

## **Exhibit J**

### **Dr. Evadne Marcolini Deposition**

**Vargas**

***Marcolini Evadne***

***3/15/2021***

**Condensed Transcript**

**Prepared by:**

Bill Ragen  
CCSAO

Tuesday, August 31, 2021

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF ILLINOIS 3 EASTERN DIVISION</p> <p>4 LETICIA VARGAS, Administrator 5 of the Estate of Angel Cruz, 6 Plaintiff, 7 8 -vs- No. 18-cv-1865 9 Judge Steven Seeger 10 SHERIFF OF COOK COUNTY, 11 COUNTY OF COOK, et al., 12 Defendants. 13 14 15 16 17 18 19 DEPOSITION OF EVADNE MARCOLINI, M.D. 20 MARCH 15, 2021 21 3:00 P.M. 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>	<p style="text-align: right;">Page 3</p> <p>1 Deposition of EVADNE MARCOLINI, M.D., 2 taken on behalf of the Defendants via Zoom 3 videoconference at 3:00 P.M. on March 15, 2021, 4 before Shelley Marvin, CSR in and for the State of 5 Illinois, CSR License No. 84-003926. 6 Deposition taken pursuant to the evidentiary 7 provisions of the Illinois Code of Civil Procedure 8 and the Rules of the Supreme Court promulgated 9 pursuant thereto. 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 2</p> <p>1 INDEX 2 APPEARANCES: 3 For the Plaintiff and the Witness: 4 Kenneth N. Flaxman 5 Joel Flaxman 6 Kenneth N. Flaxman, P.C. 7 200 South Michigan Avenue 8 Suite 201 9 Chicago, Illinois 60604 10 jaf@kenlaw.com 11 12 For the Defendants Kimberly Foxx, State's Attorney 13 of Cook County: 14 William R. Ragen 15 Assistant State's Attorney 16 500 Richard J. Daley Center 17 Chicago, Illinois 60602 18 william.ragen@cookcountyil.gov 19 20 For the Defendant Sheriff of Cook County: 21 John Power 22 Frank Catania 23 Jorie Johnson 24 500 Richard J. Daley Center 25 Chicago, Illinois 60602 26 Francis.catania@cookcountyil.gov 27 28 EXAMINATION BY: PAGE 29 Mr. Ragen 5 30 Mr. Power 138 31 32 EXHIBITS: 33 Exhibit No. 1 5 34 Exhibit No. 2 6 35 Exhibit No. 3 7 36 Exhibit No. 4 9 37 Exhibit No. 5 10 38 Exhibit No. 6 70 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>	<p style="text-align: right;">Page 4</p> <p>1 (Whereupon the deposition commenced at 2 3:01 P.M.) 3 EVADNE MARCOLINI, M.D., 4 the deponent herein, called as a witness, after 5 having been first duly sworn, was examined and 6 testified as follows: 7 MR. RAGEN: Usually there's like a 8 little preamble that all the parties agree to do 9 this deposition remotely in accordance with the, 10 you know, State and Federal Rules. So without 11 that, Ken, do you agree that this dep can be 12 performed remotely rather than in-person? 13 MR. FLAXMAN: Absolutely. 14 MR. RAGEN: Okay. Great, John, how 15 about you? 16 MR. POWER: (Indicating thumbs up.) 17 MR. RAGEN: I saw a thumbs up, but 18 didn't hear any words. 19 MR. POWER: Yeah, sorry. I was frozen. 20 Yes. 21 MR. RAGEN: Let the record reflect that 22 Ken Flaxman, on behalf of the Plaintiff, and John 23 Power, on behalf of the Sheriff, and William Ragen 24 on behalf of the County and a number of 25 individually named Defendants, have agreed to</p>

<p style="text-align: right;">Page 5</p> <p>1 proceed remotely for this deposition.</p> <p>2 EXAMINATION</p> <p>3 BY MR. RAGEN:</p> <p>4 Q. Dr. Marcolini, how are you?</p> <p>5 A. I'm good. I'm just took my scrub hat</p> <p>6 off and ran from my shift, so I'm a little</p> <p>7 disappointed in my hair, but I think we'll get</p> <p>8 past that.</p> <p>9 Q. Well, I'm not disappointed in your hair.</p> <p>10 It looks great to me. Thanks for being here.</p> <p>11 So I don't do too many ground rules.</p> <p>12 But one is that from time to time I'm going to ask</p> <p>13 a question that you will not understand. Will you</p> <p>14 tell me if you do not understand my question?</p> <p>15 A. Yes.</p> <p>16 Q. If you answer a question that I ask, I</p> <p>17 will assume that you understood it. Is that fair?</p> <p>18 A. Yes.</p> <p>19 (Whereupon Deposition Exhibit 1 was</p> <p>20 marked for identification.)</p> <p>21 BY MR. RAGEN:</p> <p>22 Q. Okay. So we'll mark as Exhibit 1 -- and</p> <p>23 it's a little different because it's all</p> <p>24 electronic -- but I take it you have your opinions</p> <p>25 that you drafted in this case with you?</p>	<p style="text-align: right;">Page 7</p> <p>1 entries for deposition. Does that appear correct?</p> <p>2 A. Oh, yes.</p> <p>3 Q. Okay.</p> <p>4 A. Yes.</p> <p>5 (Whereupon Deposition Exhibit 3 was</p> <p>6 marked for identification.)</p> <p>7 BY MR. RAGEN:</p> <p>8 Q. And then what I'll mark Exhibit 3 is</p> <p>9 your C.V., which is a 26-page document. Do you</p> <p>10 have that?</p> <p>11 A. I do.</p> <p>12 Q. Okay. Do you know if you have the</p> <p>13 version that was -- and again, this is a little</p> <p>14 bit speculative. But do you have your version in</p> <p>15 front of you?</p> <p>16 A. I do.</p> <p>17 Q. Okay. Is yours 26 pages?</p> <p>18 A. Yes, it should be 26 if there's one more</p> <p>19 page. Yes, it is 26 --</p> <p>20 Q. Okay.</p> <p>21 A. -- pages, yes.</p> <p>22 Q. And usually if you're going to update a</p> <p>23 C.V., you're not going to update things in the</p> <p>24 past. So the most likely things to be updated</p> <p>25 would be lectures or articles you wrote, right?</p>
<p style="text-align: right;">Page 6</p> <p>1 A. I do.</p> <p>2 Q. Okay. And it appears to be the six-page</p> <p>3 document dated February 16th, 2020?</p> <p>4 A. It -- I don't have the specific date on</p> <p>5 it, but it is six pages. Yes, dated</p> <p>6 February 16th, yes.</p> <p>7 Q. Okay. And then that'll be Exhibit 1.</p> <p>8 MR. RAGEN: Let me write this all down</p> <p>9 because if I don't do this systematically, I</p> <p>10 forget, and then Shelley's going to hate me</p> <p>11 forever and I don't want that. For the record,</p> <p>12 Shelley's the court reporter. Exhibit 1 will be</p> <p>13 your six-page report.</p> <p>14 (Whereupon Deposition Exhibit 2 was</p> <p>15 marked for identification.)</p> <p>16 BY MR. RAGEN:</p> <p>17 Q. Exhibit 2 will be -- you provided a list</p> <p>18 of cases you've been involved with, whether they</p> <p>19 be trial testimony and deposition or just</p> <p>20 deposition.</p> <p>21 A. Yes.</p> <p>22 Q. Do you have that in front of you?</p> <p>23 A. I do.</p> <p>24 Q. Okay. It appears to be a one-page</p> <p>25 document with three entries for trial and four</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Correct.</p> <p>2 Q. Okay. So if you look at the articles,</p> <p>3 which can be found on page 7, do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Is the most recent one the -- oh, wait.</p> <p>6 Are these chronological?</p> <p>7 A. It's the latest -- it's the oldest</p> <p>8 first.</p> <p>9 Q. Okay. So that's good. Then you don't</p> <p>10 have to keep changing the format. You can just go</p> <p>11 to the end. So if you go to the end, the most</p> <p>12 recent one is an article entitled, "The Timely</p> <p>13 Topic For Emergency Medicine," authored by Guth,</p> <p>14 Luber, yourself for the Journal of American</p> <p>15 College of Emergency Physicians?</p> <p>16 A. Yes.</p> <p>17 Q. Is that the most recent publication you</p> <p>18 have?</p> <p>19 A. That is.</p> <p>20 Q. Okay. I'm not -- we'll go through this</p> <p>21 a little, like a fair amount. But if some -- if</p> <p>22 we go through something that -- well, yeah, we'll</p> <p>23 just go through it. If we have a different</p> <p>24 version, which we probably shouldn't -- well, do</p> <p>25 you know if the version you're pulling up, is that</p>

<p style="text-align: right;">Page 9</p> <p>1 from your desk or from the Plaintiff's attorneys</p> <p>2 e-mailing it back to you? Do you know?</p> <p>3 A. My C.V.?</p> <p>4 Q. Yeah.</p> <p>5 A. My C.V. would be the one that's most</p> <p>6 current that I sent to them.</p> <p>7 Q. Okay, good. So this is the one that you</p> <p>8 sent to them?</p> <p>9 A. Correct.</p> <p>10 Q. Okay, great. So then it's -- you know,</p> <p>11 you update your C.V. probably whenever anything</p> <p>12 relevant comes up, so I'm glad to know we have the</p> <p>13 same version. And then that will be Exhibit 3.</p> <p>14 (Whereupon Deposition Exhibit 4 was</p> <p>15 marked for identification.)</p> <p>16 BY MR. RAGEN:</p> <p>17 Q. And then what I'll do Exhibit 4, there</p> <p>18 is a document that's one page that is entitled</p> <p>19 Materials Used By Expert. Do you have that?</p> <p>20 A. I do.</p> <p>21 Q. Okay. Is that something you prepared?</p> <p>22 A. No. That was prepared by the attorneys.</p> <p>23 Q. Okay. And does that appear to include</p> <p>24 all the materials that you used in review of this</p> <p>25 case?</p>	<p style="text-align: right;">Page 11</p> <p>1 A. Yes, that is correct.</p> <p>2 Q. Again, that's one of my many problems; I</p> <p>3 ask a lot of double negatives. So I'll try not</p> <p>4 to, but I'll still do it anyway. So I'll</p> <p>5 apologize in advance right now.</p> <p>6 So for undergraduate you went to Wheaton</p> <p>7 College?</p> <p>8 A. Yes.</p> <p>9 Q. And you graduated in 1983 --</p> <p>10 A. Yes.</p> <p>11 Q. -- with a Bachelor of Arts in economics</p> <p>12 and business?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And then in 2004, you obtained</p> <p>15 your medical degree from the University of</p> <p>16 Vermont?</p> <p>17 A. Yes.</p> <p>18 Q. So that would have been from roughly</p> <p>19 like 2000 to 2004, you were in medical school?</p> <p>20 A. Yes.</p> <p>21 Q. And then the first two years of that</p> <p>22 would be didactic learning and the last two years</p> <p>23 would be more practical learning?</p> <p>24 A. Yes.</p> <p>25 Q. And all of that learning was done in</p>
<p style="text-align: right;">Page 10</p> <p>1 A. It does indeed.</p> <p>2 Q. If in the future we go through this</p> <p>3 deposition and you think oh, yeah, there's some</p> <p>4 other materials I reviewed that were relevant for</p> <p>5 the basis of my opinions, let me know. Okay?</p> <p>6 A. Okay.</p> <p>7 (Whereupon Deposition Exhibit 5 was</p> <p>8 marked for identification.)</p> <p>9 BY MR. RAGEN:</p> <p>10 Q. All right. And finally, Exhibit 5,</p> <p>11 there's a Declaration, Section 1746 Declaration.</p> <p>12 Do you have that?</p> <p>13 A. I do.</p> <p>14 Q. Okay. Is that your signature?</p> <p>15 A. It is.</p> <p>16 Q. Okay, great. So we'll just start. One</p> <p>17 question, did you ever read the -- do you know of</p> <p>18 a Daphne Glindmeyer?</p> <p>19 A. Do I know of a Daphne Glindmeyer?</p> <p>20 Q. Yes.</p> <p>21 A. No.</p> <p>22 Q. Okay. So I take it you've never read</p> <p>23 Dr. Daphne Glindmeyer's report; is that fair?</p> <p>24 A. No.</p> <p>25 Q. Is that correct?</p>	<p style="text-align: right;">Page 12</p> <p>1 furtherance of obtaining a medical degree?</p> <p>2 A. Yes.</p> <p>3 Q. You performed a residency, correct?</p> <p>4 A. I completed a residency, yes.</p> <p>5 Q. And what years did you do your</p> <p>6 residency?</p> <p>7 A. 2004 to 2007.</p> <p>8 Q. Can you tell us about what your</p> <p>9 residency entailed?</p> <p>10 A. It was emergency medicine residency. So</p> <p>11 it was the clinical care and decision-making and</p> <p>12 taking care of patients in the emergency</p> <p>13 department. And there also were other rotations,</p> <p>14 including cardiology, internal medicine, surgery.</p> <p>15 Q. Infectious disease?</p> <p>16 A. I don't know if I did a specific</p> <p>17 rotation in infectious disease, but we certainly</p> <p>18 learned about that in all the different rotations.</p> <p>19 Q. For the setup of that residency, would</p> <p>20 the rotation year be the first as other programs</p> <p>21 are? Or can you tell me what it would have been?</p> <p>22 A. When what would have been?</p> <p>23 Q. So for example, like you were in</p> <p>24 residency from, you know, probably June of 2004 to</p> <p>25 June 2007; is that fair?</p>

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1 A. Residency would have gone from July 2004  
2 to June of 2007.

3 Q. Right. And I guess my question is you  
4 mentioned some of the rotations. Do you know if  
5 they would have been front loaded for when you  
6 were a PGY-1 or would it have been later? Or do  
7 you remember?

8 A. Which rotations?

9 Q. Any of them besides the emergency -- you  
10 know, obviously, your residency was specializing  
11 to become an emergency medicine physician,  
12 correct?

13 A. Correct.

14 Q. And before that time, in medical school,  
15 no one really specializes -- or strike that.

16 When you were in medical school, you  
17 weren't specializing in one area of medicine  
18 versus the other; is that correct?

19 A. Correct.

20 Q. Okay. So your residency was designed to  
21 have you learn about the -- about emergency  
22 medicine, fair?

23 A. Yes.

24 Q. Okay. And then as part of the -- and  
25 perhaps the reason you do rotations is because the

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1 emergency medicine -- like emergency department  
2 will deal with other departments?

3 A. Well, we deal with other departments,  
4 and we also take care of all the patients who come  
5 into the hospital. That's the -- that's the  
6 entryway to the hospital, is through the emergency  
7 department for most patients. So we see all the  
8 problems that come through, whether it's cardiac,  
9 internal medicine, OB/GYN, et cetera. So we need  
10 to know a lot about a lot of different  
11 specialties.

12 Q. Right. Okay. But I guess this is a  
13 long way of just asking, can you tell me when your  
14 rotations would have been within those three  
15 years?

16 A. Oh, no. Probably not. That's a while  
17 ago.

18 Q. Okay, yeah. And so we -- so what were  
19 the rotations you can recall having done?

20 A. Aside from emergency medicine,  
21 cardiology. Of course, OB/GYN. I did a rotation  
22 in toxicology, a rotation -- an away rotation in  
23 trauma. I did rotations in surgery, pediatrics.  
24 And I'm sure I'm forgetting something, but those  
25 are the ones that I can remember.

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1 Q. And when you were doing those rotations,  
2 were you on staff at the hospital?

3 A. As a resident, we had a provisional  
4 license. So we weren't technically on staff, but  
5 we -- we had a provisional license.

6 Q. And that provisional license would have  
7 allowed you to practice in all those different  
8 rotations, as per the typical residency program  
9 for the emergency medicine at a Maine medical  
10 center, correct?

11 A. It allowed me to practice under the  
12 direct supervision of board certified physicians.

13 Q. Okay. And then the positions would be  
14 either a medical doctor or doctor of osteopathy,  
15 correct?

16 A. Yes.

17 Q. Okay. And in all those rotations, you  
18 would have been practicing under the supervision  
19 of a physician as a medical doctor, correct?

20 A. True.

21 Q. Okay. And then the next year, you did a  
22 post-doctor fellow in surgical critical care?

23 A. I did.

24 Q. Okay. And can you tell me about that  
25 program?

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1 A. This was a one-year surgical critical  
2 care fellowship at the Adams Cowley Shock Trauma  
3 Center where we focused on the critically ill  
4 trauma patients.

5 Q. Okay, great. I have to decide how much  
6 to go through here. So currently, what -- can you  
7 describe your practice currently?

8 A. My current practice, my clinical  
9 practice is 50 percent emergency medicine and  
10 50 percent neuro critical care. So I practice in  
11 the emergency department and I practice in the  
12 neuro ICU.

13 Q. Okay. And for how long has that setup  
14 been the case?

15 A. When I graduated from fellowship, I was  
16 hired at the Shock Trauma Center, and I had  
17 50 percent emergency medicine at University of  
18 Maryland and 50 percent surgical critical care. I  
19 worked there for two years. And I then  
20 transferred up to Yale, where I worked initially  
21 50 percent EM and 50 percent surgical critical  
22 care.

