

Document # 13

EBT Transcript of Testimony of
Teresa Chau, M.D.
dated 02//27/07

TERESA CHAU

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CARMEN BRITT, and CARMEN BRITT
as Executor of the Estate of LULA BAITY,

Plaintiff,

-vs-

BUFFALO MUNICIPAL HOUSING AUTHORITY, et al,

Defendants.

Examination Before Trial of
TERESA CHAU, Defendant, taken pursuant to the Federal Rules
of Civil Procedure, in the law offices of GIBSON, McASKILL &
CROSBY, 69 Delaware Avenue, Suite 900, Buffalo, New York,
taken on February 27, 2007, commencing at 10:10 A.M., before
CARLA M. GLINSKI, Notary Public.

Sue Ann Simonin Court Reporting

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1 A. The form that was already labeled number 39.

2 MS. BROAD: Yes. I think that's --

3 BY MR. MURRAY:

4 Q. That's what you were referring to?

5 A. Yes, sir.

6 Q. Is there anything else that you reviewed to
7 refresh your recollection?

8 A. No.

9 Q. Okay. Do you recall providing any care or
10 treatment to Lula Baity at Grace Manor in the
11 October 2003 to January 2004 time frame?

12 A. No, I do not.

13 Q. Okay. Is there anything that I could show you to
14 answer the question of whether you did, in fact,
15 provide treatment to a patient named Lula Baity?

16 MS. BROAD: Object to the form. Do you understand
17 what he's asking you, Doctor?

18 THE WITNESS: No.

19 BY MR. MURRAY:

20 Q. Okay. Did you ever -- do you know who Lula Baity
21 is?

22 A. At this point I know that she was a patient at
23 Grace Manor.

1 Q. Okay. Did you ever have any contact with Miss
2 Baity?

3 A. Well, I did sign document number 39. I do not
4 recall having seen Miss Baity before.

5 Q. Okay. I'm going to show you document 39 and ask
6 you if that's the document you were just
7 referring to that you said that you signed.

8 A. Yes.

9 Q. Can you show us where your signature appears on
10 that document?

11 A. This is my signature.

12 Q. Okay. Do you recall signing that document?

13 A. No.

14 Q. Okay.

15 MS. WYDYSH: Indicating the last page of the
16 document? Is that what you're looking at?

17 MR. MURRAY: That's right.

18 MS. WYDYSH: Okay. Thank you.

19 BY MR. MURRAY:

20 Q. And just for identification, it is the last page
21 of a document entitled Department of Health and
22 Human Services Social Security Administration.
23 It is OMB number, what appears to be 0960 dash

1 00 --

2 MS. BROAD: Let's just count the pages just so that
3 we're -- this exhibit consists of four pages that
4 are double-sided, and the Doctor identified her
5 signature on the back of the last page of the
6 exhibit. I think we copied this yesterday for
7 everyone, so everyone's should be the same.

8 MS. WYDYSH: Yes. And it's copied on single pages,
9 so it's our page eight.

10 MS. BROAD: Well -- okay.

11 BY MR. MURRAY:

12 Q. Do you know why you signed that?

13 A. Yes. This is a form that attests that the
14 patient involved is unable to manage their own
15 financial affairs and it is a standard form in
16 the nursing homes.

17 Q. Did you receive -- is that -- have you signed
18 those kinds of forms before and after that?

19 A. Yes.

20 Q. And did you receive any training -- any kind of
21 training as to, as to the reasons for signing
22 those forms?

23 MS. BROAD: Object to the form. I --

1 we should pay this person directly or if he or
2 she needs a representative payee to handle the
3 funds.

4 That was the level of my understanding of
5 this form.

6 BY MR. MURRAY:

7 Q. Okay. You used the term we need you. Who did
8 you understand we to be?

9 A. Well, it is -- this is a form from the Department
10 of Health and Human Services.

11 Q. Okay. And you understood you to mean a
12 physician?

13 A. Yes.

14 Q. Okay. And when you signed that form, what was
15 your, what was your reason for signing that form?

16 A. I was asked to.

17 Q. Okay. Who asked you to?

18 A. Very likely administration in the nursing home at
19 Grace Manor Nursing Home.

20 Q. Do you recall who?

21 A. No.

22 Q. Can you tell us whether it was a man or a woman?

23 A. No.

1 not necessarily mean he slash she cannot make
2 decisions concerning basic needs and is incapable
3 of managing his slash her own money.

