From: tonjamasrod40@aol.com
Sent: Thursday, April 05, 2012 9:06 PM
To: Hartzler, Angela
Subject: Angi please Sumbit this one. instead. Fwd: Please submit to the Commissioners and to be placed on the record for the April 17, 2012 meeting

Attachments: Deposition_Transcript_of_Dr._Gedney.pdf

-----Original Message-----
From: tonjamasrod40 <tonjamasrod40@aol.com>
To: ahartzler <ahartzler@lcb.state.nv.us>
Sent: Thu, Apr 5, 2012 8:39 pm
Subject: Please submit to the Commissioners and to be placed on the record for the April 17, 2012 meeting

Dear Advisory Commission on the Administration of Justice.

Today, the Wrongful Death Settlement Agreement of Nolan Klein was officially finalized in Brown v Skolnik.

Judge Magistrate Cooke resolved the Slanderous/false information that was disseminated to state of federal agency's by my exoneration language. The language used was the letter written by the Attorney General's Office on December 2, 2005 that cleared Nolan Klein and I of any wrong doing. This is the document that was withheld from Mr. Klein by the Attorney General's Office during the Discovery proceedings and from IN CAMERA from the Magistrate Judge in Klein v Helling. This document now is a public record.

As an Advocate for the inmates and the Innocent, NDOC and other state agencies have continued to Slander, defame, retaliate, discriminate and violate our Constitutional Rights. Their actions have had a profound impact on my Advocacy for the inmates. I have no idea what the Commission over the years have been told about Nolan Klein and I and that is why this EXONERATION was to be a part of the Settlement Agreement so that we can have our names cleared. This slanderous/false information still continues today, not only against me, but, now it has effected the inmates and their families who come to me for help and I want it stopped. There is no other way then to for me to bring it to the forefront.

Not only was Nolan Klein innocent of the crime for which he was sent to prison for, he was also innocent of what he was being accused of in his NDOC I files, C files and in the Inspector General's files that were hidden by the Attorney General's Office in the Klein v Helling 05-390 federal case

The laws we now have on our books DO NOT work, because, if they did INNOCENT PEOPLE, like Nolan klein would not have gone to prison, and continued to be victimized by the system, a system that is suppose to protect us and not hurt us.

NDOC and the Parole Board does not allow you to see this certain information in the inmates files. So, how can someone who is truly innocent able to defend themselves? Such as what happened to Nolan Klein and I.

Our laws need to be changed and I ask again that this Commission accept Commissioners Parks recommendation and bring back what was not passed during the last Advisory Commission recommendations from 2010. I would like my 2010 recommendations to be considered again and what I have brought to new to this Commission this year.

1. If the court denies the petitioner DNA testing then the Petitioner can have DNA testing conducted at his own expense..

2. When a Defendant is arrested and charged with a crime the law enforcement Agency MUST turn over the exculapatory evidence, simoutansouly, to both the Prosecution and the Defense.

3. Posthumus Pardon, there are NO laws on our books and the Nevada Supreme Court has NO Jurisdication. I refer you to the Nevada Supreme Court decision signed by Justice Hardesty that has already been submitted to you.

4. A maxium of 20 years on a life sentence with the possibility of parole.

5. The Parole Board must be quasi judical so that the inmates can defends themselves from false information whether it comes from the victims or false information from NDOC files. Example, Computer glitch, or as what happened in Klein v Helling.

6. The Parole Board Must define what a threat to Society is.

7, Disband the Parole Board and conform to what other states are doing, a Mandatory Parole Release.

8. Inmates who are in segregated Units for no other reason than they are there for medical problems Must continue to receive their good Time Credit and work credit.

Along with Settlement Agreement that was Officially filed today, NDOC Dr. Karen Gedney deposition is now a public record. During the March 7, 2012 Advisory Commission I was asked questions about the inmates and the medical treatment. I gave a couple of names of the inmates. There are numerous inmates that were submitted in our Discovery that is a public record. However, I believe that the Deposition of NDOC Dr. Karen Gedney will enlightened this Commission on who and who does not get medical treatment and why. There is also a great concern to the public health and safety
that might need to be considered. MRSA

Sometime, in the future, I will be submitting my deposition for the record. This will give this Commission a better understanding on why our laws need to be changed and, hopefully, my depostion will convince this board and the 2013 legislature as to why we need these laws on our books. My deposition goes into great details as to what exactly happened in Mr. Klein's life during his arrest through his incarceration. Who was involved, what they did or didn't do, or should have done but didn't.

Thank you,

Tonja Brown

From: tonjamasrod40@aol.com
Sent: Monday, March 26, 2012 8:07 PM
To: Hartzler, Angela; gdornan@nevadaappeal.com; cy@lasvegassun.com; evogel@reviewjournal.com; jhart@mynews4.com
Subject: Please submit to all of the Commissioners latest update on the NDOC Computer Glitch

Attachments:
Computer_glitch,_parole_board_and_what_inmates_actually_have_acc.jpg
Dear Ms. Hartzler,

Will you please distribute to all of the Commissioners. I have attached a letter from the Parole Board. Inmates do not have the opportunity to see their files that would include their Offender Information Summary file where the false felony charge was found in Mr. Klein's file.

This is reason why it is some important that the Parole Board proceedings must be QUASI JUDICIAL and Must DEFINE WHAT A THREAT TO SOCIETY IS. By doing so, it will allow the inmates to see what is presented to the Parole Board, be able to correct it. If Quasi Judicial proceedings had existed people like Nolan Klein would have been able to correct the computer glitch. Instead, the false felony charges were sent to the Parole Board and the Pardons.

Or at the very least, if we were to conform to what other states have been doing and using the mandatory parole release, it would result in a cost savings of millions of dollars to the taxpayers.

http://www.mynews4.com/news/story/FACT-FINDER-Prison-computer-errors-with-inmate/dA-L11adN0G9_3EZKP6mCA.cspx

I believe the taxpayers and The Advisory Board need to have the answers to these questions.

1. How many since 2007 have been denied parole to their next consecutive sentences?

2. How many since 2007 have been denied parole to the streets?

3. How come some of the NDOC case workers did not know about the computer glitch until just recently?

4. If they were not aware of it how many inmates files went to the parole board as though the information was correct?

5. Since 2007 how many inmates false charges were corrected before and after they had a parole hearing?

6. How many inmates have been delayed a parole hearing because of the false information in their files?

7. How many inmates have had their work credits, good time credits taken away because of this false information and they do not know about it?

8.Or if they do why have they not been given back their credits that can be used for an early parole or pardon.

9. How much has this cost the taxpayer?

10. How many indeterminate sentences do inmates have who have not been convicted of a life sentences?

11. Out of these how many had false felony charges in their files that were seen by the Parole Board and what was the outcome of their parole?

12. What is the name of the Software Program?

13. Is the Software Program still being used by NDOC?

In one year (2009 - 2010) the Parole Board denied in excess of 3,000 inmates parole to their next consecutive sentence. These inmates were denied any where from a one year to a three year parole dump costing the taxpayers between 60 - 180 MILLION DOLLARS JUST FOR THOSE DENIALS TO THEIR NEXT CONSECUTIVE SENTENCE.

As a taxpayer, I, look forward to hearing the answers from NDOC, the Attorney General and the Parole Board of their findings from their examination that has been called to their attention by the ACAJ.

Sincerely,

Tonja Brown

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NEVADA BOARD OF PAROLE COMMISSIONERS

February 1, 2012

Inmate [redacted]
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

Re: Your letters received on December 21, 2011 and January 3, 2012.

All documents in your file become the property of the Board. Requests for Orders & Risk Assessments can be copied. Pre-investigation (PSI) reports are the property of the Division of Parole and Probation (P&P) and must be obtained through P&P. Progress Reports are the property of the Nevada Department of Corrections (NDOC) and must be obtained through NDOC. Letters of support must be obtained from the supporter who wrote the letter, Judgments of Convictions (JOC) are the property of the sentencing court and must be obtain thought the court. Other than your orders/risk assessments from your previous hearing; there are no documents the Board could send you.

Enclosed are copies of your Risk Assessments and Orders.
Signed,

Kathi Baker

Kathi Baker
Executive Secretary

KB:dd

O. RELATED STATEMENT CONCERNING INVESTIGATION

Defendants herein agree to make the following statement ("STATEMENT") concerning information that was contained in the CONFIDENTIAL DOCUMENTS, without admitting liability or any culpable conduct—including for any acts or omissions—arising from or relating to events described in STATEMENT and for the making of the STATEMENT, itself. In a letter written by the Office of the Attorney General dated December 2, 2005:

> Our office has concluded its investigation concerning Inmate Fred Huston's (#72877) monies entrusted to Tonja F. Brown. Our investigation revealed Inmate Fred Huston set up a trust and appointed Tonja Brown as a trustee of that account. Inmate Huston became concerned when no supporting documentation was submitted to him reflecting the source and distribution of his funds. Interviews conducted with the individuals in the trust and the reviewing of the bank documents revealed that no criminal activity existed. A conversation with an NDOC inmate-caseworker revealed that, at the time of that conversation, Inmate Huston had no further concerns regarding his monies.

P. EFFECTIVENESS

This AGREEMENT shall become effective upon the execution of this AGREEMENT by the Signatories to this AGREEMENT.

Q. COMPLETENESS OF DOCUMENT

This AGREEMENT contains the entire understanding between the parties with respect to the matters set forth herein. There are no representations, warranties, agreements, arrangements, or undertakings, oral or written, between or among the parties hereto relating to the subject matter of this AGREEMENT which are not fully expressed herein.

Hartzler, Angela

From: tonjamasrod40@aol.com

Sent: Wednesday, April 11, 2012 2:45 PM

To: Hartzler, Angela

Subject: The Computer glitch issue is not listed on the Agenda

Dear Ms. Hartzler,

Thank you for sending me the Agenda. Would you please submit this to the Commissioners I have a couple questions for them. Chairman Horne has asked for an examination into the computer glitch and does anybody know when the examination will be done? If it is done, could it please be placed on the Agenda for the 17th?

I believe the Board should be made aware of what this computer glitch has done to past inmates, present inmates and possible future inmates. How this has effected the work and good time credits of inmates, their paroles and their pardons.

Thank you,

Tonja Brown.

UNITED STATES DISTRICT COURT

STATE OF NEVADA

-oOo-

TONJA BROWN, administratix of the Estate of NOLAN KLEIN and TONJA BROWN, as an Individual;
Plaintiffs,

Case No.3:10-cv-00679-HDM-VPC

vs.

STATE OF NEVADA ex rel. the DEPARTMENT OF CORRECTIONS, and HOWARD SKOLNIK, DIRECTOR OF THE DEPARTMENT OF CORRECTIONS,

Defendants.

DEPOSITION OF

KAREN GEDNEY, M.D.

September 2, 2011

Reno, Nevada

REPORTED BY: DEBORA L. CECERE NV CCR, #324, RPR

JOB NO.: 144230

A P P E A R A N C E S

FOR THE PLAINTIFF

HAGER & HEARNE
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245 East Liberty Street, Suite 110
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FOR THE DEFENDANT

DEPUTY ATTORNEY GENERAL
WILLIAM J. GEDDES
Senior Deputy Attorney General
100 North Carson Street
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ALSO PRESENT

TONJA BROWN

I N D E X

E X H I B I T S

Original Exhibits to Original and Copies to copies.

BE IT REMEMBERED that on Friday, the 2nd day of September, 2011, at the hour of 10:00 a.m. of said day at the offices of HAGER & HEARNE, 245 East Liberty Street, Suite 110, Reno, Nevada, before me, DEBORA L. CECERE, a certified court reporter, personally appeared KAREN GEDNEY, M.D., who was by me first duly sworn, and was examined as a witness in said cause.

-oOo-

KAREN GEDNEY, M.D.,
called as a witness in said case,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MS. HEARNE:

Q Could you please state your name and spell your last name for the record?

A Karen Ann Gedney, G-E-D-N-E-Y.

Q And Dr. Gedney, have you ever had your deposition taken previously?

A Yes.

Q And how often?

A I'm not sure. Maybe five or six times.

Q And what was the most recent time that you had your deposition taken?

A I'm not sure. Maybe a few years ago, or a year. I'm not sure.

Q Were those depositions -- were any of those depositions taken because of your position as doctor at the prison, Department of Corrections?

A Yes.

Q Were all of them taken for that purpose?

A Yes.

Q Then I don't need to, perhaps, review all of the instructions about a deposition, but, I'll just briefly state that you know we're making a record here today, just as though -- and you've taken an oath just as though you were testifying in a court of law.

Do you understand that?

A Yes, I do.

Q And once that deposition is completed, you will have the right to review it and make any changes that are appropriate. But I must caution you that if you change substantive answers, that I might be able to comment on that should we go to court in this matter.

Do you understand that?

A Yes.

Q Could you briefly state your education for the

record?

A I have a medical degree from the University of Cincinnati; 1984. I have an internal medicine residency specialty from University of Nevada Reno; 1987. I am Board certified in internal medicine.

Q So if I were to ask you if there is any reason that you could not go forward with your deposition today because of any medical problem, you could state with certainty whether there was or not; is that correct?

MR. GEDDES: Vague and ambiguous.

THE WITNESS: I'm unsure what you mean by medical condition.

BY MS. HEARNE:

Q Do you have any medical condition that would cause you not to remember certain instances within the last five years, or is there any other reason we shouldn't go forward today?

A No.

Q In 1987, while you were still working -- or you were getting your internal medicine -- I'm sorry, you were getting something in internal medicine from the University of Nevada at Reno?

A In 1987, I graduated from an internal medicine residency.

Q Okay. And did you work during the time of your

residency?

A Yes.

Q And where did you work?

A The -- part of the residency program is that you work at Washoe Medical Center, the V.A. Medical Center in Reno, the indigent clinic that Washoe Medical Center had at the time.

Q And how long did you work at that residency at those places?

A Three years.

Q And where were you employed after that?

A I was then employed by the Nevada Department of Corrections.

Q Do you recall what your starting date was?

A I do not know exactly, but July of 1987.

Q And can you describe your employment relationship with the State of Nevada, Department of Corrections?

A I'm not sure what you mean by describe.

Q For example, are you a full-time employee?

A I am a full-time physician for the Nevada Department of Corrections.

Q And do you have a contract with the Department of Corrections?

A I am a State employee.

Q Do you have any special agreements or -- that affect your employment with the State of Nevada?

MR. GEDDES: Vague and ambiguous as to special agreements, and affect your employment with the State of Nevada.

THE WITNESS: I'm not sure what you mean. I'm a State employee.

BY MS. HEARNE:

Q And that's just like any other State employee?

A Yes.

Q Okay. Have you ever entered into a separate agreement with the State of Nevada affecting your employment?

MR. GEDDES: Same objections.

THE WITNESS: I'm not sure what you mean by a separate agreement.

BY MS. HEARNE:

Q A separate agreement that affects your employment, but is not the usual employment relationship with the State?

MR. GEDDES: Vague and ambiguous. May call for a legal conclusion.

THE WITNESS: I have no knowledge of any other type of specific agreement, no.

///

BY MS. HEARNE:

Q What is serum hepatitis?

MR. GEDDES: Vague and ambiguous; foundation.

THE WITNESS: I'm not sure what specific definition you are interested in.

BY MS. HEARNE:

Q I just want your understanding of what that term means, "serum hepatitis"?

A Basically serum is related to part of the blood. Hepatitis is a term that means inflammation of the liver.

Q Have you ever heard that term used with regard to identifying a type of hepatitis?

A Yes, I have.

Q And was there a time frame in which you recall that that terminology was used to identify hepatitis?

A If you are referring to the first time I ever heard the words themselves, that would have been training in medical school.

Q Did the term "serum hepatitis" continue in use to today? Do you still refer to hepatitis as serum hepatitis?

MR. GEDDES: Vague and ambiguous as to whom with respect to using or defining that term.

THE WITNESS: It depends who is using the term. Lay people use the term. Medical people use the term. So

which would you like me to comment on?

BY MS. HEARNE:

Q Medical people; persons who are, like you, treating people with hepatitis.

MR. GEDDES: Lacks foundation with respect to the testimony by counsel that this witness treats hepatitis.

THE WITNESS: If you're asking for a medical interpretation of serum hepatitis from an average medical person, they will think that it's related to hepatitis that can be passed through blood.

BY MS. HEARNE:

Q So is the term "serum hepatitis" commonly used today to describe any of the hepatitis maladies, by medical people?

A I'm not sure what you mean by common usage, but I have certainly heard many different medical people explain serum hepatitis as one of the hepatitises transmitted by parenteral blood exposure.

MR. GEDDES: Can you spell that.

THE WITNESS: Parenteral, P-A-R-E-N-T-E-R-A-L, parenteral.

BY MS. HEARNE:

Q When you began work at the Nevada Department of Corrections, what was your understanding of the effect of

the -- I'm sorry, what was your understanding of the protocol for treatment of hepatitis that would have been in 1987 for inmates?

MR. GEDDES: Vague and ambiguous as to protocol for treatment of hepatitis.

THE WITNESS: I do not remember what I thought in 1987 specifically about that topic.

