Page 1

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

LAKEISHA ELLIS,

Plaintiff,

Civil Action No. 08-1174 (JDB)

٧.

HOSPITAL,

GEORGETOWN UNIVERSITY

Defendant.

COPY

WASHINGTON, D.C.

MONDAY, DECEMBER 8, 2008

Deposition of:

RENIE ANGELLA MCKENZIE,

called for oral examination by counsel for Plaintiff, pursuant to notice, at the law offices of Denise M.

Clark, 1250 Connectic Avenue, NW, Suite 200, Washington, D.C. 20036, before Leslie A. Todd, RPR/CSR, of Capital Reporting, a Notary Public in and for the Commonwealth of Virginia, beginning at 9:20 a.m., when were present on behalf of the respective parties:

l-	
	Page 16
1	Q. Do you recall if you ever had to register
2	a patient in the ER?
3	A. Yes.
4	Q. Do you recall if you ever had to register
5	a patient at Leavey?
6	A. There is no Leavey registration.
7	Q. There is no Leavey registration?
8	A. No.
: 9	Q. Did you ever have to register a patient at
10	Lombardi?
11	A. Yes.
12	Q. When you started your day as a
13	registration PFA, you would report to main?
14	A. Yes.
15	Q. When would you be when would you have
16	to register a patient in ER? Would somebody call
17	you to tell you to report there?
18	A. I would register a patient in ER and any
19	other place if I'm assigned there, or if they are
20	short staffed, or if they need help, then we would
21	go down and help out.
22	Q. So your assignment, who would make that

Page 17 1 assignment? 2 A. Our supervisor. Was your assignment for a day, a week, a 3 4 month? It's hard to say. It could be that you 5 A. 6 are assigned to main on that month or that schedule. 7 I can't tell you how the schedule was then, but if you are scheduled to work in main on your shift, on 9 your schedule, and the emergency room needed help, 10 then we would go and help out in main, or if they 11 said, can you go and work in the ER today, then we would go to the ER or Lombardi, wherever. Wherever 13 the need is, and your supervisor asks you to go, you 14 go. 15 But when you started your day, you would 16 report at main? 17 A. Yes. 18 MS. FAIRLEY: Objection. 19 answered. 20 BY MS. CLARK: 21 So then you became a team leader of 22 patient access?

	Page 18
- 1	A. Yes.
2	Q. What is patient access?
3	A. Oh, patient access is a department that
4	does mostly registration, and the department is
5	comprised of different areas in the hospital where
6	we have different setup areas for patients to come
7	in wherever they are seeing their doctors, the
8	closest place where we can find in that department
9	where we have a booth where our people would
10	register those patients that are coming in for those
11	doctors. So we are all over the hospital. We are
12	in different areas of the hospital. And it's mostly
13	registration. That's what we do all day.
14	Q. Okay. You mentioned that you've been an
15	employee at Georgetown Hospital for 17 years. Did
16	you ever work at another hospital?
17	A. Not since that time, no, ma'am.
18	Q. What about before
19	A. Before, no.
20	Q working at Georgetown?
21	A. No.
22	Q. So the only hospital setting you've ever

	Domo 22
1	Page 33 Q. Do you know what she became ill of?
2	MS. FAIRLEY: Objection. Vague.
3	You can answer if you can.
4	THE WITNESS: She told me that her stomach
5	was hurting and she felt like throwing up.
6	BY MS. CLARK:
7	Q. What happened next?
8	A. She came back from lunch, and she told me
9	that her stomach was hurting and that she felt like
10	throwing up.
11	She went to the washroom, and she got a
12	towel, one of those paper towels from the washroom,
13	and she came back to my area. And I asked her if
14	she would like to go to the emergency room to be
15	checked out, and she was hesitant for a moment, and
16	I said, you know, let's walk down to the ER; I will
<b>17</b> .	walk with you.
18	So I walked with her to the emergency
19	room, and we walked up to the front desk where the
20	nurse was, where the triage nurse was, and I
21	explained to the triage nurse what was going on, and
22	she sat in the chair.

Page 34 1 And at that point, my supervisor came down 2 because -- I can't remember whether I called Fannice 3 then when I got to the ER with her, or called her before I left Gorman with her. But my supervisor came down, and I left and went back to Gorman. 5 Do you recall if Ms. Ellis was assigned to 6 Q. the ER that day? 7 8 Α. I can't recall. 9 Q. Had you heard whether or not she had had 10 an asthma attack? 11 Α. I hadn't heard that. 12 So you called Ms. Beckett while waiting 13 with Ms. Ellis at the ER for treatment? 14 MS. FAIRLEY: Objection. Mischaracterizes 15 her testimony. 16 You may answer if you can. 17 THE WITNESS: I can't recall whether I 18 called her then in the emergency room while I was there with Lakeisha, or whether I called her before I 19 20 left Gorman. 21 BY MS. CLARK: 22 But you recall calling her? Q.

