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(The witness was duly sworn.)  
DR. MICHAEL REINSTEIN,  
having been first duly sworn, was examined and  
testified as follows:

EXAMINATION

BY MR. FEDER:

Q. Dr. Reinstein, my name is Alan Feder. I  
am representing the Plaintiffs in this cause of  
action.

Before we begin the formal aspect of  
this, I want to make sure you understand basic  
ground rules.

Have you given a deposition before?

A. Yes, I have.

Q. As you know, I will ask some questions,  
as well as other counsel here, and I would  
appreciate it, and so would the court reporter, if  
you would wait until the question is completed and  
then give your answer. That prevents the  
possibility of two people speaking at one time and  
the court reporter can't take them both down.

You understand that?

A. Yes, sir.

Q. As you are doing now, you are answering  
verbally with a yes or no, as distinguished from a

1 shrugging of the shoulders or shaking of the head.  
2 A. Yes.  
3 MR. FEDER: Thank you.  
4 I would like to have this curriculum  
5 vitae, if you would, please, mark that as  
6 Plaintiff's Exhibit A for identification.  
7 (Plaintiff's Exhibit A is marked for  
8 identification.)  
9 BY MR. FEDER:  
10 Q. Doctor, I will show you what we have  
11 marked as Plaintiff's Exhibit A for a deposition  
12 exhibit, and ask you if that is, in fact, your  
13 current curriculum vitae.  
14 A. Yes.  
15 Q. Is it current? By that I mean are there  
16 any additions or corrections you would like to  
17 make to that that the curriculum does not have on  
18 its face?  
19 A. It is current.  
20 MR. FEDER: In that case, would you  
21 commence this -- let the record show this will be  
22 the discovery deposition for discovery purposes  
23 only of Dr. Michael Reinstein, pursuant to the  
24 provisions of the Civil Practice Act and

applicable rules of the Supreme Court of the State of Illinois.

BY MR. FEDER:

Q. Doctor, would you state your full and complete name and your business address?

A. Michael J. Reinstein, M.D. 4755 North Kenmore Avenue, Chicago.

Q. And what is your business or profession at that address?

A. I practice psychiatry.

Q. You have offices at more than one location?

A. Yes. We have a second office at 1431 Northwestern, St. Elizabeth Hospital professional building.

Q. Do you have a particular field of specialization in the field of psychiatry?

A. No.

Q. Are you Board certified in the field of psychiatry?

A. Yes.

Q. Can you tell me when that board certification took place?

A. 1976.

1 Q. Are you currently licensed in the State of Illinois?

2 A. Yes.

3 Q. What -- when did that license become effective?

4 A. 1968.

5 Q. Do you have an independent recollection of a person by the name of Alvin G. Essary?

6 A. Yes.

7 Q. Would any records you may have assist you in refreshing your recollection of the care and treatment of Alvin Essary?

8 A. Records from Vencore Hospital which is now Kindred, and records from Somerset Nursing Home.

9 Q. Do you have those available for you to examine or for you to refresh your recollection?

10 A. Yes, we do.

11 Q. I am not here to test your memory or to try and trick you with items you may have forgotten. So if at any time during the course of my questions you want to examine those records or refresh your recollection, please feel free to do so.

Is that clear?

A. Yes, sir.

Q. Thank you.

MR. FEDER: Do you have those records available we can mark as a Group Exhibit in case the doctor wants to look at the Vencore records or Somerset records?

MR. HAMMER: These are the records that I brought with me.

BY MR. FEDER:

Q. Do you have any other records, Doctor, to refresh your recollection other than the records counsel has brought?

A. No.

MR. FEDER: May I then have the court reporter put a Group Exhibit A for the Vencore or Kindred Hospital and B for the exhibit of Somerset records to save some time.

MR. HAMMER: Sure. Mark the folders if you could.

MR. FEDER: Mark them B and C. Thank you.

(Exhibit B and C are marked for identification.)

1 MR. FEDER: We will mark the Vencore B. And Somerset as C.

2 Thank you.

3 BY MR. FEDER:

4 Q. Dr. Reinstein, do you remember from your own recollection when was the first time you had occasion to see or care for Mr. Alvin Essary?

5 A. Probably in the late 1980s.

6 Q. And can you tell me in what capacity or where did you have occasion to see him at that time?

7 A. He was a patient in several different halfway houses.

8 Q. Did you see him at the halfway house, or was he a patient coming to your office or in a hospital setting?

9 A. He was seen in different halfway houses and hospitals.

10 Q. Can you reflect upon the first time you ever met him and what the occasion was for that particular meeting?

11 A. I can't recall specifically.

12 Q. Would you be able to generally describe the condition of his ill-being as you remember it?

A. In a general sense, yes.  
 Q. Would you do that for me, please?  
 A. Yes. He was a brain-damaged individual. He had been struck by lightning when he was about ten or eight years old. He had always been very irritable, very delusional, could get aggressive, and presented difficult management problems.  
 Q. I see. This is from your memory as distinguished from a history you have written? Is this just off the top of your head?  
 A. That's correct.  
 Q. In the early 1980s when you first saw him, was this an ongoing type of thing? Did you see him more than once in 1980, 1981, '82? Was there a course of conduct that you saw Alvin Essary following that first visit?  
 MR. HAMMER: Counsel, objection. I think he said it was late 1980s.  
 MR. FEDER: Once again, I apologize.  
 BY MR. FEDER:  
 Q. Was there a course of seeking care and treatment in your behalf at that time?  
 A. Since it is over 15 years ago, I can't remember very many specific details. I believe he

