

1 IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS  
 2 MARY HARTMAN, ET AL PLAINTIFF  
 3 VS. NO. 17CV-10-425-11  
 4 HENRY N. EDWARDS, M.D. DEFENDANT

**FILED**  
 JUL - 5 2013  
 2:41 O'CLOCK  
 SHARON BLOUNT-BAKER, CIRCUIT CLERK  
 CRAWFORD COUNTY, VAN BUREN, AR

**APPEAL TRANSCRIPT**  
**TRIAL IN CHIEF**

7 NOVEMBER 26, 27, 29, 30, 2012

8 VAN BUREN, ARKANSAS

9 \* \* \* \* \*

10 BEFORE THE HONORABLE MIKE MEDLOCK

11 CIRCUIT JUDGE

12 TWENTY-FIRST JUDICIAL DISTRICT - DIVISION II

13 \* \* \* \* \*

14 APPEAL FROM JUDGMENT ENTERED: December 3, 2012

15 NOTICE OF APPEAL FILED: January 31, 2013

16 AMENDED NOTICE OF APPEAL FILED: February 19, 2013

17 APPELLEE'S DESIGNATION OF ADDITIONAL  
 18 PORTIONS OF THE TRANSCRIPT FOR  
 RECORD ON APPEAL FILED: February 4, 2013

19 APPEARANCES:

20 FOR PLAINTIFF: JAMES E. KEEVER  
 21 Attorney At Law  
 22 2801 Richmond Road  
 Texarkana, TX 75503  
 AND  
 23 KEN SWINDLE  
 619 West Persimmon Street  
 Rogers, AR 72756

24 **VOLUME V OF VII**

25 (Pages 1053-1278)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

FOR DEFENDANT:

WALTER COX  
Attorney At Law  
P.O. Box 878  
Fayetteville, AR 72702

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS  
CIVIL DIVISION II

MARY HARTMAN, ET AL PLAINTIFF

VS. NO. 17CV-10-425 (II)

HENRY N. EDWARDS, M.D. DEFENDANT

**TRIAL IN CHIEF**

DAY 3, NOVEMBER 29, 2012

VAN BUREN, ARKANSAS

\* \* \* \* \*

BEFORE THE HONORABLE MIKE MEDLOCK

CIRCUIT JUDGE

TWENTY-FIRST JUDICIAL DISTRICT - DIVISION II

\* \* \* \* \*

**APPEARANCES:**

FOR PLAINTIFF: KENNETH SWINDLE  
Attorney At Law  
619 West Persimmon Street  
Rogers, Ar 72756

FOR DEFENDANT: WALTER COX  
Attorney At Law  
P.O. Box 878  
Fayetteville, AR 72702

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS  
CIVIL DIVISION II

MARY HARTMAN, ET AL PLAINIFF  
VS. NO. 17CV-10-425 (II)  
HENRY N. EDWARDS, M.D. DEFENDANT

TRIAL IN CHIEF

DAY 3, NOVEMBER 29, 2012

VAN BUREN, ARKANSAS

\* \* \* \* \*

BEFORE THE HONORABLE MIKE MEDLOCK

CIRCUIT JUDGE

TWENTY-FIRST JUDICIAL DISTRICT - DIVISION II

\* \* \* \* \*

APPEARANCES:

FOR PLAINTIFF:

KENNETH SWINDLE  
Attorney At Law  
619 West Persimmon Street  
Rogers, Ar 72756

FOR DEFENDANT:

WALTER COX  
Attorney At Law  
P.O. Box 878  
Fayetteville, AR 72702



1 Cox. He wants things cut out or not cut out that we  
2 want cut out and we couldn't come to an agreement on  
3 that. And if we don't have an agreement, the only  
4 option we have is just to play the whole thing.

5 We haven't had an opportunity either to come to  
6 an agreement or to have it edited a second time.  
7 And obviously, this was just taken a couple of weeks  
8 ago. We -- we worked through the night to get what  
9 we could accomplished, but there's just limitations  
10 on time.

11 MR. COX: Your Honor, they sent a fax to me  
12 about 5 o'clock yesterday.

13 THE COURT: We're going to play all of it.

14 MR. SWINDLE: Yes, Your Honor. Yes, Your  
15 Honor.

16 THE COURT: So, what else have you got?

17 MR. COX: Well, there is a part that if it's  
18 going to all be played there is an objectionable  
19 part and that is, Your Honor, put some limitations  
20 and restrictions and conditions on my taking the  
21 deposition, and you said give them whatever they  
22 want. We did. We gave them -- we paid their  
23 expenses and they asked for proof of his itinerary  
24 to prove he was going to be where he said he was and  
25 we produced that, the itinerary itself. And they

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

want to produce the itinerary as an exhibit. I think that's totally irrelevant to the issues in this case.

THE COURT: Well, is it an exhibit to the deposition, or is it in the deposition?

MR. COX: It was an exhibit to the deposition and they asked questions about it.

THE COURT: So, why would you propose to take that out? I mean is it at the end, the beginning, or what are you suggesting?

MR. COX: Well, it's -- it's midway. It -- it's easily taken out, Your Honor. David Roe can redact that part of the it and they don't have to put the exhibit into evidence because that has to be done during the course of the trial.

THE COURT: So, is that -- is that the part that you all don't agree on, or is that something else?

MR. SWINDLE: That -- that's one of the -- there's actually multiple parts we don't agree on but that's one of them.

MR. COX: Well, there are actually only about four or five pages, portions of pages that I agreed to about 95% of what you all asked to be taken out. There's not that much.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: It's just not easy to accomplish is what you're saying?

MR. COX: Judge, it can be done fairly easily. David Roe can do it.

THE COURT: Well, the problem we got here, gentlemen, is that we're trying to get this case concluded, we got a jury here. And, you know, we need to move forward with it one way or the other. And I understand sometimes these things come up. I get what plaintiffs are arguing here is I guess the question of availability verses having to take this deposition. In other words, your client's truly not available and is there a reason maybe to play the deposition because he's not. But, I don't think that's something a jury gets to hear.

MR. COX: That's right I agree.

THE COURT: I mean I don't -- unless you agree to play it, you're saying you want to take it out, then I guess my statement would be, take it out. But again, we got limitations as far as trying to move forward here and so I don't know how to accommodate you other than say we got -- we got to finish our case. So, somebody tell me where we are.

MR. COX: Well, Your Honor, could I ask that the itinerary itself not be offered as an exhibit,



1 an evidentiary exhibit because that's -- it doesn't  
2 have to go to the jury, the deposition itself won't  
3 go to the jury.

4 MR. SWINDLE: Your Honor, we -- we would not  
5 object to that if -- if he doesn't want the  
6 itinerary introduced into evidence we won't  
7 introduce it. Uh, I'm not sure how that goes to the  
8 playing of the deposition --

9 MR. COX: -- It -- it doesn't, it doesn't  
10 affect the playing of the deposition. I mean there  
11 are questions asked but there's not minding details  
12 like it is in the itinerary itself.

13 THE COURT: All right. So, is that -- where  
14 does that leave us with the readiness for the  
15 deposition?

16 MR. COX: Well, Your Honor, I have not seen  
17 their redacted, or we're going to play the whole  
18 thing?

19 MR. SWINDLE: Your Honor, I -- I think that we  
20 should just play the whole thing.

21 THE COURT: All right.

22 MR. COX: Okay. Well, that's -- that's the big  
23 deal that we have then.

24 MR. SWINDLE: But we won't introduce the  
25 itinerary and that's fine.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: All right. So, what else? Where are we with that? So, when they finish theirs that will be ready to go?

MR. COX: Yes, sir.

THE COURT: And are we good to go with, I'm sorry, which one is it?

MR. SWINDLE: It's Geneva Haynes who is the adopted mother of Crystal Bieler, but her deposition lasts a little over 30 minutes. Dr. Daniels deposition will last 3 hours, you know, 3 and a half hours, and the court can obviously anticipate where we're going to be, probably close to 5 o'clock at that point.

THE COURT: Well, we can, I mean when you all switch gears or switch, if we need to take a break we can stop the playing of it and maybe take a break which is probably what we're going to need to do. So.

MR. SWINDLE: And -- and, Your Honor, just so I can anticipate we do have two live witnesses as well, but we can call, without taking a break I think the court can already see we're going to pushing up against 5 o'clock. Should I tell my live witnesses to be here tomorrow, or would the court prefer to go past 5 o'clock?

1 THE COURT: Well, I'm not going much past 5.  
2 MR. SWINDLE: Understood, Your Honor.  
3 THE COURT: Just -- just so I understand what  
4 you're telling me though is that you're offering the  
5 deposition --  
6 MR. SWINDLE: -- yes --  
7 THE COURT: -- and not the defense?  
8 MR. SWINDLE: Yes.  
9 THE COURT: You're offering it?  
10 MR. SWINDLE: We're calling Dr. Daniels in our  
11 case in chief just as if he were here live, yes,  
12 Your Honor.  
13 MR. COX: Your Honor, may the jury be informed  
14 that he is my witness and he is a defense witness  
15 being called out of turn?  
16 MR. SWINDLE: I don't -- I wouldn't agree with  
17 the characterization he's being called out of turn.  
18 If he were here physically in Arkansas, we would  
19 have subpoenaed him. He's part of our case.  
20 THE COURT: I think you can tell them that in  
21 closing, if you want. I don't think I'm going to  
22 advise them about it. I think anybody's got the  
23 right to call him by deposition, if that's where you  
24 are. And so, if they want to call him and play his  
25 deposition, they can.

1           If you're telling me what you want to do is  
2 play depositions this afternoon, then that's what  
3 we're going to do. I don't think we'll have time  
4 for live witnesses, assuming that's the direction  
5 you're going in.

6           MR. SWINDLE: Yes, Your Honor, thank you.

7           THE COURT: So, I guess we'd anticipate those  
8 tomorrow and then whatever you've got after that.

9           MR. COX: Well, depending upon the length of  
10 their witnesses tomorrow, I think we'll be through  
11 with the proof before noon.

12          THE COURT: Okay.

13          MR. SWINDLE: Agreed, Your Honor.

14          THE COURT: All right. So, we're good to go on  
15 both depositions, no other questions, everybody's  
16 settled about all of that?

17          MR. SWINDLE: Yes, Your Honor.

18          THE COURT: All right. I'm going to take a  
19 break and get the jury in here and we'll get  
20 started.

21          MR. SWINDLE: Yes, Your Honor.

22          END OF SIDEBAR CONFERENCE.)

23          (1:10 P.M. JURY IS SEATED IN THE JURY BOX)

24          THE COURT: Good afternoon everyone, glad you  
25 all made it back. In case you haven't figured out,

1 we have this rule about making sure nobody gets real  
2 comfortable because as soon as you sit down then I  
3 come in and you have to stand up, just kind of the  
4 way it works. I didn't make that, its been here a  
5 long time.

6 All right, Mr. Swindle, are you ready to  
7 proceed?

8 MR. SWINDLE: Yes, Your Honor.

9 Your Honor, may it please the court we would  
10 like to call Geneva Haynes by video deposition.

11 THE COURT: All right.

12 (1:15 P.M. AT THIS POINT THE VIDEO DEPOSITION  
13 OF GENEVA HAYNES PLAYS BEFORE THE JURY)

14 (1:56 P.M. END OF GENEVA HAYNES VIDEO  
15 DEPOSITION)

16 THE COURT: Are you ready to call your next  
17 one, Mr. Swindle?

18 MR. SWINDLE: Yes, Your Honor, if it pleases  
19 the court we would like to call John Daniels,  
20 Medical Doctor, by video deposition. And I believe  
21 that's going to be played by Mr. Roe here.

22 THE COURT: Ladies and gentlemen, just so you  
23 know we've already been informed by counsel here  
24 that this is pretty lengthy and I'm not sure where  
25 there's going to be a place that I might pick to

1 take a break, and so we get into this and some of  
2 you all want to take a break, use the rest room, get  
3 a drink, certainly say break or say something. I  
4 don't know. I could think of some things I've seen  
5 on Kiddie Cartoons but they probably wouldn't be  
6 appropriate.

7 MR. SWINDLE: Your Honor, if it would help the  
8 court in scheduling -- uh -- uh -- this I believe  
9 that Mr. Cox starts out in the deposition first, his  
10 questioning is about one hour.

11 THE COURT: Okay.

12 MR. SWINDLE: And then the cross examination is  
13 about two hours.

14 THE COURT: We'll look towards that break and  
15 then if something happens we need to stop before  
16 then we'll consider that too.

17 MR. SWINDLE: Thank you, Your Honor.

18 THE COURT: All right.

19 (VIDEOGRAPHER DAVID ROE PLAYS THE VIDEO  
20 DEPOSITION OF DR. JOHN DANIELS BEFORE THE JURY)

21 MR. SWINDLE: Your Honor, if it please the  
22 court there's about two hours now of examination by  
23 Mr. Keever and I'd move to give the jury a short  
24 break before we do that.

25 THE COURT: That's fine. Let's take -- well,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

let's try to be back about 15 minutes, if we can.  
Get a drink and use the rest room if you need to and  
we'll be in recess until then.

MR. SWINDLE: Thank you, Your Honor.

(3:03 P.M. COURT RECESSES)

(3:20 P.M. OPEN COURT RESUMES)

THE COURT: Ready to continue with your witness  
then?

MR. SWINDLE: Yes, Your Honor.

THE COURT: All right.

(VIDEOGRAPHER DAVID ROE CONTINUES TO PLAY THE  
VIDEO DEPOSITION OF DR. JOHN DANIELS BEFORE THE  
JURY)

THE COURT: Anybody need a break, we got  
another disk. All right, let's make it as quick as  
we can. I'm not going to give you a time, but if  
you need to get up and go use the rest room, get a  
drink, if you don't fine, we'll get this loaded back  
up and get going. As quick as we can.

(4:37 P.M. COURT RECESSES)

(4:47 P.M. OPEN COURT RESUMES)

THE COURT: All right, are we ready to continue  
here?

MR. SWINDLE: Yes, Your Honor.

(VIDEOGRAPHER DAVID ROE CONTINUES TO PLAY THE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

VIDEO DEPOSITION OF DR. JOHN DANIELS BEFORE THE JURY)

THE COURT: All right, are we ready to continue here?

MR. SWINDLE: Yes, Your Honor.

THE COURT: Come up.

(SIDEBAR CONFERENCE OUT OF THE HEARING OF THE JURY AS FOLLOWS:

THE COURT: What else have you got left?

MR. SWINDLE: Judge, there's still some, just record keeping stuff about evidence that I'd like to take up with the court, but I certainly think we can let the jury go, there's no more --

THE COURT: -- No I mean what else have you got tomorrow?

MR. SWINDLE: Oh, we have two witnesses tomorrow.

THE COURT: Okay. How long are they going to be?

MR. SWINDLE: Well, there's Crystal Bieler and there's Dale McKinney, both fact witnesses. I think we can have them on and off the stand in an hour and a half, two hours tops.

THE COURT: All right.

MR. COX: We'll be done before noon.



1 THE COURT: Okay. Well, I just kind of wanted  
2 to give the jury an idea. So, maybe afternoon it  
3 would be in their hands or something.

4 MR. COX: I think so.

5 THE COURT: Okay.

6 END OF SIDEBAR CONFERENCE.)

7 THE COURT: All right, ladies and gentlemen, I  
8 was just trying to get an idea about where we are.  
9 I know you all would like to stay until about 10  
10 tonight, but I had to work this morning, so I'm  
11 probably not going to make it that long.

12 Actually I was just kind of finding out from  
13 the attorneys, it appears like that we may be able  
14 to finish tomorrow, and in fact, maybe have the case  
15 in your hands sometime around mid-day or early  
16 afternoon, it just kind of depends on how things go.  
17 But in any event, that's kind of where I see us at  
18 the present time.

19 As I tell everybody the only thing you can  
20 count on about this kind of business is that things  
21 change, and so my saying is the only thing for  
22 certain is nothing is for certain. But you try to  
23 plan the best you can and that's kind of -- kind of  
24 where I think we may be.

25 Again, remember what I told you earlier. Don't

1 discuss this matter. Don't allow anyone to discuss  
2 the case with you. Be back in the morning at 9 and  
3 we'll start up again. You're free to leave your  
4 notes or whatever you want to or take them, I don't  
5 have a problem. But just let all the jury get out  
6 first.

7 BAILIFF: Please stand for the jury.

8 (5:35 P.M. JURY DEPARTS THE COURTROOM)

9 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
10 JURY AS FOLLOWS:

11 THE COURT: All right, what else have we got,  
12 Mr. Swindle?

13 MR. SWINDLE: Your Honor, just we have -- just  
14 a few record keeping matters before we're dismissed  
15 if I may.

16 The first thing I have is the DVDs and I think  
17 Mr. Cox can provide the paper transcript for the  
18 court reporter.

19 THE COURT: All right. We'll make those a part  
20 of the record then.

21 [REPORTER'S NOTE: DVD deposition of Geneva  
22 Haynes and Dr. John Daniels are provided under  
23 separate cover with the original transcript only,  
24 the paper copy deposition of Geneva Haynes and  
25 paper copy deposition of Dr. John Daniels are

1 introduced, admitted, incorporated herein and may be  
2 found at pages <sup>1279-1333</sup> 1376-1420 hereof.]

3 MR. SWINDLE: And, Mr. Cox, you have already  
4 been given the paper transcript?

5 MR. COX: She already has it.

6 THE COURT: Okay.

7 MR. SWINDLE: Next, Your Honor, there are three  
8 things that I would like to have -- uh -- uh --  
9 produced and published to the jury once they do  
10 reconvene and these are all from the deposition of,  
11 I'll show them to Mr. Cox. There were actually a  
12 lot of exhibits to the deposition and we agreed at  
13 the very start not to include the itinerary, and in  
14 fact, most of the deposition, I mean most of the  
15 exhibits I am not including but I am moving to  
16 introduce these three exhibits?

17 THE COURT: Any objection?

18 MR. COX: I have no objection.

19 THE COURT: All right, be admitted. Are they  
20 marked separately or are they marked as exhibits to  
21 the deposition just so they're not confused with the  
22 other numbers.

23 MR. SWINDLE: Right. I would move to have  
24 these published to the jury as well. I'm not sure  
25 what number we're on.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Okay. Well, I'll just --

MR. SWINDLE: Is there a distinction that the court is making?

THE COURT: I don't know what number you're on and I would suggest to you that just start at the end of wherever your numbers are as opposed to using numbers that are in that deposition --

MR. SWINDLE: -- Yes, Your Honor.

THE COURT: -- that may collide with what you've already used.

MR. SWINDLE: Yes, Your Honor. And -- and I'll figure that out with the court reporter afterward.

THE COURT: Okay.

MR. SWINDLE: We'll figure that out off the record exactly what numbers they are.

Your Honor, also just another record keeping issue. Uh, previously the court ruled that the handwritten illustrative chart from Dr. Michota would be admitted but for writing on the back, we have, as the court can see we've removed this writing from the back. Therefore, based on the court's statement from two days ago we would again move to admit this handwritten chart from Dr. Michota.

THE COURT: Mr. Cox?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. COX: There is something on the back.

MR. SWINDLE: Well, yes we've removed it is what I'm saying. This is what was on the back and we just peeled it off. So, I'm saying if -- if we remove this now --

MR. COX: I don't care, Your Honor.

THE COURT: All right, be admitted.

MR. SWINDLE: Thank you, Your Honor, and -- and again we'll work out the numbering with ma'am court reporter after the judge has left the bench.

[REPORTER'S NOTE: Plaintiff's Exhibit 10, handwritten chart of Dr. Michota is introduced, admitted, incorporated herein and may be found at page 1422 hereof.]

MR. SWINDLE: And I -- I -- I apologize -- uh -- and just so that the court knows Mr. Keever has a 103 degree fever and he's -- he's suffering dehydration, he's pretty sick in bed. He was dictating things to me that -- that he -- he wanted to make sure that I took care of before. Uh -- And I think that's it.

THE COURT: I did get copies of -- do you have anything else, Mr. Cox?

MR. COX: No.

THE COURT: Of both your instructions. I

1 understand that you do have some -- some things that  
2 you still, or apparently still don't agree on. One  
3 thing just for the benefit of counsel is that I  
4 think you filed a motion for or including 2215 or  
5 whatever it is, the one that deals with collateral  
6 sources or something.

7 MR. SWINDLE: Yes, Your Honor.

8 THE COURT: And I may very well consider that,  
9 and so you might want to have that ready, if you  
10 still want to submit that.

11 As far as the other instructions and/or some  
12 conflicts that you have, I think what I would like  
13 to do is maybe us discuss that a little bit in the  
14 morning, we may or may not be able to get those  
15 worked out but let's be prepared to look at that  
16 about 8:30 in the morning so we can move along, if  
17 we possibly can.

18 MR. SWINDLE: Yes, Your Honor.

19 THE COURT: Anything else?

20 MR. COX: No.

21 THE COURT: All right, see you then.

22 MR. SWINDLE: Thank you, Your Honor.

23 END OF SIDEBAR CONFERENCE.)

24 BAILIFF: All rise.

25 (6:40 P.M. COURT RECESSES)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS  
CIVIL DIVISION II

MARY HARTMAN, ET AL PLAINIFF

VS. NO. 17CV-10-425 (II)

HENRY N. EDWARDS, M.D. DEFENDANT

TRIAL IN CHIEF

DAY 4, NOVEMBER 30, 2012

VAN BUREN, ARKANSAS

\* \* \* \* \*

BEFORE THE HONORABLE MIKE MEDLOCK

CIRCUIT JUDGE

TWENTY-FIRST JUDICIAL DISTRICT - DIVISION II

\* \* \* \* \*

APPEARANCES:

FOR PLAINTIFF: JAMES E. KEEVER  
Attorney At Law  
2801 Richmond Road  
Texarkana, TX 75503  
AND  
KEN SWINDLE  
619 West Persimmon Street  
Rogers, AR 72756

FOR DEFENDANT: WALTER COX  
Attorney At Law  
P.O. Box 878  
Fayetteville, AR 72702





1 court, we'd call Crystal Bieler Haynes.

2 THE COURT: Okay.

3 Just come up and have a seat right here.

4 TESTIMONY AND EVIDENCE ON BEHALF OF THE PLAINTIFF

5 **CRYSTAL BIELER HAYNES**

6 having been called by and on behalf of the Plaintiff, and  
7 having been previously duly sworn, was examined and testified  
8 as follows, to-wit:

9 **DIRECT EXAMINATION**

10 **MR. SWINDLE:**

11 Q. Good morning.

12 A. Good morning.

13 Q. Crystal, would you, please introduce yourself to the jury.

14 A. My name is Crystal Lee Bieler. I'm 27 years old. I am a  
15 single mother of a 5 year old little girl. I used to be the  
16 store manager for three and a half years at Vanity, and right  
17 now I'm currently working as a bartender so I could stay home  
18 more with my little girl. And that's pretty much my -- my life  
19 is my little girl.

20 Q. And I guess you were -- you were not expecting me to be  
21 the one asking you these questions this morning, I guess? Uh,  
22 and Mr. Keever is a little bit under the weather, but we're  
23 going to press -- press on.

24 How many hours does your work keep you away from your  
25 little girl?

1 A. About 40 hours.

2 Q. And what do you do in the time that you are not at work?

3 A. I have her, if I'm not at work I have her.

4 Q. And what are your earliest memories of your dad Kenneth?

5 A. Uh, my earliest memories would be living in Garden City,  
6 Kansas. Uh, with his girlfriend at the time. Uh, we lived  
7 with her for a long, long time. And we were pretty happy. We  
8 did pretty much normal things. Went to the park. Went to  
9 school. My dad was involved in everything that I was wanting  
10 to be involved in. He was there.

11 Q. When you were around 7 according to your -- and -- uh --  
12 we've heard from Donna Dewey, is that your aunt?

13 A. Yes.

14 Q. And when you were around 7 did you go and live with Donna?

15 A. Yes.

16 Q. Could you tell us about that?

17 A. Yeah. My Aunt Donna and her kids were -- uh -- they were  
18 pretty much like brothers and sisters that I never had so I  
19 always felt very comfortable staying over there. Uh, it wasn't  
20 a problem with me staying over there.

21 Q. Could you -- could you tell us -- uh -- uh -- any memories  
22 that you have from that time?

23 A. Uh, yeah. I -- I -- I remember just going to school and  
24 my aunt treated me like I was one of her own. I fit right on  
25 in so we -- I mean it was just like a normal family.

1 Q. How did you feel about your dad asking you to live with  
2 Donna and her family, your Aunt Donna?  
3 A. I was okay with it.  
4 Q. And at some point Donna and her family moved with you to  
5 Missouri, do you remember that?  
6 A. Yes.  
7 Q. Can you tell us what you remember about living in  
8 Missouri?  
9 A. I just remember moving there, transferring schools there.  
10 Uh, and just I mean it was -- it was all right with me so they  
11 just seemed normal.  
12 Q. Did -- did you feel like you were just one of Aunt Donna's  
13 kids?  
14 A. Yeah, pretty much, pretty much.  
15 Q. What kind of contacts did you have with your dad during  
16 that period that you were living with your Aunt Donna?  
17 A. I had several phone contacts -- uh -- with him. He'd call  
18 and check in and make sure I was doing okay. Uh, yeah, so we  
19 -- we talked quite a bit on the phone.  
20 Q. Tell us, if you will, about Donna's family?  
21 A. She has a daughter and she has two sons and at the time  
22 she was married. So, my uncle was -- was there off and on. Uh,  
23 but we were -- we were pretty happy. She took care of us.  
24 Q. Donna has testified that there was a point when your dad  
25 came to Missouri to get you, how old were you then?

1 A. I was probably about 9.

2 Q. And what do you remember about your dad coming to get you?

3 A. Uh, him and my step mom came down and got me. Uh, we had  
4 talked about it over the phone, discussed me moving down there  
5 and if I was okay with it and I said yes.

6 Q. Have -- have -- had you been expecting to see your dad and  
7 Carol?

8 A. Yes.

9 Q. And Carol was your step mom, is that right?

10 A. Yes.

11 Q. Uh, had you gotten to know Carol over the telephone?

12 A. Yes.

13 Q. How was the decision made for you to go back to Arkansas  
14 with Kenneth and Carol?

15 A. My understanding was -- was between my aunt and my dad had  
16 discussed it and also asked me if that's what I wanted to do.

17 Q. What can you tell us about that period when you and your  
18 dad and Carol lived together?

19 A. Uh, I had transferred schools to Alma. Uh, we lived there  
20 in Alma and we also -- uh -- I went to school there so. I  
21 remember starting summer school there so I wouldn't be so -- so  
22 new so I'd have some friends whenever I started school that  
23 semester. But I also started playing softball and  
24 cheerleading. And my dad and -- and my stepmom were both  
25 involved with that.

1 Q. Did your stepmother Carol did she become somewhat of a  
2 mother figure to you?

3 A. Yes she did.

4 Q. Was -- was Carol the first mother figure that you had  
5 outside of your Aunt Donna?

6 A. Yes.

7 Q. And what happened with your dad and Carol?

8 A. I'm not really sure what happened between them. I know  
9 they did get a divorce.

10 Q. And -- after they got that divorce did you -- who did you  
11 live with?

12 A. I stayed with Carol because my dad didn't want me to  
13 transfer schools. I was doing really well there.

14 Q. All right. And after sometime did you go and live with  
15 your dad in Fort Smith?

16 A. I did for a semester. Uh, I went to Fort Smith School, I  
17 just wasn't doing very well there. Uh, like grade wise. Uh,  
18 but -- yeah, I stayed over there for about a semester.

19 Q. Could you -- could you tell us what was Kenneth, or what  
20 was your dad doing to try to fulfill his responsibilities as a  
21 father at that time?

22 A. Uh, well, he worked and he provided me with everything I  
23 -- I needed. Uh -- I still played -- I still was involved in  
24 softball. I still, I mean I made friends. Uh, but yeah, he  
25 was -- he was there and everything that I needed.

1 MR. SWINDLE: Your Honor, I would like to  
2 approach the witness, if I might?

3 Q. Can you identify this photo for the jury?

4 A. Yes this was whenever I went and stayed with my dad that  
5 one semester. Uh, this was actually my birthday party. Uh, I  
6 am the one with the short hair in the right-hand corner. I was  
7 very tomboyish my dad didn't know really how to -- how to raise  
8 a little girl very well so.

9 Q. Would it be fair to say those were happy times?

10 A. Yeah. Yeah.

11 MR. SWINDLE: Your Honor, I move to publish  
12 this to the jury and admit it as Plaintiff's Exhibit  
13 -- what are we up to, 12?

14 THE COURT: All right, be admitted.

15 [REPORTER'S NOTE: Plaintiff's Exhibit 12,  
16 photograph at birthday party is introduced,  
17 admitted, incorporated herein and may be found at  
18 page 1424 hereof.]

19 CONTINUED DIRECT EXAMINATION

20 MR. SWINDLE:

21 Q. What kind -- what -- or what type of contact did you have  
22 with Carol after the divorce?

23 A. I had quite a bit of contact with her. She -- me and her  
24 kept in touch quite a bit. I stayed with her off and on.

25 Q. And would you tell us about your life with -- with Kenneth

1 after Carol left?

2 A. Well, I stayed with -- I stayed with her, or him for that  
3 one semester of school, and I still even whenever I moved back  
4 in with Carol I still -- uh -- still had contact with my dad.  
5 My dad still saw me quite a bit.

6 Q. Where were the two of you living at the time?

7 A. Me and Carol? We were living in Alma at the time, and  
8 whenever I was with my dad I was in Fort Smith.

9 Q. When you talk about this -- uh -- this -- this period of  
10 time that -- uh -- and the jury is looking at your birthday  
11 photo there, but this period of time that you went back for a  
12 semester to live with your dad, what type of living situation  
13 did he have, as far as space for you?

14 A. At the time it was just a one-bedroom apartment at the  
15 time.

16 Q. Do -- do you feel like your dad was -- was trying to do  
17 the best that he could for you?

18 A. Yes I do.

19 Q. What was your dad's work like like?

20 A. At the time he was working at OK Foods so he worked long  
21 hours.

22 Q. And who would look after you while he was gone?

23 A. At the time his -- he had a girlfriend named Fran that  
24 watched me.

25 Q. When you went back to Alma to live with, I guess at that

1 -- at that point it's really your ex-stepmother Carol who is  
2 trying to take care of you -- uh -- what kinds of -- what kind  
3 of problems was Carol running into?

4 A. She was working two jobs at the time. She wasn't making  
5 very much money. Uh -- so she -- she was doing the best that  
6 she could to be there and provide for me. She was just  
7 struggling.

8 Q. What -- was Kenneth trying to help her in any way?

9 A. Yes he was trying to help her.

10 Q. Financially?

11 A. I believe so, yes.

12 Q. And we know that you left Carol's and became part of  
13 Geneva's family, and we've heard from your mother Geneva. But  
14 what kind of contact did you have with Carol after you became  
15 a part of Geneva's family?

16 A. Me and her still kept contact. I'd go stay with her about  
17 one -- one or two weeks during the summer.

18 MR. COX: Your Honor, I'm going to object to  
19 what contact she had with her stepmother.

20 THE COURT: I don't know that that's relevant  
21 at this point, let's move on.

22 MR. SWINDLE: I understand, Your Honor.

23 CONTINUED DIRECT EXAMINATION

24 MR. SWINDLE:

25 Q. Can you tell us how that chapter in your life ended?



1 Q. Uh, with -- with Carol?

2 Q. Well, if you could tell us -- uh -- after you -- after  
3 Geneva -- uh-- took you in -- uh -- how did that chapter of  
4 your life with your dad end, or did it?

5 A. Well, he took me up to the DHS Office over in Crawford  
6 County. Uh -- and just went in there and my -- my mom, my  
7 adopted mom Geneva happened to be working the front desk and  
8 she said that this guy with an eleven year old little girl came  
9 in and he just couldn't take care of her no more, so she  
10 brought me home.

11 Q. What type of requirement did Geneva put on your dad as far  
12 as taking you in?

13 MR. COX: Your Honor, I'm going to object.

14 THE COURT: Rephrase your question.

15 Q. Could you tell us what was the agreement between Geneva  
16 and your dad to take you in?

17 A. The agreement was that if she was going to take me in and  
18 be my mom that he needed to be absent and not have any contact  
19 with me.

20 Q. Did you understand that at the time?

21 A. No, sir, I didn't.

22 Q. How old were you at the time?

23 A. I was eleven.

24 Q. How did that make you feel?

25 A. At that time I was pretty angry.

1 Q. Looking back now do you understand why your mom put that  
2 condition?

3 A. Yes I do.

4 Q. Could you tell us about that?

5 MR. COX: Your Honor, I'm going to object to  
6 what her reasoning was for that.

7 THE COURT: Sustained.

8 Q. Uh -- could you tell us how it -- how -- looking back on  
9 that how you feel about it now?

10 A. Now that I'm a parent of my own, if I had to be put in  
11 that situation (WITNESS CRYING) I'd hope that I had --

12 MR. COX: Your Honor, I'm going to object, this  
13 is irrelevant.

14 THE COURT: I think it is.

15 MR. SWINDLE: May we approach, Your Honor?

16 THE COURT: Sure.

17 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
18 JURY AS FOLLOWS:

19 MR. SWINDLE: Your Honor, we were just back in  
20 the judge's office and the issue of *loco parentis*  
21 came up, and Mr. Cox has already said that he's  
22 going to move for a directed verdict on that issue.  
23 Well, establishing the type of relationship that --  
24 uh -- Crystal had with her father is -- is crucial  
25 to that. We -- we shouldn't be barred from putting

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

on evidence and then have Mr. Cox move for a directed verdict --

THE COURT: -- Well, I'm not sure you're asking her about her relationship with her father. You've asked about how that affects her with her child now which has nothing to do with her father. I'm not sure how -- how I connect that to the relationship with her father, trying to compare it with the relationship she has now with her child and I don't think that that's the same thing.

MR. SWINDLE: Well, Your Honor, my -- my -- specifically my question was, looking back upon -- I -- I asked her, how do you feel about that, how did you feel about that at the time, the no contact. Well, now as an adult looking back on your childhood how do you feel about it now. I'm asking her how she feels about it.

MR. COX: She can talk all she wants to about what he did to establish -- re-establish a relationship with her, but how she feels now about all of that is irrelevant.

THE COURT: I think that's probably going beyond what their relationship is. I think you got to talk about what the relationship is and not what she wishes it was or what it could have been. And

1 so, I'm going to sustain his objection.

2 MR. SWINDLE: Okay, thank you, Your Honor.

3 END OF SIDEBAR CONFERENCE.)

4 CONTINUED DIRECT EXAMINATION

5 MR. SWINDLE:

6 Q. -- Could you tell us, Crystal, what type of contact did  
7 you have with your dad while you were living with your adopted  
8 mom Ms. Haynes?

9 A. None.

10 Q. Did he know where you were?

11 A. Yes, sir.

12 Q. Did you find out later about him having graduation photos  
13 of you?

14 A. Yes.

15 Q. Where did he get those?

16 A. From my grandmother.

17 Q. Your grandmother in Kansas?

18 A. Yes.

19 Q. And is that Doris?

20 A. Yes.

21 Q. And we've heard about a grandmother who has Alzheimer's  
22 now, is that the same person?

23 A. Yes.

24 Q. How much contact did you have with your grandmother Doris  
25 in Kansas during this time?

1 A. I had quite a bit.

2 Q. Was it regular contact?

3 A. Yes. We -- we talked on the phone a lot.

4 Q. Did you know that while you were having this contact with  
5 Doris that your dad also was having contact with his mother  
6 Doris?

7 A. She had told me --

8 MR. COX: Your Honor, I'm going to object to  
9 what somebody --

10 THE COURT: -- Don't tell us what somebody else  
11 told you.

12 Q. You can't repeat what somebody else says but did you know  
13 that there was also that contact going on?

14 A. Yes.

15 Q. Did -- were you aware that -- that your father wanted you  
16 to be happy in your new family?

17 A. Yes I did.

18 MR. COX: How would she know that?

19 THE COURT: She's already answered it.  
20 Sustained, but she's answered it. Go ahead.

21 Q. That brings us up to -- uh -- I think 2003. Could you  
22 tell us what happened in 2003?

23 A. In 2003 I had graduated from high school. Moved to Van  
24 Buren. Uh, that summer I was working at Wal-Mart over in Van  
25 Buren and I had ran into my dad while I was working there. Me

1 and him had a conversation. He automatically knew who I was.  
2 I knew who he was. He asked me how I was doing, why I had  
3 moved to Van Buren. Uh -- we talked about me starting school  
4 that fall over at U of A Fort Smith. It just seemed like a  
5 pretty normal conversation. It wasn't awkward or anything. It  
6 was pretty -- pretty good conversation.

7 Q. And how did that make you feel?

8 A. It made me feel pretty good.

9 Q. What was your life like after high school?

10 A. After high school I started college in 2004 at U of A Fort  
11 Smith. Eventually I met Brian Shyer which is also the father  
12 of my child. Uh -- I started working as a bartender and going  
13 to school and then I came up pregnant with my daughter. And me  
14 and him and my little girl became a family -- so, I was -- I  
15 was pretty happy.

16 Q. And what year was that?

17 A. My daughter was born in 2008.

18 Q. And where did Brian work at this time?

19 A. At that time he was working as assistant manager over in  
20 -- at Wal-Mart.

21 Q. And where were you working at this time?

22 A. At that time I was working at the Electric Cowboy as a  
23 bartender.

24 Q. Did things work out with Brian?

25 A. No, sir.

1 Q. And so, when did that relationship end?

2 A. About 2011.

3 Q. And did you move at that time?

4 A. Yes.

5 Q. Where did you move?

6 A. I moved to the house at my adopted mother Geneva owns over  
7 in Van Buren.

8 Q. Okay. And where did you go to work at that time?

9 A. At the time I was working at Vanity as the store manager.

10 Q. And where did you go to work after that?

11 A. After that I worked at Ashley's Furniture and now I  
12 currently started bartending again.

13 MR. SWINDLE: Your Honor, may I approach with a  
14 photograph?

15 THE COURT: All right.

16 Q. Could you identify this photograph for the jury?

17 A. Yes this is Cailee, my daughter and Brian her dad and me.  
18 We are fix'n to take Cailee to her first rodeo.

19 MR. SWINDLE: Okay. Your Honor, I'd move to  
20 introduce this as Plaintiff's Exhibit No. 13.

21 MR. COX: Your Honor, I don't see the relevance  
22 of it on the issue of loco parentis.

23 THE COURT: I'm going to admit it,

24 MR. SWINDLE: What was the first part?

25 THE COURT: It's admitted.

1 MR. SWINDLE: Okay, thank you, Your Honor.

2 [REPORTER'S NOTE: Plaintiff's Exhibit 13,  
3 photograph of Crystal, Brian and Cailee is  
4 introduced, admitted, incorporated herein and may be  
5 found at page 1425 hereof.]

6 CONTINUED DIRECT EXAMINATION

7 MR. SWINDLE:

8 Q. Uh -- Crystal, we talked briefly about how you spend your  
9 time, could you give us a 24 hour summary or capsule of your  
10 typical daily schedule?

11 A. Yes. Uh -- I would get up -- are you talking about like  
12 at that time?

13 Q. Well, about today?

14 A. About today.

15 Q. What -- what -- what's your routine today like?

16 A. During the day I would -- I usually try to sleep until  
17 about 10 in the morning, that's when Cailee gets up. I have  
18 her all day. Uh, me and her we'll do our errands or whatever  
19 we have to do that day. Uh, and then usually I'll get her  
20 ready for work around 4 because I have to be at work at 7. And  
21 then I usually drop her off at her babysitter's around 6:30 and  
22 then I'll go to work and I don't get off until about 7 in the  
23 morning.

24 Q. And who is there to help you take care of Cailee?

25 A. I have a babysitter that I hire that watches her a couple



1 of days a week. And then her grandparents which is her dad's  
2 parents watch her Saturday and Sunday, and my mom tries to  
3 watch her as much as she can.

