

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WENDY B. DOLIN Individually and as Independent Executor of the Estate of STEWART DOLIN, deceased,	}	No. 12 CV 6403
Plaintiff,		
vs.	}	Chicago, Illinois
SMITHKLINE BEECHAM CORPORATION D/B/A GLAXOSMITHKLINE, a Pennsylvania Corporation,		
Defendant.	)	9:20 o'clock a.m.

VOLUME 11 A  
TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE WILLIAM T. HART

For the Plaintiff:

BAUM, HEDLUND, ARISTEI & GOLDMAN, P.C.  
BY: R. Brent Wisner  
Michael L. Baum  
12100 Wilshire Boulevard  
Suite 950  
Los Angeles, California 90025  
(310) 207-3233

RAPOPORT LAW OFFICES, P.C.  
BY: David E. Rapoport  
Matthew S. Sims  
20 North Clark Street  
Suite 3500  
Chicago, Illinois 60602  
(312) 327-9880

Court reporter:

Blanca I. Lara, CP, CSR, RPR  
219 South Dearborn Street  
Room 2504  
Chicago, Illinois 60604  
(312) 435-5895

1 Appearances (continued:)

2

3 For Defendant GlaxoSmithKline:

4

KING & SPALDING  
BY: Todd P. Davis  
Andrew T Bayman  
Heather Howard  
1180 Peachtree St Ne  
Atlanta, Georgia 30309  
(404) 572-4600

8

KING & SPALDING LLP  
BY: Ursula M. Henninger  
Suite 3900  
100 N Tryon Street  
Charlotte, NC 28202  
(704) 503-2631

9

10

11

12

SNR DENTON US, LLP  
BY: Alan Scott Gilbert  
233 South Wacker Drive  
Suite 7800  
Chicago, Illinois 60606  
(312) 876-8000

13

14

15

16

17

18

19

20

21

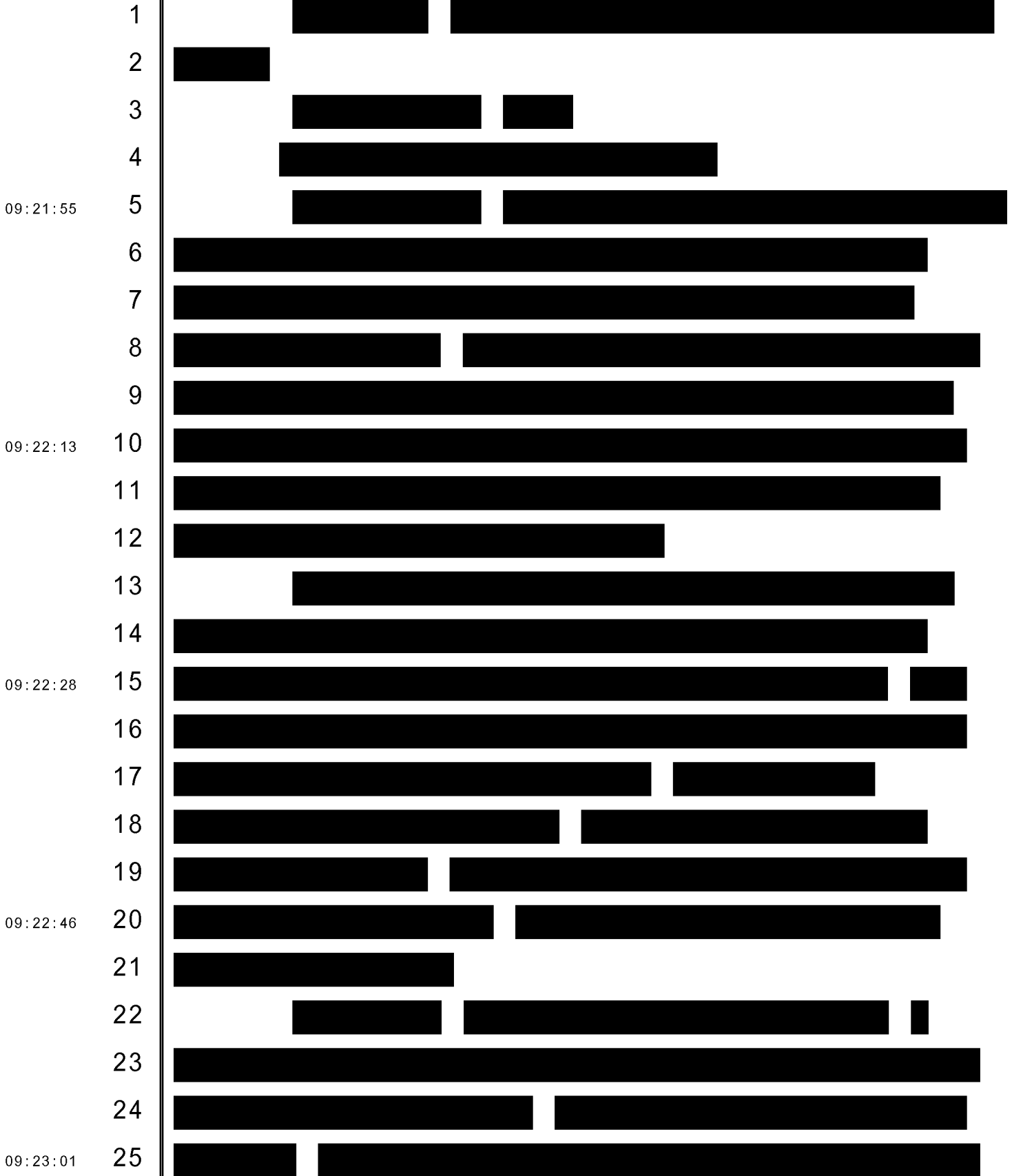
22

23

24

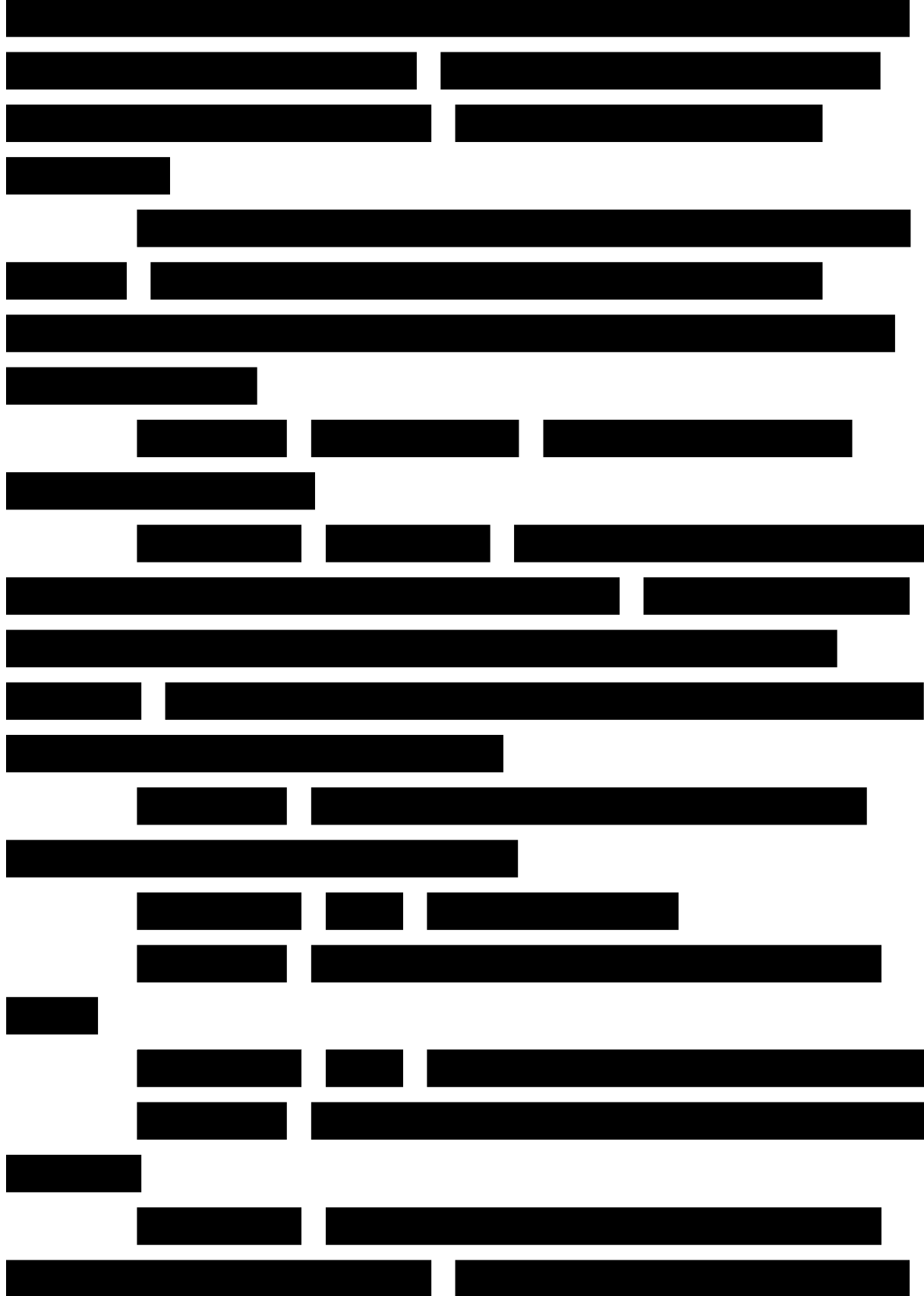
25

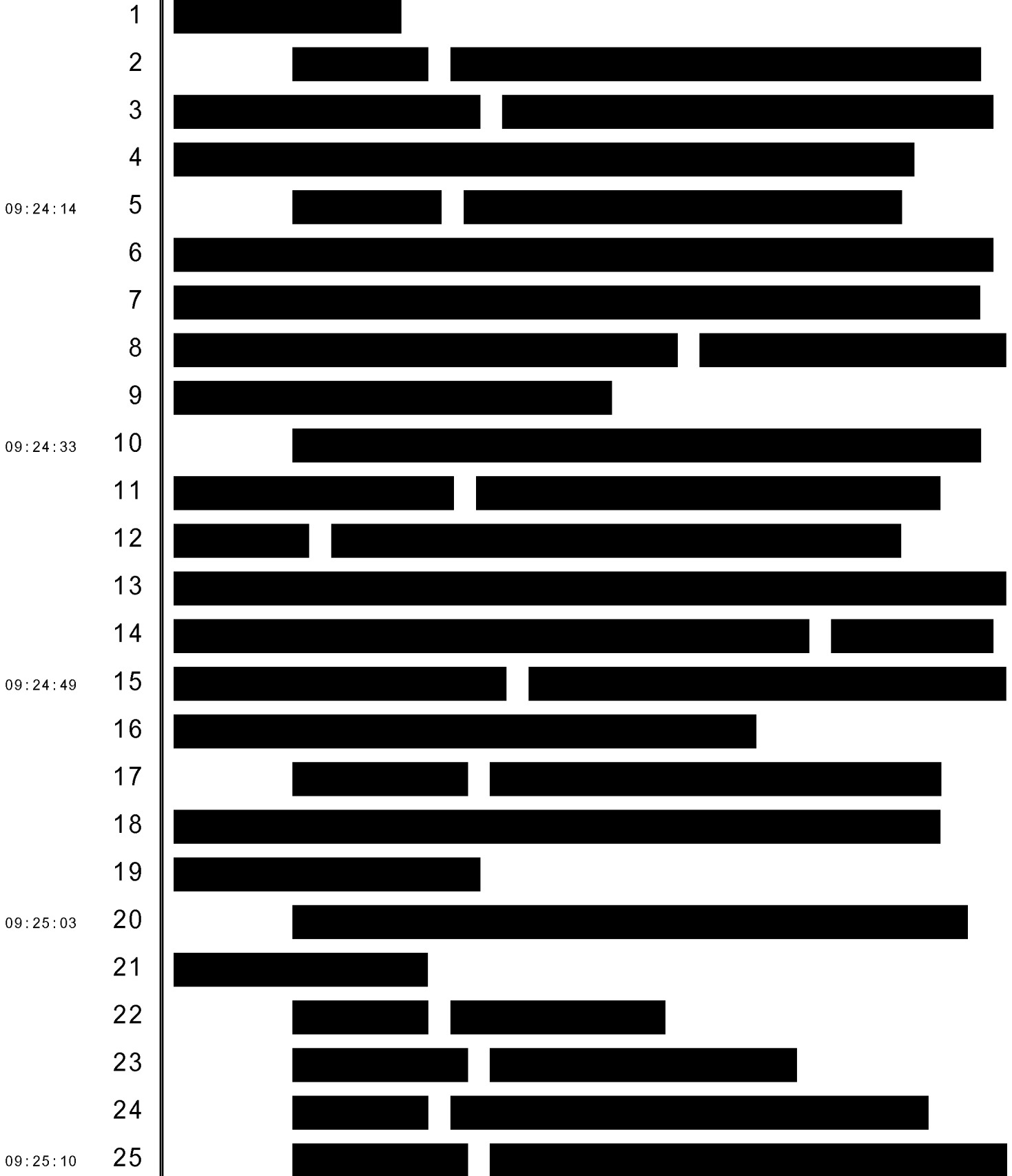




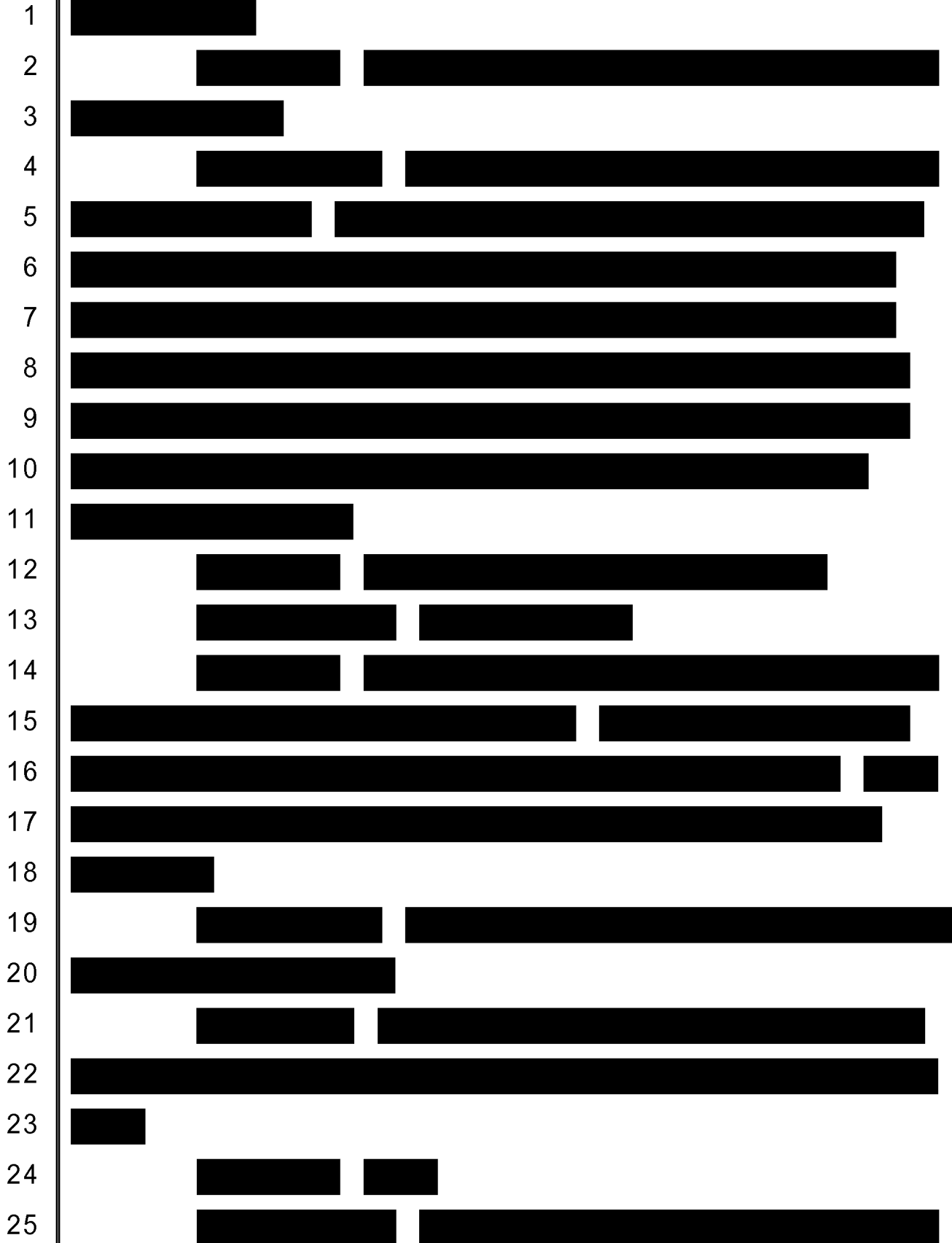
09:23:15  
09:23:29  
09:23:39  
09:23:52  
09:24:01

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25





09:25:16  
09:25:35  
09:25:46  
09:26:08  
09:26:24



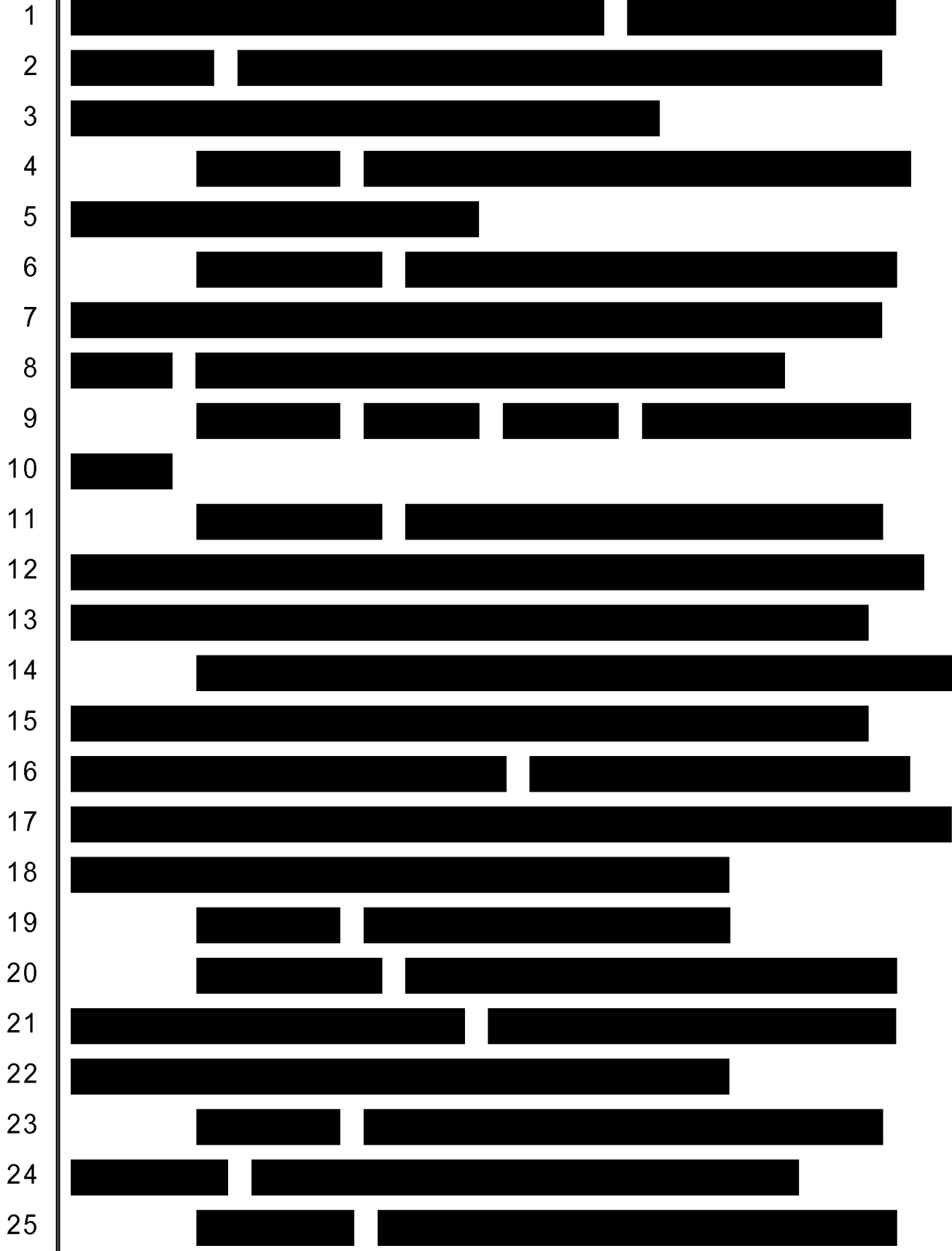
09:26:42

09:26:54

09:27:12

09:27:29

09:27:44







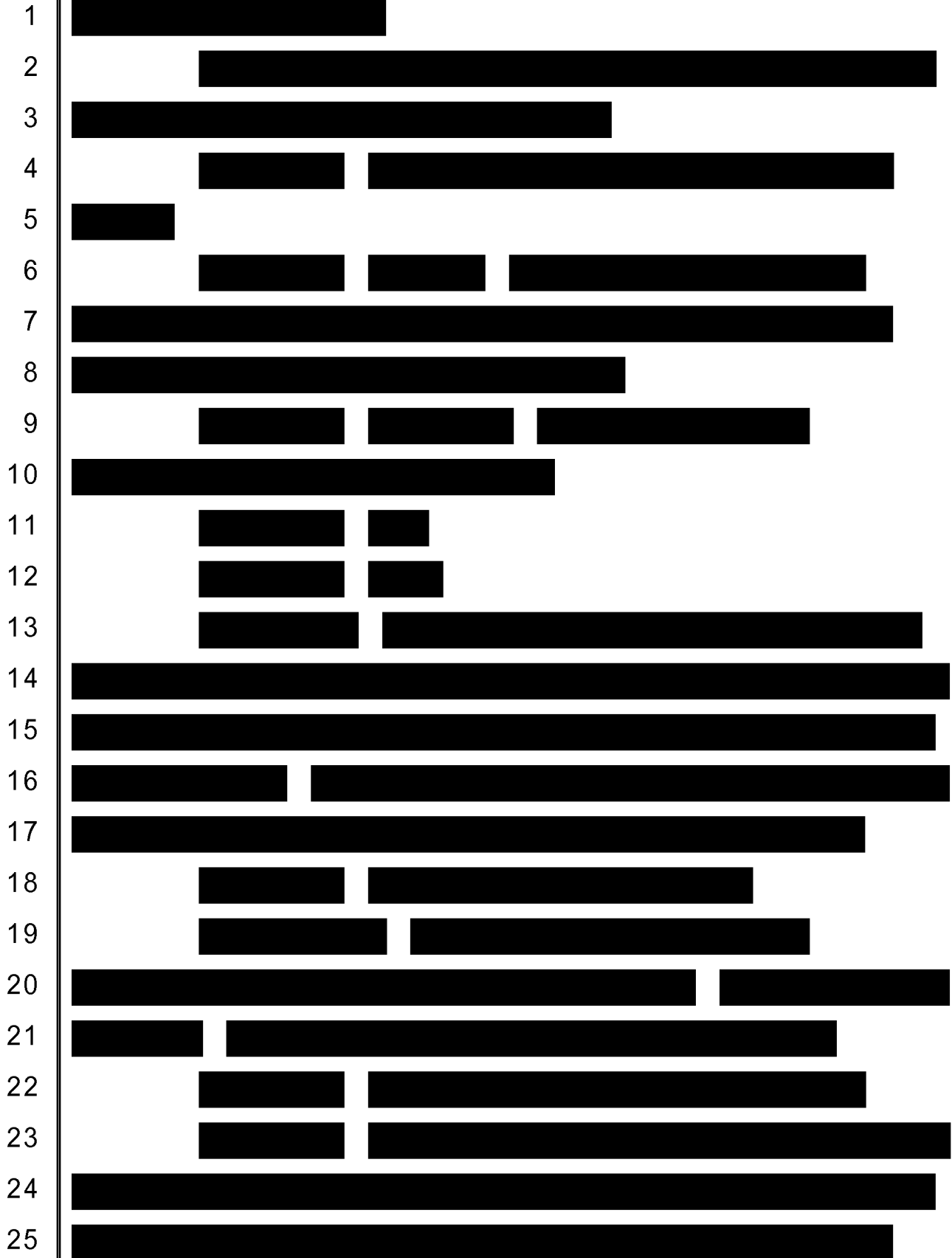
09:28:46

09:29:01

09:29:15

09:29:26

09:29:35



1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

09:29:48

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

09:30:07

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

09:30:34

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 (The following proceedings were had in the  
19 presence of the jury in open court:)