		Page 35
1	A.	Yes.
2	Q.	And did she arrive at the ER?
3	Α.	Yes.
4	Q.	And did you stay during that did you
5	stay with	Ms. Beckett and Ms. Ellis?
6	Α.	No.
7	Q.	You left after Ms. Beckett came in?
8	Α.	Yes, ma'am.
9	Q.	Did you hear anything about Ms. Ellis's
10	condition	afterwards?
11	Α.	No.
12	Q.	Do you recall if she came back to work
13	that day?	
14	Α.	I don't recall.
15	Q.	Do you recall whether she was whether
16	she report	ted to work the next day?
17	Α.	I don't remember whether she came back the
18	next day.	I can't recall.
19	Q.	Do you remember at all that she was on
20	leave for	any period of time?
21	Α.	No. I cannot recall.
22	Q.	Did anyone ever advise you that she was on

## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

LAKEISHA ELLIS	)
Plaintiff, v.	) ) Case No. 1:08-cv-01174-JDE ) Judge John D. Bates )
GEORGETOWN UNIVERSITY HOSPITAL	) )
Defendant.	) 

## DECLARATION OF CYNTHIA G. HECKER IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

- I, Cynthia G. Hecker, under penalty of perjury, declare pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge. I am providing this declaration in support of the above-referenced motion for summary judgment. I have personal knowledge of the matters set forth herein, and, if called upon, can and would testify concerning the same:
- I am the current Director of the Patient Access Department at Georgetown
   University Hospital ("Georgetown" or the "Hospital"). I have held this title since 2005.
- 2. In my role as Director of the Patient Access Department, I supervise approximately 40 Patient Financial Associates ("PFAs") that work in the Patient Access Department ("Patient Access"). PFAs in the Patient Access Department are required to register patients in several departments of the Hospital. The PFAs work daily in the particular departments the Patient Access Department services. For example, PFAs regularly register patients in the Lombardi Cancer Center, the Emergency Department ("ED"), the Gorman Building, and in Main Admissions, among others. PFA workstations are physically located in these various departments.

3. It is imperative that our PFAs are able to rotate among the various departments we serve everyday. The reason underlying this requirement is that we often cannot predict when and where patients will arrive to access the Hospital's services. Because the registration process is often the first step in patients receiving care, if there are not enough Patient Access PFAs working in a particular department when that department has a surge of patients, that lack of resources can become a significant bottleneck and negatively impact patient care. Thus, we must have the flexibility to rotate our Patient Access PFAs to all departments we service at any time.

4. More so than any other department we service, it is vital that all Patient Access PFAs are able to work in the ED as needed. This is so because the Hospital needs to be able to respond to any mass emergency situations that may arise and possess the capacity to handle a flood of patients entering the ED in a short amount of time. As such, the Hospital must be able to rely on its Patient Access PFAs to be able to respond to these emergencies and assist in registering the mass of patients entering the ED.

5. Our Patient Access PFAs also need to be capable of being in close proximity to the patients we assist on a daily basis. It almost goes without saying that the vast majority of the patients we assist are sick in some form or another based on the fact that they are seeking the services of the Hospital. Further, Patient Access PFAs register patients who are physically present in the Hospital. In so doing, they need to be able to close enough to the patients to be able to pass documents back and forth such as insurance cards and drivers' licenses. Thus, close physical proximity to patients is at the heart of a Patient Access PFA's job duties.

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 9, 2009

Cynthia G Lleker Cynthia G. Hecker

#### **CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that on this 13 day of October 2009, I caused a copy of the foregoing to be delivered via electronic mail in accordance with the U.S. District Court for the District of Columbia's Rules of Civil Procedure to the following individual:

Denise Clark
The Law Offices of Denise M. Clark
1250 Connecticut Ave., Suite 200
Washington, DC 20036
(202) 293-0015
dmclark@benefitcounsel.com

Counsel for Plaintiff

/s/ Trina L. Fairley
Trina L. Fairley

#### MEMO TO FILE

Re: Lakeisha Ellis

On July 25, 2006 approx 3p I rec'd a call from Renie the team leader in Gorman. She stated that Lakeisha had gotten sick and she was escorting her to the ER. I was concerned because not less than an hour before I had a conversation with Deborah Felton when I saw Lakeisha leaving from her office. Deborah said she had several complaints about her first time working in the ER. She had also stated she (Lakeisha) had an asthma attack.

I went to the ER to check on Lakeisha when I arrived she was being triaged and Renie filled me in on what transpired as to why Lakeisha was being seen in the ER. Renie stated that Lakeisha had been vomiting in the restroom and was complaining of stomach pains and lightheadedness. At this point Lakeisha was coming out of triage and Freddie told her as soon as they had available place for her she would go back to the treatment area.

We sat in the ER waiting area Renie told us she had to get back to her area. I inquired to Lakeisha how she was feeling and what happen. She stated what Renie had told me and that she started feeling sick when she returned from lunch. I inquired again by asking about the asthma attack and did that bring this on and Lakeisha stated no. I then asked could the first time working in the ER cause her to have this from possible stress, she again stated no. She said she was fine until she returned from lunch. After that brief conversation she was called back and placed in a hallway bed. I told her if she needed something to call and to the staff in the ER keep me apprised of what's happening with her.

