

Opening Statement - Mr. Rapoport (Resumed)

1 (Change of reporters - Volume 1-C)

2 (In open court outside the presence of the jury:)

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(Jury in at 3:01 p.m.)

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THE COURT: All right. Thank you very much, Ladies and Gentlemen. Please be seated. We'll resume.

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THE COURT: All right, sir.

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MR. RAPOPORT: Thank you, your Honor.

20

OPENING STATEMENT (RESUMED) BY MR. RAPOPORT:

21

MR. RAPOPORT: Welcome back.

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24

25

Okay. So what we've been talking about is the part of this -- really just to orient you, telling three stories -- of the story of what the evidence is going to show GSK's conduct was, which we talked about, the story of what was happening in

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1 medicine and what's different about these drugs with general
2 practitioners, which we talked briefly about. And for a while
3 now, maybe in less interesting part, we've been going through a
4 lot of different office visits and medical records about mental
5 health care.

6 So what I really want to do is zero in so we can get
7 at the heart of this, and it is that when -- he went on the
8 drug on July the 10th of 2015.

9 We're not quite there yet, but I wanted to just have
10 you understand that that's where we're aiming, so when we're
11 here at June 30th, we are -- he's off all medications now. And
12 you can see that right here. This is conceptually just around
13 two weeks before his death, okay? So off all medications now.

14 And we know he was on Zoloft briefly, it didn't work
15 out. On June 27th, he was given a prescription of Paroxetine
16 that brings us here today, but he didn't start taking it yet,
17 and here's some of the proof of that. He's off all medications
18 now.

19 He explained to Sydney Reed that he was seeing this
20 other therapist who uses behavioral methods, and that the other
21 therapist asked that she be the sole therapist, basically, that
22 she didn't want to have two therapies going on at the same
23 time.

24 Now, Sydney Reed, you saw all of these many office
25 notes, and, in summary, the office notes are showing talk

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1 therapy. That's what we're dealing with. She was a social
2 worker giving talk therapy to a man who had the various things
3 that we looked at already.

4 So the therapist had helped him, Sydney Reed wrote
5 that day, and that he was conflicted about giving up working
6 together with Sydney Reed, that he was very anxious, but she
7 suggested that he keep up exercise and come back if he wants.

8 So this is a transition of sorts, but you will see
9 that he sees her again, so we'll come -- you'll see all of that
10 as it happens.

11 So let me get back to where we were here.

12 In session number two -- there will be a total of
13 three sessions with Dr. Salstrom.

14 In session number two, which was on July 6th of 2010,
15 she wrote that he was expressing worries but motivated, that --
16 she's got some fancy language in there that she explains in her
17 deposition about anxiety, depression, sharing elements of
18 experiential, whatever. I'm not going to dig into that. I
19 want to zero in on the suicide stuff.

20 So there's no mention here of any suicidal thoughts,
21 just like there was no mention of any suicidal thoughts in her
22 notes before this.

23 And we go on from here. Dr. Sachman actually didn't
24 see Stewart Dolin in the office on July 10th, but this is a
25 time when he had documented the switch to Paxil that he had

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1 actually written a prescription for somewhat before this. So
2 Dr. Sachman --

3 MR. BAYMAN: Your Honor, I just ask that he use the
4 word "Paroxetine," the drug that he was taking, rather than
5 "Paxil." He continues to use "Paxil."

6 THE COURT: Keep it clear and proceed.

7 MR. RAPOPORT: Okay. And, your Honor, did you want me
8 to avoid "Paxil"? I'm just not sure. To me, it's clearer to
9 say "Paxil," but --

10 THE COURT: Well, it depends on the context. Proceed.

11 MR. RAPOPORT: Thank you.

12 So, anyway, I'm reading a direct quote here from
13 Dr. Sachman's office, where Dr. Sachman wrote about Paxil, so
14 that's -- that's where my comment came from.

15 So -- so you folks understand, Dr. Sachman will
16 explain that he did see Stewart in the last week of his life,
17 in fact, just a few days before. He didn't notice anything
18 unusual. Other people will be giving testimony along those
19 lines. But he did not see Mr. Dolin in his office on
20 July 10th.

21 So the -- July 10th was a Saturday. And here we are
22 showing you that this is the day that Mr. Dolin started taking
23 Paxil. That's what the evidence will show, and I'm going to
24 show you the evidence now that shows it, which is in the third
25 session, actually -- I said I'm going to show it to you, but

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1 apparently we didn't clip that part. In the third session on
2 July 12th, Dr. Salstrom mentions that he started on Paxil the
3 Saturday -- Saturday. That's kind of how we know, so Saturday
4 was July 10th before this. And here you have a significant
5 change two days into the med., so -- that's what the evidence
6 will show.

7 First of all, she writes he is much worse. Dysphoric,
8 which I think is another word for depression. This is a quote:
9 Client easily gets distracted by worry thoughts in session.
10 And then she wrote -- or said there were passive suicidal
11 thoughts without a plan, that he's stuck in worry or
12 rumination.

13 So this is the second time in his life when somebody
14 wrote down there were passive suicidal thoughts. The first
15 time was shortly after the dose of Zoloft was doubled, and the
16 second time was when he was two days into taking the Paroxetine
17 that Dr. Sachman had prescribed. Dr. Salstrom made the
18 decision that a good follow-up would be talking by telephone on
19 Friday of the same week.

20 I hit the wrong button.

21 Carrying this forward now, we are July 14th. This is
22 one day before the tragic events. And here you have the
23 notation from Sydney Reed's records about what happened that
24 day, and I'm going to take us through this slowly.

25 So he called in the morning, that he wanted to come

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1 in. He said he might be having a nervous breakdown. That
2 evening he was highly anxious and more depressed. He was
3 facing a difficult meeting at work. Talking it through, he
4 said he could handle it. Walked through family issues,
5 separating feelings from facts. He decided to increase his
6 exercise schedule. There were additional stress management
7 exercises given. He denied any thoughts of suicide when he was
8 asked. He was hopeful about a new medicine he had started,
9 which she wrote as Paxil. He also wanted to discontinue with
10 the behavior therapist and return for his weekly sessions, and
11 he agreed to call her on -- Thursday night is -- the very next
12 night, this is a Wednesday night, so call the next night.

13 Now, the evidence is going to show that Sydney Reed
14 woke up the next day and was -- didn't wait for the call, that
15 she actually called Mr. Dolin at around 10:30 in the morning,
16 and she suggested to him that he call his doctor for a
17 fast-acting anxiety drug to help him with his anxiety, and
18 that's where the mental health records end, and that's also
19 where the medical records end.

20 So you will hear the testimony of Sydney Reed. You'll
21 hear the testimony of Dr. Salstrom. Neither of them thought
22 that Mr. Dolin was suicidal. The night before his suicide, he
23 expressly was not thinking about suicide and told her as much.

24 She was concerned about his anxiety because both of
25 the two mental health professionals that he saw after he

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1 started taking the Paroxetine on July 10th -- that would be
2 Dr. Salstrom on July 12th and Sydney Reed on July 14th -- both
3 of them noted a substantial change in his condition that
4 occurred shortly after he started taking the Paroxetine. And
5 this was an unusual thing. He and Sydney Reed had what is now
6 a several-year relationship, even though he wasn't seeing her
7 all the time, but he, for periods, he would see her quite
8 regularly, as you've just seen, over the four years, and they
9 knew one another quite well. Never before July 14th had she
10 woken up the next day after a session and wanted to call him
11 and say maybe get a fast-acting anxiety drug. As a matter of
12 fact, never before had he called her to set up an appointment
13 that wasn't set up in the fashion that he did that day, and
14 never before had he said I think I'm having a nervous
15 breakdown. There were things that were different about
16 Mr. Dolin after he started taking the Paroxetine.

17 Now, does that mean that everybody who he came in
18 contact with noticed things that were different? No.

19 You will hear people, for example, Mr. Terry Schwartz,
20 who is an accountant and an acquaintance and a business
21 colleague, had lunch with Mr. Dolin the very day that he died.
22 And his day began with exercising at home. He then -- he had a
23 normal morning and he had a normal lunch where his co-workers
24 didn't notice anything particularly unusual. And what -- who
25 was the last person that actually saw Mr. Dolin, well, we don't

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1 know because it's down in the Blue Line subway station. But
2 what we do know is that there was one person, a nurse,
3 Mr. Pecoraro, who noticed Mr. Dolin and who also stuck around
4 and gave his statement, and so you will hear from him, even
5 though he also lives out of state -- so you'll hear from him as
6 well by way of video evidence deposition -- but Mr. Pecoraro
7 saw Mr. Dolin in the Blue Line station here at Washington, and
8 he was in between a couple of posts in the station, and I can't
9 repeat exactly what this was like, but he described it as
10 pacing, pacing, like almost a caged animal, like, pacing. This
11 is the last thing that was seen. And the subway train came
12 speeding into the station, and Mr. Dolin leaped in front of it.

