

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

LINDA DE ROGATIS, INDIVIDUALLY AND )  
AS SUCCESSOR-IN-INTEREST TO TARA DE )  
ROGATIS; PETER DE ROGATIS, )  
INDIVIDUALLY AND AS )  
SUCCESSOR-IN-INTEREST TO TARA DE )  
ROGATIS, )

PLAINTIFFS-APPELLANTS, )

VS. )

KAREN MICHELLE SHAINSKY, D.O., )

DEFENDANT-RESPONDENT. )  
----- )

NO. B254024

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE JAN A. PLUIM, JUDGE PRESIDING

REPORTER'S TRANSCRIPT OF PROCEEDINGS

NOVEMBER 1, 2013

APPEARANCES:

FOR PLAINTIFFS-  
APPELLANTS:

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FOR DEFENDANT-  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

DEPARTMENT P

HON. JAN A. PLUIM, JUDGE

LINDA DE ROGATIS, INDIVIDUALLY AND	)	
AS SUCCESSOR-IN-INTEREST TO TARA DE	)	
ROGATIS; PETER DE ROGATIS,	)	
INDIVIDUALLY AND AS	)	
SUCCESSOR-IN-INTEREST TO TARA DE	)	
ROGATIS,	)	
	)	
	)	
PLAINTIFFS,	)	
	)	
VS.	)	NO. BC457891
	)	(CONSOLIDATED WITH
KAREN MICHELLE SHAINSKY, D.O., ET	)	NO. BC453966)
AL.,	)	
	)	
	)	
DEFENDANTS.	)	
	)	

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

NOVEMBER 1, 2013

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FOR PLAINTIFFS:

BROWN WHITE & NEWHOUSE, LLP  
BY: GEORGE B. NEWHOUSE, JR., ESQ.  
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REPORTED BY: KAREN E. KAY, CSR NO. 3862, RMR, CRR  
COURT REPORTER PRO TEMPORE

M A S T E R I N D E X

NOVEMBER 1, 2013; VOLUME 5

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1 CASE NUMBER: BC457891  
2 CASE NAME: DE ROGATIS VS. SHAINSKY  
3 PASADENA, CALIFORNIA FRIDAY, NOVEMBER 1, 2013  
4 DEPARTMENT P HON. JAN A. PLUIM, JUDGE  
5 REPORTER: KAREN E. KAY, CSR NO. 3862  
6 TIME: A.M. SESSION

7 APPEARANCES:

8 PLAINTIFFS LINDA DE ROGATIS AND PETER DE ROGATIS  
9 ARE PRESENT WITH THEIR COUNSEL, GEORGE B. NEWHOUSE,  
10 JR., AND KATHERINE C. MC BROOM, ATTORNEYS AT LAW  
11 DEFENDANT KAREN MICHELLE SHAINSKY, D.O., IS PRESENT  
12 WITH HER COUNSEL, RAYMOND L. BLESSEY, AND  
13 PATRICIA M. TAZZARA, ATTORNEYS AT LAW

14  
15 (THE FOLLOWING PROCEEDINGS WERE HELD  
16 IN OPEN COURT, OUTSIDE THE PRESENCE  
17 OF THE JURY:)

18  
19 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD  
20 OUTSIDE THE PRESENCE OF THE JURY. PARTIES ARE PRESENT.  
21 COUNSEL ARE PRESENT.

22 MR. NEWHOUSE: GOOD MORNING, YOUR HONOR. THERE IS  
23 ONE MATTER I WOULD VERY BRIEFLY LIKE TO TAKE UP BEFORE THE  
24 JURY COMES IN.

25 AS THE COURT CAN SEE, I'M TRYING TO EXPEDITE  
26 THIS TRIAL BY GETTING DOCUMENTS ADMITTED SO WE DON'T HAVE  
27 TO GO -- AND WE DON'T WANT TO HAVE ARGUMENTS IN FRONT OF  
28 THE JURY. BECAUSE THERE WAS THIS DISAGREEMENT YESTERDAY,

1 I WANT TO CONFRONT WITH THE COURT.

2 WE HAVE FILED WITH THE COURT A PROPOSED  
3 EXHIBIT LIST, AND THE IDEA BEHIND THE EXHIBIT LIST WAS  
4 THAT IF A PARTY HAD OBJECTIONS LIKE RELEVANCY OR  
5 FOUNDATION, IT WOULD BE SET FORTH IN THIS DOCUMENT. AND  
6 YOU CAN SEE, IN FACT, FOR EXAMPLE, AS TO SOME OF THEM, THE  
7 DEFENDANT SET FORTH CUMULATIVE, REDUNDANT, IRRELEVANT.

8 SO I'D LIKE TO MOVE AT THIS TIME FIVE  
9 DOCUMENTS -- FOUR DOCUMENTS WHICH WE'RE GOING TO USE IN  
10 THE FOLLOWING CROSS, THE EXHIBIT 101, WHICH ARE  
11 DR. SHAINSKY'S BILLING RECORDS.

12 THE COURT: IS THAT A CLAIM FOR RELIEF IN THIS  
13 CASE?

14 MR. NEWHOUSE: NO, YOUR HONOR. WELL, YOUR HONOR,  
15 BUT IT DOES -- BUT IT DOCUMENTS THE LENGTH OF THE VISIT.  
16 IT'S RELEVANT. IT DOCUMENTS THE LENGTH OF THE VISIT.

17 THE COURT: NORMALLY, I TAKE UP EXHIBITS AT THE END  
18 OF THE TRIAL, BUT --

19 MR. NEWHOUSE: I WOULD OFFER IT. AND WITH THE  
20 WITNESS ON THE STAND AND THE JURY, I'D LIKE TO HAVE THE  
21 DISCUSSION OUTSIDE THE PRESENCE OF THE JURY IF THERE'S  
22 GOING TO BE A DISPUTE.

23 THE COURT: WELL, WE DO THAT ANYHOW OUTSIDE THE  
24 PRESENCE OF THE JURY.

25 MR. NEWHOUSE: OKAY.

26 THE COURT: AND I WOULD JUST TELL THEM WHICH ONES  
27 ARE RECEIVED AND WHICH ONES ARE NOT RECEIVED.

28 WHY DON'T WE JUST WAIT UNTIL THE END OF THE

1 TRIAL AND THEN I'LL LOOK AT IT FROM A TOTAL PERSPECTIVE  
2 OF --

3 MR. NEWHOUSE: OKAY.

4 THE COURT: -- ALL THE TESTIMONY WE'VE HEARD, OKAY?

5 MR. NEWHOUSE: OKAY. THAT'S FINE.

6  
7 (DISCUSSION HELD OFF THE RECORD.)

8  
9 THE COURT: WHICH JUROR?

10 THE CLERK: NO. 11.

11 THE COURT: MR. KENNEDY, IS HE THE SECURITY  
12 OFFICER?

13 MR. NEWHOUSE: YES. FORMER MILITARY.

14 THE COURT: PROUD OF IT.

15 MR. NEWHOUSE: MS. MC BROOM REPORTS SHE THINKS SHE  
16 SPOTTED THE JUROR OUTSIDE.

17 THE COURT: ALL RIGHT.

18 MS. TAZZARA: I JUST SAW HIM.

19 THE COURT: ALL RIGHT. BRING THEM IN, THEN.

20  
21 (THE FOLLOWING PROCEEDINGS WERE HELD  
22 IN OPEN COURT, IN THE PRESENCE OF  
23 THE JURY:)

24  
25 THE COURT: YOU MAY HAVE A SEAT. ALL RIGHT.  
26 WELCOME BACK, EVERYBODY. WE ARE BACK ON THE RECORD.

27 ALL JURORS ARE PRESENT AND IN PLACE. THE  
28 PARTIES ARE PRESENT. THE LAWYERS ARE PRESENT.



1 DR. KAREN SHAINSKY HAS RESUMED THE WITNESS  
2 STAND.

3 IF YOU COULD RESTATE YOUR NAME FOR THE  
4 RECORD, PLEASE, AND SPELL YOUR LAST NAME.

5 THE WITNESS: KAREN SHAINSKY. THANK YOU.

6 MR. NEWHOUSE: YOU'RE WELCOME.

7 THE WITNESS: S-H-A-I-N-S-K-Y.

8 THE COURT: OKAY. YOU'RE REMINDED YOU REMAIN UNDER  
9 OATH, UNDERSTOOD?

10 THE WITNESS: YES.

11 THE COURT: ALL RIGHT. VERY GOOD.

12 COUNSEL?

13 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

14

15

KAREN SHAINSKY, D.O.,

16 A DEFENDANT HEREIN, CALLED BY THE PLAINTIFFS UNDER 776,

17 WAS PREVIOUSLY DULY SWORN AND TESTIFIED AS FOLLOWS:

18

19

DIRECT EXAMINATION (CONTINUED)

20 BY MR. NEWHOUSE:

21

Q GOOD MORNING, DR. SHAINSKY.

22

A GOOD MORNING.

23

Q WHEN WE BROKE, WE WERE DISCUSSING YOUR

24

RECORD-KEEPING PRACTICES WITH REGARD TO THE PRESCRIPTIONS

25

THAT YOU PROVIDED YOUR PATIENTS.

26

DO YOU RECALL THAT?

27

A YES.

28

Q AND OTHER THAN THERE BEING NO REPORT OR

1 RECORD IN YOUR -- IN THE CHART FOR MS. DE ROGATIS FOR THE  
2 FEBRUARY 25TH PRESCRIPTION, ARE THERE ANY OTHER INSTANCES  
3 THAT YOU KNOW OF WHERE YOU PRESCRIBED DRUGS TO TARA THAT  
4 YOU DID NOT RECORD IN YOUR PROGRESS NOTES OR IN YOUR FILE  
5 ANYWHERE?

6 A NO.

7 Q CAN YOU -- I'D LIKE TO DIRECT YOUR ATTENTION  
8 TO EXHIBIT 112.

9

10 (MARKED FOR IDENTIFICATION, JOINT  
11 EXHIBIT 112-1 TO 112-11, RITE-AID  
12 RECORDS.)

13

14 BY MR. NEWHOUSE:

15 Q WHICH ARE -- I WILL REPRESENT ARE RECORDS  
16 THAT WE -- DO YOU HAVE YOUR BINDER? I'M SORRY. LET ME  
17 GET IT FOR YOU.

18 TURN TO TAB 112. IT SHOULD BE RIGHT HERE.

19 OKAY. AND THOSE ARE RECORDS THAT WERE  
20 OBTAINED FROM THE CUSTODIAN OF RECORDS FROM RITE AID.

21 YOUR HONOR, I'D OFFER THAT IN EVIDENCE AT  
22 THIS TIME.

23 MR. BLESSEY: I WOULD OBJECT. WE HAVEN'T  
24 ESTABLISHED A FOUNDATION THAT SHE READ THEM, SHE RELIED ON  
25 THEM OR EVEN KNOWS WHAT THEY SAY.

26 MR. NEWHOUSE: THE FOUNDATION IS STIPULATED TO,  
27 YOUR HONOR, SO --

28 THE COURT: HOLD ON, PLEASE.

1 MR. BLESSEY: NOT AS TO THIS WITNESS, YOUR HONOR.

2 MR. NEWHOUSE: YOUR HONOR, DIRECT YOUR ATTENTION,  
3 ACTUALLY, TO PAGE 12 OF THAT --

4 DR. SHAINSKY, GO TO PAGE 10 -- 12. SO IT  
5 SHOULD BE 112-10.

6 THE COURT: LET ME JUST SEE COUNSEL AT THE SIDEBAR  
7 WITH THE COURT REPORTER, PLEASE.

8

9 (THE FOLLOWING PROCEEDINGS WERE HELD

10 IN CHAMBERS WITH ALL COUNSEL:)

11

12 THE COURT: OKAY. WE'RE IN CHAMBERS WITH COUNSEL  
13 ON THE RECORD.

14 SO THIS IS A MULTIPLE-PAGE EXHIBIT?

15 MR. NEWHOUSE: YES.

16 THE COURT: FROM RITE AID GOING BACK AS FAR BACK AS  
17 2009, RIGHT?

18 MR. NEWHOUSE: CORRECT.

19 THE COURT: AND IS THAT THE ONLY PLACE THAT SHE  
20 FILLED HER PRESCRIPTIONS?

21 MR. NEWHOUSE: THAT'S WHERE SHE FILLED THESE  
22 PRESCRIPTIONS. THERE WAS A LATER ONE, I BELIEVE, AT  
23 C.V.S. WHICH WE ALSO HAVE NOW A STIPULATION AS TO  
24 FOUNDATION.

25 THE COURT: COULD THERE BE OTHERS?

26 MR. NEWHOUSE: COULD BE.

27 MS. MC BROOM: SHE FILLED ALL OF THE PRESCRIPTIONS  
28 FROM DR. SHAINSKY EXCEPT FOR ONE AT RITE AID; AND THEN

1 BECAUSE THEY HAD MOVED, SHE FILLED THAT FINAL PRESCRIPTION  
2 AT C.V.S.

3 MR. NEWHOUSE: I BELIEVE THERE WAS TESTIMONY  
4 YESTERDAY FROM DAVID THAT THEY WENT TO THIS RITE AID THAT  
5 WAS CLOSE BY. REASON I MENTION IT, YOUR HONOR, THE  
6 DOCUMENT, IF YOU LOOK DOWN ABOUT THIS LEVEL, YOU SEE  
7 "DR. SHAINSKY."

8 THE COURT: I SAW HER NAME.

9 MR. NEWHOUSE: DO YOU ALSO SEE "HYDROCODONE"?  
10 THAT'S THE NORCO. SHE ALSO PRESCRIBED A DRUG CALLED  
11 METOCLOPRAMIDE, WHICH WAS ALSO ON THE SAME DAY, THE 10TH,  
12 AND NO RECORD OF THAT IS MADE. THIS IS RELEVANT TO  
13 CROSS-EXAMINATION.

14 SHE'S DENIED NOT KEEPING -- ONE OF THE  
15 THINGS WE'RE TRYING TO SHOW HERE IS THAT SHE WAS VERY  
16 SLOPPY, SHE KEPT VERY POOR RECORDS, DID NOT RECORD ALL THE  
17 PHARMACEUTICALS COULDN'T BE MORE RELEVANT TO THE CASE, NOT  
18 GOING TO TAKE A LOT OF TIME. I WANT TO SHOW HER THIS AND  
19 CONFRONT HER WITH THIS.

20 THE COURT: IT'S ONLY THIS ONE PAGE.

21 HAVE YOU SEEN THAT, COUNSEL?

22 MR. BLESSEY: THE PROBLEM IS, SHE DOESN'T PREPARE  
23 THESE RECORDS. SHE DOESN'T KNOW HOW THEY'RE ENTERED. SHE  
24 CAN'T TESTIFY TO THE AUTHENTICITY OR THE ACCURACY OF THE  
25 ENTRIES ON THESE RECORDS.

26 SO, YOU KNOW, IF HE WANTS TO ASK HER, YOU  
27 KNOW, "DID YOU PRESCRIBE A DRUG CALLED METRO?" --  
28 WHATEVER, AND SHE SAYS, "YES. CAN YOU SHOW ME IN YOUR

1 CHART WHERE IT APPEARS?" FINE.

2 MR. NEWHOUSE: I'LL ASK HER THAT. I'D LIKE TO DO  
3 MY OWN CROSS-EXAMINATION IF I COULD.

4 MR. BLESSEY: I'M SURE YOU'LL GET TO.

5 MR. NEWHOUSE: THIS WON'T TAKE A LOT OF TIME, YOUR  
6 HONOR.

7 THE COURT: ALL RIGHT. I WANT TO FIND OUT IF THERE  
8 WERE MULTIPLE PHARMACEUTICAL -- BECAUSE THIS WHOLE THING  
9 MAY COME INTO THE RECORD JUST TO SHOW, YOU KNOW, SHE'S  
10 BEEN GETTING A LOT OF DRUGS OVER THE YEARS.

11 MR. NEWHOUSE: THERE WILL BE OTHER RECORDS THAT  
12 WILL HAVE LOTS OF DRUGS IN THEM.

13

14 (THE FOLLOWING PROCEEDINGS WERE HELD  
15 IN OPEN COURT, IN THE PRESENCE OF  
16 THE JURY:)

17

18 THE COURT: ALL RIGHT. WE'RE BACK ON THE RECORD IN  
19 OPEN COURT. WE HAD A CONFERENCE IN CHAMBERS TO DISCUSS  
20 PAGE 10 OF MULTIPLE PAGES OF RITE AID RECORDS.

21 YOU MAY PROCEED, COUNSEL.

22 MR. NEWHOUSE: YOUR HONOR, I WOULD AT LEAST OFFER  
23 THAT ONE PAGE, PAGE 10 OF EXHIBIT 112.

24 THE COURT: LET'S GET INTO IT AND SEE WHERE WE ARE.

25 MR. NEWHOUSE: OKAY. MAY I APPROACH?

26 THE COURT: YOU MAY.

27 THE WITNESS: I HAVE IT.

28 BY MR. NEWHOUSE:

1 Q I JUST WANT TO DIRECT YOU TO -- IT'S A LOT  
2 OF LINES HERE.

3 SO CAN YOU FIND THERE'S A DRUG CALLED  
4 METOCLOPRAMIDE?

5 A YES.

6 Q AND LOOKS LIKE IT WAS PRESCRIBED ON FEBRUARY  
7 10TH, 2010?

8 A YES.

9 Q BY YOU; THAT'S YOU, KAREN SHAINSKY?

10 A YES, IT'S ME.

11 Q TO -- TO TARA?

12 A YES.

13 Q WHAT IS METOCLOPRAMIDE?

14 A IT'S REGLAN. IT'S REGLAN, ANTI-NAUSEA  
15 MEDICATION. AND IF THE PATIENT IS TAKING PAIN MEDICATIONS  
16 OR JUST COMPLAINS OF NAUSEA, THEN THEY TAKE IT AS NEEDED.

17 Q AND DOES THAT REFRESH YOUR RECOLLECTION THAT  
18 INDEED YOU PRESCRIBED METOCLOPRAMIDE, OR REGLAN, TO  
19 MS. DE ROGATIS ON FEBRUARY 10TH?

20 A MOST LIKELY. IT'S HERE. YES.

21 Q WHEN YOU SAY "MOST LIKELY," DO YOU RECALL  
22 PRESCRIBING AN ANTI- -- I'M SORRY, STRIKE THAT -- A DRUG  
23 FOR NAUSEA?

24 A I REMEMBER HER COMPLAINING OF NAUSEA, YES.

25 Q AND DID YOU RECORD THAT, THE ENTRY OF THAT  
26 PRESCRIPTION, IN ANY OF YOUR MEDICAL RECORD FOR THIS  
27 PATIENT?

28 A I DID NOT SEE IT RECORDED, BUT AS I SAID,

1 NOT ALL THE PRESCRIPTIONS OUTSIDE OF TRIPLICATES WERE KEPT  
2 IN A PAPER FORMAT.

3 Q DR. SHAINSKY, THIS WILL GO A LOT FASTER IF  
4 YOU JUST ANSWER MY QUESTION. IF WE NEED AN EXPLANATION,  
5 YOU HAVE A VERY FINE ATTORNEY, HE CAN ASK YOU FOLLOW-UP.

6 MR. BLESSEY: YOUR HONOR --

7 BY MR. NEWHOUSE:

8 Q MY QUESTION IS THIS --

9 MR. BLESSEY: HOLD ON A SECOND.

10 MR. NEWHOUSE: PLEASE, COUNSEL, I'M NOT --

11 MR. BLESSEY: NO.

12 MR. NEWHOUSE: -- FINISHED.

13 THE COURT: HE HAS A RIGHT TO OBJECT.

14 MR. BLESSEY: I'M OBJECTING. IT'S AN INAPPROPRIATE  
15 ADMONITION. SHE WAS ANSWERING THE QUESTION. HE DIDN'T  
16 LIKE IT.

17 THE COURT: SUSTAINED.

18 MR. NEWHOUSE: MOVE TO STRIKE THE ANSWER AFTER --  
19 YOUR HONOR, IT WASN'T RESPONSIVE. I'LL ASK IT AGAIN.

20 THE COURT: IT'S NOT. GO AHEAD.

21 BY MR. NEWHOUSE:

22 Q DID YOU MAKE AN ENTRY IN YOUR RECORDS OF  
23 METOCLOPRAMIDE, ALSO KNOWN AS REGLAN, "YES" OR "NO"?

24 A NO.

25 Q IS THERE A REASON WHY YOU DID NOT MAKE THAT  
26 ENTRY IN YOUR RECORDS?

27 A THERE IS NO REASON. THE REASON IS BECAUSE  
28 WE WERE TRANSFERRING TO E.M.R., AND THE ONLY HARD COPIES

1 OF THE PRESCRIPTIONS THAT WERE KEPT WERE TRIPLICATES.

2 Q SO IT WAS ANOTHER MISTAKE?

3 A IT'S NOT A MISTAKE.

4 Q LET'S MOVE ON. LET'S ACTUALLY GO TO --  
5 WE'RE DONE WITH THAT.

6 I'LL WALK THROUGH THE PROGRESS NOTES, SO  
7 LET'S PUT BACK EXHIBIT 100, PAGES 10 THROUGH 11, FOR VISIT  
8 ON MARCH 1ST, 2010.

9

10 (MARKED FOR IDENTIFICATION, JOINT  
11 EXHIBIT 100-10 AND 100-11, 3/1/10  
12 PROGRESS NOTE BY KAREN SHAINSKY,  
13 D.O.)

14

15 BY MR. NEWHOUSE:

16 Q DO YOU HAVE THAT IN FRONT OF YOU?

17 A CAN YOU REPEAT THE PAGE, PLEASE?

18 Q LET ME ASSIST. I THINK IT'S PAGE -- NO, NO,  
19 BACK TO 100. I'M SORRY. WE'LL NEED THE OTHER VOLUME.  
20 RIGHT VOLUME. HERE WE GO.

21 A THANK YOU.

22 Q OKAY. YOU'RE WELCOME.

23 SO THESE ARE YOUR PROGRESS NOTES FOR THE  
24 MARCH 1ST VISIT, CORRECT?

25 A THAT'S CORRECT.

26 THE COURT: WHAT PAGE IS THAT, COUNSEL?

27 MR. NEWHOUSE: PAGE 10, YOUR HONOR, OF 100. IT'S  
28 100-10.



1 THE COURT: GOT IT.

2 BY MR. NEWHOUSE:

3 Q SO FIRST, RIGHT HERE UNDER "CURRENT  
4 MEDICATIONS," "AMBIEN, KLONOPIN, NORCO, SYNTHROID," AND  
5 "CYMBALTA," RIGHT?

6 A RIGHT.

7 Q AND WHICH ONE IS NOW MISSING THAT YOU  
8 PRESCRIBED EARLIER?

9 THE COURT: I'M SORRY. IS THIS PAGE 10?

10 MR. NEWHOUSE: SHOULD BE PAGE 10 OF EXHIBIT 100.

11 THE COURT: MINE STARTS OFF WITH "HISTORY." OKAY.  
12 ALL RIGHT. I SEE.

13 MR. NEWHOUSE: YOU'RE ON THE SAME PAGE. YOU GOT  
14 IT.

15 BY MR. NEWHOUSE:

16 Q "CURRENT MEDICATIONS." WE'RE MISSING THIS  
17 ANTI-NAUSEA DRUG, RIGHT?

18 A IT ONLY MEANS THAT SHE MIGHT HAVE TAKEN IT  
19 OR SHE MAY NOT. IT WAS GIVEN AS NEEDED FOR NAUSEA. THE  
20 MEDICATIONS THAT ARE THERE IS WHAT THE PATIENT TELLS ME  
21 SHE'S TAKING.

22 Q OKAY. SO IF YOU PRESCRIBE A DRUG TO THE  
23 PATIENT AND SHE DOESN'T TELL YOU SHE'S TAKING IT, YOU  
24 DON'T LIST IT THERE?

25 A NO, IF SHE'S NOT TAKING IT. IT'S AN  
26 AS-NEEDED MEDICATION.

27 Q NOW, ON THIS DISCUSSION -- OR THIS -- THIS  
28 MEETING, DAVID WAS NOW PRESENT, CORRECT?

1           A           I DON'T THINK SEE.

2           Q           AND -- BUT TARA WAS THERE?

3           A           YES.

4           Q           AND WHAT DISCUSSION DID YOU HAVE WITH TARA  
5 ON THAT DAY?

6           A           I BELIEVE SHE REPORTED SHE DID RESPOND TO  
7 TRIGGER POINT INJECTIONS, SHE WAS FEELING SOMEWHAT BETTER.  
8 IT WAS SHORT-LASTING, BUT SHE FELT BETTER.

9                        SHE SAID SHE WAS TAKING CYMBALTA, AND SHE  
10 REPORTED OF HAVING STRESS AT HOME. AND SHE MENTIONED THAT  
11 THEY HAD TO MOVE OUT OF THE HOUSE, BUT SHE WAS ALSO, YOU  
12 KNOW, CONCENTRATING ON PAIN. SHE WAS STILL IN PAIN AND  
13 STILL NEEDED TO TAKE PAIN MEDICATIONS.

14          Q           SO SHE TOLD YOU, AS THE REPORT INDICATES,  
15 SHE'S STILL IN PAIN, THE PAIN IS DIFFUSE, CORRECT?

16          A           YES.

17          Q           OKAY. WELL, WAS SHE STILL HEARING VOICES?

18          A           NO.

19          Q           DID YOU ASK HER ABOUT THAT?

20          A           YES.

21          Q           WAS SHE EXPERIENCING AT THAT TIME TACTILE  
22 HALLUCINATIONS?

23          A           I ASKED HER THAT, BECAUSE I ALREADY SAW THE  
24 MEDICAL RECORD AT CEDARS AND ASKED HER THAT. SHE DENIED.

25          Q           SO YOU ASKED HER TACTILE HALLUCINATIONS, SHE  
26 SAID, "NO," RIGHT?

27          A           RIGHT.

28          Q           BUT SHE WAS COMPLAINING OF ANXIETY, RIGHT?

1 A RIGHT.

2 Q AND SHE TOLD YOU, AS INDICATED THERE:

3 "STRESS AT HOME, MOVING OUT OF THE HOUSE,  
4 CAN'T AFFORD."

5 SO SHE INDICATED THAT THERE WERE TWO  
6 STRESSORS. SHE WAS MOVING OUT OF HER HOUSE, WHICH SHE  
7 LIKED; AND THERE WAS SOME FINANCIAL PROBLEMS WITH HERSELF  
8 AND DAVID, RIGHT?

9 A YES.

10 Q AND SHE TOLD YOU THAT -- DID SHE COMPLAIN  
11 ABOUT NOT SLEEPING?

12 A SHE DID NOT HAVE RESTFUL SLEEP FOR A WHILE,  
13 YES.

14 Q SO THAT WAS STILL A PROBLEM?

15 A YES.

16 Q AND SHE SEEMED DEPRESSED TO YOU?

17 A SHE ACTUALLY LOOKED -- SHE LOOKED PROBABLY  
18 BETTER.

19 Q AND SHE WANTED MORE DRUGS, SHE WANTED MORE  
20 PAINKILLERS?

21 A SHE WAS STILL IN PAIN.

22 Q AND SHE WANTED MORE PAINKILLERS, CORRECT?

23 A YES, CORRECT.

24 Q NOW, YOU'VE HAD ADDED CYMBALTA TO THE  
25 CURRENT MEDICATIONS RIGHT HERE, RIGHT?

26 A YES.

27 Q AND SHE TOLD YOU THAT SHE WAS TOLERATING  
28 CYMBALTA.

1                   WHAT DO YOU MEAN BY THAT? THOSE WEREN'T HER  
2 WORDS, WERE THEY? WHAT DID SHE SAY?

3                   A           WELL, I ALWAYS ASK, AFTER I PRESCRIBE THE  
4 MEDICATION -- THIS WASN'T AS-NEEDED MEDICATION. IT WAS A  
5 MEDICATION THAT WAS PRESCRIBED FOR FIBROMYALGIA. SO THE  
6 PATIENT IS SUPPOSED TO FOLLOW THE INSTRUCTION AND TAKE IT  
7 AS PRESCRIBED.

8                   AND SHE WAS ABLE TO TAKE IT. CYMBALTA HAS  
9 CERTAIN SIDE EFFECTS. ONE OF THEM IS NAUSEA. AND THAT'S  
10 PROBABLY THE REASON I GAVE HER SOMETHING FOR NAUSEA.

11                  Q           SO SHE TOLD YOU SHE -- THE CYMBALTA SEEMED  
12 TO BE WORKING FOR HER?

13                  A           YOU -- IT -- YOU CAN'T SAY WORKING. YOU CAN  
14 SAY THAT SHE HAS NOT HAD ANY SIDE EFFECTS FROM TAKING  
15 CYMBALTA. TO WORK, IT TAKES SEVERAL WEEKS.

16                  Q           AND I THINK YOU TESTIFIED THAT THE TREATMENT  
17 PLAN WAS YOU WANTED TO TITRATE UP THE AMOUNT OF CYMBALTA  
18 THAT SHE WAS TAKING, CORRECT?

19                  A           YES, THAT'S ABSOLUTELY CORRECT.

20                  Q           WAS SHE DOING THAT?

21                  A           THAT WAS THE SECOND VISIT, SO --

22                  Q           WELL, THIS IS NOW THE SECOND VISIT, SO THAT  
23 WAS -- YOU WERE GOING TO HAVE HER INCREASE HER DOSAGE?

24                  A           YES.

25                  Q           NOW, IT APPEARS -- FROM A COMPARISON OF THIS  
26 PAGE ON MARCH 1ST TO THE FEBRUARY 10TH, IT APPEARS THAT A  
27 LOT OF THIS LANGUAGE HERE IS EXACTLY THE SAME LANGUAGE AS  
28 BEFORE, BUT THAT'S JUST A CUT-AND-PASTE?

1           A           A LOT OF THE INFORMATION CARRIED OVER FROM  
2 THE PREVIOUS NOTE, YES.

3           Q           SO "YES."

4                    OKAY. AND YOU WOULD CHANGE -- MAKE CHANGES  
5 ACCORDING TO INFORMATION THAT SHE WAS PROVIDING YOU AT  
6 THIS VISIT, RIGHT?

7           A           YES.

8           Q           SHE -- YOU STATED HERE THAT SHE HAS -- LET'S  
9 SEE. MIDWAY DOWN IT SAYS:

10                    "PATIENT HAS BEEN TAKING NORCO FOR [A]  
11 MONTH OR TWO AND REPORTS GREAT RELIEF WITH NORCO."

12                    SO AT THIS POINT, SHE WAS QUITE SATISFIED  
13 WITH NORCO; IS THAT RIGHT?

14           A           YEAH. WELL, THAT'S ACTUALLY THE PORTION  
15 FROM THE FIRST VISIT, I THINK YOU'RE REFERRING TO.

16           Q           OKAY. SO --

17           A           NORCO DID RELIEVE THE PAIN, THAT'S WHAT SHE  
18 REPORTED.

19           Q           SO THAT'S WHAT I WANT TO -- I JUST WANT TO  
20 DETERMINE IF YOU HAD IN YOUR MEDICAL RECORDS A POINT WHERE  
21 SHE FIRST STARTED TAKING NORCO.

22                    SO AS OF MARCH 1ST, 2010, IS IT FAIR TO SAY  
23 THE PATIENT HAD BEEN ON NORCO FOR AT LEAST TWO MONTHS?

24           A           PROBABLY MORE.

25           Q           PROBABLY MORE.

26                    BUT YOU DIDN'T REALLY KNOW, DID YOU?

27           A           THAT -- I ONLY KNOW WHAT SHE TOLD ME.

28           Q           YOU DIDN'T KNOW BECAUSE YOU DIDN'T HAVE --

1 YOU DIDN'T OBTAIN DR. RAMIN'S RECORDS FOR THIS PATIENT,  
2 CORRECT?

3 A I DID NOT.

4 Q BUT YOU COULD HAVE, IF YOU WANTED THEM,  
5 RIGHT? THEY WOULD HAVE BEEN AVAILABLE?

6 A HE SAW HER WITHIN THE SAME MONTH, SO THAT  
7 WOULDN'T BE MUCH DIFFERENCE.

8 Q IF YOU'D ASKED DR. RAMIN FOR HIS MEDICAL  
9 RECORDS FOR TARA, HE WOULD HAVE PROVIDED THEM FOR YOU,  
10 CORRECT?

11 A YES, HE WOULD.

12 Q ALL RIGHT. NOW, UNDER "ASSESSMENTS," YOU  
13 INDICATED THAT TARA SHOULD -- WELL, WE TALKED ABOUT,  
14 INCREASE HER CYMBALTA TO THE 60 MILLIGRAMS.

15 AND, AGAIN, THE TREATMENT PLAN, I THINK YOU  
16 TESTIFIED, WAS THIS WAS SO YOU COULD WEAN HER OFF OPIATES?

17 A YES, EVENTUALLY.

18 Q WHEN YOU SAY "EVENTUALLY," HOW LONG -- SHE  
19 HAD ALREADY BEEN ON OPIATES FOR TWO OR THREE MONTHS OR  
20 LONGER.

21 HOW LONG DID YOU INTEND TO KEEP HER ON  
22 OPIATES BEFORE YOU WERE WEANING HER OFF? WHAT WAS YOUR  
23 PLAN?

24 A THE PLAN WAS -- IT TAKES MONTHS FOR PATIENTS  
25 TO COME OFF STRONG PAINKILLERS, DEPENDING ON THEIR -- HOW  
26 LONG THEY TAKE IT FOR.

27 SO IN THE BEST CLINICAL SCENARIO, IN SEVERAL  
28 WEEKS, SHE SHOULD HAVE BEEN REQUIRING LESS PAIN

1 MEDICATIONS IF CYMBALTA STARTS WORKING AS WELL AS POOL  
2 THERAPY, YOU KNOW, LIFESTYLE AND OTHER THINGS. THAT WAS  
3 THE PLAN.

4 Q DID YOU ASK TARA TO TELL YOU ALL THE DOCTORS  
5 THAT HAD GIVEN HER -- OR PRESCRIBED OPIATES FOR HER?

6 A DID -- I'M SORRY?

7 Q DID YOU ASK TARA TO TELL YOU ABOUT ALL THE  
8 DIFFERENT PHYSICIANS -- KNEW ABOUT DR. RAMIN, BUT OTHER  
9 PHYSICIANS WHO MAY HAVE BEEN PRESCRIBING NORCO TO HER?

10 A NO, I DIDN'T. BUT IT'S AN AGREEMENT BETWEEN  
11 ME AND THE PATIENT, IF I PRESCRIBE THE PAIN MEDICATION,  
12 THAT PATIENT DOES NOT GO TO ANY OTHER PHYSICIANS AT THAT  
13 TIME TO GET PAIN MEDICATION. THAT'S AN AGREEMENT.

14 Q I APPRECIATE THE EXPLANATION, BUT THE  
15 QUESTION WAS SIMPLER.

16 DID YOU EVER ASK TARA, "TELL ME ABOUT ALL  
17 THE OTHER PHYSICIANS IN THE PAST WHO HAVE GIVEN YOU  
18 NORCO," YES OR NO?

19 A NO.

20 Q SO YOU DIDN'T KNOW ABOUT DR. SPIEGEL, DID  
21 YOU, HER PAIN MANAGEMENT SPECIALIST?

22 A NO, I DIDN'T. SHE NEVER MENTIONED IT.

23 Q SHE DIDN'T MENTION IT BECAUSE YOU NEVER  
24 ASKED HER, CORRECT?

25 A NO, THAT'S NOT --

26 MR. BLESSEY: OBJECTION.

27 THE WITNESS: -- CORRECT.

28 BY MR. NEWHOUSE:

1 Q DID YOU ASK HER ABOUT OTHER PAIN --  
2 THE COURT: OVERRULED.

3 BY MR. NEWHOUSE:

4 Q -- OTHER SPECIALISTS, OTHER DOCTORS WHO WERE  
5 PRESCRIBING NORCO TO HER?

6 A NO.

7 Q WEREN'T YOU CONCERNED ABOUT TARA BECOMING  
8 ADDICTED TO OPIATES?

9 A SHE ACTUALLY DEMONSTRATED NO SIGNS OF  
10 ADDICTION TO ME AT THAT TIME.

11 Q AS OF MARCH 1ST, YOU SAW NO SIGNS OF  
12 ADDICTION?

13 A NO.

14 Q AND WHAT WOULD THE SIGNS OF ADDICTION BE;  
15 WHAT WOULD BE THE RED FLAGS YOU AS A PHYSICIAN WOULD LOOK  
16 FOR?

17 A THE RED FLAGS WOULD BE PATIENT WOULD TELL ME  
18 THE MEDICATION -- THEY LOST THE MEDICATION. THEY --

19 Q I DIDN'T HEAR THAT. I'M SORRY. "THEY" --

20 A THEY LOST THE MEDICATION. THEY LEFT THEM ON  
21 A PLANE, IN THEIR FRIEND'S HOUSE. THEY PARTIED. THEY DID  
22 SOMETHING ELSE AND THEY RAN OUT TOO PREMATURELY,  
23 REQUESTING MORE AND NOT COMPLYING WITH OTHER PLAN OF  
24 TREATMENT.

25 MS. DE ROGATIS WAS VERY COMPLIANT WITH THE  
26 PLAN OF TREATMENT. SHE WAS VERY COOPERATIVE.

27 Q AS OF MARCH 1ST?

28 A YES.



1 Q SO WOULD ONE OF THE TELLTALE SIGNS BE THAT  
2 THE PATIENT IS REPORTING THAT THE DRUG ISN'T WORKING FOR  
3 HER ANYMORE, THAT SHE'S BECOMING HABITUATED TO IT; WOULD  
4 THAT BE A SIGN?

5 MR. BLESSEY: I THINK THAT'S A COMPOUND QUESTION,  
6 YOUR HONOR.

7 THE COURT: OVERRULED.

8 THE WITNESS: CAN YOU REPEAT THE QUESTION?

9 BY MR. NEWHOUSE:

10 Q ANYTIME I DON'T -- I'M NOT UNDERSTOOD, JUST  
11 ASK ME.

12 WOULD IT BE A SIGN THAT A PATIENT IS  
13 BECOMING ADDICTED, THAT SUDDENLY THEY TELL YOU, "THE DRUG  
14 ISN'T WORKING FOR ME ANYMORE AT THE CURRENT DOSE"?

15 A I WOULDN'T SAY "ADDICTING." I WOULD SAY  
16 THEY BECOME MORE TOLERANT; THAT'S POSSIBLE.

17 Q AND THAT TELLS YOU -- IT'S A WARNING FLAG,  
18 IS IT NOT, THAT THE PATIENT MAY BE BECOMING ADDICTED TO  
19 THE DRUG, THAT THE DOSAGE LEVEL THAT THEY HAVE BEEN TAKING  
20 IS NOT ACCOMPLISHING THE EFFECT, "YES"?

21 A "YES" WOULD BE THE WRONG ANSWER.

22 THE PATIENT HAVE FIBROMYALGIA TRIGGERS WHEN  
23 THEY'RE UNDER STRESS. SO IF THERE IS A TRIGGER THAT  
24 TRIGGERS FIBROMYALGIA FLARE, THEN PATIENT DOES REQUIRE  
25 MORE MEDICATIONS, UNFORTUNATELY.

26 Q NOW, IN THIS REPORT, YOU AGAIN NOTED THAT  
27 TARA SUFFERED FROM A PSYCHIATRIC MOOD DISORDER?

28 A YEAH. THAT CARRIED OVER FROM THE CEDARS

1 RECORDS.

2 Q BUT THAT WAS STILL YOUR VIEW OF TARA'S  
3 RELEVANT BACKGROUND, CORRECT?

4 A YES, CORRECT.

5 Q AND YOU AGAIN WROTE, I THINK, IN YOUR RECORD  
6 THAT YOU STRONGLY DISCOURAGED THE USE OF NORCO, AND YOU  
7 RECOMMENDED POOL THERAPY, CORRECT?

8 A THAT'S CORRECT.

9 Q DID YOU ACTUALLY SAY THAT TO HER ON MARCH  
10 1ST, THAT YOU STRONGLY DISCOURAGED THE USE OF OPIATES?

11 A YES.

12 Q AND YOU AGAIN TOLD HER THAT YOU WERE  
13 RECOMMENDING POOL THERAPY; IS THAT YOUR TESTIMONY?

14 A YES, I DID.

15 Q DID YOU ASK HER HOW THE POOL THERAPY WAS  
16 GOING FOR HER?

17 A I DON'T THINK SHE WENT TO THE POOL THERAPY.

18 Q SHE DIDN'T GO FOR POOL THERAPY, CORRECT?

19 A I DON'T THINK SHE WENT.

20 Q HOW DO YOU KNOW THAT?

21 A BECAUSE I ASKED HER. I DON'T REFLECT IT  
22 HERE, BUT I ASK THE PATIENTS FOR EVERYTHING THAT I ASK  
23 THEM TO DO.

24 Q AND SHE WASN'T COMPLIANT WITH YOUR  
25 RECOMMENDATION THAT SHE DO POOL THERAPY, CORRECT?

26 A SHE DIDN'T GO. IT'S BEEN TWO WEEKS. IT  
27 TAKES PATIENTS TIME SOMETIMES TO START POOL THERAPY. THEY  
28 DON'T GO THE NEXT DAY.

1 Q WE'RE NOT DEALING WITH PATIENTS. WE'RE  
2 DEALING WITH TARA.

3 A YES.

4 Q AS OF MARCH 1ST, WHICH IS 18 DAYS AFTER  
5 HER -- SORRY, STRIKE THAT -- 20 DAYS AFTER YOUR INITIAL  
6 VISIT, SHE HADN'T DONE ANY POOL THERAPY, CORRECT?

7 A SHE HASN'T AND IT'S LESS THAN 30 DAYS.

8 Q WAS THAT A CONCERN, THAT SHE WASN'T  
9 FOLLOWING YOUR INSTRUCTIONS, "YES" OR "NO"?

10 A NO, IT WASN'T CONCERNING. SHE WAS UNDER  
11 MORE STRESS. THEY WERE MOVING OUT OF THE HOUSE.

12 Q DID YOU PROVIDE HER AT THAT MEETING WITH  
13 SUGGESTIONS WHERE SHE MIGHT BE ABLE TO OBTAIN POOL  
14 THERAPY?

15 A SHE WAS GIVEN THOSE INSTRUCTIONS AT THE VERY  
16 FIRST VISIT.

17 Q THAT'S NOT MY QUESTION. LISTEN CAREFULLY.  
18 DID YOU GIVE HER INSTRUCTIONS AT YOUR --  
19 DURING YOUR MEETING ON MARCH 1ST, WHERE YOU SAY YOU  
20 STRONGLY RECOMMENDED -- STRIKE THAT -- WHERE YOU  
21 RECOMMENDED POOL THERAPY?

22 DID YOU GIVE HER ANY HELP OR INSTRUCTIONS IN  
23 WHERE SHE MIGHT FIND A POOL OR OTHER FACILITIES WHERE SHE  
24 COULD OBTAIN THAT TREATMENT, "YES" OR "NO"?

25 A I DON'T REMEMBER THAT. SHE WAS GIVEN THAT  
26 ON THE INITIAL CONSULTATION.

27 Q ON THE SECOND COLUMN. WE'RE TALKING NOW  
28 ABOUT MARCH 1ST.

1 A OKAY.

2 Q DID YOU TELL HER, "YOU NEED TO DO POOL  
3 THERAPY"?

4 A YES.

5 Q "AND YOU CAN GO TO THE FOLLOWING LOCATIONS  
6 IN" -- WHEREVER THEY ARE -- "TO DO THE POOL THERAPY"? DID  
7 YOU TELL HER THAT?

8 A SHE ALREADY HAD THAT FROM THE FIRST VISIT.

9 Q YOU DIDN'T TELL HER ABOUT IT THE SECOND  
10 TIME, CORRECT?

11 A NO.

12 Q HOW LONG DID THE SESSION LAST?

13 A I'D HAVE TO ESTIMATE, BUT I USUALLY ALLOW  
14 MYSELF AROUND 20 MINUTES FOR A FOLLOW-UP TO REVIEW THEIR  
15 BLOOD WORK AND THINGS THAT WERE DONE ON THE PREVIOUS  
16 VISIT.

17 Q WELL, LET ME DIRECT YOUR ATTENTION TO  
18 EXHIBIT 101.

19 IF I MAY APPROACH, YOUR HONOR.

20 THE COURT: YOU MAY.

21

22 (MARKED FOR IDENTIFICATION, JOINT  
23 EXHIBIT 101-1 and 101-2, BILLING  
24 RECORDS FROM KAREN SHAINSKY, D.O.,  
25 TO TARA DE ROGATIS FOR THREE  
26 VISITS.)

27

28 BY MR. NEWHOUSE:

1 Q THIS, I THINK, IS -- LOOKS LIKE A BILLING  
2 RECORD FOR YOUR FIRM FOR TARA'S THREE VISITS?

3 A YES.

4 Q AND THIS WAS GENERATED BY YOUR OFFICE?

5 A I DON'T THINK IT WAS GENERATED BY MY OFFICE  
6 BECAUSE THE BILLING WAS OUTSOURCED TO THE COMPANY THAT  
7 DOES OUTSIDE --

8 Q WELL, YOU PRODUCED THIS IN RESPONSE TO YOUR  
9 DEPOSITION SUBPOENA, DID YOU NOT?

10 MR. BLESSEY: WELL, FIRST OF ALL, I DON'T KNOW WHAT  
11 THE RELEVANCE OF THAT IS. SECOND OF ALL, IT'S AN IMPROPER  
12 STATEMENT.

13 THE COURT: OVERRULED.

14 IF THE WITNESS COULD LOOK AT IT TO REFRESH  
15 HER MEMORY ABOUT HOW LONG THE VISIT LASTED; IS THAT WHAT  
16 YOU'RE ASKING?

