



**MASTER DOCKET CASE NO.: 19-CV-01717**

**IN RE: WATTS COORDINATED**


**PRETRIAL PROCEEDINGS**


**DEPONENT:**

**DR. ALEXANDER OBOLSKY**

**DATE:**

**MAY 22, 2024**

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF  
3                   ILLINOIS EASTERN DIVISION  
4                   JUDGE FRANKLIN U. VALDERRAMA  
5                   MAGISTRATE JUDGE SHEILA M. FINNEGAN  
6                   MASTER DOCKET CASE NO.: 19-CV-01717  
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8                   IN RE: WATTS COORDINATED  
9                   PRETRIAL PROCEEDINGS  
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23   DEPONENT:   DR. ALEXANDER OBOLSKY

24   DATE:       MAY 22, 2024

25   REPORTER:   KORTNEY CHASE

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| <p style="text-align: right;">Page 2</p> <p style="text-align: center;">APPEARANCES</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS, RICKEY HENDERSON, SHAUN</p> <p>4 JAMES, JAMAR LEWIS, TAURUS SMITH:</p> <p>5 Scott Rauscher, Esquire</p> <p>6 Loevy &amp; Loevy</p> <p>7 311 North Aberdeen Street</p> <p>8 Third Floor</p> <p>9 Chicago, Illinois 60607</p> <p>10 Telephone No.: (312) 243-5900</p> <p>11 E-mail: scott@loevy.com</p> <p>12 (Appeared via videoconference)</p> <p>13</p> <p>14 ON BEHALF OF THE PLAINTIFFS, FLAXMAN PLAINTIFFS:</p> <p>15 Joel Flaxman, Esquire</p> <p>16 Kenneth Flaxman, Esquire</p> <p>17 Kenneth N. Flaxman, P.C.</p> <p>18 200 South Michigan Avenue</p> <p>19 Suite 201</p> <p>20 Chicago, Illinois 60604</p> <p>21 Telephone No.: (312) 427-3200</p> <p>22 E-mail: jaf@kenlaw.com</p> <p>23 knf@kenlaw.com</p> <p>24 (Appeared via videoconference)</p> <p>25</p> | <p style="text-align: right;">Page 4</p> <p style="text-align: center;">APPEARANCES (CONTINUED)</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANTS, MATTHEW CADMAN, MICHAEL</p> <p>4 SPAARGARN:</p> <p>5 Michael Schalka, Esquire</p> <p>6 Leinenweber Baroni &amp; Daffada LLC</p> <p>7 120 North LaSalle Street</p> <p>8 Suite 2000</p> <p>9 Chicago, Illinois 60602</p> <p>10 Telephone No.: (866) 786-3705</p> <p>11 E-mail: mjs@ilesq.com</p> <p>12 (Appeared via videoconference)</p> <p>13</p> <p>14 ON BEHALF OF THE DEFENDANT, CITY OF CHICAGO:</p> <p>15 Elizabeth Ekl, Esquire</p> <p>16 Burns Noland</p> <p>17 311 South Wacker Drive</p> <p>18 Suite 5200</p> <p>19 Chicago, Illinois 60606</p> <p>20 Telephone No.: (312) 982-0090</p> <p>21 E-mail: eekl@burnsnoland.com</p> <p>22 (Appeared via videoconference)</p> <p>23</p> <p>24</p> <p>25</p>              |
| <p style="text-align: right;">Page 3</p> <p style="text-align: center;">APPEARANCES (CONTINUED)</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANTS, ON BEHALF OF THE</p> <p>4 DEFENDANTS, ROBERT GONZALEZ, MANUEL LEANO, DOUGLAS</p> <p>5 NICHOLS, JUNIOR, CALVIN RIDGELL, GEROME SUMMERS,</p> <p>6 JUNIOR, LAMONICA LEWIS, JOHN RODRIGUEZ, ELSWORTH SMITH,</p> <p>7 ALVIN JONES, DARRYL EDWARDS, REBECCA BOGARD, BRIAN</p> <p>8 BOLTON, MIGUEL CABRALES, FRANKIE LANE:</p> <p>9 William Bazarek, Esquire</p> <p>10 Hale &amp; Monico</p> <p>11 Monadnock Building</p> <p>12 53 West Jackson Boulevard</p> <p>13 Suite 337</p> <p>14 Chicago, Illinois 60604</p> <p>15 Telephone No.: (312) 500-2951</p> <p>16 E-mail: web@halemonico.com</p> <p>17 (Appeared via videoconference)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>   | <p style="text-align: right;">Page 5</p> <p style="text-align: center;">APPEARANCES (CONTINUED)</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANT, KALLATT MOHAMMED:</p> <p>4 Sean Sullivan, Esquire</p> <p>5 Daley Mohan Groble</p> <p>6 55 West Monroe Street</p> <p>7 Suite 1600</p> <p>8 Chicago, Illinois 60603</p> <p>9 Telephone No.: (312) 422-9999</p> <p>10 E-mail: ssullivan@daleymohan.com</p> <p>11 (Appeared via videoconference)</p> <p>12</p> <p>13 ON BEHALF OF THE DEFENDANT, CALVIN RIDGELL:</p> <p>14 Timothy Scahill, Esquire</p> <p>15 Borkan &amp; Scahill LTD</p> <p>16 Two First National Plaza</p> <p>17 20 South Clark Street</p> <p>18 Suite 1700</p> <p>19 Chicago, Illinois 60603</p> <p>20 Telephone No.: (312) 603-1880</p> <p>21 E-mail: tscahill@borkanscahill.com</p> <p>22 (Appeared via videoconference)</p> <p>23</p> <p>24</p> <p>25</p> |

