

IN THE SUPERIOR COURT OF THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

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IN THE MATTER OF THE NECESSITY)  
FOR THE HOSPITALIZATION OF )  
WILLIAM S. BIGLEY, )  
 )  
Respondent. )

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Case No. 3AN-08-1252 PR

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DEPOSITION OF RON ADLER

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Tuesday, November 4, 2008  
9:00 a.m.

Taken by Counsel for William S. Bigley  
at  
The Offices of Law Project for  
Psychiatric Rights  
406 G Street, Suite 206  
Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

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3 For William S. Bigley:  
4 James B. Gottstein  
LAW PROJECT FOR PSYCHIATRIC RIGHTS  
5 406 G Street, Suite 206  
Anchorage, Alaska 99501  
6 (907) 274-7686  
7

8 For The State of Alaska:  
9 Laura Derry  
Erin Pohland  
10 Attorney General's Office  
1031 West Fourth Avenue, Suite 200  
11 Anchorage, Alaska 99501  
(907) 269-5140  
12

13 Court Reporter:  
14 Sonja L. Reeves, RPR  
PACIFIC RIM REPORTING  
15 711 M Street, Suite 4  
Anchorage, Alaska 99501  
16  
17  
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19  
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I-N-D-E-X

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1 ANCHORAGE, ALASKA; NOVEMBER 4, 2008  
2 9:00 A.M.

3 -o0o-  
4 RON ADLER,  
5 deponent herein, being sworn on oath,  
6 was examined and testified as follows:  
7 MS. POHLAND: The state would like to make  
8 an objection. The state does not believe that discovery  
9 is permissible in this matter.

10 The state will be filing a motion for  
11 reconsideration on its motion to quash, and,  
12 additionally, file a motion for protective order to keep  
13 these deposition transcripts confidential.

14 The state also believes that notice was  
15 improper in these depositions.

16 EXAMINATION  
17 BY MR. GOTTSTEIN:

18 Q. I noticed you gave me -- first off, have you ever  
19 had your deposition taken before?

20 A. With you, no.

21 Q. Does that mean you have otherwise? So you know  
22 what a deposition is all about?

23 A. Yes.

24 MR. GOTTSTEIN: And then before we get  
25 going, will you accept subpoenas for API employees at

1 this point?  
2 MS. DERRY: No, it's not the practice of the  
3 human services department, the division.

4 MR. GOTTSTEIN: So that's a no.  
5 BY MR. GOTTSTEIN:

6 Q. And you handed me, Mr. Adler, a copy of -- is  
7 this your resume?

8 A. Yes, sir.

9 MR. GOTTSTEIN: Could we mark this as  
10 Exhibit A?

11 (Exhibit A marked.)

12 Q. You were also ordered to bring a copy of the  
13 training materials relating to emergency drugging,  
14 weren't you?

15 A. I don't understand. I don't know what the word  
16 "emergency drugging" means.

17 Do you want to refer to these questions per the  
18 statute and the law?

19 Q. Sure. This is a copy of the subpoena that was  
20 served on you, wasn't it?

21 A. Uh-huh.

22 Q. And on the other side, this was an attachment to  
23 it?

24 A. Uh-huh.

25 MR. GOTTSTEIN: Could we mark this as

1 Exhibit B?

2 (Exhibit B marked.)

3 Q. So what it is is basically paragraph two here.

4 MS. DERRY: I object to the subpoena demand  
5 because it was not timely noticed. Mr. Adler wouldn't  
6 have had time to prepare that amazing amount of  
7 documents from January 1st, 2007 to date, and then  
8 saying that in September 2007 the policy may have  
9 changed.

10 And Mr. Adler isn't responsible for creating  
11 any discovery for you. Because of the timeliness of the  
12 notice, he wasn't able to prepare those documents for  
13 you.

