

1 SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

2 -----x

3 JOHN COLOMBINI, As Administrator of
4 the Estate of MICHAEL COLOMBINI,
5 Deceased, and JOHN COLOMBINI and
6 BARBARA COLOMBINI, Individually,
7
8 Plaintiffs,

COPY

9 - against - Index No.
10 11101/02

11 WESTCHESTER COUNTY HEALTH CARE
12 CORPORATION, JIAN HOU, M.D.,
13 UNIVERSITY IMAGING MEDICAL ASSOCIATES,
14 P.C., VALHALLA ANESTHESIA ASSOCIATES,
15 P.C., NEW YORK MEDICAL COLLEGE, MARY
16 NADLER, R.N., PATRICIA LAURIA, PAUL
17 DANIELS and GENERAL ELECTRIC COMPANY,

18 Defendants.
19 -----x

20 10:45 a.m.
21 November 4, 2005
22 709 Westchester Avenue
23 White Plains, New York 10604

24 EXAMINATION BEFORE TRIAL

25 EXAMINATION BEFORE TRIAL of PAUL R.
DANIELS, a Witness in the above entitled matter,
taken pursuant to Order, before Suzanne F. Moore, a
Registered Professional Reporter, Certified Realtime
Reporter and Notary Public of the State of New York.

WILLIAM S. EADDY REPORTING SERVICE
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New York, New York 10170
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PAUL R. DANIELS

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STIPULATIONS

PAUL R. DANIELS

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IT IS HEREBY STIPULATED AND AGREED by and between counsel for the respective parties hereto, that all rights provided by the C.P.L.R., including the right to object to any question, except as to form, or to move to strike any testimony at this examination, reserved; and in addition, the failure to object to any question or to move to strike testimony at this examination shall not be a bar or waiver to make such motion at, and is reserved for, the trial of this action;

IT IS FURTHER STIPULATED AND AGREED that this examination may be sworn to by the witness being examined before a Notary Public of the State of New York other than the Notary Public before whom this examination was begun; but the failure to do so or to return the original of this examination to counsel shall not be deemed

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a waiver of the rights provided by Rules
3116 and 3117 of the C.P.L.R., and shall
be controlled thereby;

IT IS FURTHER STIPULATED AND AGREED
that the filing and certification of the
original of this examination shall be and
the same are hereby waived; and that
counsel for the witness being examined
shall be furnished with a copy of the
within examination without charge.

1 PAUL R. DANIELS
2 P A U L R. D A N I E L S, called as a
3 witness, having been first duly sworn by
4 Suzanne F. Moore, a Notary Public of the
5 State of New York, was examined and
6 testified as follows:

7 EXAMINATION BY

8 MR. GAIER:

9 Q What is your full name?

10 A Paul Daniels.

11 Q Mr. Daniels, my name is Matthew
12 Gaier.

13 A Hi, Matt.

14 Q And I represent John and Barbara
15 Colombini.

16 I'm going to ask you some
17 questions, and if you don't understand
18 anything, just let me know and I'll rephrase it
19 to the best of my ability. Okay?

20 A Okay.

21 Q Good.

22 Mr. Daniels, you live in New
23 York State?

24 A I do.

25 Q What town do you live in?

1 PAUL R. DANIELS

2 A We discussed that just briefly.

3 MR. CORGAN: He lives in Carmel,
4 New York.

5 Q Carmel?

6 A Yes.

7 Q Thanks.

8 MR. CORGAN: For the record, I
9 agree to accept the service of process
10 in the event that counsel for the
11 Plaintiff wishes to serve Mr. Daniels to
12 come to court at the time of trial.

13 I will accept for him and that
14 will be that. Okay?

15 MR. GAIER: Great.

16 Q Mr. Daniels, did you go to
17 college?

18 A I did.

19 Q Did you graduate from college?

20 A Yes, I did.

21 Q Where did you go to college?

22 A Hudson Valley Community College.

23 Q Is that a two-year college?

24 A Yes.

25 Q And you have an Associate

PAUL R. DANIELS

- 1
2 degree?
- 3 A I have an Associate degree.
- 4 Q In what?
- 5 A Radiologic technology.
- 6 Q What year did you graduate?
- 7 A I graduated in 2006 -- 1986.
- 8 MR. GAIER: Off the record.
- 9 (Discussion off the record.)
- 10 Q Before that you graduated from
11 high school?
- 12 A Yes.
- 13 Q Where did you go to high school?
- 14 A It's a place called Tamarac High
15 School. Another name would be Brittonkill
16 Central Schools.
- 17 Q Where is that?
- 18 A That's in Troy, New York.
- 19 Q What year did you graduate from
20 high school?
- 21 A 1983.
- 22 Q Are you a licensed x-ray
23 technologist?
- 24 A Yes, I am.
- 25 Q By the way, do you prefer to use

PAUL R. DANIELS

1
2 the term technologist or technician?
3 A Technologist.
4 Q Okay.
5 When did you obtain your license
6 in x-ray technology, was that the 1986 degree?
7 A That's correct.
8 Q Are you separately licensed in
9 MRI?
10 A Yes, I am.
11 Q When did you obtain that
12 license?
13 A In March of 2003.
14 Q Did you take courses for the MRI
15 certification?
16 A There are no specific courses
17 that were taken, no.
18 Q Did you have to pass a test?
19 A Yes, we did.
20 Q Did you go to a particular
21 institution for that test?
22 A The ARRT gives that out.
23 Q The ART is what, what does that
24 stand for?
25 A The ART stands for American

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Registry of Radiologic Technologists.

Q Did you take a written test?

A Yes.

Q Did you pass that your first time?

A Yes, I did.

Q Is there an oral component to that test at all?

A No, it's all written.

Q How about a practical component, is there a practical component?

A Yes, there is.

Q Did you pass that as well your first time?

A Yes, I did.

Q Did you take both those tests in 2003?

A Yes.

Q Now, at the time of the events in question here, I believe the incident was specifically July 27, 2001, you were not certified in MRI at that time?

A Correct.

Q Had you taken any courses

PAUL R. DANIELS

1
2 relative to MRIs prior to that date?

3 A Yes.

4 Q What courses did you take?

5 A I had extensive on-the-job
6 training.

7 Q On the job, by whom?

8 A By my former employee.

9 Q Your former employee?

10 A Employer, sorry.

11 Q Okay. All right, let's go to
12 the employment, then.

13 Where do you work now?

14 A I currently work at Westchester
15 Medical Imaging Services.

16 Q Where is that located?

17 A That's in Hawthorne, New York.

18 Q Is that affiliated with
19 Westchester Medical Center?

20 A Somewhat.

21 Q What do you mean somewhat?

22 A It relates to the ownership of
23 the company, apparently.

24 Q Is it privately owned?

25 A It's affiliated with the

1 PAUL R. DANIELS

2 University Hospital.

3 Q Is it privately owned, is it a
4 separate corporation?

5 A That I'm not obliged to speak
6 about, because I don't know the legal entities
7 of that, how the corporation is set up.

8 Q Just to clarify, irrespective of
9 what you're obliged, do you know whether it's a
10 separate corporation?

11 A No.

12 Q Thank you.

13 When did you start with, what
14 was it, Westchester Medical Imaging?

15 A Imaging Services.

16 Q When did you start with them?

17 A Approximately 2002.

18 Q Do you know what month?

19 A No.

20 Q Who was your employer prior to
21 that?

22 A University Imaging & Diagnostic
23 Services.

24 Q That was your employer at the
25 time of July 27, 2001?

1 PAUL R. DANIELS

2 A That's correct.

3 Q When did you start with them?

4 A In January of 2001.

5 Q January of 2001?

6 A That's correct.

7 Q I'm going to show you something
8 and I'm going to ask that it be marked as an
9 exhibit. It's an affidavit purportedly signed
10 by you dated November 20, 2003.

11 (The above described document was
12 marked Daniels Exhibit 1 for
13 identification, as of this date.)

14 Q Take your time and take a chance
15 to look at it, Mr. Daniels.

16 A Is your question in regard to
17 this document?

18 MR. CORGAN: There's no question.

19 Q I haven't asked you a question
20 yet. Here's the question. Have you seen that
21 document before?

22 A Yes, I have. I signed it.

23 Q That is your signature?

24 A That's correct.

25 Q Now, it says there that you

1 PAUL R. DANIELS
2 started employment with UIMA -- we can call it
3 that, is that all right, UIMA?
4 A Sure, for short.
5 Q In January of 2000. Was that a
6 mistake?
7 A It was a mistake, it was an
8 oversight.
9 Q So the actual date was a year
10 later?
11 A That's correct.
12 Q In January of 2001?
13 A Correct.
14 Q Okay, thank you. I'll take that
15 back right now, okay?
16
17 Now, you were saying before when
18 I was asking you about MRI training -- well,
19 before January of 2001 did you work in MRI at
20 all?
21 A Yes, I did.
22 Q What was your prior employment,
23 prior to January of 2001?
24 A Albany Medical Center Hospital.
25 Q When did you start there?

1 PAUL R. DANIELS

2 A I started there on or about,
3 let's see, about 1989.

4 Q Did you work continuously at
5 Albany Medical Center from 1989 through the
6 beginning of 2001?

7 A That's correct.

8 Q Is Albany Medical Center where
9 you learned MRI?

10 A Yes.

11 Q Did they give you courses there?

12 A Courses offered by anyone in
13 particular?

14 Q Well --

15 MR. CORGAN: Objection just to
16 the form. You have to be specific what
17 you mean by courses.

18 MR. GAIER: Sure.

19 Q What I'm asking is --

20 A I received on-the-job training
21 from the staff that were employed in MRI.

22 Q Were there classes, separate
23 from actual on-the-job, were there any classes
24 given with respect to MRI?

25 A There was training provided by

PAUL R. DANIELS

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2 GE applications specialists.

3 Q People who would come to the
4 hospital?

5 A That's correct.

6 Q Were they teaching one-on-one or
7 were they teaching to a group?

8 A Usually to a group.

9 Q How many people in this group?

10 A Usually very few, anywhere from
11 one to three.

12 Q Do you remember what year or
13 when, approximately, you received this training
14 from GE?

15 A Actually it was throughout my
16 employment there, periodically.

17 Q Commencing when?

18 A Commencing -- it's like an
19 ongoing process.

20 Q In other words, right off the
21 bat, in 1989 you started learning MRI?

22 A In 1989 I was employed there as
23 a radiologic technologist for approximately two
24 or three years, doing general radiography.

25 Q What I'm asking is when did you

PAUL R. DANIELS

1
2 start receiving these lessons in MRI, what
3 year?

4 A About 1991.

5 Q So from 1991 through 2001 you
6 continuously received training from General
7 Electric?

8 A That's correct.

9 Q Did the training include safety
10 measures?

11 A At times.

12 Q Was there training with respect
13 to ferrous objects?

14 A Yes.

15 Q Was the training with respect to
16 the dangers of ferrous objects?

17 A Yes.

18 Q Do you remember what unit you
19 were trained on, what MRI unit you were trained
20 on at Albany Medical Center?

21 A They had various upgraded
22 systems, but it was all GE equipment.

23 Q Do you remember what units,
24 would you be able to identify the units?

25 A Yes.

1 PAUL R. DANIELS

2 Q Can you do that by name, by
3 number, whatever you want to, by model number?

4 A GE Cigna 4X, GE LX Cigna.

5 Q Was there any training given
6 specifically with respect to the establishment
7 of restricted zones?

8 A Yes.

9 Q Can you tell me what you were
10 taught in that regard?

11 A They had information provided in
12 the training manuals and in certain videos that
13 they provided.

14 Q Do you recall what you were
15 taught in terms of the establishment of these
16 restricted zones?

17 A Yes.

18 Q Can you tell me what that was?

19 A Basically within the scan room
20 there's a linear gradient that gets stronger
21 the closer you get to the magnet where ferrous
22 objects would become dangerous.

23 Q Did they recommend the creation
24 of some kind of a zone that would be free of
25 ferrous metal objects?

1 PAUL R. DANIELS

2 A Yes.

3 Q What were the limits of that
4 zone?

5 A Within the scan room.

6 Q Were you ever instructed that
7 there should be any area outside the scan room
8 that would be free of ferrous objects?

9 A No.

10 Q Did GE make any recommendations
11 with respect to warning signs to be posted?

12 A Yes.

13 MR. SHALHOUB: Objection to the
14 question.

15 Q Do you recall what
16 recommendations were made?

17 A As far as recommendations, are
18 you referring to anything in particular, or in
19 general?

20 Q Did GE ever provide signs to be
21 posted in an MRI facility?

22 MR. SHALHOUB: Objection.

23 Q You can answer it. He can't
24 stop you.

25 MR. SHALHOUB: I'm not trying to

1 PAUL R. DANIELS

2 stop him.

3 MR. GAIER: I didn't mean it that
4 way.

5 A I don't know if GE themselves
6 supplied the signs, but there are always signs
7 provided on their equipment.

8 Q On their equipment, on the
9 equipment itself?

10 A Throughout any MRI facility.

11 Q When you say the equipment, we
12 have one piece of equipment, which would be the
13 scanner unit. Are you saying that there are
14 signs posted on the scanner unit itself?

15 A Not on the scanner unit itself.

16 Q When you say the equipment, you
17 mean in the facility?

18 A In their facility.

19 Q And there are signs that are
20 provided by General Electric?

21 MR. SHALHOUB: Objection, he said
22 he doesn't know.

23 A I don't know, I don't know if
24 General Electric provided them.

25 Q Did GE ever give any instruction

1 PAUL R. DANIELS

2 in your experience with respect to posting
3 signs specifically as to the dangers of ferrous
4 oxygen tanks?

5 MR. SHALHOUB: Instruction to
6 him?

7 MR. CORGAN: Yes, objection to
8 the form. Why don't you rephrase that,
9 please.

10 Q In your training with General
11 Electric, did they ever give any advice that
12 signs should be posted which specifically
13 referred to ferrous oxygen bottles, tanks or
14 canisters?

15 A Within the scan manuals that
16 were provided by GE.

17 Q The scan manuals.

18 A Correct.

19 Q The manuals contained such
20 advice.

21 A Correct.

22 Q But did they ever recommend that
23 any warning signs with that specific
24 information be posted?

25 MR. SHALHOUB: Objection to the

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form.

A There was general advice within the scan manuals that were provided.

Q Did that general advice tell you to hang warning signs that had the specific warning about oxygen bottles?

A No.

Q We're going to come back to this. I want to just try to get past the preliminary stuff.

When you started with UIMA did they have any additional training, did you undergo any additional training there?

A I did not.

Q Who hired you?

A It's my understanding that I was hired by a company called UIMA.

Q University Imaging?

A Yes.

Q Was there a particular individual who told you you were hired?

A My supervisor.

Q Who was that?

A Karen DeTorres.

1 PAUL R. DANIELS

2 Q Was she trained in MRI, do you
3 know?

4 A I don't believe so.

5 Q Was she a licensed x-ray
6 technician?

7 A Not to my knowledge.

8 Q You interviewed with Ms.
9 DeTorres for the job?

10 A Yes, I did.

11 Q Did you interview with anyone
12 else for the job?

13 A No.

14 Q Once she hired you, no further
15 training was provided with respect to MRI
16 safety?

17 MR. CORGAN: Just note my
18 objection. You mean -- you're making a
19 distinction between training and
20 orientation?

21 MR. GAIER: I can start with
22 orientation if you like.

23 MR. CORGAN: Well, I just want to
24 make sure that the witness understands
25 the scope of the question, because it

1 PAUL R. DANIELS

2 just may be a little unclear.

3 MR. GAIER: I'll withdraw the
4 question and start it fresh.

5 Q You started in January 2001?

6 A That's correct.

7 Q Were you given any kind of
8 orientation with respect to the facility?

9 A No.

10 Q Nobody took you and showed you
11 around?

12 A If they showed me around it was
13 very brief.

14 Q So you basically were learning
15 your way around there on your own?

16 A Yes.

17 Q Did anybody show you how to
18 operate the machinery, the equipment?

19 A No.

20 Q Did anybody discuss with you at
21 the time that you commenced working there
22 safety precautions within the facility?

23 A No.

24 Q Did Ms. DeTorres have any
25 supervisor?

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PAUL R. DANIELS

A Not that I'm aware of.

Q Was there anybody that you're aware of that's more senior to her within University Imaging Medical Associates?

A No.

Q Were there doctors who were employed with UIMA?

A There were doctors there. I don't know who they were employed by.

Q There are other technicians with UIMA?

A That's correct.

Q I'm just going to mention some names that have already come up in a prior deposition, okay?

A All right.

Q Patricia Lauria was a UIMA technologist?

A Yes.

Q Was she employed there before you?

A No.

Q She started after you?

A That's correct.

1 PAUL R. DANIELS

2 Q Do you know when she started?

3 A In general, a few months after I
4 was there.

5 Q So if you started in January of
6 2001, she started sometime after that and
7 before July of 2001?

8 A That's my understanding.

9 Q Who hired her?

10 A I don't know.

11 Q Were you involved in
12 interviewing her or hiring her?

13 A No.

14 Q Another technologist whose name
15 came up was Joe Melendez.

16 A Yes, I recognize him.

17 Q And he worked in that facility?

18 A Yes, he did.

19 Q While you were there?

20 A Yes.

21 Q Was he there before you?

22 A I don't know for sure.

23 Q There was somebody whose first
24 name was Michael.

25 A Yes.

1 PAUL R. DANIELS

2 Q Do you know Michael's last name?

3 A Yes.

4 Q Can you tell us, please?

5 A Spinella.

6 Q Michael Spinella?

7 A Yes.

8 Q Was Michael employed there

9 before you?

10 A I'm not sure of his hire date.

11 Q There was somebody named

12 Michelle?

13 A Yes, there was.

14 Q Was Michelle an MRI

15 technologist?

16 A Yes, she was.

17 Q Do you know her last name?

18 A Myellick.

19 Q Do you know how to spell that?

20 A Let's see, it's a tough one.

21 M-y-e-l-l-i-c-k, I believe.

22 Q Do you know whether she was

23 employed there before you?

24 A Yes.

25 Q Do you know how long before you?

1 PAUL R. DANIELS

2 A No.

3 Q John Priest?

4 A Yes.

5 Q MRI technologist?

6 A Yes.

7 Q Was he employed there before
8 you?

9 A Yes, he was.

10 Q Are there any other MRI
11 technologists who were employed there in July
12 of 2001?

13 A Not to my knowledge.

14 Q The doctors who worked there,
15 are you familiar with Dr. Terrence Matalon?

16 A Yes.

17 Q What was your understanding of
18 his role?

19 A My understanding of his role is
20 he was the, what they call the chairman of the
21 radiology department at Westchester Medical
22 Center Hospital.

23 Q Do you know what his role was in
24 UIMA?

25 A I have no idea.

1 PAUL R. DANIELS

2 Q Dr. Michael Tenner?

3 A Yes.

4 Q What's your understanding of his
5 role?

6 A My understanding of his role, he
7 was a professor of neuroradiology at
8 Westchester Medical Center Hospital.

9 Q Do you know what if any role he
10 had with respect to UIMA?

11 A I don't know.

12 Q And there was a Dr. Panageas?

13 A Yes.

14 Q Do you know her first name?

15 A I don't remember.

16 Q What was your understanding of
17 her role?

18 A The same, she was a staff
19 radiologist at Westchester Medical Center.

20 Q Do you know if she had any
21 involvement with UIMA?

22 A None that I'm aware of, no.

23 Q Were any of these doctors ever
24 in the MRI facility?

25 A Yes, they were.

1 PAUL R. DANIELS

2 Q How frequently did you see them
3 there?

4 A On a fairly regular basis, some
5 more than others.

6 Q When you say regular basis, more
7 than once a week?

8 A Yes.

9 Q Once a day?

10 A Perhaps.

11 Q Are there any other doctors,
12 first of all, that were involved whose names I
13 haven't mentioned?

14 A Those are the major people who
15 were there most frequently.

16 Q When they were there, what did
17 they do, generally?

18 A They interpreted films.

19 Q And they were very familiar with
20 the MRI facility?

21 MR. CORGAN: Objection.

22 A I don't know.

23 Q Were they permitted to walk
24 freely around the facility?

25 A They were.

1 PAUL R. DANIELS

2 Q I mean, you didn't have to stop
3 them and say no, you can't go there, that kind
4 of a thing?

5 A No.

6 Q Other persons who worked for
7 UIMA, there was a Beverly Palm?

8 A Yes, there was.

9 Q She was a receptionist?

10 A Yes.

11 Q And Tracy Chiapetta?

12 A Yes.

13 Q And she was a tech aide?

14 A Correct.

15 Q There was somebody named
16 Heather?

17 A There was.

18 Q Do you know her last name?

19 A Byrne.

20 Q What was her job?

21 A She was a receptionist,
22 scheduler.

23 Q Were there any other persons who
24 were employed by UIMA whose name has not been
25 mentioned?

1 PAUL R. DANIELS

2 A Yes.

3 Q Can you tell me who they are and
4 what their jobs were?

5 A Most of the people were
6 receptionists.

7 Q What were their names?

8 A Terry Cohen, a lady named Pat.
9 That was about it. That's all I remember.

10 Q Were there any other tech aides
11 other than Tracy Chiapetta?

12 A No.

13 Q Do you know when Tracy started
14 working there?

15 A Not specifically, but I would
16 say a few months after I started working there.

17 Q Was anybody at UIMA particularly
18 responsible for safety considerations?

19 A Not to my knowledge.

20 Q UIMA operated the MRI facility?

21 A Not -- I'm not sure what role
22 they played. As far as I know they were
23 staffing providers.

24 Q Do you know whether they had
25 signed a contract with Westchester County

1 PAUL R. DANIELS

2 Medical Center?

3 A I'm not aware of it.

4 Q So you wouldn't know --

5 A I don't know.

6 Q -- what responsibilities they
7 had undertaken.

8 A Correct.

9 Q And you wouldn't know whether
10 they had undertaken to administer the facility.

11 A Correct.

12 Q Was safety considerations one of
13 the responsibilities of MRI technologists?

14 A Yes.

15 Q That would include being your
16 responsibility?

17 A Yes.

18 Q And Ms. Lauria's responsibility?

19 A Yes.

20 Q At the time, in July of 2001,
21 prior to the 27th, who were the technologists
22 who worked at this particular facility?

23 A Prior to the date?

24 Q Up until the date, yes, during
25 that period in July.

1 PAUL R. DANIELS

2 A The only ones that I know of
3 were again, John Priest, Michele Myellick,
4 Michael Spinella and Joe Melendez.

5 Q And they did work there at that
6 time facility during that time.

7 A That's correct.

8 Q Everybody had different shifts?

9 A Yes.

10 Q How many technologists would
11 staff the facility at a time?

12 A Sometimes one, sometimes two,
13 usually no more than two.

14 Q How was it determined whether it
15 would be one or two?

16 A That would be determined by the
17 supervisors.

18 Q Who were the supervisors?

19 A Karen DeTorres.

20 Q Were you a supervising
21 technologist?

22 A No.

23 Q Did you have any supervisory
24 responsibilities with respect to any of the
25 other technologists?

1 PAUL R. DANIELS

2 MR. CORGAN: Objection to what
3 his responsibilities were, because
4 that's a perception, but you can ask him
5 what he did.