1 was in a couple of halfway houses and possibly had  
 2 a couple of hospitalizations during that time  
 3 period.  
 4 Q. Do you remember or do you have any kind  
 5 of notes or histories in your records which would  
 6 indicate that any medications were dispensed to  
 7 him at that first or early meeting?  
 8 A. I don't have any records of that.  
 9 Q. Do you remember off the deep recesses of  
 10 your long-term memory if you do recall what  
 11 medications you would have prescribed for him?  
 12 A. I have some very vague memories for a  
 13 couple of years he was at the Lakeside Boarding  
 14 Home and Somerset Nursing Home, and he was  
 15 receiving Clozaril, which he did do well on, but  
 16 he didn't like to take it because he didn't like  
 17 to cooperate with the blood draws that were  
 18 associated with Clozaril therapy.  
 19 Q. Okay. At the time he was given the  
 20 Clozaril, would you describe for me the purpose of  
 21 the use of that particular drug?  
 22 A. To control his aggression, his  
 23 agitation, and his delusions.  
 24 Q. How would that affect a person as Alvin

Essary back in the late 1980s? What would it do to him physically or how did it manifest itself in the person?  
 A. He would be less irritable and less hostile.  
 Q. At that time, do you recall dispensing any other drugs in concert with the Clozaril?  
 A. I cannot recall.  
 Q. Are you aware of the fact that Alvin Essary died in the year of 1999?  
 A. That's correct.  
 Q. Do you know or are you aware of where he was when he passed away?  
 A. He was at the Somerset home when he passed away.  
 Q. Had he been under your care and treatment prior to his demise?  
 A. Yes.  
 Q. Can you tell me when was the first time in the sequence of hospitalizations that led up to his demise, when was the first time he was hospitalized, if you can recall?  
 A. Well, he was hospitalized many times. The last hospitalization before his demise was at

1 Vencore Hospital, which is now known as Kindred  
 2 Hospital.  
 3 Q. Do you know when he went into the  
 4 Kindred or Vencore Hospital prior to his death?  
 5 A. Date of admission, Kindred Hospital, was  
 6 4-9-99.  
 7 Q. Was Alvin Essary hospitalized as a  
 8 result of your request, or was he a voluntary  
 9 admission at that time?  
 10 A. He was transferred to Vencore from Grant  
 11 Hospital.  
 12 Q. I see. Did you see him when he was a  
 13 patient at Grant Hospital?  
 14 A. No.  
 15 Q. Was he transferred with your knowledge  
 16 to the Vencore Hospital, with your knowledge?  
 17 A. Yes.  
 18 Q. Do you recall how you first received  
 19 notice that Alvin Essary was going to be  
 20 transferred from the Grant Hospital to the Vencore  
 21 Kindred Hospital?  
 22 A. Yes. I received a call from his  
 23 psychiatrist at Grant Hospital, Dr. Abrams, asking  
 24 me to accept him for transfer.

Q. Do you remember Dr. Abrams' full name?

A. I believe it is Richard Abrams.

Q. Was he being treated for any type of psychiatric disturbance when he was at the Grant Hospital, if you know?

A. My understanding was he was admitted there for psychiatric disorder.

Q. Can you tell me, if you know, what was the reason that Dr. Abrams transferred him to the Vencore or Kindred Hospital on April 9, 1999?

A. He was irritable and aggressive, and Dr. Abrams didn't feel comfortable managing him at Grant Hospital.

Q. Is Grant Hospital a psychiatric holding, and do they have a psychiatric ward for patients of Alvin Essary's disposition?

A. They have a psychiatric unit there.

Q. Is Vencore better or well equipped to handle a patient such as Alvin Essary?

A. Apparently it was the opinion of Dr. Abrams that it was.

Q. Did you agree with his opinion?

A. I agreed to accept him for treatment.

Q. When you first saw Alvin Essary on April

1 9, you were well aware of his prior history dating  
2 back to the late 1980s; is that correct?

3 A. That's correct.

4 Q. Did you confer or did you consult with  
5 Dr. Abrams of the current manifestation of his  
6 problems, how they affected him and what medical  
7 care was rendered to him at the Grant Hospital?

8 A. Yes.

9 Q. Did you continue the same or similar  
10 treatment that Grant Hospital had for Mr. Essary  
11 before he went into the Vencore Hospital?

12 A. In consultation with the other  
13 psychiatrist who was co-managing Mr. Essary with  
14 me, we made some changes in his treatment.

15 Q. Can you tell me who the other  
16 psychiatrist was that you consulted with and made  
17 the changes of treatment?

18 A. Dr. Shalemi Patel.

19 Q. Is Dr. Patel on the staff or in the  
20 Vencore or Kindred Hospital when he was admitted?

21 A. Yes.

22 Q. Is he an associate of yours in private  
23 practice outside of the hospital?

24 A. It is a female. And she is an associate

of mine.

Q. Do your records reflect or do you know what was changed in the way of medications from the Grant Hospital to those he began to receive when he was admitted at the Vencore or Kindred Hospital?

A. The patient came in and was onisperdal, and that was changed to Clozaril.

MR. VITTORI: Can you spell --

THE WITNESS: R-I-S-P-E-R-D-A-L.

BY MR. FEDER:

Q. Is that particular drug Mr. Essary was on a stimulant-type of conduct, conduct-controlling medication?

If I am using the word wrong, conduct, does it have a similar effect in hopefully toning down or quieting the overt or aggressive tendencies of Mr. Essary?

