

NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
05 CVS 4005

KEVIN A. MONCE,

Plaintiff,

vs.

NANCY G. DEAS and EDNA E. DEAS,

Defendants.

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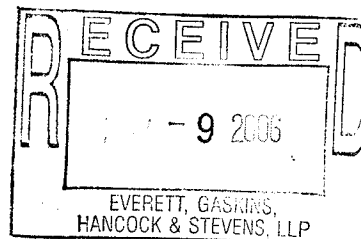
**PLAINTIFF'S BRIEF OPPOSING  
SUMMARY JUDGMENT**

Defendants Nancy and Edna Deas have moved for summary judgment and have filed a brief in support of their motion. Plaintiff Kevin A. Monce files this response opposing summary judgment for defendants; summary judgment in favor of plaintiff would be appropriate, however.

**NATURE OF CASE**

This is an action for libel. Kevin Monce is a veterinarian, and this action grows out of his treatment of Nancy and Edna Deas' terrier Alex. After the dog died in early 2000 the Deas filed a complaint with the Veterinary Medical Board. To the Deas' disappointment, the complaint was eventually resolved in April 2003 with the board and Dr. Monce agreeing to a consent order which did not find him guilty of malpractice or negligence or incompetency. Nevertheless, the Deas created a web site dedicated to their complaint and posted on it defamatory statements including the large, bold headline "Veterinary Malpractice, Incompetence & Negligence" above Dr. Monce's name.

The Deas previously moved to dismiss this case based on the statute of limitations, but that motion was denied. They now have moved for summary judgment.



## STATEMENT OF FACTS

Although the telling is colored somewhat to favor the Deas' view of the case, the "Statement of Undisputed Material Facts" in their brief generally is accurate. There are a few matters which need to be added or clarified, however.

The basic story given by the Deas is correct. Kevin Monce consulted with Dr. Dana Jones in the treatment of Alex at the end of 1999 and beginning of 2000. Complaint, ¶ 11. Alex was euthanized on January 4, 2000, at 14 years of age. Complaint, ¶ 10. The Deas filed a complaint with the Veterinary Medical Board in February 2000, asserting that Drs. Monce and Jones had been incompetent and negligent in the treatment of Alex (the "treatment complaint"). Complaint, ¶ 11; Exhibit 25 (attached). Based on information received from the Deas the board initiated its own complaint concerning certain non-medical regulatory matters, such as Dr. Monce's reporting of new practice names and inspection of his mobile facility (the "regulatory complaint"). Exhibit 18.

In October 2001 the board issued a "letter of reprimand" to Dr. Monce in the Deas' treatment complaint, notifying him that under board rules he could accept the letter and accept the proposed penalty or could contest it. Exhibit 5. The board also issued a letter on the complaint concerning non-medical regulatory issues, again proposing penalties. Exhibit 18. In both instances Dr. Monce chose to contest the reprimand and penalties and a contested case was initiated in the Office of Administrative Hearings (OAH). Complaint, ¶ 13; Exhibit 21.

The Deas opened their web site in November 2002 featuring the headline "Veterinarian Malpractice, Incompetence & Negligence" immediately above the words "Dana Jones, DVM, Durant Road Animal Hospital" and "Kevin Monce, DVM, PetSound, Inc." Complaint, Exhibit A; Exhibit 3; Nancy Deas deposition at 71. Also on the home page was the statement: "The North Carolina Veterinary Medical Board decided our complaint March 23, 2001. It issued some discipline to the

veterinarians nine months later. Included were reprimands for incompetence, gross negligence, or other malpractice in the practice of veterinary medicine.” Complaint, Exhibit A.

In April 2003 Dr. Monce and the vet board entered a Consent Order which concluded the contested case at OAH and finally resolved both complaints. Exhibit 17. Dr. Monce accepted certain findings and violations related to the non-medical regulatory complaint — *e.g.*, his failure to get approval of practice name changes—and agreed to pay a fine related to those matters. The order, however, has no findings related to the treatment complaint.

The Deas website remained on the internet, with the same “Veterinary Malpractice, Incompetence & Negligence” headline and the same statement about the board disciplining Dr. Monce.

Additional information it is useful for the court to know is:

- \* Although the Deas say that the vet board “gathered and reviewed hundreds of pages of materials” in its investigation, most of those materials were in fact created by the Deas themselves and not solicited by the board. George Hearn deposition at 53.
- \* The Deas consulted numerous veterinarians both inside and outside North Carolina, to have them review the treatment of Alex, but never found anyone who would opine that Dr. Monce was negligent or incompetent or had committed veterinarian malpractice. N. Deas dep. at 33, 44, 101; Edna Deas deposition at 32.
- \* The only news media coverage of the Deas’ complaint was a story in the Raleigh News & Observer that resulted from the Deas contacting a columnist. N. Deas dep. at 90.

The important fact that merits repeating and emphasis is that the Consent Order signed in April 2003 finally resolved both complaints against Dr. Monce — both the complaint initiated by the Deas concerning the treatment of Alex, and the board-initiated complaint about regulatory matters — and included no findings whatsoever as to improper, incompetent or negligent treatment by Dr. Monce. He was simply unwilling at any point to ever agree that his treatment had been improper, and the Veterinary Medical Board entered a final order which contained no such findings.

## ARGUMENT

### I. The Deas' statements are libelous *per se*, and no further evidence of injury is necessary.

The law of libel is not as difficult or complicated as suggested by the Deas' extensive brief. In fact, the application of the law to this case is simple and straightforward.

"In order to recover for defamation, a plaintiff must allege that the defendant caused injury to the plaintiff by making false, defamatory statements of or concerning the plaintiff, which were published to a third person." *Boyce & Isley, PLLC, v. Cooper*, 153 N.C. App. 25, 29, 568 S.E.2d 893 (2002), *disc. rev. denied*, 357 N.C. 163, *cert. denied*, 540 U.S. 965 (2003). The law recognizes several forms of libel *per se*:

In North Carolina, the term defamation applies to the two distinct torts of libel and slander. Libel *per se* is 'a publication which, when considered alone without explanatory circumstances: (1) charges that a person has committed an infamous crime; (2) charges a person with having an infectious disease; (3) tends to impeach a person in that person's trade or profession; or (4) otherwise tends to subject one to ridicule, contempt or disgrace.'" (emphasis added)

*Id.*, 153 N.C. App. at 29 (quoting *Phillips v. Winston-Salem/Forsyth County Bd. of Educ.*, 117 N.C. App. 274, 277, 450 S.E.2d 753 (1994), *disc. rev. denied*, 340 N.C. 115, 456 S.E.2d 318 (1995)).

To be libelous *per se*, of course, the defamatory nature of the words must be apparent on their face:

In construing the publication, we are guided by the rule that to be actionable *per se*, the words:

'must be susceptible of but one meaning and of such nature that the court can presume as a matter of law that they tend to disgrace and degrade the party or hold him up to public hatred, contempt or ridicule . . . .'

*Clark v. Brown*, 99 N.C. App. 255, 260, 393 S.E.2d 134, *disc. rev. denied*, 327 N.C. 426 (1990) (quoting *Tyson v. L'Eggs Products, Inc.*, 84 N.C. App. 1, 12, 351 S.E.2d 834 (1987). "Whether a publication is libelous *per se* is a question of law for the court." *Boyce & Isley*, 153 N.C. App. at

31. In *Brown*, the defamation was a district attorney's statement that a former assistant had been fired for "Incompetence." The court had no difficulty concluding that the statement was libelous *per se*:

First, we determine as a matter of law that ordinary men would naturally understand defendant's statements to the newspaper reporter as disgracing plaintiff in his profession as an attorney and hurtful to his reputation. 'Incompetent' means '[o]f inadequate ability or fitness; not having the requisite capacity or qualification; incapable.' Oxford English Dictionary 166 (1<sup>st</sup> ed. 1971). On its face, the statement has but one meaning, defamatory *per se*, which degrades plaintiff's legal ability and disgraces him in his capacity as an attorney. Such imputations tend to prejudice plaintiff in his livelihood.

*Clark v. Brown*, 99 N.C. App. at 261. In the present case, of course, the Deas have made the very same kind of statements, with a bold headline on their website declaring "Veterinary Malpractice, Incompetence & Negligence" above the name of Dr. Monce.

Once libel *per se* is established, as it is in this case, there is no need for further evidence of harm. "In an action for libel or slander *per se*, malice and damages are presumed by proof of publication, with no further evidence required as to any resulting injury." *Boyce & Isley*, 153 N.C. App. at 30.

## **II. The Deas' defamatory statements are false.**

The Deas' website contains two defamatory statements. The first and most prominent is the headline at the top of the home page, "Veterinary Malpractice, Incompetence & Negligence," which appears in large bold letters above the words "Dana Jones, DVM, Durant Road Animal Hospital," and "Kevin Monce, DVM, VetSound, Inc." The second is this statement, also on the home page: "The North Carolina Veterinary Medical Board decided our complaint on March 23, 2001. It issued some discipline to the veterinarians nine months later. Included were reprimands for incompetence, gross negligence, or other malpractice in the practice of veterinary medicine." Both are statements composed by the Deas themselves, not quotes from vet board documents or any other source.

The headline, "Veterinarian Malpractice, Incompetence & Negligence," coupled with Dr. Monce's name, asserts in unequivocal terms that he has committed malpractice and is incompetent and negligent. The statement is libelous *per se*, and the statement is false. Dr. Monce has never been found liable for malpractice, incompetence or negligence. Veterinarians who are familiar with his abilities and his reputation report that he is competent, capable and qualified. Affidavits of Christine Fagan, Sheila Hanby, John D. Killoran, Katherine E. Wagner and G. Robert Weedon (compiled in Exhibit 26). In their depositions the Deas admitted that they had consulted a dozen different veterinarians about Dr. Monce's treatment of Alex and finally confessed that they did not know of single veterinarian who would say that Dr. Monce had failed to meet the proper standard of care or was incompetent or negligent or had committed malpractice. N. Deas dep. at 33, 44, 101; E. Deas dep. at 32.

The second statement is that Dr. Monce was "issued . . . discipline" by the Veterinary Medical Board for "incompetence, gross negligence, or other malpractice in the practice of veterinary medicine." The statement is false. On October 17, 2001, the board mailed to Dr. Monce a "Letter of Reprimand" which, indeed, included proposed findings of incompetence and malpractice. The letter was clear, however, that it was not a final action by the board, that Dr. Monce could "choose to reject the reprimand and request a formal hearing." Exhibit 5. Dr. Monce chose to do so. The result was the April 17, 2003, Consent Order entered between the Veterinary Medical Board and Dr. Monce to resolve all pending complaints against him. The Consent Order, of course, superseded the October 2001 letter from the board, and it contained no findings whatsoever concerning malpractice, incompetence or negligence. Throughout the discussions with the board Dr. Monce adamantly refused to ever accept any finding of malpractice, incompetence or negligence. Karin Monce deposition at 117-18, 134; Exhibit 20.

Contrary to the statement on the Deas' website, the Veterinary Medical Board never "issued some discipline" to Dr. Monce based on "incompetence, gross negligence, or other malpractice." To the extent the board charged Dr. Monce with incompetence and malpractice in its October 2001 letter, those issues were fully resolved in the April 2003 Consent Order. The Deas know and understand the effect of the Consent Order, and it is the reason they are so unhappy with the vet board. In deposition they stubbornly refused to acknowledge the obvious fact that the Consent Order had ended their complaint with no finding of malpractice, incompetence or negligence by Dr. Monce—N. Deas dep. at 21-23, 51-55; E. Deas dep. at 21-23—but they cannot avoid responsibility for their false statement by ignoring what is clear to everyone else.

**III. Saying that the Deas statement must be defamatory "within the four corners" of itself to be libelous *per se* does not mean that the statement loses its defamatory character by being mingled with other, non-libelous material.**

The Deas are disingenuous in discussing what they label as the "four corners rule." They quote *Flake v. Greensboro News Co.*, 212 N.C. 780, 787, 195 S.E.2d 55 (1938), for the proposition that in deciding whether a statement is libelous *per se* the court must view the publication "stripped of all insinuations, innuendo, colloquium, and explanatory circumstances", and the statement must be defamatory on its face "within the four corners thereof." They then assert that those words from *Flake* mean the entire publication must be reviewed to determine if the statement is defamatory, leading to their conclusion that the Deas' headline is not libelous because there is a great deal of other material on the website which says nothing defamatory. This argument twists the meaning of *Flake*, declaring in essence that a libelous statement does not matter if it is surrounded by a sufficient volume of other stuff.

The "four corners" statement in *Flake* does not have the meaning argued by the Deas. The court in *Flake* was only stating the well-established rule that in determining whether a statement is libelous *per se* one does not look beyond the statement itself, one cannot bring in extraneous

materials to determine whether the words have a defamatory meaning. In short, one must find the libelous meaning within the four corners of the publication itself without resort to outside sources.

As authority for the “four corners” quote the *Flake* court cites the 1919 Oklahoma case of *Kee v. Armstrong, Byrd & Co.*, 75 Okla. 84, 182 P. 494 (1919). *Kee* is a lengthy discussion of the meaning of “libelous *per se*” and whether the plaintiff had properly pleaded a cause of action. Holding that the words at issue there were not libelous on their face, the court went on to say that in such a case the plaintiff needed to plead “by way of inducement or averment, colloquium and innuendo, certain extrinsic facts which connect the plaintiff with the libelous publication and to plead the meaning the words have and that they would be understood to have . . . .” 182 P. at 498. Then the court explains the meaning of the common law terms “inducement or averment, colloquium and innuendo,” concluding that they all can be lumped together as “innuendoes”, and that they signify nothing more than a pleading to explain the meaning of the words. *Id.* Nowhere in *Kee* is there any suggestion — just as there is not in *Flake* — that libelous words can lose their defamatory meaning just because they are in the middle of non-defamatory statements.

