

1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF HORRY

3 DAVID L. SCHEER, AS PERSONAL
4 REPRESENTATIVE OF THE ESTATE
OF MATTHEW J. SCHEER,

5 Plaintiff,

6 vs.

CASE NO.: 2017-CP-26-1571

7 SOUTHERN MYRTLE INPATIENT
8 SERVICES, LLC, NIRLEP A.
9 PATEL, M.D., RACHEL ASH-BERNAL,
M.D., AND GRAND STRAND REGIONAL
MEDICAL CENTER, LLC,

10 Defendants.

11 VIDEO
12 DEPOSITION OF: RACHEL ASH-BERNAL, M.D.

13 DATE: December 6, 2017

14 TIME: 10:30 AM

15 LOCATION: Grand Strand Business Center
1293 Professional Drive, Suite D
16 Myrtle Beach, South Carolina

17 TAKEN BY: Counsel for the Plaintiff

18 REPORTED BY: TIA SHEAN, Professional Reporter

19
20 A. WILLIAM ROBERTS, JR., & ASSOCIATES

21 Fast, Accurate & Friendly

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25
A W R

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SC Court of Appeals

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26 ALSO PRESENT:

27 Videographer, Michael Carr

28 (INDEX AT REAR OF TRANSCRIPT)

29 A W R

1 RACHEL ASH-BERNAL, M.D.

2 being first duly sworn, testified as follows:

3 E X A M I N A T I O N

4 BY MR. HINSON:

5 Q. Doctor, would you state your full
6 name.

7 A. Rachel Ash-Bernal.

8 Q. And, Dr. Ash-Bernal, have you ever had
9 occasion to give a deposition before?

10 A. Not to my recollection.

11 Q. Okay. And I imagine your attorneys
12 have explained much of the process to you. We're
13 taking your deposition today so I can learn what your
14 testimony would be a trial to learn what your
15 recollection and opinions are with regard to Matthew
16 Scheer. If at any point you have a question about my
17 question -- if you don't understand my question, please
18 let me know and I'll be happy to rephrase or repeat.
19 It's important to me that you understand the question
20 asked.

21 A. Okay.

22 Q. And if at any point I cut you off, that's
23 not my intention. Just let me know. I'll be happy to
24 let you finish your answer. Likewise, I'd appreciate it
25 if you would let me finish my question. In typical

A W R

1 conversation people tend to interject or interrupt but
2 for purposes of today it makes our court reporter's job
3 tough if we speak over one another.

4 A. (Inaudible sound.)

5 Q. And you, kind of, -- that leads me to my
6 next -- my next point, if you could answer out-loud.
7 You're welcome to shrug your head -- or shrug your
8 shoulders or nod your head but for our court reporter,
9 she needs a verbal answer, you know?

10 A. Okay.

11 Q. From time-to-time there may be
12 objections to my questions. Unless your attorney
13 instructs you not to answer I'd ask that you answer
14 the question in spite of the objection, okay?

15 A. Okay.

16 Q. Doctor, what's your date of birth?

17 A. 04-16-1966.

18 Q. And what is your current address?

19 A. XXXXX.

20 Q. All right, and how long have you lived at
21 that address?

22 A. Going on three years.

23 Q. Okay. Were you living at that address at
24 the time of the events of this case which would be, I
25 believe, October of 2015?

A W R

1 A. Yes.

2 Q. And Dr. Ash-Bernal, what is -- what's
3 your profession?

4 A. I'm a medical doctor.

5 Q. And you are boarded in what?

6 A. Internal medicine.

7 Q. And you practice as a hospitalist; is that
8 correct?

9 A. That's correct.

10 Q. Is there a board in hospitaling -- or --

11 A. Just internal medicine.

12 Q. And you could take a number of boards
13 -- one could take a number of boards and still work at
14 a -- as a hospitalist, correct?

15 A. I don't really follow you.

16 Q. Well, I -- all hospitalists aren't
17 internal medicine doctors, correct? Aren't some of them
18 family practice and some other specialties?

19 A. Sometimes.

20 Q. And at present there is no board for
21 hospitalists?

22 A. It's just internal medicine.

23 Q. Or family practice or a similar field?

24 A. I don't know about family practice.

25 Q. Well, but you know -- I guess my question

A W R

1 is that you know folks who have boards in family practice
2 who are working as hospitalists?

3 A. Occasionally I've met some. The common
4 thing is to be an internal medicine doctor.

5 Q. And describe for me what the role of a
6 hospitalist?

7 A. Admitting patients to the medicine
8 service, rounding on them, managing their care and
9 -- and discharging them.

10 Q. As a hospitalist would these patients
11 consider you to be their primary care physician?

12 A. Not generally.

13 Q. You're providing a patient who comes to
14 the hospital medical care in the hospital.

15 A. Yes.

16 Q. Doctor, I've been provided a -- a copy of
17 your CV.

18 A. Yes.

19 MR. HINSON: If we could mark that as
20 Exhibit 1, please. Well actually, lets mark that as
21 Exhibit 2. I think we've made the -- the medical
22 record a continuing exhibit and --

23 (PLF. EXH. 2, Curriculum Vitae, was
24 marked for identification.)

25 BY MR. HINSON:

A W R

1 Q. Better housekeeping here, Doctor. I'm
2 going to provide you with what we have previously
3 marked as Plaintiff's Exhibit 1, which is -- pages have
4 been Bates stamped: Scheer GSRMC_MedRecs 1-132 and these
5 -- when I say -- these are the Bates numbers down in
6 -- what we call Bates numbers down in the bottom
7 right-hand corner.

8 A. What's a Bates number?

9 Q. I'm sorry?

10 A. What's a Bates number?

11 Q. A Bates number is essentially like a
12 serial number that we give to a -- to a document in a
13 -- in litigation.

14 A. Okay.

15 Q. So every page that's produced in
16 litigation is assigned a number that's unique to that
17 page and so these 132 pages each have a Bates number on
18 them. If at any point -- this is what is produced as the
19 medical record for Mr. Scheer, and if at any point you
20 need to look at that record to refresh your recollection
21 you are certainly welcome to do so. I will just ask that
22 you let me know what page it is you're looking at.

23 A. This has 89 pages. This has 89 pages and
24 then this last page says 132.

25 Q. Doctor, it goes through 132 pages. There

A W R

1 is -- It's this right here --(Indicating).

2 A. Is this what you're referring to here
3 --(Indicating)-- this number?

4 Q. Yes. That number right there. So this is
5 broken up. Doctor, Exhibit 1 is broken up. There's two
6 sets in here. There's the set from Matthew's initial
7 trip to Grand Strand, I believe is what you're speaking
8 of, and that would be Bates stamps 1-142, which is right
9 here. And then Bates stamps 43 --

10 A. So you're looking at the numbers with the
11 checkered background.

12 Q. That's correct.

13 A. Okay.

14 Q. And then Bates stamped 43-132 is the
15 second --

16 A. Okay.

17 Q. -- trip to Grand Strand.

18 A. I understand.

19 Q. Okay.

20 A. It's on the -- it's on the -- right
21 there --(indicating)-- near the black box --

22 Q. Okay. Got you. And so, Doctor, I was
23 asking you about Exhibit 2, --

24 A. Yes. Yes.

25 Q. -- which was provided to me. Could

A W R

1 you identify Exhibit 2, please?

2 A. Are you speaking to me?

3 Q. Yes, ma'am.

4 A. Okay. This looks like my CV.

5 Q. Is it current and up-to-date?

6 A. There's one other site that I'm currently
7 going to that's not listed because it just started a week
8 ago.

9 Q. Okay. And what site is that?

10 A. Orangeburg --

11 Q. Okay.

12 A. -- Medical Center.

13 Q. And is that working as a locum tenens
14 doctor?

15 A. Yes.

16 Q. And what employ -- who's your employer
17 there?

18 A. MDA.

19 Q. And that's Medical Doctors Associates?

20 A. That's correct.

21 Q. Okay. And does -- largely what we're
22 going to be talking about today, Doctor, is October 2nd
23 and 3rd 2015 at Grand Strand Regional Medical Center. It
24 is my understanding that you were working as a
25 hospitalist there at that time.

A W R

1 A. Yes.

2 Q. And at -- in that time, on October 2nd
3 and 3rd 2015, who was your employer?

4 A. EmCare.

5 Q. Okay. And that's on page two of your CV;
6 is that correct?

7 A. Yes.

8 Q. Well, Doctor, I -- this -- so I understand
9 what is -- what, if any, is the association of EmCare
10 with Southern Myrtle Inpatient Services, LLC?

11 A. That might have been the billing group
12 or who dealt with our paychecks; I'm not sure. It's been
13 a while.

14 Q. Okay. You're familiar with Southern
15 Myrtle Inpatient in the sense that you've seen their name
16 on some of your work paperwork?

17 A. Somewhere.

18 Q. Okay.

19 A. It sounds familiar.

20 Q. Okay, but as you understood it your
21 employer was EmCare?

22 A. That's correct.

23 Q. In October, early October 2015 -- October
24 2nd and 3rd, where were you -- what hospitals were you
25 working?

A W R

1 A. In October?

2 Q. Of '15, yes.

3 A. Primarily just Grand Strand. At that
4 time I may have -- I might have done a few shifts at
5 Georgetown but I'm not really sure. It was a long time
6 ago. I was primarily working at Grand Strand Hospital.

7 Q. Okay. The reason I ask -- I'm just
8 trying to understand what -- looking at your CV, --

9 A. Uh-huh.

10 Q. -- we've got Locum Connections, and it
11 looks like you were there --

12 A. What -- what page are you on?

13 Q. I'm on page one.

14 A. Page one. Okay.

15 Q. From September '15 until about mid-2017 at
16 Georgetown Hospital you've got Locum Connections from
17 July '15 through January '17 at Mcleod Seacoast and
18 Mcleod Loris, and then there -- I know there's EmCare,
19 and there's also LocumTenens.com in Spartanburg, and
20 that's July '15 through October '15, so I was just trying
21 to understand if you were running back and forth
22 between four hospitals at that time or --

23 A. Right.

24 Q. -- how your schedule was working.

25 A. No, this is primarily referring to the

A W R

1 companies that I was credentialed with that had active
2 credentialing --

3 Q. Okay.

4 A. -- and then, active credentialing at
5 hospitals, which has a variable time length. So at
6 Grand Strand it's four years --

7 Q. Okay.

8 A. -- once you get credentialed. This is
9 primarily because I -- I do locum tenens. It's just, you
10 know, other companies want to know who you're
11 credentialed with, where you have admitting privileges,
12 where you have worked. It's not necessarily meaning that
13 I worked every single place that's listed here during
14 that time period every week or every month. There were
15 places that I didn't do a single shift in months.

16 Q. Okay. Thank you, that helps.

17 A. So it's just sort of a -- a running list
18 primarily geared towards the locum tenens companies
19 because these are frequent questions.

20 Q. I see. Okay. Well, that helps me
21 understand, Doctor. I appreciate that. So --

22 A. It would not be possible for me to run
23 back and forth between all these hospitals every week or
24 every month.

25 Q. So when you were doing locum tenens work at

A W R

1 Grand Strand, did you have one stint that you were
2 there... did you have multiple stints that you were
3 there?

4 A. I started at Grand Strand Hospital as a
5 locum tenens for Staff Care.

6 Q. Okay. And when was that?

7 A. I think that probably was August of 2016,
8 from what I recollect.

9 Q. Okay. And where are you looking on your CV
10 for that?

11 A. I'm just thinking about the timeline,
12 actually, in my own mind. Staff Care -- yes, so
13 -- what, August of 2014 until 04/2015, and then I
14 signed a full-time contract with EmCare.

15 Q. Okay.

16 A. So that's why that's -- that's broken up
17 like that.

18 Q. Okay. So I'm looking -- we're looking
19 at page one, there's a reference to Staff Care. Then
20 there's a -- on page two there's EmCare. Did --

21 A. Correct.

22 Q. Did Staff Care stop doing locum tenens
23 work at Grand Strand? Did the company change names? How
24 did this come about?

25 A. I don't know if there's anyone else

A W R

1 employed by Staff Care doing locum tenens there.

2 There were many locum tenens physicians working for
3 many different companies. Staff Care actually had to be
4 paid by EmCare to buy me out of my contract.

5 Q. What was the impetus from changing from
6 -- if you're still working at -- well --

7 MR. HINSON: Strike that.

8 A. Mm-hum.

9 Q. So when you were working at Staff Care
10 you were working as a hospitalist doing locum tenens work
11 at Grand Strand at some point, correct?

12 A. Yes.

13 Q. Okay. And then at some point, you were
14 working as a hospitalist at Grand Strand doing locum
15 tenens work through EmCare.

16 A. That's correct.

17 Q. Why the impetus to change from Staff Care
18 to EmCare?

19 A. They wanted me to sign a full-time
20 contract.

21 Q. Okay.

22 A. They -- they liked my work and they
23 wanted me as a full-timer.

24 Q. I see. And are you presently doing
25 locum tenens work at --

A W R

1 A. Yes.

2 Q. -- Grand Strand?

3 A. Oh, I haven't done a shift in a few months,
4 but I'm still credentialed there and I just
5 haven't gone there. These things, sort of, cycle. You
6 know, so it's -- it's difficult to predict. That's why
7 there's so many hospitals that I'm credentialed at.
8 Hospitals -- their needs change for a variety of reasons,
9 many reasons and sometimes they don't need locum tenens
10 anymore. Sometimes they call you back, months later,
11 next day, emergency.

12 Q. And how long is a shift, typically, in
13 one of these assignments? What shift -- the one shift
14 I'm not familiar with -- I don't know, they might --

15 A. I'm sorry.

16 Q. How long are they typically?

17 A. Typically, 12 hours but there are
18 shorter shifts.

19 Q. Okay. So well, I guess -- maybe that's --
20 so they would call you just to work one shift or would
21 they say, you know: Dr. Ash-Bernal, we need you for the
22 month of October. We need you for the first week of
23 October.

24 A. It varies from place to place. Some
25 -- Some hospitals and the -- whoever is putting the

A W R

1 schedule together can be very proactive. They may
2 contact me through my locums rep and say: Hey, we have
3 these shifts available. Can you work them? Or some of
4 them would prefer that I submit a series of dates that
5 I'm available and then they pick and choose. And there's
6 sort of everything in-between. Sometimes an emergency
7 comes up and I've been contacted directly. You know, can
8 you come and work this shift tomorrow? We have somebody
9 out sick. Something like that. So there's a lot of
10 different scenarios. Typically, for routine work it's
11 scheduled ahead of time.

12 Q. Okay. In October 2015, with regard to
13 Grand Strand, do you -- do you recall what your
14 schedule was for that month?

15 A. Not -- I don't recollect completely, no.
16 But, I was typically working -- I think 14 shifts was
17 there requirement for night shift. So it was like --

18 Q. So you would work 14 shifts in a month?
19 When you say 14 shifts --

20 A. In a month.

21 Q. Okay. And those would typically be, you
22 said, 12-hour shifts?

23 A. At Grand Strand I was typically working a
24 -- a 10-hour shift, I think, so...

25 Q. Have you, prior to sitting down at this

A W R

1 deposition today, had the opportunity to look over
2 Matthew Scheer's medical record?

3 A. I've read some of it.

4 Q. Do you have a -- what would -- what
5 -- have you read both the initial presentation,
6 Friday, October 2, 2013, and the second presentation at
7 Grand Strand later that afternoon?

8 A. Could you tell me where you're specifically
9 looking?

10 Q. Sure. Well, earlier we broke the
11 -- broke the medical record up --

12 A. Um-hum.

13 Q. -- in two different sections. I think it
14 was 1-42 -- was the initial --

15 A. Yes.

16 Q. -- occasion, and then 43 on was the
17 second occasion where Matthew presented to Grand Strand.
18 Had -- in the records you reviewed they include portions
19 from both of those encounters at Grand Strand.

20 A. Could you tell me, specifically, where
21 -- where you're referring to?

22 Q. Well, I'm not asking about any specific
23 page. I'm just asking, have you looked at pages from both
24 of those sets of records?

25 A. Some of them, yes.

A W R

1 Q. Okay. Do you have an independent
2 recollection of Matthew Scheer?

3 A. I don't recall.

4 Q. Okay. And so there are -- there is a note
5 in the -- in the file, which appears to have been made by
6 you, did you see that note?

7 A. Yes.

8 Q. Okay. And do you have any independent
9 recollection -- I know we can read the note, but do you
10 have any independent recollection of your encounter with
11 Matthew in the early morning hours of October 3, 2015?

12 A. -- I really don't remember.

13 Q. Okay. Have you ever spoken with Dr.
14 Nirlep Patel about Matthew Scheer that you can recall?

15 A. Not that I remember.

16 Q. Okay. Have you ever spoken, that you
17 recall, to any of the nurses involved in Matthew's care,
18 either Nurse Bell or Nurse Freeman, with regard to
19 Matthew Scheer?

20 A. Not that I remember.

21 Q. Okay. Any other -- and I know I've
22 limited my question then to two nurses -- any other
23 nurses at Grand Strand or other physicians, that you can
24 recall speaking to them with regard to Matthew Scheer?

25 A. Not that I remember.

A W R

1 Q. Doctor, let's turn to page 68 in the
2 record. So again, that's the -- in the gray checkered
3 box in the bottom right-hand corner.

4 A. Okay.

5 Q. So from the set it looks like we're on the
6 same page. From the second set of records on page 26 of
7 89.

8 A. You said page 68, correct?

9 Q. Yes, page -- I think we're looking at the
10 same pages. Page 25 of 6 -- of 89. The second set of
11 records that's been --

12 A. Okay.

13 Q. -- Bates stamped as Scheer_GSRMC_MedRecs68.

14 A. Yes.

15 Q. Could you identify what that page is in the
16 record?

17 A. This is a clinical note that was signed by
18 me on 10/3/2015 at 1:40 AM.

19 Q. Okay. And this is with regard to Matthew
20 Scheer, correct?

21 A. Correct.

22 Q. Okay. And the note starts off: Patient
23 refused IV p.o. Keppra. What's p.o. in that sentence
24 mean?

25 A. It's Latin for: By mouth.

A W R

1 Q. So he's refusing to take Keppra medication
2 -- pills?

3 A. Yes, and he refused an IV as well.

4 Q. Okay. And what is Keppra?

5 A. It's a medication for seizures.

6 Q. Okay. And it can be used to -- in some
7 occasion -- on some occasions it's used to treat
8 epileptic seizures, correct?

9 A. Yes.

10 Q. Would you agree with me that epileptic
11 seizures can be dangerous to a patient?

12 A. Possibly.

13 Q. And would you agree with me that
14 epileptic seizures can potentially have a serious
15 impact on a patient?

16 A. Possibly.

17 Q. And would you agree with me that a
18 patient can potentially, possibly, die from epileptic
19 seizures?

20 A. Possibly.

21 Q. They can be fatal at times.

22 A. Often, it's the effect of the seizure,
23 depending on what they're doing at the time.

24 Q. So the effect of the seizure can --

25 A. Yes.

A W R

1 Q. -- in some instances, be fatal to an
2 epileptic?

3 A. Yes.

4 Q. The note goes on, it says: I was called to
5 patient room by nursing staff since patient was yelling
6 at nursing staff stating they were all: Devil worshipers
7 and Obama is Satan, see that?

8 A. Yes.

9 Q. And, as I understand, you don't have an
10 independent recollection of being called by the nursing
11 staff to Matthew's room, correct?

12 A. I get many calls at night.

13 Q. And so you don't have any --

14 A. So at this particular time, no, I don't
15 remember.

16 Q. Okay. And suffice to say you've no reason
17 to think that -- Am I correct that you don't have any
18 reason to think that the nursing staff at Grand Strand
19 Regional Medical Center are devil worshipers?

20 A. I don't know.

21 Q. You don't have any reason to believe that
22 to be true, do you?

23 A. I don't really know.

24 Q. The next part of the note states: Patient
25 is a voluntary psychiatric admission and asked -- and

A W R

1 when asked if he wanted to leave the hospital against
2 medical advice or stay in-house for treatment, he states:
3 I want to leave right now, do you see that?

4 A. Yes.

5 Q. Okay. Suffice to say, you don't have an
6 independent recollection of that conversation with
7 Matthew, correct?

8 A. Not the specifics, no.

9 Q. Well, do you have any general
10 recollection?

11 A. It's difficult. It was a long time ago.

12 Q. Okay. Do you have any -- I mean, this is
13 my opportunity, Doctor, to find out what you remember, if
14 anything, about this encounter and I understood you to
15 say a minute ago that you had no recollection
16 -- independent recollection of Matthew --

17 A. No.

18 Q. So, you --

19 A. I don't remember.

20 Q. Okay. So you don't remember that
21 conversation with him?

22 A. No.

23 Q. Doctor, if a -- if there is concern that a
24 patient, due to some sort of psychiatric illness may harm
25 himself or harm others, does a physician in South

A W R

1 Carolina have the ability to temporarily restrain that
2 patient against his or her will?

3 A. If there's an eminent danger that he may
4 -- he or she may harm him or herself or someone else,
5 yes.

6 Q. And what's the process by which one can
7 involuntarily keep or detain a patient who the physician
8 thinks is in eminent danger of harming him or herself?

