

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NORFOLK

MARGARET PENZOLD, :
 Plaintiff, :
 : :
v. : AT LAW NO. :
 : CL07-4822 :
 : :
CARL LINDEMANN, MD, :
- and - :
TIDEWATER PHYSICIANS :
MULTI-SPECIALTY GROUP, PC, :
 Defendants. :
_____ :

DEPOSITION UPON ORAL EXAMINATION
LAURA E. DERRICKSON

October 28, 2009 -- 4:30 p.m.

Virginia Beach, Virginia

APPEARANCES: SHAPIRO, COOPER, LEWIS & APPLETON, P.C.
By: James C. Lewis, Esquire,
counsel for the Plaintiff.

HANCOCK, DANIEL, JOHNSON & NAGLE, P.C.,
By: John R. Redmond, Esquire, and
Corey Stegeman, Esquire, counsel for
the Defendants.

Old Dominion Reporting
Telephone: (757) 620-6836 Facsimile: (757) 255-4397

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1 Deposition upon oral examination of Laura E.
2 Derrickson, taken before Shannon A. Crittenden-Mann, a
3 Notary Public for the Commonwealth of Virginia at Large,
4 pursuant to Notice and Agreement, commencing at 10:30 a.m.
5 on October 28, 2009, at Law Offices of Shapiro, Cooper,
6 Lewis & Appleton, P.C., 1294 Diamond Springs Road, Virginia
7 Beach, Virginia, and these in accordance with the Rules of
8 the Supreme Court of Virginia, 1950, as Amended.

9
10 LAURA E. DERRICKSON, called as a witness on
11 discovery, after having been first duly sworn, was examined
12 and testified as follows:

13
14 BY MR. REDMOND:

15 Q Afternoon, ma'am.

16 A Hi. Good afternoon.

17 Q My name is John Redmond. With my associate here,
18 Corey, we represent Dr. Lindemann and his group in this
19 case.

20 A Okay.

21 Q This is my chance to ask you some questions about
22 what you know, whether it's from your own firsthand
23 observation or through your sisters or through some other
24 source. All right?

25 A Okay.

1 Q Have you ever had a deposition taken before?

2 A No.

3 Q I understand you're a nurse?

4 A No. No. One of my sisters just became a nurse,
5 an RN.

6 Q I'm confused. I'll tell you frankly --

7 A There's five daughters.

8 Q -- there are a lot of you around.

9 A That's Polly, who's in Jacksonville, Florida.

10 Q I got you. All right. My apologies. Let's start
11 off then with your full name and address just for the record
12 as we say.

13 A Laura, L-A-U-R-A, Ellen, Penzold, Derrickson,
14 D-E-R-R-I-C-K-S-O-N.

15 Q That's hyphenated, ma'am?

16 A No. I was just giving my maiden name. You said
17 the full name.

18 Q Got you. Okay. And where do you live?

19 A 7525 North Chester Avenue, Indianapolis, Indiana,
20 46240.

21 Q Did you live there in 2005 when this happened?

22 A Yes.

23 Q And have you lived there since 2005 continuously?

24 A Yes.

25 Q Was there ever a period of time when you came and
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1 lived with your mom or stayed here for, say, more than a
2 week to be around your mom?

3 A Yes.

4 Q When was that?

5 A Well, before this like in the nineties, you know,
6 ever since I've moved out there I've come back.

7 Q Let me do a better job asking the question.

8 A The longest? Okay.

9 Q That's a poor question because I'm going to focus
10 on the period of time beginning in, let's say, the month or
11 two before August of 2005.

12 A Okay.

13 Q Through the present time.

14 A Okay. I can't remember within two months of
15 August. I probably was because sometimes we would go to the
16 beach. I just -- I don't know.

17 Q Just don't remember?

18 A Yeah.

19 Q Nothing stands out in your mind?

20 A I came back often, so no.

21 Q All right. Let me go back to where I was a minute
22 ago. Tell you some things about what we're going to do here
23 this afternoon. This is my opportunity to ask you
24 questions, as I said, about what you remember, what you
25 know. If you don't remember or don't know the answer to any

1 of my questions you can just tell me that. I just am
2 looking for some answer of some kind. All right?

3 A Okay. I'm not sure I understood the question you
4 just asked me. Did you mean up until August 8th, two months
5 before or I -- would you rephrase your question? I didn't
6 understand it.

7 Q Sure. What I was trying to ask inartfully was,
8 say from the period of time since June 1st, 2005 until the
9 present day, have there been periods of time where you
10 stayed with your mom or around your mom?

11 A Oh, yes. Yes, many.

12 Q And I'm talking about more than just a day or two
13 or a week or two?

14 A No. The first time I stayed five weeks.

15 Q When was that?

16 A That was starting on August -- Sunday I think was
17 August 14th and I went to see her at Sentara, and then I
18 went and stayed in her house. I was here five weeks that
19 time.

20 Q And are you married, ma'am?

21 A No.

22 Q Was there anyone that stayed there with you?

23 A No.

24 Q Any other periods of time like that?

25 A Well, I stayed five weeks that time and then I --
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1 I could go back and look. I've come back -- since then I
2 come back about four times a year from Indiana.

3 Q Stay about a week?

4 A Usually two weeks. One time was three. This time
5 is going to be -- I'm on another one of my visits now. It's
6 going to be about 12 days.

7 Q By the way, I appreciate you being able to give me
8 this opportunity on such short notice.

9 A Yeah. That's fine. It just happened to catch me
10 back on one of my visits.

11 Q We're lucky.

12 A Yeah.

13 Q Getting back to my original sort of what we
14 lawyers do at the beginning of the depositions is if you
15 don't understand a question that I ask for whatever reason,
16 whether I mumble it or it just doesn't make sense to you the
17 way I phrase it, please ask me to reask it, to rephrase it
18 for you. I'll be happy to do that.

19 A Okay.

20 Q It's important that you understand my question and
21 I know that you're answering the question I ask so that when
22 we have a record of this later we know that it's an accurate
23 representation of what you were thinking. Okay?

24 A Okay.

25 Q Shannon here is taking down everything we say
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1 verbatim, and so it's important that you try and remember to
2 use verbal responses, yes, no, you know, other words instead
3 of uh-huhs and uh-uhs or shakes of the head.

4 A Right.

5 Q And I guarantee you you will forget that at
6 different times during the deposition and I will probably
7 too, and so if you do I'll try and remember to reask it so
8 that we have an answer that's clear.

9 A Right. Okay.

10 Q There's going to be an opportunity for you at the
11 end of the deposition to decide whether you want to read it
12 for errors after she types it up or whether you want to
13 waive that right, and I just mention that so that you know
14 how important it is that it's clear.

15 A Right.

16 Q All right. And, of course, we're in Mr. Lewis's
17 office here. It's a nice sunny afternoon, but the oath
18 you've been given is just as serious as it would be if we
19 were in a dark, dank court of law. You understand that?

20 A Yes.

21 Q Good. All right. Oh, one other thing, if for
22 some reason you need to take a break just let me know. I'll
23 be happy to accommodate you. I don't expect we're going to
24 be too long tonight really.

25 A Okay.

1 Q And you gave me an expression there that maybe --

2 A When you said "tonight" --

3 Q -- that contradicts what I said. Well, tonight I
4 count as 5:00 which we're coming up on, so maybe I used the
5 wrong word. This afternoon, how about that? All right.

6 A Right.

7 Q Are you employed at this time?

8 A Yes.

9 Q What do you do?

10 A I'm a substitute teacher.

11 Q And how long have you had that job?

12 A Probably about 15 years.

13 Q And any particular grade level or subject?

14 A Through eighth grade, all subjects.

15 Q Is that for the Indianapolis school system?

16 A Well, it's Washington Township schools.

17 Q Do you have any medical, nursing, health care
18 provider training of any kind?

19 A No.

20 Q Now, you mentioned I guess it's Polly?

21 A Yes.

22 Q Another sister who is a nurse or trying to become
23 a nurse?

24 A She just became an RN.

25 Q Is there anybody else in the family with health
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1 care provider training of any kind?

2 A No.

3 Q Did you review anything for today's deposition at
4 all?

5 A Yes. I looked at my sister Atlee's printed out
6 transcript.

7 Q You read her deposition?

8 A Deposition, yeah.

9 Q Atlee was her name?

10 A Martha. We call her Atlee. That's her middle
11 name.

12 Q Why did you do that?

13 A Well, Jim asked me just to look it over just to, I
14 guess --

15 MR. LEWIS: To get a feel for your rhythm.

16 A And I did get a feel for when she had uh-huhs in
17 there and --

18

19 BY MR. REDMOND:

20 Q Right.

21 A And some of the extra stuff she added.

22 Q And how -- how lately did you look that over?

23 A Let's see. Might have been yesterday.

24 Q Read the whole thing?

25 A I skimmed it. I have to admit.

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1 Q Take any notes?