13 Now, we don't have a full account of all of the time
14 from the time that the lunch ended and the time -- at 1:15 --
15 1:50, I misspoke, 1:50 p.m. on Thursday, July 15th of 2010,
16 when, roughly, Mr. Dolin's life ended. It ended quite
17 violently, and you will hear some evidence about that, but
18 we're not going to dwell upon the precise details of all he
19 went through associated with the collision, with the train, and
20 the contact with the electrical and other things that occurred.

21 So that is the three stories.

22 I want to -- I want to take a couple -- I better stay
23 near this thing.

24 I want to take a couple of minutes and try to bring
25 these together, and at the same time maybe we can -- does that

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1 get rid of that? There we go. Okay.

2 So what do we know here?

3 The evidence will show in this case that it was known
4 from the start of the clinical trials that people associated
5 with Paroxetine were killing themselves usually in violent ways
6 not too long after they started taking the Paroxetine.

7 This was a greatly increased risk over what was
8 happening to people that were of the same cohort, but who were
9 taking sugar pill placebo instead. This greatly enhanced risk
10 was known to GSK, but GSK did not put it in the label, and they
11 were not candid with the Food and Drug Administration at that
12 time. We went many, many years with no suicide warning.

13 Now, let me explain what that means.

14 There are things in the label that talk about
15 depression itself is associated with suicide and, you know,
16 that people with depression, you've got to look at that, and
17 there are various things at different points in time that are
18 in the label; but that is not the same thing as the label
19 saying that this drug is associated with drug-induced suicide,
20 this drug causes drug-induced suicide. It doesn't cause it in
21 everybody that takes it. That's why this is not a case about
22 the drug never should have come to market. This is a case
23 about how doctors needed to be informed, because, you see, it's
24 a system of reliance, folks. The doctors rely on the
25 pharmaceutical companies in order to honestly tell them about

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1 known risks. And we, the patients of doctors, rely on the
2 doctors and the pharmaceutical companies, because the entire
3 thing falls apart when there isn't candor because somebody
4 doesn't tell what they know about risks that are, in fact,
5 discovered.

6 And so this situation went from '89 until 2003 or so,
7 2004, when there was a big stink about the juvenile, finally
8 a -- some suicide warning went on, but the suicide warning that
9 went on went on for a whole class of drugs, and it talked about
10 for people 24 and younger. There was no suicide warning put on
11 Paxil for adults, even though GSK has known that there's
12 increased risk of suicidal behavior for adults, and the pattern
13 is apparent. It takes people who --

14 MR. BAYMAN: Your Honor, I'm going to be object under
15 404. Propensity evidence now --

16 THE COURT: Well --

17 MR. BAYMAN: -- because something happened, it means
18 it happened in the future --

19 THE COURT: I think you're verging on argument now,
20 sir.

21 MR. RAPOPORT: Okay.

22 THE COURT: Your function now is to tell the jury what
23 the evidence will be. You'll have an opportunity later in the
24 case to argue the evidence, but not now.

25 MR. RAPOPORT: Okay. I accept that.

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1 THE COURT: Just what you think the evidence is going
2 to be.

3 MR. RAPOPORT: Will do.

4 So the evidence in this case is going to show the
5 story number one that I told you about known risk that was
6 hidden, obscured, and not revealed. Known risk that should
7 have ended up in the label is what the evidence is going to
8 show.

9 The evidence is going to show that if the proper
10 warning had been put in, Mr. Dolin would have never been given
11 Paxil, and this suicide would not have occurred because the
12 evidence is going to show that this normal family man, this
13 excellent and hard-working lawyer, this person who was making a
14 million dollars a year, this person who had a \$3 million net
15 worth and no debt, this person who had nobody that was trying
16 to kill him and who didn't have a bad childhood, this person
17 who had anxiety and some depression, who is exactly who these
18 drugs are supposed to help, prescribed by a general practice
19 doctor because he had problems, but none of the professionals
20 working with him thought he needed a psychiatrist. Instead, it
21 was take a pill. But there was a dirty little secret about the
22 pill. That's what the evidence is going to show. And that
23 dirty little secret about that pill killed a very good man.
24 His family is going to be here seeking justice for his
25 destroyed earning capacity --

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1 MR. BAYMAN: Your Honor, we're now really on argument
2 here, seeking justice --

3 THE COURT: You argue the case later, please.

4 MR. RAPOPORT: The evidence will --

5 MR. BAYMAN: Can I ask that the jury disregard that,
6 your Honor?

7 THE COURT: Yes.

8 MR. RAPOPORT: The evidence will show the things I
9 just mentioned about the goodness of this man and what his
10 issues were and what they weren't.

11 The evidence will show the earnings that I just
12 described.

13 The evidence will show his normal work life and life
14 expectancy.

15 The evidence will show that this man's death should
16 not have happened at that time.

17 The evidence will show that not only should he still
18 be with his family and fine, but that he should be working at
19 the Reed Smith law firm and he should be continuing to work for
20 as long as he wanted to work.

21 The evidence will show that this family has lost \$12
22 million in lifetime earning capacity, and that's before we
23 begin to talk about the fantastic man that this -- that this
24 wife and this -- and these children have lost.

25 His Honor will tell you the law later. I cannot argue

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1 how the law applies to this case at this time. There will be
2 another time for that. I've tried hard to only tell you what
3 the evidence will show in this case.

4 And the bottom line is the evidence will show that
5 that corporation is at fault for this death. And you watch --
6 if the evidence shows that anybody else also shares in fault,
7 like Mr. Dolin or any -- Sydney Reed or anybody else, the
8 evidence will show whatever you conclude it does, but Stewart
9 Dolin paid with his life, and the question in this case --

10 MR. BAYMAN: Your Honor, this continues to be
11 argument. This is like a closing argument.

12 THE COURT: All right, wind it up, sir.

13 MR. RAPOPORT: All right. I'm going to wind it up by
14 saying this: Fault can be complete or shared, and we'll see
15 what happens here.

16 Thank you.

17 THE COURT: All right. Thank you, sir.

18 All right, Counsel?

19 MR. BAYMAN: I think the court reporter has to switch
20 the system over.

21 THE COURT: Are you ready?

22 MR. BAYMAN: Switching from their system to our
23 system.

24 THE COURT: Oh, I see, okay.

25 OPENING STATEMENT BY MR. BAYMAN:

Opening Statement - Mr. Bayman

1 MR. BAYMAN: May it please the Court, Counsel, Ladies
2 and Gentlemen of the jury.

3 I want to first start off by thanking you for your
4 service as jurors. It's a very important duty in our society,
5 and we appreciate your time and your attention over the next
6 few weeks as we tell you about this case.

7 This case is about Stewart Dolin, Ladies and
8 Gentlemen.

9 And I'm Andy Bayman. I'm pleased to represent
10 GlaxoSmithKline and this company, along with my colleagues,
11 Todd Davis, Ursula Henninger, and Alan Gilbert who you met this
12 morning during jury selection.

13 You also met Mr. Andrew Boczkowski, who is with
14 GlaxoSmithKline, or GSK, earlier this morning.

15 We're proud to represent the men and women of
16 GlaxoSmithKline, a pharmaceutical company that makes medicines
17 to treat serious medical conditions and diseases all over the
18 world.

19 One of those medicines that GSK manufactures is a
20 medicine called Paxil. It's a prescription medicine that has
21 helped people cope with the debilitating effects of depression
22 and anxiety from --

23 MR. RAPOPORT: Objection, your Honor.

24 THE COURT: Proceed.

25 MR. BAYMAN: There's been some confusion because

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1 you've also heard the term "Paroxetine" today.

2 Paroxetine is the chemical name for the medicine that
3 later became marketed by GSK and sold as Paxil, the brand name,
4 so in some documents that you will see, you will see the name
5 Paroxetine.

6 However, Paroxetine is also the name, as your Honor
7 instructed you at the beginning, of a generic medication
8 manufactured by another company. That's the medicine that
9 Mr. Dolin took before his death. Mr. Dolin took Paroxetine,
10 not Paxil.

11 We all have sympathy for the loss that the Dolin
12 family has experienced. This case is a tragedy, but all
13 suicides are tragedy.

14 MR. RAPOPORT: Objection, your Honor. Argument.

15 THE COURT: Proceed.

16 MR. BAYMAN: Ladies and Gentlemen, though, generic
17 Paroxetine did not cause Mr. Dolin to take his own life.

18 We've got a lot of ground to cover in this case; but
19 as you hear the evidence, I want to ask you to consider four
20 questions.

