

1 SUPREME COURT OF THE STATE OF NEW YORK  
 2 COUNTY OF QUEENS : CIVIL TERM : PART 5  
 3 -----x  
 4 CANDITA DIEGO and ROBERTO DIEGO,  
 5  
 6 Index No:  
 7 20252/05  
 8 Plaintiffs  
 9  
 10 -against-  
 11  
 12 LIN ZHU, L.L.C., PANDA STORE FRONT & GATE,  
 13 NEW YORK HOSPITAL MEDICAL CENTER OF QUEENS,  
 14  
 15 Defendants  
 16 -----x

17 September 15, 2008  
 18 88-11 Sutphin Boulevard  
 19 Jamaica, New York 11435  
 20 JURY TRIAL

21 B E F O R E:  
 22 HONORABLE JAMES P. DOLLARD,  
 23 Justice

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

25 For the Plaintiff:  
 WINGATE, RUSSOTTI & SHAPIRO, LLP  
 420 LEXINGTON AVENUE  
 NEW YORK, NY 10170  
 By: PHILIP RUSSOTTI, ESQ.

For the Defendant Lin Zhu, LLC.  
 LAW OFFICES OF CURTIS & VASILE  
 MERRICK PROFESSIONAL CENTRE  
 2174 Hewlett Avenue  
 Merrick, New York 11566-00801  
 By: MICHAEL G. MEHARY, ESQ.

(CONTINUED ON NEXT PAGE)

COPY

1 For the Defendant N.Y. HOSPITAL MEDICAL  
2 CENTER OF QUEENS  
3 LAW OFFICES OF GEISLER & GABRIELE, LLP  
4 100 Quentin Roosevelt Boulevard  
5 P.O. Box 8022  
6 Garden City, New York 11530  
7 By: MICHAEL H. HOLOHAN, JR.

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NORA CAMPISI,  
AUDREY KEISER,  
Senior Court Reporters

## Proceedings

1 THE CLERK: Case on trial, the attorneys are  
2 present, the jury is not present.

3 THE COURT: Good morning. I understand  
4 there is an application.

5 MR. HOLOHAN: Yes, your Honor.

6 THE COURT: Let's hear it.

7 MR. HOLOHAN: Your Honor, last week New York  
8 Hospital of Queens was served with a subpoena for the  
9 following documents, certified copy of certificate of  
10 accreditation for any proof of approval as a regional  
11 trauma center in New York for 2004.

12 2, certified copy of rules and regulations,  
13 protocols, guidelines for the emergency department  
14 effectuating the regulations for being the regional  
15 trauma center in effect in 2004.

16 And copies of rules and regulations,  
17 protocols, guidelines for treatment of head trauma and  
18 brain trauma, brain injury in the emergency room in  
19 effect in 2,004.

20 I will stipulate the hospital was a trauma  
21 center in 2004.

22 On the issue of the rules and regulations  
23 with regard to brain trauma and head trauma, we  
24 certified this case for trial a year ago. I think it  
25 is a discovery application. That being said, I had

## Proceedings

1 the hospital see if they can find the rules and  
2 regulations for 2004. They told me they cannot, they  
3 do not exist.

4 I was informed, your Honor, that what  
5 happens is that, this is 2008, every 2 years the rules  
6 and regulations get reviewed, revised, and the old  
7 ones are disposed of. I only have the current ones.  
8 I can't tell you with any accuracy that the ones that  
9 are current are the ones in place in 2004. That is my  
10 application.

11 THE COURT: Counsel.

12 MR. RUSSOTTI: Well, counsel being an  
13 officer --

14 THE COURT: It is your subpoena, correct?

15 MR. RUSSOTTI: It is my subpoena, yes, your  
16 Honor. Being an officer of the Court, I accept his  
17 representation. If they don't have them, they don't  
18 have them.

19 The only thing I will comment on is the  
20 stipulation that they in 2004 were a regional trauma  
21 center. You just said a trauma center. They were a  
22 regional trauma center.

23 MR. HOLOHAN: They are on the 2004 trauma  
24 registry. That is the term that they use, so it is  
25 New York City trauma registry.

## Proceedings

1 MR. RUSSOTTI: Well, there is a difference  
2 between a regional trauma center, an area trauma  
3 center; in New York they are a regional trauma center.

4 MR. HOLOHAN: Regional.

5 MR. RUSSOTTI: Regional, right.

6 MR. HOLOHAN: Yes, if he --

7 MR. RUSSOTTI: If there is a stipulation  
8 they are a regional trauma center, I will accept that.

9 THE COURT: Okay. We will do that at the  
10 appropriate time, whenever you want.

11 MR. RUSSOTTI: I'm sorry?

12 THE COURT: Whenever you think it is  
13 appropriate, I will give that charge.

14 MR. RUSSOTTI: Thank you.

15 I have just one other technical problem.  
16 Judge, we were supposed to have some equipment here  
17 this morning, it was supposed to be picked up at our  
18 office at 8:00 o'clock and brought here. They didn't  
19 get to our office until 9:30 or something, 9:00  
20 o'clock.

21 THE COURT: Where is your office?

22 MR. RUSSOTTI: Midtown Manhattan. I want to  
23 start with the witness. When it gets here, if we can  
24 perhaps take a break and then we can put it up.

25 THE COURT: We will do that.

## Proceedings

1 MR. RUSSOTTI: Thanks.

2 THE COURT: All right.

3 THE CLERK: Ready for the jury?

4 THE COURT: Yes.

5 I just want to note that this is going to be  
6 a complicated verdict sheet, and I think you or your  
7 office should start to think about proposals for me  
8 and how we are going to handle this. There may be  
9 some things that apply to one defendant and don't  
10 apply to the other defendant, comparative negligence,  
11 things like that, to start thinking about how we are  
12 going to draft this verdict sheet.

13 (The jury enters the courtroom at this time)

14 THE CLERK: Case on trial, the attorneys are  
15 present and the jury is present. You may be seated.

16 THE COURT: Good morning, jurors.

17 Counsel.

18 MR. RUSSOTTI: Plaintiff calls David Lau.

19 D A V I D L A U, Physician's Assistant, a witness  
20 called on behalf of the Plaintiffs, after having  
21 been first duly sworn took the witness stand and  
22 testified as follows:

23 THE CLERK: In a loud, clear voice, please  
24 state your full name.

25 THE WITNESS: David Lau.

P.A. Lau - Plaintiff - Direct

1 THE CLERK: Please give us your current  
2 address.

3 THE WITNESS: 186-09 Wexford W-e-x-f-o-r-d  
4 Terrace T-e-r-r-a-c-e, Queens, New York 11432.

5 THE CLERK: Thank you.

6 THE COURT: You may inquire.

7 MR. RUSSOTTI: May I inquire.

8 THE COURT: Yes.

9 DIRECT EXAMINATION

10 BY MR. RUSSOTTI:

11 Q Good morning?

12 A Good morning, sir.

13 Q You are a physician's assistant, correct?

14 A Yes.

15 Q Is there -- should I refer you as Mr. Lau, P.A.

16 Lau, how should I --

17 A People usually call me P.A. Lau on the job.

18 Q You are an employee of Queens Hospital today?

19 A Yes, I am.

20 Q And in 2004 you were an employee of Queens  
21 Hospital?

22 A Yes, I am.

23 Q And you had been employed there since 1992, I  
24 believe?

25 A I started employment in 1992, yes.

1 Q And you started -- when you started you started  
2 as a physician's assistant?

3 A Correct.

4 Q And as a physician's assistant, as I understand  
5 it, you are trained in medical, in diagnosis and  
6 treatment?

7 A Correct.

8 Q You are not a medical doctor, though, correct?

9 A No, I am not.

10 Q You can prescribe medications?

11 A Yes, I can.

12 Q And you can order tests?

13 A Yes, I can.

14 Q You can do everything that a doctor does in an  
15 emergency room; correct?

16 A There is a delineation of privileges that we  
17 have, depends on your competency, what can you do. You  
18 know, we all can start IV line, we all can draw blood.

19 Q You can draw blood?

20 A We can draw IV line, we can order x-rays. I mean  
21 there are certain things, procedure, like a central line,  
22 for example, the physician most likely will do it with us  
23 or they do it themselves.

24 Q But to the extent that you can order medications  
25 and order tests, you have the authority to do that



1     yourself?