2 A No.

3 Q Were you provided a summary of it?

4 A No.

5 Q Or an index or anything?

6 A No.

7 Q Did you look at anything else to prepare for
8 today's deposition?

9 A No.

10 Q Haven't looked at your mom's medical records at
11 all to prepare for today?

12 A No.

13 Q Seen them before?

14 A Well, Ros sent me a big box of some copies and,
15 oh, I think I looked through it one time and -- but it was
16 all gobbledygook. I couldn't get much out of it but --

17 Q That was months or years ago?

18 A Oh, that was months ago.

19 Q Have you looked at any summaries or chronologies
20 or any --

21 A Well, I did up a chronology myself when I was at
22 her house in Yorktown.

23 Q Right.

24 A It was my first visit, and I thought, you know
25 what, we better write some stuff down.

1 Q Right. And we're going to talk about that.

2 A Yeah. I just sat at her kitchen table and wrote
3 it out in longhand.

4 Q Have you reviewed that to prepare for today?

5 A I didn't bring -- I have a copy, and I didn't
6 bring it with me.

7 Q Okay. I have a copy.

8 A Oh, okay.

9 Q But did you look at it recently?

10 A Probably maybe a few days ago maybe. I don't
11 know.

12 Q Did you look at anything else at all, any of the
13 legal mumbo jumbo in the case?

14 A No.

15 Q Other transcripts?

16 A No.

17 Q And no medical records from anywhere at all?

18 A No.

19 Q All right. Did you do any medical research at any
20 time at all going back to when your mom fell sick?

21 A No.

22 Q And you looked a little hesitant the way you
23 answered that. Did you --

24 A Well, one of her grandsons did a Goggle search on
25 necrotizing fasciitis.

1 Q And who was that?

2 A That was Phoebe Zarnegar's son.

3 Q What's his name?

4 A Jacob Zarnegar.

5 Q Is he an adult?

6 A Yes.

7 Q Is he a health care provider at all?

8 A No.

9 Q What's he do for a living?

10 A He works for Silverchair. It's a publishing
11 company.

12 Q Did he provide you a copy of what he found?

13 A No. I think I just read it over the Internet or I
14 can't remember.

15 Q How long ago was this?

16 A Oh, about right after it happened like three years
17 ago so --

18 Q Do you remember anything about it?

19 A That's why I was a little vague.

20 Q Sure.

21 A But none of us had ever heard of necrotizing
22 fasciitis so he said, like all young people, "I'll Goggle it
23 and find out."

24 Q Right, but you haven't Goggled it yourself?

25 A No.

1 Q Or gone to a medical library or anything like
2 that?

3 A No.

4 Q Do you still have what he gave you back then?

5 A I might.

6 Q How much is it? Was it a lot?

7 A It was about like maybe -- I don't know. I can't
8 remember. I mean, I can't remember if it -- see, I just
9 read it like on the Internet and then I think I printed it
10 out, but I can't remember if I just sat and read it on the
11 Internet or not. Seems to me it was like several pages.

12 Q Will you take a look for --

13 A But I might still have it on my -- in my e-mails.

14 Q That will be great, if you can take a look and see
15 if you still have it.

16 A And print it out?

17 Q Yeah.

18 A Okay.

19 Q And give it to Mr. Lewis.

20 A Okay.

21 Q If he will agree to provide it to me that will be
22 kind of him.

23 MR. LEWIS: Sure.

24

25

1 BY MR. REDMOND:

2 Q And you didn't -- did you see anything on the
3 Discovery channel, health channel, any other source of
4 information at all --

5 A No.

6 Q -- about anything having to do with the medical
7 conditions your mom suffered?

8 A No.

9 Q Have you had your appendix out?

10 A No.

11 Q What was the gist of what you can remember if you
12 can remember anything about that stuff from your nephew?

13 A Something about it like it eats the flesh and it
14 can move very quickly. I probably just skimmed it because I
15 can't sit at my computer very long and read stuff off the
16 computer, and I might have printed out a few pages. I -- I
17 just can't remember.

18 Q Do you remember anything about the causes of it or
19 how rare it is or anything else?

20 A No.

21 Q But you remember -- do you remember the specific
22 words, eats the flesh or flesh eating?

23 A Some -- I do remember something about flesh
24 eating.

25 Q Do you remember what source it was? I mean,
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1 whether it was a medical article or a textbook or a
2 newspaper clipping on-line or --

3 A No.

4 Q Doesn't sound really like a medical thing with the
5 phraseology "flesh eating." Just makes me wonder if it was
6 maybe a newspaper article.

7 A I don't remember. Silverchair publishes medical
8 things and stuff like that, and I don't know.

9 Q Tell me a little bit about your education, ma'am.

10 A I have a BA in history from Old Dominion
11 University.

12 Q Any graduate education?

13 A No.

14 Q And the substitute teaching that you did and have
15 done over the years, does that pretty much work out to be
16 full time?

17 A Well, yeah. The only -- I do it because I can
18 say, "I'm going back to Virginia for four weeks, take me off
19 the schedule," but I probably average three days a week.

20 Q Have you had any other jobs since 2005?

21 A No, not paying. I do volunteer.

22 Q What kind of volunteer stuff do you do?

23 A I'm a docent at the museum, Indianapolis Museum of
24 Art, so I have one day I have to give tours.

25 Q Okay.

1 A And I've been an adult reading tutor.

2 Q All right. What was the first time you learned of
3 your mom having any problems whatsoever in 2005?

4 A Let's see. The week before the Monday she went in
5 I remember I -- I might have talked to her like two or three
6 times and she said she was having some bad pain.

7 Q All right. When you say the week before the
8 Monday, I mean, like --

9 A Yeah, because I remember telling her, "Mom, well,
10 just go to the doctor and find out what it is." So it must
11 have been before that Monday.

12 Q Right. But you're not sure whether it was Friday
13 or Wednesday?

14 A Not weeks before, but at least the week before.
15 No, I don't remember which day.

16 Q But you're reasonably certain it was in the
17 previous week, not earlier than that?

18 A Well, it could have been that weekend, but she
19 went on Monday finally. I can't remember.

20 Q All right. Just so I'm sure we're sure as we can
21 be here, you're not sure of exactly what day it would be,
22 but it was somewhere in the range of a week or so?

23 A Yes.

24 Q Could have been a little more than a week, could
25 have been two weeks?

1 A I wouldn't put it as far as two weeks.

2 Q And I take it this is just based on what you can
3 remember, not on any notes or anything?

4 A It's based on what I can remember because it was
5 unusual for her to complain.

6 Q All right. What did she tell you?

7 A Well, she just said she had pain.

8 Q She tell you where?

9 A I think she might have said it was kind of
10 different. I don't remember even where she said it was. I
11 mean, I know now it was hip.

12 Q Right.

13 A But to think back on it, I --

14 Q Did she tell you anything else like whether it was
15 sharp or dull, what time of day it was worse, whether it was
16 continuous or sporadic, what kicked it off, what -- when it
17 would end, anything like that?

18 A I can't really -- the only -- I do remember she
19 told me she was sleeping in the recliner. She has like a
20 La-A-Boy in the den.

21 Q All right. And you understood that that was
22 because of the pain?

23 A The pain.

24 Q Did she say there was anything else wrong with
25 her?

1 A No.

2 Q Did she say she had a fever or couldn't
3 concentrate well or anything like that?

4 A No.

5 Q Did she complain of being cold or being hot or
6 having chills or being fatigued?

7 A I don't remember, yeah.

8 Q I'm lumping together a bunch of things here,
9 ma'am.

10 A Yeah.

11 Q And if you need to break them out, that's fine.

12 A Right.

13 Q I'm trying to, based on what you're telling me,
14 your recollection -- I mean, it's been a number of years.
15 It's only, you know, so much specificity, but if you want me
16 to break those questions down I'll be happy to do that for
17 you. I'm just trying to cover the ground.

18 A Right. Well, for sure I know she said she had
19 pain, but as far as the individual things I would have to
20 guess and so --

21 Q So I'll just ask you an umbrella question.

22 A Right. Okay.

23 Q Can you remember anything other than she related
24 to you that she had pain?

25 A No.

1 Q How many -- how many calls would you guess -- I
2 assume these were phone calls?

3 A Yes.

4 Q And were they all from your mom or some from your
5 sisters too?

6 A Oh, all of us were -- well, maybe not Polly, but I
7 called her maybe a couple of times that week before the
8 Monday. Peggy probably talked to her the most, and Phoebe,
9 and then Polly probably didn't call her.

10 Q Other than what you've told me about your own
11 recollection directly from your conversations with your mom,
12 did you hear anything different about the nature of the pain
13 or any other problems from the sisters then, not afterwards
14 but then?

15 A We're still talking before the Monday appointment?

16 Q Yes, ma'am.

17 A Oh, from what my sisters have said; is that what
18 you asked?

19 Q Then. Right.

20 A Before the appointment?

21 Q Right. What your sisters said before August the
22 5th, 2005 to you?

23 A Do I remember anything?

24 Q Right.

25 A That they might have added to --
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1 Q To what you just told me, right.

2 A No.

3 Q All right. Was your mom living by herself
4 independently at the time?

5 A Yes.

6 Q Your mom told us -- you haven't read your mom's
7 deposition?

8 A No.

9 Q Your mom told us of a person -- woman named Dora
10 who had come in and helped with cooking, cleaning, some
11 other things in the house. Do you remember anything about
12 that?

