Nos. 18-1323, 18-1460

IN THE

Supreme Court of the United States

JUNE MEDICAL SERVICES L.L.C., et al.,

Petitioners-Cross-Respondents,

v.

REBEKAH GEE, SECRETARY, LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS,

Respondent-Cross-Petitioner.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

JOINT APPENDIX

VOLUME II

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Petition for Writ of Certiorari Filed: April 17, 2019

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The following opinions, decisions, judgments, orders, and record documents have been omitted from the joint appendix because they appear in the appendix to the petition in Case No. 18-1323 as follows:

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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JUNE MEDICAL SERVICES, L.L.C., ET AL — CIVIL ACTION

VERSUS — NO. 14-525

KATHY KLIEBERT, ET AL — HON. JOHN W. DEGRAVELLES

JUNE 22, 2015
VOLUME I OF VI

REDACTED

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BENCH TRIAL
HONORABLE JOHN W. DEGRAVELLES

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A P P E A R A N C E S

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I N D E X

PLAINTIFFS' WITNESSES:

JUNE MEDICAL V. KATHY KLIEBERT 14-CV-525-JWD-RLB 06-22-15

THE COURT: ALL RIGHT. YOU MAY BE SEATED. WE'RE HERE THIS MORNING IN THE CASE OF JUNE MEDICAL SERVICES, LLC, ET AL VERSUS KATHY KLIEBERT, ET AL. IT'S NUMBER 14-CV-525.

AND WILL COUNSEL MAKE AN APPEARANCE FOR THE RECORD?

MS. DOUFEKIAS:

YOUR HONOR, FOR PLAINTIFFS, DEMME DOUFEKIAS FROM MORRISON AND FOERSTER. I ALSO HAVE WITH ME MY COLLEAGUES, TIM GALLIVAN AND KERRY JONES ALSO FROM MORRISON AND FOERSTER.

FROM THE CENTER FOR REPRODUCTIVE RIGHTS ON BEHALF OF PLAINTIFFS WE HAVE IRENE -- ILENE JAROSLAW, DAVID BROWN, AND ZOE LEVINE.

THE COURT: THANK YOU.

FOR THE DEFENDANTS?

MR. DUNCAN: GOOD MORNING, YOUR HONOR. I'M KYLE DUNCAN FOR DEFENDANT, SECRETARY KATHY KLIEBERT. I'M JOINED BY MY COLLEAGUES -- I'M SORRY. I'M TRYING TO TALK INTO THIS THING. I'M JOINED BY MY COLLEAGUES, MIKE JOHNSON FROM THE KITCHENS LAW FIRM, ALSO STEVE ADEN AND NATALIE DECKER FROM ALLIANCE DEFENDING FREEDOM, AS WELL AS MS. CHARLOTTE BERGERON.

THE COURT: ALL RIGHT. AND, MS. BERGERON, DID YOU GET ADMITTED OR DO WE NEED TO DO THAT AT THIS MOMENT?

MS. BERGERON: YOUR HONOR, I THINK YOU JUST NEED TO SIGN MY MOTION TO ENROLL. I'VE BEEN ADMITTED, YES.

THE COURT: OKAY. SO I'LL ACCEPT THE ORAL MOTION TO ENROLL AS COUNSEL IN CONNECTION WITH THIS CASE. YOU'RE ALREADY ADMITTED TO THE MIDDLE DISTRICT, I UNDERSTAND, SO THE MOTION IS HEREBY GRANTED.

MS. BERGERON: THANK YOU.

MR. DUNCAN: THANK YOU, YOUR HONOR.

THE COURT: I'M GOING TO MAKE A FEW INTRODUCTORY REMARKS. WELCOME, FIRST OF ALL. WE HAVE A FEW -- IT LOOKS LIKE WE MAY HAVE A FEW MEMBERS OF THE PUBLIC HERE, AND WE WELCOME YOU. I DO WANT TO REMIND EVERYONE HERE, LAWYERS, PRESS, AND MEMBERS OF THE PUBLIC THAT THIS IS A COURT OF LAW AND THAT WE ARE GOING TO ABIDE BY THE RULES OF THIS COURT WITH RESPECT TO HOW THIS CASE PROCEEDS. AND THAT MEANS THAT WITH RESPECT TO WHAT HAPPENS IN THE COURT, IN THE TRIAL, WE WILL HEAR FROM LAWYERS AND WE WILL HEAR FROM WITNESSES AND WE WILL HEAR FROM THE COURT FROM TIME TO TIME, BUT THAT IS THE EXTENT OF WHO WILL BE TALKING DURING THE COURSE OF THE TRIAL.

AND WE ALSO EXPECT EVERYONE, LAWYERS INCLUDED, PARTIES AND MEMBERS OF THE PUBLIC, TO ACT WITH COURTESY AND DECORUM AND TO RESPECT THE RULES OF THIS COURT.

I WANT TO TAKE UP SOME HOUSEKEEPING MATTERS, SOME OF WHICH WE TOOK UP IN CHAMBERS BEFORE WE BEGAN THIS MORNING. THERE IS CURRENTLY PENDING BEFORE ME THE DEFENDANT'S MOTION TO RECONSIDER RULINGS ON THE MOTION FOR SUMMARY JUDGMENT, OR MOTION FOR PARTIAL SUMMARY JUDGMENT, AND MOTIONS IN LIMINE,

THAT'S DOCUMENT NUMBER 144. THAT WAS FILED A WEEK AGO LAST FRIDAY ON JUNE THE 11TH, 2015.

PLAINTIFFS WERE GIVEN UNTIL LAST TUESDAY, JUNE 16, 2015, TO FILE A RESPONSE, AND THEY DID SO IN DOCUMENT NUMBER 150. THE ISSUE IS IN THIS MOTION, OF COURSE, WHAT EFFECT, IF ANY, DOES THE RECENTLY RENDERED DECISION OF *WHOLE WOMEN'S HEALTH VERSUS COLE* DECIDED BY THE FIFTH CIRCUIT ON JUNE 9, 2015, LESS THAN TWO WEEKS AGO, HAVE ON MY EARLIER RULING WITH RESPECT TO BOTH THE MOTION FOR PARTIAL SUMMARY JUDGMENT AND THE MOTIONS IN LIMINE.

AS I ADVISED THE LAWYERS THIS MORNING, THE DEFENDANT'S MOTION, DOCUMENT 144, IS UNDER ADVISEMENT. I SIMPLY HAVE NOT HAD AN OPPORTUNITY TO -- WHILE I HAVE REVIEWED THE BRIEFS AND CERTAINLY READ VERY CAREFULLY THE FIFTH CIRCUIT'S DECISION I HAVE NOT HAD A CHANCE TO DETERMINE THE FULL EXTENT OF WHAT EFFECT THAT DECISION HAS ON THE ISSUES IN THIS SPECIFIC CASE.

AND, THEREFORE, WHAT WE'RE GOING TO DO, WHAT I'M GOING TO DO IS TO RECEIVE THE EVIDENCE IN THIS TRIAL IN ACCORDANCE WITH THE COURT'S PREVIOUS RULING AND BOTH ON THE MOTION FOR SUMMARY JUDGMENT AS WELL AS THE MOTIONS IN LIMINE. HOWEVER, THE EVIDENCE IS GOING TO BE RECEIVED SUBJECT TO THE DEFENDANT'S MOTION AND OBJECTIONS THAT WOULD FLOW FROM THAT MOTION.

IF I EVENTUALLY RULE THAT ALL OR PART OF THE

DEFENDANT'S CURRENT MOTION IS GOOD AND, THEREFORE, FOR INSTANCE, CERTAIN EVIDENCE THAT HAS BEEN OFFERED IN CONNECTION WITH THIS TRIAL IS, AS AN EXAMPLE, IRRELEVANT TO THE ISSUES THAT REMAIN IN THIS CASE, THAT WILL BE A PART OF THIS COURT'S FINAL RULING AND THE COURT WOULD NOT CONSIDER THAT EVIDENCE OFFERED IN CONNECTION WITH THAT ISSUE OR POINT.

IF, ON THE OTHER HAND, MY RULING REMAINS THE SAME AND THE EVIDENCE RECEIVED IN THIS TRIAL WITH THE COURT'S -- IN ACCORDANCE WITH THE COURT'S EARLIER RULING WILL BE CONSIDERED.

AND WE DID BRING UP, AND SOMEWHAT INGEST IN CHAMBERS, BUT I DO WANT TO MAKE SURE THAT THE RECORD IS CLEAR, GIVEN THESE LAST MINUTE SORT OF UNFOLDING DEVELOPMENTS IN THE LAW DOES EITHER SIDE WISH TO HAVE A CONTINUANCE OF THIS CASE?

MS. DOUFEKIAS: PLAINTIFFS DO NOT, YOUR HONOR.

MR. DUNCAN: DEFENDANT DOES NOT, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

I THINK WE EARLIER MENTIONED THE ISSUES OF THE DEPOSITIONS. AND I UNDERSTAND THE DEPOSITIONS WHICH WERE SUBMITTED PRETRIAL ARE GOING TO BE SUBMITTED AGAIN WITH THE EXHIBITS ATTACHED. AND SO JUST FIND THE TIME TO DO THAT SOME TIME BEFORE THE TRIAL IS OVER, BUT THE SOONER THE BETTER.

WITH RESPECT TO THE EXHIBITS, IS THERE AN OFFER -- IS THERE GOING TO BE A MOTION TO OFFER THOSE EXHIBITS -- THE JOINT EXHIBITS INTO EVIDENCE AT THIS TIME?

MS. DOUFEKIAS: YES, YOUR HONOR. THE PARTIES HAVE

HAD A NUMBER OF CONVERSATIONS OVER THE LAST FEW PROBABLY MONTHS AT THIS POINT AND HAVE AGREED ON A NUMBER OF EXHIBITS THAT ARE STIPULATED AS COMING INTO EVIDENCE IN THIS MATTER. AS I MENTIONED TO YOUR HONOR IN CHAMBERS, WE ANTICIPATE SUPPLEMENTING THIS LIST. A COPY OF THE EXHIBITS THAT I WILL MOVE INTO EVIDENCE NOW HAVE ALSO BEEN FILED WITH THE COURT, BUT AT THIS POINT, DEFENDANT'S EXHIBITS 1 THROUGH AND INCLUDING 25, DEFENDANT'S EXHIBITS 27 THROUGH AND INCLUDING 39, DEFENDANT'S EXHIBITS 41 THROUGH AND INCLUDING 47, DEFENDANT'S EXHIBIT 51, DEFENDANT'S EXHIBITS 56 THROUGH AND INCLUDING 57, DEFENDANT'S EXHIBIT 118, DEFENDANT'S EXHIBITS 138 THROUGH AND INCLUDING 140.

PLAINTIFF'S EXHIBITS 1 THROUGH AND INCLUDING 91. PLAINTIFF'S EXHIBIT 93, PLAINTIFF'S EXHIBITS 95 THROUGH AND INCLUDING 99, PLAINTIFF'S EXHIBITS 100 THROUGH AND INCLUDING 108, PLAINTIFF'S EXHIBITS 110 THROUGH AND INCLUDING 130, PLAINTIFF'S EXHIBITS 132 THROUGH AND INCLUDING 134, PLAINTIFF'S EXHIBITS 136 THROUGH AND INCLUDING 141, PLAINTIFF'S EXHIBITS 143 THROUGH AND INCLUDING 145, PLAINTIFF'S EXHIBITS 148 THROUGH AND INCLUDING 165 AND PLAINTIFF'S EXHIBITS 168 THROUGH AND INCLUDING 170 HAVE ALL BEEN STIPULATED BY THE PARTIES AS BEING ADMITTED INTO EVIDENCE.

THE COURT: ALL RIGHT. ARE THEY GOING TO BE INTRODUCED WITH THE PLAINTIFFS'/DEFENDANT'S EXHIBIT NUMBERS OR

WILL THEY HAVE A SEPARATE JOINT EXHIBIT NUMBER?

MS. DOUFEKIAS: THEY HAVE A SEPARATE JOINT EXHIBIT NUMBER, I BELIEVE. ONE SECOND, YOUR HONOR. I BELIEVE THEY ARE JOINT EXHIBIT 1 THROUGH 189.

THE COURT: ALL RIGHT. JUST SO THAT WE'RE ALL ON THE SAME PAGE, WHEN REFERRING TO THE JOINT EXHIBITS, I THINK IT WOULD BE HELPFUL JUST TO REFER TO THE JOINT EXHIBIT NUMBER IF THAT'S NOT GOING TO CREATE MUCH TURMOIL. I THINK THE RECORD WILL BE A LOT CLEARER IF WE JUST REFER TO THE JOINT EXHIBIT NUMBERS AS OPPOSED TO THE RESPECTIVE PLAINTIFF OR DEFENDANT EXHIBIT NUMBERS.

MR. DUNCAN: DEFENDANT DOESN'T HAVE ANY OBJECTION TO THIS. I JUST WANTED TO MAKE SURE I UNDERSTOOD WHAT MS. DOUFEKIAS JUST SAID. OUR LIST IS THROUGH JX JOINT EXHIBIT 185, AND I'M NOT OBJECTING TO YOURS, I JUST WANTED TO SEE YOUR LIST THAT GOES THROUGH --

THE COURT: NO. MY UNDERSTANDING IS THAT THE COURT WAS GIVEN 1 THROUGH 185. I UNDERSTAND THAT THERE WILL BE A SUPPLEMENTATION THAT WOULD INCLUDE AT LEAST 186 THROUGH 189, BUT I HAVEN'T SEEN 186 THROUGH 189 YET.

MR. DUNCAN: THAT WAS MY QUESTION. THAT'S FINE.

THE COURT: OKAY. AND THEN AS I UNDERSTAND THE RESPECTIVE PLAINTIFFS' EXHIBITS AND DEFENDANT'S EXHIBITS WHICH HAVE NOT BEEN AGREED TO, THEREFORE, NOT JOINT EXHIBITS, WILL BE INTRODUCED. AND THERE HAVE BEEN PRETRIAL SUBMISSIONS WITH

RESPECT TO OBJECTIONS AS TO THOSE. I'VE CERTAINLY LOOKED AT THE EXHIBITS IN ADVANCE OF THE TRIAL. I'M NOT PREPARED, OBVIOUSLY, TO RULE ON THOSE UNTIL THEY'RE ACTUALLY INTRODUCED AND I WILL HEAR ARGUMENT ON OBJECTIONS AS THEY ARE INTRODUCED.

YES, SIR?

MR. DUNCAN: JUST ONE MATTER ON THAT. LET ME JUST ASK, YOUR HONOR, IS IT EASIER FOR US TO WALK UP TO THE PODIUM OR TO SPEAK FROM --

THE COURT: WHATEVER IS MORE CONVENIENT. THE IMPORTANT POINT BEING TO SPEAK INTO THE MIC.

MR. DUNCAN: RIGHT. RIGHT. I'LL HAVE TO BEND DOWN REGARDLESS.

WHERE THERE ARE NEWER EXHIBITS FROM THE PLAINTIFFS -- DEFENDANT JUST WANTS TO RESERVE THE RIGHT IF THE DEFENDANT DOES HAVE AN OBJECTION THE DEFENDANT HASN'T MADE YET TO FILE AN OBJECTION WITH THE COURT. I DON'T NECESSARILY ANTICIPATE MANY OF THOSE, BUT THERE MAY BE ONE OR TWO.

THE COURT: NOT A PROBLEM.

ANY OBJECTION TO THAT PROPOSAL?

MS. DOUFEKIAS: NO, YOUR HONOR.

THE COURT: ALL RIGHT. THAT'S THE WAY IT WILL BE.

ANOTHER ITEM BY WAY OF SORT PRELIMINARIES, THE PARTIES HAVE AGREED TO A PROTECTIVE ORDER THAT PROTECTS AND MAKES CONFIDENTIAL CERTAIN DOCUMENTS AS WELL AS THE IDENTITY OF CERTAIN WITNESSES. THAT IS DOCUMENT 59 IN THE RECORD.

BOTH PARTIES HAVE SUBMITTED A LIST OF THE EXHIBITS WHICH ARE SUBJECT TO THAT PROTECTIVE ORDER, AND WE HAVE THAT LIST, HOWEVER, TO MAKE SURE THAT THE COURT HONORS AND THAT THERE ARE NO GLITCHES, I'D ASK THE PARTIES TO PLEASE LET US KNOW IF AN EXHIBIT IS INTRODUCED OR IS GOING TO BE REFERRED TO THAT'S ALREADY BEEN INTRODUCED TO MAKE SURE -- AND IT IS SUBJECT TO THE PROTECTIVE ORDER, TO PLEASE LET THE COURT KNOW. THAT EXHIBIT WILL BE SHOWN ON THE SCREEN FOR THE ATTORNEYS, THE WITNESS, AND THE COURT, BUT WILL NOT BE SHOWN TO THE PUBLIC IF IT IS SUBJECT TO THE PROTECTIVE ORDER, BUT I NEED THE ASSISTANCE OF COUNSEL TO MAKE SURE THAT WE KNOW WHICH EXHIBITS THOSE ARE BEFORE THEY GET UP ON THE SCREEN.

IS THAT FINE WITH THE PLAINTIFF?

MS. DOUFEKIAS: YES, YOUR HONOR.

THE COURT: AND THE DEFENDANT?

MR. DUNCAN: YES, YOUR HONOR.

THE COURT: PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW, I THINK WHEN WE HAD A STATUS CONFERENCE A WEEK OR SO AGO ON THIS I MENTIONED THAT I WOULD LIKE THEM AT THE END OF THE TRIAL. BOTH SIDES AT THAT TIME EXPRESSED AN INTEREST IN HAVING THE TRANSCRIPT BEFORE THEY BEGAN THE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW, WHICH IS FINE WITH ME. I DON'T THINK WE TALKED ABOUT A SPECIFIC DEADLINE AFTER THE TRANSCRIPT IS FILED, BUT I'M GOING TO ORDER THE PARTIES TO GIVE ME PROPOSED FINDINGS OF FACT AND

CONCLUSIONS OF LAW WITHIN 30 DAYS OF THE TIME THE TRANSCRIPT IS FILED. EACH PARTY WILL HAVE AN ADDITIONAL TEN DAYS THEREAFTER TO FILE ANY KIND OF RESPONSE, REBUTTAL, REPLY TO THE OTHER SIDE'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

NOW, IN CHAMBERS THERE WAS MENTION OF A MOTION FOR SEQUESTRATION. DO I HEAR A MOTION FOR SEQUESTRATION BEING FILED BY EITHER OR BOTH PARTIES?

MR. DUNCAN: YES, YOUR HONOR, DEFENDANT FILED SUCH MOTION.

THE COURT: ALL RIGHT. DO WE HAVE ANY WITNESSES IN THE COURTROOM WHO WILL TESTIFY? IT DOES NOT LOOK LIKE WE DO. SO WHAT I'M GOING TO DO IS TO ASK THE LAWYERS TO BE RESPONSIBLE FOR THEIR WITNESSES. PARTIES ARE EXEMPT, AND THAT IS TO SAY, IF YOU HAVE A CORPORATION OR AN LLC AND THE REPRESENTATIVE IS THE PARTY AND YOU HAVE TO DESIGNATE A SINGLE REPRESENTATIVE, THE PARTIES ARE EXEMPT FROM THE SEQUESTRATION RULE, EXPERT WITNESSES ARE EXEMPT FROM THE SEQUESTRATION RULE. ALL OTHERS ARE SUBJECT TO SEQUESTRATION RULES, SO MAKE SURE THAT YOUR WITNESSES WHO ARE SUBJECT TO SEQUESTRATION ARE TOLD THAT THEY CANNOT ENTER THE COURTROOM DURING THE TESTIMONY. THEY CANNOT TALK TO NONLAWYERS ABOUT THE SUBJECT MATTER OF THIS TRIAL. THEY MAY SPEAK TO LAWYERS ABOUT THE SUBJECT MATTER OF THIS TRIAL.

ALL RIGHT. ARE THERE ANY OTHER PRELIMINARY MATTERS

BEFORE WE BEGIN?

MR. DUNCAN: YES, YOUR HONOR. AND I'M HOPING I'M NOT MISUNDERSTANDING OUR CONVERSATION IN CHAMBERS ABOUT A BLANKET OBJECTION AND THE NECESSITY TO MAKE THAT. BUT LET ME JUST FOR THE RECORD MAKE A BLANKET OBJECTION FROM THE DEFENDANTS THAT ANY EVIDENCE OF THE MEDICAL REASONABLENESS OF ACT 620 IS NOT COMPETENT TO IMPUGN THE LEGISLATURE'S PURPOSE IN PASSING THE ACT NOR IS ANY EVIDENCE OF THE OPERATION OR EFFECT OF ACT 620 COMPETENT TO IMPUGN THE LEGISLATURE'S PURPOSE IN PASSING THAT ACT. AND MY OBJECTION, AS YOUR HONOR KNOWS, IS BASED ON THE RECENT FIFTH CIRCUIT DECISION IN *WHOLE WOMAN'S HEALTH V COLE* AND THE AUTHORITIES RELIED ON IN THAT DECISION.

AS I'VE EXPLAINED IN CHAMBERS, I DON'T WANT TO TRY THE COURT'S PATIENCE BY MAKING THIS OBJECTION OVER AND OVER AGAIN, BUT I BELIEVE THE PARTIES HAVE AGREED THAT A BLANKET OBJECTION WILL SUFFICE TO PRESERVE ERROR ON THAT ISSUE.

THE COURT: IS THAT CORRECT, MS. DOUFEKIAS?

MS. DOUFEKIAS: THAT'S RIGHT, YOUR HONOR.

THE COURT: ALL RIGHT. THEN THAT'S FINE. I APPRECIATE THAT EFFORT BECAUSE IT WILL CERTAINLY MAKE THE TRIAL GO QUICKER AND SMOOTHER IF WE DON'T HAVE OBJECTIONS TO EVERY BIT OF EVIDENCE. SO THAT BLANKET OBJECTION IS RECEIVED AND WILL PROTECT THE RIGHT TO PRESERVE THAT ERROR, IF INDEED IT IS AN ERROR, AT THE END OF THE DAY FOR THE PARTIES.

ANY OTHER PRELIMINARY MATTERS?

ALL RIGHT. THEN THE PLAINTIFF MAY PROCEED.

MS. DOUFEKIAS: YOUR HONOR, PLAINTIFFS CALL MS. KATHALEEN PITTMAN.

THE COURT: MS. CAUSEY, WHY DON'T YOU COME AROUND. WE HAVE AN UNUSUAL SITUATION.

MS. DOUFEKIAS, WAS MS. PITTMAN GOING TO TESTIFY WITH HER IDENTITY PROTECTED, THAT IS TO SAY BEHIND THE SCREEN, OR...

MS. DOUFEKIAS: NO, YOUR HONOR, SHE'LL BE AS THE CURTAIN IS NOW.

THE COURT: OKAY. GOOD. WELL, THEN LET'S GET MS. PITTMAN IN.

(WHEREUPON, KATHALEEN PITTMAN, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS.)

DIRECT

BY MS. DOUFEKIAS:

Q GOOD MORNING, MS. PITTMAN.

A MORNING.

Q COULD YOU PLEASE STATE YOUR NAME AND SPELL IT FOR THE RECORD FOR THE COURT REPORTER?

A KATHALEEN, K-A-T-H-A-L-E-E-N, PITTMAN, P-I-T-T-M-A-N.

Q MS. PITTMAN, WHERE DO YOU WORK?

A I WORK AT HOPE MEDICAL GROUP FOR WOMEN IN

SHREVEPORT, LOUISIANA.

Q WHAT DOES HOPE DO?

A WE ARE PRIMARILY AN ABORTION CLINIC.

Q YOU SAID HOPE IS LOCATED IN SHREVEPORT, LOUISIANA?

A YES.

Q APPROXIMATELY HOW FAR FROM NEW ORLEANS IS HOPE LOCATED?

A IN EXCESS OF 300 MILES.

Q WHAT IS YOUR JOB AT HOPE?

A I'M THE ADMINISTRATOR AND HAVE BEEN SINCE 2010.

Q CAN YOU DESCRIBE WHAT IT IS THAT YOU DO AS AN ADMINISTRATOR?

A I OVERSEE THE DAY-TO-DAY FUNCTIONS OF THE CLINIC REGARDING STAFFING, OVERSEE PATIENT CARE IN CONJUNCTION WITH THE PHYSICIANS AND NURSES. I DO THE HIRING AND FIRING.

Q DID YOU WORK AT HOPE PRIOR TO BECOMING THE ADMINISTRATOR?

A YES. I WAS INITIALLY HIRED IN 1992 AS A PART-TIME COUNSELOR.

Q AND WHAT DOES A COUNSELOR DO AT HOPE? OR WHAT DID A COUNSELOR DO AT HOPE IN 1992?

A THE COUNSELORS WOULD SIT ONE-ON-ONE WITH THE PATIENT PRIOR TO HAVING A PROCEDURE DONE, JUST TO TALK ABOUT HER SITUATION AND MAKE SURE SHE WAS COMFORTABLE WITH HER DECISION, DISCUSS WITH HER BIRTH CONTROL, BASICALLY HER OPTIONS.

Q AND HOW LONG WERE YOU A COUNSELOR AT HOPE?

A I WAS A COUNSELOR FOR APPROXIMATELY A YEAR, MAYBE TWO, BEFORE I BECAME CO-ASSISTANT ADMINISTRATOR.

Q AND WHAT DID YOU DO AS A CO-ASSISTANT ADMINISTRATOR?

A THE OTHER ASSISTANT ADMINISTRATOR AND I OVERSAW THE CLINIC FUNCTION UNDERNEATH THE ADMINISTRATOR WHO AT THAT TIME WAS ROBIN ROTHROCK. WE SUPERVISED STAFF, SCHEDULED TRAINING, HANDLED STAFF SCHEDULES.

Q DID YOU HAVE A JOB BETWEEN BEING CO-ASSISTANT ADMINISTRATOR AND BEING ADMINISTRATOR?

A YES. FOR A TIME, I WAS PATIENT SERVICES MANAGER.

Q AND WHAT DID YOU DO AS A PATIENT SERVICES MANAGER?

A VERY MUCH WHAT I DID AS ASSISTANT ADMINISTRATOR, HOWEVER, MORE OF MY FUNCTION WAS CONCENTRATED ON THE MEDICAL ASPECT OF THINGS. THE SCHEDULING, SEEING TO PATIENT CARE, AND THROUGHOUT ASSISTANT -- MY JOB AS ASSISTANT ADMINISTRATOR AND CO-ASSISTANT ADMINISTRATOR WOULD HELP WITH THE DEVELOPMENT AND WRITING OF PROTOCOLS.

Q CAN YOU DESCRIBE HOPE?

A PHYSICALLY?

Q YES.

A IT'S A FREESTANDING, ONE-STORY, TAN, BRICK BUILDING LOCATED IN A PRIMARILY RESIDENTIAL SECTION OF SHREVEPORT. IT DOESN'T EXACTLY LOOK LIKE A MEDICAL CLINIC IN THAT WE PAY A GREAT DEAL OF ATTENTION TO CREATING A WARM ATMOSPHERE FOR THE

PATIENTS AND THEIR GUESTS, I GUESS YOU WOULD SAY. ARTWORK, COUNSELING OFFICES SET UP SO THAT PATIENTS ARE COMFORTABLE AND TALKING -- IN TALKING WITH THE COUNSELORS, TALKING WITH THE PHYSICIANS AND OTHER STAFF.

Q SO YOU MENTIONED COUNSELING, BUT CAN YOU DESCRIBE THE DIFFERENT WAYS IN WHICH YOU COME INTO CONTACT WITH PATIENTS?

A OKAY. GENERALLY, I'M ON SITE CONSTANTLY CHECKING IN WITH PATIENTS. I DO STILL OCCASIONALLY DO ONE-ON-ONE COUNSELING WITH PATIENTS DEPENDING ON NEED -- YOU KNOW, IF I'M NEEDED. OR IN SOME CIRCUMSTANCES, A COUNSELOR WILL COME TO ME AND ASK FOR ASSISTANCE BECAUSE SHE'S -- FEELS THAT SHE, I GUESS, NEEDS MORE INPUT IN A SITUATION THAT A PATIENT MIGHT FIND HERSELF IN.

ON ANY GIVEN DAY, I'M CONSTANTLY CHECKING IN WITH PATIENTS WITH -- IN THE DIFFERENT AREAS OF THE CLINIC, WHETHER IT'S IN RECOVERY, EVEN IN THE FRONT WAITING ROOM, JUST CHECKING ON THE PATIENTS. IF THERE ARE ANY CONCERNS, THEN THE STAFF WOULD BRING THEM TO ME OR A PATIENT WOULD COME TO ME.

Q DO YOU HAVE OPPORTUNITIES TO DISCUSS EITHER WITH THE PATIENTS OR WITH THE STAFF SCHEDULING OF APPOINTMENTS?

A YES.

Q AND WHAT ARE THOSE DISCUSSIONS GENERALLY LIKE?

A PRIMARILY, ONCE A WOMAN HAS COME TO US AND HAS DECIDED SHE WANTS TO TERMINATE THE PREGNANCY, WE WORK WITH HER

TO SET UP A TIME FOR HER TO RETURN TO THE CLINIC. IT CAN BE PROBLEMATIC. THERE ARE ALWAYS CHILDCARE ISSUES, TRANSPORTATION ISSUES. WE -- YOU KNOW, WE'LL DO EVERYTHING WE CAN AS FAR AS HELPING THEM WORK THROUGH THAT. FOR A LOT OF THEM IT'S PROBLEMATIC BECAUSE THEY DON'T NECESSARILY HAVE THEIR OWN TRANSPORTATION OR SOMEONE THAT CAN DRIVE THEM ON DAY OF SURGERY, AT WHICH TIME THEY HAVE TO HAVE A DRIVER. THEY'RE ALREADY LOOKING AT A MINIMUM OF TWO VISITS TO THE CLINIC JUST TO HAVE THE ABORTION DONE IF IT'S A SURGICAL ABORTION, SO THERE'S A LOT ENTAILED.

I MAN THE PHONES A LOT WHEN PATIENTS ARE CALLING TO RESCHEDULE. THEY OFTENTIMES WILL HAVE A TRANSPORTATION OR CHILD CARE OR GETTING OFF WORK IN PLACE AND THEN SOMETHING HAPPENS TO CHANGE THAT. SO I WORK WITH THEM OVER THE PHONE AS WELL IN TRYING TO RESCHEDULE, MAKE SUGGESTIONS, JUST WHATEVER WE CAN.

Q CAN YOU DESCRIBE THE PATIENTS GENERALLY THAT YOU SEE AT HOPE?

A THEY COME FROM ALL SOCIAL AREAS, I GUESS YOU WOULD SAY, ALL ETHNIC BACKGROUNDS. I WILL SAY PRIMARILY THE VAST MAJORITY OF THE PATIENTS WE SEE ARE POOR. THEY -- IN THE PROCESS OF TALKING WITH THEM, I CAN TELL YOU ANYWHERE FROM 70 TO 90 PERCENT OF THEM LIVE BELOW THE FEDERAL POVERTY LEVEL.

Q AND WHAT SORTS OF THINGS DO THE PATIENTS SAY TO YOU THAT DEMONSTRATE TO YOU THAT THEY ARE POOR?

A WELL, WE TALK WITH THEM, YOU KNOW -- FIRST OF ALL, WHEN WE'RE TRYING TO ARRANGE FOR -- FOR THEIR PAYMENT FOR THEIR PROCEDURE FOR SOME WOMEN IT'S A -- EXCUSE ME -- IT'S A MATTER OF PAYING A LIGHT BILL OR COMING TO HOPE AND -- OR, YOU KNOW, BUYING GROCERIES FOR THAT MATTER, TAKING CARE OF THE RENT.

AND, I MEAN, EITHER I OR THE COUNSELOR IS LITERALLY SITTING THERE WITH THEM TALKING TO THEM TRYING TO FIGURE OUT HOW THEY CAN GET ALL OF THIS DONE GIVEN THE FACT THAT, YOU KNOW, THERE ARE THE TRANSPORTATION ISSUES. SO MANY WOMEN ARE HAVING TO PAY EXTRA JUST TO GET EVERYTHING TAKEN CARE OF TO RETURN TO US AND THEY'RE TALKING ABOUT, "WELL, I HAVE THIS AMOUNT OF MONEY BUT THIS IS DUE, MY RENT IS DUE," I MEAN, THAT'S A DAILY OCCURRENCE.

Q AND WHEN YOU FIND YOURSELF IN THOSE DISCUSSIONS, WHAT SORTS OF THINGS ARE OFFERED TO THE PATIENT?

A WE'LL TRY TO TAP INTO ANY FUNDING WE CAN. WE'LL DISCOUNT AS MUCH AS POSSIBLE. ON OCCASIONS, THE PHYSICIAN WILL WAIVE THE FEE.

Q WHERE DO HOPE'S PATIENTS COME FROM?

A THE MAJORITY OF OUR PATIENTS ARE FROM LOUISIANA, ALL OVER THE STATE, NORTH AND SOUTH. WE DO SEE WOMEN FROM TEXAS, ARKANSAS, AND MISSISSIPPI. WE DO SEE SOME MILITARY WOMEN THAT ARE IN JUST -- HAVE SOME -- HAVE -- YOU KNOW, HAVE THE SURGERY TAKEN CARE OF. BUT MOST OF THEM ARE FROM LOUISIANA.

Q APPROXIMATELY HOW MANY PATIENTS DOES HOPE SEE A YEAR?

A IN EXCESS OF 3,000.

Q AND HOW DOES THE NUMBER OF PATIENTS HOPE SAW IN 2014 COMPARE WITH THE PRIOR YEAR?

A THERE WAS A DEFINITE INCREASE.

Q DO YOU HAVE ANY IDEA WHERE THAT INCREASE CAME FROM?

A WELL, LOOKING AT OUR NUMBERS FROM WHERE OUR PATIENTS ARE COMING FROM, WE SAW A LARGE JUMP IN THE NUMBER COMING FROM TEXAS.

Q DO YOU HAVE ANY UNDERSTANDING OF THE STATE RESOURCES THAT ARE AVAILABLE TO HELP THE POOR WOMEN WHO COME TO HOPE PAY FOR SERVICES?

A OKAY. THERE ARE NONE. MEDICAID WILL NOT PAY FOR ABORTION IN THE STATE OF LOUISIANA. THERE IS A CAVEAT. THEY ARE -- MEDICAID IS SUPPOSED TO COVER IN CASES OF RAPE OR INCEST, BUT WE HAVE NEVER ATTEMPTED TO GO THAT ROUTE ON THESE PATIENTS.

Q WHY IS THAT?

A THE WOMEN ARE UNDER A LIMITED AMOUNT OF TIME WHERE THEY CAN TAKE ACTION AND ATTEMPTING TO GET MEDICAID TO PAY FOR IT WOULD BE I KNOW WAY MORE PROBLEMATIC THAN, YOU KNOW, THAN IT'S WORTH. SO WHAT WE'LL DO IN THOSE CASES IS WE'LL EITHER WAIVE THE FEE COMPLETELY OR WE'LL GET IT DOWN TO WHERE THE PATIENT IS PAYING A MINIMAL AMOUNT.

Q WHAT KIND OF INSURANCE IS AVAILABLE FOR POOR WOMEN TO PAY FOR SERVICES AT HOPE?

A GENERALLY POOR WOMEN ARE NOT GOING TO BE COVERED BY INSURANCE. THEY WOULD BE MEDICAID ELIGIBLE. BUT, AGAIN, MEDICAID WON'T PAY FOR IT.

Q MS. PITTMAN, WHEN I REFER TO DR. DOE NUMBER 1, DO YOU KNOW WHO THAT IS?

A I DO.

Q AND WHEN I REFER TO DR. DOE NUMBER 3, DO YOU KNOW WHO THAT IS?

A I DO.

Q DO DR. DOE NUMBER 1 AND DR. DOE NUMBER 3 WORK AT HOPE?

A YES.

Q AND APPROXIMATELY HOW MANY OF THE PROCEDURES PERFORMED AT HOPE DOES DR. DOE NUMBER 1 PERFORM?

A DR. DOE NUMBER 1 DOES APPROXIMATELY 70 PERCENT OF THE PROCEDURES.

Q AND DOES THAT MEAN THAT DR. DOE NUMBER 3 DOES THE REMAINING 30 PERCENT?

A YES.

Q OKAY. TO YOUR KNOWLEDGE, DOES DR. DOE NUMBER 1 CURRENTLY HAVE ADMITTING PRIVILEGES AT A HOSPITAL WITHIN 30 MILES OF HOPE?

A HE DOES NOT, NO.

Q DOES DR. DOE NUMBER 3 CURRENTLY HAVE ADMITTING PRIVILEGES WITH A HOSPITAL WITHIN 30 MILES OF HOPE?

A HE DOES.

Q WERE YOU INVOLVED IN ATTEMPTS BY DR. DOE NUMBER 1 TO OBTAIN ADMITTING PRIVILEGES AT A HOSPITAL?

A I WAS.

Q AND WHAT DID YOU DO TO HELP DR. DOE NUMBER 1?

A WITH THREE -- TWO OF THE HOSPITALS, I MADE THE INITIAL PHONE CALL TO OBTAIN A PACKET. I HELPED DR. DOE NUMBER 1 COMPILE THE INFORMATION NEEDED TO COMPLETE THE APPLICATIONS. DR. DOE NUMBER 1 HAS A CREDENTIALING FILE THAT I MAINTAIN, SO WE PULLED TOGETHER A LOT OF INFORMATION FROM THAT.

Q AND DID YOU MAKE PHONE CALLS WHEN ASKED THROUGHOUT HIS APPLICATION PROCESS TO HELP HIM OUT?

A YES, I MADE NUMEROUS PHONE CALLS.

Q HAVE YOU MADE ANY EFFORTS TO TRY AND RECRUIT DOCTORS TO HOPE OVER THE COURSE OF YOUR EMPLOYMENT AT HOPE?

A I HAVE.

Q AND WHAT'S YOUR EXPERIENCE WHEN IT COMES TO RECRUITING A PHYSICIAN TO WORK AT HOPE?

A IT'S VERY DIFFICULT. THE ATMOSPHERE FOR ABORTION PROVIDERS IN LOUISIANA IS DIFFICULT ONE MIGHT SAY. IT'S VERY DISCOURAGING. MY CONTACTS, WHENEVER I'VE SPOKEN TO SOMEONE WHO I HAPPEN TO KNOW IS VERY PRO CHOICE AND I THINK WOULD BE A

GOOD CANDIDATE, THEIR RESPONSE IS, "I DON'T EVEN WANT TO GO THERE."

Q IN YOUR UNDERSTANDING, WHY DON'T THEY WANT TO GO THERE?

A AGAIN, THE ATMOSPHERE TOWARDS ABORTION PROVIDERS, THE RESTRICTIONS PLACED ON ABORTION PROVIDERS THROUGH REGULATIONS AND IN LAW, LOUISIANA LAW.

Q ARE THERE PROTESTERS ROUTINELY IN FRONT OF HOPE?

A YES.

Q AND HAS THAT BEEN THE CASE OVER THE COURSE OF YOU WORKING AT HOPE?

A ABSOLUTELY.

Q ARE YOU AWARE OF ANY SITUATIONS IN WHICH THE CLINIC HAS BEEN THE SUBJECT OF VIOLENCE OR INTIMIDATION?

A YES. WE'VE BEEN VICTIM TO ATTEMPTED ARSON. MANY YEARS AGO, A GENTLEMAN -- OR A MAN CAME IN WITH A SLEDGEHAMMER DETERMINED TO TAKE THE BUILDING DOWN. SEVERAL YEARS AGO, WE HAD BUTYRIC ACID ATTACK. WE ROUTINELY, AS I'VE SAID, HAVE PROTESTERS. THEY TEND TO CONGREGATE MORE ON SATURDAYS, SO WE HAVE ADDITIONAL SECURITY THERE.

Q AND DO THESE EPISODES AFFECT YOUR ABILITY TO RECRUIT DOCTORS AT HOPE?

A WELL, YES. I MEAN, THAT ALONG WITH, YOU KNOW, THE NEWS -- EVERYTHING IN THE NEWS ABOUT VIOLENCE TOWARDS PROVIDERS. WE'VE HAD, WHAT, EIGHT DEATHS OF ABORTION

PROVIDERS OVER THE YEARS.

Q HAVE YOU -- IN YOUR EXPERIENCE, HAVE DOCTORS WHO PERFORM ABORTIONS IN LOUISIANA FACED PRESSURE OR THREATS TO THEIR PRACTICE OUTSIDE OF HOPE?

A ABSOLUTELY. DR. DOE NUMBER 3 HAS BEEN SUBJECT TO HARASSMENT AT HIS PRIVATE PRACTICE, AT THE HOSPITAL WHERE HE WORKS, PHONE CALLS. YEAH.

Q YOU MENTIONED THAT WHEN YOU HAVE CONVERSATIONS WITH DOCTORS WHO MIGHT BE INTERESTED IN WORKING AT HOPE THAT THEY EXPRESS CONCERNS. DO THESE EPISODES -- IS ONE OF THEIR CONCERNS THAT THEY EXPRESS THE IMPACT ON THE REST OF THEIR PRACTICE?

A ABSOLUTELY.

Q HAVE YOU MADE ANY EFFORTS RECENTLY TO RECRUIT DOCTORS AT HOPE?

A I HAVE. I HAVE -- YES.

Q AND WERE THOSE RECRUITING EFFORTS A RESULT OF THE PASSAGE OF ACT 620?

A YES.

Q HAS THE FACT THAT A DOCTOR MUST NOW HAVE ADMITTING PRIVILEGES TO PERFORM SURGERIES AT A HOSPITAL WITHIN 30 MILES FROM HOPE MADE IT HARDER TO RECRUIT DOCTORS?

A IT DEFINITELY HAS. ONE PERSON I CONTACT IN THE RECRUITMENT PROCESS HAS A PROGRAM FOR MATCHING PHYSICIANS TO DIFFERENT STATES, AND SHE CONTACTED ME LAST MONTH, SHE HAD

SOMEONE INTERESTED, BUT BECAUSE OF THE ADMITTING PRIVILEGES, IT WAS A NO-GO.

Q MS. PITTMAN, WHAT KINDS OF COMPLICATIONS CAN OCCUR AS A RESULT OF AN ABORTION TO YOUR KNOWLEDGE?

A OKAY. THERE'S THE RISK OF INFECTION, RETAINED TISSUE, INCOMPLETE ABORTION, HEMORRHAGE, INFECTION.

Q AND HOW IS INFORMATION ABOUT THESE COMPLICATIONS COLLECTED BY THE CLINIC?

A HOW IS IT COLLECTED? THROUGH CHART REVIEW WHEN WE'RE PREPARING THE INDUCED TERMINATION OF PREGNANCY REPORT.

Q AND THAT'S A REPORT THAT NEEDS TO BE FILED WITH THE STATE?

A YES. THROUGH -- TO VITAL RECORDS.

Q HOW OFTEN HAVE -- IN YOUR EXPERIENCE IN 23 YEARS AT HOPE, HOW OFTEN HAVE HOPE PATIENTS REQUIRED HOSPITALIZATION?

A FOUR THAT I THINK I CAN RECALL. A COUPLE OF THEM, IT'S BEEN SO LONG, THERE'S NO RECORD ANYMORE. SO TWO DEFINITE ONES THAT I CAN RECALL IN THE PAST FEW YEARS.

Q AND IF -- SO HOW IS THE DETERMINATION MADE THAT A PATIENT NEEDS TO BE TRANSFERRED TO A HOSPITAL?

A THAT IS THE CALL MADE BY THE PHYSICIAN.

Q AND SO CAN YOU WALK ME THROUGH THE PROCESS OF WHAT WILL HAPPEN?

A OKAY. SAY, FOR INSTANCE, IF FOR ANY REASON THE PHYSICIAN DECIDES A PATIENT NEEDS TO BE TRANSPORTED, HE'LL

HAVE A STAFF MEMBER ALERT ME BECAUSE I MIGHT NOT NECESSARILY BE IN THE BACK WHERE SURGERIES ARE. ONE EMPLOYEE WILL BE TOLD TO CALL FOR EMERGENCY TRANSPORT. IN THE MEANTIME, I'M COLLECTING INFORMATION IN THE PATIENT'S CHART SO THAT THE PATIENT'S CHART, A COPY OF IT CAN BE SENT WITH THE PATIENT TO THE HOSPITAL, AND THE PHYSICIAN, ASSUMING THE PATIENT IS STABLE, WHICH HAS ALWAYS BEEN THE CASE, IS ON THE PHONE OR HAVING ONE OF US ON THE PHONE CONTACTING THE HOSPITAL TO TALK TO THE ATTENDING AT THE HOSPITAL TO LET THEM KNOW WHAT'S COMING OVER, THAT WE'RE SENDING HER CHART, AND WHAT THE PRIMARY COMPLICATION IS.

Q WILL THE DOCTOR SPEAK WITH THE ATTENDING PHYSICIAN AT THE HOSPITAL?

A YES.

Q WHEN PATIENTS ARE TOLD -- BEFORE PATIENTS LEAVE THE CLINIC AFTER A PROCEDURE, WHAT KIND OF INFORMATION ARE THEY GIVEN?

A THEY'RE REVIEWED AGAIN WITH -- THEIR AFTERCARE INSTRUCTIONS ARE REVIEWED WITH THEM AGAIN. THEY'RE TOLD TO MONITOR BLEEDING, TEMPERATURE. IF THEY HAVE ANY CONCERNS, THEY'RE TO CALL US.

AS OF LAST YEAR, WE'RE REQUIRED BY LAW TO INCLUDE THE NAME AND PHONE NUMBER OF THE NEAREST HOSPITAL TO THEM. WE DON'T NECESSARILY TELL THEM TO CALL THE HOSPITAL, BECAUSE IF SOMEONE CALLS THE HOSPITAL IN AN EMERGENCY, THEY'RE GOING TO

TELL THEM TO HANG UP AND DIAL 911.

Q HOW OFTEN IS THE HOSPITAL NEAREST TO THE PATIENT WITHIN 30 MILES OF HOPE?

A NOT THAT OFTEN BECAUSE OF THE BROAD AREA FROM WHICH OUR PATIENTS COME. I MEAN SOME LIVE LOCALLY, BUT A LOT OF THEM COME FROM, YOU KNOW, TWO TO FOUR HOURS AWAY.

Q ARE THE PATIENTS PROVIDED WITH A TELEPHONE NUMBER FOR THE CLINIC?

A YES.

Q AND DURING WHAT HOURS IS SOMEONE AVAILABLE THROUGH THAT PHONE?

A WE'RE AVAILABLE 24/7.

Q AND IF A PATIENT CALLS THAT TELEPHONE NUMBER AT 2:00 IN THE MORNING, WHO WOULD THEY SPEAK TO?

A THEY WOULD SPEAK TO THE PERSON TAKING CALL, WHICH WOULD BE THE ASSISTANT ADMINISTRATOR OR MYSELF.

Q AND IS THAT TRUE FOR ANY TIME THAT THE CLINIC IS NOT OPEN?

A YES, THAT'S TRUE.

Q AND IF YOU RECEIVE THAT CALL, WHAT WILL YOU DO?

A WELL, FIRST OF ALL, I WOULD FIND OUT WHAT -- WHAT THE CALL IS ABOUT, WHAT THE CONCERN IS. IT'S SUPPOSED TO BE AN EMERGENCY 24 HOUR LINE, BUT WHAT CONSTITUTES AN EMERGENCY FOR A PATIENT MIGHT NOT NECESSARILY BE A MEDICAL EMERGENCY. SO IT'S A MATTER OF JUST ADDRESSING WHATEVER QUESTION SHE HAS.

IF NEEDED, I'LL CONTACT THE PHYSICIAN.

Q WHAT SORTS OF THINGS DO THE PATIENTS CALL ABOUT THAT ARE NOT MEDICAL EMERGENCIES?

A WHEN DO I START MY BIRTH CONTROL PILL, I FORGOT? IS IT OKAY THAT I'M NOT BLEEDING? OR IS IT OKAY THAT I'M NOT BLEEDING VERY MUCH? IS IT OKAY THAT I STOPPED BLEEDING AND NOW I'M BLEEDING? THOSE ARE THE MOST COMMON.

Q DOES ANYONE OTHER THAN YOU OR THE ASSISTANT CLINIC ADMINISTRATOR TAKE CALL WITH THAT NUMBER?

A NOT AFTER-HOURS CALL. IF SOMEONE CALLS ROUTINELY DURING THE DAY, THEY MAY HAVE QUESTIONS, BUT...

Q BUT THE AFTER-HOURS CALL -- THE AFTER-HOURS LINE IS MANNED BY YOU AND THE ASSISTANT ADMINISTRATOR?

A YES.

Q AND DO YOU AND THE ASSISTANT ADMINISTRATOR HAVE ACCESS TO ONE OF THE DOCTORS AT ALL TIMES?

A WE DO.

Q YOU MENTIONED AFTER CARE INSTRUCTIONS?

A YES.

Q CAN YOU PLEASE EXPLAIN WHAT AFTER CARE INSTRUCTIONS ARE?

A WHEN A PATIENT FIRST COMES INTO THE CLINIC AND DECIDES THAT SHE WANTS A PREGNANCY TERMINATED, ONE OF THE THINGS THE PRIMARY COUNSELOR IS GOING TO DISCUSS WITH HER IS HOW TO TAKE CARE OF HERSELF AFTER THE PROCEDURE IS DONE.

ON THAT DAY, SHE REVIEWS WITH HER WHAT TO EXPECT AFTER THE SURGERY, OR EVEN AFTER THE PILL, DEPENDING ON THE METHOD, AND THEN AGAIN WHEN SHE RETURNS FOR THE PROCEDURE ITSELF. BEFORE SHE LEAVES THE CLINIC THAT DAY, IT'S REVIEWED ONCE AGAIN.

Q AND WILL SHE TAKE A COPY OF THESE INSTRUCTIONS WITH HER?

A YES.

Q IS SHE REQUIRED TO SIGN THESE INSTRUCTIONS?

A YES, WE REQUIRE THAT.

Q MS. PITTMAN, YOU TESTIFIED THAT TO YOUR UNDERSTANDING DR. DOE NUMBER 1 CURRENTLY DOES NOT HAVE PRIVILEGES?

A YES.

Q IF DR. DOE NUMBER 1 IS NOT ABLE TO OBTAIN PRIVILEGES, HOW WILL THAT AFFECT THE CLINIC?

A IT WOULD BE DEVASTATING. DR. DOE NUMBER 3 IS MAXED OUT AS FAR AS THE AMOUNT OF TIME HE CAN CONTRIBUTE TO THE CLINIC. ALSO -- EXCUSE ME -- BECAUSE HE WOULD BE, I GUESS, LAST MAN STANDING, SO TO SPEAK, I'M NOT SURE HE WOULD BE WILLING TO EVEN CONTINUE TO WORK WITH US.

Q AND IF DR. DOE NUMBER 3 DID NOT CONTINUE TO WORK WITH HOPE, WHAT AFFECT WOULD THAT HAVE ON HOPE?

A WE WOULD CLOSE.

MS. DOUFEKIAS: I HAVE NOTHING FURTHER.

THE COURT: CROSS EXAMINATION?

CROSS EXAMINATION

BY MR. JOHNSON:

Q THANK YOU FOR BEING HERE, MS. PITTMAN. CAN YOU TELL US BRIEFLY ABOUT YOUR EDUCATIONAL BACKGROUND? YOU HAVE A BACHELOR'S DEGREE; IS THAT CORRECT?

A I DO. I HAVE A BACHELOR'S FROM THE UNIVERSITY OF LOUISIANA AT MONROE. AT THE TIME, IT WAS NORTHEAST LOUISIANA UNIVERSITY.

Q AND YOUR DEGREE IS IN CORRECTIONS; CORRECT?

A THAT IS CORRECT.

Q SO YOU HAVE NO FORMAL MEDICAL TRAINING OR CERTIFICATIONS?

A NO.

Q YOU'VE BEEN EMPLOYED AT HOPE SINCE 1992; IS THAT RIGHT?

A THAT'S RIGHT.

Q YOU WERE COUNSELING DIRECTOR, THEN PATIENT SERVICES MANAGER FOR SEVERAL YEARS, AND THEN HAVE BEEN CLINIC ADMINISTRATOR SINCE 2010; CORRECT?

A PRETTY MUCH, CORRECT. THERE HAVE BEEN SOME CHANGES -- DIFFERENT CHANGES. I WAS PART-TIME COUNSELOR, A CO-ASSISTANT ADMINISTRATOR, PATIENT SERVICES MANAGER, AND THEN ADMINISTRATOR.

Q NOW THE HOPE CLINIC CURRENTLY HAS APPROXIMATELY 20

EMPLOYEES; IS THAT RIGHT?

A ACTUALLY, COUNTING MYSELF, THERE ARE 26.

Q TWENTY-SIX EMPLOYEES. AND IS THAT MORE EMPLOYEES THAN HOPE HAS HAD IN THE PAST?

A YES, IT IS.

Q AND THAT'S BECAUSE THE CURRENT VOLUME OF PATIENTS REQUIRES MORE CLINIC STAFF TODAY THAN IT DID AT TIMES IN THE PAST; IS THAT RIGHT?

A PARTLY. THE OTHER PART IS REQUIREMENT BY RECENT LAW OR RECENT CLINIC REGULATIONS THAT REQUIRE A NURSE TO BE IN THE O.R. WITH A PHYSICIAN IN ADDITION -- INSTEAD OF THE MEDICAL ASSISTANT. FOR THAT REASON, I DID HAVE TO BRING ON A COUPLE OF MORE NURSES.

Q BUT YOU'VE TESTIFIED, HAVE YOU NOT, THAT YOU HAVE A HIGHER VOLUME OF PATIENTS TODAY THAN YOU DID IN YEARS PAST; IS THAT ACCURATE?

A IT HAS INCREASED AND THEN DROPPED AND THEN INCREASED, YES.

Q NOW, THE HOPE CLINIC CURRENTLY PROVIDES ABORTION PROCEDURES JUST THREE DAYS A WEEK; IS THAT RIGHT?

A THAT IS RIGHT.

Q BUT THERE WAS A TIME A YEAR OR TWO AGO WHEN YOU PROVIDED AN EXTRA DAY FOR NONSURGICAL PROCEDURES FOR A TOTAL OF FOUR DAYS OF PROCEDURES PER WEEK; IS THAT RIGHT?

A THAT'S RIGHT.

Q AND YOUR VOLUME OF BUSINESS IS SOMEWHAT CYCLICAL, BUT YOUR BUSIEST MONTHS TEND TO BE THE WINTER MONTHS; IS THAT RIGHT?

A THAT'S RIGHT.

Q SO WOULD YOU JANUARY, FEBRUARY, MARCH ARE A HIGHER VOLUME OF PATIENTS?

A TRADITIONALLY.

Q AND ON BUSY DAYS, THE HOPE CLINIC MAY PROVIDE UP TO THIRTY ABORTIONS OR MORE; IS THAT RIGHT?

A THAT'S RIGHT.

Q MS. PITTMAN, DO YOU BELIEVE YOUR CURRENT STAFF CAN HANDLE THAT VOLUME COMFORTABLY?

A YES.

Q AND I BELIEVE YOU'VE TESTIFIED, IN FACT, THAT IF YOUR CLINIC HAD MORE PHYSICAL SPACE FOR ALL OF THE LOGISTICS IT'S TRUE THAT YOU COULD PROVIDE EVEN MORE PROCEDURES IN A SINGLE DAY; ISN'T THAT RIGHT?

A POSSIBLY. THE RESTRICTIONS ARE NOT JUST THAT, THOUGH. IT'S PHYSICIAN TIME.

Q UH-HUH. BUT HOPE CLINIC COULD HANDLE ALMOST TWICE AS MANY IN A DAY AS 30; IS THAT RIGHT? ASSUMING YOU HAD -- THE DEMAND EXISTED AND YOU SCHEDULED EVERYTHING CAREFULLY; IS THAT RIGHT?

A YES.

Q SO THAT WOULD BE UP TO 60 ABORTIONS IN A DAY?

A POSSIBLY. THAT'S QUITE A BIT, THOUGH.
Q WELL -- WELL, I'LL LEAVE IT AT THAT. NOW, HOPE CLINIC DOESN'T HAVE A LARGE ADVERTISING BUDGET, DOES IT?
A WE DO NOT.
Q IN FACT, DO YOU ADVERTISE AT ALL?
A WE ADVERTISE THROUGH THE YELLOW PAGES. WE DO HAVE A WEBSITE.
Q ASIDE FROM THE YELLOW PAGES AD, WHICH IS ANNUAL; IS THAT RIGHT?
A WELL, I MEAN, WE ADVERTISE IN DIFFERENT VOLUMES ALL OVER THE STATE.
Q THE VARIOUS PHONE BOOKS; CORRECT?
A THAT'S RENEWED ANNUALLY, YES.
Q BUT ASIDE FROM THAT, YOU DON'T DO RADIO, TELEVISION, OR PRINT MEDIA ADVERTISING; CORRECT?
A WE DO NOT.
Q AND YOU SEE PATIENTS FROM A BROAD ETHNIC BACKGROUND YOU TESTIFIED; IS THAT RIGHT?
A YES.
Q AND A BROAD GEOGRAPHIC REGION AS WELL?
A WE DO.
Q SO YOUR PATIENTS COME FROM ARKANSAS, TEXAS, MISSISSIPPI? THAT'S RIGHT?
A YES.
Q AND OKLAHOMA, AS WELL?

A WE DO OCCASIONALLY HAVE PATIENTS FROM OKLAHOMA.
Q MOST OF YOUR PATIENTS ARE LOUISIANA RESIDENTS, BUT SOME DO DRIVE FROM ACROSS THE STATE YOU TESTIFIED; IS THAT RIGHT?
A YES.
Q NOW, YOU TESTIFIED A MOMENT AGO THAT A CERTAIN PERCENTAGE, I THINK IT WAS A VERY SPECIFIC PERCENTAGE, IF I HEARD YOU RIGHT, OF YOUR PATIENTS ARE BELOW THE FEDERAL POVERTY LEVEL; IS THAT CORRECT?
A THAT'S CORRECT.
Q WHAT NUMBER DID YOU USE A MOMENT AGO?
A ANYWHERE FROM 70 TO 90 PERCENT, YOU KNOW, IT CHANGES FROM DAY TO DAY.
Q I'M CURIOUS TO KNOW HOW YOU CAME TO THAT FIGURE.
A THROUGH DISCUSSIONS WITH THE PATIENTS. THIS IS THROUGH SELF-REPORTING ON THEIR INCOME, THEIR FAMILY SITUATION.
Q IS THAT -- SELF-REPORTING ON THEIR INCOME, IS THAT -- ARE THOSE NUMBERS CONTAINED ON A FORM THAT YOU COLLECT FROM EACH PATIENT?
A SOME OF IT IS, YES.
Q SO YOU DOCUMENT THEIR ANNUAL INCOME ON YOUR FORMS?
A MONTHLY INCOME.
Q AND DO YOU REVIEW THEIR TAX RETURNS OR OTHER FINANCIAL DATA?

A WE DO NOT.
Q SO IT'S -- IT'S REALLY JUST SORT OF A SUBJECTIVE DETERMINATION ON YOUR PART; IS THAT RIGHT?
A IT'S REPORTED BY THE PATIENT.
Q BUT, I MEAN, THE FIGURES THAT YOU'VE DERIVED BETWEEN 70 AND 90 PERCENT --
A YES.
Q -- YOU SAY ARE BELOW THE FEDERAL POVERTY LEVEL. THAT'S YOUR NUMBER; CORRECT?
A YES.
Q AND YOU HAVE NO BACKGROUND IN ACCOUNTING; RIGHT?
A I DO NOT.
Q OKAY. HOPE CLINIC PROVIDES ONLY FIRST TRIMESTER ABORTIONS OR WHAT WOULD BE REFERRED TO IN LAYMAN'S TERMS AS FIRST TRIMESTER ABORTIONS; IS THAT RIGHT?
A THAT'S CORRECT.
Q AND WHAT'S THE LATEST --
A EXCUSE ME. WE DO EARLY SECOND TRIMESTER.
Q OKAY. SO WHAT'S THE LATEST GESTATIONAL AGE THAT A PROCEDURE CAN BE OBTAINED AT HOPE?
A SIXTEEN WEEKS SIX DAYS.
Q AND WHO SET THAT NUMBER?
A THAT IS OUR MEDICAL DIRECTOR'S DECISION.
Q AND DO YOU HAVE ANY INFORMATION AS TO WHY THAT WAS THE LIMIT THAT WAS SET?

