

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,

Plaintiffs,

vs.

SMITHKLINE BEECHAM CORPORATION,
d/b/a GLAXOSMITHKLINE, a Pennsylvania
Corporation,

Defendant.

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) No. 12 CV 6403
)
) Chicago, Illinois
)
)
) March 27, 2017
) 1:30 p.m.

VOLUME 8-B

TRANSCRIPT OF PROCEEDINGS - Trial

BEFORE THE HONORABLE WILLIAM T. HART, and a Jury

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1 (Proceedings heard in open court. Jury in.)

2 THE COURT: Thank you very much, ladies and
3 gentlemen. Please be seated. We will resume.

4 You may proceed, sir.

5 MR. DAVIS: Thank you, your Honor.

6 MARTIN SACHMAN, M.D., PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

7 CROSS-EXAMINATION (Resumed)

8 BY MR. DAVIS:

9 Q. Dr. Sachman, ladies and gentlemen of the jury, we left
10 off -- we left off talking about the February 2005 Dear
11 Healthcare Provider letter and revised labeling. Do you
12 remember that, Dr. Sachman?

13 A. Could you start over there, please?

14 Q. I'm sorry?

15 A. Could you start over at that point?

16 Q. Sure. Just the fact that we were talking about the
17 February 2005 Dear Healthcare Provider letter when we broke
18 for lunch, correct?

19 A. Correct.

20 Q. Great. And if we can go back to our timeline of events --

21 THE COURT: Is that screen -- is his screen working
22 now?

23 THE WITNESS: Yes, it is. It's on. Thank you.

24 THE COURT: You should be able to see everything
25 right on there, Doctor.

1 THE WITNESS: Yes. Thank you.

2 BY MR. DAVIS:

3 Q. So we were -- to go back to our timeline, you received the
4 February 2005 Dear Healthcare Provider letter and revised
5 labeling from GSK again before you prescribed paroxetine to
6 Mr. Dolin for the first time on October 3, 2005, right?

7 A. Right.

8 Q. And one of the things that this Dear Healthcare Provider
9 letter informed you about and disclosed to you is that
10 akathisia was one of the signs or symptoms that you had to be
11 on the lookout for after starting paroxetine, or Paxil, true?

12 A. Yes.

13 Q. The reason you had to look out for akathisia is because it
14 was described as one of the possible or potential side effects
15 of taking Paxil, or paroxetine, and that could be reflective
16 of suicidal thoughts or behavior, true?

17 A. Yes.

18 Q. Underneath -- if you look at the precaution section, it
19 has a section that's called "Information for patients," right?

20 A. Yes.

21 Q. And this section again states that patients should be
22 advised of the following issues and asked to alert their
23 prescriber if these occur while taking Paxil, right?

24 A. Yes.

25 Q. And then the very first thing underneath there is

1 something -- a section called "Clinical worsening and suicide
2 risk." That's one of the things that should be discussed with
3 patients, right?

4 A. Yes.

5 Q. And the February 2005 labeling states, "Patients, their
6 family -- their families and their caregivers should be
7 encouraged to be alert to the emergence of anxiety, agitation,
8 panic attacks, insomnia, irritability, hostility,
9 aggressiveness, impulsivity, akathisia (psychomotor
10 restlessness), hypomania, mania, other unusual changes in
11 behavior, worsening of depression, and suicidal ideation,
12 especially during -- especially early during antidepressant
13 treatment and when the dose is adjusted up or down," right?

14 A. Yes.

15 Q. It also states that, "Families and caregivers of patients
16 should be advised to observe for the emergence of such
17 symptoms on a day-to-day basis since the changes may be
18 abrupt," right?

19 A. Yes.

20 Q. It also says that, "Such symptoms should be reported to
21 the patient's prescriber or healthcare professional especially
22 if they are severe, abrupt in onset, or were not part of the
23 patient's presenting symptoms," right?

24 A. Yes.

25 Q. It goes on to state that, "Symptoms such as these may be

1 associated with an increased risk of suicidal thinking and
2 behavior and indicate a need for very close monitoring and
3 possibly changes in the medication," right?

4 A. Right.

5 Q. So the labeling again talks about all these signs and
6 symptoms from anxiety, agitation, akathisia, and changes in
7 behavior or worsening conditions or suicidal ideation which
8 ought to be discussed with patients who are on paroxetine, or
9 Paxil, true?

10 A. True.

11 Q. These symptoms also -- I think we went over, were also
12 discussed in the May 2004 Dear Healthcare Provider letter and
13 labeling that we went over, right?

14 A. Yes.

15 Q. When you started Mr. Dolin on the medication paroxetine,
16 you talked with him about the information that's in this
17 February 2005 Dear Healthcare Provider letter, correct?

18 A. Yes.

19 Q. You also did that with Mr. Dolin when he went back on
20 paroxetine in 2010, correct?

21 A. He was reminded of them.

22 Q. Yes? Yes, you did?

23 A. Yes.

24 Q. And you also talked with Mrs. Wendy Dolin about the
25 information that's in this February 2005 Dear Healthcare

1 Provider letter, correct?

2 A. Yes.

3 Q. And there is not any information that you did not talk
4 with Stewart Dolin or Wendy Dolin about concerning this Dear
5 Healthcare Provider letter, true?

6 A. I have said before I talked about them in a less formal
7 way. I did not list 20 different possible symptoms.

8 Q. Okay. Can you turn to Page 209 of your deposition,
9 please, at Lines 2 through 5. Let me know when you're there.

10 A. I'm there.

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

13 "Question: Any information that you did not talk
14 with Stewart Dolin or Wendy Dolin about concerning this
15 Dear Healthcare Provider when you --"

16 And your answer was: "Not that I can recall."

17 Did I read that accurately?

18 A. Yes.

19 Q. Thank you. The reason you talked with Wendy Dolin about
20 how she needed to be alert to the signs and symptoms reflected
21 in this Dear Healthcare Provider letter is that so she would
22 be able to be on the lookout for them in case they happened
23 with Mr. Dolin, right?

24 A. Yes.

25 Q. In fact, you believe that because Wendy Dolin is a social

1 worker and she treats patients, she's well aware of all these
2 side effects and how to look for them, true?

3 A. Yes.

4 Q. Back in the 2005-2006 timeframe when Mr. Dolin was on
5 paroxetine, you had discussions with Wendy Dolin about the
6 potential side effects of paroxetine that are described in
7 this February 2005 labeling, true?

8 A. Yes.

9 Q. In fact, you -- when you spoke with Mrs. Dolin about how
10 patients who started on paroxetine, or Paxil, could have
11 worsening conditions or suicidality or worsening depression,
12 agitation, or akathisia, she never expressed to you any
13 surprise along the lines that she did not already know that,
14 true?

15 A. I don't recall that.

16 Q. Okay. Why don't you turn to Page 211 of your deposition,
17 please, Lines 1 through 15. And let me know when you're there.

18 A. I'm there.

19 I'm there.

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

22 "Question: When you were talking with Wendy Dolin
23 about how a patient who started on Paxil, or paroxetine,
24 could have worsening condition or suicidality or
25 worsening depression or agitation or akathisia, did she

1 express any surprise to you that along the lines that she
2 did not already know that?

3 "Answer: No. We discussed that in terms of
4 initiation of therapy more than risk of chronic therapy."

5 Did I read that correctly?

6 A. Yes.

7 Q. That was your sworn testimony that day?

8 A. Yes.

9 Q. Thank you. And the information in the February 2005 Dear
10 Healthcare Provider letter and clinical worsening and suicide
11 risk is also in the February 2005 labeling, true?

12 A. Yes.

13 Q. And if you look on Page -- if you look at Joint Exhibit 6
14 which is behind Tab 3 and if you go to Page JX 6004 and '06 --
15 oh, I'm sorry. If you look at -- if you go to "Precautions"
16 under Joint Exhibit 6-006, second paragraph, you'll see
17 precaution for akathisia. Are you there?

18 A. It's on my screen.

19 Q. Okay. Do you see it?

20 A. Yeah.

21 Q. And it says:

22 "Akathisia. The use of paroxetine or other SSRIs has
23 been associated with the development of akathisia which
24 is characterized by an inner sense of restlessness and
25 psychomotor agitation such as an inability to sit or

1 stand still usually associated with subjective distress.
2 This is most likely to occur within the first few weeks
3 of treatment."

4 Did I read that correctly?

5 A. Yes.

6 Q. This was information that you knew about in February 2005,
7 correct?

8 A. Yes.

9 Q. I'm sorry?

10 A. Yes.

11 Q. And again, if we look at Joint Exhibit 6-011, we see that
12 the information for patients that we went over earlier is also
13 in the revised labeling for February 2005, correct?

14 A. Yes.

15 Q. And that includes discussion about clinical worsening and
16 suicide risk that we already went over, right?

17 A. Yes.

18 Q. If you can, turn to Tab 6 in your notebook.

19 Are you there, Dr. Sachman?

20 A. Yes.

21 Q. You see this is an exhibit to your deposition. It's
22 Exhibit 6 to your deposition, right?

23 A. Yes.

24 Q. This Exhibit 6 is a highlighted document that plaintiff's
25 counsel, Mr. Wisner, showed you at your deposition and then

1 questioned you about, right?

2 A. Yes.

3 Q. And it's a portion of a document entitled "Briefing
4 document: Paroxetine adult suicidality analysis, major
5 depressive disorder and non-major depressive disorders,"
6 right?

7 A. Yes.

8 MR. DAVIS: And, your Honor, this is DX 6355. And I
9 request permission to publish.

10 MR. RAPOPORT: I'm sorry. What tab is this?

11 MR. DAVIS: It's behind Tab 6.

12 MR. RAPOPORT: Thank you. One moment, please. Okay.

13 MR. DAVIS: Permission to publish and move for
14 admission, your Honor.

15 THE COURT: Is this also an exhibit?

16 MR. DAVIS: There are portions of this document that
17 already Exhibit, I believe, is DX 103, but the reason this one
18 is different, your Honor, is because it contains highlighted
19 language that Dr. Sachman was questioned about at his
20 deposition which are germane to his testimony.

21 MR. RAPOPORT: We would see it as demonstrative, your
22 Honor.

23 THE COURT: It hasn't been received in evidence; is
24 that right?

25 MR. DAVIS: DX 6355 has not yet been received into

1 evidence.

2 THE COURT: Is there any objection to it?

3 MR. RAPOPORT: We would see it as demonstrative.

4 There's no objection to display. There is objection to
5 admission.

6 THE COURT: Well, go ahead and display it. We'll see
7 what happens.

8 MR. DAVIS: Thank you, your Honor.

9 BY MR. DAVIS:

10 Q. Okay. This is the document we're talking about. It's
11 Exhibit 6 to your deposition, and it's marked as DX 6355,
12 right?

13 A. Yes.

14 Q. And the scientific data that you are aware of that shows
15 that Paxil, or paroxetine, increases the risk of suicidal
16 thoughts or behavior in middle-aged persons is the highlighted
17 information on Page 6 of GSK's briefing document that's marked
18 as Exhibit 6 to your deposition, correct?

19 A. Yes.

20 Q. And the highlighted information on Page 6 of the GSK
21 briefing document says, "The results" -- quote, "The results
22 provide evidence of an increase in suicide attempts in adults
23 with MDD treated with paroxetine compared to placebo.
24 However, as the absolute number of -- number and incidence of
25 events are very small," and it cites numbers 11/3455, paren,

1 0.32 percent, closed paren, for paroxetine versus 1/1978,
2 paren, 0.05 percent, closed paren, for placebo, is the
3 information that you were referring to at your deposition,
4 correct?

5 A. Yes.

6 Q. And it's your testimony, if that information was publicly
7 disclosed, you would never have prescribed Paxil, or
8 paroxetine, to Mr. Dolin, right?

9 A. That's correct.

10 Q. And you claim -- if you turn to Tab 7 in your notebook
11 which is Joint Exhibit 4. Are you there, Dr. Sachman?

12 A. Yes.

13 Q. All right. And Exhibit 4 is another GSK Dear Healthcare
14 Provider letter that's dated May 6th, 2004, and it includes
15 revised labeling that accompanied that Dear Healthcare
16 Provider letter, correct?

17 A. Yes.

18 Q. And you don't dispute that you received this one, this
19 Dear Healthcare Provider letter, do you?

20 A. No.

21 Q. No, you don't dispute it?

22 A. I don't dispute it.

23 Q. So you received it?

24 A. Yes.

25 Q. And upon receiving this letter, you would have followed

1 your standard practice to review it and read it, read both the
2 Dear Healthcare Provider letter and the revised labeling that
3 accompanied it, true?

4 A. True.

5 Q. So let's go back to our timeline. This Dear Healthcare
6 Provider letter is in May of 2006, and you received it before
7 you last prescribed paroxetine to Mr. Dolin in 2010?

8 A. In 2010, there was another information that did not
9 include this.

10 Q. And I promise, we're going to cover that.

11 A. Yes.

12 Q. My question simply was: Before you last prescribed
13 paroxetine to Mr. Dolin in 2010, you received the May --

14 A. Yes.

15 Q. -- 2006 Dear Healthcare Provider letter and revised
16 labeling from GSK?

17 A. Right.

18 Q. And at the time that the May 2006 Dear Healthcare Provider
19 letter and revised labeling was read and reviewed by you,
20 Mr. Dolin was still receiving a paroxetine prescription from
21 you in 2006, correct?

22 A. Yes.

23 Q. And you most likely discussed with Mr. Dolin these
24 revisions to the warnings of paroxetine and Paxil, correct?

25 A. Yes.

1 Q. And if we can go to -- if we can go to JX 12-014, that's
2 behind Tab 1, Dr. Sachman, that's the prescription history.
3 And if you can call that up, Mr. Holtzen, beginning with the
4 June 4, 2006, and all the way to the top.

5 These are prescriptions that Mr. Dolin is -- is
6 filling in 2006 after you received the May 2006 Dear
7 Healthcare Provider letter and revised labeling, right?

8 A. Yes.

9 Q. And these prescriptions are being filled from June of 2006
10 through October of 2006, right?

11 A. Yes.

12 Q. And there is a total of five prescriptions that are filled,
13 right?

14 A. Right.

15 Q. If you could turn now back to Joint Exhibit 4 behind Tab
16 7, please, at the top of this Dear Healthcare Provider letter
17 of May 2006, it's got an all capped, capital letters,
18 "Important prescribing information," correct?

19 A. Yes.

20 Q. And the letter says, "GlaxoSmithKline, GSK, would like to
21 advise you of important changes to the clinical worsening and
22 suicide risk subsection of the warnings section in the labels
23 for Paxil and Paxil CR," correct?

24 A. Correct.

25 Q. And the Dear Healthcare Provider letter of May 2006 also

1 stated in bolded words, "Please read the full text of the
2 added warnings following this letter," correct?