13 A Oh, she's just her cleaning lady, and she came
14 every -- every two weeks. She didn't cook.

15 Q So you think your mom is mistaken if she said she
16 came in pretty much every day?

17 A Oh, no, she didn't come every day. I thought my
18 mother only had her every two weeks.

19 Q Did your mom have a power of attorney she vested
20 in you or any of your sisters before August the 5th -- 8th,
21 2005 for any reason?

22 A No.

23 Q Was she manning her own financial and daily
24 activities?

25 A Yes.

1 Q Now, your mom has told us that she'd already put a
2 down payment in on Patriot's Colony where she lives now?

3 A Yes.

4 Q Were you aware of that at the time?

5 A Well, that happened even before they built it.
6 They sent it around to all the military, retired people, and
7 anything that came from the military, you know, she -- she
8 gives money to or whatever and she put a thousand dollars
9 down. I mean, they hadn't even broken ground.

10 Q To your recollection, did she have any plans when
11 she wanted to move into the facility?

12 A Well, she didn't want to.

13 Q She hadn't made any plans to at any time?

14 A No.

15 Q Your mom have a best friend at the time?

16 A Well, she had several. I could name a few.

17 Q That would be great.

18 A All right. Tress, T-R-E-S-S -- oh, she passed
19 away though. I'm sorry.

20 Q That's all right.

21 A You're going to love these names. Evie Twigg,
22 E-V-I-E, T-W-I-G-G, and she directs the senior citizen
23 center in Yorktown, very good friend.

24 Q She directs the senior citizens?

25 A Yeah. She -- she works at the senior citizen
Old Dominion Reporting

1 center.

2 Q She's still there?

3 A Yes. I just saw her on Sunday.

4 Q Do you have her cell number or any contact
5 information by chance?

6 A Not with me. I can get it.

7 Q Would you provide that to Mr. Lewis too, please?

8 A Yes. Another one, Margaret Matthews, and now
9 she's married the third time, Moul, M-O-U-L, and she lives
10 at Warwick Forest.

11 Q Is that a facility or neighborhood?

12 A It's a retirement living in Newport News.

13 Q Do you know any of her contact information?

14 A I don't have it with me. I should have brought
15 that.

16 Q That's okay. Same deal, if you'd provide that to
17 Mr. Lewis that will be great. Okay?

18 A I think I've already provided these names actually
19 to Ros or Mr. Lewis.

20 Q If you have I'll check it. Any others come to
21 mind?

22 A Oh, yeah, Hunter Fletcher. Oh, but he's passed
23 away.

24 Q Anybody else?

25 A Lots of friends. She was the one who always drove
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1 every body. I can't remember. I'm blank.

2 Q How about Robert Cornick?

3 A Oh, that's her nephew. He lives in Yorktown,
4 right, Robert Cornick.

5 Q And Carleton Bakkum?

6 A That's her episcopal priest, her minister.

7 Q Whose son is Mr. Cornick?

8 A He's my -- his mother was my father's sister.
9 He's my cousin.

10 Q All right. He's not one of the daughter's
11 offspring?

12 A No.

13 Q Does he still live in Yorktown?

14 A Yes.

15 Q Do you have his contact information?

16 A Well, Robert Cornick on Moore House Road.

17 Q That's what I got.

18 A And I have a telephone number.

19 Q Oh, you do?

20 A It's (757) 369-0741.

21 Q Anybody else come to mind, friends of your mom?

22 A One more across the street Eleanor, E-L-E-A-N-O-R,
23 Dunavant, D-U-N-A-V-A-N-T.

24 Q Now, at a later time in the case during the course
25 of events I should say your mom had a prescription filled

1 and one of her neighbors picked it up?

2 A Yes.

3 Q Was that this person?

4 A No.

5 Q Who was that; do you know?

6 A It was Mr. Carlson, C-A-R-L-S-O-N.

7 Q All right. Is he nearby too?

8 A Across the road, yeah.

9 Q Still true as far as you know?

10 A Yes, still lives there.

11 Q All right. You've mentioned Peggy before, which
12 sister?

13 A That's Mary Margaret, Mary Fooks.

14 Q Got you. All right. So did you learn anything
15 else other than what you've told me already about your mom's
16 pain before that office visit on Monday, August the 8th,
17 2005?

18 A No.

19 Q In general how many times before these events that
20 we're going to be talking about would you talk to your mom
21 in a week?

22 A Maybe twice, one to two times.

23 Q And forgive me, but I've forgotten. Where are you
24 in the list of daughters? Are you number one, number two?

25 A I'm the middle one. I'm the middle child, two
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1 older and two younger.

2 Q Oh, you're dead in the middle?

3 A Yeah.

4 Q The median. All right. When was the next time
5 you heard anything about your mom?

6 A Friday I was out cutting my grass in Indianapolis
7 and my sister Phoebe called and said that they're taking
8 mama from the doc in the box by ambulance to Hampton
9 Sentara.

10 Q Now, that's Phoebe that told you that?

11 A Oh, you know what, I think I might have heard from
12 Phoebe earlier that she told me she was going to come down
13 and find out what's going on. So that might have been
14 before, and then she called me and I remember I was cutting
15 my grass and stopped and she said, "Well, I took her and
16 she's on her way by ambulance."

17 Q So I want to try and figure out the course of
18 events. Do you remember when it was that week that Phoebe
19 said, "I'm going to go down and find out what's going on"?

20 A No.

21 Q Had you heard anything more about your mom from
22 anybody, any source whatsoever until that time?

23 A You mean that week?

24 Q No. I mean the time of that phone call from
25 Phoebe?

1 A Oh, yes.

2 Q What had you heard?

3 A Well, my sister -- we were all calling her that
4 week. Well, first of all, Wednesday was her birthday.

5 Q Right.

6 A And Peggy had talked to her probably the most, and
7 so I might have said, "Well, yeah, Peggy, I talked to mama
8 too and she says she's in pain," that type of thing, and
9 Phoebe had stopped the Saturday before. She was on her way
10 home from Sandbridge, the Saturday before the Monday
11 appointment and she had called me on her way back to
12 Richmond on her cell phone saying, you know, there's dirty
13 dishes. There's something wrong, and she seemed a little
14 out of it or something like that. So Phoebe was alarmed.

15 Q Was she there -- do you know if she was there when
16 your mom was there too or --

17 A Yes. She came in. As a matter of fact, she had
18 to let herself in. My mother didn't answer the door. She
19 thought that was odd.

20 Q Did she ask mom what's going on? "How come you
21 got dirty dishes in the sink? What's with the unmade bed,"
22 anything like that?

23 A I guess she did.

24 Q You didn't know anything about the answer?

25 A No. All I know is she called me just to report
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1 it.

2 Q Did she elaborate on what she thought was
3 different about your mom, seemed different about her at that
4 time?

5 A She seemed -- well, it was odd she didn't come to
6 her own front door. I think she said just sort of out of
7 it. She might have used the word "lethargic" but I'm not
8 sure, but she said it was odd.

9 Q Got you. I want to get back to that time period
10 after the office visit on Monday.

11 A Correct.

12 Q Until you learned on Friday that Phoebe was -- had
13 taken your mom to the doc in the box.

14 A Right.

15 Q And I want to know everything that you learned
16 about your mom during that period of time.

17 A Well, I know I talked to her on Wednesday because
18 that was her birthday. Whether I talked to her on Monday to
19 get the results if she went to the doctor, I cannot
20 remember. I cannot remember Tuesday. The first I can
21 remember is Wednesday, and she said, "Well, he gave me some
22 medicine. I'm not getting any better," and she was waiting.
23 She said, "I've put in a call to his office. I'm sitting in
24 the kitchen chair," because she doesn't have a walk-around
25 phone, and she called the office to say, "That medicine's

1 not working. I'm in pain," and so she -- we had to get off
2 the phone because I said, "Well, let me let you get off the
3 phone because you want to hear back," and for some reason I
4 think I got the idea she waited a couple hours for them to
5 return her call.

6 Q All right. When you say "for some reason," that
7 sort of makes me think you don't really know why you know
8 that, but you just have that sense; is that a fair
9 description?

10 A Yeah. Maybe she told me then I've already -- I
11 said, "Well, how long have you been sitting here," and she
12 might have said, "Well, it's -- I've been sitting here a
13 couple of hours," because I remember commenting like
14 thinking, oh, gosh, she can't leave by the phone because she
15 couldn't -- if she goes back to her easy chair she couldn't
16 get the phone in time if it rang so she had to just sit
17 there. So I might have asked her. Some reason two hours is
18 in my mind but --

19 Q Why would it be that she couldn't get to the phone
20 while it was ringing?

21 A Well, because she had been in that easy chair and
22 the pain and she -- it would take her a long time to get up
23 from there and walk into the kitchen and answer the phone.
24 It's not a portable phone.

25 Q Well, did she tell you at sometime before that

1 phone call that afternoon that she hurt so much she couldn't
2 get to the phone when somebody called?

3 A Well, she just said, "I don't want to miss the
4 call if they call back, so I'm sitting here right."

5 Q I understand that, but I'm trying to figure out, I
6 mean, how far was the recliner from the phone? Was it --
7 was it a long distance such that it would be hard to get up
8 before eight or nine rings had finished or whatever that is?

