

1 Whereupon,

2 
CHRISTIE LIEVERMANN

3 was called as a witness on behalf of the Plaintiff and, after
4 having been duly sworn, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. MARCUS:

8 Q Could you state your name for the record, please?

9 A My name is Christine Lievermann.

10 Q Where do you presently reside?

11 A In San Francisco.

12 Q Are you presently employed?

13 A Yes, I am.

14 Q With whom are you presently employed?

15 A I am employed with ICEM an agency which provides
16 transportation for refugees.

17 Q What type of refugees do you provide transportation
18 for?

19 A Southeast refugees.

20 Q Are you trained to be a nurse?

21 A I am.

22 Q Do you have a degree in nursing?

23 A I do.

24 Q When did you obtain your degree in nursing?

25 A In 1976.

1 Q From where did you obtain your degree in nursing?

2 A The Minneapolis Vocational School of Practical
3 Nursing in Minnesota.

4 Q At some point in time, did you go to Viet Nam
5 to work as a nurse?

6 A I did.

7 Q When did you go to Viet Nam to work as a nurse?

8 A In 1972.

9 Q Why did you go to Viet Nam to work as a nurse?

10 A I was asked by a fellow co-worker if I would
11 like to assist in the operation, and therefore, I went
12 to Viet Nam.

13 Q What generally was the operation Rosemary Taylor.

14 A Child welfare.

15 Q Was this operation particularly geared to the
16 welfare of orphan children?

17 A Most of the childrens were orphans.

18 Q Did there come a point in time when you became
19 associated with an organization known as Friends for All
20 Children or also known as FFAC?

21 A Yes.

22 Q Did you associate with FFAC in the capacity
23 of a nurse?

24 A I did.

25 Q Did there come a point in time when you became

1 aware of an Operation Babylift as an attempt to evacuate
2 Viet Nam's orphans from South Viet Nam to the United States?

3 A Yes.

4 Q Did you participate in that evacuation attempt?

5 A Yes, I did.

6 Q Were you, in fact, on board the C5 which is
7 the subject of this particular case?

8 A Yes, I was.

9 Q Did you, in fact, remain on board the C5 as
10 the plane took off until it finally crashed?

11 A Yes, I did.

12 Q Were you present when the children were being
13 loaded on the C5 aircraft prior to takeoff?

14 A Yes, I was.

15 Q Did you participate in that loading?

16 A I did.

17 Q Would you be kind enough for the jury and the
18 court to describe the loading process?

19 A The children arrived at the aircraft by way
20 of bus, and we unloaded the children from the busses, up
21 the ramp, into the plane, settled the children on the
22 upper level into seats, strapped them in. And the children
23 on the lower level were on mattresses on the floor.

24 Q How were the children on the upper level placed?

25 A Generally two to a seat with the exception of

1 the larger children.

2 Q Were the children quiet when they were being
3 loaded?

4 A No; they were active. They were noisy.

5 Q Would you generally describe the condition
6 of the children as they were being loaded on the plane?
7 Were they healthy, sickly?

8 A They were healthy children.

9 Q Did they act in general as normal children
10 would act when they boarded the plane.

11 A They were acting very normally.

12 Q As the plane took off and rose in altitude,
13 did something happen?

14 A Yes.

15 Q Would you describe what happened, please?

16 A I was in a very small galley in the rear of
17 the plane, and there was a very loud explosion. I returned
18 to my station, and I looked down the stairwell, and there
19 was a large hole in the plane.

20 Q What could you see?

21 A I saw the ocean.

22 Q You saw the ocean?

23 A I did.

24 Q Then what happened?

25 A Various crewmen were running back and forth

1 around the plane with radios trying to figure out what
2 was wrong or knowing what was wrong and communicating
3 with other members of their party.

4 I was in my area. I continued to check my
5 children to see that seat belts were fastened and everything
6 was okay from that line.

7 The oxygen masks fell from the ceiling. Not
8 all of the compartments opened and very few of the masks
9 in my section. The children became very pale, very hyper-
10 tonic, listless, lethargic. One child turned blue in
11 my section. He used the mask that I found and it worked
12 for him.

13 Q Did the children in your section get any oxygen?

14 A No, sir, they did not.

15 Q You say the oxygen masks -- some of the compartments
16 did not open?

17 A That is correct.

18 Q So not all of the oxygen masks came down; is
19 that correct?

20 A That is correct.

21 Q Did the oxygen masks that did come down --
22 did they operate correctly?

23 A No, they did not.

24 Q Could you describe how they did not operate
25 correctly? How do you know that?

1 A In order to start the flow of oxygen, you have
2 to uncurl the tube from the cylinder. In doing that,
3 the masks fell apart repeatedly in my hands.

4 Q I believe you said the children became pale
5 and hypertonic and some other things?

6 A That is correct.

7 Q I believe during the loading process, you said
8 the children were noisy and acting as normal children;
9 is that correct?

10 A Yes.

11 Q After the explosive decompression, did the
12 children remain noisy and act in a normal manner?

13 A No, they did not respond.

14 Q How would you describe it? Were they dazed?

15 A Dazed or more than dazed. Many of the children
16 were very unresponsive, even unresponsive to very painful
17 stimuli -- just unresponsive. I would say unconscious
18 in many cases.

19 Q At some point, did the crash impact with the
20 ground?

21 A Yes, it did.

22 Q I mean, did the plane impact with the ground?

23 A Yes, it did.

24 Q Did it impact with the ground once or more
25 than once?

1 A It impacted twice.

2 Q Would you describe for me the first impact
3 with the ground?

4 A It was a very severe jolt in which a number
5 of panels from the ceiling started falling down around
6 us, very noisy, very lurching motions, a lot of debris
7 started collecting in the aisles, seats were ripped from
8 the floor and overturned with children still fastened
9 in them.

10 Q When you boarded the aircraft, you finally
11 went to the upper section of the aircraft, is that correct,
12 what we refer to as the troop compartment?

13 A Yes, that is correct.

14 Q During all of the events including the first
15 impact, you remained in the troop compartment; is that
16 correct?

17 A That is correct.

18 Q So the condition of the children you were describing
19 after the explosive decompression was the condition of
20 children in the troop compartment; is that correct?

21 A That is correct.

22 Q What happened upon impact with the ground were
23 things you observed in the troop compartment of the aircraft
24 is that correct?

25 A That is correct.

1 Q After the first impact, what happened then?

2 A The plane was airborne after the first impact.

3 Q Then you stated there was a second impact;
4 is that correct?

5 A That is correct.

6 Q Could you describe what happened upon the second
7 impact?

8 A Again, a tremendous jolt, accompanied by fire
9 and smoke and fumes, a lot more destruction on the interior
10 of the plane. Everything seemed to collapse around us
11 at that point. Everything that had shaken loose around
12 us that had not fallen fell at that point. The plane
13 slid forward quite a distance, and the farther we slid,
14 the less intensity of heat we felt in the back and the
15 fire extinguished itself.

16 Q You mentioned that there was fire, smoke and
17 fumes; is that correct?

18 A That is correct.

19 Q This was fire, smoke and fumes in the troop
20 compartment; is that correct?

21 A That is correct.

22 Q Was this relatively speaking immediately upon
23 the second impact?

24 A Yes, it was.

25 Q Were you bothered by the smoke?

1 A Yes, I was.

2 Q Were you bothered by the fumes?

3 A Yes, I was.

4 Q Then at some point, do I understand you exited
5 from what remained of the aircraft; is that right?

6 A Yes. I initially went out because I observed
7 a couple of children lying face down in the mud, and
8 I went out to turn them over so they would not smother
9 themselves in the mud.

10 Q Then what did you do?

11 A I reboarded the plane and handed some bandages
12 out to Dr. Stark who was caring for an injured crewman
13 lying on the ground outside of the plane. I went back
14 to my section of the plane and started to unload children
15 in that area.

