

THOMPSON

VS.

CHEYENNE REGIONAL MEDICAL CENTER

Deposition

MARK COLELLA

05/15/2014

Agren Blando Court Reporting & Video, Inc.

216 16th Street, Suite 600

Denver Colorado, 80202

303-296-0017

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
IN AND FOR THE COUNTY OF LARAMIE, STATE OF WYOMING

HEIDI THOMPSON,

Plaintiff,

vs. Civil No. 180-299

CHEYENNE RADIOLOGY GROUP,
AND MRI, P.C., A WYOMING
CORPORATION; MEMORIAL HOSPITAL
OF LARAMIE COUNTY, D/B/A
CHEYENNE REGIONAL MEDICAL
CENTER; MICHAEL KELLAM, M.D.;
AND MICHELLE ANDERSON, M.D.,

Defendants.

DEPOSITION OF MARK COLELLA
MAY 15, 2014

Pursuant to Notice and the Wyoming Rules of
Civil Procedure, the deposition of MARK COLELLA, called
by Defendant Michael Kellam, was taken on Thursday, May
15, 2014, commencing at 9:50 a.m., at 6901 Tower Road,
Denver, Colorado, before Andrea Ballantyne, Certified
Shorthand Reporter and Notary Public within and for the
State of Colorado.

1 APPEARANCES

2
3 THE SPENCE LAW FIRM, LLC
4 By G. Bryan Ulmer III, Esq.
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9 Appearing via speakerphone on behalf
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17 Appearing on behalf of Defendant
18 Cheyenne Regional Medical Center

19 LATHROP & RUTLEDGE, P.C.
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25 Appearing on behalf of Defendants
Cheyenne Radiology Group and MRI,
P.C., and Michael Kellam, M.D.

WILLIAMS, PORTER, DAY & NEVILLE, P.C.
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Appearing on behalf of Defendant
Michelle Anderson, M.D.

Also Present: Dr. Michael Kellam

I N D E X

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3 DEPOSITION OF MARK COLELLA
4 EXAMINATION BY: PAGE
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8 Mr. Ortiz 138
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11 EXHIBITS MARKED INITIAL REFERENCE
12 Exhibit 1 Correspondence 7
13 Exhibit 2 Notice of Deposition 7
14 Exhibit 3 March 24, 2014 Report 9
15 Exhibit 4 September 18, 2013 Report 9
16 Exhibit 5 Fee Schedule/List of 14
17 Testimony
18 Exhibit 6 Curriculum Vitae 28
19 Exhibit 7 Correspondence 7
20 Exhibit 8 Billing Records 13
21 (Exhibits 7 and 8 were not provided by Mr. Ulmer's office)
22
23
24
25

1 (Exhibits 1-6 were marked.)
2 P R O C E E D I N G S
3 M A R K C O L E L L A,
4 having been first duly sworn, was examined and testified
5 as follows:
6 EXAMINATION
7 BY MS. RUTLEDGE:
8 **Q. Good morning, Dr. Colella.**
9 A. Good morning.
10 **Q. Please state your name, your full name, for the**
11 **record.**
12 A. Mark S. Colella, MD.
13 **Q. Is your middle name Samuel?**
14 A. It is.
15 **Q. All right. And what is your profession?**
16 A. I'm a diagnostic radiologist.
17 **Q. And describe for me what a diagnostic**
18 **radiologist is.**
19 A. A diagnostic radiologist is a physician who
20 specializes in using various imaging techniques to look
21 at organs and systems within the body and make
22 diagnoses.
23 **Q. You have given your deposition many times**
24 **before today, correct?**
25 A. I have.

1 **Q. Okay. When I looked at some of your prior**
2 **trial testimony, I think as far back as 2003, at that**
3 **time the number of depositions that you were giving in a**
4 **year was between 10 and 20. Has that stayed pretty**
5 **steady?**
6 A. No. I probably haven't given a deposition in
7 two years.
8 **Q. Okay. And what's the reason for that, if you**
9 **know?**
10 A. A lot of those depositions were related to my
11 testimony in asbestos litigation.
12 **Q. Okay.**
13 A. And that has significantly decreased.
14 **Q. Okay. I also noticed in my research that there**
15 **have been in the neighborhood of 24, plus or minus,**
16 **depositions and trial testimonies that have been given**
17 **in medical malpractice cases. Does that sound about**
18 **right as of today?**
19 A. No, not in medical malpractice. That would
20 be -- the majority of those would be in the asbestos
21 product litigation.
22 **Q. Okay. Well, there are a lot of depositions in**
23 **the asbestos product litigation line, but there are a**
24 **fair number in medical malpractice. What do you believe**
25 **that number is?**

1 A. I bet it's less than five.
2 **Q. Okay. And of those in medical malpractice**
3 **cases, how many have been for the defendant?**
4 A. It's been so long ago since I've been deposed
5 in a medical malpractice case. The one case I can think
6 of for sure was a defense. I'm not sure that I can
7 recall. Maybe one for the plaintiff. Again, it's not
8 something I do very often at all. It's been quite a
9 while since I've done that.
10 **Q. Okay. What is the one case that you think you**
11 **can recall that was a medical malpractice case?**
12 A. I think it was a spinal fusion case.
13 **Q. Okay. How many times have you testified in**
14 **trial in a medical malpractice case?**
15 A. I don't recall ever testifying in trial
16 regarding medical malpractice.
17 **Q. Is your testimony that you never have?**
18 A. I don't recall. If I did 15 years ago, I might
19 have, but I do not recall.
20 **Q. Okay. How many times have you testified in**
21 **trial in any kind of a case?**
22 A. I would say less than 10.
23 **Q. And what types of cases were those?**
24 A. Those would be asbestos liability cases.
25 **Q. And in those cases, you testified for the**

1 **plaintiff, right?**
2 A. That's correct.
3 **Q. Okay. I'm going to ask you to take a look at**
4 **the deposition notice, which has been marked and put in**
5 **front of you, I believe.**
6 THE REPORTER: It's 2.
7 MRS. RUTLEDGE: It's marked as No. 2. There
8 you go. Do you need a copy, Bryan?
9 MR. ULMER: I do not. Thank you.
10 MRS. RUTLEDGE: You guys?
11 MR. ORTIZ: No.
12 **Q. (BY MRS. RUTLEDGE) I asked you to bring with**
13 **you today all the correspondence that you have had with**
14 **Mr. Ulmer or anyone in his office. Have you done that?**
15 A. Yes.
16 **Q. Okay. And which exhibit is that?**
17 A. Exhibit 1.
18 **Q. And your testimony is that Exhibit 1 is the**
19 **totality of written correspondence with Mr. Ulmer's**
20 **office?**
21 A. That I have.
22 **Q. What do you mean by that?**
23 A. I would have returned a lot of that stuff to
24 Mr. Ulmer.
25 **Q. What did you return to Mr. Ulmer?**

1 A. I don't recall. When I initially did my
2 report, I would have returned my report with the medical
3 records that he would have sent me as well as with the
4 disks. So I would have sent that back.
5 **Q. Was there any written correspondence from Mr.**
6 **Ulmer to you that accompanied the medical records and**
7 **the disks?**
8 A. I'm sure there would have been. I don't retain
9 that, but I'm sure there would have been.
10 **Q. Okay.**
11 **MRS. RUTLEDGE: Bryan, will you provide that,**
12 **please, and we'll mark it as the next exhibit?**
13 MR. ULMER: Yeah. And you want correspondence
14 from -- in between my office and Dr. Colella?
15 MRS. RUTLEDGE: Yep, all of it.
16 **Q. (BY MRS. RUTLEDGE) Have you made any notes in**
17 **this case in connection with your work?**
18 A. Not that I retained. I may have taken some
19 notes prior to authoring my report, but I would have not
20 kept those notes.
21 **Q. Okay. Why do you throw the notes away?**
22 A. I'm just too busy to have a filing system to
23 retain all that. If I have notes, my thoughts and
24 opinions are placed in my reports; so I don't need to
25 refer back to notes.

1 **Q. Okay. And what documents did you initially**
2 **review before rendering your September report? Are they**
3 **listed in your report?**

4 A. They would be listed in my first report, which
5 was dated September 8, 2013.

6 **Q. And it lists a long list of medical records**
7 **that you reviewed, correct?**

8 A. They're are nine medicals records and then --
9 I'm sorry -- eight different medical records, and then
10 the ninth heading is four CDs with radiographic images.

11 **Q. Okay. In addition to those documents before**
12 **rendering your September 8th report, what else did you**
13 **do in connection with your work in this case?**

14 A. I'm not aware of anything else.

15 **Q. Okay. Did you do any medical research?**

16 A. Not specific to this, no.

17 **Q. Okay. Have you done any medical research at**
18 **all in connection with your work in this case?**

19 A. No.

20 **Q. Okay. Thank you. So the documents you've**
21 **created in this case pursuant to Mr. Ulmer's direction**
22 **are the two written reports that we've marked as**
23 **exhibits in this case?**

24 A. Correct.

25 **Q. Any other materials that you have prepared in**

1 **connection with your work in this case?**

2 A. No.

3 **Q. Your designation indicates that you contemplate**
4 **preparing expert -- excuse me -- demonstrative exhibits**
5 **for use at trial. Tell me what your plans are in that**
6 **regard.**

7 A. I don't have any plans right now. I would
8 certainly expect to show some images of the cervical
9 spine and what different pathologic states look like.

10 **Q. Okay. Do you mean general images, or do you**
11 **mean specific to this case?**

12 A. It would be both. I believe there would be
13 general images as well as radiographic images from this
14 case.

15 **Q. In your trial testimony in the past, have you**
16 **prepared such exhibits?**

17 A. I personally haven't prepared them. Attorneys
18 would prepare them; I would comment on them.

19 **Q. Have you used a medical illustration company to**
20 **illustrate medical testimony you were giving at a trial?**

21 A. I'm sure attorneys have. I haven't.

22 **Q. Okay. When you arrived today, did you bring**
23 **the disks that are to your right, or were those brought**
24 **by Mr. Ulmer?**

25 A. I brought those.

1 **Q. Okay. Are those the medical records that you**
2 **retain as your records in this case?**

3 A. This is everything I have in this case.

4 **Q. Okay. Now, initially you received something**
5 **else that you returned to Mr. Ulmer. So describe that**
6 **to me.**

7 A. They were CDs.

8 **Q. Okay.**

9 A. CDs which had PDF files of medical records as
10 well as CDs which had imaging studies.

11 **Q. So no paper?**

12 A. I don't think so.

13 **Q. Okay.**

14 A. Again, there may have been a correspondence
15 header or a page, but I don't think -- I don't recall
16 any, like, hospital notes or anything like that on
17 paper.

18 **Q. So if we mark the CDs that you have there in**
19 **front of you to your right, we would have every document**
20 **that you've reviewed in this case?**

21 A. I believe this is a similar set that -- again,
22 I think I sent the original set back to him. Then when
23 I did an addendum, I received the CDs again. So to the
24 extent that these are the same as that first set, I
25 believe they are.

1 **Q. Okay. Nothing leapt out at you as being**
2 **different?**

3 A. Not that I'm -- not that I was aware of.

4 **Q. Okay. What about depositions? Where are**
5 **those?**

6 **How did you receive them, I guess is a better**
7 **question.**

8 A. They were in a Dropbox.

9 **Q. Okay. And so did you print any of those out?**

10 A. I don't know how to.

11 **Q. Okay.**

12 A. They're in a Dropbox that -- it's the first
13 time I ever used Dropbox put to my name. I had to open
14 it up. That's how I saw the depositions. I didn't
15 print them to read them. I read them from that Dropbox.

16 **Q. Okay. Do you still have access to that**
17 **Dropbox?**

18 A. I probably do unless they terminated my access,
19 but, yeah, I think so.

20 **Q. All right. Did you use any kind of annotation**
21 **software to highlight them or make notes?**

22 A. No.

23 **Q. Okay. Did you make any paper notes?**

24 A. No.

25 **Q. Okay. The only notes you have are reflected in**

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1 **your second report?**

2 A. I should -- when I was reading those reports, I

3 would have made notes. Then when I authored my addendum

4 report, I would not have retained those notes because

5 those notes were reflected in my report.

6 **Q. Okay. Have you brought your billing which was**

7 **requested in the notice that you have in front of you?**

8 A. Mr. Ulmer would have that. I would send him

9 the bill. My practice is to -- when I have an invoice,

10 I make two copies of it. I send one to the attorneys.

11 I keep one in my file. When they pay me, then I don't

12 keep the invoice anymore, and then I just wait for the

13 1099s from the attorney's office. So Mr. Ulmer would

14 have those invoices.

15 MRS. RUTLEDGE: Okay. We'll make that the next

16 exhibit.

17 (Discussion off the record.)

18 Q. (BY MRS. RUTLEDGE) Do you have any idea how

19 much you've been paid to date?

20 A. It would be several thousand. I don't know the

21 exact amount.

22 **Q. All right.**

23 **MRS. RUTLEDGE: I'm just putting little**

24 **checkmarks up in the corner if we've used those**

25 **exhibits.**

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1 **Q. (BY MRS. RUTLEDGE) Your fee, as I understand**

2 **it, for me today is \$400 an hour with a half-day minimum**

3 **of 2,000?**

4 A. Actually, not. That's for local. If

5 traveling, it's \$5,000 minimum.

6 **Q. Plus travel time and expense?**

7 A. Correct.

8 **Q. Wow. How much travel time?**

9 A. It was a 3½-hour flight last night.

10 **Q. Okay. And the expense is this hotel?**

11 A. Yes.

12 **Q. Okay.**

13 A. And cab.

14 **Q. And a cab. Did you eat a lot?**

15 A. I had oatmeal, a coffee --

16 **Q. I'm just teasing.**

17 A. -- an orange juice, some raisins.

18 MS. VAN PELT: I'm not paying for that.

19 **Q. (BY MRS. RUTLEDGE) You don't look like you eat**

20 **a lot; so we're good.**

21 A. You haven't seen me at the China buffet.

22 **Q. No, I have not. I have not indeed.**

23 **MS. VAN PELT: Buck a scoop. Eat all you want.**

24 **Q. (BY MRS. RUTLEDGE) I'm going to ask you --**

25 **you've only listed one case, which is Williams versus AW**

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1 **Chesterton Company in Allegheny, Pennsylvania. When**

2 **was -- what did you testify about in that case?**

3 A. I believe it was an individual who had a

4 mesothelioma that was caused by exposure to asbestos. I

5 looked at the x-rays in his case and found that he had

6 asbestos-related lung disease and a mesothelioma.

7 **Q. Testified at trial?**

8 A. I did.

9 (Discussion off the record.)

10 Q. (BY MRS. RUTLEDGE) I have a deposition from

11 April of 2011, which is fairly recent, in the case of

12 Monica Murtha versus -- I think it's Lev B. Rapoport,

13 Chicago Imaging. Does that sound familiar? That

14 deposition was done fairly recently.

15 A. Was that a Chicago case maybe?

16 **Q. Right, it is.**

17 A. Okay.

18 **Q. It's a Chicago case, and it's a medical**

19 **malpractice case.**

20 A. Yes, that was a plaintiff case I represented.

21 **Q. Yeah. You testified on behalf of the plaintiff**

22 **in that case?**

23 A. That's correct.

24 **Q. And you gave, actually, two depositions?**

25 A. That's correct.

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1 **Q. A Volume 1 and Volume 2.**

2 A. Yes.

3 **Q. That one just slipped your mind today --**

4 A. It did.

5 **Q. -- and is not on the list?**

6 **The case in Allegheny was in 2009, and this was**

7 **in 2011.**

8 **Are there any similar cases that are more**

9 **recent where you've testified on behalf of a plaintiff**

10 **in a medical malpractice case that you can --**

11 A. I don't think so.

12 **Q. -- now recall?**

13 A. I don't think so.

14 **Q. Okay. All right. Do you recall testifying in**

15 **a case on behalf of Christina Bey, B-e-y? The defendant**

16 **was Tulane University. It was a medical malpractice**

17 **case involving failure to diagnose a bowel injury on**

18 **MRI.**

19 A. The name Bey is familiar. I don't recall the

20 details of the case.

21 **Q. Okay. So that's another medical malpractice**

22 **case in which you've given testimony on behalf of the**

23 **plaintiff, correct?**

24 A. Yeah. I don't remember that deposition, but I

25 do remember the name.

1 **Q. Okay. All right. And that was in 2008?**
2 A. That well could be.
3 **Q. How about testifying on behalf of Kimberly**
4 **Blochowicz in a case concerning unnecessary surgery and**
5 **implantation of pacemaker resulting in permanent**
6 **scarring and disfigurement? Does that sound familiar?**
7 A. The name is familiar. I don't recall -- again,
8 I don't recall -- there was a deposition on that?
9 **Q. Do you recall being retained in that case?**
10 A. I recall being retained in that case. I don't
11 recall being deposed in that case.
12 **Q. Okay. Do you recall -- that's asbestos. Do**
13 **you recall being retained in a case, a medical**
14 **malpractice case, on behalf of the plaintiff for Donna**
15 **Bonner? The defendant would have been Sharon Regional**
16 **Health System; failure to timely diagnose and treat**
17 **breast cancer?**
18 A. I don't recall that case.
19 **Q. Okay. Now, we should distinguish. You review**
20 **cases, and then sometimes you don't give testimony,**
21 **correct?**
22 A. That's the vast majority of cases.
23 **Q. Sure. Now, so let's talk about reviews,**
24 **because I know from your prior testimony that you**
25 **distinguish those. So maybe in fairness to you, we need**

1 **to distinguish those.**
2 **How many cases a year currently are you**
3 **reviewing either for medical malpractice -- and you can**
4 **separate those out -- and for any other kind of**
5 **litigation including asbestos litigation?**
6 A. Medical malpractice, I probably look at maybe
7 four a month, four or five a month maybe. Some of those
8 are for plaintiff; some of those are for defense.
9 For asbestos litigation, it's highly variable.
10 It could be as much as three a week; it could be zero a
11 week.
12 **Q. Okay. Currently, how many medical malpractice**
13 **cases do you have as -- my term would be open. In other**
14 **words, you've reviewed them, you've perhaps opined in**
15 **writing or orally but you haven't been deposed.**
16 A. Going back 15 years?
17 **Q. No, this year.**
18 A. Oh, this year. Maybe 10.
19 **Q. Okay. How many depositions have you given in**
20 **the last four years in medical malpractice other than**
21 **this one, excluding this one?**
22 A. Again, other than that one you brought to my
23 attention, I don't recall any others.
24 **Q. Okay. So the deposition of you in the case on**
25 **behalf of Monica Murtha is the only one you can**

1 **currently recall in the last four years?**
2 A. Yeah. I don't -- I recall that name. I don't
3 recall the actual deposition or where it was, but I do
4 recall that name.
5 **Q. Okay. Let me see if I can figure out where it**
6 **was and see if this helps you. It looks like it was**
7 **taken in Sharpsburg, Pennsylvania, but it involves a**
8 **Chicago --**
9 A. Yeah. They may have come to -- I think they
10 came to me at a local hotel.
11 **Q. They came to you. And then Volume 2 was done**
12 **in the same place?**
13 A. I think that was the same.
14 **Q. Yeah. Okay.**
15 **Of the 10 cases that you would consider to be**
16 **open in medical malpractice, what are the nature of**
17 **those cases? Just generally, what kinds of cases are**
18 **they?**
19 A. I know there's at least one breast cancer,
20 failure to diagnose.
21 **Q. And you're testifying for the plaintiff or**
22 **reviewing for the plaintiff?**
23 A. I am.
24 **Q. Okay.**
25 A. There was a recent case of intra-abdominal

1 perforation that I'm reviewing for the plaintiff. There
2 is a defense case for Attorney Kimball, and I can't
3 recall the specifics of that case, but that's still an
4 open case.
5 **Q. Okay. That's three we've got so far.**
6 A. Yeah. I don't recall the specifics of all the
7 open cases. Like I said, I'm a practicing radiologist
8 working full-time; so I don't recall the specifics. If
9 I review a case, I'll send that to the attorneys, and
10 probably a lot of times I never hear back on that. So I
11 don't recall. It's not something that's constantly
12 being refreshed.
13 **Q. Okay. In 2003, you estimated that 20 percent**
14 **of your income was coming and 20 percent of your time**
15 **was spent on medical-legal review. Is that true today?**
16 A. That includes both medical malpractice and
17 asbestos litigation, yes.
18 **Q. All right. Still true today?**
19 A. It is.
20 **Q. Okay. Do you recall the case of Alex Buddig,**
21 **failure to diagnose intracerebral hemorrhage? You would**
22 **be reviewing and testifying on behalf of the plaintiff.**
23 A. Do you have a date on that by any chance?
24 **Q. I don't. It's not familiar to you?**
25 A. No.

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1 **Q. Have you testified -- perhaps I've asked you**
2 **this. If so, I apologize.**
3 **Have you testified in trial on a medical**
4 **malpractice case? Do you believe you testified in this**
5 **case in which you gave two depositions?**
6 A. Which one specifically? The Chicago case?
7 **Q. Monica Murtha versus --**
8 A. No, I did not testify.
9 **Q. -- Chicago Imaging?**
10 A. I don't believe I testified.
11 **Q. Do you know what happened to the case?**
12 A. I believe it settled, but I -- I do recall the
13 attorney saying the case was closed. I think it was
14 settled.
15 **Q. Do you recall testifying in the estate of Brian**
16 **Kerr where the University of Pittsburgh Medical Center**
17 **was the defendant regarding failure to diagnose soft**
18 **tissue sarcoma? Does that sound familiar? And you were**
19 **testifying for the plaintiff or reviewing for the**
20 **plaintiff.**
21 A. I was going to say, I didn't testify.
22 **Q. Okay.**
23 A. I don't recall testifying in that.
24 **Q. Do you recall the case?**
25 A. I recall maybe looking at one sarcoma in my

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1 career. If that was it, it's possible.
2 **Q. University of Pittsburgh was the defendant?**
3 A. I don't recall.
4 **Q. Have you testified in any other cases against**
5 **University of Pittsburgh Medical Center?**
6 A. No. I mean, I didn't testify ever as far as
7 I'm aware.
8 **Q. I understand. I should use the term "review"**
9 **instead of "testify."**
10 **Do you recall reviewing a case for Marion Ezzo**
11 **Estate?**
12 A. Do you have any more specifics about it?
13 **Q. Sure do. You would have reviewed on behalf of**
14 **the plaintiff, and a failure to diagnose liver cancer.**
15 A. I don't recall that.
16 **Q. Okay. The case was pending as of 2010. So**
17 **that's only four years ago.**
18 A. I see lots of cases, read lots of film. I
19 don't recall those specifically.
20 **Q. Not familiar. Okay. How about the case of**
21 **Gaudi, G-a-u-d-i? I may be mispronouncing that. The**
22 **defendant is Children's Hospital of Pittsburgh.**
23 **Laparoscopic appendectomy, abscessed bowel resection.**
24 **Sound familiar?**
25 A. No.