21 Let's look at those questions.

22 First, why did Mr. Dolin take his own life?

23 The answer to that question, Ladies and Gentlemen, is
24 Mr. Dolin's longstanding battle with anxiety and depression,
25 which started long before he ever took Paroxetine, plus the

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1 significant and increasing work stresses he was experiencing
2 right before his death.

3 This case is what happened to Stewart Dolin in 2010,
4 not about what went on in 1989 or 1991, before -- long before
5 Mr. Dolin ever took Paroxetine.

6 Now, Mr. Rapoport said this part may be the less
7 interesting part of the case, but actually I would submit to
8 you, Ladies and Gentlemen, it's the most interesting part of
9 the case, because it's about Stewart Dolin and what happened to
10 Stewart Dolin.

11 Mr. Rapoport went on for 60 minutes talking to you
12 about the history of the drug and interactions with the FDA
13 before he ever told you about Stewart Dolin. I'm going to
14 start with Stewart Dolin, and I'm going to tell you the rest of
15 the story.

16 During the course of this trial, you're going to hear
17 a lot of personal information about Mr. Dolin, including what
18 he was telling his therapists in private sessions.

19 Now, normally, medical records are private; but
20 because of this lawsuit, we must look at those records to help
21 answer the question of why did Mr. Dolin take his own life.

22 And you're going to see those therapists' records,
23 written in the therapists' own handwriting, with their own
24 shorthand, and I'm going to put some of those on the screen in
25 just a few minutes.

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1 The therapy records show that Mr. Dolin had a 20-year
2 battle with mental illness which peaked when he faced difficult
3 situations or uncertainties at work.

4 The evidence will show in the weeks and months before
5 his death, Mr. Dolin started to face more and more problems at
6 work.

7 And in the last few years of his life, when Mr. Dolin
8 faced problems at work, he confided in his therapists.

9 You will see those therapists' notes and what
10 Mr. Dolin was telling his therapists about his fears and
11 anxieties, and they were recording what he told them.

12 The evidence will show that Mr. Dolin hid those
13 thoughts and fears from his close friends. But what Mr. Dolin
14 was telling his therapists was his reality; and in his mind,
15 his worst fears were becoming real.

16 It is through those notes that we learn more about the
17 real Stewart Dolin.

18 So that is the first and foremost question you must
19 consider in this case: Why did Mr. Dolin take his own life.
20 And the evidence will show that it was not because of
21 Paroxetine.

22 The second question for you to consider is what is the
23 scientific evidence regarding Paxil and suicide?

24 GSK has been looking into this issue since well before
25 Paxil ever came on the market here in the United States in

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1 1992.

2 I'm going to go through some of that scientific
3 evidence quickly with you this afternoon, but you're going to
4 hear about it in much greater detail from Dr. John Kraus, GSK's
5 own scientist who was at GSK at the time when GSK did its most
6 extensive suicide analysis. However, the evidence will show
7 that Paxil does not cause suicide.

8 Third, did GSK communicate with the FDA, the
9 United States Food and Drug Administration, the regulatory
10 agency which controls which drugs are sold on the market as
11 well as the labels that attach to those drugs.

12 Did GSK adequately communicate to the FDA and to
13 doctors about the risks of Paxil?

14 The evidence will show that, yes, GSK definitely did
15 communicate to the FDA and doctors. And when GSK did new
16 studies or got new information, it told the FDA, and it worked
17 with the FDA to change the label and to give doctors the
18 information they needed to know.

19 Fourth and finally, was Mr. Dolin's doctor,
20 Dr. Sachman, his close friend that you've heard about, aware of
21 the possible risks of Paxil or Paroxetine?

22 The answer to that question is also a clear yes.

23 You will hear from Dr. Sachman, the Dolin's close
24 friend and family physician, during this trial. You will hear
25 that Dr. Sachman received and reviewed information from GSK

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1 including about a risk of possible suicidal thoughts and
2 behavior.

3 But even independent of what GSK told him, the
4 evidence will be that Dr. Sachman knew of the possible risks if
5 he started a patient on Paxil or Paroxetine. Not only did he
6 know, but the evidence will show that he told both
7 Mr. & Mrs. Dolin to watch out for any significant changes in
8 Mr. Dolin's behavior after he started the medication.

9 His Honor said to you this morning before we began
10 opening statements that you will be the ones to decide the
11 disputed issues of fact. That means you and you alone are to
12 determine what the evidence is most credible and most
13 believable, most likely, and the one with the strongest
14 support.

15 In the end, it's the plaintiff who must prove to you
16 that Paroxetine caused Mr. Dolin to commit suicide. We don't
17 have to prove what caused Mr. Dolin to commit suicide. But
18 it's clear when you look at all the evidence Paroxetine did
19 not.

20 In order to answer the first question, Ladies and
21 Gentlemen, we need the talk about anxiety and depression.

22 Anxiety and depression are serious medical problems
23 that affect millions of people in this country.

24 The evidence will be that untreated depression is
25 itself the single biggest risk factor for suicide.

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1 You're going to hear in this courtroom from GSK's
2 expert psychiatrist, Dr. Anthony Rothschild. Dr. Rothschild
3 will say that people commit suicide whether they're on the
4 medication or not on any medication, and have been committing
5 suicide as long as history has been recorded, long before
6 medications like Paxil and others ever came on the market.

7 Suicide happens to the rich and famous, and suicide
8 happens to everyday people.

9 In 2010, the year Mr. Dolin committed suicide, there
10 were close to 40,000 suicides in the United States.
11 Unfortunately, that's 1 suicide every 14 minutes. And in
12 Illinois alone, there were an average of three suicides per
13 day. Regrettably, Mr. Dolin was one of those suicides.

14 I'm going to spend a lot of time talking to you about
15 Stewart Dolin, as this case is about him.

16 Mr. Dolin's increasing anxiety led his close friend
17 Dr. Sachman to prescribe him antidepressant medications on
18 several occasions in the last few years of his life.

19 Mr. Rapoport told you a little bit about Mr. Dolin's
20 ongoing mental health issues, but I'm going to tell you what he
21 didn't tell you. I'm going to tell you the rest of the story.

22 MR. RAPOPORT: Objection, your Honor.

23 THE COURT: Proceed.

24 MR. BAYMAN: Mr. Rapoport told you how Mr. Dolin was
25 an elite partner at a big law firm, but the evidence will show

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1 that's not how Mr. Dolin saw himself.

2 We know from the therapists' records that, although
3 Mr. Dolin did a good job of hiding it, in reality Mr. Dolin had
4 extreme fears and severe anxiety, mostly driven by what was
5 happening at work. He had these extreme fears and severe
6 anxiety even when he was doing well and making a lot of money.

7 Now, Mr. Rapoport told you that Dr. Sachman was the
8 first health care professional to ever treat Mr. Dolin for any
9 anxiety or depression; but, actually, the evidence will show
10 that Mr. Dolin's first treatment for anxiety and depression
11 that we know of began in 1989 when he saw a psychiatrist named
12 Dr. Roth after he joined the Sachnoff & Weaver law firm.
13 Mr. Dolin treated with Dr. Roth for over seven years between
14 1989 and 1996 in both individual and group therapy.

15 In 1990 the Dolins and Dr. and Mrs. Sachman became
16 friends. They became good friends. You're going to hear how
17 they socialized together, vacationed together, their families
18 spent time together. Thereafter, Dr. Sachman became the
19 Dolin's family doctor.

20 Then in October 2005, Dr. Sachman first prescribed
21 Paroxetine for his friend Mr. Dolin at the same 10 milligram
22 dosage that he later prescribed Paroxetine in 2010.

23 Mr. Dolin filled 13 months' worth of prescriptions of
24 Paroxetine, from 2005 to 2006 -- that's 390 pills, Ladies and
25 Gentlemen -- and not once did he complain to Dr. Sachman or any

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1 other health care professional about any problems with the
2 medication. He stopped taking generic Paroxetine in late 2006.

3 But 2007 brought a lot of change to Mr. Dolin and high
4 levels of anxiety.

5 First, his Chicago law firm that you heard about,
6 Sachnoff & Weaver, a one-office, 140-lawyer Chicago firm,
7 announced in the fall of 2006 that it was going to merge in to
8 the global law firm Reed Smith, a law firm with 1,500 lawyers
9 with 20 offices all around the world. It was not a merger of
10 equals, Ladies and Gentlemen. Reed Smith was more than ten
11 times bigger. Mr. Dolin's firm was being absorbed into Reed
12 Smith, and it would become Reed Smith's 21st office.

13 You will learn that Mr. Dolin was the leader or chair
14 of the business department, a group of corporate lawyers within
15 Sachnoff & Weaver. And when his firm merged into Reed Smith,
16 Mr. Dolin was asked to co-lead the
17 Corporate & Securities group, or C & S group, with a Reed Smith
18 partner in California named John Iino.