BY MS. HEARNE:

Q Do you recall if there was any protocol at the prison about treatment of hepatitis in 1987?

A I do not recall anything specific in 1987 regarding that issue.

MR. GEDDES: Vague and ambiguous as to treatment; and vague and ambiguous as to hepatitis with respect to what particular type of hepatitis.

BY MS. HEARNE:

Q Do you recall the first time that there was any kind of discussion at the Department of Corrections about treatment of inmate hepatitis?

MR. GEDDES: Objection. Vague and ambiguous as to treatment, as to hepatitis; calls for speculation with respect to discussion by others and by whom; and as well as vague and ambiguous as to the same.

THE WITNESS: I do not remember any specific dates regarding discussion about hepatitis. There were

discussions over the years by medical directors, but I do not remember specific times or dates.

BY MS. HEARNE:

Q Do you recall -- I'm sorry.

Let me ask you this: If someone -- is there a screening of inmates when -- a medical screening when they come into the Nevada correctional system?

MR. GEDDES: Vague and ambiguous as to time frame.

THE WITNESS: When I started in the prison system in 1987, I do recall that, if my memory is correct, that there was screening done for syphilis and HIV, as well as tuberculosis with a PPD skin test.

BY MS. HEARNE:

Q Were there any forms given to prisoners or inmates to fill out to indicate what their medical history was when they entered the Department of Corrections in 1987?

MR. GEDDES: Vague and ambiguous; foundation.

THE WITNESS: I actually don't remember paperwork from 1987.

BY MS. HEARNE:

Q Do you recall if there was any paperwork or any kind of form that -- or anything that was filled out by an inmate who entered the Nevada correctional system in 1988

that would give you the medical history of that inmate?

MR. GEDDES: Vague and ambiguous. May call for speculation as to what other people are submitting to inmates in the way of forms.

THE WITNESS: I don't remember specific forms. I do remember that we did a physical history and physical exams on inmates coming into the system.

BY MS. HEARNE:

Q And then what time frame -- an inmate enters -- from the time an inmate enters the door until there is this physical exam and medical history done in 1988 --

MR. GEDDES: Vague and ambiguous.

BY MS. HEARNE:

Q -- '89, the first date you recall?

MR. GEDDES: Vague and ambiguous, and lacks foundation as to particular institution. May call for speculation, and lacks foundation.

THE WITNESS: I don't remember time frames. My recollection is that it was done probably within a few weeks.

BY MS. HEARNE:

Q And do you recall which particular correctional institution you were working at in 1987?

A Yes. I was working at Northern Nevada Correctional Center.

Q Would the same be true of 1988?

A Yes.

Q Is that -- have you ever worked at any other correctional facility since you've been working for the Nevada Department of Corrections?

A That is the main institution I have worked at.

Q Have you worked at others?

A I have gone to other systems when I was on call, for example, to sew someone up.

Q Where do the inmates who are coming into the -- the Nevada correctional system for the first time, where are they given these physicals and asked for this medical information or medical history?

MR. GEDDES: Objection. Foundation with respect to other prisons; and may call for speculation; and vague and ambiguous.

THE WITNESS: That depends on the particular prison system. In Northern Nevada Correctional Center, it also depends on the years. The intake process has been done in different places over the years based on their buildings.

BY MS. HEARNE:

Q And do you recall what was occurring in 1988?

MR. GEDDES: Same objections.

THE WITNESS: The area that I worked in was

considered their small medical infirmary. That area now, for example, is used in administrative capacity.

BY MS. HEARNE:

Q If someone -- if an inmate were diagnosed with Hepatitis C today, would there be any standardized or expected treatment for that inmate?

MR. GEDDES: Objection. Calls for speculation concerning an unnamed inmate, unnamed prison system; and vague and ambiguous as to diagnosis and treatment.

THE WITNESS: If someone is diagnosed with Hep C, it depends on many different variables.

BY MS. HEARNE:

Q And could you describe some of those variables regarding the treatment of someone with Hep C?

MR. GEDDES: Same objection; especially talking about an inmate in the NDOC system.

THE WITNESS: It depends on the particular case that one would discuss.

BY MS. HEARNE:

Q Is there any standardized treatment available for inmates at the Nevada Department of Corrections for Hepatitis C?

MR. GEDDES: Vague and ambiguous as to time frame.

THE WITNESS: There has been, I believe, a

general policy that was written by Dr. D'Amico years ago regarding Hepatitis C, but not specifically in regards to treatment, because information changes continuously.

BY MS. HEARNE:

Q So what was -- if you could summarize that standardized policy that you believe was written years ago, what did it state?

MR. GEDDES: Objection. Misstates testimony with regard to standardized policy; may call for speculation, and -- and speculation.

listen there just to be sure

THE WITNESS: I would have to actually see that policy from years ago, plus I believe it also has been changed, but it does not dictate, from my recollection, a particular standardized-type treatment.

BY MS. HEARNE:

Q Would it be important for you to know whether or not the inmate was serving a life sentence in determining what treatment would be administered, if that inmate had Hepatitis C?

MR. GEDDES: Vague and ambiguous as to treatment. Calls for speculation concerning a hypothetical inmate. Calls for a hypothetical, and an incomplete hypothetical.

THE WITNESS: Treatment -- we tend not to know

people's sentence structure. Medicine is interested in medical care. If someone was under treatment -- excuse me, not treatment -- but if someone had a medical condition that was not urgent, and they informed me that they were leaving the next day for prison, that would impact a decision-making process. So I can only say that logistics occasionally play into decisions.

BY MS. HEARNE:

Q And I would understand if someone were -- were being released the next day, but would it be important for the doctor who is treating the inmate to notate in the file life sentence?

MR. GEDDES: Objection. Vague and ambiguous as to who is being referred to by the question; the doctor in that regard; calls for speculation; vague and ambiguous as to important. Again, we're dealing with a hypothetical doctor and patient, so that calls for a hypothetical, and an incomplete hypothetical.

THE WITNESS: If a doctor has information that someone would be -- have a certain sentence structure, it may be relevant if the treatment is, for example, a year, then one would want to know if the person was leaving before a year.

BY MS. HEARNE:

Q Have you ever notated in an inmate's file the

length of their sentence?

A I have no recollection of a specific time I did that. But I've also been writing for 25 years, so I have no idea.

Q Did you treat an inmate named Nolan Klein?

A Yes.

Q Do you recall what his -- the terms of his sentence were -- the term of his sentence was?

A I remember that he had a lengthy sentence. The reason I remember that is because when we were considering a compassionate release, that came to my attention.

Q And do you recall anything other than it was a lengthy sentence?

A No.

Q Do you recall what the underlying charge was for his lengthy sentence, his conviction?

A I did not realize what his charge was. I'm not sure of his charge. I have heard rumors, but that's speculation, and it's irrelevant to me.

Q And what was the rumors thing?

MR. GEDDES: I'll just instruct the witness not to answer the question if the source of the information that you're referring to is from attorney/client communications.

THE WITNESS: Since my information is from other

people, then, such as Mr. Geddes has said, then I would say no.

BY MS. HEARNE:

Q So the rumors you were referring to were things that were told to you by your attorney?

MR. GEDDES: Again, I would interpose the objection and admonish the witness not to disclose the substance of communications between attorney and client.

BY MS. HEARNE:

Q In that substance. I'm just asking if you received information that you were referring to as rumors from the Attorney General's Office.

MR. GEDDES: My objection is, what you're asking is did Mr. Geddes tell Dr. Gedney that Nolan Klein had -- what his sentence was for. And to the degree that you're characterizing it as, you know, a fact, that fact would implicate divulging what the communications are.

I think what the witness can say is, if there are sources other than attorney/client communications from which she's testifying, she can testify as to that.

THE WITNESS: And I will say that I'm confused in my memory where I heard his potential charge, because I had had information talked [sic] to me from different legal sources, as well as other sources. So I'd be unable to say where I heard it, because I don't pay attention to them.

BY MS. HEARNE:

Q And --

MS. HEARNE: Well, counsel, are you going to restrict her from answering, since she can't recall?

MR. GEDDES: I would instruct the witness simply not to divulge attorney/client communications.

THE WITNESS: And then I won't divulge, because I don't know.

BY MS. HEARNE:

Q Do you recall the time frame within which you received information about the underlying conviction for which Mr. Klein was serving his term?

A I don't remember.

Q Was it during the time that you were treating Mr. Klein?

A No.

Q Was it after the time you were treating Mr. Klein?

A I believe so.

Q What -- what is your medical opinion of what test you administer to determine if a patient has cirrhosis of the liver?

MR. GEDDES: Objection. Foundation. May be vague and ambiguous as to test for cirrhosis of the liver. And may be vague and ambiguous as to time frame.

THE WITNESS: That depends on many factors. If one is looking at cirrhosis, there are many different reasons why a person has cirrhosis, and therefore, there are different tests that can be done. So it depends on a particular case.

BY MS. HEARNE:

Q What if someone -- what if one of your patients have cirrhosis of the liver, and you suspected that it was caused by Hepatitis C.

What sort of testing would you do?

MR. GEDDES: Objection. We're dealing with a hypothetical patient, so it calls for a hypothetical; incomplete hypothetical.

THE WITNESS: So I would still say it depends on the particular person, but if it was an individual who was an IV drug addict who had underlying liver problems, then one suspicion would be Hepatitis C, and then I would ask for a Hepatitis C test.

BY MS. HEARNE:

Q Would you also ask for any kind of test that would confirm or not whether the person had -- the patient had cirrhosis of the liver?

MR. GEDDES: Same objections.

THE WITNESS: It depends on the patient, how they present clinically.

BY MS. HEARNE:

Q And what sorts of symptomatology would you be looking for in order to confirm by testing for cirrhosis of the liver?

MR. GEDDES: Objection. Vague and ambiguous. Again, we're dealing with a hypothetical patient, in that it calls for speculation and incomplete -- calls for a hypothetical, speculation, and incomplete hypothetical.

THE WITNESS: So if one generally looked at a person and felt that the person had cirrhosis, there are certain physical things that you possibly could see. And those could include things like ascites, which is fluid in the belly; you would potentially see easy bruising from low platelets. You could see gynecomastia, which is breast enlargement because of estrogen effect. You could see spider angiomata, from increased portal hypertension. There are many different things you could potentially see.

BY MS. HEARNE:

Q And would any of those symptoms cause you to believe that they should be tested, or there should be some kind of testing to confirm whether or not they had cirrhosis of the liver?

MR. GEDDES: Objection. Vague and ambiguous as to testing; dealing with an incomplete hypothetical; speculation concerning a hypothetical patient. Also vague

and ambiguous.

THE WITNESS: The decision of what is done in medicine is always based on the particular patient and their presentation.

BY MS. HEARNE:

Q Do you test inmates who are going to be administered Interferon and Ribavirin, which I can't say very well, for cirrhosis of the liver?

A If someone considered for Hepatitis C treatment, there are certain things that are assessed. They include things like assessment of the blood work; if someone, for example, has significant thrombocytopenia or significant anemia, then that person would not be considered a candidate.

If someone had significant coagulation problems, which would be determined by PTs and INRs, they would be a high-risk person. So there are different blood studies where one can get a medical understanding of whether someone has significant cirrhosis. There are multiple stages of cirrhosis.

Q Was there any treatment available for Hepatitis C when you began work at the Nevada corrections system?

MR. GEDDES: Foundation. Assumes facts not in evidence.

THE WITNESS: In 1987, when I started, there was not a blood test specific yet for Hepatitis C.

BY MS. HEARNE:

Q And because of that, was there any treatment available?

A If --

MR. GEDDES: Same objections. Foundation as to the first existence or knowledge of Hep C.

THE WITNESS: So I'm unclear what you're saying, but from what I understand, if medically you do not have a test for a particular entity, then there -- at that time, there's no specific treatment for an entity that did not yet have a name.

BY MS. HEARNE:

Q Do you recall what year the term "Hepatitis C" was identified so that it, in fact, had a name, as you described?

A I don't know the exact year, but if memory serves me correct, it's around the early 1990s that a blood test actually was developed to identify it.

Q And do you recall when at the Nevada Department of Corrections inmates were tested by blood test for the Hepatitis C?

MR. GEDDES: Foundation.

THE WITNESS: I do not specifically remember a

date.

BY MS. HEARNE:

Q Okay. Could you state with any certainty a date by which you knew that they were being tested by blood test for Hepatitis C at the Nevada Department of Corrections?

MR. GEDDES: Vague and ambiguous as to test for Hepatitis C. It's not clear whether you're referring to a screening or testing at some later time based on factors.

THE WITNESS: If you are referring to a blood test for Hep C, then my memory is that in the '90s and after, of course, the test came out, I would think somewhere in the early '90s, '93 onward.

BY MS. HEARNE:

Q When is the first time you recall an inmate at the -- in the Nevada Department of Corrections being given a blood test, identified that they had a Hep C, and then being treated?

MR. GEDDES: Compound.

THE WITNESS: So first of all, I don't specifically remember when that would have been. And there are two parts: One is the test itself, which I said was somewhere in the early '90s.

In terms of treatment, treatment was developed after that test. And the treatment was only straight Interferon, and was very poor at impacting the virus at

all. And I have no recollection of the years, or the year that we actually gave treatment to a person. I don't remember.

BY MS. HEARNE:

Q When is the first time that you recall treatment being administered to inmates at the Nevada Correctional -- in the Nevada Correctional Department for Hepatitis C; just your first recollection of it occurring?

MR. GEDDES: Vague and ambiguous as to treatment.

THE WITNESS: So in terms of Hep C treatment, if you mean giving a drug to make an attempt to reduce a virus, with not knowing what ultimate effect you would have, somewhere, I believe, in the '90s, I think the first individual we tried the medication on, which was Interferon, was a gentleman who had significant lymphadenopathy and significant splenomegaly that an oncologist looked at. We assessed that the individual did not have cancer, which we first suspected, and because he had underlying Hep C, the thought medically by the oncologist was that we should attempt to reduce the Hep C.

There was no knowledge of whether it would make an effect. I do remember, because he was one of the first individuals, that his lymphadenopathy and his splenomegaly decreased. And then when the treatment was stopped, the

virus returned. And then his adenopathy and his splenomegaly returned again.

BY MS. HEARNE:

Q And do you recall that was, you think, sometime in the '90s?

A Somewhere in the '90s, I believe.

Q How is Hepatitis C treated in the inmates at the Nevada correctional system today?

MR. GEDDES: Foundation; vague and ambiguous as to treatment; and may call for speculation.

THE WITNESS: Hep C treatment is a difficult topic. When individuals describe treatment, they actually mean an attempt to reduce a virus. There are no clinical trials giving information that we are actually curing a process. That's unclear, because there have been no randomized trials.

But when one looks at reducing a virus, the Department looks at specific patients that are assessed to have constitutional complaints.

Many individuals have no symptoms whatsoever, and do not complain, nor is it clear that we should subject them to treatment that may harm them.

There are occasionally patients that have complaints that may or may not be related to Hep C, and then those individuals are considered for potential

treatment in terms of making effect at reducing a virus.

BY MS. HEARNE:

Q And is that treatment the same for all inmates --

MR. GEDDES: Same objections.

BY MS. HEARNE:

Q -- if you've chosen them to be treated?

MR. GEDDES: Same objections. And now because there's an "if," speculation, hypothetical, incomplete hypothetical.

THE WITNESS: So if I'm understanding the question regarding treatment, treatment is reduction of virus; that's all it means. And depending on variables such as genotypes, and whether a person could go through a treatment, it varies.

BY MS. HEARNE:

Q So you would not expect that the treatment -- or you could not state that the treatment is generally Interferon, and the word that starts with an R, Riba --

A Ribavirin.

Q Ribavirin, yes.

MR. GEDDES: Vague and ambiguous as to what treatment and whom we're talking about.

THE WITNESS: Treatment has varied over years, and one would have to be specific about the years and what

specific patient one was talking about.

BY MS. HEARNE:

Q How long has the Nevada Department of Corrections treated inmates with -- who have Hepatitis C with Interferon and Ribavirin?

A Interferon and Ribavirin --

MR. GEDDES: Counsel, I'm -- I'm sorry. Just a point of -- vague -- are you talking about -- Counsel, are you asking -- is the question the combination of Interferon and Ribavirin, or one or the other?

MS. HEARNE: That combination.

MR. GEDDES: Thank you.

THE WITNESS: So the combination of Interferon and Ribavirin was brought to the market, I would -- I don't know the exact year it was brought to the market. Somewhere in the 2000s, and I also don't remember when we used those products, but I do know they had been used. I just don't remember the year.

BY MS. HEARNE:

Q Do you believe it's been more than five years?

A I believe so.

Q Do you, as a medical professional, have any concern about administering Interferon and/or Interferon and Ribavirin to an inmate patient who has cirrhosis?

MR. GEDDES: Objection. Vague and ambiguous as

to concern. Also we're dealing with a hypothetical inmate, so calls for a hypothetical, incomplete hypothetical, and speculation.

THE WITNESS: That question is difficult, because you'd have to describe what someone medically meant by cirrhosis. There are different stages of cirrhosis.

BY MS. HEARNE:

Q Is there any stage of cirrhosis that would give you concern about administering either Interferon or a combination of Interferon and Ribavirin to an inmate patient?

