

STATE OF VERMONT

PROFESSIONAL RESPONSIBILITY PROGRAM

IN RE: C. ROBERT MANBY, JR.

PRB #2019-089

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Deposition of DOCTOR WILLIAM NASH, held via Zoom video conference, on Monday, March 15, 2021, beginning at 10:00 a.m. before Tari J. Gingue, a freelance court reporter and notary public within and for the State of Vermont.

A P P E A R A N C E S:

For the Professional Responsibility Program:

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REPORTER'S NOTE: Exhibit 1 was retained by Attorney Ryan. Original transcript has been forwarded to Attorney Katz' office for review and signature by the deponent.

STIPULATIONS

It is hereby stipulated and agreed by and between the attorneys of record for the respective parties hereto, as follows:

1. THAT the testimony of DOCTOR WILLIAM NASH may be taken and treated as if taken pursuant to notice and order to take deposition and that all formalities of notice and order are waived by the parties and the signatures to the stipulation are in like manner waived.

2. THAT all objections, except as to matters of form or motions to strike, are reserved until the deposition or any part thereof is offered in evidence.

3. THAT the deposition may be signed by the said DOCTOR WILLIAM NASH before any Notary Public.

4. THAT all exhibits offered for identification are reserved by counsel until time of trial.

5. THAT the deponent may be sworn in remotely.

DOCTOR WILLIAM NASH, having first been sworn, testified as follows:

EXAMINATION BY MR. RYAN:

Q Would you state your name, please?

A William B. Nash.

Q And how should I address you? Is it Doctor Nash?

A Doctor Nash is fine.

Q Okay. And, Doctor Nash, I guess tell me about your educational background.

A I have a Bachelor's degree from Lynchburg College in Virginia; Masters degree from the University of Vermont that I received in 1986, I believe. I can't remember where I had breakfast yesterday. And I think in 1989 I got my Doctoral degree from Walden University in Minneapolis, Minnesota. I was originally licensed as a psychologist masters, and I upgraded that to a psychologist doctorate.

Q Thank you. And it's interesting you say you can't remember what you had for breakfast, given the nature of today's deposition. All right. So what do you do for a living?

A I'm a forensic psychologist. I do evaluations in a variety of contexts. Basic realms are criminal, worker's compensation, and then family-oriented kinds of

things for DCF.

Q And you're involved in a lot of civil cases, aren't you?

A Some, yes.

Q Okay. You've been deposed before?

A Oh, many times, yes.

Q Okay. So I don't have to go over the rules with you?

A Probably not.

Q Okay. As a matter of fact, you and I have had cases together, haven't we?

A I believe so, yeah.

Q I think the last one was maybe four years ago.

A Okay.

Q And about four years ago weren't you on a not a jury panel, but a jury venire in federal court?

A I've been in federal court many times, yes. Oh, actually, yes, for the jury, yes. I didn't last very long there.

Q Do you remember me examining you?

A Vaguely.

Q We had a case together, and I think that got you off.

A Okay. Yeah. Nobody wanted me there.

Q Too much information.

1 A Absolutely.

2 Q Thank you. Now, you know we're here on --  
3 you've been identified to me as an expert witness by  
4 Disciplinary Counsel, Sarah Katz, in a matter involving  
5 my client, Rob Manby. Are you aware of that?

6 A I did an evaluation of Eleanor McDonald, and I  
7 believe that I have been called as an expert witness, so  
8 I guess that is true.

9 Q Okay. So fair enough. I'm going to take this  
10 from the beginning.

11 A Okay.

12 Q What was your first involvement ever with  
13 regard to Eleanor McDonald? Let's start with who hired  
14 you?

15 A The Court. I got a notification from The Court  
16 ordering me to do an evaluation of Ms. McDonald.

17 Q Did they agree to pay you for that?

18 A No. What happens is that when I get these  
19 things, you know, the registrar sends them to me. I do  
20 dozens of these. And they would list then the proposed  
21 guardian, and then I contact the proposed guardian, I get  
22 some background information, that sort of thing. I'm  
23 going to test memory, so I need to know do they have a  
24 husband or a wife or whatever. And then I inform them as  
25 to what my rate is.