16 There were a number of -- There was a section
17 of seats right next to the stairwell, and I was not certain
18 whether the children were still alive in that section.
19 That had been the closest section to the fire. And I
20 couldn't see any child underneath all the debris there.

21 At one point, I asked a crewman for assistance,
22 and he asked me if I would be able to handle it myself.
23 And I did.

24 I went and uncovered that particular part of
25 the plane and dug the children out and handed them out

1 the door.

2 Q Did you have to pull out children from underneath
3 seats inside the aircraft?

4 A I did. I had to turn seats over to get to
5 them.

6 Q They were buried?

7 A They were overturned and strapped to the seats
8 that were pulled from their rivots.

9 Q You, in fact, removed certain children from
10 the plane and recovered others outside the plane; is
11 that correct?

12 A That is correct.

13 Q How would you describe the condition of these
14 children?

15 A Everybody was quiet, too quiet. Nobody was
16 crying in my section of the plane. They were very listless,
17 very hypotonic. They were very pale still and unresponsive.

18 Q Quite different from the condition of the children -
19 THE COURT: Don't testify. Ask her a question.

20 MR. MARCUS: May I approach the bench on a
21 totally different matter?

22 THE COURT: Yes.

23 (Bench conference.)

24 MR. MARCUS: I want to ask a series of questions.
25 about what the scene was like at the hospital, what the

1 children were subjected to. That would get us into the
2 area she would presumably describe bodies and corpses
3 and in view of that I thought I had better seek your
4 guidance and proffer the testimony before I asked those
5 questions.

6 THE COURT: What is your position?

7 MR. DUBUC: She can tell what she saw about
8 the accident, but if she saw Michael Schneider --

9 THE COURT: She saw children subjected to the
10 same forces.

11 MR. DUBUC: As far as the hospital scene, I
12 think we should try to something, otherwise we are back
13 to trying a class action case.

14 THE COURT: I am trying to think of a way you
15 can instruct her to stay away from that voluntarily and
16 you stay away from it.

17 MR. MARCUS: Your Honor, in all sincerity,
18 we believe that the children have been affected adversely
19 by the impact.

20 THE COURT: I am not doubting your sincerity,
21 but I am trying to try a personal injury, not a death
22 case.

23 MR. MARCUS: The point is we think they are
24 psychologically damaged because they remember certain
25 things.

1 THE COURT: I understand that, but you don't
2 know whether they did or didn't. She just testified
3 they were unconscious. You can't have it both ways.

4 Let me excuse the jury and we will have a voir
5 dire of the witness and work this out.

6 THE COURT: Ladies and gentlemen, I am going
7 to excuse you for a few moments. A brief recess.

8 (Jury temporarily excused.)

9 THE COURT: Ms. Lievermann, you can come back
10 to the stand now.

11 Let me say this to you, Mr. Marcus, and maybe
12 it will bounce off of you to the witness. I have been
13 ruling here rather consistently that trying to balance
14 considerations and provide a fair trial that the witnesses
15 be questioned in a way that will not emphasize to the
16 jury in this case involving personal injury the fact that
17 a number of people died. I did that with respect to
18 the pictures. I did that with respect to the first witness'
19 testimony. Your colleague was able to counsel with that
20 witness and steer him away from more than what was absolutely
21 necessary for a report in this context.

22 Your proffer suggests to me it is necessary
23 to caution your witness that in the presence of the jury
24 the extent to which a fair picture of what she saw and
25 what a child, a conscious one-year old child is likely

1 to have seen; she should stay away from describing remains.

2 MR. MARCUS: Would it be possible for me to
3 talk to the witness for a minute?

4 THE COURT: Yes, I will give you a moment to
5 confer with her.

6 MR. MARCUS: I was going to suggest that that
7 might be helpful.

8 (Witness conferring with counsel.)

9 MR. MARCUS: I think we are ready to go with
10 the jury, your Honor.

11 THE COURT: Bring in the jury, please.

12 (The following proceedings were had in the
13 presence of the jury:)

14 THE COURT: You may inquire, Mr. Marcus.

15 MR. MARCUS: Thank you, your Honor.

16 BY MR. MARCUS:

17 Q After the children were removed from the airplane
18 and the accident scene, were they then taken to a hospital?

19 A Yes, they were.

20 Q At some time were these children transported
21 from South Vietnam?

22 A Yes, they were.

23 Q Did you accompany these children during that
24 particuar transportation, some of these children?

25 A I did.

1 Q When did this transportation occur?

2 A The following day, April 5.

3 Q This is a day after the accident; is that correct?

4 The crash?

5 A Yes.

6 Q Would you describe the condition of the children
7 at that time; that is, one day later, the next day?

8 A The children previously on the plane?

9 Q The children previously on board the C5 involved
10 in the crash.

11 A They were frantic. They were very upset. They
12 were screaming. Very disturbed.

13 Q Was this the same kind of noise you heard original
14 when boarding the C5 or was this a different kind of
15 activity?

16 A This was frantic noise as opposed to the normal
17 fear of a child boarding an aircraft -- distressed as
18 opposed to a normal reaction for a child that age.

1 MR. MARCUS: Your Honor, I have no further
2 questions of this witness.

3 THE COURT: Mr. Dubuc, you may inquire.

4 CROSS EXAMINATION

5 BY MR. DUBUC:

6 Q Good afternoon, Ms. Lieberman.

7 A Good afternoon.

8 Q Did you ever give a statement to any of the people
9 investigating this accident?

10 A I gave a statement to the United States Air Force.

11 Q The Air Force investigator?

12 A Yes.

13 Q Have you reviewed that statement recently?

14 A Yes, I did.

15 Q When was the last time you did that?

16 A Yesterday, the first and only time since I wrote
17 it.

18 Q Do you recall saying in that statement that you
19 noticed other white nurses giving oxygen to other children,
20 holding them up and giving them oxygen?

21 A Yes, I did.

22 Q Do you recall saying in that statement that the
23 children you observed were borderline unconscious?

24 A Yes.

25 Q You did not say they were all unconscious

1 Do you recall that?

2 A I don't remember the exact wording but I believe
3 what you are stating is accurate.

4 Q That they were borderline unconscious?

5 A Yes.

6 Q Do you remember if a number of these children
7 were asleep as the aircraft climbed up?

8 A Climbs up?

9 Q Yes.

10 A No, none of them were asleep, not in my section.

11 Q What section was that?

12 A The rear compartment of the plane, the last few
13 rows.

14 Q That would be the rear compartment of the upper
15 troop deck?

16 A That is correct.

17 Q Do you know if Michael Schneider or a nursery
18 child named Nguyen Phi Chanh was in your section?

19 A He was not in my section.

20 Q He would have been somewhere else?

21 A Yes.

22 Q Forward in the troop compartment?

23 A Forward of my section of the plane.

24 Q Were the seats facing rearward in that compartment
25 so the children were facing rearward of the airplane?

1 Q It is possible but I don't recall that detail.

2 Q Do you recall indicating in your statement that the
3 time between the decompression or when the door left the
4 airplane and when you looked out and the time when you were
5 advised that you did not need oxygen any more was about two
6 minutes?

7 A No, sir, I don't remember stating any specific
8 time for that.

9 MR. DUBUC: May I show a copy of her statement
10 to her?

11 Perhaps we had better mark this as something.

12 THE COURT: Why don't you mark it as an exhibit.

13 MR. DUBUC: Our next exhibit would be DD-44 for
14 identification.

15 [Said statement marked Defendant
16 Exhibit DD-44 for identification]

17 THE DEPUTY CLERK: Defendant's Exhibit DD-44 has
18 been marked for identification.

19 MR. OREN LEWIS: We have no objection to it being
20 admitted.

21 THE COURT: He is not offering it in evidence.

22 BY MR. DUBUC:

23 Q Ms. Lieberman, would you take a look at page 2 of
24 your statement, at the end of the long paragraph, the first
25 long paragraph.