2           A     Yes, but I usually, as a P.A. I am a dependent  
3     medical practitioner, meaning that I work with the  
4     physician and I usually see the patient, I consult with  
5     the doctor, and then we order tests.

6           Q     Mr. Lau, I am going to ask you questions. If you  
7     can just answer my questions we will go faster that way?

8           A     Sure.

9           Q     If you can answer my questions yes or no, just do  
10    that?

11          A     Okay.

12          Q     What I am going to ask you, in line with what you  
13    are saying is, you operate -- excuse me, you practice in  
14    the emergency room under the supervision of a physician;  
15    correct?

16          A     Yes.

17          Q     And that is what, an attending physician?

18          A     Yes.

19          Q     Now, when you see a patient, and you are a P.A.  
20    specifically trained for emergency practice, right?

21          A     No, I go to a primary care physician assistant  
22    program.

23          Q     Okay?

24          A     And I was trained in the primary care setting.

25          Q     But you have been practicing at Queens, excuse

## P.A. Lau - Plaintiff - Direct

1 me, at New York Hospital of Queens in the emergency room?

2 A Correct, yes.

3 Q Since '92?

4 A Yes.

5 Q Now, when you -- you know Dr. Greene?

6 A Yes.

7 Q Dr. Greene is still at New York Hospital?

8 A Yes.

9 Q And how many years have you known him?

10 A I am not sure, I -- maybe from 2002, 2003.

11 Q And Dr. Greene is an attending physician there?

12 A Correct.

13 Q When you were working in the emergency room on  
14 this day, 2004 Dr. Greene was also there?

15 A Yes.

16 Q He was the attending in charge of the emergency  
17 room?

18 A He was one of the attendings that is working. We  
19 have several attendings that work.

20 Q But he was the one that was dealing with this  
21 patient and yourself, correct?

22 A Yes.

23 Q Candita Diego.

24 So was he the one who was responsible for  
25 supervising you on that day?

1 A Yes.

2 Q Now, as I understand it, you don't remember this  
3 patient, do you?

4 A I really do not recall.

5 Q And you don't -- your recollection of what  
6 happened on this day is contained in the medical records,  
7 right?

8 A Correct.

9 Q And you don't remember anything outside the  
10 medical records?

11 A No.

12 Q And you don't remember this day in particular,  
13 September 23, 2004, do you?

14 A No.

15 Q There was nothing special or out of the ordinary  
16 that happened that day in the emergency room, was there?

17 A No.

18 Q It was just a regular day in the emergency room,  
19 right?

20 A True.

21 Q You have to answer or she can't take your words  
22 down?

23 A Okay.

24 Q Now, as I understand the set up, there are  
25 different areas in the emergency department, correct?

1 A Yes.

2 Q There is an area where you come in and see the  
3 triage nurse?

4 A Yes.

5 Q And then the triage nurse directs the patient to  
6 a particular area?

7 A Yes.

8 Q And the, one of the areas is the trauma, what do  
9 you call it, trauma bay, trauma wing, trauma --

10 A Trauma room.

11 Q Trauma room. And that is where people with  
12 trauma are sent, correct?

13 A Yes.

14 Q And as I understand it, back in 2004 there were  
15 four beds in the trauma room?

16 A Yes.

17 Q And these beds were, if you were in one of these  
18 beds you were monitored?

19 A Yes.

20 Q Monitored with a cardiac monitor?

21 A Yes.

22 Q And a pulse monitor, pulse oximeter?

23 A Yes.

24 Q And if it is monitored, that is being recorded?

25 A Yes.

P.A. Lau - Plaintiff - Direct

1 Q And you looked at the medical records in this  
2 case before testifying, right?

3 A Yes.

4 Q For Candita Diego, and there was no record of her  
5 being monitored, at, while she was in the emergency room,  
6 correct?

7 A Yes.

8 MR. HOLOHAN: Objection, your Honor.

9 MR. RUSSOTTI: Withdrawn, I will rephrase  
10 the question.

11 Q There was no record of a cardiac monitor or pulse  
12 oximeter monitor on her?

13 A On documentation, yes.

14 Q I am correct, there is no record of any --

15 A Yes.

16 Q -- cardiac monitoring, correct?

17 A Yes.

18 Q So, we can assume she was not on a monitor, a  
19 cardiac monitor, correct?

20 A Yes.

21 Q Now, there are times when patients in the  
22 emergency room are put in the hallway at the emergency  
23 room, right?

24 A Yes.

25 Q So, she could have been in the hallway, am I

1 correct?

2 A Yes.

3 Q And you don't have any recollection?

4 A Yes, I don't, I do not.

5 Q You looked at the medical records and there is no  
6 indication in the medical records one way or the other,  
7 correct?

8 A Yes.

9 Q But if she was not monitored, she wouldn't be in  
10 the trauma room, if she was not on cardiac monitors then  
11 she wouldn't be in the trauma room, correct?

12 A Yes.

13 MR. RUSSOTTI: Your Honor, if we can have  
14 this marked as Plaintiff's Exhibit No. 1, the hospital  
15 records for Candita Diego for New York Hospital that  
16 have been produced.

17 THE COURT: Okay, can we stipulate on this?

18 MR. HOLOHAN: Yes, your Honor.

19 MR. MEHARY: Yes, your Honor.

20 THE COURT: Mark them in evidence as  
21 Plaintiffs' 1.

22 (Whereupon, items received and marked as  
23 Plaintiff's Exhibit 1 in evidence, as of this date.)

24 Q Now, Doctor, excuse me, P.A. Lau, we have the  
25 copy of the records in court. You have looked at these

1 records before for Candita Diego?

2 A I think I looked at the ER record.

3 Q Yeah, that is what I would like to direct your  
4 attention to?

5 A Only the ER record, I looked at.

6 Q Yes. Do you have it, if not, I can help you find  
7 it, do you have it?

8 A This label here, ER.

9 Q Okay, you have it?

10 A These two right here.

11 Q All right, fine.

12 Now, your first contact with Mrs. Diego is when  
13 you saw her somewhere in the emergency room, right?

14 A Yes.

15 Q And that was, and you wrote a record of that  
16 evaluation, right?

17 A Yes.

18 MR. RUSSOTTI: Your Honor, when the  
19 equipment arrives, we will show you and show the jury  
20 the record of that evaluation, and we can use it, but  
21 I don't want to waste any time so I want to ask the  
22 witness questions about it.

23 THE COURT: All right.

24 Q You do you have your evaluation?

25 A Not these two here, they only say December 7th

P.A. Lau - Plaintiff - Direct

1 and this say August 2nd.

2 MR. RUSSOTTI: May I approach the witness?

3 THE COURT: Yes.

4 Q See if I can help you.

5 All right, do you have your evaluation now?

6 A Yes.

7 Q And that evaluation -- now you were deposed in  
8 this case, you were asked questions about this?

9 A Yes.

10 Q So, we know from your deposition that you saw the  
11 patient Candita Diego at 1:30 in the afternoon, correct?

12 A Yes.

13 Q And that was the first time you saw her?

14 A Yes.

15 Q The records indicate that she was admitted, she  
16 came to the hospital at 1:02 in the afternoon?

17 A Yeah, I mean --

18 Q Correct?

19 A I don't recall if it is in the deposition.

20 Q No, the records indicate?

21 A Yes, okay, yes.

22 Q Then she saw a triage nurse approximately 1:05?

23 A Yes.

24 Q And the triage nurse finished seeing her 1:09?

25 A Yes.



1 Q And then you saw her at 1:30; correct?

2 A Yes.

3 Q Now, you don't remember where you saw her?

4 A No, I don't.

5 Q When you saw her the first thing you did was take  
6 a history?

7 A Correct.

8 Q And the history you obtained, can you read for us  
9 your history that you obtained, that you wrote on your  
10 report?

11 A History of present illness, are you referring to  
12 the history of present illness?

13 Q Is that what you mean by taking a history?

14 A Yes.

15 Q Could you please read that?

16 A This is a 66-year old female to ED.

17 Q Emergency department?

18 A Yeah, via v-i-a EMS, emergency medical service,  
19 patient co-worker, patient fell about 11 flight of stairs,  
20 12 steps, questionable LOC, loss of consciousness,  
21 questionable syncope s-y-n-c-o-p-e, complaint of pain, of  
22 right wrist pain.

23 Q So that was the history you obtained?

24 A Yes.

25 Q I asked, there was some language barrier between

1     you and her?