09:31:41

20 THE COURT: All right. Thank you very much, ladies  
21 and gentlemen. Please be seated. We will resume.

22 You may proceed, sir.

23 MR. DAVIS: Thank you, Your Honor.

24 May it please the Court, ladies and gentlemen of the  
25 jury, counsel.

09:31:50

1 JOSEPH GLENMULLEN, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

2 CROSS EXAMINATION (resumed)

3 BY MR. DAVIS:

4 Q. Dr. Glenmullen, good morning.

09:31:55

5 A. Good morning.

6 Q. How are you doing?

7 A. Good. Thanks.

8 Q. Great.

09:32:01

9 Yesterday we left off talking about your peer-reviewed  
10 publications. And the question that was put to you was, non of  
11 your peer-reviewed publications have dealt with Paroxetine and  
12 suicidality or akathisia. Do you remember that question?

13 A. Right.

09:32:14

14 Q. And you know the answer to that question is that none of  
15 your peer-reviewed publications deal with Paroxetine and  
16 suicidality or akathisia, true?

17 A. I think that's right.

18 Q. Thank you.

09:32:24

19 Now, yesterday we also talked about whether it was  
20 fair to judge your credibility to consider the fact that you're  
21 being paid for your testimony. Do you remember that  
22 discussion?

23 A. Yeah.

24 Q. You said it wasn't, right?

09:32:34

25 A. Right.

1 Q. Let's call up --

2 MR. DAVIS: Mr. Holtzen --

3 BY MR. DAVIS:

4 Q. You remember testifying in a trial by the named of Giles?

09:32:42

5 A. Yes.

6 Q. Giles V. Wyeth?

7 A. Yes.

8 Q. That was a trial involving the medication Effexor, and it  
9 happened in Illinois, right?

09:32:50

10 A. Correct.

11 Q. And did you give --

12 MR. DAVIS: Can you pull that up, Mr. Holtzen. It's  
13 behind Tab 18. Let's just show it to the witness first, Mr.  
14 Holtzen.

09:33:08

15 MR. RAPOPORT: Your Honor, I'm not exactly sure what's  
16 happening here, but sounds like there's an intent to post  
17 testimony from something which I don't think is a proper  
18 procedure.

19 THE COURT: No, that may not be done.

09:33:23

20 MR. DAVIS: I haven't posted it to the jury yet, Your  
21 Honor. I was going to show it to the witness.

22 THE COURT: Sure. You may do that.

23 MR. DAVIS: Yes. That's all I was asking Mr. Holtzen  
24 to do.

09:33:36

25 (Brief pause).

1 THE COURT: You want to put it on the screen for the  
2 witness?

3 MR. DAVIS: Yes, sir.

09:33:45

4 MR. RAPOPORT: Meaning witness only, I presume? I  
5 don't know what's happening, so ... Witness only we have no  
6 objection to.

7 (Brief pause).

8 THE COURT: You should it put it on my screen, too, if  
9 you're going to use the system.

09:34:08

10 BY MR. DAVIS:

11 Q. Okay. We can come back to that. I will promise, we will  
12 come back to that, Doctor.

09:34:21

13 Let me turn your attention, if we could, you discussed  
14 warnings that were in the Paxil labeling over time yesterday,  
15 correct?

16 A. Correct.

09:34:37

17 Q. And, in fact, your advise to patients is that you agree  
18 that the single most important advise that you can give any  
19 patient suffering from depression or anxiety is that they feel  
20 worse, for whatever reason, if you think about killing  
21 yourself, call immediately, right?

22 A. I would tell that to patients as part of also warning about  
23 the antidepressant.

09:34:52

24 Q. Yes. But you would give them the advice of if you're  
25 feeling worse or different, calling immediately, right?

1 A. Right. But I would explain the difference between the  
2 antidepressant and the depression.

3 Q. You discussed the patient medication guide with the jury  
4 yesterday, correct?

09:35:04

5 A. Yes.

6 Q. And you don't even provide that patient medication guide,  
7 which has been FDA approved, to any of your adult patients, do  
8 you?

09:35:15

9 A. I provide the information that's in it. The medication  
10 guides are actually distributed by the pharmacy when people  
11 pick up prescriptions.

12 Q. So, the short answer is no, you don't distribute it to your  
13 adult patients, right?

09:35:29

14 A. Not physically. I give them the information that's in it.  
15 So, they get it twice, once from me and once from the pharmacy.

16 And, by the way, that's only distributed to pediatric  
17 patients, because the warning is only for pediatric patients.

18 Q. Doctor, you know in fact that that patient medication guide  
19 is available for every patient that gets -- that is prescribed  
20 Paxil or Paroxetine, true?

09:35:43

21 A. My understanding is that it's particularly pediatric  
22 patients, because that's who it applies to, that the pharmacies  
23 are supposed to give it to.

24 Q. You said "particularly," let's just do a straight up yes or  
25 no, Dr. Glenmullen.

09:35:58

1           You know that that patient medication guide is also  
2 distributed to adult patients who received Paxil or Paroxetine,  
3 true?

09:36:08

4 A. I don't know that. I don't work at a pharmacy. And my  
5 understanding is that they're obligated to give it with  
6 pediatric prescriptions.

7 Q. And it is there available for anyone to give to an adult  
8 patient, true?

9 A. Oh, sure, but that's a different question, sir.

09:36:22

10 Q. You know that Dr. Sachman never used a patient medication  
11 guide and didn't even know what one was, true?

12 A. As I said, they're distributed by pharmacies, not doctors.

13 Q. They are available with the prescribing information that is  
14 left with doctors, true? It's part of that.

09:36:40

15 A. They're at the back of the prescribing medication, but  
16 because doctors don't distribute them, many doctors don't know  
17 they're even there.

18 Q. I think you missed my question. My question was, it is  
19 available with the prescribing information that is left for  
20 doctors at doctors' offices, true?

09:36:56

21           MR. RAPOPORT: Objection, Your Honor; argumentative.  
22 He answered that question.

23           MR. DAVIS: I don't believe he did, Your Honor.

24           THE COURT: He may answer, if he can.

09:37:03

25 BY THE WITNESS:



1 A. So, again, it's at the very back, it's at the very end of  
2 the prescribing guidelines, and that is in a book that doctors  
3 have that could be given by sales reps to doctors, but doctors  
4 might not even know it's there because it's intended for the  
5 pharmacies to distribute it.

09:37:22

6 BY MR. DAVIS:

7 Q. And in terms of knowing whether something was there or not  
8 and whether it would be distributed for an adult or pediatric  
9 patient we'd have to ask individual doctors that question,  
10 true?

09:37:31

11 A. Right.

12 Q. Right.

13 And when you communicate the risk of antidepressants  
14 to your patients for suicidality, you do not distinguish among  
15 the antidepressants, do you?

09:37:39

16 A. I do not because I have all this background.

17 Q. You agree that if a patient is alerted to the fact that the  
18 antidepressant may be the source of the uncomfortable feelings  
19 of agitations and treatment emergence suicidality, then the  
20 patient is armed with the information that will save his or her  
21 life, true?

09:38:01

22 A. Exactly. That's what I said yesterday. Thank you.

23 Q. And you prepared a report in this case -- actually, you  
24 prepared more than one report for this case, true?

09:38:17

25 A. Correct.

1 Q. And you spent careful time making sure that those reports  
2 were accurate, true?

3 A. Sure.

4 Q. And you knew you would be questioned about what was  
5 contained in those reports, true?

6 A. Yes.

7 Q. And can we agree that an expert witness should not try to  
8 mold his or her testimony to try and help the individuals who  
9 are part of that expert?

10 A. Absolutely.

11 Q. And can we agree that an expert should not say one thing in  
12 his or her expert report for a case and then opposite on the  
13 witness stand?

14 A. Sure. But questions can be construed in different ways.  
15 So we'll look at individual examples.

16 Q. Do you agree that if an expert does that, that that calls  
17 that expert's objectivity into question?

18 A. You'd have to give me specific examples.

19 Q. Let's give a straight up example. Let's say an expert  
20 witness says "X" in the report and then says the opposite on  
21 the witness stand. Do you believe that that will call that  
22 expert's objectivity into question?

23 A. So I have had questions in depositions that took things out  
24 of context that misrepresented what I had previously said. So  
25 I think I've been pretty consistent. I'm happy to look at

1 specifics with you.

2 Q. Can we just agree that, as a general principle, that an  
3 expert in order to be objective and not have their objectivity  
4 called into question, that they shouldn't say one thing in the  
5 report and then say an opposite thing on the witness stand?

09:39:45

6 A. Presumably. Again, we'll look at individual examples.  
7 People's thinking also changes over time. So, let's look at  
8 specifics.

9 Q. And you agree, of course, that in order to be an objective  
10 expert, an expert should not cherry-pick information, true?

09:39:59

11 A. True.

12 Q. You claim that in 2004 the FDA issued an historic warning  
13 alerting doctors that antidepressants may make adult patients  
14 suicidal over and above their underlying treatment, true?

09:40:20

15 A. So, yes, but we need to contextualize that.

16 In 2004 when the FDA started to look at this side  
17 effect, they initially put a temporary warning for adults and  
18 children, and they said that they didn't really know exactly  
19 what the data was going to show.

09:40:39

20 Then they put a permanent warning for children and  
21 adolescents up to the age of 18 later in 2004, 2005. And then  
22 in 2006 into 2007 that warning was -- the permanent warning was  
23 changed to up to 24. That's the warning that was in place in  
24 2010, that's the one you've been seeing.

09:41:02

25 So that statement would've been made about the

1 original temporary warning, which was gone by the time Dr.  
2 Sachman prescribed the medication to Stewart Dolin.

3 Q. All right. Let's look about that and see if that's true.  
4 Let's call up your report, please.

09:41:19

5 You said in your report for this case, you said the  
6 following.

7 MR. DAVIS: If we could pull up slide 1. Slide 1.

8 BY MR. DAVIS:

09:41:33

9 Q. This is a statement that's pulled right out of your -- one  
10 of your reports in this case, true?

11 A. Yeah.

12 Q. And this report was dated March 15 of -- March 15 of 2015,  
13 true?

14 A. Yeah, but --

09:41:45

15 Q. True?

16 A. We can look at the report. I was obviously referring to  
17 the 2004 temporarily warning.

18 Q. And you also say in your expert report that -- in one of  
19 your expert reports that you submitted in your -- in this case,  
20 you said that the 2004 warning specifies a number of  
21 antidepressant side effects that may cause new or worsening --  
22 or worse in existing suicidality, true?

09:42:00

23 A. Correct.

09:42:15

24 Q. And you also say that these side effects are described in  
25 the labeling as anxiety, agitation, panic attacks, insomnia,

1 irritability, hostility and akathisia.

2 MR. DAVIS: Could we get the next slide, please.

3 BY THE WITNESS:

4 A. Excuse me, could you tell me which report that quote is out  
5 of?

09:42:25

6 BY MR. DAVIS:

7 Q. Adult report, on page 47 and 48.

8 This language is in your report on pages 47 and 48.

9 It's what's up on the screen --

09:42:39

10 A. Do you mean my March 6th, 2015, general causation report?

11 Q. Yes.

12 A. On what page?

13 Q. That's on page 47 and 48.

14 MR. RAPOPORT: Your Honor, while they're getting that,

09:42:52

15 I want to object to this procedure, because the report itself  
16 is not admissible. If it were otherwise, we would've offered  
17 to admit it. And what he's doing is he's trying to raise  
18 arguably inconsistent statements, but he's not challenging the  
19 and he's showing things from an inadmissible document out of  
20 context. So it's unfair.

09:43:10

21 MR. DAVIS: It's impeachment, Your Honor. It's not  
22 being --

23 THE COURT: The report --

24 MR. DAVIS: -- offered for the truth of the matter.

09:43:17

25 THE COURT: The report is not in evidence, though.

1 MR. DAVIS: No, it's not, but he's talked about -- it  
2 is permissible, I believe, Your Honor, to show what Dr.  
3 Glenmullen has said in his report to impeach him about his  
4 testimony that he's given in the case.

09:43:29

5 THE COURT: Your contention is that this is  
6 inconsistent with his direct examination?

7 MR. DAVIS: That's right, Your Honor.

09:43:45

8 THE COURT: Well, inconsistency with the direct  
9 examination is one issue. Inconsistency by asking him about  
10 the report and then trying to impeach him on that basis is not  
11 proper. Go to -- if you want to go to his direct examination  
12 and challenge his testimony based on his report, that is  
13 proper.

09:44:05

14 MR. DAVIS: Yes, Your Honor. Dr. Glenmullen said that  
15 the warnings are no longer in and I'm trying to explain that  
16 issue, addressing that issue.

17 THE COURT: Oh, sure, you can inquire about it, but  
18 it's not an impeaching matter, sir, at this point. You work  
19 off of his direct.

09:44:21

20 MR. DAVIS: And I am, Your Honor.

21 THE COURT: But it's not a matter for impeachment at  
22 this stage.

23 BY MR. DAVIS:

24 Q. Are you on page 48?

09:44:28

25 A. And I would just like to say, you took that quote out of

1 context --

2 THE COURT: Doctor, doctor, the lawyers are here,  
3 they'll protect your position.

4 THE WITNESS: Okay.

09:44:37

5 THE COURT: But, please, so we don't get confused, let  
6 the process proceed.

7 BY MR. DAVIS:

8 Q. Did you put in your report on page 48 the following  
9 statement:

09:44:46

10 "The FDA warning specifies --"

11 A. Excuse me. Excuse me. I'd like to look at the pages. Is  
12 it 48?

13 THE COURT: Give the doctor a chance to read the  
14 report.

09:44:56

15 Page 48. Let us know after you've read it, sir.

16 BY THE WITNESS:

17 A. So where are you on page 48, please?

18 BY MR. DAVIS:

19 Q. I am on page 48, and I'm on the second full sentence.

09:45:11

20 A. At the top of the page?

21 Q. Yes, sir.

22 A. Okay. Great.

23 (Brief pause).

24 BY MR. DAVIS:

09:45:19

25 Q. Ready?

1 A. Yes.

2 Q. You say in your report:

3 "The FDA warning specifies a number of  
4 antidepressants side effects that may cause new  
5 or worsening existing suicidality."

09:45:26

6 Did I read that accurately?

7 A. Correct.

8 Q. And you next say:

9 "According to the FDA, these antidepressants  
10 side effects are "anxiety, agitation, panic  
11 attacks, insomnia, irritability, hostility,  
12 akathisia, (severe restlessness) hypomania and  
13 mania."

09:45:35

14 Did I read that correctly?

09:45:52

15 A. Yes.

16 Q. And did you also say:

17 "... all of these side effects are acknowledged  
18 in GlaxoSmithKline's official prescribing  
19 guidelines for Paxil."

09:46:00

20 Did I read that correctly?

21 A. Yes.

22 Q. What you are referring to as the official prescribing  
23 information for Paxil is the labeling, true?

24 A. Correct. That's a reference to the adverse event section.

09:46:10

25 A different section.



1 Q. And what you are referring to in this discussion, the side  
2 effects, is --

3 MR. DAVIS: If we could call up Joint Exhibit 7-024,  
4 Mr. Holtzen.

09:46:19

5 (Brief pause).

6 BY MR. DAVIS:

7 Q. This is the list of symptoms that you're discussing, true?

8 A. Now where is that from?

9 Q. This is from the labeling that's in --

09:46:28

10 A. No, where is the quote from?

11 Q. This is from the May 2004 labeling.

12 A. No, where is that paragraph from?

13 Q. That's in the Clinical Worsening and Suicide Risk section  
14 of the labeling in 2004?

09:46:44

15 A. Isn't that a quote out of my report?

16 Q. They look almost identical, don't they?

17 A. Yeah. I'm asking you where that paragraph is in my report?

18 Q. I'm asking you if the language that you're referring to in

19 -- the language that you're referring to your report is this

09:46:58

20 set of symptoms that are described in the labeling in 2004?

21 A. Okay. So number one, I'm walking through the history in  
22 this report of the warnings, just like I told you, I was  
23 referring to the 2004 temporary warning.

24 So because you keep taking things out of context, if

09:47:15

25 you're going to ask me about that paragraph, the different page

1 number, which report is that paragraph from? I want to look at  
2 it because you're taking things out of context.

3 Q. Doctor, I think you're missing the question.

09:47:31

4 THE COURT: Sorry to interrupt you, but I don't think  
5 I have that report in the book that you gave me, his report.

6 MR. DAVIS: Yes, Your Honor, you do. It's tab 44,  
7 Your Honor.

09:47:50

8 THE COURT: Oh, in that book. I have his report in a  
9 different form. Again, this trial has so many copies of things  
10 that we have problems.

11 Okay, so let me get that so I can follow you, if I  
12 may.

13 This is exhibit 255? PX255 what you're working from,  
14 sir?

09:48:07

15 MR. DAVIS: Yes.

16 THE COURT: Okay. And you're on page 48?

17 MR. DAVIS: I think I'm on 48 now, Your Honor, the top  
18 paragraph.

09:48:21

19 THE COURT: Okay. Now I have it.

20 And, Doctor, you've seen it, sir?

21 BY THE WITNESS:

22 A. I've seen that, but I don't know where this page 11 comes  
23 from.

09:48:32

24 THE COURT: Okay, that's your answer to the question  
25 and that's the end of it.

1 But insofar as your report is concerned, that's where  
2 we were.

3 MR. DAVIS: Yes.

09:48:41

4 THE COURT: Are you leaving it to go to another  
5 question, sir?

6 MR. DAVIS: Yes, sir, I am.

7 THE COURT: Well, then ask --

09:48:46

8 MR. DAVIS: My question was, which I don't think the  
9 doctor has answered is, what's up here on the screen, which is  
10 Joint Exhibit 7 --

11 THE COURT: It doesn't make any difference, sir, at  
12 this point. And the inquiry of this witness, you are working  
13 out of page 48 of his report --

14 MR. DAVIS: I am.

09:48:56

15 THE COURT: And the question that you had then'  
16 shifted to another exhibit, which is a paragraph in another  
17 exhibit, and that is not correct. That's not proper. So I'm  
18 not going to permit you to do that.

09:49:13

19 If you want to go back to the report and start over  
20 again and get him there, that may be okay, but we're confusing  
21 the issue now by putting the report and another exhibit on the  
22 screen.

23 BY MR. DAVIS:

09:49:22

24 Q. Dr. Glenmullen, the language that you pulled from your --  
25 that's in your expert report that we read to the jury, comes

1 from, as you said in your expert report, it comes from the  
2 GlaxoSmithKline's official prescribing guidelines for Paxil  
3 which is the labeling, true?

4 A. So I can explain that --

09:49:36

5 THE COURT: No. No, no, Doctor --

6 MR. RAPOPORT: Objection, Your Honor. They are  
7 leaving up on the board what you told them they can't do.

8 THE COURT: Well, I know. The jury has seen it  
9 before. Let's not get too technical about it.

09:49:46

10 MR. RAPOPORT: Okay.

11 BY THE WITNESS:

12 A. So that's a reference --

13 THE COURT: Let's get the answer to the last question,  
14 Doctor.

09:49:48

15 THE WITNESS: Yes.

16 THE COURT: It's either yes or no.

17 THE WITNESS: It's "yes" from a different part of the  
18 label.

19 BY MR. DAVIS:

09:49:55

20 Q. What other part of the label in -- of April 2004, are you  
21 referring to?

22 A. I said a little while ago, the adverse event section.

23 Q. Well, isn't it true, Doctor, that -- isn't it true that the  
24 language that you talked about concerning anxiety, agitation,  
25 panic attacks, insomnia, irritability, hostility, akathisia,

09:50:14

1 hypomania, and mania, that was also in the 2004 labeling under  
2 the clinical worsening and suicide risk section?