1 A Vanessa Robertson on 2/4/21.

2 Q Okay. So you provided Vanessa with all of the  
3 information that you have concerning this matter? And by  
4 this matter I mean the evaluation, any contacts you've  
5 had with the co-guardians, The Court, any attorneys,  
6 including email, all of the information that you reviewed  
7 in evaluating Eleanor in any medical records you have,  
8 all of that has been shipped to Vanessa Robertson?

9 A Anything that I retained, yes.

10 Q So we shipped all of that on to Disciplinary  
11 Counsel, but it consisted of not much information. Your  
12 report and maybe a couple of emails.

13 A That's about what I've got.

14 Q All right. Tell me what you had back in May of  
15 2016 when you did your evaluation of Eleanor McDonald.

16 A What do you mean what I had? Materials I was  
17 in possession of?

18 Q Yeah. When I say information, I mean  
19 documents, email, notes of conversations, learned  
20 treatises, studies, anything you had.

21 A Okay. It would have been the information from  
22 The Court, which would have been the Petition for  
23 Guardianship and the Order ordering me to perform the  
24 evaluation. I don't -- I hadn't kept that. It's  
25 subsequently come to me electronically, so I do keep

1 Q Okay. So after you were ordered by The Court  
2 to do this evaluation, who did you work with mostly in  
3 getting information?

4 A It would have been one of the two proposed  
5 guardians, and I do not recall.

6 Q Do you have information that could give us that  
7 answer?

8 A Probably not any more. Let me see what I've  
9 got here.

10 Q Take your time. Because we've got, I think,  
11 three hours.

12 (An off-the-record discussion was held).

13 A Would -- it might have been Patricia Sonberg?

14 Q Yeah. So do you have an electronic file?

15 A Yes.

16 Q Okay. You got a Notice of Deposition from me,  
17 and you accepted service of that, correct?

18 A That is correct, yes.

19 Q And that requested you to provide certain  
20 information?

21 A Yes.

22 Q And you didn't provide anything, did you?

23 A No, that's not true. I provided everything I  
24 have.

25 Q And who did you provide it to?

1 that, but I don't have that any more.

2 Q Okay. What form did you receive it in back in  
3 2016?

4 A It would have come in the mail.

5 Q And you didn't scan it in or keep any  
6 electronic copy?

7 A I did not.

8 Q Do you keep notes?

9 A Sometimes I do, sometimes I don't. I don't  
10 have any, so I'm going to guess probably I don't.

11 Q You know, because you've been deposed before,  
12 we don't want you to guess. That's not helpful. If you  
13 remember something, if you know something, you can tell  
14 us. But guessing is not helpful.

15 A I will say that I do not have possession of any  
16 notes that I took at the time.

17 Q Okay. I'm looking at your evaluation.

18 MR. RYAN: And, Tari, we can get it later, but  
19 I'd like to mark the evaluation as Nash 1 for the  
20 record.

21 (Nash Exhibit Number 1 was identified and will  
22 be marked for identification).

