

WITNESS IS TO PRODUCE AND PERMIT INSPECTION AND COPYING OF DESIGNATED DOCUMENTS OR TANGIBLE THINGS IN THE POSSESSION, CUSTODY OR CONTROL OF THAT PERSON AS FOLLOWS:

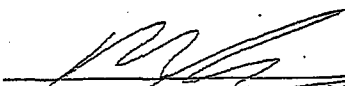
1. All letters, emails, notes or correspondence of any kind regarding Texas Medical Liability Trust related to the witness's testifying for Plaintiffs' attorneys;
2. All letters, emails, or other documents that reflect Texas Medical Liability Trust's harassing witness, cancelling witness's liability insurance policy(ies), imposing premium increases, attempting to ruin witness's group contract, lying to members of witness's group regarding practice patterns, and/or falsifying information to the TMLT Board;
3. All letters, emails, or correspondence of any kind sent by or on behalf of witness to Texas Medical Liability Trust wherein witness resigned from reviewing any legal cases(s) – especially any such letters from May 2001;
4. Any and all correspondence between witness and Texas Medical Liability Trust from January through August 2001;
5. Any and all correspondence between witness and Texas Medical Liability Trust related to reviewing legal cases or testifying in deposition at the request of the Girards Law Firm – especially any such correspondence for years 2001 and 2002.

FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED A CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA IS ISSUED OR A DISTRICT COURT IN THE COUNTY IN WHICH THE SUBPOENA IS SERVED, AND MAY BE PUNISHED BY FINE OR CONFINEMENT, OR BOTH.

ISSUED ON December 23, 2009.

Respectfully Submitted,

THE GIRARDS LAW FIRM



James E. Girards, SBN: 07980500
J. Michael Ramey, SBN: 24010330
10,000 N. Central Expressway, Suite 750
Dallas, Texas 75231
214/346-9529 telephone
214/346-9532 facsimile

CAUSE NO. 08-13423

SON TRAN, ET AL

IN THE DISTRICT COURT

Plaintiff(s),

VS.

193rd JUDICIAL DISTRICT

THERESA M. PATTON, MD, ET AL,

Defendant(s).

DALLAS COUNTY, TEXAS

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AFFIDAVIT OF SERVICE

Came to hand on Wednesday, December 23, 2009 at 9:00 PM,
Executed at: 800 W. ARBROOK, SUITE 100, ARLINGTON, TX 76015
within the county of TARRANT at 1:31 PM, on Monday, December 28, 2009,
by delivering to the within named:

GARY DONOVITZ, M.D.

In person a true copy of this

SUBPOENA

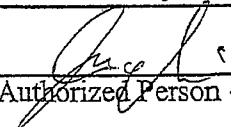
and tendered \$11.00 witness fee in cash.

BEFORE ME, the undersigned authority, on this day personally appeared Joe Clewis who after being duly sworn on oath states: "My name is Joe Clewis. I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I have personal knowledge of the facts and statements contained in this affidavit and aver that each is true and correct. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I am familiar with the Texas Rules of Civil Procedure, and the Texas Practice and Remedies Codes as they apply to service of process. I have never been convicted of a felony or of a misdemeanor involving moral turpitude."

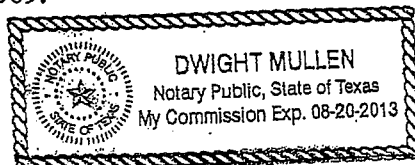
Joe Clewis

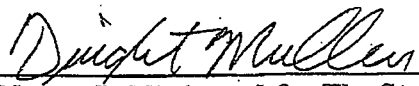
Of: Dallas County

By:


Authorized Person - SCH4129

Subscribed and Sworn to by Joe Clewis, Before Me, the undersigned authority, on this 29th day of December, 2009.




Notary Public in and for The State of Texas

DOCUMENT

25

Ethical Issues Related to Expert Testimony by Obstetricians and Gynecologists*

Committee on Ethics

The American College of Obstetricians and Gynecologists recognizes the duty of obstetricians and gynecologists to testify as expert witnesses on behalf of defendants or plaintiffs, in accordance with their judgment on the merits of malpractice cases. At the same time, the College cannot condone the participation of physicians in legal actions where their testimony will impugn performance that falls within accepted standards of practice or, conversely, will support obviously deficient practice. Since the experts establish the standards in a given case, care must be exercised to ensure that such standards do not narrowly reflect the experts' views to the exclusion of other acceptable choices. The College considers unethical any expert testimony that does not adhere scrupulously to objectivity.

THE PROBLEM OF PROFESSIONAL LIABILITY—REALITY AND PERCEPTIONS

The College recognizes its responsibility, and that of its Fellows, to continue efforts to improve health care for women through every available method of quality assurance. The College also recognizes, however, that many claims of medical malpractice represent the response of a litigation-oriented society to a technologically advanced form of health care that has fostered unrealistic expectations. As technology continues to become more complex, both the benefits and risks also increase, making the complication-free practice of medicine less and less possible.

It therefore becomes important to distinguish between medical "maloccurrence" and medical malpractice. Medical maloccurrence is defined as a bad outcome that is unrelated to the quality of care provided. Certain medical or surgical complications can be anticipated and represent unavoidable effects of appropriate medical care. Other complications arise unpredictably and are similarly unavoidable. Still others occur as a result of decisions carefully made by patients and physicians with fully informed consent but that appear, in retrospect, to have been the less appropriate choice among several options. Each of these situations represents a type of maloccurrence, rather than an example of malpractice, and is the result of the uncertainty inherent in all of medicine. Malpractice requires a demonstration of negligence, ie, substandard practice that causes harm. The potential for personal, professional, and financial rewards from expert testimony may encourage testimony that has undermined the

distinction between unavoidable maloccurrence and actual medical malpractice. It is unethical to distort or to represent a maloccurrence as an example of medical malpractice, or the converse.

The American College of Obstetricians and Gynecologists supports the concept of appropriate and prompt compensation to patients for medically related injuries. Any such response, however, should also reflect the distinction between medical maloccurrence, for which all of society should perhaps bear financial responsibility, and medical malpractice, for which health care providers should be held responsible.

CONSCIENTIOUS RESPONSIBILITY OF INDIVIDUAL PHYSICIANS

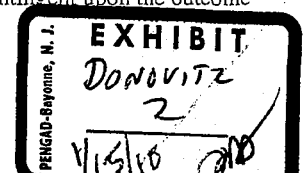
The moral and legal duty of physicians to testify before a court of law in accordance with their expertise is recognized. This duty implies adherence to the strictest of personal ethics. Truthfulness is essential, and misrepresentation of clinical opinion as absolute right or wrong may be harmful to individual parties and to the profession at large. Furthermore, the acceptance of fees that are disproportionate to those customary for professional services can be misconstrued as influencing testimony given by the witness. It is [2] unethical for a physician to accept compensation that is contingent upon the outcome of litigation. Finally, witnesses who testify authoritatively should have current experience and ongoing knowledge about the areas of clinical medicine they are discussing.

