

**DEPOSITION OUTLINE**  
**Dr. Michael Lesch**

**I. CONTENTS OF FILE**

Any tabs, etc.?

**II. PRIOR DEPOSITIONS, CASES, AND TRIAL TESTIMONY**

**See TrialSmith details.**

List?

Federal Court compliance?

Number of depositions over the last several years?

**See Prior depo**

Number of cases?

Number of court appearances?

Review of records not included for the above?

Rates for appearance in med legal matters?

For the above, Plaintiffs vs. Defense?

Cost for depositions?

Cost for appearance at trial in Miami?

Cost for review of records and conferences?

Expert services?

**Yearly income/% of income?**

How were you referred to the DA?

Work with anyone else in his office? (See letterhead)

**See Expert Int.**

Have you billed them for your services yet?

Amount?

When you received money for your services, where does that money go?

How much more time do you expect on this matter?

**Need a copy of bill.**

### **III. WITNESSES**

Do you know and/or have experience with:

Drs. Seckler, Bartzokis, Zacharoudis, Bott?

Drs. Joao Lima, Ed Neff, Charles Klodell, Brian Werbel, Alan Feit?

NorthRidge Hospital?

### **IV. WHAT IS YOUR BUSINESS ADDRESS?**

Who is your employer?

How is your time divided? (*i.e., teaching, clinical, etc.*)

What is your specialty?

Sub-specialties or expertise and other specialties?

### **\*\*\*What do you perceive as your purpose in this case?**

In what areas or specialties of medicine do you intend to render opinions?

**SEE CURRICULUM VITAE**

Tort Reform or PAC's?

Training or lecturing to ins co., etc.?

Associations w/Ins Co.'s?

Advertise?

Expert services?

Personal litigation?

Books, articles, lectures, etc. re: litigation, depositions, avoiding litigation, etc. or any component of litigation?

**Publications addressing the issues in this case?**

When you are the Cardio., do you provide post operative care to patients?

Who have you spoken with regarding this case?

**V. LITERATURE AND RECORDS**

Please list all documents, articles, records, and books that you have used, looked at, reviewed in preparation for your testimony and opinions in this matter.

Have you recommended any such material to the DA for review?

Please describe all medical records and depositions you have reviewed in this matter and/or expect to review in this matter.

Who have you spoken with about your opinions in this case?

Have you had any conversations with the Defendants?

Or any experts?

**Have you requested any materials that have not yet been provided?**

Do you intend to review any literature (other than what has been discussed) prior to trial?

**Have you rendered a report, a work product document, notes, transcription or microcassette, outline, or any documentation or communication (including e-mail) to the DA's office or any attorney at his office?**

Do you have a file with correspondence from the DA's office? **(Go through each document and attach to deposition)**

Any agreements in writing for your services?

Is there a contract for your services?

Rate or fee schedule provided to attorneys?

What is the purpose?

How developed?

Please describe each consultation you have had with someone from the DA's office including nurses or paralegals?

How many?

First time - told about the case? What?

Any notes from any of these conversations?

Given any documents, letters, etc. that are not contained in the file?

Were you asked to dispose of or remove any documents from the file or records?

**Were you asked any opinions prior to receiving records (agree to be retained prior to receiving records)?**

What did you do to prep for depo?

## **VI. OPINIONS**

Have you been asked to render opinions in this case?

**Please list in outline form all opinions.**

(Including the cause of all complications?!)

**Please define SOC.**

**\*\*ask for each SOC opinion– did Defendant act as a reasonable and prudent physician would act under the circumstances.**

**\*\*\*What further work do you intend to do, and what further work have you been asked to do?**

*(Attack opinion if not provided all information needed)*

**\*\*\*Provide support, basis, or specific records for your opinions.**

Making any assumptions or assuming certain facts to be true?

**\*\*\*Have you made any credibility judgments as part of your analysis in this case?**

**\*\*\*Assume your opinions are wrong or invalid. What steps would you go through to analyze the opinions and find your error?**

**\*\*\*Go thru tabbed or H/L portions of records and depos**

## **VII. MEDICAL TERMS**

### **Elie's Med History ?**

Was CABG emergent?

Who recommended the CABG?

If no surgery, what was the life expectancy?

### **Responsibility to patient as the Cardiologist/covering doctor:**

Please explain the role in the care and treatment of Elie Bental by Dr.Zach? Dr.Bart.?. [**Duty?!]**

How do you advise patient? Sign a consent?

Reponsibilities (during hospitalization):

[Change or remain constant? How do they change?]

**For the:** Treating Cardiologist?

Partner of Treating Cardiologist?