A. Perhaps for some patients, but not for Mr. Essary.

Q. In other words, that medication in your opinion was not strong enough to accomplish that which was necessary?

A. It wasn't effective enough.

1 Q. Other than that particular drug, do you  
2 know of any other drugs that were changed or added  
3 to Mr. Essary's regime or his total number of  
4 drugs that he did receive at the Grant Hospital to  
5 what was changed, to what you recommended or  
6 prescribed at the Vencore Hospital?

7 A. While he was in treatment at Vencore, he  
8 also received several injections of Haldol  
9 Decanoate.

10 Q. Repeat that?

11 A. He received several injections of Haldol  
12 Decanoate, D-E-C-A-N-O-A-T-E.

13 Q. Would you be able to tell me what the  
14 purpose of those particular injections would have  
15 been if you know the effect?

16 A. To help control his agitation and his  
17 psychosis.

18 Q. Did you have an opportunity to examine  
19 Alvin Essary on April 9 when he was admitted to  
20 the Grant Hospital -- strike that, to the Vencore  
21 Kindred Hospital?

22 A. He was seen on April 10.

23 Q. Did you prepare a history of that  
24 examination?

A. Yes.

Q. Could you please read that for the record and for the court reporter?

MR. HAMMER: The whole thing?

MR. FEDER: Just the history, which is about one paragraph.

MR. HAMMER: Okay. I mean, there is a story, past history, medical history.

BY MR. FEDER:

Q. Just the history that was taken at the time.

A. Patient is a 49-year-old white male transferred here to Vencore North per his request. The patient is well-known to me and was admitted to Grant Hospital. While his treatment at Grant, I asked the psychiatrist there, Dr. Abrams, to contact me so he could be transferred under my care. The patient had been admitted to Grant after he became irritable at the SRO where he was staying and was brought there.

Q. I notice in that particular first paragraph the patient was brought here at his request?

A. Yes.

1 Q. Is that an accurate statement, or based upon what you have told me, was it a request of Dr. Abrams to sent him to Vencore?

4 A. I think it was decision of both of them. I think the patient requested it and Dr. Abrams felt it was a good idea.

7 Q. Based upon your knowledge of Alvin Essary prior to the admission on April 9, would you be of the impression or of the opinion that Alvin Essary knew enough to be requesting to change his hospital environment?

12 A. I think he was able to make that decision.

14 Q. At the time he was a patient following your examination of April 10, 1999, is it fair to say that Mr. Essary was on a specific regime of medications amounting to approximately 12 in number?

19 A. 12 when he was at Vencore or --

20 Q. Yes. 12 at Vencore.

21 A. Only looks to me he was receiving three medications on an ongoing basis, and the others were just PRN, which were only to be given if needed.

Q. But he was actually given those PRNs, as you called them?

What are PRNs?

A. Only to be given as needed.

Q. But was he actually given, for instance, Zantac 150 milligrams?

A. That was ordered on a regular basis.

Q. Was he given Tylenol?

A. He was given Tylenol on the 21st.

Q. That is the first indication of any Tylenol in the records in the hospital?

A. That is the best I can determine, yes.

Q. Do you know in what quantity or what amount?

A. He was given two tablets at eight o'clock and he was given two tablets at 2:00 p.m.

Q. Did he get any Tylenol after that, or was that just for a certain manifestation or --

A. He was also given it on the 25th at 7:00 a.m.

Q. We can go on to the next, unless you find more.

What is MOM?

A. Milk of magnesia.

1 Q. That was something that was given daily?

2 A. As needed for constipation.

3 Q. Mylanta?

4 A. That is given for indigestion.

5 Q. But he was given that on a PRN basis?

6 A. I looked for that. I didn't see that he was given either milk of magnesia or Mylanta during his hospitalization.

9 Q. You didn't see that?

10 A. No.

11 Q. Did you see Depokene, D-E-P-O-K-E-N-E, syrup?

13 A. He was given that.

14 Q. 500 mgs TID and then Depokene syrup 1,000 milligrams QHS.

How does that differ?

17 A. We sometimes give more at night than the daytime dose.

19 Q. I see. What is Congentin, C-O-N-G-E-N-T-I-N?

21 A. That is medication given at night to control drooling.

23 Q. And Haldol, H-A-L-D-O-L?

24 A. That is a tranquilizer.

Q. And was Motrin given -- well Motrin we know, M-O-T-R-I-N. I have taken that one myself.

A. I don't recall seeing it. I can look further, if you wish.

Q. 600 milligram Q six HR PRN?

A. Yes. I didn't see any indication he received that.

Q. And now Clozaril, there was 100 milligrams BID and Clozaril 100 milligrams QHS. How does that differ from --

A. Just the time. It is given twice a day and at bedtime.

Q. Was he also treated for asthma and had an Albuterol inhaler?

A. He received a couple of doses of that. He apparently had a history of asthma.

Q. Are you aware that Clozaril is one of many drugs that can be used to control his behavior or pattern that were available in 1999?

A. Yes.

Q. Is Clozaril a -- can we call it a toxic substance if given over a long period of time or in dosages high enough to cause his death?

MR. HAMMER: Objection. Form. You can

1 answer, Doctor.

2 THE WITNESS: I don't believe he  
3 received a toxic dose of Clozaril.

4 BY MR. FEDER:

5 Q. Are you familiar with drugs known as  
6 Risperdal, R-I-S-P-E-R-D-A-L?

7 A. Yes.

8 Q. Is that a similar affectation drug upon  
9 the person or personality of a person with Alvin  
10 Essary's psychosis or psychiatric problems?

11 A. I don't think it is as effective as  
12 Clozaril.

13 Q. Zyprexa, Z-Y-P-R-E-X-A, is that also a  
14 similar drug that has a similar or quantitative  
15 effect upon a person with Alvin Essary's emotional  
16 or psychiatric problems?

