

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

WENDY B. DOLIN Individually and as
Independent Executor of the Estate of
STEWART DOLIN, deceased,

Plaintiff,

vs.

SMITHKLINE BEECHAM CORPORATION
D/B/A GLAXOSMITHKLINE, a Pennsylvania
Corporation,

Defendant.

No. 12 CV 6403

Chicago, Illinois

April 13, 2017

9:25 o'clock a.m.

VOLUME 19 A
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE WILLIAM T. HART

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

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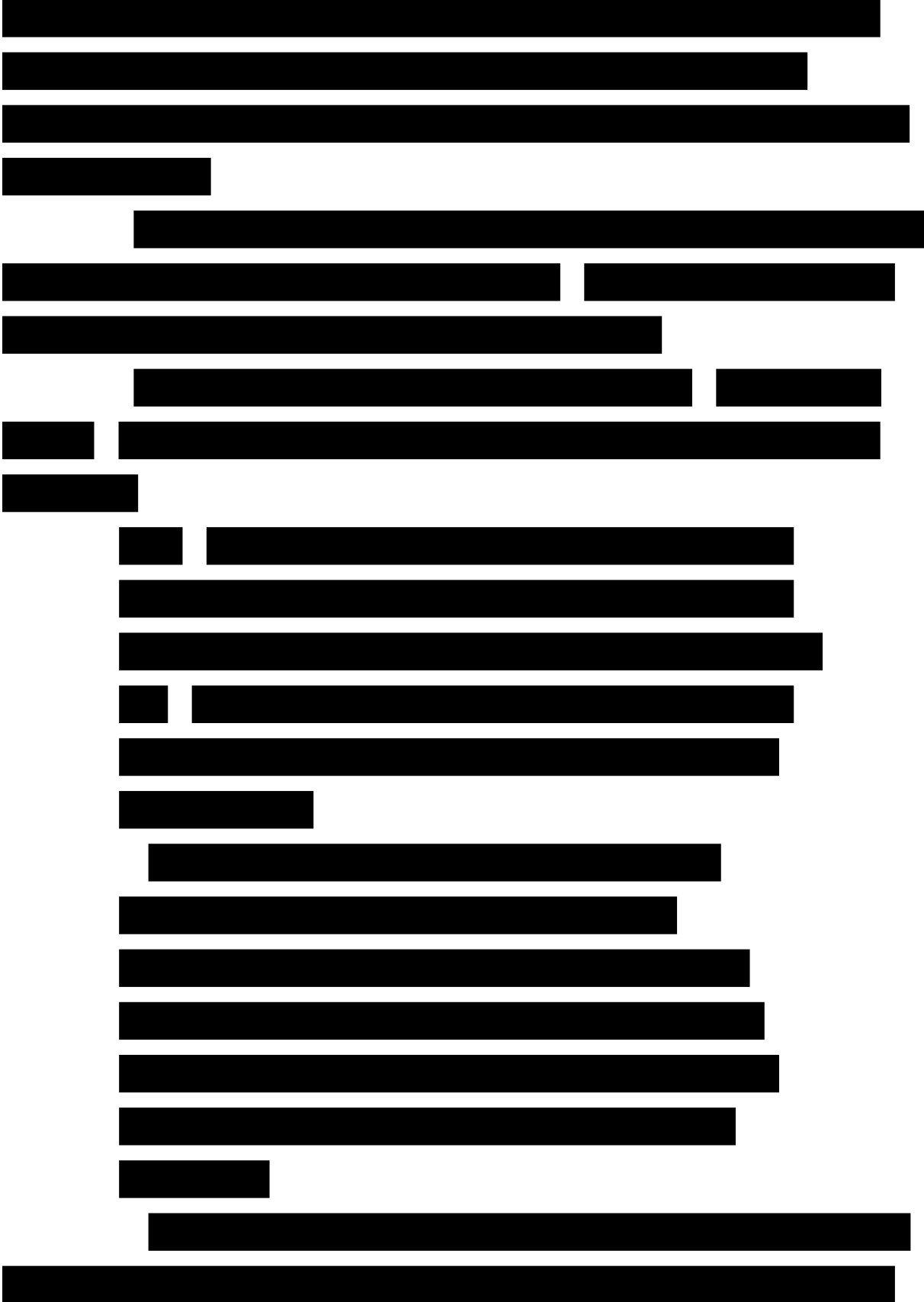
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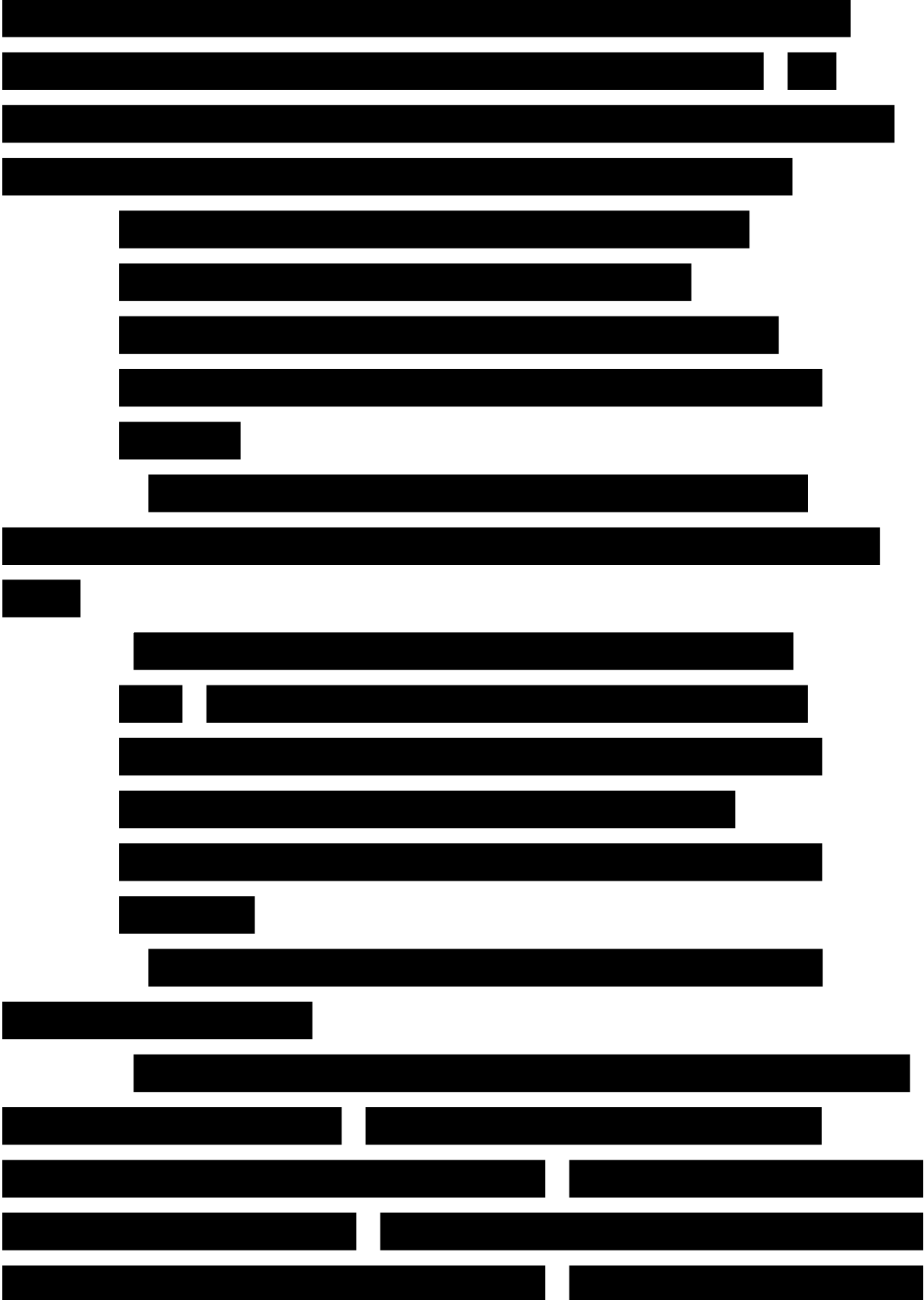
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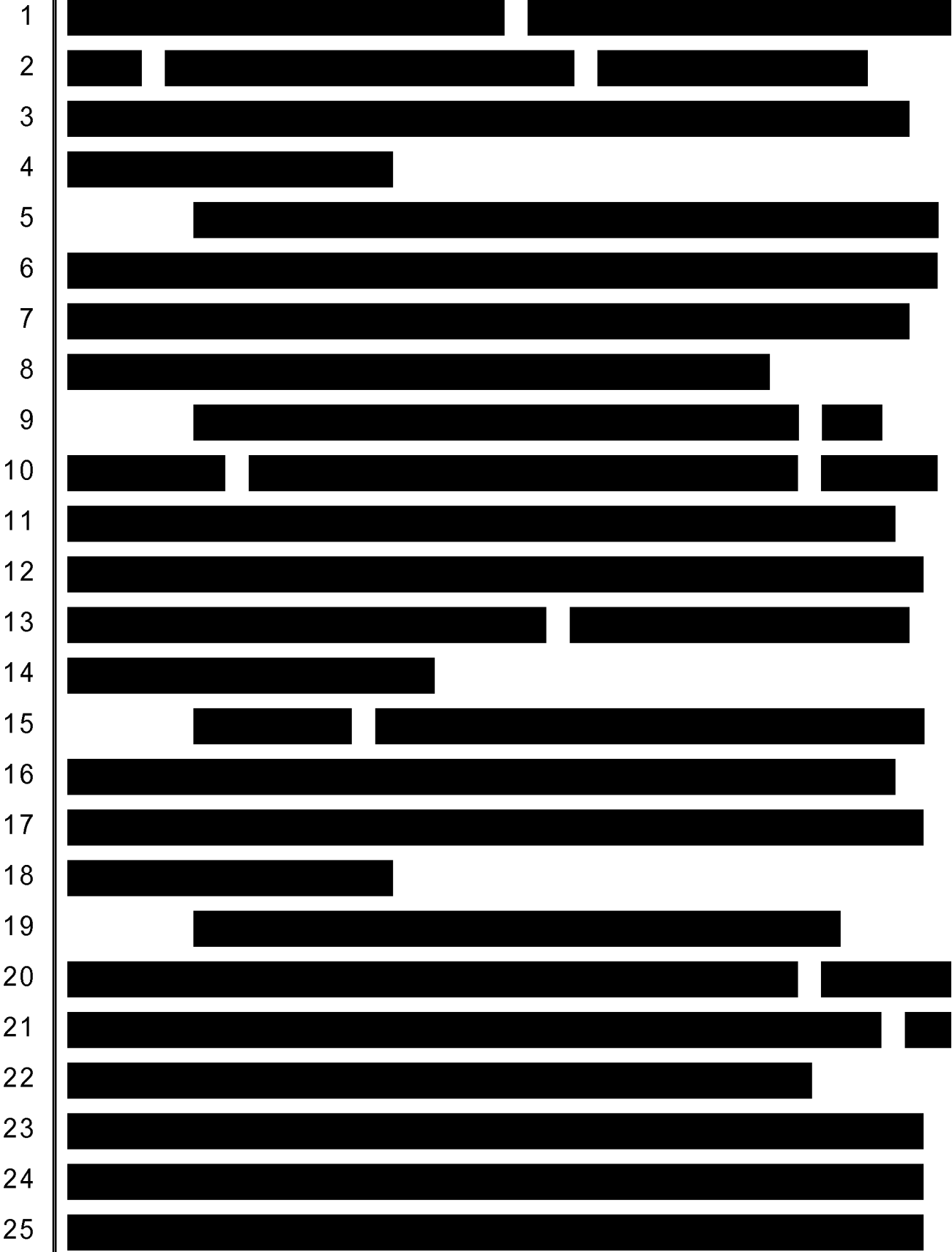
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(The following proceedings were had in the
presence of the jury in open court:)
THE COURT: All right. Thank you very much, ladies
and gentlemen. Please be seated. We will proceed.

1 I will say, I expect to see the evidence close today,
2 ladies and gentlemen and we will work to that end.

3 All right. You may proceed.

09:36:26

4 MR. BAYMAN: Thank you, Your Honor. Ladies and
5 gentlemen; counsel.

6 ANTHONY ROTHSCCHILD, DEFENDANT'S WITNESS, SWORN

7 DIRECT EXAMINATION (resumed)

8 BY MR. BAYMAN:

9 Q. Good morning, Doctor.

09:36:31

10 A. Good morning.

11 Q. Doctor, just a few more questions.

12 From your review of the materials, are you aware that
13 Mr. Dolin's family and friends reported that Mr. Dolin's
14 suicide came as a total shock to them?

09:36:42

15 A. I am.

16 Q. Is this feeling unique to Mr. Dolin's family or something
17 you've seen before in your work?

18 MR. RAPAPORT: Objection, Your Honor. Fully covered
19 yesterday.

09:36:53

20 THE COURT: I thought it was, but I'll permit him to
21 answer.

22 BY MR. BAYMAN:

23 Q. Go ahead.

24 A. Yes, I have seen it in my work, either when I talk to

09:37:01

25 families whose loved ones have committed suicide or when I do

1 these psychological autopsies and talk to the families and
2 friends of people who committed suicide, almost always it comes
3 as a shock to them. It's very common.

09:37:19

4 Q. Do you have an opinion, based on your experience, why
5 someone thinking about suicide does not share those feelings
6 with loved ones or close friends?

09:37:33

7 A. Well, there are a lot of reasons. I mean, sometimes
8 they're embarrassed about the thoughts that they're having.
9 They want to keep the option open to committed suicide, and
10 they know if they tell someone, they won't have that option
11 anymore, they'll be sent to an emergency room, hospitalized in
12 a psychiatric inpatient unit. And for some people, the fear --
13 the fear of that keeps them from telling people.

09:37:51

14 Q. Speaking of not sharing their feelings, I wanted to talk
15 about something we addressed yesterday.

16 I didn't want, in the interest of time, I didn't want
17 to take the time to go through the police report yesterday, but
18 I wanted to follow up on something you said about Mr. LoVallo's
19 statements to the police.

09:38:05

20 MR. BAYMAN: May I approach, Your Honor?

21 THE COURT: Yes.

22 (Document tendered to the witness).

23 BY MR. BAYMAN:

09:38:25

24 Q. You didn't have and I didn't give you the police report
25 yesterday when I asked you those questions. Have you had an

1 opportunity to look at the police report?

2 A. Yes, I didn't have --

3 MR. RAPOPORT: Your Honor, I object to where this is
4 going and I think we need a sidebar on it.

09:38:38

5 THE COURT: All right.

6 (Proceedings heard at sidebar on the record.)