23 But soon after arriving there, they  
24 asked me if I would help to build and develop a  
25 neuro critical care unit, which I did. So for a



<p style="text-align: right;">Page 17</p> <p>1 time, I was working 50 percent emergency medicine 2 and then a combination of neuro critical care and 3 surgical critical care. So I divided myself three 4 ways. 5 Eventually I dropped the surgical 6 critical care and became 50 percent EM, 50 percent 7 neuro critical care. And since then that's what 8 I've done. 9 Q. Okay. And in all those -- since, you 10 know, you finished your fellowship, whether it be 11 in the emergency medicine, the neuro critical care 12 or in the surgical critical care, you've been 13 practicing as a medical doctor, correct? 14 A. Correct. 15 Q. Okay. I'm looking at all the faculty 16 positions you've held. We've talked at some 17 length about all of those, this page 1 and 2 of 18 your C.V. Do you see that? 19 A. I see it. 20 Q. Okay. Is there anything terribly 21 relevant to add at this point? 22 A. Not from my perspective. 23 Q. Okay. And other positions and major 24 administrative positions held, it shows that from 25 2010 to 2014, you were the trauma liaison for the</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Right. 2 A. So I don't know if you're discriminating 3 that, but just to clarify. 4 Q. So for either way, it would be as a 5 medical director -- sorry, strike that. For 6 either way, these honors and awards would have 7 been as a medical -- as an M.D. or in furtherance 8 of obtaining your M.D., correct? 9 A. Correct. 10 Q. Okay. And then your keywords area of 11 interest, that -- does that show your, you know -- 12 besides of all those things you're otherwise 13 qualified, what you have the most interest in as a 14 medical doctor? 15 A. So this keywords areas of interest is 16 particular to the Geisel C.V. format. 17 Q. Okay. 18 A. When I structured this C.V., they want 19 -- they want you to include this keywords areas of 20 interest. So this is structured to reflect my 21 trajectory from my first year as an attending 22 through now to support the promotion to associate 23 professor and then to full professor. So it 24 certainly is a focus, but not complete. 25 Q. Okay. On pages 3 and 4, you have your</p>
<p style="text-align: right;">Page 18</p> <p>1 Department of Emergency Medicine? 2 A. Yes. 3 Q. And 2014 to 2018, you were the medical 4 director of the SkyHealth Critical Care 5 Aeromedical Service? 6 A. Yes. 7 Q. And that's through Yale? 8 A. Yes. 9 Q. Okay. Your honors and awards, the ones 10 you listed here are 2001 to 2018. Do you see 11 that? 12 A. Yes. 13 Q. Are those all the honors and awards that 14 would be relevant to -- potentially relevant to 15 the care -- to the testimony you're rendering here 16 today? 17 A. Yes. 18 Q. Okay. And they're all as a medical 19 doctor? 20 A. Yes. Um, yes. Um, wait. 21 Q. Go ahead. 22 A. When you say in there all as a medical 23 doctor, in 2001, I was a medical student. 24 Q. Okay. 25 A. In 2003, I was a medical student.</p>	<p style="text-align: right;">Page 20</p> <p>1 professional service. Do you see that? Actually, 2 3, 4 and 5. 3 A. Yes. 4 Q. And do you hold all these positions as a 5 medical doctor? 6 A. Yes. 7 Q. And public service, are any of the 8 public service -- they seem awesome. I don't mean 9 to discredit them. But are any of the public 10 service items listed in your C.V. relevant to the 11 opinions you will be rendering today? 12 A. No. 13 Q. Okay. And the teaching awards that 14 you've obtained, it appears you get them every 15 three to four years, on page 6? 16 A. It appears I got three. 17 Q. Well, yeah. But you're going to get 18 another one? 19 A. Four years apart. 20 Q. You're not done yet, are you? 21 A. No. 22 Q. So there's probably going to be one. 23 But in any event, those three teaching awards, 24 what type of teaching were you providing? 25 A. So for the teaching award from</p>

Page 21

1 University of Maryland, that was teaching to the  
2 emergency department residents, medical students  
3 and fellows. The National Junior Faculty Award  
4 is, again, teaching to emergency medicine  
5 residents, nurse practitioners, PAs, medical  
6 students and fellows. And then the Excellence in  
7 Teaching from Yale University Interdisciplinary  
8 Center for Bioethics is teaching to international  
9 and national students who go to a bioethics  
10 seminar every summer. And I teach two seminar  
11 courses each year at this bioethics seminar. One  
12 of them is in the ethics of emergency medicine.  
13 One of them is in the ethics of neurology or the  
14 neurology of ethics.

15 Q. Okay. And then you provide a nice  
16 summary of your teaching activities. Do you see  
17 that?

18 A. Uh-huh. Yes, I do.

19 Q. So it shows that you're performing  
20 bedside and formal didactic teaching of medical  
21 students, residents, fellows, advanced practice  
22 providers and emergency medicine, surgical care  
23 and neurosurgical critical care, correct?

24 A. Yes.

25 Q. So like medical students, that's people

Page 22

1 that will be obtaining an M.D., correct?

2 A. Yes.

3 Q. And residents are people that have an  
4 M.D. or a D.O. and are attempting to -- well,  
5 they're going through their residency, correct?

6 A. Correct.

7 Q. And fellows are people with MDs or DOs  
8 that are getting more advanced training, correct?

9 A. Correct.

10 Q. And advanced practice providers, that  
11 would be like physician assistants or other types  
12 of -- kind of hybrid providers that are practicing  
13 under the supervision of a medical doctor or DO?

14 A. Advanced practice includes nurse  
15 practitioners and PAs that practice mostly under  
16 the supervision of a physician. In some states,  
17 as you probably know, they are gaining independent  
18 practice in some areas. But the ones that I teach  
19 are all working under the supervision -- direct  
20 supervision of a physician.

21 Q. Okay. I'm looking at your research and  
22 scholarly activities. Are there any articles or  
23 research support that's specifically relevant to  
24 the opinions you're rendering today?

25 A. No.

Page 23

1 Q. Okay. Same thing for the non-peer  
2 reviewed publications, do any of those have any  
3 specific relevance to your opinions that we're  
4 going to talk about today?

5 A. No.

6 Q. Okay. You've written some chapters for  
7 books or written books. You find that on pages 11  
8 and 12 of your C.V.

9 A. Yes.

10 Q. Are any of those particularly or  
11 specifically relevant to the opinions we're going  
12 to discuss today?

13 A. No, they're not.

14 Q. Okay. You have invited presentations  
15 here, whether they be international or regional.  
16 Are any of these, which are found on pages 13  
17 through 26, do you want to do a quick scan to see  
18 if they're relevant to the opinions you're going  
19 to give today? I'd appreciate it.

20 A. (Reviewing) From my quick scan, no,  
21 they do not appear to be.

22 Q. If we, in the end, that we -- in all  
23 fairness, I asked you to review, you know,  
24 13 pages. If we -- you know, we're going to go  
25 through a number of questions. And if that answer

Page 24

1 would change, like oh, I remember, you know, we  
2 talked about X, DVTs or Heparin or whatever, and  
3 it would be related to one of these invited  
4 presentations, will you let me know?

5 A. Yes.

6 Q. Okay. You are board certified in  
7 emergency medicine and critical care?

8 A. I'm board certified in emergency  
9 medicine and neuro critical care.

10 Q. Okay, yeah, I see that. Sorry.

11 A. Uh-huh.

12 Q. And you were board certified in  
13 emergency medicine in 2008 and recertified in  
14 2019?

15 A. Correct.

16 Q. Is there any reason why -- well, is  
17 there a 10-year recertification? Or is it 11 for  
18 emergency medicine?

19 A. It's 10 years for emergency medicine,  
20 and they just changed it to a five-year process.

21 Q. Yay.

22 A. Hmm.

23 Q. So was there -- from the 10-year  
24 perspective from 2008 to 200 -- was there a period  
25 when you were not board certified in emergency



<p style="text-align: right;">Page 25</p> <p>1 medicine between like 2008 to 2019?</p> <p>2 A. No.</p> <p>3 Q. So the first chance you -- the first</p> <p>4 time you were required to recertify for the</p> <p>5 American Board of Emergency Medicine, you did so</p> <p>6 in 2019, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And you passed your boards on the first</p> <p>9 try?</p> <p>10 A. The boards for -- yes, I passed my</p> <p>11 boards for emergency medicine on the first try.</p> <p>12 And for neuro critical care, I passed on the</p> <p>13 second try.</p> <p>14 Q. Okay. Thank you. And then you became</p> <p>15 board certified in neuro critical care in 2011,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that recertification should be</p> <p>19 coming up soon?</p> <p>20 A. It should be coming up soon. We're</p> <p>21 actually moving to an ABMS board certification</p> <p>22 process.</p> <p>23 Q. What's ABMS stand for?</p> <p>24 A. The American Board of Medical</p> <p>25 Subspecialties or Medical Specialties.</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. Do you read any journals or keep</p> <p>2 up-to-date on any psychiatric journals?</p> <p>3 A. Not specifically.</p> <p>4 Q. Okay. We've covered your C.V. at some</p> <p>5 length, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Have we covered all the training,</p> <p>8 experience, your teaching, at least from like a</p> <p>9 big picture standpoint, that's contained in your</p> <p>10 C.V.?</p> <p>11 A. I'm not sure what you're asking.</p> <p>12 Q. So was there anything in terms of</p> <p>13 training that you've obtained that's not listed in</p> <p>14 your C.V.?</p> <p>15 A. Probably not. My ATLS is in there. I</p> <p>16 mean, over the years, we all do -- we, being</p> <p>17 emergency physicians, do training in American</p> <p>18 Trauma Life Support. We do training in ENLS,</p> <p>19 Emergency Neurologic -- ENLS, Emergency Neurologic</p> <p>20 -- something problems. I can't think of what it</p> <p>21 stands for. But there are other courses that we</p> <p>22 go through or maybe review courses. I can't tell</p> <p>23 you that everything that I've done is on this C.V.</p> <p>24 Q. Okay.</p> <p>25 A. I'm not sure what specifically you're</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. So then what impact does that have to do</p> <p>2 on a typical 10-year recertification timeframe?</p> <p>3 A. So for -- for the first, yes, my</p> <p>4 recertification should come up in '21, '22. And I</p> <p>5 will have to choose whether I'm going to continue</p> <p>6 to be board certified with UCNS or go with ABMS.</p> <p>7 I will probably go with both.</p> <p>8 Q. Okay. What journals do you subscribe</p> <p>9 to?</p> <p>10 A. I receive the American -- the Annals of</p> <p>11 Emergency Medicine. I receive the Journal of</p> <p>12 Emergency Medicine and the American Journal of</p> <p>13 Emergency Medicine.</p> <p>14 Q. Okay. And there's, I'm sure, other ones</p> <p>15 you review from time to time, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And there's other ones you publish in</p> <p>18 from time to time?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Were those the three that you</p> <p>21 look at most frequently, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And all those are emergency</p> <p>24 medicine journals, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 looking for.</p> <p>2 Q. Well, in terms of the training you</p> <p>3 receive, like those two things you mentioned that</p> <p>4 perhaps aren't on your C.V., would they be</p> <p>5 training you received as a medical doctor?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And all of your experience as a</p> <p>8 healthcare professional, is that listed in your</p> <p>9 C.V. in terms of practicing or teaching?</p> <p>10 A. The greater part of it, yes.</p> <p>11 Q. Okay. If there's something that we go</p> <p>12 through in this deposition and that's in terms of</p> <p>13 teaching that's not, you know, listed in your</p> <p>14 C.V., but it comes up and becomes relevant, would</p> <p>15 you let me know?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And all of the -- strike that.</p> <p>18 When were you first retained by Mr. Flaxman?</p> <p>19 A. That was, I believe, in December of</p> <p>20 2020.</p> <p>21 Q. Okay. Looking at -- now turning to</p> <p>22 Exhibit 4, that's the page which lists all of the</p> <p>23 materials used by you. Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. Okay. And you were able to render --</p>

<p style="text-align: right;">Page 29</p> <p>1 your opinions are based on what you reviewed from</p> <p>2 these materials, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Were you able -- was there -- were you</p> <p>5 lacking any materials? Were there any materials</p> <p>6 that you wish you would have received, but didn't</p> <p>7 receive?</p> <p>8 A. Not that I can think of.</p> <p>9 Q. Okay. And going through those</p> <p>10 materials, you received an autopsy report by</p> <p>11 Dr. Sozio?</p> <p>12 A. I did.</p> <p>13 Q. You received the Countryside Police</p> <p>14 records?</p> <p>15 A. Yes.</p> <p>16 Q. The Cook County Jail medical records?</p> <p>17 A. Yes.</p> <p>18 Q. Deposition of Helen Kanel?</p> <p>19 A. Yes.</p> <p>20 Q. Deposition of David Kelner?</p> <p>21 A. Yes.</p> <p>22 Q. Deposition of Cherri Krzyzowski?</p> <p>23 A. Yes.</p> <p>24 Q. Deposition of Elizabeth Lassen?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. Okay. You may or may not know the</p> <p>2 distinction between the two. In my understanding,</p> <p>3 Cermak Health Services is a part of -- it's one</p> <p>4 entity within -- well, strike that.</p> <p>5 You reviewed the Medical Examiner's</p> <p>6 report?</p> <p>7 A. Yes.</p> <p>8 Q. The root cause analysis?</p> <p>9 A. Yes.</p> <p>10 Q. The St. Anthony Hospital records?</p> <p>11 A. Yes.</p> <p>12 Q. And is that two Sheriff's incident</p> <p>13 reports or just one typed twice?</p> <p>14 A. It's one.</p> <p>15 Q. Okay. So we've covered all the</p> <p>16 materials that you reviewed in connection with</p> <p>17 rendering opinions in this case, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Can you tell me the individuals</p> <p>20 you believe deviated from the standard of care in</p> <p>21 caring for Mr. Cruz?</p> <p>22 A. Yes. I'm going to refer to my</p> <p>23 statement, my opinion.</p> <p>24 Q. Sure. Yeah, of course.</p> <p>25 A. So this would include --</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. Deposition of Steve Paschos?</p> <p>2 A. Yes.</p> <p>3 Q. Deposition of Ravi Yalamanchi?</p> <p>4 A. Yes.</p> <p>5 Q. Deposition of Hythem Zayed?</p> <p>6 A. Yes.</p> <p>7 MR. RAGEN: And for Shelley's</p> <p>8 perspective, because she can't see it, Ravi</p> <p>9 Yalamanchi is spelled R-a-v-i,</p> <p>10 Y-a-l-a-m-a-n-c-h-i. And Hythem Zayed is</p> <p>11 H-y-t-h-e-m, Z-a-y-e-d. And you don't have to</p> <p>12 answer that. That's just for Shelley.</p> <p>13 BY MR. RAGEN:</p> <p>14 Q. Then you reviewed the Hinsdale Hospital</p> <p>15 records, correct?</p> <p>16 A. Yes.</p> <p>17 Q. The jail restraint policies?</p> <p>18 A. Yes.</p> <p>19 Q. And those are the policies that</p> <p>20 pertained to Cermak Health Services?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So when you say Cermak Health</p> <p>23 Services, do you understand that, generally</p> <p>24 speaking, to be consistent with Cook County Jail?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Sorry about that. So the individuals</p> <p>2 you believe deviated from the standard of care?</p> <p>3 A. Yes. Dr. Paschos.</p> <p>4 Q. Okay.</p> <p>5 A. Nurse Chatman. Nurse Manlastas. Nurse</p> <p>6 Krzyzowski.</p> <p>7 Q. Do you believe Dr. Zayed deviated from</p> <p>8 the standard of care?</p> <p>9 A. Now, Dr. Zayed was at Hinsdale Hospital,</p> <p>10 correct?</p> <p>11 Q. They're your opinions.</p> <p>12 A. I'm asking you if this is the Dr. Zayed</p> <p>13 you're referring to.</p> <p>14 Q. Well, they're the doctors -- I had you</p> <p>15 review his deposition. In reviewing his</p> <p>16 deposition, do you -- and he was practicing at</p> <p>17 Hinsdale Hospital. At least from my</p> <p>18 understanding. I wasn't there either. But --</p> <p>19 A. No, I don't believe Dr. Zayed deviated</p> <p>20 from the standard of care.</p> <p>21 Q. Okay. Same thing with Dr. Yalamanchi,</p> <p>22 who provided care at Hinsdale Hospital, do you</p> <p>23 believe she deviated from the standard of care?</p> <p>24 A. No, I do not.</p> <p>25 Q. Okay. Does the standard of care for</p>

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1 Drs. Paschos, Zayed or Yalamanchi differ in any  
2 way?  
3 A. No.  
4 Q. Okay. Did you render an opinion that  
5 Nurse Aiste Barkauskaite deviated from the  
6 standard of care?  
7 A. I don't know -- I don't recall a nurse  
8 of that name. I can't pronounce it.  
9 Q. Okay. Same thing with a Nurse Meghan  
10 Weger, did you develop an opinion that Nurse  
11 Meghan Weger deviated from the standard of care?  
12 A. I don't recall a Nurse Meghan Weger.  
13 Q. Okay. Same thing for a Tiago Soltes.  
14 This will be the last one, I think. Do you have  
15 anything that Nurse Tiago Soltes has deviated from  
16 the standard of care?  
17 A. I don't recall Nurse Tiago Soltes.  
18 Q. Okay. It sounds like you don't -- the  
19 names Aiste Barkauskaite, Tiago Soltes, and Meghan  
20 Weger, they don't ring a bell to you as you sit  
21 here today, correct?  
22 A. Not right now, no.  
23 Q. Is it true that the standard of care --  
24 like so, for example, medical literature by and  
25 large is instructive on a physician's

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1 understanding of the standard of care, but usually  
2 literature does not create the standard of care;  
3 is that correct?  
4 MR. FLAXMAN: Let me object to the form  
5 of the question.  
6 MR. RAGEN: As vague?  
7 MR. FLAXMAN: It doesn't make a whole  
8 lot of sense as to what you're asking.  
9 MR. RAGEN: I was going to say I would  
10 object to that question as vague, so I'll ask a  
11 different one.  
12 BY MR. RAGEN:  
13 Q. This is a general concept. But we'll go  
14 -- can you define what the standard of care is?  
15 A. The standard of care is the standard by  
16 which a physician -- if we're talking about a  
17 standard -- a standard by which a physician  
18 provides evaluation, assessment and care for a  
19 patient that is accepted by the -- by the general  
20 medical community and medical experts.  
21 Q. Okay. If I were to define it as what a  
22 reasonably careful physician would do under the  
23 same or similar circumstances, would that be  
24 consistent with your understanding?  
25 A. That would.

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1 Q. Okay. Is the standard of care a  
2 national standard?  
3 A. It is a -- it is a national, at least a  
4 national standard, if not international.  
5 Q. Okay. Right. I mean, true. So within  
6 the United States of America --  
7 A. Uh-huh.  
8 Q. -- the standard of care for a reasonably  
9 careful physician won't differ from state to  
10 state, generally speaking, right?  
11 A. Correct.  
12 Q. And certain states may have heightened  
13 requirements on certain subjects; but that would  
14 be the exception, correct?  
15 A. Can you repeat that question?  
16 Q. Well, I didn't want to like box you in.  
17 Because there are certain requirements, let's just  
18 say, that exist in California, you know, that in  
19 terms of like psychiatry that don't exist in  
20 Louisiana, just so basically -- so I'll -- strike  
21 that.  
22 Your understanding is that the standard  
23 of care for a reasonable careful physician is the  
24 same throughout the U.S., correct?  
25 A. Correct.

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1 Q. Okay. Would you agree that a number of  
2 different materials can assist you in developing  
3 the standard of care, meaning the care -- I mean,  
4 the training you received as a resident and a  
5 fellow is helpful in developing your understanding  
6 of the standard of care of a reasonably careful  
7 physician?  
8 A. Yes.  
9 Q. Medical literature, that also will be  
10 instructive in developing the standard of care of  
11 a reasonably careful physician?  
12 A. Yes.  
13 Q. Policies and procedures, are those, you  
14 know, informative in terms of developing what the  
15 standard of care -- what a reasonably careful  
16 physician should do under the same or similar  
17 circumstances?  
18 MR. FLAXMAN: Let me object to the form  
19 of the question because it's unclear whose  
20 policies and procedures you're talking about.  
21 MR. RAGEN: I'm speaking generally.  
22 MR. FLAXMAN: I'm going to take a break  
23 and shut up my dog.  
24 MR. RAGEN: Okay. Let's take a quick  
25 break.