3 A. Yes.

4 Q. It also stated that, quote, "Full copies of the revised
5 package inserts for Paxil and Paxil CR are enclosed," correct?

6 A. Yes.

7 Q. And in Paragraph 5, the first sentence, it says, "In the
8 analysis of adults with MDD, all ages, the frequency of
9 suicidal behavior was higher in patients treated with
10 paroxetine compared with placebo," correct?

11 A. Yes.

12 Q. And the first sentence of Paragraph 5 of the letter says
13 how in the analysis of adults that the -- that included adults
14 of all ages, correct?

15 A. Yes.

16 Q. The letter also says, "The frequency of suicidal behavior
17 was higher in patients treated with paroxetine compared with
18 placebo," correct?

19 A. Yes.

20 Q. And the letter also gives the figures of 11/3455, or .32
21 percent, for paroxetine versus 1/1978, or 0.05 percent, for
22 placebo on the analysis of paroxetine and suicidal behavior in
23 adults of all ages, correct?

24 A. Yes.

25 Q. And the next sentence says, "The difference was

1 statistically significant; however, as the absolute number and
2 incidence of events are small, these data should be
3 interpreted with caution," correct?

4 A. Yes.

5 Q. And then if you look at -- go back. If you can look at
6 the briefing document that was marked as Exhibit 6 to your
7 deposition, you see the exact same figures as are in the Dear
8 Healthcare Provider letter that we read, true?

9 A. Yes.

10 Q. So it's talking about the same data set both in Exhibit 6
11 to your deposition as well as the May 2006 Dear Healthcare
12 Provider letter and revised labeling?

13 A. Correct.

14 Q. And if you go back to Tab 7, Joint Exhibit 4, the last
15 sentence in Paragraph 5 of GSK's May 2006 Dear Healthcare
16 Provider letter says, quote, "These MDD data suggest that the
17 higher frequency observed in the younger adult population
18 across psychiatric disorders may extend beyond the age of 24,"
19 correct?

20 A. Yes.

21 Q. And this paragraph is communicated to you that the
22 increased risk of suicidal thoughts or behavior may go beyond
23 the age of 24?

24 A. Yes.

25 Q. And if you look at the labeling that's part of -- part of

1 Joint Exhibit No. 4, you also see the very same language
2 that's in the Dear Healthcare Provider letter, correct?

3 A. Yes.

4 Q. And that includes a discussion both in the Dear Healthcare
5 Provider letter and in the revised labeling for May of 2006, a
6 discussion about the 11 versus 1 finding on paroxetine versus
7 placebo for suicide attempts, correct?

8 A. Correct.

9 Q. And this labeling is talking about how data shows that the
10 potential for suicidal thoughts or behavior may extend beyond
11 the age of 24, correct?

12 A. Yes.

13 Q. And the May 2006 Dear Healthcare Provider letter is
14 communicating to you the information that's in the briefing
15 document that's highlighted and marked as Exhibit 6 to your
16 deposition, correct?

17 A. Yes.

18 Q. You agree that there is no place in GSK's May 2006 Dear
19 Healthcare Provider letter and revised labeling where GSK
20 tells you to ignore any of the data in that later -- in that
21 letter or in the attached labeling?

22 A. Yes, correct.

23 Q. And GSK's May 2006 Dear Healthcare Provider letter
24 states -- again, talked about how it was important, it wanted
25 to draw attention to you for the findings that are discussed

1 in that letter and in the labeling, correct?

2 A. Yes.

3 Q. And it also talks, the Dear Healthcare Provider letter
4 also talks about how GSK is voluntarily amending the
5 paroxetine labeling to reflect this new information and to
6 emphasize the importance of careful monitoring of all patients
7 during paroxetine therapy, correct?

8 A. Yes. Yes. Excuse me.

9 Q. And that discussion on that page doesn't limit -- have a
10 limit of just saying only monitor patients 24 or less, true?

11 A. True.

12 Q. In fact, you familiarized yourself with these revisions to
13 the labeling that are reflected in the Dear Healthcare
14 Provider letter and the labeling itself, correct?

15 THE COURT: You're covering the same ground --

16 THE WITNESS: Yes.

17 THE COURT: -- over and over again now, Mr. Davis.

18 MR. DAVIS: I'll try to move it along. Sorry, Judge.

19 THE COURT: Yes. Let's not go over the same thing
20 over and over again.

21 MR. DAVIS: Thank you.

22 BY MR. DAVIS:

23 Q. And with respect to the statement in the labeling and in
24 the Dear Healthcare Provider letter that "the majority of
25 these attempts for paroxetine were in younger adults 18 to

1 30," you don't have any evidence that that's inaccurate, do
2 you?

3 A. No.

4 Q. No, you don't?

5 A. No, I don't.

6 Q. And you also see that that very statement is in the
7 highlighted portion of GSK's briefing document that was marked
8 as Exhibit 6 to your deposition, true?

9 A. Yep, yes.

10 Q. And the briefing document that was marked as an exhibit to
11 your deposition also talks about how it is difficult to
12 consider a causal relationship between paroxetine and
13 suicidality due to the small incidence and absolute number of
14 events, the retrospective nature of this meta-analysis, and
15 the potential for confounding by the fact that the events of
16 interest are a symptom of the psychiatric illnesses
17 themselves, correct?

18 A. Yes.

19 Q. If we can go to the May 2006 Dear Healthcare Provider
20 letter under the information for patients, that's under the
21 precaution section, again, this is the information that's
22 supposed to be discussed with patients upon initiation of the
23 medication or changes in dosage up or down, correct?

24 A. Yes.

25 Q. And again, this is telling patients and families and their

1 caregivers how the patient is supposed to be told that
2 patients, their families, and their caregivers should be
3 encouraged to be alert to the emergence of all the signs and
4 symptoms that we went over before, correct?

5 A. Yes.

6 Q. And one of the things it talks about is how families and
7 caregivers of patients should be advised to observe for the
8 emergence of such symptoms on a day-to-day basis since changes
9 may be abrupt, and such symptoms should be reported to the
10 patient's prescriber or healthcare professional, especially if
11 they are severe, abrupt in onset, or were not part of the
12 patient's presenting symptoms, correct?

13 A. Yes.

14 Q. And it also specifically talked about how the symptoms
15 such as the ones discussed are associated -- may be associated
16 with an increased risk for suicidal thinking and behavior and
17 a need for close monitoring and possibly changes in the
18 medication?

19 THE COURT: Mr. Davis, the document speaks for
20 itself, and the doctor has accepted it. I don't see any
21 reason to read the document to him and ask him whether he
22 agrees or disagrees.

23 MR. DAVIS: Okay. Understood, Judge. Thanks.

24 BY MR. DAVIS:

25 Q. You agree that GSK disclosed to you the risk of using

1 paroxetine, or Paxil, as outlined in the revised labeling of
2 May 2006 which was marked at your dep -- as an exhibit to your
3 deposition, correct?

4 A. Yes.

5 Q. All right. And that's the same labeling that we're here
6 talking about today for May of 2006, right?

7 A. Yes.

8 Q. And you agree that if GSK had sent out to other doctors
9 this Dear Healthcare Provider letter plus the labeling that
10 was enclosed that it also alerted and disclosed to the medical
11 community the information that was in the revised labeling?

12 A. Yes.

13 Q. And I think as we touched on before, after this labeling
14 came out, you most likely discussed with Mr. Dolin the
15 revisions to this labeling that took place in May of 2006,
16 correct?

17 A. Yes.

18 Q. And the discussions you would have had included the
19 information about how there was a statistically significant
20 increase seen in the GSK analysis for adults of all ages who
21 had taken paroxetine, correct?

22 A. Yes.

23 Q. And you would not have suggested or told Mr. Dolin in any
24 way that there could not be an increased risk of suicidal
25 thought or behavior in him because of that analysis, true?

1 A. I didn't understand the question.

2 Q. Sure. I'll just ask it again. You would not have
3 suggested or told Mr. Dolin in any way that he would not be at
4 an increased risk of suicidal thought or behavior --

5 A. No --

6 Q. -- because of the analysis --

7 A. -- I wouldn't have.

8 Q. -- correct?

9 A. Correct.

10 Q. Okay. And you continued to prescribe paroxetine, or Paxil,
11 to Mr. Dolin, correct, after this revised labeling came out?

12 A. Yes. As I recall, he had already been on it. I would not
13 take a patient off a drug he was doing well on because of a
14 label.

15 Q. And, in fact, you viewed this data that came out a year
16 after he was -- as he was already on it, on the medication,
17 and he was doing fine and so your view was, why stop it in his
18 case, correct?

19 A. Correct.

20 Q. And you've never contacted GlaxoSmithKline about the
21 information you received in this revised labeling, true?

22 A. True.

23 Q. You agree that after receiving the May 2006 Dear
24 Healthcare Provider letter and revised labeling that nothing
25 in it caused you to stop providing or prescribing paroxetine,

1 or Paxil, to Mr. Dolin?

2 A. Correct.

3 Q. And after you received this May 2006 Dear Healthcare
4 Provider letter and revised labeling from GlaxoSmithKline, you
5 did not receive any letter or communication from
6 GlaxoSmithKline that told you to ignore what was in that
7 revised labeling, true?

8 A. Could you repeat that, please?

9 Q. Yes, sir. After you received this May 2006 Dear
10 Healthcare Provider letter from GlaxoSmithKline, you did not
11 receive any letter or other communication from GlaxoSmithKline
12 that told you to ignore what was in the revised labeling for
13 May of 2006, correct?

14 A. That's not true.

15 Q. Why don't you turn to your deposition, Page 244 --

16 A. I'm referring to the label of 2010 when he was last
17 prescribed Paxil.

18 Q. Would you be so kind as to please turn to Page 244 of your
19 deposition?

20 MR. RAPOPORT: Lines, please?

21 MR. DAVIS: Line 24 through 245, Line 5.

22 MR. RAPOPORT: 224? I'm sorry.

23 MR. DAVIS: 244.

24 BY MR. DAVIS:

25 Q. Are you there, Dr. Sachman?

1 A. Yes.

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

4 "Okay. After this May 2004 Healthcare Provider
5 letter from GlaxoSmithKline marked as Exhibit 15, did you
6 receive any letter or communication from GlaxoSmithKline
7 that told you to ignore what was in the revised labeling
8 that's been marked as Exhibit 15?"

9 And your answer was: "Don't recall that, no."

10 Did I read that correctly?

11 A. I couldn't follow that. What line did you start at?

12 Q. Sure. Let me start again. If you look at Page 244 --

13 A. Uh-huh.

14 Q. -- line 24.

15 A. Okay.

16 Q. Were you asked this question and did you give this answer
17 under oath:

18 "Question: After this May 2006 Dear Healthcare
19 Provider letter from GlaxoSmithKline marked as Exhibit
20 15, did you receive any letter or communication from
21 GlaxoSmithKline that told you to ignore what was in the
22 revised labeling that's been marked as Exhibit 15?"

23 And your answer was: "Don't recall that, no."

24 Did I read that correctly?

25 A. Yes.

1 Q. That was your testimony under oath that day?

2 A. Yes.

3 Q. Okay. Now, you believe -- you would have remembered if
4 GSK were refuting prior recommendations, true?

5 A. Yes.

6 Q. The May 2006 labeling had Paxil-specific data in it,
7 correct?

8 A. Yes.

9 Q. And the May 2006 -- and it was that Paxil-specific data
10 was about the risk of either suicidal thoughts or behavior,
11 correct?

12 A. Yes.

13 Q. In adults, correct?

14 A. Yes.

15 Q. And if you found out that the Paxil-specific data had been
16 taken out of the Paxil labeling before you prescribed
17 paroxetine, or Paxil, to Stewart Dolin for the last time
18 either in June or July of 2010, you would have not had
19 prescribed it to him, true?

20 A. Say it again, please.

21 Q. Yes, sir. If you found out that the Paxil-specific data
22 had been taken out of the Paxil-specific -- sorry. If you had
23 found out that the Paxil-specific data had been taken out of
24 the Paxil labeling before you prescribed paroxetine, or Paxil,
25 to Stewart Dolin for the last time either in June or July of

1 2010, you would not have prescribed it to him, true?

2 A. You're asking me if I knew -- if I knew it was taken out,
3 I then would not have prescribed it?

4 Q. That's right.

5 A. That doesn't make any sense.

6 Q. Okay. Why don't you turn to Page -- why don't you turn to
7 Page 260 of your deposition, Line 20, to 261, Line 7.

8 A. Which lines?

9 Q. Page 260 beginning with Line 20 through 261, Line 7. Are
10 you there? Were you asked this question and did you give this
11 answer under oath:

12 "Question: And if you found out that the Paxil-
13 specific data had been taken out of the Paxil labeling
14 before you prescribed Paxil to Stewart Dolin for the last
15 time either in June or July of 2010, you would not have
16 prescribed it to him?

17 "Answer: With the understanding that I saw this data
18 in this -- in these communications, the answer is still
19 no.

20 "Question: No, you would not have prescribed it?

21 "Answer: No, I would not have prescribed it."

22 A. I think I was confused at the time.

23 Q. Did I read that answer correctly?

24 A. You did. I was confused at the time --

25 Q. And at the time --

1 A. -- just like I am now.

2 Q. At the time that you gave that answer, did you say that
3 you were confused?

4 A. No.

5 Q. Okay. And, in fact, if you turn -- if you turn to Page --
6 if you turn to Page 337 of your deposition, Lines 4 to 7, let
7 me know when you're there.

8 A. Okay.

9 Q. After I asked all the questions of you including the one
10 that we just went over, I asked you if you had given me
11 accurate and truthful answers, didn't I?

12 A. I thought I was.

13 Q. Yes. And your answer was that you had told me to the best
14 of your knowledge that you had given me accurate and truthful
15 answers, correct?

16 A. That was true at the time.

17 Q. All right. Let's turn to the July of 2010 paroxetine
18 labeling. Okay. If you could turn to Tab 8 in your notebook,
19 all right, this is a Joint Exhibit 2. Why don't we just turn
20 to Joint Exhibit 2 which is Tab -- behind Tab 8-A. Okay.

21 And if you look at Tab 8 which is Defendant's Exhibit
22 6354, that's Exhibit 5 to your deposition, correct? Do you
23 see where it's got the sticker on it?

24 A. Yes.

25 Q. Okay. And these are the same -- these are the same

1 labelings, okay, between Sachman Exhibit 5 and Joint Exhibit

2 2. Okay?

3 MR. RAPOPORT: Objection, your Honor. First of all,
4 there is no July 2010 label, and I'm clueless about what --

5 THE COURT: I heard that July date. That puzzled me,
6 too.

7 MR. RAPOPORT: Right. It's just wrong.

8 MR. DAVIS: Well, let me see if I can back up a
9 little bit. Look at -- don't put it on the screen yet.

10 THE COURT: No, no. Clear up the --

11 MR. DAVIS: I will. Thank you, Judge.

12 BY MR. DAVIS:

13 Q. If you look at Exhibit 5 to your deposition --

14 A. Yes.

15 Q. -- and if you turn to Page 32 of 40, that's at the top,
16 there's a page -- there's page numbers at the top right, if
17 you turn to Page 32 of 40. Are you there?