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| <p style="text-align: right;">Page 6</p> <p style="text-align: center;">APPEARANCES (CONTINUED)</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANT, RONALD WATTS:</p> <p>4 Lisa McElroy, Esquire</p> <p>5 Johnson &amp; Bell</p> <p>6 33 West Monroe Street</p> <p>7 Suite 2700</p> <p>8 Chicago, Illinois 60603</p> <p>9 Telephone No.: (312) 372-0770</p> <p>10 E-mail: lmcelroy@jbltd.com</p> <p>11 (Appeared via videoconference)</p> <p>12</p> <p>13 Also Present: Lo Ramanujam, Paralegal at Hale and</p> <p>14 Monico</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>   | <p style="text-align: right;">Page 8</p> <p style="text-align: center;">STIPULATION</p> <p>1</p> <p>2</p> <p>3 The VIDEO deposition of DR. ALEXANDER OBOLSKY was taken</p> <p>4 at KENTUCKIANA REPORTER, 110 NORTH WACKER DRIVE, SUITE</p> <p>5 2500, CHICAGO, ILLINOIS 60606, via videoconference in</p> <p>6 which all participants attended remotely, on WEDNESDAY</p> <p>7 the 22ND day of MAY 2024 at 10:32 a.m. (CT); said</p> <p>8 deposition was taken pursuant to the FEDERAL Rules of</p> <p>9 Civil Procedure. THE OATH IN THIS MATTER WAS SWORN</p> <p>10 REMOTELY PURSUANT TO FRCP 30.</p> <p>11</p> <p>12 It is agreed that KORTNEY CHASE, being a Notary Public</p> <p>13 and Digital Reporter for the State of ILLINOIS, may swear</p> <p>14 the witness and that the reading and signing of the</p> <p>15 completed transcript by the witness is not waived.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>  |
| <p style="text-align: right;">Page 7</p> <p style="text-align: center;">INDEX</p> <p>1</p> <p>2</p> <p>3 PROCEEDINGS</p> <p>4 DIRECT EXAMINATION BY MR. RAUSCHER</p> <p>5</p> <p>6</p> <p style="text-align: center;">EXHIBITS</p> <p>7 EXHIBIT</p> <p>8 1 - REPORT W/ ATTACHMENTS</p> <p>9 2 - DR. REDLICH REPORT</p> <p>10 3 - TRANSCRIPT SEPTEMBER 18, 2006 -</p> <p>11 PL JOINT 0004983-005017</p> <p>12 4 - UNREDACTED INVOICE - DO JOINT</p> <p>13 OBOLSKY 0005</p> <p>14 5 - NOTES - DO JOINT 124</p> <p>15 6 - POWER POINT FOR DEFENSIN WORKERS COMP</p> <p>16 7 - SUBPOENA FOR OBOLSKY</p> <p>17 8 - TRIBUNE ARTICLE</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 9</p> <p style="text-align: center;">PROCEEDINGS</p> <p>1</p> <p>2 THE REPORTER: We are now on the record. My</p> <p>3 name is Kortney Chase. I'm the online video</p> <p>4 technician and court reporter today representing</p> <p>5 Kentuckiana Reporters located at 110 North Wacker</p> <p>6 Drive, Chicago, Illinois 60606. Today's the 22nd</p> <p>7 day of May 2024, and the time is 10:32 a.m. Central</p> <p>8 Time. We are convened by videoconference to take</p> <p>9 the deposition of Dr. Alexander Obolsky in the</p> <p>10 matter of Watts coordinated pretrial proceedings</p> <p>11 pending in United States District Court Northern</p> <p>12 District of Illinois Eastern Division, master</p> <p>13 docket case number 19-CV-01717. Will everyone but</p> <p>14 the witness please state your appearance, how you</p> <p>15 are attending, and location you are attending from,</p> <p>16 starting with plaintiff's counsel?</p> <p>17 MR. RAUSCHER: Scott Rauscher on behalf of the</p> <p>18 plaintiffs attending remotely from the suburbs of</p> <p>19 Chicago.</p> <p>20 MR. BAZAREK: William Bazarek for the</p> <p>21 individual defendants represented by Hale &amp; Monico</p> <p>22 and I'm also here remotely. And I'm here with Dr.</p> <p>23 Obolsky as well. He's somewhere else remote, but</p> <p>24 he's our witness today.</p> <p>25 MR. SULLIVAN: Sean Sullivan for Kallatt</p> |