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1 (Whereupon a brief break was taken.)  
 2 BY MR. RAGEN:  
 3 Q. So medical -- so let's go back to  
 4 medical literature. We were just on policies and  
 5 procedures. Would you agree in developing -- so  
 6 for example, you've written a number of peer  
 7 reviewed medical articles, correct?  
 8 A. Yes.  
 9 Q. Okay. And from time to time -- well,  
 10 some of these articles compare two different  
 11 treatment modalities; is that correct?  
 12 A. Yes.  
 13 Q. Okay. When you are employing -- when  
 14 you are looking at two different treatment  
 15 modalities and you're writing an article about  
 16 which is perhaps more efficacious, isn't it true  
 17 that you would not select a treatment modality  
 18 that would be a deviation from the standard of  
 19 care; is that correct?  
 20 A. Well, when you're writing about two  
 21 treatment modalities and comparing them, you might  
 22 be writing about a novel treatment that's new and  
 23 that's why you're comparing it to something that  
 24 has been the standard of care.  
 25 Q. Right.

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1 A. So...  
 2 Q. And that literature might improve the  
 3 standard of care and change it in a certain way.  
 4 I mean, I know it's a vague question. I guess my  
 5 point is when people write medical -- when people  
 6 draft articles for peer reviewed publications,  
 7 they generally do not pick modalities -- treatment  
 8 modalities that per se are deviations from the  
 9 standard of care?  
 10 A. Well --  
 11 Q. Is that true?  
 12 A. Well, when you write an article that  
 13 you're trying to show that one therapy is either  
 14 inferior to, equal to, or superior to another  
 15 therapy, sometimes the therapy that you're writing  
 16 about or that you're researching or studying is  
 17 not part of the standard of care. And that's how  
 18 we develop new therapies, is by asking the  
 19 question, you know.  
 20 Q. Right. So let's just say that. So you  
 21 talk about a situation where you're going to look  
 22 at two or three different treatment modalities,  
 23 right? Through the research, you realize  
 24 treatment modality A is the best and then that  
 25 would make B and C no longer part of -- no longer

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1 a treatment modality that would be within the  
 2 standard of care. Okay?  
 3 Assuming that hypothetical, when you  
 4 were providing the treatment -- when you were  
 5 treating patients to determine whether A, B and C  
 6 were more effective, it's not like at that point  
 7 in time B and C were provided that treatment was a  
 8 deviation from the standard of care for those  
 9 patients; is that fair?  
 10 MR. FLAXMAN: Let me object to the form  
 11 of the question. It's difficult to figure out  
 12 what your question is.  
 13 BY MR. RAGEN:  
 14 Q. Did you understand it, Dr. Marcolini?  
 15 A. I agree, it's challenging to understand  
 16 the specific question.  
 17 Q. Okay. Would you agree that -- do you --  
 18 what hospitals are you credentialed to provide  
 19 treatment at currently?  
 20 A. Currently, Dartmouth-Hitchcock Medical  
 21 Center and Alice Peck Day Hospital.  
 22 Q. How do you spell that?  
 23 A. Alice is as in the name Alice,  
 24 A-l-i-c-e, and Peck is P-e-c-k, and then Day is  
 25 D-a-y.

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1 Q. Do those hospitals have policies and  
 2 procedures concerning restraining a patient?  
 3 A. Yes.  
 4 Q. And did they back in March 2016?  
 5 A. Yes.  
 6 Q. Are you familiar with those policies and  
 7 procedures from what they were in March 2016?  
 8 A. No.  
 9 Q. You'd have to look at the policy and  
 10 procedures from both Dartmouth and Alice Peck to  
 11 be certain what those policies and procedures say?  
 12 A. Correct.  
 13 Q. Were those policies and procedures --  
 14 are you familiar with the policies and procedures  
 15 at Dartmouth and Alice Peck concerning restraints  
 16 that are active today?  
 17 A. Yes.  
 18 Q. Are they the same policy and procedure?  
 19 A. So I know the policies at  
 20 Dartmouth-Hitchcock. I am credentialed at Alice  
 21 Peck Day Hospital because during Covid, we all  
 22 became credentialed at that hospital in case we've  
 23 needed to work there, as well. I've never worked  
 24 there, so I'm not distinctly familiar with those  
 25 policies. But inasmuch as we're affiliated, these



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1 are affiliated, this is an affiliated hospital  
 2 with Dartmouth, I imagine it would be the same.  
 3 Q. The exact same?  
 4 A. I imagine it would be the same. I do  
 5 not -- do not have specific knowledge of the Alice  
 6 Peck Day protocols.  
 7 Q. Okay. Do you have the Hinsdale Hospital  
 8 policies and procedures on restraints?  
 9 A. Let me see. I don't know if I have the  
 10 Hinsdale policies. I'm looking through the chart  
 11 for them. But if you have access to that, I don't  
 12 know that I have them or not.  
 13 Q. Okay. But either way, since you can't  
 14 recall obtaining them and you can't recall what  
 15 they look like, I would take it it's true that  
 16 they're not -- you're not using those Hinsdale  
 17 Hospital policies and procedures to render -- to  
 18 develop your opinions in this case; is that  
 19 correct?  
 20 A. Well, the Hinsdale Hospital policies  
 21 would be what they were operating under at  
 22 Hinsdale Hospital. So specifically, no.  
 23 Q. Right. So I'm sorry, so seeing as you  
 24 can't recall having the Hinsdale Hospital policies  
 25 and procedures, I take it it's not part of the

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1 opinions that you've rendered in this case; is  
 2 that correct?  
 3 MR. FLAXMAN: I'll object to the form of  
 4 the question. It's not that what is not part of  
 5 the opinions?  
 6 MR. RAGEN: Okay, I'll ask it  
 7 open-ended.  
 8 BY MR. RAGEN:  
 9 Q. Are the Hinsdale Hospital policies and  
 10 procedures, do they assist you in developing your  
 11 opinions in this case?  
 12 A. So I don't recall specifically where the  
 13 Hinsdale Hospital policies and procedures are. I  
 14 don't know if they're specifically a part of my  
 15 opinion.  
 16 Q. Right. But I mean, they're your  
 17 opinions, right?  
 18 A. Yes.  
 19 Q. You're the one that wrote them and  
 20 they're in your brain?  
 21 A. Yes.  
 22 Q. Is there anything that's in your  
 23 six-page document that you use -- that you form  
 24 the basis on by and through the Hinsdale Hospital  
 25 policies and procedures?

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1 A. No.  
 2 Q. Okay. If we go through them and you  
 3 determine oh, yes, this particular instance of --  
 4 you know, this finding or this conclusion is, in  
 5 part, based on the Hinsdale Hospital policies and  
 6 procedures, would you let me know?  
 7 A. Yes.  
 8 Q. Okay. Isn't it true that the policies  
 9 and procedures aren't always the same as the  
 10 standard of care?  
 11 A. Which policies and procedures?  
 12 Q. Well, I'm just saying like so for the  
 13 Cermak Health Services, you reviewed the policies  
 14 and procedures that were in effect from 2016?  
 15 A. Yes.  
 16 Q. And is that the standard of care?  
 17 A. Are the policies -- I'm going to pull  
 18 them up and look at them.  
 19 Q. So you're looking at them just to  
 20 determine whether or not the policies are  
 21 consistent with the standard of care, as you  
 22 understand it, correct?  
 23 A. I'm looking through them just to see  
 24 what you're specifically asking about.  
 25 Q. So my first question was general. Do

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1 policies and procedures of a hospital, do they  
 2 create the standard of care?  
 3 A. No.  
 4 Q. Okay. And many times they're consistent  
 5 with the standard of care; is that correct?  
 6 A. Hopefully they are consistent with  
 7 standard of care.  
 8 Q. Right. Exactly. It's like that's the  
 9 goal of your policies and procedures is to be  
 10 consistent with the standard of care, correct?  
 11 A. Yes, yes.  
 12 Q. And your opinions, part of them are --  
 13 give you some examples. Like if you look at  
 14 page 4 of your opinions, the last sentence --  
 15 well, I'll read the last couple sentences. Let me  
 16 know if I'm reading correctly. During his entire  
 17 stay at the jail -- strike that. I'm referring to  
 18 -- I'm going to -- when it says his, I'm going to  
 19 read in Mr. Cruz's name. Okay?  
 20 A. And where are you reading from? Page 4?  
 21 Q. Page 4, middle paragraph, halfway up  
 22 starting, During.  
 23 A. Okay.  
 24 Q. During Mr. Cruz's entire stay at the  
 25 jail, he was not prescribed nor given any

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1 medication to reduce the risk of clot formation.  
 2 The fact that Angel was morbidly obese and kept in  
 3 four point chest restraints for 17.5 hours created  
 4 an increased risk of clot formation which is  
 5 likely to lead to embolus formation with clot  
 6 traveling downstream to the lungs and causing  
 7 pulmonary embolus, which was the cause of Angel's  
 8 untimely death. Not giving him medication or  
 9 executing appropriate limb release, either of  
 10 which could mitigate the risk of clot formation,  
 11 does not reach the standard of care and is  
 12 medically unreasonable. Do you see that?

13 A. Yes.

14 Q. And that's your opinion?

15 A. Yes.

16 Q. And that's a standard of care opinion  
 17 that you have?

18 A. Yes.

19 Q. And whether or not Stroger's policy and  
 20 procedure are like dead on with this, your opinion  
 21 to the standard of care is what the standard of  
 22 care is, correct?

23 MR. FLAXMAN: Let me object to the form  
 24 of the question. It's sort of -- it assumes facts  
 25 -- or it asks -- it's compound as to whether or

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1 not. And it's also got Stroger, which I don't  
 2 think we've introduced into the case yet.

3 BY MR. RAGEN:

4 Q. Can you answer the question,  
 5 Dr. Marcolini, or not?

6 A. I'm unclear as to what you're really  
 7 asking.

8 Q. So what I'm really asking is -- so we  
 9 established, generally speaking, that policies and  
 10 procedures don't create the standard of care; but  
 11 that, generally speaking, they should be  
 12 consistent with the standard of care, correct?

13 A. Generally speaking, we'd hope that  
 14 they're consistent with standard of care, yes.

15 Q. Did you see -- did you review the Cermak  
 16 policies and procedures concerning restraints?

17 A. I did.

18 Q. And did that seem to be acceptable,  
 19 appropriate and reasonable?

20 A. They did seem to be appropriate and  
 21 reasonable.

22 Q. Okay. And they would help guide  
 23 healthcare practitioners providing care at Cermak  
 24 to restrain patients at the jail, right?

25 A. Yes.

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1 Q. And there's nothing in those policies  
 2 and procedures that struck you as deficient; is  
 3 that correct?

4 A. I wasn't reading the policies and  
 5 procedures to look for deficiencies. So I'd have  
 6 to review them more closely to look for  
 7 deficiencies. What specifically are you asking  
 8 about?

9 Q. When you read them, did any deficiencies  
 10 to the policies and procedures stand out, the  
 11 Cermak policies and procedures from March 2016?

12 A. Nothing stood out to me --

13 Q. Okay.

14 A. -- in particular.

15 Q. If when we go through this deposition,  
 16 you know, we're referring to policies and  
 17 procedures and you say oh, yeah, this part of the  
 18 policy and procedure is not good, would you let me  
 19 know?

20 A. Yes.

21 Q. And if we go through some of the  
 22 policies and procedures of Cermak in this  
 23 deposition and you say oh, this part would be a  
 24 deviation from the standard of care, would you let  
 25 me know?

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1 A. Yes.

2 Q. And if we go through the deposition and  
 3 we're going through the Cermak Health Services  
 4 policies and procedures and you say, you know,  
 5 this would be unreasonable, would you let me know?

6 A. Yes.

7 Q. Would you agree that reasonable care is  
 8 consistent with the standard of care?

9 A. Reasonable care should be consistent  
 10 with the standard of care, yes.

11 Q. Okay. If we go through your deposition  
 12 and we come to a circumstance where we're talking  
 13 about something that would be unreasonable care,  
 14 but still fall within the -- would still comply  
 15 with the standard of care, would you let me know?

16 A. Unreasonable?

17 Q. Yeah. So like for example, I was asking  
 18 whether if the care is deemed reasonable,  
 19 generally speaking. That would be synonymous with  
 20 complying with the standard of care, correct?

21 A. The reasonable care, yes, generally  
 22 complies with the standard of care.

23 Q. So if we go through your deposition and  
 24 there's a difference, you have to draw a  
 25 distinction like, you know, Dr. Paschos doing this



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1 complied with the standard of care, but it wasn't  
 2 reasonable, I don't think that's going to happen,  
 3 but if it does happen, would you let me know?  
 4 A. If he complied with the standard of  
 5 care, but it was not reasonable?  
 6 Q. Yeah.  
 7 A. Okay.  
 8 Q. You doubt that's going to happen, right?  
 9 A. I don't know. I'm -- by the definitions  
 10 that we've spoken about, I'm not sure what you're  
 11 getting at. It's --  
 12 Q. Yeah, I just want to know, for you,  
 13 there's not much of a distinction between  
 14 complying with the standard of care and providing  
 15 reasonable care, correct?  
 16 A. There shouldn't be.  
 17 Q. Okay. If we go through this deposition  
 18 and you find that there should be a distinction  
 19 between the two, will you let me know?  
 20 A. Yes.  
 21 Q. Okay. Can you tell me what Heparin is?  
 22 A. Heparin is an anticoagulant medication.  
 23 Q. Does the standard of care require that  
 24 Mr. Cruz receive Heparin while he was restrained?  
 25 A. While Mr. Cruz was restrained, he should

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1 have received limb release as per the protocol.  
 2 He could have received Heparin, and that would  
 3 have been appropriate. And he did receive  
 4 Heparin, as you know, at Hinsdale Hospital. So...  
 5 Q. I don't know that.  
 6 A. Okay.  
 7 Q. When did he first receive Heparin --  
 8 well, strike that.  
 9 Could the standard of care be met if --  
 10 I'll just say -- strike that. If all the -- okay.  
 11 So what you were saying in terms of --  
 12 your opinion is that Mr. Cruz developed DVTs and  
 13 then developed a pulmonary embolus, correct?  
 14 A. Yes.  
 15 Q. And your opinion is that the DVTs were  
 16 caused by either the failure to administer Heparin  
 17 or the failure to move his limbs, which would have  
 18 increased his mobility, correct?  
 19 A. The DVT was likely caused by immobility.  
 20 Q. Okay.  
 21 A. Immobility is when he was restrained.  
 22 Q. Right.  
 23 A. It could have been prevented by limb  
 24 release. And it could have been prevented by  
 25 Heparin. If they had been present, they could

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1 have prevented it from propagating by either limb  
 2 release or Heparin.  
 3 Q. Okay. The two modalities that could  
 4 have been employed to stop Mr. Cruz from  
 5 developing DVTs were limb release and Heparin,  
 6 correct?  
 7 A. Those are two modalities, yes.  
 8 Q. Are there any other modalities that you  
 9 say should have been employed to reduce the chance  
 10 Mr. Cruz would have developed DVTs?  
 11 A. Well, if he had been able to ambulate,  
 12 that would have been something that could have  
 13 prevented him from having DVT that propagated.  
 14 Q. Okay. But when you're restraining him,  
 15 you're not going to have him ambulate, right?  
 16 A. Exactly.  
 17 Q. So in the period of restraint, the two  
 18 modalities that you opined could have been  
 19 employed to avoid a DVT are limb release and  
 20 Heparin, correct?  
 21 A. Those are the two that could have  
 22 reasonably been employed.  
 23 Q. Okay. While he was restrained, right?  
 24 A. Yes.  
 25 Q. Okay. And he was restrained both at

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1 Hinsdale and at Cermak Health Services, correct?  
 2 A. Correct.  
 3 Q. Who put in the order to restrain him at  
 4 Hinsdale Hospital?  
 5 A. Let's see. The resident physician, but  
 6 I don't know his name.  
 7 Q. Do you have the medical records in front  
 8 of you?  
 9 A. I can pull them up.  
 10 Q. Yeah, please do. Let the record reflect  
 11 it's 4:11.  
 12 If you could look at the records to  
 13 determine who put the order to restrain Mr. Cruz,  
 14 that would be great.  
 15 A. (Reviewing) It looks as if the ordering  
 16 physician for the restraints on 3/13 at 043 was  
 17 ordered by Dr. Yalamanchi.  
 18 Q. Okay. What page are you looking at?  
 19 A. I'm on page 101.  
 20 Q. Is that on the L. Vargas numerating --  
 21 numerical system or the so and so of 294?  
 22 A. I have 101 of 362.  
 23 Q. Oh, okay.  
 24 A. On the chart itself, it says page 100 of  
 25 360.

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1 Q. Man, I have a different record. So what  
 2 time was it? March 12th at 0 --  
 3 A. No. March 13th at 043.  
 4 Q. What is the subject heading of the  
 5 order?  
 6 A. I says CPOE orders. And you know, this  
 7 is --  
 8 Q. Yeah, I can probably get there. I see  
 9 it. So okay. So Dr. Yalamanchi initiated the  
 10 need for restraint, correct?  
 11 A. Dr. Yalamanchi --  
 12 Q. Orders restraints?  
 13 A. -- ordered the restraints, yes.  
 14 Q. So Dr. Yalamanchi ordered restraints at  
 15 12:43 A.M. on March 13th, correct?  
 16 A. Yes.  
 17 Q. And do you believe -- does the standard  
 18 of care -- why would a patient be restrained? Do  
 19 you know?  
 20 A. Patients are typically restrained  
 21 because they're violent, either to self or to  
 22 others, and not redirectible by other means.  
 23 Q. Okay. Is it important to document  
 24 whether the person is a danger to themselves or  
 25 others in initiating restraints?

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1 A. It's informative to document that.  
 2 Q. Does the standard of care require that  
 3 the physician indicate whether the patient's a  
 4 danger to themselves or others in employing  
 5 restraints?  
 6 A. I don't know if the standard of care  
 7 requires that.  
 8 Q. Okay. In this case, your testimony is  
 9 that on March 13th at 12:43 A.M., Mr. Cruz had  
 10 obtained Heparin at that time?  
 11 A. Wait, we are saying that he was put in  
 12 restraints.  
 13 Q. Yeah, yeah. So we're talking about that  
 14 time. On March 13th at 12:43 A.M., that's the  
 15 time the restraints are initiated, from your  
 16 review of the records, correct?  
 17 A. Yes.  
 18 Q. At that point in time, had Mr. Cruz  
 19 obtained Heparin?  
 20 A. I don't know.  
 21 Q. Okay.  
 22 A. I'm going to have to --  
 23 Q. Would that be relevant to your opinions;  
 24 whether or not he had received a dose of Heparin  
 25 at that time?