4 Q. Thank you. By signing this form, did you
5 understand that you were, you were asserting that
6 Lula Baity was described as needing a
7 representative payee?

8 A. Yes.

9 Q. And if you could read the -- this is the -- I'm
10 directing your attention to the top of the last
11 page of Exhibit 39. Would you read the three
12 lines at the top of that page.

13 A. By capable we mean the patient is able to
14 understand and act on the ordinary affairs of
15 life, such as providing for own adequate food,
16 housing, clothing, et cetera, and is able, in
17 spite of physical impairments, to manage funds or
18 direct others how to manage them.

19 Q. Okay. Thank you. By signing this form -- well,
20 I'll rephrase the question. That form continues,
21 and the words advanced dementia are written on
22 the last page of that form, Exhibit 39, is that
23 true?

1 A. Yes.

2 Q. Is that your handwriting?

3 A. Yes, it is.

4 Q. Did you write that on the same date that you
5 signed the form?

6 A. Yes.

7 Q. Is the date shown accompanying your signature the
8 correct date that you signed that form?

9 MS. BROAD: Well, objection. She can't recall, so I
10 don't know that the Doctor can answer that
11 question.

12 BY MR. MURRAY:

13 Q. Okay. Do you have any reason to believe that the
14 date accompanying your signature is an incorrect
15 date?

16 A. No.

17 Q. Thank you. By signing this form, you indicated
18 that Ms. Baity did -- was not capable as
19 described -- according to the form, as you just
20 read the top three lines of that form, is that
21 true?

22 A. Yes.

23 Q. What did you base that on --

1 A. I don't recall.

2 Q. -- if you recall?

3 Okay. Do you have any records that would
4 refresh your recollection as to what you based
5 your assertion on?

6 A. Not that I'm aware of.

7 Q. Did you know at the time that you signed that
8 form -- well, let me rephrase the question. Do
9 you know presently or was there a time that you
10 knew whether Ms. Baity had been -- had become a
11 resident of Grace Manor voluntarily or through
12 her -- or involuntarily?

13 A. State the question again, please.

14 Q. Do you know or did you know whether Ms. Baity,
15 the patient, had become a resident of Grace Manor
16 Nursing Home involuntarily or voluntarily?

17 MS. BROAD: Object to the form of the question, but
18 you can answer if you understand it, Doctor.

19 THE WITNESS: No.

20 BY MR. MURRAY:

21 Q. Are you aware of any distinction between patients
22 who become residents of nursing homes voluntarily
23 or involuntarily?

1 MS. BROAD: You're asking her generally now, not with
2 respect to Grace Manor?

3 MR. MURRAY: Right. Yes.

4 MS. BROAD: Go ahead. Do you want to hear the
5 question again, Doctor?

6 THE WITNESS: Yes, please.

7 MS. BROAD: She can read it back for us.

8 Would you, please.

9 BY MR. MURRAY:

10 Q. I'll rephrase it just to move it along. Let me
11 just pause for a minute. Do you know of any
12 distinction between patients who become residents
13 of nursing homes on a voluntary as opposed to an
14 involuntary basis?

15 A. I'm not aware of involuntary admissions to
16 nursing homes.

17 Q. Okay. Have you received, have you received any
18 training concerning the ways in which people
19 become residents of nursing homes?

20 A. No, not specifically.

21 Q. Have you received any such training generally?

22 A. Yes, through --

23 Q. Can you tell us about that.

1 Q. When you say not necessarily, are you -- are
2 there certain circumstances where you would that
3 you could tell us about?

4 A. That form could be signed based on chart review
5 or it could be signed based on a conversation
6 with the patient.

7 Q. Okay. You have no recall of having a
8 conversation with this patient?

9 A. That's correct.

10 Q. You have no recall of reviewing the chart?

11 A. That's correct.

12 Q. Okay. By indicating advanced dementia on the
13 last page of Exhibit 39, did you consider that a
14 diagnosis?

15 MS. BROAD: Object to the form.

16 THE WITNESS: It's a description.

17 BY MR. MURRAY:

18 Q. Okay. Is there a difference between a
19 description and a diagnosis?

20 MS. BROAD: Objection. Go ahead, Doctor.

21 THE WITNESS: Not for the purposes of that form.

22 BY MR. MURRAY:

23 Q. Okay. How would you define a diagnosis?

1 A. Yes, I signed the form.

2 Q. That's not my question. My question is whether
3 you considered that to be your medical
4 evaluation.

5 A. I don't see that this form specifically uses the
6 phrase medical evaluation. That's why I'm
7 hesitating.

8 Q. How would you describe --

9 MS. BROAD: You can read it right at the top, Mr.
10 Murray. It says statement.

11 BY MR. MURRAY:

12 Q. Thank you. The top of the form says physician's
13 slash medical officer's statement of patient's
14 capability to manage benefits. Is that true?