A THAT IS HIS PERSONAL PREFERENCE AS FAR AS WHAT HE WANTS TO DO.

Q NOW, IF HIS PERSONAL PREFERENCE CHANGED, YOU COULD DO ABORTIONS LATER TERM; CORRECT?

MS. DOUFEKIAS: OBJECTION, YOUR HONOR.

THE COURT: WHAT'S THE OBJECTION?

MS. DOUFEKIAS: ASKING ABOUT THE STATE OF MIND OF ANOTHER PERSON, "IF HIS PERSONAL PREFERENCE CHANGED."

THE COURT: I'LL OVERRULE.

YOU MAY PROCEED.

BY MR. JOHNSON:

Q YOU CAN ANSWER THE QUESTION.

A WOULD YOU REPEAT IT, PLEASE?

Q YES, MA'AM.

IF THE PERSONAL PREFERENCES OF YOUR PHYSICIAN CHANGED, WOULD HE BE ABLE, SO FAR AS YOU KNOW, TO DO LATER TERMED ABORTIONS AT HOPE?

A HE COULD, YES. WHETHER WE WOULD ACTUALLY DO THAT, I DON'T KNOW. THAT WOULD BE A DECISION THAT MORE THAN HE WOULD MAKE, ACTUALLY. WE WOULD -- WE WOULD HAVE TO DISCUSS THAT.

Q OKAY. YOU TESTIFIED A FEW MOMENTS AGO ABOUT THE TYPICAL COMPLICATIONS OR MAYBE COMMON COMPLICATIONS THAT MIGHT BE EXPECTED WITH THE ABORTION PROCEDURE; RIGHT?

A THE UNCOMMON COMPLICATIONS, ACTUALLY.

Q OKAY. WHAT ARE THOSE LIST OF COMPLICATIONS AGAIN,

JUST QUICKLY?

A OKAY. COMPLICATIONS ARE RARE, BUT WHEN THEY DO OCCUR THEY CAN INCLUDE RISK OF INFECTION, RISK OF HEMORRHAGE, RISK OF RETAINED TISSUE, RISK OF INCOMPLETE ABORTION, RISK OF PERFORATION.

Q AND AMONG THAT LIST OF THE, AS YOU SAY, UNCOMMON COMPLICATIONS, WHAT WOULD BE THE MORE FREQUENT OR THE MORE COMMON AMONG THAT LIST?

A PROBABLY -- WELL, IT WOULD BE RISK OF RETAINED TISSUE.

Q NOW, OF THE LIST OF COMPLICATIONS THAT ARE POSSIBLE, YOU'VE PERSONALLY SEEN OR BEEN INVOLVED WITH THOSE ON A NUMBER OF OCCASIONS IN EACH CATEGORY; CORRECT?

A YES.

Q SO, FOR EXAMPLE, WITH RETAINED TISSUE FOR EITHER AN ABORTION PROVIDED WITH THE ABORTION PILL OR SUCTION CURETTAGE, YOU'VE SEEN A NUMBER OF THOSE SITUATIONS; CORRECT?

A YES. I NEED TO BACKTRACK. I DON'T THINK I'VE EVER SEEN INFECTION. YOU ASKED IF I HAD BEEN A PART OF ALL OF THOSE COMPLICATIONS, AND I DON'T RECALL INFECTION EVER BEING A PROBLEM.

Q OKAY. SO YOU DON'T KNOW OF ANY CASE IN YOUR HISTORY AT THE HOPE CLINIC OF A PATIENT EVER EXPERIENCING AN INFECTION?

A NOT RELATED TO ABORTION NO.

Q OKAY. ALL RIGHT. SO LET'S TAKE INFECTION OFF THE LIST.

BUT IN TERMS OF RETAINED TISSUE, YOU HAVE SEEN THAT A NUMBER OF TIMES; CORRECT?

A I HAVE.

Q OKAY. WOULD YOU SAY THAT THAT'S THE MOST FREQUENT OF POSSIBLE COMPLICATIONS --

A YES.

Q -- THAT YOU'VE SEEN?

A YES.

Q AND IN TERMS OF HEAVY BLEEDING OR HEMORRHAGE, CAN YOU REMEMBER PARTICULAR INCIDENTS OF THAT THAT YOU'VE SEEN OR BEEN INVOLVED WITH?

A I CAN. I CANNOT GIVE YOU DATES. THAT'S NOT A VERY -- I MEAN THAT'S EVEN MORE RARE, BUT I'VE SEEN IT HAPPEN.

Q WOULD YOU SAY THAT YOU'VE SEEN MAYBE FIVE PARTICULAR INCIDENTS IN THE LAST COUPLE OF YEARS?

A IN THE LAST HOW LONG?

Q COUPLE OF YEARS. THREE YEARS, LET'S SAY.

A NO. IT WOULD HAVE BEEN LONGER THAN THAT, PROBABLY. I MEAN, I WOULD SAY FOUR OR FIVE IN THE LAST FIVE YEARS, AND THAT'S PROBABLY THE BEST I CAN NARROW IT DOWN.

Q OKAY. AND PERFORATION IS A SERIOUS POTENTIAL COMPLICATION; CORRECT?

A IT CAN BE, YES.

Q AND PERFORATION OF THE UTERUS COULD BE LIFE-THREATENING, COULD IT NOT?

A IT COULD IF LEFT UNATTENDED.

Q AND YOU'VE SEEN OR KNOW OF EXAMPLES OF PERFORATED UTERUSES IN -- AT HOPE?

A I CAN RECALL TWO OVER THE YEARS. ONE HAS BEEN SO LONG AGO WE WOULD NO LONGER HAVE A CHART. THERE WAS A PERFORATION. AND I BELIEVE IN 2012, THERE WAS -- THERE WAS A PERFORATION -- OR A SUSPECTED PERFORATION, I BELIEVE. I'M NOT SURE THAT -- WHAT THE FINAL OUTCOME ON THAT WAS.

Q AND THE PERFORATION THAT YOU'RE REFERRING TO THERE, THAT WAS BY DOE NUMBER 3; CORRECT?

A NO. DR. DOE NUMBER 1 IN 2012.

Q OKAY. BUT HAS DR. DOE NUMBER 3 EVER EXPERIENCED A PERFORATION THAT YOU KNOW OF?

A YES. I'M PRETTY SURE I KNOW OF ONE, BUT IT'S BEEN MANY, MANY YEARS AGO.

Q AND HOW MANY YEARS HAS DR. DOE NUMBER 3 BEEN PRACTICING ABORTION -- PERFORMING ABORTIONS?

A SINCE PROBABLY 1981.

Q SO WOULD YOU SAY DR. DOE NUMBER 3 IS THE MOST EXPERIENCED PHYSICIAN THAT WORKS AT HOPE WITH REGARD TO THIS PROCEDURE?

A YES.

Q SO COMPLICATIONS ARE POSSIBLE EVEN FOR THE MOST

EXPERIENCED PHYSICIANS; IS THAT RIGHT?

A CERTAINLY.

Q DO ALL COMPLICATIONS REQUIRE IMMEDIATE HOSPITAL TRANSFER?

A NO. THAT'S VERY, VERY RARE.

Q AND SO IT'S POSSIBLE, THEN, THAT SOME COMPLICATIONS MIGHT LEAD TO THE NECESSITY OF HOSPITALIZATION ON THE DAY FOLLOWING A PROCEDURE; CORRECT?

A IT'S POSSIBLE.

Q OR PERHAPS TWO OR THREE DAYS LATER; CORRECT?

A OR A WEEK LATER. IT'S POSSIBLE.

Q UH-HUH. IN TERMS OF FOLLOW-UP WITH YOUR PATIENTS, I THINK IT'S ROUTINE, IS IT NOT, AT HOPE, THAT EACH WOMAN IS SCHEDULED FOR AN APPOINTMENT THAT FALLS APPROXIMATELY THREE WEEKS AFTER HER PROCEDURE; IS THAT RIGHT?

A THAT'S CORRECT.

Q AND WHY IS THAT SET AT THREE WEEKS?

A FOR ONE THING, WE WANT TO ALLOW TIME FOR THE PREGNANCY HORMONE TO DISSIPATE, OTHERWISE, THE FIRST THING WE'RE GOING TO DO IS RUN A POSITIVE URINE PREGNANCY TEST ON HER. THAT ALSO ALLOWS TIME FOR HER TO SEE IF SHE'S HAVING ANY ISSUES, ANY PROBLEMS THAT SHE NEEDS TO CHECK IN WITH US ABOUT. IT ALLOWS TIME FOR HER TO REGROUP AND COME BACK. BY THEN, SHE'S ALREADY ON HER BIRTH CONTROL. SHOULD SHE HAVE ANY ISSUES WITH HER BIRTH CONTROL, WE CAN ADDRESS IT THEN.

Q AND EVERYTHING THAT YOU'VE JUST EXPLAINED IS EXPLAINED TO THE PATIENT BEFORE SHE DEPARTS FROM THE CLINIC; IS THAT RIGHT?

A RIGHT.

Q AND IS IT EMPHASIZED THAT THIS THREE WEEK IMPORTANT -- THIS THREE WEEK RETURN VISIT IS VERY IMPORTANT?

A IT'S IMPORTANT. WE DO NOT REQUIRE IT OF SURGICAL PATIENTS. WE DO REQUIRE IT OF PATIENTS WHO HAVE A MEDICAL ABORTION.

Q AND BECAUSE IT'S NOT REQUIRED, A LARGE NUMBER OF YOUR PATIENTS ACTUALLY DO NOT RETURN FOR THAT SCHEDULED FOLLOW-UP; ISN'T THAT RIGHT?

A NO. OFTENTIMES THEY WILL RUN A URINE PREGNANCY TEST EITHER THE DAY BEFORE OR THE DAY OF THEIR SCHEDULED APPOINTMENT AND CALL US AND TELL US, "I'M FINE, IT'S NEGATIVE. THANK YOU VERY MUCH."

Q OKAY. AND IN THOSE CASES, THEY ACTUALLY DO NOT PHYSICALLY RETURN TO THE CLINIC; CORRECT?

A THEY DO NOT.

Q AND IN SOME -- IT'S TRUE, IS IT NOT, THAT SOME PATIENTS DON'T MAKE THAT FOLLOW-UP PHONE CALL TO YOU; CORRECT?

A THEY DO NOT.

Q IN FACT, A PRETTY HIGH NUMBER OF YOUR PATIENTS DON'T FOLLOW-UP AT ALL; ISN'T THAT RIGHT?

A I'M NOT SURE OF THE NUMBERS IN REGARD TO SURGICAL

PATIENTS, BUT IT'S POSSIBLE.

Q IT'S POSSIBLE. IN FACT, FOR SOME OF THE WOMEN, YOU MAY NEVER SEE OR HEAR FROM THEM AGAIN AFTER THEY LEAVE YOUR CLINIC AFTER THE PROCEDURE; ISN'T THAT RIGHT?

A THAT'S RIGHT.

Q AND IT'S TRUE THAT SOME PATIENTS SIMPLY FAIL TO FOLLOW-UP EITHER BY TELEPHONE OR IN PERSON; CORRECT?

A YES.

Q AND THAT'S PARTICULARLY TRUE FOR THOSE WHO OBTAIN A SURGICAL ABORTION; IS THAT RIGHT?

A CORRECT.

Q AND WHY IS THAT THE CASE, DO YOU THINK?

A BECAUSE THEY KNOW WE ARE NOT QUITE AS STRICT ON THE FOLLOW-UP WITH THEM. THEY KNOW THEY -- YOU KNOW, THEY KNOW THEY CAN CALL US IF THEY HAVE ANY ISSUE, SO WE'RE THERE. WITH THE MEDICAL ABORTION, IT'S SOMEWHAT DIFFERENT.

Q SO, FOR EXAMPLE, LET'S TAKE THE SITUATION OF A POSTOPERATION INFECTION. AND YOU TESTIFIED A FEW MOMENTS AGO YOU'RE NOT AWARE OF ANY; CORRECT?

A UH-HUH.

Q SO IF A PATIENT DID NOT CONTACT YOU AND FOLLOW-UP AND REPORT TO YOU, YOU WOULD NOT KNOW FOR CERTAIN IF THEY ACTUALLY HAD AN INFECTION; CORRECT?

A TRUE.

Q BUT IF INFECTION DOES OCCUR, YOU'RE REQUIRED TO

REPORT THAT ON THE ITOP FORM, ARE YOU NOT?

A CORRECT.

Q AND WHAT DOES ITOP STAND FOR?

A INDUCED TERMINATION OF PREGNANCY.

Q AND WHAT DOES THAT FORM -- WHAT DOES THAT INCLUDE, THAT FORM?

A IT INCLUDES BACKGROUND INFORMATION ON THE PATIENT, AGE, PLACE OF RESIDENCE, TYPE OF PROCEDURE DONE, SOME MEDICAL BACKGROUND. THE TYPE OF PROCEDURE DONE. THINGS OF THAT NATURE.

Q AND THE ITOP HAS TO BE SIGNED BY THE PHYSICIAN THAT PERFORMS THE ABORTION; IS THAT RIGHT?

A YES.

Q NOW, IN TERMS OF THE CHRONOLOGY, WHEN IS THE ITOP COMPLETED AND SUBMITTED TO THE STATE FOLLOWING A PROCEDURE?

A FOLLOWING A PROCEDURE, THE ITOP IS GENERALLY COMPLETED WITHIN TWO TO THREE DAYS. USUALLY THE NEXT DAY -- NEXT BUSINESS DAY, IT'S COMPLETED. FROM THERE IT'S SUBMITTED TO THE PHYSICIAN -- ALL OF THIS IS DONE ONLINE, BY THE WAY. SO IT'S THEN SUBMITTED TO THE PHYSICIAN FOR CERTIFICATION, WHICH IS WHEN THEIR SIGNATURE WILL GO ON IT. AND THEN FROM THERE, THE PHYSICIAN WILL CERTIFY AND IT'S SUBMITTED TO THE STATE.

Q AND THAT FINAL SUBMISSION TO THE STATE TYPICALLY OCCURS HOW MANY DAYS POSTOP?

A TO THE STATE, I DON'T KNOW, BECAUSE THE PHYSICIAN IS HANDLING THAT END OF IT.

Q OKAY. NOW, IF A PATIENT EXPERIENCES A COMPLICATION ON, LET'S SAY, DAY 3 FOLLOWING HER PROCEDURE, AS YOU'VE JUST DESCRIBED, THE ITOP HAS ALREADY BEEN COMPLETED AND THE BOX -- CORRECT?

A YES.

Q AND THE BOX THAT INDICATES WHETHER OR NOT THERE WAS A COMPLICATION HAS ALREADY BEEN CHECKED OR NOT CHECKED; CORRECT?

A RIGHT.

Q SO IF YOU DETERMINE LATER THAT A PATIENT HAD EXPERIENCED A COMPLICATION, WOULD YOU GO BACK AND AMEND THE ITOP?

A YES. IT CAN'T BE DONE ONLINE. OR I'M NOT AWARE THAT IT CAN. WHAT WE DO IS KEEP A COPY OF THE ITOP IN THE PATIENT FILE SO IF A COMPLICATION IS REPORTED AFTER THE FACT, WE LITERALLY HANDWRITE "AMENDED" ON IT, HAVE THE PHYSICIAN SIGN IT, AND THEN SUBMIT IT VIA MAIL TO VITAL RECORDS.

Q AND HOW MANY TIMES HAVE YOU DONE THAT, WHAT YOU'VE JUST DESCRIBED, IN THE LAST FIVE YEARS?

A I HAVE NO IDEA. I MEAN, IT'S NOT FREQUENT. I CAN TELL YOU MONTHS MAY GO BY BEFORE I NEED -- I HAVE TO DO IT. SO I CAN'T GIVE YOU A NUMBER. AND I WILL TELL YOU OVER THE LAST PROBABLY THREE MONTHS, I HAVE NOT BEEN PREPARING AS MANY

AS I TRADITIONALLY HAVE. TWO OTHER EMPLOYEES HAVE BEEN PRIMARILY DOING THEM.

Q OKAY. BUT THE STANDARD CUSTOM PROCEDURE AT THE HOPE CLINIC IS THAT AN ITOP IS COMPLETED THE DAY FOLLOWING THE PROCEDURE; CORRECT?

A UH-HUH.

Q AND YOU DON'T KNOW OF ANY COMPLICATIONS AT THAT POINT, TYPICALLY; CORRECT?

A WHAT WE WOULD KNOW OF WOULD BE ANY COMPLICATIONS REPORTED BY THE PHYSICIAN. ON THAT, IT MIGHT NOT NECESSARILY BE WHAT THE STATE WOULD CONSIDER A COMPLICATION, BUT, FOR INSTANCE, IF A PHYSICIAN IS CONCERNED ABOUT THERE BEING SOME RETAINED TISSUE OR INCOMPLETE ABORTION, THE PHYSICIAN MAY ORDER ADDITIONAL BLOOD WORK AND THAT ITOP IS GOING TO REFLECT SERUM BETA TO FOLLOW-UP ON THAT ITOP.

Q I UNDERSTAND. SO IT STANDS TO REASON, THEN, THAT SOME OF THE ITOP FORMS WHICH STATE NO COMPLICATION ARE BASED MERELY UPON THE CLINIC'S ASSUMPTIONS THAT THERE WERE NO COMPLICATIONS RATHER THAN AN ACTUAL FOLLOW-UP OR EXAM OF THE PATIENT; ISN'T THAT RIGHT?

A I WOULD SAY MORE BASED ON OUR KNOWLEDGE AT THAT TIME.

Q OKAY. BUT IF YOU DON'T ACTUALLY FOLLOW-UP WITH THE PATIENT AND SEE HER PHYSICALLY OR TALK WITH HER ON THE PHONE, HOW COULD YOU POSSIBLY KNOW WHETHER SHE EXPERIENCED A POSTOP

COMPLICATION?

A IN MY EXPERIENCE, WHICH HAS BEEN OVER MANY YEARS, IF A PATIENT HAS A PROBLEM, THAT PATIENT IS GOING TO CONTACT US FOR TWO REASONS. ONE, WE'RE NOT GOING TO CHARGE HER FOR ANY CARE. SECONDLY, IF SHE GOES TO HER OWN PHYSICIAN, HER OWN PHYSICIAN IS GOING TO SAY, "YOU NEED TO FOLLOW-UP WITH HOPE." SO I WOULD FIND IT VERY UNUSUAL FOR A PATIENT TO HAVE A COMPLICATION THAT IS NOT ULTIMATELY REPORTED BACK TO US ONE WAY OR THE OTHER.

Q SO, AGAIN, YOU ASSUME THAT IF SHE DOES NOT CONTACT YOU THEN SHE HAD NO COMPLICATION; CORRECT?

MS. DOUFEKIAS: OBJECTION, YOUR HONOR.

THE COURT: WHAT'S THE OBJECTION?

MS. DOUFEKIAS: SHE'S NOT BASING IT ON AN ASSUMPTION, SHE'S BASING IT ON HER KNOWLEDGE. HE MISCHARACTERIZED HER TESTIMONY.

THE COURT: THAT'S THE QUESTION.

OVERRULED.

BY MR. JOHNSON:

Q IT IS YOUR ASSUMPTION, THEN; CORRECT, IF YOU'VE NOT SPOKEN TO THAT PATIENT AFTER SHE DEPARTS THE CLINIC --

A BASED ON MY EXPERIENCE, YES.

Q OKAY. AN EDUCATED ASSUMPTION THEN?

A YES.

Q ALL RIGHT. WHAT I'M TRYING TO GET AT HERE, I THINK

YOU UNDERSTAND, IS IF YOU NEVER SEE OR HEAR AGAIN FROM MANY OF THE WOMEN WHO LEAVE YOUR CLINIC AFTER A PROCEDURE, IT'S NOT ACTUALLY POSSIBLE TO SAY WITH ANY DEGREE OF REAL CERTAINTY EXACTLY HOW MANY COMPLICATIONS HAVE BEEN EXPERIENCED BY YOUR THOUSANDS OF PATIENTS OVER THE YEARS, IS IT?

A THAT IS TRUE.

Q NOW, BECAUSE YOU TESTIFIED A MOMENT AGO THAT NOT ALL COMPLICATIONS REQUIRE IMMEDIATE HOSPITAL TRANSFER, SOME REQUIRE TRANSFER TO A HOSPITAL AT SOME POINT AFTER THE FACT; CORRECT?

A TRANSFER MAY NOT BE A GOOD WORD FOR IT. ADMISSION MAY BE A BETTER WORD FOR IT.

Q SO IT'S POSSIBLE THAT A WOMAN CAN OBTAIN A PROCEDURE AND THEN NEED TO BE ADMITTED FOR A COMPLICATION TO A HOSPITAL SOME DAYS AFTER THE PROCEDURE; CORRECT?

A THAT IS POSSIBLE.

Q LET'S TAKE, FOR EXAMPLE, AN INFECTION THAT LEADS TO SEPSIS, FOR EXAMPLE. IT MIGHT TAKE A COUPLE OF DAYS FOR THAT TO SET IN; RIGHT?

A UH-HUH.

Q AND IF THE TOXEMIA OR THE SEPSIS IN HER BODY BECAME SEVERE ENOUGH, SHE MIGHT NEED TO BE ADMITTED TO A HOSPITAL, PERHAPS BACK HOME IN HER HOMETOWN; CORRECT?

A CORRECT.

Q AND YOU WOULDN'T NECESSARILY KNOW ABOUT THAT, WOULD

YOU?

A ACTUALLY, THE HOSPITAL WOULD CONTACT US ASKING FOR PATIENT RECORDS.

Q OKAY. WOULD THAT HAPPEN IN EVERY CASE?

A I CAN'T IMAGINE IT NOT, BUT THEN I CAN'T SPEAK FOR THE HOSPITALS.

Q NOW, WHAT IF A WOMAN WAS, I DON'T KNOW, HAVING AN EMOTIONAL ISSUE OR WAS ASHAMED IN SOMEWAY FOR WHAT SHE HAD DONE AND SHE DID NOT INFORM THE HOSPITAL WHERE SHE WAS ADMITTED ABOUT THE WAY THAT SHE CONTACTED THE SEPSIS OR THE INFECTION?

MS. DOUFEKIAS: OBJECTION, YOUR HONOR.

THE COURT: WHAT IS IT?

MS. DOUFEKIAS: ARGUMENTATIVE.

THE COURT: OVERRULED.

BY MR. JOHNSON:

Q IF A WOMAN PRESENTED IN THAT SITUATION AND DID NOT INFORM THE HOSPITAL IN HER HOMETOWN WHERE SHE OBTAINED THE INFECTION, YOU WOULD NOT KNOW ABOUT THE SITUATION, THEN, WOULD YOU?

A I SUPPOSE NOT.

Q MS. PITTMAN, LET ME ASK YOU TO REFER TO A DOCUMENT.

MR. JOHNSON: AND THIS, I BELIEVE, IS PROTECTED, FOR EVERYONE'S INFORMATION. THIS IS DEFENDANT'S EXHIBIT 141. IF WE CAN GET THAT UP ON THE SCREEN. AND I THINK YOU'LL BE ABLE

TO SEE IT THERE.

MS. DOUFEKIAS: OBJECTION, YOUR HONOR. IF IT'S CONFIDENTIAL, IT SHOULDN'T BE ON THE SCREEN.

MR. JOHNSON: WELL, SHE HAS TO SEE IT ON HER SCREEN; RIGHT?

THE COURT: RIGHT. JUST SO THAT THE RECORD'S CLEAR, IF IT IS CONFIDENTIAL IT'S GOING TO BE SEEN ON THE SCREEN OF THE ATTORNEYS, THE COURT, AND THE WITNESS ONLY.

MS. DOUFEKIAS: I'M SORRY, YOUR HONOR. DOES COUNSEL HAVE A JOINT EXHIBIT NUMBER FOR THAT?

THE COURT: YEAH. I'M LOOKING.

MR. JOHNSON: ACTUALLY, THIS -- I'M NOT SURE THIS IS A JOINT EXHIBIT. IT'S JUST DEFENDANT'S EXHIBIT 141.

BY MR. JOHNSON:

Q AND, MS. PITTMAN, WHAT YOU'LL BE SEEING THERE ON YOUR SCREEN, I HOPE, IS A DOCUMENT THAT'S ENTITLED, "PLAINTIFF JUNE MEDICAL SERVICE, LLC'S, RESPONSES AND OBJECTIONS TO DEFENDANT'S FIRST SET OF INTERROGATORIES AND FIRST SET OF REQUEST FOR PRODUCTION." DO YOU SEE THAT?

THE WITNESS: YES.

BY MR. JOHNSON:

Q AND JUNE MEDICAL SERVICES, LLC, DOES BUSINESS AS HOPE MEDICAL CLINIC -- OR HOPE MEDICAL GROUP; CORRECT?

A YES.

Q OKAY. SO THAT'S YOUR FACILITY; RIGHT?

A YES, IT IS.
Q NOW, THIS WAS YOUR FACILITY'S RESPONSES TO THE STATE'S WRITTEN DISCOVERY; IS THAT RIGHT?
A THAT'S RIGHT.
MS. DOUFEKIAS: OBJECTION, YOUR HONOR. HE HASN'T ESTABLISHED SHE'S EVER SEEN THE DOCUMENT.
BY MR. JOHNSON:
Q HAVE YOU SEEN THIS DOCUMENT BEFORE? TAKE A MOMENT IF YOU NEED TO.
A I BELIEVE SO.
THE COURT: I'M SORRY. I DIDN'T HEAR YOU, MS. PITTMAN.
THE WITNESS: I BELIEVE SO.
BY MR. JOHNSON:
Q MS. PITTMAN --
A WHO IS IN CHARGE OF SCROLL HERE?
Q OH.
A I MEAN, I CAN SEE A TITLE. THAT'S ALL I CAN SEE.
Q OKAY. NOW, WE'RE ROLLING. WE'RE ROLLING.
A SLOW IT DOWN, PLEASE.
Q NOW, MS. PITTMAN, THIS IS, I'LL SUBMIT TO YOU AND YOU TELL ME IF THIS CHARACTERIZATION IS INACCURATE. BUT THIS PURPORTS TO BE THE DOCUMENT SUBMITTED BY YOUR COUNSEL THAT WAS YOUR RESPONSES OR YOUR CLINIC'S RESPONSES TO OUR WRITTEN DISCOVERY, WHICH I THINK YOU HAD A HAND IN, DID YOU NOT?

A I DID.

Q SO YOU ASSISTED IN ANSWERING THESE QUESTIONS; CORRECT?

A YES.

Q DID ANYONE ELSE ASSIST YOU IN ANSWERING THESE QUESTIONS? DID DR. DOE NUMBER 3?

MS. DOUFEKIAS: YOUR HONOR, I'M GOING TO OBJECT BECAUSE SHE HASN'T ACTUALLY HAD A CHANCE TO LOOK AT THE DOCUMENT AND THERE ARE PAPER COPIES IN FRONT OF HER IF SHE'S MORE COMFORTABLE WITH THAT.

THE COURT: YEAH. I THINK PROBABLY, GIVEN THE -- WE HAVE A MULTIPAGE DOCUMENT HERE, SO WHY DON'T WE LET HER LOOK AT THE ACTUAL DOCUMENT FOR A FEW MINUTES AND THEN YOU CAN SCROLL TO THE SPECIFIC QUESTION OR ANSWER YOU WANT TO TALK ABOUT.

MR. JOHNSON: THANK YOU.

THE WITNESS: I'VE GOT A LOT HERE.

THE COURT: DO YOU HAVE THAT, MS. PITTMAN? DO YOU HAVE THE DOCUMENT ITSELF?

MR. JOHNSON: I CAN -- I CAN GIVE YOU --

THE WITNESS: THE PAPER DOCUMENTS? THERE'S SEVERAL BOOKS HERE.

THE COURT: I JUST THINK IT WOULD BE QUICKER IF WE JUST PROVIDED HER WITH A HARD COPY TO LET HER LOOK AT FOR A MOMENT.

MR. JOHNSON: YOUR HONOR, MAY I APPROACH THE WITNESS?

THE COURT: YES, YOU MAY.

BY MR. JOHNSON:

Q MS. PITTMAN, I'VE JUST HANDED YOU A PAPER COPY OF THIS EXHIBIT. DO YOU HAVE THAT IN YOUR HAND THERE?

A I DO.

Q SO JUST TAKE A MOMENT, IF YOU NEED TO, TO FLIP THROUGH THAT.

A OKAY.

Q DOES THAT LOOK FAMILIAR TO YOU?

A IT DOES.

Q OKAY. AND THIS IS THE DOCUMENT THAT, AT LEAST IN SOME MEASURE, YOU ASSISTED IN THE PREPARATION OF; CORRECT?

A I DID.

Q SO YOU PROVIDED MANY OF THE ANSWERS OR THE BASIS FOR THE ANSWERS IN THIS DOCUMENT; RIGHT?

A I DID.

Q COULD YOU LOOK AT PAGE 9 OF THAT DOCUMENT FOR ME WHERE YOU WILL SEE THAT INTERROGATORY NUMBER 3 IS LISTED THERE. DO YOU SEE THAT?

A UH-HUH.

Q ABOUT MIDWAY THROUGH THE PAGE.

A YES.

Q AND INTERROGATORY NUMBER 3 ASKS A QUESTION -- AND

I'M JUST GOING TO --

MR. JOHNSON: UNLESS COUNSEL OBJECTS, I'M JUST GOING TO QUOTE INTERROGATORY NUMBER 3A BECAUSE I DON'T THINK THAT'S PRIVILEGED?

MS. DOUFEKIAS: YOUR HONOR, THE DOCUMENT IS NOT IN EVIDENCE.

THE COURT: I'M SORRY?

MS. DOUFEKIAS: THE DOCUMENT IS NOT IN EVIDENCE.

MR. JOHNSON: OH. WELL, YOUR HONOR, WE WOULD LIKE TO SUBMIT THIS DOCUMENT, IT'S DEFENDANT EXHIBIT 141, INTO EVIDENCE AT THIS TIME.

THE COURT: ANY OBJECTION?

MS. DOUFEKIAS: NO OBJECTION, YOUR HONOR.

THE COURT: ALL RIGHT. LET IT BE RECEIVED.

MR. JOHNSON: THANK YOU. AND IF YOUR HONOR WILL PERMIT, I JUST WOULD LIKE TO READ TO THE WITNESS INTERROGATORY NUMBER 3, JUST THE SUBPARAGRAPH A?

THE COURT: ANY OBJECTION.

MS. DOUFEKIAS: I'M SORRY, YOUR HONOR?

THE COURT: ANY OBJECTION?

MS. DOUFEKIAS: I APOLOGIZE. I DIDN'T HEAR THE OBJECTION.

THE COURT: THE QUESTION IS HE WANTS TO READ 3A TO THE WITNESS AND THEN, I SUPPOSE, SOME FOLLOW-UP QUESTIONS. DO YOU HAVE ANY OBJECTION TO HIM DOING THAT?

MS. DOUFEKIAS: I DON'T HAVE ANY OBJECTION TO HIM DOING THAT. I WOULD LIKE TO SAY THAT IF WE COULD JUST PUT THAT IT'S DEFENDANT'S EXHIBIT 141 ON THE RECORD. I DON'T THINK THAT WAS CLEARLY ENTERED. JUST FOR THE SAKE OF THE RECORD.

THE COURT: I'M SORRY, MS. DOUFEKIAS, I DIDN'T UNDERSTAND YOU. WHAT DID YOU SAY?

MS. DOUFEKIAS: WHEN COUNSEL MOVED THE DOCUMENT INTO EVIDENCE, HE DIDN'T REFER THE EXHIBIT NUMBER, SO I JUST WANT TO IDENTIFY --

THE COURT: OKAY. ALL RIGHT.

SO THE RECORD IS CLEAR, MR. JOHNSON MOVED INTO EVIDENCE DEFENDANT EXHIBIT 141. IT IS RECEIVED INTO EVIDENCE WITHOUT OBJECTION.

YOU MAY READ 3A.

MR. JOHNSON: THANK YOU, YOUR HONOR.

BY MR. JOHNSON:

Q AND SO, MS. PITTMAN, IT SAYS THERE -- YOU CAN READ ALONG WITH ME -- "WITH REGARD TO THE ALLEGATIONS MADE IN PARAGRAPH 19 OF YOUR COMPLAINT" -- AND YOU KNOW WHAT DOCUMENT THAT REFERS TO; CORRECT? YOU KNOW WHAT THE COMPLAINT IS IN THIS CASE?

A OKAY. I'M CONFUSED. YOU WERE -- WE WERE DISCUSSING ONE OTHER THING.

Q I'M SORRY. I'M ON PAGE 9 OF THE DOCUMENT IN YOUR

HAND. MIDWAY THROUGH THE PAGE --

A OKAY. UH-HUH.

Q -- IT SAYS, "INTERROGATORY NUMBER 3" IN BOLD DO YOU SEE THAT?

A YES.

Q OKAY. AND I'M JUST READING FROM THE FIRST SENTENCE THERE, IT SAYS, "WITH REGARD TO THE ALLEGATIONS MADE IN PARAGRAPH 19 OF YOUR COMPLAINT." DO YOU SEE THAT?

A YES.

Q NOW, THE COMPLAINT REFERS TO THE LAWSUIT FILED IN THIS CASE, DOES IT NOT?

A YES.

Q OKAY. AND THAT COMPLAINT WAS REVIEWED BY YOU BEFORE IT WAS FILED?

A YES.

Q AND YOU AGREED WITH WHAT WAS STATED THERE; CORRECT?

A TO THE BEST OF MY KNOWLEDGE, YEAH.

Q SO I'M READING AGAIN. "WITH REGARD TO THE ALLEGATIONS MADE IN PARAGRAPH 19 OF YOUR COMPLAINT, PLEASE DESCRIBE THE FOLLOWING." SUBPART A, "ON WHAT BASIS AND DOCUMENTATION YOU HAVE ALLEGED THAT, QUOTE, AT PLAINTIFF OVER THE LAST 20 YEARS JUST 0.007 PERCENT OF PATIENTS EXPERIENCED COMPLICATIONS REQUIRING HOSPITALIZATION, UNQUOTE." DO YOU SEE THAT?

A YES.

Q OKAY. NOW, FLIP OVER, IF YOU WILL, TO THE ANSWER ON THE NEXT PAGE. IT'S PAGE 10 OF THE DOCUMENT IN YOUR HAND.

AND THE SECOND PARAGRAPH THERE IS WHAT I WANT TO DRAW YOUR ATTENTION TO. AND THE ANSWER PROVIDED --

MR. JOHNSON: YOUR HONOR, I'D LIKE TO JUST READ TO HER THE SECOND PARAGRAPH THERE ON THAT PAGE UNLESS THERE'S AN OBJECTION.

MS. DOUFEKIAS: YOUR HONOR, WHY CAN'T HE JUST DIRECT HER TO READ IT AND THEN HE CAN ASK HIS QUESTION?

MR. JOHNSON: CAN SHE READ IT INTO THE RECORD?

MS. DOUFEKIAS: IF THE DOCUMENT IS IN EVIDENCE, WHY DOES SHE HAVE TO READ IT INTO --

MR. JOHNSON: WELL, BECAUSE I'VE GOT TO ASK HER A SPECIFIC QUESTION ABOUT THE EXACT WORDING OF THIS RESPONSE.

THE COURT: ALL RIGHT. WHY DON'T YOU ASK THE WITNESS TO READ IT SILENTLY. I WILL READ IT AT THE SAME TIME SO THAT THE FOLLOW-UP QUESTIONS MAKE SENSE TO ME.

MR. JOHNSON: THANK YOU, YOUR HONOR.

BY MR. JOHNSON:

Q OKAY, MS. PITTMAN, WOULD YOU READ THAT SECOND PARAGRAPH THERE ON PAGE 10?

A OKAY.

Q NOW, WITHOUT MY QUOTING THAT INTO THE RECORD, LET ME JUST DRAW YOUR ATTENTION TO THE OPERATIVE PHRASE THERE. AND IT SAYS THAT THE NUMBER 0.007 PERCENT WAS DERIVED BY A

PARTICULAR FORMULA THAT YOU ALL CAME UP WITH; IS THAT RIGHT?

A CORRECT.

Q AND THE FORMULA IS BASED ON DIVIDING THE TOTAL NUMBER OF PATIENTS REQUIRING DIRECT HOSPITAL TRANSFER; IS THAT CORRECT?

A CORRECT.

Q NOW, YOU TESTIFIED A FEW MOMENTS AGO THAT NOT ALL COMPLICATIONS REQUIRE DIRECT HOSPITAL TRANSFER; ISN'T THAT RIGHT?

A THAT'S RIGHT.

Q OKAY. SO BY DEFINITION, THE NARROW DEFINITION THAT YOU JUST READ IN THAT CALCULATION, THAT FORMULA, LEAVES OUT MANY WOMEN, DOESN'T IT?

A IT COULD.

Q AND, IN FACT, IT WOULD LEAVE OUT ANY WOMAN WHO LEAVES THE HOPE CLINIC AND SEEKS CARE OR HAS A FRIEND DRIVE HER TO AN ER SOMEWHERE ELSE AT ANY POINT FOLLOWING HER EXIT OUT YOUR BACK DOOR; ISN'T THAT RIGHT?

A THEORETICALLY.

Q I'M DONE WITH THAT EXHIBIT YOU'LL BE HAPPY TO SAY. JUST PUT IT OVER TO THE SIDE.

MS. PITTMAN, YOU'RE INVOLVED IN THE ANNUAL LICENSING REVIEW BY THE DEPARTMENT OF HEALTH AND HOSPITALS HEALTH STANDARDS AT YOUR CLINIC; ISN'T THAT RIGHT?

A I AM.

Q AND THAT'S BEEN HAPPENING EACH YEAR SINCE 2004?
A CORRECT.
Q WHO CONDUCTS THOSE REVIEWS ON BEHALF OF DHH? IS IT RNS? WHO ACTUALLY COMES TO --
A WHO ARE THE SURVEYORS?
Q YES, MA'AM. WHO ARE THE SURVEYORS?
A ACTUALLY, I'M NOT ENTIRELY SURE WHAT THEIR BACKGROUND IS. I'VE ALWAYS ASSUMED THEY'RE REGISTERED NURSES OR HAVE SOME NURSING BACKGROUND.
Q AND WHAT DO YOU BASE THAT ASSUMPTION UPON?
A BASED ON THE QUESTIONS THEY ASK. AND ON A COUPLE OF THEM I DO RECALL SEEING "RN" BEHIND THEIR NAME, BUT NOT NECESSARILY ALL OF THEM.
Q OKAY. NOW, ARE YOU ALWAYS THE PERSON AT HOPE THAT DEALS WITH THE HANDLING OF THE SURVEYORS?
A I AM.
Q SO YOU EFFECTIVELY SERVE AS THEIR HOST WHEN THEY'RE ON SITE; CORRECT?
A I AM.
Q HOSTESS. AND YOU WOULD ALSO BE INVOLVED IN ANY INVESTIGATION THAT WAS CONDUCTED PURSUANT TO A COMPLAINT REGISTERED TO DHH; CORRECT?
A YES, I WOULD.
Q AND HOPE CLINIC HAS BEEN CITED A NUMBER OF TIMES OVER THE YEARS FOR DEFICIENCIES AND IRREGULARITIES; ISN'T THAT

RIGHT?

A WE HAVE BEEN.

Q AND YOUR POLICIES AND PROTOCOLS HAVE BEEN QUESTIONED ON SEVERAL OCCASIONS; ISN'T THAT RIGHT?

A QUESTIONED AND AMENDED TO SATISFY DEPARTMENT OF HEALTH AND HOSPITALS.

Q OKAY. AND IN SOME OF THOSE INSTANCES, DHH HAS STATED CONCERNS ABOUT VARIOUS ASPECTS OF PATIENT SAFETY; ISN'T THAT RIGHT?

A THEY HAVE STATED, YES.

Q I WANT TO ASK YOU ABOUT A COUPLE OF THOSE EXAMPLES, AND SO THERE ARE ABOUT FIVE EXHIBITS THAT I AM GOING TO NEED TO DRAW YOUR ATTENTION TO.

MR. JOHNSON: MAYBE I SHOULD ASK THE COURT OR -- IS IT MS. CAUSEY? DOES SHE HAVE THE DEFENDANT'S EXHIBIT NOTEBOOK THERE; DOES ANYBODY KNOW? I MEAN, I CAN TRANSPORT THEM EACH TIME, BUT...

BY MR. JOHNSON:

Q DO YOU HAVE A NOTEBOOK THERE THAT'S LABELED DEFENDANT'S EXHIBITS?

THE CLERK: THE ONLY EXHIBIT BOOKS THAT THEY HAVE IS JOINT AND THE PLAINTIFF. THAT'S THE PLAINTIFF'S STUFF THAT'S UP THERE.

THE COURT: OKAY. WHAT MS. CAUSEY ADVISES IS THAT THE WITNESS HAS THE JOINT EXHIBIT BOOKS AND THE PLAINTIFFS'

BUT NOT THE DEFENDANT'S EXHIBIT BOOKS, SO IF YOU WANT TO...

MR. JOHNSON: I'LL BORROW A NOTEBOOK IF THAT'S OKAY. MAY I APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YES, YOU MAY.

BY MR. JOHNSON:

Q MS. PITTMAN, I'VE JUST HANDED YOU A GIANT NOTEBOOK OF EXHIBITS. I APOLOGIZE FOR THE VOLUME OF IT. BUT YOU'LL SEE THAT THERE ARE TABS ALONG THE SIDE. THIS IS THE DEFENDANT'S EXHIBIT BOOK. AND I WANT TO HAVE YOU FLIP, IF YOU WOULD, TO NUMBER 93, DOCUMENT NUMBER 93, DEFENDANT'S EXHIBIT 93. AND THIS IS A CONFIDENTIAL EXHIBIT.

A OKAY.

MR. JOHNSON: YOUR HONOR, WE'D LIKE TO ADMIT THIS INTO EVIDENCE, IF IT'S NOT ALREADY, DEFENDANT EXHIBIT 93?

THE COURT: ANY OBJECTIONS?

MS. DOUFEKIAS: HE HASN'T LAID ANY FOUNDATION FOR IT, YOUR HONOR.

MR. JOHNSON: OKAY. YOUR HONOR, THIS IS A LETTER --

BY MR. JOHNSON:

Q MS. PITTMAN, THIS PURPORTS TO BE A LETTER THAT DHH SENT TO YOUR CLINIC DATED SEPTEMBER 3RD, 2010. DO YOU RECOGNIZE THAT DOCUMENT?

A IT APPEARS TO BE PART OF THE CORRESPONDENCE I RECEIVED THAT DAY.

Q OKAY. SO IT DOES LOOK FAMILIAR TO YOU?

A YES.

Q AND IT'S A LETTER ADDRESSED -- IT'S ON DEPARTMENT OF HEALTH AND HOSPITALS LETTERHEAD AND IT'S ADDRESSED TO ROBIN ROTHROCK, WHO WAS THE ADMINISTRATOR OF THE HOPE CLINIC AT THAT TIME; IS THAT CORRECT?

A THAT'S CORRECT.

Q AND IT PURPORTS TO BE DISCUSSION ABOUT AN IMMEDIATE SUSPENSION OF --

MS. DOUFEKIAS: OBJECTION, YOUR HONOR.

MR. JOHNSON: I'M TRYING TO DESCRIBE THE DOCUMENT, YOUR HONOR, SO I CAN ENTER IT INTO EVIDENCE.

THE COURT: I'M SORRY. GO AHEAD, MS. DOUFEKIAS.

MS. DOUFEKIAS: IT'S NOT HIS JOB TO DESCRIBE THE DOCUMENT. IT'S HIS JOB TO LAY A FOUNDATION FOR THE DOCUMENT.

THE COURT: WELL, I THINK THERE'S NO WAY HE CAN DO IT WITHOUT DESCRIBING IT. AND I THINK WE HAD THE ISSUE EARLIER ABOUT CHARACTERIZING WHAT THE DOCUMENT SAYS VERSUS QUOTING WHAT THE DOCUMENT SAYS. AND I THINK IF YOU FEEL THAT HE'S RUNNING AFOUL OF THAT, LET US KNOW AND WE'LL PUT THE EARPHONES ON. BUT I DON'T SEE HOW HE CAN REALLY, FOR THE RECORD, DO THIS WITHOUT SOMEHOW CHARACTERIZING THE DOCUMENT.

SO I'M GOING TO OVERRULE THE OBJECTION, BUT PLEASE STAY TUNED. HIGHLY TUNED.

MR. JOHNSON: I'LL BE AS CAREFUL AS I CAN. YOUR HONOR, BASED UPON THAT CRYPTIC FOUNDATION, WE'D LIKE TO MOVE

TO ENTER THIS INTO EVIDENCE IF POSSIBLE?

THE COURT: ANY OBJECTION?

MS. DOUFEKIAS: YES, YOUR HONOR. THE TESTIMONY HAS BEEN THAT THIS IS PART OF SOMETHING THE WITNESS MAY HAVE RECEIVED. THE DOCUMENT ALSO STATES THAT THERE ARE ENCLOSURES WHICH ARE NOT INCLUDED WITH THE EXHIBIT, SO I DON'T BELIEVE THE FOUNDATION'S BEEN LAID FOR THIS DOCUMENT, AND I THINK THAT IT'S AT BEST INCOMPLETE.

MR. JOHNSON: NO ATTENTION OF ASKING ABOUT THE ENCLOSURES, YOUR HONOR, JUST THE LETTER ITSELF.

THE COURT: ALL RIGHT. THEN PROCEED.

IT'S OVERRULED, AND YOU MAY PROCEED.

BY MR. JOHNSON:

Q ALL RIGHT. NOW, MS. PITTMAN, WE'RE UNDER A PROTECTIVE ORDER IN THIS CASE, AS YOU KNOW, AND THIS DOCUMENT THAT WE'RE BOTH LOOKING AT IS DEEMED CONFIDENTIAL, SO I CAN'T QUOTE FROM THE LETTER. SO IT MAY BE OF SOME DIFFICULTY, BUT I JUST NEED TO ASK YOU ABOUT THE CONTENT WITHOUT EITHER YOU OR I QUOTING FROM IT INTO THE RECORD. DOES THAT MAKE SENSE? AS HARD AS THAT MAY BE.

SO THIS PURPORTS TO BE, DOES IT NOT, A LETTER REGARDING THE IMMEDIATE SUSPENSION OF THE LICENSE OF THE HOPE CLINIC; IS THAT RIGHT?

A YES.

Q AND IT REFERS TO A DHH UNANNOUNCED LICENSING SURVEY

OF YOUR CLINIC FROM AUGUST 11TH THROUGH THE 13TH OF 2010; IS THAT RIGHT?

A YES.

Q AND WERE YOU EMPLOYED AT THE CLINIC AT THAT TIME?

A YES.

Q WERE YOU INVOLVED IN THAT LICENSING SURVEY VISIT?

A I WAS.

Q AND DID YOU HOST THE SURVEYORS, THE RNS, WHO CAME?

A YES.

Q OKAY. THE LETTER EXPLAINS THAT THE SURVEY THAT CAME THAT DAY, THEY DETERMINED THAT THE LICENSEE WAS IN VIOLATION OF CERTAIN LICENSING RULES FOR ABORTION FACILITIES; CORRECT?

A YES.

Q AND FURTHER THAT THE SECRETARY OF THE LOUISIANA DEPARTMENT OF HEALTH DETERMINED THAT THE VIOLATIONS POSED AN IMMINENT THREAT TO THE HEALTH AND WELFARE AND SAFETY OF A CLIENT OR A PATIENT; IS THAT RIGHT?

A YES.

Q AND THEN BECAUSE OF THAT, THE LICENSE OF YOUR CLINIC WAS IMMEDIATELY SUSPENDED; IS THAT RIGHT?

A YES.

Q AND THEY -- THE LETTER CITES A NUMBER OF SPECIFIC DEFICIENCIES WHICH SUPPORTED THE SECRETARY OF DHH'S DECISION; IS THAT RIGHT?

A ACCORDING TO DHH, YES.

Q ACCORDING TO DHH.

SO THEIR FINDINGS LISTED, AMONG OTHERS, A VIOLATION OF SECTION 4409. NOW, WHAT IS SECTION 4409? WHAT DOES THAT REFER TO? SECTION OF WHAT?

A PERSONNEL.

Q I'M SORRY?

A PERSONNEL.

Q OKAY. BUT WHEN WE SAY "SECTION 4409," WHAT IS THAT A SECTION OF? IS THAT STATE LAW?

A CLINIC REGULATIONS.

Q SO ADMINISTRATIVE RULES GOVERNING ABORTION PROVIDERS IN THE STATE OF LOUISIANA; CORRECT?

A YES.

Q AND WHO CREATES THOSE RULES; DO YOU KNOW?

A DEPARTMENT OF HEALTH AND HOSPITALS.

Q AND ARE YOU WELL-VERSED IN ALL OF THOSE RULES?

A I WOULD LIKE TO THINK SO. SOMEWHAT.

Q WELL, INDEED IT IS YOUR JOB AT THE CLINIC TO WELL-VERSED IN THOSE RULES; CORRECT?

A CORRECT.

Q SO YOU WOULD NEED TO HAVE, BY NECESSITY, SOME EXPERTISE AND THE UNDERSTANDING OF ALL OF THOSE RULES; CORRECT?

A YES.

Q SO SECTION 4409 REGARDS PERSONNEL, SPECIFICALLY

NURSING PERSONNEL; IS THAT RIGHT?

A YES.

Q AND THIS LETTER, WITHOUT QUOTING, I'LL JUST SUGGEST TO YOU THAT DHH FOUND A PROBLEM IN SOMEWAY WITH HOW NURSING POLICIES AND PROCEDURES WERE ADMINISTERED AT YOUR CLINIC SPECIFICALLY REGARDING INTRAVENOUS MEDICATIONS AND THE ADMINISTRATION OF CERTAIN GASES IN A PROCEDURE; IS THAT RIGHT?

A YES. WE WERE TOLD THAT THERE WAS A PROBLEM, WHICH CONFUSED ME GREATLY SINCE THAT WAS A PRACTICE AND PROTOCOL THAT HAD BEEN IN PLACE FOR ALMOST 30 YEARS, BUT OVERNIGHT IT BECAME SUDDENLY INAPPROPRIATE AND PROBLEMATIC, SO WE ADDRESSED IT IMMEDIATELY THAT DAY WHILE THE SURVEYOR WAS STILL THERE.

Q WELL, YOU'RE NOT SUGGESTING THAT -- WELL, STRIKE THAT. THE SURVEYOR NOTICED IT ON THIS VISIT, BUT YOUR TESTIMONY IS THEY HAD NOT NOTICED IT PREVIOUSLY ON OTHER VISITS OR NOT FOUND A PROBLEM WITH IT; IS THAT RIGHT?

A CORRECT.

Q OKAY. BUT IN FACT, ON PAGE 2 OF THIS LETTER, AND THE BOTTOM OF IT LOOKS LIKE THE LAST PARAGRAPH THERE, IT REFERS TO DHH'S DETERMINATION OR THE SURVEYOR'S DETERMINATION THAT THIS SITUATION POSED AN IMMEDIATE JEOPARDY SITUATION; ISN'T THAT RIGHT?

A YES. AGAIN, FOR SOMETHING THAT HAD BEEN IN PLACE FOR MANY YEARS.

Q OKAY. NOW TURN OVER TO PAGE 3 OF THE LETTER AND

THERE'S A VIOLATION OF -- THEY'VE CITED. THEY FOUND A VIOLATION OF SECTION 4415 REGARDING PATIENT RECORDS AND REPORTS; IS THAT RIGHT?

A YES.

Q AND THEY DETERMINED -- THEY DETERMINED IN SOME MEASURE THAT THE PHYSICAL EXAM THAT WAS PERFORMED ON SOME OF THE PATIENTS AT HOPE WAS NOT PROPERLY DOCUMENTED; IS THAT RIGHT?

A YES. WHAT I WAS TOLD BY THE SURVEYOR WAS THAT WHAT WE WERE DOING WAS CORRECT. THE DOCUMENTATION SHOULD HAVE BEEN MORE CLEAR IN THAT MATTER. IN THIS INSTANCE, IT WAS SIMPLY A MATTER OF REWRITING THE DOCUMENTATION.

Q DO YOU AGREE IT'S IMPORTANT TO HAVE ACCURATE DOCUMENTATION AND MEDICAL RECORDS OF YOUR PATIENTS?

A I DO.

Q WHY IS THAT IMPORTANT?

A FOR CARE, FOR PATIENT CARE, SO WE KNOW WHAT HAS TAKEN PLACE.

Q AND IT ENSURES PATIENT SAFETY; CORRECT?

A CORRECT.

Q OKAY. AND THEN THERE'S ANOTHER VIOLATION SECTION 4423; CORRECT?

A YES.

Q AGAIN, ON PAGE 3, AND THAT REFERS TO ANESTHESIA SERVICES; CORRECT?

A CORRECT.

Q AND EFFECTIVELY DHH FOUND THAT UNQUALIFIED PERSONS WERE ADMINISTERING ANESTHESIA; IS THAT RIGHT?

A AGAIN, YES, THEIR INTERPRETATION WAS. BUT, AGAIN, THIS WAS A POLICY AND PROCEDURE THAT HAD BEEN IN PLACE FOR MANY, MANY YEARS, AND THEY HAD NEVER FOUND FAULT WITH WHO WAS ACTUALLY ADMINISTERING THE NITROUS OXIDE.

Q OKAY. NOW, THE LETTER STATES ON PAGE 4 THAT THEY DID ATTACH A STATEMENT OF DEFICIENCIES REGARDING ALL OF THESE -- THIS SUMMARY OF THE ALLEGATIONS; IS THAT RIGHT?

A THAT IS CORRECT.

Q AND I UNDERSTAND YOU DON'T HAVE A COPY OF THAT IN FRONT OF YOU, AND IT'S NOT IMPORTANT BECAUSE I'M NOT GOING TO ASK YOU ABOUT SPECIFICS. BUT YOU DO UNDERSTAND WHAT A STATEMENT OF DEFICIENCIES REFERS TO; CORRECT?

A I DO.

Q AND WHAT IS THAT? CAN YOU DESCRIBE THAT FOR US?

A BASICALLY IT'S WHAT'S COMBINED IN THE LETTER, AS YOU WERE JUST POINTING OUT. THEY WILL CITE SPECIFIC RULES AND REGULATIONS AND CITE WHERE THEY FIND THE CLINIC OR PERSONNEL FALLING SHORT OF THOSE REGULATIONS. WE ARE THEN GIVEN AN OPPORTUNITY TO MAKE ANY CORRECTIONS OR AMEND ANY POLICIES TO MEET DHH'S SATISFACTION.

Q AND THE LETTER GOES ON TO SAY THAT YOU HAD AN OPPORTUNITY TO REQUEST AN INFORMAL ADMINISTRATIVE

RECONSIDERATION OF THIS LICENSE REVOCATION; IS THAT RIGHT?

A YES.

Q AND DID YOU DO SO?

A WE DID, BUT IT WAS DENIED.

Q OKAY. AND IT ALSO SAYS YOU HAVE THE RIGHT TO FILE A DEVOLUTIVE APPEAL OF THE IMMEDIATE SUSPENSION NOTICE. DID YOU DO THAT?

A WE DID.

Q AND WHAT WAS THE OUTCOME?

A WE ULTIMATE -- ULTIMATELY REACHED -- SEVERAL YEARS LATER ULTIMATELY REACHED AN AGREEMENT WITH THE DEPARTMENT OF HEALTH -- HEALTH AND HOSPITALS.

Q OKAY. LET ME ASK YOU ABOUT THAT. IF YOU'LL FLIP OVER TO DOCUMENT NUMBER 97 IN THAT NOTEBOOK. THIS IS DEFENDANT'S EXHIBIT 97. THIS IS ALSO A LETTER ON DEPARTMENT OF HEALTH AND HOSPITALS' LETTERHEAD. DO YOU SEE THAT?

A YES.

Q AND IT'S DATED FEBRUARY 28TH, 2012.

MR. JOHNSON: IT'S CONFIDENTIAL. SORRY. IN FACT, LET ME SAY AT THE OUTSET, I THINK EACH DOCUMENT I'M GOING TO ASK THIS WITNESS ABOUT IS DEEMED CONFIDENTIAL, SO EACH ONE OF THEM WILL NOT BE ON THE BIG SCREEN.

BY MR. JOHNSON:

Q MS. PITTMAN, THIS LETTER IS ADDRESSED TO YOU AS THE CLINIC ADMINISTRATOR; IS THAT RIGHT?

A YES.
Q AND YOU BECAME THE ADMINISTRATOR IN 2012?
A NO, SIR. 2010.
Q 2010.
A SHORTLY AFTER THE PREVIOUS LETTER WE WERE DISCUSSING.
Q MS. ROTHROCK?
A YES.
Q SHE PASSED AWAY?
A SHE PASSED AWAY IN DECEMBER 2010.
Q OKAY. AND THE PREVIOUS LETTER WE WERE LOOKING AT WAS DATED 2010. AT THAT TIME, YOU WERE THE CO-ADMINISTRATOR; IS THAT RIGHT?
A NO. I WAS THE PATIENT SERVICES MANAGER.
Q GOT IT. ALL RIGHT. SO AT THIS TIME IN FEBRUARY 2012, THE DATE OF THE LETTER THAT WE'RE LOOKING AT, DEFENDANT EXHIBIT 97, YOU ARE THE FULL-FLEDGED ADMINISTRATOR OF THE CLINIC?
A I AM. I WAS, YES.
Q SO YOU'RE THE ULTIMATE PERSON RESPONSIBLE FOR THE RESPONSE TO THIS LETTER; CORRECT?
A YES.
MR. JOHNSON: AND, YOUR HONOR, I'D LIKE TO MOVE TO PLACE THIS DOCUMENT INTO EVIDENCE AS DEFENDANT'S EXHIBIT 97.
THE COURT: ANY OBJECTIONS?

MS. DOUFEKIAS: YOUR HONOR, WE'LL OBJECT TO ALL -- TO THIS EXHIBIT AS WELL AS THE LINE OF QUESTIONING AS WE STATED IN OUR MOTION IN LIMINE. I'VE LET IT GO FOR A WHILE, BUT MR. JOHNSON IS STARTING TO GET INTO LITIGATION THAT LITERALLY TOOK YEARS. AND FOR THE REASONS THAT WE STATE IN OUR MOTION IN LIMINE, WE THINK IT'S IRRELEVANT. AND FRANKLY, HE'S CREATING A RECORD THAT WE'RE GOING TO HAVE TO REBUT THAT'S GOING TO BE VERY, VERY SIGNIFICANT.

THE COURT: WELL, THE OBJECTION'S OVERRULED.

AND JUST LET ME SAY THAT SIMILAR TO THE ARRANGEMENT WE HAVE WITH MR. DUNCAN AND HIS GENERAL BLANKET OBJECTION TO ALL OF THOSE ISSUES INVOLVING MEDICAL REASONABLENESS, ET CETERA, I WOULD SUGGEST WE REACH A SIMILAR -- BECAUSE THE RULING THAT I RENDERED WAS ON A MOTION IN LIMINE AND IT DEALT WITH MANY EXHIBITS.