9 A. The physician would have to assess the
10 patient and be able to decide that there was eminent
11 danger to the patient's person or others and then here's
12 paperwork that can be signed -- that needs to be signed
13 by two physicians who agree that the patient needs to be
14 involuntarily committed for their own safety and the
15 safety of others.

16 Q. What things would the physician,
17 assessing the patient, look for?

18 A. I mean, the first thing is just walking in
19 the room and looking at the patient and seeing their
20 general appearance, what their posture is like, what
21 they're doing, and then just talking to the patient.
22 Seeing what they think, what -- see what their
23 perspective is on what's going on and ask him specific
24 questions.

25 Q. What type of questions would -- should

A W R

1 the physician ask?

2 A. I mean, initially, the most basic
3 questions are, just make sure the patient knows who they
4 are, knows where they are, knows the date, so that
5 they're oriented.

6 Q. What is the term: Delusion of thoughts,
7 mean?

8 A. A delusion is a thought of something that's
9 not based in reality.

10 Q. Can a person who has delusion of
11 thoughts potentially harm him or herself?

12 A. I really -- I don't know because I'm not a
13 psychiatrist.

14 Q. As a general principal, would you agree
15 with me that the person who has delusion of thoughts
16 could potentially harm themselves or him or herself due
17 to those delusions?

18 A. I think it depends what the delusions are.

19 Q. But -- well, how so?

20 A. If someone was having a delusion that they
21 were being attacked, and they were responding to that,
22 they could harm themselves or others if that were the
23 case.

24 Q. Would you agree with me that in determining
25 whether one is a risk to him or herself one of the

A W R

1 questions or some of the questions that should be asked
2 should focus on whether or not the patient has a grasp on
3 reality?

4 A. I'm sorry, I'm not following your
5 question.

6 Q. Sure. I'm asking if it's important when
7 assessing if a patient might be a harm to him or herself
8 that determining whether or not the patient has a -- a
9 grasp on the reality around himself, is that part of what
10 the physician should assess?

11 A. When I interview a patient many of the
12 questions I ask are dictated based on what the patient is
13 telling me, because every patient is an individual and
14 every situation is unique.

15 Q. When you -- I understand that you don't
16 have an independent recollection of it, but -- so when
17 you wrote this cross-cover note that's signed October 3,
18 2015, at 1:40 in the morning --

19 A. Yes.

20 Q. -- would you have had access to Matthew's
21 records from his prior time that day, the day before, at
22 Grand Strand Regional Medical Center?

23 A. I may have had access to some of those
24 records.

25 Q. Well, why do you say some, not all?

A W R

1 A. There's paperwork that comes up from the
2 emergency department that has to be put in a -- in a
3 binder and if notes were incomplete or unsigned in the
4 medical record -- incomplete -- people are still working
5 on them -- might not all be available.

6 Q. Sitting here today is there any part of the
7 medical record that you believe would've been unavailable
8 to you on the early morning hours of October 3, 2015?

9 A. I don't know.

10 Q. What type of paperwork comes up from the
11 ER? You said earlier that paperwork comes up from the ER
12 that has to be put in a binder, what -- what type of
13 paperwork are you speaking of?

14 A. Any type of paperwork that was in the
15 emergency department used for the patient care.

16 Q. Okay. Is that paperwork or that
17 information not also in the computer system?

18 A. A lot of hardcopy paperwork is scanned
19 into the system at some later date.

20 Q. Okay. The electronic information, the
21 stuff that's not scanned, you would expect to be in the
22 computer system, correct?

23 A. I would hope so.

24 Q. So you're signing this note at
25 approximately one -- what, 1:40 on October 3, 2015 -- was

A W R

1 Matthew Scheer your patient at that point,
2 at that time?

3 A. I was the cross-covering physician at
4 night.

5 Q. And tell me what that means in -- in
6 layperson's terms.

7 A. After the day shift hospitalists go home
8 the night staff, the night shift physicians, are -- and
9 nurse practitioners cover any questions about other
10 medical patients on the medicine floor.

11 Q. So for the purposes of those hours you
12 were -- you were Mr. Scheer's doctor?

13 A. I was the cross-covering physician.

14 Q. You were able to provide him medical care
15 as you thought needed at that point, correct?

16 A. If I was called by the nursing staff and
17 they had questions, I answered them.

18 Q. Okay. How many patients would you be
19 seeing in that capacity, as the cross-covering physician?

20 A. I don't follow your question.

21 Q. Well, okay. So Matthew -- you didn't
22 admit Matthew Scheer to the hospital, correct?

23 A. Yes.

24 Q. Yes, you didn't? I just want --

25 A. I'm -- I'm agreeing with what you said.

A W R

1 No, I did not admit him to the hospital.

2 Q. And Dr. Patel was the physician that
3 admitted him, would you agree with that from your
4 review of the record?

5 A. Yes.

6 Q. Okay. And so Dr. Patel, at some
7 point, his shift ends, he goes home or to
8 dinner or wherever. He leaves the hospital, correct?

9 A. Correct.

10 Q. And at that point you're the physician
11 covering for Dr. Patel's patients, which would include
12 Matthew Scheer, correct?

13 A. The nurse practitioner was cross-covering
14 the patients up until her shift was over. That's
15 typically what happens and I believe her shift was over
16 around 1:00 AM.

17 Q. Okay. And at that point, you become the
18 physician cross-covering for Matthew Scheer?

19 A. At that point, if the -- if the nurses
20 have a question they would look up on the intranet
21 website to see who was on, of the overnight physicians,
22 and page who was appropriate.

23 Q. Okay. Which -- is it fair to presume it
24 was you since you were the one called at around 1:00 AM
25 that morning?

A W R

1 A. There was two other physicians on that
2 night.

3 Q. So how would they know who to call?

4 A. I think I happened to be walking by. I was
5 on the floor admitting another patient.

6 Q. Okay.

7 A. Nurses often stop and ask questions if
8 they see me on the floor. They know I'm on at night.
9 They probably could have just as easily contacted another
10 physician, one of the other two that were on.

11 Q. Okay. So I -- looking back at that note, it
12 says: I was called to patient room by nurses
13 -- nursing staff since patient was yelling it goes on to
14 talk about the devil worshipers and Obama being Satan.
15 So your understanding is that -- that the nurses just
16 called you into the room because you were walking by or
17 in the neighborhood?

18 A. Or they say that I was on until three
19 o'clock in the morning.

20 Q. Okay. So at the point when you came in
21 -- you would expect that at some point you came into
22 Matthew's room, correct?

23 A. Yes.

24 Q. And at the point you had come into
25 Matthew's room what, if anything, would you have

A W R

1 reviewed from Matthew's medical chart?

2 A. I don't remember the specific instance.

3 Q. What would you expect you would have
4 reviewed?

5 A. You mean what's my general practice?

6 Q. Sure.

7 A. I would review the available information
8 and then go and talk to the patient.

9 Q. The available information would include
10 stuff from the electronic medical record, correct?

11 A. I can't say specifically what was
12 available to me at that moment in time.

13 Q. Okay. What reason would the electronic
14 medical record not be available to you at Grand Strand
15 Regional at that time?

16 A. I don't know. Things are missing from the
17 record sometimes.

18 Q. Sitting here today there's nothing in the
19 record that you can point to --(Indicating)-- that you
20 believe wasn't available to you at that time.

21 A. I'm not really following your question.

22 Q. Sure. Well, you've got 132 pages of
23 medical record in front of you, the vast majority of
24 which is electronic, is there anything in that record
25 that sitting here today you would point to and say, I

A W R

1 don't believe this was available to me at the time I saw
2 Matthew Scheer.

3 A. I don't know how I could comment on
4 something that's not in the medical record.

5 Q. Well, I'm talking about what's in the
6 medical record now. Is there anything that you would
7 contend wasn't in the medical record at 1:00 AM?

8 A. I don't know.

9 Q. And Doctor, I just want to make sure
10 -- the reason I'm asking is I want to make sure at the
11 trial of this case there's nothing you would point to
12 --(Indicating)-- and tell the jury, this part of the
13 record --(Indicating)-- wasn't available to me at the
14 time I was seeing Matthew Scheer. There's nothing you
15 would point to right -- and say, I don't believe that was
16 available to me at approximately 1:00 AM on October 3rd?

17 A. I don't know.

18 Q. Okay. You don't know of any such thing?

19 A. I don't recall.

20 Q. Doctor, looking back at that record on
21 Bates stamp 68 of Exhibit 1 -- I'm looking at about
22 halfway through that cross-cover note, it says: Patient
23 indicated he understood that it was recommended he remain
24 in the hospital for further evaluation of his psychiatric
25 issues, but he refused to stay. Patient seemed able to

A W R

1 weigh the information -- he interrupted his religious
2 rant to think about the question -- and it was explained
3 to him that he could die from infection, seizures or as
4 the result of his psychiatric illness and he insisted on
5 leaving. Do you see that sentence?

6 A. Yes.

7 Q. What do you -- based on your habit,
8 practice, custom -- what do you believe you would've
9 explained to Matthew Scheer with regard to -- that he
10 could die from infection, seizures or as a result of his
11 psychiatric illness. I understand that you don't have a
12 recollection of this conversation with Matthew, but what
13 would you anticipate that you would've said to him?

14 A. I can't comment on what I anticipate I
15 would say, but I would say in general -- and doing
16 evening shift, like I do, I get called about a lot of
17 patients and my preference -- my -- what I vigorously try
18 to do with the patients is if they want to leave in the
19 middle of the night, I try to understand why. Some
20 people are scheduled and they just don't have a -- a bed
21 available at a facility where they might be getting
22 transferred. That happens a lot at night but I don't have
23 a problem with a person leaving to a higher level of care
24 if it's been prearranged and -- however, I vigorously
25 would try and keep somebody in the hospital to continue

A W R

1 their work-up and I would do everything I
2 can to do that.

3 Q. How would you do that? How would you go
4 about trying to keep them there?

5 A. First, I would try and understand what the
6 -- why the patient wanted to leave and try to address
7 those issues. Many patients -- if you just address what
8 is concerning them the most and why they want to leave
9 they -- they often stay. Sometimes they just want
10 someone to talk to.

11 Q. Do you have any understanding, sitting
12 here today, of why Matthew Scheer wanted to leave?

13 A. If he told me specifically I believe I
14 would've documented it so it's not a reflection of, you
15 know, a lack of attempt to obtain the information, but
16 I'm not a mind-reader and I can't make people tell me
17 things if they don't want to tell me.

18 Q. You understood he was a psychiatric
19 admission, correct?

20 A. From Dr. Patel's note it seemed he was
21 admitted to the medicine service for evaluation of
22 leukocytosis.

23 Q. High white blood cells count?

24 A. Yes.

25 Q. Your note says, Doctor: Patient is a

A W R

1 voluntary psychiatric admission. That's the second
2 sentence of your cross -- no, your third sentence of your
3 cross-cover note, do you see that?

4 A. Yes.

5 Q. Okay. So you -- would you agree with me,
6 you understood at that time, the time that Matthew's
7 leaving, that in addition to a concern about leukocytosis
8 there was also a concern about Matthew's psychiatric
9 state?

10 A. I may have been referring to the
11 psychiatric consultation that was pending.

12 Q. Okay. Well, leukocytosis --

13 A. Leukocycosis.

14 Q. Leukocytosis --

15 A. Sorry. It's habit. I'm sorry. I didn't
16 mean to act like I'm --

17 Q. No problem.

18 A. I'm sorry.

19 Q. Leukocytosis --

20 A. Yes.

21 Q. -- isn't mentioned in this cross-cover
22 note, is it?

23 A. Not that I see.

24 Q. Okay. Sitting here today, having reviewed
25 Matthew's chart or portions of Matthew's chart prior to

A W R

1 this deposition, what's your understanding of the reason
2 Matthew presented to Grand Strand on the morning of
3 October 2, 2015?

4 A. My understanding is that his father
5 brought him to the emergency department because of a
6 change in the way he was acting.

7 Q. It was concern of a psychiatric illness of
8 some type; is that fair?

9 A. From what I read in the initial admission I
10 don't think that was what the initial work-up was
11 necessarily about.

12 Q. What do you believe the initial work-up was
13 initially about?

14 A. The father was concerned because his
15 behavior changed and it looks like Dr. Battisti did a
16 standard work-up to look for causes of that.

17 Q. After the work-up, do you believe the
18 principal concern with regard to Matthew was some sort of
19 acute psychiatric event?

20 A. It's possible.

21 Q. Doctor, let's turn to page 12 in the
22 record. Can you identify what we're looking at there,
23 what is that page?

24 A. This is a History of Present Illness. It
25 was transcribed by Morgan Bendick.

A W R

1 Q. Do you know Morgan Bendick?

2 A. I do not know him.

3 Q. And so, this is the HPI, the History of
4 Present Illness, that would've been filled out by the
5 staff at Grand Strand Regional Medical Center when
6 Matthew, accompanied by his father, first presented to
7 the emergency department that morning, correct?

8 A. It appears so.

9 Q. Could you read for me the additional HPI
10 notes there on that page. And if there's an
11 abbreviation read the words. So in other words if it
12 says, you know: H.O. If you would read out: History of,
13 instead of just H.O., for example.

14 A. History of Present Illness, confirm
15 patient, yes. Complaint: Paranoid and hallucinations.
16 Source of History: Patient, family, timing onset. Days:
17 2-3. Quality: Hallucinations, paranoid. Additional HPI
18 notes: Mr. Scheer is a 26-year-old male with a history of
19 epilepsy who presents to the emergency department
20 complaining of paranoia and hallucinations. Associated
21 symptoms include insomnia, anorexia due to believing that
22 all the food he used to eat is contaminated now.
23 Patient's father reported that he had extended complex
24 vision last night lasting a couple of hours. Patient
25 reports hearing voices, believes that someone is lotting

A W R

1 against him by poisoning him. Patient denies suicidal or
2 homicidal thoughts. Patient reported not eating today or
3 yesterday. Patient reports not taking his prescribed
4 Keppra for the last 2-3 days. No other symptoms at this
5 time. Portions of this section were transcribed by
6 Bendick, Morgan M. On 10/02/2015 at 16:42.

7 Q. All right. Thank you, Doctor.

8 A. And it's signed by Dr. Battisti. It's
9 electronically signed by Bellue, Michael, P.A. on
10 10/02/2015 at 20:39 hours and then signed by Dr.
11 Battisti, Amanda, D.O. on 10/08 at 08:51.

12 Q. Okay. Do you know Michael Bellue?

13 A. I don't recall him.

14 Q. Okay. And getting back to the notes that
15 were -- that you just read -- so Matthew presents with a
16 history of epilepsy and not taking his prescribed Keppra
17 for the last 2-3 days. Is that a fair assessment of what
18 that note reflects? Correct?

19 A. That's what it says.

20 Q. And the purpose of -- we talked about this
21 a little bit earlier -- the purpose of Keppra for
22 epileptic is typically to control seizures, correct?

23 A. It's to diminish the chance of having a
24 seizure.

25 Q. Would you agree that it can be harmful

A W R

1 for an epileptic who is prescribed some sort of
2 anti-seizure medication to stop taking that anti-seizure
3 medication?

4 A. Possibly.

5 Q. And -- the patient reported not eating
6 today or yesterday. Would you agree with me that is not
7 advisable -- not to eat for two days? People should eat
8 daily.

9 A. Is that a statement or a question?

10 Q. I'm asking, would you agree with me that
11 people should eat daily, generally speaking?

12 A. I think it depends on the person. Some
13 people fast, some people don't feel like eating. I think
14 that, you know, we eat because we enjoy it and we need
15 the nutrition.

16 Q. Well, he's not eating because he believes
17 the food he used to eat is contaminated now, at least
18 according to the record, do you see that?

19 A. Can you tell me what page you're looking
20 at?

21 Q. Sure. I'm looking at that same page, page
22 12. It's part of what you just read.

23 A. Yes.

24 Q. Associated symptoms including insomnia,
25 anorexia due to believing that: Food he used to eat is

A W R

1 contaminated now, do you see that?

2 A. Yes.

3 Q. Okay. Do you believe that would be a wise
4 decision, for a person to quit eating due to a belief
5 that all the food one used to eat is contaminated?

6 A. I don't know.

7 Q. Okay. You don't have any reason to
8 believe all food in the Myrtle Beach area was
9 contaminated on October 2, 2015, do you?

10 A. I don't know.

11 Q. This description here in the HPMI -- HPI,
12 would you agree that this would be consistent with
13 someone who's having delusions of thoughts?

14 A. I don't know. I didn't assess the
15 patient.

16 Q. I didn't ask if you assessed, but would you
17 agree that this description would be consistent with
18 somebody having delusion of thoughts?

19 A. Possible.

20 THE WITNESS: Do you mind if I take a
21 break to use the bathroom?

22 MR. HINSON: No, that's perfectly fine,
23 Doctor. I should have mentioned that at the beginning.
24 If at any point you need to take -- we can go off the
25 record.

A W R

(Off the record.)

(A recess transpired 11:26 AM to 11:34 AM)

E X A M I N A T I O N

BY MR. HINSON:

Q. Dr. Ash-Bernal, would you agree with me that acute psychosis is a medical condition?

A. Yes.

Q. Okay. Would you agree with me that acute psychosis is a medical condition that requires treatment?

A. Possibly.

Q. Would you agree that mental health is important?

A. Yes.

Q. From your review of Matthew Scheer's chart, do you have any reason to believe that his psychiatric condition, whatever psychiatric condition he suffered from was untreatable?

A. I don't understand the question.

Q. I'm merely asking if -- if you have any reason to believe that whatever psychiatric condition he suffered from in early October 2015 -- if you have any reason to believe that it couldn't have been treated with appropriate medical interventions.

A. I don't know. I'm not a psychiatrist.

Q. And you'd said you're -- you're boarded in

A W R

1 internal medicine, correct?

2 A. That's correct.

3 Q. And in medical school you would have had
4 class -- some classes in psychiatry, correct?

5 A. Yes.

6 Q. How -- tell me about your -- what
7 psychiatric training and education would you have
8 through medical school?

9 A. There was a lecture class on psychiatry and
10 in third year of medical school rotations on psychiatry.

11 Q. Okay. So in your third year of medical
12 school you did a psychiatric rotation?

13 A. Yes.

14 Q. And how long is a rotation?

15 A. It's been a long time. That would've been
16 1998. Possibly six weeks.

17 Q. And where did you -- where would you
18 -- what hospital or facility did you do that rotation?

19 A. Monmouth Medical Center.

20 Q. And where's that?

21 A. That's on the North New Jersey coast.

22 Q. And what type of facility was that?

23 Psychiatric? Was that an in-patient facility?

24 A. Yes.

25 Q. They had out-patient services as well?

A W R

1 A. I don't know.

2 Q. Did you see in the chart where a
3 psychiatric consultation had been ordered for Matthew?

4 A. Could you tell me the specific place
5 you're looking?

6 Q. Sure. I'm looking at the paperwork where
7 Matthew comes back to the hospital in the afternoon of
8 October 2.

9 A. Can you give me a page number?

10 Q. Yes, I'm looking for the exact page number
11 if you'll give me just a second.

12 MR. JOHNSON: Page 74.

13 MR. HINSON: Thank you, Weldon.

14 BY MR. HINSON:

15 Q. Doctor, I'm looking at:
16 Scheer_GSRMC_MedRecs74, do you see that?

17 A. Is this --(Indicating)-- the one you're
18 looking at?

19 Q. Yes, it is.

20 A. Okay. Yes.

21 Q. All right. And so you see down there at
22 the bottom left-hand corner a psych consult is ordered
23 for Matthew?

24 A. You're looking at the bottom page?

25 Q. I'm sorry, yes, the bottom left-hand

A W R

1 corner.

2 A. Yes. Psych consult.

3 Q. And what time was that ordered?

4 A. It was ordered on 10/2/2015.

5 Q. I'm looking at the next page. It looks to
6 me like it was ordered at 17:31 or maybe 19:14.

7 A. Yes, I see where you're looking.

8 Q. So would you agree with me that the record
9 reflects that a psych consult was ordered for Matthew?

10 A. Yes.

11 Q. Okay. And do you see on the page 74, it
12 says: Consult Reason: Acute psychosis, do you see that?

13 A. Yes.

14 Q. What is -- what is acute psychosis? What
15 does that term mean?

16 A. It would mean a recent or rapid onset of a
17 change in his mental status with certain constellation of
18 signs or symptoms.

