

0001

1 IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND
 2 -----+
 3 ALEXANDER H. NEUSTADTER on behalf +
 4 of himself as sole beneficiary and +
 5 as Personal Representative of +
 6 the Estate of ISRAEL R. NEUSTADTER, + CASE NO. 273195-V
 7 Plaintiffs/Claimants, +
 8 v. +
 9 AHMED NAWAZ, M.D., et al., +
 10 Defendants. +
 11 -----+

12
 13 Deposition of SHAHID SHAMIM, M.D.
 14 Rockville, Maryland
 15 Monday, July 16, 2007
 16 2:18 P.M.

17
 18
 19 Job No.: 1-106495
 20 Pages 1 - 99
 21 Reported by: Denice Z. Lombard, CSR
 22

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1 Deposition of SHAHID SHAMIM, M.D.,
 2 held at the offices of:
 3
 4 BRAULT GRAHAM
 5 101 S. Washington Street
 6 Rockville, Maryland 20850
 7 (301) 424-1060

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 10
 11 Pursuant to agreement, before Denice Z. Lombard,
 12 Certified Shorthand Reporter and Notary Public in Montgomery
 13 County, Maryland.

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1 A P P E A R A N C E S

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ON BEHALF OF PLAINTIFFS/CLAIMANTS:
RONALD H. JARASHOW, ESQUIRE
FRANCH, JARASHOW & SMITH, P.A.
107 Ridgely Avenue, Suite 9
Annapolis, Maryland 21401
(410) 268-5600

10 ON BEHALF OF DEFENDANT AHMED NAWAZ, M.D.:
11 PENNY C. KAHN, ESQUIRE
12 ARMSTRONG, DONOHUE, CEPPOS & VAUGHAN
13 204 Monroe Street, Suite 101
14 Rockville, Maryland 20850
15 (301) 251-0440

16
17 ON BEHALF OF THE WITNESS:
18 HEATHER KELLY, ESQUIRE
19 BRAULT GRAHAM
20 101 S. Washington Street
21 Rockville, Maryland 20850
22 (301) 424-1060

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1 A P P E A R A N C E S, continued

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APPEARING TELEPHONICALLY ON BEHALF OF
DEFENDANT HOLY CROSS HOSPITAL:
MICHELLE R. CALLENDER, ESQUIRE
WHARTON, LEVIN, EHRMANTRAUT & KLEIN
104 West Street
Annapolis, Maryland 21401
(800) 322-1984

ALSO PRESENT: Alexander H. Neustadter.

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C O N T E N T S

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2	EXAMINATION OF SHAHID SHAMIM, M.D.	PAGE
3	By Mr. Jarashow	6

E X H I B I T S

(Attached to the transcript.)

7	SHAMIM DEPOSITION EXHIBIT	PAGE
8	1 Notice of Deposition	7
9	2 Curriculum vitae	8

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P R O C E E D I N G S

SHAHID SHAMIM, M.D.

having been duly sworn, testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFFS/CLAIMANTS

BY MR. JARASHOW:

Q Doctor, my name is Ron Jarashow. I'll take your
deposition today and then other lawyers here will get to ask

8 you questions.

9 A Sure.

10 Q Have you had a deposition taken before?

11 A Yes.

12 Q How many times before?

13 A One time as I recall.

14 Q Just to remind you of some of the ground rules, I'll
15 be asking you questions. You have to give a verbal response
16 so the court reporter can record something, agreed?

17 A Agreed.

18 Q And then it's helpful for the court reporter if we
19 allow each other to finish either my question or your answer
20 before we speak because that way we don't talk over each
21 other. Agreed?

22 A Agreed.

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1 Q If you give an answer, I'll assume you understand my
2 question. Otherwise please ask me to rephrase my question if
3 you don't understand it, okay?

4 A Okay.

5 (Whereupon, Plaintiffs'/Claimants' Exhibit 1 was
6 marked for identification and attached to the transcript.)

7 MR. JARASHOW: Just for housekeeping purposes,
8 Doctor, I've marked as Exhibit 1 to the deposition, the
9 deposition notice that I sent out for this deposition.

10 And I just have a real basic question. Feel free to
11 look at it; it's there.

12 Q But do you have any documents concerning Israel
13 Neustadter at all?

14 A No.

15 Q So you don't have anything to bring along except for
16 I see you've got some copies of some of the medical records.

17 A Yes.s

18 Q But you didn't have those in your possession before
19 that.

20 A No.

21 MR. JARASHOW: That's fine.

22 And then let me get marked as Exhibit 2 for the

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1 deposition your CV you've given me today

2 (Whereupon, Plaintiffs'/Claimants' Exhibit 2 was

3 marked for identification and attached to the transcript.)

4 BY MR. JARASHOW:

5 Q Doctor, your CV that you brought along today, you
6 have a copy of it in front of you. Is this an accurate
7 description of your current practice and your background?

8 A Needs an update. Currently I am chief hospitalist
9 at the Washington Adventist Hospital.

10 Q And when did you take on that position?

11 A 2005 to present.

12 Q And do I understand then that you served as the
13 hospitalist at Holy Cross only from 2004 to 2005?

14 A 2005.

15 Q Is there any other update on your CV that you know
16 of?

17 A I think that's just the recent one. That's about
18 it.

19 Q And Doctor, I have here a copy of the medical
20 records for Israel Neustadter in case you want to look at
21 them or refer to them. So feel free to use those if at some
22 point you want to during the deposition, all right?

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1 A Okay.

2 Q Now, you're not here to render opinions about anyone
3 else's care are you?

4 A No.

5 Q What did you do to prepare for your deposition?

6 A I sat down with my counsel, I reviewed my notes
7 related to the care of Mr. --

8 MR. JARASHOW: Just quick, please -- don't tell me
9 anything you talked about with your counsel.

10 MS. KELLY: He won't.

11 MR. JARASHOW: That's private and confidential.

12 MS. KELLY: That's part of the preparation with
13 counsel.

14 MR. JARASHOW: I understand. Some people forget
15 that.

16 THE WITNESS: Okay.

17 BY MR. JARASHOW:

18 Q So just tell me what you did to prepare for your
19 deposition.

20 A Just with my counsel.

21 Q Okay. And what documents did you look at?

22 A My notes from the Holy Cross Hospital.

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1 Q And you have those notes in front of you with you.

2 A Yes.

3 Q And I see you have some of the physicians' orders
4 and some of the physicians' progress notes.

5 A Yes.

6 Q Did you look at any other parts of the medical
7 records?

8 A No.

9 Q Did you read the deposition of Dr. Nawaz?

10 A No.

11 Q Did you review any of Dr. Nawaz's answers to
12 interrogatories?

13 A No.

14 Q Have you ever had a lawsuit against you for medical
15 malpractice?

16 MS. KELLY: Objection. I want to let you inquire
17 into this just briefly, but . . .

18 THE WITNESS: Answer?

19 MS. KELLY: Go ahead, um-hm.

20 THE WITNESS: I was named in the lawsuit that was
21 some time back. As I can recall it was filed -- as I can
22 recall, late 1998 or '99.

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1 BY MR. JARASHOW:

2 Q oKAY. And was that resolved completely?

3 A Yes.

4 Q Where was that? In what court, do you know?

5 A It was in Virginia. Court was -- county was
6 Lancaster County, Virginia.

7 Q Did that go to a trial?

8 A No.

9 Q Have you spoken with the attorney for Dr. Nawaz
10 before today?

11 A We had a brief conversation. And Ms. Penny Kahn
12 called me and told me that my deposition is needed.

13 Q Did you talk substantively about any of the medical
14 of Israel Neustadter?

15 A No.

16 Q And have you talked with the counsel for Holy Cross

17 Hospital at any time before today?

18 A No.

19 Q Doctor, you were part of the Riar & Altschuler
20 practice I see by your resume here, correct?

21 A Yes.

22 Q Can you tell me what your role there was?

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1 A I was employed by that practice, Riar & Altschuler
2 practice. I joined them in 2002.

3 Q And what was your role there?

4 A It's an internal medicine practice. I was seeing
5 the patients in the office and at the hospitals and nursing
6 home.

7 Q Did you ever see, if you recall, Israel Neustadter
8 in that practice?

9 A See him in that practice? No.

10 Q Was there any uniform procedure in that practice
11 what to do with blood tests when they came in from the
12 laboratory?

13 MS. KELLY: Objection.

14 MS. KAHN: Objection.

15 MS. KELLY: We're going to talk about what he did in
16 this case, right?

17 MR. JARASHOW: Yes, but he was part of Riar &
18 Altschuler during the period of time, so I want to know what
19 the practices were there.

20 MS. KELLY: I think that's a little far afield from
21 his role in this case. If you want to take a deposition of a
22 Riar & Altschuler employee who can speak to that issue, I

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1 think that's fine.

2 But I don't think he saw the patient in their
3 office, so I don't know what he would know about --

4 MR. JARASHOW: Well, let me ask this.

5 Q Was there any uniform procedure or rule about what
6 to do with blood tests when they came in from the laboratory
7 while you were working at Riar & Altschuler?

8 MS. KELLY: Objection.

9 MS. KAHN: Objection.

10 BY MR. JARASHOW:

11 Q That means you can still answer.

12 A Okay.
13 MS. KELLY: If you recall.
14 THE WITNESS: There was no such particular
15 guidelines written or anything.
16 BY MR. JARASHOW:
17 Q Now, you know Dr. Nawaz?
18 A Yes.
19 Q Did you and he work together at Riar & Altschuler?
20 A Yes.
21 Q Were you social friends at all? Did you socialize
22 together?

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1 A Yes.
2 Q How frequently did you see each other?
3 A It's difficult to recall. There was no specific
4 pattern. There was no specific pattern. Could be once a
5 month or could be two or three times a month.
6 Q Would you consider yourself friends?
7 A Yes.
8 Q Have you seen him since the time that you left the
9 Riar & Altschuler practice?
10 A Yes.
11 Q And so you continue to see him only in professional
12 matters or to see him socially outside?
13 A Socially outside.
14 Q Have you talked with Dr. Nawaz about the lawsuit
15 concerning Israel Neustadter?
16 A We may have spoken it initially when the case was
17 filed. And recently he told me that he has to go through the
18 deposition.
19 Q And have you talked about the claims being made or
20 what's been asserted in the case?
21 A Specifics we did not discuss.
22 Q Do you know Dr. Kariya?

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1 A In professional capacity, yes.
2 Q Do you socialize with him at all?
3 A No.
4 Q What about Dr. Weiner?
5 A I know him as a professional capacity.
6 Q You knew him at the hospital.

7 A Yes.

8 Q Now, before you became involved in the care of
9 Israel Neustadter at Holy Cross Hospital in March of 2003,
10 did you know what his condition was?

11 A Before -- before getting involved on the 25th?

12 Q Yes.

13 A No.

14 Q Did you ever talk with Dr. Nawaz about Israel
15 Neustadter's condition before you actually got involved on
16 March 25th of 2003?