3 A. Yes, that was in the temporary warning.

09:50:34

4 Q. And you said the temporary warning. That information is  
5 still in the labeling today, is it not?

6 A. No, because the context is completely different. In 2004  
7 it said temporarily, it applied to people of all ages. By 2010  
8 it said explicitly, and we looked at it yesterday, only applies  
9 to people 24 and younger, does not apply to people 25 and

09:50:55

10 older. If they get worse, it's depression. We looked at the  
11 sentences, sir, and it changed dramatically.

12 Q. Doctor, you know that that is absolutely not correct, don't  
13 you?

14 A. You know that it is correct.

09:51:07

15 THE COURT: All right. All right.

16 BY MR. DAVIS:

17 Q. This is Joint Exhibit 1-012; do you see that?

18 A. Yeah.

19 Q. This is the 2010 labeling?

09:51:16

20 A. I think you've gone to another document now.

21 Q. I have. It's Joint Exhibit 1. It's been admitted into  
22 evidence.

23 A. Oh, Okay. All right.

24 Q. Do you see this (indicating)? It's on page 12.

09:51:27

25 A. Sir, you are so taking that out of context. That said

1 everybody should be monitored, and in the black box it says,  
2 monitor them, and if they're under 25 it could be the drug, and  
3 if they're over 25 it's the underlying condition. That's --  
4 that's totally misleading to put it that way.

09:51:44

5 Q. Let's stick with my question, please. It says here, on  
6 page 12 under the Clinical Worsening and Suicide Risk Section,  
7 do you see this?

8 A. Yeah.

9 Q. It says:

09:51:54

10 "... patients with major depressive disorder,  
11 both adult and pediatric, may experience  
12 worsening of their depression and/or the  
13 emergence of suicidal ideation and behavior  
14 suicidality or unusual changes in behavior,  
15 whether or not they are taking antidepressant  
16 medication, and the risk may persist until  
17 significant remission occurs."

09:52:06

18 That's what it says, true?

19 A. Key phrase "whether or not" and in the black box, which is  
20 the first thing the doctor sees, it says if they get those  
21 symptoms and they're under 25, it could be the drug, it could  
22 be the condition. If they're 25 or older, it is not the drug.  
23 That's totally different from 2004.

09:52:16

24 Q. Doctor, there's no statement in the black box warning that  
25 says, if they are older than 24, that -- not to monitor for

09:52:34

1 these signs and symptoms or to look out to see whether or not  
2 the patient may have those symptoms after starting the  
3 medication?

09:52:51

4 A. It says right there, "short-term studies did not show an  
5 increase in the risk of suicidality with antidepressants  
6 compared to placebo in adults beyond 24." Depression and  
7 certain other psychiatric disorders are themselves associated  
8 with the risk. We talked about this in detail yesterday.  
9 Therefore, if the patient is over 25, when you get to the next  
10 page that you're looking at, if any of those things happen,  
11 it's your underlying depression or other psychiatric condition,  
12 not the drug.

09:53:08

13 Q. Let's --

09:53:20

14 A. That's what's wrong with the label. I don't know why you  
15 keep going over this.

09:53:30

16 Q. Let's go back to page 12. It actually says under the  
17 Clinical Worsening and Suicide Risk section:

09:53:46

18 "... all patients being treated with  
19 antidepressant for any indication should be  
20 monitored appropriately and observed closely for  
21 clinical worsening, suicidality, and unusual  
22 changes in behavior, especially during the  
23 initial few months of a course of drug therapy  
24 or at times of dose changes, either increases or  
25 decreases."

1 Did I read that correctly?

2 A. Correct. Because it --

3 Q. And the next sentence --

4 A. -- you need to be worried that the drug could be the cause.

09:53:53

5 Q. And the next sentence lists out all the signs and symptoms  
6 that are in your expert report on page 48, true?

7 A. Right.

8 Q. Okay.

09:54:03

9 A. And the black box is the headline, the black box is  
10 headline, everything that follows you interpret, one way if the  
11 patient is under 24, and another way if they're over 25.  
12 That's like the headline, the title, okay.

09:54:22

13 So it's very clear what this is telling doctors. You,  
14 know, we all know you need to monitor people for depression,  
15 what we need to know is you need to monitor them for the drug.

16 Q. Right. And the black box warning, in fact, has a statement  
17 about that that says:

09:54:33

18 "... patients of all ages who are started on  
19 antidepressant therapy should be monitored  
20 appropriately and observed closely for clinical  
21 worsening, suicidality, or unusual changes in  
22 behavior."

23 True?

09:54:43

24 A. And the two sentences above say, if they're over 25, don't  
25 worry, it wouldn't be the drug, it's their depression.



1 Q. Doctor, the words "do not worry" do not --

2 THE COURT: It think you've covered it, sir. You've  
3 covered it.

4 BY MR. DAVIS:

09:54:52

5 Q. And it also says, does it not, Doctor, that if you go to  
6 the Clinical Worsening and Suicide Risk section of the  
7 labeling, another place where it says:

8 "... patient should be advised of the following  
9 issues and asked to alert the prescriber if  
10 these occur while taking Paxil."

09:55:06

11 Do you see that?

12 A. Yeah.

13 Q. And then it lists through all the signs and symptom that  
14 you put in your expert report, true?

09:55:15

15 A. Correct. But again, with the headline that if they're  
16 under 24 it could be the drug, as well as the condition, and if  
17 they're 25 or older on Paroxetine, it's not the drug.

18 Q. Doctor, in this section of the labeling there's no  
19 discussion that these signs and symptoms are limited to  
20 patients to 24 or less, true?

09:55:35

21 A. What I'm telling you is that this refers to all ages. You  
22 can't warn a patient's family if they're not a pediatric  
23 patient without their permission. You know, this is obviously  
24 talking about all age ranges.

09:55:48

25 Q. This is talking about all age ranges in this paragraph,

1 true?

2 A. Right. And the headline said -- let's make it very simple:

3 The headline said in the black box, which, by the way, is at

4 the very top. If you open up the label, that's the first thing

09:56:04

5 you see, it's deliberately there, it's the highest level

6 warning that FDA can put. And headline is, there's a big

7 difference between young patients and older patients:

8 Children, adolescents, and young adults to 25; big

9 divide. What's the divide? If they're depressed or anxious,

09:56:26

10 or anything like that. And younger than that, if they get

11 worse, it could be their condition, or, be careful, it could be

12 the drug. If they're older than that, just their condition,

13 you do not worry about the drug. Everything else in that label

14 is within that headline.

09:56:42

15 MR. DAVIS: Your Honor --

16 BY MR. DAVIS:

17 Q. Well, Doctor, you know that physicians don't just read the

18 black box warning, they read the entire language, true?

19 A. Sir, you've seen lots of depositions by treating doctors

09:56:55

20 who say they never sit down and read an entire label, word for

21 word, at 45 pages of fine print.

22 They testify over and over again, just like me, that

23 they go looking for specific things, but when you go looking to

24 see, well, what's the maximum dose the FDA thinks, or, you

09:57:14

25 know, what's the half life of this drug, the first thing you're

1 going to see is that black box.

2 Q. If a witness who is prescribing doctor came in front of  
3 this jury and told the jury that before prescribing the  
4 information he doesn't look just what's in the black box, but  
5 he looks at the entire labeling and doesn't prescribe it until  
6 he's comfortable with it, you would dispute that?

7 A. I wouldn't dispute it, but it's not typical.

8 Q. Not typical.

9 So a doctor who does that is someone who is paying  
10 more attention, true?

11 A. I don't know. You'd have to ask him or her.

12 Q. Well, you have opinions about what doctors don't look at  
13 and don't pay attention to. I'm just asking you, if a doctor  
14 came in and testified to this jury that he read the entire  
15 labeling didn't just look at the black box, you would say that  
16 that doctor is paying more attention, true?

17 A. I'm just saying, I've read lots of treating doctors'  
18 depositions, and most of them say, like me, that they go  
19 looking at labels for specific things they want to know. I  
20 mean, labels are -- I think that's enough.

21 Q. Is that the best you can answer that question?

22 A. Yeah. I think I have a couple of times.

23 Q. And, in fact, if you go back to the section that we were  
24 talking about, information for patients, if these occur while  
25 taking on Paxil, it says:

1 "Symptoms such as these may be associated with  
2 an increased risk of suicidal thinking and  
3 behavior and indicate a need for very close  
4 monitoring and possibly changes in the  
5 medication."

09:58:35

6 True?

7 THE COURT: All right. I think it's covered, sir.

8 Let's go on.

9 BY MR. DAVIS:

09:58:57

10 Q. You agree that in the spring of 2006 GlaxoSmithKline added  
11 a warning to its labeling alerting doctors that Paxil increases  
12 the risk of suicidal behavior and depressed adults more than  
13 six-fold, true?

09:59:15

14 A. Yeah, but they did that -- they thought that the FDA was  
15 going to analyze their data in a particular way. They were  
16 concerned about that.

17 MR. DAVIS: Your Honor, I think the short answer is  
18 just yes or no.

09:59:26

19 THE COURT: No, I'm going to let him answer. This is  
20 very technical stuff.

21 Go ahead, Doctor.

09:59:37

22 THE WITNESS: They were concerned about that. They  
23 had lots of meetings and internal reports about, oh, boy, the  
24 FDA is going to look at this data. They tried to get them to  
25 look at it in a different way, and the FDA said, no, we're

1 going to look at it this way.

2 So then they said, internally, well, maybe --

3 THE COURT: No, Doctor, Doctor, better leave that,  
4 Doctor.

09:59:44

5 THE WITNESS: Okay.

6 THE COURT: Leave that. That may go out.

7 MR. DAVIS: Thank you.

8 BY MR. DAVIS:

9 Q. So the short answer was "yes," right?

09:59:53

10 A. They did.

11 Q. Thank you.

12 And you even claimed that -- in fact, you say that the  
13 information in the May 2006 Dear Healthcare Provider letter and  
14 labeling change is exactly what GlaxoSmithKline should've done  
15 a decade and a half ago when Paxil was first approved by the  
16 FDA, you say that in your report, true?

10:00:26

17 A. Right. I was very clear that the 2006 wasn't enough, that  
18 it wasn't -- that there were all kinds of problems with it, but  
19 it was a lot better than no warning. And yes, I said very  
20 clear, they should've put a warning in 1991 when the drug first  
21 went on the market.

10:00:42

22 Q. And you never say or suggest in your report in any way that  
23 -- let me back up.

24 You never say or suggest in your report that GSK's  
25 May 2006 Dear Healthcare Provider letter was misleading because

10:00:56

1 it accurately reported that 8 of 11 patients exposed to  
2 Paroxetine under age 30 and under, true?

10:01:14

3 A. I was asked about that in my depo at length, and I was very  
4 clear that the 2006 warning was still misleading because it  
5 emphasized under 30. We went over and over that in my  
6 deposition.

10:01:29

7 Q. My question was simply that, in your report, you did not  
8 say that the Dear Healthcare Provider letter or the labeling  
9 was misleading because it reported that 8 of 11 patients  
10 exposed to Paroxetine under age -- were age 30 and under,  
11 right?

10:01:47

12 A. So to be clear, when I said in the report that in 2006 they  
13 put in a warning which they should've done in 1991, that's all  
14 I meant. I wasn't critiquing the 2006 warning. You asked me  
15 specifically in my depo, and I was very clear, there were a lot  
16 of problems with that warning.

17 Q. You have never communicated to FDA what you think the  
18 Paroxetine or Paxil labeling should say, true?

10:02:01

19 A. I've said this in my depositions, unfortunately I'm bound  
20 by a lot of confidentiality in these lawsuits. So, I can't  
21 tell the FDA what I know and they don't know.

10:02:18

22 Q. Well, Doctor, you know that nothing would prevent you from  
23 sending into the FDA what your view of the Paxil or Paroxetine  
24 labeling is based upon the May 2006 labeling change and Dear  
25 Healthcare Provider letter because that's publicly-available

1 information, true?

2 A. Sir, I think I was asked this a couple of times in  
3 depositions, and I said if you on behalf of GlaxoSmithKline  
4 would give me permission to tell the FDA what I know and they  
5 don't know, I would write a letter tomorrow.

10:02:33

6 Q. Can we agree that the May 2006 Dear Healthcare Provider  
7 letter and labeling, which you are critical of, is  
8 publicly-available information?

9 A. But my critique of it relies on information that's not.

10:02:48

10 Q. My question was simply directed at, you have not  
11 communicated to the FDA what you think was wrong with the  
12 May 2006 Dear Healthcare Provider letter or labeling based upon  
13 what those two documents say, true?

14 A. Again, to do that I would want to tell them everything I  
15 know that's wrong with that, and it's been wrong since 1991. I  
16 would love to do that. I've asked repeatedly when you asked me  
17 these questions in depositions for permission, and  
18 GlaxoSmithKline has never granted me permission.

10:03:05

19 Q. You agree that the May 2006 Dear Healthcare Provider letter  
20 and labeling specifically stated that the 6.7 odds ratio  
21 finding related to all adults and the risk may extend beyond  
22 the patient's age 24, true?

10:03:20

23 A. So let's look at it, but I'm pretty sure the 6.7 was  
24 actually not in the label. I don't think it was even in the  
25 letter. I think it was in kind of an appendix to the letter.

10:03:38

1 Again, you know --

2 Q. Can you --

3 A. We can look in detail, I'm not saying I'm certain about  
4 that, but that's my recollection.

10:03:50

5 Q. So you don't dispute what I asked, right?

6 A. Could you repeat the question?

7 Q. Yeah. The May 2006 Dear Healthcare Provider letter and  
8 labeling specifically stated that the 6.7 odds ratio finding  
9 related to all adults and the risk may extend beyond patients

10:04:07

10 24 years of age, true?

11 A. So, I think it's exactly as I said. I don't believe it was  
12 in the letter, I don't believe it was in the labeling, I  
13 believe it was in an appendix that was included in the  
14 mailing.

10:04:19

15 Q. Would you, please, turn to page 223 of your deposition in  
16 this case, which I believe is behind Tab 1.

17 A. So binder 1 of deposition testimony?

18 Q. Yes. Yes.

19 A. I'm just going to have to switch binders here.

10:04:43

20 (Brief pause).

21 MR. RAPOPORT: I'm sorry, page and line?

22 MR. DAVIS: Sure. It's Line 9 through 19.

23 MR. RAPOPORT: Of 223?

24 MR. DAVIS: 223.

10:04:55

25 (Brief pause).



1 BY THE WITNESS:

2 A. Okay. I have the deposition now. If you could tell me the  
3 page.

4 BY MR. DAVIS:

10:05:15 5 Q. Page 223, Lines 9 through 19.

6 (Brief pause).

7 BY THE WITNESS:

8 A. Okay.

9 BY MR. DAVIS:

10:05:31 10 Q. Were you asked this question and did you give this answer  
11 under oath:

12 "Question: Doctor, you said the way GSK  
13 portrayed that it suggested it was in young  
14 adults. The language in the 6.7 discussion and  
10:05:45 15 the 2006 label specifically said the analysis  
16 related to all adults, and that the risk may  
17 extend beyond patients 24 years of age, didn't  
18 it?

19 "Answer: So --

10:05:55 20 "Question: Do you remember that?

21 "Answer: That's what it said in the  
22 dear-doctor letter and the label, but now you're  
23 talking about the letter they wrote to the FDA."  
24 Did I read that correctly?

10:06:09 25 A. Yeah.

1 Q. Thank you. And that was your sworn testimony under oath.

2 A. So, actually, I was misled by the question. It says, you  
3 know, if the risk -- so, let's look at the question carefully:

4 "... the language in the 6.7 discussion and the  
5 2006 label specifically ..."

10:06:19

6 and I just told you, it's not in the label.

7 "... said the analysis related to all adults,  
8 and that the risk may extend beyond patients 24.

9 ..."

10:06:26

10 that was in the label.

11 So, you know, we weren't parsing it out as detailed as  
12 you are today. You were referring to the 6.7, my recollection  
13 is that wasn't in the label, it wasn't even in the Dear  
14 Healthcare Provider letter. It was in a multi-page appendix  
15 that a doctor would've had to have read very carefully to  
16 find.

10:06:45

17 Q. I think we've already covered that. Thank you, Doctor.

18 MR. RAPOPORT: Your Honor, I move to strike counsel's  
19 comment about what he thinks about it already being covered.

10:07:07

20 THE COURT: All right. Let's move on. Proceed,  
21 please.

22 BY MR. DAVIS:

23 Q. Isn't it true that there is not any statement -- let me  
24 back up.

10:07:14

25 You have also stated that despite the FDA saying that

1 the adult data did not showed an increased risk above the age  
2 of 24 in the FDA's analysis, that FDA went ahead and said that  
3 "everybody should be warned to monitor" because FDA had some  
4 concern, true?

10:07:35

5 A. I don't recall that specifically, but, you know, we saw  
6 that the label says everybody should be monitored, but under  
7 headline that you would be concerned in people 25 and older  
8 about their depression and anxiety. So I share that concern,  
9 but I'm also concerned about the drug in the case of

10:07:57

10 Paroxetine.

11 Q. Sharing the concern that everybody should be monitored,  
12 right?

13 A. Sure. We all know that people who are depressed and  
14 anxious should be monitored, that's not news; the drug is news.

10:08:06

15 Q. You know that FDA requires GSK and other manufacturers to  
16 say in the labeling that the causal link between akathisia and  
17 suicidality has not been established, true?

18 A. So we should look at that specific language, if you want to  
19 talk about it.

10:08:27

20 Q. No, sir. I'm just asking you whether you agree with that  
21 statement or not.

22 A. Okay. So it is that way in the label now. When they first  
23 wrote it, when the FDA first wrote it, they said a causal link  
24 had been proven, and the pharmaceutical industry fought that so  
25 hard that that sentence changed. And so now it says that the

10:08:44

1 specific individual side effects haven't proved, but the  
2 overall suicidality has.

3 Q. Doctor, what you are referring to is some language dealing  
4 with pediatric patients, right?

10:08:57 5 A. It was the original --

6 Q. Pediatric patients, right?

7 A. Well, it's the same sentence, sir. We talked about the  
8 history of it. So, you're now reminding me that that fight  
9 took place when the first final label was put in place for  
10 pediatric patients.

10:09:13

11 Q. Can you please turn to tab -- tab -- tab 12 in your volume  
12 2, and turn to page 257, Line 8 through 15.

13 A. Well, now I have to get the binder.

14 (Brief pause).

10:09:59

15 BY MR. DAVIS:

16 Q. This is testimony that you gave --

17 A. What page?

18 Q. This is page 257.

19 A. Okay.

10:10:22

20 Q. Page 257, lines 8 through 15. Were you asked this question  
21 and did you give this answer under oath:

22 "Question: And FDA requires GSK and other  
23 manufacturers --"

24 THE COURT REPORTER: I'm sorry.

25 THE COURT: Not so fast.

1 MR. DAVIS: I'm sorry.

2 BY MR. DAVIS:

3 Q. (Reading:)

10:10:38

4 "Question: And FDA requires GSK and other  
5 manufacturers to say in their label that the  
6 causal link between akathisia and suicidality  
7 has not been established, haven't they?

10:10:55

8 "Answer: Right. I've acknowledged that  
9 already. I'm just looking here, we have extra  
10 Formato Syndrome, including akathisia listed."  
11 Did I read that question and answer correctly?

12 A. Right. And as an acknowledgement that we have previously  
13 talked about and that we had the discussion about the fight  
14 over that sentence.

10:11:05

15 Q. And that deposition, the date of that deposition is  
16 June 12, 2008, after the labeling changes that took place in  
17 2007, true?

18 A. Yeah. We've had that conversation many times.

10:11:35

19 Q. With respect to the statement in the 2010 -- well, let me  
20 skip over.

10:11:52

21 With respect to the language in the labeling that says  
22 that a causal link between the emergence of such symptoms in  
23 either the worsening of depression and/or the emergence of  
24 suicidal impulses has not been established, you can't provide  
25 any documents or evidence proving that anyone in the

1 pharmaceutical industry had input into that specific sentence,  
2 true?

3 A. Now, just a minute. Although the FDA agreed to change that  
4 sentence, you know that I have multiple FDA documents that  
5 we've reviewed over and over again where the FDA has continued  
6 to say a causal link has been established. And in my opinion,  
7 the causal link between the drugs and suicidality has been  
8 established. You're talking -- I'm sorry, you're talking now  
9 just about the symptoms.

10 Q. Please turn to page 198, behind Tab 8 of your testimony  
11 book.

12 A. What tab?

13 Q. Tab 8.

14 A. Oh, I got to search books again.

15 Q. Tab 8, page 198, lines 5 to 16.

16 A. What lines?

17 Q. 5 to 16.

18 A. Okay. I'm at Tab 8. What page?

19 Q. 198.

20 A. Okay.

21 Q. Were you asked this question and did you give this answer  
22 under oath:

23 "Question: Doctor, do you claim that any  
24 pharmaceutical company had any input into the  
25 language I just read to you that a causal link

1 between the emergence of such symptoms in either  
2 the worsening of depression and/or the emergence  
3 of suicidality impulses has not been  
4 established?

10:13:32

5 "Answer: It would be hard for me to believe  
6 that the industry didn't have some input into  
7 that; although, I can't cite documents proving  
8 that they had input into that specific  
9 sentence."

10:13:42

10 Did I read that correctly?

11 A. Hold on one second.

12 Do you know the date of this --

13 THE COURT: Sir, go on to another question.

14 BY THE WITNESS:

10:13:53

15 A. I did -- I've seen them since. I've seen them since.

16 MR. DAVIS: Your Honor, I move to strike.

17 THE COURT: No, sir. Go on to another question.

18 (Brief pause).

