

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

ASHLEY PARTLOW,

Plaintiff,

vs.

Case Number:  
24-C-09-008243

KENNEDY KRIEGER INSTITUTE, INC.,  
et al.,

Defendants.

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REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS  
(Excerpt - Defense Opening Statement)

Baltimore, Maryland

Tuesday, October 21, 2019

BEFORE:

HONORABLE LAWRENCE P. FLETCHER-HILL, Associate Judge  
(and a jury)

APPEARANCES:

For the Plaintiff:

BRIAN S. BROWN, ESQUIRE

KRISTIN R. HOSSEINZADEH, ESQUIRE

For the Defendants:

MICHAEL B. BROWN, ESQUIRE

BARRY C. GOLDSTEIN, ESQUIRE

MICHAEL E. BLUMENFELD, ESQUIRE

\* Proceedings digitally recorded \*

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T A B L E O F C O N T E N T S

P a g e

Opening Statement by Mr. Brown on Behalf  
of the Defendant

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P R O C E E D I N G S

(Excerpt - Opening Statement by the defense  
began at 3:02 p.m.)

THE COURT: All right. Mr. Brown, when you're  
ready, you may proceed.

MR. BROWN: Thank you, Your Honor.

May it please the Court, courtroom personnel,  
the ladies and gentlemen of the jury, good afternoon.

I'd like to say hello. You know my name is  
Michael Brown.

Mr. Barry Goldstein, Mr. Michael Blumenfeld,  
also assisting in the trial.

Ms. Cecilia Davoli -- Dr. Cecilia Davoli will  
be the representative for Kennedy Krieger. She's been  
there for 29 and a half years working there. She is a  
doctor. You will see here in and out throughout the  
trial.

There's a reason that opening statements are  
not evidence. And the reason that they tell you that is  
because people can say whatever they want and not have to  
back it up. Let me give you an example, Mr. Brown first  
came out and told you that we placed Ashley into the  
house. Then he came back up later and showed you a slide  
that said the landlord put up an advertisement that  
didn't even mention Kennedy Krieger; that Ms. Martin,

1 Ms. Partlow's mother, went and rented the house or didn't  
2 even know it that Kennedy Krieger was around or involved  
3 at all. He told you that.

4 First he told you one thing; then he told you  
5 another thing. This is why opening statements aren't  
6 true. And this is why they aren't evidence. Because  
7 people can say whatever they want, including things that  
8 aren't true or accurate.

9 The fact of that matter is is what Kennedy  
10 Krieger was doing at that time was trying to get  
11 landlords to do something in Baltimore. Those of us who  
12 were around in the '80s and '90s know what it was like  
13 for lead paint poisoning back there. Thousands and tens  
14 of thousands of kids running around with lead poisoning.  
15 Nobody doing nothing about it. The State couldn't help  
16 them. The City couldn't help them. They didn't have the  
17 resources.

18 Somebody had to try and do something. And  
19 that's what Kennedy Krieger did at no cost, with all that  
20 they had. And you can sit around and say that Kennedy  
21 Krieger was running around -- one of the things that was  
22 said was that Kennedy Krieger intentionally left lead in  
23 the house to poison people. Really, you all? Really?

24 Please listen to the evidence when you hear it  
25 in this case. Please listen to everything. And I ask

1 you to please wait until after you hear our side of the  
2 case so you can hear the true evidence of the case.

3 Because I'm certain that after you've heard it  
4 all, rather than what we've got running out of our mouths  
5 at opening statement, you will make the determination  
6 that Kennedy Krieger did nothing wrong. In fact, they  
7 did something to try to help solve the problem that was  
8 running rampant in Baltimore for decades when nobody else  
9 was doing anything about it.

10 Now, this is the caption of the case. It is  
11 Ashley Partlow versus Ruth Marie Mayo. The question that  
12 you're going to have to answer is whether or not Kennedy  
13 Krieger was negligent. The answer to that question is  
14 "No."

15 You're going to be asked whether or not we  
16 caused an injury to Ms. Partlow. The reality and the  
17 evidence will show you that the answer to that question  
18 is "No." And the reason why is because Mr. Brown is  
19 right about one thing that we agreed on, Ms. Partlow,  
20 unfortunately, had lead poisoning for years before she  
21 got to that Federal Street building. Any permanent  
22 injury that she was going to have was already done, most  
23 unfortunately, before she got there.

24 At least Kennedy Krieger, you will see from the  
25 evidence in this case, put her in a house where her blood

1       lead levels begin to drop and go down from the levels  
2       that they were at from the many residences that she lived  
3       at that poisoned her with lead. And the facts are going  
4       to be undisputed in this case when you see that.

5               Mr. Brown talked about the burden of proof, and  
6       we talk about it too, because it's important that you  
7       realize that they have to prove by a preponderance of the  
8       evidence two things. One, that we substantially  
9       caused -- I'm too big to stand in front of the screen, I  
10      apologize.

11             (Laughter.)

12             MR. BROWN: I can't do like Mr. Brown and stand  
13      in front of you all -- caused her lead poisoning and her  
14      alleged injury. To have to cause, so that we prove that  
15      we did both of those things, I submit to you, the  
16      evidence will show that they cannot meet this burden at  
17      all.

18             Now, one, you hear an awful lot of talk already  
19      in opening statement about what landlords are supposed to  
20      be doing to a house. Landlords are supposed to be taking  
21      care of repairs. Landlords are supposed to be making  
22      sure houses are in habitable condition so that the  
23      tenants living there safely. We're not the landlord;  
24      Mr. Polakoff is.

25             She benefitted from the R&M Study, you will see

1       that as we go through the blood lead levels. And her  
2       blood lead levels went down while she lived at that  
3       house. That man showed you one test. Wait until I show  
4       you the rest of them. She went all the way down to a 13  
5       from the 21 she had before she got there. But he didn't  
6       show you that; did he?

7               Now, Ms. Partlow is now working and successful.  
8       And here's the problem I've got with these cases. What  
9       you want to do is tell Ms. Partlow that whatever she's  
10      doing now isn't good enough; that she can't be  
11      successful, even though she's maintaining her own house,  
12      taking care of her own child, got a job, got a car, like  
13      most Americans in this country are doing. And you're  
14      going to tell me she's not successful? That's crap.

