

IN THE SUPREME COURT OF BRITISH COLUMBIA
(BEFORE THE HONOURABLE MR. JUSTICE VOITH and JURY)

Vancouver, BC
September 4, 2019

BETWEEN:

HIROKO D. CRAWFORD also known as DONNA CRAWFORD

Plaintiff

AND:

PROVIDENCE HEALTH CARE, DR. ANNA NAZIF

Defendants

AND:

NICHOLAS OSUTEYE, PROVIDENCE HEALTH CARE, DR. ANNA
NAZIF

Third Parties

PROCEEDINGS AT TRIAL
(Day 2)

COPY

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a

PROCEEDINGS AT TRIAL
SEPTEMBER 4, 2019
(DAY 2)

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Exhibit 5	Located in white binder, Common Book of Documents, tab 41: 2 page, letter to the review panel, from Mercy Osuteye, dated 25th day of November 20, 2013, p/c	34
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September 4, 2019
Vancouver, BC

(Day 2)
(PROCEEDINGS COMMENCED AT 10:06 A.M.)

THE CLERK: Order in court. In the Supreme Court of British Columbia at Vancouver on this 4th day of September, 2019, calling the matter of Crawford versus St. Paul's Hospital, My Lord.

MS. KOVACS: My Lord, just before we bring the jury in, a couple of brief housekeeping matters.

We have an amended trial brief coming to you this morning. We just had to make one more last-minute replacement. I'm pleased to advise you as well that my friends and I have come to agreement on documents 43 and 44, so we'll be in a position to put those into evidence probably during Mr. Osuteye's testimony. So I'll wait to do that.

With respect to witnesses, we have of course Mercy Osuteye this morning. We think she may be the morning, but there's a possibility that she'll finish before. We have Dr. John Dewart coming in by video conference from Edmonton at 2:00 P.M. We are not going to be calling Michael Osuteye; it's simply repetitive of some of the other evidence.

We may have some downtime today, and one of the things my friend and I have been discussing is whether or not to get Nicholas Osuteye started. We have him set for the entire day tomorrow. I know my friend has expressed the view that perhaps it's helpful to just have him all at once, but he is going to be a long witness, and I worry he may go over to Friday, which is not a problem because he's not scheduled to fly out until the end of the day Friday.

But I'm not sure what you prefer in terms of whether or not if there's downtime today, do we want to fill that time.

THE COURT: No, I rely on your judgment in terms of what you think works best. Obviously, I don't want -- and I have no sense of this at all, but I don't want things to be inefficient, and I don't want, in part, the jury to perceive it to be inefficient, because part of what's important is

just that there's a perception that the court's time is used properly and that their time is used properly.

But my strong sense of the dynamic between counsel thus far is that you've worked co-operatively, that what's being done is being done efficiently, and the dominant focus I have is that each of you is in a position to lead the evidence in a way that you think suits your case best.

So that's what ought to dictate what we do. And if we have a bit of downtime, I can talk to jury about that and explain that, but it doesn't concern me.

MS. KOVACS: I think -- my suggestion, I don't think we'll put Mr. Osuteye on before lunch. I think that may be too choppy with Dr. Dewart coming in at 2:00. But if we finish Dr. Dewart by 3:00-ish, then maybe we'll get him started at the end of the day because that will continuously flow into tomorrow.

THE COURT: Again, I'm in your hands.

MR. MEADOWS: That was my thought as well.

THE COURT: All right.

MS. KOVACS: Okay.

THE COURT: I'm just wondering, I would like before we do that to make -- is it possible to move this to the other side? Only because it's by the water and that causes me concern. And I can put everything -- so if we can move the computer onto this side I will move the binders there.

MS. KOVACS: While we're doing that, My Lord, should we have Ms. Osuteye just briefly retake the stand?

THE COURT: That's just fine.

THE BAILIFF: The jury, My Lord.

(JURY IN)

MERCY OSUTEYE, a
witness called for the
plaintiff, reminded.

EXAMINATION IN CHIEF BY MS. MACKOFF:(Cont.)

Q Ms. Osuteye, we left off yesterday talking about Nicholas's hospital stay at Grey Nuns Hospital in January of 2009?

3

1 A Yes.

2 Q Do you remember approximately how long Nicholas was kept at Grey Nuns Hospital during that admission?

3 A He was kept about a month.

4 Q Did you visit him regularly while he was there?

5 A Yes, I did.

6 Q Could you please describe to me what those visits were like?

7 A Initially, the visits were not very good, like, the first day I visited him, because, mind you, he's been very upset that he's been taken there, but subsequently he warmed up to our visits and that went on very well.

8 And I believe one day he tried to escape, because the nurses told me that, and so he was put in a lock unit. We're still able to visit him there. Then eventually decided to give him daily passes to go out, so he will sign out and come back to the hospital.

9 Q During those visits, were there nurses and doctors and other staff around when you were there?

10 A Mostly the nurses.

11 Q Can you describe to me how Nicholas's interactions with those nurses were like?

12 A I think he had a very good interaction with the nurses. He goes and talks to some of them sometimes. Not all the time, but he did have a good interaction with them.

13 MR. MEADOWS: My Lord, I just have some concern that we clarify that this witness is talking about things that she actually observed rather than her understanding of --

14 THE COURT: Certainly that last question is my perception that she was speaking to what she saw and not --

15 MR. MEADOWS: As long as that's --

16 THE COURT: Third-hand hearsay evidence. But you can confirm that.

17 MS. MACKOFF:

18 Q So you're simply talking about what you observed during your visits --

19 A That's correct.

20 Q -- with Nicholas at Grey Nuns?

21 At the end of Nicholas's stay at Grey Nuns did you bring Nicholas back home with you?

22 A I brought him home.

23 Q At that point when you're bringing him home, how did Nicholas seem? What was his behaviour like?

24 A He seemed very calm and, you know, very well behaved.

25 Q Did he seem like his old self?

26 A Yeah, he went back to his old self.

27 Q About how long would you say that lasted?

28 A Actually quite a while. I can't really say, you know, weeks or months, but maybe two weeks, three weeks, yeah.

29 Q Can you give us a bit of a description of what your son's transition was like going from Grey Nuns back into his home?

30 A I think he handled it very well in the sense that he will go out sometimes, come back home, interacted with us more often, have dinner with us, as compared to when he first went in there. But he had a really good interaction with us afterwards.

31 Q Okay. And you mentioned that that lasted maybe a few weeks or a month?

32 A Yes.

33 Q What happened after that?

34 A He was still back to his old self.

35 Q Did he stay that way?

36 A Yeah, he did actually for a while.

37 Q For a while?

38 A For a long time actually. For a long time.

39 Q Did things ever get worse again?

40 A I will say things didn't get worse after that, you know, because his brothers were there and he started to interact more with them too, so everything was fine.

41 Q Were you aware whether Nicholas was taking -- or whether he was supposed to be taking medication around that time in early 2009?

42 A Yes, yes, I was.

43 Q And would you ever remind Nicholas to take his medication?

44 A I did remind him sometimes and sometimes I don't. And there was a time that I saw a pill in the toilet, and I ask him why the pill was in the toilet, and he said he accidentally dropped it.

45 So then I became a bit concerned that he might not be taking it so I kept -- I went on -- went back on to remind him to take it. And

5
1 sometimes he'll come and show me before he takes
2 it.
3 Q How did he respond to your reminders to take his
4 medication?
5 A I think once I go for a long time he'll become
6 upset, so I only reminded him a few times and
7 just kept an eye on the bottle to see whether the
8 quantity was depleted or staying the same.
9 Q I understand a bit later in 2009 you went on a
10 trip to Ghana?
11 A Yes.
12 Q What was the purpose of that trip?
13 A The purpose of that was to celebrate my late
14 husband's one-year anniversary, which is in our
15 culture we have to go back home because he was
16 buried in Edmonton. So I need to go back to the
17 family, and we planned it that way.
18 Q Did your sons come with you?
19 A Brian and Michael did but Nicholas didn't.
20 Q Were you surprised that Nicholas didn't come?
21 A Yes, I was, but his excuse was that he was
22 looking for a job, and I think because of his
23 closeness to his dad he tries to avoid this
24 memorial things.
25 Q Had you originally planned for Nicholas to come?
26 A Yes, I did.
27 Q Did you go so far as to buy him a ticket?
28 A Yes.
29 Q While Nicholas was living at home with you, did
30 you ever feel concerned for your own safety?
31 A I did sometimes but not all the time, because I
32 know that he was taking his medication. And he
33 seemed okay, so it wasn't much of a concern.
34 Q Are there any particular examples of times that
35 you did feel concerned for your safety?
36 A I did. One evening he went outside, came back
37 into the house, and as usual he had his hand on
38 his left ear and was like talking to somebody.
39 And he seemed, at that time, a bit agitated, and
40 I asked him whether he was tired. He said he was
41 busy.
42 Then he went into his room, slammed the
43 door. Then all of a sudden we heard him, like,
44 yelling or like fighting with somebody in the
45 room, and he said something as it's my time to do
46 it. And I didn't know what he meant by that, so
47 that's when I became a bit concerned.

6
1 Q So those particular words that you heard, that
2 caused you some concern?
3 A That's correct.
4 Q Did you take any steps to protect yourself from
5 your son?
6 A I did. At that time, I started locking my
7 bedroom door.
8 Q I understand that over the following couple of
9 years, Nicholas would sometimes disappear from
10 the family home?
11 A Yes.
12 Q Could you give me an example of that?
13 A There was one day that he went out, he didn't
14 come home, and I eventually got an email from one
15 of his friends in Victoria. His name is Lucas
16 Mitchell. He sent me an email that Nick called
17 him from Vancouver airport, that he wanted to
18 come and sleep on his couch. But then he lived
19 in Victoria, and I believe Nicholas felt Victoria
20 was closer to Vancouver.
21 Unfortunately, when we were speaking, Nick's
22 phone died. Eventually he ended up at Vancouver
23 hospital and -- because he say he had a headache.
24 At that time, his friend couldn't get hold of him
25 anymore, so I believe he sent a message to some
26 of the fraternity members in Vancouver and
27 eventually he was located at one of the frat
28 houses there.
29 After that, he went and lived with one of
30 his friends of one of the fraternity members,
31 whose name is Scott, and he's a surgeon at the
32 Vancouver General Hospital.
33 Q What was your involvement in that event when you
34 went to Vancouver?
35 A I was trying to look for him to bring him home,
36 but I didn't know where he was.
37 Q How did you go about looking for him?
38 A I called -- one of his friends actually who lived
39 in Edmonton came to my office and told me that
40 he's going to Vancouver to visit his family, so I
41 ask him if it's okay to give him some money to,
42 you know -- because he knows Lucas too, to find
43 Nicholas and buy him a ticket to bring him home.
44 And he did find him and he brought him home.
45 But prior to that, one of our friends called
46 Nicholas and asked him to come home and Nick said
47 he doesn't want to come home because he thinks

7
1 there are voices in the house or something like
2 that. So the friend just brought him home and
3 then he went to stay with one of his friends,
4 Rick Schulton [phonetic], for a couple of days.
5 Q So you're talking about events that you weren't
6 there for. Were his friends reaching out to you
7 to tell you this information?
8 A Yes, yes.
9 Q I understand there was another time that Nicholas
10 ended up in Toronto?
11 A Yes.
12 Q Can you tell me about that incident?
13 A I'm not sure how he ended up in Toronto, but
14 according to -- well, when I went to the frat
15 house one of his friends were able -- I think he
16 used his computer.
17 So it looked like he purchased a Greyhound
18 ticket, and then it turn out that he ended up in
19 Toronto. What happened was he called his
20 ex-girlfriend's mom -- no, actually he called his
21 ex-girlfriend, that he was looking for a job in
22 Toronto. And so -- her name is Ricky.
23 So Ricky called me and said that Nicholas
24 has been in touch with Lindsay, but what she
25 wants to do is have his brother find Nicholas and
26 bring him to his house and then buy him a ticket
27 to bring him home.
28 So that did happen. And before he arrived,
29 Ricky decided that he will go and pick up
30 Nicholas from the airport, because Nicholas
31 didn't want me to know that he was in Toronto at
32 that time. So Ricky picked Nicholas up and took
33 him to our home in Edmonton, and he was there for
34 I think a couple of weeks or so.
35 Q What was your involvement in all these events
36 unfolding? Can you describe it from your
37 perspective?
38 A I -- my involvement was mainly to buy him the
39 ticket or find a way to bring him home.
40 Q At some point, I understand you learned that
41 Nicholas had been detained while trying to cross
42 the US border?
43 A Yes, he was.
44 Q Can you tell me a bit about that?
45 A The Canadian Border Services called me that
46 Nicholas was on a bus to New York but they have
47 to detain him. And he had told him that he

8
1 needed medication to sleep.
2 So they told me that after they're done with
3 him they might send him to a hospital. I did
4 tell them though that I'm ready to fly out the
5 next day to come and find him. So they told me
6 they will get in touch with me as to which
7 hospital they send him, so I'm not running around
8 all over the place.
9 So they called me back and told me that he
10 didn't want to go to the hospital, so they'll
11 send him on the next available bus to Ottawa, and
12 then after that he's out of their jurisdiction.
13 Q Okay. So the last you heard from them was that
14 they were putting him on a bus to Ottawa?
15 A That's correct.
16 Q And what did you do next?
17 A I still tried to -- I called them back and I
18 said -- I asked whether he's left, and they said
19 yes. So I asked them how am I going to find him,
20 and they give me phone numbers of shelters that
21 they found in a notebook that Nicholas was
22 carrying.
23 Q What did you do with that information?
24 A I called the one shelter and luckily enough he's
25 been there but have left. He was there for a
26 couple of weeks and left, but he left all his
27 belongings there.
28 Q Did you try to reach out to Nicholas yourself at
29 any point?
30 A I did, but he will not pick up his phone.
31 Q What did you do next?
32 THE COURT: You got to slow down a bit. I know I have
33 a screen but I prefer to do it this way if I can.
34 Just give me a moment, please.
35 MS. MACKOFF: Sure.
36 THE COURT: Thank you. Yes, thank you.
37 MS. MACKOFF:
38 Q So you learned that Nicholas had left some
39 belongings at his shelter in Ontario?
40 A Yes. That was in Cambridge.
41 Q Did you ever go pick up the belongings?
42 A I did.
43 Q So you went all the way there?
44 A I went all the way there.
45 Q How long were you in Ontario?
46 A I think I was there for less than a week.
47 Q While you were there, did you look around to see

9
1 if you could find Nicholas?
2 A I tried calling him because earlier on I had told
3 him that I was coming to Toronto to see him, and
4 he told me to call him when I got there. But all
5 the time I was there I tried calling him, he will
6 not answer his phone.
7 So I picked up the stuff, went back to my
8 cousin's that I was staying with. And the day I
9 was going to leave he called me and said he
10 wanted money. So I told him that I have a social
11 assistance cheque that he left at the place, I'll
12 put that in his account. But any money he wants
13 after that he'll have to come home to get it.
14 Q And why did you tell him that?
15 A Because I gather that he's trying to get money,
16 you know, and maybe to stay in hotels or things
17 like that and hasn't made up his mind to come
18 home. And actually a friend of mine advised me
19 that if you keep giving him money he's not going
20 to come back, so I decided not to give him money
21 anymore.
22 Q During this period, Nicholas still had a working
23 cell phone?
24 A Yes, he did.
25 Q Who was paying for his cell phone bill?
26 A I was paying for it because it was on the family
27 plan.
28 Q Nicholas was a grown man. Why were you
29 continuing to pay for his cell phone bill?
30 A I guess, in a way, to keep track of him, to find
31 out where he's been. Because earlier I had gone
32 to the City of Edmonton police to find out how I
33 can trace him by cell phone, and they said just
34 call him.
35 MS. MACKOFF: If I could put Exhibit A before the
36 witness.
37 Q Tab 5, please.
38 A Yes, I have it.
39 Q And so you're at tab 5?
40 A Yes, I am.
41 Q Do you recognize this document?
42 A Yes, I do.
43 Q What is this document?
44 A That's the cell phone for Nicholas.
45 Q So that's a monthly bill?
46 A It comes monthly, yes.
47 Q And where does this bill get mailed to?

10
1 A It gets mailed to my home -- our home.
2 Q Would you pay the bill each month?
3 A Yes.
4 Q On the first page on the top right corner there's
5 some information there. It says account number?
6 A Yes.
7 Q And two lines down it says invoice date?
8 A Yes.
9 Q September 10th, 2011?
10 A That's correct.
11 Q And so do you understand that this is a bill for
12 that date?
13 A Yes.
14 Q How much was Nicholas's phone bill that month?
15 A Sometimes it's less than \$100 and sometimes it's
16 more.
17 Q So looking at this particular document's example?
18 A This one was \$47.
19 Q And if you turn to the fifth page, is that a
20 separate month's bill?
21 A Yes, it is.
22 Q What information were you able to gather from
23 these monthly bills?
24 A I found the locations where he was making calls.
25 Q And was that useful to you?
26 A Yeah, it was useful to me.
27 Q What purpose did you use it for?
28 A I didn't know where Nicholas was, so that was my
29 only way to know where he was at.
30 MS. MACKOFF: My Lord, I ask that this set of records
31 be marked as the next exhibit.
32 MR. MEADOWS: No objection.
33 THE COURT: That will be the next exhibit. Madam
34 Clerk, what number, please.
35 THE CLERK: Exhibit 3, My Lord.
36 THE COURT: Exhibit 3. Thank you.
37
38 **EXHIBIT 3: White binder, Common Book of**
39 **Documents, tab 5: 10 page, Rogers Wireless**
40 **Services for 780-951-9736, Nicholas Osuteye.**
41 **Invoice Date: Sept 10, 2011, p/c**
42
43 MS. MACKOFF:
44 Q Moving forward to June of 2012, I understand
45 there was an incident at home involving Nicholas;
46 is that right?
47 A Yes.

11
1 Q Can you take me to that day and tell me how that
2 incident started?
3 A Yes. I went out in the morning to give some
4 lettuce to one of my friends. On the way back,
5 as soon as I turn onto our street, I notice
6 Nicholas was walking towards the house. He was
7 carrying the house handset in one hand and his
8 left hand on his ear. So I stopped and I said
9 why do you have the house phone. He didn't say
10 anything. He was just quiet.
11 So I drove up into the driveway. Just
12 before I got to the driveway, our front door was
13 wide open, and at this time Nicholas was wearing
14 his pajamas. Normally he doesn't do that. So
15 when he got in there I said why did you leave the
16 door open. And he said we have security so
17 there's no problem. And I said the security only
18 works if the door is closed.
19 So anyway, I noticed he looked a bit
20 agitated, so I went and sat on the couch in the
21 living room. And he went downstairs, then came
22 back up again, and then he said to me where is
23 today's paper. And I said it should be on the
24 kitchen table. And he said again where is the
25 paper. I said it's on the kitchen table.
26 And he went and got it. At that time, he
27 had coffee in his hand, and he tried to go
28 outside to drink his coffee and a little bit
29 spilled there. And then the paper got caught in
30 the door, so he came back and said if I ask you
31 for money give me money, do you understand? I
32 said yes. I mean, I was scared at this time.
33 And he said if I ask you money, you give me
34 money.
35 And, My Lord, can I use the F word?
36 THE COURT: Can I just ask you this: You repeated the
37 same sentence twice, and I'm trying to get a
38 sense of whether he said it to you twice.
39 THE WITNESS: Yes, he said it to me twice.
40 THE COURT: I see. I just didn't know if you were
41 repeating it for use.
42 And you can use that word. Of course you
43 can. That's fine.
44 THE WITNESS: I can. I'm so sorry.
45 THE COURT: I think most of us are probably --
46 THE WITNESS: And he said you are such a fucking
47 nigger. You are such a nigger.