Regardless of what else is on the website, the headline “Veterinary Malpractice, Incompetence & Negligence” defames Kevin Monce, as does the statement about his being disciplined for malpractice and gross negligence. The headline is the first and most prominent statement a reader sees on the site, and the other statement likewise is featured on the opening page. Whatever else may be on subsequent pages does not remove the libelous *per se* character of those statements.

The “four corners” angle is part of the Deas’ larger argument that their website is not really about Kevin Monce and his treatment of Alex, but instead is for the purpose of informing the public about the problems of dealing with the Veterinary Medical Board. Even if that were true, it makes no difference in determining whether the Deas have libeled Dr. Monce. The Deas could establish



a website about Tibetan pottery, but if it included the "Veterinary Malpractice, Incompetence & Negligence" headline immediately above Dr. Monce's name it still would be libelous.

In any event, the Deas' self-serving claims about the purpose of the website lack credibility because of the prominence given to Dr. Monce's name. When asked at her deposition whether she was trying to inform people of Dr. Monce's and Dr. Jones' malpractice, incompetence and negligence, Edna Deas said that was not part of her thinking at all and declared, "If I had never seen their name or heard their name again, it would have been okay with me." E. Deas dep. at 35-36. Yet, when asked whether she had considered putting the information on the website without the names, she responded that her sister Nancy constructed the site, followed by this admission: "Q. Did you discuss with your sister the issue of whether it should include their names? A. Did not." E. Deas dep. at 36. Nancy Deas was more forthcoming, acknowledging that she was attempting to communicate on the website that Dr. Monce had committed malpractice and was incompetent and negligent. N. Deas dep. at 78-79.

If the Deas' only interest had been to inform the public about the complaint process with the Veterinary Medical Board, they easily could have done so without defaming Kevin Monce. Edna Deas testified she did not even want to see Dr. Monce's name again, but that did not keep her and her sister from posting his name in large bold letters under the headline "Veterinarian Malpractice, Incompetence & Negligence" at the very opening of the site.

**IV. The treatment of the Deas' dog is not a matter of "public concern" offering the Deas some additional First Amendment protection from their libelous statements.**

In the Deas' lengthy discussion of the First Amendment they make the point that the degree of fault which must be shown in a libel case depends on whether the person being defamed is a public figure or a private person and whether the issue being reported is a matter of public concern. First Amendment law requires a showing of malice to sustain a libel claim when the subject is a public figure engaged in a matter of public concern, but lesser proof suffices when the person

libeled is a private individual or the issue is not one of public concern. Traditional common law libel concepts, freed of First Amendment ramifications, apply when a private individual is being defamed about a matter that is not of public concern. The Deas concede, as they must, that Dr. Monce is not a public figure, but they try to boost their case for summary judgment by asserting that their defamation is about a matter of public concern.

Putting aside any question as to whether the Deas' personal website ought to have the same First Amendment protections as a newspaper or magazine or television or radio station, the issue of the treatment of Alex simply is not a matter of public concern. The only North Carolina appellate decision addressing this issue is *Neill Grading and Const. Co., Inc., v. Lingafelt*, 168 N.C. App. 36, 606 S.E.2d 734, *appeal dismissed*, 360 N.C. 172 (2005), and it is instructive for the present case, especially in the facts that existed there but are missing here. In *Neill Grading* the court acknowledged that there was no developed North Carolina case law on whether something is a matter of public concern, but it noted the Supreme Court's guidance in *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 760-61 105 S.Ct. 2939, 86 L.Ed.2d 593 (1985), that the question "must be determined by [the expression's] content, form, and context . . . as revealed by the whole record."

In *Neill Grading* the issue was whether a radio station's reporting about two large sinkholes at a restaurant in Hickory was a matter of public concern. The court found it was a matter of public concern based on a record showing that the sinkholes had been reported on CNN, on Fox morning news, on other news programs and on television in Germany; that the sinkholes had been discussed by the regional council of governments at a meeting with Department of Transportation officials; that N.C. State and UNC-Charlotte had begun teaching about the sinkholes; and that the local visitors bureau had received calls about the sinkholes from as far away as Michigan. Moreover, the court noted the clear and immediate safety concerns to residents.

None of the *Neill Grading* factors can be found in the present case. Dr. Monce's treatment has not been a matter of public discussion and widespread news reporting, nor is it a matter of clear and immediate safety to the public. The only newspaper article that had appeared was written by a single columnist who was contacted by the Deas. There is no evidence that any other newspaper or news outlet picked up the story and spread it.

The Deas attempt to bootstrap their public concern argument by saying that their website really is about the Veterinary Medical Board's handling of their complaint rather than about Dr. Monce. As already discussed, even if the Deas could be believed, it does not matter what the purpose of the website is so long as it contains the defamatory statements about Dr. Monce. To the extent the purpose matters, Nancy Deas admitted that the website was meant to communicate Dr. Monce's incompetence. N. Deas dep. at 78-79.

**V. The "fair reporting" privilege accorded to traditional news media in some circumstances is not applicable to the Deas website or to their personal descriptions of their experience.**

The Deas rely upon the only North Carolina appellate decision which has recognized a fair reporting privilege, *LaComb v. Jacksonville Daily News Company*, 142 N.C. App. 511, 543 S.E.2d 219, *disc. rev. denied*, 353 N.C. 727 (2001). In *LaComb* the court acknowledged that "the fair report privilege has never been explicitly defined by North Carolina case law," but the court accepted the way in which "[c]ourts in other jurisdictions have articulated the privilege protecting the media when reporting on official arrests. . . ." 142 N.C. App. at 512-13. Said the court, "Substantial accuracy is therefore the test to apply when a plaintiff alleges defamation against a member of the media reporting on a matter of public interest, such as an arrest." (emphasis added) 142 N.C. App. at 513. The court then found that the Jacksonville newspaper's report of the arrests of two adults for contributing to the delinquency of minors was substantially accurate and not libelous.

To the extent the fair reporting privilege exists in North Carolina, as expressed in *LaComb*, it is a privilege thus far recognized only for newspapers and other traditional news media, and it is a privilege only for that media's reporting on matters of public concern. As discussed above, the Deas complaint about Dr. Monce is not a matter of public concern. And, of course, the Deas website is not a newspaper. The privilege exists for traditional news media who report on a variety of topics of general public interest, recognizing the difficulty a news organization has in verifying the accuracy of its stories before the pressing deadlines for publication. In that context, recognizing the important First Amendment function served by the news media, the courts have said the standard of reporting should be one of substantial accuracy, and there should be no liability for minor errors that creep in. There is no reason to extend such a privilege to a website maintained by the Deas sisters to detail their longstanding and bitter personal grievance over the treatment of their dog on one occasion, with the content constructed at their leisure free of any regular publication schedule.

### CONCLUSION

The Deas are not entitled to summary judgment. Their statements are libelous *per se* and are false. Their arguments that their comments are protected by the First Amendment because they address a matter of public concern and are fair reporting are not supported by the law. The Deas website is not a news outlet reporting on matters of general public interest; it is no more than a place to compile all their grievances about Dr. Monce and the Veterinary Medical Board and to publish defamatory statements for the whole world to read.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of November 2006.

THARRINGTON SMITH, L.L.P.

*Michael Crowell*

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*Attorneys for the plaintiff*

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**CERTIFICATE OF SERVICE**

I certify that a copy of **PLAINTIFF'S BRIEF OPPOSING SUMMARY JUDGMENT** was served by hand delivery to the following:

Hugh Stevens  
Everrett, Gaskins, Hancock & Stevens  
127 West Hargett Street  
Raleigh, North Carolina 27601

This 9<sup>th</sup> day of November 2006.

Michael Crowell  
Michael Crowell

**EXHIBIT 25**

5721 Wintergreen Drive  
Raleigh, North Carolina 27609  
February 3, 2000

North Carolina Veterinary Medical Board  
P.O. Box 12587  
Raleigh, North Carolina 27605

Dear Sirs:

We would like to make a complaint about the medical treatment that our dog, Alex, received from 12/28/99 through 01/03/00 involving his veterinarians.

Dana Jones, DVM  
Durant Road Animal Hospital and Kennel, PLLC  
10220 Durant Road  
Raleigh, NC 27614  
919/847-5553

Kevin A. Monce, DVM, DACVIM  
Vetsound, Inc.  
kmonce@vetsound.com  
(unknown address)  
919/669-1900  
919/880-7707

Additionally we feel that our requests for an explanation of what went wrong and for medical records have not been responded to adequately nor in a forthright manner.

We would like to request that we have the option of being heard in person by the Board and/or committee at the appropriate time.

Enclosed are:

1. Document - Medical History
2. Document - Information Regarding the Complaints
3. Document - Complaints
4. Document - Contact List
5. All invoices from Dr. Jones' office
6. Partial records obtained from Dr. Jones' office on 1/11/00
7. Statement from Donna Zormeier regarding 1/12/00
8. Request for records and response from Dr. Monce on 1/19/00, 1/20/00
9. Audio tape #1                      1/4/00                      Dr. Jones
10. Audio tape #2                     1/12/00                     Dr. Hostetter
11. Audio tape #3                     1/12/00                     Dr. Monce
12. Audio tape #4                     1/16/00                     Dr. Feimster
13. Audio tape #5                     1/24/00                     Dr. Jones
14. Alex's x-rays obtained from Dr. Jones' office on 1/11/00



Alex Deas  
February 3, 2000  
Page two

The document "Information Regarding the Complaint" is an account of what Alex's owners, Edna and Nancy Deas, observed in as much complete, accurate detail as we can provide. The information from 8:00 am to 4:30 pm on January 3, 2000, is supplied by Nancy Deas, the owner present.

All tapes are copies of original recordings (available on request) and have not been edited or enhanced in any way. Please note a gap in tape #3 that occurred when the original cassette had to be switched from side B to side A during the actual conversation.

All documents not prepared by the owners are exactly as provided and have not been altered in any way.

We regret the length of this report, but have tried to include all information with the hope that the Board is able to determine what actually did happen and to determine if the Administrative Rules of the North Carolina Veterinary Medical Board's standards of conduct were followed. Please contact us if you have any questions.

Thank you for your consideration of this matter.

Sincerely,

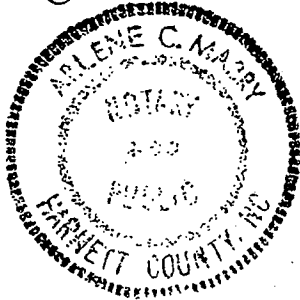
*Nancy G. Deas*

Nancy G. Deas

*Edna Deas*

Edna E. Deas

*Arlene Mabry*



*Commission Expires  
9/6/2004*

ALEX DEAS

## MEDICAL HISTORY

### 'Alex' Deas

Breed: Manchester Terrier  
Description: Black and Tan Male, Neutered  
Born: 10/06/85  
Died: 01/04/00  
Weight: 12-13 pounds

#### Medications:

Lysodren 125 mg twice a week, usually Monday and Thursday  
ThyroTabs .15 mg twice a day, morning and evening  
Heartguard 68 mcg once a month, usually on the 15th

#### Illnesses:

1994-2000 Hypothyroid, diagnosed at NCSU-VTH, K. Hurley, DVM  
1997-2000 Cushing's Disease, diagnosed by Kevin Monce  
1997-1998 Pruitus, uncertain cause.  
Ruled out/treated for scabies mite, ringworm, Barbara Atlee  
DVM DACVD, Veterinary Specialty Hospital  
Allergies, Thierry Olivry, Dr. Vet, Dip. ECVD, Dip ACVD, NCSU-VTH  
1997-1998 Steroid Hepatopathy-liver enzymes returned within normal limits after treatment for Cushing's Disease, Kevin Monce, DVM DACVIM, Veterinary Medicine Referral Hospital at Cornerstone Veterinary Hospital

#### Surgeries:

1989 Neutered, Craig Wilson, DVM, Bayleaf Animal Hospital  
1991 Dental extraction, Craig Wilson, DVM, Bayleaf Animal Hospital  
1995 Dental Extractions, Tom Currin, DVM, Mayfair Animal Hospital  
1997 Needle Liver Biopsy, Bile Acids, Abdominal Ultrasound, Kevin Monce, DVM, DACVIM, Veterinary Medicine Referral Hospital at Cornerstone Animal Hospital  
1997 Repair left ear hematoma, Kevin Monce, VMRH at Cornerstone Animal Hospital  
1997 Repair right ear hematoma, Kevin Monce, VMRH at Durant Road Animal Hospital  
1998 Abscessed tooth, Amy Lewis, DVM, Falls Village Veterinary Hospital  
1999 Dental cleaning and rectal mass removed, Dana Jones, DVM, Durant Road Animal Hospital

#### Hospitalizations:

11/16/92 High Glucose, NCSU-VTH, Teresa DeFrancesco, DVM  
12/27/98 Pancreatitis ??? Falls Village, Amy Lewis, DVM

## INFORMATION REGARDING THE COMPLAINT 'ALEX' DEAS

December 27, 1999

Edna and I feel that Alex is not eating well (he eats at every feeding but does not clean his plate), seems a little weak and unsteady and maybe has lost weight. I call Dr. Jones' office and make an appointment for a STIM/Blood Chemistry so they will allow time for the two blood draws. Later that night, Gus is itchy so we bathe both Gus and Alex.

