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SUPREME COURT OF THE STATE OF
COUNTY OF QUEENS
-----x
,
Plaintiff,
-against-
HOSPITAL
, M.D.,
P.A., "JOHN" , M.D., (first name
being fictitious), "JOHN" , M.D.,
(first name being fictitious) and
, M.D.,
Defendants.
-----x

January 11, 2007
10:19 a.m.
Examination before Trial of Juan
, M.D., held at the legal offices
of Hospital ,
New
York, pursuant to order, before Renate
Reid, Registered Professional Reporter and
Notary Public of the State of .

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A P P E A R A N C E S:

THE LAW OFFICE OF GERALD M. OGINSKI, LLC
Attorneys for Plaintiff
25 Great Neck Road, Ste. 4
Great Neck, N.Y. 11021
BY: GERALD M. OGINSKI, Esq.

, LLP
Attorneys for Defendants

Mineola, N.Y. 11501
File:
BY: , Esq.

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IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties hereto, that all rights

5 provided by the C.P.L.R., and Part 221 of
6 the Uniform rules for the Conduct of
7 Depositions, including the right to object
8 to any question, except as to form, or to
9 move to strike any testimony at this
10 examination are reserved; and in addition,
11 the failure to object to any question or
12 to move to strike testimony at this
13 examination shall not be a bar or waiver
14 to make such motion at, and is reserved
15 for, the trial of this action.

16 The within examination may be sworn
17 to by the witness being examined before a
18 Notary Public other than the Notary Public
19 before whom this examination was begun,
20 but the failure to do so or to return the
21 original of this examination to counsel
22 shall not be deemed a waiver of the rights
23 provided by Rules 3116 of the C.P.L.R.,
24 and shall be controlled thereby.

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2 The filing and sealing of the
3 original of this examination are waived.

4 IT IS FURTHER STIPULATED, a copy of
5 this examination shall be furnished to the
6 attorney for the witness being examined
7 without charge.

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2 , M.D., called
3 as a witness, having been first duly sworn
4 by the Notary Public, was examined and
5 testified as follows:

6 THE REPORTER: State your name and
7 address for the record.

8 THE WITNESS:

9

10

11 EXAMINATION BY

12 MR. OGINSKI:

13 Q. Good morning, Doctor. Do you
14 remember , do you have a
15 memory of him, what he looks like?

16 A. I do remember him.

17 Q. Can you tell me what physical
18 characteristics, height, weight, anything
19 else you can tell me about what you
20 remember?

21 A. I just remember he was a young
22 guy.

23 Q. At the time that
24 came into Hospital of for
25 treatment of his laceration, what was your

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2 employment status, what did you do there?

3

A. I was a BUA 2 resident, second
4 year resident.

5

Q. In what field?

6

A. Second year resident.

7

Q. How was it that you were called to
8 see Mr. ?

9

A. I was covering ER, so I was
10 called.

11

Q. When you saw -- you reviewed the
12 patient's record?

13

A. Yes.

14

Q. Either today or sometime before
15 today?

16

A. Yes, I did.

17

Q. Do your notes indicate what time
18 you saw him?

19

A. I don't remember seeing what time.

20

Q. Is there -- you can look --

21

A. But it was between, I think, like
22 between 5 and 6, between 5, 6 p.m..

23

I don't remember specifically what
24 time I saw him.

25

Q. At the time that you did see him,

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2 were you accompanied by any other doctor
3 or resident, whether attending or a
4 resident?

5

MR. : Just breaking it
6 down, when you first got there or
7 later on through the --

8

Q. When you first saw Mr. ,
9 were you accompanied by any physician?

10

A. No, I wasn't.

11

Q. Did you write the history and
12 physical portion of the chart for

13

Mr. ?

14

A. Yes, I did.

15 Q. In reviewing Mr. ' record,
16 did you see if you have notes anywhere
17 else beside the history and physical?

18 A. Yes, I did. Yes.

19 Q. And do you recall, just off the
20 top of your head, what other notes you
21 had, whether it's orders or something
22 else?

23 A. No, I mean -- I'm sorry, what do
24 you mean --

25 MR. : What he's asking is,

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10 Q. Who is Dr. ?