2           A     Correct, yes.

3           Q     Was she speaking English or Spanish?

4           A     Spanish.

5           Q     You understand Spanish?

6           A     No, I don't.

7           Q     Did you have somebody translating for you?

8           A     I cannot recall, probably; I cannot recall.

9           Q     Are there people there are who are capable of  
10    translating?

11          A     Yes.

12          Q     Now, did you obtain this history from the  
13    patient?

14          A     Yes.

15          Q     And so the patient could talk to you?

16          A     Patient is talking through a translator. I mean  
17    I am there asking the questions.

18          Q     Right, but the patient, she was speaking to you?

19          A     Yes.

20          Q     Now, you wrote a note on the second page of your  
21    evaluation?

22          A     Yes.

23          Q     That she did not recall the fall, am I correct?

24          A     Yes.

25          Q     And that came from the patient?

1 A Yes.

2 Q You asked her what her chief complaint was,  
3 right?

4 A Right.

5 Q Correct?

6 A Uh-huh.

7 Q Her chief complaint means why are you here?

8 A Correct.

9 Q And she said she didn't know?

10 A Right.

11 Q Right, you wrote that down?

12 A Yes, I did.

13 Q And when you wrote questionable loss -- LOC, loss  
14 of consciousness, what you meant was that you were  
15 uncertain if she had lost consciousness at the scene of  
16 the accident, right?

17 A Correct.

18 Q So it was possible she lost consciousness?

19 A Yes.

20 Q And syncope means what, dizziness?

21 A Passing out.

22 Q Passing out, and you were concerned about passing  
23 out from perhaps a heart problem?

24 A Can be.

25 Q Now, was there any other history that you

1 obtained from the patient other than what we have just  
2 said?

3 A Just what I document, what I have document.

4 Q And I think we have gone over everything you have  
5 documented in terms of history, right?

6 A Correct.

7 Q Well, let me ask you one question, you noted that  
8 she had vomited one time, do you see that?

9 A Yes.

10 Q Did that come from the patient or did that, or  
11 were you aware of that from some other source?

12 A Usually from the patient, that is why I document  
13 it on the chart. Sometimes we look at the ambulance call  
14 report, called the ACR, and we look at that usually when  
15 we see the patients.

16 Q Well, do you know the ambulance call report is  
17 attached to the medical records here, right?

18 A Yes.

19 Q Have you reviewed the ambulance call report?

20 A I usually do look at all the ambulance call  
21 report when I go see the patient.

22 Q When you go see the patient?

23 A Right.

24 Q That is your standard practice?

25 A Yes.

1 Q Have you reviewed it before you testified here?

2 A Yes, I did see it, yes.

3 Q There is no notation of any vomiting in the  
4 ambulance call report, is there?

5 A No.

6 Q So, the vomiting occurred between the time she  
7 got to the hospital and the time she saw you at 1:30,  
8 correct?

9 A Yes.

10 Q So would that have been part of the history you  
11 took from the patient, or did you, was it something that  
12 you were aware of from some other source if it wasn't the  
13 ambulance call report?

14 A It is the history that I took from the patient.

15 Q History. So does that conclude all the history,  
16 that is all the information you got from the patient?

17 A Yes.

18 Q Now, after you took that history, you did an  
19 examination, correct?

20 A Correct.

21 Q And your examination was of all of her body  
22 systems?

23 A Yes.

24 Q And you found that her body systems were  
25 essentially normal, with certain exceptions?

1 A Yes.

2 Q Let's talk about the normal things first. You  
3 concluded that she was alert and oriented times 3;  
4 correct?

5 A Yes.

6 Q As I understand it, that means, that is a quick  
7 way of assessing someone's conscious functioning?

8 A Yes.

9 Q So she was aware; alert and oriented times 3 is  
10 alert to place, person and time?

11 A Yes.

12 Q So she knew who she was?

13 A Yes.

14 Q Where she was?

15 A Yes.

16 Q And about what time it was?

17 A Yes.

18 Q Correct?

19 A Correct.

20 Q And so, at least by that test she was functioning  
21 normally consciously?

22 A Yes.

23 Q She had no neurological deficits at that point;  
24 correct?

25 A Yes.

1 Q And by that I mean she had no signs of any  
2 weakness, right?

3 A Right.

4 Q You examined her nerves in her head?

5 A Cranial nerve, yes.

6 Q The cranial nerve, that was normal?

7 A Yes.

8 Q You looked at her pupils?

9 A Yes.

10 Q The reason you look at the pupils is to see if  
11 there is any indication of abnormality in the pupils,  
12 right?

13 A Correct.

14 Q Because an abnormality in the pupils could mean  
15 that there is something going on in the person's head,  
16 correct?

17 A Correct.

18 Q And her pupils were PERRL?

19 A Right.

20 Q And that that means pupils are equal, round?

21 A Reactive.

22 Q And reactive to light?

23 A Yes.

24 Q So her pupils were absolutely normal?

25 A Yes.

1 Q She had no complaint of headache at that time, if  
2 I understand your report?

3 A From my documentation, no.

4 Q I am correct, right?

5 A Yes.

6 Q Now, her physical complaints, she had a painful  
7 wrist?

8 A Right wrist.

9 Q Right wrist. And her neck, she was also  
10 complaining of pain, right?

11 A No, there is a cross, the cross means not, circle  
12 means positive.

13 Q All right, I am sorry.

14 A It is crossed, that is like permanent -- that is  
15 a good negative to have when you are not tender, we  
16 palpate the neck, you are not tender.

17 Q You crossed out neck?

18 A When we palpate, touch the patient neck and they  
19 were not painful, the word we use is tender, so we write  
20 not tender on the neck.

21 Q Well, we are going to look, we are going to show  
22 the jury in a moment your form, but you didn't write not  
23 tender, you put a line through tenderness?

24 A Right.

25 Q That means no tenderness?



1 A No tenderness.

2 Q Painful range of motion, you put a line through  
3 that?

4 A Right.

5 Q There was no painful range of motion?

6 A Right.

7 Q Her neck examination was normal?

8 A Right, yes.

9 Q You were looking at her neck examination, she had  
10 fallen down stairs, right?

11 A She was put on a hard collar, she was put on a  
12 hard collar, so we have to assess whether she have any  
13 neck pain because of the fall.

14 Q You were trying to see if she injured her neck in  
15 some way?

16 A Correct.

17 Q If she fractured a bone in her neck?

18 A Yes.

19 Q Or a disc in her neck?

20 A Yes.

21 Q But she had no pain?

22 A Yes.

23 Q So that was a good thing?

24 A Yes.

25 Q Now, and if I look at the rest of your report,

1 everything else was normal, right?

2 A Yes.

3 Q Now, you were concerned, you wrote some orders --  
4 withdrawn.

5 You wrote some orders at 1:30?

6 A I don't understand your question.

7 Q You wrote some orders for some tests and some  
8 things to be done at 1:30 right?

9 A Yes, yes.

10 Q And those orders, do you have your order sheet,  
11 do you want to find your order sheet?

12 MR. HOLOHAN: Just give him this. (Handing)

13 Q Here you go. (Handing)

14 A Yes.

15 Q The first thing you ordered was?

16 A I wrote allergy NKA, no known allergy.

17 Q That came from the patient?

18 A Yes.

19 Q And the next thing you wrote was?

20 A Saline lock and IV, IV lock.

21 Q Put her on an IV?

22 A Yes.

23 Q To get fluids in her?

24 A Or take bloods from her; she needed medication,  
25 we can use that for medication.

1 Q You had a line for medication?

2 A Correct.

3 Q And then you ordered some blood tests?

4 A Yes.

5 Q You ordered standard blood tests?

6 A Yes.

7 Q Okay, and one of the blood tests you ordered was  
8 a CPK?

9 A Correct.

10 Q And one next is troponin?

11 A Troponin.

12 Q And those were ordered to see, in connection with  
13 your concern with syncope, right?

14 A A cardiac event.

15 Q You thought that perhaps maybe she was, had some  
16 sort of heart problem that caused her to become dizzy?

17 A Yes.

18 Q And those blood tests were taken for that?

19 A Yes.

20 Q Those blood tests turned out to be negative,  
21 correct?

22 A I did not, I didn't see the results.

23 Q You didn't see the results?

24 A I didn't.

25 Q You were not aware of any cardiac problem she

1 had, were you?

