

DE-IDENTIFIED DEPOSITION OF A NURSE PRACTITIONER
IN A FAILURE TO DIAGNOSE CANCER CASE

1

1

2 SUPREME COURT OF THE STATE OF NEW YORK

3 COUNTY OF KINGS

4 INDEX NO.

5 -----x

6 ,

7 Plaintiff,

8 -against-

9 , M.D.,
10 , P.C., and
11 , M.D.,

12 Defendants.

13 -----x

14

15

16

17 10:30 a.m.

18

19

20 DEPOSITION of , N.P., a

21 Non-Party Witness in the above-entitled

22 action, held at the above time and place,

23 taken before Jennifer Brennan, a Notary

24 Public of the State of New York, pursuant

25 to Order.

26

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2 APPEARANCES:

3 LAW OFFICES OF GERALD M. OGINSKI, LLC
4 Attorneys for Plaintiff
5 25 Great Neck Road
6 Great Neck, New York 11021

7 BY: GERALD M. OGINSKI, ESQ.

8

9 Attorneys for Defendant - .

10 , M.D. and
11 Non-Party Witness

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BY: _____, ESQ.

Attorneys for Defendant - _____,
P.C.

BY: _____, ESQ.

Attorneys for Defendant - _____,
P.C.

BY: _____, ESQ.

ALSO PRESENT: _____, M.D.

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STIPULATIONS

IT IS HEREBY STIPULATED, by and among
the attorneys for the respective parties
hereto, that:

All rights provided by the C.P.L.R.,
and Part 221 of the Uniform Rules for the
Conduct of Depositions, including the
right to object to any question, except
as to form, or to move to strike any
testimony at this examination is
reserved; and in addition, the failure to
object to any question or to move to
strike any testimony at this examination
shall not be a bar or waiver to make such
motion at, and is reserved to, the trial
of this action.

This deposition may be sworn to by the
witness being examined before a Notary

20 Public other than the Notary Public
21 before whom this examination was begun,
22 but the failure to do so or to return the
23 original of this deposition to counsel,
24 shall not be deemed a waiver of the
25 rights provided by Rule 3116, C.P.L.R.,

4

1 , N.P.

2 and shall be controlled thereby.

3 The filing of the original of this
4 deposition is waived.

5

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8 * * *

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11

12 , the Witness

13 herein, having first been duly sworn by

14 the Notary Public, was examined and

15 testified as follows:

16 EXAMINATION BY

17 MR. OGINSKI:

18 Q Please state your name for the
19 record?

20 A .

21 Q Please state your address for
22 the record?

23 A

24 .

25 : Unfortunately, I

5

1 , N.P.

2 did not tell Dr. to bring

3 the original chart with him today. I

4 was under the mistaken impression
5 that I had it in my file and I do
6 not.

7 What we have today is a
8 photocopy of the chart, plus I found
9 a folder of additional materials that
10 we copied from the original chart of
11 Dr. EBT, which are
12 additional pages beyond what I copied
13 as the chart copy. So we have these
14 two copies today.

15 And we do have though, the
16 original composition book, which I
17 think the case record has called
18 this, "the call back book." At a
19 deposition last time, we used this
20 photocopy. It was marked on
21 as Plaintiff's Exhibit 3 and it's a
22 redacted version of the composition
23 book, which I said I have the
24 original here if anybody wants to do
25 a D and I of it.

1 , N.P. 6

2 The problem is, obviously,
3 HIPAA concerns of the privacy of
4 other patients in the book, which is
5 why last time, we had agreed to use
6 this redacted photocopy, rather than
7 the original book.

8 BY MR. OGINSKI:

9 Q Good morning.

10 A Good morning.

11 Q Where do you currently work?

12 A '.

13 Q What do you do?

14 A Nurse practitioner.

15 Q And how long have you been a
16 nurse practitioner, approximately?

17 A About 13 years.

18 Q And how long have you worked
19 for ?

20 A years.

21 Q And what do you do as a nurse
22 practitioner?

23 A I see patients in the office,
24 both GYN and OB.

25 Q And when you say you see

1 , N.P. 7

2 patients, tell me what you mean?

3 A I see them for routine annual
4 visits and OB care and problem visits.

5 Q When you see a patient for
6 routine annual visit, what do you do?

7 A Physical exam.

8 Q What else?

9 A For a routine, is pretty much a
10 physical exam, talk to them about their
11 history and any problems that they're
12 having and then do the physical.

13 Q Do you order any type of
14 diagnostic tests?

15 A If they need them, yes.

16 Q What type of diagnostic tests
17 might you order?

18 A Blood work, sonograms,
19 mammograms.

20 Q And do you have the ability to
21 do some of those diagnostic tests in your
22 office?

23 A We draw blood one day a week on
24 Saturdays in the office. We don't do
25 mammograms, breast sonograms in the

1 , N.P.
2 office.
3 Q When you say, "we do blood
4 work," do you mean there is --
5 A The office.
6 Q Hang on. That there is
7 somebody in the office, just dedicated to
8 doing blood work?
9 A Correct.
10 Q Now, if blood work comes in for
11 a patient where you had ordered a
12 particular blood work to be done, who
13 actually sees and reads that blood work?
14 : This is
15 currently or then?
16 MR. OGINSKI: Currently.
17 A All the providers see the labs
18 that come in.
19 Q Let me rephrase it. If you
20 order blood work for a particular patient
21 on an annual visit and now they have the
22 blood work done, who actually sees and
23 reads that blood work results?
24 A I do.
25 Q And do you interpret those

1 , N.P.
2 results?
3 A Yes.
4 Q And if those results are
5 normal, what happens to that result test?
6 A It gets signed and put in the
7 chart.
8 Q By whom?

9 A Me.
10 Q If the results are abnormal,
11 what, if anything, do you do?
12 A Call the patient.
13 Q And for what purpose is that
14 done?
15 A Follow-up, if they need
16 additional testing or need to come back
17 into the office, make an appointment.
18 Q Do you interpret the blood
19 tests that you read?
20 A Usually, yes.
21 Q And when you call the
22 patient -- withdrawn.
23 Do you personally call the
24 patient if there is something abnormal?
25 A Yes.

10

1 , N.P.
2 Q And do you discuss with them
3 what the abnormality is?
4 A Yes.
5 Q Do you then formulate some type
6 of action plan for them to take, in light
7 of the abnormality?
8 A Sometimes or I'll refer them to
9 a specialist, if that needs to happen.
10 Q Would that be some specialist
11 outside of office?
12 A Yes.
13 Q How many nurse practitioners
14 work in Dr. ' office currently?
15 A We have one other midwife,
16 nurse midwife.
17 Q Any other nurse practitioners
18 like yourself?
19 A No.