17 MS. KELLY: Do you mean before he saw the patient?

18 BY MR. JARASHOW:

19 Q Before you saw the patient.

20 A We discussed when he was handing out the sign-out or
21 the physician sign-out. That was the first time we discussed
22 about Mr. Israel Neustadter.

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1 Q So you don't recall speaking with Dr. Nawaz about
2 Mr. Neustadter in the practice of Riar & Altschuler.

3 A No.

4 Q Can you tell me when you actually spoke with
5 Dr. Nawaz about taking over or getting involved in the care
6 of Mr. Neustadter?

7 A As I can recall, a day prior to my taking over the
8 care, Dr. Nawaz was leaving on vacation. I'm just recalling
9 from my memory that 24th was the first time he gave me the
10 sign-out and the report on Mr. Israel's care.

11 Q Was Dr. Nawaz a senior doctor to you? What I mean
12 by that is, was he a supervisor of some kind, or were you
13 equals in the practice?

14 A Equals in the practice.

15 Q Now, where were you when you talked to Dr. Nawaz
16 about getting involved in Mr. Neustadter's care?

17 A I cannot recall the specifics at this moment.

18 Q Do you even recall whether it was in the hospital or
19 in your offices of Riar & Altschuler?

20 A As I can recall, it's likely in the hospital, Holy
21 Cross Hospital.

22 Q Do you recall whether Dr. Nawaz sought you out, or

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1 was it a random meeting that you had with him?

2 A No, actually, I went there -- as I can recall, there
3 was no random meetings in the hospital. It was basically he
4 was leaving for vacation. So as I could recall, that we met
5 at Holy Cross Hospital to get the sign-out. As I could
6 recall right now.

7 Q So did you get a message or something knowing that
8 Dr. Nawaz was going to go on vacation?

9 A Yes, we were part of the same practice, we knew that
10 he is leaving on vacation, so I will be covering his
11 patients, whoever the patients were in the Holy Cross
12 Hospital.

13 Q So let's talk about that period of time. Were you
14 going to cover all of Dr. Nawaz's patients?

15 A Yes.

16 Q Did you also have your own patients that you were
17 taking care of in the hospital?

18 A At that moment, no.

19 Q And why didn't you have any patients in the hospital
20 at that time? Is there any reason?

21 A It was just working within the practice that he
22 would cover one hospital and I would cover the other hospital

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1 so we do not overlap each other. Just cover different part
2 of the practices.

3 Q You said "the other hospital." What other hospital
4 did your practice normally cover?

5 A Shady Grove Hospital.

6 MS. KELLY: Let him finish his question before you
7 start to answer. He may take a wild right turn at the end of
8 the question and ask something a little bit differently.

9 BY MR. JARASHOW:

10 Q Did you have patients in Shady Grove Hospital during
11 that same period of time?

12 A I cannot recall it at this moment.

13 Q How far is the distance between Shady Grove Hospital
14 and Holy Cross Hospital approximately?

15 A Approximately, my guess is probably 15 to 20 miles.

16 Q Did you do any planning for taking over Dr. Nawaz's
17 patients when he was going to go on vacation?

18 MS. KELLY: Objection to form. Did he do any
19 planning?

20 BY MR. JARASHOW:

21 Q Yeah. Did you do any planning like check with the
22 patients, look at his list of patients, know how many

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1 patients he had, do some planning like that to take over for
2 him?

3 A We do planning every day about the patients, so I
4 may have done sometime.

5 Q Do you recall how many patients Dr. Nawaz had at
6 Holy Cross Hospital when you were going to take over the care
7 of Israel Neustadter?

8 A At this moment I do not recall.

9 Q Was there more than just Israel Neustadter in the
10 hospital?

11 A I believe there was.

12 Q What do you recall Dr. Nawaz telling you about
13 Israel Neustadter's condition?

14 A As I can recall, part of the conversation -- not all
15 of it -- that Mr. Israel Neustadter was admitted with the
16 pneumonia. And he was intubated in the ICU. And the
17 pulmonary critical care group of Dr. Steve Kariya and Dr. Jay
18 Weiner were helping taking care of Mr. Israel Neustadter.
19 And he is getting better, and the plan is to send him to the
20 rehab.

21 Q And when is it that you believe you had this
22 conversation with Dr. Nawaz?

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1 A As I could recall, a day prior to his leaving, which
2 will be 24th of March.

3 Q Do you recall if it was morning? Afternoon?
4 Evening?

5 A I do not recall the specifics.

6 Q Did you look at Mr. Neustadter's office chart at
7 Riar & Altschuler in preparation for that?

8 A No.

9 Q Did you review any specifics of the care that
10 Dr. Nawaz had planned when you met with Dr. Nawaz?

11 MS. KAHN: Objection.

12 MS. KELLY: Wait. At that time?

13 BY MR. JARASHOW:

14 Q At that time when you spoke to Dr. Nawaz?

15 A On the 24th?

16 Q On the 24th.

17 A Specifics, no.

18 Q At that time what was Dr. Nawaz's role for
19 Mr. Neustadter?

20 MS. KELLY: If you know. Go ahead. You can answer.

21 THE WITNESS: As I can recall, Dr. Nawaz was the
22 admitting physician for Mr. Israel Neustadter.

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1 BY MR. JARASHOW:

2 Q Did you know anything about Mr. Neustadter's
3 condition before he entered the hospital?

4 A No.

5 Q Now, when did you actually take over for Dr. Nawaz
6 in Holy Cross Hospital on Mr. Neustadter?

7 MS. KELLY: Wait a minute. I'm going to object to
8 when you say "take, over," you mean when was he covering for
9 Dr. Nawaz?

10 BY MR. JARASHOW:

11 Q Let me rephrase it, okay? What was going to be your
12 role once Dr. Nawaz went on vacation?

13 A I was covering for Dr. Nawaz.

14 Q And what does covering for Dr. Nawaz mean?

15 A I was an internal medicine doctor taking care of
16 Mr. Israel Neustadter in that capacity, internal medicine
17 doctor.

18 Q Were you responsible in place of Dr. Nawaz for his
19 care at Holy Cross Hospital?

20 MS. KELLY: Objection.

21 BY MS. KAHN: Objection.

22 MS. CALLENDER: Same objection.

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1 THE WITNESS: Basically we were taking care of,
2 along with the rest of the team.

3 BY MR. JARASHOW:

4 Q Were you substituting for Dr. Nawaz as the attending
5 physician and admitting physician at Holy Cross Hospital?

6 MS. KELLY: Objection.

7 You can answer.

8 THE WITNESS: I was substituting just to cross
9 coverage as internal medicine doctor.

10 BY MR. JARASHOW:

11 Q Well, there was no other general internal medicine
12 doctor caring for Mr. Neustadter at Holy Cross Hospital once
13 Dr. Nawaz went on vacation was there?

14 MS. KELLY: Objection.

15 You can answer.

16 THE WITNESS: Internal medicine doctor, no, I was
17 covering for Dr. Nawaz. But there was a team of primary
18 critical-care physicians.

19 BY MR. JARASHOW:

20 Q Do you know when Dr. Nawaz actually left on
21 vacation?

22 A As I can recall, he left on 25th.

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1 Q And on the 25th was he present during part or all of
2 the day for you to confer with before he left?

3 MS. KELLY: If you know.

4 MS. KAHN: Objection.

5 THE WITNESS: As I can recall, no, he was not
6 available on 25th.

7 BY MR. JARASHOW:

8 Q Did you take a cell phone or some kind of phone
9 number for Dr. Nawaz to contact him while he was on vacation?

10 A No.

11 Q Was Dr. Nawaz, as far as you know, out of contact on
12 his vacation?

13 MS. KAHN: Objection.

14 THE WITNESS: I'm sorry. Can you rephrase the
15 question?

16 BY MR. JARASHOW:

17 Q Yeah. In other words, did you have a way to contact
18 Dr. Nawaz while he was on vacation starting on March 25th?

19 A No.

20 Q Do you know where he went for his vacation?

21 A It's difficult for me to recall right now where he
22 went for vacation.

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1 Q When you went to the -- I assume you went to the
2 hospital on March 25th?

3 A March 25th.

4 Q Did you explain to Alexander Neustadter who you
5 were?

6 A Yes.

7 Q And had you met Mr. Alexander Neustadter before that
8 date?

9 A No.

10 Q What did you tell Mr. Alexander Neustadter about who
11 you were and what your role was?

12 A As I can recall, I told him that, "I'm Dr. Shamim,
13 I'm working with Dr. Nawaz in the same practice as Riar &
14 Altschuler. And Dr. Nawaz is on vacation, I'll be
15 cross-covering him."

16 Q When did you have this conversation with
17 Mr. Alexander Neustadter?

18 A I believe it was on the first day, the 25th.

19 Q Do you recall when or what time?

20 A Probably it's during my lunch --

21 MS. KELLY: Don't guess if you don't know. But if
22 you have a --

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1 THE WITNESS: I'm guessing. I can only guess.

2 BY MR. JARASHOW:

3 Q You have no recollection.

4 A No recollection, yeah.

5 Q How do you know you actually spoke with him? Do you
6 recall that? Or are you making an assumption you did?

7 A No, actually there were part of some of the
8 memories, because Mr. Alexander Neustadter has always been in
9 the room when I went over to Holy Cross.

10 Q When you first went to Holy Cross to check on
11 Mr. Israel Neustadter's condition, did you review the chart
12 fully?

13 MS. KELLY: Objection.

14 You can answer.

15 THE WITNESS: Okay. That's my practice, that when I
16 pick up a new patient, I look at the progress sheets and the
17 orders and the consultant notes to look at what's been done,
18 and look at the labs also to make my decisions.

19 BY MR. JARASHOW:

20 Q First of all, do you recall what those were when you
21 reviewed Mr. Neustadter's chart?

22 A I did reviewed it and put it down in my note on that

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1 particular day.

2 Q You mean you put down the time?

3 A I'm sorry, I did not get that.

4 Q Well, you said you put down your note. You mean you
5 put down your --

6 A Progress note. Progress note.

7 Q And you were pointing to the physician's progress
8 note, the handwritten one.

9 A The physician's progress note, the handwritten one.

10 Q We'll get to that in a minute.

11 MS. KELLY: Let him finish what he's asking before
12 you start to answer. You're going to be right almost every
13 time, but it's also hard for the court reporter to take down
14 two people at once.

15 THE WITNESS: Okay.

16 BY MR. JARASHOW:

17 Q Do you recall what time you actually did that review
18 of Israel Neustadter's chart?

19 MS. KELLY: Objection; asked and answered.

20 You can answer again.

21 THE WITNESS: After examining the patient, then I
22 looked at the chart.

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1 MR. JARASHOW: Now, you have, as I said, the medical
2 records in front of you to refer to. You also have a copy of
3 your handwritten physician's progress note from March 25 in
4 front of you.