1 A Yes, sir.

2 Q Do you see a sentence in there "The time involved
3 seems to be about two minutes but I am in no way positive abo
4 this"?

5 A Yes, I do.

6 Q Was that the time between when you had the
7 decompression and were trying to get oxygen and the time when
8 it was suggested that you didn't need oxygen any more by one
9 of the crewmen?

10 A That would be the time involved with the actual
11 administration of oxygen.

12 Q Was the airplane descending during that two
13 minutes?

14 A Yes, it was.

15 Q Were you using oxygen?

16 A Yes, I was.

17 Q Were you using it all the time or intermittently
18 as you tried to go from one child to another?

19 A I was using it intermittently.

20 Q After the oxygen was no longer needed, did there
21 come a time when you began strapping or trying to check the
22 security of the seats and the children in the seats?

23 A Yes.

24 Q I think you indicated there were two children to
25 each seat?

1 A Generally.

2 Q Were their pillows on top of their laps?

3 A For some of them, yes.

4 Q How about the children in your section?

5 A There were some children in my section who were
6 two to a certain seat and other children were one to a seat.
7 Many children had pillows around them.

8 Q So that they were braced into their seats?

9 A Yes.

10 Q You were doing that so they would be secure?

11 A Yes.

12 Q You did that with respect to your children?

13 A Yes, I did.

14 Q You also indicated in your statement that at the
15 time of the first impact with the ground, you were crouched
16 between rows of one and two?

17 A That is correct.

18 Q What is the last two rows in the airplane?

19 A There was one small row directly next to the
20 stairwell that I did not count as a row. It was a short row.

21 Q Do you recall, and if you want to look, you can,
22 at page 3 of your statement, which is what I am referring to,
23 about four lines down, you state, "I was still securing my
24 children. I could see people crouching between seats, some
25 of them trying to shield children with their arms." Is that

1 the position you were in or were you in a different position?

2 A I was in a similar position.

3 Q In your direct testimony you indicated on the
4 first impact with the ground a lot of things tore loose,
5 loose things in the airplane, such as shelves, I think you
6 said, and perhaps some --

7 A Ceiling, panels and things of that sort.

8 Q In your statement, which I guess you gave to the
9 investigators, it says on the last page, July 2, 1975, you
10 indicate as to that first impact, "The plane touched ground
11 and seems to have bounced back up in the air and came back
12 down again. Some part of the plane broke off."

13 Do you see that?

14 MR. MARCUS: What are you referring to?

15 BY MR. DUBUC:

16 Q "The plane touched ground and seems to have
17 bounced back up in the air and came back down again." Do you
18 see that?

19 A Yes, I do.

20 Q Is that the first impact you are talking about?

21 A I am not certain.

22 THE COURT: Do you want to bring your objection
23 to the bench?

24 [Whereupon, the following occurred at the bench
25 and out of the hearing of the jury:]

1 MR. MARCUS: The statement he read says the plane
2 touched down and went up in the air again and touched down.
3 He said, "Was that the first impact?" There were, obviously,
4 two impacts. I don't know which one he is referring to.

5 THE COURT: I understood him to ask if the things
6 started coming down from the ceiling.

7 MR. MARCUS: It was not clear to me.

8 MR. DUBUC: I was trying to clarify it.

9 [Whereupon, the conference at the bench concluded
10 and the following occurred in open court before the jury:]

11 BY MR. DUBUC:

12 Q Would you look at the statement were it says,
13 "The plane touched down and seemed to bounce back up in the
14 air." Was that the first impact?

15 A Yes, sir, it was.

16 Q In the same sentence you say, "And come down again
17 Was that the second impact?

18 A Yes, there was.

19 Q Was there some time between when it first bounced
20 and went back up in the air and then came down again?

21 A Yes, there was.

22 Q I note in your statement, when you are describing
23 that sequence, does not refer to all of these seating panels
24 and so on coming loose as a result of the first impact. My
25 question to you is: Was your recollection of it better in

1 July of 1975 to that accident in detail than it is today?

2 A I would not say so.

3 Q Do you think your recollection today is as good
4 as the day you wrote this statement?

5 A Yes.

6 Q At the time you gave this statement you tried
7 to be complete, did you not?

8 A I did.

9 Q And that does not appear in here, does it?

10 A No, it doesn't.

11 Q Going to the second impact, which I think is part
12 of that same sentence, "The plane touched down and seemed to
13 bounce back up in the air and come down again." The next
14 sentence states, "Some part of the plane broke off." And
15 then you refer later in the same sentence at the end, "possibly
16 the wing." Do you recall today whether it was the wing or
17 some other portion?

18 A I believe it was not the wing. That is only in
19 retrospect.

20 Q This is in retrospect today?

21 A That is correct.

22 Q At the time you gave your statement in July of
23 1975 you thought it was the wing?

24 A I was under the impression that it was the wing,
25 yes.

1 Q Do you think your recollection today is better
2 than it was in 1975 in that respect?

3 A No, I am not saying that.

4 Q In the same sentence you talk about fire. "Part
5 of the plane broke off and started on fire." Was that the
6 part that broke off, whatever it was?

7 A I believe so.

8 Q You indicate, "I won't know whether the break or
9 the fire was first, possibly the wing." Again, referring to
10 the wing, was that your impression in July 1975 that the wing
11 broke off and started on fire?

12 A That was my immediate impression, although I am
13 not certain that it was the wing that I was viewing.

14 Q When you say, "Some flames came up the stairwell
15 and were followed by intense heat," was that at the same
16 time the wing departed the airplane?

17 A I can't be certain of that.

18 Q Was it in close time approximately?

19 A I am not certain of anything involving time at all.

20 Q You say it came up the stairwell and followed
21 by intense heat and then you indicate the sentence after the
22 next one, "But the plane kept sliding forward and left the
23 burning wreckage and intense heat behind us." Was that your
24 impression in July of 1975?

25 A Yes.

1 Q Is it still your impression today?

2 A Yes, it is.

3 Q In recording that impression in July of 1975 and
4 as you are thinking about it today, was what you observed a
5 breaking off of some burning portion of the airplane and a
6 portion of the airplane in which you were located continuing
7 on away from that area?

8 A I am aware that the plane was breaking apart. I
9 am aware that there was a fire coming up the stairwell, and I
10 don't think there is any way I can feasibly say the two were
11 related or not.

12 Q But you did indicate in July 1975 that the part of
13 the plane you were in, as far as you could see, was sliding
14 forward and left the burning wreckage and intense heat behind
15 you?

16 A That is correct.

17 Q So you were going away from it?

18 A That is correct.

19 Q You were in the last two rows of the seats in
20 the troop compartment?

21 A Yes.

22 Q Did you actually observe anything burning in the
23 troop compartment?

24 A I observed a number of flames coming up through the
25 stairwell of the troop compartment.

1 Q That was at the time of the separation; is
2 that correct?

3 A That was at the time of the second impact.

4 Q Did anything actually catch on fire in the area
5 where you were located or did you just see the flames through
6 the grading?

7 A I was not certain at the time that anything
8 actually did catch on fire. It was my primary concern that
9 children sitting next to that compartment would be burned.

10 Q That compartment and those seats are some distance
11 from the stairwell?

12 A Not so far that the flames would not hurt them.

13 Q But as far as Michael Schneider is concerned, he
14 was located, you said, a good distance forward from where you
15 were?

16 A No, sir. I said he was located in front of my
17 section. I don't know where.

18 Q As your section moved away from what you said
19 was burning and broke away from the airplane, did you see any
20 flames after that?

