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1 CIVIL DISTRICT COURT
2 PARISH OF ORLEANS
3 STATE OF LOUISIANA

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MELVIN LEBLANC, ET AL

5

NO. 2008-548

6 VS.

DIVISION "N-8"

7

DWAYNE THOMAS, ET AL

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12 DEPOSITION OF DWAYNE THOMAS, M.D.

13

Taken on Tuesday, August 19, 2008

14

At the Offices of

TAYLOR PORTER BROOKS & PHILLIPS

15

451 Florida Street, 8th Floor

Baton Rouge, Louisiana 70801

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REPORTED BY: LORI COBB, C.C.R.

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1 APPEARANCES:

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3 REPRESENTING THE PLAINTIFFS:

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THE LOUISIANA LAW INSTITUTE

1631 Elysian Fields Avenue

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New Orleans, Louisiana 70117

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BY: STEVEN M. JUPITER, ESQUIRE

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ROSENFELD & RAFIK

Exhibit "B"

9 44 School Street, Suite 350
10 Boston, MA 02108
11 BY: S. STEPHEN ROSENFELD, ESQUIRE
12 HAGENS BERMAN SOBOL SHAPIRO
2425 East Camelback Road, #650
13 Phoenix, AZ 85016
14 BY: LEONARD ARAGON, ESQUIRE
15
16 REPRESENTING THE DEFENDANTS:
17 TAYLOR PORTER BROOKS & PHILLIPS
451 Florida Street, 8th Floor
18 Baton Rouge, Louisiana 70801
19 BY: PRESTON J. CASTILLE, JR., ESQUIRE
20
21
22 ALSO PRESENT: (None.)
23
24
25

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1 Q Out of the streets. Okay.
2 And so you're recalling an occasion
3 prior to September 30 when you visited the two
4 buildings?

5 A Yes, sir.

6 Q And was this the occasion when
7 Mr. Plaisance was with you?

8 A Yes, sir.

9 Q Okay.
10 And can you tell us what you observed
11 at that time?

12 A Well, both of the buildings were open
13 at that point in time during that particular
14 visit. University Hospital was -- University
15 building was as we left it, as I recall, on the
16 last day leaving. The Avery C. Alexander
17 building, it was occupied by several physicians
18 and -- who were in the process of cleaning up, if
19 I recall -- cleaning up the emergency department.

20 Q Okay.

21 Do you recall a time when those
22 physicians were told to leave the building?

23 A Yeah. It was actually that particular
24 day.

25 Q It was the same day?

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1 A Yes.

2 Q Okay.

3 And between that day and the time of
4 this release of Exhibit #1, were you at the
5 building again?

6 A I don't recall going back after that.

7 Q So you recall one time in September?

8 A Yeah. I recall that because, you know,
9 we were surprised to find them there, and
10 shocked, really.

11 Q Really?

12 A To find them there inside of the
13 building. And with them with their sleeves and
14 pant legs rolled up, cleaning up.

15 Q Uh-huh.

16 A So, yeah, that had to be it because I
17 don't recall going back until we actually moved
18 into the Butterworth building.

19 Q Okay.

20 A Now, I may have made another brief trip
21 back, but not necessarily to go to the hospital.
22 It was probably to visit the building that we
23 were going to move our administrative offices
24 into and decide where we were going and whose
25 offices were going to be where, and what
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1 secretarial support we would need, and that kind
2 of thing.

3 Q So you had no advance awareness that
4 these doctors were the in building?

5 A I did not, no.

6 Q Did anyone, to the best of your
7 understanding?

8 A Not that I'm aware of, no.

9 Q And did you observe anyone else at the
10 time you're visiting, now, prior to September 30,
11 anyone else in the building? And by that I mean
12 the building Charity, other than the doctors?

13 A No. I only recall seeing the
14 physicians there that day.

15 Q Okay.

16 And how many did you observe?

17 A There were -- there were less than 10.
18 I recall Dr. Peter DeBlieux, Dr. Van Meter,
19 Dr. Moises, Dr. Mills, and I think it's Jennifer,
20 is her name. I recall seeing about five that I
21 recall.

