

CONDENSED TRANSCRIPT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re FOREST LABORATORIES, INC.
SECURITIES LITIGATION

Civil Action
No. 05-CV-
2827-RMB

This Document Relates to:

ALL ACTIONS

VIDEOTAPED DEPOSITION OF WILLIAM HEYDORN,

taken by Plaintiffs, pursuant to Notice, held at

Third Avenue, New York, New York, on Wednesday,

August 29, 2007, at 9:24 a.m., before Lisa

Rosenfeld, a Shorthand Reporter and Notary

Public within and for the State of New York.

P
A
U
L
S
O
N

SAN DIEGO
565 West Beech Street
First Floor
San Diego, California 92101

PH: 619.239.4111
FX: 619.239.4117

TEMECULA
40880 County Center Drive
Suite F
Temecula, California 92591

PH: 951.296.2850
FX: 951.296.2852

COSTA MESA
535 Anton Blvd.
Suite 300
Costa Mesa, California 92626

PH: 714.668.0166
FX: 714.708.0402

RIVERSIDE
3801 University Avenue
Suite 640
Riverside, California 92501

PH: 951.784.1525
FX: 951.784.9520

LOS ANGELES
11400 West Olympic Blvd.
Suite 140
Los Angeles, California 90064

PH: 310.473.9003
FX: 310.473.9373

SAN FRANCISCO
44 Montgomery Street
Suite 1180
San Francisco, California 94104

PH: 415.591.3333
FX: 415.591.3335

FRESNO
191 East Barstow Avenue
Suite 100
Fresno, California 93740

PH: 559.222.9922
FX: 559.222.7922

BAKERSFIELD
5001 E. Commercenter Drive
Suite 170
Bakersfield, California 93309

PH: 661.322.2202
FX: 661.322.2248

SACRAMENTO
444 North 3rd Street
Suite 320
Sacramento, California 95814

PH: 916.446.2700
FX: 916.446.2777

PHOENIX, AZ
3530 North Central Avenue
Suite 102
Phoenix, Arizona 85012

PH: 602.266.2221
FX: 602.266.2201

LAS VEGAS
2801 S. Valley View
Suite 7
Las Vegas, Nevada 89102

PH: 702.382.6282
FX: 702.382.4374

ATLANTA, GA
101 Marietta Street
Suite 2700
Atlanta, Georgia 30303

PH: 800.941.3727
FX: 619.239.4117

NEW YORK, NY
305 Madison Avenue
Suite 449
New York, New York 10165

PH: 800.941.3727
FX: 619.239.4117

MINEOLA, NY
142 Willis Avenue
Mineola, New York 11501

PH: 800.941.3727
FX: 619.239.4117

BOSTON, MA
100 Franklin Street
Suite 200
Boston, MA 02110

PH: 800.941.3727
FX: 619.239.4117

<p style="text-align: center;">41</p> <p>1 W. Heydorn</p> <p>2 A. It was an evaluation of the efficacy</p> <p>3 and safety of Celexa in pediatric and adolescent</p> <p>4 patients with major depressant disorder.</p> <p>5 Q. And do you recall the results of that</p> <p>6 study?</p> <p>7 A. Yes.</p> <p>8 Q. What were the results?</p> <p>9 A. The results were citalopram showed a</p> <p>10 statistically significant improvement compared to</p> <p>11 placebo in the population under investigation.</p> <p>12 Q. While you were at Forest Labs have</p> <p>13 you ever heard the term "positive study"?</p> <p>14 A. Yes.</p> <p>15 Q. What's your understanding of the term</p> <p>16 "positive study"?</p> <p>17 A. A positive study is one where at the</p> <p>18 conclusion of the study there's a significant</p> <p>19 difference between the active treatment group and</p> <p>20 the placebo group.</p> <p>21 Q. When you say significant difference,</p> <p>22 do you mean statistically significant difference?</p> <p>23 A. Yes.</p> <p>24 Q. And when you say active treatment</p> <p>25 group, is that group the group taking the</p>	<p style="text-align: center;">43</p> <p>1 W. Heydorn</p> <p>2 completed, as accurate and was completed on time</p> <p>3 and was available when needed for submission to</p> <p>4 the FDA.</p> <p>5 Q. Did you have a role in drafting any</p> <p>6 publications other than the study report about</p> <p>7 the study?</p> <p>8 MR. AUBY: Objection to form.</p> <p>9 A. Yes.</p> <p>10 Q. And what was your role?</p> <p>11 A. So I played a role, as we discussed</p> <p>12 previously, in the poster and the slide show that</p> <p>13 was generated, and I also helped generate the</p> <p>14 first draft of the scientific publication on this</p> <p>15 study.</p> <p>16 Q. Was that scientific publication in</p> <p>17 the form of an article?</p> <p>18 A. Yes.</p> <p>19 Q. When was that -- was that article</p> <p>20 ultimately published?</p> <p>21 A. Yes.</p> <p>22 Q. When was that published?</p> <p>23 A. I believe it was 2004.</p> <p>24 Q. Do you know in which publication the</p> <p>25 article appeared?</p>