MR. GEDDES: Same objections.

THE WITNESS: Medically, if an individual had what is known as decompensated cirrhosis, that is someone that medically I would have concern about giving a treatment like Interferon and Ribavirin.

BY MS. HEARNE:

Q Have you ever -- do you ever recall making the notation or medical notation "spider on chest"?

MR. GEDDES: And foundation and vague and ambiguous as to notation -- are you talking about medical records?

MS. HEARNE: Medical records.

MR. GEDDES: Okay.

THE WITNESS: So if we're talking about medical

records, then I would like to refresh my memory regarding what specific note we are talking about.

BY MS. HEARNE:

Q Maybe I can make that easier by just asking, does the term -- is the term "spider on chest" a medical notation? As a medical notation, what does that mean to you?

A To me, it only means spider angiomata.

Q What is that?

A Spider angiomata means dilated superficial capillaries of the skin surface related to portal hypertension.

Q Do you recall when the diagnosis of Hepatitis C was able to determine what kind of Hep C; that is, Type 1, Type 2? Do you recall when that was available to you?

MR. GEDDES: Vague and ambiguous.

THE WITNESS: The genotypes came out years ago. I do not remembering the exact years.

BY MS. HEARNE:

Q In your treatment of Nolan Klein, do you recall what type of Hepatitis C that he had?

MR. GEDDES: Foundation; vague and ambiguous.

THE WITNESS: I --

MR. GEDDES: Do you --

THE WITNESS: I would have to refresh my memory.

I have thousands of patients.

MR. GEDDES: Let the record reflect that there's a binder in front of Dr. Gedney containing medical records of Nolan Klein.

MS. HEARNE: Okay.

BY MS. HEARNE:

Q Is there any difference in the -- in 2007, was there any difference in the kind of treatment for Hepatitis C Type 1 or Type 2?

MR. GEDDES: Vague and ambiguous as to treatment.

THE WITNESS: So if we're referring to reduction of virus in the blood, there is a difference between the effect of Interferon and Ribavirin on Genotype 1 versus Genotype 2.

BY MS. HEARNE:

Q Is there a way to summarize what that difference is?

MR. GEDDES: Same objections.

THE WITNESS: If --

MR. GEDDES: And calls for a narrative, and also speculation since we're dealing with hypothetical patients, hypothetical; incomplete hypothetical.

THE WITNESS: So the only thing that I could discuss is vague statistical information that is in the

literature, and that is that Genotype 2 is -- can have an easier reduction in virus than Genotype 1.

BY MS. HEARNE:

Q Were there any guidelines adopted by the -- or standards or protocol guidance adopted by the medical department of the Department of Corrections of Nevada between the years 2000 and today about the length of time between diagnosis of Hepatitis C and the determination of treatment?

MR. GEDDES: Vague and ambiguous as to guidelines, protocols, and things of the like. Also compound, and may call for speculation concerning other people. And the promulgation or adoption of such standards or guidelines.

THE WITNESS: I would have to look at the guidelines at that year, because I don't specifically remember them.

BY MS. HEARNE:

Q Do you have any recollection if there are any guidelines, protocol, directions, directives, or any policies about treatment today, on the same -- you've determined that someone has Hep C. How long before you start treatment?

MR. GEDDES: Same objections, and then the objection with respect to treatment, we're dealing with

hypotheticals, so incomplete hypothetical and speculation.

THE WITNESS: I do not remember a specific policy, and medical care is assessed by a case-by-case basis.

BY MS. HEARNE:

Q Are you familiar with the term hemochromatosis?

A Yes.

Q And how do you define that term medically?

A Medically, there is hereditary hemochromatosis. It is an autosomal dominant genetic disorder where individuals will have excessive iron absorption and deposition in multiple organs. That's one definition.

Q Do you have another?

A People use the term "hemochromatosis" occasionally inappropriately when they are talking about iron overload syndromes as well.

Q Have you ever treated anyone who had hereditary hemochromatosis?

A Yes.

Q Is that in the prison?

A Yes.

Q And how many persons have you treated with the hemochromatosis?

MR. GEDDES: I'm sorry. Vague and ambiguous as to which reference to hemochromatosis.

MS. HEARNE: The hereditary. I'm only using the hereditary.

THE WITNESS: So I remember distinctly one case of hereditary hemochromatosis in a young man who we did treat. We did have a genetic test showing he was a homozygote, meaning he had two genes for the disorder. He also, I distinctly remember, did not have Hepatitis C. So his case was treated with phlebotomy.

MR. GEDDES: Can you spell that for the court reporter?

THE WITNESS: Phlebotomy? P-H-L-E-B-O-T-O-M-Y.

MR. GEDDES: Thank you.

BY MS. HEARNE:

Q And when you say "we treated," did you mean the Department of Corrections' medical personnel?

A When I use the term "we," I refer -- I was referring to medical personnel in the Nevada Department of Corrections.

Q And in the case that you referred to, was -- was there any outside consultation regarding that hereditary hemochromatosis?

THE WITNESS: No.

MR. GEDDES: Foundation; vague and ambiguous with respect to the term "outside consultation."

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BY MS. HEARNE:

Q By a medical.

A I do not remember any outside specialist involved in the case.

Q Can Hepatitis C result in a patient showing an iron overload?

MR. GEDDES: Incomplete hypothetical; speculation as to the hypothetical patient; and vague and ambiguous as to who was perceiving this.

THE WITNESS: So if one asks medically regarding iron, iron is something that can be laid down from multiple different inflammatory states. It can be related to alcohol, poisons, such as nicotine, infectious disorders, inflammatory things, such as the different hepatitis viruses. So there are medically different things that can lay down iron.

BY MS. HEARNE:

Q Did you ever prescribe, if you recall, a phlebotomy be administered to Nolan Klein?

A I do remember that, yes.

Q Do you recall when that occurred?

A I remember it was as a last-ditch effort, and that when we attempted that, it was not because I felt that he had hemochromatosis, because we had information that the genetic studies were negative; it was more that it was late

in his disease, and every other option had been taken, and it was something I thought -- there was nothing else to try, so I attempted it.

Q And when you say "late in his disease," which disease are you referring to?

A I am referring to his underlying liver disease.

MR. GEDDES: Counsel, she can refer to the record and give you an exact date to answer your question if you like. It's right in front of her.

MS. HEARNE: That's good.

BY MS. HEARNE:

Q Was there -- did you seek any consultation from a doctor outside the Department of Corrections prior to prescribing the phlebotomy for Nolan Klein?

MR. GEDDES: Vague and ambiguous as to the reference to the consultation.

THE WITNESS: I do not remember involving an outside consultant, though I do talk to outside consultants frequently in my work.

BY MS. HEARNE:

Q Can you describe to me what the term "viral load" means to a medical professional?

MR. GEDDES: Vague and ambiguous as to the person defining it.

THE WITNESS: So viral load, it would depend on

what specific person we're talking about. If we're talking about, for example, a Hep C individual, viral load would be the amount of the viral particles per milliliter of blood.

BY MS. HEARNE:

Q Was -- is viral load something that can be tested for, to determine what it is?

MR. GEDDES: Vague and ambiguous.

THE WITNESS: So if you are asking a viral load regarding a Hepatitis C patient, medically we only are concerned with looking at a viral load if we are actually going to consider truly treatment.

BY MS. HEARNE:

Q If an inmate has -- or if you were able to test for viral load in an inmate who has Hepatitis C, would you test for that viral load even if you were treating another malady or disease?

MR. GEDDES: Vague and ambiguous as to the patient; as such, calls for a hypothetical; incomplete hypothetical.

THE WITNESS: I'm actually confused by the question.

Could you be more specific?

BY MS. HEARNE:

Q Certainly. Let's say that an inmate has underlying Hepatitis C, but they have contracted MRSA.

Would their viral load be a consideration, or would you be able to test for it?

MR. GEDDES: Same objections.

BY MS. HEARNE:

Q Or would you test for it because of treatment of another illness?

MR. GEDDES: Same objections. And also vague and ambiguous as to MRSA and its stages.

THE WITNESS: So it's still a very confusing question to me. If we broke it down into parts, the two are actually unrelated.

BY MS. HEARNE:

Q Viral load and treatment?

A Excuse me. When I said "unrelated," you are asking a question with MRSA, and you are asking a question with Hep C. So the way the question is asked, these are unrelated items.

(Telephone ringing.)

Q If -- I apologize for the phone.

Nolan Klein had underlying Hepatitis C?

A Correct.

MR. GEDDES: Vague and ambiguous as to time frame.

BY MS. HEARNE:

Q Do you recall that he contracted MRSA while he

was being treated at the Nevada Department of Corrections by you?

A I remember that he did have MRSA.

MR. GEDDES: I'm sorry. The question was while he was being treated for Hep C, and you said that you recall that he had MRSA. So I would just --

MS. HEARNE: No, I was saying he was under her treatment and care --

MR. GEDDES: Okay.

MS. HEARNE: -- when he --

MR. GEDDES: So it's a clear record, I want to make sure that the question you asked was -- it appears to be the question asked, was he treated simultaneously, so however you want to ask the question or answer it, that's fine, but I just want the record to be clear that that's the likely interpretation of the transcript. So if you want to clarify her question, or answer it, that's fine.

THE WITNESS: What I thought I heard you ask is do I remember that he had MRSA.

BY MS. HEARNE:

Q Correct.

A And that is yes, I remember that he had MRSA.

Q And were you aware at the time that he contracted the MRSA, that he had been diagnosed with Hepatitis C?

A The -- the -- he had Hepatitis C diagnosis. And yes, he had MRSA.

Q So did you treat him for MRSA?

A Yes, I did.

Q Did you have any reason to determine what his viral load was prior to treating him for the MRSA?

A Actually, medically if someone has MRSA, what is important is treating the infection with IV antibiotics. Medically, it actually is a moot point what the underlying virus count for Hepatitis C is.

Q Okay. Prior to treat -- did you -- was there a time in which you prescribed treatment for Nolan Klein's Hepatitis C?

MR. GEDDES: Vague and ambiguous as to treatment.

BY MS. HEARNE:

Q As you've defined it, reducing the --

A Right. But, I'm sorry, you have to repeat that. I sort of was spaced or lost on what you were saying.

Q Okay.

A What did you say?

Q At any time during the time that you treated Nolan Klein, did you prescribe any treatment to reduce the virus due to Hepatitis C?

A Yes, I did.

Q Okay. Would it have been important, or did you check, or do you -- was it a consideration of what his viral load was prior to treatment for Hepatitis C?

A Medically, the reason we look at a viral load is to determine whether the medication will reduce it, because if it does not reduce it within a certain amount of time, then the treatment is inefficacious, and then we stop.

Q So it's important for comparison purposes?

A Correct.

Q Do you recall if Nolan Klein was treated for above-average blood pressure?

A I --

MR. GEDDES: Vague and ambiguous as to above average.

THE WITNESS: If we are looking at hypertension, where the standard is technically 140 over 90, since I have reviewed his records recently, I did see that he was treated for high blood pressure.

BY MS. HEARNE:

Q And do you recall if he was treated for high blood pressure during the -- what I would consider the last two years, 2007 to 2009?

A I have no specific recollection.

Q Okay. And do you know why treatment of blood pressure, high blood pressure would have ceased at any time

during the last five years --

MR. GEDDES: Speculation --

BY MS. HEARNE:

Q -- that he was treated?

MR. GEDDES: -- as to what other people reasoned for why that may have occurred, if it occurred.

THE WITNESS: So I would have to look at records, but if we look at individuals with high blood pressure, people who stop smoking or lose weight, for example, their blood pressures can go into a normal range, and they would not benefit from medications. But I do not know specifically about Mr. Klein's particular issues regarding that.

BY MS. HEARNE:

Q Can you describe what portal hypertension is?

A Yes.

Q Could you?

A Portal hypertension is where you will see fibrosis and scarring in the liver. The venous drainage system into the liver, therefore, is under a higher pressure system. Then what can occur is the splenic circulation through the intestinal tract can have a higher pressure, which can include leaking of fluid into the abdominal cavity, which is known as ascites.

You have the venous drainage system from the

legs draining through the liver. Back pressure from that can cause swelling in the legs.

You have the venous drainage system from the esophagus draining through the liver. That can have back pressure, so you can have dilated veins in the esophagus, and they would be known as varices.

Q Is there any treatment to relieve the symptoms that you've just described for this?

A There are different medications that are used to help the process. And it is always dependent on which specific patient we're talking about.

But in general, those medications would be in the diuretic class, to reduce fluid and excess salt on the body. It would also include trying to get an individual to reduce salt in their diet. And those are the majority and the most important.

Q Do you recall when the MRSA diagnosis first occurred in the Department of Corrections in Nevada when you were working there?

MR. GEDDES: Vague and ambiguous.

THE WITNESS: I'm not sure what you mean. If you mean the first time I ever saw MRSA in the prison itself, I have -- I do not remember the specific date, but it is a very common infection, and so it would have been possibly already in the '80s when I was working.

MR. GEDDES: I just -- at this point, I would like to interject an admonition that was not given to you at the beginning of your deposition. At no time in your deposition are you to speculate. If you have an informed opinion or estimate, you can give that, but if it's speculation or sheer guesswork, you know, you are not to offer those types of opinions, because that is unreliable and inadmissible at trial.

BY MS. HEARNE:

Q Perhaps I should ask it this way: What was your first instance of dealing with an inmate who was diagnosed with MRSA, time frame?

A I -- I don't specifically remember a date. It is a -- it's an infection, and if the medical department saw an infection, then an infection would be treated with antibiotics. But I have no recollection of specific dates.

Q By 2007, was there a particular protocol, policy, guideline, directive, in the medical department of the Department of Corrections about how to deal with someone who -- an inmate who was diagnosed with MRSA?

MR. GEDDES: Vague and ambiguous as to guideline, protocol, and the like.

THE WITNESS: I don't remember anything specific regarding a protocol.

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BY MS. HEARNE:

Q Was there any guidelines, protocol, directives with regard to dealing with MRSA because of its infectious nature at the Department of Corrections in Nevada?

MR. GEDDES: Same objections. And vague and ambiguous as to dealing with.

THE WITNESS: I don't specifically remember any written policies or directives.

BY MS. HEARNE:

Q How then did you, as a doctor at the Department of Corrections, react to an inmate who was diagnosed with MRSA, based upon the infectious nature of the MRSA?

MR. GEDDES: Objection. Dealing with a hypothetical inmate; therefore, it calls for a hypothetical, incomplete hypothetical, and speculation. And vague and ambiguous as to time.

THE WITNESS: Medically, if a general individual had MRSA, that's an infection, and it would be treated with antibiotics.

BY MS. HEARNE:

Q Was there anything done particularly to isolate the inmate who had MRSA because of its infectious nature?

MR. GEDDES: Vague and ambiguous as to whom you're referring to. If other people are referred to, then that would be speculation. And if we're dealing a

hypothetical inmate, same objections. It's hypothetical; incomplete hypothetical.

THE WITNESS: The treatment is always dependent on the specific circumstance.

BY MS. HEARNE:

Q And I appreciate that with regard to the treatment, but is there any precautions taken by either medical personnel or other inmates because an inmate has been diagnosed with MRSA?

MR. GEDDES: Vague and ambiguous as to precautions; vague and ambiguous as to who you're talking about. And again, we're dealing with a hypothetical, fictitious inmate. It's vague and ambiguous as to the circumstances, the time frame, who is dealing with this person; lacks foundation; hypothetical; incomplete hypothetical, and speculation.

THE WITNESS: So I'd need a specific case, but it is dependent. Medically if someone has medically -- there are universal precautions, which basically means that infectious material is handled in a way where you minimize exposure to other people. So my medical staff is -- for example, wears gloves when they deal with blood or secretions. But those are universal precautions.

BY MS. HEARNE:

Q And not particular to MRSA; is that what you're

saying?

A No, not particular, no. That's an infection. There are many different infections.

Q Would you consider MRSA to be more contagious just than the average staph infection that you treat?

MR. GEDDES: Vague and ambiguous as to average staph -- average staph infection; vague and ambiguous as to the circumstances; hypothetical; incomplete hypothetical; speculation.

THE WITNESS: There are multiple different staph infections, and you would have to determine staphylococcus epidermidis, staphylococcus multifidus. It all depends what you're talking about.

BY MS. HEARNE:

Q Were you ever made aware that the Nevada Department of Corrections was inadequate in its containment of MRSA in that -- just were you ever made aware of that?

MR. GEDDES: Objection. Lacks foundation; assumes facts not established.

THE WITNESS: What's the question?

BY MS. HEARNE:

Q Were you ever made aware that the Nevada Department of Corrections was inadequate in containing the MRSA infection?

A What do you --

MR. GEDDES: Same objections. Plus vague and ambiguous as to inadequate; vague and ambiguous as to containing, and also by whom.

THE WITNESS: Because I'm in -- I'm confused what you mean by inadequate.

BY MS. HEARNE:

Q For example, that MRSA was being -- that persons were being exposed to it if they visited inmates at the Nevada Department of Corrections?

MR. GEDDES: Same objections. Vague and ambiguous.