15             And it's not fair to say that just to try and  
16      get money in a case like this and blame Kennedy Krieger  
17      for damages. She is successful, and you will see that  
18      when go through the evidence in this case. I wish some  
19      of my family members were as successful as she is. She  
20      was not injured by Kennedy Krieger at all in this case.

21             Now, Ms. Partlow claims that her lead poisoning  
22      was caused by -- and here's another thing you didn't hear  
23      in opening statement. She lived at 231 North Duncan  
24      Street between July 1992 and September 1993. Even she  
25      admits that she was lead poisoned there. And her experts

1 are going to tell you the same thing.

2 She lived at Linden Avenue, September 1993 to  
3 May 1994. And even Ms. Partlow's witnesses are going to  
4 tell you that she was blood poisoned there from lead.  
5 Her blood lead level of 21 was from March 30<sup>th</sup>, 1994,  
6 before she ever moved into the Federal Street house, when  
7 Mr. Polakoff was the landlord. It was like that before  
8 she got there. And experts for both parties have to  
9 agree, and they will agree, that she was lead poisoned  
10 before she moved into that house.

11 Now, one other thing I need you to pay  
12 attention to, because you heard Mr. Brown talk about Dr.  
13 Klein. Dr. Klein has said and he's going to come in here  
14 and tell you that she had lead poisoning at all six of  
15 these places before she ever got to Federal Street. You  
16 didn't hear that; did you? Their own expert is going to  
17 come in and tell you that she had sustained permanent  
18 injury from exposure to lead before she ever got into the  
19 house on Federal Street.

20 How then, I ask you, can the evidence show that  
21 we caused harm and permanent injury to Ms. Partlow when  
22 even her own expert is going to tell you she was  
23 permanently injured before she ever stepped foot in that  
24 Federal Street house.

25 Now, this is how much time she spent in this



1 house over the course of her 30 years. She lived in all  
2 these other places over that period of time. She was  
3 here for an eight-month stretch, yet today you heard that  
4 that eight months is the cause of all of her lead  
5 poisoning. And even though she had exposure in other  
6 places, we are the ones who are responsible for whatever  
7 injuries she currently has. It simply is not true, and  
8 it defies logic and common sense.

9 That is how long she has lived, and that is how  
10 long she was at Federal Street.

11 Now, let's talk about this lawsuit because  
12 today all you heard about is us. But back in the time  
13 when the lawsuit was filed, you heard about a whole bunch  
14 of other folks who were responsible for causing Ms.  
15 Partlow's blood lead levels and her permanent injury.  
16 Back then, they filed a lawsuit against all these other  
17 folks. And then I just showed you this list of all of  
18 these people. Where are they today?

19 All you hear about today is Kennedy Krieger,  
20 when even their own expert says that all of these houses,  
21 which would include every landlord and every property  
22 owner, was responsible for her lead poisoning. Today,  
23 just us, just Kennedy Krieger.

24 All these folks got sued. There were all these  
25 counts in the complaint. And now we're the only

1 remaining defendant in the lawsuit. The original  
2 compliant had 30 counts in it, and now it's down to just  
3 one against us. But now all you hear is that Kennedy  
4 Krieger is the root of all of Ms. Partlow's problems with  
5 regard to exposure to lead. I ask you to examine that  
6 and listen to the evidence as to whether or not that  
7 makes any sense to you because the evidence will show it  
8 simply cannot be.

9 Now, lead poisoning, we heard about it, and  
10 Mr. Brown did a really nice job of explaining the way  
11 that lead works, so I'll try not to belabor that point.  
12 It's poisoning when the lead is high enough to cause  
13 potential injury. Once you get that lead above a number,  
14 and these are the numbers that Ms. Partlow had before she  
15 ever got to Federal Street, it causes permanent injury.  
16 When blood lead levels go down, the injured person does  
17 not get better, but it also doesn't get worse.

18 The fact of the matter is the evidence will  
19 show you because she unfortunately was exposed to lead at  
20 high levels at these other places, it wasn't going to go  
21 down, but at least it's not going to get worse. And  
22 that's what the goal was for Kennedy Krieger when it got  
23 involved in the program, was to try and make sure her  
24 condition did not get worse, not to eliminate lead, not  
25 to ensure that there would be no potential damages,

1 simply to try to keep it from getting worse.

2 Despite any representations that you have  
3 heard, it was never a promise that we could cure her.  
4 There was never a promise that we could fix her. All we  
5 could do is try and keep the lead down in the residence  
6 so she wasn't going to get worse. And you'll see that's  
7 what we did.

8 And the real reason is is because lead is a  
9 problem everywhere. And in Baltimore, it was caused by  
10 many different sources. While it was also caused by  
11 landlords, it was caused by lead paint manufacturers,  
12 home builders and repair contractors, demolition and  
13 leaded gas manufacturers. You will hear experts come in,  
14 and they will tell you that in Baltimore back in the  
15 1990s, walking down the street, you would get exposed to  
16 lead. Open your windows up, lead is blowing in through  
17 the windows. Open your door up when you go into your  
18 door at night, lead blowing in through the door because  
19 it was caused by so many different sources.

20 Paint. The paint manufacturers put lead in  
21 their paint. They were trying to tell people to eat and  
22 lick the lead. That's what was going on back there.  
23 That's one of the sources of lead that we have that's  
24 caused all the poisoning. Look at some of the paint  
25 manufacturer's comic books that they were trying to get

1 kids to eat and use lead.

2           Leaded gasoline. Some of us are old enough to  
3 remember when gas still had lead in it. That leaded  
4 gasoline got reduced because the lead was getting in the  
5 environment, and getting in the air, and everyone was  
6 breathing it in, not just us, but also children. Lead  
7 affects children.

8           When we're adults, we're okay, but when you're  
9 a kid you're susceptible to it. It was coming to the  
10 children through paint. It was coming to them through  
11 gasoline. And the sources and pathways, I told you about  
12 this a little bit, were from all these different sources.

13           Children were getting lead poisoning from  
14 drinking water. Children were getting lead poisoning  
15 from breathing in and out in Baltimore. From the food,  
16 from toys that they were playing with, and from parent's  
17 jobs and hobbies, and just from being outside. There's  
18 no dispute, the science is going to show you, that those  
19 are all the different sources of lead.