19 Q. Generally speaking, what is psychosis?

20 A. It's an acute change in mental status with
21 certain symptoms.

22 Q. Psychosis is associated with a
23 disconnection from reality; is that fair?

24 A. Yes, but there are other things that
25 -- you know, to be able to diagnosis psychosis. I think

A W R

1 most of the time when -- and I say this as an admitting
2 physician as well. You have working diagnosis. You have
3 a working diagnosis. For every order I have to put down
4 a diagnosis, you know, in one form or the other. So I
5 mean, when somebody comes into the hospital it doesn't
6 necessarily mean that-that is their diagnosis. It means
7 it's -- it's what you suspect. It's a working diagnosis.
8 It's what you want the consultation team to look into.

9 Q. Well, so in this situation what -- what
10 healthcare providers at Grand Strand wanted from Matthew,
11 among other things, was a psychiatric consultation with
12 regard to Matthew suffering from some sort of psychiatric
13 issues.

14 A. Yes, that's what you would consult a
15 psychiatric team for.

16 Q. Did you see any record that a psych
17 consult ever took place for Matthew? That any
18 psychiatrist ever saw him?

19 A. I don't recall.

20 Q. How long -- if you ordered a psych consult
21 for someone suffering from acute psychosis, someone who
22 was having auditory and visual hallucinations, someone
23 who had epilepsy and reported not taking his anti-seizure
24 medication for 2-3 days -- how quickly would you
25 anticipate that consultation would take place?

A W R

1 A. I'm sorry, could you repeat your
2 question?

3 Q. Sure. If you ordered -- you didn't order
4 the psych consult for Matthew, correct?

5 A. That's correct.

6 Q. Okay. Had you been the physician placing
7 that order, for Matthew Scheer, how soon, how quickly
8 would you desire that consultation to take place?

9 A. I don't think I can gauge that at this
10 facility because I was a night worker, you know. It
11 varies from hospital to hospital. So I don't know that I
12 can comment.

13 Q. Do you have any knowledge regarding the
14 availability of a psychiatric consult at Grand Strand in
15 October of 2015?

16 A. I don't recall.

17 Q. Okay. Did you read any of the
18 depositions that have been taken in this case?

19 A. Some parts.

20 Q. Okay. Which? We've had Mr. And Mrs.
21 Scheer, David and Deborah, Dr. Patel, and Nurse Bell have
22 been deposed. Have you been provided a copy of all of
23 those depositions?

24 A. Yes.

25 Q. Okay. And you've read parts of each one of

A W R

1 them?

2 A. Parts of some of them.

3 Q. Nurse Bell recalled that there were rooms
4 on this hall where Matthew was that were psych rooms, did
5 you see that portion?

6 A. Can you tell me where in the record?

7 Q. Sure. Well, Ms. -- I'll just represent to
8 you Ms. Bell said that the floor -- and I would be happy
9 to pull out the deposition if you want, but Ms. Bell
10 testified that the floor -- the floor of the wing where
11 Matthew was -- there were five psych rooms on that -- on
12 that floor. Do you recall these --

13 A. Can you show me in the record where you're
14 referencing?

15 Q. Well, I'm referencing Nurse Bell's
16 deposition. Do you recall reading that in the
17 deposition?

18 A. I don't recall.

19 Q. Okay. Looking at Matthew's record -- I
20 mean -- look at any number of pages. Right now, I'm
21 looking at -- at page -- at page 74, where we were
22 looking just a second ago.

23 A. Okay.

24 Q. And it says: Room F-1285, do you see that?

25 A. Where are you reading that?

A W R

1 Q. At the top of the page, right here
2 --(Indicating).

3 A. Okay.

4 Q. Do you know what room that is at Grand
5 Strand? Can you visualize where that room is in the
6 hospital?

7 A. Just on the second floor.

8 Q. Can you visualize the hallway though,
9 where it would be?

10 A. Not specifically where this room is, no.

11 Q. Okay. Do you know if there are psych
12 rooms at -- well, if -- in October of 2015, there were
13 psych rooms in Grand Strand?

14 A. There was an area of the second floor
15 where they tended to put psychiatric patients.

16 Q. Okay. And --

17 A. But it was a medicine floor.

18 Q. What types of things, if any, differ from a
19 -- from those rooms, from that area of the hospital, from
20 other patient rooms?

21 A. Well, there are patients that are
22 involuntarily admitted there and there's a security
23 person at the end of the hall.

24 Q. Do those rooms have cameras in them; do you
25 recall?

A W R

1 A. I don't recall.

2 Q. Do those rooms have objects removed from
3 the room which a person might injure him or herself?

4 A. Could you repeat the question again?

5 Q. Do the -- do the rooms in that area -- you
6 said there's an area that has psychiatric patients --

7 A. Um-hum.

8 Q. Do the rooms in that area of the hospital
9 -- have they had things removed from the rooms, things by
10 which a patient might harm him or herself?

11 A. It depends what the room is being used
12 for.

13 Q. Does Grand Strand have rooms like that
14 though? That have items by which somebody might hurt
15 themselves removed from the room?

16 A. Well, that would be standard protocol for
17 anyone if there was concern that they would harm
18 themselves with something in the room.

19 Q. Does Grand Strand have rooms that are
20 prepared that way?

21 A. Possibly.

22 Q. In your time working at Grand Strand, did
23 you ever have the occasion to keep a patient
24 temporarily against his or her will?

25 A. Could you repeat the question again?

A W R

1 Q. Sure. When -- in your time working locum
2 tenens at Grand Strand did you have -- ever have the
3 occasion -- did you ever keep a patient against his or
4 her will?

5 A. Are you referring to the time period when
6 Matthew Scheer was there?

7 Q. At any time when you --

8 A. At any time.

9 Q. -- were working at Grand Strand?

10 A. Uh-huh.

11 Q. Have you done that before at Grand Strand?

12 A. Involuntarily committed someone?

13 Q. Yes.

14 A. Where I initiated it or was a co-signer?

15 Q. Let's start with where you initiated it.

16 A. I don't recall at Grand Strand.

17 Q. Do you recall ever doing it as a co-signer
18 at Grand Strand?

19 A. I have been a co-signer with the
20 emergency department physicians.

21 Q. Okay. And tell me what you do as a
22 co-signer.

23 A. Generally, the paperwork for
24 involuntary -- committing someone requires two
25 physicians to sign.

A W R

1 Q. Where would you find that paperwork?

2 A. In the emergency department I'd usually ask
3 the unit secretary for it and print off a copy.

4 Q. What about the floor where Matthew was, the
5 second floor?

6 A. I would ask the unit secretary to located
7 it for me and print it off.

8 MR. HINSON: Doctor, I'll provide you with
9 what I'll mark as Exhibit 3.

10 (PLF. EXH. 3, GSRMC Application for
11 Involuntary Emergency Hospitalization for Mental Illness,
12 was marked for identification.)

13 MR. MCKAY: Thank you.

14 BY MR. HINSON:

15 Q. Doctor, can you identify that document?

16 A. At the top it says: Part I, Application for
17 Involuntary Emergency Hospitalization for Mental Illness,
18 and then there are, all together, four pages of paper
19 with it.

20 Q. All right. Is this the form you used when
21 you said you were a co-signer in the -- keeping somebody
22 involuntarily because of mental illness?

23 A. I'm reviewing it.

24 Q. Sure. Take your time.

25 A. The last two pages appear more familiar to

A W R

1 me. Licensed Physician Examination for Emergency
2 Admission. Certificate of Licensed Physician Examination
3 for Emergency Admission.

4 Q. And, Doctor, I don't see anything on this
5 -- these pages that requires a co-signer and I'm curious,
6 do you recall there being some requirement for a
7 co-signer?

8 A. This is for an emergency admission. Let's
9 see, -- I'm sorry, could you repeat your question?

10 Q. Sure. Earlier, Doctor, I had asked you
11 about involuntarily keeping somebody because of concern
12 for mental illness and it was my understanding that you
13 said that there was a need for two -- two folks to --

14 A. I said --

15 Q. -- sign off on that.

16 A. I said, typically.

17 Q. And --

18 A. So in the emergency department at Grand
19 Strand Hospital if an emergency medicine physician wants
20 to admit someone for suicidal ideation -- they believe
21 they're potentially a harm to themselves or others, the
22 hospitalist is also asked to sign the paperwork.

23 Q. Okay. And so I -- where -- is this the
24 paperwork that you would sign?

25 A. I -- I don't recall.

A W R

1 Q. Okay. Do you believe there is some
2 different paperwork?

3 A. I don't know. But this is -- this is a
4 Certificate for Licensed Physician Examination for
5 Emergency Admission.

6 Q. How --

7 A. So this has -- this has one signature
8 area at the bottom.

9 Q. Do you believe you could have filled out
10 such paperwork for Matthew on October 3, 2015, and
11 temporarily hospitalized him involuntarily?

12 A. If I felt any patient was a danger to
13 themselves or others I am able to involuntarily commit
14 them.

15 Q. With a patient, with a history of epilepsy,
16 reporting not taking his Keppra for two days, a patient
17 with paranoia and hallucinations, a patient with anorexia
18 due to believing that all food he used to eat is
19 contaminated, a patient who reports hearing voices and
20 believes someone is plotting against him by poisoning him
21 -- do you believe you could've filled out this paperwork
22 for Matthew Scheer and temporarily kept him
23 involuntarily?

24 MR. MCKAY: Object to form. Go ahead and
25 answer it if you can.

A W R

1 THE WITNESS: I'm sorry, what?

2 MR. MCKAY: I said, go ahead and answer it
3 if you can.

4 A. My clinical assessment at the time, based
5 on my documentation, was that-that was not necessary and
6 as I don't really recall this patient I have to go by my
7 own documentation.

8 Q. What part of your documentation leads you
9 to -- to that conclusion?

10 A. Could you give me a specific page number?

11 Q. Sure. Well, the documentation we were
12 looking at earlier, which I presume you're -- you're
13 speaking of is on page 68.

14 A. Okay.

15 Q. But if there's some other, I want you to
16 point it out to me.

17 A. And, I'm sorry, what was your question
18 again?

19 Q. Sure. I asked earlier -- I asked if
20 given Matthew's medical condition if you, in the early
21 morning hours of October 3, 2015 --

22 A. Um-hum.

23 Q. -- could've filled out this involuntary
24 admission paperwork and temporarily kept Matthew in the
25 hospital against his --

A W R

1 A. If at the time of evaluation, I thought he
2 was a danger -- eminent danger to himself or others, yes,
3 I would've filled it out.

4 Q. Okay. And how do you define eminent
5 danger?

6 A. Well, patient's that admit to being
7 suicidal or -- and/or have a plan, that could be eminent
8 danger. Someone who threatens someone, either the staff
9 or discloses a plan that they intend to harm someone and
10 -- I think I -- I mean, my general habit is to press
11 people. If I'm not sure, if I have questions -- it's not
12 something that I would just take lightly. I would
13 attempt to get the information that I could and take the
14 time to do it as well.

15 Q. What about somebody with delusion of
16 thoughts suffering from hallucinations, even if he or she
17 doesn't have an intent to harm himself, could they still
18 be in danger of unintentionally harming themselves?

19 A. Well, depends if it's a delusion and it
20 depends if it's -- what the delusion is.

21 Q. So you would agree that a person with
22 delusion of thoughts could, depending on the delusions
23 stand the -- be in a position where they may cause
24 substantial harm to him or herself?

25 A. It's possible.

A W R

1 Q. And I -- earlier I had asked you about why
2 it was you didn't think to fill out an involuntary form
3 -- an involuntary admission form for Matthew and you said
4 -- you referenced your note. And so my question that I
5 think that we had a few minutes ago was, what about your
6 note leads you to determine that you didn't think Matthew
7 was at risk of harming himself or others?

8 A. Well, I would've asked him about if he had
9 -- if he had any suicidal thoughts or thought about
10 harming himself, that's standard although that's not
11 reflected here, which does not necessarily mean I didn't
12 ask it. It's a pretty standard thing. Have you -- have
13 you thought about harming yourself? Have you thought
14 about harming anyone else, and specifically using
15 language that's straight-forward and direct that the
16 patient can understand? I wouldn't have said: Suicidal
17 ideation, you know? I mean -- and just very direct,
18 simple questions. You know, I did remark that he -- that
19 he seemed to weigh the information. That's definitely
20 something that I look for.

21 Q. Do you agree with me that he was having
22 some sort of religious rant according to your note?

23 A. Yes. I documented that.

24 Q. Okay. And you explained to him that he
25 could die from -- and then it goes on to say his

A W R

1 psychiatric illness. What would you explain to him how
2 he could die from his psychiatric illness?

3 A. Say, in general, somebody is trying to
4 leave the hospital against medical advice at night,
5 which generally I don't think is a good idea -- that
6 -- I would try to explain in every way I could what's
7 possible if they did not continue getting medical care.

8 MR. HINSON: Doctor, the court -- the
9 videographer needs to change some tapes so we'll go off
10 the record for just a second.

11 THE WITNESS: Okay.

12 (Off the record.)

13 E X A M I N A T I O N

14 BY MR. HINSON:

15 Q. Doctor, I'm looking at page -- wow
16 -- page 51 in the -- of Exhibit 1 in front of you.

17 A. Okay. The -- this page -- (Indicating) --

18 Q. The admission page. Yes, ma'am.

19 A. Okay.

20 Q. And you see it says: Person to notify,
21 over there -- David Scheer, kind of, on the right-hand
22 side, a little bit below the --

23 A. Yes.

24 Q. -- bottom part of the page. And has
25 David Scheer's phone number in there, correct?

A W R

1 A. 609-226-4952.

2 Q. Okay. It says: Relation: Father. So
3 meaning that's --

4 A. Yes.

5 Q. -- the father of the patient, correct?

6 A. Yes.

7 Q. All right. And we saw earlier that
8 Matthew came to the hospital accompanied by his father,
9 correct?

10 A. Yes.

11 Q. And, per your note, you never encountered
12 -- or came in contact with David Scheer that you recall
13 or that the --

14 A. Not that I recall.

15 Q. And not that the record reflects; would you
16 agree?

17 A. Yes.

18 Q. Okay. And if you go a couple pages back,
19 we're looking at page 42. Would you identify what that
20 page is?

21 A. Is this --(Indicating)-- what you're
22 talking about?

23 Q. It is, yes.

24 A. Okay. Discharge summary, chart copy.

25 The date at the top is 10/2/2015. Time is 12:36 PM. Do

A W R

1 you want me to continue?

2 Q. Sure. Well, just generally speaking,
3 what's this page?

4 A. It's a discharge summary.

5 Q. Okay. So it's the paperwork the
6 patient is given when -- when he or she leaves the
7 hospital or leaves the emergency department?

8 A. Generally, that's what a discharge
9 summary is.

10 Q. Okay. And so, this was -- this is
11 Matthew's discharge summary from his initial presentation
12 to the -- to the ED at Grand Strand, is that --

13 A. I --

14 Q. -- statement a fair representation of
15 what that document is?

16 A. I don't know. I don't recall seeing this
17 before, but --

18 Q. Okay. Well, from your review of the
19 document and the record, does that seem to be what this
20 -- what this is? When he's being -- it's a discharge
21 summary from 12:30 on the 2nd of October, 2015.

22 A. I don't see where it says -- let me just
23 see. I don't see where it says -- it's Amanda Battisti up
24 at the top. I don't see anything about the emergency
25 department though, so I -- I can't comment on that.

A W R

1 Q. Well, would you agree with me Matthew, it
2 appears in this document -- he's being referred to
3 Lighthouse Care Center? See that about midway through
4 the page?

5 A. It states: You should follow-up with the
6 following physician immediately. Physician Name:
7 Lighthouse Care Center. Specialty: Mental Health.
8 Address is 152 Waccamaw Medical Park Drive, Conway, South
9 Carolina, 29526.

10 Q. Okay.

11 A. And there's a phone number.

12 Q. All right. And so, Doctor, would you
13 agree that this document appears to be directing Matthew
14 to follow-up immediately with a mental health care
15 facility?

16 A. It appears so.

17 Q. Okay. And my question actually about this
18 was -- there's a signature there on the page. It's on
19 the bottom left-hand side, do you see that?

20 A. I see a scrawl.

21 Q. Yes. It looks like three letters, kind of,
22 in cursive -- are we looking in the same place?

23 A. Are you talking about --(Indicating)--this?

24 Q. Yes, ma'am.

25 A. Okay. Yes.

A W R

1 Q. And I just want to compare that to later
2 signatures for Matthew. Let's look at page 49, there's a
3 couple of Matthew's signatures there.

4 A. Okay.

5 Q. Do you see those signatures on that
6 page?

7 A. You're referring to this page
8 --(Indicating)--?

9 Q. I am, yes.

10 A. Okay. Yes, I see signatures on this page.

11 Q. All right. And then on the next page
12 -- page 50, there's some initials -- the patient's
13 initials. See those down at the bottom, a little bit
14 towards the left?

15 A. Yes.

16 Q. It looks like: MJS Matthew Jaggard
17 Scheer, I believe, do you see that?

18 A. I can't really make it out.

19 Q. Would you just agree with me -- would
20 you agree with me that those appear to be a different
21 signature than what appeared on page 42?

22 A. I don't know.

23 Q. You can't agree that-that appears to be a
24 different signature on 42 than it does on 49?

25 A. I really can't comment. I'm not a

A W R

1 handwriting expert.

2 Q. Okay. Well, Doctor, I represent to you
3 that's David Scheer's signature on page 42. Presuming
4 that to be correct --

5 A. I don't know.

6 Q. Well, presuming that to be correct,
7 Doctor, we've got a patient who presents to the hospital
8 with his -- with his dad. His dad is listed as the
9 person to notify and his dad is even signing the
10 discharge summary paperwork -- did anything prevent you
11 from calling Matthew's dad at approximately 1:15 AM on
12 October 3, 2015?

13 A. Only if the patient declined me being
14 able to call his parent or whoever he wanted.

15 Q. Why do you say that?

16 A. Well, he has a right to privacy of his
17 medical care and if he declined, which is what the
18 nurses stated, then I could not reveal his medical care
19 or call his father if he did not want me to call his
20 father.

21 Q. Are you --

22 A. I'd -- I'd make the distinction too -- I
23 mean, being able to and wanting to are two different
24 things, you know.

25 Q. Are you aware of HIPPA provisions that

A W R

1 provide that when a patient is suffering from a mental
2 incapacitation a healthcare provider may share the
3 patient's information with family, friends, and others
4 involved in the patient's care so long as the healthcare
5 provider determines, based on his or her professional
6 judgement, that doing so is in the best interest of the
7 patient?

8 MR. MCKAY: Object to the form.

9 BY MR. HINSON:

10 Q. Are you aware of such provisions of the
11 HIPPA laws?

12 A. Could you repeat the question?

13 Q. Sure. Are you aware of provisions in the
14 HIPPA law that provides that where a patient suffering
15 from mental incapacity a healthcare provider may share
16 the patient's information with family, friends, or others
17 involved in the patient's care so long as the healthcare
18 provider determines, based on his or her professional
19 judgement, that doing so is in the best interest of the
20 patient?

21 A. I think if the patient declined contact
22 -- having any of the staff contact his father that we
23 had to respect his wishes.

24 Q. Even if it would be in the best interest of
25 the patient?

A W R

1 A. I -- I can't comment on what is in the
2 best interest of the patient in that exact moment.
3 What I can comment on is that the patient definitively
4 stated he did not want his father called. I do not know
5 why.

6 Q. Why can't you comment on what would be in
7 the patient's best interest at that exact moment?

8 A. If he's able to describe his wishes to me,
9 whether or not I agree with them, you know, I need to
10 comply with that.

11 Q. Doctor, if a provision in HIPPA provided
12 that if a patient objects to a provider sharing
13 information with the patient's family member, the
14 provider may share the information if doing so is
15 consistent with the applicable laws and ethical conduct,
16 and the provider has a good faith belief that the patient
17 poses a threat to the safety of him/herself or others and
18 that family member is reasonably able to lessen or
19 prevent that threat.

20 MR. MCKAY: Object to the form.

21 BY MR. HINSON:

22 Q. Are you familiar with such provisions
23 within HIPPA?

24 A. It's possible.

25 Q. Are you familiar, though, with them?

A W R

1 A. I mean, it sounds like you're reading
2 directly from the document. So it's possible.

3 Q. My question was if you were familiar with
4 such a provision?

5 A. I think that when a patient states that he
6 does not want -- he or she does not want certain people
7 contacted they may share with me why they want that or
8 not, but it's my duty to respect the patient.