6 MR. GAIER: Off the record.
7 (Discussion off the record.)

8 Q Did you supervise Patricia
9 Lauria?

10 A The only thing that I did was
11 supervise her as far as clinical scanning, how
12 to acquire clinical images. That was the
13 limited scope of my supervisory abilities.

14 Q In terms of safety within the
15 facility, did you supervise anyone?

16 A No.

17 Q Did Ms. DeTorres have any
18 responsibilities with respect to safety within
19 the facility?

20 MR. CORGAN: Objection.

21 MR. GAIER: Withdrawn.

22 Q Did Ms. DeTorres give any
23 instructions with respect to safety within the
24 facility?

25 A No.

1 PAUL R. DANIELS

2 Q Did she set forth any criteria
3 or procedures to be followed with respect to
4 safety?

5 A No.

6 Q She was your supervisor?

7 A Yes.

8 Q As your supervisor, did she give
9 any directives with respect to safety?

10 A No.

11 Q Were any of the other
12 technologists at the facility supervisors
13 relative to any other technologists?

14 A No.

15 Q Did UIMA at the time, in July of
16 2001, have another MRI facility?

17 A Not that I'm aware of.

18 Q Did they have any other
19 radiology facility other than this MRI facility
20 that you're aware of?

21 A No.

22 Q Do you know when UIMA started
23 with this particular facility?

24 A I have no idea.

25 Q I'm going to show you some

1 PAUL R. DANIELS

2 photographs that have been previously marked as
3 Plaintiffs' Exhibits C 1 through C 18 at a
4 deposition on December 9th of 2004, and I'm
5 just going to put them out so we can make some
6 reference to them for the purpose of these
7 questions, okay?

8 A Okay.

9 Q The photographs, which each page
10 has two photographs, the photographs on Exhibit
11 C 1, is that the MRI facility at which you
12 worked for UIMA?

13 A It appears to be.

14 Q That's the exterior of the
15 building?

16 A Part of it, yes.

17 MR. CORGAN: For the record, it
18 is the exterior of part of the building.

19 MR. GAIER: Okay.

20 Q Exhibit C 2, what is here the
21 lower picture has some signs on the door. Does
22 that fairly represent what the entrance looked
23 like in July of 2001?

24 A It appears to be.

25 Q To your knowledge were there any

1 PAUL R. DANIELS

2 other signs on the door at that time?

3 A Not that I could recall.

4 MR. CORGAN: Did you identify
5 this?

6 MR. GAIER: This is C 2.

7 MR. CORGAN: C 2 for
8 identification.

9 Q I'm just going to go through
10 them. In fact, maybe I'll even skip some.

11 Looking at the page marked C 4,
12 on the left side of the page, the photograph,
13 do you recognize that door?

14 A I do.

15 Q Is that the door that, after
16 entering the MRI facility, the door that would
17 lead to what would be the waiting room?

18 A From this angle it's hard to
19 tell.

20 Q Okay. We're going to refer back
21 to C 3. It's the same door on the right side
22 of the page now. Does that help?

23 A There was a few doors that
24 looked very similar to that, so.

25 Q Okay. On this door that we're

1 PAUL R. DANIELS
2 referring to that's on page C 3 and C 4 there's
3 a yellow caution sign. Do you see that?

4 A I do.

5 Q Do you know if that sign was up
6 there on or before July 27, 2001?

7 A I don't recall.

8 Q There's a warning sign below
9 that. Do you know if that warning sign was
10 there on July 27, 2001?

11 A If this is in fact the door to
12 the scan room --

13 Q It is not.

14 A It is not. I don't recall that.

15 Q Okay.

16 A It's hard to tell what exact
17 door that is.

18 Q Okay.

19 MR. SHALHOUB: Can I see those
20 pictures?

21 MR. GAIER: Sure.

22 MR. SHALHOUB: Thanks.

23 (At this point in the proceedings,
24 the witness and counsel conferred.)

25 Q Do you want to amend that?

1 PAUL R. DANIELS

2 MR. CORGAN: I think if you --

3 A Whatever door this is --

4 Q Yes.

5 A -- there was warning signs on

6 all the doors, these warning signs here.

7 MR. CORGAN: Indicating --

8 Q Well, this warning sign that

9 we're looking at --

10 A Right. These were placed

11 throughout the department.

12 Q Throughout the department?

13 A Right. But I can't confirm

14 which exact door.

15 Q You mean the signs that say no

16 pacemakers, no metallic implants, no

17 neurostimulators?

18 A That's correct.

19 Q That's the signs we're talking

20 about?

21 A That's correct.

22 Q Okay.

23 I'm going to show you what is

24 marked as Exhibit C 6. The picture on the

25 left-hand side is the hallway looking toward

PAUL R. DANIELS

1

2 the direction where the scanner room would be?

3 A Meaning from the entrance of the
4 facility?

5 Q Yes.

6 A Yes.

7 Q Now, on C 6 on the left-hand
8 side as well as on C 7 there's a red and white
9 striped line. Do you see that?

10 A I do.

11 Q Was that there on July 27, 2001?

12 A No.

13 Q It was added after July 27,
14 2001?

15 A Yes.

16 Q All right, I'm going to stop
17 with this for now. We'll come back to the rest
18 if we have any need to during the rest of the
19 questioning, okay?

20 A All right.

21 Q This particular MRI facility,
22 did it have a restricted area?

23 MR. GAIER: Let me withdraw that
24 and try it differently.

25 A Yes, be more specific.

1 PAUL R. DANIELS

2 Q Did it have an area from which
3 ferrous objects were restricted and excluded?

4 A Yes.

5 Q What was that area?

6 A A few feet within the scan room.

7 Q Within the scan room?

8 A Within the scan room.

9 Q So, in other words, when you say
10 a few feet, you could actually walk a few feet
11 into the scanner room with ferrous objects and
12 that was permissible?

13 A That's correct.

14 Q How far into the scanner room?

15 A A few feet, perhaps.

16 Q Can you be more specific,
17 please?

18 A I haven't done any specific
19 testing, so no.

20 Q Well, we're not talking about
21 testing, we're talking about within this
22 facility what was permitted to be brought into
23 a specific area.

24 So the question I'm asking is a
25 zone which ferrous objects were not permitted

PAUL R. DANIELS

1

2 into.

3

A They were not permitted into
4 that door.

5

Q They were not?

6

A At all.

7

Q They were not permitted past the
8 door of the scan room?

9

A That's correct.

10

Q But anywhere up to the door of
11 the scan room was not restricted from ferrous
12 objects?

13

A That's correct.

14

Q Did somebody advise you of this?

15

A Not particularly.

16

Q So how do you know that that is
17 the edge of the restricted zone?

18

A Based on my training that the
19 restricted zone is anything from that scan room
20 door inward. Anything out is basically safe.

21

Q And this is the training that
22 you received from General Electric?

23

MR. SHALHOUB: Objection to the
24 form.

25

A Yeah, I --

1 PAUL R. DANIELS

2 Q You said based on your training.
3 Based on what training?

4 A Based on training that I
5 received from Albany Medical Center.

6 Q Albany Medical Center?

7 A Um-hum.

8 Q So in addition to the General
9 Electric training you received training from
10 Albany Medical Center personnel as well?

11 A Yes.

12 Q That was the on-the-job training
13 that you were talking about?

14 A Correct, correct.

15 Q Okay.

16 Did UIMA to your knowledge issue
17 any rules, procedures, guidelines or
18 regulations relative to safety within the MRI
19 facility?

20 A Not that I was shown, so I'm
21 unaware. If they did have them, I didn't see
22 them.

23 Q Do you know whether the hospital
24 had any such rules, procedures, guidelines or
25 regulations?

1 PAUL R. DANIELS

2 A Not to my knowledge.

3 Q Nobody ever told you about them?

4 A Nobody ever showed me anything
5 in writing.

6 Q Did anybody ever tell you about
7 them?

8 A No.

9 MR. GAIER: Can we take a short
10 break.

11 (At this point in the proceedings
12 there was a recess, after which the
13 examination continued as follows:)

14 Q I'm going to show you a document
15 previously marked as Plaintiffs' Exhibit D 1
16 for identification, D 2, D 3, D 4 and D 5 from
17 the deposition on December 9th of 2004.

18 Mr. Daniels, you've had an
19 opportunity to look through this and read it?

20 A Yes.

21 Q Can I just have it for one
22 second.

23 It's captioned on top
24 "Department of Radiology, Policy and Procedure
25 Manual," correct?

1 PAUL R. DANIELS

2 A That's what it says.

3 Q Have you ever seen this before?

4 A I have not.

5 Q Ever?

6 A No.

7 Q Nobody, when you started working

8 at UIMA, ever showed it to you?

9 A Those specific papers?

10 Q That's correct.

11 A No.

12 Q Are you aware of whether or not

13 there was a book or folder or looseleaf within

14 the MRI facility that contained such pages?

15 A No.

16 Q Did anyone from the hospital

17 administration ever come around to the MRI

18 facility with regard to administrative matters?

19 A Administration?

20 Q Yes.

21 A No.

22 Q Other than the three doctors who

23 are mentioned, anybody from the radiology

24 department come around with respect to such

25 matters to the MRI facility?

1 PAUL R. DANIELS

2 A There was only person I know
3 from the hospital, a representative from the
4 radiology department who I believe was like a
5 chief technologist and head of the department.

6 Q Who was that?

7 A His name was Hvisch, Rick
8 Hvisch.

9 Q Rick Hvisch?

10 A Yes.

11 Q How do you spell, that do you
12 know?

13 A I believe it's H-v-i-s-c-h.

14 Q He was the chief technologist of
15 the radiology department?

16 A That was my understanding of his
17 role at the Westchester Medical Center
18 Hospital.

19 MR. CORGAN: Just note my
20 objection in this regard, whether or not
21 that's his title is in question, so this
22 is his generic description of his
23 understanding of this man's position.

24 MR. GAIER: Okay.

25 Q How often did Mr. Hvisch come

PAUL R. DANIELS

1

2 around?

3 A Infrequently.

4 Q What did he do when he came

5 around?

6 A He basically just talked to the
7 radiologists sometimes about matters that I
8 don't know anything about, asked if the
9 equipment was running okay. That was about it.

10 Q Did he ever talk to you about
11 safety considerations?

12 A No.

13 Q I'm going to show you what was
14 previously marked as Plaintiffs' Exhibit C 12
15 for identification. It's one of the
16 photographs.

17 A Okay.

18 Q Does that look familiar to you?

19 A Yes.

20 Q Let me just look at it with you,
21 is that all right?

22 A Um-hum.

23 Q It shows a door, it's two
24 pictures of the same door, is that correct?

25 A Well, it's hard to tell, because

1 PAUL R. DANIELS

2 you see a little handle here, but you don't see
3 it here (indicating).

4 MR. CORGAN: One picture depicts
5 the handle to the door, he says the
6 other picture does not depict the handle
7 to the door.

8 Q Okay.

9 A And I don't know what this is
10 (indicating). That's not there. And this here
11 doesn't appear over here (indicating), so it's
12 hard to tell.

13 Q So you can't tell if they're the
14 same door is what you're saying.

15 A Correct.

16 MR. GAIER: Off the record.

17 (Discussion off the record.)

18 Q Looking at Exhibit C 12, the
19 picture on the left side, is that the door to
20 the entrance to the scanner room?

21 A It appears to be, yes.

22 Q And it contains a warning sign
23 on it?

24 A It does.

25 Q The picture on the right side,

1 PAUL R. DANIELS

2 it is a door with a warning sign?

3 A That would be correct.

4 Q As best as you can tell, is the
5 warning sign that's in the picture on the right
6 side the same one that's in the picture on the
7 left side?

8 A It looks like it contains the
9 same material.

10 Q Is that the warning sign to your
11 recollection that was on the door to the
12 scanner room?

13 A Yes.

14 Q Was there any warning sign at
15 the entrance to the scanner room, either on the
16 door or elsewhere, that made any reference to
17 ferrous oxygen tanks or bottles or canisters?

18 A Specifically to tanks?

19 Q Correct.

20 A No.

21 Q Well, tanks, bottles or
22 canisters.

23 A Not using that terminology, no.

24 Q Well, stepping away from the
25 specific to the general, was there any sign

1 PAUL R. DANIELS

2 that made reference to oxygen tanks, bottles or
3 canisters?

4 A No.

5 Q Was there any such sign anywhere
6 in the facility?

7 A Not to my recollection.

8 Q When you took the job, when you
9 started in January of 2001, was this sign on
10 the door to the scanner room?

11 A Yes, it was.

12 Q Did it ever change in the whole
13 time you were there?

14 A No.

15 Q Did you ever make any
16 recommendations for different signs?

17 A No.

18 Q Did you ever attempt to post any
19 additional signs?

20 A I didn't believe that there were
21 any additional signs available.

22 Q Well, going back to my question,
23 though, did you ever attempt to post any
24 additional signs?

25 A I used to look through

1 PAUL R. DANIELS

2 catalogues and like safety, like MR safety
3 catalogues, and these were the only signs that
4 were ever advertised.

5 Q That you ever saw?

6 A Or that I knew existed.

7 MR. SHALHOUB: Could you let him
8 finish the answer, please.

9 MR. GAIER: Sorry, Michael.

10 A These were universal signs that
11 everybody uses, and that's all that was
12 available, so.

13 Q When did you go through this
14 process of looking for signs?

15 A Actually I used to do that at
16 Albany Medical, they had catalogues, and
17 Westchester had catalogues as well, so, it was
18 ongoing.

19 Q The UIMA facility that you were
20 working at had catalogues of safety devices for
21 MRI?

22 A Yes, laying around, yes.

23 Q And you would look through them
24 to see if there was anything better than --

25 A Periodically, yes.

1 PAUL R. DANIELS

2 Q Was that because you were
3 looking to improve safety?

4 A I was. I'm always looking to
5 improve safety.

6 Q Did you ever see any signs that
7 made reference to ferrous oxygen bottles,
8 canisters or tanks?

9 A No.

10 Q 'Til this day are you aware of
11 any such signs?

12 A This sign has been changed
13 recently (indicating). There's different signs
14 available, but I don't know their exact
15 content, if they relate from that specific
16 terminology.

17 Q Did you ever attempt to create a
18 sign with reference to ferrous oxygen bottles,
19 tanks or canisters?

20 A No.

21 Q Did this facility have portable
22 oxygen bottles within the facility?

23 A They did.

24 Q Just for simplicity, I'm not
25 going to use this bottles, tanks or canisters,

1 PAUL R. DANIELS

2 I'm just going to stick with bottles, but I
3 mean all the same thing, okay?

4 A Okay.

5 Q Good. They did have oxygen
6 bottles in the facility?

7 A They did.

8 Q Did they have ferrous oxygen
9 bottles within the facility?

10 A They did.

11 Q And the force oxygen bottles,
12 were they solid green, meaning from top to
13 bottom, in color?

14 A I believe so.

15 Q Did they also have non-ferrous
16 oxygen bottles?

17 A They did not.

18 Q They did not?

19 A Not to my knowledge.

20 Q Are you familiar with
21 non-ferrous oxygen bottles?

22 A At the time of the incident I
23 did not.

24 Q Sitting here today you are aware
25 that there are non-ferrous oxygen bottles?

1 PAUL R. DANIELS

2 A Sitting here today I do, yes.

3 MR. CORGAN: Why don't we call
4 them MRI compatible oxygen --

5 MR. GAIER: Can I use my
6 terminology, is that all right?

7 MR. CORGAN: Why don't you
8 clarify. You can use whatever
9 terminology you want, but can you just
10 say by non-ferrous I mean MRI compatible
11 oxygen tanks?

12 Q You are aware that that's what I
13 mean, correct?

14 A Yes.

15 MR. SHALHOUB: Counselor, you're
16 talking about portable --

17 MR. CORGAN: You didn't use that
18 word, but --

19 MR. GAIER: That's why I said
20 bottles, but okay. I started off the
21 questioning with portable oxygen
22 bottles, so yes, I'm following through
23 right now.

24 Q I'm talking about portable
25 oxygen bottles as opposed to things that are

1 PAUL R. DANIELS
2 stationary and not moved, okay?
3 A Yes, I understand.
4 Q In July of 2001 you were unaware
5 that there were non-ferrous portable oxygen
6 bottles, meaning MRI compatible; you were
7 unaware of that?
8 A That's correct.
9 Q That's your testimony?
10 A That's correct.
11 Q Had you ever seen any portable
12 oxygen bottles that were silver metallic
13 towards the bottom half and green on the top?
14 A No.
15 Q Had you ever seen any bottles
16 like that in this facility prior to July 27,
17 2001?
18 A No.
19 Q Had you seen any bottles like
20 that at Albany Medical Center?
21 A No.
22 Q At Albany Medical Center did
23 they use the solid green portable oxygen
24 bottles?
25 A You'd have to be more specific

1 PAUL R. DANIELS

2 as to who used them.

3 Q Okay. Did they have any solid
4 green portable oxygen bottles within the MRI
5 facility at Albany Medical Center?

6 A They did not.

7 Q Did they have any portable
8 oxygen bottles in the facility at Albany?

9 A When you say facility, what
10 specific --

11 Q The MRI facility.

12 A No they did not.

13 Q When you were at Albany, either
14 from GE or from the on-the-job training, were
15 you ever given any training with respect to
16 portable oxygen bottles?

17 A Advice? The only advice that I
18 would be given is that you do not bring ferrous
19 objects into the scan room.

20 Q Did any of the training or
21 orientation that you received up there make any
22 reference to ferrous oxygen bottles in
23 particular?

24 A Yes.

25 Q And that training was not to

1 PAUL R. DANIELS

2 bring them into the scanner room?

3 A That would be correct.

4 Q Prior to July 27, 2001 were you
5 familiar with whether or not, separate from
6 oxygen bottles, there was MRI compatible
7 equipment for an MRI facility?

8 A Yes.

9 Q What was your understanding in
10 that regard?

11 A There were certain types of
12 equipment that were compatible. Yes, I was
13 familiar that there were several pieces of
14 equipment that were made of non-ferrous
15 materials.

16 Q What types of equipment are you
17 referring to?

18 A Oh, foot stools, certain tools
19 that service people used to go in there to do
20 certain things, hampers, linen hampers, certain
21 plastic shelving units to hold linen, things of
22 that nature.

23 Q Were you familiar with whether
24 or not there were MRI compatible fire
25 extinguishers?

1 PAUL R. DANIELS

2 A I was not.

3 Q Do you know what a code cart is?

4 A Yes, I do.

5 Q Are you familiar with whether or

6 not there were MRI compatible code carts prior

7 to July 27, 2001?

8 A No, I was not.

9 Q The pamphlets or brochures that

10 you used to browse through, you never saw fire

11 extinguishers that were said to be MRI

12 compatible?

13 A No.

14 Q Code carts?

15 A No.

16 Q Did you ever see any other

17 items, MRI compatible items listed in these

18 brochures?

19 A There was things like biopsy

20 needles, you know, certain specialty pieces of

21 equipment that you use in a specific procedure,

22 but they didn't have a lot of non-ferrous

23 equipment back then.

24 Q They didn't have them back then?

25 A Yes, a lot of stuff was not

PAUL R. DANIELS

1

2 available back then.

3 Q That was your understanding?

4 A That's correct.

5 Q From where did you glean that

6 understanding?

7 A Based on what I saw.

8 MR. CORGAN: Off the record.

9 (Discussion off the record.)

10 Q When you say back then, you're

11 referring to before July 27, 2001?

12 A That would be correct.

13 Q Okay. There were, within the
14 MRI facility, we said the solid green portable
15 ferrous oxygen bottles. Did UIMA permit them
16 to stay there, those oxygen bottles?

17 A I don't know if UIMA permitted
18 them, but --

19 Q They were there?

20 A They were there.

21 Q Do you recall where they were
22 kept?

23 A They were kept in a holding area
24 adjacent to the scan room.

25 Q All right. I'll show you, we'll

1 PAUL R. DANIELS
2 refer to the pictures to see if this will help.
3 Exhibit C 9 from the prior
4 deposition, it's got two photographs. Do they
5 both depict what was sometimes referred to as
6 the patient alcove?

7 A Yes.

8 MR. CORGAN: Off the record.
9 (Discussion off the record.)

10 A Yes, that's familiar.

11 Q That's the patient alcove that
12 was in the MRI facility?

13 A Correct.

14 Q Was it directly across the hall
15 from the scanner room door?

16 A It was slightly adjacent to it.

17 Q What's your best estimation as
18 to how wide that hall was?

19 A The hallway, this area, the
20 holding area (indicating) --

21 MR. CORGAN: Just note my
22 objection to "area." There was a room
23 and then --

24 MR. GAIER: I understand. I'll
25 withdraw the question and I'll clarify

1 PAUL R. DANIELS

2 it, okay?

3 Q I'm going to show you C 8, you
4 can look at C 8 and C 9. Looking at C 8 on the
5 left-hand side -- first of all, on the
6 right-hand side there's a doorway. Would that
7 be the scanner room door?

8 A Yes.

9 Q On the left there's, well,
10 there's two blue curtains. Is that the alcove
11 that's framed by the two blue curtains?

12 A Yes.

13 Q Now, when I say the hallway I
14 mean from the wall where the door is up to the
15 blue curtains. What's your best estimate as to
16 how wide that was?

17 MR. SHALHOUB: Aren't there
18 diagrams?

19 A It's obviously a very inaccurate
20 method of measuring, so --

21 MR. CORGAN: Just give an
22 estimate, you're not bound.

23 Q Just from your recollection.

24 A Probably 12 to 15 feet.

25 MR. CORGAN: Let the record

1 PAUL R. DANIELS
2 reflect we have diagrams of the room
3 that have that, so this is just a best
4 guess or estimate.

5 MR. GAIER: I'm just trying to
6 get an understanding.

7 MR. CORGAN: Well, I let him do
8 it, right?

9 MR. GAIER: Sure.

10 Q I showed you the photographs so
11 that maybe that would help you in your
12 description.

13 I was asking you where the
14 portable ferrous oxygen bottles were kept.
15 Where were they kept within the facility?

16 A Usually within a corner within
17 that holding area.

18 Q In the alcove?

19 A Yes.

20 Q Were they kept within a cabinet?

21 A They were kept within a
22 container to keep them from tipping over.

23 Q But they were visible?

24 A Yes.

25 Q Able to be seen?

1 PAUL R. DANIELS

2 A Yes.

3 Q In plain sight, were they?

4 A Yes.

5 Q You knew they were there?

6 A I did.

7 Q Did anybody ever tell you that
8 they shouldn't be there?

9 A No.

10 Q Did anybody ever say to you that
11 they are permitted to be there?

12 A No one ever said that they
13 weren't.

14 Q Did anyone ever affirmatively
15 say that this is what we use in the facility?

16 A I assume that's what they used
17 in the facility, since they were there from day
18 one.

19 Q Did you feel that that was safe,
20 having those bottles there?

21 MR. CORGAN: Objection. You can
22 answer.

23 A Yes, I thought it was safe.

24 Q Did you ever have any
25 discussions with Ms. Lauria concerning those

PAUL R. DANIELS

1

2 bottles?