23 Q (By Mr. Ryan) You have a copy of your report  
24 in front of you?

25 A Yes, I do.

1 Q And that's the report on Eleanor McDonald dated  
2 May 9th, 2016?

3 A That is correct. May 6th.

4 Q It says date of evaluation, May 9th, 2016. At  
5 least mine does.

6 A Okay. May 9th, 2016.

7 Q Did I screw that up?

8 A Well, I've got two dates on this. If you look  
9 at the top of Page 2, I wrote the 6. That may be a typo.

10 Q Okay. Is that a form of dyslexia where you  
11 flip numbers?

12 A I don't know of a dyslexia where you flip it  
13 upside down, so I don't know.

14 Q So let's -- you don't have anything else, as I  
15 understand it, other than this evaluation?

16 A That is true.

17 Q Is that true?

18 A Well, what I have and what I sent to you is my  
19 evaluation, a letter about payment, and various emails.

20 Q Okay. I've got all those.

21 A And the letter from Katz, a letter to Katz, and  
22 PRB Number 2019 dash zero and then some other numbers.

23 Q Sure.

24 A That's everything I have in the file.

25 Q That's everything you have in the file today?

1 A That's correct.

2 Q In preparation for the opinion you're  
3 apparently giving, given the disciplinary matter, what  
4 have you done?

5 A I spoke with Sarah Katz very briefly. Mostly  
6 just about preparing me for a deposition, which I really  
7 didn't need much preparation. And I re-read the  
8 evaluation.

9 Q Okay. When did Ms. Katz first get in touch  
10 with you?

11 A A long time ago. Wait a minute. I can find  
12 this way. Hold on a second. Okay. She contacted me  
13 August -- a letter dated August 19th, 2020. No, that  
14 can't be right. When did she contact me?

15 MS. KATZ: Do you want my help with this at  
16 all? Anybody? The letter is my first record of  
17 having contacted Doctor Nash, or getting in touch  
18 with him in any way.

19 THE WITNESS: August 19th, 2020, I guess would  
20 be the first letter.

21 Q (By Mr. Ryan) Okay. And did you provide a  
22 copy of that letter to me?

23 A I believe I did, yes.

24 Q Okay. Anything else you have done since  
25 that date, since August 19th, 2020, concerning the

1 Disciplinary matter?

2 A I read Mr. Manby's response to the Complaint.

3 Q And where did you get that?

4 A From Ms. Katz.

5 Q All right. Why did you read it?

6 A Because she sent it to me.

7 Q Is Ms. Katz paying you?

8 A She will for that.

9 Q What's your rate for that?

10 A \$225.00 an hour.

11 Q Okay. Do you have an agreement with Ms. Katz  
12 that she will pay you?

13 A Implicit.

14 Q Excuse me?

15 A I would say it's implicit that the State would  
16 pay me for my preparation time.

17 Q But you don't have a written agreement?

18 A I do not.

19 Q You don't have an email chain that would form  
20 an agreement?

21 A That's correct.

22 Q And as I understand it, the only communication  
23 you've had is an 8/19/2020 letter. And then out of the  
24 blue you received the Complaint?

25 A Let me see here. Okay. She sent that to me on

1 2/4/21. No. I take that back.

2 MS. KATZ: Doctor Nash, I'm pretty sure I did  
3 not send you anything related to the case at all. I  
4 typically would never do that to a witness, so is  
5 there any way you can check on that? Because I  
6 don't -- I don't have any recollection of sending  
7 you the Answer.

8 THE WITNESS: Right. I was not anticipating  
9 all of this.

10 (An off-the-record discussion was held).

11 Q (By Mr. Ryan) But you do have a copy of the  
12 Complaint, right?

13 A That is true.

14 Q And you read it?

15 MS. KATZ: I think he said he has a copy of Mr.  
16 Manby's Answer, and I don't know -- I mean, I can  
17 represent on the record I did not give you the  
18 Answer, so I don't know how you got it. It is all  
19 available online. I may have at one point mentioned  
20 that to you. That could be.

21 THE WITNESS: I can't identify where it came  
22 from. I'm sorry. I could spend the rest of my life  
23 doing this.

24 Q (By Mr. Ryan) So, Doctor Nash, you're looking  
25 at a file some place for these materials?

1 A I'm looking at my emails.

2 Q Do you keep the emails in a folder?

3 A No.

4 Q In a matter such as this when you're provided  
5 information, and we've gone over how that's defined, how  
6 do you catalog it?

7 A I'm not sure I understand your question.

8 Q Sure. We're here at a deposition, and we're  
9 eventually going to get to your opinion, if you have one,  
10 and I'm wondering if I were giving an opinion, people  
11 would send me information, I would keep it in a folder so  
12 that I could review it. That would be the data, the  
13 facts that I have. Then I'd use some methodology, like  
14 determining whether or not in this case a person has  
15 Alzheimer's or not and how it's affecting their behavior  
16 and memory, and then I'd eventually get to an opinion.  
17 And that way if somebody asked me a question, I could go  
18 back and say, "yeah, here's what I've got and here's what  
19 I based the opinion on." So far, so good?