When she was released from the ER I was called and she (Lakeisha) came to my office. I asked how she was feeling. She said no better that she had some type of stomach virus, and would be seeing her primary physician. I knew she would be leaving for the rest of the day and out the following day (Wednesday). I informed her if she was unable to report to duty to follow the policy and call in using the on-call pager and gave her the number to make sure she had it.

I was paged on Wednesday evening I responded three different times no answer. On the third time on hanging up my cell phone rang back from the number I was calling. It was Lakeisha stating she didn't know it was I calling. She went on to explain her medical condition, I interrupted asking and informing I didn't need to know her personal info but was she calling out for the next work day. She said she was and that her doctor had placed her out until the 31<sup>st</sup> of July. She also stated that she had documentation from her doctor saying she couldn't work in the ER because of health reasons. I then inquired was she relinquishing her position because she was hired to work the ER. There was a long pause and she started rambling about the scheduling and that she went to church on Sundays and that she told me this and she was unable to work evenings and I was aware of this from our interview. At this point in the conversation I informed her I was not

going to have this conversation over the phone. I told her to bring her documentation from her doctor and all this would be discussed when she returned.

I have spoken to HR (Lorna McFarland) and reviewed the notes I placed on her (Lakeisha) employment application during the interview and I'm certain these issues weren't discussed or agreed on.



EMERGENCY DEPT.
MEDICAL RECORD
CLINICAL I



MedStår Health

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Cancer: Other:
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All others neg MS Skin Neuro Psych Hernej / Lymph Endo Ali / Imm
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Georgetown University Hospital

MedStar Health

## **EMERGENCY DEPT. MEDICAL RECORD CLINICAL II**

Ellis, Lakeisha

DOB: 12/28/1976

A/S: 29F

MRN: 2136082

ACCT:

7706896177

Reg Date/Time: 07/25/2006 15:51

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Georgetown University Hospital

MedStar Health

# EMERGENCY DEPT. MEDICAL RECORD

**CLINICAL III** 

Ellis, Lakeisha

DOB: 12/28/1976

A/S: 29F

MRN: 2136082

ACCT:

7706896177

Reg Date/Time: 07/25/2006 15:51

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Reg Date/Time: 07/25/2006 15:51 ELLIS000064

MRN: 2136082

Acct: 7706896177

Ellis, Lakeisha

Georgetown
University
Hospital

MedStar Health

#### EMERGENCY DEPT. MEDICAL RECORD

**CLINICAL IV** 

## Ellis, Lakeisha

DOB: 12/28/1976

A/S: 29F

MRN: 2136082 Reg Date/Time:

ACCT:

07/25/2006 15:51

7706896177

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Acct: 7706896177



Georgetown University

Hospital

MedStar Health

EMERGENCY DEPT. **MEDICAL RECORD** CLINICAL V - B

Ellis, Lakeisha

DOB: 12/28/1976

A/S: 29F

MRN: 2136082

ACCT:

7706896177

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Reg Date/Time: 07/25/2006 15:51 ELLIS000066

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Consent to Emergency Treatment



I am presenting myself for diagnosis and treatment in the Emergency Department of Georgetown University Hospital and voluntarily consent to such care, including but not limited to:

- 1. Diagnostic procedures, physical and mental examination, surgical and medical procedures, medication, blood transfusions, laboratory testing including the drawing and testing for HIV (the virus that causes AIDS) and other blood born diseases, and hospitalization (collectively, "Treatments"), by authorized members of the hospital staff or their designees, as may in their professional judgement be necessary.
- 2. I understand that I have the right to make informed decisions regarding all care and Treatments, and that it's my responsibility to ask my health care professionals to further clarify or explain anything I do not understand. This right includes the right to refuse any Treatments that I do not want.
- 3. I release the Hospital from any responsibility for valuables, money, personal or other possessions which are properly deposited by me with the Hospital depository and that in any event, the Hospital's maximum liability shall be \$500.00
- 4. I am aware that the practice of medicine is not an exact science, and I acknowledge that no guarentees have been made to me regarding the results of any examination or Treatment.
- 5. I acknowledge that this form has been explained to me, and I certify that I understand it's contents.

Signature of Patient or Responsible Party (and relationship to patient)

Witness

**Pate** 



Ellis, Lakeisha

MRN: 2136082

DOB:

ACCT:

7706896177

Att. MD: Morrell, Todd

12/28/1976

Reg Date/Time: 07/25/2006 15:51

Room:

**Georgetown University Hospital Emergency Department** 

**Patient Chargeables Sheet** 

	Id	EVEL OF NURSING CARE			
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	•	CRIT EM VISIT LVL 6	<del>-</del>	41000993	VENTRICULOSTOMY
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	~ 1000100	GU/GYN		41000985	
	41000944	CATH INSERTION, FOLEY		41000464	DERMABOND
		DELIVERY CHARGE		44888788	CARDIAC
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		CUT DOWN	***************************************	41000662	TRACH TUBE CHANGE
		CVP LINE INSERTION		44000000	RESPIRATORY
	41000290	LEVEL ONE TUBING			CRICOTHYROIDOTOMY
	41000423	PIC LINE			ENDOTRACHEAL INTUBATION END TIDAL CO2 FILTER
		ORTHOPEDIC		•	END TIDAL CO2 NAS. C
	41000639	ARTHROCENTESIS			SPACER, MDJ
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	41000589	DISLOCATION REDUCT COMPL	-		OXIMETER SET UP
	41000852	FRACTURE SIMPLE	•	and the second second	PEAK FLOW METER
	41000860	FRACTURE INTERMEDIATE			MISCELLANEOUS
	41000878	FRACTURE COMPLEX		41000498	BLOOD TRANSFUSION
	41000886	SPRAIN SIMPLE		•	FOREIGN BODY REMOVAL
	41000894	SPRAIN INTERMEDIATE	•		LUMBAR PUNCTURE
	41000902	SPRAIN COMPLEX	-		BEAR HUGGER BLANKETS
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Hospital Encounter Form 2-06

07/25/2006 15:52 07/25/2006 15:51 Reg Date/Time: **ELLIS000068** 





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Ellis, Lakeisha

Georgetown University Hospital	ED Out-P atient Info	rocessing ormation	Att. MD: Morrell, Todd Room:  Reg Date/Time: 07/25/2006 15:51				
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	Date	Time					
Arrival:	7/25/06	1550	AM/PM	Triage Code:	2		
Triage:		1221	AM/PM	Mode of Arrival:	3		
Patient in Room:		1558	AM/PM	Ambulance Run Number:			
Doctor in Room:	1/	1650	AM/PM	Discharge Disposition:	AHR		
Admission Order:	1/-	-	AM/PM	Transferred to OR?	Y N (circle one)		
Discharge Order:	1/	1740	AM/PM	ER Doctor Number:	235283		
Departure to Floor/Home	<del>                                     </del>	1240	AM/PM	ER Doctor Name:	Sauter		
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Dr Ellen Pinkelman 2 3 09
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                                                   UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
               LAKEISHA ELLIS,
Plaintiff
                                                                                                   Case No:
1:08-cy-01174-308
                                                                                                   Judge John D. Bates
                GEORGETOWN UNIVERSITY
               HOSPITAL,
Defendant
  Hyattsville, Maryland
Tuesday, February 3rd, 2009
               Deposition of:
              ELLEN FINKELMAN, M.D. called for oral examination by counsel for Plaintiff, pursuant to notice at 6525 Belcrest Road, Hyattsville, Maryland 20782 before Dawn M. Hyde of Capital Reporting Company, a Notary Public in and for Howard County, beginning at 9:15 a.m., when were present on behalf of the respective parties:
                                                             APPEARANCES
     ż
               on behalf of Plaintiff:
                   n behalf of Plaintiff:
DENISE M. CLARK, ESQ.
COURTNEY L. LEYES, ESQ.
Law Office of Denise M. Clark
1250 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
(202) 293 0015
dmclark@benefitcounsel.com
    3
              On behalf of Defendant:
    8
                    TRINA L. FAIRLEY, ESQ.
CHRISTOPHER CALSYN, ESQ.
Crowell Moring
1001 Pennsylvania Avenue NW
Washington DC 20004-2595
(202) 624 2830
tfairley@crowell.com
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             EXAMENATION BY:
Counsel for Plaintiff
Counsel for Defendant
EXAMENATION
DESCRIPTION
Office visit 7/26/06
Progress Notes 7/26/06
Medication, documentation 7/26/06
Page 1
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Dr Ellen Finkelman 2 3 09
De you know Lakeisha Ellis?
I did when I was treating her.
And when did you begin treating Ms. Ellis?
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                                        Q
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                  A I only saw her for a few times. Let me just see if I can find my first encounter that I ever saw her. 2/15/2005 was I think the first time I met her. She had been cared for by my colleagues up until then. Q Your colleagues, meaning?

A Meaning other physicians in Kaiser Permanente including primary care physicians, pulmonary specialists, and at one point I think she was in the hospital and was cared for by hospitalists. But my first encounter with her is 2/15/2005.

Q And you just mentioned that she was hospitalized.
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                    hospitalized.
                                                           Yes.
                                                           What year was that? 2003.
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                                        A
                                                          And was that in any way related to her
                                       0
                   asthma?
                                                           So your first encounter with Ms. Ellis was
                    2/15/2005
                                                          Right.
And why did she see you on that particular
                                       0
                  A Cough, congestion and a history of asthma.
Q So you were not the first person to diagnose her asthma?
                 A No.

Q Do your records in any way reflect who was?

A She came to Kaiser stating that she had a history of asthma. The first record I have is 9/11/2002. It's a referral to pulmonary medicine for pulmonary function testing and it says it's a community-based PCP, that means a community-based doctor wants testing of her pulmonary function because the diagnosis is stated as asthma.

Q Is the physician's name referenced at all in the referral that you see?