19 BY MR. DAVIS:

10:14:11

20 Q. You've not seen any placebo-controlled clinical trial data  
21 that you believe supports the claim that the symptoms and the  
22 labeling are closely related to either worsening depression or  
23 suicidal impulses, true?

10:14:29

24 A. There aren't studies of specific individual symptoms, you  
25 know like the worse anxiety, worse depression, akathisia. The

1 studies were of all of that, of people becoming suicidal. So  
2 that's correct, they're not up to the individual symptoms.

3 Q. You don't know whether anybody in the pharmaceutical  
4 industry had any communication with FDA about the statement  
5 that is in the current Paxil labeling that says that suicide is  
6 a known risk -- well, strike that.

10:14:50

7 Oh, let me finish. I'm sorry. You don't know whether  
8 there's anybody in the pharmaceutical industry that had any  
9 communication with FDA about the statement that suicide is a  
10 known risk of depression and certain other psychiatric  
11 disorders and those disorders are themselves the strongest  
12 predictors of suicide?

10:15:06

13 MR. RAPOPORT: Objection, Your Honor. Beyond the  
14 scope. Dr. Glenmullen's testimony was limited to specific  
15 causation. He didn't re-cover the grounds of Dr. Healy and Dr.  
16 Ross and I believe that it is improper to cover those grounds  
17 since they weren't covered on direct.

10:15:20

18 MR. DAVIS: Your Honor, he did discuss the labeling,  
19 Plaintiff's Exhibit PTX 059. He also just elicited testimony  
20 about some contacts with pharmaceutical companies about language  
21 and labeling and I'm simply following up on that.

10:15:41

22 THE COURT: Objection is sustained. Let's move on.  
23 We can't get into what the entire industry was doing. The jury  
24 is very patient, but I don't think they'll stay here that long.

10:15:58

25 BY MR. DAVIS:



1 Q. With respect to the discussion about the May 2006 Dear  
2 Healthcare Provider letter and labeling, you agree that FDA  
3 specifically told GSK to take out the Paxil-specific data,  
4 true?

10:16:15

5 MR. RAPOPORT: Same objection, Your Honor.

6 THE COURT: Overruled. You may inquire.

7 BY THE WITNESS:

10:16:30

8 A. So it's actually more complicated than that. The FDA --  
9 so, there was briefly Paxil-specific meaning that Paxil--and  
10 you're using Paxil now, so I think I can--had an increased risk  
11 for adults. Subsequently when they put in the last and final  
12 label change, which was to bring it up to age 24, there is  
13 correspondence between GlaxoSmithKline and the FDA saying, you  
14 know, could we leave the -- the older piece, the 2006 piece,  
15 which again is flawed and something much better shouldn't been  
16 there since 1991.

10:17:00

17 And the FDA wrote back and said, if you want to  
18 discuss that with us, ask for a meeting. And there's testimony  
19 that GlaxoSmithKline never asked for the meeting and never  
20 followed up.

10:17:17

21 Q. Doctor --

22 A. So it's more complicated than that, sir.

23 Q. Doctor, could you please turn to behind Tab 12 of your  
24 prior testimony. And if you look at page --

10:17:26

25 A. I have to switch binders. So let me just do this.

1 (Brief pause).

2 MR. RAPOPORT: Your Honor, I would just make a  
3 request, as we're going through different transcripts, that the  
4 date of the transcript and case name be provided.

10:17:57

5 THE COURT: I don't think that's necessary. You're  
6 following it. If you see some particular way in which that's  
7 necessary, you can call it to my attention and we'll consider  
8 it, but this is such a slow pace if we have to go through all  
9 of that --

10:18:15

10 MR. RAPOPORT: Our greatest concern is just how old  
11 some of the testimony is.

12 THE COURT: Well, the doctor can tell us about his  
13 testimony.

14 BY MR. DAVIS:

10:18:24

15 Q. Are you ready, Doctor?

16 A. Yeah. What page?

17 Q. Sure. This is page 137, Line 16 to 20.

18 Are you there?

19 A. Yes.

10:18:40

20 Q. Were you asking this question and did you give this answer  
21 under oath:

22 "Question: And they specifically told GSK to  
23 take out the Paxil-specific data from that  
24 analysis?

10:18:49

25 "Answer: I think there's an e-mail exchange

1 about that."

2 Did I read that correctly?

3 A. Right.

10:19:00

4 Q. And, in fact, this testimony was taken on June 12, 2008,  
5 after the Paxil-specific data and the labeling at one time was  
6 taken out, true?

10:19:21

7 A. You know, I remember this vividly, because I was shown the  
8 e-mail exchange where they asked to put it in and I wasn't  
9 shown where the FDA wrote back and said, ask us to have a  
10 meeting if you want to pursue this.

10:19:36

11 I asked afterwards, is there anymore to that story of  
12 the plaintiff's attorneys. And they dug and they found the FDA  
13 response. So, was very misleading in my deposition that I was  
14 shown half the story, and I'm glad I know the full story now to  
15 be able to share it here.

16 MR. DAVIS: Your Honor, move strike that. I simply  
17 asked him the date of the deposition.

18 BY THE WITNESS:

10:19:46

19 A. It was 2008. And I hadn't seen the other and you didn't  
20 show it to me in my deposition.

21 THE COURT: All right. Go on to something else, sir.  
22 We've heard this before. This is not new information.

23 BY MR. DAVIS:

10:20:38

24 Q. Doctor, you talked about Plaintiff's Exhibit PTX052, a  
25 demonstrative yesterday with the jury, right?

1 A. Right.

2 Q. And you say here that you had to evaluate each of the  
3 following issues with respect to Mr. Dolin, right?

4 A. Correct.

10:20:45

5 Q. And the reason you listed out all these individual issues  
6 and medical issues and life issues with Mr. Dolin is because  
7 each of the things that I have highlighted here are each  
8 independent risk factors for suicidal thoughts, behavior, and  
9 suicide, true?

10:21:05

10 A. Could be; sure. Exactly.

11 Q. And so if a patient has more than one of these going on at  
12 the same time, it increases the risk of suicidal thoughts or  
13 behavior or the risk of suicide even more?

10:21:23

14 A. Well, it could, it depends, and that's the point of having  
15 an individual case.

16 Q. And you agree that the symptoms of depression and anxiety  
17 can include sleep disturbances, right?

18 A. Sure.

19 Q. That would include insomnia?

10:21:35

20 A. Sure.

21 Q. And that can also include difficulty concentrating, right?

22 A. It could.

23 Q. And you agree that it's well recognized that the physical  
24 manifestations that include fidgetiness, pacing, and many  
25 symptoms that you associate with akathisia are also due to

10:21:53

1 anxiety and depression with no medication, right?

2 A. Again, could be.

3 Q. And you also agree that suicidal thoughts can also be seen  
4 in both patients with depression and anxiety, correct?

10:22:06

5 A. Sure.

6 Q. Okay.

7 MR. DAVIS: I'd like to call up slide 3, please, Mr.  
8 Holtzen.

10:22:19

9 MR. RAPOPORT: Your Honor, before we call things up,  
10 we need to know what they are because we have no basis for  
11 objecting otherwise.

12 MR. DAVIS: Sure. This is a summary slide that I've  
13 shared with counsel as to what Dr. Glenmullen just testified  
14 to.

10:22:27

15 MR. RAPOPORT: I'm sorry, I would need an exhibit. I  
16 don't know what we're talking about.

17 MR. DAVIS: Sure.

18 MR. RAPOPORT: I'm not consciously aware of whatever  
19 that is.

10:22:37

20 MR. DAVIS: It's PTX7017. It's the slide.

21 MR. RAPOPORT: PTX?

22 MR. DAVIS: DX, I'm sorry. I think it's slide 3 or 4.

23 MR. RAPOPORT: D?

24 MR. DAVIS: DX.

10:22:51

25 MR. RAPOPORT: I'm sorry, what exhibit are we talking

1 about?

2 MR. DAVIS: It's okay. I'll move on.

3 BY MR. DAVIS:

10:22:56

4 Q. You understand that the symptoms of depression can also  
5 include weight loss, right?

6 A. Yes.

7 Q. Symptoms of depression can also include having a hard time  
8 getting out of bed?

10:23:10

9 A. Sure. I think we showed all of the DSM criteria for  
10 depression. We went over all of this yesterday.

11 Q. And depression can cause helplessness, hopelessness, and  
12 worthlessness, true?

13 A. Severe depression, sure.

10:23:23

14 Q. Well, even sometimes when depression is not as severe it  
15 can happen, right?

16 A. Sure. Sure.

17 Q. And the symptoms of anxiety can include general worries or  
18 excessive worrying, true?

19 A. Sure.

10:23:30

20 Q. Symptoms of anxiety can include feeling on edge or being  
21 restless, right?

22 A. Sure.

23 Q. And you agree that hopelessness is an important risk factor  
24 for suicide?

10:23:42

25 A. Again, can be. Some people feel very hopeless and not at

1 all suicidal and other people do.

2 Q. And people who have depression have difficulty sometimes  
3 functioning in their personal lives and at work, right?

4 A. Some do and some don't.

10:23:57

5 Q. And you would describe someone who is depressed sometimes  
6 as having a kind of paralysis, right?

7 A. Sure. Sometimes.

8 Q. And depression can be caused by a wide range of things  
9 including, I think you mentioned earlier, problems at work and

10:24:11

10 problems at home, right?

11 A. Sure.

12 Q. And it's true that something close to 50 percent of all  
13 patients with depression take antidepressants, right?

14 A. Ah, I don't know exactly what the number is.

10:24:24

15 Q. You've agreed that that number is credible in the past,  
16 right?

17 A. If you say I have --

18 Q. I just want your testimony. Did you agree --

19 A. I'll take your word for it.

10:24:33

20 Q. Okay. And you agree that it's credible, and you're happy  
21 to accept the number, that there are 30,000 suicides a year in  
22 the United States, right?

23 A. Again, I don't remember that number off the top of my head.  
24 I'm sure I've seen it. And if we've discussed it, that's fine.

10:24:48

25 Q. You don't dispute that figure, do you?

1 A. No.

2 Q. And 60 percent of those people are depressed, correct?

3 A. Again, there's different studies over time. It changes  
4 over time. If I was shown a study that said that and I thought  
5 that was reasonable, that's fine.

10:25:00

6 Q. You accept that number, right?

7 A. Sure. I'm happy to.

8 Q. And you agree that the vast majority of suicides in this  
9 country are not on therapeutic levels of antidepressants at the  
10 time of the death?

10:25:13

11 A. I think I might've been shown a study like that, but I  
12 think there were concerns about the methodology. I'm not sure  
13 we would know for sure the answer to that.

14 Q. You agree that depression is associated with  
15 life-threatening consequences?

10:25:32

16 A. Can be; absolutely.

17 Q. And you agree that it's generally accepted in the  
18 psychiatric community that the single greatest risk for suicide  
19 is depression?

10:25:41

20 A. Well, I -- it's certainly an important risk, but just to  
21 put it in context, for example, where the -- the black box says  
22 that antidepressants increase risk for pediatric patients and  
23 young adults, it doubles the risk of being suicidal over, and  
24 that means over and above the risk of depression or any other  
25 underlying illness. So that's what the data actually shows.

10:26:08



1 Q. Can you turn --

2 A. And we know, and I'm sure, I know there's been lots of  
3 discussion about the Paroxetine data for adults.

10:26:24

4 Q. But you're not disputing that the -- it's generally  
5 accepted in the psychiatric community that the single greatest  
6 risk for suicide is depression, are you?

10:26:39

7 A. I believe that's looking at all the psychiatric conditions,  
8 but as I said, we have specific data about the drugs versus  
9 underlying conditions for under 24 and we have it for  
10 Paroxetine for 25 and over.

11 Q. When you say "all the conditions" you talking about all the  
12 conditions of depression, right?

10:26:54

13 A. No; I think that the statement you're reading is like  
14 depression versus anxiety, versus PTSD, versus other  
15 psychiatric conditions. Depression would top the list --

16 Q. You agree that --

17 A. -- independent of the drugs.

18 Q. You agree that the more severe the depression, the more  
19 likely the greater risk of suicidality, right?

10:27:05

20 A. Sure.

21 Q. And you agree that even moderately depressed patients or  
22 nondepressed patients sometimes commit suicide, true?

23 A. That could be true.

10:27:20

24 Q. You agree that wealth, financial status, and many friends  
25 does not make someone immune to suicidal thoughts or behavior

1 complete suicide, right?

2 A. Sure.

3 Q. And you agree that anxiety disorders are also serious risk  
4 factors for suicide?

10:27:32

5 A. Yes, sir.

6 Q. And you agree that depression, with anxiety on top, is a  
7 lethal combination?

8 A. Can be.

10:27:48

9 Q. And people with both depression and anxiety often just feel  
10 that they just can't go on, right?

11 A. I wouldn't say "often," but again, it's a one in the range  
12 of possibilities, that's why these conditions are on my list  
13 that I want look at.

10:28:03

14 Q. It's more than just a possibility, it sometimes happens in  
15 patients, right?

16 A. Well, that's what I mean by it's a possibility. I thought  
17 we were talking about patients.

10:28:13

18 Q. And you agree that patients suffering from depression,  
19 whether or not they're taking antidepressants, can have  
20 periodically recurring suicidal ideation or behavior, true?

21 A. Sure.

22 Q. And patients suffering from depression can have suicidal  
23 thoughts or behavior and commit suicide whether or not they're  
24 taking antidepressants, right?

10:28:31

25 A. Sure.

1 Q. And suicidal thinking and behavior can develop at different  
2 times in the course of a depressive illness, true?

3 A. True.

10:28:49

4 Q. Suicidality can emerge, suicidal thoughts and behavior can  
5 emerge whether or not the patient is being treated with an  
6 antidepressant?

7 A. Yes, sir.

10:28:58

8 Q. The intensification of suicidal thoughts and behavior can  
9 occur in patients that are depressed whether or not they are  
10 taking an antidepressant, true?

11 A. Sure.

10:29:11

12 Q. You agree that the fact that someone's depression may  
13 deteriorate in the course of antidepressant therapy does not  
14 necessarily mean that the antidepressant caused or contributed  
15 to the deterioration, true?

16 A. Sure. I gave an example of that yesterday.

10:29:26

17 Q. You agree that some suicides occur where someone is  
18 conducting their daily business right up until the moment they  
19 commit suicide whether or not that person is taking an  
20 antidepressant?

21 A. Sure; that could be.

10:29:38

22 Q. And it's also true that the vast majority of suicides where  
23 people close to the person who passes away say that they never  
24 saw it coming and it was a shock?

25 A. That's not uncommon.

1 Q. And people who are kind, conscientious, also commit  
2 suicide, right?

3 A. Sure.

10:29:58

4 Q. And you agree that some patients may become suicidal or  
5 actually commit suicide while taking an SSRI under  
6 circumstances where the SSRI did not cause or contributed --  
7 contribute to the suicidality, right?

10:30:16

8 A. Sure; I told you yesterday I reviewed cases where that was  
9 my conclusion, that there wasn't evidence that the drug was  
10 responsible.

11 Q. You agree that depressed patients can develop suicidal  
12 ideation or behavior while taking -- well, thank you.

10:30:34

13 You don't know of any diagnostic instrument that's  
14 been validated by anybody in the world that will enable you to  
15 identify, reliably, antidepressant-induced newly emergent  
16 suicidality, true?

17 A. Can you read the question again?

18 Q. Sure.

10:30:43

19 THE COURT: Read it back, please.

20 (Question read.)

21 BY THE WITNESS:

10:31:14

22 A. Well, I'm not sure what you mean by "instrument," but I  
23 think that doctors who are properly warned and understand the  
24 risks and the precursor suicide risks, the classic side  
25 effects, the classic timeframe, I certainly feel very

1 confident, clinically, to diagnose this and take the necessary  
2 steps to get people off the drugs, hospitalized them briefly if  
3 necessary, to ensure their safety.

10:31:29

4 Q. Can you please turn to Tab 19 in your prior testimony book,  
5 please, and go to page 297.

6 A. Hold on one second. Tab what?

7 Q. Tab 19.

8 A. What page?

9 Q. 297.

10:31:54

10 MR. RAPOPORT: Lines, please.

11 MR. DAVIS: That would be Line 16 through 22.

12 BY MR. DAVIS:

13 Q. Are you there, doctor?

14 A. Yeah.

10:32:05

15 Q. Were you asked this question and did you give this answer  
16 under oath --

17 A. Well, again, I said I'm not sure what you mean by  
18 instrument, diagnostic instrument validated. "Validated" is  
19 kind of a scientific term for you. You have a checklist or  
20 something and -- and you give it to so many doctors:

10:32:23

21 Q. Page 297, Line 16 through 22.

22 (Brief pause).

23 THE COURT: It's not impeaching.

24 MR. DAVIS: All right, Your Honor. I'll move on.

10:33:13

25 BY MR. DAVIS:

1 Q. Dr. Glenmullen, you have continued to prescribe Paroxetine  
2 and other SSRIs at least as of April, 2009, true?

3 A. Correct. And I think that's very important because, again,  
4 for some patients they -- they want an antidepressant, they're  
5 severely depressed enough that you think it might be a useful  
6 part of their total treatment.

7 I'm not antidrug. I prescribe all of these drugs.  
8 The real danger is the label that misleads doctors. So if you  
9 -- if the doctor understands and they can warn the patient and  
10 the patient understands, even if this side effect does occur,  
11 you can keep the person safe. The real danger is in false and  
12 misleading warning.

13 MR. DAVIS: Your Honor, I simply asked him if he  
14 prescribed medication.

15 THE COURT: Yes, I think that's already covered.  
16 Proceed.

17 BY MR. DAVIS:

18 Q. You prescribe SSRIs, including -- well, you prescribe  
19 SSRI's and antidepressants to people because you've seen people  
20 actually improve on those medications, right?

21 A. Sure. Lots of people say they do better and a small  
22 vulnerable subpopulation paradoxically do worse.

23 Q. Over the course of your career, you think you've treated  
24 several hundred patients with SSRI's, right?

25

1 A. I'm sure that's true.

2 Q. You've never had a patient refuse to go on an  
3 antidepressant because you warned them that the medication  
4 could make them suicidal, true?

10:34:48 5 A. Well, I'm not sure.

6 Can you read that again?

7 Q. You never had a patient refuse to go on an antidepressant  
8 because you warned them that the medication could make them  
9 suicidal?

10:34:59 10 A. So, if we discussed that in a depression, I think I  
11 would've been saying that if you properly warn people and they  
12 want to go on the medication, that the warning isn't  
13 necessarily going to stop them.

14 Q. Sure. As I think you agree with what I said, right?

10:35:14 15 A. Yeah.

16 Q. Yeah. And your experience is, every time that you give  
17 that warning the patient takes the medication and doesn't say,  
18 "I don't want to take the medication," true?

19 A. I don't -- I'm not -- you're talking hundreds of patients.  
10:35:30 20 I don't remember every single time. I warn people about all  
21 the side effects of the drugs and I tell them why it might  
22 help. So that they have the information that they need, and we  
23 are working as a team, and we both know the potential benefits  
24 and the potential risks.

10:35:44 25 Q. Can you please turn to Tab 18. We're back to your Giles

1 versus Wyeth trial testimony, page 680, lines 9 through 12.

2 A. Page what? 6?

3 Q. Yeah.

4 A. 600?

10:36:07

5 Q. 680.

6 A. Tab 18.

7 MR. RAPOPORT: There's no 680.

8 BY MR. DAVIS:

10:36:20

9 Q. I apologize, Dr. Glenmullen. I'll get that fixed. I'm  
10 sorry.

11 You agree that Paroxetine or Paxil is more sedating  
12 and would be a better choice than Celexa, or Lexapro, or Zoloft  
13 for a patient with depression and anxiety?

14 A. I think -- that's probably generally true.

10:36:36

15 Q. And you also agree that Paxil or Paroxetine is a better  
16 choice in somebody with anxiety and insomnia, right?

17 A. Again, generally I would say that's true.

18 Q. And, in fact, your view is that Paxil would be the best of  
19 the SSRIs because it's more sedating, true?

10:36:58

20 A. For someone who had difficulty sleeping, that could be  
21 true.

22 Q. Or for depression and anxiety?

23 A. Sure. Could be true.

10:37:26

24 Q. You don't know of any patient in your entire clinical  
25 practice who had treatment emergent suicidal thinking or



1 behavior while taking Paroxetine, true?

2 A. I don't recall it specifically.

3 Q. You mentioned yesterday in your direct testimony that you  
4 talked about a Dr. Roth, a psychiatrist who treated Mr. Dolin,  
5 do you remember that discussion?

10:38:04

6 A. Yes.

7 Q. And Mr. Dolin saw that psychiatrist from September of 1989  
8 through November of 1996, right?

9 A. That's sounds right.

10:38:11

10 Q. And we don't have the complete records for Dr. Roth, do we?

11 A. No, I said that yesterday. We have billing records.

12 Q. Right. And so we don't have the therapy sessions that  
13 describe the level of anxiety or depression that Mr. Dolin was  
14 experiencing through the course of that treatment, right?

10:38:27

15 A. Well, as explained yesterday, there is one bill where it's  
16 written "anxiety," other than that we don't have details, but  
17 you can look at the pattern of the visits.

18 He's coming so infrequently, and for long stretches in  
19 a group rather than individual, that it's reasonable that it  
20 was mild to moderate.

10:38:48

21 Q. My question simply is, we don't have Dr. Roth's records to  
22 be able to assess the level of anxiety or depression that Mr.  
23 Dolin had in those individual therapy sessions, right?

24 A. Not from any notes.

10:39:02

25 Q. Now, you agree that Mrs. Dolin described Mr. Dolin as a

1 worrier, right?

2 A. I think that's true.

3 Q. And a worrier is just someone who is anxious, right?

10:39:20

4 A. Worrier is kind of common parlance for someone who is  
5 anxious, but lots of worriers don't have a formal anxiety  
6 disorder.

7 Q. And Mrs. Dolin and Mr. Dolin said Mr. Dolin -- excuse me.

8 Mrs. Dolin said Mr. Dolin had anxiety and depression over the

9 years, including the early years of their marriage, and that it

10:39:37

10 was primarily work-related, right?