<p style="text-align: center;">42</p> <p>1 W. Heydorn</p> <p>2 medication?</p> <p>3 A. Yes.</p> <p>4 Q. And in this case Celexa?</p> <p>5 A. Yes.</p> <p>6 Q. Was CIT-MD-18 considered a positive</p> <p>7 study?</p> <p>8 A. Yes.</p> <p>9 Q. By yourself?</p> <p>10 A. Yes.</p> <p>11 Q. And by others at Forest?</p> <p>12 A. Yes.</p> <p>13 Q. Did you have any role in the creation</p> <p>14 of the study protocol for CIT-MD-18?</p> <p>15 A. No.</p> <p>16 Q. Did you have any role in the creation</p> <p>17 of the study report for CIT-MD-18?</p> <p>18 A. Yes.</p> <p>19 Q. And what was your role?</p> <p>20 A. I was the primary author on the study</p> <p>21 report for CIT-MD-18.</p> <p>22 Q. When you say primary author, what did</p> <p>23 that entail?</p> <p>24 A. I was the individual responsible for</p> <p>25 ensuring that the study report was written and</p>	<p style="text-align: center;">44</p> <p>1 W. Heydorn</p> <p>2 A. Which journal?</p> <p>3 Q. Yes.</p> <p>4 A. The American Journal of Psychiatry.</p> <p>5 Q. When did your work on this article</p> <p>6 begin?</p> <p>7 A. I can't remember the exact date.</p> <p>8 Q. Can you remember the year that your</p> <p>9 work began on the article?</p> <p>10 A. It's probably early 2002.</p> <p>11 Q. Do you recall the title that the</p> <p>12 article was ultimately given?</p> <p>13 A. No, not specifically.</p> <p>14 Q. Mr. Heydorn, I'm going to hand you</p> <p>15 what's been previously marked Exhibit 10, I'd</p> <p>16 just like to ask you to take a look at this</p> <p>17 exhibit and let me know when you're finished.</p> <p>18 A. Okay.</p> <p>19 Q. Is this a copy of the article that</p> <p>20 we've just been discussing?</p> <p>21 A. Yes.</p> <p>22 Q. Do you see yourself listed there as</p> <p>23 an author?</p> <p>24 A. Yes.</p> <p>25 Q. How did you come to work as an author</p>

P A U L S O N



REPORTING & LITIGATION SERVICES

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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----
5 In Re FOREST LABORATORIES, INC. Civil Action
6 SECURITIES LITIGATION No. 05-CV-
7 2827-RMB
8 -----
9 This Document Relates to:
10 ALL ACTIONS
11 -----
12
13 VIDEOTAPED DEPOSITION OF WILLIAM EDWARD HEYDORN,
14 taken by Plaintiffs, pursuant to Notice, held at
15 the offices of Debevoise & Plimpton LLP, 919
16 Third Avenue, New York, New York, on Wednesday,
17 August 29, 2007, at 9:24 a.m., before Lisa
18 Rosenfeld, a Shorthand Reporter and Notary
19 Public within and for the State of New York.
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2 THE VIDEOGRAPHER: This is Sean
3 Rainey, member of the National Legal Video
4 Association for Tankoos Reporting. We are
5 on the record at 9:24 a.m. on Wednesday,
6 August 29th, 2007.
7 We are here for the case of In Re
8 Forest Laboratories, Inc. Securities
9 Litigation. The witness today is William
10 Heydorn. We are at the location of 919
11 Third Avenue, New York, New York.
12 Will the attorneys please state their
13 appearances for the record.
14 MS. AMES: Regina Ames from Lerach,
15 Coughlin, Stoia, Geller, Rudman & Robbins
16 for the plaintiffs.
17 MS. MCKENNA: Shannon McKenna also
18 with Lerach Coughlin.
19 MR. AUBY: Scott Auby of Debevoise &
20 Plimpton here on behalf of the defendants
21 and also representing Dr. Heydorn.
22 MS. FRANKLIN SOHN: Pamela Franklin
23 Sohn also of Debevoise & Plimpton here on
24 behalf of the defendants.
25 MR. PAK: Andrew Pak also of

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3 A P P E A R A N C E S :
4 LERACH, COUGHLIN, STOIA, GELLER,
5 RUDMAN & ROBBINS, LLP
6 Attorneys for Plaintiffs
7 655 West Broadway
8 Suite 1900
9 San Diego, California 92102
10
11 By: REGINA M. AMES, ESQ.
12 SHANNON M. MCKENNA, ESQ.
13 -and-
14 POGUST & BRASLOW
15 161 Washington Street
16 Suite 1520
17 Conshohocken, Pennsylvania 19428
18
19 By: ANDREW SCIOLLA, ESQ.
20
21
22 DEBEVOISE & PLIMPTON LLP
23 Attorneys for Defendants and the Witness
24 919 Third Avenue
25 New York, New York 10022
By: SCOTT AUBY, ESQ.
PAMELA FRANKLIN SOHN, ESQ.
ANDREW SUN PAK, ESQ.
Also Present:
SEAN RAINEY,
The Videographer
oOo