20           Now, back in Baltimore back then -- you can see  
21 some of these codes here, and I will try and slide up in  
22 here. But you see these dark areas? Those will show you  
23 where lead poisoning amongst children were the worst in  
24 Baltimore. And you can see right where this house is,  
25 which is the house in question, Federal Street. But the

1 other houses that she lived in were in the same condition  
2 before she even got to the house on Federal Street.

3 So it defies logic to put it on us now, and not  
4 put it on these other houses, these other landlords,  
5 these other property owners, the environment, leaded  
6 gasoline, and leaded paint. I ask you to consider that  
7 when you look at the evidence.

8 Back then, just 20 years ago, 95 percent of  
9 Baltimore City neighborhoods had high leads of level -- I  
10 mean, high levels of lead. It was described, literally,  
11 as a sea of lead back then at the point in time that  
12 we're talking about when Ms. Partlow was a child. It was  
13 everywhere, and children who were going outside to play  
14 or on playgrounds were getting exposed every single day.

15 Not one expert is going to come in here and  
16 they can tell you where a specific source of lead  
17 poisoning came from, not one, because they know it had to  
18 come from all these different sources, not just from  
19 Kennedy Krieger. And every one of the experts for the  
20 plaintiffs are going to have to admit that to you.

21 And I submit to you that Kennedy Krieger was  
22 not a source of any lead that harmed Ms. Partlow. Tens  
23 of thousands of children were lead poisoned. And  
24 Baltimore City had, unfortunately, one of the highest  
25 lead poisoning rates in the entire country. More

1 children were admitted to Kennedy Krieger Hospital for  
2 lead poisoning than for any other condition back then.

3 Kennedy Krieger, as Mr. Brown tells you, one of  
4 the worldwide leaders in treating children was doing its  
5 best to try and keep up. There were no state laws to  
6 regulate lead in housing and protect children. Landlords  
7 were allowing their properties to contain lead paint.  
8 People who didn't have the money to go live somewhere far  
9 out in the County couldn't run around and find housing  
10 that didn't have lead in it. Almost all the houses in  
11 Downtown Baltimore had it on the east side and the west  
12 side, so somebody had to try and do something to  
13 eliminate it and reduce it. People were looking for some  
14 way to do it, and that's what we tried to do.

15 So what Kennedy Krieger did is get with the  
16 U.S. Environmental Protection Agency, and together we  
17 developed the R&M Study. Now, you may have the  
18 impression that this was some type of renegade project  
19 that Kennedy Krieger came up with on its own without  
20 consultation. It was sanctioned, approved, adopted, and  
21 co-authored by the United States government. And the  
22 United States Environmental Protection Agency worked with  
23 us in order to get that program off the ground.

24 Now, Kennedy Krieger -- Mr. Brown is right  
25 about something. But in case you all don't know,

1 treatment, prevention, rehabilitation, and research and  
2 advocacy were the things that we focused on. If you  
3 don't know us, I can say to you that it is one of the  
4 great facilities in Baltimore. And its whole purpose is  
5 dedicated to taking care of children. That's all it  
6 does; that's all it's ever done; that's all it will ever  
7 do.

8 And, yes, John F. Kennedy did -- in fact, was  
9 the name that we used in order to be formed for Kennedy  
10 Krieger because it was formed in his honor after he was  
11 assassinated in 1963. And we did it and named it after  
12 him because he had a long commitment of helping people  
13 who had developmental issues. That's the same thing that  
14 Kennedy Krieger was trying to do.

15 Now, there's a hospital on Broadway, and that  
16 services children with special needs for medical care; a  
17 school on Fairmont Avenue, an elementary school and  
18 middle school with special needs; and Greenspring Avenue  
19 is where a high school is for kids with special needs.  
20 And, yes, it's world renowned for its care of children  
21 and adults with severe neurological injuries, but  
22 specializing in children.

23 Now, it's a non-profit organization, and it  
24 does employ 2500 people who live in and around Baltimore  
25 with a goal of helping children and trying to improve

1       their lots in life, regardless of what their conditions  
2       or injuries or problems are, including children with lead  
3       paint.

4               Now, that lead clinic was started in East  
5       Baltimore and remained open until 2000. And then it  
6       closed because, finally, by the time we got to 2000, the  
7       problem with lead started to go down in Baltimore. And  
8       you will see and hear evidence that Kennedy Krieger was  
9       one of the biggest reasons why that lead began to shrink  
10      in Baltimore, that lead was no longer a problem with our  
11      children, and that lead was finally not ruining and  
12      destroying lives.

13              The clinic was started by a man named Julian  
14      Chisolm. He was world renowned for his work in reducing  
15      lead poisoning. And Dr. Chisolm was a -- served as a  
16      mentor to Dr. Mark Farfel, who you will hear from by  
17      deposition. He was the principal investigator for the  
18      R&M Study. Now, Dr. Farfel, you will hear by deposition,  
19      was the principal investigator. Later on, after he was  
20      done working at Kennedy Krieger, he went to go work as a  
21      director of the World Trade Center Health Registry. And  
22      he was responsible for measuring the health effects of  
23      the 911 attacks in New York City.

24              Now, one of the other partners that we had was  
25      Kurt Schmoke, who along with the Baltimore City Health



1 Department, the Department of Housing and Community  
2 Development, trying to help us come up with solutions in  
3 order to try and stem the problem of lead poisoning for  
4 children in Baltimore City. He got us able to help us  
5 get state and federal agencies involved in it as well.

6 And what the study said is that participants  
7 would live in homes that received repairs, but that the  
8 best thing you could do is reduce exposure to lead paint  
9 and dust. You cannot eliminate lead in Baltimore City.  
10 No one is going to come in here and say that Kennedy  
11 Krieger promised to eliminate lead. Nobody is going to  
12 prove that. They will not put up a shred of evidence  
13 that says that we promised to eliminate it because you  
14 couldn't. In Baltimore back then, it was everywhere.

15 What we tried to do in this program is make  
16 sure that homes were safer than the homes that had not  
17 been treated with any repairs of any kind. Because all  
18 you could do is try and take the lead down. You couldn't  
19 eliminate it. So all these houses where Ms. Partlow was  
20 living before she got to this house on Federal Street all  
21 had untreated lead where the poisoning is just continuing  
22 to circulate and circulate.