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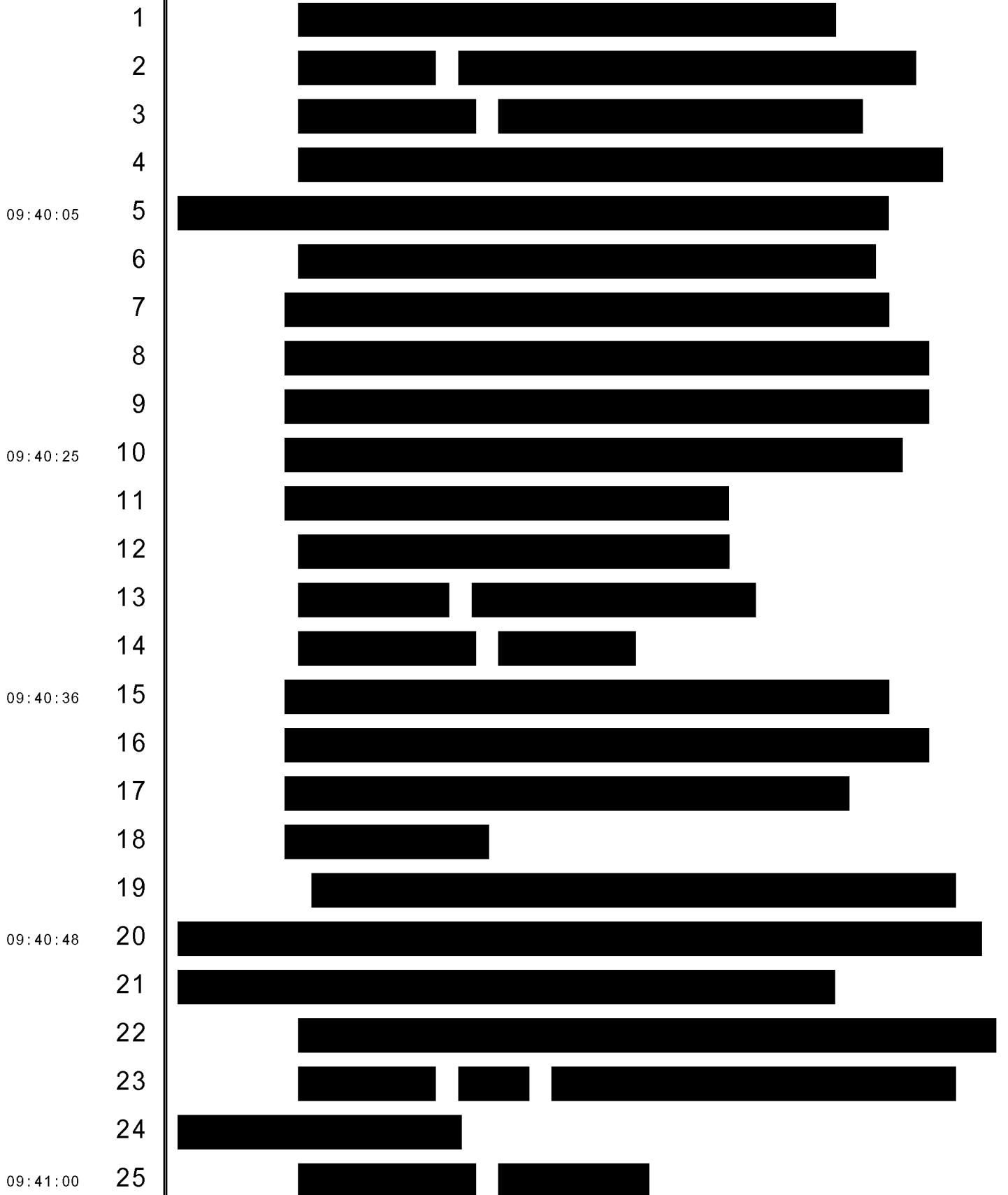
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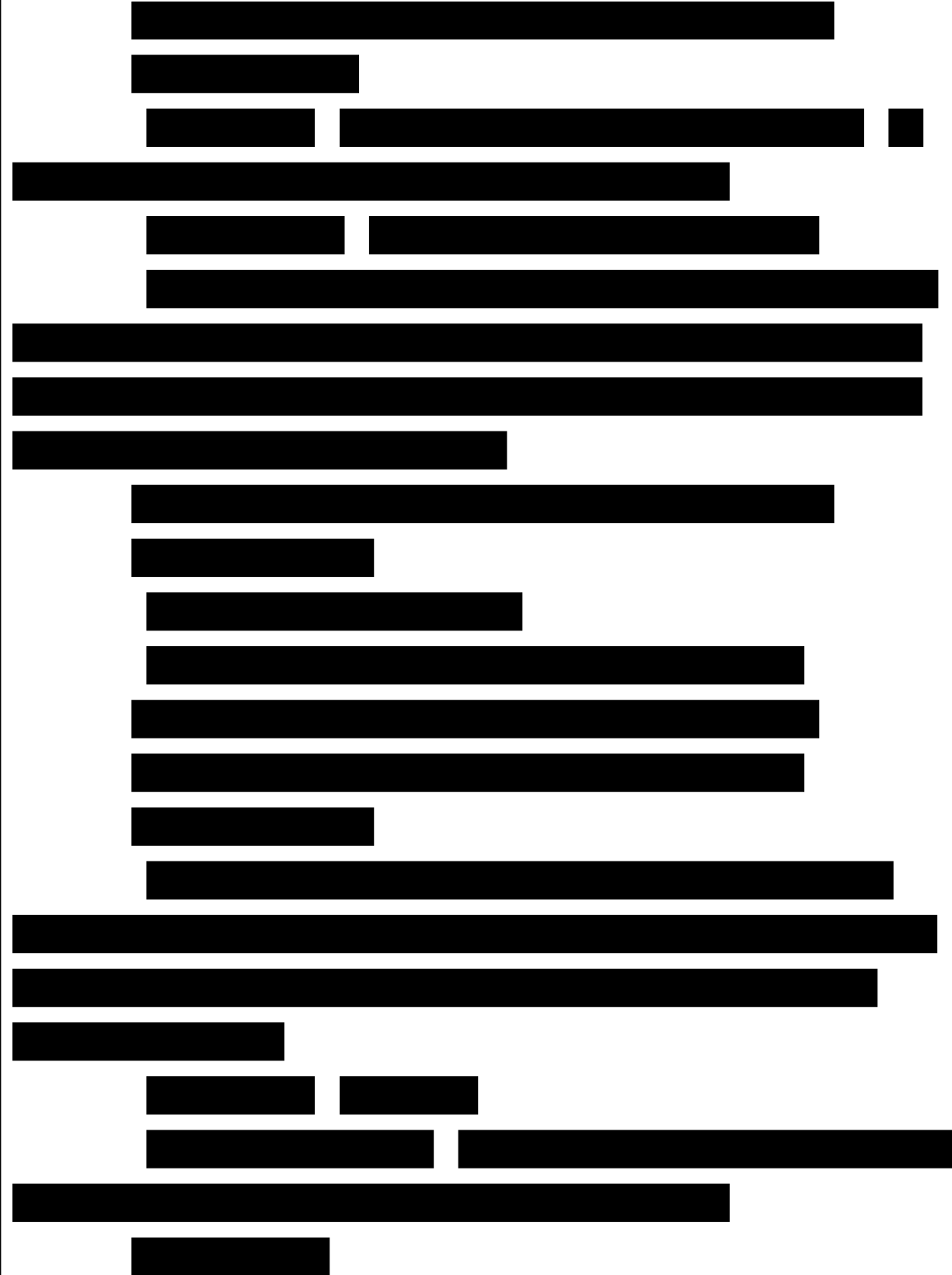
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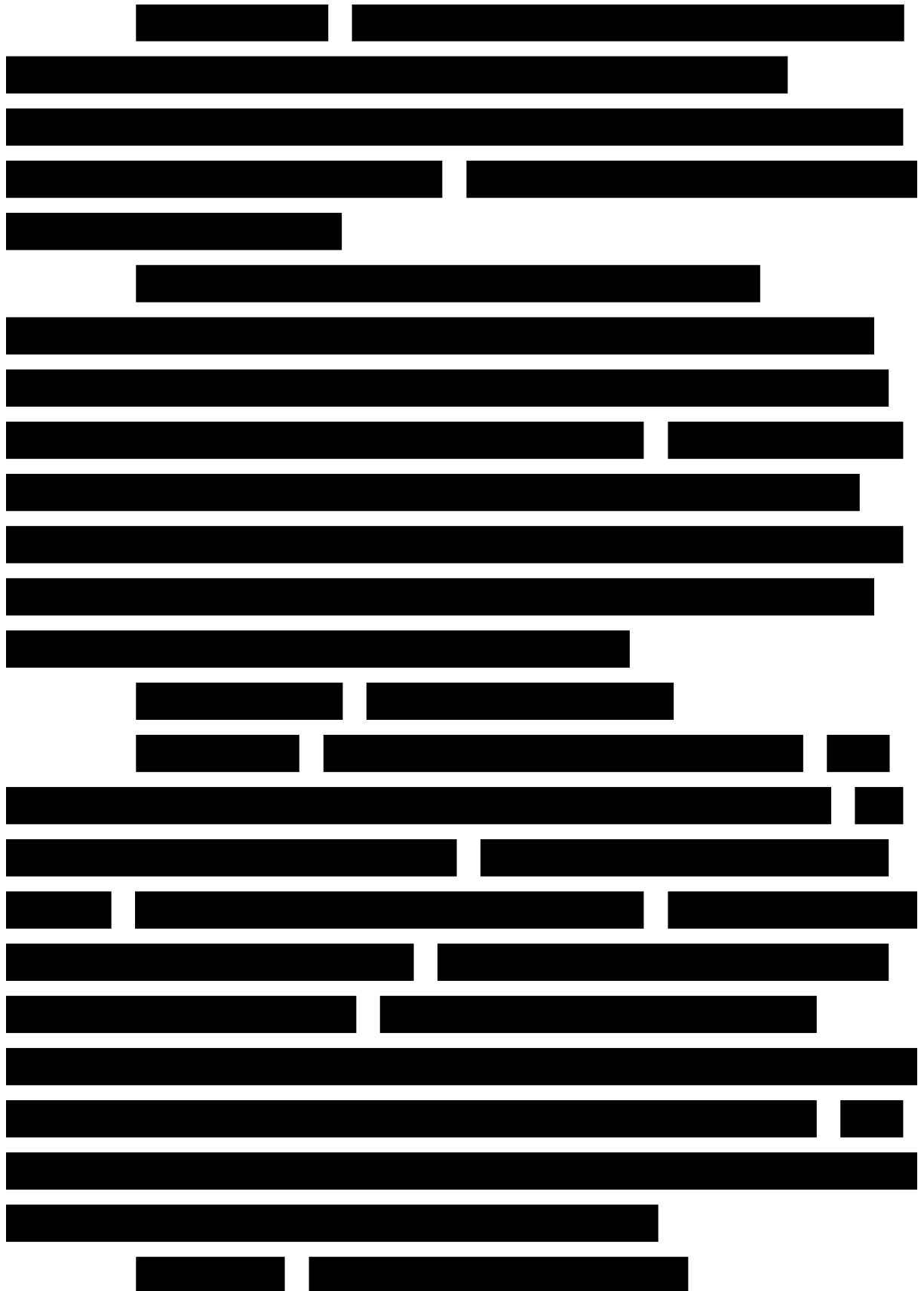
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13 (Proceedings resumed within the hearing of the
14 jury).
15 THE COURT: All right. Proceed.
16 BY MR. BAYMAN:
17 Q. Dr. Rothschild, realizing that you were testifying from
18 memory yesterday and didn't have the police report in front of
19 you, now that you have the police report front of you, do want
20 to clarify what you said yesterday about Mr. LoVallo's
21 statements to the police?
22 A. Yes, I would like to.
23 Q. Please do.
24 A. So, as I told you yesterday --
25 THE COURT: No. No. No. Just clarify it. Do not

1 add to it.

2 BY THE WITNESS:

3 A. Mr. -- Mr. LoVallo told the police about these two clients
4 and that they may have been upset and that Mr. Dolin was
09:45:35 5 supposed to meet with one of the clients on the following
6 Friday, the day after he committed suicide.

7 Mr. LoVallo also told the police that he didn't think
8 it was something worth taking your life over. But -- but --

9 THE COURT: That's enough, sir.

09:45:52 10 Proceed. Another question.

11 BY MR. BAYMAN:

12 Q. Do you agree with Mr. LoVallo that wasn't something Mr.
13 Dolin should've taken over his life over, those two client
14 problems?

09:46:01 15 A. No.

16 THE COURT: It doesn't matter whether he agrees or
17 not. Just proceed.

18 BY MR. BAYMAN:

19 Q. In your opinion, were the two client problems something
09:46:10 20 that Mr. Dolin should've taken his life over?

21 MR. RAPOPORT: Same objection, Your Honor.

22 THE COURT: No, he may testify to that.

23 BY THE WITNESS:

24 A. Yes, Mr. LoVallo didn't have Mr. Dolin's psychiatric
09:46:19 25 records. He didn't even know he was seeing a therapist. So,

1 you know, maybe from Mr. LoVallo's perspective this wasn't
2 worth committing suicide over, but to Mr. Dolin this was a big
3 deal.

4 BY MR. BAYMAN:

09:46:27

5 Q. In looking at the police report yesterday -- I mean,
6 looking at the police report again, did you look at what was
7 found on Mr. Dolin's person?

8 A. Yes.

9 Q. What was found on his person?

09:46:40

10 A. Four things, a CTA transit card Metra, a Zone 8 train pass,
11 a Reed Smith Mastercard, and an employee picture
12 identification, and nothing else.

13 Q. Now, you said yesterday he purchased a ticket. How do we
14 know that he purchased a ticket for the train?

09:47:00

15 A. So, these were the four items found on his body at the time
16 of his death, and the ticket, the actual ticket, was found on
17 his person. I saw in the deposition testimony that it was a
18 one-way ticket.

19 Q. Do you know how he paid for that ticket?

09:47:19

20 A. No.

21 Q. There was -- what credit card was found on him?

22 A. It was a Reed Smith Mastercard.

23 Q. Do you know whether he used that credit card or something
24 else to pay for the tick?

09:47:34

25 A. I don't. He might've paid with cash.

1 Q. And the credit card receipts that you've looked at, for
2 what credit card was that?

3 A. That was Mr. Dolin's personal credit card, not the Reed
4 Smith credit card. I didn't -- I didn't get the records of the
5 Reed Smith Mastercard. They were apparently not available.

09:47:50

6 Q. Did the police report say whether a cell phone was found on
7 his person?

8 A. No.

9 Q. All right. Thank you.

09:48:03

10 You said earlier in your testimony that Mr. Dolin had
11 uncoordinated medical care. Tell the jury what you mean by
12 that.

13 A. Well, a couple of things; one is, the three people taking
14 care of him, Dr. Salstrom, Ms. Reed, Dr. Sachman, never spoke
15 to each not one time.

09:48:24

16 I saw in the testimony, Ms. Reed didn't even know the
17 name of the cognitive behavioral therapist, Dr. Salstrom, until
18 after Mr. Dolin passed away. So, that's one thing.

19 There also were connections between the people
20 treating, personal, social connections, between the three
21 healthcare professionals and Mr. Dolin.

09:48:43

22 So, Ms. Reed had been a supervisor of Mrs. Dolin, had
23 actually -- Mrs. Dolin had been a patient of Ms. Reed.

24 Same with Dr. Salstrom. Mrs. Dolin had been a patient
25 of Dr. Salstrom.

09:49:04

09:49:24

1 And then there's Dr. Sachman, who is a personal friend
2 of both Mr. And Mrs. Dolin. And it is never a good idea to
3 treat one's friends when you're dealing with depression and
4 anxiety disorders. And the reason is is that the person, the
5 patient may feel inhibited in saying what's on their mind. To
6 go to your friend and say, "I'm feeling suicidal" or "I'm
7 feeling anxious" or "I'm feeling depressed," the patient may
8 not feel comfortable doing that if the person is their friend.

09:49:45

9 I mean, it's a setup for really -- really bad care. I
10 mean, I read the depression of Dr. Sachman --

11 THE COURT: Doctor, there's no question pending. Just
12 answer the question, please.

13 BY THE WITNESS:

14 A. One little thing I wanted to add on --

09:49:53

15 BY MR. BAYMAN:

16 Q. What is it about Dr. Sachman's testimony that you found?

09:50:13

17 A. Well, Dr. Sachman even said, he didn't keep the same
18 medical record that he did for treating his friends as he did
19 for his usual -- his usual patients. And that's just one sign
20 that, you know, it's -- it's just not a good idea to -- to do
21 that.

09:50:28

22 So, you know, all -- all three of the healthcare
23 professionals were not independent of Mr. Dolin or Mrs. Dolin.
24 And the uncoordinated comes from the fact they just never speak
25 to each other.

1 Q. Are you suggesting that the therapist would've broken their
2 of obligations confidentiality and spoken to Mrs. Dolin about
3 what Mr. Dolin told them?

09:50:42

4 A. No, I don't think so. But -- but it's the patient's
5 perception, it's Mr. Dolin's perception that he knows that Dr.
6 Sachman is a social friend, he knows there are connections
7 between Ms. Reed and Dr. Salstrom and his wife, and it may have
8 prohibited him from -- from talking.

09:50:56

9 I mean, and, by the way, the therapist can always ask
10 the patient, "I need to call your --" I mean, I do this all the
11 time, "I need to call your spouse" and you get the person's
12 permission. If the person says no, you have to talk to them
13 about it because that could be an issue, but that wasn't even
14 attempted.

09:51:11

15 Q. Did you see anywhere where Ms. Reed or Dr. Salstrom asked
16 for permission to call Dr. Sachman?

17 A. No.

09:52:06

18 Q. I'm showing you what has been marked as defense
19 exhibit 7042. This is Dr. Glenmullen's differential diagnosis
20 which was shown to the jury as PTX 052.

21 Have you seen this before?

22 A. Yes.

23 Q. Generally speaking, what is a differential diagnosis?

09:52:21

24 A. Well, a differential diagnosis is something you learn in
25 medical school, a person comes in with a complaint and you list

1 the various possible diagnoses. It's something you would do
2 with a living patient.

3 I can give an example, if that would help.

4 Q. Yes, please do.

09:52:34

5 A. Say something comes in and they have been fainting. So you
6 would make a differential diagnosis about the possible causes
7 of fainting: Low blood pressure, some cardiac heart problem,
8 rhythm problem with the heart, some problem with the brain, a
9 seizure disorder, something like that, anemia. And so you list
10 these various diagnoses. And then you get more information to
11 rule out, you know, the ones that are not possible, and you're
12 left with one or sometimes more diagnoses, but it's done --
13 it's done in -- in somebody who's alive and you're seeing as a
14 patient.

09:53:13

15 Q. Do you agree with Dr. Glenmullen's use of a differential
16 diagnosis for Mr. Dolin to assess the cause of his suicide?

17 A. No. The correct term would be something I mentioned called
18 psychological autopsy, which I do all the time in my work at U
19 Mass Medical School. When someone passes away, particularly by
20 suicide, that's the term psychological autopsy.

09:53:31

21 Q. And what does a psychological autopsy involve?

22 A. Involves getting as much information as possible as you can
23 about the person, say, who committed suicide. Reviewing their
24 medical records, talking to their family, talking to their
25 friends. And it's kind of like what I did in this case, I

09:53:50

1 mean, the difference here is that everybody's testimony is
2 under -- under oath. I mean, normally when I talk to people,
3 that's not the case, but it's very similar.

09:54:07

4 Q. Well, knowing that you disagree with this approach,
5 nevertheless in looking at Dr. Glenmullen's list of things he
6 considered for his differential diagnosis, are there any items,
7 in your opinion, are missing from this list?

8 A. Yes.

9 Q. What are they?

09:54:22

10 A. Well, it's missing Mr. Dolin's psychological makeup. His
11 feelings of inferiority and inadequacy related to work, working
12 at an international law firm like Reed Smith.

13 Q. Feelings of insecurity?

09:54:49

14 A. Feelings of inadequacy, feeling incompetent, insecurity,
15 sure that would be another word, but it's related to work.

16 (Brief pause).

17 THE COURT: All right. Let's proceed.

18 MR. BAYMAN: Okay.

19 BY MR. BAYMAN:

09:55:10

20 Q. Now, Dr. Glenmullen --

21 MR. RAPOPORT: Your Honor, I do object. He wrote
22 different words than the witness uttered. He should at least
23 have the witness --

24 THE COURT: Let's proceed, please.

09:55:19

25 BY MR. BAYMAN:

1 Q. Do you agree with what I wrote there?

2 A. That's fine.

3 Q. It's a shorthand. Thank you.

4 Are there things -- Doctor, the yellow, the jury has
09:55:32 5 seen, are things that Dr. Glenmullen eliminated when he did his
6 differential diagnosis. Are there things that you disagree
7 with that he eliminated, things he ruled out that you wouldn't
8 rule out?

9 A. No, there are things he crossed off that I think from the
09:55:46 10 evidence in this case clearly should not be crossed off.

11 Q. Which ones?

12 A. Well, there's a couple. There's no question he suffered
13 from generalized anxiety disorder, severe anxiety, paralyzing
14 anxiety.

09:56:00 15 There's a lot of notations in the medical records that
16 he was dysphoric or depressed --

17 THE COURT: Doctor, you know, we have to get on with
18 the case. So please stay with the question. Tell us what you
19 think about the exhibit --

09:56:14 20 BY THE WITNESS:

21 A. Circle depression.

22 BY MR. BAYMAN:

23 Q. Okay.

24 A. Circle "work-related stress."

09:56:21 25 Circle "father-in-law's death deteriorating health."

1 Circle "financial concerns."

2 I agree with Dr. Glenmullen on the crossing out the
3 one psychotic disorder all the way to the bottom, but I
4 disagree about Paxil, and I can tell you why.

09:56:37

5 Q. Okay. Why do you disagree about Paxil?

6 A. So, when I was asked to --

7 MR. RAPOPORT: Wait.

8 Objection, Your Honor. It was covered, I think, for
9 two days now that he thinks Paxil --

09:56:46

10 THE COURT: I think we've covered this. We heard him
11 testify about Paxil.

12 MR. BAYMAN: Let me ask it a different way.

13 BY MR. BAYMAN:

09:56:56

14 Q. If you testified that the medical and scientific literature
15 does not support the view that Paxil causes suicide, then why
16 -- did you consider Paxil?

17 A. Yes, when I was asked to do this case I took a fresh look.
18 It's been a couple of years since I looked at it, and I -- I
19 looked at the analyses again and papers in the medical
20 literature that have come out since the last time I looked at
21 it. I took a fresh look at it and --

09:57:14

22 THE COURT: You answered the question.

23 BY THE WITNESS:

24 A. -- and I came to the conclusion --

09:57:21

25 THE COURT: Doctor, you answered the question.

1 BY THE WITNESS:

2 A. -- that --

3 THE COURT: Doctor, you've answered the question.

4 THE WITNESS: Sorry.

09:57:25

5 THE COURT: Please.

6 BY MR. BAYMAN:

7 Q. So what should we do with "Paxil"?

8 A. You should cross it out.

9 MR. BAYMAN: Thank you Your Honor.

09:57:32

10 No further questions.

11 CROSS EXAMINATION

12 BY MR. RAPOPORT:

13 Q. Good morning.

14 A. Good morning.

09:57:57

15 Q. I want to start this morning right where Mr. Bayman did,
16 with your testimony yesterday. Okay.

17 Now, yesterday in front of this jury you were under
18 oath, weren't you?

19 A. Yes.

09:58:19

20 Q. Sworn to tell the truth, right?

21 A. Correct.

22 Q. You understood the importance of telling the truth?

23 A. Yes.

24 Q. You testified yesterday that Mr. LoVallo, quote:

09:58:31

25 "Told the police that these problems at work may

1 have been part of the reason Mr. Dolin committed
2 suicide."

3 end of quote.

4 You said that, didn't you?

09:58:43

5 A. Yes, and that's why I wanted to --

6 MR. RAPAPORT: Excuse me, he's still talking.

7 THE COURT: Yes, just answer. Doctor, we'll get it
8 over with quickly and we appreciate your effort.

9 Proceed.

09:58:56

10 BY MR. RAPAPORT:

11 Q. You swore that it was true that Mr. LoVallo told the police
12 that he thought the work stresses may have been part of the
13 reason Mr. Dolin committed suicide, and today you're telling
14 us, huhhh, that was a mistake, right?

09:59:17

15 A. I wouldn't call it a mistake. I think that I wanted to --

16 Q. You've answered the question.

17 So, "no," you're not telling us it's a mistake?

18 MR. BAYMAN: If he could finish his answer, Your
19 Honor.

09:59:30

20 MR. RAPAPORT: I got to cross-examine him.

21 THE COURT: No, just get the questions and the
22 answers.

23 BY MR. RAPAPORT:

24 Q. So today your story is that, on that point, what you said
25 yesterday was not a mistake? That's what you're telling me,

09:59:36

1 right?

2 A. I'm telling you that Mr. LoVallo did tell the police about
3 these two client matters and I wanted to amplify the fact that
4 Mr. Dolin -- that Mr. LoVallo did also tell the police that in
5 his opinion he didn't think it was a reason to kill yourself,
6 but I think that's from Mr. LoVallo's perspective and not Mr.
7 Dolin's.