18 A. Yep.

19 Q. And down on the left-hand side, you'll see about halfway
20 down the line, there's a statement that says, "Revised January
21 2008." Do you see that?

22 A. Yes.

23 Q. Okay. And if you turn to Tab 8-A which is Joint Exhibit --
24 let me back up. So what that's telling you is that's the date
25 of this revised labeling for paroxetine, correct?

1 A. Yes.

2 Q. Okay. And if you turn to Tab 8-A, Joint Exhibit 2, and go
3 to the very last page, you see the exact same date, right?

4 A. I don't see where you are.

5 Q. Go to Tab 8.

6 MR. RAPOPORT: We'll stipulate it's January of '08.

7 I just didn't understand where we were.

8 MR. DAVIS: Okay. That --

9 THE COURT: Where does the July date come from?

10 MR. DAVIS: It was part of our discussions pretrial,
11 your Honor, that the language just hadn't changed between
12 those two time periods. That's all. But I can fix my question.
13 And I think the way it was -- it was presented to him in his
14 deposition as July 2010. That's how the question read in his
15 deposition.

16 BY MR. DAVIS:

17 Q. Exhibit 5 to your deposition was the paroxetine prescribing
18 information that we just identified as Defendant's -- as Joint
19 Exhibit 2, correct?

20 A. Yes.

21 Q. Okay. And for the patients you have that are currently on
22 Paxil, or paroxetine, you do not tell them anything
23 differently than what is in the paroxetine prescribing
24 information or labeling that was marked as Exhibit 5 to your
25 deposition, do you?

1 A. No.

2 Q. No, that I'm -- "no" in the sense that you don't tell them
3 anything differently, correct?

4 A. Correct.

5 Q. Okay. And if you look at the 20 -- if we can look at that
6 labeling that's marked as Joint Exhibit 2, there's no
7 information in that labeling that -- strike that.

8 That labeling does not contain the Paxil-specific
9 information that was described in the May 2006 Dear Healthcare
10 Provider letter or revised labeling, does it?

11 A. Correct.

12 Q. And with respect to Joint Exhibit 2 which is the labeling
13 for paroxetine that would have been in effect in 2010, you
14 view this information and this labeling as providing
15 information about possible or potential side effects or
16 adverse effects that may happen from the medication once it is
17 started, true?

18 A. True.

19 Q. And the warning in that labeling discusses the symptoms or
20 conditions that may happen right after the medication is
21 started or after a dose is increased or decreased, right?

22 A. Right.

23 Q. And you knew and understood that you needed to be on the
24 lookout for these possible or potential side effects from the
25 use of the medication and the medication itself at the time

1 you last prescribed it to Mr. Dolin in either June or July of
2 2010, correct?

3 A. Yes.

4 Q. One of those potential side effects included worsening
5 depression or suicidal thoughts or behavior, right?

6 A. Yes.

7 Q. You understood that at the time before you last prescribed
8 it to Mr. Dolin, correct?

9 A. Yes.

10 Q. Nothing in this labeling of 2010 for paroxetine, or Paxil,
11 said in this -- in any section of the labeling that the risk
12 of suicidal thoughts or behavior did not extend beyond the age
13 of 24, true?

14 A. It didn't say it did.

15 Q. It didn't say it did not either, did it?

16 A. No, it didn't.

17 Q. And you understood despite that that you needed to be on
18 the lookout for worsening depression, suicidal thoughts or
19 behavior, akathisia, agitation, insomnia, irritability, and
20 panic attacks and the other symptoms described in the label in
21 any patient at the time that Mr. Dolin last received Paxil, or
22 paroxetine, true?

23 A. True.

24 Q. And the statements about the potential side effects or
25 adverse results from the use of the medication that we just

1 went over and that's in the labeling, they are not limited to
2 patients under age 24, are they?

3 A. No.

4 Q. No, they're not?

5 A. No, they're not.

6 Q. And if you turn to -- well, let's see. And again, if we
7 go back to JX 1 which is the 2010 labeling for Paxil, it's
8 behind Tab 4, and we go to the "Information for patients"
9 section -- do you have that, Mr. Holtzen, the "Information for
10 patients" section? It's in the precaution section. I believe
11 it's at JX 1-018, 019. There we go. Can you pull up
12 "Information for patients"?

13 Again, this is listing out all the signs and symptoms
14 that we talked about earlier that's also included in the May
15 2004 revised labeling and the February 2005 revised labeling
16 and the May 2006 revised labeling, right?

17 A. Yes.

18 Q. And to you, this paragraph is a warning about some of the
19 behaviors that may be associated with increased depression and
20 possibly suicidality, right?

21 A. Correct.

22 Q. Dr. Sachman, is it fair to say that you can't say with any
23 degree of certainty whether you reviewed either the paroxetine
24 or Paxil labeling at any time in 2010?

25 A. No, I would have.

1 Q. Can you please turn to Page 162 of your deposition, Lines
2 11 through 17? 162, 11 through 17. Were you asked this
3 question and did you give this answer under oath:

4 "Question: Can you tell me with any degree of
5 certainty whether you reviewed either the paroxetine or
6 Paxil labeling at any time in 2010?

7 "Answer: I can't recall.

8 "Question: You can't recall with any certainty
9 whether you did or you did not?

10 "Answer: Correct."

11 Did I read that correctly?

12 A. Yes.

13 MR. RAPOPORT: Your Honor, I'd ask that for context
14 that the reading continue.

15 THE COURT: Read the whole page.

16 BY MR. DAVIS:

17 Q. Okay.

18 "Question: Can you say with any degree of
19 certainty -- excuse me. Can you say with any degree of
20 certainty whether you reviewed the Paxil, or paroxetine,
21 labeling at any time between 2007 and 2010?

22 "Answer: I can't recall specifically, but I would
23 think that I did.

24 "Question: Can you say with any degree of certainty
25 what month and what year --

1 "Answer: No."

2 "-- that you would have looked at the Paxil, or
3 paroxetine, labeling between 2007 and 2010?

4 "Answer: No."

5 Did I read that testimony correctly?

6 MR. RAPOPORT: And, your Honor, it should go on to
7 164 through Line 13.

8 THE COURT: Read it all.

9 BY MR. DAVIS:

10 Q. Okay. Fine.

11 "Question: Because you don't recall the last time
12 with any certainty that you looked at the Paxil or
13 paroxetine labeling, is it fair to say that you're unable
14 to say whether you knew about or considered what was in
15 that labeling before you prescribed Paxil, or paroxetine,
16 to Stewart Dolin either in June or July of 2010?

17 "Answer" --

18 MR. RAPOPORT: Go to Line 12.

19 BY MR. DAVIS:

20 Q. "Answer: I would say" -- and then it continues on
21 Page 164.

22 MR. RAPOPORT: 164, Line 12.

23 MR. DAVIS: Yes. Thank you. I have it.

24 MR. RAPOPORT: Okay. You weren't there.

25 MR. DAVIS: Thanks.

1 BY MR. DAVIS:

2 Q. "I would say this. If there was a change in the
3 labeling, I certainly would have noted."

4 And then is it fair to say that because you don't
5 specifically remember when you last looked at the Paxil, or
6 paroxetine, labeling, you are unable to tell us whether or not
7 you considered what was in the Paxil, or paroxetine, labeling
8 before you prescribed it to Stewart Dolin in June or July of
9 2010?

10 Dr. Sachman?

11 A. You read it correctly.

12 Q. No, no. I'm asking you now. Put aside the transcript.

13 A. What's the question?

14 Q. Is it fair to say that because you don't specifically
15 remember when you last looked at the Paxil, or paroxetine,
16 labeling, you are unable to tell us whether or not you
17 considered what was in that labeling before you prescribed it
18 to Stewart Dolin in June or July of 2010?

19 A. I contend that I did know what was in that labeling.

20 Q. Okay. Can turn back to your deposition?

21 THE COURT: I think it's covered.

22 MR. DAVIS: It's not yet, your Honor.

23 THE COURT: We've covered it all now, haven't we?

24 MR. DAVIS: Could you -- your Honor, this follows up
25 on the last part of his answer.

1 BY MR. DAVIS:

2 Q. If you can turn to Page 164, Line 17. Are you there?

3 MR. RAPOPORT: 17 to what?

4 MR. DAVIS: To 24.

5 "Question" --

6 MR. RAPOPORT: One moment, please.

7 MR. DAVIS: Are you ready, Mr. Rapoport? Okay.

8 Thank you.

9 BY MR. DAVIS:

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

12 "Is it fair to say that because you don't
13 specifically remember when you last looked at the Paxil,
14 or paroxetine, labeling, you are unable to tell us
15 whether or not you considered what was in the Paxil, or
16 paroxetine, labeling before you prescribed it to Stewart
17 Dolin in June or July of 2010?"

18 Your answer was: "I would say it's fair."

19 Did I read that sworn testimony correctly?

20 A. You read it correctly.

21 Q. I'm sorry?

22 A. You did.

23 Q. Thank you. And you don't recall -- well, when we -- your
24 deposition was taken in the case, you had about half a dozen
25 patients on Paxil, or paroxetine, correct?

1 A. Yes.

2 Q. And you had renewed prescriptions for paroxetine -- for
3 paroxetine for patients since Stewart Dolin's suicide, correct?

4 A. For those who had been on it previously, yes.

5 Q. And for those individuals whom you reviewed -- renewed
6 prescriptions, you have not had any discussions recently with
7 them about risks associated with suicidality, correct?

8 A. No.

9 Q. Correct?

10 A. No. Correct.

11 Q. And since Mr. Dolin's suicide, you have had conversations
12 with patients about suicidality and antidepressants, true?

13 A. Yes.

14 Q. And when -- and you tell them that when you start an
15 antidepressant -- let me back up. When you start an
16 antidepressant for a patient, you warn those patients about
17 the potential early side effects, and you usually mention
18 increased anxiety, increase in depression, right?

19 A. Yes.

20 Q. And you also tell them to call you right away if they have
21 any problem, right?

22 A. Right.

23 Q. You tell that to patients -- patients about any of the
24 medications in the class of antidepressants, correct?

25 A. Yes.

1 Q. And that would include Paxil, or paroxetine, right?

2 A. It would.

3 Q. And there, the patients that you have, there are patients
4 who are over 40 years old, correct?

5 A. Yes.

6 Q. And for those patients who are over 40, you don't warn
7 them about suicide in general but instead warn them about
8 increasing anxiety and depression initially with the drug,
9 right?

10 A. Correct.

11 Q. I'm going to turn our attention to the last series of
12 prescriptions that you wrote for Mr. Dolin in 2010. All
13 right, Dr. Sachman? You mention in your -- is it your
14 testimony that if a label of a medication warned that
15 medication may lead to suicidal thoughts or action, you would
16 not prescribe it?

17 A. Correct.

18 Q. Okay. You prescribed a medication called Levaquin to
19 Mr. Dolin, right?

20 A. Yes.

21 Q. Mr. Dolin filled a prescription on June 27, 2010 -- if we
22 can call that up, Mr. Holtzen.

23 Mr. Dolin filled that prescription of Levaquin on
24 June 27, 2010, and that's the same date that he filled the
25 paroxetine prescription, right?

1 A. Correct.

2 Q. I'm sorry?

3 A. Yes.

4 Q. And Levaquin is an antibacterial medication, right?

5 A. Right.

6 Q. And if you turn to Tab 9 in your exhibit notebook, this is
7 the prescribing information for Levaquin, correct?

8 A. Yes.

9 MR. DAVIS: Your Honor, permission to --

10 BY MR. DAVIS:

11 Q. And you're familiar with this prescribing information, are
12 you not?

13 A. Yes.

14 Q. You've seen it before, have you not?

15 A. Yes.

16 Q. And it's something that you take into consideration in
17 terms of prescribing the medication, correct?

18 A. Yes.

19 Q. And if you look at --

20 MR. DAVIS: Your Honor, I would now move for
21 admission of DX 6373 which is the Levaquin prescribing
22 information.

23 MR. RAPOPORT: No objection.

24 MR. DAVIS: Thank you.

25 THE COURT: It may be received.

1 (Defendant's Exhibit 6373 received in evidence.)

2 MR. DAVIS: And permission to publish?

3 THE COURT: Yes.

4 BY MR. DAVIS:

5 Q. Dr. Sachman, if you look at Section 5.5 on Page 16 of the
6 Levaquin labeling, you see a statement that says, "Warnings
7 and precautions." Do you see that?

8 A. No.

9 MR. DAVIS: Go to Page 16 -- oh, I'm sorry. Go to
10 Page 14. Can you pull up Page 14, Mr. Holtzen?

11 THE WITNESS: 14.

12 BY MR. DAVIS:

13 Q. Yes. And Section 5 is something called "Warnings and
14 precautions," correct?

15 A. Uh-huh, yes.

16 Q. And if you turn -- and what's listed under Section 5 is
17 the warnings and precautions for Levaquin, right?

18 A. Correct.

19 Q. And if you turn to Page 5.5, there's a section that talks
20 about warnings that deal with the central nervous system
21 effects, correct?

22 A. Yes.

23 Q. And if you turn to that, it says, quote:

24 "Convulsions and toxic psychoses have been reported
25 in patients receiving fluoroquinolones including

1 Levaquin. Fluoroquinolones may also cause increased
2 cranial pressure and central nervous system stimulation
3 which may lead to tremors, restlessness, anxiety, light-
4 headedness, confusion, hallucinations, paranoia,
5 depression, nightmares, insomnia and, rarely, suicidal
6 thoughts or acts. These reactions may occur following
7 the first dose."

8 Did I read that correctly?

9 A. Yes.

10 Q. And despite the warnings in the Levaquin labeling that
11 Levaquin may also cause increased central nervous system
12 stimulation that could lead to depression, insomnia,
13 nightmares, and suicidal thoughts or acts, you prescribed that
14 medication to Mr. Dolin?

15 A. Correct.

16 THE COURT: What is this for?

17 MR. DAVIS: This goes to his testimony --

18 THE COURT: No. Doctor?

19 MR. DAVIS: I'm sorry.

20 THE COURT: What is this medicine for?

21 THE WITNESS: It's an antibiotic.

22 THE COURT: It's an antibiotic?

23 BY MR. DAVIS:

24 Q. You disclosed to Mr. Dolin that this information was in
25 the labeling for Levaquin at the time, right?

1 A. No.

2 Q. Could you turn to Page 336 of your deposition,
3 Dr. Sachman, if you could turn to Page 336, Lines 1 through 4.
4 Were you asked these questions, and did you give this
5 testimony under oath:

6 "Question: Did you tell Mr. Dolin about these
7 potential side effects?