The College endorses the statement on medical testimony from "Current Opinions of the Council on Ethical and Judicial Affairs of the American Medical Association—1986":

As a citizen and as a professional with special training and experience, the physician has an ethical obligation to assist in the administration of justice. If a patient who has a legal claim requests his physician's assistance, the physician should furnish medical evidence, with the patient's consent, in order to secure the patient's legal rights.

The medical witness must not become an advocate or a partisan in the legal proceeding. The medical witness should be adequately prepared and should testify honestly and truthfully. The attorney for the party who calls the physician as a witness should be informed of all favorable and unfavorable information developed by the physician's evaluation of the case. It is unethical for a physician to accept compensation that is contingent upon the outcome of litigation.

*American College of Obstetricians and Gynecologists. *Ethical Issues Related to Expert Testimony by Obstetricians and Gynecologists* (Committee Opinion No. 56). Washington, D.C. © ACOG, October 1987. Reprinted with permission. All rights reserved.



Furthermore, the College encourages the development of policies and standards for expert testimony. Such policies should address safeguards to promote truth-telling and to encourage openness of the testimony to peer review. These policies would also encourage testimony that does not assume an advocacy or partisan role in the legal proceeding.

The following principles are offered as guidelines for the physician who enters the courts to assume the role of an expert witness:

1. The physician should have current experience and ongoing knowledge in the areas of clinical medicine about which he or she is testifying.
2. The physician's review of medical facts should be thorough, fair, and impartial and should not exclude any relevant information in order to create a view favoring either the plaintiff or the defendant.
3. The physician's testimony should reflect an evaluation

of performance in light of generally accepted standards, neither condemning performance that clearly falls within generally accepted practice standards nor endorsing or condoning performance that clearly falls below these standards.

4. The physician should make a clear distinction between medical malpractice and medical maloccurrence. The practice of medicine is a mixture of art and science, and science is a dynamic and changing discipline based to a great extent on concepts of probability rather than on absolute certainty.
5. The physician should make every effort to assess the relationship of the alleged substandard practice to the outcome, since deviation from a practice standard is not always causally related to a bad outcome.
6. The physician should be willing to subject transcripts of depositions and courtroom testimony to peer review.

DOCUMENT

26

Patient Choice: Maternal-Fetal Conflict*

Committee on Ethics

With the increasing development of medical technology in perinatal medicine, the fetus has become more accessible to diagnostic procedures and treatment. The maternal-fetal relationship remains a unique one, as the pregnant woman and the fetus are two patients with access to one through the other. The welfare of the fetus is of the utmost importance to the majority of women; thus only rarely will a conflict arise. Two situations in which maternal and fetal interests can be potentially divergent are 1) the pregnant woman may refuse a diagnostic procedure, medical therapy, or a surgical procedure that may enhance or preserve fetal well-being, and if denied may result in fetal morbidity or mortality; and 2) the pregnant woman's behavior with respect to her health or life style may be deleterious to the fetus. The following discussion is intended to clarify these issues and provide guidance to the obstetrician.

The obstetrician should be concerned with the health care of both the pregnant woman and the fetus within her, assessing the attendant risks and benefits to each during the course of care. The pregnant woman also has concerns for herself and her child and evaluates the risks and benefits presented to her from her own sense of values. The aim of medicine is always to foster the greatest benefit with the least risk. Risks and benefits, however, may be valued differently by the pregnant woman and the obstetrician, creating the potential for conflict. When a pregnant woman is healthy but the fetus may be in danger, the pregnant woman is often asked to consent to diagnostic procedures or therapy for the sole benefit of the fetus. Examples of this might be a cesarean

delivery for fetal distress or intrauterine surgical correction of a congenital defect.

The second area of potential conflict includes problems of the pregnant woman's behavior with regard to a complicating illness or her life style, which may jeopardize the fetus. Examples of such behavior might be failure to take insulin in diabetes mellitus or failure to follow a diet in phenylketonuria. The pregnant woman's life style may endanger the fetus, for example, by substance abuse. In summary, the pregnant woman may not cooperate in medical care designed for the benefit of the fetus, or she may create a potentially hazardous environment for the fetus. The mechanism of responding to the patient's failure to cooperate with medical advice in these situations should be for the obstetrician to convey the reasons for the current recommendation to the pregnant woman, encouraging responsible behavior through education and counseling.

Medical knowledge and judgment have limitations and fallibility, which the obstetrician must recognize when assigning clinical risks and benefits in order to advise patients. Methods for detecting fetal distress or deterioration are not always reliable indicators of poor outcome; therefore, assigning a degree of risk to the fetus is difficult. In addition, expected benefits for the fetus cannot always be achieved. Similarly, in situations such as cesarean delivery, in which there is statistically a low degree of risk, occasional serious maternal complications may occur. In the vast majority of these situations, the obstetrician and the pregnant woman work together for the well-being of the fetus; however, the pregnant woman may decide that the risk is greater than she wishes to accept, or she may doubt the benefits to be realized. Because of the inability to determine absolutely when a situation is harmful to the fetus and to guarantee absolutely that the pregnant woman will not be harmed, great care

American College of Obstetricians and Gynecologists. *Patient Choice: Maternal-Fetal Conflict* (Committee Opinion No. 55). Washington, D.C. © ACOG, October 1987. Reprinted with permission. All rights reserved.

THE AMERICAN MEDICAL ASSOCIATION

reduced cost, serving at freestanding or hospital clinics that treat the poor, and participating in government programs that provide health care to the poor. Physicians can also volunteer their services at weekend clinics for the poor and at shelters for battered women or the homeless.

In addition to meeting their obligation to care for the indigent, physicians can devote their energy, knowledge, and prestige to designing and lobbying at all levels for better programs to provide care for the poor. (I, VII)

Issued June 1994 based on the report, "Caring for the Poor," adopted December 1992 (*JAMA*. 1993; 269: 2533-2537).

9.07 Medical Testimony

As a citizen and as a professional with special training and experience, the physician has an ethical obligation to assist in the administration of justice. If a patient who has a legal claim requests a physician's assistance, the physician should furnish medical evidence, with the patient's consent, in order to secure the patient's legal rights.

Medical experts should have recent and substantive experience in the area in which they testify and should limit testimony to their sphere of medical expertise. Medical witnesses should be adequately prepared and should testify honestly and truthfully to the best of their medical knowledge.

The medical witnesses must not become an advocate or a partisan in the legal proceeding. The medical witness should be adequately prepared and should testify honestly and truthfully. The attorney for the party who calls the physician as a witness should be informed of all favorable and unfavorable information developed by the physician's evaluation of the case. It is unethical for a physician to accept compensation that is contingent upon the outcome of litigation. (II, IV, V, VII)

Issued June 1986.

Updated June 1996 based on the report, "Ethical Guidelines for Medical Experts," adopted December 1995.

9.08 New Medical Procedures

In the ethical tradition expressed by Hippocrates and continuously affirmed thereafter, the role of the physician has been that of a healer who serves patients, a teacher who imparts knowledge of skills and techniques to colleagues, and a student who constantly seeks to keep abreast of new medical knowledge.

Physicians have an obligation to share their knowledge and skills and to report the results of clinical and laboratory research. Both positive and negative studies should be included even though they may not support the author's hypothesis. This tradition enhances patient care, leads to the early evaluation of new technologies, and permits the rapid dissemination of improved techniques.