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1 A. No.  
 2 Q. Okay. And why not?  
 3 A. Because -- because he's being put in  
 4 restraints. So why would I -- if that's the first  
 5 time he's being put in restraints --  
 6 Q. Right.  
 7 A. -- my opinion then, it's not -- I'm not  
 8 sure what you're asking again. Sorry.  
 9 Q. Yeah, that's okay. You had mentioned  
 10 that giving some type of anticoagulant would be  
 11 one of the modalities to decrease the chance that  
 12 Mr. Cruz would develop a DVT, correct?  
 13 A. Yes.  
 14 Q. Especially when -- and especially in the  
 15 setting of being restrained, correct?  
 16 A. Correct.  
 17 Q. Okay. And so do you know, do you know  
 18 when the first order at Hinsdale Hospital was for  
 19 Mr. Cruz to obtain Heparin?  
 20 A. Not off the top of my head. I can look  
 21 through the chart and find it.  
 22 Q. I can find it for you. Well, see, my  
 23 chart, I -- I don't know, would you be able to  
 24 e-mail your chart to Ken, who could e-mail it to  
 25 me?

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1 MR. RAGEN: And I think, Ken, a little  
 2 bit of what it was was Hinsdale has two versions  
 3 of the chart. And I'll let Frank or John chime in  
 4 because my version of the Hinsdale Hospital  
 5 records is 294 pages. So I just want to make sure  
 6 we have the same version.  
 7 A. Can I e-mail mine?  
 8 Q. Yeah. Don't e-mail it to me, though.  
 9 E-mail it to Ken. Or is Joel still here?  
 10 MR. FLAXMAN: No, Joel's not here.  
 11 MR. RAGEN: Okay. And we can keep  
 12 going. But once Ken gets it, because the thing is  
 13 I don't want -- you shouldn't have to be involved  
 14 in like the annoying lawyerly part of whether the  
 15 document is the right -- the same one.  
 16 THE WITNESS: No worries.  
 17 MR. RAGEN: Yeah, yeah, yeah. All  
 18 right.  
 19 BY MR. RAGEN:  
 20 Q. So talking about the standard of care,  
 21 so at 12:43, March 13th, Mr. Cruz was restrained,  
 22 correct?  
 23 A. 12:43, March 13th, yes, he was  
 24 restrained.  
 25 Q. And then would the standard of care

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1 require that he be given Heparin one way or the  
 2 other in connection with being restrained on  
 3 March 13th at 12:43 A.M.?  
 4 A. Sorry, I was sending the e-mail. Can  
 5 you repeat that question?  
 6 Q. Sure. Are you done sending the e-mail?  
 7 A. Yeah, I just sent it.  
 8 Q. You're probably a better multi-tasker  
 9 than me. I can't do that.  
 10 So going back to March 13th at  
 11 12:43 A.M., okay?  
 12 A. Yes.  
 13 Q. We established that that's the time  
 14 Mr. Cruz was placed into restraints, correct?  
 15 A. Yes.  
 16 Q. Does the standard of care require that  
 17 he be given Heparin at any time in the near future  
 18 in association with him being restrained at  
 19 12:43 A.M. on March 13th?  
 20 A. So there's -- there's a clarification  
 21 here that I'm going to explain to answer this  
 22 question.  
 23 If somebody's being placed in restraints  
 24 and you anticipate that it's not going to be for a  
 25 long time, then you don't necessarily put them in

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1 restraints based on -- I'm sorry, you don't  
 2 necessarily give them Heparin based on placing  
 3 them in restraints.  
 4 Q. Okay.  
 5 A. So it's when you have prolonged or, you  
 6 know, when you anticipate prolonged or when the  
 7 patient is even admitted. I have patients who are  
 8 in the ICU who are not in restraints, but who are  
 9 admitted and they are receiving Heparin. It's the  
 10 -- it's the immobility.  
 11 Q. Sure. Is there any indication of how  
 12 long Dr. Yalamanchi anticipated Mr. Cruz to be  
 13 placed into restraints?  
 14 A. No.  
 15 Q. Did you see anything in the records that  
 16 Dr. Yalamanchi said oh, he's an imminent harm to  
 17 staff, so, you know, we're going to need him to be  
 18 restrained just for a short period of time? Did  
 19 you see a note like that one way or another?  
 20 A. No, I don't recall seeing that.  
 21 Q. Did you recall seeing any note from  
 22 Dr. Yalamanchi in the chart?  
 23 A. Boy, going from my memory, I'd have to  
 24 look through the chart.  
 25 Q. Well, take a look at the chart and see

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1 if you see any note from Dr. Yalamanchi. Let the  
 2 record reflect this is 4:23 at this time you're  
 3 going to start looking.  
 4 A. I don't see a note specifically written  
 5 by Dr. Yalamanchi.  
 6 Q. Okay. So isn't it fair to say that we  
 7 have no indication of how long Dr. Yalamanchi  
 8 thought Mr. Cruz would be placed in restraints on  
 9 at 12:43 A.M. on March 13th; is that fair?  
 10 A. That's fair.  
 11 Q. I didn't see anything in his deposition  
 12 that, you know, qualified the timeframe for which  
 13 Dr. Yalamanchi expected Mr. Cruz to be placed in  
 14 restraints one way or the other. Do you recall  
 15 anything from --  
 16 A. I don't.  
 17 Q. -- Dr. Yalamanchi's dep?  
 18 A. I don't recall.  
 19 Q. And wouldn't that be consistent with  
 20 just general like medicine and placing in  
 21 restraints? Like, no one knows how long a  
 22 patient's going to be in restraints. They're  
 23 hopeful it's going to be short, but you really  
 24 don't know. Isn't that usually fair?  
 25 A. You -- you don't -- you never

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1 specifically or never 100 percent know. But you  
 2 can have an idea.  
 3 Q. Okay. So what timeframe do you think  
 4 would be the time when you should really start  
 5 thinking about giving Heparin?  
 6 A. When you have -- I would say when you  
 7 renew the restraints at the four-hour mark --  
 8 Q. Yep.  
 9 A. -- it's reasonable to consider.  
 10 Q. Right. Would the standard of care  
 11 require that the Heparin be administered at the  
 12 four-hour renew period?  
 13 A. So the standard of care requires that  
 14 you consider the fact that the patient is  
 15 immobilized and you know as a physician that  
 16 there's a possibility of clot formation and with  
 17 that possibility of clot breaking off heading to  
 18 the lungs and you consider how can I prevent this  
 19 from happening. And you either provide mobility,  
 20 which is what the limb release is for, or you use  
 21 something such as Heparin.  
 22 Q. Okay. But if you don't do either of  
 23 those, you're deviating from the standard of care;  
 24 is that correct?  
 25 A. If you don't do either of those, you're

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1 not considering that potential and you're not --  
 2 you're not acting on it.  
 3 Q. Okay. So I'll ask the question again.  
 4 If a patient who has been in restraints for four  
 5 hours is not obtaining consistent range of motion  
 6 exercises and then is not administered Heparin,  
 7 would that be a deviation from the standard of  
 8 care?  
 9 A. So I'm struggling a little bit, just  
 10 pardon me, with your four-hour mark.  
 11 Q. Okay. Yeah, because -- that's the  
 12 four-hour mark I'm using because you said that's  
 13 when a physician should consider using Heparin,  
 14 correct?  
 15 A. Correct.  
 16 Q. Okay.  
 17 A. Correct. There may be reasons why you  
 18 can't use Heparin or you can't do the, you know,  
 19 the limb release.  
 20 Q. Are you familiar with how often range of  
 21 motion exercises were employed at Hinsdale  
 22 Hospital when Mr. Cruz was being restrained?  
 23 A. I would have to look back through the  
 24 chart.  
 25 Q. Yeah, I mean, they're not in your

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1 opinions. They're not in your six-page report,  
 2 correct?  
 3 A. Correct.  
 4 Q. Would it be important to your opinions  
 5 that Dr. Zayed or Yalamanchi did or did not  
 6 deviate from the standard of care?  
 7 A. No, because my opinions are based on  
 8 Drs. -- Dr. Paschos and the folks at the jail.  
 9 Q. Right. But we agree that the standard  
 10 of care of a physician doesn't change, right?  
 11 A. Correct.  
 12 Q. Okay. Are you implying that you have no  
 13 -- do you think that Dr. Yalamanchi complied with  
 14 the standard of care in her treatment of Mr. Cruz?  
 15 A. In which respect?  
 16 MR. FLAXMAN: Let me object to the  
 17 question which assumes that she has an opinion,  
 18 which is not in evidence.  
 19 BY MR. RAGEN:  
 20 Q. Do you have an opinion one way or the  
 21 other whether Dr. Yalamanchi complied with the  
 22 standard of care in her treatment of Mr. Cruz?  
 23 A. No, I don't.  
 24 Q. Okay. Is there -- would the standard of  
 25 care between March 12th to 14th of 2016 differ

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1 than from March 15th or 20th, 2016?  
 2 MR. FLAXMAN: Let me object to the form  
 3 of the question. The standard of care relative to  
 4 what? It's a specific condition or treatment or  
 5 actions?  
 6 A. I agree. Can you be more specific with  
 7 the question?  
 8 Q. Would the standard of care of a  
 9 reasonably careful physician provided to a patient  
 10 like Mr. Cruz, would it differ between March --  
 11 these two timeframes: Timeframe A, March 12th to  
 12 14th of 2016 versus Timeframe B, March 15th to  
 13 March 20th, 2016?  
 14 A. So the standard of care of what?  
 15 Q. Of a reasonably careful --  
 16 A. Which standard of care are you  
 17 specifically asking about?  
 18 Q. The standard of care of a reasonably  
 19 careful physician. It would be the same, right?  
 20 There's nothing about the dates that changes it?  
 21 A. No. I -- the standard of care, as we  
 22 earlier said, as we earlier said, it's a national  
 23 standard of care. It doesn't change until --  
 24 until there's new evidence or new science that  
 25 comes out.

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1 So what I'm saying is the standard of  
 2 care applies to a patient in the situation with  
 3 the patient's history and everything that's going  
 4 on. So the standard of care, if the patient -- if  
 5 something changes, if the situation changes might  
 6 be different. Standard of care is, as I think you  
 7 said, what a reasonable physician would do.  
 8 Q. Right. Okay. But there's nothing about  
 9 -- okay. So are you competent to render opinion  
 10 as to whether Dr. Yalamanchi complied or deviated  
 11 from the standard of care in providing treatment  
 12 to Mr. Cruz?  
 13 A. I'm not opining on Dr. Yalamanchi.  
 14 Q. Could you?  
 15 A. I would have to re-read the records  
 16 again with a focus to do that.  
 17 Q. Do you have an opinion as to whether  
 18 Mr. Cruz's DVT could have -- well, strike that.  
 19 All right. Let's just talk about  
 20 12:43 A.M. March 13th, 2016. Okay?  
 21 A. Yes.  
 22 Q. Dr. Yalamanchi ordered that Mr. Cruz be  
 23 placed in restraints, correct?  
 24 A. Yes.  
 25 Q. Does the standard of care require that



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1 Dr. Yalamanchi see Mr. Cruz at any point in time  
 2 on or around March 13, 2016 at 12:43 A.M.?  
 3 A. Well, she could see Mr. Cruz or she  
 4 could be getting a sign out from another physician  
 5 or from a nurse describing the case. Either way.  
 6 Q. I want you to assume that -- so when was  
 7 Mr. Cruz let out of restraints in Hinsdale  
 8 Hospital?  
 9 A. Let's see. On March 14th.  
 10 Q. What are you looking at?  
 11 A. My opinion.  
 12 Q. What page?  
 13 A. Page 2. He was taken to Countryside  
 14 Police Department on the 14th of March.  
 15 Q. So I'm sorry, I guess I didn't -- I'm  
 16 just wondering when your understanding is that  
 17 Mr. Cruz was released from restraints at Hinsdale  
 18 Hospital? What time? What date?  
 19 A. Well, the March 14th is when he went to  
 20 Countryside. So let me go through the chart and  
 21 find that.  
 22 Q. Let the record reflect it's 4:34 when  
 23 she starts looking.  
 24 A. So you want to know -- you want to know  
 25 when he was discharged?

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1 Q. No. No, no, no.  
 2 A. Sorry. I'm just looking through his  
 3 chart trying to find clues as to how I can find  
 4 out the answer for what you want.  
 5 Q. So basically it's -- you know, my whole  
 6 point is you're providing opinions as to  
 7 physicians at the jail who did the same thing as  
 8 physicians at Hinsdale. And I'm just going to see  
 9 if you have an opinion as to those physicians at  
 10 Hinsdale. Okay?  
 11 MR. FLAXMAN: Well, let me object to  
 12 that because she said she doesn't have opinions  
 13 about people at Hinsdale. You're trying to sit  
 14 here now and ask her to formulate new opinions,  
 15 which is improper and is going to take a lot of  
 16 time. And she's telling you she needs to study  
 17 the records.  
 18 MR. RAGEN: Okay. How about this?  
 19 BY MR. RAGEN:  
 20 Q. Dr. Marcolini, let's just get a little  
 21 foundation here. I want you to assume that at  
 22 Hinsdale Hospital, okay, Mr. Cruz didn't get  
 23 Heparin for the majority of the time he was  
 24 restrained and also that range of motion exercises  
 25 were not performed for the majority of time. I

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1 just want you to assume that. Okay?  
 2 MR. FLAXMAN: I want to object to that  
 3 question because it's imprecise what you mean  
 4 about getting Heparin for a majority of the time  
 5 that he was restrained.  
 6 MR. RAGEN: I haven't asked the question  
 7 yet, Ken. Let me get the question out.  
 8 I want you to make those two  
 9 assumptions, okay?  
 10 MR. FLAXMAN: That assumption is  
 11 incomprehensible. I don't know and nobody knows  
 12 what getting Heparin for the majority of the time  
 13 while you're in restraints. Heparin, I think the  
 14 record will show, is administered in certain doses  
 15 every couple hours. Your question -- you should  
 16 get your own expert if you want opinions about  
 17 Hinsdale Hospital. You shouldn't ask  
 18 Dr. Marcolini to sit here now and give you new  
 19 opinions.  
 20 MR. CATANIA: I object to the objection.  
 21 BY MR. RAGEN:  
 22 Q. These are the assumptions I would like  
 23 you to make, okay, and then I'll ask the question.  
 24 I want you to assume that Mr. Cruz was in  
 25 restraints at Hinsdale Hospital for over seven

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1 hours and that for at least six of the hours, he  
 2 didn't get Heparin, and that for at least two  
 3 occasions there were not range of motion exercises  
 4 performed. Would that be relevant to determine  
 5 whether or not a DVT could have formed at Hinsdale  
 6 Hospital?  
 7 MR. FLAXMAN: Let me object to the  
 8 question. We don't have a DVT that formed at  
 9 Hinsdale Hospital. There's no evidence of that.  
 10 Nobody's suggested that. And your hypothetical  
 11 talked about not getting range of motion exercises  
 12 on at least two occasions. Nobody knows what that  
 13 means.  
 14 By MR. RAGEN:  
 15 Q. Can you answer the question,  
 16 Dr. Marcolini?  
 17 A. I'm uncomfortable answering your  
 18 question because you're asking me to make an  
 19 assumption and you're referring to events that  
 20 have a factual basis. And I agree, it's -- this  
 21 seems -- this seems unusual to ask me to make an  
 22 assumption about something and --  
 23 Q. I was going to speed it up, but we'll  
 24 just do it the slow way.  
 25 A. So it's challenging.

<p style="text-align: right;">Page 69</p> <p>1 Q. Okay. In your report, you see it on 2 page 2 -- 3 A. Yes. 4 Q. -- you write that during his stay at 5 Hinsdale Hospital, Mr. Cruz was placed in 6 four-point restraints on March 13, 2016 from 7 1:24 A.M. until 10:05 A.M., do you see that? 8 A. I do. 9 Q. Do you have any reason to disagree with 10 your report? 11 A. No. 12 Q. Okay. Looking at the medical record, it 13 looks like the first time he was given Heparin was 14 -- I'm going to share this. And if you need to 15 look somewhere else in the record, that's fine. 16 But I'm going to show you what I believe to be 17 when he first received Heparin, okay? 18 Right now, before we look at this 19 record, do you know when he first got Heparin, 20 Mr. Cruz, at Hinsdale Hospital? 21 A. No, I don't recall when he first got 22 Heparin. 23 Q. Okay. Okay. This is the medical record 24 that I'm going to be marking as Exhibit -- 25 THE COURT REPORTER: 6.</p>	<p style="text-align: right;">Page 71</p> <p>1 else that would suggest that Mr. Cruz obtained 2 Heparin prior to March 13, 2016 at 9:14 A.M.? 3 A. You're asking me if I know if he 4 received any Heparin prior to that? 5 Q. Yes. 6 A. From my recall, I can't tell you. 7 You're showing me when he did receive Heparin. In 8 all honesty, I don't know if he did receive 9 Heparin prior to that. 10 Q. Okay. Well, then look at the medical 11 records and tell me if he did receive Heparin 12 prior to March 13, 2016 at 9:15 A.M. Okay? 13 A. (Reviewing) So using the search tool 14 looking for Heparin, I cannot find anything that 15 states that he got Heparin before then. 16 Q. And that's before 9:19 A.M. on 17 March 13th, correct? 18 A. I forgot the time. But before. 19 Q. Whatever time's in the record? 20 A. Yeah. Nine something, yeah. 21 Q. Okay. So that took five minutes, but 22 that's okay. So that's one part of it. 23 MR. FLAXMAN: Can we have that time 24 stated in the record? 25 MR. RAGEN: That's fine. Remember your</p>
<p style="text-align: right;">Page 70</p> <p>1 MR. RAGEN: Thank you. 2 (Whereupon Deposition Exhibit 6 was 3 marked for identification.) 4 BY MR. RAGEN: 5 Q. Okay. I'm looking at what is page 120 6 of 294, okay? 7 A. Okay. 8 Q. See that? 9 A. I do. 10 Q. Does this appear to be a copy of the 11 Hinsdale Hospital medical records? 12 A. Yes. 13 Q. Okay. This, to me, establishes that 14 there was a dose of Heparin on March 12, 2016 at 15 2000 hours that was not given. Do you see that? 16 A. I do. 17 Q. And that was charted by Nurse Aiste 18 Barkauskaite on March 12, 2016 at 2210. Do you 19 see that? 20 A. I do. 21 Q. And the next note says that on March 13, 22 2016, that a dose of Heparin was administered. Do 23 you see that? 24 A. Yes. 25 Q. Do you have any -- is there anything</p>	<p style="text-align: right;">Page 72</p> <p>1 objections are supposed to be limited to not 2 speaking. 3 MR. FLAXMAN: I'm not speaking. Could 4 you state the time rather than just saying 5 whatever you said before? 6 BY MR. RAGEN: 7 Q. Okay. And are you aware of the -- 8 MR. FLAXMAN: Hold on. You're not going 9 to honor my request to clean up the record so we 10 can know what you guys have been talking about in 11 the last question? 12 MR. RAGEN: What's your question, Ken? 13 MR. FLAXMAN: You said that Heparin was 14 given at a particular time, and you never said the 15 time when you finally got an answer to the 16 question. What time was it? 17 MR. RAGEN: I got it. It's -- I'll back 18 up. 19 BY MR. RAGEN: 20 Q. So you see I'm sharing the screen, 21 Dr. Marcolini? 22 A. I do. 23 Q. So what time does it show that Mr. Cruz 24 was administered Heparin? 25 A. 9:14.</p>



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1 Q. 9:14 A.M. on March --  
 2 A. Yeah, I believe you said 9:19. That's  
 3 why I was unclear. So it was 9:14.  
 4 Q. And the only ambiguity, if you look at  
 5 that, right, there's a date administered and date  
 6 charted, right?  
 7 A. Yes.  
 8 Q. And those have a five-minute difference,  
 9 correct?  
 10 A. Yes.  
 11 Q. Let's go with the earliest one. On  
 12 March 13, 2016 at 9:14 A.M., okay?  
 13 A. Yes.  
 14 Q. You have no -- that's the first time you  
 15 believe Heparin was administered to Mr. Cruz,  
 16 correct?  
 17 A. According to this charting and that I  
 18 can't find anything in my brief search, yes.  
 19 Q. Okay. So you have no reason to disagree  
 20 with the fact that Mr. Cruz first obtained Heparin  
 21 on March 13, 2016 at 9:14 A.M., correct?  
 22 A. Correct.  
 23 Q. Okay. And based on your own report, you  
 24 say that he was placed in four-point restraints  
 25 from 1:24 A.M. to 10:05 A.M., correct?