8 Q. Do you understand that I'm trying to ask you a question
9 about your intentions? Do you understand that?

10 A. Yes.

11 Q. Then I'd like my question read back and I would like you to
12 answer the question I asked you.

13 MR. BAYMAN: Objection, Your Honor. This is
14 argumentative now.

15 THE COURT: Overruled.

16 Read it back.

17 (Question read.)

18 BY THE WITNESS:

19 A. When I -- I didn't have the document in front of me when I
20 was asked the question and I wanted to correct the record for
21 exactly what Mr. LoVallo said.

22 BY MR. RAPAPORT:

23 Q. Well, what you're really saying is that yesterday when I
24 swore that Mr. LoVallo told the police that he thought work
25 stress was a factor in the suicide, that it wasn't a lie,

1 that's what you're really trying to say, isn't it, sir?

2 A. No, what I'm trying to say --

3 Q. Well, wait a minute. Stop that. Was it a lie? Maybe
4 you'll admit that.

10:01:08

5 A. No, it was not.

6 MR. BAYMAN: Your Honor, can he finish his answer?

7 Thank you.

8 BY THE WITNESS:

9 A. No, it was not. There are --

10:01:13

10 BY MR. RAPOPORT:

11 Q. You've answered my question.

12 A. No, I haven't. I'd like to answer it.

13 THE COURT: You'll get a chance, sir. Proceed with
14 another question. Let's go on with it.

10:01:22

15 BY MR. RAPOPORT:

16 Q. Now, you did about, at the last count, 289 hours of work on
17 this case according to your testimony, right?

18 A. Correct.

19 Q. And when was the last count? You haven't revealed that
20 yet.

10:01:39

21 A. Those are the -- the bills that I've sent in from the time
22 I spent on the case.

23 Q. Does that sound like an answer to when you sent your last
24 bills?

10:01:49

25 A. Ah --

1 MR. BAYMAN: This is argumentative question.

2 MR. RAPOPORT: I withdraw that.

3 BY MR. RAPOPORT:

4 Q. When did you send your last bill?

10:01:56

5 A. March 31st of this year.

6 Q. How much time have you put in since you sent your last
7 bill?

10:02:11

8 A. Well, I was expecting to testify last week and I was here
9 in Chicago for a couple of days, and I went home, and I came
10 back. So, it's -- it's probably -- it's a couple of days, and
11 during those days it was probably about 8 hours a day.

12 Q. So, is it your sworn testimony that your best estimate
13 about how much work you've put into this case up until now is
14 289 hours plus 16 more?

10:02:33

15 A. No, it's probably, let's say, 5 times 8, about 40 hours
16 more.

17 Q. About 40 hours more?

18 A. 35 to 40 hours more.

10:02:46

19 Q. How did you get the jump from 16 to 40 just there in your
20 head?

21 A. Well, you said 16. I told you it was about 4 or 5 days and
22 8 hours a day. 5 times 8 is 40.

23 Q. So, your best estimate is approximately 330 hours or
24 approximately \$165,000 worth of work, correct?

10:03:04

25 A. Well, the hours is correct. I charge \$500 an hour. I'll

1 trust you on the math.

2 It's over -- that's over, you know, a two-year period.
3 I think I first started working on this case in 2015.

10:03:25

4 Q. All right. In all of that time you've put in, one of the
5 things that you looked at probably more than once was the
6 police report; agreed?

10:03:45

7 A. Well, there are hundreds and hundreds of pages of
8 documents. I mean, there's like stacks of documents related to
9 this case. And I didn't memorize them all. And, you know,
10 that's why it's hard to keep everything to memory, but I did
11 the best I could, and I realized that I left something out, I
12 wanted to make sure I said it.

13 Q. Do you recall my question?

14 A. No, you can read it back.

10:03:58

15 Q. I don't have to read it back.

16 Would you have looked at the police report in this
17 case more than once?

18 A. Yes.

19 Q. You probably looked at it overnight, didn't you?

10:04:08

20 A. Well, yes, I looked at it last night again.

21 Q. And you looked at it with respect to the part that talks
22 about what the police said Mr. LoVallo said to them, correct?

23 A. Yes.

24 Q. Now, that is contained in Defense Exhibit 33153 at page 16.

10:04:27

25 I have it highlighted.

1 MR. RAPAPORT: And with your permission, Your Honor,
2 I'll put it up. I think it's -- it may or may not be in
3 evidence. It's not in evidence. I just offer this page and
4 the portion of it that I have highlighted.

10:04:40

5 THE COURT: Proceed.

6 (Exhibit published to the jury.)

7 BY MR. RAPOPORT:

8 Q. Now, in this, this is what you looked at overnight, right?

9 A. Correct.

10:04:54

10 Q. And I'm going to circle this part here (indicating).

11 Mr. LoVallo -- according to the police, Mr. LoVallo
12 told them that these work incidents that he mentioned were,
13 quote:

14 "... nothing that Stewart should have taken his
15 life over."

10:05:14

16 Correct.

17 A. Yes.

18 Q. Right above this is the discussion with the police by Dr.
19 Sachman about how he just put this Stewart on paroxetine,
20 Paxil, right?

10:05:25

21 A. Correct.

22 Q. There was no reference to "it wasn't the Paxil," there was
23 just reference to it not being the work to the police, right?

24 A. I'm not sure I understand the question.

10:05:40

25 Q. Well, nobody -- the police report doesn't say that anybody

1 said to them, "I don't think it was the Paxil"?

2 A. That's correct. The police usually, in my experience, just
3 collect ---

4 Q. You answered my question?

10:05:53

5 A. -- the facts from the witnesses.

6 Q. You've answered my question.

7 Now, sir, in addition on this topic you also reviewed
8 Mr. LoVallo's deposition, didn't you?

9 A. Yes.

10:06:02

10 Q. And in his deposition, at page 190, Line 17 to Lines 22,
11 and I'll put this up so you can see it --

12 MR. BAYMAN: Your Honor, this has been covered and
13 he's made his point.

14 THE COURT: Proceed. I think we have pretty much
15 covered it.

10:06:21

16 MR. RAPOPORT: "Proceed" meaning move on?

17 THE COURT: You may. Yes; quickly, though.

18 MR. RAPOPORT: Thank you.

19 BY MR. RAPOPORT:

10:06:27

20 Q. All right. So this is quick. Did you read this particular
21 question where Mr. LoVallo was asked:

22 "So you do believe paroxetine played a role in
23 the suicide?"

24 And Mr. LoVallo answered:

10:06:41

25 "Well, analytically, having searched for any

1 other, that is the least reasonable of all the
2 unreasonable possibilities for something like
3 this to happen."

4 He testified to that, didn't he?

10:06:53

5 A. He's a lawyer. He testified to that.

6 Q. I don't know what the crack means about he's a lawyer. Do
7 you think a lawyer --

8 MR. BAYMAN: Your Honor --

9 THE COURT: That may go out. Sustained. Sustained.

10:07:00

10 Just -- just go on with the question, please.

11 BY MR. RAPAPORT:

12 Q. Well, the point is that you have known from the start that
13 Mr. LoVallo does not believe that work stresses caused or
14 contributed to cause Stewart Dolin's suicide, haven't you, sir?

10:07:17

15 A. I knew Mr. LoVallo's opinion when I read Mr. LoVallo's
16 deposition, that's correct.

17 Q. Your claim is that even though you knew Mr. LoVallo's
18 position about this issue from reading his deposition, from
19 reading him quoted by the police, that you somehow forgot this
20 yesterday and instead told the jury the opposite?

10:07:37

21 MR. BAYMAN: Your Honor, this is covered.

22 THE COURT: It is covered. It's covered. Let's go on
23 to something else.

24 BY MR. RAPAPORT:

10:07:46

25 Q. Let's talk about forensic autopsy for a moment. In your

1 120 or so page written report in this case you do not mention
2 forensic -- the words "forensic autopsy" anywhere, isn't that
3 correct?

4 A. That's correct. It's --

10:08:03

5 Q. You've answered it.

6 In your lengthy deposition in this case, you also did
7 not mention the words "forensic autopsy," correct?

8 A. I wasn't asked about it, but correct.

10:08:21

9 Q. Well, are you claiming that that's the methodology that you
10 are using in this case?

11 A. No, because forensic -- I never used the word forensic
12 autopsy. The term is psychological autopsy.

13 Q. Okay. Good. I misspoke there, so let me -- well, let me
14 just do it specifically:

10:08:33

15 Your report does not mention anywhere the word
16 "psychological autopsy," is that correct?

17 A. That's correct, but the report is a psychological autopsy.

18 Q. That's your characterization --

10:08:50

19 A. I'm answering the question of why Mr. Dolin died, that's
20 what I was asked to do.

21 Q. You've already answered that the report does not contain
22 the word "psychological autopsy." Will you admit that in your
23 deposition the word "psychological autopsy" also are not
24 contained?

10:09:03

25 A. Yes.

1 Q. Would you admit that you are not board certified to do
2 psychological autopsy?

3 A. There is no such thing.

4 Q. Oh, there is such thing.

10:09:11

5 A. Well, sir --

6 Q. Let's just pause --

7 A. It's a board certified psychiatrist.

8 Q. We understand your qualifications.

9 Are you telling us that you are unaware of the fact

10:09:21

10 that there is a board certification in psychological autopsy?

11 A. I'm not aware of it. In my department there is no such
12 person who has that. I mean, people who are psychiatrists and
13 who are experts in the field can do psychological autopsies,
14 and I do them all the time.

10:09:39

15 Q. There is no accepted national protocol for this thing
16 you're calling psychological autopsy, is there?

17 A. I mean, am I -- people -- the way people do psychological
18 autopsies is they gather all the information that they can
19 about why the person died, including information from relatives
20 and friends and healthcare professionals, and they try to
21 answer the question "why did a person commit suicide." That's
22 the methodology and that's what I used.

10:10:00

23 Q. Are you testifying under oath that there is a published
24 written standard setting forth an agreed-upon-consensus view of
25 what a psychological autopsy is?

10:10:20

1 A. I mean, I've certainly read papers in the literature on how
2 to do a psychological autopsy. Whether there's a consensus, I
3 can't answer that.

10:10:35

4 Q. Let's discuss for a minute the term and whether it's clear
5 or whether it's misleading.

6 An autopsy is something where a doctor who is a
7 pathologist uses a knife and other equipment in order to take
8 apart a body and both see things and send them to the lab and
9 take pictures and all that kind of thing, right?

10:10:55

10 A. That's correct.

11 Q. The autopsy, the art of doing an autopsy, a real one, is
12 all about collecting mostly objective evidence, right?

13 A. Correct.

10:11:13

14 Q. Examples of objective evidence would be when you cut
15 somebody's liver out and put it under a microscope, whatever is
16 under the microscope is there, right?

17 A. Correct.

18 Q. It's not things that people would necessarily characterize
19 differently?

10:11:24

20 A. That's right.

21 Q. All right. Now, this idea of psychological autopsy is
22 trying to get inside the head of a dead person, right?

23 A. Yes. I mean --

24 Q. More or less.

10:11:36

25 A. I mean, we don't a blood test, or something like that. And

1 so it's trying to understand the psychological factors that --
2 to see if you can figure out why a person committed suicide.

10:11:59

3 Q. Now, of course, when there's a litigation overlap in a
4 situation like that, part of the scenario is the deceased can't
5 speak for themselves, whereas somebody who purports to be doing
6 a psychological autopsy can characterize things, right, that
7 are subjective?

10:12:13

8 A. Well, it would be better if you could speak to the person
9 themselves, and I've certainly had that opportunity hundreds of
10 times to speak to people who should've been dead when they
11 tried to commit suicide but fortunately something happened and
12 they didn't die and I get to talk -- actually in those
13 situations, I get to talk to the person. And so, what I take
14 into account is, having done that so many times, it helps me
15 with the people I can't speak to.

10:12:30

16 Q. To the extent that there is any consensus view anywhere
17 about a psychological autopsy, it would be agreed that it
18 should be done by somebody impartial and without biases,
19 wouldn't you agree?

10:12:44

20 A. Yes.

21 Q. And, of course, when the coroner, or whoever does an
22 autopsy, a real one does it, the typical scenario is they don't
23 know the victim; agreed?

24 A. Correct.

10:12:55

25 Q. And don't have stake in it, one way or another, wherever

1 the body leads them is where they go?

2 A. Kinda like the coroner in this case.

3 Q. Now, let's talk about your connections to GSK for a while
4 and then we'll connect it back to this autopsy idea.

10:13:11

5 So, you have been have been doing work in suicide
6 cases for GSK since late 2002 or early 2003, is that correct?

7 A. I think that's correct. Around 2003.

8 Q. And how many cases have they retained you in that have
9 involved people taking Paxil and killing themselves?

10:13:39

10 A. Ah, I mean, it's we're going back --

11 MR. BAYMAN: Objection, Your Honor. We're getting
12 into other cases here.

13 THE COURT: I didn't hear you, sir.

14 MR. BAYMAN: We're getting into other cases here.

10:13:51

15 THE COURT: Overruled.

16 You may answer.

17 BY THE WITNESS:

18 A. Going back 15 years, I can't give you an exact number, but
19 it's probably in the neighborhood of 20 or 30.

10:14:00

20 BY MR. RAPOPORT:

21 Q. 20 or 30 cases.

22 Now, in these 20 or 30 cases, you have been saying
23 repeatedly "Paxil doesn't cause suicide," right?

24 A. Each time I'm asked to look at the case, and it's been a

10:14:23

25 while since I've been asked to look at one, I take a fresh look

10:14:41

1 at the data. You know, there are lots of analyses, for
2 example, done, we talked about, in 2006 by the FDA. I look at
3 what the FDA has analyzed. I look at what the company has
4 analyzed. I look at the medical literature. Each time I take
5 a fresh look at the data.

6 Q. I'm sorry, did you think I asked you whether you take a
7 fresh look at the data each time?

8 MR. BAYMAN: Objection. Argumentative.

10:14:53

9 THE COURT: Sustained. Sustained. Put another
10 question.

11 BY MR. RAPAPORT:

10:15:09

12 Q. So, is it a fact that in all of the cases where you have
13 been retained by GSK involving a suicide up until today, that
14 you have taken the position in every one of them that Paxil
15 does not cause suicide?

16 A. That's what the evidence has shown.

17 Q. That's the position that you have taken.

18 A. Based on the scientific evidence and the analyses of the
19 FDA and what the FDA says.

10:15:22

20 MR. RAPOPORT: Your Honor, move to strike the
21 volunteered part.

22 THE COURT: That may go out.

23 BY MR. RAPOPORT:

10:15:32

24 Q. All right. Now, I want to take you to one moment in your
25 life. It was about 5 years after you first started working

1 with GSK on suicide cases that you first learned that 5 out of
2 the 6 suicide attempts that they attributed to placebo in the
3 89 and 91 papers were actually not post-randomization
4 placebo --

10:16:11

5 MR. BAYMAN: Your Honor --

6 BY MR. RAPAPORT:

7 Q. -- do you remember that moment in your life?

8 MR. BAYMAN: -- it's outside the scope of the direct.
9 There's no testimony about run-ins.

10:16:16

10 THE COURT: Overruled.

11 BY THE WITNESS:

12 A. I'm sorry, what was the question?

13 BY MR. RAPAPORT:

14 Q. I'm trying to --

10:16:19

15 THE COURT: Read it back. Read it back.

16 MR. RAPOPORT: Let me ask it a little more plainly.

17 THE COURT: You withdraw it?

18 MR. RAPOPORT: I withdraw it. Withdrawn.

19 BY MR. RAPOPORT:

10:16:28

20 Q. It was 5 years after you gave GSK the opinion their drug
21 doesn't cause suicide for the first time, that you learned for
22 the first time that they flipped, they put 5 of 6 placebo
23 suicide -- excuse me, suicide attempts -- let me get this
24 straight. I'll withdraw it again. Let's get our terminology
25 right.

10:17:01

1 The jury has heard, and I'm not going go back over it,
2 but back in 1989 and 1999 timeframe, you know they had 5
3 suicides and none in placebo, right?

10:17:14

4 MR. BAYMAN: Objection, Your Honor. I was not allowed
5 to get into this on direct to avoid being cumulative and now
6 he's opening it up on cross.

7 MR. RAPOPORT: Goes to bias.

8 THE COURT: Overruled.

9 BY THE WITNESS:

10:17:21

10 A. I'm aware of that and I actually took that into account in
11 my --

12 BY MR. RAPOPORT:

13 Q. I'm not asking whether you took it into account.

14 A. -- in his case.

10:17:30

15 I did. I'm aware of it.

16 Q. I understand. There's a lot of things you would like to
17 say, but I'm going to try to get you stay with my question.

18 MR. BAYMAN: Objection to the colloquy. It's
19 argumentative.

10:17:40

20 THE COURT: Proceed.

21 BY MR. RAPAPORT:

22 Q. Now, you are also aware now that of the 40 -- withdrawn.

23 You're aware that in 1989 they identified 42
24 post-randomization suicide attempts in the clinical trials for
25 paroxetine, correct?

10:17:59

1 A. I'm aware of that.

2 Q. And you're aware that they changed that number from 42 to
3 40 in 1991, right?

4 A. I'm aware. And I took all of that into account.

10:18:10

5 Q. I know you did.

6 So, you are also aware now that with respect to those
7 suicide attempts that I just mentioned, that they said that
8 there were also 6 suicide attempts post-randomization on
9 placebo, right?

10:18:31

10 A. Yes.

11 Q. But you did not learn that until 5 years after you started
12 testifying for GSK, right?

13 A. No, I don't remember when I learned it. If you say I
14 learned about it 10 years ago, maybe that's right. But I've
15 looked into that, and I've looked at what the FDA thought about
16 that, and the FDA was aware of it too. And when you analyze
17 the data using the double-blind randomized-controlled trials
18 there is no evidence that paroxetine causes suicide and -- and
19 -- and this is like a red herring what you're talking about.

10:18:50

10:19:09

20 Q. Well, with due respect, it's not your job or mine to decide
21 whether they're red herrings. I'm trying to ask you about your
22 reaction when you first found out about the fact that they
23 mischaracterized 5 suicide attempts.

24 MR. BAYMAN: Objection to the characterization, Your

10:19:27

25 Honor.

1 THE COURT: Overruled.

2 BY MR. RAPOPORT:

3 Q. So, let's try to communicate a little more directly. All
4 I've been trying to do for 5 minutes so far is to get to admit
5 -- get you to admit --

10:19:35

6 MR. BAYMAN: Objection, Your Honor, argumentative.
7 Move to strike that.

8 THE COURT: Overruled.

9 MR. RAPAPORT: I'll try again.

10:19:39

10 THE COURT: Overruled. Let's get on with it.

11 MR. RAPOPORT: I'm trying.

12 BY MR. RAPOPORT:

13 Q. So, it was in 2007, at a deposition in the Tucker case,
14 when you learned for the first time that they categorized by
15 suicide attempts as placebo when they should -- randomized
16 placebo when they shouldn't have, that's when you learned it,
17 isn't it, sir?

10:19:53

18 MR. BAYMAN: Objection, Your Honor. Argumentative.
19 He's getting into other cases.

10:20:03

20 THE COURT: Overruled.

21 BY THE WITNESS:

22 A. I'll take your word of it. I -- I -- I did learn it at
23 some point. If it was 10 years ago, whenever it was, I'll take
24 your -- I don't remember when I learned it, but I know it.

10:20:09

25 BY MR. RAPAPORT:

1 Q. So that helps.

2 So, there comes a time when you find out for 5 years
3 they haven't been telling you about that and you don't even
4 remember when it happened?

10:20:21

5 A. Well, you said it happened around 2007. I -- I don't
6 remember if that's when it was. I'll take your word for it.

7 I mean, I certainly do know about it. And I reviewed
8 the FDA writing's about it. And the FDA knew about it too.
9 And the FDA knew about it in 1989.

10:20:39

10 Q. No, sir, I don't want you to take my word for anything, nor
11 am I taking yours.

12 I'm going to have Ms. Reed approach you with a
13 transcript and I'm going to help see if I can refresh your
14 memory about the point.

10:20:52

15 A. Sure.

16 MR. RAPAPORT: We've got plenty for everybody.

17 (Document tendered to the witness).