20 Q How many physicians currently
21 work in office?
22 A Three.
23 Q Are they all OB/GYN?
24 A Yes.
25 Q And of those three, one of them

11

1 , N.P.
2 is ?
3 A Correct.
4 Q As part of your duties as a
5 nurse practitioner, would you say you are
6 qualified to give medical advice?
7 A Yes.
8 Q And your training is based upon
9 your schooling, your nursing schooling?
10 A Yes, and master's.
11 Q And where did you go to nursing
12 school?
13 A .
14 Q And from when to when?
15 A Two -- to .
16 Q And you received your -- what
17 was the degree?
18 A MSN.
19 Q And after that or is that part
20 of it, you got your master's together
21 with your nursing degree?
22 A Correct.
23 Q And you are licensed as a
24 registered nurse in New York?
25 A Correct.

12

1 , N.P.
2 Q As of when?

3 A .

4 Q Has your license ever been
5 revoked?

6 A No.

7 Q Has your license ever been
8 suspended?

9 A No.

10 Q If you order a sonogram on a
11 patient, where do the results from the
12 outside -- withdrawn.

13 If you order a sonogram on a
14 patient, the patient goes for the
15 sonogram and now the radiology facility
16 sends you a report, who reviews that
17 report?

18 A I do.

19 Q And when you review that
20 report, what, if anything, are you
21 looking for?

22 A Generally, I'm looking at the
23 impression and what their recommendation
24 is.

25 Q And if it's a normal finding,

1 13
2 , N.P.

3 what, if anything, do you do with that
4 report?

5 A I sign it and it goes in the
6 chart.

7 Q Do you notify the patient that
8 the report or the interpretation of
9 sonogram was normal?

10 A No.

11 Q Is the patient told to
12 follow-up after having the sonogram, to
13 learn what the results are?

14 A Not generally, if it's a normal

14 result.

15 Q How would the patient know what
16 the results were, if the radiology
17 facility does not tell the patient of
18 those results?

19 A Generally the radiologists send
20 a note or a letter to the patient, in
21 layman's terms, of their results. That's
22 the common practice. We usually
23 recommend patients follow-up with us if
24 there is a concern, so we can follow-up
25 with results in the office. But if it's

14

1 , N.P.

2 a normal result, usually it's written on
3 the result that the radiology department
4 is also sending a note to the patient.

5 Q In that instance where the
6 radiology facility sends a layman's
7 letter to the patient letting them know
8 that they have a normal result, does your
9 office receive a copy of that?

10 A No.

11 Q How do you know that that's
12 what is done usually by a radiology
13 facility?

14 A It's usually written on the
15 report that's sent to us.

16 Q What is written?

17 A A similar report has been sent
18 to the patient in layman's terms.

19 Q Based upon your experience as a
20 nurse practitioner, when a patient is
21 sent to a radiology facility for a
22 sonogram or mammogram, is it your
23 understanding that it is common practice
24 for the facility to send normal letters

25 to the patient, regarding the finding of

15

1 , N.P.

2 that test?

3 A Yes.

4 : Can you read

5 that back?

6 [At this time, the requested

7 portion of the record was read.]

8 : Objection to

9 the form.

10 Q Are you aware of any radiology

11 facilities that you have sent patients

12 to, that did not follow that practice

13 that you've described?

14 A I can't speak to that.

15 Q If the sonogram report shows

16 some type of abnormality and you are the

17 one who ordered it and now you look and

18 review that particular test, what do you

19 do in that instance?

20 A Call the patient.

21 Q And tell me what's the

22 conversation that you have with the

23 patient in that instance?

24 A It would depend on what the

25 report said. If the recommendation is to

16

1 , N.P.

2 go for a follow-up mammogram or more

3 extended views, we usually send them a

4 letter with a referral.

5 If the recommendation is to get

6 a biopsy, I will call them myself and

7 refer them to a breast specialist.

8 Q If you are not available to

9 review the sonogram report of a patient
10 that you had requested one be done, who
11 else in the office would then review that
12 particular lab result, that diagnostic
13 test result?

14 : You need to be
15 specific about time because you've
16 heard personnel has changed from
17 until now. So when?

18 Q All of my questions now will
19 relate to the time frame of .

20 A Okay.

21 Q Within that time period, if you
22 were not available and had ordered a
23 sonogram test, who would read and review
24 the sonogram report?

25 A At that time, it would have

1 , N.P. 17

2 been Dr. .

3 Q And as you sit here now, are
4 you aware of what he did when he reviewed
5 a sonogram report and if he observed some
6 abnormality?

7 A Yes.

8 Q Tell me what he would do.

9 A He would do most likely what I
10 would have done, which is, call the
11 patient if more needed to be done and
12 send a letter and referral to the patient
13 to do more follow-up testing.

14 Q Now, if one of the physicians
15 who was working in Dr. ' office
16 had ordered a particular diagnostic test
17 on a patient was unavailable to read or
18 review that test, who would typically
19 then review it?

20 A Any of the providers that
21 worked there can review the labs that
22 come in.

23 Q When you say "provider," can
24 you be more specific?

25 A The doctors, the nurse

18

1 N.P.

2 practitioners, the midwives.

3 Q In , were there any other
4 nurse practitioners besides yourself?

5 A Not in , no.

6 Q So other than yourself, who
7 else --

8 A It was Dr. .

9 : Let him finish
10 his questions before you start
11 answering.

12 Q If you were reading and
13 interpreting the results of a sonogram
14 report -- withdrawn.

15 When you read a sonogram report
16 that you had asked the patient to go have
17 done, do you typically pull the patient's
18 file when you see the report or see an
19 abnormality?

20 A Are you talking about back in
21 ?

22 Q Yes, only in .

23 A I would probably have pulled
24 the chart, yes.

25 Q Why would you do that?

19

1 , N.P.

2 A To look through the history.

3 Q Is there ever an instance where
4 you would tell a patient to disregard any
5 further diagnostic tests that the doctor
6 had requested or ordered?

7 A Can you say that again?

8 Q Sure. If you find that there
9 is an abnormality on a sonogram result
10 and now you are calling the patient, is
11 there ever an instance where you would
12 tell the patient, listen, don't have the
13 additional test done; there is an
14 abnormality here, I want you to go do
15 something else?

16 A No.

17 Q Were there instances where you
18 may have had questions about what was
19 contained in the results of a diagnostic
20 test and you spoke to Dr. or one
21 of the other doctors in the office?

22 A I'm sure I've consulted with
23 them on results.

24 Q In your experience, 13 years
25 working as a nurse practitioner, is it

20

1 , N.P.
2 your opinion that you are qualified to
3 read and interpret sonogram results?

