

**DEIDENTIFIED DEPOSITION
OBSTETRICIAN/GYNECOLOGIST RESIDENT TESTIFIES IN PRE-TRIAL HEARING
IN FAILURE TO DIAGNOSE SEPSIS CASE RESULTING IN DEATH OF PATIENT**

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF

- - - - -x

Estate of , as Administrator of the
, Deceased, and
, individually,

Plaintiff,

-against-

Defendants.

- - - - -x

June 2,
12:40 p.m.

EXAMINATION BEFORE TRIAL of ,
M.D., a Defendant in the above-entitled
action, held at the above time and place,
taken before , a Notary
Public of the State of New York, pursuant
to Order.

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APPEARANCES:

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

BY: GERALD M. OGINSKI, ESQ.

Attorneys for all Defendants

BY: , ESQ.

Attorneys for Defendant LLP

BY: , ESQ.

Attorneys for Defendant

BY: , ESQ.

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STIPULATIONS

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

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

This deposition may be sworn to by the
witness being examined before a Notary
Public other than the Notary Public
before whom this examination was begun,
but the failure to do so or to return the
original of this deposition to counsel,
shall not be deemed a waiver of the
rights provided by Rule 3116, C.P.L.R.,

1 , M.D.

2 and shall be controlled thereb

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

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

9

10 * * *

11

12 , the Witness herein,

13 having first been duly sworn by the
14 Notary Public, was examined and testified
15 as follows:

16 EXAMINATION BY

17 MR. OGINSKI:

18 Q Please state your name for the
19 record?

20 A .

21 Q Please state your address for
22 the record?

23 A

24

25 Q Good afternoon. Where you do

1 _____, M.D.

2 currently work, Doctor?

3 A I'm currently working at

4 _____.

5 Q And how long have you been

6 working there?

7 A Since August _____.

8 Q What do you do there?

9 A I'm attending physician of
10 OB/GYN Department.

11 Q And in November of _____, where
12 did you work?

13 MR. _____: November?

14 MR. OGINSKI: Yes.

15 A November, I was still in

16 _____.

17 Q In December _____ where did you
18 work?

19 A That was my first day in

20 _____.

21 Q What were you doing? Why were
22 you at _____? Were you doing a

23 rotation?

24 A That was my first day on my

25 rotation in _____.

1 , M.D.

2 Q You were an OB/GYN resident?

3 A Yes.

4 Q Where were you doing your
5 residency?

6 A I was in third-year resident.

7 Q Where?

8 A At
9 Center, OB/GYN Department.

10 Q And that's a four-year program;
11 correct?

12 A That's correct.

13 Q And one of the rotations you
14 were doing was GYN oncology?

15 A Correct.

16 Q And you were going to be
17 working at in the
18 Department of GYN Oncology?

19 A Correct.

20 Q When had you started working at
21 ?

22 A On December 1, .

23 Q And when did you continue to
24 work on that rotation at ?

25 A I worked there for two months.

1 , M.D.

2 Q And during the time that you
3 worked there, was it in one particular
4 division, Department or were there
5 multiple places where you worked while at
6 that hospital?

7 MR. : Just object to the
8 form. You're not asking location or
9 are you asking department?

10 MR. OGINSKI: Departments,
11 divisions.

12 A Oncology GYN surgery

13 Q And after you completed your
14 two months of rotation at

15 , where did you go after that?

16 A I went back to my own hospital.

17 Q To ?

18 A .

19 Q Were there any other residents
20 from Hospital, that also worked
21 at at the same time as
22 you?

23 A No.

24 Q What were your job duties when
25 you started on December 1, , at

1 , M.D.

2 ?

3 A The job duty on December 1,

4 ?

5 Q Yes.

6 A I was on call on that day, so
7 basically covers the GYN oncology floor
8 and the urology surgery floor.

9 Q Were there any other residents
10 that also had a similar responsibility to
11 you for the same group of patients?

12 A That day?

13 Q Yes.

14 A No.

15 Q If you needed to talk to
16 someone who was senior or superior to
17 you, who would you be able to contact or
18 speak to?