3 A We had discussions regarding the
4 differences in the Westchester Medical Center
5 county facility compared to where we worked,
6 how things were set up.

7 Q Did those discussions concern
8 safety?

9 A Not safety, just differences in
10 the way that the facility was designed.

11 Q Did those differences concern
12 safety?

13 A No.

14 Q Do you recall ever having any
15 discussions with her relative specifically to
16 the oxygen bottles?

17 A No. Just that we obviously knew
18 that they couldn't go in the scan room.

19 Q Do you ever recall her saying
20 that it was a dangerous situation having them
21 there?

22 A No.

23 Q Do you recall ever saying
24 something to that effect to her?

25 A No.

1 PAUL R. DANIELS

2 Q Before coming in here today did
3 you look over any materials?

4 A In relation to what?

5 Q Did you review anything before
6 coming in here to testify?

7 MR. CORGAN: You mean in
8 preparation for his testimony?

9 MR. GAIER: That's correct.

10 MR. CORGAN: Because obviously
11 he's reviewed many things in his life.

12 Q In preparation for today's
13 testimony.

14 A Yes.

15 Q Could you tell me what you
16 looked at?

17 A Just past records of my
18 employment, my certificates, things of that
19 nature.

20 Q Did you look at any other
21 testimony in this case?

22 A No.

23 Q Have you talked to Ms. Lauria
24 about this case at all?

25 A I have not.

1 PAUL R. DANIELS

2 Q Do you still work with Ms.
3 Lauria?

4 A I don't.

5 Q When did you stop working with
6 her?

7 A Let's see, right about the
8 beginning of 2003, yes.

9 Q When you were at this facility,
10 did you take the opportunity to provide
11 instructions to non-MRI personnel with regard
12 to safety precautions within the facility?

13 A Yes.

14 Q Did you give instructions with
15 respect to ferrous objects?

16 A Yes, I did.

17 Q And did you provide these
18 instructions to patients?

19 A In relation to their exam, you
20 know, the type of information that they may
21 have needed to know.

22 Q Did you provide this instruction
23 to doctors performing services within the
24 facility?

25 A Yes.

1 PAUL R. DANIELS

2 Q Nurses?

3 A Yes.

4 Q Any other medical personnel that
5 would come within the facility you'd provide
6 these instructions?

7 A Mostly just the nurses.

8 Q How about non-medical personnel,
9 did non-medical personnel sometimes come to the
10 facility?

11 A They didn't come within that
12 area, no.

13 Q You didn't get any delivery
14 personnel?

15 A No, everything was usually
16 delivered outside the reception area.

17 Q How about General Electric
18 employees, did they sometimes come to the
19 facility?

20 A Yes.

21 Q And they would obviously come
22 within the area?

23 A Obviously, yes.

24 Q Did you as a matter of course
25 instruct either the doctors or nurses or any

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1
2 other personnel who would frequent the facility
3 about not bringing metal objects in the scanner
4 room?

5 A Absolutely.

6 Q Did you give specific
7 instructions with reference to the ferrous
8 oxygen tanks?

9 A To certain people, yes.

10 Q To whom?

11 A Some of the anesthesiologists.

12 Q Had you ever worked with Dr. Hou
13 prior to July 27, 2001?

14 A No.

15 Q Did you give him any
16 instructions regarding the ferrous oxygen
17 bottles?

18 A I did not.

19 Q Had you ever seen him before
20 that day?

21 A No.

22 Q Do you recall what
23 anesthesiologists you gave instructions to with
24 reference to the oxygen bottles?

25 A No.

1 PAUL R. DANIELS

2 Q In the seven months that you had
3 worked there prior to this incident, how many
4 times did you give instructions or advice to
5 anesthesiologists with regard to the oxygen
6 bottles, to your best approximation?

7 A Just a few times, because
8 whenever I did mention it they said oh, they
9 already knew about it, they're all trained.

10 Q What would you say to them?

11 A I'd say have you been down here
12 before, are you aware of the policies down
13 here? Oh, yes, yes, we've been down here many
14 times before.

15 Q But what would you say to them
16 with reference to the oxygen bottles?

17 A I'd say, you know, the policy is
18 you have to bring the patient out of the
19 scanning room if you're experiencing any
20 problem.

21 Q How were you aware of that
22 policy?

23 A It's just a policy that I've
24 always learned, coming from Albany Medical.
25 Since I never really received any specific

1 PAUL R. DANIELS

2 policies or training at Westchester Medical
3 Center, I just used my prior knowledge.

4 Q So you just basically proceeded
5 on your own policies.

6 A Exactly.

7 Q Did you point out the oxygen
8 bottles to them when you gave them this advice?

9 A I did.

10 Q And you would tell them they're
11 not to be brought into the scanner room?

12 A I would say something like you
13 know not to bring these into the room. If you
14 have a problem you have to bring the patient
15 out.

16 Oh, yeah, yeah, yeah, we know
17 all about that.

18 Q Now, the first time you met
19 Dr. Hou was on July 27, 2001?

20 A I never really met the man.

21 Q You never met him that day?

22 A No. Just after the incident.

23 Q Do you know whether or not he
24 knew anything about the ferrous oxygen bottles?

25 A I did not.

1 PAUL R. DANIELS

2 Q You were aware on July 27, 2001
3 that if brought within the magnetic field the
4 portable ferrous oxygen bottles could
5 essentially become projectiles, is that
6 correct?

7 A Was I aware that they would
8 become projectiles if they were brought within
9 the room?

10 Q Within the magnetic field, yes.

11 A Yes.

12 Q And you were aware that they
13 could cause serious injury as such.

14 A Yes.

15 Q Where the ferrous oxygen bottles
16 were stored, could you tell me your best
17 estimate as to how many feet that was from the
18 door to the scanner room?

19 A Like we stated before, in
20 approximate measurements, probably 12 to 15
21 feet.

22 Q Were they labeled, these
23 bottles, as being ferrous or non-MRI
24 compatible?

25 A I don't believe they were

1 PAUL R. DANIELS

2 labeled either way.

3 Q Was there any sign above them
4 informing anybody that they were ferrous or
5 non-MRI compatible?

6 A Not that I recall.

7 Q Did you ever consider putting a
8 label on them yourself?

9 A No, since they weren't my
10 property, I didn't think that it was my place
11 to do so.

12 Q Did you consider putting a sign
13 above them to that effect yourself?

14 A No.

15 Q Did you ever mention to anyone
16 in that facility that a sign with reference to
17 those bottles would be helpful?

18 A No, never felt the need, because
19 nothing ever happened there. They'd been there
20 for years I was told, so.

21 Q You were told they had been
22 there for years?

23 A Yes.

24 Q Were you told they'd been there
25 for years without incident?

1 PAUL R. DANIELS

2 A Yes.

3 Q So it was your impression that
4 they had never been, or anything like them, any
5 other similar bottles had never been pulled
6 into the scanner before?

7 A That's correct.

8 Q Who told you that?

9 A Well, I never heard that there
10 was an incident.

11 Q No, but you just said that you
12 were told they'd been there for years.

13 MR. CORGAN: Objection, why don't
14 you clarify.

15 Q Did you just say that you were
16 told they'd been there for years without
17 incident?

18 A Yes.

19 Q Who told you that?

20 A John Priest.

21 Q Do you know how long John Priest
22 worked there?

23 A I don't have exact dates, but I
24 know he was there for quite some time, many
25 years.

1 PAUL R. DANIELS

2 Q What were the circumstances
3 under which he told you that?

4 A Just, he gave like an informal
5 overview of the facility when I first, you
6 know, within my first week or two there.

7 Q Well, I asked you before if you
8 had an orientation and I thought you had said
9 no.

10 Are you clarifying that now, did
11 you have an orientation?

12 A When you say orientation, I'm
13 coming from a large medical center.

14 Q Okay.

15 A I'm accustomed to a hospital
16 based, hospital provided orientation program
17 which lasts a day or two.

18 Q Okay.

19 A And, you know, they have
20 representatives from all different parts of the
21 hospital come down and speak with a whole group
22 of people, new employees.

23 So when you say orientation,
24 that's what I'm accustomed to.

25 Q Okay, within this particular

1 PAUL R. DANIELS

2 facility when you first started there in
3 January of 2001 did you have a smaller, more
4 informal orientation?

5 A Yes, a very informal.

6 Q Who provided that?

7 A Basically John Priest.

8 Q When you first arrived there was
9 he a supervisor to you?

10 A He was like a -- he probably had
11 been there the longest, so I don't know if he
12 was actually a "supervisor," but he was like
13 the guy to talk to.

14 Q And I guess he showed you around
15 the facility, is that what happened?

16 A Yes, you know, just where the
17 bathrooms are, where the refrigerator is, where
18 you can order supplies, where linen is; very
19 informal, basic where things are.

20 Q And in the course of this he
21 showed you those ferrous oxygen bottles?

22 A Yes.

23 Q Did you ask him anything about
24 them?

25 A I just said oh, do you have wall

1 PAUL R. DANIELS

2 mounted oxygen anywhere within the facility.
3 He says no, we've never had any wall mounted,
4 you know, continuous flow oxygen anywhere. We
5 use these cylinders.

6 Q In 2001 he told you they had no
7 wall mounted oxygen within the facility?

8 A That's correct.

9 Q When I --

10 MR. CORGAN: I think you're
11 confused here.

12 A When I say wall mounted, it's
13 what I am accustomed to, what I've seen in my
14 career is continuous flow of oxygen from a wall
15 mounted unit.

16 Q All right, we'll come back to
17 that.

18 So the circumstances when he's
19 giving you this tour, if you will, or informal
20 orientation, you see the oxygen bottles,
21 they're in the patient alcove?

22 A Yes.

23 Q And you inquired about a wall
24 mounted oxygen delivery system?

25 A Yes.

1 PAUL R. DANIELS

2 Q And he told you we don't have
3 that, this is what we use?

4 A Right, this is what we've had
5 all along.

6 MR. CORGAN: You're talking about
7 in the alcove?

8 THE WITNESS: In the alcove.

9 MR. CORGAN: Okay, that's the
10 problem.

11 MR. GAIER: Off the record.

12 (Discussion off the record.)

13 Q Do you recall what you said to
14 Mr. Priest that prompted him to tell you that
15 those bottles had been there for years?

16 A I just asked him are there any
17 other oxygen sources available here, and he
18 says no, we have to use these, they've always
19 been here.

20 Q Why did you ask him that?

21 A Because when I worked at Albany
22 Medical Center they had a different type of
23 oxygen delivery system.

24 Q Did you think it was unusual to
25 have those oxygen bottles there?

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2 A I would say different.

3 Q Prior to coming to UIMA had you
4 ever seen those ferrous oxygen bottles?

5 A Within the hospital.

6 Q You mean at Albany?

7 A That's correct.

8 Q But not in the MRI facility.

9 A That's correct.

10 Q Did you know that they were
11 ferrous?

12 A Yes.

13 Q So when you were taking this
14 tour of the facility at UIMA, you saw that
15 there were ferrous oxygen bottles in the --

16 MR. GAIER: Let me just finish
17 the sentence, then object, okay?

18 MR. CORGAN: Okay.

19 Q -- in the patient alcove, is
20 that correct?

21 MR. CORGAN: Objection. It's not
22 at UIMA. The facility as you know is
23 WMC. It's the WMC's facility. Please
24 don't confuse that.

25 Q The facility at WMC for which

1 PAUL R. DANIELS

2 UIMA employed you to work at, when you were
3 getting this tour, you recognized these green
4 oxygen bottles as being ferrous?

5 A Yes.

6 Q Did you say anything at that
7 time to Mr. Priest with respect to whether or
8 not this is safe?

9 A No.

10 Q You felt it was safe looking at
11 it?

12 A I felt it was safe because in
13 other facilities that I've worked it's the same
14 setup.

15 I mean, like say at Albany
16 Medical, a patient comes down in a wheelchair
17 from a floor. They come down to a hallway
18 close to the magnetic facility with an oxygen
19 bottle, but they stay out there.

20 They stay within a certain
21 distance from the scan room which is deemed
22 safe. It's never been an issue.

23 Q How far is the distance from the
24 scanner room that's deemed safe in your
25 experience?

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2 A Anything outside of that door.

3 Q So when you say a distance from
4 the scanner room, it's not crossing into the
5 scanner room.

6 A Correct, not going into the
7 room.

8 Q But the only MRI facility you
9 had worked at prior to UIMA was Albany Medical
10 Center, is that correct?

11 A That's correct.

12 Q Okay. But at Albany Medical
13 Center they had never stored the portable
14 oxygen canisters in the facility, is that
15 correct?

16 A The facility didn't store them,
17 but like I said, if the patient came down on a
18 stretcher with oxygen they were stored in a
19 hallway within about, approximately the same
20 distance, so, a very similar type of scenario.

21 Q Well, when I say stored, okay, I
22 mean kept there and not hooked up to any
23 person's equipment at that time.

24 With that definition of stored,
25 at Albany Medical Center were bottles like

1 PAUL R. DANIELS

2 these, ferrous oxygen bottles, stored within
3 the facility?

4 A No, not permanently, only stored
5 on the patient's stretcher while they were
6 there, and then they were obviously taken back
7 to the floor.

8 Q For the purposes of my
9 questions, if they're on a stretcher I'm not
10 regarding that as being stored.

11 MR. CORGAN: You're arguing here.

12 Objection, he said what he said.

13 MR. GAIER: Okay.

14 Q So you're having this tour and
15 Mr. Priest tells you that they've been there
16 for years without incident.

17 A Correct.

18 Q Did you ever make any other
19 inquiry with respect to those bottles again the
20 entire time you were there up until the 27th of
21 July?

22 A No.

23 Q There was a code cart in the
24 patient alcove?

25 A There was.

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2 Q Were you familiar with whether
3 or not that was MRI compatible or not?

4 A I'm familiar, yes.

5 Q And what was it?

6 A It was non-compatible.

7 Q And you knew that prior to July
8 27, 2001.

9 A Yes.

10 Q There was a fire extinguisher in
11 the hall or in that vicinity?

12 A There should have been.

13 Q Do you know whether or not that
14 was MRI compatible?

15 A I'm not aware.

16 Q Did you ever inspect the suite
17 to make sure there were no ferrous objects
18 there that didn't belong there?

19 A I inspected the actual scan
20 room. There was a chair in there that I
21 inspected that was used for like patients with
22 friends that would help them out. They're all
23 wooden, no screws.

24 I inspected everything in the
25 room.

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2 Q How about outside the scanner
3 room, in any areas adjacent to the scanner
4 room?

5 A No.

6 Q You never inspected the patient
7 alcove?

8 A I knew it was there, but --
9 inspected as far as how do you mean?

10 Q So, in other words, if ferrous
11 materials were brought into there would you
12 remove them?

13 A Of course.

14 Q Into the patient alcove?

15 A I would remove them from the
16 room.

17 Q I want to make sure you
18 understand my question.

19 If ferrous materials were
20 brought into the patient alcove would you
21 remove them from the patient alcove?

22 A No, because a lot of these
23 things are necessities, necessary equipment.

24 Q Did you ever have the occasion
25 to remove any items from the patient alcove

1 PAUL R. DANIELS

2 because they were not MRI compatible?

3 A Like I said, anything that was
4 there was necessary, so I would have no reason
5 to remove it.

6 Q So is the answer to my question
7 no?

8 A The answer is how I answered it.

9 Q Did you ever have --

10 A If a patient needed to be on a
11 stretcher, then I wouldn't remove it. If there
12 was anything unnecessary there, yes, I would.

13 Q Did you ever remove any ferrous
14 materials from the patient alcove in the entire
15 time you were there up until July 27, 2001?

16 A Yes.

17 Q What?

18 A Linen hampers and things like
19 that that I could move, you know, further away.

20 Q Where would you move them to?

21 A There wasn't much room to move
22 them.

23 Q My question is did you ever
24 remove them from the patient alcove.

25 A Yes, you know, just, you're

1 PAUL R. DANIELS

2 moving equipment around, like there was a big
3 linen thing there, you would move it so you
4 could stock it easier, but not permanently, no.

5 Q My question was did you ever
6 remove, meaning take away from the patient
7 alcove, ferrous objects?

8 A Well, if I removed something
9 that was necessary, then that wouldn't be very
10 safe.

11 Q All right --

12 MR. CORGAN: I think you're
13 arguing with him.

14 MR. GAIER: No, I'm asking him a
15 question and I'm trying to get an answer
16 to my question.

17 MR. CORGAN: I think he's
18 answering. The problem with your
19 question is there may be things in the
20 alcove which by law are not there
21 illegally which may be metallic which
22 may also be necessary for the health and
23 safety of patients in that area at the
24 time.

25 So you're asking him should he

1 PAUL R. DANIELS

2 remove something that's necessary or
3 that may be necessary for a patient's --
4 to save a patient's life from the alcove
5 area.

6 MR. GAIER: Except that none of
7 those things are my questions.

8 MR. CORGAN: I know, but that's
9 your problem. You're assuming that
10 nothing can be in that area because it's
11 metallic.

12 MR. GAIER: I'm assuming nothing.
13 I'm asking a question. The question is
14 either yes or no. It's pretty simple.

15 MR. CORGAN: Okay, why don't you
16 rephrase it and we'll see.

17 Q From the time you started work
18 there until July 27, 2001, did you ever remove,
19 meaning take away from that room and put
20 somewhere else, meaning the patient alcove,
21 ferrous objects because they are ferrous?

22 It's yes or no.

23 MR. CORGAN: Out of a safety
24 concern, is that what you're asking?

25 MR. GAIER: I asked because

1 PAUL R. DANIELS

2 they're ferrous. Can't we just get an
3 answer to this?

4 A If I saw a wheelchair with
5 nobody in it, nobody using it, I would move it.

6 Q You did that on occasion?

7 A Yeah.

8 Q Where would you move it to?

9 A More out towards the front of
10 the facility. There really wasn't anywhere to
11 move it to.

12 Q Near the waiting room, for
13 instance?

14 A Yeah, near the waiting room.

15 Q Okay.

16 Were there any other objects,
17 ferrous objects that you would remove from that
18 patient alcove for the same type of reason?

19 A No.

20 Q So only wheelchairs?

21 A Basically. There was a linen
22 thing there that had to be moved so we could
23 load it easier. That was about it.

24 Q When you would move the
25 wheelchair, was that for safety concerns?

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2 A Yes.

3 Q Okay. But when you would move
4 the linen hamper that wasn't for safety
5 concerns?

6 A It was for safety concerns and
7 for convenience, just to fill it.

8 Q When I say safety concerns, I
9 mean safety relative to the magnet being in the
10 scanner room.

11 So when you moved the linen
12 hamper, was that for safety concerns relative
13 to the magnet?

14 A I would say mostly for
15 convenience, to fill it, really.

16 Q But the wheelchairs on the other
17 hand you would move for safety concerns
18 relative to the magnet?

19 A Yes, and prevented clutter in
20 the hall. If you had too much stuff in the
21 hall people could fall, trip; just general
22 safety.

23 Q Again I'm talking relative to
24 the magnet in the room.

25 MR. CORGAN: That's a different

1 PAUL R. DANIELS

2 question.

3 MR. GAIER: No, no, I worked it
4 in there somewhere, okay?

5 A Anything that I felt that I
6 could remove I would try to remove.

7 Q Out of safety --

8 A I wouldn't remove the crash
9 cart.

10 Q You don't have to -- the things
11 that you felt you could remove you would
12 remove, we're talking ferrous objects, and you
13 did it out of concern because of the magnet in
14 the room?

15 A Yes.

16 Q And the ability for that magnet
17 to pull ferrous objects in towards it?

18 A Yes.

19 Q Okay.

20 You mentioned the
21 anesthesiologists who you would tell about the
22 oxygen tanks. Was there anybody else you would
23 give instructions to relative to the oxygen
24 tanks?

25 A Yes, the radiology nurses. We

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2 would have general conversations, because they
3 would sit next to us with a sedated patient and
4 I would have frequent conversations about that,
5 different safety issues, yes.

6 Q Did those conversations ever
7 concern the portable oxygen tanks?

8 A Yes.

9 Q What would you tell them
10 relative to that?

11 A I would tell them that they're
12 not permitted in the room.

13 Q Did you give a list of things
14 that weren't permitted in the room?

15 A Things were discussed, you can't
16 bring a patient on a stretcher in the room, you
17 can't bring an oxygen tank in the room, you
18 can't bring the crash cart in the room, things
19 that a nurse might, you know --

20 Q Things that were foreseeable
21 that a nurse might bring into the room?

22 MR. SHALHOUB: Objection to the
23 form.

24 A Correct.

25 MR. GAIER: Off the record.

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2 (Discussion off the record.)

3 Q I'm going to show you what was
4 previously marked as Plaintiffs' Exhibit E at
5 the December 9th deposition, and it is the GE
6 Medical Systems -- what it really is, and it
7 was previously described, it's basically about
8 a quarter, maybe a third of the General
9 Electric instruction manual, what has been
10 produced by General Electric in this case as
11 the instruction manual.

12 I'm going to show it to you.
13 Okay, you've had a chance to skim through it?

14 A Yes.

15 Q Have you ever seen it before?

16 A Yes.

17 Q Where have you seen it?

18 A I saw it at Albany Medical
19 Center.

20 Q Did you also see it at the
21 facility at which you worked for UIMA?

22 A Not this revision, no.

23 Q Do you recall what revision they
24 had there?

25 A The scanner they had was prior

1 PAUL R. DANIELS
2 to this particular revision of scanner. It was
3 a different model.

4 Q What was the scanner that they
5 had?

6 A They had what was called a 4X.

7 Q Can you give me the full name?

8 A GE Cigna 4X Advantage, I think.

9 MR. SHALHOUB: We're talking now
10 about Albany or Westchester?

11 THE WITNESS: The Westchester
12 medical facility.

13 MR. CORGAN: GE Cigna 4X.

14 A It was a later model than what
15 this catalogue is depicting.

16 Q Do you know what year the model
17 of MRI scanner that you used at that facility
18 was manufactured?

19 MR. CORGAN: Which facility?

20 MR. GAIER: I'm sorry, at the
21 UIMA facility, the facility when he
22 worked for UIMA prior to July 27, 2001.

23 MR. CORGAN: Why don't we talk
24 about the unit that was in place on or
25 about July 27, 2001.

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2 MR. GAIER: Correct.

3 A To the best of my knowledge,
4 that particular unit that Westchester Medical
5 Center had was probably developed in the
6 mid-'80s, I would say.

7 Q Are you saying that this manual
8 is with reference to a subsequently
9 manufactured unit?

10 A Subsequent, yes, correct, a
11 later model.

12 Q Okay.

13 A Yes.

14 Q Do you recall what manual you
15 had at this facility, meaning the facility in
16 Westchester?

17 A It was a manual very similar to
18 this, but it was for that particular model.

19 Q Do you recall what revision date
20 was on the manual that was kept in that
21 facility?

22 A No.

23 Q You're confident that this is
24 not the manual?

25 A Yes, I can tell by the screens

1 PAUL R. DANIELS
2 that are in there, they're different, because
3 this particular machine that this is depicting
4 uses a Windows format, whereas we had a plasma
5 screen.

