

1 MR. SANTACROCE: Just a couple, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SANTACROCE:

4 Q Ms. Bailey, you talked about the aseptic  
5 practices of inserting the hep-locks in the preop room,  
6 correct?

7 A Correct.

8 Q And I believe you testified that the saline was  
9 a single-dose use, correct?

10 A Correct.

11 Q That wasn't always the case, was it?

12 A No, it wasn't.

13 Q In fact, that didn't become the practice until  
14 late 2007 or early 2008; isn't that correct?

15 A I'm not sure of the dates, but possibly, yes.

16 Q Well, in your Metro interview you said late  
17 2007.

18 A Okay.

19 Q Would you agree with that?

20 A I would agree with that, then, yes.

21 Q And prior to that time saline bottles were  
22 multiuse, weren't they?

23 A Yes, they were.

24 Q That means that the nurse would use that saline  
25 bottle on more than one patient; isn't that correct?

1 A That's correct.

2 Q Do you define that as aseptic practice?

3 A No, I don't.

4 Q You were asked in your interview if it surprised  
5 you that the infections had occurred, and you said, yes, it  
6 did. It really did.

7 A Yes.

8 Q You were surprised that that happened, weren't  
9 you?

10 A Yes, I was.

11 Q Because from your experience the clinic was  
12 properly run, correct?

13 A I -- yes.

14 Q And in fact, going along with that, in your  
15 interview the detective asked you was there anything that  
16 stood out at the gastro center aside from the other jobs that  
17 you had that would sort of -- didn't click with you, and you  
18 said, no, not really. You said it all made sense to you  
19 regarding the precharting and the discharge; is that correct  
20 and true?

21 A That's correct.

22 Q So everything you did for precharting and  
23 discharge made perfect sense to you, correct?

24 A It did, yes.

25 Q And it was not so outrageous from any other job

1 you had; isn't that correct?

2 A That's correct.

3 MR. SANTACROCE: I have nothing further.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 BY MS. WECKERLY:

7 Q Just one question. Ms. Bailey, do you remember  
8 why it was that you expressed shock to the detectives about  
9 what happened there at the clinic?

10 A Because I would -- never would think anything  
11 like that would happen. I mean --

12 Q Anything like what?

13 A I mean, like in reusing the syringes, I mean --

14 Q And why not?

15 A Because it's nursing 101 that you never use a  
16 syringe twice or a needle; you know, it's just not done.

17 Q So that's basic?

18 A That's basic, yes.

19 Q Thank you.

20 MR. SANTACROCE: I have one more question.

21 THE COURT: All right.

22 CROSS-EXAMINATION

23 BY MR. SANTACROCE:

24 Q The reuse of the syringes you heard on the news,  
25 didn't you?

1 A The reuse of the syringes?

2 Q Yeah, when you were surprised because you just  
3 said the reused syringes. It was something that you heard in  
4 through the media; isn't that correct?

5 A I -- I don't remember. I really don't.

6 Q It wasn't something you saw at the clinic, it  
7 was something you learned after the fact --

8 A Right --

9 Q -- right?

10 A -- okay. Correct. Yes.

11 Q Thank you.

12 THE COURT: Ms. Stanish?

13 RE CROSS-EXAMINATION

14 BY MS. STANISH:

15 Q Where did you say you got your training?

16 A I got my training at -- in Indiana -- Fort  
17 Wayne, Indiana, at Ivy Tech.

18 Q I'm sorry?

19 A Ivy Tech Community College.

20 Q You were never in the military in the medical  
21 profession?

22 A No.

23 MS. STANISH: Nothing further.

24 THE COURT: Any re-re-redirect?

25 MS. WECKERLY: No.



1 THE COURT: Any juror questions for the witness? No  
2 juror questions? All right. Ma'am, thank you for your  
3 testimony.

4 THE WITNESS: Thank you.

5 THE COURT: Don't discuss your testimony with anyone  
6 else who may be a witness in this case.

7 THE WITNESS: All right.

8 THE COURT: Thank you, ma'am. And you're excused.

9 State, call your next witness.

10 MR. STAUDAHER: Yes, and this is the last witness we  
11 have for today, Your Honor.

12 THE COURT: All right.

13 MR. STAUDAHER: This is Geraldine Whitaker.

14 THE COURT: Ms. Whitaker, come on right up here,  
15 please, ma'am, next to me. Up those couple of stairs. And  
16 then just remain standing, facing this lady right there, who  
17 will administer the oath to you.

18 GERALDINE WHITAKER, STATE'S WITNESS, SWORN

19 THE CLERK: Thank you. Please be seated. Ma'am,  
20 would you please state and spell your name?

21 THE WITNESS: Geraldine Whitaker, G-E-R-A-L-D-I-N-E,  
22 W-H-I-T-A-K-E-R.

23 THE CLERK: Thank you.

24 DIRECT EXAMINATION

25 BY MR. STAUDAHER:

1 Q Ms. Whitaker, what do you do for a living?  
2 A I'm retired.  
3 Q What did you do?  
4 A I was an RN.  
5 Q Where did you work?  
6 A At the Southern Nevada Endoscopy Center --  
7 Q And from --  
8 A -- on Shadow Lane.  
9 Q -- from what years to what years?  
10 A Started in May of 2005 and I quit in October of  
11 2007.  
12 Q Now, during the time that you worked at the  
13 endoscopy -- was that the one over on 700 Shadow Lane?  
14 A On Shadow Lane, yes.  
15 Q When you -- the time that you worked there, how  
16 long prior to that had you been a nurse?  
17 A I graduated in 1994.  
18 Q So from '94 to 2005?  
19 A Yes.  
20 Q What -- had this been the first and -- or had  
21 this been the only time you'd ever worked at, like, an  
22 outpatient ambulatory care --  
23 A Yes.  
24 Q When you were at the facility at Shadow Lane,  
25 what was your job duty? What did you do?

1 A I was the recovery nurse, one of them.

2 Q Did you work in any other area?

3 A No.

4 Q And we understand there to be a preop area; did  
5 you work there?

6 A I sometimes brought patients back, put them in  
7 the dressing room. We helped each other, you know, if it was  
8 busy. And we'd get them on a gurney in the procedure room and  
9 hook them up to the blood pressure and -- and the monitors.

10 Q So you would at least got --

11 A But --

12 Q -- oh, I'm sorry.

13 A -- I'm sorry. But that, yeah, I did that.

14 Q Okay. So you would at least at times go out to  
15 the waiting room where patients were?

16 A Right.

17 Q Did you work in the -- we understand there to be  
18 a discharge area adjacent to the recovery area?

19 A Right.

20 Q Did you --

21 A I never worked in the discharge area, but I  
22 discharged from the bed when it was really busy.

23 Q Okay. So you would --

24 A Go over the --

25 Q -- be there --

1           A     -- yes, go over everything that the patient  
2 shouldn't do and -- like not drive.

3           Q     So that -- but you didn't go over to the  
4 discharge area and do anything with the patients, getting them  
5 dressed and all these things?

6           A     Well, I would take them to the dressing room and  
7 explain to them to get dressed and have a seat in one of the  
8 chairs.

9           Q     Would that be that you're kind of the end of  
10 your responsibility, though, to get them to that stage?

11          A     Yes.

12          Q     Now, beyond the recovery area there was also a  
13 procedure room?

14          A     Correct.

15          Q     Did you ever work in there?

16          A     I did not.

17          Q     Was there ever a time that you were asked to go  
18 work there?

19          A     Yes.

20          Q     Did -- did you do that?

21          A     No.

22          Q     Was there a reason?

23          A     Yes. I just did not want to work in the  
24 procedure room, only personally because I felt I was more  
25 social and wanted to be out with the patients when they were

1 waking up, rather than being in because, you know, it's dark  
2 in there. I wore contacts; I couldn't see as well. I just --  
3 I had no desire to work in there. That -- those were the only  
4 reasons.

5 Q So aside from going out to the preop area and  
6 bringing patients back, you -- was your time pretty much in  
7 the recovery room?

8 A Correct, yes.

9 Q So in the recovery area, what kinds of things  
10 would you do?

11 A Once they came out, we would hook them up to the  
12 monitor and to the blood pressure. We would assess them. We  
13 would do the charting, [inaudible], the hep-lock, walk them --  
14 and then when they were ready to get up, we would walk them up  
15 front.

16 Q How long would they typically be in the recovery  
17 room area after a procedure?

18 A They had to have a blood pressure every five  
19 minutes -- three blood pressures. The first one -- well,  
20 four, because when they first came out we would get a blood  
21 pressure and then three after that, every five minutes and  
22 until they were awake. It was usually 15 minutes.

23 Q So initial blood pressure as soon as they get  
24 there, then five minutes later one, five minutes --

25 A Correct.

1 Q -- later one, five minutes later --

2 A Yes.

3 Q -- the last one?

4 A Yes.

5 Q At -- after that last one, would that be the  
6 time that you would basically, okay, they're done, they go to  
7 the other discharge area?

8 A Right.

9 Q Were you responsible for filling out any of the  
10 paperwork?

11 A Yes.

12 Q When you filled out the paperwork, what kinds of  
13 things would you be recording and doing?

14 A The times that they -- that they came out of the  
15 -- well, that we received them from the procedure room, and  
16 I'm -- I'm just not -- I can't think --

17 Q It's okay. Just --

18 A -- of what else is on that sheet.

19 Q I'll -- I'm going to show you one in just --

20 A Okay.

21 Q -- a minute.

22 A Okay.

23 Q Okay? And actually, it's one of your charts.

24 A Okay.

25 Q Okay? So we'll do that in just a second. But

1 when you were putting things like time on the charts, were you  
2 looking at the wall clock or was there some formula or  
3 something that you went by?

4 A When they came out of the procedure room, on the  
5 paper it had the end of procedure and it had a time, and we  
6 would add five minutes.

7 Q Did you add any other times to get to other  
8 times, things like that?

9 A We -- we would try to get as close to the blood  
10 pressure times as we could to make things line up, but it  
11 was -- the machines weren't always the same in the procedure  
12 room. There could be a time difference, but we, you know, we  
13 tried to get it as close as possible. Sometimes we couldn't.

14 Q Had you ever done anything like that in any  
15 other place you'd worked?

16 A No.

17 Q And you know what I'm talking about? The  
18 putting down times other than what's real on the clock?

19 A Exactly.

20 Q Is that a yes?

21 A No, I never did.

22 Q Okay. And I'm going to show you this in just a  
23 second so we can see that, but one of the things I want to ask  
24 you -- or show you before we get there is State's 118. And  
25 just so we're clear on this, and I know, I've told this to

1 everybody so it's kind of a broken record for the jury, but  
2 you can take your fingernail and just draw on that screen,  
3 okay, and you just tap down here it goes away.

4 A Okay.

5 Q So if I ask you something on the picture or on  
6 the charts or anything along the way and we want you to point  
7 it out -- just actually put your finger on there and do it and  
8 then we'll --

9 A Okay.

10 Q -- make it go away.

11 A Okay.

12 Q Okay? Does that picture of that room area look  
13 familiar to you?

14 A Yes.

15 Q Is this the area that you worked?

16 A Yes.

17 Q Now, when you would work there, I see that in  
18 this picture there are -- it looks like four -- four actual  
19 beds you can see there.

20 A Right.

21 Q How many -- how many spaces for beds were there  
22 for people that were in the recovery area?

23 A I believe five.

24 Q And when you were working -- and there may be  
25 another one off the screen --



1 A Right.

2 Q -- I'm just saying that -- five is what you  
3 recall?

4 A I believe five, yes.

5 Q When you were working there doing this kind of  
6 work with the patients, were patients -- I mean, how did the  
7 patients get staged to go in and how did they come at -- where  
8 did they go when they came out of the procedure rooms?

9 A They came out -- out of the procedure room and  
10 then they were put in the bays feet first.

11 Q Okay. So they went in the bays kind of the way  
12 the beds are lined up here? And I'll -- I'll slide this over  
13 a little bit so --

14 A Yes.

15 Q -- we can --

16 A Yes.

17 Q -- see it. Now --

18 A With their heads out, correct.

19 Q Along this, where did patients -- before they  
20 went into a procedure room, where did they go?

21 A Sometimes they waited in this area -- this way  
22 somewhere.

23 Q Go ahead and just draw on -- on the screen  
24 there.

25 A Somewhere in here back this way. Or if we had

1 an empty bay, we would go ahead and get them in a room -- in a  
2 bay and have them ready to be pulled in.

3 Q Can you get them on a gurney?

4 A On the gurney.

5 Q Now, before they went into a room, would they  
6 typically be on a gurney, though?

7 A Some -- most of the time, yes, but if they were  
8 coming -- if we were ready for them to go right into a room  
9 and they were coming out of the dressing room, we would just  
10 walk them -- the dressing rooms were over here -- over here,  
11 and that -- we would walk them straight in and put them on a  
12 gurney in the dressing room. I mean -- I'm sorry -- in the  
13 procedure room.

14 Q Procedure room. Was that more toward the  
15 beginning of the day?

16 A Yes.

17 Q Okay. So after things were rolling, though, and  
18 there were people in the procedure rooms, would you have to  
19 get the patients on gurneys to blow in?

20 A Yeah, sometimes, yes.

21 Q Would that be in this area here where we see the  
22 actual gurneys --

23 A Yes.

24 Q -- those five spots?

25 A Yes.

1           Q     So the five spots would be used for both  
2 patients going into the rooms and patients coming out of the  
3 rooms?

4           A     Correct.

5           Q     When you were recovering patients, were there  
6 ever times that they took longer than 15 minutes to -- to  
7 recover?

8           A     Yes.

9           Q     Now, the patient load that was going through  
10 there, can you describe that for us?

11          A     It was a lot.

12          Q     And you say "a lot" and you're kind of shaking  
13 your head. What does that mean?

14          A     There were a lot of patients, every day a lot  
15 and we were pushed to get them through just because of the  
16 volume of people.

17          Q     Did that concern you?

18          A     Yes.

19          Q     Did you ever express your concerns to anyone?

20          A     Yes.

21          Q     More than once?

22          A     Yes.

23          Q     Many times?

24          A     Yes.

25          Q     Do you see Dr. Desai in the courtroom today?

1           A     Yes, I do.

2           Q     Can you point to him and describe something that  
3 he's wearing, please?

4           A     He's in a suit with glasses.

5           MR. STAUDAHER: Would the record reflect the identity  
6 of Dr. Desai, Your Honor?

7           A     It will.

8           Q     Did you ever express your concerns to Dr. Desai?

9           A     I don't remember telling him directly. I  
10 probably did, but I don't remember specifically saying  
11 something to him.

12          Q     Did you express it to staff and other -- other  
13 administrative people --

14          A     Yes.

15          Q     -- as well? What was the response -- I mean,  
16 when you -- when you would do that?

17          A     Sometimes the load would back off some and then  
18 it would work back up, and sometimes nothing was done.  
19 Nothing -- I mean, they just said, you know, they would do  
20 something and didn't.

21          Q     Did it ever concern you that the sheer volume of  
22 patients going through as -- as you experienced it might  
23 compromise the patient's care or there might be some problem?

24          A     Yes.

25          Q     Did you ever express that as a concern?

1 A Yes.

2 Q And what kind of thing did you think might be an  
3 issue?

4 A Maybe something happening in the procedure room,  
5 like a -- just a perforated bowel or something, just --  
6 because we just felt like it was done so quickly and they were  
7 just pushed through so quickly.

8 Q Was this a regular occurrence on every day, or  
9 was this just an isolated event?

10 A No, it was every day.

11 Q Now, if -- will you clear that screen, please?  
12 I'm going to show you some documents. And actually, I'm going  
13 to walk them up to you and have you look at them first because  
14 I believe that -- that they're actually at -- some of this is  
15 actually yours --

16 A Okay.

17 Q -- so I want you to see it in context and then  
18 I'll bring it back, okay?

19 A All right.

20 MR. STAUDAHER: May I approach, Your Honor?

21 THE COURT: You may.

22 MR. STAUDAHER: And for the record, I'm showing her  
23 chart from Patty Aspinwall. It's Bates Nos. 3305, 06, 07, and  
24 08.

25 BY MR. STAUDAHER:

1           Q     Just flip through those, if you would, and then  
2 tell me if you're familiar with the type of paperwork, and if  
3 you see anything of yours as far as signature, initials,  
4 anything -- handwriting -- on those documents.

5           A     (Witness complied.) I see my -- my initials and  
6 I recognize these.

7           Q     Okay. They look familiar to you?

8           A     They do.

9           Q     Are these the type of documents that you dealt  
10 with --

11          A     Yes.

12          Q     -- out in the recovery room?

13          A     Yes.

14          Q     Displaying 3305. Do you see -- tell us what  
15 we're looking at here. If you would.

16          A     It's some preop charting. It's when they first  
17 came in and what was -- what the outcomes were going to be  
18 from, you know, while they were in the -- in the endo center.

19          Q     Is any of the -- and I'm going from the halfway  
20 point above.

21          A     Okay.

22          Q     Is there any of that filled-out paperwork there  
23 that you did, and -- that has your writing on it, anything  
24 like that?

25          A     No.

1           Q     Now, I'm going to slide to the lower half, and  
2 I'm going to ask you the same thing. Is there anything on  
3 there that you recognize as being your signature, your  
4 handwriting, anything?

5           A     Yes. Do you want me to --

6           Q     Yes, please.

7           A     Okay. This is my -- these are my initials.

8           Q     Okay. So the third column --

9           A     Yes.

10          Q     -- with initials on it on the lower half of  
11 the --

12          A     Yes.

13          Q     -- of 3305; is that correct?

14          A     Yes.

15          Q     What are we looking at here? What are you doing  
16 with your assessment there?

17          A     Just -- by saying my -- by putting my initials  
18 there and drawing the line, that I was saying that everything  
19 followed procedure for post-procedure. That they were, you  
20 know, not --

21          Q     Well, all of the --

22          A     -- you know, it's just self --

23          Q     -- I'm sorry.

24          A     -- just --

25          Q     I'm sorry.

1           A     That's okay. It's just -- it was just saying  
2     that I agreed that those were met.

3           Q     Okay. Did you ever actually do any of the  
4     things that were listed there, though?

5           A     Well, sure, like, make sure they were  
6     comfortable, just talk to them, you know, if they were nervous  
7     about what was found when they woke up or, you know, if  
8     anything -- this one, obviously the patients had no -- no  
9     problems, if there were -- if they needed anything, you know.  
10    Well, the sept -- the aseptic technique and we followed that,  
11    you know, with every patient.

12          Q     And what is that? What's aseptic technique?

13          A     It's, you know, making sure you wear gloves when  
14    you take out your -- the hep-lock, or if patients, you know,  
15    are drooling or whatever, we would follow the proper -- you  
16    know, those kind of things. We would just make sure that we  
17    had clean hands, we would keep our hands washed between  
18    patients and -- I mean, we went from bay to bay a lot, so we  
19    had to do that a lot.

20          Q     Okay. I'm going to show you the next one, which  
21    is Bates No. 3306. And it's entitled up here, endoscopy  
22    procedure nursing record; do you see that -- can you tap that  
23    screen one --

24          A     Oh, I'm sorry.

25          Q     No problem. Just tap in the corner. I got it.



1 THE COURT: I'll try.

2 BY MR. STAUDAHER:

3 Q Just tap it right down there.

4 THE COURT: It's not that easy.

5 THE WITNESS: Oh, they are, yeah.

6 BY MR. STAUDAHER:

7 Q Sometimes it takes a little more force. Anyway,  
8 on this record here, do you see your signature, initials,  
9 anyplace?

10 A Yes, I'm -- right here. Report to recovery.

11 Q Okay. So that's the only place of anything that  
12 you've written on this --

13 A Right.

14 Q Now, I'm going to show you three. And you see  
15 some times listed there as well. 10:30 for the start --  
16 procedure start time and 10:47 for the procedure end time?

17 A Yes.

18 Q Or, excuse me, 10:48.

19 A Yes, I see that.

20 Q Now, the next record that I want to show you is  
21 this one here, which is 3307, and can you tap that again?  
22 Thanks. 3307. Now, do you recognize anything on this  
23 paperwork?

24 A My initials here and here.

25 Q Now, I want to go down to the very bottom before

1 I ask you any other things. Do you see at the very bottom  
2 anything to do -- any of your handwriting at all?

3 A My initials right here.

4 Q This over here, does this appear to be your  
5 handwriting as well, the date and the time?

6 A No. My initials are here also.

7 Q Yes. But the times itself listed here, does  
8 that appear to be your handwriting?

9 A No.

10 Q Now, if we go up that number right there, does  
11 that appear to be your handwriting?

12 A No.

13 Q Coming up here to this number up here and this  
14 is -- and for the record, I guess I should identify these.  
15 Physician at bedside; do you see that? Down here? Physician  
16 at bedside.

17 MR. SANTACROCE: She can't see it.

18 BY MR. STAUDAHNER:

19 Q Oh, I'm sorry.

20 A I don't --

21 Q I'm sorry.

22 THE COURT: Yeah.

23 BY MR. STAUDAHNER:

24 Q Physician at bedside; do you see that?

25 A I see that.

1 Q And if we go over -- and the time that's  
2 associated with that, you said that's not your handwriting?

3 A No, it is not.

4 Q If we come up to the top where it says, hep-lock  
5 I.V. site, and then it says, hep-lock VC time; do you see  
6 that?

7 A Yes.

8 Q And you see that the -- and would you tap that  
9 one more time for me, please? You just have to tap it in the  
10 corner -- there we go.

11 There's a time there; do you see that?

12 A Yes, I do.

13 Q Is that your handwriting?

14 A No, it is not.

15 Q Up here for post-procedure assessment time; do  
16 you see that number --

17 A Yes.

18 Q -- that time? Is that your handwriting?

19 A No.

20 Q Now, all of the check marks on this, is that  
21 something that would -- were there ever charts that came to  
22 you that were pre-filled out before you got them?

23 A Yes.

24 Q Okay. Were things like that that we're talking  
25 about kind of assessments of the patient?

1 A Yes.

2 Q So these are -- you're the one that would be  
3 normally doing that assessment, right?

4 A Right.

5 Q But they would be brought to you already filled  
6 out?

7 A Yes.

8 Q Was that a regular occurrence?

9 A Probably. I mean, I -- it happened, and then  
10 there were times then -- we just did it all, so I don't know  
11 which happened more.

12 Q Have you ever worked anywhere where somebody  
13 brought you a chart to fill out -- for you to fill out and  
14 initial with your findings where somebody else had already  
15 filled it out?

16 A No.

17 Q And I'm talking about something where the  
18 assessment had not even been done yet?

19 A No.

20 Q But did that occur in this situation?

21 A Yes.

22 Q Now, even though these times on this record are  
23 not something you put in, would those be some of the -- some  
24 of the things that would be precharted sometimes?

25 A No.

1           Q     So these chart -- these times here where it  
2 says, postprocedure assessment time, even though you didn't  
3 put that down, I mean, you would be the one caring for the  
4 patient, correct?

5           A     Right.

6           Q     Who would put that down typically?

7           A     Well, usually I did. I don't -- I don't recall  
8 why someone would have filled that in.

9           Q     But this is you -- this is one of your records,  
10 right?

11          A     Right.

12          Q     How would you come up with this number, this  
13 post-procedure assessment time? And I'll -- and for context  
14 we'll go back to look at -- on 3306, which has the procedure  
15 start time of 10:30 and the procedure end time of 10:48; do  
16 you see that?

17          A     Yes.

18          Q     The next time -- on that next sheet, which is  
19 3307, is -- let me slide it down. There it is, 10:50; it  
20 appears to be 2 minutes later.

21          A     Okay. Usually we added five minutes. If things  
22 were busy, we would just add five minutes to the time because  
23 they usually, from what I was told, put the procedure in time  
24 -- the -- as soon as the procedure was done, and then they had  
25 to disconnect the patients from the monitors and the blood

1 pressure and get them positioned and get them covered and get  
2 them out to us; and we'd get them in the bay and we'd get them  
3 hooked up, so that gave us a five-minute time. Sometimes it  
4 didn't take that long, you know. Sometimes the tech was  
5 hooking them up while we were charting, so we would put down,  
6 you know, two or three minutes.

7 But -- but mainly, if that wasn't the case, it was  
8 five minutes.

9 Q Okay. So from this time up here, this  
10 pre-procedure -- or post-procedure assessment time to the DC  
11 hep-lock time is a five-minute window?

12 A Well, that just depended on who took out the  
13 hep-lock. They usually wrote the time down and initialed it.

14 Q Okay. And this one has --

15 A We didn't always do it --

16 Q -- this has the initial MB; do you know who that  
17 is?

18 A I can't remember.

19 Q Okay. Now, this time here that's listed on DC  
20 hep-lock time of 10:55 appears to be the same time as  
21 physician at bedside down here. Do you see that?

22 A I do.

23 Q What was the issue with that?

24 A I have to honestly say I don't -- I don't recall  
25 why someone would just go ahead and write that in.

1 Q Well, did -- what did you do?

2 A I read over it and saw that everything was in  
3 order, and then I signed at the bottom.

4 Q Okay. But the physician at bedside time, did  
5 you see the physician --

6 A No.

7 Q -- at bedside? Okay. So if a time is listed  
8 there for physician at bedside; is that accurate?

9 A No.

10 Q Okay. And this time down here, which is 30  
11 minutes from this point of the physician at bedside to the  
12 time that it's listed down here as the discharge time, and  
13 it's got your initials by it, correct?

14 A Right.

15 Q How would that time be derived to the best of  
16 your knowledge?

17 A By the time the patients were up and changed and  
18 we didn't want them to leave until 30 minutes after the --  
19 they were up and alert.

20 MR. SANTACROCE: And, I'm sorry, I didn't hear that.  
21 How long?

22 THE WITNESS: 30 minutes. Make sure they were good  
23 and awake.

24 BY MR. STAUDAHER:

25 Q But you were pretty much done after 15; is that

1 right?

2 A Usually, yes. 15 they were up and they changed  
3 and they would sit in the chair and wait for the discharge  
4 nurse; but if we discharged them at the bedside, then we would  
5 take them and have them change and sit there and wait.

6 Q Right. But you -- if I understood you correctly  
7 -- you said that once that -- once they left you you didn't  
8 deal with them again?

9 A Right.

10 Q So you would be -- this would be filled out. So  
11 was it -- that just an arbitrary time was 30 minutes?

12 A Yes.

13 Q Okay. As far as the -- the precharting that we  
14 talked about a moment ago --

15 A Yes.

16 Q -- was there anybody who -- that you knew that  
17 did that in the clinic?

18 A Yes.

19 Q Who was that?

20 A Pauline Bailey, I think is her last name.

21 Q Okay. And when you -- when we say "precharting"  
22 what are we talking about?

23 A Getting the chart prior to the patient coming in  
24 and getting stuff filled out that -- that could be filled out  
25 ahead of time.



1           Q     Would there also be things filled out, again,  
2     that you would normally be writing down and doing the  
3     assessment for?

4           A     Yes. Well, sometimes the procedure room nurse  
5     would fill in some stuff that -- well, ahead of time.

6           Q     So it could be the procedure room nurse or this  
7     Pauline Bailey?

8           A     Yes.

9           Q     Did you ever have anybody come around and ask  
10    you to prechart charts?

11          A     I precharted sometimes before the patient came  
12    in.

13          Q     For other people and for other nurses?

14          A     Well, to help get stuff done to get the day  
15    going --

16          Q     Okay.

17          A     -- sometimes prechart.

18          Q     I'm going to ask you this question: Basically,  
19    I want to know why you would even agree to do this or engage  
20    in this; is there a reason?

21          A     Because we were so busy it helped. The volume  
22    of patients were so -- was so high that there were times that  
23    we didn't have time --

24          Q     To even look up at the clock and put the right  
25    times down?

1           A     Well, I won't say we couldn't look up at the  
2     clocks, but it helped to have the -- have it follow in line,  
3     the five minutes. Sometimes we did -- like I said, sometimes  
4     it was just a couple of minutes, sometimes it was three  
5     minutes, but basically we added five minutes.

6           Q     And did you ever yourself or observe the other  
7     -- the staff taking shortcuts because of the volume of the  
8     patients?

9           A     Well, with the charting and that kind of stuff,  
10    but I don't know what else you're talking about.

11          Q     Well, you didn't see what happened inside the  
12    procedure rooms, correct?

13          A     No.

14          Q     You saw the patients go into them and come out  
15    of them?

16          A     Right.

17          Q     Is that the -- is that turnover, the speed of  
18    that process, is that one of the concerns you had?

19          A     Yes.

20          Q     Now, as far as supplies, things along those  
21    lines, were you ever aware of any limitations or anybody  
22    trying to limit the amount of supplies or things that you  
23    used?

24          A     Just a couple of things, and I was told this on  
25    the floor --

1 MR. SANTACROCE: Objection. Hearsay.

2 THE WITNESS: Okay.

3 MR. STAUDAHER: Well, let's step back --

4 THE COURT: Well --

5 MR. STAUDAHER: -- for a minute. I'll lay it.

6 BY MR. STAUDAHER:

7 Q Did you ever hear Dr. Desai saying anything  
8 about limiting anything in the practice?

9 A Not to me.

10 Q Well, it doesn't have to be directly to you.  
11 Could -- you could be there and hear him saying it to somebody  
12 else.

13 A He didn't want the patients double-sheeted.

14 Q What does that mean?

15 A It means that they were cold with just one sheet  
16 and he didn't want another sheet put on them.

17 Q What would happen if that occurred, if somebody  
18 gave a sheet to a patient who was cold?

19 A Then we would hear about it.

20 Q Would be yelled at?

21 A No, we would be told not to do it, usually by  
22 our supervisor who is -- who would tell us that he was told or  
23 she was told to tell us.

24 Q Okay. But you were present, at least at some  
25 point where Dr. Desai was saying to someone or something

1 related to the sheets or blankets or whatever; is that right?

2 A Yes, and blankets. That's correct, yes.

3 MR. STAUDAHER: Pass the witness, Your Honor.

4 THE COURT: All right. Cross?

5 MS. STANISH: Just need a few seconds.

6 MS. WECKERLY: Yeah, go ahead, that's --

7 MS. STANISH: Good idea.

8 THE COURT: Yeah, if you're ready Mr. Santacroce

9 can --

10 MS. STANISH: Move this along. Memorial Day awaits.

11 MR. SANTACROCE: Where's that -- where's those

12 exhibits?

13 MS. WECKERLY: They're up there.

14 MR. STAUDAHER: They're right up there, the ones I  
15 just had. On the left-hand side.

16 CROSS-EXAMINATION

17 BY MR. SANTACROCE:

18 Q Showing you page 3307. I believe you testified  
19 that your initials are right here and right here and right  
20 here, correct?

21 A My initials are right there --

22 Q Let me move this --

23 A -- right there --

24 Q -- up a little.

25 A -- that's all I can see.

1 Q I'm sorry.

2 A Oh, and right there.

3 Q And I just moved all the lines now on you.

4 Okay. But I think we get the idea. You can clear that if you  
5 would, please.

6 And you said that although these times are not --  
7 that you didn't write these times in, that typically you would  
8 write these times in, correct?