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| <p style="text-align: right;">Page 10</p> <p>1 Mohammed attending remotely from Chicago.</p> <p>2 MS. EKL: Elizabeth Ekl for the City of</p> <p>3 Chicago attending remotely from Chicago.</p> <p>4 MR. FLAXMAN: I'm Kenneth Flaxman for the</p> <p>5 Flaxman plaintiffs attending remotely from Cook</p> <p>6 County.</p> <p>7 MR. SCAHILL: I'm --</p> <p>8 MS. MCELROY: Lisa McElroy from Johnson &amp; Bell</p> <p>9 on behalf of Defendant Watts attending remotely</p> <p>10 from Lake County.</p> <p>11 MR. SCAHILL: This is Scahill, Ridgell, with</p> <p>12 that -- attending remotely from Chicago.</p> <p>13 MR. SCHALKA: Michael Schalka on behalf of</p> <p>14 Defendants Cadman and Spaargarn attending remotely</p> <p>15 from Chicago.</p> <p>16 THE REPORTER: Okay. I think that is</p> <p>17 everybody. Dr. Obolsky, will you please state your</p> <p>18 full name for the record?</p> <p>19 THE WITNESS: Alexander Obolsky.</p> <p>20 THE REPORTER: Thank you. And do all parties</p> <p>21 agree that the witness is, in fact, Dr. Alexander</p> <p>22 Obolsky?</p> <p>23 MR. RAUSCHER: Yes.</p> <p>24 MR. BAZAREK: Yes.</p> <p>25 MR. SULLIVAN: Yes.</p>                | <p style="text-align: right;">Page 12</p> <p>1 A. Yes, I do.</p> <p>2 Q. Which papers do you have with you in your</p> <p>3 office?</p> <p>4 A. I have expert witness deposition and testimony</p> <p>5 list. I have the forensic services fee schedule. I</p> <p>6 have my curriculum vitae. I have handwritten notes from</p> <p>7 May 9th, 2024. I have Dr. Redlich report, and I have my</p> <p>8 invoice for work done up to date on this case.</p> <p>9 Q. Do you have a -- do you have a copy of the</p> <p>10 report that you issued?</p> <p>11 A. Actually, I don't have a paper copy. I have</p> <p>12 it on the computer.</p> <p>13 Q. Okay. But you're able to pull that up if we</p> <p>14 need you to or if you need to?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 A. Let me -- if you don't mind, let me just make</p> <p>18 sure I pull it up now so I don't have to search for it.</p> <p>19 Q. That's fine. And I can share my screen at</p> <p>20 some point if we need to also.</p> <p>21 A. Okay.</p> <p>22 Q. You got it?</p> <p>23 A. Yep. I mean, I don't have it, but if you need</p> <p>24 me to or I need to, I'll --</p> <p>25 Q. Okay. Got it. Is there anything else up on</p>   |
| <p style="text-align: right;">Page 11</p> <p>1 MS. EKL: Yes.</p> <p>2 MR. FLAXMAN: Yes.</p> <p>3 THE REPORTER: Thank you. Dr. Obolsky, will</p> <p>4 you please raise your right hand? Do you solemnly</p> <p>5 swear or affirm that the testimony you're about to</p> <p>6 give will be the truth, the whole truth, and</p> <p>7 nothing but the truth?</p> <p>8 THE WITNESS: I so affirm.</p> <p>9 THE REPORTER: Thank you. You may begin.</p> <p>10 DIRECT EXAMINATION</p> <p>11 BY MR. RAUSCHER:</p> <p>12 Q. Dr. Obolsky, my name is Scott Rauscher and I'm</p> <p>13 going to be taking your deposition today. I'll ask, if</p> <p>14 you don't understand one of my questions at any point,</p> <p>15 will you just let me know that?</p> <p>16 A. I'll do that.</p> <p>17 Q. All right. Do you have any -- are you with</p> <p>18 anyone today?</p> <p>19 A. I am in my office all by myself.