2 A Except for the history, she had hypertension.

3 Q That is blood pressure?

4 A From the chart, yeah.

5 Q She was on medication for that?

6 A Correct.

7 Q And that, that was controlled by the medication,  
8 correct?

9 A Yes.

10 Q But, in your review of the records here, in  
11 connection with this case, you are not aware of any  
12 cardiac problem that was discovered, correct?

13 A I was not shown the record of the laboratory  
14 tests.

15 Q Well, you assume that the labs were negative,  
16 okay, you are not -- withdrawn.

17 MR. HOLOHAN: Your Honor, we will stipulate  
18 the labs were negative.

19 Q Right, so the cardiac tests showed that there was  
20 no cardiac event, right?

21 A I can't --

22 Q Based on the stipulation of your counsel that the  
23 labs were negative?

24 A Yes, yes.

25 Q And then you also ordered a CT of the brain,

1 non-contrast?

2 A Right.

3 Q And CT means CAT scan?

4 A Yes.

5 Q And that was everything that you ordered?

6 A Yes.

7 Q And you ordered that at 1:30 in the afternoon,  
8 correct?

9 A Yes.

10 Q That is what is written in the chart, right?

11 A Yes.

12 Q And the reason you ordered that CAT scan of the  
13 brain is because you were concerned about bleeding in her  
14 brain?

15 A Yes.

16 Q Because you had a woman who had fallen down 12  
17 flights of stairs?

18 A Yes.

19 Q And you were concerned -- well, withdrawn.

20 You know about bleeding in the brain, what  
21 potentially can happen with that, correct?

22 A Yes.

23 Q As an emergency room doctor, you know that  
24 bleeding in the brain is a medical emergency, right?

25 A Yes.

1 Q And that bleeding in the brain can cause death of  
2 brain tissue, right?

3 A Yes.

4 Q It can cause death of brain tissue in a number of  
5 ways, correct?

6 A Yes.

7 Q It can cause death of brain tissue by the blood  
8 mass itself, right?

9 A Yes.

10 Q Or it can cause death of tissue by swelling,  
11 edema, correct?

12 A Yes.

13 Q And that is swelling and edema can cause  
14 increased pressure in the brain, correct?

15 A Yes.

16 Q And that can cause death of brain tissue,  
17 correct?

18 A Yes.

19 Q And this process, if this process goes on, it can  
20 cause a mass effect in the brain, correct?

21 A Yes.

22 Q It can -- there are two hemispheres to the brain?

23 A Yes.

24 Q And there is a midline?

25 A Yes.

1 Q And that mass effect can cause the midline to  
2 shift over into the other side of the brain, right?

3 A Yes.

4 Q That can cause death of brain tissue, right?

5 A Yes.

6 Q That is called midline shift?

7 A Yes.

8 Q And that if that were allowed to continue, that  
9 can cause herniation of the part of the brain, correct?

10 A Yes.

11 Q You have heard of uncal herniation?

12 A Yes.

13 Q That is a very common type of brain herniation,  
14 correct?

15 A Yes.

16 Q That is where part of the brain that is next to  
17 the temporal lobe gets pushed into the midbrain, right?

18 A Yes.

19 Q It can cause, if that happens that can cause a  
20 patient to become unconscious?

21 A Yes.

22 Q It could cause, ultimately if allowed to go on,  
23 the patient to die?

24 A Yes.

25 Q And you are not in a position to evaluate when

1 that might happen in any given patient, correct?

2 A Yes.

3 Q That might happen very quickly, correct?

4 A Yes.

5 Q Or it might take some period of time?

6 A Yes.

7 Q If it took a period of time the patient could  
8 deteriorate very quickly, right?

9 A Yes.

10 Q There is no way to predict that, I understand?

11 A Yes.

12 Q So you were rightfully concern about this bleed,  
13 a potential for bleeding in her brain, right?

14 A Yes.

15 Q Because of all these things that we have just  
16 gone over, right?

17 A Yes.

18 Q Because this was potentially a deadly situation,  
19 for this woman, right?

20 A Right, yes

21 Q Despite the fact that she appeared normal to you?

22 A Yes.

23 Q Right, the fact that she appeared normal did not  
24 mean that she could not have a process going on in her  
25 brain that could later on that afternoon kill her,



1 correct?

2 A Yes.

3 Q The only way to tell if she had a bleed in the  
4 brain was to do a CAT scan?

5 A Yes.

6 Q And if there was a bleed in her brain, that could  
7 either be treated, if it was small, it could be treated  
8 medically, right?

9 A Yes.

10 Q Or if it is larger, it has to be treated  
11 surgically by a neurosurgeon, correct?

12 A Yes.

13 Q Then the only way to tell what needed to be done  
14 was to get this CAT scan?

15 A Yes.

16 Q And the pressure that is gets built up in the  
17 brain, the way to treat that pressure is to relieve it,  
18 right?

19 A Yes.

20 Q That is the only way to deal with this, right?

21 A Yes.

22 Q This intercranial pressure?

23 A Yes.

24 Q And the way to deal with it is to deal with it as  
25 soon as possible, right?

1 A Yes.

2 Q Because that gives the patient the best outcome  
3 to relieve the pressure as soon as possible, right?

4 A Yes.

5 Q And to relieve the pressure as soon as possible  
6 you need to have a CAT scan done, right?

7 A Yes.

8 Q Now, your examination revealed that -- there were  
9 things about your examination that revealed that there was  
10 the potential for increased pressure in Mrs. Diego when  
11 you saw her at 1:30 in the afternoon, right?

12 A Yes.

13 Q And those were that she had vomited, right?

14 A Yes.

15 Q Vomiting can be a sign in a patient with a head  
16 injury of a damage to the brain, right?

17 A Yes.

18 Q Right, she had an altered mental status; correct?

19 A Not from my examination.

20 Q Not from your examination. Well, she didn't  
21 know -- she had a possible loss of consciousness; didn't  
22 she?

23 A Yes, questionable LOC.

24 Q I am sorry?

25 A Questionable LOC.

1 Q Questionable, right. Wouldn't that be an altered  
2 mental status?

3 A Yes.

4 Q And she didn't remember the fall, right?

5 A Right.

6 Q That would be called amnesia?

7 A Yes.

8 Q That would be an altered mental status, correct?

9 A Yes.

10 Q And an altered mental status could be a sign of  
11 the process going on in the brain of this pressure  
12 building up, correct?

13 A Yes.

14 Q And you looked at the ambulance call report,  
15 which is part of your practice, right?

16 A Yes.

17 Q And you noticed in the ambulance call report that  
18 she was reported to be combative, right?

19 A Yes.

20 Q She was fighting somehow, arguing, doing  
21 something?

22 MR. HOLOHAN: Objection, your Honor.

23 Q Well, what do you understand combative to mean?

24 A From reviewing the report, the combative was  
25 because the patient wanted to go to the bathroom and they

*Dep. 123*

1 were not allowing her to go to the bathroom.

2 Q That is what you understand the report to say?

3 A That is what the report says.

4 Q Well, let's read the report, tell me, do you have  
5 the report? Okay, where, excuse me, it says 66-year old  
6 female, alert, slightly confused to place, fell down  
7 approximately ten cement steps, hematoma back of head,  
8 negative LOC, loss of consciousness, negative JVD, do you  
9 know what that means?

10 A Jugular vein distention.

11 Q Negative shortness of breath, and then PERRL, the  
12 same thing you found with her pupils normal, right?

13 A Yes.

14 Q Lung sounds clear bilaterally, abdomen soft and  
15 non-tender, positive prior medical history times -- does  
16 that say 4, or what does that mean PMS, do you know what  
17 PMS means?

18 A I am not very sure.

19 Q Okay, extremities negative, edema negative,  
20 swelling. Medical history, hypertension, medicines  
21 listed, no known allergies. Patient combative on arrival,  
22 got up on own and went into bathroom.

23 Right now, do you know if the ambulance people  
24 were there when she got up after this fall?

25 A No.

1 Q No; you don't know when the ambulance people had  
2 arrived, do you?

3 A That's correct, no.

4 Q If she fell down the stairs, and then, and got  
5 up, right, it would make sense that she got up before the  
6 ambulance people got there, wouldn't it?

7 MR. HOLOHAN: Objection, your Honor,  
8 speculation.

9 MR. RUSSOTTI: Well, his answer is just as  
10 speculative.

11 Q Wouldn't it make sense --

12 MR. RUSSOTTI: Overruled.

13 MR. HOLOHAN: Objection.

14 Q If you don't know when the ambulance got there,  
15 you can't say that in your opinion she was combative with  
16 the ambulance people because she wanted to go to the  
17 bathroom?