14 BY MR. GOTTSTEIN:

15 Q. Do you understand what question two was asking  
16 for, or what item two, I guess, was asking for?

17 A. It's my understanding that you already have  
18 these.

19 Q. No, I don't have them. I mean, if I do, I don't  
20 know that I do. So can you -- can you provide those to  
21 me within the next day or so?

22 A. I will be glad to provide them to our legal  
23 counsel who can then make arrangements to have them  
24 delivered to you.

25 Q. All right. Well --

1 MS. POHLAND: The notice has to be proper.  
2 The request has to be proper. If you would like to file  
3 a document request or a request for production, the  
4 state would be happy to reply as it sees fit, whether it  
5 be objection or through the proper documentation.

6 MR. GOTTSTEIN: Well, luckily, we're not  
7 holding a hearing on this tomorrow, so we have a little  
8 time, but you can take your reason for not complying  
9 with the subpoena to the judge.

10 BY MR. GOTTSTEIN:

11 Q. Okay. So who does training in emergency drugging  
12 procedures? Do you have anybody that does training?

13 MS. DERRY: Objection; relevance. I'm also  
14 going to make a second objection that Mr. Adler has  
15 asked you to refer to the administration of emergency  
16 medications as per the statute and to not continue to  
17 call them "forced drugging".

18 MR. GOTTSTEIN: Objection noted.

19 BY MR. GOTTSTEIN:

20 Q. Do you have someone who trains your personnel on  
21 drugging under AS 47.38.38?

22 A. Yes.

23 Q. Who is that?

24 A. In the past, it has been our -- a combination of  
25 our medical director and the assistant attorney general

1 from the Alaska Department of Law who is assigned to  
2 API.

3 Q. Can you give me the names of those people from  
4 January 1st, 2007 to date?

5 MS. POHLAND: Can I make a continuing  
6 objection as to relevance? I'm not sure what the  
7 drugging under 838 has to do with the hearing at hand,  
8 which is for court-ordered medication.

9 MR. GOTTSTEIN: You can have a continuing  
10 objection.

11 A. Previously, it was Dr. R. Dwayne Hobson, who is  
12 no longer with the hospital. And I would have to go  
13 back and research who the assistant attorney general was  
14 who was providing us consultation on this.

15 I just -- I have to go back and look at our  
16 medical staff minutes.

17 Q. Does Elizabeth Russo, Tim Twomey and now Ms.  
18 Derry sound right?

19 A. Pardon me?

20 Q. Was Elizabeth Russo doing it initially?

21 A. I have to go back and read -- I don't attend  
22 every medical staff meeting, so I would have to go back  
23 and read the minutes.

24 Q. So can you provide that to me?

25 A. I will provide anything you request through our

1 attorneys.

2 Q. All right. Well, this deposition is for you to  
3 do that. Now, my understanding is that the policy  
4 changed sometime after September of 2007; is that  
5 correct?

6 A. Again, I don't have all of the dates and  
7 timelines. I would have to research that.

8 Q. Okay. Well, what I'm looking for is just kind of  
9 a chronology or at least something that will let me  
10 understand the policy and how people were getting  
11 trained in it before September of 2007, and then I  
12 understand that policy changed after 2007.

13 MS. POHLAND: Object to form. Objection;  
14 asked and answered.

15 Q. I'm trying to explain what I'm looking for.  
16 Okay.

17 And then how that -- as I understand that, it did  
18 change after September of 2007, and then so what I want  
19 is what the policy was before that.

20 And then, you know, I actually do have -- excuse  
21 me. I have an old one. I have one from when I was on  
22 the mental health board from -- when was it I got off  
23 the board? In 2003 or something like that.