22 Q Okay.

23 And that's it? Those are the only
24 people you saw?

25 A Yeah, that's the only ones I remember.

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1 Q You remember?

2 A Yeah.

3 Q And --

4 A There may have been others, but those
5 are the only ones that I knew.

6 Q Okay. Okay.

7 And what did you do when you saw them?

8 A I asked them what -- what are they
9 doing there.

10 Q Uh-huh?

11 A What are you guys doing in here?

12 Q Uh-huh?

13 A And, like, what's going on. And so we
14 asked and I recall Mr. Plaisance making a phone
15 call to Mr. Smithburg, who then gave him
16 instructions to tell them to vacate the building.

17 Q Okay.

18 And did you observe them vacate the
19 building?

20 A I did not.

21 Q Okay.

22 Well, how long did you stay inside the
23 building?

24 A I would say we stayed inside of the
25 building and on the first floor probably no more
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1 than -- somewhere between 30 minutes and an hour.

2 Q Okay.

3 And when you left, they were still
4 there?

5 A They were there and we then instructed
6 them that they needed to get their things and
7 leave the building.

8 Q Uh-huh.

9 A We had hospital police on-site and they
10 were informed that they were needing to leave the
11 building.

12 We had to -- they had to take me to
13 another location in the city for a press
14 conference with CNN.

15 Q That very day?

16 A That same day, yes.

17 Q And did you instruct the hospital
18 police to escort the doctors out?

19 A Mr. -- Mr. Plaisance did.

20 Q Okay.

21 A I spoke with Dr. DeBlieux at length
22 privately about the need for him to -- he was the
23 director of emergency medicine training program
24 at the time. And he -- you know, he says we've
25 got to get our training program started.

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1 I said, yes, Peter, but this is not a
2 safe place to do that and I said this -- you
3 can't do that, you don't have any authority to
4 clean it up and restart it; you know, this is a
5 state owned building, you know, this has to come
6 from our bosses, you know, to say what we can and

7 can't do with regards to the facility. And, you
8 know, this is not a safe building.

9 Q That's what you said to him, this is
10 not a safe building?

11 A Yes. Yes.

12 Q What was the basis for your saying
13 that?

14 A Well, the building had been flooded,
15 there were windows that had been blown out, there
16 was water and seepage and leakage of asbestos
17 inside the building, there was no support for
18 patient services in the building, there were
19 no -- there was no ability to provide generator
20 power, there was no oxygen source, there was no
21 suction source, and they wanted to open the
22 emergency department.

23 Q Uh-huh?

24 A And to safely care for patients you
25 have to have back up power source, you have to
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1 have oxygen, obviously, and medical gases and you
2 have to have the heating and cooling systems
3 cleaned and sanitized, bathrooms have to be
4 cleaned and sanitized, you have to pass
5 inspections by the Office of Public Health and
6 the Department of Health and Hospitals and the
7 fire marshal.

8 So you didn't have a functional fire
9 alarm system, you didn't have a functional
10 sprinkler system, no medical gases, no medical
11 suction, no backup generator power, and a dirty
12 building.

13 Q How did you know that?

14 A Well, because I know the conditional in
15 which we left it and I had spoken with my
16 administrators who were physically on that
17 campus.

18 Q When you say you spoke with your
19 administrators, who were they?

20 A The administrators assigned to that
21 campus was Mr. Adler Volter, Mr. Ronald Brodis,
22 who else was on that campus with them as far as
23 administrators are concerned. You're stretching
24 my memory.

25 Q That's okay.

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1 A The CFO, Mr. Ed Burk, were the three
2 main administrators.

3 Q And they were on-site?

4 A On-site, physically on-site. Yes.

5 Q In September?

6 A Yes.

7 Q Okay.

8 And you were --

9 A What do you mean when you say in
10 September?

11 Q I mean in September '05, after the
12 evacuation.

13 A No. They were not. This was the
14 condition in which we left the hospital.

15 Q Okay.

16 But how did you know what the condition
17 of the hospital was on the day that you observed
18 the doctors --

19 A Well, I can tell you I ventured down to
20 the basement, you know, to look in the basement
21 with a flashlight and I didn't go up above that
22 floor, but I did the basement and that and
23 looking at the basement, there was nothing but --
24 water had been removed and there was mud and muck
25 and stench.