4 Q. Donna told us about a trip to Kansas somewhere around  
5 2002, or your junior year, does that sound right?

6 A. Yes.

7 Q. Could you tell us about that?

8 A. I had went to Kansas 'cause my grandpa was sick so I went  
9 down there to see him one last time before he passed away.

10 Q. How did you feel about that? Was it -- was it like a  
11 family reunion?

12 A. It was. It was not a very, like it was a sad family  
13 reunion, it's not the type that you really want to get together  
14 on, but yes it was.

15 Q. And -- and did you -- did you see -- uh -- uh -- the  
16 people you grew up with and your Aunt Donna's family?

17 A. Yes.

18 Q. Could you tell us about that?

19 A. Yes. I -- I spent some time with my cousins. Uh -- we --  
20 we had -- we caught up on a lot of things, there was a lot of  
21 absent years there so. We caught up on a lot of things. We  
22 hung out and we had a really good time. It was a very nice  
23 visit.

24 Q. Was anyone putting on any new roofs while you were there?

25 A. Yes. My cousin --

1 Q. -- Could you tell us about that?

2 A. My cousins were.

3 Q. Could you tell us about that, who -- what -- what roof  
4 were they putting on?

5 A. My grandma, my Grandma Bieler's.

6 Q. When was the last time that you saw your Grandma Bieler?

7 A. The last time I saw my Grandma Bieler was here in Fort  
8 Smith right after my dad had passed away.

9 Q. And was that at the funeral?

10 A. It wasn't at the funeral, they came down and -- and picked  
11 up his belongings.

12 Q. Right. And you saw them at that time?

13 A. Yes.

14 Q. When -- when was the last time you saw your Grandpa  
15 Bieler?

16 A. Right before he passed away, so it would have been back in  
17 2002.

18 Q. Could you tell us about the contact that your Aunt Donna  
19 had with your adopted mother Geneva Haynes?

20 A. She had none.

21 Q. What about when your grandfather died, did they have  
22 contact then?

23 A. Yes. She -- she did call and -- and tell her about my  
24 grandpa being sick and passing away.

25 Q. And -- and did you -- did Geneva take you to Kansas at

1 that time?

2 A. Yes.

3 Q. How about Donna, when was the last time you saw your Aunt  
4 Donna?

5 Q. The last time I saw my Aunt Donna was -- probably -- I'd  
6 have to say back in February, they had come in town and that's  
7 the last time saw her. They stopped by Vanity where I was  
8 working at.

9 Q. Crystal, can you share -- share with us your feelings  
10 about your dad Kenneth and about his feelings for you?

11 A. Well, growing up I --

12 MR. COX: Your Honor, I'm going to object on  
13 the basis of relevance, what her feelings were  
14 toward him, the issue is his relationship with her.

15 THE COURT: I think you can rephrase your  
16 question.

17 MR. SWINDLE: Your Honor, may we approach?

18 THE COURT: Sure.

19 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
20 JURY AS FOLLOWS:

21 MR. SWINDLE: Your Honor, there's two issues  
22 regarding Crystal. One is the *loco parentis*  
23 relationship her dad had with her. But the second  
24 issue is what are her damages as a beneficiary and  
25 her feelings about her dad go to the second issue

1 and that's why I was asking that question.

2 THE COURT: Well, I'm going to allow you to ask  
3 it, I just think you need to ask it another way.

4 MR. SWINDLE: Yes, Your Honor. Thank you, Your  
5 Honor.

6 THE COURT: All right.

7 END OF SIDEBAR CONFERENCE.)

8 CONTINUED DIRECT EXAMINATION

9 MR. SWINDLE:

10 Q. Uh -- Crystal, I apologize. I asked you an awkwardly  
11 worded question, but let me try again and break it down. Could  
12 you first tell us about what was Kenneth's relationship toward  
13 you?

14 A. Uh -- from whenever I was younger or now?

15 Q. Well, let's -- let's talk about when -- when you were a  
16 teenager, you know, what -- what was the relationship at that  
17 time?

18 A. Uh, whenever I was a teenager I was living with Geneva.  
19 So, we didn't have any contact at that time. I didn't quite  
20 understand -- uh -- what was going on, or what I did that was  
21 so bad that a father didn't want -- want me.

22 Q. All right.

23 A. Uh, and now that I'm an adult -- uh -- I understand the  
24 reasons why he -- he did what he did, so -- uh -- now I mean as  
25 a -- as a parent of my own -- uh -- I'm okay with -- with what

1 he did and I understand that he was looking out for my best  
2 interest and -- and making sure that I had what I needed which  
3 was a family that was going to be there to take care of me.

4 Q. -- Did you ever have any doubt that he would do whatever  
5 he needed to do to help you?

6 A. No I knew he would always -- always be there for me.

7 Q. When was last time that you saw your dad?

8 A. It was in Summit Hospital he had just -- I just heard  
9 about the accident, he just had surgery and I went up there and  
10 saw him.

11 Q. How did you hear about that?

12 A. My Aunt Diane had called me while I was at work and had  
13 told me that he had had an accident.

14 Q. Tell us about the conversation that you had with your dad  
15 at that time?

16 A. There in the hospital we --

17 MR. COX: -- Your Honor, I'm going to object as  
18 to hearsay.

19 THE COURT: Well, ask it a different way.

20 MR. COX: Thank you.

21 **CONTINUED DIRECT EXAMINATION**

22 **MR. SWINDLE:**

23 Q. Could -- could you tell us without repeating what your dad  
24 said, could you tell us what you learned in that conversation?

25 A. Yes. He -- we talked about -- about Cailee. Uh -- I

1 showed -- I brought some pictures up there so he could see  
2 Cailee 'cause he had never got to see her. Uh -- we had also  
3 made arrangements for him to -- to see Cailee once he got  
4 settled over in Ashton Place. I was supposed to get a phone  
5 call so I could bring Cailee up there.

6 Q. Uh -- and -- and just -- just to be clear, I think you  
7 talked about your Aunt Diane, is that the biological sister  
8 that your dad found here in Fort Smith area?

9 A. Yes.

10 Q. Uh, when she told you about -- uh -- your dad being in the  
11 hospital -- uh -- did you have any confrontational conversation  
12 with your Aunt Diane?

13 A. Yes. We had -- she had a few choice words towards me. Uh  
14 -- but -- uh -- I don't think she quite understood these --

15 MR. COX: Your Honor, I'm going to object to  
16 conversation between an aunt and her.

17 THE COURT: I don't know if she said what she  
18 said yet so I'm going to allow up to then. So, it's  
19 noted. Overruled.

20 CONTINUED DIRECT EXAMINATION

21 MR. SWINDLE:

22 Q. Uh -- what advice -- without repeating the -- the words,  
23 you know, you can't repeat what somebody else spoke, but what  
24 was her conclusion to you, her advice to you?

25 A. That I needed to go see my father.

1 Q. All right. How did that make you feel?

2 A. It made me feel okay. I mean I was fine with it.

3 Q. Can you -- can you tell us more about your -- your last  
4 visit with your dad at the hospital?

5 A. Uh -- we talked and joked. My dad was -- was a pretty --  
6 had a pretty good sense of humor. So, we always had pretty  
7 good conversations, lots of laughter, and mostly about -- about  
8 Cailee.

9 Q. Did you discuss with him how much you missed him when you  
10 were growing up?

11 A. Yes we did.

12 Q. Did you get any new insights from that conversation with  
13 him?

14 MR. COX: Your Honor, I'm going to object on  
15 that --

16 THE COURT: -- Sustained.

17 Q. What plans did you make with him?

18 A. That we were going to -- as soon as he moved over to  
19 Ashton's Place -- uh -- we were going to -- I was going to  
20 bring Cailee up there so he could see her.

21 Q. Do you feel like that -- that was important to your dad?

22 A. Yes I did.

23 Q. What happened to your plans to introduce your dad to your  
24 granddaughter Cailee?

25 A. They never happened.

1 Q. Why not?

2 A. Because he had passed away.

3 MR. SWINDLE: Your Honor, may I approach?

4 THE COURT: All right.

5 Q. Do you recall giving a -- or viewing a document after your  
6 dad had passed away from the funeral home --

7 MR. COX: May we approach?

8 THE COURT: Sure.

9 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
10 JURY AS FOLLOWS:

11 MR. COX: These are some document from the  
12 funeral service and its got notes from multiple  
13 people on there, list of people who signed in and  
14 comments of people who wrote condolences I think  
15 that's highly improper and it has nothing to do with  
16 her mental anguish or *loco parentis* status.

17 THE COURT: I don't think it's admissible.

18 MR. SWINDLE: Your Honor, I think it goes to  
19 the way that he valued his own life. I think it is  
20 admissible on that basis.

21 THE COURT: Let me see it.

22 ((COURT EXAMINES DOCUMENT))

23 MR. COX: Did you provide that to us?

24 MR. SWINDLE: I did.

25 THE COURT: I'll probably let you admit the



1 part that shows they signed the book, but I won't  
2 let you admit the notes.

3 MR. SWINDLE: Yes, Your Honor.

4 THE COURT: She can testify -- if she can  
5 testify that this is from the funeral home and I  
6 think there's enough to let it in for that but I  
7 won't let you, it says remembrances and all these  
8 notes, I mean that's clearly hearsay unless these  
9 people show up and testify.

10 MR. SWINDLE: Yes, Your Honor.

11 THE COURT: I mean this list of people that  
12 signed the book, if you want to admit that, I'll do  
13 that.

14 MR. SWINDLE: Yes, Your Honor.

15 THE COURT: Start with remembrances and take  
16 that off, kind of look through that and make sure.

17 MR. SWINDLE: Walter, you can tell me if you  
18 have any objection to this.

19 MR. COX: I have no objection to that, Your  
20 Honor.

21 THE COURT: All right.

22 END OF SIDEBAR CONFERENCE.)

23 CONTINUED DIRECT EXAMINATION

24 MR. SWINDLE:

25 Q. Would you, please, identify that?

1 A. Yes. This is the sign-in at my dad's -- dad's funeral  
2 here in Fort Smith where everybody signed in that came and saw  
3 -- saw him.

4 Q. Where did that end up?

5 A. Uh, my Aunt -- Aunt Mary's -- Mary Jo wanted it.

6 Q. She wanted you to have it?

7 A. No. She --

8 Q. -- or she -- she took it?

9 A. She took it.

10 Q. Okay. And, where did you first see it?

11 A. At the funeral home.

12 [REPORTER'S NOTE: Plaintiff's Exhibit 14, copy  
13 of relatives and friends sign-in sheets from the  
14 funeral home are introduced, admitted, incorporated  
15 herein and may be found at pages 1426-1431 hereof.]

16 CONTINUED DIRECT EXAMINATION

17 MR. SWINDLE:

18 Q. What do you have other than memories of your dad?

19 A. Uh -- that's pretty much it. I have one picture of him  
20 whenever he was younger.

21 Q. Tell us about that picture?

22 A. He's younger and he is in his Navy whites, uniform.

23 MR. COX: May we approach, Your Honor?

24 THE COURT: All right.

25 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

JURY AS FOLLOWS:

MR. COX: Your Honor, I don't have any objection but I would submit that that opens the door to allowing evidence that he was court martialled, kicked out --

THE COURT: I don't think it does, but I'm going to admit it. I'll note your objection but anyway, not through this witness. You can admit it.

MR. SWINDLE: Thank you, Your Honor.

END OF SIDEBAR CONFERENCE.)

CONTINUED DIRECT EXAMINATION

MR. SWINDLE:

Q. Crystal, could you, please, identify that for the jury?

A. Yes this is -- this is the picture that I have of my dad in his -- in his Navy uniform.

MR. SWINDLE: I move to admit that as Plaintiff's Exhibit No. 14, I think we're up to 14. I think we're up to 14 or is it 15, ma'am, court reporter?

COURT REPORTER: Fifteen.

MR. SWINDLE: Fifteen, I'm sorry.

THE COURT: Your exceptions are noted.

MR. SWINDLE: Thank you.

[REPORTER'S NOTE: Plaintiff's Exhibit 15, photograph of Kenneth Bieler in Navy uniform is

1 introduced, admitted, incorporated herein and may be  
2 found at page 1432 hereof.]

3 CONTINUED DIRECT EXAMINATION

4 MR. SWINDLE:

5 Q. What else did you get about six weeks after your dad's  
6 funeral?

7 A. Six weeks?

8 Q. Right? Did -- did you get anything else from your Aunt  
9 Mary Jo?

10 A. Yes I got -- I got a flag.

11 Q. And when we're talking about Mary Jo, is she in this  
12 courtroom today?

13 A. Yes she is.

14 Q. Okay. And she's the person who sent you something?

15 A. Yes.

16 Q. And tell us what did she send you?

17 A. She brought me my dad's flag from the funeral down there  
18 in Kansas.

19 Q. How difficult was it for you to come and talk with us  
20 today?

21 A. Very difficult.

22 Q. What have you lost as a result of your father's death?

23 A. I lost my father and I lost a man that could (WITNESS  
24 CRYING) be a -- be a part of my daughter's life.

25 MR. SWINDLE: No other questions.

1 THE COURT: All right. Mr. Cox.

2 CROSS EXAMINATION

3 MR. COX:

4 Q. Are you okay?

5 A. Yes.

6 Q. Okay. Is it okay if I call you Crystal?

7 A. Yes, sir.

8 Q. Okay. Crystal, you and I met back on August 30 I guess it  
9 was, wasn't it, when I took your deposition?

10 A. Yes, sir.

11 Q. And I know you had some difficulty there and you're having  
12 some difficulty today and I understand that. And, let me just  
13 ask you some background questions.

14 A. Okay.

15 Q. About this lawsuit. Uh, this lawsuit was filed in June of  
16 2010, when did you first become aware --

17 MR. SWINDLE: -- Objection, Your Honor, may we  
18 approach?

19 THE COURT: Sure.

20 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
21 JURY AS FOLLOWS:

22 MR. SWINDLE: Your Honor, we've been through  
23 this pretrial, when Crystal became a claim  
24 beneficiary is not admissible, it's not relevant to  
25 any point, it goes -- it goes to her attorneys'

1 understanding of the relationship, not the  
2 relationship itself.

3 MR. COX: Your Honor, I was leading up to  
4 asking, the next question was when was she first  
5 contacted by Mr. Keever, and he's the one who  
6 initiated the contact with her.

7 THE COURT: Well, I think you can ask -- I mean  
8 I think it's an appropriate question to find out  
9 when she became a party to it, or if she was in it  
10 at the beginning. I'm not sure as to how you could  
11 get to that. But I think you can ask her that. So,  
12 I'm going to allow it in that fashion.

13 END OF SIDEBAR CONFERENCE.)

14 CONTINUED CROSS EXAMINATION

15 MR. COX:

16 Q. Were you first contacted about being a claimant in this  
17 case by Mr. Keever?

18 A. Yes.

19 Q. Okay. Did you even know there was a lawsuit at the time?

20 A. Yes I did.

21 Q. All right. And Mr. Keever prepared some papers for you to  
22 sign at that time, did he not?

23 A. Yes.

24 Q. Okay. And that was in July of 2012?

25 A. Yes, sir.

1 Q. Okay. And then we had your deposition about 6 weeks  
2 later, did we not?

3 A. Yes, sir.

4 Q. Okay. Mrs. Geneva Haynes testified by video tape here  
5 yesterday and said that while you were a student at Magazine  
6 High School, and presumably the elementary school as well, that  
7 you went by the name of Crystal Bieler, is that correct?

8 A. Yes, sir.

9 Q. We were provided by Mr. Keever a copy of your graduation  
10 announcement, and it's not a good copy quality but I think it's  
11 legible and there's a little card in there that goes in that  
12 has the graduate's name on it, do you remember that?

13 A. Yes, sir.

14 Q. What name did you put on your graduation card?

15 A. It says Crystal Lee Bieler-Haynes.

16 Q. Yes. You've seen that, have you not?

17 A. Yes.

18 Q. Okay. So, you did use Crystal Lee Bieler-Haynes while you  
19 were in school?

20 A. Just that one time.

21 Q. Just the one time?

22 A. Yes.

23 Q. And that is the name on your birth certificate?

24 A. Yes it is.

25 Q. Name on your passport that you obtained?

1 A. Yes it is.

2 Q. You were adopted when you were 16 years of age, correct?

3 A. Yes, sir.

4 MR. COX: And, I don't believe the decree of  
5 adoption, the final decree has been placed into  
6 evidence and I would at this time offer as  
7 Defendant's Exhibit 1 the final decree of adoption,  
8 Your Honor.

9 THE COURT: Any objection?

10 MR. SWINDLE: No objection, Your Honor.

11 THE COURT: All right, be admitted.

12 [REPORTER'S NOTE: Defendant's Exhibit 1, final  
13 decree of adoption is introduced, admitted,  
14 incorporated herein and may be found at pages 1436  
15 hereof.]

16 MR. COX: I'll pass this to the jury in a  
17 moment, Your Honor.

18 CONTINUED CROSS EXAMINATION

19 MR. COX:

20 Q. But let me ask you some questions about that final decree  
21 of adoption. Crystal, in that final decree which was actually  
22 signed and filed on May 16, 2001, it is stated by the court  
23 that Kenneth Bieler is the natural father but that his  
24 whereabouts were unknown?

25 A. Yes, sir.



1 Q. Okay. And, it also says in paragraph 3 that the  
2 petitioner who is Geneva Haynes has had the care and custody of  
3 you for the past 5 years?

4 A. Yes, sir.

5 Q. So that would be from sometime between your eleventh and  
6 twelfth birthday, would it not?

7 A. Yes.

8 Q. Okay. And that is correct, isn't it?

9 A. Yes.

10 Q. And it is correct that Geneva Haynes and her family were  
11 your only means of support from the time you entered her  
12 custody, sometime between your eleventh and twelfth birthday  
13 until you graduated high school and left home?

14 A. Yes.

15 MR. COX: Your Honor, at this time I also want  
16 to offer into evidence a copy of the certificate of  
17 live birth which is the substituted birth  
18 certificate for Crystal Bieler showing the birth to  
19 Ms. -- actually showing her birth to Ms. Haynes --

20 THE COURT: Any objection?

21 MR. SWINDLE: No objection.

22 THE COURT: Be admitted.

23 **[REPORTER'S NOTE: Defendant's Exhibit 2,**  
24 **Kansas Department Of Health And Environment**  
25 **Certificate Of Live Birth Crystal Lee Bieler-Haynes**

1 is introduced, admitted, incorporated herein and may  
2 be found at page 1439 hereof.]

3 (EXHIBITS PUBLISHED TO THE JURY)

4 CONTINUED CROSS EXAMINATION

5 MR. COX:

6 Q. Crystal, do you know a family by the name of Roy and Linda  
7 Wilks in Magazine?

8 A. Yes I do.

9 Q. And who are they?

10 A. They are my aunt and uncle.

11 Q. Okay. Did you live with them for a period of time?

12 A. Yes I did.

13 Q. Was that before Ms. Haynes adopted you?

14 A. Yes.

15 Q. Were they your guardians?

16 A. Yes they were.

17 Q. Mrs. Haynes was not your guardian, was she, Mr. and Mrs.  
18 Wilks were your guardians, correct?

19 A. Yes. Yes.

20 Q. Do you know what relationship, if any, Kenneth Bieler had  
21 with the Wilk family?

22 A. None to my knowledge.

23 Q. They were strangers to him as far as you know?

24 A. So far as I knew yeah.

25 Q. Have you seen the guardianship papers that appointed them

1 as -- or where they petitioned to be guardians, your guardians?  
2 A. No.  
3 Q. But you know they were your guardians, correct?  
4 A. That was from my understanding, yes.  
5 Q. How long did you live with them?  
6 A. Very short period of time.  
7 Q. Okay. And then lived with Mrs. Geneva Haynes?  
8 A. Yes.  
9 Q. Did you live with the Wilks family first and then go with  
10 Mrs. Haynes?  
11 A. I was with Ms. Haynes first and then Ms. Wilks.  
12 Q. How long would you say you were with the Wilks family?  
13 A. Maybe, maybe a couple of months.  
14 Q. All right. Now, let's -- let's go back before the -- let  
15 me ask you some more questions about the adoption. Being 16  
16 years of age you had to consent in writing to become adopted by  
17 Geneva Haynes, correct?  
18 A. Yes, sir.  
19 Q. That was a voluntary act on your part?  
20 A. Yes, sir.  
21 Q. And she has testified here that you asked her to become  
22 her adopted mother, is that correct?  
23 A. Yes, sir.  
24 Q. And she I think happily agreed to do so, didn't she?  
25 A. Yes, sir.

1 Q. Now, were you explained who then that, if you became  
2 adopted the decree of adoption would end any legal relationship  
3 between you and Kenneth Bieler?

4 A. Yes I was.

5 Q. You understood that?

6 A. Yes I did.

7 Q. And, and you were okay with that, correct?

8 A. At that time yes.

9 Q. Pardon?

10 A. Yes, sir, at that time.

11 Q. Now, I'm just going to run over this a little bit and try  
12 to be brief. But you've told us and Mrs. Donna Dewey has told  
13 us that at about age 7 Mr. Bieler placed you in the custody of  
14 Donna Dewey, correct?

15 A. Yes.

16 Q. And you recall that you were there about 2 years, is that  
17 correct?

18 A. Yes, sir.

19 Q. Okay. And, how much contact did you have with Kenneth  
20 Bieler during -- whatever period of time it was that you lived  
21 with the family of Donna Dewey?

22 A. Several -- several contacts, phone contacts.

23 Q. Did you tell me that you lived with them -- that you saw  
24 Mr. Bieler one time in those two years?

25 A. Yes I believe so.

1 Q. Okay. And then Mr. Bieler married Carol and isn't it true  
2 that they were only together for about a year?

3 A. Yes they were.

4 Q. So, if you went to live with them at 9 years of age, then  
5 their relationship ended as a husband and wife about 10 years  
6 of age, correct?

7 A. Yes. Yes.

8 Q. And then isn't it a fact, Crystal, that you lived  
9 predominantly with Carol after their divorce?

10 A. Yes, sir.

11 Q. I know you told us a few moments ago that you lived with  
12 Kenneth Bieler for one semester after their divorce, do you  
13 recall telling me in your deposition that you recall living  
14 with him for about two weeks?

15 A. Yes, sir.

16 Q. Okay. And all the other time, from the time of their  
17 divorce until you came into the custody of either the Wilks  
18 family or Mrs. Haynes that you lived predominantly, with the  
19 exception of two weeks, with Carol Haught?

20 A. From my understanding yes that's what I -- that's what I  
21 said.

22 Q. All right. Now -- all right. And you do agree that from  
23 the time you went to be in Magazine with either the Wilks  
24 family or the Haynes family that -- and that was between ages  
25 11 and 12, that you did not see or hear from Mr. Bieler until

1 you accidentally ran into him here in Van Buren?  
2 A. Yes.  
3 Q. Did you run into him at the Wal-Mart?  
4 A. Yes I did.  
5 Q. All right. He knew where you were, did he not? He knew  
6 where you lived?  
7 A. Not at that --  
8 Q. -- not at that time --  
9 A. -- not in Van Buren, no.  
10 Q. Okay. Now, during -- with the exception of the very first  
11 Christmas that you were with Ms. Haynes, did you ever receive  
12 any Christmas cards, Christmas presents from Mr. Bieler?  
13 A. No.  
14 Q. As far as you know, I think Mrs. Haynes told us this  
15 yesterday that Mr. Bieler did not contribute anything to your  
16 support?  
17 A. No.  
18 Q. Geneva Haynes was then and is today considered by you to  
19 be your mother, correct?  
20 A. Yes, sir.  
21 Q. And you love each other very much, don't you?  
22 A. Yes, sir.  
23 Q. And your little daughter Cailee considers Geneva Haynes to  
24 be her grandmother, doesn't she?  
25 A. Yes, sir.

1 Q. Now, from the time you were between 11 and 12 years old  
2 until you graduated from high school at age 18 you had no  
3 contact with Mr. Bieler directly or indirectly, did you?  
4 A. No.  
5 Q. And it wasn't until 2003 that you had an accidental  
6 encounter with him that you had any contact with him since you  
7 were between 11 and 12 years of age?  
8 A. Yes.  
9 Q. Okay. Now let's -- let's pickup with that encounter at  
10 Wal-Mart, that was in 2003, is that correct?  
11 A. Yes, sir.  
12 Q. Did you ever live with Mr. Bieler after 2003?  
13 A. No.  
14 Q. You weren't asked this on direct examination I'm -- I'm  
15 going to ask you about it, when you were getting ready to  
16 enroll in UA Fort Smith, you had some scholarship money and  
17 some Pell grants to go to college, correct?  
18 A. Yes I did.  
19 Q. That wasn't quite enough was it?  
20 A. No, sir.  
21 Q. And did you go to Mr. Bieler and ask if he could help you  
22 with your books?  
23 A. Yes, sir, I did.  
24 Q. And he gave you \$650.00?  
25 A. Yes he did.

1 Q. Okay. And that was because you asked for it?  
2 A. Yes.  
3 Q. And then over the next year while you were still a student  
4 at UAFS, did you ask him for some additional money?  
5 A. Yes I did.  
6 Q. And do you agree that the total that you asked for and he  
7 gave you was about \$1600.00?  
8 A. Yes, sir.  
9 Q. And isn't it true that after 2004 that you did not receive  
10 any additional support from him?  
11 A. Yes.  
12 Q. And the only support you had financially or materially  
13 from the time you were 11 years of age approximately, was the  
14 \$1600.00 that he gave you when you asked for it in 2003 and  
15 part of 2004?  
16 A. Yes, sir.  
17 Q. Now after 2004, you had some limited contact with Mr.  
18 Bieler, didn't you?  
19 A. Yes.  
20 Q. What, 3 or 4 times?  
21 A. Yes.  
22 Q. And that would be when typically you would go by and drop  
23 in where he worked and say hello, correct?  
24 A. Yes.  
25 Q. Now, the last time you saw Mr. Bieler before his femur



1 becoming fractured was in December, 2007, wasn't it?

2 A. Yes, sir.

3 Q. That's what you told me in your deposition?

4 A. Yes, sir.

5 Q. And you were expecting Cailee at the time?

6 A. No. Actually -- actually Cailee was already born. Cailee

7 it was in 2008 'cause Cailee was already born.

8 Q. All right. I thought you told me that the last time you

9 saw him was in December 2007 -- uh -- when he came by to bring

10 you a birthday card from your grandmother?

11 A. Yes. Yes. I'm sorry.

12 Q. You did tell me that?

13 A. I'm sorry. Yes.

14 Q. And you were expecting at that time, weren't you?

15 A. Yes. Yes I was. Sorry.

16 Q. And he knew you were expecting?

17 A. Yes.

18 Q. And you delivered in February?

19 A. Yes.

20 Q. Of 2008 --

21 A. Yes --

22 Q. -- so you were about half -- well, more than halfway, you

23 were in your third trimester, weren't you at that time?

24 A. Yes, sir.

25 Q. So, Mr. Bieler knew that you were pregnant, correct?

1 A. . Yes.

2 Q. Did you see him or hear from him again after December,  
3 2007 to ask how you were doing with your pregnancy or if he had  
4 a grandchild?

5 A. No.

6 Q. As a matter of fact, Mr. Bieler made no effort to see  
7 either you or his only grandchild after she was born, correct?

8 A. Yes.

9 Q. And the only information he had about Cailee was when you  
10 took some pictures to him in the hospital and showed him?

11 A. Yes.

12 MR. COX: That's all I have, ma'am, thank you.

13 THE COURT: Mr. Swindle, anything else?

14 REDIRECT EXAMINATION

15 MR. SWINDLE:

16 Q. Crystal, who is your mother?

17 A. Geneva Haynes.

18 Q. Who is your father?

19 A. Kenneth Bieler.

20 Q. Do you ever call anybody else daddy, father in your life?

21 A. No.

22 Q. We've talked about you living with your father's ex-wife  
23 Carol, is she still with us?

24 A. No she's not.

25 Q. When did she pass away?

1 A. Right before I graduated high school.

2 MR. SWINDLE: May I approach, Your Honor?

3 THE COURT: All right.

4 Q. Could you, please, identify that?

5 A. Yes this is the -- my father's gravesite.

6 Q. Could you read it for us.

7 A. It says Bieler on the top. And then it says, Kenneth L.  
8 January 3, 1951 to January 29, 2009 (WITNESS CRYING) It says  
9 Father of Crystal then Son of Burgess and Doris.

10 MR. SWINDLE: Your Honor, I move to admit that  
11 as Plaintiff's Exhibit No. 16.

12 THE COURT: Be admitted.

13 [REPORTER'S NOTE: Plaintiff's Exhibit 16,  
14 photograph of Kenneth Bieler gravestone is  
15 introduced, admitted, incorporated herein and may be  
16 found at page 1433 hereof.]

17 MR. SWINDLE: Thank you.

18 THE COURT: All right, you can step down.

19 (WITNESS DEPARTS THE WITNESS STAND)

20 THE COURT: Call your next.

21 MR. SWINDLE: Your Honor, may it please the  
22 court, I'll call Dale McKinney at this time.

23 THE COURT: All right.

24 Come up right here and have a seat.

25 TESTIMONY AND EVIDENCE ON BEHALF OF THE PLAINTIFFS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**DALE MCKINNEY**

having been called by and on behalf of the Plaintiffs, and having been previously duly sworn, was examined and testified as follows, to-wit:

**DIRECT EXAMINATION**

**MR. SWINDLE:**

Q. Mr. McKinney, would you please introduce yourself to the court.

A. My name is Dale McKinney I'm from Greenwood, Arkansas. I'm the vice-president and manager of Midsouth Control and Supply, and I'm on the board of directors with Midsouth Steam Boiler and Engineering.

Q. Would you please tell us a bit about Midsouth Control and Supply?

A. We're a boiler supply company. We ship boiler parts all over the United States, Canada and Mexico to our customers. We also supply Midsouth Steam Boiler, our parent company with all their parts that they use on their jobs.

Q. And how long was Kenneth Bieler an employee of Midsouth Control and Supply?

A. Since 2001.

Q. When did you become acquainted with Kenneth?

A. At that time.

Q. And how did your responsibilities in the company intersect with Kenneth's work?

1 A. Ken eventually -- uh -- worked for me. He was working for  
2 Midsouth Steam Boiler when he first came and he was in another  
3 building, and we consolidated and put him under my leadership  
4 later on.

5 Q. Could you explain to us just what Kenneth did for  
6 Midsouth?

7 A. Ken did all of our repairs to pumps. We have pumps that  
8 we use in all of our industry and Ken did pumps, regulators,  
9 traps, anything used in our -- our industry he was able to  
10 repair it and we sent them all over the country.

11 Q. In that capacity what was your supervisory responsibility  
12 to Kenneth?

13 A. He was directly underneath me.

14 Q. How well did you know Kenneth?

15 A. As well as I could know an employee.

16 Q. -- Can you give us an example -- uh -- for example  
17 regarding your sister?

18 A. (NO RESPONSE)

19 Q. Is that not -- I'm -- I'm -- I'm sorry, maybe that was for  
20 another witness.

21 Did you ever meet Mr. or Mrs. Reynolds?

22 A. Only at the hospital towards the end of Ken's life.

23 Q. How was Kenneth as a worker?

24 A. Exceptional. He was known throughout the industry for his  
25 ability to -- to build stuff and not -- we didn't have any

1 warranty issues at all with him.

2 Q. How was Ken in terms of dealing with people?

3 A. Not bad. Everyone at the office loved him, everyone that  
4 worked beside him at the office had no problems with him at  
5 all.

6 Q. And could you give me an example of Kenneth's generosity?

7 A. Ken -- uh -- at one time -- uh -- was coming to work in a  
8 cab, and I asked him what was going on, he said, he wasn't able  
9 to buy a vehicle and I bought him a car to help him get back  
10 and forth to work.

11 Uh, short -- a few months after that he was in a cab  
12 again. And I said, what -- what's going on. And he said,  
13 there was a couple desperately needing --

14 MR. COX: Your Honor, I'm going to object  
15 that's hearsay.

16 THE COURT: You can tell us what he did, don't  
17 tell us what he said.

18 Q. Mr. McKinney, could -- could -- could you tell us the  
19 story without telling us exactly what Kenneth said? You -- you  
20 can't repeat what he said.

21 A. Okay. He gave the car to a couple that needed the car,  
22 and that -- and that was his story that he had tried to help  
23 someone out.

24 Q. How did that make you feel?

25 A. I just -- knowing Ken I knew that they must have needed it

1 worse than he did or he wouldn't have given the car away.

2 Q. How often did you see things like that with Kenneth?

3 A. Learned more about it at the funeral home when they were  
4 doing the reception. My wife and I were sitting there and  
5 people would come up and tell us --

6 MR. COX: -- Your Honor, again I'm going to  
7 have to object.

8 THE COURT: Don't tell us what other people  
9 told you.

10 WITNESS: Sorry.

11 THE COURT: Tell us what you know, but not what  
12 somebody else told you. Go ahead.

13 Q. Did -- did you learn that Kenneth was pretty generous? Is  
14 that a fair conclusion that you had?

15 A. Yes.

16 Q. Was he driving a moped at one time?

17 A. Yes he had bought one and -- uh -- then again, he had  
18 given it to someone else that needed it, so yes. -- It was an  
19 individual that had got a DUI or something like that and they  
20 weren't able to drive their car anymore and he gave them the  
21 moped to get to work.

22 Q. Uh, I -- I've -- I've heard expressions that -- that's a  
23 person that would give the shirt off his back, is that a fair  
24 description of Ken?

25 A. Yes.

1 Q. Uh, what was -- what effect did Ken's death have on  
2 Midsouth?

3 A. In my capacity we -- the last year, full year he was there  
4 we did over two hundred thousand just in repairs. And since  
5 that time I have yet to find someone that can fill his shoes.

6 Q. What -- what did he do at Midsouth that was so difficult  
7 to replace?

8 A. Just that being able to build pumps and the items that he  
9 built without having warranty issues. I've had several people  
10 in that capacity since him, and cannot -- the warranty issues  
11 just kill us and you wind up losing their business.

12 Q. And so would it be fair to say that you've lost a lot of  
13 customers since he's passed away?

14 A. In the repair business, yes.

15 Q. Well, I understand how that's affected the business -- uh  
16 --

17 MR. SWINDLE: May I approach, Your Honor?

18 THE COURT: All right.

19 Q. Was there -- how -- how did -- how did Ken's passing  
20 affect the morale? I mean do people miss him?

21 A. Everyone misses him there. Uh, probably one story the  
22 girls talked about every Valentine's Day he always bought them  
23 the little cherry kisses.

24 MR. COX: I'm going to object.

25 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE



1 JURY AS FOLLOWS:

2 THE COURT: Are you objecting to the pictures  
3 or something else?

4 MR. COX: No, no just what he's going to say  
5 about that. I don't have any objection to the  
6 pictures.

7 THE COURT: All right. Admit the pictures.  
8 Ask your question again.

9 END OF SIDEBAR CONFERENCE.)

10 CONTINUED DIRECT EXAMINATION

11 MR. SWINDLE:

12 Q. And -- and -- and Mr. McKinney, you're not allowed to  
13 repeat what other people say, but could you tell us just the  
14 general atmosphere that's been left at the company since he's  
15 passed away?

16 A. Just a -- a hole. I mean he was just such a -- a joy to  
17 work with that we just miss him.

18 Q. Now, did -- did -- did your company put a little memorial  
19 out for him?

20 A. We have it in -- in our office just showing the flowers  
21 that we put on the gravesite. They sent them back to us and we  
22 put them inside a display, and then the deal mentioning his  
23 funeral and then pictures that I got from his family that we  
24 could put up.

25 MR. SWINDLE: May I approach, Your Honor?

1 THE COURT: All right.

2 Q. Could you identify these two?

3 A. Yes.

4 Q. Is that the memorial you just told us about?

5 A. Yes.

6 MR. SWINDLE: Your Honor, I would move to  
7 publish these to the jury, admit these and publish  
8 them to the jury as Plaintiff's Exhibit No. 17 and  
9 18.

10 THE COURT: All right, be admitted.

11 [REPORTER'S NOTE: Plaintiff's Exhibit 17 and  
12 18, photographs of Kenneth Bieler are introduced,  
13 admitted, incorporated herein and may be found at  
14 pages 1434-1435 hereof.]

15 CONTINUED DIRECT EXAMINATION

16 MR. SWINDLE:

17 Q. How long did Kenneth work for Midsouth?

18 A. Since 2001.

19 Q. And what kind of employee was Kenneth in those years?

20 A. He was a good employee.

21 Q. Did he have health problems?

22 A. Yes in 2003 -- uh -- he took off for a little while -- uh  
23 -- he had a growth in his groin area and he thought it was  
24 cancer and finally determined later on that it wasn't. But it  
25 really -- really upset him and he didn't show up for work just

1 with the thought that he had cancer, it was really tearing him  
2 up.

3 Q. How about other absentees?

4 A. He had some throughout the time, some of the absentees  
5 were excused. He always did the air show in Fort Smith, he was  
6 a big part of that. He was a big part of the balloon festival  
7 in Sallisaw and also the air museum up in Fayetteville.

8 Q. Was alcohol ever a problem at Ken's work?

9 A. Not work, no, sir.

10 Q. Have you ever had the opportunity to see alcohol be a  
11 problem in other employees by comparison?

12 A. Yes, sir. Yes.

13 Q. Uh -- was there an issue about -- uh -- you loaning a  
14 company vehicle to Ken?

15 A. Yes during one of the times when he didn't have a car, one  
16 had broke down, we loaned him one of our older company vehicles  
17 and some of the other employees saw the vehicle at a bar, and  
18 I pulled him in and took the keys away from him and told him  
19 that was unacceptable and we didn't let him do that anymore.

20 Q. Uh -- but you never saw any problem with alcohol on the  
21 job, is that fair?

22 A. No, sir, not at all.

23 Q. Uh, what can you tell us about Ken's enjoyment of life?

24 A. Well, through the air shows I mean he perked up every time  
25 -- every time they came to town that was -- that was probably

1 the most fun, or something that he enjoyed as a deal and  
2 working up at the museum up in Fayetteville. Airplanes was his  
3 great passion.

4 Q. Did those air shows ever cause a conflict with his duties  
5 at work?

6 A. No. I'm -- I'm a former member of the 188th, my son's a  
7 member of the 188th, my brother is a former member and my  
8 nephew. And a man wants to take off without pay and volunteer  
9 his services out there I have no problem. I -- I thought it  
10 was something.

11 Q. Okay. And what did you know about Ken's relationship with  
12 his daughter Crystal?

13 A. All I knew about them, she showed up -- uh -- and came to  
14 see him one time, and after they talked outside, I came back  
15 in. We didn't even know he had a daughter.

16 Q. All right.

17 A. And so like I say, I was -- we saw her just on occasion  
18 there at the office.

19 Q. Did -- did she come by after that, or just the one time  
20 that you know of?

21 A. Three or four times.

22 Q. All right.

23 A. She had moved up from Russellville I think to attend  
24 college at West Ark and that's when -- about the time she  
25 started showing up.

1 Q. Did you and Ken ever visit about how long Ken expected to  
2 work?

3 A. He had told me, and I think we both said, we'd work there  
4 until we were probably 70 or they just kicked us out of there.  
5 So.

6 Q. Uh -- tell us about the -- now I know this -- this -- this  
7 is difficult, but could you tell us about what happened with  
8 your daughter and -- and Ken's reaction to that?

9 A. Back on Halloween in 2003 -- uh -- my daughter went to  
10 visit a friend in a house and there was a man hiding out in the  
11 house.

12 MR. COX: Your Honor, I don't see the relevance  
13 of this.

14 THE COURT: I'm not sure I understand where  
15 you're headed here, Mr. Swindle.

16 MR. SWINDLE: May we approach?

17 THE COURT: Sure.

18 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
19 JURY AS FOLLOWS:

20 MR. SWINDLE: Your Honor, this goes to how Ken  
21 valued his own life and -- and the quality of person  
22 that he was. Mr. McKinney's daughter was injured  
23 and -- and -- uh -- uh -- Kenneth checked on her  
24 more than anybody else in Dale's mind and that goes  
25 to the value that he placed on life.