17 A. I don't believe Zyprexa would be as  
18 effective as Clozaril for a patient like  
19 Mr. Essary.

20 Q. Drug called Seroquel, S-E-R-O-Q-U-E-L,  
21 is that a similar drug which could or might have  
22 been used as Clozaril?

23 A. I don't believe Seroquel would be as  
24 effective for Mr. Essary as Clozaril.

1 Q. Do those drugs I have just mentioned  
2 Risperdal, Seroquel, do they have less toxic  
3 effect upon the human body as Clozaril?

4 MR. HAMMER: I am going to object as to  
5 form.

6 MS. PARK: Join.

7 MR. VITTORI: Join.

8 MR. HAMMER: You may answer.

9 THE WITNESS: I personally don't think  
10 Clozaril is a more toxic drug than the other  
11 three.

12 BY MR. FEDER:

13 Q. Is there any particular reason that you  
14 as the treating physician or psychiatrist  
15 immediately went to Clozaril for Alvin Essary?

16 A. I have known this patient over many  
17 years. He gets aggressive. He gets violent. He  
18 has been treated by many psychiatrists, and he was  
19 not doing well on Risperdal. In fact, he had  
20 assaulted somebody at the shelter where he was  
21 staying and broken the nose of the other party.  
22 And I felt he would do better on Clozaril and he  
23 would be at risk to others if he was on Risperdal  
24 or other medications.

1 Q. Does the body, a human body -- we are  
2 talking in generalities, not Mr. Alan Essary. A  
3 normal human being not having the problems or  
4 other medications that Mr. Essary had at the time,  
5 how does the body clear or get rid of Clozaril,  
6 through what means?

7 A. It is metabolized through the liver and  
8 secreted through the kidneys.

9 Q. And based upon the dosage that you were  
10 giving to Mr. Essary at the time from April 9  
11 until his demise which I think took place -- was  
12 it the 27th or 28th?

13 A. I believe it was the 28th.

14 Q. 28th.

15 Had that changed by either  
16 increasing the dosage or decreasing the dosage  
17 during that approximately 18 or 19 days?

18 A. His dose was adjusted very cautiously.  
19 He was never above a dose of 300 milligrams a day,  
20 which is a low-average maintenance Clozaril dose.

21 Q. Are you aware or were you aware of the  
22 concomitant use of those other medications he was  
23 taking affecting the ability to clear or void the  
24 Clozaril?

A. That is why we very carefully titrated his Clozaril.

Q. I'm sorry?

A. That is why we very carefully titrated his Clozaril, because he needed the other medications.

Q. Was Mr. Essary monitored by blood test during the period of time to check for the Clozaril intoxication?

A. He was monitored clinically. We don't have access to blood tests. They have to be sent out. It takes several weeks to get the results. So practically speaking, we cannot monitor by blood levels, so we have to do it clinically.

Q. When you say it takes several weeks, I am referring to myself. When I have gone to a physician for my own personal condition, I take a blood test. The following day, he has the list of all of the various medications and the breakdown of the cholesterol levels, et cetera. I get that within 24 hours. That type of -- is not available?

A. No. There is only one or two sites in the country that do Clozaril levels. This is not

1 done routinely. It is not available in Chicago  
2 like cholesterol levels or other tests. They have  
3 to be sent out of the city, and it takes the lab a  
4 couple of weeks to generate the result.

5 Q. My question, then, is were any such  
6 blood tests taken of Alvin Essary during the  
7 period of time he was hospitalized at either the  
8 Vencore Kindred Hospital or Somerset House?

9 A. No. It would not be practical to do it  
10 because of the slow rate of getting the result.  
11 We only do it once we have a stable dosage of the  
12 Clozaril. If he had stayed at Somerset, at some  
13 point, we probably would have done it.

14 Again, it takes several weeks, so  
15 there is no point to getting it while you are  
16 adjusting the dose.

17 Q. I have -- and this is not based upon my  
18 knowledge, it is based upon a statement which was  
19 given to me by a doctor who is familiar with the  
20 use of Clozaril and the use of Depokene,  
21 D-E-P-O-K-E-N-E, it was stated to me -- I am  
22 asking you if this is your concurrence or whether  
23 or not you disagree, that Depokene -- if I  
24 mispronounce it, I apologize -- basically prevents

Clozaril from being cleared from the system and  
causes a buildup of the Clozaril within his  
system.

MR. HAMMER: I am going to object to  
the form of the question. You may answer.

MR. VITTORI: I will join in the  
objection.

MS. PARK: I will join.

THE WITNESS: Well, I think you should  
state who the doctor is.

MR. FEDER: I will. I can tell you who  
the doctor is if you want me to.

MR. HAMMER: You can answer the  
question.

THE WITNESS: Okay. If he says I  
should answer it, I will.

We have actually had a large number  
of people on Depakote and Clozaril. We have  
actually published a paper on the result.

To answer the question, yes, one has  
to be a little more careful with the Clozaril  
titration when the patient is on Depakote, and we  
are. And sometimes the patients will need a  
slightly lower dose of the Clozaril as a result.

1 And that has to be taken into consideration.

2 BY MR. FEDER:

3 Q. So you were aware of the fact that that  
4 might or could possibly create a problem and,  
5 therefore, he was monitored closely, is that what  
6 you are saying?

7 A. Yes.

8 Q. Are you aware of the fact that the  
9 person that was supposed to monitor Alvin Essary  
10 while he was hospitalized at the Vencore Hospital  
11 had no knowledge about the use of Clozaril  
12 whatsoever, and that I am talking about Dr. Paresh  
13 Jani.