9 A Typically I would write in the post-procedure  
10 assessment time -- oh, I'm sorry.

11 THE COURT: Oh, yeah, if you touch the -- oh, we went  
12 through this yesterday.

13 MR. STAUDAHER: I took care of it.

14 THE COURT: Yeah, if you touch the top -- so, Mr.  
15 Santacroce, if it's something at the top, move it down  
16 because --

17 THE WITNESS: Okay. I'll -- can I touch it now?

18 BY MR. SANTACROCE:

19 Q Yes.

20 THE COURT: I guess. We'll see.

21 THE WITNESS: I would usually put in that time -- the  
22 hep-lock DC'd time -- if I DC'd the hep-lock, I would put in  
23 the time and my initials, but I didn't -- they're -- those are  
24 not my initials.

25 BY MR. SANTACROCE:

1 Q Okay. But we know that somebody with the  
2 initials MV probably did this one --

3 A Correct.

4 Q -- correct? Okay. But typically you would do  
5 it?

6 A Yeah. Well, if I DC'd the hep-lock, yes.

7 Q Okay. And those wouldn't be precharted. You  
8 would do that --

9 A Right.

10 Q -- correct? Correct, you would --5?

11 A Correct.

12 Q -- you would have precharted those times? And  
13 in fact, you tried to be as accurate as you could with the  
14 times; isn't that correct?

15 A Yes.

16 Q And do you remember giving the interview to the  
17 Metro Police Department, and you told them that you tried to  
18 be as accurate as possible, correct?

19 A Right.

20 Q And the reason why sometimes you were off a  
21 minute or two was because why; do you remember?

22 A It could be a lot of things.

23 Q Well, didn't you tell them that the clocks were  
24 all different?

25 A Well -- yes.

1           Q     So the clocks -- there was many clocks -- they  
2 were not all synchronized, were they?

3           A     No.

4           Q     So you developed a procedure that you knew  
5 estimated would be five minutes from the time the procedure  
6 stopped to the time you got them?

7           A     I didn't, but that's --

8           Q     Somebody got them?

9           A     -- what -- yes.

10          Q     And that was fairly accurate given the fact that  
11 the procedure ended and they were still hooked up to equipment  
12 in the procedure room, correct?

13          A     Yeah, correct.

14          Q     And it had to be disconnected from that stuff?

15          A     Yes.

16          Q     And then they had to be wheeled out to you?

17          A     Yes.

18          Q     And then you would hook them up to a machine?

19          A     Yes.

20          Q     The term "precharting" isn't -- I mean, we seem  
21 to use it here as a negative term, but it has a practical use,  
22 doesn't it? There's some things that can be precharted? For  
23 example, the history of a patient, some of the medications  
24 they're allergic to, you could prechart those --

25          A     Yes.

1 Q -- isn't that correct?

2 A Yes.

3 Q So it isn't always a negative implication in  
4 nursing, is it?

5 A No.

6 Q Okay. This issue about the time the physician  
7 was at bedside seems to be some bone of contention. I don't  
8 quite know why, but we'll discuss it. Physician at bedside,  
9 when you put a time in there, didn't necessarily mean the  
10 physician had to be sitting on a stool, sitting next to the  
11 patient and looking at them, did it?

12 A I don't know how to answer that because we  
13 assumed since they were in the procedure room that they were  
14 close and that's -- so we were told to do that.

15 Q Well, had you ever seen the physician sit at a  
16 patient's bedside after a procedure and watch them recover  
17 from anesthesia?

18 A No.

19 Q The fact of the matter, as you told the Metro  
20 Police Department in your interview, is that the doctors were  
21 only four or five steps from the patient; isn't that correct?

22 A Correct.

23 Q And that's how you interpreted the physician at  
24 bedside --

25 A Correct.



1           Q    -- correct? And you testified that you didn't  
2 discharge the patients until approximately 30 minutes after  
3 the procedure, correct?

4           A    Correct.

5           Q    And they would be with you hooked up on a  
6 monitor for at least four blood pressure tests --

7           A    Correct.

8           Q    -- at five-minute intervals, correct?

9           A    Correct.

10          Q    And that was for -- a procedure for every  
11 patient?

12          A    That's right.

13          Q    That's all I have, ma'am. Thank you.

14          THE COURT: Ms. Stanish?

15                   CROSS-EXAMINATION

16          BY MS. STANISH:

17          Q    I hope to be brief. Ms. Whitaker, I'm showing  
18 you State Exhibit 118. That's the procedure room, the one  
19 that we've already discussed.

20               Typically, ma'am, how many patients would you be  
21 monitoring who had come out of the procedure room?

22          A    Two, sometimes three.

23          Q    And am I correct in understanding that you would  
24 share that responsibility with another RN?

25          A    Correct.

1           Q     So there would be two RNs monitoring two to how  
2 many patients out of recovery? Three, did you say?

3           A     Right.

4           Q     And that seems pretty well-staffed. Is that  
5 well-staffed in your opinion for that function?

6           A     Usually the bays have recovering patients in  
7 them, and the -- and as soon as one patient got up, the bed  
8 would be taken into the procedure room or another patient  
9 would be put on it. So it -- I mean, all five bays were full.

10          Q     And -- but it -- if I -- am I understanding that  
11 oftentimes the fifth bay would have somebody awaiting to go  
12 into the procedure room?

13          A     Not -- not all the time, no. Sometime, yes, but  
14 usually the bays were full and as we were getting them to go  
15 up to discharge, they were -- they were cleaning the bed and  
16 changing the bed and they would roll the -- either put the  
17 patient on it and roll them straight in or put them in in the  
18 procedure room.

19          Q     And --

20          A     It was constant.

21          Q     -- I understand.

22          A     Constant, yes.

23          Q     And -- and in addition to yourself and another  
24 RN there would be a GI tech assisting in the recovery room  
25 doing certain functions?

1 A A tech, yes.

2 Q One or two or -- or what?

3 A Usually one.

4 Q And was that the -- was that tech assigned to  
5 the recovery room, or was that tech coming from another area  
6 to do certain functions, like --

7 A They were usually assigned, I believe.

8 Q And so there's three of you working as a team in  
9 the recovery room; is that a fair statement?

10 A Yes.

11 Q And did sometimes the procedure nurse come into  
12 the recovery room with a patient out of procedure and also  
13 assist in this function of post-op?

14 A Sometimes. Sometimes, not often.

15 Q All right. And so you have three people working  
16 -- primarily responsible for these five bays, correct?

17 A Right.

18 Q And then occasionally a -- the RN from the  
19 procedure room would come out and do certain things to assist,  
20 correct?

21 A Occasionally.

22 Q And --

23 A If we were that busy.

24 Q -- all right. Or if that nurse happened to have  
25 some free time --

1 A Right.

2 Q -- to do that? And the -- the -- between the  
3 three or four staff -- medical professionals, would all three  
4 or four of you be making entries into the chart?

5 A Yeah, the tech would if they DC'd the hep-lock,  
6 you know. They would put their initials -- the time and their  
7 initials. The -- and we were filling out the charts and  
8 taking care of the patients, the nurses. So possibly.

9 Procedure room nurse, if they were assisting in  
10 bringing the patient out, they usually just hooked him up.

11 Q All right. And it -- as the day wore on and the  
12 afternoon -- did you work in the afternoon, by the way?

13 A Yes.

14 Q Would the patient load remain constant in the  
15 afternoon, or would there be more of a reduction in patient  
16 load in the afternoon?

17 A I -- I felt like it was the same all day.

18 Q Okay. So you thought it was that constant. All  
19 right. How many years of nursing experience did you have  
20 prior to coming to the gastro center?

21 A I had worked from '94 when I graduated as a  
22 nurse to '99, so that's 5 years, and then I worked about a  
23 year after that in Virginia and then I worked -- then I came  
24 and worked here. So 6 years.

25 Q And what -- did you -- did you feel like you did

1 a good job in the recovery room?

2 A I will say I did the best that I could, and my  
3 patients were first and foremost. I just -- I wanted to make  
4 sure I did everything for my patients.

5 Q And in -- based on your observations, did you  
6 see your colleagues doing the same thing?

7 A Correct.

8 Q When you learned that there was a hep -- a  
9 hepatitis C outbreak in the clinic that you worked hard in,  
10 what was your response?

11 A Devastated.

12 MS. STANISH: Nothing further.

13 THE COURT: Any redirect?

14 MR. STAUDAHER: Just a couple.

15 REDIRECT EXAMINATION

16 BY MR. STAUDAHER:

17 Q Mr. Santacroce asked you about the precharting,  
18 about the -- it's not such a negative thing, right? I mean,  
19 you can put down from a history and physical somebody's height  
20 and weight, things like that, correct?

21 A Yes.

22 Q No problem with those issues?

23 A No.

24 Q Those aren't the precharting things I was  
25 talking to you about, though, were they?

1 A No.

2 Q Okay. We're talking about the vital signs,  
3 patient status, things that you would make an assessment on on  
4 a patient before you even got the patient?

5 A Yes.

6 Q Now, is that okay?

7 A No.

8 Q I know you did those things, but we're clear  
9 that that's the kind of precharting that you were asked to do  
10 and that you actually saw happen at the clinic?

11 A Yes.

12 Q Ever done that anyplace ever?

13 A No.

14 Q Would you ever do it again?

15 A No.

16 Q The reason -- the volume, is that what you said?

17 A Yes.

18 Q Did you ever feel as though you were pressured  
19 to move patients through to try and get them done?

20 A Yes.

21 Q And you were asked, gosh, did you ever feel that  
22 what you were doing put the patients at risk, or something to  
23 that effect, correct?

24 A Yes.

25 Q But if I understood you correctly your -- your

1 testimony when I asked you the questions earlier were you  
2 thought that at that pace, what was happening in the procedure  
3 rooms and moving in and out that somebody was going to get  
4 hurt?

5 A Yes.

6 Q Did you think it would be this kind of a thing  
7 with an infection?

8 A Never.

9 Q And your thoughts of what might happen would be  
10 what?

11 A Like -- like a perforated bowel or something.  
12 We just were real concerned about that.

13 Q You were also asked by Mr. Santacroce about the  
14 issue of physician at bedside or a time here, or estimate  
15 there, or whatever. Have you ever been anyplace where that  
16 would be okay to do?

17 A No.

18 Q If you said that a physician charted -- a  
19 physician at bedside -- would that mean the physician was  
20 actually there --

21 A Right.

22 Q -- or just in the general area?

23 A Right.

24 Q Would it mean they were in the general area or  
25 at the bedside?

1 A At the bedside.

2 Q When you went through your training as a nurse  
3 and your job -- on-the-job experience as a nurse, was the  
4 accuracy of charting ever taught to you as being important?

5 A Yes. Yes, it was.

6 Q Is it important?

7 A Yes, it is.

8 Q And why is accuracy on the records important?

9 A For many reasons for the patients, you know, for  
10 the record, for the nurses, you know.

11 Q I mean, if you're picking up a chart -- do you  
12 ever have to rely on medical records --

13 A Yes.

14 Q -- that have been done by others?

15 A Mm-hmm.

16 Q And do you rely on those records in providing  
17 the care that you --

18 A Yes.

19 Q -- want to do?

20 A Yes.

21 Q And in part of -- of looking at those records  
22 and -- do you have to rely on the accuracy of them to  
23 necessarily do what your next step is?

24 A Right.

25 Q Is that important?



1 A Yes, it is.

2 Q If you got records that were just kind of, well,  
3 this is generally what happened, but we don't really -- it's  
4 not really accurate, would that give you some concern?

5 A Yes.

6 Q Is it fair to say that records are kept so that  
7 people either can use them later on for the care or they can  
8 look back and see what actually happened to the patient for  
9 whatever reason?

10 A Yes.

11 MR. STAUDAHER: I pass the witness, Your Honor.

12 THE COURT: Any recross, Mr. Santacroce?

13 MR. SANTACROCE: No, Your Honor.

14 THE COURT: Ms. Stanish?

15 RECROSS-EXAMINATION

16 BY MS. STANISH:

17 Q I just want to clarify something with you, Ms.  
18 Whitaker. When you're in that room -- in the recovery room --  
19 the patients are hooked up to the -- the vital machines,  
20 correct?

21 A Yes.

22 Q And as I understood your testimony, you would  
23 take an initial vital reading and then at least three  
24 thereafter?

25 A Yes.

1 Q And if a patient needed additional vital  
2 monitoring, would they get that?

3 A Yes.

4 Q Would you ever release a patient from that room  
5 if you thought they were unstable?

6 A No.

7 Q Did you monitor the vitals in that room?

8 A Yes.

9 Q Did you believe this formula that you use was  
10 accurate as far as capturing where the patient was in this  
11 flow of work? Do you see what I'm saying?

12 A Yes, I did at the time.

13 Q Okay. Thank you, ma'am.

14 THE COURT: Anything else from the State?

15 MR. STAUDAHER: No, Your Honor.

16 THE COURT: Any juror questions for the witness?

17 Counsel, approach.

18 (Off-record bench conference.)

19 THE COURT: We have a juror question. A juror wants  
20 to know, why did you quit in 2007?

21 THE WITNESS: Because my husband and I were planning  
22 on moving back to Florida and I was ready to quit, I was  
23 tired.

24 THE COURT: State, any follow-up?

25 MR. STAUDAHER: No, Your Honor.

1 THE COURT: Defense, any follow-up to that last  
2 question?

3 MR. SANTACROCE: No.

4 MS. STANISH: No, Your Honor.

5 THE COURT: Any additional juror questions?

6 All right. Ma'am, thank you for your testimony.  
7 Please don't discuss your testimony with anyone else who may  
8 be a witness in this case.

9 THE WITNESS: Okay.

10 THE COURT: Thank you, ma'am. And you are excused.

11 All right. Ladies and gentlemen, we're going to  
12 take our weekend recess at this point. We will be reconvening  
13 Tuesday at 12:30. Because we're reconvening so late, we will  
14 not be taking a lunch break on Tuesday. So make sure you eat  
15 or bring snacks or whatever you need to do because we won't be  
16 breaking for lunch.

17 Before I excuse you for the weekend, I must admonish  
18 you that you're not to discuss the case or anything relating  
19 to the case with each other or with anyone else. You're not  
20 to read, watch, listen to any reports of or commentaries on  
21 the case, the person, or subject matter relating to the case  
22 by any means of information.

23 Don't do any independent research by way of the  
24 Internet or any other medium. And please do not form or  
25 express an opinion on the trial.

1           Everyone, have a good weekend and we'll see you back  
2 on Tuesday. Notepads in your chairs.

3           (Court recessed for the weekend at 12:52 p.m.)  
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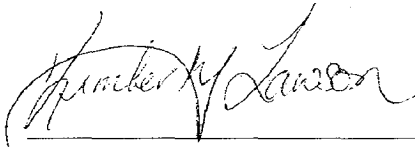
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1 patient is sedated and the doctor would begin the procedure?

2 A Yes.

3 Q Who was in charge of the procedure room, in your  
4 opinion?

5 A In my opinion, the doctor should be the one  
6 that's in -- would have been the one that's in charge of the  
7 procedure room.

8 Q And does that correspond with your medical  
9 training?

10 A Yes.

11 Q Did you ever hear of the doctor getting on the  
12 CRNAs for using too much propofol?

13 A No.

14 Q Did you ever hear the doctors getting on the  
15 CRNAs or the nurse in the room for using too many supplies?

16 A Not really -- no, not that I can recall.

17 Q Now, you talked about some of the items that  
18 were reused. Can you tell me what those items were again,  
19 please?

20 A A bite box and syringes -- or the -- the  
21 flushing syringes -- the 60 cc ones.

22 Q And those were all sterilized in this room here?

23 A Well, the bite blocks were sterilized in that  
24 room.

25 Q Okay. What about forceps?

1           A     Forceps whenever we used.

2           Q     And tell me the procedure on cleaning the bite  
3 blocks.

4           A     When it came to cleaning the bite blocks, we  
5 would use one of these sponges here to go ahead and use the  
6 enzymatic solution that was in these barrels to actually go  
7 ahead and clean away and wash off the -- the bite blocks, make  
8 sure that they were rinsed off and then put them into the  
9 actual Medivator machine while processing the scope so that  
10 they could be completely sterilized.

11          Q     Do you know if the bite blocks were packaged as  
12 single-use only?

13          A     Don't know.

14          Q     Was there a difference in the types of bite  
15 blocks you used?

16          A     Not that I can think of.

17          Q     Were they different colors, different shapes?

18          A     No.

19          Q     They were all the same?

20          A     Yes.

21          Q     And how about with the scopes? What was the  
22 procedure on that?

23          A     The procedure on cleaning the scopes was, again,  
24 you'd use this sponge to go ahead and wipe down the actual  
25 tube of the scope. After you've wiped down the tube of the

1 scope and the first basin with the enzymatic solution in it,  
2 you would hook up this machine here, the Scope Buddy, to the  
3 machine so that it would actually go ahead and flush the scope  
4 out with the enzymatic solution for two minutes. Once that  
5 was done, take it into the second basin that only had water in  
6 it, let it do its thing, and then put it in the Medivator and  
7 wait for a second scope to be able to go ahead and process the  
8 Medivator.

9 Q And how many scopes would you clean in a  
10 solution before you changed the solution?

11 A To the best that I can recall about 10.

12 Q And in your opinion, were those scopes clean and  
13 sterile when they were brought into the procedure room?

14 A From what I was trained, yes.

15 Q And that training was shadowing these other GI  
16 techs, correct?

17 A That's correct.

18 Q Would you ever hang the scopes up in any kind of  
19 a room?

20 A Yeah, there was another room that was attached  
21 to this one that we would actually hang the scopes up to dry.

22 Q I'm showing you State's Exhibit 150. Does that  
23 depict the hanging of the scopes?

24 A Yes.

25 Q And you see that there's chux down below?



1 A Yes, I do.

2 Q What were those there for?

3 A After the scopes would come out of the  
4 Medivators there would still be a little bit of water left in  
5 them from the rinse -- from what I presume to be the rinsing  
6 cycle of the machine, so it's -- they were there to go ahead  
7 and let any clean liquid that was in it be able to drip out so  
8 that it didn't just drip all over the floor.

9 Q Did you ever come back and see fecal material on  
10 these chux after they were cleaned?

11 A Never.

12 Q Did you ever have a nurse give you a scope and  
13 say reclean this because it's dirty and I see fecal matter on  
14 these chux?

15 A I never had that happen.

16 Q What are specimen traps?

17 A Specimen traps were hooked up to the scope to  
18 the suction port so that any kind of biopsy that was actually  
19 cut in the colon would be collected and not thrown out so that  
20 it could be sent in to a lab.

21 Q Are those single-use items?

22 A I don't know.

23 Q Did you ever clean them?

24 A I don't remember.

25 Q And you testified that you wore a vinyl smock?

1 A Yes.

2 Q Was that cleaned by you?

3 A It was -- well, I did the best that I could to  
4 make sure that it kept clean.

5 Q And how often would you clean it?

6 A Like I said, I'd replace it whenever it had  
7 become dirty or torn.

8 Q Now, you were asked some questions about the  
9 procedure room and propofol and the needles and syringes,  
10 okay? So I want to go through a couple of those items.

11 The syringes that the CRNAs used, do you ever see  
12 those being reused?

13 A Occasionally on the same patient, and that's  
14 about it.

15 Q Occasionally?

16 A On the same patient if the patient required a  
17 second dose, but it's not really something that I paid too  
18 much attention to.

19 Q Okay. And why is that?

20 A Wasn't what my focus was in the procedure room.  
21 My focus in the procedure room was just -- just the doctor.

22 Q So tell me where your focus was exactly.

23 A Usually on a monitor that the doctor -- a  
24 monitor that the doctor would use to be able to go ahead and  
25 visualize what he was doing inside the patient. So it would

1 be on the doctor and on that monitor.

2 Q So your attention was devoted to the doctor, the  
3 monitor, and what your job was doing, plus it was dark in the  
4 room, correct?

5 A That's correct.

6 Q I believe you said to Metro that your focus  
7 wasn't on the CRNAs; is that correct?

8 A That's correct.

9 Q So when you testified that they used the same  
10 syringe on -- multiple times, you're not exactly sure about  
11 that, are you?

12 A I mean, occasionally I'd look away and see that  
13 a second dosage was being used, but it's -- I'd --

14 Q Do you know if the -- the syringe had been  
15 changed?

16 A Not really.

17 Q So all you saw was that a second dose was  
18 administered, correct?

19 A Correct.

20 Q Now, let's talk about the propofol. Can you  
21 describe how the propofol was packaged?

22 A It was like most injectable medications comes in  
23 a -- either a plastic or a glass vial with a stopper on it  
24 surrounded by metal to allow a needle to penetrate.

25 Q And did they come in different sizes?

1           A     I don't know.

2           Q     Did you ever see different size bottles of  
3 propofol when you worked the procedure room?

4           A     I usually only saw one size if I ever looked at  
5 it.

6           Q     Okay. Was it big, small?

7           A     It was a pretty normal-sized bottle from what  
8 I've seen when it comes to injectable medications.

9           Q     Okay. Now, you said that you saw propofol being  
10 used from one patient to another --

11          A     I said that I'd seen --

12          Q     -- same bottle?

13          A     -- open bottles being transferred from one to  
14 another.

15          Q     From one patient to another?

16          A     From one room to another.

17          Q     Okay. And when did you see that?

18          A     Usually I would see that happen if I was the one  
19 assisting in the procedure rooms and went with the doctor and  
20 the CRNA from one room to another.

21          Q     And I believe you testified that was only when  
22 there was one CRNA and that CRNA was going from room to room;  
23 is that correct?

24          A     Yes.

25          Q     And you never saw it when there was two CRNAs on

1 duty at the same time, did you?

2 A I don't know if the CRNA was using the same  
3 bottle from one patient to another or if it was two on a --

4 Q Well, no, I'm asking you about the propofol  
5 switching rooms, and you said you only saw it when there was  
6 one CRNA on duty; isn't that correct?

7 A That's correct.

8 Q And then you said that that CRNA would have to  
9 go from room to room, correct?

10 A Yes.

11 Q So you never saw that propofol moving from room  
12 to room if there was two CRNAs on duty at the same time in  
13 different rooms, did you?

14 A That's correct.

15 Q And I believe you testified that the CRNA --  
16 only one CRNA would come in in the morning about 7 -- 6-7:00  
17 and another one would come in 9-10-11:00?

18 A Yeah.

19 Q Is that your knowledge?

20 A And I don't know the actual times --

21 Q Okay.

22 A -- but I would see that happen.

23 Q Well, when you talked -- when you gave your  
24 testimony to the Metro Police Department, you specifically  
25 said 9-10 or 11:00 is when the second one would come in.

1           A     I don't remember when the first one would come  
2 in, though.

3           Q     Okay. When would you start?

4           A     I don't remember what time I started. Like I  
5 said, it was 8 or 9 in the morning.

6           Q     Were procedures already ongoing when you got  
7 there?

8           A     Sometimes.

9           Q     So you wouldn't have any idea what time the  
10 CRNAs would come in, then?

11          A     I don't remember what time the first CRNA would  
12 come in.

13          Q     I'm going to show you what's been marked as  
14 State's Exhibit 156. You can see it on your monitor there.  
15 And I'll represent to you that this is broken down into two  
16 rooms. Up here would be Room 1. Down here would be Room 2.  
17 Do you see that?

18          A     Yes.

19          Q     And these figures were compiled by the State,  
20 based on medical records that they obtained, okay?

21          A     Mm-hmm.

22          Q     Now, I'm going to have to come over here because  
23 I can't see. Can you see okay?

24          A     Yeah.

25          THE COURT: It's real small. You can read it?

1 THE WITNESS: Yeah.

2 THE COURT: Okay.

3 BY MR. SANTACROCE:

4 Q Okay. I'm going to stand over here, if you  
5 don't mind. You can look on your screen. Do you see the very  
6 first patient what time that was started?

7 A Yes.

8 Q What time?

9 A Like 7 a.m.

10 Q 7 a.m. Okay. And if you go over, you see the  
11 CRNA. Who was that?

12 A Keith Mathahs.

13 Q And if you go down to Room 2 -- and it's No. 23  
14 on the left-hand side; do you see that?

15 A Yes.

16 Q Another -- in that room what time was that  
17 started?

18 A 7:00.

19 Q And then if you move across the board, who was  
20 the CRNA?

21 A Ronald Lakeman.

22 Q So there was two CRNAs on duty at 7:00 on  
23 September 21st, 2007, correct?

24 A Yes.

25 Q If you look at the technician section -- do you

1 see the technician section?

2 A Yes.

3 Q Your name doesn't appear anywhere on there, does  
4 it?

5 A No.

6 Q So can we presume that you didn't work in a  
7 procedure room on September 21st of 2007?

8 A Not in these time frames, yes.

9 Q Okay. So under your theory there being two  
10 CRNAs in two rooms with procedures going simultaneously, you  
11 wouldn't expect the propofol to be switched from room to room,  
12 would you?

13 MR. STAUDAHER: Objection. Speculation, Your Honor.

14 MR. SANTACROCE: It's based on his --

15 MR. STAUDAHER: And it mischaracterizes his  
16 testimony.

17 THE COURT: Well, that's sustained.

18 BY MR. SANTACROCE:

19 Q You testified that you only saw the propofol  
20 move from room to room when one CRNA was on duty, correct?

21 A Yes.

22 Q Never at any other time, correct?

23 A Correct.

24 Q Now, you talked about when the CRNA would move  
25 -- the one CRNA from room to room following the doctor back



1 and forth, he'd carry a tackle box or a toolbox, correct?

2 A Correct.

3 Q Can you describe that for me?

4 A No.

5 Q When you gave your interview to the Metropolitan  
6 Police Department, had you discussed your testimony with any  
7 other GI techs?

8 A No.

9 Q You made an interesting comment to the  
10 Metropolitan Police Department when they asked you about  
11 scopes being removed by the doctor and feces coming out. You  
12 said that -- to the detective, well, you already know that  
13 from talking to the other GI techs, who -- what did you mean  
14 by that?

15 A While I was working -- after I had stopped  
16 working there, I didn't talk to anybody that I worked with at  
17 the clinic.

18 Q While you were --

19 A We all pretty much parted ways.

20 Q While you were at the clinic, did you talk to  
21 other GI techs about what had transpired from the CDC  
22 evaluation and things of that nature?

23 A No.

24 Q You did not?

25 A No.

1           Q     So you're telling me that you can't describe the  
2 toolbox or tackle box that the CRNA would move from room to  
3 room; is that correct?

4           A     That's correct.

5           Q     You assumed, I suppose, that there was some kind  
6 of medication in that box, correct?

7           A     Correct.

8           Q     And what do you base that assumption on?

9           A     I'd seen them --

10          Q     You never saw it, did you?

11          MR. STAUDAHER:  Objection, Your Honor.  I'd ask that  
12 he be allowed to finish his answer before --

13          THE COURT:  Well --

14          MR. STAUDAHER:  -- Counsel asks his next question.

15          THE COURT:  -- had you finished your answer?

16          THE WITNESS:  No, I actually hadn't.  I had actually  
17 witnessed them sometimes whenever I would come -- be when I  
18 was originally opening up the clinic before I switched to the  
19 closing shift, I had to actually witness them load medicine  
20 into the box.

21 BY MR. SANTACROCE:

22          Q     Okay.  Tell me what you saw them load.

23          A     I saw them put in syringes, needles, and bottles  
24 of propofol.

25          Q     And what size bottles of propofol?

1           A     I don't know the actual cc amount that was in  
2     there.

3           Q     And let me ask you this: When you were in a  
4     procedure room, were you aware that propofol for the day had  
5     already been checked out from the nurse and put into one room  
6     and another amount of propofol put into another room?

7           A     No.

8           Q     Would that change your opinion as to what you  
9     presume you saw in that tackle box?

10          MR. STAUDAHER: Objection. That's not his testimony,  
11     Your Honor. He didn't say he assumed or that he presumed or  
12     did anything. He observed it.

13     BY MR. SANTACROCE:

14          Q     Would that change your opinion as to what you  
15     observed?

16          A     I can just tell you what I observed, and that's  
17     it.

18          Q     Okay. When did you observe this?

19          A     I had seen them with a box that I had seen them  
20     load up before moving from one room to another.

21          Q     Okay.

22          A     During lunches or any other time that there  
23     would only be one CRNA on duty.

24          Q     Okay. But you told me what you saw go into the  
25     box, right?

1           A     I had seen on a couple of occasions what they  
2 put in the box, yes.

3           Q     But you can't describe the box?

4           A     It was 6 years ago.

5           Q     Okay. Do you remember giving statements to the  
6 grand jury and to the Metropolitan Police Department?

7           A     Yes.

8           Q     You didn't tell either one of those  
9 investigative bodies what was in the tackle box or toolbox,  
10 did you?

11          A     No.

12          Q     When the CRNAs would come into a different room,  
13 didn't you tell the grand -- or Metropolitan Police Department  
14 that they would use what the other CRNA had already set up in  
15 that room?

16          A     I don't remember.

17          Q     Would it refresh your recollection if I showed  
18 you the interview?

19          A     Yes.

20          MR. SANTACROCE: Court's indulgence.

21          THE COURT: That's fine.

22          MR. SANTACROCE: I'm showing page 39 for counsel.

23 BY MR. SANTACROCE:

24          Q     You can read as much as you want of this page,  
25 but I'm concerned about this part right here.

1           A     (Witness complying.)

2           THE COURT: We need a break. So, ladies and  
3 gentlemen, we're going to take until 10:40 for our morning  
4 recess.

5           And of course, you're reminded you're not to discuss  
6 the case or anything relating to the case with each other or  
7 with anyone else. You're not to watch reports of or  
8 commentaries on the case or for subject matter relating to the  
9 case. Don't do any independent research, and please don't  
10 form or express an opinion on the trial.

11           Notepads on your chairs and follow Kenny through the  
12 rear door. And, Mr. Vandruff, if you need a break you can  
13 take a break too. Just don't discuss your testimony with  
14 anybody, okay? Or you can stay there and read the statement.  
15 Whatever you're comfortable. If you need to take a break,  
16 that's fine.

17           (Court recessed at 10:26 a.m. to 10:42 a.m.)

18           (In the presence of the jury.)

19           THE MARSHAL: Ladies and gentlemen, please rise for  
20 the presence of the jury.

21           THE COURT: All right. Court is now back in session.  
22 And, Mr. Santacroce, you may resume your cross-examination.

23 BY MR. SANTACROCE:

24           Q     Thank you. When we left off I was refreshing  
25 your recollection as to whether one CRNA went to another

1 CRNA's room if they would use the supplies that were already  
2 set up in that room. Do you remember what you told  
3 Metropolitan Police Department?

4 A The context that that's in was based on whenever  
5 one CRNA would be breaking for lunch.

6 Q Okay. And tell me what you said.

7 A Whenever it came to that, yeah, they would  
8 during lunches -- they would actually -- from what I had  
9 previously testified, they would actually use what was already  
10 set up by the previous CRNA.

11 Q Okay. So they would use what was already in  
12 that room, correct?

13 A Yes.

14 Q They would use what they used -- brought over  
15 with their tackle box, correct?

16 A I don't know if anything was actually used from  
17 the box. I do know that whatever they had as their supply  
18 box, though, that they kept with them.

19 Q Okay. And so when they came to the room, stuff  
20 would be set up already; they would use that stuff?

21 A Yes.

22 Q Including propofol that was there?

23 A I can only assume.

24 Q Now, I want to talk a little bit about when a  
25 patient was undergoing a procedure and they were under

1 anesthesia and the procedure was going on, you never saw in  
2 the middle of a procedure a CRNA leave that procedure room to  
3 go to another procedure room in the middle of a procedure, did  
4 you?