8 "Answer: Regarding Levaquin?

9 "Question: Yes.

10 "Answer: I don't remember.

11 "Question: Any reason to believe that you would not
12 have disclosed to him what was in the prescribing
13 information --

14 "Answer: No.

15 "Question: -- for Levaquin at the time?

16 "Answer: No."

17 Did I read that correctly?

18 A. Yes.

19 MR. RAPOPORT: Your Honor, for context, it needs to
20 continue.

21 THE COURT: Where to?

22 MR. RAPOPORT: At least through Line 20 on the same
23 page.

24 THE COURT: Read it.

25 MR. DAVIS: Okay, your Honor.

1 BY MR. DAVIS:

2 Q. "Question: And is this another medication that you
3 had prescribed to Mr. Dolin that you understood or
4 believed that it had an increased risk of suicidal
5 thoughts or behavior?

6 "Answer: I don't think Levaquin in reality has any
7 increased risk of suicidal behavior. You read this kind
8 of thing almost every drug you prescribe."

9 Did I read that correctly, Dr. Sachman?

10 A. I think it's -- you read it correctly, and I think it's
11 absurd to think that Levaquin had anything to do with suicide.

12 Q. Dr. Sachman, I hadn't suggested that. My question simply
13 was: Despite the information in the labeling of Levaquin
14 about how it may cause certain adverse effects or potential
15 side effects including suicidal acts or thoughts, you
16 prescribed the medication to Mr. Dolin --

17 MR. RAPOPORT: Objection, asked and answered.

18 MR. DAVIS: -- true?

19 THE COURT: It's covered. He has his own opinion.
20 Proceed.

21 BY MR. DAVIS:

22 Q. And you also told Mr. Dolin that if he had any reactions
23 from any of the information that's pre -- that's outlined in
24 the labeling for Levaquin to let you know, correct?

25 A. I doubt it.

1 Q. Can you turn to Page 336, Line 21 of your deposition, Line
2 21, through 337, Line 3.

3 A. Page 337, Line 3?

4 Q. 336, Line 21 --

5 A. Okay.

6 Q. -- through 337, Line 3. Were you asked these questions,
7 and did you give this testimony under oath:

8 "Question: Did you talk with Mr. Dolin at all about
9 if he had -- if he took Levaquin and had any kind of
10 suicidal thoughts or behaviors or hallucinations or
11 depression, insomnia, restlessness, or anxiety that he
12 ought to tell you about them?

13 "Answer: Yes. He knows that about anything he
14 takes. He knew that about anything he takes. If you're
15 having a bad effect, call me."

16 A. Yes.

17 Q. Did I read that testimony correctly?

18 A. You did.

19 Q. Thank you. The last -- let's turn our attention to the
20 last sertraline prescription. That was on June 18, 2010,
21 right?

22 A. Correct.

23 Q. And in June of 2010, Mr. Dolin was having increased
24 anxiety from work, right?

25 A. Correct.

1 Q. The only specifics he gave you about was -- what was going
2 on at the time was that he had too much responsibility and he
3 was overworked?

4 A. Correct.

5 Q. And he did not mention anything to you about transitioning
6 from the head of his practice group to some other role,
7 correct?

8 A. No.

9 Q. He did not mention that?

10 A. Did not.

11 Q. And before you restarted Mr. Dolin on sertraline, you had
12 discussions with him about how his anxiety was increasing,
13 correct?

14 A. Yes.

15 Q. And, in fact, Mr. Dolin and you had more than one
16 discussion about that before he finally agreed to restart
17 sertraline, correct?

18 A. Yes.

19 Q. He talked to you also about his work and how work was
20 becoming a little overwhelming?

21 A. He talked about his increasing anxiety regarding work.

22 Q. And how it was becoming a little overwhelming?

23 A. I would not use that term.

24 Q. Okay. Can you turn to Page 128 of your deposition
25 beginning on Line 14? And it's going to go through Page 129,

1 Line 3.

2 "Question: And what did you understand his job to be?

3 "Answer: He was -- he was a managing partner of this
4 large law firm. He was a member to a bunch of
5 associates."

6 MR. RAPOPORT: "Mentor."

7 MR. DAVIS: Oops, thank you. Excuse me.

8 BY MR. DAVIS:

9 Q. "And he was a mentor to a bunch of associates. And
10 in addition to his, I guess his, call it corporate
11 duties, he was bringing in business as a practitioner,
12 too. And he smoked -- spoke to me about it -- and he
13 spoke to me about in those, you know, the weeks, the last
14 several weeks before his death about, you know, work
15 becoming a little overwhelming. But these weren't
16 things, these weren't problems he hadn't had in the past,
17 you know. He just got through them in the past,
18 sometimes with the help of medication."

19 Did I read that correctly?

20 A. Yes.

21 Q. Okay. And that was your sworn testimony that day?

22 A. Yes.

23 Q. Okay. Stewart Dolin thought he did not need medication
24 and that things were going to work out and things would slow
25 down, but he finally got to a point where he saw it was not

1 lessening and he needed some -- something, correct?

2 A. Yes.

3 Q. And you believe that the variety of things he was
4 responsible for at work was just beyond what he could handle,
5 true?

6 A. Again, what he could handle because of his anxieties.

7 Q. Yes.

8 A. Yes.

9 Q. And on June 18, 2010, you prescribed generic sertraline at
10 50 milligrams a day for Mr. Dolin, right?

11 A. Yes.

12 Q. And this was a phone call as opposed to an office visit,
13 right?

14 A. Could be. I don't see it in front of me.

15 Q. Can you look -- can you look at your office records, I
16 think, which are behind -- I believe they're behind Tab 2,
17 Joint Exhibit 11. And I'll ask you, do you see any notation
18 in there at all about Mr. Dolin restarting sertraline before
19 he passed away in 2010?

20 A. No, but our discussion must have been outside the office,
21 and I didn't make a notation.

22 Q. So the discussion must have been outside the office, and
23 you didn't document it into your chart?

24 A. Correct.

25 Q. Okay. Thank you. And you don't recall -- so it was not

1 an office visit, it was -- it was --

2 A. It may have been a phone call. It may have been over
3 dinner. It was --

4 Q. Do you know which one --

5 A. -- outside the office.

6 Q. -- it was?

7 A. I don't know which one it was.

8 Q. And I think the purpose of the sertraline prescription in
9 2010 for Mr. Dolin was that over a period of several weeks, he
10 was having more stress, more stress-related symptoms and
11 anxiety because of work-related issues?

12 A. Correct.

13 Q. And you and he decided together that it was of his benefit
14 to go on something to mitigate the symptoms, right?

15 A. Right.

16 Q. And then the pharmacy records, with respect to the
17 Levaquin prescription, you believe that -- that was to treat
18 an infection that Mr. Dolin had in his urinary tract, right?

19 A. Yes.

20 Q. And he indicated to you that he was going to start the
21 Levaquin immediately because he sounded pretty uncomfortable
22 from those symptoms, right?

23 A. Yes.

24 Q. And the reason Mr. Dolin changed from generic sertraline
25 to generic paroxetine is he was having, as you describe it, a

1 very nonspecific problem and a little nausea, correct?

2 A. A variety of symptoms including nausea.

3 Q. Right. And you didn't know what specific -- it was very
4 nonspecific, he didn't present you with some specific
5 symptom --

6 A. Correct.

7 Q. -- that he was having, right?

8 A. Right.

9 Q. And he also had a little nausea, right?

10 A. Right.

11 Q. And you could not tell if he was sick or he had a side
12 effect, so you decided to change the medication, right?

13 A. Right.

14 Q. And you believe Mr. Dolin stopped taking the generic
15 sertraline after a couple of tablets because he did not know
16 if he was having some kind of nonspecific side effect, right?

17 A. Correct.

18 Q. You don't know how long he took the generic sertraline or
19 the Zoloft, do you?

20 A. How long he took the generic --

21 Q. Sertraline.

22 A. -- sertraline?

23 I'm sure he stopped it by the 27th.

24 Q. Right. But in terms of some specific time period, you
25 don't know how long he took the generic sertraline, do you?

1 A. Well, it had to be between the time it was prescribed and
2 ended certainly by the 27th. If he stopped it before the
3 27th, I don't know that.

4 Q. But you don't know whether he took it for three -- two
5 days or three days or four days, do you?

6 A. No.

7 Q. No, you don't know?

8 A. No, I don't know.

9 Q. Okay. And when you switched Mr. Dolin from generic
10 sertraline to generic paroxetine, it was because both you and
11 he started thinking about the past and how he did in the past
12 with medications and decided that it was really the Paxil he
13 did better on, correct?

14 A. Correct.

15 Q. And so the last prescription that you wrote for Mr. Dolin
16 for paroxetine was on June 27, 2010, right?

17 A. Yes.

18 Q. And you don't -- even though it says the prescription was
19 written -- can we call that up, Mr. Holtzen, the June 27,
20 2010 -- the June 27, 2010, behind Joint Exhibit 1. Yes.

21 Okay. You don't -- you do not believe that Mr. Dolin
22 took paroxetine on June 27, 2010, which is the date that he
23 filled the prescription, true?

24 A. I think he took it, started taking it on the 8th.

25 Q. On --

1 A. I think he started taking it on July 8th is when I think
2 he started taking it.

3 Q. Okay. You don't believe that Mr. -- so -- okay. There's
4 an entry -- I think you mentioned this in your direct where
5 you told the jury that you spoke with Mr. Dolin on July 8,
6 2010, and that's when he started taking the medication,
7 correct?

8 A. Yes.

9 Q. And but we know that's not accurate, right?

10 A. How do we know that?

11 Q. Isn't it true that while the entry in your medical records
12 is dated July 8, 2010, that's not the date you spoke to him
13 about going back on --

14 A. Oh, no.

15 Q. -- paroxetine?

16 A. That's correct. I'm sorry.

17 Q. I'm sorry?

18 A. You're right. I may have misunderstood the question.

19 Q. Just so it's clear, the entry -- can we pull up the July
20 8, 2010, entry in Dr. Sachman's records?

21 This entry that you spoke about on direct, that's not
22 the date you spoke to him about going back on paroxetine, true?

23 A. We spoke about going back on paroxetine when he stopped
24 the sertraline. We decided he would go back on the Paxil --
25 start the Paxil, or the paroxetine, at the time we decided,

1 which was the 8th.

2 Q. Okay. So just so it's clear, the entry in your records,
3 you didn't speak to him on July 8, 2010, true?

4 A. Yes, I did.

5 Q. Okay. Can you turn to Page 264 of your deposition, Lines
6 4 through 8?

7 A. Which page did you say?

8 Q. 264.

9 A. Okay.

10 Q. And if you -- Line 264, Lines 4 through 8, were you asked
11 this question and did you give this answer under oath:

12 "Can you say one way or the other whether you spoke
13 to him on July 8, 2010?

14 "Answer: I did not speak to him on July 8. That was
15 the day I realized I needed to make an entry into the
16 chart about it."

17 Did I read that correctly?

18 A. You did, and that is my error. That's incorrect. That's
19 not what happened.

20 Q. Okay. So your testimony today is different than what it
21 was when we took your deposition?

22 A. Regarding that issue, yes.

23 Q. Okay. And then the next question -- let me go back. So
24 isn't it, in fact, true that you actually spoke with him
25 sometime before July 8, 2002?

1 A. About a hundred times before.

2 Q. No, no, about paroxetine, about going on --

3 A. Yeah, about a hundred times.

4 Q. And isn't it true that when you -- at your deposition,
5 your testimony was that he -- that you spoke to him sometime
6 before July 8, 2002, not on July 8, 2002?

7 MS. HENNINGER: '10.

8 BY MR. DAVIS:

9 Q. Excuse me. Let me strike that. You believe you spoke to
10 him sometime before July 8, 2010, as opposed to July 8, 20' --

11 A. No, I'm saying I spoke to him on July 8th and before then.

12 Q. In your deposition, you told us that --

13 A. I understand that.

14 Q. Yes. Just let me get my question out and you can -- I'm
15 happy to take your response as it comes.

16 In your deposition, you told us that, in fact, you
17 didn't speak to him on July 8, 2010, but you had spoken to him
18 sometime before that about going back on paroxetine?

19 MR. RAPOPORT: Objection, your Honor. Asked and
20 answered.

21 THE COURT: I think it's covered.

22 BY MR. DAVIS:

23 Q. I think one of the issues you told us about is that when
24 you have -- you're treating a close friend, you don't always
25 document as you would with a different patient; is that right?

1 A. Correct.

2 Q. And, in fact, one of the problems in treating your close
3 friends is you don't document records such as what -- when
4 conversations take place and when visits take place, correct?

5 A. Correct, sometimes.

6 Q. And when you spoke to Stewart Dolin about switching from
7 sertraline to paroxetine in June or July of 2010, you didn't
8 have any conversation with him about how many pills of the
9 sertraline he had taken, true?

10 A. True.

11 Q. And you didn't have any conversations with Stewart Dolin
12 the last time you spoke with him and provided him -- let me
13 back up.

14 When you last spoke with him, you didn't have any
15 conversations in which you told him he should not take the
16 paroxetine until he finished taking Levaquin, right?

17 A. Right.

18 Q. And while you told him that he should not take paroxetine
19 until he had been off sertraline for at least a week, you
20 don't know whether or not he did that, do you?

21 A. I don't think he'd take a drug we thought was making him
22 sick.

23 Q. But you don't know whether or not he continued to take --
24 how long he had been off the sertraline --

25 A. I assumed he stopped it on the day I prescribed the Paxil.

1 He was -- if it was making him sick, why would he continue it?

2 At least we thought it was making him sick.

3 Q. And when you first prescribed paroxetine to Mr. Dolin and
4 also when you reinitiated it in 2010, the reason was he was
5 having anxiety that was work related, right?

6 A. Yes.

7 Q. And, in fact, when you reinitiated paroxetine for
8 Mr. Dolin in 2010, you went over with him the fact that he
9 needed to be on the lookout for the signs and symptoms of
10 agitation, increased restlessness or insomnia, panic attacks,
11 worsening depression, or suicidal thoughts or behavior after
12 he started the medication?

13 A. Right.

14 Q. And after you reinitiated paroxetine for him, you -- in
15 2010, you explained to him that information because what you
16 knew about Paxil or paroxetine and that patients who took that
17 medication may be at an increased risk for suicidal thoughts
18 or behavior, true?

19 A. Yes.

20 Q. And you did not limit that discussion in any way to say
21 that that increased risk just happened in 24-year-old patients
22 and below, correct?

23 A. No.

24 Q. What I said was correct?

25 A. No, what you said was correct.

1 Q. Okay. In fact, you've never told any patient that the
2 signs and symptoms that are reflected in the paroxetine, or
3 Paxil, labeling only happened to those patients who were 24 or
4 younger, have you?