9 Q. What if the patient is suffering from an
10 acute psychotic episode, does that change the analysis?

11 A. If the patient was in eminent danger of
12 self or endangering others, it's possible.

13 Q. How do you define eminent in that
14 sentence?

15 A. Eminent, meaning right there or within a
16 short period of time?

17 Q. How short? Minutes --

18 A. I don't know.

19 Q. -- hours, days, weeks.

20 A. I can't say. I mean...

21 Q. Are you familiar with the Notice of
22 Privacy Practices used at Grand Strand Medical Center?

23 A. They were reviewed in my orientation
24 possibly, yes.

25 Q. There is a portion of those privacy

A W R

1 practices used at Grand Strand -- well, you would
2 expect that patients admitted to the hospital sign-off
3 that they've received some sort of copy of the privacy
4 practices, correct? That's typical operating procedure?

5 A. That's not something that I would be
6 directly involved with, but typically hospitals have
7 their procedure for that.

8 Q. We're going to look at page 48, if you
9 would.

10 A. Okay. Oops.

11 Q. Matthew Scheer, it appears on page 48,
12 signed off acknowledgment of the Notice of Privacy
13 Practices. Do you see that about one-third down the
14 page?

15 A. Okay. I see number 15, Notice of
16 Privacy Practices.

17 Q. Yes.

18 A. I acknowledge that I have received the
19 hospital's Notice of Privacy Practices, that paragraph?

20 Q. Yes.

21 A. Yes.

22 Q. If the privacy practices at Grand Strand
23 state: We may also use and disclose health information
24 for the following types of entities, including but not
25 limited to and then it goes on to list: A person or

A W R

1 person's able to prevent or lessen a serious threat to
2 health or safety.

3 A. Yes, I see that.

4 Q. Do you believe Matthew's father could've
5 been in a position to prevent or lessen any danger to
6 Matthew?

7 A. I don't know. I can't answer to a
8 hypothetical like that.

9 Q. Do you believe Matthew was at risk of
10 serious injury due to his psychiatric illness, correct?

11 MR. MCKAY: Object to form.

12 A. If during my clinical assessment of him I
13 had thought that, I would've documented it.

14 Q. Well, Doctor, you wrote --

15 A. Can you tell me the page number you're
16 looking at?

17 Q. Sure. Looking back at 68 your
18 cross-cover note --

19 A. Uh-huh.

20 Q. -- you wrote: It was explained to him
21 that he could die from -- then it lists infection,
22 seizures, --

23 A. Mm-huh.

24 Q. -- were to result of his psychiatric
25 illness. You wrote that note, correct?

A W R

1 A. Yes.

2 Q. Okay. So would you agree that Matthew was
3 at risk -- well, you would agree that death would be
4 serious injury, correct?

5 A. I think injury and death are two different
6 things.

7 Q. Uh-huh.

8 A. Death is a terminal event.

9 Q. Fair enough.

10 A. Injury is not.

11 Q. You wrote that he could die from his
12 psychiatric illness. You wrote those words, correct?

13 A. Yes.

14 Q. Okay. And --

15 A. In an effort, I'm sorry, I don't mean
16 to interrupt you, but in an effort to keep the
17 patient in the hospital. To clarify the
18 gravity of them leaving.

19 Q. Okay. So him leaving the hospital -- he
20 was posing a risk to himself that he could die from his
21 psychiatric illness?

22 A. No, this is a hypothetical.

23 Q. Well, I'm looking at your note.

24 A. I agree.

25 Q. You explained to him that he could die

A W R

1 from his psychiatric illness if he left the hospital.

2 A. You could die -- walking across the street.

3 Q. Would you explain that to me if I was
4 trying to leave the hospital?

5 A. I -- anyone that leaves against medical
6 advice I try and emphasize that many things depending on
7 what they were getting worked-up for, if they don't get
8 worked-up, could be dangerous.

9 Q. Matthew leaving, against medical advice --

10 A. Mm-huh. I'm sorry, yes.

11 Q. -- he had the possibility of dying for
12 his -- because of his psychiatric illness, correct?

13 A. That's a statement. What's the question?

14 Q. Is that correct? Doctor, I'm asking
15 -- Matthew choosing to leave against medical advice, he
16 posed the risk of dying due to his psychiatric illness.

17 A. I cannot agree with that.

18 Q. Okay. You wrote, Doctor: It was explained
19 to him that he could die from psychiatric -- his
20 psychiatric illness. And so you don't agree that him
21 leaving -- he posed the risk of dying from psychiatric
22 illness.

23 A. If in my clinical assessment, when I was
24 talking to the patient -- if I thought that he posed a
25 clinical risk to himself or others, I would've kept him

A W R

1 from leaving.

2 Q. Okay.

3 A. And I can only go by my notes and my
4 routine seeing patients.

5 Q. Doctor, turn to page 85 in that record,
6 please.

7 A. Yes.

8 Q. All right. Doctor, what is page 5 -- or
9 page 85 and 86?

10 A. Grand Strand Regional Medical Center
11 Informed Refusal for Partial Refusal of Care and AMA,
12 Against --

13 Q. Is that your hand -- I'm sorry, go ahead.

14 A. Against Medical Advice.

15 Q. Is that --

16 A. And the top says: The sections below are
17 for partial refusal of care and against medical advice
18 are only applicable for those individuals who have been
19 triaged and an ED physician or QMP has begun a medical
20 screening examination or any stabilizing patient. Do you
21 want me to continue?

22 Q. No, I'm just asking, Doctor, what the page
23 is. What -- if you could just, in layman's terms, tell
24 us what we're looking at?

25 A. It's the AMA form that's used.

A W R

1 Q. Okay. Did you complete that form?

2 A. Yes, it looks like my handwriting.

3 Q. Okay. And then you signed the form on the
4 next page, correct? Page 86 of Exhibit 1?

5 A. Yes, that's my signature.

6 Q. Okay. And I'm looking on page 85 --

7 A. Yes.

8 Q. It says: Risk of such refusal of care
9 -- and you -- the first thing you wrote was death,
10 correct?

11 A. No, the first thing I wrote was IV
12 peripheral line, Keppra.

13 Q. I'm looking at the column entitled: Risk
14 of --

15 A. Risk of refusal.

16 Q. -- Refusal of care?

17 A. Yes.

18 Q. And the first thing you wrote was the risk
19 was death, correct?

20 A. It does say death there, yes.

21 Q. Okay. So my question is, Doctor, Matthew
22 leaving the hospital against medical advice posed a risk
23 that he might die, correct?

24 A. I disagree with that.

25 Q. Okay. How --

A W R

1 A. This is not a prediction. It's not a
2 prediction. This says, I asked the questions I wanted to
3 ask and that I still refused the test, examination,
4 and/or treatments as follows. This just means that I
5 reviewed these possibilities with him and he still
6 refused.

7 Q. Okay. Doctor, what does the word: Risk,
8 mean?

9 A. Risk means there's a possibility of
10 something happening.

11 Q. Okay. Matthew leaving the hospital
12 against medical advice posed the possibility that he
13 might die due to his psychiatric illness, correct?

14 A. There is a possibility.

15 Q. And you wrote that that was one of the
16 risks that he was enduring -- that he -- that was one of
17 the risks that him leaving the hospital posed. You wrote
18 that on this form, didn't you, Doctor?

19 A. I would've discussed any one of these
20 things with him.

21 Q. That wasn't my -- I didn't ask what you
22 discussed. My question was, you wrote on this form --

23 A. Um-hum.

24 Q. -- that one of the risks leaving the
25 hospital posed was the risk of death.

A W R

1 A. Yes.

2 Q. Okay. Do you believe that calling his
3 father, who had accompanied him to the hospital and
4 could have lessened or prevented the risk of death?

5 MR. MCKAY: Object to form.

6 A. He didn't allow me to call his father.

7 Q. Well, he had signed that he had read the
8 Notice of Privacy Practices, we established that earlier,
9 correct? He had signed he had received and read those.
10 And if the privacy practices for Grand Strand say: We may
11 also use and disclose healthcare information to a person
12 or persons able to prevent or lessen a serious threat to
13 health or safety. He had agreed that someone who could
14 lessen threats to his safety could be called, didn't he?

15 A. He apparently signed that. I don't know.

16 Q. Okay. Would you agree with me that
17 Matthew's father may have been able, if called -- may
18 have been able to lessen the risk of death Matthew faced?

19 MR. MCKAY: Object to the form.

20 A. I can't comment on a hypothetical like
21 that. I just don't know.

22 Q. What would you need to know?

23 MR. MCKAY: Object to form.

24 A. The only thing I can draw on is past
25 experience with other situations. There have been many

A W R

1 situations where family members have requested
2 information about a patient and the patient, for
3 whatever reason -- and many times there are reasons that
4 are not elucidated immediately -- that they do not want
5 the family members to know and out of respect for the
6 patient -- I mean, I can ask -- I can ask why. If they
7 say, no, they don't want to tell me why, that's kind of
8 the end of the discussion. I have to respect their
9 right to privacy and their desire not to reveal
10 information about their healthcare, and if you were my
11 patient in the hospital I would do the same for you.

12 Now, it's very possible that over time,
13 developing a relationship with a patient, that if there's
14 trust that they may actually start revealing reasons.
15 And I can honestly say there have been many situations
16 where information was revealed that was very surprising,
17 you know, about the patient and I've learned from a lot
18 of experience, you know, not to assume that I know why
19 somebody would say: You know, I don't want you to call my
20 father or my mother, and I would do the same for you, as
21 a patient, or any of the lawyers here, or the
22 stenographer, because that's my duty as a physician.

23 Q. You're cross-cover note doesn't reflect
24 asking Matthew about calling his father, does it?

25 A. I believe the -- the nurse mentioned it.

A W R

1 Q. Okay.

2 A. But, routinely, I would also ask that.

3 Q. Your cross-cover note doesn't make any
4 mention of asking about calling his father, does it?

5 A. Not that I see, no.

6 Q. Okay. And you had no independent
7 recollection of asking Matthew about calling his
8 father, do you?

9 A. I remember the nurses telling me that
10 they did -- that he didn't want his father called.

11 Q. Okay. So now, Doctor, you have some
12 independent recollection of your treatment of
13 Matthew?

14 A. When I was reading the deposition by
15 Ms. Bell, the nurse --

16 Q. Um-hum.

17 A. -- some of what she was saying was
18 familiar and I also note, just by routine, these are some
19 of the most basic, most important, things that I would
20 ask as well. And also, information that the nurses would
21 communicate to me.

22 Q. So earlier, Doctor, I asked if you had any
23 independent recollection of your treatment with regard to
24 Matthew, and I understood that you didn't. Now as I
25 understand your testimony, you have some recollection of

A W R

1 a nurse speaking to you about Matthew?

2 A. No, when I read her deposition, at least
3 that section of it, it sounded familiar.

4 Q. Okay. Anything else that you -- sounds
5 familiar, to use your words?

6 A. Some of the things in her deposition
7 sounded familiar, others did not.

8 Q. Such as what? What sounded familiar to
9 you?

10 A. Can you give me a page number?

11 Q. Well, I -- I'm -- you're the one that said
12 certain things sounded familiar to you.

13 A. I -- I can't point to a specific paragraph.
14 I mean, there was a lot of paperwork I went through and I
15 just recall thinking, that sounds kind of familiar.

16 Q. Okay. But you --

17 A. Other -- other parts didn't sound familiar.
18 I mean, this is over two years ago.

19 Q. But, you don't -- again, so as I
20 understand you don't have an independent recollection of
21 Matthew Scheer and being the --

22 A. I don't remember what he looks like.

23 Q. -- medical care -- but you don't have
24 independent recollection of the events of the
25 morning of October 3, 2015?

A W R

1 A. Not specifically.

2 Q. Well again, Doctor, when you say not
3 specifically, do you have generally a recollection? I
4 had thought we had established that you didn't, but now
5 I'm -- I -- I'm unsure. Do you have an independent, any
6 independent, recollection of Matthew Scheer and the
7 medical care he was provided -- conversations with nurses
8 with regard to Matthew? Anything with regard to Matthew
9 Scheer from October 3rd, --

10 A. I can only say that when --

11 Q. -- 2015?

12 A. I can only say that when I -- when I read
13 Ms. Bell's deposition some of the things that she was
14 saying sounded familiar, that's -- that's all. It's not
15 a completely specific memory of the entire event or
16 talking to him, it just seemed familiar and with seeing
17 many patients, like we do and -- I mean, that's sort of
18 common.

19 Q. Nothing more you can add then besides what's
20 already in the medical record; is that fair?

21 A. I have not read all of the medical records,
22 so I can't make that statement. I haven't read every
23 single page, every line.

24 Q. But you have no independent recollection.
25 You wouldn't come to trial and say, I remember this, I

A W R

1 remember X, I remember Y?

2 A. I can't deal in hypotheticals like that.

3 Q. Doctor, I'm trying --

4 A. I'm -- I'm not trying to -- I'm really not
5 trying to give you a hard time. I'm trying to answer the
6 question, but it's -- you're asking these hypotheticals
7 that, you know, -- I mean, I honestly -- I didn't even
8 know about this, all of this, until a bunch of months
9 ago.

10 Q. But Doctor, what I am trying to
11 understand is --

12 A. Uh-huh.

13 Q. -- what you would come to trial and
14 testify to and if you have a recollection of Matthew,
15 which I had thought we had established that you
16 didn't --

17 A. Uh-huh.

18 Q. -- then that's one thing. If you have
19 some memory of him and some memory of conversations
20 with nurses I'd like to know what your memory is of
21 that?

22 A. I think when I was reading Ms. Bell's
23 deposition I had a vague recollection of some of the
24 things. I do not remember what he looks like.

25 Q. Okay.

A W R

1 A. And other than what I documented, I don't
2 know what else to say.

3 Q. Okay. So that -- so you have nothing
4 additional to add. There's nothing you can point to,
5 sitting here today -- I remember this conversation. I
6 remember this being said to me.

7 THE WITNESS: I'm sorry, my microphone
8 fell off.

9 MR. HINSON: Quite all right.

10 VIDEOGRAPHER: Just put it back -- yes.

11 A. I'm sorry, repeat the question please.

12 Q. Sure. And so I'm asking -- you have
13 nothing more to add, as I understand it -- I remember a
14 nurse telling me something along the lines of X-Y-Z. I
15 remember Matthew saying such-and-such to me. You don't
16 have any independent recollection of things like that?

17 A. What I've told you is the best of my
18 recollection. That's all I can tell you.

19 Q. There's nothing more to add from what
20 we've discussed?

21 A. At this time, no.

22 Q. Okay. Doctor, was there, and I want to be
23 clear in my question -- I am not asking you in any way
24 for the substance of anything that was done or said, but
25 were you a part of any sort of committee or investigation

A W R

1 with regard to Mr. Matthew Scheer?

2 A. No, not that I recall.

3 Q. You don't recall any sort of peer review or
4 sentinel event or some type of committee that was formed
5 and looked into Matthew's medical care on October 3rd --
6 2nd and 3rd, 2015?

7 MR. JOHNSON: I'm going to object to
8 the question because it's privileged, but you may
9 answer.

10 A. I'm a little confused -- what to do now?

11 Q. You can answer, Doctor. Again, and I
12 want to be clear -- all I'm asking is if you recalled in
13 any way participating in any sort of committee like that?

14 A. I don't recall.

15 Q. Do you recall ever being questioned by any
16 sort of police department personnel with regard to
17 Matthew?

18 A. I don't recall.

19 Q. Okay. Is elevated white blood cell count
20 of 14.4 -- is that a serious medical condition,
21 typically?

22 A. It's possibly.

23 Q. Can stress and anxiety raise one's white
24 blood cell count?

25 A. You can get a mile leukocytosis with

A W R

1 stress, yes.

2 Q. What do you define as a mild leukocytosis?

3 A. Well, the upper limit of normal is about
4 10, depends on the facility. They might have a slightly
5 different range than that but anything in the range over
6 10, but less than 15.

7 Q. Okay. Would be a mild leukocytosis?

8 A. Mild-to-moderate, could be. It depends on
9 which end you're talking about of that range, but in a
10 -- in a young, healthy person -- and you have to keep in
11 mind the age of the patient as well. I mean, someone who
12 is young and healthy can -- can mount a pretty -- a
13 pretty good response to things and, you know, someone who
14 is older or immunocompromised might not be able to.
15 So it's really in the context of the patient and the
16 -- what they're presenting with. You know that -- I
17 don't mean to flavor this. Labs are only meaningful in
18 the context, is what I'm saying.

19 Q. If Matthew had an elevated white blood
20 cell count of 14.4, is one possible explanation for
21 this 14.4 anxiety and stress for a 26-year-old male?

22 A. It's possible.

23 Q. And if Matthew -- if Matthew had an
24 elevated bilirubin of 5.5, could one explanation of that
25 elevated bilirubin be malnutrition for a few days?

A W R

1 A. I'm not sure about that. There are other
2 more common reasons for something like that, and I'm not
3 -- I was a little puzzled about that in the medical
4 record, but I saw that Dr. Battisti, you know, ordered a
5 work-up of that.

6 Q. What sort of things can cause an
7 elevated bilirubin to 5.5?

8 A. Well, I mean, the most common thing
9 would be like an obstruction in the common bile duct,
10 which -- although I don't recall her specifically saying
11 in her note what she was working-up, but that would be a
12 common reason to get a right-upper quadrant ultrasound
13 that she ordered and...

14 Q. What other things could elevate bilirubin?

15 A. Any kind of gallbladder disease or disease
16 of the liver. There would have to be further work-up of
17 it to start narrowing down.

18 Q. And we don't -- and we don't have that
19 work-up to -- to know, correct?

20 A. I -- I didn't see anything.

21 Q. Was there anything that prevented you from
22 calling Dr. Patel on the morning of October 3, 2015?

23 A. Well, my shift ended at 3:00 AM. It's
24 very likely I was sleeping.

25 Q. Well, but at the time period I'm speaking

A W R

1 of around 1:15 when you were -- had encountered Matthew,
2 at least per the record, was there anything that
3 prevented you from paging or calling Dr. Patel?

4 A. Well, he wasn't on-duty.

5 Q. Do physicians sometimes get called when
6 -- when they're outside of their shift?

7 A. For hospitalists or are you talking
8 -- can you be more specific? I guess --

9 Q. What about hospitalists? Do they ever
10 get called outside of their --

11 A. Not typically.

12 Q. Have you ever done that? Called a
13 hospitalist outside of his or her shift hours to ask a
14 question about a patient?

15 A. I don't recall.

16 Q. What's a discharge plan? What does that
17 term mean, generally speaking?

18 A. It's a plan of care for after the patient
19 leaves the hospital.

20 Q. And when is one of those made?

21 A. Well, as far as the physician, it's likely
22 it would start to be made once the decision was made to
23 discharge.

24 Q. Was there ever a discharge plan made for
25 Matthew?

A W R

1 A. I don't recall. He left against medical
2 advice.

3 Q. You saw that Nurse Bethany Bell did the
4 intake information for Matthew. Did you see that in her
5 deposition? She talked about doing the intake.

6 A. Could you give me a specific page
7 number, please?

8 Q. I would be happy to. Do you have a
9 copy of her deposition?

10 A. I have the --(Indicating)-- pages that
11 you gave me. While you're looking, do you mind if
12 I take another bathroom break?

13 MR. MCKAY: Yes, that's fine.

14 MR. HINSON: Yes, sure. That would be fine.

15 THE WITNESS: Okay.

16 (Off the record.)

17 E X A M I N A T I O N

18 BY MR. HINSON:

19 Q. Doctor, what I'm looking at here is the
20 assessment done by Nurse Bethany J. Bell, and I believe
21 it starts on page 109 and goes through to about page
22 -- well, up to about page 129 of Exhibit 1, do you see
23 where I'm looking?

24 A. Yes.

25 Q. And my question is this, the -- at Grand

A W R

1 Strand when a nurse does an initial assessment of a
2 patient, what's your understanding, if any, of what
3 information the nurse has been given prior to doing that
4 nursing assessment?

5 A. I'm sorry, could you --

6 Q. Sure. I --

7 A. -- say the question again?

8 Q. My question asked, when a nurse at Grand
9 Strand does a nursing assessment of a patient that's
10 being admitted, what's your understanding of what
11 information the nurse will have been provided about the
12 patient prior to doing the assessment?

13 A. They do their nursing assessment.

14 Q. I understand, but they have to know to go
15 into the room to do it. They have to know that there's a
16 patient there that needs a nursing assessment, correct?

17 A. Since I'm not a nurse, I don't know.

18 Q. Okay. So then it's fair to say you're
19 unaware of what information a nurse would have about a
20 patient at the time he or she begins doing a nursing
21 assessment?

22 A. I -- I don't think I've ever looked at
23 -- in fact, I can't look at the same screen. For
24 instance, in the electronic medical record, what -- what
25 they see is different than what a physician necessarily

A W R

1 sees in some screens because its geared towards the
2 person that is using it -- the physician, the nurse. Do
3 you understand? I mean, there's times I've talked to
4 nurses and they -- they can show me something on their
5 screen because their view looks different than mine and
6 depending on the electronic medical record it can look
7 completely different.