12
1 MS. KOVACS:
2 Q Is that normal language for him to use?
3 A No, that language is never used in my home. No,
4 never.
5 Q And how did you feel when he said that?
6 A I was scared, actually, at that time when he said
7 that and then -- because there was a stare in his
8 eyes. So he went outside and went to the back to
9 go on the deck. So as soon as he did that he had
10 this house phone on the table, so I picked up the
11 house phone myself, grabbed my purse and my cell
12 phone, grabbed my keys and went outside.
13 Q Why did you go outside?
14 A I wanted to go to the police station.
15 Q Okay. So did you go to the police station?
16 A I did.
17 Q How did you get there?
18 A Well, I drove my car there. I drove my car.
19 Because I called Michael earlier to come to the
20 house, that Nicholas was acting very strange.
21 Q So you left Nicholas at the house?
22 A Yes.
23 Q You called your son, and you drove to the police
24 station?
25 A That's correct.
26 Q What happened at the police station?
27 A When I got there, I spoke to the officer at the
28 desk, and I told him what was going on. He said
29 I should go on the internet to report it. And,
30 I'm like, you don't know what I'm talking about.
31 There's no way I'm going to go out, you know, to
32 report this on the internet. I couldn't even get
33 into my own house.
34 So anyway, while I was talking to him,
35 Michael called and Michael asked me if somebody
36 was coming. And I said why. He said I have him
37 on the kitchen floor. So then I give the phone
38 to the officer and he spoke to Michael. What
39 they discuss I didn't know. And he told me go
40 back to the house, we already sent officers
41 there.
42 Q Okay. So once you learned that officers had been
43 sent to the house, what did you do?
44 A I went back to the house, but before I turn onto
45 our street, I saw two police cruisers in front of
46 my house -- or our house. And I went inside and
47 the officers were already in the kitchen and had

13
1 handcuffed Nicholas.
2 Q So take me to the scene. You walk into the house
3 and you go to the kitchen?
4 A Yes.
5 Q What do you see exactly?
6 A I saw two officers standing there and Nicholas on
7 the floor.
8 Q Was Michael there?
9 A Michael was there.
10 Q Can you describe what you saw -- was Nicholas on
11 the floor? Like what position was Nicholas in?
12 A He was laying down flat -- face down with his
13 arms at the back, of course, in handcuffs.
14 Originally, I believe he was tied in his own
15 sweat top. I didn't see Michael do that. But
16 what I saw was Nicholas was laying on the floor
17 with the handcuffs on him and his feet were also
18 tied with a sweater.
19 Q What was Nicholas's behaviour like at this point?
20 A He was -- yelling that his hands were tied, and
21 he kept saying I'm sorry, I'm sorry to the police
22 officers. And he wanted some water to drink.
23 Q Did he seem threatening at all to you?
24 A Well, he seemed -- because I didn't know what he
25 was going to do, but I wasn't afraid in the sense
26 that I know he was in handcuffs and the police
27 were there.
28 Q Before all of this happened, did Nicholas ever
29 threaten you directly?
30 A Never, never.
31 Q What about the day of this incident? Were there
32 any threats to you?
33 A Not prior to that time.
34 Q But at this time?
35 A At this time, yes.
36 Q There were threats?
37 A Yes.
38 Q Can you describe that?
39 A The threats were the ones that he was screaming
40 in his room "that is the time to do it," and
41 saying that he's not even Osuteye. His name is
42 not even Osuteye.
43 Q What do you mean by that?
44 A He said he's not even part of our family. His
45 name is not Osuteye.
46 Q Did he give you any other name?
47 A He said his name is Sorel. I don't even know

14
1 where that came from.
2 THE COURT: So just so I have it, his name was Sorel,
3 is that what it is?
4 THE WITNESS: He said Sorel. I think it is spelled
5 S-o-r-e-l. I don't even know what that is.
6 THE COURT: That's fine. That's fine.
7 THE WITNESS: I don't know if it's one of these
8 characters.
9 MS. MACKOFF:
10 Q And I don't want to use the language myself, but
11 during that incident where he called you that
12 name, did he make any threats?
13 A That was the time he made the threats, that when
14 he needs money, when he ask me for money, I
15 should give him the money or I'm dead, yes.
16 Q So going back -- you've come back home, you found
17 Nicholas on the kitchen floor, and the police are
18 there. What was the state of the house when you
19 got back?
20 A I noticed that he has thrown the shower door into
21 the family room.
22 Q So you see the shower door in the family room?
23 A Yes, yes. Because it's just off the kitchen, so
24 I saw that.
25 Q Was there any other damage in the house?
26 THE COURT: Sorry, I'm just trying to picture. Are
27 you talking about the shower curtain or a door
28 or --
29 THE WITNESS: The glass door, the heavy glass door.
30 THE COURT: Was off the shower into the living room.
31 THE WITNESS: Yes, he pulled it off.
32 THE COURT: Yes. Thank you.
33 MS. MACKOFF:
34 Q And can you describe, was the shower door broken?
35 Was it shattered?
36 A It didn't shatter at the time, but when we took
37 it outside to put it in the bin, it shattered.
38 Q Did you notice any other damage to the house?
39 A I went downstairs because Michael said there was
40 a hole in the drywall in the bathroom. So I
41 notice that he has punched a hole in the wall.
42 And he had his shaver -- I guess he smashed it on
43 the bathroom floor and that was shattered too.
44 Q So you saw a hole in the wall that looked like
45 someone had punched the wall?
46 A Yes.
47 Q And you saw a razor smashed on the floor?

15
1 A Yes.
2 Q So after this -- what happened next? Did the
3 police take him away at any point?
4 A The police did not take him away. An ambulance
5 pulled up. So I believe there was a paramedic.
6 She came into the house. So she started calling
7 various hospitals to see where they can take
8 Nicholas, because I asked her where she was
9 calling, and she said she was looking for a
10 hospital, and the only one that they can find was
11 Misericordia hospital.
12 But at this time, I was crying, myself,
13 because I didn't know what was going on, like,
14 everything seemed to me like a dream.
15 Q Did the paramedic assess anybody in the house?
16 A No.
17 Q The paramedics only dealt with Nicholas?
18 A Yes.
19 Q And did you see Nicholas go into the ambulance?
20 A Yes.
21 Q And you were aware that he was being taken to
22 Misericordia hospital?
23 THE COURT: What's the name of the hospital?
24 MS. MACKOFF: Misericordia.
25 THE COURT: As it sounds?
26 MS. MACKOFF: M-i-s-e-r-i-c-o-r-d-i-a.
27 THE COURT: That's close enough. Thank you.
28 THE WITNESS: We can Google it and find it.
29 MS. KOVACS:
30 Q And did you go to Misericordia?
31 A I did.
32 Q Did you drive there yourself?
33 A Yes, I drove.
34 Q When you got there, were you aware of where
35 Nicholas was in the hospital?
36 A Yes.
37 Q Where was he?
38 A When we got in into the waiting room, I saw him
39 on the stretcher in the hallway.
40 Q So you could see him in the hallway?
41 A I could see him.
42 Q How did he seem?
43 A He was very agitated. He was swearing, he was
44 yelling that they should call the cops, and he's
45 had it. And he started using the F words there
46 again. And that wasn't Nicholas.
47 Q Were you able to go visit him while he was in the

16
1 hallway?
2 A No, no, we're not allowed.
3 Q So you stayed in the waiting room?
4 A Yes.
5 Q Did you see whether he got moved from the
6 hallway, at any point?
7 A He got moved from the hallway, because what
8 happened was there was a doctor that went to
9 assess him there, and he started yelling at her.
10 She was pregnant. I think she became scared.
11 So, eventually, I noticed that he got moved
12 into a room not far from where we were sitting
13 at.
14 Q So were you able to then go visit him that same
15 day?
16 A No.
17 Q So you went home that night?
18 A We went home that night, yes.
19 Q And did you come back the next day?
20 A We came back the next day.
21 Q And, at that point, were you permitted to go
22 visit Nicholas?
23 A Yes. At that time I believe he's calmed down
24 because the doctor who saw him said he's going to
25 give him something to calm him down, so we can go
26 home.
27 Q So --
28 A Actually, may I add something whilst he was in
29 that room there at the hospital?
30 Q Sorry, which room are you talking about?
31 A The emergency room.
32 Q Okay.
33 A One of the doctors asked if he knew who I was,
34 and he said that's a F bitch, and she's not my
35 mother. She owes me \$40 million. The doctor
36 said don't worry, we'll talk about the
37 \$40 million after that.
38 Q And you hear him say that?
39 A Yes, I heard him say that.
40 Q So the first time you got to visit him at
41 Misericordia was the following day?
42 A Yes.
43 Q And how did he seem that day?
44 A He seemed very calm and chat with us like nothing
45 has happened.
46 Q You didn't discuss with him, the events of the
47 prior day?

17
1 A No, no.
2 Q At that point, did you see him with his hand over his ear?
3 A No, we didn't. Or I didn't.
4 Q Did you see him muttering to himself or chatting away?
5 A No. Actually, when we went, it felt like he was a little bit sleepy, so we just chat for a bit.
6 And it was time for their dinner, so we went with him to the dining hall to eat.
7 Q In total, are you aware how long Nicholas stayed at Misericordia hospital?
8 A He was there for about a month.
9 Q During that stay, how often did you visit your son?
10 A Every day.
11 Q And can you tell me a bit about those visits.
12 A They were very welcoming and very nice visits. Went downstairs to buy potato chips and stuff, came back upstairs again. He was allowed to come downstairs with us. That's how far he could go. Or go outside to have a smoke and then come back in.
13 Q Do you know if there was a plan in place for Nicholas's discharge from the hospital?
14 A Yes, there was a plan in place.
15 Q Were you involved in that, formulating that plan?
16 A I was.
17 Q Can you tell me a bit about that?
18 A Yeah, we met with Dr. Dewart, and he said that he would like to discharge him home, but we'll see if he's able to get some allowance through Alberta Works.
19 So the social services manager, I'll call it, she give Nicholas a piece of paper, and we went to Alberta Works. He applied for subsidy or some kind of funding, and then we brought him back to the hospital. And then after that, it was decided that he went home with Michael because I was going to Ghana at that time.
20 Q What took you to Ghana at that point?
21 A I already planned a trip about six months earlier, and I couldn't change my flight dates. And it was for family reunion with my siblings.
22 Q Relative to Nicholas's discharge from the hospital, when did you leave for Ghana?
23 A I left on the 10th of July; Nicholas was

18
1 discharged on the 6th, I believe, and I left on the 10th of July.
2 Q And this is in 2012?
3 A Yes.
4 Q Were you concerned about leaving Nicholas in Edmonton while you went to Ghana?
5 A I was a little bit concerned, but I knew Michael would take care of him.
6 Q What concerned you about leaving?
7 A I had these mixed feelings about this has just happened, and I'm leaving, and I can't cancel my flight because the flight was pretty expensive, so I decided to go. But my only concern was that, you know, I wasn't there to see what he does after that or how he does.
8 Q How long were you in Ghana?
9 A I was in Ghana for about five weeks.
10 Q When you got back to Edmonton was Nicholas there?
11 A He wasn't.
12 Q Did you have any idea where he had gone?
13 A No. Prior to that, I tried to call him when I was in Ghana, but he will not pick up his phone. So I talked to Brian, Brian said he left again, and Michael doesn't know where he's at. And so when I came back, he wasn't home, of course. But again, might be hearsay, Michael said that he was looking at the frat house, and he also informed the police about that.
14 Q So you got involved and started looking around for him?
15 A Yes, yes. I listened to his cell phone, and the police have left a message there. The crisis unit have also left a message. The U of A hospital that he had an appointment also left a message there. And, I believe, the crisis unit said they still have his file open, but if they didn't hear from him in a few days, they will close his file.
16 Q When did you first receive information about where Nicholas had gone?
17 A I got a letter addressed to Nicholas to our home from BC medical, so I opened it.
18 Q So I'll just stop you there and ask you to turn to tab 13 of the binder. Do you recognize this?
19 A Yes.
20 Q On the first page, what are we looking at there?
21 A Nicholas, you're looking at his name, our home

19
1 address, city, province, and postal code.
2 Q And is this a photocopy of something?
3 A No, I send the original to my lawyers, or his lawyers, so maybe they photocopied it, I don't know.
4 Q Is this an envelope?
5 A Yes, it's an envelope.
6 Q Is this the envelope that you were just referring to receiving?
7 A Yes.
8 Q Turning to the second page.
9 THE COURT: I think I can fairly say this without counsel's concern.
10 Counsel entered into an agreement, which is called a document agreement. I've seen that document agreement. It pertains to what's in this information, and one of the things in that agreement is that the parties agree that everything is here, you can view it as though it was an original. You can take the dates, the recipients, the authors as accurate unless you hear otherwise.
11 So you can have the same comfort with all of this material as though it was an original.
12 Any concern with that instruction?
13 MR. MEADOWS: No concern, My Lord.
14 THE COURT: All right.
15 MS. MACKOFF:
16 Q And do you recognize this document on page 2?
17 A Yes, I do.
18 Q This is what you received in the envelope?
19 A Yes.
20 Q And so it says, somewhat near the top of the page, date of service November 13th, 2012. Do you see that?
21 A Yes, I do.
22 Q And then beside that, it says invoice date February 1st, 2013?
23 A Yes.
24 Q And what appears to be stamped across the page is final notice?
25 A Yes.
26 Q Did you receive any previous versions of this document?
27 A I believe -- I think I know -- this is the one I got with the final notice.
28 Q Do you know when you received the document?

20
1 A I received this on the 30th of November.
2 Q So even though it's dated February 1st, 2013, you received it on November 30th?
3 A No, I'm sorry. I received one before then.
4 Q Okay.
5 A Yes, I received one before then, yes.
6 Q And this was delivered to your home address?
7 A Yes.
8 Q And the amount owing was \$530?
9 A That's correct.
10 Q A bit above where it says \$530, it says patient, Nicholas Osuteye?
11 A That's correct.
12 Q And carried from 601 W. Cordova?
13 A Yes.
14 Q Carried to St. Paul's Hospital?
15 A Yes.
16 Q So what did you do when you received this document?
17 A When I received the document, I was a little bit surprised, so the first thing I did was to call the ambulance company. And I said I got this invoice from them, and I need to know what happened. They told me they're not able to tell me anything and referred me to call St. Paul's Hospital. That's where he was taken to.
18 Q Did you call St. Paul's Hospital?
19 A I did call there.
20 Q What happened when you did that?
21 A The switchboard, I'm assuming, told me that they can't give me any information but will transfer me to psychiatry. So at this time, I knew that once I got that bill that Nicholas was in Vancouver.
22 Q Did you get transferred to psychiatry?
23 A Yes, I was.
24 Q And what happened then?
25 A And I spoke to a nurse. Her name is -- I believe is Shirley. And I told her what I received, and she said I'm sorry, I can't give you any information.
26 So I said my son was brought there, and I need to know what happened, and I got this ambulance bill I need to take care of. She told me to write a letter to the ambulance company and tell them that my son is not my responsibility, and I shouldn't be responsible for his bill. So

21

1 at that point, I said to her that you do realize
2 that you're talking to his mom, and I understand
3 that because of privacy regulations you are not
4 able to give me any information, and I ended up
5 -- the conversation.
6 Q Were you able to learn where Nicholas was when
7 you were making those phone calls?
8 A No.
9 Q How did you feel when you were going through this
10 process?
11 A I felt very sad, and I felt very angry because
12 here I have a son that is not well, and I
13 expected that somebody will call me that he's in
14 an ambulance or wherever.
15 So I felt that -- sorry.
16 Q Take your time.
17 A I just felt that I was being given the runaround.
18 Q Okay.
19 A Okay.
20 Q Did you try to contact Nicholas directly when you
21 got this invoice?
22 A I tried, but I guess his cell phone was dead at
23 that time.
24 Q So you weren't able to reach him?
25 A No, no. His charger was damaged, something.
26 Q Did you consider just coming to Vancouver to look
27 for him?
28 A I did but, you know, where to go. I even
29 contacted one of our friends and he said no, he
30 lives in Kamloops. And I didn't really know the
31 geography here, so he said maybe if I go to
32 Vancouver in a few weeks, I'll see if I can find
33 him in that area. But I didn't realize what area
34 this is. And to be honest, I didn't know where
35 to go to look for him.
36 MS. MACKOFF: My Lord, I will ask that this document
37 get marked as the next exhibit.
38 MR. MEADOWS: No concern.
39 THE COURT: Be the next exhibit, tab 13.
40 THE CLERK: Exhibit 4, My Lord.
41 THE COURT: Yes.