14 MR. VITTORI: Let me object because I  
15 don't believe that was the testimony. I believe  
16 he -- the only thing I say, Alan, he knew he was  
17 on the Clozaril, but discussed his knowledge of  
18 the drug, itself. I thought he testified he was  
19 aware he was on the Clozaril and did clinically  
20 follow up.

21 It is kind of a confusing question.

22 THE WITNESS: Well, he was seen daily  
23 by either Dr. Patel or myself, who were very  
24 familiar with Clozaril.

MR. FEDER:

Q. Was Dr. Paresh Jani part of your staff part of your employee, agency or within your firm that was monitoring Mr. Alvin Essary during the part of the time he was at the Vencore or the Vencore Hospital?

A. Dr. Jani is the medical consultant that saw Mr. Essary. He was seeing him for his elbow pain and his asthma and any other medication issues that might have arisen during the hospitalization.

Q. According to his report, he was going or agreed to medically manage Mr. Alvin Essary.

Does that mean he would review the medicines and the drugs that were given to him?

A. He had nothing to do with Clozaril management. He was managing for the medical issues.

Q. When you say medical issues, other than the psychiatric, is that what you are saying?

A. Related or unrelated medical issues, such as his elbow pain and his asthma.

Q. Are you aware of the fact that this asthma inhaler containing Albuterol inhaler might

1 or could cause an inhibition or slowdown of the  
2 clearing of the Clozaril?

3 A. That is why we were seeing him daily  
4 closely monitoring him for his Clozaril dosage

5 Q. Are you aware of the fact that a  
6 coroner's inquisition took place on the body of  
7 Alvin Essary following his demise?

8 A. Yes, I am aware of that.

9 Q. Were you also aware of the fact that the  
10 finding of the coroner indicated that there was a  
11 Clozaril intoxication of approximately 17 times  
12 normal?

13 MR. HAMMER: Objection as to form.

14 MR. FEDER: I asked if he is aware of  
15 it.

16 MR. HAMMER: I don't know if it is 17  
17 times normal. I don't think that is what the  
18 record says.

19 MR. FEDER: You are a nice guy --

20 MR. HAMMER: You may answer the  
21 question.

22 THE WITNESS: I am aware of the result;  
23 however, I know that post-mortem levels of  
24 Clozaril and other substances are totally

irrelevant to what the pre-mortem levels are.

I did consult when I got the findings with Dr. Larry Alphs, who is the medical director or was the medical director for Clozaril in the United States, who said there were a number of literature articles that indicated that post-mortem results were totally irrelevant to the pre-mortem results.

MS. PARK: Can I have the name of that doctor again, please?

THE WITNESS: Alphs, A-L-P-H-S.

BY MR. FEDER:

Q. Is that a pharmacologist or medical doctor?

A. He is a medical doctor.

Q. And is he employed by the company that manufactures Clozaril?

A. At the time he was, yes.

Q. Do you have any idea where he is practicing at the present time?

A. No, I don't.

Q. During 1999 when you were treating Alvin Essary -- strike that.

What company produces Clozaril, if

1 you know?

2 A. It is produced by Novartis, and since  
3 1999, there is some generic available. I am not  
4 sure if they were available in 1999. They are now  
5 available.

6 Q. But prior to that or at the time of  
7 Mr. Alvin Essary's demise, was he receiving the  
8 Novartis -- I apologize if I am mispronouncing  
9 it -- was he receiving the original Clozaril, or  
10 was it a generic?

11 A. He was receiving the brand Clozaril.

12 Q. Would you say that you personally have  
13 prescribed Clozaril over a period of years as  
14 distinguished from the other brands for your own  
15 choice of care and treatment?

16 A. We prefer the brand Clozaril.

17 Q. Do you or did you have any type of  
18 contractual relationship with the company called  
19 Novartis prior to the care and treatment of Alvin  
20 Essary?

21 A. I have been in their speaker's bureau  
22 and probably have given a few lectures on Clozaril  
23 on behalf of the company.

24 Q. Would you or have you prescribed any

ther mood altering -- that is not the right word for it. I am trying to think of the type of general description of Clozaril.

MS. PARK: Antipsychotic.

BY MR. FEDER:

Q. Is it an antidepressant? Is it a relaxer? How would you describe it personally?

A. One word, I would say it is an antipsychotic.

Q. Have you used any other drug other than Clozaril for your patients prior to April 9 of 1999?

A. Yes.

Q. Could you tell me what other antipsychotic drug you might have used?

A. We have used Risperdal. We have used Zyprexa, Seroquel, Haldol, Thorazine. We have used Prolixin. We have used Elavil.

Q. Are -- were you ever engaged by any of those other companies or providers other than Novartis to lecture or speak?

A. Yes, I have been in the speaker's bureau for Janssen for Risperdal. I have been in the speaker's bureau for Eli Lilly for Zyprexa, and I

1 have been in the speaker's bureau AstraZeneca for  
2 Seroquel.

3 Q. Do you know of your own knowledge what  
4 the cause of death of Alvin Essary was?

5 A. I don't know.

6 Q. Was it possible for Alvin Essary to  
7 obtain Clozaril from any other source other than  
8 through the hospital or nurses or doctors at the  
9 Vencore or Somerset House?

10 A. I assume he only got it as prescribed.

11 He was out of the building on the day of his  
12 death. I certainly have no knowledge that he  
13 received Clozaril or anything else when he was out  
14 of the building.