18 (Document tendered to the Court.)

19 (Document tendered to counsel.)

10:21:13

20 BY MR. RAPAPORT:

21 Q. So, what I'd like to do, in the first instance, is call
22 your attention in the deposition that we've just handed you,
23 first to the cover page.

24 Can you agree that this is a transcript that is dated
25 January 12th of 2007?

10:21:31

1 A. Yes.

2 Q. All right. And can you see by looking at this that this is
3 a transcript of testimony that you gave?

4 A. That's correct.

10:21:41

5 Q. And you understood then that you were under oath?

6 A. Yes.

7 Q. Let me call your attention to the discussion on page 171
8 and ask you to just read that to yourself for a moment.

9 (Brief pause).

10:22:01

10 BY MR. RAPOPORT:

11 Q. And feel free, if you need to, read a little before and
12 after 171. Let me know when you're done.

13 (Brief pause).

14 BY THE WITNESS:

10:22:52

15 A. How far should I go?

16 BY MR. RAPOPORT:

17 Q. As far as you need to until you can answer the question --

18 THE COURT: What's the question?

19 BY MR. RAPOPORT:

10:23:00

20 Q. So the question that -- withdrawn.

21 My question, sir, is, isn't it a fact that you learned
22 for the first time about the 5 placebo, the switch of the 5
23 from -- well, withdrawn. I'll get the right words.

24 Isn't it a fact that you learned on January 12th of

10:23:26

25 2007 that 5 of the 6 placebo attempted suicide events reported

1 in the April 29, '91 document by GSK to the FDA occurred during
2 the run-in phase?

3 MR. BAYMAN: Objection, Your Honor. This is improper
4 impeachment. The witness didn't say that.

10:23:44

5 MR. RAPOPORT: It's not impeachment. I'm asking him
6 the question. I refreshed his memory.

7 THE COURT: Proceed.

8 BY MR. RAPOPORT:

9 Q. You can read as much of it as you want to to address my --

10:23:54

10 A. That's interesting.

11 Yes, I learned about it back then, but the answers I
12 gave after that are exactly --

13 THE COURT: All right, sir, just answer. We'll get
14 on.

10:24:02

15 THE WITNESS: Okay.

16 BY MR. RAPOPORT:

17 Q. So your answer is "yes," you learned it for the first time
18 on January 12th of 2007. My next question is, are you standing
19 on your view that you have no memory of that moment when you
20 found out that they hadn't told you that for 5 years?

10:24:13

21 A. I -- I don't have a memory of it, but when I read the
22 transcript I -- I gave the opinion that --

23 Q. Wait.

24 MR. RAPAPORT: I object. He answered. He answered
25 the question.

10:24:26

1 THE COURT: Okay. Proceed.

2 BY MR. RAPOPORT:

3 Q. Okay. They misled you for 5 years, didn't they?

4 MR. BAYMAN: Objection, Your Honor.

10:24:38

5 THE COURT: Sustained.

6 MR. BAYMAN: Thank you.

7 BY THE WITNESS:

8 A. I did not feel misled.

9 MR. BAYMAN: Move to strike that.

10:24:44

10 THE COURT: It may go out.

11 MR. RAPOPORT: All right.

12 BY MR. RAPOPORT:

13 Q. Sir, let's come back to the psychological autopsy now. We
14 paused to take a look at whether you're unbiased. Is it your
15 contention, by the way, that you're unbiased?

10:25:03

16 A. Yes.

17 Q. And is it your contention that you have been thorough in
18 your autopsy?

19 A. Yes.

10:25:10

20 Q. Let's look at a few things, then, about your autopsy.

21 First of all, the first thing I want to look at is
22 something right in my pocket that I'm going to hold up. Maybe
23 some folks who live around Chicago will recognize what I have
24 here.

10:25:30

25 For our record, it's an Ventra card. Not a ticket,

1 it's an Ventra card. Do you know what one of these is?

2 A. I can't see it from here.

3 Q. Oh, I'm sorry.

4 (Brief pause).

10:25:48

5 BY MR. RAPOPORT:

6 Q. Now, the police report, which you have near you, I think,
7 don't you?

8 A. Let me get it.

9 Here it is.

10:26:00

10 Q. The police report shows --

11 MR. RAPAPORT: Do we have it?

12 MR. WISNER: No.

13 MR. RAPOPORT: Okay. I have it here.

14 MR. WISNER: Here it is.

10:26:10

15 (Tendered to counsel.)

16 MR. RAPOPORT: Thank you.

17 BY MR. RAPOPORT:

18 Q. The police report is Defense Exhibit 3153. And what I'd

19 like you to do is have you turn to that portion of the report

10:26:22

20 which shows the things that were recovered at the hospital from

21 Mr. Dolin's -- from Mr. Dolin.

22 Do you have that part?

23 A. On what page is it?

24 (Brief pause).

10:26:44

25 BY MR. RAPOPORT:

1 Q. So, it's page -- hang on.

2 We're just switching technology here.

3 (Brief pause).

4 BY THE WITNESS:

10:27:04

5 A. I think the hospital is page 3.

6 BY MR. RAPAPORT:

7 Q. What's that?

8 A. Page 3.

9 Q. No, it is but --

10:27:14

10 MR. RAPAPORT: What I'm doing is just getting
11 something so I can bring the folks into the box with this
12 witness.

13 (Brief pause).

14 MR. RAPAPORT: It'll just take me a moment.

10:27:27

15 (Brief pause).

16 BY MR. RAPAPORT:

17 Q. All righty. Okay.

18 So, you found what I was referring to at page 3,
19 correct?

10:27:45

20 A. I think that's what you're referring to, yes. It that
21 Northwestern Hospital?

22 Q. And the very first item. It's on page 12 of Exhibit 3153.

23 (Exhibit published to the jury.)

24 BY MR. RAPAPORT:

10:28:15

25 Q. Here is a section, and I'll go ahead and highlight it,

1 where they're going over the various things, not that were
2 recovered in the train. They went on to the track and other
3 people recovered certain things, but this is what was found
4 with the man when they got him to the hospital, right?

10:28:36

5 A. Yes.

6 Q. Okay. So, in your forensic evaluation you saw that he was
7 wearing --

8 MR. BAYMAN: Your Honor, object. He keeps using
9 "forensic."

10:28:46

10 MR. RAPOPORT: Yeah. I'm messing that up. I'll
11 withdraw it. I'll get it right.

12 BY MR. RAPOPORT:

13 Q. The police described the clothing that he was in and then
14 they listed several things, right? A little more than what
15 you've mentioned so far; agreed?

10:29:02

16 A. He had a watch and a wedding band.

17 Q. Right. He had specifically a described watch. Do you
18 remember the part about how he loved watches?

19 A. Yes.

10:29:14

20 Q. He had his wedding ring on. And then I want to zero in on
21 what we've been discussing here, which is what that says is
22 "CTA transit card Metra," the first thing? Do you see that?

23 A. Right. Uh-huh.

10:29:30

24 Q. Now, you're not from Chicago even though you did your
25 walk-around inspection, but -- you don't spend much time in

1 Chicago, do you?

2 A. I'm not from Chicago, unfortunately, but I did ride the
3 Metra train from Glencoe, and like Mr. Dolin did, I did more
4 than just a walk.

10:29:45

5 Q. Okay. We'll get to all that. That was an adventure. You
6 were being paid 500 an hour. How many hours did you spend, you
7 know walking and --

8 MR. BAYMAN: Objection. Argumentative.

9 THE COURT: Sustained.

10:29:59

10 MR. RAPOPORT: I withdraw it.

11 BY MR. RAPAPORT:

12 Q. So, anyway, staying with the CTA transit card, let's talk
13 about it.

10:30:05

14 So, first of all, you've testified that this is a
15 ticket, but you don't realize that a Metra card is actually not
16 a ticket. They sell Ventra tickets and they sell Ventra cards,
17 they're different, do you know that?

18 MR. BAYMAN: Objection --

19 BY THE WITNESS:

10:30:15

20 A. Yes.

21 MR. BAYMAN: -- that is not his testimony.

22 BY THE WITNESS:

23 A. We have the same thing in Boston. We call them Charlie
24 cards.

10:30:23

25 BY MR. RAPAPORT:

1 Q. Okay. So, you do not know when Mr. Dolin about his Ventra
2 card, correct?

3 A. Ah, there was testimony from a Mr. Jeffrey Smith that Mrs.
4 Dolin told him that Mr. Dolin had purchased a one-way ticket.

10:30:44

5 Q. Okay. So, let's walk through that.

6 Mrs. Dolin was not downtown with Mr. Dolin on the day
7 that he died, was she?

8 A. No.

10:30:58

9 Q. Mr. Dolin -- Mrs. Dolin doesn't know to what extent her
10 husband uses or doesn't use CTA, correct?

11 A. I don't know what Mrs. Dolin knows about her husband's -- I
12 can't answer that question.

10:31:17

13 Q. If somebody was going to use a credit card to purchase
14 either a ticket or a Ventra card, they could do that in
15 whatever denomination, more than a dollar if they wanted to, do
16 you know that?

17 A. That makes sense to me, yes.

10:31:30

18 Q. So, you can buy the Ventra card and you can put as much
19 money on the Ventra card as you want to. For example, people
20 will have their Ventra card and they put money on it and just
21 keep using it until it taps out and then some of them even have
22 it automatically putting more money in, right?

23 A. Yeah. We have the same thing.

10:31:46

24 Q. You have no idea whether Mr. Dolin had \$20 on his Ventra
25 card or one fare, you don't know, do you?

1 A. What I do know is that that there is testimony from Mr.
2 Jeffrey Smith's deposition that Mr. Dolin had purchased a
3 one-way ticket.

10:32:06

4 Q. Okay. But as a good psychological autopsy doer, you need
5 to dig down to people that have first-hand knowledge, don't
6 you?

7 A. Again, you get as much knowledge as you can.

8 Q. So --

10:32:18

9 A. Normally when I do this, I don't have all these depositions
10 and people's sworn testimony. So you actually have more in
11 this case than you would normally have.

12 Q. So, Mr. Jeffrey Smith is a financial planner, correct?

13 A. Yes.

10:32:36

14 Q. Mr. Jeffrey Smith was not with Mr. Dolin in downtown
15 Chicago on July 15, 2010, correct?

16 A. He testified --

17 Q. Is that true or not?

18 A. No, he wasn't. But he testified --

19 Q. Okay. You've answered the question.

10:32:41

20 A. Sorry?

21 Q. I understand you want to keep talking, but you've answered
22 the question.

23 So, Mr. Smith would have no firsthand knowledge of
24 what Mr. Dolin's CTA habit might be, if any, right?

10:32:59

25 A. His information came from Mrs. Dolin.

1 Q. Okay. And Mrs. Dolin doesn't have first-hand information
2 about that either, does he?

3 A. I told you, I don't know Mrs. Dolin's extent of her
4 information about that question.

10:33:10

5 Q. Okay.

6 A. Other than -- other than she told Mr. Smith he had bought a
7 one-way ticket.

8 Q. On the basis of the evidence that you have, are you willing
9 to swear that it is your opinion that he bought a one-way

10:33:21

10 ticket that day?

11 A. Well, yes, I saw that in someone's sworn deposition
12 testimony. I mean, if that person is not telling the truth,
13 then, you know -- but that person, I have to take them at their
14 -- at their testimony that Mrs. Dolin told Jeffrey Smith it was
15 a one-way ticket.

10:33:36

16 Q. In this psychological autopsy that you do, you have to make
17 judgments about it's not so much truth or falsity, it's whether
18 they have the knowledge in the first place or whether they're
19 just talking?

10:33:49

20 A. We take all of that into account. And when I do these
21 psychological autopsies, you know, sometimes I wonder, am I
22 getting the whole full story here, particularly when you're
23 talking to people they work with.

24 You know, people feel guilty after someone commits

10:34:02

25 suicide. And lots of times colleagues, people question "should

1 I have done something different," "should I have noticed
2 something" and it's hard for them to -- it's -- it's hard for
3 them to talk to you, but this is different here when you have
4 all this sworn deposition testimony.

10:34:17

5 Q. Somebody swearing to something they don't know is reliable,
6 in your view?

7 A. I mean, it seemed pretty clear to me Mr. Smith said Mrs.
8 Dolin told him that Mr. Dolin had purchased a one-way ticket.

9 Q. The facts we're talking -- no, let me take a step back.

10:34:35

10 Why would anybody -- well, wait.

11 Are you aware that to get a new Ventra card you'd have
12 to pay extra money? You'd have to put up at least \$5 to get a
13 new Ventra card plus some more, you know this, right?

14 A. That's true in most places, yes.

10:34:52

15 Q. So, if somebody was going to buy a one-way ticket, then it
16 is cheaper, either on a credit card or in cash, to just get a
17 ticket, right?

18 A. Okay.

19 Q. But it wasn't a ticket that was found on him, it was a
20 Ventra card, right?

10:35:05

21 A. Well, they called it a -- a CTA transit card Metra and then
22 he had had the Zone 8 train pass.

23 Q. Well, Zone 8 train pass, that's not a CTA pass, is it?

24 A. No, they're two different things.

10:35:21

25 Q. Oh, Okay. So let's not confuse the issue.

1 A. Well, I'm just telling you what -- what's on this report.

2 And it's also important --

3 Q. Well, wait, wait --

4 A. It's also important what wasn't found, like his phone.

10:35:29

5 Q. Look, I know you want to talk about everything else except
6 what I'm asking, but I'm going to insist --

7 MR. BAYMAN: Objection. Argumentative.

8 THE COURT: Proceed. Proceed.

9 BY MR. RAPAPORT:

10:35:38

10 Q. Look, it is your sworn testimony that he bought a one-way
11 ticket. Why isn't it true that the Ventra card refutes that
12 because the Ventra card is not a one-way ticket?

13 A. I don't the understand the question.

14 Q. Was a paper ticket from Ventra found on the deceased?

10:35:55

15 A. What was found was what is listed here.

16 Q. Doesn't the absence of a paper ticket on the deceased rule
17 out from physical evidence the possibility that he bought a
18 one-way ticket that day?

19 A. Again, there's testimony that he bought a one-way ticket.

10:36:11

20 You know, maybe they -- maybe they didn't find a piece of
21 paper, you know -- I'm going by the testimony.

22 Q. Why would anybody--did I ask this already?--why would
23 anybody buy a card if they intended to --

24 THE COURT: I think you asked it. I think you made
25 your point.

10:36:31

1 MR. RAPOPORT: Very good. So I'll move on.

2 BY MR. RAPAPORT:

10:36:39

3 Q. So, we've talked about that pieces of forensic evidence a
4 little bit. Now, will you admit to me that you do not know of
5 your own personal knowledge how much money he had on the Ventra
6 ticket that day -- on the Ventra card?

7 A. I don't.

8 Q. All right. Now, you took a walk -- withdrawn.

10:36:58

9 I want to talk about the weather for a minute. Are
10 you aware that it was in the 90's on July 15, at 1:00'ish in
11 2010?

12 A. Yeah, I know it was a hot day.

13 Q. Okay. So, are you familiar with Chicago's pedway system?

14 A. Yes.

10:37:12

15 Q. And when you -- when you did your walk, did you notice how
16 quickly from Mr. Dolin's office he could get into the air
17 conditioned pedway where it's cooler in the summertime and walk
18 among the whole city of -- of attractions and happen to find
19 himself around the Blue line if he went that path?

10:37:35

20 A. I didn't walk the pedway, but it took me 15 to 20 minutes
21 to get to the Blue line station walking outside.

22 Q. Yeah, that's if one goes direct. And we'll come to the
23 issue of time of departure soon, but just in terms of the path,
24 the one possible path, if it was a direct walk, would've
25 through the pedway, right?

10:37:58

1 A. Sure.

2 Q. And it would've had the advantages of getting out of the
3 90-degree weather and into a cooler place where there are also
4 some attractions and things to see; agreed?

10:38:09

5 A. If Mr. Dolin was interested in being cooler and seeing the
6 attractions, then yes.

7 Q. And that system, are you aware that system if you were just
8 going out to take a walk, say to relieve stress, that

9 underground system could take you out the way out to Millennium

10:38:27

10 Park or even beyond into the new east side; do you know this?

11 A. I did not no that.

12 Q. You can get over to Illinois Center where there's all kinds
13 of shopping. I mean, it's a nice walk in the summertime. Have
14 you been in it?

10:38:38

15 A. No.

16 Q. So, you know, people in Chicago, some in the wintertime or
17 when it's raining use it a lot. Sometimes in the heat of the
18 summer --

19 A. It sounds real nice. I'd like to do it.

10:38:49

20 Q. It is nice.

21 You have no idea -- well, withdrawn.

22 Did you know the Cubs were in town?

23 A. Yes.

24 Q. On July 15th of '10?

10:39:01

25 A. Oh! No, that I didn't know.

1 Q. Did you know they were playing Phillies, the Phillies?

2 Were starting a three-game series --

3 MR. BAYMAN: Your Honor, I don't mind this, but I
4 don't see what this has to do with the case.

10:39:11

5 THE COURT: You don't mind it?

6 (Laughter in the courtroom)

7 MR. BAYMAN: I just don't see what it has to do with
8 the case and we're trying to move it along.

9 THE COURT: I agree with you.

10:39:20

10 MR. BAYMAN: Thank you.

11 BY MR. RAPOPORT:

12 Q. All right. So, let's flip over to some of this other
13 evidence we're staring at.

14 So, the Zone 810 train pass, most likely the Metra
15 pass, right?

10:39:37

16 A. Yes.

17 Q. And isn't that some evidence, forensically speaking, that
18 he had an intention of going home at the end of the day?

19 A. I don't think you can make that interpretation. I mean, he
20 would've -- that's the pass he might've used for other
21 purposes. No, I don't see how you can make that conclusion.

10:39:51

22 Q. The guy left his wallet in the office?

23 A. Yes.

24 Q. But he took his Metra pass?

10:40:04

25 A. He took a couple that he -- he took a couple of things that

1 he needed to get on the platform. And, of course, the most
2 important thing is, he threw away his cell phone and someone
3 made calls on it.

4 Q. Well, you don't know that.

10:40:19

5 A. I do know that. I --

6 Q. Well, wait. Let's get into what you know and what you
7 don't know.

10:40:29

8 What you know is not only that some stranger made
9 phone calls, but that actually some stranger was having a field
10 day on the Internet too, right?

11 A. I saw -- I saw that two text and -- a picture text was sent
12 from Mr. Dolin's phone after he died and a phone call was made
13 on his phone after he died.

14 Q. You didn't see the Internet?

10:40:44

15 A. I didn't see the Internet. But, you know, I've seen
16 pictures of the scene and --

17 Q. I just asked you about the Internet.

18 A. No, I didn't see the Internet.

19 Q. I didn't ask you about pictures.

10:40:53

20 A. No, if you're saying something --

21 Q. All right.

22 MR. RAPAPORT: Well, we'll call Ms. Reed into play to
23 bring phone records.

24 MR. BAYMAN: Is this the exhibit -- what exhibit is
25 it?

10:41:47

1 MR. RAPOPORT: This is Plaintiff's Exhibit 351.

2 BY MR. RAPOPORT:

3 Q. Do you have that in hand?

4 A. These don't --

10:42:05

5 Q. The thick one.

6 A. These don't have plaintiff's markings.

7 Q. There you go (indicating).

8 We substituted one with plaintiff's exhibit marker.

9 If you have Exhibit 351 in hand, what I'd like you to

10:42:20

10 do is turn all the way to the back, to the last couple of
11 pages.

12 Do you see that now?

13 A. Yes.

14 Q. And do you see, for example, that on July 15th --

10:42:45

15 withdrawn.

16 You can verify that this is Mr. Dolin's cell phone,
17 right?

18 A. Yes.

19 Q. So, you see that there is Internet access at 1:17; agreed?

10:42:59

20 A. Yes.

21 Q. And that would be before he passed away, right?

22 A. That's correct.

23 Q. And then when you look at this, and we can count them,
24 starting at 2:25, and just looking at the entries that say

10:43:16

25 "Internet access," you have one at 2:25, one at 2:29, 2:31,

1 2:33, 2:34, 2:36, 2:45, 3:39, 3:50, 4:24, 4:25, 4:37, 5:53,
2 6:35 -- oh, excuse me, the last one is at 6:35.