11 A. Right. She said he had work-related worry.

12 Q. And she saw signs of depression and anxiety going back to

13 when Mr. Dolin started practicing law in 1977?

14 A. Right. And to be clear, "signs of" can mean just symptoms

10:39:57

15 that don't rise to level of a formal psychiatric diagnosis.

16 For example, when he died in 2010, there was some

17 issue raised by Dr. Sahlstrom, did he have generalized anxiety

18 disorder because he was anxious, but he didn't because he'd

19 only been anxious for about a month and a half and it required

10:40:16

20 six months. So just to be clear, worrier, some symptoms, does

21 not mean rising to the level of a formal psychiatric disorder.

22 Q. I promise we'll get to Dr. Sahlstrom.

23 A. Okay. Great. I'm sure we will.

24 Q. And Mrs. Dolin said that his depression and anxiety would

10:40:39

25 relate -- prior to the merger of the Sachnoff firm related to

1 trying to devote time to firm administration versus business  
2 clients, right?

3 A. I don't remember that specifically, but it makes sense.

10:40:54

4 Q. And also, that was a similar concern that later rose again  
5 when Sachnoff & Weaver merged with the larger law firm Reed,  
6 Smith, right?

7 A. I think at that time it was a much bigger stress of a  
8 merger such as that and taking on so much bigger an  
9 administrative responsibility.

10:41:12

10 Q. Mrs. Dolin said that also his concerns back then, even  
11 before the merger with Reed, Smith, included fear of losing his  
12 job, right?

10:41:31

13 A. I think I said yesterday that he -- he -- he was worried he  
14 was going to end up a bag lady in 2007 and 2008. He was a  
15 worrier, but what Mrs. Reed, his therapist, and his wife said  
16 was that if you asked him, "do you really think that," he'd  
17 laugh and say, "no, I know I can't lose my job. I know I could  
18 go to a smaller firm and make as much or more if I wanted." So  
19 it's important not to take these things out of context.

10:41:50

20 Q. My question was simply that, Mr. Dolin's concerns about  
21 being fired or losing his job predate even when the merger  
22 happened between Reed, Smith and Sachnoff & Weaver, right?

10:42:08

23 A. Well, I think you might be overstating it, because I'm  
24 pretty sure that Mrs. Reed said that it was only the night  
25 before his death that he actually brought up being fired. I'm

1 pretty sure there's detailed testimony about that.

2 Q. You looked at Mrs. Dolin's testimony, right?

3 A. Sure.

4 Q. Okay. Let me hand you her deposition.

10:42:18

5 (Brief pause).

6 BY MR. DAVIS:

7 Q. You know what, Dr. Glenmullen, I'm going to move on.

8 You agree that Mrs. Dolin first noticed what she  
9 described as, probably around the beginning of 2000, that

10:42:38

10 Mr. Dolin would sometimes display anxious, depressed, pacing or  
11 even agitated behavior, right?

12 A. I vaguely -- I think that's true.

13 Q. And there's no evidence that he was ever taking any  
14 medication at the time when he displayed those behaviors, true?

10:42:58

15 A. Right.

16 Q. You mentioned that Mr. Dolin may have taken Paxil or  
17 Paroxetine in 2003, right?

18 A. Yes.

19 Q. And but we don't know if Mr. Dolin ever took Paxil or  
20 Paroxetine in 2003, do we?

10:43:16

21 A. We don't know for sure because it's a rheumatologist, I  
22 think he was being seen for toe that had gout, and it's just a  
23 little note that he's on Paxil, I think is what I can picture.

24 Q. And you agree that, over the years, Mr. Dolin's problems  
25 seem to be work-related and were most evident during

10:43:31

1 transitions, like the merger of his prior firm into the  
2 Sachnoff firm and the merger between the Sachnoff firm and the  
3 Reed, Smith firm, right?

4 A. What was the first merger?

10:43:47

5 Q. The merger between the firm before he -- where he went from  
6 -- the firm before Sachnoff & Weaver and when they -- that  
7 joined Sachnoff & Weaver, and then from Sachnoff & Weaver to  
8 Reed, Smith.

10:44:03

9 A. Okay. Definitely she said transitions was a point, but  
10 there were also family issues too, both in 2007 and 2008 and  
11 again in 2010.

12 Q. Mrs. Dolin reported that Mr. Dolin seemed to struggle most,  
13 as you put it, during times of transition that were primarily  
14 work related, right?

10:44:17

15 A. Yeah. Remember, she also said it was very often when he  
16 was doing the best he'd ever done.

17 Q. And so my question was -- so your answer is "yes," right?

18 A. Yeah.

10:44:30

19 Q. And at the time of his death Mr. Dolin was in a time of  
20 transition at work, true?

21 A. Sure.

22 Q. And through the years, Mr. Dolin would express concerns,  
23 stress, and anxiety, right?

24 A. Right.

10:44:38

25 Q. And that at times he would have trouble sleeping, right?

1 A. Yes.

2 Q. He would lose weight, as well?

3 A. Ah, yes.

4 Q. And he would also look nervous and anxious, right?

10:44:52

5 A. Well, when say looked nervous and anxious, nobody at work  
6 ever noticed that. His wife said, when she was asked in  
7 detail, I can remember this, it would be because he would talk  
8 to her about it and his therapist.

9 Q. Mrs. Dolin reported that through the years, through the  
10 years, Mr. Dolin would look nervous and anxious, right?

10:45:06

11 A. I'm pretty sure she was asked, "well, what did you see,"  
12 and she said, "well, it wasn't so much what I saw, it was that  
13 he would tell me, he would share these anxieties with me."

14 Q. Yes. And I think you mentioned earlier, that those would  
15 happen even when Mr. Dolin was at some of the most successful  
16 times of his life?

10:45:20

17 A. Exactly. A lot of people, it's anxiety-provoking to do so  
18 very well. It's -- it's a change. It's different.

19 Q. Mr. Dolin had what's called a CPAP machine, right?

10:45:37

20 A. Right.

21 Q. And a CPAP machine, for the benefit of the jury, that is a  
22 machine that kind of goes over somebody's face when they sleep  
23 at night and it regulates the pressure in their airways, right?

24 A. Right. That's for sleep apnea.

10:45:53

25 Q. Yes. And that's exactly what Mr. Dolin had, he had sleep

1 apnea, and by deposition, that means he had difficulty  
2 sleeping, right?

3 A. Correct. But -- yes.

10:46:09

4 Q. And you agree that there's no medical records indicating  
5 that Mr. Dolin had any difficulty with Paxil or Paroxetine at  
6 any time 2003?

10:46:32

7 A. Yes, I agree, we talked -- well, no, wait. Actually, I  
8 want to say what I said yesterday: Since we don't have  
9 records, we don't know. He could have had a milder version of  
10 this reaction that went unrecognized. So I think it's  
11 important to say, we don't know one way or the other.

12 Q. Right. And there's certainly no medical record indicating  
13 that, true?

14 A. Correct.

10:46:45

15 Q. When Dr. Sachman first prescribed Paroxetine to Mr. Dolin,  
16 his primary symptom was anxiety, right?

17 A. That's what Dr. Sachman said, yes.

10:47:14

18 Q. And that's also when Mr. Dolin restarted medication in  
19 2010, it was also again work-related anxiety was the reason why  
20 he went back on the medication?

21 A. Well, I apologize. The earlier question was 2007?

22 Q. No, no. The early question had to do with 2005 when he  
23 initiated Paroxetine treatment --

10:47:32

24 A. Oh, okay. I was thinking 2010, but yes, I think that's  
25 what Dr. Sachman thought each time.

1 Q. And during the time period in 2005 and 2006, when Mr. Dolin  
2 was on Paroxetine, Mrs. Dolin didn't notice any unusual  
3 behavior in Mr. Dolin, true?

4 A. I think that's right.

10:47:49

5 Q. And Mr. Dolin had difficulty sleeping when he was anxious,  
6 right?

7 A. Yes.

10:48:14

8 Q. And you agree that Mr. Dolin never demonstrated that he was  
9 vulnerable to akathisia in the year or more that he took  
10 Paroxetine in 2005, and 2006, true?

11 A. Can you read the question again, please?

12 THE COURT: Read it back.

13 (Question read.)

14 BY THE WITNESS:

10:48:33

15 A. So I would phrase it a little differently. Nobody noticed  
16 anything at the time. He was not seeing a therapist the way he  
17 was seeing Mrs. Reed. So we don't have any detailed mental  
18 health notes. So it's kind of like what you said about the  
19 2003, we just don't know one way or the other.

10:48:52

20 BY MR. DAVIS:

21 Q. Would you please turn to page 256 of your deposition in  
22 this case, Dr. Glenmullen.

23 A. Hold on one second. Which binder? Which tab?

24 Q. It's Tab 1.

10:49:13

25 A. Okay. And then which page?



1 Q. Page 256, Line 23.

2 MR. RAPOPORT: Through?

3 MR. DAVIS: Through 257, Line 7.

4 BY MR. DAVIS:

10:49:34 5 Q. Are you there, Doctor? And I'll just ask you the question  
6 when you're ready.

7 (Brief pause).

8 BY MR. DAVIS:

9 Q. Ready?

10:49:39 10 A. Okay.

11 Q. Were you asked this question and did you give this answer  
12 under oath:

13 "Question: And Mr. Dolin had never demonstrated  
14 that he was vulnerable to that side effect, if  
10:49:49 15 you will, of Paroxetine in a year or more that  
16 he had taken it, correct?

17 "Answer: To Paroxetine as opposed to Zoloft?  
18 Yes.

19 "Question: Okay.

10:49:58 20 "Answer: To that particular side effect,  
21 there's evidence that he was vulnerable to the  
22 activating spectrum."

23 Did I read that correctly?

24 A. Rights.

10:50:05 25 Q. And what you were referring to about the activating

1 spectrum is testimony from Mrs. Dolin, correct?

2 A. Right.

3 Q. And we don't have any medical records from any doctors that  
4 reflect that during that 2005, 2006 time period, Mr. Dolin had  
5 reported to his doctor some problems that fell within the  
6 activating spectrum that's discussed, right?

10:50:21

7 A. That's exactly what I just said.

8 Q. Okay. Thanks.

9 Now, you mentioned earlier that at times when

10:50:46

10 Mrs. Dolin and Mr. Dolin would talk about Mr. Dolin's concerns  
11 about being fired, do you remember that discussion --

12 A. Oh, hold on. That's -- that's very misleading.

13 Q. Doctor --

10:51:00

14 A. He wasn't concerned about being fired until, you know,  
15 possibly very, very end, so I'm not going to agree with that.  
16 He had anxieties about his job. He used to half joke maybe,  
17 you know, "maybe I'm going to be bag lady," but his wife said  
18 very explicitly and so did Mrs. Reed, if they said "common on,  
19 do you really believe that," he would say, "no."

10:51:18

20 Q. I don't think there is anything misleading about my  
21 question. I was simply asking you that following the merger  
22 with Reed, Smith Mr. Dolin had expressed at times that he might  
23 be fired, right?

10:51:35

24 A. So, you know, my recollection of it now, going back over  
25 everything again, is just what I've said to you.

1 Q. Okay. Why don't you turn to page 175 of your deposition,  
2 Line 16 through 20, behind Tab 1.

3 A. Okay, so Tab 1. Page what?

4 Q. 130.

10:52:01

5 A. Okay. And what line?

6 Q. Oh, I apologize. It's 175, Doctor, and it's lines 16  
7 through 20.

8 A. 175?

9 Q. Yes, sir.

10:05:31

10 Were you asked this question and did you give this  
11 answer under oath:

12 "Question: You know that Wendy Dolin testified  
13 that following the 2007 merger between the  
14 Sachnoff firm and Reed, Smith, Mr. Dolin had at  
15 times expressed concerns that he might be fired?

10:52:50

16 "Answer: Exactly."

17 Did I read that correctly?

18 A. You know, but you can see right here, I had done the same  
19 thing, it was in the context -- I had brought up Mrs. Reed and  
20 her testimony, and contextualized it, that it was never -- it  
21 was never a serious worry on his part.

10:52:58

22 Q. Well, in fact, Mrs. Dolin said that when Mr. Dolin would  
23 raise this, he was part --

24 THE COURT: She is going to be a witness here. Let's  
25 -- let's not go on anymore about what Mrs. Dolin said. If her

10:53:12

1 testimony supports your position, I'm sure you'll go to it, but  
2 let's move on.

3 BY MR. DAVIS:

10:53:33

4 Q. And you agree that Mr. Dolin at times expressed exaggerated  
5 fears when he was not on medication, true?

6 A. Yes. I -- I try to convey to the jury one of the most  
7 vivid ones, the fear that he would become a bag lady.

10:53:50

8 Q. That's right. And then he also expressed fears about not  
9 -- when he wasn't on medication, about not being able to  
10 support his family, right?

11 A. Yeah. Same idea.

10:54:16

12 Q. And you agree that when Mr. Dolin was involved with the  
13 merger between the Sachnoff & Weaver and Reed, Smith, he went  
14 from a firm that basically about 125 lawyers with a mid-western  
15 practice to a much larger firm that had 1500 lawyers and 20  
16 offices around the world, right?

17 A. Right. And he went to a much bigger job which, as I said  
18 yesterday, it's very important that the stress level in 2007,  
19 2008 was greater, in my opinion, than the stress level in 2010.

10:54:37

20 Q. And because of that, Mr. Dolin expressed great fears of  
21 being able to do the job and keep up with non-stop demands,  
22 right?

23 A. Right. We talked that yesterday.

10:54:51

24 Q. And that occurred at a time when he wasn't taking any  
25 medication, true?

1 A. I don't remember the specific visits. We looked at it  
2 yesterday. He was seeing her and then the medication was  
3 introduced. I don't think it matters one way or the other.

4 Q. Well, you know --

10:55:03

5 A. What's very important is that the stress was much greater  
6 in 2007, 2008 and nothing like what happened in 2010, he didn't  
7 kill himself.

8 Q. I think we're referring to the February 19, 2007 visit with  
9 Ms. Reed, do you remember that?

10:55:17

10 A. There's multiple visits where he -- he went specifically to  
11 see her because of the merger and his in-laws moving back from  
12 Florida.

13 Q. You know from the February 2007 visit with Ms. Reed that  
14 Mr. Dolin expressed very extreme negative thinking, correct?

10:55:35

15 A. Yes.

16 THE COURT: All right. Ladies and gentlemen, let's  
17 take a recess.

18 (The following proceedings were had out of the  
19 presence of the jury in open court:)

10:56:11

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

10:56:25

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED] [REDACTED]  
3 [REDACTED] [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED] [REDACTED]  
7 [REDACTED] [REDACTED]  
8 [REDACTED] [REDACTED] [REDACTED]  
9 [REDACTED] [REDACTED]

10:56:41

10:56:51

10 (Recess.)  
11 (The following proceedings were had out of the  
12 presence of the jury in open court:)

13 [REDACTED] [REDACTED]  
14 [REDACTED] [REDACTED] [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED] [REDACTED] [REDACTED]

11:10:42

19 (The following proceedings were had in the  
20 presence of the jury in open court:)

11:12:39

21 THE COURT: All right. Thank you very much, ladies  
22 and gentlemen. Please be seated. We'll resume.  
23 You may proceed, sir.  
24 MR. DAVIS: Thank you, Your Honor.  
25 BY MR. DAVIS:

11:12:48

1 Q. Dr. Glenmullen, you agree that as reflected in Ms. Reed's  
2 notes, Mr. Dolin explained about how life in the new larger law  
3 firm was completely different than what he had experienced at  
4 Sachnoff & Weaver, right?

11:13:04

5 A. In some ways, sure.

6 Q. Sure. And one of those ways was, he felt like he was a  
7 successful lawyer, connected up, enjoying himself, optimistic,  
8 happy, at Sachnoff & Weaver and the international law firm was  
9 not fun?

11:13:20

10 A. At the beginning, yes.

11 Q. Yes?

12 A. That all changed. He felt very good about it towards the  
13 end. We looked at that yesterday.

11:13:31

14 Q. We don't have any evidence from anywhere in a case that in  
15 2007, when the merger was going on between Reed, Smith and  
16 Sachnoff & Weaver that Mr. Dolin was under any kind of threat  
17 of losing clients, do we?

18 A. Not that I know of.

19 Q. Right. We don't have that either for 2008, do we?

11:13:46

20 A. No.

21 Q. Or 2009?

22 A. No. And in my opinion -- or 2010, but I'm sure you're  
23 going to go there.

11:14:02

24 Q. The culture of law firm, I think as you put it in your  
25 report, is not conducive to wearing self-doubt on one's

1 sleeves, right?

2 A. Sure, but I would've included Sachnoff & Weaver in that,  
3 too.

11:14:12

4 Q. Okay. But when you talked about it, you were actually  
5 talking about Reed, Smith, right?

6 A. Okay.

7 Q. And there's even to a point where Mr. Dolin had fears that  
8 the fear would stop him from functioning, right?

11:14:27

9 A. Yup. As we've talked about if his wife or his therapist  
10 said, you know, "do you really believe that," he'd say, "no, I  
11 know, and he laughed. He had a perspective --

12 Q. He had a perspective of exaggerated fears at times, right?

13 A. Exactly. Perspective on exaggerated years that he lost in  
14 the last days of his life.

11:14:44

15 Q. And you agree that at one point in time during his  
16 treatment with Ms. Reed in 2007, he even recognized how fragile  
17 his psychological balance is, right?

18 A. I don't remember that language per se, but we can look at  
19 the record if you want.

11:14:59

20 Q. Sure.

21 A. Again, it's all part of he definitely had anxieties that he  
22 had a perspective on.

23 MR. DAVIS: We can call up Joint Exhibit 9 .12.2.

24 It's already in evidence.

11:15:09

25 BY MR. DAVIS:



1 Q. That's Mrs. Reed's notes of September 2007 where she  
2 documents that he recognizes how fragile his psychological  
3 balance is, right?

11:15:41

4 A. How fragile his psych balance ... what's that last? This  
5 is September of '07.

6 Q. That's correct. Are we on the same page?

7 A. Yeah. He's already doing significantly better. So that  
8 might've been retrospective.

11:15:57

9 Q. In fact, in November of 2007 he had another session with  
10 Ms. Reed in which he was saying that he was feeling better and  
11 things were better under control, right?

12 A. Well, that started in the late spring, early summer, yeah.  
13 I have lots of quotes in my report of how much better things  
14 are.

11:16:09

15 Q. And he didn't report that he was having any kind of  
16 negative to the increased dose of sertraline that occurred  
17 nearly one month earlier, right?

18 A. Well, remember when we looked that it's in the early  
19 months, plural. So for the first few months, I think, is what  
20 the information says for children and adolescents and young  
21 adults, and this was six weeks.

11:16:25

22 Q. Can we agree that when he went to the visit with Ms. Reed  
23 in November of 2007 he did not report any kind of negative  
24 reaction based upon using sertraline or Zoloft, right?

11:16:43

25 A. It's the December 1 visit.

1 Q. You and are mis-communicating. I'm asking you in November  
2 2007 when he goes to Ms. Reed --

3 A. No, it was after November. I said it was December 1.

4 Q. He went to Ms. Reed on November 10, 2007, right?

11:16:57

5 A. Not then.

6 Q. You are saying he didn't go there?

7 A. No, he did not reported then. I said he did report it  
8 December 1.

9 Q. Okay.

11:17:04

10 A. Six weeks after the dosage increase.

11 Q. Right. And so four months after he's on sertraline at an  
12 increased dose when he sees Mrs. Reed in November of 2007, he  
13 doesn't report any issues, correct?

11:17:20

14 A. That was not four months after the dosage increase. The  
15 dosage increase was in mid-October and the reference to  
16 suicidal thoughts is December 1.

17 Q. The dosage increase was on October 16, 2007, and he goes to  
18 Ms. Reed on November 10, 2007, right?

19 A. Right.

11:17:34

20 Q. Okay. And so you say that he had some kind of reaction to  
21 the sertraline, right?

22 A. Yeah.

23 Q. Yeah. And, in fact, Ms. Reed documents that what was going  
24 on with him, after she carefully examined his thoughts, his  
25 suicidal thought, that he appeared to be related to wanting to

11:17:56

1 escape the pressure at work, true?

2 A. There was detailed discussion with Mrs. Reed about that.

3 And what she said was, I didn't understand at the time that the  
4 drug played any role. So she was looking for other reasons.

11:18:12 5 Q. Ms. Reed never said that in her testimony, did she?

6 A. She said -- she said I didn't know then what I know now.

7 Yes, she did, sir.

8 Q. Ms. Reed never attributed in any of her testimony that Mr.  
9 Dolin was having problems with sertraline, did she?

11:18:29 10 A. No, because she said she's not a psychiatrist, but she said  
11 she didn't know then what she knows now, that this was after  
12 Mr. Dolin's death.

13 And so -- and I said in my report, and you know, that  
14 when people don't understand the role that the drug could play,  
11:18:46 15 of course they look for other possibilities.

16 Q. Dr. Glenmullen, Ms. Reed never said in her testimony that  
17 she attributed any issues or problems that Mr. Dolin was having  
18 in December of 2007 to sertraline, even knowing what she knew  
19 at the time of her deposition?

11:19:04 20 A. Yes, she wasn't -- she said, "I'm not an expert on that,  
21 I'm not going to go there," but she also said, "I didn't know  
22 then what I know now."

23 MR. DAVIS: Can we please call up Joint Exhibits 9,  
24 J9.3.6.

11:19:20 25 BY MR. DAVIS:

1 Q. These are Ms. Reed's notes, right?

2 A. This is one of the typed versions.

3 Q. And she says -- documents that Mr. Dolin had suicidal  
4 thoughts and that she examined them carefully and they appeared  
5 to be related to wanting to escape the pressure at work, true?

11:19:32

6 A. Sir --

7 Q. That's what they say?

8 A. I don't know if you want to show it, but the handwritten  
9 note just says "suicidal thoughts."

11:19:45

10 She typed these up after Stewart's death, a couple of  
11 years after Stewart's death. You did the same thing to her in  
12 her deposition, you showed her this, and she said, "well, I was  
13 just speculating after he died." And you said, "well, if you  
14 didn't specifically remember that he said it was due to  
15 pressure at work, you wouldn't have typed that, would you," and  
16 she said, "yeah, maybe I would've."