18 A Yes.

19 Q So you can say that?

20 A No, I say no, I can't.

21 Q You can't say that?

22 A Right.

23 Q Then what it says is, correct me if I am wrong,  
24 got up on own and went into bathroom. After bathroom  
25 complained of dizziness, right?

1 A Uh-huh.

2 Q Then it says combative on arrival. That is  
3 combative on arrival when the ambulance people got there?

4 A Yes.

5 Q And they did a rapid take-down on to board.  
6 Rapid take-down is when they immobilize somebody on a hard  
7 board, right?

8 A Right.

9 Q And a rapid take-down is a particular way of  
10 doing it, right?

11 A Yes.

12 Q That is not just telling the patient to sit on  
13 the board and lay down and we are going to just tie you  
14 down, right?

15 A Right.

16 Q A rapid take-down is a forcible take-down, when  
17 you forcibly take the person and put them on the board,  
18 right?

19 A Right.

20 Q So that is some indication of the extent to which  
21 she was fighting with them or being combative, correct?

22 MR. HOLOHAN: Objection, speculation.

23 THE COURT: Sustained.

24 Q Well, she was, at least you can infer by rapid  
25 take-down she was uncooperative, correct?

P.A. Lau - Plaintiff - Direct

1 MR. HOLOHAN: Objection, your Honor.

2 THE COURT: No; rephrase that question.

3 Q You just told us that rapid take-down means that  
4 they physically and quickly take the person and put them  
5 on the board, right?

6 A Yes.

7 Q Okay, and the person was noted to be combative,  
8 right?

9 A Right.

10 Q From those two things, you can at least agree  
11 with me that she was not cooperating with the ambulance  
12 people, correct?

13 MR. HOLOHAN: Objection, your Honor. Again,  
14 it is speculation, it calls for the operation of  
15 somebody's else's mind from the note.

16 MR. RUSSOTTI: No, it is not. It calls for  
17 his interpretation.

18 THE COURT: Ask him in that way.

19 MR. RUSSOTTI: Well, I think I am entitled  
20 to lead him though, Judge.

21 THE COURT: You can lead him, but you have  
22 to make sure it is clear that he understands what his  
23 understanding is, from his experience or whatever of  
24 reading these records, if there is, if there is such a  
25 clear understanding of what this is.

1 Q Well, isn't it reasonable, Doctor, excuse me,  
2 P.A. Lau, isn't it reasonable, by using the term rapid  
3 take-down, for them using that specific technique to do  
4 this, isn't this reasonable, and using the word combative,  
5 for someone to read this note and believe that she was not  
6 cooperating with the ambulance attendants, isn't that a  
7 reasonable interpretation?

8 MR. HOLOHAN: Objection.

9 Q Other than --

10 THE COURT: Overruled.

11 A Yes.

12 Q Now, the fact that she was combative, that is an  
13 indication of increased intercranial pressure too,  
14 correct?

15 A Yes.

16 Q And the fact that she was slightly confused is an  
17 indication of altered mental status, right?

18 A Yes.

19 Q An indication of increased intercranial pressure,  
20 right?

21 A Yes.

22 Q The fact she was complaining of dizziness, that  
23 is also consistent with increased intercranial pressure,  
24 correct?

25 A Yes.



1 Q So, we have multiple signs from the ambulance  
2 call report, and your own examination and evaluation that  
3 she had increased intercranial pressure, correct?

4 A Yes. *to p125*

5 Q And that she was at a high risk for a bleed in  
6 her brain, correct?

7 A She is neurologically stable when I examined the  
8 patient.

9 Q I understand that?

10 A I mean I, you have to understand, sir, I mean we  
11 examine --

12 Q Listen to my question, P.A. Lau. Given all of  
13 these indications, that she had increased pressure in her  
14 brain, right?

15 A Yes.

16 Q And she had fallen down 10 or 12 cement steps,  
17 right?

18 A Right.

19 Q And you saw she had a hematoma, a hematoma is a  
20 bump on the back of her head, right?

21 A Yes.

22 Q That could be indicating, it could be the area  
23 where there was trauma to the brain, right?

24 A Right.

25 Q So she had an external sign of something that

1 could have caused trauma to the brain, right?

2 A Right.

3 Q Given that sign of trauma to the brain, given the  
4 mechanism of the injury, and given all of the signs of  
5 increased pressure, she was at a high risk for having a  
6 bleed, was she not?

7 A Yes.

8 Q Yes or no?

9 A Yes.

10 Q That is why you ordered the CAT scan, right?

11 A Yes.

12 Q At that time, P.A. Lau, given the fact that her,  
13 she was not complaining of any painful neck, right?

14 A Right.

15 Q That was a good thing, because that to you would  
16 rule out neck injury, right?

17 A Yes.

18 Q Given that, and given that the rest of your  
19 examination was normal, except for the complaint of pain  
20 in her wrist?

21 A Yes.

22 Q This the most important thing you had to deal  
23 with, was this potential bleed in her brain, am I right? (H)

24 A Right.

25 Q Now, at New York Hospital, in 2004 as a P.A. you

1 can order these CAT scans, right?

2 A Yes.

3 Q CAT scans of the head, of the head can be done  
4 for different reasons, right?

5 A Yes.

6 Q They can be done for sinus problems, right?

7 A Yes.

8 Q Ear problems?

9 A Yes.

10 Q Throat problems?

11 A Yes.

12 Q Or brain problems?

13 A Yes.

14 Q And they have different degrees of urgency,  
15 right?

16 A Yes.

17 Q Of the ones that I just listed, the brain CT  
18 would be the most urgent, right?

19 A Yes.

20 Q Now, who, as a P.A., whose responsibility was it  
21 to determine how fast a CAT scan needed to be done; you,  
22 the person who ordered it, or Dr. Greene, the supervising  
23 physician?

24 A I think we both.

25 Q Well, when you say both, what do you mean both?

1           A     Because he is my supervising doctor, and I  
2     discussed the case with him.

3           Q     All right, but in the first instance, you have to  
4     make a determination how -- when you order it, do you make  
5     a determination how fast it needs to get done?

6           A     Yes.

7           Q     Now, in this case, this CAT scan needed to be  
8     done stat; correct?

9           A     Yes.

10          Q     And stat for the -- excuse me, stat is a specific  
11     medical term, right?

12          A     Yes.

13          Q     Okay, stat means do something right then, right?

14          A     Yes.

15          Q     That in a hospital, when orders are given or  
16     things are done in a hospital, some can wait longer than  
17     others, right?

18          A     Yes.

19          Q     But when a doctor or P.A. like yourself gives an  
20     order for something to be done stat, that means drop  
21     everything, do it right now, right?

22          A     Yes.

23          Q     That is the fastest response time you can get in  
24     a hospital, right?

25          A     Yes.

1 Q And so this CAT scan, because of the potential  
2 for the bleed in her brain, being a high risk for  
3 bleeding, needed to be done right away, right?

4 A Yes.

5 Q Now, your order does not say stat, does it?

6 A No.

7 Q When you take, you took the patient -- withdrawn.  
8 You put in, the procedure was to go to the CAT  
9 scan department, and order the CAT scan?

10 A No, CAT scan are ordered by written, we write.

11 Q By written slip?

12 A Yes.

13 Q Now, is that something that you would do, if you  
14 ordered it?

15 A Yes.

16 Q And that slip then gets taken to the CAT scan  
17 department?

18 A Yes.

19 Q On that slip, do you write stat?

20 A In the ER, the ER procedure are all stat, every  
21 one in the emergency room is a stat.

22 Q Every one is a stat; you are telling us you don't  
23 have to write stat on that slip?

24 A Right.

25 Q The CAT scan machine was in the emergency

1 department?

2 A No.

3 Q It was on the same floor?

4 A Yes.

5 Q About 50, 75 feet away?

6 A About.

7 Q And that was done, the CAT scans are done by a  
8 radiology technician?

9 A Yes.

10 Q So, you fill out the slip for the CAT scan, and  
11 you expected that to be done right away, right?

12 A Yes.

13 Q And not contrast, there are different types of  
14 CAT scans, right?

15 A Yes.

16 Q Some you have to prepare the patient by injecting  
17 them with dye, right?

18 A Yes.

19 Q That takes sometime?

20 A Yes.

21 Q A non-contrast CAT scan is, you don't have to do  
22 that, the patient can just go right into the CAT scan  
23 machine, right?