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1 A. Yes.  
 2 Q. Okay. And earlier, we established that  
 3 Dr. Yalamanchi placed the order for restraints on  
 4 March 13, 2016 at 12:43 A.M., right?  
 5 A. Yes.  
 6 Q. Okay. So would you agree that the  
 7 medical record reflects that there was a, at  
 8 least, six-hour window where Mr. Cruz did not  
 9 receive Heparin while restrained at Hinsdale  
 10 Hospital?  
 11 A. Let's see. Yes.  
 12 Q. Okay. Now, for the Hinsdale Hospital,  
 13 did you look at the types of range of motion  
 14 exercises that were employed at Hinsdale Hospital?  
 15 A. I don't recall.  
 16 Q. Could they be relevant to your opinion  
 17 as to whether or not a DVT formed while Mr. Cruz  
 18 was at Hinsdale Hospital?  
 19 MR. FLAXMAN: Let me object to the  
 20 question. It assumes she has an opinion about  
 21 that.  
 22 MR. RAGEN: Okay.  
 23 BY MR. RAGEN:  
 24 Q. Do you have an opinion one way or the  
 25 other whether Mr. Cruz developed a DVT at Hinsdale

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1 Hospital?  
 2 A. Absolutely not. There's no way that we  
 3 can know when a DVT was formed.  
 4 Q. Okay. But your opinions are that if you  
 5 don't employ either two modalities, which are  
 6 giving an anticoagulant like Heparin or  
 7 immobilizing a patient, you increase the risk of  
 8 developing a DVT, true?  
 9 A. Yes.  
 10 Q. Okay. And --  
 11 A. Under the heading of immobility.  
 12 Q. Right. And it's true that we can't say  
 13 more probably true than not that the clot, the DVT  
 14 that ended up killing Mr. Cruz was formed at  
 15 Hinsdale Hospital; isn't that true?  
 16 A. State that again.  
 17 Q. Okay. Isn't it true that we can't say  
 18 more probably true than not that the DVT that  
 19 became a PE that killed Mr. Cruz originated at  
 20 Hinsdale Hospital? Isn't that true?  
 21 A. I think you're doing that double  
 22 negative thing again. But -- but..  
 23 Q. Can we rule out that -- so your cause of  
 24 death is that a DVT -- DVT were formed, right,  
 25 deep vein thrombi were formed and that caused a

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1 pulmonary embolus to Mr. Cruz, right?  
 2 A. Yes.  
 3 Q. Okay. And it's certainly possible that  
 4 those DVTs developed at Hinsdale Hospital, true?  
 5 A. It's possible.  
 6 Q. Okay. Because he was restrained at  
 7 Hinsdale Hospital, true?  
 8 A. He was.  
 9 Q. He did not receive Heparin for a period  
 10 of at least six hours while at Hinsdale Hospital,  
 11 true?  
 12 A. True. If -- what you showed me is all  
 13 that we have. I have not reviewed the record for  
 14 that question.  
 15 Q. Well, Mr. Flaxman, when it's his turn to  
 16 do Redirect, he can correct any facts that I'm --  
 17 that you're unwilling -- that you're unable to  
 18 make right now. And I believe the deposition --  
 19 let me finish the question -- the depositions  
 20 themselves will show that.  
 21 So you have no reason to disagree with  
 22 the fact that Mr. Cruz was restrained at Hinsdale  
 23 and did not receive Heparin for at least six  
 24 hours, correct?  
 25 MR. FLAXMAN: Objection, it's a compound

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1 question. I also object to your statement before  
2 that. Nobody -- neither one of us was at Hinsdale  
3 Hospital. Nobody here was at Hinsdale Hospital.  
4 If you want to know what happened at Hinsdale  
5 Hospital, you should ask somebody who was there  
6 who could talk about the records rather try to get  
7 it through the back door from Plaintiff's expert.

8 MR. CATANIA: Object to the objection.

9 BY MR. RAGEN:

10 Q. Have you read Nurse Aiste Barkauskaite's  
11 deposition?

12 A. No.

13 Q. Okay. Could her deposition be relevant  
14 to you forming opinion as to when a DVT was more  
15 likely to have been formed?

16 MR. FLAXMAN: Objection, speculation.

17 A. The question of when the DVT was formed  
18 does not influence my opinion.

19 Q. Okay. Are you -- you're testifying that  
20 Dr. Paschos -- strike that.

21 You're testifying that Cermak Health  
22 Services, the care that was provided there,  
23 created an increased risk that Mr. Cruz would  
24 develop a DVT, correct?

25 A. Yes.

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1 Q. Okay. Do you have an opinion one way or  
2 the other whether the care that occurred at  
3 Hinsdale Hospital created an increased risk that  
4 Mr. Cruz would develop a DVT?

5 A. No.

6 Q. How long -- so do you have an opinion  
7 one way or the other, so -- no, I'm going to ask  
8 this specific question.

9 Can you say more probably true than not  
10 that the DVT that became the pulmonary embolism  
11 that killed Mr. Cruz was formed while he was at  
12 the Cook County Jail?

13 A. Again, we can't know when the DVT was  
14 formed.

15 Q. Okay. So it's true that you can't  
16 render an opinion that it's more probably true  
17 than not that the DVT that became a PE that killed  
18 Mr. Cruz was formed while he was at the Cook  
19 County Jail; is that true?

20 A. What I can say is that whenever the DVT  
21 was formed, the care that was provided at the Cook  
22 County Jail did not mitigate the risk of either  
23 formation of a DVT or propagation of an already  
24 formed DVT.

25 In either case, it's irrelevant when

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1 because we can't know. Nobody can ever know when  
2 a DVT was formed unless you get imaging just prior  
3 to and just after it was formed. So -- so  
4 irrespective, the care that was rendered at the  
5 Cook County Jail did not mitigate the risk of  
6 propagation, did not mitigate the risk of  
7 formation. And that's -- that's the deviation  
8 from the standard of care.

9 MR. RAGEN: Shelley, could I have my  
10 question read back?

11 (Whereupon the requested portion of the  
12 record was read by the court reporter.)

13 A. Can you repeat that in not -- without  
14 double negatives? Can you make that question --

15 Q. I'll try. I'll try.

16 A. I realize that you're trying not to do  
17 that. But I want to make sure that what I say is  
18 accurate. It's very important that I -- that I am  
19 accurate, which is why I'm being very careful with  
20 my words.

21 Q. That's fine.

22 A. I don't want to misspeak.

23 Q. Agreed. And you know, this is -- and I  
24 wasn't inferring that you were evading the  
25 question. So to your question, on Redirect, I

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1 will ask it -- try to ask it not with double  
2 negatives.

3 Is it more probably true than not that  
4 the DVT that became a PE that killed Mr. Cruz  
5 developed at Cermak Health Services?

6 A. It's more likely -- more likely than not  
7 true that it did develop at Cermak.

8 Q. Okay. And you're saying that because  
9 the -- there were -- the failure to mitigate those  
10 two things, that mobility exercises were not  
11 performed as regularly as you would like them and  
12 Heparin was not administered, true?

13 A. I'm saying that because Angel was  
14 immobilized for 17-1/2 hours. And in that time,  
15 he did not receive limb release and he did not  
16 receive Heparin. It's the -- it's the  
17 immobilization that contributed and that would  
18 cause this. And we have ways of mitigating that  
19 risk, and they were not employed.

20 Q. So would you say the more frequently  
21 range of motion exercises were employed, the  
22 better?

23 A. Yes.

24 Q. Okay. Do you have -- and so you just  
25 compared -- you just told me it's more probably

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1 true than not that the DVT that killed Mr. Cruz  
2 via pulmonary embolism, it's more probably true  
3 than not that that originated while he was within  
4 the Cook County Jail; is that true?

5 A. If I had to make a guess and say what's  
6 more likely, yes, because of his prolonged  
7 immobilization and the lack of any mitigation of  
8 the risk.

9 Q. Now, to make that comparison, wouldn't  
10 it be helpful to know how much of the mitigating  
11 risks were performed at Hinsdale Hospital?

12 A. You know, you are asking me about  
13 something that happened at Hinsdale Hospital. It  
14 doesn't really matter, because if he was -- if he  
15 was restrained for 17-1/2 hours and not given the  
16 limb release that is specifically designed to  
17 mitigate the risk of either development or  
18 propagation of a clot, that stands alone. And it  
19 doesn't matter.

20 If -- let's just say this: If the clot,  
21 if we had some kind of a magic view and we knew  
22 that the clot formed while he was at Hinsdale  
23 Hospital, the actions at Cermak would have been  
24 actions to mitigate the risk of that propagating.

25 You could have a clot in your leg right

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1 now and the fact that you have a clot in your leg  
2 right now is not going to kill you because you're  
3 up and you're walking around and you're active and  
4 you're squeezing your muscles and endogenous TPA  
5 is breaking down clot all the time.

6 So it doesn't matter to me what happened  
7 to you yesterday. What happened to you yesterday  
8 may have formed the clot. My job, if you're my  
9 patient right now, is to prevent that clot from  
10 propagating or prevent a clot from forming if I'm  
11 going to keep you immobilized. I just -- does  
12 that make sense?

13 Q. We just talked about whether the DVT  
14 that ended up killing Mr. Cruz, whether you could  
15 say when it was formed. And you just told me it's  
16 more probably true than not that it was formed  
17 when he was at Cook County Jail, right?

18 A. I did.

19 Q. Okay. And so for comparing, is it  
20 possible that the DVT that ended up killing  
21 Mr. Cruz was formed when he was at Hinsdale  
22 Hospital?

23 A. So you said if we're comparing. I'm not  
24 comparing.

25 Q. I'm asking you to compare.

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1 A. Well, I'm telling you it's irrelevant to  
2 compare. I'm telling you that you asked me if  
3 it's more likely than not that the clot was formed  
4 at Cermak. And I said since he was -- since he  
5 was immobilized for 17-1/2 hours without any risk  
6 mitigation, then yeah, if you ask me to make an  
7 estimation is it more likely than not, yes, it's  
8 more likely than not. I have no way of knowing  
9 absolutely when that clot was formed.

10 Q. That's true. But in order to make that  
11 more likely than not assessment, wouldn't it be  
12 relevant to know how much the two mechanisms to  
13 avoid clot formation, which are anticoagulant and  
14 mobilizing the patient, were employed with  
15 Heparin; isn't that true?

16 MR. FLAXMAN: Object to the form of the  
17 question, which assumes facts that are contrary to  
18 the record.

19 BY MR. RAGEN:

20 Q. Can you answer the question?

21 A. I think you misspoke when you said  
22 something about Heparin. Can we read back the  
23 question?

24 Q. Okay. You -- strike that. We'll just  
25 plug along.

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1 Can you tell me how often Mr. Cruz was  
2 mobilized while he was restrained at Hinsdale  
3 Hospital?

4 MR. FLAXMAN: Let me object to that.  
5 Immobilized or mobilized? What does mobilized  
6 mean in this context?

7 BY MR. RAGEN:

8 Q. Can you answer the question,  
9 Dr. Marcolini?

10 A. No, I cannot tell you.

11 Q. Okay. But you can answer the question,  
12 right? The question --

13 A. The question? Which question are we  
14 talking about right now?

15 Q. All right. So we just established the  
16 anticoagulant -- we talked about that you have two  
17 modalities to avoid the formation of a clot,  
18 right?

19 A. Formation or propagation, yes.

20 Q. We're talking about formation, right?  
21 We talked about there are two ways to avoid  
22 formation of a clot?

23 A. Yes.

24 Q. One is an anticoagulant, like Heparin.  
25 And the other one is making sure the restrained

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1 patient is mobilized. Correct?  
 2 A. Yes.  
 3 Q. Okay. Can you tell me how the  
 4 healthcare practitioners at Hinsdale Hospital  
 5 mobilized Mr. Cruz?  
 6 A. No, I can't.  
 7 Q. Okay. Would that information more  
 8 likely than not be in the records?  
 9 A. I don't know. Again, I -- again, I  
 10 would have to go through the chart to look for  
 11 that evidence. That's not what I based my opinion  
 12 on. And it's not -- it's -- the important part of  
 13 this case is that Angel Cruz was in the care of a  
 14 physician and was immobilized for 17-1/2 hours.  
 15 And in those 17-1/2 hours, the physician and the  
 16 nurses were responsible for understanding that  
 17 immobilization increases a risk of development  
 18 and/or propagation of clot and that can be  
 19 life-threatening.  
 20 Q. Okay.  
 21 A. That's the important part of this.  
 22 Q. I understand. Your answer, though --  
 23 MR. FLAXMAN: I think you have to let  
 24 her answer your question, sir.  
 25 MR. RAGEN: I did. You were finished,

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1 right?  
 2 A. The important -- and I was saying and  
 3 that's the important part of this. And that's the  
 4 basis of my opinion.  
 5 Q. So --  
 6 A. Are you asking -- you're asking me to  
 7 compare the care at Cermak to the care at  
 8 Hinsdale. I didn't do that. That's not what I  
 9 based my opinion on.  
 10 Q. There's nothing there to stop you from  
 11 rendering an opinion as to the doctors or nurses  
 12 at Hinsdale; is that correct?  
 13 A. There is nothing that stops me. But as  
 14 I answered before, the -- it wouldn't matter. If  
 15 they had or hadn't, that clot developed. We know  
 16 that. And in the 17-1/2 hours that Angel Cruz was  
 17 immobilized, that's -- that's when the clot either  
 18 developed or propagated. Irrespective, it  
 19 embolized, it went to the lungs, and it killed  
 20 him.  
 21 Q. Do you -- would you say that it's  
 22 irrelevant that he was immobilized while at  
 23 Hinsdale Hospital?  
 24 A. Irrelevant to what?  
 25 Q. Your opinions.