5 Q Is there a time on your handwritten note?

6 A I don't see a time on my handwritten note.

7 Q Do you have a recollection of what time that was?

8 MS. KELLY: Objection; asked and answered.

9 MR. JARASHOW: But he hasn't answered it yet.

10 MS. KELLY: He said he doesn't recall.

11 MR. JARASHOW: He hasn't really said that.

12 Q You don't recall the time?

13 A I do not recall.

14 Q I know that Dr. Nawaz went on vacation on
15 March 25th. What is the actual start time that you took over
16 for the care of Mr. Neustadter on March 25th?

17 MS. KELLY: Objection.

18 THE WITNESS: Once he has given me the sign-out, I'm
19 covering for him.

20 BY MR. JARASHOW:

21 Q And did you get the sign-out on March 24th to take
22 over on March 25th, or sometime on March 25th?

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1 A As I can recall, the sign-out was on 24th, and I
2 first saw Mr. Neustadter on 25th.

3 Q Do you even have a recollection of whether your
4 first seeing Mr. Neustadter, in your writing your note that
5 you have there in front of you the physician's progress
6 notes, was in the morning or the afternoon?

7 A As I can recall, it's during my lunch break, which
8 is around noontime.

9 Q What was Mr. Neustadter's respiratory status when
10 you reviewed his status on March 25th?

11 A His respiratory status I can go back and look in my
12 progress note. At that time he was breathing well. He had a
13 99 percent on the pulse oxymetry so he was not in any
14 respiratory distress. But on my examination it showed that
15 he did have some bilateral crackles in his chest.

16 Q Um-hm. Did that at all affect your assessment of
17 whether what Dr. Nawaz had told you was accurate, that he was
18 going to be on a plan to get discharged at some point?

19 MS. KELLY: Objection.

20 THE WITNESS: I was seeing him point of his medical
21 care. At that point my notes reflect that although he did
22 have some crackles in the chest, but the plan was still that

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1 he may end up going to a rehab.

2 BY MR. JARASHOW:

3 Q Now I want to concentrate on your note here that
4 you've got. You noted six items on your note.

5 A Yes.

6 Q Can you explain what No. 1 is and what that circled
7 B means?

8 A It means bilateral pneumonia.

9 Q And was that by history or was that your assessment
10 of his condition?

11 A This assessment was based on the review of the
12 chart.

13 Q And No. 2?

14 A Dysphagia.

15 Q Which is problems swallowing?

16 A Problems swallowing.

17 Q And No. 3?

18 A It's PEG tube placement. PEG is percutaneous
19 endogastrostomy tube.

20 Q Now let me just go back to No. 2 for a minute,
21 dysphagia. Was that something that you evaluated or assessed
22 when you saw Mr. Neustadter the first time?

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1 MS. KELLY: Objection.

2 THE WITNESS: No.

3 BY MR. JARASHOW:

4 Q And No. 4 is what?

5 A It has an arrow upward. It says "increased "LFTs,"
6 which is liver function test, and "alkaline phosphotase."

7 Q And what was that from? Where did you get that
8 information?

9 A From looking at the lab workup.

10 Q And what did that tell you about his condition?

11 A At that moment, I was not sure. That's needed more
12 investigation. So in my assessment and plan I recommended
13 getting an ultrasound.

14 Q Now, is the recommendation for ultrasound something
15 that you developed as a recommendation or is that something
16 you talked about with Dr. Nawaz?

17 A This is based upon my evaluation and the blood
18 workup.

19 Q All right. And what was No. 5, HTN?

20 A No. 5 is HTN, hypertension.

21 Q And No. 6?

22 A No. 6 is history, HX short for history, of

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1 respiratory failure.

2 Q Um-hm. And did you evaluate that or make an
3 assessment of the degree to which he had respiratory failure?

4 A These are all the problem list. But during my
5 examination at that point he was saturating 99 percent.

6 Although he did have bilateral crackles in the lungs, he was
7 not in respiratory failure at that moment.

8 Q Now, you also have an arrow and 18.1 circled right
9 below that.

10 A Yes.

11 Q Can you explain what that was?

12 A These numbers, 18.1, is reflecting the white blood
13 cell count. And it's circled. And the arrow downward
14 indicates it's trending downwards.

15 Q Did that indicate to you the need for any further
16 treatment for his white blood count?

17 MS. KELLY: Objection.

18 You can answer.

19 THE WITNESS: When you're looking at the trend and
20 it's trending downwards, that seems like the treatment that's
21 being offered is working. Some there was no need to change
22 the medical treatment.

0032

1 BY MR. JARASHOW:

2 Q You also have below that some values circled. Can
3 you explain to me what those were and why are they circled?

4 A Two lines below that is AST and ALT which is two
5 liver enzymes. I circled them. The numbers were higher, and
6 the arrow pointing upwards indicates that they were high
7 numbers.

8 And next to it is alkaline phosphatase, 623, which
9 is also circled. And below that I've written,
10 "Albumin 2.3/5.9." I've not written anything after that.

11 Q What did those this findings suggest to you about
12 his condition at that time?

13 A As I mention in my problem list, that his liver
14 enzymes were higher and I was not sure at that moment why
15 these liver numbers were high. So in my plan I ordered
16 ultrasound.

17 Q Now, below that you have a first line, which I can't
18 read these entries here. Can you read them to me? But the
19 first line is there.

20 MS. KELLY: Which first line? Where are you?

21 BY MR. JARASHOW:

22 Q It's the one that starts right here below the

0033

1 findings at AST you have some things written.

2 A Below the lab numbers is basically is a
3 cardiovascular examination looking at his -- there are three
4 initials, RRR. It was regular rate rhythm. And then there

5 are the letter S plus the number 1 plus S2. And there's a
6 circle with a line on it and S3 meaning these were the heart
7 sounds, S1, S2, and there was no S3.

8 Q Okay. And what did that tell you about his
9 cardiovascular status?

10 A At that moment or that point it tells me that his
11 pulse was nice and regular. And there were two heart sounds
12 and there was no third heart sound.

13 Q And the next line under that is the chest that we
14 talked about, bilateral crackles, right?

15 A Yes.

16 Q And how about his abdomen, which is the next line
17 there?

18 A Abdomen I wrote down that there was a PEG tube,
19 which is percutaneous endogastrostomy tube. And after that I
20 have a plus sign in a circle and B and slash S, which is
21 basically represent for the bowel sounds.

22 Q And then you have the next line, which is EXT?

0034

1 A EXT is short for extremities. And it's a negative
2 sign in a circle with "edema," meaning there was no edema in
3 his lower extremities.

4 Q And then your last section of this page is what?

5 A The last section, if you're referring to below the
6 extremities --

7 Q Yes.

8 A -- the line below this thing, is basically
9 assessment and plan is A/B. And No. 1 is to continue with
10 the IV antibiotics. And No. 2 is ultrasound of the liver,
11 gallbladder. No. 3 is prognosis. I wrote "guarded." No. 4,
12 placement: rehab.

13 Q Now, did you consider for the antibiotic that he was
14 receiving whether he had anaerobic coverage with the
15 antibiotic or needed it?

16 A At that point, looking at all the data which I have
17 in front of me, and the trends for the white blood cell
18 count, in my professional opinion I didn't feel changing any
19 antibiotic course.

20 Q And you have on No. 2 a check mark next to the
21 ultrasound of the liver and gallbladder.

22 A Yes.

0035

1 Q What was that check intended to mean?

2 A Basically there's an obligation to check for myself,
3 to check the ultrasound of the liver and gallbladder.

4 Q One you had already ordered?

5 A Once I completed this thing, I can go back to the
6 order sheet.

7 Q Before we had go there, just, you had ordered it
8 already at that time.

9 A Yes.

10 Q And then No. 3, prognosis was guarded.

11 A Yes.

12 Q Why was that the case? Why would you say it was a
13 guarded prognosis?

14 A I was evaluating the whole patient, looking at the
15 list of the diagnoses. And the person already had
16 respiratory failure. He still had bilateral pneumonia. And
17 looking at all the picture, at that moment I thought that his
18 prognosis I could only judge to be guarded.

19 Because there were liver enzymes going up, so I
20 could not have the other way. Or this is my assessment at
21 that moment.

22 Q All right. And then No. 4 was an indication of

0036

1 what?

2 A No. 4 is basically long-term plans, what would be my
3 long-term plan as well for placement; and arrow pointed
4 towards rehab, that long-term plan will be a rehab

5 Q In your reviewing the records, the chart that you
6 took over, were you aware of the Jewish faith being a factor
7 for the care of Mr. Israel Neustadter?

8 MS. KELLY: Objection to form.

9 THE WITNESS: At that point on 25th I was not aware.

10 BY MR. JARASHOW:

11 Q Did you see in the prior records the notation by the
12 pulmonologist that the day before this Mr. Neustadter had not
13 been conscious to him and was gurgling?

14 A I may have reviewed it, but it's difficult for me to
15 recall right now. I can just do my assessment and see what
16 the patient looked like doing my assessment.

17 Q All right. At some point did you become aware that
18 the Jewish faith principles were important in the care of

19 Mr. Neustadter?

20 MS. KELLY: Objection to form.

21 MS. KAHN: Objection.

22 MS. CALLENDER: Object to form.

0037

1 MS. KELLY: Important in the care? Do you mean they

2 were patient to the family?

3 MR. JARASHOW: Well, they were important in what the

4 care plan would be for Mr. Neustadter.

5 MS. KELLY: Objection to form. You can answer.

6 MS. CALLENDER: Same objection, please.

7 MS. KAHN: Same objection, please.

8 MS. KELLY: You can answer.

9 THE WITNESS: Yeah, it didn't go into my treatment

10 of Mr. Israel Neustadter.

11 BY MR. JARASHOW:

12 Q Did you become aware at some point that the Jewish

13 faith principles were important to the Neustadter family in

14 what would happen to the care of Mr. Israel Neustadter?

15 MS. KELLY: Objection to the form.

16 MS. KAHN: Objection.

17 MS. CALLENDER: Objection.

18 THE WITNESS: No. Later on I did.

19 BY MR. JARASHOW:

20 Q And later on, when was that?

21 A It was on 27th of March.

22 Q And how did you become aware of that?

0038

1 MS. KELLY: Object to form.

2 You can answer.

3 THE WITNESS: From the review of the chart and the

4 records.

5 BY MR. JARASHOW:

6 Q What in particular did you review that made you

7 become aware of it?

8 A In particular, the note which was written on I

9 believe be the 25th, internal medicine --

10 MS. KELLY: I don't know the date on this.

11 THE WITNESS: That was the --

12 BY MR. JARASHOW:

13 Q So you're pointing to a note on March 25 of who?

14 A It was a -- it's a note written on 25th, 8:30 p.m.,
15 internal medicine cross-coverage.

16 Q And what did it say in that note that made you
17 become aware of it?

18 A The first paragraph, which states:

19 "The patient's son expressed he does not want
20 reintubation but he's bound by strict Jewish law.