AND MY SUGGESTION IS THAT MS. DOUFEKIAS NOT BE REQUIRED TO OBJECT TO EACH AND EVERY ONE OF THOSE. SHE DID, IN FACT, FILE A MOTION IN LIMINE WHICH EXPRESSES HER OBJECTIONS TO THESE. AND FOR PURPOSES OF TIME SAVING, I WOULD SUGGEST WE DO THE SAME THING WE DID FOR MR. DUNCAN AND THAT IS TO SAY HER BLANKET OBJECTION AS EXPRESSED NOW AND PREVIOUSLY EXPRESSED IN THE MOTION IN LIMINE BE CONSIDERED SUFFICIENT TO PROTECT HER ON THE RECORD AS IT PERTAINS TO THESE EXHIBITS.

ARE YOU AGREEABLE TO THAT, MR. DUNCAN, AND, MR. JOHNSON?

MR. JOHNSON: YES, YOUR HONOR.

MR. DUNCAN: THANK YOU, YOUR HONOR.

THE COURT: MS. DOUFEKIAS, ANYTHING YOU WANT TO SAY FURTHER?

MS. DOUFEKIAS: I'LL JUST CLARIFY THAT THAT BLANKET OBJECTION WOULD COVER ALL OF DEFENDANT'S EXHIBITS THAT INVOLVE BOTH CORRESPONDENCE AND STATEMENTS OF DEFICIENCY REPORTS AND VARIOUS VERSIONS OF THOSE REPORTS THAT ARE ON DEFENDANT'S EXHIBIT LIST.

THE COURT: I UNDERSTAND.

MR. JOHNSON: AND, YOUR HONOR, WHILE WE'RE ON THIS SUBJECT, FOR PURPOSES OF THE RECORD, I'D SAY THAT AN OBJECTION TO RELEVANCE COULD NOT BE --

THE COURT: I RULED.

MR. JOHNSON: ALL RIGHT.

BY MR. JOHNSON:

Q SO, MS. PITTMAN, WE'RE ON PAGE 1 OF THIS LETTER AND IT SAYS THIS LETTER IS A SUPPLEMENT TO THE SEPTEMBER 3RD, 2010, CERTIFIED LETTER THAT WE PREVIOUSLY JUST REVIEWED TOGETHER. DO YOU SEE THAT; PAGE 1?

A YES.

Q AND IT IS PROVIDING -- BY DHH, IT IS PROVIDING NOTICE TO YOUR -- TO THE HOPE MEDICAL GROUP THAT ITS LICENSE TO OPERATE IS BEING REVOKED PURSUANT TO STATE STATUTE. DO YOU SEE THAT?

A I DO.
Q AND DO YOU RECALL THIS SPECIFIC INCIDENT?
A I DO.
Q AND YOU'LL SEE ON PAGE 2 THE LETTER LISTS THE VARIOUS REASONS AND THE NUMBER OF STATE LICENSING STANDARDS THAT DHH DETERMINED WERE VIOLATED BY THE HOPE CLINIC. DO YOU SEE THAT?
A YES.
Q SO IT INCLUDES SECTION 4407 REGARDING ADMINISTRATION, SECTION 4409 REGARDING PERSONNEL, SECTION 4415 REGARDING PATIENT RECORDS AND REPORTS AGAIN, AND SECTION 4421 REGARDING PHARMACEUTICAL SERVICES; IS THAT RIGHT?
A YES.
Q THERE'S MORE ON PAGE 3, IF YOU TURN. SECTION 4407 REGARDING PERSONNEL AND SECTION 4421 REGARDING PHARMACEUTICAL SERVICES; IS THAT RIGHT?
A YES.
Q JUST GENERALLY, WITHOUT EITHER OF US QUOTING FROM THIS DOCUMENT OR GIVING TOO MANY PROTECTED SPECIFICS FOR THE RECORD, WHAT WAS YOUR RESPONSE? WHAT WAS HOPE'S RESPONSE TO THESE VARIOUS ALLEGATIONS? DID YOU -- FOR EXAMPLE, LET ME ASK YOU SPECIFICALLY, DID YOU FILL OUT THE STATEMENT OF DEFICIENCY DOCUMENT AND RETURN THAT TO DHH?
A I DID.
Q AND IN THAT DOCUMENT, DID YOU -- DID YOU EXPLAIN THE

CLINIC'S POSITION WITH REGARD TO EACH OF THESE ALLEGATIONS?

A I DID. AND IN SOME INSTANCES -- I'M NOT LOOKING AT IT NOW, BUT -- IT'S NOT IN FRONT OF ME. BUT WHILE I MAY NOT NECESSARILY HAVE AGREED WITH DHH'S ASSESSMENT, WE DID TAKE CORRECTIVE ACTION THAT SATISFIED DEPARTMENT OF HEALTH AND HOSPITALS.

Q OKAY. LET ME ASK YOU TO FLIP ONE MORE TIME TO ANOTHER EXHIBIT. NOW, THIS IS DOCUMENT NUMBER 76 IN YOUR NOTEBOOK?

THE COURT: IS THIS 96 DID YOU SAY, MR. JOHNSON?

MR. JOHNSON: I'M SORRY. DEFENDANT'S EXHIBIT 76.

THE COURT: 76.

A OKAY.

BY MR. JOHNSON:

Q NOW, MS. PITTMAN, DO YOU RECOGNIZE THIS DOCUMENT? IT'S A STATEMENT OF DEFICIENCY DATED MAY 27, 2011; DO YOU SEE THAT?

A IT LOOKS LIKE A STATEMENT OF DEFICIENCIES WITHOUT THE COVER LETTER OR MY RESPONSE.

Q OKAY. BUT DO YOU RECOGNIZE THE CONTENT OF THE EXCERPT THAT IS PROVIDED HERE?

A I DO.

Q DO YOU HAVE ANY REASON TO BELIEVE THAT THIS IS NOT AN ACTUAL COPY OF THAT DOCUMENT, AT LEAST A PORTION OF IT?

A NO.

MR. JOHNSON: YOUR HONOR, I'D LIKE TO MOVE TO ENTER THIS INTO EVIDENCE?

THE COURT: SUBJECT TO PREVIOUS OBJECTION, ANY ADDITIONAL OBJECTION?

MS. DOUFEKIAS: YEAH, THE WITNESS HAS TESTIFIED -- WELL, MR. JOHNSON IS ASKING ABOUT CONTENT OF A PARTIAL DOCUMENT AND THE WITNESS HAS TESTIFIED THAT THERE ARE THINGS MISSING FROM THIS DOCUMENT IN TERMS OF THE VERSION THAT SHE'S FAMILIAR WITH. HER PLAN OF CORRECTION IS NOT INCLUDED.

MR. JOHNSON: WELL, YOUR HONOR, I WOULD DRAW EVERYONE'S ATTENTION TO THE BOTTOM OF PAGE 1 OF THE EXHIBIT WHICH SAYS, "SHEET 1 OF 9." SO IT IS THE COMPLETE DEFICIENCY REPORT, A NINE-PAGE DEFICIENCY REPORT.

THE COURT: LET ME ASK YOU THIS: MS. PITTMAN, DO YOU HAVE THE HARD DOCUMENT IN FRONT OF YOU? YOU DO HAVE IT?

THE WITNESS: PAPER DOCUMENT.

THE COURT: I JUST WANT TO MAKE SURE YOU HAVE THE HARD DOCUMENT. OKAY. AND I THINK YOU EARLIER SAID THAT THERE WAS SOMETHING THAT -- IS EVERYTHING THERE THAT'S --

THE WITNESS: GENERALLY, YOUR HONOR, THERE WILL BE A COVER LETTER AND MY RESPONSE. IN THIS CASE, I THINK THE RESPONSE WAS ACTUALLY BY OUR ATTORNEYS.

THE COURT: OKAY.

MR. JOHNSON: THAT'S CORRECT.

THE WITNESS: IT'S PARTIAL IN THAT IT'S NOT

COMPLETE, BUT IT DOES HAVE THE STATEMENT OF DEFICIENCIES ON IT.

THE COURT: ALL RIGHT. WELL, WITH THE UNDERSTANDING THAT THERE ARE ADDITIONAL DOCUMENTS THAT ARE RELEVANT TO THIS SPECIFIC DOCUMENT, WHICH IS NUMBER 76, DEFENDANT'S 76, I WILL ALLOW IT INTO EVIDENCE. AND OBVIOUSLY GIVE THE RIGHT TO PLAINTIFFS IF THEY WANT TO SUPPLEMENT THAT WITH ANY ADDITIONAL DOCUMENTS THAT WILL PUT IT IN CONTEXT OR EXPLAIN IT OR WHATEVER.

MR. JOHNSON: THANK YOU, YOUR HONOR.

BY MR. JOHNSON:

Q MS. PITTMAN, IN YOUR -- LOOKING AT THIS DOCUMENT VERY BRIEFLY, DOES THIS APPEAR TO BE THE STATEMENT OF DEFICIENCIES THAT IS SPECIFICALLY DISCUSSED IN THE LETTER THAT WE JUST REVIEWED, THE PREVIOUS EXHIBIT? IN OTHER WORDS, DHH LISTED VIOLATIONS OF ADMINISTRATION, RULES, PERSONNEL, PATIENT RECORDS AND REPORTS, PHARMACEUTICAL SERVICES AND SO ON.

A CAN YOU REFER ME BACK TO THE EXHIBIT NUMBER OF THAT?

Q THAT WOULD BE 97, YES, MA'AM. AND THAT LETTER --

A OKAY.

Q DOCUMENT 97, SPECIFICALLY REFERS TO, AT THE TOP OF PAGE 2, A SURVEY COMPLETED ON MAY 27, 2011. DO YOU SEE THAT AT THE TOP?

A OKAY. YES. AND THE PREVIOUS LETTER WAS -- THIS WAS THE SURVEY IN MAY OF 2011, AND WE RECEIVED THE NOTICE OF

DEFICIENCY FEBRUARY 2012. THAT LOOKS CORRECT.

Q THAT'S RIGHT. YES, MA'AM. SO THE LATEST EXHIBIT THAT YOU HAVE IN YOUR HAND, THE DEFICIENCY STATEMENT, THEN CORRESPONDS WITH THAT LETTER. DOES THAT APPEAR TO BE TRUE?

A YES.

Q SO IF YOU WOULD TURN TO PAGE 7 OF THE DEFICIENCY REPORT. WE WON'T TAKE TIME TO GO THROUGH EACH ALLEGATION. I WOULD NOT BE ABLE TO READ EXCERPTS OF IT ANY WAY. BUT I WANTED TO DRAW YOUR ATTENTION TO JUST ONE PARTICULAR SECTION WHICH WE WOULD USE BY WAY OF ILLUSTRATION. IT'S ON PAGE 7 OF THE DEFICIENCY STATEMENT DOCUMENT. ARE YOU ON PAGE 7?

A I AM.

Q AND YOU'LL SEE AT THE TOP THERE IN THE LEFT COLUMN, IT SAYS, "CONTINUED FROM PAGE 6."

A CORRECT.

Q -- ARE WE LOOKING AT THE SAME SPOT? AND IF YOU WOULD, JUST READ THOSE FIRST TWO PARAGRAPHS THERE JUST SILENTLY TO YOURSELF, IF YOU WOULD, TO REFRESH YOUR MEMORY.

A OKAY.

Q YOU READ THAT?

A I DID.

Q SO HAVING READ THAT, DO YOU RECALL THIS INCIDENT? THIS WAS JUST A FEW YEARS AGO.

A I ACTUALLY RECALL IT VERY WELL. IN THIS INSTANCE --

Q WAIT. LET ME -- I'M ASKING THE QUESTIONS. OKAY.

SO IT SAYS HERE THAT THE SURVEYORS REVIEWED PATIENTS' MEDICAL RECORDS; CORRECT? IS THAT RIGHT?

A YES.

Q AND IT LISTS A NUMBER OF CONCERNS OR VIOLATIONS THAT THEY HAD ABOUT THIS PARTICULAR RECORD THEY REVIEWED. THAT'S PARAGRAPH 1. AND IT SAYS AT THE BOTTOM THAT THEY INTERVIEWED CLINIC MANAGER SF1. WHO WOULD THAT HAVE BEEN?

A ME.

Q CLINIC MANAGER? THAT WOULD BE YOU?

A I SUPPOSE, YES.

Q OKAY. AND IT SAYS THAT YOUR RESPONSE THERE WHEN THEY SHOWED YOU THESE CONCERNS OR THESE VIOLATIONS IT SAYS, QUOTE, "IT WAS JUST MISSED," IS THAT RIGHT?

A CORRECT.

Q AN INNOCENT ERROR ON YOUR PART EFFECTIVELY; CORRECT?

A HUMAN ERROR, YES.

Q HUMAN ERROR, OKAY. THEN THE NEXT PARAGRAPH SAYS, "FURTHER REVIEW OF THE FORMS TITLED REPORT OF INDUCED TERMINATION OF PREGNANCY" -- THAT'S THE ITOP FORM; CORRECT?

A YES.

Q -- "REVEALED THAT FOR 12 OF THE 12 SAMPLED PATIENTS, THEY FOUND THESE PROBLEMS;" RIGHT?

THE COURT: MR. JOHNSON -- MR. JOHNSON -- OKAY. I'M SORRY. I THOUGHT YOU WERE FIXING TO READ --

MR. JOHNSON: IT'S JUST A NUMBER. IT'S JUST A

NUMBER.

BY MR. JOHNSON:

Q THEY REVIEWED 12 PATIENT ITOPS AND THEY FOUND PROBLEMS ON ALL 12; IS THAT RIGHT?

A THAT'S WHAT THAT SAYS, YES.

Q OKAY. THE NEXT EXHIBIT IS NUMBER 78 IN YOUR BINDER. HAVE YOU FOUND THAT DOCUMENT? THIS IS DEFENDANT'S EXHIBIT NUMBER 78. AND, MS. PITTMAN, THIS LOOKS LIKE A LETTER FROM -- BEGINS WITH A LETTER FROM YOU; IS THAT RIGHT?

A YES.

Q A LETTER DATED AUGUST 23RD, 2012 ON HOPE MEDICAL GROUP FOR WOMEN'S LETTERHEAD; IS THAT RIGHT?

A YES.

Q AND THAT'S YOUR SIGNATURE ON THAT DOCUMENT?

A THAT IS.

Q OKAY.

MR. JOHNSON: YOUR HONOR, WE'D LIKE TO MOVE TO HAVE THIS ADMITTED INTO EVIDENCE?

THE COURT: OBJECTION OTHER THAN THE GENERAL OBJECTION?

MS. DOUFEKIAS: NO OBJECTION, YOUR HONOR.

THE COURT: OKAY.

BY MR. JOHNSON:

Q SO, MS. PITTMAN, THIS IS YOUR LETTER, IT LOOKS TO BE YOUR RESPONSE, AND YOUR PLAN OF CORRECTION REGARDING THE

STATEMENT OF DEFICIENCIES THAT WAS ISSUED AS A RESULT OF THE JULY 25TH, 2012, SURVEY; IS THAT RIGHT?

A YES.

Q OKAY. AND WOULD THIS BE TYPICAL OF A RESPONSE TO A DEFICIENCY STATEMENT? IN OTHER WORDS, NOT NECESSARILY THE SPECIFIC RESPONSES, BUT JUST THE WAY -- THE MECHANICS IN WHICH IT IS PRESENTED?

A YES.

Q SO AS WE'RE LOOKING AT THE DOCUMENT TOGETHER, PAGE 2 OF THAT EXHIBIT, THERE'S A LEFT COLUMN WHERE DHH LISTS ITS CONCERNS OR THE VIOLATIONS THEY'VE CITED AND THE RIGHT COLUMN ARE YOUR RESPONSES; IS THAT RIGHT?

A YES.

Q AND WHO DRAFTED THESE RESPONSES? WOULD THAT HAVE BEEN YOU?

A YES.

Q WOULD YOU DO IT IN CONJUNCTION WITH ANYONE ELSE?

A THE -- OUR MEDICAL DIRECTOR.

Q AND WHO WOULD THAT HAVE BEEN IN THE YEAR 2012?

A DR. DOE 3.

Q OKAY. SO TO PREPARE THESE RESPONSES TO DHH, PROCEDURALLY HOW DID THAT GO? YOU DRAFT A RESPONSE AND THEN DR. DOE NUMBER 3 REVIEWS AND AGREES WITH IT?

A WELL, THERE'S MUCH DISCUSSION PRIOR TO. FIRST OF ALL, WE -- THERE HAS TO BE DISCUSSION ABOUT THE STATED

DEFICIENCY. WE COME -- WE REACH AN AGREEMENT ON HOW WE WILL ADDRESS IT. I TYPE IT UP, HE REVIEWS IT, AND THEN I SIGN IT AND SUBMIT IT.

Q OKAY. NOW, THIS IS A 19-PAGE STATEMENT OF DEFICIENCY; IS THAT RIGHT?

A YES.

Q DO YOU HAVE ALL 19 PAGES THERE?

A IT APPEARS TO BE ALL HERE.

Q NOW, I'M HANDICAPPED IN A WAY BECAUSE IT'S A PROTECTED DOCUMENT AND I'M NOT ABLE TO READ CERTAIN EXCERPTS FROM IT, BUT COULD WE AGREE THAT IT GOES THROUGH IN DETAIL AND SPECIFIES THE VARIOUS VIOLATIONS THAT DHH DETERMINED REGARDING CERTAIN SECTIONS OF THE ADMINISTRATIVE RULES; IS THAT RIGHT?

A IT DOES.

Q SO IF, FOR EXAMPLE, ON PAGE 1 OF THE 19 IT CITES PERSONNEL -- NURSING PERSONNEL, THERE ARE A NUMBER OF VIOLATIONS CITED THERE; CORRECT?

A CORRECT.

Q AND FLIPPING OVER TO PAGE 2 OF THAT DOCUMENT, DHH GOES THROUGH GRAVE DETAIL SPECIFYING EXACTLY WHAT THEY FOUND TO BE AMISS; RIGHT?

A YES.

Q SO, FOR EXAMPLE, AT THE BOTTOM OF THAT LEFT COLUMN ON PAGE 2 OF THE DEFICIENCY STATEMENT IT REFERS TO INTERVIEWS THAT DHH, THE SURVEYORS, THE RNS HAD WITH YOUR LPNS ON SITE;

CORRECT?

A YES.

Q AND IT SAYS THERE THAT, FOR EXAMPLE, THEY -- THE DOSAGE CALCULATIONS WITH CERTAIN DRUGS THEY FOUND SOME IRREGULARITY THERE; RIGHT?

A ACCORDING TO THEIR REPORT, YES.

Q AND THAT THE S1 ADMINISTRATOR, THAT WAS YOU; CORRECT?

A YES.

Q YOU WERE NOT A LICENSED MEDICAL PERSON; CORRECT?

A CORRECT.

Q AND YET THEY FOUND YOU TO BE INVOLVED IN SOME WAY WITH THE TRAINING OF NURSES WITH REGARD TO THE DISPENSING OF NARCOTICS; IS THAT RIGHT? OR MEDICATIONS?

A THEY DID.

Q NOW, FLIPPING OVER TO PAGE 3 OF THIS DEFICIENCY STATEMENT YOU SEE IT CITES SECTION 4413, "POSTOPERATIVE CARE AND PROCEDURES VIOLATIONS." DO YOU SEE THAT?

A YES, I DO.

Q I WON'T BORE ANYONE WITH THE DETAILS, BUT THERE'S LOTS OF THEM. MAYBE FLIP OVER TO PAGE 5. MIDWAY THROUGH THE LEFT-HAND COLUMN, IT REFERS TO AN INTERVIEW THAT WAS HELD ON JULY 25TH, 2012 AT 2:40 P.M. WITH S1 ADMINISTRATOR. THAT'S YOU; RIGHT?

A YES.

Q THEY QUESTIONED YOU ABOUT WHETHER NURSES PERFORM ASSESSMENTS TO ENSURE THAT THE PATIENTS ARE MEDICALLY STABLE PRIOR TO THEIR DISCHARGE; IS THAT RIGHT?

A YES.

Q AND YOUR REPLY IS QUOTED THERE?

A YES.

Q I CAN'T QUOTE IT FOR THE RECORD, BUT DOES THAT LOOK ACCURATE, THAT'S WHAT YOU SAID?

A YES.

Q SECOND PARAGRAPH, LEFT COLUMN, ON PAGE 5?

A YES.

Q AND THEN THE NEXT PARAGRAPH TALKS ABOUT A TELEPHONE INTERVIEW THAT WAS HELD THE SAME DAY, 3:10 P.M., WITH ONE OF YOUR LPNS, AND SHE WAS QUESTIONED ABOUT HOW SHE MONITORS VITAL SIGNS AND WE SEE HER RESPONSE THERE; CORRECT?

A UH-HUH.

Q OKAY. FLIP OVER TO PAGE 8. THIS IS ANOTHER CITED VIOLATION OF RULE 4413, "POSTOPERATIVE CARE AND PROCEDURES."

MS. DOUFEKIAS: YOUR HONOR, I'M GOING TO OBJECT. MR. JOHNSON IS BASICALLY READING THROUGH THE DOCUMENT. THE DOCUMENT IS IN EVIDENCE, IT IS WHAT IT IS. IF HE HAS A QUESTION THAT WOULD BE GREAT, BUT HE'S LITERALLY JUST READING THROUGH THE DOCUMENT.

MR. JOHNSON: YOUR HONOR, WE'RE USING ONLY ONE OF THE MANY DEFICIENCY STATEMENTS SUBMITTED INTO EVIDENCE BY WAY

OF EXAMPLE AND FOR THE RECORD SO THAT THE TOP OFFICIAL AT HOPE CLINIC CAN AGREE AND CERTIFY FOR THE RECORD THAT THIS IS ACCURATE.

THE COURT: I THOUGHT SHE SAID THE ENTIRE DOCUMENT WAS ACCURATE.

MR. JOHNSON: ALL RIGHT.

THE COURT: DID YOU, MS. PITTMAN?

THE WITNESS: THE DEFICIENT -- THE STATEMENT OF DEFICIENCIES. IT WASN'T COMPLETE IN THAT THE COVER LETTER WASN'T THERE, BUT THE DEFICIENCIES THEMSELVES THEY ARE THERE.

MS. DOUFEKIAS: YOUR HONOR, I'M ALSO GOING TO ACTUALLY OBJECT TO THIS DOCUMENT AND THE OTHER STATEMENT OF DEFICIENCY BECAUSE THEY'RE HEARSAY. I MEAN, AS MR. JOHNSON HAS DEMONSTRATED, HE'S WALKING THROUGH -- HE'S WALKING MS. PITTMAN THROUGH THE SURVEYOR'S STATEMENTS ABOUT WHAT HAPPENED, SOME OF WHICH MAY HAVE BEEN WITH MS. PITTMAN, BUT PARTS OF IT ARE ALSO STATEMENTS OF THINGS THE SURVEY ASKED OTHER PEOPLE, WHICH IS CLEARLY HEARSAY. AND THAT'S ALL OVER THIS DOCUMENT. AND FRANKLY, IT'S ALL OVER THE LAST DEFICIENCY REPORT AS WELL.

MR. JOHNSON: YOUR HONOR, IT'S CLEARLY AN EXCEPTION TO THE HEARSAY RULE, 8038, BECAUSE IT'S A RECORD OR STATEMENT OF A PUBLIC OFFICE THAT SETS OUT FACTUAL FINDINGS FROM A LEGALLY AUTHORIZED INVESTIGATION. CLEARLY EXEMPT FROM THE HEARSAY RULE.

THE COURT: YEAH, I'M GOING TO OVERRULE THE OBJECTION.

AND, PLEASE, EVERYONE BEAR IN MIND, BECAUSE IF WE'RE GOING TO SPEND A WEEK GOING THROUGH THESE DOCUMENTS, I'M REALLY NOT INTERESTED IN THE SPECIFICS OF THESE DEFICIENCIES. I ALLOWED THEM INTO EVIDENCE BECAUSE I THINK FROM A GLOBAL SORT OF POINT OF VIEW THE ENVIRONMENT THAT EXISTED IN THE STATE AT THE TIME THIS LEGISLATION WAS PASSED I THOUGHT THAT IT HAD RELEVANCE, JUST AS SOME OF THE OTHER INFORMATION THAT I ALLOWED INTO EVIDENCE WITH RESPECT TO WHAT THE PLAINTIFFS SUBMITTED. SO I'M NOT INTERESTED IN THE SPECIFICS OF WHETHER SOME -- YOU GOT ME, MR. JOHNSON?

MR. JOHNSON: I GOT IT. I'LL MOVE ON.

BY MR. JOHNSON:

Q LET ME JUST ASK ONE SORT OF GENERAL QUESTION AND WE CAN MOVE ON FROM THE DOCUMENT. IS IT FAIR TO SAY, MS. PITTMAN, THAT SOME OR MANY OF THE VIOLATIONS CITED HERE HAVE SOMETHING TO DO WITH THE CONCERNS OVER PATIENT HEALTH AND SAFETY?

A AS CITED BY DHH, YES.

Q OKAY. LAST DOCUMENT I'M GOING TO ASK YOU TO LOOK AT IS DOCUMENT NUMBER 108, DEFENDANT'S EXHIBIT 108 IN THAT SAME BOOKLET. AND I JUST HAVE ONE BASIC QUESTION FOR YOU REGARDING THAT DOCUMENT.

THE COURT: I'M SORRY. WHAT'S THE NUMBER?

MR. JOHNSON: 108, DEFENDANT'S EXHIBIT.

A OKAY.

BY MR. JOHNSON:

Q THIS PURPORTS TO BE ANOTHER DEFICIENCY REPORT. I SEE THAT THE COVER LETTER'S MISSING, BUT IT HAS BOTH PAGES, 1 AND 2, OF A TWO-PAGE DEFICIENCY REPORT. DOES THAT LOOK ACCURATE? IT'S DATED OCTOBER 4TH, 2006.

A YES.

MR. JOHNSON: AND WE'D LIKE TO ENTER THIS ONE INTO EVIDENCE AS WELL. LAST EXHIBIT, YOUR HONOR.

THE COURT: OBJECTIONS OTHER THAN THOSE PREVIOUSLY NOTED?

MS. DOUFEKIAS: NO, YOUR HONOR.

THE COURT: ALL RIGHT. LET IT BE ADMITTED.

BY MR. JOHNSON:

Q AND ONE SIMPLE QUESTION I HAVE REGARDING THIS, WITHOUT GETTING INTO THE DETAILS, IT SAYS AT THE VERY TOP LEFT COLUMN ON PAGE 1, THIS IS COMPLAINT NUMBER, IT GIVES THE PARTICULAR NUMBER, IT WAS INVESTIGATED ON OCTOBER 4, 2008; DO YOU SEE THAT?

A UH-HUH. YES.

Q SO THIS DEFICIENCY STATEMENT OR REPORT WAS PRODUCED FROM A SURVEY THAT WAS NOT RELATED TO YOUR ANNUAL LICENSING SURVEY BUT RATHER WAS PRECIPITATED BY A SPECIFIC COMPLAINT THAT SOMEONE LODGED WITH DHH; IS THAT RIGHT?

A YES.

Q AND THEY CAME TO THE CLINIC -- DO YOU RECALL THE SPECIFIC INCIDENCE?

A I WAS NOT THE ADMINISTRATOR AT THAT TIME. I DO RECALL THE TWO PHYSICIANS WHO WERE PROVIDING CARE AT HOPE AT THAT TIME. ONE HAD ADMITTING PRIVILEGES, THE OTHER DID NOT. THEY HAD A VERBAL AGREEMENT FOR TRANSFER TO HOSPITAL SHOULD THE OCCASION ARISE, BUT IT WAS NOT IN WRITING.

Q AND DHH FOUND A PROBLEM WITH THAT SORT OF INFORMAL TRANSFER AGREEMENT ARRANGEMENT; CORRECT?

A YES. THEY ASKED US TO DRAW UP A TRANSFER AGREEMENT BETWEEN THE PHYSICIANS. WE DID. THAT SATISFIED THEM. EVERYBODY WAS HAPPY.

Q WAS THE CLINIC HAPPY AS WELL?

A WE THOUGHT IT WAS UNNECESSARY, BUT WE WERE FINE WITH IT.

Q WHY DO YOU THINK A TRANSFER AGREEMENT REGARDING ADMITTING PRIVILEGES IS UNNECESSARY?

A IN THE EVENT THERE IS A TRUE EMERGENCY AND A PATIENT IS SENT, THE PHYSICIAN THAT IS HANDLING THAT PATIENT'S CARE IS ALWAYS GOING TO CONTACT THE ADMITTING PHYSICIAN AT THE HOSPITAL TO LET THEM KNOW. THAT PATIENT IS GOING TO ARRIVE WITH -- WITH THE ENTIRE MEDICAL CHART.

SINCE THE PHYSICIAN THAT ORIGINALLY IS TAKING CARE OF THE PATIENT IS IN CONTACT WITH THE ADMITTING PHYSICIAN AT

THE HOSPITAL, I DON'T SEE ANY PROBLEM WITH THAT. IT IS NOT UNCOMMON FOR PATIENTS TO BE ADMITTED INTO A HOSPITAL AND ANOTHER PHYSICIAN TAKE OVER THEIR CARE.

Q OKAY. LET ME ASK YOU SPECIFICALLY -- LAST COUPLE OF QUESTIONS, I BELIEVE. YOU TESTIFIED EARLIER ON DIRECT THAT -- YOU WERE ASKED SOME QUESTIONS ABOUT RECRUITING EFFORTS OF NEW PHYSICIANS. DO YOU RECALL THAT LINE OF QUESTIONING?

A YES.

Q AND YOU SEEMED TO SAY THAT THERE MAY BE SOME DIFFICULTY WITH RECRUITING NEW PHYSICIANS; IS THAT RIGHT?

A THERE IS -- THERE IS DIFFICULTY, YES.

Q BUT YOU DON'T ACTIVELY RECRUIT FOR NEW PHYSICIANS, DO YOU?

A I DO NOT RUN ADS. I TALK TO DIFFERENT CONTACTS IN THE COMMUNITY THROUGHOUT THE STATE, OUTSIDE OF THE STATE.

Q IT'S JUST A WORD-OF-MOUTH KIND OF THING?

A NO, NOT NECESSARILY. MY PRIMARY CONTACT IS SUSAN YANAL. SHE'S A REPRODUCTIVE HEALTH SPECIALISTS IN CAMBRIDGE, MASSACHUSETTS WHO RUNS A RECRUITMENT AND MATCH PROGRAM. AND I CONTACT HER EVERY OTHER MONTH OR SO JUST TO CHECK IN, SEE DOES SHE HAVE ANYBODY FOR ME.

Q YOU DON'T SET ASIDE SPECIFIC TIME IN YOUR SCHEDULE, HOWEVER, TO DO THIS RECRUITING EFFORT; RIGHT? NO PARTICULAR TIME --

A NO.

Q -- IN YOUR DAY OR WEEK? IT'S JUST RATHER INFORMAL; CORRECT?

A YES.

Q OKAY.

MR. JOHNSON: NO FURTHER QUESTIONS.

THE COURT: REDIRECT?

REDIRECT

BY MS. DOUFEKIAS:

Q HELLO, MS. PITTMAN. MR. JOHNSON ASKED YOU SOME QUESTIONS ABOUT INCREASED STAFF AT HOPE --

A YES.

Q -- NOW AS COMPARED TO PREVIOUS PERIODS?

A UH-HUH.

Q WHAT ARE THE REASONS THAT HOPE NEEDS ADDITIONAL STAFF MEMBERS IN THE CLINIC?

A AS COMPARED TO PRIOR YEARS?

Q YES.

A ONE IS INCREASE IN PATIENT NUMBERS, ANOTHER REASON WOULD BE -- IS RECENT CLINIC REGULATIONS REQUIRE ADDITIONAL NURSING PERSONNEL, SO I'VE HAD TO INCREASE OUR NURSING PERSONNEL ROSTER.

Q IS IT POSSIBLE -- IS IT POSSIBLE FOR ADDITIONAL PROCEDURES TO BE PERFORMED IN THE HOSPITAL -- REGARDLESS OF HOW MANY STAFF MEMBERS ARE IN THE HOSPITAL, IS IT POSSIBLE TO DO ADDITIONAL PROCEDURES IF THERE ISN'T A DOCTOR THERE?

A IF THERE IS NO DOCTOR THERE?
Q CORRECT.
A NO.
Q SO REGARDLESS OF THE NUMBER OF STAFF MEMBERS YOU HAVE IN THE CLINIC, IF YOU DON'T HAVE A DOCTOR WITH ADMITTING PRIVILEGES WITHIN 30 MILES OF THE FACILITY, WILL HOPE BE ABLE TO DO ADDITIONAL PROCEDURES?
A NO.
Q YOU WERE ASKED A SERIES OF QUESTIONS ABOUT THE PATIENTS THAT COME TO HOPE WHO ARE POOR. MS. PITTMAN, YOU'VE BEEN TALKING TO PATIENTS WHO'VE COME INTO HOPE FOR 20 YEARS, AND IN YOUR EXPERIENCE ARE THE MAJORITY OF THOSE PATIENTS POOR?
A YES.
Q YOU WERE ALSO ASKED A SERIES OF QUESTIONS ABOUT COMPLICATIONS THAT DON'T REQUIRE HOSPITALIZATION?
A YES.
Q IS HOPE ABLE TO STABILIZE PATIENTS IN THE CLINIC?
A YES, WE ARE.
Q AND IS THAT ONE OF THE REASONS THAT PATIENTS ARE NOT ABLE -- OR IT'S NOT NECESSARY TO HOSPITALIZE PATIENTS?
A WELL FRANKLY, IT'S NOT -- IT HASN'T BEEN NECESSARY TO HOSPITALIZE PATIENTS BECAUSE IT'S SO RARE TO HAVE ISSUES. BUT, YES, WHEN WE DO HAVE AN ISSUE, FOR INSTANCE, HEAVY BLEEDING, GENERALLY MY PHYSICIANS ARE ABLE TO TAKE CARE OF

THAT.

Q AND IT'S THE DOCTOR -- IT'S THE PHYSICIAN WHO MAKES THE DETERMINATION IN THAT CASE THAT THE PATIENT CAN BE STABILIZED IN THE CLINIC AS OPPOSED TO REQUIRING HOSPITALIZATION; IS THAT CORRECT?

A ABSOLUTELY.

Q YOU WERE ALSO ASKED A SERIES OF QUESTIONS ABOUT FOLLOW-UP VISITS FOR SURGICAL AND MEDICATION ABORTIONS, AND SPECIFICALLY YOU WERE ASKED ABOUT THE THREE-WEEK PERIOD.

A YES.

Q DOES A DOCTOR HAVING ADMITTING PRIVILEGES WITHIN 30 MILES OF HOPE HAVE ANY IMPACT ON WHETHER OR NOT A PATIENT COMES BACK THREE WEEKS AFTER THE PROCEDURE?

A NO.

Q YOU WERE ALSO ASKED A SERIES OF HYPOTHETICALS, ONE INVOLVING A THEORETICAL PATIENT WHO NEEDS CARE SOME DAYS AFTER THE PROCEDURE.

A YES.

Q WHERE DID HOPE'S PATIENT -- HOPE'S PATIENTS COME FROM?

A ALL OVER THE STATE OF LOUISIANA AND SURROUNDING STATES.

Q SO IN THE CASE OF A THEORETICAL PATIENT WHO NEEDS CARE SOME DAYS AFTER THE PROCEDURE, IS IT -- WHAT'S YOUR VIEW ON WHETHER A DOCTOR HAVING ADMITTING PRIVILEGES WITHIN

30-MILES OF THE CLINIC WILL AFFECT THAT?

A I DON'T SEE HOW ONE OF OUR PHYSICIANS HAVING ADMITTING PRIVILEGES WOULD BE HELPFUL AT ALL. WHEN A PATIENT IS CALLING FROM OUT OF TOWN, WE'RE NOT GOING TO HAVE THAT PATIENT RETURN TO US TO GO TO A HOSPITAL NEARBY, WE'RE GOING TO HAVE THAT PATIENT GO TO A HOSPITAL NEAR HER HOME.

Q AND IF A PATIENT CALLS -- WHAT WOULD HAPPEN IF A PATIENT CALLED AND WAS EVEN WITHIN AN HOUR OF THE CLINIC AND HAD AN ISSUE, WHERE WOULD THE CLINIC RECOMMEND THAT THE PATIENT GO TO THE HOSPITAL IF THAT'S WHAT THE DOCTOR DETERMINED WAS NECESSARY?

A IF THE DOCTOR SAYS SHE NEEDS TO GO TO THE HOSPITAL, WE WOULD TELL THAT PATIENT GO TO THE HOSPITAL NEAREST YOU. AND LOOKING AT THE CHART, I WOULD SAY IT IS SUCH AND SUCH HOSPITAL AND WE'LL FOLLOW-UP WITH YOU THERE, OR I WILL.

Q YOU WERE ASKED A SERIES OF QUESTIONS ABOUT ITOP FORMS AND THE INFORMATION THAT'S FILLED OUT IN THE ITOP FORMS.

A YES.

Q MS. PITTMAN, DO YOU ASSUME ANYTHING WHEN YOU'RE FILLING OUT THOSE ITOP FORMS?

A NO. I'M LITERALLY LOOKING AT THE PATIENT'S CHART WHEN I FILL THESE FORMS OUT.

Q AND YOU ALSO DISCUSSED THE PROCESS BY WHICH THE ITOP FORMS ARE AMENDED?

A YES.

Q AND I THINK YOU TESTIFIED THAT HOPE PRINTS OUT A COPY OF THE REPORT THAT'S OTHERWISE SUBMITTED ELECTRONICALLY AND GOES BACK AND CORRECTS THE FORM?

A YES.

Q IS THAT SOMETHING THAT HOPE DOES -- IS THAT A -- WHO DEVELOPED THAT PROCESS?

A ACTUALLY, I DID. WHEN WE WENT ELECTRONIC, WE NEEDED -- THERE WAS QUITE A FEW PROBLEMS WITH THE LEERS PROGRAM WHERE WE WERE SUBMITTING. WE WERE HAVING DIFFICULTY -- WE COULD NOT EVEN PRINT THE REPORT ONCE IT HAD BEEN SENT TO THE PHYSICIAN TO CERTIFY. SO AT THAT -- AT THAT TIME, WHAT WE WOULD DO IS WE WOULD TYPE UP THE DOCUMENT, PRINT IT, THEN SEND IT TO CERTIFY. IN THE MEANTIME, WE HAD A COPY IN THE RECORD.

THEY WORKED THE KINKS OUT OF THE LEER'S PROGRAM SO THAT WE COULD THEN ACTUALLY TYPE IT UP AND EVEN RETRIEVE IT IF NEEDED FOR UP TO A YEAR. HOWEVER, WE CAN'T -- WE CAN LOOK AT IT, BUT THE AMENDING PROCESS HAS TO BE -- TO MY KNOWLEDGE, STILL HAS TO BE DONE BY HAND. THAT WAS THE, YOU KNOW, THE MOST EFFICIENT WAY TO DO IT IN ORDER TO GET THE INFORMATION TO THE STATE SHOULD A COMPLICATION ARISE THAT WE DID NOT KNOW OF AT THE TIME OF THE PROCEDURE.

Q AND SO ONE OF THE PURPOSES OF THIS WAS TO DEVELOP A WAY TO MAKE SURE THAT THE STATE GOT ACCURATE INFORMATION?

A YES.

Q THERE WAS ALSO SOME QUESTIONS ABOUT WOMEN WHO MAY HAVE EMOTIONAL ISSUES AFTER HAVING AN ABORTION?

A UH-HUH.

Q MS. PITTMAN, CAN YOU EXPLAIN TO US A LITTLE BIT ABOUT WHAT -- THE SORTS OF THINGS THAT ARE DONE AT HOPE IN ORDER TO COUNSEL WOMEN AND TO DEAL WITH THE HYPOTHETICAL SITUATION THAT MR. JOHNSON RAISED?

A EVERY WOMAN THAT COMES TO US FOR A PREGNANCY TERMINATION SITS ONE-ON-ONE WITH A COUNSELOR. WE CALL IT PRIMARY COUNSELING. THIS IS DONE AFTER AN ULTRASOUND SO THAT THE COUNSELOR AND THE PATIENT HAS A VERY GOOD IDEA OF THE DEVELOPMENT OF THE PREGNANCY, THE TYPE OF PROCEDURE THAT IS NEEDED. THE -- THE STAFF COUNSELOR GOES THROUGH ALL OF THIS.

THEY -- THE CONVERSATION CAN RANGE FROM ANYTHING FROM HER SUPPORT SYSTEM TO HER KIDS AT HOME. I MEAN, WHATEVER THE PATIENT NEEDS TO TALK ABOUT THAT'S THE TIME TO TALK ABOUT IT. THAT IS PRIOR TO SITTING DOWN ONE-ON-ONE WITH THE PHYSICIAN, WHICH IS ACTUALLY THE PART OF THE INFORMED CONSENT SESSION THAT'S REQUIRED BY STATE LAW.

IF FOR ANY REASON A PATIENT OR THE COUNSELOR FEELS A PATIENT HAS SOME RESERVATIONS, HAS SOME AMBIGUITY ABOUT ANYTHING OR SOME CONCERNS AND IT'S NOT RESOLVED DURING THAT FIRST SESSION, THAT CHART WILL BE MARKED FOR SECOND COUNSELING. AT THAT POINT -- AND WE'LL NOTE IN THE CHART WHY THEY'RE RECOMMENDING A SECOND SESSION.

WHEN THE PATIENT RETURNS FOR THE PROCEDURE OR JUST TO COME IN TO TALK AGAIN, SOMETIMES THEY CAN DO THAT, A COUNSELOR, AGAIN, WILL SIT DOWN WITH THEM. DEPENDING ON THE NATURE OF THE CONCERN, SOMETIMES THE COUNSELOR MAY ASK FOR STEPHIE, WHO IS OUR ASSISTANT ADMINISTRATOR, OR ME, TO ACTUALLY SIT DOWN WITH THE PATIENT.

THE PURPOSE IS, FIRST OF ALL, TO MAKE SURE SHE'S OKAY WITH THIS DECISION. FOR -- I MEAN -- NOBODY EVER WANTS TO GROW UP TO HAVE AN ABORTION. THAT'S NOT WHAT THIS IS ALL ABOUT, BUT -- AND I THINK WHAT A LOT OF PEOPLE DON'T UNDERSTAND IS MOST OF THE WOMEN WE SEE ALREADY HAVE AT LEAST ONE CHILD, IF NOT MORE.

THE DECISION TO TERMINATE A PREGNANCY IS NOT TAKEN LIGHTLY. OFTENTIMES IT'S MADE BECAUSE THAT -- THE PATIENT FEELS SHE IS DOING WHAT'S BEST FOR THE FAMILY SHE ALREADY HAS. ONCE -- SO THAT'S ALL PART OF THE COUNSELING PROCESS AT HOPE.

ON THE DAY OF THE PROCEDURE, WHEN SHE CHECKS IN, THE FIRST QUESTION AFTER "HELLO. HOW ARE YOU IS, "DO YOU HAVE ANY QUESTIONS YOU WANT TO TALK ABOUT TODAY?" IF THEY DO, WE'LL SIT THEM DOWN AGAIN. IF THEY DON'T, THEN THEY'LL GO AHEAD AND WE'LL GET THEM READY FOR THE SURGERIES. AND THEN BEFORE THEY LEAVE FOR THE DAY, THEY SIT DOWN ONE-ON-ONE WITH A COUNSELOR AGAIN WHO'S GOING TO REVIEW THOSE AFTERCARE INSTRUCTIONS AND MAKE SURE THEY'RE OKAY. AND I'M SORRY, Y'ALL, I GOT CARRIED AWAY THERE.

Q MS. PITTMAN, HOW MANY YEARS HAVE YOU BEEN COUNSELING PATIENTS AT HOPE?

A SINCE 1992.

Q AND HAVE YOU EVER BEEN FACED WITH WOMEN WHO HAVE SOME DOUBTS?

A YES.

Q AND HOW DO YOU COUNSEL THOSE WOMEN?

A WE WORK -- WE LEFT -- WE'RE -- WE'RE BASICALLY THE SOUNDING BOARD FOR THE WOMAN. "OKAY. WHAT ARE YOUR DOUBTS?" SAY, FOR INSTANCE, IF IT'S BECAUSE SHE IS SINGLE AND IS AFRAID SHE CAN'T DO IT ALONE, WE TALK ABOUT HER SUPPORT SYSTEM. IT MIGHT BE THAT HER -- SHE HAS FAMILY THAT WOULD BE VERY SUPPORTIVE ONCE THEY GET OVER THE INITIAL ANXIETY OF HER HAVING A CHILD ON HER OWN.

IT COULD BE THAT HER SIGNIFICANT OTHER IS CREATING PRESSURE ONE WAY OR THE OTHER, AND WE TRY TO HELP HER DECIDE IF WE TOOK HIM OUT OF THE PICTURE WHAT WOULD BE HER DECISION. WE WANT HER TO DECIDE WHAT'S BEST FOR HER, NOT WHAT SHE NEEDS TO DO TO MAINTAIN THIS RELATIONSHIP OR KEEP HER PARENTS OFF HER BACK. THAT'S IMPORTANT TO US.

MR. JOHNSON: YOUR HONOR, WE WOULD JUST STATE A GENERAL OBJECTION TO RELEVANCE OF --

THE COURT: YOU NEED TO STAND WHEN YOU'RE ADDRESSING THE COURT, MR. JOHNSON.

MR. JOHNSON: GENERAL OBJECTION TO RELEVANCE OF THIS

LINE OF QUESTIONING.

THE COURT: I UNDERSTAND. I THINK SHE WAS RESPONDING TO A QUESTION YOU ASKED, SO I'M GOING TO PERMIT IT.

BUT ARE THERE ANY OTHER QUESTIONS?

MS. DOUFEKIAS: I WAS DONE. BUT YOU'RE RIGHT, YOUR HONOR. HE ASKED A HYPOTHETICAL QUESTION ABOUT A --

THE COURT: YOU WON.

ANY OTHER QUESTIONS?

MS. DOUFEKIAS: ON ANOTHER TOPIC, YOUR HONOR.

BY MS. DOUFEKIAS:

Q MS. PITTMAN, YOU WERE ASKED A SERIES OF QUESTIONS ABOUT -- AND WERE SHOWN A NUMBER OF DOCUMENTS ABOUT A 2010 SUSPENSION LETTER THAT HOPE RECEIVED?

A YES.

Q DO YOU RECALL THE INSPECTION THAT OCCURRED IN ADVANCE OF THAT SUSPENSION LETTER?

A I DO.

Q WERE CERTAIN ISSUES IDENTIFIED AT HOPE BY THE SURVEYOR?

A THEY WERE.

Q AND WHAT HAPPENED WHEN THOSE ISSUES WERE IDENTIFIED AT HOPE?

A PRIOR TO THE EXIT INTERVIEW, THEY WERE IDENTIFIED BY THE SURVEYOR THROUGH IMMEDIATE JEOPARDY. AFTER I GOT OVER MY INITIAL SHOCK, MY RESPONSE TO THAT WAS, "OKAY. THE TWO ISSUES

THAT SEEM TO BE A PROBLEM ARE INTRAVENOUS NUBIAN AND NITROUS OXIDE, WE'LL IMMEDIATELY SUSPEND THE USE OF BOTH." I SAID, "GIVE ME FIVE MINUTES, I'LL PUT IT IN WRITING." SO I WENT TO MY OFFICE WHILE THE SURVEYOR CALLED THE STATE OFFICE TO GET, YOU KNOW... SO WHEN I BROUGHT HER THE LETTER STATING -- IN THE MEANTIME, I DID CALL OUR -- DR. DOE 3, OUR MEDICAL DIRECTOR, TO LET HIM KNOW WHAT WAS GOING ON. HE SAID, "THAT'S FINE, KATHALEEN. WE WERE TALKING ABOUT NOT USING THE NITROUS ANYMORE ANYWAY."

SO I TOOK THE LETTER TO -- THIS TOOK PLACE LIKE WITHIN FIVE TO TEN MINUTES. I TOOK THE LETTER TO THE SURVEYOR AND SHE SAID, "I AM LIFTING THE IMMEDIATE JEOPARDY." SHORTLY THEREAFTER, WE HAD OUR EXIT INTERVIEW. I WAS TOLD, "YOU'VE ALREADY ADDRESSED THE TWO MAIN ISSUES, THERE ARE TWO OTHERS THAT ARE SIMPLY DOCUMENTATION, YOU KNOW HOW TO HANDLE THAT. YOU'LL BE HEARING FROM US." AND THAT WAS ON A FRIDAY, AND THREE WEEKS LATER I RECEIVED THE SUSPENSION.

Q SO THE ISSUES THAT MR. JOHNSON ALLUDED TO IN HIS CROSS EXAMINATION WERE CORRECTED THE DAY THAT THE INSPECTION HAPPENED; IS THAT RIGHT?

A YES, YES.

Q WHEN YOU ULTIMATELY -- WHEN THE CLINIC ULTIMATELY RECEIVED SOME OF THE DOCUMENTS THAT MR. JOHNSON ASKED YOU ABOUT, INCLUDING THE SUSPENSION LETTER, WHAT HAPPENED TO APPEAL THAT SUSPENSION?

A OKAY. WE WENT THROUGH THE DIVISION OF ADMINISTRATIVE LAW AND ARGUED. ULTIMATELY WE DID REACH AN AGREEMENT WITH DEPARTMENT OF HEALTH AND HOSPITALS.

Q WAS THERE A PROCEEDING IN STATE COURT THAT ULTIMATELY LED TO THE CLINIC BEING REOPENED?

A YES.

Q AND HOW LONG WAS THE CLINIC CLOSED?

A TWO WEEKS, APPROXIMATELY.

Q HOW LONG WAS THE SUBSEQUENT LITIGATION BEFORE YOU CAME TO A SETTLEMENT WITH DHH?

A THAT WAS IN 2010, AND I THINK WE REACHED AGREEMENT IN THE SPRING OF 2013, I BELIEVE.

Q AT SOME POINT, DID YOU RECEIVE A LETTER FROM DHH THAT EXPRESSED HOPE WAS IN SUBSTANTIAL COMPLIANCE WITH THE SETTLEMENT AGREEMENT?

A YES. IN 2013.

Q DO YOU REMEMBER WHO SENT YOU THAT LETTER?

A IT COULD HAVE BEEN HEDRA DUBOIS. I CAN'T REMEMBER WHO WAS OVER HEALTH STANDARDS AT THAT TIME.

Q BUT IT WAS SOMEONE FROM HEALTH STANDARDS WHO SENT YOU THAT LETTER?

A I BELIEVE SO, YES.

MS. DOUFEKIAS: I'D LIKE TO PUT A DOCUMENT ON THE ELMO, BUT IT'S NOT IN EVIDENCE, SO IT SHOULDN'T BE SHOWN. JUST TO THE WITNESS.

A OH, IT WAS SIGNED BY CECILE CASTELLO.

BY MS. DOUFEKIAS:

Q MS. PITTMAN, IS THIS THE LETTER THAT YOU RECEIVED FROM DHH?

A YES.

Q AND THE LETTER REFERENCES A SETTLEMENT AGREEMENT. IS THAT THE SETTLEMENT THAT THE CLINIC REACHED WITH DHH TO RESOLVE THE IMMEDIATE SUSPENSION?

A YES.

Q AND BY THIS POINT IN TIME, HAD THE CLINIC DONE EVERYTHING DHH EXPECTED OF IT IN ORDER TO BE IN SUBSTANTIAL COMPLIANCE WITH THE LAW?

A ABSOLUTELY.

Q SO IS IT FAIR TO SAY THAT FROM THE PERIOD OF THE SUSPENSION -- WELL, FROM THE PERIOD OF THE INSPECTION UNTIL THIS PERIOD, THE CLINIC DID EVERYTHING THAT THE STATE WANTED IT TO DO IN ORDER TO BE IN COMPLIANCE WITH THE LAW?

A YES.

Q AND IS IT FAIR TO SAY THAT THAT'S THE REASON THAT THE CLINIC REMAINED OPEN?

A YES.

MS. DOUFEKIAS: YOUR HONOR, I'D LIKE TO -- I'D LIKE TO PRESENT THIS EXHIBIT FOR -- INTO THE RECORD. THE PROBLEM IS THAT I DON'T HAVE ANOTHER HARD COPY OF IT. I THOUGHT I HAD THEM WITH ME.

THE COURT: IS THIS A PART OF WHAT'S PREVIOUSLY BEEN MARKED AS A JOINT EXHIBIT OR --

MS. DOUFEKIAS: NO, IT'S NOT. IT'S AN ADDITIONAL DOCUMENT. SO, AGAIN, AS WE'VE SAID, THERE'S A WHOLE SERIES OF LITIGATION AND LOTS AND LOTS OF DOCUMENTS. THIS, I THINK, IS KIND OF THE LAST PIECE OF THAT STORY AND WE'D LIKE TO INTRODUCE IT INTO EVIDENCE.

I CAN HAVE COPIES -- I'D LIKE TO BRING IT UP RIGHT NOW BECAUSE THE WITNESS IS ON THE STAND RIGHT NOW. I CERTAINLY CAN HAVE COPIES FOR EVERYONE AFTER A BREAK. I APOLOGIZE. I THOUGHT I HAD COPIES WITH ME. I DO NOT.

THE COURT: ANY OBJECTIONS?

MR. DUNCAN: NO OBJECTION, YOUR HONOR.

THE COURT: ALL RIGHT. THEN LET IT BE ADMITTED.

DO WE HAVE A NUMBER THAT WE CAN ASSIGN IT SO THE RECORD IS CLEAR?

MS. DOUFEKIAS: APOLOGIES, YOUR HONOR.

THE COURT: THAT'S NO PROBLEM.

THE CLERK: IT SHOULD BE 172.

THE COURT: THIS MAY BE 172, MS. DOUFEKIAS.

MS. DOUFEKIAS: YOUR HONOR, I BELIEVE THAT WOULD BE PLAINTIFF'S EXHIBIT 172.

THE COURT: ALL RIGHT. ANY OBJECTIONS, MR. JOHNSON?

MR. JOHNSON: NONE, YOUR HONOR. THANK YOU.

THE COURT: ALL RIGHT. LET IT BE RECEIVED.

BY MS. DOUFEKIAS:

Q AGAIN, JUST ONE MORE QUESTION ABOUT THIS EXHIBIT, IF YOU COULD TAKE A LOOK.

A IT WENT AWAY.

Q ACTUALLY, WE CAN MOVE ON. MR. JOHNSON TOOK YOU THROUGH A SERIES OF DOCUMENTS AND ASKED YOU ABOUT HOW THE CLINIC RESPONDED. THROUGHOUT THIS ENTIRE PERIOD, WAS THE CLINIC SEEKING THE ADVICE OF COUNSEL?

A YES.

Q SO ANY RESPONSES TO ANY OF THE LETTERS OR THE DEFICIENCY REPORTS THAT MR. JOHNSON ASKED YOU ABOUT, WERE YOU DOING THE -- WERE YOU RESPONDING TO THESE ON YOUR OWN?

A I WAS -- COUNSEL WAS REVIEWING THEM.

Q MR. JOHNSON ALSO TOOK YOU THROUGH A SERIES OF SPECIFIC ISSUES, IF YOU RECALL, I THINK THERE WERE SOME VIOLATIONS HAVING TO DO WITH THE REGULATORY SECTIONS OF THAT NURSING PERSONNEL?

A YES.

Q MS. PITTMAN, IN YOUR VIEW, HOW WOULD A DOCTOR HAVING ADMITTING PRIVILEGES IN THE CLINIC -- ADMITTING PRIVILEGES TO A HOSPITAL WITHIN 30 MILES OF THE CLINIC AFFECT VIOLATIONS HAVING TO DO WITH NURSING PERSONNEL?

A IT WOULD NOT.

Q HE ALSO ASKED A SERIES OF QUESTIONS ABOUT CERTAIN DOCUMENTATION ISSUES. HOW WOULD A DOCTOR HAVING ADMITTING

PRIVILEGES AT A HOSPITAL WITHIN 30 MILES OF THE CLINIC AFFECT THE DOCUMENTATION ISSUES RAISED BY DHH?

A IT WOULD NOT.

Q IN YOUR RESPONSES TO THESE DEFICIENCY REPORTS, DID THE CLINIC ALWAYS AGREE THAT WHAT DHH IDENTIFIED WAS A VIOLATION OF THE REGULATIONS?

A NO, WE DID NOT ALWAYS AGREE. HOWEVER, WE WERE ALWAYS WILLING TO AMEND OUR PROTOCOLS TO ACCOMMODATE THEM.

Q IF YOU COULD TAKE A LOOK AT WHAT'S BEEN MARKED AS DEFENDANT'S EXHIBIT 78.

MS. DOUFEKIAS: AGAIN, THIS IS CONFIDENTIAL AND SHOULD NOT GO UP IN THE GALLERY.

BY MS. DOUFEKIAS:

Q IT'S IN THE BINDERS. IT'S IN YOUR BINDER. THIS IS ONE OF THE DOCUMENTS YOU LOOKED AT WITH MR. JOHNSON. I THINK IT'S IN THAT BIG BINDER. AND IF YOU'D LOOK FOR THE TAB THAT'S MARKED 78.

THE WITNESS: OKAY.

MS. DOUFEKIAS: WHILE THE WITNESS IS LOOKING FOR THE DOCUMENT, I'LL JUST POINT OUT THAT THESE DOCUMENTS APPEAR NOT TO HAVE HAD AT LEAST ONE OF THE DR. DOE'S NAMES REDACTED AND WE WOULD REQUEST THAT DEFENDANTS DO THAT.

THE COURT: ANY PROBLEM?

MR. JOHNSON: WE WILL, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

BY MS. DOUFEKIAS:

Q SO, MS. PITTMAN, I JUST WANT TO MAKE SURE I UNDERSTAND. IS THIS WHAT YOU EXPECT A PLAN OF CORRECTION -- A DEFICIENCY REPORT TO LOOK LIKE IN THAT IT HAS BOTH YOUR -- BOTH WHAT -- THE DHH'S PIECE OF IT AND YOUR PIECE OF IT?

A YES.

Q AND I'D LIKE TO POINT YOU TO THE FIRST PARAGRAPH ON PAGE NUMBER 1 OF 19.

A UH-HUH.

Q AND THERE'S SOME INFORMATION THERE ABOUT -- THAT FIRST PARAGRAPH, WOULD YOU CHARACTERIZE THAT AS HOPE'S VIEW OF THE DEFICIENCY THAT IT'S BEING CITED FOR?

A ON THE LEFT-HAND SIDE?

Q ON THE RIGHT-HAND SIDE.

A OKAY. YES.

Q AND IS IT SAFE TO SAY THAT HOPE DOES NOT NECESSARILY AGREE WITH DHH'S POSITION THAT SOME OF THE THINGS OBSERVED WERE ACTUAL VIOLATIONS OR DID, IN FACT, OCCUR?

A IT'S FAIR TO SAY WE DIDN'T NECESSARILY AGREE.

Q MR. JOHNSON ALSO ASKED YOU ABOUT A PORTION OF THIS DOCUMENT THAT TALKED ABOUT NURSES PERFORMING ASSESSMENTS?

A YES.

Q MS. PITTMAN, DO THE DOCTORS DETERMINE WHETHER OR NOT A PATIENT IS STABLE TO LEAVE THE CLINIC?

A ALL PATIENTS ARE STABLE BEFORE THE PHYSICIAN LEAVES

THE CLINIC. I MEAN, YES.

Q SO THE NURSES INDEPENDENTLY DO NOT DECIDE -- STRIKE THAT. IT IS THE MEDICAL STAFF IN THE CLINIC, INCLUDING THE DOCTOR, WHO DETERMINES THAT THE PATIENT IS STABLE --

A CORRECT.

Q -- IS THAT CORRECT? OKAY. MS. PITTMAN, YOU WERE ALSO ASKED ABOUT ANOTHER EXHIBIT. ONE THAT INVOLVED AN ORAL TRANSFER AGREEMENT.

A YES.

