

1 L. ALDANA-BERNIER

2 MR. CALLAN: You can answer  
3 that, Doctor, if you have a  
4 recollection of names.

5 A. One is McDougal [phonetic].

6 Q. Was that in your capacity as an  
7 employee at Jamaica Hospital, your  
8 private practice, something else?

9 A. Jamaica Hospital.

10 Q. Do you know generally what the  
11 claims against you were?

12 A. It's about admitting the  
13 patient.

14 Q. An admission under 9.39 of  
15 Mental Hygiene Law?

16 A. Yes.

17 Q. Is that matter still pending?

18 A. No, it was cleared.

19 Q. Who represented you in this  
20 case?

21 A. The office of Mr. Callan.

22 Q. Did you testify at a deposition  
23 in that case?

24 A. Yes.

25 Q. Did you testify at trial in

1 L. ALDANA-BERNIER

2 that case?

3 A. No.

4 Q. You said there were two  
5 matters. What is the other matter?

6 A. Ballek.

7 Q. Spell that for me?

8 A. B-A-L-L-E-K.

9 Q. Again, was that in your  
10 capacity as an employee of Jamaica  
11 Hospital?

12 A. Yes.

13 Q. What were the claims against  
14 you in that cases?

15 A. I discharged the patient and  
16 the patient after 30 days they found out  
17 committed suicide.

18 Q. When was that admission that  
19 was the subject of that lawsuit?

20 A. 2008.

21 Q. Do you know when in 2008 he  
22 ended up committing suicide?

23 A. I don't know. I don't  
24 remember.

25 Q. Was that incident in your mind

1 L. ALDANA-BERNIER

2 when you evaluated Mr. Schoolcraft?

3 A. I learned from experience.

4 Q. When you say you learned from  
5 experience, the answer is yes, that  
6 incident was in your mind when you  
7 evaluated Mr. Schoolcraft?

8 A. No, because this case, it  
9 happened 2008 but the case was cleared in  
10 2013.

11 Q. I'm talking about the lawsuit.  
12 I'm talking about the incident where the  
13 man committed suicide. Was that part of  
14 your thought process when you admitted  
15 Mr. Schoolcraft: having had the  
16 experience of a patient committing  
17 suicide after being released?

18 A. Working in the emergency room,  
19 you have to be cautious. You have to  
20 make very defensive decisions when you  
21 discharge the patient.

22 Q. When you say "cautious," what  
23 do you mean?

24 A. You are thinking right, proper,  
25 you are either keeping or discharging the

1 L. ALDANA-BERNIER

2 patient.

3 Q. Were you more cautious after  
4 that incident you are talking about when  
5 this person killed himself in 2008?

6 MR. CALLAN: Objection.

7 A. It's the same.

8 Q. Is that lawsuit still pending?

9 A. No, cleared.

10 Q. Who represented you in that  
11 case?

12 A. Mr. Callan.

13 Q. And McDougal, do you know what  
14 court that was in?

15 A. Manhattan.

16 Q. State court, federal court?

17 A. I think state court.

18 Q. What about Ballek?

19 A. Federal.

20 MR. CALLAN: Supreme Court,  
21 Queens County, in any effort to be  
22 cooperative.

23 Q. Have you ever had any hospital  
24 privileges revoked or suspended?

25 A. No.

1 L. ALDANA-BERNIER

2 Q. Have your licenses ever been  
3 revoked or suspended?

4 A. Never.

5 Q. Have you ever had any sanctions  
6 at all with regard to your profession as  
7 a physician?

8 A. Never.

9 Q. As part of your education or  
10 are you required to do continuing  
11 education?

12 A. Yes.

13 Q. As part of your formal  
14 education or continuing education, did  
15 you ever do any training in danger  
16 assessment?