21 Asked if he can speak to Rabbi -- "

22 I'm not sure what this word is.

0039

1 Q Rabbi Anemer, A-n-e-m-e-r?

2 A -- "to address code status."

3 Q Did you become aware of that internal medicine
4 cross-coverage note at or about 8:30 p.m. on March 25th?

5 A Not at that point.

6 Q Do you know who actually was the person who wrote
7 this note?

8 A No.

9 Q Would the name of Alquathani ring a bell with you?
10 Would that refresh your recollection?

11 A No.

12 Q Was this note written by house staff at the hospital
13 as far as you know?

14 MS. KELLY: If you know.

15 THE WITNESS: I cannot recall it.

16 BY MR. JARASHOW:

17 Q Do you recall talking to Dr. Alquathani on or about
18 March 25th in discussing Mr. Neustadter's condition with him?

19 A Unfortunately I do not have any recollection of this
20 phone call.

21 Q Did you have an understanding of what

22 Mr. Neustadter's code status was? In other words, was he a

0040

1 DNR or not a DNR on March 25th?

2 A As I can recall, he was a full code.

3 Q Did that ever change in the time that you were
4 caring for Mr. Neustadter?

5 A During my care, no, there was no change in the -- or
6 record change in the code status.

7 Q At any time during Mr. Neustadter's care that you
8 took care of until his death, was any medical care withheld

9 from him?

10 MS. KELLY: By him?

11 BY MR. JARASHOW:

12 Q By anybody, to your knowledge.

13 MS. KELLY: Start with by you.

14 THE WITNESS: No, we did not withhold any medical
15 care from Mr. Neustadter.

16 MR. JARASHOW: Now, when you say "we didn't," again,
17 your counsel sort of interrupted and said for you to start
18 with you. I just need to clarify. Let me clarify.

19 Q You didn't withhold any care.

20 A No.

21 Q Do you know if anyone else withheld care from
22 Mr. Neustadter?

0041

1 A As I can recall, no care was withheld from
2 Mr. Neustadter.

3 Q What about reintubation? Was that appropriate at
4 some point?

5 MS. KELLY: Objection. From an internal medicine
6 standpoint?

7 MR. JARASHOW: Well, from any standpoint he wants to
8 explain it.

9 THE WITNESS: I believe that discussion was between
10 the respiratory pulmonary critical care and Mr. Alexander
11 Neustadter. What they decide and how they proceeded, it's
12 documented in the chart.

13 BY MR. JARASHOW:

14 Q Let me go back in the record to the physicians'
15 orders for a second, on March 25th.

16 A Yes.

17 Q I see you also have a copy of that in front of you.

18 Is the March 25th marked 9:45 a.m., is that the
19 first physician's order in which you were involved?

20 A Physician order, yes.

21 Q And was this before you saw the patient?

22 A As I can recall, yes.

0042

1 Q And is 9:45 the time that this physician's order was
2 entered?

3 A Yes.

4 Q Or given by you, I guess, is really the way to say
5 it.

6 A Yes.

7 Q Can you read to me what it is that you were
8 ordering?

9 A Okay. It's:

10 "3-25-03, 9:45 p.m., ultrasound of liver and
11 gallbladder ASAP. Patient may travel without nurse
12 and monitor. T.O. Dr. Shamim."

13 And there's I think a signature from I think the
14 nurse.

15 Q Now, why did you give a telephone order for that
16 order?

17 A As I can recall, I may have received a telephone
18 call from the nurse about the liver enzymes, and that's when
19 I ordered the ultrasound.

20 Q Do you recall asking about what his respiratory rate
21 was at the time?

22 A I cannot recall the specifics, but I may have gotten

0043

1 all the information about the patient, how looks, how he
2 feels and respiratory status.

3 Q Well, what assessment did you make about Mr. Israel
4 Neustadt's status that permitted you to order that he may
5 travel without a nurse or a monitor?

6 A I cannot recall the specifics, but she may have
7 given me the vitals, the respiratory status, the pulse-ox,
8 oxygenation. So those were the things -- and the blood
9 pressure. So those were the things that made me order these
10 things.

11 Q And the way you said that, you said, "She may have."
12 You don't recall whether --

13 A I do not recall.

14 Q Just from a general standpoint, is there something
15 in the status that would want you to have -- well, let me
16 withdraw that. Let me rephrase it, okay?

17 A Okay.

18 Q What I'm trying to find out is what would you take
19 into consideration to determine that the patient should go
20 with a nurse and with a monitor, or a monitor?

21 A In my usual practice I may have looked at his
22 cardiac status. If someone has cardiac arrhythmia, then he

0044

1 would have required a monitor.

2 No. 2 thing is the patient's general condition, how
3 is he breathing, how much oxygen he requires, what his
4 general status is. If the patient appears critical, then the
5 nurse needs to go with the patient.

6 Q You knew from Dr. Nawaz that he has a history of
7 respiratory failure didn't you?

8 A Yes.

9 Q Did you consider that in determining that he could
10 go without a nurse and a monitor?

11 A At that moment, yes.

12 Q If his respiratory rate was extremely fast, would
13 that warrant sending him without a monitor?

14 MS. KELLY: Objection.

15 THE WITNESS: It's a hypothetical question.

16 Hypothetically, if somebody is in respiratory distress, yes.
17 Either we can have the x-ray in the room, have the tech come
18 into the room, or the patient can go with the nurse.

19 BY MR. JARASHOW:

20 Q Okay. Do I understand that to be you're saying that
21 if the respiratory rate is elevated, then a nurse and/or a
22 monitor would be appropriate?

0045

1 MS. KELLY: Objection.

2 MS. KAHN: Objection.

3 MS. KELLY: He's not going to give any sort of
4 standard-of-care kinds of testimony, and that is a really
5 broad question.

6 MR. JARASHOW: Well, I'm trying to find out what he
7 took into consideration.

8 Q What's a normal respiratory rate for this gentleman?

9 A I'm not sure what the normal for this gentleman is,
10 but normally the breathing rate can range from 12 to 20
11 normally.

12 Q You said that Dr. Nawaz had not been the one to
13 order the ultrasound. And what changed from the 24th to the
14 25th, as far as you know, that warranted the ultrasound as
15 soon as possible?

16 MS. KELLY: Objection; asked and answered.

17 MS. KAHN: Objection. And misstates testimony.

18 MS. CALLENDER: Join in the objections.
19 MS. KELLY: You can answer.
20 THE WITNESS: The reason was the sudden jump in the
21 liver enzymes that prompted me to order the ultrasound of the
22 abdomen first.

0046

1 BY MR. JARASHOW:
2 Q Did you attempt to contact Dr. Nawaz once you found
3 out about the change in liver enzymes?
4 A No.
5 Q And why didn't you try to contact him?
6 A Dr. Nawaz was on vacation.
7 Q Do you know what time the ultrasound was performed?
8 A I do not recall the exact time.
9 Q There were a number of other handwritten notations
10 on this telephone order. Do you know what those are?
11 A I'm not exactly sure.
12 Q I see the one that says "9:48 A," somebody
13 "Covington, 3-25-03."
14 Do you know a person by the name of Covington?
15 A No.
16 Q Do you know if that would be a nurse there at the
17 hospital?
18 A It would be speculation on my behalf.
19 Q When you saw Mr. Neustadter and wrote your note here
20 that we see under the physician progress notes, do you recall
21 what your next step was with regard to him?
22 A So you're referring to the note on the 25th?

0047

1 Q Yes. What was the next thing you did after that?
2 A In my plan I wanted to continue with the same
3 antibiotics, to check on the ultrasound of the liver and
4 gallbladder, and to continue the same treatment plan for now.
5 Q When did you next have something to do with
6 Mr. Neustadter's care after you wrote that note that you told
7 me you thought was around noon?
8 A Sorry. I didn't get the last part.
9 Q I'm trying to find out, you wrote this letter
10 sometime around noon you said.
11 A Yes.
12 Q So when did you next have something to do with

13 Mr. Neustadter's care?

14 A I saw him the next day on the 26th.

15 MS. KELLY: Do you want to talk about -- do you want
16 to show him the orders?

17 MR. JARASHOW: Yes, next, yeah.

18 MS. KELLY: Just for completeness. I'm not trying
19 to interfere.

20 MR. JARASHOW: I understand.

21 Q If you look at your physician's orders, you have
22 another order on -- below the one marked March 25th.

0048

1 You see on the bottom of that page?

2 A Yes.

3 Q Now, is that your handwriting?

4 A Yes.

5 MS. KELLY: Part of it is.

6 THE WITNESS: Part of it, yeah.

7 BY MR. JARASHOW:

8 Q And what part of this is your handwriting?

9 A On the order sheet I've written No. 1, circled, CBC
10 comma plus sign CMP in a.m.

11 Q And tell me what that was.

12 MS. KELLY: And your name.

13 THE WITNESS: And I signed in my signature and my
14 name.

15 CBC stands for complete blood count, and CMP stands
16 for comprehensive metabolic panel.

17 BY MR. JARASHOW:

18 Q And why did you order those for the morning?

19 A Since we are managing the patient with the infection
20 and the liver enzymes going up, we wanted to look at the
21 trend, if he's getting better.

22 Q Do you know what time you ordered this?

0049

1 A As I can recall, after seeing Mr. Neustadter,
2 writing my notes, and ordering after the writing of the
3 notes.

4 Q All right. So do I infer from that correctly that
5 you think you did this sometime around noon after you wrote
6 the physician's progress note?

7 MS. KELLY: No, objection. I don't think he said

8 around noon.

9 MR. JARASHOW: Oh, I thought he did. Let's go back
10 to the progress notes.

11 Q About what time did you write that, as far as you
12 know?

13 MS. KELLY: Objection; asked and answered. I'm just
14 saying I don't think he said he saw him at noon.

15 MR. JARASHOW: Okay, well --

16 THE WITNESS: Yeah.

17 BY MR. JARASHOW:

18 Q -- explain it to me again. I mean, I thought you
19 said you saw him about noon.

20 MS. KELLY: He said during his lunch hour.

21 THE WITNESS: During lunch hour, yeah.

22 BY MR. JARASHOW:

0050

1 Q Okay. But lunch hour is when? What time of day,
2 approximately?

3 A Usually in our office it's from 12:00 to 1:00.

4 Q Okay. Let's go back to the, then, physician's order
5 on the bottom of this page that we're just talking about
6 where you wrote "CBC and CMP." Did you write that at the
7 same time you saw Mr. Neustadter and wrote your physician's
8 progress note?

9 A After writing my progress note I wrote this.

10 Q Do you see on that same part of the physician's
11 order there is a date of 3-25 and 4:18 p.m., and over on the
12 left-hand side there's a note that says 3-23 at 4:30 p.m. it
13 looks like. Do you know what those notes are?

14 A As I can recall, these are the -- I can only say
15 that this probably is from the secretary who takes the orders
16 on the medical floors.

17 Q Now, you've seen these kind of notes before in other
18 hospital records I assume.

19 A Each hospital is different. Each hospital has a
20 different way of doing things.

21 Q But at Holy Cross Hospital you've seen this type of
22 notation before?

0051

1 A Yes.

2 Q Is that your understanding that it's the secretary

3 somewhere who notes and logs that in?