THE WITNESS: And that is dependent on many different variables.

BY MS. HEARNE:

Q But you were never made aware that --

A I was --

MR. GEDDES: Same objections.

THE WITNESS: I -- I'm confused on commenting, but I feel medically that the medical department tries to do universal precautions.

BY MS. HEARNE:

Q If Nolan Klein were diagnosed with MRSA, as he was, and was not isolated from other inmates, was that appropriate medically for the protection of other inmates from being exposed to MRSA?

MR. GEDDES: Objection. Lacks foundation; assumes facts not established; vague and ambiguous with respect to what incident we're talking about; and given that one is not specifically mentioned, may call for a range of opinions; hypothetical; incomplete hypothetical; incomplete facts.

THE WITNESS: I would have to see the particulars you were actually talking about, because it's based on variables that are not concrete. Diagnosis does not necessarily imply that the person is infectious at the time. It depends on whether the person is on treatment or not treatment. It's dependent on whether a nurse is wearing gloves or not. So it's not -- it's dependent on multiple different variables.

BY MS. HEARNE:

Q Is there any time frame in your own mind that you believe is important with regard to the date of diagnosis and the date treatment begins, with someone who has been -- with an inmate who has been diagnosed with MRSA?

MR. GEDDES: Same objections. Hypothetical inmate; calls for a hypothetical; incomplete hypothetical; lacks foundation.

THE WITNESS: Treatment of MRSA is dependent upon a particular case. And so I would need to know that

particular case to comment.

BY MS. HEARNE:

Q Would you describe generally that if an inmate is diagnosed with MRSA, that treatment should begin immediately?

MR. GEDDES: Exact same objections. And vague and ambiguous as to immediately.

THE WITNESS: Medically, if someone has MRSA, it is dependent on the case and what clinical symptoms the person has. And then that constitutes what I would consider how and when someone should be treated.

BY MS. HEARNE:

Q Do you recall how long it was between the date that Nolan Klein was diagnosed with MRSA and that his treatment began?

A I have no recollection of the specific time frames.

Q What does the term "rule out MRSA," M-R-S-A, mean when it is given to a laboratory?

MR. GEDDES: Vague and ambiguous as to who is making that statement to a laboratory; and if it's other than this witness, calls for speculation.

THE WITNESS: If I sent in a specimen saying "rule out MRSA," then that is a laboratory diagnosis done by a bacteriology lab.

BY MS. HEARNE:

Q In your experience, in 2007, if you recall, how long from the time frame that you referred a lab specimen to the lab would it take to get it returned that ruled out MRSA or did not?

MR. GEDDES: Objection. Vague and ambiguous as to the entire question, and compound. Also incomplete hypothetical. And speculation.

THE WITNESS: If a specimen went to a bacteriology lab, on the average, it would take three to four days for a bacteriology lab to identify an organism and do an ultra-sensitivity report.

BY MS. HEARNE:

Q Do you recall if you ever requested that Inmate Nolan Klein remain at Northern Nevada Medical Center -- what is it called? -- Northern Nevada Correctional Center in the year 2005?

A I have no specific recollection of classification issues for 2005.

Q Do you have any recollection of classification issues regarding Nolan Klein remaining at NNCC in 2006?

A I don't remember information from years ago on movements.

Q Do you remember at any time that you requested that Inmate Nolan Klein remain at NNCC?

A I don't have a specific recollection.

Q Do you have a general recollection?

A Actually, I don't really remember what happened years ago in that particular case regarding that particular question.

Q Do you ever make a request that an inmate remain at a particular institution for purposes of medical treatment?

A Yes. For example, we have patients who are on dialysis where the NNCC is the only facility that has dialysis units, so then I will request that they stay at NNCC, because they would have to be transported three times a week.

Q And who do you make that request to?

A There is a classification form that I fill out.

Q And who does that go to?

A Classification.

Q Is that a committee? A department?

A Actually, I'm not sure.

Q Okay. Can you explain what hepatic encephalopathy means? Pardon my pronunciation.

A Hepatic encephalopathy medically means that an individual has an ammonia level that is usually high, and that that ammonia affects the way the brain processes information, so that they can become confused. And if the

level and the confusion is great enough, they can slip into a coma.

Q What are the -- the signs or symptoms of -- of that particular -- rather than pronouncing it again, the same thing I just said before?

A So the signs of hepatic encephalopathy, there are degrees. First, you would tend to see confusion. And that confusion may progress to the point that the person becomes truly comatose and unresponsive to stimuli.

Q Is Warm Springs Correctional Center equipped, in your opinion, to treat patients with MRSA -- inmates with MRSA?

MR. GEDDES: Vague and ambiguous as to the terms "equipped" and "treat."

THE WITNESS: MRSA, since it is a diagnosis that has a range of conditions, one would have to be specific about the question. But Warm Springs does have nurses, they have doctors, and they can take care of MRSA, unless someone would need, for example, IV antibiotics, which the regional medical facility does, which Warm Springs does not.

BY MS. HEARNE:

Q Have you ever heard the term -- or have you, while you've been employed at the Nevada Department of Corrections, heard of the term "compassionate release"?

A Yes.

Q What does it mean to you?

A To me, my understanding is that if an individual has less than six months of life, then a physician that is employed by the Nevada Department of Prisons, as well as an outside physician, if both state that the person has less than potentially six months of life, that information can be sent to central office. And central office evaluates the case, and they make a determination whether that individual can be released on a compassionate basis.

Q And who is central office?

A Central office would include the -- well, many people are in central office, but I believe the people particularly involved in the compassionate release are individuals such as medical director and the director of prisons, and I am not sure who else is technically in that decision-making capacity. They usually have other people as well.

Q Would central office then inquire of the physician who referred the inmate for compassionate release any further? Once the referral was made, do they call you in to ask you questions?

MR. GEDDES: Vague and ambiguous; may call for speculation.

THE WITNESS: If you're asking me had anyone

asked me to come to central office, the answer would be no.

BY MS. HEARNE:

Q Have you ever referred an inmate for compassionate release by sending that referral to the central office?

A I have written medical summaries for compassionate release on inmates in the past, though it is rare.

Q How often have you done it during the time you've been employed at the Department of Corrections in Nevada?

A I don't have a specific recollection, though I do remember the first case, because he left prison, and six days later committed armed robbery.

Q And was that one that you had particularly referred?

A He had AIDS, and I remember this case because the Governor of Nevada was extremely unhappy that the gentleman committed armed robbery six days later.

Q And who would have been the Governor at that time?

A I believe that was Miller, though I must say politicians don't necessarily stick in my mind specifically.

Q Do you recall -- so you don't recall how many

that you have referred for a compassionate release?

A Not, not the exact number.

Q Would it be less be 10?

A I would say it's more than 10.

Q Okay. Less than 20?

A Close to 20.

Q Did you write such a report as a referral for Nolan Klein?

A Yes.

Q At what time?

A I don't remember a specific date.

Q Was it while he was still living?

A Yes. At least -- that's the only way I would do that.

Q I'm just trying to narrow the time frame.

A Okay. I got confused there.

Q I know sometimes attorneys ask questions that -- did you -- do you recall if it was within the year prior to the time that he died?

MR. GEDDES: Objection. May misstate testimony with respect to her testimony about six months' expectancy of life.

THE WITNESS: I would have to look at the records. I don't remember the dates.

///

BY MS. HEARNE:

Q Were you ever asked -- were you -- did you ever discuss this compassionate release with any member of his family?

A I don't remember that.

Q Did you believe that the request for compassionate release would have -- would be successful?

MR. GEDDES: Speculation with respect to other people making decisions out of this witness's control.

THE WITNESS: I never know what central office's decision will be.

BY MS. HEARNE:

Q Did you -- did you ever have an inclination prior to sending a case for compassionate release, what they would approve and what they would not?

MR. GEDDES: Vague and ambiguous.

BY MS. HEARNE:

Q Did you ever get a sense of that?

MR. GEDDES: Vague and ambiguous.

THE WITNESS: I don't -- I don't have a sense of what other people do.

BY MS. HEARNE:

Q Was there another doctor, an outside doctor, who also submitted a report with regard to Nolan Klein's compassionate release?

A I believe so.

Q And who was that?

A I don't remember the specific name. I would have to look at the records for the specific name.

Q Okay. Can you describe to me your understanding, as a medical professional, of what the term "second level testing for liver function" is?

A That is terminology that is not common in my usage, and would be very dependent on what the person using it meant. But that is not common.

Q Do you recall the basis upon which you sent the refusal -- statement, or whatever you call it, for the compassionate release for Nolan Klein?

MR. GEDDES: May call for a narrative.

THE WITNESS: I actually -- I don't remember why I sent that. Generally, it can sometimes be asked from inmates, families, so -- but I don't specifically remember in his case.

BY MS. HEARNE:

Q And do you recall the medical basis upon which you sent the referral for a compassionate release?

A Since the compassionate release is expected medical expectation of death in six to twelve months, it would be a medical evaluation that would make me believe that someone had less than six to twelve months, knowing

that medically that is always a hypothetical estimate.

Q And do you specifically recall today what your reasoning was for believing that Nolan Klein would not survive more than six months when you referred him for the compassionate release?

MR. GEDDES: Asked and answered.

THE WITNESS: I don't remember why I, in that particular case, sent it at that particular time.

BY MS. HEARNE:

Q Did -- did you have -- during the time frame 2005 to 2009, did you have regular meetings with any official of the Department of Corrections, other than the medical staff?

MR. GEDDES: Vague and ambiguous as to regular meetings.

THE WITNESS: I'm not sure what you mean. That's four years. And there are different individuals that I may interact with, including AGs.

BY MS. HEARNE:

Q Is there a regular staff meeting in which the, for example, the warden of the NNCC, is involved with the medical staff?

MR. GEDDES: Same objection. Vague and ambiguous as to regular staff.

THE WITNESS: Regarding the warden, I do not

have any meetings with the warden.

BY MS. HEARNE:

Q Are there any administrative staff that you have a regular meeting with --

MR. GEDDES: Same objection.

BY MS. HEARNE:

Q -- during that time frame?

A You would have to ask me what particular staff. I eat lunch with my other doctor every day.

Q But I meant persons outside the medical staff; persons who are administration or not medical staff.

Is there anyone that sets up a regular meeting with you as medical staff who is not a part of the medical staff?

MR. GEDDES: Same objection as to regular meeting.

THE WITNESS: And I don't know what you mean by regular meeting. Is it regular, once a year? Once every five years?

BY MS. HEARNE:

Q Any time frame that you can describe.

Is there any kind of regular meeting that you have with other than medical staff?

MR. GEDDES: Same objection.

THE WITNESS: A medical director may call for a

meeting. And that time sequence is up to them, and if the word "regular" is used as a mathematical term, no.

BY MS. HEARNE:

Q Did you have any interaction with administration or other than medical staff about treatment of inmates?

MR. GEDDES: Same objection. Vague and ambiguous as to treatment and as to the particular inmates in question.

THE WITNESS: What treatment are we talking about?

BY MS. HEARNE:

Q Any treatment anyone would direct you -- would discuss with you treatment of an inmate, other than medical staff?

MR. GEDDES: Same objections.

THE WITNESS: As I said, medical directors have had discussions, and they can be about different things. They tend not to dictate how something should be treated, because every case is different. Physicians are instructed to give medical care, but exact treatment is not something that you are instructed on, because every single case is different.

BY MS. HEARNE:

Q Were you ever given any monetary restrictions on the treatment of inmates during the time frame 2005 to

2009?

MR. GEDDES: Objection with respect to the phrase "monetary restrictions," and "given monetary restrictions," by whom and under what circumstances, and particular inmates in question; calls for speculation; hypothetical; incomplete hypothetical.

THE WITNESS: I had not been told that a treatment is too expensive to give if that treatment was truly felt to be needed in a particular case.

BY MS. HEARNE:

Q Have you ever been required to justify treatment because of the expense, to either the medical director or any other administrative person at the Department of Corrections?

MR. GEDDES: Vague and ambiguous as to justify, and with respect to the expense and cost of treatment, the individuals in question; speculation; incomplete hypothetical.

THE WITNESS: The medical department makes recommendations, and then those recommendations are followed. There is a utilization review committee for outside procedures, which I do not sit on.

BY MS. HEARNE:

Q Have you ever requested treatment that was refused? Requested treatment for an inmate that was then

refused?

MR. GEDDES: Vague and ambiguous as to refused, and by whom.

MS. HEARNE: Not by the inmate.

THE WITNESS: I don't have specific cases. But there have been recommendations that I have made that the utilization review committee has denied.

BY MS. HEARNE:

Q And do they tell you the reasons for the denial?

A No.

Q Were there any recommendations that you made for the treatment of Nolan Klein that you recall were denied by the utilization committee?

A I have no recollection of anything specific, no.

MS. HEARNE: Let's just take a five-minute break, and then I guess we should -- I'll try to get organized so that it will only take me maybe just another half an hour, and that way we can just leave.

MR. GEDDES: I have some questions after you're done.

MS. HEARNE: Oh, but how long will yours take?

MR. GEDDES: I think anywhere from half an hour to 45 minutes.

MS. HEARNE: Then we need to ask whether or not we'd rather take -- have a lunch now then.

(Whereupon a lunch recess was taken.)

BY MS. HEARNE:

Q We are back on the record. And hopefully you were able to get some lunch. And do you recall that you're still under oath?

A Yes.

Q Okay. Are you familiar with the -- I believe it's called over-the-counter drug, ibuprofen?

A Yes, I am.

Q And do you recall from Nolan Klein's medical records that he was prescribed ibuprofen?

A I would have to refer to the medical records.

Q I just had a general question.

Do you have any medical opinion as to how long ibuprofen can be prescribed on a regular basis, taken for whatever the required amount is per day, before liver testing is required?

MR. GEDDES: Objection. Vague and ambiguous as to liver testing, taken every day, by what hypothetical inmate, under what hypothetical conditions; calls for incomplete hypothetical; speculation. And according to what standards.

THE WITNESS: Ibuprofen as a medication, it is totally dependent on the specific patient whether you would recommend it, whether you would recommend dose or

frequency; it's dependent on the particular case.

BY MS. HEARNE:

Q Correct. And I would understand, depending on what kind of dosage, depending on what -- what they're --

A The patient.

Q -- suffering from. But let's just assume that they have been given the maximum or average dose for several years.

Is there a time frame in which a doctor would be concerned about whether or not liver damage had occurred because of the administering of ibuprofen?

MR. GEDDES: Objection. Vague and ambiguous as to the phrase "maximum" or "average dose" and "over years." And vague and ambiguous as to which doctor is referred to, which patient is referred to, what conditions that patient has. In this regard, it's calling for speculation on an hypothetical patient, and on that basis, I would object on the grounds that it's a hypothetical; incomplete hypothetical.

THE WITNESS: Dosing is totally dependent on the particular case as well as the length of time.

BY MS. HEARNE:

Q Correct. And all I'm asking is, is there a time frame when you say that patient has been given ibuprofen for five years, or seven years, or ten years, and then you

say, "We better check to make sure there hasn't been any liver damage because of prescribing it for that length of time"?

MR. GEDDES: Same objections. And also vague and ambiguous as to liver damage and as to who "we" are when "we better check" is asked about, and according to whose standards. Also vague and ambiguous as to time frame and development of literature for such warnings.

THE WITNESS: Medically, I see no protocol for specific assessment, but it is always dependent on the person's case.

BY MS. HEARNE:

Q Were you ever directly told by any employee of the Nevada Department of Corrections to stop treating -- to stop treating Nolan Klein because of expense?

A No.

Q Were you ever --

MR. GEDDES: I'm sorry, I just was going to interpose an objection. Lacks foundation; assumes facts not established; vague and ambiguous with respect to treating.

BY MS. HEARNE:

Q Were you ever told by anyone who was an employee of the Nevada Department of Corrections to alter the treatment of Nolan Klein?

MR. GEDDES: Objection. Vague and ambiguous as to alter the treatment. And -- yeah, that's it.

THE WITNESS: No.

BY MS. HEARNE:

Q Were you ever informed of any litigation that had been filed by Nolan Klein?

MR. GEDDES: Vague and ambiguous as to litigation. Litigation question --

check for drop at end there--can't hear him

THE WITNESS: You would have to -- I know of this litigation, because I'm sitting here. But I'm not --

BY MS. HEARNE:

Q I meant by Nolan Klein personally.

A No.

Q Were you ever aware that he had filed any litigation?

MR. GEDDES: Same objection.

THE WITNESS: I don't know any specific litigation that he filed.

BY MS. HEARNE:

Q But did you -- were you just generally aware that he had filed litigation?

MR. GEDDES: Same objections.

THE WITNESS: Also, I have no recollection of anything that he filed, no.

BY MS. HEARNE:

Q Were you aware of the religious affiliation of Nolan Klein?

A No.

MR. GEDDES: Vague and ambiguous as to time frame.

BY MS. HEARNE:

Q Did he ever state to you that he had any religion or religious affiliation?

A I don't specifically remember any conversation regarding religion.

Q Do you consider being a Wiccan having a religion?

A I consider all people's belief systems to be their own.

Q Had you ever heard of the Wiccan religion being practiced by inmates at the Nevada Department of Corrections?