5 A No.

6 Q Did you ever experience an emergency situation  
7 where a patient was having some sort of negative reaction to  
8 the anesthesia?

9 A Not that I can recall.

10 Q Are you aware that the CRNAs had medications at  
11 their disposals -- at their disposal for that very purpose?

12 A No, I'm not.

13 Q Is it fair to say that you rarely worked with  
14 Mr. Lakeman?

15 A Yeah, that's pretty fair to say.

16 Q I mean, you said it in your interview that you  
17 never really worked with Mr. Lakeman, correct?

18 A Correct.

19 Q You did work with him, however, on the 26th of  
20 July in the afternoon for a few procedures; do you recall  
21 that?

22 A I don't remember the dates. I do know that I  
23 had worked with him. It's just not as frequently as other  
24 CRNAs.

25 Q And who did you work with most of the time?

1 Linda Hubbard?

2 A More than likely, yes.

3 Q Did you ever hear Dr. Desai or any other doctor  
4 tell the CRNAs that they had to bill 31 minutes per procedure?

5 A No.

6 Q You talked about Dr. Desai being sort of a --  
7 the head of the clinic; is that correct?

8 A Yes.

9 Q Who is Tonya Rushing?

10 A Tonya Russing -- Tonya Rushing was a, I guess, a  
11 larger-scale version of, like, an office manager. I never  
12 really understood what her exact position was.

13 Q Well, didn't you tell Metro Police Department  
14 that she was second in command?

15 A That's how I perceived it.

16 Q So you perceived Dr. Desai and Tonya Rushing?

17 A Yes.

18 Q In that order?

19 A Yes.

20 Q And where did Jeff Krueger fit in?

21 A Probably shortly after that. He was the -- the  
22 head nurse.

23 Q Where was he in that hierarchy? Just under  
24 Tonya?

25 A Either one or two steps before -- under Tonya.



1 I mean, I really don't know.

2 Q Well, who did you answer to?

3 A Mostly Jeff and any of the nurses on the floor.

4 Q Okay. If you had a problem, who did you go to?

5 A Usually Jeff. Towards the end Jenine, if Jeff  
6 wasn't available.

7 Q So the chain of command would be that you would  
8 go to them. Did you ever have any occasion to go to Dr. Desai  
9 with any complaints or problems?

10 A No.

11 Q Were you questioned by the CVC?

12 A Not -- not that I can recall.

13 Q Did they ever call into question your cleaning  
14 practices in the cleaning room?

15 MR. STAUDAHNER: Objection. He just said he didn't  
16 talk with them, so...

17 MR. SANTACROCE: I didn't ask him if -- I said did  
18 they call into question the cleaning practices.

19 THE COURT: Who?

20 MR. SANTACROCE: The CVC or the Southern Nevada  
21 Health District.

22 THE WITNESS: Not that I'm aware of.

23 THE COURT: Did anyone talk to you that that was --

24 THE WITNESS: No, nobody --

25 THE COURT: -- an issue?

1 THE WITNESS: -- had talked to me about it that I can  
2 recall.

3 BY MR. SANTACROCE:

4 Q Were there -- were there any policies and  
5 procedures that were changed after the CVC made their  
6 inspection as to the cleaning formula?

7 A The best I can recall that whenever it came to  
8 the processing room, that it was -- the enzymatic solution was  
9 cleaned after every scope.

10 Q Instead of what had been previously done where  
11 you testified 10 scopes?

12 A Roughly 10, yes.

13 Q Now, during your whole tenure at the endoscopy  
14 center, nobody ever told you to take shortcuts, did they?

15 A No.

16 Q Are you aware of any of your co-workers taking  
17 shortcuts?

18 A Not really.

19 Q Are you aware of any of the CRNAs taking  
20 shortcuts?

21 A No.

22 Q Did you ever witness the CRNAs putting any  
23 patients in danger?

24 A Not that I'm aware of.

25 Q That's all I have. Thank you.

1 THE COURT: All right. Ms. Stanish?

2 CROSS-EXAMINATION

3 BY MS. STANISH:

4 Q Good afternoon.

5 A Good afternoon.

6 Q My name is Margaret Stanish; I represent Dr.  
7 Desai.

8 I want to start off with you helping us understand  
9 how colon scopes operate, so I'm going to give you a few  
10 photographs and ask you to pull out of that group of  
11 photographs the ones that best show a view of the colonoscopy  
12 scopes, okay?

13 A Okay.

14 Q I'm going to start by giving you -- it would  
15 help by putting on my reading glasses -- and give you State's  
16 Exhibits 149, 150, and 132. Can you -- you recognize that, I  
17 assume?

18 A Yes, I do.

19 Q Okay. Oh, and here's another one that might  
20 help. 130 -- State Exhibit 130. And pull out for me the  
21 photo that shows the colonoscopy scopes.

22 A (Witness complying.) So it would be this one  
23 here.

24 Q And you can identify that from the other ones  
25 because they're longer?

1           A     Yes.

2           Q     And that would be State's Exhibit 130. And --  
3 here, I'll take these from you. These are all -- are these  
4 other ones -- are those endoscopes?

5           A     Yeah, that -- they are. This one, though, looks  
6 to be like it is one of the colonoscopes. It's just hanging  
7 in the wrong area.

8           Q     Okay. So you were pointing to State Exhibit 132  
9 at that point.

10                  And I also have a photograph of the -- what's been  
11 admitted as State's 122. A photograph of the procedure room.  
12 And let me try to get this --

13           MR. STAUDAHER: I believe it's upside down, Margaret.

14           MS. WECKERLY: It's upside down.

15           MS. STANISH: Oh, like I know. All right. Thank  
16 you.

17 BY MS. STANISH:

18           Q     All right, sir. If you touch the screen before  
19 you, it will leave little peep marks, and I kind of want you  
20 to just talk me through how this scope -- you know, what end  
21 is what? Just explain it to me like I'm a three year old.

22           A     Okay. So this end here is basically the  
23 control. This is where -- this is what the doctor would be  
24 using to be able to manipulate the end of the scope that would  
25 actually be in the patient to be able to go ahead and turn it,

1 as well as do suction and flush -- or suction and pushing in  
2 air into the colon or water whenever we would flush.

3 Q Now, let me interrupt you there. When you say  
4 that's the "control," are there like buttons or something on  
5 it that lets the doctor do certain functions with the scope?

6 A Yeah, right where the arrow is actually  
7 pointing, where these two holes are, there's actually buttons  
8 that we would put into the scope so that they could be able to  
9 do either the air or the flush. What you're seeing are --  
10 like, right there on the side is like a turning mechanism to  
11 actually be able to manipulate this end, which would actually  
12 be in there so that it could actually turn around.

13 Q And so just so that I can clarify it for the  
14 record, the witness has pointed to the top of State's Exhibit  
15 130 to identify the control devices, and then at the very  
16 bottom is hanging the thin tubes, and that's the tube that is  
17 inserted in the patient's body?

18 A Yes.

19 Q And at the end of that tube, although it's not  
20 pictured in the photograph, is the camera?

21 A Yes.

22 Q All right. And what -- well, go ahead, talk me  
23 through it.

24 A So at this end here, at the bottom end that the  
25 camera is at, is also a light so that you can see, and a hole

1 that would be for suction, letting in air, as well as being  
2 able to pass through biopsy forceps or snares to go ahead and  
3 obtain specimens that would be needed for any kind of  
4 problematic area.

5 This portion here is -- it's wobbly -- so that  
6 portion there actually is -- hooks up to the imaging machine  
7 to be able to go ahead and provide power. This hooks up to  
8 the machine as well to be able to actually provide the image  
9 as well as has a port on it for suction.

10 Q Okay. Thank you. And just to clarify that for  
11 the record, you identified, kind of up above the -- towards  
12 the -- well, I guess towards the bottom. What do you call --  
13 what are these connectors called? Are they connectors or --  
14 I'm not sure I understood that.

15 A Well, so this metal portion right here actually  
16 goes into the same machine that the top portion here would go  
17 into to actually go at -- to be able to transfer the image.

18 Q And let me throw on the screen, if you -- well,  
19 good for you -- we don't got to do that -- Exhibit 122, which  
20 is the procedure in itself. Let me zoom in a bit here.

21 Is -- can you --

22 A Can you bring it --

23 Q -- show us --

24 A -- in a little bit more?

25 Q Pardon me?

1           A     Can you bring it in a little bit more?

2           Q     Sure.  Where do you want me -- more?  Like way

3 -- is it the device that's to the --

4           A     Yeah, I need --

5           Q     -- left of the bed?

6           A     -- the device -- that's this way.

7           Q     Oh.  Thank you.

8           A     All right.  You're good.

9           Q     I am?  All right.  I'll zoom in on that because  
10 I'd like you to educate us on this.  Is that good?

11          A     Yeah.

12          Q     That is the machine -- what -- that the scopes  
13 go into -- the computer?  I'll put it a little more like that.  
14 Okay.

15                Talk us through it, please.

16          A     Okay.  So to the best of my memory, this is  
17 where the power supply would go, and that end that I said that  
18 would actually help give the image is -- goes into that port  
19 there.

20          Q     And let me interrupt you, please, because I have  
21 to describe this for the record.

22                There -- am I right in describing this as a  
23 three-unit setup?  On top seems to be one unit, and then under  
24 it a smaller unit.  They're stacked on each other.  And then  
25 below those two stacked devices appears to be a third device;

1 is that correct?

2 A Yeah, there's a third device on there.

3 Q Okay. So when you put that first area, let's  
4 just call that the upper device, and then the one under it the  
5 middle, and then the other one the lower. So tell us what  
6 that upper one is.

7 A The upper device is for, I believe it was power,  
8 and the middle device was for the actual imaging.

9 Q All right. And what's the lower device?

10 A I don't remember.

11 Q Yeah. What -- as I understand this scope, to  
12 the extent that there's a patient who did not properly clean,  
13 there would be occasion to flush water into the scope,  
14 correct?

15 A Yes.

16 Q And where -- where would that water go? Would  
17 that -- that water get sucked out of the person?

18 A Yeah.

19 Q Okay. And is -- is there like a sewage area? I  
20 mean, where does -- what happens to that when it gets sucked  
21 out? Do I need to move this?

22 A Yeah. I need to see up over here.

23 Q I missed where -- your directions.

24 A Okay.

25 Q You want me --



1           A     This is where --

2           Q     -- to go here?

3           A     This would actually have -- this area right here  
4 would actually have a suction cannister on it that would have  
5 this hose right here attached to it, bringing the suction in  
6 from the vacuum on the wall. There would be a beaker attached  
7 here that had a hose coming out of the top that would hook  
8 into the portion of the scope that attached to the middle  
9 unit.

10          Q     A beaker of water would be mounted on the wall;  
11 is that -- and that's -- is that the source of the water?

12          A     No, there would be a different -- sorry -- there  
13 would be a different beaker of water that was --

14          Q     Well, I -- so I'm going to zoom out for you just  
15 because [inaudible].

16          A     Okay. So there would be a different beaker of  
17 water that was right there.

18          Q     Okay. And that's the water you use to flush the  
19 scope when you had a patient who didn't clean well, correct?

20          A     That's correct.

21          Q     And if a patient did, in fact, clean properly,  
22 would you have to flush that?

23          A     Not normally.

24          Q     Okay. Would you -- because I -- I don't -- I  
25 want to clarify this point. You had a number of patients

1 every day and you did not have to flush each and every person,  
2 correct?

3 A Correct.

4 Q And in fact, you would only have to flush the  
5 colonoscopy people who did not properly clean?

6 A That's correct.

7 Q And so I'm -- sorry, because I didn't quite  
8 understand the beaker that was mounted on the wall.

9 A Well, you had initially asked me about  
10 suction --

11 Q Right.

12 A -- so that's why I had went to that.

13 Q Okay.

14 A But the beaker that was actually mounted on the  
15 wall right here was -- as you had put it, kind of like sewage.

16 Q Okay.

17 A So it's -- this beaker was a high-capacity  
18 beaker that would be able to take out anything that had come  
19 out of the patient so that after it was done, I could actually  
20 take that out and empty it.

21 Q And so -- well, all right. Where would, let's  
22 say -- did you do many procedures with Dr. Desai, by the way?

23 A I don't know how many I did, but I did do quite  
24 a few.

25 Q Okay. And where for -- where would the doctor

1 be sitting while doing the procedure?

2 A The doctor would be standing right in this area.

3 Q And, by the way, is the bed here in this  
4 photograph with the head of the bed closest to the wall where  
5 the beaker was mounted, is this bed positioned for a  
6 colonoscopy or an endoscopy?

7 A From what I can remember, it's positioned for an  
8 endoscopy.

9 Q This is set up for an endoscopy, you're saying?

10 A Yes, for an upper.

11 Q So it -- if it was a colonoscopy, the bed would  
12 be the other way around?

13 A Yes.

14 Q All right. And let's pretend we're talking  
15 about a colonoscopy and the bed was just swung around in the  
16 other -- with the head of the bed, I guess, facing the door;  
17 is that correct?

18 A Yes.

19 Q Would the doctor still stand in that area?

20 A Yes.

21 Q All right. And -- and so the -- he's -- he's --  
22 the patient is on what side? I guess they would be on their  
23 left, correct?

24 A Yes.

25 Q And the doctor then has this scope -- you guys

1 have already connected the scope up to the monitor, et cetera?

2 A Yes.

3 Q And by the way, when you do connect the scope  
4 up, it -- do you do any kind of check to make sure that the  
5 scope is operable?

6 A I don't remember.

7 Q Okay. Do you -- are you able to, when you first  
8 plug it in, see whether the camera is showing an image on the  
9 monitor?

10 A That -- it -- as best as I can remember, we  
11 would be able to see if there was an image on this monitor  
12 once we had turned on the machine.

13 Q Oh, okay. What is that just -- what is the  
14 other monitor I'm seeing to the right on the -- near the  
15 counter?

16 A That's hooked up to the computer to actually  
17 take the images from what was going on inside the colon and be  
18 able to go ahead and print out any information that was needed  
19 from the procedure.

20 Q And speaking of taking photographs, does the  
21 doctor have -- are the photographs automatically taken, or  
22 does the doctor have to manually take the photographs by using  
23 the control devices on the --

24 A There's a button on the control that actually  
25 would take the image.

1           Q     Automatically or does the doctor have to click  
2     it?

3           A     He would have to click it.

4           Q     So as he transverses the colon he decides where  
5     he wants to take a photograph?

6           A     Yes.

7           Q     That's pretty high tech. Are these -- so back  
8     to the procedure. Where -- we -- and Dr. Desai is standing  
9     about here, where are you normally positioned, sir?

10          A     To his left.

11          Q     So you're both standing?

12          A     Yes.

13          Q     Okay. And it -- does -- I see this photograph  
14     the gurney has rails up on both sides. Am I right to assume  
15     that the rail is down on the side of the bed that the doctor  
16     and you were doing your procedure?

17          A     That's correct.

18          Q     All right. And I want to talk to you about  
19     cracking the whip. You know, to me I think of Zorro or  
20     Rawhide or something where it's like yee-haw, snap. That's  
21     what cracking a whip means to me. This device that you  
22     described, when you say he -- it -- he cracked the whip, I  
23     want you to -- it sounds like it was -- I want you to explain  
24     what you mean given what we see here with this, what I assume  
25     is an expensive device connected to the machines that you

1 described. What do you mean?

2 A Whenever it came to us saying that he would be  
3 cracking the whip, the reason that I had, and I believe this  
4 is also the reason that, you know, the other --

5 Q I just want you to --

6 A -- technicians that I worked with --

7 Q -- talk about your perception.

8 A -- whenever it came to my perception of him  
9 cracking a whip it was because of the fact that working with  
10 other doctors once they had gotten to the end of the colon and  
11 were coming out it would be at a little bit of a faster pace  
12 than what it was coming in, but whenever it came to working  
13 with Dr. Desai it was almost as if he hadn't even gone in as  
14 quickly as he had come out.

15 So it was -- it was a really, just like snapping the  
16 scope right out of the patient.

17 Q Towards the end of the procedure?

18 A Once he had gotten to the end of the colon to be  
19 able to come out for the procedure, just -- unless there was  
20 something that had, like, caught his attention, it was just  
21 like, boom, pull it out real quick. So that's why I had, you  
22 know, made the perception of it was like cracking a whip.

23 Q Did you -- so it's not like he's pulling it out  
24 so fast that it's yee-haw, cracking the whip on the ground?

25 A No.

1 Q All right. And the -- when he's doing a  
2 procedure, if you recall, do you recall him watching the  
3 monitor like you were doing?

4 A Yes.

5 Q And do you recall him taking photographs  
6 throughout the procedure?

7 A Yes.

8 Q Do you recall him stopping to examine polyps?

9 A Yes.

10 Q Do you recall him stopping to remove polyps?

11 A Yes.

12 Q Do you recall him stopping to take biopsies?

13 A Yes.

14 Q But when he -- he came out to -- when he's  
15 withdrawing the scope, your perception is he's doing it much  
16 faster than -- he's doing it faster than other doctors?

17 A Yes.

18 Q When -- do you recall when he is -- before he  
19 begins -- before he or any doctor, in fact, begins a  
20 colonoscopy, do they do a digital rectal exam?

21 A I don't recall.

22 Q You don't recall? All right.

23 Thanks for that education. It was interesting.

24 I understand during this time frame where the CDC  
25 came on scene it was a blur to you, as you stated, because of

1 your personal issues of bringing a son into the world, as you  
2 said?

3 A That's correct.

4 Q All right. Do you -- and as I also understand  
5 it, you -- you weren't even certain the chronology of events  
6 when you were interviewing with the police, correct?

7 A That's correct.

8 Q And were -- you weren't even certain of the  
9 chronology of the events when you were testifying before the  
10 grand jury?

11 A I was giving my best recollection.

12 Q Fair enough. But it was a blur nonetheless?

13 A Yeah.

14 Q Do -- were you present at the clinic when the  
15 CDC and other inspectors came into procedure rooms and just  
16 watched procedures?

17 A Yes.

18 Q All right. And then thereafter there were  
19 meetings to discuss things that had to change?

20 A I remember the meetings. Again, I don't fully  
21 remember the context of the meetings.

22 Q Sure. Understandable. And then they're --  
23 somebody had to explain to you that you were going to have to  
24 give a blood sample, correct? Do you remember them drawing  
25 blood from you?



1           A     I don't remember that.

2           Q     Just -- would you describe yourself as somebody  
3 who is conscientious?

4           A     I guess.

5           Q     You strike me as being a responsible person.  
6 Would you agree that you are a responsible person?

7           A     Yes.

8           Q     And I -- I want to jump to the cleaning of the  
9 scopes in that first bin. You carefully described for us, I  
10 thought, how there was this solution that was the color blue  
11 initially; is that correct?

12          A     That's correct.

13          Q     And then it would change colors if the water got  
14 too dirty?

15          A     Well, it's -- without being too graphic just --

16          Q     No, please be graphic. We're used to it.

17          A     Whenever it came to the enzymatic solution that  
18 was in the first bin, it would mostly change to green  
19 because -- well, what happens whenever you mix matter that's  
20 green -- or blue with something that's brown. So it's just --  
21 it would become a very dirty and disgusting green over time  
22 that -- that -- that's -- from my perception that's the reason  
23 that it changed color. It wasn't something that was within  
24 the solution to automatically change color if it was dirty, it  
25 was just because of mixing the blue with fecal matter.

1           Q     And would you use common sense on when to change  
2 the solution?

3           A     Yes.

4           Q     And you said that there would be times that you  
5 would clean 10 scopes before switching out the solution. That  
6 seems like a lot. What would the state of the water color be  
7 when you're doing that many scopes?

8           A     Well, it -- it just depended on how clean the  
9 patient was. It's -- if a patient had, you know, very poor  
10 prep that the scope was very dirty, then it would, you know,  
11 be less; but it's, you know, on average if I had to pick a  
12 number it would be about 10 scopes. And that's just -- that's  
13 what I was trying to do.

14          Q     And then as far as the endoscopes, they were --  
15 obviously didn't have fecal material in them; they wouldn't  
16 cause that discoloration in the water?

17          A     That's correct.

18          Q     And -- and as I understand it, you described the  
19 Scope Buddy as being that device that would flush the water  
20 through the scopes after you scrubbed it; is that correct?

21          A     That's correct.

22          Q     You would scrub it with that sponge, and then  
23 flush it with a Scope Buddy?

24          A     Yes.

25          Q     And then you would put it in the clean-water

1     rinse?

2             A     Yes.

3             Q     And did you keep the clean-water rinse clean?

4             A     Yes.

5             Q     And what if you had a bite block in the water --  
6     before -- you get to the first, then, and it looks really  
7     icky, would you put the bite block in the icky water?

8             A     I cleaned the bite blocks to the best of my  
9     ability. I don't remember if, you know, what the state of the  
10    color of the enzymatic water was whenever it came to being  
11    able to clean them, but I did exactly as I was trying to do.  
12    I don't remember the color, though.

13            Q     All right. Fair enough. But when you get  
14    through this whole process that lasts at least 45 minutes, and  
15    you get to the end, did you think you did a good job?

16            A     Yeah, I did -- yes, I did exactly as I was  
17    trying to do, and thought I was provided adequate training to  
18    be able to do the job.

19            Q     And your training was for how long?

20            A     Like I said, probably about three months.

21            Q     And you shadowed people and they shadowed you?

22            A     Yes.

23            Q     And do you know, by the way, these two machines  
24    that were shown to you earlier on direct exam, do you know if  
25    those were -- at least one of those machines was relatively

1 new?

2 A I do remember one of them being replaced with a  
3 newer machine.

4 Q Was there a -- were you there when there was a  
5 problem with the machine, if you recall? Because you're  
6 right, it was a long time ago.

7 A Not that I -- I don't remember.

8 Q Okay. Thank you. You know, you -- at points in  
9 your direct exam you said, you know, a couple of times this  
10 would happen, a couple of times that would happen, then, you  
11 know, things that were somewhat negative. You know, scopes  
12 would pile up on you, you would get way behind. I want you to  
13 describe for us not just the exception to the rule, but  
14 routinely were you able to do your job?

15 A Yes.

16 Q And do your job well?

17 A Yes.

18 Q When you learned that the clinic you worked in  
19 had a hepatitis C outbreak, what was your reaction to that?

20 A For lack of a better word, I was pissed off.

21 Q Did it surprise you?

22 A Yes.

23 MS. STANISH: I have nothing further.

24 THE COURT: All right. Redirect?

25 MR. STAUDAHER: None, Your Honor.

1 THE COURT: All right. We have a juror question up  
2 here.

3 A juror wants to know, During the normal course of a  
4 day were the clean scopes always hung to dry in the pictured  
5 locker, or was that done only at the end of the day?

6 THE WITNESS: They were always hung to dry.

7 THE COURT: All right. And how soon after a scope  
8 was cleaned would it be used again on average?

9 THE WITNESS: I don't have any way I could give an  
10 answer to that.

11 THE COURT: Okay. All right. Any follow-up based on  
12 those juror questions?

13 MR. STAUDAHER: No, Your Honor.

14 THE COURT: Any follow-up from the defense?

15 MS. STANISH: No, Judge.

16 MR. SANTACROCE: No.

17 THE COURT: All right. Any additional juror  
18 questions for this witness? No.

19 All right, sir. Thank you for your testimony.  
20 Before I excuse you, though, please don't discuss your  
21 testimony with anybody else who may be a witness in this case.

22 THE WITNESS: Okay.

23 THE COURT: Thank you, sir. And you are excused.

24 State, call your next witness.

25 MS. WECKERLY: Pauline Bailey.

1 THE COURT: All right. Ma'am, just right up here,  
2 please, next to me. Just follow the bailiff. And face this  
3 lady right there, who will administer the oath to you.

4 PAULINE BAILEY, STATE'S WITNESS, SWORN

5 THE CLERK: Thank you. Please be seated. And please  
6 state and spell your name.

7 THE WITNESS: My name is Pauline Bailey, Pauline,  
8 P-A-U-L-I-N-E, Bailey, B-A-I-L-E-Y.

9 THE COURT: All right. Thank you.

10 Ms. Weckerly?

11 DIRECT EXAMINATION

12 BY MS. WECKERLY:

13 Q Ms. Bailey, did you work at the Endoscopy Center  
14 of Southern Nevada?

15 A Yes, I did.

16 Q And do you recall what years it was that you  
17 worked there?

18 A March of 2005 to, I think it was February 2008.

19 Q When it closed?

20 A When it closed, yeah.

21 Q So from 2005 to 2008?

22 A Right.

23 Q Okay. What was your position there?

24 A I was -- I did pre -- preop paperwork. I did  
25 the charts and stuff like that.

1 Q Are you a nurse?

2 A Yes, I'm an LPN.

3 Q And what does LPN stand for?

4 A Licensed practical nurse.

5 Q And what kind of training do you have that gives

6 you that -- that designation as an LPN?

7 A I have a license. It says --

8 Q Where did you go to school?

9 A I went to school in Indiana at Ivy Tech.

10 Q Okay. And after you graduated from nursing

11 school, do you recall where you first worked as an LPN?

12 A Yes, I worked at a place called Lutheran Homes.

13 It was a nursing home and it was in Fort Wayne.

14 Q Oh, in Indiana?

15 A Right.

16 Q At some point you come to Las Vegas, right?

17 A Yeah, I come to Las Vegas in 2001.

18 Q And where did you work in 2001; if you recall?

19 A Okay. When I first came I worked at a nursing

20 home in Henderson.

21 Q That was as an LPN?

22 A That was an LPN, yes.

23 Q What -- what type of work did you do in the

24 nursing home?

25 A I was a med nurse, so I'd pass medications to

1 the residents there.

2 Q And at some point you leave there and go to the  
3 endoscopy center?

4 A I go to the endoscopy center in 2005.

5 Q Okay. You said, I think, that your primary  
6 responsibility at the endoscopy center was getting charts  
7 together?

8 A Right.

9 Q Can you describe for the members of the jury  
10 what you mean by that?

11 A I would put the -- the charts together, the  
12 paperwork that needed to be put together, and I would fill out  
13 the paperwork that needed to be filled out for the --

14 Q And --

15 A --- the procedure.

16 Q And these would be charts for patients, correct?

17 A Right. Correct.

18 Q And so is it all the paperwork that's associated  
19 with the procedure that they're getting that day?

20 A Correct.

21 Q And the -- the paperwork that you were putting  
22 together, were these like packets of paperwork for each  
23 patient?

24 A Yes, each patient had a file of their own.

25 Q And when you were gathering this together, was



1 it before a procedure or when the procedure is done?

2 A It was before the procedure.

3 Q Where were you situated in the -- in the  
4 endoscopy center to do this type of work? Where did -- where  
5 did you learn --

6 A When I first started there in 2005 I had just  
7 had a overbed -- over -- a table that I used and I was out in  
8 the hallway in a corner doing the paperwork; and then as time  
9 progressed they put in a little room so they could do the --  
10 get the hep-lock ready for the medication, and I was in -- at  
11 a desk right inside the door of that room.

12 Q Okay. We in here have been calling the place  
13 where people would get a hep-lock a preop area. Is --

14 A Right.

15 Q -- does that seem where you --

16 A Yes. Right.

17 Q And you were at a desk in that same area?

18 A Correct.

19 Q Were you the nurse who was putting in hep-locks  
20 ever?

21 A No.

22 Q Okay. So you were sitting at your desk doing  
23 your chart -- your --

24 A Paperwork, right.

25 Q Okay. Did you -- could you see, though, the

1 nurses in the preop area?

2 A Yes.

3 Q And how long -- what were your hours? Did you  
4 -- when you did that charting?

5 A I think it was 8 to 4 or 8 to 5, something like  
6 that.

7 Q So you were there at that desk pretty much  
8 the --

9 A Pretty much the whole time, yeah.

10 Q Okay. And I'm sorry to -- to do this to you,  
11 it's a little bit awkward -- just let me finish my question --

12 A Oh, okay. I'm sorry.

13 Q That's okay. And then I'll let you finish your  
14 answer and --

15 A Okay.

16 Q -- the only reason is we're taking a recording  
17 and --

18 A Okay.

19 Q -- and so we can't talk over each other. You  
20 worked the entire day, generally at that desk doing the --  
21 getting the charts together; is that fair?

22 A Yes.

23 Q Okay. And as you're sitting there, are patients  
24 moving through -- getting their hep-locks in and then moving  
25 to the procedure rooms?

1           A     After that they would be moving to the room  
2 where they would -- I call it a -- a preop room where they  
3 would be put on a gurney and stuff like that.

4           Q     Okay. And --

5           A     Then they would go -- be strolled into the room.

6           Q     The -- the gurneys that they were put on, would  
7 those be the same -- or located in the same area that the  
8 patients would go to after their procedure?

9           A     Yes.

10          Q     So they're that row of gurneys against a wall?

11          A     It go -- they go to that before they go into the  
12 procedure room, and when they come out of the procedure room  
13 they go back into that little space.

14          Q     Okay. So it's the same space but at different  
15 points?

16          A     Right.

17          Q     As you were doing your charts or compiling the  
18 charts together, did you have occasion as you were there to  
19 watch the preop nurses put in those hep-locks?

20          A     Yes.

21          Q     And can you describe -- because you have a  
22 nursing background as well, right?

23          A     Yes, I do.

24          Q     Can you describe the process they would go  
25 through that you observed?

1           A     They would be called in, they would sit down,  
2 and we had, like, I think three or four recliners that they  
3 would sit in there; and then the RN would come in and clean  
4 the area, put the needle in -- it's not really a needle, it's  
5 a hep-lock -- and tape it down. And then they would wait  
6 there until they had a bed available, and then we would go  
7 into that next part of it before they would go into the  
8 procedure room.

9           Q     Did you ever see those preop nurses flush the  
10 hep-lock with saline?

11          A     Yes.

12          Q     And as -- in your training as an LPN, do you  
13 know what aseptic technique is?

14          A     Yes, I do.

15          Q     What is that?

16          A     Aseptic is you go clean to -- or from dirty to  
17 clean and you put that -- it's not sterile, it's just an area  
18 where it has been cleaned in -- in -- it's -- it's hard to  
19 explain. It's the area where -- it's not sterilized, but it  
20 is cleaned in order to put the hep-lock into the arm is --

21          Q     Okay.

22          A     -- pretty much what it is.

23          Q     And in the -- in your observations of the preop  
24 nurses, did they ever violate what you understand to be  
25 aseptic technique?

1 MR. SANTACROCE: Objection. Foundation. When, how  
2 often she observed it.

3 THE COURT: Well, ever. Overruled. And then, if  
4 need be, she can lay a foundation.

5 MS. WECKERLY: Sure.

6 BY MS. WECKERLY:

7 Q Did you ever see any of the preop nurses violate  
8 what you understand to be aseptic technique?

9 A No, I did not.

10 Q And as I understand it, you were sitting there  
11 pretty much all day? Is that a --

12 A Yes.

13 Q -- yes?

14 A I said yes.

15 Q Okay. Did you ever see any of the preop nurses  
16 reuse a syringe or reuse a needle?

17 A No, I did not.

18 Q Now, you're -- at the -- at the point -- I  
19 guess, at the juncture where you were where -- as patients  
20 moved through, you were responsible for gathering the charts.  
21 Where would the charts go after you did your work on them?