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1 **Q. Reviewed on behalf of the plaintiff.**
2 **How about a case on behalf of the estate of**
3 **Robert Goss? Does that sound familiar?**
4 A. Do you have a year and details on it?
5 **Q. This was a case reviewed and settled in 2002.**
6 **The plaintiff was a 67-year-old female with prolonged**
7 **exposure to asbestos and lung cancer. Does that sound**
8 **familiar?**
9 A. That may have been an asbestos case.
10 **Q. Yeah, it definitely was.**
11 A. I don't recall that.
12 **Q. Do you remember testifying for the defendant**
13 **physician, an extravasation, Adriamycin case?**
14 A. No. I think you said testified again.
15 **Q. Right. I did.**
16 A. I didn't testify.
17 **Q. Do you recall the case?**
18 A. No.
19 **Q. Okay. Do you recall a case on behalf of Jean**
20 **Hartman, a medical malpractice case, failure to diagnose**
21 **breast cancer?**
22 A. No.
23 **Q. Do you recall a case for Joan Hobbie, failure**
24 **to diagnose breast cancer, again, reviewing on behalf of**
25 **the plaintiff?**

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1 A. I don't recall that name.
2 **Q. Okay. How many times did you think you**
3 **testified in asbestos cases in a trial?**
4 A. Maybe 10 to 12, something like that.
5 **Q. This is a recent case. The plaintiff is Donald**
6 **Lucas. The defendants are Mount Nittany Medical Center**
7 **and Dr. Richard P. Konstance, spelled with a K. The**
8 **case is pending as of 2012. It involves failure to**
9 **properly insert a left femoral catheter. Sound**
10 **familiar?**
11 A. If you showed me a report, I could tell you.
12 That may be familiar.
13 **Q. Okay. It's only two years ago, not even.**
14 A. Yeah. If you showed me a report, that may
15 refresh my memory.
16 **Q. Okay. How about a case that was settled in**
17 **2008? The plaintiff was Barry Marks, defendant was**
18 **Ghazanfar Shaw.**
19 A. What was it about?
20 **Q. Failure to diagnose subarachnoid hematoma,**
21 **spinal cord compression, and subsequent paraplegia.**
22 A. I don't recall that.
23 **Q. How about a case that's still pending as of**
24 **February 2011 involving Monica Murtha? I guess that's**
25 **the one we just talked about, stroke resulting in**

1 failure to diagnose and communicate the result to the
 2 physician. That's the Chicago case.
 3 A. I recall that.
 4 Q. Yeah. Do you recall a case for Joy O'Bryon
 5 against Dr. Frank Dietzinger where you're reviewing, at
 6 least, on behalf of the plaintiff in a failure to
 7 diagnose breast cancer? Does that sound familiar?
 8 A. That does sound familiar.
 9 Q. It does?
 10 A. That does sound familiar.
 11 Q. Okay. Have you given a deposition in that
 12 case?
 13 A. No.
 14 Q. Prepared a report?
 15 A. That would be it.
 16 Q. Do you recall a case that was settled in 2008
 17 on behalf of Cheryl Watters against Dr. Chune Woo Yeh?
 18 A. No.
 19 Q. Okay. The case involved additional surgery and
 20 continued pain due to failure to properly interpret
 21 cervical spine film.
 22 A. No.
 23 Q. Sound familiar?
 24 A. No.
 25 Q. All right. How about a case in 2010 involving

1 Gail Zelter against the Jefferson Regional Medical
 2 Center?
 3 A. What was that about?
 4 Q. That one is about infiltration of contrast
 5 media into the left forearm requiring surgical
 6 intervention --
 7 A. I do.
 8 Q. -- development of -- you remember that one?
 9 A. I do.
 10 Q. Did you give a deposition?
 11 A. No.
 12 Q. Trial testimony?
 13 A. No.
 14 Q. And you were reviewing on behalf of the
 15 plaintiff in that case?
 16 A. I believe so.
 17 Q. Okay. Do you recall a case where you testified
 18 in 2005 in a deposition in the matter of Cheryl Watters
 19 versus Medtronic?
 20 A. No.
 21 Q. How much time have you spent on this case
 22 completing your work and preparing your reports as of
 23 today before we started the deposition?
 24 A. I don't recall specifically. I would say
 25 somewhere between 10 and 20 hours.

1 Q. Okay. So let's break that down. How many
 2 hours spent reviewing the medical records which you
 3 first received in this case?
 4 A. I don't recall the specifics.
 5 Q. Okay. Do you know how many medical records
 6 there were and -- that were presented to you?
 7 A. Yeah. They're all on one of these disks.
 8 Q. Right. But do you recall how many pages?
 9 A. It was nine PDFs. Five or six of the PDFs
 10 didn't have more than 20 or 30 pages, but then a couple
 11 of them had hundreds.
 12 Q. Okay.
 13 A. Maybe even more like a thousand.
 14 Q. Maybe more than a thousand. Do you think of
 15 the 20 hours, most of your time was spent reviewing
 16 those medical records?
 17 A. I don't have a breakdown of records versus
 18 images.
 19 Q. Okay. How much time have you spent talking to
 20 a representative of Ms. Thompson, either Mr. Ulmer or
 21 Ms. Rankin or someone else?
 22 A. Never spoke with Ms. Rankin.
 23 Q. Okay.
 24 A. Total time with Mr. Ulmer, not counting
 25 breakfast and chitchat not related to the case, less

1 than two hours.
 2 Q. Okay. So you said you spent 10 to 20 hours.
 3 That's quite a broad range of hours. 10 makes a lot
 4 less money than 20. So can you narrow it down for me
 5 any better?
 6 A. Not accurately, I can't.
 7 Q. How much time -- what percentage of time was
 8 spent on medical records versus films?
 9 A. I answered that. I was not aware of that.
 10 Q. Okay. Just can't break it down for me?
 11 A. Correct.
 12 Q. All right. I'd like to take a look at your CV.
 13 Get that in front of you, if you would, please.
 14 A. (Deponent complied.)
 15 Q. This CV is your most current curriculum vitae?
 16 A. I believe so.
 17 Q. Why don't you look through it and make sure
 18 it's complete and accurate.
 19 A. I believe it is.
 20 Q. Okay. And this is exhibit what, 6?
 21 A. 6. There are extra copies here. I don't know
 22 if you need those extra copies.
 23 MRS. RUTLEDGE: You want a copy?
 24 MS. VAN PELT: Yeah.
 25 MR. ORTIZ: Thank you.

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1 MS. VAN PELT: Tell me the number again.
 2 MRS. RUTLEDGE: 6.
 3 THE DEPONENT: 6.
 4 **Q. (BY MRS. RUTLEDGE) Let's start with your**
 5 **undergraduate work. It looks to me like it took five**
 6 **years to get out of undergraduate school. Is that**
 7 **right?**
 8 A. No.
 9 **Q. Okay. I may have misread this then. You went**
 10 **through in four years?**
 11 A. 3½.
 12 **Q. 3½. Then explain to me what Geneva College is.**
 13 **Did you graduate with a BS or BA from Cornell?**
 14 A. I graduated from Geneva College with a BS.
 15 **Q. So it says '83 to '85, and the first says --**
 16 **well, maybe I didn't do the math right. You're right.**
 17 **It's four years.**
 18 **Why did you transfer from Cornell to Geneva?**
 19 A. After my sophomore year of college at Cornell,
 20 my brother was accepted to medical school. Between his
 21 tuition and my Ivy-league tuition, it was more than my
 22 parents were making. I was able to get a scholarship
 23 for baseball at Geneva College, and so I transferred
 24 there.
 25 **Q. And what position were you playing in baseball?**

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1 A. I was a pitcher.
 2 **Q. Okay. And you were good enough to make the**
 3 **U.S. Olympic team.**
 4 A. I was a finalist. I didn't make it. But
 5 just -- I always like to tell this. Randy Johnson and I
 6 have something in common. We were both cut from that
 7 team.
 8 **Q. Okay.**
 9 A. He went on to different things than I did.
 10 **Q. He certainly did. Would you rather be Randy or**
 11 **a radiologist?**
 12 A. Now, a radiologist; then, Randy.
 13 **Q. Okay. You entered medical school then at the**
 14 **University of Pittsburgh School of Medicine?**
 15 A. I did.
 16 **Q. And graduated right on time it looks like.**
 17 **Residency match was at Presbyterian University Hospital.**
 18 **Describe that for me. I'm familiar with a number of the**
 19 **hospitals in Pittsburgh, as we talked about before the**
 20 **deposition started.**
 21 A. Well, the residency at Presbyterian, it
 22 incorporates all those hospitals in the university,
 23 including Children's, Magee. Back then there was
 24 Montefiore Hospital, University of Pittsburgh. So it
 25 was actually one of the largest training programs in the

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1 country.
 2 So it was a four-year program. The fourth year
 3 I served as chief resident. I'm thankful for the
 4 training I got there.
 5 **Q. Okay. Did you do any fellowship training?**
 6 A. I did a mini fellowship in MRI with Dr. Kanal
 7 during my fourth year. I was going to and considered
 8 going and spending more time doing a dedicated MRI
 9 fellowship, but at that time they had changed from a
 10 modality fellowship to a systems fellowship, to an organ
 11 system fellowship, and that wasn't what I was interested
 12 in. So I went to work.
 13 **Q. When you were doing, quote, the mini fellowship**
 14 **with Manny Kanal, if I were to call him and visit with**
 15 **him about it, how would I -- what could I expect him to**
 16 **describe that as and what year was it?**
 17 A. Probably not remember me at all. I was a
 18 fourth-year resident. Because I was interested in doing
 19 a MR fellowship with him, I spent -- as a chief
 20 resident, I was able to select a block of time to
 21 specialize in one particular field, and I spent extra
 22 time with Dr. Kanal in MRI.
 23 **Q. What time -- what time of the year was that?**
 24 A. Somewhere during the fourth year. I don't know
 25 when.

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1 **Q. So the way that I understand it, he wouldn't --**
 2 **many -- well, let me back up. Dr. Kanal is one of those**
 3 **that lists the fellows that he's trained. You're**
 4 **probably not on that list?**
 5 A. No, I was not a fellow of him.
 6 **Q. Okay.**
 7 A. It was a mini fellowship during my residency.
 8 **Q. And that's actually not on your resume and**
 9 **probably because it was not an official fellowship?**
 10 A. There was no certification that went with that.
 11 **Q. You completed your residency in 1993. Is that**
 12 **when you took your boards?**
 13 A. Yes.
 14 **Q. And although I think there is recertification**
 15 **in diagnostic radiology, you have not recertified?**
 16 A. I don't need to.
 17 **Q. And so I'm correct that you have not**
 18 **recertified?**
 19 A. There's no certification for people who have
 20 finished in 1993.
 21 **Q. No recertification?**
 22 A. No.
 23 **Q. Okay. What is a certified B-Reader, National**
 24 **Institute of Occupational Safety and Health?**
 25 A. It's a designation given to a radiologist or

1 pulmonologist, whoever takes the course and the exam, to
2 certify that he is able or she is able to evaluate chest
3 x-rays and interpret them for occupational lung disease
4 via the NIOSH standards.

5 **Q. So that's for your asbestos testimony, right?**

6 A. It's for my practice as a radiologist, but it's
7 also part of asbestos testimony.

8 **Q. Okay. How many of the asbestos cases do you**
9 **currently have open? You said you have currently ten**
10 **med mal open. What do you think you have open in**
11 **asbestos?**

12 A. It's impossible to say because sometimes all
13 you'll do is a chest x-ray reading on it, and you don't
14 know if those are open cases or if those are dismissed
15 or if nothing ever happened. So I would have no idea.

16 **Q. Do you have probably more than five currently**
17 **pending?**

18 A. I would think so.

19 **Q. Maybe more than ten?**

20 A. I would think so. But, again, I don't know. I
21 have no idea.

22 **Q. Old numbers were maybe a hundred a year. Do**
23 **you think you're still at that rate for asbestos?**

24 A. Reading that many cases for asbestos?

25 **Q. No, excuse me, providing expert testimony.**

1 A. No, not a hundred a year.

2 **Q. Where do you think the number is?**

3 A. I don't know.

4 **Q. Let's talk a little bit about two things on**
5 **your resume on the second page. I couldn't find**
6 **anything on them. 1996 to present, that's right out of**
7 **medical school. Under your appointments and positions,**
8 **you list independent radiologic consultations to legal**
9 **profession.**

10 A. Correct.

11 **Q. What is that?**

12 A. What I do now.

13 **Q. Okay. So you're just describing -- that's not**
14 **a company, is it?**

15 A. No. I have -- I have -- I'm an LLC, Colella
16 Consulting, but that wasn't formed until just three or
17 four years ago.

18 **Q. And the LLC was formed for the purpose of**
19 **medical-legal testimony?**

20 A. That's correct.

21 **Q. So in listing this on your resume, the person**
22 **reading it should glean from it that approximately three**
23 **years out of medical school you began doing radiologic**
24 **consultations for the legal profession. Is that fair?**

25 A. That's correct.

1 **Q. And during that time, you would give 10 to 20**
2 **depositions a year. When the asbestos cases were more**
3 **fulminant, you were reviewing about a hundred a year?**

4 A. That was probably -- that wasn't, certainly,
5 1996. That was not until 2000 it was busy.

6 **Q. Okay. So how long did you maintain that volume**
7 **of medical-legal review, if you know, 10 to 20**
8 **depositions a year and a hundred case reviews for**
9 **asbestos?**

10 A. That was probably only a three- or four-year
11 period.

12 **Q. So maybe up until 2004?**

13 A. No. Again, that was probably from -- that was
14 probably the late -- probably 2004 to 2008 maybe was
15 probably my busiest time.

16 **Q. Okay. Then there is a listing for 1999,**
17 **independent consultant options, Health Works. What's**
18 **that?**

19 A. I'm trying to remember what Health Works --
20 Health Works was a company formed, I believe, out of our
21 hospital that did occupational medicine exams.

22 **Q. That's worker comp exams?**

23 A. I believe that's what it was. So they would
24 ask me to review chest x-rays to determine whether the
25 people were healthy or ...

1 **Q. So this doesn't have to do with testifying?**

2 A. No. That was over a very short period of time.

3 **Q. Was that just that one year?**

4 A. I believe so.

5 **Q. Okay. Now, list the hospitals where you hold**
6 **credentials for me.**

7 A. Alle-Kiski Medical Center, which is the --

8 **Q. Oops. Hold on. You've got to say that slower.**

9 A. Alle-Kiski. It's the last listing.

10 **Q. Got it. It's spelled --**

11 A. A-l-l-e dash Kiski.

12 **Q. Okay.**

13 A. Which is the same thing as Allegheny Valley
14 Hospital.

15 **Q. Great.**

16 A. That's the only place I hold privileges.

17 **Q. Okay. So the Alle-Kiski Medical Center is the**
18 **same as Allegheny Hospital?**

19 A. They keep changing the name back and forth.

20 **Q. Kind of handy, huh?**

21 **All right. And that's about 228 beds?**

22 A. It's about that, yes.

23 **Q. That's what they list on their Web site; so I**
24 **assume it's accurate.**

25 A. I haven't checked lately.

1 **Q. Okay. All right. Now, there's also an AKMC**
 2 **Radiologic Imaging with a different address than the**
 3 **hospital. What is that?**
 4 A. That is the imaging center owned by Alle-Kiski
 5 Medical Center. It probably doesn't even need to be on
 6 there. It's -- we -- as radiologists at the hospital,
 7 we also cover two imaging centers that are owned and run
 8 by the hospital.
 9 **Q. Okay.**
 10 A. So it's the same entity, same organization,
 11 just different location.
 12 **Q. Are they in close proximity to one another?**
 13 A. About five miles away.
 14 **Q. Okay. This was an interesting entry on your**
 15 **resume: Society of President's Council, Geneva College,**
 16 **elected to Savant Leaders. What is that?**
 17 A. It's just -- I was recognized by Geneva, which
 18 is my alma mater, as someone who was interested in
 19 continuing to support the college and have a role in the
 20 students there.
 21 **Q. Okay. The only peer-reviewed article that I**
 22 **noticed, that I would consider peer-reviewed in the**
 23 **sense of something published in a recognized journal, I**
 24 **think is the one article on "Applications of Isolated**
 25 **Perfused Rat Liver Transplantation Research." I didn't**

1 **Q. Okay. Why do you have it on your resume?**
 2 A. It was a presentation I made.
 3 **Q. Okay.**
 4 A. It was a presentation at a national meeting. I
 5 think that's worth putting.
 6 **Q. All right. So fellowship reform, any guess as**
 7 **to what that was about?**
 8 A. No. I do not recall.
 9 **Q. Okay. How about your presentation on**
 10 **radiology, The Reading Room, Christy Imaging Service in**
 11 **Pittsburgh, Pennsylvania?**
 12 A. I spoke -- a series of lectures where I spoke
 13 to radiology technologists to help them to do better
 14 work and to understand what a radiologist was looking
 15 for in films.
 16 **Q. So you're teaching to rad techs?**
 17 A. That was what that was.
 18 **Q. And how about the 1997 presentation,**
 19 **"Radiologists Approach to Plain Films"? Is that the**
 20 **same thing?**
 21 A. That's the same thing. That's a very similar
 22 thing.
 23 **Q. All right. How about the "Orthopedic**
 24 **Radiology," The Reading Room? Again, is that another**
 25 **presentation to radiology technicians?**

1 **see a year on that. It was in the Journal of**
 2 **Investigative Surgery. Do you know when that would have**
 3 **been?**
 4 A. That would have been during medical school, I
 5 believe my third or fourth year of medical school.
 6 **Q. So remind me when you were -- it's before '89**
 7 **then?**
 8 A. Yes.
 9 **Q. So it would have been in '88 maybe?**
 10 A. That's a good guess.
 11 **Q. Okay. And the article above that is not what I**
 12 **would call peer reviewed. You need to correct me if I'm**
 13 **wrong. That journal is probably not something that is**
 14 **widely circulated, is it?**
 15 A. I don't believe that would be considered peer
 16 reviewed.
 17 **Q. And the rest of these lecture presentations**
 18 **likewise are not peer reviewed?**
 19 A. That's correct.
 20 **Q. What was your presentation on "Radiology**
 21 **Fellowship Reform Legislation" for the ACR? That was**
 22 **done while you were in the residency program. Were you**
 23 **trying to get less hours of work or what?**
 24 A. I have -- I do not recall that, what I spoke
 25 about.

1 A. It is.
 2 **Q. I'm going to go through some things that I**
 3 **think you are not -- you haven't done, and then we're**
 4 **going to go back to the nature of your practice.**
 5 **You're not -- have not done a fellowship in**
 6 **neuroradiology, correct?**
 7 A. Correct.
 8 **Q. No additional training other than the informal**
 9 **mini fellowship in MRI?**
 10 A. Correct.
 11 **Q. Okay. Would you consider your MRI training in**
 12 **residency to be that -- that most radiologists get who**
 13 **are in an accredited residency program in the United**
 14 **States?**
 15 A. I would certainly think it's as good or better
 16 than anyone.
 17 **Q. Okay.**
 18 A. You can tell Manny that.
 19 **Q. I will. I will.**
 20 **So would you agree with me that your training**
 21 **in reading films, including MRIs and CAT scans, is no**
 22 **greater than Dr. Kellam's?**
 23 A. I don't know enough about what his training and
 24 expertise was.
 25 **Q. Did you look at his -- well, it may not have**

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1 **been asked of him in his deposition.**
2 **What do you understand your role in this case**
3 **to be?**
4 A. To evaluate the images and determine whether or
5 not the reports met the standard of care.
6 **Q. Have you completed your work, in your view, in**
7 **this case?**
8 A. As far as I know. If there's more material out
9 there to present to me, I would be happy to look at it,
10 but my opinions are complete as is for now.
11 **Q. Okay. Do you plan to attend trial in October**
12 **of this year?**
13 A. I would love to come to Wyoming.
14 **Q. Okay. I take that as a yes?**
15 A. Very affirmative.
16 **Q. Good. I don't see any papers, presentations on**
17 **the subject of radiology and diagnosis of spinal**
18 **epidural abscess. Am I correct about that?**
19 A. Correct.
20 **Q. Have you testified in a case concerning a**
21 **spinal epidural abscess either in deposition or trial?**
22 A. Not that I'm aware of.
23 **Q. Okay. Have you -- do you recall reviewing a**
24 **case, either on behalf of the patient or the physician,**
25 **concerning spinal epidural abscess?**

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1 A. I don't recall any.
2 **Q. And you've not authored any papers or work on**
3 **the incidents of spinal epidural abscesses nor the**
4 **pathophysiology --**
5 A. Correct.
6 **Q. -- of SEA?**
7 **Have you looked at any metaanalysis studies on**
8 **the diagnosis of SEA?**
9 A. No.
10 **Q. All right.**
11 **MRS. RUTLEDGE: And SEAs, can we agree, guys,**
12 **is spinal epidural abscess?**
13 MR. ORTIZ: Absolutely.
14 MR. ULMER: That's fine with me.
15 MRS. RUTLEDGE: Okay.
16 **Q. (BY MRS. RUTLEDGE) So what did you do to**
17 **prepare to give your deposition testimony today?**
18 A. I read over my reports. I read over expert
19 reports from the neurosurgeon and the ER physician. I
20 read over some partial deposition testimony from -- I
21 believe it was Dr. Cook, the treating neurosurgeon. I
22 reviewed the medical records from that admission in
23 July.
24 **Q. Which admission?**
25 A. Well, not admission but the ER visits and the

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1 admission in July at the time of diagnosis and initial
2 surgery. I reviewed radiology reports and reviewed
3 operative reports and reviewed as much of the medical
4 records as I had time for.
5 **Q. Why did you review the reports of other**
6 **experts?**
7 A. I wanted to see what other people's opinions
8 were.
9 **Q. Okay. Have they modified, enhanced, or**
10 **affected your opinions in this case?**
11 A. No.
12 **Q. Do you consider any medical texts on diagnostic**
13 **radiology to be authoritative on the issues in this**
14 **case?**
15 A. Not one in particular.
16 **Q. Would you please define "standard of care" for**
17 **me, and then we'll talk about your opinions.**
18 A. Standard of care would be what a normal -- what
19 a competent, well-trained -- in this case --
20 radiologist, how they would evaluate a case and convey
21 that report either in paper and/or by telephone to the
22 referring physician.
23 **Q. Let me read to you the definition of standard**
24 **of care and see if we can come to an agreement on that**
25 **because that is a medical -- that is a legal standard as**

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1 **opposed as a medical standard, and sometimes physicians**
2 **are confused.**
3 A. Sure.
4 **Q. Physicians have a duty to exercise the**
5 **knowledge, skill and diligence and to apply the means**
6 **and methods that a reasonable, prudent physician in the**
7 **same line of practice would exercise and apply under**
8 **same or similar circumstances.**
9 A. That was clearly written by a lawyer.
10 **Q. Would you agree with that?**
11 A. I would agree with it.
12 **Q. That's the standard that you're willing to**
13 **apply in this case?**
14 A. Sure.
15 **Q. Are there any published standards by the ACR or**
16 **anyone that apply to this case?**
17 A. I believe there are.
18 **Q. And have you reviewed those?**
19 A. I have.
20 **Q. I asked you earlier if you had done any**
21 **research in connection with this case, and you said no.**
22 **Why did you omit review of the ACR standards?**
23 A. That wasn't specific to this case. I look at
24 ACR standards all the time.
25 **Q. So you didn't do any research in connection**

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1 **with this case?**
 2 A. I didn't look up ACR standards for this case,
 3 no. The ACR standards I was referring to are in my
 4 report about conveying -- or about looking at all the --
 5 that radiologists are responsible for all the data, all
 6 the images on films.
 7 **Q. Did you bring a copy of those standards with**
 8 **you?**
 9 A. I did not.
 10 **Q. Okay. Did you print those standards and put**
 11 **them in your file or provide them to Mr. Ulmer?**
 12 A. I did not.
 13 **Q. Did Mr. Ulmer provide them to you?**
 14 A. No.
 15 **Q. Okay. Do you have a copy of them? Can you**
 16 **give me a citation?**
 17 A. I could probably look it up for you. I don't
 18 have it with me, but I could look it up for you.
 19 **Q. Okay. In preparing the two letters which**
 20 **outline your opinions in this case, have you captured**
 21 **all of the opinions you hold and plan to offer at the**
 22 **trial of this matter?**
 23 A. As of now, yes.
 24 **Q. Okay. Were these letters all prepared by you?**
 25 A. Yes.