</p> <p>20 Q. Okay. Is that a home office or is it your</p> <p>21 business office or where is that office located?</p> <p>22 A. It's a home office located in the suburbs of</p> <p>23 Chicago.</p> <p>24 Q. Do you have any papers relating to this case</p> <p>25 with you today?</p> | <p style="text-align: right;">Page 13</p> <p>1 your computer screen other than the Zoom?</p> <p>2 A. Well, I have my Gmail open, but that's because</p> <p>3 I had other things. So let me close it. And I don't</p> <p>4 have anything else.</p> <p>5 Q. Okay. So why don't we do this? I'm going to</p> <p>6 just call your report today Exhibit 1, but we can mark</p> <p>7 as Exhibit 1, although we're doing this all remotely,</p> <p>8 the report plus the attachment. So tell me if you</p> <p>9 agree. And if you want me to pull it up, just let me</p> <p>10 know.</p> <p>11 But the way I see your report is you've got a</p> <p>12 16-page report. You have three pages called, "Sources</p> <p>13 of Information" that comes right after the report. Then</p> <p>14 you've got your CV, which is 11 pages, your fee</p> <p>15 schedule, and then your list of expert witness</p> <p>16 deposition and testimony, and that is what I'm going to</p> <p>17 refer to as Exhibit 1 in your report.</p> <p>18 Does that sound like a accurate recitation of</p> <p>19 your report?</p> <p>20 (EXHIBIT 1 MARKED FOR IDENTIFICATION)</p> <p>21 A. Yes.</p> <p>22 BY MR. RAUSCHER:</p> <p>23 Q. Okay. So --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- for -- before we get into it, tell me what</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 did you do to prepare for your deposition today?</p> <p>2 A. I spent time reviewing various records upon</p> <p>3 which my opinions -- that are foundational for my</p> <p>4 opinions.</p> <p>5 Q. All right. Which records did you review to</p> <p>6 prepare for your deposition?</p> <p>7 A. I looked at Dr. Redlich report, at her</p> <p>8 deposition. Let me pull it up because I have many of</p> <p>9 these documents open. Arrest report from December of</p> <p>10 2006, I believe. I reviewed the Adult Probation</p> <p>11 Department investigative report. I looked through COPA,</p> <p>12 C-O-P-A statements, investigative reports for Mr. Baker</p> <p>13 and Ms. Glenn.</p> <p>14 I looked at the rap sheet. I, again, reviewed</p> <p>15 the proceedings of the September 18th plea bargaining. I</p> <p>16 may have reviewed other things, but that's what I can</p> <p>17 recall right now.</p> <p>18 Q. And that -- what you're -- those are the ones</p> <p>19 that you believe you revert -- you reviewed to prepare</p> <p>20 for today's deposition?</p> <p>21 A. Yes, obviously in addition to my report.</p> <p>22 Q. Did you already bill for that work?</p> <p>23 A. No.</p> <p>24 Q. How long did you spend preparing for your</p> <p>25 deposition today?</p> | <p style="text-align: right;">Page 16</p> <p>1 information that's attached to your report?</p> <p>2 A. They should. I haven't reviewed the sources.</p> <p>3 The document itself, my staff -- pardon me. My staff</p> <p>4 is -- compiles that, but it should be there.</p> <p>5 Q. So there's -- the -- none of the documents</p> <p>6 you've listed were newly provided to you since you</p> <p>7 issued the report?</p> <p>8 A. Oh, that's correct. Yes.