

Exhibit 4

1 A. I WOULDN'T BOTHER TO MAKE THE COMPARISON BECAUSE
2 THIS BOOK WAS WRITTEN IN 1994 AND --

3 Q. WOULD YOU ANSWER MY QUESTION, PLEASE, SIR? YOU
4 WOULD NOT ARGUE WITH ME, WOULD YOU, THAT THIS AMY
5 PETERS' FRAME IS FAINT COMPARED TO DR. WEYMAN'S
6 ILLUSTRATION, YES OR NO?

7 A. I CAN SAY YES THAT WHAT I SEE ON THE SCREEN THERE
8 IS FAINT BUT I CANNOT COMPARE WHAT IS ON THE SCREEN TO
9 WHAT IS PRINTED IN THE BOOK BECAUSE THE TWO DISPLAYS
10 ARE SO DIFFERENT THAT IF I TURN DOWN THE LIGHTS IN THE
11 ROOM, IT WILL LOOK -- THE WHITE WILL LOOK LESS FAINT
12 AND THE WHITE HERE WILL LOOK MORE FAINT, SO IT'S A
13 USELESS DESCRIPTION IN MY MIND.

14 MS. FLETMAN: NOTHING FURTHER.

15 THE COURT: THANK YOU FOR COMING DR. ROTH,
16 YOU ARE EXCUSED.

17 THE WITNESS: THANK YOU, YOUR HONOR.

18 THE COURT: ALL RIGHT. NEXT WITNESS.

19 (WITNESS EXCUSED.)

20 MR. JOHNSON: WE CALL DR. LINDA CROUSE.

21 THE COURT: ALL RIGHT.

22 THE CLERK: STATE AND SPELL YOUR FULL NAME
23 FOR THE RECORD.

24 THE WITNESS: LINDA, L-I-N-D-A, JEAN,
25 J-E-A-N, C-R-O-U-S-E.

1 LINDA CROUSE, M.D. PLAINTIFF'S WITNESS,
2 SWORN.

3 DIRECT EXAMINATION

4 BY MR. JOHNSON:

5 Q. GOOD AFTERNOON. HOW ARE YOU EMPLOYED, MA'AM?

6 A. I AM CURRENTLY IN PRIVATE PRACTICE AS A PHYSICIAN
7 AND A PRACTICING CARDIOLOGIST IN KANSAS CITY, MISSOURI.

8 Q. AND WHAT KIND OF MEDICINE DO YOU PRACTICE?

9 A. CARDIOVASCULAR MEDICINE. SUBSPECIALTY IN
10 ECHOCARDIOGRAPHY AND WOMEN'S MEDICINE.

11 Q. WHAT DO YOU MEAN BY WOMEN'S MEDICINE. WOMEN'S
12 MEDICINE INSOFAR AS ECHOCARDIOGRAPHY IS CONCERNED?

13 A. YES. I TAKE CARE OF MANY FEMALE PATIENTS, BUT
14 ECHOCARDIOGRAPHY IS PARTICULARLY WELL SUITED TO MAKE
15 THE DIAGNOSIS OF SUBTLE ABNORMALITIES OF CARDIAC
16 FUNCTION IN WOMEN.

17 Q. DO YOU HAVE SOME NOTES IN FRONT OF YOU THERE?

18 A. NO.

19 Q. I SEE PACES OF PAPER. ARE THEY YOURS?

20 A. NO.

21 THE COURT: MAYBE WE CAN CLEAR OFF THE
22 PODIUM RIGHT THERE.

23 MR. JOHNSON: I THINK WE SHOULD.

24 BY MR. JOHNSON:

25 Q. YOU SAID YOU PRACTICE IN KANSAS CITY, IS THAT

1 CORRECT?

2 A. YES, I DO.

3 Q. I WOULD LIKE YOU TO TELL US A LITTLE BIT ABOUT
4 YOURSELF. HOW LONG HAVE YOU LIVED IN THE KANSAS CITY
5 AREA?

6 A. I HAVE LIVED THERE FOR 17 YEARS.

7 Q. SINCE ABOUT 1985, RIGHT?

8 A. YES.

9 Q. DO YOU HAVE A FAMILY?

10 A. YES, I DO.

11 Q. HUSBAND?

12 A. I HAVE A HUSBAND, A DAUGHTER WHO IS 18 AND A SON
13 WHO IS 15.

14 Q. AND YOUR HUSBAND, IS HE ALSO YOUR PARTNER IN YOUR
15 MEDICAL PRACTICE?

16 A. YES. HE IS AN INTERVENTIONAL CARDIOLOGIST WITH
17 SUBSPECIALTY IN ANGIOPLASTY AND MITRAL VALVULARPLASTY.

18 Q. WHERE DID YOU GROW UP?

19 A. I WAS BORN IN COULEE DAM, WASHINGTON, WE MOVED TO
20 SOUTH BEND, INDIANA, THEN TO A SMALL TOWN IN WISCONSIN.

21 Q. TELL US ABOUT YOUR EDUCATION, PLEASE.

22 A. I WENT TO--

23 Q. BEGINNING WITH UNDERGRAD.

24 A. I WENT TO UNDERGRADUATE SCHOOL AND HAVE A BS IN
25 ZOOLOGY FROM THE UNIVERSITY OF WISCONSIN, MADISON

1 WISCONSIN. I THEN MOVED TO NEW YORK WHERE I FINISHED
2 MY M.D. DEGREE AT NEW YORK UNIVERSITY IN NEW YORK CITY.
3 I WAS AN INTERN IN INTERNAL MEDICINE IN THE BELLEVUE
4 PROGRAM OF INTERNAL MEDICINE, WHICH IS AT THE NEW YORK
5 UNIVERSITY SCHOOL OF MEDICINE. I THEN COMPLETED A TWO
6 YEAR RESIDENCY IN INTERNAL MEDICINE AGAIN AT BELLEVUE
7 HOSPITAL, NEW YORK CITY. A TEACHING PROGRAM OF NEW
8 YORK UNIVERSITY MEDICAL CENTER. I WAS THEN SELECTED AS
9 CHIEF RESIDENT IN MEDICINE AT BELLEVUE WHICH IS A
10 SEPARATE YEAR, SUPERVISING ALL RESIDENTS AND I FINISHED
11 THAT IN ONE YEAR. THEN WENT TO MINNEAPOLIS, MINNESOTA
12 TO THE UNIVERSITY OF MINNESOTA HOSPITALS WHERE I
13 COMPLETED A TWO-YEAR CARDIOVASCULAR FELLOWSHIP AND THEN
14 COMPLETED A ONE-YEAR SPECIALTY FELLOWSHIP IN
15 ECHOCARDIOGRAPHY AT THE UNIVERSITY OF CALIFORNIA SAN
16 FRANCISCO MOFFITT HOSPITAL IN THE CARDIOVASCULAR
17 RESEARCH INSTITUTE DOING ECHOCARDIOGRAPHIC RESEARCH. I
18 WAS THEN A NIH FELLOW AT THE BETH ISRAEL IN NEWARK, NEW
19 JERSEY, AGAIN WORKING WITH DOPPLER PATTERNS OF
20 PACEMAKERS FUNCTION AND THEN I HAD A CHILD AND TOOK A
21 YEAR OFF.

22 Q. OKAY.

23 IS IT AT THAT POINT THAT YOU CAME TO KANSAS
24 CITY?

25 A. YES, I DID.

1 Q. OKAY.

2 DO YOU HOLD ANY ACADEMIC POSITIONS AND --

3 A. I'M A CLINICAL PROFESSOR OF MEDICINE AT THE
4 UNIVERSITY OF MISSOURI, KANSAS CITY.

5 Q. HOW LONG HAVE YOU BEEN A CLINICAL PROFESSOR OF
6 MEDICINE?

7 A. FIVE YEARS.

8 Q. WHAT DO YOU TEACH?

9 A. ECHOCARDIOGRAPHY. THE FELLOWS FROM THE UNIVERSITY
10 OF MISSOURI, KANSAS CITY, ROTATE THROUGH OUR OFFICE TO
11 LEARN ECHOCARDIOGRAPHY.

12 Q. I WOULD LIKE TO TALK A LITTLE BIT ABOUT SOME OF
13 YOUR PROFESSIONAL ACTIVITY. CAN WE PUT UP HER CV ON
14 THE SCREEN, PLEASE. LET'S LOOK AT THE SECOND PAGE,
15 PLEASE. THIS IS EXHIBIT HN 164. AND LET'S LOOK AT THE
16 THIRD PAGE, PLEASE.

17 BEGINNING WITH PROFESSIONAL ACTIVITIES.
18 FIRST OF ALL, YOUR CV INDICATES THAT YOU ARE A DIRECTOR
19 OF THE AMERICAN HEART ASSOCIATION?

20 A. YES, I HAVE BEEN A DIRECTOR. ON THE BOARD OF
21 DIRECTORS AT THE AMERICAN HEART ASSOCIATION SINCE 2001.

22 Q. IS THAT THE NATIONAL ORGANIZATION OR LOCAL
23 AFFILIATE?

24 A. IT'S THE LOCAL AFFILIATE OF THE NATIONAL
25 ORGANIZATION.

1 Q. AND YOU ARE ALSO A DELEGATE TO MEDICARE ON
2 PERIPHERAL VASCULAR DISEASE OF THE ACC. DO YOU SEE
3 THAT THERE?

4 A. I'M THE ACC REPRESENTATIVE TO MEDICARE FOR
5 PERIPHERAL VASCULAR ULTRASOUND AND ECHOCARDIOGRAPHY.

6 Q. OKAY. AND WHAT IS THE ASE, PLEASE?

7 A. THE AMERICAN SOCIETY OF ECHOCARDIOGRAPHY.

8 Q. WHAT IS THAT? WHAT IS THE AMERICAN SOCIETY OF
9 ECHOCARDIOGRAPHY?

10 A. IT'S AN ASSOCIATION OF PHYSICIANS AND SONOGRAPHERS
11 WHO ARE INTERESTED IN THE FURTHER EDUCATION,
12 INFORMATION, ET CETERA OF ECHOCARDIOGRAPHY.

13 Q. AND WHAT POSITIONS HAVE YOU HELD WITH ASE?

14 A. I HAVE BEEN ON THE BOARD OF DIRECTORS FOR FOUR
15 YEARS, I CURRENTLY SIT ON FIVE COMMITTEES.

16 Q. WHAT -- IF YOU LOOK AT THE ECHOCARDIOGRAPHY. I'M
17 SORRY, LET'S LOOK AT -- LET'S LOOK AT THE NEXT PAGE,
18 PLEASE. DO YOU SEE A NUMBER OF RESEARCH ACTIVITIES.
19 DO YOU SEE THAT?

20 A. YES, I DO.

21 Q. AND I WOULD LIKE TO FOCUS YOUR ATTENTION ON THE
22 FOURTH PARAGRAPH BEGINNING WITH THE WORD "COMPARISON."
23 LET'S BLOW THAT UP, PLEASE: COMPARISON OF PREVALENCE
24 OF CARDIOVALVULAR ABNORMALITIES IN PATIENTS TREATED
25 WITH FEN-PHEN IN COMBINATION FOR AT LEAST THREE

1 CONSECUTIVE MONTHS VERSUS UNTREATED CONTROLS AS
2 ASSESSED BY ECHOCARDIOGRAM. WYETH-AYERST RESEARCH.
3 MARCH '98 TO JULY OF '98. TELL US A LITTLE MORE ABOUT
4 THAT.

5 A. WE WERE SELECTED AS A SITE BECAUSE OF OUR
6 ECHOCARDIOGRAPHIC EXPERTISE IN DETERMINING --

7 Q. SLOW DOWN A LITTLE BIT.

8 A. -- WHETHER OR NOT PEOPLE WHO TOOK FEN-PHEN WERE AT
9 RISK OR HAD DEVELOPED CARDIOVALVULAR ABNORMALITIES.
10 THE PATIENTS WERE COMPARED TO PLACEBO, AND WE DID
11 DETERMINE THE LENGTH OF THE USES OF THE DRUGS AND
12 COMPARED THAT TO THE ABNORMALITIES FOUND. IT WAS A
13 MULTI-CENTER TRIAL. WE WERE ONLY ONE OF THE SITES.

14 Q. WHO SELECTED YOU FOR THAT?

15 A. WYETH-AYERST.

16 Q. AND DID YOU PERFORM THAT? DID YOU PARTICIPATE IN
17 THAT STUDY?

18 A. YES, I DID.

19 Q. AND APPROXIMATELY HOW MANY PEOPLE DID YOU PERFORM
20 ECHOCARDIOGRAMS ON?

21 A. WE HAD TWO STUDIES ACTUALLY RUNNING AT THE SAME
22 TIME, AND WE DID A TOTAL OF ABOUT 600 PATIENTS.

23 Q. IN THE PERIOD MARCH TO JULY OF 1998?

24 A. YES, IT WAS.

25 Q. I WOULD LIKE TO SHOW YOU WHAT HAS BEEN MARKED AS

1 HN 168?

2 LOOKING AT HN 168, IS THIS A LETTER THAT WAS
3 SENT TO YOU IN CONNECTION WITH THIS STUDY.

4 A. YES, IT IS.

5 Q. I AM NOW SHOWING YOU WHAT HAS BEEN MARKED AS HN
6 169. TELL US WHAT HN 169 IS.

7 A. THAT IS A LETTER TO ME FROM KELLY DAVIS, THE
8 DIRECTOR AT WYETH-AYERST RESEARCH, SENDING ME A SLIDE
9 SET SO THAT I MIGHT LECTURE ON FEN-PHEN AND TO NOTIFY
10 ME THAT MY NAME WAS GIVEN AS A POTENTIAL INVESTIGATOR
11 FOR WYETH IN FURTHER TRIALS.

12 Q. DO YOU RECALL RECEIVING THIS LETTER IN OR ABOUT
13 MARCH OF 1999?

14 A. YES.

15 Q. DID YOU AT SOME POINT PARTICIPATE AS A POTENTIAL
16 INVESTIGATOR IN FURTHER TRIALS?

17 A. AFTER WE COMPLETED THOSE TWO TRIALS, I'M
18 NOT ENTIRELY CERTAIN IF THEY ENDED ON -- AT THE SAME
19 MONTH BUT THEY ENDED AT A VERY TEMPORAL POINT WITH
20 REGARD TO EACH OTHER AND AFTER THAT, WE DID NOT DO ANY
21 FURTHER RESEARCH IN THIS AREA.

22 Q. DO YOU UNDERSTAND THAT WYETH ITSELF HAS ITS OWN
23 SCREENING PANEL OF CARDIOLOGISTS TO PERFORM ECHOES ON
24 PEOPLE WHO HAVE TAKEN FEN-PHEN?

25 A. YES, I DO.

1 Q. DID THERE COME A TIME WHEN YOU WERE SELECTED TO BE
2 A MEMBER OF THAT PANEL?

3 A. YES. I RECEIVED A TELEPHONE CALL IN NOVEMBER
4 ASKING IF I WOULD --

5 THE COURT: NOVEMBER OF 1999?

6 THE WITNESS: NO. NOVEMBER OF 2001./

7 BY MR. JOHNSON:

8 Q. DID YOU PERSONALLY RECEIVE THAT CALL OR DID
9 SOMEONE IN YOUR OFFICE RECEIVE THAT CALL?

10 A. THE CALL CAME TO THE OFFICE AND IT WAS TAKEN BY MY
11 BUSINESS MANAGER, WHO SPOKE TO THE PERSON ON THE PHONE
12 AND IT WAS DECIDED THAT THERE WOULD BE FOLLOW UP
13 INFORMATION WITH REGARD TO HOW TO COMPLETE THE PROTOCOL
14 AND OUR PARTICIPATION. WE DID NOT RECEIVE ANY FOLLOW
15 UP INFORMATION UNTIL TWO WEEKS AGO. TWO WEEKS AGO WE
16 RECEIVED ANOTHER PHONE CALL FROM I BELIEVE THE PHONE
17 CALL ORIGINATED AT AMERICAN HOME PRODUCTS, AGAIN,
18 REMINDING US THAT WE WERE ON THE PANEL AND WOULD WE NOW
19 BEGIN.

20 Q. DID YOU RECEIVE THAT CALL OR DID SOMEONE ELSE?

21 A. SOMEONE ELSE DID, THAT, IF WE WOULD STILL BE
22 WILLING TO PERFORM THE ECHOCARDIOGRAMS, THEY WOULD
23 BEGIN SENDING PATIENTS TO US AND AGAIN, WE RECEIVED NO
24 INFORMATION VIA FAX OR MAIL UNTIL A PATIENT SHOWED UP
25 ON AUGUST 1ST WITH A LETTER IN THEIR HAND.

- 1 Q. WAS IT AUGUST 1ST THAT THEY SHOWED UP?
- 2 A. IT WAS -- LET'S SEE.
- 3 Q. TAKE A MOMENT.
- 4 A. I'M INCORRECT. AUGUST 1ST WAS THE DATE THAT THE
- 5 PATIENT SAID THAT THEY -- THAT THEY HAD BEEN NOTIFIED
- 6 THAT THEY COULD MAKE THE APPOINTMENT. I DON'T KNOW THE
- 7 DATE THEY CAME. THEY CAME THE THURSDAY BEFORE LABOR
- 8 DAY WEEKEND.
- 9 Q. SO THAT WOULD BE -- LAST WEEK, WHICH SEEMS LIKE A
- 10 VERY LONG TIME AGO.
- 11 A. YES, IT DOES. IT SEEMS LIKE AUGUST 1ST, I GUESS.
- 12 Q. LET ME SHOW YOU HN 167. DO YOU RECOGNIZE THIS
- 13 DOCUMENT?
- 14 A. YES, I DO.
- 15 Q. OKAY.
- 16 AND HOW DID YOU RECEIVE THIS DOCUMENT?
- 17 A. A PATIENT ARRIVED AT MY OFFICE FOR AN APPOINTMENT
- 18 FOR AN ECHOCARDIOGRAM ACCORDING TO THE FEN-PHEN
- 19 PROTOCOL AND HANDED THIS DOCUMENT TO MY SONOGRAPHER.
- 20 Q. AND DO YOU KNOW WHO WROTE THE HANDWRITING THERE ON
- 21 THE TOP PART OF THE DOCUMENT?
- 22 A. NO, I DO NOT.
- 23 Q. IS THIS A COPY OF WHAT YOU RECEIVED FROM THAT
- 24 PATIENT LAST WEEK?
- 25 A. YES, IT IS.

1 Q. DO YOU KNOW WHO CRAWFORD AND CO. IS?

2 A. MY UNDERSTANDING IS THAT CRAWFORD AND COMPANY IS A
3 LAW FIRM IN THE KANSAS CITY AREA THAT HAS BEEN
4 INSTRUCTED TO MONITOR OR HELP PROVIDE THE
5 ECHOCARDIOGRAMS FOR THE AMERICAN HOME PRODUCTS.