17 MR. NEWHOUSE: YES.

18 Q SO LOOK AT THE VISIT FOR -- OFFICE VISIT ON  
19 THE 10TH. IT SAYS, "PATIENT LEVEL 4." THERE'S \$175  
20 BILLED AS OPPOSED TO 500 FOR THE FIRST VISIT.

21 DOES THAT REFRESH YOUR RECOLLECTION OF HOW  
22 LONG THAT VISIT LASTED?

23 A AT LEAST 20 MINUTES -- 20, 25 MINUTES.

24 Q SO AFTER TALKING TO HER AND OBTAINING  
25 ADDITIONAL INFORMATION, DID YOU CHANGE YOUR DIAGNOSIS AT  
26 ALL?

27 A NO. I CONFIRMED THE DIAGNOSIS. I GOT MORE  
28 INFORMATION BY THE SECOND VISIT.

1 Q WHAT ADDITIONAL INFORMATION DID YOU OBTAIN  
2 THAT CONFIRMED YOUR DIAGNOSIS?

3 A WELL, I HAD THE BLOOD WORK DONE ON THE VERY  
4 FIRST VISIT, WHICH I BELIEVE CHECKED THE INFLAMMATORY  
5 MARKERS THAT WOULD BE ELEVATED AND ANY INFLAMMATORY  
6 CONDITIONS SUCH AS OTHER AUTOIMMUNE ILLNESSES. THE  
7 INFLAMMATORY BLOOD WORK CAME BACK NORMAL.

8 I CHECKED THE A.N.A. PANEL, WHICH ALSO  
9 INCLUDES ALL THE AUTOIMMUNE CONDITIONS. THAT CAME BACK  
10 NEGATIVE.

11 SO I REASSURED MS. DE ROGATIS SHE DID NOT  
12 HAVE ANY INFLAMMATION OF THE MUSCLES OR ANY SERIOUS  
13 INFLAMMATORY CONDITION.

14 Q SO YOU RULED -- THE BLOOD PANEL CAME BACK  
15 NEGATIVE FOR ANY PROBLEMS, CORRECT?

16 A RIGHT.

17 AND SHE ALSO RESPONDED TO TRIGGER POINT  
18 INJECTIONS.

19 Q SO WHAT YOU'RE SAYING IS YOU DIDN'T FIND ANY  
20 OTHER -- THERE WAS NO OTHER PHYSICAL CAUSE THAT YOU  
21 LOCATED FOR HER FOR SOME OTHER -- SOME OTHER REASON FOR  
22 THE PAIN, RIGHT?

23 A YES.

24 Q BUT YOU ALSO IN THE INTERIM, YOU HAD  
25 REVIEWED THE CEDARS EMERGENCY RECORDS, SO YOU KNEW NOW  
26 MORE INFORMATION ABOUT HER PSYCHIATRIC HISTORY, CORRECT?

27 A YES.

28 Q AND -- BUT YOU STILL -- AS OF MARCH 1ST, YOU

1 HAVEN'T BOTHERED TO CONTACT HER TREATING PSYCHIATRIST,  
2 DR. BOHN; IS THAT RIGHT?

3 A THERE WAS NO INDICATION AT THIS TIME FOR ME  
4 TO TALK TO HER PSYCHIATRIST. SHE WAS ABSOLUTELY  
5 COOPERATIVE, COHERENT, AND BEHAVED NORMAL AT MY VISIT.

6 MR. NEWHOUSE: YOUR HONOR, I MOVE TO STRIKE. THAT  
7 WAS A "YES" OR "NO" ANSWER.

8 THE COURT: OVERRULED.

9 BY MR. NEWHOUSE:

10 Q LET ME ASK IT AGAIN.

11 DID YOU, AS OF MARCH 1ST, CONTACT OR TRY TO  
12 CONTACT HER TREATING PSYCHIATRIST, DR. BOHN, "YES" OR  
13 "NO"?

14 A NO.

15 Q DID YOU CHANGE YOUR TREATMENT PLAN IN ANY  
16 RESPECT ON MARCH 1ST?

17 A NO. THERE WAS NO CHANGE IN THE TREATMENT  
18 PLAN.

19 Q AND SO WHAT WAS YOUR ACTUAL PRESCRIPTION FOR  
20 HER? WHAT DID YOU GIVE HER AT THIS TREATMENT?

21 AFTER STRONGLY DISCOURAGING HER FROM THE USE  
22 OF NARCOTICS AND RECOMMENDING POOL THERAPY, SHE DIDN'T  
23 APPEAR TO BE DOING, WHAT DID YOU ACTUALLY PRESCRIBE?

24 A SHE WAS INSTRUCTED TO INCREASE HER CYMBALTA  
25 TO TWICE A DAY SO IT WOULD START WORKING FASTER.

26 Q OKAY.

27 A AND SHE ALSO NEEDED PAIN MEDICATION STILL  
28 BECAUSE SHE WAS IN PAIN. I ALSO ADMINISTERED TRIGGER

1 POINT INJECTIONS AT THAT TIME BECAUSE SHE SEEMED TO  
2 RESPOND FAVORABLY AND SAID IT HELPED HER PAIN.

3 Q SO AM I RIGHT, ON THE SECOND VISIT YOU  
4 PROVIDED HER -- LET'S PUT PAGE 12 UP.

5 YOU PROVIDED HER WITH A PRESCRIPTION FOR  
6 ANOTHER NORCO PRESCRIPTION. THIS TIME IT SAYS, "10/325."  
7 AND THAT'S 10 MILLIGRAMS?

8 A IT IS 10 MILLIGRAMS.

9 Q AND 325 REFERS TO THE MILLIGRAMS OF  
10 ACETAMINOPHEN?

11 A YES.

12 Q OKAY. SO AM I RIGHT, THIS IS TWICE THE  
13 STRENGTH OF THE PRIOR DOSE, WHICH WAS -- THOSE TWO IN  
14 FEBRUARY 10TH AND FEBRUARY 25TH WERE BOTH 5 MILLIGRAMS,  
15 CORRECT?

16 A NO, YOU'RE WRONG. IF YOU LOOK AT THE  
17 PRESCRIPTION, IT SAYS, "ONE TO TWO PILLS." SO  
18 OCCASIONALLY MEANS MS. DE ROGATIS WAS TAKING TWO PILLS, SO  
19 THIS IS NOT RIGHT.

20 Q I GUESS I DON'T UNDERSTAND.

21 WHEN YOU SAY "ONE TO TWO PILLS," ARE YOU  
22 TELLING THE PATIENT THAT SHE CAN TAKE EITHER ONE OR TWO?

23 A DEPENDING ON THE LEVEL OF THE PAIN. SHE --  
24 NO ONE IS ENCOURAGED TO TAKE MORE THAN NEEDED.

25 Q SO MY QUESTION IS: IT WAS 5 MILLIGRAMS.  
26 ONE TABLET WOULD BE 5; IF SHE WANTED TO TAKE TWO, IT WOULD  
27 BE 10, CORRECT?

28 A CORRECT.



1 Q NOW YOU WERE GIVING HER A PRESCRIPTION WHERE  
2 SHE COULD ONLY TAKE 10 MILLIGRAMS, CORRECT?

3 A YES. AND ONLY ONE PILL.

4 Q AND ONLY ONE PILL. OKAY.

5 AND YOU WERE GIVING HER A FAIRLY LARGE  
6 QUANTITY, WERE YOU NOT, 100?

7 A IT DEPENDS ON THE LENGTH OF THE FOLLOW-UP  
8 VISIT. THE FIRST FOLLOW-UP VISIT WAS IN TWO TO THREE  
9 WEEKS. THIS FOLLOW-UP VISIT WAS MEANT TO BE IN FOUR  
10 WEEKS. SO IF YOU DO THE MATH, THAT'S EXACTLY WHAT IT ADDS  
11 UP TO.

12 Q I CAN DO THE MATH.  
13 YOU WERE GIVING HER FOUR WEEKS OF SUPPLY OF  
14 NORCO, CORRECT?

15 A YES.

16 Q AND HOW IS THAT CONSISTENT, IF IT IS, WITH  
17 STRONGLY DISCOURAGING THE USE OF NARCOTICS?

18 A I'VE ALREADY EXPLAINED THAT IF THE PATIENT  
19 HAS FIBROMYALGIA FLARE AND IS SUFFERING FROM PAIN, I HAVE  
20 TO ADDRESS YOUR PAIN.

21 Q WELL, THEN MAYBE I DON'T UNDERSTAND WHAT YOU  
22 MEANT WHEN YOU TOLD THE PATIENT, "I STRONGLY DISCOURAGE  
23 THE USE OF NARCOTICS."

24 DID YOU ACTUALLY TELL HER THAT?

25 A ABSOLUTELY.

26 Q BUT THEN YOU GAVE HER A PRESCRIPTION FOR 100  
27 TABS, 10 MILLIGRAMS' SUPPLY FOR FOUR WEEKS, RIGHT?

28 A RIGHT.

1 Q HOW -- IS THERE SOME DISCREPANCY BETWEEN THE  
2 TWO IN YOUR MIND?

3 A THERE IS NO DISCREPANCY. WHAT I MEANT IS,  
4 IN THE LONG TERM, PATIENTS WITH FIBROMYALGIA, I PREFER  
5 THEM NOT TO BE TAKING PAINKILLERS -- STRONG PAINKILLERS.

6 BUT IN THIS INDIVIDUAL, FOR EXAMPLE, YOU  
7 CANNOT STOP THE PAIN MEDICATION IF THE CAUSE OF ANXIETY  
8 FOR THE PATIENT IS PAIN.

9 Q AND YOU KNEW, IN FACT, THAT TARA WAS GOING  
10 TO BE UNDER MORE ANXIETY BECAUSE SHE WAS CONCERNED ABOUT  
11 HER MOVE FROM THE HOUSE AND THE FINANCIAL TROUBLES. SO  
12 YOU WANTED TO BE SURE SHE HAD PLENTY OF PAIN MEDICATION TO  
13 DEAL WITH THAT; IS THAT YOUR TESTIMONY?

14 A NOT PLENTY. SHE WOULD HAVE MEDICATION IF  
15 SHE WAS IN PAIN.

16 Q NOW, THIS PRESCRIPTION ON MARCH 1ST WAS  
17 ONLY, WHAT, FIVE DAYS BEFORE YOU HAD GIVEN HER 56 TABLETS  
18 OF ACETAMINOPHEN, CORRECT?

19 A CORRECT.

20 Q THOSE WERE 5-MILLIGRAM STRENGTH, RIGHT?

21 A YES.

22 Q AND PREVIOUSLY, TWO WEEKS BEFORE, YOU HAD  
23 GIVEN HER 60 AT 5 MILLIGRAMS, CORRECT?

24 A CORRECT.

25 Q AND, IN YOUR OPINION, YOU WEREN'T -- YOU  
26 WEREN'T RUNNING A DANGER AT ALL OF GETTING YOUR PATIENT  
27 ADDICTED TO PAINKILLERS? YOU WEREN'T CONCERNED ABOUT  
28 THAT?

1           A           NO, I WASN'T.

2           Q           YOU WEREN'T CONCERNED THAT SHE MIGHT BEGIN  
3 TO HABITUATE TO THE LEVELS OF THE DRUG REQUIRING GREATER  
4 AND GREATER DOSAGES?

5           A           NO, I WASN'T.

6           Q           OKAY. YOU WEREN'T CONCERNED THAT SHE MIGHT  
7 SOON RETURN TO YOU AND WANT EVEN MORE POWERFUL DRUGS?

8           A           NOT IF THE TREATMENT PLAN WOULD BE, YOU  
9 KNOW, WORKING FINE.

10          Q           RIGHT.

11                    AND YOU HAD, ACTUALLY, PRETTY GOOD EVIDENCE,  
12 DID YOU NOT, THAT THE TREATMENT PLAN WASN'T WORKING  
13 BECAUSE ONE OF YOUR TWO PRONGS, POOL THERAPY, SHE WASN'T  
14 DOING, RIGHT, YOU KNEW THAT?

15          A           THAT'S ONLY BECAUSE SHE COULDN'T GET TO THE  
16 POOL THERAPY BECAUSE THEY WERE MOVING.

17          Q           THAT'S WHAT SHE TOLD YOU? YOU ASKED HER  
18 ABOUT THE POOL THERAPY --

19          A           YES, I DID.

20          Q           -- AND SHE SAID, "WE'RE BUSY MOVING"?

21          A           YES, I DID.

22          Q           IS ANY OF THAT DISCUSSION REFLECTED IN  
23 YOUR -- IN YOUR NOTES, THAT YOU ASKED HER ABOUT THE POOL  
24 THERAPY, AND SHE SAID SHE WANTED TO DO IT BUT WAS MOVING,  
25 SO SHE HASN'T GOTTEN AROUND TO IT?

26                    IS THAT REFLECTED AT ALL IN EXHIBIT 100,  
27 PAGE 10 OR 11?

28          A           IT MAY NOT BE REFLECTED, BUT I KNOW I SPOKE

1 TO HER ABOUT THAT.

2 Q SO WAS THIS SOMETHING THAT WAS IMPORTANT TO  
3 YOU? DID YOU CONSIDER THAT PART OF THE DISCUSSION  
4 MATERIAL?

5 A YES, IT IS IMPORTANT.

6 Q BUT IT'S NOT IMPORTANT ENOUGH TO MAKE IT  
7 INTO YOUR NOTES; IS THAT YOUR TESTIMONY?

8 A IT'S STILL IMPORTANT.

9 Q BUT NOT IMPORTANT ENOUGH TO WRITE IT DOWN IN  
10 THE PROGRESS NOTES; IS THAT RIGHT?

11 A I'VE EXPLAINED MANY TIMES THAT THIS WAS A  
12 TRANSITION PERIOD FROM PAPER TO ELECTRONIC MEDICAL RECORDS  
13 AND NOT EVERYTHING I WAS ABLE TO PUT THERE, TYPE IN, IF I  
14 DON'T PAY ATTENTION TO THE PATIENT DURING THE VISIT. YOU  
15 CAN'T TURN AROUND AND START TYPING AWAY FROM THE PATIENT  
16 JUST TO DOCUMENT.

17 Q SO WHAT WAS THE PLAN? YOU WERE GOING TO GET  
18 BACK TO HER IN FOUR WEEKS, AND THEN WHAT WERE YOU GOING TO  
19 DO, PRESCRIBE ADDITIONAL NARCOTICS TO HER AT THAT TIME?

20 A I WAS HOPING THAT SHE WOULD REQUIRE LESS  
21 NARCOTICS, THAT CYMBALTA WOULD BE -- WOULD START WORKING  
22 BY THAT TIME, OR AT LEAST INITIALLY, AND SHE WOULD BE  
23 UNDER LESS STRESS WITH THE MOVE.

24 Q SHE WAS UNDER MORE STRESS, AND YOU WERE  
25 GIVING HER, EFFECTIVELY, TWICE THE AMOUNT OF DRUGS THAT  
26 YOU HAD GIVEN HER BEFORE.

27 DIDN'T YOU WANT TO HAVE HER COME BACK IN A  
28 SHORT PERIOD OF TIME SO YOU COULD ASSESS HER PROGRESS?

1 MR. BLESSEY: YOUR HONOR, I'M GOING TO OBJECT. IT  
2 MISSTATES THE EVIDENCE AND HER TESTIMONY A FEW MINUTES AGO  
3 ABOUT, QUOTE, "TWICE THE AMOUNT OF DRUGS."

4 THE COURT: OVERRULED.

5 BY MR. NEWHOUSE:

6 Q CAN YOU ANSWER THE QUESTION?

7 A CAN YOU REPEAT THE QUESTION, PLEASE?

8 Q SURE.

9 YOU KNEW SHE WAS UNDER INCREASED STRESS,  
10 CORRECT?

11 A YES.

12 Q SHE WAS COMPLAINING OF STILL EXCRUCIATING  
13 PAIN, CORRECT?

14 A SHE WAS COMPLAINING OF PAIN, YES.

15 Q AND YOU ALSO KNOW THAT SHE ISN'T FOLLOWING  
16 YOUR RECOMMENDATION FOR POOL THERAPY, CORRECT?

17 A SHE HASN'T GOTTEN TO IT.

18 Q HASN'T GOTTEN TO IT.

19 AND SO YOU GIVE HER A LARGE PRESCRIPTION,  
20 FOUR-WEEK SUPPLY OF NORCO.

21 DID YOU THINK ABOUT MAYBE HAVING HER COME  
22 BACK IN A WEEK, GIVING HER A SMALLER PRESCRIPTION AND  
23 HAVING HER COME BACK IN A WEEK OR TWO TO SEE IF SHE WAS  
24 DOING THE POOL THERAPY AND HOW SHE WAS DOING ON THE DRUG?  
25 DID YOU CONSIDER THAT AS AN ALTERNATIVE?

26 A IT'S AN ALTERNATIVE. THE PATIENT CAN ALWAYS  
27 CALL AND MOVE THEIR APPOINTMENT UP, IF NEEDED.

28 Q DID YOU CONSIDER THAT AS AN ALTERNATIVE TO

1 GIVING HER A FOUR-WEEK SUPPLY OF NORCO?

2 A I WASN'T CONCERNED ABOUT IT.

3 Q SO THE ANSWER IS "NO"?

4 A "NO."

5 Q NOW, DID YOU CONSIDER THIS PRESCRIPTION OF  
6 100 TABLETS OF NORCO AT 10 MILLIGRAMS, DID YOU CONSIDER  
7 THAT A POTENTIALLY A DANGEROUS DRUG IN ANY RESPECT?

8 A NOT IF THE PATIENT TAKES IT AS DIRECTED, ONE  
9 PILL EVERY 6 HOURS ONLY AS NEEDED FOR PAIN.

10 Q WAS IT, IN YOUR VIEW, A LOT -- WAS SHE  
11 TAKING A LOT OF PAINKILLERS AT THIS TIME, IN YOUR  
12 EXPERIENCE?

13 A IT'S NOT A LOT. IT'S A SUBSTANTIAL AMOUNT,  
14 BUT IT'S NOT A LOT IF SHE HAS BEEN ON PAIN MEDICATION  
15 BEFORE.

16 Q SO IS IT FAIR TO SAY BY THIS POINT YOU HAD  
17 BASICALLY ABANDONED YOUR PLAN TO WEAN HER OFF OPIATES?

18 A NO, ABSOLUTELY NOT.

19 Q SO YOU WERE GOING TO SEE HOW SHE WAS DOING  
20 IN FOUR WEEKS?

21 A YES.

22 Q LET'S GO TO THE THIRD VISIT, THEN, MARCH 22,  
23 2010. SO THIS WAS ACTUALLY THREE WEEKS SINCE THE FIRST  
24 VISIT ON MARCH 1ST, CORRECT? YOU CAN GO TO YOUR PROGRESS  
25 NOTE, WHICH IS EXHIBIT-- PAGE 13 AND 14 OF EXHIBIT 100.

26

27 (MARKED FOR IDENTIFICATION, JOINT

28 EXHIBIT 100-13 AND 100-14, 3/22/10

1                   PROGRESS NOTE BY KAREN SHAINSKY,  
2                   D.O.)

3

4 BY MR. NEWHOUSE:

5           Q       DO YOU HAVE THAT?

6           A       I WILL. YES.

7           Q       FIRST QUESTION IS: I THOUGHT YOU TOLD US  
8 THAT SHE WAS GOING TO COME BACK IN FOUR WEEKS BUT SUDDENLY  
9 SHE -- AND YOU'VE GIVEN HER ENOUGH DRUGS TO GET HER  
10 THROUGH FOUR WEEKS, CORRECT?

11          A       CLOSE TO THAT PROBABLY, YES.

12          Q       100?

13          A       WELL --

14          Q       IF SHE TOOK THE DRUGS ACCORDING TO YOUR  
15 INSTRUCTION, SHE SHOULD HAVE HAD ENOUGH TO GET HER INTO  
16 APRIL, RIGHT?

17          A       WE CAN COUNT. I THINK IT'S 30 PILLS A WEEK,  
18 SOMETHING LIKE THAT.

19          Q       YET SHE'S BACK A WEEK EARLY. WHY? WHY?  
20 HOW DID THAT COME TO PASS, THAT SHE CAME IN A WEEK EARLY?

21          A       BECAUSE SHE HAD ELECTIVE SURGERY.

22          Q       SHE WAS PLANNING ELECTIVE SURGERY?

23          A       ELECTIVE SURGERY, YES.

24          Q       SO THIS -- WHEN YOU HEARD DAVID'S TESTIMONY,  
25 HE TESTIFIED THAT THIS MEETING WAS BROUGHT ABOUT BECAUSE  
26 SHE WOKE UP ON MARCH 22ND IN EXCRUCIATING PAIN AND THERE  
27 WAS A PROBLEM, AND THEY MADE AN APPOINTMENT WITH YOU,  
28 RIGHT?

1 A YES.

2 Q SO THIS WASN'T A SCHEDULED APPOINTMENT?

3 A I DON'T KNOW IF IT WAS --

4 Q YOU DON'T RECALL?

5 A -- EMERGENT OR NOT. I DON'T RECALL.

6 Q OKAY. NOW, AT THIS POINT, AS OF MARCH 22ND,  
7 DID YOU HAVE A RECORD OF EXACTLY THE AMOUNT -- THE DOSAGES  
8 OF ALL THE PAINKILLERS, THE OPIATES, THAT YOU'D GIVEN HER?

9 HAVE YOU BEEN KEEPING TRACK OF THIS IN  
10 YOUR -- IN YOUR MEDICAL RECORDS?

11 A YES, I HAVE PAPER COPY OF EVERY TREATMENT,  
12 YES.

13 Q WELL, DID YOU EVER -- BUT YOU DON'T HAVE A  
14 PAPER COPY OR ANY RECORD WHATSOEVER OF THE FEBRUARY 25 --

15 A WE ALREADY TALKED ABOUT IT. IT WAS CALLED,  
16 THE PRESCRIPTION, BUT I KNEW ABOUT IT.

17 Q YOU KNEW ABOUT IT. SO IT WAS IN HERE. IT  
18 WAS IN YOUR HEAD?

19 A YEAH.

20 Q NOW, THIS VISIT WAS MUCH LONGER THAN THE  
21 SECOND VISIT, WASN'T IT? DIDN'T IT LAST ABOUT 40 MINUTES?

22 A YES, PROBABLY.

23 Q AND DAVID WAS PRESENT THIS TIME?

24 A YES, DAVID WAS PRESENT.

25 Q AND AS TARA ENTERED -- OR AS YOU ENTERED THE  
26 CONSULTATION ROOM, IS IT -- IS IT CORRECT THAT TARA SEEMED  
27 VERY ANXIOUS?

28 A SHE SEEMED ANXIOUS, YES.



1 Q SHE LOOKED DISHEVELED?

2 A NO, SHE DID NOT LOOK DISHEVELED TO ME.

3 Q DID SHE LOOK IN ANY WAY DISTRESSED?

4 A SHE WAS STRESSED OUT. SHE WAS IN PAIN. SHE  
5 WAS ANXIOUS, YES.

6 Q AND SHE WAS, IN FACT, MORE ANXIOUS THAN SHE  
7 HAD APPEARED ON THE TWO PRIOR VISITS, CORRECT?

8 A SHE WAS PROBABLY MORE ANXIOUS.

9 Q WHEN YOU SAY "PROBABLY," SHE WAS MORE  
10 ANXIOUS?

11 A SHE WAS MORE ANXIOUS.

12 Q AND WHAT DISCUSSION DID YOU HAVE WITH DAVID  
13 AND TARA AS YOU ENTERED THE ROOM?

14 A I ASKED WHY SHE WAS IN PAIN. SHE LOOKED  
15 LIKE SHE WAS IN PAIN.

16 Q IN FACT, DID YOU STOP IN YOUR TRACKS AND  
17 BASICALLY ASK, "OH, MY GOD. WHAT'S WRONG, TARA?" OR WORDS  
18 TO THAT EFFECT? YOU HEARD DAVID --

19 A I DON'T REMEMBER THAT, BUT I MIGHT HAVE  
20 ASKED HER, "WHAT'S WRONG? WHY ARE YOU IN PAIN?" YES.

21 Q WELL, YOU HEARD DAVID'S TESTIMONY, CORRECT?

22 A YES.

23 Q YOU DON'T DISAGREE WITH DAVID'S RECITATION  
24 OF WHAT HAPPENED AS YOU ENTERED THE ROOM, DO YOU?

25 A NO. I HAVE MY OWN RECOLLECTION OF THE  
26 VISIT, SO YOU CAN ASK ME ABOUT MINE.

27 Q I'M ASKING YOU IF -- WHEN YOU HEARD DAVID  
28 SAY YOU ENTERED THE ROOM AND YOU SAID, "OH, MY GOD, TARA,

1 WHAT'S WRONG? YOU LOOK DISTRESSED," WORDS TO THAT EFFECT,  
2 YOU DON'T DISAGREE WITH THAT -- THAT ACCOUNT, DO YOU?

3 A I DON'T REMEMBER EXACT WORDING, BUT I ASK  
4 HER WHAT WAS WRONG, WHY SHE WAS IN PAIN, YES.

5 Q AND YOU RECALL TARA TELLING YOU, IN SUM OR  
6 SUBSTANCE, THAT THE PAIN WAS SO BAD SHE WANTED TO DIE,  
7 RIGHT?

8 A I DON'T REMEMBER THE WORDING. SHE DID  
9 COMPLAIN OF SIGNIFICANT AMOUNT OF PAIN.

10 Q WAS IT YOUR IMPRESSION AS OF MARCH 22ND THAT  
11 TARA HAD BASICALLY RUN OUT OF HER MEDICATION, THE NORCO?

12 A IT'S NOT AN IMPRESSION. WE WENT OVER ALL  
13 HER MEDICATIONS.

14 Q WELL, THAT'S RIGHT.  
15 SHE BROUGHT IN A WHOLE BAG OF HER  
16 MEDICATIONS, CORRECT?

17 A YES.

18 Q AND YOU LINED THEM ALL UP ON A TABLE?

19 A YES.

20 Q AND YOU WENT THROUGH EACH ONE, CORRECT?

21 A YES.

22 Q AND IS THAT ONE REASON WHY FOR YOUR REPORT,  
23 UNDER "CURRENT MEDICATIONS," YOU'VE LISTED SOME -- YOU  
24 LISTED SOME DRUGS THAT DIDN'T APPEAR IN THE EARLIER  
25 REPORTS, RIGHT?

26 A YES. I WENT OVER EVERY MEDICATION.

27 Q AND YOU MADE A COMPLETE LIST.

28 WHAT'S TRAZODONE, BY THE WAY?

1 A IT'S AN ANTIDEPRESSANT SLEEPING AID.

2 Q SOMETHING THAT A PSYCHIATRIST MIGHT  
3 PRESCRIBE?

4 A ANY PHYSICIAN, FAMILY PRACTITIONER CAN  
5 PRESCRIBE THAT, INTERNAL MEDICINE.

6 Q STRATTERA, WHAT IS STRATTERA?

7 A STRATTERA IS THE NOREPINEPHRINE RE-UPTAKE  
8 INHIBITOR. PATIENTS TAKE IT FOR ATTENTION DEFICIT  
9 DISORDERS.

10 Q ALSO KNOWN AS A.D.H.- -- A.D.H.D.?

11 A YES, CORRECT.

12 Q LEVOTHYROXINE, WHAT IS THAT FOR?

13 A IT'S FOR HYPOTHYROIDISM.

14 Q AND CYTOMEL, WHAT IS THAT?

15 A THAT'S ALSO FOR THYROID.

16 Q SO WHEN YOU EXAMINED HER NORCO, YOU SAW SHE  
17 ONLY HAD A COUPLE PILLS LEFT, CORRECT?

18 A YES, THAT'S CORRECT.

19 Q AND THAT DISTURBED YOU A LITTLE BIT, DIDN'T  
20 IT?

21 A I'M SORRY?

22 Q THAT DISTURBED YOU A LITTLE BIT, DIDN'T IT?

23 A YEAH. I WOULD HOPE SHE WOULD NEED LESS  
24 MEDICATION.

25 Q WELL, IN FACT, YOU KNEW BY THAT THAT SHE WAS  
26 USING MORE DRUGS THAN YOU HAD PRESCRIBED, SO SHE WAS  
27 ABUSING YOUR PRESCRIPTION, CORRECT?

28 A THAT'S NOT CORRECT. IF YOU CALCULATE THE

1 DOSAGES, EVERY 6 HOURS, IT COMES UP TO FOUR PILLS A DAY.  
2 FOUR PILLS A DAY FOR ONE WEEK, IT'S 28. SO ABOUT 30 A  
3 WEEK. SO --

4 Q 28 A WEEK --

5 MR. BLESSEY: I'M SORRY. YOUR HONOR, SHE WAS IN  
6 THE MIDDLE OF AN ANSWER.

7 THE COURT: LET HER FINISH.

8 GO AHEAD.

9 THE WITNESS: MULTIPLY BY THREE, SO IT WOULD BE 90  
10 PILLS.

11 BY MR. NEWHOUSE:

12 Q WELL, IT'S -- I'M NOT SURE I AGREE WITH THE  
13 MATH, BUT LET'S -- LET'S DO IT.

14 SO SHE HAD -- AS OF MARCH 1, SHE HAD 100,  
15 RIGHT?

16 A CORRECT.

17 Q MY WRITING IS EVEN WORSE THAN MR. BLESSEY'S.

18 MR. BLESSEY: ACTUALLY, IT'S BETTER.

19 BY MR. NEWHOUSE:

20 Q OKAY. SO SHE HAD 100 AT 10 MILLIGRAMS,  
21 RIGHT?

22 A YES.

23 Q AND THE MAXIMUM DOSE, IF SHE WAS IN MAXIMUM  
24 PAIN, SHE COULD TAKE FOUR PER DAY, RIGHT?

25 A CORRECT.

26 Q OKAY. SO I HAVE 28 FOR A WEEK, RIGHT?

27 A YES.

28 Q OKAY.

1 A ABSOLUTELY RIGHT.

2 Q AND SINCE THAT'S THE 1ST AND YOU'RE NOW  
3 SEEING HER ON MARCH 22, THAT WOULD BE THREE WEEKS. SO  
4 LET'S MULTIPLE THAT BY THREE, 56 -- 84? NOT VERY GOOD AT  
5 MATH. OKAY.

6 SO SHE SHOULD HAVE HAD AT LEAST 16 LEFT.  
7 SHE DID NOT, RIGHT?

8 A SHE HAD A FEW PILLS LEFT.

9 Q A FEW. HOW MANY?

10 A I CAN'T TELL YOU THAT. SHE HAD A FEW.

11 Q SHE --

12 A IT WASN'T AN EMPTY BOTTLE.

13 Q SHE HAD FEWER THAN 16?

14 A SHE HAD A FEW.

15 Q AND YOU, IN FACT, NOTED IN YOUR REPORT, DID  
16 YOU NOT, THAT SHE WAS USING MORE OF THE NORCO THAN SHE  
17 SHOULD HAVE, DIDN'T YOU?

18 A I THINK SHE MENTIONED THAT SHE WAS TAKING --  
19 IN THE LAST FEW DAYS, SHE WAS TAKING TWO PILLS INSTEAD OF  
20 ONE.

21 Q PUT THE SECOND PAGE UP.

22 YOU WROTE UNDER -- AT THE VERY TOP, "NOW SHE  
23 C/O" -- COMPLAINS?

24 A YES.

25 Q -- "COMPLAINS [THAT] NORCO [IS] NOT BEING  
26 VERY EFFECTIVE," SO IT'S NOT WORKING FOR HER, IS IT?

27 A NOT AS WELL AS SHE SAID BEFORE.

28 Q IT WASN'T WORKING FOR HER, WAS IT? ISN'T

1 THAT WHAT SHE SAID?

2 NOW, MY QUESTION IS: SHE SAID IT WASN'T  
3 WORKING FOR HER, CORRECT?

4 A IT WASN'T VERY EFFECTIVE.

5 Q AND SHE ALSO SAID SHE IS TAKING TWO TABS  
6 EVERY 6 HOURS, RIGHT?

7 A IN THE LAST FEW DAYS, YEAH.

8 Q SO THAT'S -- AGAIN, I'M NOT GOOD AT MATH.  
9 BUT TWO TABS, SO SHE'S TAKING THE DOUBLE DOSE.  
10 SHE'S BASICALLY TAKING EIGHT TABS A DAY,  
11 RIGHT?

12 A I DON'T KNOW HOW MANY TIMES SHE TOOK TWO,  
13 BUT SEVERAL TIMES SHE DID.

14 Q AND YET SHE "IS VERY ANXIOUS, WORRIED ABOUT  
15 POSTOPERATIVE PAIN" AND "REQUESTING PAIN MEDICATION."  
16 SO SHE WANTED MORE DRUGS, RIGHT?

17 A SHE WAS CONCERNED ABOUT PAIN AFTER THE  
18 EXTENSIVE SURGERY, YES.

19 Q NOW, WHEN YOU FOUND THAT SHE WAS TAKING  
20 DOUBLE THE DOSE THAT YOU HAD PRESCRIBED, OR HAD FOR AT  
21 LEAST A COUPLE DAYS, THAT CONCERNED YOU AS A PHYSICIAN,  
22 THAT SHE MIGHT NOW BE SHOWING SIGNS OF ADDICTION, CORRECT?

23 A NOT ADDICTION, BUT SHE WAS MORE IN PAIN,  
24 YES.

25 Q WHEN SHE TOLD YOU THAT THE DRUG WAS NOT  
26 WORKING FOR HER ANYMORE, YOU WERE CONCERNED AS A PHYSICIAN  
27 THAT SHE WAS SHOWING SIGNS OF ADDICTION, CORRECT?

28 A SHE SAID IT WASN'T AS EFFECTIVE. I CANNOT

1 ASSUME THAT EVERY PATIENT WHO COMPLAINS OF PAIN OR BECOMES  
2 MAYBE MORE TOLERANT TO PAIN MEDICATION IS A DRUG ADDICT.

3 Q I'M NOT ASKING FOR YOU TO ASSUME.

4 I'M ASKING, WHEN YOU LEARNED THAT SHE HAD  
5 RUN OUT OF THE DRUGS A WEEK BEFORE SHE SHOULD HAVE, SHE  
6 WAS TAKING THEM AT LEAST SEVERAL DAYS BEFORE, TWICE THE  
7 DOSAGE THAT SHE SHOULD HAVE, AND THAT THE DRUG WAS NOT  
8 WORKING FOR HER, WERE YOU CONCERNED THAT SHE MIGHT BE  
9 GETTING ADDICTED TO NORCO, THIS POWERFUL OPIATE THAT YOU  
10 HAD PRESCRIBED?

11 MR. BLESSEY: CUMULATIVE, YOUR HONOR. THAT'S THE  
12 THIRD TIME HE'S ASKED THE SAME QUESTION.

13 THE COURT: OVERRULED.

14 BY MR. NEWHOUSE:

15 Q CONCERNED, "YES" OR "NO"?

16 A NO, I WASN'T CONCERNED.

17 Q NOT CONCERNED. OKAY.

18 DID YOU DISCUSS WITH THE PATIENT AT THIS  
19 TIME THAT SHE WAS TAKING A LOT OF POWERFUL PAINKILLERS?

20 A YES, I DID.

21 Q AND DID YOU -- CONSISTENT WITH YOUR  
22 TREATMENT PLAN, DID YOU DISCOURAGE THE USE OF OPIATES?

23 A YES, I DID.

24 Q SO YOU TOLD HER AND DAVID, "NOT A GOOD IDEA  
25 TO BE TAKING OPIATES"?

26 A YES, ABSOLUTELY.

27 Q WERE YOU CONCERNED THAT SHE WAS TAKING TOO  
28 MUCH?

1           A           YES, I WAS CONCERNED.

2           Q           HOW DID YOU RESPOND TO YOUR PATIENT'S  
3 REQUEST FOR MORE PAINKILLERS GIVEN YOUR CONCERNS, GIVEN  
4 THE DATA AVAILABLE TO YOU THAT SHE WAS TAKING IN EXCESS OF  
5 WHAT THE PRESCRIPTION WAS, AND THAT SHE HAD RUN OUT OF HER  
6 PAIN MEDICATION AT LEAST A WEEK EARLIER? HOW DID YOU  
7 RESPOND TO THIS?

8           A           WELL, SHE DIDN'T RUN OUT, BUT SHE WAS TAKING  
9 MORE, SO I TOLD MS. DE ROGATIS THAT SHE NEEDS TO SEEK PAIN  
10 MANAGEMENT.

11          Q           SO YOU WERE GOING TO REFER HER TO ANOTHER  
12 DOCTOR NOW, RIGHT?

13          A           YES.

14          Q           AND IS IT SAFE TO SAY THAT AS OF MARCH 22ND,  
15 YOU REALLY HAD -- YOU WERE OFF -- YOU WERE GOING TO WEAN  
16 HER OFF THE OPIATES PLAN, THAT PLAN HAD BEEN SHELVED?

17          A           NOT SHELVED. IT JUST WASN'T WORKING AS FAST  
18 AS I WOULD LIKE IT.

19          Q           YOU WEREN'T GOING TO IMPLEMENT THE PLAN TO  
20 WEAN HER OFF OPIATES, WERE YOU?

21          A           THAT'S NOT A CORRECT STATEMENT.

22          Q           DID YOU INTEND TO WEAN HER OFF THE OPIATES  
23 AS OF MARCH 22?

24          A           I CAN'T SAY "WEAN OFF." TAPER DOWN, YES.

25          Q           AND WHEN DID YOU THINK YOU WERE GOING TO  
26 START TAPERING HER DOWN?

27          A           IF SHE DIDN'T HAVE ADDITIONAL STRESS AT  
28 HOME, IF SHE DIDN'T PLAN FOR SURGERY, THAT THAT WOULD



1 PROBABLY TAKE SEVERAL MONTHS FOR HER TO BE TAPERED DOWN ON  
2 THE PAIN MEDICATIONS.

3 Q JUST GIVE ME ONE MOMENT, PLEASE.

4 AS OF MARCH 22ND, GIVEN YOUR STATEMENT IN  
5 YOUR TREATMENT PLAN THAT YOU STRONGLY DISCOURAGED HER FROM  
6 THE USE OF NARCOTICS AND RECOMMEND POOL THERAPY, LET ME  
7 ASK YOU, AS OF MARCH 22ND, HOW WAS THE POOL THERAPY GOING  
8 FOR HER? HAD SHE LOCATED A POOL?

9 A SHE WAS BUSY WITH ALL THE OTHER THINGS SHE  
10 WAS DOING.

11 Q SO SHE HAD NOT STARTED POOL THERAPY AS OF  
12 MARCH 22ND, CORRECT?

13 A I DON'T THINK SHE DID.

14 Q DID YOU TELL HER, "LOOK, YOU HAVE TO DO POOL  
15 THERAPY BECAUSE YOU CAN'T RELY ON PAINKILLERS"?

16 A ABSOLUTELY.

17 Q AND DESPITE THE FACT THAT -- WE'LL GET TO  
18 THAT. ACTUALLY, LET ME BACK UP.

19 WERE YOU WORRIED AT ALL ABOUT TARA'S MENTAL  
20 STABILITY AT THIS POINT IN TIME, HER EMOTIONAL STATE?

21 A SHE WAS MORE ANXIOUS AT THAT TIME, YEAH.

22 Q SO THE ANSWER IS "YES"?

23 A YES.

24 Q WERE YOU -- IS IT TRUE THAT YOU WERE WORRIED  
25 ABOUT HER PSYCHOLOGICAL STABILITY?

26 A NOT PSYCHOLOGICAL STABILITY.

27 Q IS IT TRUE THAT YOU WERE WORRIED THAT --  
28 WHETHER TARA COULD HANDLE THE STRESS THAT YOU WERE

1 EXPERIENCING IN THE OFFICE WITH YOU?

2 A CAN YOU REPEAT THE QUESTION, PLEASE?

3 Q IS IT TRUE THAT YOU WERE WORRIED WHETHER  
4 TARA COULD HANDLE THIS ADDITIONAL STRESS THAT WAS EVIDENT  
5 TO YOU IN THAT EXAMINATION ROOM THAT AFTERNOON?

6 A CAN YOU SAY IT AGAIN?

7 Q ONE MORE TIME.

8 IS IT TRUE -- YOU'RE DEALING WITH HER NOW.  
9 YOU'RE HAVING THIS CONVERSATION THAT STARTS OFF WITH SOME  
10 DISCUSSION ABOUT SUICIDE; REMEMBER THAT?

11 A IT DID NOT START OFF WITH THE DISCUSSION OF  
12 SUICIDE.

13 Q OKAY. AT SOME POINT, THERE WAS A DISCUSSION  
14 ABOUT SUICIDE, CORRECT? YES?

15 A I CAN TELL YOU THAT -- WHAT WAS THE  
16 DISCUSSION, IF YOU WANT IT.

17 Q WE'RE GOING TO GET THERE.

18 THERE WAS A DISCUSSION ABOUT SUICIDE,  
19 CORRECT?

20 A THERE WAS NO DISCUSSION ABOUT SUICIDE.

21 Q WE'LL COME TO IT.

22 LET ME ASK YOU, AT THIS POINT, DID YOU  
23 ADVISE TARA SHE SHOULD SEE HER PSYCHIATRIST? IN OTHER  
24 WORDS, DID YOU MAKE A REFERRAL FOR PSYCHOTHERAPY?

25 A YES, I DID.

26 Q WHY DID YOU DO THAT?

27 A BECAUSE I THOUGHT HER ANXIETY NEEDED TO BE  
28 MANAGED BETTER.

1 Q YOU WERE CONCERNED ABOUT HER EMOTIONAL  
2 STATE, WELL-BEING, CORRECT?

3 A I WAS CONCERNED ABOUT HER ANXIETY,  
4 ABSOLUTELY.

5 Q NOW, HAD YOU AND DR. BOHN SPOKEN BY THIS  
6 POINT, NOW THAT WE'RE 40 DAYS INTO YOUR TREATMENT OF TARA?

7 A WE HAVEN'T SPOKEN.

8 Q IN FACT, YOU HAD NO IDEA HOW TO CONTACT HIM,  
9 DID YOU?

10 A I'VE CONTACTED HIM.

11 Q YOU'VE CONTACTED HIM IN THE PAST?

12 A NO, NOT IN THE PAST. AT THAT TIME.

13 Q LET ME ASK IT DIFFERENT.

14 AS OF MARCH 22, YOU'RE IN THE MIDDLE OF THIS  
15 DISCUSSION WITH TARA AND DAVID, DO YOU HAVE DR. BOHN'S  
16 PHONE NUMBER?

17 A I DON'T REMEMBER IF I HAD HIS PHONE NUMBER.

18 Q AND YOU DO REMEMBER THAT YOU NEVER ASKED TO  
19 SEE HIS FILE OR MEDICAL CHART FOR TARA, YOU NEVER  
20 REQUESTED AT THAT POINT THE PSYCHIATRIC FILE?

21 A NO. AT THIS PARTICULAR TIME, SHE WASN'T  
22 EXHIBITING ANY RED FLAGS.

23 Q REALLY. I THOUGHT YOU SAID SHE WAS MORE  
24 ANXIOUS.

25 A ON THE THIRD VISIT --

26 Q THIRD VISIT.

27 A -- NOT ON THE FIRST TWO.

28 Q THIRD VISIT SHE IS WORSE, ISN'T SHE?

1           A           SHE'S MORE ANXIOUS.

2           Q           AND, IN FACT, YOU RECOMMENDED THAT SHE GO TO  
3 A PSYCHOTHERAPIST, RIGHT?

4           A           YES, I DID.

5           Q           AND DAVID SAID, "SHE HAS ONE, DR. BOHN,"  
6 RIGHT?

7           A           YES.

8           Q           NOW, ISN'T ONE OF THE FACTORS WHY YOU  
9 RECOMMENDED PSYCHOTHERAPY IS ON THIS THIRD VISIT, TARA  
10 SEEMED MORE IRRITABLE THAN SHE HAD IN THE PAST AS WELL?

11          A           IS IT WHY I RECOMMENDED IT?

12          Q           YEAH, THAT SHE SEEMED -- WELL, LET ME STRIKE  
13 THAT.

14                       DID SHE SEEM MORE IRRITABLE TO YOU ON THE  
15 THIRD VISIT?

16          A           YEAH. DURING THE PHONE CALLS, SHE BECAME  
17 MORE IRRITABLE.

18          Q           AND IT WAS HER CELL PHONE THAT WAS RINGING  
19 ON AND OFF, CORRECT?

20          A           IT WAS A CELL PHONE. WHETHER HERS OR  
21 DAVID'S, I CAN'T TELL.

22          Q           EITHER HERS OR DAVID'S CELL PHONE WAS  
23 RINGING CONSTANTLY?

24          A           YEAH.

25          Q           AND SHE WAS VERY IRRITATED ABOUT THIS,  
26 WASN'T SHE?

27          A           YES, SHE WAS.

28          Q           SHE WASN'T ANSWERING THE CALL, WAS SHE?

1           A           YES.

2           Q           AND DAVID SAID TO HER, IN SUM OR SUBSTANCE,  
3 "LOOK, YOUR MOM WOULDN'T KEEP CALLING LIKE THAT IF YOU  
4 WEREN'T CONSTANTLY TELLING HER THAT YOU WANTED TO KILL  
5 YOURSELF," WORDS TO THAT EFFECT, RIGHT?

6           A           I ASKED FIRST MS. DE ROGATIS WHY SHE  
7 WOULDN'T PICK UP THE PHONE, BECAUSE IT OBVIOUSLY WAS  
8 DISTURBING THE APPOINTMENT. AND SHE WAS VERY MAD AND  
9 IRRITABLE, AND SHE SAID, "WHY -- WHY -- WHY DOES SHE KEEP  
10 CALLING?" SOMETHING TO THAT EFFECT.