Medication = 125 mg Lysodren , .15 mg ThyroTab 2X, Bactoderm 1x both ears.

December 28, 1999

On the way to Dr. Jones' Alex stands on the front car seat as usual and looks out the front of the car over the dashboard. Edna and I arrive with Alex. Dr. Jones comes into the exam room and we tell him about the eating, weakness, weight loss but that Alex is drinking, urinating and defecating. We tell Dr. Jones that we have used Bactoderm for the past two days because Alex's ears are bothering him. Agree on STIM and blood work. When we remove Alex's coat for Dr. Jones to examine Alex we notice a lot of white flaking in his fur. Dr. Jones takes Alex to the lab area while Edna and I wait in the lobby. Dr. Jones comes out with Alex and says the next draw will be in one hour. Edna, Alex and I wait in the car. Alex lays quietly on his comforter. A van parks beside us. The couple walks their old dog. No response from Alex. The couple showing emotion, leaves without their dog. Another woman arrives with her dog. Alex does not lift his head.

Close to one hour, we go into the lobby for the second draw. A third client gets his dog into the atrium but the dog will not come into the lobby. The client has on knit gloves but will not pick his dog up. The dog appears to be covered with mange. A staff person finally comes out and carries the dog to an exam room. Alex is returned from the lab and I pay the bill. Alex lays on the comforter all the way home which is not like him.

After arriving home I realize the bill is too small for Exam/Stim/Blood and call back to see if blood was drawn for SuperChem.(bill only reflects Stim). Dr. Jones comes on the phone and says no. I ask is there is enough blood and he says he thinks so but something about the color of the caps on the blood samples.

Alex eats lunch (he was fasting for the tests) and just seems very quiet. Later, he would not eat dinner.

Medication = .15 mg ThyroTab 2X

December 29, 1999

Dr. Jones calls with the results of the tests. Stim is OK. Elevated liver enzymes but I do not write down the numbers. Jones says Monce will be in the following week and that they will discuss the results. I tell him that Alex is now not eating good.

About lunch time, I call Vetsound and speak with Dr. Monce. I tell him that Alex's liver enzymes are elevated. He says probably "same old, same old".

He says ALP - who cares, ALT if under 300, we're okay. I tell Monce about difficulty getting Alex to eat, his weakness, walking unsteadily, weight loss, and Alex being too quiet. He asks if there is anything else. I tell about flaking skin on Dec. 28th. He says that's probably due to the weather. Edna says we can't wait - Alex will be dead by Monday. Monce says no, but that he will have Jones send the lab reports to the next hospital that he will be at. Monce says he will e-mail us a summary. Edna gives Dr. Monce her e-mail address. We never receive the e-mail from Monce.  
Medication = .15 mg ThyroTab 2X

December 30, 1999

Difficulty getting Alex to eat. It is hard to get him to eat anything even when we try hand feeding him. Also notice that his walking is more slow and unsteady. We notice that while walking around he bumps into objects not in the usual places. We wonder if Alex has gone completely blind and call Dr. English's office and set up an appointment for Jan. 12th for ERG and cataract surgery if we are able to proceed.

Call Jones' office. He returns call at Edna's office at 1:30 pm. I tell him we think Alex is blind and that is why he is not eating. Tell of appointment with Dr. English on Jan. 12th and that we will need the echo/cardio eval like with Gus. He says if he could get Monce that afternoon he would but that it will need to be Monday, Jan. 3rd. I tell him that Alex is worse - all he is doing is drinking, sleeping and urinating. He says Alex may need fluids later. Edna checks her e-mail at 5:00 pm. There is nothing from Dr. Monce.

Medication = .15 mg ThyroTab 2X

December 31, 1999

Alex refuses to eat but he is drinking and urinating. Call Jones and say that Alex is worse. He says to come to his office. Walking out to the car. Alex walks into a low rose bush and just stands there. I pick him up and put him in the car. Alex lays in the car instead of being the "navigator" as usual. Edna and I meet with Dr. Jones in the exam room with Alex. Jones tells us that Monce will do a liver biopsy instead of an echo on Monday and that the blood work done on Dec. 27th needs to be repeated. Alex will also need coagulation studies and a vitamin K injection. I tell him that Monce had done a needle liver biopsy about two years previous. He says that this will be bigger and explains a little. I say I will call and cancel the appointment with Dr. English. Dr. Jones examines Alex. He feels his abdomen and listens to Alex's heart. We ask if Alex is blind. Dr. Jones moves his open hand in front of Alex's eyes and Alex responds. He holds a cotton ball in front of Alex's right eye and Alex does not move. Dr. Jones says the left eye is blind but that Alex can still see a little in the right eye. Alex is anxious. I put him on the floor and Dr. Jones observes Alex walk. Dr. Jones has me put him back on the exam table and feels his back. He says he can feel a bad disc. He flexes Alex's back feet and says the response does not indicate cord injury. I ask about x-rays and he says he does not need them. He indicates that disc problems can be painful and we can use baby aspirin. He advises not to let Alex jump or go down stairs. He says that Alex needs fluids. Dr. Jones takes Alex to the lab. Edna and I wait outside the office while I have a cigarette. Dr. Jones comes out with Alex and hands him to Edna. Edna notices his lower left canine tooth is missing, but says nothing. Jones tells us we will be called on Monday.

morning when he and Monce are set up for us. Alex is quiet and lays on the car seat on the way home.

Early afternoon, Alex refused his regular food but ate 1/2 piece Healthy Choice cooked ham (.5 oz/14g) and a slice of cracked oat bread.

Mid afternoon, Edna has Gus in the back yard. Alex slowly walks to the back door and wants to go out. I put Alex's coat on him and carry him into the backyard. He slowly is walking toward Gus, when they hear something in the buffer zone. Gus is barking and running around. Alex stands perfectly still but barks.

At dinner, Alex refused all regular foods offered but ate a small amount of plain bagel. We were trying to figure out why Alex wouldn't eat. Edna brings up the missing canine. I had noticed the tooth missing Dec. 28th when I gave the night dose of ThyroTab. We almost call Jones to ask about the missing tooth. We give Alex 1 baby aspirin for back pain.

Total food = 14 g. ham, 1 slice bread

Total water = 16 oz.

Urine = OK

Defecated = 0x

Medication = .15 mg ThyroTab 2X, 1 baby aspirin

January 1, 2000

By 10:50 am Alex has refused all food except 3-4 pieces of ham measuring about 1/4" square. He has not drank or urinated yet. We gave him 1/2 a baby aspirin which is vomited along with the ham at 10:55 am. We questioned whether the vomitus contained a small amount of bile. At 11:40 am we try to get Alex to drink. He refuses and pulls away from the water bowl. When he tries to eat he takes a bite then jerks his head back. When Alex had previously had mouth problems he had behaved this way so we opened his mouth. The lower left canine tooth was broken off at the gum line but you could still see the white stump. I called Dr. Jones at home and told him. He said we may need to feed Alex gruel. The tooth problem would have to wait until Monday, Jan. 3rd.

12:10 pm Alex urinated, defecated and ate grass in the yard.

12:20 pm Alex ate 1/4 baked chicken breast but refused the remaining 1/4 offered him. He again refused to drink.

2:20 pm Alex drank 4 oz. water and refused additional food.

5:30 pm Alex drank 2+ oz of water and urinated.

6:30 pm Alex refused any foods offered him including gruel made with chicken breast. He drank 3 oz. water

7:30 pm Alex tried but could not eat small pieces of bread with peanut butter. He urinated.

7:45 pm Alex tried to eat small pieces of plain bread but could not. He urinated.

8:15 pm Alex ate 1/4 slice of plain bread torn into small pieces. He did not drink or urinate.

Total food = 1/4 chicken breast, 1/4+ slice bread.  
 Total water = 9+oz.  
 Urine = 4x.  
 Defecated = 1x.  
 Medication = .15 mg ThyroTab 2X

January 2, 2000

At 5 am, Alex drank water? Not enough to measure.

Between 10-11am Alex ate 1/4 slice plain bread with Smart Balance, urinated, defecated and drank 2 oz of water.

At 12 noon, I called Dr. Jones at home and reported this. He said that unless Alex's drinking improved that Alex would need more fluids. We agreed that if by 5 pm Alex had not drank more, I would call him at home and that he would meet us at the office.

About 2:30 pm Dr. Jones called and said he was at the office and to bring Alex up because they were trying to leave. We left the house.

At Dr. Jones office, Dr. Jones began giving fluids and Alex would not remain still even with me holding him. Dr. Jones reinserted the needle and was again trying to push the fluids in when Alex knocked the needle out and the fluid sprayed in my face. I held Alex against my chest with his head on my shoulder while Dr. Jones inserted the needle a third time and was able to force a small amount of fluid until I could no longer hold a struggling Alex. Dr. Jones opened his mouth and said he did not see the broken tooth. When asked what he saw, he said a hole. Edna insisted she saw the white stump so he looked again and confirmed that he saw it. Dr. Jones said we would be called at home Monday 1/3 when they were ready for the biopsy. The rest of the evening Alex did not drink, eat, urinate, or defecate. Very concerned. We called Dr. Monce at home and left a message on his answering machine to call us back. We slept on the floor with Alex all night.

Total food = 1/4 slice bread with Smart Balance.  
 Total water = 2+ oz. water in the am  
 Urinated = 1x in the am  
 Defecated = 1x in the am  
 Fluids = some amount at Dr. Jones in the afternoon  
 Medication = .15 mg ThyroTab 2X

January 3, 2000

6:30 am As Edna leaves for work, she says good-bye to Alex. He is awake, is lying down but has his head up. He is not very responsive.

8:00 am Dr. Monce returns call from message left Jan. 2nd. I talk to him about our concerns including the day-by-day decline since January 28th, the broken

tooth and hurt back. I question whether there was an incident on January 28th in Jones' lab in which Alex may have been injured or jumped from the table while blood was being drawn. I asked that in addition to the liver consult that Dr. Monce take charge and look Alex over to make sure that he is o.k.

Dr. Monce says it will be about 9:00 am when he is at Dr. Jones' office.

8:30 am I am dressing when I see Alex walking from the bedroom where we keep papers for indoor urination. He is walking slowly, unsteadily and seems oblivious to my presence as we pass one another. I check the newspaper and there is a significant amount of urine. Alex walks into the living room and stops at his chair and waits. I lift him onto his chair and ask my mother to watch him while I finish dressing. Helen, Gus, Alex and I wait in the living room for the call to go to Dr. Jones' office.

10:00 am I call Jones' office to confirm that I am still to wait for call to come.

10:30 am I receive call to come. I put Alex's harness on him while he sits in his chair. He is very quite and although sitting up, I have to put his legs in the straps of his harness instead of his stepping into the straps as usual. I carry Alex to the car.

11:00 am Arrive at Dr. Jones' office. I carry Alex to the grassy area between the parking lot and street to allow him to urinate. Alex walks slowly but when he steps onto the mounded mulch around a tree Alex backs away. He walks more until the same thing happens at a second tree. Alex continues to walk but seems lost as he walks towards the street (He usually walks back to the car and wants to go home). I pick Alex up and carry him into Jones' lobby. Jones accompanies me from his lobby to Monce's trailer in the parking lot. Dr. Daley is in the truck with her dog, Froggie, and Dr. Monce is in the trailer at his computer. Dr. Daley comes into the trailer. Froggie is not with her.

I am holding Alex. Dr. Monce says hi to Alex as he looks at him in the face from about 1-2 feet. He may have petted him.

Dr. Monce returns to the computer and I see Alex's records. I ask if he has the reports from the blood work that was repeated (from 12/31/99). He says he does and they are about the same.

Dr. Daley shaves Alex while I hold him. Dr. Monce is still at the computer. Alex is good and only seems bothered by the noise.

Dr. Daley positions Alex on his left side and shows me how to hold his legs (front and back) while she applies blue gel for the ultrasound. Alex is not laying still but is not struggling.

Dr. Daley begins the ultrasound.

Dr. Daley says there is fluid in the abdomen. Dr. Monce, still at his computer, asks if it is a small amount. Dr. Daley replies that 'she has seen less'.



Dr. Daley continues the ultrasound. I believe she first images the spleen and says that it is enlarged and has fluid. She notices a small amount of urine on the towel and has me lift up Alex's hindquarters while she folds a dry edge over the wet area.

She is moving to the second organ and Alex becomes agitated. Dr. Daley and I try to calm Alex and she attempts to begin again but Alex will not remain still even though I am still holding his front and back legs.

Dr. Monce asks how far she has gotten and she says she has not finished the second slide. Dr. Monce says that he will need to sedate Alex. I pick Alex up and hold him. Dr. Monce says Alex weighs 16 pounds. I say no, he usually weighs 12 pounds but that he has lost weight. He gets a syringe from the chest next to his computer and prepares an injection. He walks over to administer it and I ask that he check Alex's heart first. He gets a stethoscope and listens for 2-3 minutes. He administers the injection. In less than 30 seconds Alex is limp in my arms. I remark how fast it worked. I place Alex back on the table on the towel. Dr. Monce returns to his computer and Dr. Daley resumes the ultrasound. I am standing opposite Dr. Daley and watching the images on the screen. She says that the liver is enlarged and that the edges are rounded. I believe Dr. Monce asks her a question about it.

Dr. Daley notes that Alex has again urinated and says its involuntary. She asks that when she lifts Alex that I turn the towel over.