6 Q. DO YOU KNOW WHETHER IT IS A LAW FIRM?

7 A. MY UNDERSTANDING IS THAT IT IS A LAW FIRM, BUT I
8 DON'T HAVE ANY PERSONAL KNOWLEDGE.

9 Q. AND WAS AN ECHOCARDIOGRAM PERFORMED ON THE PATIENT
10 THAT CAME IN THAT DAY?

11 A. YES, IT WAS.

12 Q. DO YOU SERVE ON ANY COMMITTEES OF THE AMERICAN
13 SOCIETY OF ECHOCARDIOGRAPHERS?

14 A. YES, I DO, I SERVE ON FIVE COMMITTEES.

15 Q. WHAT ARE THOSE COMMITTEES JUST BRIEFLY?

16 A. THREE OF THE COMMITTEES RELATE TO LICENSURE,
17 ACCREDITATION AND CERTIFICATION. ONE IS WITH REGARD TO
18 SONOGRAPHER LICENSURE, ANOTHER WITH REGARD TO PHYSICIAN
19 LICENSURE. THE ADVOCACY COMMITTEE IS IN PART TO
20 DETERMINE PHYSICIAN APPROPRIATENESS FOR INTERPRETING
21 ECHOCARDIOGRAMS AS WELL AS TO FURTHER ECHOCARDIOGRAPHY.
22 I ALSO SIT ON VASCULAR STRATEGY TASK FORCE AND THE
23 WOMEN'S HEALTH ADVISORY COMMITTEE.

24 Q. WHAT IS -- WHAT ARE THE LICENSING REQUIREMENTS FOR
25 SONOGRAPHERS?

1 A. CURRENTLY THERE ARE LICENSING REQUIREMENTS FOR
2 CARDIAC SONOGRAPHY IN ONLY TWO STATES, IN SOUTH
3 CAROLINA AND IN LOUISIANA. THE SONOGRAPHERS ARE --
4 SHOULD EITHER BE PERFORMING ULTRASOUND WITHIN THE
5 CONFINES OF AN ACCREDITED LABORATORY OR A REGISTERED
6 CARDIAC SONOGRAPHER. IN THE STATE OF LOUISIANA, I
7 BELIEVE IT IS ALSO THE SAME. THOSE ARE HOWEVER NOT
8 OFFICIAL INSURANCE COMPANY LICENSES. THOSE ARE FOR
9 REIMBURSEMENT THROUGH MEDICARE.

10 Q. WHAT DOES THE SONOGRAPHER LICENSURE COMMITTEE OF
11 THE ASE DO? WHAT IS THEIR ROLE?

12 A. WE ARE LOOKING AT THE ISSUE OF WHETHER OR NOT ALL
13 SONOGRAPHERS SHOULD BE REGISTERED TO PERFORM ULTRASOUND
14 SERVICES IN THE UNITED STATES. AT PRESENT, 70 PERCENT
15 OF SONOGRAPHERS WE BELIEVE ARE NOT CURRENTLY
16 REGISTERED.

17 Q. HAVE YOU HEARD OF AN ORGANIZATION CALLED ICAEL?

18 A. YES, THAT IS THE INTERSOCIETAL COMMISSION FOR THE
19 ACCREDITATION OF ECHOCARDIOGRAPHIC LABORATORIES.

20 Q. AND DO YOU HAVE A ROLE OR CONNECTION WITH THAT
21 ORGANIZATION?

22 A. YES, I WAS INITIALLY APPOINTED BY THE ASE TO CHAIR
23 A COMMITTEE TO LOOK INTO DETERMINING A PROCESS FOR
24 EVALUATING OR PROCEEDING WITH THE ACCREDITATION OF
25 ECHOCARDIOGRAPHIC LABORATORIES. THAT COMMITTEE

1 SUBSEQUENTLY MET OVER THE TWO YEARS THAT COMMITTEE WAS
2 IN SERVICE AND WE WROTE STANDARDS FOR HOW
3 ECHOCARDIOLOGY SHOULD BE PERFORMED IN ACCORDANCE WITH
4 OUR SOCIETY. THE AMERICAN COLLEGE OF CARDIOLOGY AND
5 THE AMERICAN SOCIETY OF ECHOCARDIOGRAPHY.

6 OUR STANDARDS WERE ALL WRITTEN IN ACCORDANCE
7 WITH THEIR RULES AND THEIR WRITINGS. IN 1997, THAT
8 BODY BECAME AN OFFICIAL NOT-FOR-PROFIT ORGANIZATION TO
9 ACCREDIT ECHO LABS WITHIN THE UNITED STATES TO ASSURE
10 THAT ECHOCARDIOGRAPHIC LABORATORIES WERE PROVIDING HIGH
11 QUALITY ULTRASONOGRAPHY. THERE ARE NINE --

12 Q. WHAT IS YOUR ROLE WITH THE ORGANIZATION, THE
13 NOT-FOR-PROFIT ORGANIZATION?

14 A. FOR THE FIRST TWO YEARS, I WAS THE PRESIDENT. THE
15 FOLLOWING TWO YEARS THE PAST PRESIDENT AND I CONTINUE
16 TO SIT ON THE BOARD AS THE AMERICAN SOCIETY OF
17 ECHOCARDIOGRAPHY DELEGATE.

18 Q. AND SINCE THE FORMATION OF THE ORGANIZATION, HOW
19 MANY LABS HAVE BEEN ACCREDITED TO YOUR KNOWLEDGE?

20 A. THERE ARE 672 LABS CURRENTLY ACCREDITED. IT IS AN
21 ONGOING PROCESS. AND WE HAVE RECEIVED MANY MORE
22 APPLICATIONS THAN THAT. THE PROCESS IS --

23 Q. THIS ISN'T MANDATORY FOR ECHO LABS, IS IT?

24 A. IT IS VOLUNTARY, EXCEPT CURRENTLY IN THE STATES OF
25 SOUTH CAROLINA AND LOUISIANA, IT IS ONE OF THE PATHWAYS

1 FOR REIMBURSEMENT, THE OTHER BEING REGISTRATION.

2 Q. REIMBURSEMENT FOR?

3 A. FOR ECHOCARDIOGRAPHIC PROCEDURES.

4 Q. REIMBURSEMENT BY WHOM?

5 A. MEDICARE.

6 Q. OKAY.

7 AND WHAT IS -- DO YOU PERFORM ANY ROLE IN
8 REVIEWING THE APPLICATIONS AND CREDENTIALS FOR THE
9 ACCREDITATION YOURSELF?

10 A. YES. EACH LABORATORY MUST BE REVIEWED BY A
11 PHYSICIAN AND A SONOGRAPHER TO BE CERTAIN THAT THEY ARE
12 RUNNING THE LABORATORY IN ACCORDANCE WITH THE
13 GUIDELINES AND THAT THE STUDIES ARE OF HIGH QUALITY.

14 Q. I AM ASKING YOUR PERSONAL ROLE?

15 A. THERE ARE FIVE PHYSICIANS AND THOSE FIVE
16 PHYSICIANS MUST EACH REVIEW THEIR PERCENTAGE OF THE
17 TAPES BECAUSE MOST OF THE -- MOST OF THE LABORATORIES
18 ARE REVIEWED BY THE PHYSICIANS ON THE BOARD.

19 WE ALSO DO HAVE OTHER PHYSICIAN REVIEWERS.
20 WE ARE NOT THE SOLE REVIEWERS, THE SONOGRAPHER ALSO
21 REVIEWS THE LABORATORIES.

22 Q. YOU ARE ONE OF THE FIVE THAT DOES THAT?

23 A. YES.

24 Q. ASIDE FROM THE RESEARCH THAT WE SAW A MOMENT AGO
25 THAT YOU DID FOR WYETH, WHAT HAS BEEN THE FOCUS OF YOUR

1 RESEARCH THROUGHOUT YOUR MEDICAL CAREER?

2 A. I HAVE TWO MAJOR AREAS OF INTEREST. STRESS
3 ECHOCARDIOGRAPHY IS THE AREA IN WHICH I'M MOST
4 WELL-KNOWN. I BEGAN PERFORMING STRESS ECHOCARDIOGRAMS
5 IN 1985 AND WAS ONE OF THE EARLY INVESTIGATORS IN THAT
6 AREA. SUBSEQUENTLY, WE HAVE DONE A FAIR AMOUNT OF
7 PROFUSION.

8 Q. STRESS ECHO IS WHAT?

9 A. STRESS ECHO IS AN ECHOCARDIOGRAM THAT IS PERFORMED
10 EITHER DURING EXERCISE, BEFORE OR AFTER EXERCISE OR
11 WITH A PHARMACOLOGIC AGENT OR A DRUG TO DETERMINE
12 WHETHER A PATIENT EITHER WITH OR WITHOUT SYMPTOMS HAS
13 CORONARY DISEASE THAT IS OCCULT.

14 Q. OKAY.

15 AND ANY OTHER FOCUSES TO YOUR RESEARCH ASIDE
16 FROM STRESS ECHO?

17 A. WE HAVE BEEN VERY ACTIVELY INVOLVED IN PROFUSION
18 RESEARCH.

19 Q. WHO IS "WE" IN THAT STATEMENT?

20 A. OUR OFFICE, ECHOCARDIOGRAPHIC LABORATORY. WE HAVE
21 WORKED WITH OTHER SITES AND INDEPENDENTLY TO DO
22 RESEARCH INTO WHETHER OR NOT ECHOCARDIOGRAPHIC CONTRAST
23 AGENTS ARE ABLE TO DETERMINE BLOOD FLOW IN THE HEART
24 MUSCLE THROUGH COLOR MAPPING.

25 Q. HAVE YOU DONE ANY WRITINGS IN THE AREA OF

1 ECHOCARDIOGRAPHY?

2 A. YES, I HAVE.

3 Q. LET ME -- ON THE CV. CAN WE PUT UP THE WRITINGS,
4 PLEASE. (INDICATING.)

5 NEXT PAGE, NEXT PAGE, NEXT PAGE. NEXT PAGE,
6 OKAY. UNDER PUBLICATIONS THERE, LET'S LOOK AT THE --
7 LET'S LOOK AT THE NEXT PAGE ALSO AND NEXT PAGE, NEXT
8 PAGE, PLEASE. AND WHAT IS THE DIFFERENCE BETWEEN
9 PUBLICATION AND ABSTRACT?

10 A. ABSTRACT IS A PAPER PRESENTED AT A NATIONAL
11 MEETING, THAT IS A PRELIMINARY REVIEW OF THE WORK FOR
12 YOUR COLLEAGUE AND PEERS. AFTER THE ABSTRACT IS
13 PRESENTED, MANY TIMES A PAPER WILL BE PUBLISHED ON A
14 SIMILAR OR IDENTICAL TOPIC.

15 Q. GO BACK TO THE PRECEDING PAGE, PLEASE.

16 WHAT HAS BEEN THE FOCUS OF YOUR WRITINGS,
17 DOCTOR? WHAT HAS BEEN YOUR AREA OF INTEREST?

18 A. I HAVE WRITINGS IN STRESS ECHOCARDIOGRAPHY,
19 PROFUSION, ECHOCARDIOGRAPHY AND VASCULAR ULTRASOUND.

20 Q. OKAY. THAT IS A GENERALIZATION, RIGHT?

21 A. YES.

22 Q. NOW, YOU CAME TO KANSAS CITY IN 1985. WHEN YOU
23 CAME TO KANSAS CITY IN 1985, YOU BEGAN YOUR PRACTICE OF
24 MEDICINE, RIGHT?

25 A. YES, I DID.

1 Q. AND YOU JOINED A PRACTICE IN KANSAS CITY, IS THAT
2 CORRECT?

3 A. I JOINED A GROUP OF SEVEN. I WAS THE
4 ECHOCARDIOGRAPHER IN THAT GROUP.

5 Q. AND WHAT WAS THE NAME OF THE PRACTICE?

6 A. MID-AMERICAN CARDIOLOGY.

7 Q. AND HOW MANY PHYSICIANS WERE ASSOCIATED WITH THAT
8 PRACTICE?

9 A. AT THE TIME I JOINED THERE WERE SEVEN. THEY HAVE
10 HAD AS MANY AS 26 PHYSICIANS.

11 Q. HOW LONG WERE YOU WITH THAT PRACTICE?

12 A. 15 YEARS.

13 Q. WAS YOUR HUSBAND ALSO WITH THAT PRACTICE?

14 A. 12 YEARS, I MISSPOKE.

15 Q. WAS YOUR HUSBAND WITH THAT PRACTICE?

16 A. YES.

17 Q. AT SOME POINT YOU AND YOUR HUSBAND LEFT THAT
18 PRACTICE AND FORMED YOUR OWN PRACTICE?

19 A. YES, WE DID FIVE YEARS AGO AND WE HAVE CURRENTLY
20 FOUR, A FOUR PERSON PRACTICE. WE HAVE TWO OTHER
21 PARTNERS.

22 Q. THEY ARE ALSO PHYSICIANS?

23 A. YES, THEY ARE.

24 Q. OKAY. AND HOW BIG IS YOUR STAFF?

25 A. WE HAVE ABOUT 18 STAFF CURRENTLY. WE ARE ADDING

1 FAIRLY RAPIDLY SO I'M SAYING THAT --

2 Q. HOW MANY SONOGRAPHERS ON YOUR STAFF CURRENTLY?

3 A. FOUR.

4 Q. TELL US ABOUT THE OTHER -- YOU HAVE FOUR
5 PHYSICIANS, FOUR SONOGRAPHERS. THAT LEAVES TEN MORE
6 PEOPLE. WHAT DO THEY DO?

7 A. WE HAVE NURSES AND WE HAVE MEDICINE TECHS,
8 RECEPTIONIST AND A BUSINESS MANAGER.

9 Q. YOU MOVED INTO NEW OFFICES?

10 A. YES. WE ONLY HAD 5500 SQUARE FEET. WE MOVED TO
11 11,000 SQUARE FEET AND HAVE MOVED TO A DIFFERENT
12 HOSPITAL ACTUALLY THAT IS MORE SUBURBAN.

13 Q. IN THE KANSAS CITY AREA?

14 A. YES.

15 Q. YOU HAVE HEARD -- WE TALKED ABOUT EQUIPMENT, THE
16 EQUIPMENT USED TO PERFORM ECHOCARDIOGRAMS. WHAT TYPE
17 OF EQUIPMENT DO YOU HAVE IN YOUR OFFICE?

18 A. WE CURRENTLY HAVE A FULLY DIGITAL LABORATORY. WE
19 HAVE STATE-OF-THE-ART DIGITAL EQUIPMENT FOR VIEWING
20 ECHOCARDIOGRAMS AND ALSO FOR ACQUIRING ECHOCARDIOGRAMS.

21 WE HAVE TWO ATL 5000 ECHOCARDIOGRAPHIC
22 MACHINES WHICH ARE CAPABLE OF BOTH CARDIAC AND VASCULAR
23 IMAGING. WE HAVE A TEST SITE, BETA HEWLETT PACKARD
24 5500 WHICH WE USE FOR RESEARCH AND CLINICAL STUDIES AND
25 CONSULT WITH THE COMPANY ABOUT THE SETTINGS TO

1 DETERMINE WHETHER OR NOT THEY ARE ACCURATE AND CAN BE
2 USED FOR TAKING CARE OF PATIENTS AND CLINICAL MEDICINE.

3 WE HAVE A SEQUOIA, THAT IS A SIMILAR PIECE
4 OF EQUIPMENT MADE BY ACCUSON.

5 Q. YOU DESCRIBED THIS AS STATE OF THE ART EQUIPMENT?

6 A. YES.

7 Q. HOW OFTEN DO YOU GET A NEW ECHO MACHINE?

8 A. WE HAVE OUR SOFTWARE UPGRADED AT LEAST EVERY SIX
9 MONTHS. IF THERE IS A NEW MODEL, WE GENERALLY TRY TO
10 UPGRADE TO THE NEW MODEL WITHIN A FEW MONTHS OF IT
11 BEING RELEASED.

12 Q. OKAY. WHAT LEVEL ARE YOU AS AN ECHOCARDIOGRAPHER
13 AS DEFINED IN THE PERLMAN ARTICLE THAT WE HAVE HEARD
14 TESTIFIED ABOUT?

15 A. LEVEL III.

16 Q. HOW MANY ECHOCARDIOGRAMS HAVE YOU PERFORMED IN
17 YOUR CAREER?

18 A. I HAVE INTERPRETED 150,000, 275,000
19 ECHOCARDIOGRAMS, I HAVE PERFORM SEVERAL THOUSAND.

20 Q. THAT IS SINCE YOU BECAME A PHYSICIAN?

21 A. YES.

22 Q. NOW, I WANT TO FOCUS ON THE SONOGRAPHER WHO
23 PERFORMED THE ECHOCARDIOGRAMS THAT WE SPENT SO MUCH
24 TIME TALKING ABOUT OVER THE LAST TWO DAYS. WHO IS THAT
25 PERSON?

1 A. MISS AUDREY LOEB, L-O-E-B. A-U-D-R-E-Y.

2 Q. HOW MANY ECHOCARDIOGRAMS DID YOU PERFORM FOR THE
3 LAW FIRM OF HARITON & D'ANGELO?

4 A. I BELIEVE THE NUMBER IS 725.

5 Q. THAT IS OVER WHAT PERIOD?

6 A. OVER SIX MONTHS.

7 Q. OF THE --

8 THE COURT: I THINK WE ARE GOING TO RECESS
9 NOW FOR THE DAY. AND YOU MAY STEP DOWN, DOCTOR. DR.
10 CROUSE, WE WILL RESUME. EVERYBODY RELAX. WE ARE GOING
11 TO RESUME ON MONDAY. WE ALL KNOW WE ARE NOT SITTING
12 TOMORROW. AND WE WILL RESUME AT 10:30. I HAVE A
13 COUPLE OF MATTERS THAT HAVE BEEN PREVIOUSLY SCHEDULED
14 FOR MONDAY SO WE WON'T BE ABLE TO START UNTIL 10:30.
15 THOSE OF YOU COMING FROM NEW YORK YOU WON'T HAVE TO GET
16 UP BEFORE THE SUN RISES TO GET OVER HERE. THEN WE WILL
17 JUST CONTINUE. NOW, ARE WE GOING TO BE ABLE TO FINISH
18 ON MONDAY?

19 MR. HARPER: I WOULD CERTAINLY HOPE SO.
20 YOUR HONOR. I MEAN --

21 THE COURT: YOU HAVE DR. CROUSE AND DR.
22 MUELLER?

23 MR. HARPER: DR. MUELLER WILL TESTIFY ON
24 MONDAY AND THEN --

25 THE COURT: HOW LONG DO YOU EXPECT DR.

1 CROUSE'S DIRECT TO BE?

2 MR. HARPER: I WOULD APPRECIATE IF YOU
3 DIRECT THAT TO MR. JOHNSON.

4 THE COURT: MR. JOHNSON.

5 MR. JOHNSON: I'M GOING TO -- IT WAS NOT
6 VERY -- IT WAS NOT VERY LONG, BUT I'M GOING TO REVISIT
7 IT OVER THE WEEKEND.

8 THE COURT: MAKE IT LONGER OR SHORTER.

9 MR. JOHNSON: HOW ABOUT A LITTLE OF BOTH,
10 JUDGE. I THINK IT'S THE CASE, I DON'T KNOW HOW LONG.

11 MR. HARPER: I THINK THAT THERE ARE REASONS,
12 THINGS THAT HAPPENED TODAY THAT IS GOING TO MAKE DR.
13 MUELLER'S DIRECT EXAMINATION BRIEFER THAN IT WOULD HAVE
14 BEEN OTHERWISE.