22 A It -- they would go in along with the patient  
23 on the -- on the gurney. So it would be a -- with them when  
24 they went into the procedure room.

25 Q Okay. So you have to get it done in --

1 before --

2 A And I hand it off to somebody else.

3 Q Okay. When you were working there, how would  
4 you describe the patient load? How many patients were -- were  
5 moving through approximately, or how would you describe it?

6 A I would say approximately 60 to 70 patients a  
7 day.

8 Q Were you able to keep up with your paperwork?

9 A Barely.

10 Q Was it challenging?

11 A At times.

12 Q Well, why? What -- what made it hard?

13 A Well, because I had to have -- the paperwork had  
14 to be done before the person could go into the procedure room,  
15 and so I had to be fast at what I was doing in order to be  
16 able to get those charts in so they could do the procedure.

17 Q In your experience working there during that  
18 time period, did you ever hear patients complain about the  
19 wait?

20 A Sometimes, yes.

21 Q And the -- I assume this is while you're sitting  
22 at your desk?

23 A That and I -- when I helped, like, put them in  
24 their -- bring them in from the waiting room to the -- to the  
25 back area to get them undressed and stuff for the procedure,

1 then, yes.

2 Q Was it a frequent thing, or how would you  
3 describe that?

4 A I wouldn't say frequent, no.

5 Q In the instances where -- well, let me ask you  
6 this: Was there any -- any particular day that was busy or  
7 did it sometimes, you know, did it vary at all?

8 A Well, some days it varied, yeah. Some days we  
9 wouldn't have as many or people would cancel or whatever, but,  
10 yeah.

11 Q As a nurse, do you know what precharting is?

12 A Yes, I do.

13 Q What is that?

14 A That's charting before the procedure is done.

15 Q Okay. And did that -- did you -- did you do  
16 that when you were at the endoscopy center?

17 A Yes, I did.

18 Q I'm going to show you a record. This is State's  
19 Exhibit 12. And it's Bates No. 3189.

20 MS. WECKERLY: May I approach the witness?

21 THE COURT: You may.

22 BY MS. WECKERLY:

23 Q Ms. Bailey, I'm going to just show this to you,  
24 and then I'm going to put it on the overhead and you'll be  
25 able to see it on your screen, but I --

1           A     Okay.

2           Q     -- just wanted you to look at it first to see if  
3 you recognize it. Do you recognize this -- this isn't  
4 necessarily your document, but do you recognize this form?

5           A     Yes.

6           Q     And this is Bates No. 3189, 3190, 3191, and  
7 3192. Do you recognize all those documents?

8           A     Yes, I do.

9           Q     And were they documents that you would deal with  
10 while you were getting that paperwork together?

11          A     Yes.

12          Q     I'm going to put on the overhead Bates No. 3189.  
13 And can you -- can you tell us what we're looking at -- or  
14 what this document is?

15          A     That is the -- I guess, the preop.

16          Q     The preop?

17          A     Oh, the paper, yes.

18          Q     Okay. And looking at this document, would you  
19 be the one to fill out this date?

20          A     Yes, I would.

21          Q     Okay. And would you be the one to fill out the  
22 -- the type of procedure?

23          A     Yes, I would.

24          Q     And it looks here -- there's notations that  
25 patient arrived via, and it says ambulatory, or I assume that.



1 other notation is wheelchair?

2 A Correct.

3 Q Did you fill that out?

4 A Yes, I did.

5 Q And that was based on you sitting at the -- you  
6 could tell, obviously --

7 A Right. Yeah. Right.

8 Q -- because they would be in the preop area and  
9 you were sitting at your desk; is that right?

10 A Correct.

11 Q Okay. And then there's a notation here for  
12 consent signed. Would you -- would you fill that out?

13 A Yes, I would.

14 Q And pregnant, I assume --

15 A Yes.

16 Q -- you could tell that. And what does this  
17 mean, review of PMS slash -- it looks like history, maybe?

18 A I'm not sure what the PMS is, but the history  
19 and drug data --

20 Q Okay.

21 A -- I don't remember what the PMS stands for.

22 Q Okay. Would that be a box, though, that you  
23 would have checked out?

24 A Correct.

25 Q And what does -- what does that mean? What

1 would you do --

2 A That would --

3 Q -- for check --

4 A -- that would be done before the patient was  
5 even seen.

6 Q Okay. And I get what you're saying, but what is  
7 that box about? What is it for?

8 A Oh, okay. The history and the drug data that  
9 would be at -- that -- history is what you would get from the  
10 gastroenterology when they went to the -- to them, and that  
11 information would be taken off of that and put -- that's where  
12 I would get the information from.

13 Q Okay. And it's -- it's my understanding that  
14 before people would arrive on their procedure day, they would  
15 have -- they would have had an appointment on the medicine  
16 side of the clinic; is that fair?

17 A Correct.

18 Q And so did you look at those forms to mark that  
19 box?

20 A Yes, I did.

21 Q Was that box just always checked?

22 A If the -- if they're -- yes. I would say yes.

23 Q Okay. And then this says, history of previous  
24 surgery with anesthesia.

25 A Right.

1 Q How did you mark that box?

2 A I'm assuming that it was in the history.

3 Q Okay. Was this one that you just -- I mean, I  
4 can't tell if this -- I guess this is a yes.

5 A It's a yes, yeah.

6 Q Would you mark -- I mean, would you interview  
7 the patient and ask them that, or you would look and see if it  
8 was in the history?

9 A I would -- yeah, look and see if it was in the  
10 history.

11 Q Okay. Next, there's allergies and reactions.

12 A Right.

13 Q Well, would you fill that out?

14 A Yes.

15 Q And how would you get that information?

16 A From the same place, the history.

17 Q Okay. And current medications and dosages, was  
18 that on another form?

19 A Yeah, that would come from the history or from  
20 the gastro chart somewhere in there.

21 Q Okay. Reason for procedure, was that something  
22 you asked the patient, or was that on the history?

23 A That was also on the history.

24 Q And the family M.D. or referring M.D., was that  
25 on the history?

1 A That would be on the history also.

2 Q Okay. Now, this preprocedure assessment time,  
3 did you fill that out or did the proceduring nurse or someone  
4 else?

5 A Someone else filled that out. I didn't fill  
6 that out.

7 Q Okay. The patient preparation, did you fill out  
8 any of that?

9 A Yes, I probably filled out the prep -- the  
10 valuables. If they had hearing aids, eyeglasses, dentures,  
11 anything like that.

12 Q Okay. And on the -- would you interview the  
13 patient to -- I mean, I -- I know you could tell if they're  
14 wearing glasses or not, but would you interview the patient at  
15 all to fill out this information?

16 A No.

17 Q Okay. And so how would you know what to mark?

18 A I just marked them.

19 Q Okay. Just marked them. And then this A --  
20 what is ASA?

21 A I have no idea.

22 Q Okay. Did you -- and it doesn't look like  
23 anything is marked on this form.

24 A No.

25 Q What -- do you know what LOC is?

1           A     Level of consciousness.

2           Q     Okay. And that -- this says, alert or confused

3 looks like the choices?

4           A     Right.

5           Q     And how -- how would you assess that with the

6 patient?

7           A     They were there, so they were alert.

8           Q     Okay. No one was ever confused?

9           A     I don't think so. I mean, all --

10          Q     Okay. And then this last one. What -- do --

11 or, sorry, it's the second to the last. Breath sounds. It

12 says, clear or other. Did you fill those in?

13          A     Yes.

14          Q     And how did -- how was that determined?

15          A     They were breathing.

16          Q     Okay. So that -- everybody was clear? Is that

17 yes?

18          A     That's a yes. I'm sorry.

19          Q     It's okay. And then this last -- I can zoom in

20 at -- a few -- it's small print, I know. Can you tell what

21 that last one is?

22          A     It's skin.

23          Q     Skin. And what was -- what was that for?

24          A     I'm -- I don't know what the WNL stands for

25 anymore.

1 Q Okay. Was that something you just always  
2 marked?  
3 A Yeah.  
4 Q Okay. Up here we have abdomen: soft, flat,  
5 distended, rigid. Did you fill that in?  
6 A Right. Yes.  
7 Q And how was that assessment made?  
8 A Probably taken off of the history.  
9 Q There isn't an independent assessment the  
10 morning of the procedure or the day of --  
11 A No.  
12 Q -- the procedure?  
13 A No.  
14 Q Okay. And bowel sounds?  
15 A Same.  
16 Q And would you listen for that on the day of the  
17 procedure or you just marked it?  
18 A Just marked it.  
19 Q Okay. How about this, this NGO --  
20 A Nothing by mouth.  
21 Q Okay. And would you ask the patient that?  
22 A That was a given. Because they were there for a  
23 procedure, they shouldn't have had anything to eat or during  
24 for at least 8 hours.  
25 Q Okay. But I -- I guess my question is, did

1 you -- when they're sitting there, did you ask them?  
2 A No.  
3 Q No. Okay. And then, height and weight. Where  
4 would that come from?  
5 A That would come from the gastro chart.  
6 Q Okay. Vital signs?  
7 A That would be done in the procedure room.  
8 Q Okay. So you didn't even fill that part out.  
9 How about labs?  
10 A I don't think so. I don't remember --  
11 Q Okay.  
12 A -- to be honest with you.  
13 Q And this physician at bedside, do you --  
14 A That was always marked yes.  
15 Q That's always marked yes. How about options and  
16 plans discussed?  
17 A Yes, that would be automatically marked --  
18 Q Okay.  
19 A -- for a discharge.  
20 Q Okay. But would you mark it before the  
21 procedure started?  
22 A I could probably say yes on that one.  
23 Q Okay. Patient deemed appropriate for sedation?  
24 A I've -- I assume. I don't know. I don't  
25 remember.

1 Q Okay. You don't remember if --  
2 A I don't remember --  
3 Q -- you did that one or not?  
4 A -- if I did that one or not, no.  
5 Q Okay. Let's move down our chart a little here.  
6 This second part, it looks like there's columns for  
7 preprocedure, clothes procedure, and then the procedure,  
8 right?  
9 A Okay. I don't know what the middle one says  
10 because it's all written over.  
11 Q I'll zoom in there.  
12 A Yeah.  
13 Q Can you see?  
14 A Right. Okay. Yeah.  
15 Q Okay. So these are columns and I'm just going  
16 to slide this over. It looks like there's, you know, various  
17 issues. Comfort, infection, safety, fluid volume. On the  
18 preprocedure did you ever fill out any of that?  
19 A Yes, I did.  
20 Q Let me just back out a little bit. Okay. Can  
21 you see there -- up there? Okay. How did you go about  
22 filling out the part -- this preprocedure part?  
23 A I initialed it, put a line through it.  
24 Q Okay. Were any steps taken on -- in terms of  
25 evaluating these factors?



1           A     Not to my knowledge, no.

2           Q     Okay. So you'd just mark it and then draw  
3 your -- draw your line?

4           A     Correct.

5           Q     And when you were doing this, did you have,  
6 like, a stack of these packets of -- on the patients to go  
7 through for a -- I mean, like, did you have a stack of papers  
8 on your desk and then you'd put them all together and then  
9 carry them into the procedure room, or did you get them one by  
10 one?

11          A     I know they would be, like, in a packet.

12          Q     Okay. I'm moving on to the next page, which is  
13 Endoscopy -- 3190 is the Bates Stamp. I'll get close for  
14 counsel's reference.

15                Now, this looks like a medication form. Who would  
16 fill out this?

17          A     I could be the one that filled that out because  
18 that would probably come from the gastro files. So I could --  
19 I would probably do that.

20          Q     So there -- from that prior appointment they'd  
21 have on the medicine side, you could copy down this  
22 information; is that right?

23          A     Correct.

24          Q     Okay. Now, we'll move to -- it looks like the  
25 procedure form. And this is Bates No. 3190. Can you see up

1 there? Do you want me to zoom in on the print?

2 A No, I'm fine. Thank you.

3 Q You're fine?

4 A Yeah.

5 Q Okay. You have better vision than me. The date

6 at the top, do you know if you'd fill that in?

7 A No.

8 Q Okay. No, I don't know or --

9 A I don't -- I wouldn't, I mean.

10 Q Oh, okay.

11 A Sorry.

12 Q Not filling that out.

13 A Not filling that out.

14 Q How about the type of procedure?

15 A I would probably do that, yes.

16 Q Okay. How about this biopsy, hot biopsy?

17 A If they were having an EGD, then I would always

18 do the biopsy because that's -- I was told that that's what

19 they do -- they would do a biopsy with that procedure.

20 Q Okay. So every time you had the upper, you

21 would mark biopsy?

22 A Correct.

23 Q Okay. And then, this part here where it says,

24 physician, nurse, technician, and CRNA, did you fill any of

25 that out?

1 A No.

2 Q And the medications here on the right-hand side,  
3 would you fill out any of that?

4 A I would say yes, I -- because they used propofol  
5 on everybody, so I would --

6 Q Okay.

7 A -- yes.

8 Q And this part where it says oxygen flow rate,  
9 any of that would you fill out?

10 A I -- I really -- I don't remember. I don't --

11 Q Okay. No, that's fine. Let's move to sort of  
12 the middle of the chart where it has the procedure start time  
13 and the -- the I.V. hep-lock, did you fill out any of this  
14 area?

15 A No.

16 Q And how about this other site here where the  
17 procedure end time and looks like the physician's name and  
18 report to recovery, any of that?

19 A No.

20 Q The specimen, would you have known that?

21 A No.

22 Q Okay. And this part right here says, side  
23 rails, yes, position, left lateral.

24 A I -- I probably could have done that. I don't  
25 remember if I did do that.

1 Q Okay. Any of the nursing notes?  
2 A No.  
3 Q Would this be the procedure room nurse?  
4 A Right.  
5 Q Okay. And then, the next page is Bates No.  
6 3192. And this seems like the post-procedure assessment. You  
7 were filling all this out in preop, correct?  
8 A Correct.  
9 Q So did you fill out any of this form, to your  
10 knowledge?  
11 A I would say the only thing that I would fill out  
12 on this form would be the -- the preprocedure.  
13 Q And can you -- you can actually mark on there  
14 with your finger. Can you show me -- can you mark on there  
15 where that is? Okay. And so you're pointing to the middle  
16 part of the chart, correct?  
17 A Right.  
18 Q And here there's questions about activity,  
19 respiration, circulation, consciousness, and color, correct?  
20 A Correct.  
21 Q And how -- how would you go about filling this  
22 out?  
23 A It would always be a 2, so it would equal a 10.  
24 Q Okay. And can you just touch the bottom right  
25 of your screen there? Just like a tap.

1 A Okay. It's not working.

2 Q Oh, there we go.

3 MS. WECKERLY: Thank you, Your Honor.

4 BY MS. WECKERLY:

5 Q It looks like there was a way -- an evaluation  
6 of a 2, 1, or a 0? You just always put a 2?

7 A It would always be a 2.

8 Q And -- and then you -- what you're saying is, it  
9 had to add up to 10?

10 A Correct.

11 Q And is that just how you did every chart?

12 A Correct.

13 Q Have you -- have you -- well, you worked in  
14 nursing before, and did you work in nursing after the clinic  
15 closed?

16 A Yes, I did.

17 Q Did you ever chart this way at any of your other  
18 areas -- or at other places that you were employed?

19 A No.

20 Q Thank you.

21 MS. WECKERLY: I'll pass the witness.

22 THE COURT: All right. Cross?

23 CROSS-EXAMINATION

24 BY MS. STANISH:

25 Q Hello, Ms. Bailey. My name is Margaret Stanish.

1 I represent Dr. Desai.

2 With respect to these areas of the chart that you  
3 filled out in advance, if it came to your attention that  
4 something that you checked or wrote was incorrect, what would  
5 you do?

6 A Somebody else would correct it. If something,  
7 like, happened in the procedure room or something like that,  
8 it would be corrected by somebody else. After the charts left  
9 me I never seen them again.

10 Q How do you know they were corrected?

11 A Well, I don't know they were corrected; I'm  
12 assuming they were corrected. I mean, you asked me if there  
13 was something -- if something different happened, then  
14 somebody else would have taken care of it, not me.

15 Q Okay. But as far as -- when you're eyeballing  
16 the -- as I -- am I right to understand at some point you  
17 were -- the patient is physically with you? You see them?

18 A I mean, I physically see the patient, but I'm  
19 not -- I don't, like, talk to the patient or anything like  
20 that. I just do the chart work. So the patient -- I really  
21 didn't have a conversation with the patient, no.

22 Q Maybe I misunderstood. Did you at times escort  
23 them to a different area of the clinic, or you're just staying  
24 put at the desk?

25 A Most of the time I was just preop. If somebody

1 was sick or something, I would do, like, discharge or help out  
2 with the -- bringing them in and getting them undressed and  
3 back to the procedure where they could get their hep-lock  
4 done.

5 Q If you recall, was there occasion where a  
6 patient would present to you and they looked to you to be  
7 physically sick?

8 A If that was the case -- there had been a couple  
9 that I can remember right off the top of my head that didn't  
10 look well, and, of course, that was brought to the doctor's  
11 attention.

12 Q You didn't continue to fill out the chart on  
13 them?

14 A I did fill out the chart on them, yes. The  
15 chart would have already been done before they even got back  
16 there.

17 Q Oh, I see. But then when you saw them it --

18 A It would --

19 Q -- would be brought to the attention --

20 A -- attention of the --

21 Q -- of the doctor that something was wrong with  
22 this --

23 A Correct.

24 Q -- patient.

25 A Right.

1           Q     When you -- when you first got to the clinic,  
2 what year was that?

3           A     2005.

4           Q     And can you -- was there one or two procedure  
5 rooms being operated at that time when you first arrived; if  
6 you recall?

7           A     If I recall correctly, there was two.

8           Q     Okay. Did the -- was there some kind of  
9 renovation or redesign of the clinic while you were there?

10          A     Yes, they -- oh, they took a room and used it  
11 for the -- a preop room for the hep-locks. They would put  
12 chairs in there and the nurse would do their hep-lock in  
13 there.

14          Q     You're familiar with how to set hep-locks or do  
15 I.V.s, rather?

16          A     Yes.

17          Q     Did you -- do you have to be certified for that?

18          A     Yes.

19          Q     What does that involve?

20          A     That involves going to school and I -- I was  
21 I.V. certified. I went to a class for 8 hours, I think it  
22 was, and after that they certify you.

23          Q     And what do you do, just practice --

24          A     On a dummy --

25          Q     -- pinning people --



1 A -- on a dummy arm.

2 Q -- oh, good.

3 A Yes.

4 Q And as far -- you being LPN, what -- did you  
5 have continuing education requirements that had to be  
6 fulfilled in order to maintain your licensure?

7 A Yes, you had to have 30 CEUs every two years.

8 Q Continuing education unit, that's what that  
9 means?

10 A Yep. Right.

11 Q All right. Where are you currently working?

12 A I'm currently not working.

13 Q The volume of patients was large, correct?

14 A Correct.

15 Q Is it a volume you felt like you were capable of  
16 handling?

17 A I did handle it, yes.

18 Q And when the hepatitis C outbreak was announced,  
19 what was -- how did that strike you? Were you surprised by  
20 it?

21 A Very much so, yes.

22 Q Why?

23 A Why? Just caught me off guard. I didn't think  
24 anything like that would happen. I mean, it just never  
25 entered my mind that something like that would go, you know,

1     happen.

2                 Q     While you were there, were you aware that the  
3     clinic had purchased new machines to clean the scopes?

4                 A     Yes.

5                 Q     Do you know -- can you give us a time frame for  
6     when that occurred?

7                 A     No, I'm afraid I can't.

8                 Q     All right. Fair enough. And you were there  
9     what years again?

10                A     2005 to 2008.

11                Q     Okay. So somewhere in there they got -- how  
12     many machines did they get; do you recall?

13                A     I don't remember.

14                Q     All right. Fair enough.

15                MS. STANISH: Excuse me. Court's indulgence. I need  
16     a bigger podium, Your Honor.

17     BY MS. STANISH:

18                Q     You were interviewed on June 10, 2008, by  
19     Detective Whitely, another officer, correct?

20                A     Correct.

21                Q     And was there an attorney with you?

22                A     No, there was not.

23                Q     Okay. Was it -- was there somebody other than  
24     Detective Whitely and -- attending that meeting that you  
25     recall?

1           A     He had a partner with him, but I don't remember  
2 his name or --

3           Q     All right. Fair enough.

4           MS. STANISH: Okay. I want to -- if I may, Your  
5 Honor, approach the witness.

6 BY MS. STANISH:

7           Q     I understood you to say that you would not make  
8 changes to the records if you learned something was not  
9 accurate later on, correct? And I'm not sure I'm reading this  
10 right, so I would like you to read it to yourself and, you  
11 know, explain to me what you said at the interview. And I  
12 just have this -- this is my pen marks on there, but if you  
13 need to read more or less to give context to it, let me know  
14 because I've got plenty more pages.

15           MS. WECKERLY: May I have the page, please?

16           MS. STANISH: Oh, I'm sorry. Page 20, Bates Stamp  
17 6938.

18           MS. WECKERLY: Thank you.

19 BY MS. STANISH:

20           Q     Do you need that document that -- I don't know  
21 if that was the same one. Strike that.

22           A     (Witness complying.) Okay. You're right.

23           Q     Yeah.

24           A     I would have changed it.

25           Q     Explain to us what it was that you would have

1 changed?

2 A Probably, I would say -- you know, it's been a  
3 while, I don't remember a whole lot -- I would say probably  
4 if -- whatever the patient -- was wrong with the patient I  
5 would have to change, like, if they were something -- I don't  
6 know. I can't really say for sure how I would have done that  
7 because -- I guess what I'm saying is I don't remember ever  
8 having to change it. If I did -- I did say that, but I don't  
9 remember to my knowledge that I had to ever change a chart.

10 Q Did you understand from reading this document  
11 what portion of the record you were referring to in your  
12 discussion with the detective?

13 A No, really I wasn't.

14 Q Yeah, it's hard to bring context to it. Would  
15 it help if you look at it again, or --

16 A I don't think so.

17 Q Okay.

18 A I mean --

19 Q All right. It just wasn't -- it's not clear  
20 because --

21 A Right.

22 Q -- it doesn't seem like -- do you know if the  
23 chart that was discussed in this interview was the same chart  
24 that Ms. Weckerly just described with you?

25 A I don't know.

1           Q     Was -- at the interview did they conceal the  
2 identity of the patient for purposes of HIPAA, so you didn't  
3 really know --

4           A     I --

5           Q     -- what chart it was?

6           A     -- I don't remember.

7           Q     You don't remember. Well, that's fair enough.  
8 Well, if -- most -- most patients when you -- going back to  
9 the hep-lock -- most patients -- once you put the tourniquet  
10 on what -- there's two different gauges for the needles that  
11 go into the vein; is that correct?

12          A     Two different needles?

13          Q     Gauges. Sizes.

14          A     Oh, could have been, yes. It all would depend  
15 on whether -- how good their veins were. Some of them would  
16 have been maybe smaller or something like that.

17          Q     And would it be you that -- there was a portion  
18 -- and I'm not going to spend the time to flip through this  
19 again unless I have to -- there was a portion of the record  
20 that designated the gauge of the hep-lock to be 22 gauge?

21          A     Yeah, I would -- 22 sounds like it would have  
22 been it.

23          Q     Okay. I guess I am going to have to flip  
24 through here.

25          A     Sorry.

1 MS. WECKERLY: It's on page 22.

2 MS. STANISH: Oh, thanks, Pam. But -- of the bottom?

3 MS. WECKERLY: Oh, I'm sorry. I thought we were  
4 reading the statement. I'm referring to different things.

5 MS. STANISH: Yeah, I know where that is. I just was  
6 trying to refresh her memory with a chart, and you've got a  
7 really big chart here so I'm going to grab a smaller chart.  
8 I've got that handy. And this is Ms. Aspinwall's --

9 MS. WECKERLY: Okay.

10 MS. STANISH: -- record, which is my copy of it.

11 If I may approach, Your Honor?

12 THE COURT: You may.

13 BY MS. STANISH:

14 Q I'm going to help you read this because I'm  
15 going to have to find it too. Just to refresh your memory,  
16 okay? Stop me when you see the size of the hep-lock.

17 A (Witness complying.) Well, I don't see any.

18 Q Is the size of the hep -- that. This document  
19 is called what?

20 A The endoscopy procedure nursing record.

21 Q And is this something that you would fill out in  
22 advance with the -- the gauge of the hep-lock or no?

23 A No, because I wouldn't know which we would have  
24 put in.

25 Q All right. Do you recall -- would you change

1 the hep-lock gauge size in the record, if you learned it was  
2 incorrect?

3 A If I would have learned it was incorrect, I  
4 would -- no, I don't think I would. I mean, I really don't  
5 remember ever doing that so...

6 Q Yeah. I know it's a long time ago, so I just  
7 wanted to --

8 A It is.

9 Q -- reprise your memory some. If you would look  
10 on page 22, if you're ready to review? Let's see. Let me  
11 give you a starting point, maybe. Maybe here. Nothing. I  
12 can go on to page 23. I'll leave that 23 there.

13 A (Witness complying.) Okay.

14 Q Great. Does that kind of refresh your memory?

15 A Yes.

16 Q Could you explain to the jury what you would do  
17 with respect to the hep-lock?

18 A To changing it I would probably just cross it  
19 out, initial it, and put the one that they used in there.

20 Q Okay. And you also have testified that you  
21 would also rely on downstream people --

22 A Correct.

23 Q -- to make corrections to the record if anything  
24 appeared incorrect to them.

25 A That's correct.

1 Q And you relied on other people to do their job.

2 A Correct.

3 Q Were you aware that the -- the CRNAs also did an  
4 assessment before putting the person under?

5 A I'm not aware of that.

6 MS. WECKERLY: I'm going to object. There's --  
7 that's a disputed fact.

8 THE COURT: Well, she said that she's not aware of  
9 that.

10 MS. STANISH: I just asked her if she -- I didn't  
11 know it was disputed. Oh, well, we'll deal with that another  
12 day --

13 MS. WECKERLY: I dispute that.

14 MS. STANISH: -- I guess. All right.

15 THE COURT: Well, she doesn't know anyway, so --

16 MS. STANISH: Fair enough. I've --

17 THE COURT: -- we don't need to resolve that at this  
18 point.

19 MS. STANISH: -- I was just asking if she was aware  
20 of it.

21 BY MS. STANISH:

22 Q All right. Ms. Bailey, I have nothing further.  
23 Thank you.

24 THE COURT: All right. Mr. Santacroce, do you have  
25 any cross?



1 THE WITNESS: Yes.

2 MR. STAUDAHER: -- it's just from a different  
3 perspective?

4 THE WITNESS: That's different. Okay. And I  
5 believe, from what I can see, that this is a Sharps box with  
6 gloves underneath, I think.

7 MR. STAUDAHER: That's in that far room, though,  
8 correct?

9 THE WITNESS: Yeah, that's in the preop room. This  
10 container is another biohazard because I see a red bag, and  
11 then, of course, the one that's trashed.

12 THE COURT: All right. Thank you. Does the State  
13 have any follow-up just based on those last several juror  
14 questions?

15 MR. STAUDAHER: No, Your Honor.

16 THE COURT: Does the Defense have any follow-up based  
17 just on those last several juror questions?

18 MS. STANISH: No, Judge.

19 MR. SANTACROCE: No.

20 THE COURT: Any additional juror questions? None.

21 All right. Ma'am, thank you for your testimony.

22 THE WITNESS: Thank you.

23 THE COURT: Please don't discuss your testimony with  
24 anyone else who may be a witness in this case.

25 THE WITNESS: Thank you.

1 THE COURT: All right. Ladies and gentlemen, due to  
2 some scheduling issues, we're going to take our evening recess  
3 now. We're going to reconvene tomorrow morning at 9 a.m.

4 During the evening recess, you are reminded -- and,  
5 ma'am, you're free to leave.

6 THE WITNESS: Thank you.

7 THE COURT: -- you're reminded that you're not to  
8 discuss the case or anything relating to the case with each  
9 other or with anyone else; you're not to read, watch, listen  
10 to any reports of or commentaries on this case, person, or  
11 subject matter relating to the case. Do not do any  
12 independent research by way of the Internet or any other  
13 medium, and please do not form or express an opinion on the  
14 trial.

15 Notepads on your chairs, and follow the bailiff to  
16 the rear door. We'll see you back here at 9 a.m. tomorrow.

17 (Court recessed for the evening at 3:43 p.m.)  
18  
19  
20  
21  
22  
23  
24  
25

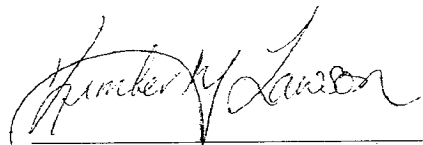
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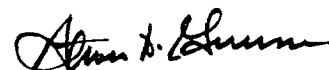
  
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DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

|                              |   |                      |
|------------------------------|---|----------------------|
| THE STATE OF NEVADA,         | ) |                      |
|                              | ) |                      |
| Plaintiff,                   | ) | CASE NO. C265107-1,2 |
|                              | ) | CASE NO. C283381-1,2 |
| vs.                          | ) | DEPT NO. XXI         |
|                              | ) |                      |
| DIPAK KANTILAL DESAI, RONALD | ) |                      |
| E. LAKEMAN,                  | ) |                      |
|                              | ) |                      |
| Defendants.                  | ) | <b>TRANSCRIPT OF</b> |
|                              | ) | <b>PROCEEDING</b>    |

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 22**

FRIDAY, MAY 24, 2013

APPEARANCES:

|                        |                                                                                        |
|------------------------|----------------------------------------------------------------------------------------|
| FOR THE STATE:         | MICHAEL V. STAUDAHER, ESQ.<br>PAMELA WECKERLY, ESQ.<br>Chief Deputy District Attorneys |
| FOR DEFENDANT DESAI:   | RICHARD A. WRIGHT, ESQ.                                                                |
|                        | MARGARET M. STANISH, ESQ.                                                              |
| FOR DEFENDANT LAKEMAN: | FREDERICK A. SANTACROCE, ESQ.                                                          |

RECORDED BY JANIE OLSEN COURT RECORDER  
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**004015**

## I N D E X

### WITNESSES FOR THE STATE:

#### MARION VANDRUFF

|                                     |    |
|-------------------------------------|----|
| Direct Examination By Mr. Staudaher | 6  |
| Cross-Examination By Mr. Santacroce | 39 |
| Cross-Examination By Ms. Stanish    | 69 |

#### PAULINE BAILEY

|                                      |     |
|--------------------------------------|-----|
| Direct Examination By Ms. Weckerly   | 88  |
| Cross-Examination By Ms. Stanish     | 111 |
| Cross-Examination By Mr. Santacroce  | 123 |
| Redirect Examination By Ms. Weckerly | 125 |
| Cross-Examination By Mr. Santacroce  | 125 |
| Recross Examination By Ms. Stanish   | 126 |

#### GERALDINE WHITAKER

|                                       |     |
|---------------------------------------|-----|
| Direct Examination By Mr. Staudaher   | 127 |
| Cross-Examination By Mr. Santacroce   | 154 |
| Cross-Examination By Ms. Stanish      | 159 |
| Redirect Examination By Mr. Staudaher | 163 |
| Recross Examination By Ms. Stanish    | 167 |

1 LAS VEGAS, NEVADA, FRIDAY, MAY 24, 2013, 9:11 A.M.

2 \* \* \* \* \*

3 (Outside the presence of the jury.)