21 A Inside the aircraft?

22 Q Yes.

23 A Not that I remember.

24 Q Was this flash or flame through the grading fairly
25 rapid at the same time you broke away from the rest of the

1 airplane?

2 A Rapid does not seem to be quite the word, but
3 I would say it was quick as opposed to slow, yes.

4 Q You also mention in your statement and also in
5 your direct testimony about seats tearing loose. Were there
6 any seats torn loose as a result of the first impact?

7 A I remember the seats coming loose and I remember
8 them turning over. Right now I think I might be confused.

9 Q You are not sure.

10 I notice in your statement in July 1975, when you gave
11 it, you made no reference to any seats coming loose in
12 connection with the first impact. In that particular
13 situation, do you think your recollection was better in July
14 1975 than it is today?

15 A I think it is better today than it was back then.

16 Q Is it better today?

17 A As far as the seating being pulled, yes.

18 Q Let me ask you the question again, then.

19 A Please.

20 Q Were any seats pulled loose on the first impact?

21 A It is my recollection that the seats were pulled
22 loose at the first impact and the final turnover and actual
23 acknowledgement on my part, actually, physically having to
24 climb over them after the second impact.

25 Q Were those seats in your area where you were located

1 A Yes.

2 Q How many, two seats in one section?

3 A I believe there were three in each half row on
4 either side of the aisle.

5 Q There are three on each side?

6 A Yes.

7 Q Was one of those torn loose?

8 A One of them was completely turned over and another
9 was virtually turned over. The back end of it had been pulled
10 up and twisted over in a fashion.

11 Q Was that because of some break in the flooring
12 or fuselage of the airplane in that area?

13 A I noticed a large hole but it was not specifically
14 in that area.

15 Q There were three sets of seats on one side turned
16 over and the others were loose on the other side. Did you see
17 any others?

18 A There was a lot of debris around and I can't be
19 certain that any seats further up.

20 Q As far as you can recall today, those are the
21 only two you remember?

22 A To the best of my knowledge.

23 Q You mentioned the fact that you found these seats
24 and there were some children in them that were turned over; is
25 that correct?

1 A Yes.

2 Q After you overturned the seats, did you find the
3 children to be apparently in good health despite a rough
4 appearance?

5 A Yes.

6 Q And you so stated in your statement in July of
7 1975; is that correct?

8 A I did.

9 Q So they had survived this incident in apparently
10 good health except for a rough experience, strapped to their
11 seats and still protected by the seat; is that correct?

12 A At first glance they appeared to be in relatively
13 good condition.

14 Q Then you proceeded with the evacuation of the
15 children?

16 A We did.

17 Q Was that fairly rapidly done?

18 A Yes, it was.

19 Q Would you say within half an hour or so?

20 A I would have to say yes only because I can't
21 be sure that it was longer than that.

22 Q You indicated at that point the children were
23 taken to a hospital; is that correct?

24 A They went first somewhere else. I don't know where
25 they went. They arrived at the hospital after I did.

1 Q I think on direct testimony you indicated that a
2 large number of these children were also on the flight the
3 next morning to San Francisco; is that correct?

4 A Yes, they were.

5 Q You were also on that flight?

6 A Yes, I was.

7 Q Did the children go back to their nurseries
8 from which they had come over night?

9 A Most of them. Some of them were shuffled around
10 to different nurseries but a large majority went back to the
11 same nurseries.

12 Q What nursery were you stationed at particularly?

13 A At that time I was not stationed at any of the
14 nurseries. I was working at the central warehouse.

15 Q Was that Rat Haven?

16 A Yes.

17 Q What were your duties there?

18 A I was preparing supplies for anticipated large
19 convoys, putting together milk, clothing, diapers, making out
20 name bands for children, a lot of paper work, just the filing
21 in a lot of loose spots.

22 Q So you were not doing direct nursing duties prior
23 to that time?

24 A No.

25 Q For how long a time had you been in that

1 administrative capacity?

2 A In that particular capacity I would guess I was
3 probably doing that kind of work for about three weeks.

4 Q Before that, what nursery were you assigned to?

5 A New Haven.

6 Q You were not assigned to To Am Nursery?

7 A No.

8 Q Were you aware Michael Schneider, who is a plaintiff
9 in this case, was delivered to To Am Nursery just a few days
10 before this accident?

11 A I was aware of that in a different sense than
12 I think you mean.

13 Q How were you aware of it?

14 A Somebody mentioned the name Schneider to me and I
15 am familiar with the family and I looked at the child and that
16 is the sense that I am familiar with him.

17 Q When you say you looked at the child, at what
18 time was that?

19 A That was prior to the loading.

20 Q Prior to them loading?

21 A Yes.

22 Q This was at the airport?

23 A No. This was at the nursery.

24 Q At To Am Nursery?

25 A Yes.

1

2

Q Did you go to the nursery that morning?

1 I went to several nurseries that morning.

2 Q How are you familiar with the family?

3 A Their eldest adopted daughter was in my care at
4 one point in time in Vietnam.

5 Q In Vietnam?

6 A Yes.

7 Q Are you then familiar with both Sandra Schneider
8 and her husband, Gary Schneider?

9 A Yes, I am.

10 Q Were you familiar with the fact that Sandy Schneider
11 was a director of the organization of Friends for All
12 Children?

13 A I was aware she had some capacity with the organiza-
14 tion but I was not familiar with the exact capacity.

15 Q When you say you looked at Michael Schneider, do
16 you mean you just glanced at him or did you examine any of
17 his records?

18 A No, sir, I did not examine his records. I looked
19 at the child.

20 Q Did you observe Michael? Did you have occasion
21 to observe Michael after the accident specifically?

22 A No.

23 Q Did he travel on the flight on April 5, 1975 that
24 you flew on?

25 A I am not certain of that.

1 Q You weren't assigned to be his supervisor?

2 A He was not in my section on the April 5 flight.

3 Q So you have no personal knowledge in that regard?

4 A No, I don't.

5 Q You mentioned, I believe, in your direct testimony
6 that you had some nursing training and I am sorry I missed it
7 Was it in Minneapolis?

8 A Yes, it was.

9 Q What hospital was that?

10 A My school was Minneapolis Vocational School of
11 Practical Nursing. I trained out of North Memorial Hospital
12 in Robbinsdale, Minnesota.

13 Q Are you a registered nurse?

14 A No, sir, I am not.

15 Q You trained at what hospital?

16 A North Memorial and General and every other hospital
17 that the school rotates to.

18 Q How long were you in Vietnam as a nurse?

19 A From 1972 until 1975.

20 Q Was that mostly at Haiphong except for the time you
21 were at Rat Haven?

22 A No, sir, I started out at Lang Bi. I did a lot of
23 fill-in work at various nurseries. I handled New Haven for
24 about 6 or 8 months. I did a lot of work in orphanages up
25 north and I did clinic work and cleared ships.

1 Q You mentioned orphanages up north. Which ones?

2 A I visited Sacred Heart at Da Nang. I went to
3 Quinhon, Camrahn and Nha Trang. Those are the ones that come
4 quickly to mind.

5 Q Did you ever visit any of Father Olivia's Redemp-
6 tionist Nurseries?

7 A He had a center in Saigon.

8 Q When was that?

9 A Frequently, more than once or twice a year.

10 Q Do you know if that is the same center Michael
11 Schneider resided in two days prior to this accident?

12 A I would asssume it to be.

13 Q Did they have any medical facilities at that
14 center, the Father Olivia orphanage?

15 A Limited.

16 Q More limited than you had at your nurseries at
17 Friends for All Children?

18 A Yes.

19 Q How would you describe the general condition of
20 the children in Father Olivia's orphanage?

21 A I would say that his orphanages were of a poorer
22 quality than our nurseries were by virtue of the fact that
23 they were orphanages and no nursing.

