



2010 Student Trial Advocacy Competition (STAC)

Fact Pattern Clarifications

Endowed by Baldwin & Baldwin, LLP

1. What is a G.I. that is mentioned on page 28?
Gastrointestinal
2. What does a G.I. cocktail contain and what does it do?
It is a combination of drugs used to treat gastrointestinal symptoms.
3. Could a G.I. Cocktail mask symptoms of a heart attack?
No
4. What is "SOB", mentioned on page 52, noted on the date of 11/13/02?
Shortness of breath
5. Will any additional information be provided about the Plaintiff's expert witness, Dr. Taylor Bratman; i.e. where the witness attended medical school?
He attended the University of Wisconsin Medical School.
6. Could we have some clarification as to what reasonable inferences can be made to the medical terms? I understand some were put in the stipulations (Cholesterol) but many other terms aren't so clarified. Outside research must be done to figure out what these other medical terms mean, and we want to ensure that we don't go too far in that research or that teams don't get caught up in differing medical definitions. ie: Many methods of performing that first stress test may exist. Maybe a team makes up a ridiculous manner in which that first stress test was performed, no way to impeach.
There are only two ways to do a stress test: with or without a dye (here, cardiolyte). The stress test that was done basically was the patient running/walking on a treadmill. Then he was assessed for how well he did. The doctor doing the stress test then recommended a re-do, this time with dye. In this type of test, the patient gets a radiology test after the stress test to see how the heart and blood vessels are, i.e. is there plaque or occlusion of the arteries that could lead to a heart attack?
7. What are Atenolol, Lorezepam, Angina, and Ischemia?
They are common medical terms for various drugs and conditions that can be easily looked up.
8. What is an SSRI?
SSRI's are selective serotonin reuptake inhibitors, commonly prescribed drugs for treating depression. SSRI's affect the chemicals that nerves in the brain use to send messages to one another.
9. The report on page 59 (the one from singer to Mann regarding the stress test) does not list "Provider: Doctor Name." It shows that Dr. Mann was cc'd and sent the report but it doesn't say from whom. Any way to get that information put on that sheet or to verify that THAT report is the one from singer?
Pages 57, 58, and 59 should be read together. It is a 3-page report.

10. On page 65 of the problem, the first sentence of the third paragraph reads: "The lipid levels do not show the HDL (good cholesterol) to be low and the LDL (bad cholesterol) to be moderately elevated." This seems inconsistent with the next sentence and the rest of the problem. Is the word "not" a typo?
Yes, it is a typo. This has been corrected on the fact pattern that is currently posted.
11. Can we get some sort of stipulation to the effect that the autopsy report on page 73 of the problem is that of Cameron Johnson? (The name is blacked out and there does not seem to be any other clear identifying information).
Yes.
12. Can we change the timeline to read horizontally as an exhibit?
Yes.
13. Can we insert information such as the stress test by Dr. Singer, letters by Dr. Mann, and deposition facts into the timeline to be used as an exhibit?
Yes.
14. Can a reasonable inference be anything published in a medical book that would be related to symptoms - such as a bluish left arm is a sign of a heart attack?
Yes.
15. How many times has Dr. Bratman testified? Page 31 says he has reviewed 6 cases and testified twice for this firm, but what about other firms?
The number is unknown and he was not asked.
16. Pages 59 and 68 reference "Dr. Dean". Who is Dr. Dean?
This is a typo. Dr. Dean should be Dr. Mann. This has been corrected on the fact pattern that is currently posted.
17. May the defendant, Dr. Mann, offer expert opinion if sufficient foundation is laid as to his or her medical expertise and specialized knowledge?
Yes, this is commonly done in malpractice cases.
18. Stipulation #2 indicates that the parties have stipulated that the entries are "accurate and that the time line may be used for any purpose." Does this mean that the parties have stipulated that the timeline is admissible?
Yes.
19. The fourth entry on the timeline (p. 52), dated 10/21/02, indicates that "Kathy told Timothy should have stress test." Who are Kathy and Timothy?
This is a typo. Kathy should be Morgan and Timothy should be Cameron. This has been corrected on the fact pattern that is currently posted.