11:20:03

17 Q. Doctor, I believe the jury has heard Ms. Reed's testimony  
18 and they --

19 A. Yes. So she herself said that she didn't know and she was  
20 speculating after his death.

11:20:15

21 Q. Okay.

22 MR. RAPOPORT: Your Honor, I do want to object since  
23 not the entirety of Ms. Reed's testimony was played. And so  
24 the suggestion that the jury already heard it is not  
25 necessarily accurate.

11:20:27

1 THE COURT: Well, let's go on.

2 BY MR. DAVIS:

3 Q. All I want to say is, this is what Ms. Reed typed up,  
4 correct?

11:20:34

5 A. And she --

6 THE COURT: The jury has seen it. Let's go on,  
7 please. We understand your position, we understand the  
8 doctor's position, now go on to something else.

9 BY MR. DAVIS:

11:20:49

10 Q. Doctor, you showed the jury yesterday, PTX039, right? This  
11 is the chart that you and Mr. Rapoport discussed with the jury,  
12 correct?

13 A. Correct.

11:21:11

14 Q. And we see that in December of '07, right? This is '07  
15 that's on the top line, right? Correct?

16 A. Hold on one second.

17 '07 is there. What's the first? Is it May of '07  
18 that's got those three dates?

19 Q. I think January is here (indicating).

11:21:24

20 A. Yes. February then May, yes, now I'm more oriented.

21 Q. Okay. And we know that Mr. Dolin went off sertraline or  
22 Zoloft in 2008, and there's a gap in the prescription history,  
23 right?

24 A. Right.

11:21:42

25 Q. And we also know that there's other gaps here and here in

1 2009, right (indicating)?

2 A. Right.

3 Q. And at no time is there any medical record of Mr. Dolin  
4 having any kind of problems or side effects from sertraline,  
5 true?

11:21:56

6 A. Okay, so you're asking a very -- so I would say that Mrs.  
7 Reed's medical records saying "suicidal thoughts" six weeks  
8 after he had a dosage increase is a medical record documenting  
9 a side effect.

11:22:11

10 Q. Doctor, I think you missed my question. My question was  
11 simply talking about 2008 and 2009, there's no documentation  
12 whatsoever in any of the medical records, or Ms. Reed's  
13 records, or anybody else that says Mr. Dolin was having some  
14 kind of side effect or problems from sertraline or Zoloft,  
15 true?

11:22:31

16 A. There is somebody else. So his wife said, it's not in the  
17 medical record, but she said that every time he would start  
18 these, his sleep would get a little worse for a few weeks and  
19 then he would habituate to that.

11:22:43

20 Q. And whatever Mrs. Dolin said, there's nothing in the  
21 medical records that reflects that Mr. Dolin reported any  
22 problems or side effects from sertraline or Zoloft in 2008 or  
23 2009, right?

24 A. Nobody recognized it as such at the time, you're right.

11:22:58

25 It's not in the medical records.

1 Q. And Mr. Dolin also didn't report any problems that he was  
2 having while on sertraline in 2008 or 2009, correct?

3 A. He also hadn't been warned and didn't recognize them. So  
4 sure, it's not in the medical records.

11:23:13

5 Q. So it's your testimony that -- Okay. Doctor. I think I  
6 got where you're coming from.

7 Now, while you claim that as of June 2010 that Mr.  
8 Dolin underwent some kind of psychological change that made him  
9 more sensitive to sertraline, you don't know what that claim  
10 change is, do you?

11:23:56

11 A. Nobody could know. There isn't -- I talked yesterday about  
12 the pharmaceutical industry hasn't studied this in the way it  
13 should be and helped us understand that kind of thing, but I  
14 said I've seen it in my clinical practice.

11:24:13

15 People take medications, you know, antibiotics and  
16 they don't have a reaction, and then third time on it they have  
17 a reaction. So this happens in medicine. I can't explain the  
18 exact physiology of it, but I would say it's a -- it's a  
19 greater sensitivity to a side effect that we have evidence that  
20 he had milder versions of earlier on these drugs at times,  
21 perhaps due to aging, physiological changes. Older are more  
22 sensitive to drugs. I can't tell you exactly what it was, but  
23 it's consistent with clinical experience and reports of these  
24 kind of reactions.

11:24:35

11:24:54

25 Q. And while you say "clinical experience," you're not

1 pointing to any controlled clinical trials that show that  
2 sertraline -- that patients can become habituated or sensitive  
3 to sertraline over time, correct?

11:25:15

4 A. Oh, no, you're all wrong about that. There's lots written  
5 about how the activating side effects can occur in patients  
6 without getting suicidal, and that they habituate, people can  
7 habituate to all kinds of side effects to all kinds of drugs.

11:25:35

8 There's lots of medical literature about that. And  
9 I'm sure there's medical literature about people having  
10 suicidal reactions to drugs that they've taken earlier and  
11 hadn't.

11:25:47

12 Q. I'm specifically asking about sertraline. You don't have  
13 any controlled clinical trial data where it reflects that  
14 patients become habituated or sensitized to sertraline over  
15 time, true?

16 A. It doesn't -- so, a controlled clinical trial means the  
17 pharmaceutical company study it. I told you that  
18 pharmaceutical companies haven't studied this in the way that  
19 they should. There's lots written about it.

11:25:59

20 Q. You know that -- and so the answer is, you don't have any  
21 placebo-controlled data on that issue with sertraline, right?

22 A. You got it.

23 Q. Okay.

11:26:08

24 A. Medical studies, medical literature, but no pharmaceutical  
25 company studies.



1 Q. You also understand -- you've relied on the FDA analysis in  
2 2006 to form your opinions in this case, correct?

3 A. One of the things that I relied on.

11:26:22

4 Q. You know that the FDA specifically looked at suicidal  
5 thoughts or behavior in patients taking sertraline, right?

6 A. So they looked at thoughts and behavior and they separately  
7 looked at just behavior, yes.

11:26:43

8 Q. Yes. And with respect to both of those findings, you know  
9 that there was a decrease risk shown between sertraline and  
10 suicidal thoughts and behavior or just behavior alone, correct?

11 A. I think that may be true, because I think it was the  
12 Paroxetine that jumped off the page in those analyses.

11:27:05

13 Q. So the FDA data said, for 2006, doesn't support -- that  
14 specific data is not consistent with a claim that sertraline  
15 increases suicidal thoughts or behavior or behavior alone,  
16 true?

11:27:23

17 A. So I don't agree with you, and here's why, those are what  
18 are called metaanalyses. So if you put thousands of patients  
19 in and more patients were made better and fewer patients were  
20 made worse, you won't see that when you combine it all.

21 So that the fact that those particular pharmaceutical  
22 companies studies didn't show it does not mean that the drug  
23 doesn't cause it.

11:27:37

24 And there's been lots of other reports and studies and  
25 metaanalyses that have come to different conclusions.

1 Q. I think I just asked a simple question. Looking at the FDA  
2 analysis alone for sertraline, it doesn't support the finding  
3 that sertraline increases suicidal thoughts or behavior in  
4 adult patients or suicidal behavior in adult patients, right?

11:27:57

5 MR. RAPOPORT: Objection; asked and answered.

6 THE COURT: I think it's covered.

7 BY MR. DAVIS:

11:28:12

8 Q. Now, you know from Mrs. Reed's pattern -- well, you know  
9 from Mrs. Reed's treatment of Mr. Dolin that she saw a pattern  
10 in him over the years where his anxiety would increase, then  
11 drop back down and not quite get to baseline, then go back up,  
12 and then drop back down but get further away from baseline,  
13 correct?

11:28:30

14 A. I'm not sure how you mean "baseline." Can you -- the  
15 overall pattern was that he would come in to a session anxious,  
16 and by the time he left he was much less anxious, that's in a  
17 session.

11:28:45

18 And if you look at what we call an episode of care,  
19 14, 16 months in 2007, 2008, kind of a bigger picture of the  
20 same comes in, anxious, coming more frequently, within four  
21 months he's feeling much better, tapering off, and then, you  
22 know, he stops.

11:29:03

23 Q. So, my point simply is that over the course of his  
24 treatment with Ms. Reed, that his anxiety would be high when --  
25 or increase when he was initially starting the session, then it

1 would decrease down, and then by the time the next visit it  
2 happened, it had gone back up again, right?

3 A. Right. And that specifically what she said did not happen  
4 that last visit the night before his death. She kind of  
5 couldn't talk him down.

11:29:20

6 Q. Well, she talked him down to the point where she felt  
7 comfortable letting him leave the office, right?

8 A. Oh, again, to be very clear, we talked about this  
9 yesterday, she wasn't worried about him killing himself. He  
10 did tell her he had suicidal thoughts, but they were very mild.  
11 She was worried about how anxious he was. And we looked at it,  
12 she said he'd never been like that better before. She couldn't  
13 talk him down in the same way. She wasn't worried about his  
14 safety.

11:29:36

15 Q. I think my straightforward question was, that she felt  
16 comfortable enough with him and his anxiety coming down that  
17 she let him leave the office, right?

11:29:51

18 A. Yes, but it's nothing like other visits because she calls  
19 him the next morning at work which she'd never done before.

11:30:07

20 Q. Okay. Now, you know that from events of what happened in  
21 2010, that there's a series of stressors that were placed on  
22 Mr. Dolin that year, right?

23 A. Sure. Just like in prior episodes.

24 Q. And, in fact, you talked about how Mr. Dolin returned to

11:30:29

25 Ms. Reed on May 22, 2010, and he did so because he was stressed

1 out -- stressed over work, right?

2 A. And his 92-year old father-in-law dying.

3 Q. Yeah. And the primary concern that Mr. Dolin expressed at  
4 that visit was, again, work-related, right?

11:30:49

5 A. Okay. It was work-related, and if you remember we talked  
6 about, he already was pretty much -- he was -- by May he was  
7 already turning it around, by June we have data that he turned  
8 it around big time. He billed more in the first half of 2010  
9 then all of 2009.

11:31:07

10 Q. We're going to get there, but if we can focus on the May 20  
11 visit to try to speed things along her.

12 That Mr. Dolin at that time reported at that visit  
13 that he felt the pressure of no backstop, true?

14 A. Yes, same like in 2007, 2008.

11:31:19

15 Q. Correct.

16 A. What that meant was that he was not from family money. He  
17 didn't have a backstop.

18 Q. And then Mr. Dolin saw Mrs. Reed again on June 3rd, 2010,  
19 right?

11:31:34

20 A. Okay.

21 Q. You agree with that, right?

22 A. Sure.

23 Q. And Ms. Reed reported that Mr. Dolin was confused about  
24 staying with, or leaving his firm, or at least the leadership  
25 position at the firm, correct?

11:31:43

1 A. Right. So we mentioned that he had this very large  
2 leadership position across the firm, which meant a lot of  
3 travel, a lot of mentoring, supervising people all over the  
4 county. I don't know if it was all over the world.

11:32:01

5 When he first took -- usually two people do that  
6 position, cochairs. When he first took the position, he -- he  
7 joined someone who was in it. So he had a co-chair. Then for  
8 a while, he didn't have a co-chair. And he was doing so much  
9 administrative work, his billable hours went down. And now  
10 he's deciding, you know, I want to rebalance that.

11:32:21

11 Q. And we'll get to that decision very shortly, but my  
12 question is, at this visit on June 3rd, 2010, Mr. Dolin is  
13 highly anxious right?

14 MR. DAVIS: Could you call up JX 9.4.43.

11:32:55

15 (Brief pause).

16 BY MR. DAVIS:

17 Q. This is what Ms. Reed records of that visit, correct?

18 A. Well, again, this is the typed version, and you can see but  
19 it also says, "it's the bold fear loop." So he was highly  
20 anxious but this is nothing new.

11:33:07

21 Q. But it's nothing new in the sense that he had old an fear  
22 loop from back of 2007, he was highly anxious in 2007, and then  
23 he comes back in in June 3, 2010, and he also has the same  
24 thing going on, correct?

11:33:21

25 A. The same thing. That's the point. It was worse in '07,

1 '08, and we went all the way back to the fear loop back to  
2 1989. So the fear loop has been around a long time and here it  
3 is again the same.

11:33:38

4 Q. In fact, Mrs. Reed recorded that this was similar to the  
5 problem that he had had in 2007 and 2008, correct?

6 A. Right.

11:33:51

7 Q. And, in fact, at this time you don't claim that any of  
8 these problems, being highly anxious or having the fear loop  
9 triggered, or any other symptoms or problems that Mr. Dolin was  
10 having on this visit are due to medication, true?

11 A. No, not at all. This is what we talked about yesterday,  
12 it's the background. This is what had happened since 1989.

13 Q. And then on June 22, Mr. Dolin had another visit with Ms.  
14 Reed, right?

11:34:06

15 A. Right.

16 Q. And at that session he reports that --

17 MR. DAVIS: If we can call up JX 9.1.8 from Joint  
18 Exhibit 9.

19 BY MR. DAVIS:

11:34:16

20 Q. (Reading:)

21 "... he thinks he's painted himself into a  
22 corner, he's getting very busy, but he has  
23 convinced himself he can't do the work, giving  
24 him an excuse to curl up in a corner, fear of  
25 failure put him in a position of not even

11:34:27

1           trying."

2           That's what she recorded, correct?

11:34:41

3   A. Right. And she explained that painted himself to a corner  
4   means that he was now doing so much billable hours that he was  
5   "very, very busy," underlined, he turned the problem around,  
6   then the rest of it is the anxieties he's had going back to the  
7   '80s.

8   Q. Ms. Reed's notes don't reflect anything about Mr. Dolin  
9   turning it around, do they?

11:34:56

10   A. I'm explaining to you because it was discussed in multiple  
11   depositions. That's "very busy, painted himself into a  
12   corner." I think she talks about it at her deposition.

11:35:13

13   Q. And these are the -- he had previously back in 2006 --  
14   excuse me, 2007, expressed concerns about not being qualified  
15   and being able to do the work, right?

16   A. Yeah. It's the fear loop he had going back to the '80s.  
17   It's nothing new.

11:35:34

18   Q. Now, with respect to the sertraline that Mr. Dolin took, if  
19   he took anything in June of 2010, you don't really have enough  
20   detail to know if any adverse reaction that he had included  
21   suicidal thoughts, true?

11:35:53

22   A. Look, first I want to clarify, what doom by "if"? We have  
23   clear testimony that he was prescribed Zoloft, which is  
24   sertraline. The pharmacology records show that he picked it  
25   up. His doctor said that he took it for a few days. He had

1 such a bad reaction to it, he went off of it. And Mrs. Reed  
2 testified that she said that he felt much worse and he  
3 attributed it to the Zoloft.

4 Q. Let me rephrase the question --

11:36:10

5 A. We don't know --

6 Q. Let me rephrase the question.

7 A. We don't know whether or not it made him suicidal.

11:36:23

8 Q. Okay. So you don't have any evidence that when he took  
9 sertraline, for whatever length of period of time in June of  
10 2010, that that included suicidal thoughts as a reaction,  
11 right?

12 A. We do not.

13 Q. Okay. Now, Mr. Dolin goes on June 29 -- well, let me back  
14 up.

11:36:40

15 Mrs. Reed at the June 3 session -- okay. On the  
16 June 29, 2010, session with Dr. Sahlstrom, this is the first  
17 visit with Dr. Sahlstrom, right?

18 A. So now we're on June 29?

19 Q. Yes.

11:36:57

20 A. Yes.

21 Q. And Dr. Sahlstrom reported to Mr. Dolin and told him that  
22 she didn't think it was a good idea that he see two therapists  
23 at once, correct?

24 A. Correct.

11:37:10

25 Q. And she didn't believe it was useful and it might be



1 counterproductive because seeing two different therapists who  
2 used two different therapeutic results could give conflicting  
3 information to Mr. Dolin, right?

11:37:28

4 A. So Dr. Sahlstrom was what's called a cognitive behavioral  
5 therapist. That's a different kind of therapist from Mrs. Reed  
6 was more of a psychotherapist.

11:37:47

7 Some therapists don't like it if you're seeing another  
8 therapist and others think it's fine. I refer people sometimes  
9 to cognitive behavioral therapists if they have a particular  
10 issue that that would be very helpful for.

11 So yes, that was her opinion, you're right, and that  
12 is what she told him. I think she said she wouldn't treat him  
13 if he didn't stop --

14 Q. That's exactly right, she told him that.

11:37:58

15 A. So she had a very strong opinion about that, but I want to  
16 be clear that I certainly don't have that opinion, and lots of  
17 therapists wouldn't have that opinion.

18 Q. But she conveyed that opinion to Mr. Dolin, did she not?

19 A. She did. And he went and talked to Mrs. Reed about it.

11:38:12

20 Q. Yes. And so despite the concerns that Dr. Sahlstrom had  
21 about having -- giving conflicting information because of the  
22 two therapeutic approaches, Mr. Dolin the next day, in fact,  
23 went and saw Mrs. Reed, right?

11:38:35

24 A. Because it wasn't resolved. Dr. Sahlstrom hadn't started  
25 the therapy yet. She was still doing an initial evaluation

1 with him for three sessions. Her cognitive behavioral therapy  
2 with him had not started. So he was in this decision-making  
3 process. So of course he went back to the other therapist and  
4 discussed it, what else would one do.

11:38:48

5 Q. Doctor, you know that Dr. Sahlstrom didn't say afterward  
6 that it's okay for you to go see another therapist --

7 THE COURT: You know, we're going far beyond what we  
8 need to in this inquiry, sir. Let's stay with the issue,  
9 please.

11:39:00

10 MR. DAVIS: Yes, sir.

11 BY MR. DAVIS:

12 Q. Now, you know that when he came in to see Dr. Sahlstrom he  
13 was worried, one of his worries --

11:39:09

14 MR. DAVIS: If we can call up J1012.2, Joint Exhibit  
15 10.

16 BY MR. DAVIS:

17 Q. One of the things he worried about was a lot about his  
18 competence, correct?

19 A. Yeah. Same old fear loop.

11:39:20

20 Q. And he wasn't taking any medication at that time, true?

21 A. Correct.

22 Q. And Mr. Dolin also told Dr. Sahlstrom that he had been  
23 having symptoms for a month and a half and had a prior episode  
24 3 and a half years ago, correct?

11:39:38

25 A. Is this highlighted here?

1 Q. No, that's from her testimony and also from Joint  
2 Exhibit 10.

3 MR. DAVIS: If we could go to 10-012, under  
4 "presenting problems."

11:39:48

5 BY MR. DAVIS:

6 Q. "Had episodes in the past," do you see that?

7 A. Yes.

11:40:21

8 Q. And one of the things that he expressed was that he had  
9 been having symptoms, it says "last month and a half," do you  
10 see that?

11 A. Yeah, where it says "actual useful information."

12 Q. Right. And in fact, that predates, that predates his time  
13 on Paroxetine, correct?

14 A. Yeah.

11:40:30

15 Q. And none of those symptoms that he reports could have been  
16 caused by Paroxetine, right?

17 A. No, this is the background, you're right.

18 Q. None of those symptoms could've been caused by sertraline,  
19 right?

11:40:45

20 A. Well, we have to put up my calendar again about where  
21 exactly the sertraline was.

22 Q. Why don't you turn to your deposition, page 187, Line 5 to  
23 7.

24 (Brief pause).

11:40:56

25 BY MR. DAVIS:

1 Q. Are you there, Doctor?

2 A. Right.

3 Q. Were you asked this question and did you give this answer  
4 under oath:

11:41:22 5 "Question: So none of those symptoms could've  
6 been caused by sertraline, correct?

7 "Answer: Correct."

8 Did I read that correctly?

9 A. Yeah, I think I more recently realized when I made the  
11:41:32 10 timeline that the sertraline is actually in there somewhere.  
11 So again, if you want to go back and look at my timeline, we  
12 can.

13 Q. But your testimony that you gave when we took your under  
14 depression was under oath and you swore to tell the truth,  
11:41:43 15 right?

16 A. I'm saying when I made the timeline and actually saw the  
17 chronology I realized, oh, the sertraline is in the middle of a  
18 month and a half, and so I didn't remember that. I hadn't made  
19 this timeline when I did the deposition.

11:41:53 20 Q. All right. So your testimony at trial is different than  
21 your deposition testimony --

22 THE COURT: All right, sir, move on.

23 BY MR. DAVIS:

24 Q. Now, you know, Doctor, that Mr. Dolin reported that he felt  
11:42:06 25 -- let me skip ahead.

1 Dr. Sahlstrom noted that Mr. Dolin got un-busy and he  
2 got stuck in worry, correct?

3 A. I'm sorry, who reported this?

4 Q. Dr. Sahlstrom noted that Mr. Dolin got un-busy and got  
5 stuck in worry, true?

11:42:22

6 A. Sure; that's the old fear loop.

7 Q. Yeah, the old fear loop.

8 And so he also told her that he was looking for relief  
9 from his stress, right?

11:42:35

10 A. Yeah; that's why people go to therapy.

11 Q. And he reported that he was having trouble sleeping, right?

12 A. Yes.

13 Q. And he was not sleeping due to the problems of his symptoms  
14 of anxiety and depression, correct?

11:42:45

15 A. Correct. If you want to look at the timeline where the  
16 Zoloft is, we can, but yes.

17 Q. And Mr. Dolin also reported that although he'd been a  
18 consistent exerciser, he hadn't done that four about  
19 three weeks, right?

11:42:56

20 A. I kind of vaguely remember that, because I remember that he  
21 exercises the morning that he dies.

22 Q. Mr. Dolin also reported that he had lost weight, about  
23 10 pounds, right?

24 A. Yes, I can see that on the page.

11:43:06

25 Q. And, again, all those symptoms predate when he's on

1 Paroxetine, correct?

2 A. Yes. They're the old background mild to moderate.

3 Q. In fact, when Mr. Dolin was asked about his work  
4 environment, he said there were many stresses at work and it  
5 was a chaotic environment, true?