11 A. He's one of the -- he was one of
12 the chief residents at that time. I think
13 he was PY 4 resident at that time, chief
14 resident, I don't quite remember.

15 Q. In what field?

16 A. Also surgery resident.

17 Q. Do you have any memory as to

18 whether Dr. saw and examined

19 Mr. ?

20 A. Yes, he examined the patient.

21 Q. Did he examine the patient with
22 you present or at some other time, if you
23 know?

24 A. He examined the patient with me in
25 a different time.

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10 A. I think I had written the note by
11 the time I saw the patient.

12 Q. Let's go to your notes, please.
13 Do you have a copy of the record?

14 A. Yes, I think so.

15 Q. By the way, at the time that you
16 saw Mr. , had any physician sewed up
17 his laceration at that time?

18 A. By the time I saw the patient?

19 MR. : The first time you

20 saw the patient.
21 A. No.
22 Q. Can you read your history of
23 present illness?
24 A. Sure. He's a 22 years old male
25 who pushed his right arm through a window,
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2 having a right medial side forearm
3 laceration and right forearm laceration.
4 Q. Can you turn, please, to page
5 12-17 of the record, under "physical
6 examination"?
7 A. Sure.
8 Q. Was it typical that any patient
9 who came in that you were examining, that
10 you conduct an examination?
11 A. I'm sorry, repeat the question.
12 Q. On patients who came in who might
13 need surgery in which you were called, was
14 it typical for you to conduct a physical
15 examination?
16 A. Yes.
17 Q. And after performing the physical
18 examination, was it customary for you to
19 make notes in the chart about what your
20 findings were and fact that you did an
21 exam?
22 A. Sure. Yes.
23 Q. Was it important for you to record
24 that information as accurately as possible
25 so that you and other physicians caring
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1
2 for the patient would know exactly what
3 you found during the exam?
4 A. Yes, it was.
5 Q. At the bottom of the page, under
6 "extremities" can you read what you wrote,
7 please.
8 A. What I wrote was, "right arm ten
9 centimeters laceration on medial side.
10 Active bleeding right forearm, antero-
11 lateral side, six centimeters laceration".
12 Q. And can you turn the page, please,
13 to page 13-16. On "physical examination".
14 Under the "vascular" section at the top,
15 those are -- tell me what those numbers
16 represent.
17 A. Well, these numbers represent
18 the -- I mean the quality of the pulses,
19 the upper extremities and lower
20 extremities.
21 Q. And did he have normal pulses in
22 everything except the radial on the ride
23 side?
24 A. Yes. He had a decreased pulses on

25 the right radial arm.

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2 MR. : Finish your answer.

3

Done?

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THE WITNESS: Yes.

5

6 MR. : Just to make sure
7 that we're talking about apples and
8 apples, can I have the court reporter
9 read the question and answer back?

10

MR. OGINSKI: Sure.

11

(Record was read back).

12 BY MR. OGINSKI:

13

14 Q. Under "neurological", tell me how
15 you test for sensory system.

16

17 A. Well, the way you test is you
18 use -- you can use like a pen or small
19 like needle and try to pinch the side of
20 the extremity you want to -- you're
21 examining.

22

23 Q. And in this particular case, was
24 there -- were you examining a particular
25 hand or were they both hands that you were
examining?

26

A. I was examining both hands.

27

28 Q. When you wrote, under "sensory
29 system", "intact", tell me what you meant.

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2 A. What I meant is I didn't find any
3 abnormality.

4

5 Q. Am I correct that this is before
6 anyone had sewn up Mr. ' laceration?

7

A. Yes, that was.

8

9 Q. At any time while Nick was
10 if the emergency room, did you perform any
11 surgical procedure to him such as placing
12 sutures?

13

A. No, I didn't.

14

15 Q. Do you know who, if anyone,
16 performed the suturing or sewed up his
17 laceration while he was in the emergency
18 room?

19

A. I don't know. I don't remember.

20

21 Q. Was there anything within --
22 contained within the hospital record that
23 would suggest or indicate to you which
24 person or which doctor actually sewed up
25 and performed the surgical repair of
26 Mr. ' lacerations?