A I am aware that they practice their belief system in the prison. I have heard the term.

Q And what is your understanding of what it is that they practice pursuant to this religion?

MR. GEDDES: Vague and ambiguous as to practice.

THE WITNESS: I have very little understanding. The minimal understanding I have about the Wiccan

population is that they enjoyed herbs, and in the prison system, some of them asked me about certain herbs.

BY MS. HEARNE:

Q Did you ever hear anyone who was an employee of the Nevada Department of Corrections during the time that you have been employed there, refer to Wiccans as a gang?

A No.

Q Were, did you -- oh, during the time that you treated or were treating Nolan Klein, did you ever prescribe or recommend an air mattress and heating pad as part of his therapy?

A I would have to refresh my recollection with records. I don't remember specific recommendations requiring products for thousands of inmates.

Q So you don't recall ever there being any controversy over the fact that he had an air mattress and heating pad removed from his cell that you had recommended he use?

MR. GEDDES: Objection. Foundation; assumes facts not established; asked and answered.

THE WITNESS: I have no recollection of specifics like that, unless I looked at the record.

BY MS. HEARNE:

Q Did -- were nurses -- are nurses at the Department of Corrections in charge of administering

medication to the inmates?

A RNs have different medication dispensing than LPNs. But both nurses can give oral medication. IV is given by an RN.

MR. GEDDES: Belated objection to vague and ambiguous as to the term "nurse," based on the witness's testimony of there being more than one type of nurse.

BY MS. HEARNE:

Q Did -- at the time that you have worked for the Department of Corrections, did you ever work with a nurse that was named John Perry?

A There are two John Perrys. There is John Perry who is currently now charge nurse in the RMF, and there is John Perry who is a DON.

Q I'm sorry a what?

A A DON. A director of nursing. So I have one that's a charge nurse, and one that's a director of nursing. So you would need to tell me which John Perry.

Q How old is the John Perry who is the director of nursing; if you know?

A I'm not aware -- I don't know ages of the staff.

Q Okay. Oh, I'm sorry. You said one was Perry and one was Perry, right?

A Well, I don't know pronunciation. To me they're both Perry.

Q Oh, okay.

A Though people may pronounce it differently.

Q Okay. Were you -- do you ever recall during the time frame from -- during the time that you've been employed as a doctor with the Department of Corrections, that a nurse ever overrode your directions --

MR. GEDDES: Objection --

BY MS. HEARNE:

Q -- with regarding to treating an inmate?

MR. GEDDES: Vague and ambiguous as to overrode the directions in treating an inmate. Lacks foundation.

THE WITNESS: I would need to know a specific case. Medical orders, such as drugs, are not overrode by nursing staff.

BY MS. HEARNE:

Q And what directives, policies, protocol, or guidance documents are in place, or just policies, to make -- ensure that nurses do not contradict or override, or not do what a doctor prescribes at the Department of Corrections?

MR. GEDDES: Objection. Misstates testimony with respect to the phrase "ensure." Vague and ambiguous as to the policies, protocols, and the like. Assumes facts not established. And may call for speculation as to what other people do.

THE WITNESS: I have no knowledge of the policy that talks about doctors and nurses' interactions.

BY MS. HEARNE:

Q Is there any kind of follow-up by a treating doctor, such as yourself, to ensure or to just double-check to make certain that your instructions are carried out with regard to treatment of an inmate?

A If -- I'm not sure how to -- if I order something that I consider vital, such as an IV antibiotic, and then, for example, we do not have it on our shelf, then a nurse will alert me that we don't have it, and then we have to use a different antibiotic. Something of that sort.

Q Okay. During the time that you have been employed by the Department of Corrections, has it ever come to your attention that an inmate has been refused treatment for Hepatitis C?

MR. GEDDES: Objection. Vague and ambiguous as to the inmate question; lacks foundation; assumes facts not established; vague and ambiguous as to refused and treatment, and Hepatitis C as to other, symptomatic -- and the stage.

THE WITNESS: If treatment is reduction of viral load, there have been inmates who have asked for treatment, and medical decisions have been made that they were not

medically a potential candidate, where the benefit outweighed the risk at that particular moment in time.

BY MS. HEARNE:

Q Do you ever recall an instance when a State assemblyman intervened and/or contacted the Department of Corrections in order to argue or to change the decision of the Department of Corrections regarding treatment for an inmate?

MR. GEDDES: Vague and ambiguous; compound; lacks foundation; assumes facts not established.

THE WITNESS: I have no knowledge of politicians and their interactions with, directly with doctors, no.

BY MS. HEARNE:

Q Would they -- do you have any knowledge of a State assemblyman or a politician or having an -- intervening or having an interaction with administration at the Department of Corrections?

MR. GEDDES: Same objections.

BY MS. HEARNE:

Q Regarding the treatment of an inmate.

MR. GEDDES: Same objections.

THE WITNESS: I do not, no.

BY MS. HEARNE:

Q And let me, beforehand here, apologize again about my pronunciation, but I believe it is -- do you know

what Lactulose is?

A Lactulose?

Q Lactulose.

A Spelled L-A-C-T-U-L-O-S-E.

Q Correct. That's it.

A Lactulose is an oral medication used to actually encourage nitrogenous waste from the body by increasing diarrhea, and the rationale is to reduce the ammonia level.

Q And why would -- why would you use that particular therapy to reduce ammonia levels?

MR. GEDDES: Objection. Speculation as to a hypothetical situation. Calls for an incomplete hypothetical.

THE WITNESS: Medically, if someone had high ammonia levels, and it was truly mentally affecting them, physicians would treat with a drug like Lactulose.

BY MS. HEARNE:

Q And how is Lactulose administered?

MR. GEDDES: Same objections.

THE WITNESS: It is -- it can be administered orally. And that is the predominant way.

BY MS. HEARNE:

Q When you say "orally," if the --

A Where they swallow it orally.

Q Where they swallow it orally. Is it ever done

by inserting a tube into the throat of the patient?

MR. GEDDES: Same objections.

THE WITNESS: A nasogastric tube, in some cases, that is still considered orally.

MS. HEARNE: Okay.

BY MS. HEARNE:

Q And why would a nasogastric tube be used as opposed to administering it in another fashion orally?

MR. GEDDES: Same objections.

THE WITNESS: Because medically, that's what should be done. If someone cannot swallow on their own, then that is another option.

MS. HEARNE: I understand.

BY MS. HEARNE:

Q Do you recall an inmate by the name of Kenneth James Meller, M-E-L-L-E-R?

A Yes.

Q And do you recall why he -- what was the underlying conviction, and why he was serving his term -- for which he was serving his term?

A I remember that he had a life sentence. I remember specifics because he took me hostage.

Q And do you recall the underlying conviction that required him to serve a life sentence?

A I remember that I was told that he had killed a

police officer. And the highway leading to Tahoe, Gary Gifford Memorial Highway, was named after the police officer that he killed.

Q Can you medically explain the term "end-stage liver disease"?

MR. GEDDES: Objection. Vague and ambiguous with respect to its various forms and stages.

THE WITNESS: End-stage liver disease is a term that has tremendous broad medical explanation. But in most doctors, when they say "end stage," they mean that that liver is not functioning in an appropriate manner, and that individuals will have significant medical problems related to that particular fact.

BY MS. HEARNE:

Q Are there ways to determine if an -- a patient has end-stage liver disease?

MR. GEDDES: Objection. Vague and ambiguous; hypothetical; incomplete hypothetical.

THE WITNESS: There are no specific ways. There are different historical laboratory ways.

BY MS. HEARNE:

Q What are those, or some of those?

MR. GEDDES: Same objections.

THE WITNESS: So laboratory-wise, for example, with an end-stage liver, you look at what the liver is

responsible for doing. For example, it's responsible for producing coagulation factors. So your patient could have excessive bleeding. It is responsible for cleaning the toxins from the blood. So a person could have high ammonia levels, for example. It is responsible for the blood flowing through it. So if it is scarred, fibrotic, and not functioning, that back pressure can give ascites, peripheral edema, varices, splenomegaly, increased small capillary distension.

But they are not in and of themselves a diagnosis. It is the group of multiple different variables that might allow a physician to think that someone had end-stage liver disease. So it is a very nonspecific term in medicine.

MS. HEARNE: I have nothing further.

EXAMINATION

BY MR. GEDDES:

Q Dr. Gedney, you were asked some questions about Warm Springs Correctional Center generally in this deposition.

Do you recall them generally?

A Yes.

Q And my question specifically to you is, how far

is Warm Springs Correctional Center from the NNCC/RMF complex, that prison?

A I believe about three miles.

Q If an inmate needs to get from Warm Springs Correctional Center to Northern Nevada Correctional Center or the RMF, how long -- how quickly can that process take of an inmate being produced to the RMF or NNCC from Warm Springs Correctional Center?

A The same day. Could be the same hour.

Q And how many years have you worked as a medical doctor for the NDOC?

A Twenty-five.

Q In your 25 years experience, have inmates been transferred the same day from Warm Springs to NNCC/Regional Medical Facility for purposes of receiving some form of medical treatment at the RMF?

A Yes.

Q And if a situation arose where you wanted an inmate produced for medical treatment from the regional medical -- I'm sorry, to the Regional Medical Facility from Warm Springs, is that something that you could directly order?

A Yes.

Q Can you summarize what procedure you would use to make it happen, and how quickly it could happen if you

wanted it to be so?

A Basically, I would contact the medical at Warm Springs, or usually they contact me regarding someone they want me to see that day. Then the nurse in charge at Warm Springs coordinates with custody for the transfer of the patient by van.

Q And how quickly, historically, have you been able to get an inmate over there from the time of your request?

A The same day.

Q There was some discussion regarding regularity of the meetings, or the holding of regular meetings with respect to the medical director and medical staff?

Do you generally recall that line of testimony?

A Yes.

Q Okay. Can the medical director communicate to you other -- by means other than holding a regular meeting?

A Yes.

Q Can you summarize that?

A They can call, they can e-mail, they can fax, they can meet for lunch, their discussion, things like that.

Q And the same question: If the director of the NDOC wanted to communicate to you, but not through what's been described as opposing counsel as a regular meeting, is

that channel of communication open?

A Yes.

Q Can you explain that a little bit more?

A The medical director knows where the physicians work, so he can call, or he has our e-mail addresses. So he can e-mail us his -- whatever he wants to communicate.

Q So if a director, not the medical director, but the NDOC director, himself or herself, wanted to intervene in a case involving the provision of medical care for an inmate -- and intervene being calling something to your attention to have you look at something or check something out -- is that something that could occur?

A Yes.

Q Can you explain how?

A Usually, a director would e-mail currently. Years ago, we had no computers, and they might send a letter or call on the phone regarding an issue they wanted us to look at, if it was a particular inmate.

Q Was there a particular situation when that would commonly occur, an inciting incident that would cause a director, based on your experience, to intervene, for lack of a better word, in that manner?

A Predominantly, that would occur if family members or political figures called central office and wanted the director to do something out of the ordinary.

That's usually why they would contact us.

Q Have you ever been contacted in your tenure on behalf of the director, either directly or indirectly, to take a look at something, or to have a second look, or to weigh in on a medical issue?

A Yes.

Q And can you summarize what you would ordinarily do in such a situation?

A Well, if a director contacted us to either take a look at a certain case, that might include bringing someone up for a special history and physical, or if it was a request that central office wanted us to look at the person for a potential compassionate release, they would contact us.

Q And if the director made such a communication by communicating to the medical director, but not you directly, and the medical director weighed in or communicated to you, is it possible that you might not know that the director -- the NDOC director was behind that, but just presumed it was the medical director?

A I would have no way of knowing unless the medical director actually told me.

Q Okay. Now, there was some questioning regarding your knowledge about underlying -- the underlying sentences or convictions of inmates.

Do you generally recall that line of questioning?

A Yes.

Q Okay. And do you generally concern yourself with the underlying crime or conviction of an inmate, other than what you've testified to with respect to the practical staging of treatment and whether the inmate will actually be around to receive the completion of treatment?

A What they do is irrelevant to me medically.

Q When you say "what they do," what do you mean by "what they do"?

A What their charge was, or even what they do on a prison yard, such as fight, or cut themselves, all those things are not relevant to the medical care.

What is important is whatever medical condition they have. We treat it irregardless of whether they self-induced a problem, or if they have any criminal history. That's irrelevant to medicine.

Q So do you -- when you treat your inmates, do you have general knowledge of their underlying crimes?

A Generally not, because it's of no importance.

Q Now, there was another deposition given in this case, where a certain -- a certain statement or slur, if you will, was attributed to you, and so I'll just ask it this way:

If an underlying -- underlying crime for an inmate, if you -- at some point in your life were made known to you before treating an inmate, if that person was convicted of a sexual offense, or was a sex offender, would that in any way affect how you approach -- provide medical treatment for that inmate?

A Absolutely not.

Q And if a person had stated that you made a slur or negative statement concerning how sex offenders should be treated medically, what would your response be to that claim that you made such a statement?

A They are misinformed, and they do not know my conduct for 25 years in the prison.

Q Well, let's talk a little bit about that.

Did you ever make a statement, words to the effect that sex offenders either should not be treated, or they should be harmed, or they should be killed? Anything like that?

A Absolutely not.

Q And if a person attributed that statement to you, would they be truthful?

A No.

Q And with respect to your reputation among the inmates, do you know one way or another whether the inmates generally like you or dislike you with respect to your

provision of treatment, or care and concern of inmates in the NDOC system?

MS. HEARNE: Objection. Asks for speculation.

BY MR. GEDDES:

Q I'm asking you whether you know one way or another whether you have a reputation with inmates.

Do you understand the question?

A Yes. And I know that I have had many inmates over the years who come from different prison systems who basically say: I am so happy to come to NNCC. I've heard so many good things about you. I want you to figure out what kind of medical problem I have.

Q Did you have a conversation with an inmate who was a law clerk, who communicated to you actions he took in -- in pursuit of allowing you to continue -- or regarding your reputation as a doctor?

A Yes.

Q Can you summarize what occurred?

A I have had different inmates who are law clerks over the years who have specifically told me that because of --

Q I'm sorry, are these law clerks or inmates?

A These are inmates; these are inmate law clerks who have specifically told me that when they have cases come to them that are against me; they actually turn around

and discourage that, because they personally feel that I'm one of the best physicians in the prison system.

Q Now, at any time in your treatment, or at any time in your life, did you ever harbor any ill will or malice towards Nolan Klein?

A No.

Q And if someone were to describe you as an advocate for the inmates, someone who looks out for the best interests of the inmates, would you agree with that generally, or disagree with that?

A I would agree with that.

Q Can you summarize any advocacy you believe you've done on behalf of the inmates, looking out for their best interests?

A Yes, I have a number of things. Number one was, over 20 years ago, I developed a life skills substance abuse course, initially known as BADA, B-A-D-A. It's currently known as Health Related Recovery. I teach this class as a volunteer on my own time. For 20 years I've taught at Northern Nevada Correctional Center and Stewart Conservation Camp every single week, literally, for 20 years.

Recently, because of furlough status, and reduction in custody, I currently only teach at the Stewart Conservation Camp where they do not have the problem with

an officer in attendance.

This class, the inmates are given meritorious credit; that means time off their sentence, if they attend such an educational class.

For over maybe 10 to 15 years, I was the volunteer and was the liaison for the Toastmasters Club. That is a public-speaking club, a gavel club known in the parlance of the prison. That was every other Sunday night, which I did with my husband for 10, 15 years. Last year it was ended, because custody did not have staff to be in attendance because of furloughs.

I formed the first HIV support group in the prison system. I was awarded the Nevada World's AIDS day recognition, which I received from the U.S. Senate, filed by -- signed by Harry Reid, for my care of HIV in the prisons.

I am a National Health Corps -- Service Corps doc. I was placed there in the prison system in 1987.

I received a tenure merit award from the National Government, from the director, which is the highest award in the United States, for my care to the population in the prison system.

In 2002, I was in a correctional magazine, which was entitled Best in the Business. And they did a feature article on me. The article was entitled, "Insistence on

Persistence." And my name was put forth by Jackie Crawford, who was the director at that time.

Those are just some of the things that could show that I have been an advocate for the inmates.

Q Okay. And you -- you supported the compassionate release of Nolan Klein; is that correct?

A Yes.

Q And you've given some testimony as to the expectation -- I think at one point you said six months, and in another part of your testimony, you said six to twelve months. The question being: If you are -- if you supported Nolan Klein's compassionate release of six to twelve months expectation that he might die, my question to you is, does that mean you wrote him off as someone who was certain to die?

A No. Medicine never knows what ultimately will occur. That decision on compassionate release is based on a medically reasonable estimation. For example, a few weeks ago, we had technically an end-stage liver patient -- can I say his name or no?

Q Sure.

A His name was XXXXXXX, or is XXXXXXX XXXXXXX. I felt that --

(Name blanked out per agreement of the attorneys.)

MR. GEDDES: I'm sorry, I would just ask that if confidentiality restrictions apply, we would ask that this portion of the transcript be sealed, such that the parties can see it, but that --

MS. HEARNE: We would agree.

THE WITNESS: Because it's HIPAA regulations.