4 MS. KELLY: Wait a minute. Logs what in?

5 MR. JARASHOW: Logs that order.

6 MS. KELLY: That it's been carried out?

7 MR. JARASHOW: I don't know what it is first, but
8 logs it in somewhere.

9 MS. KAHN: I object.

10 MS. CALLENDER: Object to the form of the question.

11 THE WITNESS: I don't know about these things.

12 BY MR. JARASHOW:

13 Q So after you saw Mr. Neustadter on March 25th did
14 you see him again on that date?

15 A No.

16 Q Let's turn the next page of the physician order
17 forms. There's another physician order form that you signed
18 that's got a date on it of March 25th, correct?

19 A Yes.

20 Q When was that order -- first of all, is that your
21 handwriting?

22 A Yes, that's my handwriting.

0052

1 Q And when did you write that?

2 A I believe right after this writing the "CBC and
3 CMP," later on I wrote those orders also.

4 Q So it was still in the same time that you were
5 seeing Israel Neustadter on March 25th.

6 A Yes.

7 Q And what were you ordering in this physician's
8 order?

9 A The date, 3-25. It says "No. 1," circled, "Air
10 mattress for bedsores. No. 2: Respiratory suction PRN Q4.
11 No. 3: Chest physical therapy. No. 4 is PT/OT" -- which
12 represents physical therapy and occupational therapy -- "to
13 see the patient." And below is my signature and name.

14 Q And you didn't put a time on this.

15 A I don't see any time here.

16 Q No. 1 is obvious for what it was.

17 But No. 2, why were you ordering respiratory
18 suction?

19 MS. KELLY: PRN.

20 BY MR. JARASHOW:

21 Q Well, why were you ordering it at all?

22 A PRN? If I could go back to my progress note, it

0053

1 still says there's crackles in his chest. So these are for
2 the nurses to suction him if he has too much gurgling.

3 Q And the PRN is as needed?

4 A As needed.

5 Q And what was Q4 intended to mean?

6 A That means every four hours if it's needed.

7 Q Did you check to see what his history of suctioning
8 had been up until that time?

9 A No. At that moment, no.

10 Q Did you look at the records to see whether he was
11 suctioned on March 25 when you finally got back to see the
12 records?

13 A I don't recall looking at those notes.

14 Q Was Mr. Israel Neustadter conscious when you
15 examined him on March 25th?

16 A He was much more alert than awake. Conscious, yes.

17 Q Now, you ordered "No. 3: Chest physical therapy."
18 Could you explain what that was intended to be?

19 A Chest physical therapy is another modality to loosen
20 up the mucous. The respiratory therapist can work with
21 the -- do a little bit of percussion on the chest to loosen
22 up the mucous so it can be suctioned or he can cough it up.

0054

1 Q Do you know if that was carried out?

2 A I didn't review the notes.

3 Q And then you said "PT and OT to see the patient."

4 A Yes.

5 Q And what was that for?

6 A Physical therapy and occupational therapy because
7 our ultimate goal was to send the patient to the rehab. I
8 knew patient had deconditioned. He was in the ICU for the
9 infection and the pneumonia. He needed evaluation by the
10 physical therapist and occupational therapist to see what he
11 can do, what he cannot do so they can make appropriate
12 recommendations to me.

13 Q Do you recall having any discussions about whether a
14 foam lollipop could be used to wet Mr. Neustadter's lips?

15 A I'm sorry, can you repeat your question?

16 Q Do you recall having any discussion about the use of

17 a foam lollipop to wet Mr. Neustadter's lips?

18 A I do not recall that.

19 Q Do you recall if that would have been appropriate at
20 that time for Mr. Neustadter?

21 MS. KELLY: Objection.

22 MS. KAHN: Objection.

0055

1 MS. KELLY: He's not going to answer that question.

2 BY MR. JARASHOW:

3 Q Do you recall a conversation with Mr. Neustadter
4 that you physically saw him using a foam lollipop to wet
5 Mr. Neustadter's lips?

6 A It's difficult for me to recall that if he had that
7 lollipop in his hand or not.

8 Q And do you recall saying to Mr. Alexander Neustadter
9 that it was good because you observed that Mr. Israel
10 Neustadter could swallow?

11 A I do not recall that.

12 Q Now, in the notes you had there, a note of
13 6:00 p.m., one of the doctors seeing Mr. Neustadter.

14 Do you have that in front of you?

15 MS. KELLY: His note or someone else's note?

16 BY MR. JARASHOW:

17 Q Well, first of all, there's a note in the chart,
18 correct? Well, first of all, on March 25th at 6:00 p.m.

19 MS. KELLY: What I was saying was, are you talking
20 about a note of his or a note of someone else's?

21 MR. JARASHOW: Well, I think it's someone else's,
22 but that's what I'm trying to find out if you let me ask

0056

1 questions, okay

2 Q Do you know who wrote that note?

3 A As I recall it looks like Steve Kariya's
4 handwriting.

5 Q And is that his signature initials down at the
6 bottom?

7 A Yes.

8 Q Did you speak with Dr. Kariya about seeing
9 Mr. Neustadter?

10 A That particular day, no.

11 Q Did you review this note off March 25th at 6:00 p.m.

12 that Dr. Kariya had written when you finally came back to the
13 hospital at some point?

14 MS. KELLY: Objection.

15 THE WITNESS: On that particular day, no.

16 BY MR. JARASHOW:

17 Q The next day did you review it?

18 A Next day I did.

19 Q Did you understand what Dr. Kariya meant by "son
20 remains unrealistic"?

21 A I cannot comment or interpret.

22 Q Did you go and ask Dr. Kariya what that meant?

0057

1 A No.

2 Q Did you ask Mr. Alexander Neustadter what that
3 meant?

4 A No.

5 Q Did you understand that to mean the son was then
6 Mr. Alexander Neustadter?

7 A That's what my interpretation was.

8 Q Did you make any other evaluation of what had
9 happened at 6:00 p.m. as reflected in this note by
10 Dr. Kariya?

11 A I did not see him after my note on 25th, that
12 particular day. The next time I saw him was on 26th.

13 Q And let's go back to the 8:30 p.m. note which is
14 also on this page. Do you know if that was an intern at the
15 hospital who wrote that note? Did you see that note?

16 A I can see in front of me it's written by the intern
17 medicine cross-coverage.

18 MS. KELLY: Wait a minute. Was the question did he
19 see that note?

20 BY MR. JARASHOW:

21 Q Well, first of all, do you know whether this was
22 written -- is that written by somebody, just an

0058

1 internal-medicine person, or was it an intern at the hospital
2 who wrote that?

3 MS. KELLY: If you know.

4 THE WITNESS: I do not know.

5 BY MR. JARASHOW:

6 Q Do you know the circumstances that necessitated or

7 led to the entry that you see here?

8 MS. KELLY: Objection.

9 You can answer.

10 THE WITNESS: As my notes reflect on 26 that I came
11 aware of this event taking place on 25th, and it's mentioned
12 in my notes.

13 BY MR. JARASHOW:

14 Q Do you see the line in the middle of this 8:30 p.m.
15 note that says, "Contacted Dr. Shamim and discussed
16 possibility of intubation"?

17 A I see that written there.

18 Q Do you have a recollection of that?

19 MS. KELLY: Objection; asked and answered.

20 You can answer again.

21 THE WITNESS: I have no recollection of that.

22 BY MR. JARASHOW:

0059

1 Q Do you recall considering on March 25th at any time
2 whether Mr. Neustadter needed to have reintubation?

3 A On 25th? No.

4 Q Do you recall whether you attempted to contact
5 Dr. Kariya on March 25th at or about 8:30 p.m.?

6 A No.

7 Q So on March 26th what was the next time that you
8 became involved in Mr. Neustadter's care?

9 MS. KELLY: Do you mean what time of day or --

10 MR. JARASHOW: What time of day.

11 MS. KELLY: If you remember.

12 THE WITNESS: As I can recall, I was rounding mostly
13 during my lunch hour which was between 12 and 1 o'clock. So
14 I saw him at that point.

15 MS. CALLENDER: I'm sorry. I'm having a hard time
16 hearing over what appears to be a lot of paper shuffling. Is
17 there some way to move the phone either closer to the witness
18 or further away from the paper?

19 MR. JARASHOW: Sure.

20 MS. KELLY: That's what you get when you call on the
21 phone. You can't see that I'm laughing. I'm not really
22 laughing, but I'm trying to be light.

0060

1 (Discussion off the record.)

2 BY MR. JARASHOW:

3 Q Doctor, on March 26 when did you first have contact
4 with regard to Israel Neustadter?

5 MS. KELLY: Objection; asked and answered.

6 Ask the next question. He's already answered that.

7 MR. JARASHOW: I don't think he said a time.

8 Q Was it between noon and 1:00?

9 MS. KELLY: He did. He said between his lunch hour.

10 THE WITNESS: Between lunch hour.

11 BY MR. JARASHOW:

12 Q Let me point your physician's orders to you for a
13 second. Do you see the physician's order dated March 26th?

14 A March 26th. That is on --

15 Q And it says "00.10" at the top?

16 MS. KELLY: I don't think that's him.

17 THE WITNESS: No, no, that's not my order. My order
18 is below that.

19 BY MR. JARASHOW:

20 Q Okay. Well, let me just point out to you on here,
21 is that your signature on that entry where it says March 26th
22 of 00.10?

0061

1 A Yes.

2 Q So is that, what's up there, your order?

3 A It was not my order. It was the order cosigned by
4 me for the medicine resident.

5 Q When did you sign that order?

6 A About the same time on 26th when I saw
7 Mr. Neustadter.

8 Q Were you aware of this order?

9 MS. KELLY: When? When he signed it?

10 BY MR. JARASHOW:

11 Q Well, before you signed it, did somebody call you or
12 something?

13 A No. It's basically -- the normal practice is the
14 attending physician signs -- completes all the medical
15 records. Then they have to sign all the orders which were
16 not signed by the house staff.

17 Q Can you tell me what this order says?

18 A It says "03-26-03, 00.10 suction patient times 1
19 stat. Chest BT times 1 stat. D.O Dr. A-l-q-u-a-t-h-a-n-i."
20 And slash -- I cannot read it.

21 Q Can't read the second name.

22 A Yeah.

0062

1 Q Do you know that to be Dr. Alquathani who was a
2 doctor at the hospital?

3 MS. KELLY: He's asking do you know the person, not
4 is that what it reads.

5 THE WITNESS: I do not know him.

6 BY MR. JARASHOW:

7 Q Okay. Did you understand that this was a time just
8 after midnight?

9 A I only saw the patient on 26th. So my orders and
10 signatures were about the same time, so I had --

11 Q But when you reviewed and signed this order, you
12 read it I'm sure.

13 A I read it and reviewed the last night's events.

14 Q And was your understanding of this physician's order
15 that it was just about midnight that this happened?

16 MS. KELLY: If you know.

17 THE WITNESS: That's what the time says, yeah.

18 BY MR. JARASHOW:

19 Q Did you evaluate why Mr. Neustadter needed to be
20 suctioned at or about that time?

21 A I reviewed the chart, and it's in my medical
22 records, I reviewed the chart and reviewed the events of a

0063

1 day prior to that.

