

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

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ERIN HEXUM and NICK HEXUM,)	
)	
Plaintiffs,)	
)	
-vs-)	CIVIL ACTION NO.
)	CV 13-2701-SVW-MAN
ELI LILLY & COMPANY, an Indiana)	
Corporation,)	
)	
Defendant.)	
_____)	
)	
CLAUDIA HERRERA and PETER)	
LOWRY,)	
)	
Plaintiffs,)	
)	
-vs-)	CIVIL ACTION NO.
)	CV 13-2702-SVW-MAN
ELI LILLY & COMPANY, an Indiana)	
Corporation,)	
)	
Defendant.)	

VIDEOTAPED DEPOSITION OF SHARON L. HOOG, M.D.

CONFIDENTIAL

The videotaped deposition upon oral examination of SHARON L. HOOG, M.D., a witness produced and sworn before me, Janine A. Ferren, RPR, CRR, CSR No. 93-R-1028, Notary Public in and for the County of Hamilton, State of Indiana, taken on behalf of the Plaintiffs, at the offices of Connor Reporting, 1650 One American Square, Indianapolis, Marion County, Indiana, on the 10th day of December, 2014, at 10:00 a.m., pursuant to the Federal Rules of Civil Procedure with written notice as to time and place thereof.

1 A P P E A R A N C E S

2 FOR THE PLAINTIFFS:

3 T. Matthew Leckman, Esquire (via videoconference)
Kevin M. O'Brien, Esquire (via videoconference)
4 POGUST BRASLOW & MILLROOD, LLC
Eight Tower Bridge, Suite 1520
5 161 Washington Street
Conshohocken, PA 19428
6 (610)941-4204
mleckman@pbmattorneys.com
7 kobrien@pbmattorneys.com

8

9 FOR THE DEFENDANT:

10 Phyllis A. Jones, Esquire
Jennifer A. Holmes, Esquire
11 COVINGTON & BURLING, LLP
One City Center
12 850 Tenth Street NW
Washington, DC 20001
13 (202)662-6000
pajones@cov.com
14 jholmes@cov.com

15

16 ALSO PRESENT:

17 Christopher P. Gramling, Esquire
Eli Lilly and Company

18

19

VIDEOPHOTOGRAPHER:

20

Sara Williams

21

22

23

24

25

1 A Yes. But what you're quantifying is a number of
2 patients who had a symptom.

3 Q I haven't asked that question yet.

4 A That --

5 Q I simply want to understand, from 2006 to 2007,
6 the European label for Cymbalta was changed to
7 include quantitative information; correct?

8 MS. JONES: Object- -- asked and answered.

9 A I'm telling you what the number is. The number
10 of what, okay. And this is the number of
11 patients who had any symptom.

12 Q Can -- can you listen to my question and try to
13 answer the one I'm asking? Because it's really
14 simple.

15 From 2006 to 2007, the European product
16 label for Cymbalta was changed to include
17 quantitative information; correct?

18 MS. JONES: Objection, asked and answered.

19 You may answer again.

20 A Yes.

21 Q In 2007, that same year, the United States
22 product label took the frequency threshold down
23 from 2 percent to 1 percent; correct?

24 A Correct. That's a different measurement.

25 Q And would you agree with me that the product

1 labeling in Europe has different information
2 than what is contained in the product labeling
3 in the United States as of 2007?

4 A Different information on two different measures.

5 Q Do you know why the United States label does not
6 contain the same information that the European
7 label contained?

8 A No, I don't. Labels often diverge based on the
9 interests of the reviewers and other, perhaps,
10 cultural or healthcare delivery system factors
11 and so on. But it's not unusual for different
12 countries to want to emphasize different things.

13 Q If you are a doctor in Europe, do you believe
14 that you should get the same information about a
15 drug that you would get if you were a doctor in
16 the United States?

17 A Well, I --

18 MS. JONES: Well, hold -- let me just --
19 objection, foundation, calls for speculation.

20 Go ahead.

21 Q Do you understand the question?

22 A I believe I do. And when we propose labeling,
23 it is essentially the same. And in the
24 discussions with the individual regulatory
25 agencies, it -- it sort of morphs, it evolves

1 into language that emphasizes what they prefer
2 to emphasize. And it's not that someone is
3 hiding any information from one or the other.
4 But when we propose the same thing to different
5 reviewers, they -- they have different
6 preferences and -- and different interests.

7 And although I wasn't involved in this,
8 clearly this is -- this is what the European
9 reviewers were more interested in. It wasn't
10 that this information wasn't available about the
11 individual symptoms. It was. But that's what
12 the FDA cared about, and this is apparently what
13 the Europeans cared about (indicating).