15 THE COURT: WHAT DOES THAT MEAN?

16 MR. HARPER: A HALF HOUR, TOPS. AND SO --

17 THE COURT: SO WE ARE -- WE WILL CLEARLY
18 FINISH WITH THESE WITNESSES. . . NOW HOW ABOUT REBUTTAL?
19 IS THAT A POSSIBILITY?

20 MS. FLETMAN: YES, YOUR HONOR, I DON'T THINK
21 IT WOULD BE -- YOU KNOW, JUST SO THERE IS NO MYSTERY, I
22 PLAN TO HAVE DR. DENT BACK ON REBUTTAL, AND I THINK WE
23 ARE TALKING HALF AN HOUR, 45 MINUTES.

24 THE COURT: WELL, LET'S TRY TO SEE IF WE
25 CAN'T FINISH.

1 MR. JOHNSON: CAN WE HEAR FROM WYETH ON THE
2 SAME SUBJECT.

3 MR. ZIMROTH: WE ARE CONSIDERING ONE
4 REBUTTAL WITNESS. WE HAVE NOT MADE UP OUR MIND. IF
5 SO, IT WILL BE VERY SHORT.

6 MR. HARPER: IF IT IS AN EXPERT OR A FACT
7 WITNESS, A PERSON WHOSE NAME --

8 THE COURT: ONE OR THE OTHER, EXPERT OR
9 FACT.

10 MR. HARPER: I MISSPOKE. I WITHDRAW THE
11 COMMENT. IF IT IS A NAME THAT I HAVE NOT HEARD BEFORE,
12 I WOULD LIKE TO KNOW THAT NAME OR A NAME NOT ON A
13 WITNESS LIST.

14 NO. I WOULD LIKE TO KNOW WHO THEY ARE
15 CONSIDERING. MR. ZIMROTH STOOD UP AND PRESSED ME
16 EVERYDAY, WHO ARE YOU CALLING? WHO ARE YOU CALLING?

17 THE COURT: HE HAD TROUBLE GETTING THE
18 INFORMATION OUT OF YOU.

19 MR. HARPER: I TOLD HIM THOUGH. I TOLD HIM.
20 IN FAIRNESS, I NARROWED IT DOWN EVERY DAY. FINALLY I
21 CAME FULL CIRCLE YESTERDAY.

22 MR. ZIMROTH: YOUR HONOR, PART OF THIS
23 DEPENDS UPON DOCUMENTS, AND WHETHER OR NOT OBJECTIONS
24 THAT WERE MADE WERE CONTINUED OR NOT. I THINK WE WILL
25 TALK TO MR. HARPER OVER THE WEEKEND. WE WILL GET OUR

1 DOCUMENTS DONE. THEN WE WILL DECIDE.

2 THE COURT: TRY TO LET HIM KNOW BEFORE
3 MONDAY AT SOME POINT.

4 MR. HARPER: HOW ABOUT TOMORROW BY THE END
5 OF THE DAY.

6 MR. ZIMROTH: NOT BY ME TOMORROW, BUT WE
7 WILL DO. WE WILL DO.

8 MR. HARPER: I'M SORRY, I DID NOT MEAN TO BE
9 BE INSENSITIVE.

10 MR. ZIMROTH: WE WILL DO IT AS QUICKLY AS WE
11 CAN, MR --

12 MR. HARPER: WITH ALL DUE RESPECT, MONDAY
13 MORNING IS OF NO CONSEQUENCE AND HELP TO ME, YOUR
14 HONOR.

15 THE COURT: LET'S TRY TO GET BACK TO HIM
16 BEFORE MONDAY MORNING.

17 MR. HARPER: I WILL BE IN MY OFFICE ALL DAY
18 SUNDAY SO THAT IF BY SUNDAY AT NOON, I WAS MADE AWARE
19 AND YOU HAVE MY NUMBER, I'M HAPPY TO PUT IT ON THE
20 RECORD, I WILL BE IN NEW YORK IN MY OFFICE AND IF YOU
21 CAN LET ME KNOW BY SUNDAY AT NOON.

22 MR. ZIMROTH: ONE THING I CAN ASSURE THE
23 COURT AND MR. HARPER, WHEN WE MAKE A DECISION, WE WILL
24 LET HIM KNOW. WE ARE NOT GOING TO HOLD IT BACK FROM
25 HIM AFTER WE MAKE IT.

1 THE COURT: LET'S TRY TO LET HIM KNOW
2 SOMETIME MID SUNDAY. LET'S NOT WAIT UNTIL MONDAY
3 MORNING.

4 MR. HARPER: THE ONLY OTHER QUESTION I WOULD
5 HAVE, IF DR. DENT HAS MADE ADDITIONAL NOTES IN
6 CONNECTION WITH THE REBUTTAL. WE MAY AS WELL HAVE IT
7 NOW.

8 MS. FLETMAN: I DON'T BELIEVE HE HAS. IF HE
9 HAS, I WILL PRODUCE THEM.

10 THE COURT: WHAT I WOULD LIKE, IF POSSIBLE,
11 TO HEAR CLOSING ARGUMENT, IF POSSIBLE, ON MONDAY WHEN
12 WE FINISH, DEPENDING ON WHAT TIME OF THE DAY. IF WE
13 DON'T THEN WE WILL HAVE TO MOVE THIS THING INTO
14 TUESDAY. I HOPE WE DON'T HAVE TO DO IT. THEN WE WILL
15 TALK ABOUT WHETHER WE ARE GOING TO HAVE FURTHER BRIEFS,
16 FINDINGS OF FACT. GIVE IT SOME THOUGHT OVER THE
17 WEEKEND. ALSO WE HAD THE QUESTION OF EXHIBITS WHICH I
18 HAVE TO DEAL WITH ON MONDAY ALSO.

19 MS. FLETMAN: TWO POINTS. WE MAY CALL
20 MR. MITCHELL ON REBUTTAL. IT WILL BE ABOUT FIVE
21 MINUTES. WE HAVE EXHIBIT ISSUES. IF THEY ARE GOING TO
22 INSIST, FOR EXAMPLE, THAT DR. DENT'S NOTES DON'T COME
23 IN FOR WHATEVER REASON, I HAVE TO PUT HIM UP TO, PUT
24 HIS NOTES IN AS, THERE MAY BE THAT KIND OF --

25 MR. HARPER: THAT IS REALLY NOT GOING TO BE

1 THE ISSUE THAT I HAVE. THERE ARE --

2 THE COURT: TALK ABOUT IT AMONG YOURSELVES.

3 THEN WE WILL RESOLVE IT ON MONDAY.

4 MR. HARPER: THERE MAY BE QUALIFICATIONS

5 THAT, THINGS I WANT TO CALL TO YOUR ATTENTION IN

6 CONNECTION WITH THEIR ADMISSIBILITY. IT'S A BENCH

7 TRIAL.

8 THE COURT: ONE FINAL THING, LEAVE

9 EVERYTHING HERE. I HAVE A COUPLE OF HEARINGS TOMORROW

10 BUT I'M GOING TO USE A DIFFERENT COURTROOM SO YOU CAN

11 LEAVE THINGS HERE AND WE CAN LOCK IT UP SO NOTHING WILL

12 BE DISTURBED. THANK YOU VERY MUCH. HAVE A NICE

13 WEEKEND.

14 ALL: THANK YOU, YOUR HONOR.

15 (HEARING ADJOURNED AT 5:35 P.M.)

16

17

18 I CERTIFY THAT THE FOREGOING IS A CORRECT

19 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE

20 ABOVE-ENTITLED MATTER.

21

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24 DATE

OFFICIAL COURT REPORTER

25

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3 IN RE: DIET DRUGS (PHENTERMINE/ : MDL NO. 1203
4 FENFLURAMINE/DEXFENFLURAMINE) :
5 PRODUCTS LIABILITY LITIGATION :
6 SHEILA BROWN, ET AL. :
7 V. : CIVIL ACTION
8 AMERICAN HOME PRODUCTS : NO. 99-20593
9 CORPORATION :

10
11 -----
12 PHILADELPHIA, PENNSYLVANIA
13 MONDAY, SEPTEMBER 9, 2002
14 -----

15
16 BEFORE: HONORABLE HARVEY BARTLE, III, JUDGE,

17 HEARING DAY FOUR

18 -----
19
20
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19

20

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1 THE CLERK: PLEASE REMAIN SEATED. COURT IS
2 NOW IN SESSION.

3 (THE CLERK OPENS COURT.)

4 ALL COUNSEL: GOOD MORNING.

5 THE COURT: GOOD MORNING. DR. CROUSE, YOU
6 MAY RESUME THE STAND.

7 MR. JOHNSON: GOOD MORNING.

8 THE COURT: GOOD MORNING.

9 (DR. LINDA CROUSE RESUMES THE STAND ON
10 CONTINUED DIRECT EXAMINATION.)

11 THE COURT: DR. CROUSE, YOU ARE STILL UNDER
12 OATH FROM LAST WEEK.

13 THE WITNESS: YES.

14 THE COURT: YOU MAY PROCEED.

15 DIRECT EXAMINATION (CONTINUED)

16 BY MR. JOHNSON:

17 Q. GOOD MORNING, DR. CROUSE.

18 A. GOOD MORNING.

19 Q. WHEN WE BROKE ON THURSDAY, WE WERE DISCUSSING --
20 WE WERE JUST BEGINNING TO DISCUSS YOUR ECHOCARDIOGRAMS
21 FOR HARITON & D'ANGELO. AND I THINK YOU LAST TESTIFIED
22 THAT YOU DID APPROXIMATELY 725, IF I'M RECALLING
23 CORRECTLY, AND I THINK WE WERE JUST BEGINNING TO
24 DISCUSS YOUR SONOGRAPHER, AUDREY LOEB.

25 WHEN WERE YOU FIRST CONTACTED BY HARITON &

1 D'ANGELO ABOUT DOING ECHOCARDIOGRAMS?

2 A. MY OFFICE WAS INITIALLY CONTACTED IN MID TO LATE
3 JANUARY. AND THE APPOINTMENT WAS SET UP --

4 THE COURT: OF THIS YEAR?

5 THE WITNESS: OF THIS YEAR. AN APPOINTMENT
6 WAS SET UP TO MEET WITH ME IN OUR OFFICE.

7 BY MR. JOHNSON:

8 Q. AND WAS THERE A MEETING IN YOUR OFFICE?

9 A. YES.

10 Q. WHO WAS AT THE MEETING?

11 A. MARIO D'ANGELO AND MR. HARITON.

12 Q. THAT WAS IN JANUARY OF 2002?

13 A. YES.

14 Q. IN KANSAS CITY?

15 A. YES.

16 Q. AS BEST YOU CAN RECALL, WHAT DID THEY SAY, WHAT
17 DID YOU SAY AT THE MEETING?

18 A. THEY SAID THAT THEY HAD BEEN REFERRED TO ME AS AN
19 ECHOCARDIOGRAPHER IN KANSAS CITY BY ANOTHER PHYSICIAN
20 IN TOWN WHO WAS AT THAT TIME PERFORMING AND
21 INTERPRETING ECHOCARDIOGRAMS FOR FEN-PHEN AND THEY HAD
22 BEEN REFERRED BECAUSE OF MY EXPERTISE IN
23 ECHOCARDIOGRAPHY.

24 Q. WHAT DID YOU SAY?

25 A. I ASKED WHAT WOULD BE THE PURPOSE OF THE

1 ECHOCARDIOGRAMS, HOW WOULD THEY WANT THE
2 ECHOCARDIOGRAMS PERFORMED. AND THEY STATED THAT THEY
3 WERE EXPECTING TO HAVE --

4 MS. FLETMAN: OBJECTION, HEARSAY.

5 THE COURT: WELL, THIS IS A DEFENDANT. THEY
6 ARE A PARTY HERE, HARITON & D'ANGELO.

7 MR. JOHNSON: IT ALSO GOES TO EXPLAIN HER
8 ACTIONS. IT PROVIDES A CONTEXT FOR THE WORK SHE DID.

9 MS. FLETMAN: YOUR HONOR, IT'S NOT A
10 STATEMENT OF A PARTY OPPONENT. IT HAS TO BE A
11 STATEMENT AGAINST THE PARTY OPPONENT, NOT A STATEMENT
12 THAT IS FOR THE PARTY OPPONENT.

13 THE COURT: OVERRULED.

14 MR. JOHNSON: IT'S NOT BEING OFFERED TO THE
15 TRUTH. JUST TO EXPLAIN HER ACTIONS.

16 THE COURT: OVERRULED.

17 BY MR. JOHNSON:

18 Q. HOW LONG DID THE MEETING LAST?

19 A. THE MEETING LASTED APPROXIMATELY 30 MINUTES TO AN
20 HOUR.

21 Q. IN THAT MEETING WAS COMPENSATION DISCUSSED?

22 A. YES.

23 Q. AND WHAT WAS DISCUSSED ABOUT COMPENSATION?

24 A. WE TOLD THEM WHAT OUR CLINICAL FEE WAS FOR AN
25 ECHOCARDIOGRAM WHICH IS \$1,150 AND HE ASKED WHAT WOULD

1 BE THE FEE FOR DOING ECHOCARDIOGRAMS IN OUR OFFICE. I
2 SAID \$1,000 OR MY BUSINESS MANAGER SAID \$1,000.

3 Q. WHY THE DIFFERENCE BETWEEN 1,150 AND 1,000?

4 A. BECAUSE WE WOULD NOT HAVE TO GO -- NORMALLY, WHEN
5 WE BILL AN ECHOCARDIOGRAM FOR A PATIENT, WE HAVE TO GO
6 THROUGH INSURANCE AND THERE IS A LOT OF PAPERWORK
7 REQUIRED FOR THAT BILLING. AND BECAUSE WE DIDN'T HAVE
8 TO DO THAT BILLING.

9 Q. THIS IS \$1,000 PER ECHOCARDIOGRAM, RIGHT?

10 A. YES.

11 Q. AND DID THE \$1,000 COMPENSATION DEPEND ON WHETHER
12 OR NOT THE PATIENT QUALIFIED FOR MATRIX LEVEL BENEFITS?

13 A. NO, IT DID NOT.

14 Q. DID THE \$1,000 COMPENSATION DEPEND ON WHETHER OR
15 NOT A GREEN FORM WAS SUBMITTED?

16 A. NO, IT DID NOT.

17 Q. DID YOU GET \$1,000 WHETHER THE PERSON HAD MODERATE
18 OR SEVERE MR OR NOT, RIGHT?

19 A. THAT IS CORRECT.

20 Q. OKAY.

21 AT THIS MEETING, DOCTOR, DID EITHER MR.
22 D'ANGELO OR MR. HARITON SUGGEST TO YOU, EXPLICITLY OR
23 OTHERWISE, THAT IT WOULD BE A GOOD THING IF LOTS OF
24 PEOPLE QUALIFIED FOR BENEFITS?

25 A. NO, THEY DID NOT.

1 Q. HOW ABOUT AT ANY SUBSEQUENT CONVERSATION WITH
2 EITHER MR. D'ANGELO OR MR. HARITON?

3 A. NO, IT HAS NOT.

4 Q. HOW ABOUT WITH ANYONE FROM THE LAW FIRM OF NAPOLI
5 KAISER & BERN, DID THEY EVER SUGGEST THAT TO YOU?

6 A. NO.

7 Q. NOW, IN THIS MEETING, WAS AN APPROXIMATE NUMBER OF
8 ECHOES DISCUSSED?

9 A. YES, IT WAS. THEY ASKED IF WE COULD DO
10 APPROXIMATELY EIGHT ULTRASOUND STUDIES A DAY AND THEY
11 THOUGHT THAT THEY MAY HAVE ENOUGH CLIENTS FOR ONE DAY A
12 MONTH, FOR THE NEXT THREE MONTHS.

13 Q. THAT IS ONLY 24. HOW DO YOU GET FROM 24 TO 700?

14 A. WELL, I DON'T THINK THAT ANYONE AT THAT MEETING
15 UNDERSTOOD WHETHER THERE WOULD BE ANY VOLUME OF
16 ECHOCARDIOGRAMS. THIS WAS A LAW FIRM FROM NEW YORK.
17 MY UNDERSTANDING WAS THAT THEY WERE GOING TO ADVERTISE
18 FOR CLIENTS AND THAT THEY WOULD CALL US IF THE CLIENTS
19 RESPONDED TO THE ADVERTISEMENTS FOR AN ECHOCARDIOGRAM
20 -- CLIENT TO HAVE AN ECHOCARDIOGRAM.

21 Q. NOW, DID CLIENTS, IN FACT, COME INTO YOUR OFFICE
22 IN KANSAS CITY AT SOME POINT?

23 A. YES, THEY DID.

24 Q. AND WHEN DID THAT BEGIN TO OCCUR?

25 A. IN LATE FEBRUARY, WE HAD SCHEDULED A DAY FOR

1 TRAINING SO THAT MY LEAD SONOGRAPHER WOULD UNDERSTAND
2 THE PROTOCOL, WHAT WAS INVOLVED IN THE PROTOCOL, AND
3 PATIENTS WERE THERE ON THAT DAY.

4 Q. WHO TRAINED WHO IN THAT TRAINING SESSION?

5 A. A SONOGRAPHER FROM THE FIRM THAT CAME TO GO OVER
6 THE PROTOCOL TO MAKE CERTAIN THAT WE UNDERSTOOD THE
7 PROTOCOL.

8 Q. A SONOGRAPHER FROM NEW YORK?

9 A. RIGHT. TO MAKE SURE THAT WE UNDERSTOOD HOW TO
10 MAKE THE MEASUREMENTS.

11 Q. AND THE PATIENTS BEGAN COMING IN THAT VERY DAY?

12 A. YES.

13 Q. AND --

14 THE COURT: WHERE WERE THESE PATIENTS FROM,
15 ALL OVER THE COUNTRY?

16 THE WITNESS: THESE PATIENTS WERE FROM
17 KANSAS CITY.

18 BY MR. JOHNSON:

19 Q. NOW, THE TIME THAT WAS ALLOTTED FOR THIS, AT SOME
20 POINT IT CHANGED FROM ONE DAY A MONTH TO SOMETHING
21 BIGGER, RIGHT?