2 Q All right. So let's go to your physician's progress
3 note on March 26 that you wrote. Did you write this when you
4 examined Mr. Neustadter that day?

5 A After examination, yes.

6 Q So can you explain to me what this was? Go through
7 it and read it to me.

8 A "3-26-03. Medicine. S," which is basically
9 subjective.

10 MS. KELLY: Just read it. Read without explanation.

11 THE WITNESS: "Events of last night noted.

12 Appreciate house staff and Dr. Mills' input. Hypoxemic and
13 recurrent aspiration."

14 MR. JARASHOW: So let me concentrate on that section
15 of it.

16 Q That was "S" meaning what?

17 A S is subjective.

18 Q And what were the events of last night you were
19 referring to?

20 A I reviewed the notes from a day prior, which is on
21 the progress notes on 3-25, 8:30 p.m. That was the medicine
22 cross-coverage note.

0064

1 Q And that was the only thing that you reviewed then?

2 A Yes.

3 MS. KELLY: Wait a minute. He doesn't have this
4 within his chart.

5 MR. JARASHOW: Your counsel is showing you what I
6 was going to ask you about anyway, and that is there's a note
7 before you would have seen Mr. Neustadter in the -- that
8 would have been in the chart dated 3-26, 11:00 a.m.

9 Q Would that have been there when you reviewed the
10 chart?

11 A It's probably -- probably would have been in the
12 chart.

13 Q Do you recall reviewing that note?

14 A I may have reviewed it. I cannot recall it at that
15 moment.

16 Q And then you wrote here, "Appreciate house staff,"
17 as you said. What is it that you -- what is it that you
18 appreciated?

19 A That they came at nighttime to evaluate
20 Mr. Neustadter.

21 Q And who is Dr. Mayo?

22 A Dr. Mayo is in the same pulmonary critical care

0065

1 group with Dr. Jay Weiner, Dr. Steve Kariya.

2 Q And what was it that he had as input that you were
3 referring to here?

4 A Going back to the internal medicine cross-coverage,
5 that he spoke with the medicine cross-coverage that night to
6 make some plans.

7 Q And what were the plans being made?

8 A As I can see from the notes from the medicine
9 cross-coverage that, "Patient's son expressed he does not
10 want reintubation and is bound by strict Jewish law." And he

11 was on hundred percent non-breather, and they did the stat
12 ABGs and had suctioning.

13 Q Now, based upon that section of the note from
14 8:30 p.m. that you read, did you have an understanding as to
15 whether Mr. Alexander Neustadter wanted or was saying that
16 Mr. Israel Neustadter should not be reintubated, or was he
17 saying something different?

18 A My understanding from this note was that
19 Mr. Alexander was unable to make up his mind.

20 Q Now, continuing back to your 3-26 note you said
21 hypoxemic?

22 A Yes.

0066

1 Q And that means what?

2 A Hypoxemic means his oxygen level is going down.

3 Q And you said "recurrent aspirations."

4 A Yes.

5 Q What did you then evaluate should be done for
6 Mr. Neustadter at that point in time?

7 A At that point in time, looking at his vital signs
8 and his physical examination, making appropriate medical
9 treatments and adjusting the medical treatment accordingly.

10 MS. KELLY: Be specific what you're talking about.

11 THE WITNESS: I adjusted his antibiotics, started on
12 suctioning every second two to three hours, and I contacted
13 the pulmonary critical-care doctors.

14 BY MR. JARASHOW:

15 Q And at that time did you look at his white blood
16 count?

17 A Yes.

18 Q And it was what at that point in time?

19 A I have written all the labs, and it says "37.6."

20 Q And that was quite an increase from the day before.

21 A Yes.

22 Q What antibiotic did you switch to?

0067

1 A As my note suggests, I started him on Zosyn and
2 Lavoquin.

3 Q And why did you select Zosyn as the antibiotic to
4 start then?

5 A Broader coverage; and along with the Lavoquin,

6 covering a broad range of bacteria.

7 Q So did you terminate the Lavoquin or you continued
8 it also?

9 A Continued the Lavoquin along with the Zosyn.

10 Q I see here on your physician orders which you also
11 have in front of you that you have a D/C is it Rocephin?

12 A Yes.

13 Q And why -- is that discontinue the Rocephin?

14 A Yes.

15 Q And why discontinue the Rocephin?

16 A My medical opinion was to put him on a broader
17 spectrum of antibiotic.

18 Q And why did you make that assessment that he needed
19 a broader spectrum of antibiotic?

20 A Looking at his white blood cell count at that point.

21 Q Did you make the determination that his antibiotic
22 that he was on until that time was not sufficient to control

0068

1 his white blood cell count?

2 MS. KAHN: Objection.

3 MS. KELLY: Objection to form.

4 THE WITNESS: My decision was based upon the change
5 in patient's condition from 3-25 to 3-26.

6 BY MR. JARASHOW:

7 Q Was there any other change in condition other than
8 the white blood cell and the respiratory status we just
9 discussed?

10 A There was change in respiratory status.

11 Mr. Neustadter was in acute respiratory distress on 3-26.

12 Q Now, in your examination did you observe him in
13 respiratory distress?

14 A Yes.

15 Q And what were the indicators of respiratory distress
16 that you saw at that time?

17 A Patient was breathing faster. He had been on
18 hundred percent non-breather oxygen. His respiratory rate
19 had increased. So those are all the indications. Plus he
20 had more crackles in his chest and more rales on his right
21 side of the chest.

22 Q And what was his respiratory rate in the readings

0069

1 that you took here?

2 A I've not put the respiratory readings in my note. I
3 have put in upward arrow with increased respiratory rate. I
4 did not put the specific rate in there.

5 Q Just point out for me where you had the increase
6 arrow with the respiratory rate. I'm not seeing it.

7 A In the middle of this.

8 Q There it is. So it's under, as you read on this
9 note, under "S," and it's the third line there.

10 A Yes.

11 Q Let's go back to above that then you have a starred
12 under ultrasound abdomen; is that right?

13 A Yes.

14 Q And tell me what those indicate for you.

15 A On this particular line there's a star ultrasound
16 abdomen. And it basically notes "slash gallbladder slash."
17 Right below that is "slash renal cyst."

18 Q And did you make an evaluation that he had a cyst at
19 that time?

20 A Renal cyst, yes, ultrasound reading.

21 Q And then you have a starred on the next thing, and
22 what is that?

0070

1 A On the star below this thing is CXR which stands for
2 chest x-ray. And there's an interpretation there R circled,
3 which is right upper-lobe infiltrate.

4 Q Which means what?

5 A In interpretation of x-rays the infiltrates are
6 possibly pneumonia.

7 Q Below the section of S on your note here you have a
8 neck section which is -- is that O-N --

9 A E basically.

10 Q So what does that say?

11 A R circled, meaning right side rales, "slash
12 crackles." Below that line is "tachy."

13 Q And that's reference to his cardiac condition?

14 A Heart rate.

15 Q And then you have something about the abdomen?

16 A "Abdomen is soft, NT," nontender, "positive bowel
17 sounds."

18 Q And last is extremities?

19 A "Still" negative sign, and after that is "edema."

20 Q In this last section you had a plan for treatment?

21 A On my note it says:

22 "No. 1: Discuss with son. No. 2: start Zosyn plus

0071

1 Lavoquin. No. 3: Suction Q2 to 3 hours. And

2 No. 4: Call Dr. Kariya, IC consult."

3 Q Now, did you have a discussion with the son at that
4 time?

5 A I explained to him, yes.

6 Q And what did you explain to Mr. Alexander Neustadter
7 at that time?

8 A As I can recall, I told him about his change of
9 status, his increasing respiratory difficulty, and his
10 crackles in his chest, and a possibility of aspiration and
11 pneumonia.

12 Q Did you contact Dr. Kariya or Dr. Weiner at that
13 time?

14 A As I recall, I did call the office, and I did speak
15 with them.

16 Q Do you recall Dr. Weiner actually coming in to the
17 room and being there with you?

18 A Yes.

19 Q And when did he come in?

20 A I cannot specify the exact time, but after my
21 evaluation of the patient and writing some of the orders, and
22 at that point he came to the room.

0072

1 Q And was Dr. Weiner there when you discussed the
2 status of Mr. Israel Neustadter with the son?

3 A No. Initially when I examined him I just explained
4 to him what the change of condition is. And then when
5 Dr. Weiner came in, he had a conversation with
6 Mr. Neustadter. But at that point I went out of the room to
7 order some more testing.

8 Q Were you there -- I'm sorry, withdraw that.

9 Did you discuss Mr. Israel Neustadter's respiratory
10 status with Dr. Weiner?

11 A I did not discuss directly with him. But earlier,
12 as I mentioned, I had a telephone conversation with his
13 office, and I spoke with Dr. Kariya on the telephone at his
14 office. And Dr. Jay Weiner was talking to Mr. Neustadter's

15 son. And at that point I went out of the room to do some
16 more orders.

17 Q Did you hear Mr. Alexander Neustadter ask Dr. Weiner
18 to intubate his father?

19 A I was not present there.

20 Q Are you aware by any reason, by any other person,
21 that Mr. Neustadter did ask for his father to be intubated?

22 A I do not recall that.

0073

1 Q Did you have a discussion with Alexander Neustadter
2 about whether his father should be reintubated?

3 A We did not have that discussion.

4 Q Do you recall Dr. Weiner telling Mr. Alexander
5 Neustadter that he was unrealistic in his expectations for
6 his father?

7 A I do not recall that.

8 Q Do you remember Dr. Weiner raising his voice to
9 Mr. Alexander Neustadter?

10 A As I told you earlier, I was stepped out of the room
11 to order some more testing.

12 Q Did you come back in the room after you ordered
13 testing?

14 A I notified Dr. Weiner about that I ordered at that
15 point ABGs, air blood gases.

16 Q And I know you notified him, but did you come back
17 in the room to notify him? Is that -- you came back in?

18 A I just -- he was still in conversation with his son,
19 so I just let him know that I already ordered the ABGs, they
20 would be calling him directly.

21 Q So when you came back in the room, Dr. Weiner was
22 still talking with Mr. Neustadter.

0074

1 A Yes.

2 Q Did you listen to the conversation at all?

3 A No.

4 Q How long did you stay during the conversation?

5 A I just basically let him know that the ABGs been
6 ordered, and then I stepped out.

7 Q Did you hear that Dr. Weiner was talking about the
8 care of Mr. Israel Neustadter with Mr. Alexander Neustadter?

9 A I believe that was the conversation was the care of

10 Mr. Neustadter.

11 Q Why didn't you stay and listen to the conversation
12 if you were now taking over for Dr. Nawaz?

13 MS. KELLY: Objection.

14 You can answer.

15 THE WITNESS: At that point my role was to make sure
16 that the medication treatment and the medical treatment from
17 the internal medicine point of view is all done, meaning
18 ordering for the blood test, changing antibiotics, ordering
19 the appropriate tests, like ABGs, to see where he stands at
20 that moment of time.

