

1 connection to the actual care they provided.

2 THE COURT: Okay. This has been
3 confusing, so I want to be clear on this.

4 What you're saying is they did not do
5 or not do something because of a policy, a
6 bad policy, a negligent policy, that was put
7 in place by the hospital.

8 MR. CUMMINGS: Correct.

9 THE COURT: They've still got the
10 argument that negligence could arise or did
11 arise because they did not follow a good
12 policy, correct?

13 I think the plaintiff's theory is if
14 they had followed the good policy --

15 MR. CUMMINGS: Sure.

16 THE COURT: -- there would not
17 have been --

18 MR. CUMMINGS: You're exactly
19 right. And they have made that argument very
20 repeatedly and consistently, but they don't
21 have any proof from the providers involved to
22 create a cause and fact connection which is
23 necessary.

24 THE COURT: Right. We covered
25 that.

1 MR. CUMMINGS: Right. They've
2 got the legal theory. They've argued it very
3 well, but they don't have the evidence to
4 allow this jury to say that the policy more
5 likely than not caused the care to come out
6 one way or another.

7 THE COURT: I tend to start off
8 agreeing with the last statement that you
9 were making with the averment that the proof
10 did not indicate that a policy that was in
11 place was improper.

12 MR. CUMMINGS: Correct.

13 THE COURT: I tend to agree with
14 that. I'll let Mr. Smith address that, but I
15 tend to agree with that part of it at least
16 for right now.

17 MR. CUMMINGS: Your Honor, as I
18 said at the beginning, I try to be detailed
19 for any claims of liability or claims of
20 damages that I left out. We would move for
21 directed verdict on those remaining claims as
22 well. Thank you.

23 THE COURT: Thank you, sir. Mr.
24 Smith.

25 MR. SMITH: May it please the