5 A. I don't recall 100 percent. I would think I didn't get
6 that specific in discussions with patients.

7 Q. Okay. Can you turn to Page 266 of your deposition, Line
8 21? Let me know when you're there, Dr. Sachman.

9 A. Okay.

10 Q. "Question" -- did you give this testimony --

11 MR. RAPOPORT: Excuse me. Your Honor, I would need
12 to know all the lines we're going to read and have a chance to
13 read them before we go forward.

14 THE COURT: All right.

15 MR. DAVIS: Page 266, Line 21 through 267, Line 5.

16 MR. RAPOPORT: One moment, please.

17 (Pause.)

18 MR. RAPOPORT: Okay.

19 BY MR. DAVIS:

20 Q. Did you -- were you asked these questions, and did you
21 give these answers under oath:

22 "Question: Have you ever told any patient at any
23 time that the signs and symptoms that are reflected in
24 the labeling such as akathisia, agitation, insomnia,
25 irritability, or worsening condition are limited to

1 patients who take Paxil --

2 "Answer: No.

3 "Question: -- or paroxetine --

4 "Answer: I'm sorry."

5 "24 or younger?

6 "Answer: No."

7 Was that your testimony that day?

8 A. Yes.

9 Q. And before you wrote the last prescription for paroxetine
10 to Stewart Dolin, you recognized that the increased risk of
11 suicidal thoughts or behavior was not limited to patients who
12 were 24 or younger, true?

13 A. True.

14 Q. And when you reinitiated the medication, paroxetine, in
15 2010, you again informed Wendy Dolin at that time that she
16 needed to be on the lookout for the signs and symptoms of
17 worsening condition or suicidal thoughts or behavior since her
18 husband was restarting the medication, correct?

19 A. Yes.

20 Q. And you also explained to her at the time that she needed
21 to be on the lookout for the signs and symptoms that were
22 described in the paroxetine, or Paxil, labeling, correct?

23 A. Yes.

24 Q. You told her at that time that if she spotted any change
25 in behavior in Mr. Dolin that she should call you, and you

1 think that she would know that on her own even if you hadn't
2 told her, true?

3 A. True.

4 Q. After you put -- after Mr. Dolin started paroxetine in
5 2010, he never -- let me back up. If we can call up JX
6 No. 11-008.

7 This is the entry that we talked about earlier, the
8 July 8, 2010, entry in your medical records, correct?

9 MR. RAPOPORT: Objection, your Honor. Asked and
10 answered 20 times at least.

11 MR. DAVIS: I'm not going back to anything I've ever
12 asked, Judge.

13 BY MR. DAVIS:

14 Q. And it says, it's for 10 milligrams, correct?

15 A. Yes.

16 Q. And it says, "call if problems," correct?

17 A. Yes.

18 Q. And it also says, "call 10 to 14 days," right?

19 A. Right.

20 Q. And so any time after Mr. Dolin restarted paroxetine, he
21 never called you with any problems or symptoms or side effects
22 that he believed he was having, correct?

23 A. Correct.

24 Q. All right. You mentioned a contact that you had with
25 Mrs. -- with the Dolins two days before Mr. Dolin passed away.

1 Do you remember that discussion?

2 A. Yes.

3 Q. Okay. And you all had dinner, you and Mrs. Dolin and
4 Mr. Dolin had -- went to a shiva and also to dinner that
5 evening, correct?

6 A. Correct.

7 Q. And you believe that you all were together about two
8 hours, correct?

9 A. About, yes.

10 Q. And when Mr. Dolin was at the shiva or the memorial
11 service, he appeared fine and did not appear anxious, right?

12 A. Correct.

13 Q. And, in fact, that evening, you would describe him as
14 calmer than you were, right?

15 A. Right.

16 Q. And at dinner, you did not notice him acting any
17 differently, did you?

18 A. No.

19 Q. And Mr. Dolin did not say or do anything that in any way
20 was unusual during that dinner, did he?

21 A. No.

22 Q. And at no time during the time that you spent with either
23 Mrs. Dolin or Mr. Dolin that evening did either of them raise
24 any concerns that Mr. Dolin was having problems on paroxetine
25 or Paxil, correct?

1 A. Correct, they did not.

2 Q. In fact, they didn't raise with you that there was
3 anything unusual or out of the ordinary that was happening
4 with Mr. Dolin since he had restarted paroxetine?

5 A. Correct.

6 Q. You did not see anything to -- that suggested to you that
7 Mr. Dolin had akathisia that evening, did you?

8 A. No.

9 Q. No, you did not?

10 A. No, I did not.

11 Q. In fact, you were -- he was calming you down about a
12 situation that you were having at the office, correct?

13 A. Correct.

14 Q. And his behavior and presentation that evening was totally
15 appropriate for the circumstances?

16 A. Right.

17 Q. At no time during the dinner or that evening at the shiva
18 or the time that you spent with the Dolins that evening did
19 either of them say that Mr. Dolin was pacing or agitated,
20 right?

21 A. No.

22 Q. They didn't say, neither of them said that he was
23 repeating or saying that he was still having anxiety or had
24 increasing anxiety?

25 A. We did not talk about him at all that evening.

1 Q. And neither of them raised that issue --

2 A. No.

3 Q. -- with you that evening, did they?

4 A. No.

5 Q. And if either of them had said that to you, you would have
6 discontinued the paroxetine at that time, and you would have
7 had him see a psychiatrist?

8 A. Yes.

9 Q. And you didn't have any phone conversations with Mr. Dolin
10 in the two weeks leading up to his death, did you?

11 A. Did not have any conversations with him?

12 Q. Phone conversations with him.

13 A. I don't know. I may have had social conversations with him.

14 Q. Can you turn to Page 127 of your deposition, Lines 5
15 through 8.

16 Are you there, Dr. Sachman?

17 A. Yes. 128?

18 Q. 127, Lines 5 through 8. Were you asked -- are you there?

19 A. Yes.

20 Q. Okay. Were you asked this question, and did you give this
21 answer under oath:

22 "Question: All right. Do you recall having any
23 phone conversations with Mr. Dolin in the two weeks
24 leading up to his death in any capacity?

25 "Answer: I don't think so."

1 That was your sworn testimony that day?

2 A. Yes.

3 Q. At the time before Mr. Dolin passed away, Mrs. Dolin
4 didn't tell you at any time that Mr. Dolin had been pacing or
5 agitated or losing sleep, correct?

6 A. Correct.

7 Q. Or that he was acting out of the ordinary in any way?

8 A. Correct.

9 Q. Since Mr. Dolin has passed away, Mrs. Dolin has never told
10 you that Mr. Dolin was pacing, looking agitated, or had an
11 increased level of anxiety in the week before his death, true?

12 A. True.

13 Q. Since Mr. Dolin passed away, Mrs. Dolin has never told you
14 that he was tapping his leg or looking fidgety the week before
15 his death, true?

16 A. True.

17 Q. And you're not aware -- with respect to a client meeting
18 that Mr. Dolin had on Friday the week of his death, you don't
19 know anything about that meeting, do you?

20 A. No.

21 Q. You remember Wendy Dolin saying that she believed that
22 paroxetine played some role in her husband's death within a
23 month of him passing away, right?

24 A. Yes.

25 Q. And you did not respond to her in any way when she said

1 that to you, correct?

2 A. I think so.

3 Q. You don't think you did?

4 A. I don't remember at this point.

5 Q. Okay. And with respect to any kind of dinner, lecture,
6 retreat, or seminar sponsored by GlaxoSmithKline about Paxil,
7 you definitely did not attend any of that, did you?

8 A. To the best of my knowledge, no.

9 Q. You didn't attend, correct?

10 A. I did not attend.

11 Q. And you don't remember any article on either paroxetine or
12 Paxil that you relied upon for purposes of prescribing either
13 medication to Stewart Dolin, true?

14 A. A specific article?

15 Q. Yes.

16 A. No.

17 Q. And, in fact, you can't say you relied on any article to
18 prescribe Paxil, or paroxetine, to Mr. Dolin, can you?

19 A. No.

20 Q. No, I'm right?

21 A. No, you're right.

22 Q. You got asked some questions about PX 272, can you -- in
23 your direct. That's, if you could turn to the black notebook,
24 that's the notebook that Mr. Rapoport provided you.

25 You got asked some questions about samples in GSK's

1 sales representative visits. Do you remember that, yes?

2 A. Yes.

3 Q. All right. I want to ask you a question that didn't come
4 up. If you could turn to the last page, do you see there that
5 the last --

6 MR. RAPOPORT: Wait. Your Honor, forgive me.
7 Forgive the interruption. We had offered this exhibit into
8 evidence. I don't think it came in. And if it's going to be
9 used here, I would move again to admit it into evidence or
10 object to its use, one way or the other.

11 MR. DAVIS: I believe he questioned Mr. -- over
12 objection, he questioned Dr. Sachman about the leaving of
13 samples and the dates. And that's all I'm going back to, your
14 Honor.

15 THE COURT: Well, if it's not in evidence, you don't
16 have to use it, do you?

17 MR. DAVIS: Let me see if I can get to it another way.

18 THE COURT: I think you objected to it.

19 MR. DAVIS: I did, but you allowed Mr. Rapoport to
20 ask some questions about it, and I was just going to follow up
21 on what he asked questions about.

22 THE COURT: All right.

23 MR. DAVIS: May I proceed?

24 THE COURT: Yes.

25 BY MR. DAVIS:

1 Q. Okay. The last date that's reflected in the document
2 about GSK representative call notes deals with August of 2006,
3 right?

4 A. Yes.

5 Q. And so there's no record that -- in that document that
6 shows any sales visits or any samples being left behind to you
7 after August of 2006, right?

8 A. Right.

9 Q. And you don't have any criticisms or complaints about any
10 statements or actions by a GlaxoSmithKline sales
11 representative, do you?

12 A. No.

13 Q. And when you interacted with GlaxoSmithKline or SmithKline
14 Beecham sales representatives, they have always been
15 professional and courteous to you?

16 A. Correct.

17 Q. And if a pharmaceutical sales representative were to say
18 something that conflicted with something that was in the
19 labeling for medication or that was in the *Physician's Desk*
20 *Reference*, you would put more credence in the drug labeling
21 and not what the pharmaceutical representative said?

22 A. Correct.

23 Q. And you don't remember anything that a SmithKline Beecham
24 or a GlaxoSmithKline sales representative say to you about
25 Paxil or paroxetine and suicidal thoughts or behavior, do you?

1 A. No.

2 Q. Dr. Sachman, when you were treating Mr. Dolin, you did not
3 know who his intern -- his internist was before you started
4 with him, right?

5 A. No.

6 Q. No, you did not know?

7 A. I did not know.

8 Q. And Mr. Dolin never discussed with you the therapy
9 sessions that he had with his different therapists, right?

10 A. He did not, correct.

11 Q. And you knew that he was seeing some therapist, I think
12 you said in your direct testimony, in a remote way, right?

13 A. Yes.

14 Q. You never discussed Mr. Dolin's therapy sessions with
15 Mr. Dolin's therapist, did you?

16 A. No.

17 Q. No, you did not?

18 A. No, I did not.

19 Q. And you did not have any communication of any kind with
20 any of his therapists, did you?

21 A. No.

22 Q. And you don't -- you didn't know the name of his therapist,
23 did you?

24 A. Did not.

25 Q. And you never requested the records from either of the

1 therapists either in a phone call or through a letter, did
2 you?

3 A. No. That's not the usual way it works with therapists.

4 Q. And, in fact, there was never any communication between
5 your office and the office of those therapists where you
6 discussed Mr. Dolin --

7 A. No.

8 Q. -- right?

9 If Stewart Dolin had reported suicidal thoughts or
10 behavior to someone else including a therapist, that is
11 information that you would have wanted to know?

12 A. Yes.

13 Q. And you would have wanted to have known that information
14 because you would have taken Mr. Dolin by the hand to the
15 emergency room and gotten him the help he needed whether it
16 was an inpatient or outpatient treatment, right?

17 A. Correct.

18 Q. And you're not aware that in -- you're not aware that in
19 2007, Mr. Dolin reported being hopeless or having hopeless
20 feelings, are you?

21 A. I am not.

22 Q. And if you had known that, you would make sure that he
23 would see a psychiatrist, right?

24 A. Correct.

25 Q. And the last time that you saw Mr. Dolin -- strike that.

1 The last time that you prescribed paroxetine for
2 Mr. Dolin in 2010, you don't have any documentation that that
3 was an office visit with Mr. Dolin where you evaluated him for
4 his anxiety, did you?

5 A. Could you repeat the question?

6 Q. Sure. In your medical records, you don't have any
7 documentation that you actually had an office visit with
8 Mr. Dolin where you actually evaluated him for his anxiety?

9 A. No. They were phone conversations.

10 Q. Okay. And so you think the last time where you had this
11 conversation with Mr. Dolin about restarting paroxetine was a
12 phone conversation?

13 A. Yes.

14 Q. And because of that, there wasn't a time where you can
15 physically lay eyes on him and see how he was doing and what
16 was going -- and talk with him and see how his symptoms were
17 presenting?

18 A. No.

19 Q. No, there was not?

20 A. No, there was not.

21 Q. Okay. Dr. Sachman, you mentioned earlier in your
22 testimony that you were worried about being sued, if I
23 remember that correctly?

24 A. Uh-huh.

25 Q. Do you remember that?

1 A. I do.

2 Q. Okay. And you had an exchange with Wendy Dolin in January
3 of 2011 that concerned her filing a lawsuit, correct?

4 A. I don't recall that.

5 Q. Okay. Can you turn to Page -- to Tab 12?

6 A. To where? Tab 12.

7 Q. Tab 12.

8 MR. RAPOPORT: Your Honor, we do object to any use of
9 this exhibit based on a previous order excluding it.

10 MR. DAVIS: May we be heard at sidebar, your Honor?

11 THE COURT: Yes.

12 MR. DAVIS: Thank you.

13 THE COURT: Let's take a break now at this point.

14 (Proceedings heard in open court. Jury out.)