Dr. Monce walks to the table and I move aside but am still watching. Dr. Daley continues to image the liver and take slides. Dr. Monce points out to me a white streak that is moving from left to right. He says that its blood moving through the portal vein. I ask if that is good. I believe Drs. Monce and Daley discuss other areas of the liver to take slides on. I believe she changes cassettes and he returns to his computer with the first cassette.

Dr. Daley images the adrenals, says they are enlarged and that there is a tumor in the left one. Dr. Monce walks to the monitor. I tell Dr. Monce that during the ultrasound and needle liver biopsy 2 years ago he had found a bump on one adrenal, but I could not recall which one, and that when I had asked if it was a tumor he had replied "maybe, but not necessarily". I also recall that at that time he had said the bile acids test were not exciting. Dr. Monce says that is three computers back and that the tumor is benign. Slides are taken.

Dr. Daley says that the gallbladder is thick. I sit down in the chair. I hear Dr. Daley say that there is a pleural effusion and I hear Dr. Monce say COPD.

Dr. Daley says the pancreas looks normal.

At this point it appears the ultrasound is ending. From what I have heard and seen and knowing the liver enzymes are too high, I wonder if it would not be better to euthanize Alex while he is still asleep and won't even know it or suffer. I think I will have to call Edna first.

I say to Dr. Monce, "There's too much wrong. Isn't the kindest thing to euthanize Alex and not proceed (with the biopsy)?" Dr. Monce says no, that not correct.

Dr. Daley wipes the gel off of Alex, I believe with paper towels, and Dr. Monce cleans Alex's abdomen with a solution from a stainless bowl using gauze pads. I notice items are already laid out by a storage area to the right of Dr. Monce.

Dr. Monce picks up a syringe (long needle and large container type barrel) and says that he is going to withdraw some of the abdominal fluid. With Dr. Daley's ultrasound guiding him, he does this effortlessly. The fluid looks reddish and he tells me that it is not blood. He says that is the color of abdominal fluid but that is it a little dark meaning that it is old.

He gets another instrument and says that he needs to biopsy the spleen. I watch standing up and am relieved that it seems so quick and simple. He puts the biopsy on a slide.

Dr. Daley asks Dr. Monce if he wants to biopsy the gallbladder. He replies "no".

Dr. Monce gets another syringe (without the large barrel container) and inserts it. I see a small object moving on the monitor. Dr. Daley says to be careful of the vein. Dr. Monce is manipulating the needle and says that he got a lymph node. He says something about not being able to get the lymph node if he had been trying. He withdraws fluid ? from the lymph node.

Dr. Daley again asks if Dr. Monce wants to biopsy the gallbladder. He says no. I believe this is when Dr. Monce turns Alex from Alex's left side to Alex's right side using his legs. Alex's body appears completely limp.

Dr. Monce gets the instrument for biopsy and begins on the liver. As he inserts it, Dr. Daley says that the liver is mushy. Dr. Monce seems to be having difficulty reaching what he wants and she is giving directions such as more towards me and back away. He withdraws the instrument. When he goes to put the specimen on a slide he remarks that the specimen is small.

Dr. Monce goes back into the liver again with Dr. Daley guiding him. Dr. Daley is saying things like pull back, OK, no, pull back, more towards me. You went all the way through. Monce says it's okay. Dr. Monce withdraws the instrument. Before trying again, he tells Daley that the glove she has over the ultrasound is in his way and that she needs to tighten it. They try again and get the biopsy. I am relieved it is over.

Dr. Monce starts picking up slides, the needle with abdominal fluid and I believe a small specimen jar and says that I can carry Alex into Jones' office. I get a white baby blanket out of my purse and place it over Alex. He is still asleep and laying on his right side. Dr. Monce goes over to his computer and drug chest. When I ask Dr. Monce for a first impression and he says 'first impression could be hepatitis'. I ask if hepatitis is treatable. He says yes and that we can talk on the way. I put my purse over my arm, pick up Alex with the towel underneath and blanket over and head towards Jones' office. I am saying - what's next? isofluorane, tooth, back x-ray and

nail trim? I asked how long Alex would need observed and he said four hours. At the kennel entrance a client is coming out with her dog. She steps aside while we go in go to the treatment area.

12 noon

I believe this is when I look at the clock and think they are going to be working during lunch time.

I place Alex on the table. He is still sleeping. The towel is still under him and the baby blanket it still on top of him. I look at the isofluorane machine. Dr. Monce sets down his items on a counter with a microscope.

Dr. Jones greets us and gets ready to intubate Alex. Dr. Monce says that I do not want to see this part so I turn away from them. I do not recall hearing anything. I am aware that I can look back when Dr. Monce leaves the treatment table and walks to the counter. I do not see a mask for administering the isofluorane on the table or at the isofluorane machine. In fact, the isofluorane machine looks just as it does when I first entered the treatment area and placed Alex on the table. I believe Dr. Alphin (or it could have been Dr. Hostetter) is placing Alex's white baby blanket on a different counter near where I am standing and she takes the towel away.

Dr. Monce asks Dr. Jones if the fixative is in the cabinet above Monce. Dr. Daley and Froggie have joined us and are standing on my right.

Dr. Monce is working on the specimens and looking at slides under the microscope. Dr. Jones and Dr. Monce are talking about a cat with hepatitis that is successfully being treated. Dr. Jones is getting ready to remove the tooth root and he says it will be hard. I ask Dr. Jones to check Alex's mouth to see if anything else is wrong.

Dr. Jones says that Alex's jaw is broken. I ask what can be done. Dr. Jones says he will need to wire it. Dr. Monce leaves the microscope area, examines Alex's jaw, explains that it is just cartilage and points to the area at the center of his chin to show me where the problem is. Dr. Monce says that Alex's jaw doesn't have to be wired.

Dr. Monce notes that Alex is laying on his right side and tells Dr. Jones that Alex needs to remain on Alex's left side. Dr. Jones indicates that he can remove the broken lower left canine tooth from that position. Dr. Jones has instruments on the table and says that the tooth root is cracked. He says that I had told him that my mother said Alex had jumped off a chair. I tell him that I had talked more to my 84 year old mother again on Saturday (1/1/2000) after having found the broken tooth. I told him that my mother said that Alex had jumped from his chair (regular upholstered chair, top of the seat cushion is 19.5 inches from floor), landed on his feet and struggled to maintain his balance but did not fall flat down. I said she could not be sure if he hit his chin or not but that the floors are wood and there is a mat in front of the chair. Dr. Jones says maybe it was broken a long time ago and I said no. Jones says maybe it was rotten. Dr. Monce tries to say something about infection from the tooth to jaw or maybe Alex was born that way. Conversation stops. Dr. Monce returns to the counter and Dr. Jones begins removing the tooth root. I begin talking to Dr. Daley while watching.

Dr. Jones gets the root out. Monce looks at it. Dr. Jones and Dr. Monce are at the table with Alex when I say that if I had an IOL in my pocket that maybe they could do it all. Everyone laughs and Dr. Jones speaks about the complexity of Dr. English's work. While Dr. Jones sutures the extraction site, Dr. Hostetter cuts Alex's nails back and packs them.

12:30 PM

I believe this is when I looked at the clock and noticed it was 12:30 noon.

Dr. Jones is checking Alex and says he needs to swallow to get the tube out. He checks Alex's mouth as says that the gums are a little pale. We're all waiting for Alex to swallow and I am talking to Dr. Daley about Froggie. When I mention our previous dog was 14 years old when she died, things get quiet. I go over to Alex and start talking to him and petting him. I am alone at the table with Alex. Dr. Jones passes by and says that "sometimes slow can be good".

**Dr. Jones says to Dr. Monce - "Curaine?" [tubocurarine chloride]**

**Dr. Monce replies "yes" or "yeah".**

**I remember thinking this is wrong! That's the drug Monce and Jones discussed that Dr. English would use to paralyze Gus' breathing during Gus' cataract surgery last September but Alex needs to wake up.**

Dr. Jones leaves and returns with fluids that he squeezes to give SQ. Alex gurgles and swallows(?). Alex wasn't awake yet. Dr. Jones removes the endotracheal tube.

Dr. Monce says Alex needs dexamethasone. Jones calculates and calls out the amount. Monce says no, calculates differently and says a different amount. Jones questions Monce's calculations and Monce says Jones is right. Jones administers the dexamethasone injection. Dr. Monce explains that we would be pumping 200 but Alex was still at 4.7 because of his Cushing's disease. I guess I do not register comprehension, because Dr. Monce repeats this.

Dr. Monce says he would like a blood test run (CBC?). Dr. Jones is by himself at the table with Alex and trying to extend Alex's neck and draw blood from the jugular vein. No one offers to help him so I ask if he wants me to hold Alex's head so that it is extended. He says yes and I do.

Jones gives Alex an injection of pain killer and he and Monce discuss antibiotics - I remember Clavamox being mentioned.

I remember that x-rays have not been taken and remind them. Dr. Jones tells Dr. Monce that the disc problem is at C(some number), L(some number). When picking Alex up, Dr. Jones says Alex has little old man legs. and that is what Dr. Jones' own legs will probably look like when he is old. Dr. Jones takes Alex across the hall for x-rays and returns him to the table.

Dr. Hostetter comes in to Dr. Monce and is showing him 1-2 pages of white paper in a manila folder. They are whispering and pointing to what is on the paper. I wonder if this is the results of the CBC?

Dr. Jones puts ointment in Alex's eyes. I put Alex's baby blanket on his back and someone hooks up a heating pad and places it on Alex. I am standing beside the table petting and talking to Alex. Alex is still asleep but I believe I notice that his eyes are partially open and staring.

Dr. Monce has all of the specimens bundled with the paperwork on the counter. He tells Dr. Jones that he is requesting a specific person for cytology and pathology because that person does both, rather than have cytology by one person and pathology by another.

Dr. Jones leaves to check on the x-rays, returns and says there is no disc problem. Dr. Monce and Dr. Jones go across the hall to look at the x-rays. Dr. Jones says to Dr. Monce that the x-rays are pretty good but light. I hear Dr. Jones tell Dr. Monce that Alex doesn't even have arthritis.

Dr. Jones returns. He looks briefly at Alex and asks if Dr. Monce had fixed the hematomas in one or both ears. I reply both. Jones says Alex's ears feel thick and that he remembered when Dr. Monce had fixed one of Alex's ears at Jones' office. (The left ear had been fixed by Dr. Monce when he was Veterinary Medicine Referral Hospital at Cornerstone Animal Hospital. The right ear was fixed by Dr. Monce when he was Veterinary Medicine Referral Hospital at Durant Road Animal Hospital)

Dr. Jones goes over to the counter where Monce has been and looks for the tooth root. He can't find it and says that Monce must have taken it -- maybe he wanted a souvenir. That's when I realize that Drs. Monce and Daley have left without a word. Then Jones sharply asks where Alex's records are and leaves me alone with Alex. Dr. Jones returns and says the records are in his office. Dr. Alphin comes in and Dr. Jones says they have a room ready for me. Dr. Alphin notices that one of Alex's toenails needs packed and does it. I say give me a minute and leave to go to the car to get a comforter. I stop at the restroom. before returning. Dr. Alphin indicates a room that opens onto the treatment area and says there is a chair for me to sit in and hold Alex. Dr. Jones is bringing Alex but I suggest that Alex and I sit on the floor instead. Dr. Jones places Alex on the comforter that I have folded on the floor.

1:15 PM

The heating pad is brought but there no convenient outlet. Dr. Alphin says it is still warm and Alex shouldn't be too hot anyway. I sit on the floor with Alex and realize it is past one o'clock and need to call Edna to let her know that everything is complete. The only person around is a staff person at a desk opposite me. I asked if she could watch Alex. I call Edna from the lobby and look out the lobby window to see if Monce's trailer is still in the parking lot. It is gone. I believe this is when I step outside to smoke and Dr. Jones is outside. I ask that if Alex has hepatitis should we be treating the house and what about Gus. He says there is no need to disinfect the house. I return to Alex and sit on the floor beside him. I notice that his feet and ears are cold and put the baby blanket over his feet but am careful not to cover his body because I want to watch his breathing.

- 2:00 PM About 2:00 pm Jones comes into the room with 2 pill containers and goes over directions. He says he's leaving in a little while for lunch. I stand up to stretch and see Dr. Jones, Dr. Alphin, and the 3 children getting into the van in the parking lot. At 2:30 pm I asked the same staff person to watch Alex while I went outside to smoke. Later I see Dr. Alphin and know that they have returned.
- 3:30 PM About 3:30 pm Dr. Jones said about another hour. I asked what if Alex had pain that night. He returned with a container of pain pills and saw me filling out the check on the floor. He said the charges were in different places and I said you know where I live. I used the phone in the treatment area to ask Edna to head home by 4 o'clock. She said perhaps she should meet me at Jones' to help bring Alex home.
- 4:00 PM About 4 o'clock Jones said it won't be long now. I wanted a cigarette so I asked Hostetter if she could watch Alex. When I returned Hostetter was on the floor checking Alex and just smiled at me. She remarked about my having sat with him and I explained that before today, Jones had asked me to be available to stay with him as he came out of the anesthesia to help keep him quiet.
- 4:30 PM At 4:30 pm Jones said I could go home now if I wanted. I asked when Alex could eat. When he did not reply. I said 'Tomorrow morning?' He said yes or maybe later tonight. I called Edna's office to see if she had left and got phone mail. I called my mother and told her that I was leaving with Alex and when Edna got home to tell her to wait at home for me. I put my purse over my arm and picked up Alex in the blanket. Neither Dr. Jones, Dr. Alphin nor Dr. Hostetter were there to say good-bye.
- When I reached the lobby two staff persons were behind the counter. No one spoke or got up to open the door to the atrium so I opened it with my backside. I opened the door to the parking lot the same way. I placed Alex on the front passenger seat. I got in on the driver side and used the seat belt to secure Alex. He was still, and breathing but his eyes were staring with the ointment still in them.
- 5:00 PM I arrive home with Alex and place him and his comforter on the living room floor. Edna and I take turns sitting with Alex and except for a small amount of blood/saliva(?), twice on the comforter, we do not notice anything happening. He appears asleep; his eyes are still glazed with ointment still in them, and we do not notice anything difficult about his breathing. We talk to Alex and pet him. We are getting anxious for him to start to come out of the anesthesia. (At other times, although responsive, both dogs have either completely come out quickly or slowly over hours). We realize a lot has taken place today and question when we should call Dr. Jones at home.
- 10:30 Alex begins rapid, labored breathing. Respiration = 80. I call Dr. Jones at home and Dr. Alphin answers. I tell her the problem and she says Dr. Jones is on another line and will call me back. Dr. Jones calls back and I tell him respiration is down to 69 but Alex is not coming out of the anesthesia. He says to meet him at the office.