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1 **Q. Were they edited by anybody from The Spence Law**
 2 **Firm?**
 3 A. No.
 4 **Q. Okay. Why did you prepare the second letter?**
 5 **Were you asked to do so?**
 6 A. I was.
 7 **Q. Okay. Why?**
 8 A. There was additional information available.
 9 **Q. Okay. What were you asked to do?**
 10 A. Review the additional information and determine
 11 whether my opinions were the same or come to any other
 12 further conclusions based on my reading of that
 13 additional material.
 14 **Q. Okay. I want to talk to you about what it is**
 15 **you are credentialed to do at -- should we call it**
 16 **Alle-Kiski? Is that --**
 17 A. You can call it Allegheny Valley. Allegheny
 18 Valley.
 19 **Q. That's the new one or the current --**
 20 A. That's the current one.
 21 **Q. What are --**
 22 A. It may change by trial date, but for now we're
 23 Allegheny Valley.
 24 **Q. What are you credentialed to do at Allegheny**
 25 **Valley Medical Center?**

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1 A. I'm credentialed to read CTs, MRIs,
 2 ultrasounds, plain films; credentialed to use
 3 fluoroscopy; credentialed to perform various procedures
 4 such as lumbar punctures, lumbar myelograms, biopsies,
 5 placement of catheters, serve on committees.
 6 **Q. That's the unfortunate privilege that comes**
 7 **with your privileges?**
 8 A. Yes, it is.
 9 **Q. Rather than a specific credentialing, I don't**
 10 **think they have a check box for serving on committees.**
 11 A. Probably not.
 12 **Q. Okay. What other credentials --**
 13 A. No one would check it if they did.
 14 **Q. Right. What other credentials do you hold at**
 15 **the Allegheny hospitals -- Hospital?**
 16 A. I can't think of any. Basically, the full
 17 range of diagnostic radiology services.
 18 **Q. Okay. What is your current schedule in your**
 19 **radiology practice? Separate hospital from the imaging**
 20 **center, if you would, please.**
 21 A. Well, it's -- we work four or five days a week.
 22 Those -- one of those days is on call. On a good week,
 23 one of those days is off. Usually, one or two of those
 24 days is spent at one of the imaging centers as opposed
 25 to the hospital.

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1 **Q. Okay.**
 2 A. And then we're on call every fifth or sixth
 3 night.
 4 **Q. On call every fifth or sixth night?**
 5 A. Correct.
 6 **Q. How many radiologists are privileged at**
 7 **Allegheny Hospital -- Allegheny Medical Center?**
 8 A. There are six working radiologists at the
 9 medical center. There are a lot more privileged because
 10 we use a teleradiology service at night. So anyone who
 11 reads films at night also has to be privileged, but
 12 they're not working at the hospital. They just provide
 13 preliminary readings for cases after 11:00 at night.
 14 **Q. Okay. Which service do you use?**
 15 A. We are using Vesta.
 16 **Q. B-e-s-t-a?**
 17 A. V-e-s-t-a.
 18 **Q. So tell me how call works. When do you start**
 19 **and when are you off and what does that mean?**
 20 A. Start at 8:00 in the morning, work until 7:00
 21 at night, go home, and then read images from home when
 22 the hospital requests us to.
 23 **Q. Does the hospital make a determination as to**
 24 **whether it's going to be read by you or by Vesta**
 25 **after --**

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1 A. No, it's a timing -- Vesta reads after 11:00
 2 p.m.
 3 **Q. Oh, after 11:00 p.m.?**
 4 A. Correct.
 5 **Q. So from 7:00 to 11:00, you read if you're on**
 6 **call?**
 7 A. Correct.
 8 **Q. From home?**
 9 A. Correct.
 10 **Q. All right. When you are at the imaging center,**
 11 **what do you do?**
 12 A. You interpret the full gamut of radiology
 13 images: ultrasounds, CT, MRI. We do fluoroscopy, plain
 14 films, mammography, and an occasional procedure.
 15 **Q. What kind of procedures do you do at the**
 16 **imaging center?**
 17 A. It would just -- an arthrogram would be the
 18 only procedure done at the -- at one of the centers, we
 19 provide ultrasound guidance for prostate biopsies.
 20 **Q. At one of the imaging center?**
 21 A. Correct.
 22 **Q. How many imaging centers do you work --**
 23 A. The hospital has two, and that's what we cover.
 24 **Q. Okay. So you rotate through those?**
 25 A. That's correct.

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1 **Q. And it's the same six radiologists that rotate**
 2 **through the Allegheny Hospital and the two centers?**
 3 A. That's correct.
 4 **Q. Okay. And are you a direct employee of the**
 5 **hospital?**
 6 A. No.
 7 **Q. Partner or a part owner in the --**
 8 A. We're a private corporation with an exclusive
 9 contract to provide service to the hospital.
 10 **Q. And what's the name of the private corporation?**
 11 A. What are we now? We are -- I'll tell you in
 12 five minutes. I can't recall.
 13 **Q. Okay. Well, let's go off the record.**
 14 A. I'm sorry. We're AVMI, Allegheny Valley
 15 Medical Imaging.
 16 **Q. I'm just looking to see if that's --**
 17 A. Yeah. It changed a while ago because there was
 18 a radiation oncologist with us. Then that was
 19 eliminated, and now we're just AVMI.
 20 **Q. So on the vitae on Page 3, it says '94 to**
 21 **present, AV Medical Imaging, Inc. Is that the company?**
 22 A. That's correct.
 23 **Q. And is that -- that address is the same as the**
 24 **hospital. Is your professional office in the hospital?**
 25 A. It is.

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1 **Q. Okay. Let's take a little break. When we come**
 2 **back, we will talk about your three days a week at the**
 3 **hospital.**
 4 **(Short recess from 10:53 a.m. to 11:09 a.m.)**
 5 **Q. (BY MRS. RUTLEDGE) Let's talk a little bit**
 6 **more about the nature of your practice. Tell me. You**
 7 **listed the fact that three days a week you're in the**
 8 **hospital. So give me a typical hospital day. What time**
 9 **do you come in? What kinds of films are you reading, in**
 10 **general, and what, if any, procedures are you doing and**
 11 **how are they scheduled?**
 12 A. One of those days of the week will be on call.
 13 **Q. One of the three?**
 14 A. One of those three.
 15 **Q. Okay.**
 16 A. It could be four. It could be two. That's an
 17 average.
 18 **Q. Okay.**
 19 A. So basically come in at 8:00, work until 7:00.
 20 The person who is on call is the one who preferentially
 21 does the procedures. Those procedures could be PICC
 22 lines, paracentesis, thoracentesis, biopsies of just
 23 about any organ, lumbar puncture, lumbar myelograms,
 24 nephrostomy tube placements, nephrostomy changes. So
 25 those are pretty much the procedures.

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1 So we will do that. Throughout the day as
 2 well, we will be reading films. Those films will be
 3 CTs, MRIs, plain films, mammograms. So it's a general
 4 diagnostic practice.
 5 **Q. Do you think there is more of one study versus**
 6 **another that you are reading on a typical day as between**
 7 **CTs, MRIs, and mammograms?**
 8 A. Not necessarily.
 9 **Q. How often, if at all, do you do angiograms?**
 10 A. We no longer do angiograms.
 11 **Q. Okay. Why is that?**
 12 A. The hospital decided not to pursue doing that
 13 type of interventional radiology. We're part of a
 14 system, and so those cases are referred to another
 15 hospital within that system.
 16 **Q. You did not do a fellowship in interventional**
 17 **radiology, did you?**
 18 A. That's correct.
 19 **Q. Okay. How about draining abscesses?**
 20 A. What's the question?
 21 **Q. Do you do procedures to drain abscesses --**
 22 **A. Yes, we do.**
 23 **Q. -- of any kind?**
 24 **Okay. What other interventional radiology do**
 25 **you no longer do which is referred out?**

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1 A. Other than angiography, that would be cerebral
 2 or peripheral vascular. That would be it.
 3 **Q. Do you do vertebroplasties?**
 4 A. No.
 5 **Q. Are those referred out?**
 6 A. The orthopedic surgeon does those in the
 7 operating room.
 8 **Q. Okay. Do you do OB ultrasound?**
 9 A. Yes.
 10 **Q. Pediatric ultrasound and imaging?**
 11 A. We will only do pedestrian stuff out of the
 12 emergency room. So it would just be emergent CT scans
 13 or plain films for trauma. Everything else, the
 14 pediatric stuff would be referred --
 15 **Q. To the Children's Hospital?**
 16 A. Either Children's or Allegheny General, which
 17 is also part of our system.
 18 **Q. Okay.**
 19 A. Also has pediatrics.
 20 **Q. Okay. And how big is Allegheny General?**
 21 A. Probably 6- or 700 beds. It's a tertiary
 22 center.
 23 **Q. And you're not privileged there, right?**
 24 A. That's correct.
 25 **Q. Have you ever been --**

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1 A. No.
 2 **Q. -- privileged there?**
 3 **As these pieces of paper diminish, your day**
 4 **gets shorter, which is the good news.**
 5 A. Get out the match?
 6 **Q. Yeah.**
 7 **All right. Let's take a look at your first**
 8 **report, September 8, 2013. I think you told me earlier**
 9 **that the way that you received the records is you**
 10 **received a disk with all the medical records on them?**
 11 A. Correct.
 12 **Q. First. Do you believe that -- I know you sent**
 13 **all of that and the correspondence back. Do you believe**
 14 **you received some sort of a narrative or a copy of a**
 15 **complaint, anything describing the nature of the case,**
 16 **or did you just dive into the medical records?**
 17 A. I don't recall receiving the complaint or the
 18 nature of the case.
 19 **Q. Okay. When reviewing the first three**
 20 **admissions for August 11, 2010, for a dental issue;**
 21 **December 17, 2009, bilateral flank pain; and admission**
 22 **on 3-30-10 for an eye injury, corneal abrasion, what, if**
 23 **any, information from those admissions formed the basis**
 24 **for any opinion you plan to give at trial?**
 25 A. I don't recall that that had any impact.

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1 **Q. Okay. Do you recall any details for those**
 2 **admissions other than what's recorded in Nos. 1, 2, and**
 3 **3, on your report of September 8, 2013?**
 4 A. I don't.
 5 **Q. So let's start with the admission for back pain**
 6 **on the 30th of June. Before we do that, let me ask you**
 7 **this: Can you testify by answering my questions without**
 8 **referring to your report, or do you need to refer to**
 9 **your report?**
 10 A. I prefer to refer to my report.
 11 **Q. Okay. Without your report, is it fair to say**
 12 **you really don't have detailed memory of the opinions**
 13 **reflected in your report?**
 14 A. I have a pretty good idea. But if I have the
 15 report here, I could be more accurate with my opinions.
 16 So I thought that would be helpful.
 17 **Q. Well, let's start this way. Why don't you tell**
 18 **me all of the opinions without using your report that**
 19 **you plan to give at trial, and then we'll go through**
 20 **your report in detail. Just kind of give me your**
 21 **gestalt about the case.**
 22 A. I believe that there was an MRI performed on
 23 July 3rd, cervical MRI. Again, there had been
 24 admissions and other things done prior to that, but
 25 specifically --

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1 **Q. We're talking 2010, right?**
 2 A. 2010.
 3 **Q. Yeah.**
 4 A. But specifically I believe the MRI of the
 5 cervical spine was misinterpreted. That was conveyed to
 6 the emergency room. Then subsequently there was another
 7 MRI on 7-4 which was also misinterpreted, incomplete in
 8 conveying the pertinent findings on those films.
 9 **Q. Tell me how the MRI -- and I presume that your**
 10 **testimony is that the misinterpretation that you**
 11 **believe -- you believe the misinterpretation was a**
 12 **breach of the standard of care?**
 13 A. I do.
 14 **Q. Okay. Tell me for 7-3 what the**
 15 **misinterpretation of the July 3rd, 2010, MRI was in your**
 16 **opinion, and then we'll talk about what was conveyed to**
 17 **the emergency room.**
 18 A. Sure. There was a failure to identify abnormal
 19 fluid at the C6-C7 disc space. There was failure to
 20 identify irregularity of the superior endplate of C7.
 21 There was a failure to identify edema and abnormal soft
 22 tissue anterior to the lower cervical spine. There was
 23 a failure to identify edema and inflammatory changes
 24 posterior to the cervical spine, indenting the anterior
 25 aspect of the thecal sac. There was a failure to

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1 identify abnormal signal in the left paraspinal
 2 muscle --
 3 **Q. Let me back you up to edema in the posterior --**
 4 **start there. Edema in the posterior ...**
 5 A. Soft tissues.
 6 **Q. Okay.**
 7 A. Anterior to the cervical canal.
 8 **Q. Anterior to the ...**
 9 A. So basically both in front of the bony spine
 10 and posterior to the bony spine.
 11 **Q. That's where I got confused. You said edema**
 12 **anterior to the lower cervical spine and then edema**
 13 **posterior ...**
 14 A. To the cervical spine and anterior to the
 15 cervical cord.
 16 **Q. Thank you. I'm sorry. I just wasn't writing**
 17 **fast enough. Go ahead.**
 18 A. There was failure to identify the abnormal
 19 signal in the left paraspinal muscles, indicative of an
 20 infectious process.
 21 **Q. And this is all on the 3rd?**
 22 A. Correct.
 23 **Q. Anything else on the 3rd in terms of**
 24 **interpretation?**
 25 A. There was the correct interpretation that there

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1 was some compression of the anterior aspect of the
 2 thecal sac and degenerative changes of the cervical
 3 spine. I'd have to refer to Dr. Kellam's report, but I
 4 believe there was also comment about some malalignment,
 5 but I'd have to refer back to that report.
 6 **Q. So since they were correct, those are not**
 7 **criticisms?**
 8 A. That's correct.
 9 **Q. Okay. I can put that in the okay column?**
 10 A. Correct.
 11 **Q. Okay. Then the second part of your opinions**
 12 **for the 3rd include a criticism about communication.**
 13 **What was your criticism there?**
 14 A. Well, the fact -- I guess it stems from the
 15 lack of diagnosis, that there was not communication of
 16 the potential infectious inflammatory process in the
 17 spine or the discitis.
 18 **Q. Do you see an epidural abscess on the MRI on**
 19 **the 3rd?**
 20 A. I don't see a discrete abscess.
 21 **Q. And that's on July 3, 2010, correct?**
 22 A. Correct.
 23 **Q. Did you look at the CT from July 1st?**
 24 A. I did.
 25 **Q. Was there any breach of the standard of care on**

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1 **July 1st regarding the reading of that image?**
 2 A. I don't believe so.
 3 **Q. Did you read the image on July 5? And I'm**
 4 **talking about the MRI of the cervical spine.**
 5 A. I did.
 6 **Q. Any breach of the standard of care in**
 7 **interpretation of that film?**
 8 A. I don't believe so.
 9 **Q. Okay. Thank you. All right. So let's talk**
 10 **about the breaches of standard of care, in your view,**
 11 **for the July 4, 2010, MRI of the lumbar and thoracic**
 12 **spine.**
 13 A. Not lumbar. I'm not sure what you said lumbar
 14 for. Did you say lumbar?
 15 **Q. Uh-huh. I think -- well, didn't that image of**
 16 **the lumbar --**
 17 **DR. KELLAM: Thoracic.**
 18 **MRS. RUTLEDGE: Thoracic spine. All right.**
 19 A. And that was on the 4th.
 20 **Q. (BY MRS. RUTLEDGE) Yes. Let me get those out.**
 21 **I think that tells me what it is of, just to be**
 22 **absolutely sure.**
 23 **It's just the T spine. You're right.**
 24 **What are your criticisms?**
 25 A. Could you state the question again?

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1 **Q. Sure. You said you have opinions regarding the**
 2 **fact that you believe that Dr. Kellam breached the**
 3 **standard of care on July 4, 2010, in his interpretation**
 4 **of the MRI of the thoracic spine without contrast. I**
 5 **want to know what those opinions are.**
 6 A. He failed to identify the discitis at C6-C7,
 7 failed to identify the soft tissue edema and
 8 inflammatory changes anterior to the lower cervical
 9 spine, failed to identify the irregularity of the
 10 endplate of C7.
 11 **Q. So although this is a thoracic MRI directed at**
 12 **the lower spine and questions concerning the lower**
 13 **spine, you're critical only of his interpretation of**
 14 **what can be seen of the cervical spine on that image?**
 15 A. I saw no issue with the MRI of the thoracic --
 16 I saw no issue with the interpretation of the thoracic
 17 portion of the spine.
 18 **Q. Okay. Only failure to mention anything about**
 19 **the cervical spine on that study?**
 20 A. That's correct.
 21 **Q. Okay. Any additional communication of**
 22 **criticisms of Dr. Kellam on this date?**
 23 A. I'm not sure which date it was. I believe it
 24 was the 4th where the ER physician called to ask
 25 specifically is there any evidence of infection or

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1 discitis, and that was answered in the negative.

2 **Q. Okay. And that is, in your opinion, a breach**

3 **of the standard of care by Dr. Kellam?**

4 A. I believe so.

5 **Q. Any other criticisms?**

6 A. I think that's it.

7 **Q. Okay. There were a couple of other studies**

8 **read by Dr. Kellam, I think on the 4th. I'm not sure**

9 **that -- I don't believe I've seen any criticisms by you**

10 **of those studies. Am I correct about that?**

11 A. Can you state specifically what study you're

12 talking about?

13 **Q. No, honestly.**

14 A. Then I can't answer it.

15 **Q. I thought there was another one but perhaps**

16 **not. But these two studies are the cornerstones of your**

17 **opinions in this case, correct?**

18 A. Correct.

19 **Q. Are there -- again on the July 4th study, we**

20 **can put in the okay column his interpretation of the**

21 **thoracic spine?**

22 A. Correct.

23 **Q. Okay. Let's put the images up.**

24 **MRS. RUTLEDGE: What should we do with the**

25 **computer? Should we put it in front of -- how should we**

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1 **do this?**

2 **(Discussion off the record.)**

3 **Q. (BY MRS. RUTLEDGE) Doctor, I've asked you to**

4 **pull up the July 3rd MRI. Have you done that for me?**

5 A. I have.

6 **Q. Okay. And tell us what series you're looking**

7 **at.**

8 A. I am looking at T2 sagittal series 301-8.

9 **Q. Okay. What's imaged there, generally,**

10 **anatomically?**

11 A. It's a sagittal view of the cervical spine.

12 **Q. Okay. For Ms. Thompson?**

13 A. Correct.

14 **Q. What time was the study run, if you can tell?**

15 A. It's saying acquisition time 22:20:53. I'm not

16 sure if that's referring to the time it took them to do

17 the study. I don't see --

18 **Q. 2200 would be 10:00 o'clock in the evening?**

19 A. 10:24.

20 **Q. So I've asked you to interpret the images,**

21 **everything that you see on the image.**

22 A. Okay. There is an abnormal area of fluid at

23 the C6-C7 disc level. The fluid extends beyond the

24 margin of the vertebral bodies posteriorly. There is

25 associated irregularity of the superior endplate of C7.

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1 There is soft tissue edema and inflammatory changes

2 anterior to the lower cervical spine.

3 **Q. The soft tissue edema is higher than C6-7,**

4 **correct?**

5 A. It is.

6 **Q. And so it begins where and ends where?**

7 **And you're moving from image to image as you're**

8 **answering my questions. So you need to identify what**

9 **images you're moving between.**

10 A. Sure. I'm moving between Images 8-15 and

11 12-15.

12 **Q. Okay.**

13 A. I am identifying soft tissue edema anterior to

14 the, roughly, C3 through the C7-T1 level.

15 **Q. And where do you see edema from C3 through**

16 **C7-T1? Which image?**

17 A. 9, 10, 11, 12.

18 **Q. Okay. What other findings?**

19 A. There are significant degenerative changes.

20 **Q. What do you mean by "significant degenerative**

21 **changes"?**

22 A. Posterior and anterior osteophytes.

23 **Q. At what levels?**

24 A. C5-C6, C6-C7, and C7-T1.

25 There is compromise of the anterior aspect of

Page 64

1 the thecal sac.

