

Nevyas, M.D.

1 Q. And how was she doing, or what was your
2 assessment?

3 A. She was improving and recovering from surgery.
4 She had been, I gathered from the note here, sent back by
5 Doctor Signarito, who had seen her because of some
6 fluorozone staining of her right cornea, and when I
7 examined her, I felt it was insignificant, a few dots of
8 staining, which was not clinically significant, except
9 that she may have had some degree of dry eye, which
10 everybody gets after a Lasik procedure, and I told her to
11 use artificial tears more often.

12 Q. And what significance, if any, would there be
13 to staining on the cornea?

14 A. That the eye is dry.

15 Q. As of the May 27, 1997 visit, had you evaluated
16 the success of either procedure that had been performed
17 on the right eye?

18 A. I'm not sure what you mean by evaluate success.
19 I evaluated the eye and it looked like it was recovering.

20 Q. Okay. With regard to the left eye, as of May
21 27, 1997, what was your assessment?

22 A. I have nothing there except that it looked
23 normal. I didn't note any abnormalities. I would have
24 noted abnormalities.

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1 Q. And would it be your practice and procedure if
2 there were complaints about halos or visual effects that
3 you would have recorded that?

4 A. If I had asked, but I might not have because I
5 was mainly following the physical state of the eyes, and
6 Doctor Anita Wallace was spending more time and following
7 more closely.

8 Q. Okay. Now, the next time I have you seeing the
9 patient is actually during another Lasik enhancement on
10 July 10, and that would be as an assistant on a 7/10/97
11 enhancement. Do you have any recollection of seeing
12 Cheryl Fiorelli between May 27 and the July 10 procedure?

13 A. Between May 27 and July 10?

14 Q. Right. Or anything that indicates that you saw
15 her in the records.

16 A. I don't recall the visits. They are recorded
17 in the records. I don't have any specific recollection
18 of the visits themselves except I remember the patient.

19 Q. Okay. From the records what it looked like is
20 that from May 27, the next time that you saw Cheryl was
21 when you assisted in a Lasik enhancement done July 10 on
22 the right eye at the Surgery Institute.

23 A. That's right.

24 Q. And let me ask you this. Looking at the
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1 Surgery Institute record from July 10, 1997, you were
2 listed there as the assistant. Was your role in that
3 surgery as the assistant any different than your role as
4 an assistant in the prior Lasik or Lasik enhancement?

5 A. No.

6 Q. Do you know why the procedure was being done,
7 why another enhancement was being done on July 10, 1997
8 on Cheryl's right eye?

9 A. To try to optimize her vision, because she had
10 complaints.

11 Q. The preoperative -- does your handwriting
12 appear anywhere on the operative -- intraoperative form?

13 A. No.

14 Q. Okay. Do you know who provided the pre-
15 operative diagnosis on that day?

16 MS. POST: Who would have put that
17 information in this?

18 THE WITNESS: I don't see where it is.
19 BY MR. KAFRISSEN:

20 Q. About seven lines down.

21 A. I'm not sure. It looks like Anita's hand-
22 writing but I'm not sure.

23 Q. Okay. Would you agree with me that as of July
24 10, there was still a degree of overcorrection and a
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1 degree of decentration in Cheryl's right eye?

2 A. There was a lesser degree of overcorrection.
3 The hyperopia had been decreasing. As far as the
4 decentration, this is a little arguable because Anita had
5 noted the decentration as being around a half a
6 millimeter and I'm not sure that's a very significant
7 decentration. She was trying for perfection here the
8 best she could, but in my experience, decentration of
9 less than eight-tenths of a millimeter doesn't show up as
10 causing much trouble.

11 Q. When you say show up as causing much trouble...

12 A. Halos and visual disturbance and decreased
13 vision, but it varies. It varies from patient to
14 patient. Some patients have excellent vision with what
15 looks like a fairly large decentration and other patients
16 have complaints with very good centration. It's not 100
17 percent.

18 Q. Okay. During the course of this procedure on
19 July 10, do you have any recollection of anything going
20 other than as you would have expected it to go?

21 MS. POST: Well, since he doesn't recall
22 the procedure, do you want to know whether
23 it's in the records?

24 MR. KAFRISSEN: Well, I'm going to ask
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1 that next. I just want it to be clear.

2 THE WITNESS: I would usually remember
3 if there were a problem. When things go
4 routinely, I don't recall, and I think this
5 went routinely therefore.

6 BY MR. KAFRISSEN:

7 Q. And then just to clarify the other thing your
8 attorney just had raised, is there anything in the
9 records that you have reviewed that leads you to believe
10 that the July 10 operation went other than as you
11 expected it to go?

12 A. No.

13 Q. Okay. Now, this operation, the July 10
14 operation, did you play any part in the informed consent
15 or explanation of risks and alternatives?

16 A. I don't recall. I certainly didn't play a part
17 in explanation of risks. I might have signed the form.
18 I don't know if it's around, but whichever of us was
19 handy, we worked together, and on my patients, she
20 assisted and on hers, I assisted, and, therefore, we did
21 whatever we could to expedite things for each other. I
22 might have signed something but I did not have a
23 discussion with the patient, which would have taken place
24 during office visits.

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1 Q. Do you have any recollection of any discussions
2 with Doctor Nevyas-Wallace prior to the performance of
3 the July 10 procedure concerning Cheryl's condition and
4 the procedure to be performed?

5 A. No.

6 Q. Now, when did you next see Cheryl?

7 A. After what date?

8 MS. POST: After the 10th.

9 THE WITNESS: I saw her on the 11th.

10 BY MR. KAFRISSEN:

11 Q. I wanted to go back to one thing I missed.

12 There is a patient statement of acceptance and
13 understanding attached to the 7/10 visit. Is that your
14 signature in the bottom right corner?

15 A. Yes.

16 Q. And are the circumstances of your putting your
17 signature on the bottom right-hand corner of that form
18 any different than the circumstances that you described
19 for us on the 15th of May, the other enhancement
20 procedure?

21 A. No.

22 Q. Now, the next time that you saw Cheryl was the
23 11th of July, 1997, and that was the first day post-op
24 from the second right eye enhancement. Does that comport
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