23 Kennedy Krieger at least started to try to put  
24 people in houses to reduce the lead because there wasn't  
25 the money to make all the houses lead free in Baltimore.

1 If there was, we never would have had the epidemic that  
2 we had in the 1980s and the 1990s. The whole goal was to  
3 try to make houses safer than what was required by  
4 Baltimore City at that time.

5 And when I say this was not just Kennedy  
6 Krieger's own project, all of these state and federal and  
7 city agencies joined in in order to develop this program.  
8 The U.S. Department of Housing and Urban Development, The  
9 Environmental Protection Agency, Johns Hopkins, the City  
10 of Baltimore, University of Maryland, everybody came  
11 together in order to try and do something to diminish the  
12 impact of poisoning on the kids in Baltimore. And we're  
13 doing something when everybody else is doing nothing.  
14 And that's why we're here today.

15 I ask you to listen to the evidence in this  
16 case as to what we did in this case and what we did with  
17 this program was helpful or not. Surely, I think the  
18 evidence will show you one thing. Every single child who  
19 was in these houses had lower blood lead levels than they  
20 had before they got in them.

21 Now, you're going to hear from a number of  
22 witnesses at Kennedy Krieger, and one of them is Pat  
23 Tracy. She's was an outreach supervisor. She made home  
24 visits and scheduled clinic appointments. She reported  
25 with results of lead in blood tests, and she reported all

1 the blood lead levels to the state.

2 I ask you to listen closely when she testifies  
3 as to what this program was really about, how it went  
4 down, what the purpose was, and how it was implemented.  
5 If you still think, after this lady is done testifying,  
6 that were just running around trying to poison people for  
7 fun, I submit to you that that will not be your  
8 impression after you're done hearing her testimony.

9 You're also going to hear from Susan  
10 Kleinhammer. She's a current owner and teacher of lead  
11 remediation course. She used to work for Baltimore City  
12 in lead remediation. And she worked with the R&M Study  
13 to determine a more effective way to reduce lead. Reduce  
14 lead because that's all anyone could do is reduce it.

15 Kennedy Krieger was not Ms. Partlow's landlord.  
16 Kennedy Krieger was not responsible for making repairs in  
17 the house. Kennedy Krieger is not responsible for trying  
18 to clean all the lead out of the house. It never  
19 promised it would do that, and you'll see when you see  
20 the documents in this case.

21 Now, Ms. Partlow benefitted from the study  
22 because her blood levels went down. And as I mentioned,  
23 she's working and is successful. She was not injured.

24 Now, here's the program. You were told that  
25 Kennedy Krieger controlled ERI. Kennedy Krieger did not

1 do these loans. The State gave the loans to the  
2 landlords in order to do the work. What was happening  
3 back then is landlords were leaving property empty with  
4 lead poisoning all around them. This program at least  
5 got some landlords to motivate to try and do some work on  
6 these houses.

7 Mr. Polakoff is one of those folks. The  
8 landlords contracted with the remediation companies to  
9 perform lead reduction repairs. And the landlords rented  
10 to families who would benefit from those repairs. Now,  
11 the landlord, you're going to hear from him tomorrow, at  
12 East Federal Street was Larry Polakoff. And Kennedy  
13 Krieger, again, was not the landlord of 1906 East Federal  
14 Street.

15 Ms. Partlow only spoke to the landlord when she  
16 leased the premises. She never talked to Kennedy Krieger  
17 before she picked that apartment. Even Mr. Brown told  
18 you that Ms. Martin, Ms. Partlow's mother, went and  
19 looked at the house and chose it and decided to move into  
20 it without ever talking about Kennedy Krieger, or talking  
21 to Kennedy Krieger about the house. She had a lease  
22 agreement with Mr. Polakoff, not with Kennedy Krieger.  
23 Mr. Polakoff was responsible for all repairs to the  
24 property, not Kennedy Krieger.

25 And when she was in the house, she looked at on

1 her own because she saw that ad in a newspaper, which is  
2 important to note. It never said anything about the R&M  
3 Study. It never said anything about Kennedy Krieger, Mr.  
4 Brown even told you that. What she said, Ms. Martin, Ms.  
5 Partlow's mom, is that the house was in good condition  
6 when she went to go look at it. It was freshly painted.  
7 And she says, and you will see documents, that when she  
8 walked in to look at that house, she didn't see any  
9 chipping, flaking, or peeling paint anywhere in the  
10 house.

11 Now, she found the house on her own. She  
12 signed that rental agreement with the landlord, not with  
13 us. And Ms. Martin signed that lease addendum with Chase  
14 Real Estate, not with Kennedy Krieger. You'll see the  
15 lease yourself as part of the evidence in this case that  
16 she signed it with Chase. And this says, right here in  
17 the lease, that tenants agree to notify the owner of  
18 repairs that are necessary on the house, not Kennedy  
19 Krieger.

20 You've been led to believe that we were  
21 responsible for any repairs to the house, but the  
22 landlord agreed that he would make the repairs necessary  
23 to keep the premises in safe and sanitary condition. And  
24 he agrees to make the repairs. And if there are any  
25 defective conditions the tenant shall notify the landlord

1 immediately. Kennedy Krieger is not a party to that  
2 contract. While it's been made to look that way, we are  
3 not. This is the landlord's responsibility.

4 Here's another thing, Ms. Martin looked -- and  
5 this is Ms. Partlow's mother, went to the house and she  
6 was asked to write down what problems that she had with  
7 the house when she went and inspected it. The only thing  
8 she pointed out was the hallway light and the bathroom  
9 toilet. There was no chipping, flaking, or peeling paint  
10 when she moved into that house. There's none listed  
11 anywhere there.

12 Again, the lease addendum asks her that if you  
13 see any chipping, flaking, or loose, or peeling paint,  
14 that you're supposed to notify the landlord in writing.  
15 If you see any. There was no notification of that. So I  
16 understand that there may be dust in the house, and you  
17 will see that there is because it comes from everywhere,  
18 through the windows in the summertime. It comes in  
19 through the doors. It comes in on people's clothes and  
20 on their shoes. But there was no chipping, flaking, or  
21 peeling paint, and she didn't notify the landlord of any  
22 repairs with regard to that.