19 Shortly after the announcement of the merger, but
20 before it became final in February of 2007, Mr. Dolin sought
21 treatment from a social worker named Sydney Reed. Ms. Reed was
22 a colleague of the plaintiff Wendy Dolin, who herself is a
23 social worker.

24 At Mr. Dolin's first visit, Mr. Dolin shared how the
25 structure of his new firm was radically different from his old

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1 firm and how that caused him anxiety.

2 He told Ms. Reed that he had anxiety about the merger
3 with Reed Smith in part because, although he went to Loyola, a
4 prestigious law school, he didn't go to Harvard or Yale, and he
5 didn't feel qualified to work at Reed Smith.

6 His first job was at an eight-person law firm, and now
7 he was joining a 1,500 law firm -- 1,500-lawyer law firm. And
8 as he says to Ms. Reed and she records in her note, he never
9 had strong mentors that helped him practice at a sophisticated
10 level.

11 Mr. Dolin returned to Ms. Reed a week later on
12 February 26th, 2007, when he -- at which time he told her he
13 can't sleep, he was having a hard time holding it together, he
14 wanted to get up and run. Mr. Dolin also reported that being
15 scared by the thought of not supporting his family.

16 And right after Mr. Dolin reported these concerns to
17 Ms. Reed, the Reed Smith merger happened.

18 After the merger took place, on May 14th, 2007,
19 Mr. Dolin told Sydney Reed he felt like he was in a completely
20 different world.

21 You will hear from Mr. Dolin's law partners in this
22 trial who will note the magnitude of the change for the
23 Sachnoff & Weaver attorneys.

24 After the merger, Mr. Dolin told Ms. Reed that he was
25 afraid that fear will make him stop functioning.

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1 The very next week, on May 26th, 2007, Mr. Dolin went
2 back to Ms. Reed, and he told her that he was frozen and afraid
3 of his professional life. He was asking what shall I do?

4 In early June, June 2nd of 2007, Mr. Dolin told
5 Ms. Reed he was feeling passive about what was happening and
6 that he never had a backstop financially.

7 In mid-June, on June 16th, 2007, that same month,
8 Mr. Dolin told Ms. Reed about lots of insecurities that he had
9 always had. She noted need to contain his anxiety.

10 These comments and other comments that you'll hear
11 during this trial that Mr. Dolin made to his therapists are
12 important because they candidly reveal what he was thinking at
13 the time but was hiding from other people.

14 They are also important because these same fears
15 resurfaced in 2010 when some real-life events occurred that
16 made these fears seem like they were coming true.

17 The evidence will also show that Mr. Dolin was unable
18 to get through this period with therapy alone due to his
19 increased fears and severe anxiety.

20 So he went back to Dr. Sachman, and Dr. Sachman
21 treated Mr. Dolin with another medication, Sertraline, what
22 Mr. Rapoport called generic Zoloft, from June 2007 until 2009.

23 Mr. Dolin took 1,000 Sertraline pills, over 600 days,
24 and he never reported any problems with that medicine to any of
25 his doctors, including his close friend Dr. Sachman.

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1 Instead, he started to become more optimistic. He
2 reported new opportunities at work. And as you'll see on this
3 slide, there's some examples of the more hopeful tones in
4 Mr. Dolin's visits to Ms. Reed in that summer and fall.

5 For example, on October 7, he reports he's been
6 reaffirmed in his leadership, and then Ms. Reed noted that he's
7 doing well.

8 The evidence will also show that on November 10th, he
9 says he recognizes he can survive hell.

10 However, as Mr. Dolin faced year-end pressures at work
11 at the end of that year, his first year at Reed Smith, in
12 December of 2007, Mr. Dolin went back to Ms. Reed and told her
13 that he had suicidal thoughts. It was his first year at the
14 new firm, and he was co-leading the group, but his group had
15 missed their budget by \$6 million.

16 The merger had caused his life to change completely.
17 He had extreme fears and severe anxiety about being able to
18 perform in the new firm and keep his job.

19 Ms. Reed explored those suicidal thoughts with
20 Mr. Dolin, and the evidence will be she determined they were
21 connected to his end-of-the-year work pressures.

22 However, Mr. Dolin never told his close friend
23 Dr. Sachman or anybody else about those suicidal thoughts.

24 In fact, as Mr. Rapoport pointed out, Mr. Dolin went
25 to see Dr. Sachman two weeks later on December 15th for a

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1 check-up, and he made no mention of any mental health issues,
2 let alone any thoughts of suicide.

3 At the start of 2008, Mr. Dolin appeared to be doing
4 better, financially, at work, and in therapy sessions to the
5 point that he stopped seeing Ms. Reed in June of 2008.

6 Now, as you may recall, the economy took a turn for
7 the worst in late 2008, and this directly impacted Mr. Dolin's
8 professional world.

9 In 2009 Mr. Dolin became the sole chair of Reed
10 Smith's Corporate & Securities Practice group because Mr. Iino,
11 his cochair, had gotten a promotion and moved to a higher rank
12 in the firm.

13 In this new role, given these tough economic times,
14 Mr. Dolin had to lay off attorneys, including the son of a very
15 close family friend. And his group failed to meet their budget
16 this time by \$30 million.

17 That brings us to 2010. In his own self-evaluation,
18 which he did at the end of the year -- he did about the end of
19 his year 2009 and prepared this in 2010, he described 2009 as
20 without a doubt been my most challenging year ever in my
21 professional career. He said in his own words the economy
22 played havoc with the practices of so many lawyers in C & S,
23 Corporate & Securities, including my own.

24 Early in 2010, Mr. Dolin also reviewed -- learned of
25 reviews from other lawyers in his practice group about his

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1 performance as practice group leader. They called him a
2 terrible practice group leader. Not motivational. Said he had
3 an utter lack of knowledge. Played favorites. Called him
4 arrogant. Non-responsive and deceitful. Another comment
5 called Mr. Dolin a middle market lawyer from a middle market
6 firm.

7 Regarding these reviews, you will hear from John Iino
8 that Mr. Dolin forwarded these reviews to Mr. Iino and said
9 somebody out there doesn't like me.

10 The point of this evidence is not to tell you that
11 Mr. Dolin was a bad person. Not at all. Instead, the evidence
12 will be that these comments tie into Mr. Dolin's longstanding
13 fears that he wasn't qualified to work at Reed Smith.

14 Then in February 2010, Mr. Dolin learned that he was
15 getting a six-figure pay-cut. Now, don't get me wrong,
16 Mr. Dolin still made very good money. But this pay-cut came as
17 a shock to Mr. Dolin. His compensation had never been cut
18 before. In fact, Mr. Dolin appealed his pay-cut to Reed
19 Smith's leadership.

20 Mr. Dolin described the firm's decision to lower his
21 compensation as a seismic shock to him.

22 This is his compensation appeal to the leadership of
23 Reed Smith.

24 He told the firm leadership that the compensation cut
25 was not warranted. But Mr. Dolin's appeal was unsuccessful.

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1 Now, you're going to hear from Mr. Dolin's law
2 partner, Paul Jaskot, one of the witnesses, as Mr. Rapoport
3 mentioned, who has testified under oath by videotape -- by
4 videotaped deposition, and it will be played to you.

5 Mr. Jaskot is going to tell you that this pay-cut was
6 very upsetting to Mr. Dolin. And because of the way the Reed
7 Smith law firm shared their data, Mr. Dolin's partners were
8 actually able to see his compensation cut so that all the
9 partnership knew his compensation had been cut.

10 Following the review and the pay-cut, at the end of
11 April 2010, Mr. Iino told Mr. Dolin that he wanted to name a
12 much younger partner, Paul Jaskot, as Mr. Dolin's cochair to
13 manage the C & S group with him.

14 Mr. Jaskot had worked as a vice chair under Mr. Dolin,
15 but now they were to be equals.

16 Mr. Dolin told others, including his wife, his
17 friends, his law partner and good friend Mike Lovallo, that he
18 had requested the change because he wanted to focus on his own
19 law practice. But you'll hear Mr. Iino say that the change was
20 not Mr. Dolin's idea, it was Mr. Iino's idea. The evidence
21 will show that Mr. Iino wanted Mr. Jaskot to be in the position
22 because he had more confidence in Mr. Jaskot. Mr. Iino will
23 tell you that himself.

24 After the appointment of Mr. Jaskot as cochair in May
25 of 2010, Mr. Dolin went back into treatment with his therapist

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1 Sydney Reed.

2 On May 20th, 2010, Mr. Dolin again brought up the same
3 issues that he had complained of in his compensation appeal.
4 It was still bothering him.

5 He complained about the fact that he had spent
6 enormous amount of time managing the group, yet he got his pay
7 cut. He was asked, Ms. Reed noted, what does he want to do.
8 Mr. Dolin was trying to figure it out, Ladies and Gentlemen.