8 And so I'm not trying to be evasive, it's just
9 that -- I mean, sometimes even when a nurse points out
10 what she's pointing at the screen looks very different to
11 me and they would literally have to point it out to me.

12 Q. Okay.

13 A. You know. And sometimes it looks similar
14 to what my screen looks like, and that's very common with
15 electronic medical records. They're geared towards the
16 user.

17 Q. That information on the screen is still
18 available to you as the physician though, correct?

19 A. If I went looking into the nursing section,
20 it could be.

21 Q. You wouldn't anticipate there is
22 information that's being withheld from you as a
23 physician, would you, that's unavailable to you? You
24 wouldn't anticipate that there was patient information in
25 the computer system at Grand Strand Regional Medical

A W R

1 Center that would be available to a nurse, but not
2 available to you as the physician, would you?

3 A. I would hope they would tell me
4 anything relevant.

5 Q. That's a little different than my
6 question, Doctor. You would not anticipate that
7 there's information in the computer system, the patient's
8 medical -- electronic medical chart that would be
9 unavailable to you as a physician, but available to a
10 nurse. You wouldn't expect that, would you?

11 A. Yes, I don't know. That's a
12 hypothetical.

13 Q. I -- I don't intend it as a
14 hypothetical at all. Would you anticipate that there
15 would be information about a patient that would be
16 available to a nurse, but not available to a physician?
17 That wouldn't be the way you anticipate a computer system
18 to work at Grand Strand Medical Center.

19 A. Well it's -- it's difficult to answer
20 because there's -- there's times where, although in
21 theory it's available, it may not be very easily
22 discoverable. In other words, I would have to go into
23 the nursing section and -- and look around and try to
24 find if this is something that, you know, I thought that
25 there might be something more in the nursing notes. And

A W R

1 on occasion I have done that, but on routine the types of⁸⁷
2 things that I look at are somewhat different than what
3 the nurse looks at. We both look at the labs, for
4 instance. There's things -- there's commonalities, and
5 then because we're doing different things, our
6 responsibilities are different, we may be looking in
7 different areas of the chart. It's almost like you have
8 to imagine the -- like we're talking about a file cabinet
9 --(Indicating)-- filled with papers and we go into
10 certain sections and look. That's our routine.

11 Q. Okay. You would expect, as the
12 physician, caring for a patient to have access to any
13 information in the patient's medical chart that a nurse
14 would have access to?

15 A. That was relevant to their medical
16 care, yes.

17 Q. Okay. And earlier I was asking you about
18 what you would anticipate a nurse would know, if
19 anything, about a patient at the time he or she begins
20 doing an initial nursing assessment, and I don't know
21 that I ever got an answer to that question. Do you have
22 no comment on what you would expect a nurse to know
23 during an initial nursing assessment? What you would
24 expect the nurse to know about the patient?

25 A. I'm sorry, you're really confusing me.

A W R

1 Q. I'm -- I'm sorry. That's really the
2 worst question, I will admit. My question deals with
3 -- nurse -- nurses do the nursing assessments, correct?

4 A. Yes.

5 Q. Okay. At some point, the patient comes to
6 the hospital, a nurse is going to walk in and go through
7 a nursing assessment with the patient, correct?

8 A. Yes.

9 Q. Okay. At the point the nurse walks into
10 the room, to do this assessment, what would you as the
11 physician expect the nurse to already know about the
12 patient? I mean, obviously the nurse knows the patient's
13 in the room because he or she knew to go perform the
14 assessment. What other information about the patient
15 would you expect the nurse to already be aware of at the
16 time he or she goes to perform that assessment?

17 A. The patient's name, possibly date of
18 birth, the gender.

19 Q. Would you anticipate the nurse should know
20 the general purpose of the patient's presence at the
21 hospital, the reason he or she's there?

22 A. Generally, yes.

23 Q. Okay. Would you agree that patients who
24 are having suicidal ideations do not often readily admit
25 to having suicidal --

A W R

1 MR. HINSON: Strike that. I'm going to
2 ask that a different way.

3 Q. Doctor, do you agree that patients having
4 suicidal ideations sometimes will not admit to having had
5 suicidal ideations?

6 MR. MCKAY: Object to the form.

7 A. Can you repeat the question?

8 Q. Sure. Do you agree that patients having
9 suicidal ideations do not always admit to having had
10 suicidal ideations?

11 A. Well, I'm not a mind-reader. If a patient
12 doesn't tell me something I can't know what's in their
13 head.

14 Q. Okay. I understand that, Doctor. I didn't
15 ask if you had the ability to know what's in
16 their head, but would you agree that patients who are
17 having suicidal ideations sometimes won't admit to it?

18 A. Possibly.

19 Q. Likewise, patients having homicidal
20 ideations don't always admit to having had homicidal
21 ideations?

22 A. Possibly.

23 THE WITNESS: Can we pause for a moment?

24 MR. HINSON: Sure.

25 THE WITNESS: Can I have another bottle of

A W R

1 water? Thank you. Thank you.

2 BY MR. HINSON:

3 Q. Doctor, do you agree that good doctors
4 sometimes make mistakes in judgement?

5 A. I think people make mistakes in
6 judgement sometimes.

7 Q. So you agree that doctors sometimes make
8 mistakes in judgement?

9 A. As far as I know doctors are people too.

10 Q. So you would agree with me that
11 doctors sometimes make mistakes in judgement?

12 A. I think people make mistakes sometimes.

13 Q. Doctor, do you agree that good doctors
14 sometimes make mistakes in judgement?

15 A. I would say, people make mistakes in
16 judgement sometimes.

17 Q. Okay. And doctors are people, correct?

18 A. I would like to think so.

19 Q. Okay. So good doctors sometimes make
20 mistakes in judgement?

21 A. I'm not exactly -- know what you're
22 referring to as a good doctor.

23 Q. Competent doctors still make mistakes in
24 judgement.

25 A. What you're stating is a -- is a

A W R

1 judgement about what is good or bad, and so I can't
2 completely agree with that statement.

3 Q. Okay. Do you agree that competent
4 doctors sometimes make mistakes in judgement? And you
5 can agree or disagree with that statement.

6 A. I can't agree or disagree.

7 Q. Okay. Do you agree that a doctor should
8 not be reckless?

9 A. I don't think people should be reckless.

10 Q. Do you agree that a doctor should not be
11 reckless?

12 A. Doctors are people too.

13 Q. Okay. So do you agree that a doctor
14 should not be reckless?

15 A. I believe that people should not be
16 reckless.

17 Q. That wasn't my question, Doctor. Do
18 you agree that a physician should not be reckless?

19 A. I believe people should not be reckless,
20 and doctors are people.

21 Q. Okay. So therefore, you agree with the
22 statement, a physician should not be reckless?

23 A. I agree with the statement that people
24 should not be reckless, and that doctors are people.

25 Q. So you can neither agree or disagree with

A W R

1 the statement that a physician should not be
2 reckless? Doctor, I don't mean this as a trick
3 question. Do you agree that a physician should not be
4 reckless?

5 A. I stated what my answer was.

6 Q. So you can neither agree nor disagree with
7 the statement that a physician should not be reckless?
8 You will not agree nor disagree with statement?

9 A. I stated that people should not be
10 reckless. I believe that.

11 Q. Okay.

12 A. And that doctors are people too.

13 Q. Okay. Do you agree that when treating a
14 patient, a physician should take all known risks into
15 consideration?

16 MR. MCKAY: Object to form.

17 A. Could you repeat the question?

18 Q. Sure. Do you agree that when treating a
19 patient, a physician should take all known risks into
20 consideration?

21 A. I think as a careful physician you need to
22 take as many risks as possible into consideration.

23 Q. Do you agree that a prudent and cautious
24 physician should seek to minimize the risks to his or her
25 patient?

A W R

1 MR. MCKAY: Object to form.

2 A. I think as physicians and -- it's important
3 to minimize risks to the patient and attempt to formulate
4 a plan for the best outcome, whatever that situation is.

5 Q. What does the term: Standard of Care,
6 mean to you?

7 A. It's treating patients so that they have
8 the least risks with the most benefit.

9 Q. Do you agree that if a physician is
10 negligent in his or her treatment of a patient,
11 resulting in injury to the patient, that the physician
12 should be held financially responsible for the injury?

13 MR. MCKAY: I will object to form.
14 That's a legal question. You can go ahead and answer it
15 if you can.

16 A. I don't know. I'm not a lawyer.

17 Q. Okay. So you cannot -- neither agree or
18 disagree that if a physician is negligent in his or her
19 treatment of a patient, resulting in injury to the
20 patient, the physician should be held financially
21 responsible for the injury caused?

22 A. I don't know. I'm not a lawyer.

23 Q. What about a negligent driver on the
24 highway? Should he or she be responsible for injury
25 caused for negligence driving?

A W R

1 A. I don't know.

2 Q. So if a person negligently runs a red
3 light, hits another car, causes injury to the people in
4 the other car, you can't speak as to whether the person
5 who ran the red light should be held financially
6 responsible for the injury that resulted?

7 A. I don't know.

8 Q. Have you ever been involved in a lawsuit
9 before, besides this one?

10 A. In fact, that very situation you're
11 talking about happened to me.

12 Q. Okay. Where you were in a car wreck?

13 A. No, my car was hit.

14 Q. You were involved in a car wreck?

15 A. I wasn't in the car.

16 (The proceedings were interrupted.)

17 Q. Oh, okay. Tell me what happened, Doc.

18 A. I had left a shift at Grand Strand
19 Hospital at about two o'clock in the morning and I
20 pulled out on Business 17, and my engine cut out.

21 (The proceedings were interrupted.)

22 MR. HINSON: Weldon, do you want us to
23 pause for a second? I'm about done.

24 MR. JOHNSON: I got a call from my nurse
25 and she's not out here.

A W R

1 THE WITNESS: Okay.

2 MR. JOHNSON: (Unintelligible)-- Are you
3 almost done?

4 MR. MCKAY: Do you really want to know
5 about a wreck?

6 MR. HINSON: Well, yes, sure.

7 BY MR. HINSON:

8 Q. Doc, if you'd finish the -- your account of
9 what occurred.

10 A. Yes. So I pulled out of Grand Strand and
11 my -- my gas was low and I -- I pulled out and my engine
12 cut out.

13 Q. And your car got hit later?

14 A. It got hit, like, 12 minutes later.

15 Q. But you were in the car?

16 A. I wasn't in the car.

17 Q. You were in the car?

18 A. No, I was not in the car.

19 Q. And was there a claim made against
20 somebody's insurance in that situation?

21 A. There was a claim made against my
22 State Farm insurance.

23 Q. Okay. But it was not a lawsuit filed?

24 MR. JOHNSON: I've got to take this.

25 (The proceedings were interrupted.)

A W R

1 THE WITNESS: Uh-huh. I have yet to meet
2 about that.

3 (The proceedings were interrupted.)

4 MR. JOHNSON: Yes.

5 BY MR. HINSON:

6 Q. Doctor, this is recent? Is this fairly
7 recent?

8 A. I don't know if I can remember the exact
9 date.

10 Q. Approximately how many months ago?

11 A. March. Sometime in March of 2017.

12 Q. Have you ever been involved in a lawsuit?

13 A. Besides this one?

14 Q. Besides this one?

15 A. Not previously that I recall. My
16 -- my State Farm insurance, I think, is what's being
17 sued, I believe.

18 Q. Have you ever been involved in any sort of
19 claim against you with regard to your work as a
20 physician?

21 (The proceedings were interrupted.)

22 A. As a physician?

23 Q. Yes.

24 A. Not that I recall.

25 Q. Okay. Have you ever had your license

A W R

1 -- and I see from your CV you've had medical licenses in
2 a number of states, correct?

3 A. Yes, throughout my training, you know,
4 if I got a license I -- I typically kept it up.

5 Q. Okay.

6 A. So I trained in a lot of different places.

7 Q. Other than letting your license lapse due
8 to failure to renew, have you ever had your license
9 suspended or revoked in any of the states in which you
10 practice?

11 A. No.

12 Q. Okay. What, if any, family do you have in
13 Horry County? And Doctor, I'm not trying to get into
14 your private life, I just want to identify folks who may
15 have some relation to you if we -- when we draw a jury in
16 this case.

17 A. I'm married.

18 Q. Okay. And your spouse's name?

19 A. Christie Goodhue.

20 Q. Okay. And any other family? Does
21 Christie have family in this area?

22 A. No.

23 Q. Okay. And you're not from here originally,
24 correct?

25 A. No.

A W R

1 Q. So neither you nor Christie have any in
2 the Horry -- in Horry County?

3 A. That's correct.

4 Q. And what about clubs or organizations that
5 you belong to in the area? Again, I just -- if there's
6 somebody that you go to rotary club with or go to church
7 with I just want to be able to identify those people if
8 -- when we draw a jury in this case.

9 A. So what was the question again?

10 Q. Any organizations, churches, social
11 groups that you belong to in the area?

12 A. The YMCA.

13 Q. Okay. Anything else?

14 A. No.

15 Q. Okay. And you said you haven't spoken
16 with Dr. Patel with regard to this case, correct?

17 A. Not that I recall.

18 Q. Okay. Nor any of the nurses?

19 A. Not that I recall.

20 Q. Okay. And journals and articles you
21 subscribe to -- tell me what you read on a regular basis.

22 A. Because I belong to the American College of
23 Physicians I get some journals sent to me, but most of
24 the resources I use are all electronic. It's, sort of,
25 where everything's gone.

A W R

1 Q. Okay. Where -- UpToDate, is that
2 somewhere you would go?

3 A. UpToDate is a good resource.

4 Q. PubMed, ever used that one?

5 A. I have. I'm published in PubMed.

6 Q. Anything else that you typically go to
7 as a resource?

8 A. That's tough to say because, you know,
9 UpToDate links to a lot of resources, does that make
10 sense?

11 Q. Sure.

12 A. So if I'm following a -- a -- a trail of
13 something that I'm interested in I'll often be going
14 within the website and outside of the website so it's
15 hard to really quantify. I mean, including, you know,
16 reading specific papers that are referenced. You know,
17 and then of course, it depends if the paper is, you know,
18 free access or do you have to, you know, have a
19 subscription to it or something like that. So there's
20 just a lot of -- I mean, I wish it was all just free out
21 there, you know? I mean, but a lot of times you hit
22 roadblocks and you have to, sort of, worm your way
23 around, I guess, is the way I would say.

24 Q. Okay. But nothing else that you would
25 say you regularly consult on a regular basis?

A W R

1 A. Martha Stewart Living in the bathroom.

2 Q. Nothing else in the medical field, Doc?

3 A. It's good bathroom reading. I'm sorry.

4 Q. So no other subscriptions that you have. I
5 mean, different folks in different professions say the
6 regularly read such-and-such journal. I'm just trying to
7 understand what you regularly look at in your practice of
8 medicine.

9 A. Most of what I regularly look at is
10 electronic.

11 Q. Okay. And we said UpToDate and PubMed
12 and then, of course, wherever they may take you down the
13 wormhole?

14 A. Yes.

15 Q. Okay. Nothing more regularly?

16 A. Not that I recall.

17 Q. Will you agree with me that South Carolina
18 has a provision allowing someone to be involuntarily kept
19 for concerned mental incapacity and harm to him or
20 herself?

21 A. If there's eminent danger to the person or
22 to somebody else, yes.

23 Q. And we -- I presume the other states in
24 which you've been licensed have had some sort of
25 similar legal provision; is that fair?

A W R

1 A. I don't recall specifically, but it seems
2 every state does.

3 Q. Would you agree that holding someone
4 temporarily against his or her desires if there's a
5 concern of, as you put it, eminent danger is the
6 standard of care in medicine?

7 MR. MCKAY: Object to form.

8 A. Could you repeat the question?

9 Q. Sure. Would you agree with me that
10 holding a patient involuntarily, temporarily, in the
11 situation where there is a concern of eminent danger to
12 him -- to the patient because of some sort of mental
13 infirmity, is the standard of care in medicine?

14 MR. MCKAY: Object to form.

15 A. I'm a little confused what to do now.

16 Q. You can --

17 A. You guys are fighting among yourselves.
18 I'm just confused.

19 Q. You can answer, Doc.

20 MR. JOHNSON: She's looking at you, Jay.

21 MR. MCKAY: Oh, yes, if you could -- do you
22 know what the question is?

23 A. As a physician I'm allowed to
24 involuntarily commit someone that may be in eminent
25 danger of harming themselves or others, yes.

A W R

1 MR. HINSON: All right. Nothing further.

2 MR. JOHNSON: I have nothing.

3 MR. MCKAY: No questions.

4

5 (Off the record.)

6 (The deposition was adjourned at 12:46 PM)

7

8 (Signature Reserved)

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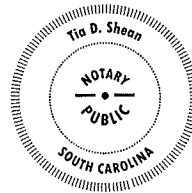
A W R

CERTIFICATE OF REPORTER

I, Tia Shean, Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 10th day of December, 2017 at Myrtle Beach, Horry County, South Carolina.

*Tia Shean*

Tia Shean, Court Reporter
My Commission Expires
February 10, 2024

A	W	R
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1	I N D E X		106
2		Page	Line
3	WITNESS: RACHEL ASH-BERNAL, M.D.	3	1
4	Examination	3	3
5	BY MR. HINSON	3	4
6	BY MR. MCKAY	--	--
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8	CERTIFICATE OF REPORTER	105	1
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10	E X H I B I T S		
11		Page/Line	
12	*PLF. EXH. 1, Documents Bates stamped:		
13	Scheer GSRMC_MedRecs 1-132		
14	(Medical Record of Mr.		
15	Scheer) (Referenced Only)		07/03
16	PLF. EXH. 2, Rachel Ash-Bernal, MD		
17	Curriculum Vitae (7pgs)		06/23
18	PLF. EXH. 3, GSRMC Application for		
19	Involuntary Emergency		
20	Hospitalization for		
21	Mental Illness form (4pgs)		50/10
22	* PLF. EXH. 1 - Exhibit was marked in a		
23	previous deposition so the Original Exhibit		
24	will not be attached. It is a continuing		
25	exhibit.		

A W R

1 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

2 COUNTY OF HORRY C.A. No. 2017-CP-26-1571

3 DAVID L. SCHEER, as Personal

4 Representative of the Estate of

5 MATTHEW J. SCHEER

6 Plaintiff

7 vs.

8 NIRLEP A. PATEL, M.D., SOUTHERN

9 MYRTLE INPATIENT SERVICES, LLC,

10 RACHEL ASH-BERNAL, M.D.

11 Defendants

12 _____/

13

14 The Videotaped deposition of GREGORY

15 PHEABUS was held on Monday, January 7, 2019, commencing

16 at 10:35 a.m., at the Hampton Inn Hagerstown, Hagar

17 Room, 1716 Dual Highway, Hagerstown, Maryland 21740,

18 before Susan M. Liebrecht, Notary Public.

19

20

21 REPORTED BY: Susan M. Liebrecht, RPR

A W R

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A W R

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13 ALSO PRESENT: Curtis Roginski, Videographer

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Deposition of GREGORY PHEABUS

January 7, 2019

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STIPULATION

It is stipulated and agreed by and between counsel for the respective parties that the reading and signing of this deposition by the witness be and the same is hereby waived.

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PROCEEDINGS

THE VIDEO OPERATOR: Good morning. We are going on the record at 10:35 A.M. on December 7, 2019.

This is Media Unit 1 of the video recorded deposition of Gregory Pheabus taken in the Matter of David L. Scheer as Personal Representative of the Estate of Matthew Scheer v. Southern Myrtle Inpatient Services, et al. filed in the Court of Common Pleas, State of South Carolina, County of Horry. Case number 2017-C-26-1571-P.

This deposition is being held at The Hampton Inn located at 1716 Dual Highway, Hagerstown, Maryland, 21740. My name is Curtis Roginski and I'm the videographer. The court reporter is Susan Liebrecht.

A	W	R
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1 Will counsel please identify yourselves and⁶
2 state whom you represent?

3 MS. PEAUVY: My name is Rachel Peavy with
4 The McKay Firm. I represent Dr. Nirlep Patel,
5 Dr. Rachel Ash-Bernal and Southern Myrtle Inpatient
6 services.

7 MR. HINSON: Francis "Brink" Hinson for the
8 Plaintiff.

9 MS. BRUDVIG: Kelsey Brudvig at Collins &
10 Lacy and we represent G4S Secure Solutions who are not
11 a party to this action.