4 THE COURT: Okay. Kenny, bring them in.

5 How many more weeks?

6 MS. WECKERLY: I think, after today it will take  
7 three weeks, at least, to put our -- the balance of our case  
8 out at the rate we're going.

9 THE COURT: Well, because --

10 MS. STANISH: It depends on that 404(b) ruling, I  
11 think. That will add another week.

12 MS. WECKERLY: Not -- not really, but --

13 THE COURT: Not really. There's reason enough not to  
14 grant it.

15 MS. STANISH: Yeah, there you go.

16 THE COURT: I know that's what you were suggesting,  
17 Ms. Stanish.

18 MS. STANISH: That's right, Your Honor. We don't  
19 want to waste judicial -- valuable judicial time.

20 THE COURT: So and then two weeks for the defense  
21 case?

22 MS. WECKERLY: I don't know. I wouldn't think so.

23 THE COURT: No, I was looking at you folks. You had  
24 said two weeks before.

25 MR. WRIGHT: Right. Well, at the most.

1 THE COURT: At the most?

2 MR. WRIGHT: Who knows where the case ends up by the  
3 time it rests. I mean, that's reality.

4 THE COURT: I know. And you know we have two late  
5 starts next week --

6 MR. STAUDAHER: Next week, right.

7 THE COURT: -- because of a doctor appointment and  
8 the guy who's crown fell off that hasn't had a tooth. We're  
9 letting him go get his tooth. So that's two late starts next  
10 week.

11 MS. STANISH: Tuesday, Wednesday.

12 MS. WECKERLY: Tuesday, Wednesday.

13 MR. STAUDAHER: Right.

14 THE COURT: Tuesdays and Wednesdays. 12:30 starts  
15 but no lunch, so...

16 MS. STANISH: Okay.

17 THE COURT: That will give us about four hours and  
18 ten minutes in trial time. What's that?

19 We have long days because if you look on the Court  
20 View Network site it says how much to -- I can't get in where,  
21 you know, it shows it because I don't have the code and I'm  
22 not a member, but it shows the trial time, and we have a lot  
23 of days where we have almost seven hours --

24 MS. STANISH: Yeah.

25 THE COURT: -- according to that of trial time.

1 MR. STAUDAHER: This is Court -- what is this called?

2 THE COURT: Court View Network. But it will say the  
3 actual time of each session, so you can monitor how long the  
4 trial is actually going. How much time --

5 THE MARSHAL: Ladies and gentlemen, please rise for  
6 the presence of the jury.

7 (Jury entering at 9:13 a.m.)

8 THE MARSHAL: Thank you, everybody. You may be  
9 seated.

10 THE COURT: All right. Court is now back in session.  
11 The record should reflect the presence of the State, the  
12 defendants and their counsel, the officers of the court, and  
13 the ladies and gentlemen of the jury.

14 And the State may call its next witness.

15 MR. STAUDAHER: State calls Marion Vandruff to the  
16 stand, Your Honor.

17 THE COURT: Counsel, approach.

18 MS. STANISH: Already?

19 (Off-record bench conference.)

20 THE COURT: Just come up those couple of stairs, and  
21 then just face that lady right there who will administer the  
22 oath to you.

23 MARION VANDRUFF, STATE'S WITNESS, SWORN

24 THE CLERK: Thank you. And would you --

25 THE COURT: You can be seated.



1 THE CLERK: -- would you state and spell your name,  
2 kind of slow.

3 THE WITNESS: Marion Vandruff, M-A-R-I-O-N,  
4 V-A-N-D-R-U-F-F.

5 THE COURT: All right. Thank you.

6 Mr. Staudaher --

7 MR. STAUDAHER: Thank you, Your Honor.

8 THE COURT: -- you may proceed.

9 DIRECT EXAMINATION

10 BY MR. STAUDAHER:

11 Q Mr. Vandruff, I'm going to go back in time a  
12 little bit to back 2007-2006, that area. Were you working at  
13 any time for a place called the Endoscopy Center of Southern  
14 Nevada?

15 A Yes, sir.

16 Q What was your job there?

17 A GI technician.

18 Q Was that the job you had the entire time you  
19 worked there?

20 A Yes, sir.

21 Q Where -- what was the time period that you  
22 worked at the clinic?

23 A About late May/early June of 2007, up until the  
24 time it was closed in 2008.

25 Q Can you tell us a little bit of your background

1 and training that got you to be a GI tech at that time?

2 A Well, my actual background is I went to Nevada  
3 Career Institute and became a medical assistant, graduated,  
4 received a diploma, got certified, and started looking for  
5 medical jobs, and walked into the clinic and was able to get  
6 work.

7 Q So you were responding to an ad, or you just  
8 went there to see --

9 A Just walked in.

10 Q So when you went there, did you meet with  
11 people? did you fill out an application? how did that go?

12 A I just dropped off my resume. Shortly after, I  
13 was called by -- I don't even remember a name at this point --  
14 but shortly after I was called after -- called by the office  
15 manager for the -- or what I believed to be the office manager  
16 for the clinic, and had an interview.

17 Q So when you -- I mean, obviously you get hired  
18 at some point --

19 A Mm-hmm.

20 Q -- correct? When you get hired, is it for that  
21 position, that GI tech position, or did you have to do  
22 something before you got back to working in the rooms and the  
23 like?

24 A No, it was for the GI tech position.

25 Q So tell me what kind of things you did as a GI

1 tech.

2 A As a GI tech I helped bring back patients for  
3 procedures, helped get them ready, worked in the scope rooms,  
4 brought patients into procedure rooms, and assisted a bit -- a  
5 little bit in the procedure rooms.

6 Q So procedure room and scope preparation room?

7 A Yes.

8 Q Or cleaning or whatever?

9 A Our scope-reprocessing room, yeah.

10 Q Okay. Is that cleaning the scopes?

11 A Yes.

12 Q During the time that you were there, did you  
13 predominantly work in one of those two areas more than the  
14 other? Or was it --

15 A Not really. It was --

16 Q -- you split your time?

17 A -- pretty split.

18 Q Okay. The times that you worked in the  
19 procedure room, who were the doctors that you worked with, to  
20 the best of your knowledge?

21 A I pretty much worked with every doctor that was  
22 working in the clinic.

23 Q Did you work with Dr. Desai?

24 A Yes, I did.

25 Q Do you see him in court today?

1           A     Yes, I do.

2           Q     Would you point to him, describe something he's  
3 wearing for the record, please.

4           A     He is wearing a blue-striped shirt and a -- it  
5 looks to be a navy-blue tie.

6           MR. STAUDAHER: Will the record reflect the identity,  
7 Your Honor?

8           THE COURT: It will.

9 BY MR. STAUDAHER:

10          Q     Did you work with the CRNAs as well? I mean,  
11 were they in the rooms?

12          A     Yes, sir.

13          Q     Did you work with an individual by the name of  
14 Ronald Lakeman?

15          A     Yes, I did.

16          Q     Do you see him in court today?

17          A     Yes, I do.

18          Q     Would you point to him and describe something  
19 that he's wearing for the record.

20          A     He is sitting right behind Dr. Desai, and  
21 wearing a light-blue shirt.

22          MR. STAUDAHER: Would the record reflect the  
23 identity, Your Honor?

24          THE COURT: It will.

25 BY MR. STAUDAHER:

1           Q     Now, in the procedure -- and we're going to  
2 start off there, for the most part, at the beginning here.  
3 You're in the procedure rooms, you're -- you're assisting in  
4 the procedures. Was there a difference between assisting Dr.  
5 Desai than there was the other -- other doctors?

6           A     Yes, sir.

7           Q     And what were those differences?

8           A     The biggest -- one of the biggest differences to  
9 me was demeanor. There was definitely a different demeanor  
10 between working with Dr. Desai versus working with other  
11 doctors in the clinic. Other doctors in the clinic were a  
12 little bit more conversational. There was also a difference  
13 in just how quickly or how slow procedures were taking. And  
14 possibly, like, just -- I'm not really sure how to word it,  
15 but just -- I guess I would say just aggressiveness towards  
16 doing the procedures.

17          Q     Who was more aggressive, the other doctors or  
18 Dr. Desai?

19          A     Dr. Desai.

20          Q     Noticeably for you based on the fact of you  
21 working with all the other doctors?

22          A     Yes, sir.

23          Q     You've mentioned timing or speed or something  
24 like that related to the procedures. Was there a difference  
25 in how fast the procedures were done by Dr. Desai compared to

1 the other doctors?

2 A Yes, sir.

3 Q Did he do them faster? slower? the same?

4 A Faster.

5 Q Noticeably faster?

6 A Noticeably faster.

7 Q In that sense, when he was doing the procedures

8 faster, did you have to do anything differently with him to

9 accommodate that speed than you would with the other doctors?

10 A Realistically, I just had to be a little bit

11 more, like, on my feet. A little more ready to provide

12 assistance, whether it be manipulating somebody's stomach to

13 be able to help the scope pass, having supplies ready quicker,

14 being ready to receive the scope quicker to take into the

15 procedure room.

16 Q So when you say, Getting ready to receive the

17 scope, what are you talking about?

18 A Typically, when the doctors would pull the scope

19 out it would go directly to us in hand, so that we could be

20 able to disconnect and take the scope into the reprocessing

21 room.

22 Q How did that differ with Dr. Desai?

23 A Most of the doctors would have it, like, ready

24 for you and, you know, be ready to hand it to you when you

25 were ready. Working with Dr. Desai it was usually just coming

1 out really quickly. If you weren't ready he would lay it down  
2 on the bed with the patient, or he'll almost yell at you in a  
3 way for not being ready for -- to receive it.

4 Q Now, when you say, "quickly," are you talk -- I  
5 mean, how quickly are we talking about him removing his  
6 scopes?

7 A It was -- it was -- most people on the floor  
8 would say the same thing, that whenever it came to him  
9 removing a scope it was almost like cracking a whip.

10 Q Was that a term that you used?

11 A Yes.

12 Q You and the other techs as well?

13 A Yes, sir.

14 Q Excuse me. When you say, "cracking the whip,"  
15 is that, like, snapping it out kind of thing or what?

16 A Yeah.

17 Q When that would occur, what would happen as far  
18 as -- I -- the scopes when they came out, did they have fecal  
19 material and things on them, typically?

20 A Yes, they did.

21 Q What would happen when he would crack the whip,  
22 so to speak, in those instances?

23 A Depending on how messy, I guess you would say  
24 that the procedure was -- whether or not if they were actually  
25 clean enough from prep, it would actually happen that fecal

1 matter would follow the scope and possibly splatter onto the  
2 procedure table or the bed, on protective garments, and  
3 sometimes even on the wall and floor.

4 Q Okay. Was this a typical way that he would  
5 remove the scopes?

6 A I mean, it -- it had happened before. I can't  
7 really recall at this point if it was something that was very  
8 typical.

9 Q Was it unusual to see it happen or experience  
10 it?

11 A It was usually -- I usually expected to see it  
12 at least once or twice in a day working with him.

13 Q Now, when you -- you had mentioned being  
14 prepared for the scope to come out. Was there ever any -- I  
15 mean, describe how you would be prepared to -- to receive this  
16 scope. I mean, what would -- how would you describe that?

17 A Well, it's -- just, say, give you, like, an  
18 example, with most doctors, you know, they would be holding  
19 it, waiting for you to go ahead and turn off the machine so  
20 that you could take it. A lot of times whenever it came to  
21 working with Dr. Desai it would be almost like I was getting  
22 ready to, you know, catch something that was being thrown at  
23 me to be able to receive the scope. So I'd actually have to  
24 be, you know, open-handed, you know, ready to catch as if I  
25 was, like, playing catch with my son.



1           Q     Now, I want to ask you -- staying on the same  
2 area -- were you in -- ever in a procedure room with Dr. Desai  
3 when the procedures were started before the patient had  
4 adequate anesthesia or any anesthesia on board?

5           A     I really don't know if anesthesia was  
6 administered yet. I do recall at some points sometimes a  
7 CRNA's actually letting Dr. Desai, you know, know, you know,  
8 hey, the patient is not even asleep yet and you've already  
9 started. But they would end up falling asleep pretty soon  
10 after.

11          Q     Okay. Would the -- in those instances when  
12 you're seeing that, would the CRNAs be emphatic about --

13          A     Yes, sir.

14          Q     -- telling him, Hey, don't go forward?

15          A     Yes.

16          Q     Would he stop?

17          A     No.

18          Q     So he would just go forward anyway?

19          A     Yes.

20          Q     The patients during that time were -- I mean,  
21 were they responding? were they laying there? were they moving  
22 around? What was the situation?

23          A     I mean, they responded in an uncomfortable  
24 manner. I mean, I would imagine -- I've never had the  
25 procedure done, but that's pretty uncomfortable that --

1 MR. SANTACROCE: I'm going to object. Speculation.

2 THE COURT: Yeah, don't speculate.

3 BY MR. STAUDAHER:

4 Q Well, in the way that they responded on the  
5 table, did it appear as though it was uncomfortable to them?

6 A Yes.

7 Q Okay. Now, moving to the back end of the  
8 procedure, so to speak. What about -- excuse me -- what about  
9 at the end of the procedures, did you ever experience Dr.  
10 Desai instructing the CRNA not to give any more anesthesia  
11 when the patient's starting to move around; that kind of  
12 thing?

13 A Not that I can recall.

14 Q So it was mostly the beginning of the operation?

15 A Yeah.

16 Q Did you ever see Dr. Desai reuse any supplies in  
17 the room, like biopsy forceps, bite blocks, anything like  
18 that?

19 A Not really. Bite blocks, but that's about it.

20 Q Do you know what traps are?

21 A Yeah.

22 Q What are those?

23 A A trap is, if I can remember correctly, is a  
24 device that you hook up to the scope to be able -- or to the  
25 suction port of the scope to actually allow any tissue that

1 you're trying to collect for biopsy to be able to be easily  
2 collected.

3 Q Would those be reused?

4 A Not that I can recall.

5 Q For a moment I want to move into the procedure  
6 room. Or not the procedure room, but the cleaning room. When  
7 you were there doing your cleaning, was there any training  
8 that you received as to how to do that?

9 A Yes.

10 Q And who gave you that training?

11 A Whenever it came to the training I was trained  
12 by Kristina [phonetic], initially. I don't remember her last  
13 name. And also trained by a woman by the name of Charnessa  
14 [phonetic].

15 Q So when you were being trained, I mean, how long  
16 was that training process? Was it a day? a week? a month? I  
17 mean --

18 A With Kristina it was for about -- I think about  
19 a week and a half, but I continued training with Charnessa for  
20 at least a month.

21 Q In the procedure rooms, and we've had some  
22 pictures of some of those -- and I said procedure room, I  
23 do -- I'm apologizing for that because it's actually the scope  
24 room.

25 I'm showing you -- and you can see it on your

1 screen. If we have to at any point during this just take your  
2 fingernail and just draw on the screen.

3 A Okay.

4 Q And you can just clear it by tapping it down  
5 there, okay?

6 A Okay.

7 Q I'm showing you what has been marked as State's  
8 -- or admitted as State's 126. Let me zoom out of it and see  
9 if I can carry to the picture.

10 Now, does this look familiar to you?

11 A Yes.

12 Q When you were back in the procedure room, were  
13 there various solutions that were used to clean the scopes and  
14 so forth?

15 A Yes.

16 Q As far as the changing out of that solution --  
17 or those solutions, was there a difference between the  
18 solution that was done before it went into the -- one of those  
19 devices that we understand are called Medivators; is that  
20 correct? These devices over here --

21 A Yeah.

22 Q Were these blue buckets used at all initially?

23 A Yes.

24 Q Was there a solution put into those buckets to  
25 clean the scopes with?

1           A     Yes, there was.

2           Q     Was there a different solution that was in these  
3 Medivators to clean the scopes with?

4           A     Yes.

5           Q     How many scopes would typically get used or  
6 cleaned with the solution in the blue buckets before it would  
7 be changed?

8           A     Best that I can recall, probably about 10.

9           Q     So a lot of scopes would be cleaned?

10          A     Yeah.

11          Q     Would there -- by the time you changed it out, I  
12 assume the water would be pretty dirty?

13          A     Yes.

14          Q     Was that the typical experience that you had  
15 back there working in the rooms?

16          A     Yeah.

17          Q     Was that -- were you ever in the rooms with  
18 other technicians when they were cleaning?

19          A     No, it was usually just one of us back there.

20          Q     Okay. Now, was there a way for you to -- did  
21 you have to do any kind of testing of the solution in those  
22 blue buckets?

23          A     No.

24          Q     Now, moving over to the Medivators. Was there  
25 -- the solution in there, how often would that get changed?

1 If you did. I don't know if you did.

2 A I mean, we changed it. I don't remember at all  
3 how often I changed that.

4 Q Did you test it?

5 A Yes.

6 Q And what was the issue -- can you describe the  
7 testing, how that worked, and when you would decide or  
8 whatever to change the solution?

9 A There was a strip -- there was actually strips  
10 that we would use to actually be able to go ahead and dip into  
11 solution that was in the basin right around here that would  
12 actually tell us whether or not the -- the solution was still  
13 valid enough to be -- or still good enough to be able to be  
14 used for cleaning.

15 Q So when that was the case and you were testing,  
16 what was the color change you were looking for? How did you  
17 know that it needed to be changed?

18 A It -- well, the strip was -- the strip actually  
19 had different -- had a -- a spot on it that would react. On  
20 the bottle that the strips came in, it would actually tell you  
21 based off of what color the strip would change to whether or  
22 not the solution was good.

23 Q What did they color -- did -- was there a color  
24 indicator in the solution itself?

25 A On the bottle for the strips, not on the

1 solution itself. That is --

2 Q No, on the solution itself that you're looking  
3 at that you're testing, did it change color over time?

4 A Not that I can recall.

5 Q You recall a blue color in the solution at all?

6 A For the enzymatic solution that was for  
7 preprocessing.

8 Q Oh, so the one over here; is that right?

9 A Yeah.

10 Q So that was blue. When -- would that color  
11 change over time?

12 A Yes.

13 Q And what would it change to?

14 A It would just become like a murky color, just --  
15 I mean, the -- whenever you would mix the enzymatic solution  
16 with water, it was translucent when -- over time it just  
17 became a little bit murky, almost like a green and would  
18 become opaque.

19 Q Is that when you would change it?

20 A Yes.

21 Q Now, you had mentioned how -- about how many  
22 scopes would you run through that solution before you would  
23 change it?

24 A About -- like I said, just 10. Like, it really  
25 would just depend on the, you know, how clean or dirty the

1 scopes were after a procedure.

2 Q The bite blocks, were those reprocessed also?

3 A Yes.

4 Q Did they go through the same process, go into  
5 the solutions in the blue buckets and then go into the  
6 Medivator?

7 A Yes.

8 Q When the CDC -- you remember the CDC coming in?  
9 You were there for that?

10 A Yeah.

11 Q After the CDC came in, did the processing  
12 frequency and turnover change as far as the solutions and how  
13 many scopes and all of that?

14 A Yes.

15 Q Dramatically?

16 A Very dramatically.

17 Q And were there fewer -- I mean, tell us what it  
18 was.

19 A Whenever it came to how often I would change the  
20 solution in these bins, it's no matter what, we would change  
21 the solution every two scopes. Bite blocks were thrown away  
22 after each procedure. So it's -- there was no reusing of bite  
23 blocks at all.

24 Q Now, did you wear any kind of personal  
25 protective garments or anything during the time that you were



1 either in the procedure room or in the processing room?

2 A Yes.

3 Q What kind of thing did you wear?

4 A Like a plastic apron and usually I would wear a  
5 -- like a protective shield for my face and eyes.

6 Q Was there any issue with changing those out,  
7 meaning any restrictions or did -- for example, did Dr. Desai  
8 ever give you or anybody else in your presence a hard time  
9 about not changing out your gowns or protective gear?

10 A It -- I don't know where it'd come from, but I  
11 was told that, you know, if it's still clean, if there's no  
12 rips or tears in it, you know, keep it on. If it, you know,  
13 becomes compromised that it's not protecting you, then yeah,  
14 change it out.

15 Q When you're in the procedure rooms with the  
16 scopes, you said it got -- sometimes came out and you got  
17 splattered on. Would you change your --

18 A Yes.

19 Q -- your gowns after that? Now, talked about --  
20 I want to talk about the CDC coming in. Beforehand, how --  
21 roughly was this a -- was this a busy operation that you were  
22 involved with?

23 A Yes.

24 Q In your experience, how many patients were  
25 you -- before the CDC came in how many patients were rolling

1 through the door?

2 A At minimum usually it was about 70-72.

3 Q So a large number?

4 A Yes.

5 Q And are you back there -- if you're in the  
6 procedure -- or, excuse me, I keep saying procedure room, but  
7 I meant the processing room -- when you're back in the  
8 processing room are you -- you said you were by yourself  
9 typically in a day?

10 A Yes, sir.

11 Q What shift would you work?

12 A I started off opening, but after a couple of  
13 months I actually switched to the closing shift. So I'd be  
14 there from about, I believe it was 9 to about 6, sometimes  
15 7:00.

16 Q So you're still cleaning up things after the --  
17 the patients are going through, so to speak?

18 A Yes.

19 Q Now, during the time that you have that many  
20 patients rolling through, are the scopes coming in on a fairly  
21 regular basis?

22 A Yes, sir.

23 Q And scopes, meaning scopes coming in to process?

24 A Yes.

25 Q From the time a scope comes in until it is

1 actually ready to use on the next patient, what was the  
2 rough -- I mean, what was the time frame that we're talking  
3 about for you to do your preclean, to run it through the  
4 Medivator, and then to, you know, dry it or do whatever you  
5 have to do afterward? From the time it comes in until you  
6 could possibly be ready to send that scope out for use?

7 Your best estimate? I know it might -- I'm not  
8 asking for an exact minute.

9 A The best estimate would probably be at least 45  
10 minutes.

11 Q So we're talking about a turnover of around that  
12 time, from the time the scope comes in until it's out, back,  
13 potentially in a procedure room?

14 A Yes, sir.

15 Q Okay. In a -- in a typical day how often did  
16 those scopes get cycled back and forth?

17 A I wouldn't even be able to tell you.

18 Q Do you know roughly how many scopes you had?

19 A About nine.

20 Q And are --

21 A Nine uppers, I think it was. Or 11 regular  
22 colonoscopes. About eight or nine upper endoscopy scopes.

23 Q Is it fair to say that on a daily basis and the  
24 volume you're talking about with that number of scopes, that  
25 they actually got processed and used at least a couple of

1 times each a day?

2 A Yes.

3 Q Now, when the CDC comes in, was there ever -- I  
4 mean, did things change when the CDC was there as far as  
5 numbers, how many patients you did a day, that kind of thing?

6 A Yeah, from what I can recall.

7 Q Okay. Were the numbers lower or higher?

8 A It was very lower.

9 Q So CDC comes in and did you get -- was there  
10 some sort of meeting or anything where you were told CDC is  
11 going to be there, what's -- you know, anything?

12 A I mean, there was a meeting.

13 MR. WRIGHT: Objection to this leading.

14 MR. STAUDAHNER: Well, I'm just asking was there a  
15 meeting before the CDC.

16 MR. WRIGHT: Well, he told him what the meeting was  
17 about.

18 THE COURT: All right. Well, try not to lead. The  
19 question is, was there a meeting?

20 THE WITNESS: There was a meeting. I don't remember  
21 what the meeting was about.

22 BY MR. STAUDAHNER:

23 Q How did the numbers go down? Was there any  
24 discussion about that?

25 A No.

1 Q It just happened?

2 A It's -- no, I -- after the meeting when we were  
3 getting ready, all of a sudden numbers were lower.

4 Q Okay. And again, I'm talking about the meeting  
5 before they actually come in. Any discussion about tightening  
6 up procedures, anything like that?

7 MR. WRIGHT: I object to this leading.

8 THE COURT: Yeah, sustained. But I think the  
9 question is --

10 MR. WRIGHT: I want to swear him in.

11 THE COURT: -- do you remember anything that was  
12 discussed at the meeting?

13 THE WITNESS: Honestly, no.

14 BY MR. STAUDAHER:

15 Q Okay. Would it refresh your memory to -- do you  
16 remember giving a statement to the police?

17 A Yes, I do.

18 Q Do you also remember going and testifying before  
19 the grand jury?

20 A Yes, I do.

21 Q Would it refresh your memory to possibly look at  
22 a copy of your transcript on those issues?

23 A I mean, it -- the thing is whenever it comes to  
24 the meetings is, from what I can recall there were three  
25 different meetings, two that had happened afterwards and one

1 that had happened before; and even at the time of the  
2 testimonies with the grand jury and with the police, I don't  
3 really recall -- I was recalling -- I was thinking to the best  
4 of my recollection with everything that was going on at the  
5 time both at the clinic and my personal life, that I don't  
6 really recall what was discussed in which meeting.

7 Q I understand that. I'm just asking you now if I  
8 brought up a copy of the transcript and told you the area to  
9 look at, would that refresh your memory potentially?

10 A Yes.

11 MR. WRIGHT: He answered, no, Your Honor.

12 THE COURT: Well, Mr. Staudaher can still --

13 MR. STAUDAHER: Well, then I can read it.

14 THE COURT: -- show him --

15 MR. STAUDAHER: That's right.

16 THE COURT: -- the transcript and ask him to have a  
17 look at it, and then he --

18 MR. STAUDAHER: May I approach, Your Honor?

19 THE COURT: You may.

20 MR. STAUDAHER: I'm referring to Counsel to -- and  
21 this is the grand jury transcript -- page 151.

22 BY MR. STAUDAHER:

23 Q And you can read as much of this before or after  
24 to get context, but the area that I'm talking about is on page  
25 151. So just take your time, look at that, and see if that

1 doesn't refresh your memory. I'm talking about the meeting  
2 before the CDC comes in.

3 THE COURT: Well, just read it quietly to yourself  
4 right now.

5 BY MR. STAUDAHER:

6 Q Yes.

7 THE COURT: And then Mr. Staudaher will ask you a  
8 question as to whether or not that refreshes your memory, and  
9 then you're to answer honestly as to whether or not your  
10 memory is refreshed by reading that over.

11 THE WITNESS: (Witness complied.)

12 BY MR. STAUDAHER:

13 Q Does that refresh your memory a little bit?

14 A It refreshes my memory a little bit. Just  
15 again, though, whenever it comes to the whole discussion of  
16 tightening up procedures, I don't really remember what meeting  
17 that was discussed in.

18 Q Okay. I'm going to read your -- read the  
19 question and read your answer, okay?

20 A Okay.

21 Q Question, Now --

22 MR. WRIGHT: This is offered for what?

23 THE COURT: It's offered for State --

24 MR. WRIGHT: By -- to impeach --

25 THE COURT: -- for the statement --

1 MR. WRIGHT: -- him?

2 MR. STAUDAHER: Right.

3 BY MR. STAUDAHER:

4 Q Now, when you -- so I guess I'm going with this,  
5 then, before the CDC came in -- and it says, Before the CDC  
6 came in -- or -- before the CDC and the State show up, is  
7 there some discussion at least about tightening up procedures?

8 Your answer, Yeah.

9 So when they show up, the CDC and the State, did  
10 they see the way things had been actually happening at the  
11 clinic prior to their arrival?

12 Your answer, No.

13 Okay. Had --

14 MR. WRIGHT: Is this refreshing?

15 THE COURT: Yeah, you can -- well --

16 MR. WRIGHT: Is this impeaching?

17 THE COURT: -- no, I think he's now using --

18 MR. WRIGHT: Is this prior testimony?

19 THE COURT: -- the -- I think he's using --

20 MR. WRIGHT: I object.

21 THE COURT: -- it as testimony, but you can certainly  
22 object to the substance -- this is a statement to Metro?

23 MR. STAUDAHER: No, this is a statement before the  
24 grand jury.

25 THE COURT: All right. Well, you can still, Mr.



1 Wright, obviously make objections like what the CDC knew and  
2 to the questions themselves.

3 MR. STAUDAHER: I'm asking what he -- his --

4 THE COURT: Well, how does he know what the CDC knew  
5 or didn't know? He can -- you can -- he can ask if he  
6 witnessed the CDC coming in, and anytime that he was at work,  
7 but he certainly can't say what the CDC may or may not have  
8 known or what could have gone on prior to the -- you know, he  
9 can tell us what he was aware of as an employee there, or what  
10 was told to him by Dr. Desai or at an employee meeting or what  
11 he, you know, actually saw, but, you know, be --

12 MR. STAUDAHER: Okay.

13 THE COURT: -- mindful not to --

14 MR. STAUDAHER: All right.

15 THE COURT: -- have him speculating as to what may  
16 have gone on or what may have been known, you know,  
17 unbeknownst to him, of course.

18 BY MR. STAUDAHER:

19 Q Well, at least during the discussion here, we're  
20 talking about -- I mean, you were there before the CDC came,  
21 correct?

22 A Yes.

23 Q And you know what the numbers were like then?

24 A Yes.

25 Q And then you said that the CDC came in and the

1 numbers dropped dramatically?

2 A Yes.

3 Q But there was a meeting -- at least in this  
4 questioning and your answering, there's a meeting that happens  
5 before they come in and the numbers drop; is that correct?

6 A That's correct.

7 Q Okay. And --

8 THE COURT: What kind of a drop in -- I'm sorry, if  
9 you --

10 MR. WRIGHT: Foundation. I'd like to know dates.

11 THE COURT: Well, he -- let --

12 MR. STAUDAHER: This was --

13 THE COURT: -- him get to --

14 MR. STAUDAHER: -- okay.

15 THE COURT: -- let him get -- I mean, he has to find  
16 out if there was a drop; then, okay, if there was a drop, when  
17 did you perceive the drop in patients occurring.

18 You can answer my question.

19 THE WITNESS: I --

20 THE COURT: Because now I want to know. When did you  
21 perceive the drop in patients? About when did you notice that  
22 there was a, you know, a drop in the number of patients that  
23 came through the clinic on a daily basis?

24 THE WITNESS: As has been said, like, anytime I've  
25 testified that whenever this was actually going on, again, I

1 was dealing with some personal factors in my life, so a lot of  
2 stuff that happens during this time frame is a really big  
3 blur. I was bringing a son into the world I was not supposed  
4 to be able to have. So it's the only thing I can recall. I  
5 can't give you an exact date or anything.

6 THE COURT: Okay.

7 THE WITNESS: I don't even remember when the clinic  
8 closed.

9 THE COURT: Okay.

10 THE WITNESS: But I do know that -- I do recall that  
11 whenever the CDC actually came in, numbers were -- the number  
12 of patient -- the patient load in the day was significantly  
13 smaller than it was on a normal basis.

14 THE COURT: Okay. Thank you. Mr. Staudaher, you may  
15 continue.

16 BY MR. STAUDAHER:

17 Q Now, I want to ask you a couple questions about  
18 the propofol. You know what that is?

19 A Yes, sir.

20 Q Did you ever see it used in the procedure rooms?

21 A I had seen the CRNAs use it for anesthesia.

22 Q Okay. Did you ever see syringes being used to  
23 administer the propofol to patients?

24 A A couple of times. It wasn't my main focus,  
25 though.

1           Q     Okay. Did you ever see the same syringe being  
2 used on the same bottle of propofol?

3           A     I want to -- like I said, a couple of times. I  
4 didn't really focus too much on what the CRNAs were doing.