6 MR. GAIER: For the record, I'm
7 going to again request from General
8 Electric and from counsel for the
9 medical Defendants the production of a
10 copy of the actual manual that was in
11 place on July 27, 2001, and we can
12 follow that up in writing, of course.

13 MR. CORGAN: You know, I think I
14 previously did make that available to
15 you in a discovery document that was
16 served earlier this year in which a list
17 of, itemized list of what I have
18 available was given to you, and I think
19 that was among them.

20 MR. GAIER: All right, good.
21 Very good.

22 MR. SHALHOUB: Off the record.

23 (Discussion off the record.)

24 MR. SHALHOUB: As for me, I just
25 made a note to check it out and follow

1 PAUL R. DANIELS

2 up.

3 MR. GAIER: Good.

4 Q Could you do me a favor and just
5 turn to page, is what Page 122 of that manual.

6 A 122.

7 Q Do you see on the top of the
8 pages there is two warnings?

9 A Um-hum.

10 Q I'm going to read the first
11 warning, okay? It says, "Warning, the
12 attractive force of the magnetic field of
13 the MR system can cause ferrous objects
14 to become projectiles that can cause
15 serious injury.

16 "Post the security zone warning
17 sign on the entrance to the magnet room
18 and keep all hazardous objects out of the
19 magnet room."

20 Did I read that accurately?

21 A Yes.

22 Q On or before July 27, 2001, were
23 you familiar with any warning signs that were
24 available which had such a warning?

25 MR. SHALHOUB: Objection to the

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form.

MR. CORGAN: Objection. I think he's testified that the sign that you've depicted in the picture on the door was the sign that was in place, so those signs were in place all the time that he was there.

MR. GAIER: That's right. I'm asking if he was aware of anything that was available that had a specific warning like this.

MR. CORGAN: So you're asking him if the text of that warning was ever put on a sign and placed in the MRI area?

MR. GAIER: No, that's not what I'm asking him. What I'm asking him is whether -- because he has testified that he used to skim brochures, et cetera, I'm asking whether he's aware if there was ever any sign that had that specific warning.

MR. SHALHOUB: That he saw someplace?

MR. GAIER: That he's aware of,

1 PAUL R. DANIELS

2 aware of.

3 MR. CORGAN: At anyplace in all
4 the years that he's worked --

5 MR. GAIER: Prior to July 27,
6 2001. Can we just get an answer,
7 please?

8 MR. CORGAN: Sure.

9 A Really this is all they had,
10 except there were smaller versions of it that
11 you could post.

12 Q You're pointing to the warning
13 sign on C 12, but can you just give me a yes or
14 no answer relative to that question about the
15 warning?

16 A Let's see, ferrous objects,
17 ferrous materials, so yes.

18 Q That's not what I asked you. I
19 just read a specific warning on Page 122 of the
20 manual.

21 A Warning --

22 Q That's not what I asked you,
23 okay?

24 MR. SHALHOUB: Objection to the
25 form.

1 PAUL R. DANIELS

2 Q I read the specific warning on
3 Page 122. Did I read it accurately?

4 A You did.

5 Q Now what I'm asking you, are you
6 aware of any warning sign that had those
7 specific words?

8 MR. CORGAN: That language?

9 MR. GAIER: Yes.

10 A Are you referring to "Post this
11 security" --

12 Q I'm talking about -- okay.

13 A That's what it says.

14 Q Fair enough.

15 The first sentence, I'll read it
16 again. "The attractive force of the magnetic
17 field of the MR system can cause ferrous
18 objects to become projectiles that can
19 cause serious injury."

20 Are you aware of any warning
21 sign that was available that had that specific
22 language?

23 A "Serious injury may result." I
24 mean, you can't sit there and take every single
25 word in the same order and put it on a sign.

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2 But the content, which is what is important, is
3 on the sign.

4 Q So your understanding is that
5 the content of the warning on Page 122 is
6 embodied in the sign that was on the door of
7 the scanner room?

8 A Yes.

9 Q Okay. Now, on the same page it
10 also says, "Warnings to help prevent patient or
11 operator injury: Do not bring ferrous
12 oxygen bottles into the scan room."

13 Did I read that accurately?

14 A You did.

15 Q Are you familiar with any sign
16 that had that specific warning?

17 A Specific in referring to oxygen
18 bottles, no.

19 Q Those words?

20 A Oxygen bottles, no.

21 MR. CORGAN: Prior to July 27,
22 2001.

23 MR. GAIER: Yes, of course.

24 Q Prior to July 27, 2001.

25 A No, not with those words on it.

1 PAUL R. DANIELS

2 Q If one had been available with
3 those words on it, would you have posted it
4 outside the scanner room?

5 MR. SHALHOUB: Objection to the
6 form.

7 MR. CORGAN: You can answer.

8 A Yeah.

9 Q Was there anything that
10 prevented you from creating such a sign?

11 A Usually when you're in a
12 hospital you can't just make your own signs.
13 It has to be approved through hospital
14 committees. You can't deface someone else's
15 property.

16 You can't actually make your own
17 signs, because then you are actually becoming
18 now an administrator of the hospital, so it was
19 out of my scope of employment to do so.

20 Q Did you ever make an inquiry as
21 to whether or not you could place such a sign?

22 A Well, actually through my
23 experience I was told not to do anything like
24 that at other hospitals.

25 Q At this specific facility I'm

1 PAUL R. DANIELS

2 asking you did you ever make any such inquiry?

3 A To actually change a sign?

4 Q No, that's not what I said.

5 At this specific hospital did
6 you ever make any inquiry whether it would be
7 permissible to place a warning sign, a
8 different warning sign?

9 A No, I had no reason to believe I
10 could.

11 Q You had no reason to what?

12 A To believe that I could do so.

13 Q When you were at this facility
14 in Westchester, prior to July 27, 2001, did you
15 on occasion review that manual?

16 A Yes.

17 Q How often did you review it?

18 A I was very interested in MRI and
19 I always keep up on things, so fairly
20 frequently.

21 Q Did you ever give it to anyone
22 else to review?

23 A I always told them that I always
24 look at this stuff, and they've seen me look at
25 this stuff, but other people have different

1 PAUL R. DANIELS
2 opinions, I guess, as to how much they want to
3 read these things.

4 Q When you say "them" and "other
5 people," are you referring to other
6 technologists?

7 A Yes.

8 Q Did you ever give it to any of
9 the other medical staff who entered the MRI
10 facility on a regular basis to review?

11 A The actual book, no.

12 Q Any pages from the book?

13 A No.

14 Q That page, 122, did you ever
15 give that to anybody to look at?

16 A No.

17 Q Was there a photocopy machine
18 within the MRI facility?

19 A I think the secretaries had one.

20 Q Did you ever use it?

21 A No.

22 Q If you wanted to make a copy of
23 this page, could you have done so?

24 A Yes.

25 Q This page being Page 122 from

1 PAUL R. DANIELS

2 the manual.

3 MR. CORGAN: Could he have made a
4 copy of it?

5 MR. GAIER: That's what I'm
6 saying.

7 MR. CORGAN: Sure, he said yes.

8 A Yes.

9 MR. CORGAN: Off the record.

10 (Discussion off the record.)

11 Q As far as you were concerned,
12 the responsible entity for posting signs would
13 be whoever is administering the MRI facility?

14 A Whoever is in control of the
15 facility, yes.

16 Q And who ever is performing the
17 day-to-day administration of it?

18 A That's correct.

19 Q Let me show you a document
20 previously marked as Plaintiffs' Exhibit F on
21 December 9, 2004. It says "GE medical systems
22 Training in Partnership." I'm going to hand it
23 to you.

24 MR. CORGAN: Matt, what was the
25 exhibit number for the previous manual?

1 PAUL R. DANIELS

2 MR. GAIER: The big one, that was

3 E.

4 MR. CORGAN: From what day?

5 MR. GAIER: Everything that I've
6 got here is from Lauria.

7 MR. CORGAN: Okay.

8 Q Have you had a chance to look at
9 Exhibit F?

10 A Yes, I have.

11 Q Have you ever seen that before?

12 A Yes.

13 Q Where have you seen that?

14 A It's part of one of the -- a
15 manual similar to that, part of that.

16 Q It's a --

17 A It's a GE provided manual.

18 Q Did you have that at the
19 Westchester facility prior to July of 2001?

20 A It does look familiar.

21 Q Did you review it on occasion
22 prior to that?

23 A Yes.

24 Q Do you know whether other of the
25 technologists at that facility reviewed that on

PAUL R. DANIELS

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occasion?

A I don't know that for a fact.

Q Are you familiar with whether

there was, prior to the date of the incident

here, a safety instructional video from General

Electric?

A Was I aware of it?

Q Yes.

A Yes.

Q Have you ever seen it?

A I have.

Q When did you see it?

A Before my employment at UIMA.

Q Meaning up in Albany is where

you saw it?

A Yes.

Q Did you ever see it when you
were in Westchester, at that facility?

A No.

Q Do you know whether they had it
there?

A I don't even know if they had
it.

Q Did you ever ask?

1 PAUL R. DANIELS

2 A No.

3 Q How did you come to see it up in
4 Albany?

5 A The Albany Medical Center, it
6 was part of a mandatory yearly training
7 process.

8 Q Does that mean you saw it each
9 year that you were there?

10 A After a while, after I had been
11 there for a few years it became part of their
12 program there, so I had seen it on quite a few
13 times.

14 Q Do you remember when you first
15 saw it, what year?

16 A No.

17 Q Do you recall the substance of
18 the video?

19 A Oh, yeah.

20 Q Do you recall the video, whether
21 it had ferrous oxygen canisters?

22 A It contained information on
23 ferrous objects.

24 Q But did it also show actual
25 demonstrations of ferrous objects getting

1 PAUL R. DANIELS

2 pulled toward the bore of a magnet?

3 A Yes, it did.

4 Q Do you recall whether it showed
5 ferrous oxygen canisters, the portable ferrous
6 oxygen canisters in that video?

7 A I'm not sure if it was oxygen,
8 but part of it they did testing in a testing
9 site to demonstrate the effects.

10 Q Did you feel that that
11 effectively showed the significance of the
12 danger?

13 A Yes, it was a very powerful
14 video.

15 Q And in Albany they showed this
16 annually?

17 A Yeah, it became part of an
18 annual process. They had other things that you
19 had to do annually, like how to manage
20 different types of patients and the age
21 appropriateness, things of that nature.

22 Q But this was part of the
23 program, so to speak?

24 A Yes.

25 Q Was it shown to MRI personnel?

1 PAUL R. DANIELS

2 A Yes.

3 Q Technologists?

4 A Yes.

5 Q Other than technologists, what
6 kind of personnel would view this video up
7 there?

8 A Usually just the technologists
9 were doing that.

10 Q Were radiology nurses shown
11 this, do you know?

12 A Not that I'm aware of.

13 Q Doctors?

14 A Not that I'm aware of. I know
15 that we did.

16 Q So you don't know whether or not
17 it was shown to other people?

18 A Correct.

19 Q Did you feel it was helpful in
20 making someone understand the degree of the
21 danger?

22 A Definitely, yes.

23 Q Something that would be useful
24 in making the MRI environment safer?

25 A Absolutely.

1 PAUL R. DANIELS

2 Q So viewing it would be a good
3 thing in that regard?

4 A Yes.

5 Q During the time that you were at
6 the Westchester facility between January of '01
7 and July 27, 2001 did you ever mention to
8 anybody that there was such a tape?

9 A I may have, but I think we
10 looked around for it, we didn't see any, so.

11 Q Well --

12 A I think I may have mentioned to
13 the radiology nurses in part of our discussions
14 that we were talking about earlier that, you
15 know, there was a great video out there, I
16 don't know if we have one here, but, you know,
17 it depicts these things for the lay person.

18 Q And at that point did you
19 undertake either a search or ask somebody else
20 to search whether or not there was such a tape
21 in the facility?

22 A I looked around. I did not see
23 anything.

24 Q Was it your intention if you
25 were able to find it to make it available to

1 PAUL R. DANIELS

2 these nurses to view?

3 A It would have been my intention
4 to help out, to help train.

5 Q Was part of your job there to
6 train other personnel who were not
7 technologists?

8 A No.

9 Q Relative to safety?

10 A No.

11 Q It was not part of your job?

12 A No, not to my knowledge. My job
13 was basically to do clinical MR scanning.

14 Q But you said you would have
15 given it to them to help train, but that was
16 not part of your job description?

17 A No, I would have done that on my
18 own.

19 Q Gratuitously?

20 MR. SHALHOUB: Objection.

21 MR. CORGAN: Objection to that.

22 MR. GAIER: Withdrawn.

23 MR. SHALHOUB: Off the record.

24 (Discussion off the record.)

25 Q If the tape was available, would

1 PAUL R. DANIELS
2 you have shown it to the anesthesiologist who
3 worked in the suite?

4 MR. CORGAN: Objection.
5 Obviously you can lead a horse to water
6 but you can't make them drink, right?
7 What are you talking about?

8 Q Would you have recommended to
9 radiologists, that they view the video, if it
10 had been available?

11 A If somebody asked me would this
12 tape be helpful, I would have said yes, it's
13 helpful and it should be a part of the hospital
14 orientation program so everyone who walks into
15 that hospital as an employee would have a
16 chance to see it.

17 Q Okay. If the tape had been
18 available, would you have recommended to
19 anesthesiologists who provide services in that
20 facility that they take a look at it?

21 A If I thought there was a need
22 for them to see it, yes.

23 Q Well, do you think there was a
24 need for the nurses to see it?

25 MR. CORGAN: Objection. When?

1 PAUL R. DANIELS

2 A When, yes.

3 Q Well, we've got a seven month
4 window here, and we've already established --
5 wait a second, you asked me when?

6 MR. CORGAN: I don't think you've
7 established a foundation.

8 MR. GAIER: We've established
9 that during that period in the course of
10 discussing with the radiology nurses he
11 went to find whether there was such a
12 videotape, and he said he would have
13 recommended --

14 Q I think you said you would have
15 recommended that they view it, is that right?

16 A Yeah.

17 Q Okay.

18 MR. GAIER: Now I'm asking
19 whether he would have done the same with
20 respect to the anesthesiologists.

21
22 Q Would you have?

23 A If I felt that they needed to
24 know that material, if I knew that they didn't
25 know it.

1 PAUL R. DANIELS

2 Q Did you feel that the nurses
3 needed to know that material?

4 A Well, since they were working in
5 a radiology department for probably many years,
6 I didn't assume that they needed it.

7 Q Then why did you go looking for
8 the video?

9 A Why did I -- because I knew I
10 had seen it in the past and it was a good
11 video, and anything I thought might help.

12 Q You went to look for the
13 instructional video after conversations with
14 radiology nurses, is that correct?

15 A I don't remember when. I
16 probably, when I first got there, just to see
17 what was around, just to be kind of snoopy, see
18 what they had there.

19 Q So it wasn't the nurses or any
20 conversations with nurses that prompted you to
21 look for the video?

22 A No.

23 Q Did you ever make any effort,
24 other than looking for it, to obtain this
25 video; meaning to go out and request whether it

1 PAUL R. DANIELS

2 could be purchased?

3 A No, I don't recall.

4 Q Did you tell Ms. DeTorres about
5 the video?

6 A Not to my knowledge, I don't
7 remember.

8 Q Did you tell Mr. Priest about
9 the video?

10 A No.

11 Q Any of the doctors, did you tell
12 them about the video?

13 A No.

14 Q You've been an MRI technologist
15 for how many years?

16 A In MRI? Let's see, about 11
17 years.

18 Q I'm sorry, as of July of '01.

19 A As of July of '01?

20 MR. GAIER: Withdrawn.

21 Q 11 years now, sitting here
22 today?

23 MR. CORGAN: I'm not so sure, I
24 think he earlier testified that he began
25 around 1991, so we can all do the math.

1 PAUL R. DANIELS

2 Q Fine. So you've been doing MRI
3 for roughly 14 years?

4 A Roughly, yes.

5 Q You've done thousands of scans?

6 A Thousands.

7 Q You've spent probably thousands
8 of hours in MRI facilities?

9 A Thousands and thousands.

10 Q Safety is something you're
11 acutely concerned with?

12 A Yes, it is.

13 Q Based upon your experience, do
14 you have an opinion as to whether or not a
15 videotape, the videotape manufactured by
16 General Electric, whether it should be shown to
17 people who regularly work in MRI facilities?

18 MR. SHALHOUB: Objection to the
19 form.

20 A I think it would be beneficial.

21 Q Part of your responsibilities
22 for UIMA, was it to keep ferrous objects out of
23 the scanner room?

24 MR. CORGAN: Objection, I think
25 you asked him that already.

1 PAUL R. DANIELS

2 MR. GAIER: Well --

3 MR. CORGAN: And he said it was
4 part of his job to see to the safety and
5 to keep -- well, he can answer the
6 question.

7 MR. GAIER: Thanks.

8 MR. CORGAN: Go ahead, answer the
9 question.

10 A It was part of my job not to
11 bring something into the room of that nature.

12 Q Okay, but that's a little bit
13 different.

14 Was it part of your job
15 responsibility to keep ferrous objects out of
16 the scanner room?

17 A Yeah, the best that we could.

18 Q Again, is the answer to that
19 question yes?

20 MR. CORGAN: He said yes.

21 MR. GAIER: Then he added the
22 best that he could.

23 A To the best of my ability.

24 MR. CORGAN: Can you argue with
25 that?

1 PAUL R. DANIELS

2 Q In that respect, was MRI safety
3 vis-a-vis ferrous objects getting into the room
4 part of your responsibility as an MRI
5 technologist?

6 A Part of it.

7 Q Well, it's certainly not your
8 only responsibility.

9 A No.

10 Q But within the responsibilities
11 that you had, safety in relation to ferrous
12 objects was one of the responsibilities.

13 A Right, and I was there to help
14 prevent, to the best of my ability, something
15 like that.

16 Q So were you constantly on the
17 lookout for things that were non-MRI compatible
18 that might get into the room?

19 A Yes.

20 Q And if you saw them you would
21 remove them?

22 A Like we said before, if it was
23 something that wasn't necessary, yes.

24 Q The portable oxygen bottles that
25 were stored in the patient alcove, they were

1 PAUL R. DANIELS

2 what you would regard as necessary?

3 A Yes.

4 Q You were unaware you already
5 said at this time that there were MRI
6 compatible or non-ferrous oxygen bottles in
7 existence?

8 A Before the incident I was not
9 aware that they existed.

10 Q Was there any kind of a rule,
11 procedure or guideline at this facility that
12 required that when there's a patient in the
13 scanner room a technologist has to remain in
14 the console room at all times?

15 A No.

16 Q Was it a practice at this
17 facility that a technologist has to remain in
18 the console room while there's a patient in the
19 scanner room?

20 A Well, basically the practice is
21 you can't get up and leave to have lunch when
22 there's a patient in there.

23 Q When you received your training,
24 were you taught any protocols or standards of
25 care relative to MRI procedure?

1 PAUL R. DANIELS

2 A Yes.

3 Q Was one of those standards or
4 protocols that an MRI technologist is to remain
5 in the console room whenever there's a patient
6 in the scanner room?

7 A Yes.

8 Q Was one of the standards or
9 protocols that you were taught that
10 technologists are supposed to inform non-MRI
11 personnel who are in the facility with respect
12 to ferrous objects entering the scanner room?

13 A If a non-MR personnel came into
14 the facility?

15 Q Yes.

16 A We were required to, you know,
17 make sure that they didn't have any metallic
18 objects in their pockets, on their person, and
19 a very brief overview of some safety features,
20 yes.

21 Q These were the standards that
22 you were taught when you were learning at
23 Albany?

24 A Yes, that's correct.

25 Q Pursuant to that, was it part of

1 PAUL R. DANIELS
2 that standard that you would inform these
3 non-MRI personnel of what things were ferrous
4 and what were not?

5 A Well, we wouldn't go through the
6 whole facility and point everything out one at
7 a time, no.

8 Q Would you point out some things?

9 A If the need arised, yes.

10 Q What type of occasion would the
11 need arise for?

12 A If a person came into there that
13 would be going into the scan room itself.

14 Q So, for instance --

15 A Like if a salesman walked
16 through, you don't have to go through
17 everything with him. I mean, because they're
18 not expected to be into that area.

19 There are definitely safe zones
20 within the facility that people like that would
21 go through.

22 Q Is the area immediately outside
23 the door to the scanner room, one of those safe
24 zones?

25 A Yes.

1 PAUL R. DANIELS

2 Q That's a safe zone.

3 A That's a safe zone.

4 Q You mentioned before that at
5 Albany on occasion people, patients would enter
6 the facility with a portable, a ferrous oxygen
7 bottle stored on their stretcher or gurney, as
8 the case may be.

9 A Yes.

10 Q When that would happen, would
11 you as a matter of course inform them that that
12 bottle cannot go into the room?

13 A Yes.

14 Q Was that consistent with the
15 standards you were taught as to proper MRI
16 safety in terms of the job of a technologist?

17 A Yes.

18 MR. GAIER: Do you want to break
19 now?

20 MR. CORGAN: Sure.

21 (At this point in the proceedings
22 there was a luncheon recess, after which
23 the examination continued as follows:)

24 CONTINUED EXAMINATION BY

25 MR. GAIER:

1 PAUL R. DANIELS

2 Q Prior to this incident, prior to
3 Michael Colombini becoming injured, did you
4 ever have any discussion with Dr. Hou at all --

5 A No.

6 Q -- after the incident?

7 A No.

8 Q Let me finish my question.

9 After the incident did you have
10 any discussion with Dr. Hou at all at any time?

11 A No.

12 Q On the day of the incident?

13 A No.

14 Q Did you ever talk to Patricia
15 Lauria about Dr. Hou, ever?

16 A No.

17 Q Subsequent to the incident did
18 you have any discussions with Ms. Lauria about
19 any discussions she had with Dr. Hou?

20 A No.

21 Q Other than counsel, did you ever
22 have any discussions with anybody about Dr.
23 Hou?

24 A No.

25 Q Are you familiar with Valhalla

1 PAUL R. DANIELS

2 Anesthesia Associates?

3 A I have heard the name before,
4 yes.

5 Q In what context have you heard
6 the name?

7 A Just that that's the title of
8 the anesthesiology department at Westchester
9 Medical Center.

10 Q Are they the anesthesiology
11 either group or department that provides
12 anesthesia services for the MRI facility in
13 question?

14 A That's correct.

15 Q Do you have any knowledge as to
16 how long prior to July 27, 2001 Valhalla
17 Anesthesia Associates had been providing the
18 services for that facility?

19 A I have no idea.

20 Q Are you familiar with any other
21 doctors by name from that group?

22 A No.

23 Q Were there any doctors from that
24 group who were more frequently providing
25 services than others?

1 PAUL R. DANIELS

2 A Yes.

3 Q But you don't know their names?

4 A I don't remember a name.

5 Q You could recognize them by
6 face, though?

7 A Possibly. It has been quite
8 some time, so.

9 Q Did any of those
10 anesthesiologists, did any of them ever express
11 any complaints to you about the oxygen delivery
12 system in this facility?