22 A. YES. IT BECAME APPARENT THAT THE ECHOCARDIOGRAMS
23 COULD BE DONE IN LESS TIME THAN ONE HOUR.

24 Q. ALL RIGHT. AND SO THEN WHAT HAPPENED, HOW MUCH
25 TIME WERE YOU ALLOTTING, HOW OFTEN?

1 A. WE ALLOTTED 30 MINUTES FOR EACH ECHOCARDIOGRAM.

2 Q. HOW OFTEN IN THE COURSE OF A WEEK OR A MONTH?

3 A. OH, WE WOULD PERFORM ECHOCARDIOGRAMS BASED ON THE

4 NUMBER OF CLIENTS THAT THEY HAD CALLING FOR THE

5 ECHOCARDIOGRAMS, AND THE AVERAGE WAS THREE TO FIVE DAYS

6 PER MONTH.

7 Q. NOW, WHO CALLED WHO TO SCHEDULE THESE

8 APPOINTMENTS?

9 A. THE FIRM IN NEW YORK. WE GAVE THEM APPOINTMENT

10 TIMES.

11 Q. BY THE WAY, WHEN YOU ARE REFERRING TO THE FIRM IN

12 NEW YORK, WHO ARE YOU REFERRING TO?

13 A. THE FIRM OF HARITON AND D'ANGELO.

14 Q. GO AHEAD.

15 A. WE WOULD SUGGEST THAT ON THESE DAYS WE WOULD

16 SIGNIFICANTLY REDUCE THE NUMBER OF CLINICAL PATIENTS SO

17 THAT --

18 Q. THOSE ARE YOUR REGULAR PATIENTS?

19 A. OUR REGULAR PATIENTS. SO THAT THE

20 ECHOCARDIOGRAPHIC EQUIPMENT AND SONOGRAPHER WOULD BE

21 AVAILABLE TO PERFORM ECHOES. WE WOULD GIVE THEM A LIST

22 OF THE DAYS THAT WE WOULD REDUCE OUR CLINICAL LOAD

23 SIGNIFICANTLY AND THE CLIENTS WOULD BE SCHEDULED BY THE

24 FIRM IN NEW YORK. WE WOULD THEN BE SENT A COPY OF THE

25 APPOINTMENT LIST.

1 Q. NOW, TO GET TO 700, HOW OFTEN DID YOU END UP
2 SEEING PATIENTS IN THE COURSE OF A MONTH, OVER WHAT
3 PERIOD OF TIME?

4 A. WE SAW PATIENTS THREE TO FIVE DAYS A MONTH. WE
5 BEGAN DOING THE ECHOES LATE FEBRUARY. IN MARCH, I
6 BELIEVE, THERE WERE A FEW ADDITIONAL DAYS BECAUSE
7 INITIALLY THEY HAD QUITE A FEW CLIENTS CALL FOR
8 ECHOCARDIOGRAMS, AND THEN ONE WEEK A MONTH.

9 Q. IT WORKED OUT TO ABOUT ONE WEEK A MONTH
10 ESSENTIALLY?

11 A. YES.

12 Q. AND HOW MANY A DAY?

13 A. WE WOULD SCHEDULE 24, 25 A DAY.

14 Q. AND WOULD ALL THOSE 24 OR 25 SHOW UP ON THAT DAY?

15 A. NO. MANY PEOPLE WOULD FORGET THEIR APPOINTMENTS.
16 A FEW EACH DAY AT LEAST WOULD FORGET THEIR
17 APPOINTMENTS.

18 Q. THIS BEGAN IN LATE FEBRUARY, CORRECT?

19 A. YES, IT DID.

20 Q. AND FOR HOW LONG DID YOU SEE CLIENTS FROM HARITON
21 & D'ANGELO?

22 A. WE PERFORMED IMAGING UNTIL EARLY JULY.

23 Q. ARE YOU DOING ANY CURRENTLY FOR HARITON &
24 D'ANGELO?

25 A. NO, WE ARE NOT.

1 Q. NOW, YOU MENTIONED EARLIER THAT THE SONOGRAPHER --
2 THE COURT: WHY DID YOU STOP DOING WORK FOR
3 THE FIRM?

4 THE WITNESS: IT WAS MY UNDERSTANDING THAT
5 THERE WERE NO FURTHER CLIENTS IN KANSAS CITY.

6 THE COURT: AS OF WHEN?

7 THE WITNESS: EARLY JULY.

8 BY MR. JOHNSON:

9 Q. YOU MENTIONED A SONOGRAPHER FROM NEW YORK, IS THAT
10 CORRECT?

11 A. YES.

12 Q. WERE THERE OTHER SONOGRAPHERS OR NURSES WHO CAME
13 TO THE OFFICE FROM NEW YORK WHILE THESE ECHOCARDIOGRAMS
14 WERE BEING PERFORMED?

15 A. I'M NOT AWARE THAT ANY OF THE OTHER PERSONNEL WERE
16 SONOGRAPHERS, BUT A NURSE CAME AND WAS PHYSICALLY IN
17 THE OFFICE WHEN THE PATIENTS CAME FOR THEIR
18 ECHOCARDIOGRAMS.

19 Q. WHAT IS YOUR RECOLLECTION ABOUT THE INTERACTION
20 BETWEEN THE NURSE AND THE CLIENT AND YOUR STAFF?

21 A. I WAS TOLD THAT THE NURSE WAS THERE TO HAVE A
22 RELATIONSHIP WITH THE CLIENTS SO THAT THE CLIENT
23 UNDERSTOOD WHO REPRESENTED THE LAW FIRM.

24 THE PATIENT OR CLIENT WOULD COME TO THE
25 OFFICE, THEY WOULD FILL OUT A FORM FOR OUR OFFICE, LIKE

1 ALL PATIENTS DO, AND WE WOULD PERFORM THE
2 ECHOCARDIOGRAM.

3 Q. DR. CROUSE, YOU SKIPPED AHEAD OF ME IN MY OUTLINE,
4 BUT LET'S DEAL WITH THIS ONE NOW. LET ME SHOW YOU HN
5 166, PLEASE.

6 THE COURT: DO YOU HAVE ONE FOR MR. ZIMROTH?

7 MR. JOHNSON: YOU DON'T HAVE IT ON THE
8 SCREEN?

9 THE COURT: OKAY.

10 BY MR. JOHNSON:

11 Q. IS THIS THE FORM YOU JUST REFERRED TO, HN 166?

12 A. YES, IT IS.

13 Q. THIS IS THE FORM THAT THE CLIENTS FILLED OUT WHEN
14 THEY CAME INTO YOUR OFFICE, RIGHT?

15 A. YES. THIS IS OUR STANDARD CLINICAL FORM.

16 Q. YOU WERE TALKING ABOUT THE NURSES FROM THE LAW
17 FIRM, PERSONNEL FROM THE LAW FIRM. AS FAR AS YOU COULD
18 OBSERVE, WHERE WERE THEY DURING THESE ECHOCARDIOGRAMS?

19 A. WE ASKED THEM TO SIT INSIDE ONE OF THE DOCTOR'S
20 OFFICES THAT WAS EMPTY. WE PREFERRED THAT THEY KEEP
21 THE DOOR CLOSED SO THAT THE OFFICE PERSONNEL WAS NOT
22 BOTHERED BY ANY INTERACTION OR DISCUSSION, AND THE
23 CLIENT OR PATIENT WAS TAKEN TO THE NURSE AFTER THE
24 ECHOCARDIOGRAM WAS PERFORMED.

25 Q. NOW, DO YOU KNOW WHETHER THE NURSE WAS IN THE ROOM

1 WHILE THE ECHO WAS PERFORMED?

2 A. THE NURSE COULD ENTER THE ECHOCARDIOGRAPHIC ROOM
3 IF SHE SO DESIRED. MOST OF THE TIME THEY DID NOT GO
4 BACK TO THE ECHOCARDIOGRAPHIC ROOM. WE TRIED TO
5 PRESERVE PATIENT PRIVACY AS MUCH AS POSSIBLE. AND
6 DURING THE ECHOCARDIOGRAMS, THE PATIENT'S CHEST IS
7 EXPOSED SO THAT WE DID NOT ENCOURAGE THEM TO WALK IN
8 AND OUT OF THE PATIENT'S ROOM. SOMETIMES THEY WERE
9 CHECKING, MAKING CERTAIN WE WERE DOING THE WORK, THE
10 ECHOCARDIOGRAM.

11 Q. DOCTOR, I'M SHOWING YOU MOVANTS' EXHIBIT 99.

12 MR. GROSSI: WAS THERE AN EXHIBIT NUMBER ON
13 THE PRIOR ONE? IT'S NOT ON THE SCREEN.

14 MR. JOHNSON: HN 166.

15 MR. GROSSI: THANK YOU.

16 BY MR. JOHNSON:

17 Q. MOVANTS' EXHIBIT 99, DO YOU RECOGNIZE THIS FORM?

18 A. NO, I DO NOT.

19 Q. HAVE YOU EVER USED THIS FORM TO MAKE ANY ENTRIES
20 REGARDING MITRAL VALVE REGURGITATION?

21 A. NO, I HAVE NOT.

22 Q. HAVE YOU SEEN THIS FORM BEFORE THE VERY MOMENT YOU
23 ARE SITTING HERE NOW?

24 A. I BELIEVE THAT YOU SHOWED IT TO ME IN PREPARATION,
25 BUT I HAVE NOT SEEN IT PRIOR TO COMING TO PHILADELPHIA.

1 Q. THESE ECHOCARDIOGRAMS THAT WE'RE TALKING ABOUT
2 THAT WERE DONE FOR THE FIRM OF HARITON AND D'ANGELO,
3 WERE THEY PERFORMED IN YOUR OFFICE?

4 A. YES, THEY WERE.

5 Q. IN KANSAS CITY, RIGHT?

6 A. YES.

7 Q. WERE THEY ALL PERFORMED IN YOUR OFFICE, AS FAR AS
8 YOU KNOW?

9 A. YES, THEY ALL WERE.

10 Q. DID ONE OF YOUR SONOGRAPHERS PERFORM THESE
11 ECHOCARDIOGRAMS?

12 A. YES.

13 Q. AND WHO PERFORMED THE ECHOCARDIOGRAMS, WHICH
14 SONOGRAPHER?

15 A. THE MAJORITY OF ECHOCARDIOGRAMS WERE PERFORMED BY
16 OUR LEAD SONOGRAPHER.

17 Q. WHO IS THAT PERSON?

18 A. AUDREY LOEB.

19 Q. AND HOW LONG HAVE YOU WORKED WITH AUDREY LOEB?

20 A. I HAVE WORKED WITH AUDREY LOEB FOR SEVEN YEARS.

21 Q. FIVE YEARS IN YOUR CURRENT PRACTICE?

22 A. YES. WHEN WE OPENED THE PRACTICE, AUDREY STARTED
23 AS OUR LEAD SONOGRAPHER AND PRIOR TO THAT FOR TWO YEARS
24 SHE HAD WORKED UNDER MY DIRECTION WHILE I WAS EMPLOYED
25 AT MID-AMERICA CARDIOLOGY.

- 1 Q. SO FOR A TOTAL OF SEVEN YEARS, RIGHT?
- 2 A. YES.
- 3 Q. TO YOUR KNOWLEDGE, HOW LONG HAS MISS LOEB BEEN A
- 4 SONOGRAPHER?
- 5 A. 20 YEARS.
- 6 Q. DO YOU KNOW WHETHER MISS LOEB HAS A MASTER'S
- 7 DEGREE?
- 8 A. YES, SHE HAS A MASTER'S IN SCIENCE.
- 9 Q. AND DO YOU KNOW WHETHER MISS LOEB DOES ANY
- 10 TEACHING HERSELF?
- 11 A. SHE, PRIOR TO COMING TO KANSAS CITY, SHE TAUGHT
- 12 ULTRASOUND PHYSICS AT FORT HAYS, STATE UNIVERSITY IN
- 13 HAYS, KANSAS.
- 14 AFTER COMING INTO MY LABORATORY, SHE HAS
- 15 HELPED INSTRUCT IN THE NATIONAL COURSES THAT WE PUT ON
- 16 ON ECHOCARDIOGRAPHY AND PERIPHERAL VASCULAR IMAGING.
- 17 Q. WHEN YOU SAY "NATIONAL COURSES," WHO IS SPONSORING
- 18 THESE COURSES?
- 19 A. THEY ARE SPONSORED BY THE CME ORGANIZATION,
- 20 USUALLY ST. LUKE'S CONTINUING MEDICAL EDUCATION.
- 21 Q. SHE TAUGHT CME TO WHOM?
- 22 A. TO PHYSICIANS COMING TO LEARN HOW TO PERFORM AND
- 23 INTERPRET STRESS ECHOCARDIOGRAMS AND PERIPHERAL
- 24 VASCULAR ULTRASOUND EXAMINATIONS.
- 25 Q. IS THERE ANY KIND OF CERTIFICATION OR REGISTRATION

1 REQUIREMENT FOR SONOGRAPHERS, TO YOUR KNOWLEDGE?

2 A. REGISTRATION OF SONOGRAPHERS IS NOT REQUIRED
3 EXCEPT IN TWO STATES, LOUISIANA AND SOUTH CAROLINA.

4 Q. YOU TOLD US ABOUT THAT ON THURSDAY, RIGHT?

5 A. YES. THERE IS A VOLUNTARY REGISTRY FOR
6 SONOGRAPHERS THAT IS WELL RESPECTED WITHIN THE
7 ECHOCARDIOGRAPHIC COMMUNITY.

8 Q. AND DOES MISS LOEB HAVE ANY REGISTRATIONS?

9 A. YES, SHE DOES. SHE HAS THREE. SHE IS REGISTERED
10 IN RDMS, WHICH IS MEDICAL DIAGNOSTIC SONOGRAPHY, AND
11 WITHIN MEDICAL DIAGNOSTIC SONOGRAPHY --

12 Q. THAT IS OVERALL REGISTRATION?

13 A. YES, THAT IS THE GENERAL TITLE OF THE
14 REGISTRATION. SHE HOLDS THE REGISTRY IN OB-GYN AND IN
15 ABDOMINAL.

16 Q. THAT IS LOOKING AT FETUSES?

17 A. YES. ABDOMINAL IMAGING.

18 Q. ABDOMINAL IMAGING INVOLVES WHAT?

19 A. ABDOMINAL IMAGING WOULD BE THE SOFT TISSUE, THE
20 KIDNEY FOR EXAMPLE, THE GALLBLADDER, ANY SOFT TISSUE.

21 Q. DOES SHE HOLD ANY REGISTRATION FOR THE HEART
22 SPECIFICALLY?

23 A. YES, SHE IS REGISTERED IN CARDIAC SONOGRAPHY, AND
24 IN CARDIAC SONOGRAPHY, SHE IS A REGISTERED SONOGRAPHER
25 FOR BOTH ADULT AND PEDIATRIC.

1 Q. THERE IS A DIFFERENCE?

2 A. YES, PEDIATRIC ULTRASOUND IS A VERY COMPLEX STUDY
3 OF CONGENITAL HEART DISEASE OR CONGENITAL ABNORMALITIES
4 OF THE HEART.

5 Q. SO, AM I CORRECT THAT SHE HAS FOUR REGISTRATIONS?

6 A. SHE IS ALSO REGISTERED IN VASCULAR TECHNOLOGY.

7 Q. WHAT IS THAT?

8 A. THAT IS THE STUDY OF THE BLOOD VESSELS OF THE
9 BODY, AND THAT INCLUDES IMAGING OF THE RENAL ARTERY,
10 THE LEG ARTERIES, THE NECK ARTERIES.

11 Q. LET ME SHOW YOU HN 171, 172 AND 173.

12 DO YOU RECOGNIZE THESE THREE EXHIBITS?

13 A. YES, I DO.

14 Q. WHAT ARE THESE?

15 A. THESE ARE THE REGISTRATION CERTIFICATES FOR AUDREY
16 LOEB.

17 Q. YOU SAID THAT THERE WERE FIVE. YOU SEE ONLY THREE
18 HERE.

19 A. EACH AREA HAS SUBEXAMINATIONS FOR DIFFERENT AREAS
20 OF THE BODY, SO THE MEDICAL SONOGRAPHY REGISTRY IS
21 FOR -- SHE IS CERTIFIED IN BOTH OB-GYN AS ONE
22 SUBSPECIALTY AS WELL AS ABDOMINAL IMAGING.

23 Q. IS IT USUAL OR UNUSUAL FOR A SONOGRAPHER TO HAVE
24 SO MANY REGISTRATIONS?

25 A. HIGHLY UNUSUAL.

1 Q. LOOKING AT 173. THAT IS FOR CARDIAC SONOGRAPHY
2 SPECIFICALLY, RIGHT?

3 A. YES, IT IS.

4 Q. NOW, IN TERMS OF -- YOU SAID YOU HAD FOUR
5 SONOGRAPHERS ON YOUR STAFF, IS THAT CORRECT?

6 A. YES.

7 Q. AND HOW DO THEY COMPARE, HOW DO THE OTHER THREE
8 COMPARE IN TERMS OF EXPERIENCE?

9 A. THE OTHER THREE ARE NOT AS EXPERIENCED.

10 Q. HOW ABOUT IN TERMS OF THEIR ABILITY AND
11 PERFORMANCE AS COMPARED TO MISS LOEB?

12 A. THEY ARE VERY GOOD, BUT THEY ARE STILL -- I WORK
13 ONE-ON-ONE WITH ALL OF MY SONOGRAPHERS, TRAINING THEM
14 TO BE CERTAIN THAT THE INFORMATION THAT IS BROUGHT TO
15 ME IS OF A QUALITY SUCH THAT I CAN INTERPRET IT AS WELL
16 AS POSSIBLE. I'VE WORKED WITH AUDREY FOR MANY YEARS.
17 SHE IS MUCH MORE EXPERIENCED AND MUCH MORE EXPERT. THE
18 OTHERS ARE GOOD AND THEY ARE CONTINUING TO IMPROVE, BUT
19 THEY ARE NOT AS GOOD TECHNICALLY AS AUDREY.

20 Q. OF THE OVERALL NUMBER OF ECHOCARDIOGRAMS THAT WERE
21 DONE FOR HARITON & D'ANGELO IN YOUR OFFICE, HOW MANY
22 DID SHE DO, DO YOU KNOW?

23 A. SHE DID 54.

24 Q. OF THE OVERALL 700?

25 A. 55.

1 Q. OF 725.

2 A. OF THE 725. I'M SORRY. I THOUGHT YOU MEANT
3 THESE. SHE DID THE MAJORITY.

4 Q. THE MAJORITY?

5 A. YES. I THINK SHE PROBABLY DID OVER 90 PERCENT OF
6 THEM.

7 Q. HOW ABOUT OF THE 55?

8 A. SHE DID 54.

9 Q. IS THERE A REASON WHY YOU ASSIGNED HER TO DO ALL
10 OF THESE 700 OR SO?

11 A. BECAUSE SHE IS THE MOST TECHNICALLY EXPERT. SHE
12 ALSO DOES THE RESEARCH PROTOCOLS THAT ARE PERFORMED IN
13 OUR OFFICE. RESEARCH PROTOCOLS ALSO REQUIRE A
14 SIGNIFICANT EXACTITUDE AS TO THE MEASUREMENT AND
15 RECORDING OF THE ECHOCARDIOGRAM. SHE ALSO PERFORMS THE
16 RESEARCH ECHOCARDIOGRAMS FOR RESEARCH PROTOCOLS FOR
17 INVESTIGATION.

18 BY THE COURT:

19 Q. YOU SAID YOU WERE DOING 24, 25 A DAY?

20 A. YES.

21 Q. AND THEY TAKE ABOUT A HALF HOUR EACH?

22 A. YES.

23 Q. SO SHE WOULD BE DOING 12 HOURS OF SONOGRAMS A DAY?

24 A. YES. ON THESE DAYS -- WHEN SHE NORMALLY DOES HER
25 CLINICAL WORK, SHE ALSO WORKS VERY LONG HOURS BUT

1 PROBABLY IS COMPLETE -- HAS FINISHED HER EXAMINATIONS
2 BY ABOUT FIVE O'CLOCK OR 5:30. SO THIS WOULD BE A
3 LONGER DAY FOR HER THEN.