24 Q When you say they were of poorer quality by virtue
25 of being orphanages, what did you mean?

1 A We had a lot of funding from all over the world.

2 We had a lot of people interested in us, a lot of people who
3 wanted to spend time with us and in positions visiting from
4 time to time from different parts of the country and from
5 the world. Father Olivia did not have that. If you don't
6 have the financial support, your system is not going to work
7 as well as someone who does have the financial support.

8 Q Would you say that the children in Father Olivia's
9 orphanage were treated as well medically as the children in
10 Friends for All Children nursery, the ones you have named?

11 A I would say they did not have the resources we had.

12 Q Did they have the resources for what could be called
13 parental or child care supervisors; in other words, people to
14 actually care for the children?

15 A They had staff.

16 Q Did they have more children per staff member than
17 you did in your FFAC nurseries?

18 A Yes, they did.

19 Q They would have a lot of people with only one staff
20 member to supervise?

21 A That is correct.

22 Q Have you ever heard in connection with your treat-
23 ment of children or examination of children in the Friends
24 for All Children nurseries who had come either from Father
25 Olivia's orphanage or another one, have you ever heard

1 discussed the fact that sometimes these children exhibited
2 signs of what could be called either an orphanage syndrome
3 or institutionalized syndrome?

4 A I am aware of the term.

5 Q What does it mean to you?

6 A Many children, when placed in the company of
7 difficult care children, seem to respond the same way that
8 difficult care children respond. You have a lot of children
9 who need to be fed -- for various reasons they cannot feed the
10 selves, and you place another child in that group who does
11 not necessarily need to be fed but is not stimulated to feed
12 himself, he may respond similarly to the way the other children
13 in the group respond.

14 Q Have you seen that happen in connection with
15 children arriving from these organizations to Friends for
16 All Children facilities in Vietnam?

17 A Not once they arrived at the facilities.

18 Q I am talking about before they arrived.

19 A Prior to?

20 Q Yes.

21 A I have seen situations where it was possible that
22 that is what was going on. Many of those children I did
23 not examine myself. Many of those children I did not bring
24 to Saigon and without -- actually, with a child, you can't
25 know what is going on with him.

1 Q In connection with children coming from orphanages
2 such as you have described, as opposed to job care facilities
3 that Friends for All Children had, was there among those
4 children a fairly high incidence of various diseases and
5 problems that had been contracted either before they went
6 to the orphanage or in the orphanage because of lack of
7 medical facilities?

8 A Many children in orphanages were sick.

9 Q We have talked about some ailments that might occur
10 in children coming from these orphanages and we have talked
11 about the orphan syndrome that you have described.

12 To your recollection, were the children in some of these
13 orphanages, and to some extent in the Friends for All Children
14 facilities, did some of the children suffer from such things
15 as, or suffer as the result of such things as physical
16 development which might be behind that expected for their
17 age because of these conditions?

18 A From a nurse's standpoint of view as opposed to a
19 physician's standpoint of view, I would say that a number
20 of children upon their arrival at FFAC orphanages, nurseries,
21 whatever you want to call them, the children were generally
22 thin and generally not as responsive upon their arrival to
23 our facilities as one would expect a normal child would be.

24 Q Would that include both physical development as
25 well as in some cases lagging behind children his or her

1 age in mental and social development?

2 A I would not apply those categories to all children.

3 Q I am not suggesting all children. I am saying did
4 some or many of them coming from these orphanages exhibit
5 that symptom?

6 A Yes.

7 Q Indeed, if the Friends for All Children had the
8 child long enough through certain care methods and medication
9 and attention, in many cases you could change that; is that
10 correct?

11 A Yes.

12 Q But it did take some time in order to do that?

13 A That depended entirely upon the child and where
14 he or she came from.

15 Q Would you agree with me it would not happen in-
16 stantaneously or within a week or two weeks?

17 A That, again, depends entirely upon a child. If you
18 placed a newborn infant in an orphanage overnight and pulled
19 him out of the orphanage a couple of days later and brought
20 him around to one of our facilities, I would say there
21 would not be as many problems with that child as the child
22 who was older.

23 Many children, not knowing their historic background --
24 I think there are too many variables in this to be able to
25 say carte blanche that it would take a long time or two weeks.

1 Q Let's take a child 18 or 19 months old who lived
2 in an orphanage all his life. If he had been subjected to
3 the kinds of environment we have just been talking about
4 with possibly the orphanage or institutional syndrome, the
5 possibility of not developing socially or physically as fast
6 as those in his age group, were there also children who
7 arrived with malnutrition symptoms, symptoms of disease?

8 MR. MARCUS: Objection.

9 THE COURT: Sustained.

10 BY MR. DUBUC:

11 Q Were there also children who arrived from orphan-
12 ages who exhibited the malnutrition?

13 A There were children who were thin.

14 Q Did you ever pin it down to whether it was mal-
15 nutrition or just lack of food --

16 MR. MARCUS: Your Honor --

17 THE COURT: Sustained.

18 BY MR. DUBUC:

19 Q From your observations of such children arriving
20 from orphanages and in the Friends for All Children facil-
21 ities, if we had a child who came from an orphanage after
22 having been there in the orphanage for, let's say, 18 or 19
23 months, most of his life, and came to the Friends for All
24 Children facility such as To Am, for example, from your
25 experience there, if there were any symptoms of either

1 institutional syndrome, lag in development socially, mentally
2 or physically, in your experience, with the attention of the
3 nurses and your program, what would you expect or when would
4 you expect to see some change in this sense?

5 THE COURT: Sustained.

6 BY MR. DUBUC:

7 Q Did you ever participate in a Friends for All
8 Children operation in Vietnam? You said you were in the
9 administrative part of it for a period before the accident.
10 Did you ever participate in the preparation of news letters
11 or notifications that were going to potentially adoptive
12 parents, telling them what they might expect from the children
13 when they arrived?

14 MR. MARCUS: Objection.

15 THE COURT: Overruled.

16 THE WITNESS: I remember writing a lot of letters
17 to different families. I don't know whether they were ever
18 transcribed into news letters. It is possible.

19 BY MR. DUBUC:

20 Q This is what I have in mind as an example --

21 MR. OREN LEWIS: May it please the Court --

22 THE COURT: I want to deal with one lawyer. If
23 there is an objection, Mr. Marcus can raise it.

24 MR. MARCUS: Can we approach the bench?

25 (Bench conference.)

1 MR. OREN LEWIS: Apparently counsel is going to
2 show her a news letter from Wendy Grant in the United States.
3 This lady said she had only written letters to families so
4 he wants to show her this news letter that Wendy Grant
5 wrote and how would she know whether any data she wrote in
6 these letters --

7 THE COURT: Ask her if she knew anything about the
8 news letter.

9 MR. DUBUC: I was going to ask her if she had any
10 input into this kind of news letter.

11 THE COURT: That is overruled.

12 MR. OREN LEWIS: As long as counsel does not read
13 it, I don't have any objection to that.

14 MR. DUBUC: If she did, I will ask her what she
15 had.

16 (Conclusion of bench conference.)

17 BY MR. DUBUC:

18 Q Ms. Lievermann, I would like you to look at some-
19 thing marked for identification as Exhibit DD2, and it appear
20 to be a news letter that I just mentioned to you.

21 Tell me if, in connection with any of your duties with
22 the Friends for All Children as a nurse or in the admin-
23 istrative capacities you mentioned in Rat Haven you ever corr-
24 ponded with Friends for All Children in Boulder and gave any
25 input to the kind of information that is in that Exhibit DD2?

1 THE COURT: Take your time.

2 Before you answer, do you understand the question?

3 THE WITNESS: No, I would like the question to be
4 repeated.

5 THE COURT: Let the reporter read it back.

6 (The question referred to was read by the reporter.