The intentional withholding of new medical knowledge, skills, and techniques from colleagues for reasons of personal gain is detrimental to the medical profession and to society and is to be condemned.

entific journals are essential elements in the four good medical care. (I, II, V, VII)

Issued December 1984.

Updated June 1994.

9.09 Patent for Surgical or Diagnostic Instrument

A physician may patent a surgical or diagnostic instrument he or she has discovered or developed. The laws governing patents are based on the sound doctrine that one is entitled to protect one's discovery. (V, VII)

Issued prior to April 1977.

9.095 Patenting of Medical Procedures

A physician has the ethical responsibility not only to learn from but also to contribute to the total store of scientific knowledge when possible. Physicians should strive to advance medical science and make their advances known to patients, colleagues and the public. This obligation provides not merely incentive but imperative to innovate and share the ensuing advances. The patenting of medical procedures poses substantial risks to the effective practice of medicine by limiting the availability of new procedures to patients and should be condemned on this basis. Accordingly, it is unethical for physicians to seek, secure or enforce patents on medical procedures.

Issued June 1996 based on the report, "Ethical Issues in the Patenting of Medical Procedures," adopted June 1995.

9.10 Peer Review

Medical society ethics committees, hospital credentials and utilization committees, and other forms of peer review have been long established by organized medicine to scrutinize physicians' professional conduct. At least to some extent, each of these types of peer review can be said to impinge upon the absolute professional freedom of physicians. They are, nonetheless, recognized and accepted. They are necessary and committees performing such work act ethically as long as principles of due process (Opinion 9.05) are observed. They balance the physician's right to exercise medical judgment freely with the obligation to do so wisely and temperately. (II, III, VII)

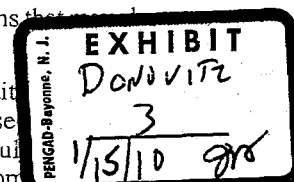
Issued prior to April 1977.

Updated June 1994.

9.11 Ethics Committees in Health Care Institutions

The following guidelines have been developed to aid in the establishment and functioning of ethics committees in hospitals and other health care institutions that wish to form such committees.

- (1) Ethics committees in health care institutions should be educational and advisory in purpose and function of the ethics committee should be to assist in resolving unusual, complex problems involving issues that affect the care and treat-



THE GIRARDS LAW FIRM

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June 9, 1999

Gary S. Donovan, MD
431 Omega, Suite 102
Arlington, TX 76014

RE: *Shelby Marquardt*

Dear Dr. Donovan:

Enclosed are the following:

Volume One:

1. Curriculum Vitae and report of Karlene Justice, RN;
2. Bernard Adami, M.D. – *pre-natal records*; and
3. Baylor Medical Center of Garland (JoAnna Marquardt) – *birth records*.

Volume Two:

1. Baylor Medical Center of Garland (JoAnna Marquardt) – *fetal heart monitor strips*;
2. Baylor Medical Center of Garland (Shelby Marquardt) – *birth records*;
3. Baylor University Medical Center Dallas (Shelby Marquardt) – *neonatal records*;
4. Dr. Grumberg (Shelby Marquardt); and
5. Steven Linder, M.D. (Shelby Marquardt) – *neurology records*.

Please give me a call when you have reviewed these records.

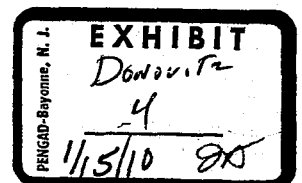
Thank you.

With kind regards,

THE GIRARDS LAW FIRM

James E. Girards

Enclosure



Gary S. Donovan M.D.

431 Omega, Ste. 102
Arlington, Texas 76014
Phone: 817-467-7474
Fax: 817-468-8643

6-17-99

James E. Girards
The Girards Law Firm
La Sierra Building 5445 La Sierra, Suite 250
Dallas, Texas 75231

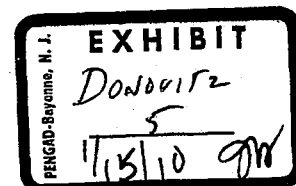
Re: Shelby Marquardt

Dear Mr. Girards:

I have had the opportunity to review the records you sent me last week. This letter will serve as my initial opinions regarding this case. In compliance with Texas Revised Civil Stat. Ann. Art. 4590i and 13.01, this report may not be admissible in evidence and shall not be used in depositions, trial, or other proceedings.

My qualifications for writing this opinion are that I am a Board Certified Obstetrician Gynecologist with 18 years experience. I received my training at Tulane University Medical Center in New Orleans. I have attended numerous post graduate training courses in High-Risk Obstetrics. I have been asked to serve on peer review committees in two hospitals and have 10 years experience in doing so. Finally, I have reviewed cases for many attorneys both from the plaintiff and defense aspects.

Assuming the definition of "negligence" when used with respect to conduct of the nursing staff means failure to use ordinary care, that is, failing to do that which a nurse of ordinary prudence would have done under the same or similar circumstances or doing that which an ordinary nurse would not have done under the same or similar circumstances, it is my opinion that the nurses caring for Joanna Marquardt were negligent. Specifically, on numerous occasions the nurses increased the dose of Oxytocin infusion while the patient was having late decelerations. In addition, there were numerous long periods of time where the baby was unmonitored while the mother was receiving Oxytocin. The nurses also failed to utilize a fetal scalp electrode to enhance the monitoring of this high risk patient. As regards to the monitoring of the contraction pattern, no intrauterine pressure catheter was placed and yet the frequency, duration, and intensity of the contractions were poorly delineated of the strip. At 11:25 am the nurses restarted Oxytocin in this patient, who was already contracting every two minutes and who's baby had multiple episodes of fetal heart rate decelerations finally, the nurses failed to use their chain of command and allowed this patient to push for three hours with a non-reassuring fetal heart tracing.



Page2

June 24, 1999

Assuming the definition of "negligence" when used with respect to conduct of Baylor Medical Center of Garland means failure to use ordinary care, that is failing to do that a hospital of ordinary prudence would have done under the same of similar circumstances, it is my opinion that Baylor Medical Center of Garland may have been negligent in failing to provide adequately trained nurses to care for Joanne Marquardt. Whereas this was a high-risk pregnancy based on fetal heart tracing abnormalities, dysfunctional labor patterns, and a prolonged second stage of labor, it is questionable whether the L and D nurse had adequate experience and training to handle this patient. The hospital should have provided a nurse capable of recognizing abnormal FHT and abnormal labor patterns. She should have known when to request a fetal scalp electrode. She should have known when to request an I.U.P.C.. Should have been more knowledgeable regarding the administration of Oxytocin and when to discontinue its use. The FHT recording is deplorable and whereas other nurses at the central monitoring station most likely saw the recording or lack thereof, including the charge nurse, a more general application of the term negligence should apply here. Finally, the hospital should have been more diligent in its credentialing of Dr. Adami to perform mid-forcep deliveries.