4 Q. 5:30. SO SHE STARTS AT 5:30 IN THE MORNING?

5 A. SHE STARTS AT 7:30 IN THE MORNING. SHE USUALLY
6 WORKS TILL 5:30, SIX, SOMETIMES LATER.

7 BY MR. JOHNSON:

8 Q. USUALLY. ARE YOU TALKING ABOUT THESE OR ARE YOU
9 TALKING ABOUT USUALLY?

10 A. I'M TALKING ABOUT USUALLY.

11 THE COURT: HOW ABOUT LUNCH, WHAT WOULD SHE
12 DO?

13 THE WITNESS: SHE USUALLY DOES NOT TAKE A
14 LUNCH BREAK. MOST PEOPLE IN OUR OFFICE DON'T --

15 THE COURT: SHE EATS A BIG BREAKFAST?

16 THE WITNESS: OUR PRACTICE WORKS THROUGH
17 LUNCH, AND WE ARE BROUGHT LUNCH TO EAT IN THE CLINICAL
18 AREA BETWEEN STUDIES OR WHEN WE ARE NOT BUSY.

19 BY MR. JOHNSON:

20 Q. IN RESPONSE TO THE JUDGE'S QUESTION, THAT MEANS
21 SHE IS DOING ECHOCARDIOGRAMS FROM ABOUT 7:30 IN THE
22 MORNING UNTIL ABOUT 7:00 AT NIGHT?

23 A. YES, THAT'S TRUE.

24 Q. THAT WAS A BUSY DAY?

25 A. YES.

1 Q. WHERE WERE YOU DURING ALL THIS TIME WHILE THESE
2 ECHOES ARE BEING PERFORMED?

3 A. I WAS USUALLY IN THE OFFICE. MY OFFICE IS ABOUT
4 50 FEET FROM THE ECHOCARDIOGRAPHIC READING ROOM AND THE
5 ULTRASOUND MACHINES ARE PERHAPS 50 YARDS FROM THE ECHO
6 READING ROOM. IT'S ALL IN A VERY SMALL OFFICE, IN VERY
7 CLOSE PROXIMITY.

8 Q. WERE THERE OCCASIONS WHEN YOU WERE NOT IN THE
9 OFFICE WHILE ECHOES WERE BEING PERFORMED?

10 A. YES. IF I HAD TO GO TO THE HOSPITAL TO SEE A
11 PATIENT, I WOULD GO TO THE HOSPITAL, SEE THE PATIENT
12 AND RETURN.

13 Q. THE HOSPITAL IS ACROSS THE STREET?

14 A. IF I HAD A MEETING, I WOULD READ THE
15 ECHOCARDIOGRAMS EITHER ONLINE OR LATER.

16 Q. WHAT DO YOU MEAN BY ONLINE?

17 A. YOU CAN READ THE DIGITAL IMAGES OVER THE INTERNET
18 OR AT HOME.

19 Q. YOU HAVE INTERNET ACCESS TO YOUR DATA BASE IN YOUR
20 OFFICE?

21 A. YES.

22 Q. THERE MUST BE SOME SECURITY ASSOCIATED WITH THAT,
23 IS THAT RIGHT?

24 A. YES.

25 Q. NOW, YOU SAID THAT YOU WANTED HER TO DO ALL OF

1 THESE. IS THERE A REASON WHY YOU WANTED ONE
2 SONOGRAPHER ASSIGNED TO ALL OF THESE?

3 A. I WANTED TO MAINTAIN AS NICE A QUALITY OF STUDY AS
4 POSSIBLE.

5 Q. WE TALKED ABOUT THE FORM HN 166 THAT IS FILLED OUT
6 BY THE PATIENT WHEN THE CLIENT COMES INTO THE OFFICE.
7 WHAT TYPICALLY HAPPENED NEXT?

8 A. YOU ARE REFERRING TO MY OFFICE FORM, IS THAT
9 CORRECT? I DON'T HAVE A NUMBER.

10 Q. YES, YOUR OFFICE FORM.

11 A. YES. THE PATIENT/CLIENT WOULD THEN WAIT IN THE
12 LOBBY, WOULD THEN BE TAKEN BACK TO AN ECHOCARDIOGRAPHIC
13 ROOM. THE PATIENT WOULD THEN BE UNDRESSED AND THE
14 PATIENT'S NAME WOULD BE ENTERED INTO THE MACHINE SO IT
15 WOULD BE RECORDED ON THE VIDEOTAPE AND THE PATIENT
16 WOULD BE PLACED IN A GOWN WITH A TOWEL OVER THEIR
17 CHEST.

18 Q. MISS LOEB, IN THE OVERWHELMING MAJORITY OF THE
19 CASES, WAS THE ONE WHO DID THE ECHOCARDIOGRAMS, RIGHT?

20 A. YES.

21 Q. IN TERMS OF THE EQUIPMENT THAT WAS USED FOR THESE
22 ECHOES, WHAT WAS THE EQUIPMENT INVOLVED?

23 A. ATL 5000 IMAGING EQUIPMENT. WE OCCASIONALLY DO
24 USE THE SONOS 5500, WHICH IS THE HEWLETT PACKARD
25 MACHINE, BUT IN THE MAJORITY OF CASES THE ATL 5000.

1 Q. HOW LONG HAVE YOU HAD THE ATL 5000?

2 A. WELL, ABOUT TWO YEARS.

3 Q. WAS IT THE LATEST MODEL OFF THE LINE AT THE TIME?

4 A. YES.

5 Q. AND HOW ABOUT THE SONOS 5500, HOW LONG HAVE YOU
6 HAD THAT?

7 A. WE HAVE HAD THAT ABOUT NINE MONTHS.

8 Q. IS THERE SOFTWARE ASSOCIATED WITH THESE MACHINES?

9 A. YES. OUR SOFTWARE IS UPGRADED CONTINUALLY BY THE
10 COMPANIES.

11 Q. HOW OFTEN?

12 A. AT LEAST EVERY SIX MONTHS. MANY TIMES MORE
13 FREQUENTLY.

14 Q. YOU HEARD TESTIMONY ABOUT THE ATL 5000 EARLIER, I
15 THINK, FROM DR. ROTH AND, PERHAPS, DOCTOR -- I THINK
16 DR. HELMCKE. WOULD YOU AGREE THAT IT'S STATE OF THE
17 ART EQUIPMENT?

18 A. YES. THE ATL 5000 IS CONSIDERED STATE OF THE ART
19 ECHOCARDIOGRAPHIC EQUIPMENT.

20 Q. ALL RIGHT.

21 NOW, WE HAVE HEARD TESTIMONY ALSO ABOUT
22 NYQUIST LEVELS. WITH REGARD TO THE ATL 5000, WHAT IS
23 THE TYPICAL NYQUIST LEVEL THAT YOU WOULD SEE ON A LOT
24 OF IMAGES WE ARE GOING TO LOOK AT IN A LITTLE WHILE?

25 A. 67 TO 76.

1 Q. AND RELATIVE TO OTHER MACHINES, IS THAT A HIGHER
2 NYQUIST LEVEL, AVERAGE, LOWER?

3 A. ATL HAS A VERY HIGH NYQUIST LIMIT. THE PURPOSE OF
4 THE NYQUIST LIMIT IS TO SET THE COLOR AND THE WALL
5 FILTERS, AND WE LEFT OUR NYQUIST LIMITS HIGH SO THAT WE
6 WOULD ELIMINATE LOW VELOCITIES AND NOISE.

7 Q. WELL, WHEN YOU SAY, "LEFT THEM HIGH," DOES THAT
8 MEAN YOU CAN CHANGE THEM?

9 A. YOU COULD DECREASE THEM, YES. YOU CAN MANUALLY
10 DECREASE THEM.

11 Q. IS THERE SOMETHING THAT CAUSES THEM TO
12 AUTOMATICALLY DECREASE?

13 A. DEPTH. IF THE PATIENT IS QUITE LARGE AND WE NEED
14 TO CHANGE DEPTH, IF WE HAVE A NYQUIST LIMIT OF 76 AT A
15 DEPTH OF 17 AND WE WENT TO A DEPTH OF 21, BECAUSE THE
16 PATIENT WAS PARTICULARLY LARGE, THE NYQUIST LIMIT WOULD
17 DROP TO 67 AUTOMATICALLY.

18 Q. IF YOU HAVE LOW VELOCITY BLOOD FLOW, WHAT IS THE
19 EFFECT ON THE ABILITY TO SEE THAT OF A HIGHER NYQUIST
20 LEVEL?

21 A. IF YOU HAVE A HIGH NYQUIST LEVEL, THEN VERY LOW
22 VELOCITIES ARE DEPICTED AS BLACK OR NAVY BLUE.

23 Q. THE ATL 5000 HAS, ON AVERAGE, A HIGHER NYQUIST
24 LEVEL, RIGHT?

25 A. YES, IT DOES.

1 Q. NOW, WHAT IS AN ECHO BED?

2 A. AN ECHO BED IS A BED THAT IS MANUFACTURED
3 SPECIFICALLY FOR THE PERFORMANCE OF ECHOCARDIOGRAMS.
4 ONE OF THE TECHNICAL ISSUES THAT WE RUN INTO,
5 ESPECIALLY WITH VERY LARGE PATIENTS, IS THAT THE
6 PATIENT NEEDS TO BE IN A FRANK LEFT LATERAL POSITION
7 WITH THEIR HEART OVER A HOLE OR CUTOUT, SO THAT THE
8 TRANSDUCER CAN BE PERPENDICULAR TO THE APEX. IF THE
9 PATIENT IS NOT IMAGED OVER AN ECHO BED, AND THE PATIENT
10 LEANS BACK, THEN THE TRANSDUCER CANNOT BE PLACED
11 PERPENDICULAR TO THE HEART, AND THE WINDOWS ARE NOT AS
12 CLEAR. THE ECHOCARDIOGRAPHIC IMAGE IS NOT AS NICE AS
13 IT IS WITH THE PATIENT IN THE PROPER POSITION.

14 Q. DO YOU MEAN TO SAY THAT WHEN YOU HAVE A FLAT,
15 ORDINARY BED, THE TRANSDUCER IS NOT NECESSARILY FLUSH
16 AGAINST THE APEX OF THE HEART?

17 A. EXACTLY. EVEN THOUGH THE SONOGRAPHER MAY BE
18 ATTEMPTING TO GET THE APPROPRIATE WINDOW, THE WINDOW IS
19 MUCH BETTER AND MORE ACCURATELY OBTAINED BY HAVING THE
20 PATIENT IN A FRANK LEFT LATERAL POSITION WITH THE
21 TRANSDUCER ON THE APEX OF THE HEART. AN ECHOCARDIOGRAM
22 BED IS A BED WITH A FLAT -- IT HAS A HOLE WITH A FOOT
23 SQUARE THAT IS PULLED DOWN SO THAT THERE IS AIR
24 UNDERNEATH THE PATIENT'S CHEST SO THAT THE TRANSDUCER
25 CAN BE PLACED DIRECTLY ON THE APEX FOR OPTIMAL IMAGE.

1 Q. AS THE PATIENT IS LYING ON ITS SIDE?

2 A. YES.

3 Q. DO YOU HAVE AN ECHO BED IN YOUR OFFICE?

4 A. YES, WE HAVE SEVERAL.

5 Q. AND WERE THESE ECHO BEDS USED WITH RESPECT TO

6 THESE CLIENTS FROM HARITON AND D'ANGELO?

7 A. YES, THEY WERE.

8 Q. WHEN MISS LOEB WAS PERFORMING THE ECHOCARDIOGRAM

9 ON THESE CLIENTS, DID SHE TAKE DOWN ANY INFORMATION,

10 TAKE ANY NOTES?

11 A. IF SHE MADE MEASUREMENTS, SHE WOULD TAKE DOWN

12 NOTES.

13 Q. DR. CROUSE, I'M SHOWING YOU HN 165.

14 CAN WE HAVE IT ON THE SCREEN, PLEASE?

15 THE RECORD SHOULD REFLECT THE ORIGINAL OF

16 THIS EXHIBIT IS PINK.

17 165, WHAT IS THIS DOCUMENT?

18 A. THIS IS A SONOGRAPHER'S WORKSHEET FOR WRITING DOWN

19 NOTES WHILE DOING THE ECHOCARDIOGRAM.

20 Q. AND TO YOUR KNOWLEDGE, IS THIS WHAT MISS LOEB USED

21 TO TAKE DOWN THE INFORMATION AS SHE WAS PERFORMING THE

22 ECHOCARDIOGRAMS?

23 A. YES.

24 Q. NOW, YOU SAID YOU WORKED -- YOU'VE WORKED WITH HER

25 FOR SEVEN YEARS?

1 A. YES.

2 Q. I WANT TO TALK ABOUT THE CIRCUMSTANCES UNDER WHICH
3 WHAT YOU SEE FROM AN ECHOCARDIOGRAM GETS RECORDED ON
4 VHS OR ON DIGITAL.

5 BASED ON YOUR SEVEN-YEAR WORKING
6 RELATIONSHIP WITH MISS LOEB, DO YOU HAVE AN
7 UNDERSTANDING BETWEEN YOU AND HER ABOUT WHEN SHE
8 RECORDS STUFF FOR YOU?

9 A. YES.

10 Q. DOES SHE RECORD EVERYTHING THAT SHE SEES ON THE
11 ECHOCARDIOGRAM?

12 A. NO, SHE DOES NOT. I ONLY WANT TO SEE THE IMAGES
13 THAT CONTAIN DIAGNOSTIC QUALITY INFORMATION.

14 Q. WHAT DOES "DIAGNOSTIC QUALITY INFORMATION" MEAN?

15 A. WHEN YOU ARE IMAGING THE PATIENT, MANY TIMES IT
16 TAKES FIVE MINUTES OR SIX MINUTES TO OBTAIN A WINDOW,
17 TO SET YOUR GAINS APPROPRIATELY, SO THAT YOU CAN SEE
18 THE CHAMBERS OF THE HEART CLEARLY, AND TO DETERMINE THE
19 SETTINGS.

20 WE THEN BEGIN WITH THE PARASTERNAL LONG AXIS
21 VIEW, AND THE SONOGRAPHER WOULD RECORD THE BEST IMAGES
22 FROM THAT VIEW. IN OTHER WORDS, WHEN THE SONOGRAPHER
23 IS IN THE APPROPRIATE WINDOW, THAT VIEW IS RECORDED.

24 WE THEN MOVE ON TO THE SHORT AXIS.

25 Q. RECORDED BY VHS OR DIGITAL?

1 A. BY VHS.

2 Q. BY THE VCR TAPE?

3 A. YES, THAT IS DONE EITHER WITH A --

4 Q. IN OTHER WORDS TO BE OPENLY SIMPLISTIC, SHE HITS
5 PLAY?

6 A. NOT PLAY; RECORD. EITHER WITH HER FOOT OR FINGER,
7 SHE HITS RECORD.

8 IF SHE HAS COMPLETED THAT VIEW AND MOVING ON
9 TO THE NEXT, SHE WOULD TURN THE RECORDER OFF WHILE SHE
10 FINDS THE NEXT VIEW, OBTAINS THE BEST IMAGE, THEN TURNS
11 IT BACK ON TO IMAGE THAT.

12 Q. NOW, WHEN DOES SHE -- HOW LONG, THEREFORE, DOES A
13 TYPICAL VHS TAPE FROM THESE ECHOCARDIOGRAMS LAST?

14 A. TYPICAL VIDEOTAPES ARE 5 TO 7 MINUTES IN DURATION.

15 Q. SHE ALSO RECORDS THE DIGITAL IMAGES THAT WE'VE
16 SEEN IN COURT, RIGHT?

17 A. YES.

18 Q. UNDER WHAT CIRCUMSTANCES DOES SHE DO THAT?

19 A. SHE WILL DO THAT, PARTICULARLY WITH REGARD TO
20 FEN-PHEN, WHEN SHE IS TRYING TO DOCUMENT PARTICULARLY
21 THE FREEZE FRAMES. OCCASIONALLY, SHE WILL DO ALSO THE
22 VIDEO LOOPS BOTH FOR LEFT VENTRICULAR FUNCTION, M-MODE
23 MEASUREMENT, SO THAT WE CAN SEE THE EXACT AREA WHERE
24 THE MEASUREMENTS WERE PLACED AND THE SPECTRAL DOPPLER.

25 Q. SO THERE ARE TWO DIFFERENT RECORDINGS GOING ON

1 SIMULTANEOUSLY, RIGHT?

2 A. YES.

3 Q. CAN YOU PUT UP ON YOUR LAPTOP FOR ALL OF US TO SEE
4 AN EXAMPLE OF THE FIRST PAGE OF DIGITAL RECORDINGS OF
5 AN ECHOCARDIOGRAM.

6 JUST PICK ANY ONE.

7 A. I THINK I LOST THE STUDY. LET ME GO BACK.

8 Q. AND THE RECORD SHOULD REFLECT THAT WHAT WE ARE
9 LOOKING AT IS -- ARE DIGITIZED IMAGES FOR A CLIENT
10 NAMED GWENDOLYN WINKLBAUER. I WOULD LIKE TO CALL YOUR
11 ATTENTION TO THE FRAMES ON THE BOTTOM THERE. THOSE ARE
12 CALLED THUMBNAILS, RIGHT?

13 A. YES, THEY ARE.

14 Q. THUMBNAILS CONSIST OF FREEZE FRAMES AND LOOPS,
15 RIGHT?

16 A. YES.

17 Q. A LOOP IS SIMPLY A CONTINUOUS MOVIE OF THE SAME
18 HEARTBEAT OVER AND OVER AGAIN, RIGHT?

19 A. YES, IT IS.

20 Q. AND THE FREEZE FRAME IS A STILL FRAME, OBVIOUSLY,
21 RIGHT?

22 A. YES.

23 Q. THESE THUMBNAILS CONSIST OF BOTH OF THOSE, RIGHT?

24 A. YES.

25 Q. DOES THE VHS TAPE THAT MISS LOEB RECORDS FOR YOU

1 CONTAIN ALL OF THE IMAGES AND INFORMATION THAT WE SEE
2 IN THE DIGITIZED HERE?

3 A. IT CERTAINLY CONTAINS MOST OF THEM. THE ATTEMPT
4 IS TO HAVE IT CONTAIN ALL OF THEM. WHETHER ONE WAS --
5 WHETHER IT MIGHT BE POSSIBLE THAT ONE WAS NOT RECORDED
6 ON THE VIDEOTAPE, I THINK IS POSSIBLE.

7 Q. THE DIGITIZED IMAGES DON'T SHOW US EVERYTHING THAT
8 IS ON THE VHS TAPE, RIGHT?

9 A. THE VIDEOTAPE IS THE MORE COMPLETE RECORD.

10 Q. OKAY.

11 AND THESE THUMBNAILS THAT WE SEE HERE, UNDER
12 WHAT CIRCUMSTANCES DOES SHE CREATE FOR YOU A LOOP
13 VERSUS A FREEZE FRAME, AND WHY DOES SHE CREATE BOTH?