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1 A. So in answer to your question, if he had  
 2 been immobilized and treated appropriately, or  
 3 inappropriately, the focus for me and my opinion  
 4 is that he was inappropriately treated at the jail  
 5 and that inappropriate -- that standard of  
 6 deviation -- deviation from the standard of care  
 7 is what caused embolus to go to the lungs.  
 8 Q. So but the one thing is could the --  
 9 could the care -- so it's possible that if you  
 10 reviewed Hinsdale Hospital's chart and were given  
 11 the time, it's possible that you would conclude  
 12 that the care there did not meet the standard of  
 13 care; is that true?  
 14 A. It's possible.  
 15 Q. And is it possible that if that opinion  
 16 was made, that would have an impact on the  
 17 causation of Mr. Cruz's death?  
 18 A. No.  
 19 Q. Okay. Let's talk about your report a  
 20 little bit. Going to page -- when you say a  
 21 propagation, explain propagation to me.  
 22 A. Oh, sure. When a clot is formed in the  
 23 bloodstream, it typically is formed in a vessel,  
 24 on a blood vessel. And mostly -- it can form in  
 25 arteries, but it usually forms in veins. And when

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1 that clot forms, it's formed by platelets.  
 2 Platelets clump, they get sticky. They typically  
 3 go to the site of either an injury to the blood  
 4 vessel, which is why we have this mechanism, or to  
 5 the site of a slowing of blood flow in the blood  
 6 vessel or stasis, as we call it. Or they can be  
 7 formed because of something pathological, like a  
 8 disruption or a blood dyscrasia. So those  
 9 platelets form, they go to the site, and they are  
 10 at that site.  
 11 Now, if there's nothing done to stop the  
 12 formation, a group of platelets is like a snowball  
 13 going downhill. Platelets attract more platelets.  
 14 And as you get more platelets showing up, the clot  
 15 gets larger. It propagates, so it becomes longer  
 16 within the blood vessel.  
 17 The larger the clot becomes, the more  
 18 risk there is of part of that clot breaking off,  
 19 heading downstream, as it were, and in the venous  
 20 downstream is heading back toward the heart, into  
 21 the right side of the heart, and then it goes into  
 22 the lungs. And that's where the vessels get  
 23 smaller, and these clots or clot get stuck in the  
 24 smaller vessels.  
 25 So as they get stuck in those smaller



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1 vessels, now that traveling clot, it gets stuck  
 2 somewhere and now it's going to start propagating.  
 3 Q. And so talking a little bit about clot  
 4 burden. Would you say it's -- like sometimes  
 5 people can survive a pulmonary embolism, sometimes  
 6 they can't; isn't that true?  
 7 A. That is true.  
 8 Q. And the amount of the clot burden is  
 9 instructive as to the chance of survivability;  
 10 isn't that true?  
 11 A. It's the amount and location.  
 12 Q. Right. Okay. And those are the two  
 13 main factors that determine whether or not a  
 14 person can survive a PE, right?  
 15 A. Yes. It's the clot burden, which is the  
 16 amount, and location, and the person's ability to  
 17 mount a response to that.  
 18 Q. Do you have an opinion as to the  
 19 severity of Mr. Cruz's clot burden?  
 20 A. It was severe enough to kill him.  
 21 Q. Right. Are there certain times where  
 22 the clot burden is so high that no matter what  
 23 methods are employed to save a patient's life, the  
 24 patient will still die?  
 25 A. It depends on the patient's underlying

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1 condition and it depends on when that clot is  
 2 discovered.  
 3 Q. Are there certain pulmonary emboli that  
 4 are so big that they aren't survivable?  
 5 A. Well, no, because we have -- we have  
 6 treatments. We have interventional treatments.  
 7 We have interventional clot busters. And we also  
 8 have endovascular procedures to remove clot.  
 9 Q. Okay. Let's talk about the treatment  
 10 modalities. What would be the medications you  
 11 could administer?  
 12 A. Heparin --  
 13 Q. Yep.  
 14 A. -- would be the first one.  
 15 Q. Uh-huh.  
 16 A. TPA.  
 17 Q. Okay.  
 18 A. Tissue plasminogen activator --  
 19 Q. Yeah.  
 20 A. -- can be employed. Those are basically  
 21 the medications that you would deploy if and when  
 22 you find the clot, or discover, or even to think  
 23 that somebody has a clot.  
 24 Q. Right.  
 25 A. There's also Lovenox, which is a

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1 different form of Heparin.  
 2 Q. Right. One's unfractionated, one's  
 3 fractionated?  
 4 A. Correct.  
 5 Q. When was a pulmonary embolism first  
 6 diagnosed with Mr. Cruz?  
 7 A. I believe, at autopsy.  
 8 Q. Okay. Was a pulmonary embolism ever  
 9 diagnosed while he was at Cook County Jail?  
 10 A. No.  
 11 Q. On pages five and six of your opinions,  
 12 do you see that?  
 13 A. I do.  
 14 Q. Is that where you talk about how  
 15 Mr. Cruz, if he was properly assessed, signs of a  
 16 pulmonary embolism could have been detected?  
 17 A. Let me get my wording there. Where are  
 18 you looking?  
 19 Q. Well, I'm just trying to -- the last two  
 20 paragraphs on 5 and then, you know, through 6.  
 21 A. Okay.  
 22 Q. Is this a part of your opinions where  
 23 you talk about how Mr. Cruz, if he was assessed  
 24 properly, a pulmonary embolism could have been  
 25 diagnosed?

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1 A. I didn't say that if he was assessed  
 2 properly that a pulmonary embolism could be  
 3 diagnosed, did I? Are you reading that somewhere?  
 4 Q. No. The thing is it's not -- I get to  
 5 ask you questions about your opinions.  
 6 A. Yeah, okay.  
 7 Q. So is it true -- let's just talk about  
 8 Nurse Krzyzowski, okay?  
 9 A. Okay.  
 10 Q. Do you believe that Nurse  
 11 Krzyzowski deviated from the standard of care?  
 12 A. Yes.  
 13 Q. Okay. And that has to do with her care  
 14 and treatment of Mr. Cruz on or around 2:35 A.M.  
 15 on March --  
 16 A. Yes.  
 17 Q. -- on the date of his death, correct?  
 18 A. Correct.  
 19 Q. Okay. And your opinions as to Nurse  
 20 Krzyzowski is that she did not do a proper  
 21 assessment; is that correct?  
 22 A. She took ten minutes to respond to  
 23 somebody who was crying out for help.  
 24 Q. Right. So I'm just going through your  
 25 opinions. If you look at the last paragraph, you

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1 indicate, If the assessment described above had  
2 been done, Angel could have received treatment for  
3 his pulmonary embolus, true?

4 A. Yes.

5 Q. So what you're saying is if Nurse  
6 Krzyzowski would have done the proper assessment,  
7 she would have discovered that Mr. Cruz was  
8 suffering from a pulmonary embolism, true?

9 A. No, no.

10 Q. What are you saying?

11 A. That's not what I'm saying. What I'm  
12 saying is that at 2:35, when Deputy Anderson told  
13 Nurse Krzyzowski that Angel was yelling, "Help me,  
14 help me," she waited ten minutes and then  
15 responded and found him, you know, he had labored  
16 breathing and calling for help.

17 Now, when somebody's in distress and  
18 they're calling for help, as a healthcare  
19 practitioner, irrespective of whether you're a  
20 nurse or a physician, you go to that patient and  
21 you ask what's wrong? You find out what's wrong.  
22 And if somebody's having difficulty breathing, one  
23 of the first questions is do they have an airway,  
24 is the airway obstructed, you know, is he choking  
25 on something, does he have a foreign body in his

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1 airway.

2 And then when that's cleared and you  
3 don't have a foreign body and he's not choking,  
4 you ask is he breathing adequately. And if he has  
5 labored breathing and he's asking for help, then  
6 you want to ask yourself why is he having labored  
7 breathing? Why is he asking for help? What's his  
8 oxygenation?

9 So you get a pulse oximeter, you put it  
10 on the finger and you find out what the  
11 oxygenation is. If the oxygenation is not  
12 adequate, then you apply oxygen and you move down,  
13 you know, what is a pretty standard algorithm for  
14 taking care of a patient who's in respiratory  
15 distress or somebody with labored breathing.

16 And had Nurse Krzyzowski done that, she  
17 would have found that he did have some labored  
18 breathing and he probably did have some  
19 oxygenation problems. And that -- if that  
20 assessment would have been done, then she would  
21 have put oxygen on, called EMS, gotten them there.  
22 They would have even more tools to work with, and  
23 gotten him oxygen, an IV with IV fluid, and  
24 supported him, gotten him to the hospital where,  
25 at the hospital, they could put an ultrasound

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1 probe on the chest to see that his right ventricle  
2 is larger than his left, which belies an  
3 obstructive phenomenon, which would indicate  
4 something is going on in the lungs possibly and  
5 consider that he may be having a pulmonary  
6 embolus.

7 And so what I'm saying in that sentence  
8 that you read, if the assessment described above  
9 had been done, Angel could have received treatment  
10 for his pulmonary embolus, that means --

11 Q. Right.

12 A. -- that the nurse would have alerted the  
13 EMS system and they would have gotten Angel Cruz  
14 to the hospital while he was still alive and still  
15 had a chance to be resuscitated.

16 Q. Gotcha. So just to encapsulate what  
17 you're saying Nurse Krzyzowski did is she  
18 performed no assessment, correct?

19 A. I don't think she did perform an

20 assessment. She didn't even go into the room --

21 Q. Right. So --

22 A. -- until ten minutes later and he was  
23 collapsed.

24 Q. I guess -- so you have to answer my  
25 question.

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1 A. Yes.

2 Q. Are you saying Nurse Krzyzowski's  
3 deviation from the standard of care is her failing  
4 to perform an assessment? Yes or no?

5 A. Yes.

6 Q. Okay. Is there any difference between  
7 assessment or examination? Did Nurse Krzyzowski  
8 perform any examination of Mr. Cruz at that time?

9 A. Not until she went to the room and found  
10 him collapsed.

11 Q. Right. What you're saying is her  
12 failure to perform an assessment or an  
13 examination, that's the deviation from the  
14 standard of care, correct?

15 A. I'm saying her failure to respond to a  
16 patient's cry for help, to delay her response to  
17 that, and not to, you know, respond to that cry  
18 for help until ten minutes later. And when she,  
19 you know --

20 Q. Do you -- do you think that -- let's  
21 just -- you talked about all the ways that  
22 Mr. Cruz maybe would have benefitted from a  
23 different treatment scenario. Okay?

24 A. Yeah.

25 Q. The fact that he didn't get any of that



<p style="text-align: right;">Page 97</p> <p>1 treatment scenario, you're saying is that because  2 Ms. Krzyzowski did not perform the assessment as  3 you indicated she should have, correct?  4 MR. FLAXMAN: Let me object to the form  5 of the question. And it's not a yes or no  6 question with that "correct" at the end. That's  7 sneaky, and you shouldn't do that.  8 MR. RAGEN: Can you read the question  9 back, please?  10 (Whereupon the requested portion of the  11 record was read by the court reporter.)  12 A. Can you reword the question?  13 Q. Sure. It's true that Nurse Krzyzowski  14 failed to perform a proper assessment of  15 Mr. Cruz's condition on around 2:35 A.M., correct?  16 A. It is true.  17 Q. Okay. Do you think -- let's just talk  18 about Mr. Cruz and the chance that he could have  19 survived this pulmonary embolism. You've read the  20 Medical Examiner's report, correct?  21 A. I did.  22 Q. And how -- how high was his clot burden?  23 A. I don't recall off the top of my head.  24 Q. Okay. Do you think Mr. Cruz could have  25 survived if he never was given either an</p>	<p style="text-align: right;">Page 99</p> <p>1 Q. What are the other ways you could treat  2 a pulmonary embolism?  3 A. To treat a pulmonary embolus, you can,  4 as you suggested, provide Heparin. You can try  5 unfractionated Heparin or Lovenox. You can  6 perform an endovascular procedure.  7 Q. Right. Surgery, yeah. What I'm saying  8 is did I talk about all --  9 MR. FLAXMAN: Hold it, hold it. You  10 can't do that. She's answering your question and  11 you're interrupting her. Please stop doing that.  12 MR. RAGEN: I only have three and a half  13 hours. And I don't think Dr. Marcolini's trying  14 to be evasive, but I just have a time constraint.  15 MR. FLAXMAN: You can have as much time  16 constraints as you want, but don't interrupt her  17 when she's answering.  18 MR. RAGEN: I can have as much what as I  19 want?  20 MR. FLAXMAN: You should patiently wait  21 for her to be finished, then you should ask  22 another question. That's the way we work in the  23 Federal Rules of Civil Procedure. We don't  24 interrupt people.  25</p>
<p style="text-align: right;">Page 98</p> <p>1 anticoagulant or tissue plasminogen activator?  2 Can you say one way or another?  3 A. Could he have -- you're asking could he  4 have survived?  5 Q. Right, if he never got Heparin or tissue  6 plasminogen inactivator?  7 A. You mean if he had gotten to the  8 hospital and never got those?  9 Q. Yeah, I mean, never. Right? So what  10 I'm saying is you talked about how you can give  11 someone oxygen, right, and IV fluids?  12 A. Yeah, yeah.  13 Q. That's one of the ways you can help a  14 patient who is incurring a pulmonary embolism  15 survive it, true?  16 A. Yes.  17 Q. Okay. Those are two methodologies,  18 right?  19 A. Yes.  20 Q. What are the other ones you'd do? You  21 can perform a surgery, right?  22 A. Yes.  23 Q. Okay. Or you can provide medication,  24 right?  25 A. Yes.</p>	<p style="text-align: right;">Page 100</p> <p>1 BY MR. RAGEN:  2 Q. I'm sorry, are you finished,  3 Dr. Marcolini?  4 A. No. The treatment modalities are  5 Heparin, Lovenox, endovascular thrombectomy,  6 intraarterial Heparin, TPA, or intraarterial TPA.  7 Q. Right. And those, all those are either  8 surgical or medication, right?  9 A. True.  10 Q. Okay. So outside of giving the patient  11 oxygen, giving them IV fluids, or those medical or  12 surgical interventions you talked about, have we  13 talked about all the different treatment  14 modalities that could have been used on Mr. Cruz?  15 A. Oxygen, IV fluid, supportive care,  16 Heparin, yeah. Those are -- those are the  17 treatment modalities that he needed until he  18 coded. Then he needed CPR.  19 Q. Right. And when did he code?  20 A. He coded while he was still at the jail.  21 Q. What time was it?  22 A. Let's see. I don't know. I'd have to  23 look that up.  24 Q. Please do.  25 A. Okay.</p>

<p style="text-align: right;">Page 101</p> <p>1 Q. If it's important to your opinion. If 2 it's not, that's fine. 3 A. I could tell you it was sometime after 4 2:35. So in Nurse Krzyzowski's progress note, she 5 says that at 2:40 A.M., patient was verbalizing, 6 "Help me." She -- and she told the patient to lie 7 down and she would get some medications. She 8 prepared the medications. He was lying down. He 9 had a pulse. He was breathing. Code Blue was 10 called -- I don't have a time here -- sometime 11 after 2:40. Hang on. 12 Q. How long do you think you've been 13 looking for this, would you say? 14 A. I don't know. A few minutes anyway. 15 Q. Okay. 16 A. As you know, these medical records are 17 not designed for me to find an answer that I'm 18 looking for. So I'm doing my best to try to find 19 it. But I'm sorry. 20 Q. I know. Is it important to know for 21 your opinions when Mr. Cruz coded? 22 A. No. 23 Q. Okay. Okay. Moving on, is it true that 24 have you ever -- did you receive an undergraduate 25 degree in nursing?</p>	<p style="text-align: right;">Page 103</p> <p>1 educational requirements are for nursing? 2 A. Yes. 3 Q. What are they? 4 A. They are continuing education. They 5 have -- you know, it's that they have to acquire 6 and they have to have certain -- I teach -- I 7 teach nurses, so I realize that they have to have 8 requirements. They have to have pharmacology as a 9 certain percentage of their requirements, and they 10 have to get documentation of that. 11 Q. Would you say that you've received a 12 higher level of training than nurses? 13 A. Yes. 14 Q. Okay. Would you think a reasonably 15 careful nurse would have to have as much education 16 as you to be a competent nurse providing care in 17 Illinois? 18 A. No. 19 Q. Okay. If you wanted to become a nurse 20 at either of the hospitals you are credentialed 21 at, could you? 22 A. No. 23 Q. Okay. 24 A. Not unless I went to nursing school and 25 went through their curriculum.</p>
<p style="text-align: right;">Page 102</p> <p>1 A. No. 2 Q. Are you licensed as a registered nurse? 3 A. No. 4 Q. Are you licensed as an LPN? 5 A. No. 6 Q. Did you -- when you went to medical 7 school, did you receive training as a nurse? 8 A. No. 9 Q. In your residency, did you receive 10 training as a nurse? 11 A. No. 12 Q. In your fellowship, did you receive 13 training as a nurse? 14 A. No. 15 Q. You have certain continuing medical 16 education obligations that we discussed, in part, 17 correct? 18 A. I'm sorry, do I have? 19 Q. Like CMEs, right? 20 A. Yes. 21 Q. You do CME, correct? 22 A. I do. 23 Q. And that's as a medical doctor, right? 24 A. True. 25 Q. Are you aware of what the continuing</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. And became licensed, right? 2 A. True. 3 Q. And obtained the training that a nurse 4 would get in nursing school, right? 5 A. Yes. 6 Q. In any of the other cases that you 7 testified, did you testify to the nursing standard 8 of care? 9 A. In any of the other cases that I 10 testified? 11 Q. Yep. 12 A. Let's see. Not that I recall. 13 Q. Okay. We talked about the policies and 14 procedures that were -- you know, about restraints 15 at the hospitals you practiced at. Do you 16 remember that? 17 A. Yes. 18 Q. Are the policies and procedures of those 19 hospitals, are they confidential or privileged in 20 any way, do you know? 21 A. I don't know. 22 Q. Okay. If they are not confidential and 23 privileged, would you mind providing a copy of the 24 policy that was in effect in March 2016 at the 25 hospitals you were providing care at?</p>

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1 A. Well, I wasn't working at my current  
2 hospital in 2016.  
3 Q. Were you practicing medicine in any  
4 hospital in 2016?  
5 A. Yes.  
6 Q. Would you mind providing a copy of the  
7 policy and procedure on restraints in March of  
8 2016?  
9 MR. FLAXMAN: From where?  
10 MR. RAGEN: Whatever hospital you were  
11 practicing at in March of 2016.  
12 MR. FLAXMAN: Is that proper to ask her  
13 to go out and get documents that she didn't rely  
14 on that you want to do fact discovery on?  
15 MR. RAGEN: I just asked her if she'd  
16 mind. She could say no or yes.  
17 MR. FLAXMAN: I think that's an improper  
18 question, if you would mind. How is that, you  
19 know, relevant? You can answer, but we'll object  
20 to the form of the question.  
21 A. I -- I -- I don't -- yes, I would mind.  
22 I was working at Yale New Haven Hospital in 2016,  
23 and I don't work there anymore. So I think it  
24 would be inappropriate for me to ask for policies  
25 and procedures to apply them to a case that they

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1 have nothing to do with.  
2 Q. Okay. Labored breathing, that's a  
3 non-specific finding; would you agree?  
4 A. Yes.  
5 Q. Can labored breathing be associated with  
6 indigestion?  
7 A. Not usually.  
8 Q. Angina?  
9 A. Yes.  
10 Q. Exertion?  
11 A. Yes.  
12 Q. Can psychotic patients who don't have  
13 pulmonary embolism, can they have labored  
14 breathing?  
15 A. Yes.  
16 Q. Congestive heart failure, can patients  
17 with congestive heart failure have labored  
18 breathing?  
19 A. Yes.  
20 Q. Patients who have stroke, can they have  
21 labored breathing?  
22 A. Yes.  
23 Q. Are there many other medical conditions  
24 that could cause labored breathing?  
25 A. There are others.

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1 Q. Yeah. More than five, but less than a  
2 thousand, true?  
3 A. Sure.  
4 Q. What are the signs -- can DVTs present  
5 clinically?  
6 A. Yes.  
7 Q. And how would they present?  
8 A. You can have signs that are associated  
9 with DVT such as leg swelling or tenderness in the  
10 calf.  
11 Q. Can redness of the lower extremities be  
12 a sign of a DVT?  
13 A. It can, but it's not typically.  
14 Q. Can DVTs in the lower extremities  
15 present with lower extremity pain?  
16 A. Yes.  
17 Q. Okay. Can DVTs present with lower  
18 extremity itchiness?  
19 A. Not that I know of.  
20 Q. So the main characteristics of a DVT  
21 that is observable clinically would be redness,  
22 swelling and pain, correct?  
23 A. Could be swelling, pain, and tenderness,  
24 tachycardia, shortness of breath.  
25 Q. Okay. But let's just say talking about

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1 the main three where you're looking at an  
2 extremity. You said tenderness, pain, and what  
3 was the other one?  
4 A. I said swelling.  
5 Q. Okay, yeah.  
6 A. And pain and tenderness.  
7 Q. Swelling, pain and tenderness. Okay.  
8 And would you include redness as a clinical  
9 observable sign of DVT or not?  
10 A. Not typically.  
11 Q. Okay. So looking at those three, you  
12 did include swelling, pain and tenderness, if you  
13 observed those in the lower extremity, would there  
14 be a high likelihood that you'd be -- would you be  
15 very suspicious of a DVT?  
16 A. I would be suspicious of a DVT in the  
17 right clinical setting.  
18 Q. Right. Did you see that Mr. Cruz  
19 exhibited any three of those symptoms?  
20 A. I did not see -- it is not documented  
21 that he exhibited any of those symptoms.  
22 Q. Whether at Hinsdale or Cermak, correct?  
23 A. No. But I should add that Mr. Cruz was  
24 -- was noted to have an altered mental status and  
25 to be psychotic, and he certainly wasn't focusing

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1 on whether or not his calf was swollen. He was  
2 much more agitated than that. He could have  
3 overlooked any kind of complaint.