27

28 A. I don't know either. I mean, I
29 don't remember seeing any record or
30 anything saying specifically who sewed

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2 the --

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Q. Can you turn to page 14-17.

4 You wrote he had -- that he was a
5 22- year-old male with a right arm
6 laceration. The intravenous fluids, that
7 was something that you observed or had
8 ordered?

9 A. Something that I observed and I
10 ordered, yes, that's usually it.

11 Q. And what did you write right after
12 that?

13 A. I wrote, "right arm x-ray", which
14 is something to be done, and laps.

15 Q. And you mentioned "case
16 discussed"?

17 A. Case discussed with Dr. .

18 Q. Do you have a memory of what you
19 discussed, as you sit here now?

20 A. Yes, what I remember -- I mean, I
21 saw the patient and then I called
22 Dr. and then I told him what I saw,
23 which was patient with the laceration on
24 the right forearm with pulsating,
25 bleeding. Most likely I thought it would

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2 be arterial bleeding because it was really
3 pulsating. We put pressure on the forearm
4 and then I called , Dr. for
5 some help.

6 Q. And what if anything did
7 Dr. say?

8 A. He just said to keep pressure on
9 the forearm and then he would come down
10 right away.

11 Q. At any time while you were caring
12 for Mr. in the emergency room, did
13 you observe Dr. perform any type of
14 surgical procedure to Mr. ? And I'm
15 specifically asking whether you observed
16 him suturing or stitching up his
17 lacerations.

18 A. I saw Dr. examine the
19 patient. I didn't see him sewing the
20 forearm. But I saw him examine the
21 patient, examine the wound.

22 Q. Did you have any conversation with
23 Dr. about calling the plastic
24 surgery consult?

25 A. Yes, I think I remember -- yes.

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2 Q. And tell me what you remember
3 about that conversation.

4 A. I think what I remember is --
5 well, usually, every time we see a patient
6 with the wound in extremities, especially
7 upper extremities, we like to call the
8 plastic surgery or hand surgeons or, you

9 know, whatever specialty. And then, so I
10 think he told me to call, I think, plastic
11 surgery, who I also called that day to let
12 him know that the patient had this
13 laceration.

14 Q. Did you speak to any particular
15 physician when you called for plastic
16 surgery consult?

17 A. Did I speak with any particular
18 physician?

19 Q. Yes.

20 A. You mean with the -- yes, I did.
21 With the plastic surgeon?

22 Q. Right.

23 A. Yes.

24 Q. Do you recall who it was that you
25 spoke to?

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2 A. I think it was, what's her name,
3 Dr. -- what's her name -- it's a Chinese
4 plastic surgeon in the hospital. What's
5 her name? I think Dr.

6 Q. And to your knowledge, did Dr.
7 come and see Mr. ?

8 A. I don't know, I don't know if --

9 Q. Were you ever -- were you present
10 at any time in the emergency room when you
11 saw Dr. see and examine Mr. ?

12 A. I don't know, I don't remember
13 seeing Dr. .

14 Q. Did you ever speak to Dr. at
15 any time after you called or spoke to her
16 about performing a consult at any time
17 that evening or that day?

18 A. No. I don't remember. I remember
19 calling her but then I don't remember
20 talking to her again regarding the case,
21 the patient.

22 Q. I'm going to show you a document
23 from the hospital record. It says,
24 "physical assessment and disposition". And
25 I happen to have highlighted the bottom

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2 portion of it. Take a look at it, please.

3 A. Okay.

4 Q. That section, which apparently was
5 entered on July 6, 2005, at 8:57 p.m.,
6 says, 'patient being worked on by Surgery
7 18:25. Clamped off TH arteries".