13 A No.

14 Q Did any of them ever express any
15 complaints to you concerning the ferrous oxygen
16 bottles?

17 A No.

18 Q Did they ever express any
19 complaints concerning the MRI facility at all?

20 A No.

21 Q Did they ever express any
22 concerns regarding safety in the facility?

23 A No.

24 Q Did they ever indicate to you in
25 substance that they believed that the facility

1 PAUL R. DANIELS

2 did not have proper equipment?

3 A No.

4 Q Do you know a Nurse Mary Nadler?

5 A I'm familiar with her, yes.

6 Q Was she a radiology nurse?

7 A Yes.

8 Q Did she have occasion to be in
9 the MRI facility?

10 A She did.

11 Q How often did you see her there
12 during the period prior to July 27th while you
13 were working there?

14 A Fairly regularly, maybe a couple
15 times a week.

16 Q By the way, what were your hours
17 in July of 2001, what was your schedule, do you
18 recall?

19 A Basically 8:00 to 3, 30 and with
20 on-call responsibilities.

21 Q How many days a week?

22 A Five. Sometimes we would work
23 Saturday, which would make it six.

24 Q Would the on-call responsibility
25 be after 3:30?

1 PAUL R. DANIELS

2 A Actually after the evening
3 shift, which ended at I believe 11:00.

4 Q In July were you and Ms. Lauria
5 on the same shift throughout the month of July?

6 A We overlapped a slight amount.

7 Q A slight amount?

8 A Yes.

9 Q Did you ever have any
10 discussions with Ms. Nadler concerning safety
11 in the MRI facility?

12 A General safety?

13 Q Yes.

14 A Yes.

15 Q Can you give me the substance of
16 those discussions.

17 A Just general safety as far as
18 patient care, delivery of contrast materials
19 through automatic injector, just basic things,
20 because I knew she was experienced as well and
21 had quite a number of years' experience, so it
22 wasn't like she was a new technologist.

23 Q How about safety in relation to
24 ferrous objects in the facility, did you ever
25 have any discussions with her in that regard?

1 PAUL R. DANIELS

2 A No.

3 Q Did you ever have any
4 discussions with her concerning the ferrous
5 oxygen bottles that were stored in the patient
6 alcove?

7 A Just that they were different
8 than where we had previously been, and she had
9 been employed elsewhere and she talked about
10 the differences there.

11 Q What did she tell you about the
12 differences?

13 MR. SHALHOUB: By the way, you're
14 talking about Ms. Lauria now?

15 MR. GAIER: No, we're talking
16 about Ms. Nadler, the nurse.

17 MR. SHALHOUB: Okay.

18 Q What did she tell you about the
19 differences?

20 A I don't recall the content, but
21 I recall telling her that where I worked we had
22 the continuous flow gases in the wall.

23 Q Do you recall what she told you
24 about where she had worked?

25 A No.

1 PAUL R. DANIELS

2 Q Do you recall the conversation
3 in which you and her discussed the ferrous
4 oxygen bottles?

5 A No.

6 Q Do you recall when it was?

7 A Well, we didn't really talk
8 about the oxygen bottles per se, no.

9 Q Well, a minute ago you said that
10 you did have a discussion about it.

11 A Just that they were -- it was
12 different where we were. Not that it was safe
13 or unsafe, just --

14 Q I didn't ask you that. But you
15 did have a conversation with her about those
16 oxygen bottles.

17 A About them.

18 Q Do you recall when you had that
19 conversation?

20 A Specifically, no, but before the
21 incident.

22 Q And you're saying this
23 conversation didn't regard whether they were
24 safe or unsafe.

25 A That's correct.

1 PAUL R. DANIELS

2 Q And it didn't regard whether or
3 not they belonged in an MRI facility?

4 A That's correct.

5 Q And it didn't regard whether or
6 not they were MRI compatible.

7 A That's correct.

8 Q And it didn't touch on the issue
9 of whether or not they were MRI compatible
10 portable oxygen bottles?

11 A That's correct.

12 Q Just that they were different.

13 A Yes.

14 Q Did you have any discussions
15 with her concerning ferrous objects in the
16 facility, not with reference to the oxygen
17 bottles, but just in general, safety concerns
18 regarding ferrous objects in general, did you
19 ever have such a conversation with her?

20 A Yeah, I mean we talked about the
21 crash cart, and I talked to her about the
22 policy that we had at Albany, where I came
23 from, where if anything is wrong with the
24 patient, the patient is brought outside the
25 room, and those objects could be used outside

1 PAUL R. DANIELS

2 the facility in that manner.

3 Q When did you have that
4 conversation?

5 MR. CORGAN: You mean in point of
6 time?

7 MR. GAIER: That would be
8 correct, yes.

9 MR. CORGAN: Okay.

10 A Prior to the incident, during,
11 after.

12 Q But right now I'm only asking
13 you about prior to the incident. Did you have
14 such a conversation prior to the incident?

15 A I believe so.

16 Q In between January and July 27th
17 you can't say when?

18 A Right.

19 Q Can you tell me the context in
20 which the conversation arose?

21 A Just general conversation, as
22 far as we were talking about our different
23 places of employment, you know, different
24 policies and procedures that we were accustomed
25 to, and I said oh, well, you know, what we did

1 PAUL R. DANIELS

2 at Albany is if there was a problem with the
3 patient in the room, whoever was in there with
4 them took the patient out, and appropriate
5 measures to take care of them were done outside
6 of the room.

7 Q Did you indicate to her that
8 the -- first of all, was this one conversation
9 or more than one conversation?

10 A I don't remember specifically.

11 Q Did you indicate to her whether
12 you believed that this situation at Albany was
13 safer than the one at the facility in
14 Westchester?

15 A I thought it was more optimum,
16 but then again, I never really had any
17 experience with anything other than that.

18 Q Optimum with respect to safety?

19 A Efficiency, convenience.

20 Q Safety?

21 A Safety.

22 Q And safety in relation to
23 ferrous objects?

24 A Um-hum.

25 Q Is that a yes?

1 PAUL R. DANIELS

2 A Yes.

3 Q Thank you.

4 Did she indicate to you whether
5 she felt the circumstances in her prior
6 employment or employments were safer with
7 respect to ferrous objects?

8 A She really didn't comment on
9 that.

10 Q She didn't.

11 A No.

12 Q Was it your impression, your
13 sense that it would be safe if somebody brought
14 one of these portable ferrous oxygen bottles up
15 to but not into the scanner room, but up to the
16 door?

17 MR. CORGAN: I'm sorry, could you
18 just read the question back. Was the
19 question was it his impression or was it
20 his experience?

21 MR. GAIER: No, it wasn't
22 experience, it was his impression or his
23 sense, okay, in other words, was it his
24 understanding that it would be safe for
25 somebody to bring a ferrous oxygen

1 PAUL R. DANIELS

2 bottle up to the door to the scanner
3 room but not into and with the door
4 being open.

5 A It would be safe, but I wouldn't
6 advise it.

7 Q Why wouldn't you advise it?

8 A Because at that point you're
9 very close to the danger area.

10 Q So that could be a dangerous
11 situation, to have the oxygen bottle near the
12 door to the scanner room in your opinion?

13 MR. CORGAN: Objection. He said
14 it would be safe, but you asked him then
15 why would he advise against it, and he
16 said it's a relative thing, it's
17 relatively more dangerous to have it
18 closer than farther away.

19 MR. GAIER: You're saying
20 relative --

21 MR. CORGAN: I know, you're
22 mixing up what he said.

23 MR. GAIER: I just asked a
24 separate question.

25 MR. CORGAN: But I object to the

1 PAUL R. DANIELS

2 form of the question.

3 MR. GAIER: What was my question?

4 (The question requested was read
5 back by the reporter.)

6 Q In your opinion, is that a
7 potentially dangerous situation, to have the
8 portable oxygen bottle, ferrous oxygen bottle,
9 near the door to the scanner room?

10 MR. SHALHOUB: Objection to the
11 form.

12 MR. CORGAN: How is it safe if
13 it's relatively dangerous?

14 MR. GAIER: I haven't -- that's
15 what I'm trying to get out here.

16 MR. CORGAN: But those are words
17 you used, and now you're essentially
18 impeaching your own question.

19 MR. GAIER: He can say yes or he
20 can say no. I think I phrased it in a
21 proper form.

22 MR. CORGAN: I think he answered
23 it correctly.

24 MR. GAIER: He didn't answer that
25 one yet.

1 PAUL R. DANIELS

2 MR. CORGAN: I think you're
3 trying to put words in his mouth, so
4 that's the objection I have.

5 MR. GAIER: I'm not. You don't
6 want him to answer it?

7 MR. CORGAN: Not in that form.
8 I'm not blocking the inquiry, why don't
9 you ask it in a different way, like what
10 did you mean by --

11 MR. GAIER: No, I don't want to
12 ask that.

13 MR. CORGAN: Well, I know.

14 Q In your opinion would it be
15 dangerous to bring a ferrous oxygen bottle to
16 the door of the scanner room but not inside the
17 room?

18 MR. CORGAN: You see, you asked
19 him the question would it be safe to
20 bring the oxygen tank to the door
21 without bringing it into the room. He
22 said yes.

23 Now you're asking him would it be
24 dangerous to bring -- I don't know how
25 you get it both ways.

1 PAUL R. DANIELS

2 MR. GAIER: Well --

3 MR. CORGAN: You can't ask the
4 question twice and then make the second
5 question contradict the first question.

6 MR. GAIER: Except that the first
7 one he gave an answer of "I wouldn't
8 advise it," okay? That was the "I
9 wouldn't advise it."

10 MR. CORGAN: He said would it be
11 safe, he said, "yes, but it's not
12 something I would advise."

13 MR. GAIER: He never said yes, he
14 said, "I wouldn't advise it."

15 MR. SHALHOUB: I thought he said
16 yes.

17 MR. CORGAN: Do you want me to
18 read back his answer?

19 MR. GAIER: You're not going to
20 let him answer the question of whether
21 it would be dangerous?

22 MR. CORGAN: No. He already
23 answered it. He said it would be safe.

24 MR. GAIER: Then he said he
25 wouldn't advise it, so that departed --

1 PAUL R. DANIELS

2 MR. CORGAN: So then you asked
3 him why wouldn't he advise it, and he
4 answered that too, because it was closer
5 to the machine than it was before.

6 MR. GAIER: You're not going to
7 let him answer the question of whether
8 it would be dangerous to have one in the
9 vicinity of the scanner room?

10 MR. CORGAN: Because of the way
11 you've asked the questions it's
12 improper.

13 MR. GAIER: It's relevant to the
14 case, don't you think?

15 MR. CORGAN: No, it's misleading
16 is what the problem is, and I'm
17 envisioning this read to a jury, that's
18 the problem with the question.

19 You're stuck with the question
20 you've already asked him. You can't ask
21 him again and try to put a different
22 answer in his mouth.

23 But if you want to get the reason
24 why he's saying what he's saying, I have
25 no objection.

1 PAUL R. DANIELS

2 MR. GAIER: He already said why
3 he wouldn't advise it, okay?

4 MR. CORGAN: Move on to the next
5 area, because you've covered it, then.
6 You can't go and do it again.

7 MR. GAIER: Mark it for a ruling.

8 Q While you were working at this
9 facility between January of '01 and July 27th
10 of '01 did General Electric personnel attend
11 the facility on occasion?

12 A Yes.

13 Q In what capacity?

14 A GE servicemen came to do
15 maintenance on the equipment.

16 Q Do you recall the names of the
17 servicemen?

18 A Paul Caruso was one of them.

19 Q Was there another one?

20 A I don't remember their names.
21 He was the most prominent one.

22 Q Does the name Brian Sowatzke
23 sound familiar?

24 A No, it does not.

25 Q Does the name Brian sound

PAUL R. DANIELS

1

2 familiar?

3 A I know other Brians.

4 Q I mean in the context of General

5 Electric at this facility.

6 A No.

7 Q Does the name Philip Grundy

8 sound familiar in relation to General Electric?

9 A It does not.

10 Q Did you ever have occasion to

11 place calls to General Electric during that

12 period?

13 A Yes.

14 Q What was the nature of the calls

15 you would place?

16 A Service calls.

17 Q How often did GE have personnel

18 there during that period that you were there in

19 terms of frequency?

20 A Only if there was a maintenance

21 issue that they had to solve, or when they were

22 doing periodic maintenance, which usually is

23 about every other month.

24 Q So in the seven months that you

25 were there, prior to this incident, how often

1 PAUL R. DANIELS

2 did you see them there, if you could give me on
3 average, so to speak?

4 A I would say less than ten times.

5 Q Less than ten times during that
6 seven month period?

7 A Yeah.

8 Q When they were there, did they
9 enter the building through the front of the
10 building or was there a separate service
11 entrance?

12 A There were other entrances, but
13 they would enter through whatever was most
14 convenient at the time for them.

15 Q And they would walk just like
16 everybody else down the hall and turn right
17 into either the console room --

18 A The console room is --

19 Q The console room is, where we
20 talked earlier, is where the equipment was
21 operated from by the technologists?

22 A Correct.

23 Q It was also called a consult
24 room?

25 A No, a console room.

1 PAUL R. DANIELS

2 Q Console?

3 A Yes.

4 Q Okay. When you would go through
5 the other room was the entrance to the computer
6 room, is that correct?

7 A That's correct.

8 Q The computer room was adjacent
9 to both the console room and the scan room, is
10 that correct; in other words, there was a wall
11 between them?

12 A Correct.

13 Q But if you went through the wall
14 of the scan room you would be at the computer
15 room.

16 A Yes.

17 Q And the GE personnel that would
18 come there for business occasionally would be
19 either in the console room or the computer room
20 or the scanner room?

21 A That's correct.

22 Q And you'd seen them on occasion
23 enter the scanner room through that door.

24 A Yes.

25 Q Did you ever have any

1 PAUL R. DANIELS

2 discussions with these personnel concerning
3 safety issues in relation to the MRI?

4 A Just if it related to what they
5 were working on at the time. Like say, for
6 example, if the table didn't come undocked or
7 disconnected from the unit, obviously that
8 would be a safety issue, because then you could
9 not remove the patient from the room.

10 So if it was related to
11 something they were working on.

12 Q Do you recall ever having any
13 discussions with them relative to ferrous
14 objects and safety?

15 A No.

16 Q Do you recall them ever saying
17 anything to you relative to ferrous objects and
18 safety in the MRI environment?

19 A No.

20 Q Who at UIMA was responsible for
21 dealing with General Electric in general?

22 MR. SHALHOUB: Objection to the
23 form.

24 MR. CORGAN: If you know.

25 Q If you know.

1 PAUL R. DANIELS

2 MR. CORGAN: Do you know?

3 A No, I don't know.

4 Q Who would be the persons to make
5 the calls for service?

6 A I would call.

7 Q You as the technologist?

8 A Yes.

9 Q Would other technologists call
10 them sometimes?

11 A Yes.

12 Q In the seven month period before
13 the incident, how many times did you call them,
14 if you can remember, approximately?

15 A I really don't have an accurate
16 approximate, no.

17 Q Okay. Did UIMA keep records
18 relative to General Electric maintenance and
19 servicing of the equipment?

20 A If they did I was unaware of it.

21 Q If they did, do you know who at
22 UIMA would be doing it?

23 A I don't.

24 Q Was there anyone who was at UIMA
25 who was in charge of the UIMA operation that

1 PAUL R. DANIELS

2 you're aware of?

3 A Operation meaning what,
4 specifically?

5 Q Meaning was there a boss at
6 UIMA?

7 A Not specifically.

8 Q Was there anybody at UIMA who
9 you would regard as in charge of
10 administration?

11 A The only people that were in
12 charge of anything was, they were in charge of
13 staffing, and not administration of the
14 facility.

15 Q So you don't know anybody at
16 UIMA who was in charge of administration at the
17 facility.

18 A That's correct.

19 Q Any time during the period from
20 when you first started working with MRI until
21 July 27, 2001 did you ever become familiar
22 with, in terms of being told or reading about
23 incidents of ferrous objects being pulled into
24 MRI scanners?

25 A At a specific place?

1 PAUL R. DANIELS

2 Q In general have you ever heard
3 that it happens?

4 A I've heard that it could occur.

5 Q Have you ever heard that it
6 actually has happened?

7 A No.

8 Q So the incident where Michael
9 Colombini sustained these injuries when the
10 ferrous oxygen bottle was pulled in was the
11 first time you've ever heard of a ferrous
12 oxygen bottle being pulled into a scanner
13 accidentally?

14 A Yes.

15 Q You are unaware of any prior
16 incident at this particular facility?

17 A A prior incidence of?

18 Q Of a ferrous oxygen bottle --

19 MR. CORGAN: Just so it's clear,
20 you're not talking about oxygen tanks,
21 you're talking about anything?

22 MR. GAIER: I'll be specific,
23 okay?

24 Q Are you aware that there was an
25 incident in October of 1997 where an oxygen

1 PAUL R. DANIELS
2 tank or tanks were pulled into the MRI scanner?
3 Were you aware of that?

4 A No.

5 Q Sitting here today have you ever
6 heard of that before?

7 A Just the one that occurred at
8 Westchester.

9 Q No, no, no. Sitting here today
10 have you ever heard that in October of 1997
11 oxygen tanks were pulled into that scanner?

12 MR. CORGAN: Objection. You just
13 said oxygen tanks. There's no evidence
14 of that either.

15 MR. GAIER: Actually I think
16 there's an S on the --

17 MR. CORGAN: S, oxygen tanks, but
18 that's not significant. Tank or tanks,
19 whatever.

20 MR. GAIER: Right.

21 Q Are you aware of an incident in
22 October of 1997, sitting here today, prior to
23 me mentioning it to you, had you ever heard
24 that there had been such an incident in October
25 of 1997 at this particular facility?

1 PAUL R. DANIELS

2 A I have not.

3 Q So even after this incident with
4 Michael Colombini you never heard that an
5 oxygen tank or tanks had previously been pulled
6 into that scanner?

7 A That's correct.

8 (At this point in the proceedings,
9 the witness and counsel conferred.)

10 Q I'm going to show you your
11 affidavit that you looked at earlier today that
12 was marked as Daniels Exhibit 1.

13 Can I just refer to a specific
14 part of it, since you've looked it over
15 already, is that okay?

16 A Sure.

17 Q We've already established that
18 you did sign this.

19 A Yes.

20 Q Okay. Paragraph 6 of the
21 affidavit says, "On and prior to July 27, 2001
22 I had no knowledge of a prior incident
23 that involved a metallic oxygen canister
24 drawn into the MRI, nor was I aware of
25 any prior incident involving injury to

1 PAUL R. DANIELS
2 any patient at the MRI at Westchester
3 Medical Center."

4 A Okay.

5 Q That was accurate when you
6 signed it?

7 A That was accurate, yes.

8 Q Now, at the time you signed it
9 you hadn't been informed that there had in fact
10 been a prior incident of that nature?

11 MR. CORGAN: Objection. Of an
12 oxygen -- you're mixing apples and
13 oranges. What he attested to here was
14 talking about injury. There was no
15 injury in 1997.

16 MR. GAIER: No, no, no, let me
17 see that.

18 MR. CORGAN: Read it again.

19 Q "On and prior to July 27, 2001
20 I had no knowledge of a prior incident
21 that involved a metallic oxygen canister
22 drawn into the MRI, nor was I aware of
23 any prior incidents involving injury to
24 any patient at the MRI at Westchester
25 Medical Center."

1 PAUL R. DANIELS

2 So it's two separate things.

3 MR. CORGAN: Okay.

4 MR. GAIER: Okay?

5 Q The first stanza, if you will,
6 relates to an oxygen canister being drawn in.

7 At the time that you signed
8 that, nobody had informed you that there had
9 indeed been such an incident?

10 A That's correct.

11 Q Okay.

12 Were you aware of an incident in
13 April of 2001 in which a wheelchair became
14 affixed to the MRI scanner or table?

15 A Yes, I do.

16 Q Were you present when it
17 happened?

18 A I was nearby, yes.

19 Q You were in the MRI facility?

20 A Yes.

21 Q Can you tell me what you recall
22 about that incident?

23 A We were training Tracy
24 Chiapetta. We had went over a lot of safety
25 issues with her.

1 PAUL R. DANIELS

2 Q How long had Tracy been there at
3 that time?

4 A I'm not sure exactly, but at
5 least a month or so.

6 Q Okay. So tell me, you were
7 training Tracy and you were going over the
8 issues, you said.

9 A So she was trying to be
10 proactive in keeping the work flow going, and
11 inadvertently brought a patient who was sitting
12 in a wheelchair.

13 Q A ferrous wheelchair?

14 A A ferrous wheelchair into the
15 scan room to prepare them for a study, and
16 apparently what happened was the chair itself
17 got affixed to the, a part of the table area,
18 and she couldn't, you know, get it back.

19 Q Prior to this, in the month or
20 so that she had been there, had you ever
21 informed her that ferrous wheelchairs cannot be
22 brought into the scanner room?

23 A Yes, I did.

24 Q And had you informed her that
25 other ferrous objects cannot be brought into

PAUL R. DANIELS

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the scanner room?

A Yes.

Q And had you informed her that

the ferrous oxygen bottles in the patient
alcove cannot be brought into the scanner room?

A Yes.

Q Did you ever tell her that

there's a way of determining whether a
wheelchair is made of ferrous, metallic
composition or not?

A Yes.

Q What did you tell her about

that?

A There's just a -- you can use

little magnets to test things out.

Q Did you keep those magnets in

the facility?

A They had a small one, yeah.

Q One?

A I don't remember exactly how

many, but at least one.

Q Where was it kept?

A In the console area.

Q In the what, the console area?

1 PAUL R. DANIELS

2 A In the console area.

3 Q Okay. What would you do with
4 this magnet? Was it only used for wheelchairs?

5 A No, any object that may contain
6 potentially metallic objects.

7 Q Well, did you do occasional so
8 to speak sweeps of the facility to using this
9 magnet?

10 A Um-hum.

11 Q You would do this yourself
12 sometimes?

13 A Yes.

14 Q And what areas would you sweep
15 when you were doing this, what areas would you
16 cover?

17 A Basically it was for when
18 patients came down on stretchers, to make sure
19 they didn't have anything hiding underneath the
20 sheets that we couldn't see or if, you know, if
21 they had like an external fixator from surgery
22 on their leg, to see if any part of it was
23 ferrous, which they usually weren't, so.

24 Q Did you ever use the magnet to
25 check things out in the patient alcove to see

1 PAUL R. DANIELS

2 whether or not things were there that could be
3 removed that were ferrous?

4 A Just to get an idea myself, you
5 know, what they had there.

6 Q So going back to the April
7 wheelchair incident, Tracy brought the
8 wheelchair in and it became affixed.

9 A Yes.

10 Q Nobody was injured?

11 A No one was injured.

12 Q What happened when it became
13 affixed? Did you see her bring it?

14 A I did not.

15 Q Who else was there when this
16 happened?

17 A On that day I don't recall
18 specifically who else was there. I'm sure
19 there was some of the secretaries, exactly who
20 I don't know on that day.

21 Q So did she tell you something's
22 wrong? How did it come to your attention?

23 A She came out and said can you
24 come here a minute and help me.

25 Q And did you just go with her, or

1 PAUL R. DANIELS

2 did you ask her what's the matter?