A Dr. El Bayoume, who is a dector at Gw. She's a — I know her. She's a primary care physician at Gw. And that's in 2002.
                                       A
                                                          No.
Q Regarding your treatment of Ms. Ellis, when you saw her she was referred for a cough, congestion and asthma?
                   And that's in 2002.
                                                          Right.
                  Q And can you tell us on that particular date what her ailments were?
A She basically had flu symptoms with an overlay of asthme is what I wrote though her chest was clear. So she wasn't actively wheezing and I did either add her medicine or just renew fler medicine. It's not clear to me from this note.

O And what was she taking at these nime?
                  Q And what was she taking at that time?
A It looks like she was taking Advair, which is a bronchodilator medicine that you puff in and out to help open up your airways.

I added Robitussin with codeine, that's a mucolytic, something to loosen up your secretions.
                                                                                                                                                       Page 4
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Dr Ellen Finkelman 2 3 09
                  Codeine is a cough suppressant, and I gave her a Z-Pak, which is antibiotics, for ten days.

Q what was her dosage of Advair?

A From all the notes I can see, it's 250.

Q 250 milligrams?

A It's probably milligrams.

Q Do your notes reflect whether that was an increase or just a continuation?

A I think it was just a continuation.
 Q when did you next see Ms. Ellis?
A I didn't see her but she was seen 5/25/05 for knee pain and her -- if you want to know, her active medicines at that time were both albuterol and an Advair discus which says 550 but I don't -- without my records I can't tell you if that was her normal dosage or whether it had been increased by someone. I don't
                   know.
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                                                      So it was 500 milliorams she was taking
                   orally?
                 A No, no, no. It's an inhaler.
Q Inhaler, I'm sorry. And the albuterol?
A It says two sprays four times daily as needed. Okay. It says Advair -- member requests a refill of Naprosyn and Advair but it was decreased to 250. States she was told that here PCP would decrease Advair back to usual 250 after previous asthma attack.
Q Do the records reflect when the asthma attack
                   took place?
                  A No. I have the 2/15 visit and the 5/24 visit and I don't have anything in between.

Q That is May 24th, not May 25th?
                  A May 24th, 2005.
Q In your opinion, the addition of albuterol, is that reflective of any additional problems concerning asthma?
                 A No. We usually give it as a rescue medicine.

Meaning that the Advair is her baseline medicine in the hopes that it will control and prevent asthma attacks, and the albuterol is used for rescue if you feel that you are getting more short of breath.

Q And you said that the Advair reflected 500 milligrams but there were notes that her
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                A That her usual maintenance dose is 250.

Q And did I hear you correctly, the notes may have reflected some anticipation that she would go back to the 250?
                 A Yes. Actually, here she has both 250 and 500 on her record. I don't have -- I didn't see her then so I can't tell you what exactly she was teld. But I would assume that she's supposed to be on the 250 at
                 that time as a maintenance dose.

Q Does your record reflect the physician who may have prescribed the 500?
                 A I would have to go back -- I couldn't copy that out. Our system doesn't allow us to copy the medications. It's available for me to see but I can't print it. That's the one problem with this system. I
                  can't print the meds.
                 Q Is that a difficult task? Is that something that you could do --
                                                                                                                                         Page 5
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Or Ellen Finkelman 2 3 09
                                                                  I can't do it.
 890112345678901770015
                      Q For you to see, not to print.
A I can see it. I just can't print it.
Q Is that something you could see here?
A I'd have to go back to my office and go into her recerds and I could handwrite, you know, when she got a prescription and what the dose was. I literally can't print them out.
                     Q Okay.

And our records do indicate when something was prescribed, whether the patient picked it up or not, how many refills they managed to pick up, you know, so we do have all that data. I just can't -- the system doesn't permit me to print it out. So it's -- I don't know how to get it except to look at it and
                       hand-do it. There's no printing function on that page.
MS. CLARK: Can we go off the record for a
     2 3 4
                      second.
                                                                 (Discussion off the record.)
5678901121145678901220016
                                           BY MS. CLARK:
Q So in your records, when did you next see
                      MS. E11137
                                                                 7/26/2006.
                     And can you tell me about that treatment.

A She had 24 hours of stomachache, diarrhea, nausea. She was seen at the Georgetown University emergency room and diagnosed with gastroenteritis. history of problems in the past. Was not in severe
                      pain.
                     she had a history of asthma and I wrote down it is not flaring. She told me she worked in the emergency room at Georgetown. She blamed the food in their cafeteria. I tell people you can never blame the last meal for your illness.

And she had very mild tenderness in her upper abdomen. And when I reviewed her labs the next -- that evening, I told her they showed mild pancreatitis,
                     which is an inflammation of the pancreas.

I told her to stay off work for five days, clear fluids until her bowels became back to normal and I rewrote her Advair for 250 and gave her albuterol.
                    Her chest was clear at the time. There were no wheezes or rales which would indicate any flare of her asthma.

Q Now, did you make a recommendation regarding her return to work in the ER?