1 MR. COX: Your Honor, without going into the  
2 gory details of how she was injured is -- is  
3 irrelevant. He can talk about that he was kind to  
4 his daughter.

5 THE COURT: Well, I -- I don't know that we  
6 have to know about the incident. I mean I think  
7 you're just dragging it out to talk about the  
8 incident. Why don't you ask what he did, to help  
9 him or check on her or whatever. I don't know that  
10 he's got to tell us all about what happened.

11 MR. SWINDLE: Sure. Sure. Thank you, Your  
12 Honor.

13 END OF SIDEBAR CONFERENCE.)

14 MR. SWINDLE: I apologize, Mr. McKinney.

15 CONTINUED DIRECT EXAMINATION

16 MR. SWINDLE:

17 Q. Would it -- and I may have asked to open up a question.  
18 Is it fair to say that -- your -- your daughter was injured?

19 A. She was injured.

20 Q. And about what year was that, do you recall?

21 A. 2003.

22 Q. Was she hospitalized?

23 A. Yes.

24 Q. Can you tell us -- uh -- was there -- uh -- an outpouring  
25 of support for her from a lot of different people, is that fair

1 to say?

2 A. Yes.

3 Q. Who was the person who was most -- uh -- uh -- concerned  
4 about her, showed the most concern to you about her?

5 A. Ken Bieler.

6 Q. All right. Can -- can -- can you tell us about how he  
7 expressed that concern?

8 A. He called me every day that we were in the hospital and  
9 offering to do anything that he could to help me out.

10 Q. Would it be fair to say that -- that he was checking on  
11 the situation more than anybody else?

12 A. Yes.

13 Q. Uh -- what type of contacts -- uh -- did you have with  
14 Kenneth after he was hospitalized in 2009? After he was put in  
15 the hospital, I mean how often did you go see him in the  
16 hospital?

17 A. Tried to go every other night.

18 Q. From the periods of January 14th through the 25th, would  
19 it be fair to say you -- you were up there about every other  
20 day?

21 A. Yes.

22 Q. And what did -- again, we can talk just about from that  
23 time period, the 14th through the 25th, what did you see as far  
24 as Kenneth's activities or his mobility?

25 A. Anytime I saw Ken he was laying in bed.

1 Q. When he was laying in bed, was he -- was he moving his  
2 legs up and down and doing exercises with his legs?

3 A. No. I never saw his legs move.

4 Q. Would it be fair to say that he was lying pretty still in  
5 bed?

6 A. Yes.

7 Q. Let's go to the last day of -- the last full day of  
8 Kenneth's life which was January the 28th, did you see him that  
9 day?

10 A. Yes I did.

11 Q. Could you please tell us what you saw?

12 A. I left work around 5 o'clock and I walked into the room to  
13 see Ken struggling to breathe. It was all he could do to get  
14 a breath and he had oxygen on for the first time that I'd seen.  
15 And I asked him what was going on and he said --

16 MR. COX: -- Your Honor, I'm going to object to  
17 hearsay.

18 THE COURT: I'm going to allow this.

19 Q. Go ahead.

20 A. He said, they tell me I have blood clots.

21 Q. What else did you talk with him about?

22 A. Just -- I was just concerned over his health.

23 Q. All right. When he was struggling to -- to breath was he  
24 in pain?

25 A. Not so much pain, just trying to -- just could not get his



1 breath.

2 Q. Uh, was he lying still on the bed?

3 A. Yes.

4 Q. Okay. Uh, did you see -- do you know what a Ted Hose is?

5 A. Yes.

6 Q. Those stockings, white stockings, did you see those on him

7 on the 28th?

8 A. No, sir, I did not.

9 Q. What do you remember about Kenneth wearing Ted Hose?

10 A. I don't remember seeing them on him. Most of the time he

11 was covered up except that night -- uh -- he had to use the

12 bathroom really bad and he pulled the sheets off and I did

13 notice he didn't have a -- and I -- I know 'em because I have

14 worn 'em before.

15 Q. If we could back up two days -- uh -- would it be fair to

16 say you saw him before then on the 26th?

17 A. Yes.

18 Q. You were seeing him every other day. What do you remember

19 about that?

20 A. He just was -- had a slight shortness of breath, but not

21 too bad.

22 Q. Did Kenneth tell you anything about blood thinners?

23 A. Just that they said they were going to give him --

24 MR. COX: -- Objection.

25 THE COURT: Sustained. Move on.

1 A. -- some, yes.

2 Q. When you were talking about on his last day he was  
3 struggling to breathe, could -- could you explain to us  
4 physically what that looked like?

5 A. It was hard to see him in that condition. He was -- he  
6 was really struggling to try to breathe.

7 Q. How easy was it for him to talk?

8 A. It was hard between gasping for air, it was really hard to  
9 talk.

10 Q. Did he ever struggle to breathe so much he was just coming  
11 up off the bed even?

12 A. Yes.

13 Q. What was the last thing Ken said to you?

14 A. As I went out the door he said, I love you.

15 Q. And what time did you leave?

16 A. Around 6:30.

17 Q. What did you do when you left?

18 A. Went to the nurse's station and begged them to try to help  
19 him.

20 MR. COX: Your Honor, I am going to object to  
21 what he did that's --

22 THE COURT: -- going to allow it. What else?

23 Q. And when you were begging the nurses to help, what was the  
24 response?

25 A. I was not family so I had no -- no power.

1 Q. And -- and what time was that that you left?

2 A. Around six thirty.

3 MR. SWINDLE: No further questions, Your Honor.

4 THE COURT: All right, Mr. Cox.

5 CROSS EXAMINATION

6 MR. COX:

7 Q. Mr. McKinney, on that 28th when you were there to see him  
8 sometime around five o'clock, the beginning of your visit you  
9 said he was struggling to breathe, but I also heard you say  
10 that he needed to get up and go to the bathroom?

11 A. No he used it. He had the hand deal that he put between  
12 his legs.

13 Q. Oh, I see.

14 A. Yes.

15 Q. He was able to do that, to --

16 A. -- yes he had -- it was laying there on the bed and he  
17 just grabbed it.

18 Q. All right.

19 A. Yes, sir.

20 Q. Okay. Your visits to see Mr. Bieler in the hospital were  
21 always after work, weren't they?

22 A. Yes, sir.

23 Q. And it would be usually around between 5 and 6 o'clock,  
24 correct?

25 A. Yes, sir.

1 Q. You were never there during the day --

2 A. -- no ---

3 Q. -- when he was having physical therapy or any other

4 treatments, correct?

5 A. The only time I saw him during the day was when he was at

6 Ashton Place, my wife and I went out there.

7 Q. All right. Now, let's talk a little bit about the events

8 at work, and I believe you told us that you didn't know that

9 Kenneth even had a daughter until she showed up at work one day

10 to see him?

11 A. That's correct.

12 Q. And he never talked about Crystal, did he?

13 A. No, sir.

14 Q. And I take it you never knew that he became a grandfather

15 either, did you?

16 A. No, sir.

17 Q. He never talked about that either, did he?

18 A. No.

19 Q. Now, Kenneth did have some problems with coming to work

20 when he was supposed to, didn't he?

21 A. Yes, sir. From time to time, yes.

22 Q. And there were times he would just take off and be gone a

23 week and you not know where he was?

24 A. Yes.

25 Q. And, were there times, sir, that you told him that if you

1 don't get back to work you might as well stay home?

2 A. Yes, sir.

3 Q. Okay. And that occurred as late as 2007, didn't it?

4 A. Yes, sir.

5 Q. And I think you told me in your deposition that Kenneth

6 was a good worker he had attendance problems?

7 A. Yes.

8 Q. And that was true the entire time, wasn't it?

9 A. Yes.

10 Q. And while he had some excused absences, he had a lot of

11 absences that were unexcused and you didn't know where he was

12 or why he had missed work?

13 A. Yes, sir.

14 Q. And, you had to take the company truck away from him at

15 one time, correct?

16 A. Well, I don't -- yes.

17 Q. And you took -- for a period of time you took his company

18 phone from him because of a complaint from a customer?

19 A. Right.

20 MR. COX: That's all, thank you.

21 THE COURT: All right, anything else?

22 MR. SWINDLE: Nothing else.

23 THE COURT: Need a break?

24 MR. SWINDLE: Yes. Thank you, Your Honor.

25 THE COURT: You can step down.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(WITNESS DEPARTS THE WITNESS STAND)

THE COURT: All right, we'll give you a little longer break this time, about 15 minutes.

Let me just say this, if you go in the jury room you probably need to stay in there, if you go outside you'll have to wait outside until the bailiff comes to get you. So, either place you're free to go either way, but which ever direction you head into, wait until we call you back in because it might take a little longer.

Be in recess.

(10:45 A.M. COURT RECESSES)

(SIDEBAR CONFERENCE OUT OF THE HEARING OF THE JURY AS FOLLOWS:

THE COURT: Are you guys resting, have you got other witnesses or what?

MR. SWINDLE: That's our last witness, Your Honor.

THE COURT: I'll have you rest in front of the jury, but I just wanted to be sure that you weren't calling anybody else.

MR. SWINDLE: Yes, Your Honor.

Is this when the court would like to talk about jury instructions and proffer what we talked about?

THE COURT: Well, are you going to have any

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

motions?

MR. COX: Yes, sir.

THE COURT: Why don't we go ahead and take those up since they've rested and then we'll get to instructions or whatever.

MR. SWINDLE: Yes, Your Honor.

THE COURT: All right, the plaintiff has rested, then any motions from defense?

**DEFENDANT'S MOTION FOR DIRECTED VERDICT**

MR. COX: Yes, Your Honor, I have a motion, a general motion to begin with and comes now the defendant Dr. Henry Edwards and moves for a directed verdict on the issue of liability and based upon the following:

The testimony in this case on behalf of the plaintiff is that of Dr. Franklin Michota, and presumably based upon what they believe some of the testimony was that Dr. John Daniels gave in this court room yesterday. The burden of proof of the plaintiff is to show what the standard of care is in this community or a similar community. Dr. Michota testified about what the standard of care was in the -- at the Cleveland Clinic and in hospitals in that area. He was specifically asked, do you know what the practice is among the doctors here in Arkansas

1 as to diagnosing and treating deep vein thromboses  
2 or pulmonary emboli. And he said that he was not  
3 familiar with what the standards of practice here  
4 were.

5 He -- he took the position that all doctors are  
6 obliged to follow the evidence based recommendations  
7 of the American College of Chest Physicians. He  
8 agreed that that applied to orthopedic surgeons. He  
9 agreed that Dr. Rhomberg, in his opinion, should  
10 have started blood thinners at or about the time of  
11 the hip fracture surgery, did not do so, and he said  
12 that Dr. Rhomberg in his opinion did not follow the  
13 guidelines. And on the other hand, he conceded that  
14 it was the policy of the American Academy of  
15 Orthopedic Surgeons not to give blood thinners for  
16 this type of injury, and so he said that his clinic,  
17 all the orthopedic surgeons do.

18 I think what Dr. Michota effectively did is to  
19 say this is the way we practice medicine, we think  
20 everybody should practice that way without knowing  
21 anything about the standard of care practiced here  
22 in Arkansas. For that reason I move for a directed  
23 verdict on locality rule.

24 THE COURT: All right. Response?

25 **PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION FOR**





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

we're just talking about the internist and I think that we've certainly met the burden of showing locality rules.

THE COURT: All right. That motion will be denied.

What else have you got, Mr. Cox?

**DEFENDANT'S MOTION FOR DIRECTED VERDICT**

MR. COX: The second part of the motion deals with the claim of Crystal Bieler Haynes, and I move for a directed verdict on any claim asserted by her for the reason that he did not stand in *loco parentis* with her at the time of his death. The evidence is clear that Mr. Bieler, whatever reason, didn't take any action with regard to the adoption proceedings. That this court knows what is required to establish an adoption in a situation where a father is absent and the father is not supporting a child.

And in this case the court here in Arkansas and Judge Herschel Cleveland [sic] had no trouble in severing the parental rights of Mr. Bieler with regard to Crystal, and that was on May 16, 2001. Under Arkansas law that decree of divorce [sic] severed any relationship which they had.

THE COURT: You said divorce, you mean

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

adoption?

MR. COX: I'm sorry, excuse me. That decree of adoption severed any relationship, legal relationship, which they had, and as the case law has stated they became in the eyes of the law strangers, legal strangers to each other. So, if -- if Mr. Bieler had -- had died before 2003 there would be no basis for Crystal to assert a claim. They must show by evidence that after the decree of adoption was entered on May 16, 2001 that Mr. Bieler intended to become her substitute parent, and the case law is quite clear on this what you have to do in order to establish that relationship. And I have provided the court some case law, one of which involves a wrongful death claim and whether or not a person stood in loco parentis. And in -- in this case there was testimony.

THE COURT: Do you have that case?

MR. COX: The case of Standridge vs. Standridge, and the court quoted the testimony that they were very close, he usually went with him to work, rode in the truck with him, went hunting and fishing and swimming just about every day. He was with the child 7 days a week. And -- and actually lived with the decedent for I think 15 months,

1 several, an extended period of time. And the court  
2 says, there's nothing in the record that the  
3 decedent had formed the intent to assume the duties  
4 and benefits of becoming this child's father. We  
5 cannot hold that the fact that Johnny lived with his  
6 mother and the decedent for over 15 months was  
7 enough to establish intent. And the court ruled  
8 that he was not entitled to beneficiary status. And  
9 therefore not allowed to recover damages.

10 A case from U.S. District Court here in Fort  
11 Smith, Judge Frank Waters, faced this same issue.  
12 The case is Webb vs. Harvell, 563 Fed Sup 172, and  
13 although this was decided before the -- the change  
14 in the law that -- that made an -- an adult eligible  
15 to be considered a beneficiary of a *loco parentis*  
16 parent -- the court ruled that the evidence  
17 regardless was not sufficient to show that this  
18 relationship existed. And it said, it quoted the  
19 Arkansas statute that said, "old legal relationships  
20 when they adopt an individual and its natural  
21 parents make him a stranger to them," and it also  
22 commands that all courts recognize this. And -- and  
23 the court made the following, it said, without going  
24 through the form for necessary adoption, and Judge  
25 Waters quoted, as have the Arkansas Supreme Court

1 cases that that *loco parentis* means in place of a  
2 parent, instead of a parent, charged with the  
3 parents' rights, duties and responsibilities. And  
4 the court discussed the contacts between the two,  
5 the relationship and said, as a matter of law *loco*  
6 *parentis* had not been established.

7 The case -- the issue has come up primarily in  
8 child custody and child visitation and the courts  
9 have been particularly harsh, and the most recent  
10 case is that of Spivey, or Daniel vs. Spivey, 212 AR  
11 39 cited in February of 2012 in which the Arkansas  
12 Supreme Court reversed a chancery judge who found  
13 that in *loco parentis* had been established, and --  
14 and the court quoted, or made the statement, "in  
15 *loco parentis* reversed with person who has fully put  
16 himself in the situation of a lawful parent by  
17 assuming all the obligations incidental to the  
18 parental relationship and who actually discharges  
19 those obligations." And the court went on to say:  
20 "This relationship involved more than a duty to aide  
21 and assist and more than a feeling of kindness,  
22 affection or generosity."

23 And it said the significant factor in  
24 determining, or considering whether the person  
25 intended to assume parental obligations -- let me

1 back up -- it -- of course, it is -- the time spent  
2 with the child, although not determinative, is a  
3 significant factor in considering whether the person  
4 actually intended to assume parental obligations or  
5 has performed those.

6 There was a decision Bethany vs. Jones from the  
7 Arkansas Supreme Court in February of 2011, it was a  
8 same sex relationship and the issue was whether or  
9 not a child that they had together, the relationship  
10 ended and the one who was left out and denied  
11 visitation argued that *loco parentis* had been  
12 established. And in this case the court pointed out  
13 that the plaintiff had cared for the child for three  
14 and a half years while -- as a young child, and had  
15 been the daily caregiver of this child who was still  
16 a minor at the time, and as a matter of fact, this  
17 was within two years or so after the relationship  
18 ended, and the court said because the child had been  
19 cared for for this extended period of time and  
20 actually was considered by both of the parties to  
21 that relationship as being a parent that the court  
22 said that she was entitled to visitation as a *loco*  
23 *parentis* parent.

24 Your Honor, the evidence in this case does not  
25 show any intent on the part of Mr. Bieler to become

1 a substitute parent for her, limited contacts. I  
2 think one of the most telling things is he had a  
3 grandchild, he knew he had a grandchild and made no  
4 effort to see it for some 10 months after the child  
5 was born. He had never provided for her after 2004,  
6 had a limited amount of money given to her in a one  
7 year period, nothing before that for multiple years,  
8 and none after 2004. And their contacts were  
9 sporadic at best. And it's not what Mrs. Bieler  
10 Haynes wanted or considered the relationship to be,  
11 it was what Mr. Bieler intended it to be.

12 And I think it's also significant that he did  
13 not tell anybody that he had a daughter. He did not  
14 tell anybody he had a grandchild, it's as if they  
15 didn't exist. And I think that that shows that  
16 there was no intent on his part to establish a loco  
17 parental relationship after the decree of divorce,  
18 excuse me, the decree of adoption.

19 THE COURT: All right. Mr. Swindle or Mr.  
20 Keever?

21 **PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION FOR**

22 **DIRECTED VERDICT**

23 MR. KEEVER: Well, Your Honor, I -- I agree  
24 with Mr. Cox on what his case law says. All of  
25 those cases involved minor children and, you know,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

are not really applicable to this.

I mean Crystal and Kenneth had a relationship, that can't be denied. So the question is what -- what was that relationship? Was it -- were they just kind of casual friends? Or was there a father/daughter relationship? After children leave the home the amount of contact that a parent has with the child varies greatly. I think that's -- we could take judicial notice of that, or common sense notice of that.

Crystal considered Kenneth her father and all of the evidence is that her family considered Kenneth her father. Her -- her aunts believe that Crystal should have a place in this lawsuit as Kenneth's daughter. You know, anyone in *loco parentis* has no legal relationship. We're not arguing that and in fact, Crystal has no claim to any of the verdict that would have to go to Kenneth's estate, it would only be for a verdict that is in her place as a beneficiary. I respectfully disagree with Mr. -- uh -- Cox's analysis. I think there is enough evidence that Kenneth did have an *in loco parentis* relationship because he felt like he should give up the legal relationship he should give up the physical



1 relationship when Crystal was a daughter in her best  
2 interest and after all that's what parents do. They  
3 do whatever it takes to be in the best interest of  
4 their child, Your Honor, and we would ask that the  
5 court make a decision that there is a showing of in  
6 *loco parentis*, and that Crystal be included on the  
7 verdict form. Thank you.

8 **DEFENDANT'S REBUTTAL TO DEFENDANT'S MOTION FOR**  
9 **DIRECTED VERDICT**

10 MR. COX: Your Honor, my response is all the  
11 things that occurred in the past, before the decree  
12 of adoption are irrelevant because they became  
13 strangers in the eyes of the law at that time. The  
14 question is whether or not Mr. Bieler established a  
15 *loco parentis* relationship with his daughter,  
16 whether he intended to and whether he actually  
17 carried out that intent. And, there is simply no  
18 evidence that he intended to or carried it out.  
19 What his sisters thought his intent was is  
20 irrelevant. The fact that his name, he lists  
21 Crystal as a child on his tombstone that was done  
22 after he died by other family members. That has  
23 nothing to do with his intent and the evidence  
24 showing that he intended to become her substitute  
25 father in the eyes of the laws, it's just not there.

1 Fathers want to see their children. Fathers want to  
2 see their grandchildren. Fathers want to keep up  
3 with them. Crystal says from the time she was  
4 placed -- from the time she was 11 or 12 years old  
5 she never got a Christmas gift from Mr. Bieler,  
6 that's not what people who want to be a parent do.

7 PLAINTIFFS' REBUTTAL RESPONSE TO DEFENDANT'S MOTION FOR  
8 DIRECTED VERDICT

9 MR. KEEVER: Very briefly, Your Honor. My  
10 oldest son lives in the State of Washington and he's  
11 not a great communicator and I go sometimes 6 months  
12 without hearing from him, it doesn't mean I don't  
13 love him and I'm not his dad. Kenneth can't be here  
14 to speak for himself so his family speaks for him.  
15 Thank you.

16 THE COURT: Let me see that decree of adoption.

17 (COURT EXAMINES DEFENDANT'S EXHIBIT 1)

18 MR. SWINDLE: Your Honor, I do want to argue  
19 about jury instructions. I've not had the  
20 opportunity with everybody else to take a rest room  
21 break.

22 THE COURT: Go ahead.

23 All right, do either of you have anything else?

24 MR. KEEVER: I would just -- I would just say  
25 as you recall there was testimony that there was an

1 agreement between Ms. Haynes and Kenneth that he  
2 would butt out, he just wouldn't be there. And so  
3 the fact that they didn't have a lock on his  
4 whereabouts at the time of the divorce -- I said  
5 divorce, I mean in the adoption decree I think is --  
6 is -- it would have been the expected situation.  
7 Thank you, Your Honor.

8 COURT'S RULING

9 THE COURT: Well, my recollection of the  
10 testimony was that after she's adopted she  
11 specifically said she had little to no contact. In  
12 fact, I think she said no contact from Mr. Bieler  
13 from the time she's adopted until the time she  
14 became an adult. And then the next contact was  
15 sometimes after that at random or by chance when  
16 they happened to be in a Walmart together. And, you  
17 know, my view of the *loco parentis* theory or  
18 relationship would be that dad's advocating a  
19 relationship and trying to build that and have  
20 contact and maintain that in some form or fashion.  
21 And, you know, it's clear that it didn't happen for  
22 the time that she's living with Ms. Haynes. And so,  
23 the limited time with the relationship is after that  
24 which is this random meeting they had at Walmart and  
25 the few times that Crystal actually says she went to

1 see Mr. Bieler at his place of work. It's not  
2 really what I'd call a reciprocal relationship where  
3 he's seeking her out, and he's doing some things  
4 that's -- its frankly been her, based on her  
5 testimony to initiate any contact at all.

6 And, you know, if you look at some of the cases  
7 in terms of the, I guess longevity of some sort of  
8 contact most of those show even where there's been  
9 consistent contact, it's not enough to show that.  
10 You know, the difference here is that you have  
11 technically a blood relationship and whether that  
12 trumps something you know may be different. But if  
13 I look at the adoption decree and I say she's  
14 legally adopted, she consented to that, she was  
15 raised by somebody else, and then for the period  
16 after that when she first contacts her father again,  
17 whether it was consistent enough relationship or  
18 contact to show that, I can't find it, gentlemen,  
19 and so I'm granting their motion.

20 MR. KEEVER: And our exception is noted for the  
21 record, Your Honor.

22 THE COURT: All right.

23 MR. KEEVER: Thank you.

24 THE COURT: So, we need to probably look at  
25 instructions and we need to do that probably again

1 in chambers and then we'll come out and make our  
2 record. So, let's kind of work on that for a little  
3 bit. Be in recess.

4 END OF SIDEBAR CONFERENCE.)

5 BAILIFF: All rise.

6 (11:30 A.M. OPEN COURT RESUMES, JURORS ARE  
7 SEATED BACK IN THE JURY BACK)

8 THE COURT: All right, ladies and gentlemen of  
9 the jury, it's going to take us a little longer to  
10 work out the instructions than I had hoped. And I  
11 think rather than keep you guys hanging around  
12 until we finish that and then not being able to, you  
13 know, get much done before lunch, I'm going to start  
14 our lunch hour a little bit early.

15 A couple of things. Again, just remember what  
16 I told you initially, don't discuss this matter,  
17 don't let anyone else discuss it with you.

18 My offer to you is this. I've actually handed  
19 the bailiff my credit card which may have a little  
20 bit of credit left on it, and for those of you all  
21 that want to meet him out at the Western Sizzln he's  
22 been given the authority to pay for your lunch out  
23 there. For the rest of you that might not, I'm not  
24 requiring that, but basically giving you that option  
25 if you want to eat lunch on the county then meet the

1 bailiff out there, and as soon as we recess here  
2 he'll be going that direction. And again, you're  
3 not required to but, you know, if you don't show up  
4 then it won't be free so that will be your choice.

5 Let's be back about, I'm actually going to make  
6 it about 12:35, somewhere along in there. I think  
7 we can possibly, maybe get everything kind of  
8 arranged. But if it takes a little longer for you  
9 to get back I understand that too because I don't  
10 know what the lunch crowd is going to be today.

11 But again, if you want to eat free, meet him  
12 out there, if you want to go somewhere else on your  
13 own you're free to do that. But we'll be in recess  
14 until about 12:35. And I have to stay so you can  
15 go.

16 (11:35 A.M. JURORS DEPART FOR LUNCH RECESS)

17 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
18 JURY AS FOLLOWS:

19 MR. SWINDLE: I would like to make a very brief  
20 argument, Your Honor.

21 THE COURT: All right. Just so the record is  
22 clear both parties have been given copies of the  
23 proposed jury instructions which the court has  
24 adopted here. So, if either of you want to make a  
25 proffer or an objection or whatever, let the

1 plaintiffs go first.

2 **PLAINTIFFS' PROFFERED EXHIBIT**

3 MR. SWINDLE: Your Honor, just briefly, both  
4 experts in this case, Dr. Michota as well as Dr.  
5 Daniels agreed that the standard of care is to give  
6 patients with two or more risk factors blood  
7 thinners unless there's a medical reason not to do  
8 so. And it's the unless that in the plaintiffs'  
9 opinion turns this into an affirmative defense for  
10 the defendant. It's plaintiffs position that it is  
11 the defendant's responsibility under AMI 206 to show  
12 that unless, to show the reason why he did not give  
13 blood thinners to Kenneth Bieler even though it's  
14 admitted that the standard of care requires the  
15 administration of blood thinners to patients with  
16 two or more risk factors for blood thinners, and  
17 it's also admitted that Kenneth had two or more risk  
18 factors. So, on that basis we would proffer a copy  
19 of -- a modified jury instruction based on AMI 206  
20 for the record.

21 THE COURT: All right that will be your  
22 proffered exhibit.

23 [REPORTER'S NOTE: Plaintiffs' Proffered  
24 Exhibit 1 is introduced, admitted, incorporated  
25 herein and may be found at pages 1544 hereof.]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: All right, any response?

**DEFENDANT'S RESPONSE TO PROFFERED INSTRUCTION**

MR. COX: I thought the court had already ruled on that. I think the law is clear in Arkansas that the burden of proof is on the plaintiff. We did not plead that as an affirmative defense. They have to prove that -- that -- that -- uh -- it should have been given unless there was a medical reason not to, and that's their burden of proof.

THE COURT: All right.

MR. SWINDLE: And just to clarify, we would agree with Mr. Cox that the court has ruled on this. I'm simply offering the modified AMI 206 to protect our record. I'm not -- I'm not rearguing it to the court.

THE COURT: I understand it.

MR. SWINDLE: Thank you, Your Honor.

THE COURT: Make that your proffered exhibit.

**PLAINTIFFS' ARGUMENTS ON INSTRUCTIONS**

MR. SWINDLE: Your Honor, it's my understanding that the court has ruled against the plaintiffs regarding arguing sending a message on the standard of care, and in accordance with that ruling we certainly will not argue that in closing argument. But we do argue to the court now that arguing



1 sending a message specifically regarding standard of  
2 care not on the size of the verdict is appropriate  
3 and we cited the case law for that.

4 I'm not asking the court to reconsider, I'm  
5 just making a record that the court has ruled  
6 against us and what our reasoning for wanting to  
7 make that argument is.

8 THE COURT: All right. Any response?

9 MR. COX: No response to that, Your Honor.

10 THE COURT: All right, just so the record is  
11 clear the court is going to deny that motion to use  
12 the language sending a message in closing argument.  
13 Go ahead.

14 MR. SWINDLE: Your Honor, finally it's my  
15 understanding that the court has ruled that Jury  
16 Instruction 603 that the death of Kenneth Bieler  
17 does not necessarily mean that there is negligence,  
18 and I would submit to the court that that's  
19 certainly a proper jury instruction for a car  
20 accident case where there is an accident of some  
21 type. There's no claimed accident here and one  
22 thing that all human beings share is that we -- we  
23 do all die. And -- uh -- on that basis I think that  
24 603 is inappropriate in this cause of action because  
25 there is no implication that someone is negligent

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

just because someone dies because we all die. Uh,  
and so that's why we don't think that 603 is an  
appropriate instruction for this case.

And -- and again, I'm not asking the court to  
reconsider, I'm just making a record of what our  
arguments are.

THE COURT: All right, understood.

MR. SWINDLE: Thank you, Your Honor.

THE COURT: I'm going to allow the instruction.  
Anything else?

MR. SWINDLE: Your Honor, that's all that I  
have.

THE COURT: Okay. Mr. Cox?

**DEFENDANT'S ARGUMENTS ON INSTRUCTIONS**

MR. COX: Your Honor, I just have two  
objections and the court has ruled on them, but I  
just want to make my record on it.

Comes the defendant Henry Edwards and objects  
to the giving of AMI 1501 in its format that the  
court is going to give, and I realize that we  
covered this at the pre-trial conference and the  
court ruled at that time. That with regard to what  
the jury can consider in determining the degree of  
skill and learning -- uh -- of Dr. Edwards and  
whether he applied it appropriately the court has

1 instructed that the jury can consider only the  
2 testimony provided by Dr. Franklin Michota and Dr.  
3 John Daniels. We had requested that the name of Dr.  
4 Henry Edwards be included in that as well as in the  
5 paragraph on what they can consider in determining  
6 the proximate causation issue.

7 So, we object to the exclusion of Dr. Henry  
8 Edwards in the second full paragraph and the third  
9 full paragraph of AMI 1501.

10 The only other objection I have is to the  
11 giving of AMI 2215. When it allows the jury or  
12 tells the jury that in assessing the damages of the  
13 estate of Kenneth Bieler the jury should not reduce  
14 the amount of damages by any social security  
15 payments or insurance payments received, or to be  
16 received by or on behalf of the estate of Kenneth  
17 Bieler. I can appreciate that that instruction is  
18 appropriate when there are loss of wages involved or  
19 medical expenses involved or other forms of damages  
20 which are perhaps covered by a collateral source.  
21 In this case, however, the only damages are the loss  
22 of life of Kenneth Bieler. Pain and suffering of  
23 Kenneth Bieler prior to his death, and mental  
24 anguish on the part of the three remaining  
25 beneficiaries of the estate.

1           There can be no social security payments to  
2 cover any of those damages. There can be no  
3 insurance payments to cover any of those damages,  
4 and I think it's inappropriate and irrelevant to  
5 give that. And it would allow the jury to at least  
6 consider or infer that these beneficiaries have  
7 received money for mental anguish, for loss of life,  
8 and for conscious pain and suffering when in fact  
9 there is no payment and could be no payment from a  
10 collateral source for those damages.

11           THE COURT: All right. Exceptions are noted.

12           Any other arguments or matters on the jury  
13 instructions?

14           MR. SWINDLE: Nothing further from the  
15 plaintiffs, Your Honor.

16           MR. COX: Nothing further.

17           THE COURT: And both of you received a copy of  
18 the proposed instructions. And just so you  
19 understand I think my inclination on instructions  
20 would be to read the interrogatories with -- what is  
21 it 206 I believe?

22           MR. SWINDLE: Yes, Your Honor.

23           THE COURT: And I won't read them again at the  
24 end.

25           MR. SWINDLE: Yes, Your Honor.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: So, you're all free to talk about that.

One other issue that I think Mr. Cox brought up, and you know, I did not allow him to inquire about anything having to do with Mr. Bieler's naval record. I know that you all submitted a picture that does reflect him in a navy uniform and so I guess I would caution you, Mr. Swindle, not to expound on that because again, I did not allow Mr. Cox to go into it and so I think it would be improper in any kind of argument to expound on any sort of naval career or anything beyond just that picture.

MR. SWINDLE: Yes, Your Honor.

THE COURT: Anything else either of you think of?

Are you going to have one witness after lunch then?

MR. COX: Judge, let me talk to Dr. Edwards and then we'll decide about that.

THE COURT: Okay. So, when we get back I'll just ask the plaintiffs if they have anything else, let them rest on the record.

I don't want you to repeat your motion but I think probably you can come up in front of -- well,

1 when the jury is in here at least to say that you've  
2 already made it and we can get it on the record then  
3 that you've made it and whatever. And then if you  
4 decide to call somebody, you can.

5 We previously discussed time and I think  
6 plaintiffs wanted 40 minutes and although that's  
7 beyond my usual time, I'll give you that much time  
8 if you think you want it. Do you know now if you  
9 want like 30 and 10 or?

10 MR. SWINDLE: Yes, Your Honor.

11 THE COURT: Okay. Anything else?

12 Okay, see you all back here in a little bit.

13 END OF SIDEBAR CONFERENCE.)

14 MR. SWINDLE: Your Honor, should we be back at  
15 1, is that when the court said?

16 THE COURT: Twelve thirty.

17 MR. SWINDLE: Twelve thirty. Okay, thank you,  
18 Your Honor.

19 (1:40 P.M. OPEN COURT RESUMES, JURORS SEATED IN  
20 THE JURY BOX)

21 THE COURT: All right, Mr. Swindle, Mr. Keever,  
22 do you have another witness?

23 MR. SWINDLE: Your Honor, we rest.

24 THE COURT: All right. Counsel approach.

25 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

JURY AS FOLLOWS:

THE COURT: Do you have any motions, Mr. Cox?

**PLAINTIFFS RENEW MOTIONS**

MR. COX: Your Honor, I would like to renew in their entirety the motions made on the record out of the presence of the jury earlier after the plaintiffs announce that they had rested.

**COURT'S RULING ON MOTIONS**

THE COURT: All right. The motion as far as the dismissal is denied. The motion as to dismissing the separate plaintiff Crystal Bieler was granted. Anything else?

MR. COX: Nothing further.

THE COURT: All right. Are you going to have any witnesses?

MR. COX: Your Honor, I have some exhibits.

END OF SIDEBAR CONFERENCE.]

THE COURT: All right. Mr. Cox are you ready to proceed?

MR. COX: Yes, Your Honor.

**DEFENDANT'S CASE IN CHIEF**

MR. COX: Your Honor, I would offer as a Defendant's exhibit the records from Summit Medical Center for the admission of Mr. Kenneth Bieler on January 6, 2009.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Any objections?

MR. KEEVER: No objection, Your Honor.

THE COURT: All right. Be admitted.

[REPORTER'S NOTE: Defendant's Exhibit 3, January 6, 2009 Summit Medical Center records of admission of Kenneth Bieler are introduced, admitted, incorporated herein and may be found at pages 1440-1543 hereof.]

MR. COX: Your Honor, inasmuch as Dr. Edwards has already testified and Dr. Daniels has already testified we have nothing further.

THE COURT: All right. So, defense rest?

MR. COX: Defense rest, Your Honor.

THE COURT: All right.

MR. SWINDLE: May we approach, Your Honor?

THE COURT: Sure.

(SIDEBAR CONFERENCE OUT OF THE HEARING OF THE JURY AS FOLLOWS:

MR. SWINDLE: Your Honor, pursuant to Rule 50 of the Arkansas Rules of Civil Procedure the plaintiffs move for a directed verdict on the issue of liability for the evidence presented.

THE COURT: All right, that's denied. Anything else?

MR. KEEVER: Yes, Your Honor, we would move



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

that the pleadings be amended to conform to the evidence.

THE COURT: I don't think there's any issue with that.

MR. KEEVER: Okay.

MR. COX: And, Your Honor, I think the rules require me to renew my motions and at this time and I do so on the issue of Dr. Edwards' negligence.

THE COURT: All right, that's denied.

MR. COX: Thank you.

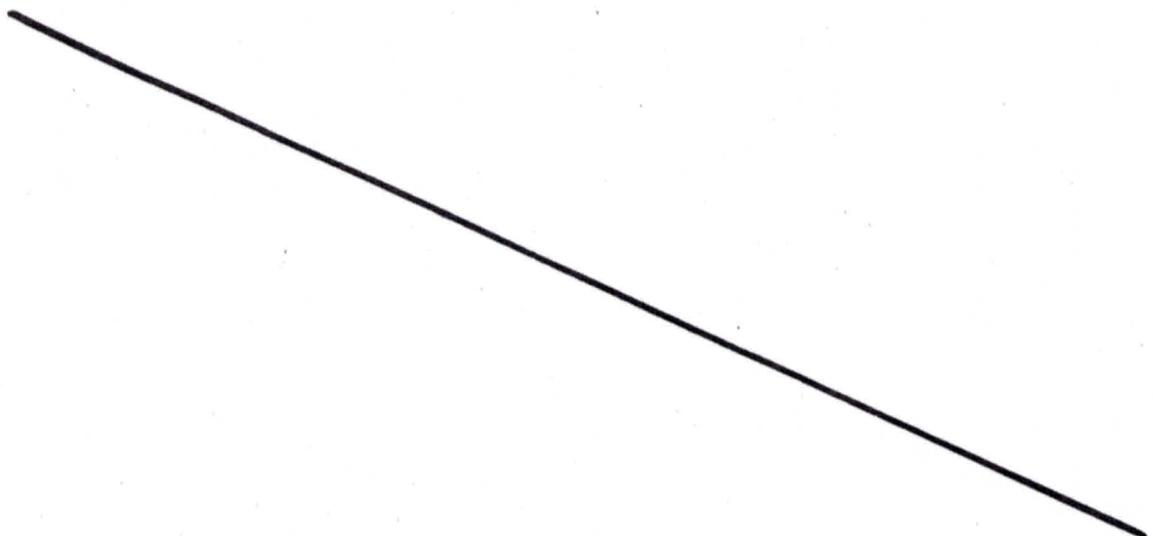
THE COURT: All right.

END OF SIDEBAR CONFERENCE.)

THE COURT: All right, ladies and gentlemen of the jury, both parties have rested. Give attention to the court for the reading of the instructions.

(THE COURT READS THE JURY INSTRUCTIONS)

**COURT'S JURY INSTRUCTIONS AS FOLLOWS:**



INSTRUCTION NO. \_\_\_\_\_

(a) The faithful performance of your duties as jurors is essential to the administration of justice.

(b) It is my duty as judge to inform you of the law applicable to this case by instructions, and it is your duty to accept and follow them as a whole, not singling out one instruction to the exclusion of others. You should not consider any rule of law with which you may be familiar unless it is included in my instructions.

(c) It is your duty to determine the facts from the evidence produced in this trial. You are to apply the law as contained in these instructions to the facts and render your verdict upon the evidence and law. You should not permit sympathy, prejudice, or like or dislike of any party to this action or of any attorney to influence your findings in this case.

(d) In deciding the issues you should consider the testimony of the witnesses and the exhibits received in evidence. The introduction of evidence in court is governed by law. You should accept without question my rulings as to the admissibility or rejection of evidence, drawing no inferences that by these rulings I have in any manner indicated my views on the merits of the case.

(e) Opening statements, remarks during the trial, and closing arguments of the attorneys are not evidence but are made only to help you in understanding the evidence and applicable law. Any argument, statements, or remarks of attorneys having no basis in the evidence should be disregarded by you. However, an admission of fact by an attorney is binding on her client.

(f) I have not intended by anything I have said or done, or by any questions that I may have asked, to intimate or suggest what you should find to be the facts, or that I

believe or disbelieve any witness who testified. If anything that I have done or said has seemed to so indicate, you will disregard it.

AMI 103

INSTRUCTION NO. \_\_\_\_\_

You are the sole judges of the weight of the evidence and the credibility of the witnesses. In determining the credibility of any witness and the weight to be given his testimony, you may take into consideration his demeanor while on the witness stand, any prejudice for or against a party, his means of acquiring knowledge concerning any matter to which he testified, any interest he may have in the outcome of the case, and the consistency or inconsistency of his testimony, as well as its reasonableness or unreasonableness.