3 A I followed her immediately where
4 she was heading and went in there and I said
5 okay Tracy, I just want you to leave the room.

6 I assisted the patient off of
7 the wheelchair.

8 Q The patient was in the
9 wheelchair while it was affixed to the machine?

10 A Yes.

11 Q The patient never got out of the
12 wheelchair?

13 A Well, once we assisted her out
14 of the room, yes.

15 Q Prior to you coming in the
16 patient never got out of the wheelchair?

17 A No.

18 Q Never got onto the table?

19 A Prior to what?

20 Q To you coming into the room, the
21 patient hadn't been out of the wheelchair and
22 onto the table that would put --

23 A When I came into the room I saw
24 the patient sitting in the wheelchair.

25 Q Do you know if the patient was a

1 PAUL R. DANIELS

2 quadriplegic?

3 A No, she was ambulatory.

4 Q So the patient was able to get
5 up and walk out of the wheelchair?

6 A That's correct.

7 Q Then once you got the patient
8 out of there, then what did you do?

9 A I called GE.

10 Q You placed the call?

11 A Yes. I said we need to get an
12 object off the machine.

13 Q They came down?

14 A Yeah.

15 Q How long did it take for them to
16 get there?

17 A Specifically I don't really
18 remember.

19 Q The same day?

20 A Oh, yeah, same day.

21 Q Did they quench the magnet?

22 A No, they didn't have to do that.

23 Q How did they remove the
24 wheelchair?

25 A I don't know if he -- I don't

1 PAUL R. DANIELS

2 really remember, but usually they can bring a
3 couple of people with them and they can pull it
4 off manually.

5 Q Brute strength?

6 A Brute strength, or they have a
7 device, it's like a winch, and they can pull
8 objects out that way. They have all specific
9 tools for that stuff.

10 Q So there are other ways to skin
11 the cat, so to speak.

12 A Exactly.

13 MR. CORGAN: Not an example I
14 would use.

15 Q Was any kind of, to your
16 knowledge, any kind of a report made by you
17 relative to this wheelchair incident?

18 A I don't believe so.

19 Q Did you fill out anything in
20 writing?

21 A No.

22 Q Did you inform your supervisor,
23 Ms. DeTorres, that it had happened?

24 A I think she ended up finding out
25 what happened.

1 PAUL R. DANIELS

2 Q Were there MRIs that were
3 scheduled that had to be cancelled as a result?

4 A They may have been delayed
5 somewhat.

6 Q That had to be rescheduled, in
7 other words?

8 A For a later date.

9 Q And the patient who was in the
10 wheelchair who was going in, obviously that MRI
11 could not go ahead at that time.

12 A Not at that time, no.

13 Q Do you know how many other MRIs
14 were cancelled as a result of this?

15 A I have no data on that, no.

16 Q Do you know if the incident was
17 ever reported to the hospital administration?

18 A Not to my knowledge.

19 Q When the GE personnel came to
20 liberate the wheelchair, so to speak, did they
21 say anything to you when they came, did they
22 ask how it happened?

23 A I really don't recall if the GE
24 people did.

25 Q Did they make any comment to you

1 PAUL R. DANIELS
2 with regard to keeping ferrous objects out of
3 the scanner room?

4 A No.

5 Q Did they make any comments to
6 you with regard to preventing further such
7 incidents of a similar nature?

8 A Yeah, they just said to tell
9 Tracy, to reiterate some of the safety issues,
10 which I did.

11 Q They told you that?

12 A That's correct.

13 Q Had you done that before they
14 told you that?

15 A Oh, yes.

16 Q Did you do it again after they
17 told you that?

18 A Yes, I did.

19 Q Have you ever seen any kind of
20 written memorandum or correspondence regarding
21 that particular incident?

22 A I have not.

23 MR. GAIER: Off the record for
24 one second, please.

25 (Discussion off the record.)

1 PAUL R. DANIELS

2 MR. GAIER: Let's mark this, it's
3 an affidavit signed by Mr. Daniels on
4 April 28th of 2004.

5 (The above described document was
6 marked Daniels Exhibit 2 for
7 identification, as of this date.)

8 MR. GAIER: I'll state for the
9 record that the last page, the signature
10 page of the affidavit Mr. Corgan was
11 kind enough to provide me from a copy he
12 had here in the office, and that's now
13 part of the exhibit.

14 Q Would you just, if you could,
15 take a look at the affidavit.

16 A Sure. Yes, that's mine.

17 Q You've seen this affidavit
18 before.

19 A Yes.

20 Q And you signed this.

21 A Yes.

22 Q And before you signed it you
23 read everything in it?

24 A Yes, I did.

25 Q And everything in there was

1 PAUL R. DANIELS

2 true?

3 A True and --

4 MR. CORGAN: True and correct to
5 the best of your ability, right?

6 A True and correct.

7 Q At the time that you signed the
8 first affidavit, the one that's marked as
9 Daniels 1, at that time you had been aware of
10 the April incident involving the wheelchair?

11 A Correct.

12 Q Now, are you aware of any other
13 incidents at this particular facility in which
14 ferrous objects were pulled into the machine or
15 became affixed to the machine?

16 A Other than the wheelchair, no.

17 Q In July of 2001, what time did
18 you start your shift?

19 A Probably around 8:00.

20 Q Is that what time you would get
21 into the facility?

22 A Normally, yes.

23 Q Did you have a routine that you
24 would partake in at that time once you came to
25 the facility?

1 PAUL R. DANIELS

2 A Yeah, we would review a copy of
3 the schedule as it stood at that time and then
4 we would bring the machine up.

5 Q The schedule would be planned --

6 A Patient schedule.

7 Q Scheduled MRIs?

8 A Yes.

9 Q Okay.

10 A We would bring the machine up,
11 make sure the linen was stocked.

12 Q What does that mean?

13 A You just had to go through a
14 system of programs to bring it up to a point
15 where it was ready to scan.

16 Q Is that the computer or is that
17 the scanner?

18 A The computer.

19 Q The scanner, as I understand
20 it --

21 A Is always on.

22 Q The magnet is always on unless
23 it's being quenched.

24 A Correct.

25 Q In the time you were there prior

1 PAUL R. DANIELS

2 to this incident had the magnet ever been

3 quenched?

4 A If it was, I never heard of it.

5 Q Was that the extent of your

6 routine in the morning when you started up?

7 MR. CORGAN: I'm sorry?

8 MR. GAIER: What he just

9 described, was that the full extent of

10 his routine is what I'm asking when he

11 arrived in the morning.

12 A You know, get the table ready

13 with the right imaging coil on it, you know,

14 for the first case, little things like that.

15 Q Earlier you mentioned something

16 about wall oxygen, and that they didn't have it

17 here, but they had it up in Albany.

18 Now, you are aware that here

19 there was, in fact, wall oxygen provided in the

20 scanner room, is that correct?

21 A There was a device that supplied

22 oxygen in the room, yes.

23 Q And that device when you're in

24 the scanner room came through the wall, right?

25 A It came through the wall.

1 PAUL R. DANIELS

2 Q The supply of oxygen was on the
3 other side of that wall?

4 A That's correct.

5 Q And that oxygen was supplied by,
6 not portable oxygen cylinders like we've been
7 discussing --

8 A That's for sure.

9 Q -- but non-portable oxygen
10 cylinders, is that correct?

11 A Correct.

12 Q And there were two of them?

13 A At least, yeah.

14 Q At least, sometimes more?

15 A Sometimes.

16 Q Do you have a specific
17 recollection of this?

18 A I may have seen three there
19 once. I don't know.

20 Q And I guess there was copper
21 piping that would carry the oxygen from the
22 tank into the scanner room?

23 A That was my understanding of the
24 system, yes.

25 Q And I guess there was a

1 PAUL R. DANIELS
2 regulator that would sit atop the oxygen
3 cylinder that would connect to the copper
4 piping?

5 A Yes.

6 Q Okay. Now, these tanks, they
7 were in the computer room?

8 A Yes, they were.

9 Q And that's where the regulator
10 was?

11 MR. CORGAN: Objection. It
12 depends on which regulator you're
13 talking about.

14 Q The regulator that would sit
15 atop the tank?

16 A There was something --

17 MR. CORGAN: Well, you haven't
18 described it accurately yet.

19 MR. GAIER: I haven't?

20 MR. CORGAN: No. Would you like
21 me to discuss it with you off the
22 record?

23 MR. GAIER: I could let him
24 describe it.

25 Q You want to describe it?

1 PAUL R. DANIELS

2 MR. CORGAN: Sure.

3 A There was a device above the
4 tank, I guess, it was I guess some type of
5 measuring device or something.

6 Q Would that be a PSI gauge, does
7 that sound familiar?

8 A Something like --

9 MR. CORGAN: Can we call it a
10 flow meter?

11 MR. GAIER: No, it's not a flow
12 meter.

13 A The thing in the room, I
14 guess --

15 Q That's the flow meter.

16 A Right.

17 Q But in the computer room there
18 would be, I guess you're describing a device
19 that would tell you how much oxygen is left in
20 the tank?

21 A I guess, probably.

22 MR. CORGAN: A pressure
23 indicator.

24 MR. GAIER: Off the record.

25 (Discussion off the record.)

1 PAUL R. DANIELS

2 Q There was a pressure gauge that
3 would be on top of the tank in the computer
4 room?

5 A I recall a device like that,
6 yes.

7 Q Do you recall whether or not
8 there was a separate gauge on each tank?

9 A I don't recall.

10 Q But there was also a device that
11 would be attached to the tank, in other words,
12 a connector, for lack of a better word, I
13 thought the word was regulator, but it's a
14 connector at least that goes from the copper
15 pipe to the tank, is that correct?

16 A That's correct.

17 Q And you wouldn't have more than
18 one tank hooked up at a time.

19 A No.

20 Q One tank was hooked up.

21 A Correct.

22 Q And if the pressure in the tank
23 got too low, you would switch the tank?

24 A It would have to be switched,
25 yes.

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Q They would have to be switched.

A Yes.

Q Whose responsibility was it to switch -- first of all, was it the responsibility of anybody at UIMA to check the pressure on the oxygen tanks?

A No.

Q Did anybody as far as you know in that facility have that responsibility?

A No, because we were told that that's really the property of the respiratory therapy department at the hospital. They took care of that, that was their property, so.

Because they would come down regularly and switch them and do whatever they do to them.

Q How often would they do that?

A I guess for a while I noticed they were doing it on a fairly regular basis.

Q Did that stop at some point?

A It seemed to wane off.

Q So, in other words, they had at one time been doing it on a "fairly" regular basis and then less frequently?

1 PAUL R. DANIELS

2 A That's correct.

3 Q And their trips to check the
4 oxygen were irregular at that time?

5 A Yes.

6 Q Okay. Do you know the names of
7 any of the people who did this?

8 A No, I really don't. I never
9 really got to know them at all.

10 Q Did you while you were there
11 ever as a matter of regular practice check the
12 pressure in the oxygen tanks?

13 A I was shown how to change them
14 if there was an emergency or whatever, but no.

15 Q So you would only change them in
16 the case of emergency?

17 A Correct.

18 Q And when you came in in the
19 morning you did not go and look to see if there
20 was sufficient pressure in the oxygen tank?

21 A Correct.

22 Q And as far as you know, nobody
23 else, none of the other technologists went and
24 checked the pressure in the oxygen tank when
25 the day started?

1 PAUL R. DANIELS

2 A Not that I'm aware of.

3 Q And as far as you know, neither
4 you nor any other UIMA technologist would go
5 and check during the course of the day what the
6 pressure was in the tank that was hooked up?

7 A I just remember if they noticed,
8 checking the flow meter in the scan room, if
9 there wasn't enough pressure coming out, then
10 they would go back and check it.

11 Q So until there was a problem
12 inside the scan room with the flow meter nobody
13 from UIMA would go and check the gauge on top
14 of the tanks that gave you the pressure.

15 A Not to my knowledge.

16 Q So there was no mechanism prior
17 to beginning the MRI sessions for making sure
18 there was sufficient oxygen in the tank that
19 was hooked up?

20 A Right.

21 Q As far as you were concerned,
22 this was not the responsibility of UIMA?

23 A Correct.

24 Q In the seven months you were
25 there prior to this incident, had you had

1 PAUL R. DANIELS

2 occasion to look at the pressure gauge?

3 A I did change it a few times.

4 Q You had occasion to change the
5 tanks from one to another?

6 A Right.

7 Q How many times?

8 A I really don't recall. At least
9 a few. They were so big, and there was usually
10 two or three of them back there, so we didn't
11 really have to do it that often.

12 Q But if this was not a part of
13 your regular routine, what were the
14 circumstances in which you changed them?

15 A Like I said, if we used the flow
16 meter in the scan room and someone, like an
17 anesthesiologist, said there's no oxygen coming
18 out of this, then we would go back and change
19 it and check it.

20 Q So prior to prior to July 27,
21 2001 this had happened before, where an
22 anesthesiologist is attempting to administer
23 oxygen and he says there's insufficient oxygen
24 coming through the flow meter, and that's when
25 you would go and change it?

1 PAUL R. DANIELS

2 A Right, or if, sometimes the ball
3 would get stuck, so we would go back, oh, all
4 right something's wrong, and it would be loose
5 maybe sometimes, so we would tighten it.

6 Q The ball that got stuck would be
7 on the flow meter?

8 A Right.

9 Q So you would go into the scan
10 room and see if it was on that end, as opposed
11 to that end, the other end being the tank end?

12 A Correct.

13 Q Can you give me an approximation
14 during that seven month period how many times
15 it was that somebody, an anesthesiologist would
16 make a statement that I'm not getting
17 sufficient oxygen and you would have to go back
18 and actually change the tank?

19 How many times? Your best
20 estimate.

21 A Probably once.

22 Q Once.

23 A Yes. Just enough to let you
24 know that that's a possibility.

25 Q So prior -- I don't want to put

1 PAUL R. DANIELS

2 words in your mouth, but is it a fair statement
3 that prior to July 27, 2001 you had only
4 changed the tanks once?

5 A I probably changed, I think I
6 said before maybe two or three times. Because
7 they were so big, you really didn't have to
8 change them that often.

9 Q Okay. Then you've described
10 once where an anesthesiologist complained about
11 a lack of oxygen and you went to change it.

12 What happened on those one or
13 two other occasions that you had the
14 opportunity to change it?

15 A Well, like the flow meter I
16 think was loose once, or not operating quite
17 right, so I think maybe a little air was
18 leaking out he wasn't feeling the full
19 pressure, I think.

20 Q So why would you change the tank
21 if the problem is with the flow meter?

22 A Well, at that time we were, we
23 didn't really know that much about them, since
24 we really didn't change them we didn't have a
25 lot of experience with them, so we thought

1 PAUL R. DANIELS

2 maybe that would help.

3 Q And that happened one or two
4 occasions also?

5 A I think that particular thing
6 happened just once.

7 Q All right.

8 When an anesthesiologist
9 complains about insufficient oxygen coming
10 through the flow meter, that leads you to
11 ultimately go back and change the tanks from
12 one to the other.

13 How many times during that
14 period prior to the 27th of July did that
15 happen?

16 MR. CORGAN: Once, he said.

17 A Once. Because we were still
18 learning --

19 MR. CORGAN: That's what he
20 testified.

21 MR. GAIER: Jack -- off the
22 record.

23 (Discussion off the record.).

24 Q Were there at least two
25 occasions, then, where an anesthesiologist is

1 PAUL R. DANIELS
2 indicating he's not getting good flow, as a
3 result of which you went and changed the tank?

4 A No, I think there was another
5 instance where we didn't feel anything coming
6 out of there, it wasn't any other personnel
7 involved at the time.

8 So we went back and thought we
9 could change it and see what happened.

10 Q To the best of your recollection
11 during that seven month period how many times
12 did you change the tank?

13 A To the best of my recollection,
14 three times.

15 Q Can you tell me what event
16 precipitated each time?

17 A Not enough pressure coming from
18 the flow meter.

19 Q Give me each separate time, if
20 you will.

21 A It's the same each time.

22 Q And what brought your attention
23 to not enough pressure?

24 A You just turn the flow meter on
25 and put your hand next to it and see if

1 PAUL R. DANIELS

2 anything is coming out of it.

3 Q Was there something that
4 immediately precipitated you having to look at
5 that?

6 A Involving a patient, no.

7 Q Not involving a patient, just
8 involving anybody, an anesthesiologist, a
9 nurse, anybody.

10 A No.

11 Q So when you went through your
12 morning routine at the beginning of the day did
13 that involve checking the oxygen flow coming
14 out of the flow meter?

15 A On occasion.

16 Q On occasion? So it wasn't a
17 regular part of your routine?

18 A No.

19 Q What would dictate the occasion?

20 A If we were going to have a case
21 that day I guess, a case, you know, anesthesia
22 case, something of that nature.

23 Q So if you knew, you'd look at
24 the schedule and if you saw there was going to
25 be a case with either anesthesia or sedation,

1 PAUL R. DANIELS

2 then you would check the flow meter?

3 A Right. You just go quick, turn
4 it on, there goes the ball, everything's good.

5 Q But you wouldn't go and check as
6 a routine matter, when you saw there was going
7 to be a case of anesthesia or sedation you
8 wouldn't go to the computer room and check the
9 gauge?

10 A No.

11 MR. CORGAN: Off the record.

12 (Discussion off the record.)

13 Q The occasion where the
14 anesthesiologist brought to your attention the
15 problem with the oxygen flow that caused you to
16 go and change the tank, there was no patient in
17 the scanner room at that time?

18 A That's correct.

19 Q What do you know caused the
20 anesthesiologist to check the flow if there was
21 no patient in the room?

22 A Well, they were responsible for
23 administering the oxygen, so I guess it was
24 part of their routine to pre-check before the
25 patient arrived.

1 PAUL R. DANIELS

2 Q Did you ever have a circumstance
3 in the time you were there where while there
4 was a patient in the scanner the oxygen ran out
5 or ran low?

6 A No.

7 Q So July 27, 2001 was the first
8 time you'd ever had to change the tank with a
9 patient in the scanner?

10 A That's correct.

11 Q When you were up at Albany, the
12 system that provided oxygen, was that a similar
13 system with tanks going through a wall?

14 A No.

15 Q To your knowledge, this system
16 in Westchester, was there any kind of an alarm
17 that would sound, that would sound when the
18 oxygen was low in the tank?

19 A There were no audible alarms
20 that I ever heard or knew of, no.

21 Q Okay. Did you ever have any
22 discussions prior to July 27, 2001 with Ms.
23 Lauria regarding the wall oxygen system?

24 A No.

25 Q With any of the other

1 PAUL R. DANIELS
2 technologists regarding the wall oxygen system?

3 A Not that I recall.

4 Q When you went through your
5 orientation or kind of orientation, informal
6 orientation with Mr. Priest, did he show you
7 the wall oxygen system?

8 A He briefly brought me back
9 there, showed me all the computers that were
10 back there, and said this is where we keep our
11 oxygen, there's usually two tanks back here,
12 I'll show you how to change it once, just in
13 case you ever have to.

14 He says the respiratory therapy
15 department comes down and takes care of that.
16 Just make sure you check the flow meter in the
17 scan room before you need it.

18 Q Did he show you how to check the
19 flow meter in the scan room?

20 A Yes.

21 Q Did he ever indicate to you that
22 the oxygen had ever run out when there was a
23 patient in the scanner and had to be changed?

24 A Not to my knowledge, no.

25 Q So it was either on that first

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2 day or during those first few days of your
3 employment that you learned how to change the
4 oxygen tank?

5 A That's correct.

6 Q The day of July 27, 2001, do you
7 recall what time you arrived that day?

8 A I believe it was around 8:00.

9 Q Did you go through your normal
10 routine?

11 A Yes.

12 Q Did you check the schedule?

13 A Yes.

14 Q Did you see that there would be
15 any anesthesia that day?

16 A I don't recall if there was or
17 not, specific to that day. A lot of times they
18 would add cases on at any time during the day,
19 so.

20 Q What different types of
21 anesthesia would be used that you're familiar
22 with during an MRI procedure?

23 A Well, there's different levels
24 of consciousness, there's deep sedation,
25 there's like a light sedation. There's

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2 different drugs they use, there's chloral
3 hydrate, which is a very light sedative;
4 Nebutal, ketamine. There are all sorts of
5 anesthetic agents that are used.

6 Q When this schedule was published
7 or held out on the day, each day, would it
8 indicate the type of anesthesia the patient
9 would be receiving?

10 A No.

11 Q What would it say in regard to
12 anesthesia?

13 A Sometimes it wouldn't. It would
14 just have like a name and a room number and the
15 type of, like brain or C spine, whatever.

16 Q So how would you know whether or
17 not you needed to check the flow meter that
18 day?

19 A It was hard. Sometimes like
20 patients, if they didn't hold still, they would
21 have to get sent back up to the floor, and then
22 the physicians would decide whether or not they
23 needed anesthesia or not.

24 Sometimes they would write it,
25 we would get a prescription, sometimes it would

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2 say just general anesthesia, but it was never
3 specific as to what type of agent.

4 Q I understand that, but you had
5 indicated that when you would come down and
6 look at the schedule it would tell you whether
7 there was a patient who might be getting
8 anesthesia.

9 Would it say anesthesia, would
10 it say sedation or --

11 A Those terms would be used
12 interchangeably. The secretaries would not
13 always use the same terminology.

14 Q Were the secretaries the ones
15 who filled out the schedule?

16 A Yes.

17 Q You mentioned chloral hydrate?

18 A Yes.

19 Q Would that be specified on the
20 schedule, or would it just come under the
21 rubric of sedation?

22 A It would usually just say
23 sedation.

24 Q So if there was any kind of
25 sedation or anesthesia that would occasion you

1 PAUL R. DANIELS

2 to check the flow meter?

3 A Yes.

4 MR. GAIER: I just want to say on
5 the record I think a demand was made for
6 this, but I don't recall seeing a
7 response to it, but if I'm wrong, I'll
8 be corrected.

9 We had asked I guess for a log of
10 that day with patients' names redacted
11 and so on. I don't know if we actually
12 requested a schedule like was just
13 described, or if it's the same thing,
14 but I'll request and I'll follow up in
15 writing a copy of the schedule,
16 obviously with all names redacted.

17 MR. CORGAN: Sure. And as you
18 know, as we did respond, we have been
19 looking for that without success.

20 Unfortunately the place was torn
21 down about a month or two after these
22 events, and most of the personnel who
23 worked there then are not there anymore,
24 so I'm having trouble finding some of
25 this stuff, but I continue to look for

1 PAUL R. DANIELS

2 it, and the minute I find it, I will
3 call you.

4 MR. GAIER: I appreciate that,
5 counsel.

6 Q On the 27th do you recall
7 whether you looked at the schedule and saw that
8 there was any sedations that day?

9 A Specifically I don't remember if
10 I did, but as part of my routine, I most likely
11 did.

12 Q Do you recall whether there were
13 any sedations?

14 A I really don't. Like I said,
15 sometimes they're scheduled ahead of time,
16 sometimes they're added on throughout the day.