Assuming the definition of "negligence" when used with respect to the conduct of Bernard Adami M.D., means failure to respect to the conduct of Bernard Adami M.D., means failure to use ordinary care, that is failing to do that which an ordinary Obstetrician of ordinary prudence would have done under the same or similar circumstances or doing that which an Ostetrician of ordinary prudence would not have done under the same or similar circumstances, it is my opinion that Bernard Adami M.D. was negligent in failing to respond in a timely manner to the decelerations on the fetal monitoring strip in caring for Joanna Marquardt. He was negligent in continuing Oxytocin in a patient with late decelerations. He was negligent for the non-placement of a FSE in this patient so FHT could be monitored adequately early in her labor. He was negligent for not placing an IUPC to evaluate the contraction pattern and better classify the decelerations in this high risk patient on Oxytocin. He was negligent in extending the second stage of labor with obvious late decelerations, placing the baby in jeopardy and in fact, was probably the causative event resulting in the neonate having a moderate metabolic acidosis. He was negligent and perhaps grossly negligent in attempting a mid forceps delivery (no documentation of the adequacy of the pelvis, the position of the head, the amount of caput that preparations were made for a c/s). There was damages proximate to the mid-forceps delivery including a skull fracture and dermal abrasions.

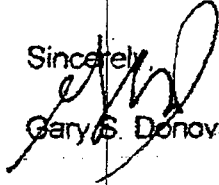
Taken together, the above acts of negligence I believe were the proximate cause of injury to this baby. Administering Oxytocin in the face of late decelerations, delaying a c/s for a trial of mid-forceps, and delaying a c/s with a non-reassuring tracing all contributed synergistically to the injury to this baby.

Page2

June 24, 1999

Thank you for allowing me the opportunity to review this case and if I can be of further assistance on this case or others, please do not hesitate to call me. I apologize for the delay in getting this response letter to you.

Sincerely,



Gary S. Donovanitz M.D., F.A.C.O.G.

THE GIRARDS LAW FIRM

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DEANA K. TUNNELL

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March 15, 2000

Gary S. Donovanitz, MD
431 Omega, Suite 102
Arlington, TX 76014

RE: *Marquardt v. Adami, MD, et. al.*

Dear Mr. Donovanitz:

Enclosed are copies of the deposition transcripts of Mia Kim, RN and Pamela Hilgeman, RN. Please give me a call when you have had a chance to review these transcripts.

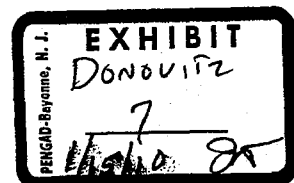
Thank you.

With kind regards,

THE GIRARDS LAW FIRM

James E. Girards

Enclosures



THE GIRARDS LAW FIRM

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DEANA K. TUNNELL

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September 12, 2000

Gary S. Donovan, MD
431 Omega, Suite 102
Arlington, TX 76014

RE: *Marquardt v. Baylor Medical Center, et. al.*

Dear Dr. Donovan:

Enclosed are copies of the deposition transcripts of Trudy Snethen, RN and Amanda Knudson, RN. Please give me a call when you have had a chance to review these transcripts.

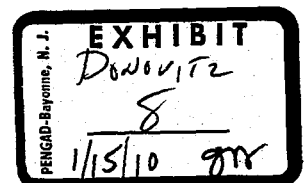
Thank you.

With kind regards,

THE GIRARDS LAW FIRM

James E. Girards

Enclosures



Gary S. Donovan M.D.

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817-467-7474
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October 30, 2000

James E. Girards
The Girards Law Firm
La Sierra Building
5445 La Sierra, St 250
Dallas, Texas 75231

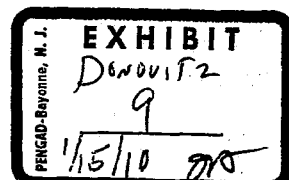
RE: Shelby Marquardt

Dear Mr. Girards:

I have had an opportunity to review the depositions you sent to me recently. This letter will serve as an updated opinion regarding this case. In compliance with Texas Revised Civil Statute Ann. Art. 4590I and 13.01, this report may not be admissible in evidence and shall not be used in depositions, trial or other proceedings.

My qualifications for writing this opinion are that I am a Board Certified Obstetrician Gynecologist with 18 years experience. I received my training at Tulane University Medical Center in New Orleans. I have attending numerous postgraduate training courses in High Risk Obstetrics. I have been asked to serve on peer review committees in two hospitals and have 10 years experience doing so. I have also served as a Board Reviewer for the Texas State Board of Medical Examiners. Finally, I have reviewed cases for many attorneys, both from the plaintiff and defense aspects.

Assuming the definition of "negligence" when used with respect to conduct of the nursing staff means failure to use ordinary care, that is, failing to do that which a nurse of ordinary prudence would have done under the same or similar circumstances or doing that which an ordinary nurse would not have done under the same or similar circumstances. It is my opinion that the nurses caring for Joanna Marquardt were negligent. Specifically, on numerous occasions the nurses increased the dose of the Oxytocin infusion while the patient was having late decelerations. This act of negligence was made worse by both the admission in depositions by multiple nurses that the patient was indeed having late decelerations and in addition, the nurse caring for the patient while on Oxytocin stated in her deposition that there were no risks associated with the use of Oxytocin for labor induction. Not knowing the risk and contraindications of a dangerous drug like Oxytocin and being the nurse in charge of the care of a high risk obstetric patient may constitute gross negligence. In addition, there were numerous long periods of



time when the baby was unmonitored while the mother was receiving Oxytocin. The nurses also failed to utilize the fetal scalp electrode to enhance the monitoring of this high-risk patient. As regards to the monitoring of the contraction pattern, no intrauterine pressure catheter was placed and yet the frequency, duration and intensity of the contractions were poorly delineated on the strip. At 11:25 a.m. nurse Kim, restarted Oxytocin in this patient who was already contracting every two minutes and whose baby had multiple episodes of fetal heart rate decelerations. Finally, the nurses failed to use their chain of command and allow this patient to push for three of hours with a non-reassuring fetal heart rate tracing. In deposition the nurses admitted to knowing about the chain of command although they did fail to utilize the chain of command. They also in deposition admit to realizing that the patient was having late decelerations for which they were treating these with position change and oxygen, but to no avail. When asked about the use of forceps the nurses failed once again to know the indications and contraindications for the use of forceps. The use of forceps is one area where the chain of command is utilized in many hospitals. The failure to know the indications and contraindications for the of obstetric forceps would make utilizing the chain of command nearly impossible. Taking care of high-risk obstetric patients and not knowing the indications and contraindications for the use of obstetric forceps may again constitute gross negligence on the part of the nurses at this hospital.

Assuming the definition of "negligence" when used with respect to the conduct of Baylor Medical Center Garland, means failure to use ordinary care, that is failing to do that which a hospital of ordinary prudence would have done under the same or similar circumstances, it is my opinion that Baylor Medical Center of Garland may have been negligent in failing to provide adequately trained nurses to care of Joanne Marquardt. Whereas this was a high risk pregnancy based on fetal heart tracing abnormalities, dysfunctional labor patterns, and a prolonged second stage of labor, it is questionable whether the labor and delivery nurses had adequate experience and training to handle this patient. It is apparent from reading the multiple depositions and the care rendered this patient that these nurses that work for that hospital were not instructed in the risk associated with Oxytocin, the indications and contraindications for the use of forceps, and had not had adequate training in the interpretation of fetal heart monitor strips. This hospital should have provided a nurse capable of recognizing abnormal fetal heart tracing and abnormal labor patterns. She should have known when to request a fetal scalp electrode. She should have known when to request an intrauterine pressure catheter. She should have been more knowledgeable regarding the administration of Oxytocin and when to discontinue its use. The fetal heart tracing recording is deplorable and whereas other nurses at the central monitoring station most likely saw the recording or lack thereof, including the charge nurse, a more general application of the term negligent should apply here. Finally, the hospital should have been more diligent in their credentialing of Dr. Adami to perform mid forceps deliveries.