8 Do you see that?

9 A. Yes.

10 Q. Does that indicate or suggest to
11 you who may have been working on
12 Mr. at that time?

13 A. I mean --

14 Q. I don't want you to guess.
15 MR. : Don't guess. If you
16 recall or if it helps your
17 recollection -- don't guess.
18 A. I don't know.
19 Q. Were there any other Surgery
20 residents who were covering the ER in
21 addition to yourself on the date that you
22 saw Mr. ?
23 A. By the time I saw the patient
24 -- no, I was the only one covering.
25 I mean, there's only one surgical resident

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2 covering ER for 12 hours and then there's
3 another one.
4 MR. : When you say,
5 covering, you're talking about being
6 -- you're talking, Doctor, about being
7 assigned to the emergency room through
8 the surgical service?
9 THE WITNESS: Um-hum.
10 MR. : Is that your
11 question?

12 MR. OGINSKI: Yes.
13 MR. : Because we have the
14 testimony that Dr. came down.
15 He's also a fourth year or chief
16 resident, so he'd be down there too.
17 But you're just talking about the
18 covering person?

19 MR. OGINSKI: Yes. I'll clean it
20 up.

21 BY MR. OGINSKI:

22 Q. When you take call in the
23 emergency room, that's for a period of 12
24 hours?

25 A. Yes.

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2 Q. And you typically have a second
3 year and a chief resident covering the
4 emergency room?

5 A. Usually, you have the second year
6 resident covering the emergency room. So,
7 every time you see a patient, then you
8 call your four year or the chief resident.

9 Q. I'm going to show you another page
10 from the hospital record which says,
11 "physical assessment and disposition".
12 It's a note, again, entered on July 6th
13 timed at 9:12 p.m..

14 And in the middle of the page,
15 again, I've highlighted a section, and
16 it's timed at 20:30 and it says, "Plastics
17 here to see patient. And wound being
18 sutured and stapled at this time. Vital

19 staple".
20 Does that information, does that
21 suggest or tell you who it was who saw the
22 patient at that time?

23 A. No, it doesn't.

24 Q. Other than examining Mr.
25 and speaking to Dr. , did you

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2 actually render any treatment to him?

3 A. I did just -- putting pressure on
4 the wound, examine the patient, and doing
5 the H&P, the history and physical.

6 Q. Did applying the pressure slow or
7 stop the bleeding that you observed?

8 A. Yes, it slowed the bleeding.

9 Q. Did you observe Mr. ,
10 whether he was complaining of pain at that
11 time?

12 A. He was in pain, yes.

13 Q. Did you also observe that he was
14 having some issues with his breathing
15 because of blood loss?

16 MR. : Objection to the
17 form.

18 Q. Did you make any observations
19 about his breathing at the time that you
20 saw him?

21 A. I don't remember.

22 Q. When -- how long did it take to do
23 your history and physical?

24 A. I mean, depends on the patient.
25 Might take you a couple of minutes.

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2 Q. In this case, do you recall?

3 A. In this case, took me about, I
4 don't know, a few minutes.

5 Q. And how many times did you
6 actually leave or return to Mr.
7 either to check on him or talk to him or
8 something else?

9 A. How many times?

10 Q. If you can recall.

11 A. A few times. I mean, I don't
12 remember specifically the time, but a few
13 times. I was covering ER, so that means I
14 would need to go back and forth, see
15 another patient, come back, see another
16 patient, come back and forth. I don't
17 remember how many times specifically I saw
18 him.

19 Q. After Mr. had his
20 laceration sutured did you speak to him
21 again, Mr. again before he was
22 discharged?

23 A. No, I didn't.

24 Q. Did you speak to any physician who
25 saw Mr. after -- other than

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2 Dr. , after you had done your
3 history and physical?

4 A. No, I didn't.

5 Q. When you make notes after your
6 exam, other than the written notes, are
7 there -- do you have the ability to write
8 notes into the computer?

9 A. No, I don't. We don't have -- only
10 the ER attendings or the ER resident are
11 allowed to write notes in the computer. We
12 do it on papers.

13 Q. Do you recall having any
14 conversation with any ER physician,
15 whether an attending or a resident,
16 concerning Mr. ?

17 A. Don't remember having any
18 conversation.

19 Q. Do you still work at
20 Hospital of ?

21 A. Yes, I do.

22 Q. And what is your position there
23 now?

24 A. I'm doing third year of surgery.

25 Q. This is -- how long is your

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2 program?