5           Q     Did you see open bottles of propofol going from  
6 one patient to the next?

7           A     It's -- I mean, that -- the only way I would  
8 know that it was open, but it doesn't necessarily mean that it  
9 was open, was that the protective cap over the rubber stopper  
10 that's in the medicine vial was not on there.

11          Q     That's -- and -- so I'm going to ask you a  
12 question again. Did you see the open bottles of propofol,  
13 meaning, the cap's off and whatever and it's -- some of it's  
14 been used -- being used from one patient to the next?

15          A     A couple of times, yes.

16          Q     Did you actually say before the grand jury that  
17 it was a regular thing?

18          A     Yes.

19          Q     Okay. Did you ever see the CRNAs move from room  
20 to room?

21          A     Yes, I did.

22          Q     What would be the circumstances that they would  
23 do that?

24          A     Typically it was, you know, at the start of the  
25 day that we only had one -- one -- one CRNA in, only one

1 doctor working at the time, so the CRNA and the doctor would  
2 move room to room; or it would be while one CRNA was taking  
3 lunch, we'd go back to one doctor and the CRNA, and the doctor  
4 would move room to room.

5 Q Okay. So the -- you mean the doctor -- the CRNA  
6 would follow the doctor from one room to another?

7 A Yes.

8 Q Okay. So that would happen. That wouldn't be a  
9 lunch thing, though, would it?

10 A Well, like I said, it would be either during  
11 lunch, like, just whenever we were all breaking up for  
12 lunches, or at the beginning of the day when the second CRNA  
13 hadn't come in yet.

14 Q So different times?

15 A Yes.

16 Q When the movement occurred from room to room,  
17 did you see them carrying anything with them?

18 A Yes.

19 Q What would -- what would you describe that as?

20 A Like a toolbox or a tackle box.

21 Q Okay. And what -- did you know what was  
22 contained inside the tackle box?

23 A Just from what I knew, just like medicine and  
24 syringes.

25 Q Okay. So you would see that move from one room

1 to another with the CRNA?

2 A Yes.

3 Q Whenever they changed rooms, is that what you  
4 observed?

5 A Yeah.

6 Q And along those lines -- you know what the CRNAs  
7 use for their -- administering anesthesia, correct? The  
8 syringes, the propofol, that kind of stuff?

9 A Yes.

10 Q When they went from one room to another with the  
11 tackle box or whatever, did you see them bring their own  
12 supplies with them from one room to another? Their own  
13 anesthesia supplies, their stuff?

14 A The stuff that was in the box, yes.

15 Q Okay. And was that the anesthesia stuff?

16 A From my understanding, yes.

17 Q The patient load you said was pretty heavy?

18 A Yes.

19 Q Did you feel pressured because of the patient  
20 load?

21 A At times, yes.

22 Q In this room on 126 when the patients are  
23 rolling through and you're the only one back there on a  
24 typical day, not when the CDC came but on a typical day, how  
25 many -- I mean, would the scopes ever start piling up?

1           A     It happened from time to time.

2           Q     Would there ever be issues about you not being  
3     able to keep up or people yelling at you, hey, move it along  
4     kind of thing?

5           A     It would happen, but I just ignored it.

6           Q     And the scopes could only be processed so fast;  
7     is that right?

8           A     That's correct.

9           Q     So did it really matter if somebody was yelling  
10    at you. You could only get them out so quickly?

11          A     Yes, sir.

12          Q     Back in the procedure room for a moment. Did  
13    you ever see or use a larger syringe, like a 60-cc syringe?

14          A     Yes, sir.

15          Q     What were the -- what were those used for  
16    typically?

17          A     Flushing water through the scope to help clean  
18    the colon to get a better look.

19          Q     Was there -- was there something that the  
20    syringe was used with, some sort of container?

21          A     Yeah.

22          Q     What was that?

23          A     It was a giant beaker. I don't know the  
24    capacity of it.

25          Q     As far as --

1           A     It's a beaker full of water.

2           Q     I'm sorry.  So a beaker full of water?

3           A     Yes.

4           Q     Where would the -- where would you get the

5 water?

6           A     We'd just fill it before a procedure from the

7 sink.

8           Q     In that room or -- and I'm pointing to the --

9           A     No, in the --

10          Q     -- scope.

11          A     -- procedure room itself.

12          Q     So you'd go over and fill it full of water and

13 use that at the beginning of the procedure?

14          A     Yes.

15          Q     Would there be any reuse of that syringe from

16 patient to patient?

17          A     I can't really recall.

18          Q     And I'm talking about the one that's used for

19 flushing.  Do you recall --

20          A     No, I know what you're talking about.  I just

21 can't really remember right now.

22          Q     Do you remember giving a statement to the -- now

23 I'm not talking about the grand jury, but the statement to the

24 police at one point?

25          A     Yes.



1           Q     Would it refresh your memory to maybe look at a  
2 copy of that?

3           A     Yes, sir.

4           MR. STAUDAHER: And for Counsel's record I'm going to  
5 page 34 of his statement to the police.

6 BY MR. STAUDAHER:

7           Q     And again, same thing, you can take as much time  
8 as you want to look through this that you need. And you can  
9 read a page before or after, as much as you need to get  
10 [inaudible].

11          A     (Witness complied.)

12          Q     Does that refresh your memory a little?

13          A     Yes, sir.

14          Q     Okay. Again, on -- the question on those flush  
15 syringes, were those reused?

16          A     Yes, sir.

17          Q     And how many of those would be used in a day  
18 typically?

19          A     Really, it would just depend on who was working,  
20 what was going on. Anywhere from just one to maybe five.

21          Q     And are we talking about for the 70-plus  
22 patients or whatever for the day?

23          A     Yes.

24          Q     In your experience dealing in the clinic --  
25 dealing with Dr. Desai, who was in charge of the clinic?

1           A     It seemed like Dr. Desai was.

2           Q     Did any other doctor assert authority over you  
3 or anybody else? I'm not just talking about how the procedure  
4 is done, I'm talking about in general, dictating procedures,  
5 how things are done, anything like that.

6           A     Well, when it came to hearing how things were  
7 done, I never really got any direction from -- to -- from  
8 really any of the doctors. It was more just coming from, you  
9 know, the charge nurse just giving us information about what  
10 was going on, what would be changed, what new policies were,  
11 what current policies were and stuff like that.

12                     But from my understanding all these -- all these  
13 decisions came from Dr. Desai.

14           MR. STAUDAHER: Pass the witness, Your Honor.

15           THE COURT: All right. Thank you. Cross? Who would  
16 like to go first?

17                     Mr. Santacroce?

18           MR. SANTACROCE: Thank you, Your Honor.

19                                 CROSS-EXAMINATION

20 BY MR. SANTACROCE:

21           Q     Good -- good morning, Mr. Vandruff. How are  
22 you?

23           A     All right.

24           Q     A little nervous?

25           A     Just more tired than anything.

1           Q     I represent Mr. Lakeman. You know Mr. Lakeman,  
2 right?

3           A     Yes, I do.

4           Q     I want to talk to you a little bit about when  
5 you started with the clinic. Before working in endoscopy,  
6 where did you work?

7           A     Before working at the endoscopy center I worked  
8 at Medical Group at Sun City.

9           Q     And what did you do at that facility?

10          A     I was a medical assistant, worked front and back  
11 office.

12          Q     So when you got out of school, you went to work  
13 for that facility?

14          A     Not that at first.

15          Q     What did you do?

16          A     I had worked at one clinic for about two  
17 weeks --

18          Q     Do you recall what that was?

19          A     Paseo Medical Center.

20          Q     Okay. You worked there for two weeks at Paseo?

21          A     Yes, I did.

22          Q     And what did you do there?

23          A     Did back-office medical assisting.

24          Q     And why did you only stay two weeks?

25          A     Incomplete charts for patients I couldn't

1 communicate with. It was a -- predominantly a Hispanic  
2 clinic, so there was a huge language barrier that I wasn't  
3 able to overcome.

4 Q When you say, Incomplete charts, what did you  
5 mean?

6 A I wasn't able to fully triage patients, so the  
7 doctor would actually have to go ahead and actually do the  
8 examination -- or get the full triage information from the  
9 patient, find out why they were there, so it was costing the  
10 doctor to have more time -- or spend more time on one patient  
11 than what he was planning. So it was just -- I wasn't a fit  
12 for the clinic.

13 Q Okay. And then you moved over to Sun City?

14 A Then I worked at Glamour Shots for about a year,  
15 and then went to Medical Group at Sun City.

16 Q Okay. Glamour Shots, what is that?

17 A It's a photography studio.

18 Q Oh, okay. And then you went to Sun City as a  
19 medical assistant?

20 A Yes.

21 Q And how long were you there?

22 A About three months.

23 Q And why did you leave there?

24 A A conflict of interest with one of the doctors.

25 Q Can you tell me more about what that conflict

1 was?

2 MR. STAUDAHER: Your Honor, relevance on this?

3 THE COURT: Overruled.

4 THE WITNESS: With the doctor -- with one of the  
5 doctors that was at that clinic my fiancée at the time was one  
6 of her patients. I didn't approach the doctor correctly about  
7 making sure something was getting done for my fiancée that she  
8 had been waiting for for a while, so I could've handled the  
9 issue a little bit differently, but I was let go for that  
10 conflict of interest.

11 Q Did that have to do with prescriptions?

12 A Yes.

13 Q And what specific --

14 A I don't remember the prescription.

15 MR. STAUDAHER: Objection. Relevance, Your Honor.

16 THE COURT: I'll see counsel up here.

17 (Off-record bench conference.)

18 BY MR. SANTACROCE:

19 Q Regarding that incident about the conflict of  
20 interest with the daughter [sic], do you remember giving an  
21 interview to the Metro Police Department?

22 THE COURT: I think he said girlfriend.

23 BY MR. SANTACROCE:

24 Q I mean --

25 THE COURT: Is it your girlfriend?

1 BY MR. SANTACROCE:

2 Q -- your girlfriend.

3 A It was my fiancée, yes.

4 Q Fiancée. Do you remember giving an interview to  
5 the Metro Police Department?

6 A Yes.

7 Q And you told them that you were trying to get  
8 prescriptions filled for your fiancée. What did that mean?

9 A It's -- my fiancée was one of her patients, had  
10 run out of a prescription that the pharmacy wouldn't refill  
11 without the doctor, so I was trying to get the doctor to go  
12 ahead and --

13 THE COURT: So you approached the doctor on --

14 THE WITNESS: Yes, I did.

15 THE COURT: -- behalf of your fiancée? All right.

16 Move on, Mr. Santacroce. It's not relevant.

17 (Off-record colloquy.)

18 THE COURT: All right. Go on, Mr. Santacroce.

19 BY MR. SANTACROCE:

20 Q So tell me what type of things you did at that  
21 Sun City clinic.

22 A It was mostly front-office work. Occasionally I  
23 did assist in the back office just triaging patients.

24 Predominantly, though, it was checking out patients, setting  
25 up patients for follow-up visits, doing referrals, and getting

1 stuff ready for the -- the biller.

2 Q Did that clinic do endoscopic procedures?

3 A No.

4 Q What did they do?

5 A It was a primary-care physician.

6 Q So then you come to endoscopy center around May  
7 or June of 2007, I believe was your testimony; is that  
8 correct?

9 A That's correct.

10 Q And you leave off the resume and you get called  
11 back in the interview and you get hired?

12 A Yes.

13 Q Is that in May or June of 2007 also?

14 A Yes.

15 Q And tell me about your training. What do -- how  
16 do -- how were you trained at the endoscopy center?

17 A Shadowing a -- I would shadow Kristina, who was  
18 the head GI technician at the time. She would shadow me to  
19 make sure that I was doing it right. I would also shadow --  
20 like I said, for whenever it came to the scope processing room  
21 I would shadow Charnessa as well so that -- and have her  
22 shadow me so that I could make sure that I was doing  
23 procedures right.

24 Q And do you remember the first time you actually  
25 went into a procedure room by yourself; when that was?

1           A     I don't remember when that was.

2           Q     Well, was it a month after you got hired? Two  
3 months?

4           A     I can't recall the time frame.

5           Q     Okay. So this shadowing went on for how long?

6           A     Collectively anywhere from two, maybe three  
7 months.

8           Q     And these -- these people that you just  
9 mentioned, they were also GI techs?

10          A     Yes.

11          Q     And they had various jobs to do in the facility,  
12 correct?

13          A     That's correct.

14          Q     So you would follow them and learn how to do the  
15 cleaning procedures, I presume?

16          A     That's correct.

17          Q     Follow them and learn how to do procedures in  
18 the procedure room, correct?

19          A     Yes.

20          Q     Would you have anything to do with the preop  
21 area?

22          A     Define the preop area.

23          Q     Where patients are taken back and they're given  
24 a hep block and saline flush.

25          A     The only thing I was involved with that was



1 actually bringing the patient to that area, and then escorting  
2 them to a bed.

3 Q Now, when you got to the clinic when you first  
4 started, you didn't feel it was too high paced, did you?

5 A I did, but I adjusted.

6 Q Okay. Because when you gave your statement to  
7 Metro, you said that you didn't -- it didn't seem high paced  
8 to you. I was just wondering, can you clear that up for me?

9 A It -- I mean, there were times where it did and  
10 didn't. I mean, just -- I'm the type of person that I just  
11 try to adjust to the flow of what's going on with anyplace  
12 that I work at. So, I mean, it's -- initially it was a little  
13 bit too high paced, but I just sucked it up and rolled with  
14 the punches, and, you know, adjusted my attitude so it didn't  
15 seem as high paced.

16 Q Then you were able to do the job safely?

17 A From the best of my knowledge, yes.

18 Q The procedure times that you were involved with,  
19 you recognize that different doctors have different procedure  
20 times, correct?

21 A That's correct.

22 Q And some of the doctors, like Carrol, were  
23 faster than others, correct?

24 A That's correct.

25 Q And some of the slower doctors were Dr. Carrera

1 and Dr. Faris; is that correct?

2 A Yes.

3 Q You need to answer, I didn't hear you.

4 A Yes.

5 Q Okay. And how long would you say a procedure  
6 time lasted for Dr. Carrol?

7 A Dr. Carrol, five to ten minutes.

8 Q And how about Dr. Carrera?

9 A 15 to almost 30, depending.

10 Q Then -- I'm talking about colonoscopies, right?

11 A Yes.

12 Q Okay. So Dr. Carrera could take anywhere up to  
13 30 minutes?

14 A Yes.

15 Q When the doctor came into the room, to the best  
16 of your knowledge the doctor would communicate with the CRNA?

17 A Well, I don't really recall if there was much  
18 communication between the doctors and the CRNAs.

19 Q Would the doctor tell the CRNA that he's ready  
20 to start the procedure or start the anesthesia?

21 A I don't remember who initiated.

22 Q Do you remember if that anesthesiologist -- the  
23 CRNA would tell the doctor that the patient is sedated?

24 A That I do remember.

25 Q So the CRNA would communicate to the doctor the

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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Clerk of Supreme Court

|                       |   |                |
|-----------------------|---|----------------|
| DIPAK KANTILAL DESAI, | ) | CASE NO. 64591 |
|                       | ) |                |
| Appellant,            | ) |                |
|                       | ) |                |
| vs.                   | ) |                |
|                       | ) |                |
| THE STATE OF NEVADA,  | ) |                |
|                       | ) |                |
| Respondent.           | ) |                |
| _____                 | ) |                |

**APPELLANT'S APPENDIX VOLUME 17**

FRANNY A. FORSMAN, ESQ.  
Nevada Bar No. 000014  
P.O. Box 43401  
Las Vegas, Nevada 89116  
(702) 501-8728

RICHARD A. WRIGHT, ESQ.  
Nevada Bar No. 000886  
WRIGHT, STANISH & WINCKLER  
300 S. Fourth Street, Suite 701  
Las Vegas, Nevada 89101

Attorneys for Appellant

STEVEN S. OWENS  
Chief Deputy District Attorney  
Nevada Bar No. 004352  
200 Lewis Avenue  
Las Vegas, Nevada 89155  
(702) 671-2750  
Attorney for Respondent

## INDEX TO APPENDIX VOLUMES 1 through 41

| <b><u>DOCUMENT</u></b>                                                                                                                                               | <b><u>VOL.</u></b> | <b><u>PAGE(S)</u></b> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------|
| Indictment                                                                                                                                                           | 1                  | 000001-000042         |
| Amended Indictment                                                                                                                                                   | 1                  | 000043-000084         |
| Court Minutes 7/21/10                                                                                                                                                | 1                  | 000085                |
| Court Minutes 2/08/11                                                                                                                                                | 1                  | 000086                |
| Finding of Competency                                                                                                                                                | 1                  | 000087-000090         |
| Recorder's Transcript - Hearing: Video Deposition<br>Tuesday, March 20, 2012                                                                                         | 1                  | 000091-000129         |
| Indictment (C-12-283381 - Consolidated Case)                                                                                                                         | 1                  | 000130-000133         |
| Second Amended Indictment                                                                                                                                            | 1                  | 000134-000176         |
| Third Amended Indictment                                                                                                                                             | 1                  | 000177-000212         |
| Defendant Desai's Motion and Notice of Motion<br>for Competency Evaluation                                                                                           | 1                  | 000213-000229         |
| Recorder's Transcript - Hearing Re:<br>Defendant Desai's Motion for Competency Evaluation<br>Status Check: Experts/Trial Readiness (All)<br>Tuesday, January 8, 2013 | 1                  | 000230-000248         |
| Fourth Amended Indictment                                                                                                                                            | 2                  | 000249-000284         |
| Notice of Motion and Motion to Use<br>Reported Testimony                                                                                                             | 2                  | 000285-000413         |
| Reporter's Transcript Re: Status Check: Experts (All)<br>Thursday, March 7, 2013                                                                                     | 2                  | 000414-000440         |

| <b><u>DOCUMENT</u></b>                                                                                                     | <b><u>VOL.</u></b> | <b><u>PAGE(S)</u></b> |
|----------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------|
| Defendant Desai's Opposition to State's Motion to Admit Foreign Documents Relating to Rodolfo Meana                        | 2                  | 000441-000445         |
| Order                                                                                                                      | 2                  | 000446-000449         |
| Court Minutes 3/21/13                                                                                                      | 2                  | 000450                |
| Defendant Desai's Opposition to State's Motion to Use Reported Testimony                                                   | 2                  | 000451-000454         |
| Court Minutes 3/26/13                                                                                                      | 2                  | 000455                |
| Independent Medical Evaluation, 4/14/13<br>Filed Under Seal - Separately                                                   | 2                  | 000456                |
| Reporter's Transcript - Calendar Call (All)<br>State's Motion to Admit Evidence of Other Crimes<br>Tuesday, April 16, 2013 | 2                  | 000457-000497         |
| Fifth Amended Indictment                                                                                                   | 3                  | 000498-000533         |
| Reporter's Transcript - Jury Trial Day 7<br>Friday, May 3, 2013                                                            | 3                  | 000534-000622         |
| Reporter's Transcript - Jury Trial Day 8<br>Monday, May 6, 2013                                                            | 3 & 4              | 000623-000773         |
| Reporter's Transcript - Jury Trial Day 9<br>Tuesday, May 7, 2013                                                           | 4 & 5              | 000774-001016         |
| Reporter's Transcript - Jury Trial Day 10<br>Wednesday, May 8, 2013                                                        | 5                  | 001017-001237         |
| Reporter's Transcript - Jury Trial Day 11<br>Thursday, May 9, 2013                                                         | 6 & 7              | 001238-001517         |

| <b><u>DOCUMENT</u></b>                                               | <b><u>VOL.</u></b> | <b><u>PAGE(S)</u></b> |
|----------------------------------------------------------------------|--------------------|-----------------------|
| Reporter's Transcript - Jury Trial Day 12<br>Friday, May 10, 2013    | 7 & 8              | 001518-001784         |
| Reporter's Transcript - Jury Trial Day 13<br>Monday, May 13, 2013    | 8 & 9              | 001785-002061         |
| Reporter's Transcript - Jury Trial Day 14<br>Tuesday, May 14, 2013   | 9 & 10             | 002062-00             |
| Reporter's Transcript - Jury Trial Day 15<br>Wednesday, May 15, 2013 | 10 & 11            | 002303-002494         |
| Reporter's Transcript - Jury Trial Day 16<br>Thursday, May 16, 2013  | 11 & 12            | 002495-002713         |
| Reporter's Transcript - Jury Trial Day 17<br>Friday, May 17, 2013    | 12 & 13            | 002714-002984         |
| Reporter's Transcript - Jury Trial Day 18<br>Monday, May 20, 2013    | 13 & 14            | 002985-003247         |
| Reporter's Transcript - Jury Trial Day 19<br>Tuesday, May 21, 2013   | 14 & 15            | 003248-3565           |
| Reporter's Transcript - Jury Trial Day 20<br>Wednesday, May 22, 2013 | 15 & 16            | 003566-003823         |
| Reporter's Transcript - Jury Trial Day 21<br>Thursday, May 23, 2013  | 16 & 17            | 003824-004014         |
| Reporter's Transcript - Jury Trial Day 22<br>Friday, May 24, 2013    | 17                 | 004015-004185         |
| Reporter's Transcript - Jury Trial Day 23<br>Tuesday, May 28, 2013   | 18                 | 004186-004384         |

| <b><u>DOCUMENT</u></b>                                                                     | <b><u>VOL.</u></b> | <b><u>PAGE(S)</u></b> |
|--------------------------------------------------------------------------------------------|--------------------|-----------------------|
| Reporter's Transcript - Jury Trial Day 24<br>Petrocelli Hearing<br>Wednesday, May 29, 2013 | 19                 | 004385-004510         |
| Reporter's Transcript - Jury Trial Day 24<br>Afternoon Session<br>Wednesday, May 29, 2013  | 20                 | 004511-004735         |
| Reporter's Transcript - Jury Trial Day 25<br>Thursday, May 30, 2013                        | 21                 | 004736-004958         |
| Reporter's Transcript - Jury Trial Day 26<br>Friday, May 31, 2013                          | 22                 | 004959-005126         |
| Reporter's Transcript - Jury Trial Day 27<br>Friday, June 3, 2013                          | 22 & 23            | 005127-005336         |
| State's Exhibit 18 - Meana Death Certificate<br>Admitted 6/3/13                            | 23                 | 005337-005345         |
| Reporter's Transcript - Jury Trial Day 28<br>Tuesday, June 4, 2013                         | 23 & 24            | 005346-005611         |
| Reporter's Transcript - Jury Trial Day 29<br>Wednesday, June 5, 2013                       | 24 & 25            | 005612-005885         |
| Reporter's Transcript - Jury Trial Day 30<br>Thursday, June 6, 2013                        | 25 & 26            | 005886-006148         |
| Reporter's Transcript - Jury Trial Day 31<br>Friday, June 7, 2013                          | 27 & 28            | 006149-006430         |
| Reporter's Transcript - Jury Trial Day 32<br>Monday, June 10, 2013                         | 28                 | 006431-006641         |
| Reporter's Transcript - Jury Trial Day 33<br>Tuesday, June 11, 2013                        | 29 & 30            | 006642-006910         |

| <b><u>DOCUMENT</u></b>                                                                                              | <b><u>VOL.</u></b> | <b><u>PAGE(S)</u></b> |
|---------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------|
| Reporter's Transcript - Jury Trial Day 34<br>Wednesday, June 12, 2013                                               | 30 & 31            | 006911-007143         |
| Reporter's Transcript - Jury Trial Day 35<br>Thursday, June 13, 2013                                                | 31                 | 007144-007382         |
| Reporter's Transcript - Jury Trial Day 36<br>Friday, June 14, 2013                                                  | 32                 | 007383-007619         |
| Reporter's Transcript - Jury Trial Day 37<br>Monday, June 17, 2013                                                  | 33                 | 007620-007827         |
| State's Exhibit 228 - Table 20-1 - Modes of<br>Transmission and Sources of Infection Considered<br>Admitted 7/17/13 | 33                 | 007828                |
| Reporter's Transcript - Jury Trial Day 38<br>Tuesday, June 18, 2013                                                 | 34                 | 007829-008038         |
| Reporter's Transcript - Jury Trial Day 39<br>Wednesday, June 19, 2013                                               | 35                 | 008039-008113         |
| Reporter's Transcript - Jury Trial Day 40<br>Thursday, June 20, 2013                                                | 35 & 36            | 008114-008361         |
| Reporter's Transcript - Jury Trial Day 41<br>Friday, June 21, 2013                                                  | 36 & 37            | 008362-008537         |
| Reporter's Transcript - Jury Trial Day 42<br>Monday, June 24, 2013                                                  | 37 & 38            | 008538-008797         |
| Reporter's Transcript - Jury Trial Day 43<br>Tuesday, June 25, 2013                                                 | 38                 | 008798-009017         |
| Reporter's Transcript - Jury Trial Day 44<br>Wednesday, June 26, 2013                                               | 39                 | 009018-009220         |



| <b><u>DOCUMENT</u></b>                                                   | <b><u>VOL.</u></b> | <b><u>PAGE(S)</u></b> |
|--------------------------------------------------------------------------|--------------------|-----------------------|
| Reporter's Transcript - Jury Trial Day 45<br>Wednesday, June 27, 2013    | 39 & 40            | 009221-009473         |
| Defendant's Proposed Instruction No. 2                                   | 41                 | 009474-009475         |
| Defendant's Proposed Instruction No. 3                                   | 41                 | 009476                |
| Defendant's Proposed Instruction No. 4                                   | 41                 | 009477                |
| Defendant's Proposed Instruction No. 5                                   | 41                 | 009478                |
| Instructions to the Jury                                                 | 41                 | 009479-009551         |
| Verdict                                                                  | 41                 | 009552-009559         |
| Reporter's Transcript - Sentencing Hearing<br>Thursday, October 24, 2013 | 41                 | 009560-009583         |
| Judgment of Conviction                                                   | 41                 | 009584-009589         |
| Amended Judgment of Conviction                                           | 41                 | 009590-009595         |
| Notice of Appeal                                                         | 41                 | 009596-009600         |

1 A -- yes.

2 Q And when the patient is -- is positioned and  
3 laying on their side, ready to have the procedure done --

4 A Mm-hmm.

5 Q -- they're -- the CRNA --

6 A Mm-hmm.

7 Q -- does the first injection, correct?

8 A Mm-hmm.

9 Q Do you know how -- based on your observation,s,  
10 how quickly would the patient typically nod off?

11 A Usually very quick.

12 Q Seconds?

13 A Seconds.

14 Q And if Dr. Desai was doing a -- the routine  
15 rectum exam and the patient was not quite out yet, that would  
16 make them respond, correct?

17 A Yes.

18 Q And then they would, within a matter of seconds,  
19 go to sleep?

20 A Okay. Rephrase that again because --

21 Q Okay. I'm sorry. The -- the anesthesia is very  
22 quick-acting, correct?

23 A Yes.

24 Q But it's possible that Dr. Desai was conducting  
25 a rectal exam when the patient was still awake, correct?

1 MR. STAUDAHER: Objection. Speculation if she knows.

2 THE COURT: State the question.

3 MS. STANISH: I forgot.

4 THE COURT: Would they be -- I think it was were --  
5 would they be awake when -- when he would do the --

6 MS. STANISH: I asked if it was, you know, if it was  
7 possible that the patient was still awake when the rectal exam  
8 was going on.

9 THE COURT: Well, that's speculation. You can ask if  
10 she observed awake patients or if he did the rectal exam prior  
11 to the administration of anesthesia or something she might  
12 have observed.

13 BY MS. STANISH:

14 Q Did you ever observe Dr. Desai do a rectal exam  
15 when the patient was not yet fully sedated?

16 A Yes.

17 Q And I -- correct me if I'm wrong, I believe you  
18 testified that Dr. Desai started the procedure when the  
19 patient was awake. At least two or three times a week he did  
20 that, correct?

21 A Yes.

22 Q Do you recall telling the police detective  
23 during the interview when asked whether Dr. Desai started  
24 procedures before the person was asleep, you responded, not  
25 too often.

1           A     Now, I'm going to answer that by saying that  
2 when I was in the procedure room Mr. Staudaher asked me when  
3 you were in the procedure room how often did this happen.  
4 During that -- okay, it all [inaudible] told Metro that I was  
5 not in the procedure room very often.

6           Q     Okay.

7           A     So he was -- see?

8           Q     I see what you're saying now. Thank you.

9           You read this before you came, right?

10          A     Yes, ma'am.

11          Q     Did you discuss it with anybody?

12          A     No, ma'am.

13          Q     Did you meet with the DA to be prepped for your  
14 testimony?

15          A     Yes, ma'am.

16          Q     Okay. Now, I want to move to the subject of  
17 supplies and how Dr. Desai was frugal. You would agree with  
18 that, right?

19          A     Yes.

20          Q     You've been a nurse for how many years?

21          A     17.

22          Q     And you were not intimidated by Dr. Desai; is  
23 that a fair statement?

24          A     At times, yes. We -- Dr. Desai and myself had  
25 differences that we discussed routinely. Sometimes argued.

1 Sheets, blankets, things like that being some of those that  
2 we've heard and talked about that -- that, you know, I didn't  
3 feel was fair to the patients.

4 Q But you went ahead and you cared for the patient  
5 despite his complaints about --

6 A Yes.

7 Q -- using too much? In fact, you even said it  
8 was kind of a parent/child thing. A parent would scold you  
9 for doing something, but you would find a way to do it  
10 anyways?

11 A But we did it anyway, that's correct. And that  
12 was for the benefit of the patients.

13 Q And you took care of your patients, correct?

14 A Yes, ma'am.

15 Q And if Dr. Desai said, No, don't use another  
16 sheet, you would just find a way to get the patient another  
17 sheet?

18 A That's correct.

19 Q And despite your disagreements and -- I mean,  
20 you would confront Dr. Desai and have conversations with him  
21 about what you needed --

22 A We did.

23 Q -- correct?

24 A We did.

25 Q And you were never disciplined or -- you're --

1 let me restate that. You had evaluations as a nurse, correct?

2 A Correct.

3 Q Your evaluations were stellar.

4 A I don't remember. I don't know if they were  
5 stellar. I don't actually remember what they were. I don't  
6 believe that I ever had a bad evaluation.

7 Q Your evaluations were good.

8 A Okay. Yes.

9 Q You were not disciplined, had your pay docked,  
10 or anything like that --

11 A No, ma'am.

12 Q -- because you disagreed with --

13 A No, ma'am.

14 Q -- Dr. Desai?

15 A No.

16 Q Dr. Desai was -- didn't like to see waste,  
17 correct?

18 A That's correct.

19 Q He didn't like to see people standing around not  
20 doing anything, correct?

21 A That's correct.

22 Q If you needed supplies, who would you go to to  
23 get supplies?

24 A Let's see. Jeff Krueger was the supervisor  
25 during that time -- or -- it was, you know, towards the latter

1 part, so it would have either been Betty Hamer or Jeff Krueger  
2 or Katie [phonetic] -- Katie, can't remember her last name.