2 **Q. What image are you looking at?**

3 A. Same group.

4 **Q. Okay. Where?**

5 A. From, roughly, C4 to C7-T1. That is

6 contributed to by the reversal of the normal cervical

7 lordosis.

8 **Q. Okay. What else?**

9 A. There's no significant cord edema.

10 **Q. On July 3rd?**

11 A. That's correct.

12 The craniocervical junction is within normal

13 limits.

14 **Q. Okay.**

15 A. And then as I would typically read these films,

16 I would not sit on just one sequence. I would be

17 scanning back and forth through all the sequences.

18 **Q. Of course.**

19 A. To get my constellation of findings.

20 **Q. So go ahead and do that, and please add to your**

21 **constellation of findings as you would in any normal**

22 **setting.**

23 A. So this is -- I'm trying to see what difference

24 they did on these two. They are both saying sagittal

25 T2s.

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1 **Q. Are you looking at a different contrast**
 2 **modality? Why is there a difference between the right**
 3 **and the left frame?**
 4 A. It's because of me.
 5 **Q. Okay. So what are you doing?**
 6 A. Windowing and leveling.
 7 **Q. Okay. Well, I told you to tell me when you're**
 8 **doing that.**
 9 A. It's so much a part of what I do, I just didn't
 10 even think about it.
 11 **Q. Well, you need to explain what you're doing.**
 12 A. So what I did was just adjust the window and
 13 level to get the correct gray scale.
 14 **Q. Okay.**
 15 A. And for your radiologist who will be looking at
 16 this in the future, ballpark window and level I was
 17 looking at was a window of 1520, level 636.
 18 **Q. Give me the window again.**
 19 A. 1520.
 20 **Q. Okay. And you're looking at Image 8-15 when**
 21 **you're doing your adjustments?**
 22 A. It's 8-15, that's correct.
 23 **Q. And so what do you find when you adjust the**
 24 **window and levels in the gray scale?**
 25 A. Just maximizes the visibility in tissue

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1 contrast.
 2 **Q. Okay.**
 3 A. The other thing of note is that the fluid at
 4 the C6-C7 disc level projects posterior to the posterior
 5 vertebral body line.
 6 **Q. Okay. Anything else?**
 7 A. I may come back to that.
 8 **Q. Okay. Now what have you done here? You have**
 9 **made it bright white.**
 10 A. Gone to a different sequence.
 11 **Q. Okay. So now you're at the STIR sagittal**
 12 **sequence?**
 13 A. 401-8 is the easiest way for them to know which
 14 one I'm looking at.
 15 **Q. What was it?**
 16 A. 401-8.
 17 So the STIR sequence is, again, identifying
 18 fluid at the C6-C7 disc space. That is on Images 6-15
 19 to 10-15. It's also showing some edema anterior to the
 20 thecal sac at the C6 and C7 levels.
 21 **Q. I want you to show me that.**
 22 A. Right here, Image 8-15.
 23 **Q. Show me the area you're looking in.**
 24 A. That's --
 25 **Q. Your cursor is white, too. Okay. Got you.**

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1 A. Yep. See it?
 2 **Q. Uh-huh.**
 3 A. There's also extensive edema anterior to the
 4 lower cervical spine. That's all of this area. That's
 5 Images 9-15 to 11-15.
 6 **Q. Okay.**
 7 A. There is less localized prevertebral edema seen
 8 running along the longitudinal plains of the soft
 9 tissues of the cervical spine. There's indentation on
 10 the anterior aspect of the thecal sac, indentation on
 11 the anterior aspect of the cervical cord at the C6 and
 12 C7 levels with posterior displacement of the thecal sac
 13 which is exacerbated by the reversal of the normal
 14 cervical lordosis.
 15 **Q. So you're not really saying anything different,**
 16 **are you, than you did before?**
 17 A. Other than the fact that I'm seeing some soft
 18 tissue edema anterior to the --
 19 **Q. Oh, okay.**
 20 A. Yeah. That would be the notable difference.
 21 **Q. Okay.**
 22 **MS. VAN PELT: Corey, before you ask another**
 23 **question, I just missed a word, and I want to read this**
 24 **answer back real quick.**
 25 **(Discussion off the record.)**

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1 **Q. (BY MRS. RUTLEDGE) See anything else? You're**
 2 **changing --**
 3 A. That was all for that.
 4 **Q. So now you are looking at --**
 5 A. 501-8.
 6 **Q. 501-8. And this is T2 FSE sag?**
 7 A. Uh-huh.
 8 **Q. What is the -- what features of the MRI are**
 9 **enhanced by this study, if any? Do you see motion**
 10 **artifact?**
 11 A. There is some motion artifact, yes.
 12 **Q. There's motion artifact on each of the studies,**
 13 **isn't there?**
 14 A. It's mild, minimal to mild on some sequences.
 15 I think this study, this particular sequence, is
 16 illustrative of the prevertebral soft tissue edema.
 17 I think the other thing that -- I've discussed
 18 this a little bit before, but this kind of highlights
 19 nicely the difference between a normally hydrated disc
 20 space, which is in the lower -- which is in the upper
 21 thoracic spine, where there is a nice biconcave disc
 22 kind of like a Frisbee look or a space saucer look
 23 compared to the fluid and abnormal fluid at the C6-C7
 24 disc, which is extending beyond the normal confines of a
 25 normal disc.

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1 **Q. Okay. What else do you see on this study?**
 2 A. Persistent significant cord compression. We've
 3 talked about that.
 4 **Q. At what level?**
 5 A. Same, basically C4 through C7-T1.
 6 **Q. What else?**
 7 A. I think that's it for now.
 8 **Q. Okay. All right. Let's look at --**
 9 A. 601-8.
 10 **Q. This is an axial cut?**
 11 A. That's correct.
 12 **Q. On the left, you're running the sagittal**
 13 **images, and you're using the 301-8 study to compare to**
 14 **the axial --**
 15 A. Correct.
 16 **Q. -- and make sure you're at the same level.**
 17 A. What I'm trying to -- I don't know if this
 18 software program allows me to do it -- is to put a --
 19 what it will do is put a cursor or a line over the level
 20 as you scroll through the cervical level. So go on?
 21 **Q. Okay. You can do that.**
 22 A. I'm not sure how this program works.
 23 MRS. RUTLEDGE: Mike, do you know?
 24 MS. VAN PELT: I know it will do it. I don't
 25 know how to do it, but I know the program will do it.

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1 MRS. RUTLEDGE: Well, I am the least qualified
 2 to comment.
 3 A. I do not see where you do that on this program.
 4 **Q. (BY MRS. RUTLEDGE) Okay. I'm sorry I can't be**
 5 **of help to you.**
 6 A. That's okay.
 7 So there is some motion artifact on this axial
 8 view, 601-8. This is superiorly, and we're going down
 9 inferiorly from here.
 10 **Q. Let me know when you're at C6-7.**
 11 A. Uh-huh. Again, that's tough to do because
 12 there's not the normal -- the program should -- it
 13 should -- a line should be coming down as you do this.
 14 **Q. So this way you have to do it based on the**
 15 **old-fashioned way with knowing the anatomy?**
 16 A. Well, yeah, but it's certainly much harder
 17 because of the motion.
 18 So this is roughly the C6-C7 level.
 19 **Q. Okay. So you are where?**
 20 A. 18-64 through 13-64. And we're seeing bright
 21 fluid and edema posterior to the thecal sac -- I'm
 22 sorry -- posterior to the vertebral body, anterior to
 23 the thecal sac.
 24 This is not the greatest of all sequences; so
 25 I'm not going to spend a lot of time on this.

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1 **Q. Why isn't it great?**
 2 A. The motion.
 3 **Q. Okay. Motion artifact?**
 4 A. (Deponent nods head.)
 5 Q. Now, these are taken at the same time, aren't
 6 they, as the -- are they taken at the same time as the
 7 sagittal cuts or different times?
 8 A. Different times.
 9 **Q. What time was this taken?**
 10 A. This is at 33:38. The sagittal was 24:11. So
 11 nine minutes later.
 12 **Q. Is this the last in the sequences?**
 13 A. I don't think so. Let me check.
 14 This is now 701-8, another axial view. Now the
 15 C6-C7 level. We see abnormal signal posterior to the
 16 vertebral body, talking Image, say, 12 to 18. So
 17 there's abnormal signal posterior to the vertebral body
 18 anterior to the thecal sac with compression of the
 19 cervical cord.
 20 You can also see clearly -- if you'll look,
 21 these are the paraspinal muscles, the left and the right
 22 paraspinal muscle. This is the normal homogeneous
 23 signal density of the right paraspinal muscle. This is
 24 the diffuse edema and infection in the left paraspinal
 25 muscle. This is probably a small pocket of pus within

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1 that paraspinal muscle. So a fairly dramatic finding.
 2 **Q. What image is that?**
 3 A. It is Image 14, 15, 16, 17, 18, 19, 20, 21.
 4 **Q. Which one is the best image to demonstrate the**
 5 **findings that you've just described?**
 6 A. I kind of like 18-64. That is also the same
 7 level that -- the paraspinal process is also the same
 8 level that we see the edema and abnormal signal anterior
 9 to the thecal sac.
 10 **Q. That's 18-64?**
 11 A. Correct.
 12 **Q. Okay.**
 13 A. Then even higher, all the way up to 12.
 14 **Q. What's the slice number, image number?**
 15 A. That's the 18. That was the 18-64.
 16 **Q. Oh, the 18-64. Okay.**
 17 A. To 12-64.
 18 Let's see if we have anything else here. The
 19 other thing that's really obvious is the extensive
 20 prevertebral edema.
 21 **Q. Anything else on this series?**
 22 A. I think that's it for that series.
 23 **Q. Okay. What's the descriptor for this series?**
 24 A. 801-8. We just did 801-8, did we not?
 25 **Q. Yes.**

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1 A. (Making sounds.) That hurt. Sorry. I'll
 2 recuperate.
 3 And just so you had it correct, it was the 701
 4 that clearly showed the paraspinial, just to make sure
 5 you have that right.
 6 **Q. Okay. 701-8.**
 7 A. Yeah. The 801 had some more motion. I don't
 8 think -- it shows a little bit of edema. It doesn't
 9 show the same extent as the other sequence.
 10 **Q. 801-8?**
 11 A. Correct.
 12 **Q. Okay. Any other series?**
 13 A. That was it.
 14 **Q. Are we finished with July 3rd?**
 15 A. I just want to make sure we reviewed
 16 everything.
 17 This is just a coronal localizer, which is
 18 really not contributory. I think that's it.
 19 **Q. Okay. Good. Since we finished July 3rd and**
 20 **it's noon, I need to call my mother's orthopedic. Let's**
 21 **just take a break.**
 22 A. Whatever works for you.
 23 **Q. Then you can load 7-4 so that we can look at**
 24 **that, and then I'll want to look at 7-5 with you.**
 25 **(Lunch recess from 11:56 a.m. to 12:41 p.m.)**

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1 **AFTERNOON SESSION**
 2 **EXAMINATION (Continued)**
 3 **BY MRS. RUTLEDGE:**
 4 A. First of all, I'll just make this a larger
 5 image so we can all see it better.
 6 **Q. So you've got a single image on here?**
 7 A. Yeah. It's 201-8.
 8 **Q. And this is a scout film?**
 9 A. No, this -- well, this is actually a sagittal
 10 view including the cervical and thoracic spine. This is
 11 not a scout view. This is a definite diagnostic
 12 sequence.
 13 So if we look at the images, I've just
 14 brightened it up to window 392, level 186. What we're
 15 seeing is a sagittal view of the thoracic spine. There
 16 are some mild degenerative changes involving the lower
 17 thoracic spine. But the images clearly a third from
 18 the -- again, the images are as far up as the brain. So
 19 we're seeing almost the top of the calvarium. If we
 20 start looking down on the images, we see C2, C3, C4, C5,
 21 and at the C6-C7 disc level, we again see the abnormal
 22 fluid.
 23 Let's see if we have a zoom here somewhere. So
 24 now with that zoomed up, we clearly see the findings
 25 that we saw yesterday on the prior exam where there is

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1 abnormal fluid at the C6-C7 disc space. You can
 2 actually see a little divot or chunk out of the superior
 3 endplate of C7. Unlike a normally hydrated disc, this
 4 fluid extends posterior to the vertebral body line.
 5 Now, also, you can clearly see this crescent of
 6 fluid anterior to the cervical cord, and you can also
 7 see the distortion or the flattening of the cervical
 8 cord from this fluid. So the caliber of the canal is
 9 narrowed because of the disc fluid and the fluid
 10 anterior to the thecal sac.
 11 Then the study again shows the significant
 12 degenerative changes at multiple disc levels.
 13 **Q. Now, not all of the cervical spine is imaged on**
 14 **this series that you're looking at, which is Series**
 15 **21-08 and starting with Image 5-11, and then you were**
 16 **going down to about 5-16?**
 17 A. That's not correct. The entire cervical spine
 18 is on this. I just magged it to come down on it. But
 19 if the -- the way the images are normally presented, the
 20 entire cervical spine is included on this. You can see.
 21 Here are the eyes, cerebellum, cerebrum, sinuses. So,
 22 again, we image everything except the very top part of
 23 the head. That's all included on this study.
 24 **Q. So you wouldn't call that a thoracic -- an MRI**
 25 **of the thoracic spine. You would call it an MRI of the**

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1 **cervical and thoracic spine?**
 2 A. The study was performed as an MRI of the
 3 thoracic spine, but it is common that we include at
 4 least one sequence of the entire cervical and thoracic
 5 because it's important for labeling what level any
 6 pathology could be, and it's also important because
 7 there can be transitional processes that involve the
 8 cervical when you're thinking it's thoracic. So that's
 9 why this is included.
 10 **Q. Isn't it really included to -- for labeling**
 11 **purposes rather than diagnostic purposes?**
 12 A. It's included -- like I said, it's -- I gave
 13 that answer. I just stated why it's included.
 14 **Q. Tell me again.**
 15 A. Because you need to be able to determine the
 16 exact level labeling from the cervical on down, plus you
 17 want to make sure that there's nothing obvious in the
 18 cervical spine that could be causing or giving symptoms
 19 of the thoracic region. So it's common to -- it's not
 20 common. It's standard to include at least one sequence
 21 of the cervical, of the entire spine.
 22 The next, 301-8.
 23 **Q. This is the sequence, next sequence?**
 24 A. Correct. We again see the bright signal
 25 abnormality within the disc as well as some fluid seen

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1 posterior to the disc, indent in the anterior aspect of
 2 the thecal sac.
 3 Series 401-8, again another nice representation
 4 of the disc fluid, the fluid posterior to the vertebral
 5 bodies at C6-C7 and the indentation on the anterior
 6 aspect of the cervical cord. You can also see on Images
 7 4-15 -- basically, 3, 4, and 5 you see this inflammatory
 8 process anterior to the C6-C7.
 9 **Q. Point it out.**
 10 A. (Deponent complied.)
 11 Q. So you changed --
 12 A. Yeah, 501 --
 13 **Q. -- gray scale?**
 14 A. No, I changed image. I changed sequences.
 15 **Q. I wanted you to show me what 401 --**
 16 A. That's what my arrow was doing.
 17 **Q. Okay.**
 18 A. Now the 501-8. See the extensive disc signal
 19 abnormality, the fluid in the disc, the fluid seen
 20 expanding posteriorly. Images 8, 9, 10, fluid and
 21 inflammation anterior to the vertebral bodies. Also 2
 22 and 3, you see fluid and edema.
 23 **Q. And you're only focusing on the cervical spine,**
 24 **correct?**
 25 A. Right. I have not seen any other significant

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1 abnormalities in the thoracic spine except for some mild
 2 degenerative changes which I originally talked about.
 3 Next sequence, 601-8, window to 277, level 132.
 4 Similar process. You see the edema, both anterior, and
 5 now you actually see some edema posterior as well. You
 6 see that small crescent of fluid anterior to the
 7 cervical cord indenting the thecal sac.
 8 701-8, axial view. These are just thoracic
 9 axials. Thoracic axials. So there's no findings on
 10 axial views.
 11 **Q. Okay. Is that all of it?**
 12 A. It is.
 13 **Q. Now 7-5. Have you compared 7-5 to 7-3-2010?**
 14 A. I don't know that I've ever made a specific
 15 comment on that comparison. We're going 7-5-10, MR
 16 cervical spine.
 17 Ooh, that's bad.
 18 **Q. I don't like it when you say that.**
 19 A. I don't like it when it does this.
 20 **Q. What is it doing? I can't read it from here.**
 21 A. The film has stopped working. A problem caused
 22 the program to stop working correctly. Windows will
 23 close the program and notify you of a solution.
 24 MRS. RUTLEDGE: We will take a little break.
 25 THE DEPONENT: No, we can recover.

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1 (Discussion off the record.)
 2 A. So 7-5.
 3 **Q. (BY MRS. RUTLEDGE) Give me the time the study**
 4 **was run.**
 5 A. 16:28.
 6 **Q. So that's, what --**
 7 A. 4:00.
 8 **Q. 4:00.**
 9 A. 4:28.
 10 **Q. Cervical MRI?**
 11 A. Correct. So we are now at 301-8. Again, we
 12 see the disc fluid, expansion of fluid beyond the
 13 confines of the expected disc, but now we also have new
 14 abnormal signal in the cervical cord at and just
 15 slightly --
 16 **Q. Hold on. I'm going to -- new abnormal signal**
 17 **in the cervical cord at what level? Then let me look at**
 18 **it.**
 19 A. Sure. Beginning at the C6-C7 level, extending
 20 to approximately the T2 level.
 21 **Q. Okay. Now, let me take a look at that with**
 22 **you.**
 23 A. That brightens it.
 24 This is normal caliber cord.
 25 **Q. Can you measure that? And measure the**

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1 **deformation as well as the length.**
 2 A. So this --
 3 **Q. It's not measuring for you?**
 4 A. Where is the ruler attachment? There we go.
 5 So in a craniocaudal diameter, I would say it
 6 extends about 2 centimeters.
 7 **Q. Okay. And what's the --**
 8 A. Width?
 9 **Q. Uh-huh.**
 10 A. Erase these graphics.
 11 **Q. How did you get the Christmas paper style?**
 12 A. I have no idea. Never seen that before.
 13 Do you want the caliber of the cord or the
 14 caliber of the abnormal signal?
 15 **Q. I want the caliber of the cord and the caliber**
 16 **of the abnormal signal. Give me the smallest diameter**
 17 **of the cord where you see it most compressed and then**
 18 **the diameter of the abnormal signal.**
 19 A. So the caliber of the abnormal signal is
 20 probably the full width of the cord at the level of the
 21 superior endplate of T2.
 22 **Q. Okay.**
 23 A. The -- you want the narrowest cord?
 24 **Q. Uh-huh.**
 25 A. 5 millimeters. That's at the level of the

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1 superior endplate of C7.

2 **Q. Okay. Any other changes that you see in the**

3 **area of C5 to T2?**

4 A. Yeah. Let me go back. So now --

5 **Q. You've changed the contrast that we were**

6 **looking at?**

7 A. So we're at window 778, level 447.

8 We're seeing some further extension of the

9 fluid from the disc anteriorly. We still see that

10 crescent of fluid posterior to the vertebral body.

11 **Q. At what level?**

12 A. C6 and C7.

13 There is increased thickness of the

14 inflammatory changes anterior to the vertebral body, and

15 that's at -- let's see.

16 **Q. In the soft tissues?**

17 A. In the soft tissues, prevertebral soft tissues.

18 That's Images 2, 3, 4, and 9, 10.

19 **Q. Do you see a small epidural abscess now**

20 **forming?**

21 A. I see fluid. I don't know if it's an abscess

22 or just fluid. It is not particularly loculated.

23 **Q. Where do you see the fluid?**

24 A. That's this fluid.

25 **Q. Okay. What do you mean by "loculated"?**

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1 A. Typically, when we think of abscess, it's kind

2 of loculated or encompassed or encircled. I don't see

3 that distinctly.

4 401-8.

5 **Q. And how do you describe this? This is a STIR**

6 **sag?**

7 A. STIR sequence. I don't know that this adds a

8 whole lot other than some significant fluid that's --

9 which we commented on before. This fluid actually looks

10 a little bit thicker now.

11 **Q. Where?**

12 A. Posterior to C6 and C7. Maybe a millimeter

13 thicker. There's a persistent and slightly increased

14 prevertebral edema.

15 **Q. Anything else? Are the degenerative disc**

16 **changes also visualized on this?**

17 A. They are.

18 **Q. Yeah. And you would call that severe DJD?**

19 A. Call it severe DJD, and there's persistent

20 malalignment with reversal of the normal cervical

21 lordosis.

22 So 501-8, I don't see any difference. It's not

23 contributory.

24 **Q. Okay. Now you're looking at the axial cuts?**

25 A. Correct. This is 601-8, so at approximately

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1 the C6 level.

2 **Q. What's the image number?**

3 A. 2465. 24-65.

4 **Q. Okay. And what --**

5 A. So we're now, like, the C6 level. And

6 immediately posterior to the vertebral body, there is a

7 fluid collection seen flattening the anterior aspect of

8 the cervical cord. You can see that fluid collection

9 extends over 1, 2, 3 -- about 3½ cuts.

10 **Q. So which way are you going in the cuts?**

11 A. Well, it's going from -- let me see the disc

12 level. So that's -- this is the C6-C7 inner space, the

13 disc level.

14 **Q. What's the image number?**

15 A. The disc level is 23-65, and we're seeing the

16 fluid immediately posterior to that. It goes two cuts

17 up from that to --

18 **Q. To 21?**

19 A. 25.

20 **Q. Oh, 25?**

21 A. Yeah, 25. At 26, I don't see it very well

22 anymore. And it goes down to 22.

23 **Q. Would you call that a small epidural abscess?**

24 A. It certainly could be. When something stops

25 being a fluid collection from -- an infected fluid

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1 collection versus being more walled off to an abscess,

2 that's a hard differentiation to make. The caliber of

3 the thecal sac is, again, flattened because of that

4 fluid.

5 **Q. Do you see anything on the right in the muscle**

6 **tissues and fat?**

7 A. Take a look. We do see fluid here in the left

8 paraspinal muscle.

9 **Q. Any significance to that?**

10 A. It was seen previously. I don't think it's

11 changed substantially.