19 A That day was a fellow, his name
20 is . He was on call with me.

21 Q Other than Dr. , was there
22 anybody else on call with you on
23 December 1, ?

24 A No.

25 Q And if Dr. was unavailable

1 , M.D.

2 withdrawn.

3 Had you worked December 1st and
4 then also continued your work into the
5 evening as an on call resident?

6 A That was 24 hours call.

7 Q How did you learn about Mrs.
8 ?

9 A She was a patient on the floor.
10 I don't understand your question.

11 Q When you arrived at
12 , did another physician tell you
13 about what patients were already on the
14 floor?

15 A I don't remember details of the
16 first da

17 Q Typically --

18 A It's typically custom and
19 practice.

20 Q Let me rephrase it. When you
21 arrive at the hospital, specifically
22 , and you are now taking
23 over call from someone else, does one
24 doctor relay information to the next
25 doctor; do you have a sign out?

1 , M.D.

2 you responsible for more than ten
3 patients on December 1st?

4 A Probably, yes.

5 Q Was it more than 20 patients?

6 A Probably, yes.

7 Q Was it more than 30 patients?

8 A I'm not sure.

9 Q And if a patient has a
10 particular problem, how do you get
11 notified or learn about a particular
12 problem while you are on call?

13 A You mean generally?

14 Q Yes.

15 A Usually the nurse will inform
16 you.

17 Q And once you learn from a nurse
18 that there is a particular problem, what
19 do you do to address that problem,
20 generally?

21 MR. : That's very broad.

22 MR. OGINSKI: I'll rephrase it.

23 Q If a nurse contacts you about a
24 patient problem, do you go to see the
25 patient?

1 , M.D.

2 A No.

3 Q During your second year of
4 training at Hospital, did you
5 have a GYN oncology rotation?

6 A No.

7 Q Who is Dr. ?

8 A ? I don't know.

9 Q Do you know a Nurse ,
10 ?

11 A No, I don't know.

12 Q Did you have a conversation
13 with a nurse regarding Mrs. on
14 December 1, , the first day you were
15 taking call?

16 A I don't recall.

17 Q Now, in preparation for being
18 questioned today, did you have an
19 opportunity to look at some of the
20 records in the hospital for this patient?

21 A You mean the chart?

22 Q Yes.

23 A For preparation?

24 Q Yes.

25 A Yes.

1 , M.D.

2 patient, you would have written a note in
3 the chart; correct?

4 A It depends.

5 Q On what?

6 A It's a judgment call.

7 Q What is a judgment call?

8 A If it's a total normal exam, I
9 may not write it.

10 Q Let me go back for a second.
11 If you are called to see a patient
12 because of a problem the patient is
13 having, and you examine the patient, what
14 is the purpose of your examination?

15 MR. : I'm objecting
16 here. Are you asking her what she
17 did in this case?

18 MR. OGINSKI: No, in general.

19 MR. : Because there is
20 no testimony about being called for a
21 problem here.

22 Q How was it that you had a
23 conversation with Mr. ?

24 A Say that again.

25 Q The patient's husband, how is

1 , M.D.

2 it that you came to speak to Mr. ?

3 A I don't remember an

4 Q Is there anything in the notes
5 that you reviewed, that indicate how you
6 happened to have had a conversation with
7 the patient's husband?

8 MR. : She remembers the
9 conversation.

10 A I only remember the husband
11 asking me to give the medication.

12 Q Did you learn from the husband
13 how often she was taking this medication?

14 A I don't recall.

15 Q Is there anything in this
16 hospital chart to indicate that you ever
17 examined this patient?

18 A In this chart?

19 Q Yes.

20 A I just reviewed, no.

21 Q Do you have a memory of ever
22 physically examining this patient?

23 A I don't remember.

24 Q Do you know Dr. ?

25 A I don't know who is Dr. .

1 , M.D.

2 she was taking it?