20 A Yes. I do have a file on Ms. McDonald.

21 Q All right. What's in that file?

22 A Everything that I just told you.

23 Q All the stuff you sent to us?

24 A Here's what I have. I have my evaluation.

25 Q Yes.

1 A I have a letter about testimony payments. I  
2 have a deposition notice.

3 Q Yes.

4 A I have a letter from Katz with the Complaint.  
5 I have a letter to Katz. And I have various emails that  
6 I pulled together and scanned and sent to you. I don't  
7 usually keep emails in a file, but I scanned them all  
8 together.

9 Q Okay. Did you send us the letter to Katz?

10 A I believe I did.

11 Q Okay. So is --

12 A Everything in the file. I just copied  
13 everything and sent it off.

14 Q So Attorney Katz sent you the Complaint?

15 A Yes.

16 Q But not Mr. Manby's response?

17 A I don't know where I got this response from.

18 Q Okay. Is there a way you can find out where  
19 you got the response?

20 A Let me see here. I may have found this online.  
21 I just -- it's just in my file. I don't know where it  
22 came from. I don't remember.

23 Q So that's it? That's everything -- that's  
24 every document that you have concerning Eleanor McDonald  
25 or this matter, which is the Disciplinary matter?

1 A Yes.

2 Q What about notes of conversations?

3 A I just answered your question. You can ask me  
4 about a thousand things. Do I have, you know, coloring  
5 books? No, I don't have anything except what I just  
6 listed to you.

7 Q Have you had conversations with Disciplinary  
8 Counsel, Ms. Katz?

9 A I had one conversation with Ms. Katz.

10 Q Okay. Did you have any notes -- and I'm sorry  
11 I'm asking it again. But you have no notes of that  
12 conversation?

13 A That is true.

14 Q All right. What were you asked to do in this  
15 case, the Disciplinary matter?

16 A Give a deposition.

17 Q Anything else?

18 A No.

19 Q If you were -- and have you been asked to  
20 testify outside of the scope of what is contained in your  
21 report of May 9th and/or May 6th, 2016? Can I ask what  
22 you're looking at, Doctor?

23 A I'm looking at the letter that I got from Sarah  
24 Katz, and she wrote, "I would expect your opinion would  
25 be relevant to the matters in dispute and testimony from

1 you may be required at a hearing. I have no specific  
2 time frame for you at the moment." Blah, blah, blah.

3 Q So back to my question. Have you reviewed any  
4 data, any facts in addition to those that are contained  
5 in your report of May 9th, 2016?

6 A No.

7 Q Can you testify beyond what is contained in  
8 your May 9th, 2016, report?

9 A No.

10 Q And you haven't been asked to do that, is that  
11 true?

12 A The only thing I've been asked is to give this  
13 deposition. I was told that I might need to -- might be  
14 testifying. I might need -- might need my testimony, but  
15 nobody has asked for anything yet.

16 Q Your evaluation was regarding guardianship,  
17 correct?

18 A That is correct, yes.

19 Q And your evaluation of Eleanor McDonald was as  
20 of that date, correct?

21 A That's correct.

22 Q And you weren't asked at all to evaluate  
23 Eleanor McDonald's competence for any purpose on any  
24 other date other than the date of your exam?