9 A Well, she doesn't have eight or nine rings. She
10 has an answering machine, and it's not programmed for eight
11 or nine rings. Sometimes she just thought, I guess, with
12 the pain she could not get out of the recliner in time and
13 she would kind of get kind of flustered if they called back
14 and she missed the phone call so --

15 Q If you could draw for me sort of the layout where
16 the phones are and where the recliners was then so I can try
17 and figure out what the story is here.

18 A Here's the recliner, then that's like a little
19 den, and then you go up like three steps. It's like a split
20 level, and this is the kitchen. So she's in the den in the
21 recliner. She has to go like that and go -- and the phone
22 is on the wall. It's a wall phone kind of over here, and
23 here's the kitchen table. So you have to get the wall phone
24 from the long cord. It's very old fashion, and then she
25 sat -- I pictured her sitting in this chair right here, but

1 maybe she was in that chair but --

2 Q Now, you need to -- if you would, you need to
3 write what these things are because we'll never know when we
4 look at these things later. Write "table."

5 A Table.

6 Q And write "kitchen" somewhere so we know where
7 this is.

8 A Kitchen and den.

9 Q Den?

10 A And this is like a La-Z-Boy, but it's La-Z-Boy.

11 Q And that's three steps up?

12 A And these are steps.

13 Q Three of them, split level or --

14 A It might be just two steps actually.

15 Q So why don't you put down two or three steps?

16 A Two steps.

17 Q That's fine.

18 A Okay.

19 Q And this is a wall?

20 A Yeah, that's a brick wall and that's a wall.

21 Q Just write "wall" there.

22 A Wall.

23 Q Literally unless we write this down we'll never
24 figure it out.

25 A Okay.

1 Q Now, what would be your estimate of the distance
2 between the recliner and the table?

3 A Maybe about 15 big steps, 15 to 18.

4 Q Straight shot it looks like from --

5 A But she's got to undo the recliner, pull herself
6 out of it.

7 Q And walk over there?

8 A And walk all the way. I think the trouble was
9 probably getting out of the recliner.

10 Q Now, you're saying things like "I think" and so
11 forth. Are these conclusions you're reaching logically or
12 that she told you was the case?

13 A I'm reaching logically.

14 Q It's just important to me that you draw that
15 distinction so I know.

16 A Well, that part about getting out of the recliner,
17 but she did say she was sitting there. She did not want to
18 miss the call. That's factual.

19 Q All right. At that time before -- we'll go back
20 and say before the office visit of August the 8th, 2005 did
21 she use a cane or a walker?

22 A She did not use a walker. She did have a cane,
23 and I think she might have used it -- I don't know if I ever
24 saw her use it. She had one with flowers on it.

25 Q All right. So we're talking about getting back to
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1 when you talked to her that afternoon.

2 A Yes.

3 Q You said she called the doctor's office?

4 A Is this the Monday afternoon or the Wednesday?

5 Q This is the phone call you remember.

6 A When she was waiting?

7 Q Right.

8 A Right. Okay.

9 Q Anything else you remember that you haven't told
10 me about that?

11 A That she said or --

12 Q Anything?

13 A No.

14 Q All right. Now, had you heard from your sisters
15 after the appointment and up until this time at any time?

16 A I don't remember. I'm --

17 Q All right. Like I said, if you don't remember,
18 you don't know, that's fine.

19 A I mean, we were calling back and forth, so I guess
20 I should say yes.

21 Q Well, tell me what you remember. If you don't
22 remember, tell me you don't remember.

23 A I probably talked to Peggy that mama finally did
24 go to the doctor.

25 MR. LEWIS: Laura -- Laura, don't guess. If
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1 you remember talking to Peggy tell him.

2 THE WITNESS: So I have to remember it
3 clearly?

4 MR. LEWIS: Tell Mr. Redmond you remember.
5 If you don't remember, tell him you don't
6 remember, but don't "I probably."

7 A All right. Well, since there's five daughters
8 it's hard to remember like which one. Can I say I remember
9 talking to somebody?

10

11 BY MR. REDMOND:

12 Q Yeah. I just -- I just want to know, you know,
13 your recollection truthfully and accurately. So if you're
14 not sure of stuff --

15 A I'll just say I'm not sure or I don't remember. I
16 don't remember.

17 Q That's fine. Listen to what your lawyer -- what
18 Mr. Lewis has said.

19 A I don't remember.

20 Q That's fair enough, and I'm not even asking you if
21 you remember which one. I'm just asking you if you heard
22 anything about your mom at all in that period of time from
23 anybody?

24 A Between the Monday and the Wednesday?

25 Q Yes, ma'am.

1 A I guess I should say -- I don't know whether to
2 say I don't remember or no.

3 Q I can't help you with that answer.

4 A Can I say --

5 Q You're the only one that knows the answer.

6 A Just how she was doing you mean?

7 Q Yeah. Did you have any information at all from
8 anybody from any source between the office visit?

9 A The Monday and the Wednesday?

10 MR. LEWIS: Let him finish his question,
11 please.

12 THE WITNESS: Okay.

13

14 BY MR. REDMOND:

15 Q Did you understand my question?

16 A No.

17 Q All right. Did you have any information
18 whatsoever about your mom between the period of time after
19 the office visit on Monday until you had that phone call
20 with you on Wednesday?

21 A Yes. I would say yes.

22 Q What?

23 A It was a phone call.

24 Q From who?

25 A From one of my sisters.

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1 Q Don't know which one?

2 A I can't remember if it was -- it was probably
3 Peggy.

4 Q Which day?

5 A I don't remember.

6 Q What was -- what was the gist of the phone call?

7 A Just about that mama had gone to the doctor. He
8 prescribed some medicine, maybe she didn't seem -- she says
9 she doesn't seem to be getting better, that type of thing.

10 Q Do you specifically remember that --

11 A Yes. Yes.

12 Q -- or are you guessing?

13 A I just don't remember which sister, but it was
14 probably Peggy.

15 Q Anything in addition to what you just told me
16 about that phone call?

17 A No.

18 Q All right. So you've told me everything you
19 remember about that phone call?

20 A Yes.

21 Q All right. And then you've told me everything you
22 remember about the call you had with your mom on Wednesday?

23 A Yes.

24 Q All right. Then when was the next time after that
25 call with your mom on Wednesday that you learned anything

1 about your mom from anybody?

2 A Well, I might have talked to her Wednesday night
3 because I -- I knew that she had asked the neighbor to go
4 get the medicine because I remember I was alarmed at that.
5 She told me because I remember asking her, "Well, mom, why
6 did you do that?" And she said, "I just didn't feel -- I
7 couldn't get in the car." So that might have been Wednesday
8 night.

9 Q All right. Anything else you remember about that
10 conversation?

11 A No.

12 Q All right. Now, you said -- you used the word
13 "alarmed at that." Did you call any of your other sisters
14 and say something to the effect of, "Hey, you need to get
15 over and see what's going on with mom"?

16 A I can't remember.

17 Q And I'm going to guess that you were alarmed, to
18 use your word, because your mom would go do her own errands
19 like that without asking a neighbor?

20 A Yes.

21 Q All right. Did you learn anything more at all
22 about her complaints of pain in any way?

23 A No.

24 Q Told me everything you remember about that phone
25 call?

1 A Yes, that I can remember.

2 Q When was the next time you --

3 A It was a long time ago.

4 Q When was the next time you learned anything about
5 your mom?

6 A I'm not -- I'm not sure about Thursday. I do
7 know -- I think I talked to Phoebe and she called and
8 says -- said, "I'm going down to Yorktown and we're going
9 to -- and I'm going to see what's going on, and I'm going to
10 take mama somewhere."

11 Q Do you remember whether -- was that on a Friday?

12 A That was on Friday.

13 Q Okay.

14 A She came down from Richmond.

15 Q Did she call you on Friday, Phoebe call you and
16 tell you that? Was it the same day she came down?

17 A It was the same day, but I can't remember if Peggy
18 called me and said, "Well, Laurie, Phoebe is going to go
19 down," or Phoebe called me, but somebody called me and said
20 Phoebe was going to go down from Richmond.

21 Q Do you know what the basis for that, the reason
22 for going down there was? Was it told to you?

23 A Well, because we had been talking back and forth
24 on the phone and some of us to my mother and then each of
25 us -- and the first medication, the pills on Monday didn't

1 work and then the pain medicine didn't work, and she said
2 this is just unlike any pain I've had before and so --

3 Q It's a lot of stuff you just threw in there that
4 you're not sure that there was even a communication about a
5 minute ago, so I'm a little confused about where that came
6 from. Was this information you learned later on if you
7 don't remember a phone call in the interim? I'm just trying
8 to get to the source of --

9 A Okay. What was your -- would you reword your last
10 question?

11 Q Well, a few questions ago I asked you when was the
12 next time you heard anything about your mom between
13 Wednesday and --

14 A And I said I didn't remember --

15 MR. LEWIS: Let him finish before you start
16 answering.

17 THE WITNESS: Okay.

18

19 BY MR. REDMOND:

20 Q Between Wednesday and Friday?

21 A Okay.

22 Q And you told me that you found out from one of
23 your sisters that Phoebe was going to go down and see what
24 was going on, and that you found out that the same morning
25 that Phoebe came down?