11:43:24

6 A. True. It's a giant law firm.

7 Q. Dr. Sahlstrom gave him a psychiatric screening  
8 questionnaire and asked him to complete it before the next  
9 session, right?

11:43:40

10 A. Well, we know that he hadn't completed it before this next  
11 session. I don't know exactly what she told him. She didn't  
12 document that.

13 Q. Doctor, she gave him the questionnaire and she asked him to  
14 complete it, right?

11:43:53

15 A. Yeah. Whether or not -- you know, I don't know if he  
16 thought he had to bring it the next time or not, but she gave  
17 him the questionnaire to fill out.

18 Q. And her initial working diagnosis was generalized anxiety  
19 disorder or JAD, right?

11:44:09

20 A. I think that's correct.

21 Q. And Paroxetine or Paxil has an FDA approved indication for  
22 treatment of generalized anxiety disorder in adults, right?

23 A. Sure. We looked at it yesterday, you have to have  
24 six months. So the month and a half I don't think she noticed  
25 that she'd written down month and a half. He wouldn't qualify

11:44:24

1 for that, diagnosis, but it doesn't really matter, he was  
2 clearly anxious and it's the old anxiety.

3 Q. When Mr. Dolin went back to Ms. Reed the next day on  
4 June 30, he was also very anxious at the time of that session,  
5 correct?

11:44:38

6 A. Sure. It's the old fear loop.

7 Q. And so we know that he's highly anxious on June 3rd and we  
8 also know that he's very anxious on June 29, correct?

9 A. Sir, he's been highly anxious on and off since the 1980's.

11:44:52

10 Q. Thank you.

11 And at the June 30 session with Ms. Reed, Mr. Dolin is  
12 off all medications, true?

13 A. June 30, yes.

14 Q. And so Ms. Reed testified that she was concerned that there  
15 was -- that Mr. Dolin could be conflicted about having to  
16 choose between the two therapists and their approaches,  
17 correct?

11:45:10

18 A. Right. So now he's got -- he's gone to see a person for a  
19 different kind of therapy and they've said, "I won't do this  
20 with you unless you give up the other therapist." It's a  
21 conflict I don't think he ever should've been put in, but he's  
22 doing the right thing, he's going back and forth and talking  
23 about it and going to decide what he's going to choose to do.

11:45:27

24 Q. And Ms. Reed believed that the two therapies -- let me back  
25 up.

11:45:42

1 Ms. Reed believed that the cognitive behavior therapy  
2 with Dr. Sahlstrom could've even be counter-indicated for Mr.  
3 Dolin, right?

11:45:56

4 A. So what she said was that cognitive behavioral therapy  
5 might increase one's anxiety, but that was not the kind of  
6 cognitive behavioral therapy that Stewart was going to get.  
7 That's a particular kind that's called exposure.

11:46:16

8 So let's say you are anxious about going on elevators  
9 and you go see a cognitive behavioral therapist for that.  
10 They're going to show you pictures of elevators. You're going  
11 to get nervous, but the anxiety is going to wear off. And  
12 they're going to show you movies at the next session, you're  
13 going to get nervous but the anxiety is going to wear off.  
14 Then they're going to take you and stand outside an elevator on  
15 the first floor of a building, you're going to get more anxious  
16 but it's going to wear off. The next session you're going to  
17 open the door to the elevator. The next session you're going  
18 to get in but not go up. And eventually, you're riding  
19 elevators.

11:46:28

11:46:44

20 But the idea is, you heighten the anxiety a little and  
21 let it wear off in teeny, tiny stages, but that's not even what  
22 he was going to get. He didn't have a specific phobia.

11:46:56

23 So I know that she said that that's a possibility in  
24 her deposition, but this was actually not an issue in his case.  
25 Q. You know that --



1 A. And the therapy had not started. Dr. Sahlstrom hadn't  
2 started whatever she was going to do.

3 Q. It's your testimony that the June -- okay, I think I get  
4 it, Doctor.

11:47:08 5 In fact, he goes back to Dr. Sahlstrom on June 6,  
6 2010?

7 A. Right.

8 Q. And at that time --

9 A. Wait, wait, wait. Are you in June?

11:47:18 10 Q. I meant July. I meant July, excuse me.

11 A. Yeah.

12 Q. He goes back to Dr. Sahlstrom on July 6, 2010, right?

13 A. Right.

14 Q. And at that time he's not on any medication, true?

11:47:26 15 A. Correct. Starts medication July 10, stops the Paroxetine.

16 Q. And at this visit, again Mr. Dolin reports that -- let me  
17 back up.

18 At this visit Mr. Dolin reports he has not completed  
19 his DSM screening questionnaire that Dr. Sahlstrom gave him the  
11:47:44 20 last visit, right?

21 A. Right. She explained in her note that he said he didn't  
22 know what all these questions about symptoms meant. So again,  
23 to contextualize this, some therapists are pretty relaxed about  
24 diagnosis. They don't want to go to that big book and check  
11:48:05 25 boxes and whatnot. And they'll just say to a patient, I agree

1 you're a little anxious, you're moderately anxious, sometimes  
2 your thoughts are highly anxious but you have perspective on it  
3 and you can laugh about that, and that's the end of diagnoses.

11:48:25

4 And other therapists, like Dr. Sahlstrom, want to give  
5 you a big form, pages and pages, check boxes. And it makes  
6 some patients a little anxious about well, what does this mean,  
7 what do these labels mean. It's a very legitimate concern.

11:48:43

8 So he told her, very honestly and open, you know, I  
9 looked at it and I didn't know what all these check lists could  
10 mean. Perfectly legitimate reason not to have done it. And  
11 she explained to him, "my philosophy of practicing is that this  
12 is really important, so I want you to do this." So he said,  
13 okay.

11:48:57

14 Q. Mr. Dolin asked Dr. Sahlstrom about what it means if he  
15 answers yes or no on the questionnaire, correct?

16 A. That's what I just said.

17 Q. And he agreed to complete it at the next meeting, correct?

18 A. Correct.

19 Q. And but that next meeting -- well, excuse me.

11:49:13

20 Mr. Dolin explained at the next session, on July 12,  
21 2010, that his fear about what the symptoms profile meant  
22 related to his concern over passive suicidal thinking, right?

23 A. Correct. So the big changes between July 6 and July 12,  
24 he's gone on Paxil, we talked about that on July 10.

11:49:32

25 That's actually documented in this same note of

11:49:55

1 Dr. Sahlstrom, it says -- she's seeing him on Monday and she  
2 says, he started the Paxil on Saturday the 10th. And we know  
3 from his wife that he already started to feel worse on the  
4 Sunday. And we know that he's started down this precipitous  
5 downhill course.

11:50:16

6 And so, yeah, now look, the medical record says he has  
7 suicidal thoughts just three days on Paxil. And so he says,  
8 that -- that's -- "this week, that's why I didn't fill out the  
9 form, I'm scared, I don't know what this means." It's a very  
10 legitimate thing for him to say.

11:50:31

11 Q. To kind of circle back to where we are, Mr. Dolin said he  
12 didn't fill out the questionnaire on July 6 due to anxiety  
13 about what the symptom profiles meant. And he asked Dr.  
14 Sahlstrom what it means if he answers yes or no on the  
15 questionnaire. And the next session, on July 12, he said he  
16 had avoided filling it out due to fear of his passive suicidal  
17 thoughts and was scared of what that meant, true?

11:50:52

18 A. He was scared of what the thoughts meant. Look, he's very  
19 open. He told her that that day, he had told Mrs. Reed 2 years  
20 before, 3 years before when he briefly had some, he tells Mrs.  
21 Reed again a couple of nights later. So he's very open. We're  
22 very lucky, here it is in the chart, day 3 on Paxil. And, of  
23 course, he would be concerned about it.

11:51:09

24 Q. And so you agree with what I said.

25 A. Yeah, he couldn't understand that it could be the

1 Paroxetine.

2 Q. And at the July 6 meeting, Dr. Sahlstrom noted that --

3 A. Wait. Are you on July 6? I thought you were up to --

4 Q. I'm back to July 6.

11:51:20

5 A. Okay.

6 Q. On July 6 Mr. Dolin appeared dysphoric or down, right?

7 A. Sure. The old fear loop.

8 Q. And that was different from what she recorded on the  
9 June 29 visit, correct?

11:51:33

10 A. No. All the notes say same old thing, same old thing, same  
11 old thing until the one that you had gotten to, the July 12th,  
12 July 12th note.

13 Q. You don't remember Dr. Sahlstrom's testimony where she said  
14 that she had not observed dysphoria at the first session? You  
15 don't remember that?

11:51:54

16 A. She may have. Again, he had a mixture, going back to the  
17 '80s, of symptoms of anxiety, symptoms of depression. She's  
18 just getting to know him. If she focused on the anxiety and  
19 thought he had generalized anxiety disorder and didn't even  
20 notice that she had written down that it was only a month and a  
21 half. She's doing her initial evaluation over several weeks.

11:52:06

22 Q. Okay. So the next visit is on July 12, 2010, right?

23 A. Right.

24 Q. And you as mentioned, Dr. Sahlstrom's notes reported that  
25 Mr. Dolin had started Paroxetine on a Saturday, right?

11:52:26

1 A. Correct.

2 Q. And can we agree that no one actually saw Mr. Dolin take  
3 Paroxetine at any time during the last week of his life?

4 A. Are you trying to suggest that he didn't take this drug?

11:52:41

5 Q. Doctor, I'm just simply asking a question. Do you agree  
6 that nobody actually saw him take Paroxetine during the last  
7 week of his life?

8 A. You mean like take the pill out of the bottle and put it in  
9 his mouth?

11:52:53

10 Q. Somebody who observed Mr. Dolin take the Paroxetine, yes.  
11 Did anyone see that, say they saw that?

12 A. I don't know that anyone testified they did.

13 Q. Yeah. And in order to have the reactions that you're  
14 describing and attribute it to Paroxetine, Mr. Dolin has got to  
15 take the medication, right?

11:53:10

16 A. Yes, sir.

17 Q. And without that happening, Mr. Dolin's death does not  
18 occur, in your view, correct?

19 A. Yes, sir.

11:53:19

20 Q. And we know that Mrs. Dolin threw away the pill container  
21 after his death, right?

22 A. Because she began to realize that it might be responsible  
23 and she thought it was a poison and she didn't want it in her  
24 home.

11:53:33

25 Q. Yes. And, in fact, after starting Paroxetine, Mrs. Dolin

1 says that Mr. Dolin stated, "I still feel anxious," right?

2 A. He said I feel more anxious and I don't understand it  
3 because this medication was supposed to help me.

4 Q. There's no documentation that Mr. Dolin says this  
5 medication was supposed to help, right?

11:54:00

6 A. You're right. Thank you. Actually that's helpful. He had  
7 no idea that it had anything to do with the medication. He did  
8 -- wait. He actually told Mrs. Reed, "I started the medication  
9 and I'm hopeful it will help."

11:54:15

10 Q. And --

11 A. Wait, wait, wait. And the testimony you're referring  
12 through his wife was, through the course of the week he kept  
13 saying, "I can't believe I'm so much more anxious, I don't  
14 understand it."

11:54:29

15 Q. The phrase, in fact, is that Mrs. Dolin reports is, "I  
16 still feel anxious," true?

17 A. It's more anxious. We can look for other quotes, but it's  
18 more and more and more as the week goes on.

19 Q. We will leave that for another day.

11:54:46

20 MR. RAPOPORT: I object to it being another day.

21 MR. DAVIS: I hope it's not another day either.

22 (Laughter in the courtroom).

23 BY MR. DAVIS:

24 Q. We know that Mr. Dolin also had to sign an informed consent  
25 with Dr. Sahlstrom, right?

11:55:07

1 A. Yes. She was very formal. She had a lot of paperwork. I  
2 can vaguely picture a conform consent, yeah.

3 MR. DAVIS: Can we call up JX 10.16.1 please.

4 BY MR. DAVIS:

11:55:23

5 Q. This informed consent that Mr. Dolin reviewed and read  
6 said:

11:55:35

7 .. if your therapist has reasonable cause to  
8 believe that the patient is in such a mental or  
9 emotional condition as to be dangerous to him or  
10 herself your therapist may be obligated to take  
11 protective action, including seeking  
12 hospitalization or contacting family members or  
13 others who can help provide protection."

14 Right?

11:55:46

15 A. Yes.

16 Q. And you talked about how Mr. Dolin very intelligent man and  
17 he would've understood that if he reported suicidal thoughts or  
18 behavior, that this informed consent form may kick in?

11:56:04

19 A. Well, very few of us read things like that word for word  
20 even if we are very intelligent. We just sign and say, okay,  
21 what can you do to help me.

11:56:18

22 That's standard. That's just standard. I talked  
23 about this yesterday, if I -- the spectrum of suicidality is  
24 someone so suicidal that they can't promise me that they're  
25 going to be safe, I'm going to try and talk them into the

1 hospital, but if I can't I can involuntarily hospitalize them.

2 MR. DAVIS: If we can call up Dr. Sahlstrom's records  
3 from the initial intake. Not the questionnaire --

4 BY THE WITNESS:

11:56:39 5 A. Well, there's the questionnaire. You can see pages and  
6 pages of that.

7 MR. DAVIS: It's JX 10.

8 (Brief pause).

9 MR. DAVIS: If you can highlight "sometimes when people  
11:57:04 10 are feeling bad." The question above, please.

11 (Brief pause).

12 BY MR. DAVIS:

13 Q. You mentioned to the jury yesterday that this was  
14 important, because Mr. Dolin came on his very first visit with  
11:57:22 15 Dr. Sahlstrom --

16 A. So let's put a date on this. This is June 29, before  
17 Paxil.

18 Q. Yes. And she asked him and testified that she probably  
19 read the question just like it was on the form, right?

11:57:33 20 A. Okay.

21 Q. And Mr. Dolin didn't report having -- because he was asked,  
22 have you ever had any of these kinds of thoughts, what have you  
23 been thinking about. And what was reported to Dr. Sahlstrom  
24 was that he never had any of these thoughts, correct?

11:57:49 25 A. Right. So we talked a little about this yesterday.



11:58:07

1 Therapists use suicidal thoughts differently from plain  
2 English. When he told Mrs. Reed, in December 2007, that -- we  
3 don't know what he told her exactly, but if he said, gosh, I  
4 feel like I wish I could go to bed and not wake up, he may not  
5 even have known that she documented that as suicidal thoughts.  
6 He might've forgotten. It was very transient.

11:58:31

7 So he told her that -- and we don't know exactly what  
8 she said and exactly what he said, but she documented it as he  
9 denies thoughts of killing himself. And the next question is,  
10 "have you thought of how," and so, of course, that's also a  
11 "no." And so this is extremely helpful because he was not  
12 suicidal on June 29 despite all the anxiety that you've been  
13 pointing to, which is, you know, the old fear loop.

11:58:49

14 Q. Do you agree that even though he was asked the question,  
15 "have you ever had any of these kinds of thoughts, being  
16 suicidal thoughts" he had those in the past but he did not  
17 report them at that time to Dr. Sahlstrom?

11:59:06

18 A. Again, we don't know how she asked the question. We don't  
19 know if he knew they were suicidal thoughts in December 27. We  
20 don't know if he had forgotten them, if he did at the time. I  
21 mean, I don't know.

11:59:24

22 Q. Doctor, we know exactly how Dr. Sahlstrom read the question  
23 because she told us in her deposition. And we also know that  
24 Mr. Dolin discussed suicidal thoughts with Ms. Reed back in  
25 December of 2007, right?

11:59:44

1 A. Well, all we know is that he's a super, open, honest guy  
2 who despite having this high-pressured job where it's important  
3 that you don't wear your heart on your sleeve, he wears his  
4 heart on his sleeve with his wife. He wears his heart on his  
5 sleeves with his therapist. He has friends that he talks to.  
6 So it's great that we have all the documentation that we do. I  
7 don't know what you trying to imply by nitpicking about exactly  
8 what was asked and exactly how it was answered.

11:59:59

9 Q. Well, don't you remember Dr. Sahlstrom's testimony saying  
10 -- she didn't say it was nitpicking. She said it was  
11 important, she wanted to know that information, didn't she?

12 A. Sure. If he had -- if he had recognized it as such, if he  
13 remembered it as such, I'm sure he would've told her. I don't  
14 know what you're trying to imply.

12:00:15

15 Q. Let's look at the questionnaire that Mr. Dolin actually  
16 completed on July 12, 2010.

17 A. All right, so let's contextualize this --

18 Q. I haven't asked the question yet, Doctor.

19 A. Okay.

12:00:23

20 Q. You agree that during the past few weeks Mr. Dolin said,  
21 during the past 2 weeks, "did you feel sad or depressed," and  
22 his answer was "yes," correct?

23 A. Right.

12:00:37

24 Q. "And during the past 2 weeks, did you get less joy or  
25 pleasure from almost all the things you normally enjoy," he

1 said "yes," right?

2 A. Yes, he fills this out after the session on the same day.

3 He's on Paxil now.

12:00:50

4 Q. Yes. And he says, "during the past 2 weeks, were you less

5 interested in almost all of the activities you are usually

6 interested in" and he answered, "yes," right?

7 A. Yes.

8 Q. And the next question, "during the past 2 weeks did you

9 sleep at least 1 to 2 hours less than usually nearly every day

12:01:04

10 of the past 2 weeks," he answered, "yes," right?

11 A. (No response.)

12 Q. Yes?

13 A. So, again, he's on Paxil. And this is exactly what we went

14 over yesterday. We showed the jury the bottom block of

12:01:16

15 questions on suicidality.

16 We talked about the top ones, not looking at them, but

17 when we went through the DSM criteria for depression, I

18 correlated them.

19 I said he's got insomnia because he answered "yes" to

12:01:29

20 question number 7, if you remember those on the slide. And we

21 talked about, "did he qualify for a diagnosis of MDD, major

22 depressive episode or major depressive disorder based on this,"

23 "yes." "Is he on Paxil." "Yes."

24 Do we know when he crossed that threshold into major

12:01:48

25 depressive disorder in those 2 weeks? We actually don't.

1 Q. Let me see if I can just summarize this real quickly. He  
2 was asked the question:

3 "During the past 2 weeks did you feel tired out  
4 nearly every day of past two weeks.

12:02:03

5 Did you put yourself down and have negative  
6 thoughts about yourself nearly every day of the  
7 past two weeks.

8 Did you feel like a failure nearly every day of  
9 the past 2 weeks.

12:02:11

10 Did you have problems concentrating nearly  
11 every day of the past 2 weeks.

12 Was decision-making more difficult than normal  
13 nearly every day of the past 2 weeks.

14 And did you have thoughts of suicide, even  
15 though you would not do it."

12:02:26

16 All of those questions he answered "yes," correct?

17 A. Wait. So some of them were very specific, "nearly every  
18 day or not." And remember, he's on Paxil. We know he's  
19 deteriorating. I explained yesterday that part of it is  
20 distorted thinking and it's going to get a lot worse in the  
21 next couple of days.

12:02:44

22 So this is under the influence of deteriorating  
23 rapidly on Paxil. So you have to keep it in that context.

24 When you get to the suicidal questions, it doesn't say "nearly  
25 every day of the past 2 weeks." He told the therapist, no, not

12:03:01

1 suicidal on the 29th. He told the therapist, yes, suicidal on  
2 the 12th, which is day 3 on Paxil.

12:03:20

3 Q. Can we just get an answer to my question, which is he  
4 answered "yes" to each of the questions that I went over,  
5 right?

6 A. Yeah. We talked about it yesterday, too.

12:03:29

7 THE COURT: All right, the record speaks for itself,  
8 sir. We've been over this. The jury has seen it. It's been  
9 in evidence. It can be considered again if necessary, but  
10 let's not repeat what we've already covered.

11 BY MR. DAVIS:

12 Q. You know that Dr. Sahlstrom did not diagnose Mr. Dolin with  
13 either major depressive episode or major depressive disorder,  
14 did she?

12:03:42

15 A. All we have to do is look at that questionnaire. The  
16 questionnaire diagnosed him with it on the 12. She was -- I  
17 told you, she's doing an initial evaluation. She hasn't  
18 started treatment. She hasn't finalized the diagnosis. She  
19 thought it was generalized anxiety disorder. It can't be that  
20 because it was only a month and a half.

12:03:59

21 Q. Now --

22 A. So she was considering major depressive disorder. We  
23 looked at her own handwritten after he gave her the  
24 questionnaire, MDE. So clearly she was moving in that  
25 direction.

12:04:09

1 Q. I think she testified that she wanted to explore that issue  
2 further with Mr. Dolin, right?

3 A. Makes my point, that she had not started treatment. She's  
4 doing an extend evaluation.

12:04:20

5 Q. And she also testified that at that time of July 12, her  
6 working diagnosis was still generalized anxiety disorder?

7 A. Yes. And correct, because the patient is changing rapidly  
8 before her eyes and she doesn't know him, she doesn't have a  
9 background like Mrs. Reed does.

12:04:36

10 Q. Now, the next time that Mr. Dolin sees Ms. Reed is on July  
11 14, the night before he passes away, right?

12 A. Correct. We've gone from Monday night with Dr. Sahlstrom  
13 to Wednesday night with Dr. Reed.

14 Q. That's Mrs. --

12:04:55

15 A. Mrs. Reed, yes.

16 Q. The handwritten notes of Ms. Reed record that Mr. Dolin is  
17 very upset and anxious, correct?

18 A. Correct.

19 Q. And also document that Mr. Dolin is worried about failing  
20 Wendy and getting fired, right?

12:05:06

21 A. Correct. And she said this was the first time he'd ever  
22 said that, "fired," to her. And she said that -- this is the  
23 session now where Mrs. Reed, who knows him very well, says he  
24 had never looked like this before.

12:05:20

25 Q. And, in fact, Mrs. Reed, July 16 2010 notes about --

1 A. It's not July 16. He is no longer with us.

2 Q. No, no. She made some typed notes after Mr. Dolin passed  
3 away.

4 A. Okay.

12:05:32

5 Q. They're dated July 16, 2010, right?

6 A. There are some that are dated a couple of years later.

7 Q. There's one dated that's dated July 16, 2010.

8 MR. DAVIS: Can we call up J 9 19.3.

9 BY MR. DAVIS:

12:05:49

10 Q. Do you see this? This says "discussion of the section with  
11 Stu Dolin on July 14, 2010," it's got July 16, 2010, do you see  
12 that?