9 The evidence will show you that he asked those
10 questions about what he should do because his pay had been cut,
11 he had now a much younger partner as cochair who was now his
12 equal.

13 On June 3rd, Mr. Dolin returned to Ms. Reed. She
14 notes that he was confused about his job and uncertain about
15 leaving or staying at Reed Smith. She notes he was not
16 enjoying being practice group leader.

17 You'll hear from Ms. Reed by videotape, as
18 Mr. Rapoport mentioned, talk about the similarities between
19 what happened in 2007 and what was currently happening in 2010.

20 But the evidence will show that what was different
21 this time around was that, unlike in 2007, in 2010 Mr. Dolin's
22 fears were actually starting to come true, or at least in his
23 mind they were. He had negative reviews, a six-figure pay-cut,
24 and the appointment of a younger cochair. In fact, Mr. Reed
25 noted -- Ms. Reed noted that he was highly anxious and said the

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1 old fear loop was triggered.

2 Now, Mr. Dolin wasn't taking any antianxiety or
3 antidepressant medications when he told Ms. Reed about his
4 increasing fears and severe anxiety in May of June -- May and
5 June of 2010.

6 In late June 2010, Mr. Dolin's close friend
7 Dr. Sachman started him again on Sertraline, the same
8 medication Dr. Sachman had put Mr. Dolin on from 2007 to 2009,
9 due to stresses from work and stress-related anxiety. But this
10 time Mr. Dolin complained to Dr. Sachman that he had a minor
11 complaint, such as nausea, so he only took it for a short time.

12 The evidence will show, Ladies and Gentlemen, that
13 whenever Mr. Dolin experienced issues with his medication, he
14 did not hesitate to tell his close friend Dr. Sachman.

15 Then on June 22nd, 2010, Mr. Dolin went to Ms. Reed
16 and told her that he thinks he's painted himself into a corner.
17 She noted he's getting very busy, but he's convinced he can't
18 do the work. She noted he wanted excuse to curl up in the
19 corner and that the fear of failure puts him in a position of
20 not even trying.

21 The evidence will show that these are the same fears
22 that he expressed three years earlier when he was not taking
23 any medication at all.

24 Then on June 29th, Mr. Dolin went to see a clinical
25 psychologist that Mr. Rapoport told you about, Dr. Seoka

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1 Salstrom.

2 Dr. Salstrom completed an intake form with Mr. Dolin
3 at this first visit.

4 Less than three weeks before he took his own life,
5 Mr. Dolin reported he had been experiencing anxiety at work,
6 well before he had restarted any medication, and that he felt
7 this way for the last month and a half. He told Dr. Salstrom
8 that he didn't feel clear in his mind. He was worried that he
9 would make a mistake or that something bad could happen and
10 leave him penniless.

11 Most importantly, Ladies and Gentlemen, when
12 Dr. Salstrom asked him, what would he want if she could have a
13 magic wand, he said no stress. When she says I have a magic
14 wand and I can make things go away, he says no stress.

15 At this visit Mr. Dolin was not taking any antianxiety
16 or any depression medication.

17 You'll hear Dr. Salstrom say that she recorded that
18 same session client described longstanding history of fears --
19 feelings of insecurity at work with some noted anxiety/worry
20 episodes during major mergers and responsibility changes.

21 Remember, he had just gone through a merger, and he
22 just had a change in responsibility.

23 Mr. Dolin also told Dr. Salstrom of the many stressors
24 he was experiencing at work, which no doubt included some of
25 the issues I've already mentioned to you.

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1 But what he didn't tell Dr. Salstrom, Ladies and
2 Gentlemen, was that he had had suicidal thoughts in the past,
3 specifically on December 1, 2007, the note that I showed you
4 earlier, when he confided in Mrs. Reed about his suicidal
5 thoughts. In fact, Dr. Salstrom note -- noted no history of
6 depression or suicidal ideation, which is suicidal thinking, or
7 attempts.

8 At the end of this visit, Dr. Salstrom gave Mr. Dolin
9 a questionnaire to fill out. She said fill this out and bring
10 it to me in your next session. But he didn't do that. And
11 you'll hear why that's important in a few minutes.

12 Now, you're going to hear from Dr. Salstrom by
13 videotaped testimony in this trial, and she's going to tell you
14 about the types of therapy that she does and how that differed
15 from the therapy methods used by Ms. Reed.

16 Dr. Salstrom's therapy method is designed to get a
17 patient to confront their anxieties, to bring it all out, and
18 then to act, whereas Ms. Reed's therapy is designed to lessen
19 anxiety.

20 The evidence will show that Dr. Salstrom believes that
21 a patient should not be exposed to both methods at the same
22 time. In fact, Dr. Salstrom told Mr. Dolin that he should stop
23 treating with Ms. Reed if he was going to continue to see her,
24 Dr. Salstrom.

25 You're going to hear also videotaped deposition

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1 testimony from Ms. Reed. The evidence will show that Ms. Reed
2 was also concerned about Mr. Dolin working with two different
3 therapy methods, and she agreed they were conflicting, they
4 could create confusion for the client, and most importantly
5 they could cause a heightened state of anxiety.

6 But the evidence will show that Mr. Dolin continued to
7 see both therapists. But, unfortunately, the therapists were
8 not coordinating with each other, nor were they communicating
9 with Dr. Sachman.

10 A week later at a second visit to Dr. Salstrom on
11 July 6th, 2010, Mr. Dolin again expressed worries and said he
12 thought I'm a bad lawyer, incompetent.

13 These are the same types of fears and anxieties that
14 Mr. Dolin was expressing to Ms. Reed back in 2007 when he was
15 not on any antianxiety or antidepressant medication.

16 Mr. Dolin -- Mrs. Dolin testified that -- earlier in
17 this case, and we expect she'll testify here, that Mr. Dolin
18 started taking generic Paroxetine on Saturday, July 10.

19 The evidence will show that Dr. Sachman recorded that
20 it was for increased work-related anxiety.

21 Listen to Dr. Sachman's testimony when he testifies.
22 He recalled that Mr. Dolin had done well on Paxil in the past,
23 and that's why he prescribed Paroxetine again in 2010.

24 After Mr. Dolin restarted generic Paroxetine, the
25 stress at work did not let up. He had a difficult meeting

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1 coming up that Friday with one of his clients, Miniatic, Inc.

2 Also the evidence will show that Mr. Dolin was upset
3 with Reed Smith because they had filed a lawsuit that he had
4 thought would adversely affect one of his largest client
5 relationships. He was worried that he might lose that client.

6 That Monday evening, believing he had major client
7 problems, Mr. Dolin had his third and final visit with the
8 psychologist, Dr. Salstrom. Dr. Salstrom noted Mr. Dolin had
9 many avoidance tendencies, especially at work. She further
10 noted that he got distracted by worry thoughts during the
11 session and that Mr. Dolin was stuck in worry.

12 The evidence will also show, Ladies and Gentlemen,
13 Mr. Dolin continued to avoid filling out that questionnaire
14 that Dr. Salstrom had given him at his first visit on June 29th
15 when he denied having any suicidal -- any history of suicidal
16 ideation or attempts.

17 On his second visit, he again had not completed that
18 questionnaire.

19 But it's during this third visit that Mr. Dolin
20 finally admitted to Dr. Salstrom that he hadn't filled out that
21 questionnaire since June 29th due to fear of passive suicidal
22 thoughts.

23 And having finally admitted that, it's important to
24 note that the evidence will show that from June 29th through
25 July 9th Mr. Dolin was not on any anti-anxiety or antidepressant

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1 medication on any of those days.

2 Mr. Dolin's anxiety was increasing and his problems at
3 work were growing.

4 In fact, on Wednesday morning, the day before he
5 committed suicide, Mr. Dolin, as Mr. Rapoport said, out of his
6 customary practice, reached out to Ms. Reed to schedule a visit
7 for that night.

8 Ms. Reed reported he was very upset, anxious, worried
9 about failing Wendy -- that's Mrs. Dolin -- and getting fired.
10 She noted he had a wish not to wake up. No plan.

11 The evidence will show that his longstanding fears
12 were starting to happen. These records reflect a consistent
13 theme that he expressed over the years when he was worried and
14 anxious even before he started work at Reed Smith.

15 You will hear Ms. Reed describe Mr. Dolin's anxious
16 demeanor during that visit, hear her explain that Mr. Dolin had
17 said he was worried about a difficult meeting that Friday at
18 work -- that was the meeting with the Miniat clients -- and you
19 will hear her talk about this final visit.