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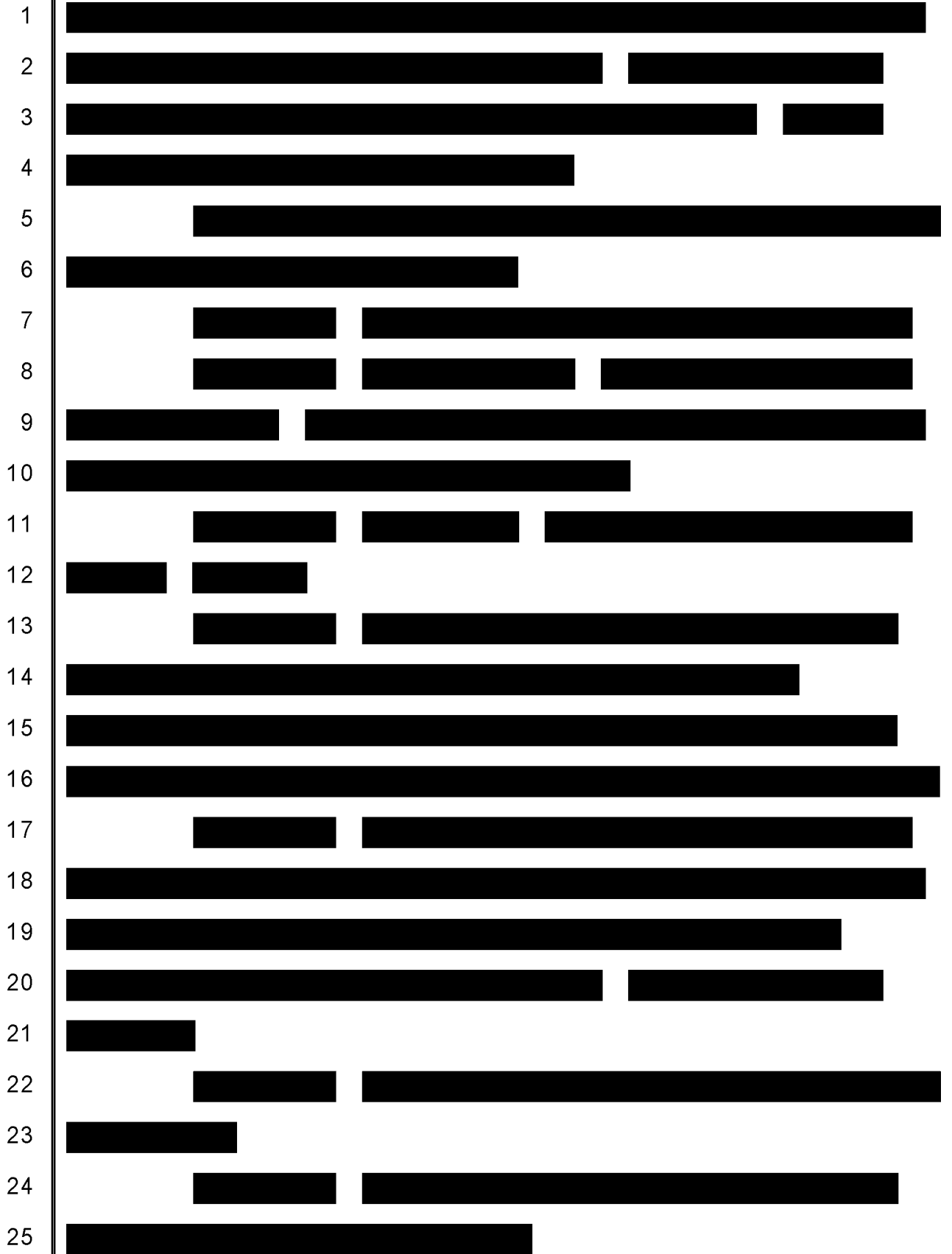
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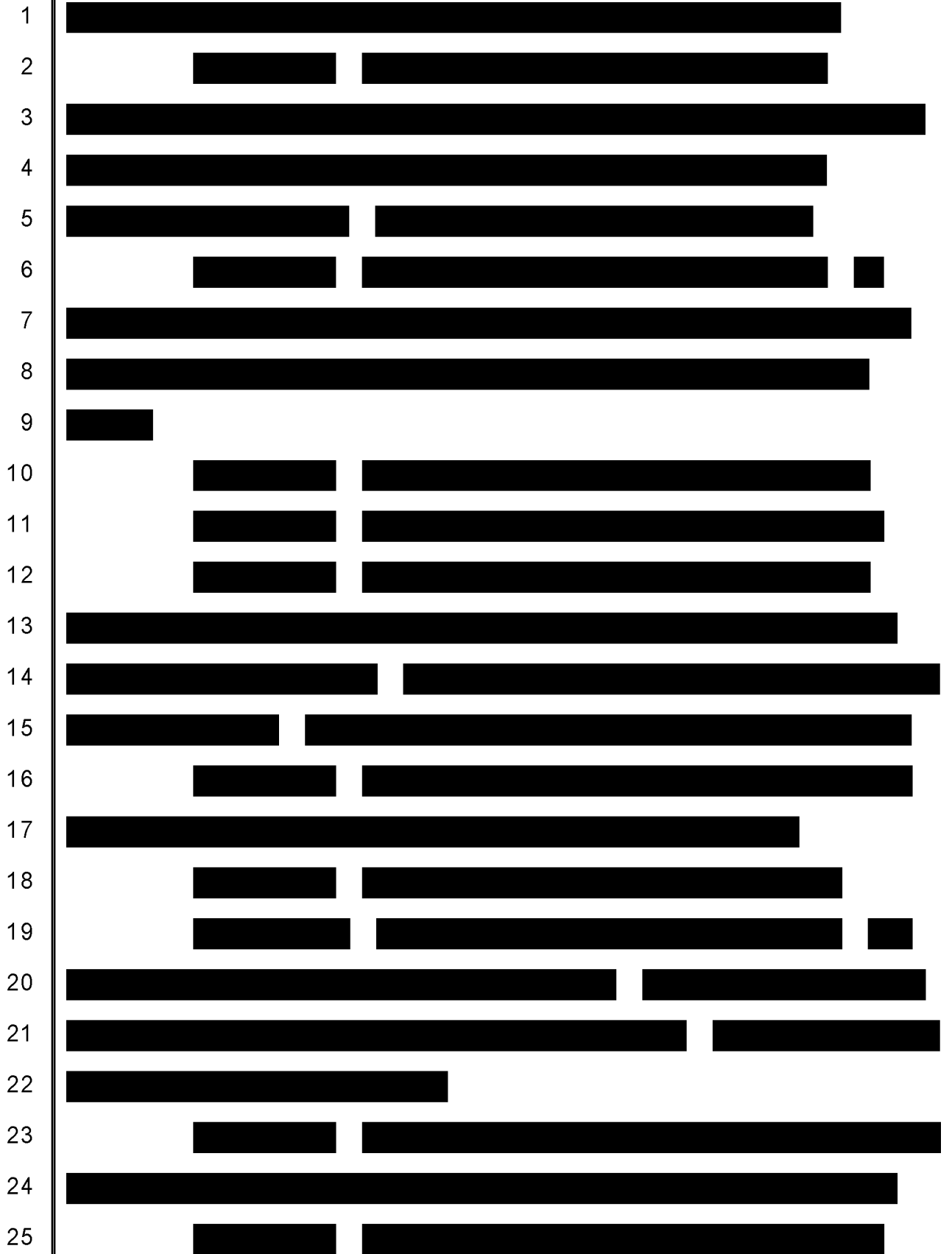
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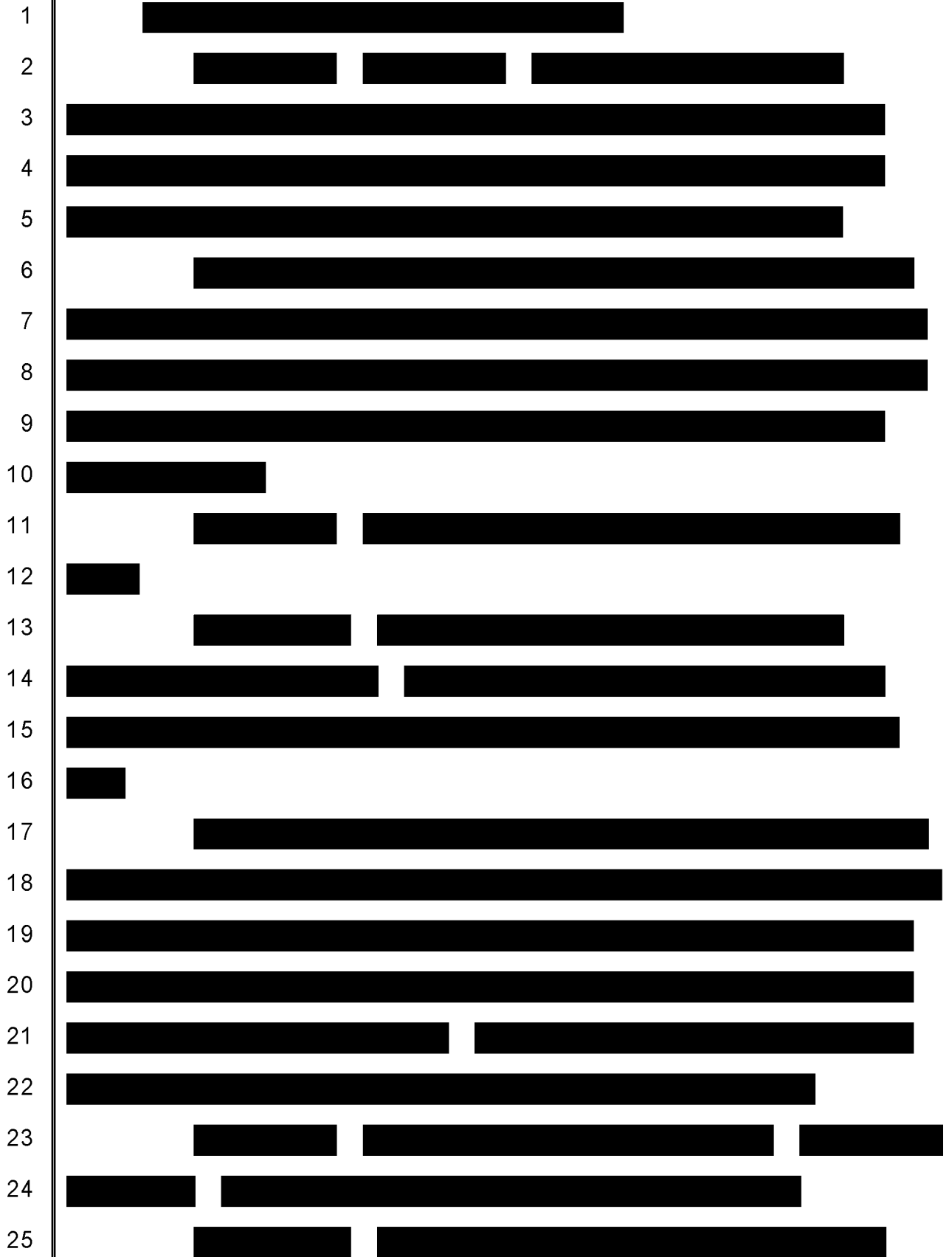
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(Recess from 3:06 p.m. to 3:10 p.m.)



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(Jury enters courtroom.)

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

You may proceed, sir.

MR. DAVIS: Thank you, your Honor. Dr. Sachman, ladies and gentlemen of the jury, counsel.

BY MR. DAVIS:

Q. Dr. Sachman, after Mr. Dolin's death, you contacted your malpractice carrier, true?

A. Yes.

Q. And the reason why you contacted them is because you felt any suit -- any lawsuit brought by Mrs. Dolin against anybody was going to involve you, and you didn't want to be involved

1 in any case without legal representation?

2 A. Right.

3 Q. And at the time that you did contact your malpractice
4 carrier, you didn't know whether Mrs. Dolin was going to file
5 a lawsuit against you, did you?

6 A. No.

7 Q. You didn't know?

8 A. I didn't know.

9 Q. And you believed at the time you contacted your
10 malpractice carrier that you, in fact, might be named in the
11 lawsuit by Mrs. Dolin?

12 A. That's why I contacted them.

13 Q. And you told Mrs. Dolin about your -- you contacting your
14 malpractice carrier, correct?

15 A. I think so.

16 Q. And you told Mrs. Dolin that you wanted to be supportive
17 and help her in any way that you could with the lawsuit and
18 comply with anything she wanted you to do as long as it was
19 okay with your malpractice carrier and attorney, true?

20 A. True.

21 Q. And later on -- let me -- you also spoke with Mrs. Dolin
22 about a presentation -- excuse me. Strike that.

23 You also conferred with Mrs. Dolin or communicated
24 with her about the presentation of the lawsuit and the
25 situation of you being involved in it to an attorney that was

1 at your malpractice carrier, correct?

2 A. Yes.

3 Q. And that also dealt with you signing a declaration or a
4 sworn statement that the plaintiff's lawyer, by the name of
5 Michael Baum, had sent you, correct?

6 A. Yes.

7 Q. And the reason why you said that is you wanted to know
8 what you had to do to protect yourself, right?

9 A. Right.

10 Q. Yes?

11 A. Yes.

12 Q. And there was a concern by you at the time that you needed
13 to protect yourself in some way if a lawsuit was filed by
14 Mrs. Dolin, correct?

15 A. Yes.

16 Q. Isn't it true that before November 17, 2010, you did not
17 know that the labeling for Paxil or paroxetine had excluded
18 the Paxil-specific data of 2006?

19 A. Say it again?

20 Q. Isn't it true that before November 17, 2010, you did not
21 know that the labeling for Paxil or paroxetine had excluded
22 the Paxil-specific data that was put in in 2006?

23 A. I don't understand the question.

24 Q. Okay. Mr. -- before November 17 --

25 A. Why is November important? I'm just trying to get a

1 reference in time here.

2 Q. I'll get there in a second, if you can just focus on my
3 question, please.

4 A. Well, I can't answer your question until I get a reference
5 in time.

6 Q. Okay. November of 2010 is after Mr. Dolin's death, right?

7 A. Yes. All right.

8 Q. And before November of 2010, you did not know that the
9 Paxil-specific information in the labeling had been taken out,
10 true?

11 A. I think I did know that.

12 Q. I'm sorry?

13 A. I think I did know that.

14 Q. Can you turn to page 327 of your deposition, lines 4
15 through 8.

16 Are you there, Dr. Sachman?

17 A. Um-hum, yes.

18 Q. Were you asked this question, and did you give this answer
19 under oath?

20 "Question: Before this November 17, 2010, e-mail,
21 did you know that the labeling for Paxil or paroxetine had
22 excluded the Paxil-specific 2006 data, as reflected in this
23 e-mail?"

24 And your answer was, "No."

25 Did I read that correctly?

1 A. You did.

2 Q. And that was your sworn testimony that day, was it not?

3 A. Yes.

4 Q. Since Mr. Dolin has passed away, you have taken trips with
5 Mrs. Dolin?

6 A. Yes.

7 Q. You have taken vacations -- you and your wife have taken
8 vacations with Mrs. Dolin?

9 A. Yes.

10 Q. You all have vacationed in different parts of the United
11 States, have you not?

12 A. Yes.

13 Q. And after Mr. Dolin has passed away, Mrs. Dolin has taken
14 trips with you out of the country, has she not?

15 A. Yes.

16 Q. And some of those trips that Mrs. Dolin has taken part in,
17 either her son Zachary or her daughter Bari have also gone on,
18 right?