12 **Q. Is it a significant finding?**

13 A. Yes, it's further sign of an infection.

14 **Q. What slice is it most evident on?**

15 A. I'm sorry. I left you out. Here we see it on

16 16-65.

17 **Q. And what series?**

18 A. 601-8 immediately posterior to the left facet

19 joint.

20 **Q. And what would you call it?**

21 A. Fluid collection.

22 **Q. Okay.**

23 A. Let's go to 701-8.

24 **Q. 701-8. This is -- for Pete's sake, what is it?**

25 **BTFEAX3D?**

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1 A. Time of flight. Some sort of time-of-flight
 2 sequence. I don't know what the B refers to.
 3 The left paraspinal abnormality is not as
 4 evident on this study as it was on the study from the
 5 3rd. It's still present but not as evident. I don't
 6 know if that's just because the sequences. I'm not sure
 7 of the reason for that.
 8 **Q. The paraspinal abnormality you're talking about**
 9 **is the --**
 10 A. That fluid collection.
 11 **Q. Uh-huh. In the muscle?**
 12 A. Correct. This study -- again, this 701-8 is
 13 showing -- this is in comparison to the patient's prior
 14 study of 7-3 -- increased edema anterior to the cervical
 15 cord and increased flattening of the cervical cord. You
 16 can see -- you know, the normal concavity of the cord we
 17 see posteriorly. It's a nice curved linear line.
 18 Anteriorly, it's straight across because of the
 19 compression.
 20 **Q. So it's concave posterior, and it's flat --**
 21 A. Flat anterior, correct.
 22 **Q. Uh-huh.**
 23 A. And to know -- to know for sure that that edema
 24 was abnormal, we look at the other levels. So we see
 25 this space between the cervical cord and the posterior

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1 vertebral body line. That space is this entire space.
 2 Now, if we go up to a higher level, we now see
 3 normal concavity of the anterior cervical cord
 4 immediately abutting the posterior aspect of the
 5 posterior vertebral body line. That's the way it should
 6 look.
 7 **Q. And you're looking at Image No. 50-65?**
 8 A. Correct.
 9 **Q. Anything else on the 7-5 study?**
 10 A. The persistent degenerative changes, the
 11 persistent reversal of the normal cervical lordosis.
 12 That was it.
 13 **Q. Okay. Thank you, unless somebody else --**
 14 **MRS. RUTLEDGE: It's kind of unusual, but since**
 15 **we've got all this up, do you guys have any questions on**
 16 **these images that you want to ask?**
 17 **MS. VAN PELT: I don't.**
 18 MR. ORTIZ: No. That's been very thorough.
 19 Thank you.
 20 MRS. RUTLEDGE: All right. We can snatch that
 21 away from you and turn on --
 22 THE DEPONENT: Shut it down?
 23 MS. VAN PELT: Yeah, that's fine.
 24 MRS. RUTLEDGE: Turn the lights on and live
 25 like normal people.

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1 THE DEPONENT: Are you implying that
 2 radiologists are something other than that?
 3 MRS. RUTLEDGE: I only know one normal one.
 4 THE DEPONENT: Is that Jules?
 5 MRS. RUTLEDGE: No.
 6 THE DEPONENT: Not Jules?
 7 MRS. RUTLEDGE: I wouldn't say he's normal,
 8 huh-uh. If he were here, I'd say that to him.
 9 THE DEPONENT: I'll have to tell Jules I talked
 10 to you.
 11 **Q. (BY MRS. RUTLEDGE) I want to go to your**
 12 **September 8th report. Before we go through the report**
 13 **in probably the same detail we've gone through the**
 14 **films, when you received all of the materials from The**
 15 **Spence Law Firm, I can tell you that the number of**
 16 **medical records, even if we just go through August 23rd**
 17 **of 2010, and we start only with June 30th with all of**
 18 **the nurses' notes, et cetera, before Mrs. Thompson -- or**
 19 **Ms. Thompson is discharged to the -- what we call the**
 20 **transitional care units, there are thousands of pages of**
 21 **medical records.**
 22 A. I would imagine there would be.
 23 **Q. Yeah. Tell me where you focused your attention**
 24 **first. I presume on the various ER visits, to kind of**
 25 **get a sense of the history of the patient?**

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1 A. Right. I read all the ER -- I read everything
 2 I received from The Spence Law Firm that's on that disk.
 3 So as far as where I spent more time, obviously I spent
 4 more time on the ER admissions, the history and
 5 physicals, any operative notes, any neurosurgical
 6 consultation notes, any radiology reports, ER physician
 7 notes. Those would be the things I probably reread
 8 several times.
 9 **Q. Okay. And you read those materials, and then**
 10 **you reviewed the films we've just looked at?**
 11 A. That's correct.
 12 **Q. Okay. So is it fair to say that when you**
 13 **approached this case, unlike the way that you would**
 14 **approach it say on a Friday night, Saturday night at**
 15 **Allegheny Medical Center, you had thousands of pages of**
 16 **medical records in front of you before you reviewed the**
 17 **films that are at issue in this case?**
 18 A. I typically review the films first, and then I
 19 read the reports.
 20 **Q. You can't say for certain what you did in this**
 21 **case, can you?**
 22 A. I can't say for certain. I don't remember
 23 specifically. But that's the way I typically do it.
 24 **Q. Now, in this case, you did not receive -- I'm**
 25 **sure you're familiar with this if you spent any time**

1 with Manny Kanal. You did not instruct The Spence Law
 2 Firm to send you the films in a blind fashion?
 3 A. That's correct.
 4 Q. Okay. So everything came in one fell swoop,
 5 correct?
 6 A. Correct.
 7 Q. And you knew when you received all of the
 8 materials that we were dealing with a woman who, I'm sad
 9 to say, developed quadriplegia?
 10 A. I believe I knew that going into this case.
 11 Q. Okay. And you knew you were dealing with an
 12 undiagnosed epidural abscess?
 13 A. I don't know that. I knew that -- I was just
 14 asked to review the films and there was obviously a bad
 15 result. I don't recall someone specifically saying they
 16 were interested in epidural abscess.
 17 Q. You recall, however, that there was something
 18 to cause a spinal cord lesion which resulted in
 19 paraplegia and this was a med mal case against a
 20 collection of physicians and a medical center?
 21 A. All I remember is a med mal case with a bad
 22 outcome, and I was asked to review the films. I don't
 23 recall details of the patient's -- what the patient had
 24 or what they were suspecting.
 25 Q. You knew very quickly, if you looked at the

1 what happened here?
 2 A. I don't know with a hundred percent certainty
 3 that I did here, but all I can testify to is what my
 4 normal course of business would be.
 5 Q. Okay. And in this case, you wrote a report
 6 that didn't start with your reading of the films. In
 7 fact, it reviewed a very detailed medical history,
 8 including detailing the adverse outcome in this case,
 9 and then you devoted two paragraphs or perhaps a little
 10 more to your interpretation of the films, correct?
 11 A. I wrote a thorough report after I had reviewed
 12 all of the films and all of the medical records. It had
 13 nothing to do with the order in which I reviewed those.
 14 Q. Okay. But as I think we've established, you
 15 can't say with any degree of certainty that you reviewed
 16 the films in a -- well, we know you didn't review them
 17 in a blind fashion, correct?
 18 A. I did not have readings from those films. I
 19 had brief information about someone having a bad outcome
 20 and was asked to review the films. After that, I
 21 reviewed the fairly extensive medical records.
 22 Q. So now you're changing your testimony?
 23 MR. ULMER: Object to the form. Argumentative.
 24 A. I don't think I'm changing my testimony.
 25 Q. (BY MRS. RUTLEDGE) Because you just testified

1 July notes, that we were dealing with a patient with
 2 pretty severe paraplegia and/or quadriplegia, right?
 3 A. But that typically would have been after I
 4 reviewed the films.
 5 Q. Okay. This case, though, is -- the case review
 6 in the medical-legal context is quite different than the
 7 situation that faced Dr. Kellam on July 3rd. In other
 8 words, you had gracious plenty clinical data, including
 9 what you were told before you ever received the films,
 10 unlike what Dr. Kellam had. You knew that it was a bad
 11 outcome.
 12 A. After I reviewed the films, yes.
 13 Q. Well, you just testified that you knew there
 14 was a bad outcome because --
 15 A. Sure.
 16 Q. -- this is a medical malpractice case.
 17 A. Sure, but I didn't read the thousand pages of
 18 documents before reading the films.
 19 Q. Now, you told me just a minute ago you couldn't
 20 say for certain which way it was, whether you --
 21 A. I said my typical -- the way I typically do
 22 this is to read the films first. So my usual state of
 23 reviewing these cases, cases I do, I review the films
 24 first.
 25 Q. However, you can't say for certain that that's

1 a moment ago you couldn't tell me whether you reviewed
 2 the medical records with any certainty before you
 3 reviewed the films.
 4 A. My testimony is, if I would have handled this
 5 case as I handle all the other cases, my standard way of
 6 reviewing these is to read the films first and then do
 7 the medical records. I don't recall specifically this
 8 case, saying, here are the films; here are the reports.
 9 But if I followed my normal state of how I review these,
 10 that is how I normally do it.
 11 Q. So if you followed what many of the top
 12 radiologists in the field who do expert review, you
 13 would have called for the films alone with no reports.
 14 Isn't that true?
 15 A. No. I'm not aware that anyone does it that
 16 way.
 17 Q. Okay. Isn't that a better way to do it, and
 18 doesn't that approximate what Dr. Kellam faced as
 19 opposed to what you did in this case with hindsight,
 20 with the benefit of hindsight?
 21 MR. ULMER: Object to the form of the question.
 22 A. I don't think so.
 23 Q. (BY MRS. RUTLEDGE) Why not?
 24 A. Because Dr. Kellam was privileged to a chart.
 25 He would have had access to ER documents. He would have

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1 access to an ER physician who is telling him what the
 2 patient's symptoms are. I would actually have less
 3 information.
 4 **Q. What makes you -- on what are you basing that**
 5 **testimony, that he has -- what are you talking about**
 6 **when you say he has access to the ER chart?**
 7 A. Anyone who practices in this day and age, at
 8 least of all the places I'm aware of, have the ability
 9 to go in their medical records and look at what is going
 10 on with the patient. They have the ability to pick up
 11 the phone and speak to an ER physician. In this case,
 12 an ER physician actually called and spoke to him. So
 13 there is that communication. They have a history. No
 14 radiology exam is done without a history. Those things
 15 are all provided to the interpreting radiologist.
 16 **Q. Tell me specifically on July 3rd what**
 17 **information you have about the information available to**
 18 **Dr. Kellam -- we'll start there -- at the time that he's**
 19 **interpreting these films.**
 20 A. He would have a requisition with a history
 21 from -- with a history sheet for the MRI as far as why
 22 they're doing the exam.
 23 **Q. Okay. And in this case, you know that to have**
 24 **been a requisition sheet that said what?**
 25 A. I would have -- we would have to refer to the

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1 medical records. I don't have those here in front of
 2 me.
 3 **Q. It says neck pain, doesn't it?**
 4 A. I don't have it in front of me. I'd have to
 5 refer to those.
 6 **Q. Okay. Why didn't you bring that with you?**
 7 A. It's on a disk. Do you want to take the time
 8 to look?
 9 **Q. Sure. Go ahead.**
 10 THE DEPONENT: Password time.
 11 **Q. (BY MRS. RUTLEDGE) The only thing I need you**
 12 **to look for is the requisition form for the MRI on the**
 13 **3rd.**
 14 A. Okay.
 15 **Q. The same is true for the MRI on the 4th.**
 16 **(Delay in proceedings.)**
 17 **MRS. RUTLEDGE: Are you on the record and**
 18 **keeping time?**
 19 THE REPORTER: It is running.
 20 MRS. RUTLEDGE: Thank you.
 21 (Discussion off the record.)
 22 A. I'm on Image No. -- Page 79 of 2,591, and I
 23 have the MRI cervical spine report, but I don't have any
 24 requisition.
 25 **Q. (BY MRS. RUTLEDGE) Okay.**

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1 A. I'm happy to look through the next 2,400 and X
 2 number.
 3 **Q. What does it say on the report the reason for**
 4 **the study is?**
 5 A. It doesn't.
 6 DR. KELLAM: I don't think it does.
 7 A. I don't see it.
 8 **Q. (BY MRS. RUTLEDGE) If you look on the left**
 9 **side under exam and exam date, what does it say?**
 10 A. MR C-spine W/O -- meaning without -- back
 11 session number completed, account number and medical
 12 record number and patient name.
 13 **Q. Let me see what you're looking at. You must**
 14 **not be looking at the report.**
 15 **DR. KELLAM: It's a copy of the -- it's not the**
 16 **same as you have in your hand.**
 17 **MRS. RUTLEDGE: Okay.**
 18 **DR. KELLAM: Maybe it is. I don't think so.**
 19 **Q. (BY MRS. RUTLEDGE) Can you find the final**
 20 **report?**
 21 A. How do I know this is not the final report?
 22 This looks like a final report.
 23 **Q. Because it doesn't have the Cheyenne Regional**
 24 **Medical Center moniker on it that looks like this.**
 25 A. Okay. Do you not want me to look off of your

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1 copy?
 2 **Q. No, because I have my notes on it.**
 3 MR. ULMER: What does the moniker look like?
 4 MRS. RUTLEDGE: It's that little four -- it's
 5 that little triangle thing.
 6 A. Is there any way you can help me out of 2591
 7 pages to try to find it?
 8 **Q. (BY MRS. RUTLEDGE) My number is CRG 13, but I**
 9 **have no idea what Bryan has given you, honestly.**
 10 A. Okay.
 11 MR. ULMER: For the record, what he has are the
 12 medical records from Cheyenne Regional Medical Center as
 13 produced. The moniker symbols on the report that you
 14 have, Corey, and on the reports that were produced from
 15 Cheyenne Radiology and MRI are different than what is
 16 included in the medical records that we received. So I
 17 don't know that he has the Cheyenne Radiology and MRI
 18 production of that report.
 19 MRS. RUTLEDGE: Let's do it this way. Do you
 20 have a clean one of these?
 21 MS. VAN PELT: No, not one with me.
 22 MR. ULMER: If you give me -- Corey, if I could
 23 suggest you tell me what the number is, I can probably
 24 pull it up.
 25 MRS. RUTLEDGE: CRG 13.

1 MR. ULMER: I could pull it up and he could
 2 look at it and there won't be any notes on it. Do you
 3 want me to do that?
 4 MRS. RUTLEDGE: Sure.
 5 MR. ULMER: Give me a second to find it.
 6 MRS. RUTLEDGE: And CRG 9 and CRG 119. I guess
 7 you could go make copies. I don't know if we can -- I
 8 just have so much written on here.
 9 THE DEPONENT: Some of this stuff has Cheyenne
 10 on it. It seems like the radiology reports don't.
 11 MRS. RUTLEDGE: Some of it has that little sort
 12 of --
 13 THE DEPONENT: All the doctor's orders,
 14 progress notes have it.
 15 MS. VAN PELT: Do you want me to pull it up on
 16 that computer? Let see if I can do it.
 17 MRS. RUTLEDGE: They're right here, Traci.
 18 MS. VAN PELT: This is going to take a minute
 19 or two.
 20 THE DEPONENT: Quicker than me going through
 21 2,000 pages.
 22 MS. VAN PELT: I think I can do it this way.
 23 THE REPORTER: Should we go off the record for
 24 a few?
 25 MS. VAN PELT: We can go off the record.

1 (Discussion off the record.)
 2 Q. (BY MRS. RUTLEDGE) Did you read the deposition
 3 of Dr. McNaul?
 4 A. Spell the last name.
 5 **Q. M-c-N-a-u-l.**
 6 A. I did.
 7 **Q. Did you notice that he also reviewed the**
 8 **July 3rd MRI and agreed with Dr. Kellam's**
 9 **interpretation?**
 10 A. I don't recall that.
 11 **Q. And he reviewed and compared the July 3rd MRI**
 12 **with the July 5th MRI and saw no epidural abscess on**
 13 **July 3rd, epidural abscess on July 5th?**
 14 A. And your question was?
 15 **Q. Do you recall his testimony on that --**
 16 A. I don't recall.
 17 **Q. Okay. Wasn't significant to you?**
 18 MR. ULMER: Object to the form. Was what
 19 significant?
 20 **Q. (BY MRS. RUTLEDGE) Dr. McNaul's testimony on**
 21 **those topics was not significant to you?**
 22 A. It didn't affect my opinions.
 23 **Q. Did you conclude that Dr. McNaul breached the**
 24 **standard of care because he was in accord with Dr.**
 25 **Kellam as to his interpretation of the July 3rd MRI?**

1 A. I'd have to relook at his report and what he
 2 said in his deposition.
 3 **Q. Okay. So if he agreed with Dr. Kellam's**
 4 **interpretation of the July 3rd MRI, would you hold the**
 5 **opinion that he too breached the standard of care?**
 6 A. He was looking back at -- he's not actually
 7 doing the formal reading of that. So I don't know that
 8 I would hold him to a standard of care issue because
 9 he's not doing the formal read for that.
 10 **Q. But he would be mistaken in his interpretation**
 11 **of the July 3rd MRI as Dr. Kellam was mistaken, in your**
 12 **opinion?**
 13 A. I guess I would have to see his report to
 14 determine just how significant he felt was in accordance
 15 or discordance with that report.
 16 **Q. Okay. You've looked at his report and studied**
 17 **it. You commented on it.**
 18 A. I didn't study it. I would have to see it
 19 again. I probably read 2,000 documents in preparation
 20 for this. If you want to provide it for me, I would be
 21 happy to look at it.
 22 **Q. But if he testified that he agreed with Dr. --**
 23 **if he testifies at trial that he agrees with Dr.**
 24 **Kellam's interpretation of the July 3rd MRI, would you**
 25 **find that that would be a breach of the standard of**

1 **care?**
 2 MR. ULMER: Object to the form.
 3 A. I don't think him testifying in trial has
 4 anything to do with standard of care.
 5 **Q. (BY MRS. RUTLEDGE) Okay. So somebody**
 6 **testifying in a deposition also doesn't have anything to**
 7 **do with standard of care. Isn't that true?**
 8 MR. ULMER: Object to the form. It's
 9 overbroad.
 10 A. I can render opinions on standard of care.
 11 **Q. (BY MRS. RUTLEDGE) But the testimony itself,**
 12 **whatever the testimony is, couldn't be a breach of the**
 13 **standard of care. Isn't that true?**
 14 A. The testimony itself would not be a breach of
 15 the standard of care. We don't look at radiologists
 16 testifying as far as whether that's within the standard
 17 of care or not.
 18 **Q. So when I look at your March 24th opinion**
 19 **letter, in the first sentence of the second full**
 20 **paragraph when you say, "In my review of the deposition**
 21 **testimony of Dr. Kellam, I find that he deviated from**
 22 **the standard of care in numerous instances," what does**
 23 **that sentence mean?**
 24 A. That when he dictated his reports and put them
 25 out, that he deviated from the standard of care.

1 **Q. So you're not saying that by testifying in a**
2 **deposition, he breached the standard of care --**
3 A. No.
4 **Q. -- by his testimony?**
5 A. No.
6 **Q. All right. Let's take a look at the document.**
7 **MS. VAN PELT: I don't know which page you want**
8 **up.**
9 **MRS. RUTLEDGE: The one that I want first is**
10 **Page 13 because that's July 3rd. Why this is organized**
11 **in such a crazy-ass way, I don't know.**
12 MR. ORTIZ: Corey, what's the Bates?
13 MRS. RUTLEDGE: CRG 13.
14 MR. ORTIZ: CRG. Thank you.
15 MS. VAN PELT: So this is CRG 1 through 14. So
16 to get to 13, you'll have to either do that or scroll
17 down page by page.
18 THE DEPONENT: Okay.
19 MS. VAN PELT: It's going to be slow because
20 I'm connecting to my office over the Internet.
21 MR. ULMER: So, again, the discovery that I had
22 received from CRG had no Bates numbers.
23 MS. VAN PELT: The initial disclosure documents
24 did, Bryan.
25 MR. ULMER: The Rule 26 documents?

1 MS. VAN PELT: Right. Yeah.
2 **Q. (BY MRS. RUTLEDGE) So on exam data 7-3-2010,**
3 **exam MR C-spine without contrast, what is the reason for**
4 **the exam?**
5 A. Pain.
6 **Q. And who ordered the exam?**
7 A. Michelle Anderson.
8 **Q. And can you tell, was it a stat order?**
9 A. Yes.
10 **Q. Okay. If you scroll down and look at the**
11 **bottom, what time was the exam completed, what date and**
12 **time?**
13 A. Well, there's two times. I'm not sure if
14 this -- July 4th 2:51-2:26 p.m. is versus when it was
15 signed. So I'm not sure if that is a dictation time.
16 **Q. Well, it tells you when it was finalized. I**
17 **asked you what time the exam was completed. I didn't**
18 **ask you about dictating reports --**
19 A. I'm sorry. I didn't --
20 **Q. -- and so forth.**
21 A. -- realize that.
22 7-3-10 at 10:39 p.m.
23 **Q. All right. Do you recall the testimony of**
24 **Michelle Anderson, that she received a call from Dr.**
25 **Kellam shortly after the exam was completed?**

1 A. I do recall there was a conversation.
2 **Q. All right. Take a look at -- let's just get**
3 **this out of the way. Take a look at CRG 9 or the study**
4 **for 7-4-2010.**
5 THE DEPONENT: This is 9 of 14 then?
6 MS. VAN PELT: Yeah.
7 **Q. (BY MRS. RUTLEDGE) There we are. So on that**
8 **date, what's ordered?**
9 A. MRI thoracic spine without.
10 **Q. -- contrast? Without contrast?**
11 A. Correct.
12 **Q. And what's the reason for the exam?**
13 A. Low back pain.
14 **Q. And who ordered the exam for low back pain?**
15 A. Jill Vessey.
16 **Q. What time was the exam completed? You have to**
17 **go down to the bottom where it tells you when the exam**
18 **was completed. It may be the next page. There we go.**
19 A. Completed date 7-4-10, 4:47 p.m.
20 **Q. Do you recall the testimony of Dr. Vessey that**
21 **she was called shortly after the exam was completed?**
22 A. I believe so.
23 **Q. Okay. Go to the exam date for 7-5-2010.**
24 **MS. VAN PELT: What's the page number?**
25 A. Yeah.