17 A. Training in danger assessment.

18 Q. The danger of a patient  
19 injuring themselves or others?

20 A. Risk management you mean?

21 Q. I will rephrase it.

22 Did you have any training with  
23 regard to assessing a patient with regard  
24 to whether or not they were a danger to  
25 themselves or to others?

1 L. ALDANA-BERNIER

2 A. If you are talking about CME  
3 with regard to risk management, I think  
4 that comes under that title, yes.

5 Q. When it comes under risk  
6 management, how does it come under risk  
7 management, management of the risk of the  
8 patient?

9 A. Yes.

10 Q. Earlier you talked about risk  
11 management when you got the lawsuit, they  
12 contacted you.

13 A. Yes.

14 Q. Different risk management?

15 A. Yes.

16 Q. So risk management of the  
17 patient?

18 A. Of the patient, yes.

19 Q. Where and when did you have  
20 this education regarding risk management?

21 A. With Florida CME.

22 Q. What is a CME?

23 A. Medical education credit.

24 Q. You say Florida, is that the  
25 location where the course was given?

1 L. ALDANA-BERNIER

2 A. It's required by the State of  
3 Florida.

4 Q. Are you licensed in the state  
5 of Florida?

6 A. Yes.

7 Q. Where else besides Florida and  
8 New York are you licensed?

9 A. West Virginia.

10 Q. Did you ever practice in  
11 Florida?

12 A. No.

13 Q. How about West Virginia?

14 A. No.

15 Q. Have you ever lived in Florida?

16 A. No.

17 Q. How about West Virginia?

18 A. No.

19 Q. Any particular reason you have  
20 those licenses?

21 A. Just in case.

22 Q. When did you get those  
23 licenses?

24 MR. CALLAN: She's ready to go  
25 now.

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A. I'm not sure but maybe '95.

Q. How about West Virginia?

A. Very first one, maybe '93.

Q. When did you get New York?

A. '94.

Q. Did you sit for any licensing exams that you did not pass?

A. Yes.

Q. Where?

A. That's my -- that's the -- what-do-you-call-it? I'm blocking.

MR. CALLAN: He is asking about medical licenses, your MD exams, West Virginia, Florida, New York?

A. No.

Q. Any other state that you did not pass the MD license?

MR. CALLAN: MD.

A. That was the Flex. Sorry, yes, it was the Flex.

Q. What is the Flex?

A. That's our licensing.

Q. And you did not pass that?

A. No, I pass it now.



1 L. ALDANA-BERNIER

2 Q. When did you not pass it?

3 A. There was one in -- before my  
4 '93 licensure.

5 Q. Do you know why Mr. Schoolcraft  
6 was admitted to the medical emergency  
7 part of the hospital as opposed to the  
8 psych part of the hospital when he first  
9 came to the hospital?

10 A. He was complaining of abdominal  
11 pain.

12 Q. From your review of the  
13 hospital record, did you see any  
14 treatment for abdominal pain?

15 A. Did I see any treatment?

16 Q. At the hospital given to him  
17 for abdominal pain?

18 MR. KRETZ: Objection.

19 Q. In the hospital?

20 A. I have to go back through the  
21 notes.

22 Q. I'm also going to ask you about  
23 blood pressure so while you are looking  
24 at the medical records, I'm going to ask  
25 any treatment for blood pressure too

1 L. ALDANA-BERNIER

2 while you're looking the medical records?

3 A. He had a physical exam.

4 Q. When you say "he had a physical  
5 exam," how do you know that?

6 A. It's written down here in the  
7 MD notes.

8 Q. When the doctor examined him,  
9 the doctor made notes about that  
10 examination?

11 A. Yes.

12 Q. Did the doctor also take a  
13 history?

14 A. Yes.

15 Q. Doctor made notes of that  
16 history?

17 A. Yes, it's here.

18 Q. Did the doctor come to any  
19 evaluation or opinion or diagnosis?

20 A. History of present illness, he  
21 has a review of systems, past medical  
22 history, social history, family history.