4 : Results,
5 meaning?

6 MR. OGINSKI: I'll rephrase it.

7 Q Based upon your experience as a
8 nurse practitioner, are you qualified to
9 read and interpret a written sonogram
10 report?

11 A Yes.

12 Q And in your practice, have you
13 had occasion to speak to patients about

14 their sonogram results?

15 A Yes.

16 Q And based on sonogram results,
17 have you had opportunities to then
18 formulate some sort of treatment plan,
19 based upon a patient's sonogram results?

20 A Based on the recommendations
21 that the radiology department has put on
22 the report, yes. I don't make those
23 decisions.

24 Q Now, separate from the sonogram
25 report, are you qualified to read and

21

1 , N.P.

2 interpret sonogram films?

3 A No.

4 Q And have there ever been
5 occasions where you, as a nurse
6 practitioner, have read or interpreted
7 sonogram films?

8 A No.

9 Q And I guess the same
10 question -- let me rephrase it.

11 Have you ever had occasion to
12 read and interpret breast sonogram films?

13 A No.

14 Q If you have a discussion with
15 the patient about an abnormality in their
16 sonogram report or any diagnostic test
17 that you review and you sign that, is it
18 your custom and practice to make a note
19 of the date that you also reviewed that?

20 A Usually.

21 Q And if you speak to the
22 patient, do you make a notation on the
23 lab result itself, indicating that you
24 spoke to the patient?

25 A Usually. We've become

22

1 , N.P.

2 computerized. Everything is now done on
3 the computer.

4 Q Before that, in ?

5 A Yes, usually I would do that.

6 Q And what would you write down
7 if you had spoken with the patient?

8 A "Spoke with patient," and make
9 a notation of what was said.

10 Q Do you ever give the patient
11 medical advice, based upon the findings
12 in a sonogram report?

13 A Medical advice being?

14 Q Recommendations, what to do
15 next, treatment plan, treatment options?

16 : Objection, asked
17 and answered, to the extent that she
18 said that if a report says to do
19 something, she'll relay that to the
20 patient, but she doesn't make the
21 decision by herself.

22 So I think she's gotten into
23 that. Do you mean something above
24 and beyond? I'm not sure what you
25 are getting at.

23

1 , N.P.

2 Q If there is an abnormality in
3 the sonogram that's written down and
4 there is no recommendation from the
5 radiologist about what to do next, are
6 there instances where you will make
7 recommendations to the patient about what
8 to do next?

9 A Not on my own, no.

10 Q What would you do in that
11 instance?

12 A I simply follow what the
13 recommendation is written on the
14 radiology report.

15 Q And if the recommendation is
16 the patient requires clinical follow-up,
17 what, if anything, do you do in that
18 instance?

19 A I've never seen that.

20 Q Do you have a memory of this
21 patient, ?

22 A I remember speaking with her.
23 I never met her.

24 Q And your memory of speaking
25 with her, is that just from what you

24

1 , N.P.

2 remember discussing with her or something
3 you reviewed in a note or chart that you
4 have in front of you?

5 A I remember speaking with her
6 and being asked to call her.

7 Q And how many times did you
8 speak with her?

9 A Once.

10 Q And who asked you to call her?

11 A , the office manager.

12 Q And why did ask you to
13 call her?

14 A She was in the problem book to
15 be followed up on.

16 Q What is the problem book?

17 A It's a book in the office,
18 where we keep tabs of patients that need
19 to do follow-up work outside the office

20 or internally. And it's a way for us to
21 keep track of patients.
22 : It's the
23 composition notebook I'm actually
24 holding in my hand. And I have given
25 at the outset of the deposition,

1 , N.P. 25

2 redacted copies of the pertinent page
3 to all counsel.

4 Q And do you have a notation that
5 you made somewhere, about the date that
6 you called and spoke to ?

7 A On this -- (indicating).

8 Q So the page you're looking at
9 is called "Telephone conversations," and
10 on the original, there is a sticky note
11 that gets stuck on there; right?

12 A Yes.

13 Q In the top left corner, which
14 would be number one of the conversation?

15 A Correct.

16 Q Before you called , had
17 you reviewed the patient's chart at that
18 time?

19 A I believe I looked through the
20 chart and did not see any results
21 pertaining to this breast mass.

22 Q When you tried to call
23 initially, were you able to reach her?

24 A I left a message.

25 Q So when you left -- that would

1 , N.P. 26

2 be a voice message?

3 A Correct.

4 Q You did not actually speak to
5 her that first interaction?

6 A Correct.

7 Q By the way, that's dated
8 ?

9 A Yes.

10 Q Now, I know you are looking at
11 a photocopy, does that say the time right
12 next to the date?

13 A No, that's my initials.

14 Q Now, at some point later that
15 day, did you speak to ?

16 A Yes.

17 Q And your note says, "Spoke with
18 patient"; is that correct?

19 A Yes.

20 Q "Had sono"?

21 A Yes.

22 Q Does that refer to the breast
23 sonogram?

24 A Yes.

25 Q Tell me what else it says,

27

1 , N.P.

2 please?

3 A "And results equal benign
4 cyst."

5 Q How did you learn that
6 information?

7 A She told me.

8 Q Who told you?

9 A .

10 Q What was your understanding of
11 how learned that information?

12 A From the radiologist.

13 Q When you heard that

14 information, was that surprising to you?

15 A No.

16 Q Why not?

17 A She was young.

18 Q I'm sorry, I have to rephrase

19 that. I apologize.

20 The fact that this patient was

21 told information about her results by the

22 radiology facility, did that surprise

23 you?

24 A No.

25 Q Tell me why.

28

1 , N.P.

2 A Because she went to a radiology

3 facility and they told her it was benign.

4 Q Did you ask her who it was who

5 told her that it was benign?

6 A No.

7 Q And you had told me earlier

8 that, correct me if I am wrong, that it's

9 not unusual for the radiology facility to

10 tell the patient if they have a normal

11 result --

12 : Objection to

13 form.

14 Q -- while they're there?

15 : Objection.

16 Q Don't worry about her. You can

17 answer me, if you can.

18 A I'm sorry, what was the

19 question?

20 : Just so you

21 understand, the lawyers here have to

22 protect their clients. So you'll

23 hear them make objections from time

24 to time.

25 If I don't make an objection or

1 , N.P. 29

2 don't tell you to answer something,
3 you can answer it.

4 THE WITNESS: Okay.

5 Q Is it your understanding that
6 this was common practice, where the
7 radiology facility would tell the patient
8 if they have a normal test result?