24 You know, maybe that was the one before 2007. I  
25 don't know. Although, frankly, I didn't see one.

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1 MR. GOTTSTEIN: Can we go off record for a  
2 minute?  
3 (There was a short break.)  
4 Q. Sorry about the delay. We have got Exhibits A  
5 and B, right? I'm going to show you a copy of what  
6 looks like the table of contents of your policies and  
7 procedures; is that right?  
8 A. Uh-huh.  
9 Q. I'm not going to hold you -- I mean, that's just  
10 -- I mean, that's what I had.  
11 MR. GOTTSTEIN: So could we mark this as  
12 Exhibit C?  
13 (Exhibit C marked.)  
14 A. Just for the record, can I read that once again?  
15 Q. It's out of date.  
16 A. Yeah. I just wanted to make sure that it's noted  
17 in this hearing that this is probably very much out of  
18 date.  
19 Q. That's why I didn't -- you know, when you said  
20 you thought I had them, I didn't think I did, but this  
21 is what I have.  
22 A. Okay.  
23 Q. What I did then is go through and find really --  
24 could you identify that?  
25 MS. DERRY: I object to this. This is

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1 dangerous testimony because this is so out of date.  
2 This one is dated effective 8/17/2000.  
3 And we do know that the policy not only has  
4 changed, but also since the statute has changed since  
5 the Myers and Weatherhorn cases that any testimony that  
6 Mr. Adler gives on this could be conceived as something  
7 that isn't actually going to prove any of the substance  
8 of what's at hand in the case.  
9 MR. GOTTSTEIN: This was --  
10 MS. DERRY: Can we move on away from the old  
11 policy manuals?  
12 BY MR. GOTTSTEIN:  
13 Q. Does this look like a copy of the policy, what  
14 date, like, was it 2000?  
15 A. Jim, you and I know each other. Why are you  
16 giving me Title 12 stuff when we're talking about a  
17 Title 47 hearing?  
18 Q. Here is what I did --  
19 A. I mean --  
20 Q. I'm just trying to -- here is what I did is I  
21 looked through the --  
22 A. Are there things substantial that you want to get  
23 to that we can just go right to the --  
24 Q. I'm trying to. All I'm saying is that this is  
25 the only thing that I identified on emergency medication

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1 in this policy, so what I'm looking for is the current  
2 policies as they existed.  
3 A. We will get that to you.  
4 MR. GOTTSTEIN: So let's mark this as  
5 Exhibit D.  
6 (Exhibit D marked.)  
7 BY MR. GOTTSTEIN:  
8 Q. Now, what's the current daily rate that gets  
9 charged out for patients at API?  
10 MS. POHLAND: Objection; relevance.  
11 A. I don't know.  
12 Q. Who would know?  
13 A. I would have to look that up.  
14 Q. Could you get that to me?  
15 A. Do you want the Medicaid rate? You have to be  
16 clearer, Jim.  
17 Do you want our established Medicaid rate or do  
18 you want the cost because you know that we're an IMD and  
19 we don't bill for the population 22 through 65, so, once  
20 again, this doesn't have any relevance to the --  
21 Q. I don't understand. 22 through 65, what is that?  
22 A. Well, we are classified as an Institution for  
23 Mental Disease, and as an IMD, we have a certain  
24 exclusion according to CMS.  
25 And we are --

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1 Q. Could you say what "CMS" means?  
2 A. The Center for Medical Services. It's a branch  
3 of the United States Government.  
4 And we're not allowed to bill for Medicaid  
5 patients between the ages of 21 and 65, so --  
6 Q. But my understanding is that there is a daily  
7 rate?  
8 A. Yes.  
9 Q. And that's what I'm asking for.  
10 A. Okay.  
11 Q. And that -- my understanding is that actually  
12 patients get a bill and then you, of course, don't  
13 collect on most of them, but don't you actually send out  
14 bills?  
15 A. Once again, we are required by law to make a good  
16 faith effort to make a collection.  
17 Q. So that's the rate we're talking about?  
18 A. On that rate, yes.  
19 Q. So that's just what I'm looking for.  
20 A. I can tell you it is approximately \$1,018, and  
21 that is approximate, Mr. Gottstein.  
22 Q. And my last question is, you know, I made a  
23 number of attempts to try and sit down and talk to you  
24 about working things out with respect to Mr. Bigley.  
25 And I am just wondering why you never agreed to