3 Did I read that correctly?

4 A. Yes.

10:43:45

5 Q. All right. And then these records sort of end, they're
6 whited out, right? Whether this went on for more days we can't
7 know because the records end.

8 A. Right. It looks like there's a page missing, because the
9 last page says "17 of 18." So it might've again on.

10:43:59

10 Q. All right.

11 A. But all this Internet access was after he passed away.

12 Q. Right. And I want to talk about this. So, first of all,
13 let's get the facts straight. In your psychological autopsy
14 you missed these facts, right?

10:44:13

15 A. Well, I --

16 Q. Just answer yes or no.

17 A. -- answered in my testimony yesterday that somebody used
18 his phone after he died, it's actually longer than I thought,
19 but that's evidence that he -- that he threw the phone away and
20 somebody was using it.

10:44:25

21 Q. Did you understand that I wasn't asking you what its
22 significance is. I just was asking you to admit that you
23 missed it. Is it too painful to do that?

24 A. Ah, I did not see this Internet till -- till - till today,
25 but --

10:44:40

1 Q. That's okay. So let's talk about it.

2 A. But I think it just adds to my opinion that someone was
3 using his phone.

4 MR. RAPOPORT: Could get an instruction to have him
5 stop --

6 THE COURT: Yes. Please, just answer the questions,
7 Doctor.

8 THE WITNESS: Okay.

9 BY MR. RAPOPORT:

10 Q. So, now the phone is being used by somebody --

11 A. Yes.

12 Q. -- right?

13 So from a -- I think I want to use the word
14 "forensic." Do you consider yourself doing a forensic type of
15 an analysis here?

16 A. The term is psychological autopsy.

17 Q. I know. I'm sort of away from the psychological autopsy.
18 Is "forensic" an okay term to use with what you've tried to do
19 here?

20 A. I don't use the term. If you would like to use it, I guess
21 I'll know what you mean.

22 Q. I don't care --

23 A. The term is psychological autopsy.

24 Q. Okay. So, you don't know who has the phone, right?

25 A. That's right.

1 Q. You don't know how they got it, right?

2 A. That's right.

3 Q. You do know that it starts being used. Let's just see,
4 what's the earliest reference after death time. I see the

10:45:47

5 Internet is 2:25, and what was the phone one that you mentioned
6 before?

7 A. I'd have to -- I'd have to go find it here for you.

8 (Brief pause.)

9 BY THE WITNESS:

10:46:11

10 A. There's a phone call at 4:23 p.m.

11 Q. Okay. So, the earliest reference is 2:25. By then, the
12 phone is in the hands of somebody that shouldn't have it?

13 A. Yes.

14 Q. And the question is, how they got it.

10:46:24

15 A. Correct.

16 Q. Now, there are various possibilities, wouldn't you agree?

17 A. Yeah. It just depends where Mr. Dolin threw the phone.

18 Q. Well, that's your contention, but you have no idea that
19 Mr. Dolin threw the phone anywhere, do you?

10:46:38

20 A. Well, maybe he placed it, but it was not on the tracks and
21 it was not on his person when he died.

22 Q. So, does that mean that the only other possibility in the
23 world is that he must have discarded it or thrown it away?

24 A. I can't think of another possibility.

10:46:59

25 Q. You can't?

1 So, first of all, he was in this accident?

2 A. Yes.

3 Q. One possibility is it couldn't fallen off of him if he had
4 it there, right?

10:47:14

5 A. You mean at the time of the -- of the --

6 Q. Of the jump or whatever.

7 A. I don't think that's possible because --

8 Q. Okay. Fine.

9 A. -- I saw pictures.

10:47:23

10 Q. Okay --

11 A. -- and they found all --

12 Q. I don't want --

13 A. They went on the tracks and took pictures and they found
14 all kinds of other things, like a snuff box, and other things.

10:47:29

15 If there was a phone there, they would've seen it.

16 Q. Well --

17 A. I don't think there's any doubt about that.

18 Q. Okay. So now I understand what you're saying.

19 So you would eliminate the possibility of the phone
20 falling out and somebody picking it up?

10:47:40

21 A. You mean picking -- falling out on the tracks?

22 Q. Wherever. He jumped like superman.

23 A. Right, but the police came and took photos. There were
24 witnesses, police came and took photographs. I mean, I think
25 if the phone was there, they would've found it.

10:47:58

1 Q. Do you remember the part about how there's lots of people
2 around but the only one that sticks around is Mr. Kotri --
3 Mr. Pecoraro?

4 A. Well, he stuck around to talk to the -- to the police.

10:48:10

5 Q. Yeah. But there were many other people around, weren't
6 there?

7 A. Yes.

8 Q. And you have no idea how many people the body passed
9 through before it got to Northwestern, do you?

10:48:25

10 A. I'm not sure what you're saying. You're saying someone
11 lifted the phone --

12 Q. I'm not saying anything, okay. You're the one that's
13 saying you know what happened to the phone. What I'm doing is
14 trying to bring out that you don't know what you're talking
15 about.

10:48:44

16 A. Well, no, that is -- that is not correct. The medical and
17 scientific literature has studied train suicides. And when
18 people jump, they often get rid of all their belongings before
19 they jump. Okay, that's -- I'm not making this up, this is in
20 the --

10:48:55

21 Q. Well, he clearly didn't do that, did he? He had his
22 wedding ring, he has his prized watch, he has his Ventra card,
23 he has his ticket to get home.

24 A. People actually keep their wedding rings on.

10:49:06

25 Q. Yeah.

1 A. Yeah.

2 Q. You have studies, you've quoted a lot of studies.

3 A. Yeah.

4 Q. So I guess -- do you have one that fits every situation?

10:49:13

5 A. No, I look at all the studies on trains. There's a huge
6 literature on train suicides.

7 Q. I'm not asking you anything about the huge literature.

8 A. Well, there is. And that's where I got from.

9 Q. Okay.

10:49:27

10 A. It's a big problem in the United States.

11 Q. I'm sure it is, Doctor.

12 So with respect to your timing of departure, let's
13 talk about that.

14 You put on your exhibit that you know that he left
15 Reed Smith at 1:15, right?

10:49:41

16 A. It's in my report too, yes.

17 Q. Are you aware that there is no video, and by that I mean no
18 capability of video for Mr. Dolin to have ever been recorded on
19 video leaving Reed Smith?

10:49:57

20 A. I got the information on the time from an e-mail Mrs. Dolin
21 sent, that's where it comes from.

22 Q. Okay.

23 A. You're -- you're -- you're side produced these e-mails. I
24 saw it in an e-mail she wrote, that she had been told that he
25 left the building at 1:15.

10:50:10

1 Q. Okay.

2 A. That's where it comes from.

3 Q. But let's get at what your source. So you revealed your
4 source of evidence, which is secondhand hearsay through Mrs.
5 Dolin, right?

10:50:22

6 A. It's a document. It's an e-mail. It's a copy of an e-mail
7 that Mrs. Dolin sent.

8 And I didn't put -- I don't think I put in my report
9 that it was from a video camera. It was just that Mrs. Dolin
10 said that she had information that he left the building at 1:15
11 p.m.

10:50:33

12 Q. And the source of the information you don't know, correct?

13 A. It just comes from the e-mail that Mrs. Dolin sent.

14 Q. The reliability of the information you don't know, is that
15 correct?

10:50:52

16 THE COURT: All right. We know the story now. Let's
17 proceed.

18 MR. RAPAPORT: So -- very good.

19 BY MR. RAPAPORT:

10:51:37

20 Q. The next topic I want to tactical is, I want to talk about
21 a little bit about the medical treatment.

22 So, you went through and showed in your direct
23 testimony a whole bunch of different slides of things; do you
24 remember that?

10:51:53

25 A. Yeah.

1 Q. Now, we have --

2 MR. RAPAPORT: I want to start with Dr. Roth's care.
3 We have previously utilized an exhibit called Plaintiff's
4 Exhibit 53 that I would like permission to put up.

10:52:18

5 (Exhibit published to the jury.)

6 BY MR. RAPAPORT:

7 Q. Now, this is a small version. And you should be able to
8 see it on your TV, okay, but you can't see much yet because I
9 have to do zooming in order for us to really see it.

10:52:28

10 A. Right now I don't see it.

11 Q. So let's take just a quick tour to get oriented.

12 So, we have here is a summary of care provided by
13 Jeffrey Roth.

14 A. The screen is blank.

10:52:42

15 Q. I'm sorry? Excuse me? Your screen is white. Oh, forgive
16 me.

17 A. Well, it's black. It's black.

18 THE COURT: All right. While we're working on that,
19 the jury and I will take the recess.

10:53:23

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

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

10:53:33

25 [REDACTED]

Rothschild - cross by Rapoport

4026

10:53:43

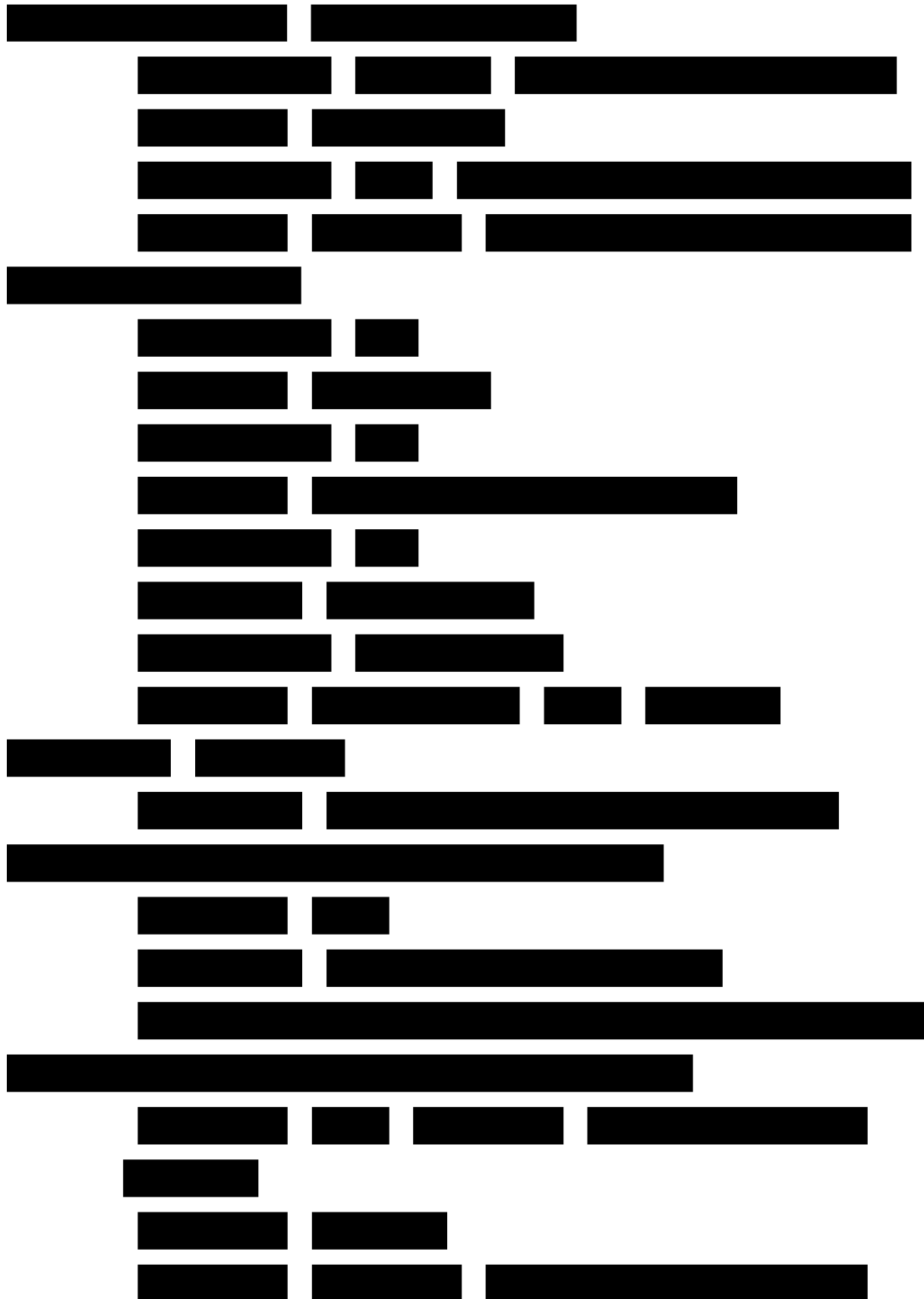
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[REDACTED]

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

THE COURT: Are the screens working?

MR. RAPOPORT: I think so.

THE COURT: All right.

Thank you very much, ladies and gentlemen. Please be seated. We'll resume.

You may proceed, sir.

MR. RAPOPORT: Thank you very much, Your Honor.

BY MR. RAPOPORT:

Q. So continuing with Plaintiff's Exhibit 53, which is a summary of Jeffery Roth's records. Have you had a chance to look this over?

A. Look what over?

Q. The exhibit.

A. Just what's on the screen.

Q. Okay. Fine.

Have you seen this before?

A. Ah, I'm not -- I'm not -- I'm not sure I've seen this pictured this way before, but I -- I've seen the billing records of Dr. Roth.

Q. So, there's already been testimony that these summarize the records, the billing records of Dr. Roth. I want to sort of walk you through this.

1 Do you have any reason to doubt that as you look at
2 this?

11:13:57

3 A. I mean -- he saw him 70 times for either individual group
4 therapy over that 7-year period. So, I'll assume that that's
5 70 number is on there.

6 Q. All right. And so you can see that we have various periods
7 of time that go by. For example, the very first one where
8 there are no visits in most of 1989. We have patches of many
9 months in various places here with no visits, right?

11:14:20

10 A. Correct.

11 Q. So, it would not be accurate to characterize Dr. Roth's
12 treatments as once per month for all of those years; agreed?

13 A. It averaged to once a month? Put that back up, because I
14 want to say something about those visits. Thank you.

11:14:38

15 Q. Wait. Wait. I just want you to answer my question before
16 you say whatever you're about to.

17 A. They averaged out 70 times, 7 years. It's a little less
18 than once month.

19 Q. So, on average --

11:14:49

20 A. On average. But you can see --

21 Q. I think we all understand the idea of dividing 70 by the
22 period of years we're talking about.

23 A. But you see there were clusters where --

24 Q. No question pending, sir.

11:15:01

25 Would you agree with me that Mr. Dolin did not see Dr.

1 Roth every month for the 8 years depicted?

2 MR. BAYMAN: Can you put that back up so he can see
3 it?

4 MR. RAPOPORT: No.

11:15:17

5 BY THE WITNESS:

6 A. I can remember it.

7 There were clusters of appointments, particularly in
8 the beginning, when he probably wasn't doing so well and then
9 he --

11:15:25

10 MR. RAPOPORT: Your Honor, I move to strike the
11 answer.

12 THE COURT: No, I'm going to let him answer.

13 Go ahead.

14 MR. RAPAPORT: Okay.

11:15:29

15 BY THE WITNESS:

16 A. And he was seeing Dr. Roth individually. And I presume
17 those periods of time when he wasn't seeing him that much, he
18 was doing better.

19 I mean, that's not unusual if you look at my patients.

11:15:40

20 They see me frequently when they're not doing well, and we
21 spread out the appointments when they're doing fine.

22 BY MR. RAPAPORT:

23 Q. Let me ask you a different question.

24 A. Sure.

11:15:49

25 Q. In all of those pages of Dr. Roth's billing records, the

1 word "anxiety" appears once, correct?

2 A. Yes.

3 Q. And you don't know the date, right?

4 A. That's the diagnosis that you need to put down on a billing
5 record.

11:16:04

6 Q. Well, all of those billing records, with the exception of
7 one, have no diagnosis at all on there, isn't that true?

8 A. Yes.

9 Q. Now, I want to come back for a moment to Defense

11:16:21

10 Exhibit 7038-2 that was displayed before where you visually
11 displayed the years of Dr. Roth as a continuous yellow arrow
12 with the word "anxiety" on it. That's what you did, right?

13 A. And I said there were 70 visits.

14 Q. And you said there were 70 visit, and you said they
15 averaged once a month, right?

11:16:43

16 A. Approximately.

17 Q. And that could leave the impression that he was under
18 continuous care for anxiety for all of those years, couldn't
19 it, sir?

11:16:54

20 A. He was a patient of Dr. Roth for all those years, but
21 sometimes he saw him every week and sometimes the visits spread
22 out.

23 Q. So, would you agree with me that Exhibit 53 is more fact
24 and less opinion?

11:17:12

25 A. Well, they're both fact, but look, you can see in 1989 --

11:17:27

1 by the way, that was at the time of the Sachnoff & Weaver, he
2 was joining Sachnoff & Weaver, he sees him practically every
3 week. In November he saw him every week. And I presume he's
4 doing better and he decides to go into a group therapy, and
5 he's going every week to the group therapy.

11:17:45

6 I mean, there were -- there were times when he saw him
7 every week, if you look through the whole thing, and there were
8 times when he didn't see him for months, and that's not unusual
9 and -- but he's under Dr. Roth's care the entire 7 years.

10 Q. So, coming back to the way that you've represented this,
11 throughout all of the years we're looking at, the DSM governed
12 diagnoses in the mental health area where you were practicing,
13 didn't it?

14 A. Yes.

11:18:04

15 Q. And in the book there were various flavors of anxiety,
16 correct?

17 A. Not flavors. They're different anxiety conditions.

11:18:22

18 Q. So, is it your sworn testimony that Stewart Dolin
19 continually suffered from some diagnosis, some mental health
20 diagnosis throughout that entire time that he was under the
21 care of Dr. Roth?

22 A. Well, once you make a diagnosis of say generalized anxiety,
23 you have that diagnosis. Even if you're doing better and
24 you're not symptomatic, you still have the diagnosis.

11:18:34

25 But I'll tell you what we know, we know he saw Dr.

1 Roth, individual or group therapy, 70 times over 70 years.
2 Unfortunately, the records, the detailed records aren't
3 available. We only have the billing record, so that's --
4 that's all we know.

11:18:47

5 Q. And yet you've chose to represent that as 7 years of
6 continuous treatment for what? Are you saying generalized
7 anxiety disorder?

8 MR. BAYMAN: Objection.

9 BY MR. RAPOPORT:

11:19:01

10 Q. Is that what he had?

11 MR. RAPAPORT: Well, withdrawn.

12 BY MR. RAPAPORT:

13 Q. We don't know the diagnosis. So go ahead, doctor, what is
14 your diagnosis?

11:19:04

15 A. All we can conclude from this is what Dr. Roth wrote, which
16 is the word "anxiety."

17 Q. But he only wrote it for one billing cycle, one month out
18 of the 8 years.

19 A. Yes, but -- but that would've been recorded in -- in -- I
20 mean, I don't know how Mr. Dolin paid for this, but -- but he
21 only wrote it once, that is correct.

11:19:23

22 Q. What DSM diagnosis are you giving for the man in 1990,
23 which was before Dr. Roth ever wrote anything?

24 A. I'm not giving him a diagnosis.

11:19:38

25 Q. Because you don't have enough to give him a diagnosis,

1 right?

2 A. During this time period, no, because we don't have the
3 records.

11:19:47

4 Q. Let's be clear, though. During this time period means that
5 it would be speculation to testify to a reasonable degree of
6 certainty about what, if any, psychological diagnosis Mr. Dolin
7 had while he was under the care of Dr. Roth, isn't that true?