CV Surgeon (was he a consult)?

“Signing out” on a patient-should patient be stable? What is “stable?”

What was your understanding of his condition & why he was being admitted to the hospital? (*He had blockages, but otherwise no structural problems*)

Were you aware of his heart function?

Condition of his heart other than the blockages?

Pretty good function?

Are you aware the period of time in which Elie experienced no problems in his cardiac care?

What is your understanding of the Heparin protocol at NR Hospital?

How does it work?

*(Dr.Z-standard of Orders that were devised by physicians in the pharm. committee to control and to monitor the levels during heparinization)*

For post-Cardiac Cath's?

Who starts it? **By doctor's Order?**

Who ordered it? *(Dr.Z)*

Who monitors it?

*(Dr.Bart says it's the pharmacist who makes adjustments and he doesn't really become involved in the increase, decrease, or stopping of the Heparin.)*

***(There is a tele. Order from Seckler to turn off Heparin on 9/7/00)***

Responsibility as the patient's MD to monitor and adjust Heparin?

Is the clinical picture important?

Do the pharmacists treat patients clinically?

Therapeutic range of Heparin? *(Dr.Bart says 46 to 70)*

Does the adjustment of the protocol require a doctor's Order?

What is the effect of a high PTT (while bleeding)?

Effect of a declining H&H while on Heparin?

**Is this a post-CABG Heparin protocol?**

Different protocols for CABG and Afib patients?

**Are there procedures/conditions in which the Heparin Protocol should not be ordered?**

Or continued?

Important for the covering MD to be aware of the patient's medical condition to appropriately treat the patient?

That includes present medical condition as well as historically?

How is that MD informed sufficiently if the first time seeing the patient is in the hospital?

What is **cardiac tamponade**?

*(Leakage of blood or fluid into the sac)*

What is anticoagulant therapy?

How can anticoagulant therapy lead to extensive bleeding around the heart and cardiac tamponade?

*(Bott-pgs.39-40-A/C therapy can cause a person to bleed or be more susceptible to bleed)*

“Heparin-induced tamponade”?

Is Coumadin normally a long acting anti-coagulant?

As compared to Heparin which is short acting?

Can you explain the difference in the two medications and their use?

What is the difference b/w chronic and paroxysmal Afib?

Which was Elie, pre-op and post-op?

Difference for anti-coag treatment?

Difference for anti-coag treatment post op?

Is it a concern for clotting with a patient with intermittent Afib to be off Coumadin for a short period of time?

Do you know the rate of clotting/stroke (risk) for a patient with

intermittent Afib for a year off all anti-coagulation medications?  
(Probably 3% - 4% and therefore off Coumadin for one week is minimal)

How long does it take for clots to form in a patient like Elie off anti-coags?

How long for Coumadin to become active/effective?

What would the reason for starting Elie on Heparin?

Would you agree that CT should always be suspected in a post CABG who is hypotensive? (Bott-102)

Would you agree that CABG is major surgery?

Would you agree that there is always a greater risk of bleeding after major surgery?

What is the effect of Heparin on an individual who is bleeding after major surgery?

IV Heparin has a greater risk for bleeding after major surgery?

\*\*\*Would you as Elie's treating Cardiologist started him on Heparin after major surgery?

For what condition?

With Paroxysmal Afib was there a risk of clotting over a couple days period?

% of risk v. bleeding internally from Heparin?

Was oral Coumadin considered?

Difference b/w oral Coumadin and Heparin?

(Takes 3-4 days to work and therefore not a risk for bleeding)

**Do you have an opinion as to whether Elie Bental suffered from cardiac tamponade?**

**Cause or contributed to his death?**

**Was it chronic or acute cardiac tamponade?**

**When it started?**

**Reference the chart.**

**(Dr.Z-an acute event b/w 5-8 pm based on his low bp and h&h-p.63)**

**What is the difference between chronic or acute?**

*(Dr.Z-Acute-BP goes low and does not come up. W/Chronic-it can wax and wane and may temporarily improve but will usually w/not hold;p.65-66)*

**\*\* -Give examples.**

**\*\* -For Acute, would there be anatomic findings?**

**\*\* -After chest opened up, no bleeders, grafts were patent, no obvious signs of bleeding-what evidence of an acute event?**

**\*\* -BP can back to normal, vitals ok, stop Heparin , significance as to chronic v. acute?**

**\*\*\*GO TO RECORDS AND COMPARE VITALS W/MEDS AND FLUIDS** (begin. 5 am on 9/11)

**Do you have an opinion as to whether the Heparin affected the C/T?**

Experience w/Cardiac Tamponade? Need details.