13 A. Yeah, but she says here -- I think you're misreading it, it  
14 says "3 years ago Stu went through a crisis at work." These  
15 are 3 years later.

12:06:11

16 Q. I think we're on the same page, Doctor. These are typed  
17 notes that Ms. Reed made in July of 2010 after Mr. Dolin passed  
18 away, right?

19 A. How can it be July 2010 and 3 years ago? I think that's a  
20 typo.

12:06:23

21 Q. No, it's not a typo, and the reason it's not is because  
22 she's talking about his prior visits back in 2007. "3 years  
23 ago Stu went through a crisis at work ..."

24 A. Oh, I'm sorry. Thank you. Got it.

12:06:35

25 Q. And this time beginning, 6/3, 6/22, 6/30 and 7/14, which is

1 the evening before he passed away, sounded very familiar,  
2 that's what she typed up, right?

3 A. Well --

4 THE COURT: I think the word is "similar. "

12:06:51

5 BY MR. DAVIS:

6 Q. "... sounded very similar."

7 A. And when she's deposed she makes it very clear that that's  
8 a reference to 6/3, 6/22 and 6/30, she said that 7/14 was  
9 unlike she'd ever seen him before. And there was detailed  
10 testimony. We went through some of it yesterday.

12:07:04

11 Q. When she typed these notes up, this is what it said,  
12 correct?

13 A. Yeah. It was very similar for the first 3 of those 4.

12:07:17

14 Q. And one of the issues, I think you mentioned this  
15 yesterday, there were two issues, client issues that Mr. Dolin  
16 was dealing with the last week of his life, correct?

17 A. Yes.

18 Q. One had to do with a client that was a meat packing company  
19 called Ed Miniat, Inc., right?

12:07:32

20 A. We talked about that.

21 Q. And the other one that you mentioned was the parking  
22 garage, and that was Standard Parking, correct?

23 A. Correct.

12:07:45

24 Q. And you told the jury that the parking garage client, which  
25 was Standard Parking, was very upset that Reed, Smith had filed



1 a lawsuit on behalf of a different client and Standard Parking  
2 would, as you put it, would lose money if that lawsuit was  
3 successful, correct?

4 A. Correct.

12:07:58

5 Q. And what you're talking about is an e-mail that came in to  
6 Mr. Dolin by Robert Sacks who was the in-house lawyer at  
7 Standard Parking, correct?

8 A. I know he was at Standard Parking. If you tell me he's  
9 in-house counsel, that's fine.

12:08:18

10 Q. Correct. And Mr. Dolin got that e-mail, correct?

11 A. Yeah. And Mr. Lovallo, who runs the law firm, said we got  
12 those kind of e-mails all the time.

13 Q. Well, he didn't quite say that, but we'll get to that.

14 In fact, you had looked at those documents --

12:08:32

15 A. Yes.

16 Q. -- the e-mails exchange.

17 A. Yes.

18 Q. And you took them into consideration in order to form your  
19 opinions, correct?

12:08:38

20 A. Absolutely.

21 Q. And it was necessary and important for you to take those  
22 e-mails into account from Standard Parking to Mr. Dolin and the  
23 internal e-mails when there was discussing the issue within  
24 Reed, Smith in order for you to rule out that that situation  
25 with that client did not cause or contribute to Mr. Dolin's

12:08:53

1 death, right?

2 A. Right. Plus Mr. Lovallo's testimony who is the attorney  
3 who runs the law firm.

12:09:08

4 Q. Right. And you knew that Standard Parking was a very  
5 important client for the firm. It was Mr. Dolin's most  
6 important client, correct? Or one of his most important.

7 A. One of them, sure.

8 Q. And Standard Parking was also the largest client of the  
9 Chicago office, correct?

12:09:22

10 A. I'll take your word for it. It was a big one. I don't  
11 remember that specifically.

12 Q. You don't dispute that the fact that it was a big client  
13 for the Chicago office for Reed, Smith's?

14 A. No, not at all.

12:09:31

15 Q. Right. And you understand that Mr. Dolin expressed some  
16 concerns and worries about the Standard Parking issue, correct?

17 A. Sure.

18 Q. And, in fact, that e-mail came in on Monday, July 12, 2010,  
19 correct?

12:09:53

20 A. Right. Day 3 on Paxil.

21 Q. Yes.

22 MR. DAVIS: Your Honor, I seek permission to publish  
23 DX3061 which is the e-mail exchange that I'm talking about with  
24 Dr. Glenmullen.

12:10:26

25 MR. RAPOPORT: Your Honor, there is an objection.

1 There had been discussion about this earlier.

2 THE COURT: Do you have it there?

3 MR. DAVIS: I do. Behind Tab 22 -- I'm sorry, Tab 18  
4 in the exhibit notebook.

12:11:19

5 MR. RAPOPORT: In an effort to expedite things, if  
6 it's only the first page and not the attachment, we would back  
7 off.

8 MR. DAVIS: I'm sorry. Maybe you could show it to me.

12:11:34

9 MR. RAPOPORT: I don't want to engage with counsel. I  
10 was speaking to the Court.

11 MR. DAVIS: If Mr. Rapoport is talking about the cover  
12 e-mail, that's fine. We can just post the cover e-mail up.

13 THE COURT: You objecting to the pleading?

14 MR. RAPOPORT: Exactly.

12:11:48

15 THE COURT: Okay. And he doesn't object to the use of  
16 the e-mail, so you may proceed without reference to the  
17 pleading.

18 MR. DAVIS: Yes. Thank you, Mr. Rapoport.

19 If you can call up DX3061.

12:11:59

20 BY MR. DAVIS:

21 Q. This is the e-mail exchange that comes in on July 12, 2010,  
22 right?

23 A. Right. Stewart is 3 days on Paxil, deteriorating, not  
24 coping as well. So he's going to have a harder time dealing  
25 with whatever this is than he normally would.

12:12:12

1 Q. Doctor, I simply asked you what time the e-mail was.

2 A. Well, you said it's the 12th and it's important to put it  
3 in context. Everything is important to put in context.

4 Q. I've been struggling with this all day, so help me out  
5 here. When you get hired as a professional witness, are you  
6 supposed to -- is it part of that practice to try to advance  
7 your theory when you get asked questions that the e-mail comes  
8 in on July 12, 2010?

9 MR. RAPOPORT: Objection, Your Honor.

10 THE COURT: Sustained. Sustained.

11 BY MR. DAVIS:

12 Q. Okay. Let me move on.

13 It says here:

14 "Attached is a complaint filed on behalf of the  
15 Chicago Park District against Ogden Plaza Garage  
16 by Reed, Smith attorneys Ed Walsh and Robert  
17 O'Mara."

18 Did I read that correctly?

19 A. Yes.

20 Q. And it says:

21 "Not only is the Chicago Park District one of  
22 the most important clients, we are the operator  
23 of the Ogden Plaza Garage on behalf of the named  
24 defendant."

25 Right?

1 A. Correct.

2 Q. And it says, and this is what you mentioned yesterday in  
3 your testimony, it says:

4 "If you succeed in the suite --"

12:13:17

5 And "you" is Reed, Smith right?

6 A. Sure.

7 Q. It says:

8 "... if you succeed in the suit, we are screwed  
9 out of our context."

12:13:24

10 Did I read that correctly?

11 A. "You" meaning the firm, not Mr. Dolin, but yes. And that's  
12 what I said yesterday, this client could lose money if the  
13 other part of the law firm that was representing whoever  
14 brought this lawsuit succeeded.

12:13:35

15 Q. And Mr. Sacks goes on and says:

16 "... I have not check too closely but this  
17 appears to be a conflict situation that was not  
18 thoroughly investigated by your firm."

19 That's what he wrote?

12:13:46

20 A. Yes.

21 Q. And:

22 "... if it is a professional conflict, what do  
23 we tell the Chicago Park District, one of our  
24 major clients."

12:13:55

25 Right?

1 A. Right.

2 Q. And so what he is describing is, that there is tension  
3 between the fact that Chicago Park District is a major client  
4 of Standard Parking and if the Reed, Smith lawsuit is  
5 successful, then Standard Parking is screwed out of its  
6 contract?

12:14:09

7 A. That's what I said yesterday.

8 Q. And Mr. Sacks says:

9 "... I am not very pleased that I have to be  
10 advised of the lawsuit by the Chicago office of  
11 Seyfarth, Shaw."

12:14:17

12 Did I read that correctly?

13 A. Right.

14 Q. That's another law firm here in Chicago, right?

12:14:25

15 A. Right.

16 Q. That a competitor of Reed, Smith, right?

17 A. I don't know.

18 Q. And you understand that law firms compete for business,  
19 right?

12:14:31

20 A. Sure.

21 Q. And it says:

22 "... that other firm recognized our involvement  
23 with these entities while Reed, Smith had no  
24 clue."

12:14:41

25 Did I read that correctly?

1 A. Right.

2 Q. And it says:

3 "Neither am I really happy about our choices."

4 Right?

12:14:47

5 A. Right.

6 Q. And you understand that Mr. Dolin -- this came in on

7 July 12, 2010, right?

8 A. Right.

12:14:54

9 Q. That's the same day that Mrs. Dolin reports that Mr. Dolin

10 was pacing that evening?

11 A. During the phone call, yes.

12 Q. Yes. And, in fact, Mr. Dolin had to turn his attention --

13 because this came out of the blue for him, right?

12:15:09

14 A. Yeah. But Mr. Lovallo said that with practicing lawyers,

15 things come out of the blue every day of the week.

16 Q. But my question was, Mr. Dolin wasn't expecting to get this

17 on Monday morning, to your knowledge, was he?

18 A. No, but he could get anything like it.

12:15:22

19 Q. And so the next thing that Mr. Dolin does is, he had to try

20 to -- the client, Standard Parking, was very upset. I think

21 you said that yesterday, right?

22 A. Yeah. And Mr. Lovallo also testified that this was typical

23 of Mr. Sacks. Mr. Sacks tended to be upset about things, just

24 a little bit of additional context.

12:15:38

25 Q. Yeah. And Mr. Lovallo said that Mr. Sacks was someone who

1 could get upset very easily at things, is that a fair  
2 assessment?

3 A. Like his bark was worst than his bite.

4 Q. I don't think those are the quite words --

12:15:51

5 A. Oh, he did -- no, not those words, but that's what he  
6 conveyed.

7 Q. Yeah. That the "bark worst than your bite," those are your  
8 words, right?

9 A. Yeah. That's my paraphrasing what Mr. Lovallo said.

12:16:02

10 Q. Thank you.

11 And Mr. Dolin then had to turn his attention to trying  
12 to figure out how the relationship could not be damaged,  
13 correct?

12:16:15

14 A. Well, I think Mr. Dolin, from what I read, agreed with  
15 this, that it was unfortunate that another part of the law firm  
16 had brought a suit that made this kind of conflict, and what  
17 could the law firm do in the future to prevents this, what kind  
18 of -- they already had some screening. And I think Mr.  
19 Lovallo, he thought that too. So, well, how did this happen  
20 and what can we do to prevent it from going forward.

12:16:34

21 Q. Mr. Lovallo reported that Mr. Sacks was in an assertive  
22 person and not a relaxed person, correct?

23 A. Yeah, his bark was worst than his bite.

24 Q. Okay. I think we got the sense there, about that.

12:16:49

25 All right. And so the e-mail by Mr. Sacks is, it's



1 sent on Monday, early in the morning, correct?

2 A. Uh-huh.

3 Q. And then the next day, Tuesday, that's the day that Mr.

4 Dolin reports to Mrs. Dolin that he doesn't want to get out of

12:17:05

5 bed, and he doesn't want to go to work, but he felt like if he

6 went to work, he may feel better, right?

7 A. I vaguely remember -- yes, that's Tuesday, yes.

8 Q. And, in fact, on the Monday, when this e-mail comes in, Mr.

9 Dolin goes down and talks to Mr. Walsh, who is another lawyer

12:17:24

10 at the firm who also works on his floor, correct?

11 A. I don't remember working on the floor, but I know he wanted

12 to prevent this kind of thing from happening in the future.

13 Q. And Mr. Walsh reported that Mr. Dolin came into his office

14 and he was upset, he wasn't happy, and he wanted an explanation

12:17:39

15 of what happened, right?

16 A. Yeah.

17 Q. And according to Mr. Dolin to Mr. Walsh, Mr. Dolin said,

18 what happened here, what's going on, this is client, or what

19 the hell are we doing, right?

12:17:52

20 A. Yeah.

21 Q. And Mr. Lovallo testified that the principal contact for

22 Standard Parking was Mr. Dolin, and as such, he was going to

23 take the brunt of the criticism from Mr. Sacks, correct?

24 A. He had to deal with Mr. Sacks. He was the face of the law

12:18:10

25 firm to Mr. Sacks.

1 Q. And, in fact, Mr. Dolin told Mr. Walsh that, I need to go  
2 calm the client down and take care of this, right?

3 A. Yeah. Exactly.

12:18:28

4 Q. And again, Monday, July 12, is the same day that he later  
5 goes in to see Dr. Sahlstrom and he reports he's had suicidal  
6 thoughts, right?

7 A. Yeah.

12:18:43

8 Q. And we also know that Mr. Lovallo -- Mr. Lovallo thought  
9 that Mr. Sacks may have called Mr. Dolin at home on Monday  
10 evening, right?

11 A. I don't remember that specific detail, but I presume you're  
12 not misrepresenting.

13 Q. You don't dispute that, do you?

14 A. I assume you're being honest there. So that's fine.

12:18:54

15 Q. And on Tuesday, July 13, Mr. Dolin sent an e-mail --

16 MR. DAVIS: Well, Your Honor, I would for admission of  
17 DX3061.

18 THE COURT: No objection, it may be received.

19 MR. DAVIS: Thank you.

12:19:08

20 MR. RAPOPORT: Your Honor, we didn't have an  
21 objection. He was exploring basis of an opinion, and it was  
22 used demonstratively I thought. Now it's a pierce of hearsay  
23 that is not subject to any exception that I'm aware of, so I  
24 object on that basis for substantive admission.

12:19:27

25 MR. DAVIS: Your Honor, it's not being offered for the

1 truth of the matter asserted. It's being offered for the  
2 purposes that the words were spoken. So it's not hearsay.

3 THE COURT: It may be received.

4 MR. DAVIS: Thank you.

12:19:39

5 (Defendant's Exhibit DX3061 was received in  
6 evidence.)

7 BY MR. DAVIS:

12:19:47

8 Q. On Tuesday, July 13, 2010, in the afternoon, Mr. Dolin sent  
9 an e-mail describing the problem with Standard Parking, didn't  
10 he?

11 A. I remember the e-mail, sure.

12 Q. Yes. And --

13 MR. DAVIS: Your Honor, we would seek to publish  
14 3064A, which I believe is the e-mail.

12:20:03

15 MR. RAPOPORT: What tab are we talking?

16 MR. DAVIS: That would be Tab 24, Mr. Rapoport.

17 MR. RAPOPORT: Could we just have a moment to catch  
18 up.

19 (Brief pause).

12:20:22

20 MR. RAPOPORT: No objection.

21 MR. DAVIS: Thank you.

22 THE COURT: The copy that I have here is redacted.

23 MR. DAVIS: Yes, Your Honor, that was the way it was  
24 produced in the course of the case.

12:20:41

25 THE COURT: Is it necessary to have unredacted

1 material?

2 MR. DAVIS: Yes, Your Honor. We worked out with both  
3 parties and Reed, Smith -

4 THE COURT: Is this to protect the client's interest?

12:20:48

5 MR. DAVIS: Exactly.

6 THE COURT: Okay. All right. Proceed.

7 MR. DAVIS: Thank you, Your Honor.

8 Move as well into evidence 3064A.

9 THE COURT: There's no objection. You may proceed.

12:21:44

10 MR. DAVIS: Thank you.

11 MR. WISNER: Your Honor, again, this is being used  
12 under 703 to be published to the jury. The rule specifically  
13 contemplates that it would not be admitted into evidence.

12:22:01

14 THE COURT: Well, you didn't object, sir. I didn't  
15 hear an objection.

16 MR. WISNER: Objection, Your Honor.

17 THE COURT: On the theory that --

18 MR. WISNER: Inadmissible hearsay.

19 MR. DAVIS: It's an e-mail from --

12:22:06

20 THE COURT: It's not being offered for the truth, is  
21 it?

22 MR. DAVIS: It's an e-mail from Mr. Dolin himself.

23 THE COURT: I know that.

24 MR. DAVIS: So that would fall outside the hearsay

12:22:15

25 rule, Your Honor.

1 THE COURT: It probably would on that basis alone. It  
2 may be received.

3 (Defendant's Exhibit 3064A was received in  
4 evidence.)

12:22:21

5 MR. WISNER: There's also a second e-mail attached to  
6 this.

7 THE COURT: Isn't that the same e-mail that we just  
8 saw?

9 MR. DAVIS: Yes, Your Honor.

12:22:29

10 THE COURT: We have a way of putting in doubles of  
11 everything, don't we?

12 MR. DAVIS: We do.

13 THE COURT: Proceed.

14 MR. DAVIS: Thanks.

12:22:34

15 BY MR. DAVIS:

16 Q. In that e-mail, this is Mr. Dolin sending out an e-mail on  
17 July 13 at about 7:00 o'clock p.m., correct -- oh, excuse me,  
18 5:06 p.m., right?

19 A. Right.

12:22:51

20 Q. And he's sending it to other lawyers who are at the firm at  
21 Reed, Smith, correct?

22 A. Yes.

23 Q. And he's reporting on his discussion with Mr. Sacks at  
24 Standard Parking, right?

12:23:04

25 A. Right.

1 Q. And what he's saying is that, they're not asking us to  
2 withdraw from the case, and then he goes on to describe what  
3 the bottom line is, right?

4 A. We'll get to that, yes.

12:23:14

5 Q. His bottom line, his bottom line Mr. Dolin says:

6 "... we are hanging on with this client by our  
7 finger nails."

8 Correct?

9 A. We can contextualize that.

12:23:25

10 Q. I don't need to contextualize it, I just want to know if  
11 that's what it says up there on the screen.

12 A. So that's what it says, but Mr. Lovallo, who runs the law  
13 firm, testified that he was shown this specific sentence and he  
14 said what Stewart was trying to do in that e-mail was get the  
15 attention of these other lawyers, like Mr. Walsh who had  
16 brought the lawsuit, who represented the client bringing this  
17 other lawsuit, he said that in his conversations with Mr.  
18 Dolin, because Mr. Dolin had Mr. Lovallo's attention, he wasn't  
19 talking like that at all. He said he thought he was doing  
20 this.

12:23:45

12:24:06

21 Now, I would add to that that nobody could've  
22 appreciated that he might've been struggling more to deal with  
23 this situation because he's now on Paxil and because he's now  
24 deteriorating. This is now day four, I think, on the drug,  
25 Saturday, Sunday, Monday, Tuesday. So that's what the e-mail

12:24:27

1 says, and that's what Mr. Lovallo testified, and I would just  
2 add that he's on Paxil and doing very poorly already. We know  
3 that he reported suicidal thoughts the night before.

12:24:43

4 Q. So even though you say she's deteriorating on Paxil, we  
5 know that he's had a discussion with Mr. Walsh where he says he  
6 needs to attend to this, he's had a discussion with the general  
7 counsel, Mr. Sacks at Standard Parking, and he's e-mailed out  
8 to his partners a strategy and a plan about how to go forward  
9 and what the current situation is, correct?

12:24:59

10 A. Right. And Mr. Lovallo also testified that this  
11 gentleman's bark was worst than his bite. They did, including  
12 Stewart, did not think they would lose this client. They, in  
13 fact, did not lose this client after Stewart's death. He just  
14 switched to other attorney. He didn't leave the firm until a  
15 year or two later when that attorney left the firm.

12:25:20

16 So it was very important for me that you had shown  
17 this to Mr. Lovallo and he could put it into context like that.  
18 This is the kind of e-mail that goes on all the time in a big  
19 law firm, representing very big clients. And his  
20 interpretation of it was, Stewart is trying to get the  
21 attention of these other people to make sure this never happens  
22 again. That's not how he was talking in private to me who's  
23 attention he had.

12:25:36

12:25:52

24 And I would add as a psychiatrist, that nobody  
25 understood that he was struggling. And we talked about by two

1 days later he asked Mr. Lovallo to come to a routine meeting  
2 that he can't cope with.

12:26:13

3 Q. Can we agree that Mr. -- Mr. Dolin, the statement that "we  
4 are hanging on with this client by our finger nails" is not a  
5 place that a lawyer wants to be with a client that's one of the  
6 most important clients for the Chicago office at Reed, Smith,  
7 can we agree with that?

12:26:32

8 A. If he believed that was true, which Mr. Lovallo testified  
9 he did not, and that within another day he felt this issue had  
10 gone away, don't forget that testimony, okay. So keep it in  
11 context, please.

12 Q. And, in fact, does he not say that this is a nightmare?

13 A. Yeah. He wants to be sure that this never happens again  
14 for the firm. And that's being a very responsible attorney.

12:26:49

15 But remember again, Mr. Lovallo was asked, by  
16 Wednesday did he think this kind of gone away and Mr. Sacks had  
17 been appeased. And Mr. Lovallo said, yes, absolutely. And  
18 then there was the other issue that I said was going on that  
19 week, the Miniat meeting.

12:27:05

20 Q. So Mr. Dolin, whom you described as candid and up-front and  
21 wears his heart on his sleeve, he's describing the situation  
22 that he's currently in as a nightmare?

23 THE COURT: All right. That's covered now. Let's  
24 move on.

12:27:20

25 MR. DAVIS: Okay.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Let's move on to lunch.

(Luncheon recess taken from 12:30 o'clock p.m.  
to 1:30 o'clock p.m.)

\* \* \* \* \*

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE  
RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER

/s/Blanca I. Lara

March 30, 2017

12:27:29