17 Q Do you know whether Michael
18 Colombini's was scheduled ahead of time?

19 A I really don't remember.

20 Q The chloral hydrate, was that
21 usually used on young patients?

22 A Yes, it was.

23 Q Would that normally be scheduled
24 ahead of time?

25 A Yes; on out-patients, anyway.

1 PAUL R. DANIELS

2 Q I said young patients, meaning
3 children. Is that who would normally get the
4 chloral hydrate?

5 A Yes.

6 MR. SHALHOUB: Before you get too
7 deeply into this, at a convenient time
8 can we take a break?

9 MR. GAIER: Absolutely.

10 (At this point in the proceedings
11 there was a recess, after which the
12 examination continued as follows:)

13 Q Was Nurse Nadler in the facility
14 that day?

15 A That day she was.

16 Q Do you know why she was there?

17 A She was there to pick up some
18 supplies that she had left there from a prior
19 sedation case that she was involved in.

20 Q Was that prior sedation case
21 that day?

22 A Yes.

23 Q So that means prior to Michael
24 Colombini there had been a sedation case in the
25 facility that day.

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2 A To the best of my recollection,
3 yes.

4 Q Do you know what kind of
5 sedation case that would have been if Nurse
6 Nadler was involved?

7 A More than likely a chloral
8 hydrate sedation.

9 Q So that would mean it was a
10 child?

11 A Yes.

12 Q And that means it would have
13 been a pre-scheduled sedation?

14 A Normally, yes.

15 Q Do you know whether or not you
16 checked the flow meter that morning?

17 A Most likely I did.

18 Q Would you have gone back and
19 checked the PSI gauge in the security room?

20 A Not if there was adequate flow
21 through the flow meter.

22 Q The only person who ever taught
23 you these procedures relative to the oxygen
24 system was John Priest?

25 A Yes.

1 PAUL R. DANIELS

2 Q Do you know what time Michael
3 Colombini arrived to the MRI facility that day.

4 A I don't remember. Mid-day would
5 be my best recollection.

6 Q Do you know what time Dr. Hou
7 arrived? Was he there before Michael, do you
8 know?

9 A That I don't know.

10 Q Did you see the doctor who was
11 the anesthesiologist before the child was
12 placed into the scanner tunnel?

13 A I did not.

14 Q When was the first time you ever
15 saw Dr. Hou?

16 A When he was setting the patient
17 up in the actual scan room.

18 Q In the scan room?

19 A In the scan room.

20 Q You didn't see him in the
21 patient alcove?

22 A Not that I recall.

23 Q Where would you have been
24 situated that day prior to the patient being
25 brought into the scan room?

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2 A We had like a reading area where
3 we had to sort films and things of that nature,
4 so I could possibly have been in there.

5 I don't really remember exactly
6 where I was.

7 Q The reading area is not in the
8 console room?

9 A The reading area was adjacent to
10 the console room. It was very close proximity.

11 Q Is it also near the patient
12 alcove?

13 A Not very close.

14 Q Is it across the hall from the
15 console room?

16 A Yes.

17 Q So it's on the same side of the
18 hall as the patient alcove?

19 A It's basically on the other
20 side, actually.

21 Q On the opposite side of the hall
22 of the patient alcove?

23 MR. CORGAN: Right.

24 A Right. Basically the patient
25 alcove, console room in the middle, reading

1 PAUL R. DANIELS

2 area adjacent to, on the other side.

3 Q On the other side of the console
4 room?

5 A Yes.

6 Q So it's on the same side of the
7 console room as the computer room?

8 A That would be correct, yes.

9 Q How do you access this reading
10 room?

11 A Through the main hallway. I
12 believe there's blueprints of the facility.

13 Q No, we have that.

14 Prior to the commencement of the
15 scan, would you have been waiting in this
16 reading room and somebody would have called you
17 and said we're ready to go, something like
18 that?

19 If you want to give me a
20 narrative, feel free to. Describe the
21 circumstances of how you would have been
22 brought in for Michael Colombini's --

23 A Well, Patty Lauria, the other
24 technologist, was in charge of that case that
25 particular time, so I was doing some of my

1 PAUL R. DANIELS

2 other duties in that reading room.

3 Q What were those other duties?

4 A We had to sort films, to make
5 sure all the films are in jackets, things of
6 that nature. Sometimes we had to put films up
7 on a view box.

8 Q Ms. Lauria was prepping the
9 patient?

10 A That's correct.

11 Q When she's done prepping the
12 patient she would normally call you?

13 A No, she would commence scanning.

14 Q She would commence scanning and
15 what would you be doing?

16 A Other duties.

17 Q She would commence scanning
18 without you?

19 A For part of the case.

20 Q So she could just go and do this
21 on her own and you wouldn't have to be involved
22 at all?

23 A Have to be, like a rule?

24 Q I'm asking you pursuant to
25 normal practice.

1 PAUL R. DANIELS

2 A No, because a lot of times the
3 normal practice according to the facility was
4 sometimes they only had one person there.

5 Q Okay. Did you sometimes have
6 one technologist operating the scanner and
7 another operating the computer?

8 A Well, they're synonymous. You
9 don't operate the scanner. You operate the
10 scanner through the computer.

11 Q Are there are times when you
12 have two technologists performing these
13 operations?

14 A There are times.

15 Q Was that the situation on this
16 day?

17 A No, she was in charge of getting
18 the patient prepped and performing that
19 procedure that day.

20 Sometimes we would come in to
21 help film the images, things of that nature.
22 If there were any -- if she had any technical
23 issues with how to actually perform the scan
24 images, we would help with that.

25 Q So --

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2 A Bus basically a tech works
3 independently.

4 Q So from your perspective, how
5 did you get involved? What happened, where
6 were you, what were you doing?

7 A Actually when I was in the
8 review area I decided to come out to see how
9 the case was going, into the control area,
10 where you could view through a window what was
11 going on.

12 Q Right.

13 A Everything seemed to be going on
14 fine.

15 Q Had the scan been started?

16 A The scan itself hadn't been
17 started. It was the preparatory phase.

18 Q Where was Ms. Lauria when you
19 came out and looked through the window?

20 A She was in the can room.

21 Q She was in the scan room?

22 A Yes.

23 Q So you were alone in the console
24 room at this time?

25 A Yes.

1 PAUL R. DANIELS
2 Q Looking through the window
3 towards the scanner room?
4 A Yes.
5 Q Then what happened?
6 A Then everything seemed to be
7 fine, no one was -- there were no issues, so I
8 went back to continue what I was doing.
9 Q Back to the review/reading room?
10 A Correct.
11 Q Then what happened?
12 A And then Patty came out and
13 asked me to help her with the oxygen.
14 Q Patty is Patricia Lauria?
15 A Patricia Lauria.
16 Q Okay.
17 A She said there's, the doctor
18 says there's some kind of problem with the
19 oxygen.
20 Q Let me stop you there.
21 You were in the reading room
22 when Ms. Lauria told you that the doctor had
23 told her there was a problem with the oxygen?
24 A Yes.
25 Q You were not with her at that

1 PAUL R. DANIELS

2 time in the console room operating any
3 equipment?

4 A That's correct.

5 Q You were not with her in the
6 console room at that time at all.

7 A I was probably actually in
8 between the review area and the console room,
9 because there was a place you would sort films
10 out and extra view boxes.

11 I believe I was in that very
12 close proximity area.

13 Q Did she walk over to you or did
14 she call you from where she was sitting?

15 A No, she walked over to me.

16 Q Do you recall what she said to
17 you?

18 A She said something to the effect
19 that the doctor is having a problem with the
20 oxygen, can you help me.

21 Q Can you help me?

22 A Yes.

23 Q Were those her exact words, to
24 the best of your recollection?

25 A Yes.

1 PAUL R. DANIELS

2 Q "Can you help me?" What did you
3 say?

4 A I said sure, what do you think
5 you need?

6 Q Did you ask her what the problem
7 was with the oxygen?

8 A She said something to the effect
9 that it's not coming through the tube.

10 Q Were you aware at this time of
11 the patient in the scanner?

12 A Oh, yes.

13 Q You were aware the patient was
14 in the scanner? Were you aware the patient was
15 a child?

16 A Yes.

17 Q And were you aware that the
18 child was receiving sedation?

19 A Yes.

20 Q Were you aware that it was not a
21 chloral hydrate sedation?

22 A Yes.

23 Q So when she came in and she said
24 this to you and you responded to her, then what
25 happened?

1 PAUL R. DANIELS

2 A Then I proceeded to go into the
3 adjacent computer room where the oxygen tanks
4 were, and we looked at the PSI gauge and it
5 appeared to be a little bit lower than normal,
6 so I said let's just change the tank.

7 She said well, you need to help
8 me, because they're too heavy for me. They're
9 almost 6 feet tall. So I said all right, let's
10 just do it.

11 So you unravel it, hook the next
12 one in with a pipe, and that's it. So it was
13 completed probably within a minute.

14 Q Was it your intention to teach
15 her how to change the oxygen?

16 A No.

17 Q Did you ever say to her I'm
18 going to show you how to change the oxygen?

19 A No.

20 Q Did she ask you to show her how
21 to change the oxygen?

22 A No.

23 Q At any time prior to this had
24 you ever shown her how to change the oxygen?

25 A No.

1 PAUL R. DANIELS

2 Q To your knowledge had anybody
3 shown her how to change the oxygen prior to
4 this date?

5 A Not to my knowledge.

6 Q Did you know whether or not she
7 knew how to change the oxygen?

8 A When she was hired John Priest
9 was still there, so I didn't know if he had
10 gone over the same things with her as he did
11 with me.

12 Q But on the morning of July 27,
13 2001 did you know whether or not she knew how
14 to change the oxygen?

15 A I had never seen her do it
16 before, no.

17 Q So you didn't know one way or
18 the other?

19 A It sounded like she either
20 didn't know how, or she physically probably
21 couldn't do it.

22 MR. CORGAN: Objection. How does
23 he know what she knows?

24 MR. GAIER: He knows what his
25 impression.

1 PAUL R. DANIELS

2 MR. CORGAN: She asked for help
3 to do it.

4 MR. GAIER: But it could be a
5 physical impediment or lack of
6 knowledge.

7 MR. CORGAN: He can't read her
8 mind.

9 MR. GAIER: I'm asking him what
10 his impression was.

11 MR. CORGAN: His impression was
12 irrelevant.

13 MR. GAIER: I don't think it's
14 irrelevant.

15 MR. CORGAN: I think it's
16 irrelevant. Come on.

17 Q So you went back there, and what
18 happened when you were back there?

19 A I changed the tank as quickly as
20 I could and we walked out.

21 Q You changed the tank as quickly
22 as you could?

23 A Yes.

24 Q Had she indicated to you that
25 there was any sense of urgency?

1 PAUL R. DANIELS

2 A No.

3 Q Did she indicate to you that the
4 anesthesiologist felt there was any sense of
5 urgency?

6 A No.

7 Q Did she indicate to you there
8 was anything approximating an emergency
9 situation going on?

10 A No.

11 Q Did you say anything to the
12 effect of this is how you do it when you were
13 showing her how to change the tank?

14 A Not that I recall. Maybe just
15 watch, you know.

16 Q Watch?

17 A Watch. Watch.

18 Q And then what happened?

19 A Then we proceeded to head out of
20 that room to go back into the scan area.

21 And then we heard one of the
22 secretaries yelling that they needed our --
23 they needed us to come in the room right away,
24 something happened.

25 So we immediately went towards

1 PAUL R. DANIELS

2 the scan room.

3 Q What did you hear them yelling,
4 do you recall?

5 A They said something about
6 something exploded.

7 Q Did you hear any explosion while
8 you were back there?

9 A I heard nothing.

10 Q Did you hear anything hissing?

11 A No.

12 Q So you get back to the console
13 room and you hear yelling?

14 A That's correct.

15 Q Do you know who it was that was
16 yelling?

17 A I believe it was -- actually I
18 don't recall specifically.

19 Q Can you give me an idea of who
20 it may have been out of the people who it could
21 have been?

22 A Heather Byrne.

23 Q Heather Byrne?

24 A Or Tracy Chiapetta.

25 Q Do you recall any of the words

1 PAUL R. DANIELS

2 that were being said by them?

3 A Just to the effect that
4 something sounded like it exploded.

5 Q When you got out there, what
6 happened next?

7 A We went through the control room
8 and we saw Dr. Hou dragging Michael Colombini
9 out into the alcove area.

10 Q You were looking through the
11 window from the console room into the scanner
12 room?

13 A No, we went directly through.

14 Q So you never stopped at the
15 window?

16 A Straight through and around the
17 bend.

18 Q Did you go into the scanner
19 room?

20 A No.

21 Q What did you do? You stood at
22 the door to the scanner room?

23 A Yeah. Actually Michael was out
24 of the room by the time we got around.

25 Q He was out of the scanner and

1 PAUL R. DANIELS

2 out of the room?

3 A That's correct.

4 Q Who else was there when you
5 first saw the stretcher with Michael? Was
6 Michael on a stretcher?

7 A No, actually he wasn't.

8 Q Where was he --

9 A I don't think he was.

10 Q Was he standing?

11 A He wasn't standing.

12 Q Was somebody holding him?

13 A I think Dr. Hou may have been
14 holding him.

15 Q Was Michael's father there?

16 A Not right away.

17 Q When you got out there Michael's
18 father wasn't there?

19 A I don't recall. I know he was
20 there shortly thereafter at least.

21 MR. CORGAN: I just want to talk
22 to my client for one second, just for a
23 second.

24 MR. GAIER: Sure.

25 (At this point in the proceedings,

1 PAUL R. DANIELS
2 the witness and counsel left the room, and
3 upon their return, the examination
4 continued as follows:)

5 Q Did you see Michael, were you
6 able to see Michael?

7 A Yes.

8 Q Can you tell me what you saw?

9 A I saw a heavily sedated child
10 who was -- they were working on him. It looked
11 like he had a cut maybe on his neck area that
12 they were working on, and basically they rushed
13 him out to the emergency room for further
14 treatment pretty quickly, so.

15 Q Did it seem like a big deal at
16 the time?

17 A It seemed important, yeah.

18 Q Did you have a sense of whether
19 he was injured?

20 A Somewhat at least, yeah.

21 Q Did you have a sense it could be
22 a life threatening injury?

23 A Not at the time, no.

24 Q What did you do when they took
25 him out, when he was gone?

1 PAUL R. DANIELS

2 A When he was gone from the --

3 Q When they took --

4 A -- the magnet room or --

5 Q When they left the area, the
6 facility.

7 A Oh, I -- well, I had closed the
8 door of the scan room after we came out and saw
9 that Michael was out in the alcove, according
10 to the policies that I've always adhered to.

11 So I opened the door to really
12 get a grasp of what was going on and what
13 happened, because I really didn't know.

14 Then I saw there was an oxygen
15 tank resting adjacent to the magnet area.

16 Q Resting adjacent to the magnet
17 area?

18 A It was like on the outside
19 towards the opening.

20 Q It wasn't in the tunnel?

21 A Partially, yeah. Part of it was
22 on the table area, part of it was in the very
23 beginning of the opening.

24 Q Was it attached to anything?

25 A It was resting along the side of

1 PAUL R. DANIELS

2 the bore, they call it.

3 Q Resting?

4 A Resting.

5 Q Any hissing coming out?

6 A Not that I heard.

7 Q Any shaking going on?

8 A No.

9 Q Did you pull it out?

10 A No.

11 Q Were you able to pull it out?

12 A No, that's not something that we
13 would do. Again, that's, GE personnel would
14 take that out.

15 Q So was it your impression that
16 it was affixed to the magnet?

17 A Yes.

18 MR. CORGAN: Are you asking him
19 whether he was physically capable of
20 pulling it out with his bear hands?

21 MR. GAIER: I'm trying to find
22 out. He said it was resting, so resting
23 gives the impression that it's sitting
24 there as opposed to being stuck there.

25 A It was not moving.

1 PAUL R. DANIELS

2 Q So what did you do next?

3 A Then we next, I think we cried
4 for a while.

5 Q Why did you cry?

6 A Because we felt horrible about
7 what had happened to Michael.

8 Q But I thought --

9 A We didn't know the extent of it,
10 or what was happening, everything happened so
11 quickly, and he was rushed to the emergency
12 room.

13 Q But I thought it wasn't, you
14 didn't have the impression that it was a life
15 threatening injury?

16 A We didn't know at the time. We
17 knew it wasn't a desirable event, but we didn't
18 know how serious it was.

19 Q It wasn't a desirable event,
20 correct?

21 A Correct.

22 Q Any blood inside the scanner?

23 A There appeared to be a little
24 bit of blood.

25 Q A little bit?

1 PAUL R. DANIELS

2 A Just a little bit.

3 Q Did you clean it?

4 A We didn't really, we didn't mess
5 with the room at all. We didn't want to change
6 anything or do anything, so we just -- once I
7 saw the tank was in there, resting there, I
8 closed the door again and we left.

9 Q Why didn't you want to change
10 anything or do anything?

11 A Well, we didn't have gloves on,
12 we didn't know what was, you know -- we just
13 didn't want to change anything, we didn't want
14 to do anything.

15 Q Why?

16 A Because it was not something
17 that we should do.

18 Q Why?

19 A I don't know why. We just
20 didn't think it would be appropriate.

21 Q Did you think there might be an
22 investigation?

23 A Because we didn't want to stay
24 in the room.

25 Q Why?

1 PAUL R. DANIELS

2 A Because we were outside all
3 talking about it and crying about it and we
4 were upset about it.

5 Q Did you think there might be an
6 investigation in there at that time?

7 A I thought it was a possibility.

8 Q Did you find out what happened?

9 MR. CORGAN: Objection.

10 Q After this incident, within this
11 first 15 minutes after you saw Michael, did you
12 ask what happened?

13 MR. CORGAN: Objection. What do
14 you mean what happened? That's a
15 profound question, it's too broad. What
16 happened to Michael, how the event
17 occurred, what are you asking?

18 MR. GAIER: Sure, we'll start at
19 the very bottom here, okay?

20 Q When you came out of the console
21 room you walked towards the scanner room and
22 you saw Michael, and you say he was already out
23 of the scanner room at that time, is that
24 correct?

25 A That's correct.

1 PAUL R. DANIELS

2 Q And you saw what looked like
3 might have been a cut on his neck, correct?

4 A Correct.

5 Q And somebody was holding him,
6 you think it was Dr. Hou, correct?

7 A That's correct.

8 Q At that time did you ask what
9 was going on?

10 A No, I was too busy trying to do
11 whatever I could, if I was requested to provide
12 any help.

13 Q Did anybody make any request for
14 help to you?

15 A They asked to help set up a
16 suction machine, which I did.

17 Q Where was that?

18 A In the alcove.

19 Q And during this, as you were
20 doing this, you didn't say in words or effect
21 what happened?

22 A No.

23 Q So you have no idea why Dr. Hou
24 was holding Michael in his arms at this point.

25 A Correct.

1 PAUL R. DANIELS

2 Q You have no idea why there may
3 be a cut on his neck.

4 A Correct. It was more important
5 to provide medical assistance --

6 Q Okay.

7 A -- than to know what was going
8 on.

9 Q After you set up the suction
10 machine, then what did you do?

11 A I pretty much stood by and
12 waited for further instruction.

13 Q Did you ask anybody why Dr. Hou
14 was holding Michael and why Michael had a cut
15 on his neck?

16 A No.

17 Q Did you hear anybody else ask
18 anybody what happened?

19 A No, I just, I do remember like
20 Heather and the people had told us that they
21 heard a bang or a noise of some sort.

22 They were, you know, crying
23 and --

24 Q Who was crying?

25 A Almost everybody.

1 PAUL R. DANIELS

2 Q You said "they were crying."

3 Who?

4 A The people that were there,

5 Patty, myself, Heather. I think that was about

6 it.

7 Q You were crying because?

8 A Like at the time it wasn't

9 really important as to what happened, it was

10 important that whatever happened, we tried to

11 provide assistance --

12 Q You were crying because?

13 A -- you know, to Michael.

14 Q You were crying because Michael

15 had a cut on his neck?

16 A Um-hum.

17 Q You didn't see his face at all?

18 A His face was a little bit

19 bloody.

20 Q A little bit bloody?

21 A He was asleep. He was under I

22 guess heavy sedation at the time for the test.

23 Q How do you know that?

24 A Because I guess they were using

25 drugs that were normally inducive of heavy

PAUL R. DANIELS

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2 sedation.

3 Q How do you know that? What
4 basis do you have other than guessing?

5 MR. CORGAN: His observation, he
6 said the boy was asleep.

7 MR. GAIER: Don't testify for
8 him.

9 MR. CORGAN: You're arguing with
10 him.

11 MR. GAIER: I'm not arguing with
12 him. I want to know how he knows it.

13 A It wasn't a chloral hydrate
14 case. There was a white milky substance which
15 is usually a drug that's used in heavy
16 sedation.

17 Q Did you see the boy's face?

18 A For just a brief moment.

19 Q Did you see if he had any teeth
20 left in his mouth?

21 A I did not.

22 Q Did you see whether his cheeks
23 were ripped apart?

24 A I did not.

25 Q You couldn't say one way or the

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2 other?

3 A He had a mask over his face, an
4 oxygen mask.

5 Q Was there blood on it?

6 A No.

7 Q Did he have a mask or did he
8 have a tube?

9 A It looked like a mask, plastic
10 oxygen mask.

11 Q You set up the suction machine.
12 Was that because Dr. Hou asked for suction?

13 A Yes.

14 Q Do you know why he wanted
15 suction?

16 A To suck.

17 Q Do you know what he would have
18 been sucking?

19 A Probably congestion, maybe some
20 of the blood that was around the neck area.

21 Q Congestion?

22 A Yeah, I mean, I'm not the
23 doctor, so, I assume it was probably some
24 saliva, congestion, maybe some of the blood.

25 Q At any time before Michael was

1 PAUL R. DANIELS

2 taken out of the there did you ask anybody how
3 this happened?

4 A No. After he was gone I was
5 like, what happened?

6 Q After he left, is that what you
7 said, "What happened?"

8 A Yes.

9 Q Who did you say it to?

10 A Anybody who was in the area.
11 Anybody in the area.

12 Q Did you look at somebody when
13 you said it?

14 A I believe Mary was there.

15 Q You looked at Mary and said,
16 "What happened?" You looked at Heather and
17 said, "What happened?"

18 A Um-hum.

19 Q Did somebody tell you what
20 happened?

21 A They told me their version of
22 what they thought happened.

23 Q Tell me who it was and what they
24 said, please.

25 A Heather just said that she was

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2 in the reception area and she heard a noise, a
3 bang, and that she heard Dr. Hou yelling and
4 coming out of the room.

5 Q Is that all she said?

6 A Then Mary told me her story.

7 Q Tell me what Mary told you,
8 please.

9 A Mary told me that she was coming
10 back into the hallway to pick up some
11 belongings that she had left behind, and she
12 said that this anesthesiologist came rushing
13 out of the room yelling and screaming, "I need
14 oxygen, I need oxygen, get me an oxygen."

15 So in her quest to help him out
16 immediately, she said, "There's oxygen here."
17 He said, "I need it, I need it," so she handed
18 it to him out in the hallway.