1 A Correct.

2 Q All right. So in between Wednesday and Friday you
3 didn't know anything else other than -- I mean, you didn't
4 know anything else; right?

5 A Did I not know anything else or did I not hear
6 anything else? Would you rephrase your question?

7 Q Well, the only way you would know about your mom's
8 condition would be if somebody told you because you weren't
9 in her house at the time?

10 A Correct.

11 Q So then getting back to the original question,
12 between Wednesday and Friday morning did anybody -- was
13 there any communication or did you learn anything at all
14 about your mom?

15 A I don't remember.

16 Q All right. So we'll go with Friday. All right.

17 A Friday morning, yeah.

18 Q And other than either Peggy or Phoebe telling you
19 that Phoebe was going down to see what was going on with
20 your mom, do you recall anything else about that
21 conversation?

22 A No.

23 Q All right. Were there any additional
24 conversations that day other than the -- the morning
25 conversation, I take it, when you learned Phoebe was going

1 down and then the later conversation when you were cutting
2 your grass and you learned that she was being taken -- your
3 mom was being taken from the doc in the box to the hospital?

4 A Were there any other conversations?

5 Q Right.

6 A I don't remember.

7 Q All right. When was the next time you heard --
8 well, strike that. You don't remember the reason why -- did
9 anybody tell you a reason why she was being transported from
10 the doc in the box to the hospital?

11 A Phoebe said they had done an x-ray and her leg was
12 all swelling when she took off her pants before the x-ray
13 and they saw a gas pocket.

14 Q All right. You didn't mention that a minute ago,
15 so I'm going to ask you again.

16 A Okay.

17 Q Do you remember anything else that you haven't
18 told me already that you learned in any of those
19 conversations, the two conversations on Friday?

20 A Oh, I thought you meant between Wednesday and
21 Friday morning. I'm sorry. I misunderstood you.

22 Q I think we covered that.

23 A So now we're on Friday.

24 Q Yes.

25 A I didn't understand you.

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1 Q All right. So that's the question.

2 A You're asking me when Phoebe called me when I was
3 mowing my grass what details did she give me?

4 Q What did you learn about your mom? Right.

5 A Well, I learned she was in the ambulance going to
6 the hospital, Hampton Sentara. Must have been something
7 about an x-ray had shown a gas pocket.

8 Q Anything else?

9 A I can't remember.

10 Q All right. Well, you said a second ago there was
11 some swelling and so forth.

12 A Oh, that's right.

13 Q Do you remember that or not?

14 A Yeah. When they took my mother's pants down --
15 but, see, I can't remember if Phoebe told me that in that
16 conversation.

17 Q Or it was later that you learned it?

18 A Or it was later. That's what I'm getting a little
19 bit confused about.

20 Q All right. Now, have we covered all the
21 conversations on Friday?

22 A I think so.

23 Q All right. When was the next thing you heard
24 anything about your mom -- next time?

25 A Friday night sometime they called me from the
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1 waiting room, one of the sisters. I can't remember which
2 one and said, "We're all sitting in here and" --

3 Q And?

4 A They just kind of gave me an update.

5 Q Which was?

6 A Oh, could have been something like they had to
7 give her -- they couldn't operate right away because she was
8 on Coumadin.

9 MR. LEWIS: Would you quit giving us the
10 could have been? If you remember the
11 conversation let's hear about it. If you don't
12 remember the conversation say, "I don't
13 remember."

14 A I don't remember.

15

16 BY MR. REDMOND:

17 Q I'm just trying figure out, as best you can
18 remember, the way things went.

19 A Well, when you say as best I can remember that
20 confuses me. If you just said as you can remember, but you
21 say as best as I can remember. So maybe if you could
22 rephrase it, but I'll just say I don't remember.

23 Q Yeah, I don't really know how more simply I can
24 rephrase it.

25 A It was a very traumatic time for all of us.

1 Q I realize that, and like I said, nobody remembers
2 everything forever, certainly.

3 A Right.

4 Q But still got -- you're the only person --

5 A As best I can remember, but you don't want me to
6 guess. So I'll just say I don't remember.

7 Q All right. Anything else on Friday? Any other
8 phone calls, communications at all?

9 A I don't remember.

10 Q How about Saturday?

11 A From my sisters?

12 Q From anybody?

13 A From anybody in Hampton, Sentara, anything?

14 Q Any source of information at all?

15 A I don't remember.

16 Q At some point along the line you learned your mom
17 had surgery?

18 A Yes.

19 Q And when you learned about that what were you
20 told?

21 A Well, I learned about it I guess Friday night when
22 they called that second time, and they said she's in
23 surgery.

24 Q I'm asking you what you were told about the
25 surgery?

1 A I don't remember. Well, can I add something?

2 Q Yeah.

3 A I think I remember they said Dr. Newman came out
4 and they said the situation was very grave. They did tell
5 me that on the phone Friday night because I remember that
6 really was upsetting. It's very grave. She could lose her
7 leg.

8 Q Anything else you remember?

9 A That's probably all.

10 Q All right. The chronology that you put
11 together -- first of all, I need to establish because I'll
12 show it to you. This has been marked already from a
13 previous deposition. I'm going to mark it again.

14

15 (Typewritten and Handwritten Chronology was marked
16 as Derrickson Deposition Exhibit Number One.)

17

18 BY MR. REDMOND:

19 Q I'll show you a copy, and this is what we've
20 marked your Deposition Number One, and it's also Ms. Fooks'
21 Deposition Number One. Is that your handwriting?

22 A This, yes.

23 Q And if you would flip through the handwritten
24 pages and tell me, are they all in your handwriting?

25 A Yes.

1 Q And nobody else has handwritten anywhere?

2 A No.

3 Q Now, going to that last page there -- last
4 page-and-a-half --

5 A Yes.

6 Q That's typed?

7 A Correct.

8 Q Is that all your product?

9 A Yes.

10 Q So nobody else physically typed that up?

11 A No.

12 Q All right. Now, when did you -- did you create
13 both the handwritten and the typed part at the same time?

14 A No.

15 Q When did you create the handwritten part?

16 A I know where I was when I created it, but I'm not
17 sure the date.

18 Q Where were you when you created it?

19 A I was in my mother's kitchen sitting at the
20 kitchen table right there.

21 Q Do you know whether it was in the five weeks or so
22 you came right after the -- this whole --

23 A That's when I think it was, that five weeks.

24 Q And what was the reason that you created the
25 notes, the handwritten part that time?

1 A Well, I just thought we should -- we always write
2 things down like a journal or something, and I just thought
3 maybe I should -- it was just getting so confusing about --
4 I don't know, just to write down details.

5 Q Do you keep a personal journal yourself or diary?

6 A I'm not real good at it, but yeah.

7 Q You try to?

8 A Yes.

9 Q Was this -- did you consider this part of an entry
10 into your personal journal?

11 A No.

12 Q Were you asked by any lawyer to create this?

13 A No.

14 Q Did you create this because you thought you might
15 sue somebody later on?

16 A No.

17 Q All right. And was there anybody else there with
18 you when you were hand writing out that portion of it?

19 A No.

20 Q Did you do it all in one sitting?

21 A I can't remember.

22 Q Well, judging from the way that it's put together,
23 the first four pages of it carries us through August the
24 12th and at no time after that; right?

25 A I guess so.

1 Q That's what it -- the last indicated date on Page
2 Three I guess it was August 12th?

3 A Right.

4 Q The handwritten portion; right?

5 A Right.

6 Q On the next page, Page Four in the left-hand
7 margin, there's a printing that says "extra notes." Do you
8 see that?

9 A Correct.

10 Q Is that your handwriting?

11 A Yes.

12 Q Now, underneath that at the bottom of the page
13 it's written cortisone and then one, two, three points
14 written under that?

15 A Right.

16 Q And you wrote that as well?

17 A Yes.

18 Q All right. Where did you gain the knowledge that
19 cortisone suppresses the immune system?

20 A From my sister Polly, who was studying to be an
21 RN.

22 Q Same answer for number two and number three?

23 A Yes.

24 Q How was it that that even came to be a subject of
25 conversation? Did Polly volunteer that or did you ask, hey,
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1 what's going on or --

2 A Well, yes, just in the conversations about my
3 mother after all this broke out in her surgery probably she
4 wanted to know, well, what happened, and what -- what did he
5 give her? She was real concerned about medicine and stuff
6 like that, and I said, well, I guess I just saw the box with
7 the cortisone and pill -- the box up in her cupboard and
8 told her that, and she expressed surprise or something, and
9 I think that's when she told me, "Oh, he gave her
10 cortisone," and so I just wrote that down.

11 Q Do you remember anything more about what she told
12 you other than what you wrote down?

13 A No.

14 Q Now, on the next page of the handwritten notes,
15 Page Five, it's -- this again is your handwriting?

16 A Yes.

17 Q You've written some information about different
18 health care providers, Dr. Lindemann, Port Warwick,
19 Dr. Newman, Dr. Kanter?

20 A Right.

21 Q Was that all written at the same setting?

22 A Probably, yeah. Yes.

23 Q Did you contact Dr. Lindemann's office to find out
24 her patient number and chart number, because that seems to
25 be what you've written down here?