Edna and I arrive at Dr. Jones' office with Alex wrapped up in the same comforter. Dr. Jones examines him and says Alex is dry.

Rectal temperature is 99 ? - one degree below normal. He says Alex is cold. Dr. Jones says he needs to call his wife (Dr. Alphin) and I follow him to get the heating pad. Edna and I hook up the heating pad. We hear Dr. Jones on the phone saying, "We don't have a dead dog here". He says something about Alex being cold. I ask Edna what he is saying and then we cannot hear any more.

Dr. Jones returns to the exam room and says Alex needs stimulated and turned from side to side. Jones does this and also positions Alex on his stomach and supports Alex's head. Jones notes that Alex's tongue is dry, hanging out and coated and says how awful that feels. He asks one of us to put a little water on Alex's tongue. Edna washes her hands and wets Alex's tongue. She tries to get dried blood off of Alex's tongue and Alex retracts his tongue. This is the only response Alex has made since he was sedated at the time of the ultrasound, other than the gurgling when the endotracheal tube was removed. Dr. Jones draws blood from the front leg (Alex's leg slightly jerks) and leaves to run a PCV test. He returns and says its not too bad.

He says that if Alex's temperature were 2 degrees below normal he would use warm fluids but just gives fluids SQ. I notice how cold the fluid bump on Alex's back is in contrast to the rest of his body.

Dr. Jones says that when back home keep Alex warm. He loans us the heating pad and also suggests we heat towels in the dryer and put on Alex. He says turn him from left to right every five minutes and continue to stimulate him. I am not certain if he gave Alex an antibiotic injection or not. Edna and I leave with Alex and run the car heater on the way home.

Back home, Edna and I have the heating pad on Alex. She is petting him and talking to him. I am heating comforters in the dryer and using a timer to know when to turn him left to right. We do this several times. While waiting for the 3rd warm comforter, Alex makes 3-5 strange barking-like sounds. Then he is quiet.

January 4, 2000

12:30am

I call Dr. Monce at home. Tell him how sorry we are to bother him but that we have been to Dr. Jones' office, that Alex has not awakened, and that he has made the strange sounds. I tell Dr. Monce what Dr. Jones told us and his directions. Dr. Monce said to quit turning Alex but keep him warm. I asked if he had any tricks. He described a condition called hepatic encephalopathy and said something about protein and nitrogen. He said we needed to give enemas. He asked if we had any at home. I said no, but I could go to the store. When I asked what to buy he said Fleet, ISO(?) or something else. When I ask how much, he said 1/2 of Fleet. He said or if you have an ear syringe use water with dish detergent. I said we had the syringe and ask how much. He said until we could see fluids coming out. He warned to have Alex on something that we could remove and throw out in the yard.

We are almost paralyzed with fear. Alex looks so bad. Why are Monce and Jones not taking responsibility for Alex's care?

We call Dr. Jones back and he hears the barking sounds. I tell Dr. Jones it has been 5 minutes since they last occurred. I tell him what Dr. Monce told us to do, but we are too frightened to do it. I said something has to be done and I do not know what to do. Dr. Jones says Alex needs to be in a hospital. I say that I know Jones can't stay at his hospital all night. Jones says take him to an emergency clinic. I ask about State (NCSU-VTH). Dr. Jones says I can't get in State and I say I believe I can - Alex has been a patient there before. He says we can't but if I want to call he gives me the number. He asks that I call him back with our decision.

I call Dr. Monce and tell him Jones says Alex needs to be in the hospital. Monce asks if I gave the enemas. I say no - we were too frightened. Monce says he left two copies of his report at Jones earlier that day and wants to know if I got my copy. I say no.

Monce asks if Jones is going to meet us in the office. I say no -- Jones says emergency clinic. I ask Monce 'what about State?' Monce says "Nancy, you know you don't want to do that. You know what that's like.". I say "Yes, where should we go?". Monce says the emergency clinic by Dr. English's. He says get medical treatment for hepatic encephalopathy, that Alex has liver disease, needs saline IV and enemas. He says this could take two days. I write this on his card in my address book and say we're leaving.

I call the emergency clinic and say we're on the way. I give Monce's home phone number and ask that they call him.

Call Jones and tell him we're going to Cary. Jones asks if Dr. Feimster is on duty and I say I didn't ask. He says Feimster is good but to warn him about giving fluids because Alex has already had them and concern for overloading Alex's heart. I ask how much fluid has he had today? He said 275 ml. I ask of what. He say Ringer's lactate.

1:00 am

I grab the address book and Edna and I leave with Alex in the last comforter from the dryer.

1:30 am

We arrive at Cary and identify ourselves. I ask if Dr. Monce has been called am told no that they had to deal with another emergency. The technician wants to take Alex to the back and I say I am coming. She says I can't but that after the doctor looks at Alex he will talk with us. I say no. She says to wait. She returns and shows us to an exam room and Dr. Feimster comes in. I give him as much quick information as I can regarding procedures, drugs, fluids and what Monce said. I say that Dr. Monce's first impression was hepatitis. Feimster asks a few questions and looks at Alex. I ask if he has called Dr. Monce and he says no but he will. He says he needs to take Alex back, start fluids and put him on a warming pad. I repeat Dr. Jones information about fluids that day. Dr. Feimster asks if Alex has had a pain killer. I said yes, it started with the letter T but I could not remember the name. He said its okay.



Dr. Feimster returns shortly and says he has called Monce. He said that he has heard 3 possibilities and none seem quite right. 1) late abdominal bleeding from the biopsy which if true could stop on its own or require surgery 2) hepatic encephalopathy which if true needs saline and enemas 3) neurological problems. He said Dr. Monce said liver disease is liver disease. Edna asks the prognosis. Feimster says end-stage. Edna asks if Alex is suffering. Dr. Feimster says he cannot answer that. Edna asks if he is in pain. Dr. Feimster says not pain like being hit by a car. Edna asks again if he is suffering. Feimster says Alex feels sick. (This exchange is repeated numerous times the rest of the time we are there). We ask if we can see Alex and are allowed to stay as long as we wish. Edna and I visit with Alex. Dr. Feimster asks if we want him to try the enema. We say yes. Edna and I go to the lobby.

Dr. Feimster comes out and says Alex has severe acidosis and that he can try sodium bicarbonate. We consent.

Dr. Feimster comes out and asks if we think Alex's abdomen is distended. We say yes. He asks to remove abdominal fluid and we consent. He returns and says he does not find much blood and is running PCV. I ask to be notified of any change - good or bad

I am calling Helen when Dr. Feimster comes out for us. Edna and I go to the treatment area. We go to the cage and Edna says Alex is holding his head up. Feimster says no, that Feimster is supporting him. Edna asks what his chances are. Feimster says 50-50 until morning. Feimster asks if Alex is current on his vaccinations. I say yes to rabies but no otherwise. That Dr. Jones said that some of the vaccines could cause more problems and they could titer the blood but that it had never been done. He asks when he had last been vaccinated and I replied Spring 96 for everything including the nasal spray but not lepto because he is allergic. Feimster assures me that the hepatitis vaccine from then is still active. I ask if there could be an adrenal problem. He says no. It's a brain lesion. I tell him this is hard for us because we came to his clinic with two veterinarians saying Alex could make it. But I said that the picture is different now isn't it. Feimster says yes. I say that Monce always said Alex was not textbook classic. Feimster confirms that Monce had told Feimster that. He asks if Alex has had antibiotics. I say no but Jones gave me prescriptions. We gave Feimster the 3 prescriptions (2 antibiotics and 1 painkiller) that Jones had given me earlier in the day. Feimster asked if we had given Alex any. Our expression must have shown what an incredulous question that was since Alex had never regained consciousness. Feimster said that he had to ask and kept the three prescription containers. I believe he gave Alex an antibiotic injection. Edna says don't count Willie out, he's a fighter. He asks us to tell him about Alex's nickname "Willie". We go back to the lobby.

Dr. Feimster comes out and asks if Alex has urinated during the day. I tell him about the involuntary urine during ultrasound. He asks if Alex has been on the same comforter all day. I say no. He asks was there any urine on other blankets. We say no. He asks us to be sure and we again say no. He says urine is normally constantly being produced and that Alex should be producing urine especially with all the fluids but that he can slip a catheter. We consent.

Dr. Feimster returns and says Alex is in renal failure. We ask how he knows. He says Alex only has 1/2 teaspoon of urine. He says he can give a bolus of fluids and mannitol to see if Alex can produce urine. We ask how long to find out. He says 1 hour. We say try.

Five to ten minutes later we hear Alex crying. We walk into the treatment area. Alex is crying and flailing his front legs. His hindquarters do not move. His tongue is hanging out the left side of his mouth. Alex becomes motionless again but his eyes are still fixed. Edna asks if he knows us. Feimster says, no. I say "Now". Feimster asks if we are sure. We say yes. Edna is given the consent form to sign and I ask Dr. Feimster to explain what to expect. Edna and I are at Alex's cage saying good-bye when Feimster approaches with the morphine injection. He again asks if we are sure. I ask how much longer to see if Alex can produce urine. He said we could try for 30 minutes instead of one hour. I ask how much more time for 30 minutes. He said we were 10 minutes into the 30 minutes. We said no more waiting. He said are you sure. I asks if there is ANY urine. He pulled back on the plunger of the bladder catheter and there was nothing. We said go ahead. Feimster injected the morphine into the IV line and within seconds Alex went limp. I asked if Alex was dead. Feimster nodded but came over and checked his heart and said yes. The time was 3:29 am, 2/4/00. I also signed the consent for euthanasia, paid the bill, talked for a short time. I expressed anger over the fact that Alex did not deserve to die this way, that we had a clear understanding with his vets that we did not want either dog to suffer. Feimster mentioned something about sometimes this just happens with anesthesia.

- 4:30 am We arrive home. I leave messages for Jones and Monce on their business answering machines that we had Alex euthanized at 3:30 am for renal failure.
- 6:30?am Left message on Jones' business machines requesting that cytology and pathology be canceled.
- 12:30 PM Edna and I go to Jones' office to return borrowed heating pad. I request that the bill be sent to my home.
- afternoon Call Jones' office. Request that Gus' records be sent to my home and that the charge be added to Alex's bill that is already being sent to my home. Am told I will need to speak to Dr. Jones. **Refer to Audio Tape 1.**

January 10, 2000

I have Gus at Quail Corners for his second visit and tell Dr. GJessing that I have not yet received Gus' records or Alex's bill and that she will need to try to get Gus' records from Dr. Jones. She notes for her staff to do that.

January 11, 2000

- 4:30 PM We have been at NCSU-VTH all day with Gus. We mention that we have not yet received Gus' records. Dr. DeFrancesco says we are entitled to any records although we may have to sign a request and pay for copying. She says if it will help give us closure regarding Alex, we can request an explanation from Jones, Monce and Feimster.

5:00 PM

Edna and I go to Jones' office and request to pay Alex's bill and get a copy of Gus' records. Pam comes out. We are told that Jones is out of town for a seminar and we will have to wait until his return January 19. Edna demands the copy of Monce's report that Monce said he left for us, saying that copy is ours -- not Dr. Jones'. There is an angry exchange between Pam and Edna. I say that we have the right to the records and ask if they have a form for me to sign or do I need a blank piece of paper. She says she will get a blank piece of paper which she does not do. I say - let's do one thing at a time. We want to pay Alex's bill and begin filling out at check to Durant Road Animal Hospital. She produces Alex's bill and I note we are not charged for 1) Fluids at 11:00 pm on January 3rd, 2) dexamethasone, 3) x-rays and 4) nail trim. She says the charge for fluids on 1/3 would be all fluids that day and night. [I do not notice that the bill does not have a charge for the CBC done the afternoon of January 3rd although it is mentioned in Dr. Monce's report.] She goes to the back and makes a second invoice for nail trim, steroid injection and x-rays saying that the computer will not allow her to amend the original invoice. I ask if she can total them for me so I can fill in the check amount which we do and I receive the second invoice totaled and balance due=0. Dr. Monce's report is produced which Edna and I read while Gus records are being copied. I note the Dr. Monce says Alex is on Enacard which is not true -- that is Gus. Pam mentions that the staff is copying Alex's and Gus records. I said we just asked for Gus' but I would take both. I also ask where Alex's tissues were sent and am told they were destroyed. I mention that I also want all x-rays. When Alex's records are brought to us I note that there are no entries at all for January 3, 2000. I say the records are incomplete and am told I will have to get that information from Dr. Jones when he returns. Gus' records are brought as are x-rays for both dogs. I request that all persons present note that Alex's records are incomplete and that we are not being given anything regarding January 3, 2000, and that I would like the his record preserved. Dr. Jones' records re. Alex (including Feimster's report) are stapled together but Dr. Monce's report is separate. An incoming call is received and we hear Jody say they are still here but everything is OK. We leave at 6:06 p.m.