23 And also the lease agreement said that to  
24 notify the parents that eating or chewing lead paint is  
25 dangerous to children. That you should notify the

1 landlord in writing immediately if you find chipping,  
2 flaking, loose, or peeling paint. The landlord, not  
3 Kennedy Krieger. The notice is supposed to be given to  
4 the landlord. We have somehow, according to the  
5 plaintiffs, been made responsible for everything in this  
6 house. And all the evidence is going to show you that it  
7 was the landlord's responsibility, not our  
8 responsibility.

9 Now, Ms. Partlow's mother, Ms. Martin, didn't  
10 speak to anybody from Kennedy Krieger until more than a  
11 week after she moved into the house. So to the extent  
12 you were given the impression that we induced her into  
13 moving into the house, that's just not true because she  
14 never even met us until after. We went by to go see her  
15 after to ask her if she wanted to join the R&M Study for  
16 her daughter Antoinette. And she had the option to say  
17 no, and she chose to put her child in the study.

18 Ms. Partlow was not even in the study. She was  
19 her sister, but she derived the same benefits from being  
20 in the household that her sister did because she was in  
21 the R&M Study.

22 The consent form said the repairs would not  
23 completely remove exposure to lead dust, and all it could  
24 do was reduce it. And you will see the consent form that  
25 Ms. Martin signed with Kennedy Krieger that said, as Mr.

1 Brown showed you, we understand your house is going to  
2 have special repairs done in order to reduce exposure to  
3 lead. Reduce it. No one promised to get rid of it  
4 because you can't.

5 And they're talking about how we're doing a  
6 study to learn how well different practices work for  
7 reducing exposure to leaded paint. Again, reduce, not  
8 eliminate.

9 Now, Pat Tracy is going to come and tell you  
10 how the R&M Study consent form worked, what their  
11 practice was, to review the consent form with the  
12 parents. What they did when they went through the  
13 consent form is go through it line by line with the  
14 parents, with every single parent. That was the absolute  
15 fully established practice.

16 So if people were saying they don't remember  
17 what happened, I can understand why because it was 25  
18 years ago, but that was the practice. And you're going  
19 here KKI employees come in and tell you that's exactly  
20 what they were trained to do, and that's exactly what  
21 they did.

22 They would have, again, emphasized that lead  
23 could not be removed from the house, was not removed from  
24 the house, because it couldn't be because dust would  
25 still continue to come in.



1                   Now, you're going to hear from Dr. Lainie Ross.  
2                   She is a board certified pediatrician and ethicist. She  
3                   got her M.D. from Penn, a Ph.D. from Yale, and she's  
4                   served on IRBs for 14 years. And she is not from  
5                   Australia.

6                   And Mr. Brown is right about one thing, the  
7                   reason he got an expert from Australia is because he  
8                   couldn't find one in the United States to say what he  
9                   needed her to say in this case. He can say she was the  
10                  best, but she's not. She's nowhere near as qualified as  
11                  this woman.

12                  And she's going to tell you, because she's  
13                  published hundreds of articles on medical ethics, that  
14                  she -- that the study was done ethically; the study was  
15                  done appropriately; the study was done in full  
16                  consideration of the children involved in the study; that  
17                  it was a proper, appropriate well-done study, which  
18                  actually had impact on children in Baltimore when nobody  
19                  else was doing anything to help during this problem.

20                  Now, you're also going to hear from Steven  
21                  Joffe, who's also a doctor. He's a board certified  
22                  pediatrician. He's from the University of California San  
23                  Francisco School of Medicine. And he's also going to  
24                  come in and talk to you.

25                  They're both going to tell you that that

1 consent form complied with all ethical standards. And  
2 the study was properly designed and implemented. So they  
3 will contradict what Ms. Sprig (phonetic) says when she  
4 comes here from Australia to talk about that.

5 Now, Ms. Partlow did benefit from the study.  
6 We were shown in great dramatic fashion that the only  
7 benefit she got was five dollars, and that she got 15  
8 dollars every time she filled out the form. And what  
9 you're going to find out is the study homes were  
10 benefitted by living in homes where the conditions were  
11 better than where they were before they moved in there.  
12 There's no question, because those other homes that they  
13 were living in were not cleaned, were not repaired. And  
14 her blood lead levels were shooting up.

15 They received cleaning education as to the best  
16 way to clean the house. Yes, he's right, we did ask the  
17 mother to do the cleaning in the house. We're not  
18 suppose to come in there. You know, people can help  
19 themselves, contrary to the belief that folks in East  
20 Baltimore can't clean their own floors; they can. And  
21 what you need to do is just educate folks the best way in  
22 order to clean property -- properly to take sure that the  
23 dust levels are lower for their children in the house.  
24 And she got that cleaning education. We gave her free  
25 supplies in order to do that.

1           We gave the family free nutritional counseling.  
2           We did monitoring of blood lead levels at no cost to the  
3           family. We monitored the dust levels in the house at no  
4           cost to the family. We did a lot more than give her five  
5           dollars, and the evidence is going to show that clearly.

6           They were educated about lead paint poisoning.  
7           They were educated about lead poisoning symptoms. They  
8           were educated about lead paint testing, primary and  
9           secondary sources of lead. All at no cost to the family.  
10          Lead paint poisoning and preventive measures, they were  
11          educated about those. And nutrition and diet in order to  
12          try to keep the children healthy. All of these benefits  
13          were provided to every single family, in addition to the  
14          five dollars. Cleaning procedures were done to try and  
15          help reduce lead paint.

16          Now, you're also going to hear from Jennifer  
17          Steziack (phonetic). She's a registered nurse. She  
18          worked in the lead clinic. And she routinely interviewed  
19          and interacted with R&M Study participants. She  
20          confirmed that Ms. Partlow did not play in the basement  
21          of 1906 East Federal Street. That's what she's going to  
22          come in and tell you.

23          You heard in opening statement that no -- that  
24          the basement was dirty and Ms. Partlow -- Ms. Martin was  
25          getting toys down there -- the kid's toys down there.

1 Well, she's going to tell you that at the time this  
2 happened, that there was no play in the basement with the  
3 children. They didn't play down there. We've got  
4 documents that are going to show that to you.