15 Q. When was the last time that you  
16 physically saw Alvin Essary before his demise?

17 A. April 27.

18 Q. Do you have any notes or do you remember  
19 what you observed about Mr. Alvin Essary's  
20 physical condition at that time?

21 A. He was seen at the Somerset Home on the  
22 evening of the 27th.

23 Q. And did you take a history or did you  
24 take any notes of your meeting with him at that

time?

A. Yes, I did.

Q. Would you refer to those notes or --

A. Note was written at 8:00 p.m. on  
4-27-99. Patient is placed here from Vencore  
North. Seems somewhat manic, irritable and  
labile. No side effects of treatment. Diagnosis,  
bipolar, code being 296.44, and the note was  
medications as ordered.

Q. Was there any change in the medications  
at that time, increase or decrease?

A. Dosage of Clozaril was changed from 50  
milligrams TID and 100 milligrams at HS to 100  
milligrams BID and 100 milligrams at bedtime.

Q. Have you ever seen a specific case of  
Clozaril intoxication prior to the demise of Alvin  
Essary?

A. I have seen patients with Clozaril. I  
don't know I would use the word intoxication, but  
maybe were receiving too high a dose of Clozaril.

Q. How does it manifest itself if a patient  
is receiving too much Clozaril?

A. Patients are drowsy, can't wake them up.  
They sleep too much. They have loss of appetite.

1 They might have excessive drooling. They could  
2 have seizures. They could have jerking movements.

3 Q. Or can --

4 A. Jerking movements.

5 Q. Were any of these conditions observable  
6 or manifested in Alvin Essary before he died?

7 A. No. In fact, he walked on his own  
8 approximately two miles from the Somerset Home to  
9 the C 4 mental health clinic. I got a call from  
10 them on the date of the 28th he had walked there  
11 from Somerset Home. So certainly did not appear  
12 to be drowsy or lethargic.

13 Q. Do you know he walked there or he used  
14 public transportation?

15 A. The history I received he walked there.

16 Q. You don't know that for a fact?

17 A. No.

18 Q. Can you tell me of your own knowledge  
19 why he was moved from the Vencore Hospital to the  
20 Somerset House?

21 A. He could not return to his previous  
22 living situation, which was Antonio House, because  
23 he had broken the nose of another patient there  
24 after becoming violent.

1 Q. Is Somerset House, then, a halfway house  
2 type of situation before a person is totally  
3 released from medical care?

4 A. It is considered a halfway house kind of  
5 a transition between the hospital and the  
6 community.

7 Q. But he still was receiving the  
8 medication you had prescribed for him at the  
9 Vencore Hospital; is that correct?

10 A. It was expected he would, yes.

11 Q. You saw him at the hospital on the 27th.  
12 That is the day before he passed away?

13 MR. HAMMER: I object. I think he was  
14 at Somerset, not the hospital.

15 BY MR. FEDER:

16 Q. I'm sorry, you saw him at the Somerset  
17 Hospital?

18 A. Somerset Home. Not hospital.

19 Q. That was the day before he passed on?

20 A. That's correct.

21 Q. There was nothing unusual about your  
22 examination of Alvin Essary when you examined him  
23 on April 27?

24 A. He was irritable. Somewhat labile.

1 Other than that, the examination was unre-  
2 THE WITNESS: I am going to take a  
3 break.

4 (RECESS.)

5 BY MR. FEDER:

6 Q. Is Alvin Essary the only person that you  
7 know in your care that may have or might have died  
8 from Clozaril?

9 MR. HAMMER: I am going to object to  
10 the form. I think he testified he didn't think he  
11 did, but you can answer.

12 MR. VITTORI: Same objection.

13 MS. PARK: Join.

14 MS. KATUBIG: Join.

15 THE WITNESS: Our practice has had  
16 several thousand people on Clozaril. You know, I  
17 think over the years, maybe about five or six have  
18 died. I don't think in any case there was any  
19 relationship with the Clozaril.

20 BY MR. FEDER:

21 Q. Was Alvin Essary given an EKG at any  
22 time while he was in the -- in your care at the  
23 Vencore Kindred Hospital or Somerset House?

24 A. I don't think so, no.

1 Q. When you say that the use of Clozaril  
2 was closely monitored, by that you mean that you  
3 and your associate physically observed the patient  
4 and manifestation of how he acted as the method of  
5 determination?

6 A. He was seen on a daily basis while he  
7 was in the hospital. He was evaluated for any  
8 possible adverse reactions to the Clozaril.

9 Q. But there was no physical examination of  
10 either urine or blood or sputum or whatever can be  
11 done to determine what levels within the body, you  
12 did it strictly by physical observation; is that  
13 correct?

14 A. That's correct. There is no urine  
15 examination I am aware of that can help with  
16 Clozaril levels. And the blood levels are  
17 impractical, unfortunately. I wish they were more  
18 accessible, but they are not. You see the patient  
19 daily in the hospital and you evaluate how they  
20 are doing on the dosage.

21 Q. Is that the same situation with  
22 Risperdal, Zyprexa, Seroquel, is it the same  
23 difficulty in determining the levels of medication  
24 within the body?

1 MR. HAMMER: Objection as to form, but  
2 you can answer.

3 THE WITNESS: It has to be done  
4 clinically because, again, it is very difficult to  
5 get blood levels of the three other drugs that you  
6 mentioned.