9 A I don't know. I don't know if
10 that's a common practice at the radiology
11 place where she went.

12 Q I want you to assume that
13 went to in ,
14 .

15 A Okay.

16 Q Do you have any knowledge as to
17 whether that was common practice at this
18 particular facility?

19 A Yes.

20 Q Tell me about that.

21 A It was a place a lot of people
22 would go for their mammograms and
23 sonograms.

24 Q And in terms of the facility,
25 the radiology facility telling the

1 , N.P. 30

2 patients then and there, before they
3 leave, about the results of their test,
4 what's your understanding of that?

5 A That was not uncommon or I
6 should say, I didn't think that was
7 uncommon.

8 Q Did you ask during this

9 conversation, whether she had been
10 provided with a letter from the radiology
11 facility, in layman's terms, like you
12 told me earlier, indicating that
13 everything was normal in the test?

14 A No, I didn't ask.

15 Q Is there anything in the notes
16 that you reviewed in preparation for
17 coming here, that would indicate that the
18 Center sent your office
19 a copy of any letter they sent to ,
20 about that breast sonogram result?

21 A I did not see that in her
22 chart.

23 Q Now, you initialed that note;
24 correct?

25 A Correct.

1 , N.P.

31

2 Q And as well as the date?

3 A Yes.

4 Q Now, the notation underneath
5 there, is that in your handwriting?

6 A No.

7 Q It says, "I have in book that
8 she has breast mass"?

9 A Yes.

10 Q Do you know who wrote that?

11 A .

12 Q That's the office manager?

13 A Correct.

14 Q Do you know when that was
15 written down?

16 A I would assume it was on the
17 day she gave me this sticky, on .

18 Q I don't want you to assume. Do
19 you have any knowledge?

20 A I don't know.
21 Q Now, you know Dr. ?
22 A Yes.
23 Q Dr. worked in Dr.
24 ' office for a period of time;
25 correct?

32

1 , N.P.
2 A Correct.
3 Q At some point, she went out on
4 maternity leave; correct?
5 A She left before maternity
6 leave.
7 Q At some point?
8 A Yes, I think she left prior to
9 getting pregnant, but I can't remember
10 exactly.
11 Q Going back for a minute to the
12 conversation you had with , did you
13 ask how she knew that she had a
14 benign cyst from the breast sonogram?
15 A I did not ask her specifically.
16 She said, "They told me it was a benign
17 cyst."
18 : Off the record.
19 [At this time, a discussion was
20 held off the record.]
21 Q Did you have a discussion with
22 about the difference between a
23 benign cyst and a malignant cyst?
24 A No.
25 Q Did you have a discussion with

33

1 , N.P.
2 as to what treatment she needed to

3 do next, in light of her prior treatment
4 plan that had been formulated by Dr.
5 ?
6 A It would be my practice to let
7 her know to do the other things that Dr.
8 had written in her notes and to
9 follow-up.

10 Q Do you have a memory as you sit
11 here today, of having told
12 specifically those things?

13 A Yes.

14 Q You remember telling her, I
15 want you to follow-up with the following
16 things?

17 A Yes.

18 Q What did you tell her?

19 A To do a mammogram and see the
20 breast specialist.

21 Q Do you have any notes that
22 reflect that conversation?

23 A No.

24 Q And how did you know that she
25 still needed to see a breast specialist,

34

1 , N.P.
2 if you had not looked at her chart?

3 : She said she did
4 look at the chart.

5 MR. OGINSKI: I'll rephrase it.

6 Q How did you know that she
7 needed to see a breast specialist?

8 A Because she had not.

9 Q How did you learn that?

10 A I believe the conversation was,
11 have you done the other things that Dr.

12 asked and she had not. So I said,

13 "You still need to follow-up on these, on

14 the mammo and the breast specialist."

15 Q Did you ask her why she had not
16 had the mammogram at the
17 ?

18 A No.

19 Q Did you know that when she went
20 to , it was for purposes
21 of having both a breast sonogram and a
22 mammogram?

23 : Objection.

24 A No.

25 Q Did you have any conversation

35

1 , N.P.

2 with about

3 , at any time?

4 A No.

5 Q Did you ever review the report
6 generated by about
7 sonogram?

8 : Separate from
9 today or including that?

10 MR. OGINSKI: Separate from
11 today.

12 : Back then.

13 Q Back in .

14 A I believe we signed the lab.
15 We eventually did get the report and I
16 believe I signed it.

17 Q And tell me how it was that you
18 reviewed that report, as opposed to Dr.
19 ?

20 A It was in the pile of labs that
21 I usually would get at the beginning of a
22 day, to go through and sign off on.

23 Q And if Dr. had ordered
24 this test to be done, is there any

25 particular reason that it would be

36

1 , N.P.

2 assigned to you to review or as opposed

3 to going back to Dr. ?

4 A No, we all signed off on labs.

5 Q And if Dr. had left and

6 was no longer working at Dr. 's

7 office, who would then have gotten her

8 lab results to review?

9 A One of us. One of the

10 providers.

11 Q Which would be who?

12 A Either myself or -- at that

13 time, myself or Dr. .

14 Q Were there any other GYNs

15 working in that office, besides Dr.

16 ?

17 A No.

18 Q Now, the radiology report is

19 written to Dr. , do you see that?

20 A Yes.

21 Q And when it comes into the

22 office, tell me what happens with a lab

23 result, a diagnostic test result like

24 this?

25 Does it go specifically to him

37

1 , N.P.

2 or is it checked to see who ordered this

3 test; how does it work?

4 : You want to know

5 the path of the paper once it enters

6 the office?

7 MR. OGINSKI: Yes.

8 A In , all labs were put in a

9 pile to be signed off of, regardless of
10 who sent the person to get the testing
11 done.

12 Q Now, according to this
13 particular report, which is dated
14 , your signature appears
15 at the bottom?

16 A Correct.

17 Q And the date that you reviewed
18 it appears to be ;
19 correct?

20 A Correct.

21 Q Are there any findings in this
22 report to -- is this a normal breast
23 sonogram report?

24 A Yes.

25 Q Is there anything abnormal in

38

1 , N.P.

2 this report, in your opinion?

3 : Objection to
4 form.

5 A No.

6 Q Under the recommendation, it
7 says, "Clinical management of palpable
8 lump."

9 What does that mean to you?

10 A That the patient should
11 follow-up on the lump that she palpated.

12 Q Now, after you reviewed this
13 particular report, did you contact the
14 patient in anyway?

15 A No.

16 Q What was your understanding of
17 how the patient was notified of the
18 results of this test?

19 A That a normal letter would have

20 been sent to her by .
21 Q And when you spoke to
22 almost a month later, on
23 , did you ask
24 whether she had received what you call, a
25 normal letter, from the

39

1 , N.P.
2 , about her test result?
3 A No.
4 Q How was to know what
5 clinical follow-up to do, if
6 did not send a letter indicating
7 the test result for the breast sonogram
8 was normal?
9 A Dr. had sent her to do a
10 sono, a mammo and see a breast
11 specialist. So those were the
12 recommendations given by Dr. .