20 On the morning of July 15th, Mr. Dolin got up as
21 usual, he worked out on the elliptical machine at his home, he
22 drove to the Metra station in Glencoe where he lived, he took
23 the train to work to the Ogilvie station, he stopped at
24 Starbucks, he participated in some conference calls and he met
25 with Mike Lovallo his partner for 45 minutes that morning. He

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1 asked Mr. Lovallo to join him at a meeting with the Mini-
2 client the next day at which there was to be a shareholder
3 vote, which was a controversial proposal. Mr. Lovallo said it
4 didn't make sense for him to attend that meeting and Mr. Dolin
5 should attend alone.

6 While they were meeting, Susan Kolavo, Mr. Dolin's
7 client at Mini-
8 client at Mini-
9 vote because Mr. Dolin had failed to do the work the company
10 had requested of him.

11 He took a few more calls, and later that morning
12 Mr. Dolin received a call from Ms. Reed that Mr. Rapoport told
13 you about who told him to call his family doctor to get a
14 fast-acting antianxiety medication to calm him down based on
15 the behavior she had seen at the session the night before.

16 But Mr. Dolin didn't call Dr. Sachman.

17 Mr. Dolin attended a scheduled lunch with a business
18 acquaintance, Terry Schwartz.

19 While Mr. Dolin was at lunch, Kevin Mini-
20 member and shareholder of Mini-
21 expressing his anger about the postponement of the shareholder
22 vote. In this email, Kevin Mini- clearly states: This is not
23 acceptable.

24 That email came in at 12:11 p.m. And Mr. Dolin
25 returned from lunch around 12:45 p.m.

Mr. Dolin left his office around 1:15 and walked to

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1 the Blue Line Washington Station, a CTA train.

2 Now, Ladies and Gentlemen, we don't know how -- what
3 route he took to get there, but his office was here, the
4 Ogilvie Transportation Center, which is his normal train
5 station for the Metra train that he took into work and home
6 from work was here, and he walked over here. He would have had
7 to pass -- he would have had to navigate summer crowds and
8 traffic. Although we don't know exactly how he proceeded, what
9 route he took, he would have to go by a closer, either by or
10 under, a closer train station at Washington and Wells. But,
11 instead, we know that Mr. Dolin walked to the Blue Line station
12 over here. That's not a station that he normally used as a
13 Metra rider.

14 He went to the station, he purchased a ticket, and he
15 went through the turnstile. He waited for the train. And,
16 unfortunately, as the train approached, Mr. Dolin deliberately
17 jumped in front of the train and took his own life. His cell
18 phone and his wallet were not found among his personal effects
19 after his death.

20 Now, Ladies and Gentlemen, the evidence will show that
21 the decision to take his own life was Mr. Dolin's and
22 Mr. Dolin's alone and had nothing to do with Paroxetine. In
23 fact, we don't even know how many pills of Paroxetine Mr. Dolin
24 even took. We believe at most it was six pills, if he took it
25 as prescribed. But we will never know how many pills Mr. Dolin

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1 took because the evidence will show that Mrs. Dolin threw the
2 pill bottle away shortly after his death.

3 Now, Mr. Rapoport mentioned an eyewitness on the train
4 platform who said that Mr. Dolin was pacing shortly before his
5 death. But in response to an email requested by Mrs. Dolin,
6 that eyewitness, Mr. Pecoraro, sent an email stating
7 Mr. Dolin's behavior on the train platform was the type
8 routinely seen of individuals waiting on public transportation,
9 nor would it be surprising for someone who was about to end his
10 own life to be pacing right before he did it.

11 You will hear Mr. Pecoraro say Mr. Dolin was pacing
12 and agitated as he stood on the platform, but Mr. Pecoraro will
13 also say this behavior was not uncommon, not unusual, and not
14 out of the ordinary for somebody waiting on a train.

15 You will hear we expect in this case the plaintiff's
16 expert, who has testified at deposition and we expect he will
17 testify here, say that Mr. Dolin had a condition called
18 akathisia which was induced by Paxil and caused Mr. Dolin to
19 commit suicide.

20 Not one doctor or health care provider he saw in his
21 final week ever diagnosed him or suggested that he had
22 akathisia. You're only going to hear about akathisia from the
23 plaintiff's expert hired and paid for by Mrs. Dolin's lawyers.

24 However, you will hear from a number of people who
25 interacted with Mr. Dolin that last week, and none of them

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1 observed any symptoms to support the plaintiff's claim.

2 Dr. Salstrom, one of his therapists who saw him the
3 Monday before, Dr. Sachman himself, his close friend and
4 doctor, had dinner with the Dolins on Tuesday night, less than
5 48 hours before Mr. Dolin committed suicide. Dr. Sachman will
6 testify that Mr. Dolin was calmer than he was, and even offered
7 Dr. Sachman advice about a problem Dr. Sachman was having.
8 When asked if Mr. Dolin had akathisia, Dr. Sachman testified
9 only if I did. He was calmer than I was.

10 Dr. Sachman, Ladies and Gentlemen, is a trained
11 medical professional, and he didn't see any signs of akathisia,
12 nor did either Wendy Dolin nor Mr. Dolin say anything to
13 Dr. Sachman that night about any problems Mr. Dolin was
14 experiencing on the medication.

15 Sydney Reed, one of Mr. Dolin's therapists who saw him
16 the night before he took his own life, saw no evidence of
17 behavior consistent with what would be akathisia.

18 Mike Lovallo, Mr. Dolin's law partner and close
19 friend, he described Mr. Dolin as calm the morning of his
20 suicide compared to the way Mr. Dolin was earlier in the week.
21 Mr. Lovallo had met with Mr. Dolin for 45 minutes that morning
22 about the client issues that Mr. Dolin was facing.

23 Laura Krueger, Mr. Dolin's long-time secretary, who
24 interacted with him all week, she said she noticed nothing out
25 of the ordinary that week.

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1 And, finally, Terry Schwartz, the business associate
2 who Mr. Dolin had lunch with an hour before he took his own
3 life. Mr. Schwartz will testify by videotaped deposition that
4 Mr. Dolin was calm, coherent, and acting like he always had
5 during that lunch.

6 Therefore, the only person who discusses any changes
7 in Mr. Dolin's behavior, the evidence will show, is Mrs. Dolin.

8 Plaintiff claims that Mr. Dolin had akathisia that was
9 induced by Paxil, but somehow wants to ignore the increasing
10 stresses, work problems, and longstanding history of severe
11 anxiety.

12 The evidence will show that Mr. Dolin's major fears
13 and stresses from 2007 were becoming real in his mind right
14 before he took his own life.

15 The evidence will show that plaintiff could not prove
16 that Mr. Dolin had akathisia or that Paroxetine caused him to
17 commit suicide.

18 And now, Ladies and Gentlemen, that brings us to our
19 second question:

20 What is the scientific evidence regarding Paxil and
21 suicide?

22 There have long been medications to treat anxiety and
23 depression; but for the class of medications called SSRIs --
24 and you heard a little bit about that from Mr. Rapoport --
25 that's the class of medicines that includes Paxil, Prozac,

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1 Zoloft, Celexa, those other medications, those earlier
2 medications had severe side effects, dizziness, blurred vision,
3 side effects so bad that patients simply stopped taking the
4 medicines.

5 Paxil and the other SSRIs had much fewer side effects
6 and allowed people with depression and anxiety to get out of
7 bed, go to work, lead normal lives, spend time with their
8 family, and be productive.

9 The evidence will show in this case, Ladies and
10 Gentlemen, that antidepressants worked for Mr. Dolin.

11 Paxil has been thoroughly tested for its safety and
12 effectiveness by both GSK and the FDA, and no study has ever
13 shown that Paxil causes suicide.

14 The FDA first approved Paxil back in 1992, and Paxil
15 has been available to patients ever since.

16 In fact, between 1992 when the FDA first approved
17 Paxil and in 2004, FDA approved Paxil and its
18 controlled-release formula Paxil CR as safe and effective 13
19 different times.

20 Paxil was originally approved to treat major
21 depressive disorder, but over time it was studied to treat
22 other mental health disorders and approved by the FDA for each
23 of the disorders that you see here in front of you on the
24 screen.

25 But what's important about that, Ladies and Gentlemen,

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1 for each of these additional approvals, each time FDA approved
2 the medication for what is called a new indication or a new
3 disorder, the FDA had to make a new decision. It had to review
4 all of the safety data that had accumulated on Paxil from the
5 date of the original approval in 1992 up through the date of
6 the most recent approval. This included GSK's clinical trial
7 data, information from patients and doctors, scientific
8 literature from researchers studying Paxil, FDA had to review
9 it all. And because the medication had been taken by thousands
10 of -- thousands more patients since the last approval, the FDA
11 had to make a new decision each time as to whether this new
12 accumulated additional information about the medication still
13 confirmed that Paxil was safe and effective and that its
14 benefits still outweigh its risks. And every time FDA approved
15 Paxil for a new indication, FDA also had to review and approve
16 the label.