8 A. Well, Dr. Roth did write the word "anxiety."

9 Q. He did not put a code --

11:20:08

10 A. That's all I have.

11 Q. -- on it, did he?

12 A. No, he did not.

13 Q. He didn't whether it was general anxiety -- generalized --
14 what did you call it, GAD?

11:20:12

15 A. Yes.

16 Q. He didn't say it was GAD, did he?

17 A. He did not.

18 Q. He didn't say it was social anxiety, did he?

19 A. He did not.

11:20:18

20 Q. He didn't describe it with any other particularity such
21 that a billing code could be assigned to it, right?

22 A. That's right.

23 Q. Nor -- nor could a DSM code be assigned to it, right?

24 A. Well, we don't have the records, but my diagnosis of Mr.

11:20:33

25 Dolin having GAD comes from other records that come later, like

1 Dr. --

2 Q. I'm not talking about --

3 A. -- Dr. Salstrom and Ms. Reed and --

4 Q. Sir, I'm going to pin you down soon enough about what you
5 heard and are diagnosing --

6 MR. BAYMAN: Objection, Your Honor. Argumentative
7 comments.

8 THE COURT: Proceed. Proceed. Proceed.

9 BY MR. RAPOPORT:

10 Q. Well, the point is, in this 7 years, there's no evidence
11 that at that time Mr. Dolin had MDD, right?

12 A. That's correct.

13 Q. There's no evidence that he had GAD either, is that
14 correct?

15 A. Well, I'll try to make this simple. I'm not making myself
16 clear. All we know is he had anxiety --

17 Q. Actually, I don't want you to make it simple. I want you
18 to answer my questions.

19 Is there ever --

20 MR. BAYMAN: Your Honor, it's argumentative colloquy.

21 THE COURT: Just, counsel, let's proceed.

22 Go ahead.

23 MR. RAPOPORT: Doing my best.

24 BY THE WITNESS:

25 A. All we know --

1 MR. RAPOPORT: He's talking. I'm trying to --

2 THE WITNESS: You keep interrupting me. All I know
3 is --

11:21:29

4 THE COURT: Doctor, we're going to get this over a lot
5 quicker if you'll just answer the question.

6 THE WITNESS: I'm trying, Your Honor.

7 THE COURT: Your counsel will have a chance to ask you
8 again if he feels that it wasn't complete. So, please, just
9 answer the question.

11:21:36

10 BY MR. WISNER:

11 Q. Sir, you've already testified that during this period we're
12 looking there was no evidence of either MDD or GAD, didn't you?

13 A. All we know is that Dr. Roth put the word "anxiety" down.

11:21:52

14 Q. All right. You are not diagnosing GAD based on the
15 information you have, correct?

16 A. No. Not based on Dr. Roth, no.

17 Q. So I just want to add here "all we know is Dr. Roth wrote
18 anxiety once."

19 A. That's correct.

11:22:19

20 THE COURT: Proceed. Proceed.

21 BY MR. RAPOPORT:

22 Q. Now, let's go on to -- I'm going to take what has been
23 marked as Plaintiff's Exhibit 54, which is a similar-looking
24 exhibit, but it's covering here Sydney Reed for certain dates.

11:22:50

25 And these being from the start of her care in February of 2007

1 through April 30th, 2010. We have a more detailed view to
2 cover June and July of 2010.

3 So looking at this, do you have any reason to doubt
4 the accuracy of the detail provided here of the periods of time
5 when Mr. Dolin was and wasn't seeing Sydney Reed during the
6 timeframe covered?

7 A. No.

8 Q. So, for example, there's a gap here that I'm showing you
9 that starts in -- let me just zoom in a little bit so we see
10 the months better.

11 So we have a gap here from June of '08 all the way
12 through the rest of '08, and the rest of -- all of '09, and up
13 to January 17th of '10.

14 Did I get that right?

15 A. Yeah. That's when he was better after he was treated with
16 Zoloft.

17 Q. So let's work on your psychiatric diagnosis now for that
18 period of time. I would like to draw your attention to, let's
19 say, right in here (indicating). I'm picking June, let's just
20 say July and August of 2008.

21 Now, at that point in time was there any evidence that
22 Mr. Dolin had major depressive disorder?

23 A. No.

24 Q. Was there any evidence that Mr. Dolin had generalized
25 anxiety disorder?

11:24:57

1 A. Yes. Well, based on my review of the records, Ms. Reed's
2 records, he -- and Dr. Sachman who prescribed Zoloft, and the
3 previous records from Dr. Sachman when he prescribed
4 paroxetine, that Mr. Dolin did, in fact, made criteria for
5 generalized anxiety disorder.

6 Q. So when --

11:25:10

7 A. He was better, he was better during that 2008 timeframe,
8 you know, when he was taking Zoloft, but he still had the
9 diagnosis. If he were to go off his medication, for example,
10 he probably would've had a return of his symptoms.

11:25:23

11 It's almost like high blood pressure. If you have
12 high blood pressure and you take a medicine and your blood
13 pressure is normal, you still have high blood pressure but if
14 you stop your medicine, your blood pressure is going to come
15 back, you still have that diagnosis.

16 Q. When, at what point are you first diagnosing GAD for Mr.
17 Dolin? Let's get specific. Just asking for a date.

11:25:52

18 A. Ah, I mean, I think he had it back in -- in 2005 when Dr.
19 Sachman prescribed the paroxetine and got better on the
20 paroxetine. I think that's when it starts. And he clearly has
21 it ah -- ah -- again when he goes to see Ms. Reed and Dr.
22 Sachman puts him on -- on the Zoloft.

11:26:13

23 By the way, the one thing I don't agree with this
24 diagram, you got this thing up there "Zoloft induced," you know
25 I don't agree with that.

1 Q. I don't know what you agree with or don't, but I'm asking
2 you questions about that.

3 A. I don't know what that's doing on there, but -- but I don't
4 agree with it.

11:26:24

5 Q. No guess?

6 A. I'm sorry?

7 Q. Never mind.

11:26:35

8 So, I brought up Plaintiff's Exhibit 69 just to assist
9 you and also to try to pin down what you're actually diagnosing
10 and when.

11 So this exhibit shows that the prescription date that
12 you just mentioned was -- I think you were just referring to
13 October 3rd of '05, do I have that right?

14 A. Yes.

11:26:47

15 Q. And so it is your diagnosis that, at that point in time,
16 Mr. Dolin had GAD, generalized anxiety disorder, is that what
17 you're saying?

18 A. Yes. And if you look at Dr. Sachman's records and Dr.
19 Sachman's testimony, I mean, it was -- it was primarily

11:27:04

20 work-related, but he made the criteria for generalized anxiety
21 disorder.

22 Q. I'm not asking you anything about your basis, not your
23 reasons, okay. I just want to get, quickly, what you're
24 diagnosing and when you're diagnosing.

11:27:16

25 So you're diagnosing GAD here (indicating)?

1 And for how long, then, does he keep that diagnosis?

2 A. Well, it starts before October.

3 Q. Look, Doctor, I'm trying to get you to tell me when --

4 A. It's October 3rd, 2005 is when he starts.

11:27:32

5 And, by the way, it's paroxetine and not Paxil.

6 Q. I don't need any reasoning. When is the first time that
7 you are able to diagnose GAD for Stewart Dolin? It's a date.

8 A. Well, I can't -- it doesn't come on an exact date. My
9 patients can't tell me the date it started, but it was in the
10 months preceding October 2005.

11:27:48

11 And again, I wonder whether he had had it before
12 that. I --

13 Q. I don't care about what you wonder. I want to know based
14 on a reasonable degree of medical and scientific --

11:28:02

15 A. Well, put it that way --

16 Q. When is the first time that you are able to diagnose GAD
17 for this man?

18 A. To a reasonable degree of medical and scientific certainty
19 he had it at least several months before October 3rd 2005.

11:28:18

20 There are notations in the record that he was on paroxetine
21 perhaps in 2003, he may have had it then. And he may have had
22 it when he saw Dr. Roth 70 times in that 7-year period, but we
23 don't have the records from him, or I don't, and I can't say
24 that for sure. But for sure he had it when Dr. Sachman

11:28:37

25 prescribed the paroxetine.

1 Q. All right. So by 10/13/05. I'm just going to try to write
2 that on here.

3 A. Or earlier.

4 Q. "Per Dr. R by 10/15 or earlier."

11:29:00

5 A. It's '05.

6 Q. Yes. Sorry. "10/05 earlier, Stewart had GAD."

7 Now, my next question, and this is based on a
8 reasonable degree of medical and scientific certainty, my next
9 question is, for how long did he have it after that? Was it
10 for the rest of his life? Was it some other date?

11:29:22

11 A. He has the diagnosis for the rest of his life, but
12 certainly people improve who have the diagnosis and he may not
13 be symptomatic. I mean, he did improve when he went on the
14 paroxetine, he did improve when he went on the Zoloft, but he
15 still has the diagnosis.

11:29:39

16 Q. All right. And what other diagnoses are you giving him? I
17 don't want any reasons, I don't want you to cipher it out, I
18 just want you to tell me what other psychiatric diagnoses have
19 you established based on a reasonable degree of medical and
20 scientific certainty and for what time periods?

11:29:58

21 A. For over any time period? Well, as I testified, I think
22 there was the possibility in --

23 Q. No possibilities. Reasonable degree.

24 A. To a reasonable degree of medical and scientific certainty
25 in July of 2010, he may also have been suffering from major

11:30:13

1 depressive disorder as Dr. Salstrom noted in her records.

2 Q. I'm just getting another drawing to take us to that time
3 period.

4 So, you are or you aren't adding the diagnosis of MDD?

11:30:42

5 A. As I think I testified, I can't be sure. I would've needed
6 more information, like Dr. Salstrom needed more information,
7 but based on that questionnaire he filled out, that DSM
8 screening questionnaire, he's making criteria, looks like, for
9 major depressive episode.

11:31:04

10 Q. So let me make sure so that I'm clear. My only question
11 is, what your opinions about what psychiatric diagnoses Mr.
12 Dolin had based on a reasonable degree of medical and
13 scientific probability during his life.

11:31:24

14 So, so far we have generalized anxiety disorder from
15 October of '05 forward for the rest of his life.

16 And then I don't know what to make of what you're
17 saying about MDD. Either you're diagnosing it or you're not.

18 A. No, it's --

19 Q. If it's --

11:31:37

20 A. It works in a differential diagnosis. I mean, this is what
21 I would write in a patient's chart. He definitely had GAD,
22 generalized anxiety disorder, he possibly also had major
23 depressive disorder. I mean, I can't be sure.

24 Q. Right. So when -- I'll accept your terms.

11:31:53

25 When did that possibility come into play?

1 A. Sometime -- I mean, I'm basing it on the questionnaire. So
2 it goes back two weeks before that. So, you know, sort of
3 towards the end of June, but I think he may have had it longer
4 than that, but I only know from the questionnaire it goes to
5 the end of June of 2010.

11:32:10

6 Q. All right. So you put that in (indicating). Am I
7 somewhere around the right place with my pen? I'll put it up
8 here (indicating)?

9 A. You could put it there or earlier -- or possibly earlier,
10 we just don't know.

11:32:25

11 Q. "MDD or maybe ..."

12 A. I mean, it's possible it started back in May, I just -- I
13 just --

14 Q. "Maybe earlier, maybe May of '10."

11:32:46

15 And the MDD itself is a "maybe," right? I should put
16 "only possibly"?

17 A. That's fine. I mean, the term we use is rule out, but
18 that's fine.

19 Q. "Only possible" or if you were putting this in a medical
20 record you would say "rule out."

11:33:00

21 A. Like Dr. Salstrom did.

22 Q. Meaning it's a suspicion, it's on the differential, but you
23 haven't come to the point yet where it's a diagnosis?

24 A. Correct.

11:33:11

25 Q. Okay. All right. As long as we're to that point, I want

1 to go over that questionnaire with you in some more detail. So
2 let me grab that.

3 (Brief pause).

4 BY MR. RAPAPORT:

11:33:23

5 Q. We have the questionnaire segregated from Dr. Salstrom's
6 records and put it in a chronological order to make it easier
7 to contend with. That's been marked as Joint Exhibit 10 A by
8 agreement of the parties.

9 MR. RAPOPORT: You don't have that yet, Your Honor.

11:33:41

10 Would you like it or --

11 THE COURT: I'll wait until I need it.

12 MR. RAPOPORT: Okay. Great.

13 BY MR. RAPAPORT:

11:33:48

14 Q. So, let's walk through this thing and I'm going to zoom in
15 so everybody can see it.

16 So far in your testimony you've discussed various
17 selective things about this, right?

18 A. Well, we reviewed his suicidal thoughts, reviewed his
19 concentration problems --

11:34:06

20 Q. I'm not asking you which selective things. I'm just
21 saying, you haven't yet in your testimony walked through the
22 things so we can all understand what the questions are, what
23 the answers are that matter. We haven't done that, have we?

24 A. I'd be happy to do it, if you'd like.

11:34:20

25 Q. It's not a question of that. We haven't done it; agreed?

1 A. Yes.

2 Q. Okay. So right at the start. Now we know for purposes --
3 and these things I'm writing on I'll mark with exhibits later,
4 but we know that Mr. Dolin filled this out on July 12th of
5 2010, right?

11:34:41

6 A. That's right.

7 Q. And we know that the first thing that any reasonable person
8 would do is read the instructions; agreed?

9 A. Yes.

11:34:49

10 Q. So here we have the instructions in front of everybody and
11 it's telling people to circle a yes or no. I'm not going to
12 read these into the record because everybody I think has had a
13 chance to see them.

14 Then we have categories on this form. There's "during
15 the past two weeks" is one category. "During the past 2 years"
16 is another category. Then it goes on to page 2, and various
17 things "more during the past two weeks." Each of these has
18 timeframe. Some of them are during the past 6 months. And
19 there are reasons for all those timeframes, aren't there?

11:35:08

20 A. Yes.

11:35:35

21 Q. So above each smaller cluster of questions there's this
22 business of "during the past two weeks" or whatever the
23 timeframe is. And my question is, within the two weeks, some
24 of these questions ask whether it's every day within the two
25 weeks and other questions really only ask whether it's any day,

11:35:50

1 any one day within the two weeks; agreed?

2 A. Yes.

3 Q. And that's an important distinction for anybody reading
4 these answers. You kind of need to know both, what's up top
5 about during the past two weeks, and also what does the
6 question itself say, because that tells you whether it's every
7 day or any day. A big difference; agreed?

8 A. That's correct.

9 Q. All right. Now, to make this a little bit easier, the
10 setup of the questions is such that a "no" answer is going to
11 be normal, isn't it?

12 A. Ah, I think that's correct, for the most part, yes.

13 Q. If we see any questions, let me know, but I think that's
14 going to make our exercise easier because I just want to walk
15 through this and sort of notice that almost all the answers on
16 it are "no" and then we'll come back and look carefully at the
17 handful of "yes" answers that we have.

18 But we see some "yes" answers in this first column.

19 Let me zoom out so we can get a macro view here.

20 We see some "yes" answers in this, and we'll come back
21 to that, but when we look at the second column on the first
22 page of the exhibit--we'll zoom a little more so we get the
23 whole page--those are all noes, right?

24 A. Right, because the second column is for the past 2 years.

25 And the one on the left is for --

1 Q. But, I mean, the point is in trying to figure out if
2 there's anything abnormal here, and if so, what it might be,
3 these answers in this column don't contribute, do they?

4 A. Right. Wait. Wait. To the answers for the past 2 years
5 Mr. Dolin answered --

6 Q. They're all "no." So boom. Gone, right?

7 Now, there are some suicide thinking and stuff in
8 there too, right?

9 A. Ah --

10 Q. Maybe not?

11 A. No, I don't see any.

12 Q. Okay. All right. So let's get the noes out of the way and
13 then we'll focuses on yeses.

14 So when we go to the second page, the whole first
15 column are a bunch of noes, aren't they?

16 A. Right. This is asking about different -- these are eating
17 disorder questions. So, it's too rule out --

18 Q. And the whole second column is also a series of noes,
19 right? Whatever they're ruling out --

20 A. Let me explain it. The first set on the column is eating
21 disorders and then it's obsessive compulsive disorder questions
22 and --

23 Q. Forgive me, Doctor, but I have a time problem here and so
24 does the jury. So I don't mean to be rude --

25 MR. BAYMAN: Your Honor, strike the argumentative

1 column.

2 MR. RAPOPORT: Well, he's just talking. We can go on
3 forever.

4 (Brief pause).

11:38:39

5 THE COURT: You have a question?

6 MR. RAPAPORT: Yes.

7 BY MR. RAPOPORT:

8 Q. So on page 2 of this exhibit, the second column is a whole
9 bunch of "no" answers, right?

11:38:47

10 A. Yes.

11 Q. On page 3 of the exhibit, the first and second columns are
12 all "no" answers except there's something written at the bottom
13 of one column; agreed?

14 A. Correct.

11:39:01

15 Q. So, is that notation there having anything to do with the
16 answers on this page?

17 A. I don't know. It's written "GAD increase a little
18 different than" and then it's cut off.

11:39:19

19 Q. So can you make any connection between that -- is that
20 probably just something she wrote there just not related to
21 what's on the rest of the page?

22 A. Well "GAD" is his diagnosis, but I don't know why she wrote
23 it there.

24 Q. Okay. So we'll just --

11:39:31

25 And then when we get to the last page, again we have

1 all "no" answers agreed?

2 A. Correct.

3 Q. At the bottom it shows who has the copyright on this form.

4 You've seen this sort of form before, haven't you?

11:39:50

5 A. Sure. I know Dr. Zimmerman very well. He created it.

6 Q. It's a good form, isn't it?

7 A. It's a good screening form, yes.

8 Q. Okay.

9 A. Based on the DSM, that's basically what it's based off of.

11:40:04

10 Q. So now that we have zeroed in on the part of this form that
11 has some "yes" answers, I'm going to zero in a little bit more
12 so we can read them better.

13 Okay. So now we get to the first question, "did you
14 feel sad or depressed?" That one is any time during the past
15 two weeks, right? Not every day?

11:40:37

16 A. Right.

17 Q. And he answered that question "yes," agreed?

18 A. Correct.

19 Q. Then when asked the question whether he felt "sad or

11:40:49

20 depressed for most of the day, nearly every day for the past
21 two weeks" he said "no"; agreed?

22 A. Right.

23 Q. Now, the next question is about any time during the past
24 two weeks less joy or pleasure from almost all the things he

11:41:07

25 normally enjoyed, and to that he said "yes"?

1 A. Yes, that's correct.

2 Q. So then we get to his next "yes," which is was he less
3 interested during the past two weeks in almost all the
4 activities he's usually interested in, and the answer is "yes";
5 agreed?

11:41:25

6 A. Correct.

7 Q. Now, when we look at that, his "yes" answers to 3 and 4
8 means that he felt that way at least once during the past two
9 weeks but not necessarily more; agreed?

11:41:37

10 A. At least once, yes.

11 Q. So, for example, those "yes" answers could be completely
12 consistent with a change in his condition after he took Paxil,
13 wouldn't you agree?

14 A. No, because he's talking about these things in notes before
15 he took Paxil.

11:41:52

16 Q. Well, this is --

17 A. Despite his dysphoric, for example, at the visit on I think
18 it was July 6 with Dr. --

19 Q. I'm only talking about the questionnaire. And I'm going to
20 try to stay factual about the questionnaire without opinion.

11:42:05

21 So can you agree with me that the "yes" answers that
22 we've looked at to 1, 3 and 4 both say that these things are
23 present in the past two weeks at some point but not every day,
24 right?

11:42:28

25 A. Yes, that's correct.

1 Q. Can you agree with me, generally, that the concept of
2 something being present some time in the last two weeks but not
3 every day of the last two weeks is at least consistent with the
4 idea of feeling these things for the last few days but not
5 before that?

11:42:44

6 A. No, I with not. And, again --

7 Q. You don't think --

8 THE COURT: All right. Just ask the question, get the
9 answer.

11:42:52

10 MR. RAPOPORT: All right.

11 BY MR. RAPAPORT:

12 Q. So let's move forward then. The next "yes" answer is to
13 question 7, which is getting an hour or two of less sleep, and
14 to that one it's the first one that he says "yes, every day of
15 the last 2 weeks"?

11:43:09

16 A. "Nearly every day of the past two weeks," he says "yes."

17 Q. And the next answer that we have, the next "yes" is to
18 question 10 where it said "did you feel tired out, nearly every
19 day for the past two weeks" and he answered that one "yes"?