**EXHIBIT 4: Located in white binder, Common
Book of Documents, Tab 13: 3 page, 1st page
depicts photocopy of an envelope addressed
to Nicholas Osuteye, p/c**

22

1 MS. MACKOFF:
2 Q Ms. Osuteye, is your phone number and address
3 listed publicly?
4 A Yes, it is.
5 Q Was it also listed publicly at around the time
6 you received this invoice?
7 A Yes.
8 Q Around this time, how often did you keep your
9 cell phone near you?
10 A I have my cell phone with me all the time. I
11 take it -- I have two cell phones. I take them
12 to my bedroom, and I take the house phone also
13 there because sometimes I get a call from Ghana
14 and even if it's 2:00 A.M. I'll pick up my phone.
15 Anytime my phone rings, I pick it up.
16 Q On December 6th, 2012, did you receive a phone
17 call from St. Paul's Hospital?
18 A No, I didn't.
19 THE COURT: What was the date, please?
20 MS. MACKOFF: December 6, 2012.
21 Q I would like to talk about the evening of
22 December 8th, 2012. I understand you were
23 listening to the radio?
24 A Yes.
25 Q Where were you as you were listening to the
26 radio?
27 A I was in my kitchen.
28 Q At home?
29 A Yes.
30 Q Are you alone in the kitchen?
31 A I was alone in the kitchen.
32 Q What did you hear on the radio?
33 A Actually, I'm really a news freak, so I always
34 have the news on. So I believe it was after 5:00
35 and I heard -- or 6:30 CHEK that an Alberta man
36 has been arrested in BC, that was the headlines.
37 Q So what's your thought when you hear that?
38 A At that time, because I knew that Nicholas was in
39 Vancouver, my heart sunk a little bit.
40 Q And then what happened?
41 A And then after the headlines, they said a 35 year
42 old -- as soon as they said that, I said I think
43 this is Nicholas -- a 35-year-old Alberta man has
44 been arrested and charged with three counts of
45 attempted murder in BC. And all I said was oh my
46 God, Nicholas, like what did he do.
47 So Brian was in his room, so I yelled at

23

1 him. I said Brian, Nicholas has been arrested in
2 BC. Can you check on the internet to see if
3 there's something there. He did, and he said
4 yeah, there was something on the internet.
5 So, basically, my information was from the
6 radio. And right after that, I started getting
7 calls from the media. I don't even know how they
8 found my phone number. It wasn't even 20 minutes
9 and they started calling me.
10 Q Okay. So you actually heard Nicholas's name on
11 the radio?
12 A Yes, Nicholas Osuteye, yes.
13 Q Are you surprised to hear this?
14 A I was surprised to hear it, but because I know he
15 wasn't well at that time, I didn't know what to
16 do. Like, I was surprised -- I was in shock, I
17 should say.
18 Q How were you feeling, physically? What's going
19 on in your body at that moment?
20 A I was screaming, I was yelling. And, you know, I
21 was trying to call some of my friends, and every
22 person I call was on the phone or something like
23 that. And then we turn on the television and we
24 saw Nicholas there. And at that time, I'm, like,
25 this is not my son, this is not my son.
26 Q So what do you do after you hear this news?
27 A Well then I became more attached to the TV, you
28 know, trying to watch it. And I know they said
29 that when he was arrested he didn't know his
30 name, or he didn't know where he was from or
31 something to that effect. Like this happened a
32 long time ago. I was very scared for him.
33 I said what if the police shot him or
34 anything like that. But then when I saw him
35 sitting at the curb with, you know, sitting
36 there, and what really bugged me was the fact
37 that he didn't have any clothes on. And that was
38 not Nicholas. That was not him at all.
39 Q So this is an image that you're seeing of
40 Nicholas?
41 A Yes.
42 Q And he's not wearing clothes?
43 A He was only wearing his underpants.
44 Q Did you try to contact anyone to get more
45 information?
46 A I called the City of Edmonton police department,
47 in the evening, and they told me to call the

24

1 RCMP. So I called the RCMP. They told me to
2 call BC RCMP. I called them, and they said to
3 call Vancouver police department but that office
4 was closed.
5 So the person that answered the phone said
6 he'll take the information and have somebody call
7 me. So the next morning I got a call from the
8 CTV reporter who gave me the actual phone number
9 to the exact office that I should be calling.
10 Q Did you travel to Vancouver at any point?
11 A I did after I had spoken with the detectives. I
12 wanted to come right away, but they said he was
13 in a place that I couldn't see him.
14 Q When you got to Vancouver, when was the first
15 time that you saw Nicholas?
16 A I saw him at the North Fraser Pre-Trial.
17 Q How did he seem at that point?
18 A He seemed calm but scared. And I think he
19 probably was reflecting on what had just
20 happened.
21 MS. MACKOFF: My Lord, I'm aware of the time. I have
22 probably, maybe, 15 more minutes.
23 THE COURT: Let's break. There's one or two things I
24 want to talk to you about, so this is probably an
25 opportune time.

(JURY OUT)

1 THE COURT: I'm not quite sure, Ms. Mackoff, what's
2 coming. I have a sense of it. I know that one
3 of the documents -- Ms. Osuteye, you're excused.
4 THE WITNESS: I am?
5 THE COURT: You are. You're welcome to walk around
6 and counsel will come get you. So you're free to
7 stretch your legs a little bit.
8 THE WITNESS: Thank you.

(WITNESS STOOD DOWN)

1 THE COURT: One of the documents that we talked about
2 on Friday were these records that pertained to
3 what happened when Mr. Osuteye was charged and
4 then found not criminally responsible for his
5 activities. And I don't know what evidence you
6 will lead in relation to those issues, but it did
7 strike me that, well, potentially, subject to
8 your views, that as, and when, that evidence is

25

1 led, it might be useful to provide the jury with
2 some instruction about what that means in the
3 context of this case, so that again, they don't
4 misuse that, or it doesn't lock in their minds in
5 a way that's inappropriate.
6 Again I look to you. At some point, we have
7 to talk about that to them. And so what I
8 thought is maybe over the break you can reflect
9 on that as between yourselves, have that
10 conversation and consider what, if anything, I
11 should say in relation to those findings, and
12 they're significant for the purposes of this
13 trial. You understand the point I'm making?
14 MS. KOVACS: Yes. Perhaps, what I can do is I can
15 address this. I know that Ms. Mackoff intends to
16 lead a letter, a letter that's going in that Mrs.
17 Osuteye wrote in the process of those
18 proceedings.
19 THE COURT: That's the one I saw on Friday, yes.
20 MS. KOVACS: Yes. And that one's been agreed to. The
21 documents 43 and 44, which my friends and I have
22 now come to agreement on with respect to
23 redactions, they're extensively redacted, I don't
24 intend to lead those until we have Nicholas. I
25 think it's better through him rather than this
26 witness.
27 THE COURT: Okay.
28 MS. KOVACS: But obviously in the course of the
29 continuation of the direct, which won't be much
30 longer, she'll obviously have to comment on the
31 NCMRD process to some degree because the letter
32 is relevant to that. So I don't think we're
33 going to canvass it at length with her.
34 So I don't know if now is the right time to
35 make that address, but I have no objection to
36 offering the jury that clarification.
37 THE COURT: I don't know what evidence is coming. As
38 I said, I had an apprehension of it in terms of
39 what makes sense, but I'm looking to you for
40 guidance. I'm raising an issue and asking for
41 some input about how you think that should be
42 addressed, and if addressed, what you think ought
43 to be said.
44 MR. MEADOWS: My Lord, I take your point, and I think
45 that it's a good one. I think that because the
46 finding of not criminally responsible may be, you
47 know, the jury may take the idea that, oh, he's

26

1 not responsible for -- in any way for the
2 assault, and that's found -- and that's already
3 been determined. It will need to be explained to
4 them.
5 In our view, and I don't know if my friend
6 has any issue with the actual test, the tests are
7 different between civil and criminal cases, so
8 perhaps some brief direction with respect to
9 that, because the jury will have to make a
10 finding that relies on their view as to the
11 distinction between the tests, in our submission.
12 THE COURT: Well not so much the distinction but what
13 really -- the appropriate test for present
14 purposes, right, that's what they'll have to deal
15 with.
16 MR. MEADOWS: Whether his mind --
17 THE COURT: So the question really is, and having
18 heard what counsel has said, if this issue is
19 more fully canvassed in the evidence of
20 Mr. Osuteye, is that the appropriate place? It
21 does strike me that a caution at this point, as
22 opposed to just the end of the trial, is a useful
23 thing.
24 Similarly, it strikes me as likely
25 unnecessary to have to issue that caution now.
26 If the issue resurfaces with Mr. Osuteye issue it
27 again, then issue again at the end of the trial,
28 that strikes me as likely excessive. The point
29 has to be made, I think, so it doesn't fix in
30 their minds inappropriately.
31 But that's why it's for you to consider the
32 best place. And, I mean, if collectively you
33 said no, you should reiterate that, I would
34 listen to that. But I'm raising it with you, so
35 you can reflect on when and what ought to be
36 said, and I would like some guidance from that,
37 and when we resume we'll have a brief
38 conversation.
39 MR. MEADOWS: Okay.
40 THE COURT: Okay. Thank you.
41 THE CLERK: Order in court. Court is adjourned for
42 the morning break.
43
44 (PROCEEDINGS RECESSED AT 11:12 A.M.)
45 (PROCEEDINGS RECONVENED AT 11:30 A.M.)
46
47 THE CLERK: Order in court.

27

1 MR. REID: My Lord, we have discussed the issue and we
2 agreed that it would be appropriate to have a
3 caution to the jury following the conclusion of
4 Mercy Osuteye's direct evidence and before she
5 goes on cross. And the wording we've discussed,
6 and are in general agreement on, is simply to
7 indicate to the jury that as you've heard,
8 Mr. Osuteye was found not criminally responsible.
9 That finding is based on a different legal test
10 than the civil test, which you will be instructed
11 on later. An individual can be found not
12 criminally responsible but still be civilly or
13 words to that effect.
14 THE COURT: So in my mind I was framing this. What I
15 would propose to say is, I identified for them
16 the issue, one of the issues being that
17 Mr. Osuteye was capable of forming the intention
18 to commit a civil assault, because that
19 introduces the issue. They'll have heard this
20 evidence. And then I think that leads into what
21 you've told me, that evidence, that is the NCR
22 evidence, doesn't dictate that result. The tests
23 are different.
24 And as you say, an individual can be found
25 NCR for criminal purposes and a different
26 standard applies for civil cases. All right.
27 MR. REID: Thank you.
28 THE COURT: Mr. Meadows, you seem to be reflective.
29 MR. MEADOWS: I was a bit reflective, My Lord, just
30 because I don't know if the forming the intent is
31 the issue, because that word itself is a little
32 loaded and there's some appreciation of moral,
33 you know --
34 THE COURT: Isn't that the -- again, when Ms. Kovacs
35 gave me cases, there was a decision from the
36 mid 70s, a Supreme Court of Canada case which
37 spoke to the ability to form the intent to commit
38 a civil assault, and then that ability then, as I
39 understood it, was measured against the ability
40 to understand the nature and consequences of the
41 assault itself.
42 So those -- that's how it was measured. But
43 when we speak, and I'm looking to you for
44 guidance, I'm not saying this is right because
45 you thought about it much more carefully than I
46 have at this point, but isn't the element of the
47 tort that we're attacking in terms of its ability
1 to be made out, the intention, because it's an
2 intentional tort. And isn't it the intention
3 that is challenged, the ability of the individual
4 to perform the intention? I'm asking now.
5 That's a question.
6 MR. MEADOWS: Yes, that's correct. You can also have
7 that intention and still be found NCR because you
8 don't appreciate that the act was wrong. That's
9 part of the distinction.
10 So I'm a little concerned with focussing on
11 the intent, because you can have the intent to
12 actually do damage to someone, but if you do not
13 appreciate that it is wrong, you can be found
14 NCR.
15 Whereas, if you have the intent -- in our
16 submission, if you have the intent to harm
17 somebody, I'm going to hit you, it's going to
18 break your bones, that's sufficient for a civil
19 assault finding, whether or not you appreciate
20 it's wrong or not. I thought they were dummies
21 or something like that. You know, I thought that
22 they would come back or repair themselves or some
23 delusion to that -- along that line will not
24 prevent you from being found civilly liable for
25 assault. As long as you thought you would break
26 their bones.
27 THE COURT: So how would you describe the issue that
28 the jury is going to have to deal with? Because
29 that is what I said in the -- when I gave them
30 the broad instructions and identified the issues
31 for them. I suppose --
32 MR. MEADOWS: Right. And I think, in general, the
33 issue is there, but it is a little bit of a more
34 subtle point than that. And I think the fact
35 that it's a different test to be considered and
36 that one could be found not criminally
37 responsible but still be found civilly liable for
38 the assault.
39 THE COURT: That I have --
40 MR. MEADOWS: As long as they know that I think that's
41 really the caution that I would be more concerned
42 with.
43 THE COURT: I'm going to say that. But again, I want
44 to understand for my own purposes so one more
45 time, please.
46 You know, they were provided a fair bit of
47 information quickly on the first day of trial, in

29

1 terms of what this trial was about. In the
2 opening of your friend, she's identified that, in
3 a sense, declaratory relief has been sought and
4 that this is an issue. But what is the issue as
5 it relates to Mr. Osuteye? How would you
6 describe it?
7 MR. MEADOWS: Well I think for Mr. Osuteye, the issue
8 is whether or not he intended to strike these
9 individuals, or was he in a state that was akin
10 to an automaton. It's much like the older review
11 of law with respect to intoxication or something
12 like that where if you are actually acting
13 without any intention whatsoever of what you're
14 doing, and you're essentially acting like a
15 robot, then you may not have the intention.
16 But if you do actually intend your act, you
17 intend to strike that person, and appreciating
18 that that will cause them to be hurt or cause
19 damage to them, that intention is sufficient for
20 civil assault but it's not -- it's necessary but
21 not completely sufficient on its own for an NCR
22 finding, to not have that.
23 If you have that intention, but you do not
24 appreciate that that act is wrong, you don't
25 think it's bad to have hurt these people because
26 you think that they are aliens from another world
27 or something like that, you knew you were hurting
28 them but you didn't know it was wrong, that's
29 sufficient to get an NCR finding.
30 THE COURT: An NCR finding but not for civil purposes.
31 MR. MEADOWS: That's right. If you -- doesn't matter
32 you thought they were an alien --
33 THE COURT: So would it be fair then to say that one
34 of the questions at issue is Mr. Osuteye's
35 responsibility for these assaults and then go
36 to -- without getting into intent, and then go to
37 the fact that there's a finding in the context of
38 a criminal proceeding that he was not criminally
39 responsible doesn't dictate that result in the
40 civil context.
41 MR. MEADOWS: That's it. And in my submission, and
42 I'll let my friend speak to it, and then we can
43 perhaps have a more finely tuned version in the
44 final charge or --
45 THE COURT: And as -- and when Mr. Osuteye gives
46 evidence, and he speaks to what took place, am I
47 meant to say anything or not?

30

1 MR. MEADOWS: Well in my submission, because it is a
2 subtle point, I think so, but I know that my
3 friend is in disagreement and prefers to have the
4 charge one time only.
5 THE COURT: Well there's nothing subtle about this.
6 MR. MEADOWS: No.
7 THE COURT: This is a blunt instrument.
8 MR. MEADOWS: Yes.
9 THE COURT: The charge itself will be. And I will do
10 this when we finish the direct evidence of
11 Ms. Osuteye.
12 And what I'm saying is, do I give a similar
13 blunt instruction when we finish with
14 Mr. Osuteye? Because I don't intend to get into
15 --
16 MR. MEADOWS: I don't think it's necessary.
17 THE COURT: All right. Then you're in agreement.
18 Okay. That's fine. Thank you.
19 MS. KOVACS: My Lord, that's all I was going to say,
20 is one caution.
21 THE COURT: Yes, thank you. Yes, thank you.
22 THE BAILIFF: The jury, My Lord.

(JURY IN)

MERCY OSUTEYE,
recalled.

EXAMINATION IN CHIEF BY MS. MACKOFF:(CONT.)

30 Q So, Ms. Osuteye, before we left for the break we
31 were talking about when you arrived in Vancouver
32 following Nicholas's arrest. What is your
33 understanding of the legal process Nicholas went
34 through after being arrested?
35 A I really didn't know the whole process, but after
36 I spoke to the detectives they were sort of able
37 to guide me that, you know, I should come talk to
38 them, then after that we can go and see Nicholas.
39 So they told me that -- they gave me the
40 address of the shelter he was in, to go pick up
41 his stuff and go to see there. And I also
42 thought that maybe we could get a lawyer here,
43 because I talked to people in Edmonton and they
44 said no, we don't practice here. I didn't
45 realize that it's different from each province.
46 So then they gave me the name of the justice
47 of peace that gave Nicholas the bond to -- or

31

1 release to go to the North Fraser institute, and
2 I call there. They just say that just -- he was
3 just there for the day.
4 So then after that, I, kind of, started
5 looking around to see what help I can get. I was
6 given legal aid phone number and everything. And
7 then finally I was given the name of a lawyer,
8 that I called.
9 Q So was there a trial that happened in Vancouver?
10 A Yes.
11 Q And were you there for the trial?
12 A I was there most of the time.
13 Q Okay. Sorry, you were present during some type
14 of legal proceeding?
15 A Yes.
16 Q In Vancouver?
17 A Yes.
18 Q And from your understanding, what was the outcome
19 of that proceeding?
20 A I didn't know what the outcome was going to be.
21 It was kind of scary to me that, you know, my son
22 may end up in jail for the rest of his life,
23 depending on what happens with the victims and
24 everything and probably may not be able to see
25 him for a very long time.
26 So that was my main concern. And I was also
27 concerned about the victims as well. I wanted to
28 talk to them, but I can't have access to them to
29 apologize to them as to what has happened.
30 Q At the end of the hearing what happened?
31 A Which one? Which hearing?
32 Q So what was your understanding of what happened
33 during the court process when you were in
34 Vancouver?
35 A Yeah. My understanding was that he may or may
36 not be found not criminally responsible, or he
37 may be found guilty.
38 Q And what happened?
39 A He was found not criminally responsible.
40 Q After that, are you aware of where Nicholas went?
41 A Yes.
42 Q Where did he go?
43 A He went to the Forensic Psychiatric Hospital in
44 Colony Farm.
45 Q Where is that located?
46 A I believe it's Coquitlam or port -- in Coquitlam.
47 I'm not sure which one.
32 Q In British Columbia?
33 THE COURT: Can we just stop for a second. My screen
34 is frozen, and I'm wondering if other counsel's
35 is working fine.
36 MR. REID: It's working fine.
37 THE COURT: I don't need mine. We'll fix it later.
38 MS. MACKOFF:
39 Q Could you please turn to tab 41 of your binder.
40 A Yes.
41 Q Do you recognize this document?
42 A Yes, I do.
43 Q What is it?
44 A It's a document to tell me that Nicholas is in
45 that facility.
46 Q Sorry, are you at tab 41?
47 A Yeah -- oh no, no, sorry. Oh I'm sorry, I'm
looking at different -- 41. It was after that.
Yes, I do.
Q You recognize this document?
A Yes, I do.
Q What is this document?
A It's a letter I wrote to the review panel after
Nicholas was in Colony Farm.
Q What was the purpose of this letter?
A The purpose was to appeal to them to bring
Nicholas home to us or to be moved to Alberta
where we could see him.
Q So, at that time, he was still in British
Columbia?
A Yes.
Q And you wanted him to be in Alberta?
A Yes.
Q And so you wrote a letter to the review panel?
A Yes.
Q Did you also speak to the review board at a
hearing?
A I did.
Q And what were you trying to communicate to the
review board?
A I was trying to communicate to them that I love
my son no matter what, and I want to bring him to
our home or to Alberta.
Q As you were writing this letter and speaking to
the review board, what did you think would be the
benefit of having him in your home province?
A I'm sorry, can you repeat that?
Q As you were writing this letter?