14 A. THE FREEZE-FRAMES ARE NECESSARY SO THAT WE CAN
15 LOOK CAREFULLY AT THE MEASUREMENTS THAT ARE MADE OF THE
16 JETS. THE LOOPS ARE REFLECTORS OF LEFT VENTRICULAR
17 FUNCTION, VALVULAR ABNORMALITIES, REGURGITATION,
18 SPECTRAL DOPPLER. AND SPECTRAL DOPPLER AND M-MODE AND
19 THE FREEZE FRAMES ARE ALL RECORDED AS SNAPSHOTS OF
20 STILL FRAMES. ANY TIME THE HEART IS MOVING, THEN IT'S
21 A LOOP.

22 Q. JUST GIVE US ONE EXAMPLE OF A LOOP, PLEASE. ONE
23 WITH COLOR DOPPLER ON IT.

24 A. LET ME ENLARGE IT.

25 Q. IF YOU LOOK DOWN AT THE EKG AT THE BOTTOM, YOU SEE

1 THE LITTLE BLACK BAR MOVING CONSTANTLY THROUGH THE SAME
2 HEARTBEAT, RIGHT?

3 A. YES, THAT IS THE BEAT THAT IT'S PLAYING OVER AND
4 OVER.

5 Q. THIS IS A LOOP, RIGHT?

6 A. YES.

7 Q. NOW, YOU CAN TAKE THAT DOWN, PLEASE.

8 AFTER MISS LOEB DOES THE ECHOCARDIOGRAMS IN
9 THE COURSE OF THE DAY, WHEN DO YOU -- WHEN DO YOU
10 REVIEW THEM? WHAT DO YOU DO?

11 A. I REVIEW THEM THROUGHOUT THE DAY. I LOOK AT THE
12 DIGITAL IMAGES, THEN I REFER TO THE VIDEOTAPE FOR THE
13 PIECES THAT ARE MISSING IN MY MIND. IF I BELIEVE THAT
14 -- FOR EXAMPLE, MANY TIMES I CAN'T DETERMINE THE
15 EJECTION FRACTION BASED ON THE SMALL NUMBER OF LOOPS
16 THAT I HAVE, SO I WILL WANT TO GO TO THE VIDEOTAPE TO
17 LOOK AT IT IN REALTIME TO REFLECT ON MORE INFORMATION,
18 MORE INPUT, SO I CAN GIVE A NUMBER TO THE FUNCTION.
19 AND THE SAME WOULD OCCUR WITH REGURGITATION OR AORTIC
20 STENOSIS, ATRIAL SEPTAL SEPTA DEFECT. SOMETIMES THE
21 LOOPS ARE NOT ADEQUATE FOR MAKING THAT DETERMINATION.

22 Q. IN WHICH CASE YOU LOOK AT THE VCR?

23 A. EXACTLY.

24 Q. DID YOU LOOK AT THESE ALL ON THE SAME DAY THEY
25 WERE ACTUALLY MADE?

1 A. NO, NOT ALWAYS. SOMETIMES THE NEXT DAY, BUT
2 ALMOST ALWAYS ON THE SAME DAY.

3 Q. SO ABOUT HOW MANY DID YOU LOOK AT A DAY?

4 A. OF THESE?

5 Q. YES.

6 A. MOST OF THEM THAT WERE DONE THAT DAY, 25.

7 Q. AND LET ME SHOW YOU --

8 THE COURT: SO IN OTHER WORDS, YOU WOULD BE
9 LOOKING AT THE ONES THAT WERE DONE AT 7 OR 7:30 IN THE
10 EVENING, LATER THAT EVENING?

11 THE WITNESS: I WAS USUALLY THERE UNTIL 8 OR
12 9 EVERY NIGHT.

13 BY MR. JOHNSON:

14 Q. LET ME SHOW YOU TWO SETS OF DOCUMENTS. LET ME
15 SHOW YOU A SET OF DOCUMENTS.

16 BY THE COURT:

17 Q. HOW MUCH TIME WOULD YOU SPEND, ON AVERAGE,
18 REVIEWING AND READING THE ECHO?

19 A. IT DEPENDED ON THE COMPLEXITY OF THE ECHO. IF THE
20 ECHO WAS ENTIRELY NORMAL, SOMETIMES IT ONLY TAKES TWO
21 OR THREE MINUTES TO REVIEW THE ECHOCARDIOGRAM. IF
22 THERE IS SIMPLY A NORMAL HEART, IT'S VERY FAST TO KNOW
23 THAT THE HEART IS ACTUALLY NORMAL.

24 IF SEVERE MITRAL REGURGITATION IS PRESENT
25 ALSO, ONLY TWO OR THREE MINUTES, BECAUSE IT IS A VERY

1 SEVERE ABNORMALITY, YOU SEE THAT THE SETTINGS ARE ALL
2 APPROPRIATE.

3 THE HARDEST IMAGES AND THE IMAGES THAT TAKE
4 THE MOST TIME ARE THE BORDERLINE ECHOES BECAUSE YOU
5 NEED TO LOOK MORE CAREFULLY AT THE SETTINGS ON THE
6 MACHINE.

7 BY THE COURT:

8 Q. WHAT IS THE AVERAGE AMOUNT OF TIME IN A CASE WHERE
9 YOU MIGHT FIND BORDERLINE BETWEEN MILD AND MODERATE
10 MITRAL REGURGITATION?

11 A. SIX OR SEVEN MINUTES.

12 BY MR. JOHNSON:

13 Q. NOW, WHEN YOU LOOKED AT THESE FRAMES, AS WE LOOKED
14 AT THESE FRAMES IN COURT, YOU WOULD SEE MEASUREMENTS,
15 RIGHT?

16 A. YES.

17 Q. THAT MISS LOEB HAS PERFORMED?

18 A. YES.

19 Q. WHAT, IF ANYTHING, DO YOU DO TO CONFIRM THE
20 MEASUREMENTS, THE SIZES?

21 A. IF -- IF AUDREY HAS DONE THEM, I'M VERY, VERY
22 FAMILIAR WITH HER WORK, SO I WILL SIMPLY LOOK AT THEM
23 AND DETERMINE WHETHER THE MARKS ARE IN THE RIGHT PLACE.
24 IF IT'S A SONOGRAPHER THAT I'M NOT AS FAMILIAR WITH, I
25 WILL ALMOST ALWAYS REMEASURE IT MYSELF, BECAUSE I

1 CANNOT BE CERTAIN LOOKING AT THE IMAGES IF THAT
2 SONOGRAPHER, WHO I'M NOT FAMILIAR WITH, IS MAKING THE
3 MEASUREMENT CORRECTLY.

4 THE COURT: HOW WOULD YOU REMEASURE IT?

5 THE WITNESS: IF I HAVE A DIGITAL LOOP, I
6 WILL SIMPLY FREEZE THE DIGITAL LOOP AND MAKE A DRAWING
7 AROUND IT TO MEASURE THE JET, WHICH YOU CAN DO ON THIS
8 COMPUTER.

9 BY MR. JOHNSON:

10 Q. CAN YOU GIVE US A DEMONSTRATION, PLEASE?

11 A. SURE.

12 BY THE COURT:

13 Q. THAT WOULD DO THE CALCULATION FOR YOU IN TERMS OF
14 WHETHER IT IS 20 PERCENT OR 19 PERCENT OR --

15 A. YES. THAT IS THE REASON I PREFER DIGITAL IS
16 BECAUSE IT'S MUCH EASIER TO MAKE THE MEASUREMENT. WHEN
17 YOU ARE DEALING WITH 1/5TH OF THE LEFT ATRIAL AREA, MY
18 EYEBALL CAN'T TELL IF THAT IS 1/5TH OR ONE-QUARTER OR
19 15 PERCENT. SO I HAVE TO MEASURE. NOW, IF IT'S
20 SOMEONE THAT I HAVE HAND TRAINED AND MADE CERTAIN THAT
21 THEY KNOW EXACTLY HOW TO MAKE A MEASUREMENT, I DON'T
22 NECESSARILY HAVE TO REPEAT THE MEASUREMENTS.

23 Q. WHEN YOU SAY "MAKE THE MEASUREMENT," THE
24 SONOGRAPHER MAKES THE DRAWING AND THE MACHINE
25 CALCULATES THE PERCENTAGE?

1 A. NO. I HAVE TO TAKE -- THAT BECOMES MY NUMERATOR.
2 IF I DRAW THE JET AREA OF THE MITRAL REGURGITATION,
3 THAT IS MY NUMERATOR.

4 Q. BUT THE MACHINE TELLS YOU WHAT THE MEASUREMENT IS,
5 CORRECT?

6 A. YES. YES.

7 Q. THE MACHINE TELLS YOU WHAT THE PERIMETER OF THE
8 ATRIUM IS?

9 A. NO. YOU HAVE TO DRAW THE PERIMETER OF THE ATRIUM.
10 YES, IT GIVES YOU THE NUMBER, THEN YOU HAVE TO DIVIDE
11 IT.

12 Q. THE MACHINE DOES NOT DO THE DIVISION FOR YOU?

13 A. NO, BECAUSE THAT IS NOT A NORMAL, CLINICAL
14 MEASUREMENT. NORMALLY, WE DON'T CLINICALLY MEASURE AND
15 QUANTITATE MITRAL REGURGITATION THAT WAY.

16 Q. I SEE.

17 BY MR. JOHNSON:

18 Q. OKAY.

19 A. I WOULD SIMPLY HIT THE MEASUREMENT BUTTON.

20 Q. FOR THE RECORD, WE ARE LOOKING AT GWENDOLYN
21 WINKLBAUER AGAIN?

22 A. THIS IS GOING TO BE AN AREA -- I'M SORRY. I WAS
23 TALKING AND NOT THINKING. I FIRST HAVE TO FREEZE IT,
24 AND FIND THE AREA THAT I THINK MOST ACCURATELY
25 REPRESENTS THE JET. AND I'M LOOKING -- I HAVE ALREADY

1 SEEN IT IN REALTIME, SO I'M USING MY 3D RECONSTRUCTION
2 SKILLS TO DECIDE WHERE DOES THE JET COME DOWN TO, WHERE
3 ARE THE SIDE EDGES OF THAT JET, AND THEN I'M GOING TO
4 GO FRAME BY FRAME AND I'M GOING TO PICK ONE THAT I
5 THINK LOOKS GOOD. I THINK THAT THIS IS A NICE JET
6 HERE. SEE THE ARROW. I'M GOING TO PICK THIS ONE. I'M
7 GOING TO THINK THAT IT COMES JUST LIKE THAT. NOW I'M
8 GOING TO START AT THE VALVE. THIS IS THE VALVE, THAT
9 NICE FINE WHITE STRUCTURE IS THE VALVE. I'M GOING TO
10 MEASURE IT. (INDICATING) MY LITTLE CROSS HAIR, AND I'M
11 JUST DRAWING AROUND IT, JUST LIKE ANYONE ELSE WOULD.

12 NOW, IT'S A LITTLE MORE EASY TO DO BY THE
13 SONOGRAPHER WHO IS RUNNING THE MACHINE BECAUSE IT'S
14 BIGGER, AND BECAUSE THE COLORS ARE BRIGHTER ON THE
15 MONITOR OF THE EQUIPMENT, BUT I CAN -- IT FINISHED FOR
16 ME, BUT IT GOT 4.4.

17 Q. THAT IS WHAT YOU SEE IN THAT GRAY BOX OVER THERE
18 ON THE LEFT-HAND SIDE, RIGHT?

19 A. YES. DO YOU SEE WHERE THAT NUMBER IS, OVER HERE,
20 4.4. NOW, I DON'T KNOW, DON'T RECALL, BECAUSE I JUST
21 PICKED -- PULLED ONE UP. I DON'T RECALL WHAT THE
22 NUMBER WAS, BUT YOU CAN CHECK IT FOR ME, SEE HOW CLOSE
23 WE ARE.

24 Q. YOU COMPARE THAT TO THE MEASUREMENT OF THE LEFT
25 ATRIUM?

1 A. YES.

2 Q. YOU TAKE THE TWO TOGETHER, AND YOU GET A
3 PERCENTAGE, RIGHT?

4 A. YES.

5 Q. WE DON'T NEED TO DO IT NOW.

6 A. NOW, I DID NOT DO -- MOST OF MY LEFT ATRIAL
7 MEASUREMENTS WERE NOT DONE IN THE SAME PLANE AS THE
8 MITRAL REGURGITATION BECAUSE I FELT THAT IT WAS MOST
9 IMPORTANT TO TAKE THE BIGGEST MEASUREMENT THAT YOU CAN
10 GET SO THAT THE DENOMINATOR WOULD BE AS LARGE AS
11 POSSIBLE TO MINIMIZE ERROR.

12 Q. WHY DID DO YOU THAT, MINIMIZE ERROR?

13 A. BECAUSE I FELT THAT IT MIGHT BE IN -- FOR EXAMPLE,
14 FROM THE HELMCKE ARTICLE OR THE SINGH ARTICLE, THE
15 MITRAL REGURGITANT JET IS TAKEN ON THE SAME PLANE AS
16 THE LEFT ATRIAL AREA. ON SOME OF THE PLANES, THE LEFT
17 ATRIAL AREA MIGHT BE 8 CENTIMETERS SQUARED OR 10
18 CENTIMETERS SQUARED. A JET OF ONLY 5 CENTIMETERS
19 SQUARED WOULD BE SEVERE MITRAL REGURGITATION. THAT
20 WOULD AMPLIFY THE NUMBER OF PEOPLE HAVING HIGH
21 PERCENTAGES. IN ORDER TO MINIMIZE THAT, I CHOSE THE
22 LARGEST LEFT ATRIAL AREA MEASURABLE IN THE FRANK
23 PLANES. DOES THAT MAKE SENSE?

24 BY THE COURT:

25 Q. YOU'RE SAYING BECAUSE YOU ARE NOT DEALING WITH A

1 THREE-DIMENSIONAL SITUATION, YOU ARE DEALING WITH A TWO
2 DIMENSIONAL?

3 A. YES.

4 Q. YOU ARE SAYING THE PERIPHERY OF THE ATRIUM MAY BE
5 DIFFERENT?

6 A. YES. YOU CAN MAKE IT SMALL. IF I WERE TO MEASURE
7 IT ON THIS PLANE, IT WOULD BE SMALL. IT WOULD BE ABOUT
8 8 TO 10 CENTIMETERS SQUARED. WE CHOSE TO USE THE FOUR
9 CHAMBER TO GET THE LARGEST MEASUREMENT OF THE LEFT
10 ATRIUM. MOST OF OUR LEFT ATRIUMS ARE ABOVE 15
11 CENTIMETERS SQUARED, MANY CLOSE TO 20 CENTIMETERS
12 SQUARED.

13 Q. BUT WHEN WE TALK ABOUT THE ACTUAL AREA OF THE
14 ATRIUM, IT'S GOING TO BE -- THE ATRIUM HAS ONLY ONE
15 CUBIC CENTIMETER, RIGHT? IT EITHER -- DOES IT CHANGE
16 SIZE?

17 A. IT CHANGES SIZE WITH EACH HEARTBEAT, WHICH IS WHY
18 YOU WANT TO MEASURE IT AT -- I THINK THE
19 INTERPRETATION, YOU SHOULD MEASURE IT AT ITS LARGEST.

20 Q. WHEN IS IT AT ITS LARGEST?

21 A. IT'S AT ITS LARGEST, WHEN YOU ARE IN THE FRANK
22 FOUR CHAMBER VIEW ON A CUTOUT BED, AND RIGHT BEFORE THE
23 VALVE OPENS. THAT IS -- THE LARGEST VOLUME OF THE LEFT
24 ATRIUM IS JUST BEFORE THE MITRAL VALVE OPENS, BECAUSE
25 AS SOON AS THE MITRAL VALVE OPENS, BLOOD STARTS TO FLOW

1 FROM THE LEFT ATRIUM INTO THE LEFT VENTRICLE.

2 Q. IT'S WHEN THE ATRIUM IS FILLED WITH BLOOD THAT IT
3 HAS THE LARGEST AREA?

4 A. YES.

5 Q. AND THAT WILL BE AT A DIFFERENT POINT IN TIME THAN
6 WHEN THERE IS THE MITRAL REGURGITATION BECAUSE THE
7 BLOOD HAS ALREADY LEFT THE ATRIUM TO GO TO THE
8 VENTRICLE, AND IT'S WHEN IT'S COMING BACK THROUGH THE
9 VALVE.

10 A. EXACTLY. IT DEPENDS ON THE PHASE OF SYSTOLE.
11 EARLIER IN SYSTOLE, THE ATRIUM WILL BE SMALLER. AND IF
12 YOU ARE NOT ON AXIS -- THIS IS NOT A FOUR CHAMBER VIEW.
13 IF YOU ARE ON AXIS, IF YOU LOOK AT THE LEFT ATRIUM, LET
14 ME SHOW YOU WHERE IT IS HERE.

15 Q. DOESN'T THE DEFINITION REQUIRE THE MEASUREMENT TO
16 BE MADE AT A PARTICULAR POINT IN TIME?

17 A. SYSTOLIC IS ALL IT SAYS.

18 Q. SO DOES THE ATRIUM VARY IN SIZE DURING THE
19 SYSTOLIC PHASE?

20 A. IT VARIES WITH THE ANGLE THAT YOU IMAGE, AND IT
21 VARIES WITH THE POINT IN THE SYSTOLIC PHASE.

22 Q. NOW, IT REALLY DOES NOT VARY WITH THE ANGLE, IT'S
23 JUST WHAT YOU SEE, RIGHT?

24 A. YES.

25 Q. IT EITHER IS OR ISN'T?

1 A. THAT IS TRUE. IF I WERE TO MEASURE IT ON THE
2 PLANE THAT I HAVE THERE, I WOULD MEASURE -- IF THIS
3 IS -- YOU CAN SEE MY ARROW. I WOULD MEASURE THIS.
4 THAT IS VERY SMALL. THAT WOULD BE 8 TO 10 CENTIMETERS
5 SQUARED. THAT WOULD MAKE THIS SEVERE. INSTEAD, I
6 BELIEVE IT SHOULD BE MEASURED AT ITS LARGEST TO MAKE
7 THE DENOMINATOR THE LARGEST NUMBER THAT IT CAN BE. YOU
8 CAN SEE THE DIFFERENCE BETWEEN THIS WHERE THE LEFT
9 ATRIUM IS LARGER --
10 BY MR. JOHNSON:

11 Q. WHAT WE ARE LOOKING AT IS A FRAME OF 1:32:30 PM.
12 AND THIS IS A MEASUREMENT OF THE AREA OF THE LEFT
13 ATRIUM. IS THAT CORRECT?

14 A. YES, IT IS. IN THIS CASE, IT IS 17.14 CENTIMETERS
15 SQUARED. THIS IS A LARGER AREA THAN YOU WOULD OBTAIN
16 IF YOU USED THE PREVIOUS VIEW WHERE THE MITRAL
17 REGURGITANT JET WAS IN THE PLANE.