MR. GEDDES: So what we'll do is we'll file this portion of the transcript under seal to the Court. If the court reporter could kindly mark this portion at the point where she mentioned what his name was. Thank you.

THE WITNESS: But in essence, this particular inmate I truly felt was end-stage liver. He had slipped into a coma. And before he had slipped into a coma, I had asked him did he have any family. He asked me to call his mother. And when inmates ask me to call a family member, and I have that ability --

MR. GEDDES: I'm sorry, on second thought, to protect my client, if I could ask the court reporter to strike the name of inmate from the record so that there's no potential argument.

THE WITNESS: HIPAA violation, yeah. I didn't know if you wanted from it a legal stance or not. Medically, we don't do that.

MR. GEDDES: No, that's okay. Just strike the name.

THE WITNESS: But in essence, I called the family. The family came. Everyone expected that he would die. And he turned around, and it was, to me, close to miraculous. But it is an example in medicine that you never give up hope.

He currently got to the point where he is stable and I have -- as of -- what's today? As of yesterday, I discharged him to a local camp right next to us.

So medically, patients can confound all doctors. They can survive, and I've seen it many times.

MR. GEDDES: Okay.

BY MR. GEDDES:

Q Now, there was a line of questioning regarding treatment and refusal of treatment for monetary reasons.

Do you generally recall that?

A Yes.

Q In your experience, has -- let me ask this:

The medical department, does the medical department have a budget that is set forth by the Legislature of Nevada?

A Yes, it does. I am not involved with any of that.

Q Okay. Do you have any knowledge one way or another whether or not at any time during your tenure with the NDOC the budget was reached to its maximum, and they

had to go back and ask for more money, and if so, whether they received it?

A Because I'm not involved with that, I don't know.

Q Now, you gave some testimony earlier about how there could be some involvement with the medical director, or the medical director might communicate to have you or the medical staff take a second look.

Do you recall generally that testimony?

A Yes.

Q Might that have occurred with respect to Nolan Brown -- I'm sorry, Nolan Klein?

A Yes, it might have.

Q Have you ever communicated with Tonja Brown, who is the Plaintiff in this particular action?

A Not I'm aware of. I don't recognize the lady.

Q If there were a claim that Ms. Brown sent a communication and e-mail to you regarding Nolan Klein, would you have an opinion one way or another whether that was true?

A If it was true, and it may be, I get hundreds of e-mails, and I don't remember all these different e-mails.

Q But with respect to the setup of your computer in the system, are you able to receive e-mails from the outside world?

A Actually, my computer is one of the computers they designate as an institutional computer. So currently I do not have Internet access. So for people to send to my computer from the outside world doesn't currently exist.

I will add, I don't know when that changed. That did change when they asked us -- I don't know when, but maybe a year or two ago, what type of system we wanted.

Q But the outside world, are you still able to get communications from the medical director, the director and --

A That's institutional.

Q So the answer is yes?

A Yes, institutional.

Q Okay.

A Internet is when doctors want to look at things on Google or whatever, that's --

Q Okay.

A That is not what I have, no.

Q All right. What -- what I'd like to do -- let me ask you this: You were asked a lot of questions today concerning the medical treatment of Nolan Klein.

Do you generally remember that?

A Yes.

Q Were you ever asked once to look through the medical records to refresh your recollection as to the

particular medical treatment of Nolan Klein in this case?

A No.

Q Have you brought, or were documents brought here today that would enable you to go through the medical records and determine the particular course of treatment provided to Nolan Klein?

A Yes.

Q Can you describe what those documents are and where they are with respect to where you are sitting?

A They are sitting in front of me. They're in a black folder.

Q A binder?

A A black binder, excuse me. And they stand -- the white pages stand, I would guess, maybe five inches, three -- I don't know, three to five inches tall. And it includes a number --

Q Are they double-sided pages mainly?

A They are double-sided pages, and they include the headings, Unusual Occurrence, Authorization and Release, Kites, Medical Flow Sheets, Progress Notes, Med Sheets, Miscellaneous Records, Outside Consultants, X-ray, EKG, Labs, Mental Health Records, CTH, and others.

Q Okay. What I want to do -- and do these documents have numbers, control or serial numbers at the bottom with the preceding alpha prefix of NDOC?

A Yes, they do.

Q And then they have a dash and numbers?

A Correct.

Q And all of those pages do, don't they?

A Yes.

Q Okay. So what I want to do is I want to go over some of the treatment that you provided. But first, before we get bogged down in that, there was testimony in another deposition given, I'll represent to you, that Nolan Klein lost trust in you or faith in you as someone looking out for his best interest. I'm paraphrasing here, and I'll let the record correct me where I'm inaccurate. But my general recollection is that the testimony was given that Nolan Klein lost faith in you, or started to distrust you, or maybe thought you were conspiring to cause him harm by delaying his hepatitis -- I'm sorry, delaying treatment for his MRSA, or as you call it, M-R-S-A.

So what I'd like to ask you is, first of all, my understanding of the basis of that claim had to do with the timing of Nolan Klein looking at a medical record and seeing a reference to a spider, or something in there with the word "spider" or phrase, and presuming that meant MRSA, and that MRSA had been treated much later, and therefore, you had, in essence, neglected him or delayed treatment to his serious medical needs.

So with that long setup involved here, my question to you specifically is: You've given reference in this testimony -- in your testimony today where the word "spider" was used as part of a word; is that correct?

A Correct.

Q What word is that again?

A Spider angiomata.

Q Do you have an opinion one way or another whether or not spider angiomata -- whatever you said that word was, whether that implicates MRSA or not?

A It has no relationship to MRSA at all.

Q Okay. And you've given testimony already as to what that term "spider angiomata" means.

But do you have an opinion one way or another as to why someone might confuse spider angiomata with MRSA, or causes of MRSA, or diagnoses of MRSA, in any way one way or another?

A Yes, I do.

Q Can you summarize?

A Many inmates come in with a red bump, a small abscess.

Q When you say "come in," you mean --

A Excuse me. Many inmates will present to the medical department.

Q Thank you.

A And they will have a little red bump on their skin, and they will say, Hey, I think I was bit by a spider. And what they really have is a slight infection in the tissue that can be from an abrasion where bacteria entered the tissue. So you get a little erythematous lump which can become an abscess. But the inmates mistake it as spider bites.

Q And what's the connection between that and MRSA?

A The connection is that many inmates confuse infections with bites from spiders.

Q MRSA infections with bites from spiders?

A They confuse skin infections with bites from spiders. And in my record, when I used the word "spider," I mean spider angiomata. In fact, we rarely have anyone who is truly bitten by a spider. That is very rare.

Q So are you saying that Nolan Klein, you believe, might have mistaken your spider angiomata reference, or a reference in the record to that, with a spider bite which is somehow construed by some inmates as an infection which might lead them to suspect they have MRSA?

A I'm saying that if he read the word "spider," he would not have the medical knowledge to understand that it was spider angiomata. And to a layperson, a spider means an arachnid, or an insect with eight legs. But in medicine, it means spider angiomata.

Q Well, let's -- we're going to go over the medical treatment in just a second, but just so we finish up on this topic, what was -- since he believed that, or testimony was given that he stated that he believed that you delayed in treating his MRSA from its initial appearance, or the diagnosis of it, or its manifestation when it should have been diagnosed, can you -- can you go through the medical records and establish the time line of when he was first diagnosed with MRSA, and when it was treated?

A Yes, I can. And I have to pull up the correct progress notes.

Here we go.

Q What page are you looking at? Can you identify it by Bates number?

A I am looking at NDOC-00390.

Q Okay.

A And it's dated of November 26, 2007.

Q Okay.

A I have actually a fairly long note. What's important is that in the note, it reflects that the patient had a urinalysis, which means a test on the urine, and that the urine had shown MRSA. And --

Q And what date was that, please?

A This was November -- this is the November 26

note I'm referring to.

Q Thank you.

A And that reference to the urine was related to the page 391, where he had come in complaining of not feeling well, and I looked at his urine and found that he had white blood cells, which caused me to send out a culture and sensitivity, and I placed him on a medication called Bactrim.

Q Right there and then?

A Right there and then, for a suspected infection based on the urinalysis. Now, that was -- that urinalysis was sent for a culture and sensitivity, which means that the bacteria, if it's present, if it grows, then you can establish what bacteria it was. And that bacteria was Methacillin-Resistant Staphylococcus Aureus, MRSA.

And the treatment I had put him on for a suspected infection on November 15th was Bactrim, and the sensitivities did show that that bacteria was sensitive to Bactrim, which means that it would be treated.

Q So let me just stop you right there. So your original ordering of Bactrim, before you knew he had MRSA, effectively treated MRSA before you knew what he had MRSA; is that what you're saying?

A Absolutely, yes.

Q Okay. Please continue.

A So on November 26, 2007 -- this is the same 00390 note -- I also in that day saw that the patient had cellulitis in the left leg. And that means infection in the tissue in the left leg. And I questioned that could this infection be MRSA. I questioned that because at that day, I knew he had bacteria in the urine. So that day, I treated him with IV Vancomycin and admitted him into the RMF on that day.

Q So do you believe there's any factual basis to support the allegation that you delayed -- knowingly delayed the treatment of MRSA for Nolan Klein?

A No.

Q Okay. So what I'd like to do, so that the record is clear, are you able to review these records and pinpoint what your precise limited involvement was in the treatment of Nolan Klein?

MS. HEARNE: Objection. Leading.

BY MR. GEDDES:

Q Are you able to do that with the records supplied?

A I can look at medical records, and I can tell you where my progress notes involving his care become evident.

Q Okay. Could you do that? Could you identify the progress notes that indicate your particular

involvement in the treatment of Nolan Klein?

A I have to find it.

Q Take your time.

A So I have records in front of me that are actually dated from --

Q If you could identify it by Bates numbers.

A Okay. I will have to say these progress notes are not exactly in order.

Q Take your time; however you'd like to organize it to get it right, that's fine.

Let's do this --

MS. HEARNE: Go off the record just a second.

(Whereupon an off-the-record discussion was had.)

MR. GEDDES: Back on the record. I'd like to go ahead and, while she's looking, may we mark this as Exhibit 1? Exhibit 1 is the entire binder that the witness has identified. Thank you.

(Exhibit Number 1 was marked for identification.)

THE WITNESS: So what I'm looking at is NDOC-00400. And looking at this binder, this is where my interaction with this inmate becomes evident. And it goes from April 16th, 2007, until --

///

BY MR. GEDDES:

Q 2007?

A 2007. 4/16/2007 until he expired.

Q On what day?

A He expired -- my last interaction, at least looking at this binder, is on NDOC number 00485 page, and it's 8/25/09. I -- well, let me see.

Excuse me, I see more. It's not exactly in order.

Q Take your time.

A I see an order also from me on 9/3/09. And at least from my looking at this chart, that's the last time it looks like I had interaction.

Q That's at -- what NDOC Bates number is that?

A That is 00487.

Q Thank you. Okay.

A But I don't see any more after that by orders.

Q Okay.

A Looking at orders.

Q Given that you have good handwriting, some people may claim that they know what you did, but could you walk us through the treatments that you provided based on the writings that you have identified in the medical record?

A Regarding all treatment?

Q Yes.

A From the beginning?

Q Yes. That you provided.

A To summarize --

Q Well, if you could start with the first page where you became involved, and then discuss what your involvement was for each one. 4/16/07 being the first date, what Bates page?

A NDOC-00400. So this is where I see my interaction predominantly occurring.

Q Okay.

A So in essence, April 16, 2007, I see this gentleman with a history of Hep C, increased iron stores, a couple of years of right upper quadrant pain, heavy alcohol, prior IV drug use. And when he presented, the complaints really were related to right upper quadrant pain. I ordered a HIDA scan to assess his gallbladder function. And I also checked certain blood work, ferritin, alpha-fetoprotein.

Q And that was the first time you ever treated Nolan Klein; is that correct?

A This is the first time I treated him, looking at this.

Q This being these records?

A At these records, that I can find.

Q Okay.

A April 30th, which is 00399, that number page, he was negative for the hereditary hemochromatosis genetic study. He had gallstones by X-ray, and I referred him to a surgeon for a possible need of a colocystectomy. That ultimately happened on -- then we have NDOC-00397. So in June --

Q What year?

A Of 2007. June 27th, 2007, I saw him again. This was after he had his colocystectomy, after a liver biopsy, and he was feeling well. And --

Q On what facts do you base that?

A His -- it's my subjective note says:

Feels well, wants to leave.

And he meant leave from the RMF.

Q What is a subjective note?

A A subjective note is what I write, what the patient tells me. So if they tell me they're feeling well, or they feel sick, then I document it as a subjective point.

Q So Nolan Klein told you he was feeling well according to that record?

A Correct. And I discharged him from the Regional Medical Facility, because he had had a colocystectomy and was over it.

Q He requested to be discharged; is that what your note says?

A Yes:

Wants to leave.

Q Okay. Thank you.

A On June 28th, there is a note where I write:

Patient is Hep C candidate. Aware of risks and benefits of treatment, and wants to undergo treatment. Patient is a lifer.

That's in my notes.

Q What does that mean, and why is that in your notes?

A It is in my note only for me to realize that he is not leaving in less than a year, where he would not be able to fulfill the full treatment.

Q Okay.

A Now, NDOC-00396, August 8th, 2007, he comes in. He had a liver biopsy, which did show fibrosis, and with deeper tissues less effected, according to the biopsy report, and he actually signed a consent for treatment. And at that point, I determined to do a genotype and viral load.

My next note is on page 00395-NDOC. That's October 4th, 2007.

Patient's case has gone through UR.

That means the utilization review committee.

Patient was approved for treatment.

Q What treatment?

A For treatment for Hepatitis C.

Q What specific treatment are you referring to?

A And the treatment would be to reduce the viral count in a person, hoping for what is known as a sustained viral response. And the treatment in 2007 would have been Interferon and Ribavirin.

Q Thank you.

A And on page NDOC-00394, it is written that he gave consent. I did an exam. That is where spiders are noted on the chest, and as we had talked before, that is in regards to spider angiomata.

Q That is of the date what?

A That is date October 4, 2007.

Q Thank you. And just to be absolutely clear, that does not implicate or reference MRSA medically?

A It does not infer that at all.

Q Okay. Thank you.

A And in my note, I write his genotype, which was Genotype 2, and his viral load which, was 8,930,000.

And in that note, I also write:

Orders written for treatment with

labs and psych follow-up.

Psychiatry follow-up is needed because one of the side effects of treatment can be depression to the point of suicidal depression, so we do ask for a psychiatric clearance on the patients.

Q Do you have any history where that concern about suicidal ideation from treatment has actually occurred?

A I have --

Q Without mentioning names of patients.

A Yes. I have had -- I remember one particular inmate who tried very hard to get treatment.

Q What treatment?

A Who tried very hard to get Hepatitis C, the medication to reduce his viral load --

Q And --

A -- in the hopes -- Interferon and Ribavirin.

Q Thank you.

A -- in the hopes for a sustained virologic response. This particular inmate was on the treatment for about three to four months. And he actually came back to us --

Q Was he released?

A No, he actually -- he was at Nevada State Prison. When I said "came back," he came back to see me and said:

Take me off the treatment. This has affected me so much that I am afraid that I will do something.

And that means he meant I will do something violent.

And it so has affected my mood, I want to come off of it.

He actually refused treatment.

Q Okay.

A Refused the Interferon and Ribavirin.

So here on NDOC-00393, October 22, 2007, I write in my note that we had started treatment October 15th, 2'07 [sic], and he --

Q 2007?

A 2007. And he -- in my note, it says that he experienced -- these are his complaints --

Q Him being?

A Mr. Klein.

Patient experienced aches and pains, chills.

He was feeling the effects of the Interferon and Ribavirin which are typical. They feel -- many patients feel as if they have the flu when they're on that type of treatment. And in my note I reflect side effects are typical.

November 5, 2007, I saw the patient, and at that time, we had done laboratory work to make sure how his body had reacted to it. And at that point in time, his white blood cell count and his hemoglobin and hematocrit were actually in a normal range. And that reflects after just two weeks on the treatment. I write in that note that he was to follow up with me in a month.

So in less than a month, actually 10 days later, he presented to me, and this is on NDOC number 00391, date 11/15/2007. He presented to me feeling -- complaining of feeling achy and dysuria, means he had problems -- irritation with urination, so I checked the urine. I found that it did have white blood cells, which made me concerned about infection. That is when I went sent that particular culture out, and I put him at that point in time on Bactrim for a week.

And I -- in light of his symptoms, I decided to hold the treatment, that means the treatment for Hep C, the -- the Interferon and Ribavirin, for seven days, because I was concerned that he had an infection. That was November 15th.

NDOC number 00390, so this is November 26, which is less than two weeks, this is -- 11 days afterwards, he came back to me. And he then, at that time, was complaining of swelling in the legs that he said started

six days ago. And that when I examined him, my note reflects that the legs were swollen, and they had heat and redness. And in my note I write that I suspected he had cellulitis in the leg.

By this time, the culture had come back from the urine, and it showed that he had MRSA in the urine. Now, the Bactrim he was on, this antibiotic is what is known as sensitive -- the bacteria is sensitive to that particular antibiotic.