A Yes, I have -- I said -- I have a copy of her letter and I said, "Lakeisha Ellis should not work in the emergency department as this is too high an exposure to many sick patients and puts her at risk for her own health."
Of And you reached this conclusion based on your treatment of her on July 20th, 2006?

A yes. And I would not have written this kind of letter if she had not requested it of me. And we discussed the fact that she was exposed to a let of people coming in who were sick.

Q Did you discuss with her whether these illnesses that she was exposed to could possibly flare up her asthma?
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MS. FAIRLEY: Objection; calls for Page 6

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Dr Ellen Finkelman 2 3 09
                  speculation.
                                                  Okay. I know I would not write a letter like
                 that unless I was requested to do so.
BY MS. CLARK:
    Ă
                Q So you wrote this based on a request, not because of any conclusions that you reached about -- A Right. I think I forgot to redo the first line which says, "The above-named patient has asthma."

Q what does that mean?
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               Q what does that mean?
A which means that I was associating the two.
Okay. That I didn't want to say specifically that
being exposed to people is going to flare her asthma
but I had to put down what health issue we were talking
about. So that would mean, you know, that she has
asthma and she was telling me, as far as I recall,
that, you know, she felt her asthma would flare every
time she got ill.
"The above-named patient has asthma." And
this is too high an exposure, puts her at risk to her
own health. I try to make my letters as very vague and
as general as I can so that -- and she told me there
                were other -- I remember she told me there were over opportunities in the hospital. I mean, I wasn't trying to put her out of work at all. We were just
                 discussing, you know, what situation in the hospital
              would be appropriate.

I wrote her two other letters the same day right on top of one another. This one you see is at 4:55, then I have one at 4:57 and 4:59. Same day. So these are much more vague. "The above-named patient has received medical treatment on 7/26 and may return to work." That didn't make sense.

Then I think I wrote -- this one didn't make sense. If you read this letter, she can return to work before she even got sick. So then two minutes later I wrote, "The above-named patient has received medical treatment on 7/26 and 7/25 and she can return to work 7/31."
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               So she had a choice. She could give this letter in or she could give this letter in. They were all written on the same day.

MS: FAIRLEY: So that the record is clear, you have referred to several documents. I would like
                to mark them so that when we're reading the deposition transcript, we'll know.

A They have -- thank goodness they have time
                 stamps on them.
                                 BY MS. CLARK:
                                                  These were not part of the records that were
67890112114151718
                turned over to us by Kaiser, so why would that be?

A I don't know. I am not the one who copies
                 records.
               Q well, where would those be copied?

A They're in the letter section of our record.

MS. CLARK: Okay. I would object to these being attached unless they come per the custodian and I understand it's in her possession, I understand she
                brought them here.
                                                 MS. FAIRLEY: And she's also testifying
                directly from them.
                                                  MS. CLARK: I understand that.
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Dr Ellen Finkelman 2 3 09
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                         as general as possible without violating any HIPAA
                         rules.
                        Q so then on 7/26/06 you wrote three letters for Ms. Ellis, correct?
                                                                     Yes.
                    And is it your recollection that you wrote three letters so that she could choose from which letters she'd like to present to her employer?

A More likely -- I looked at the date, the times, so more likely -- usually I write a general letter, the patient's been seen. Then they come back to me and say, "Well, I need you to say more." And so usually my second letter is more detailed. Because they saw that my first letter was just the patient has been seen and sometimes I write, you know, and she's medically excused and can go back to werk.

So she must have -- but I am really -- this is supposition. She must have said, "I need a letter that says I can't work in the emergency room." And then she must have said, "Well, now I need a letter saying how many days off I need." I'm supposing because this is two years ago. And the middle letter was a mistaken letter.

Q Well, let's look at --
A I am supposing. They were written two minutes apart so, you know, she must have been -- I must have handed it to them and she must have said,"
891011231451671890112220032
                         "No, that's not what I need." So I wrote a different
                        letter.
                                                                     So then if we look at Exhibit Nos. 4, 5
                      and 6, are Exhibit Nos. 4, 5 and 6 the three letters that you have just been referring to?

A Yes, but they're in opposite order from what I wrote. First I wrote 6, then I wrote 5 and then I wrote 4, from the time stamps on them.

Q I see. Let's focus on Exhibit No. 6 for a minute, which is the letter that states that Ms. Ellis.
                      minute, which is the letter that states that Ms. Ellis, "Should not work in the emergency department as this is too high an exposure to many sick patients and puts her at risk for her own health."

And it starts off with, "She has asthma,"
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                       right?
                      Q Yes. Looking at that letter now, you indicated that you wouldn't have written this letter unless Ms. Ellis requested it, correct?
                      A Yes.
Q And so then would it be fair to say,
Dr. Finhelman, that you didn't reach a medical
conclusion that Ms. Ellis could not work in the
                      emergency department; is that correct?

A Well, we probably, you know, knowing who I am, I have been 30 years in the busingss, I am very compliant with my patients. I don't like to argue with them and I really like to make their lives easy.