23 Q. And he puts information in  
24 those spots, right?

25 A. Excuse me?

1 L. ALDANA-BERNIER

2 Q. There's information, not just  
3 printed form, there is a whole bunch of  
4 information in all those categories,  
5 correct?

6 A. Yes.

7 Q. So when the doctor evaluated  
8 him, the doctor made notes of that  
9 evaluation, correct?

10 A. It's here, yes.

11 Q. And the question is: Was this  
12 patient ever treated for abdominal, given  
13 any treatment for his abdominal pain or  
14 high blood pressure?

15 MR. LEE: Objection to the form  
16 of the question.

17 MR. RADOMISLI: Objection to the  
18 form.

19 MR. SUCKLE: You want to do one  
20 at a time: Was he ever treated for  
21 abdominal?

22 MR. RADOMISLI: That's not the  
23 basis for the objection.

24 MR. SUCKLE: What is the  
25 objection?

1 L. ALDANA-BERNIER

2 MR. RADOMISLI: She didn't see  
3 him in the medical ED, she didn't  
4 review the medical ED chart before  
5 coming here.

6 MR. SUCKLE: Your objection is  
7 she might not know the answer?

8 MR. RADOMISLI: The objection is  
9 you have no right to ask these  
10 questions.

11 MR. SUCKLE: She is a treating  
12 physician.

13 MR. CALLAN: She's a treating  
14 psychiatrist.

15 MR. SUCKLE: When I get there.

16 MR. SHAFFER: Six hours to do  
17 the deposition.

18 MR. RADOMISLI: Howard, you know  
19 it's not separate.

20 Q. The question is: Was he ever  
21 treated for his abdominal pain?

22 MR. CALLAN: Is there a claim  
23 for abdominal failure -- failure to  
24 treat --

25 MR. SUCKLE: We're working on

1 L. ALDANA-BERNIER

2 it.

3 Q. Was he treated for any  
4 abdominal --

5 A. I wasn't in the emergency room.  
6 If you want me to, I have to read --

7 Q. You agree sometimes patients  
8 come from the medical floor to the psych  
9 floor, correct?

10 A. From the medical ER to the  
11 psych ER, yes.

12 Q. Sometimes they come with  
13 medical problems to the psych ER,  
14 correct?

15 A. That's correct.

16 Q. When a patient comes from the  
17 medical ER to the psych ER, do you  
18 concern yourself at all with the medical  
19 issues that the patient may be coming to  
20 the psych ER with?

21 A. The patient was medically  
22 cleared.

23 Q. But at least it was important  
24 for you to know that the patient was  
25 medically cleared, right?

1 L. ALDANA-BERNIER

2 A. Right.

3 Q. What was the evaluation of for  
4 which he was cleared: abdomen, blood  
5 pressure, something else, nothing, you  
6 tell me?

7 A. Gastric pain.

8 Q. Was there any treatment that  
9 you are aware of he had while in the  
10 medical emergency room for that problem?

11 MR. RADOMISLI: Objection.

12 A. I was not in the medical ER.  
13 He came to the psych ER the next day.

14 Q. The answer is you don't know;  
15 am I correct?

16 MR. LEE: Objection to form.

17 MR. RADOMISLI: Objection to  
18 form.

19 Q. You don't know if he was  
20 treated for any gastrointestinal  
21 problems?

22 MR. RADOMISLI: Objection.

23 MR. SUCKLE: She just said she  
24 doesn't know. I'm asking her.

25 MR. RADOMISLI: I'm objecting.

1 L. ALDANA-BERNIER

2 A. There is nothing written down  
3 in here. "Whole medications, none;  
4 medication administered in emergency  
5 department, none; medication prescription  
6 provided on discharge, none."