</p> <p>9 Q. And to put it more clearly, you had all the</p> <p>10 documents that you just mentioned before you issued your</p> <p>11 report?</p> <p>12 A. Correct. And these are all the documents that</p> <p>13 I have utilized in coming to my opinions in this case</p> <p>14 among others that I may not have reviewed after I have</p> <p>15 issued the report.</p> <p>16 Q. Let me try to break that down. Maybe you can</p> <p>17 rephrase -- maybe you can rephrase --</p> <p>18 A. Let me --</p> <p>19 Q. -- what you're saying.</p> <p>20 A. Yeah. So in preparation of the report, I</p> <p>21 reviewed many more documents, documents listed in the</p> <p>22 sources of information. In preparation for the</p> <p>23 deposition, I had a much more focused review of records,</p> <p>24 which did not encompass going through all of the records</p> <p>25 that I had available.</p> |
| <p style="text-align: right;">Page 15</p> <p>1 A. Altogether, probably around 20 hours.</p> <p>2 Q. Did you meet with any attorneys to prepare for</p> <p>3 your deposition?</p> <p>4 A. Yes.</p> <p>5 Q. Who did you meet with?</p> <p>6 A. I met on Zoom with Mr. Bazarek.</p> <p>7 Q. When did that meeting take place?</p> <p>8 A. Yesterday.</p> <p>9 Q. How long did you-all meet for?</p> <p>10 A. About hour-and-a-half.</p> <p>11 Q. Did you discuss any specific documents during</p> <p>12 that meeting?</p> <p>13 MR. BAZAREK: Wait, wait, I'm going to object.</p> <p>14 It's privileged information, any discussions I had</p> <p>15 with Dr. Obolsky.</p> <p>16 MR. RAUSCHER: All right. So you're -- I take</p> <p>17 it you're instructing him not to answer that</p> <p>18 question?</p> <p>19 MR. BAZAREK: Yes, that's right.</p> <p>20 MR. RAUSCHER: Dr. Obolsky, are you going to</p> <p>21 follow that instruction?</p> <p>22 THE WITNESS: Yes, I will.</p> <p>23 BY MR. RAUSCHER:</p> <p>24 Q. Are all the documents that you just told me</p> <p>25 you reviewed, are they listed on the sources of</p>  | <p style="text-align: right;">Page 17</p> <p>1 Q. Understood. The -- you reviewed a subset of</p> <p>2 the sources of information for it -- to prepare for your</p> <p>3 deposition?</p> <p>4 A. That is correct.</p> <p>5 Q. How did you pick which subset to review for</p> <p>6 the deposition?</p> <p>7 A. I did everything that I thought was most</p> <p>8 important to both support my opinion that both Mr.</p> <p>9 Braker [sic] and Ms. Glenn gave their -- entered the</p> <p>10 plea in September of 2006, knowingly, intelligently, and</p> <p>11 voluntarily as well as evidence contrary to Dr. Redlich</p> <p>12 opinions otherwise.</p> <p>13 Q. Can you actually -- we're jumping around a</p> <p>14 little bit, but can you pull up -- did you tell -- I --</p> <p>15 did you tell me of the sources of information printed? I</p> <p>16 don't think you did actually, right?</p> <p>17 A. I don't have my report, so let me pull it out.</p> <p>18 Give me a sec.</p> <p>19 Q. Okay.</p> <p>20 A. Okay. I have it in front of me.</p> <p>21 Q. So can you -- tell me -- identify on the</p> <p>22 sources of information which documents you reviewed to</p> <p>23 prepare for your deposition, because it's not entirely</p> <p>24 clear to me.</p> <p>25 A. Okay. You know what? I will -- it's easier</p>                                |