19 A. We haven't been on a trip with Bari and Zack.

20 Q. Are you aware that Mrs. Dolin has taken trips with both
21 Bari and Zack Dolin?

22 A. You're talking about the three of them? Yes, yes.

23 Q. After Mr. Dolin has passed away?

24 A. Yes.

25 Q. With respect to the remaining pills that Mr. -- that were

1 remaining for Mr. Dolin's paroxetine prescription of 2010,
2 it's your understanding that there were four tablets that
3 were missing from the pill bottle, correct?

4 A. That's my recollection.

5 Q. Right. And so -- and just to remind the jury, that you
6 had written a prescription for 30 pills of paroxetine for
7 Mr. Dolin, right?

8 A. Yes. Would you say -- would you ask the question again?
9 How many pills were taken or how many pills left or pills
10 taken?

11 Q. Yeah. There was a 30 -- there were 30 pills that you
12 prescribed for Mr. Dolin on the last prescription, right?

13 A. Correct.

14 Q. And of those pills that were in the pill bottle after --
15 after Mr. Dolin passed away, your understanding is that there
16 were 26 pills remaining and not 30, correct?

17 A. Yes.

18 Q. Okay. But you yourself didn't count the pills, right?

19 A. I don't remember counting them.

20 Q. You didn't see them, either, right?

21 A. No.

22 Q. No, you didn't?

23 A. No, I didn't.

24 Q. And, in fact, you never saw Mr. Dolin take paroxetine or
25 Paxil at any time, did you?

1 A. Actually take the pill?

2 Q. Yes.

3 A. No.

4 Q. No, you did not?

5 A. No, I did not.

6 Q. And you also never actually saw him take either sertraline
7 or Zoloft, did you?

8 A. I don't think I ever saw him take any pill.

9 Q. You have never told Wendy Dolin, Bari Dolin, or Zack Dolin
10 that you believe Paxil or paroxetine caused or contributed to
11 Mr. Dolin's death, true?

12 A. I've never made that statement to them.

13 Q. And you don't recall Wendy Dolin, Zack Dolin, or Bari
14 Dolin ever asking you that question, do you?

15 A. I don't think they've asked me that directly.

16 Q. And you don't know whether Paxil or paroxetine did or did
17 not contribute to Mr. Dolin's death or his behavior before his
18 death, true?

19 A. No, I don't know.

20 MR. DAVIS: Okay. Thank you very much, Dr. Sachman.

21 MR. RAPOPORT: Good afternoon.

22 I'll just stay near this one. It will probably be
23 easiest.

24 REDIRECT EXAMINATION

25 BY MR. RAPOPORT:

1 Q. All right. Good afternoon. I want to ask you some
2 follow-up questions in several different areas. The first one
3 will just be this latest topic talked about, lawsuit fears.

4 So, back when you were represented by that lawyer for
5 your medical malpractice insurer, did you learn that -- after
6 Mrs. Dolin filed suit, that GSK would have two years to sue
7 you if they wanted to?

8 MR. DAVIS: Objection. Leading, your Honor.

9 THE COURT: Yeah, I'll sustain.

10 MR. DAVIS: Thank you.

11 BY MR. RAPOPORT:

12 Q. You did not expect Wendy Dolin to sue you, did you?

13 A. No, I did not expect Wendy to sue me.

14 Q. Who were you afraid of?

15 MR. DAVIS: Objection, your Honor. Leading.

16 MR. RAPOPORT: They brought this up.

17 THE COURT: Overruled.

18 MR. DAVIS: Thank you.

19 BY THE WITNESS:

20 A. Would you ask it again, please?

21 BY MR. RAPOPORT:

22 Q. Who were you afraid of suing you?

23 A. I was -- listen, I was more afraid of GSK than Wendy
24 Dolin, but no one knows what could happen when something like
25 this happens.

1 Q. Now, the next thing I want to do is talk with you about
2 the label for any drug that's in effect when you prescribe
3 it. Is that what you rely on?

4 A. Yes.

5 Q. Is that what all of the doctors in your specialty and
6 other specialties rely on?

7 A. That's what I would imagine.

8 Q. Do you do a historical study to find things that maybe
9 used to be in a label briefly that aren't in the label at the
10 time that matters?

11 A. Right. You use the most current label.

12 Q. You use the most current label. Is that something that is
13 required by the standard of professional conduct that applies
14 to doctors who are prescribing medicines?

15 MR. DAVIS: Objection. Leading.

16 THE COURT: No. That's a yes or no answer. You may
17 answer.

18 BY THE WITNESS:

19 A. I think it is.

20 BY MR. RAPOPORT:

21 Q. Now, I would like to utilize what we've marked as
22 Plaintiff's Exhibit 70. It's already in evidence. And what
23 this is would be the label for Paxil that was dated June of
24 2010. Let me start with that.

25 So, here, the first page just shows there's

1 Plaintiff's Exhibit 70. The top of it, you can see, is a
2 label for Paxil, and the back of it says June of 2010.

3 Doesn't get much more current to June 27th of 2010
4 than that, does it?

5 A. Correct, not.

6 Q. All right. Now, the folks here have had a chance to see
7 this label.

8 MR. DAVIS: Your Honor, I object to that being
9 presented on the screen. I think this was a document you
10 specifically ruled on and said it could not be -- this is
11 Dr. Ross's markup.

12 MR. WISNER: Right. The jury watched him mark it up.
13 It's been used. It's been disclosed.

14 MR. DAVIS: I apologize. I thought it was something
15 else. I don't believe it's in evidence yet, your Honor.

16 THE COURT: You may proceed.

17 MR. RAPOPORT: Let me remove any doubt about that.
18 I'd like to move right now to admit into evidence Exhibit 70,
19 which it was discussed extensively in the testimony of
20 Dr. Ross.

21 MR. DAVIS: I think we've already addressed this and
22 your Honor has already ruled about whether it's admissible or
23 not. So, I object on that basis.

24 THE COURT: What is it, by the way? It's a label,
25 isn't it?

1 MR. RAPOPORT: It's the current prescription label
2 with Dr. Ross's markings on it.

3 THE COURT: It may be received.

4 MR. RAPOPORT: Thank you, your Honor.

5 (Said exhibit admitted in evidence.)

6 BY MR. RAPOPORT:

7 Q. All right. Now, first of all, what we have on the screen
8 here --

9 THE COURT: Oh, let's go to sidebar. I see it now.

10 (Proceedings heard at sidebar:)

11

12 (Proceedings heard in open court, jury present:)

13 BY MR. RAPOPORT:

14 Q. We're going to have the same thing momentarily displayed
15 without the markings of another witness, and I'll ask you the
16 same questions.

17 MR. DAVIS: Mr. Rapoport, would you like to use JX 1?

18 MR. RAPOPORT: I'm happy -- I'll take it from anybody
19 who can provide it.

20 THE COURT: Well, JX 1 is the label, isn't it, the
21 current label?

22 MR. WISNER: I've got my team who's taking care of
23 me. Thanks.

24 BY MR. RAPOPORT:

25 Q. So, I have Joint Exhibit No. 1 on the screen, and let me

1 just blow this up for a portion. And just to get oriented,
2 before we do, if we go to the last page, that's the June of
3 2010 label, right?

4 A. Correct.

5 Q. And that is for Paxil, agreed?

6 A. Agreed.

7 Q. This -- do you have any doubt that you would have been
8 knowledgeable about the label that was current when you gave
9 the June 27th of '10 prescription?

10 A. Absolutely not.

11 Q. Now, the first thing that is apparent from this label
12 would be the black box warning, right?

13 A. Yes.

14 Q. And this black box warning talks about increased risk
15 compared to placebo for suicidal thinking and behavior in
16 children, adolescents, and young adults under certain
17 circumstances. Would you agree?

18 A. Yes.

19 Q. Now, it mentions the word "Paxil" in the body of it,
20 right?

21 A. Yes.

22 Q. And it also mentions Paxil up top, because this is about
23 Paxil, right?

24 A. Correct.

25 Q. Then it says that there's -- that short-term studies did

1 not show an increase in the risk of suicidality with
2 antidepressants compared to placebo in adults beyond the age
3 of 24, correct?

4 A. Correct.

5 Q. Did you rely on that representation by this defendant when
6 you prescribed Paxil to Stewart Dolin on June 27th of 2010?

7 A. Yes.

8 Q. Did you believe it to be truthful?

9 A. Yes, absolutely.

10 Q. And did you believe it to be not misleading?

11 A. I did.

12 Q. At any time in any of the labels -- forgive me. I just
13 want to grab my computer.

14 In the 2010 label -- let me just change my question.

15 In the 2010 label, was it revealed by the manufacturer that in
16 the initial clinical trials, they knew about five suicides,
17 with four of them being by violent means?

18 A. It was not revealed.

19 Q. Did they reveal that they knew that those involved people,
20 among other ages, in their 50s?

21 A. Not.

22 Q. Was it revealed that there was -- that there were no
23 suicides in the initial clinical trials in people who were
24 randomized to placebo?

25 A. It was not revealed.

1 Q. Was it revealed that in those clinical trials, they
2 initially counted 42 suicide attempts that happened, and then
3 it reduced the number to 40?

4 MR. DAVIS: Your Honor, I would object as outside the
5 scope of my examination.

6 THE COURT: Overruled.

7 BY THE WITNESS:

8 A. That was not revealed.

9 BY MR. RAPOPORT:

10 Q. Was it revealed that the clinical trials had 40 suicide
11 attempts compared to one on people randomized to placebo?

12 A. It was not.

13 Q. Was it revealed that false and misleading information was
14 given to the FDA at the time of these original clinical trials
15 suggesting that instead of a clear suicide behavior signal,
16 there wasn't one?

17 MR. DAVIS: Your Honor, I object that that's leading
18 and argumentative as well.

19 THE COURT: Yes. You've got to be specific, sir.
20 They object, I suppose, to false and misleading.

21 BY MR. RAPOPORT:

22 Q. Do you -- have you seen in any of the labels that you've
23 ever seen from GSK about Paxil any reference to the fact that
24 they had a suicide signal from attempts and suicides in the
25 initial clinical trials that was of the magnitude of 7 to 8

1 times greater risk than similarly-depressed people on placebo?

2 A. I certainly have not.

3 Q. Had you ever seen data from GSK that the Stone and Jones
4 group that were working for the FDA in 2006 calculated an
5 increased risk for Paxil of 2.76 times what similarly-situated
6 depressed people have?

7 A. I've never seen that.

8 Q. And did they ever reveal anything about how, unlike most
9 of the other members of this class, Paxil has an increased
10 risk for people over 24?

11 A. I did not ever see that.

12 Q. Was it ever revealed to you, sir, that the risk for people
13 on Paxil was the same for people of any age that got the drug
14 when it came to suicidal behavior?

15 A. No.

16 Q. Now, the -- with respect to this -- well, withdrawn.

17 Is it fair to characterize the black box warning that
18 we're looking at here as communicating a risk of drug-induced,
19 Paxil-induced suicidal behavior for people under 24?

20 A. Yes.

21 MR. DAVIS: Objection. Leading.

22 BY MR. WISNER:

23 Q. Is that how you understood this label to read?

24 A. Yes.

25 Q. If we think about the time frame from when you first

1 started prescribing Paxil in 1992 until the mid-2000s or maybe
2 early 2000s, was there even a statement in there about people
3 under 24 having an increased risk of drug-induced suicidal
4 behavior?

5 A. People under 24? Yes.

6 Q. Right. Was there ever even a mention to it before --
7 there came a time in your career where it changed from no
8 warning at all --

9 A. Prior to that, no.

10 Q. -- to under 24?

11 A. Right.

12 Q. Did the information about short-term studies not showing
13 an increase in the risk of suicidality compared to placebo in
14 adults beyond age 24 influence your decision about whether to
15 give Stewart Dolin Paxil or not?

16 A. It would have.

17 Q. You were asked some questions about your personal
18 practices with respect to prescribing Paxil since Mr. Dolin
19 died, and I would like to follow up with you on those
20 questions. Are you ready?

21 A. Yes.

22 Q. Now, first of all, when you prescribe Paxil for the very
23 first time for somebody, that's a new prescription; would you
24 agree?

25 A. Yes.

1 Q. When that is refilled monthly, that's -- those are refills
2 on that prescription. Agreed?

3 A. Yes.

4 Q. If there is a several-year break between the prescription
5 of that drug or any other and the time when you might
6 prescribe the same drug again, that's another new
7 prescription, isn't it?

8 A. Yes, it is.

9 Q. So, how many new prescriptions for Paxil have you given
10 to anybody of any age since Stu Dolin died?

11 A. None.

12 Q. Why?

13 A. I don't trust the labeling. I don't trust the company, to
14 be honest.

15 Q. Now, before Stu Dolin died, you were living with a label
16 that talked about an increased risk of suicide from Paxil for
17 people that were 24 and under, as we've discussed, right?

18 A. Yes.

19 Q. Did you ever prescribe this drug for people under 24 once
20 that came out?

21 A. I have not.

22 Q. And would -- would you ever?

23 A. No.

24 Q. If the label read similarly to what it does except it made
25 it clear that the risk applied to people of all ages, not only

1 those under 24, what impact would that have had on your
2 thinking?

3 A. If the label had said that years ago, I would have
4 probably never prescribed the drug.

5 Q. And with regard to refills that you give on the drug now,
6 please explain why you do that.

7 A. Well, there -- I have several people who have done well on
8 this medication for years, and because they're doing well, I
9 see no reason to take a medication away that's been helping
10 them for years. I feel they're probably safe with that drug
11 after a number of years.

12 Q. Now, bear with me for a moment. I don't have too many
13 more questions.

14 You were asked a lot of questions on
15 cross-examination about different versions of the clinical
16 worsening and suicide risk section of the label, which appears
17 on page 11 of Joint Exhibit 1, correct?

18 A. I guess.

19 Q. And in here, there is a repeat of some of the information
20 about the increased risk for people 24 and under, correct?

21 A. Yes.

22 Q. And then we have a statement in here as well that the
23 short-term studies did not show an increased risk in the
24 suicidality with antidepressants compared to placebo in adults
25 beyond the age of 24, correct?

1 A. Yes.

2 Q. Let me just call that out.

3 You relied on the truth of that in this label, didn't
4 you?

5 A. Yes, I did.

6 Q. And the truth of similar statements in the various labels
7 that preceded this one, right?

8 A. Absolutely.

9 Q. This one was current for two-and-a-half years before you
10 prescribed paroxetine to Stewart Dolin on June 27th of 2010,
11 isn't that right?

12 A. That's right.

13 Q. All right. Now, concerning the list of many different
14 things that you were questioned about, this behavior, that
15 behavior, and other behavior, is this something that could be
16 said about -- that list of things, could that be said about
17 depression overall without regard to impact of a drug?