January 12, 1999

10:30 am

I have read all records and note more missing yet (i.e., Alex's EKG strips where Gus' two EKG reports are in his records). Also the detail of visits in Gus' records seem more complete (i.e., dental) than do Alex's. Third, that the rabies information on both records has been written in green ink after the photocopying and that Gus' rabies tag number is recorded but that Alex's is not. I call Jones' office re: this and in addition want to speak to Dr. Hostetter.

12:30 PM

Dr. Hostetter returns my call. **Refer to Audio Tape 2.** She will call back after getting information I have now requested regarding December 28.

12:45 PM

Dr. Monce returns my call. **Refer to Audio Tape 3.**

5:15 PM

Dr. Hostetter has not returned my call. Edna will not be home by 6:00 pm so I ask Donna Zormeier if she will accompany me to Jones' office to get the rest of Alex's records.

5:40 PM

Pam comes out and assures me there are no records that the staff can produce. I say there have to be records for January 3rd and they must be somewhere. She says the only place would be in Jones' locked office to which the staff has no key. When told that Jones will be calling the office that evening, I request that if he can tell them where the records are to please call me and I will come for them. I ask to speak to Dr. Hostetter (regarding answers to questions asked earlier that day) and Pam says that Dr. Hostetter is in a difficult position and that Dr. Hostetter could lose here job over this. And that in fact Pam says she could also lose her job. I tell her I need to know the truth of what happened with Alex. She says if we feel we have a complain regarding Dr. Jones, we could call the Better Business Bureau. Donna Zormeier and I leave at 5:54 pm. **Refer to statement by Donna Zormeier.**

January 16, 2000

Dr. Feimster returns my call of Jan. 13. **Refer to audio tape 4.**

January 19, 2000

E-Mail to Dr. Monce requesting records. **Refer to E-mail reply.**

January 24, 2000

I call Durant Road Animal Hospital and ask to speak with Dr. Jones. He returns my call. **Refer to Audio Tape 5**

## COMPLAINTS 'Alex' Deas

1. Was Alex injured 12/28/99 in the lab before or during either blood draw?  
(immediate change in behavior and marked change in eating and walking)  
(broken tooth, broken jaw, back injury?)
2. Why was Dr. Jones going to have the STIM/T4 run but not the SuperChem and CBC on 12/28/99? Why wasn't the CBC performed at Antech?
3. Why was liver disease not suspected until 12/31/99?

- a. Was the liver dysfunction treated by Dr. Monce 12/96 - 3/98 unrelated to the current liver disease?

Dr. Monce had diagnosed Alex with mild hepatomegaly with no evidence of primary hepatic disease and had concluded steroid hepatopathy secondary to pituitary dependent Cushing's disease. He had performed bile acids test, abdominal ultrasound, needle liver biopsy and in 11/97 treated Alex with Ursodiol 75 mg once a day. When Dr. Monce diagnosed Cushing's disease 1/98 and instituted Lysodren therapy Alex's intense itching did not resolve for six months. Liver enzyme levels 3/98 were ALP=attributable to Cushing's, AST=wnl, ALT=wnl. The owners were led to believe that the liver dysfunction had resolved with control of Cushing's disease.

- b. Was Dr. Jones' concern about hyperparathyroidism 1/99 sufficiently investigated and followed through?

The blood panel performed 1/05/99 showed elevated ALP, ALT and calcium. CBC revealed elevated absolute monos and low absolute lymphs.

The blood panel performed 1/17/99 confirmed findings of 1/05/99 and also revealed elevated urea nitrogen, elevated bun/creatinine.

The blood panel performed 2/11/99 again confirmed findings of 1/05/99 but revealed urea nitrogen, elevated bun/creatinine had returned to within normal limits.

Dr. Jones had only expressed concern to the owner about possible hyperparathyroidism on 1/6/99 and indicated the possible need for more tests. After consulting with Dr. Monce, Dr. Jones told the owner that instead of more tests, blood panels needed repeated, which they were. The owners were lead to believe that the only unresolved abnormalities were liver enzymes attributable to Cushing's disease.

Alex was seen in the office 3/99, 8/99 and 11/99. During the wellness exam-geriatric work up 8/3/99, why didn't Dr. Jones again check on the problem?

When Alex became symptomatic 12/26/99 the owner made the 12/28/99 appointment. It was only after the owner's noticing that only an ACTH stim was being submitted and insisting that the full ACTH stim, chem panel, CBC and T4 be performed that the elevated liver enzymes were found and told to the owners.

4. Why after Drs. Jones and Monce discussed the 12/28/99 lab results were we not apprised of the seriousness of Alex's condition on 12/31/99 and all options presented to both owners?

- a. Why on 12/31/99 were we informed that a liver biopsy was going to be done instead of echocardiogram without adequate explanation?
- b. Why was the decision made by Drs. Monce and Jones to perform multiple biopsies and other abdominal procedures on Alex without informing us?
- c. Why were we not requested to sign an anesthesia/surgery consent form (this had always been mandatory, even for dental cleaning) when clearly multiple abdominal procedures were already planned.
- d. During the ultrasound it was found that Alex had abdominal fluid, pleural effusion, enlarged spleen, enlarged liver, thickened gallbladder and a normal pancreas. The owner questioned whether too much was wrong to be able to treat Alex.

Nancy asked Dr. Monce, "Isn't the kindest thing to do is to euthanize Alex and not proceed further?" Monce's response was "That is not correct".

Why was this owner's concern not considered and instead the veterinarian's purpose given priority?

- 5. Did Alex receive adequate care from 12/29/99 through 01/02/00?
  - a. Why only SQ fluids on 12/31/99 when Dr. Jones was told that Alex is basically just drinking, urinating and laying still?
  - b. How was Dr. Jones able to diagnose a bad back disc simply by examining Alex's back and ruling out other possible causes of his motor problems and back pain?
  - c. Why not examine Alex's mouth 12/31/99 after Dr. Jones is told of the difficulty getting Alex to eat?
  - d. Why was no medical treatment other than administering SQ fluids considered on 1/02/00 when Alex had further declined and was not drinking and urinating adequately?
- 6. Why not examine Alex thoroughly 1/2/00 and recommend hospitalization or refer us to NCSU-VTH where more comprehensive diagnostic and treatment services are available given that he was not eating or drinking adequately, nor walking normally and that his alertness was diminished?
  - a. Why did glucose decrease from 105 MG/DL on 12/28/99 to 53 MG/DL on 12/31/99? Why was this not disclosed to the owners on 1/2/00 or even 1/3/00? Why were there no diagnostic considerations nor attempt to correct the problem?
  - b. Why did alkaline phosphatase increase from 918 U/L on 12/28/99 to 1238 U/L on 12/31/99?
  - c. Why were absolute polys 15930 (98%) on 12/31/99? (CBC was not run on 12/28/99)
- 7. Were all reasonable precautions taken on Monday, January 3, 2000?
  - a. Was Alex adequately examined by Dr. Monce before being sedated during the ultrasound especially since the owner had told Dr. Monce on 1/3/00 at 8:00 am of the decline since 12/28/99 and had specifically questioned whether Alex had been injured 12/28/99?

- b. Was it safe to sedate and anesthetize Alex with glucose known to be low on 12/31/99 without running a pre-anesthesia blood test?
  - c. Was it safe to perform multiple abdominal diagnostic procedures given Alex's physiological status without medical support or a catheter in place to provide rapid access if needed?
  - d. Should all of the surgical procedures (not just the tooth root extraction, nail trim and spine x-rays) have been done in the hospital where better facilities and emergency measures were available?
8. Were signs of an emergency ignored when:
- a. Alex did not start coming out of the sedation given for an ultrasound and liver biopsy?
  - b. Alex did not start coming out of the ketamine-valium during the additional abdominal procedures?
  - c. At 12:00 noon when Alex still did not start coming out from the sedation when intubation was achieved and isoflurane (if it was indeed used) was administered?
  - d. At approximately 12:40 pm when Alex did not voluntarily swallow (only gurgled and swallowed after receiving SQ fluids) in order to remove the endotracheal tube?
  - e. Alex did not arouse after the endotracheal tube was removed?
  - f. Dexamethasone NaPO4 was administered instead of prednisone?
  - g. The CBC test performed in Jones' office after extubation and the results known?
  - h. Alex was warmed with the heating pad and moved out of the treatment area at 1:00 pm by Drs. Alphin and Jones?
  - i. The owner sat on the floor with Alex between 1:00 pm and 4:00 pm and Alex was not checked by any veterinarian?
  - j. At 4:00 pm when Dr. Hostetter checked Alex?
  - k. At 4:30 pm when Dr. Jones discharged Alex without examining him?
  - l. At 11:00 pm when Dr. Jones examined Alex?
  - m. At 12:30 am when Dr. Monce was called?
9. Was Alex adequately observed and monitored for signs of respiratory depression or other complications from 11:00 am until 4:30 pm and again at 11:00 pm? At the very minimum why not check Alex's heart and respiration, color of mucus membranes, eyes, etc.
- a. After the ultrasound but before the biopsies were performed?
  - b. At the end of Dr. Monce's procedures in his trailer?
  - c. Before intubation and administration (if any) of isoflurane?

- d. When dental suturing and nail trim was completed?
  - e. After the administration of dexamethasone?
  - f. When CBC results were known?
  - g. When X-rays were taken?
  - h. Anytime between 1:00 PM and 4:30 pm
  - i. Before discharging Alex at 4:30 pm?
  - j. At 11:00 pm during the after hours exam?
10. Was anything done to make sure Alex was ventilating, not just breathing, at any time?
11. What drugs were used to sedate Alex?
12. Was tubocurarine chloride administered? If so:
- a. Is that why Dr. Jones said to Dr. Monce, "curaine" and Dr. Monce replied "yes" or "yeah" when Alex did not become responsive in a reasonable time to swallow for extubation? (Please note Dr. Jones' pronunciation cu-raine at the end of Audio Tape 5 as opposed to cu-ra-re earlier on the tape and as pronounced by most other people).
  - b. Was it given by Dr. Monce in the sedation injection? During intubation?
  - c. Were Drs. Monce and Jones experienced in the use of this drug?
  - d. Why were no emergency measures instituted including respiratory support, monitoring, and use of an antagonist?
  - e. Is tubocurarine chloride indicated for ultrasound guided liver biopsy, tooth root extraction, nail trim and spine x-ray? Why not use the more standard protocol of ketamine-valium induction followed by Isoflurane anesthesia and then perform all four procedures? Did not using a more standard protocol put Alex at higher risk for ventilation difficulties which unnecessarily lead to the need for euthanasia?
  - f. Does administering 1/2 cc of just ketamine-valium (vs tubocurarine chloride-ketamine-valium) usually produce involuntary urination?
  - g. Did the fact that Alex involuntarily urinated a few minutes after sedation was administered (30 seconds for ketamine-valium to take effect, 3-5 minutes for tubocurarine to take effect) indicate that Monce did indeed use tubocurarine chloride?
  - h. Is that why Alex had decreased arterial oxygenation and an indicator of respiratory insufficiency (hypoxia)?
- Given:  $PCO_2 = 24$  (Feimster's blood gases).
- Default:  $PO_2 = 100$  (assumed,  $PO_2$  is not in Feimster's blood gases)
- Known: Alex only breathed room air

Using Brenner's method of quickly estimating A-aDO<sub>2</sub>  
 (*Comprehensive Management of Respiratory Emergencies*, Brenner, Barry E., Aspen Systems, 1985, p. 113)



$$\begin{array}{rcl} 40 \text{ (normal PCO}_2\text{)} - 24.2 \text{ (Alex's PCO}_2\text{)} & = & 15.8 \\ 100 \text{ (normal PO}_2\text{)} - 100 \text{ (Alex's assumed PO}_2\text{)} & = & 0.0 \end{array}$$

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$$\text{estimated A-aDO}_2 = 15.8$$

"The elevated A-aDO<sub>2</sub> indicates; poor pulmonary function because alveolar-arterial oxygen is not being effectively brought into the blood. Therefore shunt (Q<sub>s</sub>/Q<sub>r</sub>) and alveolar-arterial oxygen difference (A-aDO<sub>2</sub>) both represent the same inefficiency of oxygenation. In a theoretically perfect gas-exchanging lung, where the alveolar oxygen is completely transported into the arteries, both the A-aDO<sub>2</sub> and the calculated shunt fraction would be zero."

- j. Did Alex have respiratory acidosis caused by curare?

(*Comprehensive Management of Respiratory Emergencies*, Brenner, Barry E., Aspen Systems, 1985, p. 105 Exhibit 5-8)

- k. Was Alex's metabolic acidosis complicated by respiratory acidosis as an abnormal reaction that occurred after competitive muscle relaxant (curare) -- a syndrome originally described as "neostigmine-resistant" curarization?

*Drugs in Anaesthetic Practice*, Vickers, M.D., Morgan, M., and Spencer, P.S.J., Butterworth-Heinemann Ltd., 1991, p. 260.

"Three features dominate the clinical picture: 1) inadequacy of respiration accompanied by tracheal "tug", 2) tachycardia, hypotension and raised central venous pressure, 3) coma or semi-coma.