5 You will see that these pamphlets were handed  
6 out and they were -- these are also some things that were  
7 provided in part of the questionnaire. Now, this  
8 questionnaire was filled out in order to get information  
9 and provide information to the parent who lived in the  
10 home. She was given pamphlets of, "Before Your Baby Was  
11 Born," "Preventing Lead Paint -- Lead Poisoning," and  
12 "Keeping Your Home Lead Safe."

13 And the questionnaire asks, where does the kid  
14 play. So when Mr. Brown was talking to you about the  
15 basement earlier, it says, "Inside, not in the basement,"  
16 yet you were told that that's where lead toys were being  
17 brought out, and that's where sources of exposure were  
18 from.

19 Now, the repairs that were made to the house  
20 were done by a contractor who inspected the house on  
21 December 15<sup>th</sup>, 1993. The paint was intact, no peeling,  
22 chipping, or flaking paint. The landlord worked with  
23 Ms. Kleinhammer, who you're going to hear testify in this  
24 case, to identify remediation work to try and reduce the  
25 lead in the home before any family moved in. Never mind

1 Ms. Partlow's family just ended up being the one that  
2 moved in, but it was being done to whoever was going to  
3 move into the premises because we're trying to reduce the  
4 lead exposure to whoever was going to be in there with  
5 their family.

6 Now, the landlord is going to testify that if  
7 the R&M Study wasn't there, he wouldn't even made the  
8 repairs to the house that were made. Because like many  
9 landlords, they weren't going to put a penny in it if  
10 they didn't have to. And that's not a criticism as much  
11 as a statement of fact. He's going to tell you that he  
12 was responsible for making the repairs. He's going to  
13 tell you he was responsible for complying with Baltimore  
14 City Housing Code. And he is going to tell you that he  
15 was the responsible party, not Kennedy Krieger. He is  
16 the one that signed the lease with Ms. Jackie Martin, not  
17 Kennedy Krieger.

18 Now, the goal was always to reduce exposure in  
19 lead. Yes, \$3500 is what was spent in that remediation  
20 level because different homes required different levels  
21 of remediation. And we requested, but you didn't hear  
22 this, that the landlord make additional repairs on top of  
23 the repairs that were made. But from that \$3500, because  
24 all the people who were involved were working on this at  
25 great discounts in order to try and do something

1 beneficial for children, this is all the repairs that  
2 were made for that \$3500 into that house. Those are all  
3 of them, many, many repairs. And you'll hear about that  
4 in great detail.

5 Testing was done after the repairs were made.  
6 And you see this? The floors are supposed to be at the  
7 Level 200, and those are clear and stable levels -- clear  
8 and standard levels. 500 for the sills, and 800 from the  
9 wells. Now, you see here, it says, this "right half of  
10 the sill," it was over 500. It was 791. So when the  
11 testing was done, it was above the level. And what does  
12 the evidence show you what happened?

13 They went back and did the cleaning, again, and  
14 look how low it came after the next cleaning, now it's 36  
15 instead of 791. So even when the testing showed that  
16 there were dust lead levels that raised concern, repairs  
17 were again made. The windowsill was re-cleaned and  
18 retested, and it did pass the testing inspection.

19 After that, the property was ready to go. And  
20 you will see on these graphs how much the levels were  
21 reduced. This is where the levels were before anybody  
22 went in to try and improve the condition of the house.  
23 This is where they were afterwards on the first floor.  
24 Again, reducing the lead.

25 The second floor, you can see how the lead

1 levels are reduced from where they are here, down to the  
2 lower levels. Everything is reduced, exactly what was  
3 promised. And with regard to the first floor sills, you  
4 can see how they came down to virtually nothing, reducing  
5 lead.

6 You can't tell me the evidence will show that  
7 this is not making the house safer for Antoinette and for  
8 Ashley when they lived there. And the evidence will show  
9 you that it did.

10 And the second floor sills, where the bedrooms  
11 were, they came down from levels of over 10,000 down to  
12 34, again, improving the condition of the rooms, reducing  
13 lead. So at least Ms. Partlow's permanent lead injury  
14 does not get worse. That's all the effort was to do;  
15 that's all the promise was to do. And the evidence will  
16 show that's exactly what happened.

17 Now, the wells on the first floor came down to  
18 levels from 144,130 down to 1,803. Again, more evidence  
19 that the levels continue to go down more and more with  
20 all the effort that Kennedy Krieger is putting in to try  
21 and clean the homes. And the second floor wells, the  
22 same thing, reduced. Reduced from very high levels down  
23 to very low levels. Remember the family was only there  
24 for eight months time.

25 Now Ms. Tracy is going to tell you that she did

1 inspections; she knows that the inspections were done.  
2 And while they were only there for eight months,  
3 inspections were done in May, July, and November over  
4 that short period of time. And it's going to show you  
5 that there was no evidence of chipping, flaking, or  
6 peeling paint in the house anywhere. That house was in  
7 better shape than it would have been in if Kennedy  
8 Krieger had not gone in and done this program.

9 Now, the questionnaire shows you that -- and  
10 I'm blocking it again -- that the walls were painted, and  
11 that there's no flaking paint. That's a zero. No  
12 flaking paint noted in the house anywhere. So it  
13 certainly was not left in the condition where children  
14 like Ashley and Antoinette could run around and put paint  
15 chips in their mouth.

16 Now, you're going to hear testimony from  
17 Patrick Connor, who is one the experts that's going to  
18 testify in the case. And he's going to tell you he  
19 doesn't have any opinions about the conditions of 1906  
20 East Federal Street while Ms. Partlow lived there. So  
21 we've got an expert coming in who doesn't have any  
22 opinions about the house. He's going to say intact lead  
23 is not considered a lead hazard. And he's going to say  
24 you can clear doors and windows successfully; you can  
25 clean them. And that if homes pass clearance standards,



1 they had been cleared for occupancy. This home passed  
2 all the clearance standards, and the evidence is going to  
3 show you that it did.