20. The 12/27/04 emergency room report (p. 71-72) appears to be inconsistent, indicating on the one hand that Cameron Johnson was found unresponsive at 11:37 p.m. but "coded" at 12:18 p.m. Please clarify the date and time that he was found and the date and time the "code was called."
"Coded" is different than "unresponsive." He was found at home to be unresponsive then taken to the hospital. He was revived there, a code was called, and he died at 12:18. The code is simply a medical term that means a code team is called to try and resuscitate the patient. When a patient dies, the code is ended, or "called."
21. Page 27, para. 1 – Please clarify how Dr. Mann was Morgan Johnson's physician before the Johnsons moved to a different city, but after they moved, Dr. Mann became Cameron Johnson's physician.
Morgan switched to Dr. Mann in 1988 when they moved to a different city.
22. Page 19, para. 2 – Indicates Cameron didn't complete the stress test. Page 28, para. 4 indicates that he did, as does page 48, para. 1. The test results (pp 59-60) indicate that the test was completed. Are these results intentionally inconsistent? No. The test itself was completed, but his performance was not complete in that he personally could not complete the test, effectively ending the test.
23. Page 28, para. 1 – Indicates both that Cameron "left for work" and that when Morgan Johnson came downstairs, Cameron was "laid out flat on the recliner." Please clarify.
Cameron told his wife that he was leaving for work but never did, as before he could leave he felt ill and laid down on the recliner. He never got out the door.
24. Page 41, para. 2 – Does the phrase "it wasn't clear" mean the family history of heart disease wasn't clear, or Cameron's high cholesterol wasn't clear?
The family history of the disease was not clear.
25. There are entries in the timeline for various medical events that do not have corresponding medical records in the fact pattern. Should we assume that medical records were created but just not included in the information, or should we assume that no records were created for those events?
The only records that exist are those that have been provided.

26. There is an apparent inconsistency between the deposition testimony and the medical records. On page 56 of the fact pattern, Dr. Mann's records indicate "Saw Dr. Singer for stress test today, see results-was recommended to discuss cardiolute [sic] stress test." However, on page 43 of the fact pattern in Dr. Mann's deposition, he states "Dr. Singer recommended that the patient and I discuss a cardiolute stress test, . . . But Dr. Singer never communicated that to me. I received a report from Dr. Singer that did not have that recommendation on it. I received a note from my medical assistant . . . That indicated, 'was recommended to discuss cardiolute stress test.'" Is the text from page 56 the "note" from the medical assistant, even though it appears in the written medical record?
Singer never told Mann about the second stress test directly. Page 56 is generated by the assistant and Dr. Mann. The assistant wrote the part about the cardiolyte stress test.
27. Similar to the above, would the medical record on pages 57-58 of the fact pattern be the "report from Dr. Singer" referred to on page 43 of Dr. Mann's deposition? If so, is the inconsistency between Dr. Mann's deposition (which states the record "did not have" a recommendation to do a cardiolute test) and the record (which states "consider stress cardiolute") intentional?
Pages 57, 58, and 59 should be read together. It is a three-page report from Singer. Page 56 is generated by the assistant and Dr. Mann. The assistant wrote the part about the cardiolyte stress test.
28. There do not seem to be jury instructions on the affirmative defenses. Will these be supplemented?
An instruction on contributory negligence has been added to the fact pattern that is currently posted.
29. Are we in a comparative negligence jurisdiction, a contributory negligence jurisdiction, or a combination of both?
Contributory negligence.
30. On p. 52 (which is the timeline) the entry dated 11/13/02 says "Stress test, no chest pain during chest." I believed the second chest should be test.
It should be "test." This has been corrected on the fact pattern that is currently posted.
31. On Page 53 what does SSRT stand for? (We believe this should say SSRI, which is something completely different than SSRT.)
It should be "SSRI." This has been corrected on the fact pattern that is currently posted.

32. There are many undefined terms. May we assume that students can look up these basic terms online or in a medical dictionary and be able to define them when playing the role of the witness? Here is a sampling of these terms. If we do not do something with these terms, we run the risk of someone saying something ridiculous like “a colonoscopy is a copy of a person’s colon”. I think you get the concern. Here are the undefined terms that we found:

- a. Lorezapam
- b. Ranitidine
- c. auscultation
- d. UGI CT X-Ray
- e. CVA
- f. Palpitations
- g. Colonoscopy
- h. precordial
- i. clubbing
- j. lipid panel
- k. atypical chest pain
- l. ischemia
- m. ST depression

The dictionary meaning should be used. These are basic medical terms.

33. Page 71-72 – patient was found “unresponsive at approximately 11:37 p.m.” and “after multiple attempts at resuscitation, this code was called at 12:18 p.m.”
Should this be 11:37 a.m.?

Yes.

34. Which summer did M. Johnson do all the heavy chores his wife speaks of in her deposition (2002 or 2004)? We assume it was 2002, but decided in favor of seeking clarification.