33

1 A Yes.
2 Q And as you were speaking to the review panel, the
3 review board, what were you saying about why you
4 wanted to have Nicholas come home to Alberta?
5 What was the benefit of having him home in
6 Alberta?
7 A The benefit of having him home is having seen him
8 for maybe almost a year, he has a few challenges
9 in life like stuttering and everything and I just
10 wanted him to come home to us. I just want him
11 home.
12 Q On page 1 of this document on the second
13 paragraph from the bottom.
14 A Yes.
15 Q It starts with "I came to Canada from Ghana in
16 1981"?
17 A Yes.
18 Q And you mention there:
19
20 Our family has strong roots in support from
21 the Ghana and larger African community here
22 in Edmonton.
23
24 Can you tell me a bit about the support and
25 community that you have in Edmonton?
26 A Yes. We have quite a bit of support there, like,
27 from the Ghana Friendship Association, from the
28 Ghanaian community, from some of the African
29 communities, because everybody saw what happened.
30 And our family is very involved in a lot of
31 activities with the community, so I felt that
32 once Nicholas is there, they will all rally
33 around us and give us the support that we need.
34 Q And did you think that would help Nicholas in his
35 recovery?
36 A Yes.
37 Q After the hearing, did Nicholas end up being able
38 to move to Alberta?
39 A Yes, he was moved to Alberta.
40 MS. MACKOFF: My Lord, I would ask that document at
41 tab 41 being marked as the next exhibit.
42 MR. MEADOWS: No objection.
43 THE COURT: Yes.
44 THE CLERK: Exhibit 5, My Lord.
45 THE COURT: Exhibit 5. Thank you.
46
47

34

1 **EXHIBIT 5: Located in white binder, Common**
2 **Book of Documents, tab 41: 2 page, letter**
3 **to the review panel, from Mercy Osuteye,**
4 **dated 25th day of November 20, 2013, p/c**
5
6 MS. MACKOFF:
7 Q Ms. Osuteye, once Nicholas was set up in
8 Edmonton, were there any further hearings that
9 you were a part of?
10 A Yes.
11 Q Can you tell me about those hearings?
12 A We had a family conference. I met with one of
13 the doctors, and then after that I was involved
14 with a review panel. I attended all of the
15 meetings there.
16 Q And is that a different review panel than the one
17 we were just discussing?
18 A It's different in the sense that I believe
19 they're all lawyers from the legal department or
20 Department of Justice, but with that one most of
21 the treatment team is there, most of them are
22 there, and they ask me a few questions, or if I
23 had any questions to ask of them. But it was
24 slightly different than the Vancouver one.
25 Q Was that one in Alberta?
26 A Yes.
27 Q What was your involvement in that process? What
28 were you asked to talk about or communicate?
29 A I basically was trying to tell them that I would
30 like Nicholas to come home. I would like -- very
31 much like him to come home, so that we will start
32 our family again.
33 Q Did you have to address any particular concerns
34 that the panel had about him coming to your home?
35 A I did. What happened was my niece was in
36 Edmonton from Ghana to have a baby, and so I did
37 mention to them once we started talking about the
38 fact that Nicholas might eventually be released
39 home, that, you know, my niece is there with the
40 baby, so that kind of changed the dynamic a
41 little bit. What they said was, well they didn't
42 realize there was a baby in the house. And I
43 said it's not going to affect anything. Nicholas
44 can come home the same day. It's not going to
45 affect anything to do with the baby being in the
46 house.
47 Q So you had no concerns about your safety, the

35

1 baby's safety?
2 A Not at all.
3 Q Anyone's safety?
4 A Not at all.
5 Q And then did Nicholas finally come home?
6 A He did.
7 Q When did that happen?
8 A Nicholas --
9 THE COURT: I wonder if it would be useful for the
10 jury to get a sense of where we are in terms of
11 the timeline. Exhibit 5 is written in November
12 of 2013, which is almost a full year after the
13 events we are talking about. I don't know when
14 these hearings are, and it's not clear to me, I
15 think, or to the jury, where Nicholas has been in
16 the intervening period of time, and I think all
17 of that might be of some value.
18 MS. MACKOFF: Yes.
19 Q So November 2013, and then you said Nicholas
20 comes back to Alberta?
21 A After. He came back -- this was for the hearing
22 in November -- at the Forensic Psychiatric
23 Hospital in Colony Farm.
24 Q When does he move to Alberta?
25 A He moved in August -- I believe it was
26 August 29th, I have to check the dates, 2014.
27 Q 2014?
28 A Yes.
29 Q And where is he kept when he comes to Alberta?
30 A He was in the Alberta Hospital at one time.
31 Q And do you remember approximately when you were
32 involved in the hearings in Alberta involving
33 bringing him home?
34 A I couldn't remember the first hearing we had.
35 I'm kind of lost with the dates now. But it was
36 like six months after he was brought there there
37 was one hearing. And then there was another one
38 after that, probably a couple or three of them
39 after that.
40 Q So, approximately, late 2014?
41 A Early 2015.
42 Q Early 2015 is when this process is ongoing?
43 A Yes.
44 Q And when did Nicholas finally come home?
45 A February 2016. I'm sorry. 2016, February, yes.
46 Q Was this the first time that -- when he comes
47 home, is this the first time that you'd seen him

36

1 since you left for Ghana since 2012?
2 A You mean when he came to Alberta Hospital?
3 Q Sorry, first time he came home.
4 A Yes, first time he came home, yes. But I was
5 visiting him there.
6 Q Sorry, I meant to have him actually at your home.
7 A Yeah. But I was visiting him whilst he was in
8 the Alberta Hospital pretty much every day.
9 Q So throughout the three years you did continue to
10 visit him?
11 A Yes.
12 Q And how did it seem like Nicholas was doing
13 during those visits?
14 A Actually, he was doing very well. And he was
15 eager to continue with the master's program which
16 he started when he was at the Colony Farm. He
17 started the program there. And actually, he just
18 graduated last December with his master's in
19 education. And he has also start to pursue an
20 MBA program through Italy, which starts actually
21 in October. So he has been very active.
22 Q Is Nicholas employed now?
23 A Yes.
24 Q When did he start working?
25 A Actually, he started working I believe two or
26 three weeks after he came out of hospital --
27 Alberta Hospital, and he's been with the Army and
28 Navy for about three years now.
29 Q At this time, is Nicholas still living at home
30 with you?
31 A Yes.
32 Q From your understanding, is he still taking
33 medication?
34 A Actually, he's getting his medication
35 intramuscular now. He's getting the injection;
36 he's no longer on pills.
37 Q Do you have any concerns about your safety with
38 Nicholas living at home now?
39 A No, not at all anymore. I don't anymore.
40 MS. MACKOFF: My Lord, those are my questions.
41 THE COURT: All right. If I could just say this to
42 the jury before the cross-examination commences.
43 You understand that one of the issues that
44 will be raised in this trial, amongst many, will
45 be Mr. Osuteye's responsibility for the assault
46 of Ms. Crawford.
47 In the evidence you just heard you were told

37

1 that he had been found not criminally responsible
2 in the context of a criminal proceeding. The
3 test for responsibility in the criminal and civil
4 context are different. I will instruct you about
5 the test of the civil context, which is what
6 we're dealing with, at a later point in time.
7 But an individual can, in concept, be found not
8 criminally responsible in the criminal context
9 and still be civilly responsible. That can
10 happen. All right.

CROSS-EXAMINATION BY MR REID:

11 Q So what I'm going to do is I'm going to start by
12 asking questions chronologically.
13 I'm going to start by asking you a little
14 bit about Mr. Osuteye's -- your son Nicholas's
15 childhood. I understand from your evidence
16 yesterday that as a child that he was very
17 successful and bright in school?
18 A Yes.
19 Q Teachers liked him?
20 A Yes.
21 Q He had a lot of friends?
22 A Yes.
23 Q You testified yesterday he was involved in a
24 number of extracurricular activities; soccer,
25 karate, figure skating?
26 A Yes.
27 Q Did he do those activities all through high
28 school?
29 A Some were not through high school. They were
30 like junior high -- elementary and junior high.
31 Q And did he continue other ones through high
32 school though?
33 A High school, he played basketball.
34 Q During that time, so up until high school, did
35 you ever notice him cupping his hand, muttering,
36 responding to voices that weren't there?
37 A No.
38 Q Any time up to high school where he was violent
39 or aggressive?
40 A No.
41 Q Any issues with substance or drug abuse during
42 that time period?
43 A Not that I was aware of at that time, no.
44 Q Moving forward in time after high school, you
45 testified yesterday that he had completed an

38

1 undergraduate degree at the University of
2 Alberta. What year did he start?
3 A He started 1999.
4 Q And as a full-time student?
5 A Yes.
6 Q He also, you testified, joined a fraternity?
7 A Yes.
8 Q Do you know if he did that right at the outset of
9 school or sometime?
10 A I guess they do it within school, yeah.
11 Q He completed his degree, and then, I think you
12 testified yesterday, started his master's in
13 2005?
14 A That's correct.
15 Q You also testified yesterday that you understood
16 in addition to doing his master's he was teaching
17 students?
18 A Yes.
19 Q Were you happy that he was teaching?
20 A He was happy.
21 Q Do you know if, at that time, he was able to earn
22 enough money to care for himself in that role?
23 A Not a lot of money. They were just paid like
24 teaching assistants.
25 Q So he was still living with you at the time?
26 A Yes, he was still living with me.
27 Q And you were helping him out?
28 A Yes.
29 Q During the time he was doing his master's, so
30 2005, 2006, 2007, did he still have a lot of
31 friends?
32 A He didn't have that many friends. He had a few
33 that he met at university, some that he met
34 before. But he didn't have a whole lot of
35 friends like, you know, hanging out with friends
36 all the time, no. Mostly people that he went to
37 school with.
38 Q And people in the fraternity as well?
39 A Yes.
40 Q You testified yesterday that at some point during
41 his master's you observed him looking tired and
42 overwhelmed.
43 A Yes.
44 Q Do you recall what year that would have been?
45 A It would have been the same year or the same term
46 that he started the master's, so that being in
47 September of 2005.

39

1 Q Any other unusual behaviour that you observed at
2 that time?
3 A Only observed the tiredness, that's all.
4 Q Any violent incidents during that time period at
5 all?
6 A No, never.
7 Q Any substance abuse issues that you were aware
8 of?
9 A Not that I was aware of, no.
10 Q You testified as well yesterday that in and
11 around February of 2008 after your husband passed
12 you began observing then changes in behaviour?
13 A Yes.
14 Q I think you specifically testified that you
15 observed Nicholas sleeping on the couch because
16 he said there were noises in his room?
17 A Yes.
18 Q Do you recall if he said what those voices were
19 saying?
20 A He just said they were high pitch noises and
21 disturbing his ears. And this was in December
22 though, December of 2008. That's when I noticed
23 that.
24 Q So prior to December 2008, you didn't notice any
25 unusual behaviour?
26 A Not at all.
27 Q And you indicated as well yesterday that when you
28 tried to talk to him about that behaviour, he
29 said he was busy, bored, or singing?
30 A Yes.
31 Q Can you explain what he told you he meant by
32 that?
33 A You see him either sing, like his lips are moving
34 like he's talking, and you don't hear what he's
35 saying. Or he'll have his hand on his ear like
36 he's in a deep conversation with somebody, as if
37 it was on his cell phone. And sometime he make
38 faces like he's smiling. And when you ask him,
39 he says, oh I'm bored, I'm busy, you know, I'm
40 busy, don't disturb me, that type of thing.
41 Q So he wouldn't discuss with you in any detail?
42 A No.
43 Q You also testified there was an incident in 2008
44 when he asked his brother to take him to see a
45 rabbi?
46 A Yes.
47 Q I understand your family are members of the

40

1 United Church?
2 A Yes.
3 Q Not Jewish.
4 A Not Jewish.
5 Q Was he still working at that time in 2008?
6 A I don't believe he was working at that time, no.
7 He did have some odd jobs in between but it
8 wasn't anything full-time.
9 Q Still during that time period, so it goes up to
10 December of 2008, never violent, never threatened
11 anyone?
12 A Never.
13 Q You testified in January of 2009 it was the
14 incident that led to the first hospitalization
15 when he called you from the airport indicating he
16 wanted you to buy a plane ticket?
17 A Yes.
18 Q And, subsequently, his brother went to go meet
19 him, and you said he indicated to you that he
20 wanted to go to the hospital because he had a
21 headache?
22 A Yes, he called to tell me that.
23 Q And you, subsequently, met him at the hospital?
24 A Yes.
25 Q You testified briefly yesterday that you spoke
26 with a couple of doctors, Dr. Mills, Cojocar, and
27 another one at that time, and they told you
28 at that time, for the first time, that Nicholas
29 had been diagnosed with schizophrenia?
30 A Yes. Dr. Mills works out of the Grey Nuns
31 Hospital, so he wasn't the same doctor Nicholas
32 saw at emergency at U of A. He saw Dr. Rasuka
33 and Dr. Cojocar. I'm not sure of the spelling
34 of the name. They were the ones that saw him at
35 emergency the night before.
36 Q So he was initially seen in emergency and then
37 transferred to Grey Nuns I think you said by
38 ambulance?
39 A By ambulance, yes.
40 Q Did anyone tell you if he was admitted
41 voluntarily/involuntarily at the time?
42 A I went with him there, like, I drove there, and I
43 believe he was certified before he left
44 emergency.
45 Q So you spoke soon thereafter, so this is in
46 January of 2009, you spoke with Dr. Mills, and
47 he's the one who told you about schizophrenia?

41
1 A Yes.
2 Q What do you recall about that conversation?
3 A He wanted to -- well, we had a meeting because he
4 wanted to meet and talk about Nicholas. So that
5 was when he said that he's been -- the diagnosis
6 of schizophrenia, and would I know anything about
7 that. And I said no, I did not. It wasn't a
8 very long conversation.
9 Q When you say we had a meeting, was it yourself,
10 Dr. Mills, was Nicholas present?
11 A Nicholas was present.
12 Q Do you recall if Dr. Mills discussed medication
13 with you?
14 A No.
15 THE COURT: Sorry, that question is not clear. Does
16 she recall. It's not clear from the answer
17 whether she recalls or not, or whether there's no
18 discussion of that. If you could rephrase it,
19 please.
20 MR. REID:
21 Q To be clear, are you saying that there was no
22 discussion, or you just don't remember?
23 A There was no discussion about medication, no.
24 Q You also testified that at one point when
25 Nicholas was in the Grey Nuns in January of 2009,
26 you were told he tried to escape?
27 A Yes.
28 Q Who told you that?
29 A The nurses told me that.
30 Q Did you talk to Nicholas during that time about
31 whether or not he wanted to be in hospital?
32 A Actually, when we went in there he didn't want to
33 be there at the beginning. He was wondering why
34 he's been sent there.
35 Q And you say there you mean Grey Nuns?
36 A Grey Nuns Hospital, yes.
37 Q What do you recall he said to you about that?
38 A He didn't say very much. He just said that, if I
39 recall, what am I doing here. And my answer to
40 him was they're trying to find out what is wrong
41 with you because of your headaches.
42 Q So on that first time at Grey Nuns, I believe he
43 was discharged after a couple of weeks?
44 A About three weeks, yeah.
45 Q And he came to live with you immediately after?
46 A Yes.
47 Q You testified that there were times when you

42
1 followed his medications. How did you first
2 learn that he was on medication?
3 A He was given the prescription before we left the
4 hospital.
5 Q And were you present when that happened?
6 A Yes.
7 Q And did you have a discussion with any doctor or
8 nurse about what the medication was?
9 A No.
10 Q So you'd have a discussion with Nicholas about
11 what that medication was?
12 A No.
13 Q Any discussion with him about how frequently or
14 when he would need to take it?
15 A He just said he -- I'm not sure how many times a
16 day he has to take it, but he told me that he was
17 taking it.
18 Q So this is after January/February of 2009 he's
19 telling you that he's taking medication?
20 A Yes.
21 Q You indicated when you testified earlier that
22 when you were to press him on it though he would
23 try to deflect, so you wound up just looking at
24 the bottle?
25 A Yes.
26 Q So it's fair to say that he didn't like
27 discussing his medication with you?
28 A No, no.
29 Q So he did not like discussing medication with
30 you?
31 A Well I'll say that he didn't talk about the
32 medication. All he said was he -- every time I
33 asked him, he was taking it.
34 Q In terms of timing, I understand that in March of
35 2009, that's when he began to leave your house
36 and travel?
37 A Yes.
38 Q Did he tell you where he was going to go before
39 he travelled?
40 A No, we didn't have a clue.
41 Q You testified that during this time you had
42 learned he was in Vancouver because someone
43 emailed you?
44 A Yes.
45 Q There was also the incident where Canadian Border
46 Services contacted you from Ontario?
47 A Yes. Actually from Quebec.

43
1 Q And then he was sent to Ottawa?
2 A Yes.
3 Q During this time, did you talk to Nicholas much?
4 A I only spoke to him when he was -- I wanted to
5 talk to him when he was at the Border Services,
6 but they wouldn't let me talk to him because they
7 had his phone, and they were going through it.
8 Q So in March of 2009 he starts travelling, do you
9 remember when this Border Services incident
10 happened?
11 A I believe it was on May 11th.
12 Q So you've now gone a couple of months without
13 really talking to Nicholas?
14 A That's correct.
15 Q During this time period, did he tell you where he
16 was living?
17 A No, he didn't tell me.
18 Q I think you testified at one point you learned he
19 was in Toronto, and I understand you purchased a
20 plane ticket for him to come back to Edmonton?
21 A Yes.
22 Q Do you recall, roughly, when that was?
23 A The first one I did not pay for the ticket. It
24 was Ricky, his ex-girlfriend's mom, who paid for
25 the ticket to bring him home.
26 Q And do you remember, roughly, when that was?
27 A That would have been June, must have been in
28 June.
29 Q So between March and June of 2009, you didn't see
30 him much, and he's off travelling?
31 A That's correct.
32 Q So he came back in June of 2009. Did he stay
33 with you for a long period of time, or did he go
34 off travelling again?
35 A He didn't stay -- actually, when he first came he
36 was at Ricky's and then he came home. And then
37 he went and stayed with one of his friends for a
38 little bit and then came back home again. And
39 then after that he went to the frat house, I
40 believe, and that was when we -- he started going
41 back and forth again. But he'll come home
42 sometimes and eat and then go out, and then for a
43 while we don't see him.
44 Q So during this time, 2009, does that extend into
45 2010 when there's periods when he's at home, and
46 then there's periods when he's away and you don't
47 hear from him?

44
1 A That's correct.
2 Q I understand there was an incident in June 2010
3 when you were contacted by the police because
4 Nicholas had shown up at a bank?
5 A No, he did not show up at the bank. He called
6 the JP Morgan Chase Bank that he is the CEO --
7 that he was the CEO of the company. So that's
8 when the police called Ricky's -- he called from
9 Ricky's house, so then the police went there and
10 talked to him, and then they came to my work and
11 talked to me after that.
12 Q And what do you recall the police told you about
13 that incident?
14 A They just told me that Nicholas had called the
15 JP Morgan Chase Bank, that he was the CEO of the
16 bank, but they talked to him and no charges will
17 be laid, it's fine.
18 Q I understand that was in around June of 2010?
19 A I believe so.
20 Q Did you take Nicholas to the hospital or anything
21 else following that event?
22 A No, he came home, eventually. I didn't take him
23 to the hospital.
24 Q During this period of time, so March of 2009,
25 we're now into June of 2010, at any time during
26 that period, did he harm others or threaten
27 others?
28 A No.
29 Q Was he exhibiting the behaviour you talked about
30 earlier, the muttering, that type of behaviour at
31 all?
32 A He probably was. If it was in the frat house, I
33 don't see that, but when he was at home he was
34 doing that.
35 Q But when you saw him he was doing that?
36 A He was doing that, yes.
37 Q During this time period did you talk to him about
38 medication? Did you check on his medication at
39 the time?
40 A I did check a few times, and that was the one
41 time that I saw it in the toilet and pressing him
42 about it.
43 Q And I understand he left Edmonton in around
44 September of 2010?
45 A Yes.
46 Q And that he didn't return until approximately
47 August of 2011?