4 Q. Did you see anywhere in the medical  
5 record that they cleaned him off because he had  
6 defecated on himself?

7 A. I do recall seeing that somewhere.

8 Q. And is it possible that in the process  
9 of cleaning off defecation, they might be looking  
10 at his lower extremities?

11 MR. FLAXMAN: Let me object to the form  
12 of the question. Who's to say? Is that a  
13 correctional officer or a nurse or a doctor?  
14 Objection.

15 MR. RAGEN: Just keep your objections to  
16 not speaking, sir.

17 MR. FLAXMAN: Who's the they?

18 BY MR. RAGEN:

19 Q. Can you answer the question,  
20 Dr. Marcolini?

21 A. So can you repeat the question?

22 Q. You indicated that you saw in the  
23 medical records that at certain times, he  
24 defecated on himself and was cleaned, correct?

25 A. I think I recall that, yes, he was

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1 cleaned.

2 Q. Okay. And in that process, in the  
3 cleaning of someone who had defecated on  
4 themselves, is it possible that if signs of a DVT  
5 such as swelling, pain or tenderness existed, they  
6 could have been observed?

7 MR. FLAXMAN: Object to the form of the  
8 question. Who's the they?

9 A. First of all, if -- if you are -- if  
10 you're considering the -- if you're considering  
11 the diagnosis of DVT and you're thinking about the  
12 lower extremity and the assessment of that lower  
13 extremity, it can be very subtle. And what we  
14 haven't talked about is that you can have a DVT  
15 and have none of those. You could have a DVT and  
16 not have swelling, not have pain, not have  
17 tenderness.

18 Q. For sure. What percentage of the time  
19 do DVTs present with observable signs versus not  
20 generally?

21 A. I don't know. I don't know.

22 Q. Are you familiar with the term Braden  
23 assessment?

24 A. Sorry, with what term?

25 Q. Braden assessment?

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1 A. I have heard it. I can't tell you what  
2 it is.

3 Q. Okay. Is that something that a nurse  
4 would typically do?

5 A. I can't tell you what it is, so I don't  
6 know if I can answer that question.

7 Q. And we covered this, but I just want to  
8 make sure. Right now, as you sit here, I had to  
9 ask you about your opinions and you're telling me  
10 what you're basing them on. Is the extent of  
11 Mr. Cruz's -- are you basing any of your opinions  
12 on the severity or non-severity of Mr. Cruz's clot  
13 burden?

14 A. The severity of his clot burden was  
15 obviously severe enough to kill him. So --

16 Q. Right. But the thing is we  
17 established --

18 MR. FLAXMAN: Hold on, hold on, you're  
19 interrupting her again. She's answering your  
20 question.

21 MR. RAGEN: I'm sorry.

22 MR. FLAXMAN: Let her answer.

23 BY MR. RAGEN:

24 Q. Dr. Marcolini, I thought you were done.  
25 I didn't mean to interrupt.

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1 A. That's okay. I didn't think you did.

2 What I'm saying is I'm not clear on specifically  
3 what you're asking.

4 Q. Right, okay. The survivability of a  
5 pulmonary embolus, right, some are more survivable  
6 than others; would you agree?

7 A. Yes.

8 Q. And if a person has a very, very, very  
9 tiny clot and there's one of them, that's more  
10 survivable than if the patient has bilateral clots  
11 and they're big and they're multiple; is that true  
12 generally?

13 A. Yes, true.

14 Q. Okay. Do you have an opinion as to the  
15 extent of Mr. Cruz's clot burden that was seen on  
16 autopsy one way or the other?

17 A. I was -- my opinion is that it was  
18 severe enough to cause his death.

19 Q. Okay. Do you have an opinion as to  
20 whether it was so severe that no matter what  
21 treatment modalities were administered after  
22 2:35 A.M., he could have survived one way or the  
23 other?

24 A. I do -- I'm trying to answer this in the  
25 right form.



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1 Q. So go ahead. Shelley, can you -- sorry  
 2 I didn't mean to interrupt. You can answer, if  
 3 you can.  
 4 A. He -- irrespective of the clot burden,  
 5 it is absolutely possible that he could have  
 6 survived it.  
 7 Q. Right. Is the other side true, that  
 8 even if all the treatment modalities were  
 9 administered, it's possible he could have died  
 10 also?  
 11 A. It depends on when it was discovered.  
 12 Because part of the physiology of this is that  
 13 when the clot -- when the clot reaches the lungs  
 14 and causes this obstruction, the heart is working  
 15 against it. The heart is working as hard as it  
 16 can to pump the blood through the lungs. And if  
 17 there's clot burden in the lungs, it makes the  
 18 heart's job that much harder. And when the heart  
 19 works so hard and can't get the blood through the  
 20 lungs, now you run into heart failure. And it's  
 21 the heart failure that actually -- that actually  
 22 manifests and the patient dies because the heart  
 23 fails.  
 24 And if you get into that cycle early on,  
 25 you can even have somebody who's got -- who's got

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1 compromise to the heart and still you can -- they  
 2 can survive, because we can fix that. We can  
 3 support the heart with fluids, with medications,  
 4 with vasoactive medications at the same time that  
 5 we're getting that clot out of the lung. So it  
 6 really depends on where you catch it in the cycle.  
 7 Q. And so the timing is important in the  
 8 cycle where you catch it, correct?  
 9 A. Yes.  
 10 Q. Okay. Is it important -- well, okay,  
 11 let me know -- tell me if you can answer this  
 12 question one way or another. Are all -- so like  
 13 sometimes pulmonary embolism causes death, true?  
 14 A. True.  
 15 Q. Are there certain pulmonary embolisms  
 16 that are unsurvivable, despite all treatments  
 17 being provided within the standard of care?  
 18 A. It depends on the condition of the  
 19 patient and when you catch that.  
 20 MR. RAGEN: Sorry, can you ask the  
 21 question back, Shelley?  
 22 (Whereupon the requested portion of the  
 23 record was read by the court reporter.)  
 24 A. It depends on the condition of the  
 25 patient and when you catch the pulmonary embolism.

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1 Q. Okay. I'm going to ask to see if you  
 2 can answer the question yes or no. And if you  
 3 can't answer it yes or no, that's fine too.  
 4 MR. RAGEN: Can you read the question  
 5 back, Shelley?  
 6 (Whereupon the requested portion of the  
 7 record was read by the court reporter.)  
 8 A. I can't answer that yes or no.  
 9 Q. Okay.  
 10 A. I can answer it the way I did answer it.  
 11 Q. No, I understand for sure. And part of  
 12 what it depends on is how big the clot burden is,  
 13 true?  
 14 A. No. What it depends on is the condition  
 15 of the patient and the cardiovascular system  
 16 that's working against that clot. So see, it's --  
 17 the clot is there and the clot provides an  
 18 obstruction to the heart pumping. So when you --  
 19 when you have that obstruction to the heart  
 20 pumping, now the heart has to work harder and work  
 21 overtime.  
 22 So the heart working hard not -- not  
 23 able to work that hard and failing causes the  
 24 cardiac arrest. The cardiac arrest is traced back  
 25 to the heart working so hard because there's a

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1 pulmonary embolus.  
 2 Q. Does it matter how many clots make it to  
 3 the lung one way or the other?  
 4 A. It can be multiple clots or it can be  
 5 one large clot or two large clots. It depends on  
 6 the clot burden and how hard it is for the heart  
 7 to pump against that.  
 8 Q. Right. And so the bigger the clot  
 9 burden, the harder it is -- the more likely the  
 10 patient's not going to survive; is that true?  
 11 A. The bigger the clot burden in  
 12 conjunction with the condition of the heart and  
 13 the, you know, the work -- the work that, you  
 14 know, also hydration and how much, you know, how  
 15 much support the heart has, how much ability the  
 16 heart has to do the job that it has to do.  
 17 Q. And the clot burden is a relevant  
 18 factor; would you agree?  
 19 A. It is one relevant factor.  
 20 Q. Okay. How often do you employ  
 21 restraints on patients?  
 22 A. Not very often.  
 23 Q. When was the last time you employed  
 24 restraints on a patient?  
 25 A. Last time was probably ten days ago, in

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1 the ICU.

2 Q. Okay. And then in a given year, how  
3 many times do you employ restraints on a patient?

4 A. Ten to twenty.

5 Q. Okay. Did you -- I looked at all the  
6 materials you listed here. Did you watch any  
7 videos?

8 A. I did.

9 Q. Which videos did you watch?

10 A. The videos of the -- of the jail --  
11 sorry, videos of the jail where he was -- where  
12 Angel was being held.

13 Q. How many videos?

14 A. It was one prolonged video.

15 Q. Okay. And that instructed you to  
16 conclude that the restraints could not have been  
17 performed for ten minutes?

18 A. Yes.

19 Q. Okay. If restraints weren't employed at  
20 Hinsdale Hospital for ten minutes, would that be a  
21 deviation from the standard of care when Mr. Cruz  
22 was restrained at Hinsdale Hospital?

23 MR. FLAXMAN: Objection, asked and  
24 answered.

25 A. I agree.

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1 Q. It would be a deviation, correct?

2 A. No, I agree it was already asked and  
3 answered. And I'm -- I'm not -- if you want me to  
4 opine on the Hinsdale Hospital care, I can go back  
5 to the chart and spend some hours doing that. But  
6 it's not where my focus is.

7 Q. No, I know. But my question is just  
8 real simple. If -- if at Hinsdale Hospital  
9 restraints were employed every two hours and for  
10 over ten minutes and all four limbs were  
11 mobilized, would that comply with the standard of  
12 care?

13 A. Yes.

14 Q. Okay. If range of motion exercises were  
15 not done for a period of over ten minutes at  
16 Hinsdale Hospital, would that deviate from the  
17 standard of care?

18 A. Depends on why they weren't done.

19 Q. Okay. And why would it depend?

20 A. Sorry?

21 Q. Well, why would it depend?

22 A. If the patient is violent and they can't  
23 get near the patient, then you have to -- you have  
24 to take into account safety of the nurses, techs,  
25 and security guards. I mean, there are many

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1 reasons. Again, if you want to get specific about  
2 Hinsdale Hospital, we could go there. But I'm not  
3 prepared to answer specific questions about the  
4 Hinsdale Hospital care.

5 Q. On page 4 of your opinions -- can you  
6 turn there?

7 A. Yes.

8 Q. Looking at the middle -- page 4, in the  
9 middle paragraph, it says, During his stay at  
10 Hinsdale Hospital, he was appropriately  
11 administered Heparin to mitigate the risk of deep  
12 vein clot formation.

13 A. Yes.

14 Q. Do you hold that opinion?

15 A. Yes.

16 Q. When was he first administered Heparin?

17 MR. FLAXMAN: Object to the form of the  
18 question. Where?

19 MR. RAGEN: At Hinsdale Hospital.

20 MR. FLAXMAN: Objection now is asked and  
21 answered. You went through those records.

22 MR. RAGEN: I know. But she's saying  
23 she doesn't have an opinion about Hinsdale  
24 Hospital. But then in her report, she has an  
25 opinion about Hinsdale Hospital. She calls it

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1 appropriate.

2 MR. FLAXMAN: I mean, are you going to  
3 argue with her or are you going to ask her  
4 questions?

5 A. In this statement, he was appropriately  
6 administered Heparin, meaning it was appropriate  
7 to administer Heparin to Angel to mitigate the  
8 risk of deep venous clot formation.

9 Q. When you say appropriate, that means  
10 reasonable, right?

11 A. It was reasonable to administer that,  
12 yes.

13 Q. Right. And did he -- do you know if he  
14 had a period when he was restrained and was not  
15 Heparinized? Do you know one way or another?

16 A. Not without going back and reading  
17 through the records again. But I see your  
18 question. I see why you're asking it. The  
19 wording of that sentence, During his stay at  
20 Hinsdale Hospital, he was properly administered  
21 Heparin.

22 That, what I mean with that statement is  
23 that during his stay at Hinsdale Hospital, it was  
24 appropriate to give him Heparin.

25 Q. Okay. But you're not saying whether the



<p style="text-align: right;">Page 121</p> <p>1 care was appropriate one way or the other?</p> <p>2 MR. FLAXMAN: Again -- again, you cut</p> <p>3 her off. She was answering. She had more to say</p> <p>4 and you cut her off. Please don't do that.</p> <p>5 MR. RAGEN: By the way, what I'll say</p> <p>6 for the record, because you're doing this for the</p> <p>7 written record.</p> <p>8 BY MR. RAGEN:</p> <p>9 Q. Dr. Marcolini, it seemed like you were</p> <p>10 done with your answer. Is that true?</p> <p>11 A. I'm sorry, let's just start again. Let</p> <p>12 me say my sentences. When I make that statement,</p> <p>13 During his stay at Hinsdale Hospital, he was</p> <p>14 appropriately administered Heparin, what I mean is</p> <p>15 it was appropriate for them to administer Heparin.</p> <p>16 He was appropriately administered Heparin. But</p> <p>17 I'm not making a statement as to the way that they</p> <p>18 administered it or the frequency or dosing or any</p> <p>19 of that.</p> <p>20 So I can see -- I can understand your</p> <p>21 confusion with that sentence. But hopefully I've</p> <p>22 cleared it up.</p> <p>23 Q. Did you finish your answer?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And I'm trying not to cut you</p>	<p style="text-align: right;">Page 123</p> <p>1 you have interrupted. But I think we can move</p> <p>2 forward.</p> <p>3 Q. Right. And -- is the time period that</p> <p>4 he was restrained at Hinsdale irrelevant to how</p> <p>5 many emboli formed in his DV -- in his lower</p> <p>6 extremities?</p> <p>7 A. I don't know how to answer that</p> <p>8 question.</p> <p>9 Q. Okay. The amount of time that he was</p> <p>10 restrained at Cermak and how mobile or immobile he</p> <p>11 was is relevant to your opinions as to that</p> <p>12 Mr. Cruz formed a DVT; is that true?</p> <p>13 A. It is true that the time that he was</p> <p>14 immobilized without risk mitigation is relevant to</p> <p>15 the formation or propagation of DVT.</p> <p>16 Q. Okay. So that last answer, does it</p> <p>17 matter whether or not that occurred at Hinsdale or</p> <p>18 Cermak?</p> <p>19 A. No.</p> <p>20 Q. Can Geodon cause an increase -- can the</p> <p>21 overprescription of Geodon cause an increased risk</p> <p>22 of developing a DVT?</p> <p>23 A. I don't know. I'd have to look that up.</p> <p>24 Q. Looking at page 3 of your opinions, do</p> <p>25 you see them?</p>
<p style="text-align: right;">Page 122</p> <p>1 off. Would you agree?</p> <p>2 A. Understood.</p> <p>3 Q. Well, would you agree?</p> <p>4 A. Yes.</p> <p>5 Q. I would say, in all fairness for the</p> <p>6 record, there probably were two to three to maybe</p> <p>7 four times when I cut you off, right?</p> <p>8 A. I haven't been counting.</p> <p>9 Q. But my cutting you off is not</p> <p>10 obstructing with you getting your opinions out, is</p> <p>11 it?</p> <p>12 MR. FLAXMAN: Let me object to that.</p> <p>13 That's a -- beyond the scope of the expert</p> <p>14 deposition.</p> <p>15 BY MR. RAGEN:</p> <p>16 Q. Dr. Marcolini, do you feel that I'm</p> <p>17 cutting you off too frequently?</p> <p>18 A. No. We can just move forward.</p> <p>19 Q. Yeah, thank you. The reason I say that</p> <p>20 is because when we go back and show the Judge this</p> <p>21 transcript, Mr. Flaxman keeps saying on the record</p> <p>22 that I'm interrupting you when, in my opinion, I'm</p> <p>23 not.</p> <p>24 A. I should say, though, that you have</p> <p>25 interrupted when he -- when he has brought it up,</p>	<p style="text-align: right;">Page 124</p> <p>1 A. I do.</p> <p>2 Q. See the bullet points that are there?</p> <p>3 A. Yes.</p> <p>4 Q. So when reading, The following was</p> <p>5 required by the jail's policy to be done by a</p> <p>6 nurse after and while a detainee is placed in</p> <p>7 restraints, do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And there is five bullet points?</p> <p>10 A. Yes.</p> <p>11 Q. Is this the standard of care?</p> <p>12 A. Yes.</p> <p>13 Q. Would this be the standard of care</p> <p>14 applicable to any -- and this corresponds to a</p> <p>15 nurse, correct?</p> <p>16 MR. FLAXMAN: Object to the form of the</p> <p>17 question. Corresponds.</p> <p>18 MR. RAGEN: You may answer.</p> <p>19 A. It can be done by a nurse or a</p> <p>20 physician. It can be done by anybody taking care</p> <p>21 of the patient.</p> <p>22 Q. Okay. So look at your opinion, though,</p> <p>23 on page 3. It says --</p> <p>24 A. Yeah.</p> <p>25 Q. I'm sorry, did I cut you off?</p>

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1 A. No, you didn't. Sorry, I probably cut  
2 you off.  
3 Q. No, that's okay. It says, The following  
4 is required by the jail policy to be done by a  
5 nurse after and while a detainee is placed in  
6 restraints. Do you see that?  
7 A. Yes.  
8 Q. Okay. And those same requirements would  
9 apply to Hinsdale Hospital, correct?  
10 A. This is the jail's policy. So this  
11 applies to the jail.  
12 Q. Right. But I asked you if this is the  
13 standard of care of what a reasonably careful  
14 nurse should or shouldn't do.  
15 A. Yes.  
16 Q. Okay. So this is the standard of care  
17 of what a reasonably careful nurse should do,  
18 correct?  
19 A. This is reasonable care. And it  
20 conforms with the standard of care of what a nurse  
21 should do for somebody who's in restraints.  
22 Q. Okay. And whether that be on  
23 March 12th, 13th, 14th, 15th, 16th, 17th, 18th,  
24 19th or 20th, correct?  
25 A. True.