13 Q I'm sorry, my question wasn't
14 clear.

15 Based upon the radiologist's
16 interpretation of the breast sonogram,
17 which says, "Clinical management of
18 palpable lump," let's assume for a moment
19 that the imaging center,
20 , did not send the patient any
21 letter about the results and said, go
22 back to your gynecologist who referred
23 you, for the results, how was
24 supposed to know what this clinical
25 management of palpable lump, what was she

40

1 , N.P.
2 supposed to do next; how was she supposed

3 to get that information?

4 A I don't know the answer to
5 that. I'm not sure what you're asking.

6 Q In other words, I'll ask it a
7 different way.

8 We know that Dr. made
9 recommendations of testing to be done for
10 the patient?

11 A Correct.

12 Q Sonogram, mammogram and breast
13 surgery evaluation. We have her notes.
14 We have her testimony about that.

15 now goes to the radiology
16 facility to have the breast sonogram
17 done. If they don't tell her the
18 results, they said, listen, you have to
19 go back to your gynecologist to get the
20 results, radiology facility sends the
21 breast sono report to your office, nobody
22 contacts about this result, how is
23 supposed to know what those results
24 are?

25 A She can call. I mean, I --

41

1 , N.P.

2 that's why we have the problem book, so
3 we can follow-up with patients who are
4 supposed to go to outside facilities to
5 get things done.

6 Q Now, the problem book was
7 designed for what purpose?

8 A To keep track of patients that
9 we need to follow-up with.

10 Q Such as a patient with a breast
11 mass?

12 A Correct.

13 Q And what happens if you don't

14 follow-up with somebody like that?
15 A Just in general what happens?
16 Q In general, yes.
17 A I don't know.
18 Q In other words, the purpose of
19 the follow-up notebook is to keep track
20 of patients with a potentially
21 significant problem, if they don't go for
22 additional treatment or testing; correct?
23 A Yes.
24 Q Do you know how it was that
25 name got entered into this book

42

1 , N.P.
2 or why?
3 A The common practice is for the
4 provider to tell the front to put them in
5 the book and write what needs to be
6 followed up with.
7 Q And how would the office know
8 whether any of those tests or
9 recommendations had actually been
10 followed through and done?
11 A The provider follows up on it
12 and let's them know, let's the front,
13 , whoever has the book, what
14 happened with the follow-up.
15 Q So let's go through this. So
16 is told by Dr. to have a
17 sonogram, a mammogram and breast surgery
18 evaluation?
19 A Uh-huh.
20 Q Her name gets entered into this
21 composition notebook?
22 A Uh-huh.
23 Q We know she did go for the
24 breast sonogram?

25 A Uh-huh.

1 , N.P. 43

2 Q Does that information, when the
3 report comes in, get entered into the
4 composition book and checked off, saying
5 okay, has done one of these things?

6 A I don't do the book myself, so
7 I just let them know when something --
8 for example, this sticky that had
9 given me, I then reported back to ,
10 what I had heard from the patient.

11 Q Who checks off the fact that
12 these tests or these recommendations were
13 done?

14 A The -- or , whoever
15 has the book in the front.

16 Q How would they know that any of
17 those diagnostic tests had been done?

18 : I think she just
19 explained, with the sticky and write
20 a note.

21 Q Let's say went for the
22 breast sonogram, does somebody get
23 notified in your office, okay, the
24 patient has gone for this test, now we're
25 going to check it off?

1 , N.P. 44

2 A No, I can't speak to that,
3 other than they tell me to follow-up with
4 the patient. And then I tell them that I
5 did follow-up with the patient and this
6 is what I heard.

7 Q When you spoke to on
8 did you know that this

9 breast sonogram report had come into the
10 office and that you had reviewed it as of
11 ?

12 A No.

13 Q Can you please look at that
14 report?

15 A Sure.

16 Q Is the report,
17 based upon your experience as a nurse
18 practitioner and reviewing and
19 interpreting the results that are written
20 here in this breast sonogram report, is
21 there anything in this report to indicate
22 that lump was interpreted as
23 being a cyst?

24 A It doesn't say that
25 specifically.

45

1 , N.P.

2 Q Is there anything in this
3 report to suggest or indicate that the
4 breast lump that went in to be
5 evaluated on her left breast, was a
6 benign cyst?

7 A It does not say those words,
8 no.

9 Q Is there anything in this
10 report to suggest to you, as a nurse
11 practitioner with 13 years experience,
12 that this patient had any type of a cyst
13 in her left breast?

14 A No.

15 Q Did you ever tell
16 that this report showed that she had a
17 cyst in her left breast?

18 A No.

19 Q Did you ever tell that

20 this report indicated she had a benign
21 cyst?

22 A No.

23 Q Did you ever tell during
24 your conversation on , that
25 the sonogram report showed that she had a

1 , N.P. 46

2 normal breast sonogram?

3 A No.

4 Q Did you ever discuss with
5 on , that she needed to have
6 her breast clinically followed up or
7 managed?

8 A I told her she needed to do the
9 other follow-up recommendations.

10 Q And what, if anything, did she
11 say to you in response to that?

12 A Okay.

13 Q And did you discuss with her,
14 who she was going to see for the breast
15 management or breast follow-up?

16 A No.

17 Q Did you have a knowledge or an
18 understanding as to who she was
19 recommended to see for that evaluation
20 for her breast?

21 A I can't remember.

22 Q At the time that you spoke to
23 , did you have a conversation about
24 the specific breast surgeon that she was
25 recommended to see?

1 , N.P. 47

2 A Yes. I just wanted to read her

3 note. DR. (phonetic), consult

4 had been recommended.

5 Q Now, I understand you just

6 reviewed Dr. note from

7 ?

8 A Yes.

9 Q What date is that?

10 A .

11 Q But before reviewing that

12 note -- I'm sorry.

13 During your conversation with

14 on did you

15 specifically mention that breast

16 surgeon's name?

17 A I can't remember.

18 Q Did you ever tell she did

19 not need to go for a breast surgery

20 evaluation?

21 A No.

22 Q Did you ever tell she did

23 not need to go for a mammogram, based

24 upon the breast sonogram result?

25 A No.

48

1 , N.P.

2 Q If you had told that she

3 did not need to go for a mammogram based

4 upon the breast sonogram results, would

5 you agree that would be a violation of

6 the standard of care for what you as a

7 nurse practitioner would do?