17 Because, Ladies and Gentlemen, the evidence will be in
18 this case that at the end of the day the FDA is the ultimate
19 authority on what goes in a prescription drug label. The FDA
20 ultimately must approve the label. A manufacturer cannot sell
21 a prescription medication in this country without an
22 FDA-approved label.

23 In every one of those 13 times, FDA said: Yes, Paxil
24 was safe and effective. FDA said: Yes, Paxil's benefit
25 outweighed its risks. And FDA said: Yes, the Paxil label was

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1 appropriate.

2 As I mentioned earlier, the evidence will show that
3 untreated depression is the single biggest risk factor for
4 suicide.

5 Now, the concern about any depressant medications and
6 suicide has been around as long as the medications themselves.
7 And that's not surprising, because depressed or anxious people
8 are at the greatest risk for suicide. And, unfortunately, even
9 with treatment, some of those patients do go on to commit
10 suicide.

11 As a result, GSK, independent researchers, and the FDA
12 itself have continued to monitor the issue of Paxil and
13 suicidality, and none of the clinical trial data has ever shown
14 that Paxil causes suicide.

15 Additionally, while it's listed as a possible side
16 effect, no study has ever shown that akathisia causes suicide.

17 Now, you've heard in Mr. Rapoport's opening and from
18 me even the term "clinical trial." And I'd like to talk to you
19 about that for a moment as it's a term we're going to hear a
20 lot about in the coming weeks.

21 Mr. Rapoport showed you a little bit about it. I want
22 to explain a little bit more.

23 What is a randomized clinical trial you might ask.

24 Well, clinical to the FDA regulators means humans.

25 At the beginning of a trial, a randomized clinical

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1 trial, the patients are enrolled in the trial, and they go
2 through roughly a two-week period called the placebo run-in or
3 wash-out period. You'll hear both of those terms. That's a
4 phase where they're given placebo or sugar pills to allow other
5 medications literally to wash out of their systems.

6 Randomized means that a group of patients with similar
7 characteristics are divided into two groups.

8 That's the next phase of the trial. That is the
9 controlled phase, because patients take the medications under
10 the watchful eye of doctors.

11 One group is given Paxil; the other group is given
12 placebo or a sugar pill.

13 But here's the important thing: In the controlled
14 phase, the Paxil pills and the placebo pills look the same.
15 The patients don't know which pills they're receiving, nor do
16 the doctors know. And that helps to eliminate bias.

17 The records identifying which pill, Paxil or placebo,
18 are sealed or what's called blinded until after the clinical
19 trial is over.

20 Then the records are unblinded at the end of the
21 trial. And the patients are then -- in the two groups are
22 measured depending on which pill they were given.

23 The results of the controlled phase of the two groups
24 are compared on two fronts.

25 First, the researchers measure the medication's effect

Opening Statement - Mr. Bayman

1 on the underlying condition being treated, such as anxiety or
2 depression.

3 And what they look at is for the Paxil patients is
4 does Paxil improve the mental health condition being studied
5 compared to the patients in the placebo group? In other words,
6 is it beneficial? Does Paxil work? Does it treat the
7 condition that the patients are suffering from? Is it
8 effective? Does it do what it's supposed to do?

9 But even if the medication works, Ladies and
10 Gentlemen, the researchers and doctors look to see do its
11 benefits outweigh its possible side effects, its so-called
12 adverse events.

13 Now, Ladies and Gentlemen, the evidence will be that
14 all prescription medicines have risks. That's why they're
15 available only by a doctor's prescription.

16 The doctors involved in the clinical trials, the M.D.s
17 who are actually treating these patients, are directed to check
18 and to record each and every single complaint of anything
19 unusual or unpleasant that happens while the patient is on
20 either the medication or placebo.

21 The doctor does not have to believe that the
22 medication caused the side effect. He or she records
23 everything the patient reports, and that includes literally
24 everything a patient might complain of.

25 The evidence will be, Ladies and Gentlemen, that even

Opening Statement - Mr. Bayman

1 patients taking a sugar pill or placebo complain of side
2 effects.

3 In the controlled phase, Ladies and Gentlemen, the
4 researchers are looking to see if there's what's called a
5 statistically significant difference between any side effects
6 or adverse events on patients taking the medication versus what
7 the patients on placebo are experiencing.

8 The reason this is done is to determine if certain
9 adverse events or side effects need to be warned about in the
10 prescription label.

11 You will hear from GSK's expert statistician, Dr.
12 Robert Gibbons, from right here at the University of Chicago,
13 who will explain this process to you in much more detail.

14 Once the controlled phase of GSK's Paxil trials were
15 over, some trials allowed patients to stay on Paxil because the
16 medicine worked for them. This is what's often called the
17 extension phase of the trial. But in this phase, there are no
18 patients on placebo, the placebo patients are done, so there's
19 nothing to compare against, and the doctors and the patients
20 know that they are on the medication.

21 Ladies and Gentlemen, the evidence will show that the
22 medical community, including the FDA, regard the results of
23 randomized clinical trials, the process I just mentioned, as
24 the gold standard, the best evidence available on the risks and
25 benefits of a prescription medication.

Opening Statement - Mr. Bayman

1 Now, you've heard Mr. -- you heard Mr. Rapoport spend
2 more than 60 minutes criticizing GSK about what it did with its
3 data.

4 But what GSK did back in 1991 was to capture all the
5 clinical trial data, to capture all events from the very
6 beginning of the clinical trials in the run-in or the wash-out
7 phase to the very end of the trials in the extension phase.
8 And it gave all that data to FDA, because in 1991, when a
9 manufacturer submitted what's called a new drug application --
10 that is the application to get approval to sell the medicine --
11 the practice was to submit all of the data, no matter when the
12 event occurred during the trial.

13 And the evidence will show that the FDA knew that
14 run-in events were being included in that data and that the FDA
15 did its own independent analysis of that data.

16 Now, at one point Mr. Rapoport said GSK did not tell
17 FDA about the suicide run-ins. Then he showed you a document
18 submitted to the FDA that showed the exact opposite.

19 But, Ladies and Gentlemen, again, this is -- this was
20 1991 he was talking -- he's talking about. And you'll hear
21 evidence about why the word "randomized" was put in quotes and
22 what that meant. You'll also hear that GSK disclosed that
23 events from the run-in and the wash-out were counted, as well
24 as events from the extension phase when there was no placebo
25 arm to compare, as well as from trials on patients that didn't

Opening Statement - Mr. Bayman

1 take placebo, trials against other medications, and so forth.

2 But, Ladies and Gentlemen, science evolves. And years
3 later, what the FDA said matters is only the controlled data,
4 the data from the controlled phase of the placebo controlled
5 trials that I showed you.

6 In 2002, eight years -- in 2002, before Mr. Dolin ever
7 took any Paroxetine pills, and eight years before Mr. Dolin
8 committed suicide, GSK went back and looked at that 1991 data
9 Mr. Rapoport showed you. GSK re-analyzed that original suicide
10 data to look at only the controlled phase of those clinical
11 trials where there was a placebo comparator, an
12 apples-to-apples you will hear. And when it did, when it
13 looked at the data, head-to-head, it found no significant
14 difference between the Paxil group and the placebo group on the
15 question of does Paxil cause suicide.

16 Mr. Rapoport mentioned an 8 times -- 8.9 times
17 increased risk, but the only way his experts can get to that
18 number is to count data from the third phase, the extension
19 phase, where there's no placebo group to compare with, or to
20 look at non-placebo controlled trials.

21 But the FDA has made it very clear. The FDA only
22 wants to study data from the controlled phase of placebo
23 controlled trials.

24 So throughout this trial, every time you hear about a
25 study or analysis, you need to ask yourself: Is it placebo

Opening Statement - Mr. Bayman

1 controlled? Because if not, that's not the data the FDA relies
2 upon and has not relied upon for over ten years.

3 Ladies and Gentlemen, Mr. Rapoport did not go into
4 this in much detail, but I feel that I need to tell you more of
5 the story.

6 In 2006, in its largest analysis to date, GSK analyzed
7 all of the adult clinical trial data from all of the randomized
8 controlled trials of Paxil. They reviewed that data for a
9 number of different things.

10 On the main question they were looking at, does Paxil
11 cause suicidal thoughts or behaviors in patients taking Paxil
12 for depression or anxiety disorders, there was no evidence of
13 any increased risk.

14 A few years earlier, GSK had done an analysis of
15 14,000 adult patients from the Paxil clinical trials. And in
16 this analysis, GSK broke the data out by specific age group,
17 including a group of those patients aged 50 to 59, an age that
18 would include 57-year-old Stewart Dolin. When that group was
19 analyzed, those patients taking Paxil had a lower rate of
20 possibly suicide-related events compared to those taking a
21 placebo.