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1 Q. The same thing about the ten minutes of  
2 limb relief right underneath that, do you see  
3 that?  
4 A. I do.  
5 Q. And you're saying that the policy  
6 requiring ten minutes of limb relief, that is  
7 consistent with the standard of care, correct?  
8 A. It is.  
9 Q. Okay. And that would apply at any point  
10 in time between March 12th and March 20th, 2016,  
11 true?  
12 A. True, when the patient is restrained.  
13 Q. Right. Independent of the hospital,  
14 right?  
15 A. Yeah.  
16 Q. Looking at your opinion on page 4 --  
17 A. Yes.  
18 Q. -- paragraph on the bottom in the  
19 middle, you talk about -- we've talked about how  
20 the three common most factors contributing to  
21 blood clot formation known as Virchow's triad,  
22 muscle wall damage and hypercoagulability, right?  
23 A. Yes.  
24 Q. You've explained that, right?  
25 A. Yes.

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1 Q. Okay. Then right after that, the  
2 sentence says -- well, I'll read it. If any of  
3 these components (stasis, muscle damage,  
4 hypercoagulability) is present for a prolonged  
5 period of time, treatment is indicated to prevent  
6 blood clot formation. Do you see that?  
7 A. Yes.  
8 Q. And then the next sentence says, This  
9 was done at the hospital in the form of Heparin.  
10 Do you see that?  
11 A. Yes.  
12 Q. Do you want to change that statement?  
13 A. Why would I want to change my statement?  
14 Q. Well, we talked at length a long time  
15 about --  
16 MR. FLAXMAN: You're arguing with her  
17 now. You know, you asked her if she wanted to  
18 change. She said, Why would I want to do that?  
19 And now you're going to tell her, Well, you want  
20 to do it because A, B, C. Let's try to move on  
21 with questions rather than arguing with her.  
22 BY MR. RAGEN:  
23 Q. You told me that you don't have an  
24 opinion as to whether or not the treatment needed  
25 to prevent blood clot formation occurred at

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1 Hinsdale Hospital; isn't that true?  
2 A. Well, what I told you was that I  
3 couldn't attest to the timing, the dosing, the  
4 specifics of it. But I do know that they  
5 administered Heparin. So...  
6 Q. Okay. And so the standard of care  
7 requires that Heparin be considered at least as  
8 early as the four-hour continuation of restraints,  
9 right?  
10 A. In general, I believe that if I'm  
11 renewing a restraint order, I'm starting to think  
12 about immobilization and clot formation or  
13 propagation.  
14 Q. Are you ever consulted on patients?  
15 A. Yes.  
16 Q. Okay. And as -- does that -- let me  
17 know if I'm getting this right. An attending will  
18 say I need a certain specialist and they'll call  
19 for a consult, true?  
20 A. True.  
21 Q. And from time to time, you are called as  
22 one of those consultants, true?  
23 A. Yes.  
24 Q. Okay. Does the standard of care as a  
25 consultant require that you see the patient?

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1 A. If somebody calls me for a consult, they  
 2 can run the consult by me and describe the case  
 3 and say if, you know, I have X, Y and Z, and if I  
 4 can't see the patient, I can still give them my  
 5 opinion. If it's possible, it's best to see the  
 6 patient.  
 7 Q. But you said that there's no requirement  
 8 that if a -- so in this case, if a psychiatrist  
 9 was called to consult on Mr. Cruz, would the  
 10 standard of care require that that psychiatrist  
 11 see Mr. Cruz at any point in time?  
 12 A. It depends on what the consult is for.  
 13 Q. What if it is to see an acute  
 14 psychiatric patient?  
 15 A. If the consult is to see an acute  
 16 psychiatrist -- psychiatric patient, then the  
 17 physician should see the patient.  
 18 Q. And within what timeframe?  
 19 A. It depends on the acuity of the  
 20 condition that they're being consulted for. Some  
 21 consults are urgent or emergent, and some consults  
 22 are not.  
 23 Q. So on the least level of urgency, what  
 24 timeframe would you expect that order to be  
 25 executed?

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1 A. It's -- there's not a timeframe.  
 2 There's not a timeframe. It all really depends on  
 3 what you're consulting for. Sometimes a consult  
 4 is not going to happen 'til the next day. And  
 5 that's understood and may be appropriate.  
 6 Q. Would you agree that if a psychiatrist  
 7 was ordered in Mr. Cruz's case, that the standard  
 8 of care required that psychiatrist to see Mr. Cruz  
 9 within 24 hours?  
 10 A. What is the consult being ordered for?  
 11 Q. For like acute psychiatric observation.  
 12 A. So I'm not a psychiatrist, and it's hard  
 13 for me, if not impossible, to determine how long  
 14 is an appropriate time for a consult to occur. So  
 15 I can't.  
 16 Q. Is that because you're unfamiliar with  
 17 the standard of care as it applies to a reasonably  
 18 careful psychiatrist?  
 19 A. In terms of psychiatry, I'm not a  
 20 psychiatrist, so I can't opine on when it's  
 21 appropriate for the psychiatrist to see the  
 22 patient after he or she is consulted.  
 23 Q. Do you know whether or not a  
 24 psychiatrist saw Mr. Cruz at Hinsdale Hospital?  
 25 A. Off the top of my head, I don't know.

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1 Q. Is that important to your opinions?  
 2 A. No.  
 3 Q. Do you know whether or not Mr. Cruz ever  
 4 had a face-to-face assessment by a physician in  
 5 connection with his being placed in restraints?  
 6 A. When? Where?  
 7 Q. At Hinsdale Hospital.  
 8 A. I can't recall.  
 9 Q. Would that be important to your  
 10 opinions?  
 11 A. No.  
 12 Q. Are you aware of the relative risk of  
 13 patients developing a DVT in terms of their age?  
 14 You know what -- strike that. Let's go back.  
 15 Are there other risk factors for  
 16 developing a DVT other than immobility and  
 17 obesity?  
 18 A. Yes.  
 19 Q. Is congestive heart failure one?  
 20 A. Could be, yes.  
 21 Q. Smoking?  
 22 A. Yes.  
 23 Q. Does pregnancy create an increased risk  
 24 in developing a DVT?  
 25 A. Yes.

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1 Q. Are patients that are postpartum, after  
 2 delivering a baby, are they at increased risk of  
 3 developing a DVT?  
 4 A. Yes.  
 5 Q. Cancer patients? Some cancer patients?  
 6 A. Yes.  
 7 Q. Not all, correct?  
 8 A. I consider anybody who has a malignancy  
 9 or who has been diagnosed with a malignancy to be  
 10 at increased risk of having a thrombus formation.  
 11 Q. Does old age by itself cause an  
 12 increased risk of developing a DVT?  
 13 A. I don't know.  
 14 Q. Family history of, you know, stroke or  
 15 embolic events, would that create an increased  
 16 risk of DVT?  
 17 A. I believe so.  
 18 Q. Cardiomyopathy, would that create an  
 19 increased risk of DVT?  
 20 A. Yes.  
 21 Q. Atrial fibrillation, would that create  
 22 an increased risk of DVT?  
 23 A. Atrial fibrillation causes an increased  
 24 risk of clot formation in the heart, but not  
 25 necessarily an increased risk of DVT formation,

<p style="text-align: right;">Page 133</p> <p>1 that I know of.</p> <p>2 Q. Was that because it's so distal to the</p> <p>3 type of blood flow disturbance that it might not</p> <p>4 correlate to the development of clots?</p> <p>5 A. Yes.</p> <p>6 Q. Heart murmurs, same thing as atrial fib?</p> <p>7 A. Heart murmurs, I don't consider as an</p> <p>8 increased risk for DVT.</p> <p>9 Q. Lupus, would that create an increased</p> <p>10 risk of developing a DVT?</p> <p>11 A. Yes.</p> <p>12 Q. Antiphospholipid antibody syndrome?</p> <p>13 A. Yes.</p> <p>14 Q. What are the conditions -- like so</p> <p>15 Mr. Cruz had obesity and immobility as his risk</p> <p>16 factors for DVT, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Were there any others?</p> <p>19 A. Not that I know of.</p> <p>20 Q. Okay. Do you have an opinion one way or</p> <p>21 another if being administered Geodon increased his</p> <p>22 risk for developing a DVT?</p> <p>23 MR. FLAXMAN: Objection, asked and</p> <p>24 answered.</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">Page 135</p> <p>1 there's a number of books. Do you see them?</p> <p>2 A. I do.</p> <p>3 Q. Yeah. Are they all books related to</p> <p>4 your -- the care -- like, you know, your role as a</p> <p>5 medical doctor?</p> <p>6 A. Let's see. Of the ones you can see,</p> <p>7 probably yes.</p> <p>8 Q. Okay. How many of those are related to</p> <p>9 nursing care?</p> <p>10 A. None.</p> <p>11 Q. Do you know if there are any other</p> <p>12 experts retained by Plaintiff in this case?</p> <p>13 A. I don't know of them.</p> <p>14 Q. Do you know if they retained a nursing</p> <p>15 expert?</p> <p>16 A. I don't know.</p> <p>17 Q. Did you read Nurse Manlastas's</p> <p>18 deposition?</p> <p>19 A. Let's see, did I read it? No.</p> <p>20 Q. So you're not relying on any of Nurse</p> <p>21 Manlastas's deposition testimony for your</p> <p>22 opinions; is that true?</p> <p>23 A. That's true.</p> <p>24 Q. Did you read Ms. Chatman's deposition</p> <p>25 testimony?</p>
<p style="text-align: right;">Page 134</p> <p>1 Q. Okay. What percentage of DVTs come from</p> <p>2 the lower extremities?</p> <p>3 A. I don't know the answer to that.</p> <p>4 Q. Are you aware of the relative risks of</p> <p>5 patients developing a risk in the following</p> <p>6 specific age categories? Under 40 versus over 65?</p> <p>7 A. I don't know.</p> <p>8 Q. Are you aware of the risk ethnicity</p> <p>9 plays in the development of DVTs?</p> <p>10 A. No.</p> <p>11 Q. Okay. Do you believe that ethnicity</p> <p>12 plays any role in the risk factors of a patient</p> <p>13 developing DVT?</p> <p>14 A. I don't know.</p> <p>15 Q. So -- and I'm not trying to -- I just</p> <p>16 want to understand your opinion. Like it's</p> <p>17 possible that ethnicity does play a role in</p> <p>18 whether a patient develops a DVT; you just can't</p> <p>19 tell me one way or the other, correct?</p> <p>20 MR. FLAXMAN: Objection, objection to</p> <p>21 form of the question. It calls for speculation.</p> <p>22 Compound question.</p> <p>23 A. I don't know whether ethnicity plays a</p> <p>24 role.</p> <p>25 Q. Okay. The books I see behind you,</p>	<p style="text-align: right;">Page 136</p> <p>1 A. No.</p> <p>2 Q. And so it's true that you're not relying</p> <p>3 on any of her deposition testimony to form your</p> <p>4 opinions, true?</p> <p>5 A. True.</p> <p>6 Q. Are you relying -- strike that. In your</p> <p>7 -- whether that be in your -- are you relying on</p> <p>8 any specific medical literature to form your</p> <p>9 opinions here today?</p> <p>10 A. No.</p> <p>11 Q. Are there other things that could cause</p> <p>12 -- so in your opinion, was Mr. Cruz's labored</p> <p>13 breathing caused by pulmonary emboli or pulmonary</p> <p>14 embolus?</p> <p>15 A. More likely than not, yes.</p> <p>16 Q. Are there other medical conditions that</p> <p>17 could cause labored breathing?</p> <p>18 A. Yes. We reviewed those earlier.</p> <p>19 Q. Yeah, we talked about those, okay. When</p> <p>20 -- do you have an opinion as to when -- so DVTs</p> <p>21 and PEs are different, right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. DVTs can become PEs, correct?</p> <p>24 A. A DVT can embolize and get lodged in the</p> <p>25 lungs, which makes it a PE. So it's the same</p>

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1 substrate, but the location is different.  
 2 Q. Do you have an opinion as to when  
 3 Mr. Cruz's DVT first mobilized and became an  
 4 embolus in or around the pulmonary anatomy?  
 5 A. No.  
 6 Q. Have we discussed -- and I think we  
 7 have, right, because we went through your C.V. for  
 8 quite a bit, right?  
 9 A. We did go through it.  
 10 Q. You're right, I was going to ask the  
 11 question like have we discussed all the, you know,  
 12 schooling, training, expertise, teaching that is  
 13 relevant to your opinions today?  
 14 A. I believe so.  
 15 Q. Do you know whether or not Hinsdale  
 16 Hospital has a psychiatric unit?  
 17 A. I can't remember if he was in the  
 18 psychiatric unit or if a medicine bed. But I  
 19 don't know.  
 20 Q. Okay. Does it make a difference to your  
 21 opinion?  
 22 A. No.  
 23 Q. Do you know whether he, Mr. Cruz, was on  
 24 a general floor or an ICU floor?  
 25 A. At Hinsdale Hospital?

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1 Q. Yeah.  
 2 A. I believe he was on a general floor, but  
 3 I can't be certain.  
 4 Q. Would it make a difference if he was on  
 5 a general floor or ICU floor?  
 6 A. No.  
 7 Q. This is always good when you see me  
 8 going through and crossing everything off. I have  
 9 nothing further. Thanks.  
 10 MR. FLAXMAN: Frank or John?  
 11 MR. POWER: John. Yeah, I think I've  
 12 got a few.  
 13 EXAMINATION  
 14 BY MR. POWER:  
 15 Q. Dr. Marcolini, my name is John Power.  
 16 I'm one of the attorneys for the Sheriff's Office  
 17 Defendants in this case. And actually that's a  
 18 distinction I'm going to go to now.  
 19 Your opinions in your report address the  
 20 medical care and the providers of medical care to  
 21 the Plaintiff; is that right?  
 22 A. Yes.  
 23 Q. And you did not render any opinions  
 24 about the conduct of any Sheriff's officers, did  
 25 you?

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1 A. No, I did not.  
 2 Q. And you did not render any opinions  
 3 about the Sheriff's office as an entity, did you?  
 4 A. Not that I'm aware of, unless the  
 5 physician and/or nurses work for the Sheriff's  
 6 office. I don't know the lines of reporting.  
 7 Q. Okay. And if they don't, then you  
 8 didn't render any opinions regarding the Sheriff's  
 9 office?  
 10 A. Correct.  
 11 Q. And in your expert report, there were a  
 12 couple of times you reference jail policies or  
 13 jail protocols. I see, for example, on page 4 of  
 14 your report -- or rather page 5. When you say  
 15 jail policies or protocols, you're just referring  
 16 to the policies or protocols followed by the  
 17 medical personnel who worked in the jail; is that  
 18 right?  
 19 A. Yes.  
 20 Q. And you're not claiming that those were  
 21 Sheriff's policies or protocols; is that right?  
 22 A. I don't know who writes the protocols in  
 23 the structure of the, you know, the medical unit  
 24 there at the jail. So I would imagine that they  
 25 are written in conjunction with the medical

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1 personnel.  
 2 So I mean, I'm not judging policy.  
 3 Judging the -- that they didn't follow the policy.  
 4 I'm not sure if I'm answering your question.  
 5 Q. No, I think you are. And the people who  
 6 didn't follow the policies were the medical  
 7 personnel, not -- as opposed to the Sheriff's  
 8 deputies?  
 9 A. Correct.  
 10 MR. POWER: Nothing further. Thank you.  
 11 MR. FLAXMAN: I have nothing further.  
 12 Do you have any questions based on the Sheriff's  
 13 questions, Mr. Ragen?  
 14 MR. RAGEN: No, I don't.  
 15 MR. FLAXMAN: All right. We will  
 16 reserve signature. And if anybody orders it, we  
 17 want a copy.  
 18 THE COURT REPORTER: Mr. Ragen, are you  
 19 ordering?  
 20 MR. RAGEN: Yes, I would like to order,  
 21 please.  
 22 MR. FLAXMAN: I'd like a copy, as well.  
 23 THE COURT REPORTER: Format, Mr. Ragen?  
 24 MR. RAGEN: Etran, please.  
 25 THE COURT REPORTER: Mr. Catania?



<p style="text-align: right;">Page 141</p> <p>1 MR. CATANIA: Etran also, please.  2 (Whereupon the deposition concluded at  3 6:30 P.M.)  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 143</p> <p>1 STATE OF ILLINOIS )  ) SS  2 COUNTY OF McLEAN )  3  I, SHELLEY MARVIN, CSR in and for the State  4 of Illinois, do hereby certify that EVADNE  MARCOLINI, M.D., the deponent herein, was by me  5 first duly sworn to tell the truth, the whole  truth and nothing but the truth, in the  6 aforementioned cause of action.  7 That the foregoing deposition was taken on  behalf of the Defendants, on the 15th day of  8 March, 2021.  9 That said deposition was taken down in  stenograph notes, afterwards reduced to  10 typewriting by me, and is a true and accurate  transcription of the testimony; and that it was  11 agreed by and between the witness and attorneys  that said signature on said deposition would not  12 be waived.  13 I do hereby certify that I am a disinterested  person in this cause of action; that I am not a  14 relative of any party or any attorney of record in  this cause, or an attorney for any party herein,  15 or otherwise interested in the event of this  action, and am not in the employ of the attorneys  16 for either party.  17 IN WITNESS WHEREOF, I have hereunto set my  hand this 29th day of March, 2021.  18  19  20  21  22 SHELLEY MARVIN, CSR  23  24  25</p>
<p style="text-align: right;">Page 142</p> <p>1 IN THE UNITED STATES DISTRICT COURT.  FOR THE NORTHERN DISTRICT OF ILLINOIS  2 EASTERN DIVISION  3  LETICIA VARGAS, Administrator  4 of the Estate of Angel Cruz,  Plaintiff,  5  -vs- No. 18-cv-1865  6 Judge Steven Seeger  SHERIFF OF COOK COUNTY,  7 COUNTY OF COOK, et al.,  Defendants.  8  This is to certify that I have read the  9 transcript of my deposition taken in the  above-entitled cause, and that the foregoing  10 transcript taken on March 15, 2021, accurately  states the questions asked and the answers given  11 by me, with the exception of the corrections  noted, if any, on the attached errata sheet(s).  12  13  14  15 EVADNE MARCOLINI, M.D.  16  Subscribed and Sworn before  17 me this day of  , 2021.  18  19  20 Notary Public  21 Return to:  Magna Legal Services  22 190 S. LaSalle Street  Suite 1220  23 Chicago, IL 60603  24  25</p>	

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