24 A Yes.

25 Q And if I understand the procedure, the CAT scan

1 is a big tube or something?

2 A Yes.

3 Q Patient lies down?

4 A A round -- yes.

5 Q And they are wheeled through it?

6 A Yes.

7 Q Or slid through it?

8 A Yes.

9 Q It takes about 10 minutes to do a CAT scan of the  
10 head?

11 A About.

12 Q And the only preparation is to get the patient to  
13 the CAT scan machine and put her on the machine and start  
14 the process, right?

15 A Yes.

16 Q Now, this CAT scan wasn't done for 2 hours,  
17 right?

18 A Yes.

19 Q Now, 2 hours is not stat, is it, P.A. Lau?

20 A Yes.

21 Q 2 hours is stat?

22 A No.

23 Q No. Stat is 15 minutes, right?

24 A Yes.

25 Q Whose responsibilities was it to make sure that

---

1     this CAT scan got done stat, right away, you or Dr.  
2     Greene?

3             A     Me and Dr. Greene both.

4             Q     Both of you?

5             A     But me primarily saw the patient and wrote the  
6     chart, me.

7             Q     Well, he was a supervisor, wasn't he?

8             A     Yes.

9             Q     So I am just trying to understand the protocol,  
10    whose responsibility was it; was it yours or was it his to  
11    make sure this got done stat?

12            A     It is my responsibility and he supervised me.

13            Q     So it is his responsibility too?

14            A     Some, yes, but I primary, it is my patient, I saw  
15    the patient.

16            Q     So you are telling us then that primarily it was  
17    your responsibility to make sure that this got done stat?

18            A     Yes.

19            Q     Done within 15 minutes, right?

20            A     Yes.

21            Q     You didn't do anything to make sure this got done  
22    stat, did you?

23            A     No.

24            Q     I am correct, right?

25            A     Yes.



1 Q Well, you could have, there were things you could  
2 have done, right?

3 A Yes.

4 Q You could have gone to the emergency -- you could  
5 have gone to the radiology technician and said, hey, I  
6 need this done, let's get this done, right?

7 A Right.

8 Q And you could have gone to the, if there was a  
9 problem there, you could have gone to the radiology  
10 attending, right?

11 A Right.

12 Q And said to the radiology attending, hey, the  
13 technician is not getting this CAT scan done that needs to  
14 be done immediately, because I got a woman with a bleed in  
15 her brain, I got to get this done, you could have done  
16 that, right?

17 A Right.

18 Q Or you could have gone to Dr. Greene and asked  
19 Dr. Greene for help to getting this thing done, right?

20 A Right.

21 Q You didn't do that, any of that, did you?

22 A No.

23 Q P.A. Lau, wasn't it a departure from proper  
24 emergency room practice not to get this CAT scan done  
25 stat?

1           A     From my examination, she was neurologically  
2     stable. From my examination the pupils were equal,  
3     reactive, she was conversing with me, she was moving her  
4     extremities. I mean, from my examination she was  
5     neurologically stable.

6           Q     I understand.

7                     You told us earlier that you couldn't rule out  
8     she could have had a bleed in the brain that could have  
9     killed her later that afternoon, right?

10          A     Right.

11          Q     You knew that?

12          A     Yes.

13          Q     So that was the most serious things that this  
14     woman potentially had, right?

15          A     Right.

16          Q     Wasn't it a departure from proper emergency room  
17     practice not to get that CAT scan done within 15 minutes  
18     in this woman?

19          A     You have to rephrase your question.

20          Q     Wasn't it -- let me phrase it this way.

21                     Wasn't it a -- you know what the standard of care  
22     in the emergency room is, right, emergency room practice?

23          A     Yes.

24          Q     Wasn't this a deviation from the standard of care  
25     in a patient that, a head trauma patient with a potential

1 bleed in her brain that could kill her, not to get this  
2 done stat, wasn't that a deviation from the standard of  
3 care?

4 A She was getting a CAT scan done.

5 Q Wasn't it a deviation not to get it done stat,  
6 within 15, 20 minutes?

7 A Yes.

8 Q It was, right?

9 A Yes.

10 (Whereupon, the following testimony was recorded  
11 by Audrey Keiser, Official Court Reporter:)

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1 CONTINUED DIRECT EXAMINATION

2 BY MR. RUSSOTTI:

3 Q. You knew that New York Hospital of Queens  
4 emergency room was a regional trauma center; is that  
5 correct? Are you aware of that?

6 A. That I am not sure.

7 Q. You are not sure about that?

8 A. I know we are a trauma center.

9 Q. Do you know the term regional trauma center?  
10 Does that mean anything to you?

11 A. No.

12 Q. Level 1?

13 A. Yes, Level 1.

14 Q. It is a Level 1 trauma center?

15 A. Yes.

16 Q. And a Level 1 trauma center is the type of  
17 emergency room that has the highest level of emergency  
18 care, right?

19 A. Yes.

20 Q. It has all of the necessary equipment, right?

21 A. Yes.

22 Q. All sorts of-- every type of consultation  
23 available, neurosurgery, cardiac?

24 A. Yes.

25 Q. All available at a moment's notice, right?

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 A. Yes.

2 Q. That Level 1 trauma center, you have to have a  
3 CAT scan there, a CAT scan?

4 A. Yes.

5 Q. You have to be able to get a CAT scan done within  
6 30 minutes of a Level 1 trauma center?

7 A. Yes.

8 Q. So there was the capacity in this emergency room  
9 to get this CAT scan done STAT, correct?

10 A. Correct.

11 Q. You can't tell us why it wasn't done STAT, can  
12 you?

13 A. I cannot.

14 Q. Let's go on to another topic.

15 A. All right.

16 Q. When you saw her at 1:30 in the afternoon, you  
17 did an assessment of the Glasgow Coma Scale?

18 A. Not documented.

19 Q. I know it wasn't documented, but you did assess  
20 it, right?

21 A. Yes.

22 Q. That is the more sophisticated way of assessing  
23 somebody's functioning?

24 A. Head trauma.

25 Q. And so the Glasgow Coma Scale goes from 15 to 3

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 as I understand it, right?

2 A. Yes.

3 Q. 15 is absolutely normal?

4 A. Yes.

5 Q. And 3 is you are dead essentially, right?

6 A. Yes.

7 Q. Your assessment of her valuation of the Glasgow  
8 Coma Scale was that she was a 15?

9 A. Yes.

10 Q. And because she was opening up her eyes,  
11 spontaneous opening her eyes for verbal commands, right?

12 A. Her eyes were opened spontaneously. That is 4.

13 Q. All right. That is 4 points. Motor she moved  
14 her extremities?

15 A. Yes, obey command. That is 6.

16 Q. You gave her a full 6 on that?

17 A. Yes.

18 Q. She had full reflexes at all?

19 A. No the third one is verbal response. Verbal  
20 response when the patient talks and answers your  
21 questions. Alert and oriented. That is a 5. Together  
22 that is 15.

23 Q. She got a 15?

24 A. Correct.

25 Q. Even though you didn't write it down, but based

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 on your assessment of her, your examination, that is what  
2 she would get?

3 A. Yes.

4 Q. So all her motor functions were in tact, right?

5 A. Yes.

6 Q. Now I understand that when a CAT scan was finally  
7 gotten around to getting done, that was at 3:30?

8 A. Yes.

9 Q. You brought her down yourself for the CAT scan?

10 A. Yes.

11 Q. That was about 3:20 if I understand that, right?

12 Do you remember that?

13 A. That I don't remember.

14 Q. All right. Let me show you this which is my copy  
15 of the nurse's notes.

16 A. Yes.

17 Q. That says patient to CAT scan with PA Lau?

18 A. Yes.

19 Q. That says 3:20 right, 1520?

20 A. All right.

21 Q. Correct?

22 A. Yes.

23 Q. Now, do you remember taking the patient to the  
24 CAT scan?

25 A. No. When I work in the trauma room, I usually

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 take the patient to CAT scan because they are usually  
2 monitored. They need a medical provider with the patient to  
3 go to CAT scan so I usually go with the patient. I don't  
4 remember in her case.