7 BY MR. FEDER:

8 Q. Is Clozaril more difficult or is it the  
9 same for all those that I mentioned?

10 A. It is no more difficult from those.

11 Q. Can you explain why, you know, why is it  
12 more difficult for Clozaril than it is for the  
13 other drugs?

14 MR. HAMMER: He just said it is no more  
15 difficult.

16 BY MR. FEDER:

17 Q. You said it is no more?

18 A. No more difficult.

19 Q. I apologize.

20 When he was -- strike that.

21 Do your records disclose that when  
22 Mr. Alvin Essary was admitted to the hospital at  
23 the Somerset -- excuse me, Somerset House, he was  
24 noted to be groggy, had difficulty walking and was

1 A. Yes.

2 MR. FEDER: I have no further  
3 questions. Thank you very much.

4 MR. HAMMER: Does anybody else have any  
5 questions?

6 MR. VITTORI: I am not going to have  
7 any questions.

8 MR. FEDER: I am sure you will bill me,  
9 and I will order a copy of it.

10 EXAMINATION

11 BY MS. PARK:

12 Q. Doctor, we introduced each other  
13 earlier. I am Tanya Park, and I represent  
14 Somerset Place and Karen James in this matter. I  
15 have a few questions in follow-up. Pit is my  
16 understanding from looking at the S1 diagnosis was  
17 schizoaffective disorder; is that correct?

18 A. At some point he was called bipolar.  
19 Because of the chronicity, it was labeled  
20 schizoaffective. Best way to word it, bipolar  
21 code in an individual with schizoaffective  
22 disorder.

23 Q. Am I correct, Doctor, that in using a  
24 schizoaffective diagnosis, that implies a

1 psychotic aspect to the person's illness and a  
2 mood aspect to the person's illness; is that  
3 correct?

4 A. That's correct.

5 Q. So it is -- strike that.

6 In that there are two aspects to the  
7 illness, it would be indicated that a mood  
8 medication would be prescribed along with an  
9 antipsychotic medication; is that correct?

10 A. That's correct. He had features of both  
11 the mood disorder and psychotic disorder.

12 Q. Is it possible to -- I don't know if I  
13 want to say control, but is it possible to fully  
14 control the symptoms of a schizoaffective disorder  
15 or bipolar disorder with psychotic features by  
16 only using antipsychotic or only using a mood  
17 medication?

18 A. Present standard is since there is  
19 problems with both psychosis to use an  
20 antipsychotic and with mood disorder,  
21 irritability, lability, also use a mood  
22 stabilizing medication.

23 Q. Two medications in conjunction will  
24 generally get the best result for the patient; is

1 that correct?

2 A. That's correct.

3 Q. Moving to when Mr. Essary was  
4 transferred to Somerset Place, Doctor, who made  
5 that decision to make the transfer to Somerset?

6 A. Well, it is made by the treatment team,  
7 the doctor, the social worker, the psychologist,  
8 and the therapist. The actual order is obviously  
9 given by the treating psychiatrist.

10 Q. Is a meeting held prior to the transfer  
11 with the treatment team?

12 A. Yes.

13 Q. And that was the case with Mr. Essary?

14 A. Yes. Of course, the other side of it,  
15 Somerset has to accept the patient and they have  
16 to review his condition, as well.

17 Q. I'm sorry, they have to review their  
18 condition? Is that what you said?

19 A. The patient's condition.

20 Q. Does someone from Somerset come to this  
21 meeting with the treatment team prior to the  
22 transfer?

23 A. Yes.

24 Q. Do you know who that was?

1 A. The usual one who usually comes is  
2 Jooshik, who is Director of Admissions,  
3 J-O-O-S-H-I-K.

4 Q. Was he the person that attended the  
5 meeting back in April of '99?

6 A. My guess is he was. I don't remember  
7 specifically.

8 Q. Are there specific notes from that  
9 meeting in your records, sir?

10 A. I would have to look at the social work  
11 notes.

12 This is a note from Robert Clecz on  
13 the 27th. Placement is secure at Somerset House  
14 and patient is scheduled to leave today.

15 He doesn't write if and when he was  
16 seen by somebody at Somerset, but that usually is  
17 the policy. I don't see any other notes in that  
18 report.

19 Q. This person's name is Robert Clecz?

20 A. Yes. He actually now works at Somerset.  
21 At that time he was a social worker at Vencore.

22 MR. FEDER: C-L-E-E --

23 THE WITNESS: I believe it is

24 C-L-E-C-Z.

1 BY MS. PARK:  
 2 Q. In any case, once that meeting is held  
 3 and decision is made for transfer, the attending  
 4 psychiatrist makes that order; is that correct?  
 5 A. That's correct.  
 6 Q. And that was you in this instance?  
 7 A. I believe it was Dr. Patel, but let me  
 8 double-check.  
 9 Yes, it was written by Dr. Patel on  
 10 the 26th for him to go on the 27th.  
 11 Q. Is there any consultation with any  
 12 family members in regard to the transfer to  
 13 Somerset Place?  
 14 A. Usually that would be done by the social  
 15 worker who would notify the family and make sure  
 16 it was done.  
 17 Q. Do you know whether the social worker  
 18 contacted the family in this case?  
 19 A. I can't recall specifically.  
 20 Q. Can we assume that there were no  
 21 objections to the transfer if it, indeed, went  
 22 through?  
 23 A. I would assume that.  
 24 Q. And then would the patient also be

1 notified of the transfer?  
 2 A. Yes, he would have to agree to it.  
 3 Q. And again we can assume Mr. Essary  
 4 agreed to the transfer if it, indeed, happened?  
 5 A. Yes.  
 6 Q. Doctor, do you have privileges at  
 7 Somerset Place, or how is your affiliation with  
 8 Somerset Place set up?  
 9 A. I am an attending psychiatrist at  
 10 Somerset, as is Dr. Patel, my associate.  
 11 Q. You have regular hours at Somerset  
 12 Place?  
 13 A. I go there every Tuesday morning.  
 14 Q. Every Tuesday morning.  
 15 In April of 1999, who was your  
 16 employer?  
 17 A. I am self employed.  
 18 Q. Have you ever been employed by Somerset  
 19 Place?  
 20 A. I have been the psychiatric medical  
 21 director there, I think for about two  
 22 years. I don't believe I was in  
 23 position started in 2001.  
 24 Q. So it is fair to say i.