11          Q           SO TARA SAID, "WHY DOES SHE KEEP CALLING"?

12          A           EXACTLY.

13          Q           AND DAVID SAID, DIDN'T HE, IN SUM OR  
14 SUBSTANCE, "WELL, SHE WOULDN'T KEEP CALLING LIKE THAT IF  
15 YOU WEREN'T CONSTANTLY TELLING HER THAT YOU WANTED TO KILL  
16 YOURSELF"? HE SAID THAT, DIDN'T HE?

17          A           "IF YOU DID TELL HER YOU WANTED TO KILL  
18 YOURSELF," HE DID.

19          Q           AND DID YOU NOTICE AT THAT POINT SHE TURNED  
20 TO HIM AND SHE GAVE HIM A LOOK LIKE "SHUT UP"?

21          A           I DON'T REMEMBER THAT LOOK.

22          Q           YOU DON'T RECALL?

23          A           I DON'T REMEMBER THE LOOK, NO.

24          Q           WHAT DID YOU -- HOW DID YOU RESPOND WHEN YOU  
25 HEARD THAT -- DAVID TELL HER ABOUT, "LOOK, IF YOU WEREN'T  
26 TELLING YOUR MOM -- CONSTANTLY TELLING YOUR MOM ABOUT  
27 WANTING TO KILL YOURSELF, SHE WOULDN'T BE CALLING," HOW  
28 DID YOU RESPOND TO THAT?

1           A           I WAS EXAMINING TARA AT THIS PARTICULAR  
2 TIME, AND I STOPPED AND I ASKED HER, "WHAT WAS IT ABOUT?"  
3 AND I ASKED HER IF SHE MEANT -- IF SHE HAD ANY IDEA OF  
4 HURTING HERSELF OR OTHERS, I TOLD HER IT'S A VERY SERIOUS  
5 STATEMENT, AND SHE NEEDS TO BE OPEN WITH ME.

6           Q           AND THE STATEMENT THAT WAS VERY SERIOUS TO  
7 YOU WAS TARA'S STATEMENT THAT SHE WAS CONSIDERING KILLING  
8 HERSELF, CORRECT?

9           MR. BLESSEY:   OBJECTION.   THAT MISSTATES HER  
10 TESTIMONY.

11           THE COURT:   SUSTAINED.

12 BY MR. NEWHOUSE:

13           Q           LET'S HAVE THE STATEMENT AGAIN THAT YOU --

14           THE COURT:   I THINK YOU'RE TALKING ABOUT DAVID'S  
15 STATEMENT, AREN'T YOU?

16           THE WITNESS:   YES.

17 BY MR. NEWHOUSE:

18           Q           LET'S BACK UP.

19                        IS IT A FACT THAT AT SOME POINT DURING THE  
20 MEETING, TARA ALSO SAID TO YOU THAT -- SOMETHING TO THE  
21 EFFECT, "DOCTOR, I'M IN SO MUCH PAIN, I WANT TO KILL  
22 MYSELF"? DID SHE SAY THAT TO YOU?

23           A           I DON'T REMEMBER THAT.

24           MR. NEWHOUSE:   YOUR HONOR, WE'D LIKE TO PLAY AN  
25 EXCERPT OF THE DEPOSITION, PAGE 296-19 TO 297-20.

26           THE COURT:   DON'T PUBLISH IT.   JUST READ IT.

27           MR. NEWHOUSE:   YOU WANT ME JUST TO READ IT?   YOU  
28 DON'T WANT TO --

1 THE COURT: ANY OBJECTION?

2 MR. BLESSEY: NO, YOUR HONOR.

3 THE COURT: READ IT.

4 BY MR. NEWHOUSE:

5 Q I'LL READ IT.

6 YOU RECALL BEING DEPOSED ON JULY 16, 2012?

7 A YES.

8 Q YOU WERE UNDER OATH?

9 A YES.

10 Q WERE YOU ASKED THE FOLLOWING QUESTIONS, AND  
11 DID YOU GIVE THE FOLLOWING ANSWERS?

12 "QUESTION: MY QUESTION TO YOU IS: IS  
13 IT POSSIBLE THAT YOU TOLD DR. BOHN IN HIS  
14 MESSAGE THAT TARA TOLD YOU THAT SHE WANTED TO  
15 KILL HERSELF?"

16 YOUR ANSWER: "IT'S POSSIBLE, BUT I DON'T  
17 REMEMBER SAYING THAT."

18 "QUESTION: YOU REMEMBER, DURING YOUR  
19 CONSULTATION WITH TARA, THAT SHE TOLD YOU SHE  
20 WANTED TO KILL HERSELF; CORRECT?

21 "ANSWER: NO.

22 "QUESTION: SHE NEVER TOLD YOU THAT?

23 "ANSWER: THAT CAME UP WHEN [THE]  
24 PHONE WAS RINGING.

25 "QUESTION: DID TARA TELL YOU DURING  
26 HER CONSULTATION --

27 "ANSWER: UH-HUH.

28 "QUESTION: -- THAT SHE WANTED TO KILL

1 HERSELF?

2 "ANSWER: DON'T REMEMBER THAT. SHE  
3 WAS IN SO MUCH PAIN THAT -- PROBABLY HOW IT  
4 CAME UP. BUT I DON'T THINK THAT SHE WANTED  
5 TO KILL HERSELF, NO.

6 "QUESTION: SO IT CAME OUT OR DIDN'T  
7 COME" UP -- STRIKE THAT. "SO IT CAME OUT OR  
8 DIDN'T COME OUT THAT SHE TOLD YOU," QUOTE,  
9 "'DOCTOR, I'M IN SO MUCH PAIN [THAT] I WANT  
10 TO KILL MYSELF'?

11 "ANSWER: THAT'S POSSIBLE.

12 "QUESTION: SHE DID SAY THAT, DIDN'T  
13 SHE?

14 "ANSWER: PROBABLY."

15 DID YOU GIVE THAT ANSWER? DID YOU TELL  
16 MR. BROWN THAT PROBABLY YOU HEARD THAT A YEAR AGO?

17 A THE QUESTION WAS ASKED SEVEN TIMES AND  
18 ANYTHING IS POSSIBLE. THIS IS MY TESTIMONY.

19 Q THE VERY LAST QUESTION WAS SHE SAID THAT TO  
20 YOU AT SOME POINT IN THE MEETING, AND YOU ANSWERED  
21 "PROBABLY"; IS THAT STILL YOUR ANSWER TODAY?

22 A YES.

23 Q NOW, AFTER YOU PROBABLY HEARD, DURING YOUR  
24 LAST CONSULTATION WITH TARA ON MARCH 22ND, THAT SHE HAD  
25 TALKED ABOUT KILLING HER HERSELF, THAT CAUSED YOU, AT  
26 LEAST IN PART, TO CALL DR. BOHN; ISN'T THAT TRUE?

27 A OKAY. THE REASON I CALLED DR. BOHN IS  
28 BECAUSE TARA WAS GOING OVER HER MEDICATIONS. AND AS SHE



1 WAS MORE ANXIOUS, SHE SAID THAT HER -- EITHER SURGEON OR  
2 ANESTHESIOLOGIST RECOMMENDED TO HER TO GET OFF HER  
3 ANTIDEPRESSANTS.

4 AND AS ANY PHYSICIAN KNOWS, PATIENTS ARE NOT  
5 SUPPOSED TO GET OFF ANTIDEPRESSANTS ABRUPTLY. IT HAS TO  
6 BE DISCUSSED WITH A PSYCHIATRIST, AND THEY HAVE TO BE  
7 TAPERED DOWN. SO I THOUGHT IT WAS A BAD IDEA THAT  
8 MS. DE ROGATIS TOOK HERSELF OFF ANTIDEPRESSANTS.

9 Q ISN'T IT A FACT THAT YOUR PHONE CALL TO  
10 DR. BOHN OCCURRED AFTER THIS DISCUSSION ABOUT SUICIDE IN  
11 YOUR OFFICE, "YES" OR "NO"?

12 A IT HAPPENED AFTER THE VISIT.

13 Q AFTER THE -- AFTER THE DISCUSSION ABOUT  
14 SUICIDE, YOU MADE A PHONE CALL TO DR. BOHN, CORRECT?

15 A WE HAD A DISCUSSION AT WHICH I ASK  
16 MS. DE ROGATIS IF SHE HAS ANY INTENTIONS OF HURTING  
17 HERSELF, AND, IN FACT, SHE DENIED IT TWICE TO ME AND  
18 DAVID.

19 MR. NEWHOUSE: OBJECTION. YOUR HONOR, MOVE TO  
20 STRIKE. THAT WAS NOT RESPONSIVE.

21 THE COURT: I'M SORRY. I DIDN'T -- WHAT'S YOUR  
22 QUESTION?

23 BY MR. NEWHOUSE:

24 Q MY QUESTION WAS -- IT'S A SIMPLE QUESTION.  
25 LET ME ASK IT AGAIN.

26 AFTER YOU HAD THE DISCUSSION IN YOUR OFFICE  
27 ABOUT TARA'S TALK ABOUT KILLING HERSELF, YOU THEN CALLED  
28 DR. BOHN, "YES" OR "NO"?

1 A I DID CALL DR. BOHN, YES.

2 Q AND IS IT TRUE THAT DAVID PROVIDED YOU WITH  
3 DR. BOHN'S TELEPHONE NUMBER?

4 A YES, IT IS TRUE.

5 Q AND YOU CALLED HIM, AM I CORRECT, AT  
6 APPROXIMATELY 4:21 P.M. THAT AFTERNOON?

7 A YES.

8 Q AND THE -- AND THE APPOINTMENT STARTED  
9 AROUND FOUR O'CLOCK?

10 A NO.

11 Q WHAT TIME DID THE APPOINTMENT START?

12 A IT STARTED AT 3:30.

13 Q WELL, YOU HEARD DAVID'S TESTIMONY THAT YOU  
14 LEFT THE CONSULTATION AND WENT TO CALL DR. BOHN AND  
15 RETURN.

16 ARE YOU TELLING US DAVID IS LYING TO US?

17 A WELL, I HAD TO GO AND LOOK AT THE SCHEDULE  
18 SO I HAVE THE SCHEDULE WHEN TARA'S APPOINTMENT WAS. IF  
19 YOU WANT TO SEE THE SCHEDULE, YOU CAN SEE THE SCHEDULE.

20 Q WHEN YOU CALLED DR. BOHN, IT'S TRUE, IS IT  
21 NOT, THAT YOU TOLD HIM ABOUT FIBROMYALGIA. YOU DESCRIBED  
22 ANXIETY AND DEPRESSION, THEN YOU MENTIONED THAT THE  
23 PATIENT WAS TALKING ABOUT SUICIDE, CORRECT? YOU TOLD HIM  
24 THAT?

25 A I TOLD HIM THAT.

26 Q YOU LEFT A VOICE MAIL TO THAT EFFECT,  
27 CORRECT?

28 A YES. AND I SAID -- I CONFIRMED SHE HAD NO

1 SUICIDAL INTENT.

2 Q IS THAT WHAT YOU SAID, THAT "SHE HAS NO  
3 SUICIDAL INTENT"?

4 A INTENT, YES.

5 Q AND HOW DID YOU DETERMINE THAT SHE HAD NO  
6 SUICIDAL INTENT?

7 A I ASKED MS. DE ROGATIS IF SHE MEANT -- IF  
8 SHE WAS PLANNING ON HURTING HERSELF OR OTHERS.

9 AND SHE SAID, "NO, I WANT TO LIVE."

10 Q AND SHE ALSO WANTED TO GET SOME DRUGS THAT  
11 DAY, TOO, DIDN'T SHE?

12 A SHE DID WANT PAIN RELIEF, YES.

13 Q AND IN YOUR EXPERIENCE, DO YOU -- HAVE YOU  
14 DEALT WITH PATIENT WHO ARE ADDICTED TO POWERFUL  
15 PAINKILLERS, OPIATES, HAVE YOU DEALT WITH THESE PEOPLE  
16 BEFORE?

17 A YES.

18 Q IN YOUR EXPERIENCE, IS IT COMMON OR UNCOMMON  
19 FOR A -- DRUG-ADDICTED PATIENTS TO LIE TO DOCTORS IN ORDER  
20 TO GET PRESCRIPTION -- PRESCRIPTIVE PAINKILLERS? DOES  
21 THAT HAPPEN?

22 A IT CAN POTENTIALLY HAPPEN, BUT AT THE SAME  
23 TIME, THEY DON'T UNDERGO PAINFUL TRIGGER POINT INJECTIONS  
24 AT THE SAME VISIT, AND THEY DON'T GO AND GIVE BLOOD TO  
25 CHECK IF THERE WAS ANYTHING ELSE WRONG GOING ON WITH THEM.

26 Q A MUCH SIMPLER QUESTION NOW.

27 IN YOUR EXPERIENCE, HAVE YOU FOUND THAT  
28 PATIENTS WHO ARE ADDICTED, WHO ARE DRUG-SEEKING, WILL LIE

1 TO SOMEONE IN ORDER TO GET MORE DRUGS, "YES" OR "NO"?

2 A YES.

3 Q AND WHEN TARA SAID, "OH, I'M NOT INTERESTED  
4 IN HURTING MYSELF. I WANT TO LIVE," DID YOU HAVE ANY  
5 CAUSE FOR CONCERN ABOUT WHETHER SHE MIGHT NOT BE TELLING  
6 YOU THE TRUTH?

7 A I DIDN'T. SHE WAS -- THERE WAS A PERSON  
8 THERE WHO IS A FIANCE, WHO KNEW MS. DE ROGATIS MUCH BETTER  
9 THAN ME, AND SHE DENIED IT TO BOTH OF US ACTUALLY TWICE.  
10 AND SHE SAID, "IT WAS A FIGURE OF SPEECH" OR SOMETHING TO  
11 THAT EFFECT.

12 Q AND YOU HAD NOT THE SLIGHTEST CONCERN IN THE  
13 WORLD THAT YOUR PATIENT, WHO MIGHT WELL BE DRUG-ADDICTED,  
14 WOULD LIE TO YOU IN ORDER TO GET DRUGS; IS THAT YOUR  
15 TESTIMONY?

16 A YES.

17 Q DIDN'T GIVE IT A MOMENT'S THOUGHT, DID YOU?

18 A NO. I WAS CONCERNED ABOUT HER ANXIETY. I  
19 WAS CONCERNED THAT SHE WAS TAKING HERSELF OFF  
20 ANTIDEPRESSANTS. I WAS CONCERNED, BUT I WASN'T CONCERNED  
21 ABOUT HER COMMITTING SUICIDE.

22 Q IT'S A FACT, IS IT NOT, THAT IN YOUR  
23 TELEPHONE MESSAGE TO DR. BOHN, YOU DIDN'T SAY ANYTHING  
24 ABOUT HER GOING OFF SUMATRA --

25 MS. MC BROOM: CYMBALTA.

26 BY MR. NEWHOUSE:

27 Q -- CYMBALTA. THANK YOU.

28 YOU DIDN'T MENTION THAT AT ALL IN YOUR

1 MESSAGE WITH DR. BOHN, DID YOU?

2 A I DON'T REMEMBER THE EXACT MESSAGE.

3 Q LET'S SEE IF WE CAN REFRESH YOUR  
4 RECOLLECTION. YOU WANT TO TURN TO EXHIBIT 1- --

5 THE COURT: COUNSEL, WHY DON'T WE TAKE OUR BREAK.  
6 IN THE MEANTIME, SHE CAN REFRESH HER MEMORY.

7 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

8 THE COURT: LADIES AND GENTLEMEN, LET'S TAKE OUR  
9 MORNING RECESS. 15 MINUTES. PLEASE REMEMBER THE  
10 ADMONITION OF THE COURT. COURT IS IN RECESS FOR 15  
11 MINUTES.

12

13 (RECESS.)

14

15 (THE FOLLOWING PROCEEDINGS WERE HELD  
16 IN OPEN COURT, IN THE PRESENCE OF  
17 THE JURY:)

18

19 THE COURT: WE'RE BACK ON THE RECORD. ALL JURORS  
20 ARE PRESENT AND IN PLACE. PARTIES ARE PRESENT. LAWYERS  
21 ARE PRESENT. DR. SHAINSKY HAS RESUMED THE WITNESS STAND,  
22 AND SHE REMAINS UNDER OATH.

23 UNDERSTOOD?

24 THE WITNESS: YES.

25 THE COURT: OKAY, COUNSEL.

26 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

27 BY MR. NEWHOUSE:

28 Q DR. SHAINSKY, OVER THE BREAK, DID YOU HAVE A

1 CHANCE TO EXAMINE THE VOICE MAIL MESSAGE THAT DR. BOHN  
2 TOOK DOWN ON MARCH 22ND, 2010, THAT'S AT EXHIBIT 115, PAGE  
3 35?

4 A I DIDN'T, BUT I SEE IT NOW.

5  
6 (MARKED FOR IDENTIFICATION, JOINT  
7 EXHIBIT 115-35, 3/22/10 VOICE MAIL  
8 MESSAGE BY PAUL BOHN, M.D.)  
9

10 BY MR. NEWHOUSE:

11 Q IT'S IN FRONT OF YOU NOW?

12 A YES.

13 Q AND YOU SEE THE TIME THERE, 4:21 P.M., IS  
14 THAT CONSISTENT WITH YOUR MEMORY ABOUT WHAT TIME THE CALL  
15 WAS PLACED?

16 A YES.

17 Q AND THERE WAS A PHONE NUMBER (310) 659-7124.  
18 DO YOU RECOGNIZE THAT NUMBER?

19 A YES.

20 Q DID I READ IT RIGHT?

21 A YES.

22 Q WHOSE NUMBER IS THAT?

23 A THAT'S OUR BACK OFFICE NUMBER IN CASE, YOU  
24 KNOW, SOMEONE CALLS AFTER 4:30, THEY COULD STILL GET  
25 THROUGH.

26 Q AND THEN IT'S WRITTEN UNDER THERE,  
27 "FIBROMYALGIA, ANXIETY, AND DEPRESSION," AND THEN IT SAYS  
28 "S," SLASH, "I."

1 DO YOU SEE THAT?

2 A YES.

3 Q AND THAT --

4 MR. BLESSEY: I'M SORRY.

5 I'M GOING TO JUST OBJECT. THIS IS A NOTE  
6 WRITTEN BY DR. BOHN, WHO WILL BE TESTIFYING AT TRIAL.  
7 DR. SHAINSKY DIDN'T WRITE THIS NOTE, SO IT LACKS  
8 FOUNDATION AS TO WHAT HE MEANS OR REFERS TO BY THIS.

9 MR. NEWHOUSE: OBJECT TO THE SPEAKING OBJECTION,  
10 YOUR HONOR.

11 MR. BLESSEY: LACKS FOUNDATION.

12 THE COURT: THE OBJECTION IS WELL TAKEN. BUT YOU  
13 CAN LOOK AT IT, AND IF IT REFRESHES HER MEMORY, SO BE IT.

14 MR. NEWHOUSE: THAT'S -- THAT'S MY INTENT.

15 THE COURT: ALL RIGHT.

16 BY MR. NEWHOUSE:

17 Q DOES THIS REFRESH YOUR RECOLLECTION THAT YOU  
18 DID, IN FACT, I THINK YOU TESTIFIED, MENTION THE SUICIDAL  
19 TALK THAT OCCURRED IN YOUR OFFICE AND WHEN YOU LEFT THE  
20 VOICE MAIL FOR DR. BOHN?

21 A YES, I SAID PATIENT DENIED SUICIDAL  
22 IDEATION, YES.

23 Q AND DOES THIS REFRESH YOUR RECOLLECTION THAT  
24 THERE WAS, IN FACT, NO DISCUSSION ABOUT CYMBALTA IN YOUR  
25 VOICE MAIL MESSAGE YOU LEFT WITH DR. BOHN?

26 A NO, IT DOES NOT.

27 Q SO YOUR MEMORY IS STILL THAT YOU ALSO TALKED  
28 ABOUT THE CYMBALTA?

1           A           YES, ABSOLUTELY.

2           Q           DID YOU INDICATE TO DR. BOHN, WHEN YOU LEFT  
3 THIS VOICE MAIL MESSAGE, THAT IT WAS URGENT THAT HE GET  
4 BACK TO YOU BECAUSE YOU DIDN'T -- I'M SORRY. STRIKE THAT.

5                       YOU DIDN'T ACTUALLY SPEAK TO DR. BOHN THE  
6 AFTERNOON OF MARCH 22, DID YOU?

7           A           NO. I COULDN'T GET AHOLD OF HIM. IT WAS A  
8 VOICE MAIL.

9           Q           RIGHT.

10                      AND DID HE CALL YOU BACK THAT AFTERNOON?

11          A           NO, HE DIDN'T.

12          Q           WHEN DID HE RETURN THIS CALL?

13          A           IT WAS THE FOLLOWING DAY.

14          Q           IT WAS AFTER TARA HAD TRAGICALLY PASSED  
15 AWAY, CORRECT?

16          A           CORRECT.

17          Q           DID IT CONCERN YOU THAT YOU WERE GIVING YOUR  
18 PATIENT A PRESCRIPTION FOR 100 TABLETS OF PERCOCET AT 10  
19 MILLIGRAMS BEFORE YOU SPOKE TO HER PSYCHIATRIST TO TELL  
20 HIM THAT THAT'S WHAT YOU WERE GOING TO DO? DID THAT  
21 CONCERN YOU AT ALL?

22                      WAS THERE ANY APPREHENSION IN YOUR MIND  
23 BEFORE YOU GAVE HER THE PRESCRIPTION?

24          A           THE PRESCRIPTION WAS GIVEN FOR THE PAIN  
25 AFTER THE SURGERY. THAT WAS THE MAIN CONCERN AND CAUSE OF  
26 ANXIETY FOR MS. DE ROGATIS, THAT SHE WOULDN'T BE ABLE TO  
27 HAVE ANY PAIN MEDICATION WHEN SHE UNDERGOES HER SURGERY.

28          Q           WHY WERE YOU TELLING DR. BOHN, HER



1 PSYCHIATRIST, ABOUT THE TALK ABOUT SUICIDE?

2 WHY WAS THAT IMPORTANT ENOUGH FOR YOU TO --  
3 WELL, LET ME STRIKE THAT.

4 SO YOUR TESTIMONY IS YOU DIDN'T LEAVE THE  
5 MEETING, YOU MADE THIS CALL RIGHT AFTER THE MEETING,  
6 RIGHT?

7 A YES -- NO. I MIGHT HAVE ASKED MY ASSISTANT  
8 TO CALL, BUT THE PHONE CALL IS AFTER THE VISIT BECAUSE THE  
9 SCHEDULED APPOINTMENT IS AT 3:30.

10 Q MY QUESTION IS: YOU THOUGHT THE TALK ABOUT  
11 SUICIDE WAS IMPORTANT ENOUGH YOU WANTED TO LET DR. BOHN  
12 KNOW THAT IT OCCURRED, CORRECT?

13 A YES.

14 Q BUT YOU DIDN'T WANT TO WAIT UNTIL YOU HEARD  
15 FROM DR. BOHN TO SEE WHAT HE THOUGHT ABOUT YOUR GIVING A  
16 PRESCRIPTION FOR 100 TABLETS OF PERCOCET BEFORE YOU GAVE  
17 THE PRESCRIPTION; IS THAT RIGHT?

18 A I WANTED TO TALK TO HIM, BUT I COULDN'T.

19 Q AND YOU DIDN'T THINK THAT IT MIGHT BE  
20 PRUDENT TO WAIT TO SPEAK TO DR. BOHN BEFORE YOU WENT AHEAD  
21 AND GAVE YOUR PATIENT A PRESCRIPTION FOR 100 PERCOCET,  
22 CORRECT?

23 A IT WOULD BE GOOD IF I COULD TALK TO HIM, BUT  
24 I COULDN'T.

25 Q BUT YOU COULDN'T TALK TO HIM?

26 A YES.

27 Q SO YOU WENT AHEAD ANYWAY?

28 A AFTER I CAREFULLY EXAMINED AND ASSESSED

1 MS. DE ROGATIS IN FRONT OF HER FAMILY MEMBER, AND SHE  
2 TWICE REPEATED THAT SHE HAS NO INTENT, SHE WANTS TO LIVE,  
3 AND SHE PROCEEDED WITH A WHOLE PLAN OF THAT DATE FOR  
4 TREATMENT, YES.

5 Q LET ME ASK YOU, THE PRESCRIPTION YOU GAVE TO  
6 TARA WAS FOR 100 PERCOCET, 10 MILLIGRAMS?

7 A YES.

8 Q AND WAS IT ONE TABLET OR A HALF A TABLET  
9 THAT SHE WAS TO TAKE?

10 A I HAVE TO LOOK AT THE PRESCRIPTION.

11 MR. NEWHOUSE: MAY I APPROACH, YOUR HONOR?

12 THE COURT: YES.

13 BY MR. NEWHOUSE:

14 Q SO YOU'RE LOOKING AT EXHIBIT 116-1, WHICH IS  
15 THE C.V.S. RECORD, YES. YOUR PRESCRIPTION IS HERE.

16

17 (MARKED FOR IDENTIFICATION, JOINT  
18 EXHIBIT 116-1, 3/22/10 PRESCRIPTION  
19 FOR TARA DE ROGATIS BY KAREN  
20 SHAINSKY, D.O.)

21

22 BY MR. NEWHOUSE:

23 Q WHAT WAS IT?

24 A "ONE AS NEEDED FOR PAIN EVERY 6 HOURS."

25 Q ONE TABLET?

26 A YES.

27 Q EVERY 6 HOURS WOULD BE -- SHE COULD TAKE  
28 FOUR PER DAY, RIGHT?

1 A RIGHT.

2 Q YOU ARE GIVING HER A 25-DAY SUPPLY, RIGHT?

3 A RIGHT.

4 Q NOW, CAN YOU GO TO YOUR PROGRESS NOTE, WHICH  
5 IS EXHIBIT 100-14. PUT THAT UP. YOU NOTED IT UNDER  
6 "TREATMENT," DID YOU NOT?

7 DID YOU SAY:

8 "START PERCOCET TABLET, 10 MILLIGRAMS,  
9 325 ORALLY," AND THERE IT SAYS, "HALF A  
10 TABLET AS NEEDED EVERY 6 HOURS"?

11 SO IT SEEMS TO ME THERE WOULD BE A  
12 DISCREPANCY, CORRECT?

13 A IT'S A DISCREPANCY, BUT IT'S WHAT THE  
14 PRESCRIPTION SAYS.

15 Q WELL, WHICH ONE IS RIGHT?

16 A IT'S THE ONE.

17 Q IT WAS ONE TABLET?

18 A IT WAS THE PRESCRIPTION, YES.

19 Q SO THIS IS ANOTHER EXAMPLE OF AN ERROR IN  
20 YOUR --

21 A IT'S A DISCREPANCY.

22 Q -- IN YOUR RECORDKEEPING?

23 MR. BLESSEY: OBJECTION, YOUR HONOR.

24 THE WITNESS: IT'S A DISCREPANCY.

25 MR. BLESSEY: OBJECTION, YOUR HONOR. "ERROR IN THE  
26 RECORDKEEPING"?

27 THE COURT: OVERRULED.

28 BY MR. NEWHOUSE:

1 Q HOW WOULD YOU DESCRIBE IT? IS THIS AN  
2 ERROR, THIS STATEMENT, "HALF A TABLET"?

3 A I'VE MENTIONED TO YOU MULTIPLE TIMES THAT  
4 THE ELECTRONIC MEDICAL RECORDS WERE JUST BEING IMPLEMENTED  
5 INTO OUR PRACTICE, SO NOT EVERYTHING THERE IS PERFECT.

6 Q WELL, HOW MANY ERRORS IN YOUR RECORDKEEPING  
7 PRACTICE HAVE WE IDENTIFIED SO FAR IN YOUR TESTIMONY,  
8 DR. SHAINSKY?

9 THE COURT: THIS CASE ISN'T ABOUT RECORDKEEPING, IS  
10 IT?

11 MR. NEWHOUSE: WELL, IT PARTIALLY IS, BUT I'LL MOVE  
12 ON, YOUR HONOR. THAT'S FINE, THANK YOU.

13 Q NOW, HAVING HAD THIS DISCUSSION WITH TARA  
14 AND DAVID ABOUT WHETHER OR NOT SHE INTENDED TO KILL  
15 HERSELF, AND YOU'RE ASKING HER, A DRUG-SEEKING PATIENT,  
16 WHETHER SHE DID AND SHE SAID, "NO, I WANT TO LIVE," THAT  
17 WAS A FAIRLY IMPORTANT CONVERSATION, WAS IT NOT?

18 A YES, IT'S IMPORTANT. AND I DID NOT KNOW  
19 ABOUT HER DRUG-SEEKING BEHAVIOR, JUST TO CORRECT YOU.

20 Q THANK YOU FOR CORRECTING ME.

21 SO YOU DIDN'T KNOW SHE WAS DRUG-SEEKING --

22 A NO.

23 Q -- YOU THOUGHT -- OKAY.

24 DID YOU RECORD ANYWHERE IN YOUR PROGRESS  
25 NOTES THIS CONVERSATION ABOUT POTENTIAL SUICIDE?

26 A NO, IT'S NOT RECORDED.

27 Q WHY NOT? IT WASN'T IMPORTANT ENOUGH TO  
28 RECORD IN YOUR PROGRESS NOTES?

1           A           I PROBABLY DIDN'T GET TO IT BECAUSE -- AND I  
2 DIDN'T WANT TO CHANGE ANYTHING. THE NOTE WAS DONE AT THE  
3 LATEST TIME OF THE APPOINTMENT AFTER PATIENTS ARE GONE, SO  
4 I RECORDED WHAT WAS RECORDED AT THAT TIME.

5           Q           ARE YOU TELLING ME YOU ENTERED ALL THE  
6 INFORMATION ON THIS RECORD AFTER THE PATIENT LEFT BUT  
7 BEFORE YOU HAD MADE THE CALL TO DR. BOHN?

8           A           NO, NOT BEFORE. PROBABLY AROUND THAT TIME.  
9 I DON'T KNOW EXACTLY. THE SAME DAY.

10          Q           OKAY. SO THE TALK ABOUT SUICIDE, SUICIDAL  
11 IDEATION, S.I., WAS IMPORTANT ENOUGH THAT YOU MADE A PHONE  
12 CALL TO A PSYCHIATRIST IN THE MIDDLE OF THE DAY, CORRECT?  
13 THAT WAS IMPORTANT?

14          A           AT THE END OF THE DAY, YES.

15          Q           BUT IT WASN'T IMPORTANT ENOUGH TO ENTER INTO  
16 YOUR PROGRESS NOTES; IS THAT YOUR TESTIMONY?

17          A           I THINK I PUT THERE THAT WE GAVE THE  
18 PSYCHOTHERAPY REFERRAL.

19          Q           YES, INDEED, IT SAYS, "PSYCHOTHERAPY  
20 REFERRAL WAS GIVEN," PERIOD.

21                    I DIDN'T SEE ANY DISCUSSION AT ALL ABOUT  
22 "DISCUSS WITH PATIENT TALK ABOUT SUICIDE," DIDN'T SEE ANY  
23 DISCUSSION ABOUT "PATIENT ASSURES ME SHE'S NOT SUICIDAL,"  
24 THAT WASN'T IN THE NOTES, CORRECT?

25          A           NOT HERE, NO, BUT IT WAS DISCUSSED.

26          Q           I UNDERSTAND IT WAS DISCUSSED.

27                    IT WASN'T RECORDED ANYWHERE IN YOUR CHART AT  
28 ANY TIME, CORRECT?

1 A IT'S NOT RECORDED IN MY NOTE.

2 Q NOW, WHEN YOU GAVE THE PATIENT 100  
3 PERCOCET -- PERCOCET, BY THE WAY, IS MORE POWERFUL THAN  
4 NORCO, CORRECT?

5 A IT'S THE SAME STRENGTH. IT'S MORE  
6 EFFECTIVE. YOU CAN SAY THAT.

7 Q WOULD I BE CLINICALLY INCORRECT TO DESCRIBE  
8 PERCOCET AS A MORE POWERFUL OPIATE THAN NORCO, "YES" OR  
9 "NO"?

10 MR. BLESSEY: VAGUE AND AMBIGUOUS AS TO "POWERFUL."

11 THE COURT: OVERRULED.

12 THE WITNESS: IT'S MORE EFFECTIVE.

13 BY MR. NEWHOUSE:

14 Q BUT NOT MORE POWERFUL, IN YOUR OPINION?

15 A MORE EFFECTIVE, I WOULD SAY.

16 Q AND IS IT MORE DANGEROUS THAN NORCO?

17 A NOT IF PRESCRIBED -- IF TAKEN AS PRESCRIBED,  
18 NO.

19 Q BY THE TIME YOU -- LET'S GO TO THAT.

20 DAVID TESTIFIED THAT -- AND THIS WAS AT THE  
21 CLOSE OF THE SESSION THAT YOU WROTE OUT THE PRESCRIPTION,  
22 AND AS YOU HANDED IT TO TARA, YOU MADE A STATEMENT TO HER?

23 DO YOU RECALL HIS TESTIMONY THAT YOU SAID,  
24 "PROMISE ME THAT YOU WON'T HURT YOURSELF WITH THIS"? DID  
25 YOU SAY THAT TO HER?

26 A I DON'T REMEMBER SAYING THAT TO HER.

27 Q DO YOU REMEMBER -- BEFORE YOU RELEASED THIS  
28 PRESCRIPTION SHE FILLED WITHIN HOURS AND TOOK ALL THOSE

1 PILLS THAT EVENING, DO YOU RECALL THAT YOU DIDN'T LET IT  
2 GO UNTIL YOU RECEIVED SOME ASSURANCE FROM HER THAT SHE  
3 WASN'T GOING TO HURT HERSELF; IS THAT TRUE?

4 A I ASKED HER SOMETIME DURING THE APPOINTMENT  
5 WHEN THE SUICIDAL THOUGHTS OR -- NOT THOUGHTS -- THE PHONE  
6 CALL CAME, I ASKED HER IF SHE HAS ANY INTENT OF HURTING  
7 HERSELF OR OTHERS. AND WHEN SHE DENIED, I ASKED HER IF  
8 SHE PROMISED ME NOT TO HURT HERSELF, YES.

9 Q AND THEN YOU GAVE HER THE PRESCRIPTION,  
10 CORRECT?

11 A YES.

12 Q WAS THERE -- DID YOU GIVE ANY THOUGHT --  
13 BEFORE GIVING HER THE 100 PERCOCET, WERE THERE ANY  
14 ALTERNATIVES IN YOUR MIND, THINGS THAT YOU MIGHT HAVE DONE  
15 THAT WOULDN'T HAVE GIVEN HER SUCH A LARGE PRESCRIPTION?  
16 IS THERE ANY ALTERNATIVES THAT YOU THINK ABOUT?

17 MR. BLESSEY: YOUR HONOR, HE'S ASKING FOR A  
18 PRESENT-DAY THOUGHT; IT WOULD NOT BE RELEVANT.

19 THE COURT: SUSTAINED.

20 BY MR. NEWHOUSE:

21 Q LET ME CLARIFY. WE'RE NOT -- WE'RE NOT  
22 SEEKING YOUR PRESENT-DAY THOUGHT. THAT MAY WELL BE  
23 DIFFERENT.

24 I'M THINKING ABOUT AS YOU'RE IN THE OFFICE  
25 ON MARCH 22, 2010, YOU KNOW THAT YOUR CLIENT HAS --  
26 PATIENT -- STRIKE THAT -- HAS ALMOST RUN OUT OF PAIN  
27 MEDICATION, YOU KNOW THAT SHE IS DEMANDING MORE PAIN  
28 MEDICATION, CORRECT?

1           A           SHE'S IN PAIN, YES.

2           Q           RIGHT.

3                        AND PEOPLE IN PAIN WANT RELIEF FROM THEIR  
4 PAIN; THAT'S ONE THING WE CAN ALL AGREE ON, CORRECT?

5           A           YES.

6           Q           YOU KNOW THAT SHE'S BEEN USING THE DRUGS  
7 THAT YOU GAVE HER IN EXCESS OF THE PRESCRIBED AMOUNTS,  
8 CORRECT?

9                        SHE'S TAKING MORE PILLS THAN SHE SHOULD BE,  
10 CORRECT?

11          A           A LITTLE MORE, YES.

12          Q           OKAY. AND YOU KNOW THAT SHE HAS REPORTED TO  
13 YOU THAT NORCO IS NO LONGER EFFECTIVE; IT'S NOT WORKING  
14 FOR HER. YOU KNOW ALL THOSE THINGS, RIGHT?

15          A           YES.

16          Q           AND YOU ALSO KNOW THAT BY THIS POINT, MARCH,  
17 SHE HAS BEEN ON NORCO FOR AT LEAST THREE MONTHS,  
18 PROBABLY -- AS FAR AS YOU KNOW, MAYBE LONGER?

19          A           YES.

20          Q           AND I THINK -- IS IT FAIR TO SAY THAT THERE  
21 WAS, AT LEAST IN THE BACK OF YOUR MIND, AN ISSUE ABOUT  
22 WHETHER SHE MIGHT BE BECOMING ADDICTED AT THAT POINT OR  
23 NOT?

24          A           PATIENT BECOME MORE TOLERANT TO PAIN  
25 MEDICATIONS.

26          Q           AND AS THEY BECOME MORE TOLERANT, THAT'S  
27 PART OF THE PROCESS OF ADDICTION, ISN'T IT?

28          A           I GUESS YOU COULD SAY THAT.



1 Q OKAY. NOW, BEARING ALL THOSE FACTORS IN  
2 YOUR MIND, ON MARCH 22ND, BEFORE YOU HANDED THIS  
3 PRESCRIPTION TO TARA, DID YOU THINK ABOUT ANY LESSER  
4 ALTERNATIVES, LIKE DID YOU CONSIDER GIVING HER A  
5 PRESCRIPTION FOR MAYBE A FEW DAYS' SUPPLY OR A WEEK AND  
6 GETTING HER OVER TO A PAIN MANAGEMENT SPECIALIST? DID YOU  
7 THINK ABOUT THAT?

8 A HAVE YOU EVER TRIED CALLING PAIN MANAGEMENT  
9 CLINIC AT CEDARS AND TRY TO GET AN APPOINTMENT WITHIN FIVE  
10 DAYS?

11 Q FORTUNATELY, I HAVE NOT HAD TO HAVE THAT  
12 PROBLEM.

13 A THAT IS NOT REALISTIC.

14 Q OKAY. SO THAT'S -- YOU CONSIDERED IT, BUT  
15 YOU THREW IT OUT BECAUSE YOU FIGURED --

16 A NO, I DID NOT THROW IT OUT. I TOLD  
17 MS. DE ROGATIS THAT SHE NEEDS TO SEEK PAIN MANAGEMENT AT  
18 THAT TIME, BUT I DID HAVE TO ADDRESS AND TREAT HER PAIN  
19 BECAUSE SHE WAS ANXIOUS ABOUT POSTOPERATIVE PAIN, AND I  
20 HAVE TO TREAT IT. I HAVE TO ADDRESS IT AT LEAST.

21 Q WELL, IF YOU DIDN'T ADDRESS IT, SHE COULD  
22 ALWAYS HAVE GONE INTO THE EMERGENCY ROOM AND SEEK RELIEF  
23 IF SHE WAS IN PAIN; IS THAT CORRECT?

24 A THAT WOULD HAVE CAUSED A LOT MORE STRESS AND  
25 ANXIETY.

26 Q SHE DID THAT IN 2009, DIDN'T SHE?

27 A YES. DID IT HELP?

28 Q SO MY QUESTION TO YOU IS: DID YOU CONSIDER

1 GIVING HER A MUCH MORE LIMITED PRESCRIPTION OF PERCOCET,  
2 AN AMOUNT THAT SHE COULD NOT HAVE USED TO KILL HERSELF,  
3 FOR EXAMPLE, LIKE MAYBE FIVE OR SIX DAYS? DID YOU THINK  
4 ABOUT THAT?

5 A I THINK --

6 MR. BLESSEY: I'M SORRY, YOUR HONOR. LET ME JUST  
7 OBJECT. THAT QUESTION LACKS FOUNDATION AND ASSUMES FACTS  
8 THAT FIVE OR SIX DAYS WOULD HAVE NOT LED TO HER DEATH.

9 THE COURT: OVERRULED.

10 BY MR. NEWHOUSE:

11 Q CAN YOU ANSWER THE QUESTION?

12 A CAN YOU REPEAT THE QUESTION, PLEASE?

13 MR. NEWHOUSE: COULD I ASK THE COURT REPORTER TO  
14 READ IT BACK?

15 THE COURT: JUST RESTATE IT, COUNSEL.

16 BY MR. NEWHOUSE:

17 Q DID YOU CONSIDER, BEFORE HANDING TARA  
18 DE ROGATIS A PRESCRIPTION FOR 100 PERCOCET AT 10  
19 MILLIGRAMS, GIVING HER A PRESCRIPTION FOR ONLY A FEW DAYS  
20 OF MUCH LESS, SAY, 20 -- 20 TABLETS AS OPPOSED TO 100?  
21 DID YOU THINK ABOUT -- WAS THAT SOMETHING YOU CONSIDERED  
22 AS AN ALTERNATIVE?

23 A IF SHE DIDN'T HAVE A SURGERY AT THE END OF  
24 THAT WEEK, AND SHE WAS ABLE TO FOLLOW UP WITH ME SOONER,  
25 THAT WOULD BE THE ALTERNATIVE. BUT MS. DE ROGATIS HAD A  
26 SCHEDULED SURGERY AT THE END OF THE WEEK AND WAS CONCERNED  
27 ABOUT PAIN. SHE WOULDN'T BE ABLE TO SEE ME AFTER HER  
28 SURGERY, SO SHE HAD TO HAVE SOMEONE TO TAKE CARE OF

1 HER PAIN.

2 Q DR. SHAINSKY, THE PROBLEM IS, AGAIN, YOU'RE  
3 GIVING AN EXPLANATION. I WOULD LIKE A SIMPLE "YES" OR  
4 "NO."

5 DID YOU CONSIDER ANY LESSER ALTERNATIVES TO  
6 THE PRESCRIPTION YOU GAVE HER? IF YOU DID, WE'D LIKE TO  
7 EXPLORE THOSE; IF YOU DIDN'T, THE ANSWER IS "NO."

8 A NOT UNDER THAT PARTICULAR CIRCUMSTANCES.

9 Q DID YOU CONDUCT AN ASSESSMENT AT THE TIME OF  
10 THIS CONSULTATION ABOUT THE SUICIDE RISKS THAT YOUR  
11 PATIENT POSED IN YOUR MIND? DID YOU DO SOMETHING CALLED A  
12 SUICIDE RISK OR ASSESSMENT?

13 A YES, I DID.

14 Q AND WHAT DID THAT CONSIST OF?

15 A IT CONSISTS OF INTENTIONS, PLAN, AND  
16 MS. DE ROGATIS DENIED ALL OF IT.

17 Q SO WHAT YOU'RE SAYING IS YOUR SUICIDE  
18 ASSESSMENT CONSISTED OF YOUR DISCUSSION WITH TARA ON THAT  
19 DAY?

20 A YES, IN FRONT OF HER BOYFRIEND.

21 Q AND YOU WERE PERSUADED, BASED UPON HER  
22 DENYING THAT SHE WAS GOING TO KILL HERSELF, THAT THERE  
23 WAS --

24 THE COURT: COUNSEL, I THINK WE'VE BEEN OVER THIS  
25 AT LEAST TWICE NOW.

26 BY MR. NEWHOUSE:

27 Q ONE THING YOU DIDN'T -- ALSO DIDN'T DO IS  
28 YOU DIDN'T HAND THE PRESCRIPTION TO DAVID, HER BOYFRIEND;

1 YOU DIDN'T DO THAT, DID YOU?

2 A NO.

3 Q DID YOU GIVE DAVID ANY SPECIAL INSTRUCTIONS  
4 ABOUT THINGS THAT HE COULD DO TO ENSURE THAT THERE -- SHE  
5 DIDN'T ABUSE THE PRESCRIPTION THAT SHE -- YOU GAVE HER,  
6 THE 100 PERCOCET, DIDN'T MISUSE IT?

7 A IT WAS AN ADULT PERSON WHO WAS LOVING, WHO  
8 WAS PRESENT IN THE ROOM AND WAS LISTENING TO THE ENTIRE  
9 CONVERSATION, AND WHO KNEW MS. DE ROGATIS A LOT BETTER  
10 THAN ME, SO I DID NOT GIVE HIM SPECIFIC INSTRUCTIONS. HE  
11 KNEW WHAT WAS THE PLAN OF TREATMENT, AND HE KNEW WHAT WAS  
12 GIVEN TO THE PATIENT.

13 Q SO YOU DIDN'T GIVE DAVID ANY SPECIAL  
14 INSTRUCTIONS ABOUT WHAT HE COULD DO TO MINIMIZE A  
15 POTENTIAL FOR SUICIDE; IS THAT RIGHT?

16 MR. BLESSEY: YOUR HONOR, IT'S THE THIRD TIME HE'S  
17 ASKED THE QUESTION.

18 THE COURT: SUSTAINED.

19 MR. NEWHOUSE: I DON'T THINK I GOT AN ANSWER, BUT  
20 THAT'S ALL RIGHT, YOUR HONOR. I'LL MOVE ON.

21 Q SO OTHER THAN HANDING HER THE PRESCRIPTION  
22 AND ELICITING A PROMISE THAT SHE WASN'T GOING TO HURT  
23 HERSELF, YOU DIDN'T DO -- TAKE ANY OTHER PROPHYLACTIC  
24 MEASURES OTHER THAN CALLING DR. BOHN; IS THAT RIGHT? YOU  
25 DIDN'T CALL DR. BOHN?

26 A I DID CALL DR. BOHN.

27 I GAVE MS. DE ROGATIS PSYCHOTHERAPY  
28 REFERRAL. SHE WAS GIVEN A CARD.

1                   AND WE -- SHE TOLD ME THAT SHE WAS SO  
2 IRRITABLE AND ANXIOUS BECAUSE SHE WAS IN PAIN, SO WE  
3 TREATED HER PAIN.