19 Q Did she say where he was
20 standing at that time?

21 A He was standing just outside of
22 the doorway.

23 Q The doorway to the entrance to
24 the scanner room?

25 A To the scanner room, that's

PAUL R. DANIELS

1

2 correct.

3

Q And she had been in the alcove
4 at that time?

5

A She was in that hallway, yes.

6

Q In the hallway.

7

A Right.

8

Q Did she describe whether she had
9 to walk over to the portable oxygen bottle to
10 get it to him, or was she already there?

11

A She was in the vicinity of it,
12 close proximity, I guess.

13

Q And she walked over and gave it
14 to him?

15

A Right.

16

Q Did she tell you that he brought
17 it into the room?

18

A Yes.

19

Q That's what she said, that Dr.
20 Hou brought it into the room?

21

A Yes.

22

Q Did anybody say what happened
23 next?

24

A No.

25

Q Did anybody say that the oxygen

PAUL R. DANIELS

1
2 bottle was pulled out of Dr. Hou's hands and
3 toward the scanner?

4 A I didn't hear anybody say that
5 specifically, no.

6 Q Did you surmise that?

7 A I surmised it.

8 Q At this point you were able to
9 gather, figure out what happened?

10 A Correct.

11 Q And that was that Dr. Hou asked
12 for oxygen, Nurse Nadler handed him an oxygen
13 bottle, he brought it into the room, it got
14 pulled out and sucked in, where Michael
15 sustained injury.

16 A That's correct.

17 Q That was your understanding?

18 A That's my understanding to the
19 best of my recollection.

20 Q Mary is Nurse Nadler, right?

21 A Yes.

22 Q Did you say anything to Mary,
23 did you ask her why she gave it to him?

24 A She gave it to him because he
25 was yelling wildly for it and she wanted to

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PAUL R. DANIELS

2 help out in any way that she could, not
3 realizing that he was going to do that.

4 Q He was standing at the scanner
5 room entrance at that time, though, right?

6 A Correct.

7 Q Did you say anything to Mary
8 like to the effect of gee, you know you're not
9 supposed to bring those things in there?

10 MR. GAIER: Just to the effect of
11 that.

12 MR. CORGAN: Note my objection,
13 and by the way, this is all hearsay, you
14 understand.

15 MR. GAIER: I understand.

16 MR. CORGAN: Okay.

17 A I don't remember exactly what I
18 said, to be honest with you, but she said he
19 was yelling for it, I felt I needed to help
20 him, so I handed it to him, because he was
21 yelling for it, he was pointing at it.

22 That's my -- the story that I
23 got.

24 Q Did you say anything to her to
25 the effect of you shouldn't do that?

1 PAUL R. DANIELS

2 A Yes.

3 Q You did? Do you remember what
4 you said to her?

5 A She said, "I didn't think that
6 he was going to go in there with it."

7 Q Do you remember what you said to
8 her?

9 A I said, "Why did you hand it to
10 him?"

11 Q Did you saying anything to the
12 effect that you shouldn't have handed it to
13 him?

14 A I said, "That probably wasn't a
15 good idea, because this is what can happen."

16 Q That's what you said, it
17 probably wasn't a good idea?

18 A Yes.

19 MR. CORGAN: Is that literal or
20 is that sort of the sum and substance of
21 what you said? Because he wants to know
22 literally, I think.

23 THE WITNESS: Yeah, literally, I
24 don't remember exactly what I said, how
25 it came off, how somebody interpreted

1 PAUL R. DANIELS

2 it.

3 Q But it was to the effect that
4 that probably wasn't a good idea?

5 A Something -- yeah.

6 Q After this day did you ever
7 speak to Dr. Hou?

8 A I never did.

9 Q Did you ever see him in the MRI
10 facility again?

11 A Never.

12 Q On this day, did you and Patty
13 Lauria ever talk about it?

14 A No.

15 Q I mean, this just happened while
16 you were there, and you and she had no
17 discussion about what happened?

18 A Well, shortly thereafter in the
19 days, you know, afterwards, what are we going
20 to do next, what happened, what's going on.

21 Q Was the MRI facility shut down
22 from that point?

23 A Yes, it was shut down for a few
24 days.

25 Q Was there an investigation?

1 PAUL R. DANIELS
2 A Apparently.
3 Q Well, do you know?
4 MR. CORGAN: Objection.
5 Q Do you know whether there was an
6 investigation?
7 MR. GAIER: That's pretty
8 straightforward.
9 MR. CORGAN: But your tone of
10 voice.
11 MR. GAIER: I'm sorry, well,
12 apparently --
13 MR. CORGAN: Calm down a little
14 bit. He may not know.
15 MR. GAIER: Okay, that's what
16 we're going to find out.
17 A There are people that asked us
18 what happened.
19 Q Was there anything more formal
20 than people asking you what happened?
21 A They asked us to write something
22 down on paper, what happened at the time.
23 Q Did you write something down on
24 paper?
25 A Yes, we did.

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PAUL R. DANIELS

MR. GAIER: Counselor --

MR. CORGAN: Do you know what you wrote down?

THE WITNESS: They just asked us to write down on a piece of scrap paper or note paper.

MR. CORGAN: Who was that, risk management?

THE WITNESS: I believe people from the hospital, from Westchester Medical Center.

MR. GAIER: Let me do this.

Q Did you write something down?

A Yes, we did.

Q Did you personally write something down?

A Yes.

Q Did Pat Lauria write something down?

A I don't know. I did it separate.

Q So you know you wrote something down.

A I know I wrote something.

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Q By the way, was Tracy Chiapetta in the facility this day?

A I don't recall if she was there at that exact time. I don't remember her.

Q Have you ever seen what's been referred to as the incident review relative to this case?

A No.

Q Okay. If it has been described by someone that there was a witness to Nurse Nadler handing the tank to Dr. Hou, do you have any idea who that might have been?

A Who might have seen her do that?

Q Who that witness might have been.

A No.

Q Do you have any idea of any one of several people who it could have been?

A The only thing --

Q In other words, who was in the suite that could have possibly seen it?

MR. CORGAN: You might ask him who was present in the suite.

A Heather.

1 PAUL R. DANIELS

2 Q I guess I'm asking in a kind of
3 backwards sort of way --

4 A Heather Byrne.

5 Q Was Beverly there that day?

6 A She usually came in later in the
7 day, so I don't think she was there.

8 Q So you think Heather. We have
9 you, we have Pat Lauria, we have Dr. Hou, we
10 have Nurse Nadler and we have Heather.

11 A Correct.

12 Q To your knowledge, was anybody,
13 other than Michael and his parents was anybody
14 else in the suite that day, in the facility?

15 A The only other person I can
16 think of is sometimes he was in there,
17 sometimes he wasn't, was a resident.

18 They would come by once in a
19 while and read cases.

20 Q Was it a particular resident?

21 A I think his name was Kedar
22 something. He was like a fellow, like a
23 fellowship.

24 Q Radiologist?

25 A Radiologist.

1 PAUL R. DANIELS

2 Q And he may have been there that
3 day, that morning, during the incident in
4 question?

5 A Yes, he was there regularly at
6 the time.

7 Q Is it your testimony that he may
8 have been in the facility at the time of the
9 impact?

10 A Yes.

11 Q Do you know when you filled out
12 this statement, wrote this statement of what
13 happened?

14 A I believe it was within like a
15 few days after the event. I don't remember the
16 specific date.

17 MR. GAIER: For the record, I
18 request a copy of this statement, that
19 it be provided to us, and I'll follow it
20 up in writing.

21 MR. CORGAN: Okay. I hear you.
22 I'm not sure that you're entitled to it,
23 because -- did you read this in
24 preparation for your testimony today?

25 THE WITNESS: No.

1 PAUL R. DANIELS

2 MR. CORGAN: When is the last
3 time you saw it?

4 THE WITNESS: Once it left my
5 hands I never saw it.

6 MR. CORGAN: Was it turned over
7 to risk management for purposes of
8 investigation into this incident, as far
9 as you know?

10 THE WITNESS: That's what I
11 assume, yes.

12 MR. GAIER: Statements of --
13 well, right now he's not a Defendant in
14 the case, the Appellate Division has
15 that issue before them.

16 In fact, in your brief you didn't
17 even say a word about this point on
18 appeal, so assuming he comes back into
19 the case as the law would provide, then
20 we're entitled to the Defendant's
21 statement.

22 MR. CORGAN: If it exists.

23 MR. GAIER: If it exists?

24 MR. CORGAN: I'll tell you why.

25 The person who prepared the incident

1 PAUL R. DANIELS

2 report probably took it and incorporated
3 it in, I don't know, and I don't know
4 where that is.

5 And I don't think that person is
6 with the medical center anymore, and I
7 don't know if I have any way to find it.
8 But I'll look for it, and if I find it
9 you'll have it, if you're entitled to
10 it.

11 MR. GAIER: That's a lot of ifs.

12 MR. CORGAN: It is, there's a lot
13 of ifs. Considering that everyone has
14 pretty much admitted liability in this
15 case, I don't know what value it is.

16 MR. GAIER: So far the only
17 person I have admitting liability is
18 Westchester County Health Care
19 Corporation.

20 MR. CORGAN: But they insure
21 everybody, so what deference does it
22 make?

23 MR. GAIER: It makes a difference
24 to me and my clients.

25 MR. CORGAN: That's what we're

1 PAUL R. DANIELS

2 here for, admissions? You should have
3 told me that. We could have saved a lot
4 of time.

5 Q Were you ever interviewed by
6 anybody from the hospital relative to this
7 incident?

8 A Yes.

9 Q When was that?

10 A Shortly after the incident.

11 Q Was it one person interviewing
12 you or more than one person?

13 A I think it was different
14 representatives from the hospital, probably the
15 risk management team.

16 Q All at the same time?

17 A No, separate times.

18 Q So you were interviewed more
19 than once?

20 A Right.

21 Q Were you ever in a situation
22 where you were sitting down in a room with more
23 than one person asking you questions about
24 this?

25 A I believe right after

1 PAUL R. DANIELS

2 Dr. Matalon.

3 Q Dr. Matalon?

4 A Yes.

5 Q What did he do?

6 A Dr. Matalon was the chairman of
7 the radiology department at Westchester Medical
8 Center Hospital.

9 Q Was he also the President of
10 UIMA?

11 A I have no idea.

12 Q Okay. What did he --

13 MR. CORGAN: He wore two hats,
14 and I've got to tell you that a lot of
15 this probably had to do with quality
16 assurance, which you're not entitled to,
17 so. Matalon was the chairman of
18 radiology.

19 MR. GAIER: And he was the
20 President of UIMA.

21 MR. CORGAN: So?

22 MR. GAIER: You're going to
23 decide which hat he was wearing at that
24 time?

25 MR. CORGAN: If he was doing a QA

1 PAUL R. DANIELS

2 function, then it's a QA function. Off

3 the record.

4 (Discussion off the record.)

5 Q After the incident you sat down

6 in a room, Dr. Matalon was asking questions?

7 A Yes.

8 Q And other people were there as

9 well?

10 A Yes.

11 Q Were you the only person

12 answering the questions?

13 A I believe at the time, yes. I

14 believe they probably, I think they did it

15 individually.

16 Q That's what I'm asking.

17 A I think so.

18 Q Individually the witnesses, so

19 to speak?

20 A That's what I remember.

21 Q But it wasn't a matter of you

22 and Ms. Lauria and Nurse Nadler all being there

23 together questioned, it was you being

24 questioned individually.

25 A Right.

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2 Q Okay. Did you and Ms. Lauria
3 ever talk about any of these interviews?

4 A Just that we were interviewed
5 and --

6 Q Did you ever discuss the
7 substance?

8 A No, I did not.

9 Q Did they ask you about your
10 knowledge of any prior incidents with ferrous
11 objects in this particular unit?

12 A Not that I remember.

13 Q During this interview, as far as
14 you know, or during any of these interviews,
15 did you ever mention the wheelchair thing that
16 happened in April of 2001?

17 A Not that I recall.

18 Q During these interviews did
19 anybody inform you that there was an incident
20 in October of 1997 where oxygen tanks were
21 pulled into the machine?

22 A I did hear something about that
23 after the fact.

24 Q When?

25 A I guess within the weeks after

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2 it happened. I heard that there was no patient
3 in the room at the time, there was no injury.

4 I guess it occurred prior to
5 anybody being in the room.

6 Q So when I asked you about this
7 earlier today and you said you never heard
8 anything about it until today, that was a
9 mistake?

10 A No, after the incident they
11 mentioned that there was a prior occurrence of
12 something like that, and they said -- but
13 nobody was ever hurt, there was never anybody
14 in there.

15 Q Okay. Are you aware of whether
16 there was an investigation by the Department of
17 Health?

18 A I believe that's one of the
19 organizations that interviewed us.

20 Q Do you recall the interview?

21 A Specifics, no.

22 Q Did you give them a written
23 statement?

24 A Not that I can remember; not
25 that I've seen.

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2 Q Do you recall whether during any
3 of these interviews there were any recording
4 devices?

5 A No.

6 Q You don't recall?

7 A I don't recall.

8 Q Do you recall what you said to
9 the Department of Health?

10 A Not specifically.

11 Q By the way, do you know who
12 owned this MRI scanner at the time?

13 A No, I do not.

14 Q You said that when Nurse Nadler
15 told you what happened you had indicated to her
16 to the effect of "that probably wasn't a good
17 idea."

18 Now, specifically you were
19 referring to her act of giving the oxygen
20 bottle to Dr. Hou?

21 A Yes.

22 Q Now, why wasn't it a good idea?

23 A Because she brought it too close
24 to that danger zone.

25 Q So when you say too close, are

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2 you saying that it increased -- that there was
3 a risk when you bring the oxygen bottle that
4 close?

5 A It was more in response to his
6 irate actions, I guess, his unpredictable
7 nature at the time, because of the way he was
8 yelling and screaming and probably wasn't calm
9 and controlled at the time.

10 Q Well, you didn't know him, so
11 you don't know whether he was an unpredictable
12 person or not, am I right?

13 A Just based on his actions at
14 that time.

15 Q As she was describing to you, as
16 she was describing --

17 MR. CORGAN: Just note my
18 objection to these characterizations,
19 but go ahead.

20 MR. GAIER: He said
21 unpredictable.

22 MR. CORGAN: I think his
23 testimony was that Dr. Hou was excited.

24 MR. GAIER: This is all based
25 upon hearsay, as you said, because he

1 PAUL R. DANIELS

2 didn't see Dr. Hou being excited.

3 MR. CORGAN: That is correct.

4 A Correct.

5 Q The thing that made it
6 dangerous, then, you're saying was the fact
7 that he was in an excited state when she handed
8 it to him?

9 A That would be my assumption.

10 Q During the seven months that you
11 were there prior to this incident, did you ever
12 tell anybody who entered this facility in words
13 or substance, this place uses ferrous oxygen
14 bottles?

15 A No.

16 Q Did you ever warn anybody that
17 we store ferrous oxygen bottles in proximity to
18 the scanner room?

19 A I really didn't think it was my
20 responsibility to do so.

21 Q Does that mean you didn't do it?

22 A I don't recall doing it. I
23 just, like I said before, when Mary and some of
24 the nurses, that I would talk to them in
25 general terms about safety, that those things

1 PAUL R. DANIELS

2 came up, I would add that.

3 But like anybody who came in,
4 was there a blanket warning, no.

5 Q Well, anesthesiologists, did you
6 ever say to the anesthesiologists --

7 MR. CORGAN: Objection, this has
8 already been asked and answered, he's
9 testified to this already. Now you're
10 arguing with him.

11 MR. GAIER: I'm not arguing with
12 him, I'm giving him one specific
13 question, and we're close to the end, so
14 let's not belabor it.

15 Q The anesthesiologists who were
16 there, did you ever say to any of them this
17 place uses ferrous oxygen bottles?

18 A Yes.

19 Q You did.

20 A And that's the person that I
21 said before that said we know, we've been down
22 here a lot, we know.

23 Q But you didn't tell Dr. Hou.

24 A No.

25 Q Did UIMA provide any supervision

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2 to the non-MRI personnel who came into the
3 facility?

4 A None that I'm aware of, no.

5 Q So who would provide that
6 supervision, then?

7 A The Westchester Medical Center.

8 Q How would they go about
9 providing that supervision?

10 A That's not up to me to know. I
11 have no idea. I'm sure each department had
12 their own policies.

13 Q Well, did the hospital have
14 someone stationed in the MRI facility
15 supervising non-MRI personnel?

16 A No.

17 Q So the only people who were
18 stationed in the facility were UIMA personnel.

19 A Yes.

20 Q And they didn't provide --

21 MR. CORGAN: That's not
22 necessarily true.

23 Q They didn't provide any
24 supervision to the non-MRI personnel while they
25 were there?

1 PAUL R. DANIELS

2 A Well, the radiologists from my
3 understanding were hospital employees, or
4 agents of the hospital.

5 Q That was your understanding?

6 A And they were stationed there,
7 yes.

8 Q So it was your understanding
9 that Dr. Panageas was an agent of the hospital?

10 A That's correct.

11 Q Not that she was an employee of
12 UIMA.

13 A Correct.

14 Q Okay. And the same with the
15 other two doctors, Dr. Matalon?

16 A That's correct.

17 Q And whoever the other doctor
18 was. Dr. Tenner?

19 A Tenner, yes.

20 Q Was it your understanding that
21 these doctors had the obligation to supervise
22 non-MRI personnel?

23 A To some degree. I never heard
24 any specific details of what their roles were.
25 That was just a gut assumption. I never knew

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2 for any -- I never heard of any details of what
3 their roles were, no.

4 Q Was there always one of these
5 radiologists in the MRI facility when a scan
6 was being conducted?

7 A Most of the time, yes.

8 Q Was there one doctor this day?

9 A Yes.

10 Q Was there one there during
11 Michael's scan?

12 A Yes.

13 Q Who?

14 A This Kedar guy.

15 Q Kedar?

16 A Kedar.

17 Q You're saying he was supervising
18 the MRI facility this day?

19 A He was there.

20 Q Are you saying he was
21 supervising the MRI facility this day?

22 A I'm not saying that.

23 Q Do you know whether the
24 receptionist, whoever the receptionist would be
25 on a given day, whether it be Heather or

1 PAUL R. DANIELS

2 Beverly, would tell people entering the
3 facility that no metal objects should be
4 brought into the scanner room?

5 A Yes, they were quite diligent
6 with that.

7 Q They were?

8 A Yes.

9 Q Was that part of their job
10 responsibilities?

11 A Yes, they helped out with that.

12 Q And they were employed by UIMA?

13 A To the best of my knowledge,
14 yes.

15 Q Is it your testimony that UIMA
16 had no responsibilities with respect to safety
17 in the MRI facility?

18 MR. CORGAN: Objection, don't
19 answer the question. He hasn't said
20 that at all, and he's not going to
21 answer that question.

22 Q Did UIMA have any
23 responsibilities with respect to safety in the
24 facility?

25 MR. CORGAN: Objection.

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2 MR. GAIER: Why?

3 MR. CORGAN: He's already
4 testified what he did.

5 MR. GAIER: I'm asking about
6 UIMA.

7 MR. CORGAN: He is -- are you an
8 employee of UIMA?

9 MR. GAIER: We know that.

10 MR. CORGAN: Okay, so now you're
11 asking for legal conclusions that he's
12 not in a position to make, and you
13 haven't qualified him, there's no way he
14 can testify, there's no foundation for
15 him to testify to that.

16 MR. GAIER: Whether he knows if
17 UIMA --

18 Q You were employed by UIMA,
19 correct?

20 A Yes, as far as I know.

21 Q As far as you know? Who wrote
22 your paychecks?

23 A ADP Total Source.

24 Q Do you know who paid those
25 paychecks? ADP was just the company that

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2 issues the checks, right?

3 A Correct.

4 Q Do you know who paid them?

5 A I do not know.

6 Q You don't know if it was UIMA?

7 A I don't know.

8 Q What was your annual salary, by
9 the way, at this time?

10 A I don't think that's necessary.

11 Q I'm asking you.

12 A What's your annual salary?

13 Q I don't think that's even
14 remotely appropriate, but it is appropriate
15 what your annual salary was.

16 MR. CORGAN: What's the relevance
17 of how much he makes? How is that
18 relevant?

19 MR. GAIER: It may be relevant to
20 the effect that he's claiming no
21 supervisory responsibilities. I'd like
22 to know if he was getting paid more than
23 Pat Lauria, okay?

24 Q So I --

25 A I wouldn't have access to that

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2 information.

3 Q You would have access to what
4 you were getting paid.

5 A Sure.

6 MR. CORGAN: Did she testify as
7 to what she was getting paid?

8 MR. GAIER: No, we didn't ask.

9 MR. CORGAN: I'm going to object.
10 If you can get a judge to rule that
11 you're entitled to that --

12 MR. GAIER: So you're directing
13 him not to answer?

14 MR. CORGAN: That question only,
15 yes, on general principles.

16 Q Do you know whether UIMA was
17 responsible for the day-to-day operations of
18 that facility, yes or no?

19 MR. CORGAN: Objection, legal
20 conclusion.

21 MR. GAIER: Are you directing him
22 not to answer.

23 MR. CORGAN: It's a legal
24 conclusion.

25 MR. GAIER: He can answer whether

1 PAUL R. DANIELS

2 he knows. If he doesn't know --

3 MR. CORGAN: How would he know
4 that? What would be the basis?

5 MR. GAIER: This is not even an
6 appropriate discussion to be having in
7 front of him.

8 MR. CORGAN: Yes, it is. You've
9 asked him all these questions about what
10 his responsibilities were, what the
11 responsibilities were of every person
12 who was there and what they did for the
13 seven months he was there, and now
14 you're asking him what is his conclusion
15 about what UIMA's responsibilities were.

16 Unless he's read an agreement or
17 has actual knowledge because of somebody
18 telling him, he doesn't know.

19 MR. GAIER: How do we know if he
20 is not allowed to answer if he has
21 actual knowledge?

22 MR. CORGAN: You haven't laid a
23 foundation for that question.

24 Q Has anybody ever discussed with
25 you what UIMA's responsibilities were in this

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facility?

MR. CORGAN: Other than me.

Q Other than your lawyer.

A No.

Q At the time you were working there nobody had ever told you what UIMA's involvement was with that facility?

A No.

MR. CORGAN: Other than what I think he testified to at the outset.

MR. GAIER: Off the record.

(Discussion off the record.)

MR. GAIER: I have no further questions.

MR. SHALHOUB: I don't have any questions.

MR. CORGAN: Thank you.

PAUL R. DANIELS

Subscribed and sworn to before me
this _____ day of _____, 2005.

NOTARY PUBLIC

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PAUL R. DANIELS

E X H I B I T S

DANIELS

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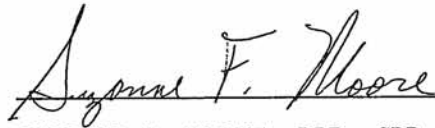
PAUL R. DANIELS

C E R T I F I C A T E

I, SUZANNE F. MOORE, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify:

That, PAUL R. DANIELS, the witness whose deposition is hereinbefore set forth, was duly sworn, and that such deposition is a true and accurate record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.



SUZANNE F. MOORE, RPR, CRR

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