The onset of this syndrome in the immediate post-operative period lead to the belief that penetration of the CNS by the relaxant might be involved. It seems more likely that the cause was metabolic acidosis complicated by respiratory acidosis.

Inadequate respiration unresponsive to neostigmine, particularly if accompanied by coma and cardiovascular depression calls for continued ventilation and assessment of acid-base state. Both intravascular and extracellular fluid and electrolyte therapy should be critically reappraised with central venous pressure and ECG monitoring."

- l. If Alex had received tubocurarine and Dr. Monce failed to tell Dr. Feimster, would that have affected Dr. Feimster's assessment of the situation?
- m. Did Dr. Monce obtain tubocurarine from Dr. English?

At 8:00 am Monce said he would be at Jones' office by 9:00 am. I was not called to go to Jones' office until 10:30 am.

Dr. Monce lives in Cary and Dr. English's office is in Cary. Dr. Monce knows Dr. English well, referred Gus to English, and sent Alex to the after hours clinic at the same location as English's office. Drs. English and Feimster share some staff.

13. Were all actions consistent with treating Alex or indicative of finding out unnecessary pathological data for the sake of study?
14. Did Alex suffer because of inadequate care or failure to address problems?

- a. If Alex received tubocurarine chloride, was he aware of pain but unable to indicate it?
  - b. As Dr. Feistier attempted to improve the acidosis did Alex become more aware of pain and of discomfort from procedures Dr. Feimster performed?
  - c. During the approximate 15 hours that Alex was in impaired consciousness, how much pain and suffering did he experience?
  - d. If Alex was brain damaged during anesthesia, why not address the problem and discuss euthanasia rather allow him to suffer needlessly?
15. Why did neither Dr. Monce nor Dr. Jones suggest emergency care at NCSU-VTH at 1:00 pm, or 4:30 pm, or 11:00 pm or 12:30 am?
  16. Why did both Dr. Monce and Dr. Jones discourage us from seeking help at NCSU-VTH late at night and in fact send us to an after-hours emergency clinic with Dr. Monce selecting the Cary Clinic (where Dr. English is located) and Dr. Feimster treated Alex?
  17. Why have Drs. Monce and Jones questioned Dr. Feimster's diagnosis of renal failure and the owners' decision to euthanize Alex ?
  18. Why does Dr. Monce's summary report state Alex was receiving medication for a heart problem? He was not! Dr. Monce had prescribed heart medication for Gus (Alex's litter mate). Should Dr. Monce have questioned which dog was receiving heart medication before sedating Alex?
  19. Should Dr. Monce have asked which medications Alex was receiving (Lysodren, ThyroTabs, Heartguard) and when the last doses had been given?
  20. Why does Dr. Feimster's report state that Alex had a kidney biopsy (the owners did not supply this misinformation)? Did this misinformation affect Dr. Feimster's assessment of the situation?
  21. Why didn't Drs. Jones and Monce call ahead to Dr. Feimster with case information?
  22. If there was a brain lesion (Feimster orally states this in his treatment room) or a CVA (Feimster's report and tape) should this have been suspected by Drs. Monce, Jones, Daley, Alphin and Hostetter during the day?
  23. Is the information in Dr. Monce's report regarding kidney and bladder status (which was never told to the owner) and the information in Dr. Feimster's report regarding kidney biopsy (not true) serving to engage in debate over whether there were renal problems rather than address what really happened?
  24. Why did Dr. Monce instruct us to give enemas at home and when we declined, then tell us to request medical treatment for hepatic encephalopathy consisting of IV saline and enemas at the emergency clinic?
  25. Were Alex's fluids and tissues destroyed or are they at Antech? If so, was cytology and pathology performed by Dr. McCoy?
  26. What did Dr. Monce find during his microscopic study of the slides in Dr. Jones' office while Dr. Jones extracted the tooth root?

27. What were the results of the CBC performed after extubation on 1/3/00 in Jones' office as requested by Monce?
28. What were the results of the PCV performed at 11:00 pm by Dr. Jones in his office?
29. Were Alex's blood and fluid samples kept at Animal Emergency Clinic of Cary (Dr. Feimster)? Why was a vial of blood not taken and kept for post mortem purposes given an 'open problem' listed on Feimster's workup of Alex on 1/4/00?
30. Had Drs. Monce and Jones decided that Alex was not viable before Nancy arrived with Alex on January 3rd?
31. Why have we had so much difficulty obtaining Alex's complete records from Dr. Jones? Why have we still not received any records regarding 1/3/00? Alex's records that we have received contained the following invoice-record discrepancies, whereas Gus' records seem more complete.
  - a. Invoice 14510, 1/27/99 Exam, fluids, fecal flotation - no entry in records
  - b. Invoice 14707, 2/03/99 - Exam and x-rays - no entry in records
  - c. Invoice 16059, 3/19/99 - VT Geriatric Panel - results not in records
  - d. Invoice 17612, 5/4/99 - Rabies, EKG - only partial references in records, no EKG strips as are contained in Gus' records
  - e. Invoice 21230, 8/03/99 Occult HW Antigen - no entry in records
32. Why was the e-mail request for specific information from Dr. Monce answered with only his summary report?
33. Would obtaining Dr. Monce's records from 12/96-4/98 when he treated Alex at Veterinary Medicine Referral Hospital be helpful?
34. Is Vetsound, Inc. considered a "mobile facility" per G.S. 90-181.1(b)(3)?
35. Does Vetsound, Inc. constitute a facility providing limited veterinary services as defined in The North Carolina Veterinary Practice Act, North Carolina Administrative Code, Title 21, Chapter 66, Section .0208?
 

If so, does the trailer used meet the Minimum Facility and Practice Standards, Section .0207?

Does the trailer meet the standards established for surgical facilities in .0207, item 9?

Was the minimum standard for drug procedures in .0207, item (11)(C) met? If so, is Dr. Monce willing to provide records of all drugs administered on 1/3/00? Never in his trailer, in his report, nor on tape #3 does Monce name the anesthesia/sedation he used. Invoice #27427 lists "sedation".
36. Were all standards of professional conduct met?
37. If Alex had liver disease of infectious etiology, should there be health concerns for the litter mate, for the owners and for owners' mother?

38. What would explain Alex's appearance from 1:00 pm on Monday, January 3rd to 3:20 am on Tuesday, January 4th?

His eyes were half open, did not move or roll and still had the ointment in them from after the surgical procedure earlier in the afternoon. His eyebrow twitched only two times--after SQ fluids at Jones' office at 11:00 pm. His mouth was partially open and unmoving, muscles seemingly drawn tight as though grimacing. His tongue was extended from his mouth exiting on the left side. His tongue changed color from light to dark by the time he died. His tongue retracted only when Dr. Jones' asked the owner (Edna) to put water on his tongue because it was so dry and tacky at 11:00 pm. His ears were cold and as usual, the left ear was flopped and the right ear was erect. There was a slight amount of clear discharge from his nose when his respiration was timed at 80 beats per minute before heading to Dr. Jones' office at 11:00 pm. His neck and head were extended as he was laying on his left side. His head had to be supported when he was picked up. His legs and feet were extended straight out and his feet were very cold. His right front leg jerked slightly when Dr. Jones' withdrew blood at 11:00 pm. Both front legs flailed and his head moved slightly as he struggled 5 minutes before euthanasia. His trunk felt normally warm (except feet were cold) but the owner noticed a sharp contrast in temperature between the SQ fluid hump on his back and the surrounding back area at 11:00 pm in Jones' office. His tail did not move. There was a small amount of discharge from his rectum after the enema in the cage at Dr. Feimster's office. No urine was ever seen or smelled except that one-half teaspoon Dr. Feimster withdrew from the catheter. Alex vocalized two times--(1) 3 series of multiple 'barking' sounds at 5 minute intervals which Jones' heard on the telephone after returning from his office at 11:00 pm; (2) 6 'crying' sounds 5 minutes before he was euthanized. Alex never responded to the owners' voice or touch. Alex did not respond to the presence of his litter mate, Gus, during the time Alex was home.

39. We had a clear understanding with Dr. Jones that when either dog's quality of life could not be maintained, that we wished them to inform us so that our wish for euthanasia to prevent suffering and ensure dignity of death be honored. Why was this not done?

**CONTACT INFORMATION**  
**"Alex" Deas**

Nancy G. Deas  
Edna E. Deas  
Helen M. Deas  
5721 Wintergreen Drive  
Raleigh, NC 27609  
919/787-4713

Dana Jones, DVM  
Wendy Alphin, DVM  
Jeannine Hostetter, DVM  
Durant Road Animal Hospital and Kennel, PLLC  
10220 Durant Road  
Raleigh, NC 27614  
919/847-5553

Kevin A. Monce, DVM, DACVIM  
Renee Daley (?), Board Certified Radiologist  
Vetsound, Inc.  
kmonce@vetsound.com  
919/669-1900  
919/880-7707

Alan Feimster, DVM  
Animal Emergency Clinic of Cary, LLP  
220 High House Road  
Cary, NC 27513  
919/462-8989

Robert English, DVM, PhD, DACVO  
Animal Eye Care of Cary  
220 High House Road  
Cary, NC 27513  
919/319-3348

January 23, 2000

To Whom It May Concern;

On Wednesday, January 12, 2000, I accompanied Nancy Deas to the Durant Road Animal Hospital at about 5:30. We approached the main desk and were referred to Pam, the assistant. The following conversation took place with her. Nancy requested the records for Alex, her dog. Pam appeared angry at the request and told her that she had given her a copy of everything that was in the file, the other day. Nancy stated that she found nothing on the chart for the extensive procedures which were done several days ago for her dog. She had paid the bill prior and was not disputing the charges. Her intent was to obtain the documentation of what was done. And there appeared to be missing charts of Dr. Jones procedures for Alex. Pam said that Dr. Jones was out of the office and that there may be charts in his locked office. She did not have a key. Nancy asked to speak with the person in charge which would have been Dr. Hostetter. Pam felt that bringing Dr. Hostetter into the dispute which she felt was between Dr. Jones and Miss Deas would get her and perhaps Dr. Hostetter into trouble.

Donna Zormeier  
Donna Zormeier

Date: Jan. 24, 2000

Notary for the State of North Carolina

Donna B. Barker

Donna B. Barker

My Commission Expires  
June 16, 2002

Kevin Monce, 07:07 AM 1/20/00 , Re: Alex's records

From: "Kevin Monce" <kmonce@earthlink.net>  
To: "Edna Deas" <edna\_deas@ncsu.edu>  
Subject: Re: Alex's records  
Date: Thu, 20 Jan 2000 07:07:31 -0500  
X-MSMail-Priority: Normal  
X-Mailer: Microsoft Outlook Express 5.00.2615.200  
X-MimeOLE: Produced By Microsoft MimeOLE V5.00.2615.200

Request for Dr. Monce's Records  
and reply

Ms. Deas:

The information requested is provided in the file attachment.

Kevin Monce, DVM, DACVIM

----- Original Message -----

>From: Edna Deas <edna\_deas@ncsu.edu>  
>To: <kmonce@vetsound.com>  
>Sent: Wednesday, January 19, 2000 10:39 AM  
>Subject: Alex's records

> Dr. Monce,  
>  
> We are requesting that you fax to us as soon as possible all of your  
> records regarding Alex for January 3, 2000.  
>  
> Please include:  
>  
> notes from pre-surgical exam  
> list of the drugs used  
> list of procedures performed including which organs were biopsied  
> clinical notes  
> ultrasound images  
> notes from slide studies  
> instances when assistance given Dr. Dana Jones  
> and any else of importance  
>  
> thank you  
>  
> Edna Deas  
> FAX 515-7724  
> Ph 515-3858  
>  
>

Attachment Converted: "c:\eudora\attach\Deas, Alex, Jones.doc"

**Vetsound, Inc**

919/669-1900

919/880-7707

1/3/00

**Alex Deas**

14 year MC Manchester Terrier

Alex presented for evaluation of partial anorexia 12/28/99. He has a history of hyperadrenocorticism, controlled with Lysodren, mitral insufficiency controlled with enalapril, and hypothyroidism, controlled with Soloxine. Lab data obtained 12/29/99 revealed liver enzyme elevations (ALT=6X, ALP=9X, AST=3X), with T4=2.6, and ACTH stim cortisol=4.1/4.7. Liver enzyme elevations were repeatable 1/1/00. Posterior paresis and ataxia have been reported in the past week. A broken lower canine tooth was noted by the owner.

Abdominal ultrasound revealed the liver to be enlarged and hypoechoic. The liver margins were blunted. The gallbladder mucosa was thickened (0.4 cm). There was a moderate quantity of echogenic sediment within the gallbladder. The spleen was enlarged and hypoechoic. The periportal lymph nodes were enlarged, with a heterogeneous echotexture. The pancreas was normal in appearance. There was a mild to moderate quantity of peritoneal fluid, and a small quantity of pleural fluid. There was a hyperechoic nodule at the caudal pole of the left adrenal gland measuring 1.0 cm in diameter. The adrenal glands were otherwise at the lower limits of normal size. There was a 0.4 cm nephrolith present in the right kidney. The remainder of the ultrasound findings were unremarkable (kidneys, urinary bladder). Liver biopsies (3), splenic aspirates, periportal lymph node aspirates, and peritoneal fluid aspiration were performed with ultrasound guidance. Histopathology and cytology results are pending. The fractured canine tooth root was extracted by Dr. Jones. A CBC was submitted, and 1 mg dexamethasone NaPO4 was administered IM.

Recommend initiating broad spectrum antibiotic therapy (Baytril, amoxicillin) pending lab results. Please let us know when results are available.