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1
2 W. Heydorn
3 Debevoise & Plimpton.
4 THE VIDEOGRAPHER: Will the court
5 reporter please administer the oath.
6 W I L L I A M EDWARD HEYDORN,
7 having been first duly sworn by Lisa Rosenfeld,
8 a Notary Public for the State of New York, was
9 examined and testified as follows:
10 EXAMINATION BY MS. AMES:
11 Q. Good morning, Mr. Heydorn, I
12 introduced myself off the record. Again my name
13 is Regina Ames. Can I get you to please state
14 your full name for the record?
15 A. Sure. It's William Edward Heydorn.
16 Q. And can I get the spelling of your
17 last name for the record?
18 A. Yes, H-e-y-d-o-r-n.
19 Q. Can I get your current residence
20 address?
21 A. Sure. 9 Eugene Circle in Lincoln
22 Park, New Jersey.
23 Q. And your current business address?
24 A. Current business address is 350
25 Carter Road in Princeton, New Jersey.
Q. Have you ever been deposed before?

P A U L S O N

REPORTING & LITIGATION SERVICES

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1 W. Heydorn

2 Q. Do you have an understanding of what

3 Kerstin is saying there?

4 A. Yes.

5 Q. And what is your understanding?

6 A. My understanding is that she was

7 interested in seeing the results from the

8 CIT-MD-18 published ahead of the publication of

9 any results from the 94404 study.

10 Q. So your understanding from her e-mail

11 is that the positive data she's referring to is

12 from the CIT-MD-18?

13 A. Yes.

14 Q. And the negative data she's referring

15 to, is that from the 94404?

16 A. That's my understanding.

17 Q. Do you have any understanding of why

18 she wanted to see positive data in the public

19 domain before the negative data?

20 A. Clearly I'm not sure of her specific

21 frame of mind at this point, but I can

22 conjecture.

23 Q. Were you aware of anyone at Forest

24 Labs who shared the view that it would be best if

25 the positive data of CIT-MD-18 was in the

79

1 W. Heydorn

2 publication on negative data into the public

3 domain is a bit challenging. There are

4 investigators who are not interested in

5 publishing negative data in many cases and it's

6 difficult to get journals to publish negative

7 data.

8 Q. Why are investigators not interested

9 in publishing negative data?

10 A. Investigators are in general -- again

11 I'm projecting from what I understand and from

12 what I know from investigators.

13 Q. Your experience?

14 A. Right. Are interested in having

15 their names associated more with positive results

16 than with negative results.

17 Q. Was it your understanding at the time

18 that you were working at Forest Labs that

19 positive data would be better than negative data

20 in terms of marketing Celexa?

21 MR. AUBY: Objection to form.

22 A. Yes.

23 Q. And that positive data being put out

24 in the marketplace over negative data would be

25 better for the sales of Celexa?

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1 W. Heydorn

2 marketplace before the negative data of 94404 was

3 put in the marketplace?

4 MR. AUBY: Objection.

5 A. Yes.

6 Q. And who did you understand to share

7 that view?

8 MR. AUBY: Objection to form.

9 A. I think most of the individuals

10 associated with the citalopram project held that

11 view.

12 Q. Would that include Dr. Gergel?

13 A. Yes.

14 Q. And Dr. Flicker?

15 A. Yes.

16 Q. Would that include yourself?

17 A. Yes.

18 Q. And why was it that you would have

19 preferred at the time that the positive data be

20 put in the public domain before the negative data

21 of 94404 was put in that domain?

22 A. Clearly from the company's

23 perspective, having the positive data published

24 was a positive move for the compound. At the

25 same time generating a publication and getting a

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1 W. Heydorn

2 MR. AUBY: Objection to form.

3 A. I certainly wasn't in the sales and

4 marketing department, but that would be my

5 understanding, yes.

6 Q. You can go ahead and lay that aside.

7 (Exhibit 322, e-mail chain, first

8 e-mail dated July 12th, 2002, was so

9 marked for identification.)

10 Q. Dr. Heydorn, I'm going to hand you

11 what I'll be marking Exhibit 322, and I just ask

12 you to review it and let me know when you're

13 finished.

14 A. Sure.

15 (Pause)

16 A. Okay.

17 Q. Dr. Heydorn, you'll see that this is

18 a fairly lengthy e-mail chain.

19 A. Yes.

20 Q. The first e-mail on the first page is

21 dated July 12th, 2002 and it's from yourself to

22 Ms. Overo and c.c.'ing Marianne Dragheim?

23 A. Yes.

24 Q. And the subject is "Re CIT

25 child/adolescent studies (94404 plus CIT-MD-18)."