR. GRACE MADE A JOINT
- (22) DECISION TO SEND MR. CASEY TO A PSYCHIATRIST?
- (23) A. CORRECT.
- (24) Q. AND THE REASON THAT YOU WANTED TO SEND HIM TO A
- (25) PSYCHIATRIST WAS BEFORE MR. CASEY WAS ABLE TO BE

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(1) TREATED FOR THAT BRIEF SPAN FROM JUNE UNTIL JANUARY OF
(2) '04, BY JUST YOU AS A FAMILY PRACTITIONER, AND SOME
(3) ANTI-DEPRESSANT MEDICATIONS THAT YOU TRIED —
(4) A. CORRECT.
(5) Q. AFTER JUNE 3RD OF 2004, MR. CASEY REQUIRED A SPECIALIST
(6) OR SOMEONE WITH A MUCH GREATER DEGREE OF EXPERTISE?
(7) A. CORRECT.
(8) Q. AND THAT WAS JEFF SMITH AND DR. GRACE?
(9) A. CORRECT.
(10) Q. AND THE INDICATION THAT YOU'VE GOT IS JUNE 29TH OF
(11) 2004, THAT THERE WAS A SURGERY PERFORMED AND A REPEAT
(12) BRONCHOSCOPY WITH A LASER TREATMENT THAT RESULTED IN
(13) THE PNEUMOTHORAX AND SOME OTHER RESIDUAL PROBLEMS?
(14) BY MR. KING:
(15) OBJECTION TO OTHER RESIDUAL PROBLEMS.
(16) BY THE WITNESS:
(17) A. WHAT IS YOUR QUESTION?
(18) EXAMINATION RESUMED BY MR. TURNER:
(19) Q. THAT YOUR JUNE 29TH, 2004 NOTE, THAT IS THE FIRST TIME
(20) THAT YOU WERE ADVISED THAT THERE WAS A BRONCHOSCOPY
(21) PROCEDURE DONE WITH A LASER TREATMENT, AND IT RESULTED
(22) IN A PNEUMOTHORAX?
(23) A. CORRECT.
(24) Q. AND IF YOU COULD DESCRIBE MR. CASEY — YOU'VE DESCRIBED
(25) HOW HE WAS BEFORE THIS JUNE INCIDENT. JUNE OF 2004

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(1) INCIDENT. THAT HE WAS HAPPY AND HE WAS UPBEAT. IF YOU
(2) COULD DESCRIBE MR. CASEY AFTER THE JUNE, 2004 INCIDENT.
(3) A. I DON'T HAVE ANY DOCUMENTATION AS TO WHETHER HE WAS
(4) HAPPY OR UPBEAT OR SAD LOOKING OR APPEARED TO BE IN
(5) PAIN. I DON'T HAVE ANYTHING LIKE THAT IN THE NOTE. I
(6) HAVE A NOTE THAT SAYS HE'S NERVOUS AND ANXIOUS AND
(7) CAN'T SIT STILL AND RESTLESS. BUT I DON'T HAVE ANY
(8) PHYSICAL — OR ANY DOCUMENTATION ON THE PHYSICAL PART
(9) TO ATTEST TO THAT.
(10) Q. WHAT I'M LOOKING AT REALLY IS FROM JUNE 29TH, 2004 TO
(11) PRESENT, HOW YOU WOULD DESCRIBE MR. CASEY. WHETHER
(12) HE'S MORE DEPRESSED, LESS HAPPY.
(13) A. YES, MORE DEPRESSED AND LESS HAPPY. BUT I WAS NOT
(14) TREATING HIM ANYMORE FOR DEPRESSION DURING THAT TIME.
(15) SO I DON'T HAVE ANY DOCUMENTATION OF THAT.
(16) Q. AND AT THAT POINT HE HAD BEEN REFERRED TO THE
(17) PSYCHOLOGIST AND THE PSYCHIATRIST, CORRECT?
(18) A. I THINK HE WENT ON HIS OWN TO THE PSYCHOLOGIST. I
(19) DIDN'T REFER HIM THERE.
(20) Q. AND THEN HE WAS REFERRED TO JEFF SMITH —
(21) A. CORRECT.
(22) Q. THE PSYCHIATRIST?
(23) A. CORRECT.
(24) Q. AND YOU HAVE THEIR RECORDS?
(25) A. I THINK WE HAVE SOME NOTES FROM THEM.

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(1) Q. AND THEN YOU HAD THE RECORD THAT YOU READ EARLIER FROM
(2) LUNG AND CHEST?
(3) A. CORRECT.
(4) Q. AND THAT RECORD, IF I'M NOT MISTAKEN, IT INDICATED A
(5) BRAIN INJURY TO MR. CASEY FROM THE JUNE 3RD, 2004
(6) SURGERY?
(7) A. I THINK THAT'S WHAT HE STATES IN HIS NOTE. YES.
(8) Q. AND AT THAT POINT WOULD YOU SAY THAT YOU BASICALLY LEFT
(9) IT TO THE SPECIALISTS OR DEFERRED TO DR. GRACE AND DR.
(10) SMITH TO TREAT HIM FOR ANY COGNITIVE OR NEUROLOGICAL
(11) DEFICITS?
(12) BY MR. KING:
(13) OBJECTION TO THE FORM OF THE QUESTION. ANSWER IT
(14) IF YOU CAN.
(15) BY THE WITNESS:
(16) A. I THINK AFTER HIS INJURY I LEFT ALL THOSE THINGS THAT
(17) INVOLVED THAT TO THE SPECIALISTS.
(18) BY MR. TURNER:
(19) LET ME TAKE A QUICK BREAK.
(20) (OFF THE RECORD)
(21) BY MR. TURNER:
(22) NOTHING FURTHER.
(23) (THERE BEING NO FURTHER QUESTIONS, THIS DEPOSITION CONCLUDED
(24) AT 6:16 P.M.)
(25)

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(1) CERTIFICATE OF REPORTER
(2)
(3)
(4) I, MARCIE L. SMITH, A NOTARY PUBLIC IN AND FOR THE
(5) STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
(6) FOREGOING 115 PAGES REPRESENTS A TRUE AND ACCURATE
(7) TRANSCRIPT OF THE DEPOSITION OF FRANCISCO EMILIO GONDA,
(8) M.D., WHICH WAS TAKEN BY ME ON THE 14TH DAY OF AUGUST, 2008.
(9) THAT THE WITNESS WAS FIRST DULY SWORN TO TELL THE
(10) TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH OF HIS OWN
(11) KNOWLEDGE CONCERNING THIS MATTER.
(12) THAT I AM NOT RELATED TO NOR THE EMPLOYEE OF ANY OF THE
(13) PARTIES HERETO, NOR RELATED TO OR EMPLOYED BY ANY ATTORNEY
(14) OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN
(15) THE OUTCOME OF THIS ACTION.
(16)
(17)
(18) MARCIE L. SMITH, REPORTER
(19) NOTARY PUBLIC FOR S.C.
(20) COMMISSION EXPIRES: 1-17-17
(21)
(22)
(23)
(24)
(25)

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