Kevin Monce, DVM, DACVIM



FEB 7 2000

5721 Wintergreen Drive  
Raleigh, North Carolina 27609  
February 6, 2000

North Carolina Veterinary Medical Board  
P.O. Box 12587  
Raleigh, North Carolina 27605  
FAX: 715-5250

Dear Sirs:

I would like to make the following corrections to the Document entitled "Information Regarding Complaint" about the medical treatment that our dog, Alex, received from 12/28/99 through 01/03/00 involving his veterinarians Dale Jones, DVM and Kevin A. Monce, DVM, DACVIM:

Page 2, line 33  
that the blood work done on Dec. 28th

Page 3, line 22  
By 10:50 am Alex had refused all food except 3-4 pieces of ham each measuring

Page 5, line 16  
chair. He is very quiet and although sitting up, I have to put his legs in the

Page 6, paragraph 1  
I believe the first urination occurred after Alex was sedated. I am certain that the second urination on page 6, paragraph 4 did occur after sedation. Only Dr. Daley and Nancy Deas observed both instances.

Page 6, line 21  
Dr. Daley notes that Alex has again urinated and says it's involuntary. She

Page 7, paragraph 8  
Dr. Monce opens a sterile paper package, gets a fresh instrument for biopsy and begins on the liver.

Page 8, line 3  
steps aside while we go into the treatment area

Page 9, line 8  
out. He checks Alex's mouth and says that the gums are a little pale. We're

Page 14, line 3  
bleeding from the biopsy which if true could stop on its own or require

I regret any inconvenience these errors may have caused.

Sincerely,

Nancy G. Deas  
Nancy G. Deas

**Animal Emergency Clinic of Cary**

220 High House Road  
Cary, NC 27513  
919-462-8889

Dear: Dr. Dana Jones at Durant Road Animal Hospital ,  
Alexander Deas presented to our Emergency service on  
1/4/2000 at 1:29 AM and was seen by Dr. Alan Feimster

**Presenting Complaint:****Working Diagnosis: Expired patient/ Oliguric renal failure**

Had Anesthesia, Tooth extraction, U/S with liver and kidney biopsy today. Has not recovered since that time. Seen at 11 and given SQ fluids. Dog is cushingoid with ALT and AST in 200's. Liver is hypoechoic and has rounded edges. Small amount of abdominal fluid was present.

**Medications:** None dispensed**Physical exam and Treatment**

Phone 787-4713

Temp 101.1 HR 110 RR 66 MM color pale pink Weight

PE-MM pale pink and very tacky. Nonresponsive to any stimuli. Chest sounds are clear but the respirations are very deep and labored. Abd is distended with fluid.

**Ddx-abdominal bleeding, HE, CVA**

Started on IV Saline and administered Enema of lactulose. Baytril and Ampicillin IV.

Labs-Severe acidosis, TCO2- 8, BUN 53 K+ 8.3, Started giving IV Na bicarb to correct acidosis. Dog improved and became responsive with the administration of fluids and bicarb.

O did not feel that the dog had urinated at all tonight so I was suspicious of Oliguric Renal Failure.

Passed U cath and got less than 4 ml of urine. the dog had been here for over 1 hour.

Began bolusing fluids and administered IV mannitol but the O elected to euthanize prior to time to reevaluate.

No urine in bladder at time of euth. 1 cc euthasol IV.

**Discharge Instructions**

We are very sorry for your loss. Animal Emergency Staff

Thank you for letting us assist with this patient. If you have any questions please do not hesitate to give us a call.

**Authorization to Perform Euthanasia**

1/4/2000

As owner, or duly appointed representative of the owner, I hereby grant authorization for euthanasia of the below named animal by **Dr. Alan Feimster D.V.M. of Animal Emergency Clinic of Cary, L.L.P.**

To the best of my knowledge, the animal named below has not bitten anyone in the past 15 days.

Signature *Nancy B Deas*

Owner **Nancy Deas**

Patient **Alexander**

ID **black & tan <sup>4.7</sup> ~~85.83~~ y.o. Mn Manchester Terrier**

**787-4713**

# Animal Emergency Clinic of Cary

220 High House Road  
Cary, NC 27513  
919-462-8989

Pet: Alexander

Deas

787-4713

Date: 1/4/2000

## Anesthesia and Procedures

Injection	\$15.00
Injection	\$15.00
Injection	\$15.00
Abdomenocentesis	\$27.85

## Examination

ER fee and Examination \$49.00

## Hospitalization

Hospitalization up to 12 hrs 1 \$16.00

## Fluid Therapy

Complete Set Up 1 \$69.00

## Radiographs

## Diagnostics

1 stat EC8 1 \$37.85  
PCV/TP 2 \$32.00

## Medications

Visit SubTotal \$276.70

Discount \$0.00

Visit Total \$276.70

## Previous Balance

deposit method

Deposit \$0.00

payment method

Total Due \$276.70

Check

Amount Paid \$276.70

New Balance \$0.00

Your pet was seen by: Dr. Alan Feimster

## Discharge Instructions

We are very sorry for your loss. Animal Emergency Staff

If you have additional questions regarding the care of your pet or his/her problems, please do not hesitate to call us. We also hope we have been of service to you. If you have suggestions or comments on how we can provide clients with better service, please let us know.

Patient: Alexandra  
Client: Dea  
Patient Number: \_\_\_\_\_

**Animal Emergency Clinic of Cary**

Cage: M

[illegible]

Problems: Open / Liver dz

**Weight:**

Species: K9  
Breed: Manchester Terrier  
Sex: AN

1-STAT SYSTEM

83+

Pl: 7874713

**Pl. Name:**

GLU	_____	44	mg/dL
BUN	_____	53	mg/dL
Na	_____	140	mmol/L
K	_____	3.3	mmol/L
Cl	_____	114	mmol/L
TCO2	_____	8	mmol/L
ANGAP	_____	27	mmol/L
Hct	_____	31	%PCV
Hb#	_____	11	g/dL

٢٧١٥

pH.....7.104

PCO2-----24.2 mmHg

HC03-----8 APR 01/1

Beef -22 1/2 lb

Sample Type:

04 JAN 20 02:35

oper: 16

Physician: Feinberg

65182 #155

Ver: JAMS033A  
CLEW 051

Page: \_\_\_\_\_ of \_\_\_\_\_

**EXHIBIT 26**

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

AFFIDAVIT OF CHRISTINE FAGAN

Christine Fagan, D.V.M., being duly sworn, states as follows:


1. I am a licensed veterinarian in North Carolina and practice at College Road Animal Hospital, Wilmington, North Carolina. I have been licensed as a veterinarian since May 2005 and am currently in good standing.

2. I have known Kevin A. Monce since August 2005; have observed his veterinarian practice on a number of occasions during that time; am familiar with his abilities; and also am familiar with his standing as a veterinarian.

3. Kevin Monce is a competent, capable, qualified veterinarian. I do not hesitate to refer patients to him or to consult with him.

4. Kevin Monce enjoys an excellent reputation among veterinarians for the quality of his practice.

This concludes my affidavit.

  
Christine Fagan

New Hanover County  
North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that she voluntarily signed this document for the purpose stated in the document and in the capacity indicated:

Jessica Allen  
Name

Date: 11-8-06

  
Notary Public

My commission expires: April 28, 2010  
(Official Seal)



STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

AFFIDAVIT OF SHEILA B. HANBY

Sheila B. Hanby, D.V.M., being duly sworn, states as follows:

1. I am a licensed veterinarian in North Carolina and practice at Capeside Animal Hospital, Leland, North Carolina. I have been licensed as a veterinarian since 1996 and am currently in good standing.

2. I have known Kevin A. Monce since August 1999; have observed his veterinarian practice on a number of occasions during that time; am familiar with his abilities; and also am familiar with his standing as a veterinarian.

3. Kevin Monce is a competent, capable, qualified veterinarian. I do not hesitate to refer patients to him or to consult with him.

4. Kevin Monce enjoys an excellent reputation among veterinarians for the quality of his practice.

This concludes my affidavit.

Sheila B. Hanby  
Sheila B. Hanby

New Hanover County  
North Carolina

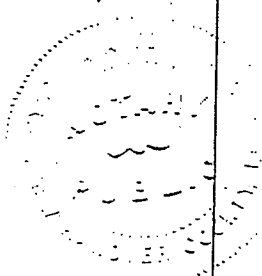
I certify that the following person personally appeared before me this day and acknowledged to me that she voluntarily signed this document for the purpose stated in the document and in the capacity indicated:

Sheila B. Hanby  
Name

Date: 11/9/06

Cynthia A. Lenz  
Notary Public

My commission expires: 11/16/2008  
(Official Seal)





STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

AFFIDAVIT OF JOHN D. KILLORAN

John D. Killoran, being duly sworn, states as follows:

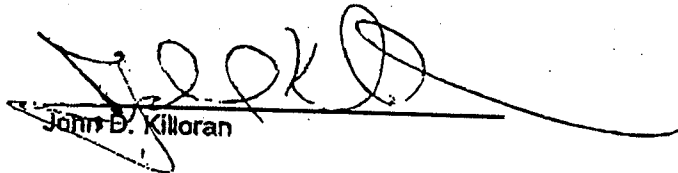
1. I am a licensed veterinarian in North Carolina and practice at Leonard Sykes Hospital for Pets, Wilmington, North Carolina. I have been licensed as a veterinarian since 1988 and am currently in good standing.

2. I have known Kevin A. Monce since 2000; have observed his veterinarian practice on a number of occasions during that time; am familiar with his abilities; and also am familiar with his standing as a veterinarian.

3. Kevin Monce is a competent, capable, qualified veterinarian. I do not hesitate to refer patients to him or to consult with him.

4. Kevin Monce enjoys an excellent reputation among veterinarians for the quality of his practice.

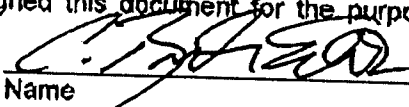
This concludes my affidavit.

  
John D. Killoran

New Hanover County  
North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that he voluntarily signed this document for the purpose stated in the document and in the capacity indicated:

Name

 JOHN D. KILLORAN

Date:

10-08-06

  
Notary Public

My commission expires: 10-25-2009  
(Official Seal)

C. BRANDON EDENS  
Notary Public  
New Hanover County, NC  
My Commission Expires Oct. 25, 2009

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

AFFIDAVIT OF KATHERINE E. WAGNER

Katherine E. Wagner, D.V.M., being duly sworn, states as follows:

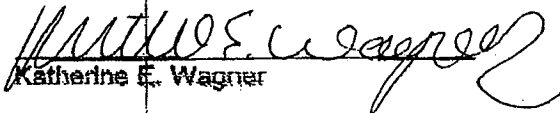
1. I am a licensed veterinarian in North Carolina and practice at College Road Animal Hospital, Wilmington, North Carolina. I have been licensed as a veterinarian since May 2004 and am currently in good standing.

2. I have known Kevin A. Monce since June 1995; have observed his veterinarian practice on a number of occasions during that time; am familiar with his abilities; and also am familiar with his standing as a veterinarian.

3. Kevin Monce is a competent, capable, qualified veterinarian. I do not hesitate to refer patients to him or to consult with him.

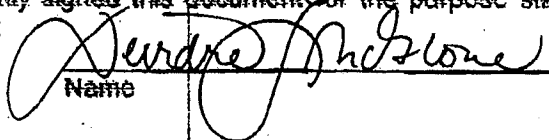
4. Kevin Monce enjoys an excellent reputation among veterinarians for the quality of his practice.

This concludes my affidavit.

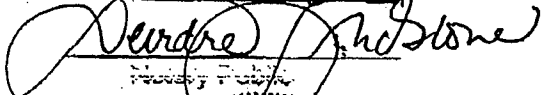
  
Katherine E. Wagner

New Hanover County  
North Carolina

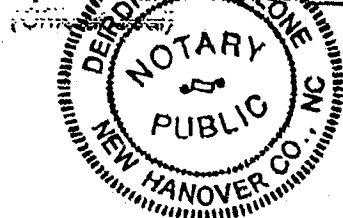
I certify that the following person personally appeared before me this day and acknowledged to me that she voluntarily signed this document for the purpose stated in the document and in the capacity indicated:

  
Name

Subscribed and sworn to before me on NOVEMBER 8, 2006

  
Deirdre McStone

My commission expires AUGUST 30, 2010



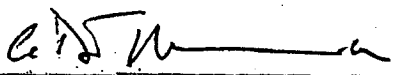
STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

AFFIDAVIT OF G. ROBERT WEEDON

G. Robert Weedon, D.V.M., M.P.H., being duly sworn, states as follows:

1. I am a licensed veterinarian in North Carolina and practice at College Road Animal Hospital, Wilmington, North Carolina. I have been licensed as a veterinarian since 1983 and am currently in good standing.
2. I have known Kevin A. Monce since 1993; have observed his veterinarian practice on a number of occasions during that time; am familiar with his abilities; and also am familiar with his standing as a veterinarian.
3. Kevin Monce is a competent, capable, qualified veterinarian. I do not hesitate to refer patients to him or to consult with him. In addition, I regularly depend on his knowledge and recommendations.
4. Kevin Monce enjoys an excellent reputation among veterinarians for the quality of his practice.

This concludes my affidavit.

  
G. Robert Weedon

New Hanover County  
North Carolina

I certify that the following person personally appeared before me this day and ~~acknowledged~~ to me that he voluntarily signed this document for the purpose stated in the document and in the capacity indicated:

Name 

Date: 11-08-06  
Jean S. Gibson  
Notary Public

My commission expires: 11-02-2010  
(Official Seal)