1 A I can't remember unless that was on something I
2 saw in my mother's house or -- I was trying to get all her
3 medical stuff together. She was seeing, by this point, so
4 many, and I was trying to organize it. So it might have
5 been on something in the house.

6 Q You're not sure?

7 A Like on her medicine bottle or something. Would I
8 it be on a prescription? I don't know.

9 Q All right. Have you taken any photos or do you
10 know if anybody else has taken any photos of your mom at any
11 time of her leg?

12 A After we talked with Ros Willis like about a year
13 ago or something when my mother was almost healed either he
14 suggested or --

15 MR. LEWIS: Don't tell Mr. Redmond anything
16 your lawyer said. The question was, did you take
17 any pictures? That's a yes or no.

18 A Yes, I did. Yes.

19 MR. LEWIS: There you go.

20

21 BY MR. REDMOND:

22 Q And do you still have that picture or pictures?

23 A Yes. They're at home.

24 Q All right. Did you turn them over to Mr. Willis
25 or Mr. Lewis also?

1 A Yes.

2 Q And did anybody else other than you at any time
3 take pictures that you know of?

4 A No.

5 Q Anybody take any video?

6 A No.

7 Q So the best of your knowledge is the last time any
8 photographs that were taken of your mom's leg was in 2008 or
9 so?

10 A Yes. I -- it could have been 2008, yes.

11 Q Let me show you some pictures that were provided
12 to us or it's actually a Xerox copy, okay.

13 A Okay.

14 Q You see at the bottom of one of the frames it says
15 8/23/05?

16 A Right.

17 Q Do you know anything about whether these pictures
18 were taken on August 23rd, 2005?

19 A No.

20 Q Have you ever seen those pictures before?

21 A No.

22 Q Do you have any idea who would have taken them?

23 A No.

24 Q Under the second frame is a number. It looks like
25 some sort of reference number, 16 -- let me just if you

1 could put it down, 1066473. Do you know what that is?

2 A No.

3 MR. REDMOND: All right. I want to mark
4 this Number Two.

5

6 (Copy of Three Photographs were marked as
7 Derrickson Deposition Exhibit Number Two.)

8

9 BY MR. REDMOND:

10 Q So the pictures that you have are different
11 pictures than these?

12 A Yes.

13 Q Were they taken with a digital or a film camera?

14 A Let's see. I think just one of those throw-away
15 cameras.

16 Q Do you have the negatives?

17 A I don't think so.

18 Q But you have a copy of the prints?

19 A Yes.

20 Q All right. I would like you to turn those over to
21 Mr. Lewis if you would.

22 A Okay.

23 Q Because I think I've asked for stuff like that,
24 and I want to get copies of them.

25 A I think I already did.

1 Q You already turned them over, you think?

2 A I think, yes.

3 Q All right. Those would have been taken, again
4 just to be sure, in 2008?

5 A Yes. I mean, it was -- she was healed, you know.
6 You could see the scars, but it was later.

7 Q You said roughly a year ago, that's what I'm
8 trying to --

9 A Yeah, I would say.

10 Q When was it that you first went to see -- seek any
11 legal advice? And don't tell me what advice you were given.
12 I just want to know when you first went to see a lawyer.

13 A April -- let's see. I'm not sure. I mean, I
14 could find out for sure.

15 Q And was it Mr. Willis?

16 A Yes, and it was April. It was spring.

17 Q How did you come upon his name? Had he
18 represented the family before in something?

19 A No. He was -- he's a friend of my son-in-law, and
20 I had kind of known him, his wife and him.

21 Q Who's your son-in-law?

22 A Louis, L-O-U-I-S, L-A-Z-A-R-N -- A-R-A-N.

23 Q And does Louis live here in Virginia Beach?

24 A I mean, O-N. Excuse me. It's L-A-Z-A-R-O-N. He
25 lives in Indianapolis.

1 Q Do you know if Mr. Willis or Mr. Lewis or anybody
2 from either of their offices or their employment took
3 photographs or videotapes of your mom?

4 A No.

5 Q Have you ever sued anybody before?

6 A What do you mean?

7 Q Have you ever sued anybody before?

8 A Oh, I thought you said "seen." Excuse me.

9 Q Filed a lawsuit?

10 A No.

11 Q Have you ever been sued before yourself?

12 A No.

13 Q Before August of 2005 had you seen any signs of
14 dementia or any confusion in your mom at all?

15 A No.

16 Q Seemed perfectly lucid to you, without any issues?

17 A I'd say yes. She -- you know.

18 Q No memory fuzziness or loss?

19 A No.

20 Q Nothing unusual to think that she was less lucid
21 than you or any of your sisters?

22 A I don't remember.

23 Q So as far as you could tell, she was as sharp
24 mentally as she had been when she was 50?

25 A Oh, I don't know.

1 Q Nothing stands out in your mind though?

2 A Nothing stands out like the, oh, she's had a
3 stroke or something, you know, that she's in -- no, nothing
4 stands out, no.

5 Q Yeah, and I don't mean anything dramatic
6 necessarily.

7 A Right.

8 Q But every body as they get older or nearly every
9 body as they get older, you know, can remember less and
10 sometimes become more easily confused. I'm just trying to
11 understand if you saw any of that in your mom.

12 A I would say no. We used to comment that she's
13 always pretty with it. I don't know. I would say no.

14 Q Did your mom ever tell you at any time about the
15 office visit of August 8?

16 A Yes.

17 Q What did she tell you?

18 A But I can't remember when she told me.

19 Q What did she tell you?

20 A I can't remember exactly what she told me, but I
21 think I remember hearing her say -- she told me she went to
22 the doctor, and as far as the visit I can't remember.

23 Q All right. Now, I want to make sure that you
24 understand when I ask you what somebody told you I'm never
25 asking for a verbatim account. You understand that?

1 A Right.

2 Q I'm just asking you for what the gist of the
3 communication was.

4 A Well, my problem is she's said some things since
5 then, but I -- I get confused if you want to know like that
6 night on the phone what she told me or something like that.

7 Q No. No. I didn't preface it that way.

8 A Yeah.

9 Q I'm asking you at any time from the beginning of
10 mankind until today has your mom told you anything about
11 what occurred during that office appointment of August --

12 A Well, she did tell me that --

13 Q Let me finish. Of August the 8th, 2005. Okay?

14 A Okay.

15 Q All right.

16 A She told me that she said to Dr. Lindemann, "Do
17 you think it could be my appendix?"

18 Q And when did she tell you that? Was it after her
19 surgery?

20 A I can't remember.

21 Q Did she give you any reason in the world why she
22 would think to even ask that question with hip pain?

23 A Can I think of a reason?

24 Q No. No. Did she tell you any reason in the world
25 why she would even think to ask a question about her

1 appendix when she was there for hip pain?

2 A No. I can only guess, but no, she did not give a
3 reason that I can remember.

4 Q Was is it that -- what would you guess if you had
5 to?

6 A Well, it's just typical of my mother. She says
7 things and they usually turn out to be true, and the fact
8 that it was on her right side and my sister had had appendix
9 and they had burst, and so she would probably be aware of
10 the appendix because Peggy had had burst appendix.

11 Q Any other reason?

12 A I can't think of any other reason except it was a
13 pain she'd never known. It wasn't like arthritis pain or
14 anything.

15 Q All right. Did she tell you anything else about
16 the -- the visit that day, whether she told it to you at any
17 time from the beginning of mankind until the present?

18 A I think she said she asked about an x-ray and she
19 said that the x-ray technician -- he told her the x-ray
20 technician was not there that day.

21 Q Who's the "he"?

22 A Dr. Lindemann.

23 Q Are you telling us that she specifically asked --
24 strike that. Are you telling us that your mom told you that
25 she specifically asked an x-ray be taken during that office

1 visit?

2 A I think I can say yes. Yeah. Yes.

3 Q Did your mom have any medical training at all?

4 A No.

5 Q Does she have any radiological training about
6 whether x-rays would be the right tests to order under
7 different circumstances?

8 A No.

9 Q Were you aware of any problems your mom had had in
10 the past with her hip before this event in August of 2005?

11 A No. I mean, now I've heard she had arthritis, but
12 at the time, no, I did not know.

13 Q All right. Knowing what you know now, did you
14 learn that she'd had a number of visits years before where
15 she'd seen Dr. Lindemann for problems with her hip?

16 A I know that now, correct. Yeah.

17 Q All right. I'm sorry to ask you this question,
18 but it's one we always have to ask. Have you been convicted
19 of a felony or a crime of lying, cheating or stealing?

20 A No.

21

22 (There was an off-the-record discussion, after
23 which, testimony continues as follows:)

24

25 MR. REDMOND: Let's talk about your
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1 chronology for just a few minutes, but let's take
2 a short break before we do that.

3

4 (Drawing was marked as Derrickson Deposition
5 Exhibit Number Three.)

6

7 BY MR. REDMOND:

8 Q I'm going to ask you just a few questions about
9 the chronology, ma'am, and you've got the copy in front of
10 you there. About halfway down the first page there's a
11 date, July 21st, 2005 that you've written. Do you see that?