18 Q. IS THIS DURING SYSTOLE THAT WE ARE HOOKING AT
19 RIGHT NOW?

20 A. YES, IT IS.

21 Q. HOW DO YOU KNOW THAT?

22 A. I KNOW THAT BECAUSE SYSTOLE, MOST IMPORTANTLY,
23 OCCURS AFTER THE QRS. THIS IS END SYSTOLE. SO THIS IS
24 IN THE T WAVE, RIGHT AS THE T WAVE IS COMPLETE.

25 Q. THAT LITTLE BUMP ABOVE THE CARET IS THE T WAVE, IS

1 THAT RIGHT?

2 A. YES. AND I KNOW IT'S SYSTOLE BECAUSE THE MITRAL
3 VALVE IS CLOSED.

4 Q. OKAY. LET ME MOVE ON. I WANT TO SHOW YOU, I
5 THINK THE COURT AND COUNSEL ALREADY HAS. THESE ARE
6 MOVANTS' EXHIBITS 2, 4, 7, 9, 10, 11, 13, 15, 16, 19,
7 21, 22, 23, 26, 27, 28, 29, 31, 34, 36, 39, 40, 41, 42,
8 44, 49, 51, 52, 55, 58, 59, 61, 63, 65, 66, 67, 68, 69,
9 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 82, 83, 84,
10 86, 87, AND 88.

11 WHAT ARE THESE EXHIBITS?

12 A. THESE EXHIBITS ARE COPIES OF THE ECHOCARDIOGRAPHIC
13 REPORTS.

14 Q. CAN WE PUT UP M-2 ON THE SCREEN, PLEASE.

15 AND IS THIS A FORM PREPARED IN YOUR OFFICE?

16 A. YES, IT IS.

17 Q. HOW IS THIS FORM PREPARED? FIRST OF ALL, WHO
18 CREATED THE FORMAT FOR THE FORM?

19 A. I DID.

20 Q. AND HOW IS THIS FORM CREATED IN THE COURSE OF
21 DOING THESE ECHOES?

22 A. THE FORM IS CREATED EITHER BY MYSELF OR USUALLY BY
23 SOMEBODY IN THE TYPING POOL WHOM I DISCUSS THE PINK
24 SHEET WITH, SHOW THEM WHICH NUMBERS TO PUT INTO THE
25 REPORT, AND I APPROVE THE REPORT. MY SIGNATURE GOES ON

1 IT. THIS REPORT DOES NOT HAVE THE STRIPS WHICH WE
2 NORMALLY SEND WITH THE REPORT.

3 Q. THE SECOND PAGE OF THIS PARTICULAR EXHIBIT
4 CONTAINS YOUR SIGNATURE, RIGHT?

5 A. YES, IT DOES.

6 Q. THIS FORM IS BASED ON INFORMATION OBTAINED FROM
7 THE PINK SHEET, RIGHT?

8 A. YES, IT IS.

9 Q. NOW, WHEN YOU ARE LOOKING AT ECHOCARDIOGRAMS
10 YOURSELF, WHAT INFORMATION DO YOU HAVE IN FRONT OF YOU?

11 A. I HAVE THE PINK SHEET, THE VIDEOTAPE AND THE
12 DIGITAL ECHOES.

13 Q. AT WHAT POINT IN THE PROCESS IS THIS FORM CREATED?

14 A. AFTER I HAVE REVIEWED THE INFORMATION.

15 Q. ALL RIGHT.

16 AND DO YOU INPUT THIS INFORMATION YOURSELF
17 INTO A COMPUTER?

18 A. MANY TIMES I DO. OTHERWISE, I DISCUSS IT WITH THE
19 PERSON PUTTING THE REPORT IN.

20 THIS --

21 Q. WHAT DOES THAT MEAN?

22 A. I MAKE A NOTATION ABOUT WHICH NUMBERS TO INCLUDE.
23 NORMALLY, WE DON'T INCLUDE IN -- OUR CLINICAL REPORTS.
24 WE DO OUR CLINICAL REPORTS EXACTLY THE SAME WAY.

25 I DO NOT NORMALLY INCLUDE THESE NUMBERS IN

1 THE CONCLUSION. I DO THAT FOR THIS PURPOSE SO THAT AT
2 A GLANCE IT CAN BE DETERMINED WHAT IS THE PERCENTAGE OF
3 THE AREA AND SO I HAVE TO MAKE A NOTATION OF WHICH
4 NUMBERS TO PUT IN.

5 Q. IF YOU LOOK DOWN TOWARD THE BOTTOM, UNDER
6 CONCLUSION, YOU SEE MODERATE MR. AND THIS IS M 2.
7 MODERATE MR, $3.01 \text{ OVER } 14.2 \text{ EQUALS } 21 \text{ PERCENT OF THE LA}$
8 AREA. RIGHT?

9 A. YES.

10 Q. THAT IS THE INFORMATION THAT GETS ENTERED ON THE
11 GREEN FORM, ASSUMING THE PATIENT QUALIFIES, RIGHT?

12 A. YES, YES.

13 Q. AND THESE FORMS WERE CREATED FOR EACH PATIENT WHO
14 WAS -- WHO RECEIVED AN ECHOCARDIOGRAM THAT WAS SENT TO
15 YOU FROM HARITON & D'ANGELO, RIGHT?

16 A. YES.

17 Q. LOOK AT M 4. PLEASE. PUT THAT UP ON THE SCREEN.

18 M 4 LOOKS A LITTLE DIFFERENT FROM M 2. WHY
19 IS THAT? M 4 HAS A ROAD MAP?

20 A. ONE IS A MAN AND ONE IS A WOMAN. SO IF IT'S A
21 WOMAN, IT HAS THE WOMAN'S CARDIOVASCULAR; IF IT IS A
22 MAN, IT SAYS KRAMER AND CROUSE, BECAUSE IT WOULD HAVE
23 BEEN EMBARRASSING. ACTUALLY, I FIGURED THAT OUT.

24 Q. THIS FORM CONTAINS THE MEASUREMENTS THAT ARE PUT
25 ON THE GREEN FORM ASSUMING THE PATIENT QUALIFIES,

1 & D'ANGELO?

2 A. YES, I HAVE.

3 Q. AND IS IT FAIR TO SAY THAT YOU DID THOSE OVER A

4 FOUR-MONTH PERIOD?

5 A. SIX-MONTH PERIOD.

6 Q. WELL, I THINK YOU TOLD US THAT YOU STARTED LATE IN

7 FEBRUARY?

8 A. CORRECT.

9 Q. FEBRUARY 20, FEBRUARY 28, FEBRUARY 25, WHERE?

10 A. SOMEWHERE IN THE WEEK OF THE 20TH OR 27TH,

11 SOMETHING --

12 Q. SO, AS YOU SIT HERE NOW, YOU ARE NOT SURE?

13 A. NO. I'M SAYING THAT THEY WERE PERFORMED IN LATE

14 FEBRUARY.

15 Q. BUT YOU DON'T KNOW IF IT WAS -- IF BY LATE

16 FEBRUARY YOU MEAN THE 20TH OR THE 27TH?

17 A. THAT'S CORRECT.

18 Q. SO IT MAY HAVE BEEN ONE WEEK IN FEBRUARY?

19 A. YES.

20 Q. AND THEN I BELIEVE YOU SAID THAT YOU STOPPED IN

21 EARLY JULY?

22 A. YES.

23 Q. DO YOU KNOW SPECIFICALLY WHEN?

24 A. NO.

25 Q. DO YOU RECALL SPENDING JULY 4TH WEEKEND REVIEWING

1 ECHOCARDIOGRAMS FOR HARITON & D'ANGELO?

2 A. NO.

3 Q. SO, DO YOU THINK YOU STOPPED BEFORE JULY 4TH?

4 A. I THINK WE EITHER STOPPED THE WEEK AFTER JULY 4TH
5 OR THE WEEK BEFORE JULY 4TH.

6 Q. OKAY.

7 WELL. SO AM I -- CAN WE APPROXIMATE THEN
8 THAT WE ARE TALKING ABOUT FOUR MONTHS' PLUS TWO WEEKS,
9 ONE ON THE FEBRUARY --

10 A. I GUESS I WAS INCLUDING FEBRUARY AND JULY BUT,
11 YES.

12 Q. OKAY.

13 SO IF I TAKE 725 ECHOCARDIOGRAMS AND I
14 DIVIDE THAT BY 4.2, WE CAN AGREE THAT THAT IS 172
15 ECHOCARDIOGRAMS A MONTH?

16 A. YES.

17 Q. NOW, THESE, I THINK YOU SAID THREE TO FIVE DAYS A
18 MONTH THAT YOUR SONOGRAPHER INITIALLY SPENT ON THIS
19 PROJECT?

20 A. YES.

21 Q. AND DID THAT EVER INCREASE OR WAS THAT STABLE?

22 A. I BELIEVE THE MOST NUMBER OF ECHOCARDIOGRAMS MIGHT
23 HAVE BEEN DONE IN MARCH.

24 Q. DO YOU KNOW HOW MANY DAYS A WEEK MS. LOEB SPENT IN
25 MARCH DOING ECHOCARDIOGRAMS FOR HARITON & D'ANGELO?

- 1 A. I DON'T KNOW THE EXACT NUMBER, NO.
- 2 Q. CAN YOU GIVE US A GOOD ESTIMATE OR NOT?
- 3 A. I WOULD ESTIMATE BETWEEN SIX AND EIGHT BECAUSE I
- 4 BELIEVE THAT WAS OUR BUSIEST MONTH.
- 5 Q. WHILE MISS LOEB IS SPENDING 12 HOURS IN THIS ROOM
- 6 DOING THESE ECHOCARDIOGRAMS, YOU ARE NOT IN THE ROOM
- 7 WITH HER FOR 12 HOURS, ARE YOU?
- 8 A. NO. I ONLY COME IN IF THE PATIENT IS TECHNICALLY
- 9 DIFFICULT AND I NEED TO IMAGE MYSELF, OR IF I'M LOOKING
- 10 OVER HER SHOULDER WATCHING THE ECHOCARDIOGRAM.
- 11 Q. AND HOW MANY OF THE 725 WERE TECHNICALLY DIFFICULT
- 12 THAT REQUIRED YOU TO DO THE IMAGING?
- 13 A. ACTUALLY, I DON'T ALWAYS IMAGE THEM JUST BECAUSE
- 14 THEY ARE TECHNICALLY DIFFICULT. I WOULD IMAGE IF SHE
- 15 IS UNABLE TO OBTAIN A GOOD JET AND MEASURE IT. IF SHE
- 16 THINKS I CAN GET A BETTER JET, SHE WILL COME AND GET ME
- 17 TO IMAGE THE MOST DIFFICULT PATIENTS.
- 18 BUT, IN GENERAL, SHE IS A VERY GOOD
- 19 SONOGRAPHER, AND I DON'T HAVE TO REPEAT HER STUDIES.
- 20 Q. OKAY. WHEN WE ARE LOOKING AT THIS UNIVERSE OF 725
- 21 HARITON & D'ANGELO CLAIMS, CAN YOU APPROXIMATE HOW MANY
- 22 TIMES YOU WERE ACTUALLY IN THE ROOM WHEN THE
- 23 ECHOCARDIOGRAM WAS TAKEN?
- 24 A. 10 PERCENT.
- 25 Q. WHILE MISS LOEB IS TAKING THE ECHOCARDIOGRAMS,

1 EXCEPT FOR THE APPROXIMATELY 10 PERCENT OF THE TIME
2 WHEN YOU ARE THERE, WOULD I BE CORRECT THAT YOU ARE
3 DOING OTHER THINGS CONNECTED WITH YOUR PRACTICE?

4 A. I DIDN'T USUALLY SEE PATIENTS, BUT I WOULD
5 SOMETIMES BE DOING OTHER THINGS SUCH AS READING
6 ECHOCARDIOGRAMS OR, IF THERE WAS A CONSULT TO BE DONE
7 OR SOMETHING.

8 Q. SO IF MS. LOEB WAS TAKING THESE ECHOCARDIOGRAMS, I
9 JUST WANT TO MAKE SURE I UNDERSTAND YOUR TESTIMONY, YOU
10 WOULD NOT USUALLY SEE PATIENTS DURING THOSE DAYS?

11 A. CORRECT.

12 Q. BUT YOU ARE ONLY IN THE ROOM WITH HER 10 PERCENT
13 OF THE TIME?

14 A. CORRECT.

15 Q. SO AGAIN, I ASSUME YOU ARE DOING -- AM I CORRECT
16 IN ASSUMING THAT YOU ARE DOING SOMETHING RELATED TO
17 YOUR PRACTICE?

18 A. WELL, OUR PRACTICE IS AN ECHOCARDIOGRAPHIC-BASED
19 PRACTICE, SO WHEN I SEE A PATIENT, A CLINICAL PATIENT,
20 PATIENT COMES IN, I THINK MAYBE ITS CORONARY DISEASE, I
21 ORDER AN ECHO. THEN I TALK TO THE PATIENT, AND GO OVER
22 THE ECHO. I CAN'T DO THAT WHEN AUDREY IS BUSY DOING
23 THE ECHOES. SO WE CUT WAY BACK ON OUR CLINICAL
24 PRACTICE SO WE COULD ACCOMMODATE THESE ECHOES.

25 Q. DR. CROUSE, YOU WERE NOT SITTING IN YOUR OFFICE

1 READING MAGAZINES WHILE THESE ECHOCARDIOGRAMS ARE BEING
2 TAKEN; ARE YOU?

3 A. NO. AS I SAID, I WOULD BE READING ECHOES OR
4 READING BOOKS OR ARTICLES OR ON THE OCCASION IF AN
5 EMERGENCY PATIENT CAME IN, I WOULD SEE THAT PATIENT.
6 IF THERE WERE A HOSPITAL PATIENT, OUR PATIENTS COME
7 FROM THE HOSPITAL TO OUR OFFICE, TO GET AN
8 ECHOCARDIOGRAM. I MIGHT PERFORM THE ECHO ON THAT
9 PATIENT. I MIGHT INTERPRET THE ECHO ON THAT PATIENT.
10 YES, I DIDN'T JUST SIT THERE WAITING FOR HER TO FINISH
11 THE ECHO.

12 Q. AND JUST SO WE GET THE MATH, IF YOU DID 725
13 ECHOCARDIOGRAMS FOR HARITON & D'ANGELO IN A FOUR-MONTH
14 TWO-WEEK PERIOD, YOU EARNED \$725,000 DURING THAT
15 PERIOD, IS THAT CORRECT?

16 A. YES, THAT'S CORRECT.

17 Q. AND WOULD IT SURPRISE YOU TO LEARN, DR. CROUSE, OR
18 MAYBE YOU KNOW, THAT THE AVERAGE NON-INVASIVE
19 CARDIOLOGIST EARNS ABOUT \$300,000 A YEAR?

20 MR. JOHNSON: OBJECTION TO RELEVANCE, YOUR
21 HONOR.

22 THE COURT: SUSTAINED.

23 BY MS. FLETMAN:

24 Q. NOW, HAVE YOU EVER MET ANYONE FROM THE NAPOLI AND
25 KAISER FIRM?

1 A. YES, I HAVE.

2 Q. THAT WOULD BE MARK BERN?

3 A. I MET MARK BERN PRIOR TO COMING TO PHILADELPHIA.

4 I HAVE SINCE MET MR. NAPOLI.

5 Q. HAD YOU MET EITHER OF THOSE GENTLEMEN BEFORE JULY

6 15TH, LET US SAY?

7 A. YES.

8 Q. AND HAD YOU MET BOTH OF THEM BEFORE JULY 15TH?

9 A. NO.

10 Q. WHO HAD YOU MET BEFORE JULY 15TH?

11 A. MARK BERN.

12 Q. IN WHAT CONTEXT DID YOU MEET MR. BERN?

13 A. HE CAME TO VISIT THE OFFICE AFTER THEY STARTED

14 PERFORMING THE ECHOCARDIOGRAMS THERE. I BELIEVE HE

15 WANTED TO LOOK AT THE EQUIPMENT, LOOK AT THE SETUP.

16 Q. AND DID HE MEET WITH YOU?

17 A. YES, HE DID.

18 Q. AND WHAT DID THE TWO OF YOU TALK ABOUT?

19 A. WE TALKED ABOUT THE ECHO EQUIPMENT. HE TALKED

20 ABOUT WHETHER OR NOT I HAD ENOUGH TIME IN MY SCHEDULE

21 TO DO THE ECHOES AND ASKED HOW THINGS WERE GOING.

22 Q. AND WHAT DID YOU TELL HIM?

23 A. I THOUGHT THINGS WERE GOING FINE. IT WAS RATHER

24 UNOBTRUSIVE. THE NURSE SAT IN THE OFFICE, TALKED TO

25 THE CLIENTS, DIDN'T BOTHER THE STAFF, DIDN'T HAVE ANY

1 A. YES, I AM, BUT I HAVE CUT BACK ON THE NUMBER OF
2 TAPES.

3 Q. YOU HAVE NOT GIVEN IT UP?

4 A. NO.

5 Q. BY THE WAY, STRESS ECHO IS WHAT YOU ARE MOST KNOWN
6 FOR, CORRECT?

7 A. YES, I BELIEVE SO.

8 Q. THAT IS NOT WHAT WE ARE TALKING ABOUT IN THIS
9 COURTROOM THIS LAST WEEK AND THIS WEEK?

10 A. NO.

11 Q. WE ARE TALKING ABOUT TRANSTHORACIC
12 ECHOCARDIOGRAPHY?

13 A. STRESS ECHOCARDIOGRAPHY IS A FORM OF TRANSTHORACIC
14 ECHOCARDIOGRAPHY. TRANSTHORACIC IS ECHOCARDIOGRAPHY
15 PERFORMED AT REST. STRESS ECHOCARDIOLOGY IS PERFORMED
16 WITH OR WITHOUT DOPPLER AT REST AND WITH EXERCISE.
17 IT'S MORE COMPLICATED.

18 Q. NO ONE WOULD CONFUSE WHAT WE HAVE BEEN LOOKING AT
19 IN THE COURTHOUSE TODAY WITH STRESS ECHOCARDIOGRAPHY,
20 WOULD THEY?

21 A. NO, THESE ARE ONLY PERFORMED AT REST.

22 Q. LET'S TALK ABOUT THE ECHOES THAT YOU DID FOR
23 HARITON & D'ANGELO.

24 NOW, DO I UNDERSTAND CORRECTLY THAT THERE
25 WERE TIMES WHEN YOU ONLY LOOKED AT THE DIGITIZED

1 IMAGES?

2 A. YES, IF THERE WERE NO ABNORMALITIES SEEN ON THE
3 DIGITIZED IMAGES, I WOULD JUST LOOK AT THE DIGITIZED
4 IMAGES.

5 Q. IF YOU LOOKED AT THE DIGITIZED IMAGES, AND YOU
6 NOTED WHAT YOU THOUGHT WERE ABNORMALITIES, YOU ONLY
7 SOMETIMES WENT BACK TO THE VIDEOTAPE, IS THAT CORRECT?