Now, when I saw his leg, my note reflects:

Question mark MRSA.

That means I questioned, could he have infection in the leg that was MRSA.

So that day that I saw him for the leg, I put him on Vancomycin, which is an IV antibiotic specific for MRSA and other bacteria. I also treated him with Neupogen, which is an intra, subacute-type injection to increase the white blood cell, or to help him fight the infection.

Then November 7, I saw -- and this is on NDOC number 00389. I saw the patient, and my note reflects that basically, he was a bit confused at that time. And I did blood work that I was waiting on, that had not come back yet. But blood work from the -- the day before that I had seen him, had come back, and that showed that his bilirubin, which is a liver test, was elevated. It showed

that white blood cell count had what's known as a left shift, which just means that he had cells that reflected he was fighting an infection.

I had also done blood cultures at that time to establish did he have bacteria in the blood.

Q What page and date and Bates range?

A All right. We are looking at NDOC number 00388 and 387, because my note spans more pages than one.

So then we go on to -- there are other doctors in the middle there, but my next note is December 3, 2007. And my note reflects that these were labs that were reviewed over the weekend.

Q By whom?

A The review -- by me.

Q Okay.

A So those labs showed his ammonia level was 107, which actually is not that high in the range they look at. But these notes reflect that I was looking at his Vancomycin trough. That means does he have a blood level sufficient for fighting infection. And the blood cultures showed specifically that this particular staph was sensitive to Vancomycin, which was the antibiotic he was on, and I wrote -- my note reflects that he was feeling better.

Q Is that a subjective statement -- was that made

by him?

A That's made by him.

Q Okay.

A My next note, NDOC-00381, is from December 4th, 2007. In the note, it says:

> Patient claims pain meds helped him get sleep last night. He still had pain in the left leg.

And this note reflects that he was complaining of cramping. I felt that it was possibly secondary to maybe low potassium, which my labs reflected, and I wrote that I was replacing potassium, which can be done with pills; that the edema was now involving the testicles, which just means that as edema increases over time, beyond legs, other things can get swollen, and that his bacteremia, meaning the bacteria in the blood, was improving.

My next note is --

Q Did you say what page that was?

A Yeah, I did. The next one is NDOC-00380. There my note is December 6, 2007. And it basically says:

> Patient recuperating from MRSA in blood and urine. Feels stronger.

And I reflect in my note that he had been on 10 days of Vancomycin at that time.

There are many things in my note, but I don't want to say everything because we'd be here a long time.

NDOC-00378, there is a note, 12/10/2007. Subjective:

> Patient feels okay. Can get up and down to the toilet.

And on NDOC number 00377, because my note was long, I talk about a variety of things, but the MRSA, I wrote:

> Will continue IV treatment a few more days. Has been on it two weeks. When IDC IV antibiotics, I will continue him on PO --

Meaning oral drugs.

> For one month.

And NDOC-00376, there are actually two notes, one from December 11.

Q What year?

A 2007. One from December 12th, 2007. Both of these notes reflect that -- that his bacteremia was improving in the amount of time I had him on, actually, the antibiotic.

And then we have on NDOC number 00375, 12/12/07. It basically says:

> Patient feels okay. Requesting pain

meds at night.

And -- where's the other piece? Then where do I go?

Then on 00372, I have a note from December 17th, 2007. This one says that he was complaining of discomfort and firmness in the left thigh. This is typical after someone recuperates from an infection in a limb. But I do write also that his edema had significantly improved; in fact, he had dropped 21 pounds of fluid.

Then NDOC --

Q Is that 21 pounds of body weight?

A Body weight in terms of body weight, fluid weight.

Q Thank you.

A NDOC-00371, note 12/19/2007:

Patient feels pain back of left leg.

Is improving.

And then other things.

NDOC-00370, 12/20/2007, note talks about:

Patient feels better. Can fully

stretch left leg out.

And my note reflects that I continued him on Bactrim, which is an oral antibiotic.

NDOC number 00368, 12/24/2007. Patient was complaining of a rash at that time. And I treated it with

Benadryl. And because the person had been on Bactrim for a while, and sometimes --

Q That person is Nolan Klein?

A Excuse me, yes. Nolan Klein had been on Bactrim, I elected to stop the Bactrim at that time and treat the rash with Benadryl. Actually, my note says I changed back to Vancomycin. I was covering him with antibiotics the entire time. So then --

Q Was the rash a reappearance of MRSA?

A No, not at all.

Q How do you know that?

A Because if it was, it is my standard practice to write it a certain way --

Q Did it look differently?

A -- and to describe it. In fact, in my note, I say:

> Macular papular rash all over body, especially arms and chest, even on top of hands. No lesions in mouth.
>
> And this is a drug rash by description.

Q Okay. What is a drug rash?

A A drug rash is a rash that people can develop to certain drugs, and when they do, they get a macular papular diffused sort of body rash. It has no appearance that MRSA has.

Q Do you know what drug -- what drug caused the rash? Did you write that in your note?

A I did. I said:

Probable drug rash to Bactrim.

Q Okay.

A And I said:

DC Bactrim, treat with Benadryl. Change back to Vancomycin. Check labs.

Q Okay.

A NDOC number 00367, 12/26/2'07. At that time, my note reflects that he had one area in the back of the left thigh that was fluctuant with micro abscesses present. That means that he had an abscess, a small abscess back there. And I, that day, did a procedure called an I and D. Which is an incise and drain, where he gave consent, and I did a minor surgical procedure where I numbed up the skin and opened up the abscess so the abscess would drain, and I packed it. And I left him oxycodone for pain.

Number 00366, 12/27/2007. So there is a note:

Patient feels okay. Noticed a lot of drainage from leg this a.m.

And I wrote in my assessment that:

The left leg was slow to heal.

And I actually continued Vancomycin IV

antibiotics.

Q Now, that -- when you say IV, you're talking about intravenous?

A Correct.

Q And he was in the infirmary at that time?

A Yes, he was.

Do you want me to keep going on? I'm getting --

Q Yes, it's important that we establish your involvement for the record.

A Okay. Then I have to find --

Q Take your time.

A They bounced here.

So I hope I can get this in order, because the chart from now on is in multiple different spots, but it looks like the next one is NDOC-00427, 12/31/07.

Patient feels okay.

There's a note in my note. I said:

DC Vancomycin at that time.

Q Which means what?

A That I discontinued the IV antibiotics at that time, because looking at my note, he felt fine. And my clinical exam showed that the left leg, loss of erythema, less edema, and I felt that he had basically resolved his infection.

Q Did you say "felt fine"?

A It says:

Patient feels okay. 12/31.

Q Is that subjective?

A Yes, that's his statement.

Q Thank you.

A It appears my next note is 1/3/2008, and this is just a reflection of labs that I wrote.

Q What does that mean?

A That means that when I see laboratory data that I think is important, I will put that lab data in my note.

Q Does that also mean that you didn't necessarily see the patient, but his paperwork came in and you were --

A Correct.

Q Okay. Thank you.

A There is a note January 9, 2008 --

Q Is there anything significant in those labs that you wish to comment on?

A Only to medical students, not to court systems.

Q Okay.

A January 9th, this is NDOC-00425. January 9th, 2008:

Patient complaining of swollen left foot.

It states that the left leg, the thigh had significant improvement and was almost closed. This is in

reference to the incision and drainage part. But that he had edema, swelling in the foot.

And my note says:

> Peripheral edema secondary to reduced albumin.

And I recommended decreasing the salt in the diet, ped hose, and he was on diuretics, the right medicine for that.

Then I have a NDOC-00421, January 14th, 2008. That note says:

> Patient felt a little ill last week with some diarrhea, which has now cleared. Still fatigues easily and gets dyspnea on exertion. Rash getting better.

And my -- the rest of my note was related to pulling the PICC line, which was the IV line that I had in him, that I had left in place, because I had the need for it for other sorts of things, in terms of blood draws and things.

So then we go January 23, 2008.

> Patient feels significantly better and is up to leaving RMF.

Q That's in a subjective note?

A That's his statement, yes.

Q Thank you.

A Then:

No swelling. Still itching.

And here I write in my assessment:

Resolved bacteremia. Resolved drug rash. Number 3, cirrhosis. Advised patient to not use salt; decrease in salt in diet. No toxic liver drugs.

And I discharged him from the RMF, and I asked him to follow up with me in two months.

Q And what was the recommendation regarding the salt? What's the significance of that?

A The significance is if people eat salty products -- and the inmates especially can buy food from the canteen, such as potato chips and corn chips, Ramen soup, which is their favorite, which has significant salt, and salt is a problem for any individual with liver problems with low albumin, and being at risk for edema. If they have salt in their diets, they tend to swell. So they are advised not to use salt, and to not buy salty things the canteen.

Next note is NDOC-00418, and that note is March 19th, 2008. And let's see here.

He complained of getting intermittent small amount of swelling in the left leg. That's typical after

resolving infections. And that's about it.

Q Why is that typical?

A Anyone who has infections, it can impair veins and lymphatic vessels that drain the leg, and then, therefore, they are at higher risk for intermittent swelling in that limb, if they've had a significant infection.

NDOC-00417. April 30th, 2008. This note reflects that he developed swelling in the back of the right buttocks, and that he had intermittent swelling in the ankles. He denied fevers. He had nosebleeds that were sporadic. He was peeing at nighttime, nocturia. Problems with memory. And so I at that time did not see any evidence of open wounds or drainage sites, and I ordered labs on him at that time, because I wanted to see what his overlying -- underlying condition was.

June 23, 2008, which is on NDOC-00416, he comes in for a follow-up. He had had another urinary tract infection. He was on an oral antibiotic. And the labs at that time reflected that his ammonia level was up, and I educated him about the need for taking Lactulose.

NDOC-00415. August 20, 2008. He was complaining of right hip pain. He had, according to my note, multiple fractures in the past. And he needed a cane, actually, since 2005.

He was complaining of cramping at that time in his legs. I did a neurologic exam there, and --

Q What does that mean?

A That means -- an exam is where you go through basic neurologic tests, in terms of motor strengths, sensory strength, the deep-tendon reflexes. And that's all in my note.

And at that time, I felt that his right hip pain was such that I ordered an X-ray, and I actually referred him to Dr. Long, who was our orthopedic specialist, for a possible injection.

And that injection would have been something known as a steroid injection into a joint to reduce discomfort.

My next note is -- appears to be April 21, 2009. That's NDOC-00411. And he was complaining of swelling in the abdomen then, and dark urine, and there was labs done.

And looking at this note regarding his symptoms, I write "Cirrhosis." I checked a variety of labs. I ordered Aldactone to decrease the swelling, which is a diuretic that is typically used in that.

And then looking at this, it looks like in the interim of these notes, this is around the time I am assuming he went to Warm Springs, because I see Dr. Snider's signature, who is the doctor at Warm Springs.

So then my next note is 00408, July 9th 2009. And it says:

Patient sent from Warm Springs to RMF.

And then I write a whole note about he was complaining of swelling again and discomfort in the liver, and confusion. And there is an exam. There's all the labs written. Orders for Lactulose, Aldactone. I started Inderal, which is a medication to lower pressure in the splenic system to put him at less risk for variceal bleeding.

And -- so that's that note.

Then there's a note August 3, 2009. And it says:

Patient feels okay today.

Q Is that in the subjective portion?

A Yes, that would be him tell me he feels okay. No bleeding. Complaining again of the swelling.

My note reflects that he had 3-plus edema. And that -- we rate edema from basically 1 to 4. And that means he had a lot of swelling on his body.

And between these two notes, he had -- from my note, it reflects that he had ended up going out in the interim, between the two notes, to Carson-Tahoe Hospital

where he had had transfusions, endoscopy, and colonoscopy.

And looking at the notes on NDOC -- I'm trying to see when that happened, because I was not involved in that piece.

So it looks like on -- and this is reflected on NDOC-00405. It looks like on July 25, 2009, I was called by an RN. This is probably on a weekend date or something. Where it says:

> Dr. Gedney called and order received to do a stat blood work and send to Carson-Tahoe Hospital.

Q So you sent him to Carson-Tahoe Hospital?

A No, actually, it looks like when they called me, I did a stat blood work on him, because I wanted to know information. And then it looks like -- where is this?

So then they did the blood work, and it looks like one-and-a-half hours later, he was passing frank blood. They called me, and at that point I sent them to Carson-Tahoe Hospital.

Q What does that mean?

A If they -- passing bright red blood means that he was pooping bright red blood.

Q Okay. Because you said "frank blood."

A Oh, frank blood, that just means it's red in color.

Q Okay.

A In medicine, we have old blood in the stool, which makes the stool look black, which we call melana. Frank blood, to a medical person, means that it could have been hemorrhoid bleeding; frank blood versus black, which is from higher in the gastrointestinal system.

So then he went out to Carson-Tahoe Hospital. So then we have NDOC-00402. I have notes from 8/11/2009. These reflect that he was confused. This, of course, is after he came back from the hospital.

August 12th, 2009. This is reporting that nurses reported to me that he wasn't responding well to verbal commands, though his vitals -- that means blood pressure, temperature -- those things were normal.

And I thought that his ammonia level was going up, so I asked for that.

Q Asked for what?

A I asked for an ammonia level to be done, blood work to be done.

Q Thank you.

A That's on 00402. That page.

And then we're out of sequence again with this.

Q With the pages?

A The pages.

So here on NDOC-00443, August 13, 2009, my note

reflects that he was in a hepatic coma.

After increased Lactulose and some fluids, he woke up last night, pulled out the NG tube and IVs. This morning awake; knew my name. Knew it was 2009, but not month. Knew he was at NNCC, but didn't know what it stood for. Patient denied pain, nausea, or diarrhea.

I had my exam there, and I wrote that his hepatic coma had been resolved with Lactulose, through the NG tube and IV fluid, and I increased his base-line Lactulose. That means I increased the amount he was being given every day.

Q So are you saying there that he was in a coma, but came out of the coma?

A Correct. My note reflects that August 13, 2009.

Q And that was due to the medication that you ordered for him?

A Correct.

Q Okay.

A NDOC-00442. We have August 19, 2009. It says:

Patient today is eating breakfast. A little slow but oriented. New appointed Supreme Court Justice.

Patient --

Here we have:

Patient requests me to call sister Tonja.

And I have the phone number and the cell number. And my note says:

Will try today.

And then I also write:

Will increase Lactulose.

Q You said something about a Supreme Court, what was that?

A When we ask orientation, we ask for person, place, and time. So I write, "Oriented times 3." That means he's oriented person, place, and time. But he also --

Q What does person, place, and time mean?

A That means he knew who he was, where he was, and the date.

Q Okay.

A But in my note, I also wrote:

Knew the new appointed Supreme Court Justice.

Which means that he told me that, and I put it in my note --

Q Okay.

A -- to reflect that he was exceptionally more oriented than most of my inmates.

Q Okay.

A So then we have --

Q Just quickly, do you have any recollection as to whether you contacted Tonja Brown?

A I do not have recollection of that.

Q And does it say why he wanted you to contact Tonja Brown?

A My next reflects that.

Q Okay. Thank you.

A So NDOC-00441. So here I have August 20, 2009.

Patient oriented.

And then:

Says he's having frequent bowel movements.

But I write here:

Talked with sister yesterday, who was aware of condition. She says she will visit him. She asked me to put him on compassionate release. I would have done this already, but I thought his charge would keep him from consideration.

That's in my note.

She said courts overturned his conviction. This doesn't make sense, but will put in compassionate release.

Q So can you -- does that refresh your recollection as to what transpired in that communication, or do you only -- does it not refresh your recollection such that you have to rely on your notes?

A Well, what this refreshes my memory in, and this is generally, and that is --

Q When you say "generally" --

A That means generally in regards to anyone who asks me for compassionate release.

Q Okay.

A And the reason this refreshes my memory, is that since I have put a number of people before with compassionate release, I have been told by central office that individuals that are considered a significant threat to the community are not individuals that are likely to be considered for compassionate release.

Q Is that along the lines of a characterization or phrase known as "high risk to reoffend"?

A Yes.

Q Okay. So --

A So that is a general-type of thing.

Q Okay. Now, just so we're absolutely clear, is that a judgment by you as to whether someone is worthy of medical treatment, or some other basis for making the statement?

A Well, what happens is, compassionate releases are predominantly related to, one, is the person having less than six months of life.

Q You said six months to a year before.

A Yes, six months to a year.

Q Okay.

A But that's -- we're told six months to a year.

Q Okay.

A I don't know if the exact policy says six months.

Q Okay.

A It's that time period.

Q Okay.

A And that if someone does not fit that criteria, then medically I don't consider putting in a compassionate release.

Now, looking at this date here, this is when my note reflects that I talked with the sister; that she said she was going to visit him, and then she asked me to put in the release. And then at this time, this particular time, August 20th, 2009, because he had had problems of going

into encephalopathy, even though he came out of it --

Q That's a coma?

A That's a coma. That at that time, there is a medical reasonableness that his life span could have been under a year. So my note reflects:

Will put in compassionate release.

Q And the discussion concerning his underlying crime, why is that in there?