25 A That is correct.

1 Q And you rendered no such opinion?  
 2 A That is correct.  
 3 Q And you did no study to make any determination  
 4 concerning her competence at any other date?  
 5 A That is correct.  
 6 Q And you wouldn't offer an opinion about her  
 7 competence on any other date other than May 16th, 2016?  
 8 MS. KATZ: Hey, Harry. How about -- you're  
 9 kind of leading the witness.  
 10 MR. RYAN: I intend to. If I ask anything  
 11 that's not leading, I'm probably committing  
 12 malpractice.  
 13 Q (By Mr. Ryan) You heard my question, Doctor?  
 14 A I may be asked --  
 15 Q I'm not asking you to speculate.  
 16 A You asked if I -- you asked if I will  
 17 testify -- well, I haven't testified yet, so I can only  
 18 say, it may come to pass that I will testify about her  
 19 likely status previous to my evaluation, given the  
 20 context of this case. Nobody has asked me to give any  
 21 testimony yet.  
 22 Q So you have not been asked, as we sit here  
 23 today, and I'm taking your deposition, in preparation for  
 24 a hearing, you have not been asked to give any opinion  
 25 concerning Eleanor McDonald's mental status at any date

1 other than May 9th, 2016?  
 2 A I will read it again. "I would expect your  
 3 opinion would be relevant to the matters in dispute and  
 4 testimony from you may be required at a hearing."  
 5 Q I'm sorry. Let me go back to it. Have you  
 6 done any study or conducted any analysis of Eleanor  
 7 McDonald's mental status other than what's contained in  
 8 your May 9th, 2016, report?  
 9 A Other than that, no.  
 10 Q What medical information do you have, Doctor,  
 11 concerning Eleanor McDonald's medical condition through  
 12 the time of your evaluation?  
 13 A Only what's in the report itself. I can read  
 14 that to you, if you'd like.  
 15 Q I've got it in front of me. It's Exhibit 1.  
 16 I'm wondering what you have presently, right now.  
 17 A Oh, I have not kept any of those records.  
 18 Q So if you wanted to do an evaluation of some  
 19 particular date and determine Eleanor McDonald's mental  
 20 status on that particular date, would it be helpful for  
 21 you to actually have the medical records?  
 22 A Yes.  
 23 Q As you sit here today do you know if any  
 24 diagnostic tests were performed on Eleanor McDonald to  
 25 confirm Alzheimer's? And I don't mean a mini-mental

1 exam. But blood tests, for instance?  
 2 A I'm not aware of any blood tests for  
 3 Alzheimer's. I have not seen any such thing.  
 4 Q So I want to go back. You're not aware of any  
 5 tests for Alzheimer's other than psychological tests such  
 6 as the MMPI?  
 7 A I don't think the MMPI would test for  
 8 Alzheimer's. And I don't know of any blood tests. There  
 9 may be a blood test that I'm just not aware of it, but I  
 10 have not -- I don't have any -- I've never seen any such  
 11 information. I don't know of any such information.  
 12 Q Tell me all about your background and training  
 13 with regard to Alzheimer's. First of all, let me ask  
 14 this. As a psychologist, I know with doctors there's  
 15 board certifications, do psychologists have anything  
 16 similar to a board certification for various specialties?  
 17 A No.  
 18 Q All right. Are there psychologists who do  
 19 specialize in various things, such as child psychology,  
 20 maybe schizophrenia, sociopath --  
 21 A Yes, there are.  
 22 Q All right. Do you have any specialty?  
 23 A Forensics in general.  
 24 Q And so that doesn't sound like a specialty.  
 25 That sounds like something that could be very broad.

1 A I think forensic psychology is a very  
 2 specialized area. It is very different than the field of  
 3 psychology in general. It's taken a tremendous amount of  
 4 work and training to become specialized in it, to become  
 5 even competent in it beyond -- I was a clinical  
 6 psychologist for many years. Making that jump was a  
 7 significant jump, so while it may seem broad, the field  
 8 of forensics is dramatically different than the field of  
 9 clinical psychology.  
 10 Q Do you have a curriculum vitae published on  
 11 your website?  
 12 A I don't think so.  
 13 Q Okay. Do you have a curriculum vitae anywhere  
 14 that would list those studies and those courses that  
 15 you've just described to become a specialist in forensic  
 16 psychology?  
 17 A Yes.  
 18 Q And can you provide that to me?  
 19 A I can.  
 20 Q And will you?  
 21 A I will.  
 22 Q Thank you. So let's get back to Alzheimer's.  
 23 Does that CV, is that CV going to reveal any specialized  
 24 training with regard to Alzheimer's?  
 25 A No.