11:43:26

20 A. Correct.

21 Q. Which is kind of connected, right? If you're short an hour
22 or two of sleep, you should probably be tired out?

23 A. Ah, yes, but actually it's a separate question because
24 there are people with depression who sleep fine but they still
25 feel tired with low energy. It gets more to energy, which is

11:43:41

1 decreased when people are depressed.

2 Q. Okay. So let's go ahead then to number 12 is the next
3 "yes." "Did you put yourself down and have negative thoughts
4 about yourself nearly every day in the past two weeks," and
5 that one he says "yes"?

11:44:02

6 A. Correct.

7 Q. Then the next one we have is 13, "did you feel like a
8 failure nearly every day of the past two weeks" and to that he
9 answered "yes"?

11:44:14

10 A. Correct.

11 Q. And 15, "was decision-making more difficult than normal
12 nearly every day for the past two weeks" and to that he
13 answered "yes"?

14 A. That's correct.

11:44:26

15 Q. Now, then there's this one that we've briefly talked about
16 before where he had an answer that was initially "yes" and then
17 switched to "no."

18 So this one is "in the past two weeks did you
19 frequently think of dying in passive ways, like going to sleep
20 and not waking up" and he answered that question "no," but we
21 can tell that some thought process happened because he had
22 circled a "yes" first?

11:44:44

23 A. That's correct.

24 Q. And then from a psychiatric standpoint, there are various
25 possibilities for that, one is that he was feeling that way but

11:45:01

1 not every day for the past two weeks?

2 A. That's one.

3 Q. That's one possibility?

4 A. One possibility.

11:45:10

5 Q. Another possibility is that he simply drew the circle in
6 the wrong place, just sort of a mistake?

7 A. And there's another possibility based on my experience
8 giving out this form.

9 Q. What's the third possibility?

11:45:22

10 A. So that question number 16, I've had people tell me that
11 they don't like the word "frequently" and they find it a
12 harsher, tougher question than number 19 which, you know, "did
13 you have thoughts of suicide even though you would not really
14 do it," people feel more comfortable answering "yes" to that
15 because of the "not really do it" part, so that may have been
16 another possibility.

11:45:35

17 Q. Okay. So those three are possibilities out there and,
18 unfortunately, we can't ask Mr. Dolin.

19 A. Correct.

11:45:48

20 Q. Okay. So then we get on to what is the last "yes" form --
21 I mean, the last "yes" answer, and this one is "not every day
22 in the last two weeks but rather any time in the last two
23 weeks," agreed? And this is the one we talked a lot about
24 where he answers "yes" to having thoughts of suicide even
25 though he would not really do it; agreed?

11:46:11

1 A. He answered "no" to those last two questions, that's
2 correct.

3 Q. No. No. I'm talking about number 19.

11:46:26

4 A. Yes, he had thoughts of suicide even though he would not
5 really do it, he answered "yes."

11:46:39

6 Q. Oh, I see. I see. And you're pointing out that these "no"
7 answers are important because they're tied to question -- 20
8 and 21 are tied to 19 because he's adding that he did not
9 seriously consider taking his life and he had no specific way
10 of taking his life.

11 A. He answered "no" to that.

12 Q. Yeah. He answered "no" to both of those?

13 A. Correct.

11:46:52

14 Q. Okay. Now, one of the opinions that you've testified to is
15 that you believe that Mr. Dolin had the kind of feelings that
16 he described in 19 before he took the Paxil, right?

17 A. That's correct.

18 Q. You did not disclose that in your 120 page-written report,
19 did you, sir?

11:47:14

20 A. I think I talked about the fact that he didn't want to fill
21 out -- it's in Dr. Salstrom's records that he was anxious about
22 filling -- what filling out the questionnaire meant, and that
23 was before he took paroxetine. And we -- we know from when he
24 did fill out the questionnaire, that the things he -- he was
25 worried about was the suicide questions. And so we know that

11:47:35

1 that was occurring on July 6th, 2010, and work back two weeks
2 from that.

3 Q. Well, you mean July 12th?

4 A. No. No. No.

11:47:49

5 Q. Okay. When --

6 A. He fills --

7 Q. I got you. I'm with you. I understood your answer. Let
8 me go on to the next thing.

11:48:00

9 To do this, we're going to need Dr. Salstrom's records
10 because, you see, I don't want you to characterize anything. I
11 just want us to look at what's in these records.

12 A. Sure.

13 Q. Okay.

14 (Document tendered to the witness).

11:48:12

15 BY MR. RAPOPORT:

16 Q. These are Plaintiff's Exhibit 348.

17 MR. BAYMAN: I thought these were Joint Exhibits?

18 MR. RAPOPORT: There may be a correction.

19 MR. BAYMAN: These records are Joint Exhibits.

11:48:35

20 MR. RAPOPORT: Okay. I'm told it's the same as a
21 Joint Exhibit.

22 What Joint Exhibit?

23 MR. BAYMAN: All right. Could we call this Joint
24 Exhibit 10?

11:48:46

25 MR. RAPOPORT: We'll call this Joint Exhibit 10.

1 (Brief pause).

2 (Exhibit published to the jury.)

3 MR. RAPOPORT: It's Joint Exhibit 10. We're good.

4 BY MR. RAPOPORT:

11:48:59

5 Q. Now, the first visit, as we all know, was June 29th of '10.

6 A. That's correct.

7 Q. Is this the page where he denies any suicidal thoughts?

8 A. He -- he told Dr. Salstrom he had no history of suicidal
9 ideation or attempts.

11:49:28

10 Q. And it's right here, right? "No history of depression,"
11 you left that out, didn't you?

12 A. No history of depression.

13 Q. Or suicidal ideation or attempts?

14 A. Correct.

11:49:39

15 Q. That's what the record of June 29th says, right?

16 A. That's what it says.

17 Q. We have every reason to believe that that is what Mr. Dolin
18 told Dr. Salstrom, correct?

19 A. Correct.

11:49:53

20 Q. And if I understand this correctly, when you sat there and
21 said, oh, those are things you remember, you're basically
22 saying that Mr. Dolin lied to Dr. Salstrom in giving that
23 answer because he really did have suicidal thoughts and he was
24 just lying to her, that's your opinion, isn't it?

11:50:13

25 A. I don't think I ever used the word "lying."

1 Q. You didn't use the word. What you did is sat there and
2 said, "no one forgets that kind of thing." So the implication
3 is that he was lying?

4 A. That's correct.

11:50:25

5 MR. BAYMAN: Objection.

6 BY THE WITNESS:

7 A. But, no, what I tried to explain, and maybe I wasn't clear,
8 that when people --

9 Q. Just answer my question.

11:50:31

10 THE COURT: Just answer the question.

11 BY MR. RAPAPORT:

12 Q. Was he lying or wasn't he?

13 MR. BAYMAN: Objection.

14 BY THE WITNESS:

11:50:37

15 A. When people have suicidal thoughts, they don't always feel
16 comfortable talking about it, particularly at the first visit
17 with new therapist.

18 So, that doesn't surprise me. I would not use the
19 word that Mr. Dolin was lying. He was uncomfortable in talking
20 about that at the time. And also was uncomfortable even
21 putting it down on the form, and he ultimately did, but --

11:50:52

22 BY MR. RAPAPORT:

23 Q. That's your characterizations --

24 A. He had trouble expressing these things. He didn't tell Dr.
25 Sachman. He didn't tell anybody.

11:51:04

1 Q. I know you can fill the air with your opinions, but I'm not
2 asking for any opinion right now.

3 MR. BAYMAN: Your Honor --

4 BY MR. RAPOPORT:

11:51:14

5 Q. Mr. Dolin --

6 A. You are asking me about it.

7 Q. Well, let me just make sure. That was you when you sat
8 there and said "if you have suicidal thoughts, you're never
9 going to forget it"? You said that, right?

11:51:25

10 A. People don't forget it, no. It's very --

11 Q. So, therefore --

12 A. -- traumatic to them.

13 Q. So, therefore, it is your opinion that that was on Mr.
14 Dolin's mind when he told Dr. Salstrom that he had no history
15 of suicidal thoughts or attempts?

11:51:40

16 A. She must have asked him. That's a routine question you
17 would ask a new patient.

18 Q. No. No. To be clear, I just want to make sure that you're
19 saying that you believe that was on his mind when he answered
20 the question?

11:51:55

21 MR. BAYMAN: Your Honor --

22 BY THE WITNESS:

23 A. I don't understand the question.

24 MR. RAPOPORT: That's okay. I withdraw the question.

11:52:00

25 I withdraw the question and move on.

1 BY MR. RAPAPORT:

2 Q. There is absolutely nothing in the record of June 29th of
3 '10 that quotes Mr. Dolin as saying that he had any suicidal
4 thoughts any time in his life, right?

11:52:14

5 A. That's correct.

6 Q. You have the opposite in this record, don't you?

7 A. He denied it.

8 Q. Okay. Now, in the visit that followed, which was July 6th,
9 if I remember this --

11:52:29

10 A. That's correct.

11 Q. And I'll find it pretty quick.

12 In the July 6th visit, there is no reference
13 whatsoever to the topic of suicide, suicidal thoughts, suicidal
14 ideation, or anything like that; agreed?

11:52:51

15 A. If you read the first sentence:

16 "Client reported that he did not do his DSM
17 screening measure due to anxiety about what the
18 symptoms profiles meant."

19 And as I testified, we don't know what he's referring
20 to --

11:53:04

21 Q. I know we don't know what he's referring to.

22 A. -- but we're going to find out at the next visit.

23 Q. Look, let me repeat -- let me break up the question so it's
24 easier to answer.

11:53:10

25 A. Sure. Sure.

1 Q. Does it say in the there that he had a suicidal thought?

2 Yes or no.

3 A. No.

4 Q. Does it say in there that he ever made a suicidal attempt?

11:53:20 5 Yes or no.

6 A. No.

7 Q. Does it say in there that he didn't want to wake up? Yes
8 or no.

9 A. Ah, no.

11:53:27 10 Q. Thank you.

11 Now, in the rest of these visual exhibits, I'm sure
12 everybody will be happy to know I'm not going to sit there and
13 go through them all. You basically cherry-picked everything
14 you can records, or appointment records, or whatever, to try to
11:54:11 15 show that Mr. Dolin was as sick a puppy as you possibly put
16 across to this jury, that's what you've done in this case,
17 right?

18 MR. BAYMAN: Objection to the argumentative nature of
19 that question. "Cherry picking," "sick as a puppy." I object,
11:54:24 20 Your Honor.

21 BY THE WITNESS:

22 A. I object to the "sick as a puppy" characterization.

23 MR. RAPAPORT: Okay.

24 THE WITNESS: It's not really the right thing to say.

11:54:25 25 BY MR. RAPAPORT:

1 Q. Well, you know, sir --

2 THE COURT: Move on. Move on.

3 MR. RAPOPORT: I withdraw the question.

4 BY MR. RAPOPORT:

11:54:37

5 Q. So let's talk about some of the things you left out of your
6 visuals here.

7 Are you ready?

8 A. I'm ready.

11:54:50

9 Q. You left out the fact that Mr. Dolin had an average over
10 quite few years of a book of business of 3 and a half million
11 dollars, correct?

12 A. Ah, I looked at all the records, the financial records of
13 Reed Smith and Mr. Dolin's performance, and his -- his
14 performance had gone down in 2009, as he said his most
15 challenging year, and was not better in 2010.

11:55:10

16 Q. Did you not understand my question?

17 A. I took it into account the number you said, but I'm telling
18 you where I got my opinions from.

11:55:27

19 Q. Are you -- I think the easy way to do it is, if the Court
20 will allow it, I would like to ask for the question that I
21 asked you to be read back. And then if you believe you
22 answered it, I'll accept that, but if not, I'd like an answer.

23 A. Sure.

24 THE COURT: Read it back.

11:55:37

25 (Question read.)

1 BY THE WITNESS:

2 : I took it into account. I can't recall if it's in my report
3 or not.

4 BY MR. RAPAPORT:

11:56:34

5 Q. Okay. To remind you what I was asking about was the visual
6 exhibits that you sat and showed the jury during your direct
7 testimony that you prepared; right?

8 A. Yes.

11:56:53

9 Q. And so in case you lost the question, let me ask it a
10 different way. Can you show me anywhere in here that you
11 mentioned that Mr. Dolin had an established book of business
12 worth 3 and a half million dollars?

13 MR. BAYMAN: Objection to the characterization.

14 THE COURT: Overruled.

11:57:07

15 BY THE WITNESS:

16 A. No.

17 BY MR. RAPAPORT:

11:57:20

18 Q. Did you mention in any of these visuals that, in 2010, that
19 that book of business was growing and that he was already at 2
20 and a half million dollars and we only had half a year under
21 our belt?

22 A. Well, his billable hours --

23 Q. No, is it in here. That's the only question, sir.

24 A. No.

11:57:29

25 Q. There's going to be a lot of questions like this. So let's

1 get the concept straight.

2 You understand I'm asking you about this visual
3 display that you showed the jury.

4 A. Yes.

11:57:40

5 Q. You understand that these questions are going to involve
6 facts that you may not have put in here, but if I get any of
7 them wrong I want you to tell me; okay?

8 A. Sure.

11:58:00

9 Q. Did you put in here the many beautiful reviews that Mr.
10 Dolin received from his coworkers anywhere in your report?

11 A. No.

12 Q. Let's go into that one in a little more detail.

13 You talked a lot about the 2009 PGL evaluation.

14 That's Defendant's Exhibit 3055. I have it here (indicating).

11:58:50

15 And let me go ahead and just get into some of these
16 other things.

17 On positive qualities and behaviors, you left out that
18 one of his colleagues said he is a very nice person, right?

19 A. Correct.

11:59:10

20 Q. You left out that one of his colleagues described him as
21 honest, hardworking, and one who leads by example, right?

22 A. Correct.

23 Q. You told about this bad one (indicating).

24 You left out the colleague that says:

11:59:25

25 "Seems to be decisive and takes what he does

1 very seriously and cares about the group, seems
2 to be a good administrator."

3 Right.

4 A. Yes.

11:59:33

5 Q. This one says "financial," which is meant I think s a
6 compliment. Isn't that pretty clear?

7 A. I don't know what means.

8 Q. All right. But, in any event, "listens" is certainly a
9 compliment?

11:59:47

10 A. Uh-huh.

11 Q. (Reading:)

12 "Stu is honest and direct in his dealings with
13 the C & S group."

14 Somebody wrote that, right?

11:59:55

15 A. Yes.

16 Q. "Honesty and integrity" is what somebody else wrote;
17 agreed?

18 A. Yes.

19 Q. (Reading:)

12:00:01

20 Stu seems to be doing a fine job, especially in
21 the context of a very difficult environment for
22 corporate law in '08 and '09."

23 Somebody wrote that, right?

24 A. Yes. And then they say:

12:00:15

25 "...being in a different office and therefore

1 not seeing him much personally, I simply cannot
2 rate every category above."

3 That's not an insult, is it?

4 A. No.

12:00:24

5 Q. This is written here:

6 "Stu is approachable and willing to listen. He
7 sincerely wants to do his best. He's able to
8 balance different constituencies."

9 Agreed?

12:00:38

10 A. Right. But, you know, this is --

11 Q. I'm asking the question --

12 THE COURT: Just answer the question.

13 BY MR. RAPAPORT:

12:00:39

14 Q. Every single thing was left out of your summary that I just
15 read, wasn't it?

16 A. Not everything, but most of it, yes.

17 Q. And then even in noteworthy weaknesses, there are some
18 things in here that aren't so bad. Like this one down here
19 says:

12:00:54

20 "Stu has done a great job."

21 Do you see that one?

22 A. Yeah.

23 Q. And then this person goes on to relate something that they
24 didn't like about him not okaying the conference, but, you
25 know, probably suggesting that he had constraints on his own

12:01:08

1 cause, not really blaming him for that, right?

2 A. Right. I didn't put that in.

3 Q. Huh?

4 A. I didn't put that in.

12:01:21

5 Q. Yeah. Okay. So, here on some additional comments. While
6 you mentioned the first one, so you didn't mention "I like Stu.

7 So I wish I had more regular contact with him." And the only

8 suggestion there would be -- well, I don't actually know what

9 that means because -- I know, but you didn't put this "I like

12:01:48

10 Stu and wish I could see him more" down, right?

11 A. No.

12 Q. Did you see anywhere, by the way, that Stu Dolin ever

13 sought the position of PGL leader? Did he want that?

14 You made such a big deal out of, you know, they're

12:02:05

15 making him a co-leader, do you think he wanted that?

16 A. Wanted what?

17 Q. Wanted what?

18 So, what do you know about -- Sachnoff firm merged

19 into Reed Smith, do you remember that chapter?

12:02:17

20 A. Yes. And then when he merged --

21 Q. He was a leader in the Sachnoff & Weaver firm, wasn't he?

22 A. Yes.

23 Q. He didn't seek the job of being a practice group leader in

24 this giant company, did he?

12:02:29

25 Let me put that differently. There's not a bit

1 evidence that says that he, you know, lobbied for or otherwise
2 wanted this PGL job?

12:02:46

3 A. What I know is that when he came into Reed Smith he was
4 made a co-leader with Mr. Iino as the practice group leader,
5 and then eventually Mr. Iino was promoted and Mr. Dolin was the
6 sole leader.

7 Q. Okay. So let me maybe my question more perfectly.

12:03:05

8 When the merger occurred and he became the co-leader
9 of PGL, have you seen any evidence anywhere that he applied for
10 that job?

11 A. I -- I was -- I didn't see any evidence of an application
12 process. My understanding is when the firms merged --

13 Q. You answered the question.

14 A. -- he was appointed.

12:03:16

15 Q. I know he was appointed, okay.

16 A. Yeah.

17 Q. You're no expert in law firms, by the way, are you?

18 A. I feel like I'm becoming one, but no.

12:03:31

19 Q. So you have not seen a scintilla of evidence that Mr. Dolin
20 wanted any of this administrative responsibility, have you?

21 A. No.

22 Q. He was best at client relations and building business,
23 wasn't he, throughout?

24 A. Ah, he had talents for that, yeah.

12:03:48

25 Q. And this business that you focus on with hours --

1 A. Hmm.

2 Q. Hmmm.

3 A. Well, the reason --

12:04:01

4 Q. The reality is that he was working long hours un-billable
5 in his administrative role right up until the day he died,
6 isn't that true?

7 A. Well, there's testimony from --

8 Q. Is that true?

12:04:16

9 A. There was testimony from Mr. Iino and Mr. DeNinno that they
10 viewed the practice group leaders as lawyers first and they
11 wanted them to focus on their billable hours as lawyers. And
12 yes, they had these administrative responsibilities.

12:04:30

13 And if you look at Mr. Dolin's billable hours in 2010,
14 I think it was 460, his target was through June 30th, the
15 target is 1400, he was nowhere near the target. And that's
16 what these -- I mean, I learned about the law firm from these
17 depositions of these people who were his bosses, and they said
18 they looked at the billable hours. Of the practice group
19 leaders, that they viewed them as lawyers first and doing
20 lawyer work.

12:04:48

21 Q. Do you remember the question?

22 A. I don't remember the question.

12:05:07

23 I think you were asking me about billable hours and
24 that somehow it wasn't important. And it was important. And
25 there's testimony that it was.

1 Q. That's what you think I asked you. Okay.

2 Look, you focused on Mr. Dolin's billable hours, but
3 did not mention the substantial number of nonbillable hours
4 that he had, correct?

12:05:33

5 A. Well, just now I did mention, but --

6 Q. But that was a question I asked you --

7 A. He had a lot hours that were not billable, yeah. He was
8 working as the practice group leader.

12:05:48

9 Q. By the way, you referred to bosses. This was a
10 partnership, wasn't it?

11 A. People had evaluations, that's what I mean by bosses, they
12 had evaluations, and, for example, their compensation, what
13 they got paid, was set by the senior leadership, those are the
14 bosses. And Mr. Dolin was unhappy with his compensation, he
15 appealed through his bosses. I mean, it was --

12:06:03

16 THE COURT: Doctor, please, please, please. Just
17 answer the question or we'll never finish.

18 BY MR. RAPOPORT:

19 Q. I promised we would finish. Let me see how we're doing.

12:06:13

20 (Brief pause).