1 **Q. (BY MRS. RUTLEDGE) Sorry. CRG 119.**
2 **MS. VAN PELT: That's going to take another --**
3 **MRS. RUTLEDGE: Another click, click.**
4 THE DEPONENT: You think in the day of
5 technology, things would be a little easier.
6 MS. VAN PELT: We can go off the record real
7 quick.
8 (Short recess from 1:40 p.m. to 1:59 p.m.)
9 **Q. (BY MRS. RUTLEDGE) On the MRI exam report for**
10 **7-5-2010, what was the order? What was the exam**
11 **ordered?**
12 A. Pain.
13 **Q. What was the exam ordered?**
14 A. The exam ordered? MR cervical spine without.
15 **Q. Without contrast?**
16 A. Uh-huh.
17 **Q. What was the reason for the order?**
18 A. Pain.
19 **Q. Who ordered it?**
20 A. Judson Cook.
21 **Q. And do you know who Judson Cook is?**
22 A. I believe he's a neurosurgeon.
23 **Q. And then on the results, I'd like you to**
24 **read -- well, first of all, go down to the completed**
25 **date since that's been our routine. Tell me when the**

1 **study was completed, date and time.**
2 A. 7-5-10, 5:17 p.m.
3 **Q. Go back up in the body under the dictated**
4 **results. Does it say in the first paragraph that the**
5 **cervical spine study was compared to the previous**
6 **cervical spine MRI of 7-3-2010?**
7 A. Yes.
8 **Q. And then in the next paragraph, Dr. McNaul**
9 **reports that on today's examination there does now**
10 **appear to be fluid collecting just anterior to the C6-C7**
11 **vertebral body with further signal intensity**
12 **abnormalities at C6 -- or C7-T1 level. Do you agree**
13 **with that statement?**
14 A. I agree that there is a fluid that he's talking
15 about. I don't agree with -- I think he's trying to
16 imply that, by saying "now," that it wasn't there
17 before. I believe it was there before.
18 **Q. Okay. And you read Dr. McNaul's deposition?**
19 A. I did.
20 **Q. So if he says he doesn't -- he agrees with Dr.**
21 **Kellam and his interpretation of the MRI on the 3rd and**
22 **he does not agree that there was fluid collecting just**
23 **anterior to the C6-7 vertebral body on the 3rd, you**
24 **would find that he breached the standard of care. Isn't**
25 **that true?**

1 MR. ULMER: Well, object to the extent that
2 that mischaracterizes the testimony.
3 **Q. (BY MRS. RUTLEDGE) Answer the question.**
4 A. Could you repeat it?
5 **Q. I'll have it read back.**
6 **(Requested portion was read.)**
7 **A. I would disagree with him. I wouldn't comment**
8 **on the standard of care.**
9 **Q. And why not?**
10 A. Because he wasn't doing the primary reading of
11 that report.
12 **Q. Okay. Look at the third paragraph and read**
13 **that into the record, please.**
14 A. The images in this case --
15 THE REPORTER: Doctor, could you read a little
16 louder, please?
17 THE DEPONENT: I'm sorry.
18 A. The images in the case were extensively
19 reviewed with Dr. Cook.
20 **Q. (BY MRS. RUTLEDGE) What does that mean, if you**
21 **know?**
22 A. That he reviewed the images with Dr. Cook.
23 **Q. Okay. And did you read his testimony on that**
24 **subject?**
25 A. I'm sure I read it. I don't recall it.

1 **Q. Read the impression, please.**
2 A. Findings consistent with increasing spinal
3 stenosis and now cord edema --
4 **Q. Let me stop you there. Do you agree with that**
5 **impression?**
6 A. I agree with that.
7 **Q. Go ahead.**
8 A. -- I believe there is a small anterior epidural
9 abscess and/or fluid collection developing here.
10 **Q. Do you agree with that?**
11 A. I believe that there is a small fluid
12 collection. I'm not sure what he's referring to as far
13 as "developing here." I guess I'm not sure what he
14 means by the timeframe of "developing." Is he saying
15 it's new to the day or whether it's been developing over
16 three days? I don't know that. It's hard --
17 **Q. Okay.**
18 A. -- to comment on that.
19 **Q. All right. Thanks.**
20 **MRS. RUTLEDGE: Scott, thank you.**
21 **MR. ORTIZ: You're welcome.**
22 **MRS. RUTLEDGE: Appreciate that.**
23 **Q. (BY MRS. RUTLEDGE) Doctor, have you reviewed**
24 **the 2012 ACR Practice Guidelines on physician expert**
25 **witness testimony and radiology?**

1 A. I have not seen that recently.
2 **Q. Okay. When do you think the last time is that**
3 **you reviewed the ACR Practice Guidelines on physician**
4 **expert testimony?**
5 A. I don't recall.
6 **Q. Are you generally aware of the ACR Practice**
7 **Guidelines on physician expert testimony?**
8 A. I'd have to refer to them.
9 **Q. So you may or may not agree with the**
10 **recommended guidelines for conduct of the radiologist**
11 **expert witness?**
12 A. I guess I'd have to read them to know
13 specifically whether or not I agree with them.
14 **Q. Have you ever been asked to review those?**
15 A. No.
16 **Q. You have not served on any committee for the**
17 **American College of Radiology. Isn't that true?**
18 A. That's correct.
19 **Q. Okay. Would you agree that the public interest**
20 **requires objective, unbiased medical testimony?**
21 A. Sure.
22 **Q. Would you agree that the ultimate judgment**
23 **regarding the propriety of any specific procedure or**
24 **course of action must be made by the physician or**
25 **medical physicist in the light of the circumstances**

1 presented to him or her?
 2 A. Could you read that again, please?
 3 **Q. The ultimate judgment regarding the propriety**
 4 **of any specific procedure or course of action must be**
 5 **made by the physician or medical physicist in light of**
 6 **all the circumstances presented.**
 7 A. Sure.
 8 **Q. Thus, an approach that differs from the**
 9 **guidelines standing alone does not necessarily imply**
 10 **that the approach is below the standard of care.**
 11 **Would you agree with that?**
 12 A. I think you have to take into account the
 13 individual circumstances. So I would agree with that.
 14 **Q. Okay. Do you agree that the practice of**
 15 **medicine involves not only science but also the art of**
 16 **dealing with prevention, diagnosis, alleviation, and**
 17 **treatment of disease?**
 18 A. Sure.
 19 **Q. Would you agree that the variety and complexity**
 20 **of human conditions makes it impossible to reach the**
 21 **most -- to always reach the most appropriate diagnosis**
 22 **or to predict with certainty a particular response to**
 23 **treatment?**
 24 A. Sure.
 25 **Q. And would you also agree that, therefore, it**

1 **should be recognized that adherence to these guidelines**
 2 **will not assure accurate diagnosis or successful**
 3 **outcome?**
 4 A. That's true.
 5 **Q. Okay. Would you be willing to submit your**
 6 **testimony in this case to -- for peer review by the**
 7 **American College of Radiology?**
 8 A. I would consider it.
 9 **Q. Okay. Thank you. All right. Let's take a**
 10 **look at your letters. I honestly do not remember what**
 11 **the exhibit numbers are. You're going to have to gather**
 12 **them up here.**
 13 A. They're actually out of order. The March 24th
 14 is No. 3 and September is No. 4.
 15 **Q. Okay. Your opinions regarding your review, the**
 16 **imaging in this case, are found on the last two**
 17 **paragraphs of your September 2008 (sic) report, correct?**
 18 A. Yes.
 19 **Q. And the first nine paragraphs deal with your**
 20 **review of all of the medical records you selected and**
 21 **listed in Nos. 1 through 8 in the first paragraph of**
 22 **your letter?**
 23 A. I didn't select and list. Those are what I was
 24 provided.
 25 **Q. Okay. So you were provided no other medical**

1 **records other than those for August 11, 2010, which you**
 2 **can't remember any detail about; December 17, 2009,**
 3 **which likewise you can't remember any detail about;**
 4 **March 30, 2010, which you also cannot remember any**
 5 **detail about. Then you have some memory of the**
 6 **admissions for 6-30, 7-1, 7-3, 7-4-2010 and admission in**
 7 **2011. Is that true?**
 8 MR. ULMER: Object to the form of the question.
 9 A. I don't know what your question was.
 10 MRS. RUTLEDGE: Go ahead and repeat the
 11 question, please.
 12 (Requested portion was read.)
 13 A. Those would have been all the records I had
 14 prior to preparing the report.
 15 **Q. (BY MRS. RUTLEDGE) Tell me which admissions**
 16 **you remember any significant detail about without**
 17 **looking at your report.**
 18 A. I remember the ER visits and the admission.
 19 **Q. I believe that the admissions on 8-11-2010,**
 20 **12-17-2009, and 3-30-2010 may be ER admissions.**
 21 A. I don't recall any details from those. I'd
 22 have to refer to the admissions.
 23 **Q. Okay. Tell me what you remember about the**
 24 **June 30th admission in 2010 and why it was significant**
 25 **to your review.**

1 A. I don't know. I'd have to refer back to the
 2 admission. Again, I don't recall those specifically off
 3 the top of my head. I remember her coming in with
 4 severe neck pain, back pain.
 5 **Q. Do you remember who she saw?**
 6 A. I'd have to refer to the notes in the
 7 admissions.
 8 **Q. Okay. So why don't you do that.**
 9 THE DEPONENT: I need a password again. I'm
 10 sorry.
 11 MS. VAN PELT: Okay.
 12 A. You're asking about the June 30th one. Is that
 13 correct?
 14 **Q. (BY MRS. RUTLEDGE) That's correct.**
 15 **Were any images ordered on June 30, 2010?**
 16 A. I know she had a CT scan prior. I'm not sure
 17 what the date of that CT scan was, if it was on the 1st
 18 or the 30th. I'll have to check the notes.
 19 It says she was seen by Bryan Beck and she
 20 presented with complaints to the ER with back pain which
 21 was acute.
 22 **Q. How did that bear on your opinions in this**
 23 **case?**
 24 A. That she was having back pain and that she was
 25 evaluated for it.

1 **Q. And that's information that you had when you**
2 **reviewed the MRI for July 3rd, correct?**
3 MR. ULMER: Object to the form.
4 A. No. My normal standard of practice would be to
5 review the films first and then to read the medical
6 records.
7 **Q. (BY MRS. RUTLEDGE) Again, but you testified**
8 **earlier that you don't know for sure whether you did**
9 **that or not in this case?**
10 A. I don't know with a hundred percent --
11 MR. ULMER: Object to form.
12 A. I don't know with a hundred percent certainty,
13 but that's the usual way I review these cases.
14 **Q. (BY MRS. RUTLEDGE) So in -- let's just talk**
15 **about, for a minute, hindsight bias. You would agree in**
16 **this case that you have hindsight bias in reviewing the**
17 **films that have been previously review by Dr. Kellam,**
18 **correct?**
19 A. Not necessarily. I reviewed the films not
20 knowing what was said about the films and not knowing
21 how they were dictated. I wouldn't say that.
22 **Q. Okay. But we can't know that for certain**
23 **because we don't know whether or not you reviewed the**
24 **medical records which include the MRI reports before you**
25 **reviewed the films. Isn't that true?**

1 A. I typically review the films first.
2 **Q. But you can't say with any certainty that**
3 **that's what you did in this case, correct?**
4 A. I'm not sure how many times I have to testify
5 to this, but I usually review the films first. I can't
6 say with 100 percent certainty that's the case.
7 **Q. And, again, you did not request the films be**
8 **sent to you without any records before you reviewed this**
9 **case?**
10 A. I don't recall doing that.
11 **Q. Well, actually, you didn't do that because you**
12 **testified this morning, first thing this morning, that**
13 **you received all of this material together at one time**
14 **in one mailing?**
15 A. Right. But I also said I didn't recall what I
16 said to the attorneys when they were sending me the
17 case.
18 **Q. But you did receive all of the materials at**
19 **once. They were not sent -- the films were not sent to**
20 **you exclusively without the medical records?**
21 A. I did, and I testified to that.
22 **Q. Okay. All right. And then -- so this first**
23 **admission, the only significance is that she came in**
24 **with neck pain. I'm not sure that you've explained to**
25 **me how that forms a basis for any opinion you've given**

1 **in this case.**
2 A. That she was obviously having something going
3 on with her cervical spine which was acute. She was in
4 a large amount of pain. Obviously, there would be a
5 concern for something going on with her neck. I think
6 it needed to be further evaluated.
7 **Q. So was there a breach of standard of care on**
8 **June 30, 2010, for failure to order any imaging and**
9 **further evaluation?**
10 A. I would defer that to the ER physicians.
11 **Q. Okay. On July 1, 2010, what about that visit**
12 **was significant to you?**
13 A. The fact that she's coming back with similar
14 symptoms that are unrelenting is obviously a concern,
15 that whatever she has going on is not being treated, is
16 not being taken care of.
17 **Q. Okay. What was the history Ms. Thompson**
18 **presented with on the 30th and 1st in terms of the onset**
19 **of her symptoms?**
20 **You don't recall what she was doing that she**
21 **thought prompted this neck pain?**
22 A. I don't recall specifically. She thought she
23 had some sort of lifting problem, which she had some
24 acute back pain.
25 **Q. Did you read Ms. Thompson's deposition?**

1 A. I did.
2 **Q. What did she testify to?**
3 A. I would have to review that.
4 **Q. Have no memory about what she said caused her**
5 **neck pain in her view?**
6 A. I think she was lifting something, walking up
7 the steps, but I don't recall -- that's my best
8 recollection. It's one of 3,000 pages I've reviewed.
9 I'd have to look at her exact deposition testimony.
10 **Q. Okay. What stands out to you about the visit**
11 **on July 1, 2010, that forms a basis for any of your**
12 **opinions given in this case?**
13 A. The fact that she's having persistent neck
14 pain.
15 **Q. Okay. Did you have any comments about the**
16 **ordering of a CT scan without the administration of IV**
17 **dye?**
18 A. I don't have a problem with that decision.
19 **Q. Did you have any criticism of the CT scan**
20 **impression?**
21 A. I'm sorry. This keeps popping up. Acrobat.
22 Could you repeat the question?
23 **Q. I'll have it read back.**
24 **(Requested portion was read.)**
25 **A. No.**

1 Q. (BY MRS. RUTLEDGE) Was there anything about
2 the care and treatment provided to Ms. Thompson on the
3 1st of July that bears upon your impressions here?

4 A. I would defer the care and treatment in the ER
5 to an ER physician.

6 Q. How about on July 3, 2010? What stood out to
7 you about the history you gleaned from the medical
8 records in this case?

9 A. Again, she's having very severe symptoms,
10 re-presenting for the third time with a similar problem.
11 That's obviously a fairly big concern, when someone
12 re-presents several times for a similar finding.

13 Q. Take a look at Page 2 of your report. The last
14 sentence in the first paragraph, read that into the
15 record, please.

16 A. Despite continuing pain of 10-10 -- 10 over 10,
17 Ms. Thompson was discharged to home.

18 Q. Is that comment on the standard of care
19 applicable to Dr. Anderson, the ER physician?

20 A. No.

21 Q. Okay. So you would -- you're not critical of
22 Dr. Anderson in this case, correct?

23 A. I would defer to an ER physician.

24 Q. And then when Ms. Thompson returned to the
25 hospital on July 4th with persistent symptoms, what was

1 significant to you about that visit from the medical
2 records?

3 A. Again, she is having worsening symptoms. I
4 think at that point she was having some worsening
5 neurologic --

6 Q. What specific --

7 A. -- deterioration.

8 Q. What specific neurologic deterioration did she
9 have?

10 A. Her motor findings went from 5 over 5 to 4 over
11 5.

12 Q. In what extremities?

13 A. I believe in the upper extremities.

14 Q. Not in the lower extremities?

15 A. I'd have to refer to the medical records. I
16 don't recall specifically.

17 Q. Go ahead and do that.

18 MRS. RUTLEDGE: Traci, can you pull up the
19 July 6th study?

20 MS. VAN PELT: By "study" do you mean images?

21 MRS. RUTLEDGE: Yeah. Look and see if there's
22 a thoracic study on 7-6. I think this is another
23 mistake in this report, thoracic study.

24 THE DEPONENT: I'm sorry. This computer keeps
25 timing out for Adobe, asking for upgrades.

1 DR. KELLAM: Cervical spine.

2 MS. VAN PELT: July 6 cervical spine compared
3 to July 5.

4 MRS. RUTLEDGE: He's just made a mistake in his
5 report.

6 MS. VAN PELT: You were looking for a thoracic?

7 MRS. RUTLEDGE: Uh-huh.

8 THE DEPONENT: Could you orient me to what the
9 last question was?

10 (Requested portion was read.)

11 A. I'm sorry. It was lower extremity.

12 Q. (BY MRS. RUTLEDGE) Where do you find lower
13 extremity?

14 A. In my report.

15 Q. In your report?

16 A. It says deteriorating neurologic and muscular
17 exam of the lower extremities.

18 Q. Right. And are you accurate in that, or is
19 that inaccurate?

20 A. I think in the -- I think I recall it was upper
21 extremities.

22 Q. Yeah. So we'd have to cross that out, wouldn't
23 we?

24 MR. ULMER: Object to the form. Let's be clear
25 on the dates.

1 MRS. RUTLEDGE: This is for 7-4-2010.

2 Q. (BY MRS. RUTLEDGE) So the medical record --

3 A. I'm sorry. I didn't mean to interrupt you. Go
4 ahead.

5 Q. Yeah. The medical record reflects that she had
6 a change in her upper extremity strength from 5 out of 5
7 the day before to 4 out of 5 the next day. She did not
8 have a change in her lower extremity neurologic testing.
9 Isn't that true?

10 MR. ULMER: I object. That misstates the
11 evidence in the case.

12 A. That's incorrect. She did have -- this
13 paragraph was not referring to her motor changes. This
14 was referring -- this wasn't referring to the 5 over 5
15 or 4 over 5. This was referring to her decreased
16 neurologic and muscular functions in the lower
17 extremities, which was in the medical records.

18 Q. Okay. Show me where it's at in the medical
19 records.

20 You're looking at Dr. Vessey's note? Give me a
21 Bates number.

22 A. This is related to the lower. She has equal
23 strength in the upper extremities and none to the lower
24 secondary to paralysis.

25 Q. And this was on admission to the floor?

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1 **MS. VAN PELT: What's the page number?**
 2 **DR. KELLAM: That's an ICU note.**
 3 **MRS. RUTLEDGE: That is an ICU note.**
 4 **MS. VAN PELT: Not an ER note?**
 5 MR. ULMER: That wouldn't have been a note on
 6 the 4th.
 7 MRS. RUTLEDGE: Actually, I think it's an EMS
 8 care report. It's not even a physician.
 9 MS. VAN PELT: Do you have a Bates number?
 10 MRS. RUTLEDGE: Of course not.
 11 MS. VAN PELT: Bottom right. Bryan, you didn't
 12 send them Bates numbered? Okay.
 13 THE DEPONENT: I like flipping through 2,000
 14 pages every day.
 15 MRS. RUTLEDGE: This is an EMS care report.
 16 It's not even done by a physician.
 17 **Q. (BY MRS. RUTLEDGE) I asked you to find the ER**
 18 **note which shows neurologic change in the lower**
 19 **extremities. That's an EMS note.**
 20 A. This is -- these are treating notes. These are
 21 notes in the chart that shows problems with the lower
 22 extremity. That's certainly --
 23 **Q. You know the difference between an EMS and a**
 24 **physician, right?**
 25 A. Yeah. There's a difference in education and

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1 training.
 2 **Q. Sure.**
 3 A. But they're certainly capable of determining
 4 whether or not someone has paralysis or weakness or
 5 problems with lower extremities.
 6 **Q. Show me the ER note for Dr. Vessey showing that**
 7 **there's lower extremity paralysis or weakness.**
 8 A. I'd be happy to show it to you if you could
 9 pull it up for me. Otherwise, we're going to look
 10 through 2,000 --
 11 MS. VAN PELT: I can pull it up but not on your
 12 CD.
 13 **Q. (BY MRS. RUTLEDGE) You're the expert. So**
 14 **you're supposed to be able to find these records.**
 15 A. I could. I'm perfectly willing to sit here and
 16 look for them. Again, they're 1 of 2,500. You have
 17 every ability to bring anything you need to ask me
 18 about.
 19 **Q. Actually, that's what the notice asks you to**
 20 **do.**
 21 A. And I have it.
 22 MR. ULMER: That's what he did. He complied
 23 with the notice. So we can look for it, and you can
 24 just calm down.
 25 Also, I object to the characterization. You're

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1 asking him to find something in an ER note. That's
 2 changing the question. So during the course of your
 3 question, you have started to argue with the witness,
 4 and it's improper, and you need to stop being
 5 argumentative. We can track your questions, and they
 6 subtly but wrongly change. That kind of tactic is
 7 inappropriate. You have an obligation to be fair to the
 8 witness and fair to the parties.
 9 MRS. RUTLEDGE: This is pretty amusing coming
 10 from a young man who is not the judge in this case and
 11 who is using speaking objections. So I would appreciate
 12 it if you control yourself in that regard, please.
 13 MR. ULMER: Okay. I will, but I can make my
 14 objections and make the record. And for the record, you
 15 are making a lot of comments that are not questions that
 16 could be interpreted as improper. I've allowed those.
 17 I'm just getting tired of where we're at.
 18 MRS. RUTLEDGE: Do we've the ER report?
 19 MS. VAN PELT: Yeah. Do you want the July 4th
 20 record?
 21 MRS. RUTLEDGE: Yes. Show that, if you would,
 22 to the doctor to help him out.
 23 **Q. (BY MRS. RUTLEDGE) I want you to look at Dr.**
 24 **Vessey, who is the ER physician on July 4th, and find**
 25 **for me anywhere where she finds lower extremity**

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1 **neurologic and muscular change in this note, please.**
 2 A. Yeah, she does have neurologic symptoms
 3 according to this note.
 4 **Q. Okay. Give me the page number.**
 5 A. I don't know how you guys label these pages.
 6 MS. VAN PELT: Bottom right-hand corner, it
 7 will say CRMC and a page number.
 8 A. 000005.
 9 **Q. (BY MRS. RUTLEDGE) Is that a note by Dr.**
 10 **Vessey?**
 11 A. It's the note that you gave me to look at.
 12 **Q. Is that a note you've reviewed before?**
 13 A. This is the continuation from above. This
 14 is -- you gave me this.
 15 **Q. Right. So show me where you found lower**
 16 **extremity neurologic and muscular weakness.**
 17 A. Deep tendon reflexes are absent in the right
 18 patella and left patella; unable to elicit reflexes from
 19 this patient.
 20 **Q. And you believe that that is indicative of**
 21 **lower extremity neurologic and muscular weakness?**
 22 MR. ULMER: Object to the form. Misstates his
 23 testimony and his report.
 24 **Q. (BY MRS. RUTLEDGE) What's your answer?**
 25 A. Yes.