1 Q You recognize that some psychologists  
2 specialize in Alzheimer's?

3 A Yes.

4 Q You're not one of them?

5 A That is correct.

6 Q Have you done anything to prepare for today's  
7 deposition?

8 A Nothing other than what I already explained to  
9 you earlier on.

10 Q Okay. In Exhibit 1, your report, Page 2 it  
11 says, Psychological History. Your report states, "it  
12 should be noted that this evaluation is limited to  
13 whether Mrs. McDonald currently requires the provision of  
14 an involuntary guardian."

15 A That is true.

16 Q I read that correctly?

17 A Yes.

18 Q And nowhere in that report does it talk about  
19 Eleanor McDonald's mental state or capacity other than  
20 the date of your examination, correct?

21 A Well, I do note UVM Healthcare, Neurology  
22 Healthcare Service, The Memory Center from 11/8/2010 they  
23 report from Peter Gunther, clinical records, 2/12/14  
24 through 3/15/16.

25 Q You're reading from Page 3 of 5 of your report

1 from that conversation. And that would be pretty  
2 typically what I would ask. I might ask if she had  
3 worked or that sort of thing.

4 Q Well, what you've just been reading says,  
5 "records provided indicate that Sonberg and Welch are  
6 daughters and so on." What records would those be?

7 A I'm sorry. What are you reading?

8 Q I was on Page 2 of 5 of your report that gives  
9 us the same information you just read to us, or gave to  
10 us. And if I'm --

11 A Records report. That would be UVM Healthcare  
12 Neurology Healthcare Service, The Memory Center,  
13 11/8/2010, as it is titled.

14 Q All right. Let's try the -- at the time you  
15 wrote your report it said you had Doctor Gunther's  
16 clinical records from February 12, '14 through March  
17 15th, 2016, correct?

18 A Correct.

19 Q Did you request those reports?

20 A No.

21 Q How did you obtain them?

22 A I don't remember.

23 Q What records did you request?

24 A Nothing.

25 Q Did you make any inquiry as to whether or not

1 now, correct?

2 A Page 2 and 3, yes.

3 Q So let me stop you. Maybe I asked my question  
4 badly. I apologize. I asked for your -- the opinions  
5 that you expressed, not what Doctor Gunther expressed.  
6 And your opinion addresses one date, May of 2016, and  
7 whether or not Mrs. McDonald needed a guardian on that  
8 day, correct?

9 A That's correct.

10 Q Thank you. Did you talk to Doctor Gunther --

11 A I did not.

12 Q Well, let me finish my question.

13 A I'm sorry.

14 Q Back in 2016, did you talk to Doctor Gunther?

15 A No.

16 Q All right. Did you talk to anyone else? Did  
17 you get information, data upon which you could form an  
18 opinion from anyone else before you wrote this report in  
19 May of 2016?

20 A I believe I talked to Patricia Sonberg.

21 Q You just can't recall?

22 A Correct. I spoke to someone because I found  
23 out that she was married to John McDonald, that John  
24 McDonald is deceased; that they have three children,  
25 John, Patricia and Gail. And that's basically what I got

1 the records you were provided were complete?

2 A No.

3 Q Did you make any inquiry concerning what  
4 records you were not provided?

5 A No.

6 Q The records that were provided to you were  
7 provided by one of Mrs. McDonald's daughters, true?

8 A I don't recall. It would have come either from  
9 one of her daughters or from records provided as part of  
10 the Petition for a guardian. Sometimes people attach  
11 records to that. It would have come in one of those two  
12 ways. I suspect the latter.

13 Q Let me ask this, Doctor. Why didn't you ask  
14 for additional records?

15 A What I had was more than sufficient for what I  
16 was doing.

17 Q The records that you quote in your report,  
18 Doctor Gunther's records, you start with March 15th, '16,  
19 and then you go to March '14 and then November '14 and  
20 then March 2015 and then September of 2015. What other  
21 information was in those materials from Doctor Gunther  
22 that you didn't report on?