7 THE COURT: That is two questions. Answer the
8 first one first.

9 THE WITNESS: Yes, I did correspond with the Friends
10 for All Children.

11 BY MR. DUBUC:

12 Q The second question is in that correspondence did
13 you ever provide input as to medication indications as
14 described in DD2?

15 THE COURT: Answer it yes or no.

16 THE WITNESS: Yes.

17 BY MR. DUBUC:

18 Q Could you tell me what kind of medical information
19 you provided, in what categories it fell?

20 A Diarrhea is very common with these children.

21 THE COURT: Just a moment. I don't think it is
22 responsive. As I understood the question, he is simply
23 asking what categories of information you supplied. I will
24 interpret it, if you will, as medical information or informa-
25 tion about child care. I gather that is what is in that

1 letter. I don't think the question requires you to catalog
2 the kinds of diseases or complaints that you reported.

3 Did you give them medical information?

4 THE WITNESS: I transferred medical information on
5 specific children, yes.

6 BY MR. DUBUC:

7 Q Did you transfer medical information to headquarter
8 similar to what is used in this news letter, DD2 for identi-
9 fication, which described diseases or ailments which were
10 common among the children in Vietnam?

11 MR. MARCUS: Your Honor --

12 THE COURT: That is objectionable. The form of the
13 question is objectionable.

14 Do you mean did she give a report that certain
15 diseases are common?

16 MR. DUBUC: No, that she had observed certain
17 diseases --

18 THE COURT: You are asking, then, did she observe
19 and report --

20 BY MR. DUBUC:

21 Q I will withdraw it and ask did you report the kinds
22 of ailments you observed in the nurseries in Vietnam?

23 THE COURT: Your objection is overruled.

24 THE WITNESS: We accumulated a lot of data from
25 various sources and transmitted that information to Boulder.

1 Q Included in that data, what were the kinds of
2 diseases that were set forth?

3 A We had a number of children with gastrointestinal
4 problems.

5 MR. MARCUS: Your Honor, may we approach the bench?
6 (Bench conference.)

7 THE COURT: How much more cross examination?

8 MR. DUBUC: I may have quite a bit. She is
9 knowledgeable --

10 THE COURT: I understand.
11

1 MR. DUBUC: Maybe an hour.

2 MR. OREN LEWIS: If it please the Court, to
3 begin with, this is outside the scope of our examination.

4 THE COURT: And you have something further?

5 MR. OREN LEWIS: I think it ought to have some
6 relationship to what Michael Schneider has.

7 THE COURT: Now you are turning on your tail
8 there. You are bringing in a lot of stuff about other
9 people who were hurt without particular reference to
10 him. But that part of your objection I can't sustain
11 without striking a lot of stuff from the record.

12 MR. OREN LEWIS: We suggest, if it please the
13 Court, there is a commonality between the children. If,
14 for example, let's just take the example of polio --

15 THE COURT: I don't want to get into that.

16 What about the scope of the direct? That sounds
17 like a sound objection to me.

18 MR. DUBUC: The Federal Rules are fairly liberal
19 on that, and secondly, I should note we asked originally
20 when we took the depositions -- we had asked Wendy Grant,
21 Christie Lievermann and others. And they told us they
22 had no control over those witnesses, and therefore, we
23 could not get them.

24 We took some depositions as we went around
25 the country, and this is one we would have taken.

1 THE COURT: Do you want to excuse the jury
2 and take a deposition?

3 MR. DUBUC: No, sir. That has to do with Michael
4 Schneider --

5 THE COURT: They did elicit testimony as to
6 how he looked when he got on the plane.

7 MR. DUBUC: That is right, and it goes to that
8 as --

9 THE COURT: Objection overruled. I think I
10 will take a recess now, if this is a good stopping point.

11 MR. OREN LEWIS: Your Honor, without arguing,
12 after you have ruled, I would just like to note for the
13 record, however, that we have not made the objection
14 up to now, and they have fully explored that. They are
15 really making this witness their witness.

16 THE COURT: That is not a problem. You will
17 certainly have a good opportunity for redirect examination.

18 MR. OREN LEWIS: I was just going to say in
19 that instance, would you give me the opportunity to conduct
20 redirect. Mr. Marcus is not prepared on that medical
21 or semi-medical question.

22 THE COURT: Yes, I would be glad to have you
23 do that.

24 MR. DUBUC: Is there a question pending?
25 It was what diseases she observed.

1 THE COURT: Let's reconstruct that while I
2 am out of the room.

3 MR. DUBUC: May we have an instruction that
4 the witness not confer with counsel while she is on the
5 stand?

6 THE COURT: I will do that. I will.

7 (End of bench conference.)

8 THE COURT: I will excuse the jury now, and
9 we will take a recess until 25 minutes of four:

10 (Jury excused.)

11 THE COURT: Miss Lievermann, I just want to
12 say to you and counsel, I would appreciate it if you
13 would refrain from discussing the subject of your testimony
14 with your counsel during this recess. Is that a problem?

15 THE WITNESS: No, sir.

16 (Brief recess.)

17 THE COURT: Are there any preliminary matters
18 before I recall the jury?

19 MR. OREN LEWIS: No, Your Honor.

20 THE COURT: Have you established if there is
21 a pending question, Mr. Dubuc?

22 MR. DUBUC: Maybe the reporter can check to
23 see.

24 THE COURT: Why don't we let it lie, and you
25 start over?

(The following proceedings were had in the presence of the jury.)

THE COURT: Mr. Dubuc?

BY MR. DUBUC:

Q Miss Lievermann, before the break, we were discussing some newsletters to which you had had some input, and we were referring to Exhibit DD-2 for identification. I think you told us you had provided some medical information to the Friends For All Children in Boulder for use in such newsletters and other purposes. And you collected data in Vietnam.

Could you tell us with respect to the medical illnesses or conditions of children in the nursery as you had observed what they were as to some or many of the children who were transported to the United States?

A Many of the children were very undernourished. Many had respiratory ailments of various natures and diarrhea, skin disorders, upon their arrival at all the nurseries. They were sent to the clinics for their exams and their tests and diagnostic procedures and then treated for those ailments.

Q You mentioned malnourished. Have you ever heard the word marasmus.

A I have heard the word marasmus.

0 What does that mean to you as a nurse?

1 A It is a nutritional disorder characterized
2 by a lot of edema and a lot of wasting.

3 Q Have you ever heard the term kwashiorkor?

4 A Yes.

5 Q What does that mean to you as a nurse?

6 A It is a nutritional disorder.

7 Q Were some of those kinds of disorders, marasmus
8 and kwashiorkor connected with some of the malnutritional
9 problems you have just described?

10 A None of the children in my care were ever
11 diagnosed as kwashiorkor. We did have diahhrea and maras-
12 mus.

13 Q You said respiratory diseases. Was there ever
14 any reference to what has sometimes been termed pneumocistis
15 carini?

16 A Yes.

17 Q What does that mean to you as a nurse?

18 A It is a specific type of pneumonia which we
19 worked very hard to find out what it was in the first
20 place. As I understand generally it is found in patients
21 who have received long-term chemotherapy for various
22 types of cancer. We were experiencing it in a number
23 of newborn infants, roughly four months of age, who had
24 had prior insult to somebody's system at a very early
25 age and showed poor weight gain, poor groth curves,

1 just the generally physically doing rather poorly.

2 Q Was that kind of pneumonia hard to recognize
3 as far as the nurses were concerned as sometimes for
4 the hospitals?

5 A It is a difficult pneumonia for physicians
6 to diagnose. It is usually done by lung biopsy, and
7 the children were generally not up to that procedure,
8 even if it were available.

9 Q Is that a kind of pneumonia that may not exhibit
10 or indicate the usual symptoms of pneumonia -- In other
11 words, they may be hidden for a period of time?