4                   I GAVE HER TRIGGER POINT INJECTIONS.  
5                   WE EXPLORED OTHER POSSIBILITIES OF WHY SHE  
6 WAS IN PAIN.

7                   SHE HAD OTHER BLOOD WORK TAKEN ON THAT DAY  
8 TO CHECK HER THYROID FUNCTION TEST.

9                   THAT WAS ALL DONE DURING THE APPOINTMENT.

10                  Q           AND THEN, FINALLY, WHEN DID YOU FINALLY TALK  
11 FOR THE FIRST TIME WITH DR. BOHN?

12                  A           THE FOLLOWING DAY.

13                  Q           DID HE CALL YOU?

14                  A           I DON'T REMEMBER WHO -- I THINK SO.

15                  Q           WAS HE AWARE OF THE -- THAT TARA HAD  
16 TRAGICALLY DIED AT THE TIME OF YOUR CALL?

17                  A           I THINK SO.

18                  Q           IN THAT CONVERSATION, DID YOU TELL DR. BOHN  
19 YOU'D GIVEN TARA THE PRESCRIPTION FOR 100 TABLETS OF  
20 PERCOCET THE NIGHT OF HER SUICIDE?

21                  A           I DID NOT THINK IT WAS A CAUSE OF HER DEATH,  
22 SO I DON'T REMEMBER IF WE DISCUSSED SPECIFICALLY THAT.

23                  Q           LEAVING ASIDE WHAT YOU BELIEVE THE CAUSE OF  
24 HER DEATH WAS, DID YOU TELL DR. BOHN THAT YOU'D GIVEN HER  
25 A PRESCRIPTION FOR 100 PERCOCET THE NIGHT BEFORE HER  
26 DEATH, "YES" OR "NO"?

27                  A           I DON'T REMEMBER.

28                  MR. NEWHOUSE: NO FURTHER QUESTIONS AT THIS TIME,

1 YOUR HONOR. THANK YOU.

2 THE COURT: ALL RIGHT. CROSS?

3 MR. BLESSEY: YES, YOUR HONOR. THANK YOU.

4 I NEED TO SWITCH THE PROJECTOR, WHICH WILL  
5 TAKE A SECOND.

6

7

CROSS-EXAMINATION

8 BY MR. BLESSEY:

9 Q GOOD MORNING, DR. SHAINSKY.

10 A GOOD MORNING.

11 Q LET'S TALK -- WE'LL START TALKING ABOUT THE  
12 LAST APPOINTMENT, AND WE'LL MAYBE CIRCLE BACK TO IT BEFORE  
13 WE'RE FINISHED, THE MARCH 22ND, 2010, APPOINTMENT.

14 YOU TOLD THE JURY THAT YOU DIDN'T BELIEVE  
15 THAT TARA DE ROGATIS HAD ANY INTENT TO HURT HERSELF OR  
16 TAKE HER OWN LIFE BECAUSE THAT'S WHAT SHE TOLD YOU,  
17 CORRECT?

18 A YES, THAT'S ABSOLUTELY CORRECT.

19 Q WERE THERE OTHER REASONS WHY YOU DIDN'T  
20 BELIEVE THAT MS. DE ROGATIS WAS AT RISK OF NOT TAKING HER  
21 LIFE IN THE IMMEDIATE FUTURE?

22 A YES.

23 Q WHAT WERE SOME OF THOSE REASONS?

24 A SHE HAS -- SHE HAD PLANS FOR THE FOLLOWING  
25 WEEK. SHE HAD PLANS TO UNDERGO WITH HER PLASTIC SURGERY.

26 Q DID SHE -- ON THIS PARTICULAR VISIT OF MARCH  
27 22ND, 2010, DID SHE UNDERGO THE TRIGGER POINT INJECTIONS?

28 A YES, SHE DID.

1 Q CAN YOU TELL THE JURY -- TRY TO GIVE THEM AN  
2 IDEA OF WHAT THAT FEELS LIKE WHEN A PATIENT GETS MULTIPLE  
3 TRIGGER POINT INJECTIONS?

4 A SO THE TRIGGER POINT INJECTIONS ARE USED TO  
5 ALLEVIATE PAIN. AND THEY ARE USUALLY GIVEN IN THE MUSCLES  
6 WITH A NEEDLE, WITH AN AMOUNT -- DEPENDS ON THE PHYSICIAN,  
7 BUT AROUND 10-C.C. SYRINGE WITH LONG NEEDLE, MULTIPLE  
8 TRIGGER POINTS, AND IT'S SUPPOSED TO, YOU KNOW, SUBSIDE  
9 AND ALTERNATE THE PAIN SO THEY WOULD GET RELIEF FROM THE  
10 MUSCLE PAIN.

11 THOSE ARE PAINFUL INJECTIONS. THEY'RE NOT  
12 PLEASANT. A LOT OF PATIENTS NEVER WANT TO GET THEM. BUT  
13 IF THEY PROVIDE RELIEF AND IT'S SOMETHING THAT MIGHT BE  
14 ADDITIONAL HELP TO THE PATIENT, THEY MIGHT AGREE AND  
15 PROCEED WITH THE TREATMENT.

16 Q WAS IT YOUR PERCEPTION THAT MS. DE ROGATIS  
17 WAS INTERESTED IN GETTING BETTER AND THEREFORE SUBMITTED  
18 TO THESE PAINFUL INJECTIONS?

19 MR. NEWHOUSE: OBJECT TO THE LEADING QUESTION, YOUR  
20 HONOR.

21 THE COURT: SUSTAINED.  
22 BY MR. BLESSEY:

23 Q HOW DID YOU INTERPRET MS. DE ROGATIS'  
24 WILLINGNESS TO UNDERGO THE INJECTIONS IN TERMS OF HER  
25 INTEREST IN HER HEALTH?

26 A WELL, BY THE TIME WE HAD A DISCUSSION AND  
27 PLAN, SHE WAS -- I THINK SHE WAS VERY INTERESTED IN HER  
28 WELL-BEING AND HER MEDICAL MANAGEMENT. THAT'S WHY SHE

1 WANTED TO HAVE THE BLOOD TEST DONE ON THE SAME DAY TO RULE  
2 OUT ANY OTHER POSSIBILITIES OF THE CAUSE OF HER PAIN.

3 SHE WANTED TO PROCEED WITH TRIGGER POINT  
4 INJECTIONS SO IT WOULD GIVE HER ADDITIONAL RELIEF AFTER  
5 SURGERY. SORRY.

6 Q ALL RIGHT. I'M SORRY.

7 IN FACT, SHE HAD UNDERGO THE TRIGGER POINT  
8 INJECTIONS ON SEVERAL PRIOR VISITS, CORRECT?

9 A YES, THAT'S CORRECT.

10 Q IN YOUR VIEW, IF A PATIENT IS DRUG-SEEKING,  
11 BASED ON YOUR TRAINING, YOUR EDUCATION AND EXPERIENCE, DO  
12 THEY SUBMIT TO TRIGGER JOINT INJECTIONS OVER AND OVER AND  
13 OVER AGAIN?

14 A ABSOLUTELY NOT. AND ESPECIALLY ON THE LAST  
15 VISIT, SHE COULD HAVE EASILY SAID, "I'M HAVING A  
16 SURGERY" --

17 MR. NEWHOUSE: OBJECTION. NONRESPONSIVE AT THIS  
18 POINT. I ALSO MOVE TO STRIKE.

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER.

21 THE WITNESS: THANK YOU.

22 IT WAS THREE DAYS PRIOR TO HER ELECTIVE  
23 SURGERY, AND THE PATIENT COULD HAVE EASILY SAID, "LET'S GO  
24 AHEAD AND PROCEED WITH ALL OF THIS AFTER I'M DONE AND  
25 RECOVER FROM THE SURGERY. I DON'T WANT TO HAVE A BLOOD  
26 TEST DONE. I DON'T WANT TO HAVE TRIGGER POINT INJECTIONS.  
27 I JUST WANT MY PAINKILLERS AND GO HOME."

28 BY MR. BLESSEY:



1 Q AND THAT'S NOT WHAT SHE DID, WAS IT?

2 A NO.

3 Q YOU KEEP TALKING ABOUT THE BLOOD TESTS.  
4 LET'S TALK BRIEFLY ABOUT THAT.

5 WHAT BLOOD TESTS ARE YOU REFERRING TO ON  
6 THIS LAST VISIT OF MARCH 22ND, 2010?

7 A SHE HAD ADDITIONAL BLOOD TESTS THAT WERE  
8 MEANT TO CHECK HER THYROID FUNCTION TEST BECAUSE SHE WAS  
9 ON THYROID MEDICATION FOR HYPOTHYROIDISM. AND SOME OF THE  
10 FIBROMYALGIA SYMPTOMS MIGHT BE ATTRIBUTED TO  
11 HYPOTHYROIDISM, SO WE WANTED TO CHECK THAT WASN'T THE  
12 CAUSE.

13 Q AGAIN -- AGAIN, BASED UPON YOUR TRAINING,  
14 YOUR EDUCATION AND EXPERIENCE, THE PATIENTS WHO ARE  
15 DRUG-SEEKING TYPICALLY SUBMIT TO ADDITIONAL BLOOD TESTS TO  
16 FIND OUT WHETHER OR NOT THEY HAVE OTHER MEDICAL  
17 CONDITIONS?

18 A OF COURSE NOT.

19 Q ALL RIGHT. LET'S -- SINCE WE'RE ON THE  
20 VISIT OF THE 20TH, I'M GOING TO HAVE YOU LOOK AT AN  
21 EXHIBIT IN THE FIRST BOOK. LET ME REFER YOU TO IT FROM  
22 YOUR RECORD.

23 I'D LIKE YOU TO TAKE A LOOK AT EXHIBIT 100,  
24 PAGE 13.

25 I'M SORRY, YOUR HONOR, I CANNOT USE THE  
26 PROJECTOR. I REALLY I HATE TO DISRUPT MS. DE ROGATIS, BUT  
27 I NEED ROOM HERE TO WORK. I'M GOING TO BE GOING BACK AND  
28 FORTH, SO IF YOU GUYS COULD SLIDE DOWN.

1 MR. NEWHOUSE: WHERE DO YOU WANT HER TO SIT,  
2 COUNSEL?

3 MR. BLESSEY: WHEREVER SHE WANTS --

4 THE COURT: PERHAPS THEY CAN SIT BEHIND THE RAIL.

5 MR. NEWHOUSE: OKAY. I MAY DO THAT.

6 THE COURT: BOTH OF THEM ON THE LEFT SIDE OR RIGHT  
7 SIDE?

8 MR. NEWHOUSE: SURE.

9 THE COURT: WOULD THAT BE OKAY?

10 MR. NEWHOUSE: SURE, OF COURSE.

11 BY MR. BLESSEY:

12 Q ALL RIGHT. THIS IS YOUR PROGRESS NOTE,  
13 WHICH YOU'VE SEEN BEFORE, OF MARCH 22ND, 2010, CORRECT?

14 A YES.

15 Q AND LET'S GO FOR A SECOND TO THE NEXT PAGE,  
16 AND I WANT YOU TO FOCUS FOR A SECOND HERE ON THE "VITAL  
17 SIGNS." LET'S SEE IF I CAN MAKE THAT A LITTLE BIGGER FOR  
18 THE JURY'S OBSERVATION. FIRST, LET'S START WITH THE --  
19 WHAT THE SIGNS MEAN.

20 THE FIRST NUMBER THERE UNDER "VITAL SIGNS"  
21 IS WHAT? WHAT'S B.P. STAND FOR?

22 A BLOOD PRESSURE.

23 Q AND THE NUMBER IS 118 OVER 72, CORRECT?

24 A YES.

25 Q IS THAT A BLOOD PRESSURE THAT IS CONSISTENT  
26 WITH SOMEBODY THAT IS MARKEDLY IRRITABLE AND AGITATED?

27 A NO. THAT'S NORMAL BLOOD PRESSURE.

28 Q HOW ABOUT THE HEART RATE?

1 THE NEXT SYMBOL THERE IS H.R. WHAT DOES  
2 THAT STAND FOR?

3 A HEART RATE.

4 Q AND THE VALUE IS 72, CORRECT?

5 A YES.

6 Q IS THAT NUMBER CONSISTENT WITH A PATIENT  
7 THAT IS EXCESSIVELY AGITATED, AGGRAVATED, AND FEELING  
8 PARTICULARLY BAD?

9 A NO. THAT'S A NORMAL HEART RATE.

10 Q YOU STATE IN YOUR PHYSICAL EXAMINATION THAT,  
11 THE NEXT LINE DOWN, THIS IS A "VERY THIN FEMALE," CORRECT?

12 A YES.

13 Q "IN NO DISTRESS."

14 WHEN YOU USE THOSE TERMS, WHAT DOES THAT  
15 IMPLY TO YOU, "IN NO DISTRESS"?

16 A DISTRESS WOULD IMPLY SOME AGITATED BEHAVIOR.

17 Q LET ME ASK YOU A QUESTION.

18 WHEN YOU DICTATED OR TYPED THIS NOTE ON  
19 MARCH THE 22ND, 2010, DID YOU KNOW THAT YOU WERE GOING TO  
20 BE SUED BY MR. AND MRS. DE ROGATIS?

21 A OF COURSE NOT.

22 Q ALL RIGHT. LET'S TALK BRIEFLY ON THIS DAY  
23 ABOUT THE PRESCRIPTION FOR PERCOCET.

24 JUST TO EDUCATE THE JURY, THEY MAY KNOW FROM  
25 THEIR OWN EXPERIENCE, BUT WHEN A PATIENT IS GIVEN A  
26 PRESCRIPTION FROM A PHYSICIAN LIKE YOU, THEY TAKE THAT TO  
27 A PHARMACY, CORRECT, TYPICALLY?

28 A YES.

1 Q AND FOR A MEDICATION LIKE PERCOCET, THERE  
2 ARE TIMES WHEN THE PHARMACY MAY CALL YOU TO VERIFY THAT  
3 THIS IS A PRESCRIPTION THAT YOU'VE WRITTEN, AND YOU WANT  
4 TO DISPENSE TO THE PATIENT?

5 A YES, IT'S NOT UNUSUAL. VERY FREQUENTLY, THE  
6 PHARMACY CALLS.

7 Q LET ME HAVE YOU NOW TURN TO EXHIBIT 116,  
8 PAGE 1.

9 A 116?

10 Q YES, PAGE 1.

11 THE COURT: IT'S IN ANOTHER BOOK.

12 BY MR. BLESSEY:

13 Q DO YOU HAVE IT IN FRONT OF YOU, DOCTOR?

14 A YES, I DO.

15 Q IT'S ON THE SCREEN.

16 CAN YOU SEE IT WELL ENOUGH ON THE SCREEN?

17 A ABSOLUTELY.

18 Q IS THAT YOUR PRESCRIPTION FOR PERCOCET?

19 A YES, IT IS.

20 Q AND ON THE BOTTOM RIGHT-HAND CORNER, CAN YOU  
21 SEE SOMETHING WRITTEN -- LET ME TRY TO GET A POINTER.

22 CAN YOU SEE SOMETHING WRITTEN ON THE  
23 PRESCRIPTION?

24 A YES.

25 Q AND CAN YOU READ THAT?

26 A I THINK IT MEANT TO SAY, "VERIFIED PER M.D."

27 Q OKAY. DO YOU HAVE -- WHEN YOU SAY  
28 "VERIFIED," THAT MEANS THAT YOU GOT A PHONE CALL AND --

1 FROM THE PHARMACIST, AND THE PRESCRIPTION WAS DOCUMENTED  
2 THAT IT WAS VERIFIED, CORRECT?

3 A YES, THAT'S CORRECT.

4 Q DO YOU HAVE A RECOLLECTION ON MARCH 22ND,  
5 2010 WHEN THAT PHONE CALL CAME FROM THE PHARMACY TO VERIFY  
6 THAT PRESCRIPTION?

7 A IT WAS VERY LATE IN THE EVENING.

8 Q WHY DO YOU SAY THAT?

9 A BECAUSE I WAS AT CEDARS-SINAI SEEING  
10 PATIENTS AT THAT TIME.

11 Q SO YOU -- YOU -- THAT WAS THE DAY WHERE YOU  
12 SAW PATIENTS IN THE OFFICE, CORRECT?

13 A YES.

14 Q AND THEN YOU LEFT THE OFFICE AT SOME POINT  
15 IN TIME AND WENT TO THE HOSPITAL TO SEE PATIENTS?

16 A YES.

17 Q DO YOU HAVE A TIME FRAME IN MIND WHEN THAT  
18 PRESCRIPTION WAS VERIFIED?

19 A I DON'T REMEMBER EXACTLY, BUT I USUALLY SAW  
20 FOUR TO FIVE PATIENTS IN THE HOSPITAL AFTER THE OFFICE.  
21 SO IF I LEFT THE OFFICE PROBABLY AROUND 6:30, CLOSE TO  
22 7:00, AND WENT TO THE HOSPITAL, IT HAD TO BE SOMETIME  
23 AFTER 8:00. I CAN'T RECALL.

24 Q SOMETIME AFTER EIGHT O'CLOCK.

25 ALL RIGHT. WE'RE GOING TO SHIFT GEARS NOW A  
26 LITTLE BIT, DOCTOR. I WANT TO GO BACK TO YOUR TRAINING,  
27 YOUR EDUCATION, AND YOUR EXPERIENCE.

28 YOU ACTUALLY ENTERED MEDICAL SCHOOL

1 INITIALLY IN UZBEKISTAN AT OR ABOUT AGE 16; IS THAT  
2 CORRECT?

3 A YES, THAT'S CORRECT.

4 Q CAN YOU TELL THE JURY JUST BRIEFLY WHAT --  
5 HOW THE EDUCATIONAL SYSTEM WORKS THERE, AND HOW YOU  
6 ENTERED THE MEDICAL SCHOOL AT AGE 16?

7 A IT WORKS LIKE IN EUROPE. PEOPLE -- IT'S  
8 USUALLY A TEN-YEAR SCHOOL, NOT LIKE 12 GENERAL SCHOOL, AND  
9 YOU GO STRAIGHT TO OBTAIN A PROFESSION. SO REGULAR  
10 UNIVERSITIES TAKE FOUR TO FIVE YEARS, AND MEDICAL SCHOOL  
11 TAKES SIX YEARS.

12 SO I STARTED A LITTLE EARLY. I WENT TO  
13 SCHOOL WHEN I WAS SIX, SO I GRADUATED WHEN I WAS 16, AND I  
14 WENT TO MEDICAL SCHOOL.

15 Q NOW, YOU DIDN'T COMPLETE THE LAST YEAR, YEAR  
16 AND A HALF IN UZBEKISTAN; IS THAT CORRECT?

17 A THAT'S CORRECT.

18 Q WHY NOT?

19 A I GOT MARRIED AND IMMIGRATED TO U.S.

20 Q AND WE'VE BEEN THROUGH SOME OF YOUR  
21 EDUCATIONAL BACKGROUND WHEN YOU CAME TO THE STATES, WHICH  
22 INCLUDED THE NEED TO LEARN ENGLISH, CORRECT?

23 A YES.

24 Q AND YOU DID SOME UNDERGRADUATE WORK, RIGHT?

25 A I HAD TO BECAUSE -- BECAUSE OF THE  
26 DISCREPANCY -- WELL, THE DIFFERENCE BETWEEN EIGHT YEARS  
27 HERE, FOUR UNDERGRADUATE AND FOR GRADUATE SCHOOL, WE ONLY  
28 HAVE SIX, SO THERE'S GENERAL EDUCATION CLASSES LEFT OUT.

1 SO I HAD TO GO ALL THE WAY BACK TO COMMUNITY COLLEGE.

2 Q OKAY. AND YOU ULTIMATELY COMPLETED YOUR  
3 TRAINING IN -- AS A DOCTOR OF OSTEOPATHIC MEDICINE,  
4 CORRECT?

5 A YES, THAT'S CORRECT.

6 Q NOW, AFTER COMPLETING THE INITIAL PORTION OF  
7 YOUR EDUCATION, YOU APPLIED FOR AN INTERNSHIP AT U.S.C.,  
8 DID YOU NOT?

9 A YES, I DID.

10 Q TELL THE JURY A LITTLE BIT ABOUT APPLYING TO  
11 DIFFERENT MAJOR MEDICAL SCHOOLS, HOW THAT PROCESS WORKS.

12 ARE THERE MORE THAN A FEW APPLICANTS THAT  
13 APPLY?

14 MR. NEWHOUSE: OBJECTION. RELEVANCE.

15 THE COURT: OVERRULED.

16 THE WITNESS: ARE WE TALKING ABOUT MEDICAL SCHOOL  
17 OR RESIDENCY?

18 BY MR. BLESSEY:

19 Q TALKING ABOUT INTERNSHIP AND THEN WE'LL TALK  
20 ABOUT RESIDENCY.

21 A AFTER MEDICAL -- WELL, IN THE BEGINNING OF  
22 THE FOURTH YEAR OF MEDICAL SCHOOL, PEOPLE HAVE TO START  
23 APPLICATION PROCESS AND APPLY ACCORDING TO THEIR INTEREST,  
24 AND IT DEPENDS ON THE SPECIALTY. SOME SPECIALTIES ARE  
25 EXTREMELY COMPETITIVE TO GET IN. SOME ARE LESS  
26 COMPETITIVE. AND SAME GOES FOR THE PROGRAM.

27 Q IS U.S.C. A COMPETITIVE PROGRAM?

28 A YES, DEFINITELY.

1 Q AND AFTER COMPLETING YOUR INTERNSHIP AT  
2 U.S.C. SCHOOL OF MEDICINE, YOU THEN DID A RESIDENCY THERE,  
3 CORRECT?

4 A YES, THAT'S CORRECT.

5 Q AGAIN, YOU HAD TO COMPETE TO GET A SPOT FOR  
6 THAT RESIDENCY?

7 A IT'S VERY COMPETITIVE AND IT'S VERY HARD  
8 WORK.

9 Q WHAT DO YOU MEAN BY "VERY HARD WORK"?

10 A THE PATIENT LOAD. IT'S A COUNTY HOSPITAL  
11 AND THE PATIENT LOAD IS VERY HIGH. IF ANYONE HAS EVER  
12 BEEN TO COUNTY HOSPITAL, THEY WOULD KNOW WHAT IT MEANS.

13 Q AND THEN THE NEXT STEP WAS TO DO A  
14 FELLOWSHIP.

15 TELL THE JURY WHAT A FELLOWSHIP IN GENERAL  
16 CONSISTS OF.

17 A SO AFTER MEDICAL SCHOOL, I MEAN -- AFTER  
18 RESIDENCY -- DURING RESIDENCY, WE DO A DIFFERENT  
19 ROTATIONS. AND BASED ON THE INTEREST, YOU KNOW, RESIDENTS  
20 CAN APPLY AND CHOOSE SUBSPECIALTY IF THEY WANT TO.

21 AND IT'S THE SAME APPLICATION PROCESS OVER  
22 EXCEPT THAT RESEARCH -- YOU KNOW, A LOT OF SUPPORT AND  
23 RECOMMENDATION LETTERS TO GET TO A FELLOWSHIP SPOT BECAUSE  
24 THERE ARE VERY FEW. THERE ARE A LOT MORE RESIDENCY SPOTS  
25 IN THE COUNTRY THAN THE FELLOWSHIP SPOTS.

26 Q AND THAT'S -- HOW LONG IS THE FELLOWSHIP?

27 A DEPENDS ON THE SPECIALTY. MINE WAS TWO.

28 Q SO YOU WENT FOR TWO ADDITIONAL YEARS OF



1 TRAINING, CORRECT?

2 A YES.

3 Q AT SOME POINT, DID YOU BECOME BOARD  
4 CERTIFIED IN INTERNAL MEDICINE?

5 A RIGHT. I TOOK THE BOARD RIGHT AFTER THE  
6 COMPLETION OF MY RESIDENCY.

7 Q AND BOARD CERTIFICATION IS BASICALLY A  
8 TESTING PROCESS THAT ASSESSES THE COMPETENCIES OF A DOCTOR  
9 IN A GIVEN AREA, TRUE?

10 A YES, ABSOLUTELY.

11 Q AND YOU WENT THROUGH THIS EXAMINATION  
12 PROCESS FOR INTERNAL MEDICINE AND COMPLETED IT  
13 SUCCESSFULLY, TRUE?

14 A YES, ABSOLUTELY.

15 Q WHEN?

16 A IT WAS 2005.

17 Q YOU ALSO ARE BOARD CERTIFIED IN  
18 RHEUMATOLOGY, CORRECT?

19 A YES, THAT'S CORRECT.

20 Q IN OTHER WORDS, YOU'RE TESTED -- WENT  
21 THROUGH A SERIES OF TESTS AND SUCCESSFULLY COMPLETED THAT  
22 PROCESS, CORRECT?

23 A YES, THAT'S CORRECT.

24 Q AND WHEN WAS THAT?

25 A 2008.

26 Q OKAY. DOCTOR, SINCE STARTING YOUR PRACTICE  
27 WITH THE GROUP YOU ARE WITH, DID YOU HAVE ANY HOSPITAL  
28 PRIVILEGES OR PRIVILEGES TO ADMIT PATIENTS TO CERTAIN

1 HOSPITALS?

2 A YES. CEDARS-SINAI MEDICAL CENTER.

3 Q AND THAT'S STILL THE CASE TODAY, CORRECT?

4 A YES.

5 Q HAVE YOU HAD ANY EXPERIENCE DOING ANY  
6 TEACHING, DIDACTIC TEACHING, TO MEDICAL STUDENTS OR THAT  
7 TYPE OF AN AUDIENCE?

8 A YES. I AM PART OF THE FACULTY AT  
9 CEDARS-SINAI, AND WE ARE ON THE SERVICE EVERY YEAR SINCE I  
10 JOINED THE FACULTY. SO WE TEACH NOT ONLY RESIDENTS AND  
11 FELLOWS, WE ALSO TEACH MEDICAL STUDENTS WHO ROTATE THROUGH  
12 THE HOSPITAL, AND THOSE ARE -- SOME STUDENTS ARE FROM  
13 U.C.L.A., SOME STUDENTS ARE FROM U.S.C. OR OUT OF STATE.

14 Q HAVE YOU -- AS PART OF YOUR PROFESSIONAL  
15 RESPONSIBILITIES AND EXPERIENCE, HAVE YOU BEEN INVOLVED  
16 WITH ANY CLINICAL RESEARCH?

17 A YES.

18 Q TELL THE JURY BRIEFLY ABOUT THAT.

19 A DURING -- DURING THE FELLOWSHIP, WE HAVE  
20 DONE A LOT OF RESEARCH, BUT ALSO, AS I STARTED PRACTICE,  
21 OUR -- THE GROUP THAT I JOINED, BY THE WAY, IT'S ONE OF  
22 THE MOST PRESTIGIOUS RHEUMATOLOGY GROUPS IN THE -- IN L.A.  
23 SO A LOT OF RESEARCH -- CLINICAL RESEARCH IS GOING ON  
24 THERE ON VARIOUS AUTOIMMUNE AND INFLAMMATORY CONDITIONS,  
25 INCLUDING GOUT, RHEUMATOID ARTHRITIS, LUPUS, ANKYLOSING  
26 SPONDYLITIS, ARTHRITIS, FIBROMYALGIA.

27 Q THANK YOU, DOCTOR. ALL RIGHT.

28 WE'RE GOING TO SHIFT BACK TO CARE AND

1 TREATMENT, AND WHAT I'M GOING TO ASK YOU TO DO IN THAT  
2 BOOK YOU HAVE IN FRONT OF YOU IS TO TURN TO EXHIBIT 100  
3 AND LOOK AT PAGE 2.

4 NOW, THIS FORM WAS COMPLETED ON THE FIRST  
5 VISIT, THAT WOULD BE FEBRUARY 10, 2010, CORRECT?

6 A YES, CORRECT.

7 Q DO YOU HAVE THAT IN FRONT OF YOU, DOCTOR?

8 A YES.

9 Q AND THIS FORM ASKS -- WE'VE GONE OVER THIS,  
10 I'M NOT GOING TO BELABOR THE POINT, BUT IT ASKS A SERIES  
11 OF QUESTIONS, INCLUDING QUESTIONS THAT HAVE TO DO WITH  
12 THINGS LIKE SUICIDE ATTEMPT, CHEMICAL DEPENDENCY, AND THE  
13 LIKE; WOULD YOU AGREE?

14 A YES.

15 Q IN FACT, ON THE BOTTOM PORTION OF THE FORM  
16 ON PAGE 100-2, CAN YOU SEE -- I'M TRYING TO PULL IT UP  
17 HERE. I'M HAVING A LITTLE BIT OF A HARD TIME. MAYBE I  
18 CAN DO IT WITH MY POINTER.

19 THERE'S A SECTION THERE ON THE BOTTOM  
20 SECTION OF THE FORM THAT HAS TO DO WITH -- LET'S -- LET'S  
21 GO DOWN THE LIST, AND I'LL TRY NOT TO BLOCK THE JURY'S  
22 VIEW.

23 THERE'S A SECTION THERE, A BOX TO CHECK, IF  
24 IT APPLIES, TO CHEMICAL DEPENDENCY.

25 DID MS. DE ROGATIS CHECK THAT BOX?

26 A NO, SHE DIDN'T.

27 Q DID SHE CHECK THE BOX DOWN A LITTLE BIT  
28 FURTHER THAT SAYS SPECIFICALLY, "SUICIDE ATTEMPT"?

1           A           NO, SHE DIDN'T.

2           Q           AND THIS WAS THE APPOINTMENT THAT  
3 MR. MAC EACHERN WAS AT ALONG WITH HER, CORRECT?

4           A           CORRECT.

5           Q           ALL RIGHT. THIS WAS A 30-YEAR-OLD WOMAN WHO  
6 CAME TO YOU WITH PAIN COMPLAINTS, CORRECT?

7           A           YES.

8           Q           DID YOU HAVE ANY REASON TO SUSPECT, BASED ON  
9 HER Demeanor OR ANYTHING ELSE ABOUT HER, THAT SHE WAS NOT  
10 BEING TRUTHFUL WITH YOU ABOUT CHEMICAL DEPENDENCY, SUICIDE  
11 ATTEMPTS, PSYCHIATRIST PROBLEMS AND THE LIKE?

12           MR. NEWHOUSE: YOUR HONOR, I'M GOING TO OBJECT TO  
13 THE CONTINUAL LEADING OF THIS WITNESS.

14           THE COURT: SUSTAINED.

15 BY MR. BLESSEY:

16           Q           DID YOU -- DID YOU BELIEVE MS. DE ROGATIS  
17 WHEN SHE FILLED OUT THIS FORM, WHEN YOU FOLLOWED UP ON  
18 THESE QUESTIONS, THAT SHE WAS TELLING YOU THE TRUTH?

19           A           YES, ABSOLUTELY.

20           Q           WHY?

21           A           BECAUSE I HAD NO REASON TO BELIEVE  
22 OTHERWISE. SHE WAS VERY CLEAR, EXPLAINING HER SYMPTOMS  
23 VERY WELL, COOPERATIVE, AND I HAD NO REASON TO BELIEVE  
24 OTHERWISE. PLUS, SHE HAD A SIGNIFICANT OTHER WITH HER WHO  
25 WAS PRESENT.

26           Q           OKAY. I LEFT OUT ONE OTHER CATEGORY THAT  
27 SHE DIDN'T CHECK AND -- THERE ARE A BUNCH SHE DIDN'T, BUT  
28 DO YOU SEE THE "ALCOHOLISM" BOX? WAS THAT CHECKED?

1           A           NO.

2           Q           AND WE EARLIER LOOKED AT THE "SUICIDE  
3 ATTEMPT," THAT WASN'T CHECKED, CORRECT?

4           MR. NEWHOUSE:   OBJECTION.   ASKED AND ANSWERED.

5           THE COURT:    SUSTAINED.

6 BY MR. BLESSEY:

7           Q           NOR WAS THE "CHEMICAL DEPENDENCY," CORRECT?

8           MR. NEWHOUSE:   ASKED AND ANSWERED.

9           THE COURT:    OVERRULED.

10 BY MR. BLESSEY:

11          Q           YOU CAN ANSWER.

12          A           YES, CORRECT.

13          Q           I'M GOING TO HAVE YOU NOW TURN TO YOUR  
14 PROGRESS NOTE FOR THAT PARTICULAR DAY, WHICH I BELIEVE IS  
15 EXHIBIT -- PAGE 4, AND SPECIFICALLY I WANT YOU TO FOCUS ON  
16 THE MEDICATIONS THAT YOU WERE TOLD SHE WAS TAKING ON THAT  
17 DATE.

18                       WE'VE BEEN OVER THIS, AND I'M NOT GOING TO  
19 BELABOR THE POINT, BUT ARE ANY OF THESE MEDICATIONS THAT  
20 YOU WERE TOLD THAT MS. DE ROGATIS WAS TAKING PSYCHIATRIC  
21 MEDICATIONS?

22          A           NO.   KLONOPIN IS ANTIANXIETY MEDICATION.  
23 IT'S NOT ANTIPSYCHOTIC MEDICATION.

24          Q           AGAIN, YOU HAD NO REASON TO BELIEVE  
25 MS. DE ROGATIS OR NOT BELIEVE MS. DE ROGATIS -- EXCUSE  
26 ME -- OR MR. MAC EACHERN, WHO WAS SITTING THERE WITH HER,  
27 THAT YOU WITH BEING PROVIDED WITH AN ACCURATE LIST OF  
28 MEDICATIONS THAT SHE HAD BEEN TAKING?

1 MR. NEWHOUSE: OBJECTION. LEADING. IT'S ALSO  
2 COMPOUND AND CONFUSED.

3 THE WITNESS: I BELIEVED THEM.

4 THE COURT: WELL, IT IS LEADING. SUSTAINED.  
5 BY MR. BLESSEY:

6 Q I'LL JUST ASK THIS STRAIGHT QUESTION: DID  
7 YOU HAVE ANY REASON NOT TO BELIEVE THAT THIS WAS A FULL  
8 AND COMPLETE LIST OF MS. DE ROGATIS' CURRENT MEDICATIONS?

9 A I HAD NO REASON TO BELIEVE OTHERWISE.

10 Q ALL RIGHT. I'M GOING TO REFER YOU NOW TO  
11 PAGE 9 OF THIS RECORD, AND THIS -- THIS INCLUDES THE  
12 FINDINGS FROM YOUR PHYSICAL EXAMINATION THAT WAS DONE ON  
13 MS. DE ROGATIS ON THIS FIRST VISIT, CORRECT?

14 A YES.

15 Q AND CAN YOU JUST GIVE THE JURY SORT OF A  
16 SENSE OF WHAT YOUR FINDINGS ARE AND HOW YOU GO ABOUT  
17 OBTAINING THOSE FINDINGS?

18 A SO THIS REFERS TO SPECIFICALLY  
19 MUSCULOSKELETAL EXAM. AND I EXAMINE THE PATIENT, ALL THE  
20 JOINTS THAT POSSIBLY INVOLVED OR INFLAMED, AND MUSCLE  
21 STRENGTH, MUSCLE TENDERNESS. SO THIS REFLECTS THAT HER  
22 JOINTS WERE ALL NORMAL.

23 SHE HAD NO SYNOVITIS INFLAMMATION OF THE  
24 JOINTS. SHE HAD NO SYNOVITIS THAT WASN'T SPECIFIC  
25 INFLAMMATION OR SWOLLEN JOINTS AT THE TIME. AND SHE HAD  
26 MULTIPLE TENDER POINTS. THOSE ARE THE POINTS THAT WE  
27 MENTIONED BEFORE, THE FIBROMYALGIA POINTS THAT HAVE THE  
28 SPECIFIC CRITERIA FOR FIBROMYALGIA.

1 Q AND WHY ARE YOU REFERRING DOWN BELOW TO THE  
2 LABORATORY DATA? WHY WAS THAT IMPORTANT TO YOU IN  
3 ASSESSING HER DIAGNOSIS?

4 A BECAUSE I HAD TO REVIEW ALL AVAILABLE DATA  
5 AND OBTAIN THINGS THAT WERE NOT DONE PRIOR TO HER INITIAL  
6 CONSULTATION.

7 Q ON THIS VISIT, I THINK WE HEARD SOME  
8 TESTIMONY ABOUT YOUR TREATMENT PLAN, AND I THINK I HEARD  
9 YOU SAY THERE WAS A SHORT-TERM PLAN, CORRECT? IS THAT  
10 RIGHT, DR. SHAINSKY?

11 A YES.

12 Q AND YOU ALSO HAD IN MIND A LONG-TERM PLAN,  
13 CORRECT?

14 A YES.

15 Q NOW, JUST TO REVIEW QUICKLY, THE DATES YOU  
16 SAW HER, THE FIRST DATE WAS FEBRUARY 10, 2010, AND THE  
17 LAST APPOINTMENT WAS MARCH 22ND, 2010, CORRECT?

18 A CORRECT.

19 Q ABOUT A SIX-WEEK PERIOD TOTAL --

20 A YES.

21 Q -- IN BETWEEN?

22 THIS PROCESS OF STARTING A PATIENT LIKE  
23 MS. DE ROGATIS ON CYMBALTA WITH THE LONG-TERM PLAN OF  
24 BEING -- TITRATING THAT MEDICATION UP AND DECREASING THE  
25 OPIATE, BASED ON YOUR EXPERIENCE, HOW LONG DOES THAT  
26 GENERALLY TAKE?

27 A IT'S ALL INDIVIDUAL, AND IT DEPENDS ON THE  
28 PATIENT. IF THE PATIENT COMES WITHOUT ANY PAIN

1 MEDICATIONS AND COULD BE TREATED WITH LIFESTYLE  
2 MODIFICATION, DIET, VITAMINS, AQUA THERAPY, THAT COULD  
3 TAKE, YOU KNOW, MUCH SHORTER TIME. WITH SOMEONE SPECIFIC  
4 LIKE MS. DE ROGATIS, WHO WAS TREATED WITH PAIN MEDICATION,  
5 IT TAKES MONTHS.

6 Q TAKES MONTHS?

7 A YES.

8 Q SIX WEEKS ENOUGH TIME TO TITRATE UP TO  
9 CYMBALTA AND DECREASE OR -- DECREASE THE OPIATES?

10 A NO.

11 Q IS SIX WEEKS ENOUGH TIME IN A PATIENT LIKE  
12 MS. DE ROGATIS WHO IS DEALING WITH ANXIETY OF MOVING,  
13 ANXIETY OF AN UPCOMING SURGERY AND THE LIKE?

14 A NO.

15 Q YOU WERE ASKED SOME QUESTIONS ABOUT IN THE  
16 TIME PERIOD BETWEEN THE FIRST VISIT AND THE SECOND VISIT,  
17 WHICH WAS MARCH THE 1ST AND THEN BEYOND THAT, WHETHER OR  
18 NOT YOU WERE CONCERNED THAT THIS PATIENT WAS BECOMING  
19 ADDICTED TO OPIATES.

20 DO YOU REMEMBER THAT SERIES OF QUESTIONS?

21 A YES.

22 Q LET ME ASK YOU THE QUESTION.

23 WHY WERE YOU NOT CONCERNED THAT, IN FACT,  
24 MS. DE ROGATIS WAS BECOMING ADDICTED TO THE OPIATES DURING  
25 YOUR COURSE OF TREATMENT STARTING ON THE 10TH UP UNTIL  
26 MARCH 22ND?

27 A BECAUSE SHE WAS ACTUALLY TAKING -- MOST OF  
28 THE TIME, SHE WAS TAKING MEDICATIONS AS PRESCRIBED, AND



1 SHE WAS FOLLOWING THE TREATMENT PLAN WITH BLOOD WORK,  
2 INJECTIONS, AND SHE WAS SHOWING UP FOR THAT APPOINTMENT.  
3 IT WASN'T SOMEONE WHO COMPLETELY DISREGARDED ANY OF THE  
4 RECOMMENDATIONS THAT I WOULD HAVE TO SUSPECT SOME RED  
5 FLAGS.

6 Q LET ME ASK YOU ABOUT A COUPLE OF TERMS  
7 RELATED TO THAT.

8 YOU MENTIONED THE TERM "TOLERANCE TO AN  
9 OPIOID."

10 WHAT -- WHAT -- DEFINE WHAT TOLERANCE IS IN  
11 A PATIENT SUCH AS MS. DE ROGATIS.

12 A TOLERANCE MEANS THAT MEDICATION MAY NOT BE  
13 AS EFFECTIVE IF IT IS TAKING OVER LONGER PERIOD OF TIME.

14 Q SUCH AS MONTHS?

15 A YES.

16 Q WE KNOW THAT MS. DE ROGATIS -- AT LEAST  
17 THERE HAS BEEN SOME TESTIMONY THAT SHE STARTED TAKING  
18 NORCO IN JANUARY AND CAME TO YOU IN FEBRUARY, CORRECT?

19 A YES.

20 Q AND CONTINUED ON THE OPIATES UP UNTIL MARCH  
21 22ND, 2010, CORRECT?

22 A I THINK AROUND MY INITIAL CONSULTATION, IT  
23 WAS ABOUT A COUPLE MONTHS THAT SHE TOLD ME.

24 Q BASED ON YOUR TRAINING, EDUCATION AND  
25 EXPERIENCE, IS A COUPLE -- TWO TO THREE MONTHS ENOUGH TIME  
26 FOR A PATIENT TO DEVELOP TOLERANCE TO AN OPIATE?

27 A NOT REALLY.

28 Q NOT REALLY?

1           A           NO.

2           Q           DID YOU THINK THAT MS. DE ROGATIS DEVELOPED  
3 TOLERANCE TO THE MEDICATION?

4           A           I DIDN'T.

5           Q           LET ME ASK YOU THIS: DO THE TERMS  
6 "TOLERANCE" AND "ADDICTION" MEAN THE SAME THING?

7           A           NO, OF COURSE NOT.

8           Q           WELL, EXPLAIN.

9           A           ADDICTION MEANS THAT -- A PATIENT WHO IS  
10 ADDICTED TO MEDICATION, WHO IS EXHIBITING DRUG-SEEKING  
11 BEHAVIOR. AND TOLERANCE MEANS THAT THE EFFICACY WITH TIME  
12 MAY GO DOWN SOMEWHAT.

13          Q           THERE DID COME A POINT IN TIME, AT LEAST AS  
14 OF MARCH 22ND, 2010, WHEN SHE TOLD YOU THE NORCO WAS NO  
15 LONGER WORKING AS EFFECTIVELY, CORRECT?

16          A           YES.

17          Q           IS THAT AN INDICATION OF TOLERANCE TO THE  
18 NORCO?

19          A           IT'S POSSIBLE.

20          Q           IS IT DIFFICULT TO DETERMINING WHETHER IT'S  
21 TOLERANCE VERSUS SOMETHING ELSE, DO YOU HAVE TO CONSIDER  
22 IN THAT ANALYSIS WHETHER OR NOT THE PATIENT'S LIFE  
23 SITUATION IS CHANGING?

24          A           YES, OF COURSE.

25          Q           AND WHAT WERE THE CHANGES IN HER LIFE  
26 SITUATION ON MARCH 22ND, 2010, THAT YOU BELIEVED CAUSED  
27 SOME INCREASE IN HER ANXIETY?

28          A           WELL, IN THIS PARTICULAR CASE, ANYONE WHO --

1 FIRST OF ALL, ANYONE WHO HAS EVER DEALT WITH FIBROMYALGIA  
2 KNOWS THAT A LOT -- THERE ARE A LOT OF TREATERS TO  
3 FIBROMYALGIA FLARE-UP PATIENTS ARE NOT -- EVERY DAY IS  
4 DIFFERENT FOR A PATIENT. AND SOME DAYS THEY FEEL GOOD,  
5 SOME DAYS THEY DON'T FEEL SO GOOD. IT DEPENDS ON HOW WELL  
6 THEY SLEEP. IT DEPENDS ON HOW MUCH EXERCISE THEY GET AND  
7 HOW MUCH STRESS IS IN THEIR LIFE. SO STRESS IS PROBABLY  
8 THE BIGGEST TRIGGER FOR FIBROMYALGIA FLARE.

9 AND, UNFORTUNATELY, MS. DE ROGATIS HAD A LOT  
10 OF STRESSORS AT THAT TIME, AND I THINK THAT WAS THE CAUSE  
11 OF HER ANXIETY AND FIBROMYALGIA FLARE.

12 Q WELL, ON THAT NOTE, YOU WERE HERE, I THINK  
13 YESTERDAY, WHEN MR. MAC EACHERN SAID THAT IN 2007,  
14 MS. DE ROGATIS STARTED TO HAVE TOTAL BODY PAIN THAT WAS  
15 AGGRAVATED BY STRESS, RIGHT?

16 MR. NEWHOUSE: OBJECTION. THAT MISSTATES THE  
17 TESTIMONY, YOUR HONOR.

18 THE COURT: OVERRULED.  
19 BY MR. BLESSEY:

20 Q DO YOU REMEMBER THAT TESTIMONY BY  
21 MR. MAC EACHERN?

22 A YES.

23 Q IN FACT, I BELIEVE I WROTE IT ON THE BOARD  
24 ON ANOTHER PAD.

25 A YES.

26 Q IS THAT CONSISTENT WITH WHAT YOU ARE TELLING  
27 THE JURY, THAT WHEN PATIENTS HAVE TOTAL BODY PAIN  
28 CONSISTENT WITH FIBROMYALGIA, IF THEY ARE STRESSED OR

1 ANXIOUS, THEY TEND TO HAVE MORE PAIN?

2 A YES.

3 MR. BLESSEY: YOUR HONOR, THIS IS A GOOD POINT.

4 THE COURT: I'M SORRY. I DIDN'T KNOW IT WAS NOON.

5 LADIES AND GENTLEMEN, LET'S TAKE OUR NOON  
6 RECESS UNTIL 1:30. AGAIN, PLEASE REMEMBER THE ADMONITION  
7 OF THE COURT. DO NOT DISCUSS THE FACTS OF THIS CASE  
8 AMONGST YOURSELVES OR WITH ANYBODY ELSE. DO NOT FORM ANY  
9 OPINIONS OR CONCLUSIONS ON THIS MATTER UNTIL IT'S FINALLY  
10 SUBMITTED TO YOU. COURT'S IN RECESS UNTIL 1:30.