4 Now, you're also going to hear from Dave  
5 Jacobs, who is a Ph.D. These are his qualifications.  
6 And he has worked for years, decades, and has testified  
7 before Congress many times regarding lead paint poisoning  
8 and prevention. And he's going to tell you exactly what  
9 I've been trying to say this whole time -- maybe it will  
10 be more effective if somebody else comes in and say it  
11 rather than me in opening statement -- but lead dust  
12 cannot be completely eliminated; that those levels were  
13 significantly reduced after the repairs; and that there's  
14 no question that we made the house safer, this house and  
15 many other ones that never would have been safer for  
16 families like the Parklow family, and for many other  
17 families in East and West Baltimore, if we had done  
18 nothing -- if we did nothing.

19 What we did do for sure was protect children  
20 from having worse conditions from lead poisoning. At  
21 least we didn't allow them to get worse because we could  
22 not eliminate it, and we could not cure it. But we sure  
23 did do something while, again, most of the country was  
24 doing nothing to help us here in Baltimore.

25 Now, for Ms. Partlow, was -- I talked to you

1 about these other two points, and now I'm talking to you  
2 about this third one. The blood lead levels went down  
3 when she lived at 1906 East Federal Street. You were  
4 pointed out about this 21 here. There was a test result  
5 here, and there was a test result here. And by the time  
6 she left Federal Street, her blood lead level was down to  
7 13.

8 And while you can't eliminate blood lead levels  
9 or exposure to lead anywhere, the evidence will show that  
10 we did something to improve her exposure levels to lead,  
11 whereas it wasn't happening before she got there.

12 And then look what happened when she left. It  
13 started to go right back up again. Five days after she  
14 left the house, and was in a house that was not in the  
15 R&M Study, her blood lead levels were going up again.  
16 Yet, you're being told that Kennedy Krieger is the cause  
17 of her injuries, and that you should award damages  
18 against us for the fact that she had blood lead levels  
19 that were high during the time she was there, even though  
20 it shows a descending order. And it was higher before  
21 she got there, and that it was higher when she left.  
22 Yet, we're the bad guy.

23 Dr. Klein, we heard Mr. Brown talk about him in  
24 opening statement, all of his testimony, all of it that  
25 he's ever given that he gives is for plaintiffs in law

1 suits. We got one expert from Australia, we got another  
2 one from Israel. He has worked for Ms. Partlow's  
3 attorney, Mr. Brown, for the last 15 years, averaging  
4 over 50 cases a year testifying for Mr. Brown's law firm.  
5 750 cases over 15 years, and he's made hundreds of  
6 thousands of dollars saying what plaintiff's lawyers need  
7 him to say.

8 And even he admits that here blood lead levels  
9 were caused by those previous homes, that 1906 East  
10 Federal Street passed clearance standards, and that  
11 Ms. Partlow had permanent brain injury before she ever  
12 moved into 1906 East Federal Street.

13 And he will admit something that you didn't  
14 hear about. He's going to admit that she benefitted from  
15 living in the R&M Study home, in addition to all the  
16 other benefits the evidence is going to show that I laid  
17 out to you earlier.

18 And he claims that Ms. Partlow is mentally  
19 retarded. I don't even know what to do with that.  
20 I understand what this is all supposed to be about, but  
21 to call somebody who is handling her business like her  
22 "mentally retarded" is an insult and disrespectful.

23 You're also going to hear from John Rinehart.  
24 He's got a medical degree from Harvard. This is one of  
25 our experts again. He is a pediatric lead poisoning

1 expert, and he is one of the best, and everybody is going  
2 to have to admit that he is. And he's currently in  
3 charge of all lead poisoning cases down in South  
4 Carolina. He's written a number of articles about lead  
5 poisoning in children. And he's gotten numerous awards,  
6 including this one from the Maryland House of Delegates.

7 And he is going to tell you that Ms. Partlow  
8 had high blood lead levels before she moved into Federal  
9 Street; that that prior lead poisoning caused all of her  
10 IQ loss, whatever she has sustained; and that she had no  
11 additional IQ loss from living at 1906 East Federal  
12 Street.

13 Again, I ask you to wait and listen to the  
14 experts until the case is over before making your  
15 determination as to the facts. I honestly believe that  
16 if you all do that, you'll understand that the evidence  
17 shows that Kennedy Krieger is not responsible for any  
18 injuries to Ms. Partlow.

19 Now, he's going to talk about how her blood  
20 lead levels went down. I just went through that with  
21 you. You're going to hear him talk about it, so you  
22 don't have to hear it out of my mouth. You can hear it  
23 from an expert.

24 Now, the last thing is that Ms. Partlow is  
25 working and is successful. And we, again, think that the

1 evidence is going to show you that she was not injured by  
2 anything that Kennedy Krieger did. Is she successful?  
3 The answer is yes. I'm not sure what people have an  
4 expectation for people to do other than have jobs, take  
5 care of their children, have their own place, and handle  
6 their business. And that's exactly what she's doing on  
7 her own. That is the goal for all of us. That is the  
8 example we want to show to our children is that we take  
9 care of our own business and handle our own  
10 responsibilities. The evidence is going to show you  
11 that's exactly what Ms. Partlow is doing today.

12 Now, she has one -- you're going to hear about  
13 some of her employment potential. When you hear some of  
14 the work that she's done; that she was a health assistant  
15 in the health assistant training program when she was at  
16 Sure Up, Inc. You're going to hear the very nice things  
17 they have to say about her, as well as many of the  
18 promotion opportunities that she has had over the course  
19 of her young life. She's only 30 years old. She still  
20 has so much of her life ahead of her.

21 Now, you're also going to hear from Gloria  
22 Morote, and she's going to come in, and she is a forensic  
23 neuropsychologist with 25 years of experience. And she's  
24 going to tell you what IQ tests are about. You hear  
25 people talk about the loss of IQ. You're going to see

1 exactly from Dr. Morote what IQ is about.

2 She personally tested Ms. Partlow herself. She  
3 will tell you that her IQ score is a full scale score of  
4 80, but she thinks Ms. Partlow could have done better on  
5 the test. And that if she tried harder, she could have  
6 gotten even a higher score. She'll tell you exactly why  
7 she believes that.

8 She also thinks that Ms. Partlow has no  
9 intellectual or neurocognitive impairments, despite the  
10 fact that she was, in fact, exposed to lead, and had  
11 elevated blood lead levels from lead.

12 She's licensed to work as a certified nursing  
13 assistant, Mr. Brown told you that already. She  
14 graduated from high school. She is going to tell you  
15 that she has no doubt that Ms. Partlow is capable of  
16 earning her associates degree, no doubt.