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| <p style="text-align: right;">Page 18</p> <p>1 for me if I look at the actual spot -- you know, all the</p> <p>2 records that I have because that --</p> <p>3 Q. Okay.</p> <p>4 A. -- will be easier for me to call -- call them</p> <p>5 up.</p> <p>6 Q. Yeah, that's fine. And you're -- they're</p> <p>7 listed by number here, so if you want to tell me which</p> <p>8 numbers they are, it may be a good way to do it.</p> <p>9 A. So I reviewed Mr. Baker's Northwestern</p> <p>10 Medicine medical records, Mercy Hospital medical</p> <p>11 records, and Henry Hill Correctional Facility, I</p> <p>12 understand, medical records, but I did not review them</p> <p>13 for preparation for today's deposition.</p> <p>14 Q. Yeah, so -- sorry. For this question, if you</p> <p>15 can just tell me the ones you reviewed for -- to prepare</p> <p>16 for the deposition. Let's do it that way.</p> <p>17 A. Okay. Let me focus on that, then. So I read</p> <p>18 over the guilty plea proceedings from September 18th,</p> <p>19 2006. I re-reviewed the February 9th, 2023 criminal</p> <p>20 history report on Mr. Baker. I also re-reviewed the</p> <p>21 December 20th, 2018 investigative report on Mr. Baker.</p> <p>22 Q. Sorry, can you hold on one second? Can we --</p> <p>23 this may take a little more time, but can you tell me</p> <p>24 which number that corresponds to on the sources of</p> <p>25 information?</p> | <p style="text-align: right;">Page 20</p> <p>1 Q. Do you have a Bates stamp on the ones you</p> <p>2 reviewed?</p> <p>3 A. I don't have access to it. I mean, I -- I</p> <p>4 have to then open it. Do you want me to open each</p> <p>5 document?</p> <p>6 Q. I don't want you to open each document, but I</p> <p>7 do want to know which reports you're talking about. So</p> <p>8 if by each you mean the reports, then yes, unless</p> <p>9 there's another way you have to tell me what the Bates</p> <p>10 stamps are.</p> <p>11 A. Okay. Then I have to go to the actual</p> <p>12 records.</p> <p>13 Q. If you want to keep going through the sources</p> <p>14 of information, we can circle back to that when you're</p> <p>15 done with that part if that's more efficient for you.</p> <p>16 A. Well, now I have lost my place. So do you</p> <p>17 want me to start over?</p> <p>18 Q. I just want the most efficient way to know</p> <p>19 which of the documents that you've listed on sources of</p> <p>20 information you looked -- you reviewed for your</p> <p>21 deposition.</p> <p>22 A. The most efficient way is for me to tell you</p> <p>23 which document I reviewed, you make a list, and then</p> <p>24 we'll look at the source of information together.</p> <p>25 Because otherwise --</p> |
| <p style="text-align: right;">Page 19</p> <p>1 A. Yeah.</p> <p>2 Q. And if you want me to share my screen for that</p> <p>3 part, if that's easier, I'm happy --</p> <p>4 A. No, I --</p> <p>5 Q. -- to do it.</p> <p>6 A. -- I -- I have it.</p> <p>7 Q. Okay.</p> <p>8 A. It's just that it's organized differently</p> <p>9 and I did not use the source of information to choose</p> <p>10 which -- which record to go after. So let's say</p> <p>11 number -- 426 -- so number 2.</p> <p>12 Q. Okay. Number 2 you --</p> <p>13 A. Number --</p> <p>14 Q. -- reviewed to prepare for the deposition?</p> <p>15 A. Correct.</p> <p>16 Q. The medical records?</p> <p>17 A. Correct. No, I did not. Those, I reviewed</p> <p>18 earlier. This is very confusing jumping between</p> <p>19 documents. Okay. Let -- let's focus. Number 4.</p> <p>20 Q. Okay.</p> <p>21 A. Number 14, although I don't know what it</p> <p>22 refers to, which COPA investigation report.</p> <p>23 Q. Which one did you review?</p> <p>24 A. I reviewed both the reports from Mr. Baker and</p> <p>25 Ms. Glenn.</p>   | <p style="text-align: right;">Page 21</p> <p>1 Q. So --</p> <p>2 A. -- I have to go back and forth between two</p> <p>3 different documents.</p> <p>4 MR. BAZAREK: It -- it -- it -- I just -- I do</p> <p>5 want to voice an objection to the extent that I --</p> <p>6 I -- I did -- I do believe that the doctor detailed</p> <p>7 earlier in the deposition as to what he -- what he</p> <p>8 reviewed in preparation of the deposition. So I</p> <p>9 know what -- then maybe there was something that</p> <p>10 came up where, Scott, you want a further inquiry.</p> <p>11 But I thought he did.</p> <p>12 MR. RAUSCHER: So. I -- yeah. Sorry, go</p> <p>13 ahead. I'm not trying to make him repeat things.</p> <p>14 I just can't tell what off -- what a lot of them</p> <p>15 are, and there's no Bates stamp on the source of</p> <p>16 information.</p> <p>17 MR. BAZAREK: Uh-huh.</p> <p>18 MR. RAUSCHER: He isn't totally sure in my</p> <p>19 view. So I'm just trying to get the information.</p> <p>20 Like, I -- I'd much rather --</p> <p>21 MR. BAZAREK: I mean, can -- can -- can I just</p> <p>22 make a quick suggestion? And we don't have to,</p> <p>23 but --</p> <p>24 MR. RAUSCHER: Yeah.</p> <p>25 MR. BAZAREK: -- or go back to what -- because</p>  |