11

12 (THE NOON RECESS WAS TAKEN UNTIL  
13 1:37 P.M. OF THE SAME DAY.)

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1 CASE NUMBER: BC457891  
2 CASE NAME: DE ROGATIS VS. SHAINSKY  
3 PASADENA, CALIFORNIA FRIDAY, NOVEMBER 1, 2013  
4 DEPARTMENT P HON. JAN A. PLUIM, JUDGE  
5 APPEARANCES: (AS HERETOFORE NOTED)  
6 REPORTER: KAREN E. KAY, CSR NO. 3862  
7 TIME: P.M. SESSION

8

9

10

11

12

(THE FOLLOWING PROCEEDINGS WERE HELD  
IN OPEN COURT, IN THE PRESENCE OF  
THE JURY:)

13

14

15

16

THE COURT: HAVE A SEAT. WE'RE BACK ON RECORD.  
ALL THE JURORS ARE PRESENT IN PLACE. PARTIES ARE PRESENT.  
LAWYERS ARE PRESENT. KAREN SHAINSKY HAS RESUMED THE  
STAND.

17

18

19

20

YOU ARE REMINDED YOU REMAIN UNDER OATH.

THE WITNESS: YES.

MR. BLESSEY: THANK YOU, YOUR HONOR.

21

22

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28

CROSS-EXAMINATION (CONTINUED)

BY MR. BLESSEY:

Q GOOD AFTERNOON, DR. SHAINSKY.

A GOOD AFTERNOON.

Q I'M GOING TO SEE IF WE CAN WIND THIS UP  
PRETTY QUICKLY. IT'S FRIDAY. IT'S BEEN A LONG WEEK. I'M  
SURE EVERYBODY IS GETTING REALLY TIRED.

LET'S JUST TALK AGAIN JUST A LITTLE BIT

1 ABOUT THAT LAST APPOINTMENT, AND WHAT I'D LIKE YOU TO DO,  
2 DR. SHAINSKY, IS TAKE A LOOK AT YOUR PROGRESS NOTE, PAGE  
3 13 OF EXHIBIT 100. LET ME GET THAT FOR YOU.

4 A THAT'S OKAY.

5 THE COURT: EXHIBIT 100?

6 MR. BLESSEY: YES, YOUR HONOR.

7 Q DO YOU HAVE THAT IN FRONT OF YOU?

8 A YES.

9 Q THE QUESTION FOR YOU IS: ON THIS  
10 APPOINTMENT -- WE ALREADY TALKED ABOUT THE TRIGGER POINT  
11 INJECTIONS -- DID YOU DOCUMENT IN YOUR PROGRESS NOTE  
12 WHETHER OR NOT MS. DE ROGATIS RESPONDED TO THE INJECTIONS  
13 ON THIS DATE?

14 A JUST ONE SECOND.

15 Q TAKE A LOOK AT THE LAST LINE THERE IN YOUR  
16 NOTE.

17 A YES.

18 Q AND WHAT DID YOU SAY ABOUT IT, HER RESPONSE  
19 TO THE TRIGGER POINT INJECTIONS?

20 A "PATIENT REPORT...IMPROVEMENT IN PAIN WITH  
21 TRIGGER POINT INJECTIONS."

22 Q NOW, ON THIS THEME, AT THE END OF THE  
23 APPOINTMENT, SHE HAD RESPONDED FAVORABLY TO THE TRIGGER  
24 POINT INJECTIONS.

25 WHAT WAS YOUR ASSESSMENT OF HER PAIN STATUS  
26 AT THAT POINT IN TIME?

27 A SHE WAS GETTING BETTER.

28 Q OKAY. NOW, AT WHAT POINT IN TIME DURING THE

1 VISIT DOES SHE ACTUALLY GET THE PHYSICAL PAPER WITH THE  
2 PRESCRIPTION ON IT? WHEN DOES THAT OCCUR?

3 A THAT HAPPENS AT THE VERY, VERY END OF THE  
4 VISIT, USUALLY AFTER THE PHYSICAL EXAM, TREATMENT. THEN  
5 PATIENT HAS TO GO TO THE LAB AREA TO GET THE BLOOD DRAW.  
6 SO THEY DON'T GET HANDED THE PRESCRIPTION UNTIL THEY WALK  
7 OUT.

8 Q OKAY. SO THE PRESCRIPTION WAS GIVEN TO THE  
9 PATIENT AFTER SHE RESPONDED TO THE TRIGGER POINT  
10 TREATMENT, CORRECT?

11 A YES.

12 Q AFTER YOU HAD DONE THE BLOOD WORK AND  
13 DISCUSSED HER THYROID LEVELS WITH HER, CORRECT?

14 A YES.

15 Q AFTER SHE HAD DENIED THAT SHE HAD ANY  
16 INTENTION TO HURT HERSELF, SHE TOLD YOU SHE WANTED TO  
17 LIVE, CORRECT?

18 A CORRECT.

19 Q AND SO IT WAS AT THAT POINT IN TIME THAT YOU  
20 GAVE HER THE PRESCRIPTION, AT THE END OF THE VISIT,  
21 CORRECT?

22 A YES.

23 MR. NEWHOUSE: OBJECTION TO THE CONTINUAL LEADING,  
24 YOUR HONOR.

25 THE COURT: SUSTAINED.

26 BY MR. BLESSEY:

27 Q NOW, I WANT YOU TO GO TO THE NEXT PAGE, AND  
28 THAT WOULD BE PAGE 14. I WANT TO FOLLOW UP ON SOME

1 QUESTIONS THAT MR. NEWHOUSE HAD ASKED YOU.

2 DO YOU REMEMBER THE LINE OF QUESTIONING HE  
3 ASKED YOU, "DID YOU BOTHER TO DOCUMENT YOUR PHONE CALL TO  
4 DR. BOHN?" DO YOU REMEMBER THAT?

5 A YES, I DO.

6 Q AND THIS IS THE SECOND PAGE OF YOUR PROGRESS  
7 NOTE ON MARCH 22ND, 2010, RIGHT?

8 A CORRECT.

9 Q IS THERE AN INDICATION ON THE BOTTOM OF YOUR  
10 PROGRESS NOTE WHETHER OR NOT YOU DOCUMENTED THAT YOU  
11 CALLED DR. BOHN?

12 A YES, IT'S DOCUMENTED. IT SAYS:

13 "CALLED PATIENT'S PSYCHIATRIST, DR. PAUL  
14 BONE [SIC] AT" A CERTAIN NUMBER, "LEFT A MESSAGE."

15 YES.

16 Q OKAY. WHAT I WANT TO GET CLEAR FOR THE JURY  
17 IS, I WANT TO KNOW, WHAT WAS THE SUBSTANCE OF THE MESSAGE  
18 THAT YOU LEFT DR. BOHN ON THIS DATE?

19 A WELL, AS I MENTIONED, THE PATIENT WAS TOLD  
20 PRIOR TO SURGERY, BY EITHER ANESTHESIOLOGIST OR THE  
21 SURGEON, TO "STOP YOUR ANTIDEPRESSANT MEDICATIONS," WHICH  
22 SHE DID, AND THEY THOUGHT THAT WAS IMPORTANT TO  
23 COMMUNICATE TO DR. BOHN.

24 AND, ALSO, I THOUGHT IT WAS IMPORTANT FOR  
25 HIM TO KNOW THAT SHE WAS NOT SUICIDAL AND DENIED IT ON MY  
26 QUESTIONING.

27 MR. BLESSEY: VERY GOOD. ALL RIGHT. THANK YOU,  
28 DR. SHAINSKY.



1                   YOUR HONOR, I HAVE NOTHING FURTHER FOR HER  
2 AT THIS TIME.

3                   THE COURT: ALL RIGHT. REDIRECT?

4                   MR. NEWHOUSE: THANK YOU, YOUR HONOR.

5  
6                   REDIRECT EXAMINATION

7 BY MR. NEWHOUSE:

8                   Q           SO IF I UNDERSTAND YOUR TESTIMONY CORRECTLY,  
9 DR. SHAINSKY, WHEN YOU CALLED DR. -- AND, BY THE WAY,  
10 WE'VE MISSPELLED DR. BOHN'S NAME THERE?

11                  A           YES.

12                  Q           WAS THAT BECAUSE, AGAIN, YOU'D NEVER  
13 COMMUNICATED WITH HIM BEFORE?

14                  A           NO. THAT'S BECAUSE SOMEONE ELSE'S -- HAS  
15 TRANSCRIBED IT, AND IT'S OUTSOURCED TO INDIA. THAT'S WHY.

16                  Q           A DICTATED RECORD?

17                  A           YES.

18                  Q           SO THERE WERE TWO PURPOSES IN CALLING  
19 DR. BOHN ON THAT DAY: THE FIRST WAS TO INFORM HIM THAT  
20 YOU WERE ABOUT TO CHANGE THE PRESCRIPTION FOR CYMBALTA?

21                  A           NO.

22                  MR. BLESSEY: OBJECTION. MISSTATES THE TESTIMONY.

23                  MR. NEWHOUSE: STRIKE THAT.

24                  Q           THEN WHAT WAS THE -- I THOUGHT THAT THE  
25 ANESTHESIOLOGIST WANTED HER TO GO OFF THE ANTIDEPRESSANT.

26                  A           RIGHT.

27                  Q           WHICH -- WHICH ONE WAS THAT?

28                  A           IT WAS CYMBALTA.

1 Q CYMBALTA.

2 AND THAT'S A DRUG THAT YOU HAD PRESCRIBED,  
3 CORRECT?

4 A CORRECT.

5 Q WHY WAS THAT SOMETHING THAT YOU THOUGHT  
6 DR. BOHN NEEDED TO KNOW ABOUT?

7 A BECAUSE TARA WAS UNDER MORE STRESS AND MORE  
8 ANXIOUS, AND SHE WAS TOLD TO STOP HER ANTIDEPRESSANTS, THE  
9 PSYCHIATRIST SHOULD BE AWARE OF IT.

10 Q DID YOU KNOW WHETHER DR. BOHN HAD PRESCRIBED  
11 HER CYMBALTA?

12 A NO. I PRESCRIBED HER CYMBALTA.

13 Q DID YOU KNOW WHETHER DR. BOHN HAD PRESCRIBED  
14 CYMBALTA, "YES" OR "NO"?

15 A NO.

16 Q IN FACT, AS OF MARCH 22ND, 2010, YOU HAD NO  
17 IDEA WHAT MEDICATIONS DR. BOHN HAD PRESCRIBED FOR THE  
18 PATIENT, CORRECT?

19 A WELL, SHE BROUGHT ALL THE RECORDS WITH HER  
20 AT THAT APPOINTMENT, SO I DID.

21 Q SO YOU FOUND OUT -- LET ME ASK YOU, THEN, AS  
22 OF THE 22ND, WHEN YOU -- SHE BROUGHT IN ALL THE PILL  
23 BOTTLES, YOU LINED THEM UP, YOU COULD SEE THE PHYSICIAN'S  
24 NAME ON THE BOTTLES, RIGHT?

25 A RIGHT.

26 Q AND WHICH OF THOSE PRESCRIPTIONS HAD BEEN  
27 PRESCRIBED BY DR. BOHN?

28 A THE ONE THAT I CAN THINK THAT HE PRESCRIBED?

1 Q YES.

2 A STRATTERA MUST HAVE BEEN PRESCRIBED BY  
3 DR. BOHN.

4 Q OKAY. ANY OTHERS?

5 A WHICH SHE WAS ALSO TOLD TO GO OFF BY HER  
6 ANESTHESIOLOGIST.

7 Q OKAY.

8 A I'M NOT SURE -- I'M NOT SURE ABOUT KLONOPIN  
9 AND TRAZODONE. THAT, I DON'T KNOW.

10 Q OKAY. SO BEFORE YOU -- SO WE HAVE YOUR  
11 TESTIMONY CLEAR, BEFORE YOU PRESCRIBED HER CYMBALTA, AN  
12 ANTIDEPRESSANT, YOU THOUGHT HER PSYCHIATRIST MIGHT BE  
13 INTERESTED IN, DID YOU CALL HER PSYCHIATRIST AND SAY, "I'M  
14 ABOUT TO PRESCRIBE CYMBALTA TO YOUR PATIENT? IS THAT  
15 GOING TO BE CONSISTENT WITH THE OTHER MEDICATIONS?"

16 A AT THE INITIAL CONSULTATION --

17 Q AT THE INITIAL CONSULTATION, YES.

18 A THERE WAS NO CONTRAINDICATIONS WITH HER  
19 MEDICATIONS, BUT I DO CONSULT THE PATIENT TO TALK TO THEIR  
20 PSYCHIATRIST WHEN THEY WERE PRESCRIBED CYMBALTA EVERY  
21 TIME.

22 Q THAT'S NOT MY QUESTION. LET ME ASK IT AGAIN  
23 MORE CLEARLY. I APOLOGIZE.

24 PRIOR TO PRESCRIBING CYMBALTA TO THIS  
25 PATIENT, YOU KNEW THAT WAS A DRUG THAT A PSYCHIATRIST  
26 MIGHT PRESCRIBE, AN ANTIDEPRESSANT, CORRECT?

27 A POTENTIAL.

28 Q PRIOR TO GIVING HER THAT PRESCRIPTION ON --

1 WAS IT MARCH 1ST? WHEN DID YOU GIVE IT TO HER?

2 A I THINK AT THE INITIAL CONSULTATION,  
3 FEBRUARY 10TH.

4 Q FEBRUARY 10TH, DID YOU CALL DR. BOHN AND ASK  
5 HIM, THE PSYCHIATRIST, WHETHER HE HAD A PROBLEM OR SAW AN  
6 ISSUE WITH YOUR PRESCRIBING CYMBALTA FOR THIS PATIENT,  
7 "YES" OR "NO"?

8 A NO.

9 Q WHY NOT?

10 A BECAUSE --

11 Q WHY DID YOU NOT REACH OUT TO THE  
12 PSYCHIATRIST?

13 A BECAUSE I BASE IT ON MY CLINICAL JUDGMENT ON  
14 WHAT THE PATIENT TELLS ME AND WHAT THE PATIENT IS TAKING;  
15 AND IF I DON'T SEE ANY CONFLICT, I CAN SAY THAT THE  
16 PATIENT COULD BE STARTED ON A SMALL DOSE OF MEDICATION, TO  
17 GO AND CONSULT WITH HER PSYCHIATRIST.

18 Q AND DID THE PATIENTS ALWAYS HAVE A COMPLETE  
19 UNDERSTANDING OF THE -- OF THE PRESCRIPTIONS THAT THEIR  
20 PSYCHIATRISTS ARE PRESCRIBING FOR THEM?

21 MR. BLESSEY: WELL, THAT MAY CALL FOR SPECULATION.

22 THE COURT: SUSTAINED.

23 BY MR. NEWHOUSE:

24 Q WELL, YOU SAY YOU RELIED ON THE PATIENT FOR  
25 THIS INFORMATION, CORRECT?

26 A CORRECT.

27 Q AND ARE YOU TELLING US THAT YOU'RE 100  
28 PERCENT CERTAIN THAT THE PATIENT'S INFORMATION ON THAT

1 INITIAL HISTORY AND PHYSICAL FORM IS ALWAYS CORRECT, YOU  
2 CAN RELY ON IT 100 PERCENT?

3 A I USUALLY TRUST MY PATIENTS.

4 Q THEY NEVER MAKE MISTAKES; IS THAT WHAT  
5 YOU'RE SAYING?

6 A NO, I CAN'T SAY THAT.

7 Q SO TELL US AGAIN.

8 WAS IT IMPORTANT TO CONSULT WITH DR. BOHN  
9 WHEN YOU PRESCRIBED THE CYMBALTA?

10 WHY WAS IT IMPORTANT SUDDENLY TO CONSULT  
11 WITH DR. BOHN WHEN YOU WERE GOING ALONG WITH THE  
12 RECOMMENDATION THAT SHE COME OFF IT?

13 A BECAUSE MS. DE ROGATIS WAS MORE ANXIOUS AT  
14 THIS VERY THIRD VISIT, AND I THOUGHT IT WAS IMPORTANT FOR  
15 HIM TO KNOW THAT HIS PATIENT IS MORE ANXIOUS AND WAS TOLD  
16 TO CHANGE HER MEDICATIONS.

17 Q NOW, THE SECOND PART OF THIS MESSAGE WAS,  
18 YOU CALLED DR. BOHN TO INFORM HIM THAT THE PATIENT HAD  
19 SUICIDAL IDEATION, CORRECT?

20 A THE PATIENT DENIED SUICIDAL IDEATIONS.

21 Q WELL, HAD THERE BEEN TALK OF SUICIDE OR  
22 POTENTIAL SUICIDE IN YOUR PRESENCE, "YES" OR "NO"?

23 A YES.

24 Q AND THEN I UNDERSTAND YOUR TESTIMONY IS SHE  
25 DENIED ANY INTENT.

26 A YES, CORRECT.

27 Q SO WHERE, IF AT ALL, IN YOUR RECORDS IS THAT  
28 SPECIFIC DISCUSSION DOCUMENTED, THE FACT THAT YOU CALLED

1 DR. BOHN AND INFORMED HIM ABOUT THE DENIAL OF SUICIDAL  
2 INTENTION? IS THAT DOCUMENTED ANYWHERE?

3 A IT'S NOT DOCUMENTED IN THE PROGRESS NOTE.

4 Q IN FACT, YOU CAN'T TELL AT ALL FROM THE  
5 PROGRESS NOTE WHAT THE NATURE OF THE MESSAGE ACTUALLY WAS,  
6 CORRECT?

7 A BECAUSE I DID NOT THINK IT WAS EMERGENT.

8 Q THE ONLY OTHER QUESTION I HAVE FOR YOU,  
9 DR. SHAINSKY -- THANK YOU -- IS AT THE VERY BEGINNING,  
10 100 -- ACTUALLY, NOW I WILL ASK COUNSEL IF YOU CAN SWITCH  
11 THAT OFF.

12 MR. BLESSEY: OH, SURE.

13 MR. NEWHOUSE: THANK YOU.

14 Q BACK TO 100 --

15 MR. BLESSEY: YOU'RE GOING TO HAVE TO SWITCH THE  
16 PROJECTOR.

17 MR. NEWHOUSE: YOU KNOW WHAT, IT'S NOT THAT  
18 IMPORTANT.

19 Q DO YOU HAVE THE EXHIBIT 100-1 UP? I THINK  
20 THAT'S THE INITIAL --

21 A 101?

22 Q 100-1 IS THE EXHIBIT. IT'S HERE. IT'S -2.  
23 OKAY.

24 I THINK IN RESPONSE TO SOME QUESTIONS ON --  
25 FROM YOUR COUNSEL, YOU SAID YOU HAD NO REASON TO KNOW,  
26 BASED UPON THAT INFORMATION, THAT THE PATIENT WAS BEING  
27 SEEN BY A PSYCHIATRIST BECAUSE THE BOX FOR PSYCHIATRY --

28 A RIGHT.

1 Q -- SHE DIDN'T CHECK THAT, RIGHT?

2 A RIGHT.

3 Q DID YOU LEARN SOON AFTER THE MEETING,  
4 HOWEVER, THAT THE PATIENT, INDEED, HAD AN EXTENSIVE  
5 PSYCHIATRIC HISTORY?

6 A FROM THE CEDARS MEDICAL RECORDS.

7 Q AND THAT WAS WITHIN HOURS, CORRECT?

8 A YES.

9 Q SO YOU KNEW THEN THAT THE INFORMATION ON THE  
10 FORM WASN'T COMPLETE, DIDN'T YOU?

11 A I KNEW OF THIS ONE OCCASION THAT HAPPENED A  
12 YEAR AGO, THAT THE PATIENT WAS AT CEDARS-SINAI. I DID NOT  
13 KNOW ANYTHING FURTHER THAN THAT.

14 Q YOU KNEW, WITHIN HOURS OF THE MEETING, THAT  
15 THE PATIENT SHOULD, IN FACT, HAVE CHECKED "PSYCHIATRIC,"  
16 CORRECT? THAT WAS A MISTAKE?

17 A OKAY.

18 Q AND ALSO ON THAT FORM, I THINK THE NEXT PAGE  
19 WE TALKED ABOUT, SO THIS IS 100-3, UNDER "HEALTH HABITS,"  
20 SUBSTANCE ABUSE, SHE HASN'T TICKED "CAFFEINE," "TOBACCO,"  
21 "DRUGS," "OTHER." SHE WROTE "NO," RIGHT?

22 A RIGHT.

23 Q AND WITHIN HOURS OF THAT APPOINTMENT, YOU  
24 KNEW THAT WAS INCORRECT, DIDN'T YOU?

25 A YES.

26 Q AND WHAT DID YOU LEARN?

27 A THAT PATIENTS SOMETIMES DON'T WANT TO REVEAL  
28 THINGS THAT ARE EMBARRASSING TO THEM.

1 Q THEY DON'T ALWAYS COME OUT AT THE INITIAL  
2 INSTANCE WITH THE COMPLETE TRUTH TO THEIR PHYSICIAN,  
3 RIGHT?

4 A THAT'S NOT WHAT I RELY ON, BUT YES.

5 Q IT'S NOT IDEAL.

6 AND IN THIS CASE YOU ACTUALLY LEARNED, AND  
7 YOU DOCUMENTED IN YOUR REPORT, DID YOU NOT, THAT SHE HAD  
8 ABUSED METHAMPHETAMINE WITHIN THE PAST YEAR?

9 A YEAH, I PUT, "REMOTE HISTORY WITHIN THE LAST  
10 YEAR."

11 MR. NEWHOUSE: NO FURTHER QUESTIONS, YOUR HONOR.  
12 THANK YOU.

13 THE COURT: ANYTHING ELSE?

14

15 RECROSS-EXAMINATION

16 BY MR. BLESSEY:

17 Q WELL, YOU WERE HERE THE OTHER DAY WHEN  
18 MR. MAC EACHERN WAS TESTIFYING, AND HE SAID THAT  
19 MS. DE ROGATIS AND HIM -- AND HE HAD STOPPED USING  
20 METHAMPHETAMINES BACK IN JULY OF 2009, CORRECT?

21 A CORRECT.

22 Q AND THAT WOULD BE CONSISTENT WITH HER  
23 TELLING YOU THAT SHE WASN'T ABUSING DRUGS AT THE TIME OF  
24 YOUR APPOINTMENT, TRUE?

25 MR. NEWHOUSE: OBJECTION. IT'S ARGUMENTATIVE, AND  
26 IT'S LEADING.

27 THE COURT: LEADING, IT IS.

28 BY MR. BLESSEY:



1 Q WELL, DR. SHAINSKY, DOES IT MAKE SENSE THAT  
2 IF SHE'S NOT ABUSING OR USING METHAMPHETAMINE AT THE POINT  
3 OF YOUR APPOINTMENT, THAT SHE'S NOT GOING TO TELL YOU THAT  
4 SHE'S ABUSING THE DRUG AT THAT TIME?

5 MR. NEWHOUSE: OBJECTION. ARGUMENTATIVE AND  
6 LEADING.

7 THE COURT: SUSTAINED.

8 BY MR. BLESSEY:

9 Q OKAY. DID MS. DE ROGATIS TELL YOU THAT SHE  
10 WAS ABUSING METHAMPHETAMINE AT THE TIME OF YOUR INITIAL  
11 APPOINTMENT?

12 A NO.

13 Q IS THAT CONSISTENT WITH MR. MAC EACHERN'S  
14 TESTIMONY THAT THEY HAD STOPPED BACK IN 2009?

15 MR. NEWHOUSE: OBJECTION. THE RECORD IS THE  
16 RECORD, YOUR HONOR. THE WITNESS DOESN'T NEED TO COMMENT  
17 ON IT.

18 THE COURT: OVERRULED.

19 THE WITNESS: YES, IT IS.

20 MR. BLESSEY: NOTHING FURTHER.

21 THE COURT: ANYTHING ELSE?

22 THE WITNESS: NOT --

23 MR. NEWHOUSE: NOTHING FURTHER, YOUR HONOR. THANK  
24 YOU.

25 THANK YOU, DR. SHAINSKY.

26 MR. NEWHOUSE: LINDA, WE'RE READY.

27 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

28 DO YOU SOLEMNLY STATE THAT THE TESTIMONY YOU

1 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
2 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
3 SO HELP YOU GOD?

4 THE WITNESS: YES, I DO.

5 THE CLERK: PLEASE HAVE A SEAT IN THE WITNESS  
6 STAND. PLEASE STATE YOUR NAME AND SPELL YOUR NAME FOR THE  
7 RECORD.

8 THE WITNESS: LINDA DE ROGATIS, L-I-N-D-A, D-E  
9 R-O-G-A-T-I-S.

10 THE COURT: THANK YOU, WELCOME.

11  
12 LINDA DE ROGATIS,  
13 A PLAINTIFF HEREIN, WAS DULY SWORN AND TESTIFIED AS  
14 FOLLOWS:

15

16 DIRECT EXAMINATION

17 BY MS. MC BROOM:

18 Q GOOD AFTERNOON. YOU ARE A PLAINTIFF IN THIS  
19 MATTER, CORRECT?

20 A YES.

21 Q ARE YOU CURRENTLY MARRIED?

22 A NO.

23 Q WERE YOU PREVIOUSLY MARRIED?

24 A YES.

25 Q AND WAS THAT TO YOUR CODEFENDANT IN THIS  
26 CASE --

27 A YES.

28 Q -- I'M SORRY -- PLAINTIFF IN THIS CASE?

1 A YES.

2 Q PETER DE ROGATIS?

3 A YES.

4 Q AND WHAT YEAR DID YOU MARRY?

5 A 1978.

6 Q WHERE DID YOU MEET?

7 THE COURT: I DON'T KNOW IF WE NEED TO GET INTO ALL  
8 THAT.

9 SO YOU WERE MARRIED IN 1978?

10 THE WITNESS: THAT'S CORRECT.

11 THE COURT: THANK YOU.

12 BY MS. MC BROOM:

13 Q TELL US, WHO IS TARA DE ROGATIS?

14 A SHE'S MY DAUGHTER.

15 Q YOUR DAUGHTER WITH PETER DE ROGATIS?

16 A YES.

17 Q AND WHEN WAS SHE BORN?

18 A JUNE 4TH, 1979.

19 Q DOES TARA HAVE ANY SIBLINGS?

20 A YES.

21 Q AND CAN YOU NAME -- NAME HER SIBLINGS FOR  
22 ME?

23 A SHE HAS A BROTHER. HIS NAME IS PETER JOSEPH  
24 DE ROGATIS.

25 Q AND HOW OLD IS HE?

26 A HE IS 30.

27 Q WHEN DID TARA PASS AWAY?

28 A MARCH 23RD, 2010.

1 Q TELL US, HOW ARE YOU CURRENTLY EMPLOYED?

2 A I'M NOT -- UNEMPLOYED.

3 Q OKAY. WHEN -- WHEN WERE YOU LAST EMPLOYED?

4 A I WAS LAST EMPLOYED ABOUT SIX MONTHS AFTER  
5 TARA TIED.

6 Q AND WHERE WERE YOU EMPLOYED?

7 A A COMPANY CALLED VALASSIS.

8 Q CAN YOU TELL US WHAT TYPE OF COMPANY THAT  
9 IS, AND WHAT YOUR JOB DESCRIPTION WAS, BRIEFLY?

10 A YEAH. VALASSIS IS A MARKETING AND MEDIA  
11 COMPANY, AND THEY'RE RESPONSIBLE FOR THE COUPON BOOKLETS  
12 THAT YOU GET IN THE NEWSPAPER ON SUNDAYS.

13 AND THEY ALSO DO DIFFERENT KINDS OF INSERTS,  
14 AND THEY ARE ALSO THE COMPANY THAT PARTNERS WITH THE POST  
15 OFFICE. AND SO THEY'RE ALSO RESPONSIBLE FOR THE FLIERS  
16 AND THE -- AND THE INSERT CARDS, COUPONS THAT YOU GET IN  
17 YOUR MAILBOX.

18 Q HOW -- HOW LONG WERE YOU EMPLOYED IN THAT  
19 POSITION?

20 MS. TAZZARA: OBJECT TO THIS LINE IN TERMS OF  
21 RELEVANCE.

22 THE COURT: SUSTAINED.

23 BY MS. MC BROOM:

24 Q LINDA, TELL US WHY YOU'RE NO LONGER EMPLOYED  
25 WITH VALASSIS.

26 MS. TAZZARA: OBJECTION. RELEVANCE.

27 THE COURT: OVERRULED.

28 THE WITNESS: BECAUSE I -- I CAN NO LONGER DO THAT,

1 DO THE JOB.

2 BY MS. MC BROOM:

3 Q WELL, TELL US WHY YOU CAN NO LONGER DO THE  
4 JOB.

5 A WELL, THE POSITION THAT I WAS IN REQUIRES A  
6 LOT OF DETAILED THINKING, PUTTING MARKETING AND MEDIA  
7 SCHEDULES AND PROGRAMS TOGETHER, AND ALSO TRAVELING AND  
8 FACE-TO-FACE CLIENT PRESENTATIONS AND DRIVING, AND I DON'T  
9 LEAVE THE HOUSE. I -- I -- I -- I CANNOT FUNCTION AS A  
10 HUMAN BEING. I NO LONGER FUNCTION AS A HUMAN PERSON.

11 Q DO YOU TAKE ANY MEDICATIONS?

12 A YES, I DO.

13 MS. TAZZARA: OBJECTION, YOUR HONOR. THIS LINE --  
14 PLAINTIFF'S STATE OF MIND IS NOT RELEVANT.

15 THE COURT: LET ME SEE COUNSEL WITH THE COURT  
16 REPORTER.

17

18 (THE FOLLOWING PROCEEDINGS WERE HELD  
19 IN CHAMBERS WITH ALL COUNSEL:)

20

21 THE COURT: I AM GETTING A LITTLE CONCERNED WHERE  
22 WE'RE GOING WITH ALL THIS. I UNDERSTAND A LOSS OF CARE,  
23 COMFORT, SOCIETY AND ALL THAT, AND I KIND OF -- I THINK  
24 YOU'RE PLAYING UP TO THE FACT THAT SHE'S GOING TO SAY  
25 BECAUSE OF THE DEATH, IT'S CREATED A LOT OF EMOTIONAL  
26 TRAUMA IN HER LIFE.

27 MS. MC BROOM: WHICH WOULD GO TO THE --

28 THE COURT: I UNDERSTAND WHAT IT WOULD LEAD TO, THE

1 DAMAGES.

2 MS. MC BROOM: RIGHT.

3 THE COURT: BUT NOW THAT WE'RE TALKING ABOUT IT,  
4 DID SHE HAVE PRIOR PROBLEMS?

5 ARE WE GOING TO JUST OPEN UP A BIG CAN OF  
6 WORMS HERE TO THE EXTENT -- ARE WE CALLING -- IS THIS  
7 AGGRAVATION OF A PRIOR EXISTING CONDITION, OR WHAT IS ALL  
8 THIS?

9 MS. MC BROOM: SHE HAS NEVER SEEN A PSYCHIATRIST  
10 PRIOR TO -- OR SHE HAS NOT BEEN RECEIVING TREATMENT FROM A  
11 PSYCHIATRIST PRIOR TO HER DAUGHTER'S DEATH. SHE HAD TAKEN  
12 ZOLOFT AND XANAX ON OCCASION.

13 THE COURT: HOW DID SHE GET THOSE PRESCRIPTIONS?

14 MS. MC BROOM: FROM HER G.P. MY DAD GETS THEM FROM  
15 A G.P.

16 MR. NEWHOUSE: THOSE ARE COMMON.

17 MS. TAZZARA: THIS AREA IS ONE THAT HAS BEEN OUT OF  
18 THE CASE. THERE'S NO SEPARATE CLAIM FOR THE PLAINTIFFS  
19 HAVING THEIR OWN INDEPENDENT NEGLIGENCE CLAIM AND SO THIS  
20 IS --

21 THE COURT: I'M SORRY, I'M MISSING THAT.

22 MS. TAZZARA: THERE'S NO SEPARATE CLAIM BY  
23 MS. DE ROGATIS FOR HER OWN PERSONAL INJURIES, THIS TYPE OF  
24 AREA. WE HAVE AN AGREEMENT THIS WAS NOT IN THE CASE.  
25 THIS IS A STRAIGHT WRONGFUL DEATH CLAIM. WE DID NOT  
26 EXPLORE -- THEY WITHDREW WITNESSES, PSYCHIATRIC WITNESSES,  
27 THAT -- OF MRS. DE ROGATIS' BECAUSE THAT IS NOT AN ISSUE  
28 IN THE CASE. SHE DOES HAVE A PRIOR HISTORY -- SHE

1 DIDN'T -- I BELIEVE, AND I -- I'D HAVE TO, HONESTLY, LOOK  
2 BACK.

3 THE COURT: IS THAT TRUE? WAS THERE DISCUSSION  
4 ABOUT DROPPING THIS AREA OF HER CLAIM?

5 MS. MC BROOM: NO.

6 THE COURT: "NO."

7 MS. MC BROOM: WELL, IT'S NOT COMPLETELY CORRECT.  
8 SHE'S NOT -- WE'RE NOT CLAIMING THAT SHE BE REIMBURSED FOR  
9 HER PSYCHIATRIC TREATMENT.

10 I THINK THE FACT SHE HAD TO SEEK PSYCHIATRIC  
11 TREATMENT SPEAKS VOLUMES OF THE TYPE OF RELATIONSHIP SHE  
12 HAD WITH HER DAUGHTER. IF THIS WAS SOME ESTRANGED --

13 THE COURT: IT'S NOT A 352. THE PROBATIVE VALUE,  
14 JUST SEEMS LIKE WE'RE WASTING A LOT OF TIME OVER  
15 SOMETHING. YEAH, SURE, THERE'S A NATURAL LOSS THAT  
16 ANYBODY WOULD HAVE OVER A CHILD.

17 BUT ARE YOU SUGGESTING THAT SHE SOMEHOW WAS  
18 AGGRAVATED BECAUSE OF THIS?

19 OBVIOUSLY, SHE HAD PROBLEMS. SHE NOW SAYS  
20 SHE CAN'T DO WHAT SHE WAS DOING, BUT IS THAT WHAT THIS  
21 CASE IS ALL ABOUT?

22 I MEAN, IF YOU WANT TO GET INTO THIS, I'M  
23 GOING TO LET THEM GET INTO HER FULL HISTORY, THEN, AND I'M  
24 GOING TO LET THEM BRING ON PSYCHIATRISTS AND ANYTHING THEY  
25 WANT.

26 MR. NEWHOUSE: MAY I CONFER BRIEFLY WITH  
27 MS. MC BROOM?

28 THE COURT: YES.

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(DISCUSSION HELD OFF THE RECORD.)

MS. MC BROOM: WE'RE NOT OFFERING IT FOR REIMBURSEMENT OF HER PSYCHIATRIC CARE.

THE COURT: I UNDERSTAND THAT.

MS. MC BROOM: I WILL DROP IT. THE THING IS, THE WOMAN IS ABSOLUTELY DESTROYED. THAT'S --

MR. NEWHOUSE: IT WILL COME OUT ANYWAY.

THE COURT: IT'S OBVIOUS LISTENING TO HER, SHE'S GOT SOME ISSUES. I'M SURE THE JURY IS ALREADY LOOKING AT HER AND SAYING, "JEEZ," YOU KNOW.

BUT ARE YOU SUGGESTING TO THIS JURY ALL OF THIS STARTED BECAUSE OF THE DEATH OF HER CHILD, OR DID IT START -- SHE MUST HAVE BEEN DISTRESSED WHEN SHE HAD TO HAVE TARA PLACED IN A PSYCHIATRIC FACILITY FOR A WEEK. THAT WOULD DESTROY ANY PARENT, I WOULD THINK. AND I'M JUST KIND OF WONDERING --

MS. TAZZARA: YOUR HONOR, TWO THINGS: NUMBER ONE, SOME OF THE FACTS IN THIS CASE THAT WE WERE PROBABLY NOT NEEDING TO GO INTO WAS MS. DE ROGATIS WAS ON A 5150 HOLD HERSELF IN NEW JERSEY. SHE HAD A PSYCHIATRIC PROBLEM.

THE COURT: MRS. --

MS. TAZZARA: WHEN TARA WAS ALIVE, SHE WAS ALIVE AND VISITING FOR THE HOLIDAYS, AN EVENT HAPPENED AND SHE WAS HOSPITALIZED FOR FIVE DAYS HERSELF.

THERE ARE A WHOLE SERIES OF THINGS WITH RESPECT TO MS. DE ROGATIS. WHAT THE PLAINTIFF IS TALKING



1 ABOUT, REALLY, IS GOING TO --

2 MS. MC BROOM: JUST TO STOP YOU, I ALREADY AGREE,  
3 WE WON'T ASK THE QUESTION.

4 THE COURT: LET'S JUST MOVE ON, THEN.

5 MR. NEWHOUSE: WE'VE TAKEN THE COURT'S POINT.

6 MS. MC BROOM: THERE'S A MOTION IN LIMINE ALREADY  
7 GRANTED ON THAT.

8 MR. NEWHOUSE: WE UNDERSTAND. WE WILL COMPLY.  
9 THANK YOU.

10

11 (THE FOLLOWING PROCEEDINGS WERE HELD  
12 IN OPEN COURT, IN THE PRESENCE OF  
13 THE JURY:)

14

15 BY MS. MC BROOM:

16 Q GOOD AFTERNOON.

17 A HI.

18 Q TELL ME AGAIN HOW LONG YOU WORKED -- IS IT  
19 CALLED VALASSIS?

20 A VALASSIS.

21 Q HOW LONG DID YOU DO THAT?

22 A ABOUT THREE-AND-A-HALF YEARS.

23 Q OKAY. AND YOU STOPPED IN 2010 WITH  
24 VALASSIS?

25 A YES.

26 Q WHAT DID YOU DO BEFORE THAT?

27 A I HAD MY OWN REP FIRM COMPANY, DE ROGATIS  
28 PUBLISHING COMPANY.

1 Q AND HOW LONG DID YOU HAVE THE COMPANY?

2 MS. TAZZARA: AGAIN, OBJECTION TO RELEVANCE.

3 THE COURT: SUSTAINED.

4 BY MS. MC BROOM:

5 Q WHERE DO YOU CURRENTLY RESIDE?

6 A IN NEW JERSEY. VERONA, NEW JERSEY.

7 Q OKAY. AND HOW LONG HAVE YOU LIVED THERE?

8 A I'VE LIVED THERE SINCE 19- -- 2005.

9 Q DID YOU LIVE IN LOS ANGELES PRIOR TO THAT?

10 A YES.

11 Q HOW MANY YEARS WERE YOU MARRIED TO PETER  
12 DE ROGATIS?

13 A AROUND 13.

14 Q AND WHERE DID YOU LIVE AS A COUPLE WHEN YOU  
15 WERE MARRIED?

16 A BOTH IN NEW JERSEY AND IN LOS ANGELES.

17 Q WHAT YEAR DID YOU MOVE TO LOS ANGELES?

18 A 1989.

19 Q AND WHERE DID YOU LIVE IN THIS AREA IN  
20 CALIFORNIA?

21 A IN PACIFIC PALISADES.

22 Q HOW OLD WERE TARA AND HER BROTHER WHEN THE  
23 FAMILY MOVED OUT HERE TO LOS ANGELES?

24 A TARA WAS NINE, AND MY SON WAS SIX.

25 Q NOW, YOU DIVORCED PETER AT SOME POINT,  
26 CORRECT?

27 A YES.

28 Q OKAY. WHEN WAS THAT?

1           A           I -- I -- I BELIEVE IT WAS OFFICIAL IN 1991.

2           Q           AND DID YOU BOTH REMAIN IN CALIFORNIA AFTER  
3 THE DIVORCE?

4           A           FOR SOME -- SOME TIME.

5           Q           OKAY. WHEN DID THAT CHANGE?

6           A           ABOUT NINE MONTHS -- ABOUT THE END OF '91,  
7 BEGINNING OF '92, PETER MOVED BACK TO NEW JERSEY.

8           Q           OKAY. AND DID THE CHILDREN STAY WITH YOU?

9           A           YES.

10          Q           I'M GOING TO TALK A LITTLE BIT ABOUT TARA.  
11 CAN YOU DESCRIBE WHAT -- WHAT TARA WAS LIKE  
12 AS A CHILD?

13          A           SHE WAS VERY BRIGHT. SHE -- SHE WAS -- LIKE  
14 BY THE TIME SHE WAS ONE YEAR OLD, SHE WAS WALKING, AND SHE  
15 WAS TALKING IN SENTENCES. SO SHE WAS -- YOU KNOW, SHE WAS  
16 SPECIAL IN THAT. SHE WAS -- YOU KNOW, SHE WAS A LITTLE  
17 AHEAD OF HER TIME.

18                    AND SHE -- LIKE WHEN I POTTY TRAINED HER, I  
19 GOT -- I HAD A PAPERBACK BOOK THAT WAS LIKE POTTY TRAIN IN  
20 24 HOURS, AND SHE JUST -- LIKE SHE JUST KNEW -- I WAS LIKE  
21 "OKAY, TODAY WE'RE GOING TO LEARN, YOU KNOW, THIS."

22                    AND YOU LOCK YOURSELF IN THE BATHROOM, AND  
23 YOU GET A LITTLE POTTY AND -- YOU KNOW, I DID WHATEVER THE  
24 BOOK SAID, BROUGHT IN THE TOYS AND EVERYTHING AND STAYED  
25 IN THAT BATHROOM FOR LIKE 10 HOURS, 12 HOURS RIGHT THROUGH  
26 THE BATH AND EVERYTHING. AND THE NEXT DAY, SHE WAS  
27 WEARING UNDERWEAR, YOU KNOW.

28                    SO SHE JUST HAD A LOT OF ATTENTION BECAUSE

1 SHE WAS JUST SO -- LIKE -- YOU KNOW, ALMOST LIKE YOU --  
2 YOU -- YOU COULDN'T BELIEVE HER, LIKE SHE WAS JUST SO  
3 SMART.

4 Q LINDA, TELL US WHAT -- WHAT TYPES OF  
5 INTERESTS AND TALENTS TARA HAD AS A CHILD.

6 A SHE WAS AN ATHLETE. SHE TOOK AFTER HER  
7 FATHER. SHE WAS IN GYMNASTICS IN THE STATE OF NEW JERSEY,  
8 AND SHE COMPETED IN NEW JERSEY. YOU KNOW, WE USED TO  
9 TRAVEL ALL OVER THE STATE FOR COMPETITIONS ON THE  
10 WEEKENDS.

11 SHE TOOK DANCE LESSONS. AND SHE WENT TO A  
12 SCHOOL CALLED BROOKDALE BAPTIST SCHOOL. AND SHE WAS JUST  
13 INTO THE BIBLE CHARACTERS AND --

14 Q CAN I HAVE YOU TURN TO AN EXHIBIT BOOK, AND  
15 LET ME HELP YOU WITH THAT. IT'S VOLUME II. LET ME HAVE  
16 YOU TURN TO EXHIBIT 121-1.

17

18 (MARKED FOR IDENTIFICATION, JOINT  
19 EXHIBIT 121-1, PICTURE OF TARA  
20 DE ROGATIS AND P.J. DE ROGATIS.)

21

22 BY MS. MC BROOM:

23 Q CAN YOU IDENTIFY WHAT'S DEPICTED IN THAT  
24 EXHIBIT?

25 A THAT IS TARA AND MY SON, P.J.

26 Q AND HOW OLD IS TARA IN THAT PHOTOGRAPH?

27 A SHE WOULD BE ABOUT THREE-AND-A-HALF.

28 MS. MC BROOM: YOUR HONOR, MOVE TO ADMIT

1 EXHIBIT 121-1.

2 THE COURT: ANY OBJECTION?

3 MS. TAZZARA: NO.

4

5 (RECEIVED INTO EVIDENCE, JOINT

6 EXHIBIT 121-1.)

7

8 BY MS. MC BROOM:

9 Q DO YOU KNOW WHO TOOK THIS PHOTOGRAPH?

10 A I PROBABLY TOOK IT, YEAH.

11 Q TELL ME AGAIN, HOW OLD IS THE BABY, P.J.?

12 A WELL, WE JUST BROUGHT HIM HOME. HE WAS LIKE

13 MAYBE TWO WEEKS.

14 Q AND DID TARA SHARE A CLOSE RELATIONSHIP WITH  
15 HER BROTHER?

16 A YES.

17 Q DID THAT CONTINUE THROUGH TO HER ADULTHOOD?

18 A YES.

19 Q I'M GOING TO HAVE YOU TURN NOW TO THE NEXT

20 PAGE EXHIBIT 121-2.

21

22 (MARKED FOR IDENTIFICATION, JOINT

23 EXHIBIT 121-2, PICTURE OF LINDA

24 DE ROGATIS, TARA DE ROGATIS, AND

25 P.J. DE ROGATIS.)

26

27 BY MS. MC BROOM:

28 Q CAN YOU IDENTIFY WHAT'S DEPICTED IN THAT

1 EXHIBIT?

2 A THIS IS A PICTURE OF TARA, MYSELF, AND P.J.  
3 WE -- YEAH.

4 MS. MC BROOM: YOUR HONOR, I MOVE TO ENTER  
5 EXHIBIT 121-2 INTO EVIDENCE.

6 THE COURT: ANY OBJECTION?

7 MS. TAZZARA: NO OBJECTION.

8 THE COURT: RECEIVED.

9

10 (RECEIVED INTO EVIDENCE, JOINT  
11 EXHIBIT 121-2.)