3 A I don't recall.

4 Q Now, are there different types
5 of methods for -- withdrawn.

6 What is an extended release
7 capsule?

8 A Extended release?

9 Q I'm sorry?

10 A You asked for the definition of
11 extended relief?

12 Q Yes.

13 A The onset is the same, like
14 immediate release, but just the duration
15 is different. So you control the release
16 time and last for maybe 24 hours, so you
17 can give the medication only once a da

18 Q Does Metoprolol come in an
19 extended release form?

20 A It does.

21 Q Does it come in any other type
22 of form?

23 A It comes different form,
24 immediately release and extended release.

25 Q And what type did you order for

1 , M.D.

2 this patient?

3 A I don't recall.

4 Q Did you have a discussion with
5 the patient's husband about the type of
6 Metoprolol that you would be ordering,
7 whether it was extended release or the
8 immediate one?

9 A I don't recall.

10 Q I'm going to show you a
11 document which is noted at the top, page
12 18 of 23. It says OMS orders.

13 Take a look at that, please,
14 the top one. Do you see there is an
15 order with your name on it for the
16 extended release Metoprolol?

17 A Yes.

18 Q Can you tell me why you ordered
19 the extended release version for this
20 patient?

21 A I don't recall.

22 Q Did you have a conversation
23 with any physician about the type of beta
24 blocker that the patient should receive,
25 whether extended release, immediate

1 , M.D.

2 release or something else?

3 A I called Dr. regarding to
4 order of Metoprolol.

5 Q When did you have that
6 conversation?

7 A After patient's husband was
8 asking for it.

9 Q And what did you say to Dr.
10 and what did Dr. say to you?

11 A Dr. said check on the -- I
12 don't remember details, but check on the
13 computer and order if there is no
14 Metoprolol and to just order. I don't
15 remember details.

16 Q Was the patient experiencing
17 any episodes of tachycardia at the time
18 that you ordered this medication?

19 A I don't recall.

20 Q Was there anything that you
21 recorded in the notes, to suggest that
22 the patient was experiencing tachycardia?

23 A At the time I ordered, no.

24 Q Did the patient's husband
25 specifically ask you for an immediate

1 , M.D.

2 release form of the Metoprolol?

3 A I don't recall.

4 Q Did you learn from the
5 patient's husband that the extended
6 release form did not work well for his
7 wife and her condition?

8 A I don't recall that.

9 Q Did you have any conversation
10 with the patient's husband again, after
11 that one time you told me about?

12 A I don't recall.

13 Q Now, there is a nurse's note by
14 Nurse that says, "Dr. on
15 floor and asked to see patient. Dr.
16 stated she wanted to wait for fellow, Dr.
17 ."

18 Do you have any memory of that
19 event?

20 A No.

21 Q Did you have a conversation
22 with Dr. about this particular
23 patient?

24 A I don't know who is Dr. .

25 Q Do you know a Nurse ,

1 , M.D.

2 ?

3 A No.

4 Q Do you know a Dr.

5 ?

6 A No.

7 Q Do you know Dr.

8 ?

9 A No.

10 Q Did you ever have any

11 conversations with Dr. , a

12 surgeon?

13 A No.

14 Q Did you ever see this patient

15 after December 1, ?

16 A This patient?

17 Q Yes.

18 A No.

19 Q When you checked the computer

20 to see what medications would be

21 appropriate for the patient, did you also

22 check any laboratory results or lab

23 values for this patient?

24 A I don't recall.

25 Q Did you perform an EKG on this

1 , M.D.

2 patient?

3 A I don't remember.

4 Q Did you evaluate an EKG for

5 this patient?

6 A I don't remember.

7 Q Did you have any conversation

8 with any cardiology physician about this

9 patient?

10 A No.

11 Q Were you ever called back to

12 this patient's room at any other time on

13 December 1, ?

14 A After that day?

15 Q Let me rephrase it. Other than

16 the conversation that you told me about

17 regarding the Metoprolol, did you have

18 another interaction with this patient on

19 the same day?

20 A I don't recall.

21 Q Do you have any notes in the

22 chart to reflect that you saw this

23 patient at any other time on

24 December 1st?

25 A From my -- the notes, no. From

1 , M.D.