22 In other words, it was protective, which means that
23 Paxil actually reduced the risk of suicide in patients in
24 Mr. Dolin's age group.

25 And, Ladies and Gentlemen, the evidence will be that's

Opening Statement - Mr. Bayman

1 not surprising. Paxil treats depression and anxiety. And
2 depression and anxiety are big risk factors for suicide.

3 FDA -- Mr. Rapoport mentioned this briefly -- FDA also
4 analyzed the issue of suicide or suicidality in adult patients
5 taking Paxil and other antidepressants.

6 In 2006, several months after GSK's analysis, FDA did
7 its own analysis of Paxil and other antidepressants. It was
8 the FDA's largest analysis ever.

9 Mr. Rapoport talked for more than an hour about the
10 run-ins and the data from '89 and '91, and he talked for about
11 five minutes about this analysis, but it's important, because
12 FDA found no increased risk on the main question of suicidal
13 thoughts or behavior. This was in 2006, Ladies and Gentlemen.
14 A much greater, more robust body of data had been developed by
15 2006 than existed back in 1989 and 1991.

16 FDA's analysis showed that in adults aged 25 to 64,
17 that is within Mr. Dolin, who was 57 age group, antidepressants
18 have a neutral or possibly even protective effect, and the
19 older the patient, the stronger the protective effect.

20 This is FDA's conclusion, Ladies and Gentlemen,
21 analyzing all the data from all the antidepressants.

22 And as for Paxil specifically, on its primary
23 analysis, FDA found no increased risk of suicidal thoughts or
24 behavior for adults taking the medicine.

25 Now, Mr. Rapoport told you that Paxil was the only

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1 SSRI with a statistically significant increased risk, but what
2 he didn't tell you is that the FDA itself said you cannot rely
3 on that finding.

4 And perhaps the biggest point here is the evidence
5 will show that the FDA was aware of the Paxil finding because
6 it was the FDA's very own analysis.

7 Mr. Rapoport showed you an article from Dr. Juurlink
8 in Ontario. FDA was aware of that article and decided not to
9 include it in its subsequent warnings.

10 Now, Mr. Rapoport tried to point you to some secondary
11 analysis as if they mean more than they do. He talked about a
12 subgroup of patients with a specific diagnosis called major
13 depressive disorder, or MDD, who attempted suicide. But what
14 he didn't tell you is that those 11 patients, the denominator
15 in that study was 3,455 patients. That's one-third of
16 1 percent or 0.03. That means, even in this one subgroup
17 analysis, 99.6 of the Paxil patients did not have suicide
18 attempts.

19 I expect you'll hear more about this analysis as the
20 trial goes on, but you should know of those 11 patients, 8 were
21 between the ages of 18 and 30, and several had thought or even
22 attempted suicide before they ever took Paxil.

23 Dr. John Kraus, who I mentioned is GSK's scientist,
24 who you'll hear about live, looked at the case histories for
25 those 11 patients in great detail, and he will tell you that

Opening Statement - Mr. Bayman

1 not one of them went on to commit suicide.

2 That brings us to our third question, Ladies and
3 Gentlemen:

4 Did GSK communicate with the FDA and doctors about the
5 possible risks of Paxil?

6 The evidence will show that the answer to that
7 question is also definitely yes.

8 When GSK did new studies or got new information, it
9 told the FDA, and it worked with the FDA to make sure the
10 labeling was appropriate and doctors knew what they needed to
11 know.

12 But before I get into the labeling, I want to clarify
13 one point.

14 You might be asking yourself, well, if Paxil doesn't
15 cause suicide, why is a possible risk of suicide even warned
16 about in the label?

17 Pharmaceutical companies include warnings and
18 precautions in their medications labeling so doctors can weigh
19 the risks and benefits when prescribing medication, even when
20 it's not clear that the medication is causing the risk. This
21 way the doctor has a more complete picture of what to watch for
22 when he or she treats a patient.

23 The label that we're talking about, Ladies and
24 Gentlemen, is not what you get at the pharmacy when you pick up
25 your prescription, that summary. The label is a detailed

Opening Statement - Mr. Bayman

1 technical document that is intended for doctors so that they
2 can educate themselves about developments, advancement, and
3 information about the medicine. The label is important.

4 So I'm going to show you the changes that were made to
5 the Paxil label over the last decade, because Mr. Rapoport told
6 you that GSK never included any information in the label about
7 Paxil and suicide.

8 Ladies and Gentlemen, the evidence will be otherwise.

9 I'm going to show you the label changes as they
10 evolved. I'm going to show you the changes GSK was allowed to
11 make and the changes that FDA would not allow GSK to make.

12 So let's start in April 2004. This is over a year
13 before Dr. Sachman first prescribed Mr. Dolin Paroxetine.

14 GSK changed the Paxil labeling to specifically warn --
15 it's right here on your screen -- patients being treated with
16 antidepressants should be observed closely for clinical
17 worsening and suicidality, especially at the beginning of a
18 course of drug therapy.

19 Now, FDA required all antidepressants include this
20 same language. And that's referred to as class labeling. FDA
21 required the group or the class of antidepressant
22 medications -- I mentioned some of them already, Prozac and
23 Zoloft, Paxil, Celexa -- to have identical language on this
24 subject.

25 The labeling in 2004 also warned that akathisia, which

Opening Statement - Mr. Bayman

1 the labeling described as psychomotor restlessness, had been
2 reported in patients treated with antidepressants, and this
3 language was also required by the FDA as class labeling,
4 meaning all the antidepressants had to have this same language.

5 After noting akathisia and other symptoms had been
6 reported by patients, the language in the labeling in 2004 went
7 on to state: Although a causal link between the emergence of
8 such symptoms and either the worsening of depression and/or the
9 emergence of suicidal impulses has not been established,
10 consideration should be given to changing the therapeutic
11 regimen, including possibly discontinuing the medication, in
12 patients for whom such symptoms are severe, abrupt in onset,
13 and were not part of the patient's presenting symptoms.

14 So the FDA says causation has not been established,
15 it's not been established the drug causes suicide, but you
16 should be on the lookout for these things.

17 And all of this language, Ladies and Gentlemen, was
18 required by the FDA as class labeling for all the
19 antidepressants, including Paxil.

20 The labeling starting in 2004 went on to warn that
21 families and caregivers of patients being treated with
22 antidepressants for major depressive disorder or other
23 indications, both psychiatric and non-psychiatric, should be
24 alerted about the need to monitor patients for the emergence of
25 agitation, irritability, and the other symptoms described

Opening Statement - Mr. Bayman

1 above, what I just showed you, as well as the emergence of
2 suicidality, and to report such symptoms immediately to health
3 care providers.

4 You will hear evidence in this case from Dr. Sachman,
5 Ladies and Gentlemen, that he knew about this, and that he told
6 both Mr. & Mrs. Dolin let me know if there are any significant
7 changes in behavior after Mr. Dolin starts on the medicine.

8 This language was also class labeling required by the
9 FDA of all antidepressant manufacturers.

10 The next month, in May of 2004, GSK sent a
11 communication out to doctors across the country. That's what's
12 called a Dear Healthcare Provider Letter, and you'll hear about
13 those in this case, in which it provided that same information
14 that was in the label to doctors. The evidence will show that
15 this letter was sent to Dr. Sachman and that Dr. Sachman had a
16 practice for reviewing these kinds of letters.

17 The letter then attached a copy of the warning or
18 clinical worsening of suicide risk as well as the new
19 precaution on information for patients, which is the language
20 that I just showed you. And I'm not going to go back over it.
21 It's what I just showed you that was in the warning.

22 Then in early 2005, FDA required GSK to revise the
23 Paxil label slightly so the language more closely resembled the
24 language put in what's called a black box warning for all
25 antidepressants regarding the concern of suicidality with the

1 use of antidepressants in patients under 18.

2 THE COURT: Okay. Mr. Bayman, I believe now we're
3 going to break.

4 MR. BAYMAN: Sure. Thank you, your Honor. Good time.

5 THE COURT: All right. Ladies and Gentlemen, remember
6 all of my admonitions to you when you go home tonight. Don't
7 forget us now, and come back here tomorrow morning ready to
8 proceed at 9:30. I'll have coffee and rolls for you in the
9 jury room by 9:00 o'clock.

10 Thank you very much. Have a good evening.

11 (Jury out at 4:26 p.m.)

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(Proceedings adjourned at 4:30, to resume on 3/15/17 at

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9:30 a.m.)

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C E R T I F I C A T E

We, CHARLES ZANDI and GAYLE A. McGUIGAN, certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter.

/s/ CHARLES ZANDI_____
CHARLES ZANDI, CSR, CRR
Official Court Reporter

March 14, 2017

/s/ GAYLE A. McGUIGAN_____
GAYLE A. MCGUIGAN, CSR, CRR
Official Court Reporter

March 14, 2017