12

13 BY MS. MC BROOM:

14 Q DO YOU RECALL WHERE THIS PHOTOGRAPH WAS  
15 TAKEN?

16 A WE WERE -- WE -- WE DROVE UP TO CARMEL. I  
17 THINK MY MOTHER WAS IN TOWN. IT WAS JUST ONE PICTURE THAT  
18 WE TOOK.

19 Q HOW OLD WAS TARA IN THIS PICTURE?

20 A SHE'S ABOUT TEN.

21 Q AS A -- AS HER MOTHER, GROWING UP WITH HER,  
22 DID YOU PARTICIPATE IN ANY OF HER ACTIVITIES OR SPORTS  
23 WITH HER?

24 A EVERYTHING.

25 Q CAN YOU DESCRIBE WHAT TYPE OF INVOLVEMENT  
26 YOU HAD IN THOSE ACTIVITIES?

27 A I WAS VERY HANDS-ON AND JUST VERY CLOSE. WE  
28 WERE JUST VERY CLOSE. WE WERE LIKE -- BECAUSE I WAS YOUNG

1 WHEN I HAD HER, IT WAS LIKE I WAS DEFINITELY THE MOTHER,  
2 AND SHE WAS THE CHILD, BUT WE WERE -- ALSO WERE LIKE CLOSE  
3 BECAUSE WE WERE LIKE ALMOST GROWING UP TOGETHER, SO TO  
4 SPEAK.

5 Q HOW OLD WERE YOU WHEN YOU HAD TARA?

6 A 21.

7 Q WHERE DID TARA COMPLETE SCHOOL?

8 A MALIBU HIGH.

9 Q OKAY. AND WHERE DID SHE ATTEND COLLEGE?

10 A EMERSON COLLEGE.

11 Q AND THAT'S YOUR ALMA MATER, RIGHT?

12 A YES.

13 Q WHAT TYPES OF INTERESTS DID TARA HAVE IN  
14 COLLEGE AT THAT AGE?

15 A WELL, TARA WAS -- SHE MADE HER FIRST SHORT  
16 FILM WHEN SHE WAS IN SIXTH GRADE.

17 SHE JUST HAD A TALENT FOR THE CAMERA. AND,  
18 IN FACT, IT WAS A FAMILY JOKE THAT SHE WOULD ASK MY SON TO  
19 BE IN HER LITTLE PRODUCTIONS, BUT HE WAS ALWAYS EITHER THE  
20 BOYFRIEND OR THE BUTLER. THOSE WERE THE ONLY CHARACTERS  
21 SHE HAD FOR HIM.

22 AND SO SHE -- SHE TOOK VISUAL MEDIA ARTS,  
23 AND SHE STUDIED TELEVISION PRODUCTION, RADIO, PHOTOGRAPHY,  
24 HISTORY OF ART AND THEN YOUR NORMAL SUBJECTS, SOCIOLOGY  
25 AND HISTORY.

26 Q OKAY. WHAT YEAR DID SHE GRADUATE FROM  
27 EMERSON?

28 A 2001.

1 Q AND WHAT DEGREE DID SHE GRADUATE WITH?

2 A WITH A B.A. IN VISUAL MEDIA ARTS.

3 Q AND A MINOR?

4 A AND A MINOR IN PHOTOGRAPHY.

5 Q HOW OFTEN DID YOU SPEAK WITH TARA WHILE --  
6 WHILE SHE WAS -- STRIKE THAT.

7 WERE YOU LIVING IN LOS ANGELES WHILE TARA  
8 WAS ATTENDING EMERSON?

9 A YES.

10 Q OKAY. SO HOW OFTEN DID YOU SPEAK WITH HER  
11 WHILE SHE WAS AWAY AT COLLEGE?

12 A I WOULD SAY REGULARLY, LIKE MAYBE THREE OR  
13 FOUR TIMES A WEEK.

14 Q DID YOU EVER GO VISIT HER ON CAMPUS?

15 A YES.

16 Q ABOUT HOW MANY TIMES A YEAR WOULD YOU VISIT  
17 HER?

18 A WELL, THE PARENTS WEEKENDS, THEN AT THE END  
19 OF THE SEMESTER. PROBABLY FOUR TIMES.

20 Q DID SHE SPEND THE SUMMERS WITH YOU?

21 A YES.

22 Q SO AFTER GRADUATING FROM EMERSON IN 2001,  
23 WHERE DID TARA GO FROM THERE?

24 A SHE CAME BACK TO LOS ANGELES.

25 Q OKAY. DID SHE LIVE WITH YOU?

26 A FOR A WHILE.

27 Q HOW LONG DID SHE LIVE WITH YOU?

28 A ABOUT A YEAR.



1 Q OKAY. AND THEN WHERE DID SHE LIVE?

2 A THEN SHE GOT -- HER AND TWO GIRLFRIENDS  
3 RENTED A HOUSE.

4 Q HOW WAS TARA EMPLOYED IN THAT FIRST COUPLE  
5 YEARS AFTER GRADUATING FROM COLLEGE?

6 A SHE -- SHE -- WELL, I -- SHE -- SHE WAS  
7 WORKING WITH ME, AND --

8 Q FOR DE ROGATIS PUBLISHING?

9 A FOR DE ROGATIS PUBLISHING.

10 Q WHAT WERE HER RESPONSIBILITIES?

11 A SHE WOULD -- AS I WOULD GET CONTRACTS WITH  
12 PUBLISHERS, SO I MOVED TO VARIOUS DIFFERENT COMPANIES, SHE  
13 WOULD HELP ME PREPARE PRESENTATIONS, GO WITH ME TO THE  
14 ADVERTISING AGENCIES TO PRESENT WHATEVER PRODUCT IT WAS  
15 THAT WE WERE REPRESENTING. COULD BE A MAGAZINE, COULD BE  
16 A PUBLISHING -- YOU KNOW, PUBLISHING HOUSE. SHE WOULD  
17 MAKE PHONE CALLS, SET UP APPOINTMENTS, HELP ME CLOSE THE  
18 SALE.

19 Q WHAT KIND OF AN EMPLOYEE WAS SHE?

20 A SHE WAS -- SHE WAS -- SHE WAS VERY GOOD.  
21 SHE WAS -- SOMETIMES SHE WAS, YOU KNOW, BETTER THAN I WAS.  
22 SHE WOULD COME OUT WITH THINGS AND I'D BE LIKE, "OKAY."

23 Q WAS SHE EMPLOYED -- DID SHE HAVE ANY OTHER  
24 EMPLOYMENT BESIDES DE ROGATIS PUBLISHING?

25 A SHE -- SHE DID DO SOME PROMOTIONAL WORK FOR  
26 A FRIEND FOR LIKE EVENTS THAT WERE GOING ON AROUND TOWN,  
27 SO SHE WOULD KIND OF DO THAT ON THE SIDE.

28 Q WHEN DID TARA GET INTERESTED IN ACTING, IN

1 THE PERFORMING ARTS?

2 A I BELIEVE SHE GOT INTERESTED IN THAT WHEN  
3 SHE WAS PRODUCING A SHORT FILM IN 2005.

4 Q OKAY. DID SHE PURSUE AN ACTING CAREER?

5 A YEAH, SHE DID, BUT IT WAS LIKE PART OF --  
6 SHE GREW INTO THAT.

7 Q SAY THAT AGAIN.

8 A WELL, LIKE SHE SORT OF EVOLVED. YOU KNOW,  
9 IT WAS LIKE SHE DID THE -- YOU KNOW, SHE -- SHE ALWAYS WAS  
10 TAKING PICTURES. AND THEN SHE DID A LITTLE OF THE  
11 PROMOTIONAL WORK. AND THEN SHE WAS HELPING ME.

12 AND THEN SHE -- AFTER SHE MET DAVID AND THEY  
13 STARTED DOING THESE LITTLE MOVIES AND WORKING WITH OTHER  
14 PEOPLE, YOU KNOW, SHE JUST SORT OF EVOLVED. YOU KNOW, SHE  
15 STARTED OUT LIKE AS THE CO-PRODUCER, AND THEN SHE GAVE  
16 HERSELF A PART.

17 Q YOU MENTIONED DAVID.

18 WHAT YEAR DID TARA BECOME ROMANTIC WITH  
19 DAVID?

20 A I BELIEVE IT WAS 2004.

21 Q AND SO AROUND 2004, 2005, WAS SHE ACTIVELY  
22 AUDITIONING?

23 A YES.

24 Q OKAY. DO YOU KNOW WHETHER SHE HAD HEADSHOTS  
25 DONE, THAT KIND OF THING?

26 A YES.

27 Q I'D LIKE YOU TO TURN TO EXHIBIT 121-7.

28

1 (MARKED FOR IDENTIFICATION, JOINT  
2 EXHIBIT 121-7, HEADSHOT OF TARA  
3 DE ROGATIS.)  
4

5 THE COURT: I'M SORRY. WHAT WAS THE EXHIBIT  
6 NUMBER?

7 MS. MC BROOM: 121-7.

8 MS. TAZZARA: NO OBJECTION.  
9

10 (RECEIVED INTO EVIDENCE, JOINT  
11 EXHIBIT 121-7.)  
12

13 BY MS. MC BROOM:

14 Q DO YOU HAVE IT IN FRONT OF YOU?

15 A YEAH.

16 Q CAN YOU IDENTIFY WHAT'S --

17 A THAT'S ONE OF HER HEADSHOTS.

18 MR. NEWHOUSE: I THINK THERE WAS AN OFFER TO MOVE  
19 IN 121-7, AND THERE WAS NO OBJECTION.

20 THE CLERK: IT'S ALREADY IN.

21 THE COURT: PARDON?

22 THE CLERK: IT'S ALREADY IN.

23 MR. NEWHOUSE: OH, THEN NEVER MIND.

24 BY MS. MC BROOM:

25 Q CAN YOU IDENTIFY THIS?

26 A THAT'S ONE OF HER HEADSHOTS.

27 Q DO YOU HAVE ANY IDEA WHEN THAT WAS TAKEN?

28 A PROBABLY AROUND THE SAME TIME, 2005.

1 Q OKAY. WOULD YOU MIND TURNING TO 121-9?

2

3 (MARKED FOR IDENTIFICATION, JOINT

4 EXHIBIT 121-9, HEADSHOT OF TARA

5 DE ROGATIS.)

6

7 BY MS. MC BROOM:

8 Q CAN YOU IDENTIFY WHAT'S DEPICTED THERE IN

9 THAT EXHIBIT?

10 A IT'S -- IT'S ANOTHER HEADSHOT.

11 Q DO YOU HAVE ANY -- ANY IDEA WHEN THAT WAS

12 TAKEN?

13 A PROBABLY AROUND THE SAME TIME, BUT SHE USED

14 TO UPDATE HER HEADSHOTS. SO SOME MIGHT BE FROM '05, SOME

15 MIGHT BE FROM '06, SOME MIGHT BE FROM -- YOU KNOW.

16 Q OKAY. WAS SHE -- WHAT TYPE OF AN ACTING

17 CAREER DID SHE HAVE? DID SHE GET SOME ROLES?

18 A YES. SHE GOT HER S.A.G. CARD, WHICH WAS A

19 BIG DEAL. AND --

20 Q I TAKE IT SHE HAD A SPEAKING ROLE?

21 A YES.

22 Q OKAY. AND ABOUT HOW MANY -- THERE WAS

23 TESTIMONY YESTERDAY THAT THERE WAS SOME COMMERCIALS.

24 A YES.

25 Q DO YOU KNOW ABOUT HOW MANY COMMERCIALS SHE

26 MANAGED TO -- TO GET?

27 A CAN I LOOK AT THAT --

28 Q SURE.

1           A           -- SHEET?

2                       DO YOU KNOW WHICH NUMBER IT IS? I  
3 APOLOGIZE.

4           Q           IT'S OKAY.

5           A           OKAY.

6           Q           I'M JUST TRYING TO GET A SENSE OF HOW MANY  
7 ACTING GIGS SHE WAS ABLE TO LAND AND WHAT TYPES OF  
8 ACTING --

9           A           OKAY.

10          Q           -- SHE WAS --

11          A           OKAY. SO IN 2005, THESE ARE THE S.A.G.  
12 RECORDS. IN 2005, SHE MADE \$9,573 AND --

13               MS. TAZZARA: OBJECTION, YOUR HONOR. THIS IS NOT  
14 AN EXHIBIT IN EVIDENCE.

15               THE COURT: SHE'S REFRESHING HER MEMORY, I GUESS,  
16 WITH -- THE QUESTION WAS THE NUMBER, NOT THE DOLLAR  
17 AMOUNT.

18               MS. MC BROOM: THANK YOU, YOUR HONOR.

19               THE COURT: THANK YOU.

20 BY MS. MC BROOM:

21          Q           JUST GIVE US AN IDEA OF HOW MANY AND WHAT  
22 TYPE OF PRODUCTIONS SHE WAS INVOLVED WITH.

23          A           SHE WAS IN THE BUDWEISER COMMERCIAL THAT WE  
24 SPOKE ABOUT. IT WAS DURING THE SUPER BOWL. SHE WAS IN  
25 TWO EPISODES OF "SHARK," A MOVIE CALLED "WHAT JUST  
26 HAPPENED?" TWO -- TWO TELEVISION SHOWS IN "ENTOURAGE," ONE  
27 "LAKEVIEW TERRACE" -- ONE "LAKEVIEW TERRACE," ONE "DEEP IN  
28 THE VALLEY," TWO "C.S.I. MIAMI'S," ONE TELEVISION SHOW

1 CALLED "ELI STONE," "HENRY POOL IS HERE," AND ANOTHER  
2 TELEVISION PRODUCTION CALLED "DIRTY SEXY MONEY."

3 AND THEN THERE'S LIKE A MOBIL COMMERCIAL.

4 Q OKAY. AND OVER WHAT PERIOD OF TIME WAS TARA  
5 INVOLVED IN THESE PRODUCTIONS?

6 A FROM 2005 THROUGH -- IT'S FROM 2005 THROUGH  
7 2007.

8 Q OKAY. WHEN -- TARA LIVED WITH DAVID FOR  
9 SOME PERIOD OF TIME, CORRECT?

10 A YES.

11 Q OKAY. WERE YOU LIVING IN LOS ANGELES AT THE  
12 TIME SHE WAS LIVING WITH DAVID?

13 A FOR A SHORT PERIOD OF TIME.

14 Q OKAY. BECAUSE YOU LEFT LOS ANGELES, YOU  
15 JUST TESTIFIED, WAS IN 2005?

16 A RIGHT. THE END OF '04, '5.

17 Q OKAY. SO WHEN TARA WAS LIVING WITH DAVID IN  
18 THE LOS ANGELES AREA AND YOU WERE LIVING IN NEW JERSEY,  
19 HOW OFTEN DID YOU SEE YOUR DAUGHTER FACE TO FACE?

20 A I WOULD TRAVEL. THIS WAS PART OF MY  
21 TERRITORY BECAUSE I HAD LIVED HERE, SO I HAD CLIENTS HERE.  
22 SO I WOULD WORK IN NEW YORK AND NEW JERSEY, AND THEN I  
23 WOULD FLY OUT HERE. AND SO WHENEVER I WAS COME OUT ON  
24 BUSINESS, I WOULD STAY WITH THEM.

25 Q SO HOW MANY TIMES A YEAR WOULD YOU SAY YOU  
26 HAD FACE-TO-FACE VISITS WITH YOUR DAUGHTER?

27 A SIX OR SEVEN.

28 Q DID TARA EVER TRAVEL TO NEW JERSEY?

1 A YES.

2 Q ABOUT HOW MANY TIMES A YEAR?

3 A ABOUT TWICE A YEAR.

4 Q OKAY. AND HOW OFTEN DID YOU SPEAK WITH TARA  
5 ON THE TELEPHONE DURING THAT TIME WHEN YOU WERE LIVING IN  
6 NEW JERSEY AND SHE'S LIVING IN LOS ANGELES?

7 A I WOULD SAY ALMOST EVERY DAY.

8 Q SOMETIMES MORE THAN ONCE A DAY?

9 A YES.

10 Q DID YOU EXCHANGE TEXT MESSAGES?

11 A YES.

12 Q SO WHEN YOU WERE VISITING -- WHEN YOU WERE  
13 VISITING EACH OTHER FACE TO FACE, WHAT KINDS OF ACTIVITIES  
14 DID YOU DO TOGETHER?

15 A WE WOULD GO TO GET SOMETHING TO EAT. WE  
16 WOULD GO GET OUR NAILS DONE. WE WOULD GO GET OUR HAIR  
17 DONE, HIKE. WE WOULD GO BACK TO THE PALISADES AND WALK  
18 AROUND TO LIKE OUR OLD STOMPING GROUNDS, LIKE -- YOU KNOW,  
19 JUST -- JUST FAMILY -- JUST REGULAR FAMILY STUFF, GO TO  
20 THE MOVIES, STAY HOME, YOU KNOW, HANG OUT, WATCH T.V.

21 Q NOW, DID TARA CONTINUE WITH HER PHOTOGRAPHY  
22 AFTER GRADUATING FROM EMERSON?

23 A YES.

24 Q OKAY. AND AT WHAT POINT DID SHE START  
25 PAINTING?

26 THE COURT: I'M SORRY. WHAT WAS THE QUESTION?

27 BY MS. MC BROOM:

28 Q AT WHAT TIME DID SHE START PAINTING?

1 THE COURT: PAINTING?

2 THE WITNESS: PAINTING. SHE STARTED PAINTING -- I  
3 BELIEVE IT WAS LIKE AROUND 2006.

4 BY MS. MC BROOM:

5 Q AND HAVE YOU HAD OCCASION TO SEE HER -- HER  
6 ARTWORK?

7 A YES.

8 Q DO YOU HAVE SOME OF HER ARTWORK?

9 A I HAVE -- I HAVE ABOUT 125 CANVASES IN MY  
10 APARTMENT.

11 Q I'M GOING TO HAVE YOU TURN TO TAB 129,  
12 EXHIBIT 129. CAN YOU TAKE A LOOK AT 129-3?

13

14 (MARKED FOR IDENTIFICATION, JOINT  
15 EXHIBIT 129-3, PHOTO OF A PAINTING  
16 TITLED "MEADOW" BY TARA DE ROGATIS.)

17

18 THE WITNESS: YES.

19 BY MS. MC BROOM:

20 Q WOULD YOU IDENTIFY WHAT'S DEPICTED IN THAT  
21 EXHIBIT?

22 A THIS IS ONE OF THE PAINTINGS THAT I HAVE  
23 CALLED "MEADOW."

24 MS. MC BROOM: YOUR HONOR, I MOVE TO ADMIT  
25 EXHIBIT 129-3.

26 MS. TAZZARA: NO OBJECTION.

27 THE COURT: RECEIVED.

28



1 (RECEIVED INTO EVIDENCE, JOINT  
2 EXHIBIT 129-3.)

3

4 BY MS. MC BROOM:

5 Q DO YOU HAPPEN TO KNOW THE NAME OF THIS  
6 PAINTING?

7 A "MEADOW."

8 Q DO YOU HAVE ANY IDEA WHEN SHE COMPLETED IT?

9 A NO.

10 Q HAD SHE EVER DISCUSSED THIS PAINTING WITH  
11 YOU?

12 A SHE HAD SO MANY PAINTINGS. MOST OF THEM HAD  
13 MOONS IN THEM OR TREES IN THEM.

14 Q MOST OF THEM HAD WHAT?

15 A A MOON OR A SUN.

16 Q I'M JUST GOING TO HAVE YOU TAKE A LOOK AT  
17 ONE MORE, 129-5.

18 MR. NEWHOUSE: THAT'S IN, RIGHT?

19 MS. MC BROOM: YES.

20 THE WITNESS: YES.

21 BY MS. MC BROOM:

22 Q CAN YOU IDENTIFY WHAT'S DEPICTED IN THAT  
23 EXHIBIT?

24 A THIS IS HER -- HER BUTTERFLY THAT WE  
25 CURRENTLY USE AS HER LOGO FOR THE FOUNDATION I STARTED FOR  
26 HER.

27 MS. TAZZARA: OBJECTION, YOUR HONOR.

28 THE COURT: I'M SORRY?

1 MS. TAZZARA: OBJECTION TO RELEVANCE.

2 THE COURT: OVERRULED.

3 BY MS. MC BROOM:

4 Q DO YOU HAVE ANY IDEA WHEN SHE COMPLETED THIS  
5 PAINTING?

6 A I'M NOT SURE.

7 Q DID YOU EVER DISCUSS THIS PAINTING WITH HER?

8 A YES.

9 Q AND WHAT DID SHE TELL YOU?

10 A WELL, WE USED TO HAVE A LITTLE TERRIER DOG,  
11 AND I COMMENTED TO HER, I SAID, "OH, WOW, IF YOU PUT YOUR  
12 HANDS BELOW THE TWO YELLOW DOTS, IT ALMOST LOOKS LIKE THE  
13 BOTTOM PART IS A -- IS THE TERRIER."

14 SEE THE TWO BLACK EYES AND THEN THE NOSE?  
15 YOU CAN'T SEE IT. SO IT'S LIKE A BUTTERFLY, BUT IT ALMOST  
16 COULD BE -- WE USED TO -- THE DOG'S NAME WAS TUGGER. YOU  
17 CAN'T SEE IT AT FIRST, BUT YOU HAVE TO, YOU KNOW, FOCUS ON  
18 IT.

19 Q DID TARA HAVE A STUDIO?

20 A SHE WORKED OUT OF THE GARAGE.

21 Q DID TARA EVER -- TO YOUR KNOWLEDGE, EVER  
22 MARKET HER WORK?

23 A WE TALKED ABOUT THAT, BUT I WAS GOING TO DO  
24 IT BECAUSE THAT WAS MY FIELD.

25 THE COURT: I'M SORRY. DID SHE OR DID SHE NOT?

26 THE WITNESS: YES.

27 BY MS. MC BROOM:

28 Q YOU DISCUSSED IT?

1           A           YES.

2           Q           DID YOU EVER DO SO? DID SHE EVER ACTIVELY  
3 TRY TO SELL HER WORK?

4           A           NO.

5           Q           ARE YOU AWARE OF THE REASON FOR THAT?

6           A           YES.

7           Q           WHAT IS THAT?

8           A           WELL, I HAD TOLD HER THAT I JUST WANTED HER  
9 TO KEEP PAINTING AND THAT WHEN, YOU KNOW, THINGS KIND OF  
10 SETTLED DOWN FOR ME A LITTLE BIT, THEN I WOULD HELP HER  
11 MARKET THEM.

12          Q           DID SHE EVER DO SO, THOUGH? DID SHE EVER  
13 MARKET HER WORK?

14          A           NO.

15          Q           AT SOME POINT DURING YOUR RELATIONSHIP WITH  
16 TARA, DID YOU NOTICE THAT SHE APPEARED TO BE SUFFERING  
17 FROM SOME TYPE OF PSYCHIATRIC CONDITION?

18          A           YES.

19          Q           OKAY. WELL, LET'S TALK ABOUT THAT.  
20 WHEN -- WHEN DID YOU NOTICE THAT?

21          A           ONE OF MY VISITS OUT IN 2007.

22          Q           AND WHY DON'T YOU DESCRIBE FOR US WHAT YOU  
23 OBSERVED THAT LED YOU TO BELIEVE SHE WAS SUFFERING FROM A  
24 PSYCHIATRIC CONDITION.

25          A           WELL, WE -- WE HAD GONE OUT TO THE COFFEE  
26 BEAN, AND WE WERE SITTING THERE, HERE IN LOS ANGELES, AND  
27 WE WERE TALKING, AND SHE STARTED -- SHE STARTED DOING --  
28 LIKE LOOKING UP AND SORT OF LIKE SMILING AND -- AND LIKE

1 WHISPERING.

2 Q DID YOU ASK HER WHAT WAS GOING ON?

3 A YEAH. I SAID, "WHAT ARE YOU DOING?"

4 Q AND HOW DID SHE RESPOND?

5 A SHE SAID, "I'M TALKING TO MY ANGELS."

6 AND I SAID, YOU KNOW, "WHAT ARE YOU TALKING  
7 ABOUT, YOU KNOW?"

8 Q IS THAT HOW -- HOW DID THE CONVERSATION END?  
9 WHAT HAPPENED --

10 A I THINK WE LEFT THE COFFEE BEAN, YOU KNOW.

11 Q AND THIS IS IN 2007?

12 A YES.

13 Q DO YOU HAVE ANY IDEA MAYBE WHAT TIME OF YEAR  
14 THIS HAPPENED?

15 A WELL, IT WAS BEFORE SHE STARTED SEEING  
16 DR. BOHN, SO IT WAS BEFORE NOVEMBER.

17 Q OKAY. ANYTHING ELSE IN 2007 THAT YOU  
18 OBSERVED WHEN YOU HAD FACE-TO-FACE MEETINGS WITH HER?  
19 JUST LIMIT IT TO 2007.

20 A JUST THE SAME THING. JUST WE WENT --  
21 ANOTHER TIME WE WENT OUT TO EAT, AND SHE STARTED DOING IT  
22 AGAIN, AND I SAID, "YOU KNOW, WHAT ARE YOU DOING? STOP  
23 DOING THAT. PEOPLE ARE GOING TO THINK YOU'RE CRAZY. AND,  
24 YOU KNOW, WHY ARE YOU DOING THAT?"

25 BECAUSE WE WERE INVOLVED IN THE CHURCH, AND  
26 WE WERE CHRISTIANS, YOU KNOW, I JUST SORT OF -- I KNEW IT  
27 WAS -- I KNEW IT WAS ODD AND IT WAS WEIRD, AND I TOLD HER  
28 TO STOP, AND -- BUT I SORT OF THOUGHT -- WELL, I MEAN, I

1 WASN'T SURE WHAT IT WAS.

2 Q OKAY. DID YOU ADVISE HER TO SEEK  
3 PSYCHIATRIC TREATMENT?

4 A YES.

5 Q DID TARA COMPLAIN IN 2007 -- KEEP IT IN  
6 2007, DID SHE COMPLAIN OF ANY SYMPTOMS TO YOU, ANY  
7 PSYCHIATRIC SYMPTOMS?

8 A YES.

9 Q OKAY. CAN YOU THINK -- PINPOINT A TIME IN  
10 WHICH SHE COMPLAINED, OR IS IT JUST A GENERAL  
11 RECOLLECTION?

12 A NO, SHE -- SHE COMPLAINED TO ME OVER THE  
13 PHONE THAT -- BECAUSE SHE WAS CRYING, AND SHE SAID THAT  
14 SHE HAD JUST COME FROM A THERAPIST, AND THAT THE THERAPIST  
15 SAID THAT --

16 MS. TAZZARA: OBJECTION. HEARSAY.

17 THE COURT: SUSTAINED.

18 BY MS. MC BROOM:

19 Q WHY DON'T YOU TELL ME JUST WHAT HER  
20 DESCRIPTION OF HER PSYCHIATRIC SYMPTOMS WERE AT THAT TIME.

21 DID SHE -- DID SHE PROVIDE THAT INFORMATION  
22 TO YOU?

23 A YES.

24 Q OKAY.

25 A SHE WAS HEARING THINGS, AND SHE TOLD ME THAT  
26 SHE SAW A RAINBOW ON HER CAR SEAT.

27 Q DID SHE DESCRIBE THAT EXPERIENCE TO YOU?

28 A YES.

1 Q WHAT DID SHE TELL YOU?

2 A SHE WAS VERY UPSET. SHE WAS CRYING, AND SHE  
3 WAS -- JUST SAID SHE LOOKED OVER, AND SHE SAW A RAINBOW ON  
4 THE SEAT IN THE CAR.

5 Q DID SHE DESCRIBE IT AS A HALLUCINATION?

6 A YES. BECAUSE I -- I SAID, "WELL, THAT COULD  
7 HAVE JUST BEEN THE REFLECTION OF THE SUN THROUGH THE  
8 WINDSHIELD BECAUSE I'VE SEEN, YOU KNOW, LITTLE PIECES OF  
9 RAINBOWS IF I'M IN A PLACE WHERE THERE'S A REFLECTION."

10 AND SHE WAS ADAMANT THAT, "NO, THAT WASN'T  
11 IT."

12 Q SO SHE -- SHE ALSO TOLD YOU THAT SHE WAS  
13 HEARING THINGS?

14 A YES.

15 Q DID SHE TELL YOU WHAT SHE WAS HEARING?

16 A SHE JUST -- SHE -- AT FIRST, SHE USED TO SAY  
17 IT WAS ANGELS.

18 Q AT FIRST, COULD SHE MAKE OUT WHAT -- DID SHE  
19 TELL YOU SHE COULD MAKE OUT WHAT THEY WERE SAYING?

20 A SOMETIMES SHE SAID -- LIKE ONCE SHE SAID  
21 THAT SHE WAS ON HER WAY DRIVING SOMEWHERE, AND SHE  
22 COULDN'T FIND THE PLACE, AND THAT THE ANGELS SAID TO HER,  
23 "STOP RIGHT HERE." AND SHE DID, SHE PULLED OVER, AND  
24 THERE SHE WAS RIGHT IN FRONT OF THE ADDRESS.

25 Q SO YOU SAY AT FIRST, SHE DESCRIBED IT AS  
26 ANGELS.

27 DID THAT DESCRIPTION CHANGE OVER TIME?

28 A YES.

1 Q OKAY. HOW DID IT CHANGE AND WHEN?

2 A LIKE IN 2008, THEN IT WAS MORE LIKE THERE'S  
3 VOICES, AND SHE WOULD SAY, "THE VOICES."

4 Q MEANING SEVERAL VOICES AT ONE TIME OR  
5 DIFFERENT VOICES AT DIFFERENT TIMES, IF YOU KNOW?

6 A I DON'T KNOW.

7 Q OKAY. DID YOU NOTICE TARA BEGINNING TO  
8 DECLINE IN -- YOU KNOW, HER PARTICIPATION DROPPED IN  
9 CERTAIN ACTIVITIES IN 2007?

10 MS. TAZZARA: OBJECT TO LEADING.

11 THE COURT: SUSTAINED.

12 BY MS. MC BROOM:

13 Q WAS TARA ACTIVE IN HER PAINTING AND ACTING  
14 IN 2007?

15 A NOT IN THE ACTING.

16 Q DID SHE TELL YOU WHY?

17 A NO. IT WASN'T REALLY A DISCUSSION.

18 Q WHAT ABOUT IN 2008? WAS SHE ACTING IN 2008?

19 A NO.

20 Q WAS SHE PAINTING IN 2008?

21 A YES, I BELIEVE SHE WAS.

22 Q WAS THERE EVER A POINT WHEN SHE STOPPED  
23 PAINTING?

24 A I BELIEVE THAT THERE WAS A POINT, AND THEN  
25 SHE RESUMED IT, THOUGH. THEN SHE WENT BACK TO IT.

26 Q OKAY. DID TARA AT ANY TIME EVER DESCRIBE TO  
27 YOU THAT SHE HAD DEPRESSION, THAT SHE WAS DEPRESSED?

28 A YES.

1 Q WHEN'S THE FIRST TIME SHE SAID THAT TO YOU?

2 A I THINK IT WAS IN 2007, 2008.

3 Q DID SHE USE THAT WORD, "DEPRESSED"?

4 A YEAH, SHE -- SHE -- I WOULD SAY SHE -- THAT  
5 SHE DID SAY THAT WORD, YEAH.

6 Q WHAT OTHER THINGS DID SHE SAY ABOUT  
7 EXPERIENCING DEPRESSION?

8 A SHE JUST USED TO SAY, "I DON'T KNOW WHAT I'M  
9 GOING TO DO. I DON'T KNOW -- I CAN'T GET OUT OF BED.  
10 WHAT SHOULD I DO? SHOULD I" -- SHE WAS TRYING TO GET A  
11 JOB.

12 SO I SAID, "OKAY."

13 SO THEN WORKED ON HER RESUMES. AND THEN  
14 SHE -- YOU KNOW, WE'D SEND OUT RESUMES, AND THEN, YOU  
15 KNOW, SHE'D GO ON AN INTERVIEW.

16 AND THEN SHE -- SHE DID GET TWO JOBS. LIKE  
17 ONE WAS AT RALPH LAUREN AT THE RETAIL STORE, AND SHE  
18 ONLY -- SHE LASTED THERE LIKE TWO WEEKS.

19 Q WHAT YEAR WAS THAT?

20 A THAT WAS IN -- IT WAS EITHER IN '08 OR '09.

21 Q DO YOU KNOW WHY IT WAS SO SHORT TERM?

22 A SHE SAID THAT HER LEGS -- SHE WAS GETTING  
23 PAINS IN HER LEGS.

24 Q OKAY. ARE YOU AWARE -- AT WHAT POINT DID  
25 TARA BEGIN SEEKING PSYCHIATRIC TREATMENT FOR THE SYMPTOMS  
26 THAT YOU'VE DISCUSSED?

27 A IN 2007.

28 Q OKAY. AND WERE YOU AWARE OF WHO SHE WAS



1 SEEING?

2 A NOT EVERY PERSON THAT SHE SAW, BUT --

3 Q HER PSYCHIATRIST?

4 A DR. BOHN, YES.

5 Q IN 2007, DID TARA EVER MENTION SYMPTOMS SUCH  
6 AS PAIN, BURNING, TINGLING?

7 A SHE WOULD TALK ABOUT THE THROAT AREA HERE,  
8 THAT SHE FELT LIKE IT WAS BURNING HERE THROUGH THE BACK OF  
9 HER NECK AND ALMOST LIKE -- SHE FELT LIKE THE VOICES WERE  
10 SOMEHOW CONNECTED WITH THIS BURNING FEELING OVER HERE TO  
11 THE BACK OF HER NECK.

12 Q DID SHE TELL YOU IN 2007 HOW OFTEN SHE WAS  
13 BEING DISTURBED BY VOICES?

14 A IT SEEMED LIKE IT WAS A REGULAR -- LIKE  
15 EVERY DAY.

16 Q OKAY. ARE YOU AWARE OF WHETHER SHE WAS  
17 TAKING ANY PSYCHIATRIC MEDICATIONS IN 2007?

18 A YES.

19 Q HOW -- DID SHE TELL YOU SHE WAS TAKING THEM?

20 A YES.

21 Q DID SHE TELL YOU WHAT TYPES SHE WAS TAKING?

22 A YES.

23 Q WHAT DID SHE TELL YOU?

24 A SHE TOLD ME SHE WAS TAKING -- THAT THE --  
25 DR. BOHN GAVE HER KLONOPIN AND -- ONE SECOND -- I THINK IT  
26 WAS RIS- -- RISPERDAL -- RISPERDAL -- RISPER- --  
27 RISPERDAL --

28 Q OKAY.

1           A           -- AND EFFEXOR. AND THEN HE CHANGED THE  
2 RISPERDAL TO, I BELIEVE, ABILIFY.

3           Q           OKAY. IS THIS -- IS THIS ALL IN 2007, OR  
4 ARE THESE MEDICATIONS THAT YOU HEARD HER MENTION  
5 THROUGHOUT THE YEARS?

6           A           THOSE WERE 2007.

7           MS. TAZZARA: OBJECTION, YOUR HONOR, TO THIS  
8 WITNESS AND THIS LINE OF QUESTIONING IN TERMS OF  
9 MEDICAL --

10          THE COURT: I'M SORRY. YOUR OBJECTION AGAIN?

11          MS. TAZZARA: RELEVANCE IN TERMS OF THIS WITNESS.

12          THE COURT: OVERRULED.

13                    ARE YOU DONE?

14 BY MS. MC BROOM:

15          Q           DID YOU EVER --

16          THE COURT: WERE THERE MORE MEDICATIONS?

17          MS. MC BROOM: THANK YOU, YOUR HONOR.

18          Q           WERE THERE ANY MORE MEDICATIONS THAT YOU CAN  
19 THINK OF?

20          A           YEAH, AS TIME WENT ON.

21          Q           OKAY. SO THOSE WERE IN 2007?

22          A           RIGHT.

23          Q           DID SHE NAME ANY DIFFERENT MEDICATIONS IN  
24 2008 OR 2009?

25          A           YES.

26          Q           OKAY. AND WHAT WERE THOSE?

27          A           THOSE WERE --

28          THE COURT: I'M SORRY.

1                   IS DR. BOHN GOING TO BE COMING IN TO  
2 TESTIFY? WHY DON'T WE LET HIM -- I PRESUME HE WAS THE  
3 PSYCHIATRIST.

4                   MS. MC BROOM: SURE.

5                   THE COURT: LET HIM TALK ABOUT THAT.

6 BY MS. MC BROOM:

7                   Q           LET'S MOVE ON TO 2008, OKAY?

8                               HOW WAS TARA'S -- HOW WAS TARA DOING IN  
9 2008? WAS SHE GETTING BETTER, OR WAS SHE GETTING WORSE?

10                  A           NO, SHE WAS GETTING WORSE.

11                  Q           OKAY. CAN YOU EXPLAIN TO ME HOW SHE WAS  
12 GETTING WORSE?

13                  A           WELL, IT WAS -- I GO BY -- WHEN I LOOK BACK,  
14 I GO BY THE CHRISTMASES AND --

15                  Q           OKAY. SO DO YOU WANT TO GO TO CHRISTMAS  
16 2008?

17                  A           YEAH.

18                  Q           OKAY. SO HOW -- LET'S START THERE.  
19 WAS SHE VISITING YOU?

20                  A           YES.

21                  Q           OKAY. FOR HOW LONG WAS THAT VISIT?

22                  A           USUALLY THEY WERE SIX WEEKS BEFORE  
23 THANKSGIVING, AND THEN SOMETIME RIGHT AFTER CHRISTMAS OR  
24 SOMETIMES THROUGH NEW YEAR'S --

25                  Q           OKAY.

26                  A           -- JUST DEPENDING.

27                  Q           AND THIS WAS AN ANNUAL TRIP?

28                  A           YES.

1 Q NOW, WHAT HAPPENED DURING THAT TRIP IN 2008  
2 THAT LED YOU TO BELIEVE SHE WAS DOING WORSE?

3 A SHE JUST SEEMED TO BE MORE WITHDRAWN AND NOT  
4 AS SOCIABLE. IN THE -- IN THE PAST, SHE'D ALWAYS BE ON  
5 THE PHONE OR HER PHONE WOULD BE RINGING, LIKE THEY WERE --  
6 SHE WASN'T REALLY LIKE TALKING TO HER GIRLFRIENDS.

7 AND SHE WAS TELLING ME THAT THE VOICES --  
8 SHE WAS REALLY TELLING ME THAT SHE WAS HAVING LIKE MAJOR  
9 PROBLEMS, AND SO I MADE AN APPOINTMENT WITH A  
10 PSYCHIATRIST.

11 Q YOU MADE AN APPOINTMENT WITH A PSYCHIATRIST  
12 IN NEW JERSEY?

13 A YES.

14 Q AND WHAT WAS HIS NAME?

15 A DR. LATIMER.

16 Q OKAY. HOW MANY TIMES DID TARA SEE  
17 DR. LATIMER IN 2008 DURING THAT TRIP?

18 A ABOUT THREE OR FOUR TIMES.

19 Q OKAY. DID YOU ACCOMPANY TARA ON ANY OF  
20 THOSE VISITS?

21 A YEAH. I -- YEAH. I ALWAYS TOOK HER, AND I  
22 WAS IN TWO OF THE SESSIONS.

23 Q OKAY. WERE YOU PRESENT FOR THE ENTIRE  
24 SESSION --

25 A YES.

26 Q -- BOTH TIMES?

27 A YES.

28 Q WHAT SYMPTOMS WAS TARA COMPLAINED OF DURING

1 THOSE SESSIONS TO DR. LATIMER?

2 A JUST THE SAME SYMPTOMS, THE VOICES, THE  
3 BURNING, THE -- THEN THE ITCHING CAME IN, IT SEEMED LIKE  
4 THE SCRATCHING STARTED.

5 Q WHEN DID SHE -- WHEN DID YOU NOTICE SHE  
6 STARTED COMPLAINING OF THE ITCHING AND THE SCRATCHING?

7 A I -- I -- IT WAS 2008.

8 Q OKAY. DID SHE -- WAS SHE COMPLAINING ABOUT  
9 PAIN AT ALL, OR DID THAT DEVELOP LATER? I'M TRYING TO GET  
10 A SENSE OF WHEN THAT STARTED.

11 A YEAH, WITHIN THE -- YES.

12 Q SHE DID?

13 A YES.

14 Q OKAY. AND DID SHE DESCRIBE -- WHAT WE'VE  
15 BEEN REFERRING TO THROUGHOUT THE TRIAL AS TACTILE  
16 HALLUCINATIONS, DID SHE DESCRIBE THINGS ON HER BODY THAT  
17 WERE NOT THERE, FEELINGS?

18 A YES. SHE WOULD FEEL -- SHE WOULD BE, YOU  
19 KNOW, SCRATCHING, LIKE THINGS WERE CRAWLING ON HER, NOT  
20 24/7, BUT MAYBE -- YOU KNOW, INSIDE OF A WEEK, SHE MAY  
21 HAVE COMPLAINED ON THAT TRIP MAYBE LIKE THREE DAYS, THREE  
22 DIFFERENT DAYS.

23 Q OKAY. DID SHE DESCRIBE WHAT THE -- WHAT  
24 PARTICULARLY --

25 A SHE FELT LIKE THINGS WERE CRAWLING ON HER.

26 Q DID DR. LATIMER PRESCRIBE ANY MEDICATION TO  
27 TARA, OR DID YOU JUST KEEP DR. BOHN'S PRESCRIPTIONS GOING?

28 A YES. AND HE HAD A CONVERSATION WITH

1 DR. BOHN.

2 Q OKAY. DURING 2008, AT ANY TIME, INCLUDING  
3 VISITS AND THIS PARTICULAR VISIT, DID YOU EVER HEAR TARA  
4 SAY SOMETHING TO THE EFFECT OF "I WANT TO DIE. I DON'T  
5 WANT TO LIVE ANYMORE"?

6 A SHE WOULD SAY, "I DON'T WANT TO LIVE LIKE  
7 THIS. I CAN'T LIVE THIS LIKE."

8 Q HOW MANY TIMES DO YOU THINK SHE SAID THAT  
9 OVER THAT YEAR?

10 A 2008?

11 Q YES.

12 A I -- IT WOULD HAVE TO BE AN ESTIMATE.

13 Q GO AHEAD.

14 A ONCE A WEEK.

15 Q DID SHE MAKE STATEMENTS LIKE THAT IN ANY OF  
16 THE VISITS WITH DR. LATIMER?

17 A I DON'T REMEMBER HER MAKING THAT STATEMENT  
18 IN 2008 IN FRONT OF HIM, NO.

19 Q IN FRONT OF HIM.

20 TELL US A LITTLE BIT ABOUT -- YOU KNOW, IN  
21 CHRISTMAS OF 2008, JUST IN THAT SHORT PERIOD, HOW OFTEN  
22 WAS TARA TALKING ABOUT WANTING TO DIE OR ENDING HER LIFE?

23 A WELL, SHE WAS -- SHE WAS SAYING THAT -- SHE  
24 WAS -- SHE WOULD DESCRIBE THE -- THE PAIN -- THE STATE OF  
25 HER BEING, THAT THE STATE OF HER BEING --

26 MS. TAZZARA: MOVE TO STRIKE AS NONRESPONSIVE.

27 THE COURT: SUSTAINED.

28 BY MS. MC BROOM:

1 Q DID TARA DESCRIBE TO YOU, DURING THAT TRIP  
2 IN 2008 -- I'M NOT TALKING ABOUT THE APPOINTMENTS WITH  
3 DR. LATIMER -- WHAT SHE WAS EXPERIENCING --

4 A YES.

5 Q -- IN TERMS OF PSYCHIATRIC SYMPTOMS?

6 A YES.

7 Q AND WHAT DID SHE TELL YOU?

8 A SHE WOULD TELL ME THAT SHE COULDN'T TAKE IT  
9 ANYMORE. SHE WOULD SAY THINGS LIKE THAT, SHE COULDN'T  
10 TAKE IT ANYMORE, THAT SHE DIDN'T WANT TO LIVE LIKE THIS,  
11 THAT -- YOU KNOW, SHE COULDN'T TAKE IT -- SHE WOULD JUST  
12 SAY, "I CAN'T TAKE IT ANYMORE," YOU KNOW.

13 SHE WOULD -- YOU KNOW, AND THEN -- AND THEN  
14 THE NEXT DAY, LIKE MAYBE WE WOULD BE AT A COUSIN'S HOUSE  
15 OR WHATEVER, AND SHE WOULD SEEM TO BE LIKE OKAY. AND THEN  
16 THE NEXT DAY, SHE MIGHT WAKE UP THAT MORNING AND IT WOULD  
17 BE LIKE, YOU KNOW --

18 Q SO SHE WAS HAVING HIGHS AND LOWS?

19 A RIGHT.

20 Q DID TARA EVER KEEP A JOURNAL, TO YOUR  
21 KNOWLEDGE?

22 A YES.

23 Q OKAY. DID SHE EVER -- DID SHE KEEP THEM IN  
24 WRITING OR ON TYPED NOTES?

25 A SHE DID BOTH.

26 Q OKAY. HAVE YOU EVER READ HER JOURNAL OR HER  
27 TYPED NOTES?

28 A YES -- WELL, NOW I HAVE. SINCE SHE PASSED,

1 I HAVE ALL THE -- I HAVE ALL HER NOTEBOOKS, AND I HAVE HER  
2 COMPUTER.

3 Q SO YOU -- HAVE YOU SEEN TYPEWRITTEN WRITING  
4 BY TARA?

5 A YES.

6 Q OKAY. WHEN -- WHEN IS THE FIRST TIME YOU  
7 CAME ACROSS ANY TYPEWRITTEN WRITINGS?

8 A RIGHT AWAY. WHEN -- WHEN SHE PASSED AWAY, I  
9 FLEW OUT HERE, AND I WAS SLEEPING, YOU KNOW, IN HER ROOM.  
10 AND I WENT ON HER COMPUTER, YOU KNOW, RIGHT -- JUST, YOU  
11 KNOW, RIGHT -- RIGHT AWAY I WAS IN HER STUFF.