**Literature on Cardiac Tamponade (diagnosis & treatment)?**

What would be a good source for information?

Who are considered some of the recognized authorities or experts?

**Causes:**

**see med research**

**Clinical features of Cardiac Tamponade:**

Would you agree that cardiac tamponade should always be suspected in a post-CABG patient who is hypotensive? *(It is that simple)*

Should be suspected anytime there is a deterioration in the condition of a post-CABG patient?

How much fluid can accumulate before compression begins?

Necessary to cause C/T? *(May be as little as 50 to 100 ml)*

At what point are changes in cardiac hemodynamics produced?

How does Afib or Atrial Flutter affect patients with C/T?

*(Afib can lower cardiac output and BP)*

**(Three) Classic Features of C/T–Please List.**

*(Elevated CVP w/neck vein distention, muffled heart sounds i.e, “quiet heart”, pulsus paradoxus-greater than 10 mm Hg fall in systolic BP during inspiration, also see decrease in systemic arterial pressure)*

Increased central venous pressure?

Falling arterial blood pressure?

Tachycardia?

Faint or muffled heart sounds?

Narrowing pulse pressure?

Veins bulging or distention in the neck (JVD)?

*(Dr.Z indicates should be done and noted in chart-p.73)*

EKG - low voltage?

When does a declining H & H in a post-CABG patient become significant for C/T?

Or a bleeding issue?

\*\*Should it be suspected anytime there is a sudden deterioration in the condition of a post op cardiac surgical patient?

**Treatment**

Do you treat people who have cardiac tamponade?

What is the treatment for cardiac tamponade?

Agree it must be corrected immediately?

Timing of the correction is critical?

**An accumulation of blood around the heart after CABG over the course of a day eventually causing an event–chronic or acute?**

**See Dr.Z’s depo pgs.68-70**

Was there a specific event in the records causing a sudden accumulation of blood around the heart ?

In other words an event leading to an acute tamponade at 5 pm or later?

**\*\*\*\*GO TO RECORDS OF 9/10 THROUGH BOTT'S OPERATION**

**See Inga's note for 9/8**

Stable?  
H&H-12.4/37.4?  
Anti-coag studies-w/n/l

**9/9**

**See PN for Dr.Z**

Able to read it?  
No JVD, positive breath sounds, H&H-12.4/37.4

**9/10**

**See PN for Dr.Z**

Able to read it?  
Mild SOB

**Start Heparin by verbal order.  
Discussed w/CT surgeon?**

**See Orders**

Labs--Creat. (1.2; .9-1.5), H&H-1.0/35.2 – done in a.m.-Time ?

**Anywhere in PN's or Orders that treatment was  
discussed w/CT?**

**Removal of Pacer Wires**

When? Whose decision? Can it cause bleeding?  
Usually a concern?  
A concern– post CABG and on Heparin?

What are a patient's Vitals?

How do you define stable in a post CABG patient? Unstable?

**9/11**

First PN ? By whom?  
Time?

Beginning at midnight on 9/10, who was responsible for Elie?

Who was covering?

**See Inga's Notes for 9/11 and actual NN**

**Start at 5 am**

Dr.Z did not come in? No PE ?

Never came in to see Elie?

By his testimony we know he was aware of vitals?-see

Chart.

(9.9/29)? By his testimony we know aware of a drop in H&H

HR?

Is 72/44 a “little bit hypotensive”?

Combo of symptoms-BP, H&H, “not feeling well”, color pale–what are your concerns? Differential?

What did Dr.Z do?

Fluids and Meds?

Day before, he was put on Lasix? Why? This is considered Diuretic Therapy?

How much had he diuresed? Show in Chart. What is significance?

**6 and 7 am**

**See coinciding Orders**

7 am -HR 140,

8 am- “feeling very weak”, BP 83/49

Elie’s hypotens., fast HR, in Afib, drop in H&H–meds and fluids are ordered? Why?

Can the meds and fluids mask symptoms of active bleeding? Chronic CT?

*(Bott-43-providing of meds and fluids w/n fix CT caused by bleeding. It will ameliorate the symptoms)*

H&H drop from day before w/drop in BP and inc. HR–consider active bleeding?

9 and 10 am - BP 98/50

What is a differential dx?

Did Dr.Z consider bleeding as part of a differential dx?

CT and/or active bleeding as part of a differential?

What did he think was going on?

Signs of Bleeding:

Increased PTT (while on Heparin)?

Rising Creatinine?

A decreasing H & H-9.9 and 29- Post-CABG?