12 THE VIDEO OPERATOR: Will the court
13 reporter please swear in the witness?
14 Whereupon,

15 GREGORY PHEABUS
16 called as a witness, having been first duly sworn to
17 tell the truth, the whole truth, and nothing but the
18 truth, was examined and testified as follows:

19 EXAMINATION BY MS. PEAUVY:

20 Q Mr. Pheabus, Greg, we met off the record,
21 but I'll introduce myself. My name is Rachel Peavy and

A W R

1 I represent two doctors, Dr. Nirlep Patel and
2 Dr. Rachel Ash-Bernal, and their employer, Southern
3 Myrtle Inpatient Services, in a lawsuit that's been
4 brought by the father of Matthew Scheer for medical
5 malpractice and wrongful death.

6 The lawsuit generally alleges that these
7 doctors failed to properly treat Mr. Scheer when he
8 came into the hospital on October 2nd of 2015 and that
9 they are responsible for his subsequent death.

10 I'm here today just to ask you some
11 questions. Have you ever had your deposition taken
12 before?

13 A Yes, I have. I think it was 2011. I was a
14 police officer for Hagerstown City Police, but that's
15 the only time I've ever been in court for any type of
16 deposition.

17 Q Okay.

18 A But nothing for this case prior.

19 Q Okay. And when you were a police officer
20 for the Hagerstown Police Department were you just
21 giving your deposition in a court case? Was it, like,

A W R

1 an automobile accident? Can you describe that for me?

2 A The only time for the short amount I was
3 in, it was just for a case involving a firearm.

4 Q Okay. All right. And were you a witness
5 that you were called to testify?

6 A No, I was one of the charging officers and
7 I was --

8 Q So you had written the ticket or the
9 arrest?

10 A Yes. Yes, I was part of the arrest report
11 that I had to give to the court.

12 Q Okay. All right. Well, so you're maybe
13 somewhat familiar, but I'm going to -- this is a civil
14 proceeding, so basically I'm here today just to ask you
15 a series of questions to find out what you know about a
16 very discreet period of time --

17 A Uh-huh.

18 Q -- when you were working down at Grand
19 Strand Hospital.

20 I'm going to ask you a series of questions.
21 If my question is unclear or confusing in any way, will

A W R

1 you please let me know? Because then I can rephrase
2 it.

3 A Absolutely.

4 Q Okay. And if you answer my question, then
5 it's safe to assume that you have understood the
6 question. Is that also okay?

7 A That's understood, yes.

8 Q Okay. Finally, Madam Court Reporter is
9 transcribing everything.

10 A Okay.

11 Q So it's important to give verbal answers.
12 I know sometimes you can nod or shrug.

13 A Right, okay.

14 Q So just try to remember that.

15 Finally, if you need to take a break at any
16 time, just let me know and we will do so. Okay?

17 A Yes.

18 Q It's not a problem.

19 And there may be some objections that the
20 attorneys make during the deposition. Those are just
21 for -- to preserve the record and you'll continue to

A W R

10
1 answer unless there is something that would need to be
2 taken up with the judge or something like that.
3 A Okay.
4 Q But otherwise, just assume that those are
5 legal issues that the attorneys just want to preserve
6 for down the road, okay?
7 A Right, okay.
8 Q I assume you have a little bit of knowledge
9 about legal proceedings if you worked in law
10 enforcement.
11 A A little bit.
12 Q Yeah. Well, first, I'll just have you
13 state your full name for the record.
14 A Okay. My name is Gregory Thomas Vincent
15 Pheabus.
16 Q And spell Vinton for me.
17 A I'm sorry?
18 Q Spell the third name.
19 A Vincent.
20 Q Vincent.
21 A V-I-N-C-E-N-T.

A W R

1 Q Okay. And what is your date of birth?

2 A 5/26/91.

3 Q And where were you born?

4 A In Washington County, Hagerstown, Maryland
5 at the Washington County Hospital.

6 Q Okay. And where did you grow up?

7 A I grew up -- I spent the first five years
8 of my life in the west end of Hagerstown and then I
9 spent the remaining in Maugansville, Maryland.

10 Q Okay. And how do you spell Maugansville?

11 A M-A-U-G-A-N-S-V-I-L-L-E.

12 Q Okay. And where did you graduate from high
13 school?

14 A I graduated high school at North Hagerstown
15 High School in 2010.

16 Q Okay. And who did you grow up with? Do
17 you have parents and siblings?

18 A I grew up with -- well, when I was five
19 years old what made us move from the west end to
20 Maugansville was my parents separated when I was five,
21 so I grew up with my stepfather --

A W R

1 Q Okay.

2 A -- and my mother and my youngest brother.

3 Q Okay. And do you have any other siblings
4 besides your brother?

5 A Yes, I have a half brother that is now
6 deceased and then I have another half brother that
7 is -- he lives in Hagerstown.

8 Q Okay. And are those children of your
9 mother's marriage to your stepfather?

10 A No. My biological father and my biological
11 mother had two children before they met and then when
12 they met, they had me and my youngest brother.

13 Q Oh, okay. I get it. Okay. All right. So
14 your mom and stepdad didn't have any kids together?

15 A No.

16 Q Okay. And what is your mom's maiden name
17 and married name?

18 A My mother's maiden name is Julia Helene.

19 Q Uh-huh.

20 A And then her married name is Julia
21 Mikoloski, and I can give you my best way to spell that

A W R

1 even though I've been around it my whole life.

2 Q That's okay. And then where does your dad
3 live?

4 A My biological father lives in Hagerstown.

5 Q Okay. And what is his name?

6 A His name is Greg Pheabus.

7 Q Okay. Are you a junior?

8 A No. It's Gregory, it's Eugene Pheabus.

9 Q Okay. So slightly different.

10 A Yeah.

11 Q Okay. And is he remarried? Your dad?

12 A No.

13 Q Okay. All right. And what is your current
14 address?

15 A My current address is 1105 --

16 Q Uh-huh.

17 A -- West Church Street.

18 Q Okay.

19 A Hagerstown, Maryland.

20 Q Okay.

21 A 21740.

A W R

1 Q Okay. And who lives with you at that
2 address?

3 A That is my home and it's me, my girlfriend.

4 Q Okay.

5 A My son.

6 Q Okay.

7 A And my grandmother.

8 Q Okay. All right. And is your girlfriend
9 the mother of your son?

10 A Yes.

11 Q Okay. All right. And is this a home that
12 you rent or own?

13 A I own.

14 Q And how long have you lived there for?

15 A It will be going on five months.

16 Q Oh, okay. All right. So you all just
17 moved in?

18 A Yeah, just bought it from my grandmother
19 five months ago.

20 Q That's nice. So it was a family home?

21 A Yes.

A W R

1 Q Okay. All right. How old is your son?

2 A He's three.

3 Q Oh, okay. You got your hands full.

4 A And another one on the way.

5 Q Oh, my goodness. Congratulations.

6 A Thank you.

7 Q And where are you -- you graduated from

8 North Hagerstown High in 2010. Kind of walk me through

9 what you have done since graduation.

10 A Okay. Since graduation I went to

11 Hagerstown Community College.

12 Q Okay.

13 A And that's where I studied criminal

14 justice.

15 Q Okay.

16 A And I made it about three quarters of the

17 way through the program.

18 Q Okay.

19 A And they introduced the Hagerstown

20 Community College Police Academy.

21 Q Okay.

A W R

1 A So I talked to the -- I don't know, the
2 president of the school.

3 Q Yeah.

4 A And he said he would be able to transfer me
5 out of that program, refund me my money for that
6 semester and switch it into the program at the police
7 academy.

8 Q Oh, neat.

9 A So that's what I did.

10 Q Uh-huh.

11 A And I dropped out of that and went through
12 the police academy for six months.

13 Q Okay.

14 A And then during the police academy I was
15 hired at the Hagerstown Police Department.

16 Q Okay.

17 A After graduation, I can't give you exact
18 dates --

19 Q Uh-huh.

20 A -- but I joined the police department,
21 worked there for a year.

A W R

1 Q Okay.

2 A And during my stint with the police
3 department that's when I met my girlfriend.

4 Q Okay.

5 A And we decided we wanted to move to Myrtle
6 Beach, South Carolina.

7 Q Okay.

8 A And when we moved, I was going to join the
9 police force down there, but then I figured how much
10 they got paid and I decided to go with G4S Secure
11 Solutions.

12 Q Uh-huh.

13 A And I worked down there for the Grand
14 Strand assignment down there when they first opened.

15 Q Okay.

16 A So I was one of the first officers there
17 whenever they first started the contract.

18 Q Okay.

19 A And then I did my time down there and then
20 my current girlfriend got pregnant.

21 Q Okay.

A W R

1 A And we decided we needed more family help
2 than nice weather.

3 Q Yeah.

4 A So we moved back to Maryland.

5 Q Uh-huh.

6 A And I stuck with G4S through that time
7 because I knew I could transfer back to Maryland with
8 that company.

9 Q Oh, yeah. Okay.

10 A So I transferred back and then I started
11 with G4S down here in Maryland at the Ravens stadium --

12 Q Okay.

13 A -- for a short while --

14 Q Uh-huh.

15 A -- and then I decided to go into driving
16 tractor-trailers. So I got my CDLs, went through two
17 months of school there.

18 Q Uh-huh.

19 A And here I sit.

20 Q Okay. Neat.

21 So the CDL, are you working for a company

A W R

1 or are you doing it on your own?

2 A No, I work for a company, Hoffman

3 Transportation.

4 Q Okay.

5 A And they're right there at Greencastle,

6 Pennsylvania.

7 Q Okay. And what kind of -- are you away
8 from home much or what kinds of hauls are you doing?

9 A No, I'm home every single day.

10 Q Oh, that's great.

11 A So it's normally, right now, since my
12 girlfriend is pregnant, I'm trying to get more home
13 time so I can get stuff done because I'm remodeling the
14 whole entire house. So I'm trying to get all that
15 stuff done before the child is born.

16 Q Oh, okay.

17 A So I work Sunday through Wednesday.

18 Q Uh-huh.

19 A And then I'm off Thursday, Friday,
20 Saturday. So I'm home every single day in between the
21 time I work.

A W R

1 Q Okay. So it's not classic long haul type?²⁰
2 A No.
3 Q Okay. And in terms of getting -- in terms
4 of when you joined G4S down in Myrtle Beach, that was
5 when the contract was just starting with Grand Strand?
6 A Yes.
7 Q Okay. And what was your position at G4S at
8 the time when you started doing the Grand Strand
9 contract?
10 A My position was the third shift armed
11 supervisor.
12 Q Okay. All right. And describe to me third
13 shift. Is that 7 to 7?
14 A No, it was 11 to 7:15; 11 P.M. to 7:15 A.M.
15 Q Okay. And you mentioned you chose G4S
16 instead of doing law enforcement down at the beach just
17 for salary reasons?
18 A Yeah, for that and then I knew -- I knew
19 eventually we wanted to move back.
20 Q Uh-huh.
21 A And I knew I didn't want to be a police

A W R

1 officer anymore. Because even in Hagerstown they
2 didn't pay that much.

3 Q Yeah.

4 A And I knew I wanted to do something with my
5 life other than that.

6 Q Yeah.

7 A And so I chose G4S because I knew if I
8 couldn't find anything, I knew I could transfer back to
9 that company and have a job immediately.

10 Q Okay.

11 A And then she got pregnant and then that was
12 a good opportunity for me to use that company to
13 transfer back.

14 Q Yeah, okay. All right.

15 And then you got to work at the Ravens
16 stadium for a bit?

17 A Yes.

18 Q And just decided to change career paths?

19 A Yes.

20 Q Okay. All right. And my understanding is
21 that you were one of the security guards on duty on

A	W	R
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1 October 3, 2015.

2 A Yes.

3 Q Okay. At that time, what were your duties?

4 A My duties were the -- if you could remind
5 me what time --

6 Q It would have been, like --

7 A -- the patient came in?

8 Q Well, the time period when the patient was
9 discharged was around 1:30 in the morning on October
10 3rd.

11 A That's what time he was discharged?

12 Q Yeah.

13 A Do you know what time he came in?

14 Q I think it shows that he came in around, I
15 think it was -- he was admitted around 7:00 that
16 evening before.

17 A Okay.

18 Q As a voluntary admission.

19 A My duties as third shift supervisor was I
20 was, at that time, whenever I was on duty, there would
21 be me and one other armed supervisor.

A W R

1 Q Uh-huh.

2 A Or one other armed guard. I'd be the
3 supervisor and then there would be a front desk guard
4 that would be armed.

5 Q Uh-huh.

6 A And my duty was to just basically roam the
7 hospital, make sure all person, place and property is
8 safe and secure.

9 Q Okay.

10 A Just make sure there is no incidents.

11 Q Okay.

12 A And pretty much make sure the guards are
13 doing what they're supposed to be doing and make sure
14 breaks are given.

15 Q All right. Other than you and the one
16 other armed guard at that time -- I'll call it night,
17 but it's actually about 1:30 in the morning -- at that
18 time of night, are there other guards also on duty or
19 is it just the two of you?

20 A Yeah, now that I'm thinking about it, on
21 the night shift, that actual G4S guard wouldn't be

A W R

1 armed, but there was an armed sheriff --

2 Q Okay.

3 A -- that would be there from Horry County.

4 Q Okay.

5 A Now that I can recall. So I would be the
6 only armed guard there --

7 Q Uh-huh.

8 A -- in the beginning.

9 Q Uh-huh.

10 A But then sooner or later they transferred
11 and did two armed guards there, I believe.

12 Q Okay. But you don't remember the exact
13 timeframe on the staffing necessarily?

14 A Well, on the staffing there would be --
15 see, we had the initial psyche patients, so there would
16 be an unarmed guard down in the actual ER. There would
17 be four rooms they would be responsible for and it was
18 an armed guard that would sit outside.

19 Q Uh-huh.

20 A And then up on 2 North on the second floor
21 would be, like, the long-term patients for the psyche.

A W R

1 Q Right.

2 A They would go upstairs and there would be
3 an unarmed guard there sitting at the computer monitor.

4 Q Uh-huh.

5 A And I think, I can't recall the numbers,
6 but I think it is one guard for either four to six
7 patients. I believe it's four. So every four patients
8 there would have to be a guard.

9 Q Okay. And 2 North had regular rooms and
10 then my understanding is there were some rooms that
11 were designated for psyche patients that didn't have
12 TVs and things like that, correct?

13 A Right. I see you got a diagram there, but
14 you would walk -- from the elevator you would walk down
15 there and then you could take a left on 2 North.

16 Q Uh-huh.

17 A And they basically have the whole end of
18 the hallway dedicated to psyche patients.

19 Q Uh-huh.

20 A And people we had to look after.

21 Q Okay.

A W R

1 A That didn't have TVs or any of the
2 amenities that a normal patient would have, I believe.

3 Q Okay. And I will submit to you that the
4 evidence in this case has shown that Mr. Scheer was not
5 in one of those special psyche rooms. He was not in
6 one of the, sort of, safe rooms.

7 A Okay. Yeah, if they started to -- if we
8 started to gather way too many patients, I mean, it
9 would just flood up toward the normal rooms. I mean,
10 there was nothing --

11 Q Uh-huh.

12 A -- they could do to keep the rooms from --

13 Q Uh-huh.

14 A -- being just strictly the psyche rooms.

15 Q Okay. At some point around 1:30 in the
16 morning on October 3rd did you escort a man out in
17 his 20's from the 2 North wing?

18 A Yeah, after -- after the incident happened
19 with that patient, I believe the end call was to
20 discharge a patient and I did escort him. Me and
21 another officer did escort him from his room to the

A W R

1 exit.

2 Q Uh-huh. And is that because there
3 aren't -- the exits are locked, certain exits are
4 locked, at that time of night?

5 A Yeah, at a certain time what they would do
6 is they would have the main entrance --

7 Q Uh-huh.

8 A -- and then they would have the emergency
9 entrance.

10 Q At the ER.

11 A And at a certain time, I don't know the --
12 I can't recall the time they would close the main
13 entrance, but at that time the main entrance would be
14 closed.

15 Q Okay.

16 A So if you got off the elevator, you took a
17 wrong turn, you'd be at a whole other end of the
18 hospital.

19 Q Okay.

20 A So when somebody's -- if they need help
21 getting out, we would just escort them to the correct

A W R

1 exit and entrance.

2 Q Okay.

3 A And I do not know whether, because whenever
4 they're a psyche patient, we would collect their
5 belongings.

6 Q Uh-huh.

7 A So they wouldn't have anything in their
8 room that would be their personal belongings.

9 Q Uh-huh.

10 A We would keep them down at the emergency
11 desk.

12 Q Uh-huh.

13 A And I believe we took his stuff up there
14 before he was discharged because they knew they were
15 discharging him or we gave them to him at the emergency
16 entrance. But that's where we would keep the patient's
17 belongings.

18 Q Okay. Now, in terms of discharging someone
19 in the middle of the night, when -- did you later learn
20 that the man that you escorted out was Matthew Scheer?

21 A I still didn't know his name.

A W R

1 Q Right.

2 A But I believe the next night I came in I
3 found out that -- that a patient that left committed
4 suicide.

5 Q Uh-huh.

6 A And then later I found out, after
7 deduction, that he was the patient that I walked out.

8 Q Okay. And when you walked out with
9 Mr. Scheer, did he appear calm?

10 A Yeah, I mean, he was not calm up in his
11 room.

12 Q Okay. Did you observe him in his room?

13 A Yeah, because I would have been the roaming
14 supervisor on the shift whenever they called and said
15 they had an incident up on 2 North.

16 Q Okay.

17 A I can't remember his exact room, but I do
18 remember going up there and there was an incident where
19 he wasn't happy. He was disgruntled.

20 Q Yeah.

21 A And -- but as your question, when we walked

A W R

1 him down?

2 Q Uh-huh.

3 A He just walked right behind us and we
4 didn't have any small talk or anything.

5 Q Right.

6 A But he didn't seem agitated whenever he was
7 leaving.

8 Q Okay.

9 A I mean, he followed right behind us.

10 Q Uh-huh.

11 A I mean, he left calm, shook our hand and
12 said, thank you.

13 Q Okay. All right. And your understanding
14 that he was not happy and disgruntled, did that come
15 from him wanting to leave the hospital? Because he was
16 there voluntarily.

17 A Right. Whenever you get up in that room
18 they have -- he was in a normal patient room.

19 Q Right.

20 A So the door would be open.

21 Q Uh-huh.

A W R

1 A And if you're an adult being watched on a
2 monitor and the door is open and you're told you can't
3 pass that threshold, and all of sudden your parents are
4 gone and all this, I can understand why he was
5 disgruntled and why all of sudden this has happened to
6 him. And when I got up there he was distraught, he
7 wanted to leave.

8 Q Okay.

9 A And basically me and the other officer
10 stood there while he had a conversation with the nurse
11 and the doctor that arrived.

12 Q Okay.

13 A And we were just there to make sure nothing
14 was damaged or no persons or property were harmed at
15 all.

16 Q Okay.

17 A And once he -- once the doctor said, if
18 you're ready to go, if you want to go, you can go, he
19 completely switched.

20 Now I do remember, we did bring him his
21 clothes upstairs, I believe.

A W R

1 Q Uh-huh.

2 A So he was able to put his shoes on and
3 everything. And then after that we just walked down
4 and we showed him the proper way to go.

5 Q Yeah, okay. Did he mention if -- my
6 understanding at the time when he checked himself out,
7 it was drizzling, but there was a full moon.

8 Do you recall the weather?

9 A I don't remember if it was drizzling or
10 not.

11 Q Uh-huh.

12 A But I do remember when he left I believe he
13 did, he said, thank you very much. I remember him
14 saying thank you.

15 Q Yeah.

16 A And then I just watched the doors open. He
17 did go off on a light jog.

18 Q Okay.

19 A So he didn't walk calmly off. He just went
20 off on a light jog.

21 Q Okay. Kind of ready to get on his way?

A W R

1 A Yeah.

2 Q Okay. All right.

3 A But once he knew he was leaving he
4 completely calmed down.

5 Q Okay. All right. Prior to walking out
6 with him had you spoken with Mr. Scheer before or had
7 you just --

8 A No, I never had contact with him before.

9 Q Okay. And when you went to the room when
10 he was wanting to leave, you just stood there, correct?

11 A Yeah, me and the other security guard. It
12 would have been me, the security guard down at the
13 monitors, and I would have had a roaming unarmed
14 security guard that probably would have been up there
15 with me.

16 Q Okay. And that's standard operating
17 procedure when people want to leave?

18 A Yeah, depending on how much our staff
19 varied.

20 Q Okay.

21 A How many people we had on staff.

A W R

1 Q Okay. All right. And during -- do you
2 recall anything about Mr. Scheer's interaction with the
3 nurse or the doctor that came?

4 A Yeah, I just remember him -- he was very
5 adamant that he just didn't want to be there.

6 Q Yeah.

7 A And once the nurse takes so much, she just
8 gets a doctor there and she just passes the buck on to
9 the doctor and the doctor makes the determination
10 whether stay or go. And I think at that time of the
11 night normally they would have a -- I don't know if
12 they're a therapist or a psychiatrist, somebody to go
13 in and determine and just talk to the patient.