17 You're also going to hear from Dr. Gretchen  
18 Meyer, who is an expert in neurodevelopment pediatrics.  
19 She's been doing that for more than 15 years, former Navy  
20 Captain, now testifies as an expert in cases like this.  
21 And she's going to tell you Ms. Partlow has no  
22 behavioral, psychological, or psychiatric disorders.  
23 She's fine, and the evidence is going to show that.  
24 She's also going to say she has the intellectual and  
25 educational abilities to maintain employment and pursue

1 that associate's degree that the experts are talking  
2 about.

3 You obviously are the ones that get to make  
4 that decision yourselves, but you'll hear evidence for  
5 you to weigh with regard to that issue.

6 And you'll also hear from Dr. Sheryl Ranson,  
7 who is going to come in. She's an expert in vocational  
8 assessment. She's been doing it for over 42 years. She  
9 does life care planning, vocational rehabilitation, and  
10 mental health counseling. She is going to tell you the  
11 same thing.

12 All three of them are going to tell you, that  
13 despite the fact that she was exposed to lead as a child,  
14 that Ms. Partlow is capable of employment as a CNA and  
15 capable of obtaining her associate degree.

16 Now, Plaintiff's expert, Dr. Barry Horowitz,  
17 which you heard Mr. Brown talk about him a little while  
18 ago. So when you hear him come in, keep in mind that  
19 he's done about 3000 evaluations of cases that are all  
20 for plaintiffs. 3000 he's done for plaintiffs and  
21 plaintiff's lawyers, as opposed to the hundreds and  
22 thousands of dollars that Dr. Klein made. This man has  
23 made millions testifying and writing these reports, just  
24 churning them out.

25 And he is going to tell you that there was

1 psychological testing that was supposed to be done. He's  
2 going to come in and testify on behalf of  
3 Ms. Partlow. Even though he's supposed to do all 11  
4 parts and have her take the whole test, the man is going  
5 to admit to you that he only had her test on four sub  
6 parts. He is man enough to admit that Ms. Partlow is not  
7 disabled, contrary to assertions and representations that  
8 have been made, and that she can perform daily activities  
9 and maintain employment, like she's already doing today.

10 Now, Plaintiff's expert, Dr. Mark -- or Mr.  
11 Lieberman, he is not a doctor. He assumes that she is  
12 cognitively disabled because she has reported that she  
13 has difficulty concentrating, remembering, and making  
14 decisions, so do I. He assumed her earning capacity was  
15 based on no high school degree, even though she already  
16 has a job, that she has pretty much always had a job.  
17 He didn't consider that she had a high school degree. He  
18 didn't consider that Ms. Partlow's success in obtaining a  
19 CNA certification was indeed an accomplishment because it  
20 is.

21 And so he's going to tell you that she could  
22 have worked -- he agreed that she could have worked as a  
23 CNA, and that's going to be in his testimony, and that  
24 she still can. Again, Ms. Partlow is only 30 years old.

25 Now, you're also going to hear from Plaintiff's



1 expert, Dr. Michael Conte. And he considers that Ms.  
2 Partlow as not having a high school degree, even though  
3 she has a degree. You all figure that one out. She has  
4 a degree, but the man is basically treat her as if she  
5 does not, assumes that she can't work as a CNA, and  
6 ignores her consistent history of maintaining employment  
7 since she got out of high school, which she had done, by  
8 the way.

9 All the evidence shows that she can be  
10 successful, that she can work as a CNA, and that she's  
11 already been successful in raising her daughter on her  
12 own. She certainly can do anything she puts her mind to,  
13 and the evidence will show you that.

14 Again, to remind you that Ms. Partlow was  
15 injured by Kennedy Krieger; and again, that we were not  
16 the landlord; that she benefitted from the R&M Study.  
17 Again, the blood levels went down when she was in the  
18 house. And that she is working and successful.

19 And did we cause -- did we act reasonably when  
20 we implemented this study in conjunction with the EPA,  
21 The U.S. Department of Housing, Johns Hopkins, and  
22 University of Maryland, all of us together? Yeah, we  
23 did, and the evidence is going to show you that. The  
24 answer is, yes.

25 And did we cause injury to Ms. Partlow? The

1 answer is no. We weren't negligent, and we didn't cause  
2 any injury to Ms. Partlow.

3 Now, I thank you for listening to me. I was  
4 rushing because it's four o'clock. You all have been  
5 here all day, and I'm trying to get this stuff done. I  
6 realize that my style might not be everybody's cup of  
7 tea, but I am who I am. I am my mother's son, and I am  
8 who I am.

9 But I ask you just one thing, please listen to  
10 the evidence in this case. Please hear what the evidence  
11 shows about Kennedy Krieger and its commitment, and how  
12 hard the people over there have worked to try and change  
13 the lives of Baltimore people, like Dr. Cecilia Davoli.  
14 Please give them the honor of being able to have your  
15 time while you are stuck here, to listen to the evidence  
16 in this case. They deserve a shake.

17 While Ms. Partlow is a really good person, so  
18 are the men and women who work at Kennedy Krieger every  
19 single day and take care of their families the same way.  
20 Please give them the benefit of your time to hear all the  
21 evidence before you make your determination in this case.

22 I thank you so much for just hearing me out,  
23 you all. I really appreciate it. I look forward to  
24 talking to you again later in the trial.

25 THE COURT: Thank you, Mr. Brown.

1 (End of Excerpt - Opening Statement on behalf  
2 of the Defense concluded at 3:56 p.m.)  
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REPORTER'S CERTIFICATE

I, Patricia A. Trikeriotis, Chief Court Reporter of the Circuit Court for Baltimore City, do hereby certify that the proceedings in the matter of Ashley Partlow vs. Kennedy Krieger Institute, Inc., et al., Case Number 24-C-09-008243, on October 21, 2019, before the Honorable Lawrence P. Fletcher-Hill, Associate Judge, were duly recorded by means of digital recording.

I further certify that the page numbers 1 through 43 constitute the official transcript of excerpts of these proceedings as transcribed by me or under my direction from the digital recording to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have affixed my signature this 24<sup>th</sup> day of October, 2019.

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Patricia A. Trikeriotis  
Chief Court Reporter