1 you were not employed by Somerset Place; is that  
 2 correct?  
 3 A. That's correct.  
 4 Q. Doctor, we went over a list of  
 5 medications I believe on the transfer form from  
 6 Vencore on Somerset for Mr. Essary.  
 7 Are those the medications you were  
 8 prescribing at Vencore you would have wanted  
 9 continued at Somerset Place?  
 10 A. That's correct.  
 11 Q. You would presume the nursing staff at  
 12 Somerset Place would follow your orders; is that  
 13 correct?  
 14 A. That's correct.  
 15 Q. Do you have any reason to believe in  
 16 April of 1999 the nursing staff did not follow  
 17 your orders?  
 18 A. Well, the only reason order may not have  
 19 been given was he was out of the building.  
 20 Q. The only reason a nurse may not  
 21 have been able to fulfill an order is when he was  
 22 out of the building, is that what you mean?  
 23 A. Yes. He was apparently out of the  
 24 building most of the day.

1 Q. Is it your opinion or do  
 2 opinion that any of the nursing s  
 3 Place breached the standard of ca.  
 4 to Mr. Alvin Essary?  
 5 A. No.  
 6 Q. Because if a patient leaves the  
 7 and there is really no expectation that the  
 8 nursing staff would hunt him down, is that fair?  
 9 A. It is a voluntary thing. There was a  
 10 voluntary agreement he would stay there 72 hours  
 11 and not leave the facility. It is obviously not a  
 12 jail. It is voluntary. We can't force people to  
 13 stay there. But the expectation is the patient  
 14 will stay there 72 hours and not leave.  
 15 Q. And Mr. Essary came back to Somerset  
 16 Place on April 27; is that correct?  
 17 A. He was admitted to Somerset on April 27.  
 18 If you want to say he came back, he had been there  
 19 in the early '90s.  
 20 Q. I'm sorry, I mean from his elopement.  
 21 A. Yes. It was on the 28th.  
 22 Q. As far as you know, when he returned to  
 23 Somerset Place, did the nurses -- do you have any  
 24 reason to believe the nurses did not then continue

*Handwritten notes:*  
 - visit  
 - Somerset  
 - 912 814 8397  
 - I'll give it

allowing your orders?

A. I am sure they would have. I don't know what they had a chance to, but --

Q. Do you have any criticisms of the nursing staff at Somerset Place?

A. No.

Q. Do you bill your patients, then, at Somerset Place, would they be billed separately?

A. It is fee for service, yes.

MS. PARK: That is all I have.

MS. KATUBIG: I have no questions, thank you.

MS. PARK: Sorry.

BY MS. PARK:

Q. Did you ever have any discussion with any of the nursing staff at Somerset Place on April 27 or 28 regarding Mr. Essary?

A. On the 27th, we reviewed his admission and on the 28th, they contacted me about his cardiac arrest.

Q. And any discussions with anybody from Somerset Place since his demise after they contacted you to inform you?

A. No.

MS. PARK: Same.

MS. KATUBIG: Same.

(The deposition concluded at 10:40 a.m.)

1 MS. PARK: Thank you. That is all I  
2 have.

3 MR. HAMMER: Any questions?

4 MR. VITTORI: No.

5 MR. HAMMER: I just have a couple real  
6 quick, Doctor.

7 EXAMINATION

8 BY MR. HAMMER:

9 Q. Doctor, would you agree with me that  
10 although you do not know the cause of the  
11 patient's death, you would have an opinion that  
12 the patient's death was not caused by the  
13 prescription of Clozaril?

14 A. That's correct.

15 Q. That is based upon the dosage given and  
16 the clinical observations you made of the patient  
17 and your knowledge as to post-mortem  
18 redistribution of Clozaril?

19 A. That's correct.

20 MR. HAMMER: That is all I have.

21 MS. PARK: Thank you.

22 MR. HAMMER: We will waive signature.

23 MR. VITTORI: Copy, regular and mini.

24 MR. HAMMER: Same.

1 STATE OF ILLINOIS )  
 ) SS.

2 COUNTY OF MC HENRY )

3 I, ELSIE M. DELEVICH, a Certified  
4 Shorthand Reporter in and for the County of  
5 McHenry and State of Illinois, do certify that  
6 heretofore, to-wit, June 12, 2003, personally  
7 appeared before me at 4475 North Kenmore Avenue,  
8 Chicago, Illinois, DR. MICHAEL REINSTEIN, produced  
9 as a witness for discovery examination in said  
10 cause.

11 I further certify that the said  
12 witness, DR. MICHAEL REINSTEIN, was by me first  
13 duly sworn to testify the truth, the whole truth  
14 and nothing but the truth in the cause aforesaid  
15 before the taking of the deposition; that the  
16 testimony was reduced to writing in the presence  
17 of said witness by means of machine shorthand and  
18 afterwards transcribed into typewriting, and that  
19 the foregoing is a true and correct transcript of  
20 the testimony given by said witness.

21 I further certify that I am not  
22 counsel for, nor in any way related to any of the  
23 parties to this suit, nor am I in any way  
24 interested in the outcome thereof.