3 Q Fair statement that you're a conscientious  
4 nurse?

5 A Excuse me?

6 Q Fair -- is this a fair statement: You are a  
7 conscientious nurse?

8 A Yes, ma'am.

9 Q And if you needed supplies to do your job  
10 properly, you got them, correct?

11 A Correct.

12 Q And if you didn't get the, m, you would let  
13 somebody know, right?

14 A Yes, ma'am.

15 Q And you would get it?

16 A And that we did, yes.

17 Q And just a couple more things I want to  
18 address --

19 A Okay.

20 Q -- then I'm going to sit down.

21 A Okay.

22 Q You mentioned on direct that there were double  
23 bookings?

24 A Yes.

25 Q Do you mean -- because as I understand it, you

1 had two procedure rooms going, correct?

2 A That's --

3 Q Yes?

4 A -- correct.

5 Q All right. And so when you say double booking,  
6 are you saying there were two patients scheduled for each  
7 room, or one patient scheduled for each room?

8 A Well, the booking in the -- the appointments per  
9 se -- the person that made the appointments was not me, okay?  
10 But when -- if you do simple math and you do 65 patients in  
11 one day with two rooms and the anesthesia is 30 minutes,  
12 that's what this is, plus the -- plus the recovery is about 25  
13 to 30 minutes. And the office hours were 8:00 to 5:00. It's  
14 -- something doesn't add up; do you know what I mean?

15 Q Well, let's talk about adding things up a bit.  
16 You had -- I mean, the -- as far as the patient -- what I'm  
17 trying to get at, you've been a patient before?

18 A Yes.

19 Q You've been a nurse for a long --

20 A Yes.

21 Q -- time?

22 A Yes, ma'am.

23 Q When you go into a doctor's office, do you  
24 sometimes have to wait a really long time before you get to  
25 see the doctor?



1           A     I think that -- honestly, the longest that I've  
2 waited is about an hour.

3           Q     An hour?

4           A     Yes.

5           Q     And did you -- were there patients that wouldn't  
6 show up? Didn't keep their appointments?

7           A     Yes. Yes, ma'am.

8           Q     Were there patients who would come to their  
9 appointments late?

10          A     I'm sure, yes.

11          Q     Were there patients that there were difficulties  
12 encountered during their procedure, so it took longer than  
13 anticipated?

14          A     Yes.

15          Q     And that could cause a backup?

16          A     Yes.

17          Q     When you had that -- that party for doing 1,000  
18 patients --

19          A     The [inaudible].

20          Q     -- you didn't work on weekends, it -- five-day  
21 workweeks, correct? I'm sorry, five day workweeks?

22          A     Actually, I worked four days.

23          Q     Okay. But I'm saying, this party for doing  
24 1,000 patients, if there are five workdays -- the office is  
25 not open on the weekends, correct?

1 A Correct.

2 Q That would be an average of 50 patients a day,  
3 correct?

4 A We did more than that.

5 Q All right. I'm just saying when you had that  
6 party that you've described for the District Attorney --

7 A Mm-hmm.

8 Q -- where 1,000 patients were done and the doctor  
9 had a dinner party for you?

10 A Yes.

11 Q 1,000 patients, correct?

12 A Actually, it was for -- over 1,000, once we hit  
13 that.

14 Q Oh, okay. Because I --

15 A On this we hit the 1,000, you know.

16 Q All right. I understand.

17 A Okay. Now, at what point in the month was it  
18 that we hit the 1,000, I don't know.

19 Q I see.

20 A Okay.

21 Q If we wanted to know exactly how many procedures  
22 were done, we could look at clinic records, correct?

23 A Correct.

24 Q We could get the exact number, correct?

25 A Yes.

1           Q     You left the clinic to work -- to get a new job;  
2 is that correct?

3           A     Yes, ma'am.

4           Q     And was --

5           A     That was correct.

6           Q     -- that a job -- were you looking for a job or  
7 did an opening just happen to occur?

8           A     You know what, I had quit Dr. Desai's to go to a  
9 specialty that I had been wanting to work at for quite some  
10 time. At the time I was single, I had a son. That particular  
11 place that I went to, the insurance was better, the pay was a  
12 little bit better. That was a no-brainer. So that's why I  
13 left. They hadn't had any openings; I had been wanting to go  
14 there for quite some time, they didn't have any openings. A  
15 friend of mine had told me that that particular time they had  
16 openings, and that was why I went at that particular time.

17          Q     Okay. Thank you.

18          MS. STANISH: No further questions.

19          THE COURT: All right. Thank you. Mr. Santacroce?

20          MR. SANTACROCE: Can we approach before I begin?

21          THE COURT: Sure.

22                   (Off-record bench conference.)

23          THE COURT: We're just going to take a real quick  
24 10-minute recess.

25                   And once again, during the quick recess you're

1 reminded not to discuss the case or anything relating to the  
2 case; don't read, watch, listen to any reports of or  
3 commentaries on the case, person, or subject matter relating  
4 to the case, and please don't form or express an opinion on  
5 the trial.

6           Notepads in your chairs and please follow the  
7 bailiff through the rear door.

8                       (Jury recessed at 2:30 p.m.)

9           THE COURT: Ma'am, I'm going to give you a break,  
10 too. Don't discuss your testimony with anyone else. We have  
11 some legal issues to discuss, so I'm going to ask you and your  
12 husband to --

13           THE WITNESS: Okay.

14           THE COURT: -- go in the hallway or the vestibule  
15 area.

16           THE WITNESS: Okay. Can I -- do you need this?

17           THE COURT: You can just leave it there for right  
18 now. Thanks. The bailiff will come get you in a minute.  
19 Or -- no. Do you -- well -- ma'am, just have a seat in the  
20 vestibule for a minute. Yeah.

21           THE WITNESS: There?

22           THE COURT: Yeah.

23           THE WITNESS: Okay.

24           THE COURT: The reason I excused the witness is I  
25 wasn't sure we had a consensus as to what we were going to do

1 moving forward. So out of her presence, I think we need to  
2 put on the record what we're going to be doing before I just  
3 dive right in and start doing it.

4 So, Mr. Santacroce, for the record, you approached  
5 the bench --

6 MR. SANTACROCE: Correct.

7 THE COURT: -- and you said that you thought you had  
8 overheard the witness talking to another witness in the  
9 hallway?

10 MR. SANTACROCE: Correct. I believe that you  
11 admonished her during the lunch break not to discuss her  
12 testimony with anyone. Coming back in from the lunch break  
13 before the courtroom was open I was sitting down and she was  
14 talking to Marion Vandruff, who is scheduled to testify next.  
15 I believe that I heard her talking about the times that she  
16 was asked about.

17 Now, I could be mistaken. That's why I wanted you  
18 to ask her about it, but it was clear to me that he made a  
19 comment something like, well, the times are the times, and,  
20 you know, I don't know where we're going to go with this. I'm  
21 bringing it to the Court's attention because I was going to  
22 kind of cross-examine her a little bit about that, and I  
23 didn't know if it was proper to do it in the presence of the  
24 jury or not.

25 THE COURT: State?

1 MR. STAUDAHER: We don't -- I -- this is the first  
2 time hearing --

3 THE COURT: I mean, I --

4 MR. STAUDAHER: -- about it --

5 THE COURT: -- can ask her out of the presence of the  
6 jury if anything happened, or, Mr. Santacroce, you can ask her  
7 in front of the jury if she was talking about -- obviously you  
8 can't make yourself a witness by saying, well, I heard you say  
9 this. So if you -- if you're asking me to, we'll bring her in  
10 and I'll ask her whether or not --

11 MR. SANTACROCE: Yeah.

12 THE COURT: -- so I'll just say someone thought they  
13 overheard you talking to another witness, and was anything  
14 said by him to you about the case or by you to him?

15 MR. SANTACROCE: That would --

16 THE COURT: Fair?

17 MR. SANTACROCE: -- suffice, yes.

18 MR. STAUDAHER: And this next witness is not one who  
19 did charting like that anyway.

20 THE COURT: Okay.

21 MR. STAUDAHER: So I'm not sure what the issue is.

22 THE COURT: All right. Kenny, go get Ms. -- Ms.  
23 whose name escapes me.

24 MS. STANISH: Martin.

25 MR. SANTACROCE: Martin.

1 THE COURT: Martin, I'm sorry.

2 (Witness entering at 2:33 p.m.)

3 (Outside the presence of the jury.)

4 THE COURT: Ma'am, come on back up here to the  
5 witness stand, please. Have a seat.

6 THE WITNESS: Thanks.

7 THE COURT: I just needed to follow up with something

8 --

9 THE WITNESS: Okay.

10 THE COURT: -- out of the presence of the jury.

11 THE WITNESS: Okay.

12 THE COURT: It came to my attention that you may have  
13 been or that there was conversation between you and the next  
14 witness up, Mr. Vandruff, in the hallway.

15 THE WITNESS: Mm-hmm.

16 THE COURT: And you know Mr. Vandruff, I guess from  
17 the clinic; is that right?

18 THE WITNESS: Correct.

19 THE COURT: Okay. And did you have any conversation  
20 with Mr. Vandruff in the hallway regarding anything relating  
21 to this case?

22 THE WITNESS: He was talking about his mother who had  
23 just died, and, you know, the trial is a hardship on him.  
24 That every time that he tries to go get a job as a medical  
25 assistant that this trial pops up, you know. He also said,

1 didn't recognize you with your hair straight. You used to  
2 wear it curly. What else? What else did we talk about?

3 THE COURT: Was your husband --

4 MR. STAUDAHER: I don't know.

5 THE COURT: -- there?

6 MR. STAUDAHER: Oh.

7 THE COURT: Are you looking at your husband?

8 MR. STAUDAHER: Oh, I'm sorry. I thought you were  
9 looking at me.

10 THE WITNESS: Yeah. Yeah, he was --

11 THE COURT: Oh, so your husband was sitting there as  
12 well?

13 THE WITNESS: Yeah. Yeah, basically he had just said  
14 -- not Mr. Staudaher, no, he's like --

15 THE COURT: See, this is how rumors get started.

16 THE WITNESS: -- basically he was saying that, you  
17 know, and we both agreed that we can't wait until this is  
18 over --

19 THE COURT: Okay.

20 THE WITNESS: -- and that we understand that there is  
21 going to be another trial on August 20th --

22 THE COURT: This is the federal trial?

23 THE WITNESS: -- for the federal --

24 THE COURT: Okay.

25 THE WITNESS: -- trial.



1 THE COURT: Did he ask you or did you talk about your  
2 testimony or did he, you know, what questions --

3 THE WITNESS: No. No.

4 THE COURT: -- people had asked you --

5 THE WITNESS: No, ma'am.

6 THE COURT: -- or anything like that?

7 THE WITNESS: Not at all.

8 THE COURT: Okay.

9 THE WITNESS: No.

10 THE COURT: Does the State have any follow-up with  
11 the witness?

12 MR. STAUDAHER: No, Your Honor.

13 THE COURT: Does the Defense have any follow-up?

14 MR. SANTACROCE: Was there any conversation regarding  
15 times or --

16 THE WITNESS: No. No.

17 MR. SANTACROCE: -- okay.

18 THE WITNESS: That particular gentleman, when I  
19 worked there he worked there a short time, and he was a  
20 technician, so, you know, what -- what I do and what he did,  
21 two totally different things.

22 THE COURT: Anything -- Ms. Stanish, any questions  
23 for the --

24 MS. STANISH: No, Your Honor. Thank you.

25 THE COURT: -- for the witness?

1 MS. STANISH: Thank you.

2 THE COURT: All right. Thank you, ma'am.

3 THE WITNESS: Okay.

4 THE COURT: And I'm -- my staff and I are going to  
5 take like a -- just a couple-minute break. If you folks need  
6 a break, do it right now.

7 MR. STAUDAHER: Sure. Your Honor, just for  
8 scheduling purposes, I note that it is 20 minutes to 3. The  
9 Court said that the Court would like to finish at -- at --

10 THE COURT: Like 3:50.

11 MR. STAUDAHER: -- 3:45.

12 THE COURT: Yeah, 3:50.

13 MR. STAUDAHER: I don't know that it's -- if by the  
14 time we get through this witness that there will be sufficient  
15 time to even really substantively get into the next witness,  
16 and I wanted to know if --

17 THE COURT: Okay.

18 MR. STAUDAHER: -- what we should do.

19 THE COURT: Mr. Santacroce, you've heard what Ms.  
20 Stanish had to ask; do you still anticipate 30 minutes?

21 MR. SANTACROCE: No, I don't, actually, because she's  
22 gone over all the times, so I don't anticipate that unless I  
23 get into a problem. I don't think it will be 30 minutes.

24 THE COURT: 15 minutes? 20 minutes?

25 MR. SANTACROCE: 20 minutes.

1 THE COURT: So I'll leave it up to you, Mr.  
2 Staudaher.

3 MR. STAUDAHER: Okay.

4 THE COURT: I won't be heartbroken.

5 MS. STANISH: And if I'm -- and --

6 MR. STAUDAHER: We may cut him loose --

7 THE COURT: If we --

8 MR. STAUDAHER: -- for today.

9 THE COURT: -- if we end a little bit early, so I'm  
10 going to leave it up to your discretion. If you feel like --  
11 Mr. Staudaher, if you feel like it's better to get started  
12 with Mr. Vandruff and then the Court order that he return at a  
13 specific time tomorrow we can -- that's fine too.

14 MR. STAUDAHER: Okay.

15 THE COURT: So leave it to --

16 MR. STAUDAHER: I'll confer with --

17 THE COURT: -- counsel's discretion.

18 MR. STAUDAHER: -- counsel.

19 THE COURT: Okay. And, ma'am, if you need to use the  
20 rest room or anything you can do that right now.

21 THE WITNESS: Do I -- do you --

22 THE COURT: Okay. You can stay there.

23 THE WITNESS: -- is this fine or -- okay.

24 THE COURT: That's okay.

25 THE WITNESS: Okay.

1 (Court recessed at 2:38 p.m. to 2:42 p.m.)

2 (Outside the presence of the jury.)

3 THE COURT: All right. Tell Kenny to bring the jury  
4 in.

5 THE MARSHAL: Ready?

6 THE COURT: Yeah.

7 THE MARSHAL: Okay.

8 MR. STAUDAHER: Your Honor, as soon as we get done  
9 with this witness, that will be it for the day. He preferred  
10 to come back tomorrow.

11 THE COURT: Okay. Did you tell him it would be at 9?

12 MR. STAUDAHER: I did not, but I -- I told him we  
13 would contact him because I didn't know what time it was  
14 tomorrow.

15 THE COURT: Oh, and that's up to you. I mean, if you  
16 put another --

17 MR. STAUDAHER: And I'm not allowed to make any  
18 scheduling decisions without consult -- consultation. So --

19 THE COURT: I mean, I don't care, obviously, who it  
20 is, but I was thinking of starting at 9.

21 MS. WECKERLY: He'll be here at 9.

22 (Off-record colloquy.)

23 THE MARSHAL: Are you ready, Judge?

24 THE COURT: Yeah, bring them in.

25 THE MARSHAL: Ladies and gentlemen, please rise for

1 the jury.

2 (Jury entering at 2:45 p.m.)

3 THE MARSHAL: Thanks. Everybody, you may be seated.

4 THE COURT: All right. Court is now back in session.

5 And, Mr. Santacroce, are you ready to begin your  
6 cross-examination?

7 MR. SANTACROCE: I am, Your Honor.

8 THE COURT: All right.

9 MR. SANTACROCE: Thank you.

10 CROSS-EXAMINATION

11 BY MR. SANTACROCE:

12 Q Good afternoon, Ms. Martin.

13 A Hi.

14 Q I represent Ron Lakeman. You know Mr. Lakeman,  
15 correct?

16 A Yes.

17 Q You worked with him for quite a period of time,  
18 correct?

19 A Quite a few years.

20 Q And you had a good --

21 A Yes.

22 Q -- working relationship with Ron?

23 A Yes.

24 Q Now, I believe you testified that you began the  
25 employment at Endoscopy in 2002; is that correct?

1 A Yeah.

2 Q And you left --

3 A It's --

4 Q -- you left when?

5 A In 2007.

6 Q In the early part of September, correct?

7 A September 14th, actually.

8 Q Now, from --

9 A To be exact.

10 Q -- 2002 to 2007 -- or let's talk about the early

11 part of your employment. Was the patient load as you

12 described later on in your employment, was it a high patient

13 load early on?

14 A No, it wasn't, sir.

15 Q It wasn't?

16 A No. No.

17 Q When did you notice it started to increase?

18 A Probably 2006, maybe.

19 Q Okay. And were the cost-cutting measures that

20 you talked about from Dr. Desai, were they the same early on

21 in your employment as it was later on, or did it get

22 progressively worse?

23 A You know, I -- man. That was a long time ago.

24 Q If you remember. If you don't, that's fine.

25 A I don't.

1 Q Okay.

2 A I'm sorry.

3 Q That's okay. Did there come a point in time  
4 from 2002 to 2007 when you actually left the employment of the  
5 endoscopy center and went somewhere else?

6 A Yes.

7 Q Okay. When was that?

8 A 2007, like I said, on the 14th I left and went  
9 to different employment for insurance reasons and better pay.

10 Q Okay. I don't think I'm talking about that.  
11 What I'm talking about was there a time that you left the  
12 endoscopy center and then returned to endoscopy center?

13 A There was.

14 Q When was that?

15 A There was. Back in 2005, maybe.

16 Q So in 2005 you left the endoscopy employment --

17 A Yes.

18 Q -- and went to work where?

19 A I don't remember.

20 Q In any event, that employment didn't work out  
21 for whatever reason, correct?

22 A Right.

23 Q And then you came back to the endoscopy center  
24 in 2005; is that --

25 A Yes.

1 Q -- accurate?

2 A Yes.

3 Q And you stayed there until September 2007?

4 A 2007, that's correct.

5 Q Now, during your employment at the endoscopy  
6 center, you held -- or did several different functions,  
7 correct?

8 A Correct.

9 Q We went through all of the times, you know, I'm  
10 not going to go back over all those times again, but I think  
11 it -- when Ms. Stanish was questioning you --

12 A Mm-hmm.

13 Q -- you had Patty Aspinwall's chart in front of  
14 you and you still do, correct?

15 A Yes. Yes.

16 Q And I believe you said that the times that Ms.  
17 Stanish went over with you were not fabricated times, correct?

18 A The times that -- the times that were in the  
19 procedure room --

20 Q Correct.

21 A -- were not.

22 Q Were not fabricated?

23 A Not.

24 Q So when Mr. Staudaher made the comment to you,  
25 going over those same times, when he said to you that these



1 weren't actual times and there was no basis in reality, that  
2 was actually a misstatement, wasn't it?

3 A The times on the recovery sheet -- now, those  
4 particular times -- and I'm assuming that that's what he was  
5 talking about --

6 Q Well, I don't want you to assume what he was  
7 talking --

8 A -- those --

9 Q -- about.

10 A -- those particular times were not accurate to  
11 the clock times.

12 Q By a couple minutes?

13 A Probably, yes.

14 Q And the times that you said were accurate in  
15 that chart were not a fabrication, correct? The ones you just  
16 testified to.

17 A In the procedure room?

18 Q Correct.

19 A Correct.

20 Q So there was a basis in fact for those times;  
21 isn't that correct?

22 A Correct.

23 Q Now, there was a time when you actually issued  
24 propofol to the CRNAs; isn't that right? In other words, when  
25 the CRNAs came in in the morning, they would have to check out

1 the propofol through a nurse?

2 A Okay. Jeff usually did that.

3 Q Well, I'm asking you if you ever did?

4 A I'm trying to think back. Now, are you talking  
5 about there was a gray lockbox that we kept the propofol in,  
6 that we locked up at night? Is that what you're talking  
7 about?

8 Q Okay. Let's talk about that.

9 A Okay.

10 Q At the end of the day the CRNAs would turn their  
11 --

12 A Yes.

13 Q -- propofol bottles in, what was used was  
14 discarded --

15 A Yes.

16 Q -- and the full bottles would go back to you,  
17 correct?

18 A Now -- not to me, to the nurse in the room.

19 Q Okay.

20 A Now, if I worked in the room, I'm sure that I  
21 probably did, but --

22 Q Well, do you know how --

23 A -- I'm trying to think.

24 Q -- do you know how the CRNAs got the propofol in  
25 the morning?

1           A     I don't -- I think they just went in and got the  
2 box.

3           Q     But you're not sure?

4           A     And -- no. And got the box and took it out --

5           Q     Well, do you --

6           A     -- I think.

7           Q     -- remember when you worked in the procedure  
8 rooms that there would be in each room many bottles of  
9 propofol?

10          A     I remember seeing -- when I worked in the  
11 procedure room -- one bottle of propofol. At one point, like,  
12 up until, like, you know, like -- like 2006-2007, we used to  
13 use the small bottles.

14          Q     Mm-hmm.

15          A     And then we went to the big bottles. You know,  
16 they were about this big. I only recall one bottle -- just,  
17 like, one bottle.

18          Q     Okay. But when they ran out of that bottle,  
19 what would they do?

20          A     I don't know. I guess get another bottle.

21          Q     So you are telling me that they would have to go  
22 back to the room where it was kept and get another bottle for  
23 every procedure?

24          A     I don't know, sir.

25          Q     Okay.

1 A I did not see that.

2 Q I'm sorry?

3 A I did not see that, where they got the bottles,  
4 okay?

5 Q And you don't know if there was one more bottle  
6 in the room, then, is your testimony; is that correct?

7 A No, sir.

8 Q Now, in preparation for your testimony today,  
9 you met with the DA's office, correct?

10 A Correct.

11 Q When was that?

12 A When did we meet?

13 Q Well, you can't ask the questions. If you know  
14 you can tell me; if you don't know --

15 THE COURT: If you don't remember, then that was --

16 THE WITNESS: It was, I don't know, two weeks ago --  
17 a week ago.

18 BY MR. SANTACROCE:

19 Q Okay.

20 A I think it was a week ago.

21 Q And you had discussions about your testimony  
22 here today, correct?

23 A Correct. We had discussions about my testimony  
24 that was given with the DA. I mean, not the DA -- with Metro.

25 Q Okay. And at that preinterview that you had

1 with these -- the DA's office --

2 A Mm-hmm.

3 Q -- did the subject of a tackle box come up?

4 A Yes.

5 Q And that was the -- was that the first time you  
6 heard of this question about the tackle box was in this  
7 preinterview with the DA's office?

8 A Was that the first time that I knew about it,  
9 or --

10 Q No, was it the first time that you were asked  
11 about it?

12 A Yes.

13 Q So when you talked to Metro Police in your  
14 interview, you never mentioned the tackle box, did you?

15 A No.

16 Q Now, this tackle box that you saw, can you  
17 describe it for me?

18 A It was maroon, it was like -- I don't know,  
19 probably about that big, it was rounded on the edges, and I  
20 think it was like -- like, it had a maroon handle --

21 Q Okay.

22 A -- on it.

23 Q It was closed when you saw it?

24 A Closed.

25 Q Now, you don't know what was in that box, do

1 you?

2 A No. No, sir.

3 Q You never saw any propofol in that box, did you?

4 A I didn't open the box. I never really saw it  
5 open. I don't know.

6 Q And I believe you testified that it was gray in  
7 color?

8 A Yes.

9 Q And who was carrying it?

10 A You know, from what I can remember, I think that  
11 all of the nurse anesthetists carried it.

12 Q Where would they carry it to?

13 A From room to room.

14 Q You just told in your testimony earlier today  
15 that the only time they changed rooms was for a lunch break.

16 A And when they did that -- whenever they did  
17 change rooms, that's what I just said. They had the tackle  
18 box, and when they changed rooms, they had that with them.

19 Q So it was -- you only saw them carrying it at a  
20 lunch break; is that fair to say?

21 A Or whenever they changed rooms, yeah.

22 Q You weren't working on the 21st of September  
23 2007, correct?

24 A Correct.

25 Q So you can't testify as to whether any of the

1 CRNAs had a tackle box going from room to room on September  
2 21st, 2007, correct?

3 A That's correct, sir.

4 Q In your interview with the Metro Police  
5 Department you talked about bite blocks, the reuse of bite  
6 blocks. Can you tell me what you know about that?

7 A The bite blocks were being reused and  
8 disinfected with -- not with the scopes, but I guess in the  
9 same manner that the scopes were disinfected, and then, when  
10 Katie got there she had spoken, I guess, with Tonya and Dr.  
11 Desai and said you can't reuse these. They need to be  
12 disposable. And then from -- I guess, then they started using  
13 the disposable bite blocks.

14 Q So at some point -- do you remember when that  
15 was when they went to the single use?

16 A Like I said, you know, most of this stuff was  
17 later, 2006 -- whenever Katie first got there, and I'm not  
18 sure when that was, that's when it was.

19 Q Okay. And I'm not sure about your testimony  
20 regarding the scopes, so correct me if I'm wrong.

21 A Okay.

22 Q Sometimes, you know, I hear so much testimony I  
23 don't know who said what --

24 A Okay.

25 Q -- but in this case did you testify as to the

1 scopes and the cleaning of the scopes today?

2 A Yes. Yes, sir.

3 Q Did you also testify that you saw some fecal  
4 matter?

5 A Yes, sir.

6 Q Okay. Tell me what you saw.

7 A On a couple of occasions -- and I'm going to say  
8 two, maybe three the whole time that I worked there, I had  
9 seen -- when I walked into the scope room the scopes were  
10 hanging on the left and there was a chux underneath the  
11 scopes; and at night when the tech would get done washing the  
12 scopes, he would hang the scopes up -- he or she would hang  
13 the scopes up there, and then the chux would catch, you know,  
14 water or drips or whatever.

15 Like I said, on those couple of occasions I walked  
16 in and saw dried feces on the chux that had dripped from the  
17 scope. So I asked the techs to rewash them at that time,  
18 which they did.

19 Q And the times that -- well, never mind. Strike  
20 that.

21 Do you know what a dilater is?

22 A Yes.

23 Q What is that?

24 A That is -- whenever they do an upper EGD, if the  
25 esophagus needs to be dilated they will -- there's two types,



1 and one of the types can go through the scope and then it goes  
2 down into the esophagus, and it can open up the esophagus.

3 Q And to your knowledge, were those reusable?

4 A Well --

5 Q The dilaters?

6 A -- they were disinfecting those, and I believe  
7 when Katie came she had said that we weren't supposed to be  
8 reusing those either.

9 Q Okay. But from your experience, they were  
10 reused after being cleaned and disinfected?

11 A They were, yes.

12 Q Now, you testified as to some of the procedure  
13 times for the doctors and I think you said -- well, you tell  
14 me what you said the procedure time was for a colonoscopy.

15 A The -- with what doctor?

16 Q Well, you gave some times, and I want to know  
17 what those times were.

18 A Okay. With -- like I said, Dr. Desai being the  
19 quickest --

20 Q Mm-hmm.

21 A -- the times could range anywhere from -- for a  
22 colonoscopy, five minutes.

23 Q Did you ever work with Dr. Carrera?

24 A I did.

25 Q And Dr. Carrera --

1 A Could be 15 minutes.

2 Q Could it have been longer?

3 A Could have been.

4 Q So the times vary from doctor to doctor; isn't  
5 that fair to say?

6 A That is correct, sir.

7 Q You mentioned something that I didn't quite  
8 understand; you said that GI techs would help out sometimes to  
9 give pressure when needed.

10 A Mm-hmm.

11 Q Do you remember that?

12 A Yes.

13 Q Can you explain that to me?

14 A The GI tech -- like, in the room --

15 Q Mm-hmm.

16 A -- the monitor would be here, the bed would be  
17 here, the nurse anesthetist would be on this side, the doctor  
18 would be over here, and the tech would be here, okay? And the  
19 GI tech would reach across the patient to give pressure. On  
20 occasion the nurse in the room would be called over to help  
21 administer pressure so that whenever the doctor was inserting  
22 the scope, that would kind of help the scope move through the  
23 colon a little bit easier.

24 Q So the GI tech would have to assert pressure on  
25 the patient?

1 A Yes.

2 Q Where -- what part of the body?

3 A In the -- it depended. It depended where the  
4 scope was, so...

5 Q Did -- that didn't have anything to do with the  
6 CRNA, did it?

7 A No.

8 Q Oh --

9 A No.

10 Q -- okay.

11 A No.

12 Q That's all I have for you. Thank you.

13 A Thank you.

14 THE COURT: All right. Redirect?

15 REDIRECT EXAMINATION

16 BY MR. STAUDAHER:

17 Q You were asked some questions about the -- by me  
18 and by Defense counsel -- or Defense counsel about the -- that  
19 strip that you said that you based all of your times off of;  
20 is that correct? You know -- I'm talking about this --

21 A The times in the room?

22 Q Yes. Actually, where did it go?

23 A You're talking about -- here.

24 Q Oh.

25 A You're talking about that strip, right?

1           Q     Let me just -- let me look at that real quick,  
2 but I'm just going to display it.

3           A     Okay.

4           Q     Just so we're clear, this monitor read tape --

5           A     Mm-hmm.

6           Q     -- it comes off of a computer -- in the machine  
7 -- or in the endoscopy room that this range of times is what  
8 you would put on the charts and then do your subtractions or  
9 additions or whatever for it; is that correct?

10          A     These particular times were the times that --  
11 when a procedure was started and the anesthesia was given, the  
12 button would be pushed, 10:30.

13          Q     Okay.

14          A     Okay? When the procedure was done and the scope  
15 was out, that time, the button would be pushed and that's the  
16 time that the procedure was done.

17          Q     Okay. Now, that time there, was that typically  
18 the time that was just before the patient was taken out of the  
19 room?

20          A     Yes.

21          Q     Okay. So this -- this is what you based that  
22 record on where you had the start time and the stop time of  
23 the procedure; is that right?

24          A     Correct.

25          Q     And then --

1 A Yes.

2 Q -- from that, if I understand you correctly, you  
3 did the formula, add 2 minutes, add 5 minutes, add 30  
4 minutes --

5 A Right.

6 Q -- that kind of thing?

7 A Right.

8 Q Is that right?

9 A Yes, sir.

10 Q Okay. The one that Ms. Stanish -- and could you  
11 clear that, please? And Ms. Stanish was going over -- just  
12 tap it if you can. There.

13 A Okay.

14 Q When Ms. Stanish was going over the tape times,  
15 did you not say that as soon as the patient got out to the  
16 recovery room area that the first thing that happened was that  
17 blood-pressure cuff went on and you hit the tape -- hit the  
18 machine to actually record a time?

19 A That's correct, sir.

20 Q And that you would do three or four of those  
21 times before the patient was on their way out the door?

22 A Yes.

23 Q Is that right?

24 A Yes.

25 Q So the time that -- the last time you hit for

1 the blood pressure, is that just before they're ready to walk  
2 away and be considered discharged?

3 A That 11:09 would be the time that we -- after we  
4 had gotten the blood pressure, that we would take the  
5 blood-pressure cuff off and get ready to get them up.

6 Q So they would then go and leave; is that right?

7 A To get dressed -- after that they would go get  
8 dressed. Then after they would get dressed, they would call  
9 their family back, they would go to the discharge room and get  
10 discharged.

11 Q Okay.

12 A Get their discharge instructions.

13 Q Now, the record here -- and I'm going to go back  
14 for just a moment, and I'm sorry, I don't want to make you  
15 sick but I just -- whoops, going the wrong way. Just don't  
16 even look at it until I get it to pass through. Okay.

17 So when we looked at this record -- and this is the  
18 one where it had the two minutes -- two-minute addition --

19 A Right.

20 Q -- to get to that and the one that had the  
21 five-minute addition to get to that number, and that number is  
22 supposed to be the same as that number down here.