45
1 A Yes.
2 Q So this was a significant period of time where he
3 was away from home. Did you talk to him during
4 that period of time?
5 A I just couldn't get a hold of him. I only got a
6 hold of him a couple of times, or when he called
7 that he needs money. But I didn't see him very
8 much, no. I did not see him when he was in
9 Toronto.
10 Q So you would call him; he wouldn't pick up the
11 phone?
12 A No.
13 Q When you did talk with him, it was only on a few
14 occasions?
15 A Yes. And mind you, there was one time that his
16 phone went missing. So Rogers called to say that
17 they found his phone in the Hespeler, so he
18 should come pick it up. So at that time he
19 didn't have the phone, but I talked to him on
20 email like, you know, I send him an email to go
21 pick up his phone.
22 Q Did he respond to those emails?
23 A He didn't respond, but he went and picked it up.
24 Q When you did talk, he would be asking you for
25 money?
26 A Not all the time; sometimes.
27 Q Did you ever talk to him in detail about how he
28 was doing during this time, where he was staying,
29 or were your conversations with him really brief?
30 A I did. Sometimes he would tell me that he's
31 staying at a shelter. He won't tell me which one
32 though. And if I send him the money, that he
33 won't be sleeping on the street.
34 Q You mentioned you were contacted by Border
35 Services during this time period. Were you ever
36 contacted by any other authorities during this
37 time period? Police, hospitals, any other
38 organizations?
39 A No, it was only Border Services.
40 Q I understand he returned home in or around August
41 of 2011?
42 A Yes.
43 Q So he's living at home then?
44 A Yes.
45 Q During that time, did you observe him engaging in
46 unusual behaviour?
47 A Actually, when he came, he was rather calm, and I

46
1 noticed that he's lost a lot of weight. And it
2 was like nothing has happened, but the odd time
3 you would see him with his hand on his ear.
4 Q So occasionally you'd see him with his hand on
5 his ear but otherwise he was generally his calm
6 normal self?
7 A Yes.
8 Q Did you talk to him in this time period about his
9 mental health, about his medication, about follow
10 up?
11 A I don't think that he really had a good insight
12 about his mental health.
13 Q So I'll ask you about what you -- did you talk to
14 him?
15 A No, I didn't talk to him about it.
16 Q You testified that then there was a sudden event
17 that happened in June of 2012?
18 A Yes.
19 Q That was the time when you came home he was
20 outside, the door was open, and ultimately led to
21 the police coming?
22 A Yes.
23 Q You indicated he talked to you, he appeared
24 agitated and demanded money. What do you mean by
25 agitated?
26 A He wasn't himself, like he's never spoken to me
27 in that tone or manner. And what he said was, if
28 I ask you money, you give me money. Do you
29 understand? And I said yes. And then he
30 repeated it again. And that was the time that he
31 called me the F nigger, and that was out of
32 character because that wasn't him.
33 Q That wasn't language he'd ever use --
34 A No, no, not in my home. That's not what you say.
35 Q And he had, prior to this incident, never been
36 threatening toward you at all?
37 A Never.
38 Q We went through earlier about how you called
39 Michael and went to the police, and when you came
40 back that you noticed the shower door was off and
41 there was a hole in the wall?
42 A Yes.
43 Q From there he was taken to hospital and you noted
44 him, you saw him yelling at a pregnant doctor?
45 A Yes.
46 Q Do you recall what he was saying?
47 A He was just -- I would say that he was very

47
1 agitated and angry. I'm not sure whether that
2 was his mood, you know, changing at the time.
3 But he was yelling and finally the doctor left
4 because I think she was scared too. But he was
5 screaming.
6 Where we were sitting at, I'll say from the
7 judge's desk to probably in the hallway there,
8 anybody could hear him screaming. And he was
9 saying he's had it, call the cops. And he's
10 tired of this SH whatever comes after that. He's
11 tired of that.
12 Q You also indicated you overheard him saying that
13 he was owed \$40 million?
14 A Yeah, he said I owe him \$40 million.
15 Q Did he say why? Did he explain that at all?
16 A I don't know why he was even thinking that. I
17 don't have a million dollars. He thinks I owe
18 him money, and he also thinks he owns our home,
19 and he wanted me to give him hundred thousand
20 dollars from that.
21 Q And all of this behaviour you never observed
22 before?
23 A Never. Never.
24 Q I understand that Nicholas was then committed,
25 and I think you said he was in hospital until in
26 around July 6th of 2012?
27 A Yes.
28 Q During that time, I understand you met with
29 Dr. Dewart?
30 A Yes.
31 Q Do you recall how many times you met with
32 Dr. Dewart?
33 A I think I met with Dr. Dewart, if I recall, once.
34 Could have been twice. But it's been a long
35 time. I can't remember.
36 Q You also recall meeting with social workers who
37 were involved with Nicholas's care at the time?
38 A Yes.
39 Q What do you recall about your discussions with
40 social workers?
41 A I don't recall very much, but all the -- she said
42 her name is Kim, that she's going to try and get
43 Nicholas some allowance, like financially,
44 through Alberta Works. So that's what they did.
45 They give him a paper. I think Dr. Dewart signed
46 it. I'm not so sure about it. And we took it to
47 Alberta Works where they interviewed him and told

48
1 him how much he will be getting. It wasn't very
2 much. I think it was \$400 or under \$400 per
3 month.
4 Q In social assistance?
5 A In social assistance.
6 Q Do you recall a discussion with a social worker
7 where a social worker brought Nicholas into the
8 meeting and had a discussion with you about
9 whether or not they could share medical
10 information with you?
11 A No. The only thing they shared with me was his
12 allowance, and they didn't share a lot of
13 information. No, I don't recall. Maybe they
14 did. I'm not sure.
15 MR. REID: May I take the witness to a specific record
16 just to see if it refreshes the witness's memory?
17 That is found in Exhibit A, tab 10.
18 Q And I'm at page 7 of that document, and the
19 numbers are in the bottom right-hand corner.
20 A Yeah, I'm on page 7.
21 Q It says "Covenant Health progress notes" at the
22 top?
23 A Yes.
24 Q And there's a notation there, June 25th, 2012.
25 "I spoke with patient's mom, Mercy" --
26 THE COURT: Sorry, I'm not sure I'm with you. I'm
27 sure it's me. So let's start again. I'm at tab
28 what? Tab 10?
29 THE WITNESS: Tab 10.
30 THE COURT: Yes.
31 MR. REID: Yes. This is the bottom. There's two
32 June 25ths at page 7. And the numbers I believe
33 are in the bottom right-hand side, but they're
34 not always legible.
35 THE COURT: Okay, I have it. These are the typed
36 numbers, yes.
37 MR. REID: Typed numbers and handwritten June 25th,
38 2012.
39 THE COURT: All right. Yes, I'm with you, I think.
40 MR. REID:
41 Q
42 Spoke with patient's mom, Mercy. She states
43 visit yesterday went well. Patient is
44 conversing more. She notices marked
45 improvement since admission but she still
46 feels she -- what is going on in his head.
47 She says patient wishes/thinking of

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1 appealing Form 1. It sounds like he has
2 difficulty managing his finances and will
3 spend money on cigarettes and other people.
4 Patient visited employment agency and WN
5 updating his resume. Mercy will be out of
6 the town for seven weeks.
7
8 So I think you've testified that you might be out
9 of town for seven weeks. You testified about the
10 employment. Do you recall having a discussion
11 with Nicholas where he was thinking of appealing
12 Form 1?
13 A You know, he probably did, but I don't recall.
14 Because I know when he was even at the Grey Nuns,
15 he wanted to appeal his presence there. So if
16 it's there, he probably talked about it.
17 Q So you don't have a recollection, but it's
18 possible?
19 A Yes.
20 Q Turning the page over to page 8, looks like
21 another social note:
22
23 Met with patient's mother to talk about
24 educational and supportive resources for
25 herself and family. The writer gave contact
26 information for the Edmonton chapter of the
27 Schizophrenia Society of Alberta.
28
29 And I think you testified earlier this morning
30 about there was an idea about putting together a
31 plan that you were involved with.
32 A Yes.
33 Q And it also indicates there that you discussed
34 with a social worker patient's illness and
35 stated:
36
37 She feels patient has never --
38
39 Something
40
41 -- stabilized since onset, and that she's
42 fearful for his safety due to impulsive
43 travel, and he has taken off or tried to and
44 gone to eastern Canada, Vancouver, and
45 northwest USA without being in touch with
46 anyone. She expressed concern that he is
47 vulnerable to being manipulated or conned by

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1 strangers.
2
3 A Well, that is possible because I did express
4 concern that, you know, this was -- I believe
5 this was in the Grey Nuns. I'm not sure if this
6 was Grey Nuns or Misericordia. I'm not sure
7 which one. This must be Misericordia.
8 Q June 25th.
9 A June 25th would have been Misericordia.
10 Q So you don't have a firm recollection, but you
11 don't dispute, roughly, that those were your
12 concerns at the time?
13 A I'm pretty sure they were my concerns at the
14 time.
15 Q There's also an indication at the bottom of the
16 page there:
17
18 Patient's mother was also present and this
19 writer initiated the patient into the
20 meeting to discuss the possibility of having
21 a consent to disclose specific info to
22 family re discharge planning.
23
24 It's possible there was a discussion.
25 A Yes, yes, that was Kim, Kim Bugeaud or whatever
26 her name was.
27 Q Do you recall discussing with Kim, or anyone else
28 at that time, Mr. Osuteye's medication?
29 A What do you mean, like, medication?
30 Q You indicated that now he's on injectables. Do
31 you recall a discussion in 2012 with Dr. Dewart,
32 or with anyone else, with you about injectables
33 or other medication?
34 A I think Dr. Dewart suggested that at that time,
35 but that didn't start after he was in Alberta
36 Hospital.
37 Q So you believe that Dr. Dewart suggested the
38 possibility of Nicholas going on injectables?
39 A Yes. Yes.
40 Q At that time in June or July 2012?
41 A Yes. Yes. I believe, or I think, he said that
42 that might help him, so that he doesn't forgot to
43 take it.
44 Q And do you recall what Nicholas said to you about
45 that, about the possibility of injectables?
46 A Nicholas has always been a little bit suspicious
47 of medications and injections and stuff, and I

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1 know one time he said that he doesn't know the
2 effects of certain medications. But if we
3 discussed it, this is what, 2000 -- it's quite a
4 long time ago so...
5 MR. REID: My Lord, I'm mindful of the time. I don't
6 anticipate -- I'll be probably about 15 minutes
7 longer, however, I understand we have a video
8 conference witness at 2:00 o'clock.
9 What I propose to do is adjourn now for the
10 lunch break and continue with Mrs. Osuteye
11 following the video witness, which I don't
12 anticipate will take the full afternoon.
13 THE COURT: Let's do that.
14 MR. REID: In the meantime, I would ask that this
15 document tab 10 be marked as an exhibit for the
16 purposes of identification only, as I understand
17 it will be produced through the witnesses who
18 will be coming in. But just marked -- oh --
19 MS. KOVACS: I have no objection to just marking it as
20 an exhibit. It's subject to the document
21 agreement so...
22 THE COURT: All right.
23 MR. REID: Then I would ask that the whole tab 10 be
24 marked as an exhibit.
25 THE COURT: All right. Well, we'll talk about that.
26 So what number are we at, please. Exhibit 6?
27 THE CLERK: Exhibit 6, My Lord.
28 THE COURT: Yes, thank you.
29

**EXHIBIT 6: Located in white binder, Common
Book of Documents, tab 10: 14 page,
Emergency Record, Misericordia Community
Hospital, Osuteye, Nicholas, Alexander.
Admit Date: 09-Jun-12, p/c**

(JURY OUT)

38 THE COURT: So, Ms. Osuteye, you'll be excused. Just
39 wait outside for a few minutes. The lawyers will
40 tell you when to come back, roughly. And this is
41 a caution I give to all witnesses, so it's not
42 directed to you. But when you're being
43 cross-examined, as you are now, you're no longer
44 able to speak to anybody about the case. So you
45 can't -- if you're with a friend, you can talk
46 about anything, but not this case.
47 THE WITNESS: Yes.

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1 THE COURT: So you're excused. I just want to speak
2 to counsel for a minute.
3 THE WITNESS: Thank you.
4

(WITNESS ASIDE)

7 THE COURT: So what I want to talk to you about is two
8 things that are related. One is when we marked
9 the whole of the tab, but we have only gone to a
10 page or portions of a page, I want to know what,
11 if anything, to tell the jury. It's one thing in
12 the document agreement to say to me that the
13 opinions are not included for the truth of their
14 contents, and so on and so forth. It's another
15 thing to communicate that to a jury.
16 So in this case, again, I don't know what
17 your intention is in terms of the witness that
18 will be coming to address the documents at
19 tab 10, but there are 14 pages. You've gone
20 through a subset of that material. I just wanted
21 to understand how we're moving forward.
22 MS. KOVACS: Dr. Dewart, who was the treating
23 psychiatrist at Misericordia, will be on at
24 2:00 o'clock. I'll have him identify the whole
25 of the record. I know my friends proposed to
26 just mark it for identification, said just mark
27 it.
28 THE COURT: Sure. Sure.
29 MS. KOVACS: The whole of it will be the exhibit, and
30 I'll make sure it's identified as such, and that
31 he can identify each page.
32 THE COURT: The other part is, I don't know what it
33 says, it's hard to read, but what, if anything,
34 should the jury be told how to use it or what
35 would they look at.
36 MS. KOVACS: Well I expect that Dr. Dewart will be
37 able to speak to a fair bit of the contents, but
38 I mean, it's gone in subject to the document
39 agreement, so it's been authenticated. And the
40 facts within those documents are subject to
41 challenge, but I don't expect that there is any
42 challenge with respect to the --
43 MR. REID: No, My Lord, the issue though is certainly
44 the facts of diagnoses were made and the fact
45 that discussions occurred, are admissible for the
46 purpose of those facts; however, and *Edmondson*
47 *Payer* is the BC case on that, the opinions, so to

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1 any extent that it's an opinion, that is not
2 admissible as opinion evidence so --
3 THE COURT: But is there any issue about this
4 diagnosis, that's an opinion?
5 MR. REID: I don't think it is an issue.
6 THE COURT: But there's not. So -- and this becomes a
7 bit convoluted, right. Is there anything in here
8 that's a source of concern that I ought to
9 identify as such, because to tell them it's in
10 for the fact but not the opinion but the opinion
11 is not contested, it doesn't advance us, I don't
12 think.
13 MR. REID: My Lord, there's nothing in those documents
14 of any concern.
15 THE COURT: All right. Because again, I'll be looking
16 to you to assist me. If there's a concern, I
17 have to express that. But you're aware that my
18 object is to assist the jury and to simplify for
19 them, and some part of that is, you know, not
20 providing the charges that are somewhat circular
21 and don't move things forward. So I won't say
22 anything about this particular document.
23 MR. REID: My Lord, on the point, just a housekeeping
24 matter, I understand Exhibit 4, to be clear, is
25 the whole tab that was at tab 13 and not just the
26 envelope. And I just don't know if that was
27 clear earlier so I just --
28 THE COURT: That's what I had. And I did have that.
29 Thank you.
30 And the other thing is I'm just, you know,
31 this is for you in particular, I'm not quite sure
32 how questions about whether something is possible
33 advance any inquiry. All things are possible.
34 Was something possibly discussed, it possibly
35 was. So for the purposes of proof, as you know,
36 it has to be probable before it's cranked into a
37 finding or something that occurred and -- other
38 than when you do with hypothetical events or
39 something, and we're not talking about that. So
40 that's for you.
41 But for ongoing confirmations that something
42 is possible --
43 MR. REID: Perhaps likely, My Lord.
44 THE COURT: Well, likely would be a much better
45 word -- if that's where you want to go is the
46 right word, I think, because then that does
47 elevate it to a certainty for the purposes of the

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1 jury. That's something they can rely on. The
2 fact that something was possible doesn't get you
3 there. I don't know what your case is, but I
4 wouldn't have thought possible it matter to you.
5 MS. KOVACS: My Lord, I just thought before the break
6 maybe I'll hand up the amended trial record,
7 since we have it now. My apologies that they're
8 hand-numbered tabs. But, in any event, we have
9 it.
10 THE COURT: Okay. Thank you.
11 THE CLERK: Order in court. Court is adjourned until
12 2:00 P.M.
13
14 **(PROCEEDINGS RECESSED AT 12:34 P.M.)**
15 **(PROCEEDINGS RECONVENED AT 2:09 P.M.)**
16
17 THE CLERK: Order in court.
18 THE BAILIFF: The jury, My Lord.
19 MS. KOVACS: My Lord, the plaintiff would like to
20 stand down Ms. Osuteye while we have Dr. John
21 Dewart, who is attending by video conference from
22 Edmonton, Alberta.
23 THE COURT: Thank you, Doctor.
24 THE WITNESS: You're welcome.
25
26 JOHN MACLEAN DEWART, a
27 witness called for the
28 plaintiff, affirmed.
29
30 **EXAMINATION IN CHIEF BY MS. KOVACS:**
31 Q Thank you, Dr. Dewart. I understand you are a
32 medical doctor?
33 A That's correct.
34 Q And you have a fellowship in psychiatry; is that
35 right?
36 A Yes.
37 Q And you are a member of Alberta's College of
38 Physicians and Surgeons?
39 A Yes.
40 Q You practice in Edmonton, Alberta?
41 A Yes.
42 Q Can you tell me where you practice?
43 A I practice primarily at the Misericordia
44 hospital, which is in the west part of Edmonton.
45 Q I understand you're a professor; is that right?
46 A clinical professor?
47 A Yeah, I'm a clinical professor of psychiatry.