14 But I don't know at that time of the night
15 if they were on-call or there was one on duty, but I
16 just remember a doctor being there.

17 Q Right.

18 A And I think it was a female.

19 Q Okay. And you just observed her --

20 A Yeah, I just observed and just made sure
21 everything, place and property and person, was safe and

A W R

1 secure.

2 Q Okay. And you didn't prepare any kind of
3 incident report about it or anything like that?

4 A No, no.

5 Q Okay.

6 A Now, there would have been a report from
7 the security guard down at the monitor saying that a
8 doctor arrived or patient is distraught. There would
9 have been a --

10 Q Medical record.

11 A Either it was a half an hour or every
12 hour --

13 Q Uh-huh.

14 A -- the guard would have monitored the
15 patients' status. And any time there was an incident,
16 like, a nurse went in to give meds, the guard down at
17 the monitor would have wrote that down.

18 Q Uh-huh. But that's for patients that are
19 there --

20 A Yeah, that's for every patient.

21 Q -- committed.

A W R

1 A Yeah.

2 Q I'm talking about committed psychiatric
3 patients. Not people who are there voluntarily?

4 A Well, any patient that we would have been
5 watching.

6 Q Uh-huh.

7 A Any patient that a guard would have been
8 watching.

9 Q Okay.

10 A Now, if he was voluntarily committed as a
11 psyche patient he would have been on the -- if we were
12 watching him? I don't know if he was checked in as a
13 regular patient or a psyche patient.

14 Q Yeah, he was checked in -- I'll submit to
15 you the medical records show he was checked in as a
16 medical patient voluntarily.

17 A Okay.

18 MR. HINSON: Object to the representation.
19 Object to the form.

20 Q Okay. Now, so the incident report you're
21 referencing would have been prepared for psychiatric

A W R

1 patients?

2 A Yeah, if he would have been a psyche
3 patient that we would have had monitor on --

4 Q Okay.

5 A -- he would have had one of those
6 checklists.

7 Q Okay. But if he's just a voluntarily
8 medical patient, he doesn't?

9 A Yeah, if he's a voluntarily medical patient
10 and we would have had a call there for an incident --

11 Q Uh-huh.

12 A -- there wouldn't have been anything.

13 Q Okay. All right.

14 A Unless there was a physical altercation or
15 something that would have deemed a report.

16 Q Uh-huh. Okay. But in this case, to your
17 recollection, you don't have any report --

18 A No, he was just distraught and we just
19 stood there and observed and made sure nothing
20 happened.

21 Q Okay.

A W R

1 A And nothing did happen, except for just
2 verbal.

3 Q Okay. Then is it fair to say that at the
4 time you observed Mr. Scheer and walked him out the
5 exit you did not believe that he was an imminent threat
6 to himself or others?

7 A No.

8 MR. HINSON: Object to the form.

9 Q You can answer.

10 A My time escorting him, I didn't feel any
11 presence of danger or any type of ration towards him
12 that would believe that he would want to hurt me or
13 himself.

14 Q Okay. Do you recall the gentleman, the
15 other security guard, who walked out with you all?

16 A It would either be -- I can't recall who it
17 was.

18 Q Okay.

19 A But it would either be, because I kept a
20 rotation, I didn't have one particular person that I
21 kept on there because the guards would have been a

A W R

1 little angry at me if I kept one person, but it would
2 either be a person named Kevin Stewart.

3 Q Okay.

4 A Charles Fitzgerald.

5 Q Uh-huh.

6 A Tim Delisle, and there was one other
7 security guard that -- Kyle Rutledge.

8 Q Okay.

9 A That would have been in the rotation and I
10 can't remember which one it was at the time.

11 Q Okay. All right. Delisle, what was the
12 first name?

13 A Excuse me. It would have been Timothy,
14 Tim.

15 Q Tim, okay.

16 Prior to going up to the room while the
17 doctors and nurses were talking to Mr. Scheer, you
18 hadn't been called to his room before?

19 A No.

20 Q Okay. And you hadn't, in fact, had any
21 interaction with him from the time he had come to the

A W R

1 hospital that you recall?

2 A No, I would have got there at 11:00.

3 Q Okay.

4 A Or 10:30. And if he was already up in his
5 room, I wouldn't have had any interaction with him at
6 all.

7 Q Okay. All right. From 2 North would you
8 have to take an elevator down to get to the one exit
9 that was opened?

10 A Yeah. I mean, there is different ways that
11 I had access to with my security card that I could get
12 there, but for any regular patient or any visitor --

13 Q Yeah.

14 A -- there would be an elevator that you
15 would take from the emergency room.

16 Q Okay.

17 A To, like, the main corridor where you could
18 turn off and go to any other branch, but there was an
19 elevator in the middle that you could take straight up
20 to 2 North.

21 Q Okay. So did you take the elevator with

A W R

1 Mr. Scheer or did you all take the stairs?

2 A We took the elevator.

3 Q Okay. And that dropped you in the ER
4 department?

5 A It dropped you right in that little
6 corridor where you could -- you could either take the
7 wrong turn or the right turn and be somewhere you don't
8 want to be or somewhere lost.

9 Q Right, okay.

10 A So, but, yeah, we dropped right in the
11 elevator, took a left out of it and went stright
12 through the emergency department entrance and exit.

13 Q Okay. About how long do you think it took
14 you to walk with him from when he was discharged to the
15 ER exit?

16 A Maybe four to six minutes, I'd say.

17 MS. PEAVY: All right. I'm going to look
18 over my notes.

19 THE WITNESS: Okay.

20 MS. PEAVY: I think that's all I have,
21 though.

A W R

1 THE WITNESS: Be my guest.

2 MS. PEAVY: Thanks.

3 BY MS. PEAVY:

4 Q Do you recall if there was a full moon at
5 the time when you walked him out?

6 A No, I don't recall what --

7 Q Okay. Do you have any recollection of the
8 weather?

9 A I just know it was dark.

10 Q Okay.

11 A But I didn't really go outside that night
12 and roam around.

13 Q Okay. Had you escorted other medical
14 patients out at different times during your shift
15 during the course of your employment at G4S?

16 A Oh, yeah, we escorted patients a good bit.

17 Q Okay.

18 A Either from, to or from, rooms, to or from
19 exits, two or from rooms, exits and entrances.

20 Q Okay. And the main purpose of that is
21 because at that time of night there is only one exit

A W R

1 that's opened?

2 A For this individual patient, that would
3 have been the reason. If he was discharged and there
4 was no reason, it would have just been to show him the
5 proper way to go.

6 Q Okay.

7 A Especially if he was just a regular
8 voluntary patient.

9 Q Okay.

10 A We would have had no reason other than to
11 show him the proper way to go.

12 Q Okay. Do you recall how long you were in
13 the -- by the room before you walked Mr. Scheer out?

14 A I don't know the exact time I would have
15 been there, but it was a very short time from -- by the
16 time I made it up there to the time they discharged
17 him.

18 Q Okay.

19 A Probably up there, I'd say, maybe ten
20 minutes, if I can give you a guess.

21 Q Okay.

A W R

1 A By the time I was up there.

2 Q Right, right.

3 A Now, I don't know how long before they
4 actually called us before he was actually disgruntled
5 in the room.

6 Q Okay.

7 A But that's about the time I'd say I was
8 just standing there.

9 Q Okay. And during your employment at Grand
10 Strand with G4S did you have occasion to observe
11 patients wanting to be discharged who became
12 disgruntled or just wanted to go?

13 A Probably every day.

14 Q Okay. It wasn't unusual?

15 A It wasn't unusual for a patient to want to
16 leave a room that doesn't want to be there.

17 Q Okay. All right. Other than speaking with
18 G4S's attorney about this discharge have you spoken
19 with anyone else about it?

20 A No, I haven't.

21 Q Okay. Did you speak with any of your

A W R

1 co-workers about it once you found out the police had
2 come by because Mr. Scheer had been reported missing?

3 A You mean at the time whenever I was
4 employed?

5 Q Yeah.

6 A Let's see here.

7 Q And if you don't recall, that's fine.

8 A I don't recall.

9 Q Okay.

10 A But I do remember the initial time whenever
11 they -- my next time going on duty them talking about
12 it, but other than that I don't recall any other
13 information.

14 MS. PEAVY: Okay. That's all I have.
15 Thank you, Mr. Pheabus.

16 THE WITNESS: Thank you.

17 MR. HINSON: Good morning, Mr. Pheabus.

18 THE WITNESS: Good morning.

19 MR. HINSON: We met just a few minutes ago,
20 but my name is Brink Hinson and I'm representing
21 Matthew Scheer's family in a case that's been brought

A W R

1 regarding his death.

2 THE WITNESS: Okay.

3 EXAMINATION BY MR. HINSON:

4 Q You understand that you haven't been named
5 in this lawsuit, correct?

6 A Right, right.

7 Q No one has alleged you did anything wrong.
8 You understand that.

9 A That's correct.

10 Q Mr. Pheabus, have you looked at any
11 documents in preparation for today?

12 A No, I haven't.

13 Q And I want to show you, then, just for a
14 second. This is a copy of Matthew's medical records in
15 this case.

16 A Okay.

17 Q The young man who seems you may have been
18 involved in escorting out of the hospital.

19 A Right.

20 Q And at the time you were instructed to
21 escort him out of the hospital you were unaware of any

A W R

1 of his -- the reasons, medically, why he had been taken
2 to the hospital; is that correct?

3 A That's correct.

4 Q If you would, and these documents, let me
5 show you, they have what we call a Bates stamp and you
6 may be familiar with that, too, with police work, but
7 the Bates stamp, and it's kind of hard to read. It's
8 this one that's kind of the black highlight here in the
9 bottom right-hand corner?

10 A Okay.

11 Q If you would, turn to Page 12.

12 MS. PEAVY: Are you looking at the ones
13 that are Scheer_GSRMC?

14 MR. HINSON: Yeah, we're looking at the
15 records that are stamped Scheer, underscore, GSRMC
16 underscore, MedRecs.

17 MS. PEAVY: Okay.

18 BY MR. HINSON:

19 Q And Mr. Pheabus, do you see there on
20 Page 12 where it talks about Matthew was hearing
21 voices?

A W R

1 A Let's see here. Yes, I do.

2 Q And what is the complaint right here?

3 What's been given as the complaint?

4 A It looks like his complaint says, paranoia
5 and hallucinations.

6 Q Do you see where it says that he's having
7 auditory and visual hallucinations?

8 A I just see where it says paranoia,
9 hallucinations, insomnia.

10 Q Maybe the next page, then.

11 A Yes, I see the psyche. Auditory
12 hallucinations and visual hallucinations.

13 Q And Mr. Pheabus, at the time you were
14 escorting Matthew out of the hospital you were unaware
15 that at the time of his admission it was reported that
16 Matthew was having auditory and visual hallucinations.
17 Is that fair?

18 A Yeah, due to my prior knowing him, I had no
19 knowledge of his prior medical history or whether he
20 was suffering from auditory hallucinations or visual
21 hallucinations.

A W R

1 Q And as a security guard it wasn't your duty
2 or your job to make a determination as to whether or
3 not he was having some sort of psychosis at that time?

4 A Right, that's not my responsibility.

5 Q Your responsibility was simply to escort
6 him out of the hospital, correct?

7 A Right.

8 Q And you didn't undertake to make a
9 determination in any way of what his mental status was
10 at that time, did you?

11 A No, I didn't.

12 Q Do you have any training in assessing a
13 person's mental capacity?

14 A No, I've no knowledge and no education to
15 make that determination.

16 Q If a young man is having auditory and
17 visual hallucinations does that sound like a young man
18 who is in a right state of mind to you?

19 MS. PEAVY: Object to the form.

20 A Due to my short amount of time I had with
21 him I would have had no time even to observe even my

A W R

1 basic knowledge of it.

2 Q But if he was having -- if he -- it was
3 determined earlier that he was having auditory and
4 visual hallucinations, would that sound like a young
5 man that was in his right mind to you?

6 MS. PEAVY: Object to the form.

7 A I mean, I guess whoever looked at his
8 medical records and was able to examine him, they would
9 have knowledge to know that.

10 Q And you have no reason to disbelieve -- you
11 have no reason to believe that that's not true, do you?
12 Would you have any reason to believe it wasn't --

13 A I have no knowledge to know whether that's
14 true or false.

15 Q Was it the physician who instructed you to
16 escort Matthew out of the hospital?

17 A I do believe, once he was discharged, I do
18 believe they did ask to escort him, but I'm not
19 certain.

20 Q And did you -- you said a little bit ago
21 that you had to go get his belongings.

A W R

1 A Well, now that we talked about it, that he
2 was a voluntary patient, and if he was there as just a
3 regular patient he would have had all his belongings.
4 That's why I couldn't recall whether we walked them
5 down or brought them up.

6 Q What if he was there for psychosis? You
7 said a minute ago you remembered going to get his
8 belongings.

9 A I think I was trying to piece it together
10 whether we got his belongings or not. Because I do
11 remember him having his shoes with him.

12 Q What kind of shoes did he have?

13 A I think they were just tennis shoes. They
14 were older tennis shoes.

15 That's why I thought another guard might
16 have brought his shoes up to him before I got there,
17 but I do remember getting down to the emergency desk
18 and him just saying thank you and going out the door.
19 That's why I believe -- that's why I thought to myself
20 that we would have brought his belongings up before.

21 But due to us talking and him being a

A W R

1 voluntary patient, he would have had his belongings
2 with him the entire time.

3 Q What about folks who were brought to the
4 hospital for psychosis and they come voluntarily? You
5 don't think they might have taken his belongings for
6 that reason?

7 MS. PEAVY: Object to the form.

8 A Now, if he would have went up there and
9 whoever would have seen him, if they would have said
10 that he was one of our patients, one of the G4S psyche
11 patients, then we would have collected his belongings
12 and had them down at the emergency desk. They would
13 have been inventoried and brought down to the emergency
14 desk.

15 Q Okay. Turn to Page 17 there.

16 What's the primary impression for which
17 he's being brought into the hospital?

18 A The primary impression looks like acute
19 psychosis.

20 Q Okay. And so if a patient comes in for
21 acute psychosis they wouldn't have their belongings

A W R

1 taken then?

2 MS. PEAVY: Object to the form.

3 A Well, I'm not entirely knowledgeable about
4 what acute psychosis is, so I don't know if a doctor
5 would have looked at that and determined whether that
6 was -- a doctor would know more than I know, but I'm
7 looking at that and I don't know what the full meaning
8 of that would be, so I can't make that determination.

9 Q Okay. So you think Matthew was wearing
10 tennis shoes?

11 A I believe.

12 Q What about the rest of his clothes?

13 A I think he had jeans and a T-shirt on.

14 Q What color was his T-shirt?

15 A I think it was gray.

16 Q Okay.

17 A But I'm not entirely sure.

18 Q How would you describe Matthew Scheer?

19 A I would say he was between 20 and 25. I
20 think he was, like, five foot eleven, five foot ten,
21 had glasses. Shorter brown hair. Slender build.

A W R

1 Q Any other distinguishing features?

2 A When I saw him I just thought he was
3 another normal young man. Just distraught in the
4 hospital.

5 Q Beard, clean shaven?

6 A He was clean shaven. Might have had a
7 straggly mustache, but.

8 Q But you don't recall?

9 A No.

10 Q So you're called up to the room.

11 A Uh-huh.

12 Q And what were you doing at the time you
13 were called up?

14 A I would have either have been down sitting
15 at the front desk helping patients check in or I would
16 have been down in the ER visiting that security guard.

17 I don't know what, if any, incidents
18 happened prior to him, but those would have been the
19 things I would have been doing.

20 Q You don't remember where you were when you
21 were called up to Matthew's room?

A W R

1 A No.

2 Q And would you have been called over the
3 radio?

4 A Yes.

5 Q And that would that be some sort of, like,
6 walkie-talkie style radio you would have with you?

7 A Either the radio that would have been a
8 radio on my hip and had a lapel that went up to my
9 shoulder, or, the 2 North, now that would have been the
10 guard that's sitting at the monitor up there on
11 2 North, maybe the nurse went down and said something,
12 or, the 2 North nursing station would have called the
13 front desk and they would have called me over the
14 radio.

15 Q But you don't recall how you got the call?

16 A It would have been over the radio or they
17 would -- I don't recall the exact thing -- or they
18 would have called me on the cell phone.

19 Q And at the time you were called, it was
20 because there was a patient who was being disruptive
21 and upset?

A W R

1 A Yes.

2 Q It was not at the time to discharge him, it
3 was because he was being disruptive?

4 A That's correct.

5 Q Okay. If you would, turn to Page 100 in
6 there.

7 A Okay. This only goes to 89. Unless you're
8 talking about the little marking?

9 Q Here. I'll be happy to get it for you.

10 A I have it right here. Page 100.

11 Q Yeah. I'll be happy to show you where.
12 There is a lot of writing on this page.

13 MS. PEAVY: What are you highlighting,
14 Brink?

15 MR. HINSON: The nurse's note on Page 100,
16 Bates stamp 100.

17 MS. PEAVY: Okay. I see, sorry.

18 BY MR. HINSON:

19 Q Mr. Pheabus, if you see, there is a note
20 from a nurse that says: Patient approached nurse's
21 station and was pacing shirtless. Patient ripped off

A W R

1 arm bands and threw on the floor. Patient started
2 yelling stating, quote, that we could not control him,
3 nor could Obama, end quote. Patient accusing staff of
4 being Devil worshipers.

5 Do you see that?

6 A Yes, I do see that on the page.

7 Q Then there is another note.

8 A Yep.

9 Q Right there. Then there is another note up
10 here that says: Patient pacing in hallways. Approach
11 nursing unit saying that we cannot control him.
12 Patient escorted back to the room. Patient very verbal
13 with staff. Becoming aggressive with staff. Stating
14 that we are all with the Devil. Security at bedside.
15 Patient verbalizing that he is here voluntarily and we
16 cannot keep him here.

17 Do you see that part?

18 A Yes, I do.

19 Q So the security at bedside, is that you
20 most likely?

21 A I don't exactly remember being at bedside.

A W R

1 I don't know if they meant bedside by standing at the
2 door, but I don't think we ever breached his threshold
3 of his door.

4 Q Okay.

5 A At least I didn't. I don't know if the
6 security guard prior to me being there was, just to
7 talk to him, but when I got there I just stood at the
8 door.

9 Q Okay. Do you recall him being verbal with
10 staff and yelling?

11 A Yes, but I do not recall -- when I got
12 there he was in his room. Or right at the threshold of
13 his door.

14 Q Was he being loud and disruptive?

15 A Yes, he was.

16 Q Describe how he was being loud and
17 disruptive.

18 A Just at a high volume just saying that he
19 just didn't want to be there anymore. He said -- I do
20 remember him saying, you guys can't keep me here. I'm
21 here voluntarily. I do believe he was knowledgeable

A W R

1 about that and said he didn't want to be there anymore.

2 Q Do you recall the nurse that was there with
3 him?

4 A I do not recall the nurse.

5 Q Okay. Do you recall any of the nurses that
6 were there?

7 A There was a select few that would be there
8 every shift that I was, but I don't recall which exact
9 one it was.

10 Q Okay. Do you recall him yelling things
11 about the staff being with the Devil?

12 A No, I don't recall that.

13 Q Do you recall him yelling and being
14 aggressive with the staff in his tone and his behavior?

15 A In his tone and behavior it was more
16 aggressive than just yelling.

17 Q Describe what you mean.

18 A Instead of just talking in a high volume,
19 he was doing a lot of movement. I mean, it was more
20 like an aggressive just stating that he didn't want to
21 be there and he just showed that he was ready to go.

A W R

1 It was more of a -- he was more physical about it.

2 More just he was just pacing and wanting to go. In his
3 room. It wasn't out in the hallways or anything.

4 Q So you never saw him at the time he was out
5 in the hallway --

6 A No.

7 Q -- ripping off his arm bands?

8 A Uh-uh.

9 MR. HINSON: Object to the form.

10 Q You got there after?

11 A Yes.

12 MR. HINSON: What's the objection to the
13 form there, Rachel?

14 MS. PEAVY: I'm sorry, what?

15 MR. HINSON: What was your objection to the
16 form of my question? How can I correct the form?

17 MS. PEAVY: Just go on, I'll withdraw that
18 objection, Brink. Thank you.

19 BY MR. HINSON:

20 Q And at the time you got there, the doctor
21 had not yet arrived; is that correct?

A W R

1 A I don't believe so, no.

2 Q Okay. Do you recall the doctor who
3 arrived?

4 A I don't recall her name, but I do believe
5 it was a female.

6 Q Okay. Do you recall if she was tall,
7 short?

8 A She was short. Had, I'm saying, a little
9 bit below shoulder length brunette, brown hair. Brown
10 hair.

11 Q Approximate age?

12 A Approximate age, probably between 25 and
13 30.

14 Q Okay. And so the doctor arrives after you
15 and then shortly thereafter you're instructed to escort
16 Matthew out of the building?