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1 **Q. That's the data upon which you rely for the**
 2 **statement in your report?**
 3 A. That, along with the other note in the chart
 4 that talks about lower extremity paralysis.
 5 **Q. You mean the ambulance personnel?**
 6 A. The EMS who evaluated her.
 7 **Q. Okay. Those are the two pieces of data you**
 8 **rely upon to form that opinion?**
 9 A. Those are part of it. There may be additional
 10 findings. If you want me to look through the medical
 11 records, I'd be happy to.
 12 **Q. Let me ask you this: Are you a clinician that**
 13 **examines patients?**
 14 A. I will do focused exams, depending on what they
 15 present with and what I'm asked to do.
 16 **Q. Do you regularly examine patients in the ER?**
 17 A. No.
 18 **Q. How often do you interface with ER physicians?**
 19 **MS. VAN PELT: I'd like to have my computer**
 20 **back. Do you --**
 21 THE DEPONENT: Here you go.
 22 A. I usually talk to them on a daily if not weekly
 23 basis.
 24 **Q. (BY MRS. RUTLEDGE) Okay. Can you tell me who**
 25 **the physicians are that you interface with most**

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1 **regularly at Allegheny Medical Center?**
 2 A. Sure. Dr. Taylor, Dr. Bailey.
 3 **Q. These are ER physicians?**
 4 A. They are.
 5 **Q. Okay.**
 6 A. Dr. Fisk, Dr. Meehan. Now she's married. I
 7 don't remember her last name. Dr. Trisal.
 8 **Q. Doctor who?**
 9 A. Trisal.
 10 **Q. Spell that.**
 11 A. T-r-i-s-a-l.
 12 **Q. And the other one was Meehan?**
 13 A. M-e-e-h-a-n, I think. Like I said, she's
 14 married now and so her name has changed.
 15 **Q. When you found or reviewed the surgical note of**
 16 **Dr. Cook, what was the most significant finding in that**
 17 **neurosurgical report?**
 18 A. I'd have to review his note again to comment on
 19 that.
 20 **Q. I think you've commented on it in your report.**
 21 **So if you need to use that to refresh your memory, go**
 22 **ahead. I think you'll find it in the middle of the**
 23 **paragraph that starts, "Dr. Judson Cook."**
 24 **A. What page?**
 25 **Q. I'm on Page 2 of your report, your first**

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1 **report.**
 2 A. It begins with "Dr. Judson Cook"?
 3 **Q. That's correct. It's in the middle of the**
 4 **paragraph.**
 5 A. Okay.
 6 **Q. Just read that into the record.**
 7 A. Dr. Judson Cook operated on Ms. Thompson and
 8 found inflammatory changes in the epidural space and
 9 thrombosed epidural veins.
 10 **Q. What does that mean to you? Why is that**
 11 **significant to you in reaching your opinions in this**
 12 **case?**
 13 A. Because there was obviously an acute
 14 inflammatory process going on in the epidural space, and
 15 it probably caused compression and thrombosed some
 16 epidural veins.
 17 **Q. Okay. What is the significance of the**
 18 **thrombosed epidural veins in terms of the outcome in**
 19 **this case?**
 20 A. I think it's something that goes along as a
 21 result of the severity of the process that was occurring
 22 in this case. There was compression and then probably
 23 some decreased blood flow in those epidural veins
 24 because of the compression and then they thrombosed.
 25 **Q. The balance of your report looks at clinical**

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1 **records and findings following Ms. Thompson's first**
 2 **operation on July 5, 2010. My question is**
 3 **multifactorial, and that is, why did you look at the**
 4 **records after the operation by Dr. Cook; and what, if**
 5 **any, significance did they have in supporting your**
 6 **opinions that Dr. Kellam breached the standard of care**
 7 **in this case?**
 8 A. I looked at the -- I looked at those reports
 9 because they were provided to me. I wanted to be
 10 thorough.
 11 **Q. No other reason?**
 12 A. They were -- it's all part of the continuum of
 13 care. I felt that it was helpful to look at those.
 14 **Q. But they don't actually form the basis of any**
 15 **opinion you have that Dr. Kellam breached the standard**
 16 **of care in this case, true?**
 17 A. That's correct.
 18 **Q. Okay. Have you done any research on**
 19 **thrombophlebitis in the epidural space?**
 20 A. No.
 21 **Q. In the last paragraph, really, of this report**
 22 **before your final conclusionary flourish, you state your**
 23 **opinions about how it is you believe Dr. Kellam breached**
 24 **the standard of care. With that paragraph and the**
 25 **testimony you've given today while interpreting the**

1 **films, have you provided me with all your opinions**
2 **regarding the ways in which Dr. Kellam breached the**
3 **standard of care in this case?**
4 A. I believe so.
5 **Q. Okay. Thank you.**
6 **This second letter that you wrote at the**
7 **request of Mr. Ulmer appears to me -- and I don't want**
8 **to mischaracterize it, but you've read 14 depositions,**
9 **excluding the two volumes of Dr. Cook; and the letter**
10 **principally focuses on criticizing Dr. Cook for certain**
11 **statements he made in his deposition. Is that a fair**
12 **analysis of this letter?**
13 MR. ULMER: Object to the form. I think you
14 misspoke when you said Dr. Cook.
15 MRS. RUTLEDGE: I might have.
16 MR. ULMER: Criticizing Dr. Cook is the part.
17 MRS. RUTLEDGE: Why don't you read the question
18 back. I'll change it.
19 (Requested portion was read.)
20 A. It is.
21 **Q. (BY MRS. RUTLEDGE) Okay. There is no context**
22 **provided for your criticisms of Dr. Kellam in this**
23 **narrative which would permit me or anybody else to**
24 **understand whether or not your comments have any bearing**
25 **on the care he actually provided in this case. So I'm**

1 **going to pick through these and ask you whether or not**
2 **you have any evidence whatsoever that your criticism of**
3 **a statement made Dr. Kellam in his colloquy with Mr.**
4 **Ulmer have any direct bearing on this case. And you may**
5 **not be able to answer my question without reading**
6 **through his deposition, which would be a laborious**
7 **endeavor in this setting; but I'm going to see if we can**
8 **tease through this, okay?**
9 A. Sure.
10 **Q. All right. I think you would agree with me**
11 **that the first sentence may be a bit inartful when you**
12 **say your review of the testimony of Dr. Kellam, in**
13 **reviewing that, you find he deviated from the standard**
14 **of care in numerous instances. You don't mean that by**
15 **giving testimony he deviated from the standard of care?**
16 A. That's correct.
17 **Q. Okay. You next write that his practice of**
18 **performing and dictating stat readings is not consistent**
19 **with sound radiologic practice. My question there is,**
20 **on what standards do you rely for that opinion?**
21 A. The normal practice of how radiologists read
22 stat exams and then get reports to their physicians.
23 **Q. Okay. What do you recall Dr. Kellam's**
24 **testimony and Dr. Anderson's testimony to have been**
25 **regarding the communication between the two of them**

1 **about his findings following the stat exam on July 3,**
2 **2010?**
3 A. I believe he communicated with her after the
4 exam.
5 **Q. Directly by phone?**
6 A. I don't know. I don't know if it was by phone
7 or in person, but it was -- they communicated directly
8 with her.
9 **Q. Did that meet the standard of care?**
10 A. There was no deviation there.
11 **Q. Thank you. And your criticism of him then is**
12 **that the report was dictated 12 hours later and put on**
13 **the chart?**
14 A. This was not -- this was in reference to his
15 deposition testimony where he was not speaking
16 specifically about the case but was speaking more
17 generally about how sometimes he will read stat exams
18 and perform stat exams, and it was that I was speaking
19 to, not specific to this case about talking to someone
20 stat and then dictating it 12 hours later. There's
21 nothing wrong with that.
22 **Q. Okay. Thank you.**
23 **And so you would agree with me that your**
24 **comment on the colloquy between he and Mr. Ulmer is just**
25 **an observation by you rather than an opinion that Dr.**

1 **Kellam, in terms of his communication of the results on**
2 **July 3, 2010, breached the standard of care?**
3 A. There was -- there's no criticism about his
4 communication in July about how he conveyed those
5 reports. It was a general statement.
6 **Q. Okay. Thank you.**
7 **Were you asked to make general observations**
8 **about the deposition testimony given by Dr. Kellam by**
9 **Mr. Ulmer?**
10 A. No.
11 **Q. Do you know what the rules of evidence say with**
12 **regard to a use of a deposition at trial?**
13 A. I don't believe so.
14 **Q. Okay. Do you know whether or not Dr. Kellam**
15 **reviewed the July 3, 2010, film as he was dictating the**
16 **report at or about noon on July 4, 2010?**
17 A. I don't.
18 **Q. So this comment, again about a colloquy between**
19 **he and Mr. Ulmer where you interpreted Dr. Kellam to say**
20 **that he may not even look at films when he provides a**
21 **final dictation, you were a little unsettled about that,**
22 **but you're not making a comment as to whether or not Dr.**
23 **Kellam breached the standard of care in that regard?**
24 A. I don't know what he did at the time. I
25 couldn't comment on that.

1 **Q. Very good. Thank you.**
 2 **Again, the next two sentences reference a**
 3 **colloquy between Mr. Ulmer and Dr. Kellam. We don't**
 4 **know what page you're referring to here about cursory**
 5 **glances. You are also not testifying in this case that**
 6 **Dr. Kellam only gave a cursory glance to the MRI on**
 7 **July 3, 2010, and again on July 4, 2010?**

8 A. That's correct.

9 **Q. The balance of the paragraph is in the nature**
 10 **of your observations, again about the colloquy between**
 11 **Mr. Ulmer and Dr. Kellam rather than any specific**
 12 **criticism of the standard of care or whether or not Dr.**
 13 **Kellam met the standard of care on July 3rd and 4th --**

14 A. Those comments were not specific to the
15 July 3rd case.

16 **Q. Okay. Or the 4th?**

17 A. Or the 4th.

18 **Q. Okay. Can you cite me to the ACR standard of**
 19 **care which requires a radiologist to convey all**
 20 **pertinent findings on imaging studies which supports --**
 21 **I'm not really sure we have an opinion here in this**
 22 **paragraph. I'm not sure what to do with it.**

23 **What are you trying to tell us in the first**
 24 **paragraph on Page 2 of this late report in March?**

25 A. Dr. Kellam could not state that he

1 **Looking at Dr. Vessey's testimony?**

2 A. Yeah. I was going to say, I don't have that in
3 front of me.

4 **Q. Well, I have a copy of it, but I don't have an**
5 **unmarked copy.**

6 **MS. VAN PELT: You want Dr. Vessey's depo?**

7 **MRS. RUTLEDGE: I have Vessey's depo here, if**
 8 **you can give him a copy of it so he can search for**
 9 **testimony that Dr. Vessey says she gave Dr. Kellam a**
 10 **strong clinical picture of IV drug use and worsening**
 11 **neurologic symptoms.**

12 **MS. VAN PELT: I'm bringing three computers to**
13 **my next deposition.**

14 **MRS. RUTLEDGE: Thank you, Traci.**

15 **MS. VAN PELT: Here is her transcript, and here**
16 **is the word index.**

17 **(Delay in proceedings.)**

18 **A. I'm sorry. You guys are much more efficient at**
19 **searching.**

20 **Q. (BY MRS. RUTLEDGE) I've looked for "IV drug**
 21 **use" and "Dr. Kellam," and I can tell you it's not in**
 22 **the transcript. There is a discussion about what she**
 23 **told Dr. Kellam, but I don't see anything about IV drug**
 24 **use. You've got that in your report; so I'm interested**
 25 **in where you found that.**

1 unequivocally would comment on radiographic findings
2 that present a danger to a person.

3 **Q. Right. I can read what you say. I just want**
4 **to know what you're trying to communicate.**

5 A. That all pertinent findings should be conveyed
6 in a report.

7 **Q. Okay. It's your opinion based upon your**
 8 **interpretation of the July 3rd and July 4th MRIs in this**
 9 **case that Dr. Kellam did not do that. Is that right?**

10 A. That's correct.

11 **Q. Okay. You also disagreed with Dr. Kellam**
 12 **regarding his discussion on discitis. Tell me what your**
 13 **disagreement is.**

14 A. He opined that discitis is a degenerative
 15 process. It's accepted in medicine that when you're
 16 talking about discitis, you're most concerned and
 17 referring to a potential infection of the joint and that
 18 you need to be most concerned about an infectious
 19 process. Discitis, to physicians, is an infectious
 20 process in the disc space and needs to be taken care of
 21 with IV antibiotic. It's not a degenerative process.

22 **Q. In the next paragraph, show me the testimony**
 23 **where Dr. Vessey testified that she gave Dr. Kellam a**
 24 **strong clinical picture of IV drug use and worsening**
 25 **neurologic symptoms, please.**

1 A. Could you refer me to the area of the page
2 number where the conversation with Dr. Kellam occurred?
3 Maybe that would help me.

4 **Q. There's one discussion between me and Dr.**
5 **Vessey on Page 117.**

6 A. Thank you.

7 MS. VAN PELT: Doctor, do you know how to get
8 to Page 117?

9 THE DEPONENT: Scrolling and tapping. How is
10 that? How is that? I could type it in at the top.

11 **Q. (BY MRS. RUTLEDGE) The problem with the early**
 12 **discussions about Dr. Kellam is they have to do with**
 13 **whether they're social friends or talked about the**
 14 **lawsuit. That's all Mr. Ulmer speaking. My question**
 15 **asks him about the discussions concerning the studies.**
 16 **There's also a discussion on Page 71.**

17 A. I don't see it. I'd be happy to review it
18 again and see if I could find it, but as of now I do not
19 see that.

20 **Q. Okay.**

21 THE DEPONENT: Are you going to take my
22 computer back?

23 **Q. (BY MRS. RUTLEDGE) Those are -- I gave -- did**
 24 **you look at the testimony on Page 117 that I referred**
 25 **you to?**

1 A. That was the page I looked at.
 2 **Q. What did she say there?**
 3 A. Something -- that she did not recall, I think.
 4 **Q. So we didn't find any testimony that she**
 5 **repeatedly questioned Dr. Kellam specifically regarding**
 6 **her suspicions but was incorrectly assured by him no**
 7 **such infectious process was present; and, further, she**
 8 **never testified that she provided Dr. Kellam with a**
 9 **strong clinical picture of IV drug use and worsening**
 10 **neurologic symptoms. Isn't that true?**

11 A. I don't know. It may not have been Dr. Vessey.
 12 I'd have to review my -- review the depositions.

13 **Q. So if Dr. Vessey never said that, that would be**
 14 **another mistake in your report?**

15 A. If she --
 16 MR. ULMER: Object to the form.

17 A. If she didn't say that, that would be an
 18 incorrect part of the report. Again, I'd like to go
 19 back and review the depositions and see if it --

20 **Q. (BY MRS. RUTLEDGE) Sure.**

21 A. -- was perhaps a different physician.

22 **Q. Okay. Well, I will tell you that it is now my**
 23 **turn to take a break. Not to eat, just a break to visit**
 24 **the ladies room.**

25 **(Short recess from 3:00 p.m. to 3:08 p.m.)**

1 where it was a second ER visit. The other ones were
 2 prior. I just recall the images. I don't recall the
 3 workup, the ER, and all that. It was just one of those
 4 four or five that I recall because it came up in an M&M
 5 conference. That's how I recall more specifics about
 6 it. But it was a neck pain issue, discharged, patient
 7 came back, worsening neurologic symptoms, and it was
 8 diagnosed at that time.

9 **Q. And did you make the diagnosis via MRI or some**
 10 **other radiologic study, or was the diagnosis made by**
 11 **someone else?**

12 A. It was made by someone else. I probably read
 13 some studies on the case. I also evaluated it on an M&M
 14 conference.

15 **Q. And do you remember, was there an MRI ordered**
 16 **in that case?**

17 A. There was.

18 **Q. Did the MRI show evidence of abscess?**

19 A. I believe it did.

20 **Q. Which would have included a loculated fluid**
 21 **pocket?**

22 A. I take that back. It did not show an abscess.
 23 It showed inflammation enhancement, edema, and fluid.
 24 It did not show a loculated pocket.

25 **Q. And that's the only one of the four cases that**

1 **Q. (BY MRS. RUTLEDGE) Thank you, Doctor.**

2 A. Thank you.
 3 EXAMINATION
 4 BY MR. ORTIZ:

5 **Q. Doctor, as you know, I'm Scott Ortiz, and I**
 6 **represent Dr. Michelle Anderson. I want to confirm what**
 7 **I believe I heard in your earlier testimony. Is it true**
 8 **that you have never personally been involved with**
 9 **diagnosing a case of spinal epidural abscess?**

10 A. No, that's not true.

11 **Q. That's not true?**

12 A. That's not true.

13 **Q. How many cases have you been involved in?**

14 A. I've seen, I believe, four.

15 **Q. And can you tell me -- do you have any**
 16 **recollection of those specifics of those cases as to how**
 17 **advanced the symptoms were at the time a diagnosis was**
 18 **made?**

19 A. I don't recall specifically. I do recall it
 20 was not on the first ER visit but the second ER visit.
 21 And I don't -- like I said, I don't recall how advanced
 22 the neuromuscular symptoms were at the time.

23 **Q. Are you thinking of -- were all your cases the**
 24 **four cases?**

25 A. I just remember the more specifics of that one

1 **you have specific recollection of?**

2 A. Correct.

3 **Q. Would it be fair to say you don't recall any of**
 4 **the physical symptoms of the patient?**

5 A. No, I do not.

6 **Q. How long ago was the most recent case you've**
 7 **been involved with, Doctor?**

8 A. That was within the last two years probably.

9 **Q. Do you remember what the timeframe was between**
 10 **the multiple ER visits before the diagnosis was made?**

11 A. I think on the order of days, but I'm not
 12 positive.

13 **Q. Do you know, was there any litigation filed as**
 14 **a result of that case?**

15 A. I never heard anything, that there was.

16 **Q. Do you know what the outcome was in that case?**

17 A. I think there was -- at least at the time of
 18 review, which was several months afterwards, the patient
 19 was in rehab. I don't know how severe it was, though.

20 **Q. Did the patient suffer some degree of**
 21 **paralysis?**

22 A. I believe there was some deficit left. I don't
 23 recall the specifics of it.

24 **Q. Was there some emergent neurosurgery performed**
 25 **in that case you're recollecting?**

1 A. The patient was emergently transferred for
 2 that.
 3 **Q. And, in fact, were they transferred and did**
 4 **they have surgery?**
 5 A. I believe they did, but that was at a different
 6 hospital, and so it was kind of lost to follow-up. But
 7 I believe they did have surgery.
 8 **Q. Do they not have neurosurgery coverage at the**
 9 **hospital you have privileges?**
 10 A. There are neurosurgeons there.
 11 **Q. But they don't do the surgeries there?**
 12 A. They do, but this case was transferred.
 13 **Q. Do you know why?**
 14 A. I think just the severity.
 15 **Q. Do you agree that SEA is an extremely rare**
 16 **condition?**
 17 A. I wouldn't say extremely rare. It's very
 18 uncommon.
 19 **Q. Do you agree that SEA can be extremely**
 20 **difficult to diagnose?**
 21 A. It can be.
 22 **Q. Do you agree that SEA can mimic other more**
 23 **common conditions?**
 24 A. It can.
 25 **Q. Do you agree -- have you reviewed any of the**

1 MRS. RUTLEDGE: I beg your pardon.
 2 THE DEPONENT: No offense taken.
 3 **Q. (BY MR. ORTIZ) Doctor, have you done any**
 4 **research of any kind about the effects of**
 5 **methamphetamine upon any part of the body?**
 6 A. No. And I've never used it.
 7 MRS. RUTLEDGE: So you say.
 8 **Q. (BY MR. ORTIZ) Is it your understanding**
 9 **that -- you tell me. Is it your understanding that SEA**
 10 **is typically diagnosed via MRI study?**
 11 A. Yes.
 12 **Q. Is that the most definitive radiological study**
 13 **you can order to try to diagnose SEA?**
 14 A. I believe so.
 15 **Q. The one case that you recall, were you working**
 16 **based on an order from an ER physician to take a look at**
 17 **something involving cervical neck pain?**
 18 A. Again, it wasn't -- I wasn't the one reading
 19 the films. I just saw it on an M&M conference
 20 afterwards.
 21 **Q. And just so I'm clear, when you say M&M --**
 22 A. Morbidity and mortality conference where they
 23 look at people who had bad outcomes.
 24 **Q. This was at your own hospital?**
 25 A. Right.

1 **literature talking about the ways diagnosis is made for**
 2 **SEA and problems with the diagnosis?**
 3 A. No.
 4 **Q. Have you read any of the literature published**
 5 **that indicates in most cases there's delays of up to two**
 6 **to six days because of the difficulties in diagnosing**
 7 **SEA?**
 8 A. I've not read that, but I think it is not
 9 unusual for there to be a second admission prior to
 10 diagnosis.
 11 **Q. Do you agree with me that even in the best of**
 12 **care with skilled and trained professionals, it can be**
 13 **an extremely difficult diagnosis to make?**
 14 A. I would defer that to the ER physicians who do
 15 that.
 16 **Q. Doctor, do you have any specialized training or**
 17 **expertise in methamphetamine?**
 18 A. No.
 19 MRS. RUTLEDGE: That sounded like a mean
 20 question.
 21 MR. ORTIZ: I didn't ask if he used
 22 methamphetamine.
 23 MRS. RUTLEDGE: Sorry.
 24 THE DEPONENT: I could use it to get through
 25 this deposition, but ...