8 A Yes.

9 Q Why?

10 A Because I'm looking back at the

11 note from the previous provider, that was

12 what was recommended.

13 Q And if you were to then give

14 the patient advice to disregard what the
15 doctor recommended, you agree that would
16 be a violation of the standard of care?

17 A Correct.

18 Q And the same question, if you
19 had told she did not need to have a
20 breast surgery follow-up, in light of the
21 breast sonogram findings, would you agree
22 that that would be a departure from good,
23 standard practice?

24 A Yes.

25 Q And would that be for the same

49

1 , N.P.

2 exact reason you just told me about?

3 A Yes.

4 Q Did you learn from anybody in
5 your office, before this lawsuit was
6 started, that at some point after
7 had the breast sonogram, she called the
8 office to make a follow-up appointment,
9 as she had been instructed to do by Dr.

10 ?

11 A No.

12 Q Did you learn from anybody in
13 the office, that when made a
14 follow-up phone call to the office, she
15 was informed that Dr. was no
16 longer working at the office and in fact,
17 had gone out on maternity leave, are you
18 aware of that?

19 A No, I wasn't aware she called
20 the office.

21 Q When Dr. had left the
22 office at sometime after of
23 were her patients informed that she
24 was no longer at the office, whether

25 because of maternity or some other

50

1 , N.P.

2 reason?

3 A Yes.

4 Q What were they told?

5 A I don't know.

6 Q Did Dr. ever return to

7 work back in Dr. ' office?

8 A No.

9 Q By the way, you are an employee
10 of Dr. ?

11 A Yes.

12 Q Did you learn from anybody in
13 your office, that when called the
14 office to make a follow-up appointment
15 and was told that Dr. was no
16 longer working there because of maternity
17 and that she could see Dr. , did
18 you learn from anybody, that
19 preferred not to see a male physician,
20 rather only a female physician?

21 A No.

22 Q Now, looking at other
23 lab reports in the chart, there is also a
24 blood work report, dated -- blood work
25 was collected , do you

51

1 , N.P.

2 see that?

3 A Yes.

4 Q And your initials appear there
5 as well?

6 A Yes.

7 Q And the date is

8 ; correct?

9 A Yes.

10 Q Now, based upon your review of
11 that particular test, is there any
12 abnormality on this test?

13 A No.

14 Q And from what you've told me
15 earlier, is it correct that there would
16 be no call directly made to the patient,
17 based upon a normal report like this?

18 A Correct.

19 Q How would the patient know that
20 the blood tests that she just had done,
21 were normal?

22 A They call our office.

23 Q Who is "they"?

24 A The patient calls the office.

25 Q Who tells them to call the

52

1 , N.P.

2 office for the results?

3 A I tell my patients to call
4 after they get the blood work done.

5 Q And when they call the office
6 to get results, is there one dedicated
7 person who will then give the results?

8 A Usually the provider that has
9 seen them.

10 Q For example, if it's Dr.
11 and she ordered blood work, she would be
12 the one to give the patients the results?

13 A Correct.

14 Q And if she's not there, you
15 said one of the other providers, you or
16 Dr. , would tell them?

17 A Yes.

18 Q Did you have a conversation
19 with , after , but

20 before , about this
21 particular blood test?
22 A No.
23 Q If you had a conversation with
24 about the blood test, this normal
25 blood result, would you have made a

53

1 , N.P.
2 notation in the chart about your
3 conversation?
4 A Usually, yes.
5 Q And how would that appear?
6 Would it appear on the blood test result
7 or in a telephone conversation note in
8 the form of a sticky or something else?
9 A In , everything was done on
10 paper. So if there was a message from
11 the patient, she called regarding
12 results, I would make a note on whatever
13 telephone triage paper, that I had spoken
14 with the patient regarding her results.
15 Q And in your review of this
16 patient's chart, did you see any other
17 notation about a phone call you had with
18 , other than the one you've told me
19 about?
20 A No.
21 Q On the next page, there is
22 another test, also dated ,
23 and your signature appears there?
24 A Correct.
25 Q Can you tell me, is there

54

1 , N.P.
2 anyway for you to tell whether that was

3 also looked at the same day as the blood
4 work?

5 A Most likely they were together,
6 since it's page two of three.

7 Q Now, there is another result,
8 which is Pap test done on ,
9 , tell me about the notations that
10 appear on the bottom of this page?

11 A Somebody wrote that a letter
12 was sent on , it looks like
13 , ' and then signed. And this
14 looks like somebody's signature on the
15 side.

16 Q Can you identify whose
17 signature appears on the bottom right?

18 A I think it's Dr.

19 Q And the letter sent
20 , do you know what that refers
21 to?

22 A The Pap letter, with her
23 results, was sent to her.

24 Q And whose signature appears
25 there?

1 , N.P. 55

2 A .

3 Q Do you know who that signature
4 is?

5 A I don't know.

6 Q And is this a normal or
7 abnormal test result?

8 A Normal.

9 Q And do you keep a copy, when I
10 say "you," does your office keep a copy
11 of the letter that's sent to the patient
12 about this test result?

13 A I believe, yes.

14 Q And in your review the chart,
15 did you see the letter?

16 A I don't remember looking for
17 it.

18 Q And what would the letter say?

19 A Your Pap was normal.

20 Q And would it be on office
21 letterhead?

22 A Yes.

23 Q Would there any be instructions
24 on what to do next, if anything?

25 A No.

56

1 , N.P.

2 Q Did you ever speak to Dr.
3 about this patient?

4 A No.

5 Q Do you know a radiologist,
6 ?

7 A No.

8 Q When you spoke to
9 on did you know that Dr.
10 had evaluated the breast lump that
11 she had in her left breast?

12 : She said she
13 reviewed the chart before that, is
14 that what you mean?

15 A I can see note.

16 Q In her note, does it indicate
17 that the breast mass that was palpated,
18 was an irregularly shaped mass?

19 A That's what her note says.

20 Q Can you be specific as to what
21 specifically she wrote?

22 A "Left breast, 12 o'clock,
23 irregularly shaped mass, not painful, no
24 discharge, not fixed chest wall."

25 Q After discharge, can you read

57

1 , N.P.

2 what's after that?

3 A No.

4 Q Would you agree that an
5 irregularly shaped breast mass, is not a
6 cyst?

7 A I can't make that
8 determination.

9 Q Would you agree that a cyst is
10 usually round and not irregularly shaped?

11 A Usually.

12 Q When informed you that
13 the radiology facility,
14 , had told her that she had a
15 benign cyst in her left breast, did you
16 correlate that information with Dr.
17 clinical observation of
18 having an irregularly shaped mass?