So I probably agreed with her that she said I have asthma, I am exposed to lots of sick patients and I really don't want to keep working in the emergency room. And I am pretty sure I wasn't trying to make her quit work. I never make my patients quit work and I always talk to them about their options.
                        always talk to them about their options.
                                                                                                                                                                               Page 12
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Or Ellen Finkelman 2 3 09

And so as I recall -- and, granted, it's two
years ago -- we probably discussed the fact that the
emergency room had a high number of very sick patients
and that other places in the hospital would be better
situations for her.

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                     And though I didn't write it, you know, that she should be accommodated and placed in another area of the hospital, I am pretty sure I had somewhat of that discussion with her rather than -- because I would never tell anybody quit your job, you know, even my housekeeping patients who get terrible backaches and
                    carpal tunnel, you know. I talk to them about this job is not good for you, let's think about options.

I never write a letter saying stop working, quit your job, it's bad for your health. So that's -- I'm sure my intent, even though it's written there, was talk to them about getting out of the emergency room and working somewhere else in the hospital where you're not constantly, you know, exposed to hundreds of sick people.
 people.

Q Sure. But you didn't -- you didn't run any tests or reach any medical conclusion that Ms. Ellis couldn't work in the emergency room; is that correct?

A Right. And that visit she wasn't seeing me for asthma. She was seeing me for her pancreatitis.

Q why did you conclude that Ms. Ellis needed to be off work for five days?

A Because of her pancreatitis. She needed to stay home, rest her stomach, drink clear liquids, go to the bathroom a gazillion times a day. You can't work when you're doing that.

Q So it wasn't related to the asthma?

A Not that I can see from my notes. And, you
                    know, I see 20 patients a day. It's hard to remember people that I saw two years ago and I only saw her one
                     more time so...
                   Q What causes pancreatitis?
A Gallstones, alcohol and idiosyncratic --
idiopathic. We don't know.
MS. FAIRLEY: If I could just take a moment
to confer with my colleague, I'll be very close to
being finished.
(Recess taken from 10:08 a.m. until
10:13 a.m.)
                                        BY MS. FAIRLEY:
                                                            Just a couple more questions. We're really
                    almost finished.
                   Dr. Finkelman, you talked to us about the various potential causes of pancreatitis. My question is did you reach any conclusions in this case about the cause of Ms. Ellis's pancreatitis?

A Let me just see. No, I didn't.

Q If we could have these documents marked as, I guess, Exhibit Nos. 7 and 8.

(Finkelman Denosition Exhibit Nos. 7
                                                            (Finkelman Deposition Exhibit Nos. 7
                                                           and 8 were marked for identification.)
                                        BY MS. FAIRLEY:
                   Q If I may, I would like to show you what the court reporter's just marked as Exhibit No. 7 which is one of the three letters that you wrote. Can you
                                                                                                                                                         Page 13
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# STEDMANS Medical Dictionary 26th Edition

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gas·tro·blen·nor·rhea (gas'trō-blen-ō-rē'ā). Excessive proliferation of mucus by the stomach. [gastro- + blennorrhea]

gas·tro·car·di·ac (gas'trō-kar'dē-ak). Relating to both the stomach and the heart.

**gas·tro·cele** (gas'trō-sēl). Hernia of a portion of the stomach. [gastro- + G. kēlē, hernia]

gas tro-chron or rhea (gas'trō-kron-ō-rē'ă). Excessive continuous gastric secretion. [gastro- + G. chronos, time (chronic), + rhoia, a flow]

gas·troc·ne·mi·us (gas-trok-nē'mē-ŭs). syn gastrocnemius muscle. [G. gastroknēmia, calf of the leg, fr. gaster (gastr-), belly, + knēmē, leg]

gas tro co lic (gas'trō-kol'ik). Relating to the stomach and the colon.

gas·tro·co·li·tis (gas'trō-kō-lī'tis). Inflammation of both stomach and colon.

gas·tro·co·lop·to·sis (gas'trō-kō-lō-tō'sis). Displacement downward of stomach and colon. [gastro- + G. kōlon, colon, + ptōsis, a falling]

**gas·tro·co·los·to·my** (gas'trō-kō-los'tō-mē). Establishment of a communication between stomach and colon. [gastro- + G. kōlon, colon, + stoma, mouth]

gas tro cys to plas ty (gas tro-sis to-plas tē). Augmentation of the bladder by a patch or piece of vascularized gastric tissue.

gas·tro·di al·y·sis (gas'trō-dī-al'i-sis). Dialysis across the mucous membrane of the stomach.