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| <p style="text-align: right;">Page 22</p> <p>1 I thought he gave the list of what he looked at,<br/>2 and just have it read back. And then if there's,<br/>3 like, follow-up to that, would that make it --<br/>4 MR. RAUSCHER: Yeah. Why don't we start -- I<br/>5 can do that. It sounds like we have the list he's<br/>6 asking for. Why don't I go through it, what I've<br/>7 written down, and then he can look at the source of<br/>8 information, see if that does it? Is that what you<br/>9 were suggesting?<br/>10 MR. BAZAREK: Yeah, something, if there's some<br/>11 ambiguity, I -- it -- because I can tell you, it<br/>12 was clear to me --<br/>13 MR. RAUSCHER: Well, that's --<br/>14 MR. BAZAREK: -- what the doctor was talking<br/>15 about. Anyway...<br/>16 MR. RAUSCHER: Yeah. That makes sense because<br/>17 you-all issued the report. All right. Let's keep<br/>18 going. I don't -- let's -- I think we'll be able<br/>19 to get what we need.<br/>20 BY MR. RAUSCHER:<br/>21 Q. So why don't we try it that way, Dr. Obolsky?<br/>22 Dr. Redlich's report and deposition, that is clear to<br/>23 me. You said arrest report, you believed it was from<br/>24 December 2006. Can you tell me on the sources of<br/>25 information which report -- which number that refers to?</p> | <p style="text-align: right;">Page 24</p> <p>1 Q. Okay. What's the instruction, if any, you<br/>2 give to your staff to create the sources of information?<br/>3 A. We break it -- the standard operating<br/>4 procedure is to break it into the logical units and list<br/>5 it as such.<br/>6 Q. And what do you mean the logical units?<br/>7 A. Well, every case has its own set of records<br/>8 and there is typically a logical, obvious way to<br/>9 organize the records. Most of it is -- so medical<br/>10 records would be organized by hospital. If there are<br/>11 different hospital -- hospitalizations, doctors will<br/>12 separate them by different physicians.<br/>13 If there are depositions, the depositions will<br/>14 be separated by who the deponent was, that kind of<br/>15 stuff.<br/>16 Q. Do you ever list the Bates numbers of the<br/>17 documents in the --<br/>18 A. No.<br/>19 Q. -- source of information? No? Why not?<br/>20 A. I don't find it useful<br/>21 Q. When you -- when you're going to look for a<br/>22 document, so right now, like, how do you -- how is it<br/>23 organized on your end?<br/>24 A. Well, the source of information is part of the<br/>25 report. And then I have the actual records. That's how</p> |
| <p style="text-align: right;">Page 23</p> <p>1 A. First, I have to go into the file -- oh -- and<br/>2 open up the document. Okay. So now I have the Bates<br/>3 numbers as well. So I reviewed -- it's COPA-WATTS<br/>4 002226 and the page preceding it, which doesn't have a<br/>5 number, but should be 25.<br/>6 Q. Okay. That's the -- when you said arrest<br/>7 report, that's what you're talking about, a COPA<br/>8 statement?<br/>9 A. Yes.<br/>10 Q. Or -- sorry. That's the arrest report that<br/>11 you're talking about, those pages?<br/>12 A. The arrest report for the December 11, 2005.<br/>13 Q. December 11, 2005. Got it. And then which<br/>14 line is that on the sources of information?<br/>15 A. Okay. Let me open that. It's not here. It's<br/>16 not listed separately.<br/>17 Q. What do -- is it listed as part of something<br/>18 else?<br/>19 A. I don't know because I -- again, it was done<br/>20 by my staff and I don't want to guess. It may be that<br/>21 it was grouped together under number 14.<br/>22 Q. But those are dated 2018, right?<br/>23 A. Well, but that's when the COPA report was<br/>24 done, and that police report was part of the exhibit<br/>25 there.</p>  | <p style="text-align: right;">Page 25</p> <p>1 it is organized.<br/>2 Q. So -- but I mean, how are the records<br/>3 organized? So like, how are they structured on your<br/>4 computer when you're going to look for them?<br/>5 A. Oh, they organize the way that they were<br/>6 shared with me by the attorneys.<br/>7 Q. Do they show the Bates stamps on them?<br/>8 A. I don't know.<br/>9 Q. Well, can you look at the files and tell me<br/>10 what some of the names are?<br/>11 A. Okay. So PL Joint 082704/PL Joint 081729, Ben<br/>12 Baker Northwestern medical records.<br/>13 Q. So that PL Joint, that's a -- sorry. Go<br/>14 ahead.<br/>15 A. That's how it labeled in the file that I<br/>16 received of the documents.<br/>17 Q. And how is the COPA-WATTS one that you just<br/>18 referenced earlier, that 12-11-2005, how is that one<br/>19 labeled?<br/>20 A. The one that I was referring to is labeled<br/>21 COPA-WATTS 001840-001858--2018-12-20, Investigative<br/>22 Report Ben Baker, log number 1087742ATT156.<br/>23 Q. So you have -- you renamed the documents<br/>24 basically on your sources of information; is that right?<br/>25 A. Well, I didn't, my staff did. And that's how</p>   |