7 Q. No abdominal medication, no  
8 blood pressure medication, correct?

9 MR. KRETZ: Objection.

10 A. It's here, none.

11 Q. Did you have any discussions  
12 regarding Mr. Schoolcraft with a Bruce  
13 Flanz, F-L-A-N-Z?

14 A. No, I don't know.

15 Q. How about conversations  
16 regarding Mr. Schoolcraft with David  
17 Rosen?

18 A. No, I don't.

19 Q. How about Ollie Peterson, any  
20 conversations with Ollie Peterson?

21 A. I don't know.

22 Q. Seth Vivek?

23 A. Seth Vivek?

24 Q. You answered that. Did you  
25 have any conversations with Seth Vivek

1 L. ALDANA-BERNIER  
2 regarding Adrian Schoolcraft?

3 MR. CALLAN: She said no.

4 A. At what point in time?

5 Q. Any.

6 A. I go to Dr. Dhar.

7 Q. When you say "at what point in  
8 time," you gave an indication that you  
9 may have had a conversation.

10 Did you ever have a  
11 conversation with Dr. Vivek regarding  
12 Adrian --

13 A. No, it's Dr. Dhar.

14 Q. You told us about earlier?

15 A. Excuse me?

16 Q. You told us about that  
17 conversation earlier, correct?

18 A. Yes.

19 MR. SUCKLE: I have nothing  
20 further.

21 MR. SHAFFER: I have a few  
22 questions. It's a few.

23 EXAMINATION MR. SHAFFER:

24 Q. Doctor, did anybody from the  
25 NYPD, any employee of New York City



1 L. ALDANA-BERNIER

2 Police Department, ever tell you to keep  
3 Adrian Schoolcraft at Jamaica Hospital  
4 against his will?

5 A. No.

6 Q. At any time prior to Mr.  
7 Schoolcraft being released from Jamaica  
8 Hospital --

9 MR. SHAFFER: Let me rephrase.

10 Q. Did you believe that Mr.  
11 Schoolcraft should have been released  
12 from Jamaica Hospital earlier than he  
13 actually was?

14 A. Earlier than when I decided he  
15 needed admission?

16 Q. No, no. Did --

17 MR. RADOMISLI: Objection to  
18 form. That's just improper because  
19 you don't know if she knows what  
20 happened after she saw him.

21 Q. Do you know that Mr.  
22 Schoolcraft was released from the  
23 hospital at some point in time?

24 A. Yes.

25 Q. Do you know when Mr.

1 L. ALDANA-BERNIER

2 Schoolcraft was released in the hospital?

3 A. Looking at the note, 2/6/2009.

4 Q. Say again?

5 A. February 6, 2009.

6 Q. You mean November 6th?

7 A. November 6, yes.

8 Q. At any point prior to November  
9 6, 2009, did you believe that Mr.  
10 Schoolcraft should have been released  
11 from the hospital?

12 MR. RADOMISLI: Objection.

13 MR. LEE: Objection.

14 A. Before 11/6?

15 Q. Correct.

16 MR. RADOMISLI: Objection.

17 A. I already admitted him. I  
18 wouldn't know. He went upstairs. I  
19 would not be able to make a decision to  
20 be discharged then.

21 Q. Doctor, what is adjustment  
22 disorder?

23 A. Adjustment disorder is -- it's  
24 a psychiatric -- it's a diagnosis wherein  
25 someone goes under stress and will react

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L. ALDANA-BERNIER

to that stress within a day to one month;  
react in a sense that will affect his  
functioning. He could either be  
depressed, either be agitated, or he  
could also -- different kinds of  
reactions could be manifested either  
through violence or opposite of violence  
which would be depression or could be  
manifested with anxiety.

MR. SHAFFER: Nothing further.

MR. RADOMISLI: I just have a  
few questions.

EXAMINATION BY MR. RADOMISLI:

Q. Doctor, residents operate under  
the supervision of attending physicians,  
correct?

A. That's correct.

Q. Decisions by residents must be  
approved by the attending, correct?

A. That's correct.

Q. Attendings can overrule  
decisions made by residents if they  
believe that the decisions were  
incorrect; is that right?