Q AND I BELIEVE MR. JOHNSON ASKED YOU WHY YOU THOUGHT A TRANSFER AGREEMENT WAS UNNECESSARY. IN THE INSTANCE POINTED TO IN THE DHH DEFICIENCY, THERE WAS A TRANSFER AGREEMENT IN PLACE; WAS THAT YOUR TESTIMONY?

A THERE WAS AN ORAL AGREEMENT. I DON'T RECALL IF THERE WAS A WRITTEN AGREEMENT IN PLACE AT THAT TIME.

Q BUT IN THE EVENT THAT ONE OF THE PATIENTS OF THE DOCTOR WHO DIDN'T HAVE ADMITTING PRIVILEGES HAD TO BE ADMITTED TO THE HOSPITAL, WHO WOULD HAVE SEEN THAT DOCTOR'S PATIENTS -- EXCUSE ME. WHO WOULD HAVE ADMITTED THAT DOCTOR'S PATIENTS?

A THEORETICALLY, THE -- OUR OTHER PHYSICIAN THAT HAD PRIVILEGES COULD, ALTHOUGH, FRANKLY, CHANCES ARE IT WOULD HAVE BEEN THE PHYSICIAN THAT WAS HANDLING THE CASE AT THE HOSPITAL.

Q BUT THE -- JUST BECAUSE THE TRANSFER AGREEMENT WASN'T WRITTEN DOWN, THERE WAS STILL AN UNDERSTANDING BETWEEN THE DOCTORS --

A RIGHT. IF NEEDED, YES.
Q YOU WERE ALSO ASKED A NUMBER OF QUESTIONS ABOUT INTERROGATORY RESPONSES?
A UH-HUH, YES.
Q AND YOU WERE ASKED ABOUT HOSPITAL TRANSFERS?
A YES.
Q THAT INFORMATION WAS BASED ON HOPE'S EXPERIENCE WITH PATIENTS AT THE CLINIC; IS THAT CORRECT?
A YES.
Q SO I THINK THAT MR. JOHNSON ASKED YOU A SERIES OF QUESTIONS ABOUT PATIENTS WHO MAY HAVE NEEDED HOSPITAL TRANSFERS SOME TIME AFTER THEY LEFT THE CLINIC?
A CORRECT.
Q MS. PITTMAN, IN WHAT WAY WOULD ADMITTING PRIVILEGES -- A DOCTOR HAVING ADMITTING PRIVILEGES AT A HOSPITAL WITHIN 30 MILES OF THE CLINIC AFFECT HOPE'S ABILITY TO ADMIT A PATIENT THAT HAD LEFT THE CLINIC SOME DAYS AGO?
A IT WOULD NOT BE OF ANY HELP AT ALL.
Q HAS HOPE EVER, UNDER EITHER THE WRITTEN TRANSFER AGREEMENT THAT'S IN PLACE RIGHT NOW OR IN THE PERIOD BEFORE WRITTEN TRANSFER AGREEMENTS WERE REQUIRED, HAS HOPE EVER HAD ANY PROBLEMS ADMITTING A PATIENT THAT NEEDED HOSPITAL ATTENTION TO A HOSPITAL?
A NO.
MS. DOUFEKIAS: I HAVE NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY. WE'VE BEEN GOING CLOSING ON TWO HOURS. WE'RE ALSO CLOSING IN ON THE LUNCH HOUR. AND I UNDERSTAND OUR NEXT WITNESS --

MS. PITTMAN, YOU MAY STEP DOWN. THANK YOU, MS. PITTMAN.

I UNDERSTAND OUR NEXT WITNESS IS GOING TO BE RATHER LENGTHY, SO WHAT WE'RE GOING TO DO IS BREAK FOR LUNCH. WE'RE GOING TO COME BACK AT 1:00 AND PROCEED.

MS. DOUFEKIAS: YOUR HONOR?

THE COURT: YES?

MS. DOUFEKIAS: IS MS. PITTMAN EXCUSED?

THE COURT: IS MS. PITTMAN EXCUSED?

THE WITNESS: I'M SORRY. I THOUGHT YOU SAID STEP DOWN. I'M SORRY.

THE COURT: LET'S JUST MAKE SURE THE RECORD IS CLEAR. WHAT THAT WAS ABOUT, MS. PITTMAN, IS THAT IF YOU WANT TO -- YOU'RE EXCUSED BY BOTH SIDES. NOBODY IS GOING TO RECALL YOU. SO YOU'RE NO LONGER SUBJECT TO THE SEQUESTRATION RULE, YOU MAY STAY IN THE AUDIENCE AND WATCH THE TRIAL IF YOU'D LIKE.

THE WITNESS: OKAY. THANK YOU.

THE COURT: WE'RE GOING TO BREAK FOR LUNCH AT THIS POINT.

(WHEREUPON THE COURT WAS AT RECESS.)

(WHEREUPON COURT RESUMED. ALL PARTIES WERE PRESENT.)

THE COURT: BE SEATED.

THE PLAINTIFFS CALL DR. DOE NUMBER 3. WHILE WE'RE WAITING FOR DR. DOE NUMBER 3, I'M NOT SURE THE RECORD REFLECTS THE PHYSICAL LAYOUT WE HAVE HERE. SO FOR PURPOSES OF THE APPEALS COURT. WE HAVE A SCREEN WHICH BLOCKS THE VIEW OF THE LAWYERS AND THE AUDIENCE, REALLY EVERYBODY BUT THE COURT, OF THE WITNESS.

THE PURPOSE FOR THIS WAS BECAUSE OF THE AGREED PROTECTIVE ORDER AMONG THE PARTIES AND THE BASIS OF WHICH IS THE CONCERN ABOUT THE SAFETY AND SECURITY OF THE DOCTORS. AND SO WE HAVE SET THIS UP, BUT I JUST WANTED THE RECORD TO REFLECT THAT I HAVE A GOOD VIEW OF THE WITNESSES AND CAN OBSERVE THEIR DEMEANOR.

DOCTOR, WOULD YOU COME BY? AND, LET'S SEE, WHERE'S MS. CAUSEY? SHE'S GOING TO SWEAR YOU IN.

DID YOU SWEAR OUR DOCTOR IN?

OH, YOU DID ALREADY, OKAY.

RAISE YOUR RIGHT HAND, DOCTOR.

(WHEREUPON, DR. DOE #3, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS.)

THE COURT: ALL RIGHT. YOU MAY BE SEATED.

DIRECT

BY MS. JAROSLAW:

Q DOCTOR, WHAT IS YOUR PROFESSION?

A I'M AN OBSTETRICIAN/GYNECOLOGIST.
Q AND DO YOU ALSO WORK AT HOPE MEDICAL GROUP FOR WOMEN?
A I DO.
Q AND WHAT'S YOUR ROLE THERE?
A I'M -- WELL, I AM ACTING AS THE CHIEF MEDICAL OFFICER AT THE CLINIC AND -- AND PROVIDE PROCEDURES AS WELL.
Q YOU'RE REFERRED TO IN THIS LITIGATION AS DR. DOE NUMBER 3; CORRECT?
A THAT IS CORRECT.
Q WHY ARE YOU TESTIFYING UNDER A PSEUDONYM?
A I'M -- I'M FEARFUL FOR MY SAFETY. I HAVE HAD INCIDENTS IN THE PAST WHERE PEOPLE HAVE THREATENED ME AND SO ON, AND SO I JUST FEEL LIKE I WOULD PREFER NOT TO EXPOSE MYSELF ANY MORE THAN NECESSARY OR MY FAMILY.
Q HAVE YOU PERSONALLY EXPERIENCED ANY THREATS IN YOUR HOMETOWN AREA?
A YES, FROM TIME TO TIME. LAST YEAR WE HAD A GROUP OF PEOPLE WHO CAME FROM OUTSIDE THE STATE EVEN WHO ATTACKED ME AT MY -- AT MY REGULAR PRACTICE IN BOSSIER CITY AND AT THE -- AND AT MY HOME, LEFT FLIERS OUT ON -- ON MY NEIGHBORS' MAILBOXES AND APPROACHED MY PATIENTS AS THEY TRIED TO COME INTO MY OFFICE. THEY HAD TO BE ESCORTED OFF THE PREMISES BY THE HOSPITAL POLICE, SECURITY -- SECURITY OFFICERS.
Q WHAT WAS THE NATURE OF THE FLIERS THAT WERE

DISTRIBUTED IN YOUR NEIGHBORHOOD?

A WELL, THEY WERE PRIMARILY JUST CERTAIN THINGS LIKE CALLING ME AN ABORTIONIST AND SAYING THAT THEY WANTED TO CONVERT ME TO JESUS. AND TO ME, THAT'S VERY THREATENING SINCE I'M ALREADY A CHRISTIAN. AND IT MAKES ME WONDER WHAT IN THE WORLD THAT'S ALL ABOUT.

AND THEN THEY WERE TELLING MY PATIENTS THAT I KILLED BABIES AND THAT THEY SHOULDN'T COME TO SEE ME. AND WE HAD A CURIOUS INCIDENT OF A PATIENT I HAD JUST DELIVERED HER BABY AND SHE WAS CARRYING THE NEWBORN BABY THAT I HAD JUST DELIVERED IN FOR HER POSTPARTUM VISIT AND THEY WERE ACCOSTING HER. SHE WAS -- SHE WAS TERRIFIED BY THEM. SHE SAID, YOU KNOW, BECAUSE THEY WERE TELLING HER THAT I KILLED BABIES AND THAT SHE SHOULDN'T SEE ME BECAUSE I KILLED BABIES AND SHE HAD A BABY THAT I HAD DELIVERED. TOTALLY CONFUSED, DIDN'T UNDERSTAND WHAT THAT WAS ALL ABOUT. SO I PREFER JUST NOT TO HAVE TO CONFRONT THOSE PEOPLE.

Q DR. DOE NUMBER 3, HOW LONG HAVE YOU BEEN A PHYSICIAN?

A I RECEIVED MY MD IN 1976 -- I'M SORRY. I GUESS IT WAS THE LATTER PART OF 1975 AND HAVE HAD A LICENSE TO PRACTICE MEDICINE SINCE 1976.

Q AND ARE YOU CURRENTLY LICENSED TO PRACTICE MEDICINE BY THE STATE OF LOUISIANA?

A YES, I AM. AND ALSO -- ACTUALLY, I CONTINUE TO

MAINTAIN A LICENSE TO PRACTICE MEDICINE IN TEXAS.

Q IN WHAT PART OF LOUISIANA IS YOUR PRIVATE PRACTICE?

A IN NORTHWEST LOUISIANA. MY PRIVATE PRACTICE IS IN THE CITY OF BOSSIER.

Q AND IN WHAT PART OF LOUISIANA IS THE HOPE MEDICAL GROUP FOR WOMEN?

A ALSO IN NORTHWEST LOUISIANA. IT'S RIGHT ACROSS THE RIVER IN THE CITY OF SHREVEPORT.

Q AND DID YOU HAPPEN TO NOTICE WHEN YOU DROVE DOWN FOR COURT HOW FAR THAT AREA IS FROM BATON ROUGE?

A OH, YES. IT SO HAPPENS THAT I USED MY LITTLE TRIP METER, AND IT SAID 271 MILES.

Q ARE YOU BOARD-CERTIFIED IN OB/GYN?

A YES, I AM.

Q WHAT IS THE SCOPE OF YOUR OB/GYN PRACTICE?

A WELL, I HAVE A GENERAL OB/GYN PRACTICE. I DELIVER BABIES, AND THEN I DO ALL -- ANY OF THE GYN -- ROUTINE GYN SURGERIES THAT YOU DO: HYSTERECTOMIES, LAPAROSCOPIES, D&CS, ET CETERA. AND THEN, OF COURSE, I HAVE THE ROUTINE YEARLY ANNUAL EXAMS AND SO ON THAT I DO AS A RESULT OF THAT. A PORTION OF MY PRACTICE, I HAPPEN TO HAVE A SPECIAL INTEREST IN INFERTILITY, SO I HAVE A FAIRLY LARGE NUMBER OF PATIENTS COME TO ME TO HELP ACHIEVE A PREGNANCY IF THEY CAN. I AM NOT CERTIFIED IN REALLY COMPLEX REPRODUCTIVE METHODS, AND SO I -- IF I AM NOT ABLE TO GET A PERSON PREGNANT WITH SIMPLE

MEASURES, I REFER THEM TO SUBSPECIALISTS IN THAT AREA.

Q NOW, IN ORDER TO BE IN COURT HERE TODAY, DID YOU HAVE TO ARRANGE COVERAGE FOR YOUR OBSTETRIC PATIENTS WHO MIGHT GO INTO LABOR?

A YES, I DID.

Q AND WAS IT MORE DIFFICULT TO ARRANGE COVERAGE BECAUSE YOU PROVIDE ABORTIONS AT HOPE?

A WELL, UNFORTUNATELY, YES, THAT'S TRUE.

Q AND CAN YOU EXPLAIN WHY THAT WAS?

A THERE ARE EIGHT OBSTETRICIANS/GYNECOLOGISTS IN THE CITY OF BOSSIER, AND A FEW YEARS BACK, THE OB/GYNS WANTED TO CUT DOWN THEIR CALL SCHEDULE SO THAT THEY'D HAVE MORE TIME WITH FAMILIES, ET CETERA, AND AGREED TO A RELATIONSHIP WHERE THEY WOULD EACH TAKE ONE CALL OUT OF -- WELL, AT THE TIME, ACTUALLY, THE DECISION WAS ORIGINALLY MADE THAT IT WOULD BE -- WOULD HAVE BEEN -- THERE WERE ONLY SEVEN OB/GYNS AND SO THE IDEA WAS TO TAKE CALL ONE NIGHT A WEEK AND ROTATE THE CALL SCHEDULE AROUND THAT WAY. BUT ONE OR TWO OF THE OB/GYNS SAID THAT BECAUSE I PERFORMED ABORTION --

MR. DUNCAN: OBJECTION, YOUR HONOR.

THE COURT: HOLD ON, DOCTOR. HOLD ON ONE SECOND.

MR. DUNCAN: OBJECTION TO HEARSAY, YOUR HONOR. HE'S TESTIFYING ABOUT WHAT SOMEONE ELSE TOLD HIM.

MS. JAROSLAW: YOUR HONOR, THIS GOES DIRECTLY TO THE DANGERS THAT THESE PHYSICIANS FACE AND WHY IT'S DIFFICULT TO

RECRUIT AND WHY IF THE ADMITTING PRIVILEGES REQUIREMENT IS NOT STRUCK DOWN IT WOULD BE NEARLY IMPOSSIBLE TO PROVIDE SERVICES TO THE WOMEN OF LOUISIANA. THESE THREATS ARE A VERY STRONG REASON, AS MS. PITTMAN TESTIFIED, AND THE DIFFICULTIES THAT PHYSICIANS WHO HAVE A PRACTICE, THE DIFFICULTIES THEY FACE FROM THEIR OWN COMMUNITY, BOTH AT HOME AND PROFESSIONALLY, BEARS GREATLY ON WHETHER THERE WILL BE ENOUGH DOCTORS TO PROVIDE THESE SERVICES.

THE COURT: TWO QUESTIONS, ONE IS, IS THIS BEING OFFERED FOR THE TRUTH OF THE STATEMENT, THE HEARSAY STATEMENT?

MS. JAROSLAW: YOUR HONOR, THIS IS BEING SHOWN -- SHOW THE STATE OF MIND OF DR. DOE 3 AND HOW THIS GENERAL CLIMATE OF SHUNNING OR STIGMA PREVENTS PHYSICIANS WHO MIGHT EVEN BE SYMPATHETIC TO PROVIDING THESE SERVICES BUT PREVENTS THEM FROM DOING SO.

THE COURT: SO THE ANSWER IS IT'S NOT BEING SUBMITTED FOR TRUTH OF THE STATEMENT?

MS. JAROSLAW: CORRECT.

THE COURT: OVERRULED.

MS. JAROSLAW: THANK YOU, YOUR HONOR.

BY MS. JAROSLAW:

Q YOU MAY PROCEED, DR. DOE 3. YOU WERE SAYING THAT THERE WERE, AT THE TIME, SEVEN OB/GYNS AND THERE WAS A THOUGHT THAT INSTEAD OF EVERYBODY BEING ON CALL SEVEN DAYS A WEEK THAT THERE WOULD BE A ROTATION; CORRECT?

A THAT'S CORRECT, YES.
Q AND WERE YOU PART OF THIS SEVEN PERSON ROTATION?
A NO. I WAS NEVER ALLOWED TO BE A PART OF IT.
Q OKAY. WERE THERE SOME OB/GYNS IN THE GROUP WHO WERE SYMPATHETIC TO YOU AND WANTED TO HELP?
A YES.
Q AND WHAT HAPPENED AS A RESULT OF THAT?
A THOSE -- TWO OF THOSE PHYSICIANS HAVE AGREED TO COVER TO ALLOW ME TO HAVE A NIGHT FREE WHENEVER THEY ARE TAKING CALL WITH THE OTHER SEVEN, THERE ARE NOW EIGHT PHYSICIANS, SO THE OTHER SEVEN. AND SO AS A RESULT, I AM ALLOWED TWO DAYS OFF OUT OF EVERY SEVEN DAYS.
Q SO, IN EFFECT, YOU ARE ON CALL FOR YOUR OBSTETRIC PATIENTS, YOU HAVE TO COVER IT ALL FIVE DAYS A WEEK; CORRECT?
A WELL, FOR ALL OF MY PATIENTS, NOT ONLY OBSTETRICS, BUT GYNECOLOGY AS WELL, YES. AND JUST AS AN EXAMPLE, I TOOK A ONE-WEEK VACATION TWO WEEKS AGO AND I HAVE NOT BEEN ABLE -- BECAUSE I USED UP ALL OF MY CALL DAYS, I HAVEN'T -- I'VE HAD TO TAKE CALL FOR MYSELF EVERY DAY SINCE THAT TIME. SO I HAD TO MAKE SPECIAL ARRANGEMENTS FOR -- TO BE ABLE TO COME DOWN HERE FOR THIS -- FOR THIS -- TO PROVIDE THIS TESTIMONY.
Q AND IS IT NECESSARY THAT YOU FINISH YOUR TESTIMONY TODAY?
A YES, IT IS. I ONLY HAVE COVERAGE UNTIL MIDNIGHT TONIGHT, SO I HAVE TO BE BACK BY MIDNIGHT.

Q DR. DOE 3, ARE YOU A MEMBER OF ANY PROFESSIONAL ORGANIZATIONS?

A WELL, I'M A MEMBER OF THE SHREVEPORT MEDICAL SOCIETY AND THE LOUISIANA STATE MEDICAL SOCIETY AND ALSO A MEMBER OF THE SOCIETY OF REPRODUCTIVE MEDICINE AND -- THOSE ARE -- THOSE ARE THE MAIN SOCIETIES THAT I BELONG TO.

Q AND ARE YOU AFFILIATED WITH NAF?

A YES, I AM. I AM AFFILIATED WITH NAF.

Q WHAT IS NAF?

A NAF IS THE NATIONAL ABORTION FEDERATION. IT IS AN ORGANIZATION THAT WAS CREATED TO -- BY PROVIDERS OF ABORTION TO -- TO HELP ESTABLISH STANDARDS AND TRAINING FOR EACH OTHER.

Q DO THEY HOLD ANNUAL CONFERENCES?

A YES, THEY DO.

Q AND DO YOU ATTEND THEM AND GET CONTINUING MEDICAL EDUCATION CREDITS?

A YES. I HAVE ATTENDED SEVERAL OF THEM. I HAVE NOT ATTENDED ALL OF THEM, BUT MANY.

Q NOW, YOU SAID THAT YOU GRADUATED FROM COLLEGE IN 1971. WAS THAT FROM SMU?

A YES.

Q AND WHERE DID YOU GRADUATE FROM MEDICAL SCHOOL IN 1975?

A SOUTHWESTERN MEDICAL SCHOOL IN DALLAS.

Q WHERE DID YOU DO YOUR RESIDENCY?

A I DID MY RESIDENCY AT LSU MEDICAL SCHOOL IN SHREVEPORT.

Q WHERE DID YOU WORK AFTER YOUR RESIDENCY?

A WELL, INITIALLY, AFTER MY RESIDENCY, I WAS ON THE FACULTY OF THE MEDICAL SCHOOL AS AN INSTRUCTOR AND THEY HAD ME -- MY PRIMARY RESPONSIBILITY WAS AS THE MEDICAL DIRECTOR OF AN ORG -- OF A GRANT CALLED THE ROBERT WOOD JOHNSON FOUNDATION. FROM THE ROBERT WOOD -- I'M SORRY. IT'S FROM THE ROBERT WOOD JOHNSON FOUNDATION TO HELP REDUCE PERINATAL AND INFANT MORTALITY IN THE STATE LOUISIANA.

Q AND WHAT DID YOU DO IN CONNECTION WITH THAT GRANT?

A WELL, OUR -- IT WAS CALLED THE RURAL INFANT CARE PROJECT. I'M SORRY. A MOMENT AGO I COULD NOT REMEMBER THE NAME.

THE COURT: I'M SORRY, DOCTOR. COULD YOU JUST SLOW DOWN A LITTLE BIT. OUR COURT REPORTER COULDN'T GET YOU. WHAT'S THE NAME OF THE PROJECT?

THE WITNESS: THE NAME OF THE PROJECT WAS -- IS THE RURAL INFANT -- RURAL INFANT CARE PROJECT.

A AND BETWEEN 1975 AND 1980, LOUISIANA HAD THE HIGHEST PERINATAL AND INFANT MORTALITY RATE OF ANY STATE IN THE UNION AND SO THE ROBERT WOOD JOHNSON FOUNDATION CREATED A SET OF GRANTS THROUGHOUT THE NATION, ACTUALLY, AND PICKED TWO SPOTS IN LOUISIANA TO TRY TO FIGURE OUT METHODS TO TRY TO REDUCE PERINATAL AND INFANT MORTALITY. AND WHAT WE TRIED -- WHAT WE

ACCOMPLISHED WAS TO COORDINATE ALL OF THE PRENATAL CARE THAT PATIENTS GOT IN THE RURAL HEALTH UNITS WITH THE MEDICAL SCHOOL. SO THAT WE SET UP THE -- IT WAS -- IT WAS IN THAT ERA, OF COURSE, THERE WAS NO INTERNET AND SO FORTH. AND WE SET UP, YOU KNOW, COMPUTER PROGRAMS FOR THAT AND THEN I WENT OUT TO THE CLINICS AND SAW PATIENTS OUT AT THE CLINICS AND THE HEALTH UNITS TO TRY TO -- AND WE SET UP A UNIFORM MEDICAL RECORD THAT WAS USED THROUGHOUT THE HEALTH CLINICS AND THROUGHOUT THE HEALTH SYSTEM AS WELL AND WERE ABLE TO COORDINATE THEIR CARE.

BY MS. JAROSLAW:

Q AND AFTER YOUR WORK WITH THE RURAL INFANT CARE PROJECT, WHERE DID YOU WORK?

A WELL, I ACTUALLY CONTINUED THAT WORK FOR QUITE A WHILE. IN OTHER WORDS, FOR ONE YEAR I WAS STRICTLY AN INSTRUCTOR AND HELPED TO GET THAT PROGRAM STARTED. BUT AFTER ONE YEAR, I SET UP A PRIVATE PRACTICE AND THEN WORKED PART TIME ON THE FACULTY AND CONTINUED TO WORK ON THE RURAL INFANT CARE PROJECT FOR AN ADDITIONAL SIX OR SEVEN YEARS. I DON'T RECALL EXACTLY HOW LONG IT LASTED UNTIL -- UNTIL THE GRANT MONEY RAN OUT.

Q AND DURING THAT TIME, YOU WERE PART TIME ON THE FACULTY OF LSU MEDICAL SCHOOL IN SHREVEPORT?

A YES, I WAS.

Q NOW, CURRENTLY, YOU ALSO PROVIDE CARE FOR WOMEN AT

THE HOPE MEDICAL GROUP FOR WOMEN; IS THAT CORRECT?

A THAT IS CORRECT.

Q HOW LONG HAVE YOU WORKED FOR HOPE?

A I STARTED WORKING FOR HOPE 34 YEARS AGO.

Q OKAY.

A IN 1981.

Q NOW, AS THE MEDICAL DIRECTOR, WHAT ARE YOUR DUTIES AND RESPONSIBILITIES?

A IT'S PRIMARILY MY RESPONSIBILITY TO SEE TO IT THAT ALL OF THE MEDICAL CARE PROVIDED TO THE PATIENTS IS APPROPRIATE AND TO SCREEN AND TRAIN TO BE CERTAIN THAT OUR NURSES AND ALL OF THE PERSONNEL THAT HAVE ANYTHING TO DO WITH THE MEDICAL ASPECT OF OUR PRACTICE ARE UP TO -- ARE WELL TRAINED, ARE ADEQUATELY TRAINED. AND THEN IT'S ALSO MY RESPONSIBILITY TO REVIEW APPLICATIONS BY ANY OF THE PHYSICIANS TO BE ADDED TO OUR STAFF.

Q AND DO YOU ALSO PROVIDE MEDICATION AND SURGICAL ABORTIONS AT HOPE?

A YES, WE DO.

Q AND WHAT IS YOUR SCHEDULE WHEN YOU'RE ON THE PREMISES AT HOPE?

A I'M SORRY?

Q WHEN ARE YOU AT HOPE, WHICH DAYS PER WEEK?

A I'M THERE ON THURSDAY AFTERNOON AND ALL DAY ON SATURDAY.

Q IN AN AVERAGE WEEK, ABOUT HOW MANY PATIENTS DO YOU SEE AT HOPE?

A WELL, ON THE AVERAGE I SEE ABOUT 20 TO 30 PATIENTS A WEEK. JOHN DOE NUMBER 1 SEES PATIENTS ON THOSE SAME DAYS THAT I'M THERE AND SEES AN EQUAL OR GREATER NUMBER THAN I DO ON THOSE DAYS.

JOHN DOE NUMBER 1 WAS ON VACATION LAST WEEK, SO I HAD THOSE TWO DAYS COMPLETELY TO MYSELF AND SAW 64 PATIENTS ON THOSE DAYS.

Q AND JOHN DOE NUMBER 1 IS YOUR COLLEAGUE AND THE ONLY OTHER PHYSICIAN WHO PRESENTLY PROVIDES ABORTIONS AT HOPE; CORRECT?

A THAT IS CORRECT.

Q WHERE DID YOU RECEIVE YOUR TRAINING IN SURGICAL ABORTION METHODS?

A FROM THE ORIGINAL OWNER OF HOPE MEDICAL GROUP WHO WAS -- ONE OF THE OWNERS WAS FROM A SIMILARLY NAMED CLINIC, HOPE CLINIC, UP IN ST. LOUIS, DR. HECTOR ZEVALLOS. AND HE CAME DOWN AND SHOWED US HOW TO DO ABORTION TECHNIQUES.

Q IN ADDITION TO THAT, DID YOU HAVE A COLLEAGUE ON THE FACULTY OF LSU MEDICAL SCHOOL WHO AT THE TIME WAS PROVIDING ABORTIONS AT HOPE?

A YES. THAT ACTUALLY IS JOHN DOE NUMBER 2, I BELIEVE, IF I CAN REMEMBER OUR NUMBERS.

Q I THINK THAT'S CORRECT.

A OKAY. AND JOHN DOE NUMBER 2 ORIGINALLY APPROACHED ME ABOUT HELPING HIM TO WORK AT HOPE, AND I AGREED TO DO THAT. AND THEN WE HAD DR. ZEVALLOS COME DOWN AND SHOW US THE TECHNIQUE. WELL, I GUESS DR. JOHN DOE 2 WAS ALREADY -- HAD ALREADY MET DR. ZEVALLOS AND HAD ALREADY BEEN TRAINED BY DR. ZEVALLOS.

Q AND DID YOU WORK WITH DR. DOE NUMBER 2 AT HOPE CLINIC FOR SOME NUMBER OF YEARS?

A YES. WE WORKED TOGETHER FOR -- YES, ABOUT 15 TO 20 YEARS.

Q AND DID THERE COME A TIME WHEN DR. DOE 2 LEFT HOPE AND BEGAN HIS OWN PRACTICE PROVIDING ABORTION ELSEWHERE IN THE AREA?

A YES. HE -- HE DID LEAVE -- HE DID LEAVE HOPE, AND HE DID BEGIN WORKING AT ONE OF THE OTHER CLINICS THAT WAS ALREADY ESTABLISHED IN BOSSIER CITY.

Q NOW, WHAT IS THE MAXIMUM GESTATIONAL AGE FOR ABORTIONS AT HOPE?

A SIXTEEN WEEKS AND SIX DAYS FROM THE LAST MENSTRUAL PERIOD.

Q AND CAN YOU EXPLAIN THE LAST MENSTRUAL PERIOD DATING CONVENTION?

A YES. WELL, WE JUST HAVE TO REMIND OURSELVES THAT FOR THE VAST MAJORITY OF THE HISTORY OF HUMANITY THE ONLY WAY PEOPLE WERE ABLE TO DATE PREGNANCIES WAS FROM THE LAST

MENSTRUAL PERIOD AND SO YOU WOULD -- AND SO THE CONVENTION IS THAT WHEN YOU SAY IT TAKES NINE MONTHS TO HAVE A BABY, YOU'RE SAYING IT'S NINE MONTHS FROM THE DAY YOUR PERIOD STARTED UNTIL YOUR DUE DATE. IT'S ACTUALLY NINE MONTHS AND ONE WEEK, OR 40 WEEKS. AND SO THE CONVENTION HAS -- HAS CONTINUED TO SAY THAT A PREGNANCY IS DATED FROM THE FIRST DAY OF THE LAST MENSTRUAL PERIOD.

Q IF A PATIENT PRESENTS AND YOU DETERMINE THAT THE GESTATIONAL AGE IS IN EXCESS OF 16 WEEKS, 6 DAYS, WHERE DO YOU REFER PATIENTS?

A WELL, WE GIVE THEM A LIST OF THE CLINICS THAT WE KNOW MIGHT GO BEYOND THAT -- THAT TIME FRAME. WE USED TO BE ABLE TO REFER THEM TO A CLINIC IN DALLAS, BUT WE ALSO DO REFER THEM TO A CLINIC IN BOSSIER AND LET THEM KNOW THAT THAT EXISTS.

Q DR. DOE 3, DO YOU HAVE HOSPITAL ADMITTING PRIVILEGES?

A YES, I DO.

Q WHERE DO YOU CURRENTLY HAVE ADMITTING PRIVILEGES?

A MY PRIMARY HOSPITAL IS WILLIS-KNIGHTON IN BOSSIER. I ALSO HAVE PRIVILEGES AT CHRISTUS HIGHLAND IN SHREVEPORT.

Q ARE BOTH OF THOSE HOSPITALS WITHIN 30 MILLS OF HOPE MEDICAL GROUP?

A YES, THEY ARE.

Q HOW LONG HAVE YOU HAD PRIVILEGES AT WILLIS-KNIGHTON

IN BOSSIER?

A WELL, THEY OPENED THEIR DOORS IN 1996, AND I EITHER GOT MY PRIVILEGES AT THE END OF 1996 OR THE BEGINNING OF 1997. I DON'T RECALL EXACTLY WHEN.

Q AND HOW LONG HAVE YOU HAD PRIVILEGES AT CHRISTUS HIGHLAND?

A I'VE HAD PRIVILEGES AT HIGHLAND HOSPITAL AND LATER CHRISTUS HIGHLAND SINCE THE 1980S.

Q WAS THERE A TIME WHEN YOU HAD PRIVILEGES AT OTHER HOSPITALS THAT ARE WITHIN 30 MILES OF HOPE?

A YES. OVER THE YEARS, THERE HAVE BEEN NUMEROUS DIFFERENT HOSPITALS IN THE SHREVEPORT/BOSSIER AREA, AND I BELIEVE I HAVE HAD AS TO ONE TIME OR ANOTHER HOSPITAL ADMITTING PRIVILEGES TO VIRTUALLY ALL OF THE HOSPITALS WHICH PROVIDED OBSTETRICAL AND SURGICAL SERVICES.

Q AND WAS ONE OF THOSE HOSPITALS LSU MEDICAL CENTER, WHICH IS NOW CALLED UNIVERSITY HOSPITAL?

A YES, IT WAS.

Q AND WHEN DID YOU HAVE PRIVILEGES AT LSU MEDICAL CENTER?

A WELL, I HAD PRIVILEGES AS A RESIDENT BECAUSE THAT IS, YOU KNOW, THE SAME HOSPITAL WHERE THE MEDICAL SCHOOL IS, AND THEN MAINTAINED THOSE PRIVILEGES DURING THE TIME THAT I WAS ON THE FACULTY. I REMAINED ON THE PART-TIME FACULTY UNTIL SOME TIME IN THE 1990S, AND THEN I STOPPED -- TERMINATED --

JUST BECAME TOO BUSY WITH MY PRIVATE PRACTICE TO MAINTAIN MY DUTIES AS A -- AS AN ATTENDING STAFF MEMBER. AND SO I KEPT MY PRIVILEGES AT LSU MEDICAL CENTER FOR THE RARE OCCASION WHEN I MIGHT NEED TO ADMIT A PATIENT THERE UNTIL 2012. AND IN 2012, THEY ESSENTIALLY DROPPED ALL OF THE PHYSICIANS WHO WERE -- HAD NOT ADMITTED PATIENTS FOR MORE THAN TEN YEARS.

Q WELL, LET'S GO THROUGH THAT. SO YOU HAD PRIVILEGES AT LSU FROM, WAS IT, 1976 OR '75?

A 1976.

Q THROUGH 2012?

A THROUGH 2012.

Q SO WHAT EXACTLY HAPPENED IN 2012?

A WELL, IN 2012, I RECEIVED A NOTICE THAT THEY WERE -- THAT -- I CAN'T RECALL EXACTLY THE SEQUENCE OF EVENTS, BUT -- BUT IT WAS A TIME FROM MY NORMAL REAPPOINTMENT CREDENTIALING PROCESS AND RECEIVED A NOTICE THAT THEY WERE GOING TO DROP ME -- CANCEL MY PRIVILEGES AT THE HOSPITAL BECAUSE OF A LACK OF ACTIVITY.

Q AND DID YOU SPEAK TO ANYONE AT THE HOSPITAL TO INQUIRE FURTHER AS TO WHY YOU DIDN'T HAVE YOUR PRIVILEGES RENEWED?

A YES. I CONTACTED THE CHAIRMAN OF THE DEPARTMENT OF OBSTETRICS AND GYNECOLOGY, AND HE STATED THAT THEY HAD BEEN ASKED BY THE JOINT COMMISSION OF ACCREDITATION FOR HOSPITALS TO -- TO GET RID OF ALL OF THE PHYSICIANS WHO WERE NOT ACTIVE

ON THEIR STAFF, AND -- AND SO THEY HAD GOTTEN RID OF, HE STATED, OVER 20 PHYSICIANS. AND, ACTUALLY, I WAS THE ONLY ONE WHO HAD EVER -- OF THOSE 20 PHYSICIANS WHO EVEN CONTACTED HIM TO FIND OUT -- SHOWED ANY INTEREST IN CONTINUING MY RELATIONSHIP WITH THE HOSPITAL.

Q SO NOW IS IT YOUR UNDERSTANDING THAT TO GET PRIVILEGES AT UNIVERSITY HOSPITAL, YOU HAVE TO BE ON THE TEACHING STAFF AT THE MEDICAL SCHOOL?

A YES. 2012 IS WHEN THE MEDICAL SCHOOL STARTED UNDERGOING THE TRANSITION TO THE SYSTEM THAT WE NOW HAVE, AND SO IT'S CALLED UNIVERSITY HEALTH. AND -- AND THEY -- THEY MADE A CHANGE IN THEIR ADMITTING PRIVILEGE -- I MEAN IN THEIR SELECTION OF STAFF PERSONNEL STATING THAT THEY WOULD ONLY -- THAT YOU HAD TO, FIRST OF ALL, BE INVITED BY THE FACULTY TO BE A MEMBER OF THE FACULTY TO BE ABLE TO BE ON THE STAFF OF THE HOSPITAL.

Q AND YOU MADE A REFERENCE TO THE JOINT COMMISSION FOR THE ACCREDITATION OF HOSPITALS; WHAT IS THAT?

A THAT IS THE ORGANIZATION -- THAT IS THE ORGANIZATION THAT ESTABLISHES PRIMARY PRACTICES AND -- AND IT SETS STANDARDS FOR ALL OF THE HOSPITALS IN THE -- IN THE COUNTRY. VIRTUALLY ALL HOSPITALS ARE A PART OF THAT, AND THEY -- AND THEY -- THEY HOLD A GREAT DEAL OF POWER AND SWAY. I THINK -- I'VE BEEN TOLD THAT MOST STATES ALLOW THE JCH TO DO MOST OF THE REGULATING AND THEN THE STATES COME BEHIND AND DO WHATEVER

MINOR CHANGES THEY MIGHT HAVE FROM THEIR STANDPOINT.

Q NOW, IN CONNECTION WITH YOUR PRIVATE PRACTICE, YOU OBVIOUSLY HAVE OCCASION TO ADMIT PATIENTS TO THE HOSPITAL REGULARLY; CORRECT?

A THAT IS CORRECT.

Q AND WHAT DO YOU ADMIT PATIENTS FOR; WHAT TYPES OF PROCEDURES?

A WELL, PRIMARILY OBSTETRICS, FOR DELIVERIES. I HAVE A LARGE OBSTETRIC PRACTICE AND DELIVER A FAIR NUMBER OF BABIES, AND SO THAT'S PRIMARILY THE REASON I ADMIT THEM. I WILL ALSO ADMIT PATIENTS, GYN PATIENTS, WHO NEED GYN SURGERY, AND PATIENTS WHO MIGHT HAVE AN ILLNESS THAT ESPECIALLY MIGHT BE RELATED TO EITHER THEIR PREGNANCY OR TO THEIR FEMALE ORGANS, TO THEIR REPRODUCTIVE SYSTEM.

Q NOW, ARE YOU FAMILIAR WITH THE TERM "PATIENT CONTINUITY OF CARE"?

A YES, I AM.

Q IS THAT A CONCEPT THAT'S KNOWN AMONG MEDICAL PROFESSIONALS?

A OH, VERY DEFINITELY.

Q AND IN THE MEDICAL COMMUNITY, WHAT IS PATIENT CONTINUITY OF CARE UNDERSTOOD TO MEAN?

A WELL, IT'S UNDERSTOOD TO MEAN THAT IF YOU ARE RESPONSIBLE FOR THE CARE OF THAT PATIENT, THAT -- THAT YOU MAKE CERTAIN -- IF FOR SOME REASON YOU ARE NO LONGER ABLE TO

PROVIDE THAT CARE TO THAT PATIENT, THAT YOU MAKE CERTAIN THAT ANOTHER PHYSICIAN HAS THE INFORMATION THEY NEED TO BE ABLE TO CARE FOR THAT PATIENT. AN EXAMPLE WOULD BE, OF COURSE, YESTERDAY MORNING, FRIDAY, I HAD A VERY ILL PATIENT, A PATIENT WITH A VERY SERIOUS ILLNESS THAT WAS ASSOCIATED WITH THE DELIVERY OF HER CHILD, AND SO SHE HAD BEEN VERY ILL ALL DAY AND SATURDAY, WAS LOOKING MUCH BETTER ON SUNDAY MORNING, BUT BEFORE I COULD LEAVE, I HAD TO CONTACT THE PHYSICIAN WHO WAS GOING TO TAKE CALL FOR ME AND GIVE HIM THE PARTICULARS OF WHAT WAS GOING ON WITH HER SO THAT SHE WOULD HAVE CONTINUITY OF CARE, SO THAT SHE WOULD HAVE PROPER CARE WHEN I WAS NO LONGER ABLE TO BE WITH HER AND COULD COME TO THIS TRIAL.

Q IS IT COMMON FOR PHYSICIANS TO PASS OFF THE CARE OF THEIR PATIENTS TO OTHER COVERING PHYSICIANS?

A YES, IT CERTAINLY IS.

Q AND IS IT COMMON FOR PHYSICIANS TO PASS OFF COVERAGE OF THEIR PATIENT TO SPECIALISTS?

A YES, IT CERTAINLY IS.

Q TURNING BACK NOW TO HOPE. DO YOU HAVE PATIENTS THAT TRAVEL SIGNIFICANT DISTANCES TO HOPE FOR AN ABORTION?

A WELL, YES, WE DO.

Q WHAT ARE SOME OF THE PLACES THEY COME FROM?

A WELL, WE'VE HAD PATIENTS COMING FROM AS FAR AWAY AS BILOXI, MISSISSIPPI, WHICH IS, YOU KNOW, FARTHER EAST FROM HERE IN BATON ROUGE. BUT VARIOUS PLACES IN MISSISSIPPI, FROM

ARKANSAS, FROM TEXAS. WE'RE BEGINNING TO GET PATIENTS FROM DALLAS, PLACES OF THAT NATURE, AND SOUTH LOUISIANA. WE HAVE QUITE A FEW PATIENTS WHO COME FROM SOUTH LOUISIANA AND A FEW WHO'VE EVEN COME FROM NEW ORLEANS AND FROM BATON ROUGE.

Q NOW, IF A PATIENT TRAVELING FROM OUT OF TOWN, IF AFTER SHE RETURNS HOME SHE HAS A CONCERN, CAN SHE REACH ANYONE AT HOPE?

A YES. WE HAVE SOMEONE TAKING CALL 24 HOURS A DAY.

Q AND IF THAT PATIENT NEEDS MEDICAL ATTENTION, HOW IS THAT HANDLED BY THE PROTOCOL AT HOPE?

A WELL, WE HAVE A LIST OF -- A PROTOCOL LIST THAT THE PEOPLE WHO ANSWER THE TELEPHONES CAN FOLLOW AND IF THE PATIENT NEEDS MEDICATION OR SOME SPECIAL CONCERN, THEN -- THEN THE PHYSICIAN -- ONE OF THE PHYSICIANS ON -- EITHER JOHN DOE 1 OR JOHN DOE -- OR MYSELF IS CONTACTED AND WE WILL GIVE INSTRUCTIONS ON WHAT NEEDS TO BE DONE.

Q NOW, IF YOU DETERMINED THAT YOUR PATIENT -- A PATIENT WHO HAD TRAVELED FROM HERE IN BATON ROUGE, IF YOU DETERMINED THAT PATIENT SHOULD GET IMMEDIATE MEDICAL ATTENTION, WOULD YOU ADVISE HER TO TRAVEL BACK TO YOUR AREA SO SHE COULD GO TO WILLIS-KNIGHTON OR CHRISTUS HIGHLAND WHERE YOU HAVE PRIVILEGES?

A NO, I CERTAINLY WOULD NOT.

Q WHY NOT?

A WELL, THAT'S MUCH TOO FAR. I MEAN, IN OTHER WORDS,

IF SHE HAS A SERIOUS PROBLEM, SHE NEEDS TO BE TAKEN CARE OF IN A PLACE THAT'S NEARBY. AND SO WE WOULD ADVISE HER TO GO TO A HOSPITAL HERE IN BATON ROUGE, FOR EXAMPLE, IF SHE WAS COMING -- CALLING FROM BATON ROUGE, AND THEN OFFER TO BE WILLING TO TALK TO THE PHYSICIAN WHO WOULD ASSUME HER CARE HERE IN BATON ROUGE SO THAT WE CAN HAVE THAT CONTINUITY OF CARE THAT WE'VE BEEN TALKING ABOUT.

Q NOW, IN THE PAST 20 YEARS OR SO, ON HOW MANY OCCASIONS HAS A PATIENT AT HOPE BEEN TRANSPORTED DIRECTLY TO THE HOSPITAL FOR EMERGENCY CARE FOLLOWING AN ABORTION?

A I THINK IT'S BEEN FOUR. THAT'S ALL I CAN REMEMBER.

Q NOW, LET'S TALK ABOUT ALL FOUR. LET'S GO THROUGH THEM ONE BY ONE.

A WELL, THE FIRST PATIENT I HAD THAT I CAN RECALL WAS ONE -- WAS MY PATIENT. I -- WE PERFORATED THE UTERUS AND IT WAS UNSAFE TO CONTINUE WITH THE ABORTION, SO WE TRANSPORTED THE PATIENT TO LSU. AND SINCE I WAS ON THE STAFF, I WENT AHEAD AND ACCOMPANIED HER AND THEN I TAUGHT THE RESIDENTS HOW TO DO -- WHAT -- WHAT TO DO IN THAT SITUATION.

WE DID A LAPAROSCOPIC TERMINATION OF THE PREGNANCY AT THAT POINT TO BE ABLE TO CONFIRM THAT WE HAD NOT DAMAGED ANY ORGANS, ANY OF HER VITAL ORGANS INSIDE. AND -- AND SHE DID WELL. WE -- SHE WENT HOME THE NEXT DAY.

Q NOW, SINCE YOU ADMITTED THAT PATIENT TO LSU AND WE KNOW THAT IN 2012 YOU WERE TOLD THAT YOU HADN'T ADMITTED ANY

PATIENTS THERE FOR TEN YEARS, IS IT FAIR TO SAY THAT THIS OCCURRED SOME TIME BEFORE 2002?

A OH, YES, IT WAS A LONG TIME AGO. I DON'T REMEMBER EXACTLY WHEN IT WAS. SOMETIME IN THE 1990S.

Q AND WHAT WAS THE NEXT CASE THAT YOU RECALL WHERE A PATIENT WAS TRANSPORTED FOR EMERGENCY CARE?

A AGAIN, IT WAS SOMEWHERE IN THE 1990S, I BELIEVE. BUT A PATIENT WHO WAS BLEEDING HEAVILY, I WAS REALLY CONCERNED THAT IT WAS MORE THAN -- THAN NORMAL, AND SO WE TRANSPORTED HER TO HOPE. AT THAT TIME, I SPOKE WITH ONE OF THE RESIDENTS WHO AGREED TO TAKE OVER HER CARE, SO I DID NOT ACCOMPANY HER TO HOPE -- TO LSU AT THAT POINT. IT TURNED OUT WHEN SHE GOT TO LSU, HER BLEEDING STOPPED, AND SO THEY ENDED UP, THEN, JUST OBSERVING HER OVERNIGHT AND SENT HER HOME.

Q OKAY. AND THEN WAS THERE A THIRD CASE WHERE THE PATIENT WENT TO CHRISTUS SCHUMPERT?

A YES. IN THAT SITUATION, THE PATIENT HAD A DISEASE -- AN ABNORMAL PREGNANCY. SHE HAD WHAT'S CALLED PLACENTA ACCRETA, WHICH MEANS THAT THE PLACENTA HAD GROWN INTO THE MUSCLE LAYER OF THE UTERUS. IT'S A VERY DANGEROUS SITUATION BECAUSE YOU CANNOT GET THE BLEEDING TO STOP. SHE HAD HAD THAT PROBLEM WITH HER LAST DELIVERY. AND TO BE ABLE TO STOP HER BLEEDING, THEY HAD TO -- HAD TO -- THEY HAD DONE A CESAREAN SECTION AND DONE A SPECIAL STITCH TO TRY TO GET THE BLEEDING TO STOP.

AND AS A MATTER OF FACT, IF SHE HAD CONTINUED WITH THAT PREGNANCY TO TERM, IT WOULD HAVE BEEN FAR MORE DANGEROUS THAN TERMINATING THE PREGNANCY. BUT ONCE WE TERMINATED THAT PREGNANCY, SHE CONTINUED TO BLEED AND SO WE CARRIED HER TO SCHUMPERT AND WERE ABLE TO DO A HYSTERECTOMY TO BE ABLE TO STOP HER BLEEDING.

Q DID SHE MAKE A FULL RECOVERY?

A SHE MADE A FULL RECOVERY, YES.

Q AND WAS THERE A FOURTH INCIDENT THAT WAS MORE RECENT?

A YES. DR. JOHN DOE --

Q NUMBER 1?

A -- HAD A -- HAD PERFORATED THE UTERUS ALSO. AND IN THAT INSTANCE, SHE HAD COMPLETED THE ABORTION PROCESS, IT OCCURRED APPARENTLY RIGHT AT THE VERY END. BUT AS A PRECAUTION, WE ADMITTED HER ACTUALLY TO WILLIS-KNIGHTON IN BOSSIER AND I DID A LAPAROSCOPY TO CONFIRM THAT WE HAD NOT DAMAGED ANY OTHER ORGANS AND TO -- SHE DID HAVE SOME INTERNAL BLEEDING, BUT WE CONFIRMED THAT THE BLEEDING HAD STOPPED. AND SO IN THE SAME SORT OF STORY, I SIMPLY WATCHED HER THE REST OF THE NIGHT AND SENT HER HOME THE NEXT MORNING.

Q NOW DR. DOE 3, IN YOUR EXPERIENCE, HOW DO THE RISKS AND COMPLICATIONS OF ABORTION COMPARE TO THE RISKS AND COMPLICATION OF CARRYING A PREGNANCY TO TERM AND CHILDBIRTH?

A OH, THAT'S A REALLY COMPLICATED QUESTION. I DON'T

KNOW HOW EXACTLY TO ANSWER THAT. YOU KNOW, THERE ARE FAR MORE RISKS ASSOCIATED WITH CARRYING A PREGNANCY TO TERM AND DELIVERING A BABY THAN THERE SEEM TO BE WITH ABORTION. WE HAVE FAR FEWER PROBLEMS WITH ABORTION THAN WE DO WITH CARRYING A PREGNANCY TO TERM.

Q I'D LIKE TO TURN YOUR ATTENTION -- WE SPOKE ABOUT FOUR INCIDENTS THAT INVOLVED SURGICAL ABORTION; CORRECT?

A THAT IS CORRECT.

Q LET'S TALK NOW ABOUT MEDICATION ABORTION. FIRST, CAN YOU TELL US WHAT MEDICATION ABORTION IS AND WHAT THE PROTOCOL IS?

A MEDICATION ABORTION INVOLVES THE USE OF A DRUG CALLED MIFEPRISTONE THAT BLOCKS PROGESTERONE. AND -- AND SO YOU FIRST GIVE THAT. AND THEN AFTER 24 HOURS, GIVE A DRUG CALLED MISOPROSTOL, WHICH IS A PROSTAGLANDIN-TYPE DRUG THAT CAUSES THE UTERUS TO CONTRACT. THE WAY I TRY TO EXPLAIN IT TO MY PATIENTS IS TO SAY THAT IN ESSENCE WHAT YOU'RE TRYING TO DO IS CAUSE AN ABORTION BY FORCING A PERIOD TO START.

AND IF YOU THINK ABOUT THE WAY A PERIOD STARTS, IT BEGINS WHEN A WOMAN'S HORMONE LEVEL, SPECIFICALLY HER PROGESTERONE LEVEL, DROPS. AND THAT GOES ON FOR ABOUT A DAY AND THEN SHE RELEASES A HORMONE, THE PROSTAGLANDIN, THAT MAKES THE UTERUS CONTRACT. AND WHEN IT CONTRACTS, IT'S ABLE TO PUSH THE LINING OFF BECAUSE IT'S NOT ATTACHED AS STRONGLY AFTER THE HORMONE LEVELS HAVE DROPPED AND THAT CAUSES THE BLEEDING. SO

THAT'S ACTUALLY WHAT A WOMAN'S PERIOD IS. SO WE TRY TO MIMIC THAT WITH A -- WITH A MEDICAL ABORTION.

Q AND WHAT'S YOUR ROLE AS A PHYSICIAN IN THE MEDICATION ABORTION PROTOCOL?

A WELL, WHEN I AM -- GENERALLY SPEAKING, WHEN I SEE THE PATIENT, I BEGIN BY REVIEWING WITH THE PATIENT JUST EXACTLY THE TYPE OF THING THAT I'VE JUST SAID HERE, HELPING THEM TO UNDERSTAND HOW IT WORKS AND WHAT TO EXPECT. THEN WE DO AN EXAMINATION AND A VAGINAL ULTRASOUND TO TRY TO CONFIRM THAT THE PREGNANCY IS EARLY ENOUGH TO MAKE THE ABORTION TECHNIQUE SAFE.

THERE ARE TWO ISSUES. YOU KNOW, AS I MENTIONED BEFORE, THE FARTHER A PATIENT -- THE FARTHER ALONG A PATIENT IS, THE LESS LIKELY IT WOULD BE FOR A MEDICATION ABORTION TO WORK BECAUSE IT IS HARDER TO GET A PERIOD TO START. BUT THE OTHER SITUATION MIGHT BE IF ON EXAMINATION THE PATIENT, HER PREGNANCY HAS AN UNUSUALLY LARGE GESTATIONAL SAC. WE KNOW IN THAT SITUATION, SHE'S GOING TO MORE LIKELY HAVE SERIOUS BLEEDING COMPLICATIONS FROM IT. SO ANYWAY, WE CHECK FOR THOSE -- WE DO THAT AND THEN I AM THERE WHEN SHE PHYSICALLY TAKES THE MIFEPRISTONE.

Q AND SHE TAKES THAT ORALLY?

A YES, SHE TAKES THAT ORALLY.

Q AND WHAT ABOUT THE MISOPROSTOL, WHAT HAPPENS WITH THAT?

A WE WRITE A PRESCRIPTION AND TEACH THEM HOW TO UTILIZE IT. THEY PLACE THE TABLETS BETWEEN THEIR CHEEK AND GUM AND ALLOW IT TO DISSOLVE. IT WORKS BETTER, IT SEEMS, IF IT'S ABSORBED THROUGH A MUCUS MEMBRANE THAN IF IT'S ABSORBED THROUGH THE STOMACH. ALTHOUGH, THEY ARE TABLETS AND ORIGINALLY SOLD WITH THE IDEA OF TRYING TO HELP TREAT ULCER PATIENTS.

Q WAS THAT CYTOTEC?

A THAT'S CYTOTEC, YES.

Q NOW, AT HOPE, YOU DO MEDICATION ABORTIONS UP TO HOW MANY WEEKS LMP?

A EIGHT WEEKS.

Q AND DOES THE PATIENT RETURN AND SEE A DOCTOR?

A YES.

Q AND WHAT'S THE PURPOSE OF THAT VISIT?

A WELL, TO BE CERTAIN THAT IT WORKED. YOU KNOW, IN OTHER WORDS, A PATIENT CAN -- IF -- IF A PATIENT DOES A MEDICATION ABORTION, SHE CAN SEE ALL THE SYMPTOMS OF A MISCARRIAGE SUCH AS CRAMPING AND BLEEDING AND PASSAGE OF CLOTS BUT ACTUALLY NOT MISCARRY. AND SO -- SO WE INSIST THAT THEY ALL RETURN SO THAT WE CAN EVALUATE TO MAKE CERTAIN THAT THEY REALLY HAVE PASSED THE TISSUE.

Q DO YOU PRESCRIBE ANY PAIN MEDICATION OR ANY OTHER MEDICATIONS IN ADDITION TO MIFEPREX OR MISOPROSTOL TO YOUR MEDICATION ABORTION PATIENTS?

A WELL, YES. WE PRESCRIBE SOMETHING FOR NAUSEA AS WELL AS SOMETHING FOR PAIN. WE USE A COMBINATION OF HYDROCODONE AND ACETAMINOPHEN, A BRAND CALLED NORCO, THAT WE USE FOR THE PAIN MEDICATION. AND WE USE VISTARIL FOR THE NAUSEA.

Q HOW DO YOU SPELL THAT?

A VISTARIL. IT'S HYDRALAZINE IS THE GENERIC NAME.

Q OKAY. NOW, IN -- TURNING BACK NOW TO SURGICAL ABORTION. DO YOU USE ANESTHESIA IN THE PROCEDURE?

A WE USE A PARACERVICAL BLOCK, WHICH IS A REGIONAL ANESTHETIC.

Q AND HOW DO YOU ADMINISTER THAT?

A WE INJECT LIDOCAINE INTO THE NERVE SURROUNDING THE CERVIX TO TRY TO -- MOST OF THE NERVES TO THE UTERUS ENTER THE -- ENTER A -- FOLLOW A PATHWAY ALONG WHAT'S CALLED THE URETERAL SACRAL LIGAMENTS, WHICH ARE AT ABOUT -- IF YOU WERE LOOKING AT THE CERVIX AND THINKING OF THE FACE OF A CLOCK, WOULD BE AT ABOUT 4:00 AND AT ABOUT 8:00. AND SO WE INJECT ON EITHER SIDE OF THAT AT 3:00 AND AT 5:00, 7:00 AND 9:00. SO WE INJECT IN FOUR DIFFERENT PLACES AND THAT HELPS TO DEADEN THE -- THOSE NERVES.

Q SO THAT'S A NUMBING AGENT SO THAT THE PATIENT DOESN'T FEEL DISCOMFORT FROM THE PROCEDURE?

A WELL, YES. I MEAN, THE INTENT -- IT IS THE BEST THING WE HAVE TO BE ABLE TO REDUCE THE DISCOMFORT FROM THE

PROCEDURE. UNFORTUNATELY, THAT DOES NOT COMPLETELY ELIMINATE, IT, BUT IT DOES REDUCE IT GREATLY.

Q DO SOME PATIENTS TAKE ANY MEDICATION PRIOR TO THE PROCEDURE FOR MILD SEDATION OR ANXIETY?

A YES. WE GIVE ALMOST ALL OF OUR PATIENTS VALIUM FOR THEIR ANXIETY AND IT ALSO HELPS WITH SOME MUSCLE RELAXATION OF THE -- OF THE CERVIX AS WELL. AND THEN WE GIVE A FEW PATIENTS A DRUG CALLED STADOL TO HELP WITH THEIR ANXIETY AND WITH THEIR PAIN LEVEL AS WELL.

Q DO YOU ALSO PRESCRIBE MISOPROSTOL, ONE OF THE MEDICATION ABORTION DRUGS?

A YES, WE DO.

Q AND WHY IS THAT?

A WELL, IT'S -- WE GIVE THAT -- IF ACCOMPLISHES TWO THINGS. WITH A PATIENT WHO HAS A -- WE DON'T USE THAT FOR ALL OF OUR SURGICAL ABORTIONS. WE DO IT ONLY ON THOSE WHERE THE UTERUS HAS GOTTEN SIGNIFICANTLY LARGER. SO WE START ADMINISTERING THAT AT ABOUT TEN WEEKS AND ON UP TO 16 WEEKS AND SIX DAYS. AND IT'S -- THE ATTEMPT IS, NUMBER ONE, TO GET THE CERVIX TO SOFTEN UP -- POSSIBLY TO HELP TO GET THE CERVIX TO SOFTEN UP SO IT WILL OPEN MORE SAFELY AND EASILY. BUT IT ALSO CAUSES THE UTERUS TO CONTRACT, AS I MENTIONED BEFORE, AND THAT'S THE PRIMARY METHOD OF STOPPING BLEEDING.

WHEN A PATIENT DELIVERS A BABY, FOR EXAMPLE, WE GIVE PITOCIN TO CAUSE THE UTERUS TO CONTRACT SO THAT IT WILL STOP

THE BLEEDING AFTER THE PATIENT'S DELIVERED. AND FRANKLY, IF THE PITOCIN DOESN'T WORK, THEN WE GIVE THEM MISOPROSTOL.

AND SOMEBODY FROM THE WORLD HEALTH ORGANIZATION ONCE SAID THAT'S PROBABLY SAVED MORE WOMEN'S LIVES THAN ANY DRUG IN THE HISTORY OF MANKIND. BUT AT ANY RATE, THEN WE GIVE -- AND SO -- SO PITOCIN DOES NOT WORK VERY WELL IN THE FIRST AND EARLY SECOND TRIMESTER, BUT CYTOTEC DOES, SO WE USE THAT TO HELP CUT DOWN THE BLEEDING AND REDUCE THE OVERALL RISK FACTORS.

Q NOW, DOCTOR, WE ALREADY WENT THROUGH FOUR MAJOR COMPLICATIONS IN THE LAST 20 YEARS THAT REQUIRED PATIENT TRANSFER TO HOSPITALS. ARE THERE OTHER COMPLICATIONS THAT PATIENTS EXPERIENCE THAT YOU AND YOUR COLLEAGUE, DR. DOE 1, HAVE MANAGED SUCCESSFULLY IN THE CLINICS?