23 A I'm sorry. I misunderstood your question.

24 Q Sure. We've got one, two, three, four, five,  
25 six, seven notes from the medical records you were

1 provided. What information was in the medical records  
2 that you didn't quote, do you know?

3 A I have no idea.

4 Q And you're not a medical doctor?

5 A That is correct.

6 Q What drugs was Doctor Gunther giving to  
7 Mrs. McDonald for treatment of her Alzheimer's?

8 A Omeprazole for GERD. He discontinued that.

9 Q Wait. Let me stop you right there.  
10 Omeprazole?

11 A He discontinued the Omeprazole.

12 Q What was the Omeprazole for?

13 A Apparently GERD.

14 Q So that's not something she was -- I know what  
15 it is. So that's not something she was taking for  
16 Alzheimer's?

17 A No, you wouldn't take that for Alzheimer's.

18 Q What drugs were prescribed to her by Doctor  
19 Gunther for Alzheimer's?

20 A I'm not aware of any.

21 Q I'll represent to you that there were drugs  
22 listed in his medical reports. Can you explain to me why  
23 they weren't in your report?

24 A Not relevant. Not relevant and not my area of  
25 expertise.

1 of, you're telling us under oath is effective in reducing  
2 the degree of Alzheimer's or the rapidity of Alzheimer's  
3 symptoms, correct?

4 A That's what they are reported to be able to do.

5 Q So if Mrs. McDonald was not taking that  
6 medication just for a day or two, what effect would that  
7 have?

8 A I have no idea.

9 Q Have you read any of the studies on symptom  
10 fluctuation with regard to Alzheimer's patients?

11 A Yes.

12 Q Which ones have you read?

13 A I don't know.

14 Q Which ones did you look at before starting this  
15 deposition?

16 A Most of what I learned about Alzheimer's --

17 Q The question was, what studies did you look at  
18 concerning symptom fluctuation in preparation for today's  
19 deposition?

20 A None.

21 Q What factors can account for symptom  
22 fluctuation with an Alzheimer's patient? If you know.  
23 Please don't guess.

24 A I don't know.

25 Q Thank you. On any given day with a person such

1 Q How would the drugs that were prescribed affect  
2 her abilities if she was not taking them?

3 A They would likely decline more rapidly.

4 Q Explain that to me, Doctor, how you know that?

5 A Because the only medications that I'm aware of  
6 for Alzheimer's can slow the effects of Alzheimer's, but  
7 not stop it and not reverse it.

8 Q So whatever drug she was on, and you don't know  
9 what that was, and you don't know what the regimen is,  
10 you can testify under oath that if she wasn't taking it,  
11 her cognitive decline would be worse?

12 A More rapid.

13 Q So you know that whatever drug it was was going  
14 to be effective, correct?

15 A I don't know if it was effective. I'm just  
16 saying that if she was taking them -- the only  
17 medications that I'm aware of for Alzheimer's, the effect  
18 that they have is to often slow the effects of  
19 Alzheimer's.

20 Q And what medications are those that you're  
21 aware of?

22 A I don't feel competent to discuss them.

23 Q Just give me a name.

24 A I don't even remember the names.

25 Q So some drug, that you can't remember the name

1 as Mrs. McDonald who has Alzheimer's, would you agree  
2 that the caregivers are in the best position to determine  
3 whether or not someone is having a good day or a bad day?

4 A I can't possibly answer that question.

5 Q I'm going to kind of capsulize here, Doctor,  
6 and tell me if I'm wrong. Outside of your report,  
7 Exhibit 1, you have done no study and conducted no  
8 investigation whatsoever as to whether or not on any  
9 particular date prior to May of 2016 Mrs. McDonald was  
10 having -- the level of Mrs. McDonald's cognitive  
11 function?