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1 Q That's what you observed in the
2 basement?

3 A Yes. Yes.

4 Q The water had been removed?

5 A Yes.

6 Q It had been pumped out?

7 A That's what we were told, yeah.

8 Q Okay.

9 And so you were in the basement. And
10 you were on the first floor?

11 A Yes.

12 Q Did you go above the first floor?

13 A No, I did not.

14 Q And did anyone, prior to that day,
15 report to you their observations about the
16 condition of the building?

17 A You have to -- that, I do not recall.
18 I know Mr. Arnold had made trips down, at least,
19 maybe one before. And he may have, but I don't
20 recall. But I did not go above the first floor

21 that day.

22 Q Okay.

23 And on that day -- prior to that day --

24 A All I did was go down hallways down the
25 side on the first floor and those were -- the
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1 only thing that was cleaned inside the hospital
2 was from front to back, that central corridor.

3 The two side corridors were not on
4 either side; they were pitch black dark, wires,
5 water, dirt on the floors, and the emergency
6 room -- the emergency room itself was spotless.

7 Q Uh-huh?

8 A It had been mopped, cleaned, looked
9 like the walls had been wiped down, and so that
10 area, the emergency department, was clean.

11 Q Uh-huh.

12 A But that was the only thing that was
13 clean, to my eyes. Everything in -- because
14 you've got Charity Hospital is in three towers,
15 essentially. You've got the center tower and the
16 east and west wings. And what I did was walk the
17 first floor of the hospital. And the emergency
18 department sits in that central wing, the back
19 end of the hospital.

20 And once you get to the patient
21 transport elevators in the center tower of the
22 emergency department, that would be the door you
23 would walk essentially to a bank of four
24 elevators.

25 So the foyer had been mopped, but not
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1 cleaned like the emergency department; and this
2 area had been mopped, but the emergency
3 department itself was spotless.

4 Q Uh-huh.

5 A And lights were on inside of the
6 emergency department. But there were no lights
7 in the other parts of the first floor --

8 Q Uh-huh.

9 A -- of the facility.

10 Q Okay.

11 Anything else that you observed other
12 than what you've already testified to during the
13 time of your visit?

14 A I mean, other than the condition of the

15 first floor and the condition of the basement and
16 the condition of the emergency department proper
17 itself, you know, it was boarded up, the streets,
18 I mean, you're talking about the condition of the
19 streets or the property outside.

20 Q I really was -- well, I was -- really I
21 was asking about the inside of the building.

22 A Yeah. No, as I said, the only two
23 areas that I ventured into were the basement and
24 the first floor.

25 Q Okay.

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1 A And as I said before, the emergency
2 room was spotless; it actually was pretty amazing
3 how clean it was.

4 Q Uh-huh.

5 A But the rest of the building was not
6 and there was no power and we had to use
7 flashlights to see down the corridors and walk.
8 And as I said, there was dirt and water on the
9 floors, but that whole central area from the
10 front to the back had at least been mopped to
11 that bank of elevators and the front was still
12 boarded up, except the two glass doors to the
13 front --

14 Q Uh-huh.

15 A -- of the hospital. And I don't recall
16 what boards were still up or not in the back,
17 rear of the hospital, I just don't recall.

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1 REPORTER'S CERTIFICATE

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3 I, Lori Cobb, a Certified Court
4 Reporter (Certificate #87248) in good standing
5 with the State of Louisiana, do hereby certify
6 that the foregoing 216 pages constitute the
7 transcript of the proceedings in the above
8 entitled and numbered cause; that said witnesses
9 were duly sworn and thereafter testified as
10 hereinabove set forth;

11 That the proceedings were reported by
12 me in Stenographic shorthand, and transcribed
13 thereafter by me on computer, and that same is a
14 true and correct transcript to the best of my
15 ability and understanding.

16 That I am not of Counsel, nor related
17 to counsel or the parties hereto, and in no way
18 interested in the outcome of this event.

19

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21 _____
LORI COBB, CCR

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