A WELL, YES. WE OCCASIONALLY HAVE -- YOU KNOW, ONE OF THE MOST COMMON COMPLICATIONS TO OCCUR IS THAT WE HAVE AN INCOMPLETE ABORTION, AND SO THERE ARE SOME RETAINED FRAGMENTS OF THE PLACENTA LEFT IN THE PREGNANCY. IN A PATIENT WHO'S HAD A MEDICAL ABORTION, THERE IS ALWAYS THE POSSIBILITY THAT IT JUST PLAIN OLD DIDN'T WORK, AND SO THEY HAVE A CONTINUING PREGNANCY. AND SO THOSE ARE THE MOST COMMON THINGS.

THE OTHER, I SUPPOSE, MOST COMMON PROBLEM WE HAVE IS BLEEDING. USUALLY THAT'S IMMEDIATE AND SOMETHING THAT WE CAN -- THAT WE DEAL WITH BEFORE THE PATIENT LEAVES. IF THE PATIENT HAS AN INCOMPLETE ABORTION, WE MAY NOT DISCOVER THAT

UNTIL THEY COME IN FOR A FOLLOW-UP VISIT THREE WEEKS LATER.

Q NOW, HOW DO YOU TREAT A PATIENT WHO HAS RETAINED TISSUE FOLLOWING EITHER A MEDICATION OR A SURGICAL ABORTION?

A WELL, THERE ARE -- IT DEPENDS ON THE SITUATION. BUT OFTENTIMES ACTUALLY WE WILL TRY STARTING -- BY GIVING THEM A DOSE OF CYTOTEC CAUSING THE UTERUS TO CONTRACT. IT NOT ONLY CUTS DOWN ON THE BLEEDING, BUT IT CAN PUSH THE REMAINING PLACENTAL TISSUE AND SO FORTH OUT OF THE UTERUS AND MAY AVOID HAVING TO PERFORM SURGERY. BUT OCCASIONALLY WE ALSO WILL DO A REPEAT SUCTION CURETTAGE TO TRY TO GET ALL THE REST OF THE TISSUE OUT.

Q NOW, HOW DO YOU TREAT A PATIENT WHO IS HAVING BLEEDING THAT IS CONTINUING LONGER THAN YOU WOULD EXPECT?

A WELL, THERE ARE A COUPLE OF TECHNIQUES. THE FIRST, OF COURSE, IS JUST SIMPLY TO MASSAGE THE UTERUS. THE SECOND IS TO MAKE SURE THAT WE GIVE DRUGS THAT CAUSE THE UTERUS TO CONTRACT, SUCH AS METHERGINE, WHICH WE HAVE NOT MENTIONED BEFORE, OR, AGAIN, THE CYTOTEC THAT WE ALREADY HAVE MENTIONED. WE MAY GIVE AN ADDITIONAL DOSE OF CYTOTEC AT THAT POINT.

IF NONE OF THOSE TECHNIQUES WORK, THERE IS A TECHNIQUE THAT INVOLVES WHAT'S CALLED TAMPONADE. IN OTHER WORDS, YOU WOULD PLACE A FOLEY BULB INTO THE UTERUS OR A FOLEY CATHETER INTO THE UTERUS AND INFLATE THE BULB AND IT JUST PUTS PRESSURE ON THE UTERUS TO GET IT TO STOP BLEEDING. AND WE WILL LEAVE THAT FOR 30 MINUTES TO AN HOUR AND IT'S USUALLY

ADEQUATE.

Q AND YOU SAID ONE OF THE TECHNIQUES TO STOP BLEEDING IS MASSAGE?

A YES.

Q AND WHAT IS THAT EXACTLY?

A JUST MASSAGE THE UTERUS MUCH THE SAME AS YOU DO AFTER A BABY IS BORN. YOU JUST GRAB THE UTERUS BETWEEN THE ABDOMEN AND THE CERVIX AND VIGOROUSLY MASSAGE IT ON A -- BY MANUAL EXAM.

Q I'D LIKE TO ASK YOU ABOUT A MEDICAL TERM "D&C." WHAT IS THAT?

A D&C JUST SIMPLY IS A TECHNIQUE WHERE YOU -- THE "D" PART STANDS FOR DILATION AND THE "C" PART IS CURETTAGE. YOU DILATE THE CERVIX AND THEN YOU SCRAPE THE CURETTAGE, IT MEANS YOU SCRAPE THE WALL OF THE UTERUS TO GET THE CONTENTS OF THE UTERUS TO CLEAR THEM FROM THE WALL OF THE UTERUS.

Q IS IT ALSO USED IN CONNECTION WITH SUCTION ASPIRATION CURETTAGE?

A YES, IT IS. ORIGINALLY THE D&C ITSELF WAS -- WAS FIRST PERFORMED MANY, MANY YEARS AGO AND WAS -- AND IS USED FOR GYNECOLOGIC PURPOSES AND NOT FOR OBSTETRIC PURPOSES ALWAYS. BUT -- SO, IN OTHER WORDS, IT USED TO BE USED FOR IRREGULAR BLEEDING AND SO ON PATIENTS WHO WERE NOT FELT TO BE PREGNANT. AND THEN IT WAS USED ALSO -- INITIALLY IT WAS USED ON PATIENTS WHO WERE MISCARRYING TO TRY TO GET ALL OF THE

TISSUE -- THE REMAIN -- TO GET THE REMAINDER OF THE PLACENTAL TISSUE AND SO FORTH OFF OF THE UTERUS.

Q IN THE MEDICAL WORLD, IS MISCARRIAGE ALSO SOMETIMES CALLED SPONTANEOUS ABORTION AS OPPOSED TO INDUCED ABORTION?

A THAT'S CORRECT.

Q NOW, HAVE YOU PERFORMED D&CS AT HOPE AND IN HOSPITALS?

A WELL, I'VE NOT PERFORMED A STRAIGHT D&C AT HOPE. AT HOPE WHAT WE DO IS -- WHAT WE -- WHAT WE LEARNED BACK IN THE 1970S, EARLY '70S, WAS THAT YOU COULD USE A VACUUM TO GENTLY PULL THE TISSUE OFF ON A PATIENT WHO WAS PREGNANT AND YOU DID NOT HAVE -- AND IT WAS MUCH GENTLER AND MUCH EASIER ON THE WALL OF THE UTERUS AND, ACTUALLY, MORE THOROUGH IN REMOVING ALL OF THE TISSUE.

SO WE DO DILATATION AND SUCTION CURETTAGE WHICH ALLOWS A VACUUM -- USES A VACUUM TO HELP PULL ALL OF THE TISSUE OFF RATHER THAN JUST SCRAPING IT OFF.

Q AND HAVE YOU DONE VACUUM CURETTAGE FOR SPONTANEOUS LOSS OF PREGNANCY, SPONTANEOUS ABORTION IN HOSPITAL SETTINGS?

A YES, I HAVE.

Q AND HAVE YOU DONE VACUUM CURETTAGE IN THE HOSPITAL IN CASES OF FETAL DEMISE?

A YES, I HAVE.

Q AND HOW IS THE PROCEDURE DONE DIFFERENTLY AT HOPE AS OPPOSED TO IN A HOSPITAL?

A THE BIG DIFFERENCE IS THE ANESTHESIA PRIMARILY. MOST PATIENTS IN THE HOSPITAL INSIST ON BEING PUT TO SLEEP AND THAT ANESTHESIA CREATES PROBLEMS. FIRST OF ALL, THERE'S THE -- JUST THE GENERAL RISK OF -- OF GENERAL ANESTHESIA. BUT, SECONDLY, THE GENERAL ANESTHESIA TENDS TO CAUSE THE UTERUS TO RELAX AND, THEREFORE, YOU HAVE MUCH, MUCH MORE BLEEDING ASSOCIATED WITH THE PROCEDURE IF IT'S DONE IN THE HOSPITAL THAN IF IT'S DONE AT HOPE.

Q IN YOUR VIEW, IS IT SAFER TO HAVE THE PROCEDURE IN A CLINICAL SETTING OR HOSPITAL?

A WELL, CLINICAL SETTING, I'M NOT SURE OF YOUR TERMINOLOGY THERE. IT WOULD BE SAFER TO DO THE PROCEDURE UNDER A PARACERVICAL BLOCK. AND BECAUSE OF THE WAY THINGS WORK, IT WOULD BE -- SINCE VIRTUALLY ALL PATIENTS HAVE GENERAL ANESTHESIA IN THE HOSPITAL, IT WOULD BE SAFER, REALLY, IF IT WAS DONE AT HOPE, I SUPPOSE, THAN IF IT WAS DONE IN THE HOSPITAL.

Q NOW, I'M GOING TO TURN YOUR ATTENTION AGAIN TO YOUR COLLEAGUE, DR. DOE 1. DR. DOE 1 IS THE OTHER PHYSICIAN WHO PROVIDES ABORTION AT HOPE; CORRECT?

A THAT IS CORRECT.

Q IS DR. DOE 1 LICENSED TO PRACTICE MEDICINE IN THE STATE OF LOUISIANA?

A YES, HE IS.

Q AND WHAT SERVICES DOES DR. DOE 1 PROVIDE AT HOPE?

A WELL, HE INITIALLY PROVIDED COUNSELING SERVICES FOR US, AND NOW HE HAS -- PROVIDES ALSO ABORTION SERVICES, BOTH SURGICAL AND MEDICAL ABORTION SERVICES, AND HE WILL ALSO HELP TO PROVIDE THE FOLLOW-UP EXAMINATION SERVICES FOR US.

Q AND DR. DOE 1 PERFORMS ABORTION UP TO WHAT PERIOD OF TIME LMP?

A UP TO JUST 13 WEEKS AND SIX DAYS.

Q HOW DID YOU MEET DR. DOE 1 PROFESSIONALLY?

A I'M TRYING TO REMEMBER EXACTLY HOW WE FIRST MET. I THINK I FIRST MET HIM WHEN HE WAS STILL A RESIDENT IN FAMILY MEDICINE AND BEGAN WORKING AT THE CLINIC TO PROVIDE COUNSELING SERVICES.

Q WHEN DID DR. DOE 1 START PROVIDING COUNSELING SERVICES AT HOPE?

A I CAN'T REMEMBER EXACTLY WHEN.

Q DID DR. DOE 1 DO A GYN ROTATION AS PART OF HIS RESIDENCY WITH YOU?

A YES.

Q CAN YOU EXPLAIN WHAT WAS INVOLVED WITH THAT?

A WELL, SO, THEN, AS PART OF HIS RESIDENCY TRAINING, HE -- HE WISHED TO HAVE A -- ADDITIONAL EXPERIENCE IN GYNECOLOGIC SURGERY AND SO FORTH, AND SO -- SO HE SPENT A MONTH WITH ME IN MY PRIVATE PRACTICE. WE WERE NOT -- HE WAS NOT PERFORMING ABORTIONS OR ANY OF THAT SORT OF THING AT HOPE. WE -- HE JUST SIMPLY FOLLOWED ME, AND WE -- I -- I HAD HER

ASSIST ME IN SURGERIES FOR HYSTERECTOMY, LAPAROSCOPY, D&C, ET CETERA.

Q HOW DID DR. DOE 1 GET TRAINING IN ABORTION PROCEDURES?

A WELL, WHEN HE FINISHED HIS RESIDENCY, HE EXPRESSED A DEFINITE INTEREST IN -- IN PERFORMING ABORTION PROCEDURES, AND SO WE SET UP A REGIMEN TO TRAIN HIM IN HOW TO DO ABORTIONS.

Q AND DID YOU TRAIN HIM?

A I DID.

Q AT THIS TIME, I'D LIKE YOU TO TAKE A LOOK AT JOINT EXHIBIT 130, WHICH IS SUBJECT TO THE PROTECTIVE ORDER AND IS CONFIDENTIAL. BUT IF YOU COULD FIND THE JOINT EXHIBIT BINDER NEAR YOU, PERHAPS ON THE FLOOR, TURN TO 130 AND LET ME KNOW WHEN YOU GET THERE.

A OKAY. I SEE ONE HERE, YES.

Q OKAY. SO YOU HAVE THE DOCUMENT IN FRONT OF YOU?

A YES.

THE COURT: HE'S LOOKING AT IT ON THE SCREEN, WHICH IS FINE WITH ME, IT JUST --

MS. JAROSLAW: OKAY. IF THE DOCTOR WISHES TO FLIP THROUGH IT, IS THAT SOMETHING THAT I HAVE TO CONTROL OR CAN THE WITNESS DO IT?

THE COURT: I DON'T THINK THE WITNESS CAN DO IT. I THINK YOU'RE GOING TO EITHER ALLOW HIM TO LOOK AT THE HARD DOCUMENT OR YOU'LL HAVE TO DO IT YOURSELF, I THINK.

BY MS. JAROSLAW:

Q DR. DOE 3, WOULD YOU MIND LOOKING AT THE BINDER, PLEASE? IT HAS A HARD COPY OF EXHIBIT -- OF JOINT EXHIBIT 130.

A THERE ARE ACTUALLY FIVE BINDERS DOWN HERE AT MY FEET. I'M NOT SURE WHICH ONE IS --

THE COURT: CHRISTY, DO YOU WANT TO GIVE HIM A HAND?

BY MS. JAROSLAW:

Q WE'LL PROVIDE YOU WITH THE DOCUMENT. DOCTOR, I'M TOLD IT'S IN THE BINDER THAT'S MARKED BINDER 3 OF 4.

A OKAY. I FOUND BINDER 3 OF 4.

Q OKAY, GREAT.

THE COURT: DOCTOR, IF YOU WOULD, FOR OUR COURT REPORTER, COULD YOU JUST SPEAK A LITTLE CLOSER TO THE MIC SO SHE CAN HEAR A LITTLE BIT BETTER?

THE WITNESS: YES, SIR.

THE COURT: THANK YOU.

BY MS. JAROSLAW:

Q IF YOU WOULD TURN TO EXHIBIT 130, JOINT EXHIBIT 130, IT'S IN EVIDENCE. BECAUSE, DOCTOR, IT'S SUBJECT TO A PROTECTIVE ORDER, WE MAY DESCRIBE WHAT'S THERE IN GENERAL TERMS BUT NEITHER YOU NOR I WILL BE READING FROM IT. DO YOU UNDERSTAND?

A YES.

Q OKAY. DO YOU RECOGNIZE THAT DOCUMENT?

A I DO RECOGNIZE -- YES, I DO RECOGNIZE -- RECOGNIZE THIS DOCUMENT.

Q WHAT IS IT?

A IT IS A LIST OF ALL OF THE THINGS THAT WE DID TO TRAIN DR. JOHN DOE 1.

Q AND DURING WHAT PERIOD OF TIME DID YOU TRAIN JOHN DOE NUMBER -- OR LET ME RETRACT THAT. THIS TRAINING COVERS THE TIME PERIOD OF WHAT?

A WELL, IT WAS SIX TO SEVEN MONTHS. I DON'T RECALL EXACTLY HOW LONG WE SPENT.

Q AND THE FIRST DATE LISTED ON THE LOG ON PAGE 1 IS JULY 10TH, 2008; CORRECT?

A THAT'S CORRECT.

Q AND WHAT'S THE LAST DATE LISTED?

A IT IS -- I'M SORRY. I'LL HAVE TO -- IT IS MAY 16TH -- NO, NO, NO. I'M SORRY. I'M SORRY. YES, IT IS. IT'S MAY 16TH, 2009.

Q OKAY. LET'S TURN BACK TO THE FIRST PAGE AGAIN. AT THE TOP, YOU'LL SEE THAT THERE ARE CERTAIN BOOKS OR PUBLICATIONS LISTED. CAN YOU TELL US WHAT -- WHY THOSE ARE LISTED THERE AND WHAT THE PURPOSE WAS?

A WELL, I -- WE -- THESE WERE ALL TRAINING BOOKS THAT -- THAT WE HAD, AND WE ASKED HIM TO REVIEW ALL OF THOSE BOOKS AT THE EARLY STAGE OF THE TRAINING PROCESS, AND I TRIED TO MAKE CERTAIN THAT HE UNDERSTOOD WHAT WAS IN EACH OF THEM.

THEY INCLUDE A *CLINICIAN'S GUIDE TO MEDICAL AND SURGICAL ABORTION*. *ULTRASOUND IN VERY EARLY PREGNANCY*, ET CETERA.

Q AND THIS LOG, WAS IT PREPARED CONTEMPORANEOUSLY WITH EACH EVENT THAT'S RECORDED IN IT?

A YES.

Q AND CAN YOU DESCRIBE IN GENERAL TERMS WHAT THE SEQUENCE OF TRAINING WAS FROM THE VERY BEGINNING TOWARDS THE END? AND, AGAIN, IN GENERAL TERMS, YOU DON'T HAVE TO DESCRIBE PROCEDURES AND DATES.

A IN GENERAL TERMS, WE BEGAN JUST SIMPLY HAVING JOHN DOE 1 OBSERVE ME PERFORMING PROCEDURES. AND THEN SECONDLY, WE HAD HER -- HE AND I DID PELVIC EXAMS SIDE BY SIDE TO MAKE CERTAIN THAT WE WERE IN COMPLETE AGREEMENT WITH THE SIZE AND THE POSITION OF THE UTERUS. AND THEN WE -- THE NEXT STEP WAS TO TRAIN HIM IN VAGINAL PROBE ULTRASOUND. WE DID MULTIPLE ULTRASOUNDS UNTIL FELT CONFIDENT THAT HE WAS ABLE TO -- TO PROPERLY PERFORM AN ULTRASOUND AND IDENTIFY THE SIZE AND GESTATIONAL AGE OF THE PREGNANCY.

AND THEN WE BEGAN PERFORMING SURGICAL ABORTIONS. AND WE STARTED WITH THE EARLIEST -- THOSE PREGNANCIES THAT WERE UNDER SIX WEEKS AND WORKING HIM UP -- WAY UP AT APPROXIMATELY TWO WEEK INTERVALS. SO FROM SIX TO EIGHT WEEKS AND THEN FROM EIGHT TO TEN WEEKS AND THEN TEN TO TWELVE, SO ON LIKE THAT. WORKED OUR WAY UP. AND IN EACH INSTANCE MADE SURE THAT HE HAD TERMINATED AT LEAST TEN PREGNANCIES AND HAD

DEMONSTRATED HIS COMPETENCE IN BEING ABLE TO PERFORM THOSE PROCEDURES.

Q NOW, IS JOINT EXHIBIT 130 IN ITS ENTIRETY A FAIR AND ACCURATE LOG OF DR. DOE 1'S TRAINING AT HOPE?

A YES, IT IS.

Q AND SUBSEQUENT TO THIS TRAINING, DID YOU SEE TO IT THAT DR. DOE 1 GOT ADDITIONAL TRAINING ELSEWHERE?

A YES.

Q AND WHAT TRAINING WAS THAT?

A WELL, HE DID TWO THINGS. BUT HE WENT TO A TRAINING SEMINAR AT ONE OF THE NAF CONFERENCES ON FIRST TRIMESTER ABORTIONS. AND THEN HE WENT TO THE UNIVERSITY OF NEW MEXICO WHERE THEY DO TRAIN THEIR RESIDENTS IN ABORTION. AND WAS CERTIFIED BY THEM TO PROPERLY PERFORM ABORTIONS.

Q WHAT IS YOUR OPINION ABOUT DR. DOE 1'S PROFESSIONALISM AND EXPERTISE?

A OH, I THINK HE'S WONDERFUL. HE IS AN EXCELLENT CLINICIAN. HE'S AN EXCELLENT PHYSICIAN IN MANY WAYS. HE IS VERY COMPASSIONATE AND HAS VERY, VERY FEW COMPLICATIONS. I -- I ADMIRE HIM GREATLY.

Q DO YOU HAVE OTHER PHYSICIANS ON STAFF AT HOPE?

A YES, WE DO.

Q WHAT DO THEY DO?

A THE OTHER -- WE HAVE PRIMARILY TWO ADDITIONAL PHYSICIANS AT HOPE, AND THEY PROVIDE PRIMARILY THE COUNSELING

SERVICES FOR OUR PATIENTS.

Q AND IS ONE OF THEM A RETIRED OB/GYN?

A YES.

Q WHAT ARE THE DUTIES OF THAT PHYSICIAN?

A WELL, HE IS A RETIRED OB/GYN. HE ACTUALLY HAD TO TAKE MEDICAL RETIREMENT BECAUSE HE -- OF AN ILLNESS AND WAS UNABLE TO CONTINUE TO PERFORM SURGERIES. AND SO, BUT HE MAINTAINS HIS -- HIS LICENSE AND -- AND HE DOES THE COUNSELING FOR US AND OCCASIONALLY HAS -- HAS DONE THE POSTOPERATIVE EXAMS FOR US WHEN WE'RE NOT DIRECTLY -- WHEN EITHER JOHN DOE 1 OR MYSELF IS NOT AVAILABLE TO DO THEM.

Q IS THE OTHER DOCTOR A FAMILY PRACTICE PHYSICIAN?

A YES. HE'S A FAMILY PRACTICE PHYSICIAN, AND HE DOES ONLY THE COUNSELING.

Q NOW, YOU HAD MENTIONED THAT YOU'RE FAMILIAR WITH BOSSIER CITY MEDICAL SUITE; CORRECT?

A YES, I AM.

Q AND THAT'S WHERE DR. DOE 2 CURRENTLY PRACTICES; RIGHT?

A THAT IS CORRECT.

Q IF DR. DOE 2 DOES NOT GET ACTIVE ADMITTING PRIVILEGES IN THE NORTHERN PART OF THE STATE, COULD YOU DEVOTE MORE TIME AT HOPE TO CARE FOR MORE PATIENTS?

A OH, NO. I -- I JUST DON'T SEE HOW I COULD.

Q WHY NOT?

A I AM -- I HAVE A VERY BUSY OBSTETRICS AND GYNECOLOGY PRACTICE. IT TAKES UP ABOUT 70 TO 80 HOURS A WEEK OF MY TIME AND THEN AN ADDITIONAL 10 TO 15 HOURS A WEEK WORKING WITH HOPE MEDICAL GROUP MEANS A TOTAL OF ABOUT 90 HOURS A WEEK THAT I WORK. AND I JUST CAN'T PHYSICALLY WORK THAT -- HANDLE THAT MUCH MORE VOLUME.

Q WHAT WILL YOU DO IF YOU'RE THE LAST PHYSICIAN PROVIDING ABORTIONS IN NORTHERN LOUISIANA?

A I DON'T BELIEVE I WILL CONTINUE.

Q WHY?

A I CAN'T. I MEAN I JUST PHYSICALLY CANNOT DO IT, AND I DO NOT WISH TO GIVE UP MY PRIVATE PRACTICE. OF COURSE, IF THIS LAW IS UPHELD, THE IRONY WOULD BE THAT IF I HAD TO GIVE UP MY PRIVATE PRACTICE SO THAT I COULD DEVOTE TIME TO HOPE I'D PROBABLY LOSE MY ADMITTING PRIVILEGES SO I PROBABLY WOULD NOT BE ABLE... SO IT'S A CATCH 22.

Q BECAUSE YOU HAVE ADMITTING PRIVILEGES DUE TO YOUR PRIVATE PRACTICE; CORRECT?

A THAT'S RIGHT. I DO NOT HAVE ADMITTING PRIVILEGES BECAUSE OF MY WORK AT HOPE.

MS. JAROSLAW: THANK YOU, DOCTOR. I HAVE NO FURTHER QUESTIONS AT THIS TIME.

THE COURT: CROSS?

MR. DUNCAN: YOUR HONOR, JUST ONE BIT OF HOUSEKEEPING FIRST. I WANT TO MAKE SURE THAT THE WITNESS HAS

THE DEFENDANT'S EXHIBIT BINDER TO REFER TO, BECAUSE I THINK WE HAD AN ISSUE WITH THAT LAST TIME.

THE COURT: RIGHT. EXACTLY.

MR. DUNCAN: IS THERE A WAY OF GETTING THAT TO THE WITNESS?

THE COURT: YES.

MR. DUNCAN: I ALSO WANT TO NOTE THAT WE HAVE PUT IN THERE AMENDED 120, WHICH WE'VE -- THAT IS ACTUALLY -- WELL, I'LL TALK TO THE DOCTOR ABOUT IT. THAT ONE IS ACTUALLY LOOSE IN THERE. IT'S NOT IN THE THREE RINGS. BUT WE'LL -- WE'LL DEAL WITH IT. JUST HOLD ON ONE SECOND.

OKAY. WE'RE READY TO GO?

THE COURT: READY TO PROCEED.

CROSS

BY MR. DUNCAN:

Q DOCTOR, MY NAME IS KYLE DUNCAN, AND I REPRESENT THE DEFENDANT IN THIS MATTER, THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HOSPITALS, KATHY KLIEBERT. THANK YOU FOR BEING WITH US TODAY.

A YES, SIR.

Q DOCTOR, JUST SO I CAN BE CLEAR ON YOUR TESTIMONY. YOU CURRENTLY HAVE ADMITTING PRIVILEGES AT TWO HOSPITALS IN THE SHREVEPORT/BOSSIER CITY AREA; IS THAT RIGHT?

A YES, THAT IS CORRECT.

Q AND ONE OF THOSE HOSPITALS WHERE YOU HAVE ADMITTING

PRIVILEGES IS WILLIS-KNIGHTON BOSSIER CITY?

A THAT IS CORRECT.

Q AND THE OTHER ONE IS, I BELIEVE YOU SAID, CHRISTUS HIGHLAND; IS THAT RIGHT?

A THAT'S RIGHT.

Q AND YOU ARE CURRENTLY A MEMBER IN GOOD STANDING OF THE ACTIVE MEDICAL STAFFS AT BOTH OF THOSE HOSPITALS; RIGHT?

A YES. WELL, I'M NOT SURE I'M TECHNICALLY CONSIDERED ACTIVE STAFF AT CHRISTUS HIGHLAND RIGHT NOW. I'M CONSIDERED COURTESY STAFF.

Q OKAY. WELL, LET'S TALK ABOUT THAT, THEN, FOR A SECOND. I WOULD LIKE TO GO TO JOINT EXHIBIT 59 JUST TO UNDERSTAND YOUR TESTIMONY THERE, DOCTOR. JOINT EXHIBIT 59 IS A CONFIDENTIAL EXHIBIT, SO IT SHOULDN'T GO UP ON THE GENERAL SCREEN. THIS IS -- DOCTOR, IF YOU WANT -- I DON'T KNOW IF YOU PREFER TO LOOK AT THE SCREEN OR THE EXHIBIT BINDER. WHICH ONE DO YOU PREFER?

A PROBABLY THE EXHIBIT BINDER WOULD BE EASIER.

Q OKAY. THIS IS IN -- LET'S SEE. THIS IS NUMBER 59 IN THE JOINT EXHIBIT BINDER.

A OH, WELL, MY 59 SEEMS TO BE DIFFERENT THAN YOUR 59. WHAT I'M SEEING ON THE SCREEN IS DIFFERENT THAN WHAT I HAVE.

Q LET'S MAKE SURE.

THE COURT: HE MAY BE LOOKING AT THE DEFENDANT'S BINDER.

BY MR. DUNCAN:

Q YEAH. I'M SORRY FOR THE CONFUSION, DOCTOR. THE JOINT EXHIBIT BINDERS ARE MARKED. THEY ACTUALLY HAVE "JOINT EXHIBIT BINDER" WRITTEN ON THEM. THERE SHOULD BE FOUR OF THEM THAT LOOK THE SAME.

THE COURT: AND WITH 59, THAT SHOULD BE IN VOLUME 1; RIGHT, MR. DUNCAN?

MR. DUNCAN: THAT'S RIGHT, THAT SHOULD BE VOLUME 1.

THE WITNESS: THESE ARE THE ONES AT MY FEET?

BY MR. DUNCAN:

Q I CAN'T TELL YOU, DOCTOR.

A OH, THAT'S RIGHT. OKAY. LET'S SEE. SO IT WOULD BE -- SO I SEE --

Q YES. IT SHOULD -- WHAT YOU SHOULD BE LOOKING AT --

A I SEE A JOINT -- I SEE -- I SEE THAT JOINT EXHIBIT. OKAY. SO WHICH BINDER IS IT? I'M SO SORRY.

Q RIGHT. IT SHOULD BE -- NO, NO, NO PROBLEM. IT'S COMPLICATED. IT'S THE FIRST BINDER IN THE JOINT EXHIBIT BINDERS.

A I HAVE THAT.

Q AND IT SHOULD BE JOINT EXHIBIT 59. YOU TURNING THERE?

A YES, SIR.

Q OKAY. GREAT. WHEN YOU TURN THERE, WHAT YOU SHOULD BE SEEING, IF WE'RE ALL ON THE SAME PAGE, IS A LETTER FROM

CHRISTUS HEALTH SHREVEPORT BOSSIER DATED AUGUST 4TH, 2014.

A THAT IS CORRECT.

Q GREAT. NOW, THIS IS CONFIDENTIAL, SO I CAN'T READ IT OUT LOUD, DOCTOR, BUT I'D LIKE YOU TO REVIEW THE FIRST PARAGRAPH. THAT IS -- LET ME JUST MAKE SURE. THAT LETTER IS ADDRESSED TO YOU, OF COURSE, IT'S BEEN REDACTED, BUT IT'S ADDRESSED TO YOU AS DR. JOHN DOE 3; IS THAT RIGHT?

A THAT IS CORRECT.

Q OKAY. COULD YOU REVIEW THE FIRST PARAGRAPH OF THAT LETTER FOR ME, PLEASE? I'LL GIVE YOU --

A WELL, MAYBE I COULD GO DIRECTLY TO THE POINT YOU ARE MAKING THAT IT DOES SAY, "YOU ARE APPROVED FOR REAPPOINTMENT TO THE ACTIVE MEDICAL STAFF."

Q RIGHT. AND -- AND IT INDICATES THE PERIOD FROM AUGUST 1ST, 2014 TO JULY 31, 2016?

A THAT IS CORRECT.

Q SO JUST TO CONFIRM, YOU'RE A MEMBER OF THE ACTIVE MEDICAL STAFF?

A YES, SIR, I AM.

Q GREAT.

A THE -- THE DISTINCTIONS TEND TO OCCUR ALONG CERTAIN LINES. IN OTHER WORDS, YOU ARE REQUIRED TO ADMIT APPROXIMATELY 50 PATIENTS A YEAR, I BELIEVE, TO THE CHRISTUS HEALTH SYSTEM TO BE CONSIDERED PART OF THE ACTIVE STAFF. AND AT THE TIME THIS LETTER WAS WRITTEN, I WAS DOING THAT BECAUSE

CHRISTUS SCHUMPERT HOSPITAL WAS STILL OPEN. I AM DOING FAR LESS, BUT I HAVE NOT ACTIVELY CHANGED MY -- SO, IN OTHER WORDS, IN 2016, I'M NOT SURE I WOULD BE ABLE TO MEET THE CRITERIA TO CONTINUE TO BE ACTIVE STAFF.

Q I SEE. SO YOU'D HAVE TO GO TO COURTESY STAFF THEN; IS THAT --

A I WOULD PROBABLY GO TO -- I WOULD PROBABLY GO TO COURTESY STAFF.

Q BUT AS COURTESY STAFF, YOU COULD STILL ADMIT PATIENTS?

A YES, SIR, I SURE COULD.

Q OKAY. THANKS. JUST TO GO BACK OVER SOME OF YOUR TESTIMONY TO MAKE SURE THAT I UNDERSTOOD IT ON DIRECT. YOU'VE BEEN -- AT -- SORRY. STRIKE THAT.

AT WILLIS-KNIGHTON BOSSIER, YOU'VE BEEN AN ACTIVE STAFF MEMBER FOR -- SINCE, YOU SAID, FROM '96 TO '97; IS THAT RIGHT?

A SINCE --

Q SINCE THEN?

A SINCE SHORTLY AFTER THEY OPENED, YES.

Q OKAY. AND THEN AT CHRISTUS HIGHLAND, FOR MANY MORE YEARS; RIGHT? YOU SAID SINCE THE 1980S?

A YES.

Q OKAY. AND YOU'VE ALSO TESTIFIED THAT OVER THE COURSE OF YOUR MEDICAL PRACTICE, YOU'VE HAD ADMITTING

PRIVILEGES AT MANY HOSPITALS IN THE SHREVEPORT AREA?

A THAT IS CORRECT, RIGHT.

Q AND OVER THAT SAME PERIOD IN THE SHREVEPORT AREA, YOU'VE PROVIDED ABORTION SERVICES; ISN'T THAT CORRECT?

A THAT IS CORRECT.

Q SO IS IT FAIR TO SAY YOUR PROVIDING ABORTION SERVICES IN THE SHREVEPORT AREA WAS NOT AN IMPEDIMENT TO YOUR HAVING ADMITTING PRIVILEGES AT ANY OF THESE HOSPITALS?

A THAT IS CORRECT. AS FAR AS I KNOW.

Q THANK YOU. I'D LIKE TO JUST ASK YOU A FEW MORE QUESTIONS ABOUT YOUR GENERAL PRACTICE AT HOPE JUST TO UNDERSTAND. NOW, YOU PROVIDE ABORTIONS AT HOPE THROUGH 16 WEEKS, SIX DAYS LAST MENSTRUAL PERIOD; RIGHT?

A THAT'S CORRECT.

Q AND YOU WORK AT HOPE PROVIDING ABORTIONS ONE AND HALF DAYS A WEEK, THURSDAY AFTERNOONS AND ALL DAY SATURDAY?

A THAT IS CORRECT.

Q AND THESE SERVICES, THESE ABORTION SERVICES YOU PROVIDE AT HOPE, CONSTITUTE ABOUT 5 TO 10 PERCENT OF YOUR TOTAL MEDICAL PRACTICE; IS THAT RIGHT?

A IT'S ABOUT 10 PERCENT. IT ACTUALLY HAS SOMETIMES BEEN A LITTLE BIT MORE. IT DEPENDS ON HOW YOU CLASSIFY IT. BUT IF YOU'RE TALKING ABOUT REMUNERATION, THEN IT ACCOUNTS FOR ABOUT 10 TO 15 PERCENT SOMETIMES.

Q OKAY. THANKS. AND IN TERMS OF YOUR TOTAL INCOME AS

A PHYSICIAN, IS IT ALL RIGHT TO SAY ABOUT 10 TO 20 PERCENT OF YOUR INCOME COMES FROM YOUR WORK DOING ABORTIONS AT HOPE?

A YES.

Q OKAY. AND THE COMPENSATION THAT YOU RECEIVE FROM HOPE DEPENDS ON THE NUMBER OF ABORTIONS YOU PROVIDE; IS THAT RIGHT?

A THE COMPENSATION I RECEIVE FOR ANYTHING I DO DEPENDS ON THE NUMBER OF PROCEDURES I DO. SO, IN OTHER WORDS, I GET MORE -- THE MORE BABIES I DELIVER, THE MORE MONEY I MAKE BECAUSE I MAKE -- I CHARGE PER DELIVERY. THE MORE PELVIC EXAMS I DO AND PAP SMEARS, THE MORE MONEY I MAKE. THE MORE SURGERIES I DO, THE MORE MONEY I MAKE. SO, YES --

Q RIGHT. I UNDERSTAND, DOCTOR.

A THAT'S JUST THE WAY ALL -- THAT'S THE WAY ALL OBSTETRICS AND THAT'S THE WAY A FEE-FOR-SERVICE METHOD OF REMUNERATION IS -- IS ACCOMPLISHED.

Q I UNDERSTAND THAT, DOCTOR. THAT'S VERY HELPFUL. SO JUST TO GO BACK TO MY QUESTION, YOUR COMPENSATION FROM HOPE DEPENDS ON THE NUMBER OF ABORTIONS YOU PROVIDE; RIGHT?

A YES, IT DOES.

Q NOW, ASSUMING EVERYTHING IS GOING SMOOTHLY WITH THE ABORTION PROCEDURE, YOU ARE CAPABLE OF DOING ABOUT SIX PROCEDURES IN ONE HOUR; IS THAT RIGHT?

A THAT'S CORRECT.

Q AND I KNOW YOU TESTIFIED EARLIER THAT -- WELL, LET

ME JUST ASK YOU. DID I UNDERSTAND CORRECTLY WHEN YOU TESTIFIED EARLIER THAT THE AVERAGE OF THE PATIENTS YOU MIGHT SEE AT HOPE IN A WEEK IS 20 TO 30?

A THAT'S CORRECT.

Q BUT HAVE THERE BEEN OCCASIONS AT HOPE WHEN YOU'VE PROVIDED BETWEEN 40 AND 50 ABORTIONS IN ONE DAY?

A YES.

Q NOW, AT HOPE -- I THINK YOU TESTIFIED ABOUT THIS EARLIER, BUT I JUST WANT TO CLARIFY. AT HOPE, YOU PROVIDE ABORTIONS TO PATIENTS WHO TRAVEL FROM OUT OF STATE; ISN'T THAT RIGHT?

A THAT IS CORRECT.

Q SO FOR PATIENTS WHO TRAVEL TO HOPE FROM TEXAS?

A YES.

Q AND FROM ARKANSAS?

A YES.

Q AND FROM MISSISSIPPI?

A YES.

Q FROM ANY OTHER STATES THAT YOU KNOW OF?

A NOT THAT I KNOW OF FOR SURE.

Q OKAY. NOW, AT HOPE, YOU ALSO PROVIDE ABORTIONS TO PATIENTS WHO TRAVEL FROM CITIES INSIDE LOUISIANA TO HOPE SUCH AS BATON ROUGE; RIGHT?

A THAT IS CORRECT.

Q AND NEW ORLEANS?

A YES.
Q HOW ABOUT LAFAYETTE?
A YES.
Q LAKE CHARLES?
A YES.
Q OKAY. GREAT. I THINK YOU TESTIFIED EARLIER THAT YOU'RE THE MEDICAL ADMINISTRATOR AT HOPE. IS THAT THE TERM YOU USED, DOCTOR?
A I THINK THAT'S RIGHT. I'M NOT SURE EXACTLY WHAT MY TITLE IS OFFICIALLY THERE, BUT IT'S -- THAT'S CORRECT.
Q OKAY. MEDICAL ADMINISTRATOR. GREAT. NOW, AS MEDICAL ADMINISTRATOR AT HOPE, YOU PROVIDE THE TRAINING IN ABORTION PROCEDURES TO THE OTHER DOCTORS WHO PRACTICE THAT KIND OF PROCEDURE AT HOPE; IS THAT RIGHT?
A NOT EXACTLY.
Q OKAY.
A I THINK IT'S MY RESPONSIBILITY AS THE MEDICAL DIRECTOR AT HOPE IS TO MAKE SURE THAT A PATIENT -- THAT A PHYSICIAN WHO'S GOING TO PERFORM ABORTION PROCEDURES IS COMPETENT IN THEIR SKILL. AND IF THEY HAVE NOT BEEN TRAINED, I HAVE TRAINED THEM. SO I DID TRAIN JOHN DOE 1. BUT IF I HAD A PHYSICIAN WHO HAD BEEN PROPERLY TRAINED IN ABORTION TECHNIQUES ELSEWHERE AND COULD -- COULD SHOW ME EVIDENCE OF THAT, THEN I PROBABLY WOULD NOT TRAIN THEM. I WOULD JUST MAKE CERTAIN THAT THEY -- THAT THEY WERE COMPETENT IN THAT AREA.

Q HAS THAT HAPPENED, DOCTOR? IN OTHER WORDS, THE SITUATION YOU'RE DESCRIBING WHERE ANOTHER DOCTOR HAS COME TO HOPE WHO WAS ALREADY COMPETENT IN ABORTION PROCEDURES AND YOU HAVEN'T HAD TO TRAIN THEM?

A ACTUALLY, NO. I DON'T THINK THAT HAS EVER HAPPENED.

Q OKAY. SO LET ME GO BACK TO MY ORIGINAL QUESTION. LET ME STATE IT A LITTLE BIT DIFFERENTLY. WITH RESPECT TO THE OTHER DOCTORS WHO PRACTICE ABORTION PROCEDURES AT HOPE, YOU HAVE TRAINED EVERY SINGLE ONE OF THOSE DOCTORS IN ABORTION PROCEDURES; IS THAT RIGHT?

A THE ONES THAT ARE PERFORMING THEM NOW, YES.

Q HOW ABOUT THE ONES WHO PERFORMED THEM IN THE PAST?

A WELL, AS I STATED, JOHN DOE 2 IS THE ONE WHO ORIGINALLY RECRUITED ME TO WORK AT HOPE, AND SO HE HAD ALREADY BEEN TRAINED BY ANOTHER PHYSICIAN.

Q OKAY. NOW, YOU JUST TESTIFIED THAT YOU TRAINED DR. JOHN DOE 1 IN ABORTION PROCEDURES; IS THAT RIGHT?

A THAT'S RIGHT, YES.

Q AND BEFORE DR. JOHN DOE 1 WAS TRAINED BY YOU, HE OR HE HAD NEVER HAD ANY PREVIOUS TRAINING IN ABORTION PROCEDURES; IS THAT RIGHT?

A THAT IS CORRECT.

Q NOW, ANOTHER OF THE DOCTORS YOU TRAINED TO PROVIDE ABORTIONS AT HOPE WAS A RADIOLOGIST BEFORE HE CAME TO HOPE; IS THAT RIGHT? DO YOU RECALL THAT?

A THAT IS CORRECT.

Q AND ANOTHER DOCTOR YOU TRAINED TO PROVIDE ABORTION PROCEDURES AT HOPE WAS AN OPHTHALMOLOGIST BEFORE HE CAME TO HOPE; IS THAT RIGHT?

A THAT'S CORRECT.

Q OKAY. NOW, I WANT TO ASK YOU ABOUT YOUR EXPERIENCE ON HOSPITAL COMMITTEES THAT APPROVE ADMITTING PRIVILEGES. YOU HAVE SERVED AT SEVERAL HOSPITALS ON COMMITTEES THAT REVIEW APPLICATIONS FOR OBSTETRICAL ADMITTING PRIVILEGES; RIGHT?

A THAT'S CORRECT.

Q AND THOSE HOSPITALS, OR AT LEAST SOME OF THOSE HOSPITALS, ARE THEY PHYSICIANS AND SURGEONS, BOSSIER MEDICAL CENTER, AND WILLIS-KNIGHTON BOSSIER?

A YES.

Q ANY OTHERS?

A DOCTOR'S HOSPITAL.

Q THANKS. AND SO YOU'RE FAMILIAR WITH WHAT A HOSPITAL COMMITTEE CONSIDERS BEFORE GRANTING ADMITTING PRIVILEGES TO A DOCTOR; RIGHT?

A YES.

Q FOR INSTANCE, A COMMITTEE WOULD CONSIDER WHETHER A DOCTOR HAS THE PROPER TRAINING IN THE PROCEDURES FOR WHICH HE'S REQUESTED PRIVILEGES; RIGHT?

A THAT IS CORRECT.

Q AND IT WOULD ALSO CONSIDER WHETHER A DOCTOR HAS THE

PROPER MEDICAL EDUCATION; RIGHT?

A THAT IS CORRECT.

Q IT WOULD ALSO CONSIDER WHETHER A DOCTOR HAS THE REQUISITE EXPERIENCE IN THOSE PROCEDURES FOR WHICH THE DOCTOR HAS REQUESTED PRIVILEGES; RIGHT?

A THAT IS CORRECT.

Q AND IT WOULD CONSIDER THE DOCTOR'S PRACTICE RECORD IN OTHER HOSPITALS, WOULDN'T IT?

A IT CERTAINLY WOULD.

Q WOULD IT CONSIDER WHETHER THE DOCTOR HAS A CRIMINAL BACKGROUND?

A YES.

Q AND TYPICALLY THE HOSPITAL COMMITTEE WOULD HAVE MORE THAN ONE PERSON ON IT; RIGHT?

A THAT IS CORRECT.

Q HOW MANY WOULD THERE BE USUALLY, DO YOU THINK?

A WELL, USUALLY ABOUT THREE BECAUSE THERE'S USUALLY, YOU KNOW, MULTIPLE PHYSICIANS ON THE HOSPITAL STAFF.

Q NOW, LET'S GO BACK TO HOPE. WHEN THE HOPE CLINIC IS CONSIDERING WHETHER TO HIRE A NEW DOCTOR TO PROVIDE ABORTIONS, THERE'S ONLY ONE PERSON WHO CONSIDERS THAT DOCTOR'S QUALIFICATIONS; RIGHT?

A WE DON'T HAVE A COMMITTEE. THERE AREN'T THAT MANY PHYSICIANS AT HOPE.

Q SO THE ANSWER IS THERE'S ONLY ONE DOCTOR WHO

CONSIDERS THAT DOCTOR'S QUALIFICATIONS; RIGHT?

A THAT'S CORRECT. IT'S MUCH LIKE IF YOU'RE SETTING UP A PRIVATE PRACTICE, YES.

Q RIGHT. AND THAT ONE PERSON IS YOU?

A THAT'S CORRECT. IT WOULD BE -- IT'S LIKE WHEN I HAVE HAD PARTNERS IN THE PAST, I DIDN'T DO A BACKGROUND CHECK ON THEM AND SO FORTH.

Q RIGHT. IN FACT, YOU DESCRIBED YOURSELF AS A COMMITTEE OF ONE IN YOUR DEPOSITION. DO YOU RECALL THAT?

A THAT'S CORRECT.

Q COMMITTEE OF ONE. OKAY. SO WHEN HOPE HIRED THE RADIOLOGIST WE WERE DISCUSSING EARLIER THAT YOU TRAINED IN ABORTION PROCEDURES, YOU WERE THE ONLY PERSON TO CONSIDER HIS QUALIFICATIONS; RIGHT?

A THAT'S CORRECT.

Q AND WHEN YOU HIRED THE OPHTHALMOLOGIST WE WERE DISCUSSING EARLIER WHO YOU TRAINED TO PROVIDE ABORTION PROCEDURES, YOU WERE THE ONLY PERSON TO CONSIDER HIS QUALIFICATIONS?

A THAT'S CORRECT.

Q NOW, DID YOU PERFORM A CHECK ON THE BACKGROUNDS OF THOSE PHYSICIANS AT OTHER HOSPITALS?

A I DID NOT.

Q DID YOU PERFORM A CRIMINAL BACKGROUND CHECK ON EITHER OF THOSE PHYSICIANS?

A I DID NOT.
Q DID YOU INQUIRE OF ANYONE FROM THOSE DOCTORS' TRAINING PROGRAMS?
A NO, I DID NOT.
Q NOW I'D LIKE TO TURN TO THE SUBJECT OF COMPLICATIONS FROM ABORTION. SURGICAL ABORTION IS A PROCEDURE THAT CARRIES THE RISK OF CERTAIN COMPLICATIONS; RIGHT?
A YES.
Q AND ONE OF THOSE COMPLICATIONS IS AN INCOMPLETE ABORTION?
A THAT'S CORRECT.
Q IS ANOTHER WORD FOR THAT "RETAINED TISSUE," OR IS THERE A DISTINCTION THERE BETWEEN INCOMPLETE ABORTION AND RETAINED TISSUE?
A NO. THEY'RE VIRTUALLY THE SAME THING.
Q VIRTUALLY THE SAME THING. THANKS. ANOTHER COMPLICATION IS EXCESSIVE BLEEDING OR HEMORRHAGING; RIGHT?
A YES.
Q AND ANOTHER COMPLICATION IS A PERFORATED UTERUS?
A YES.
Q NOW, A PATIENT WHO EXPERIENCES COMPLICATIONS SUCH AS THESE MAY HAVE TO BE TAKEN TO A HOSPITAL FOR TREATMENT; RIGHT?
A IT DEPENDS ON THE SITUATION, BUT, YES, THEY MAY.
Q FOR INSTANCE, IF A WOMAN EXPERIENCES EXCESSIVE BLEEDING, SHE MAY HAVE TO BE TAKEN TO A HOSPITAL FOR

TREATMENT?

A YES.

Q NOW, I THINK WE HEARD SOME OF YOUR TESTIMONY ABOUT COMPLICATIONS THAT HAVE OCCURRED IN THE PAST, BUT I JUST WANT TO GO OVER A COUPLE OF THE DETAILS. IN YOUR ABORTION PRACTICE, YOU'VE HAD TWO CASES OF EXCESSIVE BLEEDING IN THE PAST SEVERAL YEARS THAT REQUIRED THE PATIENT TO BE HOSPITALIZED; RIGHT?

A THAT IS CORRECT.

Q IN ONE OF THOSE CASES, THE PATIENT -- THE PATIENT, EXCUSE ME, THE PATIENT HAD TO RECEIVE A HYSTERECTOMY AT THE HOSPITAL TO REMEDY THE PROBLEM; RIGHT?

A THAT'S CORRECT.

Q AND YOU CONSIDER THAT AN EMERGENCY SITUATION; RIGHT?

A YES.

Q AND YOU THOUGHT IT WAS IMPORTANT TO GET THE PATIENT TO THE HOSPITAL AND GET HER TREATED AS SOON AS POSSIBLE; RIGHT?

A YES, I DID.

Q AND YOU'VE ALSO HAD IT HAPPEN IN YOUR OWN ABORTION PRACTICE THAT YOU PERFORATED A WOMAN'S UTERUS; RIGHT?

A THAT'S CORRECT.

Q AND THAT WOMAN HAD TO -- ALSO HAD TO BE TRANSFERRED TO A HOSPITAL; RIGHT?

A THAT'S CORRECT.

Q AND THAT WOMAN HAD TO HAVE LAPAROSCOPIC SURGERY -- SORRY -- LAPAROSCOPIC SURGERY TO FIX THE PROBLEM?

A THAT'S CORRECT.

Q AND YOU, YOURSELF, PERFORMED THAT LAPAROSCOPIC SURGERY?

A YES, I DID.

Q AND YOU WERE ABLE TO PERFORM THAT SURGERY YOURSELF BECAUSE YOU HAD ADMITTING PRIVILEGES AT THE HOSPITAL?

A THAT IS CORRECT.

Q AND THAT HOSPITAL -- SORRY. STRIKE THAT. AND THAT HOSPITAL WAS WITHIN 30 MILES OF YOUR ABORTION PRACTICE; RIGHT?

A YES. YES, IT WAS.

Q OKAY. LET ME JUST MAKE SURE I HAVE NO FURTHER QUESTIONS AND THEN... OH, YEAH. DOCTOR, YOU TESTIFIED -- I THINK I'M GETTING THE HOSPITAL RIGHT -- UNIVERSITY HEALTH, IS THAT THE LSU SHREVEPORT HOSPITAL YOU TESTIFIED ABOUT THE CHANGE IN PRIVILEGE POLICY THERE?

A YES, SIR.

Q AND I THINK YOU TESTIFIED THAT YOU HAD PRIVILEGES THERE UNTIL 2012 AND THERE WAS A CHANGE IN POLICY WITH RESPECT TO DOCTORS WHO HAD NOT ADMITTED PATIENTS IN A NUMBER OF YEARS; RIGHT?

A YES, THAT IS CORRECT.

Q NOW, JUST TO UNDERSTAND, THE HOSPITAL -- YOU'RE -- STRIKE THAT. SO YOUR PRIVILEGE STATUS, SO TO SPEAK, YOUR --

WHAT YOUR STATUS WAS AT THE HOSPITAL WITH RESPECT TO PRIVILEGES CHANGED AT THAT POINT; IS THAT RIGHT?

A YES, IT DID.

Q NOW, BUT JUST TO BE CLEAR, THAT CHANGE IN YOUR PRIVILEGES HAD NOTHING TO DO WITH THE FACT THAT YOU WERE AN ABORTION PROVIDER; RIGHT?

A YES, THAT IS CORRECT.

MR. DUNCAN: LET ME SEE IF I'VE GOT ANYTHING ELSE. NO FURTHER QUESTIONS.

THE COURT: REDIRECT?

REDIRECT

BY MS. JAROSLAW:

Q DR. DOE NO. 3, JUST FIRST I'D LIKE TO CLEAR UP SOMETHING IN THE RECORD. YOU SAID THAT YOU HAD ADMITTING PRIVILEGES AT CHRISTUS HIGHLAND; CORRECT?

A YES.

Q AND WE'VE SEEN SOME EXHIBITS THAT HAVE DIFFERENT PERMUTATIONS OF THE NAME. CAN YOU EXPLAIN WHY THAT IS?

A WELL, I'M NOT SURE WHAT YOU'RE ASKING.

Q WELL, CHRISTUS SCHUMPERT, FOR EXAMPLE?

A WELL, OKAY. IT'S -- THE -- THE -- THESE HOSPITALS WERE ALL SEPARATE HOSPITALS AT ONE TIME. THERE WAS SCHUMPERT HOSPITAL AND THEN THERE WAS HIGHLAND HOSPITAL. SCHUMPERT WAS REORGANIZED AND BECAME CHRISTUS SCHUMPERT AND THEN THE CHRISTUS ORGANIZATION PURCHASED HIGHLAND FROM ITS HOLDING

COMPANY. I CAN'T RECALL THE NAME OF ITS HOLDING COMPANY. AND SO IT BECAME CHRISTUS HIGHLAND.

AND SCHUMPERT WAS THE LARGEST PRIVATE HOSPITAL IN SHREVEPORT/BOSSIER WHEN I STARTED MY PRACTICE. IT CLOSED ITS DOORS LAST NOVEMBER. AND SO NOW THE ONLY HOSPITAL THAT IS LEFT THAT IS RUN BY THE CHRISTUS ORGANIZATION IS THE HIGHLAND HOSPITAL, THE ONE THAT THEY PURCHASED.

Q AND THAT WOULD EXPLAIN WHY IF WE LOOK AT DOCUMENTS FROM A DIFFERENT TIME PERIOD, WE'D SEE DIFFERENT PERMUTATIONS OF THE NAME OF THE HOSPITAL YOU WERE AFFILIATED WITH; CORRECT?

A YES, THAT IS CORRECT.

Q AND YOU STATED THAT CHRISTUS HIGHLAND GOING FORWARD WILL NOW REQUIRE 50 PLUS ADMISSIONS, HOSPITAL ADMISSIONS TO BE ON THE ACTIVE STAFF TO GET ACTIVE ADMITTING PRIVILEGES; IS THAT CORRECT?

A I UNDERSTAND THAT TO BE CORRECT, BUT I --

MR. DUNCAN: I OBJECT TO THE FOUNDATION OF THAT QUESTION, YOUR HONOR.

MS. JAROSLAW: THAT WAS A --

THE COURT: ONE AT A TIME.

MR. DUNCAN: I OBJECT TO THE PREMISE OF THAT QUESTION USING THE TERM "ACTIVE ADMITTING PRIVILEGE." I THINK THAT'S A CONFUSING QUESTION.

THE COURT: YOU WANT TO REPHRASE?

MS. JAROSLAW: YES, YOUR HONOR.

THE COURT: I'M NOT SURE I UNDERSTAND THE OBJECTION, BUT IF IT CAN BE CURED.

MS. JAROSLAW: I'LL DO MY BEST.

BY MS. JAROSLAW:

Q YOU HAVE ACTIVE ADMITTING PRIVILEGES PRESENTLY AT CHRISTUS HIGHLAND; CORRECT?

A I DO.

Q OKAY. AND YOU HAD PREVIOUSLY STATED THAT YOU THOUGHT YOU HAD COURTESY PRIVILEGES, AND THEN YOU WERE SHOWN A DOCUMENT THAT SAID OTHERWISE; CORRECT?

MR. DUNCAN: I OBJECT AGAIN, YOUR HONOR. THAT MISCHARACTERIZES THE WITNESS'S PRIOR TESTIMONY. HE DID NOT SAY HE HAS COURTESY ADMITTING PRIVILEGES. HE SAID HE WAS A MEMBER OF THE ACTIVE MEDICAL STAFF AND THAT HE MIGHT HAVE --

THE COURT: MR. DUNCAN, YOU'RE TESTIFYING.

MR. DUNCAN: OKAY.

THE COURT: I UNDERSTAND THE NATURE OF THE OBJECTION. I UNDERSTOOD HIM TO SAY ORIGINALLY THAT HE HAD COURTESY -- THOUGHT HE HAD COURTESY PRIVILEGES. YOU SHOWED HIM THE DOCUMENT THAT SAYS HE'S GOT ACTIVE PRIVILEGES. AND SO THAT'S MY RECOLLECTION OF THE TESTIMONY. IS THAT WHAT YOU'RE ASKING THIS WITNESS?

MS. JAROSLAW: YES, YOUR HONOR.

THE COURT: ALL RIGHT.

BY MS. JAROSLAW:

Q DR. DOE 3, IS IT FAIR TO SAY THAT DIFFERENT HOSPITALS HAVE DIFFERENT REQUIREMENTS FOR ACTIVE ADMITTING PRIVILEGES?

A YES.

Q AND IS IT FAIR TO SAY THAT DIFFERENT HOSPITALS HAVE DIFFERENT REQUIREMENTS AND DIFFERENT DEFINITIONS FOR COURTESY PRIVILEGES?

A YES.

Q AND IS IT FAIR TO SAY THAT EACH HOSPITAL HAS ITS OWN REQUIREMENTS AND DEFINITIONS FOR CONSULTING PRIVILEGES?

A YES.

Q AND THAT WHAT MIGHT BE COURTESY PRIVILEGES SOMEWHERE COULD BE CHARACTERIZED AS SOMETHING ELSE AT ANOTHER HOSPITAL; CORRECT?

A YES.

Q NOW, YOU WERE ASKED A SERIES OF QUESTIONS ABOUT THINGS THAT HOSPITAL CREDENTIALING COMMITTEES MAY CONSIDER WHEN DECIDING WHETHER TO GRANT ADMITTING PRIVILEGES. DO YOU RECALL THAT SERIES OF QUESTIONS? DO YOU RECALL BEING ASKED, YOU KNOW, WHETHER THE HOSPITALS CONSIDER A CRIMINAL RECORD AND SO FORTH?

A OH, I REMEMBER BEING ASKED THAT QUESTION, YES.

Q YES. AND IN YOUR EXPERIENCE, DO SOME HOSPITALS CONSIDER THE NUMBER OF HOSPITAL ADMISSIONS THAT A PHYSICIAN HAS IN A GIVEN YEAR?

A THEY -- WELL, I'M NOT SURE HOW TO ANSWER THAT QUESTION. YES, I MEAN, ALL HOSPITALS LOOK AT THAT NUMBER AND IT HAS -- IT HAS OCCURRED TO ME IN THE PAST, IN OTHER WORDS, THAT A HOSPITAL HAS STATED I WAS NOT DELIVERING -- I WAS NOT -- I DID NOT HAVE ENOUGH ADMISSIONS TO BE CONSIDERED ACTIVE STAFF ANY LONGER SO I WAS -- I WAS RELEGATED TO -- TO LESSER STAFF PRIVILEGE AS A RESULT OF THAT.

AND THEN VICE VERSA, I WAS WANTING JUST TO BE ON THE CONSULTING STAFF PRIVILEGE AT CHRISTUS HIGHLAND BECAUSE -- OR AT CHRISTUS SCHUMPERT, RATHER, BUT BECAUSE I ADMITTED SO MANY PATIENTS, THEY SAID I HAD TO BECOME AN ACTIVE STAFF MEMBER.

Q WHAT'S THE PROBLEM WITH BECOMING AN ACTIVE STAFF MEMBER?

A YOU HAVE ADDITIONAL RESPONSIBILITIES.

Q SUCH AS WHAT?

A YOU HAVE TO ATTEND A CERTAIN NUMBER OF COMMITTEE MEETINGS AND YOU HAVE TO PARTICIPATE IN CALL ROTATION FOR EMERGENCY CASES, INDIGENT CASES, AND THINGS OF THAT NATURE.

Q DR. DOE 3, YOU TESTIFIED THAT IN THE LAST 20 YEARS, BETWEEN YOURSELF AND DR. DOE 1, THERE WERE FOUR HOSPITAL ADMISSIONS FROM HOPE; IS THAT CORRECT?