55

1 Q And that's at the University of Alberta?
2 A Yes.
3 Q All right. And where -- just to orient us, where
4 is Misericordia hospital in the city of Edmonton?
5 A Well, it's -- I'll put it in terms that most
6 people would understand. It's close to the West
7 Edmonton Mall in the west end of the city,
8 southwest end of the city.
9 Q And West Edmonton Mall is one of the largest
10 malls in North America?
11 A Yes.
12 Q Now I understand you were a treating psychiatrist
13 for Mr. Nicholas Osuteye in June and July of
14 2012?
15 A Yes.
16 Q And before you, you have a set of records, which
17 are at our tab 10 of Exhibit A. And I would like
18 you to just count the pages before you just to
19 confirm that we have the same document. It
20 should be 14 pages starting with an emergency
21 record dated June 9th, 2012?
22 A Yes.
23 Q So this has already been marked as Exhibit 6 in
24 these proceedings. I just want to start by, sort
25 of, orienting us to what these documents are and
26 how they were produced. I take it these are
27 records that were made and kept in the usual
28 course of business at either the hospital or in
29 your clinic?
30 A Yes.
31 Q All right. And so they were recorded at the time
32 when the events were observed or at the time the
33 events happened or shortly thereafter?
34 A Yes.
35 Q Now looking at the first page of Exhibit 6 it
36 says "emergency record" at the top?
37 A Yes.
38 Q And below that it says "admit date, June 9th of
39 2012, at 11:33." Sir, you have that before you?
40 A Yes. Yes, that's correct.
41 Q I just want to orient all of us in the room
42 because there are a number of us following along.
43 A Yes.
44 Q And you will see there's typewritten information
45 with respect to the patient, and of course it's
46 in respect of Nicholas Osuteye. There's some
47 handwritten notations as well. It says Mercy

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1 Osuteye, mother, and there's some phone numbers
2 written down, and Michael Osuteye. Who do you
3 understand those people to be?
4 A Mercy Osuteye was his mother and Michael Osuteye
5 was his brother.
6 Q I see.
7 A And when you get a chance to write a phone number
8 down you take -- you write it down wherever you
9 get a space to write it down and notate.
10 Q Fair enough. Got it. And that's why it's there
11 squeezed in in the middle and over top of some
12 typewritten forms.
13 A Yes.
14 Q All right. So the emergency record, is your
15 signature or handwriting anywhere on this?
16 A No.
17 Q So this is not a document that you filled out?
18 A No.
19 Q Can you tell us who filled it out?
20 A The top part of the written form would have been
21 filled out by a nurse in the emergency. You see
22 that there's a series -- it says temperature,
23 pulse, respiration rate, and the complaint of
24 risperidone noncompliant under medications, and
25 that the emergency doctor in the upper right-hand
26 corner of that is Watrich. And that would have
27 been filled out by a nurse.
28 The next part below it in handwriting where
29 it says "mother phoned EPS," that's Edmonton
30 Police Service, "and EMS, Emergency Medical
31 Service, after having altercation, et cetera,"
32 that would have been written out by one of the
33 nurses.
34 The information in the bottom box starting
35 with "34-year-old diagnosed schizophrenic in
36 2009," and the information following would have
37 been written out by the emergency physician,
38 Dr. Watrich.
39 Q All right. So before we get into Dr. Watrich's
40 notes, I just want to look at the nurse's notes
41 here. So this is the intake nursing notes at
42 emergency?
43 A Yes.
44 Q And you've already deciphered the first line for
45 us, EPS and EMS, that's Edmonton Police Service
46 and Edmonton I guess medical services, the
47 paramedics.

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1 And then the second line it says "tried to
2 get a knife." So that was something -- was that
3 a fact that the paramedics had elicited?
4 A That would have come --
5 Q The nurse?
6 A It might have come from the police. The nurse
7 would have probably got that information from the
8 nurse or the paramedic, I don't know which one.
9 Q All right. And there's a summary of what
10 happened leading to the emergency admission?
11 A That's right.
12 Q And second-to-last line it says "here" and then
13 it looks like there's a symbol. Does that symbol
14 mean "with"?
15 A Yes, it does. Here with EPS in handcuffs.
16 Q All right. So he actually presented to the
17 emergency in handcuffs?
18 A Yes.
19 Q And it says under -- I think it says "under
20 Form 10." What does that mean?
21 A Yes. A Form 10 is an act which allows the police
22 to not arrest someone but apprehend someone and
23 take them to emergency for an examination on the
24 belief that they might be mentally ill and
25 possibly dangerous to themselves or others.
26 Q And next line it says "patient refuses to speak
27 with writer. States 'I need a lawyer.'"
28 A Yes.
29 Q And says "history of schizophrenia noncompliance
30 with medication as per Mom."
31 So that's all something elicited by the
32 nurse?
33 A Yes.
34 Q And the next section of course is the -- as you
35 told us already, is the Emergency Physician
36 Dr. Watrich's notes?
37 A Yes.
38 Q Is this a document -- I take it you became
39 involved in the patient's care after the
40 emergency admission?
41 A When the emergency doctor makes an assessment
42 they would write their notes, and as you see at
43 the very bottom of the note it says "will require
44 certification," and that little triangular symbol
45 or triangle symbol, is psychiatry consult. It's
46 just shorthand for psychiatry consult.
47 Q I was going to ask you that exact question next.

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1 So that little symbol means psych or psychiatry?
2 A Yes.
3 Q So Dr. Watrich took some information, examined
4 the patient, and his orders were require
5 certification and psychiatric consult?
6 A Her orders were those, yes.
7 Q Hers. Sorry, my apologies.
8 A Yes.
9 MS. KOVACS: And -- I just wanted to make sure -- my
10 colleague is making sure that the jury can see
11 the TV through my head. I'm not sure that's a
12 concern. If the sheriff or Your Lordship would
13 like to canvass that.
14 THE COURT: Well I wonder if I should have counsel
15 move back, but they're using the desk, so I
16 didn't. Is the jury able to see the screen
17 adequately?
18 MS. KOVACS: Probably not.
19 A JURY MEMBER: Sometimes.
20 MS. KOVACS: Well I wonder if I should maybe move to
21 the podium. Is that going to catch my voice?
22 THE COURT: Well I'm not sure if it would work from
23 there, but I wonder if Mr. Sheriff, if he's
24 around, could move that podium to the edge of
25 where the jury box is without being too close to
26 the jury.
27 MS. KOVACS: Just a moment, Dr. Dewart. My apologies.
28 THE COURT: Is that -- does that mic work?
29 MS. KOVACS:
30 Q Dr. Dewart, can you hear me?
31 A Yes. Could you speak a little louder though,
32 please.
33 Q Can you hear me now?
34 A Yes.
35 Q I will try to speak closely to the mic so that
36 you can hear me.
37 Can you hear me now?
38 A Yes.
39 Q Okay. Just let me know if --
40 THE COURT: The jury can see, yes, better.
41 All right. And so the last question,
42 counsel, was -- that you got from the doctor is
43 requires certification and psychiatric consult.
44 I wonder if it's worth pursuing with the doctor
45 what certification means.
46 MS. KOVACS: Yes.
47 THE COURT: Just to explain that expression, please.

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1 MS. KOVACS: Absolutely.
2 Q Dr. Dewart, could you explain to us what -- the
3 patient will require cert, what certification
4 means?
5 A Well, certification is papers issued under the
6 *Mental Health Act*, which means that the patient
7 would be filling the criteria under the *Mental*
8 *Health Act*, which would require them to stay in
9 hospital and not leave if they so choose to do
10 so.
11 Q Okay. It's an involuntary admission?
12 A That's correct, yeah.
13 Q And if you just look back at Dr. Watrich's notes,
14 she's recorded several of her observations. Can
15 you just tell us briefly what some of the
16 pertinent observations are from your review?
17 A Well, first pertinent -- from her notes, is that
18 he's a man who's been previously diagnosed with
19 schizophrenia in 2009.
20 Secondly, that he's had increasingly
21 bizarre behaviour over the past one to two
22 months.
23 Three, that he's been violent at home and
24 that his brother had to physically restrain him,
25 which implies some degree of physical force being
26 needed and not just verbal talking down the
27 person.
28 The next thing is brought in under Form 10.
29 That means that the police were involved, which
30 is pertinent.
31 And the next thing she says is no signs of
32 intoxication, so this makes me think that it's
33 more in keeping with his illness and not a
34 temporary state due to drugs or alcohol.
35 No signs of injury or trauma. That means he
36 doesn't appear to be physically hurt from any of
37 these interactions with the police or his
38 brother.
39 Next thing is his speech is pressured. That
40 means talking very quickly and hard to interrupt.
41 Extremely quickly. And not rambling. And then
42 evasive answers, that means the person is not
43 giving very clear answers to any questions or --
44 and refusing to elaborate on questions.
45 All of the information is actually pertinent
46 to me. She did not see any evidence of active
47 hallucinations, no evidence of active

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1 hallucinations, but thought that he was paranoid,
2 kept on requesting a lawyer and refuses to say
3 why. That he has no insight, that's no
4 understanding, of why he's in hospital or what's
5 been going on. And that he has poor judgment.
6 That means he's not making good decisions.
7 So I think they were all relevant.
8 Q So she's recommended a psychiatric consult, and
9 that's where you come into the picture?
10 A Yes.
11 Q So if we turn the page over to page 2, it looks
12 as though, and perhaps you can correct me if I'm
13 wrong, we have a three-page document, so pages 2
14 to 4 as marked in the bottom right corner of what
15 appears to be a consultation report?
16 A This is his history. This would not be a
17 consultation. This would be that once I -- the
18 decision is made to bring the person into
19 hospital, history is dictated by -- in this case
20 by a resident working under me.
21 Q And in fact, if you look to the third page, which
22 is page 4 of the entire set of documents, it says
23 electronically signed by John Dewart on 18th of
24 July, 2012, at 1:05 P.M., so sometime after -- it
25 was dictated after the events you signed it?
26 A That's correct.
27 Q So if you go back to page 1 of 3, which is page 2
28 in the bottom right corner, you dictated or your
29 resident dictated a history, including the
30 admission date of June 9th of 2012?
31 A Yes.
32 Q And some of this we've already reviewed. Mode of
33 admission was via Form 10 via Edmonton police.
34 There were two informants, the mother and the
35 brother, chief complaint. Is this something
36 taken from the family?
37 A No, this would be something taken from the family
38 and -- primarily the family, but also just how
39 the person presented to emergency.
40 Q And then there's a section titled "History of
41 Present Illness," and it says the patient
42 presents claiming that he needs a lawyer, as his
43 mother who he refers to, and it's blanked out
44 there, and we've already heard that word earlier
45 with Ms. Osuteye's evidence, but is keeping
46 \$40 million due him from his father's insurance
47 policy. What does that tell you?

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1 A Well most -- it's unusual for a patient to come
2 into hospital and mainly ask to see a lawyer. To
3 me that would be a bit of a red flag. The fact
4 that he is black and refers to his mother with a
5 derogatory term is highly unusual, would make me
6 think that he's highly agitated. And that he's
7 keeping \$40 million from his father's insurance
8 policy stretches -- would be unusual -- makes me
9 think he's not thinking clearly; this would be
10 unusual.
11 MR. MEADOWS: My Lord, I have some concerns that my
12 friend is asking this witness for opinion
13 evidence rather than just reflecting what was
14 actually done.
15 MS. KOVACS: I'm happy to rephrase my question. And
16 my apologies, I hadn't spoken to Mr. Meadows
17 about this, but Mr. Reid and I have spoken. I
18 understand his cross-examination asks for
19 expansion in terms of what's recorded and
20 descriptions. But I'll try to rein it in a bit.
21 MR. MEADOWS: Expansion I don't mind, if there's a
22 question, what does this mean, but, what does
23 this imply, is a different thing.
24 MS. KOVACS: Fair enough. I will phrase my questions
25 appropriately.
26 Q Dr. Dewart, in the next sentence you said the
27 patient was very demanding and aggressive. What
28 does this mean?
29 A Demanding -- he wants a lawyer right now. He
30 wants something right now. I believe, if I
31 remember correctly, he wanted to leave right now.
32 Aggressive is a demeanour, your physical stance
33 when being interviewed or how you present
34 yourself, your voice, your tone, your look of how
35 the person comes across, in your view.
36 Q All right. And were you, yourself, present for
37 this interview or was it your residents?
38 A No, my resident did this -- generally what
39 happens is -- I can't remember if the resident
40 was with me initially, but usually if I go in to
41 see a patient initially, I would go and see the
42 patient and take background information to make a
43 decision as to how this patient should be --
44 should they stay in hospital, should they go
45 home, what sort of follow up.
46 And once I've made a decision, and my
47 decision was for this patient to stay in

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1 hospital, I probably would have gone on to see
2 another patient and the resident would have
3 stayed behind and completed the rest of the
4 information to understand the situation.
5 Q So the last line of that sentence says "I was
6 unable to get a history from the patient." What
7 does that mean?
8 A That means the patient is either unable or
9 unwilling to give information to, sort of, fill
10 out or give a fuller picture of what's been going
11 on in terms of also their health in the past or
12 other concerns that may arise with respect to
13 this patient.
14 Q And the last sentence, "The patient was also
15 yelling about being forced into child
16 prostitution and molestation." Why did your
17 resident record that sentence?
18 A I think -- it shows the state of mind that the
19 patient was in when they're first coming into
20 hospital. If I go to my certification later on,
21 I think, I believe that he says he believes he
22 was forced into prostitution and forced to
23 perform sex acts on dogs by his family, and I
24 thought this was highly unlikely.
25 Q And then there's a summary with respect to
26 collateral history obtained by the family, in the
27 next paragraph?
28 A Yes.
29 Q And in the last paragraph on this first page it
30 says Nicholas was admitted 8th of January to 21st
31 of January, 2009. Do you see that?
32 A Yes.
33 Q So that's a historical admission that was being
34 reviewed?
35 A Yes.
36 Q And it looks like it says his discharge summary
37 could be found on Netcare. What is Netcare?
38 A Netcare is a computer program which allows you to
39 access previous summaries of visits to emergency
40 or stays in hospital, lab tests, x-rays, CAT
41 scans, information from drugstores to see if they
42 have been -- when they last got prescriptions and
43 get information about the patient via computer
44 program.
45 Q If you turn the page over to page 2 of 3, which
46 is 3 in the bottom right corner, on the issue of
47 medications it says "current medications

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1 risperidone 1 MG QHS." What does that mean?
2 A Risperidone is a medication that's an
3 antipsychotic used to deal with psychosis, and
4 the information -- and 99 percent sure that this
5 is from Netcare, was it was last -- the
6 prescription was last filled in December 2011.
7 Q So six months before? About six months before
8 the admission, Dr. Dewart?
9 A Yes. Yes, he was admitted in June 2012.
10 Q What does QHS mean, just so we understand that?
11 A At bedtime.
12 Q And then there's a section on past medical
13 history. And then there's a personal history
14 section, and below that it says "mental status
15 examination," and it says "Nicholas was well
16 groomed in a clean sweatshirt during the
17 interview. He was quite agitated." What does
18 "agitated" mean?
19 A Unable -- shows signs of being unable to relax
20 and worked up in terms of a mental state.
21 Q Would not sit down during the short interview.
22 So it's part of the agitation then?
23 A Yes.
24 Q Being observed. Says he has grandiose ideas
25 regarding \$40 million. What does the term
26 grandiose -- what does that mean in the
27 psychiatric context?
28 A Grandiose implies that your ideas are
29 exaggerated, or you have an exaggerated sense of
30 idea about things. For instance, that you're a
31 multimillionaire when you're not, or that you're
32 the second coming of Jesus Christ when you're
33 not. That you have an inflated sense of either
34 yourself, your possessions, your position in the
35 world as compared to how the situation appears to
36 be.
37 Q The last sentence of that paragraph says he was
38 fully conscious and appear to lack insight and
39 judgment. What does that mean?
40 A Insight is the understanding that you have an
41 illness or may need treatment for it. Judgment
42 implies more that you're taking steps or making
43 decisions based on this lack of insight, that
44 your illness is leading you to make decisions or
45 act in a certain way which is unwise.
46 Q And in the paragraph below it says "the physical
47 exam was deferred at this point in time due to

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1 the patient's agitation and aggression."
2 A Sorry, I couldn't hear you, the last statement.
3 Q Can you hear me now?
4 A Yes.
5 Q Okay. "The physical exam was deferred at this
6 point in time due to the patient's agitation and
7 aggression." What does the term "aggression"
8 mean? What does that mean in the context of --
9 in the psychiatric context?
10 A Well aggression can imply verbal or nonverbal
11 aggression. And the patient had come in and
12 given a history of being somewhat aggressive
13 physically, and he was agitated, so the resident,
14 as per protocol, would not do a physical
15 examination on someone who you feel might react,
16 lash out at that time unless -- you wouldn't do
17 it unless you absolutely have to.
18 Q So moving down the page under "impression and
19 plan," last part of the first sentence on the
20 second line says "he has suffered a relapse."
21 What does that mean?
22 A A relapse implies that you become ill with an
23 illness that you previously had.
24 Q And it says he will be admitted to SPOT, in
25 capitals. What is that?
26 A That's an acronym for single point of transfer.
27 At that point, in Edmonton if a patient came into
28 emergency, if they needed admission they were --
29 you phone up a person who was aware of all the
30 empty beds or possible places where this person
31 might go at all the hospitals. And they would
32 connect a doctor, from a hospital that had an
33 empty bed, with me if he could go into it, to
34 allow him to be admitted. So I hope that answers
35 your question.
36 Q And it says he will be admitted to the
37 psychiatric unit with a secure bed. What is a
38 secure bed?
39 A A secure bed is a bed that is -- there's
40 different levels of beds in psychiatry. Standard
41 beds in an open ward is you may have a single bed
42 or a shared double room with doors that are
43 generally not locked or and -- that the patient
44 could easily leave.
45 A secure bed is in a unit where the person
46 could be kept from leaving that unit or possibly
47 kept from leaving that room.