1 **Q. I see.**
 2 A. So I guess I can discuss this as long as
 3 there's no --
 4 **Q. Don't give me a name, yeah.**
 5 A. Yeah. I'm not.
 6 **Q. Part of the quality assurance function of the**
 7 **hospital?**
 8 A. It is.
 9 **Q. So you're looking at a mortality and morbidity**
 10 **conference because this falls under the category of one**
 11 **of those cases where you had a bad outcome?**
 12 A. That's correct.
 13 **Q. And you want to talk about what we could have**
 14 **done differently to avoid that bad outcome?**
 15 A. That's correct.
 16 **Q. What was the conclusion at the conference?**
 17 A. That the initial -- that on the initial
 18 presentation, they don't think anything was done
 19 incorrectly.
 20 **Q. Were there any radiological studies done at**
 21 **that first presentation of that case?**
 22 A. I don't believe so.
 23 **Q. So now let me get back to my original question**
 24 **then. So you think you have had some involvement with**
 25 **diagnosis of SEA, but you simply don't have any specific**

1 **recollection. Is that right?**
 2 A. That's correct.
 3 **Q. In the case that went to your mortality and**
 4 **morbidity conference at the hospital, was the initial**
 5 **MRI misread in regard to diagnosis of the SEA?**
 6 A. I don't believe so.
 7 **Q. Was there some delay in that regard?**
 8 A. No. I think the reason it was brought to the
 9 case was why the patient was initially discharged out of
 10 the ER from the first admission. And there was -- that
 11 was really the whole gist of it.
 12 **Q. All right. And so I just want to be clear.**
 13 **Other than just knowing you think you've been involved**
 14 **with it, you have no specific recollection of any of the**
 15 **other cases where you had personal involvement with SEA.**
 16 **Is that true?**
 17 A. I have seen cases. I've seen surgical
 18 follow-up on people who have had them drained. I just
 19 don't recall anything about presentation, outcomes,
 20 long-term deficits, things like that.
 21 **Q. Don't recall anything you personally observed**
 22 **on any MRI?**
 23 A. No.
 24 **Q. Okay. Just so I'm clear, Doctor, when you were**
 25 **going through all the degenerative disc disease that you**

1 **Q. When you say "radicular symptoms," what does**
 2 **that mean?**
 3 A. Pain going down one side or another.
 4 **Q. Can it go down both sides?**
 5 A. It can.
 6 **Q. What other symptoms are associated with**
 7 **degenerative disc disease?**
 8 A. Pain, just pain in the neck, decreased range of
 9 motion.
 10 **Q. Can you have some loss of strength?**
 11 A. If the degenerative discs are large enough that
 12 they protrude into the neural foramina and compromise
 13 the nerve roots, they can.
 14 **Q. You're not going to render any clinical**
 15 **opinions in this case about a physician such as Michelle**
 16 **Anderson or another practitioner. Is that correct,**
 17 **Doctor?**
 18 A. To the extent it's not in my report, I don't
 19 plan on doing that.
 20 **Q. All right. Let me change topics with you. How**
 21 **did you come to know Mr. Ulmer? Did you know him prior**
 22 **to this case?**
 23 A. I did not.
 24 **Q. Have you worked for the Spence firm prior to**
 25 **this case?**

1 **saw in the cervical spine on the various studies you**
 2 **went through with Mrs. Rutledge, did I understand you to**
 3 **say that there were certain discs where it looked like**
 4 **the disc space itself had changed and disc fluid was**
 5 **outside the confines of the disc?**
 6 A. Yes. At C6-C7 that was the case.
 7 **Q. To a layman like me, is that what you call a**
 8 **bulging or herniated disc?**
 9 A. No.
 10 **Q. What do you -- did you call it?**
 11 A. Fluid extravasating out of the disc from the
 12 discitis.
 13 **Q. So leaking fluid?**
 14 A. Sure.
 15 **Q. All right.**
 16 A. Or expanding fluid.
 17 **Q. Were -- do you have any understanding as to the**
 18 **symptoms that occur with someone that has severe**
 19 **degenerative disc disease?**
 20 A. Yes. Not from a treating physician but from a
 21 perspective of someone who reads films on them with
 22 clinical histories that I'm provided.
 23 **Q. What's your understanding?**
 24 A. It's -- typically, we're seeing arm pain, leg
 25 pain, radicular symptoms.

1 A. I have not.
 2 **Q. Do you know how they got your name as a**
 3 **contact?**
 4 A. I do not.
 5 **Q. Your company that you've had in business since**
 6 **1996, independent radiologic consultations to the legal**
 7 **profession --**
 8 A. Before you continue, let me just clarify that.
 9 The company was not in existence back then. That was
 10 when I first started reviewing cases for law firms.
 11 Colella Consulting has been in business for about three
 12 or four years.
 13 **Q. Okay. I apologize. I didn't see that on**
 14 **the --**
 15 A. Yeah, it's actually not in the CV. Sorry.
 16 **Q. Okay. So independent radiologic consultations**
 17 **has morphed into -- what's your new company?**
 18 A. Colella Consulting.
 19 **Q. All right. Either of those companies, have you**
 20 **ever advertised your services?**
 21 A. No.
 22 The first was not a company either. That was
 23 just -- I was -- that is an independent -- that's not a
 24 company, independent consultants. I was an independent
 25 consultant.

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1 MR. ULMER: It's a job, not an entity.
 2 **Q. (BY MR. ORTIZ) So that's just saying something**
 3 **you performed?**
 4 A. I did, right.
 5 **Q. Have you ever advertised in any context your**
 6 **ability do medical-legal work on the Internet or any**
 7 **other media?**
 8 A. The only thing I did way back in the '90s was
 9 send a few letters out to law firms stating that I was a
 10 B-Reader and was able to read x-rays for occupational
 11 lung disease. That's about it.
 12 **Q. In what states did you send your resume to law**
 13 **firms?**
 14 A. That was back in the late '90s. I don't know.
 15 **Q. More than just the state of Pennsylvania?**
 16 A. Probably.
 17 **Q. What was the purpose in doing that?**
 18 A. I had just received that certification. It's a
 19 very difficult certification to get. There's a lot of
 20 pain, time, and suffering to go into doing that. So I
 21 wanted to make sure I got to use those skills.
 22 **Q. That was mostly targeted at asbestosis cases?**
 23 A. The B-reading stuff is occupational lung
 24 disease, of which asbestosis is one.
 25 **Q. Other than sending letters to certain law**

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1 **firms, have you done any other kind of advertising?**
 2 A. No.
 3 **Q. Have you ever spoken at any medical-legal**
 4 **conferences directed toward plaintiff lawyers that file**
 5 **lawsuits?**
 6 A. No.
 7 **Q. Have you been asked to do any follow-up work or**
 8 **research on this case that you haven't already**
 9 **discussed?**
 10 A. The only thing I was told is when the defense
 11 experts' depositions are taken or when defense experts'
 12 reports are submitted, I may be asked to review those.
 13 **Q. Okay. A couple more questions on SEA, Doctor.**
 14 **We were talking about sometimes the difficulty in**
 15 **diagnosing SEA. Do you agree with me that if you have**
 16 **atypical symptoms with SEA that point to a different**
 17 **etiology, it's even a more difficult diagnosis to make?**
 18 MR. ULMER: Object to the form. I think it's
 19 vague and overbroad.
 20 A. I would defer that to an ER physician.
 21 **Q. (BY MR. ORTIZ) Did you say an ER physician?**
 22 A. ER physician.
 23 **Q. Thanks for your patience, Doctor. That's all I**
 24 **have.**
 25 A. Thank you.

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1 EXAMINATION
 2 BY MS. VAN PELT:
 3 **Q. Doctor, I just have a few follow-up questions.**
 4 A. Has an attorney ever said I've got a lot of
 5 stuff to cover still?
 6 MRS. RUTLEDGE: I have. I'm sure that
 7 surprises you.
 8 THE DEPONENT: Maybe.
 9 **Q. (BY MS. VAN PELT) I get to bat cleanup, so**
 10 **I'll be quick.**
 11 A. Okay.
 12 **Q. From your testimony, it sounds like you've been**
 13 **an expert witness either in reviewing a case, in**
 14 **drafting reports, or testifying in deposition or in**
 15 **court a number of times. Is that a fair statement?**
 16 A. Sure.
 17 **Q. All right. And I think Mrs. Rutledge asked you**
 18 **a question along these lines, but I want to make sure I**
 19 **understand. How do you view the role of an expert**
 20 **witness in a medical malpractice case?**
 21 A. To review the case and to give an honest
 22 opinion as far as whether or not the interpreting
 23 radiologist followed the standard of care.
 24 **Q. So you agree you have an obligation as an**
 25 **expert witness opining in the medical malpractice case**

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1 **to objectively and independently assess the records and**
 2 **materials provided to you, right?**
 3 A. Correct.
 4 **Q. You understand that your reports will be used**
 5 **in litigation to support a patient's claim of**
 6 **substandard medical care and injury, right?**
 7 A. I understand.
 8 **Q. And you take the role of being an expert**
 9 **seriously?**
 10 A. I do.
 11 **Q. Do you regard yourself as an advocate for Ms.**
 12 **Thompson?**
 13 A. No.
 14 **Q. How do you distinguish between being an**
 15 **advocate and an expert witness?**
 16 A. As an expert witness, I'm there to evaluate the
 17 images and the data presented to me and present my
 18 opinions. I don't have an agenda in favor of or against
 19 anyone. I just try to convey my opinions as I see them.
 20 **Q. Did you approach this case with an open mind,**
 21 **that there might be another view of the care in this**
 22 **case that makes sense?**
 23 A. Yes.
 24 **Q. You'd agree that sometimes reasonable experts**
 25 **can disagree about points of medicine and causation and**

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1 radiology interpretations, right?

2 A. Sure.

3 **Q. You had an obligation to be accurate in your**

4 **testimony today and in drafting your reports, correct?**

5 A. I always try to do that.

6 **Q. That's not exactly my question. Did you have**

7 **an --**

8 A. Yes.

9 **Q. -- obligation to do that?**

10 A. Yes.

11 **Q. You have an obligation to be thorough, true?**

12 A. Sure.

13 **Q. You had an obligation to be precise, didn't**

14 **you?**

15 A. Sure.

16 **Q. And you understood your reports would be**

17 **provided to the defendants and their experts in this**

18 **case, right?**

19 A. Yes.

20 **Q. Do you agree that the reliability of an expert**

21 **witness' opinions depends on the objectivity of**

22 **the opinion?**

23 A. Sure.

24 **Q. Have you ever had your privileges revoked or**

25 **suspended at any point in time in your medical career?**

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1 A. No.

2 **Q. Have you ever had any action taken against your**

3 **license?**

4 A. No.

5 **Q. What's a differential diagnosis?**

6 A. Given a constellation of symptoms, the

7 differential diagnosis is the possibilities of what

8 could be causing that.

9 **Q. And I take it you do differential diagnoses in**

10 **your practice?**

11 A. I do, yes.

12 **Q. Did you do a differential diagnosis for Ms.**

13 **Thompson when you reviewed her images?**

14 A. I did.

15 **Q. You didn't put that differential in your**

16 **report, did you?**

17 A. I didn't think -- after looking at the films,

18 those images were so clear as to what they were, there

19 wasn't a differential diagnosis.

20 **Q. Okay. So in your view, there were no other**

21 **possibilities than what you've opined in your report?**

22 A. That's correct.

23 **Q. Okay. Why do physicians do differential**

24 **diagnoses?**

25 A. To consider other possible etiologies so that

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1 you don't miss things.

2 **Q. Did you draft the reports yourself?**

3 A. I did.

4 **Q. With no editorial input from anyone at Mr.**

5 **Ulmer's office?**

6 A. That's correct.

7 **Q. Did you put the important information you**

8 **relied upon in forming your opinions in your report?**

9 A. I believe so.

10 **Q. And you didn't leave out any important pieces**

11 **of data you relied on in forming your opinion in**

12 **drafting your report, did you?**

13 A. No.

14 **Q. And Mr. Ulmer didn't put any time constraints**

15 **on you; you were able to take as much time as you needed**

16 **to make sure your report was accurate and thorough,**

17 **right?**

18 A. That's correct.

19 **Q. Is there any other work you contend you need to**

20 **do to be prepared to express opinions to the jury in**

21 **this case?**

22 A. No, other than reviewing, again, prior to

23 trial, you know, as much of the medical records, expert

24 reports, my expert reports prior to trial.

25 **Q. So today you've told us from whatever source,**

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1 **be it your report, notes, medical records, the sources**

2 **of data on which you relied to reach your opinions,**

3 **correct?**

4 A. Yes.

5 **Q. And you carefully reviewed the medical records**

6 **including the imaging studies, right?**

7 A. I did.

8 **Q. Okay. Have you heard of the concept of**

9 **professional judgment in your practice?**

10 A. No.

11 **Q. Okay. Would you agree that two reasonable,**

12 **well-trained physicians can look at the same patient and**

13 **in the exercise of professional judgment make different**

14 **assessments about the patient?**

15 A. That's such a broad question. I think at times

16 that can happen.

17 **Q. Okay. Would you agree that two reasonable,**

18 **well-trained physicians can exercise professional**

19 **judgment and make different plans about how to proceed**

20 **in caring for the patient?**

21 A. At times that's possible.

22 **Q. Would you agree that two reasonable,**

23 **well-trained physicians can look at the same patient and**

24 **in the exercise of professional judgment make different**

25 **decisions about what recommendations or interventions to**

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1 **make?**
 2 A. That could certainly happen at times.
 3 **Q. Okay. Simply because two reasonable,**
 4 **well-trained physicians disagree about a patient's**
 5 **presentation or condition or diagnosis doesn't mean that**
 6 **one of them has fallen below the standard of care, does**
 7 **it?**
 8 A. Not by necessity. It could be, but not by
 9 necessity.
 10 **Q. Okay. What's the annual incidents of spinal**
 11 **epidural abscess in the U.S. per 100,000 patients, if**
 12 **you know?**
 13 A. I'm not aware.
 14 **Q. Do you agree that a history of recent trauma**
 15 **often masks the diagnosis of spinal epidural abscess?**
 16 A. I have not seen that.
 17 **Q. Have you ever been sued for medical**
 18 **malpractice?**
 19 A. Once.
 20 **Q. Tell me about that suit. When was it?**
 21 A. I think it was probably 15 years ago. It
 22 was -- how much detail do you want?
 23 **Q. As much detail as you can recall.**
 24 A. It was a case of a -- it was a case of a
 25 percutaneous transhepatic --

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1 THE REPORTER: I'm sorry, Doctor. Say that
 2 again.
 3 A. It was a case of a percutaneous transhepatic
 4 cholangiogram and biliary drainage. I placed a catheter
 5 into the liver and let -- part of the known complication
 6 of that is bleeding. When you put a tube about the size
 7 of this pen directly through the liver all the way --
 8 from the outside all the way through the inside, one of
 9 the complications of that is bleeding.
 10 I recognized the complication of bleeding. I
 11 let the -- I did the appropriate measures to stop the
 12 bleeding, to manipulate the catheter. The patient
 13 continued to bleed. I then emergently took the patient
 14 to a CT scanner where I diagnosed perihepatic bleeding.
 15 I stat called the ER -- called the surgeon to let them
 16 know that the patient most likely was bleeding from the
 17 puncture site, which is a known complication.
 18 The patient was then transfused, taken to the
 19 ICU where the surgeon continued not to intervene with
 20 operative intervention, which was necessary. The
 21 patient continued to bleed. Six hours later, after
 22 minimal volume resuscitation, the patient -- the surgeon
 23 decided that the case should be transferred. The lady
 24 was then transferred to a facility 45 minutes away where
 25 she died from her bleeding complications.

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1 The case went to trial, following the surgeon
 2 settling out of court, and came back as a verdict in my
 3 defense.
 4 **Q. In that case, did you contend the surgeon had**
 5 **fallen below the standard of care?**
 6 A. Yes.
 7 MRS. RUTLEDGE: Case caption and year?
 8 **Q. (BY MS. VAN PELT) What was the name of the**
 9 **case?**
 10 A. I don't know.
 11 **Q. You don't remember?**
 12 A. It was 13, 15 years ago.
 13 **Q. You don't remember the patient's name?**
 14 A. No.
 15 **Q. What's the name of the surgeon?**
 16 A. Jonathan Schwartz.
 17 **Q. I'm sure you remembered his name.**
 18 **What hospital?**
 19 A. Allegheny Valley.
 20 **Q. And what county was the court --**
 21 A. Allegheny.
 22 **Q. Allegheny County?**
 23 A. Well, you know, it was settled. I don't know.
 24 I don't know the logistics of how they do that. The
 25 hospital is in Allegheny County and his practice was in

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1 Allegheny County. I can't imagine it would be anywhere
 2 else.
 3 **Q. The lawsuit against you was filed in what**
 4 **county?**
 5 A. Allegheny.
 6 **Q. And you testified in court in the Allegheny**
 7 **courthouse?**
 8 A. Yes.
 9 **Q. All right. Knowing that there were**
 10 **complications related to the procedure you performed for**
 11 **this woman, you exercised your judgment that the benefit**
 12 **potentially outweighed the risks, correct?**
 13 A. Correct.
 14 **Q. Did you have discussions with the surgeon about**
 15 **the need for surgery?**
 16 A. I did.
 17 **Q. Did you go over the surgeon's head to challenge**
 18 **his decision to delay surgery?**
 19 A. No.
 20 **Q. Why not?**
 21 A. He was the surgical expert. I would -- I
 22 assumed he knew what was best for that patient.
 23 **Q. So you let him exercise his professional**
 24 **judgment?**
 25 A. It was out of my hands. It was under the care

1 of a surgeon. As a radiologist, I did everything I
 2 could for the patient. I transferred him to the only
 3 person that I believe could do something to help them.
 4 **Q. Okay. Doctor, those are all the questions that**
 5 **I have.**
 6 MR. ULMER: Anybody else have follow-up?
 7 MR. ORTIZ: I don't think so.
 8 MR. ULMER: Why don't you give me one second.
 9 (Short recess from 3:34 p.m. to 3:35 p.m.)
 10 MR. ULMER: We will read and sign the depo. No
 11 questions.
 12 (The deposition concluded at
 13 3:35 p.m., May 15, 2014.)

1 STATE OF COLORADO)
 2) ss. REPORTER'S CERTIFICATE
 3 COUNTY OF LARIMER)
 4 I, Andrea Ballantyne, do hereby certify that I am a
 5 Certified Shorthand Reporter and Notary Public within
 6 the State of Colorado; that previous to the commencement
 7 of the examination, the deponent was duly sworn to
 8 testify to the truth.
 9 I further certify that this deposition was taken in
 10 shorthand by me at the time and place herein set forth,
 11 that it was reduced to typewritten form, and that the
 12 foregoing constitutes a true and correct transcript.
 13 I further certify that I am not related to,
 14 employed by, nor counsel for any of the parties or
 15 attorney herein, nor otherwise interested in the result
 16 of the within action.
 17 In witness whereof, I have affixed my signature
 18 this 29th day of May, 2014.
 19 My commission expires May 20, 2017.

21 _____
 22 ANDREA BALLANTYNE
 23 216 16th Street, Suite 600
 24 Denver, Colorado 80202
 25

1 I, MARK COLELLA, do hereby certify that I have
 2 read the foregoing transcript and that the same and
 3 accompanying amendment sheets, if any, constitute a true
 4 and complete record of my testimony.

5 _____
 6 Signature of Deponent

7 () No amendments
 8 () Amendments attached

9
 10
 11 Acknowledged before me this _____ day of
 12 _____, 2014.

13
 14 Notary Public: _____

15 My Commission Expires: _____

16 Seal:
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 18
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 20
 21
 22
 23
 24 AGB
 25

1 AGREN BLANDO COURT REPORTING & VIDEO, INC.
 2 216 - 16th Street, Suite 600
 3 Denver, Colorado 80202
 4 4450 Arapahoe Avenue, Suite 100
 5 Boulder, Colorado 80303
 6 May 29, 2014
 7 G. Bryan Ulmer III, Esq.
 8 15 South Jackson Street
 9 P.O. Box 548
 10 Jackson, Wyoming 83001
 11 Re: Deposition of MARK COLELLA
 12 HEIDI THOMPSON v. CHEYENNE RADIOLOGY GROUP, et al.
 13 Civil No. 180-299
 14
 15 The aforementioned deposition is ready for reading and
 16 signing. Please attend to this matter by following ALL
 17 blanks checked below:
 18 _____ Call (303) 296.0017 and arrange with us
 19 to read and sign the deposition in our office
 20 _____XXX_ Have the deponent read your copy and sign
 21 the signature page and amendment sheets,
 22 if applicable; the signature page is attached
 23 _____ Read the enclosed copy of the deposition and
 24 sign the signature page and amendment sheets,
 25 if applicable; the signature page is attached
 26 _____XXX_ WITHIN 30 DAYS OF THE DATE OF THIS LETTER
 27 _____ Return signature page and correction sheets
 28 to court at time of trial (copies to counsel)
 29 _____ By _____ due to a trial date of _____
 30 Please be sure that the original signature page and
 31 amendment sheets, if any, are signed BEFORE A NOTARY
 32 PUBLIC and returned to Agren Blando for filing with the
 33 original deposition. A copy of these changes should
 34 also be forwarded to counsel of record. Thank you.
 35 AGREN BLANDO COURT REPORTING & VIDEO, INC.
 36 cc: All Counsel

1 AGREN BLANDO COURT REPORTING & VIDEO, INC.
216 - 16th Street, Suite 600
2 Denver, Colorado 80202
3 4450 Arapahoe Avenue, Suite 100
4 Boulder, Colorado 80303

5 MARK COLELLA
6 May 15, 2014
7 HEIDI THOMPSON vs. CHEYENNE RADIOLOGY GROUP, et al.
8 Civil No. 180-299

9 The original deposition was filed with Corinne Rutledge
10 on approximately the 29th day of May, 2014.

11 _____ Signature waived or not required

12 _____ Reading and signing was not requested by the
13 pursuant to C.R.C.P. Rule 30(e)

14 _____ Unsigned; signed signature page and change
15 sheets, if any, to be filed at trial

16 _XXX_ Unsigned; original amendment sheets and/or
17 Signature pages should be forwarded to Agren
18 Blando to be dispersed and filed in the
19 envelope attached to the sealed original

20 Thank you.

21 AGREN BLANDO COURT REPORTING & VIDEO, INC.

22 cc: All Counsel

23
24
25

1 - AMENDMENT SHEET -

2 Deposition of MARK COLELLA
3 May 15, 2014
4 HEIDI THOMPSON vs. CHEYENNE RADIOLOGY GROUP, et al.
5 Civil No. 180-299

6 The deponent wishes to make the following changes in the
7 testimony as originally given:

8	9	10	11
12	13	14	15
16	17	18	19
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____
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99	_____	_____	_____
100	_____	_____	_____

21 Signature of Deponent: _____

22 Acknowledged before me this _____ day of
23 _____, 2014.

24 Notary's signature _____

25 My commission expires _____