AMI 105

INSTRUCTION NO. \_\_\_\_\_

An expert witness is a person who has special knowledge, skill, experience, training, or education on the subject to which his testimony relates.

An expert witness may give an opinion on questions in controversy. You may consider the expert's opinion in the light of his qualifications and credibility, the reasons given for the opinion, and the facts and other matters upon which the opinion is based.

You are not bound to accept an expert opinion as conclusive, but should give it whatever weight you think it should have. You may disregard any opinion testimony if you find it to be unreasonable.

AMI 107

INSTRUCTION NO.

A fact in dispute may be proved by circumstantial evidence as well as by direct evidence. A fact is established by direct evidence when, for example, it is proved by witnesses who testify to what they saw, heard, or experienced. A fact is established by circumstantial evidence when its existence can reasonably be inferred from other facts proved in the case.

**AMI 108**

Instruction No. \_\_\_\_\_

After I have completed my instructions to you on the law in this case, you will be given a number of written questions called interrogatories. These interrogatories present the issues of fact, which you must decide. In order that you may be fully acquainted with the issues of fact which are being submitted in this case for your determination, I will now read these interrogatories, some or all of which you may be called upon to answer.

Source: AMI 201

IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS

MARY HARTMAN, AS THE  
ADMINISTRATRIX OF THE ESTATE  
OF KENNETH L. BIELER, Deceased

PLAINTIFF

v.

No. CV 2010-425-I

HENRY N. EDWARDS, M.D.

DEFENDANT

INTERROGATORY NO. 1: Do you find from a preponderance of the evidence that Henry Edwards, M.D., was negligent in relation to the care and treatment of Kenneth Bieler, deceased, which was a proximate cause of the death of Kenneth Bieler, deceased?

Answer:

\_\_\_\_\_  
Yes or No

\_\_\_\_\_  
Foreman if unanimous

If not unanimous, signatures of at least nine jurors

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS

MARY HARTMAN, AS THE  
ADMINISTRATRIX OF THE ESTATE  
OF KENNETH L. BIELER, Deceased

PLAINTIFF

v.

No. CV 2010-425-I

HENRY N. EDWARDS, M.D.

DEFENDANT

Instructions: If you answered "no" to the preceding interrogatory, then go no further and return your answer to the Court. If you answered "yes" to the preceding interrogatory, then answer the following interrogatory:

IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS

MARY HARTMAN, AS THE  
ADMINISTRATRIX OF THE ESTATE  
OF KENNETH L. BIELER, Deceased

PLAINTIFF

v.

No. CV 2010-425-I

HENRY N. EDWARDS, M.D.

DEFENDANT

INTERROGATORY NO. 2: If you answered Interrogatory No. 1, "Yes," state the amount of damages you find that the Estate of Kenneth Bieler incurred as a result of the negligence of Henry Edwards.

1. Kenneth Bieler's loss of life: \$ \_\_\_\_\_
2. Conscious pain and suffering of  
Kenneth Bieler prior to his death \$ \_\_\_\_\_

Foreman if Unanimous

\_\_\_\_\_

If not Unanimous, signatures of at least nine jurors

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

IN THE CIRCUIT COURT OF CRAWFORD COUNTY, ARKANSAS

MARY HARTMAN, AS THE  
ADMINISTRATRIX OF THE ESTATE  
OF KENNETH L. BIELER, Deceased

PLAINTIFF

v.

No. CV 2010-425-I

HENRY N. EDWARDS, M.D.

DEFENDANT

INTERROGATORY NO. 3: If you answered Interrogatory No. 1, "Yes," state the amount of damages you find that Mary Hartman, Donna Dewey, and Doris Bieler, incurred as a result of the negligence of Henry Edwards.

1. Mental anguish suffered in the past and reasonably probable  
to be suffered in the future by Mary Hartman: \$ \_\_\_\_\_
2. Mental anguish suffered in the past and reasonably probable  
to be suffered in the future by Donna Dewey: \$ \_\_\_\_\_
3. Mental anguish suffered in the past and reasonably probable  
to be suffered in the future by Doris Bieler: \$ \_\_\_\_\_

Foreman if Unanimous

---

If not Unanimous, signatures of at least nine jurors

---

---

---

---

---

---

---

---

---

---

---

INSTRUCTION NO.

A party who has the burden of proof on a proposition must establish it by a preponderance of the evidence, unless the proposition is so established by other proof in the case. "Preponderance of the evidence" means the greater weight of evidence. The greater weight of evidence is not necessarily established by the greater number of witnesses testifying to any fact or state of facts. It is the evidence which, when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any issue in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party who has the burden of proving it.

AMI 202

INSTRUCTION NO.

Plaintiff, Mary Hartman, as Administratrix of the Estate of Kenneth Bieler, deceased, claims damages from Dr. Henry Edwards and has the burden of proving each of three essential propositions:

First, that she has sustained damages;

Second, that Dr. Edwards was negligent;

And third, that such negligence was a proximate cause of plaintiff's damages.

If you find from the evidence in this case that each of these propositions has been proved, then your verdict should be for the plaintiff; but if, on the other hand, you find from the evidence that any of these propositions has not been proved, then your verdict should be for Dr. Henry Edwards.

AMI 203

INSTRUCTION NO. \_\_\_\_\_

The law frequently uses the expression "proximate cause," with which you may not be familiar. When I use the expression "proximate cause," I mean a cause which, in a natural and continuous sequence, produces damage and without which damage would not have occurred.

AMI 501



INSTRUCTION NO. \_\_\_\_\_

In treating and/or operating on a patient, a physician must possess and apply with reasonable care the degree of skill and learning ordinarily possessed and used by members of her profession in good standing, engaged in the same type of practice or specialty in the locality in which he practices, or in a similar locality. A failure to meet this standard is negligence.

In determining the degree of skill and learning the law required and in deciding whether Dr. Henry Edwards applied the degree of skill and learning which the law required, you may consider only the expert testimony provided by Dr. Franklin Michota and Dr. John Daniels.

In deciding whether any negligence of Dr. Henry Edwards was a proximate cause of plaintiff's damages and would not otherwise have occurred, you may consider only the expert testimony provided by the medical experts who testified in this case.

In considering the evidence on any other issue in this case, you are not required to set aside your common knowledge, but you have a right to consider all the evidence in light of your own observations and experiences in the affairs of life.

**AMI 1501**

INSTRUCTION NO.

The fact that a death occurred is not, of itself, evidence of negligence on the part of anyone.

AMI 603

Instruction No. \_\_\_\_\_

Mary Hartman, as administratrix of the Estate of Kenneth Bieler, deceased, represents the Estate of the deceased and also herself, Donna Dewey, \_\_\_\_\_, and Doris Bieler.

The administratrix is suing for the following elements of damage of herself, Donna Dewey, \_\_\_\_\_ and Doris Bieler.

(a) Mental anguish suffered and reasonably probable to be suffered in the future by herself, Donna Dewey, \_\_\_\_\_; and Doris Bieler.

First, let me explain to you what is meant by mental anguish. This term means the mental suffering resulting from emotions, such as grief and despair, associated with the loss of a loved one.

The administratrix is also suing for the following elements of damage on behalf of the estate:

- (a) Kenneth Bieler's loss of life; and,
- (b) Conscious pain and suffering of Kenneth Bieler prior to his death

If an interrogatory requires you to assess the damages of the administratrix, you must fix the amount of money that will reasonably and fairly compensate Mary Hartman, Donna Dewey, \_\_\_\_\_ and Doris Bieler and the Estate of Kenneth Bieler for those elements of damage you find were proximately caused by the negligence of Henry Edwards.

Whether any of the damages sued for on behalf of Mary Hartman, Donna Dewey, \_\_\_\_\_, and Doris Bieler have been proved by the evidence is for you to determine.

Source: AMI 2216

Instruction No. \_\_\_\_\_

In the event that you find that the Estate of Kenneth Bieler is entitled to damages, you must determine the amount of these damages.

Mortality tables are evidence of an average life expectancy of a person who has reached a certain age, but they are not conclusive. They may be considered by you in connection with other evidence relating to the probable life expectancy of Kenneth Bieler, including evidence of his occupation, health, habits, and other activities, bearing in mind that some persons live longer than the average and some persons less than average.

Source: AMI 2219

Instruction No. \_\_\_\_\_

In assessing the damages of Estate of Kenneth Bieler you should not reduce the amount of the damages by any social security payments or insurance payments received or to be received by, or on behalf of Estate of Kenneth Bieler. Any reduction required by law will be made by the Court.

Source: AMI 2215

Instruction No. \_\_\_\_\_

This case is submitted to you on interrogatories. You should consider each of these interrogatories as a separate verdict. Upon retiring to the jury room, you should elect one of your number foreperson, who alone will sign each interrogatory if your answer is unanimous. If your answer to any interrogatory is not unanimous, but nine or more of you agree on that answer, each of you who agrees must sign the answer. Those who disagree should not sign. In order to answer any interrogatory, at least nine of you must agree.

Source: AMI 3502

INSTRUCTION NO.

You have now heard all the evidence and the instructions on the law you must apply in reaching your verdict. You soon will hear the lawyers' closing arguments and then go to the jury room to decide this case. I have a few final instructions for you on how to proceed.

(a) Remember that *you are to decide this case fairly, based only on the evidence presented in this courtroom and the law as instructed by me.* Do not consider information from any other source. And do not allow sympathy, prejudice, or like or dislike of any party or any attorney in this case to influence your decision. Keep in mind that the Basic Rule I have explained to you throughout the trial continues to apply during your deliberations: *You are to discuss the case only among yourselves. Do not communicate about this case and the places and persons involved by any means whatsoever with anyone else at all, or look for or receive any information whatsoever about this case - including through Electronic Devices - other than the evidence in this courtroom and the law as I have instructed you, until your jury duty is complete and I have discharged you.*

(b) Any notes you may have taken during the trial may be taken to the jury room to use during your deliberations. Your notes are simply an aid to your own memory, and neither your notes nor those of any other juror are a substitute for your own memory or other jurors' memory. Leave your notes in the jury room when you have concluded your deliberations.

(c) Do not begin deliberations until all of you are assembled in the jury room. Once you are all there, the first thing for you to do is to elect one of you to act as foreperson



during your deliberations. The foreperson should see to it that your discussions are orderly and that every one of you has a fair opportunity to be heard.

(d) If any of you need to communicate with me for any reason, write me a note and give it to (the bailiff) (court personnel). In your note do not disclose any vote or division among yourselves.

At least nine of you must agree to arrive at a verdict.

If your verdict is unanimous, only the foreperson will sign your verdict form.

If your verdict is not unanimous, but nine or more of you agree on the verdict, then each of you who agrees must sign the verdict form. Those of you who do not agree must not sign the verdict form.

AMI 3501

1 THE COURT: All right, ladies and gentlemen, at  
2 this time give your attention to Mr. Swindle for the  
3 plaintiffs.

4 MR. KEEVER: Your Honor, may we have just a  
5 moment?

6 THE COURT: Sure. Actually Mr. Swindle and Mr.  
7 Keever.

8 **PLAINTIFFS' CLOSING ARGUMENTS**

9 MR. KEEVER: Mr. Gregory, Mr. Pavy, Ms.  
10 Hoffman, Ms. Ajtun, Ms. Denton, Ms. Hickok, Mr.  
11 Karnes, Ms. Stubblefield, Mr. Wilmoth, Ms.  
12 Landthrip, Mr. Boster, Ms. Britt, Ms. Carter and Ms.  
13 Astre, gosh its been, it seems like forever after I  
14 missed out yesterday. I wasn't showing any  
15 disrespect for you guys, but I was so sick I  
16 couldn't get my head off the pillow. But I know  
17 that Mr. Swindle took care of things.

18 George Washington died on December 14, 1799.  
19 Two days before that the father of our country was  
20 out riding around inspecting Mount Vernon in a  
21 freezing rain and he came down with this horrible  
22 sore throat. Now, the general was a strong guy and  
23 he would have survived except his doctors chose to  
24 treat his fever with bleeding, and they bled off 5  
25 pints of blood, half his blood volume and that

1 weakened the general to the point of death.

2 You know doctors today know you don't treat an  
3 infection with bleeding, just like they know that  
4 blood clots represent the single most common  
5 preventable cause of death in hospitals today. And  
6 for a doctor to deny or ignore the evidence based  
7 guidelines on preventing and treating blood clots  
8 why it's just as negligent as if they were treating  
9 fever with bleeding.

10 I mean the evidence based guidelines represent  
11 the science of medicine and for some things the  
12 science is just so darn strong that a doctor can't  
13 say, well, I know what it says I should have done  
14 but in my judgment I did the right thing. That's  
15 true in this case about what Dr. Edwards did. It's  
16 true when a pediatrician sees a newborn. It's true  
17 when a doctor sees any patient. It's just as simple  
18 as that.

19 Now, you've heard the evidence. You've heard  
20 everything that I can provide, Mr. Cox can provide  
21 and I'm not going to rehash that. We've heard  
22 Kenneth's story. We've heard the story of his  
23 family, but you know there's another chapter to  
24 write and as a group you have the -- have the task  
25 of writing it.

1           In a little while you're going to retire to the  
2 jury room and you got three jobs, not just one. I  
3 mean the first job, of course, ultimately is you  
4 need to answer the questions that Judge Medlock asks  
5 on the interrogatories. But a second job is to be  
6 sure that you follow the law, that is your absolute  
7 right as a juror to walk out of here knowing that  
8 you followed the law and everyone in your group  
9 followed the law. And then third, before you answer  
10 any questions you're supposed to deliberate. You  
11 need to be able to explain to your fellow jurors and  
12 they to you why you feel the way you do about an  
13 answer. So, for the next 25 minutes or so, I'd just  
14 like to give you some thoughts on how you might be  
15 able to do that.

16           Now, your first interrogatory asks if you find  
17 Dr. Edwards negligent, if that was the proximate  
18 cause of damage to Kenneth Bieler and through him to  
19 his family. And it says that it needs to be found  
20 by a preponderance of the evidence. You know we  
21 talked about that on Monday and that's that legal  
22 jargon and what does it mean. Well, it doesn't mean  
23 beyond reasonable doubt. It doesn't mean 85% clear  
24 and convincing, it really just means more likely  
25 than not.

1           We -- we think that you'll decide that we've  
2 shown way more than more likely than not that in  
3 this case the doctor did not meet the standard of  
4 care and that caused the death of Kenneth Bieler.  
5 Uh -- and what is that standard of care? I'm still  
6 a little slow on my uptake from yesterday so bear  
7 with me, please, I appreciate it.

8           Well, the standard of care, remember this was  
9 one of the instructions. A doctor has to -- is  
10 supposed to possess and use with reasonable care  
11 that degree of learning and skill possessed and used  
12 by doctors of the same profession in good standing  
13 in the same or a similar community. A failure to  
14 meet that standard is negligence. In other words,  
15 in determining that you can only take into account,  
16 this is an expert question, the testimony the two  
17 expert witnesses, and that would Frank Michota and  
18 Dr. Daniels.

19           Well, in deciding what's the standard of care  
20 the first part preventing a blood clot there's  
21 really no big problem because Dr. Michota and Dr.  
22 Daniels agree that a patient like Kenneth with  
23 multiple risk factors the standard of care is you  
24 use those many doses of blood thinners as  
25 preventative medicine unless -- unless there's a

1 medical reason to withhold them. Now, Dr. Edwards  
2 admits he didn't use those blood thinners so you  
3 must find him negligent unless you feel that Dr.  
4 Edwards has proved through the evidence that there  
5 was a legitimate medical reason to withhold blood  
6 thinners.

7 Now, here is the poster that we saw in Dr.  
8 Daniels' deposition, and you'll have this back there  
9 as an exhibit. Here's another version of it, which  
10 I think comes up on the screen. Well, maybe not.  
11 But here's another version and I put Dr. Michota's  
12 opinions in blue so that we can use that to compare  
13 the two doctors opinions. Now what do we see? We  
14 see what Dr. Daniels told us and we see what Dr.  
15 Michota explained to us using evidence based  
16 guidelines.

17 Well, one thing is they agree on a lot of  
18 stuff, don't they? There were six risk factors all  
19 the way down the line. Then there were blood  
20 thinners used. There were never those squeezey leg  
21 squeezers or compressioned -- sequential compression  
22 devices used. Were there stockings? Well, they  
23 agreed for the first six days, but then there's  
24 nothing in the record and Dr. Michota feels like  
25 they almost certainly weren't used after that. Dr.

1 Daniels thought they might have been used for  
2 whatever reason. And were there medical reasons to  
3 avoid surgery? Or to avoid blood thinners? Surgery  
4 or bleeding, and we'll get back to that in a minute.

5 The doctors agree that after the fourth day  
6 there was no reason for surgery to be embarred to  
7 using blood thinners. Dr. Michota felt like surgery  
8 was never a reason. But -- uh -- Dr. Edwards and  
9 Dr. Daniels' claim that possible bleeding was a  
10 reason to not use blood thinners all the way up to  
11 the last day of Kenneth's life.

12 Well, you decide, but even if you were to  
13 conclude that there's a possibility of bleeding and  
14 we don't think you'll conclude that, but even if  
15 you do then we go to the second standard of care.  
16 If there's a medical reason to withhold blood  
17 thinners you have to use the maximal mechanical  
18 prevention.

19 Now, the record and testimony is clear no leg  
20 squeezers. That's below the standard of care. The  
21 record and testimony is clear that Dr. Edwards never  
22 ordered the compressive stockings. That's actually  
23 below the standard of care. We're certain that  
24 stockings were on for a few days but not for the  
25 last six days. And you can look at the nurses'

1 notes and you can remember that my gosh you guys  
2 have taken voluminous notes. So, you can decide if  
3 Kenneth had any protection, but remember Dr. Michota  
4 really explained to us and explained using sound  
5 evidence that the stockings in a patient like  
6 Kenneth with six risk factors was virtually no  
7 protection at all.

8 Okay -- uh -- we've looked at this, we've  
9 compared their opinions and you can just about take  
10 this part of the chart and wipe it off. We could  
11 cut a strip because was there internal bleeding, was  
12 that a reason to avoid blood thinners that's really  
13 the defense that you have to decide. Yes. Yes.  
14 Yes. Yes, all the way through. In fact, even down  
15 here in the last three days says Dr. Daniels. Dr.  
16 Michota explained to you why that just wasn't so.

17 And, we could kind of bring this discussion  
18 down to three questions. Well, here we are. Uh --  
19 was it a possibility that internal bleeding was a  
20 valid excuse not to use drug thinner? Dr. Daniels  
21 said yes. Dr. Michota explained why the answer was  
22 no.

23 Was failure to use preventive doses of blood  
24 thinner a cause of Kenneth's death? Dr. Daniels,  
25 no. Dr. Michota absolutely yes.



1           Was the defendant negligent, did that cause a  
2 preventable death of Kenneth Bieler? Well, when I  
3 asked Dr. Daniels that, you saw it in his  
4 deposition. I think his answer was, well obviously  
5 I would say no. And Dr. Michota explained to you  
6 why the answer is yes.

7           Lets look at the failure to treat blood clots  
8 that were going to the lungs on those last three  
9 days. Now, Dr. Michota explained to us that the  
10 degree of learning expected of an intern, this is  
11 someone who could be one week out of medical school,  
12 is not allowed to practice independently but someone  
13 with that degree of learning would be expected to  
14 have diagnosed a blood clot going to the lungs on  
15 the 26th, on the 27th and on the 28th when Dr.  
16 Edwards finally made the diagnosis. And Dr. Daniels  
17 agrees that there was a blood clot going to the  
18 lungs on the 26th, but he says it wasn't below the  
19 standard of care for Dr. Edwards to miss that  
20 because somehow that realization did not rise to the  
21 level of consciousness for him to do something about  
22 it, and besides Kenneth was going to die anyway.

23           Well, why did Dr. Daniels make the statement  
24 that it would be below the standard of care if Dr.  
25 Edwards completely missed it. Is it because he had

1 to agree that for a trained internist to completely  
2 miss that diagnosis would just not be believable?  
3 That's the 26th.

4 Lets look at the 27th. The expert opinions are  
5 about the same as the 26th, and remember this is the  
6 day when Kenneth was woke up, the therapist tried to  
7 get him up, he got ashen, sweaty, started breathing  
8 hard, and then later his blood pressure dropped and  
9 then later his blood oxygen level dropped. And, Dr.  
10 Edwards says, today's changes are worrisome for some  
11 serious process in the abdomen that's not shown  
12 itself. Chest pain. Shortness of breath. Falling  
13 blood pressure. Falling blood oxygen. And doesn't  
14 the record show that the defendant really had no  
15 serious thoughts, maybe no thoughts at all about  
16 blood clots going to the lungs. Dr. Daniels agreed  
17 that if that was the case if he never thought of it,  
18 it was below the standard of care, but he relied on  
19 his doesn't rise to the level of consciousness he  
20 explained. What expert is more credible? You  
21 decide.

22 And even on the 28th, now Kenneth is  
23 suffocating with the effect of blood clot after  
24 blood clot going to his lungs. And Dr. Michota  
25 showed us with the evidence based guidelines that

1 had he been started on blood thinners even as late  
2 as that day he had a 97 to 99% chance of leaving the  
3 hospital alive.

4 And finally, how did Dr. Daniels respond to Dr.  
5 Michota's evidence and you will have this as an  
6 exhibit, evidence that by giving just half a dose  
7 Kenneth never got any protection at all, let alone  
8 he got no protection at 11 o'clock on the 28th, 2:30  
9 on the 28th or 5:30 on the 28th because this wasn't  
10 given until 8 o'clock. And because it only got to  
11 be half a dose for most of the time, Kenneth had no  
12 protection at all.

13 Well, I'm not sure what slide is going to come  
14 up next. -- Uh -- lets just -- yeah, there you are.  
15 And what did they say? Well, Dr. Michota was  
16 perfectly clear and explained it clearly, you give  
17 blood thinners when you have clean, clear, clinical  
18 science that there's blood clots going to the lungs.  
19 Dr. Daniels didn't he say one could argue there was  
20 a delay in starting the blood thinners, but that's  
21 not below the standard of care? And it wouldn't  
22 have made any difference because Kenneth was going  
23 to die anyway.

24 Ladies and gentlemen, the simple truth is as I  
25 said a minute ago, medicine is science. There's

1 some judgment involved, but for the most part  
2 medicine is science and the science out there, the  
3 evidence in the medical journals, and in the  
4 textbooks and in the guidelines say that treatment  
5 in Kenneth most certainly would have made a  
6 difference. Most certainly would have made a  
7 difference the 26th, and the 27th, and even the  
8 28th, but only if the dosage was adequate.

9 Is it reasonable, is it reasonable to say that  
10 it was okay -- I got the wrong slide up, but I'll go  
11 on anyway. Is it reasonable to say that it was just  
12 okay for Dr. Edwards not to order Kenneth any  
13 measures at all for preventing blood clots? Not  
14 even the leg squeezers? And those are the default  
15 guidelines. Well, that was Dr. Daniels' position  
16 wasn't it? But it's not the conclusion of Dr.  
17 Michota.

18 Is it reasonable to say that Dr. Edwards could  
19 withhold blood thinners because he thought Kenneth  
20 was at serious risk of needing surgery on his belly?  
21 Well, is it even reasonable to accept the premise  
22 that Dr. Edwards was thinking that that was a reason  
23 not to with -- thinking that was a reason to  
24 withhold blood thinners? There's nothing in the  
25 chart, nothing recorded in real time that would say

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

that.

And then, Dr. Daniels says the blood count in Kenneth was falling, and you'll have those blood counts, and I think Dr. Michota explained to you that there was never any evidence that there was ongoing bleeding and there was never any evidence of any of the other tests, the two cat scans, the blood stool tests, any evidence, any -- even on the autopsy, there was nothing on the autopsy that there was any bleeding going on. There was no bleeding going on, and there was no indirect evidence that would have said that's a serious problem you need to withhold blood thinners.

And how about those last three horrible days for Kenneth? Uh -- a serious condition in the abdomen which has yet to make itself clear. If you look at the progress notes, and I encourage you to read through all of Dr. Edwards' progress notes, this is a man that writes long, long notes. And think to yourself, where is the note about blood clots? Where is the note about might need surgery? Where is the note about I'm worried about bleeding until the very last day of Kenneth's life?

Now, how do you resolve this because you got two experts who are saying black and white just

1 about? What do you say if a juror says to you in  
2 the jury room, you know I think the experts just  
3 have to cancel themselves out, one said this, one  
4 said that, we just can't decide? Well, one of the  
5 beauties of our jury system as, His Honor, just told  
6 you is that you don't have to take at blind faith  
7 everything that's said, you can use your own common  
8 sense, your own collective life experiences.

9 And, here is the instruction on expert  
10 witnesses. You may consider his or her testimony  
11 based upon the qualifications and on their  
12 credibility. You not only are you not bound, you  
13 don't have to accept an expert opinion just because  
14 someone is wearing a white coat and uses long words.  
15 You can disregard any opinion testimony that you  
16 find unreasonable. So, you decide whose testimony  
17 carries more weight. You're going to have the CVs  
18 or resumes of both Dr. Michota and Dr. Daniels. And  
19 you can decide whose testimony in this case, who's  
20 the expert in blood clot disease, who's the expert  
21 in diabetes and then you decide.

22 Ladies and gentlemen, you have the power to  
23 decide what's the appropriate standard of care for  
24 patients here in Crawford County. I mean this case  
25 is not just about Henry Edwards and Kenneth Bieler,

1 it's about every patient and every doctor and what  
2 you believe should be your community's standard of  
3 care. And what is that? Do you want the medical  
4 decisions for your doctors in this community to be  
5 made upon the evidence available, or is it okay to  
6 let a doctor get away with saying, well, it might  
7 have been the wrong thing to do but it just felt  
8 good to me, right to me at the time?

9 What we saw here were medical decisions made by  
10 Dr. Edwards time and time again. Not by evidence,  
11 not by going to the evidence based guidelines, or  
12 the textbooks, or the medical journals, but  
13 basically by the seat of his pants. And they were  
14 wrong. They were just wrong. Virtually every  
15 decision, every judgment in the area of blood clots,  
16 preventing blood clots, diagnosing blood clots, or  
17 treating blood clots was just wrong.

18 This was Dr. Daniels testimony under oath, and  
19 he repeated it twice, didn't he? That he agreed  
20 that obviously the judgments that were made by Dr.  
21 Edwards turned out to be incorrect judgments, but I  
22 think not making the correct judgment doesn't  
23 necessarily mean you've breached the standard of  
24 care. Well, how many times did that occur here?  
25 They were just wrong time after time after time

1 again. And how many bad judgment calls is a doctor  
2 allowed before someone says that's below the  
3 standard of care?

4 Now, we're going to ask that you base the  
5 amount of your verdict only, only on the actual  
6 harms and losses to Kenneth and his family. And,  
7 keep in mind as you do that that you are the  
8 conscious of your community, just as if you were  
9 deciding a car wreck case and we don't want you to  
10 base the judgment on sympathy. We don't want you to  
11 base the judgment on whether you like one side or  
12 the other, but we want you to base your judgment on  
13 the full amount that it takes to compensate Kenneth  
14 and his family. Now, if one of your jurors says to  
15 you, a fellow juror says to you in deliberations,  
16 well I think that doctor was negligent but darn it I  
17 just don't think that we should give a big verdict  
18 because that might effect care, maybe other doctors  
19 won't want to come to Van Buren and practice. Will  
20 you tell that fellow juror, we promised to follow  
21 the law and thinking about how this verdict affects  
22 people outside of this verdict is outside the law,  
23 that's outside the box, only the harms and losses  
24 but the full harms and losses.

25 First, what should that include for Kenneth?



1 How much is fair value for those last three days  
2 when Kenneth was suffocating with blood clots going  
3 through his lungs? How much? I think his sister  
4 Mary suggested mortality tables and I can tell you  
5 that Kenneth, by the tables, would have lived 23.49  
6 more years. How much would that be worth, 23.49  
7 years taken away?

8 And we heard about a man who was, yeah, he was  
9 less than perfect, like any other man or woman, but  
10 he was a man who gave great joy to those around him.  
11 A man who had the opportunity, and was taking that  
12 opportunity to reconnect with his daughter. A man  
13 who had the opportunity to be a grandfather, and  
14 those opportunities were unnecessarily taken away.  
15 We are talking about the unnecessary loss of a human  
16 life, and I'd suggest to you that one million  
17 dollars is a reasonable amount of compensation for  
18 that, you may decide more.

19 What's been taken away from Kenneth's sisters?  
20 Remember these are the three black-headed kids in a  
21 town full of blondes and they formed a deep, deep  
22 bond, deeper than probably most siblings. Uh --  
23 that's been taken away and with that Mary and Donna  
24 are less whole. Doris, their mother lost the only  
25 anger that she had in this world with Kenneth's

1 life, the only man left in her life, and I'm  
2 suggesting that a verdict of two hundred and fifty  
3 thousand dollars for each sister, and two hundred  
4 and fifty thousand dollars for Doris would be the  
5 minimum to see justice in this case.

6 So, I'm suggesting to you, ladies and  
7 gentlemen, that big harms require big compensation,  
8 and you're going to decide what that should be. You  
9 decide what the verdict should allow. You decide  
10 what is the minimum fair value for Kenneth's death.  
11 You've been very patient. You've been very  
12 attentive and we're going to be very, very patient  
13 waiting for your verdict. Take time with your  
14 verdict, take all the time you want. This is --  
15 this is Kenneth's only shot at justice. He's  
16 depending upon you and -- and his family is grateful  
17 to have this in your hands. Thank you.

18 THE COURT: All right, ladies and gentlemen,  
19 give your attention to Mr. Cox.

20 **DEFENSE'S CLOSING ARGUMENTS**

21 MR. COX: Ladies and gentlemen, thank you on  
22 behalf of Dr. Edwards and myself and Sharon Hopkins  
23 we want to thank you for your service as jurors this  
24 week. I'm certain that each of you had things that  
25 you needed to do, and perhaps even important things

1 that you needed to do, but you have served your  
2 county well by being here and serving as jurors in  
3 this case, and in particular being the attentive  
4 group of jurors that you have been and we do  
5 appreciate that.

6 Now it's sometimes difficult to know where and  
7 when to start in a situation like this, and I'm  
8 always kind of, I struggle to say well how do you --  
9 how do you get up and -- and respond at this time.  
10 I guess my first response, ladies and gentlemen, is  
11 that I guess I'm just old school, after 71 years of  
12 life and 46 years of law practice all I know to do is  
13 just stand up and talk to you and without showing you  
14 pictures and stuff on boards. I just want to talk to  
15 you like I did in my opening statement.

16 Judge Medlock has given you the law by which you  
17 must apply the facts and to arrive at a verdict in  
18 this case that is based upon the evidence and the law  
19 that you will receive.

20 Now, Mr. Keever said something just now that is  
21 not what the court told you. The court told you in  
22 determining the question of whether or not Dr. Henry  
23 Edwards was negligent in the medical care he provided  
24 you can consider only two things, that's the  
25 testimony of Dr. Michota and the testimony of Dr.

1 Daniels, and if you'll look at the instruction it  
2 tells you on all other issues you can use your common  
3 sense and you're invited to do that. But on the  
4 issue of whether or not Dr. Henry Edwards was  
5 negligent, you have to base your verdict on the  
6 testimony of those two expert witnesses.

7 Now, let's talk about the experts. I don't know  
8 that I've seen an expert witness that's more certain  
9 of his opinions than Dr. Michota. There is no budge,  
10 no give, no concession on virtually any point that he  
11 has. He has committed to giving blood thinners  
12 virtually without exception in patients who have risk  
13 factors in the hospital. And he goes around the  
14 country and he gives lectures and puts on  
15 presentations and I hope you picked up on this,  
16 ladies and gentlemen, Dr. Michota his research, his  
17 writing and his symposiums that he produces are all  
18 sponsored by the same drug companies that make the  
19 blood thinners. Now, do you -- can you ask yourself  
20 is there a little bit of bias there, is there a  
21 little bit of self interest there? I submit to you  
22 that there is.

23 Dr. Michota would have you believe that this is  
24 a very safe drug, these are safe drugs, there's  
25 essentially no risk to them and he can come into a

1 court room and tell you those things when he's  
2 treating -- when -- when he's not treating a patient  
3 that a doctor has to take risk factors into account.  
4 Dr. Michota doesn't have to live with the  
5 consequences of giving a man such as Kenneth Bieler  
6 blood thinners and then that patient either bleed out  
7 and die from that, or die from kidney failure. He  
8 doesn't have to deal with the consequences of a  
9 decision to give blood thinners to those kinds of  
10 people because he's an expert witness, and he knows  
11 the outcome. He has the ability to look at this case  
12 in hindsight; it's like the Monday morning  
13 quarterback who says you shouldn't have thrown that  
14 pass coach because it was intercepted when it sounded  
15 like the right thing to do and it was good judgment  
16 to do it in the first place.

17 I'm sure each of you in your experiences have  
18 made judgment calls that perhaps did not turn out the  
19 way you hoped. We've all done that, we're human  
20 beings, we're not perfect, Dr. Edwards certainly is  
21 not perfect. But I'll tell you one thing Dr. Edwards  
22 was dealing with a live patient who presented with  
23 multiple problems to his care on the early morning of  
24 January 14, 2009. He's not looking at records and  
25 judging somebody's care in hindsight knowing what the

1 outcome was. He's having to take care of a patient  
2 and assess him and evaluate him and make the best  
3 decision he knows how to make based upon his care and  
4 his experience and his learning.

5 Dr. Henry Edwards was faced with a patient who  
6 presented with multiple life-threatening conditions.  
7 And what were those? Well, he came in in kidney  
8 failure, he came in with his kidneys shut down. Do  
9 we know what caused that? No we don't. No one ever  
10 was able to determine, even Dr. Michota couldn't tell  
11 you that. That is -- and you've heard testimony,  
12 that was a life-threatening condition that he  
13 presented with, an immediate life-threatening  
14 condition.

15 He also presented with a severely distended  
16 abdomen, the x-rays showed a severely distended  
17 colon, or small bowel and the immediate diagnosis was  
18 probable small bowel obstruction. Even Dr. Rhomberg  
19 who actually wrote or sent the first set of orders to  
20 the hospital on the 13th says on there, consult  
21 medicine, consult surgery because he was obviously  
22 concerned about a surgical problem with his patient  
23 when he arrived.

24 And Dr. Edwards told you about his experience  
25 that surgeons here will not operate on folks who are

1 on blood thinners. They -- there's too much risk in  
2 their mind. Dr. Michota wants to make light of that  
3 and say, well we do it all the time at the Cleveland  
4 Clinic. Well that's fine at the Cleveland Clinic if  
5 that's how you want to practice law but the surgeons  
6 here choose not to operate that way. And Dr. Edwards  
7 can't operate so that's a consideration. And if  
8 you'll look in the records at the x-ray studies as  
9 late as the 17th and the 20th there are x-ray reports  
10 in the records that say that small bowel obstruction  
11 on the 17th is very suspicious for a small bowel  
12 obstruction, and on the 20th it's still an issue,  
13 they can't rule out a small bowel obstruction. And  
14 you heard testimony these things can go to an acute  
15 phase pretty quickly, and Dr. Edwards know from  
16 experience that these surgeons in this area do not  
17 operate in a patient who has got a small bowel issue  
18 if he's on blood thinners.

19 So, you got a small, possible and probable small  
20 bowel obstruction. You've got kidney failure and  
21 within a day or so of coming into the hospital he  
22 begins to lose blood, and the blood counts go down,  
23 down, down and stabilize at about 8.7 hemoglobin over  
24 a few days, but then -- and at some point on the 26th  
25 Dr. Edwards gives a transfusion of two units of

1 blood. It goes back up but then goes right back down  
2 the next day. Dr. Edwards was concerned about blood  
3 loss. He -- he knows and I think if Dr. Michota were  
4 not an expert witness, if this were his patient he'd  
5 be concerned about it too because they know that  
6 bleeding is a contra indication to giving blood  
7 thinners, it just makes it worse and Dr. Edwards said  
8 that very thing when he knows there is a deep vein  
9 thrombosis on the 28th and he knows he has no choice  
10 but to give anticoagulants or blood thinners he says  
11 if -- if he is in fact bleeding, I don't know where  
12 it is but giving this drug is probably going to make  
13 it worse.

14 It's -- it's true that Dr. Edwards didn't write  
15 down everything he thought about, and if you want to  
16 criticize him for not writing something down, that's  
17 fine. But don't criticize Dr. Edwards for not being  
18 an attentive doctor to this patient. He saw him  
19 every day except when the weekend when he was on call  
20 and a Dr. Rana, another -- or a family practice  
21 doctor saw this patient.

22 According to Dr. Michota, Dr. Edwards was  
23 obligated to use blood thinners. He gives him a pass  
24 on the first two or three days, but then after that  
25 says no he has to do that. He also says the same



1 thing about Dr. Rhomberg that Dr. Rhomberg should  
2 have given blood thinners just because he had a  
3 fractured femur and had surgery, Dr. Rhomberg should  
4 have done that that's what the guidelines call for.  
5 Dr. Rhomberg didn't and as a matter of fact the  
6 American Academy of Orthopedic Surgeons don't agree  
7 with Dr. Michota. Dr. Michota thinks that every  
8 doctor ought to do it, but obviously the orthopedic  
9 surgeons disagree with him. He's -- he -- he tells  
10 you that well, at Cleveland Clinic all of our  
11 orthopedic surgeons will give this. Well, does he  
12 want everybody to come to the Cleveland Clinic for  
13 medical care? That's kind of the suggestion that if  
14 you want good care you've got to come to us.

15 There were multiple doctors looking after this  
16 patient during his stay in the hospital, any one of  
17 them could have ordered blood thinners if they  
18 thought it was indicated or needed. None of them  
19 did. Dr. Rhomberg, Dr. Ruff the surgeon, Dr. Rana  
20 who came in on the 17th and part of the 18th and saw  
21 this patient, any one of them could have said, you  
22 know Dr. Edwards has overlooked giving him blood  
23 thinners we better start something or at least call  
24 and talk to him about it. That never happened,  
25 ladies and gentlemen, it never happened.

1           We presented to you Dr. John Daniels. Dr.  
2 Daniels is not a doctor who travels around the  
3 country lecturing, he's not a doctor who goes and  
4 gives symposiums sponsored by drug companies, he  
5 simply stays in St. Louis and takes care of patients.  
6 You heard him say he sees patients five days a week.  
7 He told you that Dr. Edwards provided good care to  
8 this patient. He told you that there were reasons  
9 not to give blood thinners in this patient and that  
10 these were judgment calls on the part of Dr. Edwards  
11 and that while in hindsight, in retrospect, the  
12 patient did not survive a blood clot. Dr. Edwards  
13 did not have that benefit and Dr. Daniels says I  
14 think he made appropriate judgments. Dr. Daniels  
15 told you that Dr. Edwards met the standard of care  
16 required of him. You're going to have to decide  
17 which of them do you believe.

18           Dr. Henry Edwards has been in this community for  
19 going on 34 years now as a doctor of internal  
20 medicine. I think you can tell from the medical  
21 records if you choose to look at them, and you've  
22 heard the testimony already he had his hands full  
23 with this patient, with the multiple health problems  
24 that he had. When he presented a blood clot was not  
25 high on the list, it later became a concern and Dr.

1 Edwards treated it as he thought was safe for this  
2 patient based upon his comorbidities. If you  
3 remember, he had the great change and his creatinine  
4 level doubled from the night of the 27th to the  
5 morning of the 28th and Dr. Daniels told you that it  
6 was perfectly appropriate to give a half dose and  
7 that Dr. -- what did Dr. Daniels say? I think that  
8 Dr. Edwards actually complied with the guidelines.