12 Q DID YOU RETRIEVE ANYTHING FROM HER COMPUTER?

13 A YES.

14 Q I WANT YOU TO TAKE A LOOK AT EXHIBIT --  
15 EXCUSE ME ONE MOMENT -- EXHIBIT 120-1. IT'S A TWO-PAGE  
16 DOCUMENT.

17

18 (MARKED FOR IDENTIFICATION, JOINT  
19 EXHIBIT 120-1, AN ENTRY FROM TARA DE  
20 ROGATIS' JOURNAL.)

21

22 BY MS. MC BROOM:

23 Q ARE YOU THERE? DO YOU NEED HELP?

24 A 120?

25 Q 120-1.

26 ARE YOU THERE?

27 A YES, I HAVE IT.

28 Q ARE YOU ABLE TO IDENTIFY WHAT'S DEPICTED IN



1 THAT EXHIBIT?

2 A YES. THIS WAS ONE OF THE -- ONE OF THE  
3 ENTRIES -- ENTRIES IN HER JOURNAL ON THE COMPUTER THAT I  
4 CAME ACROSS, AND JUST ONE OF THEM THAT I PRINTED OUT  
5 BECAUSE IT WAS -- YOU KNOW, IT WAS TELLING ME --

6 Q LET ME STOP YOU THERE.

7 WHEN DID YOU RETRIEVE THIS FROM HER  
8 COMPUTER?

9 A PROBABLY -- MAYBE THE SUMMER OF 2010.

10 Q DID YOU PRINT OUT A COPY OF IT?

11 A YES.

12 Q IS THIS A TRUE AND CORRECT COPY OF THAT  
13 PRINTOUT?

14 A YES.

15 MS. MC BROOM: I'D MOVE TO ADMIT EXHIBIT 120-1 INTO  
16 EVIDENCE.

17 MS. TAZZARA: YOUR HONOR, OBJECTION. THE DOCUMENT  
18 LACKS RELEVANCE. IT CALLS FOR SPECULATION.

19 MS. MC BROOM: YOUR HONOR, IT GOES --

20 THE COURT: I UNDERSTAND WHAT IT GOES TO.

21 IT WILL BE RECEIVED.

22 MS. MC BROOM: THANK YOU, YOUR HONOR.

23

24 (RECEIVED INTO EVIDENCE, JOINT  
25 EXHIBIT 120-1.)

26

27 THE COURT: BUT I MUST JUST CAUTION YOU, WE'RE  
28 GETTING REALLY CUMULATIVE AND SOMEWHAT REDUNDANT ON THINGS

1 WE'VE ALREADY HEARD, SO --

2 MS. MC BROOM: I UNDERSTAND. I WON'T SPEND A LOT  
3 OF TIME ON IT. THANK YOU.

4 Q DID TARA EVER TELL YOU THAT SHE FELT THERE  
5 WAS NOTHING THAT COULD ELIMINATE THE VOICES SHE WAS  
6 EXPERIENCING?

7 A SHE -- YES.

8 Q DID TARA EVER TELL YOU THAT SHE FELT A HOT  
9 ENERGY ALL OVER HER AND ALL AROUND HER HEAD?

10 A YES.

11 Q DID TARA EVER TELL YOU THAT SHE FELT AS IF  
12 SHE WAS INFESTED WITH SOMETHING, THAT THERE WERE BUGS  
13 CRAWLING ON HER?

14 A YES.

15 Q DID TARA EVER TELL YOU THAT ALTHOUGH SHE WAS  
16 TRYING TO CREATE A LIFE, HER EFFORTS HAD GOTTEN HER  
17 NOWHERE?

18 MS. TAZZARA: YOUR HONOR, THIS IS ALL LEADING.

19 THE COURT: JUST A FEW MORE QUESTIONS ON THIS,  
20 PLEASE.

21 BY MS. MC BROOM:

22 Q DO YOU WANT ME TO REPEAT IT?

23 A SURE.

24 Q DID TARA EVER TELL YOU THAT SHE WAS TRYING  
25 TO CREATE A LIFE FOR HERSELF, BUT THAT HER EFFORTS HAD  
26 GOTTEN HER NOWHERE?

27 A YES.

28 Q DID TARA EVER TELL YOU, "I FEEL AS THOUGH

1 I'M AT THE END NOW, I GIVE UP"?

2 A NO, NOT -- I MEAN, NOW IF I LOOK BACK, BUT  
3 NOT -- NOT -- NOT AT THIS DATE.

4 Q NOT AT THIS TIME, NOT IN 2006?

5 A RIGHT.

6 Q OKAY. HOW OFTEN DID YOU SPEAK -- STRIKE  
7 THAT.

8 LET'S GO TO 2009.

9 DID TARA APPEAR TO BE GETTING BETTER OR  
10 WORSE IN 2009?

11 A VERY BAD.

12 Q WHY DO YOU SAY THAT?

13 A WELL, SHE -- SHE -- THERE WAS JUST A HUGE  
14 DIFFERENCE FROM WHO SHE WAS IN, SAY, 2006, EVEN IN 2007,  
15 AS TO WHO SHE WAS IN 2009.

16 Q WHAT WAS THAT DIFFERENCE?

17 A WELL, IN 2006 AND 2007, SHE WAS ON THIS  
18 NUTRITION MISSION, AND SO SHE WOULD HAVE, YOU KNOW,  
19 VITAMINS, AND SHE WOULD BE GETTING COLONICS, AND SHE WOULD  
20 BE GOING TO HERBALISTS AND ALLERGISTS AND CHIROPRACTORS.  
21 AND THEN SHE TOOK UP YOGA, AND THEN SHE, YOU KNOW, GOT  
22 CERTIFICATES SO SHE COULD TEACH YOGA.

23 AND EVEN IN 2008, WHEN SHE CAME TO VISIT,  
24 SHE WAS GOING TO PLACES IN NEW JERSEY THAT I DIDN'T EVEN  
25 KNOW WERE THERE THAT SHE WOULD JUST LOOK UP, YOU KNOW, FOR  
26 HEALTH. SHE WAS LIKE INTO REALLY LIKE THIS -- LIKE  
27 GETTING HEALTH -- LIKE TRYING TO FIND AN ANSWER. AND IN  
28 2009 AT CHRISTMASTIME, SHE WAS WAY BEYOND THAT.

1 Q OKAY. LET'S TALK ABOUT THAT.

2 SHE CAME FOR HER ANNUAL TRIP IN 2009?

3 A CORRECT.

4 Q OKAY. DID YOU PICK HER UP FROM THE AIRPORT?

5 A YES.

6 Q HOW DID TARA APPEAR TO YOU WHEN YOU PICKED  
7 HER UP THAT DAY?

8 A LIKE -- I'VE NEVER SEEN HER LIKE THAT. SHE  
9 JUST -- FIRST OF ALL, SHE WAS THE LAST ONE TO COME DOWN  
10 THE STAIRS. SHE -- HER HAIR -- HER -- THE BACK OF HER  
11 HAIR WAS LIKE IN FRONT OF HER FACE LIKE THIS --

12 Q OKAY.

13 A -- LIKE THAT, JUST LIKE -- LIKE THAT --

14 Q OKAY.

15 A -- LIKE THAT.

16 Q AND WHAT WAS HER Demeanor?

17 A SHE JUST DIDN'T EVEN LOOK AT ME. SHE WAS  
18 JUST LIKE -- SHE WAS STANDING NEXT TO ME NEAR THE CONVEYOR  
19 BELT, BUT SHE DIDN'T REALLY EVEN SAY "HELLO" TO ME.

20 Q SO HOW DID YOU RESPOND?

21 A AND I WAS JUST WAS LIKE TRYING TO REMAIN  
22 CALM BECAUSE I REALLY DIDN'T WANT TO FREAK OUT WHEN SHE  
23 JUST GOT OFF THE PLANE. SO I WAS JUST SORT OF LIKE MAKING  
24 IT LIKE, "OH, YOU KNOW, SO, YOU KNOW, WHERE'S MY HELLO?"  
25 YOU KNOW, JUST TRYING TO -- AND, YOU KNOW, SHE WAS JUST,  
26 YOU KNOW, THERE.

27 THE -- THE ONLY CONNECTION, CONVERSATION  
28 THAT WE HAD WAS WHEN I GOT TO MY CAR AND WE WERE --

1 MS. TAZZARA: OBJECTION. MOVE TO STRIKE NARRATIVE.  
2 BEYOND THE SCOPE.

3 THE COURT: SUSTAINED.

4 BY MS. MC BROOM:

5 Q SO ONCE YOU PICKED HER UP, DID SHE STAY WITH  
6 YOU?

7 A YES.

8 Q FOR THE REMAINDER OF THAT TRIP?

9 A YES.

10 Q OKAY. SO YOU HAD OPPORTUNITY TO SPEND A LOT  
11 OF TIME WITH HER?

12 A YES.

13 Q ANYTHING ELSE ABOUT HER BEHAVIOR DURING THAT  
14 TRIP THAT CONCERNED YOU?

15 A YES. SHE WAS -- SHE WAS -- SHE WASN'T --  
16 SHE WAS -- SHE WAS ON THE OTHER SIDE. SHE WAS -- SHE LOST  
17 HER SELF. YOU KNOW, SHE JUST -- ON THE OUTSIDE, SHE  
18 LOOKED THE SAME, EXCEPT FOR THE BEING DISHEVELED, BUT SHE  
19 WASN'T MAKING -- SHE WASN'T BEING -- SHE WASN'T ENGAGED.  
20 SHE WASN'T ENGAGED.

21 Q DID SHE DESCRIBE THE SAME SYMPTOMS THAT  
22 WE'VE DISCUSSED TODAY TO YOU --

23 A COULD I TAKE THIS OFF?

24 Q GO AHEAD.

25 -- INCLUDING THE VOICES?

26 A YES.

27 Q DID TARA RECEIVE ANY PSYCHIATRIC TREATMENT  
28 DURING THAT VISIT --

1 A YES.

2 Q -- IN 2009?

3 A YES.

4 Q OKAY. AND WITH WHOM DID SHE RECEIVE  
5 PSYCHIATRIC TREATMENT?

6 A SHE RECEIVED PSYCHIATRIC TREATMENT AT THE  
7 MOUNTAINSIDE HOSPITAL IN MONTCLAIR, NEW JERSEY.

8 Q WHEN WAS THAT HOSPITALIZATION?

9 A IN -- DURING THE HOLIDAYS.

10 Q IN DECEMBER?

11 A YES.

12 Q OKAY. AND WHY WAS SHE HOSPITALIZED?

13 A SHE WAS HOSPITALIZED BECAUSE THERE WAS --  
14 THERE WAS -- THERE WAS AN EVENING WHERE WE WERE SOMEWHERE,  
15 I DON'T KNOW WHERE. WE WENT OUT SOMEWHERE. AND WE CAME  
16 HOME, AND I WENT TO SLEEP. AND WHEN I WOKE UP, SHE WAS  
17 STILL IN HER COAT BEHIND HER COMPUTER, SO SHE HAD -- SHE  
18 WAS JUST UP ALL NIGHT BEHIND THE COMPUTER, AND SHE STILL  
19 HAD HER COAT ON.

20 Q HAD TARA -- BEFORE YOU CONTINUE, HAD TARA  
21 COMPLAINED TO YOU DURING THIS TRIP THAT SHE DIDN'T WANT TO  
22 LIVE ANYMORE?

23 A YES.

24 Q OKAY. ABOUT HOW MANY TIMES HAD SHE SAID  
25 THAT TO YOU?

26 A THAT WAS CONSTANT. THAT WAS -- THAT WAS  
27 JUST BASICALLY SHE WAS -- I LOST -- SHE WAS -- SHE WAS  
28 JUST --

1 Q DID SHE EVER TELL YOU HOW SHE WOULD END HER  
2 LIFE?

3 A NO.

4 Q OKAY. SO PRIOR TO THIS INCIDENT WHEN SHE  
5 WAS TAKEN TO MOUNTAINSIDE, HAD SHE TOLD YOU SHE WANTED TO  
6 END HER LIFE?

7 A SHE WOULD SAY THAT, YES.

8 Q OKAY. SO LET'S CONTINUE ON.

9 SHE -- SHE HAD BEEN SITTING IN FRONT OF THE  
10 COMPUTER ALL NIGHT WITH HER COAT ON?

11 A RIGHT.

12 Q OKAY. AND THEN WHAT HAPPENED?

13 A AND THEN I -- YOU KNOW, I GOT UP, AND I  
14 SAID, "OH, YOU CAN'T DO THAT, YOU KNOW, YOU HAVE TO GO TO  
15 SLEEP," YOU KNOW, WHATEVER.

16 AND SHE -- YOU KNOW, SHE ALWAYS DID HAVE A  
17 MIND OF HER OWN. BUT TO HER IT WASN'T -- IT WASN'T LIKE A  
18 BIG THING, LIKE SHE WAS JUST --

19 Q WAS SHE VOLUNTARILY ADMITTED TO  
20 MOUNTAINSIDE?

21 A NO.

22 Q SO WHO TOOK HER?

23 A WELL, I CALLED HER DR. LATIMER BECAUSE I  
24 DIDN'T KNOW WHAT WAS GOING ON. I MEAN, I'M NOT A DOCTOR.  
25 AND I JUST USED MY COMMON SENSE TO SAY, "OKAY. THIS IS  
26 NOT NORMAL AND LET ME CALL DR. LATIMER." AND I CALLED  
27 THERE TO SEE IF I COULD BRING HER IN FOR AN APPOINTMENT.

28 Q SO DID DR. LATIMER ORDER, TO YOUR

1 UNDERSTANDING, THAT TARA BE TAKEN TO MOUNTAINSIDE?

2 A YES.

3 Q AND HOW LONG WAS TARA HELD AT MOUNTAINSIDE?

4 A FOR A WEEK.

5 Q WAS SHE HAPPY ABOUT BEING AT MOUNTAINSIDE?

6 A NO.

7 Q OTHER THAN THE SYMPTOMS YOU'VE DESCRIBED  
8 DURING THAT TRIP, IS THERE ANYTHING ELSE THAT CONCERNED  
9 YOU ABOUT HER BEHAVIOR DURING THAT TRIP?

10 A WELL, I NOTICED THAT SHE WOULD, JUST A  
11 COUPLE TIMES, LAUGH LIKE REALLY HEARTILY WHEN WHATEVER  
12 HAPPENED WASN'T THAT FUNNY.

13 Q INAPPROPRIATE LAUGHTER?

14 A I THOUGHT SO.

15 Q OKAY. WHEN DID TARA RETURN TO LOS ANGELES?

16 A SHE RETURNED ON CHRISTMAS.

17 Q SO NOW WE'RE IN 2010.

18 THE COURT: WHY DON'T WE TAKE THAT UP AFTER OUR  
19 BREAK, OKAY?

20 MS. MC BROOM: OKAY.

21 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, LET'S  
22 TAKE OUR AFTERNOON RECESS, 15 MINUTES. AGAIN, PLEASE  
23 REMEMBER THE ADMONITION OF THE COURT.

24

25 (RECESS.)

26

27 (THE FOLLOWING PROCEEDINGS WERE HELD

28 IN OPEN COURT, IN THE PRESENCE OF



1 THE JURY:)

2

3 THE COURT: WELCOME BACK, LADIES AND GENTLEMEN.  
4 ALL JURORS ARE PRESENT IN PLACE. THE PARTIES ARE PRESENT.  
5 LAWYERS ARE PRESENT.

6 MA'AM, YOU REMAIN UNDER OATH, UNDERSTOOD?

7 THE WITNESS: YES.

8 THE COURT: OKAY. COUNSEL, YOU MAY PROCEED.

9 MS. MC BROOM: THANK YOU.

10 Q SO NOW WE'RE INTO 2010. TARA IS NOW BACK IN  
11 LOS ANGELES.

12 HOW OFTEN DID YOU SPEAK WITH TARA WHEN SHE  
13 RETURNED TO LOS ANGELES?

14 A DAILY.

15 Q OKAY. DID TARA APPEAR TO BE GETTING BETTER  
16 OR WORSE IN 2010?

17 A SOME DAYS SHE SOUNDED OKAY, AND OTHER DAYS  
18 SHE JUST -- I WAS -- IT WAS VERY CONCERNING, IT WAS --

19 Q WAS THERE A PARTICULAR CONVERSATION YOU HAD  
20 THAT WAS OF CONCERN?

21 A WELL, SHE -- SHE WAS -- SHE WAS TRYING --  
22 SHE WAS TRYING TO GET HER SELF BACK, AND SHE WOULD CALL ME  
23 AND SAY, YOU KNOW, "WHAT AM I GOING TO DO? I DON'T FEEL  
24 WELL. YOU KNOW, I CAN'T GET OUT OF BED. YOU KNOW, I  
25 DON'T KNOW WHAT I'M SUPPOSED TO BE DOING."

26 AND THEN SHE STARTED TO GO TO CHURCH EVERY  
27 SINGLE DAY FOR HOURS.

28 MS. TAZZARA: OBJECTION, YOUR HONOR.

1 NONRESPONSIVE. BEYOND THE SCOPE.

2 THE COURT: OVERRULED.

3 NEXT QUESTION.

4 BY MS. MC BROOM:

5 Q WHAT I'D LIKE TO KNOW WAS JUST WAS THERE ANY  
6 PARTICULAR CONVERSATION YOU HAD WITH TARA IN 2010 THAT WAS  
7 OF PARTICULAR CONCERN FOR YOU?

8 A YES.

9 Q AND WHEN WAS THAT?

10 A THAT WAS IN MARCH.

11 Q DO YOU REMEMBER THE DATE OR JUST EARLY  
12 MARCH?

13 A IT WAS AROUND, I THINK, THE 15TH.

14 Q OKAY. AND TELL ME ABOUT THAT CONVERSATION.

15 A I CALLED HER, AND SHE -- HER VOICE WAS  
16 LIKE -- LIKE "I'M JUST -- I'M JUST -- YOU KNOW, WHAT?  
17 WHAT? WHAT? WHAT? YEAH, I -- YOU KNOW, I DON'T FEEL  
18 WELL."

19 AND SHE WAS -- AND THEN SHE WAS LIKE  
20 SLURRING HER WORDS. SHE WAS LIKE, "WHAT?" NO -- YOU  
21 KNOW, LIKE JUST -- AND I WAS LIKE "WHAT'S THE MATTER?"

22 Q WHAT DID SHE TELL YOU?

23 A THAT SHE DIDN'T FEEL WELL, THAT SHE WAS  
24 BEING -- FELT LIKE SHE WAS BEING TORMENTED. SHE TOLD ME  
25 THAT SHE FELT LIKE HER SOUL -- HER SOUL WAS BEING  
26 TORMENTED.

27 Q OKAY. IN MARCH, DID YOU CONTACT DR. BOHN AT  
28 ALL?

1           A           I CALLED DR. BOHN.

2           Q           WERE YOU ABLE TO REACH HIM?

3           A           NO.

4           Q           DID YOU LEAVE HIM A MESSAGE.

5           A           YES, I DID.

6           Q           AND WHAT WAS THE NATURE OF THAT MESSAGE?

7           A           THAT WAS AFTER I GOT OFF THE PHONE WITH  
8 TARA, LIKE AROUND THAT MARCH 15TH, AND I SAID TO HER,  
9 "LOOK, YOU GOT TO GET TO A -- A DOCTOR. WHAT IS  
10 DR. BOHN?" I SAID. THAT'S WHAT I SAID.

11                    I SAID, "WHAT ARE YOU TAKING? WHAT ARE YOU  
12 TAKING?" I SAID, "ARE YOU TAKING YOUR ABILIFY? ARE  
13 YOU" --

14                    AND SHE SAID, "NO. HE CHANGED MY MEDICINE."  
15                    AND I SAID, "WELL, WHAT DID HE CHANGE IT  
16 TO?"

17                    AND SHE SAID, "AN OLD -- AN OLDER  
18 ANTIDEPRESSANT," AND SHE COULDN'T GIVE ME THE NAME.

19                    AND I SAID, "WELL, OBVIOUSLY, TARA, THIS IS  
20 NOT WORKING. I CAN'T EVEN UNDERSTAND HALF OF WHAT YOU'RE  
21 SAYING, AND THIS IS -- YOU KNOW, THIS IS -- THIS IS --  
22 THIS IS A BIG -- THIS IS MAJOR. THIS IS LIKE -- THIS  
23 IS -- THIS IS AN EMERGENCY. YOU -- YOU CAN'T BE LIKE" --  
24 YOU KNOW, I WAS JUST -- I SAID, "I'M GOING TO CALL  
25 DR. BOHN."

26                    AND SHE SAID, "OKAY," AND USUALLY SHE WOULD  
27 TELL ME "NO," YOU KNOW. SHE WAS LIKE, "OKAY." IT WAS  
28 LIKE SHE JUST -- SHE JUST --

1 Q SO YOU LEFT A MESSAGE FOR DR. BOHN THAT YOU  
2 WERE CONCERNED FOR TARA?

3 A AND I TOLD HIM THAT SHE WAS SAYING SHE  
4 WANTED TO KILL HERSELF, BECAUSE SHE TOLD ME THAT. SHE  
5 WANTED TO KILL HERSELF, SHE JUST COULDN'T TAKE IT ANYMORE.

6 AND I TOLD HIM THAT -- I LEFT HIM A MESSAGE  
7 SAYING THAT "WHATEVER MEDICINE YOU'RE GIVING HER,  
8 OBVIOUSLY, IS NOT WORKING. SHE IS SEEING A RHEUMATOLOGIST  
9 WHO IS GIVING HER CYMBALTA. I DON'T THINK THAT THESE  
10 MEDICINES ARE WORKING -- THEY'RE -- THEY ARE KILLING HER.  
11 THEY'RE KILLING HER."

12 Q YOU MENTIONED THAT AFTER TARA'S DEATH, YOU  
13 CAME ACROSS SOME OF HER JOURNALS?

14 A YEAH.

15 Q DID YOU FIND ANY HANDWRITTEN NOTES?

16 A YES.

17 Q I'D LIKE YOU TO TURN TO EXHIBIT 120-3.

18  
19 (MARKED FOR IDENTIFICATION, JOINT  
20 EXHIBIT 120-3, HANDWRITTEN JOURNAL  
21 NOTES BY TARA DE ROGATIS.)

22  
23 BY MS. MC BROOM:

24 Q TAKE A LOOK AT THAT.

25 A YES.

26 Q ARE YOU ABLE TO IDENTIFY WHAT'S DEPICTED IN  
27 THAT EXHIBIT?

28 A YES.

1 Q OKAY. AND WHEN DID YOU FIRST -- WHAT IS IT?

2 A IT'S ONE OF TARA'S HANDWRITTEN JOURNAL  
3 NOTES.

4 Q IS THIS TARA'S HANDWRITING?

5 A YES.

6 Q HAVE YOU HAD OCCASION TO SEE TARA'S  
7 HANDWRITING DURING HER LIFE?

8 A YES.

9 Q WHEN DID YOU COME ACROSS THIS WRITING, THIS  
10 PARTICULAR ENTRY?

11 A AFTER HER -- AFTER HER DEATH, 2010, MAYBE  
12 BEGINNING OF 2011.

13 Q DO YOU HAVE ANY IDEA FROM EXAMINING THIS  
14 DOCUMENT AROUND WHAT TIME TARA WROTE THIS NOTE?

15 MS. TAZZARA: OBJECTION. CALLS FOR SPECULATION.

16 THE COURT: OVERRULED.

17 THE WITNESS: I THINK IT WAS -- WELL, IT WOULD HAVE  
18 TO BE AFTER SHE SAW THE RHEUMATOLOGIST BECAUSE SHE TALKS  
19 IN HERE ABOUT FIBROMYALGIA.

20 MS. TAZZARA: MOVE TO STRIKE, SPECULATIVE.

21 THE COURT: OVERRULED.

22 BY MS. MC BROOM:

23 Q SO HAD TARA MENTIONED FIBROMYALGIA TO YOU  
24 PRIOR TO 2010?

25 A NO.

26 MS. MC BROOM: I MOVE TO ADMIT EXHIBIT 120-3.

27 THE COURT: ANY OBJECTION?

28 MS. TAZZARA: YES. OBJECTION. HEARSAY,

1 SPECULATIVE.

2 THE COURT: AREN'T THESE WORDS OF THE DECEASED?

3 MS. TAZZARA: YES, YOUR HONOR. THEY'RE OUT OF  
4 CONTEXT.

5 THE COURT: OVERRULED.

6

7 (RECEIVED INTO EVIDENCE, JOINT  
8 EXHIBIT 120-3.)

9

10 BY MS. MC BROOM:

11 Q I'M ALSO GOING TO HAVE YOU TURN TO  
12 EXHIBIT 120-5.

13

14 (MARKED FOR IDENTIFICATION, JOINT  
15 EXHIBIT 120-5, HANDWRITTEN JOURNAL  
16 NOTES BY TARA DE ROGATIS.)

17

18 BY MS. MC BROOM:

19 Q CAN YOU IDENTIFY WHAT'S DEPICTED IN THAT  
20 EXHIBIT?

21 A IT'S ANOTHER LITTLE NOTE THAT SHE WROTE.

22 Q YOU RECOGNIZE THE HANDWRITING TO BE TARA'S?

23 A YES.

24 Q WHEN DID YOU FIRST COME ACROSS THIS NOTE?

25 A AFTER SHE PASSED IN 2010 -- 2011.

26 Q FROM LOOKING AT THIS NOTE, DO YOU HAVE AN  
27 IDEA OF WHEN TARA WROTE -- MADE THIS WRITING?

28 A WELL, IT SEEMS TO ME THAT FROM HERE, SHE WAS

1 TALKING ABOUT HAVING A BABY IN MARCH, SO I THINK IT -- IT  
2 HAD TO BE MAYBE SOMETIME IN NOVEMBER THAT SHE'S WRITING  
3 THIS LIST OF WHAT SHE'S GOING TO DO AND THEN ON TOP OF  
4 THAT, IT SAYS, "MARCH, HAVE BABY."

5 Q DID SHE WANT TO HAVE A BABY?

6 A YEAH, OF COURSE.

7 Q ARE YOU TALKING ABOUT NOVEMBER 2009?

8 A YES.

9 MS. MC BROOM: YOUR HONOR, I MOVE TO ADMIT  
10 EXHIBIT 120-5.

11 THE COURT: DASH 5?

12 MS. MC BROOM: DASH 5.

13 THE COURT: LET'S COME BACK TO IT. I DON'T SEE THE  
14 RELEVANCE OF THIS.

15 MS. MC BROOM: WELL, YOUR HONOR --

16 THE COURT: LET'S NOT TALK ABOUT IT IN FRONT OF THE  
17 JURY.

18 BY MS. MC BROOM:

19 Q DID YOU SPEAK WITH TARA ON MARCH 22ND, 2010?

20 A YES, I DID.

21 Q WHEN WAS THE FIRST TIME YOU SPOKE WITH HER?

22 A I SPOKE WITH HER ON MARCH 22ND. I CALLED  
23 THERE FROM WHEN I WAS AT WORK, SO IT WAS IN THE MORNING  
24 HER TIME.

25 Q AND WHAT DID THE TWO OF YOU DISCUSS THAT  
26 MORNING?

27 A SHE JUST -- SHE GOT ON THE PHONE, AND SHE  
28 DIDN'T SAY "HELLO" OR ANYTHING, SHE JUST -- HER VOICE WAS

1 QUIVERING, AND SHE WAS LIKE, "MOM, MY -- I FEEL LIKE MY  
2 SOUL IS BEING TORMENTED."

3 I GO, "TARA, WHAT'S THE MATTER? WHAT?  
4 WHAT'S THE MATTER?"

5 "I CAN'T -- I'M IN PAIN, AND I CAN'T -- I  
6 CAN'T GO ON. I WANT TO KILL MYSELF."

7 AND I SAID, "WELL, YOU HAVE TO GET TO THE  
8 DOCTOR'S. YOU HAVE TO GO TO THE DOCTOR'S."

9 AND SHE WAS LIKE, "YES."

10 Q OKAY. DID YOU DISCUSS WHO -- WHO SHE WAS  
11 GOING TO GO SEE THAT DAY?

12 A NO. I JUST SAID, "YOU HAVE TO GET TO THE  
13 DOCTOR'S."

14 Q OKAY. DID YOU TALK TO DAVID?

15 A YES, I DID.

16 Q DID THE TWO OF YOU DISCUSS SHE WOULD GO TO  
17 DR. SHAINSKY'S OFFICE?

18 A YES. HE TOLD ME THAT THAT'S WHERE HE WAS  
19 TAKING HER.

20 Q NOW, DID YOU -- HOW MANY -- DID YOU ATTEMPT  
21 TO CALL TARA SEVERAL TIMES THAT DAY?

22 A YES.

23 Q OKAY. DID SHE ANSWER EVERY CALL?

24 A NO.

25 Q HOW MANY TIMES DID YOU ATTEMPT TO CALL HER  
26 WHEN SHE WASN'T PICKING UP?

27 A 12 TIMES.

28 Q SO AFTER THAT FIRST -- IN THE MORNING OF



1 MARCH 22ND, 2010, AFTER THAT PHONE CALL, WHEN'S THE NEXT  
2 TIME YOU SPOKE WITH HER THAT DAY?

3 A I NEVER HAD A CONVERSATION WITH HER. I  
4 CALLED SEVERAL TIMES AND NO ONE PICKED UP. AND THEN I  
5 CALLED ONE TIME WHEN IT DID -- SHE DID PICK IT UP, MAYBE  
6 IT WAS IN HER POCKET, AND I JUST HEARD HER ARGUING WITH  
7 SOMEONE SAYING SOMETHING -- SAYING -- THIS IS ALL I HEARD  
8 HER SAY IS, "NO, IT'S A FACT."

9 Q DO YOU HAVE ANY IDEA OF WHO TARA WAS TALKING  
10 TO?

11 A I THOUGHT THAT SHE WAS HAVING AN ARGUMENT  
12 WITH DAVID.

13 Q HAVE YOU SINCE LEARNED DIFFERENTLY?

14 A YES.

15 Q OKAY. WHAT DID YOU LEARN?

16 A THAT SHE WAS HAVING --

17 MS. TAZZARA: OBJECTION. HEARSAY.

18 THE COURT: SUSTAINED.

19 BY MS. MC BROOM:

20 Q GIVE ME ONE MOMENT.

21 DID YOU CONTACT TARA'S HOME ON MARCH 23RD,  
22 2010?

23 A YES.

24 Q AND WHAT TIME WAS THAT?

25 A THAT WAS AT 8:30, MY TIME IN NEW JERSEY.

26 Q OKAY.

27 A 5:30, HER TIME.

28 Q AND WHO PICKED UP THE PHONE?

1 A DAVID.

2 Q DID YOU HAVE A CONVERSATION?

3 A YES.

4 Q AND WHAT DID YOU DISCUSS?

5 A I -- I FIRST APOLOGIZED BECAUSE I -- I -- I  
6 WENT TO GO INTO MY VOICE MAILS, BUT I MUST HAVE HIT THE  
7 LAST NUMBER.

8 AND HE SEEMED -- YOU KNOW, I SAID, "OH, I'M  
9 SORRY, DAVID. I DIDN'T MEAN TO CALL YOU, BUT, ANYWAY, HOW  
10 IS TARA?"

11 Q OKAY. SO WAS IT -- YOU WERE DISCUSSING  
12 TARA?

13 A YES.

14 Q OKAY. AND HOW DID THAT PHONE CALL END?

15 A I SAID, "OKAY. GO AND CHECK ON HER," AND  
16 THEN I HUNG UP.

17 Q AND THEN WHAT HAPPENED?

18 A AND THEN I WAS GETTING READY TO LEAVE FOR  
19 WORK, AND THE PHONE RANG AND IT WAS DAVID. AND HE WAS,  
20 YOU KNOW, OUT OF HIS MIND SAYING, "THE -- LINDA, THE --  
21 THE -- THE E.M.T.'S ARE HERE. THEY'RE TELLING ME TO CALL  
22 THE FAMILY. THEY'RE TELLING ME IT'S CRITICAL. TARA IS  
23 NOT BREATHING."

24 AND I'M LIKE, "WHAT DO YOU -- WHAT DO YOU  
25 MEAN? WHAT DO YOU MEAN?"

26 AND HE'S LIKE, "THEY'RE -- THEY'RE TELLING  
27 ME" --

28 MS. TAZZARA: OBJECTION. HEARSAY.

1 THE COURT: JUST -- I'LL TELL YOU WHAT, OVERRULED.  
2 YOU CAN TELL US WHAT WAS SAID AND YOUR  
3 REACTION.

4 THE WITNESS: OKAY. AND I'M LIKE, "WHAT DO YOU  
5 MEAN?"

6 AND THEN I HEARD PETER ON THE PHONE, LIKE  
7 DAVID MUST HAVE CALLED HIM FIRST AND THEN CALLED ME.

8 AND I HEARD PETER LIKE, YOU KNOW, CRYING.

9 AND I'M LIKE, "WHAT DO YOU MEAN? WHAT IS --  
10 WHAT IS GOING ON THERE?"

11 AND HE'S LIKE, "THEY'RE SAYING SHE'S  
12 CRITICAL. SHE'S -- SHE'S NOT BREATHING. SHE TOOK PILLS  
13 OR SOMETHING, YOU KNOW, AND I" -- I'M SORRY.

14 BY MS. MC BROOM:

15 Q WHEN DID YOU LEARN THAT TARA PASSED, THAT,  
16 IN FACT, SHE WAS NO LONGER WITH US?

17 A WHEN I SPOKE TO THE E.M.T. GUY.

18 Q AND HE TOLD YOU TARA HAD PASSED?

19 A YES.

20 Q DID YOU AND YOUR DAUGHTER EVER EXCHANGE  
21 CARDS?

22 A YES.

23 Q OKAY. I'M GOING TO HAVE -- I'M GOING TO  
24 HAVE YOU TURN TO EXHIBIT 127 -- I'M SORRY.

25 THE COURT: I'M SORRY. WHAT? 127?

26 MS. MC BROOM: 125-1 AND 125-2. IT'S A TWO-PAGE  
27 EXHIBIT.

28

1 (MARKED FOR IDENTIFICATION, JOINT  
2 EXHIBIT 125-1 AND 125-2, CARD THAT  
3 TARA DE ROGATIS SENT TO LINDA DE  
4 ROGATIS.)

5

6 BY MS. MC BROOM:

7 Q ARE YOU THERE?

8 A I'S SORRY.

9 Q DO YOU HAVE THE EXHIBIT IN FRONT OF YOU?

10 A YES.

11 Q CAN YOU IDENTIFY WHAT THIS EXHIBIT IS?

12 A THIS IS A CARD THAT TARA GAVE ME -- SENT TO  
13 ME FOR MY BIRTHDAY IN -- WHEN SHE WAS IN COLLEGE.

14 Q DO YOU RECOGNIZE THE WRITING IN THE CARD TO  
15 BE TARA'S?

16 A YES.

17 MS. MC BROOM: I'M GOING TO MOVE TO ADMIT  
18 EXHIBIT 125-1 THROUGH -2.

19 MS. TAZZARA: NO OBJECTION.

20 THE COURT: IT'S RECEIVED.

21

22 (RECEIVED INTO EVIDENCE, JOINT  
23 EXHIBIT 125-1 AND 125-2.)

24

25 BY MS. MC BROOM:

26 Q CAN YOU TELL US HOW THE DEATH OF YOUR  
27 DAUGHTER HAS AFFECTED YOU?

28 A I AM NO LONGER MYSELF. I'M NOT -- I'LL

1 NEVER -- IT'S NEVER GOING TO GO AWAY. I DO NOT EVEN GET  
2 OUT OF MY CLOTHES FOR DAYS AT A TIME. I DON'T LEAVE THE  
3 HOUSE.

4 MS. TAZZARA: OBJECTION, YOUR HONOR. ASKED AND  
5 ANSWERED AND BEYOND THE SCOPE, LEGAL SCOPE.

6 THE COURT: OVERRULED.

7 THE WITNESS: I'M -- MY -- MY HEART, MY SOUL, MY --  
8 SHE WAS -- SHE WAS MY EVERYTHING. SHE WAS MY SPIRITUAL  
9 PARTNER. WE USED TO PRAY ON THE PHONE. WE USED TO QUOTE  
10 BIBLE SCRIPTURES. SO THAT IT WASN'T JUST A PHYSICAL  
11 RELATIONSHIP. IT WASN'T INTELLECTUAL -- ONLY AN  
12 INTELLECTUAL RELATIONSHIP. IT WASN'T A -- JUST A MENTAL  
13 RELATIONSHIP. BUT THERE WAS LIKE THIS VERY STRONG  
14 SPIRITUAL BOND.

15 AND I TOLD HER TO TRUST GOD, AND SHE DID.  
16 SHE WOULD PRAY. SHE WOULD -- "PLEASE, GOD." SHE WOULD  
17 WRITE NOTES AND -- "GOD, PLEASE HELP ME. WHY AREN'T YOU  
18 HELPING ME, GOD? WHY AREN'T YOU HELPING ME?"

19 MS. TAZZARA: OBJECTION.

20 THE WITNESS: AND THEN SHE STARTED GOING TO  
21 CATHOLIC CHURCH.

22 MS. TAZZARA: OBJECTION, YOUR HONOR.

23 THE COURT: SUSTAINED.

24 BY MS. MC BROOM:

25 Q DID YOU EVER -- DID YOU EVER -- DID YOU EVER  
26 RECEIVE VOICE MESSAGES FROM YOUR DAUGHTER?

27 A YES.

28 Q DO YOU RECALL RECEIVING ONE IN FEBRUARY OF

1 2010?

2 A YES.

3 Q I'D LIKE TO GO AHEAD -- THAT'S EXHIBIT 122.

4 MR. NEWHOUSE: THIS IS WITH CONSENT FROM THE  
5 DEFENSE, YOUR HONOR.

6 THE COURT: 122.

7

8 (MARKED FOR IDENTIFICATION, JOINT  
9 EXHIBIT 122, VOICE MESSAGE TO LINDA  
10 DE ROGATIS FROM TARA DE ROGATIS.)

11

12 MS. MC BROOM: IT'S A VOICE MESSAGE.

13 THE COURT: HOW LONG IS THIS?

14 MS. MC BROOM: IT'S VERY SHORT.

15 THE COURT: PARDON?

16 MS. MC BROOM: VERY SHORT.

17 THE COURT: ANY OBJECTION?

18 MS. TAZZARA: NO, YOUR HONOR.

19 THE COURT: PLAY IT.

20

21 (VOICE MESSAGE PLAYED.)

22

23 BY MS. MC BROOM:

24 Q CAN YOU IDENTIFY THAT AS TARA'S VOICE?

25 A YES.

26 Q COULD ANY AMOUNT OF MONEY COMPENSATE YOU FOR  
27 THE LOSS OF YOUR DAUGHTER?

28 MS. TAZZARA: OBJECTION. LACK OF FOUNDATION,

1 RELEVANCE .

2 THE WITNESS: NO .

3 THE COURT: SUSTAINED .

4 MS. MC BROOM: NOTHING FURTHER .

5 MR. BLESSEY: YOUR HONOR, CAN THE ANSWER BE  
6 STRICKEN?

7 THE COURT: STRICKEN, YES .

8 MR. BLESSEY: YOUR HONOR, MS. TAZZARA IS GOING TO  
9 DO THE CROSS .

10

11

CROSS-EXAMINATION

12 BY MS. TAZZARA:

13 Q GOOD AFTERNOON, MRS. DE ROGATIS .

14 YOU HAVE TOLD US THAT YOUR DAUGHTER WAS  
15 HAVING A DECLINE AND WAS HAVING VARIOUS SYMPTOMS AND  
16 PROBLEMS THAT YOU WERE OBSERVING IN 2007 AND 2008 AND 2009  
17 RIGHT UP UNTIL THE TIME OF HER DEATH, ESSENTIALLY; IS THAT  
18 RIGHT?

19 A YES .

20 Q AND IN -- CERTAINLY IN 2007, YOU WERE  
21 ALREADY LIVING IN NEW JERSEY AND TARA WAS, OF COURSE,  
22 LIVING IN LOS ANGELES, AND SO MOSTLY YOUR CONTACT WITH HER  
23 WAS BY TELEPHONE, OTHER THAN THE VISITS YOU'VE DESCRIBED,  
24 CORRECT?

25 A YES .

26 Q AND YOUR CONCERN FOR HER, THOUGH, WAS  
27 SOMEWHAT RELIEVED OR DEALT WITH BY THE FACT THAT, IN FACT,  
28 YOU TRUSTED AND ENTRUSTED TARA TO DAVID MAC EACHERN, WHO

1 WAS IN THIS COURTROOM, TO HER BOYFRIEND, WITH WHOM YOU HAD  
2 A LOT OF CONTACT OVER THE -- DAY AFTER DAY; ISN'T THAT  
3 TRUE?

4 A TO A CERTAIN EXTENT.

5 Q YOU WOULD AGREE WITH MR. MAC EACHERN, YOU  
6 HEARD HIS TESTIMONY IN THE COURTROOM WHERE HE SAID THAT,  
7 IN ESSENCE, YOU WERE A TEAM, AND HE WAS KIND OF YOUR EYES  
8 AND EARS, AND HE WOULD HELP, TO AN EXTENT, BY REPORTING  
9 BACK WHAT WAS GOING ON WITH TARA AND WHAT WAS GOING ON  
10 DURING DOCTORS' VISITS, DIDN'T THAT HAPPEN?

11 A YES.

12 Q AND, IN FACT, DAVID WOULD GO WITH YOU --  
13 WITH TARA TO MANY, IF NOT MOST, OF HER DOCTORS' VISITS,  
14 WOULDN'T HE?

15 THAT'S SOMETHING THAT YOU LEARNED WHEN YOU  
16 WERE IN NEW JERSEY AND THEY WERE OUT HERE LIVING TOGETHER?

17 A YES.

18 Q HE WENT TO MANY, IF NOT MOST, OF THE VISITS  
19 WITH DR. BOHN, WHO WAS TARA'S PSYCHIATRIST, CORRECT?

20 A I DON'T -- I'M NOT SURE HOW MANY VISITS HE  
21 ACTUALLY WENT TO. SHE SAW HIM FOR YEARS.

22 Q RIGHT.

23 BUT YOU LEARNED ON MANY OCCASIONS THAT DAVID  
24 HAD BEEN WITH HER WITH DR. BOHN, CORRECT?

25 A ON SOME OCCASIONS.

26 MS. MC BROOM: EXCUSE ME. LACKS FOUNDATION.

27 THE COURT: SUSTAINED.

28 BY MS. TAZZARA:



1 Q AND YOU ARE AWARE THAT DAVID WENT WITH TARA  
2 TO VISITS WITH DR. SHAINSKY, CORRECT?

3 A YES.

4 Q AND VISITS WITH DR. RAMIN, DID YOU KNOW THAT  
5 DAVID WENT WITH TARA TO DR. RAMIN'S OFFICE?

6 A I KNOW THAT NOW.

7 Q OKAY. AND DID YOU KNOW AT THE TIME THAT  
8 DAVID WAS TAKING TARA TO DR. SPIEGEL, ANOTHER DOCTOR, IN  
9 2010?

10 A I KNOW THAT NOW.

11 Q DAVID NEVER TOLD YOU, DURING THE YEARS OF  
12 2005, 2006, 2007, AND 2008, THAT TARA DE ROGATIS AND HE  
13 WERE USING METHAMPHETAMINES, DID HE, WHILE TARA WAS STILL  
14 ALIVE? HE NEVER TOLD YOU THAT?

15 A YES, WE HAD ONE DISCUSSION.

16 Q NOW, MR. DE ROGATIS DID NOT TELL YOU DURING  
17 TARA'S LIFE, DID HE, THAT DURING 2005, HE TOLD YOU THAT --

18 A NO. IN 2008 --

19 MR. NEWHOUSE: COUNSEL, YOU SAID, "MR. DE ROGATIS."  
20 DO YOU MEAN DAVID?

21 MS. TAZZARA: I'M SORRY.

22 Q DAVID, MR. MAC EACHERN, ARE YOU SAYING THAT  
23 HE TOLD YOU IN 2005 THAT HE AND MR. DE ROGATIS -- AND TARA  
24 WERE DOING METHAMPHETAMINES TOGETHER?

25 A HE TOLD ME IN 2008 WHEN WE WERE IN  
26 DR. LATIMER'S OFFICE.

27 Q ALL RIGHT. AND DURING THAT VISIT, YOU  
28 BELIEVED THAT TARA HAD USED METHAMPHETAMINES MAYBE ON ONE

1 OCCASION; ISN'T THAT TRUE?

2 MS. MC BROOM: OBJECTION. RELEVANCE.

3 THE COURT: OVERRULED.

4 THE WITNESS: THE -- THE FREQUENCY WAS NOT  
5 DISCUSSED.

6 BY MS. TAZZARA:

7 Q ALL RIGHT. YOU DID NOT KNOW -- YOU HEARD  
8 MR. MAC EACHERN'S TESTIMONY HERE IN THIS COURTROOM THAT,  
9 IN FACT, YOUR DAUGHTER DID DRUGS WITH MR. MAC EACHERN, DID  
10 METHAMPHETAMINE IN ALL OF THOSE YEARS, IN '05, '06, '07,  
11 AND '08? YOU HEARD THAT TESTIMONY?

12 MS. MC BROOM: EXCUSE ME. OBJECTION. RELEVANCE.

13 THE COURT: OVERRULED.

14 BY MS. TAZZARA:

15 Q DID YOU HEAR THAT TESTIMONY?

16 A I HEARD IT, YEAH.

17 Q AND WAS THAT SOMETHING -- DID YOU ALREADY  
18 KNOW THAT? DID YOU ALREADY KNOW THAT YOUR DAUGHTER HAD  
19 BEEN USING -- ABUSING CRYSTAL METH OR METHAMPHETAMINE OVER  
20 ALL THOSE YEARS?