12 A Other than what is written in my report,  
13 Exhibit 1, that is true.

14 Q Okay. So as we sit here today you cannot give  
15 an opinion as to whether or not Mrs. McDonald, on a  
16 particular date, was experiencing cognitive impairment,  
17 or the degree of cognitive impairment? True or not true.

18 A That is true. With the exception of the day  
19 that I met her.

20 MR. RYAN: Sure. Thank you for that. All  
21 right then. Doctor, thank you. I think that's all  
22 I have.

23 THE WITNESS: Very good. Does Ms. Katz have  
24 anything?

25 MS. KATZ: I don't have any questions for the



1 doctor right now. I was just going to thank the  
2 doctor for his time.

3 MR. RYAN: And I would too. Thank you very  
4 much. Good to see you again.

5 THE WITNESS: You take care.

6  
7 (Deposition concluded at 10:51 a.m.)  
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1 I, DOCTOR WILLIAM NASH, have carefully read the  
2 foregoing transcript of my deposition given Monday,  
3 March 15, 2021, and the answers made by me are true and  
4 correct.  
5  
6

7 Date: \_\_\_\_\_  
8  
9

10 \_\_\_\_\_  
11 DOCTOR WILLIAM NASH  
12

13 State of \_\_\_\_\_  
14 County of \_\_\_\_\_  
15

16 At \_\_\_\_\_, in said County, this \_\_\_\_\_  
17 day of \_\_\_\_\_, 2021, personally/remotely  
18 appeared before me the above-named DOCTOR WILLIAM NASH  
19 and made oath that the foregoing answers subscribed by  
20 him are true.  
21

22 \_\_\_\_\_  
23 Notary Public  
24

25 License #: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

1 CERTIFICATE  
2

3 STATE OF VERMONT, )  
4 CALEDONIA COUNTY, SS. )

5 I, Tari J. Gingue, a Notary Public, within and for  
6 the State of Vermont, do hereby certify that I took the  
7 deposition of DOCTOR WILLIAM NASH, a witness appearing  
8 via Zoom video conference, on Monday, March 15, 2021.

9 I further certify that said witness was sworn to  
10 testify the truth, the whole truth, and nothing but the  
11 truth, and that the foregoing testimony was taken by me  
12 stenographically and thereafter reduced to typewriting,  
13 and the foregoing 31 pages are a full, true and correct  
14 transcription of the testimony of said witness, to the  
15 best of my ability.

16 I further certify that I am not related to any of  
17 the parties thereto or their Counsel, and that I am in no  
18 way interested in the outcome of said cause.

19 Dated at St. Johnsbury, Vermont, this 30th day of  
20 March, 2021.  
21  
22  
23  
24  
25

\_\_\_\_\_  
Tari J. Gingue, Notary Public  
License #157.0008935

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CERTIFYING REPORTER.

1 WITNESS ERRATA SHEET

2 WITNESS: DOCTOR WILLIAM NASH  
3 IN RE: Professional Responsibility Program  
C. Robert Manby, Jr.

4 DOCKET NUMBER: PRB 2019-089

5 DATE TAKEN: March 15, 2021

6 INSTRUCTIONS: THIS DEPOSITION IS A LEGAL DOCUMENT. DO  
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25 \_\_\_\_\_  
DOCTOR WILLIAM NASH

O'Brien Reporting Services, Inc.  
Post Office Box 711  
Rutland, Vermont 05702-0711  
(802) 747-0199

March 30, 2021

Sarah Katz, Esquire  
Disciplinary Counsel  
PRB - Costello Courthouse  
32 Cherry Street, #213  
Burlington, Vermont 05401  
RE: C. Robert Manby, Jr.  
PRB #2019-089

Dear Sarah:

Enclosed is your printed original deposition transcript taken in the above matter for Doctor William Nash to read and then sign before a Notary Public. An Errata Sheet is also enclosed for any changes/corrections. Kindly follow the instructions on this Errata Sheet.

Upon completion, please return this transcript to Attorney Harry Ryan.  
If you have any questions, please call.  
Regards,

Tari J. Gingue  
O'Brien Reporting Services, Inc.  
Enclosure