19 A No.

20 Q How long would you say that
21 your conversation with was on
22 ?

23 A Thirty to 45 seconds.

24 Q And did you ever speak to
25 again after that date?

58

1 , N.P.

2 A No.

3 Q Did you ever see her
4 personally, in person, in your office?

5 A No.

6 Q Did you ever speak to Dr.
7 about , at any time up
8 until this lawsuit was started?

9 A No.

10 Q Did you ever speak to Dr.

11 , at any time after ,

12 , up until today?

13 A No.

14 Q Did you review any deposition
15 transcripts in preparation for today, any
16 testimony that's been given in this case?

17 A No.

18 Q Did you review any medical
19 literature in preparation?

20 A No.

21 Q I want you to take a look at
22 the photocopy of a note that's been
23 provided by your attorney.

24 Can you tell me what that note
25 is?

59

1 , N.P.

2 A --

3 Q Before reading it, just tell me
4 what is the note; who is it by; who
5 writes such a note?

6 : Can we mark
7 this?

8 MR. OGINSKI: Sure, sorry.

9 : It's actually
10 already part of the original chart as
11 marked, but I have no problem with
12 marking it today.

13 MR. OGINSKI: Plaintiff's
14 Exhibit 1.

15 [The document was hereby marked
16 as Plaintiff's Exhibit 1, for
17 identification, as of this date.]

18 Q This note, can you read it,
19 please?

20 A called," I assume
21 it's , but it says , "called on
22 patient, . They canceled a
23 test, call them," and a phone number.
24 Q Who is ?
25 A She was a medical assistant.

1 , N.P. 60
2 Q Do you know what this note
3 refers to?
4 A No idea.
5 Q The date that appears up there,
6 what date is it, can you read that?
7 A .
8 Q Are you able to tell me whether
9 that refers to or some other
10 date?
11 A No.
12 Q Can you glean anymore
13 information about what that note says and
14 what it means?
15 A No.
16 Q Do you know what test they're
17 referring to?
18 A No.
19 Q Do you know what was canceled,
20 why it was canceled?
21 A No.
22 Q The phone number, does that
23 refresh your memory as to who it might
24 be?
25 A I don't call the labs.

1 , N.P. 61
2 Q I'm only asking if you know.

3 A No, I don't.

4 Q Now, in addition to a hard copy
5 chart, back in , did your
6 office have computerized records for
7 patients?

8 A No.

9 Q In , other than Dr.
10 , Dr. , yourself, were
11 there any other healthcare providers
12 working there, nurse practitioner,
13 midwives, anybody else?

14 A I don't think so, no.

15 Q Do you have a memory as to how
16 long Dr. worked in that office?

17 A She was there when I started in
18 , but I don't know how long she had
19 been there. I can't remember.

20 Q Now, you had mentioned earlier
21 that when you review breast sonogram
22 reports, you had never seen one that
23 discussed clinical follow-up needed.

24 Looking at the breast sonogram
25 report of , where it says,

62

1 , N.P.
2 "Clinical management of palpable lump,"
3 under their recommendation, what does
4 that suggest to you?

5 A That the patient should
6 follow-up on this lump.

7 Q And what's the risk to the
8 patient if they don't?

9 A I can't say. The sonogram was
10 given a negative score in the impression.
11 So to me, it does not imply that there is
12 much concern.

13 Q Now, on the bottom last line of

14 the report, it says, "A negative imaging
15 workup should not deter or delay the
16 clinical evaluation of a palpable
17 abnormality," do you see that?

18 A Yes.

19 Q Do you agree with that?

20 A Yes.

21 Q Why?

22 A If somebody has palpated
23 something abnormal, they should continue
24 to do follow-up on it, if needed.

25 Q And what's the risk to the

63

1 , N.P.

2 patient if they don't go for further
3 follow-up, in light of a negative breast
4 sonogram?

5 A It could be something more
6 serious.

7 Q And if that more serious
8 problem is not diagnosed and treated,
9 what is the possible effect to the
10 patient, if any?

11 A Well, it could be something --
12 if left untreated and it's something
13 serious, it could become even more
14 serious.

15 Q And what could be the most
16 serious problem that you can imagine as a
17 nurse practitioner, that a breast lump
18 can be?

19 A Cancer.

20 Q Do you agree that the earlier a
21 breast cancer is diagnosed and treated,
22 the better possibilities are for
23 prognosis of the patient?

24 A Yes.

25 Q During your conversation with

64

1 , N.P.

2 on , if she did not tell

3 you that the radiology facility informed

4 her that she had a normal sonogram, it

5 was just a benign cyst, how would you

6 have learned of the results of her breast

7 sonogram report?

8 A I would have called

9 and asked for the report.

10 Q And assuming that they had then

11 sent you the report and reviewed it, what

12 would your impression have been?

13 A Just on the report alone?

14 Q Just on the report.

15 A That everything was fine.

16 Q And when you would then get in

17 touch with the patient again, to let her

18 know what the results were, what would

19 you have told her?

20 A If I looked at her chart, I

21 would have seen that she needed to do

22 more follow-up.

23 Q And if you had not looked at

24 the chart and just had the sonogram

25 report, what would you have told her?

65

1 , N.P.

2 In other words, if you didn't

3 know what Dr. plan of treatment

4 was, you didn't know what the history

5 was, you just had the report?

6 A Just based solely on the

7 report, I would have said everything

8 looked fine.

9 MR. OGINSKI: Thank you very
10 much.

11 : I have a couple
12 of questions.

13 Can you mark this sonogram
14 report and the third page, the sticky
15 note, as Defendant's Exhibits A and
16 B?

17 [The documents were hereby
18 marked as Defendant's Exhibits A and
19 B, for identification, as of this
20 date.]

21 MR. OGINSKI: Off the record.

22 [At this time, a discussion was
23 held off the record.]

24 FURTHER EXAMINATION BY

25 MR. OGINSKI:

1 , N.P. 66

2 Q In the composition notebook,
3 where information is recorded about
4 , can you read that for me, please,
5 the notation next to her name, next to
6 breast mass?

7 A " , spoke to patient
8 and said cyst."

9 Q What does that mean?

10 A That I spoke to the patient and
11 the patient said it was a cyst.

12 Q Could that be interpreted to
13 mean that you told the patient it was a
14 cyst?

15 A I suppose.

16 MR. OGINSKI: Thank you.

17 EXAMINATION BY

18 :

19 Q My name is

20 I represent I
21 have a couple of my own questions and
22 some follow-up based on your prior
23 answers.
24 I want you to take a look at
25 what has been marked as Defendant's

67

1 , N.P.
2 Exhibit A, which is the sonogram report.
3 Can you tell me anywhere in that report,
4 does it document that a lay letter was
5 sent to the patient regarding the
6 results?
7 A No.
8 Q Up at the top right-hand
9 corner, there is a notation, do you see
10 that?
11 A Yes.
12 Q Do you know what that is or
13 whose handwriting that might be?
14 A I think it says , which
15 stands for , meaning she's a
16 patient.
17 Q Do you know who made that
18 notation?
19 A I don't.
20 Q I think you said you looked at
21 this report on ?
22 A Yes, I signed off on it.
23 Q And after looking at the
24 report, did you contact the patient?
25 A No.