A That is only because since I've been involved with compassionate releases in the past, I am told by central office -- and this is generally told, this is how they tell us -- that -- and also from experience, that if I put in someone for a compassionate release, and central office feels that they are a significant threat to society, they look at the risk for society.

Q Okay. So --

A But that is not part of the medical. That is just general knowledge.

Q You were asked questions earlier about whether or not you were aware of his underlying crime. And if I'm not mistaken, I believe your testimony was that you were not, you thought -- you weren't sure of the source of your knowledge, and I believe your testimony was that you were not aware during his treatment.

Does that note refresh your recollection as to

whether or not this was your knowledge, or whether someone else had given that to you, regarding his underlying crime?

A Well, the only thing I can say is I have a sentence that says:

> I would have done this already, but I thought his charge would keep him from consideration.

That means somewhere in the conversation before this particular note, he probably informed me that his sentence was a sentence that central office would have problems with. And those sentences are, in general, violence, and sexual offense.

Q So I just want to be clear that I'm understanding.

A Yeah.

Q You're suggesting here that Nolan Klein had a conversation with you regarding his compassionate release, and Nolan Klein expressed to you his concern, volunteering to you the nature of his underlying crime, and how he was concerned that it might interfere with his compassionate release.

Is that what you're testifying?

MS. HEARNE: Objection. Leading.

BY MR. GEDDES:

Q Do you understand the question?

A Well, I understand the question, but since I do not specifically remember two years ago exactly what I was told and by who, the only thing I can comment on was that when the sister asked me to put in a compassionate release, my note reflects that I would put in a compassionate release.

Q Okay.

A But I can't answer what I don't remember, who told me what.

Q Okay. But does that change your testimony concerning whether or not you treat inmates differently regarding what their underlying crimes were?

A No.

Q Okay. Now, did you ultimately put Nolan Klein in for a compassionate release?

A I believe so. Since my note reflects that I said I would do it.

Q Okay. Let me just ask you this: Is it possible that the source of your knowledge as reflected in that note came from Tonja Brown during the conversation, or is it possible that the source of your knowledge came from Nolan Klein in a conversation that I previously asked you about?

MS. HEARNE: Objection. Asked and answered.

THE WITNESS: And I -- I don't remember specifically how that information occurred.

MR. GEDDES: Okay.

THE REPORTER: At a good point, can we take a break?

MR. GEDDES: Did you want to take one? We're almost done, right?

THE WITNESS: Well, the thing is, this is 8/20, and looking at these notes, he expired shortly after that.

MR. GEDDES: So do you want to continue on before we take a break, or did you want to take a break now? I don't have that much more after you finish that, so it's up to you.

THE WITNESS: So there is a note --

BY MR. GEDDES:

Q I'm sorry, let me just ask you this quick question: Do you recall having conversations with Nolan Klein regarding his compassionate release?

A My note implies that I did, because it is really the -- if it is not an outside family member or an outside person, like a director or a medical director, it is always something that the patient requests. Because many inmates don't consider compassionate release, because they have nowhere to go. If they were let go, they have no one to take care of them, no access to medical care.

So for the impetus for me to be involved in a compassionate release, someone has to ask me. And that has

to be the patient; it has to be someone at central, like a director or a medical director. And if it's family, then I only look at family if the patient themselves wants to leave. Because I am the patient's advocate. So usually the request is coming from the patient.

Q Okay. Thank you.

(Whereupon a recess was taken.)

MR. GEDDES: We're back on the record.

BY MR. GEDDES:

Q Dr. Gedney, you understand you're still testifying under oath?

A Yes.

Q If you could continue on in the medical records as you were doing. Thank you.

A NDOC-00440, my note is August 24, 2009.

Patient, according to nurses, has been in hepatic coma since last night. Not responsive to voice. Barely responsive to pain.

So my assessment after examination and labs was hepatic coma. We replaced the NG, which is the nasogastric tube. We increased the Lactulose. We gave the patient fluids, but my note reflects that I felt that his prognosis was dismal.

Q What does that mean?

A Well, when I write "dismal," that I feel, that is a judgment feeling that he will not have ultimately a good outcome. And when I say "dismal," I expect that there is a high likelihood he could die.

Q Okay.

A But as I said before, patients many times confuse doctors and respond again, which is what Mr. Nolan Klein did. Because on NDOC-00439, one day later, my note reflects that he was confused, but he's up and moving about. And he was denying pain. He was a little bit slow with date and other basic information. He was trying to plug in his T.V. And this simple task he had problems with. So in one day, with the treatment of Lactulose and the fluids, he went from someone who was literally comatose, to up and around but confused.

And that note also reflects that August 25, 2009, that same day, he was seen by Dr. Zollinger, who is our gastroenterologist, and we had set up that meeting so we would have an outside consultant who could write a letter regarding compassionate release.

Q Okay.

A And then we have different notes.

Q By different people?

A By different people.

Q Thank you.

A From different nursing staff. And on NDOC-00436, August 31, 2009:

> Patient fell, according to his roommate, a few days ago, and since that time he was complaining of back pain.

My assessment after the exam was he had some back spasms, and I gave him some pain medications and some fluids.

Then NDOC-00435, which is September 3, 2009, it says here he was feeling better.

Q Subjective? That's a subjective --

A This is him. He says:

> Feeling better and today he's slowly sitting up in bed. He was still complaining of low back pain, and he claims that he could get to the toilet in the wheelchair on his own.

My assessment, that his back pain secondary to his fall was slowly resolving. I continued pain medications for another 72 hours.

Then there are notes intervening from other doctors. Dr. Johns works with me in the RMF.

Q What's the first name?

A Dr. Marsha Johns.

Q Thank you.

A She works with me, and I am not always in the institution, because I could potentially be on vacations or somewhere else.

And these notes reflect that Dr. Johns saw him September 11th, 2009. That's written on NDOC-00433. And she was continuing Lactulose.

Then I have a note, September 18th, 2009, from Dr. Marsha Johns as well. That's NDOC-00432. And looking at this, Dr. Johns was involved in his case until he passed away. And looking at this note on 9/20/2009, and that's NDOC number 00430, it says: "Coroner arrived." And that's my --

Q Did you have any involvement in a death certificate or any involvement with the Coroner after that?

A I don't have involvement with Coroners. I many times fill out death certificates.

Q And you may have done so here?

A And I may have done so here.

Q Did you have any communications after that with Tonja Brown concerning the matter; that you recall?

A I don't recall, but if I don't write it, then I have no ability to refresh any memory --

Q Okay.

A -- or remember anything.

Q Now, I'd like to get a perspective, because, you know, what you went over just now, this long period of time, reading into the record all of your involvement in this case, at least according to the documents presented to you here, that's quite a bit, but you weren't given an opportunity to do that when opposing counsel was asking you a question. And she asked you if you had any particular recollection, and I believe that your recollection was that you generally did not recall the specifics of his treatment.

So I want this to be -- your deposition to be a fair reflection of you, and not that there be some suggestion that, you know, you don't know or care about your inmates. How many --

MS. HEARNE: Objection. Characterization testimony by counsel going on at great length.

BY MR. GEDDES:

Q How many patients do you see a day?

A I see -- I have -- I see about 40 patients a day, including other activities I have to do.

Q Okay. And you can see -- how many days a week do you work?

A I have four 10-hour shifts, so that would be around 160 patients a week -- patient visits a week.

Q Okay. And you work how many weeks a year?

A About 50 or so.

Q So that's about -- if I did my math correctly, and I'll let you actually take a pen to paper if I'm wrong. That's about 8,000 patients a year; is that correct? Let's do the math on that.

How many per day did you say?

A About 40.

Q Time four days?

A Time 4, times 50.

Q No --

A Times --

Q Times 50.

A Times 50, yeah.

Q That's 8,000. And you've worked how many years?

A Twenty-five.

Q So if that math is right, you've seen about -- you've had 200,000 patients --

A Patient --

Q -- roughly. Patient visits --

A Patient visits.

Q -- in your tenure if that all holds up?

A Yes.

Q So do you believe it unusual that you can't remember the particulars of a given NDOC patient without referring to the record?

MS. HEARNE: Objection. Leading.

THE WITNESS: I can say that I would be astounded by anyone who could remember particulars for 200,000 different patient visits.

BY MR. GEDDES:

Q And the records that you read span roughly the period of April of '07 to roughly September of '09; is that right?

A According to these records in front of me, yes.

Q Okay. All right. So you -- you went through the records, and there wasn't a real clear exposition regarding if, how, when, and why Mr. Klein's Hep C treatment was discontinued.

Are you able to gather from the records, or what you've testified to so far, was Nolan Klein's Hepatitis C treatment, the Interferon and Ribavirin, was it discontinued?

MS. HEARNE: Objection. I'd like to strike all of the things that counsel testified to, but I would like to have your response.

THE WITNESS: Okay. So regarding Mr. Klein's treatment with Interferon and Ribavirin, looking at these records in sequence, now that I've seen it, Mr. Klein was an individual who we gave treatment, who very quickly, literally within a month or so, developed significant

side-effects from treatment. The medication -- the treatment was stopped appropriately, because further treatment with those medications can truly affect the bone marrow worse, and that the side-effects of the particular treatment, which caused a low white blood cell count, which is one of the side-effects of the treatment, probably was really what put him at risk for an underlying infection. And that infection was treated appropriately and timely.

And when someone dramatically fails a treatment where they get bacteremia, true bacteria in the blood, doctors who are concerned about their patients' welfare, would not restart a treatment like that. The risk would far outweigh the benefit.

MR. GEDDES: Okay. So continuing on with my examination -- I obviously object to the notion that opposing counsel is going to strike my question, but we'll leave that for a Judge for another time.

BY MR. GEDDES:

Q All right. So the long and short of it is, you discontinued his Hep C treatment why?

A Because -- I discontinued it after about a month, because I felt that the risk far outweighed the benefit.

Q And after you discontinued the treatment -- when was that.

When was the Interferon treatment discontinued? What date was that?

A I have to look.

Q That might be around October 4, if you look around that date. I'm not sure, though.

A All right. So the orders are October 4, 2007, which is 00474. That's when it says it starts --

Q Okay.

A -- the treatment.

Q Okay. All right.

A And then we have November 20th, 2007, which is on NDOC-00471, where my note says:

> Do not give Pegasus this week, and do not give Ribavirin this week.

Q Okay. And so the -- you described it as a halt. Is that the halt that you put in with respect to the MRSA or the -- the infection that you were talking about earlier?

A Basically, we have October 4, 2007, a start of treatment, and then in a short amount of time, we have infections, and that puts people at risk, and therefore, I discontinued it November 20th, 2007. And my notes reflect that I did not restart it after that period of time.

Q Okay. Now, just -- and I know that you keep using the word "infection," but is the -- was the

Hepatitis C treatment correlated with Mr. Klein's MRSA in any way, to your knowledge?

A The treatment that caused a reduction in white blood cell count, which was reflected in his urinary tract infection with MRSA and his bacteremia, which means bacteria in the blood, that is a consequence of a side-effect of the two drugs, Interferon and Ribavirin.

Q Okay. So after Nolan Klein was taken off the Interferon and -- the Interferon and the Ribavirin, what was -- what was -- what was his medical plan as far as following up with him?

A Well, after he was taken off that Pegasus and Interferon, he, at that time, had the cellulitis in the leg and the bacteria in the blood. So his treatment included the IV antibiotic, Vancomycin, the minor incision and drainage procedure I described, the pain medications, Lactulose, and meds that are used for the symptoms he was having.

Q And he was sent to Warm Springs sometime after that?

A Yes.

Q Was there a problem with sending him to Warm Springs with respect to the course of his continuing medical treatment?

A When Mr. Klein went to Warm Springs, he was

medically stable in terms of not needing the Regional Medical Facility, which is a hospital setting, and Warm Springs has a doctor and nursing. And if they have a patient who in any way would need readmission into the Regional Medical Facility, that is a few miles away; they could call, and the person could be sent back.

Q If someone were to allege that Nolan Klein were sent off to Warms Springs as a form of retaliation, or a punishment, how would you respond to that?

A I would have no knowledge of it, and when individuals are sent from one institution, from another, watching after 25 years, it is mostly related to protect them. And that is why they tend to move inmates, from watching for 25 years.

Q When he was sent to Warm Springs, did you write him off as doomed?

A No.

Q Can you explain that?

A Well, when he left and went to Warm Springs, he was stable in regards to no infection, normal vital signs. He did have a bad liver. But people with cirrhosis statistically, if you look at general people with cirrhosis, 50 percent are still alive five years out from diagnosis of cirrhosis. And that, of course, is a broad term which people use all sorts of different ways. But

when he left, he could have lived years.

Q Is there any expectation on the progress of medical science with respect to what you just testified?

A You'd have to be specific. I'm not sure what you mean.

Q Can -- can an inmate who is sent to a different prison live long enough, based on what you testified, to -- to experience the benefit of some future medical breakthrough?

A I think there is always that possibility, especially in light of the changes in medicine that I've seen in the last 25 years, which is accelerated.

Q From a medical perspective, was it inappropriate to send Nolan Klein to Warm Springs Correctional Center when he was sent?

A No, not from what I can see from my going through these records.

Q Can you summarize why?

MS. HEARNE: Asked and answered.

THE WITNESS: So looking at these records, when he went to Warm Springs, he had been discharged from the Regional Medical Facility and was stable to live on a yard setting. And whether it's a bed on a yard at NNCC or a bed on a yard in Warm Springs, there is no real difference from a medical perspective.

BY MR. GEDDES:

Q Do you feel from a medical perspective that an inmate can be sent from Lovelock Correctional Center to the RMF to receive treatment? That question really involves do you believe that the travel itself defeats the ability to treat the inmate effectively, if the inmate resides at Lovelock and gets treatment at Regional Medical Facility?

A No, we have many inmates at Lovelock, which is about two hours from the Regional Medical Facility, who are transport by van for different specialty consultations, internal medicine consultations with me, different treatment. And when they're deemed stable, many are sent back to Lovelock, or any of the prisons in the entire State that are sent to us.

MR. GEDDES: Okay. Thank you. I'm going to pass the witness.

EXAMINATION

BY MS. HEARNE:

Q I just have a couple of questions.

Are you the only doctor in the Nevada Correctional Department that can prescribe the treatment to reduce a viral load because of Hepatitis C?

MR. GEDDES: Vague and ambiguous.

THE WITNESS: No.

BY MS. HEARNE:

Q And are there doctors present in the various facilities who can also make that diagnosis and treatment?

MR. GEDDES: Same objection.

THE WITNESS: Doctors can make a diagnosis by blood tests. And if you have a medical license, you can prescribe medical treatment. At least at the present time, because the side-effects of those treatments are high, we have, as a medical department -- and the means the doctors -- we have decided that I should be involved predominantly in that care, because I have the training. So when we evaluate patients, I am part of that evaluation process. And for consistency of care, I am giving the treatment at NNCC.

BY MS. HEARNE:

Q And you are not certainly aware of the medical records of each and every inmate in the Nevada Department of Corrections; is that correct?

A That's correct.

Q So you, to a great extent, rely upon doctors at the various facilities to refer patients to you who need treatment?

A Correct.

Q Okay. And you're not suggesting, when you say

you see 8,000 patients per year, that those are all different patients?

A Those are patient visits.

MS. HEARNE: Right. Thank you. I have nothing further.

MR. GEDDES: Thank you.

Do you want to explain on the record about the signing of the transcript and all that?

MS. HEARNE: We did that at the beginning.

MR. GEDDES: Did we do that at the beginning, 30 days?

MS. HEARNE: Yeah, maybe I forgot.

MR. GEDDES: I think you said that the deposition comes to me, and then I can --

MS. HEARNE: If I didn't tell you, you only have 30 days.

THE WITNESS: Right. That's -- yeah.

MR. GEDDES: Okay. Perfect. All right. Thank you.

(Whereupon the deposition was concluded at 3:37 p.m.)

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I, KAREN GEDNEY, M.D., hereby declare under penalty of perjury that I have read the foregoing transcript of my testimony under oath; that any changes made herein were made and initialed by me; that I hereby subscribe my name this _____ day of _____, 2011.

_____

KAREN GEDNEY, M.D.

STATE OF NEVADA)
) ss.
WASHOE COUNTY)

I, DEBORA L. CECERE, a Certified Court Reporter, State of Nevada, do hereby certify:

That on Friday, the 2nd day of September, 2011, at the hour of 10:00 a.m. of said day, at 245 East Liberty Street, Suite 110, Reno, Nevada, personally appeared KAREN GEDNEY, M.D., who was duly sworn by me to testify the truth, the whole truth, and nothing but the truth, and thereupon was deposed in the matter entitled herein;

That I am not a relative, employee or independent contractor of counsel to any of the parties; or a relative, employee or independent contractor of the parties involved in the proceeding, or a person financially interested in the proceeding;

That said deposition was taken in verbatim stenotype notes by me, a Certified Court Reporter, and thereafter transcribed into typewriting as herein appears;

That the foregoing transcript, consisting of pages 1 through 150 is a full, true and correct transcription of my stenotype notes of said deposition.

DATED: At Reno, Nevada this 13th day of September, 2011.

DEBORA L. CECERE, NV CCR #324, CA CSR #8821