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1 Q And it says "we will give him some risperidone
2 and Ativan in the emergency department." So he
3 was given both?
4 A Yes.
5 Q And the last sentence, "We will also order
6 risperidone M-TABS 3 milligrams QHS." What are
7 M-TABS?
8 A Medications come in different forms. Risperidone
9 comes in three different forms. One is a
10 standard pill which you take and swallow as you
11 would with any medication. An M-TAB is a pill
12 that once you put in your mouth it dissolves no
13 matter whether you try to hide it or spit it out.
14 It prevents the patients from so-called cheeking
15 medications or appearing to swallow them when --
16 so that they don't take medications. It's
17 virtually impossible to not take the medication
18 if you give it by an M-TAB.
19 You can also give risperidone in a
20 long-acting form, which lasts a number of weeks
21 once you've given the person that medication.
22 Q So you gave it to him in the quick-dissolve form?
23 A Yes.
24 Q If we turn to page 5 now. Can you tell us what
25 this document is?
26 A This is a second Form 1. The -- it's an
27 admission certificate under the *Mental Health*
28 *Act*, which I -- as a registered physician are
29 filling out saying that Mr. Osuteye is meeting
30 the condition to put forth this form and the
31 reasons why I feel that this is occurring.
32 Q And in the second paragraph, it's part of the
33 form, it's typewritten there, it says "in my
34 opinion, the person examined is" and then it says
35 A and then B. C says "likely to cause harm to
36 the person or others or to suffer substantial
37 mental or physical deterioration or serious
38 physical impairment."
39 So those are grounds on which you admitted
40 Mr. Osuteye?
41 A You need all three conditions in place,
42 including C, to fill out a Form 1.
43 Q Right. Although, within the context of B,
44 there's the term "or," so you need at least one
45 or more of those, is that right?
46 A That's right.
47 Q And then below "I have formed my opinion A on the

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1 following facts observed by me," Is that your
2 handwriting there?
3 A Yes, it is.
4 Q Can you tell us what that says?
5 A On the first part of the part A on the facts
6 observed by me, one, it says not need to be here.
7 Two, it is believed he is in Israel. Three says
8 he's not taking his medications. Four, does not
9 believe he's ill. Do you want me to continue?
10 Q Sure. And then it says "on the following facts
11 communicated to me by others?"
12 A Yes. It's one, yelling and screaming about being
13 sold into prostitution. Two, talking about
14 carnal relations with dogs. Three, violent with
15 family. Four, past history of schizophrenia.
16 Q And at the bottom it's dated June 9th, 2012, and
17 that's your signature?
18 A Yes, it is.
19 Q All right. So turning the page over to page 6,
20 can you tell us what this document is?
21 A This is a standard document issued when a patient
22 is admitted to hospital with contact name of the
23 person, their health care number, their patient
24 record number for the hospital, their address
25 contact information, responsible physician.
26 Q And just looking in the second square of the
27 table it says "contact persons" one, states "no
28 one." That's something the patient would have
29 reported to the administrative staff?
30 A Yes.
31 Q So he wasn't prepared -- the administrative staff
32 basically elicited that answer from him, that he
33 says he has no contact persons?
34 A Yes.
35 Q And if we turn the page over to page 7, there are
36 one, two, three, four pages of handwritten notes
37 that are titled "Covenant Health Progress Notes."
38 Do you have that before you?
39 A Sorry, there was a rustling of papers. Could you
40 repeat.
41 Q Sorry. Pages 7 through 10 appear to be
42 handwritten notes titled "Covenant Health
43 Progress Notes"?
44 A Yes, that's correct.
45 Q So if we look at page 7, there's a date in the
46 top left, June 25/12?
47 A Yes.

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1 Q So this is now a couple of weeks into
2 Mr. Osuteye's admission; is that right?
3 A Yes.
4 Q And generally speaking, in your experience, what
5 type of care providers make notes in the progress
6 notes?
7 A Primarily physicians or they're physicians or
8 medical -- or physicians in training working
9 under them or medical students. At times, social
10 workers will make notes in -- or physiotherapists
11 will make notes in the progress notes as well.
12 Q So looking at this first entry at the top of
13 page 7 it seems to be signed by a C. Wright, and
14 it's got an R there. Was that your resident at
15 the time?
16 A Yes, it was.
17 Q And so she's recorded here, and I'm trying to
18 decipher the writing, that the patient had
19 actually been out for the weekend?
20 A Yes.
21 Q And it looks like "went to WEM." Is that West
22 Edmonton Mall?
23 A Yes, it is.
24 Q Visited with some family?
25 A Yes.
26 Q "Patient repeatedly reported as being seen with
27 left finger in left ear talking to himself"?
28 A Yes.
29 Q And so the note is made contemporaneous to the
30 visit to the mall?
31 A Yes.
32 Q So he's still --
33 A Or shortly after.
34 Q So is this a symptom of psychosis still? Sorry,
35 I see my friend standing.
36 My question to you is: Two weeks into the
37 admission into Misericordia, was Mr. Osuteye
38 still showing signs of psychosis?
39 A Yes.
40 Q All right. "He's denying AH/VH." What does that
41 mean?
42 A Can I read the whole line because it puts it in
43 context?
44 Q Sure, of course.
45 A "Will ask patient about interest in outreach
46 program downtown," and the AHE stands for Alberta
47 Hospital Edmonton rehab program. They have an

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1 extensive one- to two-year program to try to help
2 people regain lost abilities.
3 Q I think you're a bit ahead of me, so if you go up
4 to the sixth line down just after the left finger
5 in left ear, it says "denies any AH/VH." What
6 does that stand for?
7 A Oh, auditory hallucinations or visual
8 hallucinations.
9 Q And below that it says "patient denies side
10 effect from risperidone but does have significant
11 stiffness." Is that what that says?
12 A Yes.
13 Q What does that mean?
14 A Well, one of the things that medications like
15 risperidone can do is that they cause muscular
16 stiffness, especially as getting up to the top
17 range of where that patient should be given
18 medications.
19 Q So if we look --
20 A It's a side effect.
21 Q If we look to the entry below, are you able to
22 tell me who made that entry, the one below?
23 A Just wait a second. I might be able to figure it
24 out from context, but I don't recognize the
25 signature.
26 Q Okay. A care worker of some kind?
27 A Oh, I do. I believe it's SI, student intern is a
28 medical student. A student intern is a medical
29 student who has not graduated. An R2 or resident
30 is a student who has graduated as a medical
31 doctor but not qualified to work independently as
32 a treating physician.
33 Q Right. And if you look at this entry it seems to
34 be reflecting a conversation with Mr. Osuteye's
35 mother, Mercy. And it says four lines down she
36 says "patient wishes/thinking of appealing
37 Form 1."
38 So at this point in time Mr. Osuteye is
39 still under involuntary admission?
40 A Yes.
41 Q Next page over, page 8, it says at the top
42 "social work notes." So social workers also
43 recorded notes in these entries?
44 A Yes.
45 Q And there was a social worker involved in
46 Mr. Osuteye's admission?
47 A Yes.

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1 Q What was the role of the social worker?
 2 A A number of things. One is that Mr. Osuteye had
 3 been living on the -- supported by his family
 4 even though he hadn't been working for a number
 5 of years. And we initiated him -- tried to get
 6 him help, get on social assistance, so they have
 7 medication coverage and receive a certain amount
 8 of money to pay for his living.
 9 We also talked -- the social worker and I
 10 talked to him about applying for a more elaborate
 11 support scheme called AGE, which stands for
 12 assured income for severely handicapped, which
 13 gives a higher amount of money and more medical
 14 supports and treatments can be possible.
 15 She also was, I believe, involved in trying
 16 to look at helping his family look at support for
 17 themselves such as Schizophrenia Society, helping
 18 his mother and brother, getting psychosocial
 19 supports to help them cope with the difficulty of
 20 having a son and brother who are ill and also
 21 sometimes helps coordinate care with other
 22 clinics at the SAIT university, where he did
 23 return. She was involved in contacting or
 24 speaking to people who are coordinating those
 25 clinics.
 26 Q So from what I understand from what you've just
 27 said, the social worker is really involved in
 28 sort of the transition or the discharge planning?
 29 A That's correct.
 30 Q If we turn over to page 10 there's a handwritten
 31 entry. It appears to be from that same student
 32 that you referenced earlier?
 33 A Yes.
 34 Q And again, it appears that he or she is
 35 referencing Mr. Osuteye having had a good
 36 weekend. So was Mr. Osuteye on weekend passes at
 37 this point?
 38 A Yes, he was.
 39 Q And there's some reference to the outreach clinic
 40 that you had already mentioned?
 41 A Yes, he was -- he wanted [audio disruption] where
 42 he had received care for a number of months prior
 43 to my seeing him. The FU stands for follow up,
 44 by the way.
 45 Q Okay.
 46 A And we also wanted Nicholas to consider an
 47 outreach worker. We could look at contacting an

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1 outreach worker that would come and see him --
 2 rather than him having to go places all the time,
 3 that would come and see him in his home, or if he
 4 was working or volunteering, to see how he's
 5 doing.
 6 Q And five lines down it says "Dr. Dewart spoke
 7 with patient's mother, Mercy. She said "Nicholas
 8 still isolating himself."
 9 Do you have a recollection of that meeting
 10 with Mercy Osuteye?
 11 A No, I don't actually. I mean, I met with her a
 12 number of times. I don't have any specific
 13 recollection of that meeting.
 14 Q If you look to the last line of that entry it
 15 says "patient refusing injectable form of
 16 risperidone at this time." So intramuscular
 17 injections had been offered to Mr. Osuteye?
 18 A Yeah, the risperidone is available or -- or it
 19 and a medication very similar to it, are
 20 available in forms that are given once either
 21 every two weeks or four weeks, meaning that you
 22 don't have to worry about the patient's
 23 compliance with taking a pill every day.
 24 Q And looking at the last entry, is that your
 25 handwriting?
 26 A Yes, it is.
 27 Q Can you briefly decipher what it says for us, if
 28 you can?
 29 A I'll do my best. It says "July 5th, 2012, spoke
 30 to social worker re Nicholas's unwillingness to
 31 go to Alberta Hospital rehab program. Discussed
 32 need for referral to Alberta mental health
 33 services." This is an organization that would
 34 provide the outreach worker. She's exploring
 35 group options for him at the UAH. That's
 36 University of Alberta Hospital. "Will try to
 37 meet with Nicholas and his brother next week re
 38 DC," that's discharge, "planning as Mom leaves
 39 tomorrow AM for Ghana."
 40 Q So if we turn the page over to page 11, and it
 41 looks like it's a three-page document that
 42 continues onto page 13. It's titled "Discharge
 43 Summary"?
 44 A Yes.
 45 Q And it says admission, June 11th, 2012, but
 46 you'll recall the very first page emergency
 47 admission shows June 9th. Is that just a

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1 typographical error?
 2 A No, it's not actually. What happens is on
 3 June 9th he would have been admitted into the
 4 emergency. He was then admitted into SPOT, which
 5 is waiting for a bed, and he was staying in our
 6 emergency department. But on June 11th he was
 7 taken up to our ward and admitted to the hospital
 8 here. So he formally wouldn't have been
 9 committed to the psychiatric ward until June
 10 11th, but he was in emergency from June 9th.
 11 Q I see. Now the first part, the clinical history,
 12 and perhaps you can correct me if I'm wrong, but
 13 appears to be a reiteration of what's in the
 14 history that you had earlier dictated or that
 15 your resident had?
 16 A Yes, that's correct.
 17 Q All right. And it looks like you've also
 18 summarized, towards the bottom of the first page,
 19 physical examinations that had been done as well
 20 as some lab investigations?
 21 A Yes, that's correct.
 22 Q And turning the page over to page 12, second
 23 paragraph it says "urinalysis was unremarkable."
 24 You've done a urine screen?
 25 A Yes. Urinalysis is a -- just a test to see if
 26 there's anything wrong with the -- signs of
 27 physical illness appearing in the urine.
 28 Q And a drug screen was done?
 29 A Yes.
 30 Q And then there's a section titled, and it's in
 31 capitals, "Treatment and Progress"?
 32 A Yes.
 33 Q And further down there's a description, "as the
 34 patient began to settle, he was assessed for
 35 groups." What is that?
 36 A Well on the psychiatric ward, there's various
 37 types of groups, including psychotherapy groups,
 38 physical activity groups, relaxation that
 39 patients, as they get to -- healthier, get
 40 involved in to try to just help them recover and
 41 regain a sense of wellness.
 42 Q Right. Further down the page it says "we met
 43 with his family, his mother, with the patient's
 44 permission and offered some options." Do you see
 45 that?
 46 A Yeah.
 47 Q And paragraph 1 "we suggested that he might

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1 benefit from medications by a different route
 2 including intramuscularly but the patient was
 3 reluctant to take this."
 4 So that was discussed at the family meeting?
 5 A Yes.
 6 Q End of paragraph number 2 there's some concern
 7 expressed about the mother's safety?
 8 A Well I just said that he'd been living with his
 9 mother before he came into hospital, and he had
 10 been threatening to her just before he came into
 11 hospital, and it was looking like he was going to
 12 go back and live with his mother. So I just said
 13 that this means that you have to be aware that if
 14 he got ill again he may become aggressive towards
 15 you.
 16 Q And it looks as though -- a couple of paragraphs
 17 down there's a summary about having cancelled his
 18 certificates, and he remained happily in hospital
 19 for some time.
 20 So at some point during his admission, he
 21 was no longer involuntarily admitted?
 22 A Yes, that's correct.
 23 Q And he stayed involuntarily?
 24 A Yes.
 25 Q And second-to-last line -- actually the very last
 26 line tells us when that happens. Certificates
 27 were cancelled June 28th of 2012?
 28 A Yes.
 29 Q So about almost three weeks really after
 30 admission.
 31 And so second-to-last line says "medications
 32 at time of discharge included risperidone M-TABS
 33 4 milligrams at bedtime." And you've already
 34 described those M-TABS are the quick dissolve
 35 tabs or wafers, are they?
 36 A Yes.
 37 Q And 4 milligrams, would that have come in one
 38 tab?
 39 A I believe so.
 40 Q And why -- and so the 4 milligrams was what you
 41 had prescribed by the end of his discharge?
 42 A Yes.
 43 Q And I take it that was effective for him at the
 44 time in managing his symptoms?
 45 A Yes.
 46 Q Okay. And just moving to page 14 then, can you
 47 tell us what this page is?

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1 A These are -- these are copies of notes that came
2 from my chart from my own private office.
3 Q All right. So there appear to be two dates
4 there. Can you tell us what happened on each of
5 these dates?
6 A Well I believe on July 13th his brother, I
7 believe, showed up at my office. I can't
8 remember if he had an appointment or not with me
9 at that time, but he showed up at my office and
10 explained that things have not gone well with
11 Michael since getting out of hospital.
12 Q And then the second paragraph, July 18th, it
13 appears you've seen Nicholas himself?
14 A Yes, I did. He was following up with the
15 university hospital, but I felt it was too long a
16 period of time from his discharge to when they
17 gave him an appointment not to be reassessed by a
18 physician, so I saw him for that one time after
19 he was discharged.
20 Q All right. So was that the last time you ever
21 saw him?
22 A Yes, that's correct.
23 Q Now in our documents there's a redacted section,
24 but I understand they're not redacted in your own
25 notes. Do you know what that note was about?
26 A Yeah, it was his mother phoning just to tell me
27 that he'd gotten into some problems in BC but
28 didn't elaborate on it. But I said there's
29 really not much I can do, that she needs to speak
30 to his physicians out there and tell them about
31 his situation.
32 Q I take it Mrs. Osuteye was the only person that
33 ever called you then in December of 2012?
34 A Yes, that's right.
35 Q All right. You never received a call from
36 St. Paul's Hospital?
37 A I think -- I never got a phone call, no.
38 MS. KOVACS: All right. Thank you, Dr. Dewart. Those
39 are my questions.
40 I note the time, but with the doctor I'm not
41 sure how long my friend intends to be in cross.
42 Probably longer than ten minutes. Should we take
43 the break?
44 MR. REID: I anticipate I will be longer than ten
45 minutes.
46 THE COURT: How long do you think you'll be?
47 MR. REID: I'll probably be 30 to 45 minutes, My Lord.

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1 THE COURT: I'm just reluctant to keep the doctor
2 online for 15 minutes. I'm wondering without --
3 is there anybody in the jury who needs a break,
4 or can we go for 45 minutes.
5 A JURY MEMBER: We can go.
6 THE COURT: I just think we can do that, if that's all
7 right, so we can excuse the doctor and perhaps
8 finish early or do whatever's required. But
9 let's let the doctor go as soon as we reasonably
10 can.
11 MR. REID: All right.
12 THE COURT: Thank you.
13
14 **CROSS-EXAMINATION BY MR. REID:**
15 Q Thank you, Dr. Dewart. I hope you can hear me.
16 Are you able to hear me?
17 A I can hear you.
18 Q Excellent. I'm going to start by asking you to
19 turn back to the very first page.
20 A Okay.
21 Q So this is the emergency record and the history
22 that was obtained as you explained by the
23 emergency room physician and the nurse.
24 And under contact person in the top left it
25 says "states no one." Does that mean he advised
26 the nurse or whoever did the intake that he
27 didn't have any contact information? Is that
28 your understanding of that note?
29 A That's my understanding of that, yes.
30 Q Turning the page to page 2, this is the note that
31 was authored by your resident, Dr. Reich;
32 correct?
33 A That's right.
34 Q And then it would have been reviewed by you and
35 signed by you after she had authored it?
36 A Yes.
37 Q Under the -- on the first page of those three
38 pages, so page 2 at the bottom, page 1 of 3,
39 states:
40
41 Nicholas was admitted, 8 January to
42 21 January, 2009. Was diagnosed with
43 schizophrenia at the time. His discharge
44 summary can be found at Netcare.
45
46 Does that mean that you or Dr. Reich had reviewed
47 that document, the discharge summary?

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1 A Yes. I don't remember -- I just remember briefly
2 looking at the document, and Dr. Reich I believe
3 reviewed it more extensively.
4 Q So that document as well sets out a history. And
5 my understanding from your evidence earlier is
6 that you obtained a partial history, you had an
7 initial meeting, and then Dr. Reich obtained more
8 of the information that's set out here in this
9 document?
10 A Yes.
11 Q At that time, did Nicholas tell you, or did you
12 obtain the history that he needed a lawyer as his
13 mother was keeping \$40 million from him, or do
14 you not recall?
15 A Can I review my certificate? I believe -- I
16 can't remember if he told me, but I believe he
17 told my resident, yes.
18 Q And at page 2 of that document, risperidone
19 1 milligram at QHS, taken at night, last refilled
20 in December of 2011, as per Netcare, that means
21 you or your resident would have looked up when
22 the last prescription had been filled?
23 A That's right.
24 Q Is there any way of telling how many pills or how
25 long a prescription Nicholas picked up in
26 December of 2011?
27 A You could if you looked at Netcare, how many
28 pills he would have gotten, but I don't have that
29 information on the chart right there.
30 Q And this was in June, so certainly he hadn't
31 picked up any prescription for six months
32 effectively?
33 A Basically, yes.
34 Q Turning the page to page 5, this is the Form 1
35 that you filled out?
36 A Yes.
37 Q You referred to it as the second Form 1 in your
38 evidence. What did you mean by that? Is there a
39 first Form 1?
40 A Yes, the first Form 1 would have been filled out
41 by the emergency doctor. A form -- you need two
42 Form 1s to make a patient involuntary for an
43 extended period of time. The first form is
44 filled out by the emergency doctor and that would
45 mean that that would cover that person for not
46 leaving the hospital for 24 hours. And within
47 24 hours of being written, a second Form 1, once

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1 it's written, implies that the patient could be
2 kept on an involuntary basis for up to 30 days.
3 So you need two of them.
4 Q And my friend went over some of these notes, so
5 where he says "on the following facts observed by
6 me," that's the evidence that Nicholas told that
7 he didn't want to be here?
8 A Yes, that's right.
9 Q That he believed he was in Israel?
10 A Yes.
11 Q And he told you that he was not on his
12 medication?
13 A Yes, he did.
14 Q And he did not believe he was ill?
15 A Yes.
16 Q And then the information communicated by others,
17 that would be collateral information that would
18 have either come from a nurse, emergency doctor,
19 your resident, somebody else?
20 A Yes. In order to have a valid Form 1, you have
21 to have both, information gathered by yourself
22 and by other people.
23 Q And here you got the yelling and swearing about
24 being sold into prostitution. Do you recall if
25 Nicholas told you anything about that when you
26 assessed him?
27 A I can't remember.
28 Q And then talking about carnal relations with
29 dogs, that's my reading of number 2?
30 A Yes, that's right?
31 Q Violent with family and history of schizophrenia?
32 A Yes.
33 Q Turning the page again, this is the admission
34 form on June 11th. As my friend took you to
35 again, Mr. Osuteye stated no one for family.
36 Does this mean he would have stated it twice?
37 Are there two separate intake process, or would
38 it have been based on the first intake?
39 A Just on the first intake.
40 Q Looking at these progress notes here, so
41 Mr. Osuteye was committed involuntarily as of
42 June 9th, and he was under your care for a period
43 of time after that; correct?
44 A Yes.
45 Q During that time, you assessed him, and met with
46 him on a number of occasions while he was in
47 hospital?