12 A Generally, the chest X-rays are normal or slightly
13 infiltrated. And the only thing you can see are respiratory
14 increases for no apparent reason.

15 Q If a child has this pneumocystis carini, might
16 there also be some lag or delay behind normal development
17 standards for physical development?

18 MR. OREN LEWIS: Objection.

19 THE COURT: Sustained.

20 Limit your questions to what she has observed.

21 (Bench conference.)

22 MR. DUBUC: Wendy Grant was a director of this
23 organization, and she described this at length. And
24 she is going to be a witness. I am trying to save some
25 time and find out what this woman knows.

1 Apparently, from Wendy Grant's deposition,
2 Friends For All Children were successful in recognizing
3 this unusual problem. And even thought they are nurses,
4 they are the ones who recognized and found out about
5 it. Maybe I can ask her that and --

6 THE COURT: You may lay a predicate, but I
7 don't want to be asked about academic information.

8 What is your problem, Mr. Lewis?

9 MR. OREN LEWIS: At the medical seminar, we
10 had a physician who described this condition for the
11 benefit of counsel. He is a witness who will testify,
12 I hope, tomorrow or the next day.

13 THE COURT: Is she going to be going anywhere?

14 MR. OREN LEWIS: He is from California, and
15 hoping to go back tonight.

16 THE COURT: On that representation, I will
17 sustain the objection.

18 (Conclusion of bench conference.)

19 BY MR. DUBUC:

20 Q Miss Lievermann, moving to another newsletter
21 of the Friends For All Children, which has been premarked
22 DD-321 for identification, I would like to hand this
23 up to you and ask you the same question, whether you
24 prepared and forwarded written information, statistics
25 or otherwise from Vietnam to Friends For All Children

1 in Boulder, Colorado, that might have been used in preparing
2 that newsletter. It is Exhibit DD-321.

3 THE COURT: Have the Plaintiffs found it? Wait
4 just a moment.

5 Do you want the witness to read it?

6 MR. DUBUC: Yes, sir.

7 THE WITNESS: "Dear Friend: Thank you for
8 your inquiry -- "

9 THE COURT: Read it to yourself so you can
10 be familiar with it so you can answer questions from
11 it.

12 You may inquire.

13 BY MR. DUBUC:

14 Q Particularly with respect to the first two
15 paragraph which deal with medical information, Miss Lievermann,
16 did you collect or observe and then collect with respect
17 to children arriving in the Friend For All Children facilities
18 in Vietnam children exhibiting any of those kinds of
19 diseases?

20 THE COURT: Just a moment.

21 MR. OREN LEWIS: Your Honor, the letter seems
22 to suggest children are arriving in the United States
23 as opposed to arriving in Vietnam and the facilities
24 run by FFAC rather clearly.

25 THE COURT: I think before you inquired about

1 earlier memorandum, you asked a qualifying question as
2 to whether she was the source of information like that.

3 MR. DUBUC: I thought I had already asked her
4 that.

5 THE COURT: Not about this letter.

6 BY MR. DUBUC:

7 Q Miss Lievermann, with respect to the information
8 contained in this newsletter, which is a newsletter addressed
9 to prospective parents in the United States -- My question
10 to you is did you accumulate from your observations medical
11 information as to children going from Vietnam to the
12 United States any of the kind of medical information
13 referred to in this Exhibit DD-321.

14 THE COURT: I think there is another hurdle
15 to jump -- and furnish information of that kind for
16 use in the newsletter.

17 THE WITNESS: I accumulated information for
18 FFAC, not specifically for use in newsletters. I just
19 accumulated very broad-based information about the children.

20 BY MR. DUBUC:

21 Q Looking at Exhibit DD-321, you can see that
22 some information as to medical conditions of children
23 in Vietnam in coming to the United States were included
24 in newsletters. My question to you is: Did you provide
25 any of that kind of information to the Friends For All

1 Children in Boulder, which was used in this kind of news-
2 letter?

3 MR. OREN LEWIS: How would she know?

4 THE COURT: She can answer whether she did
5 know.

6 THE WITNESS: I accumulated general information
7 for them when there was requested specific information
8 on specific children; I provided them with that.

9 BY MR. DUBUC:

10 Q With respect to general information you have
11 already mentioned that some children experienced problems
12 with gastroenteritis and diarrhea; is that correct?

13 A A lot of them had diarrhea.

14 Q Did you accumulate any information and provide
15 it to Friends For All Children relative to any medical
16 conditions involving ear infections?

17 A Yes, sir, I did.

18 Q I think you have already told us you provided
19 information as to pneumonia. Did you accumulate and
20 provide any information to the Friends for All Children
21 in Boulder, Colorado, with respect to diseases of children
22 you had observed such as bronchitis, hepatitis and typhoid?

23 A No typhoid, but the other two, yes.

24 Q Bronchitis and hepatitis?

25 A Yes.

1 Q Do you recall accumulating any medical information
2 and providing it to the Friends For All Children in Boulder
3 relative to children you had observed in the nurseries
4 concerning infections or diseases such as intestinal
5 parasites, anemia and conjunctivitis?

6 A Yes, sir.

7 Q Did you provide any information from your observa-
8 tions in collection of information that was provided
9 to the Fiends For All Children in Boulder, Colorado,
10 relative to children you had observed which would include
11 scabies, primary TB or boils.

12 A Yes, sir.

13 Q Did you collect and provide information from
14 your observation of medical conditions in the nurseries
15 in Vietnam and provide it to the Friends For All Children
16 in Boulder concerning diseases sustained by the children
17 you observed, including the lagging of development behind
18 their age as compared with others of their age?

19 A I don't remember specifically providing information
20 of that sort in a general sense about children in our
21 nurseries. I recall that about children from other orphanage
22 and I recall specific incidences of children under my
23 care where I felt there was a developmental lag of sorts,
24 but I do not recall general information of that sort.

25 Q Do you recall with respect to specific instances

1 whether you ever collected and gathered medical information
2 or information from what you observed and then provided
3 to the Friends For All Children in Boulder, Colorado,
4 that this lag in development may have been due mainly
5 to malnutrition or a lack of stimulation?

6 A Lack of stimulation, yes.

7 In conferring with clinic physicians, we may
8 have reached a general conclusion about malnutrition
9 with some specific children.

1 Q You mentioned that you had been alerted to
2 Michael Schneider because you were familiar with the
3 family; is that correct?

4 A Yes, sir.

5 Q Did you ever have occasion while you were
6 in Vietnam and prior to the time of the date of the accident
7 on April 4, 1975 to confer with any of your associates
8 at the To Am Nursery considering the physical condition
9 of Michael Schneider as it might have been found to be
10 by examination?

11 A No, sir, I did not.

12 Q Do you know who did the examination of Michael
13 Schneider?

14 A I am not certain of that, no.

15 Q I would like to show you what has been marked
16 DD-25 which purports to be a record of that examination
17 and from your experience in Vietnam working in the various
18 nurseries, I wonder if you could tell me either from
19 the writing or what appears to be a signature at the
20 bottom who prepared that?

21 THE COURT: Do you have the exhibit?

22 MR. OREN LEWIS: Yes, I do, your Honor. It
23 has the name of Sister Rayneld, and she is coming tomorrow.

24 THE COURT: Objection sustained.

25 MR. DUBUC: That answers my question, your

1 Honor. I just wanted to be sure of that.

2 BY MR. DUBUC:

3 Q I believe in your statement and also in your
4 direct testimony you indicated that one of the children
5 who was in your group looked like it was turning cyanotic;
6 do you recall that?

7 A Yes.

8 Q I think you said turning blue.

9 A Yes.

10 Q Did you in your nurse's training ever receive
11 specific training on the effects of the atmosphere on
12 persons at altitude and high altitudes?