12 A Yes.

13 Q All right. And it mentions that during an office
14 visit on that date your mom had a glucose blood test
15 urinalysis, something auto with scope, urine culture and
16 colony count?

17 A Uh-huh.

18 Q Is that yes?

19 A Yes.

20 Q That doesn't look like something you just remember
21 off the top of your head. Would this suggest to you that
22 you had your mom's medical chart in front of you when you
23 were writing out your summary?

24 A No. I think she still had -- you know how they
25 give you those yellow billing sheets or something when you

1 leave the office? When I was in her kitchen she keeps all
2 this stuff up there with her -- she had that little -- the
3 cortisone pillbox still up there, and seems to me I saw
4 these two yellow sheets up where she keeps her glasses with
5 the pills.

6 Q All right. Let me back you up to the -- the first
7 or top of this. It says that this was written by daughter
8 Laura Derrickson on 10/26/06.

9 A Okay. Well, that would have been --

10 Q Does that help you remember a little better when
11 it was?

12 A Yeah. So it wasn't in that first five weeks, no.

13 Q Right. And that -- that handwriting itself,
14 "written by daughter Laura Derrickson" --

15 A Right. Yeah.

16 Q That's your handwriting?

17 A Yeah.

18 Q So this would be written --

19 A But it was at her kitchen table. So, see, I'm
20 getting all my visits mixed up.

21 Q Sure. So if that date's correct, then it would be
22 more than a year after the events; correct?

23 A Correct.

24 Q In the next entry you've written, "In mid
25 July 2005 Margaret complained to daughter over the phone of
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1 severe hip pain." You see that?

2 A Which page? The next page?

3 Q Same page.

4 A Mid July, okay.

5 Q Okay. Which daughter?

6 A I don't remember.

7 Q And do you know why if --

8 A It might be cut off, but I -- I don't remember.

9 Q That's possible too, and we'll have to check.

10 A It was probably Mary, Peggy.

11 Q And do you know of any reason why if that
12 complaint was in mid July it wasn't raised during the
13 July 21st visit?

14 A I don't know, no.

15 Q All right. Do you know where you got this info?

16 A I don't remember where I got that.

17 Q All right. You've written down here at the bottom
18 of the page something about the office visit. It says
19 August 8th, 2005, then there are four or five lines of
20 description here. You see that?

21 A Uh-huh. Yes.

22 Q All right. Now, you didn't tell me any of this
23 today. Do you remember where then you got this information?

24 A About the August 8th visit?

25 Q Right. Take your time and read through.

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1 A As far as the messages on the answering machine,
2 of course, this is over a year now we remembered I wrote
3 that. So I got that information when I came into her
4 kitchen and they were on her machine. I think there were
5 two from a man, physical therapist, wanting to set up an
6 appointment.

7 Q What about where it says --

8 A "He diagnosed hip pain"?

9 Q Right.

10 A I probably seen the yellow sheet just like these
11 other yellow sheets, you know, where they have all the stuff
12 and they mark what tests and stuff.

13 Q And the next clause you say, "Insisted she start
14 physical therapy," during that office visit of August 8th.
15 You see that?

16 A Yes.

17 Q Do you know where that came from?

18 A That came from my mother because she told me that
19 on the phone. Now, you're going to ask me what
20 conversation, but she said he wants me -- he's making me or
21 he wants me to go to physical therapy.

22 Q All right.

23 A And she was sort of concerned about it, so I said
24 "insisted." She didn't like that fact.

25 Q If you haven't mentioned that before does this
 Old Dominion Reporting

1 help refresh your recollection?

2 A Yes.

3 Q But you're not sure when that occurred, that
4 conversation?

5 A No.

6 Q Between you and your mom?

7 A Whether it was Wednesday, you know, when I talked
8 to her on her birthday or it could have been -- didn't I
9 tell you I talked to her on Monday night after the
10 appointment?

11 Q No.

12 A I didn't?

13 Q Uh-uh.

14 A And I wasn't sure if I talked to her on Tuesday.

15 Q Right.

16 A Right. Well, it was one of the conversations
17 sometime that week.

18 Q You're sure it was in that week and not some later
19 time?

20 A No. It was in that week.

21 Q All right.

22 A I know that.

23 Q Beginning on Page Two you've actually put down in
24 quotation marks where you say your mom asked Dr. Lindemann,
25 quote, "Do you think it could be my appendix"?

1 A Right.

2 Q "What about an x-ray," closed quote. All right.
3 This is what you've already told me about?

4 A Well, yeah, and I put those in -- that's not exact
5 quote but that's -- these were just my little journal notes,
6 so that's not like an exact quote, but she did say she asked
7 Dr. Lindemann, "Do you think it could be my appendix?"
8 Those are pretty much her own words and that sounds exactly
9 like something my mother would say. "What about an x-ray,"
10 those are my words. I remember she said something she asked
11 him about an x-ray. Whether those are exact words or not
12 I'm not sure, and she found that the x-ray technician was
13 not there that day on Monday.

14 Q You told me about.

15 A Right. Okay.

16 Q You're not sure when that information was --

17 A Was relayed to me?

18 Q Right.

19 A Well, it was in that week. It wasn't after her
20 surgery because she can't remember anything so -- after the
21 surgery, so it had to have been that week in one of these
22 phone calls.

23 Q All right. Kind of going back to the beginning on
24 this, having read this and now remembering that this stuff
25 happened that week that you didn't remember when we were

1 going through this before, is there anything else that --
2 that you remember now that your recollection has been
3 refreshed a little bit?

4 A I hope not. No, I don't think so. No.

5 Q This is a fair amount of stuff that didn't come
6 out the first time around and sometimes people remember when
7 they review stuff.

8 A Right.

9 Q I want to be sure as we go through this that you
10 tell me if any of those previous answers you gave me change,
11 all right.

12 A Right.

13 Q Because it's important.

14 A Right. And some of your questions before though I
15 thought you meant like it had to be -- it couldn't be like
16 what she said to me or something. I don't know, but I'll
17 always remember that about, "Do you think it could be my
18 appendix?" I didn't really forget that.

19 Q We're not going to go back and do that all over
20 again. We've done that a couple times already.

21 A Right.

22 Q In that same part of the entry you said that
23 Dr. Lindemann gives her Demerol injection, Phenergan
24 injection and --

25 A I took that off the yellow sheet.

1 Q And the same thing with Methylprednisolone
2 tablets?

3 A I guess, yeah.

4 Q Why did you put in parentheses, "Margaret has
5 diabetes, lives alone"?

6 A Because when I was writing this I had already told
7 my sister Polly, who was a nurse, about the Prednisone
8 tablets and she said, "Oh, my gosh. He gave her
9 Prednisone," and she said, "You know, that's not good for
10 diabetics. It makes their blood sugar go up." So I
11 probably just added that. I put she lives alone maybe
12 because nobody was there to check on her.

13 Q All right. You sort of told me about the next
14 entry on August 10th. This is in a little more detail?

15 A Right, her birthday.

16 Q You say that she had to wait sitting in the
17 kitchen chair, quote -- I quote "several hours," closed
18 quote. Did you know that to be true or is that just
19 something you logically concluded?

20 A Logically concluded.

21 Q Top of the next page, Page Three, "Margaret is in
22 such severe pain that she can no longer get to her car. She
23 has to call a neighbor, whose husband picks up the
24 prescription." Is that something she told you on August the
25 10th or something you concluded made sense?

1 A She told me.

2 Q All right. Now, the next couple lines says that
3 the pain medication didn't give her relief. You wouldn't
4 know that, of course, until she took it and had a chance to
5 see. So do you have any notion of where that fits in time
6 wise?

7 A It could have been -- like I said, it could have
8 been late Wednesday night. It could have been the Thursday,
9 sometime after she would have taken them.

10 Q All right.

11 A I must have called her and we talked.

12 Q You've now mentioned the next note on August 12th
13 Phoebe drove from Richmond, took your mom to urgent care,
14 which I guess you call that a doc in the box before?

15 A Correct.

16 Q Do you know of any reason why Phoebe didn't take
17 her to the emergency room directly?

18 A Because -- yes, I do.

19 Q What?

20 A My mother and Peggy had been talking on the phone
21 that week and Peggy said, "Mama, don't go to physical
22 therapy until you get an x-ray. You don't know what is
23 wrong," and they -- Peggy in Charlottesville -- she lived in
24 Charlottesville then, had a Norfolk phone book -- I mean a
25 Newport News phone book, a Peninsula phone book, and she was
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1 looking up places she wanted my mother to get an x-ray. So
2 she wrote -- my mother wrote them down as Peggy gave them to
3 her, different places that got x-rays -- that you could get
4 x-rays, and when Phoebe came down there that day my mother
5 remembered. She said, "Oh, I have one of my lists. There's
6 one on Port Warwick that gives x-ray." So they went to Port
7 Warwick, and Phoebe said she had a hard time finding it
8 because they wanted to know what was wrong.

9 Q Well, but that doesn't -- but people give x-rays
10 at emergency rooms. And so my question is, do you know
11 why -- and you may not know why because you weren't there,
12 but do you know why Phoebe just didn't take her to the
13 hospital emergency room instead of going through all this
14 process, rigmarole that you mentioned and not knowing where
15 it was to go to some urgent care center instead?