21 BY MR. RAPAPORT:

22 Q. All right. You know, Doctor, I could talk with you for
23 hours but I'm not going to. So let me see and look around all
24 this stuff and pick some of the more important ones.

12:06:30

25 (Brief pause).

1 BY MR. RAPAPORT:

2 Q. So you didn't mention anything about the glowing record --
3 the glowing reviews of Mr. Dolin that his client, David Miniat,
4 wrote, did you?

12:06:47

5 A. You'll have to show it to me. I don't remember what year
6 that was from.

7 Q. Well, I don't have to show it to you. I'm happy to, but
8 let me just get clear.

12:07:03

9 You didn't include anything about the letter from
10 David Miniat in all of this stuff that you put on your visuals,
11 right?

12 A. The person who was getting in trouble at the Miniat company
13 was Kevin Miniat.

12:07:17

14 Q. Who was a minority shareholder who had no power to hire and
15 fire lawyers, right?

16 A. The issue --

12:07:33

17 Q. Don't turn the question around on me. My question to you
18 was, it is a fact that you included nothing about David
19 Miniat's glowing letter about Stu Dolin in your visual that you
20 presented to the jury? It's a fact, isn't it?

21 A. That's correct.

22 Q. You asked me to show it to you, it's my pleasure.

23 MR. RAPAPORT: This is Defense Exhibit 3008.

24 (Exhibit published to the jury.)

12:07:49

25 BY MR. RAPAPORT:

1 Q. This is just for context. This is written January 3rd of
2 '11, it's on Miniatur, Inc. Company stationary. It's signed by
3 David Miniatur. And rather than fill the air my words, I'm just
4 going to give us all a chance to read it.

12:08:08

5 (Brief pause).

6 MR. BAYMAN: I think this is hearsay, Your Honor.

7 MR. RAPOPORT: The witness just asked me to show it.

8 THE COURT: Well, there's a lot of hearsay. A lot of
9 work on here is hearsay.

12:08:23

10 BY THE WITNESS:

11 A. It's okay you don't show it to me.

12 BY MR. RAPOPORT:

13 Q. Well, the point is that you're aware that he had a glowing
14 review from his client and the people that were in control at
15 Miniatur?

12:08:34

16 A. After he passed away, yes.

17 Q. Oh, after he passed away.

18 A. The real issue was, Kevin Miniatur that Friday, the day after
19 he committed suicide, that's what Mr. Dolin was afraid of

12:08:45

20 facing, not, you know --

21 Q. Let me get your opinion about -- I don't know if this is
22 your field or not your field, but fundamentally, it's your view
23 that these things that were going on that week were so horrible
24 and outside of the experience of a lawyer at the level of Stu
25 Dolin that they're just stressors that, you know, wiped him out

12:09:03

1 and accounted for killing himself, that's the bottom line of
2 your view, right?

3 A. Well, you left out the part about the longstanding
4 insecurities, feeling he was a bad lawyer, feeling he couldn't
5 hack it at Reed Smith, feeling incompetent, a man who suffered
6 from generalized anxiety disorder, particularly with issues at
7 work, his billable hours were down, and on top of that, on top
8 of that, he has these major issues with these two clients, and
9 we know they're major issues from Mr. Dolin's own e-mails.

10 Q. Let me ask you some differently, because I want to really
11 get you not just reciting your story over and over again.

12 MR. BAYMAN: Objection, Your Honor.

13 MR. RAPOPORT: Withdrawn.

14 BY MR. RAPAPORT:

15 Q. I want to take you to a different moment. You've done
16 about 30 of these suicide cases for GSK?

17 A. Evaluated 30.

18 Q. You haven't testified before a jury before today in one of
19 these, have you?

20 A. No.

21 Q. So, let me get a few other things straight.

22 You -- you have this firm view that Paxil doesn't
23 cause suicide. I don't want to debate that with you, because
24 you've had that view for a long time. So here's the moment
25 that I want to get you into: Earlier today you testified that

1 you considered the case-specific facts anew each time you're
2 asked, right? You don't prejudge it by the fact that you don't
3 think -- sorry. You don't think the drug can ever cause
4 suicide, you don't prejudge it.

12:10:36

5 A. That's correct.

6 Q. So, here's my question for you: It's like, I want to
7 understand this moment. Let's just take a hypothetical. Let's
8 say it's next week and they give you a call, and they want to
9 retain you in yet another suicide case. And you know that
10 you're happy to do it because no matter what the case-specific
11 facts are, you're always going to say it wasn't the drug, it
12 was the person. So when you --

12:11:00

13 MR. BAYMAN: Objection to that, Your Honor.

14 MR. RAPOPORT: It's what he does.

12:11:11

15 MR. BAYMAN: It's mischaracterized what he said.

16 MR. RAPOPORT: I haven't even finished the question.
17 I'm trying to create a moment.

18 BY MR. RAPAPORT:

19 Q. So here's what I want to know: It's your sworn testimony
20 that you consider it fresh and new, right? That's how it is?

12:11:20

21 A. I take a fresh look, that's right.

22 Q. How does that feel? I don't want you to talk about a case,
23 but, I mean, how would it be fresh and new next week?

24 MR. BAYMAN: Your Honor --

12:11:37

25 THE COURT: Objection?

1 MR. BAYMAN: Objection.

2 THE COURT: Sustained.

3 MR. RAPOPORT: All right. Thank you.

4 MR. RAPAPORT: There you go. Okay.

12:11:43

5 BY MR. RAPOPORT:

6 Q. All right. You agree that akathisia is a risk factor for
7 suicide, don't you, sir?

8 A. I raised that question. I was the person -- one of the
9 first people in the world to raise that question. And there's

12:12:18

10 been a concern about it. Ah --

11 Q. You're not answering my question.

12 A. Let me finish --

13 THE COURT: No, answer the question, sir.

14 BY THE WITNESS:

12:12:29

15 A. There's been a concern about it --

16 THE COURT: Doctor, please. We're not in a depression
17 now. You got to answer the question.

18 BY MR. RAPAPORT:

19 Q. You agree that akathisia is a risk factor for suicide,
20 don't you, sir?

12:12:40

21 A. I raised the question. The question has been answered it
22 it's not a risk --

23 Q. I withdraw the question.

24 You agree that akathisia is associated with Paxil,

12:12:47

25 don't you, sir?

1 A. That -- yes. I mean, that -- that -- it can happen. Mr.
2 Dolin didn't have akathisia, but yes, it can happen, generally
3 speaking.

4 MR. RAPAPORT: Move to strike the volunteered part.

12:13:05

5 THE COURT: It may go out.

6 BY MR. RAPAPORT:

7 Q. Your opinion about Paxil and suicide includes the idea that
8 you think there's no increased risk for children or adolescents
9 either, right, sir?

12:13:26

10 MR. BAYMAN: Your Honor objection. He's getting in
11 pediatric data now and it's outside the scope.

12 MR. RAPAPORT: It's the limits of his views.

13 THE COURT: Well, the door has been opened on that.
14 I'll let him answer that question.

12:13:32

15 BY THE WITNESS:

16 A. I don't treat children and adolescents. I'm not a child
17 psychiatrist. So that may be a little bit outside of --

18 BY MR. RAPAPORT:

12:13:46

19 Q. You have testified that there's no evidence that there's a
20 higher rate of death by suicide in children and adolescents who
21 take Paxil versus placebo, none whatsoever? Are you going to
22 deny it, sir?

23 MR. BAYMAN: Objection; relevance and argumentative.

24 THE COURT: Overruled.

12:13:59

25 BY THE WITNESS:

12:14:19

1 A. I do agree with that statement, that the children and
2 adolescent clinical trials database has been analyzed. And
3 many, many times there's one finding of an increased risk of
4 suicidality, not suicide, not -- not children or adolescents,
5 and it actually goes up to young adults up to age 24, dying,
6 but there is this increased risk of what they call suicidality
7 in children and adolescents and young adults and that's in the
8 label. We went over this in the black box.

12:14:36

9 Q. Sir, you sidestepped the question. Is it a fact or isn't
10 it a fact that you have testified that, "there is no evidence
11 that there is a higher rate of death by suicide in children and
12 adolescents who take Paxil versus placebo, none whatsoever,"
13 have you said?

12:14:51

14 A. I just said it a minute ago.

15 Q. Well --

16 A. And I said I said it in the past --

17 Q. So please stop talking. I'm trying to finish you up here.

18 A. I said --

19 THE COURT: Doctor, Doctor, please --

12:14:59

20 THE WITNESS: There's no --

21 THE COURT: Doctor, please, just answer the question.

22 There will be redirect.

23 MR. RAPOPORT: I'm arguing with myself, Your Honor.

24 THE COURT: I hope you win.

12:15:35

25 (Laughter in the courtroom)

1 MR. RAPOPORT: I think that may be it. Let me consult
2 my colleagues. Okay. Huddle.

3 (Brief pause).

4 BY MR. RAPOPORT:

12:16:27

5 Q. So you've treated thousands of patients, some of them have
6 committed suicide?

7 A. Yes.

8 Q. Never once have you found that a drug contributed to
9 suicide in the patients, have you?

12:16:47

10 A. No. I mean, not -- not a prescription medication. Drugs,
11 drug abuse, yes.

12 MR. RAPOPORT: No further questions.

13 THE COURT: Okay. Redirect?

14 MR. BAYMAN: Yes, sir.

12:17:01

15 REDIRECT EXAMINATION

16 BY MR. BAYMAN:

17 Q. Doctor, I just want to pick up from that last question.

18 Why -- why have you found that no prescription medicine in any
19 patients you treated has caused suicide?

12:17:39

20 A. Because if they were on medications, since I've looked in
21 the literature to see if there is any reliable scientific
22 evidence that the medicine they were on caused suicide and I
23 didn't find any.

24 And I also, in those situations, did a similar thing,
25 a psychological autopsy, and there were clear reasons why

12:17:59

1 people committed suicide.

2 Q. Okay. You were asked some questions about Mr. Dolin's
3 reviews. Did you, as part of your work in the case, review Mr.
4 Dolin's reviews from years prior to 2009?

12:18:27

5 A. I did.

6 Q. And do you have an opinion about whether the reviews of his
7 performance as the sole practice group leader in 2009 were
8 different than the reviews he received in prior years when he
9 was a co-leader?

12:18:42

10 A. They were different.

11 Q. In what way?

12 A. In number of ways. First of all, when he was the co-leader
13 with Mr. Iino, very few people actually fill it out and
14 commented on Mr. Dolin. And the comments were -- were good,
15 the ones that did comment on Mr. Dolin.

12:18:58

16 What changed in -- in that last evaluation was 20
17 people filled it out, and there were negative comments that had
18 never been there before.

19 Q. And why is that significant?

12:19:12

20 A. Well, it's significant. You know, people who have
21 insecurities about doing -- being a lawyer, say for example,
22 are going to focus on the negative comments. They're not going
23 to tally it up and say, "well, 13 people gave me positive
24 comments but only 7 gave negative comments," that's not how
25 people would think. They're going to focus on the -- on the 7

12:19:33

1 negative comments.

2 It's like a straight A student who gets a B or a C and
3 focuses on the C and not on the fact that all the rest of the
4 grades are an A.

12:19:46

5 If you come from this mindset of feeling inadequate
6 and inferior, you're going to focus on the negative comments,
7 and that had not happened before.

12:20:07

8 Q. Now, you were asked about all the favorable comments from
9 the reviews that you did not include on this timelines, the
10 summary timelines that we showed.

11 Did any of those favorable reviews tie into Mr.
12 Dolin's longstanding fears and anxieties?

13 A. No. He would've focused on the negative ones, and that's
14 why I included those.

12:20:19

15 Q. Was he seeing Ms. Reed in 2010 because he was getting
16 favorable reviews?

17 A. No. And I also would point out that he didn't forward this
18 to Mr. Iino saying, you know, "gee, I got some favorable
19 reviews." He -- he was upset and said -- and said someone --
20 someone doesn't like me.

12:20:39

21 Q. Now, you were shown the DSM questionnaire that had
22 questions about that.

23 A. Yes.

12:20:56

24 Q. As a practicing psychiatrist, in order to make an
25 assessment of a person's psychiatric -- psychiatric issues, do

1 you look at just one piece of information or do you look at the
2 totality of all of the information available?

3 A. You use all the information. The questionnaire is just one
4 piece of it.

12:21:11

5 Q. What else would you look at?

6 A. Well, you would look at your own assessment of the patient
7 and your -- your meeting -- meeting with them in person and --
8 and asking them questions verbally.

12:21:31

9 Q. Now, you were asked a minute ago about your opinion with
10 respect to Paxil and pediatric patients. Understanding you're
11 not a pediatric psychiatrist, but based on your knowledge of
12 the clinical trial data, were there any completed suicides in
13 the Paxil placebo-controlled trials involving pediatric
14 patients?

12:21:47

15 A. There were none.

16 MR. RAPOPORT: Your Honor, I did not get into this at
17 all.

18 THE COURT: Overruled.

19 BY THE WITNESS:

12:21:51

20 A. There were no suicides in the children and adolescent
21 studies.

22 BY MR. BAYMAN:

23 Q. Now, in connection with your work in the case, did you have
24 the opportunity to review the report of Dr. Glenmullen?

12:22:19

25 A. Yes.

1 MR. RAPOPORT: I object, Your Honor. I didn't ask a
2 single question about Dr. Glenmullen. He's just going over
3 things again.

12:22:33

4 MR. BAYMAN: Well, this doesn't have to do with Dr.
5 Glenmullen's opinions. It's about a piece of information Dr.
6 Glenmullen relied on that Dr. Rothschild also relied on and he
7 criticized him about.

8 THE COURT: All right.

9 (Document tendered to the witness).

12:22:48

10 BY MR. BAYMAN:

11 Q. Turn, if you would, to page 10.

12 I don't have the full report up there, but do you see
13 that?

14 A. Yeah, I see it.

12:23:04

15 Q. What does Dr. Glenmullen say there in his report about what
16 Mr. Dolin did -- what he said he did after lunch?

17 MR. RAPOPORT: Objection, Your Honor.

18 THE COURT: Let me see the report, please.

19 (Document tendered to the Court.)

12:23:38

20 MR. RAPOPORT: Without arguing, it's a hearsay
21 statement by someone without first-hand knowledge too.

22 THE COURT: Are you interested in this indented
23 paragraph (indicating)?

12:23:52

24 MR. BAYMAN: Just "a half hour after lunch," Your
25 Honor.

1 (Brief pause).

2 THE COURT: I think we've been over all this.

3 MR. WISNER: Well, I think he was criticized, he was
4 told, you know, this security camera business is all made up.

12:24:19

5 MR. RAPOPORT: There is no security camera.

6 MR. BAYMAN: And he said where he got the information,
7 same information Dr. Glenmullen had.

8 THE COURT: The objection is sustained.

9 MR. RAPAPORT: Thank you.

12:24:29

10 THE COURT: We're not going to go into this.

11 BY MR. BAYMAN:

12 Q. Well, you were asked how you knew Mr. Dolin left at 1:15.

13 How -- what's the basis of that?

14 MR. RAPOPORT: Objection.

12:24:43

15 THE COURT: Overruled.

16 BY THE WITNESS:

17 A. The basis is an e-mail that I saw that was produced,
18 written by Wendy Dolin. And I had also, I guess, now that I'm
19 remember, seeing Dr. Glenmullen's report, and he says -- he
20 says at 1:15 security camera --

12:25:01

21 MR. RAPOPORT: Objection, Your Honor.

22 MR. BAYMAN: Let me rephrase.

23 MR. RAPAPORT: Move to strike.

24 MR. BAYMAN: I'll rephrase the question.

12:25:12

25 BY MR. BAYMAN:

1 Q. What is the basis, Doctor, of your testimony about where
2 you got the information that Mr. Dolin left his office at 1:15?

3 THE COURT: Haven't we covered that? That was Mr.
4 Stewart and Mrs. Dolin and all of that?

12:25:30

5 MR. RAPOPORT: All of that.

6 MR. BAYMAN: And he criticized him for that.

7 THE COURT: Well, I know, but the fact that he
8 criticized him is not relevant at this point.

12:25:41

9 MR. BAYMAN: But he ought to say he had a legitimate
10 basis for saying that.

11 THE COURT: He told us what the basis was.

12 BY MR. BAYMAN:

13 Q. Who produced that e-mail from Wendy Dolin? Who produced it
14 in the case?

12:25:48

15 A. These --

16 THE COURT: No.

17 BY THE WITNESS: -- these attorneys.

18 MR. RAPOPORT: Objection. He's just doing what you
19 told him he couldn't.

12:25:53

20 THE COURT: Yeah. It's sustained.

21 MR. RAPOPORT: Move to strike.

22 THE COURT: Let's get on with it.

23 MR. RAPOPORT: All right. I withdraw the motion.

24 BY MR. RAPAPORT:

12:26:01

25 Q. Okay. Mr. Rapaport asked you about the questionnaire, the

1 DSM questionnaire, and he took you back to Dr. Salstrom's
2 records of June 29 and July 6, but he didn't show you the
3 July 12th record.

4 A. That's correct.

12:26:25

5 MR. BAYMAN: Can we pull that up, please.

6 MR. RAPOPORT: Objection, Your Honor. This has all
7 been covered before.

8 MR. BAYMAN: No, he went into this on cross.

9 THE COURT: Let's see. Let's see.

12:26:52

10 (Brief pause)

11 THE COURT: There weren't any questions about the
12 July 12th record, were there?

13 MR. BAYMAN: He didn't show it to him. That's what
14 I'm trying to establish.

12:27:00

15 THE COURT: But that's not proper redirect. It's what
16 he cross-examined him on.

17 MR. BAYMAN: Well, he cross-examined him and he left
18 out one of the records that's germane --

19 THE COURT: Did he ask him about July 12th?

12:27:10

20 MR. BAYMAN: He asked him about July 6 but there's an
21 entry on July 12th that's germane.

22 MR. RAPOPORT: I asked him about the questionnaire,
23 they went into this ad nauseam on their end. I was responding
24 to their version of this. I didn't choose to retell for the
25 20th time their story.

12:27:23

1 THE COURT: Well, the inquiry related to the earlier
2 -- the later date only? Not to the earlier date, that's your
3 point?

4 MR. BAYMAN: He -- he -- he was --

12:27:38

5 THE COURT: He's already testified to that on direct
6 examination. He's testified to that.

7 BY MR. BAYMAN:

8 Q. What was significant about what Dr. Salstrom noted on
9 July 12th relating to why Mr. Dolin didn't fill out the
10 questionnaire?

12:27:52

11 MR. RAPOPORT: Objection. Cumulative.

12 THE COURT: I think that's been covered too, but I'll
13 let him answer.

14 MR. BAYMAN: Thank you.

12:28:00

15 BY THE WITNESS:

16 A. I'll be quick. The client arrived, didn't do his DSM
17 screening. And it says here:

18 "He avoided it due to his fear of passive
19 suicidal thoughts. Client was scared of what
20 this meant."

12:28:11

21 And that fear was also on July 6th. So he was having
22 the fears of -- writing down his suicidal thoughts on July 6th,
23 2010.

24 MR. RAPOPORT: I object. It's total speculation.

12:28:23

25 THE COURT: It may stand.

1 BY MR. BAYMAN:

2 Q. Now, you were asked some questions about when you first
3 learned about the issues with respect to the run-ins, and you
4 were shown your deposition to refresh your recollection.

12:28:42

5 A. Uh-huh.

6 Q. And I believe you mentioned in your -- do you have your
7 deposition?

8 A. I have a copy of it down here.

9 Yeah.

12:28:55

10 Q. Do you recall being questioned at length about that topic
11 at your deposition?

12 A. Yes. It's very big --

13 THE COURT: All right. Let's take the luncheon break.

14 MR. BAYMAN: Thank you.

12:29:19

15

16 (Luncheon recess taken from 12:30 o'clock p.m.
17 to 1:30 o'clock p.m.)

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12:30:12

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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE
RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER

S/Blanca I. Lara

April 13, 2017