68

1 , N.P.
2 Q So the first time you contacted

3 her was on, I think you said ?

4 A Yes.

5 Q And that was at the request of

6 ?

7 A Correct.

8 Q And again, just because I

9 wasn't clear of some of your answers,

10 prior to contacting the patient on

11 , you had reviewed her chart?

12 A When I received the sticky to

13 contact the patient, that's when I

14 reviewed her chart.

15 Q And would that have included

16 the breast sonogram report marked as

17 Defendant's Exhibit A?

18 A This was not in the chart, no.

19 Q After you reviewed it on

20 September 8th, what would have happened

21 to the sonogram report?

22 A It would go in a stack to be

23 filed.

24 Q And as you sit here today, you

25 have a recollection that the report you

69

1 , N.P.

2 signed off on, on ,

3 was not in the patient's chart by

4 ?

5 A Correct.

6 Q How long does it take for

7 reports, such as a sonogram report, to

8 get filed in a patient's chart?

9 A I don't know. I didn't do the

10 filing.

11 Q Was there a custom and practice

12 with the group back in , as to how

13 long it took to file reports?

14 A I don't know.
15 Q At the time you reviewed the
16 patient's chart, were you aware that she
17 had undergone a breast sonogram?
18 A No, that's why I was calling
19 her.
20 Q Have you ever worked for Bay
21 ?
22 A No.
23 Q To your knowledge, has any of
24 the staff at Dr. ' office ever
25 worked at

70

1 , N.P.
2 A Not that I know of.
3 Q Is it fair to say then, you
4 don't really know what their custom and
5 practice is with respect to notifying
6 patients concerning test results?
7 MR. OGINSKI: Objection.
8 A Yes.
9 Q That's a fair statement?
10 A Yes.
11 Q At the time you looked or
12 reviewed the breast sonogram report back
13 in September, other than having it sent
14 to be filed, did you make any attempts to
15 contact the patient, regarding what was
16 noted in the report?
17 A No.
18 Q If you saw a notation regarding
19 clinical management of the palpable lump,
20 and that a negative imaging workup should
21 not deter or delay clinical evaluation of
22 a palpable abnormality, if you were to
23 see that in a report, what, if anything,
24 would you do?

25 A If the report was negative, if

71

1 , N.P.

2 the impression was negative and the
3 BI-RAD was Category 1, I would not do
4 anything.

5 Q In the face of that notation in
6 the report?

7 A Correct.

8 Q As you sit here today, are you
9 aware from any source, as to who notified
10 from

11 , as to the results of the breast
12 sonogram?

13 A No.

14 Q I was a little unclear from
15 some of your responses as to, at what
16 point does a patient's name enter into
17 what's called the problem book, if they
18 have a palpable mass.

19 Does the Patients name get
20 entered into the book at the time she
21 happens to present and it's either
22 discovered or the patient reports a
23 palpable mass in the breast or at some
24 other point?

25 A Once you've seen a patient and

72

1 , N.P.

2 if there is something you need to make
3 sure you follow-up on with the patient,
4 you let the front desk know to put her
5 name in the book at the time of visit.

6 Q So custom and practice then, of
7 Dr. ' group, would have been
8 around the time Dr. saw her in

9 August, her name would have been entered
10 into the book?

11 A Correct.

12 Q Would we expect to see
13 name in the book more than one time?

14 A If there was -- no, I don't --

15 Q The entry of name in
16 the book, I'm not going to mention the
17 patient's name above her, but there is a
18 date for the patient above of

19 The patient whose
20 name is listed below is noted
21 , yet I don't see a
22 date for .

23 Is there anyway to tell when
24 name got entered into the book?

25 A No, because I did not see the

73

1 , N.P.
2 patient, Dr. did. So I don't know
3 when she told to put her name in.

4 Q Was Dr. still at the
5 practice as of

6 A I don't remember.

7 : Off the record.

8 [At this time, a discussion was
9 held off the record.]

10 Q , is she an
11 employee of Dr. group?

12 A , that's not her last
13 name.

14 Q I'm sorry, I thought you said
15 her last name --

16 A No, that's the first word,
17 called.

18 Q Is she still an employee of the
19 group?

20 A No.
21 Q Do you know when she was first
22 employed with the group?
23 A She worked for them for a long
24 time and then she retired.
25 Q Do you know when she retired?

1 _____, N.P. 74

2 A I can't tell you the exact
3 date.

4 Q Was it in _____ or sometime
5 after?

6 A After that.

7 Q What was her last name, _____ ?

8 A _____, I forget her last name.

9 I forget her last name, I'm sorry.

10 _____ : Thank you.

11 _____ : No questions.

12 (Time noted: 11:37 a.m.)

13 _____
14 _____, N.P.

15
16 Subscribed and sworn to before me
17 this day of _____, 20__.

18
19 _____ .

20
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24
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1 _____ 75

2 EXAMINATION BY _____ PAGE _____

3 MR. OGINSKI 6

4 66

5

6 E X H I B I T S

7

8 PLAINTIFF'S DESCRIPTION PAGE

9 Exhibit 1 Four-page document 59

10 DEFENDANT'S

11 Exhibit A Sonogram report 65

12 Exhibit B Sticky note 65

13 (Attorneys retained the exhibits.)

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2 C E R T I F I C A T I O N

3

4

5 I, JENNIFER BRENNAN, a Shorthand
6 Reporter and a Notary Public, do hereby
7 certify that the foregoing witness, was
8 duly sworn on the date indicated, and
9 that the foregoing is a true and accurate
10 transcription of my stenographic notes.

11 I further certify that I am not
12 employed by nor related to any party to
13 this action.

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JENNIFER BRENNAN

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ERRATA SHEET
VERITEXT/NEW YORK REPORTING, LLC

3

CASE NAME: VS.
DATE OF DEPOSITION: MAY 9, 2013
WITNESS' NAME: , N.P.

5

PAGE/LINE(S)/	CHANGE	REASON
6	____/____/____	____/____/____
7	____/____/____	____/____/____
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, N.P.

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SUBSCRIBED AND SWORN TO
BEFORE ME THIS ____ DAY
OF _____, 20__.

24

NOTARY PUBLIC

25 MY COMMISSION EXPIRES _____