14 Q If you are a doctor in Europe, do you believe
15 you should get the same information about a drug
16 that you would get if you were a doctor in the
17 United States? Can you answer that question?

18 MS. JONES: Same objection.

19 A And I think implicit in my earlier answer was
20 yes. We attempt to give the same information to
21 everyone. But it is subject to the modification
22 and approval of regulatory agencies who
23 ultimately differ, in small or large ways, about
24 what they want in their labeling. In other
25 words, it's not entirely up to us.

1 Q It's not entirely up to who?

2 A Those of us proposing the labeling from our --

3 Q Is your testimony that you have evidence that

4 Lilly proposed to put this European language

5 into the United States label?

6 A No.

7 Q You know that there is no evidence of that;

8 right?

9 A I don't know that there's no evidence. I -- I'm

10 not aware of any.

11 Q Right. And you're certainly not prepared to

12 tell this jury that there was some reason that

13 Lilly could not put this language in the United

14 States label; correct?

15 A The reason why they could not? No, there's not

16 a reason why we could not, unless the FDA

17 objected.

18 Q And of course, again, you have no evidence that

19 the FDA ever objected; correct?

20 A I have no evidence that was ever discussed.

21 Q Right. You have no evidence that it was even

22 discussed between Lilly and the FDA?

23 A Correct.

24 Q Do you know why it was never discussed, if it

25 wasn't?

1 word "seizure"; correct?

2 A Correct.

3 Q Tell me and tell the jury, does this paragraph
4 contain the word "duloxetine"?

5 A No.

6 Q Does it contain the word "Cymbalta"?

7 A No.

8 Q This paragraph is discussing the marketing of
9 other SSRIs and SNRIs; correct?

10 A Correct.

11 Q It is not a discussion of Cymbalta; correct?

12 A Correct.

13 MR. LECKMAN: Those are all my questions,
14 Doctor. Thank you.

15 MS. JONES: We're done. Off the record.

16 THE VIDEOGRAPHER: Okay. We are going --
17 this concludes the deposition of Dr. Sharon
18 Hoog. The time is 9:56 p.m. and we are off the
19 record.

20 (Time noted: 9:56 p.m.)

21 AND FURTHER THE DEPONENT SAITH NOT.

22

23

24

25

1 STATE OF INDIANA)
) SS:
2 COUNTY OF HAMILTON)
3

4 I, Janine A. Ferren, RPR, CRR, CSR
5 No. 93-R-1028, a Notary Public in and for the
6 County of Hamilton, State of Indiana, at large, do
7 hereby certify that SHARON L. HOOG, M.D., the
8 deponent herein, was by me first duly sworn to tell
9 the truth, the whole truth, and nothing but the
10 truth in the aforementioned matter;

11 That the foregoing deposition was taken on
12 behalf of the Plaintiffs at the offices of Connor
13 Reporting, 1650 One American Square, Indianapolis,
14 Marion County, Indiana, on the 10th day of
15 December, 2014, at 10:00 a.m., pursuant to the
16 Federal Rules of Civil Procedure;

17 That said deposition was taken down in
18 stenograph notes and afterwards reduced to
19 typewriting under my direction, and that the
20 typewritten transcript is a true record of the
21 testimony given by the said deponent; and that
22 signature was requested by the deponent and all
23 parties present;

24 That the parties were represented by their
25 counsel as aforementioned.

1 I do further certify that I am a disinterested
2 person in this cause of action, that I am not a
3 relative or attorney of either party or otherwise
4 interested in the event of this action, and that I
5 am not in the employ of the attorneys for any party.

6 IN WITNESS WHEREOF, I have hereunto set my
7 hand and affixed my notarial seal on this _____
8 day of December, 2014.

9

10

11

12

N O T A R Y P U B L I C

13

14 My Commission Expires:

15 April 22, 2016

16 County of Residence:

17 Hamilton County

18

19

20

21

22

23

24

25

1 - - - - -

E R R A T A

2 - - - - -

3

4 PAGE LINE CHANGE

5 _____

6 REASON: _____

7 _____

8 REASON: _____

9 _____

10 REASON: _____

11 _____

12 REASON: _____

13 _____

14 REASON: _____

15 _____

16 REASON: _____

17 _____

18 REASON: _____

19 _____

20 REASON: _____

21 _____

22 REASON: _____

23 _____

24 REASON: _____

25

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

ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, and that the same is
a correct transcription of the answers
given by me to the questions therein
propounded, except for the corrections or
changes in form or substance, if any,
noted in the attached Errata Sheet.

SHARON L. HOOG, M.D. DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.

My commission expires: _____

Notary Public