9 Now, lets talk about Ted Hose. They want to  
10 criticize Dr. Edwards for not writing an order for  
11 Ted Hose or these intermittent pressure catheter or  
12 pressure cuffs I should say. What did Dr. Michota  
13 say about those? Well, they're of no benefit. He  
14 wants to criticize Dr. Edwards for not using them and  
15 at the same time say well they're of no value anyway.  
16 Well, there were Ted Hose on when the patient was in  
17 the Ashton Place Rehabilitation Facility, they were  
18 on when he returned, and you heard the testimony I  
19 showed the medical bill to Dr. Edwards and there was  
20 a charge on the 15th for another pair of Ted Hose.  
21 So. No, there's no order for those but somebody  
22 asked for them, I wonder who that was? And you ask  
23 yourself well why were they not there the last few  
24 days? Well, Dr. Edwards told you that this man had  
25 profuse diarrhea. And, ladies and gentlemen, if

1 you'll look at the nurse's notes from the 25th on, it  
2 was and they're having to change his linens, change  
3 his clothing because he cannot control his bowel  
4 movements. Can you imagine having those things on  
5 and -- and trying to get them off and how  
6 uncomfortable that would be for the patient.

7 Ladies and gentlemen, I submit to you that the  
8 evidence is such that your verdict ought to be for  
9 Dr. Edwards on the question of whether or not he was  
10 negligent in the care of this patient. I'm going to  
11 come back to that but I want to digress a minute and  
12 talk to you about the issue of damages. You have  
13 heard the instructions and you now know what is being  
14 claimed; there is a claim for pain and suffering.  
15 Did you hear any expert testimony even from Dr.  
16 Michota who related anything but the shortness of  
17 breath to a blood clot? No. Did you -- if you'll  
18 look at the records, this patient was very  
19 uncomfortable with his abdomen, with his other --  
20 with his hip fracture surgery that he had, but you  
21 didn't hear any testimony that he had any pain from  
22 the blood clot. It was a -- an event which caused  
23 shortness of breath and it eventually just caused his  
24 -- his death, but no one said that he had great pain  
25 with that, no doctor said that.

1           The other element that they ask for for the  
2           estate is the value of his life, and I've never  
3           understood what that really means or how you assess  
4           that, but I'll come back to that.

5           The other -- the only other elements of damage  
6           that you are entitled to even consider is mental  
7           anguish on the part of Ms. Hartman, Ms. Dewey, and  
8           Doris Bieler the grand -- the mother of the  
9           plaintiffs and Mr. Bieler. Ladies and gentlemen, I  
10          think you heard the testimony and I -- I'm certain  
11          that everyone here either has a family member or  
12          knows someone who has Alzheimer's and it -- it's a  
13          terrible tragic disease, my father had it and -- and  
14          eventually died from it and I know what it's like.  
15          Unfortunately, Ms. Doris Bieler started getting signs  
16          of it in 2003 you heard, and by the time Kenneth  
17          Bieler passed away she was beginning to have serious  
18          lapses of memory, couldn't remember, and as of the  
19          time that she was placed in a nursing home did not  
20          know family members and does not know family members  
21          today. And I'm sorry that Doris Bieler lost her only  
22          son, the only male in her family, but I question and  
23          I ask you to question is someone who is confined to  
24          a nursing home who has this tragic terrible disease  
25          going to even understand what this is about? You

1           could give her every dollar in this country, she  
2           wouldn't understand it, wouldn't know anything about  
3           it.    And I would ask you, how much future mental  
4           anguish has she had, how much has she had in the  
5           past, how much will she have?  Mr. Keever asked you  
6           to award her substantial sums for mental anguish even  
7           in the future.

8                     I'll just talk about the two sisters together.  
9           We've heard a lot about this being such a close  
10          family.  I'll leave it up to you to determine really  
11          how close they were.  And -- and I know I have  
12          brothers and sisters that I see maybe once a year as  
13          you probably do.  People are busy.  But, was their  
14          relationship such that there was such anguish after  
15          Mr. Bieler's death that they're entitled to be  
16          compensated for that?  That's what you're being asked  
17          to do is to compensate them when there were periods  
18          of years when Doris, excuse me, when Donna Dewey  
19          didn't even see her brother for years.

20                    One of the things you haven't heard, ladies and  
21          gentlemen, is anyone making a claim for any loss of  
22          support?  You haven't heard that and you won't hear  
23          it.  No economic losses have been asked for in this  
24          case because there are none.

25                    Crystal Bieler is not entitled and the court

1 hasn't given you an instruction that says she's  
2 entitled to anything. So, you're talking about two  
3 adult sisters and a terribly ill mother who are  
4 asking for damages in this case.

5 I'm not going to be critical of the dead and  
6 that's why I want to temper what I say about Mr.  
7 Bieler. We've heard a lot of things about how nice  
8 he was to other people and how he was generous with  
9 other people. I just would submit to you that the  
10 true test of one's generosity starts with his family,  
11 and you'll remember the testimony about that.

12 Ladies and gentlemen, the court has given you  
13 the several jury instructions that guide your  
14 deliberations and then at the end when you go back to  
15 the jury room to consider your verdict you will  
16 review a number of questions called interrogatories  
17 and there are three of them. And the very first one  
18 is: Do you find from a preponderance of the evidence  
19 that Henry Edwards, M.D. was negligent in relation to  
20 the care and treatment of Kenneth Bieler, deceased,  
21 which was a proximate cause of the death of Kenneth  
22 Bieler, deceased? And your answer is either yes or  
23 no. If your answer is no, then you go no further  
24 there are no other questions to answer. Ladies and  
25 gentlemen, I submit to you that based upon the

1 testimony you have heard in this case that your  
2 answer to that interrogatory number 1 ought to be yes  
3 [sic]. If that is your answer, as I said, you go no  
4 further and you've decided the case.

5 What does a verdict in favor of Dr. Edwards do?  
6 Well, it doesn't give money to the sisters and to the  
7 estate, that's one thing that it doesn't do. What  
8 does a verdict in favor of the plaintiffs in this  
9 case do? Well, it does several things. It gives  
10 them money because their brother died and it also  
11 tells Dr. Henry Edwards that you caused the death of  
12 this patient. That's -- that is the message or the  
13 result of a verdict awarding any damages to the  
14 plaintiffs. The story that you give to Dr. Edwards  
15 is, Dr. Edwards you caused the death of a patient,  
16 you caused the death of Mr. Kenneth Bieler and we  
17 think the plaintiffs are entitled to be paid for  
18 that.

19 Money to the plaintiffs is not going to change  
20 anything for them. It's not going to make whatever  
21 grief they have go away. It's not going to soothe  
22 it; it's not going to remove it. But a verdict  
23 against Dr. Edwards --

24 MR. KEEVER: -- may we approach, Your Honor?

25 THE COURT: Sure.



1 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
2 JURY AS FOLLOWS:

3 MR. KEEVER: I think that Mr. Cox -- I think Mr.  
4 Cox's last comments are -- are an argument for a  
5 jury, I'm just asking him not to decide what the  
6 evidence is --

7 THE COURT: -- Well, I'll give them a caution  
8 that his statements are not evidence and that's -- I  
9 think that's where we are. So I'll note your  
10 objection.

11 MR. KEEVER: Thank you, sir.

12 END OF SIDEBAR CONFERENCE.)

13 THE COURT: Ladies and gentlemen, please  
14 understand that the statements of counsel are not  
15 evidence, these arguments at this point are not  
16 intended to be evidence, you're the judge of the  
17 evidence that's been submitted and you'll decide the  
18 case based on that. Go ahead.

19 **CONTINUED DEFENSE'S CLOSING ARGUMENTS**

20 MR. COX: And I should have said that at the  
21 beginning, what we say, what I say and what Mr.  
22 Keever says is not evidence and you will recall the  
23 testimony and you base your verdict on what you  
24 recall the testimony being, but I'm just simply  
25 suggesting to you, ladies and gentlemen, that based

1 on that evidence, and I think it's quite clear that  
2 a verdict against Dr. Edwards tells a doctor who has  
3 been in this community 34 years almost that you  
4 caused this man's death. And I submit to you that's  
5 unfair to him and it's not a verdict that would be  
6 based on the evidence and I have no hesitation and no  
7 reluctance to ask you to return a verdict in favor of  
8 Dr. Henry Edwards by answering no to the first  
9 interrogatory and you will have done your job. Thank  
10 you.

11 THE COURT: All right, Mr. Keever, you have  
12 about 13 minutes left.

13 **PLAINTIFFS' REBUTTAL CLOSING ARGUMENTS**

14 MR. KEEVER: Well, I don't think I'm going to  
15 take it. Mr. Cox gave you a little of what we call  
16 misdirection in basketball. What's Dr. Michota's day  
17 job, he's an internal medicine specialist. In fact,  
18 even in his expert witness work most of what he does  
19 is talking about routine internal medicine stuff. He  
20 says he's in the trenches. That's just like Dr.  
21 Edwards.

22 And then Mr. Cox I think said that you wouldn't  
23 have to pay attention to that one instruction, that  
24 107 and here it is, just like you'll see it in the  
25 jury room: You may consider the expert's opinion in

1 the light of his qualifications. You are not bound  
2 to accept an expert opinion as conclusive, but should  
3 give it whatever weight it should have. You may  
4 disregard any opinion testimony you find  
5 unreasonable. Uh, and you use your own common sense  
6 and your collective life experiences and your  
7 judgment to do that.

8 MR. COX: Your Honor, I object, that's not the  
9 law and I object to that.

10 THE COURT: I'll give you the same instruction,  
11 ladies and gentlemen. You decide what the facts and  
12 the evidence are. Don't rely on the statements of  
13 counsel. Go ahead.

14 **CONTINUED PLAINTIFFS' REBUTTAL CLOSING ARGUMENTS**

15 MR. KEEVER: And you decide how you come to your  
16 decisions, ladies and gentlemen.

17 Now, I'm not going to go through. Gosh, I had  
18 point after point after point, and I'm just not going  
19 to go through them.

20 Uh -- Dr. Michota does have a special interest  
21 in blood clot disease and he has special knowledge in  
22 blood clot disease and he does travel to lecture.  
23 Dr. Daniels does a little traveling too, but his  
24 traveling is to testify. Dr. Daniels testifies a  
25 lot, two to three times a year in trials. So, you

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

decide.

I tell you what though Mr. Cox and I absolutely agree you're going to have to decide which expert do you believe. I mean it's kind of like one or the other. Uh, a lot of things that they agree on really aren't consequential to your ultimate decision.

Twenty-fifth on diarrhea. Diarrhea's a reason not to use mechanical measures and sure, yeah, Dr. Michota very carefully explained to you why you should use those mechanical measures, it's not that they're very effective, they're not. But if that's all you got and you can't use blood thinners you use them, of course, in this case Dr. Michota is quite clear in what he told us and explained to us about using blood thinners.

And another thing Mr. Cox, I think said, that Dr. Michota is the only one who related the -- the chest pain on the 26th, remember with the physical therapist, to a blood clot traveling to the lungs. Oh, just not true. Dr. Daniels agreed that the signs and symptoms on the 26th were almost certainly a blood clot to the lungs.

Uh, Doris, his mother. Doris indeed doesn't know very much and probably you can decide she won't have future mental anguish, but you heard how Doris

1 was doing right up to the time Kenneth died and what  
2 happened then.

3 And I'm just not going to address the comments  
4 about the relationship between Kenneth and Mary Jo  
5 and Donna.

6 Uh, he asked you what would be the effect of a  
7 verdict against the doctor -- uh -- you'd be telling  
8 him he caused someone's death. Well, if that's what  
9 you decide, ladies and gentlemen, you should tell  
10 him, you know. Do you think that another thing that  
11 might be result from that is your community might be  
12 made safer?

13 Now, Mr. Cox and his paid expert, Dr. Daniels,  
14 and we paid Dr. Michota, he didn't travel here for  
15 free, but they want you to believe that every medical  
16 decision Dr. Edwards made was just okay because it  
17 all depends upon judgment. Have you ever seen a  
18 driver try to beat a train at a railroad crossing and  
19 he's going to use his judgment as to whether he makes  
20 it or not. You know, what's the better and safer  
21 judgment, going around the barrier trying to beat  
22 that train or playing by the rules, driving by the  
23 rules and waiting? Well, that's obvious, isn't it?

24 Medicine is a little bit different because the  
25 doctors hold all the cards, all the knowledge cards.

1 And how many times have you heard a doctor say, oh,  
2 it will be okay, you know, I -- I just -- I -- I feel  
3 like it will be okay, this is the right medicine,  
4 this is the right treatment. We can't, as patients,  
5 patients can't make those decisions because patients  
6 don't have the information and patients have to trust  
7 their doctors. And we trust our doctors to make the  
8 right decisions and the right judgments.

9 You know, what did Dr. Daniels say? Number one,  
10 Dr. Edwards is entitled to his own judgments. They  
11 were reasonable. Number two, well, unfortunately all  
12 of Dr. Edwards' judgments turned out to be wrong but  
13 they were all reasonable. Well, here's what was  
14 wrong. Would Kenneth need surgery? Dr. Edwards' is  
15 wrong. Was surgery a reason to withhold blood  
16 thinners? That was wrong. Did he have internal  
17 bleeding? That was wrong. Is there a reason to  
18 withhold the leg squeezers? That was wrong.  
19 Shortness of breath and chest pain on the 26th was  
20 due to a low blood count. That was wrong. Falling  
21 blood pressure and oxygen level on the 27th was due  
22 to some mysterious process, some serious process in  
23 the abdomen that hadn't shown itself. That was  
24 really wrong. Judgment to withhold blood thinners  
25 when he had strong clinical indications on the 26th,

1 27th, and all during the day the 28th. That was  
2 wrong. Decision to guess at the kidney function the  
3 evening of the 28th instead of checking it. That was  
4 wrong. Decision to give only half of dose of blood  
5 thinner when he finally gave it. That was wrong. My  
6 gosh, how times does a doctor get to make a wrong  
7 judgment? Not just a wrong judgment, a bad judgment  
8 before someone says, that's negligence.

9 Well, I've got a few minutes left on my 13 and  
10 I'm not going to use it. But I would like to close  
11 with just a really short illustrative story. And  
12 it's, you know, kind of once upon a time in a little  
13 mountain village far away there was this wise old man  
14 and this smart-alecky little kid. And every day the  
15 little kid would try to fox the old man and tell him  
16 a riddle that he couldn't solve and he just couldn't  
17 do it. So one day the little child caught a little  
18 bird, he said, I got him. I'll go ask him if the  
19 bird in my hands is alive or dead, and if he says  
20 alive I'll crush the bird and show him the dead bird.  
21 And if he says dead, I'll open my hands and let the  
22 bird fly away. So he did. And he got all pumped up  
23 and he's jogging up to the old man and he says, old  
24 man, old man I've got a bird, is it alive or well?  
25 And the old man just sat and looked at him. And then

1 he said, my son, the fate of the bird is in your  
2 hands. I'm sorry, I'm tired. I'm sick, sick and  
3 tired. And I've been working for justice for Kenneth  
4 for three years and I'm done, I can't do more, it's  
5 up to you, it's in your hands. Can't think of where  
6 I'd rather have it be.

7 THE COURT: All right, ma'am clerk, if you would  
8 swear the bailiff in.

9 **OATH TO THE BAILIFF**

10 COURT CLERK: Do you solemnly swear or affirm  
11 that you will keep this jury together and not allow  
12 any person to speak with them or overhear their  
13 deliberations, not to speak to them yourself unless  
14 it's in the performance of your official duties as  
15 bailiff of the court?

16 BAILIFF: I do.

17 THE COURT: All right, ladies and gentlemen, I'm  
18 going to send you with the bailiff here with the  
19 instructions and we'll gather up the exhibits here,  
20 it may take us a little bit to get all those  
21 together.

22 I guess, Ms. Carter, Ms. Astre, you all just  
23 stay here for a second.

24 (2:02 P.M. JURY DEPARTS FOR DELIBERATIONS)

25 **ALTERNATE JURORS EXCUSED**



1 THE COURT: All right, to our alternates here,  
2 I guess my inclination is to let you guys go home but  
3 with this understanding, you can't discuss this  
4 matter with each other or anyone else until you know  
5 the case is concluded which probably wouldn't be  
6 today that you would know that. The reason being if  
7 something were to happen I'd have to call you back  
8 down here and you'd have to serve, so with that  
9 understanding I'll be glad to release you. I'm not  
10 saying you have to leave but a lot of people don't  
11 want to hang around and then it kind of gets to be  
12 complicated. So, you're free to go if you decide to  
13 leave, but again don't discuss this matter. It's not  
14 likely we'd have to call you back but. Yes, ma'am?

15 ALTERNATE JUROR CARTER: Do we need to call  
16 tonight?

17 THE COURT: Your call in will be, actually I  
18 have it December 5th after 5. So I think its changed  
19 since the other day. So, December 5th after 5 call  
20 in, just kind of leave your stuff there in the seat  
21 and we'll take care of it for you.

22 ALTERNATE JUROR CARTER: Then I'm free to set in  
23 the lobby?

24 THE COURT: You're free to stay, you definitely  
25 are. You don't have to go, a lot of people don't

1 want to stay or some go and whatever, but you're free  
2 to set out here if you'd like to. We'll just go  
3 ahead and tell everyone else that's present don't --  
4 don't sit by Ms. Carter and have any conversation  
5 with her because you never know when things tend to  
6 happen. So, but you can stay if you want.

7 (SIDEBAR CONFERENCE OUT OF THE HEARING OF THE  
8 JURY AS FOLLOWS:

9 THE COURT: I think we have a question about one  
10 of the exhibits or something, do you all want to come  
11 up.

12 MR. KEEVER: Yeah, Your Honor, and I don't know  
13 where it ended up, but remember it was that 97% graph  
14 chart that Dr. Michota filled out on chances of  
15 living and -- and I have no idea.

16 I don't think Walter has it.

17 You know, we have two hand drawn charts listed  
18 as exhibits and only have one.

19 COURT REPORTER: Would it have come in on  
20 Monday?

21 MR. KEEVER: No, it would have come in on  
22 Tuesday, Nancy, and it is one that we put down here  
23 and he filled it in and -- and I know it was the only  
24 one that you admitted.

25 THE COURT: Is that it?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. SWINDLE: That's it.

MR. KEEVER: Yeah, okay, we're good.

THE COURT: Okay. There was one other question I think. I think the other question was this document was actually 1 and now it's 2 --

MR. KEEVER: Well, let's see here.

THE COURT: No. No. All of this goes with it, all of this is one. So you all know what I'm talking about this is the funeral home sign in, the page and all the signatures, I admitted all that. I guess it came apart. We'll staple that together.

There was a proffered exhibit and there may be others, I don't know but lets make sure we don't include those.

MR. KEEVER: Here is our proffered exhibit and Nancy has it sequestered.

THE COURT: Okay.

MR. KEEVER: I think that's the only one plaintiffs proffered.

COURT REPORTER: And 3 said it was not admitted.

THE COURT: Right it's not.

Dr. Daniels is 8A.

MR. KEEVER: I have no problem at all.

THE COURT: I think you have an 8 and 8A.

END OF SIDEBAR CONFERENCE.)

1 THE COURT: All right, we're going to be in  
2 recess.  
3 (2:50 P.M. OPEN COURT RECONVENES)  
4 BAILIFF: All rise.  
5 THE COURT: I understand from the bailiff that  
6 there's a verdict here, and I just want to caution  
7 you all before we get them in here and hear whatever  
8 it is, I don't want to hear any outburst or anything  
9 like that.  
10 MR. KEEVER: Your Honor, can I ask a question  
11 before the jury comes in?  
12 THE COURT: Sure.  
13 MR. KEEVER: What's the court's feeling, is it  
14 permissible after everything is gone and they're  
15 released to contact the jurors or ask them --  
16 THE COURT: -- It's up to them if they want to  
17 talk to you.  
18 MR. KEEVER: Okay. Would you -- would you just  
19 let them know that it's okay, do you mind?  
20 THE COURT: I'll tell them it would be up to  
21 them.  
22 MR. KEEVER: Oh, absolutely but -- but -- but  
23 you're not against it?  
24 THE COURT: No I'm not opposed to it. I'll be  
25 glad to tell them.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Go ahead and bring the jury in.

MR. KEEVER: Okay, thank you, Your Honor.

(JURORS SEATED IN THE JURY BOX)

**JURY VERDICT ANNOUNCED**

THE COURT: All right, who is our foreman/foreperson?

JUROR PAVY: That would be me. Your Honor.

THE COURT: Mr. Pavy, if you would hand the verdict to the bailiff.

(BAILIFF HANDS THE VERDICT TO THE COURT)

THE COURT: All right, the verdict reads:

Interrogatory No. 1: Do you find from a preponderance of the evidence that Henry Edwards, M.D., was negligent in relation to the care and treatment of Kenneth Bieler, deceased, which was a proximate cause of the death of Kenneth Bieler, deceased?

And the answer: No.

That's signed by the foreman, which I take to mean the verdict is unanimous.

Any questions about the verdict then, Mr. Keever?

MR. KEEVER: No questions, Your Honor, thank you.

THE COURT: Mr. Cox?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. COX: No.

THE COURT: Ladies and gentlemen, this concludes your service, your next call in is December 5th after 5, so I guess that would mean Wednesday after 5, see if we have anything on Thursday.

There was an inquiry here about whether or not the attorneys might want to talk to you, ask questions of you, and I don't know if they covered that in the orientation, but it's up to you, you don't have an obligation to talk to anyone. You don't have an obligation to tell anyone about your jury service. I know that seems to be popular on television these days, but this is not television. And the point is, it's up to you to decide if you want to discuss it or not discuss it or visit with attorneys or anyone, it's not required and I'm certainly not here to tell you that it's required. But I just wanted to be clear that, you know, it will be your decision and you know obviously sometimes people have questions about proceedings and all of that and if they don't get feedback I understand that, but you're not obligated to give it to them. So, just understand that that's kind of where we are on that.

I think everybody got their -- did everybody get

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

their work note? I had one floating around here  
somewhere. Okay.

JURORS EXCUSED

THE COURT: All right, this concludes your  
service, you're free to go and you can put your tags  
in the seats, we'll destroy everything else you leave  
as far as your notes. We're not going to read them  
or anything like that, you can take them if you want  
but we're going to throw them away.

BAILIFF: Please stand for the jury.

(JURORS DEPART THE COURT ROOM)

THE COURT: We'll make you copies of the  
verdict, and if you would, Mr. Cox, just get me a  
judgment back here as soon as you can, get it  
approved.

Anything further? All right, we're adjourned.

(COURT ADJOURNS)

# Stipulation to Substitute Photographs

I, Ken Swindle, have taken P1 #8  
& P1 #11 Exhibits and will substitute  
photographs for the originals.

Ken Swindle

Date Nov 30, 2012





Franklin A. Michota, Jr., MD, FACP, FHM  
CURRICULUM VITAE

PART I: GENERAL INFORMATION

Date Prepared: September 19, 2011

Office Address: M2 Annex / Department of Hospital Medicine  
Cleveland Clinic  
9500 Euclid Avenue  
Cleveland, Ohio 44195

Phone: 216-445-8383 FAX: 216-444-4116 Email: [michotf@ccf.org](mailto:michotf@ccf.org)

Home Address: 1237 Washington Avenue  
Suite 808  
Cleveland, OH 44113

Family: Wife: Karen Wensink-Michota  
Son: Michael (age 13)  
Son: Ryan (age 11)  
Daughter: Emma (age 10)  
Daughter: Olivia (age 9)

EDUCATION:

1989 BS The Ohio State University, Columbus, Ohio  
1993 MD The Ohio State University, Columbus, Ohio

POSTDOCTORAL TRAINING:

1993-1994 Intern in Medicine, The Cleveland Clinic Foundation, Cleveland, OH  
1994-1996 Resident in Medicine, The Cleveland Clinic Foundation, Cleveland, OH  
1996-1997 Chief Medical Resident, The Cleveland Clinic Foundation, Cleveland, OH

LICENSURE AND CERTIFICATION:

1994 Diplomate, National Board of Medical Examiners  
1994 Physician License, Ohio (#35-06-7975)  
1996 Diplomate, American Board of Internal Medicine  
2006 Recertified, American Board of Internal Medicine

HOSPITAL AND HEALTH CARE ORGANIZATION SERVICE RESPONSIBILITIES:

1996-1997 Clinical Associate, Department of Emergency Medicine, The Cleveland Clinic Foundation, Cleveland, OH  
1996-1997 Clinical Associate, Department of General Internal Medicine, The Cleveland Clinic Foundation, Cleveland, OH  
1996-1997 Attending Physician, Sisters of Charity Hospital/St. Vincent's Medical Center, Cleveland, OH  
1997-2000 Assistant Staff, Department of General Internal Medicine, The Cleveland Clinic Foundation, Cleveland, OH  
2000-2007 Full Staff, Department of General Internal Medicine, The Cleveland Clinic Foundation, Cleveland, OH  
2007-present Full Staff, Department of Hospital Medicine, Medicine Institute, Cleveland Clinic

## ACADEMIC AND TEACHING APPOINTMENTS

1996-1997	Chief Medical Resident, The Cleveland Clinic Foundation, Cleveland, OH
2002-2004	Director, Hospital Medicine Fellowship Program, The Cleveland Clinic Foundation, Cleveland, OH
1996-2005	Clinical Assistant Professor of Medicine, Penn State University College of Medicine, Hershey, PA
2000-2005	Clinical Assistant Professor of Medicine, Ohio State University College of Medicine, Columbus, OH
1997-2006	Associate Program Director, Internal Medicine Residency Program, Division of Education, The Cleveland Clinic Foundation, Cleveland, OH
2008-2010	Co-discipline Leader, Advanced Core in Perioperative Medicine, Cleveland Clinic Lerner College of Medicine, Cleveland, OH
2009-2010	Co-director, Acute Care Preceptorship, Cleveland Clinic Lerner College of Medicine, Cleveland, OH
<b>2007-present</b>	Director, Academic Affairs, Department of Hospital Medicine, Cleveland Clinic, Cleveland, OH
<b>2008-present</b>	Director of Problem Based Learning Case Development – year 1, Cleveland Clinic Lerner College of Medicine, Cleveland, OH
<b>2008-present</b>	Associate Professor of Medicine, Cleveland Clinic Lerner College of Medicine at Case Western Reserve University, Cleveland, OH
<b>2010-Present</b>	Core Faculty, Internal Medicine Residency Program, Education Institute, Cleveland Clinic, Cleveland, Oh

## TEACHING ACTIVITIES

1996-1997	Internal Medicine Resident Noon Conference Moderator (110 hours)
1996-1997	Morning Report Moderator (100 hours)
1996-1997	Chief Resident Teaching Clinic (120 hours)
1996-2005	Penn State 3 <sup>rd</sup> Year Medical Student Lecture Series (12 hours per year)
1996-2005	Ohio State 3 <sup>rd</sup> Year Medical Student ECG Class (12 hours per year)
2006-2007	IMPACT Clinic preceptor for CCLCM Advance Core (2-3 months per year)
<b>1997-present</b>	Teaching Ward Attending (3-4 months per year)
<b>1997-present</b>	Internal Medicine Resident Noon Conference Speaker (5 hours per year)
<b>1997-present</b>	Internal Medicine Resident Morning Report Preceptor (10 hours per year)
<b>1997-present</b>	Grand Rounds/CME presentations (20-50 hours per year) [see Part III]
<b>2004-present</b>	Fellows Conference Speaker (5-10 hours per year)
<b>2006-present</b>	CCLCM Acute Care Preceptor (30 hours per year)
<b>2006-present</b>	CCLCM Medical Debate Series (8 hours per year)
<b>2007-present</b>	CCLCM Problem Based Learning Tutor Year 1+2 (36 hours per year)
<b>2008-present</b>	CCLCM Advanced Core Journal Club/Seminar Preceptor (60 hours per year)
<b>2009-present</b>	CCLCM Basic Core Seminar Preceptor (15 hours per year)

## HOSPITAL OR AFFILIATED INSTITUTION APPOINTMENTS

1997-2000	Clinical Director of Hospital Medicine, The Department of General Internal Medicine, The Cleveland Clinic Foundation, Cleveland, OH
1999-2001	Head, Section of Preoperative Medicine, The Department of General Internal Medicine, The Cleveland Clinic Foundation, Cleveland, OH
2002-2004	Medical Director, Subacute Services, The Division of Post-Acute Medicine, The Cleveland Clinic Foundation, Cleveland, OH
2000-2007	Head, Section of Hospital Medicine, The Department of General Internal Medicine, The Cleveland Clinic Foundation, Cleveland, OH

## MAJOR COMMITTEE ASSIGNMENTS:

Local

- 2003-2004 The Cleveland Clinic Lerner College of Medicine Admissions Committee, Member, The Division of Education, The Cleveland Clinic Foundation, Cleveland, OH
- 1996-2006 Clinical Competence Committee, Internal Medicine Residency Program, Member, The Cleveland Clinic Foundation, Cleveland, OH
- 1996-2006 Residency Selection Committee, Internal Medicine Residency Program, Member, The Cleveland Clinic Foundation, Cleveland, OH
- 1997-2006 Curriculum Committee, Internal Medicine Residency Program, Member, The Cleveland Clinic Foundation, Cleveland, OH
- 1998-2007 Clinical Operations Committee, Department of General Internal Medicine, Member, The Cleveland Clinic Foundation, Cleveland, OH
- 2002-2007 Critical Response Committee, **Chairman**, The Cleveland Clinic Foundation, Cleveland, OH
- 2005-2007 Medicolegal Risk Committee, Member, The Cleveland Clinic Foundation, Cleveland, OH
- 2009-2010 Education Committee, **Chairman**, Department of Hospital Medicine, Medicine Institute, Cleveland, OH
- 2006-present Pharmacy and Therapeutics Committee, **Chairman**, The Cleveland Clinic Foundation, Cleveland, OH
- 2008-present Clinical Competence Committee, Internal Medicine Residency Program, Member, The Cleveland Clinic Foundation, Cleveland, OH
- 2008-present Pharmacy and Therapeutics Committee, **Co-Chairman**, The Cleveland Clinic Health System, Cleveland, OH
- 2008-present Basic Science Education Committee, Member, Cleveland Clinic Lerner College of Medicine, Cleveland, OH
- 2008-present PBL Oversight Committee, Member, Cleveland Clinic Lerner College of Medicine, Cleveland, OH
- 2008-present Basic Core Curriculum Committee, Member, Cleveland Clinic Lerner College of Medicine, Cleveland, OH
- 2009-present VTE Steering Committee, Member, Quality & Patient Safety Institute, Cleveland Clinic, Cleveland, OH
- 2009-present VTE Prophylaxis Work Group, **Chairman**, Quality & Patient Safety Institute, Cleveland Clinic, Cleveland, OH

National

- 1998-1999 Abstract Review Committee, **Chairman**, 3<sup>rd</sup> Annual Meeting, National Association of Inpatient Physicians, Philadelphia, PA
- 1998-2000 Meeting Organization Committee, Member, National Association of Inpatient Physicians, Philadelphia, PA
- 1999-2000 Abstract Review Committee, **Chairman**, 1<sup>st</sup> Midwest Regional Meeting, National Association of Inpatient Physicians, Rochester, MN
- 2000-2001 Abstract Review Committee, Member, 4<sup>th</sup> Annual Meeting, National Association of Inpatient Physicians, Atlanta, GA
- 2001-2002 Abstract Review Committee, Member, 5<sup>th</sup> Annual Meeting, National Association of Inpatient Physicians, Philadelphia, PA
- 1999-2003 USLME Step 3 Test Material Development Committee, Member, National Board of Medical Examiners, Philadelphia, PA
- 2002-2003 Abstract Review Committee, Member, 6<sup>th</sup> Annual Meeting, National Association of Inpatient Physicians, Philadelphia, PA
- 2001-2003 Core-Competencies Task Force, Member, National Association of Inpatient Physicians, Philadelphia, PA
- 2001-2004 VTE Core-Competencies Workgroup, Member, Society of Hospital Medicine, Philadelphia, PA
- 2003-2004 Midwest Regional Meeting Organization Committee, Member, National Association of Inpatient Physicians, Philadelphia, PA

2003-2005	USLME Step 3 Test Material Development Committee, <b>Chairman</b> , National Board of Medical Examiners, Philadelphia, PA
1998-2006	Education Committee, <u>Member</u> , Society of Hospital Medicine, Philadelphia, PA
2001-2006	Research Committee, <u>Member</u> , Society of Hospital Medicine, Philadelphia, PA
2001-2006	Midwest Regional Council, <u>Member</u> , Society of Hospital Medicine, Philadelphia, PA
2005-2008	Technical Advisory Panel (TAP), Quality Measures for Deep Vein Thrombosis, <u>Member</u> , Joint Commission/NQF, Chicago, IL
2005-2009	USLME Step 3 Computer Simulation Scoring Committee, Member, National Board of Medical Examiners, Philadelphia, PA
2004-2011	Coalition to Prevent Deep Vein Thrombosis, <u>Member</u> , Society of Hospital Medicine, Philadelphia, PA
<b>2004-present</b>	USLME Step 3 Interdisciplinary Review Committee, <u>Member</u> , National Board of Medical Examiners, Philadelphia, PA

#### PROFESSIONAL SOCIETIES:

1993-1996	American College of Physicians, Associate
2000-2005	Society of General Internal Medicine, Member
1996-2006	Association of Program Directors in Internal Medicine, Member
2003-2007	American College of Physicians, Member
<b>1998-present</b>	Society of Hospital Medicine, Charter Member and <b>Fellow</b>
<b>2004-present</b>	Northern Ohio Medical Association
<b>2008-present</b>	American College of Physicians, <b>Fellow</b>
<b>2009-present</b>	Society for Perioperative Assessment and Quality Improvement

#### EDITORIAL/GOVERNING BOARDS:

<b>1996-present</b>	Associate Editor, The Cleveland Clinic Journal of Medicine
<b>2008-present</b>	Medical Editor-in-Chief, Hospitalist News, Elsevier
<b>2008-present</b>	Member, Editorial Advisory Board, Internal Medicine News, Elsevier
<b>2008-present</b>	President and Chairman of the Board, Hospital Quality Foundation
<b>2009-present</b>	Member, Editorial Advisory Board, Hospital Practice, Health Information Publications (HIP)

#### JOURNAL REVIEWER

<b>1996-present</b>	Cleveland Clinic Journal of Medicine
<b>2000-present</b>	American Journal of Managed Care
<b>2005-present</b>	Journal of General Internal Medicine
<b>2006-present</b>	Journal of Thrombosis and Haemostasis
<b>2007-present</b>	Journal of Hospital Medicine
<b>2009-present</b>	Chest

#### HOSPITAL CONSULTING

2009-2010	Middlesex Hospital VTE Quality Improvement Project, Middlesex, CT
2010-2011	Texas Health VTE Quality Improvement Project, Dallas, Tx

#### AWARDS AND HONORS:

1986	Phi Eta Sigma
1986	Alpha Lambda Delta
1987	Golden Key National Honor Society
1988	Helix – The Ohio State University Biological Science Honor Society
1989	Outstanding College Students of America

1990	Cancer Research Assistantship Award
1992	Alpha Omega Alpha
1996	Chief Medical Resident, The Cleveland Clinic Foundation, Cleveland, OH
1998	Bruce Hubbard Stewart Fellow, Department of Bioethics, The Cleveland Clinic Foundation, Cleveland, OH
2004-2007	Named One of Northern Ohio's "Top Docs," by North Ohio Live Magazine
2006	Sylvania City Schools Distinguished Alumni Award
2008	Fellow of the American College of Physicians
2008-2009	GIM/Hospitalist Teacher of the Year Award, Internal Medicine Residency Program, Cleveland Clinic
2009	Fellow of the Society of Hospital Medicine
2009	GIM/Hospitalist Teacher of the Year Award, Internal Medicine Residency Program, Cleveland Clinic
2010	GIM/Hospitalist Teacher of the Year Award, Internal Medicine Residency Program, Cleveland Clinic
2000-present	Who's Who Honors in Healthcare
2004-present	Named One of Cleveland's "Top Doctors" by Cleveland Magazine

## PART II: BIBLIOGRAPHY

### PEER REVIEWED ORIGINAL ARTICLES

1. **Michota F:** "Do Today's Medical Residents Really Have it Better?" Clev Clin J Med 1997; 64 (9):457-60.
2. **Michota F, Lewis T, Cash J:** "Inpatient Medicine and the Evolution of the Hospitalist"; Clev Clin J Med 1998; 68 (11):192-200.
3. **Michota F:** "Update in Hospital Medicine," Ann Int Med 2000; 132:384-390.
4. **Michota F:** "Evidence-Based Evaluation of the Hospitalist Model of Care," J Clin Outcomes Manag 2000; 7(1):49-53.
5. **Michota F:** "The Inpatient Specialist: What is the Difference?" Am J Manag Care 2000; 6 (5):622-624.
6. **Michota F:** "Trends in Hospital Medicine: Hospitalist Advantages Revealed" Clev Clin J Med 2001; 68 (7):659-662.
7. **Jneid H, Correia N, Michota F:** "A 65 year old man with Progressive Shortness of Breath" Clev Clin J Med; 2001; 68 (10):888-894.
8. **Michota F, Frost S:** "Perioperative Management of the Hospitalized Patient," Med Clin N Am 86 (2002): 1-18
9. **Michota F:** "VTE Prophylaxis in the Medically Ill Patient," Clin Chest Med 24 (2003): 93-101.
10. **Frost S, Brotman D, Michota F:** "Rational Use of D-Dimer Measurement to Exclude Acute Venous Thromboembolic Disease." Mayo Clin Proc 2003; 78:1385-1391.
11. **Michota F, Frost S:** "The Preoperative Evaluation: Use History and Physical Rather than Routine Testing" Clev Clin J Med 2004; 71 (1): 63-70.
12. **Santalucia C, Michota F:** "When and How to Terminate the Physician-Patient Relationship." Clev Clin J Med; 2004; 71 (3): 179-183.
13. **Michota F.** "Venous Thromboembolism Prophylaxis in Medical Patients," Current Opinion in Cardiology 2004; 19(6):570-4.
14. **Young JB, Correia NG, Francis GS, Maisel A, Michota F.** "Testing for B-type natriuretic peptide in the diagnosis and assessment of heart failure: what are the nuances?" Clev Clin J Med; 2004; 71 (Suppl 5): S1-S17.
15. **Jaffer A, Brotman DJ, Michota F:** "Management of venous thromboembolism: state-of-the art review of current and emerging options" Clev Clin J Med; 2005; 72 Suppl 1:S37-42.