It is not determined.

35. M. Johnson left his job September of 2004. When was the date of his ER visit in relation to when he left his job?

December 27, 2004.

36. Dr. Mann's deposition (p. 46, 1st paragraph) says he didn't see Mr. Johnson again after the March 10th physical exam. However, in the timeline on p. 53, Johnson meets with Dr. Mann two more times, once on 3/17/04 and again on 9/18/04. Is this deliberate or a mistake?

On 3/10/04, Mann says he told Mr. Johnson to return in six months, and he did on 9/18/04. This is the date Dr. Mann is referring to when he says he didn't see Mr. Johnson after that.

37. The first sentence of the jury charge reads, “The sole issue in this case is whether the plaintiff was injured or damaged by the negligence of the defendant.” Is this trial bifurcated, such that only liability is being argued rather than damages? The language relating to “sole issue” suggests that this trial is concerned solely with liability.
The trial is bifurcated—liability only for purposes of the competition.
38. Given the facts provided supporting the argument that Cameron Johnson was comparatively at fault and/or contributorily negligent for his own death, will there be a jury instruction added for comparative fault and/or contributory negligence?
Yes. An instruction on contributory negligence has been added to the fact pattern that is currently posted.
39. Did Cameron Johnson discontinue using Atenolol before the prescription for Atenolol was discontinued as indicated by the 4/30/03 Office Visit Record on page 63?
This note did not discontinue the Atenolol. It prescribed it. Cameron discontinued it later on his own.
40. When Dr. Mann prescribed recommended medication for Cameron Johnson's cholesterol on March 10, 2004, is this referring to the suggestion to take aspirin, or was further medication suggested?
He suggested Mr. Johnson take drugs for his cholesterol, but Cameron did not want to take them so none were prescribed.
41. The Bratman and Holloway depositions both mention that Mr. Johnson discontinued Atenolol. It is listed as a medication in the last two emergency room reports, however, and there is no other discussion of him discontinuing that medication. Did he in fact do so on his own and if so when?
He discontinued, but the exact date is unknown.
42. What was the result of the stress test? There is a contradiction between the summary which indicates it was not completed and the depositions and records which suggest it was completed and the results were negative.
It was equivocal for ischemia, so it was not normal.
43. Page 39, 2nd paragraph states, “I do acknowledge that one of Dr. Singer’s reports does not say “consider stress cardiolyte” and that Dr. Mann testified that he did not see that particular report.” Is there a typo in this sentence because Dr. Mann testified that he did see the Singer report?
There were two Singer reports. Mann knew of the recommendation to consider a cardiolyte stress test on the one report.

44. Is the “anti-platelet therapy” using aspirin that Dr. Bratman refers to on page 38 the same or different than what Mrs. Morgan testified Cameron was told to take on page 29 (i.e., an aspirin a day)?
It is the same.
45. Before the September 22, 2004 emergency room visit, Cameron had chest pain after getting home from work (pg. 36 and 69). However, page 19 (the introduction section) says Cameron left work four months before his December 27, 2004 death. When did Cameron Johnson quit working?
Approximately four months before 12/27/04.
46. When was stress test ordered? – Page 42 of Mann’s deposition says the 13th, but medical chronology on page 52 and the Phone Record on 55 say the stress test was ordered on the 12th.
It was ordered on the 12th and done on the 13th.
47. Plaintiff’s Expert claims that C. Johnson abruptly stopped taking Atenolol before the September 2004 ER visit (page 39-40). The 9/22/04 visit on page 69 also states that the patient “did not take anything at home for the pain.” Yet both the 9/22/04 ER visit and the date of death ER visit list Atenolol in this patient’s medications (pages 69 and 71). When (if at all) did Cameron Johnson stop taking Atenolol?
The date is unknown, but it was before the September ER visit.
48. Is there a way to make the exhibits any clearer?
Unfortunately not.
49. On the office visit forms, is the provider the person who documented the findings in the report? If not, who?
The provider is the person who saw him that day.
50. Can we have more information to voir dire Mr. Holloway as an expert? (i.e. has he ever testified before, how much is he getting paid, etc.)
None is available.
51. Is the test result on page 59 the one that Dr. Mann saw first? When, if ever, before this lawsuit did Dr. Mann see the documents on pp. 57, 58, and 60?
Pages 57, 58, and 59 should be read together. It is a three-page report from Singer. Page 60 was the report Mann saw first. Pages 57-59 were available to him when he saw Cameron after the stress test.