1 L. ALDANA-BERNIER

2 A. That's correct.

3 Q. And the attending physician has  
4 ultimate responsibility for the patient,  
5 correct?

6 A. That's correct.

7 Q. And you can direct nurses to do  
8 things for the patient, correct?

9 A. That's correct.

10 Q. You didn't have any issues with  
11 what any of the nurses did or did not do  
12 for the patient, correct?

13 A. That's correct.

14 MR. SMITH: Objection.

15 Q. You did not have any issues of  
16 what the residents did or didn't do for  
17 this patient, correct?

18 A. That's correct.

19 Q. You were the attending in  
20 charge of the psychiatric ED when you  
21 were there, correct?

22 A. That's correct.

23 Q. That means you would have  
24 supervised the psychiatric residents in  
25 the ED?

1 L. ALDANA-BERNIER

2 A. Psych emergency room, yes.

3 Q. Would that include the  
4 psychiatric residents who evaluated the  
5 patient when he was in the medical  
6 emergency room?

7 A. In 2009, yes, it was us, the  
8 doctors in the emergency room.

9 Q. The doctors in the psychiatric  
10 emergency room supervised the psychiatric  
11 residents who evaluated patients in the  
12 medical emergency room?

13 A. Yes.

14 Q. And the resident would not have  
15 authority to discharge a patient on his  
16 own, correct?

17 A. Correct.

18 Q. That decision would have to be  
19 made by the attending, correct?

20 A. Correct.

21 Q. If a patient was going to be  
22 discharged at some point from the  
23 psychiatric emergency room, an attending  
24 psychiatrist would have to make that  
25 decision, correct?

1 L. ALDANA-BERNIER

2 A. That's correct.

3 Q. And you were this patient's  
4 attending psychiatrist, correct?

5 MR. LEE: In the emergency room?

6 MR. RADOMISLI: Yes.

7 A. In the emergency room, depends  
8 what the shift is.

9 Q. During your shift?

10 A. During my shift, yes.

11 MR. RADOMISLI: No more  
12 questions.

13 MR. SUCKLE: I have a couple  
14 questions.

15 FURTHER EXAMINATION BY MR. SUCKLE:

16 Q. A resident, a resident can't  
17 discharge a patient, correct?

18 A. That's correct.

19 Q. And a resident can't admit a  
20 patient, correct?

21 A. The attending has the final  
22 decision.

23 Q. So when a resident says that a  
24 patient should be held, that has to be  
25 confirmed by an attending, correct?

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L. ALDANA-BERNIER

A. That's correct, yes.

Q. So a resident can't hold a patient on his own or her own order, correct?

A. Needs to be discussed with the attending.

Q. Am I correct, a patient cannot be held on the order of a resident at Jamaica Hospital in 2009, correct?

MR. CALLAN: She just answered the question.

A. It has to be discussed with the attending. The attending has to make -- they discuss that and once it's discussed, then the attending will make the decision.

Q. Attending has to make the order for admission, correct?

[Continued on the following page to include signature and jurat.]

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L. ALDANA-BERNIER

A. Yes.

Q. And for holding a patient,  
attending has to make that order too,  
correct?

A. That's correct.

MR. SUCKLE: Nothing further.

MR. SMITH: It's 6:30. We are  
ending the deposition.

MR. SUCKLE: For the record I  
want to say the attorney for Jamaica  
Hospital will be retaining the  
original Exhibit No. 69 which is the  
hospital chart.

[TIME NOTED: 6:31 p.m.]

-----  
DR. LILIAN ALDANA-BERNIER

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Subscribed and sworn to  
before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2014.

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Notary Public



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I N D E X

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Attorneys have retained all exhibits.

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CERTIFICATION

I, MARGARET SCULLY-AYERS, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said 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.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of February, 2014.



-----  
MARGARET SCULLY-AYERS

\* \* \*



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