8 A. IN ALMOST EVERY CASE, I WOULD LOOK AT THE
9 VIDEOTAPE TO CONFIRM MY SUSPICION OF SEVERITY OF
10 DISEASE.

11 Q. IN SOME CASES, YOU DID NOT LOOK AT THE VIDEOTAPE,
12 IS THAT CORRECT?

13 A. IF I WAS CERTAIN, BASED ON THE DIGITIZED IMAGES, I
14 DO NOT LOOK AT THE VIDEOTAPE.

15 Q. IN THE CASES WHERE YOU LOOKED AT THE VIDEOTAPE, I
16 THINK YOU TESTIFIED THAT YOU SPENT BETWEEN SIX AND
17 SEVEN MINUTES ON AVERAGE?

18 A. SOMEWHERE IN THAT BALL PARK, YES.

19 Q. IF YOU HAD A MEETING OR YOU WERE OUT OF THE OFFICE
20 AND YOU WERE NOT THERE WHEN THE ECHOCARDIOGRAM WAS
21 BEING TAKEN, YOU WOULD LOOK AT IT LATER ONLINE, IS THAT
22 CORRECT?

23 A. OR I WOULD LOOK AT IT IN THE OFFICE LATER, YES.

24 Q. BUT THERE WERE OCCASIONS THEN, WERE THERE NOT --
25 WHEN YOU TALK ABOUT LOOKING AT IT ONLINE, YOU'RE

1 TALKING ABOUT LOOKING AT ONLY DIGITIZED IMAGES,
2 CORRECT?

3 A. EXACTLY.

4 Q. THERE WERE TIMES WHEN YOU ONLY LOOKED AT DIGITIZED
5 IMAGES AND NOT VIDEOTAPES?

6 A. YES.

7 Q. NOW, YOU TOOK US THROUGH WHAT HAPPENED WHEN AN
8 ECHOCARDIOGRAM WAS TAKEN FOR HARITON & D'ANGELO.

9 BY THE WAY, BEFORE YOU STARTED THIS WORK
10 REVIEWING ECHOCARDIOGRAMS ACCORDING TO THE SETTLEMENT
11 PROTOCOL, I ASSUME YOU FAMILIARIZED YOURSELF WITH THE
12 GREEN FORM?

13 A. YES, I DID.

14 Q. YOU READ THE APPENDIX AS WELL AS LOOKED AT THE
15 FORM ITSELF?

16 A. YES, I DID.

17 Q. SO YOU KNEW, DID YOU NOT, DR. CROUSE, THAT IN
18 ORDER TO QUALIFY FOR MATRIX LEVEL II BENEFITS, LOOKING
19 ONLY AT MITRAL REGURGITATION, PLUS COMPLICATING
20 FACTORS, THAT YOU WOULD NEED AT LEAST 20 PERCENT MITRAL
21 REGURGITATION, RJA OVER LAA, IS THAT RIGHT?

22 A. YES, YES.

23 Q. I THINK YOU SAID ON DIRECT THAT YOU ONLY LOOKED AT
24 THE VIDEOTAPES TO "FIND PIECES THAT ARE MISSING IN MY
25 MIND WHEN YOU LOOK AT THE DIGITIZED IMAGE." IS THAT

1 RIGHT?

2 A. WHAT I TRY TO DO IS RECONSTRUCT THE HEART THREE
3 DIMENSIONALLY, AND I NEED TO BE CERTAIN THAT I CAN SEE
4 JETS IN DIFFERENT PLANES. I NEED TO SEE THAT I CAN
5 DETERMINE THE LEFT VENTRICULAR FUNCTION, WHETHER OR NOT
6 THERE IS MITRAL ANNULAR CALCIFICATION, AORTIC STENOSIS,
7 OTHER COMPLICATING FACTORS.

8 Q. WHAT YOU ARE LOOKING FOR IS WHAT YOU DON'T SEE ON
9 THE DIGITIZED IMAGE?

10 A. NOT NECESSARILY. SOMETIMES I LOOK AT IT TO
11 CONFIRM WHAT I ALREADY BELIEVE TO BE THE CASE.

12 Q. BUT YOU -- I DID QUOTE YOU CORRECTLY WHEN I SAID,
13 "PIECES THAT ARE MISSING" --

14 A. YES.

15 Q. "-- IN MY MIND"?

16 A. YES.

17 Q. I THINK YOU SAID YOU USED -- WELL, YOU SAID AN
18 AVERAGE OF 6 -- 6 TO 7 MINUTES.

19 NOW, BY THE WAY, THE DIGITIZED IMAGES WERE
20 NOT PROVIDED. THEY WERE NOT SUBMITTED TO THE AHP
21 SETTLEMENT TRUST AT THE TIMES THAT THESE CLAIMS WERE
22 SUBMITTED, WERE THEY?

23 A. NO, THEY WEREN'T. IT WAS MY UNDERSTANDING THAT
24 VIDEOTAPE IMAGES WERE TO BE SUBMITTED.

25 Q. SO THE TRUST GOT ONLY THE TAPE PLUS THE GREEN

1 FORM?

2 A. PLUS THE LITTLE BLACK AND WHITE PICTURES OF EACH
3 ABNORMALITY MEASUREMENT.

4 Q. YOU ARE SURE THAT THOSE WENT TO THE TRUST?

5 A. NO. I'M SURE THAT I SENT THEM TO HARITON &
6 D'ANGELO. I SENT THEM WITH THE INTENTION OF THEM GOING
7 TO THE TRUST, BUT I DO NOT KNOW WHETHER THEY WENT THERE
8 OR NOT.

9 Q. WHEN YOU WERE TAKING US THROUGH WHAT HAPPENED WHEN
10 SOMEONE GOT AN ECHOCARDIOGRAM, A HARITON & D'ANGELO
11 CLIENT, YOU DID NOT TELL US ANYTHING ABOUT THE GREEN
12 FORM. WHO FILLS OUT THE GREEN FORM, DOCTOR?

13 A. WELL, EITHER I DO OR THE SONOGRAPHER DOES IF SHE
14 HAS TIME AND SHE HAS THE REPORT IN FRONT OF HER. THEN
15 I REVIEW THE REPORT AND THE GREEN FORM.

16 Q. NOW, ONE OF THE THINGS THAT YOU DID NOT MENTION IN
17 WHAT YOU LOOK AT IN DETERMINING WHETHER A -- OR IN
18 FILLING OUT THE GREEN FORM IN YOUR REPORTS, YOU DID NOT
19 SAY ANYTHING ABOUT MEDICAL RECORDS. DO I UNDERSTAND
20 CORRECTLY THAT YOU DO NOT LOOK AT ANY MEDICAL RECORDS
21 OF THESE CLAIMANTS?

22 A. NO.

23 Q. NO, YOU DO NOT LOOK AT ANY?

24 A. NOT IF I HAVE NO MEDICAL RECORDS, I DO NOT REVIEW
25 THEM. IF I HAPPEN TO RECEIVE MEDICAL RECORDS, THEN I

1 WOULD REVIEW THEM.

2 Q. WELL, IN HOW MANY CASES DO YOU HAPPEN TO RECEIVE
3 MEDICAL RECORDS?

4 A. A VERY SMALL NUMBER.

5 Q. YOU PERSONALLY DON'T TAKE ANY HISTORY OF THE
6 PATIENT, DO YOU, DOCTOR?

7 A. NO, I DON'T.

8 Q. AND OTHER THAN THE FORM THAT YOU SHOWED US THAT
9 WAS IDENTIFIED AS HN 166, NO HISTORY IS COLLECTED ON
10 THE CLAIMANT, IS IT?

11 A. NO.

12 Q. IN WHAT PERCENTAGE OF CASES DO YOU PERSONALLY FILL
13 OUT THE GREEN FORM?

14 A. 30, 40 PERCENT.

15 Q. OKAY.

16 NOW, DO YOU PERSONALLY SIGN THE ECHO REPORTS
17 THAT CORRESPOND TO THE HARITON AND D'ANGELO CLAIMANTS?

18 A. YES.

19 Q. WITH A PEN?

20 A. NO, THOSE ARE SIGNED ELECTRONICALLY. THAT IS AN
21 ELECTRONIC MEDICAL RECORD.

22 Q. SO LET ME MAKE SURE I UNDERSTAND HOW THIS HAPPENS.

23 THE ECHOCARDIOGRAM IS TAKEN, SOMETIMES YOU
24 ENTER THE INFORMATION?

25 A. CORRECT.

1 Q. SOMETIMES THE SONOGRAPHER ENTERS THE INFORMATION?

2 A. CORRECT.

3 THE COURT: ON THE GREEN FORM, YOU MEAN?

4 MS. FLETMAN: WE ARE TALKING ABOUT, DR. --
5 THE REPORTS, DR. CROUSE'S REPORTS. THEN WE WILL GO TO
6 THE GREEN FORM.

7 THE COURT: OKAY.

8 BY MS. FLETMAN:

9 Q. I'M SORRY, FOCUSING ON YOUR REPORTS, DR. CROUSE,
10 AND THEN DO THEY AUTOMATICALLY PRINT OUT WITH YOUR
11 SIGNATURE?

12 A. NO. WE HAVE TWO FIELDS ON THE REPORT, ALL MEDICAL
13 RECORDS DO. ONE FOR TECHNICAL, ONE FOR A PHYSICIAN.

14 Q. I'M SORRY. SAY THAT AGAIN. SO YOU ACTUALLY HAVE
15 TO DO SOMETHING TO GET THE SIGNATURE TO PRINT OUT?

16 A. NO, THE PHYSICIAN PRINTED.

17 Q. OKAY.

18 AND YOU DO PHYSICALLY SIGN THE GREEN FORMS,
19 DO YOU THAT ONE WITH A PEN?

20 A. YES.

21 Q. LET'S LOOK AT SOME OF THESE REPORTS THAT ARE
22 SUBMITTED.

23 MS. FLETMAN: MAY I APPROACH, YOUR HONOR?

24 THE COURT: YOU MAY.

25 BY MS. FLETMAN:

1 Q. WE ARE LOOKING AT MOVANTS' EXHIBIT NUMBER 2 AND,
2 AM I CORRECT, DR. CROUSE, THAT THIS IS AN
3 ECHOCARDIOGRAPHY REPORT THAT KRAMER AND CROUSE,
4 KRAMER -- ON A KRAMER AND CROUSE FORM FOR A PATIENT
5 NAMED JAMES AXFORD?

6 A. YES.

7 Q. AND I NOTE THAT ABOUT TWO INCHES DOWN, IT SAYS:
8 PROCEDURE PERFORMED AT HARITON & D'ANGELO; LONG ISLAND,
9 NEW YORK - ECHO L. CROUSE OFFICE.

10 DID I READ THAT CORRECTLY?

11 A. YES, YOU DID.

12 Q. THESE ECHOCARDIOGRAMS DID NOT TAKE PLACE IN LONG
13 ISLAND, AM I RIGHT?

14 A. THAT'S CORRECT.

15 Q. ACTUALLY, THAT REMINDS ME. SOME OF THE
16 ECHOCARDIOGRAMS YOU READ DID TAKE PLACE ON LONG ISLAND,
17 DIDN'T THEY?

18 A. I BELIEVE SO, YES.

19 Q. LONG ISLAND OR NEW YORK CITY?

20 A. I THINK BOTH.

21 Q. I THINK YOU TOLD US WHEN YOU READ ECHOCARDIOGRAMS
22 THAT COME FROM A SONOGRAPHER OTHER THAN ONE THAT YOU
23 HAVE TRAINED, OR ARE FAMILIAR WITH THAT YOU SPENT MORE
24 TIME READING THEM; IS THAT RIGHT?

25 A. YES.

1 Q. IF YOU ARE SPENDING SIX TO SEVEN MINUTES ON THE
2 ONES THAT MISS LOEB DID --

3 THE COURT: IF YOU HAVE AN OBJECTION, YOU
4 MAY STAND UP. BUT JUST DON'T STAND THERE BEHIND MISS
5 FLETMAN.

6 MR. JOHNSON: I WAS WAITING TO HEAR THE
7 QUESTION.

8 THE COURT: WELL, LET JUST EVERYBODY SIT
9 DOWN. IF YOU HAVE AN OBJECTION, PLEASE STAND UP AND
10 MAKE IT. DON'T STAND UP AND JUST -- UNLESS YOU REALLY
11 NEED TO DO SO FOR PHYSICAL REASONS.

12 GO AHEAD.

13 BY MS. FLETMAN:

14 Q. I'M SORRY. I THINK YOU HAD TOLD US BEFORE THAT IT
15 TAKES LONGER FOR YOU TO READ AN ECHO IF YOU ARE NOT
16 FAMILIAR WITH THE SONOGRAPHER.

17 A. YES, IF IT IS ABNORMAL. IF IT IS NORMAL, IT DOES
18 NOT TAKE ANY LONGER BECAUSE THERE IS NOTHING ON THE
19 ECHO OTHER THAN A NORMAL HEART.

20 Q. OKAY.

21 WELL, IF YOU TAKE SIX OR SEVEN MINUTES TO
22 READ THE ECHOCARDIOGRAMS THAT WERE PERFORMED BY MISS
23 LOEB, HOW MANY MINUTES, ON AVERAGE, WOULD YOU TAKE TO
24 READ AN ABNORMAL ECHOCARDIOGRAM IF A DIFFERENT
25 ECHOCARDIOGRAPHER TOOK IT?

1 A. IT WOULD PROBABLY TAKE SEVEN OR EIGHT MINUTES. IT
2 ONLY TAKES A MINUTE TO REMEASURE IT. IT'S ALL DONE
3 DIGITALLY. REMEMBER, I DON'T HAVE THE VIDEOTAPE, IF I
4 AM REVIEWING DIGITAL STUDIES. STUDIES THAT ARE NOT
5 DONE IN MY LABORATORY ARE ALL DONE DIGITALLY. THERE
6 ARE ABOUT 44, SOMETIMES 55 DIGITAL LOOPS. EACH OF
7 THOSE DIGITAL LOOPS CAN BE FROZEN AND REMEASURED. AND
8 IT TAKES ONLY A MINUTE TO REMEASURE THEM. YOU SIMPLY
9 FREEZE ON THE APPROPRIATE FRAME, MARCH THROUGH, JUST
10 LIKE THE SONOGRAPHER WOULD DO WHILE THEY ARE DOING THE
11 ECHO, DRAW YOUR LINE AROUND IT, AND YOU HAVE AN
12 APPROPRIATE MEASUREMENT. YOU CAN DETERMINE WHETHER OR
13 NOT IT'S IN THE BALL PARK. IT'S VERY IMPORTANT TO MAKE
14 THE MEASUREMENTS BECAUSE IT'S ALMOST IMPOSSIBLE TO
15 EYEBALL -- 20 PERCENT.

16 Q. ALTHOUGH WHAT YOU JUST SAID, IS, YOU CAN REMEASURE
17 TO DETERMINE IF IT IS IN THE BALL PARK. DID I HEAR
18 THAT CORRECTLY?

19 A. YES. I CAN MEASURE IT EXACTLY, CHECK THE LEFT
20 ATRIUM, COME UP WITH A PERCENTAGE. AND I KNOW IF THE
21 SONOGRAPHER HAD IT IN AN AREA WHICH I BELIEVE IS
22 REPRESENTATIVE OF THE AREA.

23 NOW, I CAN'T DOCUMENT THAT BECAUSE ANY TIME,
24 LIKE I WAS SHOWING YOU ON THE DIGITAL IMAGES, I CAN
25 PRINT OUT A FREEZE-FRAME OFF OF SOME OF THE MACHINES

1 THE LITTLE BLACK AND WHITE STRIPS THAT I WAS TELLING
2 YOU THAT WE SEND IN, BUT IF I'M DOING IT ON PROSOLOV, I
3 CANNOT PRINT THAT.

4 Q. OKAY. AGAIN, I WANT TO MAKE SURE I UNDERSTAND
5 YOUR TESTIMONY CORRECTLY.

6 SO WHEN YOU WERE READING THE ECHOES FOR THE
7 PETROFF CONSORTIUM, YOU ARE SAYING ON AVERAGE IT WOULD
8 ONLY TAKE YOU A MINUTE OR TWO MORE THAN IF YOU WERE
9 READING YOUR OWN ECHOES?

10 A. EXACTLY, FOR THE ABNORMAL STUDIES. THE NORMAL
11 STUDIES TAKE ONLY A MINUTE OR TWO OR THREE TO LOOK AT.

12 Q. WHAT WAS THE RATIO OF ABNORMAL TO NORMAL STUDIES
13 FOR THE PETROFF CONSORTIUM?

14 A. I CAN'T BE CERTAIN, BUT THE RATIO OF POSITIVES WAS
15 SUBSTANTIALLY WHAT IS SEEN IN MY OFFICE. I THINK
16 AROUND 20 PERCENT, BUT I DON'T KNOW FOR SURE.

17 Q. YOU SAID SOMETHING IN YOUR DIRECT EXAMINATION
18 ABOUT 400 AND 500 POUND OBESE PEOPLE HAVING TO BE
19 ECHOED?

20 A. YES.

21 Q. YOU SAID YOU DID NOT MEET WITH THESE HARITON &
22 D'ANGELO CLAIMANTS, DID YOU?

23 A. I SAW THEM SITTING IN THE LOBBY, BUT I DID NOT
24 SPEAK TO THEM.

25 Q. YOU KNEW -- YOU KNEW WHICH ONES WERE HARITON &

1 D'ANGELO OR WHICH ONES WERE YOUR REGULAR PATIENTS?

2 A. ON THE WEEKS WE DID THE ECHOES UNDER HARITON &
3 D'ANGELO, WE DID NOT SEE REGULAR PATIENTS EXCEPT ON A
4 RARE BASIS WHEN THEY CAME IN AS AN EMERGENCY.

5 Q. IT'S TRUE, ISN'T IT, DR. CROUSE, THAT THE VAST
6 MAJORITY OF THE PATIENTS YOU SAW WERE NOT 400 AND 500
7 POUNDS?

8 A. OH, NO. I'M TALKING ABOUT THE TECHNICALLY
9 DIFFICULT PEOPLE IN THAT SIZE RANGE.

10 Q. INDEED, PEOPLE IN MY SIZE RANGE TOOK FEN-PHEN,
11 ISN'T THAT RIGHT?

12 A. YOU ARE EXACTLY RIGHT.

13 Q. SOMEONE LIKE ME -- WELL, I GUESS YOU CAN'T TELL
14 WITHOUT HAVING ME ON THE TABLE, BUT THERE IS NOTHING
15 ABOUT ME THAT WOULD SUGGEST THAT I WOULD BE DIFFICULT
16 TO ECHO?

17 A. YOU ARE THE MINORITY SIZE. MOST OF THE PEOPLE
18 WERE OVERWEIGHT.

19 Q. BUT SOME WERE 20 POUNDS OVERWEIGHT OR 30 POUNDS
20 OVERWEIGHT?

21 THE COURT: TAKE JUDICIAL NOTICE THAT YOU
22 ARE NOT OVERWEIGHT, SO WE CAN PUT THAT ON THE RECORD.

23 BY MS. FLETMAN:

24 Q. LET'S GO BACK TO PLAINTIFFS' EXHIBIT 2.

25 I JUST WANT --