13 A I was aware of the effects in a general sense
14 but not specific details.

15 Q Did you ever receive any specific training
16 on the symptoms of what is known as hypoxemia?

17 A I am aware of the general symptoms.

18 Q Hypoxia as opposed to anoxia, which is the
19 total?

20 A Yes.

21 Q You understand that to be a reduced level
22 of oxygen?

23 A Right.

24 Q But not a total reduction?

25 A That would be anoxia.

1 Q Can you tell me the signs of hypoxia in the
2 airplane environment?

3 A In an airplane environment? I can tell you
4 specifically what I generally think are the symptoms.
5 I am not familiar with this in my prior training.

6 Q You are not familiar with what symptoms there
7 would be in an airplane environment?

8 A That's correct.

9 Q You are only familiar with the symptoms on
10 the ground?

11 A I am familiar in a general sense of the symptoms
12 of hypoxia involving decreased oxygenated flow of blood
13 to the heart, to the brains.

14 Q I wanted to understand your prior answer.
15 You have received no specific training with respect to
16 such symptoms in an airplane --

17 THE COURT: That has been asked and answered.

18 BY MR. DUBUC

19 Q I think you told us that you were braced in
20 this airplane at the time of the second impact and that
21 you were leaning over two seats or something of that
22 nature.

23 A I was crouched between two rows of seats.

24 Q And you had no seatbelt on?

25 A I had no seat.

1 Q No seat?

2 A No seat.

3 Q And nothing restraining you?

4 A Nothing.

5 Q Were you able to maintain your position relative
6 well until the airplane came to a stop?

7 A Not very well, no.

8 Q Did you move from that position any distance?

9 A Yes, sir, I did.

10 Q How far did you move?

11 A I don't know, sir.

12 Q Were you still in the area that you were in
13 in the back seats of the airplane when the airplane came
14 to a stop?

15 A I was in the general area, yes, sir.

16 Q You were not thrown all the way forward in
17 the airplane?

18 A No, I was not.

19 Q Did you receive any fractures as a result
20 of this accident?

21 A Not that I am aware of.

22 Q Did you receive any head injury?

23 A None specifically that I am aware of. I had
24 some problems with my eyes if you want to call that a
25 head injury.

1 Q Did you receive any injuries other than bruises?

2 A I had some pulled muscles. That is the extent
3 that I am aware of.

4 Q You mentioned observing hypertonia in some
5 of these children?

6 A Hypotonia.

7 Q When was this? Right after the accident?

8 A Children appeared to be hypotonic at the time
9 when we were requiring oxygen and from that point forward
10 the children who had been turned upside down in their
11 seats still attached to their seats were more responsive
12 than the other children who were just strapped in their
13 seats in the position they had prior to takeoff.

14 Q When you say hypotonia, so that those of us
15 who are not physicians or nurses or well-trained medically
16 can understand you, to what are you referring?

17 A General flaccidness, poor muscle response --
18 I can't think of other words -- very flaccid.

19 Q Kind of quiet?

20 A They were very quiet.

21 Q You noticed this after decompression in the
22 air?

23 A Had the decompression occurred prior to the
24 need for oxygen, that is when I noticed it.

25 Q After you got below the altitude where oxygen

1 was needed, how would you describe the children?

2 A Similar condition -- very unresponsive, very
3 pale.

4 Q After the airplane landed after the 60-second
5 impact, you assisted in the evacuation; is that correct?

6 A Yes, I did.

7 Q Were any of the children crying at that time?

8 A Not in my section of the plane. There were
9 some older children I remember hearing crying.

10 Q Had some of the hypotonic symptoms of some
11 of the children disappeared?

12 A Some of the hypotonic symptoms for some of
13 the children had dissipated.

14 Q Did you observe any of these children in the
15 nurseries that evening, the evening of April 4?

16 A No, sir, I did not.

17 Q You described the following day -- was it
18 a Pan American flight?

19 A Yes, sir.

20 Q Was it a charter flight, a special flight?

21 A Yes.

22 Q You described the children the following day
23 as crying and agitated is that correct?

24 A Yes, sir.

25 Q That is not consistent with hypotonia, is it?

1 A No, sir, it is not.

2 Q At least as of April 5, these were children,
3 at least most of them, that you described as crying and
4 being agitated, were no longer exhibiting signs of hypo-
5 tonia?

6 A Of the children I viewed, they were no longer
7 exhibiting hypotonic symptoms.

8 Q Was there any discussion among yourselves
9 or any of the others of Friends For All Children in
10 Saigon the night of April 4 concerning the reenlisting
11 and the redesignating of children who would go on the
12 flight on April 5?

13 A I assume there would be discussion.

14 THE COURT: We don't care to hear what you
15 assumed.

16 BY MR. DUBUC:

17 Q You did not participate?

18 A No.

19 Q Do you know if there was any discussion, or
20 did you have any discussions concerning the possibility
21 of having some of these children who had been in the
22 accident rest for a day or two before being assigned
23 to another flight?

24 A I did not participate in any discussions of
25 that nature.

1 MR. DUBUC: May I have a moment, your Honor?

2 THE COURT: Certainly.

3 MR. DUBUC: I just want to clarify one point
4 and then I think I am through, and I thank you for your
5 patience.

6 BY MR. DUBUC:

7 Q I believe you told us because you knew the
8 Schneiders you had made some extra efforts to look at
9 Michael Schneider before the accident; is that correct?

10 A I did not make any extra special efforts to
11 look at him. The child was in the immediate vicinity
12 of my vision.

13 Q Where was that?

14 A On the grounds of To Am, I believe, the
15 stairs -- I am not sure.

16 Q Was this the day before the accident or two
17 days before the accident?

18 A This was the day of.

19 Q I beg your pardon?

20 A The day of the accident.

21 Q Which would be on the way to the airport?

22 A Yes.

23 Q Was he fully dressed?

24 A I believe so.

25 Q Under what circumstances did you observe him?

1 A He was sitting.

2 Q Did you just observe him in passing?

3 A Yes sir.

4 Q Did you attempt to look at him at all closely
5 or check as to his records or anything of that nature?

6 A No, sir, I did not.

7 Q How did you know it was Michael Schneider?

8 A Because I was told.

9 Q Were you told his nursery name?

10 A No, sir. Michael Schneider is all I heard.

11 Q Do you remember his nursery name?

12 A No, sir I don't.

13 MR. DUBUC: I have no further questions, your
14 Honor.

15 THE COURT: Mr. Lewis?

16 MR. OREN LEWIS Yes, sir.

17 REDIRECT EXAMINATION

18 BY MR. OREN LEWIS:

19 Q The child you saw on the stairs, with respect
20 to nourishment, how did he look?

21 A Adequate.

22 Q I understand it was a very casual observation
23 of him. Did he have any demonstrable problem that you
24 could see?

25 A Nothing that I could see just on looking at

1 him very briefly.

2 Q How much did you get paid for your work in
3 Vietnam as a nurse?

4 A Nothing.

5 MR. OREN LEWIS: That is all that I have.

6 THE COURT: Thank you, Ms. Lievermann. You
7 may step down.

8 (Witness excused.)

9 THE COURT: Call your next witness.

10 MR. OREN LEWIS: William Timm.

11 Whereupon,

12 WILLIAM TIMM

13 resumed the stand as a witness and, having been previously
14 duly sworn, was examined and testified further as follows:

15 MR. OREN LEWIS: May it please the Court,
16 I move admission of Exhibits 25 and 27.

17 THE COURT: Do you still object?

18 MR. DUBUC: Yes.

19 THE COURT: It is overruled.

20 (Plaintiffs' Exhibits Nos. 25 and
21 27 received in evidence.)

22 DIRECT EXAMINATION (Resumed)

23 BY MR. OREN LEWIS:

24 Q Mr. Timm, I show you Exhibit Number 25. Would
25 you go down beside, if you would, and, Mr. Timm, would