21 A I DON'T BELIEVE SHE WAS.

22 Q YOU DON'T BELIEVE SO.

23 YOU BELIEVE THAT MR. MAC EACHERN CAME INTO  
24 COURT AND JUST TOLD AN OUTRIGHT LIE AND SAID THAT ON THE  
25 WITNESS STAND?

26 MS. MC BROOM: OBJECTION. ARGUMENTATIVE.

27 THE COURT: OVERRULED.

28 BY MS. TAZZARA:

1 Q IS THAT YOUR POSITION?

2 A NO. I -- I JUST THINK THAT HE'S LIKE A  
3 SHELL OF A MAN, AND HE --

4 THE COURT: I'M SORRY. HE'S A WHAT?

5 THE WITNESS: HE'S LIKE A SHELL. HE'S JUST -- HE'S  
6 NOT WHO HE USED TO BE, AND HE DOESN'T -- I DON'T -- I  
7 HAVE -- I HAVE EVIDENCE TO THE CONTRARY.

8 BY MS. TAZZARA:

9 Q AND YOU BELIEVE THIS SHELL OF A MAN IS THE  
10 MAN THAT YOU ESSENTIALLY TRUSTED DURING THE YEARS THAT  
11 TARA WAS LIVING WITH HIM OUT HERE, AND DURING THOSE YEARS  
12 THAT YOU WERE SO CONCERNED FOR HER HEALTH AND WELFARE,  
13 THAT WAS THE PERSON THAT YOU TRUSTED AT THAT TIME?

14 A TO A CERTAIN EXTENT.

15 Q RIGHT.

16 AND DID MR. MAC EACHERN TELL YOU THAT HE HAD  
17 BEEN TO THE FIRST VISITS WITH DR. BOHN ALL THE WAY BACK TO  
18 2007?

19 A YES.

20 Q AND DID MR. MAC EACHERN TELL YOU -- AND  
21 DURING THAT TIME, YOU WERE ALREADY CONCERNED THAT TARA WAS  
22 HAVING THIS -- JUST TO REMEMBER YOUR TESTIMONY, THAT SHE  
23 WAS ALREADY HAVING THIS BURNING IN HER THROAT, SHE WAS  
24 HAVING THIS SKIN CRAWLING, AND SOME OF THESE SYMPTOMS WERE  
25 ALREADY -- HAD ALREADY BEEN HAPPENING FOR A COUPLE OF  
26 YEARS AT THAT POINT, SHE ALREADY HAD THEM BY THAT TIME,  
27 CORRECT?

28 A WHAT DATE IS THIS?

1 Q 2007, WHEN SHE STARTED TO SEE DR. BOHN.

2 I THINK SHE TOLD US THAT.

3 A I DON'T THINK I KNEW THEN ABOUT THE SKIN  
4 CRAWLING. THERE WAS SOME THINGS I KNEW BUT NOT  
5 EVERYTHING.

6 Q OKAY. YOU SAID YOU KNEW SHE WAS HEARING  
7 VOICES, CORRECT?

8 A YES.

9 Q YOU KNEW SHE WAS HAVING SOMETHING -- PAIN OR  
10 SOMETHING GOING ON WITH HER THROAT, CORRECT, IN 2007?

11 A I'M NOT SURE IF I KNEW THAT IN 2007.

12 Q BUT AT SOME POINT, YOU DID, CERTAINLY BY  
13 2008, THE WHOLE THING WITH THE SKIN CRAWLING AND THE  
14 TINGLING AND THE VOICES AND THE ANGELS, YOU WERE AWARE OF  
15 ALL THOSE THINGS, CORRECT?

16 A IT WAS PROGRESSIVE.

17 Q RIGHT.

18 AND DID MR. MAC EACHERN EVER TELL YOU THAT  
19 DR. BOHN BELIEVED THAT THOSE SYMPTOMS COULD VERY WELL BE  
20 FROM METHAMPHETAMINE ABUSE?

21 A NO.

22 Q DID HE EVER TELL YOU THAT?

23 AS TARA'S MOTHER, THAT WOULD HAVE BEEN  
24 SOMETHING VERY -- SOMETHING YOU WOULD HAVE WANTED TO KNOW,  
25 WOULD IT NOT HAVE?

26 A YES.

27 Q AND TO BE CLEAR, DID YOU KNOW IN THE YEAR  
28 2005 THAT TARA WAS OR WASN'T USING METHAMPHETAMINE?

1 A NO.

2 Q YOU DID NOT KNOW?

3 A NO.

4 Q YOU DID NOT. OKAY.

5 AND HOW ABOUT 2006, DID YOU PERSONALLY HAVE  
6 ANY KNOWLEDGE OR BELIEF FROM ANY SOURCE THAT TARA WAS  
7 DOING CRYSTAL METH OR USING METHAMPHETAMINE WITH DAVID OR  
8 WITH ANYBODY ELSE?

9 MS. MC BROOM: OBJECTION. RELEVANCE AND  
10 CUMULATIVE.

11 THE COURT: OVERRULED.

12 THE WITNESS: I KNEW THE OPPOSITE.

13 THE COURT: YOU WHAT?

14 THE WITNESS: I KNEW THE OPPOSITE.

15 BY MS. TAZZARA:

16 Q YOU KNEW THAT TARA WAS NOT USING  
17 METHAMPHETAMINE IN 2006?

18 A CORRECT.

19 Q AND THAT IS YOU ESSENTIALLY BELIEVED THAT  
20 MR. MAC EACHERN WAS NOT TRUTHFUL WHEN HE SAT HERE ON THIS  
21 WITNESS STAND AND SAID THE TWO OF THEM USED THAT DRUG  
22 TOGETHER IN 2006?

23 A I THINK HIS TIMING IS OFF.

24 Q BUT YOU BELIEVE THAT AT SOME POINT IN TIME,  
25 TARA, YOUR DAUGHTER, AND MR. MAC EACHERN USED THAT DRUG?

26 A YES.

27 Q DO YOU HAVE ANY PERSONAL EXPERIENCE OR HAVE  
28 YOU LEARNED FROM ANY PHYSICIAN THAT METHAMPHETAMINE HAS

1 CERTAIN SYMPTOMS AND SIDE EFFECTS THAT ARE CONSISTENT WITH  
2 PROBLEMS WITH MEMORY, HEARING VOICES, HALLUCINATIONS, SKIN  
3 CRAWLING; IS THAT SOMETHING YOU'RE AWARE OF?

4 MS. MC BROOM: EXCUSE ME. OBJECTION. RELEVANCE  
5 AND LACK OF FOUNDATION.

6 THE COURT: SUSTAINED.

7 BY MS. TAZZARA:

8 Q YOU HEARD MR. MAC EACHERN'S TESTIMONY ABOUT  
9 TARA DE ROGATIS USING THE DRUG NORCO; DO YOU REMEMBER THAT  
10 TESTIMONY?

11 A YES.

12 Q AND WERE YOU AWARE -- AT SOME POINT, I  
13 THINK -- WERE YOU AWARE AT SOME POINT IN TIME THAT TARA  
14 WAS GETTING PRESCRIBED A DRUG NORCO --

15 A YES.

16 Q -- FOR PAIN SYMPTOMS?  
17 WHEN DID YOU BELIEVE THAT TARA FIRST GOT THE  
18 DRUG NORCO?

19 A AFTER SHE CAME BACK TO LOS ANGELES AFTER  
20 CHRISTMAS.

21 THE COURT: 2009?

22 THE WITNESS: '10. 2010.

23 BY MS. TAZZARA:

24 Q 2010.

25 AND DID YOU LEARN FROM EITHER -- I TAKE IT  
26 YOU DID NOT LEARN FROM EITHER TARA OR MR. MAC EACHERN,  
27 BACK WHEN TARA WAS ALIVE, THAT, ACTUALLY, AROUND THE TIME  
28 THAT SHE WAS -- APPARENTLY AROUND THE TIME THAT SHE HAD

1 PLASTIC SURGERY IN 2009, SHE ACTUALLY STARTED USING THE  
2 DRUG NORCO AT THAT TIME?

3 DO YOU REMEMBER THAT ASPECT OF HIS  
4 TESTIMONY?

5 A I HAVE NO KNOWLEDGE OF THAT.

6 Q OKAY. SO THAT IS NOT SOMETHING  
7 MR. MAC EACHERN EVER SHARED WITH YOU, CORRECT?

8 A CORRECT.

9 Q WERE YOU AWARE -- AGAIN, YOU -- YOU'VE TOLD  
10 US YOU WERE CONCERNED ABOUT YOUR DAUGHTER'S SYMPTOMS, THEY  
11 WERE GETTING WORSE, AND YOU DESCRIBED THE VARIOUS THINGS  
12 THAT -- THAT YOU WERE VERY CONCERNED ABOUT.

13 DID YOU HAVE KNOWLEDGE FROM TARA OR FROM  
14 DAVID THAT TARA HAD A HISTORY OF USING RECREATIONAL DRUGS  
15 GOING BACK INTO HER TEENS? IS THAT SOMETHING YOU KNEW  
16 ABOUT?

17 A WHAT'S -- WHAT'S THE QUESTION?

18 Q THAT TARA USED ILLEGAL, ILLICIT DRUGS.

19 A NO, I NEVER KNEW THAT.

20 Q OKAY. THAT IS NOT SOMETHING THAT DAVID  
21 SHARED WITH YOU WHEN HE HAD CONVERSATIONS WITH YOU  
22 REGARDING HER HEALTH, HER MEDICATIONS, WHAT WAS GOING ON  
23 WITH HER, THAT DIDN'T COME UP?

24 A HE WASN'T WITH HER WHEN SHE WAS A TEENAGER;  
25 I WAS.

26 Q YOU WERE NOT AWARE THAT TARA ACTUALLY SAW A  
27 DR. CASSILETH, A PLASTIC SURGEON, IN 2009; IS THAT  
28 CORRECT?

1 AT THE TIME -- YOU WERE NOT AWARE AT THE  
2 TIME IN 2009 THAT TARA WENT AND HAD SOME PLASTIC COSMETIC  
3 PROCEDURES DONE?

4 A AFTERWARDS IN 2009.

5 Q OKAY. YOU FOUND OUT AFTER THE FACT, BUT  
6 ONLY BECAUSE YOU OBSERVED THAT TARA LOOKED A LITTLE  
7 DIFFERENT, CORRECT?

8 MS. MC BROOM: OBJECTION. RELEVANCE.

9 THE COURT: OVERRULED.

10 THE WITNESS: I SUSPECTED.

11 BY MS. TAZZARA:

12 Q TARA DID NOT TELL YOU THAT SHE WAS PLANNING  
13 TO HAVE PLASTIC SURGERY IN 2009, CORRECT, BEFORE SHE HAD  
14 IT?

15 A FROM TIME TO TIME, SHE WOULD MENTION CERTAIN  
16 THINGS ABOUT PLASTIC SURGERY.

17 MS. TAZZARA: I WOULD MOVE TO STRIKE THAT.

18 Q MY QUESTION IS: DID SHE TELL YOU BEFORE MAY  
19 2009 THAT SHE WAS GOING TO GO IN AND HAVE A BREAST  
20 PROCEDURE DONE, BEFORE SHE HAD THE SURGERY?

21 A NO.

22 Q AND THE SAME THING, DID SHE GO AND TELL YOU  
23 IN 2009, BEFORE SHE HAD A REDO PROCEDURE, THAT SHE WAS  
24 GOING TO HAVE THE PROCEDURE DONE?

25 A NO.

26 Q AND IS IT FAIR TO SAY THAT TARA WOULD NOT  
27 NECESSARILY TELL YOU EVERYTHING THAT WAS GOING ON IN HER  
28 LIFE, INCLUDING WITH RESPECT TO HER MEDICATION AND HER



1 DOCTORS' VISITS?

2 A YES.

3 Q AND HAVE YOU COME TO LEARN THAT, IN FACT,  
4 MR. MAC EACHERN ALSO WAS NOT TELLING YOU A LOT OF THINGS  
5 THAT WERE GOING ON BOTH WITH TARA'S MEDICAL CONDITION AND  
6 WITH RESPECT TO DRUGS AND MEDICATION SHE WAS TAKING?

7 MS. MC BROOM: OBJECTION. LACKS FOUNDATION AND  
8 ARGUMENTATIVE.

9 THE COURT: OVERRULED.

10 THE WITNESS: CAN YOU REPEAT THE QUESTION?

11 MS. TAZZARA: YES.

12 Q YOU LEARNED AT SOME POINT THAT  
13 MR. MAC EACHERN ALSO WAS NOT CANDID WITH YOU AND DID NOT  
14 TELL YOU EVERYTHING THAT WAS GOING ON WITH TARA'S MEDICAL  
15 CONDITION AND WITH MEDICATION SHE WAS TAKING?

16 A YES.

17 Q OUT OF YOUR CONCERN -- AND YOU TOLD US THAT  
18 YOU'VE HAD A LOT OF CONCERN BASED UPON NOT ONLY THE  
19 SYMPTOMS THAT TARA HAD, BUT ALSO THE FACT THAT SHE WAS  
20 SAYING THINGS ABOUT LIKE SHE DIDN'T WANT TO DO THIS  
21 ANYMORE, AND SHE DIDN'T WANT TO LIVE, WHEN SHE WOULD MAKE  
22 THOSE COMMENTS, DID YOU EVER PICK UP THE PHONE AND CALL --  
23 I'M NOT TALKING JUST ABOUT 2010 NOW, BUT DID YOU EVER CALL  
24 DR. BOHN IN 2007 OR 2008 OR -- DURING THOSE TIMES?

25 A YES.

26 Q AND DID YOU EVER CALL DR. BOHN -- WE HEARD  
27 YOUR TESTIMONY ON DIRECT THAT YOU MADE A PHONE CALL IN  
28 MARCH OF -- MARCH 15, 2010, CORRECT?

1           A           YES.

2           Q           DID YOU EVER CALL DR. BOHN ON ANOTHER  
3 OCCASION TO REPORT YOUR SPECIFIC CONCERN THAT TARA WAS  
4 HAVING TERRIBLE SYMPTOMS, AND THAT SHE DIDN'T WANT TO LIVE  
5 OR SOMETHING TO THAT EFFECT, THAT SHE COULDN'T TAKE IT ANY  
6 LONGER?

7           A           NOT THAT -- NOT THAT PARTICULAR MESSAGE.

8           Q           OKAY. AND, NOW, DR. LATIMER IS A DOCTOR WHO  
9 IS A PSYCHIATRIST IN NEW JERSEY.

10                    AND IF I UNDERSTAND IT CORRECTLY, THAT  
11 DOCTOR, YOU WOULD KIND OF GET TARA TO GO AND -- GO TO SOME  
12 VISITS WHEN SHE VISITED AT CHRISTMASTIME?

13           A           YES.

14           Q           AND DID YOU EVER -- DR. LATIMER HAD AT LEAST  
15 ONE COMMUNICATION WITH DR. BOHN AT YOUR REQUEST, IS THAT  
16 TRUE, AT SOME POINT IN TIME?

17           A           HE -- HE REQUESTED IT.

18           Q           OKAY. DID YOU EVER -- APART FROM THAT  
19 CONVERSATION, DID YOU EVER ASK DR. LATIMER TO CALL  
20 DR. BOHN OR TO CALL ANY OTHER PSYCHIATRIST WHO TARA HAD  
21 OUT IN CALIFORNIA BECAUSE OF YOUR CONCERN ABOUT HER  
22 WELFARE AND THAT SHE WASN'T, AS YOU SAY, GETTING BETTER?

23           A           NO. I DIDN'T THINK OF THAT.

24           Q           OKAY. DID YOU EVER CALL DR. -- DID YOU KNOW  
25 DR. RAMIN?

26           A           NO.

27           Q           OKAY. YOU KNEW -- BEFORE TARA'S DEATH, YOU  
28 KNEW THAT SHE HAD SEEN A RHEUMATOLOGIST, CORRECT?

1 A YES.

2 Q AND DID YOU KNOW IT WAS DR. SHAINSKY? DID  
3 YOU KNOW THAT NAME?

4 A I BELIEVE SO.

5 Q AND DID YOU EVER -- IN THOSE MONTHS,  
6 FEBRUARY OR MARCH, DID YOU EVER PICK UP THE PHONE AND CALL  
7 DR. SHAINSKY DURING THOSE TIMES THAT YOU WERE DESCRIBING  
8 THAT YOU WERE CONCERNED ABOUT HOW SHE WAS FEELING IN THOSE  
9 MONTHS, IN FEBRUARY 2010 AND MARCH 2010?

10 A NO.

11 Q AND PARDON ME FOR JUMPING AROUND A LITTLE  
12 BIT, BUT NOW I'M GOING TO JUMP BACK TO MOUNTAINSIDE IN NEW  
13 JERSEY, SO I'M TAKING YOU BACK TO DECEMBER 2009. ALL  
14 RIGHT.

15 YOU HAD TOLD US THAT TARA WAS -- HAD A  
16 HOSPITALIZATION FOR SEVERAL DAYS AT MOUNTAINSIDE BASED  
17 UPON A CALL FROM DR. -- YOU MADE TO DR. LATIMER'S OFFICE,  
18 CORRECT?

19 A YES.

20 Q AND WHEN TARA GOT OUT OF THAT HOSPITAL, SHE  
21 WAS STILL -- THE DATE I HAVE IS DECEMBER 8, AND I  
22 UNDERSTAND THAT TARA REMAINED IN NEW JERSEY FOR THE  
23 HOLIDAYS UNTIL THE 25TH; DOES THAT SOUND RIGHT?

24 A YES.

25 Q AND AFTER SHE WAS IN THAT HOSPITAL, YOU FELT  
26 WHEN SHE CAME OUT, SHE WAS DOING BETTER, SHE WAS -- YOU  
27 SAID SHE WAS MORE IN CONTROL, GENERALLY?

28 A WELL, SHE WENT TO AN OUTPATIENT FACILITY.

1 Q SHE WENT TO AN OUTPATIENT FACILITY FOR A FEW  
2 DAYS AFTER THE HOSPITALIZATION?

3 A YES.

4 Q OKAY. AND SHE WAS AT HOME THEN UNTIL THE  
5 25TH, AND DURING THAT TIME, SHE WAS, TO YOUR OBSERVATION,  
6 MORE IN CONTROL? DO YOU REMEMBER?

7 A NO, I WOULDN'T SAY THAT, NO. I DON'T THINK  
8 SO. NO, SHE -- NO.

9 Q SHE WAS BETTER CONNECTED? DO YOU REMEMBER  
10 FEELING AND OBSERVING THAT ONCE SHE GOT OUT OF THE  
11 HOSPITAL THAT SHE WAS MORE CONNECTED WITH THE PEOPLE  
12 AROUND HER AND CONVERSING AND DOING BETTER GENERALLY, IN  
13 THAT SENSE?

14 A MAYBE IN THE BEGINNING.

15 Q WELL, BETWEEN THE 8TH AND THE 25TH, WAS SHE  
16 MORE CONNECTED DURING THAT TIME?

17 A NOT FOR THAT FULL TIME, NO.

18 Q ALL RIGHT. I'M GOING TO ASK YOU -- YOU  
19 REMEMBER GIVING A DEPOSITION IN THIS CASE?

20 A YES.

21 Q AND IT WAS TAKEN ON JANUARY 24, 2012, WHICH  
22 WAS ALMOST TWO YEARS AGO NOW.

23 DO YOU REMEMBER THAT?

24 A RIGHT.

25 Q AND DO YOU REMEMBER I ASKED YOU THIS  
26 QUESTION AND ANSWER, AND I JUST WANT TO SEE IF THIS  
27 REFRESHES YOUR RECOLLECTION.

28 "QUESTION: HOW WAS TARA, TO YOUR

1           OBSERVATION, DURING THAT WEEK SHE GOT OUT OF  
2           THE HOSPITAL, [COMPARED TO] THE WAY SHE WAS  
3           ACTING AND THE WAY SHE APPEARED TO YOU  
4           BEFOREHAND TO THE WAY SHE WAS AFTER?

5                   "ANSWER: SHE SEEMED [BETTER] -- [SHE  
6           SEEMED] -- SHE SEEMED -- SHE SEEMED BETTER  
7           CONNECTED.

8                   "QUESTION: WAS SHE GETTING UP IN THE  
9           MIDDLE OF THE NIGHT AND DOING ACTIVITIES LIKE  
10          STAYING UP AT ODD HOURS?

11                   "ANSWER: NO.

12                   "QUESTION: WHEN YOU SAY 'BETTER  
13          CONNECTED, ' SHE WAS ABLE TO HOLD A  
14          CONVERSATION WITH YOU IN MORE NORMAL FASHION?

15                   "ANSWER: YES."

16                   DO YOU REMEMBER THAT TESTIMONY?

17          A           OKAY. I DO NOW.

18          Q           IS IT FAIR TO SAY THAT DURING THAT  
19          HOSPITALIZATION, IF WE JUST LOOK AT THAT TIME PERIOD FROM  
20          THE 8TH TO THE 25TH, THAT THERE WERE TIMES -- WE TALKED  
21          ABOUT HIGHS AND LOWS, BUT THERE WERE TIMES SHE WAS DOING  
22          REALLY WELL; IS THAT TRUE?

23                   A           SHE WOULD -- SHE APPEARED TO BE -- IF YOU  
24          DIDN'T KNOW THAT SHE WAS HEARING VOICES, I DON'T THINK  
25          THAT YOU WOULD GET THAT IMPRESSION LOOKING AT HER, THAT AS  
26          YOU'RE LOOKING AT HER AND TALKING THAT SHE'S ACTUALLY  
27          HEARING YOU, BUT HEARING OTHER VOICES AT THE SAME TIME,  
28          UNLESS SHE TOLD YOU THAT.

1 Q SO AM I CORRECT THAT THERE WERE TIMES THAT  
2 SHE SEEMED TO BE DOING REALLY WELL DURING THAT TIME  
3 PERIOD?

4 A SHE NEVER -- NO, NOT IN -- NOT IN TERMS OF  
5 REALLY WELL. SHE WAS HAVING PSYCHOTIC BREAKS. SHE WASN'T  
6 NOT DOING WELL.

7 Q DID SHE SOCIALIZE WITH FAMILY AND FRIENDS  
8 DURING THE HOLIDAYS?

9 A SHE TRIED. SHE TRIED.

10 Q IN FACT, DID SHE -- SHE HAD SOME -- SHE  
11 DEMONSTRATED SOME HOPE AND OPTIMISM FOR THE FUTURE AT  
12 TIMES DURING THE HOLIDAYS?

13 A NO. SHE WAS REALLY SICK.

14 Q DO YOU RECALL THAT SHE LEFT OR GAVE --  
15 EITHER LEFT A CARD OR GAVE HER BROTHER A CHRISTMAS CARD IN  
16 DECEMBER '09 THAT SAID SOMETHING TO THE EFFECT OF HOW MUCH  
17 SHE LOVED HIM, AND THAT SHE LOOKED FORWARD TO LIVING HER  
18 LIFE AND SHARING HER LIFE WITH HIM LIKE BROTHER AND SISTER  
19 TO SEE WHERE THEIR LIVES WOULD GO?

20 A THAT WAS A BIRTHDAY CARD.

21 Q THAT WAS GIVEN TO HIM AROUND THAT TIME  
22 PERIOD?

23 A THE END OF NOVEMBER.

24 Q OKAY. NOW, WHEN TARA WENT BACK TO  
25 LOS ANGELES, YOU UNDERSTOOD THAT SHE WANTED TO GET TO THE  
26 BOTTOM OF SOME OF HER SYMPTOMS; IS THAT TRUE?

27 A YES. SHE WAS ON A MISSION.

28 Q OKAY. AND SHE HAD A GOAL THAT SHE WANTED TO

1 GET BETTER, YOU BELIEVED --

2 A ABSOLUTELY.

3 Q -- AS A MOTHER?

4 ONE OF THE THINGS -- ONE OF THE SYMPTOMS SHE  
5 WAS COMPLAINING ABOUT AT THAT TIME WAS FULL BODY PAIN,  
6 THAT HER ENTIRE BODY, THAT SHE WAS FEELING SOME TYPE OF  
7 PAIN.

8 DO YOU RECALL THAT?

9 A IN 2010?

10 Q YES, YES, IN JANUARY --

11 A YES. SHE --

12 Q -- 2010.

13 A -- SHE WAS SAYING THAT -- FOR A COUPLE  
14 YEARS, SHE WAS SAYING THAT SHE HAD PAINS AND THINGS  
15 CRAWLING ON HER. AND, LIKE I SAID, IT'S -- IT'S  
16 PROGRESSIVE. IT'S A PROGRESSIVE DISEASE.

17 Q OKAY. SO SHE -- YOU HAD AN UNDERSTANDING  
18 THAT SHE WAS SEEKING CARE WITH A PAIN MANAGEMENT DOCTOR TO  
19 TRY TO GET TO THE HEART OF WHAT WAS GOING ON WITH HER  
20 PAIN?

21 A NO.

22 Q YOU DID NOT KNOW THAT AT THE TIME?

23 A NO.

24 Q OKAY. WERE YOU AWARE THAT A PAIN MANAGEMENT  
25 DOCTOR, DR. SPIEGEL, GAVE HER A DIAGNOSIS -- OR WORKING  
26 DIAGNOSIS OF FIBROMYALGIA IN JANUARY OF 2010?

27 MS. MC BROOM: OBJECTION. LACKS FOUNDATION.

28 THE WITNESS: I --

1 THE COURT: SUSTAINED.

2 THE WITNESS: I DON'T --

3 THE COURT: I'M SORRY. SUSTAINED.

4 MS. MC BROOM: SUSTAINED.

5 BY MS. TAZZARA:

6 Q YOU WERE AWARE THAT TARA AND DAVID WENT TO  
7 SEE DR. RAMIN; IS THAT TRUE?

8 A I DIDN'T KNOW HIS NAME.

9 Q YOU KNEW THAT THEY BEEN TO SEE A GENERAL  
10 PRACTICE DOCTOR?

11 A I KNOW -- I KNEW THAT SHE WAS -- SHE WAS  
12 GOING -- SHE WENT FOR AN M.R.I., SHE WENT TO A  
13 NEUROLOGIST, AND SHE WENT TO OTHER DOCTORS I DIDN'T KNOW  
14 SPECIFICALLY.

15 Q AND THAT WAS SOMEWHAT REASSURING TO YOU  
16 BECAUSE YOU SAW THAT TARA WAS UNDERTAKING STEPS TO TRY TO  
17 GET BETTER AND UNDERGO CERTAIN TYPES OF TESTING?

18 A SHE ALWAYS WAS LIKE THAT.

19 Q OKAY. AND AT SOME POINT, YOU LEARNED THAT  
20 TARA WAS -- YOU TOLD US WAS SEEING DR. SHAINSKY, WHO IS A  
21 RHEUMATOLOGIST, AND YOU LEARNED -- JUST TO SUMMARIZE, YOU  
22 LEARNED THAT SHE WENT TO DR. SHAINSKY AND FELT BETTER  
23 AFTER THE FIRST VISIT WHEN SHE GOT THOSE CORTISONE SHOTS  
24 TO HER BODY?

25 A YES.

26 Q THAT'S SOMETHING THAT YOU LEARNED FROM TARA,  
27 TOO?

28 A YES.



1 Q AND THAT WAS REASSURING TO YOU, CORRECT?

2 A I WAS -- I WAS GLAD THAT SHE GAVE ME A GOOD  
3 REPORT, YES.

4 Q AND YOU ALSO LEARNED FROM TARA ON MARCH 1ST,  
5 2010, WHEN SHE HAD HER SECOND VISIT WITH DR. SHAINSKY,  
6 THAT SHE HAD THAT SHOT AGAIN, THAT THE FIRST SHOT HAD KIND  
7 OF WORN OFF, BUT SHE HAD THE SHOT -- SHOTS AGAIN AND IT  
8 HELPED HER AND MADE HER FEEL BETTER AGAIN? SHE TOLD YOU  
9 THAT?

10 A I'M NOT TOO SURE IF THAT WAS LIKE A DETAILED  
11 CONVERSATION AS IT WAS THE FIRST TIME.

12 Q OKAY. BUT DO YOU REMEMBER LEARNING THAT SHE  
13 FELT BETTER AGAIN FROM SOME INJECTIONS?

14 A I DON'T RECOLLECT THAT.

15 Q OKAY. DO YOU REMEMBER THAT YOU LEARNED THAT  
16 TARA WAS ON -- WAS GIVEN THE MEDICATION CYMBALTA, WHICH  
17 WAS ANOTHER WAY TO TREAT FIBROMYALGIA OTHER THAN  
18 NARCOTICS?

19 A I KNEW THAT.

20 Q OKAY. DID YOU KNOW SHE WAS GIVEN CYMBALTA  
21 BY DR. SHAINSKY?

22 A YES.

23 Q OKAY. AND THAT DR. SHAINSKY RECOMMENDED  
24 POOL THERAPY, DID YOU LEARN THAT FROM TARA?

25 A I'M NOT SURE.

26 Q AND DID YOU LEARN THAT THE GOAL WAS  
27 ULTIMATELY TO GET TARA OFF NARCOTICS?

28 A I DIDN'T KNOW WHAT THE GAME PLAN WAS, NO.

1 Q I'M SORRY. YOU DIDN'T KNOW WHAT?

2 A WHAT THE GAME PLAN WAS.

3 Q OKAY. OKAY. NOW, AT THIS TIME, LET'S --  
4 I'M JUST GOING TO KIND OF STOP AT MARCH 1 OF 2010.

5 TARA HAD OTHER KIND OF PLANS IN THE WORKS  
6 AND THINGS SHE WAS DOING AND, NUMBER ONE, YOU HAD KIND OF  
7 GIVEN HER THE GIFT OF CLASSES WITH THE STELLAR -- I'M  
8 SORRY, I KNEW I WAS GOING TO SAY THAT -- STELLA ADLER  
9 ACTING SCHOOL?

10 A YES.

11 Q AND SHE HAD TAKEN A COURSE OF ACTING AND  
12 THEN THERE WAS LIKE A WEEK BREAK, AND THEN AT THE SAME  
13 SCHOOL SHE WAS STARTING A SPEECH CLASS, AND THIS IS DURING  
14 THE JANUARY TO MARCH 2010 TIME PERIOD, CORRECT?

15 A YES.

16 Q AND THAT IS KIND OF A RIGOROUS, KIND OF  
17 SPECIAL SCHOOL WHERE YOU HAVE TO -- YOU HAVE TO GO TO  
18 CLASS, YOU'VE GOT TO GO LIKE WHATEVER, TWO OR THREE TIMES  
19 A WEEK, WHATEVER IT IS, AND YOU CAN ONLY MISS A CERTAIN  
20 NUMBER OF CLASSES; IS THAT TRUE?

21 A YEAH. I THINK IT WAS -- WELL, THE SPEECH  
22 WAS ONE -- ONCE A WEEK AND THE ACTING WAS, I BELIEVE,  
23 TWICE A WEEK.

24 Q AND YOU COULD -- DID YOU REMEMBER LEARNING  
25 THAT YOU COULD ONLY MISS A CLASS OR SOMETHING AND --

26 A YES.

27 Q -- AND THEN YOU COULDN'T CONTINUE?

28 AND TARA WORKED HARD TO MAKE SURE, TO YOUR

1 KNOWLEDGE, THAT SHE DIDN'T GET KICKED OUT OF THE PROGRAM,  
2 SHE WAS ABLE TO GO TO CLASSES, CORRECT?

3 A SHE MADE THE CLASSES, YEAH.

4 Q DID YOU LEARN THAT SHE REALLY ENJOYED THOSE  
5 CLASSES?

6 A YES.

7 Q SHE LOVED THE COSTUMES AND THE --

8 A SHE LOVED COSTUMES.

9 Q -- AND THE COURSE WORK AND THE INTERACTIONS  
10 AND THE STUDIES, CORRECT?

11 A YES.

12 Q AND SHE CONTINUED WITH THOSE CLASSES RIGHT  
13 UP UNTIL THE WEEK OF HER DEATH; ISN'T THAT TRUE?

14 A YES.

15 Q NOW, DURING THAT SAME TIME PERIOD, THERE WAS  
16 ANOTHER THING GOING ON WITH TARA AND THAT WAS THAT SHE WAS  
17 MAKING HER CONFIRMATION --

18 A YES.

19 Q -- IN THE CATHOLIC CHURCH, CORRECT?

20 A YES.

21 Q AND THAT INVOLVED A SERIES OF CLASSES, ALSO;  
22 AM I CORRECT ABOUT THAT?

23 A YES.

24 Q SHE WOULD GO TO A CLASS -- DO YOU KNOW IF  
25 SHE WENT TO ONE CLASS OR TWO CLASSES PER WEEK, AND THIS IS  
26 DURING THE TIME PERIOD OF -- I WANT TO SAY FEBRUARY AND  
27 MARCH 2010?

28 A CATECHISM.

1 Q CATECHISM. OKAY.

2 AND DID YOU LEARN FROM TARA THAT SHE WAS  
3 GOING TO THOSE CLASSES?

4 A YES.

5 Q AND DID SHE ENJOY AND GET A LOT OUT OF THOSE  
6 CLASSES, TO YOUR KNOWLEDGE?

7 A YES.

8 Q AND, IN FACT, WHAT SHE WAS PLANNING FOR WAS  
9 THAT SHE WAS GOING TO HAVE HER -- IT WAS HER CONFIRMATION  
10 WAS GOING TO BE ON APRIL 3RD OF 2010, CORRECT?

11 A YES.

12 Q OKAY. AND THAT WAS A SPECIAL OCCASION, AND  
13 YOU WERE -- ACTUALLY HAD PLANS TO FLY OUT --

14 A YES.

15 Q -- FOR THE APRIL 3RD EVENT?

16 A AND FAMILY, ALSO.

17 Q OKAY. AND SO IT WAS GOING TO BE SOMEWHAT OF  
18 A CELEBRATION FOR TARA, CORRECT?

19 A YES.

20 Q AND, TO YOUR KNOWLEDGE, TARA KEPT GOING TO  
21 THOSE CLASSES RIGHT UP UNTIL CLOSE TO THE TIME OF HER  
22 DEATH, CORRECT? IF YOU KNOW.

23 A SHE -- SHE QUALIFIED. SHE WAS CONFIRMED  
24 AFTER SHE PASSED, SO SHE DID -- HAVE TO HAVE GONE TO THOSE  
25 CLASSES.

26 Q WELL, OKAY. SO THE BEST -- TO THE BEST YOU  
27 KNOW, YOU BELIEVE SHE CONTINUED TO GO TO THOSE CLASSES --

28 A YES.

1 Q -- UNTIL HER DEATH?

2 A YES.

3 Q NOW, THERE WAS ANOTHER EVENT THAT WAS IN THE  
4 WORKS, AND THAT WAS A PLASTIC SURGERY PROCEDURE WITH A  
5 DR. CASSILETH.

6 WERE YOU AWARE, DURING THE TIME THAT TARA  
7 WAS ALIVE, FROM TARA, FROM DAVID OR FROM ANY SOURCE THAT  
8 TARA HAD A SURGERY TO HAVE HER EYES DONE SCHEDULED FOR  
9 MARCH 26TH ON 2010? DID YOU KNOW THAT AT THE TIME?

10 A NO.

11 Q DID YOU KNOW -- THAT IS NOT SOMETHING DAVID  
12 SHARED WITH YOU BEFORE TARA'S DEATH, CORRECT?

13 A NO.

14 Q DID YOU KNOW THAT -- GO BACK.

15 AT ONE POINT, YOU LEARNED THAT TARA HAD  
16 GOTTEN BACK IN TOUCH WITH A GENTLEMAN BY THE NAME OF -- A  
17 GENTLEMAN BY THE NAME OF NIELS KANTOR? DO YOU RECALL  
18 THAT?

19 A YES.

20 Q YOU'VE HEARD TESTIMONY THAT THEY HAD A  
21 RELATIONSHIP IN THE PAST AND THINGS MOVED ON, SHE DID NOT  
22 SEE HIM.

23 HOWEVER, YOU RECALL THAT THERE WAS A TIME IN  
24 2009 WHEN THEY RECONNECTED IN SOME WAY, CORRECT?

25 A I THINK IT WAS 2010.

26 Q DO YOU REMEMBER THAT IT WAS AUGUST 2009 THAT  
27 YOU REALIZED THAT THEY WERE FACEBOOK FRIENDS?

28 A I -- I -- I -- THAT'S HOW I --

1 Q THAT'S HOW YOU --

2 A THAT'S HOW I KNEW. I -- I CAN'T REMEMBER IF  
3 IT WAS AUGUST 2009.

4 Q OKAY. DO YOU -- OKAY.

5 DO YOU RECALL THAT -- CONFRONTING TARA A BIT  
6 ABOUT THE FACT SHE WAS IN CONTACT WITH MR. KANTOR AGAIN,  
7 WHENEVER THAT WAS, WHEN YOU REALIZED THEY WERE FACEBOOK  
8 FRIENDS?

9 WERE YOU NOT HAPPY THAT THEY WERE HAVING  
10 SOME CONNECTION AGAIN; IS THAT TRUE?

11 MS. MC BROOM: OBJECTION. RELEVANCE.

12 THE COURT: OVERRULED AT THIS POINT.

13 MS. TAZZARA: I DON'T THINK THE WITNESS HAS  
14 ANSWERED.

15 THE COURT: PARDON?

16 MR. NEWHOUSE: SHE HASN'T ANSWERED.

17 THE WITNESS: OH, I'M SORRY.

18 BY MS. TAZZARA:

19 Q WOULD YOU LIKE ME TO REPEAT IT?

20 A YES.

21 Q DID YOU -- YOU KNEW THAT -- YOU CONFRONTED  
22 TARA OR HAD SOME CONVERSATION WITH HER, ANYWAY, ABOUT THE  
23 FACT THAT SHE HAVING CONTACT WITH MR. KANTOR, AT LEAST BY  
24 FACEBOOK?

25 A WELL, SHE LET HIM BE FRIENDS WITH HER.

26 Q OKAY. AND IN -- BACK TO JANUARY, FEBRUARY,  
27 MARCH 2010, AS WE'RE SPEAKING OF RIGHT NOW, DID YOU BECOME  
28 AWARE OF THE FACT, AT ANY TIME BEFORE TARA DIED, THAT, IN

1 FACT, THAT TARA WAS HAVING A SERIES OF CALLS AND E-MAIL --  
2 I'M SORRY -- TEXT CONVERSATIONS WITH NIELS KANTOR  
3 REGARDING THE SALE OF AN ART OBJECT?

4 A NO.

5 Q WERE THERE IN YOUR FAMILY -- STRIKE THAT.  
6 WERE YOU AWARE THAT TARA OWNED ANDY WARHOL  
7 PAINTINGS?

8 A YES. SHE HAD TWO.

9 Q WERE THEY PART OF THE FAMILY PAINTINGS OR  
10 SOMETHING THAT SHE --

11 A NO. SHE EARNED THOSE ON HER OWN.

12 Q OKAY. AND I TAKE IT IT'S YOUR TESTIMONY YOU  
13 HAD NO KNOWLEDGE THAT TARA WAS ATTEMPTING TO SELL THOSE  
14 PAINTINGS TO MR. KANTOR PRIOR -- JUST IN THE DAYS PRIOR TO  
15 HER DEATH TO RECEIVE SOME FUNDS?

16 MS. MC BROOM: OBJECTION. ASKED AND ANSWERED.

17 THE COURT: OVERRULED.

18 WERE YOU AWARE OF THAT?

19 THE WITNESS: NO.

20 BY MS. TAZZARA:

21 Q ON MARCH 22ND, YOU HAD ONE PHONE CALL  
22 WITH -- YOU TOLD US ABOUT SPEAKING WITH TARA THAT MORNING,  
23 AND YOU TOLD -- WE HEARD FROM MR. MAC EACHERN, AND I'M  
24 GOING TO ASK YOU, DO YOU RECALL SPEAKING WITH DAVID  
25 MAC EACHERN SOMETIME DURING THAT DAY WHEN HE WAS STILL,  
26 APPARENTLY, IN DR. SHAINSKY'S OFFICE JUST AT THE  
27 CONCLUSION OF --

28 A YES.

1 Q -- THAT VISIT?

2 AND WE HEARD HIS TESTIMONY HERE IN COURT,  
3 BUT DO YOU REMEMBER SOMETHING TO THE EFFECT OF DAVID  
4 STATING THAT HE WAS VERY BROAD OF TARA BECAUSE SHE HAD  
5 BROUGHT HER PILL BOTTLES TO DR. SHAINSKY SO THAT SHE COULD  
6 SEE WHAT DRUGS SHE WAS ON AND WHAT MIGHT BE INTERACTING,  
7 WHATEVER?

8 A THAT'S WHAT I TOLD HER TO DO THAT MORNING.  
9 I TOLD HER TO DO THAT.

10 Q AND YOU WERE SOMEWHAT RELIEVED -- YOU HAD  
11 CONCERN THAT MORNING -- YOU WERE SOMEWHAT RELIEVED TO HEAR  
12 THE INFORMATION THAT DAVID GAVE YOU ON THAT PHONE CALL AT  
13 LEAST?

14 A YES.

15 Q AND YOU -- YOU HAD ADVISED TARA, HAD YOU  
16 NOT, THAT -- IN PAST CALLS WHERE SHE WAS TALKING ABOUT HOW  
17 ILL SHE FELT AND THAT SHE COULDN'T STAND THE PAIN, SHE  
18 JUST WANTED TO DIE, YOU HAD TOLD HER, "IF YOU EVER FEEL  
19 THAT BAD, YOU GO RIGHT TO THE EMERGENCY ROOM"? YOU TOLD  
20 HER THAT, CORRECT?

21 A YES.

22 Q AND DID YOU TELL HER THAT THAT MORNING ON  
23 MARCH 22ND TO GO TO THE EMERGENCY ROOM?

24 A NO.

25 Q NOW, YOU WANTED TO ACTUALLY SPEAK WITH TARA  
26 AND GET MORE INFORMATION ON MARCH 22ND AFTER THAT CALL  
27 WITH DAVID --

28 A I WANTED TO SPEAK TO THE DOCTOR. THAT'S WHY



1 I WAS CALLING.

2 Q OKAY. YOU DID NOT CALL DR. SHAINSKY ON THE  
3 22ND, CORRECT?

4 A NO. I CALLED TARA'S PHONE WHILE SHE WAS IN  
5 THE OFFICE.

6 Q RIGHT.

7 AND, ACTUALLY, TARA DID NOT PICK UP THE  
8 PHONE?

9 A THAT'S CORRECT.

10 Q AND AFTERWARDS, YOU SAID YOU MADE A NUMBER  
11 OF CALLS -- YOU ACTUALLY MADE TWO PHONE CALLS IN THE  
12 EVENING TO DAVID MAC EACHERN AND TARA'S HOUSE TO THEIR  
13 LANDLINE.

14 DO YOU REMEMBER THAT?

15 A I BELIEVE SO, YES. I KNOW I MADE AT LEAST  
16 ONE.

17 Q OKAY. AND YOUR ESTIMATE WAS THAT YOU WANTED  
18 TO SPEAK WITH, ESSENTIALLY, TARA AND/OR DAVID AND FIND OUT  
19 HOW THE DAY WENT, CORRECT?

20 A YES.

21 Q AND YOU WANTED TO DO THAT BEFORE YOU WENT TO  
22 SLEEP --

23 A YES.

24 Q -- ON THE 22ND.

25 AND YOUR BEST ESTIMATE WAS IT WAS SOMEWHERE  
26 BETWEEN 11:00 AND 11:30 EAST COAST TIME, CORRECT, BEFORE  
27 YOU WENT TO SLEEP?

28 A RIGHT.

1 Q OKAY. AND THAT WOULD HAVE BEEN AROUND 8:00  
2 OR 8:30 PACIFIC TIME, CORRECT?

3 A THAT'S CORRECT.

4 Q WHEN YOU MADE THE -- YOU SAID YOU DON'T KNOW  
5 IF IT'S ONE OR TWO CALLS, BUT WHEN YOU MADE THE CALL, NO  
6 ONE ANSWERED THE PHONE, DID THEY?

7 A NO.

8 Q AND YOU BELIEVE THAT YOU LEFT A MESSAGE ON  
9 THE PHONE?

10 A I THINK SO, YEAH.

11 MS. TAZZARA: I HAVE NOTHING FURTHER.

12 THE COURT: REDIRECT?

13 MS. MC BROOM: NO, YOUR HONOR.

14 THE COURT: THANK YOU VERY MUCH.

15 THE WITNESS: THANK YOU.

16 THE COURT: YOU MAY STEP DOWN.

17 ARE WE DONE FOR THE DAY?

18 MR. NEWHOUSE: I THINK, YOUR HONOR, THIS MIGHT BE A  
19 SUITABLE TIME.

20 THE COURT: OKAY. WE'RE GOOD, LADIES AND  
21 GENTLEMEN, LET'S TAKE OUR WEEKEND RECESS UNTIL NINE  
22 O'CLOCK MONDAY MORNING. HAVE A GREAT WEEKEND.

23 AGAIN, PLEASE REMEMBER THE ADMONITION OF THE  
24 COURT. DO NOT DISCUSS THE FACTS OF THIS CASE AMONGST  
25 YOURSELVES OR WITH ANYBODY ELSE. DO NOT FORM ANY OPINIONS  
26 OR CONCLUSIONS ON THIS MATTER UNTIL IT'S FINALLY SUBMITTED  
27 TO YOU. COURT'S IN RECESS UNTIL 9:00 A.M.

28

1 (AT 4:14 P.M. THE PROCEEDINGS WERE  
2 ADJOURNED UNTIL MONDAY, NOVEMBER 4,  
3 2013, 9:00 A.M.)  
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