21 BY MR. JARASHOW:

22 Q Did you have any role in overseeing whether

0075

1 Mr. Israel Neustadter should be reintubated?

2 A Basically I was in the process of assessing
3 Mr. Neustadter. That's why I ordered the ABGs. And the ABGs
4 would have determined whether he needs to be intubated or
5 not.

6 MS. KELLY: His question was what was your role in
7 deciding whether he would be.

8 THE WITNESS: I was -- basically, I already called
9 in the respiratory and pulmonary care specialist. I have my
10 limitations from my internal medicine. So from that point
11 on, it was the pulmonary critical care team which takes up
12 the care.

13 BY MR. JARASHOW:

14 Q Did you make any assessment of whether Mr. Israel
15 Neustadter was in a terminal medical situation at that point
16 in time when you saw him on March 26th?

17 A On 26th I was in the process of determining that,
18 doing all the blood work-up and the x-rays and the tests.

19 Q Did you hear Dr. Weiner say anything about
20 Mr. Israel Neustadter being terminal from the time he entered
21 the hospital?

22 A I have not taken care him from the admission.

0076

1 MS. KELLY: The question is did you hear him say
2 that.

3 BY MR. JARASHOW:

4 Q No, did you hear. Did you hear him discuss that?

5 A No.

6 Q Did you ever hear Dr. Kariya say anything about
7 Mr. Neustadter being in any kind of terminal status from the
8 time he entered the hospital?

9 A I don't recall any such conversation.

10 Q Now, you ordered -- let me withdraw that.

11 When you said you called Dr. Kariya, did you ask
12 Dr. Kariya to provide any services for Mr. Israel Neustadter?

13 A At that point when I examined Mr. Neustadter he was
14 in acute respiratory distress. I ordered whatever I could,
15 and I notified to point out to let them know that his
16 condition is basically very critical, he's in acute
17 respiratory distress, to notify and to convey my concerns.

18 Q And you ordered also an ICU consult?

19 A Yes.

20 Q And did you get that ICU consult?

21 A The team came in, Dr. Jay Weiner came in to evaluate
22 the patient.

0077

1 Q Was Dr. Weiner part of the ICU team?

2 A He was part of the pulmonary critical-care team.

3 Q So that was one and the same to you? Talking to
4 Dr. Kariya and the ICU consult? They weren't two separate
5 things?

6 A It's the same thing. It's the same thing. Because
7 their specialty basically overlaps.

8 Q Now, also, Dr. Shamim, on your physician's orders --

9 A Yes.

10 Q -- we dealt with the first one here.

11 You also signed off on the second one didn't you?

12 A Yes.

13 Q Is that your handwriting?

14 A Yes.

15 Q What were you ordering then?

16 A Yes. 3-26-03 I ordered No. 1, CBC plus CMP plus
17 CXR, which is chest x-ray, in a.m.. No. 2: D/C Rocephin.
18 No. 3: Zosyn 3.37 grams IV piggyback Q8 hours. And No. 4:
19 Respiratory treatment with Xopenex Q6 hours. And below this
20 is my signature.

21 Q And what was Xopenex?

22 A Xopenex is a medication like Albuterol, like

0078

1 Albuterol. X-o-p-e-n-e-x. It's a medicine like Albuterol
2 which helps in opening up the bronchioles, helps with
3 breathing.

4 Q And then you also signed off on the third
5 physician's order on this page, correct?

6 A Yes.

7 Q And what did that say?

8 A On the top is the date, "3-26-03. No. 1: Suction
9 respiratory, Q2 to 3 hours PRN," as-needed.

10 Q Now, you don't have times on these two -- on any of
11 these orders. When did you write or sign off on these two
12 orders?

13 A On the same date, on 3-26, after examining
14 Mr. Neustadter.

15 Q Now, do you have the next page of the physician's
16 orders also?

17 A This one?

18 Q Yes, I think we're looking at the same thing.

19 Were these further orders that you gave on
20 March 26th?

21 A Are we looking at the same orders? Yes, same
22 orders, on 26, yes.

0079

1 Q Did you write that?

2 A Yes, that's my handwriting.

3 Q Okay. And did you write this order at the same time
4 as you did the other two, right after you saw Mr. Neustadter
5 on March 26?

6 A I cannot be specific, because I was going in and out
7 of the room of Mr. Neustadter too. So during that time.

8 Q And can you read this order to me?

9 A No. 1 was "ABGs." And below that is, "Call results
10 to Dr. Weiner or Dr. Steve Kariya." And in the bracket it
11 says "stat."

12 Q Now, did you get the ABGs and talk to Dr. Weiner or
13 Dr. Kariya about them?

14 A At that point, no. The ABGs were ordered. And
15 that's why I went into the room to notify Dr. Kariya that
16 this test has been ordered --

17 Q Dr. Weiner?

18 A I'm sorry, Dr. Jay Weiner -- and told him that this

19 has been ordered and respiratory would call him directly.

20 Q All right. And just while we're on this page,
21 there's a physician order under that. Was that written
22 March 26th or was that the 27th?

0080

1 A I believe that was the next day.

2 Q Okay. So you said that you were going in and out of
3 the room on March 26 after you first saw Mr. Neustadter.

4 A Yes.

5 Q For how long did you go in and out of the room on
6 March 26th?

7 A The first time I went in there I evaluated
8 Mr. Neustadter. And that time I came out, I wrote some of my
9 notes and orders. And at that time I gave a call to the
10 pulmonary critical-care doctors, then went back into the
11 room, and at that time I believe Dr. Jay Weiner came back, so
12 I went out of the room. He was having conversation.

13 I went out, and I guess -- I think I might have
14 ordered for the ABGs. The and then I went back and notified
15 him about the ABGs. So the time period in the room could
16 be -- it's only my guess, couple of minutes.

17 Q After that, going in and out and you notified
18 Dr. Weiner about the ABGs, did you come back and see
19 Mr. Neustadter on March 26th?

20 A No. At that point I had handed over the care to the
21 team of pulmonary and critical care, handed over that, and
22 notified them about the critical condition. And at that

0081

1 point I believe I left the hospital.

2 Q Did you call in to check on Mr. Neustadter's
3 respiratory condition?

4 A At that point I'd already handed over the care to --
5 MS. KELLY: The question is did you call.

6 THE WITNESS: No.

7 BY MR. JARASHOW:

8 Q Did you get any reports from anybody about what was
9 going on with Mr. Neustadter through the rest of March 26th?

10 A No.

11 Q On March 26th, based upon what you saw of
12 Mr. Neustadter's condition, did you finally conclude one way
13 or the other whether he was terminal or not?

14 A On the 26th?

15 Q On the 26th.

16 A His condition was critical, but I did not determine
17 that it was terminal.

18 Q Did you make any assessment or evaluation whether
19 intubation was needed?

20 MS. KELLY: Objection; asked and answered.

21 THE WITNESS: That was the purpose of ordering the
22 ABGs, to look at his status, respiratory status.

0082

1 BY MR. JARASHOW:

2 Q Right. I know you said that was the purpose, but
3 did you make any evaluation after that?

4 A No.

5 Q You left that to the pulmonologists.

6 A Pulmonary critical-care team, yes.

7 Q Doctor, on March 27th, when did you first see Mr. --
8 on March 27th, when did you first see Mr. Neustadter?

9 A On March 27th on my progress notes say the time is
10 12:15 p.m.

11 Q And which --

12 A It's my note on 27th, 12:15, progress note.

13 Q Okay. Doctor, I note on this page that there's no
14 stamp up in the right-hand corner of this patient's name or
15 anything.

16 A Yes.

17 Q Do you know why that's the case?

18 MS. KELLY: If you know. You don't have to guess.

19 THE WITNESS: Usual practice is the secretary gets
20 these stamped. And I'm not sure why it's not there.

21 BY MR. JARASHOW:

22 Q All right. And I note that on the prior page in the

0083

1 notes of the hospital -- physician progress notes, there's a
2 handwritten name. Do you know why that's the case?

3 A I can only guess that --

4 MS. KELLY: Don't guess. No guessing.

5 THE WITNESS: No guessing. So I have no idea why
6 it's like that.

7 BY MR. JARASHOW:

8 Q So what's the normal practice for getting the stamp

9 placed on the pages of the hospital record?

10 MS. KELLY: His normal practice?

11 BY MR. JARASHOW:

12 Q Well, do you know the normal practice, that happens?

13 MS. KELLY: If you know.

14 THE WITNESS: I don't know the normal practice.

15 BY MR. JARASHOW:

16 Q Okay. Let me go back to one other page then. If
17 you go back to the 26th. Do you know whose handwriting that
18 is that says "Israel Neustadter" on the top of the right-hand
19 side of the page?

20 A Right over here on top?

21 Q Um-hm.

22 A It's my handwriting.

0084

1 Q And why did you write that there?

2 A So that my progress note does not get lost.

3 Q And we go back to the 27th and the page of the
4 progress notes, is that your handwriting on there?

5 A No.

6 Q Had you gotten called before 12:15 p.m. on
7 March 27th to -- about the condition of Israel Neustadter?

8 A I do not recall any calls.

9 Q And had you called in to find out the status of Mr.
10 Neustadter earlier than 12:15?

11 A I do not recall.

12 Q Did you talk to Dr. Weiner or Dr. Kariya about
13 Mr. Neustadter's status before 12:15?

14 A Before 12:15? No.

15 Q Why didn't you call when you knew that
16 Mr. Neustadter was in a critical condition?

17 MS. KELLY: Objection.

18 You can answer.

19 THE WITNESS: I had handed over the care on 26 to
20 the pulmonary critical-care team to make a decision regarding
21 his status to see what they want to do. And so I came back
22 next day to see in my usual rounds.

0085

1 BY MR. JARASHOW:

2 Q So let's concentrate on your 12:15 note. Can you
3 tell us what your assessment was then?

4 A "3-27-03 medicine. Appears in respiratory distress.

5 Terminal." There was a note by Dr. Weiner on the top.

6 MS. KELLY: Just read the note.

7 THE WITNESS: "Above appreciated by Dr. Jay Weiner."

8 BY MR. JARASHOW:

9 Q And what did you mean by "Above is appreciated by
10 Jay Weiner"?

11 A Because they were helping in the medical management
12 of Mr. Neustadter.

13 Q I really mean what were you referring to that the
14 above is appreciated. Is that that you were talking about
15 the note that's above this on the page?

16 A That's what I meant.

17 Q Okay. And who wrote that note? Whose initials are
18 those?

19 A You're referring to my progress note or --

20 Q No, the note above your --

21 MS. KELLY: Whose signature is that?

22 THE WITNESS: I believe it's Dr. Jay Weiner's.

0086

1 BY MR. JARASHOW:

2 Q Do you know what time he wrote that note?

3 A I have no idea.

4 Q And do you know what that note says?

5 A I can try reading it:

6 "Pulmonary 3-27. Patient doing very poorly.