A YES.

Q IF A PHYSICIAN WHO PROVIDES ABORTION BUT NOT OTHER OBSTETRIC AND GYNECOLOGICAL SERVICES ADMITS FOUR PATIENTS TO THE HOSPITAL OVER 20 YEARS, IS THAT, IN YOUR EXPERIENCE,

SUFFICIENT FOR A HOSPITAL TO GRANT THAT PHYSICIAN ADMITTING PRIVILEGES?

A I DON'T BELIEVE IT WOULD BE. AND I'LL TELL YOU WHY. IT IS BECAUSE -- IT GETS BACK TO THE SAME THING THAT HAPPENED TO ME AT LSU HOSPITAL. IF YOU HAVE NOT ADMITTED A PATIENT THERE FOR A CERTAIN PERIOD OF TIME, THEN THERE IS NO WAY FOR A COMMITTEE ON THE HOSPITAL STAFF TO ACKNOWLEDGE YOUR COMPETENCE AND SO THEY COULD NOT CONTINUE TO KEEP YOU ON THE HOSPITAL STAFF.

AS I'VE STATED, APPARENTLY THIS -- THIS THING THAT HAPPENED AT LSU MEDICAL CENTER CAME FROM THE JCAH, IT WAS NOT FROM THEIR -- WITHIN THEIR HOSPITAL STAFF. BUT JUST SIMPLY STATING THAT IF A PHYSICIAN DOESN'T ADMIT PATIENTS TO THE HOSPITAL, THEN THERE'S NO PARTICULAR REASON TO CONTINUE TO GIVE THEM ADMITTING PRIVILEGES TO THE HOSPITAL.

Q AND THIS JOINT COMMISSION THAT REGULATES HOSPITALS ACROSS THE UNITED STATES, THEIR POLICIES ARE WIDELY ADOPTED; CORRECT?

A YES, THEY ARE.

Q NOW, YOU TESTIFIED THAT AT LSU YOUR ADMITTING PRIVILEGES WERE DISCONTINUED IN 2012 NOT DUE TO YOUR SERVICES AT HOPE BUT RATHER TO BUSINESS REASONS; CORRECT?

A YES, THAT'S CORRECT.

Q AND IS IT FAIR TO SAY THAT HOSPITAL CREDENTIALING COMMITTEES CONSIDER BUSINESS REASONS AMONG THE THINGS THEY

CONSIDER WHEN DECIDING WHETHER OR NOT TO GRANT ADMITTING PRIVILEGES?

A YES.

Q AND WITH REGARD TO HOSPITALS IN LOUISIANA, ARE SOME OF THEM RUN BY THE CATHOLIC CHURCH?

A YES.

Q AND IN YOUR EXPERIENCE, DO THOSE HOSPITALS PERMIT OBSTETRICIANS AND GYNECOLOGISTS TO PERFORM ABORTION?

A NOT AT THE HOSPITAL, NO.

Q AND WOULD THEY GRANT ADMITTING PRIVILEGES TO A PHYSICIAN WHO PERFORMS ABORTION?

A THAT'S A GRAY AREA.

Q OKAY.

A IT -- IT TRULY IS. THEY ASK THAT YOU -- THAT YOU -- THAT YOU CONFIRM THEIR -- THE CATHOLIC ETHICS AND BELIEFS, BUT IT BECOMES VAGUE ON THE -- ON THE ISSUE OF ABORTION AND SIMPLY STATES THAT THEY DO NOT WANT THAT TO BE PART OF YOUR PRACTICE AT THEIR HOSPITAL.

Q NOW, ADMITTING -- THE ADMITTING PRIVILEGES REQUIREMENT APPLIES TO THOSE WHO PERFORM MEDICATION ABORTIONS; CORRECT?

A SO FAR AS I KNOW -- SO FAR AS I UNDERSTAND THAT STATUTE, IT APPEARS THAT IT DOES, YES.

Q AND TO YOUR KNOWLEDGE, ARE HOSPITAL ADMITTING PRIVILEGES REQUIRED TO ADMINISTER ANY OTHER ORAL MEDICATIONS

BESIDES THOSE USED IN MEDICATION ABORTION?

A I HONESTLY DON'T -- I DON'T KNOW OF ANY OTHER THAT I AM AWARE OF.

Q AND, IN FACT, DOES A PHYSICIAN WHO HAS AN OFFICE PRACTICE NEED HOSPITAL ADMITTING PRIVILEGES TO PRESCRIBE, SAY, SCHEDULE 1 OR SCHEDULE 2 NARCOTIC DRUGS?

A NO, THEY DO NOT.

Q AND, IN FACT, THE MEDICATIONS THAT ARE USED IN MEDICATION ABORTION CAN BE PRESCRIBED IN A DIFFERENT CONTEXT WITHOUT HOSPITAL ADMITTING PRIVILEGES; IS THAT CORRECT?

A THAT IS CORRECT. NOW --

Q AND YOU EXPLAINED HOW CYTOTEC IS USED ELSEWHERE. WHAT -- WHAT -- HOW IS CYTOTEC USED APART FROM MEDICATION ABORTION?

A CYOTECH IS USED FOR A TREATMENT OF ULCERS. NOW, MIFEPRISTONE HAS NOT -- HAS NOT SO FAR BEEN APPROVED FOR USE, BUT IT HAS -- FOR ANYTHING ELSE BESIDES ABORTION, ALTHOUGH I UNDERSTAND THEY HAVE CONSIDERED ITS USE IN CERTAIN FORMS OF BREAST CANCER AND SO FORTH, BUT I DON'T KNOW THAT IT'S ACTUALLY APPROVED FOR USE ANYWHERE ELSE.

Q AND PHYSICIANS ARE ALLOWED TO PRESCRIBE MEDICATIONS FOR OFF-LABEL USE; CORRECT?

A THAT IS CORRECT.

Q AND SO IF A PHYSICIAN WERE TO PRESCRIBE MIFEPREX IN ANY CONTEXT OTHER THAN MEDICATION ABORTION, IS IT YOUR

UNDERSTANDING THEY DON'T NEED ADMITTING PRIVILEGES?

A YES. THAT SEEMS TO BE CORRECT.

Q NOW, YOU WERE ASKED ABOUT TWO CASES IN WHICH PATIENTS OF YOURS HAVE GONE TO THE HOSPITAL. DO YOU RECALL BEING ASKED A SERIES OF QUESTIONS PERTAINING TO THAT?

A YES, I DO.

Q AND IN ONE SERIES OF QUESTIONS, YOU WERE ASKED ABOUT A PATIENT WHO ULTIMATELY HAD TO HAVE A HYSTERECTOMY; CORRECT?

A THAT IS CORRECT.

Q AND WAS THAT THE PATIENT THAT YOU DESCRIBED PREVIOUSLY WHO HAD PLACENTA ACCRETA?

A YES.

Q AND WHAT WOULD HAVE HAPPENED TO THAT PATIENT HAD SHE NOT COME IN FOR AN ABORTION AND CARRIED TO TERM?

A WELL, IT COULD HAVE BEEN A FAR MORE DANGEROUS SITUATION. HAD SHE CARRIED THAT PREGNANCY ALL THE WAY TO TERM, THE BLEEDING COULD HAVE BEEN FAR WORSE, AND IF IT HAD NOT BEEN RECOGNIZED, YOU KNOW, SHE MIGHT NOT HAVE BEEN ABLE TO SURVIVE.

Q AND WHAT IS PLACENTA ACCRETA?

A PLACENTA ACCRETA IS WHERE THE PLACENTA GROWS DOWN DEEP INTO THE SUPPORTING STRUCTURES OF THE UTERUS, INTO THE MYOMETRIUM IT'S CALLED.

Q AND WHAT'S THE DANGER WITH THAT?

A WELL, IF THE PLACENTA INVADES THE MYOMETRIUM, THEN

YOU CANNOT REMOVE ALL OF THE PLACENTA AND SO THE PATIENT CONTINUES TO BLEED BECAUSE THE UTERUS CANNOT CONTRACT PROPERLY AROUND THOSE TISSUES THAT HAVE GROWN DOWN DEEP INTO THE MUSCLE LAYER, AND SO THE PATIENT CAN -- JUST BASICALLY CAN BLEED TO DEATH.

Q DR. DOE 3, YOU WERE ASKED A SERIES OF QUESTIONS REGARDING THE FACT THAT YOUR PROVISION OF ABORTION AT HOPE HASN'T BEEN AN IMPEDIMENT TO ATTAINING PRIVILEGES AT WILLIS-KNIGHTON BOSSIER OR CHRISTUS HIGHLAND; CORRECT?

A YES.

Q HAS IT BEEN AN IMPEDIMENT FOR YOU AT HOSPITALS IN OTHER SITUATIONS? HAVE YOU HAD DIFFICULTIES WITH HOSPITALS DUE TO YOUR WORK AT HOPE?

A NOT SPECIFICALLY. NEVER -- NEVER -- IT'S NEVER BEEN STATED OPENLY, NO, THAT THAT IS THE REASON FOR ANY DIFFICULTIES AT OTHER HOSPITALS, NO.

Q HAVE COLLEAGUES MADE COMMENTS TO YOU AT THOSE HOSPITALS?

A WELL, YES, BUT IT'S PRIMARILY BEEN IN THE ISSUE OF CALL, AND -- AND -- BUT THAT'S -- THAT'S REALLY ACTUALLY ALL THAT I KNOW FOR SURE.

MS. JAROSLAW: THANK YOU, DR. DOE 3, I HAVE NO FURTHER QUESTIONS?

THE COURT: DOCTOR, I HAVE, PERHAPS, A COUPLE HERE. FIRST OF ALL, YOU GAVE A DECLARATION IN CONNECTION

WITH THE ORIGINAL PETITION FOR THE PRELIMINARY JUNCTION. DO YOU RECALL THAT?

THE WITNESS: YES, I DO.

THE COURT: AND IN THAT DECLARATION I RECALL YOU SAYING THAT IF YOU WERE, AND YOUR TERM WAS TODAY, THE LAST MAN STANDING, PERHAPS, THAT WAS COUNSEL'S TERM. BUT IF YOU WERE THE LAST PERSON -- THIS WAS YOUR DECLARATION. IF YOU WERE THE LAST PERSON IN THE STATE OF LOUISIANA TO BE PERFORMING ABORTIONS THAT YOU WOULD NOT DO IT. AND ONE OF THE REASONS YOU GAVE WAS SECURITY, IF I RECALL CORRECTLY?

THE WITNESS: YES.

THE COURT: CAN YOU EXPLAIN THAT TO ME?

THE WITNESS: WELL, YES. IT'S THE SAME -- I BELIEVE THAT THE SITUATION AT THAT TIME IS THAT INSOFAR AS I KNEW NO ONE ELSE HAD ADMITTING PRIVILEGES IN THE STATE OF LOUISIANA SO I WAS FEARFUL THAT I WOULD BE THE ONLY ONE LEFT WITH ADMITTING PRIVILEGES IN THE ENTIRE STATE, WHICH WOULD HAVE MADE ME THE ONLY ABORTION PROVIDER AND THAT, THEN, I BELIEVE, MAKES ME A TARGET FOR THOSE WHO ARE THE RADICALS WHO ARE OPPOSED TO ABORTION.

ALL THEY HAVE TO DO IS ELIMINATE ME AS THEY HAVE DR. TILLER AND SOME OF THE OTHER ABORTION PROVIDERS AROUND THE COUNTRY, JUST, YOU KNOW, ASSASSINATE ME AND THAT'S ALL THEY HAVE TO DO. OR IT COULD CAUSE A LOT OF OTHER TRUMPED UP, YOU KNOW, PROBLEMS OCCURRING THAT WOULD AFFECT MY ABILITY TO

PERFORM THE REST OF MY PRACTICE.

AS I'VE STATED, I CANNOT EVER PROVE THAT MY ASSOCIATION WITH HOPE HAS ANYTHING TO DO WITH ANY OF -- THE REACTIONS I HAVE FROM OTHER SOURCES, BUT I -- I FEEL LIKE IF I AM THE ONLY ABORTION PROVIDER LEFT THEN, YOU KNOW -- THEN IT COULD CALL ATTENTION TO OTHER ASPECTS OF -- OF MY LIFE THAT I -- WOULD REALLY MAKE ME FEARFUL.

THE COURT: ALL RIGHT. AND I THINK SINCE THE TIME YOU GAVE THAT DECLARATION, TWO PHYSICIANS HAVE GOTTEN ADMITTING PRIVILEGES, ONE AT TULANE AND ONE AT HOSPITAL C. AND MS. JAROSLAW ASKED YOU A SLIGHTLY DIFFERENT QUESTION, WHICH WAS, IF YOU WERE THE LAST ABORTION PROVIDER WITH ADMITTING PRIVILEGES IN THE NORTHERN PART OF THE STATE, WOULD YOU CONTINUE PRACTICE? AND YOUR ANSWER WAS NO, BUT I DIDN'T HEAR, AMONG THE REASONS THAT YOU GAVE, SECURITY. WOULD SECURITY STILL BE AN ISSUE FOR YOU UNDER THOSE CIRCUMSTANCES?

THE WITNESS: OH, YES, IT STILL WOULD. I THINK, YOU KNOW, I FEEL CONFIDENT THAT IT -- THAT IT COULD POTENTIALLY BE AN ISSUE AND STILL ALWAYS IS POTENTIALLY AN ISSUE. AS I STATED, THE GROUP LAST YEAR MAY VERY WELL RETURN THIS SUMMER. I DON'T KNOW. AND MAY DO THE SAME SORT OF THING THAT THEY DID LAST SUMMER, SO I WOULD BE, YOU KNOW, FEARFUL. AND, OF COURSE, IF I'M THE ONLY PHYSICIAN AVAILABLE THEN -- THEN IF THEY ELIMINATE ME, THEN THEY'VE ELIMINATED ABORTION IN NORTHWEST LOUISIANA.

THE COURT: AND YOU GAVE, I THINK, TWO OTHER REASONS IN ADDITION TO THE ONE THAT YOU JUST ARTICULATED. ONE OF WHICH WAS THAT BECAUSE OF THE NATURE OF YOUR PRACTICE AT THIS POINT, WHICH IS, FOR THE MOST PART, YOUR PRIVATE PRACTICE AS OPPOSED TO YOUR ABORTION PRACTICE.

THE WITNESS: YES.

THE COURT: CAN YOU EXPLAIN THAT A LITTLE BIT MORE TO ME AS TO HOW THAT WOULD IMPACT IF YOU, IN FACT --

THE WITNESS: I AM -- WELL, A PART OF IT IS JUST SIMPLY THAT I AM STRETCHED ALMOST TO THE LIMIT AS IT IS. I'M WORKING VERY, VERY LONG HOURS MAINTAINING MY PRIVATE PRACTICE AND, FRANKLY, I WISH TO CONTINUE MY PRIVATE PRACTICE. THAT'S WHAT I REALLY DESIRE DOING. AND SO IF I HAD ALL OF MY RESPONSIBILITY -- IF MY RESPONSIBILITIES AT HOPE INCREASE, I DON'T BELIEVE I COULD DO IT ANY LONGER.

THERE HAVE BEEN TIMES IN THE PAST WHEN I WAS THE ONLY PROVIDER AT HOPE AND I DID PROVIDE ALL OF THE SERVICES AT HOPE AND WAS ABLE TO DO IT BUT MY OWN PRIVATE PRACTICE WAS NOT AS BUSY AT THAT TIME. AND THEN THE OTHER PART TO THAT IS THAT NOW IF -- AND IN THAT ERA, WE DIDN'T HAVE A DERTH OF ABORTION PROVIDERS. IF -- IF NOW THERE ARE NO OTHER ABORTION PROVIDERS IN THE NORTHWEST PART OF THE STATE, I FEEL LIKE I WOULD JUST REALLY BE OVERWHELMED.

THE COURT: ALL RIGHT. AND THEN JUST TURNING TO ANOTHER SUBJECT VERY BRIEFLY. MR. DUNCAN HAD ASKED YOU ABOUT

YOUR HAVING TRAINED A RADIOLOGIST TO PERFORM ABORTION PROCEDURES AND THEN AN OPHTHALMOLOGIST. WERE THESE PHYSICIANS WHO AT ONE TIME WERE PROVIDING ABORTION PROCEDURES AT HOPE?

THE WITNESS: YES.

THE COURT: ALL RIGHT. AND THEY'RE -- ARE THEY STILL ASSOCIATED WITH HOPE IN SOMEWAY.

THE WITNESS: NO, NEITHER ONE OF THEM ARE ANYMORE. ONE OF THEM HAS, FRANKLY, RETIRED. THE RADIOLOGIST HAS -- HAS ALMOST RETIRED. I THINK HE IS. BUT HE HAS GOT A PRACTICE JUST IN ADDICTION MEDICINE, SO HE'S JUST DOING AN OFFICE-TYPE PRACTICE. AND THEN THE OTHER, I'M NOT EXACTLY SURE WHAT HER PURSUITS ARE, BUT SHE'S -- SHE'S NOT -- SHE'S NO LONGER PERFORMING ABORTIONS. SHE HAS SOME SORT OF CLINICAL PRACTICE ELSEWHERE.

THE COURT: ALL RIGHT. THANK YOU. SINCE I ASKED SOME QUESTIONS MYSELF, DOES ANYBODY WANT TO FOLLOW-UP WITH SOME QUESTIONS?

MR. DUNCAN: SORRY, YOUR HONOR, I JUST WANTED TO FOLLOW-UP ON RECROSS ON AN AREA THAT MS. JAROSLAW SUGGESTED ON REDIRECT. I'D JUST ASK A FEW QUESTIONS. MAY I DO THAT?

THE COURT: YEAH. IF IT'S AN AREA OF SOMETHING THAT I RAISED, YOU MAY DO IT. IF IT'S SOMETHING THAT SHE RAISED -- IS THIS A NEW SUBJECT --

MR. DUNCAN: NO. THIS CONCERNS THIS COURTESY PRIVILEGES/ACTIVE PRIVILEGES THING. I THOUGHT THERE WAS SOME

CONFUSION THERE, AND I THINK I CAN CLEAR IT UP BY REFERENCE TO THE BYLAWS.

THE COURT: OKAY. I'M GOING TO LET IT HAPPEN THIS TIME, BUT THIS IS NOT GOING TO BECOME A REGULAR PRACTICE.

MR. DUNCAN: THANK YOU VERY MUCH.

THE COURT: OKAY.

RECROSS

BY MR. DUNCAN:

Q DOCTOR, JUST A COUPLE OF THINGS. THIS IS COUNSEL FOR THE DEFENDANT AGAIN.

A YES.

Q SO LET'S ALL REFER TO JX -- MEANING JOINT EXHIBIT, DOCTOR, NUMBER 67. THAT'S GOING TO BE IN ONE OF THESE BIG BINDERS, AND IT'S BINDER NUMBER 1. NOW THIS EXHIBIT IS A HOSPITAL BYLAW.

MR. DUNCAN: AND FOR THE COURT'S INFORMATION THIS IS MARKED CONFIDENTIAL. NUMBER 67. I'M SORRY. LET ME GET THIS RIGHT. I'M SORRY. IS 67 ON THE CONFIDENTIAL LIST? IT IS. OKAY. I SAID IT WAS. YEAH, IT'S ON THE CONFIDENTIAL LIST.

BY MR. DUNCAN:

Q DOCTOR, DO YOU SEE WHERE THAT EXHIBIT IS?

A YES, SIR, I DO.

Q OKAY. GREAT. IF YOU GO TO THE FIRST PAGE, I JUST WANT TO ESTABLISH THAT THESE ARE THE MEDICAL STAFF BYLAWS AT CHRISTUS HEALTH. DO YOU SEE THAT?

A YES, SIR.

Q YOU'RE FAMILIAR WITH HOSPITAL BYLAWS; RIGHT?

A YES, SIR, I AM.

Q I BET -- OKAY. I BET YOU ARE. GREAT. NOW, I WANTED -- I WANT YOU TO GO TO -- WE HAVE A NUMBER OF WAYS OF DOING THESE PAGES -- PAGE 848 IN THAT EXHIBIT. THERE'S A -- THERE'S A DESIGNATION THERE AT THE BOTTOM THAT SAYS PAGE 848.

A YES, SIR, I SEE THAT.

Q YOU SEE THAT? AND NOW -- NOW, BECAUSE THIS IS A CONFIDENTIAL EXHIBIT, WE'RE NOT GOING TO READ THE DOCUMENT OUT LOUD, SO I'M GOING TO ASK YOU TO LOOK AT A SECTION AND COMMENT ON IT. DO YOU UNDERSTAND?

A I THINK I UNDERSTAND.

Q OKAY. SO SECTION 1.7 THERE, THAT'S -- I THINK IT'S SAFE TO READ THAT -- WELL, LET ME JUST SAY, THAT IS -- DO YOU SEE THAT, SECTION 1.7?

A YES, I DO.

Q DOES THAT DESCRIBE MEDICAL STAFF MEMBERSHIP CATEGORIES AT THE HOSPITAL?

A YES, IT DOES. YES, IT DOES.

Q OKAY. AND JUST LOOKING DOWN THROUGH THOSE CATEGORIES, LOOK AT THOSE CATEGORIES IN 1.7-A, 1.7-B, AND THEN FLIPPING OVER TO THE NEXT PAGE, 1.7-C, AND 1.7-D. DO YOU SEE ALL OF THOSE?

A YES, SIR. AND 1.7-E, I BELIEVE, ALSO.

Q AN "E" AS WELL, THAT'S RIGHT. NOW, IS IT FAIR TO SAY THOSE DESCRIBE DIFFERENT CATEGORIES OF MEDICAL STAFF AT CHRISTUS --

A YES, SIR.

Q -- RIGHT? AND THE NAMES OF SOME OF THOSE ARE ASSOCIATE, ACTIVE, COURTESY, AFFILIATE, AND HONORARY. DOES THAT LOOK RIGHT?

A YES, SIR.

Q NOW, I WANT TO DRAW YOUR ATTENTION TO PAGE 849. AND THE PARAGRAPH AT THE TOP, 1.7-C ENTITLED, "COURTESY CATEGORY." DO YOU SEE THAT?

A YES.

Q NOW, DOCTOR, THAT'S A LONG PARAGRAPH. WOULD YOU JUST READ THROUGH THAT PARAGRAPH FOR ME? I WANT TO ASK YOU A QUESTION ABOUT IT.

A YES, SIR.

Q THANK YOU.

A IT SAYS, "THE COURTESY STAFF" --

Q NO, NO, DOCTOR, DON'T READ IT. I'M SORRY. DON'T READ IT OUT LOUD. READ IT TO YOURSELF, BECAUSE WE DON'T WANT TO READ A CONFIDENTIAL EXHIBIT OUT LOUD. READ IT TO YOURSELF. TAKE A SECOND. AND THEN I JUST WANT TO ASK YOU A COUPLE OF QUESTIONS ABOUT THE PARAGRAPH. DOES THAT SOUND GOOD?

A YES, SIR.

(REVIEWS DOCUMENT.)

Q I KNOW IT'S SMALL PRINT, DOCTOR. HAVE YOU HAD A CHANCE TO READ IT OR DO YOU NEED SOME MORE TIME?

A NO, I HAVE HAD A CHANCE TO READ IT.

Q GREAT. LET ME ASK YOU JUST A COUPLE OF QUESTIONS ABOUT THAT PARAGRAPH. HAVING READ THAT PARAGRAPH, IS IT FAIR TO SAY THAT A PHYSICIAN IN THE COURTESY MEDICAL STAFF CATEGORY MAY OCCASIONALLY ADMIT PATIENTS TO THE HEALTH SYSTEM?

A YES.

Q SO, IN OTHER WORDS, SOMEBODY WHO'S A COURTESY STAFF MEMBER MAY ADMIT PATIENTS; RIGHT?

A THAT IS CORRECT.

Q OKAY. NOW, JUST DRAWING YOUR ATTENTION TO THE LOWER PART OF THE PARAGRAPH. IS IT ALSO FAIR TO SAY THAT IF YOU'RE A MEMBER OF THE COURTESY MEDICAL STAFF, YOU MIGHT BE -- YOU WILL BE LIMITED TO A CERTAIN NUMBER OF PATIENT ENCOUNTERS PER YEAR; ISN'T THAT RIGHT?

A YES, SIR.

Q OKAY. BUT ISN'T IT ALSO CLEAR FROM THIS PARAGRAPH THAT THAT DOES NOT IMPLY A LIMITATION ON ADMISSIONS? IF YOU'LL LOOK AT THE NEXT SENTENCE, I THINK THAT'S WHERE I'D LIKE TO DRAW YOUR ATTENTION.

A WELL, IT DOES STATE EXACTLY WHAT I BELIEVE I HAD STATED EARLIER, THAT IF YOU HAVE MORE THAN A CERTAIN NUMBER OF ADMISSIONS, YOU WILL AUTOMATICALLY BE BUMPED UP TO THE NEXT LEVEL.

Q OH, I UNDERSTAND THAT, DOCTOR. BUT MY QUESTION IS A LITTLE BIT DIFFERENT. DOESN'T THIS PARAGRAPH INDICATE THAT A MEMBER OF THE COURTESY MEDICAL STAFF MAY ADMIT PATIENTS? IT DOES INDICATE THAT, DOESN'T IT?

A YES, SIR.

Q OKAY. NOW, ONE MORE THING, AND I WILL SIT DOWN. IN THE NEXT PARAGRAPH IS 1.7-D, THAT'S A DIFFERENT CATEGORY OF MEDICAL STAFF; RIGHT?

A YES, SIR.

Q THAT'S CALLED THE AFFILIATE CATEGORY?

A UH-HUH.

Q WOULD YOU READ JUST THAT FIRST PARAGRAPH, AGAIN, TO YOURSELF, AND FOCUS ON THE LAST -- THE LAST SENTENCE OF IT AND THEN I'LL ASK YOU A QUESTION IN A SECOND. WERE YOU ABLE TO READ THAT, DOCTOR?

A I'M JUST ABOUT DONE.

Q I'LL GIVE YOU MORE TIME. WERE YOU ABLE TO READ IT?

A YES, SIR.

Q GREAT. DRAWING YOUR ATTENTION TO THE LAST SENTENCE OF THAT PARAGRAPH, IS IT ACCURATE TO STATE THAT A MEMBER OF THE AFFILIATE STAFF IS NOT ELIGIBLE FOR CLINICAL PRIVILEGES AND MAY NOT ADMIT PATIENTS TO THE HOSPITAL?

A THAT IS CORRECT.

Q OKAY. FINAL QUESTION, AND I THINK YOU TESTIFIED TO THIS EARLIER, BUT I'M NOT CERTAIN. DO YOU RECALL MS. JAROSLAW

INDICATING THAT CHRISTUS IS A CATHOLIC HOSPITAL?

A YES.

Q OKAY. NOW, YOU HAVE HELD PRIVILEGES AT CHRISTUS FOR A NUMBER OF YEARS; IS THAT RIGHT?

A YES, I HAVE.

Q ADMITTING PRIVILEGES?

A YES, I HAVE.

Q AND OVER THAT SAME COURSE OF TIME, I THINK, IT'S SOMETHING LIKE 30 YEARS, MAYBE OVER 30 YEARS; IS THAT RIGHT?

A UM, WELL, OFF AND ON.

Q OFF AND ON. OKAY. AND OVER THAT COURSE OF PERIOD -- OVER THAT COURSE OF TIME, YOU HAVE PROVIDED ABORTION SERVICES, HAVE YOU NOT?

A I HAVE.

Q HAS CHRISTUS EVER INDICATED TO YOU THAT BECAUSE YOU PROVIDE ABORTION SERVICES, YOU MAY NOT HAVE ADMITTING PRIVILEGES?

A THEY HAVE NOT SAID THAT SPECIFICALLY.

MR. DUNCAN: THANK YOU, DOCTOR.

THE COURT: MS. JAROSLAW, YOU WANT TO FINISH UP?

MS. JAROSLAW: YES.

EXAMINATION

BY MS. JAROSLAW:

Q DR. DOE 3, IN YOUR LAST ANSWER REGARDING CHRISTUS, YOU SAID "NOT SPECIFICALLY." WAS THERE MORE TO YOUR ANSWER?

A I DON'T SPECIFICALLY -- I JUST DON'T FEEL LIKE TESTING THE WATERS THERE. I DON'T FEEL LIKE ASKING THEM HOW THEY WOULD FEEL IF I PERFORMED ABORTIONS. IF THEY WERE AWARE THAT I WAS PERFORMING ABORTIONS.

Q IS IT FAIR TO SAY YOU'RE CONCERNED ABOUT IT BECOMING AN ISSUE?

A YES, VERY DEFINITELY.

Q NOW, DO YOU RECALL JUST NOW YOU WERE SHOWN CHRISTUS BYLAWS SECTION 1.7-A, B, C, D, ET CETERA OUTLINING DIFFERENT CATEGORIES OF STAFF MEMBERSHIP? DO YOU RECALL THAT?

A YES.

Q IN YOUR EXPERIENCE, IS IT FAIR TO SAY THAT EACH HOSPITAL HAS ITS OWN DISCRETION TO DEVELOP DIFFERENT CATEGORIES OF PRIVILEGES?

A YES.

Q THERE'S NO STANDARD DEFINITION OF ACTIVE PRIVILEGES OR CONSULTING OR COURTESY; CORRECT?

A THAT IS CORRECT.

Q AND SO THE REQUIREMENTS MAY VARY HOSPITAL BY HOSPITAL; CORRECT?

A YES.

Q AND LASTLY, I'D JUST LIKE TO FOLLOW-UP ON SOMETHING THAT HIS HONOR ASKED YOU ABOUT REGARDING THE RADIOLOGIST AND OPHTHALMOLOGIST WHO FOR A TIME WORKED AT HOPE.

UNDER CURRENT LOUISIANA LAW, ARE YOU ALLOWED TO

TRAIN PHYSICIANS -- ANY PHYSICIAN TO PROVIDE ABORTION?

A YES. ALL THEY HAVE TO HAVE IS A LOUISIANA LICENSE.

Q WELL, ISN'T IT A FACT THAT IN RECENT YEARS ONLY BOARD-CERTIFIED OB/GYNS AND FAMILY PRACTICE DOCTORS CAN PERFORM ABORTIONS IN THIS STATE?

A I'M NOT AWARE OF THAT LAW. I KNOW THAT THERE WAS AN EFFORT TO PASS SUCH A LAW, BUT I BELIEVE IT WAS -- THEY HAD DECIDED TO DROP THAT.

Q AND IS THERE ANYONE PRESENTLY WHO HAS EXPRESSED AN INTEREST IN BEING TRAINED BY YOU?

A NO.

MS. JAROSLAW: ALL RIGHT. NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU. IT'S ALMOST 3:00, WE'RE GOING TO TAKE TEN MINUTES. THANK YOU, DOCTOR. YOU MAY STAND DOWN.

(WHEREUPON COURT WAS IN RECESS.)

THE COURT: OKAY. PLEASE BE SEATED AND CALL YOUR NEXT WITNESS.

MS. JAROSLAW: YOUR HONOR, THE PLAINTIFFS CALL DR. CHRISTOPHER ESTES.

(WHEREUPON, DR. CHRISTOPHER ESTES, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS.)

THE COURT: SWEAR OUR WITNESS, MS. CAUSEY.

ALL RIGHT. DOCTOR, YOU MAY TAKE THE STAND.

DIRECT

BY MS. JAROSLAW:

Q WOULD YOU PLEASE SPELL YOUR NAME FOR THE COURT REPORTER?

A YES. MY NAME IS CHRISTOPHER ESTES. THAT'S C-H-R-I-S-T-O-P-H-E-R. LAST NAME ESTES, E-S-T, AS IN THOMAS, E-S.

Q GOOD AFTERNOON, DR. ESTES.

A GOOD AFTERNOON.

Q HOW ARE YOU EMPLOYED?

A I'M CURRENTLY THE CHIEF MEDICAL OFFICER FOR PLANNED PARENTHOOD OF SOUTH, EAST, AND NORTH FLORIDA.

Q AND WHAT AREA OF FLORIDA -- WHAT IS THE SOUTH, EAST, AND NORTH FLORIDA REGION THAT YOUR PLANNED PARENTHOOD AFFILIATE COVERS?

A IT'S SOUTH, COMMA, EAST, AND NORTH FLORIDA. SO MY FARTHEST SOUTH CLINICS BEGIN IN MIAMI, WE ENCOMPASS THE ENTIRE SOUTH REGION OF THE STATE, UP THE EAST COAST, THROUGH THE PANHANDLE INCLUDING HEALTH CENTERS IN JACKSONVILLE, GAINESVILLE, AND TALLAHASSEE.

Q AND HOW MANY PLANNED PARENTHOOD CLINICS ARE PART OF PLANNED PARENTHOOD OF SOUTH, COMMA, EAST, AND NORTH FLORIDA?

A PRESENTLY WE HAVE A TOTAL OF 11.

Q NOW, DR. ESTES, ARE YOU BOARD-CERTIFIED IN OB/GYN?

A YES, I AM.

Q HOW LONG HAVE YOU BEEN BOARD-CERTIFIED?
A I WAS FIRST CERTIFIED IN 2008.
Q OVER THE COURSE OF YOUR CAREER AS AN OB/GYN, WHAT ARE SOME OF THE SURGICAL PROCEDURES THAT YOU'VE PERFORMED?
A OB/GYN IS A VERY BROAD FIELD AND INVOLVES ALL TYPES OF SURGERIES FROM MINOR OFFICE PROCEDURES, MINIMALLY INVASIVE SURGERIES AS WELL AS MAJOR ABDOMINAL PROCEDURES. I, OF COURSE, HAVE PRACTICED OBSTETRICS, WHICH INCLUDES VAGINAL DELIVERIES AND CESAREAN SECTIONS, OFFICE PROCEDURES INCLUDING THINGS ALONG THE LINES OF HYSTEROSCOPIES, IUD INSERTIONS, ABORTIONS, OF COURSE --
Q IF YOU COULD SLOW DOWN, THAT WOULD BE HELPFUL TO THE COURT REPORTER.
A I'M SORRY -- AS WELL AS PROCEDURES IN THE OPERATING ROOM. THINGS LIKE LAPAROSCOPY, PROCEDURES FOR PATHOLOGY OF THE OVARIES AND WHAT HAVE YOU. AS WELL AS MAJOR ABDOMINAL PROCEDURES LIKE HYSTERECTOMIES.
Q AND DO YOU HAVE EXPERIENCE IN ALL OF THOSE PROCEDURES?
A YES, I DO.
Q WHAT ARE THE VARIOUS METHODS OF SURGICAL ABORTION IN WHICH YOU'RE PROFICIENT?
A THERE ARE TWO PRINCIPLE TYPES OF SURGICAL ABORTION, DILATION AND CURETTAGE SUCTION, DILATION AND CURETTAGE, WHICH IS GENERALLY PERFORMED IN THE FIRST TRIMESTER, AND DILATION

AND EVACUATION, WHICH IS A PROCEDURE PERFORMED IN THE SECOND TRIMESTER.

Q AND WHAT'S THE DIFFERENCE BETWEEN THE TWO PROCEDURES, PRIMARILY?

A FIRST TRIMESTER ABORTIONS BY SUCTION, DILATION, AND CURETTAGE INVOLVE DILATION OF THE CERVIX AND THEN USING A SUCTION DEVICE TO REMOVE THE CONTENTS OF THE UTERUS.

DILATION AND EVACUATION PROCEDURES IN THE SECOND TRIMESTER INVOLVE DILATION OF THE CERVIX FOLLOWED BY THE USE OF INSTRUMENTS IN ADDITION TO SUCTION TO REMOVE THE CONTENTS OF THE UTERUS.

Q WHAT PROFESSIONAL ORGANIZATIONS ARE YOU A MEMBER OF?

A I'M A MEMBER OF -- I'M A FELLOW OF THE AMERICAN COLLEGE OF OBSTETRICS AND GYNECOLOGY. I'M A MEMBER OF THE SOCIETY FOR FAMILY PLANNING -- SOCIETY OF FAMILY PLANNING AS WELL AS THE NATIONAL ABORTION FEDERATION.

Q ARE YOU A MEMBER OF THE AMERICAN SOCIETY OF REPRODUCTIVE MEDICINE?

A I HAVE BEEN A MEMBER OF THE ASRM IN THE PAST.

Q AND WHAT'S YOUR AFFILIATION WITH THE NATIONAL ABORTION FEDERATION?

A IN ADDITION TO MY AFFILIATE BEING A GROUP MEMBER, I'M ALSO AN INDIVIDUAL MEMBER, AND I AM ON THE BOARD OF TRUSTEES.

Q WHAT IS YOUR EDUCATIONAL BACKGROUND?

A I RECEIVED MY BACHELOR'S FROM THE UNIVERSITY OF MIAMI AS WELL AS MY M.D. DEGREE FROM THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE. I THEN COMPLETED A RESIDENCY IN OBSTETRICS AND GYNECOLOGY AT THE UNIVERSITY OF MIAMI, JACKSON MEMORIAL HOSPITAL.

AFTER THAT, I WENT ON TO COMPLETE FELLOWSHIP TRAINING AND FAMILY PLANNING AT COLUMBIA UNIVERSITY AND NEW YORK PRESBYTERIAN HOSPITAL. WHILE I WAS PERFORMING MY FELLOWSHIP IN FAMILY PLANNING, I ALSO RECEIVED MY MASTER'S IN PUBLIC HEALTH AND EPIDEMIOLOGY FROM THE COLUMBIA UNIVERSITY.

Q HAVE YOU PARTICIPATED IN TRAINING RESIDENTS AND MEDICAL STUDENTS?

A YES, I HAVE.

Q HAVE YOU DONE THAT AS A PROFESSOR AND AS A FELLOW?

A YES, BOTH.

Q AND WHAT DID YOU TEACH AT THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE?

A WHILE I WAS ON FACULTY AT UNIVERSITY OF MIAMI, I TAUGHT GENERAL OBSTETRICS AND GYNECOLOGY. FOR PART OF MY TIME THERE, BEGINNING IN 2010, I WAS THE CLERKSHIP DIRECTOR FOR THE OBSTETRICS AND GYNECOLOGY ROTATION. THAT'S THE REQUIRED ROTATION ALL THIRD YEAR MEDICAL STUDENTS MUST TAKE WHILE THEY GO THROUGH MEDICAL SCHOOL.

I WAS ALSO THE COURSE COORDINATOR FOR THE REPRODUCTIVE ENDOCRINOLOGY SECTION OF THE SECOND CURRICULUM

WHICH IS THE -- BASICALLY THE INTRODUCTORY COURSE TO OBSTETRICS AND GYNECOLOGY FOR STUDENTS IN THEIR SECOND YEAR OF MEDICAL SCHOOL.

Q AND DID YOU HOLD THE TITLE ASSISTANT PROFESSOR?

A YES, THAT'S CORRECT.

Q AND WHAT YEARS WERE YOU ON THE FACULTY AT THE MILLER SCHOOL OF MEDICINE?

A I BEGAN THERE IN 2007 AND LEFT IN 2014 WHEN I JOINED PLANNED PARENTHOOD.

Q IN ADDITION TO THE DUTIES YOU'VE DESCRIBED AT THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE, DID YOU HAVE ANY DUTIES WITH RESPECT TO ITS REPRODUCTIVE HEALTH SERVICES?

A YES. I WAS ALSO THE MEDICAL DIRECTOR FOR REPRODUCTIVE HEALTH SERVICES AT THE UNIVERSITY OF MIAMI.

Q AND WHAT DID THAT POSITION INVOLVE?

A THAT INVOLVED THE CLINICAL OVERSIGHT OF ALL OF THE FAMILY PLANNING SERVICES WE PROVIDED AT THE UNIVERSITY, INCLUDING MEDICAL AND SURGICAL ABORTION IN THE FIRST AND SECOND TRIMESTER, AS WELL AS COMPREHENSIVE FAMILY PLANNING SERVICES, FULL SCOPE OF CONTRACEPTION, AND REPRODUCTIVE HEALTH NEEDS.

Q AND DO YOU HAVE A PARTICULAR AREA OF EXPERTISE WITHIN THE FIELD OF ABORTION CARE?

A YES. THE UNIVERSITY AND JACKSON HOSPITAL SERVE AS A TERTIARY CARE CENTER. AS SUCH, WE RECEIVED REFERRALS FOR

PATIENTS WITH SOME SIGNIFICANT MEDICAL AND OBSTETRICAL COMPLICATIONS WHICH REQUIRED CARE IN A HIGHER LEVEL -- IN A HIGHER ACUITY SETTING.

Q IS IT FAIR TO SAY THAT YOU SAW MORE THAN YOUR FAIR SHARE OF HIGH RISK PATIENTS?

A A VERY SIGNIFICANT PORTION OF MY PATIENTS WHILE I WAS AT THE UNIVERSITY WERE, INDEED, HIGH RISK AS THEY WERE REFERRED FROM OUR REGION.

Q AND WHEN YOU SAY "OUR REGION," WHAT WOULD THAT INCLUDE?

A MIAMI IS INDEED A VERY INTERESTING REGION AS IT ALSO INCLUDES THE CARIBBEAN, CENTRAL, AND SOUTH AMERICA AND A GOOD CHUNK OF THE SOUTHEASTERN UNITED STATES.

Q AND YOU GOT REFERRALS FROM ALL OF THOSE AREAS?

A YES, I DID.

Q WHILE YOU WERE EMPLOYED AT THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE, WERE YOU A MEMBER OF THE QUALITY REVIEW COMMITTEE?

A YES.

Q WHEN DID YOU SERVE ON THAT COMMITTEE?

A I BEGAN IN 2010 THROUGH THE END UNTIL 2014.

Q AND WHAT WAS THE MISSION OF THE QUALITY AND REVIEW COMMITTEE WHEN YOU SERVED ON IT?

A THE PURPOSE AND MISSION OF THE QUALITY REVIEW COMMITTEE AT THE UNIVERSITY OF MIAMI HOSPITAL WAS TO PERFORM

PERIODIC REVIEWS OF INCIDENTS IN THE HOSPITAL WHERE WE EXAMINED TO BE SURE PHYSICIANS WERE DELIVERING APPROPRIATE LEVELS OF CARE AND THAT STANDARDS OF CARE WERE BEING MET. ALSO, TO IDENTIFY ANY PROCESSES OR PROCEDURES IN THE HOSPITAL PROTOCOLS OR IN HAND-OFFS AND THE LIKE THAT NEEDED TO BE REVIEWED AND ADDRESSED TO MAKE SURE THAT QUALITY CARE WAS DELIVERED TO THE PATIENTS IN THE HOSPITAL.

Q NOW, YOU STATED THAT YOU'VE BEEN CHIEF MEDICAL OFFICER AT PLANNED PARENTHOOD FOR SOUTH, EAST, AND NORTH FLORIDA. IS THAT SINCE AUGUST OF 2014?

A YES, I BEGAN AUGUST 2014.

Q OKAY. AND IN ADDITION TO YOUR ADMINISTRATIVE AND OVERSIGHT DUTIES, DO YOU HAVE CLINICAL DUTIES?

A YES, I DO.

Q AND TELL US ABOUT YOUR PRACTICE.

A I SEE PATIENTS FOR THE FULL SCOPE OF FAMILY PLANNING AND REPRODUCTIVE HEALTHCARE INCLUDING MEDICAL AND SURGICAL ABORTION AS WELL AS A FULL RANGE OF FAMILY PLANNING SERVICES, IUD AND CONTRACEPTIVE IMPLANT INSERTION AND REMOVALS. AS WELL AS GENERAL GYN, INCLUDING HYSTEROSCOPY PROCEDURES, STERILIZATION VIA ESSURE. AS WELL AS GENERAL GYN COMPLAINTS.

Q AND DO YOU HAVE HOSPITAL ADMITTING PRIVILEGES?

A YES.

Q WHERE?

A I HAVE PRIVILEGES AT THE UNIVERSITY OF MIAMI

HOSPITAL, JACKSON MEMORIAL HOSPITAL, AND ALSO AT PALMS WEST HOSPITAL.

Q AND HAVE YOU HAD ADMITTING PRIVILEGES AT OTHER HOSPITALS DURING YOUR CAREER?

A YES.

Q AND WHERE ELSE?

A DURING FELLOWSHIP I HAD ADMITTING PRIVILEGES AT NEW YORK PRESBYTERIAN.

Q HAVE YOU MAINTAINED A PROFESSIONAL APPOINTMENT AT THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE TO THIS DAY?

A YES. CURRENTLY, I'M A VOLUNTARY FACULTY MEMBER THERE, A VOLUNTARY ASSISTANT PROFESSOR.

Q OKAY. I'D LIKE TO BRING UP ON THE SCREEN WHAT'S MARKED FOR IDENTIFICATION AS PLAINTIFFS' EXHIBIT 92. IT'S NOT YET IN EVIDENCE AND IT'S NOT CONFIDENTIAL. IT WILL COME UP ON YOUR SCREEN IN A MOMENT, AND I'LL ASK YOU TO JUST TAKE A LOOK AT IT BEFORE I ASK YOU ANY QUESTIONS ABOUT IT. IT SHOULD BE ON YOUR SCREEN. YOU CAN SCROLL THROUGH IF YOU'D LIKE.

A I DON'T KNOW HOW TO SCROLL THROUGH.

Q OKAY. DO YOU RECOGNIZE PLAINTIFFS' EXHIBIT 92?

A YES.

Q WHAT IS IT?

A IT'S MY CV.

Q AND DOES THAT FAIRLY AND ACCURATELY REPRESENT YOUR CAREER TO DATE AS A DOCTOR?

A YES.

MS. JAROSLAW: YOUR HONOR, I OFFER PLAINTIFFS' EXHIBIT 92 INTO EVIDENCE.

THE COURT: ANY OBJECTIONS?

MR. DUNCAN: NO OBJECTION, YOUR HONOR.

THE COURT: ALL RIGHT. LET IT BE RECEIVED.

MS. JAROSLAW: YOUR HONOR, ALSO AT THIS TIME, I'D LIKE TO OFFER DR. ESTES AS AN EXPERT IN PUBLIC HEALTH, OBSTETRICS AND GYNECOLOGY AND ABORTION CARE.

THE COURT: ANY OBJECTIONS, MR. ADEN?

MR. ADEN: YOUR HONOR, WE HAVE A COUPLE OF OBJECTIONS I'D LIKE TO MAKE IF I CAN. MAY I GO TO THE PODIUM?

THE COURT: YES.

MR. ADEN: THANK YOU, YOUR HONOR. I'LL TRY TO BE BRIEF, YOUR HONOR. FIRST OF ALL, YOUR HONOR, WE OBJECT TO THE QUALIFICATION OF THIS WITNESS. OBVIOUSLY HE HAS EXTENSIVE CREDENTIALING AS AN OB/GYN, BUT HE HAS NEVER SAT ON A CREDENTIALING COMMITTEE AT A HOSPITAL, AND IT APPEARS FROM HIS -- AND THAT IS DOCUMENTED IN HIS DECLARATION AT PARAGRAPH 49 AND IN HIS REPORT, EXPERT REPORT AT PAGE 4, PARAGRAPH 10.

SO THE ONLY EXPERIENCE APPARENTLY THIS WITNESS HAS HAD FIRSTHAND REGARDING THE CREDENTIALING AND ADMISSION PRIVILEGES PROCESS IS THAT HE HAS ACTUALLY SECURED ADMITTING PRIVILEGES AT SEVERAL HOSPITAL, AND IT DOES NOT APPEAR THAT HE

HAS ANY SPECIAL EXPERTISE IN THE PROCESS OF CREDENTIALING FOR PRIVILEGES OR THE CRITERIA THEREFORE AND ALL OF THAT. SO WE DO NOT BELIEVE THAT HE HAS ANYMORE EXPERTISE IN THIS AREA THAN ANY OTHER PHYSICIAN WHO HAS ADMITTING PRIVILEGES. SO THAT WOULD BE OUR FIRST OBJECTION, YOUR HONOR, AND I CAN STATE OUR SECOND ONE OR --

THE COURT: LET ME ASK THIS: MS. JAROSLAW, WHAT IS THE AREA THAT YOU'RE TENDERING THE DOCTOR IN?

MS. JAROSLAW: YOUR HONOR, WE'RE TENDERING HIM AS AN EXPERT IN PUBLIC HEALTH, OBSTETRICS AND GYNECOLOGY, AND ABORTION CARE. WE'RE NOT TENDERING HIM AS EXPERT IN HOSPITAL CREDENTIALING. IF ANY OF THOSE QUESTIONS COME UP, IT WOULD BE ONLY IN CONNECTION WITH HIS OWN EXPERIENCE, BUT WE'RE NOT OFFERING HIM AS AN EXPERT IN CREDENTIALING.

THE COURT: THAT SOUNDS LIKE THAT ONE SOLVED ITSELF. OKAY. WHAT'S YOUR NEXT ONE?

MR. ADEN: WITH THAT UNDERSTANDING, I WITHDRAW THE OBJECTION.

THE COURT: ALL RIGHT.

MR. ADEN: THE SECOND ONE, YOUR HONOR, HAS TO DO WITH PARAGRAPHS 51 AND 52 IN HIS EXPERT REPORT WHERE HE SPEAKS OF THE NUMBER OF WOMEN WHO ARE IN POVERTY WHO CAN'T TRAVEL WHO EXPERIENCE EXIGENT CIRCUMSTANCES IN ATTEMPTING TO SECURE ABORTION. IF YOU WOULD LIKE, I CAN VOIR DIRE THE WITNESS, BUT HE, ACCORDING TO HIS DEPOSITION, HAS NO UNDERSTANDING OF

ABORTION PRACTICE IN THE STATE LOUISIANA OR SPECIFICALLY THE PATIENTS WHO ATTEMPT TO OBTAIN ABORTION IN THE STATE OF LOUISIANA.

SO WE DO NOT BELIEVE THAT HE HAS ANY EXPERTISE OR QUALIFICATION TO TESTIFY REGARDING THE DIFFICULTIES THAT ABORTION PATIENTS FACE IN ATTEMPTING TO SECURE ABORTION, AND I WOULD ASK MS. JAROSLAW, IF YOU'D LIKE TO ASK HER, IF HE INTENDS TO TESTIFY WITH RESPECT TO THOSE AREAS AS WELL.

THE COURT: MS. JAROSLAW?

MS. JAROSLAW: YOUR HONOR, DR. ESTES HAS A MASTER'S IN PUBLIC HEALTH FROM COLUMBIA UNIVERSITY. IN ADDITION, HE HAS VAST EXPERIENCES WITH THE PATIENT POPULATIONS SEEKING ABORTION AND HAS GREAT KNOWLEDGE THAT HE CAN SPEAK TO THE DIFFICULTIES THAT WOMEN HAVE IN OBTAINING SERVICES. THIS IS SOMETHING THAT HE'S DEVOTED HIS CAREER TO AND HE'LL SPEAK KNOWLEDGABLY. AND ANY OBJECTION THAT MR. ADEN HAS HE CAN PURSUE ON CROSS EXAMINATION AND WOULD GO TO WEIGHT, BUT IT SHOULD NOT GO TO ADMISSIBILITY.

THE COURT: OKAY. WELL, I AGREE, AND SO THAT SOUNDS LIKE A REALLY GOOD LINE OF CROSS EXAMINATION.

MR. ADEN: THANK YOU, YOUR HONOR.

THE COURT: BUT WITH RESPECT TO HIS EXPERTISE, I'M GOING TO ACCEPT HIM AS AN EXPERT IN THE AREAS TENDERED.

MR. ADEN: THANK YOU, YOUR HONOR.

BY MS. JAROSLAW

Q DR. ESTES, TURNING YOUR ATTENTION NOW TO ABORTION, HOW COMMON A PROCEDURE IS IT AMONG WOMEN IN THE UNITED STATES?

A ABORTION IS A VERY COMMON PROCEDURE PERFORMED IN THIS COUNTRY. NEARLY A MILLION EVERY YEAR, OR IN THAT NEIGHBORHOOD, AND APPROXIMATELY ONE IN THREE WOMEN WILL SEEK AN ABORTION IN HER LIFETIME.

Q AND APPROXIMATELY WHAT PROPORTION OF ABORTIONS ARE PERFORMED IN THE UNITED STATES DURING THE FIRST TRIMESTER OF PREGNANCY?

A THE MAJORITY OF ABORTIONS ARE PERFORMED DURING THE FIRST TRIMESTER, ABOUT 85 TO 90 PERCENT.

Q AND ARE ABORTIONS IN THE UNITED STATES TYPICALLY PERFORMED IN OUTPATIENT CLINICS OR HOSPITALS?

A THE OVERWHELMING MAJORITY ARE PERFORMED IN OUTPATIENT CLINIC SETTINGS.

Q AND WHAT, IF ANY, ANESTHESIA IS GENERALLY ENTAILED IN CONNECTION WITH A SURGICAL ABORTION IN A CLINICAL SETTING?

A ALL PATIENTS UNDERGOING SURGICAL ABORTION WILL RECEIVE A PARACERVICAL BLOCK OR LOCAL ANESTHESIA. THE PATIENT MAY ALSO RECEIVE SOME SORT OF SEDATION EITHER BY AN ORAL ROUTE WITH ORAL MEDICATIONS, THEY MAY ALSO HAVE INTRAVENOUS MEDICATIONS TO RECEIVE LIGHT OR MODERATE SEDATION WITH IV MEDICATIONS.

Q AND WHEN IS GENERAL ANESTHESIA INDICTED DURING AN ABORTION?

A GENERAL ANESTHESIA IS USUALLY NOT INDICTED FOR AN ABORTION. THERE ARE VERY FEW CIRCUMSTANCES WHICH REQUIRE IT, AND MOST ABORTIONS ARE ABLE TO BE ACCOMPLISHED IN THE OFFICE SETTING USING ONLY MILD AND MODERATE SEDATION.

Q HOW DO THE RISKS OF MILD AND MODERATE SEDATION COMPARE WITH THE RISKS OF GENERAL ANESTHESIA IN AN OPERATING ROOM SETTING?

A MODERATE SEDATION IN THE OFFICE SETTING IS MUCH SAFER THAN A GENERAL ANESTHETIC IN THE OPERATING ROOM. GENERAL ANESTHESIA EMPLOYS MUCH DEEPER LEVELS OF SEDATION, ALONG WITH OTHER AGENTS, WHICH INCREASE THE RISK FOR COMPLICATIONS DURING ITS ADMINISTRATION.

Q GENERALLY SPEAKING, WHAT ARE THE RISKS OF SURGICAL ABORTION AND HOW FREQUENTLY ARE THESE COMPLICATIONS -- HOW FREQUENTLY DO THESE COMPLICATIONS OCCUR?

A COMPLICATIONS FROM SURGICAL ABORTION ARE RELATIVELY RARE. IT IS A VERY, VERY SAFE PROCEDURE. THE MOST COMMON COMPLICATIONS THAT WE OBSERVE ARE VERY MINOR AND THEY'RE TREATED IMMEDIATELY DURING THE PROCEDURE OR SHORTLY THEREAFTER. THEY VERY RARELY REQUIRE TRANSFER TO A HOSPITAL OR EMERGENCY ROOM AND ARE GENERALLY NOT SERIOUS.

THE MOST COMMON COMPLICATIONS WE SEE ARE BLEEDING, INFECTION, OR RETAINED PRODUCTS OF CONCEPTION OR RETAINED TISSUE FOLLOWING THE PROCEDURE. THE MORE SERIOUS COMPLICATIONS WHICH CAN OCCUR INCLUDE DAMAGE TO THE CERVIX OR

UTERUS DUE TO LACERATION OR PERFORATION. AND THERE ARE ALSO VERY RARE RISKS OF SEVERE INFECTIONS OR SEPSIS, WHICH IS WHEN THE INFECTION BECOMES GENERALIZED TO THE BODY OR HEMORRHAGE WHICH REQUIRES BLOOD TRANSFUSION, LARGE AMOUNTS OF BLOOD LOSS. BUT THESE ARE UNUSUAL.

Q HOW DO THE RISKS OF ABORTION COMPARE TO THE RISKS OF CHILDBIRTH?

A ABORTION IS FAR SAFER THAN A NORMAL VAGINAL DELIVERY AT TERM. THERE ARE MUCH MORE -- THERE ARE SIGNIFICANTLY HIGHER RISKS ASSOCIATED WITH CHILDBIRTH COMPARED TO ABORTION.

Q NOW, TO QUANTIFY THE RISKS OF ANY COMPLICATION OR MAJOR COMPLICATIONS, YOU'VE NOTED THAT IN THE YOUR REPORT. DO YOU KNOW THE STATISTICS OFF THE TOP OF YOUR HEAD?

A I'M FAMILIAR WITH THE ONES I QUOTED IN MY REPORT, YES.

Q WHAT IS THE PREVALENCE OF ANY COMPLICATION IN A FIRST TRIMESTER ABORTION IN AN OUTPATIENT SETTING?

A THE PREVALENCE OF THE COMPLICATION, ANY COMPLICATION IN A FIRST TRIMESTER ABORTION OUTPATIENT SETTING IS IN THE NEIGHBORHOOD OF ABOUT .8 PERCENT.

Q AND THE PREVALENCE OF MAJOR COMPLICATIONS FOR FIRST TRIMESTER ABORTIONS THAT WILL REQUIRE HOSPITALIZATION, WHAT'S THE FREQUENCY OF THOSE MAJOR COMPLICATIONS?

A IT'S FAR LESS THAN THAT. IT'S ABOUT .05 PERCENT.

Q NOW, WHAT IS THE RISK OF MAJOR IMMEDIATE

COMPLICATIONS, SUCH AS UTERINE PERFORATION, THAT REQUIRES TRANSFER TO A HOSPITAL WHEN WE'RE IN THE SECOND TRIMESTER?

A RISK DURING THE SECOND TRIMESTER DO INCREASE DUE TO THE NATURE OF THE PROCEDURE, THE GREATER DEGREE OF DILATION THAT IS NEEDED TO ACCOMPLISH IT, AS WELL AS THE USE OF INSTRUMENTS TO REMOVE THE PRODUCTS OF CONCEPTION. HOWEVER, FOR THE MAJOR COMPLICATIONS WHICH WOULD OCCUR REQUIRING A HOSPITAL TRANSFER THEY'RE STILL RELATIVELY RARE, ALSO IN THE NEIGHBORHOOD OF ABOUT 1 PERCENT.

Q AND HOW DO THESE RISKS COMPARE WITH THE RISKS OF OTHER GYNECOLOGICAL PROCEDURES?

A FOR OTHER GYNECOLOGICAL PROCEDURES WHICH HAVE THE SAME DEGREE OF INVASIVENESS, THEY'RE VERY COMPARABLE. SO IF WE COMPARE IT TO SAY SOMETHING ALONG THE LINES OF HYSTEROSCOPY, ENDOMETRIAL BIOPSY, REMOVING AN ENDOMETRIAL POLYP, THINGS ALONG THOSE LINES, THEY'RE VERY SIMILAR.

Q TO YOUR KNOWLEDGE, DO PHYSICIANS NEED HOSPITAL ADMITTING PRIVILEGES TO PERFORM THOSE PROCEDURES?

A IF THEY'RE DONE IN AN OFFICE SETTING, NO.

Q YOU NOTED THE COMPLICATION RATE FOR FIRST TRIMESTER ABORTIONS AND SECOND TRIMESTER ABORTIONS. DOES THE GESTATIONAL AGE OF THE PREGNANCY HAVE ANY RELATIONSHIP WITH THE RISKS OF THE PROCEDURE?

A YES, IT DOES.

Q AND WHAT'S THAT RELATIONSHIP?

A THE FARTHER ALONG IN PREGNANCY A WOMAN IS, THE MORE WEEKS OF GESTATION SHE IS, THE HIGHER THE RISK OF COMPLICATIONS BECOME.

Q SO EVEN THOUGH THE RISKS ARE LOW, IF A WOMAN IS DELAYED IN GETTING AN ABORTION, THE RISKS ARE HIGHER?