16. **Michota F**, Merli G: "Special patient populations: do they require special considerations in dosing anticoagulants?" Clev Clin J Med; 2005; 72 Suppl 1:S14-23.
17. Kaw R, **Michota F**, Jaffer A, Ghamande S, Auckley D, Golish J. Unrecognized Sleep apnea in the Surgical patient: Implications for the Peri-operative setting. Chest; 2005; 129 (1): 198-205.
18. Jaffer AK, Brotman DJ, Sridharan S, Litaker D, **Michota F**, Frost S, Girgis J, Pioro M, Correia N, Widmann H, Kippes C, Stoller JK; "Postoperative pulmonary complications: experience with an outpatient pre-operative assessment program," Journal of Clinical Outcomes Management 2005; 12(10): 505-510.
19. Jaffer A, **Michota F**. "Why perioperative medicine matters more than ever," Clev Clin J Med 2006, 73 (suppl 1); 2006: pp. S1
20. **Michota F**. "The preoperative evaluation and use of laboratory testing," Clev Clin J Med 2006; 73(suppl 1): pp.S4-S8.
21. **Michota F**. "Preventing venous thromboembolism in surgical patients," Clev Clin J Med 2006; 73 (suppl 1): ppS88-S95.
22. **Michota F**, Braithwaite S; Avoiding complications in the hospitalized patient: the case for tight glycemic control," J Hosp Med 2007 (2) Suppl 1:S1-S4
23. **Michota F**. "What are the disadvantages of sliding scale insulin?" J Hosp Med 2007 (2) Suppl 1:S20-S22.
24. **Michota F**. "Bridging the Gap Between Evidence and Practice in Venous Thromboembolism Prophylaxis: The Quality Improvement Process," J Gen Int Med 2007; 22(12):pp.1762-1770.
25. Zuber M, Attenhofer Jost CH, Kipfer P, Collins SP, **Michota F**, Peacock WF. "Acoustic cardiography augments prolonged QRS duration for detecting left ventricular dysfunction." Annals of Noninvasive Electrocardiology. 12(4):316-28, 2007 Oct.
26. Cai O, Brotman D, Phillips C, **Michota F**, Tang W, Whinney C, Panneerselvam A, Hixson E, Garcia M, Francis G, Jaffer A. "Outcomes of Patients with Stable Heart Failure Undergoing Elective Non-Cardiac Surgery," Mayo Clin Proc 2008; 83(3):280-288.
27. Jois-Bilowich P, **Michota F**, Bartholomew JR, Glauser J, Diercks D, Weber J, Fonarow G, Emerman C, Peacock WF. "Venous Thromboembolism Prophylaxis in Hospitalized Heart Failure Patients," Journal of Cardiac Failure 2008; 14(2):127-132.
28. Whinney C, **Michota F**. "Surgical Comanagement: A Natural Evolution of Hospitalist Practice," J Hosp Med 2008; 3(5)5: 394-397
29. Auron-Gomes M, **Michota F**. "Medical Management of the Hip Fracture Patient," Clinics in Geriatric Medicine 2008; 24(4): 701-719
30. **Michota F**, Amin A. "Bridging the Gap Between Evidence and Practice in Acute Decompensated Heart Failure Management," J Hosp Med 2008; 3(6), Suppl: S7-S15.
31. McKean S, Deitelzweig S, Sasahara A, **Michota F**, Jacobson A. "Assessing the risk of venous thromboembolism and identifying barriers to thromboprophylaxis in the hospitalized patient," J Hosp Med 2009; 4 (8Suppl):S1-S7.
32. Deitelzweig S, Sasahara A, **Michota F**, McKean SC, Jacobson A. "Guidelines-based use of thromboprophylaxis." J Hosp Med 2009; 4 (8Suppl):S1-S7.
33. Sasahara A, **Michota F**, McKean SC, Deitelzweig S, Jacobson A. "Optimizing management of venous thromboembolism: diagnosis, treatment, and secondary prevention." J Hosp Med 2009; 4 (8Suppl):S16-S23.
34. **Michota F**, Connor PJ, McKean SC, Deitelzweig S, Sasahara A, Jacobson A. "Improving thromboprophylaxis: performance measures and practical strategies. J Hosp Med 2009; 4 (8Suppl):S24-30.
35. **Michota F**. "Prevention of Venous Thromboembolism after Surgery," Clev Clin J Med 2009; 76 (suppl 4): ppS45-S52.
36. **Michota F**, Donnelly M. "Medicolegal Issues in Perioperative Medicine: Lessons from Real Cases," Clev Clin J Med 2009; 76 (suppl 4): ppS119-S125.
37. Shrishrimal K, Hart P, **Michota F**. "Management of diabetes in hemodialysis patients," Clev Clin J Med 2009; 76 (1): 649-655.

38. Muntz J, **Michota F**. "Prevention and Management of Venous Thromboembolism in the Surgical Patient: Options by Surgery Type and Individual Patient Risk Factors," Am J Surg 2010; 199(1A Suppl):S11-S20.
39. **Michota F**. "ICH: Pick your poison," Clev Clin J Med 2010 (77)11:743-746.
40. Khan NA, Campbell NR, Frost SD, Gilbert K, **Michota F**, Usmani A, Seal D, Ghali WA. "The risk of intraoperative hypotension with loop diuretics: a randomized controlled trial." Am J Med 2010; 123(11):1059e1-8.
41. Bear J, **Michota F**. "Nausea and vomiting in a 50-year-old woman," Clev Clin J Med 2011 (78)4:233-239.
42. Auron M, Harte BH, Kumar AJ, **Michota F**. "Renin-angiotensin system antagonists in the perioperative setting - clinical consequences and recommendations for practice" Postgrad Med J 2011; published online March 25; doi: 10.1136/pgmj.2010.112987

#### NON-PEER REVIEWED ARTICLES AND CORRESPONDENCE

1. Frost S, **Michota F**: "Hospital Medicine: Past, Present, and Future," Primary Care Reports; August 2003; 9 (8): 75-83.
2. **Michota F**: "Bridging the Gap in Venous Thromboembolism Prophylaxis – Are Hospitalists Up to the Challenge?" The Hospitalist. 2003; 7(5):26-28.
3. Frost S, **Michota F**: "Risk Stratification for Noncardiac Surgery" [corresp]. Annals of Intern Med. 2004: Jan6; 140 (1):W1
4. **Michota F**. "Venous Thromboembolism: Who is at Risk and Who is Being Treated," Journal of Clinical Prevention 2004; 2(1):5-10.
5. **Michota F**, Saber W. "Prevention of Venous Thromboembolism in the Medical Patient: Fact versus Fiction," Primary Care Reports; 2004; 11:1-17.
6. **Michota F**. "Controversies and new directions in the management of venous thromboembolism in the perioperative setting," The Hospitalist; 2004; 6 (Suppl 1): S32-S38.
7. **Michota F**. "Venous thromboembolism: epidemiology, characteristics, and consequences," Prevention of Thromboembolic Events, Clinical Cornerstone 2006; Vol 7, No. 4 :pp.1-5.
8. **Michota F**. "Prevention of Venous Thromboembolism in Medically Ill Patients," Thrombosis Clinic 2007; 2(1):23-33
9. Hamieh T, **Michota F**: "Educational interventions alone are not sufficient to change outcomes in venous thromboembolism," [corresp]. J Hosp Med. 2009; 4(2):142-3

#### BOOKS

1. **Michota F**, editor in chief: Diagnostic Procedures Handbook, 2<sup>nd</sup> Edition. Hudson, Ohio: Lexi-Comp Inc; 2001.
2. Stoller J, **Michota F**, Mandell B, editors in chief: 4<sup>th</sup> Edition. The Cleveland Clinic Intensive Review of Internal Medicine, Philadelphia: Lippencott, Williams & Wilkens; 2005.
3. Williams MV, Flanders S, Whitcomb W, Cohn S, **Michota F**, Holman R, Gross R, Merli G editors. Comprehensive Hospital Medicine: An Evidence-Based Approach; Philadelphia: Saunders 2007.
4. Stoller J, **Michota F**, Mandell B, editors in chief: 5<sup>th</sup> Edition. The Cleveland Clinic Intensive Review of Internal Medicine, Philadelphia: Lippencott, Williams & Wilkens; 2009

#### BOOK CHAPTERS

1. **Michota F**: "Board Simulation: Genetic Diseases in Internal Medicine"; in Stoller J, Ahmad M, Longworth D, editors. 2<sup>nd</sup> Edition, The Cleveland Clinic Intensive Review of Internal Medicine. Philadelphia: Lippencott, Williams & Wilkens; 2000: pp. 146-152.

2. **Michota F**: "Urology": in Michota F, editor. Diagnostic Procedures Handbook, 2<sup>nd</sup> Edition. Hudson, Ohio: Lexi-Comp Inc; 2001:273-293.
3. **Michota F**: "Ultrasound": in Michota F, editor. Diagnostic Procedures Handbook, 2<sup>nd</sup> Edition. Hudson, Ohio: Lexi-Comp Inc; 2001:475-511.
4. **Michota F, Mazzone P**: "Pulmonary Medicine and Critical Care": in Michota F, editor. Diagnostic Procedures Handbook, 2<sup>nd</sup> Edition. Hudson, Ohio: Lexi-Comp Inc; 2001:187-273.
5. **Michota F**: "Board Simulation: Genetic Diseases in Internal Medicine; in Stoller J, Ahmad M, Lowngworth D, editors. 3<sup>rd</sup> Edition, The Cleveland Clinic Intensive Review of Internal Medicine. Philadelphia: Lippencott, Williams & Wilkens; 2002: pp. 132-139.
6. Baghdasarian S, Abou Jawde R, **Michota F**: "A 48 year old woman with Post-operative Shortness of Breath," in Longworth D, Stoller J, Casey D, Jewell J, editors. 1<sup>st</sup> Edition, The Cleveland Clinic Internal Medicine Case Reviews. Philadelphia: Lippencott, Williams & Wilkens; 2003; pp 288-292.
7. **Michota F**: "Board Simulation: Genetic Diseases in Internal Medicine," in Stoller J, **Michota F**, Mandell B. 4<sup>th</sup> Edition, The Cleveland Clinic Intensive Review of Internal Medicine. Philadelphia: Lippencott, Williams & Wilkens; 2005; pp.137-144.
8. Fares WH., **Michota, F**: "Heart Failure," in Glasheen J: Hospital Medicine Secrets, Philadelphia: Elseveir; 2007; pp.207-216.
9. Fares WH., **Michota, F**: "Heart Failure," In: Williams MV, ed. Comprehensive Hospital Medicine: An Evidence-Based Approach, Philadelphia: Saunders 2007; pp.159-166
10. Rajamanickam A, Noor S, **Michota, F**: "Syncope," In: Williams MV, ed. Comprehensive Hospital Medicine: An Evidenced-Based Approach, Philadelphia: Saunders. 2007; pp.197-205
11. **Michota F**: "Indwelling Urinary Catheters: Infection and Complications," In: Potts J, ed. Genitourinary Pain and Inflammation," Totawa NJ: Humana Press 2008; 375-384.
12. **Michota F**: "Perioperative Concerns—Orthopedics, General Surgery, Surgical Oncology, and Obstetrics," In: Deitelzweig S, Amin A, editors: Contemporary Hospitalist Guide to Anticoagulation; AMM Co. 2009
13. **Michota F**: "Genetic Disease," in Stoller J, **Michota F**, Mandell B, editors in chief: 5<sup>th</sup> Edition. The Cleveland Clinic Intensive Review of Internal Medicine, Philadelphia: Lippencott, Williams & Wilkens; 2009: 132-143.
14. Khan O, **Michota F**: "Venous Thromboembolic Disease," Stoller J, **Michota F**, Mandell B, editors in chief: 5<sup>th</sup> Edition. The Cleveland Clinic Intensive Review of Internal Medicine, Philadelphia: Lippencott, Williams & Wilkens; 2009; 391-400.
15. Torres-Finnerty N, **Michota F**: "Venous Thromboembolism in Surgical Patients," in Fang M: 1<sup>st</sup> Edition. Inpatient Anticoagulation, Hospital Medicine: Current Concepts; Wiley & Blackwell, 2011: 107-136.

#### ABSTRACTS

1. Jain A, **Michota F**: "The Impact of the Hospitalist Model on the Continuity of Care" Ohio Meeting of the American College of Physicians; Columbus, Ohio; October 21, 1998.
2. Wasni OA, Gurm H, **Michota F**: "Of Cats and Men: A Cat Scratch Causing Sepsis in a 76-Year-Old Man" National Meeting of the American College of Physicians; Philadelphia, PA; April 14, 2000.
3. **Michota F**, Jain A: "Hospitalists and Continuity: Mutually Exclusive?" 3<sup>rd</sup> Annual Meeting of the National Association of Inpatient Physicians; Philadelphia, PA, April 11-12, 2000.
4. **Michota F**: "Hospitalists Vs. Non-hospitalists: Does a Separate Consciousness Exist?" Midwestern Regional Meeting of the National Association of Inpatient Physicians; Rochester, MN, August 18-19, 2000.
5. Sridahran D, Stoller J, Litaker D, **Michota F**, et al: "Standardized Preoperative Evaluation: Improving Outcomes" Midwestern Regional Meeting of the National Association of Inpatient Physicians; Rochester, MN, August 18-19, 2000.



6. Murphey B, Schilz R, **Michota F**: "Code Blue: Who Lives and Who Dies? Predicting Mortality in Cardiopulmonary Resuscitation" Midwestern Regional Meeting of the National Association of Inpatient Physicians; Rochester, MN, August 18-19, 2000.
7. **Michota F**, Blixen C, Shermock K, Secic M: "The Innocence of Sleep? Medical Errors in the Hospitalized Elderly" 4<sup>th</sup> Annual Meeting of the National Association of Inpatient Physicians; Atlanta, GA, March 27-28, 2001.
8. Wazni O, **Michota F**: "Its Not 'Just a Scratch:' *Pastuerella* Sepsis in a 76 Year Old Man" 4<sup>th</sup> Annual Meeting of the National Association of Inpatient Physicians; Atlanta, GA, March 27-28, 2001.
9. **Michota F**, Blixen C, Shermock K, Secic M: "To Err is Human: The Elderly at Risk" National Meeting of the Society of General Internal Medicine; San Diego, CA, May 2-5, 2001.
10. Hneid J, Correia N, **Michota F**: "Strongyloidiasis and the Hyperinfection Syndrome" JGIM (Suppl) 16:1; 2001: 46.
11. Baghdasarian S, Abou Jawde R, **Michota F**: "A 48 year old woman with Post-operative Shortness of Breath," 3<sup>rd</sup> Midwest Regional Meeting of the National Association of Inpatient Physicians, Cleveland, OH, September 13-14, 2002.
12. **Michota F**, Goldhaber G, Tapson V: "VTE Under the Microscope: Results from the DVT-FREE Registry," 6<sup>th</sup> Annual Meeting of the Society of Hospital Medicine, San Diego, California, April 1-2, 2003
13. Thacker HL, Deal C, Muschler G, Licata A, **Michota F**, Sikon, A: "The Cleveland Clinic Foundation (CCF) Hip Fracture Interdisciplinary Initiative," 14<sup>th</sup> Annual Meeting of the North American Menopause Society, September 19, 2003. Menopause 2003; 10(6):582
14. **Michota F**, Goldhaber SZ, Tapson V. "Analysis of the Treatment of Deep Vein Thrombosis in 2726 Hospitalized Patients enrolled in the DVT FREE Registry," Annual Meeting of the American Society of Hematology, San Diego, California, December 6, 2003. Blood. 2004 (11):320A.
15. Cai O, Whinney C, **Michota F**, Phillips C: "Long term benefit of heart failure disease management programs," Society of Hospital Medicine Annual Meeting, Washington DC, May 4-5, 2006. The Journal of Hospital Medicine 2006; 1(Suppl 2): 4.
16. Grant P, Kedia N, Phillips C, Whinney C, Jaffer A, **Michota F**. "Perioperative statin therapy in major noncardiac surgery.," Society of Hospital Medicine Annual Meeting, Washington DC, May 4-5, 2006. The Journal of Hospital Medicine 2006; 1(Suppl 2): 9.
17. Cai O, **Michota F**, Whinney C, Phillips C: "Long-term benefit of heart failure disease management programs," Circulation 2006; 113:e799.
18. **Michota F**, Jaffer A: "Patient education tool for the preoperative process and the role of the medical consultant," Clev Clin J Med 2006 (73): E-suppl 1:S28.
19. Jaffer A, Harte B, Hixson E, Parker B, Aneja A, Kashyap V, Borkowski R, Maurer W, Singh V, Militello M, Rodriguez L, Brotman D, Krishnamurthi V, **Michota F**, Vitagliano S, Henderson M: "Formalized preoperative assessment for noncardiac surgery at a large tertiary care medical center leads to higher rates of perioperative beta-blocker use," Clev Clin J Med 2006 (73): E-suppl 1:S34.
20. Cai O, Phillips C, Brotman D, Whinney C, **Michota F**, Garcia M, Panneerselvam A, Hixson E, Parker B, Jaffer A: "Risk factors for long-term mortality among heart failure patients after elective major noncardiac surgery," Clev Clin J Med 2006 (73): E-suppl 1:S35.
21. Goldman MP, Kvancz DA, Leonard MC, **Michota FA** "Implementation of a new pharmacy and therapeutics committee structure in a large academic institution" American Society of Health-System Pharmacists Meeting, Las Vegas, NV, December 3, 2007
22. Rajamanickam A, Gugliotti D, **Michota F** "Lessons learned from a mock code blue program at a large academic medical center," Society of Hospital Medicine Annual Meeting, San Diego, California; April 3-5, 2008.
23. Alraies CM, Alraiyes A, Rajamanickam A, **Michota F** "Can patients with critical aortic stenosis undergo noncardiac surgery with intervening aortic valve replacement?" Clev Clin J Med 2009; 76(Electronic Suppl 1):3S46.

24. Gugliotti D, Whinney C, Freyle H, **Michota F**. "A problem based learning curriculum for teaching systems based practice competencies to residents." Academic Internal Medicine Week 2010; Alliance for Academic Internal Medicine, San Antonio, TX, October 15, 2010.

#### PUBLISHED OR LIVE INTERVIEWS/CONSENSUS OPINIONS

1. **Michota F**, in "Attending physician of record poses practical, legal challenges," Hospitalist & Inpatient Management Report; November 2000:164-166.
2. **Michota F**, in "Advice for treating hip fractures promotes early surgery and rehabilitation: anticoagulants, protein supplements," Hospitalist & Inpatient Management Report; December 2000:152-156.
3. Wachter B, **Michota F**, in "Family doctors losing care of hospital patients," The Plain Dealer: Cleveland, Tuesday, June 5, 2001.
4. **Michota F**, in "New Directions in the Treatment and Prevention of Deep Vein Thrombosis," Am J Manag Care 2001; 7:17,Supp.
5. **Michota F**, in "DVT FREE/SAVE Consensus Panel and Scientific Roundtable," American Health Consultants, Miami, Florida, March 30, 2002.
6. Quayle D, **Michota F**. DVT/PE Free Satellite Media Tour. Spotlight Health Communications. Phoenix, Arizona; August 21, 2002.
7. **Michota F**, in "A Look at the Current Management of Acutely Decompensated heart Failure: Is A Different Approach Needed," CME-Today for Hospitalists, Volume 1, Number 1, November 2002: 7-15.
8. **Michota F**, in "National Experts' Consensus Panels for Clinical Excellence in Thrombosis Management," Phoenix, Arizona; February 22, 2003.
9. **Michota F**, in "DVT Leadership Conference," hosted by the Centers for Disease Control and the American Public Health Association, Washington DC, February 26, 2003.
10. **Michota F**, in "Prophylaxis of venous thrombembolism (VTE) in the hospitalized medical patient" Internal Medicine Consensus Reports; May 1, 2003.
11. **Michota F**, in "Current Considerations for Cephalosporin use in Complicated Urinary Tract Infections," Hospital Medicine Consensus Reports; September 1, 2003.
12. **Michota F**, in "Long Flights and Thrombosis," New York Times, February 29, 2003.
13. **Michota F**, in "Timelier Treatment for Community Acquired Pneumonia," Today's Hospitalist, March 2004.
14. Kazaan L, **Michota F**. DVT/PE Free Satellite Media Tour. Burson-Marsteller Public Relations. New York, New York; March 11, 2004.
15. **Michota F**, in "Economy Class Syndrome," Live AP Radio Interview with Tom Donohue, May 29, 2004.
16. Bloom M, **Michota F**. Larry King "Live". Medical segment supporting National Spokesperson, Melanie Bloom, widow of NBC correspondent David Bloom, on DVT Awareness Month 2005. Coalition to Prevent DVT. March 9, 2005.
17. Bloom M, Woodruff B, Woodruff L, White C, **Michota F**, Twitty J in "Tribute to David Bloom," Jane Pauley Show. Coalition to Prevent DVT. March 15, 2005.
18. Bloom M, **Michota F**. Today Show, segment highlighting DVT Awareness; Coalition to Prevent DVT, March 8, 2007
19. Bloom M, **Michota F**, Chand B. Cleveland Clinic Awareness Event highlighting DVT; Coalition to Prevent DVT, Cleveland Clinic, March 15, 2007
20. Bloom M, **Michota F**, Peirson S. Today Show, segment highlighting DVT Awareness; Coalition to Prevent DVT, March 4, 2008
21. Bernstein B, **Michota F**. National DVT Screening Day, Radio Media Tour; Burson-Marsteller. Cleveland, Ohio; March 25, 2008
22. **Michota F**. "Welcome to Hospitalist News." Hospitalist News; April 2008.
23. **Michota F**. "Defining Hospitalization Goals Yields Cost-Effective Care," Hospitalist News; May 2008

24. **Michota F.** "Hospital Compare: Deciphering the Data," Hospitalist News; September 2008.

#### EDUCATION MEDIA MATERIALS

1. **Michota F,** Deitcher S, Fry E. Current Concepts in Thrombosis: CME Lecture Series. Postgraduate Institute of Medicine. 2000.
2. **Michota F,** Young JB, Abraham WT, Fonarow GC. New Perspectives on Acutely Decompensated Heart Failure. CME Today; Medical Education Broadcast Network. Londonderry, NH. 2002
3. Armainsson L, **Michota F:** "Congestive heart failure due to acute myocardial infarction." [CaseStudyRx.com](http://CaseStudyRx.com); Vol 1, Number 6. July 2003.
4. **Michota F:** "Management of Effective Outcomes in Acutely Decompensated, Hospitalized Heart Failure Patients," [CaseStudyRx.com](http://CaseStudyRx.com); Vol 1, Number 6. December 2003.
5. **Michota F,** Vijayaraghavan K, Peters S. Acute Decompensated Heart Failure: Defining Management Standards and Best Practice. CME Today; Medical Education Broadcast Network. Londonderry, NH. 2004.
6. **Michota F.** Preventing Venous Thromboembolism: A Practical Guide to Identifying Patients at Risk. CME Today; Medical Education Broadcast Network. Londonderry, NH 2004.
7. Yancy, CW, **Michota F,** Emerman CL: Treatment Strategies for Acute Decompensated Heart Failure: Clinical realities and Future Directions; i3DLN Education Network, March 23, 2006, Live broadcast
8. **Michota F,** Heywood JT. Heartrounds: Challenges in ADHF Management; SynerMed Communications, September 30, 2007
9. **Michota F,** Wheeler A. Completing the Course: Optimizing VTE Prophylaxis Across the Continuum of Care. North American Center for Continuing Medical Education; A Serial Learning Initiative. Webinar Conference Series., September 17, 2009.
10. **Michota F.** Deep Vein Thrombosis in Focus: Expert perspectives on Reducing the Burden of Venous Thromboembolism; Guideline-Based VTE Risk Stratification Upon Hospital Admission, ReachMD Satellite Radio XM160; CME provided by NACCME, Princeton, NJ; CME valid until 12/10/10; recorded February 7, 2010.
11. **Michota F,** Pollack C, Christy G, Fanikos J. Advances in Prevention and Management of Venous Thromboembolism in Patients with Thrombocytopenia: An Educational Initiative. Hospital Quality Foundation. April 28, 2010.
12. **Michota F,** Pollack C, Christy G, Fanikos J. Heparin-Associated Thrombocytopenia Web Cast Series. Hospital Quality Foundation in partnership with the Exeter Group. April 2010.
13. **Michota F,** Ortel T. Improving the Risk Assessment and Prophylaxis of VTE: A Multispecialty AMA Performance Improvement Initiative. Med-IQ, June 11, 2010.
14. **Michota F,** Khorana A. Joint Commission Special Report: Improving Surgical and Inpatient Outcomes in VTE. Med-IQ, July 7, 2010.
15. **Michota F.** How to Improve Quality of Care in Stroke: A Hospitalist Perspective. Physician Weekly Spotlight Edition, Special Issue May 2010

#### PART III: CME ACCREDITED ACTIVITIES

##### CME Course Appointments

1. Director, Abstract Competition and Scientific Poster Session, 3<sup>rd</sup> Annual Meeting, National Association of Inpatient Physicians, Philadelphia, Pennsylvania, April 11, 2000.
2. Director, Abstract Competition and Scientific Poster Session, 1<sup>st</sup> Midwest Regional Meeting, National Association of Inpatient Physicians, Rochester, Minnesota, August 18, 2000.

3. Director, 3<sup>rd</sup> Annual Midwest Regional Meeting, "Topics in Hospital Medicine," National Association of Inpatient Physicians, Cleveland, Ohio, September 13-14, 2002.
4. Co-Director, 16<sup>th</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic Foundation, Cleveland, Ohio, June 1-6, 2004.
5. Co-Director, 17<sup>th</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic Foundation, Cleveland, Ohio, June 6-11, 2005.
6. Co-Director, Perioperative Medicine Summit, Cleveland Clinic Foundation, Cleveland, Ohio, September 22-23, 2005.
7. Co-director 18<sup>th</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic, Cleveland, Ohio, June 11-16, 2006
8. Co-director 2<sup>nd</sup> Annual Perioperative Summit, Cleveland Clinic, Cleveland, Ohio, September 18-19, 2006.
9. Co-director 19<sup>th</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic, Cleveland, Ohio, June 3-8, 2007.
10. Co-director 3<sup>rd</sup> Annual Perioperative Summit, Cleveland Clinic, Cleveland, Ohio, September 10-12, 2007.
11. Co-director 20<sup>th</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic, Cleveland, Ohio, June 1-6, 2008
12. Co-director, Blood Summit, Cleveland Clinic, Cleveland, Ohio, October 13, 2008.
13. Co-director 4<sup>th</sup> Annual Perioperative Summit, University of Miami, Cleveland Clinic, and the Society for Perioperative Assessment and Quality Improvement (SPAQI), Miami, Florida, February 5-7, 2009.
14. Co-director 21<sup>st</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic, Cleveland, Ohio, June 14-19, 2009.
15. Co-director, 5<sup>th</sup> Annual Perioperative Summit, University of Miami, Cleveland Clinic, and the Society for Perioperative Assessment and Quality Improvement (SPAQI), Miami, Florida, March 4-6, 2010.
16. Co-director, 22<sup>nd</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic, Cleveland, Ohio, June 6-11, 2010.
17. Co-director, 6<sup>th</sup> Annual Perioperative Summit, University of Miami, Cleveland Clinic, and the Society for Perioperative Assessment and Quality Improvement (SPAQI), Miami, Florida, March 3-5, 2011.
18. Co-director, 23<sup>rd</sup> Annual Intensive Review of Internal Medicine, Cleveland Clinic, Cleveland, Ohio, June 12-17, 2011.

#### Invited Presentations

##### Local

1. "The Role of the Resident Supervisor"; Division of Education; GME Senior Retreat; The Cleveland Clinic Foundation; May 16, 1997.
2. "When I was an Intern -- Then and Now"; Division of Medicine Grand Rounds The Cleveland Clinic Foundation; May 29, 1997.
3. "Preoperative Laboratory Assessment"; Department of Urology Grand Rounds The Cleveland Clinic Foundation; July 10, 1998.
4. "The Outpatient Direct Admission: Criteria for Hospitalization"; Department of General Internal Medicine Grand Rounds; The Cleveland Clinic Foundation; September 19, 1998.
5. "Genetic Diseases for the Internist"; 11<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 6, 1999.
6. "Molecular Genetics for the Internist", Department of General Internal Medicine Grand Rounds; The Cleveland Clinic Foundation; August 28, 1999.
7. "Current Issues in Venous Thromboembolic Disease," Primary Care Symposium, Lake Hospital System; Cleveland, Ohio, January 26, 2000.
8. "What? My Case has been Canceled: Optimizing Outcomes in Preoperative Evaluation" Panel Discussion, Division of Surgery Grand Rounds; The Cleveland Clinic Foundation; April 10, 2000.

9. "Treatment of DVT in Long Term Care," Bay Pharmacy Health Fair 2000; Westlake, Ohio, April 13, 2000.
10. "New Issues in the Treatment of Thrombosis," Department of Medicine Grand Rounds, MetroHealth Medical Center; Cleveland, Ohio, May 11, 2000.
11. "Board Simulation: Genetic Diseases in Internal Medicine," 12<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 24, 2000.
12. "Update in Hospital Medicine," Department of General Internal Medicine Grand Rounds; The Cleveland Clinic Foundation, September 13, 2000.
13. "The Inpatient Specialist: Is There A Difference?" Division of Medicine Grand Rounds; The Cleveland Clinic Foundation, September 14, 2000.
14. "Prevention, Diagnosis, and Treatment of Venous Thromboembolic Disease," Medicine Rounds, Huron Hospital, Cleveland, Ohio, October 10, 2000.
15. "Assessment and Risk Management of Acutely Ill Medical Patients for DVT," Medical Grand Rounds, Southwest General Health Center, Cleveland, Ohio, April 6, 2001.
16. "Prevention and Treatment of Venous Thromboembolic Disease," Medicine Rounds, Deaconess Hospital, Cleveland, Ohio, April 11, 2001.
17. "Prevention and Treatment of VTE," Medicine Rounds, Lorain Community Hospital, Cleveland, Ohio, April 18, 2001.
18. "Prevention and Treatment of VTE," Medicine Grand Rounds, Fairview Hospital, Cleveland, Ohio, August 13, 2001.
19. "Prevention of Thrombosis in the ICU," Critical Care Nursing Symposium, Sponsored by Fairview Hospital, Westlake, Ohio, September 26, 2001.
20. "Prevention and Treatment of VTE," Medicine Grand Rounds, Lakewood Hospital, Lakewood, Ohio, October 3, 2001.
21. "Prevention and Treatment of VTE," Medicine Grand Rounds, Meridia Southpointe Hospital, Cleveland, Ohio, October 30, 2001.
22. "Heparin-induced Thrombocytopenia," Cancer Care Speaker's Series, Metrohealth Medical Center, November 8, 2001.
23. "Prevention of VTE in the Intensive Care Unit," Medicine Grand Rounds, Lakewood Hospital, Lakewood, Ohio, December 4, 2001.
24. "Board Simulation: Genetic Diseases in Internal Medicine," 13<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 11, 2001.
25. "Heparin-Induced Thrombocytopenia," Lake Erie Chapter, National Association of Inpatient Physicians Regional Meeting, Cleveland, Ohio, January 8, 2002
26. "Prevention and Treatment of DVT and PE." Primary Care Symposium, Lake Hospital System, Radisson Hotel, Eastlake, Ohio, January 30, 2002.
27. "Prevention of Venous Thrombosis in the Trauma Patient," Critical Care Grand Rounds, Metrohealth Medical Center, Cleveland, Ohio, April 4, 2002.
28. "Prevention of Venous Thromboembolism," Update in Internal Medicine, sponsored by Deaconess Hospital, Independence, Ohio, May 29, 2002.
29. "Board Simulation: Genetic Diseases in Internal Medicine," 14<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 9, 2002.
30. "Topics in Medical Genetics," Division of Medicine Grand Rounds, The Cleveland Clinic Foundation, August 1, 2002.
31. "Prevention and Treatment of Venous Thrombosis," Medicine Grand Rounds, Meridia Southpoint Hospital, Cleveland, Ohio, August 13, 2002.
32. "The Clinical Challenge of DVT and PE Treatment in Special Populations," Department of Surgery Grand Rounds, Fairview Hospital, Cleveland, Ohio, February 5, 2003.
33. "Preoperative Evaluation," Academy of Medical-Surgical Nurses Northeast Ohio Chapter Meeting, Hillcrest Hospital, Cleveland, Ohio, February 5, 2003.
34. "Prevention of Pulmonary Embolism and DVT as Post-Op Complications," Academy of Medical-Surgical Nurses Northeast Ohio Chapter Meeting, Hillcrest Hospital, Cleveland, Ohio, February 5, 2003.
35. "Board Simulation: Genetic Diseases in Internal Medicine," 15<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 1, 2003.

36. "Evolution of Hospital Medicine," Department of General Internal Medicine Grand Rounds, Cleveland, Ohio, July 9, 2003.
37. "Evolution of Hospital Medicine," Department of Medicine Grand Rounds, Huron Road Hospital, Cleveland, Ohio, August 25, 2003.
38. "Prevention of DVT in the Hospitalized Patient," Medical Grand Rounds, St. Vincent Charity Hospital, Cleveland, Ohio, November 18, 2003.
39. "Prevention of DVT in the Medically Ill Patient," Medical Grand Rounds, Fairview Hospital, Cleveland, Ohio, February 17, 2004
40. "Prevention of VTE in the Orthopedic Patient," 4<sup>th</sup> Annual Orthopaedics Excellence Through Education Conference, Cleveland Clinic Foundation, April 2, 2004.
41. "Board Simulation: Genetic Diseases in Internal Medicine," 16<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 6, 2004.
42. "Strategies for Taking the Board Examination," 16<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 6, 2004.
43. "Diagnosis and Treatment of PE," Department of General Internal Medicine Grand Rounds, Cleveland Clinic Foundation, Cleveland, OH, September 8, 2004
44. "Prevention of VTE in the Medical Patient," Medical Grand Rounds, University Hospitals of Case Western Reserve, Cleveland, OH, September, 13, 2004
45. "New Issues in the Management of Acute Decompensated Heart Failure," Medical Grand Rounds, Meridia Southpointe Hospital, Cleveland, OH, January 4, 2005.
46. "New Issues in the Management of Acute Decompensated Heart Failure," Cardiology Grand Rounds," Southwest General Hospital, Middleburg Heights, OH, January 7, 2005.
47. "Board Simulation: Genetic Diseases in Internal Medicine," 17<sup>th</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine, June 6, 2005.
48. "Strategies for Taking the Board Examination," 17<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 6, 2005.
49. "Preoperative Laboratory Testing," 1<sup>st</sup> Perioperative Summit, Cleveland Clinic Foundation, September 22, 2005.
50. "Prevention of Venous Thromboembolism in Surgical Patients," 1<sup>st</sup> Perioperative Summit, Cleveland Clinic Foundation, September 23, 2005.
51. "Board Simulation: Genetic Diseases in Internal Medicine," 18<sup>th</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine, June 11, 2006.
52. "Strategies for Taking the Board Examination," 18<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 11, 2006.
53. "Prevention of Venous Thromboembolism After Surgery", 2<sup>nd</sup> Annual Perioperative Summit, Cleveland Clinic, Cleveland, Ohio; September 18, 2006.
54. "Meet the Experts: Anticoagulation" 2<sup>nd</sup> Annual Perioperative Summit, Cleveland Clinic, Cleveland, Ohio; September 19, 2006.
55. "Prevention of Venous Thromboembolism," Medical Grand Rounds, Southwest General Hospital, February 16, 2007
56. "Update in Hospital Medicine," Medical Grand Rounds, Division of Medicine, Cleveland Clinic, Cleveland, OH, April 19, 2007
57. "Medical Genetics for the Internist, 19<sup>th</sup> Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 3, 2007
58. "Test Taking Strategies for the Boards", 19<sup>th</sup> Annual Annual Cleveland Clinic Foundation Intensive Review of Internal Medicine; June 3, 2007
59. "Update in Venous Thromboembolism," Summer CME Series on Aging, Fairview Hospital, July 20, 2007.
60. "Prevention, Detection, and Management of Venous Thromboembolism," Best Practices in Primary Care Conference, Primary Care Network, Cleveland, OH, December 1, 2007.
61. "New Issues in the Management of Heart Failure in the Hospitalized Patient," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, January 9, 2008
62. "Board Simulation in Preoperative Evaluation," 20<sup>th</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 1, 2008.
63. "Board Simulation in Medical Genetics," 20<sup>th</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 1, 2008.

64. "Test Taking Strategies for the Boards," 20<sup>th</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 1, 2008.
65. "Prevention and Treatment of VTE: An Update from the 8<sup>th</sup> ACCP Conference on Antithrombotic Therapy," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, August 6, 2008.
66. "Update in Perioperative Care," Medicine Institute Grand Rounds, Cleveland Clinic, Cleveland, OH, August 21, 2008.
67. "Diagnosis and Management of PE," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, October 22, 2008.
68. "Management of Anemia in the Hospitalized Patient," Blood Summit, Cleveland Clinic; October 13<sup>th</sup>, 2008.
69. "Quality Measures in Venous Thromboembolism," Medical Grand Rounds, Southpointe Hospital, Cleveland Clinic Health System, Cleveland, OH, December 10, 2008
70. "Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland, Clinic, Cleveland, OH March 11, 2009.
71. "Prevention of Venous Thromboembolism," Medical Grand Rounds, Huron Hospital, Cleveland Clinic Health System, Cleveland, OH, April 6, 2009
72. "Is There a Role for Aspirin in the Prevention of VTE in Orthopedic Surgery?" Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, May 6, 2009.
73. "Board Simulation in Preoperative Evaluation," 21<sup>st</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 14, 2009.
74. "Board Simulation in Medical Genetics," 21<sup>st</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 14, 2009.
75. "Test Taking Strategies for the Boards," 21<sup>st</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 14, 2009.
76. More Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, September 9, 2009.
77. More Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, November 25, 2009.
78. "VTE Prophylaxis in the Hospital: Interventions for Improving Care," Medical Grand Rounds, Lakewood Hospital, Cleveland Clinic Health System, Cleveland, OH, January 6, 2010.
79. "More Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, April 28, 2010.
80. "Board Simulation in Medical Genetics," 22<sup>st</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 6, 2010.
81. "Test Taking Strategies for the Boards," 22<sup>st</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 6, 2010.
82. "Board Simulation in Preoperative Evaluation," 22<sup>st</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 7, 2010.
83. "What's new in Medicine?" 24<sup>th</sup> Annual Clinic Seminars in Dermatology; October 29, 2010.
84. "More Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, September 8, 2010.
85. "More Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, September 22, 2010.
86. "More Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, November 10, 2010.
87. "More Medicolegal Lessons: Case Conference," Hospital Medicine Grand Rounds, Cleveland Clinic, Cleveland, OH, February 16, 2011
88. "Board Simulation in Medical Genetics," 23<sup>rd</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 12, 2011.
89. "Test Taking Strategies for the Boards," 23<sup>rd</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 12, 2011.
90. "Board Simulation in Preoperative Evaluation," 23<sup>rd</sup> Annual Cleveland Clinic Intensive Review of Internal Medicine; June 12, 2011.

91. "Prevention of Venous Thromboembolism," Medical Grand Rounds, Marymount Hospital, CCHS, July 13, 2011.

Regional/State

1. "Hospitalist Practice Model: The Cleveland Clinic Foundation", Ohio Regional Meeting of the National Association of Inpatient Physicians; Columbus, Ohio, October 27, 1999.
2. "The Hospitalist Movement", Panel Discussion, Ohio Regional Meeting of the National Association of Inpatient Physicians; Columbus, Ohio, October 27, 1999.
3. "Low-Molecular Weight Heparins," Education Program, Tiffin Regional Medical Group; Tiffin, Ohio, January 18, 2000.
4. "Clinical Indications for Low-Molecular Weight Heparins," Medicine Grand Rounds, McGruder Hospital; Port Clinton, Ohio, April 18, 2000.
5. "Outpatient Treatment of Deep Venous Thrombosis," Department of Medicine Grand Rounds, Mercy Hospital; Willard, Ohio, May 22, 2000.
6. "The Cleveland Clinic Outpatient DVT Protocol," Medicine Rounds, Allen Memorial Hospital; Oberlin, Ohio, May 25, 2000.
7. "Low-Molecular Weight Heparins," Education Program, Wynstock Hospital; Upper Sandusky, Ohio, June 27, 2000.
8. "Searching for the Perfect Anticoagulant," Medicine Rounds, Freemont Hospital, Freemont, Ohio, June 29, 2000.
9. "Maximizing Value: Low-Molecular Weight Heparins," Education Program, Lima Regional Medical Group, Lima, Ohio, July 13, 2000.
10. "Prevention, Diagnosis, and Treatment of Venous Thromboembolic Disease," Medicine Rounds, St. Mary's Hospital, Canton, Ohio, July 19, 2000.
11. "Preventing Thrombosis: Lessons from the MEDENOX Study," Department of Medicine Grand Rounds, Firelands Hospital, Sandusky, Ohio, Septemeber 28, 2000.
12. "Thrombosis Risk in the Trauma Patient" Grand Rounds, St. Mary's Hospital, Canton, Ohio, January 3, 2001.
13. "Issues in Thrombosis: Clinical Indications for Low-molecular Weight Heparins," Department of Medicine Grand Rounds, Bethesda Hospital, Zanesville, Ohio, January 9, 2001.
14. "Low-molecular Weight Heparins: Is There a Class Effect?" Scioto Medical Society Education Program, Portsmouth, Ohio, January 9, 2001.
15. "Prevention of Thrombosis in the Medically Ill," Medicine Rounds, Marion Hospital, Marion, Ohio, February 8, 2001
16. "Prevention and Treatment of Venous Thromboembolic Disease," 8<sup>th</sup> District Academy of Osteopathic Medicine & Surgery Annual Seminar, Cuyahoga Falls, Oh, February 18, 2001
17. "Prevention and Treatment of Venous Thromboembolic Disease in the Medically Ill Population," Medicine Grand Rounds, Mansfield Hospital, March 21, 2001.
18. "New Issues in Thrombosis: The Medically Ill at High Risk," Medicine Grand Rounds, Freemont Hospital, Freemont Hospital, May 24, 2001.
19. "Current Management of VTE," Grand Rounds, St. Mary's Hospital, Canton, Ohio, May 31, 2001.
20. "VTE in Prevention in the Medically Ill Population," Keynote Speaker, NW Ohio Medical Symposium, St. Charles Hospital, Oregon, Ohio, June 1, 2001.
21. "Prevention of DVT in Critical Care Patients" Medical Grand Rounds, Holzer Medical Center, Gallipolis, OH, June 22, 2001.
22. "Prevention, Diagnosis, and Treatment of DVT and PE," CORE Osteopathic Lecture Series, Doctor's Hospital, Columbus, Ohio, August 8, 2001.
23. "Treatment of Outpatient Venous Thrombosis," Anticoagulation and Thrombosis Symposium, Sponsored by Mansfield Medical Center, Mansfield, Ohio, October 24, 2001.