15 A. Yes.

16 Q. Did you consider your signing that form to be
17 your statement of the, as a physician, of the
18 patient's capability to manage benefits?

19 A. Yes.

20 Q. Okay. Do you recall conducting any testing of
21 the patient Lula Baity?

22 A. No.

23 Q. Do you recall, are there any medical records that

- 1 A. I was the medical director of Grace Manor during
2 that time period and there was a skin infection
3 that was affecting a number of the residents of
4 the nursing home. And we treated the entire
5 facility and the entire staff with this
6 medication, Elimite cream. And so as part of
7 that, I signed orders to prescribe the cream to
8 every resident in the facility.
- 9 Q. Do you know if --
- 10 A. Miss Baity included.
- 11 Q. Do you know if Miss Baity suffered from that
12 malady?
- 13 A. No, I do not.
- 14 Q. Is that what you could call an epidemic?
- 15 MS. BROAD: Objection.
- 16 THE WITNESS: An outbreak.
- 17 MR. MURRAY: Outbreak.
- 18 THE WITNESS: Sorry.
- 19 MR. MURRAY: Thank you.
- 20 THE WITNESS: Yes.
- 21 BY MR. MURRAY:
- 22 Q. If you had examined Ms. Baity, would you have
23 made a record of it?

1 Can you say if that was there, Doctor, before you
2 signed it?

3 MR. MURRAY: If you recall.

4 THE WITNESS: It was -- this part of the form is
5 always completed before the back of the page is
6 signed.

7 BY MR. MURRAY:

8 Q. I take that to mean that it was your ordinary
9 course that you would not ever sign a form unless
10 this information was complete --

11 A. Yes.

12 Q. -- before it was presented to you?

13 A. Correct.

14 Q. You have no recollection of that, but that was
15 your ordinary course?

16 A. Yes.

17 Q. Thank you. If I can just have a moment. I'm
18 almost finished, but if I take a moment here, I
19 can conclude more expeditiously.

20 From your review of the records, can you
21 tell us whether Ms. Baity ever had a
22 neuropsychiatric evaluation to determine whether
23 she had advanced dementia?

1 MS. BROAD: She already told you about the
2 neuropsych.

3 MR. MURRAY: I understand that.

4 MS. BROAD: Okay. So aside from that.

5 THE WITNESS: When she was at Grace Manor Nursing
6 Home, I don't recall reviewing any records
7 regarding Lula Baity.

8 BY MR. MURRAY:

9 Q. Okay. The neuropsych, that was by a doctor?

10 A. When preparing for this litigation, I saw that
11 there was a neuropsych eval done at ECMC, okay?

12 Q. Okay. But you have no recollection of reviewing
13 that until the litigation ensued?

14 A. That is correct.

15 Q. And by the records that you reviewed, is there
16 anything that indicates to you that you reviewed
17 any medical records from ECMC?

18 MS. BROAD: Object to the form of that, but you can
19 answer, Doctor.

20 THE WITNESS: I'm sorry, I --

21 BY MR. MURRAY:

22 Q. I'll rephrase it. You said that after litigation
23 ensued --

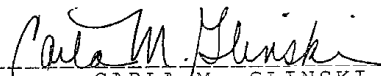
1 STATE OF NEW YORK)

2 SS:

3 COUNTY OF ERIE)

4
5 I, Carla M. Glinski, a Notary Public in and
6 for the State of New York, County of Erie, DO
7 HEREBY CERTIFY that the testimony of TERESA CHAU
8 was taken down by me in a verbatim manner by
9 means of Machine Shorthand, on February 27, 2007.
10 That the testimony was then reduced into writing
11 under my direction. That the testimony was taken
12 to be used in the above-entitled action. That
13 the said deponent, before examination, was duly
14 sworn by me to testify to the truth, the whole
15 truth and nothing but the truth, relative to said
16 action.

17 I further CERTIFY that the above-described
18 transcript constitutes a true and accurate and
19 complete transcript of the testimony.

20
21 
22 CARLA M. GLINSKI,
23 Notary Public.