3 A. It's five years.

4 Q. And where did you go to medical
5 school, Doctor?

6 A. I went to med school in .

7 Q. When did you graduate?

8 A. I graduated in 2000.

9 Q. And after medical school in
10 , when did you continue your
11 medical training?

12 A. I continued my medical training as
13 soon as I graduated, 2000. I did a year
14 of residency after I finished my school.

15 Q. Where?

16 A. In .

17 Q. Was it a general residency?

18 A. It was like a trauma residency. I
19 worked for a year for the government,
20 that's mandatory after you finish medicine
21 school. Then I did a year of residency.
22 Then I came to the U.S.. I did a year of
23 research.

24 Q. In what?

25 A. In -- that was orthopedic

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2 research.

3 Q. Where was that done?
4 A. That was done at . And then I
5 started the residency in
6 Hospital, .

7 Q. Are you licensed to practice
8 medicine in the State of ?

9 A. I'm licensed to practice medicine
10 at Hospital, .

11 Q. Has your license ever been
12 revoked?

13 A. No.

14 Q. Has it ever been suspended?

15 A. No.

16 Q. Was Mr. ' case ever
17 presented on surgical rounds, to your
18 knowledge?

19 A. Not that I remember.

20 Q. Did you ever see Mr. again
21 after you saw him in the emergency room on
22 July 6, 2005?

23 A. No. I didn't see him.

24 Q. As part of your responsibilities
25 as a resident, do you from time to time

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2 see surgical patients in the clinic?

3 A. Yes.

4 Q. Did you ever, in looking through
5 the note, did you ever see Mr. in
6 the surgical clinic?

7 A. No, I didn't.

8 Q. When you examined Mr. , did
9 you make any assessment as to whether he
10 had full function of his injured hand?

11 A. Did I -- I'm sorry, what's the
12 question?

13 Q. When you examined Mr. , did
14 you make any assessment as to whether he
15 had functioning of his hand, the one that
16 had suffered the lacera -- actually, the
17 arm that had suffered the laceration?

18 A. Well, I did on my -- the physical
19 exam section, I did specify -- I mean, I
20 noticed that it was -- I didn't find any
21 abnormality when I saw him. I mean, that
22 was my assessment.

23 Q. To your knowledge, was Mr.
24 ever taken to the operating room to have
25 his laceration sewn up?

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2 A. Not that I know.

3 Q. Do you have any other notes that
4 are not contained within the hospital
5 record regarding Mr. ?

6 A. No, I don't.

7 Q. Was Mr. conscious and awake

8 when you examined him?
9 A. He was.
10 MR. OGINSKI: Thank you.
11 (Time noted: 10:44 a.m.)
12
13 _____
14
15

16 Subscribed and sworn to before me
17 this ____ day of _____, 2007.
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1
2 C E R T I F I C A T E
3 STATE OF)
4 : ss.
5 COUNTY OF NASSAU)
6
7 I, RENATE REID, a Shorthand
8 Reporter and Notary Public within and for
9 the State of , do hereby certify:
10 That , M.D., the
11 witness whose deposition is hereinbefore
12 set forth, was duly sworn by me and that
13 such deposition is a true record of the
14 testimony given by the witness.
15 I further certify that I am not
16 related to any of the parties to this
17 action by blood or marriage, and that I am
18 in no way interested in the outcome of
19 this matter.
20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 25th day of January,
22 2007.
23
24

25 RENATE REID

0029

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2 ERRATA SHEET
3 VERITEXT/ REPORTING, LLC
4
5 CASE NAME: vs Hospital
6 DATE OF DEPOSITION: January 11, 2007
7 WITNESS' NAME:
8
9 PAGE/LINE(S) / CHANGE REASON
10 _____/_____/_____
11 _____/_____/_____
12 _____/_____/_____

8 _____/_____/_____/_____
9 _____/_____/_____/_____
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19 _____/_____/_____/_____
20 _____/_____/_____/_____

21 _____, M.D.

22 SUBSCRIBED AND SWORN TO
23 BEFORE ME THIS _____ DAY
24 OF _____, 2007.

25 _____
NOTARY PUBLIC

MY COMMISSION EXPIRES _____