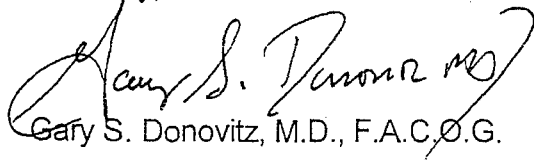
Assuming the definition of "negligence" when used in respect to the conduct of Bernard Adami, M.D., means failure to use ordinary care, that is failing to do that

which a ordinary Obstetrician of ordinary prudence would have done under the same or similar circumstances or doing that which a Obstetrician of ordinary prudence would not have done under the same or similar circumstances, it is my opinion that Bernard Adami, M.D., was negligent in failing to respond in a timely manner to the decelerations on the fetal heart monitoring strip and caring for Joanna Marquardt. He was negligent in continuing Oxytocin in the patient with late decelerations. He was negligent for the non-placement of a FSE in this patient, so that FHT could be monitored adequately early in her labor. He was negligent for the non-placement of an IUPC to evaluate the contraction pattern and better classify the decelerations in this high-risk patient on Oxytocin. He was negligent in extending the second stage of labor with obvious late decelerations, placing the baby in jeopardy and in fact, was probably the causal event resulting in the neonate having a moderate metabolic acidosis. He was negligent and perhaps grossly negligent in attempting a mid forceps delivery with no documentation of the adequacy of the pelvis, the position of the head, the amount of caput, and that preparations were made for a cesarean section. There was damages proximate to the mid forceps delivery including a skull fracture and dermal abrasions.

Taken together, the above acts of negligence were the proximate cause of the injuries to this baby. Administering Oxytocin to the patient with late decelerations, delaying a cesarean section for a trial of mid forceps, and delaying a cesarean section with a non reassuring tracing all contributed synergistically to the injury to this baby. I should also like to reiterate that by having a nursing staff to care for high risk obstetric patients who does not know the indications and contraindications for the use of Oxytocin and forceps is both negligent and possibly grossly negligent and not following the standards of care set forth by the American College of Obstetrics and Gynecology.

Thank you very much for allowing me the opportunity to review this case. If I can be of further assistance on this case, or others, please do not hesitate to call me. I apologize for the delay in getting this response letter to you. I also should like to reserve the right to modify this letter, as additional information becomes available.

Sincerely,


Gary S. Donovan, M.D., F.A.C.O.G.

GSD/kd

Gary S. Donovan M.D.

431 Omega St. 102
Arlington, Texas 76014
Phone: 817-467-7774
Fax: 817-468-8643

May 10, 2001

Mr. Les Weisbrod
Mr. David Norton
Morgan and Weisbrod
P.O Box 821329
Dallas, Texas 75382

Dear Les and David:

Well the party is over. I have been in a three month war with TMLT. They have harassed me, cancelled me, reinstated me with huge premium increases (>100,000), attempted to ruin my group contract, lied to members of my group regarding my practice patterns, falsified information to the TMLT Board, and the list goes on forever. Apparently, all of this stems from the plaintiff work I have done for you.

I have to tell you I have enjoyed the case reviews, the chance to do peer review, the chance to do literature research again, the dinners, the games, and the new and renewed friendships. You have both been a delight to work with and for.

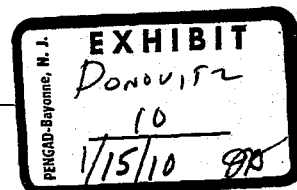
Unfortunately, in order to preserve my credibility as General Partner of my group, to continue to negotiate group malpractice contracts with TMLT, to be able to afford my own insurance, and to reduce insurmountable stress, I must resign from any and all review past, present, and future. The Board of TMLT has made me write a letter to this effect and they have received it as of yesterday as a provision for calling off the dogs.

I hope we can be friends and share some good times personally. Please try not to increase my stress by trying to talk me out of this decision. It is one that Marci and I feel is best.

Thank you for understanding.

Best Personal Regards,

Gary S. Donovan



Certificate of Service

A true and complete copy of the foregoing document was faxed, mailed or served to all counsel of record on January 2, 2002.


James E. Girards

REQUEST FOR DISCLOSURE

- f. For any testifying expert:
1. the expert's name, address, and telephone number;
 2. the subject matter on which the expert will testify;
 3. the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
 4. if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - A) All documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - B) The expert's current resume and bibliography;

RESPONSE: Please see Exhibit "B" attached.

EXHIBIT "B"

I.

Karlene Justice, RN, MS
8850 Ferguson, #2066
Dallas TX 75228
214-485-1655

This witness's report and curriculum vitae are attached hereto and incorporated herein by reference as if set-out fully word for word. This witness has reviewed the medical records and depositions taken in the case. This witness's opinions are that the nurses involved in the labor and delivery of Shelby Marquardt were below applicable standards of care in failing to timely report alarming findings associated with the fetal heart monitor strip, and failed to access the chain of command in order to assure that the child was promptly delivered when the baby was not tolerating the *in utero* environment well. This witness's deposition transcript is incorporated into this designation as if set-out fully word for word.

II.

Richard Sweet, MD
705 Copeland #201
Pittsburgh PA 15232
412/641-4212

This witness's report and curriculum vitae are attached hereto and incorporated herein by reference as if set-out fully word for word. This witness has reviewed the medical records and depositions taken in the case. This witness's opinions are that the nurses involved in the labor and delivery of Shelby Marquardt were below applicable standards of care in failing to timely report alarming findings associated with the fetal heart monitor strip, and failed to access the chain of command in order to assure that the child was promptly delivered when the baby was not tolerating the *in utero* environment well. This witness will also testify that Defendant Adami's conduct was below applicable standards of care in that he failed to timely deliver Shelby Marquardt by cesarean section when indicated. He also fell below applicable standards of care by using forceps when it was not appropriate to do so and using excessive force resulting in a skull fracture and brain injury. This witness is also expected to testify that Defendant Baylor was negligent in allowing Defendant Adami to perform high- or mid-forceps deliveries and it failed to supervise Adami when it should have supervised him. This witness is expected to testify that it is inappropriate for a hospital to allow one of its obstetricians to conduct his professional practice in such a manner that he is using his profession and position to gain sexual access to his employees, the hospital employees and/or personnel, and/or his patients – and that such obstetrician should at the least be closely monitored. This witness is also expected to testify that the hospital inappropriately allowed Adami to perform surgical procedures while infected with Hepatitis, and that they failed to inform

Joanna Marquardt so that she could make a decision about whether she desired to be exposed to such risk. This witness's opinion is that the substandard conduct was a proximate cause of injury and damage to Shelby Marquardt. This witness's deposition transcript is incorporated into this designation as if set-out fully word for word.