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1 A Yes.

2 Q And in addition, social workers, nurses, and

3 others met with him, correct?

4 A Yes.

5 Q On the note found at the first of those pages,

6 page 7, this was the note taken by your resident,

7 at the top, June 25th, 2012?

8 A Yes.

9 Q And the resident has reported that, at that time,

10 Nicholas was seen with his finger in his ear and

11 he denied any audio hallucinations or visual

12 hallucinations at the time?

13 A Yes.

14 Q So that means your resident recorded that as of

15 June 25th he had some behaviour of appearing to

16 be talking to himself?

17 A Yes. The resident would have reported that

18 during the weekend that that appeared to be

19 happening.

20 Q And would the resident have communicated that to

21 you?

22 A They did so by writing it in the progress notes.

23 They may have told me verbally, but I see the

24 progress notes too.

25 Q So you would have reviewed these progress notes

26 contemporaneously?

27 A Chances are that I was in the room when they were

28 writing it. I try to get my residents to write

29 the majority of my progress notes because I have

30 atrocious handwriting. So I'm usually in there

31 when this is going on. But I hand them the chart

32 and say you write this down, okay.

33 Q So that's on the 25th, and my friend has taken

34 you to the final document. So he was decertified

35 on June 28th; is that correct?

36 A Yes.

37 Q So as of June 28th, he could have left if he

38 wanted to, but he elected to remain in the

39 facility?

40 A Yes.

41 Q And who makes the decision to discharge? Was

42 that a decision that you made or your resident

43 made?

44 A Well, the decision to discharge is usually a

45 decision made -- ultimately, it's me who makes

46 the decision, but it's made in combination with

47 talking with the nurses, the people who have been

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1 running the groups, the social worker as to how

2 the person is doing, how they seem to be

3 responding to treatment.

4 So, ultimately, I'm making the decision, but

5 it's a shared decision.

6 Q And you made that decision as of the 28th of

7 June?

8 A I made the decision to cancel the certificates,

9 yes.

10 Q Going through those records, my friend has taken

11 you to some of them, there was an indication on

12 July 4th that the mother had advised -- that

13 Nicholas's mother had advised the medical student

14 that at that time Nicholas was still isolating

15 himself as of July 4th, and you were aware of

16 that?

17 A Yeah. I'm not sure if she meant -- looking back

18 on this, I can't remember if she meant that he

19 was isolating himself in general and in prior to

20 him coming into hospital, or while he was in

21 hospital. I can't say specifically.

22 Q And on July 5th, that's your note in which you've

23 indicated that he was unwilling to go to rehab.

24 So on July 5th, Nicholas wasn't willing to

25 participate in rehab at that time; correct?

26 A Yes.

27 Q Turning --

28 A Sorry, let me just -- may I elaborate on the

29 rehab? The rehab is something that's a pretty

30 major undertaking that usually implies a year to

31 two-year inpatient/outpatient close following by

32 the rehabilitation team. So it's not just --

33 it's not a decision made lightly.

34 Q Turning the page to the discharge summary. So

35 this is pages 11 through 13, on page 12 at the

36 bottom, partway through you've indicated "we met

37 with his family and his mother, with the

38 patient's permission, and offered some options."

39 So that means that you obtained Nicholas's

40 permission to meet and discuss with his mother?

41 THE COURT: Where are you, please. I've lost you.

42 MR. REID: Page 12.

43 THE COURT: I have that. And where were you in the

44 paragraph?

45 MR. REID: Prior to the numbered list. So the

46 numbered list is partway through, 1, 2, 3, and 4.

47 THE COURT: Right.

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1 MR. REID: The sentence right before that.

2 THE COURT: I have that. Yes, thank you. Sorry to

3 interrupt.

4 MR. REID:

5 Q So --

6 A Once the patient becomes voluntary, to meet or

7 talk to people about the situation, requires

8 their permission.

9 Q And from this note it means that, at that time,

10 he did get permission, you met with him and his

11 family and reviewed these options?

12 A Yes.

13 Q It was suggested to Nicholas that he could

14 benefit from medication injections,

15 intramuscular, but he was reluctant to take this?

16 A Yes.

17 Q And you didn't compel or order him to take

18 medication by way of injections, did you?

19 A I need his consent, yes.

20 Q And you needed his consent because he was at that

21 point a voluntary patient?

22 A Even if he was an involuntary patient you can't

23 force treatment under the *Mental Health Act*. You

24 have to have either the patient consent to

25 treatment or a substitute decision maker may

26 consent.

27 Q And it was the same thing at number 3 with

28 respect to rehab, you didn't order a rehab, and

29 it was because it would have to be voluntary?

30 A That's correct.

31 Q Turning the page over to page 13. Got "the most

32 responsible diagnosis is schizophrenia and

33 primary diagnosis family strife." What does that

34 mean?

35 A Family strife means that there's conflict of --

36 either is contributing to his illness or as a

37 cause of his illness or secondary to his illness.

38 Q Turning the page to page 14, the final page here,

39 so the previous notes I understand were your

40 interactions with Nicholas in hospital. You

41 indicated he came to your office. Do you see

42 outpatients as well at your office?

43 A Yes, I do.

44 Q So in addition to working in the hospital, you

45 see and treat patients through an office. Is

46 that located at the hospital as well or is that a

47 different location?

80

1 A It's located at a building which is on the

2 hospital complex grounds. It's about 100 metres

3 from the hospital.

4 Q This is on July 13th, two days later, you've

5 indicated Nicholas's brother came to you with a

6 number of concerns?

7 A Yes.

8 Q So he related to you that Nicholas had blown his

9 SA cheque going to Hooters and out all night. Is

10 SA social assistance?

11 A Yes, it is.

12 Q His brother indicated to you that he believed

13 Nicholas was taking his medication but does not

14 seem to get it. What does "does not seem to get

15 it" mean?

16 A I think he implies that he needs to sort of look

17 at his behaviour overall besides just taking the

18 medications.

19 Q And then next sentence, Michael, who is

20 Nicholas's brother, wanted him to come in and see

21 you but Nicholas refused and took off?

22 A Yes.

23 Q You've indicated there "if things get out of

24 hand, Michael can bring him to NCH." What does

25 "things get out of hand" mean?

26 A Well, if the situation escalates and his

27 behaviour becomes worse, or he appears to be

28 deteriorating and starts to show signs of odd

29 behaviour or thinking or acting like he did when

30 he first started to get ill, that he should be

31 returned back to the Misericordia hospital.

32 Q You also indicated you told Nicholas's brother

33 Michael about the crisis team. What's the crisis

34 team?

35 A The crisis team is a unit in Edmonton that

36 combines a psychiatric nurse, at times a

37 psychiatrist with an Edmonton city police

38 constable, who will go out and see a person in

39 their own home or surroundings.

40 Q So as of July 13th, his brother is telling you

41 about some concerning behaviour, and then you

42 subsequently see Nicholas in person on July 18th?

43 A Yes.

44 Q And I understand your recollection is that you

45 arranged that because you wanted to see him prior

46 to him being seen at the University of Alberta

47 health clinic?

81

1 A Yes.
2 Q So you saw Nicholas on July 18th. In that, you
3 say Nicholas outlined a sense, going home, he is
4 living with a friend. My understanding is the
5 plan, and you've set it out there, was that he
6 was supposed to live with his brother?
7 A Yes.
8 Q So as of July 18th, Nicholas has deviated from
9 that plan?
10 A Yes.
11 Q He tells me he is connected with the community
12 support team. He is meeting again later this
13 week, and they are looking at trying to help him
14 with housing.
15 You've indicated you gave him a handwritten
16 letter with CC to Jocelyn Butterfield regarding
17 Nicholas. Who is Jocelyn Butterfield?
18 A I believe she was administrator of the U of A
19 clinic where he was being followed up.
20 Q You said "he is continuing to take his meds. I
21 gave him a month's supply on discharge on
22 July 11th. He remains on SA," and that's social
23 assistance?
24 A Yes.
25 Q You've indicated "it is not ideal but safety net
26 in place have helped. Hopefully, he can get his
27 own place and/or reconcile with his brother."
28 What do you mean "is not ideal"?
29 A Well, I mean, if I said about -- and he was
30 supposed to stay with his brother, and then
31 within a week he's staying with a friend, and
32 he's obviously had some conflict with his
33 brother, that it means that things aren't going
34 exactly as I had hoped.
35 Q And you finished at the end there "no plans for
36 follow up."
37 So as of that date, it wasn't your plan to
38 be involved in Nicholas's care any further?
39 A No, he wanted to return to the U of A clinic for
40 follow up where he had been seen for a number of
41 months prior to my seeing him.
42 Q Doctor, are you familiar with the concept of
43 extended leave or leave?
44 A Yeah, there's one hospital in Edmonton that used
45 to do this extended leave, but it's not something
46 that the majority of hospitals in Edmonton have.
47 Q Can you please describe what extended leave is?

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1 A Extended leave will be where a patient may be
2 still considered an admitted patient onto the --
3 a hospital but allowed to go out for a
4 substantial period of time to see how they do in
5 the community, and if things don't go well, it
6 means that their entry back in the hospital can
7 be expedited.
8 Q And that was not an option you considered at the
9 time for Nicholas?
10 A It wasn't an option, impossible in my hospital.
11 None of the hospitals had it except Alberta
12 Hospital Edmonton, and it's my belief that
13 they've ended that in general because there's
14 such a pressure on beds that we've sort of
15 limited our extended leaves.
16 Q Did you follow up with the University of Alberta
17 health clinic, Netcare, any other things to --
18 after you saw Nicholas on July 18th?
19 A No.
20 Q At that point, he was discharged, and you didn't
21 have any involvement until subsequently contacted
22 by Mercy?
23 A That's correct.
24 MR. REID: Thank you. Those are my questions.
25 MS. KOVACS: I have no redirect.
26 THE COURT: I have one question.
27 I'll ask counsel if I can ask it, if you
28 rather I didn't, I won't. It goes to this
29 Netcare, and I don't know whether Netcare extends
30 across provinces or is only within Alberta.
31 MS. KOVACS: I have no objection to you asking that
32 question.
33 MR. REID: No.
34 THE COURT: Doctor, did you hear the question?
35 THE WITNESS: Yes, I did. My understanding is that
36 Netcare does not extend to Alberta. And I should
37 say that it has trouble with Alberta. The
38 computer systems in Calgary don't -- we often
39 can't get into them, and they can't get into
40 ours. So Netcare is an Alberta program only that
41 I'm aware of.
42 THE COURT: Excellent. Thank you for that.
43 Doctor, you're excused and thank you for
44 helping us today.
45 THE WITNESS: You're welcome. Thank you.
46
47 (WITNESS EXCUSED)

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1
2 THE COURT: Let's take our break now. Does that work?
3 MS. KOVACS: Thank you My Lord.
4
5 (JURY OUT)
6
7 THE CLERK: Order in court. Court is adjourned for
8 the afternoon break.
9
10 (PROCEEDINGS RECESSED AT 3:15 P.M.)
11 (PROCEEDINGS RECONVENED AT 3:33 P.M.)
12
13 THE BAILIFF: My Lord, it's going to be a minute. The
14 jury, My Lord.
15
16 (JURY IN)
17
18 MERCY OSUTEYE,
19 recalled.
20
21 CROSS-EXAMINATION BY MR. REID: (CONT)
22 Q Ms. Osuteye, thank you very much for allowing us
23 to call another witness and returning. I just
24 have a few more questions for you.
25 When I was last questioning you, I was
26 asking you about the June of 2012 admission. To
27 be clear, you weren't present and you didn't see
28 Nicholas break -- pull the shower door off or
29 punch a hole in the wall?
30 A No, I was coming from the police station.
31 Q There's an indication in the emergency hospital
32 records of a history of Nicholas trying to grab a
33 knife. You never witnessed Nicholas trying to
34 grab a knife, did you?
35 A I have to think. I think he did once, but he put
36 it back.
37 Q Was this on June -- at the time when he was
38 admitted?
39 A It was the June 8th, the day he was admitted on.
40 Q And that's when he tried to grab a knife and put
41 it back?
42 A Yes.
43 Q And he did that while you were present?
44 A Yes, I was in the living room.
45 Q Did he threaten you with a knife, or did he just
46 take it and put it back?
47 A He took it and put it back.
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1 Q Subsequent to that, he was involuntary committed
2 and we've gone over that you met with some social
3 workers and were involved in a period of time
4 when he was admitted, you were recorded as
5 saying, at page 8 of the social worker's notes,
6 and this is at tab 10?
7 A The June 25th one?
8 Q That's the one. So you were reported there as
9 telling the social worker that you feel that
10 Nicholas never has stabilized since onset. Was
11 that your view at the time that ever since he was
12 diagnosed with schizophrenia up until June of
13 2012, he wasn't fully stabilized?
14 A I didn't think he was fully stabilized because he
15 had these times that he's fine, you know, and
16 calm, and other times it's like -- you know, he's
17 making these faces and hand on the ear.
18 Q And there were times he would disappear for a
19 long period of time and you wouldn't hear from
20 him?
21 A That's correct.
22 Q Nicholas was discharged from Misericordia on
23 July 11th and I understand you were -- very soon
24 thereafter went to Ghana for seven weeks?
25 A I believe July 6th or 8th was discharged. I'm
26 pretty sure it's in the records.
27 THE COURT: I think that's right in the records, the
28 evidence that I saw.
29 MR. REID: That it was --
30 Q The record says July 11th, but you believe it was
31 in around July 6th or 8th?
32 A Because I left on the 10 -- that could be right
33 because I left on the 10th before he came home.
34 Q So you left on the 10th, and that was before he
35 came home?
36 A Yes.
37 Q And then he was discharged then on the 11th?
38 A That's right.
39 Q And then you heard he was supposed to live with
40 his brother, and his brother advised you that he
41 in fact hadn't done so?
42 A In fact Michael was the one that got him from the
43 hospital. He's the one that got him from the
44 hospital, Misericordia.
45 Q And after that, at some point soon thereafter, he
46 had left again?
47 A Yeah. I left, and then, I believe, a few days

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1 after he left again. He left Michael's place.
2 Q And he didn't tell you where he was going?
3 A No, I was in Ghana, so...
4 Q You indicated when you got back you had reviewed
5 a couple of messages. Did Nicholas leave his
6 phone at the house?
7 A Yeah, he left his phone at the house.
8 Q And you were able to listen to the messages that
9 had been left for him?
10 A That's right.
11 Q You indicated there was a message from the
12 University of Alberta, the crisis team, that he
13 had missed a message?
14 A That's one of the walk-in clinics.
15 Q And the message was that he had missed an
16 appointment?
17 A He missed an appointment.
18 Q Any other messages that were on his phone?
19 A There was also a message on the phone from the
20 Edmonton police department that his brother was
21 looking for him and to call home.
22 Q And was this right when you got back from Ghana
23 that you listened to these messages?
24 A When I got back.
25 Q So that would have been?
26 A In August.
27 Q August? Late August?
28 A In August, yeah.
29 Q Did you ever receive a call at that time from a
30 hospital or a doctor or anyone else in respect of
31 Nicholas?
32 A I don't recall that. You mean when I got back
33 from Ghana?
34 Q Yes.
35 A I don't think so. I could be wrong.
36 Q And then in November when you got the bill from
37 the ambulance, was that the next time you heard
38 or knew where Nicholas was?
39 A That was the next time I knew where he was.
40 Q You hadn't talked to him between --
41 A No.
42 Q -- August, September, October?
43 A No.
44 Q You testified earlier you called the hospital,
45 St. Paul's Hospital, and a reception person said
46 they couldn't tell you anything?
47 A That's correct.

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1 Q You were transferred to psychiatry, and you spoke
2 with a nurse who also told you they couldn't tell
3 you anything?
4 A That's correct.
5 Q You didn't speak to any doctors on that call?
6 A No.
7 Q Finally, you testified that now Nicholas is back,
8 and he's on a different type of medication?
9 A Yes. Are you talking about when he came back
10 from --
11 Q As of now.
12 A As of now, yes, he's on a different -- well
13 probably the same medication but injection.
14 Q And he no longer has the -- in 2012 you described
15 it in June as him having never stabilized. Is
16 his presentation to you different now that he's
17 home?
18 A Way different. He's way different now.
19 Q In what way?
20 A He doesn't act the way he was anymore. You could
21 tell that he's responding to the treatment. He's
22 aware of his surroundings and everything and he's
23 very respectful. He still lives at home. He
24 goes to work. I don't have to wake him up like
25 before to go to work. He wakes up, goes to work,
26 come home, dinner is ready, thanks to me, and I'm
27 not afraid of him anymore.
28 MR. REID: Thank you very much. Those are my
29 questions.
30 THE WITNESS: Thank you.
31 MS. MACKOFF: No redirect, My Lord.
32 THE COURT: I have no questions. Thank you for your
33 help.
34 THE WITNESS: Thank you. Thanks, everybody. Am I
35 free to go now?
36 THE COURT: You are indeed.
37 THE WITNESS: Okay. Thank you.
38
39 (WITNESS EXCUSED)
40
41 MS. KOVACS: My Lord, I note the time. We do have
42 Nicholas Osuteye scheduled for tomorrow. We've
43 sent him home today, not knowing how long the
44 cross would go. So at this point we don't have
45 any witnesses to call.
46 THE COURT: That's fine. That will happen from time
47 to time.

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1 Mr. Meadows, is there something you wanted
2 to add?
3 MR. MEADOWS: No.
4 THE COURT: Okay. We'll start tomorrow then. Thank
5 you.
6

7 (JURY OUT)

8
9
10 THE CLERK: Order in court. Court is adjourned until
11 Thursday, September 5th, 2019, at 10:00 A.M.

12 (PROCEEDINGS ADJOURNED AT 3:45 P.M.)

13
14
15 REPORTER CERTIFICATION

16 I, Glauca R. Fadigas de Souza, RCR,
17 Official Reporter in the Province of British
18 Columbia, Canada, do hereby certify:

19
20 That the proceedings were taken down by me
21 in shorthand at the time herein set forth, and
22 thereafter transcribed, and the same is a true
23 and correct and complete transcript of said
24 proceedings to the best of my skill and ability.

25
26 IN WITNESS WHEREOF, I have hereunto
27 subscribed my name on this day, the 12th day of
28 September 2019.

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33 Glauca R. Fadigas de Souza, RCRRCR
34 Official Reporter
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