23 A Mm-hmm.

24 Q And then 30 minutes to that number gives you  
25 that number?

1 A Correct.

2 Q Right?

3 A Yes.

4 Q Do you see these initials up here --

5 A Yes.

6 Q -- and then same initials appear here, same  
7 initials appear here for discharge?

8 A Yes.

9 Q Now, I know those aren't your initials, but is  
10 that the person in recovery putting their initials down?

11 A Yes. Yes.

12 Q So when you put your initials down here and put  
13 the time in and date, is that when they walk away from you to  
14 go to get their paperwork and get their -- their family member  
15 to take them away?

16 A That's when -- yes, that's when they're supposed  
17 to be gone and going to get discharged.

18 Q Okay. So that's what you considered being  
19 discharged, when they leave you to go to that area --

20 A Yes.

21 Q -- is that right?

22 A Yes.

23 Q Okay. So they still have some time to spare in  
24 there to get their clothes on and stuff at this point --

25 A Yes.

1 Q -- right?

2 A Now, what that number -- and again, I'm trying  
3 to think back here. What I believe that number was was a  
4 estimation of -- they got out of the gurney at 11:09, okay?

5 Q Okay.

6 A Then at 11:09 they came back, they got their  
7 clothing, they got dressed, they called the family back, they  
8 went into the discharge room, got their discharge paperwork  
9 and the instructions, and that would be the time that they  
10 would be leaving.

11 Q And is that per the formula, though?

12 A Yes.

13 Q Okay. So even though you're the one putting  
14 this on, are you -- you're not involved with that part of it,  
15 right? You didn't go out and do all that?

16 A We didn't do the discharge and the instructions,  
17 no.

18 Q But you put the information about -- at least,  
19 if this was your record, you would have done the same thing?

20 A Yes. Yes, sir.

21 Q Okay. And so you're putting down here when in  
22 the future you expect the patient to be discharged, even  
23 though that hadn't happened?

24 A That's correct.

25 Q Okay. Now -- and again, everything for all



1 those times -- and can you clear that one more time? Okay.

2 It's based on that record, correct? This --

3 A Say that again.

4 Q -- that all of the times, the subtractions -- or  
5 the additions of all those times you talked about centers on  
6 this time window here, from this -- from the sheet -- this  
7 strip from the monitor?

8 A Yes, because that's the actual procedure time.

9 Q And that's what you would use to put down  
10 information on the record; is that right?

11 A On the procedure?

12 Q On the procedure record.

13 A Procedure record, yes.

14 Q Right.

15 A Yes.

16 Q And I'm talking about that time --

17 A Yes, to that time.

18 Q -- and that time, okay?

19 A Yes.

20 Q So we're relying on this record here for  
21 accuracy of the particular entry?

22 A Correct. Yes.

23 Q Ms. Stanish also asked you a question about  
24 these, correct? And this -- and what I'm showing again for  
25 the record is Bates No. 3308. It is what the -- I'm going to

1 call this the recovery room tape.

2 A Okay.

3 Q Just so we know what we're talking about.

4 A Okay.

5 Q You said the patient goes out, gets one, then  
6 there's a couple of them done, two, three, four, whatever --

7 A Whatever.

8 Q -- and then the patient goes away after that?

9 A Yes.

10 Q So how long they're physically in recovery would  
11 be delineated by the beginning and end times of this -- of  
12 this record; is that right?

13 A Yes.

14 Q Okay. So if we look here at the maroon tape  
15 time and see when the last reading is and it goes up --

16 A Mm-hmm.

17 Q -- it's 10:48 is when it shows the patient is --  
18 the last recording in the room, correct?

19 A Yes.

20 Q On this record if we look to the recovery room  
21 tape, the first recording here is at 10:55; do you see that?

22 A Correct.

23 Q So there's seven minutes between those two?

24 A Mm-hmm.

25 Q Is that right?

1           A     Mm-hmm.

2           Q     Now, if we saw some records where it was a  
3 minute later, I mean, that -- you said that it -- they're  
4 basically going -- and I don't think we've delineated it in  
5 the court, but it looked like it was, my estimation, about 20  
6 to 25 feet from the room to the --

7           A     About that.

8           Q     -- okay. First recording is at 10:55 when they  
9 supposedly hit the recovery room area, and then we have, one,  
10 two additional readings after that before they are leaving.  
11 And the difference between 10:55 and 11:09 is 14 minutes,  
12 right?

13          A     Correct.

14          Q     Okay. Now, that's not 30 minutes in that room?

15          A     No.

16          Q     And again, before I go to the next thing, I just  
17 want to be clear on this, you relied for all of the times on  
18 this on the record -- under Bates No. 3306, which is 10:30 to  
19 10:48?

20          A     Yes.

21          Q     And that's what you believe was the -- was the  
22 accurate record?

23          A     Yes.

24          Q     Now, the endoscopies and the colonoscopies, did  
25 those vary in time like --

1           A     They did.

2           Q     -- the -- the procedure part?

3           A     They did.

4           Q     Did it vary between doctors as far as how long  
5 even those procedures took, whether it was Dr. Desai or Dr.  
6 Mukherjee or Dr. Carroll or whoever?

7           A     The -- the EGD is the upper endoscopies were  
8 generally quicker anyway than the colonoscopies because you've  
9 got -- with the colonoscopy you've got a longer period to  
10 travel, so to speak, but --

11          Q     But is it fair to say that they would vary  
12 between doctors even? The lengths of time -- a colonoscopy,  
13 for example?

14          A     The EGDs not so much. The colonoscopies, yes.  
15 The EGDs a little bit, I mean, you know, a little bit. I  
16 mean, some doctors were a little quicker than others with the  
17 EGDs, but in general, it may be like one doctor it might take  
18 an EGD in three minutes; on another doctor it might take six  
19 minutes, okay? Colonoscopies, a little bit bigger difference.  
20 It might take one doctor four or five minutes, and another  
21 doctor 15 minutes.

22          Q     Or -- I think, even counsel said it could even  
23 be longer --

24          A     It could be --

25          Q     -- right?

1 A -- longer.

2 Q I wanted to show you on -- going to day -- or  
3 Exhibit 156. I want to show you this column here. Do you see  
4 where it says that -- it says --

5 A Procedure.

6 Q -- PROC, procedure?

7 A Mm-hmm.

8 Q And I'll represent to you that the Es and the Cs  
9 mean either endoscopy or colonoscopy; do you see that?

10 A Yes.

11 Q Let me go a little bit closer.

12 A Yes.

13 Q Can you see that now?

14 A Yes.

15 Q So for this first -- and this -- these are all  
16 Clifford Carroll and then Dr. Desai and then Clifford Carroll  
17 and Eladio Carrera, doc -- even one for Dr. Mukherjee.

18 A Mukherjee.

19 Q Right?

20 A Mm-hmm.

21 Q And Eladio Carrera. So we've got four different  
22 doctors, at least, there; is that correct?

23 A That's correct.

24 Q And if we look down this column here, which is  
25 the procedure column, there is a mixture of upper endoscopies

1 and colonoscopies.

2 A Right.

3 Q Correct?

4 A Yes.

5 Q I'm going to slide across the top -- we move  
6 across the top, all the way over to this column that is  
7 considered monitor -- it says, Monitor read tape?

8 A Mm-hmm.

9 Q And there's a tape read; do you see that?

10 A Yes.

11 Q Monitor read is -- I will represent to you is --  
12 the column is from that record which was --

13 MR. SANTACROCE: Your Honor, I've got to object to  
14 this. Mr. Staudaher is doing all the testifying here. This  
15 is beyond her --

16 MR. STAUDAHER: I'm just representing --

17 MR. SANTACROCE: -- the scope of her --

18 MR. STAUDAHER: -- to her what -- orienting her to  
19 what's on this record.

20 THE COURT: Okay. Get -- get to the question.

21 BY MR. STAUDAHER:

22 Q So if this column here is the tape time that  
23 we've talked about -- and when I say that tape time, I'm  
24 talking about the in-room time that you were relying on for  
25 the start and the stop time.

1           A     Correct.

2           Q     And as you can see, these are sequential as they  
3 go down, correct?

4           A     Correct.

5           Q     Now, I want you to look at this column here,  
6 which is the number of minutes for each procedure according to  
7 that time; that is the one that you used to rely on for your  
8 record.

9           A     It's -- but --

10          Q     Do you see that?

11          A     -- yeah --

12          Q     We're going to go through them.

13          A     -- but why is that count on the same number as  
14 all the way down?

15          Q     All the way down in that room, right?

16          A     Yeah. For the most part --

17          Q     Oh, and --

18          A     -- I mean --

19          Q     -- and let's go to the next page --

20          A     But, I mean, what --

21          Q     -- which is -- just a second because I'm not  
22 done with my question yet.

23          THE COURT: It's upside down.

24          MR. STAUDAHER: Whoops, oh, I'm sorry.

25          BY MR. STAUDAHER:

1 Q Going back to the tape read time -- whoops,  
2 excuse me -- monitor read time. The same information if  
3 you'll look over here --

4 A Mm-hmm.

5 Q -- for this room --

6 A Mm-hmm.

7 Q -- you'll see that they're all sequential as far  
8 as the time, start and stop, correct?

9 A Mm-hmm.

10 Q And let's look at this column here and look at  
11 those numbers. With the exception of one right up there.

12 A A couple are different.

13 Q Just so we're clear on this, if we go back over  
14 to the type of procedure, it varies; does it not?

15 A It does.

16 Q As does the doctor; do you see that?

17 A Yes. So --

18 Q Does that make any sense to you that every one  
19 of those taped --

20 A No.

21 Q -- records that you were saying you were relying  
22 on -- and we're talking about this record right here, Bates  
23 No. 3308 of Exhibit No. 7 -- there's a window right here that  
24 every single one of those on that -- in that room -- well, not  
25 every -- almost every single one -- was 11 minutes long,



1 regardless of doctor, regardless of procedure, regardless  
2 of --

3 A But --

4 Q -- day.

5 A --- how can that be?

6 Q My point exactly.

7 A It --

8 Q How can that be?

9 THE COURT: Mr. Staudaher, don't make --

10 THE WITNESS: If --

11 THE COURT: -- argument. I mean, ask her a question  
12 and then --

13 BY MR. STAUDAHER:

14 Q So seeing that -- this -- does that call into  
15 question your belief in the accuracy of this record right  
16 here?

17 A Well, speaking from my point of view, I know  
18 that -- and again, this wasn't my chart, but I know that when  
19 we went in the room and that procedure is started, they gave  
20 the anesthesia, the patient was out, we hit the button, that  
21 time came up. When the procedure was done, we hit the button  
22 and that time came on.

23 Q But that was what you were relying on to put  
24 into the record to --

25 A Right.

1 Q -- do your additions?

2 A I -- I don't know -- those 11-minute times that  
3 you showed, I'm not sure how that generated -- came out.

4 Q Okay. That's fine. When you were being asked  
5 some questions about -- oh, I think it was the records  
6 themselves. Ms. Stanish asked you a question, you know,  
7 you're putting down all these times that are all off, correct?

8 A Right.

9 Q If something happened and a doctor had to come  
10 out or there was an issue with a patient and it took longer or  
11 whatever, there was a problem, what would you do in those  
12 situations? I mean, you got -- that's not going to work on  
13 your formula, right?

14 A No. No.

15 Q What would you do?

16 A That's not going to work on our formula. I  
17 mean, well, obviously if there was a problem we had to get a  
18 doctor, we would have to change the time --

19 Q You'd have to go back and --

20 A -- to --

21 Q -- fix it?

22 A -- yeah, to whatever -- whatever time the doctor  
23 or the anesthesiologist showed up. Then we would have to  
24 change that time to that time.

25 Q Why would it even matter? Why would you change

1 it?

2 A Because that's what time they got there.

3 Q If you're in the recovery room area, and you  
4 said that one of the rationales that they used, I think on  
5 questioning from counsel, was that, hey, the doctors are in  
6 the room or they're down the hall in their office and it only  
7 takes a minute or two minutes for them to get there, and that  
8 that was the rationale that they used for doctor at bedside  
9 and things like that, right?

10 A Restate, please.

11 Q Because the doctor was so close either in a  
12 procedure room or in an office, is that the rationale they  
13 used for you to put down doctor at bedside or --

14 A Yeah --

15 Q -- or things of that nature?

16 A -- yes. The -- the doctor was on -- the  
17 [inaudible] now would be they were in the procedure rooms or  
18 the nurse anesthetist would be in the procedure rooms;  
19 therefore, if something happened, then they would be there.

20 Now, like I stated before, the only difference being  
21 is that if the physicians were next door and they were in a  
22 room or their office, depending on where they were, and we had  
23 to try to go find them then it may take longer, you know, two  
24 minutes, three minutes, whatever, to find them, to go get  
25 them, to bring them over.

1           Q     What about if it was just two doctors or -- and  
2 -- or one doctor in the morning sometimes, correct?

3           A     Yes.

4           Q     What if that doctor was in a procedure doing, in  
5 the middle of a procedure --

6           MR. WRIGHT:  Objection.  Speculation.

7           THE COURT:  Yeah, I'm --

8           MR. STAUDAHER:  Well, I'm asking -- those questions  
9 were --

10          THE COURT:  -- well, now, I'm --

11          MR. WRIGHT:  Well, I -- I thought --

12          MR. STAUDAHER:  -- asked by counsel.

13          THE COURT:  -- no --

14          MR. WRIGHT:  -- that wasn't allowed.

15          THE COURT:  -- excuse me.  You know, first, if this  
16 situation ever happened, if, you know, what if this, what if  
17 that, unless it ever happened it would call for her to  
18 speculate.  So you can say was there ever a situation when the  
19 only -- there is one doctor and he was in a procedure and, you  
20 know, X happened or Y happened or whatever; but just to say if  
21 it ever happened, if -- if it never happened, then how can  
22 she, you know, she would be speculating as to what would be  
23 done.

24          MR. STAUDAHER:  Well, those were questions directly  
25 asked by counsel.

1 THE COURT: Well, Mr. Staudaher, maybe you didn't  
2 make an --

3 MR. WRIGHT: He objected when she did it.

4 THE COURT: -- objection. I can't remember --

5 MR. STAUDAHER: Fair enough.

6 THE COURT: -- every question that was asked by --

7 MS. STANISH: Yeah, I believe he --

8 THE COURT: -- excuse me, Ms. Stanish.

9 MS. STANISH: -- okay.

10 THE COURT: I've told Mr. Staudaher that he needs to,  
11 you know, preface the question as to what may or may not have  
12 happened, and then if some situation did occur, he can ask  
13 her, well, what was the response? How was that situation  
14 handled? Or were you told what to do if a situation would  
15 arise? Or something like that.

16 BY MR. STAUDAHER:

17 Q Now, let's start off with during the time you  
18 were there, did a situation ever happen where a doctor had to  
19 come over and deal with a patient for some reason?

20 A Not that I recall.

21 Q So that never happened when you were there; is  
22 that right?

23 A Right.

24 Q Did anybody tell you how you were to handle it  
25 if that situation occurred?

1           A     No, we just -- we knew that, you know, we were  
2 told that if we needed a doctor that we just -- we needed to  
3 go find one.

4           Q     That's what you were told?

5           A     Yes.

6           Q     Did they tell you what to do in case a situation  
7 occurred where there was a doctor actually engaged in a  
8 procedure and was not available, what to do in that situation?

9           A     No.

10          Q     Well, I'm sorry --

11          A     No.

12          Q     -- did you answer?

13          A     No.

14          Q     Okay. They didn't? Okay. This -- the  
15 questions that you were asked about the rectal exam with Dr.  
16 Desai --

17          A     Yes.,

18          Q     -- did he do that on every patient? Come in and  
19 do a rectal exam before the procedure?

20          A     I believe so, yes.

21          Q     Okay. And those are -- I -- did he do them for  
22 both the upper endoscopies and the colonoscopies?

23          A     The rectal exam only for the colonoscopy.

24          Q     Okay. So if somebody's getting one down their  
25 throat, he's not coming in there and --

1 A No. No.

2 Q -- okay. I just want to be clear --

3 A No.

4 Q -- on that. In the situations where he started  
5 procedures before the anesthesia was on board, do you remember  
6 those questions I asked you and counsel asked you?

7 A Yes.

8 Q In the situation where it was an upper  
9 endoscopy, let's say -- that means the scope is going to go  
10 in?

11 A Yes.

12 Q Did he take his finger and put it in the -- down  
13 the throat or anything before he started?

14 A No.

15 Q Okay. So the scope would be going down the  
16 throat?

17 A That's correct.

18 Q And is that when the patient would -- I'm not  
19 asleep or whatever?

20 A There was occasions when the patient would gag  
21 when the scope was going down. Now, again, I'm not an  
22 anesthetist, I'm not a doctor, I don't know -- I don't know  
23 if -- if there was a problem with the patient's gag reflex. I  
24 don't know if that goes away when they give the propofol, if  
25 the propofol had kicked in. I don't know.

1           Q     Well, in those instances when that happened when  
2 you were there, did you ever hear the anesthetist say, I  
3 haven't given anesthesia yet; anything like that?

4           A     Yes.

5           Q     Stop?

6           A     More so during colonoscopies.

7           Q     Okay. So during the colonoscopies the  
8 anesthetist would say, I haven't given anesthesia yet; is that  
9 how you would know?

10          A     Yes.

11          Q     During those instances, would the patient do  
12 anything? Cry out, move around, anything?

13          A     They would move, they would moan, they would,  
14 you know --

15          Q     Was this -- in those instances -- was this  
16 during the rectal exam portion or when he's taking the scope  
17 and actually putting it up somebody's bottom?

18          A     From what I can remember, I think the rectal  
19 exam was done while the patient was awake, generally, on  
20 everybody.

21          Q     Okay.

22          A     And then, when the scope was being inserted, the  
23 anesthesiologist, I believe, had already given the propofol.

24          Q     But in the situations where that hadn't  
25 happened, where you heard the -- or anesthesia person say, I



1 haven't given it yet, or wait, or something to that effect,  
2 are we talking about the point where the scope is going to go  
3 in?

4 A That's correct, yes.

5 Q Would he stop? Being Desai --

6 A No.

7 Q -- would he stop or would he continue?

8 A Continue.

9 Q So regardless of being told that, he would keep  
10 pushing that scope up there?

11 A Yeah.

12 MR. STAUDAHER: Nothing further, Your Honor.

13 THE COURT: Ms. Stanish, any recross?

14 MS. STANISH: I think I want to ask more questions.  
15 Court's indulgence.

16 THE COURT: That's fine.

17 MS. STANISH: I'll just -- you sit, I can speak from  
18 here.

19 RECROSS-EXAMINATION

20 BY MS. STANISH:

21 BY MS. STANISH:

22 Q Ms. Martin?

23 A Yes.

24 Q In the procedure room you, as I understand it,  
25 you would press the button to start the monitor and that would

1 be your procedure start time, correct?

2 A That would either be myself, if I was in the  
3 room, or the other nurse who is there in the room, or the  
4 anesthesiologist. One of us.

5 Q And in the procedure room, if you recall --

6 A Mm-hmm.

7 Q -- does the CRNA interview the patient about  
8 anesthesia matters?

9 A Yes.

10 Q And that's going on kind of simultaneously while  
11 the person's being -- as soon as they get in, they're hooked  
12 up to the monitor?

13 A Yeah. Yeah.

14 Q Okay. And simultaneously the CRNA is doing the  
15 anesthesiology assessment?

16 A Yes.

17 MS. STANISH: I think that's all I have. Thank you.

18 THE COURT: Thank you. Mr. Santacroce, any recross  
19 based on --

20 MR. SANTACROCE: Yes.

21 RE-CROSS-EXAMINATION

22 BY MR. SANTACROCE:

23 Q That chart you were shown --

24 A Mm-hmm.

25 MS. STANISH: I brought you your chart.

1 MR. SANTACROCE: Thank you.

2 BY MR. SANTACROCE:

3 Q Remember this chart?

4 A Mm-hmm.

5 Q Have you ever seen this chart before today?

6 A This chart?

7 Q This chart that I'm referring to here, this

8 Exhibit 157. Have you ever seen this before today?

9 A Is -- how --

10 THE COURT: It's the same one as the big one,

11 correct?

12 THE WITNESS: It's the big one, yes.

13 BY MR. SANTACROCE:

14 Q Isn't it on your screen there?

15 A Yeah, well, part --

16 THE COURT: Well, you can't --

17 THE WITNESS: -- of the --

18 THE COURT: -- you can only see --

19 MR. SANTACROCE: Oh, okay.

20 THE COURT: -- three columns.

21 THE WITNESS: -- part of it.

22 MR. SANTACROCE: Okay.

23 THE COURT: She doesn't know --

24 THE WITNESS: You can only see --

25 THE COURT: -- what that is.

1 MR. SANTACROCE: I'm sorry.

2 THE WITNESS: Yeah, that's what I -- I want to tell  
3 you, yes.

4 BY MR. SANTACROCE:

5 Q Yes?

6 A Yes.

7 Q Okay. When did you see it?

8 A At the DA's office.

9 Q That was --

10 THE COURT: Is that just this couple of weeks ago  
11 when you met with them --

12 THE WITNESS: Yeah, I --

13 THE COURT: -- or was it --

14 THE WITNESS: -- think it was like -- it was either  
15 last week or the week before.

16 THE COURT: Okay. Prior to that most recent meeting  
17 with the DAs, had you ever seen the chart?

18 THE WITNESS: No, ma'am.

19 THE COURT: Okay. Mr. --

20 BY MR. SANTACROCE:

21 Q Did you have any input in preparing this chart?

22 A No, sir.

23 Q Did -- were you explained what all of these  
24 columns meant?

25 A No, sir.

1           Q     So when you put these 11 minutes -- and there's  
2 one that says 21 minutes -- do you have any idea how that's  
3 computed?

4           A     No, I still don't know what it means.

5           Q     Me neither.

6           A     And I'm looking at it here --

7           Q     Okay.

8           A     -- and I still don't know what it means.

9           Q     But we do know certain things, don't we? We  
10 know that when you start a procedure, you hit a button.

11          A     Right.

12          Q     And when you stop the procedure you hit a  
13 button.

14          A     Yes.

15          Q     And that printed a tape?

16          A     Yes.

17          Q     And that tape had times on it?

18          A     That's correct.

19          Q     There was no human interference with that. In  
20 other words, you didn't write any times in there; it was  
21 printed, right?

22          A     That's correct.

23          Q     And when you went into the recovery room and the  
24 patient was hooked up, you hit another button, correct?

25          A     That's correct.

1           Q     And when you took all the stuff off them you hit  
2 another button, correct?

3           A     Correct.

4           Q     And printed out a tape, correct?

5           A     Correct.

6           Q     And that tape had tape -- times on it, correct?

7           A     Yes, it did.

8           Q     There was no human interference with that, was  
9 there?

10          A     No.

11          Q     And you never falsified any of those documents,  
12 did you? Is that a no?

13          A     No.

14          MR. SANTACROCE: Nothing further.

15          THE COURT: Mr. Staudaher, do you have any questions  
16 based only on that?

17          MR. STAUDAHER: No, Your Honor.

18          THE COURT: Based on those?

19                I have some juror questions up here.

20          THE WITNESS: Okay.

21          THE COURT: A juror would like to know, While working  
22 in the recovery room, did you ever have to get a CRNA from the  
23 procedure room to help a patient who was having problems with  
24 the anesthesia or breathing or anything like that?

25          THE WITNESS: Not that I recall.

1 THE COURT: Okay.

2 THE WITNESS: No.

3 THE COURT: Only answer this question if you know the  
4 answer. Don't speculate, okay? But was the rectal exam used  
5 to see if the scope could fit, or do you know why the digital  
6 rectal exam was done?

7 THE WITNESS: I believe they did the rectal exam to  
8 check prostate and that type of a [inaudible].

9 THE COURT: Okay. So would only men get that, then,  
10 or did women get it too?

11 THE WITNESS: You know, I don't know -- I don't think  
12 --

13 THE COURT: I guess if you found a prostate --

14 THE WITNESS: Yeah.

15 THE COURT: -- that would be something.

16 What was done with the IV catheter or heplock when  
17 it was removed from a patient? So when they would be in  
18 recovery, was that when that was removed?

19 THE WITNESS: That was in his throat and the Sharps  
20 box.

21 THE COURT: Okay. It was in the --

22 THE WITNESS: So --

23 THE COURT: -- Sharps box?

24 THE WITNESS: -- yes.

25 THE COURT: And that nicely goes to our next

1 question, and maybe, Mr. Staudaher, you can help us out. Can  
2 you show us -- put up the photo of the procedure room for this  
3 next question?

4 MR. STAUDAHER: Certainly. I believe this is Exhibit  
5 122, if I'm not mistaken.

6 THE COURT: Okay. And can you give us a broad shot?

7 MR. STAUDAHER: I'm trying to do that.

8 THE COURT: And if you can do it on this picture; if  
9 not, maybe we'll get another picture. But can you show us --  
10 well, were there Sharps containers in this room? And then the  
11 other -- the recovery room --

12 THE WITNESS: That was --

13 THE COURT: -- in the procedure room.

14 THE WITNESS: -- the far room, right? That was the  
15 one over, like -- like, where the discharge room was; it  
16 wasn't this room, it was the following -- it was that other  
17 room.

18 THE COURT: Okay. So --

19 THE WITNESS: Right? Right?

20 THE COURT: I don't know.

21 THE WITNESS: I mean, it's --

22 THE COURT: I mean, was there a Sharps container in  
23 both procedure rooms or only in the recovery room or in the  
24 recovery room and in the procedure rooms, if you remember?

25 THE WITNESS: That's a biohazard can, okay? The



1 Sharps boxes -- I don't remember; they were in there, but I  
2 don't remember where.

3 THE COURT: Okay. I --

4 MR. STAUDAHER: I've got one more picture --

5 THE WITNESS: And I'm thinking --

6 MR. STAUDAHER: -- I can show her, maybe, and --

7 THE COURT: Okay.

8 MR. STAUDAHER: -- and this is --

9 THE WITNESS: -- I'm thinking that they were on the  
10 counters.

11 THE COURT: Okay.

12 THE WITNESS: That they were sitting on the counters.

13 MR. STAUDAHER: I'm going to show you 120 -- you can  
14 clear that, if you would.

15 THE WITNESS: Yeah.

16 MR. STAUDAHER: Would you clear -- clear that?

17 THE WITNESS: Oh, sorry.

18 THE COURT: I'll do it. Well, never mind.

19 THE WITNESS: I'm trying.

20 MR. STAUDAHER: Okay.

21 THE COURT: All right.

22 THE WITNESS: Okay.

23 MR. STAUDAHER: 124 is -- I will represent to you is  
24 on the other side of the bed, over here on -- in -- now  
25 looking --

1 THE WITNESS: Yeah.

2 MR. STAUDAHER: -- at 122, looking this direction.

3 THE WITNESS: Yeah.

4 MR. STAUDAHER: Back to this area by the front door

5 --

6 THE WITNESS: Mm-hmm.

7 MR. STAUDAHER: -- you said, and I don't know if that  
8 helps or not, but...

9 THE WITNESS: You know, I don't know if this makes  
10 any sense to you guys, but generally when I did go in the  
11 rooms I didn't work in this room, I usually worked in the  
12 other room; and from what I can remember, in the other room  
13 the -- the very first room when you walked in -- like I said,  
14 the monitor was here, the nurse anesthetist was here, doc was  
15 on this side with the tech. The Sharps box, from what I can  
16 remember, was in that corner on the counter.

17 THE COURT: Okay. And then was there also a Sharps  
18 box in the recovery room?

19 THE WITNESS: Let me look at the picture again.

20 THE COURT: Can you put that up, Mr. Staudaher --

21 MR. STAUDAHER: Sure.

22 THE COURT: -- and help us.

23 THE WITNESS: I think they were on the walls, I  
24 think.

25 THE COURT: Okay. Just have a look at the picture,

1 if that refreshes --

2 THE WITNESS: Yeah, I think --

3 MR. STAUDAHER: Well, and --

4 THE COURT: -- your memory --

5 THE WITNESS: -- they were on the --

6 THE COURT: -- fine, if it doesn't --

7 THE WITNESS: -- walls.

8 THE COURT: -- that's fine too.

9 MR. STAUDAHER: And I'm going to -- before I leave

10 that --

11 THE WITNESS: I think --

12 MR. STAUDAHER: -- I want to show her one other shot

13 from --

14 THE COURT: Okay.

15 MR. STAUDAHER: -- that same room, Your Honor, just  
16 in case there's something -- this is on the other side of the  
17 bed looking toward the --

18 THE WITNESS: Yeah.

19 MR. STAUDAHER: -- that part of the room.

20 THE COURT: And we're looking at Exhibit 123?

21 MR. STAUDAHER: 123.

22 THE WITNESS: Yeah, but I don't see one.

23 MR. STAUDAHER: You don't see one?

24 THE WITNESS: No.

25 MR. STAUDAHER: Okay. I'm going to show you -- start

1 -- I'm going to show you a series of four pictures, different  
2 angles, or different shots, of the recovery room area. The  
3 first is 121.

4 THE WITNESS: Okay. Okay. There is a -- a Sharps  
5 bin -- there should have been one on the crash cart for sure.  
6 Let's see.

7 MR. STAUDAHER: The next picture is a little bit  
8 different angle from this same perspective, but it does show  
9 something that might be useful.

10 THE WITNESS: Okay.

11 MR. STAUDAHER: This is 120.

12 THE WITNESS: Okay.

13 MR. STAUDAHER: And I don't know if you -- I can zoom  
14 in on this, but --

15 THE WITNESS: Yeah.

16 MR. STAUDAHER: -- inside this container you'll see  
17 another container.

18 THE WITNESS: That's a Sharps box there.

19 MR. STAUDAHER: Would you like me to zoom in on  
20 there?

21 THE WITNESS: Right there. No, I can see it.

22 MR. STAUDAHER: Okay.

23 THE WITNESS: That's a Sharps box. They're  
24 disposable; they put those in the -- the biohazard bins, and  
25 then the Refuge [phonetic] Company comes and disposes that

1 waste.

2 MR. STAUDAHER: And could I just zoom on that for the  
3 jury, Your Honor?

4 THE COURT: Sure.

5 MR. STAUDAHER: Magdaline, would you clear that?

6 THE WITNESS: Mm-hmm.

7 MR. STAUDAHER: And what I'm going to show you is the  
8 part out of that container that you mentioned was a Sharps box  
9 within that container, I believe?

10 THE WITNESS: Yes.

11 MR. STAUDAHER: Is this what you're talking about --

12 THE WITNESS: Yes.

13 MR. STAUDAHER: -- right there? Inside that?

14 THE WITNESS: That's correct.

15 MR. STAUDAHER: So this is a Refuge -- this is a  
16 garbage bag and a place for garbage; is that right?

17 THE WITNESS: No. The red bags are biohazard, okay?  
18 The only thing that goes in biohazard bags are blood, blood  
19 contaminants, the Sharps boxes, Sharps, and basically that's  
20 it. That's the only thing that should be in those.

21 MR. STAUDAHER: Now, I'm going to show you one other  
22 picture, which is 118, which is from the opposite direction of  
23 this same thing here.

24 THE WITNESS: Okay.

25 MR. STAUDAHER: Do you see these things here --