III.

Gary S. Donovitz, MD
431 Omega, Suite 102
Arlington TX 76014
817/468-8643

This witness's report and curriculum vitae are attached hereto and incorporated herein by reference as if set-out fully word for word. This witness has reviewed the medical records and depositions taken in the case. This witness's opinions are that the nurses involved in the labor and delivery of Shelby Marquardt were below applicable standards of care in failing to timely report alarming findings associated with the fetal heart monitor strip, and failed to access the chain of command in order to assure that the child was promptly delivered when the baby was not tolerating the *in utero* environment well. This witness will also testify that Defendant Adami's conduct was below applicable standards of care in that he failed to timely deliver Shelby Marquardt by cesarean section when indicated. He also fell below applicable standards of care by using forceps when it was not appropriate to do so and using excessive force resulting in a skull fracture and brain injury. This witness is also expected to testify that Defendant Baylor was negligent in allowing Defendant Adami to perform high- or mid-forceps deliveries and it failed to supervise Adami when it should have supervised him. This witness is expected to testify that it is inappropriate for a hospital to allow one of its obstetricians to conduct his professional practice in such a manner that he is using his profession and position to gain sexual access to his employees, the hospital employees and/or personnel, and/or his patients – and that such obstetrician should at the least be closely monitored. This witness is also expected to testify that the hospital inappropriately allowed Adami to perform surgical procedures while infected with Hepatitis, and that they failed to inform Joanna Marquardt so that she could make a decision about whether she desired to be exposed to such risk. This witness's opinion is that the substandard conduct was a proximate cause of injury and damage to Shelby Marquardt. This witness's deposition transcript is incorporated into this designation as if set-out fully word for word.

CURRICULUM VITAE

GARY S. DONOVITZ, M.D., F.A.C.O.G.

DATE OF BIRTH: June 23, 1955

PLACE OF BIRTH: DALLAS, TEXAS

CITIZENSHIP: UNITED STATES OF AMERICA

OFFICE ADDRESS: 431 OMEGA, SUITE 102
ARLINGTON, TEXAS 76014
PHONE# (817) 467-7474
FAX# (817) 468-8643

SOCIAL SECURITY#: 451-78-0740

CHILDREN: MANDY BETH

LICENSES: TEXAS #F6580-1980 TO PRESENT

BOARD CERTIFICATION: DIPLOMATE, AMERICAN BOARD
OF OBSTETRICS AND GYNECOLOGY
DECEMBER 1987

EDUCATION: HIGH SCHOOL: ST. MARK'S SCHOOL
OF TEXAS, 1973
COLLEGE: UNIVERSITY OF TEXAS
AT AUSTIN, 1976
MEDICAL SCHOOL: UNIVERSITY OF
TEXAS, H.S.C., AT SAN ANTONIO,
DEGREE: M.D., 1980

**POST GRADUATE
TRAINING:**

INTERNSHIP: UNIVERSITY OF OKLAHOMA
1980-1982
CHIEF: JAMES A. MERRILL, M.D.
DEPT. OF OB/GYN

RESIDENCY:

TULANE UNIVERSITY
HEALTH SCIENCE CENTER
1982-1985
CHIEF: MARTIN PERNOLL, M.D.
DEPT. OF OB/GYN

**POST RESIDENCY
TRAINING:**

BOURN HALL CLINIC
CAMBRIDGE, ENGLAND
ASSISTED REPRODUCTIVE
TECHNOLOGIES, 1990

KURT SEMM-A.A.G.L.
KEIL, GERMANY
ADVANCED COURSE IN
SURGICAL PELVISCOPY, 1990

INTERNATIONAL SOCIETY OF
OBSTETRICS AND GYNECOLOGY
LONDON, ENGLAND
ADVANCED ULTRASOUND, 1991

SYMPOSIUM MEDICUS
DALLAS, TEXAS
ENDOMETRIAL ABLATION, 1992

ETHICON ENDO-SURGERY
CINCINNATI, OHIO
LAPAROSCOPIC BURCH, 1993, 1995

YALE UNIVERSITY
NEW HAVEN, CONNECTICUT
OFFICE LAPAROSCOPY UNDER
LOCAL ANESTHESIA, 1996

MCDANIEL LASER INSTITUTE
VIRGINIA BEACH, VIRGINIA
LASER THERAPY OF
TELANGIECTASIA, 1997

PROFESSIONAL:

ADMINISTRATIVE CHIEF RESIDENT
TULANE UNIVERSITY SCHOOL OF
MEDICINE, 1983-1984

CONSULTANT, TEXAS STATE BOARD
OF MEDICAL EXAMINERS,
1992-PRESENT

OB/GYN PHYSICIAN ADVISOR,
NYLCARE HEALTH PLAN OF TEXAS
1993-PRESENT

PRESIDENT, ARLINGTON WOMEN'S
HEALTHCARE PARTNERS, 1994

ASSISTANT MEDICAL DIRECTOR,
MEDICAL ALLIANCE, INC.,
DALLAS, TEXAS 1996-PRESENT

NATIONAL SPEAKER, BURROUGHS-
WELLCOME PHARMACEUTICAL,
1995-PRESENT

NATIONAL SPEAKER, VALLEY LAB,
INC. BOULDER, COLORADO
1995-PRESENT

PRESIDENT, FOUNDER, AND GENERAL
PARTNER, METROPLEX PREMIER
WOMEN'S HEALTHCARE,
1995 TO PRESENT

HOSPITAL AFFILIATIONS:

ARLINGTON MEMORIAL HOSPITAL
ARLINGTON, TEXAS

MEDICAL CENTER AT ARLINGTON
ARLINGTON, TEXAS

**PROFESSIONAL
SOCIETY MEMBERSHIPS:**

TEXAS MEDICAL ASSOCIATION

TARRANT COUNTY MEDICAL SOCIETY

TARRANT COUNTY OB/GYN SOCIETY

DIPLOMATE, AMERICAN BOARD OF
OBSTETRICS AND GYNECOLOGY

FELLOW, AMERICAN COLLEGE OF
OBSTETRICS AND GYNECOLOGY

AMERICAN ASSOCIATION OF
GYNECOLOGIC LAPAROSCOPISTS

AMERICAN FERTILITY SOCIETY

**SCHOLARSHIPS AND
AWARDS:**

TEXAS LEGISLATIVE MERIT
SCHOLARSHIP, 1978, 1979, 1980

BEST PAPER,
UNIVERSITY OF OKLAHOMA
HEALTH SCIENCE CENTER, 1982

TULANE UNIVERSITY MEDICAL SCHOOL
TEACHING AWARD, 1983, 1984

TULANE UNIVERSITY DEPT. OF
OB/GYN, BEST TEACHING AWARD,
1984

TULANE UNIVERSITY, ISADORE DYER
AWARD FOR BEST RESIDENT, 1985

HONOR SOCIETIES:

PHI KAPPA PHI
PHI BETA KAPPA
ALPHA OMEGA ALPHA

CIVIC MEMBERSHIPS:

LEADERSHIP ARLINGTON
ACCENT ARLINGTON
BIG BROTHERS BIG SISTERS OF
ARLINGTON
FOUNDER, PAST PRESIDENT
TEMPLE BETH SHALOM BROTHER-
HOOD BOARD OF DIRECTORS,
TEMPLE BETH SHALOM

REFERENCES:

APRIL GAYLE O'QUINN, M.D.
CHAIRPERSON, TULANE UNIVERSITY
SCHOOL OF MEDICINE
DEPARTMENT OF OB-GYN
1430 TULANE AVENUE
NEW ORLEANS, LOUISIANA

ROBERT TRUE, M.D.
1001 WALDRUP
ARLINGTON, TEXAS 76012

PHILIP DON ABBOTT, M.D.
3700 RUFÉ SNOW DRIVE
FT. WORTH, TEXAS 76180

ELLIS MENTON, M.D.
1325 PENNSYLVANIA AVE.
#370
FT. WORTH, TEXAS 76104

**HOBBIES AND
INTERESTS:**

GOLF, TENNIS, SKIING, WATER SPORTS,
SCUBA DIVING, FLY FISHING

**POST GRADUATE
COURSE FACULTY:**

TARRANT COUNTY FAMILY PRACTICE
ASSOCIATION
"HERPES - AN UPDATE" MAY 1995

OAK CLIFF FAMILY PRACTICE
ASSOCIATION
"HERPES AND VALTREX"
FEBRUARY 1996

"HERPES - NEW TREATMENTS"
JUNE 1996

FT. WORTH WOMEN'S HEALTH SEMINAR
"SEXUALLY TRANSMITTED DISEASES-
AN UPDATE AND NEW TREATMENT
GUIDLINES"
NOVEMBER 1996

TARRANT COUNTY FAMILY PRACTICE
"HERPES AND VALTREX"
NOVEMBER 1996

"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA"
SEMINAR AND ANIMAL WORKSHOP,
MEDICAL ALLIANCE
DALLAS, TEXAS, JANUARY 1997

"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA"
SEMINAR AND ANIMAL WORKSHOP,
MEDICAL ALLIANCE,
CHICAGO, ILLINOIS, MARCH 1997

"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA"
SEMINAR AND ANIMAL WORKSHOP,
MEDICAL ALLIANCE
HOUSTON, TEXAS, APRIL 1997

"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA-ADVANCED TECH-
NOLOGIES USING ELECTRO-
SURGERY" VALLEY LAB, INC.
LAS VEGAS, NEVADA, APRIL 1997

"HERPES - AN UPDATE WITH NEW
TREATMENTS"
FT. WORTH, TEXAS, MAY 1997

TEXAS ASSOCIATION OF FAMILY
PRACTITIONERS,
"HERPES - AN UPDATE WITH NEW
TREATMENTS"
SAN ANTONIO, TEXAS, MAY 1997

UNIVERSITY OF TEXAS AT ARLINGTON
SCHOOL OF NURSE PRACTITIONERS
"HERPES - AN UPDATE"
JUNE 1997

TEXAS OSTEOPATHIC MEDICAL ASSOC.
"HERPES - NEW TREATMENTS"
AUGUST 1997

AMERICAN ASSOCIATION OF
GYNECOLOGIC LAPAROSCOPISTS
"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA"
SEATTLE, WASHINGTON
SEPTEMBER 1997

DALLAS/FT. WORTH FAMILY PRACTICE
"HERPES AN UPDATE WITH NEW
TREATMENTS"
BURROUGHS WELLCOME,
OCTOBER, 1997

"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA"
SEMINAR AND ANIMAL WORKSHOP
MEDICAL ALLIANCE
ST. LOUIS, MISSOURI
NOVEMBER 1997

"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA"
SEMINAR AND ANIMAL WORKSHOP
MEDICAL ALLIANCE, NOVEMBER 1997

"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA"
SEMINAR AND ANIMAL WORKSHOP
MEDICAL ALLIANCE, DECEMBER 1997

"DYSFUNCTIONAL UTERINE BLEEDING
NEW TREATMENTS AND MODALITIES
INCLUDING BALLOON ABLATION"
SEMINAR AND WORKSHOP
DALLAS, TEXAS, GYNECARE, 1998

"DYSFUNCTIONAL UTERINE BLEEDING
NEW TREATMENTS AND MODALITIES"
SEMINAR AND WORKSHOP
SEATTLE, WASHINGTON, GYNECARE
1998

PUBLICATIONS:

DONOVITZ, G.
"OFFICE LAPAROSCOPY UNDER LOCAL
ANESTHESIA" VIDEO TAPE, 1996

DONOVITZ, G.
"MICROLAPAROSCOPY IN THE PORCINE
MODEL" VIDEO TAPE, 1996

DONOVITZ, G.
"OFFICE LAPAROSCOPY USING A MOBILE
SURGERY CENTER", VIDEO TAPE, 1996

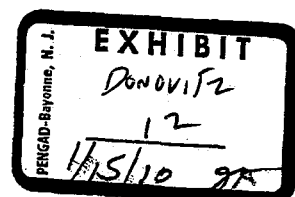
From: Judy Roseborough
Sent: Tuesday, February 12, 2002 12:08 PM
To: Jim Girards
Subject: marquardt - donovitz

I spoke w/Dr. Donovanitz today. The deal is that TMLT tripled his insurance rates from that of the other members of his group b/c he was testifying for plaintiffs. So now he doesn't testify for any case that TMLT is involved in. Since he can't know that up front, he doesn't testify at all.

So, before he gives us depo dates, he wants to know the circumstances of Adami not being insured for this incident (if that's the case). Was is a lapse of coverage? Was it a change of insurers? Was TMLT involved in insuring Adami on either side of the incident? Do they insure him now? That kind of thing.

You can call him or let me know and I will. 817/468-8643.

thx



corr.

THE GIRARDS LAW FIRM

JAMES E. GIRARDS *

LA SIERRA BUILDING
5445 LA SIERRA, SUITE 250, LB 3
DALLAS, TX 75231
PHONE 214/346-9LAW
FACSIMILE 214/346-9532

* BOARD CERTIFIED - PERSONAL INJURY TRIAL LAW -
TEXAS BOARD OF LEGAL SPECIALIZATION

March 12, 2002

Ms. Brenda Neel Hight
Fletcher & Springer, LLP
9400 N. Central Expressway
Suite 1400
Dallas TX 75231

Via Telefax: 214/987-9866

Mr. James M. Stewart
Stewart & Stimmel, LLP
1701 Market Street
Suite 318, LB18
Dallas, TX 75202

Via Telefax: 214/752-6929

RE: *Marquardt v. Adami, et al.*

Dear Counsel:

Dr. Donovanitz is available for his deposition on May 1, 8, 15, 22 and 29, 2002, at 2:30 p.m. Please let me know if these dates work for you.

Thank you.

With kind regards,

THE GIRARDS LAW FIRM



Judy Roseborough
Legal Assistant

PENGAD-Byronne, N. J.
EXHIBIT
Donovitz
13
1/15/10 *JR*

Gary S. Donovan M.D.