24. "Venous Thromboembolism in the Trauma Patient," Surgical Grand Rounds, Grant Medical Center, Columbus, Ohio, November 27, 2001.
25. "Prevention of Venous Thrombosis," NVP Program, Cincinnati, Ohio, December 19, 2001.
26. "Prophylaxis and Treatment of DVT," Forum Health System, Northside Medical Center, Youngstown, OH, March 14, 2002
27. "Update: ACCP Consensus Conference on Anti-thrombotic Therapy and the Pharmacoeconomics of Low Molecular Weight Heparin," 13<sup>th</sup> Annual Update in Internal Medicine, Northeastern Ohio College of Medicine Review Course, Cuyahoga Falls, Ohio, May 6, 2002.
28. "Prevention of Venous Thrombosis," Medical Grand Rounds, St. Elizabeth Medical Center, Youngstown, OH, September 10, 2002.
29. "MKSAP Review-Hospital Medicine," ACP-ASIM Ohio Chapter Scientific Meeting, Columbus, Ohio, October 12, 2002.
30. "Prevention and Treatment of Venous Thrombosis," Medical Grand Rounds, Massillon Community Hospital, Massillon, OH, April 30, 2003.
31. "DVT Prophylaxis and Treatment Standards," Kettering Medical Center CME Conference, Kettering Medical Center, Kettering, Ohio, October 7, 2003.
32. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Marion General Hospital, Marion, Ohio, November 13, 2003.
33. "Prevention of DVT/PE in the Hospitalized Patient," Medical Grand Rounds, Blanchard Valley Regional Hospital, Findlay, Ohio, February 6, 2004.
34. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, Licking Memorial Hospital, Newark, OH, March 15, 2004.
35. "Prevention of Venous Thromboembolism," Medical Grand Rounds, St. Mary's Hospital, Canton, OH, March 24, 2004.
36. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, Freemont Hospital, Freemont, OH, March 25, 2004.
37. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, Kettering Medical Center, Kettering, OH, April 6, 2004.
38. "Prevention of VTE in the Hospitalized Patient," Medical Grand Rounds, Marymount Hospital, Cleveland, OH, May 19, 2004.
39. "Prevention of VTE in Special Patient Populations," Medical Grand Rounds, Youngstown Memorial Hospital, July 20, 2004.
40. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, Canton Hospital, Canton, OH, September 24, 2004.
41. "Prevention and Treatment of VTE," Medical Grand Rounds, Ravenna Memorial Hospital, Ravenna, OH, October 13, 2004.
42. "Update in Venous Thromboembolism," Medical Grand Rounds, Riverside Methodist Hospital, Columbus, OH, August 16, 2005.
43. "Prevention of Venous Thromboembolism in the Medical Patient," MedCentral Health System, Mansfield, OH, March 28, 2006.
44. "Update in Venous Thromboembolism," Medical Grand Rounds, Marion Medical Center, Marion, OH, November 2, 2006.
45. "Update in Venous Thromboembolism," Medical Grand Rounds, Kettering Medical Center, Kettering, OH, November 3, 2006.
46. "Update in Venous Thromboembolism," Medical Grand Rounds, Lancaster Hospital, Lancaster, OH, December 8, 2006.
47. "Update in Venous Thromboembolism," Medical Grand Rounds, Good Samaritan Hospital, Dayton, OH, April 23, 2007
48. "Venous Thrombosis and Cancer," Hematology and Oncology Summit, Akron General Medical Center, Akron, OH, November 7, 2007
49. "Prevention of Venous Thromboembolism," Current Concepts in Internal Medicine 2008, Akron General Medical Center, Akron, OH, February 9, 2008.

50. "Prevention and Treatment of VTE: New Strategies and Guidelines for Improving Patient Outcomes," Medical Grand Rounds, Dayton VA Medical Center, Dayton, Ohio, September 30, 2008.
51. "Update in Hospital Medicine," Ohio ACP Meeting, Columbus, Ohio, October 17, 2008.
52. "Primary Care Review of Deep Venous Thromboembolism," Medical Grand Rounds, Kettering Medical Center, Kettering, OH, August 7, 2009.
53. "Update in Perioperative Medicine," Ohio ACP Meeting, Columbus, Ohio, October 9, 2009.
54. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Atrium Medical Center, Middletown, OH, May 5, 2010.
55. "Recognition, Diagnosis, and Management of Heparin-Induced Thrombocytopenia," Medical Grand Rounds, Kettering Medical Center, Kettering, OH, May 19, 2010.
56. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Licking Memorial Hospital, Newark, OH, June 28, 2010.

#### National/International

1. "Creating a Team for Rapid Improvement"; Institute for Healthcare Improvement; National Congress; Chicago, IL, November 18, 1998
2. "Hospitalists in Teaching Hospitals"; Panel Discussion; National Meeting of the National Association of Inpatient Physicians; New Orleans, LA, April 21, 1999.
3. "Update in Hospital Medicine"; National Meeting of the American College of Physicians; New Orleans, LA, April 23, 1999.
4. "Challenges for Academic Hospitalists", Panel Discussion, 3<sup>rd</sup> Annual Meeting of the National Association of Inpatient Physicians; Philadelphia, PA, April 11, 2000.
5. "Topics in Hospital Geriatrics", 3<sup>rd</sup> Annual Meeting of the National Association of Inpatient Physicians; Philadelphia, PA, April 11, 2000.
6. "The Inpatient Specialist: What is the Difference?" Department of Medicine Grand Rounds, Lehigh Valley Medical Center; Allentown, Pennsylvania, May 16, 2000.
7. "Update in Hospital Medicine," 1<sup>st</sup> Midwest Regional Meeting of the National Association of Inpatient Physicians, Mayo Clinic, Rochester, MN, August 18, 2000.
8. "Health Screening and Immunizations," Intensive Review of Internal Medicine Symposium, Mexico City, Mexico, November 17, 2000.
9. "Topics in Preoperative Evaluation," Intensive Review of Internal Medicine Symposium, Mexico City, Mexico, November 18, 2000.
10. "New Issues in Thrombosis: Clinical Indications for Low-Molecular-Weight Heparins" Department of Medicine Grand Rounds, Camden-Clark Hospital, Parkersburg, West Virginia, January 16, 2001.
11. "New Issues in Thrombosis: Assessing the Risk in the Medically Ill Patient" Department of Medicine Grand Rounds, St. Clare's Hospital, Schenectady, New York, January 23, 2001.
12. "Clinical Indications for Low-Molecular Weight Heparins," Parkersburg Medical Society Education Program, Vienna, West Virginia, February 14, 2001.
13. "Controversies in Thrombosis," Medicine Rounds, St. Joseph's Hospital, Parkersburg, West Virginia, February 15, 2001.
14. "Prevention and Treatment of Venous Thrombosis," Medical Grand Rounds, Albany General Hospital, Albany, New York, February 23, 2001.
15. "New Issues in Thrombosis: Prevention and Treatment of Venous Thrombosis in the Rehabilitation Setting," Medical Grand Rounds, Healthsouth Harmarville Rehabilitation Hospital, Pittsburgh, Pennsylvania, March 15, 2001.
25. "Prevention and Treatment of Venous Thromboembolic Disease in the Medically Ill Population," Medicine Grand Rounds, Mercy Hospital of Buffalo, Buffalo, New York, March 22, 2001.
26. "Prevention and Treatment of VTE," Medicine Grand Rounds, Highland Hospital, Rochester, New York, April 17, 2001.

27. "Prophylaxis Strategies in Venous Thrombosis," Medicine Grand Rounds, Mercy Medical Center, Mason City, Iowa, May 9, 2001.
28. "Prevention and Treatment of VTE," Medicine Grand Rounds, Hackley Hospital, Muskegon, Michigan, May 21, 2001.
29. "Advances in the Prevention and Treatment of Deep Venous Thrombosis and Pulmonary Embolism" Medicine Grand Rounds, Glenn Falls Hospital, Glenn Falls, NY, June 26, 2001.
30. "Current Concepts in Thrombosis: National Visiting Professor Program," Co-chair, sponsored by the Postgraduate Institute for Medicine, Amelia Island, Florida, July 27-29, 2001.
22. "New Directions in the Treatment and Prevention of Venous Thrombosis," Roundtable Discussion, American Journal of Managed Care, Chicago, IL, August 24-25, 2001.
23. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Meadville Medical Center, Meadville, PA, September 12, 2001.
24. "Prevention and Treatment of VTE," Medicine Grand Rounds, Baptist Medical Center, Lexington, Kentucky, September 20, 2001.
25. "Prevention and Treatment of Venous Thromboembolism," Medicine Grand Rounds, Midland Michigan Medical Center, Midland, Michigan, October 9, 2001
26. "Prevention and Treatment of VTE," Medicine Grand Rounds, Greenville Hospital, Affiliate of the University of Pittsburgh Medical Center (UPMC), October 12, 2001.
27. "Prevention of DVT and PE," New York Coalition of Nurse Practitioners and Physician Assistants, Sagamore, New York, October 28, 2001.
28. "Issues and Controversies in Perioperative Medicine," NAIP Northeast Regional Meeting, Cambridge, Massachusetts, November 3, 2001.
29. "Prevention and Treatment of Venous Thromboembolism," Medicine Grand Rounds, Westchester Medical Center, Westchester, Massachusetts, November 14, 2001.
30. "Prevention of Venous Thromboembolism," Medicine Grand Rounds, Danbury Hospital, Danbury, CT, December 12, 2001.
31. "Prevention and Treatment of Venous Thromboembolism," Medicine Grand Rounds, Hamot Medical Center, Erie, PA, January 17, 2002.
32. "Prevention and Treatment of Venous Thromboembolism," Medicine Grand Rounds, Grand Haven Hospital, Grand Haven, Michigan, February 5, 2002.
33. "Prevention of Venous Thromboembolism in the Medical Patient," Medicine Grand Rounds, McKeesport Hospital UPMC, Pittsburgh, Pennsylvania, February 12, 2002.
34. "Prevention and Treatment of Venous Thromboembolism," Medicine Grand Rounds, Long Island Jewish Medical Center, Long Island, New York, February 20, 2002.
35. "New Horizons in the Treatment of Deep Venous Thrombosis," Medical Odyssey 2001-2002, Primary Care Update of the Phillipino-American Medical Society of Western Pennsylvania, Affiliate of UPMC, February 21, 2002
36. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Lehigh Valley Medical Center, Allentown, Pennsylvania, February 26, 2002.
37. "Thrombosis Update - Overview of Low-Molecular Weight Heparins," John H. Moyer Visiting Professor Lecture Series, Cambria-Somerset Council for Education of Health Professionals, Inc., Windber Medical Center, Windber, Pennsylvania, February 27, 2002.
38. "Thrombosis Update - Prevention of VTE in the Medically Ill," John H. Moyer Visiting Professor Lecture Series, Cambria-Somerset Council for Education of Health Professionals, Inc., Memorial Medical Center, Johnstown, Pennsylvania, February 27, 2002.
39. "Thrombosis Update – Outpatient Treatment of DVT," John H. Moyer Visiting Professor Lecture Series, Cambria-Somerset Council for Education of Health Professionals, Inc., Bon Secours Holy Family Hospital, Altoona, Pennsylvania, February 27, 2002.
40. "Thrombosis Update – Prevention and Treatment of VTE," John H. Moyer Visiting Professor Lecture Series, Cambria-Somerset Council for Education of Health Professionals, Inc., UPMC Bedford Memorial Hospital, Bedford, Pennsylvania, February 28, 2002.

41. "Thrombosis Update – Prevention and Treatment of VTE," John H. Moyer Visiting Professor Lecture Series, Cambria-Somerset Council for Education of Health Professionals, Inc., UPMC Lee Regional Hospital, Johnstown, Pennsylvania, February 28, 2002.
42. "Prevention and Treatment of Venous Thrombosis," Oak Forest Hospital System of Cook County, Chicago, Illinois, March 25, 2002
43. "Prevention and Treatment of Venous Thrombosis," Decatur Memorial Hospital, Decatur, Illinois, March 26, 2002.
44. "Inpatient Practices with LMWH: Update on Prevention and Treatment of VTE," Pri-Med West 2002, Long Beach Convention Center, Long Beach, California, April 3, 2002.
45. "Update in Hospital Medicine," 5<sup>th</sup> Annual Meeting of the National Association of Inpatient Physicians, Philadelphia, Pennsylvania, April 9, 2002.
46. "DVT Prevention in the Hospitalized Patient," Thrombosis Crisis in Healthcare Symposium, sponsored by Thomson-American Healthcare Consultants, Walford-Fostoria Hotel, New York, New York, April 6, 2002.
47. "Prevention of Venous Thrombosis," Medical Grand Rounds, Ellis Hospital, Schenectady, New York, April 12, 2002.
48. "Prevention of DVT in the Cardiac Patient," Medical Grand Rounds, Ball Memorial Medical Center, Muncie, Indiana, April 24, 2002.
49. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, St Agnes Hospital, Baltimore, Maryland, April 25, 2002.
50. "A Real World Approach to Thrombosis Prevention and ACS Management of Hospitalized Medical Patients," Thrombosis Crisis in Healthcare Symposium, sponsored by Thomson-American Healthcare Consultants, Ritz-Carlton Hotel, Chicago, IL, April 29, 2002.
51. "How to Create a Hospital Medicine Program," Medicine Grand Rounds, Missouri-Baptist Hospital, Columbia, Missouri, May 7, 2002.
52. "On Either Side of the Clot – Prevent It or Treat It," Education Symposium – Can We Abandon Unfractionated Heparin? Sponsored by Adovocate Christ Healthcare System, Oakwood, Illinois, May 8, 2002.
53. "The Hospitalized Patient: Protection and Treatment of DVT," Medicine Grand Rounds, Columbia-St. Mary's Hospital, Milwaukee, Wisconsin, May 9, 2002.
54. "Prevention and Treatment of VTE," Medicine Grand Rounds, Henry Ford Hospital, Dearborn, Michigan, May 22, 2002.
55. "Low-molecular Weight Heparin in the Cardiac Patient," Department of Cardiology Grand Rounds, University of Massachussets, May 23, 2002.
56. "Issues in Anticoagulation: Mechanical Heart Valves," Medicine Grand Rounds, Hamot Medical Center, Erie, PA, July 17, 2002.
57. "Periprocedural Anticoagulation," Department of Cardiology Grand Rounds, Lakeland Regional Medical Center, Lakeland, Florida, August 9, 2002.
58. "Prevention and Treatment of VTE," Medicine Grand Rounds, James Haley VA Hospital, Tampa Bay, Florida, August 9, 2002.
59. "Prevention of Venous Thrombosis," Department of Medicine Grand Rounds, Albany Medical Center, Albany, New York, August 23, 2002.
60. "Prevention and Treatment of Venous Thromboembolism," Department of Medicine Grand Rounds, Sparrow Hospital at Michigan State University, Lansing, Michigan, August 28, 2002.
61. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Memorial Healthcare System, Hollywood, Florida, September 4, 2002.
62. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Cleveland Clinic Florida Foundation, Weston, Florida, September 4, 2002.
63. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Broward Memorial Hospital, Fort Lauderdale, Florida, September 5, 2002.
64. "Prevention of VTE: Special Populations of Obesity and Renal Insufficiency," Educational Program, Renssaelaer County Academy of Medicine, Troy, New York, September 17, 2002.

65. "Prevention of Venous Thromboembolism," Medicine Grand Rounds, Blodgett Hospital, Spectrum Healthcare, Grand Rapids, Michigan, October 10, 2002.
66. "Prevention of Venous Thromboembolism in the Surgical Patient." Surgical Grand Rounds, Mercy Medical Center, Baltimore, Maryland, January 9, 2003
67. "Prevention and Treatment of Venous Thromboembolism," Medicine Grand Rounds, St. Vincent Health Center, Erie, Pennsylvania, January 10, 2003.
68. "Prevention and Treatment of Venous Thromboembolism," Medicine Grand Rounds, UPMC Horizon Hospital, Greenville, Pennsylvania, January 10, 2003.
69. "Prevention and Treatment of Venous Thromboembolism," Department of Medicine Grand Rounds, University of Louisville, Louisville, Kentucky, January 23, 2003.
70. "Prevention and Treatment of Venous Thromboembolism," Louisville Society of Internal Medicine, Louisville, Kentucky, January 23, 2003.
71. "Use of LMWH in Special Patient Populations," Department of Medicine Grand Rounds, University of Las Vegas Medical Center, Las Vegas, Nevada, January 30, 2003.
72. "Prevention of Venous Thromboembolism," South Dakota Medical Information Exchange, University of South Dakota School of Medicine, February 5, 2003.
73. "Prevention and Treatment of Venous Thromboembolism," Department of Surgery Grand Rounds, Torrence Memorial Hospital, Los Angeles, California, February 10, 2003.
74. "Prevention and Treatment of Venous Thromboembolism," Department of Pharmacy Grand Rounds, Wake Forest Medical Center, Charlotte, North Carolina, February 13, 2003.
75. "Prevention and Treatment of Venous Thromboembolism," Department of Medicine Grand Rounds, Orlando Regional Medical Center, Orlando, Florida, February 20, 2003.
76. "Bridging Anticoagulation with LMWH," Medicine Grand Rounds, Winter Haven Memorial Hospital, Lakeland, Florida, February 20, 2003.
77. "Prevention of Venous Thromboembolism in the Medically Ill Patient," Department of Medicine Grand Rounds, Jackson Memorial Hospital, University of Miami, Miami, Florida, February 28, 2003.
78. "Prevention of Venous Thromboembolism," Department of Medicine Grand Rounds, Baylor Medical Center at Irving, Dallas, Texas, March 18, 2003.
79. "Prevention of Venous Thromboembolism in the Orthopedic Patient," Orthopedic Grand Rounds, Western Pennsylvania Hospital, Pittsburgh, PA, March 25, 2003.
80. "Acute Coronary Syndromes and Cardiogenic Shock," Critical Care Pre-Course, 6<sup>th</sup> Annual Meeting of the Society of Hospital Medicine, San Diego, CA, March 31, 2003.
81. "Controversies in Venous Thromboembolism," ACP Symposia, San Diego, CA, April 4, 2003.
82. "Prevention of Venous Thromboembolism," Department of Medicine Grand Rounds, Lutheran General Hospital, Chicago, IL, April 16, 2003.
83. "Prevention and Treatment of Venous Thromboembolism," Department of Medicine Grand Rounds, Frank Torresdale Hospital, Thomas Jefferson Health System, Philadelphia, PA, April 22, 2003.
84. "Outpatient Treatment of DVT," Medical Grand Rounds, Butler Memorial Hospital, Butler, PA, May 8, 2003.
85. "Prevention and Treatment of VTE in the Gynecology Patient," Department of Obstetrics and Gynecology Grand Rounds, Reading Regional Hospital, Reading, PA, May 14, 2003.
86. "Prevention and Treatment of Venous Thrombosis, Department of Medicine Grand Rounds, Reading Regional Hospital, Reading, PA, May 14, 2003.
87. "Prevention of DVT/PE," Medical Grand Rounds, Ephrata Community Hospital, Ephrata, PA, May 15, 2003.
88. "Prevention of Venous Thrombosis," Department of Medicine Grand Rounds, Terre Haute Regional Hospital, Terre Haute, Indiana, May 20, 2003
89. "Prevention of Venous Thrombosis," Department of Medicine Grand Rounds, Carle Hospital, Urbana, IL, May 20, 2003.
90. "Prevention of Venous Thrombosis," Department of Medicine Grand Rounds, Western Penn Hospital, Pittsburgh, PA, May 22, 2003.

91. "Prevention of Venous Thrombembolism in the Medically Ill Patient, Department of Medicine Grand Rounds, Harborside-UCLA Medical Center, Los Angeles, California, June 11, 2003.
92. "Prevention of Venous Thrombosis," Department of Medicine Grand Rounds, Greenfield Hospital, Baystate Medical Center, Greenfield, Massachusetts, June 12, 2003.
93. "Prevention of Venous Thrombembolism in the Medically Ill Paitent," Department of Medicine Grand Rounds, University of Tennessee, Knoxville, Tennessee, June 17, 2003.
94. "Prevention and Treatment of VTE," Department of Medicine Grand Rounds, Baptist Hospital, Nashville, Tennessee, June 18, 2003.
95. "Bridging Anticoagulation with Low-Molecular Weight Heparins," Department of Medicine Grand Rounds, Niagra Hospital, Niagra Falls, New York, June 20, 2003.
96. "Prevention of VTE in the Critical Care Unit," Department of Critical Care Grand Rounds, St. John's Hospital, St. Louis, Missouri, July 8, 2003.
97. "Prevention and Treatment of Venous Thromboembolism," Department of Medicine Grand Rounds, Tampa VA Hospital, Tampa Bay, Florida, July 17, 2003.
98. "Bridging Anticoagulation with Low-Molecular Weight Heparins," Department of Medicine Grand Rounds, Palms of Pasadena Hospital, Tampa Bay, Florida, July 17, 2003.
99. "Low-Molecular Weight Heparins in the Cardiology Patient," Department of Cardiology Grand Rounds, University of Florida, Gainesville, Florida, July 18, 2003.
100. "Prevention of Venous Thromboembolism in the Medical Patient," Department of Medicine Grand Rounds, Torrence Memorial Medical Center, Torrence, California, August 1, 2003.
101. "Prevention of Venous Thromboembolism," Department of Medicine Grand Rounds, Queen of Angels Hospital, Burbank, California, August 19, 2003.
102. "Update on DVT Prophylaxis – an Evidence-Based Approach," Department of Medicine Grand Rounds, Bradford WCA Hospital, Bradford, Pennsylvania, August 27, 2003.
103. "Prevention and Treatment of Venous Thromboembolism," Department of Medicine Grand Rounds, Reynolds Memorial Hospital, Glen Dale, West Virginia, September 2, 2003.
104. "Prevention of Thromboembolic Disease," Critical Care Medicine Update, Sponsored by Ingham Regional Medical Center, Lansing, Michigan, September 5, 2003.
105. "Diagnosis and Treatment of DVT/PE," Department of Medicine Grand Rounds, St. Mary's Medical Center, Philadelphia, Pennsylvania, September 16, 2003.
106. "Will Inpatient Specialists Improve Care – an Outcomes Evaluation," St. Mary's Medical Center Special CME Program, Philadelphia, Pennsylvania, September 16, 2003.
107. "Special Issues in Anticoagulation – Alternatives to Heparin," Department of Medicine Grand Rounds, Abington Memorial Hospital, Abington, Pennsylvania, September 17, 2003.
108. "Prevention and Treatment of Venous Thromboembolism," IPC CME Program, Sponsored by the University of Arizona, Tuscon, Arizona, September 18, 2003.
109. "Prevention of Venous Thromboembolism," Educational Program of the Indiana Medical Society, Michigan City, Indiana, September 29, 2003.
110. "Prevention and Treatment of DVT/PE," Department of Medicine Grand Rounds, Porter Health System, Valparaiso, Indiana, September 30, 2003.
111. "Prevention, Diagnosis, and Treatment of DVT/PE," Department of Medicine Grand Rounds, La Porte Memorial Hospital, South Bend, Indiana, September 30, 2003.
112. "Prevention and Treatment of DVT/PE in Special Patient Populations," Department of Medicine Grand Rounds, Beaver Medical Center, Beaver, Pennsylvania, October 3, 2003.
113. "Current Trends in the Treatment of DVT," Medical Grand Rounds, Adventist Healthcare, Washington Adventist Hospital, Washington DC, October 10, 2003.
114. "Symposium on DVT Prophylaxis – A Quality Improvement Program: Prevention and Treatment of Venous Thrombosis," Medical Grand Rounds, Adventist Healthcare, Shady Grove Adventist Hospital, Rockville, Maryland, October 22, 2003.
115. "Prevention and Treatment of DVT/PE," Medical Grand Rounds, United Community Hospital, Grove City, Pennsylvania, October 23, 2003.

116. "The Clinical Challenge of PE and DVT Treatment in Special Patient Groups," CME Program, Ohio Valley General Hospital, McKees Rocks, Pennsylvania, October 30, 2003.
117. "Prevention of DVT in the Hospitalized Patient," Medical Grand Rounds, Clinton Memorial Hospital, St. John's, Michigan, November 4, 2003.
118. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Carson City Hospital, Carson City, Michigan, November 4, 2003.
119. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Vincennes Hospital, Vincennes, Indiana, November 19, 2003.
120. "Prevention of DVT and PE in the Medically Ill Patient," Medical Grand Rounds, Waukesha Memorial Hospital, Waukesha, Wisconsin, November 25, 2003.
121. "Prevention and Treatment of VTE in the Medically Ill Patient," CME Program, Lee Memorial Health System, Fort Myers, Florida, December 2, 2003.
122. "Prevention and Treatment of VTE," Medical Grand Rounds, Little Company of Mary Hospital, Torrance, California, January 8, 2004.
123. "The Coalition to Prevent Venous Thrombosis," Division of General Internal Medicine Grand Rounds, Baptist Hospital, Wake Forest University, Winston-Salem, North Carolina, January 14, 2004.
124. "Prevention of Deep Venous Thrombosis," Medical Grand Rounds, Danbury Hospital, Yale University, New Haven, Connecticut, January 15, 2004.
125. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, Waterbury Hospital, Yale University, Waterbury, Connecticut, January 16, 2004.
126. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, Little Mary Hospital, Torrance, California, January 28, 2004.
127. "Prevention and Treatment of VTE," Pharmacy Grand Rounds, University of Tennessee Medical Center, Knoxville, Tennessee, February 5, 2004.
128. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, Southern Illinois University Hospital, Carbondale, Illinois, February 13, 2004.
129. "The New Age of Anticoagulation – Going Beyond Heparin," Medical Grand Rounds, Graduate Hospital, Philadelphia, PA, February 18, 2004.
130. "Prevention of Venous Thromboembolism," Medical Grand Rounds, St. Johns's Hospital, Detroit, Michigan, March 2, 2004.
131. "The Current Management of Medical Patients at Risk for Venous Thromboembolism," Medical Grand Rounds, The Chester County Hospital, West Chester, PA, March 5, 2004.
132. "Prevention of VTE in the Medically Ill Patient," Lake Erie Osteopathic College of Medicine Internal Medicine Update, Findley Lake, NY, March 6, 2004.
133. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Broward County Hospital, Fort Lauderdale, Florida, March 17, 2004.
134. "Prevention of DVT/PE in the Hospitalized Patient, Medical Grand Rounds, Doylestown Hospital, Doylestown, PA, March 23, 2004.
135. "VTE Prophylaxis in the Medical Patient," Medical Grand Rounds, Sacred Heart Hospital, Allentown, PA, March 23, 2004.
136. "Prevention of DVT/PE in the Medically Ill," Medical Grand Rounds, Allina Hospital, Minneapolis, MN, March 31, 2004.
137. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, George Washington University Hospital, Washington D.C., April 1, 2004.
138. "Prevention of VTE in High-Risk Abdominal Surgery Patients," CME Symposia sponsored by Johns Hopkins University, Aventura, FL, April 17, 2004.
139. "Contemporary Update: Acute Coronary Syndromes," Critical Care Precourse, Society of Hospital Medicine Annual Meeting, New Orleans, LA, April 19, 2004.
140. "VTE Prophylaxis of the At-Risk Medical Patient," SHM Symposia, New Orleans, LA, April 19, 2004.
141. "Tools and Solutions for Quality Perioperative Care," Society of Hospital Medicine Annual Meeting, New Orleans, LA, April 20, 2004.
142. "Intravenous Therapy for Acute Decompensated Heart Failure: What is the Role of Nesiritide," SHM Symposia, New Orleans, LA, April 20, 2004.

143. "Contemporary Update: Treatment for Congestive Heart Failure," Society of Hospital Medicine Annual Meeting, New Orleans, LA, April 21, 2004.
144. "Prevention of VTE in Special Patient Populations," Medical Grand Rounds, Waterbury Hospital, Yale University, Waterbury, Connecticut, August 12, 2004.
145. "Update in Thrombosis: Review of ACCP Guidelines," Medical Grand Rounds, Beaver Creek Medical Center, Beaver Creek, PA, September 17, 2004.
146. "Prevention of VTE in the Medically Ill Patient," Medical Grand Rounds, St. Mary's Medical Center, Langhorne, PA, September 28, 2004.
147. "Strategies to Improve VTE Prophylaxis in the Acute Care Setting," Medical Grand Rounds, Orlando Regional Medical Center, Orlando, FL, October 19, 2004.
148. "Update on Prevention and Treatment of Venous Thromboembolism in Medically Ill Patients," Medical Grand Rounds, Memorial Healthcare System, Fort Lauderdale, Florida, March 2, 2005.
149. "Are the ACCP Guidelines for the Prevention of VTE in Medically Ill Patients Appropriate?" CME Symposia, American College of Physicians National Meeting, San Francisco, CA, April 15, 2005.
150. "Update in Venous Thromboembolism," Medical Grand Rounds, McGraw-Hill Hospital, Loyola University, Chicago, IL, April 27, 2005.
151. "Challenging Cases in Perioperative Medicine," Society of Hospital Medicine National Meeting, Chicago, IL, April 28, 2005.
152. "Care for the Elderly Patient Having Surgery," Society of Hospital Medicine National Meeting, Chicago, IL, April 28, 2005.
153. "Update in Thrombosis," Society of Hospital Medicine National Meeting, Chicago, IL, April 28, 2005.
154. "New Issues in the Management of Congestive Heart Failure," Cardiology Grand Rounds, Tampa General Hospital, Tampa Bay, FL, May 11, 2005.
155. "Hospitalists and Geriatricians at the Interface: Collaborative Models to Improve Care to Inpatient Elders," American Geriatric Society National Meeting, Orlando, FL, May 14, 2005.
156. "Hospitalists Role in Preventing Venous Thromboembolism, Virginia Chapter Meeting of the Society of Hospital Medicine, Norfolk, VA, June 22, 2005
157. "Update in Venous Thromboembolism," Medical Grand Rounds, Norfolk General Hospital, Sentara Healthcare System, Norfolk, VA, June 23, 2005.
158. "Update in Venous Thromboembolism," Medical Grand Rounds, Maryview Medical Center, Portsmouth, VA, June 24, 2005.
159. "Update on Venous Thromboembolism," Sun and CME Conference, Cleveland Clinic Alumni Association, Naples, Florida, February 10, 2006.
160. "Update on New Therapies for Congestive Heart Failure," Trends in Nursing Symposium, Reno, Nevada, March 21, 2006.
161. "Acute Heart Failure: Process of Care in the Hospital Setting," 25<sup>th</sup> Annual High Sierra Critical Care Conference, American Lung Association, Reno, Nevada, March 21, 2006.
162. "Venous Thromboembolism Overview," National Quality Summit, Washington DC, March 24, 2006.
163. "Prevention of Venous Thromboembolism, The Cleveland Clinic Experience," American College of Healthcare Executives National Congress, Chicago, Illinois, March 29, 2006.
164. "Care for the Elderly Patient Having Surgery," Society of Hospital Medicine National Meeting, Perioperative Precourse, Washington DC, May 3, 2006.
165. "Contemporary Deep Vein Thrombosis Prophylaxis and Treatment," CME Symposia, National Meeting of the Society of Hospital Medicine, Washington DC, May 4, 2006
166. "Challenging Cases in Perioperative Medicine," Society of Hospital Medicine National Meeting, Washington DC, May 5, 2006.
167. "Disadvantages of Sliding Scale Insulin," CME Symposia, National Meeting of the Society of Hospital Medicine, Washington DC, May 5, 2006.
168. "Update in Venous Thromboembolism," Medical Grand Rounds, South Bend Memorial Hospital, South Bend, Indiana, May 10, 2006.



169. "Perioperative Care," Medical Grand Rounds, Baptist Hospital, Wake Forest University, Winston-Salem, North Carolina, May 24, 2006.
170. "Prevention of Venous Thromboembolism," Medical Grand Rounds, Meadville Hospital, Meadville, Pennsylvania, May 31, 2006.
171. "Update in Venous Thromboembolism," Medical Grand Rounds, Rhode Island Hospital, Providence, Rhode Island, July 12, 2006.
172. "Prevention of Venous Thromboembolism," Medical Grand Rounds, Mount Carmel East Hospital, Columbus, Ohio, July 19, 2006
173. "New Advances in the Treatment of Venous Thromboembolism," Medical Grand Rounds, Mount Carmel West Hospital, Columbus, Ohio, July 19, 2006.
174. "Update on Antithrombotic Therapy," Medical Grand Rounds, Ohio Valley General Hospital, McKees Rocks, PA, October 10, 2006.
175. "Update on Venous Thromboembolism Prevention and Treatment," Medical Grand Rounds, Bon Secours Hospital, Baltimore, MD. October 12, 2006.
176. "Update on Venous Thromboembolism," Medical Grand Rounds, WCA Hospital, Jamestown, NY, November 1, 2006.
177. "Prevention and Treatment of Venous Thromboembolism," Outside the Heart: Treating Vascular Disease in the 21<sup>st</sup> Century, Robinswood Medical Center, Hagerstown, MD, December 7, 2006.
178. "Update in Venous Thromboembolism," Medical Grand Rounds, Mercy Medical Center, Springfield, MA, December 18, 2006.
179. "Update in Venous Thromboembolism," West Virginia Medical Society Quarterly Meeting, Beckley, WV, April 19, 2007
180. "Prevention and Treatment of Venous Thromboembolism, Medical Grand Rounds, Georgetown University Hospital, April 24, 2007
181. "Prevention and Treatment of Venous Thromboembolism, Medical Grand Rounds, Thomas Jefferson University Hospital, April 25, 2007.
182. "Anticoagulation in the OR" Society of Hospital Medicine Perioperative Precourse, Dallas, Texas, May 23, 2007.
183. "Achieving the Standards for Prevention and Care of Venous Thromboembolism in the Hospital," CME Symposia Chair, Society of Hospital Medicine Annual Meeting, Dallas, Texas, May 23, 2007.
184. "Guidelines and Measures for VTE Prevention and Care-Implementing New Standards," CME Symposia, Society of Hospital Medicine Annual Meeting, Dallas, Texas, May 24, 2007.
185. "Hyperglycemia and Diabetes in the Hospitalized Patient" CME Symposia Chair, Society of Hospital Medicine Annual Meeting, Dallas, Texas, May 24, 2007.
186. "Rules of Engagement: the Hospitalist and Atherothrombosis," CME Symposia Chair, Society of Hospital Medicine Annual Meeting, Dallas, Texas, May 24, 2007.
187. "Master Clinicians Workshop: Challenges in Acute Decompensated heart Failure, CME Symposia Chair, Society of Hospital Annual Meeting, Dallas, Texas, May 25, 2007.
188. "Managing the Acute Decompensated Heart Failure Patient Admitted to the in-Hospital Setting: the Hospitalist Perspective," CME Symposia, Society of Hospital Annual Meeting, Dallas, Texas, May 25, 2007.
189. "Prevention of Venous Thromboembolism, Medical Grand Rounds, West Chester Hospital, West Chester, PA, June 14, 2007.
190. "DVT Hypercoagulable States: Inpatient and Outpatient Treatment," 2007 Internal Medicine Conference: Year in Review, Orlando Regional Medical Center, Orlando, FL, July 20, 2007.
191. "Heart Failure," 2007 Internal Medicine Conference: Year in Review, Orlando Regional Medical Center, Orlando, FL, July 20, 2007.
192. "Update in Venous Thromboembolism," Medicine Grand Rounds, Sacred Heart Hospital, Eau Claire, WI, July 31, 2007
193. "Prevention, Detection, and Management of Venous Thromboembolism," Best Practices in Primary Care Conference, Primary Care Network, Las Vegas, NV, September 14, 2007.

194. "Update in Venous Thromboembolism," Medicine Grand Rounds, Holland Hospital, Holland, MI, September 21, 2007.
195. "Update in Venous Thromboembolism," Lake Erie College of Osteopathic Medicine, Erie, PA, October 10, 2007.
196. "New Issues in Venous Thromboembolism and Heparin-Induced Thrombocytopenia," Medicine Grand Rounds, Memorial Hospital of South Bend, South Bend, IN, October 11, 2007.
197. "Prevention, Detection, and Management of Venous Thromboembolism," Best Practices in Primary Care Conference, Primary Care Network, Dallas, TX, November 2, 2007.
198. "The Two-Sides of DVT and Pulmonary Embolism: Prophylaxis and Treatment," Department of Medicine Grand Rounds, Sinai-Grace Hospital, Detroit Medical Center, Detroit, MI, January 24, 2008
199. "Prevention of VTE in the Medically Ill Patient," Medicine Grand Rounds, Delnor Community Hospital, Geneva, IL, February 20, 2008
200. "Prevention of Venous Thromboembolism," Medicine Grand Rounds, North Shore University Hospital, Manhasset, NY, February 26, 2008
201. "New Issues in Venous Thromboembolism," Medicine Grand Rounds, Methodist Hospital of Thomas Jefferson University, Philadelphia, PA, February 27, 2008.
202. "Reducing the Burden of Venous Thromboembolism," PRIMED Symposia, Horizon CME, Houston, TX, March 7, 2008.
203. "Perioperative Anticoagulation and the Threat of Heparin-Induced Thrombocytopenia," Medical Grand Rounds, Forsyth Medical Center, Winston-Salem, North Carolina, March 12, 2008.
204. "Prevention and Treatment of VTE," Medical Grand Rounds, Iredell Memorial Hospital, Statesville, North Carolina, March 12, 2008.
205. "Risk Assessment for DVT and PE," Respiratory Care Update 2008, Weirton Medical Center, Weirton, WV, March 17, 2008.
206. "Prevention of Venous Thromboembolism," Medical Grand Rounds, Broward County Medical Center, Fort Lauderdale, FL, March 19, 2008.
207. "Identifying VTE Prophylaxis Patient Circumstances in the Hospital Setting," CME symposia at the Society of Hospital Medicine Annual Meeting, France Foundation accredited, San Diego, CA, April 3, 2008.
208. "Challenges in Anticoagulant Therapy," CME symposia at the Society of Hospital Medicine Annual Meeting, University of Cincinnati accredited, San Diego, CA, April 4, 2008.
209. "Burden of VTE in the Hospitalized Patient," CME symposia at the Society of Hospital Medicine Annual Meeting, Horizon CME and the Cleveland Clinic accredited, San Diego, CA, April 4, 2008.
210. "Overview of Acute Decompensated Heart Failure," CME symposia at the Society of Hospital Medicine Annual Meeting, Postgraduate Institute for Medicine accredited, San Diego, CA, April 5, 2008.
211. "National Quality Initiative and Anticoagulant Therapy," University Healthcare Thrombosis Symposium, University of Utah, Salt Lake City, Utah, April 18, 2008.
212. "Prevention of Venous Thrombosis," Medical Grand Rounds, Lee Memorial Hospital, Fort Myers, FL, April 22, 2008.
213. "Improving Patient Outcomes in Heart Failure: An Interdisciplinary Approach," CME Symposia, Emeritus Educational Sciences, New Orleans, LA, May 10, 2008.
214. "Risk Stratification and DVT Prophylaxis," Medical Grand Rounds, Holyoke Medical Center, Holyoke, MA, May 13, 2008.
215. "VTE Prophylaxis: What to Use, For Whom and For How Long?" CME Symposia, National Meeting of the American College of Physicians, Washington D.C, May 16, 2008.
216. "Improving the Efficiency of Heart Failure Care," Medical Grand Rounds, Saginaw Hospital, Covenant Healthcare, Saginaw, MI, May 29, 2008.
217. "Improving Patient Outcomes in Heart Failure: An Interdisciplinary Approach," CME Symposia, Emeritus Educational Sciences, Chicago, IL, May 31, 2008.