2 M.D.s.

3 Do you have any note about any
4 visit to the patient that day?

5 A There is no notes from me.

6 Q Were you present when Dr.
7 physically examined the patient?

8 A It's not Dr. -- I don't
9 know who is Dr. .

10 Q Were you given the results of
11 the EKG? Let me rephrase it.

12 The last four lines it says,
13 "EKG ordered, EKG performed by
14 , R.N. Results given to Dr.
15 and Dr. ."

16 Do you see that?

17 A Uh-huh.

18 Q Do you have any knowledge of
19 the EKG that was done for this patient?

20 A I don't remember.

21 Q Do you have any notation about
22 your evaluation or review of the
23 patient's EKG?

24 A I don't review EKG.

25 Q In your residency, in the event

1 , M.D.

2 you were called to evaluate a patient and
3 actually examine them, are you trained
4 and taught to write notes in the
5 patient's chart following your
6 examination?

7 A It depends.

8 Q Under what circumstance would
9 you make entries in the patient's chart?

10 A If there is no significant, I
11 may not write a note.

12 Q What would you --

13 A It's judgment call.

14 Q What is a judgment call?

15 A You know, if I examine, nothing
16 major and no changes, nothing major, I
17 may not write a note. Or if you -- if
18 I'm with some other doctors together, my
19 seniors and senior examine, I may not
20 write notes.

21 Q How would you know if there was
22 no significant change, if you had never
23 seen the patient before?

24 A Significant change is for
25 example --

1 , M.D.

2 MR. : I don't think he's
3 asking what is significant changes.
4 I think he's asking how do you make
5 the determination.

6 A Abnormal findings.

7 Q Are you talking about abnormal
8 physical findings?

9 A Yes.

10 Q Are you licensed to practice
11 medicine in New York?

12 A Yes.

13 Q When were you licensed,
14 approximately?

15 A End of .

16 Q Are you licensed in any other
17 state?

18 A No.

19 Q Are you board certified in any
20 field of medicine?

21 A No.

22 Q Have you sat for any portion of
23 the OB/GYN board certification exam?

24 A There are two parts of the
25 board certification. One is written,

1 , M.D.

2 .

3 Q And after that, what did you
4 do?

5 A I stayed in the hospital as an
6 attending physician.

7 Q For how long?

8 A Until ' .

9 Q And ' , what did you do?

10 A I came to

11 Q In terms of your training,
12 where did you go?

13 A I went to
14

15 fellowship.

16 Q How long was that?

17 A .

18 Q Did you finish that?

19 A Yes.

20 Q And after doing that, what did
21 you do?

22 A I finished that, I was stay
23 home for -- from ' to , as
24 housewife.

25 Q Did you work in the medical

1 , M.D.

2 Q When you ordered the
3 medication, to your knowledge, the
4 patient received the medication?

5 A I don't remember.

6 Q Once you order it, do you
7 follow-up to see if the patient has any
8 problems or reactions to that particular
9 medication?

10 A I don't recall.

11 Q Were you ever called to the
12 patient's room regarding the medication
13 that you had ordered?

14 A I don't remember.

15 MR. OGINSKI: Thank you, I have
16 nothing else.

17 EXAMINATION BY

18 MR. :

19 Q Did you ever speak to Dr.
20 regarding this patient?

21 A Who is Dr. ? I don't know.

22 Q He's another doctor who is
23 mentioned in the chart.

24 (Continued on the next page.)

25

1 , M.D.

2 A I don't recall. I really don't
3 know.

4 MR. : Thank you.

5 MS. : No questions.

6 (Time noted: 1:10 p.m.)

7 _____

8 , M.D.

9

10 Subscribed and sworn to before me
11 this day of , 20__.

12

13 .

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EXAMINATION BY	PAGE
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MR.	36

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

I, _____, a Shorthand
Reporter and a Notary Public, do hereby
certify that the foregoing witness, was
duly sworn on the date indicated, and
that the foregoing is a true and accurate
transcription of my stenographic notes.

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

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ERRATA SHEET
 VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: VS.
 DATE OF DEPOSITION: JUNE 2,
 WITNESS' NAME: , M.D.

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 , M.D.

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

 NOTARY PUBLIC

MY COMMISSION EXPIRES _____