Decreased blood pressure- Hypotensive? Significance?

If you consider active bleeding, what do you do?

Leave pt. on Heparin? Order An increase in Heparin?

If bleeding, Heparin will increase bleeding?

Heparin was increased b/w 8 and 9 am (see Order and Dr.Z depo, pgs.114-15)

If you consider CT, what do you do?

**See NN and Orders for 9 and 10 am**

If active bleeding and/or in Chronic CT, BP can increase after meds and fluids?

**When did Dr.B become involved in the care of Elie on 9/11?**

**See PN**

What time?

Orders?

(11:50-Dr.Bart-"r/o pericardial effusion)

What did he think was going on?

Consider active bleeding? CT ?

Combining all of Elie's symptoms and history, agree active bleeding should have been considered? CT?

And if so, it needs to be excluded?

If not, grave risks?

With a w/d of meds, when would you expect to see a difference ?

When did Dr.Bart check out w/respect to the care of Elie?

Your understanding of who was the responsible physician?

**See Echo Report and PN of Dr.Z**

Have you reviewed the Echo? What did you see?

Agree it is a “limited study”?

Only shows front of the Heart?

Can 2-d Echo’s be used to exclude CT?

How about this Echo?

Would you use this specific Echo as a diagnostic tool?

**See depo of Dr.Z;pgs.108-110**

If active bleeding or CT not ruled out, other tests should be done?

**TEE?**

How is it performed?

Agree a better picture of potential fluid in front of and in back of the Heart?

Agree he had significant fluid behind the heart at the time Dr.Bott opened him?

If present, would have been seen on a TEE?

Elie had no problems w/his esophagus to preclude test?

According to Dr.Z, he did not have any problems to prevent a

TEE?

Would you agree that it is the best and quickest study to diagnose tamponade?

How?

Would you agree that it is the best and quickest study to diagnose tamponade when it is caused by clots or clotting behind the heart?

Would you agree that a TEE shows clearer pics of the heart/  
*(clearer b/c its located closer to the heart and the lungs & bones of the chest*

do no interfere w/the sound waves)

**Swan Ganz?**

How does that assist in diagnosing CT?

Was it ultimately inserted? When? And what did it confirm?

**See NN – 12p and 5 p**

How do you explain the fact that Elie had a large amount of blood around the heart but the Echo did not show it?

Or a right side chamber collapse?

**See NN-5 pm**

**09/11/00 - 6:30 p.m.**

**Dr. Bott** - progress notes - “not responsive to volume. unclear as to any etiology of the clinical decline? Is it a possibility that it might be a tamponade but the echo was ok?”

**See 8 pm Order**

“d/c Heparin”

A **stat H & H** is obtained by the nurses while Elie is on the telemetry floor. It was reported **at 8:38 p.m. at 7.8 and 23.6.** (*This means that his Hemoglobin has dropped an additional 2 grams, therefore 4 grams since the starting of Heparin*)

**See Code Note and Op Note**

Chest was cracked open by Dr. Bott and pericardial tamponade was discovered?

A large amount of blood was evacuated from the chest with a lot of clots. Agree w/Dr.Bott-“large amount of blood, several hundred cc’s” (Bott-122)

Amount of time for that to accumulate? Did he have significant C/T? Cause the arrest? Explain.

Taken immediately to the OR for mediastinal exploration. What?

Were all surgical sites intact? What is a bleeder? Any? Where was he bleeding?

*(Bott-124-bleeding from mediastinum and structures around the heart. Grafts were ok.)*

There is always some bleeding and A/C therapy can cause it to bleed more or not clot? (Bott-125-26)

**In your opinion at what point could Elie have been treated to prevent his arrest? Or significant C/T?**

What tests/ What actions could have been taken?

**In your opinion, when do you believe he began tamponading?**

**Afternoon? Was he tamponading in the a.m.? Days before?**

**Could the C/T been diagnosed in the a.m.? After this Echo, do you still suspect C/T? Do you run other tests? What?**

**What other tests were done to determine etiology?**

**What other tests could have been done?**

Reason for CABG?

Surgical goals achieved? OP a success?

7-10 day stay in hospital and then move on w/his life?

COD-Hypoxic Encephalopathy?

What is that?

As a result of CT?

How anatomically does that occur?

Have you reviewed the post 9/11 records?

Never was going to recover?

Effectively, his life was over that evening?\_\_\_\_\_

**\*\*\*\*Assume your opinions are wrong or invalid. What steps would you go through to analyze the opinions and find your error?**

**X. MISC.**

**Fabre ? (Dr. Bott and NorthRidge Hospital)**