218. "Improving Patient Outcomes in Heart Failure: An Interdisciplinary Approach," CME Symposia, Emeritus Educational Sciences, Philadelphia, PA, June 14, 2008.
219. "VTE/PE Prophylaxis and Treatment: An Urgent Call to Action for a Common, Preventable Disease," Palms West Hospital, Loxahatchee, FL, July 23, 2008.
220. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Banner Health Good Samaritan Hospital, Phoenix, Arizona, September 11, 2008.
221. "New Issues in the Management of Acute Decompensated Heart Failure," Medical Grand Rounds, Covenant Medical Center, Saginaw, Michigan, October 2, 2008.
222. "Reducing the Burden of Venous Thromboembolism," PRIMED Symposia, New York City, NY, Horizon CME, October 3, 2008.
223. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Corpus Christi Medical Center, Corpus Christi, TX, October 21, 2008.
224. "New Issues in the Management of Venous Thromboembolism," Medical Grand Rounds and Visiting Professor, Long Island Jewish Hospital, Long Island, NY, October 23, 2008.
225. "VTE Quality Measures," CME Symposia at the American College of Chest Physicians Annual Meeting, Philadelphia, PA, October 27, 2008.
226. "VTE Guidelines and HIT: What the Emergency Physician Needs to Know," CME Symposia at the American College of Emergency Physicians Annual Meeting, Chicago, IL, October 28, 2008.
227. "Prevention and Treatment of VTE: New Strategies and Guidelines for Improving Patient Outcomes," Medical Grand Rounds, Community Hospital, Munster, IN, October 30, 2008.
228. "Reducing the Burden of Venous Thromboembolism," PRIMED Symposia, Boston, MA, Horizon CME, November 6, 2008.
229. "Prevention and Treatment of VTE: New Strategies and Guidelines for Improving Patient Outcomes," Medical Grand Rounds, Danbury Hospital, Danbury, CT, November 12, 2008.
230. "Improving Patient Outcomes in Heart Failure: An Interdisciplinary Approach," CME Symposia, Emeritus Educational Sciences, La Jolla, CA, November 16, 2008.
231. "Preoperative Medical Evaluation," Medical Grand Rounds, South Bend Regional Hospital, Notre Dame University, South Bend, IN, December 3, 2008.
232. "Prevention and Treatment of VTE: New Strategies and Guidelines for Improving Patient Outcomes," Medical Grand Rounds, Eagle Valley Medical Center, Glenwood Springs, Colorado, January 7, 2009.
233. "New Issues in Venous Thromboembolism," Medical Grand Rounds, Baptist Medical Center, Montgomery, AL, January 20, 2009.
234. "Prevention and Treatment of VTE: New Strategies and Guidelines for Improving Patient Outcomes," Medical Grand Rounds, VA Gulfcoast Veterans Health Care System, Biloxi, MS, January 22, 2009.
235. "Prevention of Venous Thromboembolism After Surgery," 4<sup>th</sup> Annual Perioperative Summit, Miami, Florida, February 5, 2009.
236. "Anticoagulation and Thromboembolism Jeopardy," 4<sup>th</sup> Annual Perioperative Summit, Miami, Florida, February 6, 2009.
237. "Medicolegal Issues in Perioperative Medicine: Lessons from Some Real Cases," 4<sup>th</sup> Annual Perioperative Summit, Miami, Florida, February 6, 2009.
238. "The Scoop on VTE Prophylaxis: Who, What, When, and How to Prevent Thrombosis," PRIMED Symposia, Fort Lauderdale, FL, Horizon CME, February 12, 2009.
239. "Prevention of VTE," Medical Grand Rounds, St. John's Regional Medical Center, Oxnard, CA, February 24, 2009.
240. "The Scoop on VTE Prophylaxis: Who, What, When, and How to Prevent Thrombosis," PRIMED Symposia, Chicago, IL, Horizon CME, March 4, 2009.
241. "Prevention and Treatment of Venous Thromboembolism," Quarterly CME Staff Meeting, Genesis Medical Center, Davenport, IA, March 31, 2009.
242. "Prevention and Treatment of Venous Thromboembolism," Medical Grand Rounds, Mercy Medical Center, Des Moines, IA, March 31, 2009.

243. "Acute Heart Failure Innovations in Action – Routine Prophylaxis for Venous Thromboembolism," Society of Chest Pain Centers National Meeting, Memphis, TN, April 30, 2009.
244. "Preventing VTE in the Elderly: Do the benefits outweigh the risks?" Satellite Symposium at the Annual Meeting of the American Geriatric Society (AGS), Chicago, IL, May 2, 2009.
245. "Novel Treatments and the Future of VTE Prophylaxis," CME Symposia – Challenges and Advances in the Prevention of Perioperative Venous Thromboembolism, Society of Hospital Medicine Annual Meeting, Chicago, IL, May 15, 2009.
246. "Prevention of VTE," Medical Grand Rounds, Spectrum Health Medical Center, Grand Rapids, MI, May 21, 2009.
247. "The Scoop on VTE Prophylaxis: Who, What, When, and How to Prevent Thrombosis," PRIMED Symposia, Los Angeles, CA, Horizon CME, June 11, 2009.
248. "VTE prophylaxis in the hospital: interventions for improving care," Cardiology Grand Rounds, Boston Medical Center, Boston, MA, September 16, 2009.
249. "VTE prophylaxis in the hospital: interventions for improving care," Medicine Grand Rounds, Methodist Hospital, Jefferson Health System, Philadelphia, PA, September 23, 2009.
250. "VTE prophylaxis in the hospital, interventions for improving care," Oncology Grand Rounds, Washington Cancer Institute, Washington Hospital Center, Washington DC, September 25, 2009.
251. "VTE prophylaxis in the hospital, interventions for improving care," Medical Grand Rounds, Robert Wood Johnson Medical Center, New Brunswick, NJ, October 7, 2009.
252. "VTE prophylaxis in the hospital, interventions for improving care," Society of Hospital Medicine Chapter Meeting, Hartford, CT, October 15, 2009.
253. "VTE prophylaxis in the hospital, interventions for improving care," Medical Grand Rounds, University of Oklahoma Health Sciences Center, Oklahoma City, OK, October 16, 2009.
254. "Hardwiring a VTE Program to Ensure Success," Chest 2009 Annual Meeting, San Diego, CA, November 5, 2009.
255. "Preventing VTE in the Community: Best Practices for Establishment and Management of an Outpatient VTE Prevention Program," Horizon CME Symposia, Houston, TX, January 21, 2010.
256. "Preventing VTE in the Community: Best Practices for Establishment and Management of an Outpatient VTE Prevention Program," Horizon CME Symposia, Baltimore, MD, February 4, 2010.
257. "Overcoming Barriers to HIT Identification and Management in the Hospital Setting: Practical Tips and Tools," Medical Grand Rounds, St. Clare Hospital, Fenton, MO, February 18, 2010.
258. "Prevention of VTE in the Surgical Patient," 5<sup>th</sup> Annual Perioperative Summit, Miami, FL, March 4, 2010.
259. "Meet the Experts: Perioperative Anticoagulation," 5<sup>th</sup> Annual Perioperative Summit, Miami, FL, March 5<sup>th</sup>, 2010.
260. "Medicolegal Issues in Perioperative Medicine,," 5<sup>th</sup> Annual Perioperative Summit, Miami, FL, March 6, 2010.
261. "Preventing VTE in the Community: Best Practices for Establishment and Management of an Outpatient VTE Prevention Program," Horizon CME Symposia, Seattle, WA, March 11, 2010.
262. "Meeting the Challenge of VTE: Strategies for Implementing guideline-based Recommendations," Medical Grand Rounds, Oak Forest Hospital of Cook County, Chicago, IL, March 18, 2010.
263. "Meeting the Challenge of VTE: Strategies for Implementing guideline-based Recommendations," Medical Grand Rounds, Saint Joseph Medical Center, Towson, MD, March 24, 2010.

264. "Meeting the Challenge of VTE: Strategies for Implementing guideline-based Recommendations," Raleigh County Medical Society Meeting, Beckley, WV, March 25, 2010.
265. "Meeting the Challenge of VTE: Strategies for Implementing guideline-based Recommendations," Medical Grand Rounds, Heritage Valley Health System, Beaver, PA, April 1, 2010.
266. "VTE Prevention, Diagnosis, and Management," Medical Grand Rounds, Lee Memorial Health System, Fort Myers, FL, April 8, 2010.
267. "Meeting the Challenge of VTE: Strategies for Implementing guideline-based Recommendations," Medical Grand Rounds, Community Hospital, Munster, IA, April 22, 2010.
268. "The Nuts and Bolts of Preoperative Evaluation: What Every Internist Needs to Know," Primed-ACP Access, Milwaukee, WI, June 16, 2010.
269. "Prophylaxis and Treatment for VTE: Implementing Evidence-based Recommendations," Medical Grand Rounds, Long Beach Medical Center, Long Beach, NY, June 18, 2010.
270. "Prophylaxis and Treatment for VTE: Implementing Evidence-based Recommendations," Medical Grand Rounds, Margaret R. Pardee Memorial Hospital, Hendersonville, NC, June 22, 2010.
271. "Prophylaxis and Treatment for VTE: Implementing Evidence-based Recommendations," Medical Grand Rounds, Norton Community Hospital, Norton, VA, June 24, 2010.
272. "Prophylaxis and Treatment for VTE: Implementing Evidence-based Recommendations," Medical Grand Rounds, VA Medical Center, Beckley, WV, June 25, 2010.
273. "Prophylaxis and Treatment for VTE: Implementing Evidence-based Recommendations," Medical Grand Rounds, Baptist Medical Center, Pensacola, FL, July 30, 2010.
274. "Prophylaxis and Treatment for VTE: Implementing Evidence-based Recommendations," Medical Grand Rounds, Dekalb Medical Center, Dekalb, GA, October 19, 2010.
275. "Prophylaxis and Treatment for VTE: Implementing Evidence-based Recommendations," Medical Grand Rounds, Holy Cross Hospital, Silver Springs, MD, November 23, 2010.
276. "Meeting the Challenge of VTE: Strategies for Implementing guideline-based Recommendations," Medical Grand Rounds, Parkview Hospital, Fort Wayne, IN, January 31, 2011
277. "A Call to Action for Improved Thromboprophylaxis and Venous Thromboembolism Management in Oncology," Medical Grand Rounds, Princeton University Medical Center, Princeton, NJ, February 22, 2011
278. "Prevention of VTE in the Surgical Patient," 6th Annual Perioperative Summit, Miami, FL, March 3, 2011.
279. "Meet the Experts: Perioperative Anticoagulation," 6th Annual Perioperative Summit, Miami, FL, March 4, 2011.
280. "Medicolegal Issues in Perioperative Medicine,," 6th Annual Perioperative Summit, Miami, FL, March 5, 2011.
281. "A Call to Action for Improved Thromboprophylaxis and Venous Thromboembolism Management in Oncology," Medical Grand Rounds, Tufts Medical Center, Boston, MA, March 25, 2011.

# STATE OF ARKANSAS

**PLAINTIFF'S  
EXHIBIT**

4

TYPE/PRINT IN  
PERMANENT  
BLACK INK.  
SEE  
INSTRUCTIONS

ARKANSAS DEPARTMENT OF HEALTH  
Vital Records  
CERTIFICATE OF DEATH

9

Kenneth Lewis Bieler

NAME OF DECEDENT (Last name, first name, middle initial, if known)

1. DECEDENT'S LEGAL NAME (Include AKA's if any) (First, Middle, Last, Suffix) <b>Kenneth Lewis Bieler</b>				2. SEX <b>Male</b>	3a. DATE OF DEATH (MM/DD/YYYY) <b>January 29, 2009</b>	3b. TIME OF DEATH <b>12:24</b>	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	
4. SOCIAL SECURITY NO. <b>514-54-8199</b>		5a. AGE - Last Birthday (Years) <b>58</b>	5b. UNDER 1 YEAR Months Days	5c. UNDER 1 DAY Hours Minutes	6. DATE OF BIRTH (MM/DD/YYYY) <b>January 3, 1951</b>	7. BIRTHPLACE (City and State or Foreign Country) <b>Topeka, Kansas</b>		
8a. RESIDENCE STATE OR FOREIGN COUNTRY <b>Arkansas</b>			8b. COUNTY <b>Sebastian</b>		8c. CITY OR TOWN <b>Fort Smith</b>			
8d. NUMBER AND STREET <b>3515 Alabama</b>				8e. APT. NO. <b>N/A</b>	8f. ZIP CODE <b>72901</b>	8g. INSIDE CITY LIMITS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
9. EVER IN US ARMED FORCES? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		10. MARITAL STATUS AT TIME OF DEATH <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Never Married <input type="checkbox"/> Married, but separated <input type="checkbox"/> Divorced <input checked="" type="checkbox"/> Unknown		11. SURVIVING SPOUSE'S NAME (If wife, give name prior to first marriage)				
12a. IF DEATH OCCURRED IN A HOSPITAL: <input checked="" type="checkbox"/> Inpatient <input type="checkbox"/> Emergency Room / Outpatient <input type="checkbox"/> Dead on Arrival				12b. IF DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL: <input type="checkbox"/> Decedent's Home <input type="checkbox"/> Hospice Facility <input type="checkbox"/> Nursing Home / Long Term Care Facility <input type="checkbox"/> Other (Specify)			12c. COUNTY OF DEATH <b>Crawford</b>	
12d. FACILITY NAME (If not institution, give number & street) <b>Summit Medical Center</b>				12e. CITY OR TOWN <b>Van Buren</b>		12f. ZIP CODE <b>72956</b>		
13. FATHER'S NAME (If not, Middle Last) <b>Burgess Lewis Bieler</b>				14. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (If not, Middle, Last) <b>Unknown</b>				
15a. INFORMANT'S NAME <b>Doris Bieler</b>		15b. RELATIONSHIP TO DECEDENT <b>Mother</b>		15c. MAILING ADDRESS (Include and Street or PO Box, City, State, Zip Code) <b>106 West 12th Ellis, KS 67637</b>				
16a. METHOD OF DISPOSITION: <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input checked="" type="checkbox"/> Removal from State <input type="checkbox"/> Other (Specify)				16b. PLACE OF DISPOSITION (Name of cemetery, crematory, other place) <b>Mt. Hope Cemetery</b>				
17a. EMBALMER'S NAME <b>Christopher Sean Rollans</b>				17b. EMBALMER'S LICENSE # <b>1885</b>	17c. SIGNATURE (FURNERAL SERVICE LICENSEE OR OTHER AGENT) <i>Christopher Sean Rollans</i>			
17d. NAME AND COMPLETE ADDRESS OF FUNERAL FACILITY <b>Fentress Mortuary 1805 North "A" Fort Smith, AR 72901</b>				17e. LICENSE # <b>64</b>				
18a. DATE PRONOUNCED DEAD (MM/DD/YYYY) <b>Jan. 29, 2009</b>		18b. TIME PRONOUNCED DEAD <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM <b>12:24</b>		18c. NAME AND TITLE OF PERSON PRONOUNCING DEATH (PRINT TYPE) <b>Jeffery Humby, MD</b>		18d. WAS MEDICAL EXAMINER OR CORNER CONTACTED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
20. PART I. Enter the (SIC) of the illness, injuries, or complications - that directly caused the death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT abbreviate. Enter only one cause on a line.							APPROXIMATE INTERVAL Elapsed to Death	
IMMEDIATE CAUSE (If not cause to condition resulting in death)							<b>massive pulmonary embolism</b> <span style="float: right;"><b>1/2 hour</b></span>	
Secondary list conditions, if any, leading to the cause listed on line A. Unlike the UNDERLYING CAUSE (See line or entry that precedes the events resulting in death) LAST							<b>deep vein thrombosis of right lower extremity</b> <span style="float: right;"><b>3 days</b></span>	
UNDERLYING CAUSE (See line or entry that precedes the events resulting in death) LAST							<b>subtrochanteric right femoral shaft fracture and</b> <span style="float: right;"><b>23 days</b></span>	
PART II. Enter other significant conditions contributing to death, but not resulting in the underlying cause given in PART I							<b>part-traumatic colonic pseudo-obstruction (Ogilvie's syndrome)</b> <span style="float: right;"><b>16 days</b></span>	
21a. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							21b. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No	
22. MANNER OF DEATH: <input type="checkbox"/> Natural <input checked="" type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending investigation <input type="checkbox"/> Could not be determined								
23. DID TOBACCO USE CONTRIBUTE TO DEATH? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Probably <input type="checkbox"/> Unknown				24. IF FEMALE: <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Unknown if pregnant within last year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death				
25a. DATE OF INJURY (MM/DD/YYYY) <b>January 6, 2009</b>		25b. TIME OF INJURY <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM <b>8:00</b>		25c. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area) <b>warehouse of MidSouth Control and Supply</b>		25d. INJURY AT WORK? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
25e. LOCATION OF INJURY: (Include Street, Apartment No., City, State, Zip Code) <b>3808 Polster Trail East, Van Buren, Arkansas 72956</b>				25f. PHONE NUMBER <b>479-471-1768</b>				
25g. DESCRIBE HOW INJURY OCCURRED: <b>slipped or tripped and fell, landing on and fracturing right femur</b>								
25h. IF TRANSPORTATION INJURY, SPECIFY: <input type="checkbox"/> Driver / Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)								
26a. CERTIFIER (Check only one): <input checked="" type="checkbox"/> Certifying Physician - To the best of my knowledge, death occurred due to the cause(s) and manner stated. <input type="checkbox"/> Pronouncing & Certifying Physician - To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated. <input type="checkbox"/> Medical Examiner - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated. <input type="checkbox"/> Coroner - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated. <input type="checkbox"/> Non-pole Registered Nurse - To the best of my knowledge, death occurred due to the cause(s) and manner stated.								
SIGNATURE <i>Henry N. Edwards MD</i>				TITLE <b>attending physician</b>				
26b. NAME AND COMPLETE MAILING ADDRESS OF PHYSICIAN SIGNING ITEM 26a. (Type Print) <b>Henry N. Edwards MD 2010 Chestnut, Suite H Van Buren, Arkansas 72956</b>				26c. LICENSE # <b>N-5612</b>				
27a. SIGNATURE OF REGISTRAR <i>Michael A. Adams</i>				27b. FOR REGISTRAR ONLY - DATE FILED (MM/DD/YYYY) <b>Feb 4 2009</b>				



THIS IS TO CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE CERTIFICATE ON FILE IN THE ARKANSAS DEPARTMENT OF HEALTH.

*Michael A. Adams*  
Michael A. Adams  
State Registrar

**WARNING:** A REPRODUCTION OF THIS DOCUMENT RENDERS IT VOID AND INVALID. DO NOT ACCEPT UNLESS EMBOSSED SEAL OF THE ARKANSAS DEPARTMENT OF HEALTH IS PRESENT. IT IS ILLEGAL TO ALTER OR COUNTERFEIT THIS DOCUMENT.

1810459

VR-112

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER. THIS IS WATERMARKED PAPER. DO NOT ACCEPT WITHOUT FIRST HOLDING TO LIGHT TO VERIFY WATERMARK.

L10-02-106 PV  
Family Request

KENNETH BIELER

26 March 2010



AUTOPSY REPORT

AUTOPSY FINDINGS:

- I. Pulmonary artery embalmed thrombus and clot.
- II. Cardiomegaly.
- III. Hepatomegaly.
- IV. Embalmed body.

SUMMARY:

The decedent dies with saddle pulmonary embolism. He has history of relatively recent accidental injury, requiring surgical repair of one femur, with continuous medical therapy since the time of repair of the femur. The risk of thromboembolism is a well-recognized sequel consequent to major injuries.

The manner of death is considered accidental.

Signed:   
Erik K. Mitchell, M.D.

Date: 27 MAY 2010

INITIAL INFORMATION:

According to initial information, the decedent was an adult male who experienced a femoral fracture. He received surgical repair of the femoral fracture and healed sufficiently to be transferred from the hospital to a non-acute care system but then, at a later point, had to return to the hospital. In hospital, he developed an episode of chest pain and within a couple of days expired.

CIRCUMSTANCE OF EXAMINATION:

The body is examined postmortem on 26 March 2010 commencing at 1320 hours on the authority of the next of kin.

WITNESS:

Catherine Francis and Annette Carper provide technical assistance. Dr. Keever witnesses most of the examination. Dr. Keever has arranged for delivery of the body. Dr. Pojman witnesses the cardiac and pulmonary artery clot.

IDENTIFICATION:

The body is brought in a dented casket to the Shawnee County morgue and the transporter identifies the body as Kenneth Bieler without viewing the body. Upon opening the casket on the 26<sup>th</sup> of March, the body of an adult male lies within and has at the left ankle a hospital armband-type ID band with the name "Bieler, Kenneth", a word that appears to be "Fentress", and then the date, 1-29-08.

EXTERNAL EXAMINATION:

The body is of an adult male who is 75 inches tall. The body is previously embalmed but has surface decomposition, some mold, and skin slip that is especially prominent over the distal extremities.

Clothing consists of a cut button-up shirt over a cut T-shirt, black jeans with belt over boxer shorts over black plastic, and in slippers.

A small photograph album is in the casket with the body.

The scalp has approximately inch-long brown hair admixed with gray. There is mustache and chin beard hair.

The right ventral base of the neck has a cotton covered, 1 5/8 inch long, sutured incision consistent with an embalming access site. Immediately caudal thereto is a 1/8 inch diameter puncture consistent with medial vascular access.



The abdomen has a "trocar button" screwed into a hole in the abdominal wall.

No scars are identified at the wrists or antecubital fossae.

The right thigh has a 3 inch long, vertical, healed incision at the hip laterally. Distal thereto is a vertically oriented, 2 3/4 inch long, sealed surgical incision, and immediately proximal to the lateral aspect of the right knee is a 1 inch long vertically oriented healed incision.

No tattoos or other identifying marks are found. There are areas of mold growth and discoloration of the skin.

Body fluids have oozed from the body and partially glued the body to the casket contents.

The body is lifted from the casket, undressed, and examined.

**INTERNAL EXAMINATION:**

The scalp is without bruise over an unbroken calvarium.

The 1,240 gram brain has a clear meningeal surface. There is no subdural, subarachnoid, or epidural blood. There is no subdural membrane. The brain is quite pale with symmetric structure and well-formed gyri. There is no localized area of discoloration or tissue loss in cerebrum, cerebellum, pons, or medulla. Intracranial vessels are thin-walled, translucent structures free of any clot. There is no plaque. The gray matter ribbon is uniform thickness. Deep gray structures are symmetric and appropriate in configuration. Mammillary bodies are without asymmetry. Cerebellar folia are full. Lateral ventricles are blunted and contain a small amount of clear fluid.

The upper airway is empty.

The hyoid is calcified without fracture, and there is no fracture of the larynx. There is no hemorrhagic discoloration of soft tissues immediately deep to hyoid or larynx. The epiglottis is tan. The esophagus has no visible bruise deep to the larynx. Strap muscles are without focal discoloration. The bone structure of the neck is stable and precervical fascia is without localized discoloration.

The thyroid is approximately symmetric structure across the midline and consists of finely divided, pale, even textured, slightly gelatinous tissue.

The chest wall has no focal internal injury, and there is no acute rib fracture. A small amount of fixed, reddish-brown material consistent with fixed body fluid is on the surface of the lungs, more prominently on the right than the left.

L10-02-106 PV  
Family Request

KENNETH BIELER

26 March 2010

The 630 gram heart has a smooth epicardial surface without adhesion. Coronary arteries show slight, minimally intrusive plaque in right and left coronary artery distributions. The arteries are widely patent, and there is no luminal clot. The myocardium is contracted. There is even thickness of the left ventricle with estimated 0.4 cm right ventricular thickness. The endocardium is smooth. There are granular areas of fixed clot, some of which show separation into currant-jelly and chicken-fat type areas in the residual volume of the cardiac chambers with exception of the right ventricle at the outflow tract where there is a cylindrical portion of relatively smooth surfaced and slightly "U" shaped clot that appears consistent with antemortem thrombus. The valves are delicate and have no vegetations.

The aorta has the usual radicles and is free of clot. The aorta has minimal amount of fixed granular blood.

The 740 gram right lung and 620 gram left lung have empty airways barring a small amount of grayish-tan, slightly granular material, consistent with fixed body fluid. In the pulmonary trunk and the primary pulmonary artery branches of each lung, is firm, cylindrical, coherent clot as well as some friable reddish material about the areas of firm clot. The firm clot appears on transection to have some areas of laminar structure. There are also occasional minute surface projections consistent with tributary veins not in the pattern of the pulmonary venous structure. The clot varies from approximately 1 cm to nearly 2 cm diameter and focally in the left lung appears adherent to the pulmonary artery wall. The ventral aspects of the lungs are pink and relatively soft. The dorsal aspects of the lungs are red, soft, and relatively less fixed by the embalming than the ventral tissues, to gross examination. No discrete wedge-shaped lesion is identified. No mass is identified.

The peritoneal cavity has extensive trocar perforations, especially of the bowel.

The 2,300 gram liver has a blunt ventral margin. The tissue is firm and fixed but has no indication of nodule formation. The gallbladder appears embedded in the liver with a firm, fixed wall and with fixed green biliary content that at its softest has a somewhat sludge-like consistency but is without calculus. The biliary tree in the portal triad is virtually empty with maximum diameter of the bile duct of slightly less than 0.5 cm.

The 370 gram spleen has a thin, intact capsule and reddish-gray internal tissue that has uniform appearance with inapparent white pulp granulation.

Within the thorax the esophagus has smooth, uninterrupted mucosa. The stomach has rugose mucosa without mass lesion or ulceration. Small and large bowel have soft, flabby tissue with some greenish-brown fixed material in the

L10-02-106 PV  
Family Request

KENNETH BIELER

26 March 2010

TOXICOLOGIC EXAMINATION: kt

St. Louis University Toxicology Laboratory Report  
6039 Helen Ave, Berkeley, Missouri 63134

Name: BIELER, KENNETH  
Age:

Race:

Tox # 2010-2236  
Sex: Male

Requesting Agency: PRIVATE

=====  
Liver:

Alcohol:

Ethanol:	_____	Negative
METHANOL:	_____	POSITIVE
Acetone:	_____	Negative
Isopropanol:	_____	Negative

Drug Screen:

Amphetamines:	_____	Negative
Antidepressants:	_____	Negative
Barbiturates:	_____	Negative
Benzodiazepines:	_____	Negative
Cannabinoids (THC):	_____	Negative
Cocaine/Metabolites:	_____	Negative
Lidocaine:	_____	Negative
Non-Opiate Narcotic Analgesics:	_____	Negative
Opiates:	_____	Negative
Phencyclidine (PCP):	_____	Negative
Phenothiazines:	_____	Negative
Methadone:	_____	Negative
Propoxyphens:	_____	Negative
Acetaminophen:	_____	Negative
Salicylates:	_____	Negative
Oxycodone:	_____	Negative
Fentanyl:	_____	Negative
Oxymorphone:	_____	Negative

=====  
Requested by: SHAWNEE COUNTY CORONER

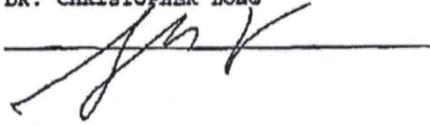
Date: 03/26/10

Received in Lab:

Date/Time: 03/30/10//10:30 AM

Report by: DR. CHRISTOPHER LONG

Date/Time: 04/15/2010//08:52 AM



Pathologist's Note:

Methanol is a common ingredient of embalming fluid.

L10-02-106 PV  
Family Request

KENNETH BIELER

26 March 2010

**MICROSCOPIC EXAMINATION:**

- Heart:** mild postmortem changes. No inflammation, necrosis, or fibrosis.
- Lung:** edema with bloody fluid in some alveoli. In some vessels are thromboemboli with well-developed lines of Zahn. No fibroblast response to the emboli is detected in the sections sampled.
- Liver:** postmortem distention of sinusoids and loss of hepatocyte tinctorial affinity. No fibrosis or aggregates of inflammatory cells. No large vacuoles. The gallbladder adventitia has increase in reticular arrangement of fibroblasts that appear mature.
- Spleen:** loss of red cells. Increased distance between cells. Moderate loss of cytoplasmic definition. Formalin pigment. All findings consistent with postmortem change and embalming.
- Pancreas:** loss of cytologic structure, with retention of cell outlines.
- Adrenal:** no inflammation or hemorrhage into cortex. Mild postmortem changes.
- Kidney:** relatively better preservation than liver and spleen. Increased cell separation. Some formalin pigment. No indication of significant antemortem pathology.
- Brain:** hippocampal and cerebellar sections taken show postmortem clearing about cell bodies and granular appearance of stain.
- Pituitary:** without significant pathologic lesion.

Signed:   
Erik K. Mitchell, M.D.

Date: 27 March 2010

kt

ALLERGIES:

WEIGHT: \_\_\_\_\_ KG HEIGHT: \_\_\_\_\_

WRITE OR PLACE IN INFORMATION CELL

DATE:

TIME:

PLAINTIFF'S EXHIBIT

6

DVT Prevention Orders

Risk factors for DVT (Nurse to check all that apply)

- Immobility greater than 24 hours
- Age greater than 50
- Ischemic stroke (non-hemorrhagic)
- Obesity
- Heart failure
- Pneumonia
- Infection
- Inflammatory bowel disease
- Femoral Vein catheter
- Trauma
- Pregnant or less than 1 month postpartum
- Hormone replacement therapy or birth control pills
- Chronic Obstructive Pulmonary Disease (COPD)
- Prior history of deep vein thrombosis (DVT) or pulmonary embolus
- Recent major surgery (greater than 30 minutes of general anesthesia in past 6 months)

Anticoagulant Contraindications (Nurse to check all that apply)

- INR greater than 2
- Concurrent heparin or warfarin therapy
- Allergy to heparin or pork
- Bleeding disorder
- GI bleed less than 30 days
- Platelets less than 50,000
- History of heparin-induced thrombocytopenia
- Epidural or spinal anesthesia (relative contraindication)
- History of hemorrhagic stroke within 3 months

Physician to Initial Choice:

1. If Two (2) or more Risk Factors and No Contraindications:

- \_\_\_\_\_ Heparin 5000 units subcutaneously every 8 hours.
- \_\_\_\_\_ Fondaparinux (Arixtra) 2.5 mg subcutaneously every 24 hours.
- \_\_\_\_\_ Labs: \_\_\_\_\_

2. If Two (2) or more Risk Factors and Contraindications Present:

- \_\_\_\_\_ Intermittent Pneumatic Compression Devices (Sequential's)
- \_\_\_\_\_ Compression stockings (TED Hose)
- \_\_\_\_\_ Other: \_\_\_\_\_

3. If One (1) or Zero (0) Risk Factors:

- \_\_\_\_\_ Compression stockings
- \_\_\_\_\_ Early ambulation as tolerated
- \_\_\_\_\_ Other: \_\_\_\_\_

Physician Signature: \_\_\_\_\_ Date / Time: \_\_\_\_\_

Please Print Name Last First

DO NOT USE

U or u

U

Q.D.

Q.O.D.

DO use a leading 0 when writing decimal or fraction as a whole number. I.e. 0.5

DO NOT use a trailing 0 when writing a whole number. I.e. 50

ME or MICH

kg/24



# CREATININE LEVELS

1/13	11:30 PM	1.8 MG/CC
1/15	4:20 AM	2.7
1/15	3:35 PM	4.2
1/16	5:30 AM	4.1
1/16	7:59 PM	2.8
1/17	4:20 AM	2.3
1/18	5:30 AM	1.7
1/19	6:15 AM	1.5
1/21	12:55PM	1.3
1/22	5:25 AM	1.1
1/24	5:05 AM	1.1
1/27	5:30 AM	1.1
1/28	5:15 AM	2.0

**FRANK MICHOTA, M.D. SUMMARY OF OPINIONS**

**ESTATE OF KENNETH BEILER V. HENRY EDWARDS, M.D.**



DATE/TIME FOR START OF TREATMENT	CONCLUSION ON SURVIVAL BASED ON REASONABLE MEDICAL PROBABILITY (51%)	HOSPITAL	CONCLUSION ON SURVIVAL BASED BEYOND REASONABLE MEDICAL PROBABILITY	ONE YEAR
1/14/09 TO 1/25/09 STANDARD DOSE OF PREVENTATIVE BLOOD THINNERS	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	11-1810	97-100%	97-100%
1/25/09 FULL DOSE OF LOVENOX	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	97-101%	97%	97%
1/27/09 11:00 A.M. FULL DOSE OF LOVENOX	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	97-99%	97-98%	97-98%
1/27/09 6:00 P.M. FULL DOSE OF LOVENOX	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	93-96%	93-96%	93-96%
1/28/09 11:00 A.M. FULL DOSE OF LOVENOX	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	↓	↓	↓
1/28/09 2:45 P.M. FULL DOSE OF LOVENOX	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	↓	↓	↓
1/28/09 5:30 P.M. FULL DOSE OF LOVENOX	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	↓	↓	↓
1/29/09 8:00 P.M. FULL DOSE OF LOVENOX	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	93-98%	93-98%	93-98%

## Curriculum Vitae

**Name:** John S. Daniels, MD

**Home Address:** 2156 Lafayette Avenue  
Saint Louis, Missouri 63104

**Office Address:** 4921 Parkview Place  
Suite 13A  
Saint Louis, Missouri 63110

**Home Phone:** 314 569-1574  
**Office Phone:** 314 333-4119 fax 314 333-4115

**Email Address:** [jonsanloui@aol.com](mailto:jonsanloui@aol.com)

**Date of Birth:** June 16, 1948

**Place of Birth:** Fort Smith, Arkansas

**Children:** Lauren Cecelia Brave, October 17, 1978  
Melissa Ann Peterson, March 20, 1980  
Julie Allison Daniels, May 20, 1982

**Undergraduate Education:** Washington University, Saint Louis, Missouri, B.A. June 1970

**Medical Education:** University of Arkansas School of Medicine  
Little Rock, Arkansas, June 1974  
Degrees: MD (Faculty Key, 1<sup>st</sup> ranked in class)  
MS (Anatomy)

**Honor Societies:** Alpha Omega Alpha  
Sigma Xi  
Fellow, American College of Physicians

**Internship:** Washington University/Barnes Hospital  
1974-75, Internal Medicine

**Residency:** Washington University/Barnes Hospital  
1975-77, Internal Medicine

**Fellowship:** Washington University/Barnes Hospital  
1977-79, Endocrinology and Metabolism

1274

PLAINTIFF'S  
EXHIBIT

8A



**Academic****Appointments:**

Assistant Director (Chief Resident), Department of  
Internal Medicine, Washington University  
Saint Louis, Missouri 1979-80

Associate Clinical Professor of Medicine  
Washington University School of Medicine

**Private Practice:**

Internal Medicine, Diabetes and Endocrinology  
1980 to present

**Board****Certifications:**

Internal Medicine, 1977  
Endocrinology and Metabolism, 1979

**Awards:**

Faculty Key, University of Arkansas School of Medicine  
(1<sup>st</sup> ranked in class over 4 years)  
Buchanan Key, University of Arkansas School of Medicine  
(peer voted outstanding student)  
Best Doctors in America, Midwest Region, 1996, 1997, 1998,  
1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
2008

**Organizations:**

Missouri State Medical Society  
American College of Physicians  
American Diabetes Association  
Editorial Staff, *Missouri Medicine*  
Editorial Staff, *Diabetes Care*

**Current****Committee:**

Committee on Admissions, Washington University School  
Of Medicine

## Publications

- Faas, F.H., Wadkins, C.L., Daniels, J.S., David, G.R., Carter, W.J., and Wynn, J.O.: Hyperparathyroidism in an elderly adult with hypophosphatasia. **Clin. Orth. Rel. Res.** 101: 216, 1974.
- Daniels, J.S. and Gilmore, S.A.: Chemography associated with specific anatomic sites in autoradiographs of brain stems from adult rats. **Brain Res.** 98: 343, 1975.
- Gilmore, S.A. and Daniels, J.S.: An autoradiographic study on the question of retrograde axoplasmic transport following injection of 3H-Leucine into tongue. **Am. J. Anat.** 139: 141, 1974.
- Daniels, J.S.: The question of retrograde axoplasmic transport in the hypoglossal nerve of the rat: an autoradiographic study of brainstem labeling patterns following injection of tritiated leucine. **Masters Thesis** (located at the University of Arkansas libraries), The University of Arkansas School of Medicine, Little Rock, Arkansas, 1974.
- Daniels, J.S., Mariz, I.K., and Daughaday, W.H.: Immunologic characterization of a rat somatomedin. **The Endocrine Society, Abstracts.** 59: 138, 1977.
- Jacobs, J.W., Rubin, J.S., Daniels, J.S., Daughaday, W.H., and Bradshaw, R.A.: Purification, characterization, and amino acid sequence of rat anaphyatoxin (C3A). **Biochemistry** 17: 5031, 1978.
- Daniels, J.S.: Diabetes Mellitus. Chapter 30 **Manual of Medical Therapeutics** 23<sup>rd</sup> Edition, 1979.
- Daniels, J.S.: Newer concepts in pathophysiology and treatment of non-insulin dependent (type II) diabetes mellitus. **Upjohn Monograph**, May, 1982.
- Daniels, J.S.: Management of diabetic ketoacidosis. **Urban Health**, March 1981, Pages 54-64.
- Olk, R.J., Lipmann, M.J., Cundiff, H.C., and Daniels, J.S.: Solitary choroidal mass as a presenting sign in systemic sarcoidosis. **Br. J. Ophth.**, 67: 826, 1981.
- Daniels, J.S. and Skor, D.A.: Intensive insulin therapy in the management of diabetes Mellitus. **Diagnosis**, 8: 89, 1986.

Daniels, J.S.: The pathogenesis and treatment of obesity. In **Eating Disorders**, Edited by Larocca, F.E.F., published by Jossey-Bass Inc., San Francisco, 1986, pages 47-60.

Daniels, J.S. and Skor, D.A: Endocrine Evaluation of the Thyroid. In **Otolaryngology Head and Neck Surgery**. Edited by Cumings, C.W., Fredrickson, J.M., Harker, L.A., Krause, C.J., and Schuller, D.E.: volume 3, pages 2485-97, 1986.

Daniels, J.S.: Evaluation of the thyroid nodule. **Insights in Otolaryngology**, Volume 2, June, 1987.

Daniels, J.S.: Abnormal nerve conduction in impotent patients with diabetes mellitus. **Diabetes Care**, 12: 449, 1989.

Skor, D.A., Daniels, J.S., and Berk, M.A. Clinical Investigators, Hoechst (Glimepiride), Protocol 201. Washington University School of Medicine, 1988-1990.

Daniels, J.S., Clinical Investigator, Echocardiographic study in patients treated with Redux or fenfluramine. Wyeth Ayeerst, 1998-1999.

## FEE SCHEDULE FOR MEDICAL LEGAL WORK

Record Review:	250/hr
Deposition Testimony:	400/hr
Trial Testimony:	One half day out of office: one half of the average of the last 90 day daily office revenue
	One day out of office: average of the last 90 day daily office revenue