18 A. Absolutely.

19 Q. And is that the kind of thing that you learned in medical
20 school?

21 A. Medical school, practice, residency. It's common sense.

22 Q. So, the idea if somebody is depressed, they have an
23 enhanced risk of suicide from depression, agreed?

24 A. Agreed.

25 Q. However, that's a very different topic than taking that

1 risk and multiplying it by seven or eightfold or threefold or
2 twofold from a drug, correct?

3 A. Correct.

4 MR. DAVIS: Your Honor, leading.

5 THE COURT: Yes. Don't lead. Ask questions. Don't
6 ask him if he agrees with you or not.

7 MR. RAPOPORT: Right.

8 BY MR. RAPOPORT:

9 Q. How would you characterize the provisions of the label
10 that the defense questioned you extensively about during your
11 cross-examination?

12 A. I'm not sure I understand that.

13 Q. Yeah. So, you were -- actually, let me rephrase that.

14 You weren't asked any question on cross-examination
15 about what the black box warning was on the label in effect
16 when you gave the prescription, right?

17 A. Right.

18 Q. And you weren't shown the language that I have
19 highlighted, either, that's in the 2010 label during your
20 cross-examination, is that correct?

21 A. That's correct.

22 Q. But you were shown some of the kind of language that
23 appears above that that I haven't highlighted, right?

24 A. Yes.

25 Q. Is that the sort of language that you would expect to see

1 in any antidepressant?

2 A. Yes. It's -- it's language that's describing symptoms
3 that can occur in any depressed or anxious person.

4 Q. How would you characterize that sort of information in the
5 label? What's it telling a doctor about the drug?

6 A. Really nothing, really nothing about the drug. It's very
7 misleading.

8 Q. Okay. And I want to point out this language here that I'm
9 highlighting. And for our record, I highlighted the part of
10 the sentence that says, "whether or not they are taking
11 antidepressant medications." Do you see that?

12 A. Yes.

13 Q. So, these various provisions of the label that were
14 pointed out were basically what could be in a medical textbook
15 or something about depression or anxiety?

16 A. Yeah. It's -- that's correct. Those statements are just
17 rubber stamp things that can appear anywhere through
18 generality.

19 Q. Now, coming back to the clinical situation with Stu Dolin
20 that you were treating, just to get it really clear, your
21 working diagnosis that led to the prescription of Paxil was
22 what again?

23 A. Situational anxiety.

24 Q. And in that situational anxiety, how would you
25 characterize it? Mild, moderate, severe?

1 A. I would say mild.

2 Q. And with respect to mild situational anxiety, would a
3 doctor -- would you perceive that as something where there was
4 a high risk, putting aside whatever drugs may do, of these
5 various horrors that are on here?

6 A. No, I would not expect.

7 Q. Let's talk about Levaquin. You mentioned that it was an
8 antibiotic in response to his Honor's question. Is this a
9 commonly prescribed antibiotic?

10 A. It's very, very commonly prescribed. The main thing we
11 worry about these days with that group of drugs called
12 quinolones is that they can cause tendonitis and tendon
13 rupture. I've never heard anybody talk about emotional
14 change, suicidal ideation, anything like that with that drug.

15 Q. At any point, did any of the labels from GSK inform you
16 that there was a risk of Paxil flipping a switch in somebody's
17 brain and causing an otherwise normal-looking person to do
18 something like jump in front of a train?

19 A. No.

20 Q. If you knew that, would you have ever prescribed this
21 drug?

22 A. Of course not.

23 Q. You were asked a lot of questions on cross-examination,
24 and the hour is late, so let me just ask you broadly, is there
25 anything else that you would like to elaborate upon that was

1 brought up during your cross-examination that I may not be
2 smart enough to ask about?

3 A. No. I just think that -- I'd like to say that in the
4 midst of all of this attempted confusion of the real issue
5 here, if it was clear that this drug had a higher risk of
6 causing suicide in the age group Stewart Dolin was in, I would
7 have never prescribed it.

8 Q. Thank you.

9 A. That's not clear on any current label.

10 Q. And why do you say that's the central issue here?

11 A. Because that's why we're here. I prescribed a drug that I
12 had no idea of the truth about the research involved. There
13 was dishonest labels, and if I knew the actual data --

14 MR. DAVIS: Your Honor, I think we're far afield now,
15 and I would move to strike and ask the jury to disregard.

16 THE COURT: The last statement may go out, yes. We
17 haven't proven -- everything must be proven here.

18 MR. RAPOPORT: Okay.

19 THE COURT: Thank you.

20 MR. RAPOPORT: And, your Honor, if I may just take a
21 moment to consult with my colleagues, perhaps we'll get a
22 lucky answer to that question.

23 (Short interruption.)

24 BY MR. RAPOPORT:

25 Q. What effect, if any, did the warning up top about 24 and

1 under have by way of the color or lens with which you saw the
2 rest of the label?

3 A. I'm not -- rephrase.

4 Q. Yeah. What impact on your thinking did the clear
5 statements about the suicide risk applying to people 24 and
6 under have on your thinking about prescribing Paxil before
7 Stu died?

8 A. Well, it's -- you know, there's a clear statement of risk,
9 where you can make a decision, an informed decision on whether
10 you want to take that risk with the patient at hand.

11 In any situation with a patient, you need to measure
12 risk against benefit. And if I had the opportunity to have
13 done that with Stu Dolin, I don't think I would have ever
14 prescribed that drug. I didn't have the opportunity to
15 measure the potential risk versus the potential benefit.

16 Q. Let me ask you this: If for some reason you did prescribe
17 it but the label said that the suicide risk as described for
18 people under 24 applied equally to people over 24, do you have
19 an opinion, based on your knowledge of Stu Dolin and
20 everything about him and his way of thinking, whether he would
21 have ever agreed to go on to that drug?

22 MR. DAVIS: Objection. Speculation.

23 THE COURT: Yes. Sustained.

24 MR. RAPOPORT: All right. Okay. Well, with that,
25 I'm going to stop asking you questions, but I appreciate you

1 coming in. Thanks.

2 THE WITNESS: Thank you.

3 MR. DAVIS: I have a few, a handful of questions.

4 THE COURT: A handful?

5 MR. DAVIS: Yes, sir.

6 RECROSS-EXAMINATION

7 BY MR. DAVIS:

8 Q. Dr. Sachman, with respect to your prescription for
9 paroxetine for Stewart Dolin that we went through that began
10 on October 3, 2005, the labeling that you reviewed and knew
11 about included all the labeling that took place from May of
12 2004 through 2010, right?

13 A. No. How could it have included what was there in 2010?
14 The label in 2010 was different.

15 Q. The labeling that you utilized for Stewart Dolin in
16 prescribing him paroxetine, that included the May 2004
17 labeling and Dear Health Care Provider letter we went over,
18 right?

19 A. You're talking about the prescription in July of '10?

20 Q. I'm talking about before you initiated treatment with
21 Stewart Dolin.

22 A. When?

23 Q. On October 3, 2005.

24 A. Okay.

25 Q. The labeling that you utilized was the May 2004 and the

1 February 2005 labeling and the revisions that we went over at
2 length with the jury, right?

3 MR. WISNER: Your Honor, I want to impose an
4 objection. That is beyond the scope. There was not a single
5 question asked about 2005 prescription. The entire redirect
6 was all about the 2010 prescription that brings us here today.

7 MR. DAVIS: He asked him what he knew about, your
8 Honor, and I'm following up on that.

9 THE COURT: All right. Well, I'll let you have
10 latitude.

11 MR. DAVIS: Thank you.

12 THE WITNESS: What was the question?

13 MR. DAVIS: Sure.

14 THE COURT: Read it back, please.

15 (Record read.)

16 BY THE WITNESS:

17 A. Yes.

18 BY MR. DAVIS:

19 Q. Yeah. And you've never prescribed paroxetine or Paxil to
20 anybody under the age of 30, true?

21 A. True.

22 Q. Yeah. And you mentioned that you don't trust the labeling
23 or the manufacturer. Do you remember that?

24 A. I do.

25 Q. And, in fact, you've got people who are taking Paxil or

1 paroxetine that you're renewing prescriptions for, correct?

2 A. Yes, I am.

3 Q. And despite the fact that you say you don't trust the
4 labeling or the manufacturer, what you tell them is something
5 that's no different than what's in the labeling for 2010 for
6 Paxil and paroxetine, true?

7 A. No. I don't even know what your question is. What I am
8 saying to you is that patients for whom I renew prescriptions
9 have been on this drug for more than five years and doing
10 well. That's the only statement I can make. I don't even
11 understand your question.

12 Q. Would you be so kind as to turn to page 273 of your
13 deposition, line 3 through 14.

14 And it's on -- really starting on page 273, line 7.

15 A. Are you asking me if I now tell patients who have been on
16 the drug for five years or more about things that I now know
17 that I didn't know then?

18 Q. I'm just going to ask you the question, Doctor.

19 A. Okay.

20 Q. Question -- were you asked this question, and did you give
21 this answer under oath?

22 "Question: Do you tell -- do you have patients who
23 are currently on Paxil or paroxetine?

24 "Answer: Yes.

25 "Question: Do you tell them anything differently

1 than what is in the paroxetine prescribing information or
2 labeling that is marked as Exhibit 5?

3 "Answer: No."

4 Did I read that correctly.

5 A. That's correct.

6 Q. And I think we've already established that the paroxetine
7 labeling that's marked as Exhibit 5 to your deposition --

8 MR. DAVIS: If you could put the ELM0 on, please.

9 BY MR. DAVIS:

10 Q. That's the Paxil or paroxetine labeling that we went over
11 with the jury that shows that -- this is Exhibit 5 to your
12 deposition, right? Yes?

13 A. What are you saying?

14 Q. What I'm showing the jury is Exhibit 5 to your deposition?

15 A. Okay.

16 MR. WISNER: Your Honor, I do want to --

17 BY MR. DAVIS:

18 Q. And then this is the labeling that we went over about --
19 that was revised in January 2008 and that would be in effect
20 in 2010, correct?

21 A. Yes.

22 Q. Okay. And, in fact, when we took your deposition, I
23 specifically asked you whether or not you had formed any
24 opinions about GSK's conduct or had any criticisms or
25 complaints about what GSK did or did not do; and you told me

1 that you had not had any such opinions, correct?

2 A. I may have said that then.

3 Q. That's right. And so today you have a different answer,
4 correct?

5 A. Yes, I do.

6 Q. And are you still worried about liability here today?

7 A. No. I have no liability currently.

8 Q. And, in fact, you've never gotten notice, any kind of
9 notice that GlaxoSmithKline intended to file a lawsuit against
10 you, have you?

11 A. No.

12 Q. You haven't, right?

13 A. No.

14 Q. And you weren't attempting to suggest to the jury in
15 response to Mr. Rapoport's question that GSK had threatened to
16 file a lawsuit against you or file a claim against you?

17 MR. RAPOPORT: I object, your Honor. I didn't start
18 this discussion today, and you know the law as well as any --
19 better than anybody here. So, whatever they said has nothing
20 to do with what their rights might have been if they acted.

21 MR. DAVIS: I'm following up on direct questions that
22 Mr. Rapoport asked.

23 THE COURT: Go ahead.

24 MR. DAVIS: Thank you.

25 BY MR. DAVIS:

1 Q. You weren't trying to suggest to the jury that GSK had
2 threatened you with a lawsuit or to file a claim against you?

3 A. No. There was only the potential.

4 Q. And the other potential lawsuit that you thought you may
5 be facing had to do with Wendy Dolin filing a lawsuit against
6 you, right?

7 A. Yes. Less likely, but yes.

8 Q. Yes. And the last time that you prescribed paroxetine to
9 Mr. Dolin, you knew and understood that you needed to be on
10 the lookout for the possible or potential side effects from
11 the use of the medication and the medication itself at the
12 time you last prescribed it to him, true?

13 MR. RAPOPORT: Objection, your Honor. We're just
14 looping here.

15 THE COURT: Sustained.

16 MR. DAVIS: Your Honor, this was specifically
17 addressed about how the labeling somehow did not convey
18 information about the medication versus the disease itself,
19 and I'm following up on that.

20 THE COURT: It's been covered. The objection is
21 sustained.

22 BY MR. DAVIS:

23 Q. You understood that the FDA approved the labeling for
24 Paxil, correct?

25 MR. RAPOPORT: Objection, your Honor. I didn't ask

1 a single question about the FDA.

2 THE COURT: Sustained.

3 MR. DAVIS: Your Honor, he did ask about what was
4 false or misleading, and I'm merely following up on what the
5 doctor's understanding is.

6 THE COURT: The objection is sustained, sir.

7 MR. DAVIS: Okay.

8 BY MR. DAVIS:

9 Q. You agree that if the FDA decides that certain language
10 should not be included in the labeling for prescription
11 medication --

12 MR. WISNER: Same objection.

13 THE COURT: Yeah. We didn't get into the FDA's role.

14 MR. DAVIS: All right, your Honor.

15 BY MR. DAVIS:

16 Q. And you agree, Doctor -- this is following up on a
17 question Mr. Rapoport asked you.

18 You agree that prior to 2010, GSK told you in the
19 May 2006 Dear Health Care Provider letter that the analysis
20 that it had done with respect to MDD patients suggested that
21 the higher frequency observed in the younger adult population
22 may extend beyond the age of 24, correct?

23 MR. RAPOPORT: Objection, your Honor. Beyond the
24 scope and looping.

25 THE COURT: Yeah, we've covered it before, sir.

1 You've covered it thoroughly.

2 MR. DAVIS: All right. Thank you, your Honor.

3 MR. WISNER: I have no further questions for him.

4 THE COURT: Thank you, Doctor. You're excused. You
5 better leave.

6 (Laughter.)

7 (Witness excused.)

8 THE COURT: All right. Call your next.

9 MR. RAPOPORT: Jeffrey Pecoraro. That will be by
10 video, your Honor.

11 THE COURT: All right.

12 MR. WISNER: I should mention to you, it will go
13 beyond, so it can be cut off at 4:30 or whatever you say and
14 continued. Its run time, I think, is 47, but it's no problem
15 stopping it at --

16 THE COURT: We will stop at the appointed time.

17 MR. WISNER: Yes, exactly.

18 (Videotape played.)

19 THE COURT: This may be a good place to break. Cut
20 it.

21 Okay. Ladies and gentlemen. Let's recess until
22 tomorrow morning at 9:30. Thank you very much for your
23 careful attention today. Remember all of my admonitions,
24 please.

25 (Jury exits courtroom.)

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CERTIFICATE

We certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

/s/Judith A. Walsh
Judith A. Walsh
Official Court Reporter

March 27, 2017
Date

/s/Charles R. Zandi
Charles R. Zandi
Official Court Reporter

March 27, 2017
Date