16 A Well, maybe she just thinks that an emergency --

17 MR. LEWIS: Don't guess. If you know you
18 know. If you don't know say, "I don't know."

19 A Okay. I don't know.

20
21 BY MR. REDMOND:

22 Q The bottom of that page, still Page Three of this
23 exhibit, it talks about Phoebe calling Dr. Lindemann's
24 office, and I can't read all of that.

25 A Yeah, that's not in the right order.

1 Q Can you read that?

2 A When she got to Yorktown, but I'm not sure --

3 Q Who?

4 A Phoebe from Richmond, she called Dr. Lindemann's
5 office and left a message. This is Phoebe Zarnegar,
6 Margaret Penzold's daughter calling, and she said she said
7 it was an emergency, left a message.

8 Q Do you know what time of day that was?

9 A No. Late morning maybe.

10 Q Do you know what was meant by left a message,
11 whether she talked to somebody or got a recording or do you
12 know?

13 A I think she got a recording, yes.

14 Q All right. Did you ever make any attempt yourself
15 to call Dr. Lindemann?

16 A No.

17 Q Or his office at all?

18 A No.

19 Q In the second paragraph on Page Four right
20 adjacent to where you've written "extra notes" you said that
21 your mom was never contacted by Dr. Lindemann since she, and
22 I quote, "Walked out of his office on August 8, 2005." You
23 see that?

24 A Yes. Uh-huh.

25 Q When did you put that paragraph in there?

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1 A He was her family doctor, and he never checked her
2 or anything.

3 Q Did you have any --

4 A He never came to the hospital. He never came to
5 York Convalescent, which is right around the corner from his
6 office, and I guess it was just mad.

7 Q You think Dr. Lindemann was mad at your mother?

8 A No. No. I just put it in there. I guess it was
9 because --

10 Q Because you were mad?

11 A He was her family doctor, had been for years and
12 he never checked on her.

13 Q Do you know if anybody called him to say that your
14 mom was at York Convalescent?

15 A No, I don't know that.

16 Q I don't see it recorded in your notes, which is
17 why I asked.

18 A Pardon me?

19 Q I don't see it written down in your note.

20 A No. No.

21 Q Did you have any information about whether
22 Dr. Lindemann even had privileges to go to Sentara Health
23 CarePlex?

24 A Had privileges? No, I don't have that
25 information.

1 Q Do you have any knowledge of what is meant when I
2 say some doctors have privileges to --

3 A Yes. Yeah.

4 Q Where does your mom live now?

5 A At Patriot's Colony.

6 Q And how is she doing?

7 A She's doing great. She's in assisted living.

8 Q All right. And how long has she been in assisted
9 living?

10 A It was a year this last April.

11 Q And what is assisted living? What -- how much
12 assistance does she get?

13 A Well, she's on the mid-level nursing. She does
14 quite a bit by herself, but she gets her blood sugar tested
15 twice a day. She has to wear compression stockings, and she
16 has those put on her, and she's helped with the shower twice
17 a week.

18 Q Anything else?

19 MR. LEWIS: They do her meds.

20 A Oh, and they do her meds, yes.

21

22 BY MR. REDMOND:

23 Q Meaning they give her her medicines?

24 A Medicines, yes.

25 Q Anything else?

1 A They make up her bed.

2 Q They make up her bed, all right. What else?

3 A I'm not there in the morning when she gets
4 dressed, but I think she pretty much -- once they get the
5 compression stockings on she, you know, gets it done
6 herself.

7 Q Does she have an apartment there in the assisted
8 living?

9 A It's like an apartment. It's just kind of one
10 room but --

11 Q Private?

12 A Yes.

13 Q She doesn't share it with anybody?

14 A No.

15 Q Does she have her own private bathroom?

16 A Yes.

17 Q And is the -- is there any of her own furniture
18 there or is it furniture of the facility?

19 A It's all her own. It's a rented hospital bed, but
20 the rest is all hers.

21 Q So she essentially moved what she could into that
22 space?

23 A Right.

24 Q From home?

25 A Right.

1 Q Does she cook in -- does it have a kitchen?

2 A No. It just has a sink.

3 Q She have a meal plan with the facility?

4 A Yes.

5 Q Regular meal plan, no restrictions as far as you
6 know?

7 A As far as her diet?

8 Q Yes, ma'am.

9 A No sugar.

10 Q That's for diabetes?

11 A Yes.

12 Q All right. Is there any -- well, that's a bad
13 question. Did anybody keep the answering machine message
14 you mentioned earlier?

15 A No.

16 Q Did your mom go to that office visit with
17 Dr. Lindemann on her own or did one of --

18 A Oh, she drove herself.

19 Q Right. And was she met there such that any of the
20 sisters, your sisters or her daughters were there with her?

21 A No.

22 Q Anybody accompany her at all?

23 A No.

24 Q All right. Have you told me everything that you
25 know about that actual visit in the office on August the

1 8th, whether you learned it from your sisters, your mom,
2 anybody else at any time whatsoever?

3 A Yes.

4 Q All right. The decision obviously was made to sue
5 Dr. Lindemann for medical malpractice. Was that a joint
6 decision of your sisters and your mom?

7 A Yes.

8 Q And I know you're not an expert, ma'am, and I
9 don't expect you to be, but people make decisions to sue for
10 lots of different reasons. What personally made you believe
11 factually that Dr. Lindemann ought to be the subject of a --
12 of a malpractice lawsuit?

13 A I felt like he just did not listen to her that
14 day. He didn't -- and just as it became so grave and seeing
15 the wounds on her leg.

16 Q Do you want to take a short break?

17 A She suffered extreme pain when she was at Sentara.
18 They had to -- well, the skin grafts were very painful and
19 then they left a hole up here and the doctor would have to
20 come in and put his hand in it. I could hear her down the
21 hall. The skin grafts were very painful and just I thought
22 it could have been avoided.

23 Q Why did you think it could have been avoided?

24 A Well, because I thought if he had done more
25 testing he could have ruled some things out.

1 Q What testing?

2 A He might not have zeroed in on what it was maybe,
3 but he could have ruled some things out, like if it was just
4 arthritis or a muscular thing that therapy would help.

5 Q What kind of testing?

6 A What kind of testing? Well, my first guess, I
7 guess, would be an x-ray.

8 Q Do you know that from any medical knowledge or is
9 this just something you --

10 A No. I just think that's common knowledge.

11 Q Common knowledge that an x-ray would do what?

12 A Well, if someone's having pain, especially an
13 older person who could have a broken bone easily, like a
14 broken hip or something, I wouldn't have wanted my mother to
15 go to physical therapy. So I think that's just probably my
16 own common sense.

17 Q Anything else?

18 A Let's see. Well, the physical suffering and
19 the --

20 MR. LEWIS: I think what he's asking you is
21 what do you think Dr. Lindemann did wrong, not
22 what happened to your mom. We all know what
23 happened to her.

24 THE WITNESS: Right.

25 MR. REDMOND: Exactly.

1 MR. LEWIS: He wants to know what you think
2 Dr. Lindemann did wrong.

3 MR. REDMOND: Exactly.

4 MR. LEWIS: If you think he did anything
5 wrong.

6

7 BY MR. REDMOND:

8 Q Right. The fact that your mom was in pain later
9 doesn't mean Dr. Lindemann did anything wrong.

10 A Well, I guess he didn't find out what was wrong
11 with my mother.

12 Q And that's the basis of your suing him?

13 A Yes. I -- yes.

14 MR. REDMOND: Give me two seconds.

15 MR. LEWIS: Sure.

16

17 (There was a short break, after which, testimony
18 continues as follows:)

19

20 BY MR. REDMOND:

21 Q Did anybody tell you about your mom being in a
22 beauty parlor on Friday?

23 A Friday morning, yes. Yeah.

24 Q All right. Because I hadn't heard that before.

25 What did you know about that?

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1 A Phoebe had told me that, that she took mama. She
2 has a standing appointment to her beauty parlor appointment
3 and she told me it was difficult, but she went on and did it
4 and then she was okay, but then when they were starting to
5 get back in the car she realized it was really getting bad
6 so she better go on and get her to the x-ray place.

7 MR. REDMOND: That's all. Thank you very
8 much, ma'am. That's all I have.

9 THE WITNESS: She just wanted to keep that
10 appointment I guess.

11 MR. LEWIS: She waives.

12

13 (The witness was excused.)

14

15

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25

1 COMMONWEALTH OF VIRGINIA AT LARGE, To-Wit:

2

3

4

5 I, Shannon A. Crittenden-Mann, a Notary
6 Public in and for the Commonwealth of Virginia at
7 Large, whose commission expires May 31, 2012, certify
8 that the foregoing deposition of LAURA E. DERRICKSON
9 was duly taken and sworn to before me at
10 the time and place for the purpose in the caption
11 mentioned, and that the foregoing is a true and
12 correct transcript to the best of my ability of the
13 testimony given by the witness.

14 I further certify that I am not a relative or
15 employee of attorney or counsel of any of the parties
16 or financially interested in the action.

17 Given under my hand this _____ day of
18 _____, _____.

19

20

21

22

Notary Public

23

24

Registration No. 217036

25