5 Q. When you take the patient to CAT scan or you say  
6 they are monitored, you put them on a cardiac monitor?

7 A. Yes.

8 Q. Pulse oximeter?

9 A. Yes.

10 Q. Anything else?

11 A. Blood pressure.

12 Q. All right.

13 A. Usually.

14 Q. Well you have no reason to believe that you  
15 didn't do that in this case, right?

16 A. If I came with the patient to CAT scan you know,  
17 probably patient had cardiac monitor, blood pressure,  
18 monitor and the saturation of oxygen is being monitored.

19 Q. That you put on the patient?

20 A. Usually the nurses do that.

21 Q. Before you take her?

22 A. Yes.

23 Q. So you don't put her on the monitor?

24 A. Yes, I help.

25 Q. All right. So you are there when that is going



David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 on?

2 A. Yes.

3 Q. So you are interacting with the patient?

4 A. Sure.

5 Q. You have to tell the patient what to do, give me  
6 your arm. You have to open up the gown to put the leads  
7 on?

8 A. Yes.

9 Q. You tell the patient where you are going?

10 A. Yes.

11 Q. You tell the patient what is going on?

12 A. Yes.

13 Q. So you are interacting with the patient?

14 A. Yes.

15 Q. Now at that point you didn't note any  
16 deterioration of her from your last exam, did you?

17 A. I don't remember. I didn't document it.

18 Q. If you noted deterioration by her at that point,  
19 you would have written that down, wouldn't you?

20 A. Sure.

21 Q. It is important to note if there is a change in  
22 the patient's condition?

23 A. Yes.

24 Q. You didn't write anything about her condition  
25 when you assessed her in getting her together to go to the

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 CAT scan and take her to CAT scan, did you?

2 A. No.

3 Q. From that we can assume that her condition was  
4 essentially the same as when you saw her two hours earlier  
5 at 12:30, correct?

6 A. Yes.

7 Q. Which was the last Glasgow Coma Scale at 15?

8 A. Yes.

9 Q. Now, a neurosurgeon was called in this case,  
10 right?

11 A. Yes.

12 Q. And you have a trauma team there?

13 A. We call it a trauma team and neurosurgeon.

14 Q. Who called?

15 A. I wrote it on the chart. I called.

16 Q. You called?

17 A. That is my handwriting on the chart, on the  
18 bottom.

19 Q. I know where you are referring to.

20 A. On the chart on the bottom trauma neurosurgery  
21 right next to the word to OR.

22 Q. So it is your testimony that you called the  
23 neurosurgeon?

24 A. Yes. I called the neurosurgeon consult.

25 Q. You called the trauma team?

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 A. Trauma team, yes.

2 Q. You remember that?

3 A. Well, I wrote it. I don't remember, but I wrote  
4 it.

5 Q. Let me ask you this. You remember being at your  
6 deposition?

7 MR. HOLOHAN: Objection, your Honor. An  
8 instruction needs to be given.

9 THE COURT: All right. Jurors, you are  
10 about to hear the attorney for the plaintiff read  
11 portions of a document referred to as an Examination  
12 Before Trial of this witness. You may hear the  
13 lawyers referring to the document as an EBT or a  
14 deposition.

15 At some point before the trial began, the  
16 witness under oath answered certain questions put to  
17 him. The stenographer took the answers and questions  
18 down and transcribed them into a document that he  
19 signed before a notary public. The portions of the  
20 transcript of the EBT are to be considered as if the  
21 witness was testifying from the witness stand. All  
22 right. You may proceed, counselor.

23 MR. RUSSOTTI: Thank you, your Honor.

24 Q. This is Page 67, Line 21 so the witness  
25 understands in the medical chart. On your form it says

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 calls, right?

2 A. Yes.

3 Q. Page 67, Line 21.

4 QUESTION: Underneath calls it says to OR.

5 Do you see that?

6 ANSWER: Yes.

7 QUESTION: Is that in your handwriting?

8 ANSWER: That is my handwriting.

9 QUESTION: It says trauma Consult 1,  
10 correct?

11 ANSWER: Yes.

12 QUESTION: Did you call a trauma consult?

13 ANSWER: I do not recall in this case, but  
14 customarily I will call the trauma team if a patient  
15 has a bleed in their head.

16 QUESTION: When did you call a trauma consult  
17 in this case?

18 ANSWER: When?

19 QUESTION: Yes.

20 ANSWER: I did not write the time. I don't  
21 know.

22 MR. HOLOHAN: Your Honor, objection. So far  
23 there is nothing here that is contradictory.

24 MR. RUSSOTTI: He is right, your Honor. I  
25 will keep going.

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 Q. I will continue.

2 QUESTION: It says neurosurgeon Consult 2.

3 Do you see that?

4 ANSWER: Yes.

5 QUESTION: When did you write that?

6 ANSWER: After the CAT scan.

7 QUESTION: When did you call the  
8 neurosurgeon?

9 ANSWER: I did not document it.

10 MR. HOLOHAN: Objection, your Honor.

11 MR. RUSSOTTI: It is the next question and  
12 answer.

13 Q. Let me continue.

14 QUESTION: Did you call the neurosurgeon in  
15 this case?

16 ANSWER: I do not recall.

17 MR. HOLOHAN: How is that contradictory to  
18 his testimony?

19 Q. Is it your testimony that you called these people  
20 based on the records?

21 A. If I wrote the chart trauma and neurosurgeon, I  
22 spoke to someone on the service.

23 Q. The fact that you testified you didn't recall if  
24 you did it means you didn't recall at the time, not that  
25 you were looking at the records and the record didn't make

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 you recall?

2 A. Yes. The statement I made that trauma,  
3 neurosurgery was in my handwriting. I speak to somebody  
4 from neurosurgery.

5 Q. All right. Fine. When did that happen?

6 A. There is no time.

7 Q. Isn't it important to document the time?

8 A. Absolutely, yes.

9 Q. The reason is because it is important to look  
10 back at the chart and see when things happen, correct?

11 A. Yes.

12 Q. Is that a deviation from standard practice in the  
13 emergency room not to document when you call a specialist?

14 A. Yes.

15 Q. So you didn't document it for the trauma person,  
16 right?

17 A. Yes.

18 Q. You didn't document it for the neurosurgeon?

19 A. Yes.

20 Q. You were a little careless that day?

21 MR. HOLOHAN: Objection, your Honor.

22 THE COURT: Sustained.

23 Q. PA Lau, when did the trauma person get there?

24 A. I don't recall.

25 Q. Did you document when they got there?

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 A. No.

2 Q. Isn't that important to document for the trauma  
3 team, doctor?

4 A. Yes.

5 Q. Did you document when the neurosurgeon got there?

6 A. No.

7 Q. That is important to document too, isn't it?

8 A. Yes.

9 Q. For the same reason that we said it is important  
10 to document when you call, right?

11 A. Yes.

12 Q. Isn't that a deviation from standard emergency  
13 room practice not to write down when the consultant  
14 arrives?

15 A. Yes.

16 Q. I understand that at some-- I understand after  
17 you saw the patient at 1:30 some x-rays were done?

18 A. Yes.

19 Q. Cervical spine x-ray?

20 A. Yes.

21 Q. Chest x-ray?

22 A. Yes.

23 Q. And a pelvis x-ray?

24 A. Yes.

25 Q. Could you tell me who ordered the x-rays?

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1           A.    I probably did.  I have to look at the order  
2 sheet.

3           Q.    Take a look at the order sheet.  If you want I  
4 will give you my copy.  Do you have it?

5           A.    Yes.  This is the order sheet.

6           Q.    The one your attorney gave us?

7           A.    Right.  That does not have the x-ray orders.

8           Q.    There is no order for the x-rays, is there?

9           A.    No.

10          Q.    So who ordered the x-rays?

11          A.    Well--

12          Q.    It can't be done without an order, can they?

13          A.    No.

14          Q.    A nurse just can't take a patient and bring her  
15 to x-ray and say:  Here, start doing x-rays?

16          A.    No.

17          Q.    Who ordered the x-rays?

18          A.    I wrote it in my chart.  It says right under head  
19 brain CT non contrast right under that.  I wrote CT spine  
20 chest x-ray, pelvis right wrist, lumbosacral spine.  I  
21 wrote it there.

22          Q.    That is your handwriting?

23          A.    That is my handwriting.

24          Q.    So does that mean to you that you ordered it?

25          A.    Yes.



David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 Q. Or does that mean it was going to be done?

2 A. Yes.

3 Q. Yes what?

4 A. Yes, I ordered it but I have to see the

5 requisition.