Gas tro dis coi des hom i nis (gas trō-dis-koy dēz hom i-nis). A species of trematode sometimes found in the intestinal canal of man in India, Southeast Asia, and China; its normal host is the pig. SYN Gastrodiscus hominis. [gastro- + G. diskos, disk; L. homo, gen. hominis, man]

Gas-tro dis-cus hom i nis (gas-trō-dis'kŭs). SYN Gastrodiscoides hominis.

gas·tro·du·o·de·nal (gas'trō-dū'ō-dē'năl, -du-od'ĕ-nal). Relating to the stomach and duodenum.

gas tro du o de ni tis (gas trō-dū-ō-dē-nī tis). Inflammation of both stomach and duodenum.

gas tro du o de nos co py (gas trō-dū-ō-dĕ-nos kŏ-pē). Visualization of the interior of the stomach and duodenum by a gastroscope. [gastro- + duodenum, + G. skopeō, to view]

gas tro-du-o-de-nos to-my (gas'trō-dū-ō-dě-nos'tō-mē). Establishment of a communication between the stomach and the duo-denum. [gastro- + duodenum + G. stoma, mouth]

gas·tro·dyn·ia (gas·trō-din'ē-ă). syn stomach ache. [gastro-+G. odynē, pain]

gas·tro·en·ter·ic (gas'trō-en-ter'ik). syn gastrointestinal.

gas tro-en ter-i-tis (gas'trō-en-ter-ī'tis). Inflammation of the mucous membrane of both stomach and intestine. syn enterogastritis. [gastro- + G. enteron, intestine, + -itis, inflammation]

acute infectious nonbacterial g., SYN epidemic nonbacterial g. endemic nonbacterial infantile g., an endemic viral g. of young children (6 months to 12 years) that is especially widespread during winter, caused by strains of rotavirus; the incubation period is 2 to 4 days, with symptoms lasting 3 to 5 days, including abdominal pain, diarrhea, fever, and vomiting. SYN infantile g.

eosinophilic g., gastroenteritis with abdominal pain, malabsorption, often obstructive symptoms, associated with peripheral eosinophilia and areas of eosinophilic infiltration of the stomach, small intestine and/or colon with eosinophiles. May be an allergic etiology and responds to elimination diet in some patients; corticosteroid therapy is also effective. syn eosinophilic gastritis. epidemic nonbacterial g., an epidemic, highly communicable but rather mild disease of sudden onset, caused by the epidemic gastroenteritis virus (especially Norwalk agent), with an incubation period of 16 to 48 hours and a duration of 1 to 2 days, which affects all age groups; infection is associated with some fever, abdominal cramps, nausea, vomiting, diarrhea, and headache, one or another of which may be predominant. syn acute infectious nonbacterial g.

infantile g., SYN endemic nonbacterial infantile g.

porcine transmissible g., SYN transmissible g. of swine, transmissible g. of swine (TGE), a rapidly spreading disswine, caused by a coronavirus (of the family Coronavirus characterized by severe diarrhea and vomiting; case fail in pigs younger than 10 days is high; in older pigs in porcine transmissible g.

viral g., SEE endemic nonbacterial infantile g., epidenterial g.

gas tro en ter o a nas to mo sis (gas trō en ter o a sis). syn gastroenterostomy.

gas tro en ter o co li tis (gas trō en ter ō kō lī tis tory disease involving the stomach and intestines, enteron, intestine,  $+ k\bar{o}lon$ , colon, + -itis, inflammati

gas tro en ter o co los to my (gas trō en ter o kō)
Formation of direct communication between the stom large and small intestines. [gastro- + G. enteron, kōlon, colon + stoma, mouth]

gas-tro-en-ter-ol-o-gist (gas'tro-en-ter-ol'o-jist). As gastroenterology.

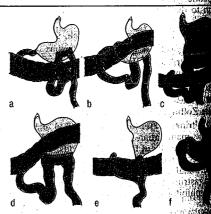
gas·tro·en·ter·ol·o·gy (gas'trō-en-ter-ol'ō-jē). The neighbor cialty concerned with the function and disorders of the testinal tract, including stomach, intestines, and as gans. [gastro- + G. enteron, intestine, + logos, study]

gas·tro·en·ter·op·a·thy (gas'trō-en-ter-op'a-thō). An of the alimentary canal. [gastro- + G. enteron, line thos, suffering]

gas·tro·en·ter·o·plas·ty (gas'trō-en-ter-ō-plas'te); pair of defects in the stomach and intestine, [gateron, intestine, + plassō, to form]

gas·tro·en·ter·op·to·sis (gas'trō-en-ter-ō-tō'sis) displacement of the stomach and a portion of [gastro- + G. enteron, intestine, + ptōsis, a falling]

gas tro en ter os to my (gas tro en ter os to mg) ment of a new opening between the stomach and either anterior or posterior to the transverse coloniteroanastomosis. [gastro + G. enteron, intesti mouth]



gastroenterostomy

a: frontal gastroenterostomy (anterior to the colon) with mosis; b: rear gastroenterostomy (posterior to the colon) anastomosis (with Kroenlein's modification); d: Billfolt (with Reichel-Polya modification: retrocolic gastrostill) e: Billroth II anastomosis (with Roux modification (V)) pyloroplasty (or gastroduodenostomy)

gas·tro·en·ter·ot·o·my (gasˈtrō-en-ter-ot/o·me both stomach and intestine. [gastro- + G. en tomē, incision]

gas·tro·ep·i·plo·ic (gas'trō-ep'i-plō'ik). Relatiff and the greater omentum (epiploon).

gas·tro·e·soph·a·ge·al (gas'trō-ē-sof'ă-jē'ăl).