A YES.

Q HOW DOES SURGICAL ABORTION COMPARE IN TERMS OF RISKS AND COMPLICATIONS WITH NONGYNECOLOGICAL PROCEDURES?

A WELL, OF COURSE, EVERY SURGICAL PROCEDURE IS UNIQUE, BUT THERE ARE OTHER PROCEDURES PERFORMED IN OTHER SPECIALTIES WHICH HAVE SIMILAR RATES OF COMPLICATIONS. THINGS ALONG THE LINE OF SOME PLASTIC SURGERY PROCEDURES, LIKE OFFICE LIPOSUCTION, ALSO GASTROINTESTINAL ENDOSCOPY, LIKE COLONOSCOPY OR UPPER ENDOSCOPY HAVE SIMILAR PROFILES.

Q NOW, YOU DELINEATED SOME OF THE -- SOME OF THE COMPLICATIONS OF ABORTION PREVIOUSLY IN YOUR TESTIMONY; CORRECT?

A YES.

Q AND YOU MENTIONED BLEEDING OR HEMORRHAGE. IS ANY BLEEDING AFTER AN ABORTION A SIGN OF COMPLICATION?

A NOT NECESSARILY.

Q SO HOW DO WE KNOW WHAT'S BLEEDING THAT ELEVATES TO THE LEVEL OF A COMPLICATION?

A WELL, THERE'S A STANDARD AMOUNT OF BLOOD LOSS THAT'S EXPECTED WITH ANY ABORTION PROCEDURE THAT'S PERFORMED. IT'S

UP TO THE PROVIDER TO RECOGNIZE WHEN THAT BLOOD LOSS IS, FIRST, EXCESSIVE, WHEN IT'S MORE THAN THE USUAL AMOUNT, AND ALSO, THEN, WHEN THAT EXCESSIVE AMOUNT IS BEGINNING TO AFFECT THE PATIENT ADVERSELY. GENERALLY SPEAKING, ADVERSELY AFFECTING THE PATIENT DOES NOT BEGIN UNTIL AFTER SEVERAL HUNDRED CCS OF BLOOD LOSS. BUT GENERALLY SPEAKING, WE'RE ABLE TO RECOGNIZE WHEN BLOOD LOSS IS BECOMING ABOVE AVERAGE AND TREATED APPROPRIATELY.

Q AND CAN EXCESSIVE BLEEDING BE TREATED EFFECTIVELY IN A CLINICAL SETTING?

A YES.

Q HOW?

A WELL, FIRST AND FOREMOST WE HAVE TO IDENTIFY THE SOURCE OF THE BLEEDING. THE MOST COMMON CAUSE OF HEAVY BLEEDING DURING AN ABORTION PROCEDURE IS RETAINED TISSUE, MEANING THAT THERE'S STILL SOME TISSUE INSIDE OF THE UTERUS. SO WE GO THROUGH PROCEDURES TO MAKE SURE IT'S REMOVED WITH FURTHER SUCTION, USING ULTRASOUND TO VERIFY THAT EVERYTHING HAS BEEN REMOVED, EXAMINING THE PRODUCTS OF CONCEPTION TO BE SURE THAT WE SEE, YOU KNOW, THE APPROPRIATE AMOUNT OF PRODUCTS OF CONCEPTION THAT WE EXPECT TO SEE GIVEN THE PATIENT'S GESTATIONAL AGE.

WE WOULD THEN MOVE ON TO OTHER CAUSES, PERHAPS UTERINE ATONY, WHICH MEANS FAILURE OF THE UTERUS TO CONTRACT. AND IF THAT WERE OCCURRING, WE COULD ADMINISTER DIFFERENT

TYPES OF MEDICATIONS IN ORDER TO ENCOURAGE THE UTERUS TO CONTRACT TO STOP THE BLEEDING. THERE MAY ALSO BE BLEEDING FROM A LACERATION, INJURY TO THE CERVIX OR UTERUS OR EVEN THE VAGINA IN WHICH CASE WE WOULD ASSESS THE EXTENT OF THAT INJURY AND DETERMINE HOW TO FIX IT, WHETHER IT WAS SIMPLY WITH DIRECT PRESSURE OR PERHAPS PLACING A SUTURE TO FIX IT OR USING OTHER TYPES OF MEDICATIONS TO STOP THE BLEEDING. THERE'S TOPICAL MEDICATIONS WE CAN APPLY TO STOP THEM.

IN SOME CIRCUMSTANCES, WE MAY EVEN APPLY PRESSURE INTERNALLY TO THE UTERUS WITH SOMETHING WE REFER TO AS A FOLEY BALLOON. THAT IS A RUBBER CATHETER WHICH HAS A BALLOON ON THE END OF IT. IT CAN BE PLACED INSIDE OF THE UTERUS AND INFLATED WITH STERILE SALINE IN ORDER TO PLACE PRESSURE UPON LACERATIONS THAT ARE HIGHER INSIDE THE CERVICAL CANAL OR LOWER UTERINE SEGMENT AND ALSO PLACES PRESSURE UPON THE UTERINE ARTERIES, WHICH ARE THE BLOOD SUPPLY TO THE UTERUS IN ORDER TO DECREASE THE AMOUNT OF BLOOD ACTUALLY COMING TO THE AREA.

Q NOW, THAT'S A LOT OF INFORMATION, SO WE'RE GOING TO TRY TO BREAK THAT DOWN SOMEWHAT. YOU MENTIONED DIRECT PRESSURE AS ONE WAY TO STOP THE BLEEDING. WHAT DOES THAT INVOLVE?

A DIRECT PRESSURE COULD, OF COURSE, INVOLVE, IF IT'S A LACERATION, SOMETHING LIKE APPLYING A RING FORCEPS INSTRUMENT OR SPONGE FORCEPS UPON THE AREA. ANOTHER COMMON MANEUVER IS TO USE WHAT WE CALL BIMANUAL COMPRESSION WHERE FINGERS ARE

PLACED INSIDE OF THE VAGINA BEHIND THE CERVIX AND THEN PRESSURE IS APPLIED FROM THE ABDOMEN ABOVE WITH THE OPPOSITE HAND TO COMPRESS THE UTERUS AND CERVIX IN BETWEEN THE OPERATOR'S HANDS.

Q CAN THAT BE DONE EFFECTIVELY IN THE CLINICAL SETTING?

A YES.

Q AND YOU MENTIONED A SUTURE MAY BE USED TO STOPPED THE BLEEDING. HOW IS THAT DONE?

A WELL, WE USE AN APPROPRIATE ABSORBABLE SUTURE MATERIAL, A NEEDLE -- AN INSTRUMENT CALLED A NEEDLE DRIVER, WHICH IS ESSENTIALLY A LONG FORCEPS THAT WE USE TO HOLD THE NEEDLE, AND IT'S PLACED THROUGH THE AREA THAT'S BLEEDING AND TIED OFF.

Q AND CAN THAT BE DONE EFFECTIVELY IN A CLINICAL SETTING?

A YES.

Q AND YOU MENTIONED A TOPICAL MEDICATION. WHAT TOPICAL MEDICATIONS ARE YOU REFERRING TO?

A THE TWO MOST COMMONLY USED ARE CALLED MONSEL'S SOLUTION AND SILVER NITRATE. MONSEL'S SOLUTION IS ESSENTIALLY A PASTE WHICH SERVES AS A HEMOSTATIC AGENT FOR AREAS OF ABRASION. LIKE IMAGINE IF YOU FELL AND SKINNED YOUR KNEE AND YOU HAD AN AREA THAT WAS WEEPING, YOU COULD APPLY MONSEL'S SOLUTION TO IT TO STOP THE OOZING OF BLOOD.

Q AND THAT, OF COURSE, CAN BE DONE IN A CLINIC; CORRECT?

A ABSOLUTELY. AND THE FOLEY BALLOON, CAN YOU EXPLAIN HOW THAT WORKS? SURE. THE FOLEY CATHETER, ONE MIGHT RECOGNIZE IT READILY FROM THE CATHETERS THAT ARE PLACED INSIDE THE BLADDER IN ORDER TO DRAIN URINE. INSTEAD WHAT WE'RE USING THIS FOR IS TO -- IS FOR ITS BALLOON. AND THEY MAKE THEM WITH VARYING SIZES OF BALLOONS, UP TO EVEN AS LARGE AS 60 CCS, WHICH IS RELATIVELY LARGE. WE PLACE IT INSIDE THE UTERUS OR LOWER UTERINE SEGMENT, DEPENDING UPON WHERE WE BELIEVE THE BLEEDING IS COMING FROM, AND BY INFLATING THAT BALLOON WITH WATER, IT PLACES A TAMPONADE UPON ANY AREAS WHICH MIGHT BE DAMAGED.

ALSO, BY DOING THIS, IT PLACES PRESSURE LATERALLY ONTO THE UTERINE ARTERIES. THE UTERINE ARTERIES RUN ON EITHER SIDE OF THE UTERUS AND BY PLACING THAT BALLOON THERE IT ACTUALLY TAMPONADES THE ARTERIES TEMPORALLY SO THAT ANY AREAS THAT ARE OOZING HAVE LESS WHAT WE CALL PULSE PRESSURE, SO IT WILL SLOW THE BLEEDING.

Q OKAY. AND THAT WOULD BE USED TO A TREAT A LACERATION?

A COULD BE USED TO TREAT A LACERATION. CAN ALSO BE USED IN CASES OF UTERINE ATONY.

Q WHAT'S UTERINE ATONY?

A UTERINE ATONY IS WHEN THE UTERUS IS NOT CONTRACTING

PROPERLY.

Q AND WHY IS IT IMPORTANT FOR THE UTERUS TO CONTRACT PROPERLY?

A THE MAIN MECHANISM OF HEMOSTASIS OR STOPPING BLEEDING, IN OTHER WORDS, THE WAY THE UTERUS STOPS BLEEDING AFTER AN ABORTION PROCEDURE IS MEDIATED BY UTERINE CONTRACTION. THAT'S THE NUMBER ONE WAY THE BLEEDING STOPS. SO IF THE UTERUS FAILS TO CONTRACT, THE SITE WHERE THE PLACENTA WAS IMPLANTED WILL CONTINUE TO BLEED. AND IT'S THIS NATURAL ACTION OF THE CONTRACTION OF THE UTERUS WHICH STOPS THE BLEEDING FROM THAT SITE.

Q NOW, CAN FOLEY CATHETERS BE PLACED AND USED EFFECTIVELY TO STOP BLEEDING IN A CLINICAL SETTING?

A YES.

Q AND FINALLY, YOU REFERRED TO THE USE OF UTEROTONICS. WHAT ARE UTEROTONICS?

A UTEROTONICS ARE MEDICATIONS WHICH ENCOURAGE CONTRACTION OF THE UTERUS.

Q AND WHAT ARE SOME UTEROTONICS THAT ARE USED?

A THE MOST COMMON ONES ARE USED ARE KNOWN AS METHYLERGONOVINE OR METHERGINE. WOULD YOU LIKE ME TO SPELL THAT?

Q SURE.

A M-E-T-H-Y-L-E-R-G-O-N-I-V-I-N-E, I THINK. METHYLERGONOVINE. AND MISOPROSTOL, M-I-S-O-P-R-O-S-T-O-L.

MISOPROSTOL. THAT IS A PROSTAGLANDIN ANALOG WHICH IS COMMONLY USED. AND OTHER PROSTAGLANDINS INCLUDING ONE HEMABATE, H-E-M-A-B-A-T-E. THOSE ARE THREE VERY COMMON ONES. WE MAY ALSO USE OXYTOCIN OR PITOCIN, O-X-Y-T-O-C-I-N, OXYTOCIN.

THE COURT: HANG ON ONE SECOND.

MS. JAROSLAW, IS THE REPORT IN EVIDENCE?

MS. JAROSLAW: YES, IT IS, YOUR HONOR.

THE COURT: IT IS ONE OF THE JOINT EXHIBITS?

MS. JAROSLAW: YES, IT IS, YOUR HONOR.

THE COURT: I JUST WANT TO GIVE SOME COMFORT TO OUR COURT REPORTER.

BY MS. JAROSLAW:

Q AND UTEROTONICS, ONCE AGAIN, IS THAT TO RESTORE THE UTERUS SO IT PROPERLY CONTRACTS?

A THAT'S CORRECT.

Q AND THAT STOPS THE BLEEDING SOMETIMES? USUALLY?

A USUALLY, YES.

Q IF A WOMAN EXPERIENCES INFECTION AFTER AN ABORTION, HOW CAN SHE BE TREATED?

A GENERALLY INFECTIONS WHICH OCCUR AFTER ABORTION ARE MILD. THEY'RE DIAGNOSED IN A CLINIC SETTING AND TREATED AS OUTPATIENT WITH ORAL ANTIBIOTICS.

Q NOW, YOU HAD MENTIONED THAT ANOTHER COMPLICATION CAN BE RETAINED TISSUE. HOW WOULD ONE KNOW IF THERE'S RETAINED TISSUE AFTER AN ABORTION?

A WELL, FIRST, IT MAY OCCUR IMMEDIATELY, AS IN THE PATIENT HAS CONTINUED BLEEDING FOLLOWING THE PROCEDURE, AS WE HAD ALREADY DISCUSSED. IF THE BLEEDING CONTINUES AFTER THE PROCEDURE WHEN YOU EXPECT IT TO HAVE STOPPED, WE ASSESS TO SEE IF THERE'S RETAINED TISSUE. IT CAN ALSO PRESENT LATER, AS IN DAYS OR EVEN A WEEK OR MORE AFTER THE PROCEDURE. A PATIENT WILL GENERALLY PRESENT WITH CONTINUED BLEEDING, HEAVIER THAN EXPECTED, AND ALSO POSSIBLY PAIN, CRAMPING AS THE UTERUS IS TRYING TO EXPEL THE -- THE RETAINED PRODUCTS.

Q AND WHAT DO YOU DO TO TREAT A PATIENT WHO HAS THESE SYMPTOMS AND, IN FACT, HAS RETAINED TISSUE?

A THE TISSUE IS ASPIRATED. WE SUCTION IT OUT TO REMOVE IT.

Q AND WHAT DO YOU DO TO INSURE THAT YOU'VE GOTTEN ALL OF THE TISSUE?

A IT'S IMPORTANT THAT WE ALWAYS EXAMINE THE TISSUE. EVERY TIME WE PERFORM AN ABORTION PROCEDURE, WE EXAMINE IT TO BE SURE THAT WE SEE THE APPROPRIATE AMOUNT OF TISSUE, WHETHER IT'S DECIDUAL, WHICH IS THE LINING OF THE UTERUS ITSELF, THE CHORIONIC VILLI, WHICH IS THE EARLY PARTS OF FORMATION OF THE PLACENTA, THE GESTATIONAL SAC ITSELF AND, OF COURSE, DEPENDING UPON GESTATIONAL, THE PRESENCE OF FETAL PARTS.

Q AND I'D LIKE TO TURN YOUR ATTENTION TO MEDICATION ABORTION. PLEASE DESCRIBE HOW IT'S ADMINISTERED AND EXACTLY HOW IT WORKS.

A SURE. MEDICATION ABORTION IN THE UNITED STATES IS A COMBINATION OF TWO DRUGS. THE FIRST DRUG IS CALLED MIFEPRISTONE, M-I-F-E-P-R-I-S-T-O-N-E. MIFEPRISTONE IS A PROGESTERONE ANTAGONIST, AND PROGESTERONE IS A HORMONE WHICH SUPPORTS THE EARLY PREGNANCY. AND BY BLOCKING THE PROGESTERONE RECEPTOR, MIFEPRISTONE ESSENTIALLY ACTS TO SEPARATE THE PLACENTA FROM THE UTERUS AND REMOVE ITS BLOOD SUPPLY.

THEN THE PATIENT IS SENT HOME AFTER SHE TAKES THIS IN THE OFFICE. AND AT HOME, 24 TO 72 HOURS LATER, SHE'S GIVEN A SECOND DRUG KNOWN AS MISOPROSTOL, I MENTIONED BEFORE. MISOPROSTOL IS A PROSTAGLANDIN AND WHAT IT DOES IS IT CAUSES UTERINE CONTRACTION AS WELL AS A SMALL AMOUNT OF DILATION OF THE CERVIX. THE CERVIX OPENS UP AND THE UTERUS CONTRACTS AND THE PRODUCTS ARE EXPELLED AT HOME.

Q WHAT ARE THE RISKS FROM MEDICATION ABORTION?

A THE RISKS FROM MEDICATION ABORTION ARE SIMILAR TO SURGICAL ABORTION. THE MOST COMMON COMPLICATIONS WE SEE ARE INFECTION OR HEAVY BLEEDING. ACTUALLY, THE MOST COMMON COMPLICATION IS FAILED MEDICAL ABORTION OR RETAINED PRODUCTS. RETAINED PRODUCTS AFTER MEDICAL ABORTION OCCURS ABOUT 2 TO 3 PERCENT OF THE TIME AND ABOUT 2 TO 3 PERCENT OF PATIENTS WHO UNDERGO MEDICAL ABORTION WILL REQUIRE ASPIRATION OF RETAINED PRODUCTS.

Q ARE PATIENTS TOLD THEY MUST RETURN FOR A FOLLOW-UP

VISIT BECAUSE OF THIS RELATIVELY HIGH RISK?

A YES. WE HAVE THEM RETURN TO THE CLINIC IN ONE TO TWO WEEKS, AND AT THAT TIME, WE ASSESS THEM CLINICALLY, SEE HOW THEIR SYMPTOMS ARE, SEE HOW THEY'RE FEELING, HOW IS THEIR BLEEDING, THEIR CRAMPING, ET CETERA, AND ALSO PERFORM AN ULTRASOUND TO CONFIRM THAT EVERYTHING IS OUT OF THE UTERUS.

Q WHEN YOU ADMINISTER THE DRUG, THE MIFEPREX, IN THE OFFICE, DOES IT TAKE EFFECT IMMEDIATELY SUCH THAT THE WOMAN HAS SYMPTOMS RIGHT AWAY?

A USUALLY WITH MIFEPRISTONE WOMEN DON'T EXPERIENCE ANY IMMEDIATE SYMPTOMS OR SIDE EFFECTS. THERE'S BEEN EXTENSIVE RESEARCH IN THE FIELD ON THE TIMING OF THE DOSE OF MISOPROSTOL. OPTIMUM DOSING INTERVAL TO THE MISOPROSTOL SEEMS TO BE SOMEWHERE AROUND 24 HOURS UP TO 72 REMAINING EFFECTIVE. SO THE MIFEPRISTONE TAKES A LITTLE BIT OF TIME TO HAVE ITS EFFECT.

Q SO IS IT FAIR TO SAY THAT IF THERE ARE GOING TO BE DIFFICULT SYMPTOMS FROM THE MEDICATION ABORTION THAT MIGHT CONCERN THE PATIENT, THOSE SYMPTOMS WILL OCCUR WHEN SHE HAS ALREADY RETURNED HOME FROM THE CLINIC?

A INVARIABLY, YES, THAT'S WHEN SHE'S GOING TO HAVE THE SYMPTOMS FROM THE ABORTION ITSELF.

Q NOW, IS THE MEDICATION ABORTION PROTOCOL ALSO USED AS A TREATMENT OPTION IN CONNECTION WITH SPONTANEOUS ABORTIONS?

A YES. YOU CAN USE IT FOR SPONTANEOUS ABORTIONS IN THE FIRST TRIMESTER AS WELL.

Q AND WHEN IS IT INDICATED?

A IT'S THE SAME INDICATIONS AS MEDICAL ABORTION. IF A PATIENT DOES NOT WANT TO HAVE A SURGICAL ABORTION -- WOULD LIKE TO TRY TO AVOID HAVING A SURGICAL PROCEDURE, WE CAN GIVE HER THE SAME MEDICAL ABORTION REGIMEN FOR EARLY SPONTANEOUS ABORTIONS UP TO NINE WEEKS.

Q AND JUST TO BE CLEAR, WE'RE REFERRING TO MISCARRIAGES; CORRECT?

A MISCARRIAGE, YES. MISCARRIAGE, SPONTANEOUS ABORTION OR SYNONOMOUS.

Q CAN THE MEDICATION ABORTION PROTOCOL ALSO BE USED WHEN A WOMAN EXPERIENCES FETAL DEMISE?

A WHEN WE REFER TO FETAL DEMISE, GENERALLY WE'RE SPEAKING ABOUT LOSS IN THE SECOND TRIMESTER AND BEYOND. THOSE CASES WE GENERALLY DO NOT MANAGE MEDICALLY.

Q ARE ANY PAIN KILLERS USED IN MEDICATION ABORTION?

A YES.

Q WHICH PAIN KILLERS ARE TYPICALLY PRESCRIBED?

A WE GIVE THE PATIENT A PRESCRIPTION FOR ANTI-INFLAMMATORY DRUGS, SOMETHING LIKE IBUPROFEN, AND USUALLY ALSO FOR MILD NARCOTICS, PERHAPS TYLENOL WITH CODEINE OR OXYCODONE THAT SHE CAN SELF-ADMINISTER AT HOME TO HELP WITH THE CRAMPS DURING THE PROCESS.

Q WHEN YOU WORKED AT THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE, DID YOU -- DID EMERGENCY ROOM PHYSICIANS ASK YOU TO HELP THEM TREAT WOMEN WHO RECENTLY HAD ABORTIONS?

A YES.

Q AND WHAT DID YOU OBSERVE DURING THAT EXPERIENCE?

A WELL, IT WAS NOT VERY OFTEN. YOU KNOW, IT WAS PRETTY RARE. THE MAJORITY OF THE TIME, THE PATIENTS WERE EXPERIENCING SIMPLE SIDE EFFECTS OR NORMAL SYMPTOMS, REALLY, FOLLOWING THE ABORTION ITSELF, WHETHER IT WAS BLEEDING OR CRAMPS. AND THEY GENERALLY REQUIRED LITTLE TREATMENT IN THE EMERGENCY ROOM ITSELF OR, PERHAPS, THEY WERE SCHEDULED FOR A FOLLOW-UP VISIT IN THE CLINIC.

Q AND ARE THESE WOMEN TYPICALLY TREATED, OBSERVED, AND RELEASED?

A MOST OF THEM ARE. THE MINORITY THAT WERE EVER ADMITTED FOR A SERIOUS PROBLEM WERE TAKEN TO THE OPERATING ROOM URGENTLY.

Q DO WOMEN PRESENT AT THE EMERGENCY ROOM WITH SYMPTOMS OF SPONTANEOUS ABORTION OR MISCARRIAGE?

A YES.

Q AND HOW TYPICAL IS THAT?

A THAT'S MUCH MORE COMMON. I AM SORRY I CAN'T GIVE YOU AN EXACT INCIDENCE OF THE NUMBER OF WOMEN WHO PRESENT WITH SPONTANEOUS ABORTIONS TO AN EMERGENCY ROOM, BUT THAT'S VERY COMMON.

Q AND ARE EMERGENCY ROOM DOCTORS EQUIPPED TO STABILIZE A PATIENT WHO'S EXPERIENCING COMPLICATIONS FROM A MISCARRIAGE?

A YES.

Q AND ARE THOSE COMPLICATIONS SIMILAR TO THOSE THAT MIGHT BE OBSERVED FOLLOWING AN ABORTION?

A YES.

Q AND IN YOUR OPINION, ARE EMERGENCY ROOM PHYSICIANS EQUIPPED TO STABILIZE THE PATIENT AND TREAT THEM PROPERLY AND IF NECESSARY BRING IN A SPECIALIST?

A YES.

Q IN MOST CASES, IS A SPECIALIST REQUIRED?

A NOT USUALLY. OFTEN TIMES IT'S SIMPLE PHONE CONSULTATION. IF A SPECIALIST IS REQUIRED, IT'S GENERALLY, LIKE I SAID, IT'S AN EVALUATION OF THE PATIENT THAT DOESN'T RESULT IN AN ADMISSION OR AN IMMEDIATE TRIP TO THE OPERATING ROOM. USUALLY IT'S AN ASSESSMENT AND DISCHARGE FROM THE EMERGENCY ROOM.

Q IS IT FAIR SO TO SAY THAT IF AN EMERGENCY ROOM PHYSICIAN IS COMPETENT TO PROVIDE CARE FOLLOWING A MISCARRIAGE HE OR SHE IS ALSO COMPETENT TO PROVIDE CARE FOLLOWING AN ABORTION?

A YES.

Q NOW, DR. ESTES, ARE YOU FAMILIAR WITH ACT 620 OF THE LOUISIANA LEGISLATURE WHICH WOULD REQUIRE PHYSICIANS IN LOUISIANA TO OBTAIN ACTIVE ADMITTING PRIVILEGES WITHIN

30 MILES OF THE LOCATION WHERE THEY PERFORM THE ABORTION?

A YES.

Q DO YOU HAVE AN OPINION WHETHER THE ADMITTING PRIVILEGES REQUIREMENT CONFORMS TO ACCEPTED MEDICAL PRACTICE?

A YES, I DO.

Q AND WHAT IS THAT OPINION?

A IT DOES NOT CONFORM TO THE COMMON MEDICAL STANDARDS. AS A MATTER OF FACT, IT'S OPPOSED BY THE MEDICAL COMMUNITY.

Q AND WHEN YOU REFER TO THE "MEDICAL COMMUNITY," ARE YOU AWARE OF WHETHER ACOG, THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, HAVE TAKEN A POSITION ON THE ADVISABILITY OF THESE ADMITTING PRIVILEGES REQUIREMENTS?

A YES, THEY HAVE.

Q WHAT IS THEIR POSITION?

A THEIR POSITION IS THAT --

THE COURT: WAIT. HOLD ON. HOLD ON ONE SECOND.

MR. ADEN: YOUR HONOR, I'D LIKE TO OBJECT. THAT'S HEARSAY.

THE COURT: I THINK THE ACOG IS IN THE -- ISN'T THE ACOG BRIEF IN THE RECORD?

MS. JAROSLAW: YES, IT IS, YOUR HONOR. AS WELL AS AN ACOG STATEMENT. THEY'RE BOTH JOINT EXHIBITS THAT ARE IN EVIDENCE.

THE COURT: AND THE OTHER THING IS, IS THAT THIS IS AN EXPERT WHO CAN RELY ON HEARSAY, SO I'M GOING TO OVERRULE

THE OBJECTION.

MR. ADEN: THANK YOU, YOUR HONOR.

BY MS. JAROSLAW

Q ACOG'S POSITION WITH REGARD TO SUCH ADMITTING PRIVILEGES LAW, DO YOU KNOW WHAT IT IS?

A YES.

Q WHAT IS IT?

A THEY'VE EXPLICITLY STATED THAT IT'S NOT NECESSARY.

Q AND HAS THE AMERICAN MEDICAL ASSOCIATION ALSO TAKEN A POSITION ON THESE ADMITTING PRIVILEGES REQUIREMENTS THAT ARE TARGETED AT PHYSICIANS WHO PERFORM ABORTIONS?

A YES, THEY HAVE.

Q AND WHAT'S THEIR POSITION?

A IT'S THE SAME AS ACOGS, THEY DON'T BELIEVE IT'S NECESSARY.

Q CAN YOU EXPLAIN WHAT HOSPITALISTS ARE. THAT'S H-O-S-P-I-T-A-L-I-S-T. WHAT HOSPITALISTS ARE IN THE CONTEXT OF THE MODERN DAY PRACTICE OF MEDICINE?

A SURE. A HOSPITALIST IS A PHYSICIAN WHO ESSENTIALLY EXCLUSIVELY PRACTICES IN AN IN-PATIENT SETTING. GENERALLY, THESE ARE INTERNAL MEDICINE DOCTORS OR INTERNAL MEDICINE SUBSPECIALISTS, PERHAPS, ALSO, COULD BE A FAMILY MEDICINE PRACTITIONER OR, OF COURSE, PEDIATRICIAN, DEPENDING ON WHAT TYPE OF PATIENTS THEY'RE TAKING CARE OF. ESSENTIALLY THESE ARE DOCTORS WHO WORK JUST WITH PATIENTS WHO ARE ADMITTED TO

THE HOSPITAL.

ONCE THEY'VE GONE THROUGH THE ER AND THEY ARE ADMITTED, THE HOSPITALIST WILL ASSUME THEIR CARE. ONCE THEY'VE TREATED THE PROBLEM, WHATEVER IT MIGHT BE THAT THEY WERE ADMITTED FOR, THEY DISCHARGE FROM THE HOSPITAL AND THEY FOLLOW-UP IN THE COMMUNITY WITH A DOCTOR IN AN OFFICE WITHOUT EVER SEEING THEM AGAIN NECESSARILY.

Q AND DO PHYSICIANS WHO PRACTICE IN AN OFFICE SETTING RELY ON HOSPITALISTS FOR CONTINUITY OF CARE FOR THEIR PATIENTS?

A YES.

Q AND CAN YOU EXPLAIN OR GIVE AN EXAMPLE?

A SURE. THERE'S MANY PHYSICIANS WHO PRACTICE SOLELY IN OFFICE SETTINGS AND NEVER SET FOOT IN A HOSPITAL. THEY -- WHEN A PATIENT OF THEIRS NEEDS TO BE ADMITTED, THEY SEND THEM TO AN EMERGENCY ROOM AND THEY'RE CARED FOR THERE AND THEN DISCHARGED BACK, AND THEY DON'T EVER SET FOOT IN THE HOSPITAL.

THERE'S NUMEROUS EXAMPLES. IF AN INTERNAL MEDICINE DOCTOR DIAGNOSIS A PATIENT THAT THEY'RE SEEING WITH A SUSPECTED GASTROINTESTINAL BLEED, THEY WOULD SEND THEM TO AN EMERGENCY ROOM AND ALLOW THEM TO BE TREATED THERE.

Q AND, IN FACT, WOULD IT BE PROPER FOR THE INTERNAL MEDICINE SPECIALIST TO TRY TO TREAT THAT GASTROENTEROLOGICAL PROBLEM HIMSELF?

A NOT IF THEY'RE NOT QUALIFIED TO. IF THEY'RE NOT

TRAINED TO DO IT, IT WOULDN'T MAKE ANY SENSE.

Q LET'S SAY THERE'S A CARDIOLOGIST WHO HAS AN EXCLUSIVE OFFICE-BASED PRACTICE WHO SEES PATIENTS WITH HISTORY OF HEART ATTACK OR AT HIGH RISK, AND THERE'S A PATIENT IN THE WAITING ROOM WHO HAS A HEART ATTACK, WOULD IT BE APPROPRIATE FOR THE CARDIOLOGIST WHO HAS AN OFFICE-BASED PRACTICE TO TREAT THIS PATIENT OF HIS?

A CERTAINLY NOT IN THE OFFICE. AND MOST LIKELY WHAT WOULD HAPPEN IS THAT THE PATIENT WOULD BE TRANSFERRED TO THE EMERGENCY ROOM. THE OFFICE WOULD CALL 911. THEY WOULD BE TRANSFERRED TO THE EMERGENCY ROOM. AND THEN WHOEVER WAS ON CALL COVERING THE EMERGENCY ROOM, WHETHER IT WAS A HOSPITALIST OR A CARDIOLOGIST AT THE HOSPITAL WOULD ASSUME THE CARE OF THE PATIENT.

Q DOES YOUR PATIENT POTENTIALLY NEED THE SERVICES OF A CARDIAC THORACIC SURGEON?

A THEY COULD DEPENDING ON THE SCENARIO, SO IT COULD BE AN ENTIRELY DIFFERENT SPECIALTY THAT WOULD BE REQUIRED TO TREAT THE PATIENT.

Q IS IT CONSIDERED A BREAK IN THE CONTINUITY OF CARE WHEN A PHYSICIAN TRANSFERS HIS PATIENT TO THE HOSPITAL FOR CARE BY ANOTHER PHYSICIAN, A HOSPITALIST, OR SPECIALIST?

A NO, IT'S NOT.

Q IS THAT, IN FACT, THE STANDARD OF CARE?

A THAT IS, INDEED, THE STANDARD OF CARE.

Q SO WHEN PHYSICIANS RELY ON OTHER PHYSICIANS, THAT'S NOT PATIENT ABANDONMENT?

A THIS IS THE NORMAL PRACTICE OF MEDICINE. PHYSICIANS CAN'T BE WITH THEIR PATIENTS 24/7, AND WE HAND OFF PATIENTS FROM ONE SHIFT TO THE NEXT, FROM THE OFFICE TO THE EMERGENCY ROOM, FROM THE EMERGENCY ROOM TO THE IN-PATIENT WARD, AND THROUGH CLEAR COMMUNICATION, IT'S VERY EASY TO DO THAT AND IT'S DONE ALL THE TIME.

Q AND IS IT FAIR TO SAY THAT FOR A PHYSICIAN TO BE PROPERLY TRAINED AND QUALIFIED TO PERFORM THE PROCEDURES HE OR SHE PERFORMS, THAT PHYSICIAN MUST BE ABLE TO RECOGNIZE ALL OF THE POTENTIAL COMPLICATIONS; IS THAT CORRECT?

A YES.

Q IS IT NECESSARY FOR THAT PHYSICIAN TO BE ABLE TO TREAT ALL COMPLICATIONS?

A NO.

Q AND CAN YOU EXPLAIN OR GIVE AN EXAMPLE?

A A GOOD EXAMPLE WOULD BE A GASTROENTEROLOGIST WHO PERFORMS COLONOSCOPY PROCEDURES IN AN OUTPATIENT SETTING. COLONOSCOPY IS GENERALLY A SAFE AND SIMPLE OPERATION, HOWEVER, THERE ARE COMPLICATIONS WHICH CAN OCCUR, INCLUDING BLEEDING OR PERFORATION OF THE COLON, WHICH IS ACTUALLY A MORE SERIOUS COMPLICATION THAN A UTERINE PERFORATION PER SE. BUT IN THAT CASE OF A COLONIC PERFORATION, THE PATIENT MAY NEED AN OPERATIVE INTERVENTION FROM A COLORECTAL SURGEON.

AND THAT IS NOT SOMETHING A GASTROENTEROLOGIST IS TRAINED TO DO. IT'S NOT A PROCEDURE THAT THEY EVER LEARN HOW TO DO DURING THEIR TRAINING AND THEY WOULD HAVE TO CONSULT A DIFFERENT SPECIALIST IN ORDER TO TREAT THAT PROBLEM. BUT THEY, OF COURSE, ARE TRAINED TO RECOGNIZE IT AND CALL A CONSULT AS APPROPRIATE.

Q AND WHAT ARE THE RISKS FROM A COLONIC PERFORATION VERSUS A UTERINE PERFORATION?

A WELL, UTERINE PERFORATIONS ARE GENERALLY NOT DANGEROUS. THE UTERUS IS A MUSCLE. AND THE PERFORATIONS WHICH OCCUR DURING ABORTION PROCEDURES GENERALLY ARE VERY SMALL. ALSO, THE RISK OF DAMAGE TO OTHER ORGANS INSIDE OF THE BODY CAVITY IS ALSO RELATIVELY SMALL.

GENERALLY, WHEN A UTERINE PERFORATION OCCURS, THE INTESTINES OR BLADDER OR OTHER ORGANS ARE NOT DAMAGED. THEY'RE SIMPLY THERE, THEY ARE PUSHED OUT OF THE WAY, AND NOTHING ADVERSE OCCURS TO THEM. MOST UTERINE PERFORATIONS CAN BE OBSERVED. THEY WILL -- THE UTERUS NATURALLY CONTRACTS, ANY BLEEDING AROUND THE AREA OF PERFORATION WILL STOP SPONTANEOUSLY.

THE ONLY TIME WHEN THEY BECOME MORE SERIOUS IS IF ANY OF THE UTERINE VASCULATURE, THE BLOOD VESSELS THAT GO TO THE UTERUS, IF THEY'RE DAMAGED, WELL, THEN, IT CAN CAUSE MORE SIGNIFICANT BLEEDING WHICH IS RECOGNIZABLE.

A COLONIC PERFORATION, ON THE OTHER HAND, INVOLVES

POTENTIALLY SPILLAGE OF FECAL CONTENTS INTO THE ABDOMEN, AND THAT IS A SURGICAL EMERGENCY. THOSE NEED TO BE WASHED OUT, REMOVED, AND THE REPAIR OF THE PERFORATION OF THE COLON MUST -- THE COLON MUST BE REPAIRED. GENERALLY SPEAKING, A UTERINE PERFORATION WILL HEAL ITSELF. IT DOESN'T NEED TO BE REPAIRED, WHEREAS A COLONIC PERFORATION DOES.

Q AND DO GASTROENTEROLOGISTS WHO PERFORM COLONOSCOPIES, ARE THEY REQUIRED TO KNOW HOW TO DO A SURGICAL REPAIR OF A COLON IN THAT EVENT?

A NO.

Q NOW, YOU TESTIFIED THAT YOU SERVED IN THE EMERGENCY ROOM AT THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE ON CALL; IS THAT CORRECT?

A YES.

Q ABOUT HOW MANY TIMES HAVE YOU BEEN THE ON-CALL OB/GYN?

A HUNDREDS, THOUSANDS, A LOT.

Q HAVE YOU EVER ASKED A PATIENT IN THE ER WHETHER HER TREATING PHYSICIAN HAD ADMITTING PRIVILEGES?

A NO.

Q WHY NOT?

A IT'S NOT RELEVANT TO HER CARE. IF THE PATIENT NEEDS TO BE ADMITTED, SHE'S ADMITTED TO THE HOSPITAL. IF SHE NEED A SURGERY EMERGENTLY, SHE NEEDS A SURGERY EMERGENTLY AND I'M GOING TO BE PERFORMING IT BECAUSE I'M THE ONE ON CALL.

Q CAN A HOSPITAL TURN AWAY A PATIENT WHO HAS AN EMERGENCY?

A NO.

Q WHY NOT?

A WELL, IT'S -- WELL, FIRST, UNETHICAL TO TURN AWAY SOMEONE WITH AN EMERGENCY. AND THERE'S LAWS AROUND THIS, EMTALA, E-M-T-I-L -- E-M-T-A-L-A. WE CAN'T REFUSE EMERGENCY CARE TO PATIENTS IN EMERGENCY ROOMS.

Q DO PATIENTS SOMETIMES APPEAR IN EMERGENCY ROOMS WHO DON'T HAVE THEIR OWN PHYSICIAN, TREATING OR OTHERWISE?

A ALL THE TIME.

Q AND DO THEY GET LESSER CARE BECAUSE THEY DON'T HAVE A PHYSICIAN WITH ADMITTING PRIVILEGES?

A THEY GET THE SAME CARE AS EVERYONE ELSE WILL GET.

Q ARE PATIENTS REFERRED TO THE EMERGENCY ROOM FOR MANAGEMENT OF COMPLICATIONS FROM OTHER OB/GYN PROCEDURES, THAT IS, OTHER THAN ABORTION?

A YES.

Q AND GIVE US AN EXAMPLE OR TWO.

A WELL, FOLLOWING, SAY, A HYSTEROSCOPY, WHICH IS WHEN WE PLACE A CAMERA INSIDE OF THE UTERUS, THAT'S DONE INSIDE OF A -- IN A CLINIC SETTING. THERE'S SIMILAR COMPLICATIONS WHICH CAN OCCUR. ESPECIALLY SOMETHING LIKE AN INFECTION AFTER THE PROCEDURE, AND THEY MAY GO IN FOR THAT. HAVING A COMPLICATION AFTER AN IUD INSERTION COULD HAPPEN SO, YES.

Q AND IN THE EXTREMELY RARE EVENT OF A VERY GRAVE EMERGENCY, WOULD IT BE BENEFICIAL FOR THE EMERGENCY MEDICAL TECHNICIANS TO TAKE THE WOMAN TO THE HOSPITAL WHERE HER DOCTOR HAS ADMITTING PRIVILEGES OR TO THE CLOSEST HOSPITAL?

A THE STANDARD IS TO TAKE THE PATIENT TO THE CLOSEST AVAILABLE HOSPITAL THAT'S ACCEPTING PATIENTS.

Q WHY IS THAT?

A BECAUSE IT'S AN EMERGENCY, AND IT'S IMPORTANT THAT THE PATIENT HAS EXPEDITED CARE.

Q AND THAT'S MORE IMPORTANT THAN WHETHER THE PHYSICIAN HAS ADMITTING PRIVILEGES AT ONE HOSPITAL OR ANOTHER?

A ABSOLUTELY.

Q IF -- WITHDRAW THAT. WILL REQUIRING PHYSICIANS TO HAVE ADMITTING PRIVILEGES IN ORDER TO PERFORM ABORTIONS PROVIDE WOMEN WITH ANY BENEFITS?

A NO.

Q AND WHAT WILL IT MEAN FOR POOR WOMEN?

A WELL, AS A RESULT OF THIS LAW THAT PHYSICIANS ARE REQUIRED TO HAVE ADMITTING PRIVILEGES AND THEY'RE UNABLE TO OBTAIN THEM AND AS SUCH IT CLOSES DOWN CLINICS, IT MAY FORCE WOMEN TO TRAVEL EVEN GREATER DISTANCES TO OBTAIN ABORTIONS. AND THIS CAUSES UNNECESSARY COSTS, UNNECESSARY TIME OFF FROM WORK, ADDITIONAL OTHER SOCIAL COSTS THAT THE WOMAN IS GOING TO HAVE TO FACE AS WELL AS POSSIBLY DELAYING HER CARE.

IT MAY ACTUALLY TAKE HER LONGER TO ACCESS THE

ABORTION CARE SHE NEEDS AS A RESULT, AND THAT WOULD PUSH HER -- POTENTIALLY MAKE HER FARTHER ALONG IN PREGNANCY AT A MORE ADVANCED GESTATIONAL AGE AND, THEREFORE, AS A RESULT, AT A HIGHER RISK OF COMPLICATIONS.

Q WHAT OCCURS WHEN WOMEN ARE DEPRIVED OF ACCESS TO SAFE LEGAL ABORTION?

A WELL, FIRST --

MR. ADEN: LET ME OBJECT TO THE FORM OF THE QUESTION.

THE COURT: ALL RIGHT. WHAT'S WRONG WITH IT?

MR. ADEN: YOUR HONOR, THE QUESTION IS OPEN AND VAGUE AND AMBIGUOUS. IT COULD INVITE ANY RESPONSE OF ANY KIND WHATSOEVER. I WOULD JUST LIKE MS. JAROSLAW TO NARROW THAT DOWN A LITTLE BIT FOR US.

MS. JAROSLAW: I'LL BE HAPPY TO REPHRASE, YOUR HONOR.

THE COURT: OKAY.

BY MS. JAROSLAW:

Q FROM A STANDPOINT OF PUBLIC HEALTH, ARE THERE ANY RISKS TO WOMEN IF THEY DON'T HAVE ACCESS TO TIMELY, SAFE AND LEGAL ABORTION?

A YES.

Q AND WHAT ARE THEY?

A WELL, WHEN ACCESS TO ABORTION IS LIMITED, WE KNOW THAT IT MAKES ABORTION CARE MORE EXPENSIVE, MORE DIFFICULT TO

OBTAIN, AND TENDS TO PUSH THE PATIENTS INTO LATER GESTATIONAL AGES. THIS INCREASES THE RISK OF THE PROCEDURE AS WELL AS THEIR DIFFICULTY AND ALSO, OF COURSE, IT'S A BURDEN ON THE WOMEN BECAUSE THESE PROCEDURES TEND TO BE -- THE FARTHER ALONG IN PREGNANCY SHE GETS, THEY ALSO TEND TO BE MORE EXPENSE. SO IT REALLY MAKES NO SENSE WHATSOEVER TO CAUSE A DELAY OR TO LIMIT WOMEN'S ACCESS TO ABORTION CARE WHICH IS A VERY, VERY COMMON AND NECESSARY PROCEDURE.

Q AND IN THE UNITED STATES, IF A WOMAN CANNOT GET AN ABORTION, DO SOME WOMEN RESORT TO DESPERATE MEASURES?

A THAT'S THE WORSE CASE SCENARIO. WHEN ABORTION IS SEVERELY LIMITED OR SEVERELY RESTRICTED, WOMEN MAY RESORT TO TRYING TO SELF-INDUCE THEIR OWN ABORTIONS OR SEEK UNSAFE ABORTIONS, EVEN WORSE.

Q AND DO SOME OF THEM OBTAIN MEDICATIONS THROUGH THE MAIL AND THE INTERNET?

A THAT HAS BEEN REPORTED, YES.

Q AND WHAT ARE THE DANGERS OF THAT?

A WOMEN WOULD BE BETTER SERVED TO BE UNDER THE CARE OF A PHYSICIAN TO KNOW THAT THEY HAVE BEEN FULLY EVALUATED, THAT THEY HAVE THEIR APPROPRIATE OPTIONS, AND THAT THEY UNDERGO THE ABORTION PROCESS, WHETHER IT'S MEDICAL OR SURGICAL, UNDER APPROPRIATE MEDICAL SUPERVISION RATHER THAN TRYING TO DO IT ON THEIR OWN.

Q AND ARE THERE RISKS OF COUNTERFEIT MEDICATION OR

DOCTORED MEDICATION OR, YOU KNOW, MEDICATION THAT ISN'T WHAT IT PURPORTS TO BE?

A THAT CERTAINLY COULD HAPPEN.

Q DR. ESTES, IN YOUR EXPERT OPINION DOES ACT 620 PROMOTE WOMEN'S HEALTH?

A NO.

MS. JAROSLAW: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: THANK YOU. CROSS?

MR. ADEN: ONE MOMENT PLEASE, DOCTOR.

CROSS

BY MR. ADEN:

Q GOOD AFTERNOON, DOCTOR. HOW ARE YOU?

A I'M FINE. THANKS.

Q THANK YOU. STEVE ADEN. I'M ONE OF THE ATTORNEYS FOR THE DEFENDANT IN THIS CASE, AND I'LL BE ASKING YOU A FEW QUESTIONS.

DR. ESTES, YOU WORK FULL-TIME FOR AN AFFILIATE OF PLANNED PARENTHOOD FEDERATION OF AMERICA; RIGHT?

A YES, I DO.

Q AND DOES PLANNED PARENTHOOD FEDERATION OF AMERICA REQUIRE ALL OF ITS AFFILIATES TO PROVIDE ABORTION SERVICES?

A YES, THAT IS A CORE SERVICE.

Q AND YOU ENGAGED IN LOBBYING FOR REPRODUCTIVE ACCESS ON BEHALF OF THE FLORIDA ASSOCIATION OF PLANNED PARENTHOOD; CORRECT?

A YES, I HAVE.
Q YOU WERE A RYAN FELLOW, WEREN'T YOU?
A YES, I DID MY FELLOWSHIP AT COLUMBIA.
Q AND THAT'S COMMONLY REFERRED TO AS THE RYAN FELLOWSHIP; RIGHT?
A YES.
Q ONE OF THE PURPOSES OF THE RYAN FELLOWSHIP, AS I UNDERSTAND IT, IS TO INCREASE ACCESS TO ABORTION SERVICES BY TRAINING NEW ABORTION PROVIDERS; IS THAT RIGHT?
MS. JAROSLAW: OBJECT TO THE FORM.
THE COURT: WHAT'S WRONG WITH THE FORM?
MS. JAROSLAW: MR. ADEN SAID, "AS I UNDERSTAND IT," IT'S NOT ABOUT --
THE COURT: OVERRULED.
BY MR. ADEN:
Q YOU CAN ANSWER THE QUESTION. THANK YOU.
A YES.
Q YOU SERVE ON THE BOARD OF THE NATIONAL ABORTION FEDERATION?
A YES.
Q AND ONE OF THE STATED PURPOSES OF THE NATIONAL ABORTION FEDERATION IS TO, QUOTE, "TO ENSURE SAFE, LEGAL AND ACCESSIBLE ABORTION CARE," UNQUOTE; RIGHT?
A YES.
Q AND YOU SHARE THAT PURPOSE, DON'T YOU?

A YES.

Q SO MUCH SO THAT YOU TESTIFIED IN DEPOSITION THAT YOU CONSIDER YOURSELF, QUOTE, "AN ADVOCATE FOR WOMEN'S RIGHTS TO ACCESS ABORTION SERVICES," UNQUOTE, DIDN'T YOU?

A YES.

Q IN FACT, YOU TESTIFIED IN YOUR DEPOSITION THAT YOU CONSIDER IT YOUR, QUOTE, "PROFESSIONAL DUTY," UNQUOTE, TO ENSURE WOMEN CAN ACCESS ABORTION; RIGHT?

A YES.

Q IN FURTHERANCE OF THAT DUTY, YOU ARE THE FACULTY ADVISER FOR MEDICAL STUDENTS FOR CHOICE AT THE UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE; AREN'T YOU?

A YES.

Q AND THAT ORGANIZATION -- THE MISSION OF THAT ORGANIZATION IN PART IS TO PROMOTE GREATER ACCESS TO ABORTION BY PROMOTING ABORTION TRAINING FOR MEDICAL STUDENTS; RIGHT?

A YES.

Q YOUR OPINION, AS STATED IN PARAGRAPH 65 OF YOUR EXPERT REPORT -- AND I WILL USE THAT FORMULATION OF IT BECAUSE I WASN'T ABLE TO WRITE DOWN VERBATIM WHAT YOU SAID TO MS. JAROSLAW A FEW MINUTES AGO -- IS THAT, "LOUISIANA ACT 620 WILL DO NOTHING TO MAKE ABORTIONS SAFER OR TO HELP WOMEN'S HEALTH IN LOUISIANA"; CORRECT?

A YES.

Q AND YOU ACKNOWLEDGED IN YOUR DEPOSITION THAT YOU

HAD, "NO REASON TO BELIEVE THAT THE PRACTICE OF ABORTION IN LOUISIANA IS ANY LESS SAFE THAN ANYWHERE ELSE"; RIGHT?

A YES.

Q AND YOU ADMITTED THAT THIS IS BASED ON YOUR OWN ASSUMPTION; RIGHT?

A YES.

Q AND THAT, IN FACT, YOUR OPINION WAS NOT BASED ON ANY FACT THAT YOU REVIEWED OR DERIVED FROM DATA OUT OF LOUISIANA; RIGHT?

A I HAVEN'T REVIEWED ANY DATA SPECIFIC TO LOUISIANA.

Q SO THAT IS A YES?

A YES.

Q WHEN YOU WERE ASKED IN DEPOSITION YOU DID NOT KNOW HOW MANY ABORTION CLINICS WERE OPERATING IN LOUISIANA, DID YOU?

A NO, I DIDN'T.

Q AND WHEN YOU WERE ASKED TO NAME ANY ONE OF THEM -- IN FACT, YOU READ THE NAME OF THE PLAINTIFF "HOPE MEDICAL GROUP" OFF THE CAPTION OF YOUR EXPERT REPORT, DIDN'T YOU?

A YES.

Q AND YOU'VE NEVER WORKED AT AN ABORTION CLINIC IN LOUISIANA, HAVE YOU?

A NO, I HAVEN'T.

Q EVER VISITED ONE?

A NO.

Q IN FACT, YOU'VE ONLY BEEN TO LOUISIANA ONCE FOR A VACATION; RIGHT?

A MORE LIKE THREE OR FOUR TIMES.

Q LET ME REPHRASE. WHEN YOUR DEPOSITION WAS TAKEN, IT HAD ONLY BEEN ONE TIME; RIGHT?

A I HAVE BEEN TO NEW ORLEANS FOR VACATION, YES.

Q OKAY. YOU ALSO TESTIFIED IN DEPOSITION THAT YOU HAVE NO FAMILIARITY WITH ABORTION PRACTICE IN LOUISIANA OR ITS HISTORY OF COMPLIANCE WITH STATE LAWS AND REGULATIONS, DO YOU?

A I HAVE NO REASON TO BELIEVE THE WAY THEY PERFORM AN ABORTION IN LOUISIANA IS ANY WAY DIFFERENT THAN THE WAY I DO IT.

Q THANK YOU, DOCTOR. BUT YOU'RE ANSWERING A DIFFERENT QUESTION, THE ONE I ASKED A LITTLE EARLIER. THIS QUESTION IS THAT YOU TESTIFIED IN DEPOSITION THAT YOU HAVE NO FAMILIARITY WITH ABORTION PRACTICE IN LOUISIANA OR ITS HISTORY OF COMPLIANCE WITH STATE LAWS AND REGULATIONS, DO YOU?

A YES.

Q AND YOU ARE PERSONALLY UNAWARE OF ANY INSTANCES OF NONCOMPLIANCE WITH THE LAW BY ABORTION PROVIDERS IN LOUISIANA, AREN'T YOU?

A YES.

Q AND YOU'RE NOT AWARE WHETHER ANY MALPRACTICE ACTIONS MAY HAVE BEEN FILED AGAINST ABORTION CLINICS OR DOCTORS IN LOUISIANA?

A YES.
Q AND YOU HAVE NO KNOWLEDGE OF ANY DEATHS OR COMPLICATIONS THAT MAY HAVE RESULTED FROM ABORTIONS IN LOUISIANA?
A NOT SPECIFICALLY.
Q HAVE YOU REVIEWED THE CREDENTIALS OF ANY INDIVIDUAL DOCTOR IN LOUISIANA?
A NO.
Q AND YOU'VE NOT REVIEWED THE STANDARDS AND PROCEDURES MANUALS OF ANY CLINIC IN LOUISIANA EITHER, HAVE YOU?
A NO.
Q YOU STATE IN YOUR DEPOSITION THAT YOU DO NOT KNOW THE NUMBER OF ABORTION PROVIDERS IN LOUISIANA THAT ARE MEMBERS OF THE NATIONAL ABORTION FEDERATION ON WHOSE BOARD YOU SIT, DO YOU?
A NO.
Q NOR HOW MANY APPLIED FOR MEMBERSHIP, DO YOU?
A NO.
Q NOR HAVE YOU REVIEWED ANY OF THE REPORTING SYSTEMS OR PROTOCOLS FOR WHEN COMPLICATIONS ARE EXPERIENCED IN AN ABORTION PROCEDURE IN LOUISIANA, HAVE YOU?
A NO.
Q AND WHEN YOU WERE ASKED BY MY COLLEAGUE, MR. JOHNSON, IN DEPOSITION, QUOTE, "GIVEN THESE ANSWERS, HOW CAN YOU MAKE A RELIABLE ASSESSMENT OF THE SAFETY OF THE

ABORTION INDUSTRY IN LOUISIANA," CLOSE QUOTE. YOU ANSWERED, QUOTE, "I TRUST THE GOOD INTENTIONS OF MY COLLEAGUES," CLOSED QUOTE, DIDN'T YOU?

A YES.

Q SO IN SUM, DR. ESTES, ISN'T IT FAIR TO SAY THAT YOU'VE COME TO THIS COURT AS AN ADVOCATE FOR ACCESS TO ABORTION WHO TRUSTS THE GOOD INTENTIONS OF HIS COLLEAGUES WHO PROVIDE ABORTIONS?

A I'M NOT SURE I UNDERSTAND EXACTLY WHAT YOU'RE ASKING ME.

Q I'LL BREAK IT DOWN. ISN'T IT FAIR TO SAY THAT YOU'VE COME TO THIS COURT AS YOU TESTIFIED A FEW MINUTES AGO AS AN ADVOCATE FOR ABORTION; RIGHT?

A YES.

Q WHO TRUSTS THE GOOD INTENTIONS OF HIS COLLEAGUES IN THE CLINICS IN LOUISIANA?

A I TRUST THAT MY COLLEAGUES HERE PRACTICE ABORTION IN A SAFE MANNER. ABORTION IS A SIMPLE, STRAIGHTFORWARD PROCEDURE --

Q WELL, I'M SORRY. NOT TO CUT YOU OFF, DOCTOR, BUT YOU WERE, AGAIN, ANSWERING A QUESTION THAT I DID NOT ASK.

THE COURT: THERE'S AN OBJECTION PENDING. WHAT'S THE OBJECTION?

MS. JAROSLAW: THE WITNESS SHOULD BE PERMITTED TO GIVE HIS FULL ANSWER. HE'S BEING INTERRUPTED.

THE COURT: THE WITNESS SHOULD BE PERMITTED TO GIVE HIS FULL ANSWER. I AGREE.

WERE YOU THROUGH, DOCTOR?

THE WITNESS: NO, I WASN'T.

THE COURT: FINISH YOUR ANSWER.

THE WITNESS: THANK YOU, YOUR HONOR.

A ABORTION IS A SAFE AND SIMPLE PROCEDURE THAT'S PERFORMED IN THE SAME MANNER WHETHER IT'S IN FLORIDA OR LOUISIANA OR CALIFORNIA OR NEW YORK. IT'S A VERY SIMPLE, STRAIGHTFORWARD PROCEDURE THAT FOLKS CAN BE TRAINED TO PERFORM, AND I HAVE NO REASON TO BELIEVE THAT THE WAY THAT IT'S PERFORMED IS ANY DIFFERENT IN LOUISIANA THAN WHERE I PRACTICE IT IN FLORIDA.

BY MR. ADEN:

Q YOU'RE AWARE OF MEDIA REPORTS OF CERTAIN ABORTION FACILITIES IN THE COUNTRY THAT WERE SUBPAR IN THE WAY THAT THEY PRACTICE ABORTION AND WHO, IN FACT, HAVE HURT WOMEN, AREN'T YOU?

MS. JAROSLAW: OBJECTION. RELEVANCE.

THE COURT: OVERRULED.

YOU MAY ANSWER THE QUESTION.

A I'VE HEARD OF THE REPORTS.

BY MR. ADEN:

Q YOU'VE HEARD THE NAME DR. KERMIT GOSNELL, HAVEN'T YOU?

A YES.

Q SO WOULDN'T YOU AGREE WITH ME THAT WHETHER ABORTION IS SAFE AND EFFICACIOUS FOR PATIENTS IN LOUISIANA DEPENDS ON THE QUALITY OF THE CARE THAT LOUISIANA PRACTITIONERS GIVE THEIR PATIENTS?

A YES.

Q BUT YOU DON'T KNOW ANYTHING ABOUT THAT, DO YOU?

A I HAVE NO REASON TO BELIEVE THAT IT'S NOT SAFE AND EFFECTIVE, AND...

Q AND THAT'S YOUR ASSUMPTION, AS YOU SAID EARLIER?

A YES.

Q YOU TESTIFIED THAT YOU HAVE NO FAMILIARITY WITH ABORTION PRACTICE IN LOUISIANA OR THE HISTORY OF ABORTION CLINIC COMPLIANCE WITH STATE LAWS AND REGULATIONS. AND I PRESUME THAT MEANS YOU HAVE NO KNOWLEDGE OF DEFICIENCES FROM ABORTION CLINIC STANDARDS, DEVIATIONS FROM ABORTION CLINIC STATE STANDARDS, THAT DHH HAS FOUND ON THE PART OF LOUISIANA CLINICS; RIGHT?

A YES.

Q I'M SORRY. MEANING YOU HAVE NO KNOWLEDGE?

A I HAVE NO KNOWLEDGE.

Q THANK YOU. IN YOUR CLINICAL PRACTICE OR ACADEMIC WORK, HAVE YOU BECOME FAMILIAR WITH THE CONCEPT OF A DEFICIENCY REPORT, A REPORT FROM A STATE REGULATORY AGENCY THAT NOTIFIES A LICENSED MEDICAL PROVIDER OF ALLEGED

VIOLATIONS OF APPLICABLE LAW?

A YES.

Q AND THEY'RE SOMETIMES BASED ON SURVEYS CONDUCTED BY ENFORCEMENT PERSONNEL OF THAT PROVIDER?

A YES.

Q DO YOU RECALL BEING ASKED IN YOUR DEPOSITION ABOUT A DEFICIENCY REPORT ISSUED TO DELTA CLINIC IN BATON ROUGE THAT WAS EXHIBIT 3 TO YOUR DEPOSITION -- I DO NOT BELIEVE THAT THAT ONE IS ON THE CONFIDENTIAL LIST. IT IS NOT.

DO YOU RECALL BEING ASKED ABOUT THAT DEFICIENCY REPORT FOR DELTA CLINIC IN BATON ROUGE?

A YES.