17 A I don't know if we were instructed to, but
18 shortly thereafter the doctor got there he was
19 discharged.

20 Q Okay.

21 A Under the doctor's orders.

A W R

1 Q Okay. So exactly who gave that instruction
2 to you? You're not sure, it was either a nurse or a
3 doctor, but somebody asked you to please escort Matthew
4 out of the building?

5 A Yeah, I mean, he was escorted. I don't
6 know if it was us saying, do you need help, do you know
7 where you're going, if you just want to follow us,
8 we'll show you the exit or if it was a -- or the doctor
9 or nurse saying, could you just show him where to go.

10 Q And were you present when the doctor was
11 speaking with Matthew?

12 A Yes.

13 Q How long would you estimate that was? Two,
14 three minutes?

15 A I'd say about anywhere between two and four
16 minutes --

17 Q Approximately.

18 A -- before she got there and was pretty much
19 just, if you don't want to be here, you don't have to
20 be here.

21 Q So, okay, you're saying you were there

A W R

1 about two to four minutes before the doctor arrived.

2 A I was there -- yeah, I'd say approximately
3 four minutes when I was up there just observing his
4 behavior in his room and before the doctor got there.

5 Q Okay. And then the doctor basically says,
6 if you don't want to be here, we can't keep you?

7 A Pretty much.

8 Q Anything else you recall about that
9 interaction?

10 A No, not in particular.

11 Q Did the doctor do any sort of exam on
12 Matthew or anything?

13 A Now, I don't know what she did prior to
14 getting to the room, if she went over his medical
15 records or what conversations they had, but she didn't
16 do any evaluations from the time I was there to her
17 meeting him to the time he was discharged.

18 Q So whether or not she had looked at his
19 record prior you don't know and whether or not at some
20 point prior she had talked to him earlier that night or
21 the day before you don't know, but as far as at and

A W R

1 around the time of discharge she shows up, if you don't⁶⁴
2 want to go -- if you don't want to stay, we can't keep
3 you and then he leaves?

4 A Right.

5 Q You never saw the doctor perform any kind
6 of psychiatric exam or anything on Matthew? Nothing
7 like that?

8 A No, I didn't.

9 Q You never saw the doctor do any sort of
10 evaluation to determine if he was presently having
11 hallucinations?

12 A No, I did not.

13 Q Never saw any sort of exam or questions
14 from the doctor to determine if Matthew was hearing
15 voices at present?

16 A No.

17 Q Never saw any sort of exam or evaluation
18 take place by the doctor to determine if he was having
19 a belief that all the food in the word had been
20 poisoned?

21 MS. PEAVY: Object to the form.

A W R

1 A No.

2 Q Never saw any sort of exam or evaluation
3 from the doctor to determine if he was having extreme
4 paranoia?

5 MS. PEAVY: Object to the form.

6 A No.

7 Q The doctor simply showed up and said, if
8 you don't want to stay, we can't keep you and the next
9 thing you know you're escorting Matthew out of the
10 hospital?

11 MS. PEAVY: Objection.

12 A That's pretty much what it boils down to.

13 Q And through this case one of the things --
14 one of the things we have received is a copy of the
15 floor plan.

16 A Okay.

17 Q I'll show you this.

18 A Yes.

19 Q Do you recognize that?

20 A Yes.

21 MS. PEAVY: I've got it. Thanks.

A W R

1 Q What are we looking at there?

2 A There would be three or four floors to the
3 Grand Strand Hospital and this is pretty much a layout
4 of each floor, but there would be -- this would be the
5 2 North layout here.

6 Q Okay. Do you recall where the patient's
7 room was?

8 A Somewhere in the middle here of 2 North.

9 Q Can you kind of mark where it was?

10 A Yeah, yeah. (Witness complies.) I don't
11 know the -- it's one of these rooms there.

12 Q That you have circled?

13 A Yeah.

14 Q Can you write Patient Room underneath that
15 or Patient's Room?

16 MS. PEAVY: Can we mark that as an exhibit?

17 MR. HINSON: Sure.

18 A (Witness complies.) It would be one of
19 those rooms.

20 Q And where would you have taken the patient
21 to escort him out?

A W R

1 A After he would have been discharged we
2 would have walked down the hallway, and this would be
3 the nurse's station here, and then we would have taken
4 a right, went down here, toward the elevator. And the
5 elevator would have been right down here.

6 Q Can you just write Elevator down there?

7 A Yeah, sure. (Witness complies.)

8 MR. HINSON: We can mark this as Exhibit 1.

9 (Pheabus Exhibit 1 was marked for purposes
10 of identification.)

11 BY MR. HINSON:

12 Q When you were working with G4S, were
13 there -- was there written policies and procedures that
14 the company had for security guards?

15 A Yeah, there would have been.

16 Q Okay. When did you leave G4S?

17 A I mean, I would have to look up that
18 information on my phone to tell whether I'd be able to
19 leave or not, but it was sometime, let's see here,
20 maybe sometime -- I couldn't give you an exact date
21 without looking through my phone.

A W R

1 Q Was it 2016, '17?

2 A No, it would have been 2000 and -- I think
3 it was 2013 or '14?

4 Q When you left employment with G4S?

5 A Oh, employment from Myrtle Beach from there
6 to Maryland would have been 2015, I believe.

7 Q Spring, summer?

8 A Fall, I think. Without going through my
9 phone. I'd have to --

10 Q Do you recall how long it was after this
11 incident?

12 A After this incident it would have been,
13 because I moved back to Myrtle Beach -- or I moved back
14 to Maryland, it probably had been, like, eight months.

15 Q Eight months after this?

16 A I think so.

17 Q Okay. Do you recall G4S having new
18 policies and procedures issued at some point during
19 your employment?

20 A Well, I know things -- especially at Grand
21 Strand I know a lot of things were changing. A lot of

A W R

1 things changed, especially when they took over the new
2 contract, they were still feeling things out and there
3 was a lot of troubles with staffing and getting people
4 in there and I know a lot of things changed back and
5 forth, so.

6 Q When you say a lot of things changed back
7 and forth, I'm sorry, what do you mean by that exactly?

8 A When we first took over the contract they
9 had a lot of trouble getting staff in there and then we
10 had an abrupt switch in a general manager that was in
11 there. So there was a lot of -- I mean, just a lot of
12 stress trying to get things figured out.

13 Q Got you.

14 A If you have any specific guidelines or --

15 Q Well, I've got a set of policies and
16 procedures here from G4S.

17 A Okay.

18 Q And the effective date on that set is from
19 February 2, 2016.

20 A Okay.

21 Q Here. Do you remember G4S having a similar

A W R

1 set of policies and procedures? You're welcome to take
2 a look through that.

3 A I do not remember guards being given a
4 specific handbook like this or to show as policies and
5 procedures. There might have been one stuffed under a
6 desk somewhere that somebody could have got if they
7 asked, but I don't remember one being handed out.

8 Q Okay. Were there times in your work at
9 Grand Strand where you were asked to assist in
10 restraining a patient with some sort of mental health
11 issue?

12 A Yes.

13 Q How often would you estimate that occurred?
14 A handful of times?

15 A Maybe once -- yeah, a handful of times.

16 Q One a month? Couple times of month? How
17 often would you estimate?

18 A I'd say about two to three times a month.

19 Q And were there times that a patient who was
20 having some sort of mental illness wanted to leave and
21 the instruction was, we can't let this patient go and

A W R

1 you were asked to help restrain the patient?

2 A Now, if they were -- if they were under our
3 supervision, classified as a psyche patient, they
4 wouldn't even be able to pass the threshold of their
5 door. And if they tried to leave, then the guard would
6 restrain them or do whatever they could to get them
7 back into the room.

8 Q And so there were times, then, where you
9 had a patient with some sort of mental illness, some
10 psyche patient, who had to be restrained to prevent
11 from leaving the hospital?

12 A Either to harm themselves or harm somebody
13 else, there would be times.

14 Q And you were involved with that personally?

15 A Yeah.

16 Q You would do that if a physician or a nurse
17 asked you for assistance with that. You and other
18 guards would assist in that, correct?

19 A If we felt that it was a practical time to
20 do so.

21 Q And the need to or the occasion where you

A W R

1 would restrain a patient you estimate happened two or
2 three times a month you said?

3 A I believe so.

4 Q The majority of patients are discharged
5 from the hospital without any escort from security. Is
6 that fair?

7 A It depends. I mean, it all depends on
8 where they are, where they're located or what the
9 circumstances are.

10 Q Sure, but as far as the entire patient
11 population, the vast majority of them simply are
12 discharged from the hospital without the need for
13 security?

14 MS. PEAVY: Object to the form.

15 A I'd say without proper direction, no. But
16 I'd say there is somebody giving them direction where
17 to go most of the time. Whether it's pointing a finger
18 or them asking a question.

19 Q Have you ever -- well, tell me what you did
20 to prepare for today.

21 A As far as reading any documents or

A W R

1 anything, nothing.

2 Q Are you being represented by counsel right
3 now?

4 A No.

5 Q And tell me, have you -- when were you
6 contacted first about this case and this --

7 A I'd say about maybe a month and a half ago,
8 two month ago.

9 Q How were you contacted?

10 A I was contacted -- well, first I got a
11 letter. I moved from an address and then the person
12 who lived at that address said, hey, you got a letter
13 and I saw the letter and then I called the phone number
14 on it and it pretty much started there.

15 Q Okay. And who contacted you?

16 A I believe it's actually the representative
17 listening on the phone right now.

18 Q Okay.

19 MS. BRUDVIG: Brink, just in full -- to be
20 fully candid, it was me who had contacted Greg Pheabus
21 just so the record is clear.

A W R

1 MR. HINSON: Okay. Thank you, Kelsey.

2 BY MR. HINSON:

3 Q And before that about two months ago nobody
4 had contacted you before about this?

5 A No, no.

6 Q And what were you asked in that
7 conversation?

8 A If I could just recall what I remembered
9 from the incident.

10 Q And that was the first time anybody had
11 asked you about that?

12 A Yeah, that's the first time I had any
13 knowledge about this.

14 Q Have you ever spoken with Ms. Peavy prior
15 to this morning?

16 A No.

17 Q And were you -- did you ever talk to the
18 police after Matthew was discharged from the hospital?

19 A I don't recall. Because they would come in
20 pretty frequent asking about things, so I can't recall
21 if they came in and asked any questions about it.

A W R

1 Q Did Dr. -- did one of the doctors from the
2 hospital ever talk to you about Matthew Scheer?

3 A No.

4 Q Did the discharging doctor ever talk to you
5 about it or any of the nurses?

6 A No.

7 Q So after this incident occurred nobody
8 asked you anything about it to your recollection until
9 just a couple months ago?

10 A No. The only time I heard about it was
11 saying that the patient had committed suicide after me
12 escorting him. Then after that it was nothing.

13 Q Okay. And you didn't have to fill out any
14 kind of evaluation or speak at any sort of a peer
15 review committee or anything like that?

16 A No.

17 Q And how did you find out that Matthew had
18 died? Who told you?

19 A I came in my next shift on duty and I guess
20 it started the morning shift, or after it happened, I
21 guess, word got back to the hospital and then word

A W R

1 spread from person to person and eventually it got to
2 me from another security guard.

3 Q So you just kind of heard through the
4 grapevine --

5 A Just heard.

6 Q -- so to speak?

7 A Yeah, yes.

8 Q Earlier you talked about the psyche rooms
9 here on 2 North?

10 A Right.

11 Q And as I understood, you said sometimes
12 they would fill up and then it would -- the psyche
13 patients would be in other rooms besides the designated
14 psyche rooms?

15 A Right. Now, with my time being there at
16 2 North, it would never extend passed the nurse's
17 station. Now, there would be occasions where there
18 would be a psyche patient up in another unit, but we
19 would have to get an individual guard there. Like,
20 maybe pediatrics. There would be a child up there that
21 would be a psyche patient and they would be up there.

A W R

1 A guard would be in, like, the pediatrics unit.

2 But at 2 North, if it ever extended up
3 passed, yeah, we would have another guard there. So,
4 yes, it would extend up passed the normal rooms.

5 Q Okay. So rooms there on 2 North such as
6 the one this patient was in would sometimes have psyche
7 patients in them?

8 A Yeah. And even sometimes if they were not
9 enough psyche patients, they would put normal patients
10 down into the psyche rooms just to make them
11 accommodations for normal patients.

12 Q What type of report would have been filled
13 out about this of any type?

14 A Just from the -- just the nurse's
15 responsibility. If it was a nurse's patient, she would
16 have filled out her -- I believe, since you showed me
17 those notes from the nurses, I believe that was the
18 only thing that would have been just a voluntarily
19 regular patient.

20 Q Okay. But you wouldn't have filled
21 anything out for your involvement?

A W R

1 A No.

2 Q Do you remember, while you were in Myrtle
3 Beach, Hurricane Joaquin?

4 A I don't think so.

5 Q The big flood and rain storm?

6 A Oh, yeah, yeah. I do remember a big flood
7 and rain storm that flooded out pretty good, but I
8 don't remember which one it was.

9 Q What do you remember about that storm?

10 A I just remember getting in my truck ready
11 to go to the gym or to work and I just remember the
12 water being up to the curb where I was.

13 Q And it rained for several days almost
14 non-stop?

15 A Yeah, I remember all the golf courses all
16 flooded out.

17 Q It was a -- generally speaking it was a bad
18 storm, was it not?

19 A Yeah, I'd say so.

20 Q At the time Matthew, you took him to the
21 exit, do you know if he had any form of transportation?

A W R

1 A I do not know. I just remember him lightly⁷⁹
2 jogging away.

3 Q At approximately 1:30 in the morning?

4 A Yeah, yeah.

5 Q Did you ask him at any point, where you
6 going, where you planning to go?

7 A No.

8 Q Did you ever see one of the nurses or one
9 of the doctors ask him, where do you plan to go, what
10 do you plan to do?

11 A No.

12 MR. HINSON: Thank you, Mr. Pheabus.

13 THE WITNESS: Thank you.

14 MS. PEAVY: I've just got a few follow-up
15 questions, Mr. Pheabus.

16 THE WITNESS: Uh-huh.

17 MS. PEAVY: Thanks.

18 EXAMINATION BY MS. PEAVY:

19 Q If the nurse who was in the room at the
20 time the doctor came to examine Mr. Scheer before he
21 was discharged testified she thought that the doctor

A W R

1 was in the room about ten or 15 minutes, would you have
2 any reason to dispute the nurse's testimony?

3 A I wouldn't have any reason to agree or
4 disagree with her because I wasn't present.

5 Q Okay. And obviously you have testified you
6 can't offer any kind of medical opinions --

7 A Right.

8 Q -- about any treatment rendered to Matthew
9 by the doctors and the nurses, correct?

10 A Correct.

11 Q Okay. So if the doctor was at the bedside
12 communicating with Matthew and speaking with Mr. Scheer
13 at that time you would have no knowledge of what kind
14 of exam or questions she was asking or not asking,
15 correct?

16 A That's correct.

17 Q Okay. And is it fair to say you were
18 surprised to hear that Mr. Scheer had committed suicide
19 after you walked him out the exit?

20 A Yeah, of course I was surprised.

21 Q Okay.

A W R

1 A Because nobody wants to hear that news.

2 Q Okay. And there was nothing in his
3 behavior, that you observed, that made you think he was
4 going to harm himself or others, correct?

5 A That's correct.

6 Q Okay. And if you, or any of the other
7 security guards, had believed that Mr. Scheer was an
8 imminent threat to himself or others you would have
9 taken appropriate action, correct?

10 A That's correct.

11 Q And I want to show you one of the medical
12 records that says Medical Record 0130. In you go to
13 the stack, which is right there?

14 MR. HINSON: Right here.

15 Q And if you look at Number 0130.

16 A 0131?

17 Q 0130.

18 A 0130?

19 Q Yes. You got in front of you there.

20 And looking at the Comments section.

21 A Okay.

A W R

1 Q Does this reflect October 2, 2015 at, well,⁸²
2 military time is given.

3 A Right.

4 Q But is that 6:44 in the evening?

5 A That is what's time stamped on there, yes.

6 Q Okay. And looking at this first -- looking
7 at this final sentence under that note, does it state
8 that Matthew Scheer is not on papers and is voluntary?

9 A The very last sentence of that Comment
10 section does say he is not on papers and is voluntary.

11 Q Okay. And then looking at the bottom note
12 there?

13 A Okay.

14 Q October 2, 2015, again military time,
15 5:29 in the evening. In the middle of the paragraph,
16 does it state that: Patient is voluntary and is not
17 suicidal or homicidal?

18 A That's what this note says, yes.

19 Q Okay. And then, one more minute, I'm
20 sorry. I just need to check something in my notes.

21 When patients are discharged from Grand

A W R

1 Strand during your time there, they're given direction
2 one way or the other; is that correct?

3 A Yes, I'd say so.

4 Q And in the middle of the night if someone
5 is being discharged is it fair to say they're given
6 direction in the sense that the hospital's exits are
7 limited down to one and so you need to show them how to
8 get out?

9 A Yeah, there is also times where a patient
10 is discharged and the nurses call and say, hey, can you
11 just come up and give them an escort down to the
12 appropriate exit.

13 Q Okay. And again, you were never given any
14 manual or handbook by G4S when you started on at Grand
15 Strand, correct?

16 A We would have went over basic policies and
17 the procedures during the initial training.

18 Q Right.

19 A But I don't believe actually being on the
20 premises being handed rules and regulations --

21 Q Okay.

A W R

1 A -- to keep on us.

2 MS. PEAVY: All right. That's all I have.
3 Thank you, Mr. Pheabus.

4 EXAMINATION BY MR. HINSON:

5 Q Mr. Pheabus, you never witnessed -- well,
6 back up for a second.

7 You go up to Matthew's -- you're called,
8 you go up to Matthew's room, he's loud and disorderly,
9 yelling, as you described earlier.

10 A Yes.

11 Q Did you ever witness anyone imploring
12 Matthew, asking Matthew: Please, Matthew, we want you
13 to stay.

14 Did you see anyone doing that to Matthew?

15 A During my time in that hallway, no.

16 Q Did you ever witness anybody discussing
17 whether or not Matthew's father could be called? You
18 know, having a discussion, does the law allow us to
19 call his dad?

20 A During my time there, no.

21 Q Have you ever been involved in restraining

A W R

1 a patient who was being committed?

2 A Yes.

3 Q So somebody came to the hospital and then
4 once they were there it was determined that they were
5 going to be on an involuntary hold?

6 A Yes.

7 Q And in that point security would come, if
8 necessary, and restrain the patient?

9 A If necessary, yes.

10 Q And in that situation the physician had
11 made a determination that the patient, for whatever
12 reason, would need to be involuntarily kept?

13 A If the physician would have made that
14 determination --

15 Q You have seen that occur in your practice?

16 A Oh, yeah, yeah, I've seen that, yes.

17 MR. HINSON: Okay. Thank you, Mr. Pheabus.

18 THE WITNESS: Thank you.

19 MS. PEAVY: Thank you.

20 THE VIDEO OPERATOR: This concludes today's
21 videotaped testimony of Gregory Pheabus. This is Media

A W R

1 Unit 1 of 1. Going off the record. The time is
2 11:53 A.M.

3 (A discussion was held off the record.)

4 MS. BRUDVIG: Madam Court Reporter, this is
5 Kelsey Brudvig at Collins & Lacy. I do not believe
6 that G4S would like a copy of the transcript.

7 THE REPORTER: Okay.

8 MS. BRUDVIG: Are we off the record?

9 THE REPORTER: We can do this off, sure.

10 (A discussion was held off the record.)

11 THE REPORTER: And Counsel, would you both
12 like a copy of the transcript?

13 MS. PEAVY: Yes.

14 MR. HINSON: Yes, please.

15 (Deposition concluded at 11:55 a.m.)
16
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18
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21

A W R

1 State of Maryland

2 City of Baltimore, to wit:

3 I, SUSAN M. LIEBRECHT, a Notary Public of the
4 State of Maryland, Carroll County, do hereby certify
5 that the within-named witness personally appeared
6 before me at the time and place herein set out, and
7 after having been duly sworn by me, according to law,
8 was examined by counsel.

9 I further certify that the examination was
10 recorded stenographically by me and this transcript is
11 a true record of the proceedings.

12 I further certify that I am not of counsel to
13 any of the parties, nor in any way interested in the
14 outcome of this action.

15 As witness my hand this 17th day of
16 January, 2019.

17 *Susan M. Liebrecht*

18 Susan M. Liebrecht, RPR
Notary Public

19 My Commission Expires:

20 September 8, 2021
21

A W R