6 Q. You didn't write it in the order sheet?

7 A. No, I didn't write it in the order sheet.

8 Q. It is supposed to be written in the order sheet?

9 A. Yes.

10 Q. Is that a deviation from standard emergency room  
11 practice not to write an order in an order sheet?

12 A. Yes.

13 Q. Now, you wrote the first thing that needed to be  
14 done was the head CT, right?

15 A. Yes.

16 Q. That was the most important thing, right?

17 A. Yes.

18 Q. That was the thing that needed to be done before  
19 the trace?

20 A. Yes.

21 Q. But in fact it turns out the x-rays were done  
22 before the CT, right?

23 A. Yes.

24 Q. You don't know why, do you?

25 A. No.

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 Q. Did that waste any time doing the x-rays before  
2 the CT was done?

3 MR. HOLOHAN: Objection to form.

4 THE COURT: Sustained.

5 Q. Did that delay doing the head CT, doing the  
6 examination of the neck and pelvis? Did it delay doing a  
7 CT at all; yes or no?

8 A. No.

9 Q. You still would have gotten a CT done STAT if you  
10 wanted to?

11 A. Yes.

12 Q. In this Level 1 trauma center, a CT of the brain  
13 can be done STAT immediately right away if you want it?

14 A. Right.

15 MR. RUSSOTTI: Judge, can we take a little  
16 break? I may be done with the questions.

17 THE COURT: All right. We will take a break  
18 at this time.

19 (Whereupon, a recess was taken and the  
20 following ensued:)

21 THE COURT CLERK: Remain seated. Come to  
22 order.

23 THE COURT OFFICER: The jury is entering.

24 THE COURT CLERK: Case on trial continues.  
25 The attorneys are present. The jury is present.

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 THE COURT: All right. You may continue,  
2 counsellor.

3 THE COURT CLERK: Mr. Lau, you are reminded  
4 that you are still under oath. You may be seated.

5 MR. RUSSOTTI: I have a few more questions PA  
6 Lau.

7 CONTINUED DIRECT EXAMINATION

8 BY MR. RUSSOTTI:

9 Q. After the patient Ms. Diego came back from the  
10 CAT scan, were you there for the rest of the afternoon?

11 A. Yes.

12 Q. You remember that she went into a coma?

13 A. I do not remember.

14 Q. You have no independent recollection of that?

15 A. No.

16 Q. You looked at the chart though, right?

17 A. Yes.

18 Q. The chart notes that she had went into a coma and  
19 had to be intubated at about 4:10 that afternoon?

20 A. I wrote that the patient has to be intubated.

21 Q. You wrote that?

22 A. Yes.

23 Q. That was at 4:10?

24 A. I didn't write a time.

25 Q. Well the nurses wrote the time, right? 1615

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 patient intubated?

2 A. Yes.

3 Q. So that is 4:15 in the afternoon?

4 A. Yes.

5 Q. She was in a coma, right?

6 A. Yes.

7 Q. That coma, this is what can happen if the  
8 pressure is allowed to build up in the brain, right?

9 A. Yes.

10 Q. It is exactly what you were trying to prevent,  
11 right?

12 A. Yes.

13 Q. Later on, were you aware that later on she was  
14 rushed to the operating room for neurosurgery?

15 A. Yes.

16 Q. She deteriorated further at that time?

17 A. Not from my recollection.

18 Q. Not from your recollection. Dr. Levine I am  
19 reading from Dr. Levine's note Glasgow Coma Scale 3 to 4  
20 with a pupil of 8 millimeters on the right, left pupil 5  
21 millimeters?

22 A. Yes.

23 Q. Pupils are asymmetric?

24 A. Yes.

25 Q. That is an indication of a herniation in the

1 brain?

2 A. Yes.

3 Q. This is a herniation that got caused from the  
4 increase in the pressure of the brain, right?

5 A. Yes.

6 Q. This is the herniation that you were trying to  
7 avoid?

8 A. Yes.

9 Q. That is why she had to be rushed to the operating  
10 room, right?

11 A. Yes.

12 Q. At that point a Glasgow Coma Scale of 3 to 4 that  
13 is near death, right?

14 A. Yes.

15 Q. So what you were concerned about, deterioration  
16 and possibly from a bleed, going from a Glasgow Coma Scale  
17 of 15 to having a bleed that can kill you, that is what  
18 happened to this woman?

19 A. Yes.

20 Q. One of the reasons it happened is that the CAT  
21 scan was delayed; isn't that true?

22 MR. HOLOHAN: Objection, your Honor.

23 THE COURT: Overruled.

24 A. Yes.

25 MR. RUSSOTTI: I have no further questions,

David Lau - Plaintiff - Cont'd Direct - Mr. Russotti

1 your Honor.

2 CROSS-EXAMINATION

3 BY MR. MEHARY:

4 Q. Sir on the first page of your history you took a  
5 medical history down at the bottom there?

6 A. Yes.

7 Q. What does that say?

8 A. Hypertension, high blood pressure.

9 Q. What does that mean?

10 A. High blood pressure.

11 Q. Is there anything significant?

12 A. It is a history of the patient's-- medical  
13 history of the patient.

14 Q. Why do you want to know if somebody has high  
15 blood pressure?

16 A. They might have heart disease.

17 Q. Anything else?

18 A. Coronary arteries.

19 Q. Anything else?

20 A. Aneurysm with hypertension.

21 Q. What is that?

22 A. Dilation of the arteries.

23 Q. Aneurysm is dilation of the arteries?

24 A. Yes.

25 Q. What does that mean?

David Lau - Plaintiff - Cross - Mr. Mehary

1 A. They can rupture.

2 Q. This is something that is caused without head  
3 trauma, correct?

4 A. Yes.

5 Q. In your history of present illness you have  
6 question mark syncope?

7 A. Yes.

8 Q. You said that is passing out?

9 A. Passing out.

10 Q. Anything else like fainting?

11 A. Yes, fainting.

12 Q. Did you have a question of whether or not this  
13 lady fell down the stairs and then fainted or vice versa?

14 A. I don't know.

15 MR. HOLOHAN: Objection.

16 Q. Why didn't you write that down?

17 A. Because that could be a cause of the fall.

18 Q. Passing out or fainting could have been a cause  
19 of the fall?

20 A. Yes.

21 Q. Is this something that happens when a person has  
22 an aneurysm?

23 A. Yes.

24 Q. Now, on the ambulance call report, did they take  
25 her blood pressure?

David Lau - Plaintiff - Cross - Mr. Mehary

1 A. Yes.

2 Q. Was it normal?

3 A. It is a little elevated.

4 Q. It was high, right?

5 A. Yes.

6 MR. MEHARY: Thank you. Nothing further.

7 MR. HOLOHAN: No questions at this time, your  
8 Honor.

9 RE-DIRECT EXAMINATION

10 BY MR. RUSSOTTI:

11 Q. PA Lau, the blood pressure was a little elevated,  
12 right?

13 A. Yes.

14 Q. But it was controlled with medication; was it  
15 not?

16 A. Yes.

17 Q. The passing out that you were concerned about was  
18 from a possible heart condition, right?

19 A. Yes.

20 Q. That is why you ordered the bloods, KPK?

21 A. Yes.

22 Q. She didn't have any heart condition, did she?

23 A. Not from the result, not from the lab test.

24 Q. She didn't have any aneurysm either, did she?

25 A. No.



David Lau - Plaintiff - Re-Direct - Mr. Russotti

1 MR. RUSSOTTI: Thank you. Nothing further.

2 THE COURT: You may step down.

3 MR. RUSSOTTI: Can we approach, your Honor?

4 THE COURT: Yes.

5 (Whereupon, a discussion was held off the  
6 record at this time.)

7 THE COURT: Jurors I told you at the  
8 beginning about the unavailability of some witnesses.  
9 The next witness is Dr. Green. He will not be  
10 available until tomorrow morning. We have motions  
11 here at 9:30 a.m., on Tuesday. We are going to be  
12 starting at 11:00 tomorrow morning. I have nothing  
13 else for you today. Come back tomorrow morning. We  
14 will start at 11:00. Don't discuss the case or make  
15 your minds up about the case. Have a pleasant  
16 afternoon.

17 (Whereupon, the jury exits the Courtroom at  
18 this time.)

19 (Whereupon, the trial was adjourned to  
20 September 16, 2008 at 11:00 a.m.)

21

22

23

24

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|   |   |   |   |   |
|---|---|---|---|---|
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