431 Omega Ste. 102
Arlington, Texas 76014
817-467-7474
Fax 817-468-8643


March 12, 2002

Mr. James Girards
C/O The Girards Law Firm
La Sierra Building
5445 La Sierra, Suite 250, LB3
Dallas, Texas 75231

Dear Jim,

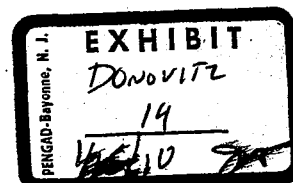
I have discussed your request for times for deposition with my malpractice carrier. Unfortunately, I agreed in our last renewal to not do the expert work on the plaintiff side as a prerequisite to being insured. Although this case does not involve them, they are towing the line on this. Therefore, I will be unable to continue as an expert on your case, and regret any inconvenience that this may have caused you. I understand the timeframe that you are working on in short, but I did feel like I should consult the legal department at TMLT before making a decision which could adversely affect my malpractice policy.

Sincerely,



Gary S. Donovan, M.D.

GSD/kd



Conn.

THE GIRARDS LAW FIRM

JAMES E. GIRARDS *

LA SIERRA BUILDING
5445 LA SIERRA, SUITE 250, LB 3
DALLAS, TX 75231
PHONE 214/346-9LAW
FACSIMILE 214/346-9532

* BOARD CERTIFIED - PERSONAL INJURY TRIAL LAW -
TEXAS BOARD OF LEGAL SPECIALIZATION

March 13, 2002

Ms. Brenda Neel Hight
Fletcher & Springer, LLP
9400 N. Central Expressway
Suite 1400
Dallas TX 75231

Via Telefax: 214/987-9866

Mr. James M. Stewart
Stewart & Stimmel, LLP
1701 Market Street
Suite 318, LB18
Dallas, TX 75202

Via Telefax: 214/752-6929

RE: *Marquardt v. Adami, et al.*

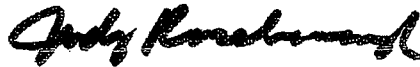
Dear Counsel:

Please let this confirm that the deposition of Gary Donovitz, M.D. is scheduled for Wednesday, May 8, 2002 at 2:30 p.m. The deposition will take place at Bailey & Galyen Law Firm, 2220 South Cooper, Arlington, Texas 76103 (817/276-6000).

Thank you.

With kind regards,

THE GIRARDS LAW FIRM



Judy Roseborough
Legal Assistant

EXHIBIT
Donovitz
15
1/15/10 JWA
PENGAD-Bayonne, N. J.

STEWART & STIMMEL, L.L.P.
ATTORNEYS AND COUNSELORS AT LAW

corr.

James M. Stewart
Direct Dial - (214) 752-7471
Email Address - Mac@Dallasbldaw.com

1701 Market Street
Suite 318, L.B. 18
Dallas, Texas 75202
(214) 752-6995
Fax (214) 752-6929

March 15, 2002

Clerk of Court
101st Judicial District
George L. Allen, Sr. Courts Bldg.
600 Commerce Street, 4th Floor
Dallas, Texas 75202-4606

Re Cause No. DV98-8818-E; Joanna Marquardt Morrow, Individually and as Next Friend of Shelby Marquardt, a Minor v. Baylor Medical Center at Garland, Bernard Adami, M.D., Bernard Adami, M.D., P.A.

Dear Clerk:

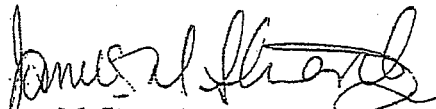
Enclosed please find the Certificate of Written Discovery in connection with the above-referenced cause. I would ask that you please file same and return the file-stamped copy in the enclosed envelope.

By copy of this letter, I am forwarding to all counsel of record a copy of the following:

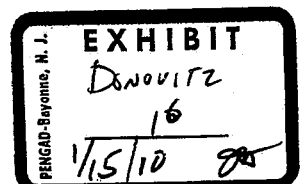
1. Notice of Oral Deposition of Gary Donovitz, M.D. and Subpoena Duces Tecum.

Thank you for your assistance in this matter.

Yours very truly,


James M. Stewart

JMS/lm
Enclosures
cc: Brenda Neel Hight
James Girards



STEWART & STIMMEL, L.L.P.
ATTORNEYS AND COUNSELORS AT LAW

Kim Lyon

Direct Dial - (214) 752-6925
Email Address - Klyon@stlaw.com

1701 Market Street
Suite 318, L.B. 18
Dallas, Texas 75202

(214) 752-6925
Fax (214) 752-6929

March 18, 2003

*Marquardt +
correspond.*

Via Facsimile

Jim Girards
The Girards Law Firm
La Sierra Building
5445 La Sierra, Suite 250
Dallas, Texas 75231

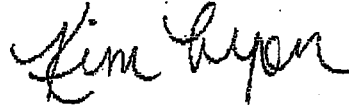
RE: Marquardt v. Adami, et al.

Dear Mr. Girards:

Please provide us with dates in April when Dr. Gary Donovan is available for his deposition.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Kim Lyon,
Legal Assistant

KL/me

cc: Brenda Neel Hight

EXHIBIT
Donovitz
17
1/15/10 JN
PENGAD-Bayonne, N. J.

THE GIRARDS LAW FIRM

JAMES E. GIRARDS

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TEXAS BOARD OF LEGAL SPECIALIZATION

May 7, 2002

Ms. Brenda Neel Hight
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9400 N. Central Expressway
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Via Telefax: 214/987-9866

Mr. James M. Stewart
Stewart & Stimmel, LLP
1701 Market Street
Suite 318, LB18
Dallas, TX 75202

Via Telefax: 214/752-6929

RE: *Marquardt v. Adami, et al*

Dear Counsel:

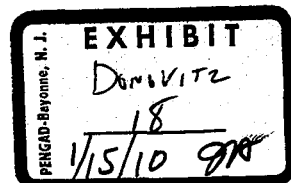
Unfortunately, I am going to have to cancel Dr. Donovitz's deposition scheduled tomorrow afternoon. I will be in touch with you in the near future regarding this cancellation.

Thank you.

With kind regards,

THE GIRARDS LAW FIRM

James E. Girards



GIRARDS

JAMES E. GIRARDS*
DEBORAH DAIL

SAMUEL DE MAIO, M.D., J.D.**
J. MICHAEL RAMEY

July 8, 2003

Brenda Neel Hight
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VIA FAX NO. 214/752-6929

Re: Marquardt, et al v. Dr. Adami, et al

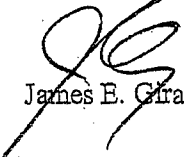
Dear Counsel:

Please let this correspondence confirm that Plaintiffs are not going to be able to call Gary Donovitz, MD as an expert in the above referenced matter.

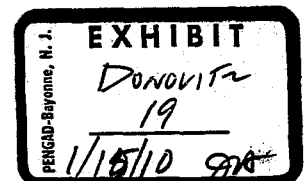
Thank you for your attention to the above. If you have any questions, please do not hesitate to contact me.

With kind regards,

THE GIRARDS LAW FIRM


James E. Girards

JEG:df



*BOARD CERTIFIED, PERSONAL INJURY TRIAL LAW, TEXAS BOARD OF LEGAL SPECIALIZATION

**OF COUNSEL, BOARD CERTIFIED, INTERNAL MEDICINE & CARDIOVASCULAR DISEASE

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