7 Appears terminal. Case discussed with his son. He
8 does not want any other [x-rays, vent, et cetera].

9 He wishes to be alone with his father while he
10 dies. He understands he's terminal."

11 Q Okay. And did you then talk with Mr. Alexander
12 Neustadter about his father's condition?

13 A I believe I had a conversation with him indicating
14 the terminal condition of his father. And he wasn't present
15 in his room. And I told him that he looks very terminal,
16 he's short of breath, and then I left the room.

17 Q Did you make an assessment that in fact, in your
18 opinion, Mr. Israel Neustadter was terminal?

19 A Yes.

20 Q And what were the things that indicated that to you?

21 A He was very short of breath, his respiratory rate,
22 as I mentioned, was 37 per minute. He was tachycardic,

0087

1 meaning heart rate was increased to 121. And on my
2 examination his chest sounded crackles.

3 So those were all the things which indicated that he
4 is terminal.

5 Q Did you discuss with the son that he had a change of
6 mind about whether he wanted his father to have medical care
7 to try to preserve his life?

8 A At that point, no.

9 Q At some point did you have that discussion with him?

10 A About the intubation or -- no.

11 Q Intubation.

12 A No, no.

13 Q So you did not discuss with Alexander Neustadter
14 intubating his father?

15 A No.

16 Q Do you recall the son telling you that he tried to
17 get a pulmonologist in to take care of his father?

18 A I do not recall that conversation.

19 Q Did you have a discussion at some point with
20 Mr. Alexander Neustadter about the Jewish faith principles
21 about preserving life?

22 A No.

0088

1 MS. KELLY: Objection.

2 BY MR. JARASHOW:

3 Q And did you talk with the son at all about what the
4 Jewish faith principles were that applied to his father's
5 care?

6 A No.

7 MS. KELLY: Objection.

8 MS. KAHN: Objection.

9 BY MR. JARASHOW:

10 Q Did you get further contact from any of the staff at
11 the hospital saying that Mr. Neustadter wanted to talk about
12 getting care for his father to get everything done for him
13 instead of not doing medical steps for his father?

14 MS. KAHN: Objection.

15 MS. KELLY: Objection.

16 THE WITNESS: Can you rephrase the question?

17 MR. JARASHOW: Sure.

18 MS. CALLENDER: Objection to form and foundation.

19 BY MR. JARASHOW:

20 Q Let me direct your attention to the typed progress
21 note which you may or may not have in your part of the file.

22 MS. KELLY: He doesn't. And this was after I think

0089

1 he was involved with him.

2 MR. JARASHOW: Let's try to find the note here.

3 March 27th at 13:08.

4 MS. KELLY: Right here?

5 MR. JARASHOW: Yeah.

6 Q Doctor, first of all, you see this page I'm showing
7 you which are marked as the progress notes? Are you familiar
8 with these, this document?

9 A No.

10 Q Are you familiar with this form that are typed
11 progress notes? Do these show up in the chart?

12 A No.

13 Q So when you are looking at a chart of a patient, you
14 don't see these notes?

15 A No.

16 Q Are these kept on a computer, do you know one way or
17 the other?

18 MS. KELLY: If you know.

19 THE WITNESS: They are kept on the computer.

20 BY MR. JARASHOW:

21 Q Are you familiar with who keeps these notes in the
22 computer?

0090

1 A The nursing staff keeps it.

2 Q When you're caring for a patient, do you regularly
3 review those notes to see what the nursing staff is doing?

4 A Normally we just directly talk with them.

5 Q Okay. You see this note here at 13:08? Let me just
6 read -- let you read it to yourself.

7 A "Rhythm and" --

8 Q Just read it to yourself. You don't have to read it
9 out loud.

10 MS. CALLENDER: Ron, for purposes of the record, can
11 you tell me what date is on that note?

12 MR. JARASHOW: Yes. This is March 27th. It's the

13 13:08 note of the progress notes that are typed up by the
14 staff. I think there's a number written on the lower
15 right-hand side. I think it looks like it might be 291.

16 MS. CALLENDER: Thank you.

17 THE WITNESS: I read it.

18 BY MR. JARASHOW:

19 Q So you've read the note.

20 A Um-hm.

21 Q Do you see that it reports that Mr. Alexander

22 Neustadter was going back and forth to -- asking for the care

0091

1 to be provided for his father?

2 MS. KELLY: The question is, do you read that as you
3 sit here now.

4 THE WITNESS: Yes, I see that.

5 BY MR. JARASHOW:

6 Q Did you ever get contacted by anyone at or about
7 that time or after 13:08 on that date of March 27th to report
8 that Mr. Alexander Neustadter wanted actions taken for his
9 father and his father's health?

10 A No.

11 Q After you left Mr. Neustadter when you saw him on
12 March 27th, do you know about what time you left his room?

13 A I don't have the exact time.

14 Q Do you know how long approximately you were in the
15 room to examine Alexander (sic) Neustadter --

16 A On the 27th?

17 Q -- on March 27th?

18 A I can only -- like I can recall that it was
19 terminal. So the time period spent could be 10 minutes,
20 could be close to 10 minutes.

21 Q And then you're going in and out of the room? Do
22 you recall that being --

0092

1 A On the 27th?

2 Q On the 27th, you came back and you talked to
3 Dr. Weiner, right?

4 MS. KELLY: No, no, wait. Objection;
5 mischaracterizes. You're on a different day.

6 THE WITNESS: Yeah.

7 MR. JARASHOW: I'm sorry. Not on March 27th?

8 MS. KELLY: No.

9 THE WITNESS: Not on March 27th.

10 MS. KELLY: That was the 26th.

11 MR. JARASHOW: 26th. Pardon me.

12 Q On the 27th were you there when Dr. Weiner or
13 Dr. Kariya were there?

14 A No.

15 Q Do you know one way or another why no action was
16 taken to reintubate Mr. Neustadter?

17 MS. KELLY: Objection. He's not going to answer
18 that question. It was after he was there.

19 MR. JARASHOW: I'm just asking if he knows.

20 MS. KAHN: Objection.

21 BY MR. JARASHOW:

22 Q Did you ever talk to Dr. Weiner or Dr. Kariya about

0093

1 why they didn't reintubate Mr. Neustadter?

2 A We never had this discussion again.

3 Q Okay. Were you aware of there being any conflict
4 between Mr. Neustadter and Dr. Weiner?

5 MS. KELLY: Objection.

6 THE WITNESS: I was not aware of the conflict.

7 BY MR. JARASHOW:

8 Q Were you aware of Mr. Neustadter having a conflict
9 with anyone, Dr. Kariya or any nursing staff?

10 MS. CALLENDER: Objection.

11 THE WITNESS: I was not aware of it.

12 BY MR. JARASHOW:

13 Q Did you have any other discussions with
14 Mr. Alexander Neustadter that you recall that I haven't asked
15 you about?

16 A I think my encounters were on only three days: 25th,
17 26th and 27th. And during that time he was always at the
18 bedside. And when I examined I just gave him the update what
19 was the condition, what was going on. And that's about it.

20 Q All right. And do you recall any discussions with
21 any other person about reintubating Mr. Israel Neuustadter
22 that I haven't asked you about?

0094

1 A I haven't spoken to anybody.

2 Q Did you discuss with Dr. Nawaz what happened to

3 Israel Neustadter at any time?

4 A As I can recall, when he came back --

5 MS. KELLY: Objection; asked and answered.

6 You can answer again. Go ahead.

7 THE WITNESS: As I can recall, when he came back
8 from his vacation I told him that Mr. Neustadter has passed
9 away, and possibly an aspiration. And then that was the -- I
10 think that was about it.

11 MR. JARASHOW: Now, let me take a break and we'll
12 see if we have any more questions.

13 (Recess taken.)

14 BY MR. JARASHOW:

15 Q Doctor, on March 26th when Dr. Weiner came in the
16 room and you left, did Dr. Weiner spend some time continuing
17 to talk to Mr. Neustadter?

18 A As I can recall, he was talking to Mr. Neustadter's
19 son.

20 Q And is it required for Dr. Weiner to write a note in
21 the progress notes about his conversation?

22 MS. KELLY: He's not going to answer that question.

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1 MR. JARASHOW: Okay.

2 MS. KAHN: And I'll just pose an objection.

3 BY MR. JARASHOW:

4 Q Did you look for any documentation as to what
5 Dr. Weiner--

6 MS. KAHN: I want to make that clear. Not to
7 Heather's instruction; to your question.

8 BY MR. JARASHOW:

9 Q Did you look for any notes as to what Dr. Weiner
10 discussed with Mr. Neustadter?

11 A No.

12 Q Were you concerned about the intubation status for
13 Mr. Neustadter at that time?

14 MS. KELLY: Objection.

15 MS. KAHN: Objection.

16 MS. CALLENDER: Objection.

17 THE WITNESS: You're talking about 26th or 27th?

18 BY MR. JARASHOW:

19 Q March 26th.

20 A As I stated earlier also, I was in process of
21 evaluating him. So I was in process of ordering all these

22 tests and stuff. So the ABGs were ordered to see what his

0096

1 status was.

2 MR. JARASHOW: I've got no further questions.

3 MS. CALLENDER: No questions here. Thank you.

4 MS. KAHN: No questions.

5 MS. KELLY: I have no questions.

6 MR. JARASHOW: Okay. Do you want to tell him about
7 reading and signing?

8 MS. KELLY: Yes, I will.

9 You have the right to read and review the transcript
10 for purposes of verifying the accuracy of transcription. I
11 would suggest you do it, notwithstanding the excellent
12 professionalism of the fine lady to your left.

13 You can send it to me here.

14 (Signature having not been waived, the deposition of
15 SHAHID SHAMIM, M.D. was concluded at 4:23 p.m.)

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, SHAHID SHAMIM, M.D., do hereby acknowledge that I
3 have read and examined the foregoing testimony, and the same
4 is a true, correct and complete transcription of the
5 testimony given by me, and any corrections appear on the
6 attached errata sheet signed by me.

7

8

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10 _____
(Date) (Signature)

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Denice Zelma Lombard, Certified Shorthand
3 Reporter and Registered Professional Reporter, the officer
4 before whom the foregoing proceedings were taken, do hereby
5 certify that the foregoing transcript is a true and correct
6 record of the proceedings; that said proceedings were taken
7 by me stenographically and thereafter reduced to typewriting
8 under my supervision; and that I am neither counsel for,
9 related to, nor employed by any of the parties to this case
10 and have no interest, financial or otherwise, in its outcome.

11 IN WITNESS WHEREOF, I have hereunto set my hand and
12 affixed my notarial seal this 23rd day of July 2007.

13 My commission expires: March 1, 2011

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16 _____
17 NOTARY PUBLIC IN AND FOR
18 MONTGOMERY COUNTY, MARYLAND

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1 ERRATA SHEET

2 IN RE: Neustadter vs. Nawaz, et al.

3 RETURN BY: _____

4 PAGE	LINE	CORRECTION AND REASON
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