Q DO YOU RECALL THAT, AMONG OTHER THINGS, THAT CLINIC WAS CITED FOR FAILURE TO DOCUMENT THE MONITORING OF PATIENTS RECEIVING CONSCIOUS SEDATION REGARDING THEIR CARDIAC STATUS, RESPIRATORY STATUS, AND LEVEL OF CONSCIOUSNESS DURING A MEDICAL PROCEDURE?

A I'D HAVE TO REVIEW THE DOCUMENT AGAIN TO RECALL THE DETAILS.

Q WELL, WE CAN DO THAT.

THE COURT: I'D ASSUME THIS IS A PROTECTED DOCUMENT?

MS. JAROSLAW: YOUR HONOR, WE DON'T KNOW WHAT DOCUMENT IS BEING REFERRED TO OR EXHIBIT NUMBER.

THE COURT: WELL, LET'S BE CAUTIOUS ABOUT PUTTING IT UP ON THE SCREEN UNTIL WE FIGURE IT OUT. DOES THIS ONE HAVE A

JOINT EXHIBIT OR A DEFENDANT EXHIBIT OR PLAINTIFF EXHIBIT NUMBER?

MR. ADEN: I APOLOGIZE FOR THAT. IT'S DEFENDANT'S EXHIBIT 125, I BELIEVE.

MS. JAROSLAW: YOUR HONOR, 125 IS NOT ON THEIR EXHIBIT LIST.

MR. ADEN: I APOLOGIZE FOR THAT.

BY MR. ADEN:

Q DR. ESTES, IN ORDER TO SAVE THE COURT TIME, ALLOW ME, IF I MAY, TO REPRESENT THAT THE CLINIC WAS CITED FOR WHAT I JUST MENTIONED.

MR. ADEN: WOULD THAT BE ALL RIGHT, YOUR HONOR?

MS. JAROSLAW: OBJECTION. THIS IS HEARSAY UPON HEARSAY.

THE COURT: IT'S NOT HEARSAY. IT'S A LAWYER TALKING ABOUT SOMETHING THAT'S NOT IN EVIDENCE, SO...

MR. ADEN: YES, WELL, IT'S NOT AND -- ONE MOMENT. I APOLOGIZE, YOUR HONOR. IT'S DEFENDANT'S EXHIBIT 50. AND WE WILL PULL THAT UP ON THE SCREEN.

THE COURT: IS THAT ON THE CONFIDENTIAL LIST?

MS. JAROSLAW: NO, BUT IT'S NOT IN EVIDENCE.

THE COURT: WELL, IF IT'S NOT IN EVIDENCE THEN YOU'RE GOING TO NEED TO LAY A FOUNDATION AND SEE IF IT CAN BE ADMITTED INTO EVIDENCE.

MR. ADEN: YOUR HONOR, I'M NOT GOING TO TRY, OF

COURSE, TO ADMIT THIS DOCUMENT THROUGH THIS WITNESS. I SIMPLY WANT TO TEST THE EXTENT TO WHICH HIS FAITH IN HIS COLLEAGUES IN LOUISIANA GOES WITH A FEW REFERENCES TO SOME OF THESE DEFICIENCY REPORTS, IF I MAY. AND I WILL INDULGE THE COURT'S TIME, OF COURSE, AS MUCH AS I CAN IN DOING SO.

MS. JAROSLAW: YOUR HONOR, COUNSEL CAN BASE THIS ON A GOOD FAITH BASIS TO ASK A QUESTION, BUT HE'S LEFT WITH THE WITNESS'S ANSWER. THE DOCUMENT IS IMPROPER MR. ADEN.

MR. ADEN: YOUR HONOR, HE TESTIFIED ABOUT THESE THINGS, AND I AM ENTITLED TO REFRESH HIS RECOLLECTION, I BELIEVE, IF I MAY.

THE COURT: WELL, WHY DON'T YOU SHOW HIM THE DOCUMENT. IF HE CAN -- LET'S JUST GO FROM THERE. LET'S JUST DO IT IN THE NORMAL FASHION. AND IF HE RECOGNIZES IT AND YOU CAN ADMIT IT, THEN FINE AND DANDY.

MR. ADEN: THANK YOU, YOUR HONOR.

BY MR. ADEN:

Q TURNING TO DEFENDANT'S EXHIBIT 50, DR. ESTES. AND --

MR. ADEN: OH, THANK YOU.

BY MR. ADEN:

Q THAT IS IN DEFENDANT'S BINDER WHICH IS THAT BIG -- I THINK IT IS THAT BIG BLACK BINDER NEXT TO YOU, DOCTOR. THERE SHOULD BE A TAB 50.

A YES, I SEE IT.

Q THANK YOU.

MR. ADEN: YOUR HONOR, WITH YOUR INDULGENCE, I THINK THE BEST WAY TO DO THIS AND A MORE DIRECT WAY TO DO THIS, BECAUSE THERE ARE A NUMBER OF PAGES OF THE DEFICIENCY REPORT AND THEY JUMP BACK AND FORTH, I THINK THAT I WILL INSTEAD GO TO HIS DEPOSITION WHERE HE RESPONDED TO QUESTIONS ABOUT THE REPORT WITH THE REPORT IN FRONT OF HIM, IF I MAY. CAN WE DO IT THAT WAY?

THE COURT: COUNSEL, HASN'T OBJECTED, BUT THIS IS AN IMPROPER USE OF THE DEPOSITION. YOU CAN USE THE DEPOSITION TO IMPEACH A WITNESS, BUT YOU HAVE TO ASK HIM THE QUESTION, THEN HE HAS TO ANSWER IT SOMEHOW DIFFERENTLY THAN HE DID IN HIS DEPOSITION, AND THEN HE HAS TO BE SHOWN THE DEPOSITION. HE HAS TO BE GIVEN AN OPPORTUNITY TO READ IT AND REFRESH HIS RECOLLECTION AND AMEND HIS TESTIMONY.

YOU JUST CAN'T ASK HIM, "DIDN'T YOU SAY THIS IN YOUR DEPOSITION?" THAT'S AN IMPROPER USE OF THE DEPOSITION. AND NOBODY'S OBJECTED, AND I GUESS I SHOULDN'T BE OBJECTING, BUT I'M JUST TELLING YOU NOW THAT'S NOT THE WAY IT'S SUPPOSED TO BE DONE. AT LEAST NOT IN THIS COURT.

MR. ADEN: THANK YOU, YOUR HONOR. I APPRECIATE THAT. I'LL REFRAIN FROM DOING SO. MAY I PASS ON TO THE NEXT AREA?

THE COURT: YES.

MR. ADEN: THANK YOU, YOUR HONOR.

BY MR. ADEN:

Q DOCTOR, I'D LIKE TO REFER YOU TO EXHIBIT 108 IN DEFENDANT'S EXHIBIT BINDER, IF YOU MAY GO THERE.

MR. ADEN: THIS ONE IS CONFIDENTIAL, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

MR. ADEN: SO I WILL BE CAREFULLY CHARACTERIZING WHAT I ASK THE WITNESS.

BY MR. ADEN:

Q I'LL REPRESENT THAT DEFENDANT'S EXHIBIT 108 IS A DEFICIENCY REPORT REGARDING AN ABORTION PROVIDER THAT DHH ISSUED ON OCTOBER 4TH, 2006.

MS. JAROSLAW: YOUR HONOR, I OBJECT TO THE FORM OF COUNSEL REPRESENTING THINGS. I HAVE BEEN WAITING FOR QUESTIONS TO OBJECT TO BUT THESE ARE NOT IN THE FORM OF QUESTIONS.

MR. ADEN: YOUR HONOR, I AM SORRY. WOULD YOU PLEASE ASK COUNSEL TO USE THE MICROPHONE BECAUSE I CAN'T HEAR HER OBJECTIONS VERY WELL.

THE COURT: YEAH. THAT'S A GOOD POINT.

YEAH, PLEASE --

MR. ADEN: THANK YOU.

THE COURT: -- TO ADDRESS THE OBJECTION -- WHY DON'T YOU, MS. JAROSLAW, ASK TO ADDRESS THE COURT AND THEN IF YOU WOULD, SPEAK INTO THE MICROPHONE SO WE CAN ALL HEAR.

MS. JAROSLAW: YES, YOUR HONOR. ONE REASON I

HAVEN'T OBJECTED IS I'M WAITING FOR A QUESTION TO BE POSED TO THE WITNESS. COUNSEL HAS A HABIT OF CHARACTERIZING THINGS AND REPRESENTING THINGS RATHER THAN ASKING QUESTIONS AND IT'S NOT THE ROLE OF COUNSEL TO BE STATING ASSERTED FACTS.

THE COURT: SO WHAT IS THE QUESTION THAT'S ON THE TABLE? IS THERE A QUESTION THAT'S ON THE TABLE?

MR. ADEN: YOUR HONOR, I'M ABOUT TO TEST THE WITNESS'S STATEMENT THAT HE RELIES UPON THE GOOD INTENTIONS OF HIS COLLEAGUES IN LOUISIANA, AND I WOULD LIKE TO TEST WHETHER KNOWING SOME FACTS ABOUT THE WAY THAT ABORTION IS PROVIDED IN LOUISIANA. IT WILL --

THE COURT: IS THIS DOCUMENT IN EVIDENCE? IS THIS DOCUMENT IN EVIDENCE?

MR. ADEN: IT IS, YOUR HONOR.

THE COURT: ALL RIGHT. IF IT'S IN EVIDENCE, THEN YOU CAN USE IT.

MR. ADEN: THANK YOU.

BY MR. ADEN:

Q MAY I DIRECT YOUR ATTENTION TO PAGE 1 OF THAT DOCUMENT, DOCTOR?

A YEP.

Q AND SPECIFICALLY TO THE SECOND FULL PARAGRAPH TOWARD THE BOTTOM OF THAT DOCUMENT BEGINNING WITH THE WORDS "BASED UPON;" DO YOU SEE THAT?

A YES.

MR. ADEN: YOUR HONOR, WE DISCUSSED THIS EARLIER, THIS DOCUMENT EARLIER, I THINK, SO I BELIEVE I CAN CHARACTERIZE THIS DOCUMENT WITHOUT WORRYING ABOUT THE PROTECTIVE ORDER WHEN I SAY THAT THE DEFICIENCY REPORT FOUND THAT THE FACILITY FAILED TO ENSURE THAT --

MS. JAROSLAW: OBJECTION.

THE COURT: THERE'S AN OBJECTION ON THE TABLE. WHAT'S THE OBJECTION?

MS. JAROSLAW: THERE'S A PROTECTIVE ORDER AND COUNSEL IS STATING --

THE COURT: I CAN'T HEAR. OKAY. AGAIN, HOLD ON, MS. JAROSLAW. STAND UP, PLEASE. I KNOW IT'S AWKWARD FOR EVERYONE TO HAVE TO BEND OVER. I WISH THEY WERE LONGER OR SOMETHING OR YOU COULD COME TO THE PODIUM, AND THEN IT TAKES FIVE MINUTES TO DO THAT. SO WE JUST HAVE TO BEAR WITH THE TECHNOLOGY THAT WE HAVE AVAILABLE. SO JUST ADDRESS YOUR OBJECTION INTO THE MIC.

MS. JAROSLAW: -- TO BE SHORT IN THIS INSTANCE. COUNSEL, RATHER THAN ASKING A QUESTION OR EVEN A HYPOTHETICAL QUESTION, WHAT MIGHT HAVE HAPPENED, WHAT DID HAPPEN, IN TRYING TO REPRESENT WHAT WAS IN DOCUMENT, HE STARTED OUT HIS QUESTION WITH, YOU KNOW, READING THE SECOND PARAGRAPH, "WHAT'S IN THERE IS," AND HE STARTED TO SAY WHAT THE VIOLATION IS. HE SHOULD JUST ASK A QUESTION TO THE WITNESS RATHER THAN READ FROM THE DOCUMENT DIRECTLY AND STATE WHAT IS IN IT. HE CAN HAVE THE

WITNESS READ IT SILENTLY.

MR. ADEN: I'M HAPPY TO DO THAT, YOUR HONOR.

THE COURT: OKAY. WELL, THEN THAT SOLVES THAT PROBLEM.

BY MR. ADEN:

Q THANK YOU. DR. ESTES, WOULD YOU READ THAT PARAGRAPH, THE SECOND FULL PARAGRAPH ON PAGE 1 FOR ME, PLEASE? LET US KNOW WHEN YOU'RE DONE.

A I'M DONE.

Q SO YOU UNDERSTAND WHAT THIS PROVIDER WAS CITED FOR, DO YOU NOT?

A I THINK SO.

Q OKAY. WOULD YOU AGREE WITH ME THAT HAVING A TRANSFER AGREEMENT IN PLACE IS IMPORTANT TO ENSURE CONTINUITY OF CARE FOR A PATIENT?

A CONTINUITY OF CARE FOR A PATIENT CAN BE MAINTAINED WITHOUT A TRANSFER AGREEMENT SO, NO, IT'S NOT ABSOLUTELY NECESSARY.

Q IS IT IMPORTANT FOR A PROVIDER OF OUTPATIENT SURGICAL SERVICES TO HAVE A TRANSFER AGREEMENT WITH THE DOCTOR WHO HAS ADMITTING PRIVILEGES, GENERALLY SPEAKING?

A FROM THE STANDPOINT OF PATIENT CARE, IT'S NOT ABSOLUTELY NECESSARY.

Q IN FACT, I THINK YOU TESTIFIED IN YOUR DEPOSITION THAT YOU THOUGHT THAT A STATE REGULATORY BODY --

MS. JAROSLAW: OBJECTION.

THE COURT: SUSTAINED.

MR. ADEN: THANK YOU.

BY MR. ADEN:

Q DR. ESTES, IT IS YOUR OPINION, IS IT NOT, THAT TRANSFER AGREEMENTS ARE NOT REQUIRED TO -- I THINK YOU JUST SAID NOT REQUIRED TO ENSURE CONTINUITY OF CARE FOR OUTPATIENT SURGICAL PROVIDERS; CORRECT?

A THEY'RE NOT ABSOLUTELY NECESSARY, NO.

Q IN FACT, YOU WOULD -- YOU WOULD BE HERE TESTIFYING, PERHAPS, IF THE LAW REQUIRED A TRANSFER AGREEMENT FOR AN OUTPATIENT ABORTION FACILITY, NOT JUST ADMITTING PRIVILEGES; RIGHT?

MS. JAROSLAW: OBJECTION TO THE FORM.

THE COURT: OVERRULED.

BY MR. ADEN:

Q PLEASE ANSWER.

A I DON'T KNOW.

Q IF -- WITHDRAW THE QUESTION. WOULD YOU AGREE THAT THE LACK OF A TRANSFER AGREEMENT WITH A PHYSICIAN WHO HAS ADMITTING PRIVILEGES MAY LEAD TO UNNECESSARY DELAYS IN TREATMENT ON TRANSFER TO A HOSPITAL SETTING?

A TRANSFER TO A HOSPITAL SETTING WOULD BE DONE BY EMERGENCY MEDICAL PROFESSIONALS, EMERGENCY MEDICAL TECHNICIANS, EMTS, AND THE PRESENCE OR ABSENCE OF A TRANSFER

AGREEMENT DOESN'T NECESSARILY MAKE IT ANY FASTER OR SLOWER.

Q DR. ESTES, LET'S TALK NOW ABOUT THE FUNCTION OF ADMITTING PRIVILEGES CREDENTIALING. WOULD YOU AGREE WITH ME THAT THE FUNCTION FOR HAVING ADMITTING PRIVILEGES, THE PURPOSE IT SERVES, IS FOR YOU TO HAVE A HOSPITAL TO USE IF YOU NEED IT; RIGHT?

A THAT'S ONE OF THE FUNCTIONS OF IT, YES.

Q BUT IS IT YOUR OPINION THAT AN ABORTION PROVIDER DOES NOT NEED IT?

A GENERALLY, AN ABORTION PROVIDER WILL NOT NEED TO UTILIZE A HOSPITAL SETTING.

Q GENERALLY, YOU SAY, BUT SOMETIMES AN ABORTION PROVIDER WILL HAVE TO; RIGHT?

A IT'S VERY UNUSUAL, BUT IT DOESN'T HAVE TO BE THAT PROVIDER HIMSELF WHO USES THE HOSPITAL.

Q ISN'T IT WORTHWHILE TO HAVE HOSPITAL ADMITTING PRIVILEGES IF YOU HAVE PATIENTS WHO MAY BE ADMITTED FOR OTHER COMPLICATIONS?

A IT'S NOT NECESSARY.

Q DIDN'T YOU STATE IN YOUR DEPOSITION, QUOTE, "IF YOU HAVE PATIENTS WHO MAY BE ADMITTED FOR OTHER MEDICAL COMPLICATIONS, WHATEVER THEY MIGHT, THEN IT'S WORTHWHILE TO HAVE HOSPITAL ADMITTING PRIVILEGES," UNQUOTE?

A I'D HAVE TO SEE MY EXACT WORDING IN MY DEPOSITION TO REMEMBER THAT.

THE COURT: YOU WANT TO SWITCH TO THE ELMO?
CHRISTY?
OKAY. THERE WE GO.
WHAT PAGE IS THIS?
MR. ADEN: PAGE 40, YOUR HONOR, OF THE DEPOSITION.
MS. JAROSLAW: YOUR HONOR, IS THERE A COPY OF THIS EXHIBIT FOR THE WITNESS?
THE COURT: YOU HAVE IT ON THE SCREEN?
THE WITNESS: I CAN SEE IT ON THE SCREEN, BUT THAT'S -- I COULDN'T SEE THE WHOLE PARAGRAPH. I CAN SEE IT NOW.
MR. ADEN: THANK YOU.
BY MR. ADEN:
Q DRAWING YOUR ATTENTION, DOCTOR, TO LINES 16 THROUGH -- I APOLOGIZE. LINE 16 THROUGH 22, WOULD YOU READ THAT FOR THE COURT, PLEASE?
A SURE. IT SAYS, "THE PURPOSE IT SERVES" -- AND I ASSUME THERE I'M REFERRING TO ADMITTING PRIVILEGES --
Q THAT'S RIGHT.
A -- "YOU'D HAVE A HOSPITAL TO USE IF YOU NEED IT, AND IF YOU HAVE PATIENTS FOR WHOM YOU ARE GOING TO BE PROVIDING A SURGERY WHO NEEDS AN OPERATING ROOM SETTING. IF YOU HAVE PATIENTS WHO MAY BE ADMITTED FOR OTHER MEDICAL COMPLICATIONS, WHATEVER THEY MIGHT BE, THEN IT'S WORTHWHILE TO HAVE HOSPITAL ADMITTING PRIVILEGES."

Q RIGHT. DOES THAT REFRESH YOUR RECOLLECTION REGARDING YOUR PREVIOUS TESTIMONY?

A YES.

Q OKAY. THANK YOU. YOU'VE ADMITTED THOUSANDS OF PATIENTS TO THE HOSPITAL FOR ELECTIVE SURGERY, INCLUDING ABORTION, HAVE YOU NOT?

A YES.

Q AND IF A PATIENT NEEDS TO HAVE A SURGICAL PROCEEDING THAT WOULD USUALLY HAVE BEEN PERFORMED IN A CLINICAL SETTING, YOU'D TAKE THEM TO THE OPERATING ROOM IF THEIR MEDICAL OR OBSTETRICAL SITUATION DICTATED THE NEED FOR IT; RIGHT?

A YES.

Q SO HOSPITAL ADMITTING PRIVILEGES ARE USEFUL IF YOU HAVE A NEED TO ADMIT PATIENTS TO THE HOSPITAL; CORRECT?

A THEY CAN BE USEFUL FOR THAT PROVIDER, BUT THEY'RE NOT ABSOLUTELY NECESSARY BECAUSE --

Q IT CAN BE USEFUL? HOW CAN IT BE USEFUL? IN WHAT WAY?

MS. JAROSLAW: OBJECTION, YOUR HONOR. THE WITNESS WASN'T FINISHED ANSWERING.

THE COURT: WERE YOU FINISHED?

THE WITNESS: NOT QUITE.

THE COURT: ALL RIGHT. IF YOU'D FINISH YOUR ANSWER.

A WHAT I WAS GOING TO SAY IS IF YOU DIDN'T HAVE ADMITTING PRIVILEGES, YOU COULD REFER HER TO SOMEONE ELSE WHO

DID OR REFER HER DIRECTLY TO A HOSPITAL PROVIDER.

BY MR. ADEN:

Q AND GOING BACK TO MY PREVIOUS QUESTION, YOU SAID THEY COULD BE USEFUL?

A THAT'S WHAT I MEANT.

Q OKAY. THANK YOU. SHOULD AN ABORTION PROVIDER WHO PRACTICES OUTPATIENT DILATION AND CURETTAGE EXPECT TO HAVE A NEED FOR EMERGENT CARE?

A IT'S VERY RARE.

Q BUT HE OR SHE SHOULD EXPECT TO HAVE A NEED FOR IT EVEN IF IT IS RARE CIRCUMSTANCES; RIGHT?

MS. JAROSLAW: OBJECTION. ASKED AND ANSWERED.

THE COURT: OVERRULED.

A THERE MAY BE EMERGENCIES. THEY ARE VERY RARE.

BY MR. ADEN:

Q DO MOST ER DOCTORS UNDERSTAND HOW TO MANAGE A BLEEDING COMPLICATION?

A YES.

Q DO MOST OF THEM HAVE AN APPROPRIATE CONSULTANT TO CALL?

A YES.

Q OKAY. DO YOU RECALL TESTIFYING THAT MOST EMERGENCY ROOMS WOULD HAVE AN APPROPRIATE CONSULTANT TO CALL FOR BLEEDING EMERGENCIES?

MS. JAROSLAW: OBJECTION. AGAIN, THIS IS AN

IMPROPER USE OF THE DEPOSITION.

THE COURT: YOU NEED TO DIRECT THE WITNESS'S ATTENTION TO A SPECIFIC PART OF THE DEPOSITION. IF INDEED HE'S CONTRADICTED HIS DEPOSITION TESTIMONY, HE NEEDS TO BE DIRECTED TO THE SPECIFIC PAGE AND LINE, GIVEN AN OPPORTUNITY TO READ IT, AND THEN GIVEN AN OPPORTUNITY TO EXPLAIN IT, PERHAPS IT REFRESHES HIS MEMORY, PERHAPS IT DOESN'T. BUT HE HAS TO BE SHOWN THE PAGE AND LINE BEFORE YOU GO ON TO THE NEXT QUESTION.

MR. ADEN: WITH ALL RESPECT, YOUR HONOR, I THINK HE MAY RECALL TESTIFYING TO WHAT I JUST ASKED HIM ABOUT, AND I WOULD PREFER TO ASK HIM FIRST BEFORE GOING --

THE COURT: MR. ADEN, I JUST RULED ON THIS.

MR. ADEN: YES, SIR.

THE COURT: YOU ARE USING THE DEPOSITION TESTIMONY IMPROPERLY, AND I'M GOING TO ADVISE YOU AGAIN TO DO IT THE PROPER WAY.

MR. ADEN: I UNDERSTAND, YOUR HONOR.

THE COURT: ALL RIGHT.

BY MR. ADEN:

Q DR. ESTES, MAY I DIRECT YOU TO DEPOSITION PAGE 48? DO YOU SEE THAT ON THE SCREEN, DOCTOR?

A YES.

Q LET ME DIRECT YOUR ATTENTION TO LINES 20 AND 21, IF I MAY.

A I'M SORRY. WHICH LINES?
Q TWENTY AND TWENTY-ONE.
A OKAY.
Q YOU SAID, MOST EMERGENCY ROOMS WOULD HAVE THAT KIND OF CONSULT. SO SOME WOULD NOT; RIGHT?
MS. JAROSLAW: OBJECTION.
MR. ADEN: YOUR HONOR, HE TESTIFIED THAT MOST WOULD, AND IT'S A SIMPLE FOLLOW-UP QUESTION.
THE COURT: YEAH, I'LL OVERRULE THE OBJECTION.
MR. ADEN: THANK YOU, YOUR HONOR.
BY MR. ADEN:
Q DOCTOR, SOME WOULD NOT; RIGHT?
A SOME MIGHT NOT.
Q SOME MIGHT NOT. AND FOR A PERSON WHO TRANSFERS TO THE ER WHERE THE CR DOES NOT HAVE THAT KIND OF CONSULTANT, WOULDN'T THAT DELAY TREATMENT FOR THAT PATIENT?
A IT DEPENDS ON THE SITUATION AND HOW THE TRANSFER WAS -- OR WHEN THE EMERGENCY OCCURRED AND HOW THE TRANSFER HAPPENED.
Q DO PROVIDERS OF OUTPATIENT ABORTION CARE KNOW HOW TO HANDLE BLEEDING COMPLICATIONS IN MOST INSTANCES?
A YES.
Q SO IF THE PROVIDER OF OUTPATIENT ABORTION CARE HAD ADMITTING PRIVILEGES, IN THAT CASE, THEY COULD ADMIT THIS PATIENT AND CARE FOR THE PATIENT THEMSELVES; CORRECT?

A THEY COULD.

Q AND THAT WOULD OBVIATE THE RISK TO THE PATIENT IF THERE IS NOT A CONSULTANT AVAILABLE IN THOSE CIRCUMSTANCES TO TREAT THE PATIENT; RIGHT?

A BUT THERE'S NO REASON TO NECESSARILY BELIEVE THAT THEY WOULDN'T GO TO AN EMERGENCY ROOM WHERE THEY HAD AN APPROPRIATE PERSON TO COVER THIS EMERGENCY.

Q BUT WHAT IF THEY DID? CAN YOU THEN ANSWER MY QUESTION?

A I'D GIVE A LOT MORE CREDIT TO EMERGENCY MEDICAL TECHNICIANS TO TAKE A PATIENT WITH A BLEEDING COMPLICATION TO AN APPROPRIATE LOCATION, AS IN AN EMERGENCY MEDICAL TECHNICIAN, THE PEOPLE DRIVING THE AMBULANCE, KNOW WHERE TO TAKE A PATIENT WHO'S HAVING A COMPLICATION. THEY KNOW WHAT EMERGENCY ROOM SERVICES ARE, THEY KNOW WHAT SERVICES EMERGENCY ROOMS PROVIDE AND DON'T.

Q DR. ESTES, IF THEY TAKE THE PATIENT TO ONE THAT DOES NOT HAVE AN APPROPRIATE CONSULTANT, IN THAT CASE, WOULDN'T IT BE BETTER TO HAVE THE ABORTION PROVIDER WITH ADMITTING PRIVILEGES FOLLOWING UP ON THE PATIENT IN THAT HOSPITAL? WOULDN'T THAT BE USEFUL TO THE PATIENT?

A I'M STILL -- I'M NOT QUITE SURE I UNDERSTAND WHAT YOU'RE ASKING ME.

Q YOU TESTIFIED THAT NOT ALL EMERGENCY ROOMS WOULD HAVE AN APPROPRIATE CONSULTANT ON MANAGING A BLEEDING

COMPLICATION IN AN EMERGENT SITUATION SUCH AS THE ONE WE'RE DISCUSSING; RIGHT?

A YES.

Q SO I'M ASKING YOU, IN A SITUATION LIKE THAT, WOULDN'T IT BE BETTER FOR THE PATIENT AND WOULDN'T IT LEAD TO A BETTER PATIENT OUTCOME IF THE ABORTION PROVIDER HAD ADMITTING PRIVILEGES, COULD FOLLOW THE PATIENT TO THE HOSPITAL, AND ADMIT THE PATIENT AND FOLLOW-UP ON THAT BLEEDING COMPLICATION?

A IF I MAY, IT JUST SEEMS STRANGE THAT A PATIENT WOULD GO TO AN EMERGENCY ROOM WHERE AN ABORTION PROVIDER HAD ADMITTING PRIVILEGES AND THAT HOSPITAL WOULD NOT HAVE ANOTHER CONSULTANT THAT COULD COVER THAT EMERGENCY. IF AN ABORTION PROVIDER HAD ADMITTING PRIVILEGES AT THAT EMERGENCY ROOM, THERE WOULD CERTAINLY BE OTHER OB/GYN PHYSICIANS WHO COULD TAKE CARE OF THAT PATIENT.

Q CERTAINLY.

A SO I CAN'T IMAGINE A SITUATION WHERE THE ONLY DOCTOR POSSIBLY CAPABLE OF TAKING CARE OF A BLEEDING COMPLICATION WOULD BE THAT ONE ABORTION PROVIDER TO WHOM -- OR TO THAT HOSPITAL THEY WERE TRANSFERRING.

Q SO AS I UNDERSTAND IT, YOUR TESTIMONY IS THAT EVERY TIME AN OUTPATIENT ABORTION PROVIDER HAS ADMITTING PRIVILEGES AT A HOSPITAL, THERE WILL ALSO BE AN APPROPRIATE CONSULT TO FOLLOW-UP ON BLEEDING COMPLICATIONS?

MS. JAROSLAW: OBJECTION.

THE COURT: WHAT'S THE OBJECTION?

MS. JAROSLAW: MISCHARACTERIZES --

MR. ADEN: I CAN'T HEAR HER.

THE COURT: OVERRULED. OVERRULED. YOU MAY PROCEED.

BY MR. ADEN:

Q IS THAT YOUR TESTIMONY?

A IT WOULD BE UNUSUAL.

Q BUT IT COULD HAPPEN?

A IT WOULD BE VERY, VERY UNUSUAL. AND I --

Q YES OR NO, IT COULD HAPPEN?

A I DON'T KNOW.

MS. JAROSLAW: OBJECTION TO THE FORM. ANYTHING COULD HAPPEN.

BY MR. ADEN:

Q WHY DON'T YOU KNOW?

A I DON'T KNOW.

Q I THINK YOU JUST STATED A MOMENT AGO THAT IT WOULD NEVER HAPPEN. AM I MISREMEMBERING?

MS. JAROSLAW: OBJECTION.

THE COURT: FIRST OF ALL, YOU HAVE TO STAND UP. SECONDLY, YOU HAVE TO SPEAK INTO THE MIC. THIRDLY, AND PERHAPS MOST IMPORTANTLY, YOU HAVE TO TELL ME WHAT THE NATURE OF YOUR OBJECTION IS.

MS. JAROSLAW: I'M SORRY, YOUR HONOR.

THE COURT: OKAY. WHAT IS IT?

MS. JAROSLAW: IT WAS ARGUMENTATIVE, YOUR HONOR.

THE COURT: OKAY. WE ARE GETTING INTO -- WE ARE GETTING INTO THAT RANGE. I'M GOING TO GIVE YOU A LITTLE LEEWAY, MR. ADEN, BUT YOU'RE DRIFTING INTO THE ARGUMENTS PHASE, SO JUST BE CAUTIOUS.

MR. ADEN: YOUR HONOR, MAY THE COURT REPORTER READ BACK THE LAST QUESTION?

THE COURT: YES.

MR. ADEN: THANK YOU.

(WHEREUPON THE PREVIOUS QUESTION WAS READ BACK BY THE COURT REPORTER.)

THE COURT: YOU MAY ANSWER THE QUESTION IF YOU HEARD IT.

A I DON'T KNOW IF IT WOULD EVER HAPPEN.

BY MR. ADEN:

Q THANK YOU. YOU HAVE NO KNOWLEDGE OF LOCAL HOSPITALS IN LOUISIANA; RIGHT?

A NO, I DON'T.

Q SO HOW CAN YOU TESTIFY ABOUT WHO WOULD BE ON STAFF OR WHO WOULD HAVE ADMITTING PRIVILEGES AT A LOUISIANA HOSPITAL IF THAT'S NOT WITHIN THE REALM OF YOUR KNOWLEDGE?

A ALL OF THE SPECIALTIES THAT PRACTICE IN THIS COUNTRY ARE NATIONALLY BOARDED AND THERE'S NATIONAL STANDARDS BY WHICH PEOPLE OBTAIN THEIR SPECIALITY CERTIFICATIONS, WHETHER IT'S

EMERGENCY ROOM, CARDIOLOGY, OB/GYN. AND THERE'S NO REASON TO BELIEVE THAT THEY'D BE ANY DIFFERENT HERE.

Q BUT DOESN'T IT DEPEND ON HOW HOSPITALS IN LOUISIANA STAFF THEIR EMERGENCY ROOMS AND THEIR CONSULTS THAT ARE ON-CALL PHYSICIANS FOR EMERGENCIES?

A IF THEY'RE STAFFING AN EMERGENCY ROOM, THEY'RE STAFFING IT WITH PEOPLE WHO ARE TRAINED IN EMERGENCY MEDICINE.

Q BUT DOESN'T IT VARY FROM HOSPITAL TO HOSPITAL AND FROM TIME TO TIME DURING THE DAY AND THE DAY OF THE WEEK?

A I DON'T KNOW.

Q DO YOU KNOW WHAT PERCENTAGE OF EMERGENCY ROOMS HAVE AN OB/GYN ON CALL?

A NO.

Q DO THE MAJORITY OF THEM?

MS. JAROSLAW: OBJECTION. I'M TRYING TO STAND UP --

THE COURT: REMEMBER, TELL ME WHAT THE NATURE OF THE OBJECTION IS. WHAT IS THE NATURE OF YOUR OBJECTION?

MS. JAROSLAW: HE STATED HE DOES NOT KNOW, AND THEN THE FOLLOW-UP QUESTION WAS TRYING TO GET AT WHAT HE KNOWS. HE SAID HE DID NOT KNOW.

THE COURT: OVERRULED.

BY MR. ADEN:

Q DO THE MAJORITY OF THEM?

A I DON'T KNOW.

Q MAY I TURN YOUR ATTENTION TO PAGE 49 OF YOUR

DEPOSITION, DR. ESTES, AND SPECIFICALLY TO LINES 19 THROUGH 21, DOCTOR. DO YOU SEE THOSE THERE?

A YES.

Q IS IT NOT FOCUSING WELL, DOCTOR?

A I SEE IT.

Q YOU SEE IT? OKAY.

MR. ADEN: SORRY. I'M CONSCIOUS THAT THE DOCUMENT IS A LITTLE FUZZY. FOR THE COURT AND COUNSEL, I'D LIKE TO MAKE SURE THAT IT'S NOT.

BY MR. ADEN:

Q DIRECTING YOUR ATTENTION TO LINES 19 THROUGH 21. WOULD YOU READ THOSE LINES FOR US, PLEASE?

MS. JAROSLAW: OBJECTION. IMPROPER USE OF THE DEPOSITION.

THE COURT: OVERRULED.

BY MR. ADEN:

Q GO AHEAD, DR. ESTES.

A IT SAYS, "I DO NOT KNOW WHAT PERCENTAGE OF EMERGENCY ROOMS HAVE AN OB/GYN DOCTOR ON CALL OR NOT. THE MAJORITY DO."

Q ARE YOU ABLE TO QUALIFY THE TERM "MAJORITY" AT ALL? IS IT 51 PERCENT? IS IT 80 PERCENT?

A THE MAJORITY OF HOSPITALS THAT I'M FAMILIAR WITH HAVE OB/GYN DOCTORS ON CALL.

Q BUT, AGAIN, THOSE ARE NOT IN LOUISIANA; RIGHT?

A NO.

Q YOU AGREE, DON'T YOU, THAT MISCOMMUNICATION BETWEEN CAREGIVERS AND -- WHEN -- BETWEEN CAREGIVERS WHEN PATIENTS ARE HANDED OFF CAN BE A SOURCE OF MEDICAL ERROR THAT CAN BE SERIOUS?

A YES, THAT CAN BE A PROBLEM.

Q WOULD YOU AGREE WITH ME THAT IF AN ER DEPARTMENT DOES NOT HAVE AN OB/GYN ON CALL, THAT THAT WOULD RESULT IN A DELAY FOR TREATMENT OF ABORTION PATIENTS IN EMERGENT CIRCUMSTANCES WHO ARE TRANSFERRED TO THE HOSPITAL, WOULDN'T IT?

A IT COULD.

Q SO IF THE OUTPATIENT ABORTION PROVIDER HAD ADMITTING PRIVILEGES AND COULD FOLLOW THE PATIENT TO THE HOSPITAL, ADMIT THE PATIENT AND, FOR EXAMPLE, COMPLETE A -- COMPLETE WITH A D&C A PROBLEM WITH RETAINED PRODUCTS OF CONCEPTION, THAT WOULD BE FASTER THAN LOOKING FOR AN OB/GYN WHEN THEY DON'T HAVE ONE; RIGHT?

A I SUPPOSE SO.

Q SO IN THAT CASE, IT WOULD EXPEDITE PATIENT CARE, WOULDN'T IT?

A IT COULD.

Q SO ADMITTING PRIVILEGES IN THAT INSTANCE WOULD EXPEDITE THE EMERGENT CARE OF THAT ABORTION PATIENT, WOULD IT NOT?

A IT COULD.

Q THANK YOU. NOW, I THINK YOU TESTIFIED ESSENTIALLY THAT THERE ARE NO TECHNICAL DIFFERENCES BETWEEN THE PERFORMANCE OF A D&C AFTER A NATURAL MISCARRIAGE AND THE PERFORMANCE OF ONE FOR PURPOSE OF AN ELECTIVE ABORTION. DO I REMEMBER THAT CORRECTLY?

A YES.

Q DO YOU HAVE AN UNDERSTANDING WHETHER OB/GYNS WHO PROVIDE DILATION AND CURETTAGE FOR A SPONTANEOUS ABORTION DO SO IN AN OUTPATIENT SETTING OR A HOSPITAL SETTING USUALLY?

A IT'S PROVIDED IN AN OUTPATIENT SETTING AS WELL.

Q BUT IS IT PROVIDED IN A -- WITHDRAW THE QUESTION. DO YOU HAVE ANY KNOWLEDGE WITH RESPECT TO LOUISIANA PRACTICE ON THAT MATTER?

A I'VE ALREADY SAID THAT I DON'T HAVE SPECIFIC KNOWLEDGE OF LOUISIANA PRACTICE.

Q DO YOU KNOW WHETHER MOST PROVIDERS OF OB/GYN MEDICAL SERVICES PROVIDE D&C FOR SPONTANEOUS ABORTION IN AN OUTPATIENT SETTING OR IN A HOSPITAL SETTING?

A I COULDN'T SAY THE NUMBERS EXACTLY.

Q NOW, WHEN YOU WERE AT UNIVERSITY OF MIAMI MILLER SCHOOL OF MEDICINE, YOU WERE CALLED ON A FEW OCCASIONS TO THE EMERGENCY ROOM TO ASSIST IN TREATING WOMAN -- WOMEN -- EXCUSE ME -- WHO HAD RECENTLY OBTAINED ABORTIONS, WEREN'T YOU?

A YES.

Q AND MOST OF THOSE THAT YOU SAW IN THE ER COULD HAVE

BEEN SAFELY TREATED IN A CLINIC SETTING BUT THEIR SYMPTOMS SIMPLY OCCURRED OUTSIDE OF REGULAR CLINIC OPERATING HOURS; RIGHT?

A YES.

Q WOULD YOU AGREE WITH ME THAT FOR THOSE WOMEN WHOSE EMERGENT SYMPTOMS OCCUR OUTSIDE REGULAR CLINIC OPERATING HOURS, THOSE WOMEN CAN'T BE SAFELY TREATED IN THE CLINIC SETTING WHERE THEY OBTAINED THEIR INITIAL ABORTION PROCEDURE BECAUSE THE CLINIC IS NOT OPEN?

A USUALLY THOSE CIRCUMSTANCES CAN BE TREATED ELECTIVELY THE FOLLOWING DAY, SO THEY DON'T NEED EMERGENT TREATMENT, THEY SIMPLY NEED A FOLLOW-UP.

Q WHAT ABOUT IF A WOMAN HAS HEMORRHAGING, WOULD YOU ASK HER TO COME BACK TO THE CLINIC THE FOLLOWING DAY?

A NO.

Q WHAT IF SHE HAS ACUTE PAIN, WOULD YOU ASK HER TO COME BACK THE FOLLOWING DAY?

A IT DEPENDS ON THE SITUATION, THE CAUSE OF THE PAIN, AND WHAT NEEDS TO BE TREATED.

Q IF THE CLINIC IS CLOSED AND A WOMAN IS HAVING HEMORRHAGING, ORDINARILY YOU WOULD SUGGEST THAT SHE GO TO THE ER; CORRECT?

A YES.

Q AND IF YOU ARE RECEIVING AN AFTER-HOURS PHONE CALL FROM A WOMAN IN DISTRESS UNDER THESE CIRCUMSTANCES AND YOU

TELL HER TO GO TO THE EMERGENCY ROOM, YOU CAN'T GO TO THE -- WELL, I APOLOGIZE. YOU CAN GO TO THE EMERGENCY ROOM AND FOLLOW HER UP AND FINISH THE PROCEDURE IF YOU HAVE TO OR TAKE CARE OF THE BLEEDING BECAUSE YOU HAVE ADMITTING PRIVILEGES; RIGHT?

A DEPENDS ON WHAT EMERGENCY ROOM SHE GOES TO.

Q WELL, WHAT IF SHE GOES TO UNIVERSITY OF MIAMI WHERE YOU HAVE ADMITTING PRIVILEGES?

A IT DEPENDS. I MIGHT HAVE ONE OF MY COLLEAGUES TAKE CARE OF IT. AS A MATTER OF FACT, IF I WASN'T ON CALL, ONE OF MY COLLEAGUES WOULD TAKE CARE OF IT.

Q BUT YOU COULD EMPLOY YOUR ADMITTING PRIVILEGES TO ADMIT HER AND TREAT UNDER THOSE CIRCUMSTANCES, COULDN'T YOU?

A I COULD.

Q AND YOU HAVE ADMITTING PRIVILEGES AT TWO OTHER HOSPITALS; RIGHT?

A YES.

Q DOCTOR, IF AN ABORTION PROVIDER ONLY HAD ABORTION PROVIDING DOCTORS ON SITE AT THE CLINIC FOR ONE AND A HALF DAYS OF THE WEEK, WHICH IS THE CASE WITH ONE OF THE PLAINTIFF CLINICS IN THIS CASE, ACCORDING TO TESTIMONY, DURING THE TIMES WHEN THOSE DOCTORS ARE NOT ON SITE, DON'T YOU AGREE WITH ME THAT WOMEN CANNOT BE SAFELY TREATED AND FOLLOW-UP FOR COMPLICATIONS AT THE CLINIC WHEN THOSE DOCTORS ARE ABSENT?

MS. JAROSLAW: OBJECTION TO THE FORM, YOUR HONOR.

MR. ADEN: I CAN REPHRASE IF YOU WANT ME TO.

BY MR. ADEN:

Q IN THE EVENT OF A CLINIC THAT HAS DOCTORS ON SITE ONLY ONE AND A HALF DAYS OUT OF THE WEEK, DURING THE TIMES -- THE DAYS WHEN THERE IS NO DOCTOR ON SITE, WOMEN CAN'T BE SAFELY TREATED THERE FOR EMERGENT CIRCUMSTANCES, CAN THEY?

A IF THE DOCTOR IS NOT THERE, I SUPPOSE NOT.

Q THEY'D HAVE TO GO TO THE ER, WOULDN'T THEY?

A UNLESS THE DOCTOR COULD COME MEET THE PATIENT AT THE CLINIC.

Q OR UNLESS THE DOCTOR COULD COME AND MEET THE PATIENT AT THE ER AND ADMIT THEM; RIGHT?

A OR SOMEONE ADMITTED THEM FROM THE ER.

Q AND IF THAT SOMEONE ADMITS HER TO THE ER, HOW DOES THAT ER DOCTOR KNOW WHAT HAPPENED TO HER?

A THE PATIENT CAN GIVE HER -- GIVE THE DOCTOR A HISTORY.

Q WHAT IS YOUR OPINION ABOUT THE ABILITY OF ABORTION PATIENTS IN LOUISIANA TO PROVIDE GOOD MEDICAL HISTORY ON PRESENTATION TO THE ER?

A I TRUST WOMEN TO BE ABLE TO GIVE A GOOD MEDICAL HISTORY ON PRESENTATION AT THE EMERGENCY ROOM.

Q AND YOU ALSO TRUST THE ER DOCTOR TO BE ABLE TO FIGURE IT OUT; RIGHT?

A I TRUST THE EMERGENCY ROOM DOCTOR TO BE ABLE TO TAKE

A HISTORY.

Q I AM NOT TRYING TO BE PEJORATIVE, DOCTOR. DO YOU RECALL USING THAT PHRASE IN YOUR TESTIMONY PREVIOUSLY THAT YOU TRUST THE EMERGENCY ROOM DOCTOR TO BE ABLE TO FIGURE IT OUT?

A I DON'T REMEMBER THE WORDS EXACTLY.

Q OKAY. DOCTOR, WHAT IF THE ABORTION PATIENT WAS EMOTIONALLY DISTRESSED, WOULD THAT AFFECT HER ABILITY TO BE A GOOD HISTORIAN ON PRESENTATION TO THE ER?

A NOT NECESSARILY.

Q WHAT IF THE ABORTION PATIENT HAD AN ELEMENTARY LEVEL EDUCATION, WOULD THAT AFFECT HER ABILITY TO BE A GOOD HISTORIAN?

A NO.

Q WHY NOT?

A THE HISTORY THAT SHE WOULD NEED TO PROVIDE IS RELATIVELY STRAIGHTFORWARD.

Q WHAT WOULD SHE HAVE TO PROVIDE?

A SHE WOULD TELL THE EMERGENCY ROOM DOCTOR HER COMPLAINT, WHATEVER IT WAS, "I HAVE A FEVER, I AM BLEEDING, I HAVE PAIN." SHE WOULD ALSO TELL HIM OR HER, "I HAD AN ABORTION," PERHAPS WHEN IT WAS.

Q WOULD SHE KNOW THE TERM DILATION AND CURETTAGE?

A SHE WOULD CERTAINLY KNOW THE TERM ABORTION AND WHETHER OR NOT SHE HAD A SURGICAL PROCEDURE OR DID A MEDICAL ABORTION.

Q WOULD THE TREATMENT AT THE ER DEPEND ON WHETHER IT WAS A SUCTION FORM OF CURETTAGE OR A SIMPLE D&C WITHOUT SUCTION?

A SUCTION, DILATION, AND CURETTAGE IS THE STANDARD FOR ABORTION PROCEDURES, BUT THE EXACT DETAILS OF THE PROCEDURE ARE NOT NECESSARILY IMPORTANT TO THE IMMEDIATE PRESENTATION OF THE PATIENT IN THE EMERGENCY ROOM.

Q WOULD IT BE HELPFUL IF THE PHYSICIAN WHO PROVIDED THE ABORTION COULD -- WOULD KNOW EXACTLY WHAT PROCEDURES HE PROVIDED TO THE WOMAN AND COULD CONSEQUENTLY, PURSUANT TO ADMITTING PRIVILEGES, PROVIDE TREATMENT OF HER EMERGENT COMPLICATIONS?

A THE EMERGENCY ROOM DOCTOR KNOWING WHETHER THE PATIENT HAD A SURGICAL OR A MEDICAL ABORTION WOULD BE SUFFICIENT.

Q DR. ESTES, I THINK I HAVE ONE MORE AREA OF QUESTIONING FOR YOU. I BELIEVE YOU TESTIFIED THAT ABORTION IS SAFER TO THE WOMAN THAN CARRYING A BABY TO TERM; IS THAT RIGHT?

A YES.

Q BUT IF SHE'S A HEALTHY NORMAL WOMAN, OF COURSE, CONTINUING THE PREGNANCY IS QUITE SAFE; RIGHT?

A YES.

MR. ADEN: THANK YOU. NO FURTHER QUESTIONS. THANK YOU, DOCTOR.

THE COURT: REDIRECT?

MS. JAROSLAW: THANK YOU, YOUR HONOR.

REDIRECT

BY MS. JAROSLAW:

Q DR. ESTES, DO YOU RECALL BEING ASKED ABOUT A HYPOTHETICAL WOMAN WHO PRESENTS TO A HOSPITAL WITH OB/GYN SYMPTOMS, BUT THE HOSPITAL DOESN'T HAVE AN OB/GYN DEPARTMENT? DO YOU REMEMBER BEING ASKED QUESTIONS ABOUT THAT SCENARIO?

A NOT REALLY.

Q OKAY.

A SORRY.

Q IF A WOMAN IS EXPERIENCING BLEEDING OR OTHER OB/GYN SYMPTOMS AND THE EMERGENCY MEDICAL TECHNICIANS RESPOND TO A 911 CALL, DO EMERGENCY MEDICAL TECHNICIANS TAKE THE WOMAN TO A HOSPITAL THAT DOES NOT HAVE AN OB/GYN DEPARTMENT?

A NO.

Q AND HOW DO YOU KNOW THIS?

A BECAUSE THAT'S STANDARD PROTOCOL. THEY TAKE A PATIENT TO THE HOSPITAL THAT IS NEAREST AND ABLE TO PROVIDE THE SERVICE THAT THE PATIENT NEEDS, WHATEVER THAT EMERGENCY MIGHT BE.

Q AND THE EMTS MAKE AN INDEPENDENT ASSESSMENT OF WHAT CATEGORY OF CARE THAT PATIENT MAY NEED; CORRECT?

A THE EMT IS IN CONSTANT COMMUNICATION WITH THE EMERGENCY ROOM -- EMERGENCY ROOMS THEMSELVES, YES.

Q SO THEY'RE ENSURING THAT THE EMERGENCY ROOM THAT THEY'RE HEADED TOWARDS HAS THE FACILITY TO CARE FOR THE PATIENT GIVEN THE COMPLICATION OR INJURY THE PATIENT MAY HAVE; CORRECT?

A YES.

Q AND YOU WERE ALSO ASKED ABOUT A SCENARIO IN WHICH A DOCTOR IS THE ONLY DOCTOR WITH ADMITTING PRIVILEGES -- A DOCTOR WHO PROVIDES ABORTIONS, THE ONLY OB -- THERE'S NO ONE ON STAFF WHO ALSO PROVIDES OB/GYN CARE. IS THAT SCENARIO PLAUSIBLE TO YOU AND WHY OR WHY NOT?

A NO, IT'S NOT PLAUSIBLE THAT WE WOULD HAVE -- THAT A HOSPITAL WOULD HAVE ONLY ONE OB/GYN PROVIDER AND THAT PROVIDER WAS ALSO AN ABORTION PROVIDER SOLELY OR PRINCIPALLY, SHALL WE SAY. THEY WERE AN ABORTION PROVIDER PRINCIPALLY AND THEY WERE THE ONLY OB/GYN ON STAFF AT A HOSPITAL THAT WOULD BE A VERY, VERY UNUSUAL CIRCUMSTANCE AND NOT SOMETHING THAT I WOULD IMAGINE HAPPENING.

Q YOU WERE ASKED A SERIES OF QUESTIONS ABOUT WHAT OCCURS WHEN SYMPTOMS OCCUR OUTSIDE CLINIC HOURS; CORRECT?

A THAT'S CORRECT.

Q IS IT FAIR TO SAY THAT THROUGHOUT MANY AREAS OF MEDICINE, SYMPTOMS ARISE OUTSIDE CLINICAL HOURS?

A ALL THE TIME. WELL, ALL THE TIME OUTSIDE CLINICAL HOURS, YES.

Q AND IN THOSE OTHER FIELDS OF MEDICINE, ARE THOSE

PATIENTS SUPPOSED TO GO TO THE DOCTOR WHO CARED FOR THEM EVEN THOUGH IT'S THE MIDDLE OF THE NIGHT?

A NOT NECESSARILY.

Q WHAT TYPICALLY HAPPENS IF A PATIENT HAS AN EMERGENCY IN THE MIDDLE OF THE NIGHT AND CALLS 911?

A WELL, THE EMERGENCY MEDICAL TECHNICIANS WOULD SHOW UP, ASSESS WHETHER OR NOT THE PATIENT INDEED NEEDED TO GO TO THE EMERGENCY ROOM, THEY'D MAKE A DETERMINATION ON WHICH WAS THE CLOSEST AND MOST APPROPRIATE EMERGENCY ROOM TO BRING THE PATIENT TO AND THEN TRANSPORT THE PATIENT THERE.

Q AND ONCE IT'S THE BUSINESS DAY, THE NEXT MORNING, WILL THE HOSPITAL CALL THE TREATING PHYSICIAN TO GET THE NECESSARY MEDICAL INFORMATION IT NEEDS?

A IT WOULD DEPEND ON THE SITUATION. DEPENDING ON WHETHER THE PATIENT WAS ADMITTED, WHETHER THEY NEEDED ADDITIONAL INFORMATION THAT WAS NECESSARY FOR THE PATIENT'S CARE. IF THE PATIENT WAS DISCHARGED DIRECTLY TO HOME, THERE WOULD PROBABLY BE NO NEED FOR IT, BUT THEY MIGHT. IT WOULD JUST DEPEND ON THE SITUATION.

Q SO THIS WOULD BE A GOOD TIME TO CLARIFY. SHOWING UP AT THE HOSPITAL AND BEING TREATED IS NOT THE SAME AS BEING ADMITTED TO THE HOSPITAL; CORRECT?

A NO, IT'S NOT THE SAME. BECAUSE YOU MAY COME TO THE EMERGENCY ROOM, BE EVALUATED, MANAGED, AND DISCHARGED HOME FROM THE EMERGENCY ROOM WITHOUT EVER BEING ADMITTED TO THE

HOSPITAL.

Q IS IT ROUTINE FOR EMERGENCY ROOM DOCTORS TO ASSESS PATIENTS WHO PRESENT IN ALL KINDS OF CIRCUMSTANCES?

A YES.

Q AND IS IT FAIR TO SAY THAT MANY PATIENTS IN THE EMERGENCY ROOM ARE EMOTIONAL?

A YES.

Q AND THAT IS BECAUSE MANY PATIENTS IN THE EMERGENCY ROOM ARE EXPERIENCING STRESS OF INJURY, ILLNESS, OR TRAUMA; CORRECT?

A YES.

Q AND HAVE YOU, IN FACT, FOUND MANY PATIENTS IN THE EMERGENCY ROOM TO BE EMOTIONAL?

A YES. AND SIGNIFICANT LEVELS OF DISTRESS.

Q AND ARE THOSE PATIENTS ABLE TO GIVE THE PERTINENT MEDICAL HISTORY TO THE ER DOCTORS?

A GENERALLY SPEAKING, YES.

Q DR. ESTES, YOU TESTIFIED THAT YOU'VE BEEN ON CALL IN AN EMERGENCY ROOM AT LEAST HUNDREDS OF TIMES; IS THAT CORRECT?

A YES.

Q HAVE YOU EVER MET AN EMERGENCY ROOM DOCTOR WHO COULD NOT MANAGE OR TREAT BLEEDING FROM A MISCARRIAGE OR ABORTION?

A THEY'RE QUALIFIED TO BE ABLE TO ASSESS THE PATIENT, STABILIZE HER, BEGIN THE INITIAL APPROPRIATE STEPS OF TREATMENT FOR THE BLEEDING, AND THEN CONSULT AS APPROPRIATE.

I HAVEN'T ENCOUNTERED ANYONE WHO COMPLETELY DIDN'T KNOW WHAT TO DO.

Q THANK YOU.

MS. JAROSLAW: NO FURTHER QUESTIONS, YOUR HONOR?

THE COURT: DOCTOR, JUST A COUPLE OF QUESTIONS. IN YOUR DIRECT TESTIMONY YOU MENTIONED THAT ACOG TOOK A POSITION ON THIS ADMITTING PRIVILEGES REQUIREMENT?

THE WITNESS: YES, SIR.

THE COURT: IS THAT IN THE RECORD ANYWHERE?

MS. JAROSLAW: YES, YOUR HONOR. I'LL GET THE NUMBERS IN JUST A MOMENT, BUT BOTH --

THE COURT: IS THAT LIKE A BULLETIN? WHAT IS IT?

MS. JAROSLAW: IT'S AN ACOG -- I BELIEVE IT'S A PRESS RELEASE THAT'S IN ONE OF THE JOINT EXHIBITS, AND I'LL GET THE NUMBER IN A MOMENT. AND ALSO, ACOG SUBMITTED AN AMICUS BRIEF IN --

THE COURT: I DID SEE THAT. I DID SEE THAT.

MS. JAROSLAW: BUT THE ACOG STATEMENT, I'LL GET THAT IN A MOMENT.

THE COURT: OKAY. AND, DOCTOR, DID YOU MENTION THAT THERE WAS ANOTHER MEDICAL GROUP THAT HAD TAKEN A POSITION ON THIS ISSUE?

THE WITNESS: YES, YOUR HONOR. IT'S THE AMERICAN MEDICAL ASSOCIATION, THE AMA.

THE COURT: ALL RIGHT. IS THAT IN THE RECORD? IS

THE AMA POSITION IN THE RECORD?

MS. JAROSLAW: THE AMA POSITION IS PART OF THE AMICUS BRIEF AND A SEPARATE STATEMENT OF THE AMERICAN CONGRESS OF OBSTETRICIANS AND GYNECOLOGISTS. THAT'S JOINT EXHIBIT 136 IN EVIDENCE.

THE COURT: OKAY. SO 136 IS ACOG?

MS. JAROSLAW: THAT'S CORRECT, YOUR HONOR.

THE COURT: AND THEN AMA IS A PART OF THE AMICUS BRIEF?

MS. JAROSLAW: YES, THAT'S RIGHT.

THE COURT: IT'S AN ATTACHMENT OR JUST REFERENCED SOMEHOW?

MS. JAROSLAW: IT'S A JOINT BRIEF, YOUR HONOR, THE AMICUS BRIEF.

THE COURT: I'M ASKING WHETHER THE AMA HAS LIKE A BULLETIN OR A PRESS RELEASE OR ANYTHING LIKE THAT?

MS. JAROSLAW: WE HAVE NOT FOUND ONE, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU. THAT'S ALL OF THE QUESTIONS.

ANYBODY WANT TO FOLLOW-UP WITH THAT? ANY QUESTIONS THAT ARE RELATED SPECIFICALLY TO THE QUESTIONS THAT I ASKED?

MR. ADEN: NO, THANK YOU.

THE COURT: MS. JAROSLAW?

MS. JAROSLAW: NOTHING FURTHER. THANK YOU, YOUR HONOR.

THE COURT: WELL, WE'RE CLOSING IN ON 5:00, AND SO WE'RE GOING TO BREAK FOR THE DAY. LET ME JUST KIND OF REVIEW WHERE WE ARE FOR TOMORROW.

REFRESH MY MEMORY EITHER MS. DOUFEKIAS OR MS. JAROSLAW AS TO WHAT THE LINE-UP IS FOR TOMORROW.

DOCTOR, YOU CAN STEP DOWN. THANK YOU, SIR.

THE WITNESS: THANK YOU.

MS. DOUFEKIAS: YOUR HONOR, TOMORROW WE WILL PUT -- IN THE MORNING, WE WILL HAVE DR. DOE NUMBER 2 FOLLOWED BY DR. SHEILA KATZ, WHO IS ONE OF THE EXPERTS. AND THEN WE WILL HAVE SECRETARY KLIEBERT.

THE COURT: OKAY. ALL RIGHT.

AND IS THAT EXPECTED -- THOSE THREE WITNESSES EXPECTED TO LAST THE DAY?

MS. DOUFEKIAS: I BELIEVE THEY ARE, YOUR HONOR. IF WE FINISH WITH THOSE THREE WITNESSES, WE WILL HAVE DR. DOE NUMBER 1 READY TO GO.

THE COURT: OKAY. GREAT.

IS THERE ANY BUSINESS THAT WE CAN TAKE CARE OF HERE THIS AFTERNOON?

ALL RIGHT, HEARING NONE, WE WILL ADJOURN UNTIL 8:30 IN THE MORNING.

(WHEREUPON COURT WAS IN RECESS.)

C E R T I F I C A T E

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT

FROM THE RECORD OF THE PROCEEDINGS IN THE ABOVE-ENTITLED NUMBERED MATTER.

S/ GINA DELATTE-RICHARD

GINA DELATTE-RICHARD, CCR

OFFICIAL COURT REPORTER