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| <p style="text-align: right;">Page 26</p> <p>1 they list it.</p> <p>2 Q. Who on your staff is responsible for putting</p> <p>3 together the sources of information?</p> <p>4 A. Kathy Fergemann, F-E-R-G-E-M -- M-A-N-N.</p> <p>5 Q. Do you review the -- do you review that</p> <p>6 document with her before the report is issued?</p> <p>7 A. No.</p> <p>8 Q. Do you review it at all?</p> <p>9 A. No.</p> <p>10 Q. How do you know that it's completed, then, or</p> <p>11 do you know if it's complete?</p> <p>12 A. Well, Ms. Fergemann is well trained and I have</p> <p>13 no reason to think that it wouldn't be complete.</p> <p>14 Q. What information do you give Ms. Fergemann so</p> <p>15 that she can create the sources of information?</p> <p>16 A. As I already testified, we have a standard</p> <p>17 operating procedure. I do not give any instructions on</p> <p>18 any particular case.</p> <p>19 Q. She has the same documents, same files that</p> <p>20 you have?</p> <p>21 A. Yes.</p> <p>22 Q. All right. So we've covered the Redlich</p> <p>23 reported deposition. So getting back to documents you</p> <p>24 reviewed to prepare for your deposition today, you said</p> <p>25 Adult Probation documents. What source of -- what</p> | <p style="text-align: right;">Page 28</p> <p>1 the Bates numbers?</p> <p>2 A. So the date is 12-20-18. Bates numbers are</p> <p>3 COPA/WATTS 001840 and relevant pages go up to 001845.</p> <p>4 That's for Mr. Baker. And for Ms. Baker, I need to go</p> <p>5 to the sources.</p> <p>6 Q. You mean Ms. Glenn?</p> <p>7 A. I'm sorry, Ms. Glenn. And let me look for</p> <p>8 that. And that is November 28th, 2018, Bates numbers</p> <p>9 COPA-WATTS 001436 and the relevant pages go to 001444.</p> <p>10 Q. All right. So that matches up on -- with 14,</p> <p>11 right, those two documents? The dates match, subject</p> <p>12 matches, right?</p> <p>13 A. And the dates are, so --</p> <p>14 Q. Yeah. Yeah. I'm agreeing with that. Right.</p> <p>15 But right before that, you told me the Adult Probation.</p> <p>16 If I wrote it down right, you gave me a Bates -- the</p> <p>17 same Bates range for the Adult Probation documents.</p> <p>18 A. I think because Adult Probation documents were</p> <p>19 embedded in the COPA investigation report.</p> <p>20 Q. So the Adult Probation documents you're</p> <p>21 referring to are -- so you told me investigative</p> <p>22 statements are COPA-WATTS 1840 to 1845, and then 1436 to</p> <p>23 1444. I wrote down for Adult Probation, COPA-WATTS 1840</p> <p>24 to 1846; is that right?</p> <p>25 A. I don't know because I no longer have it on my</p> |
| <p style="text-align: right;">Page 27</p> <p>1 number is that on sources of information?</p> <p>2 A. I cannot identify it.</p> <p>3 Q. What's the Bates stamp for that document?</p> <p>4 A. COPA/WATT -- WATTS 001840.</p> <p>5 Q. Just one page?</p> <p>6 A. No. The relevant pages go to 001846.</p> <p>7 Q. All right. COPA statements for Baker and</p> <p>8 Glenn, which -- what line is that on the sources of</p> <p>9 information?</p> <p>10 A. I don't see it either. No, it's number 14,</p> <p>11 right?</p> <p>12 Q. I don't know. I'm asking you.</p> <p>13 A. Yeah, I think it's number 18. So that would</p> <p>14 be the one that I just referred to. And that would</p> <p>15 be -- I -- I'm sorry, I spaced out. What was your</p> <p>16 question?</p> <p>17 Q. The question was, which line on the sources of</p> <p>18 information is the COPA statements of Baker and Glenn?</p> <p>19 A. Number 14.</p> <p>20 Q. So number 14 is the -- and how are you</p> <p>21 determining that it's number 14?</p> <p>22 A. Because it's labeled, "Copa-Investigation</p> <p>23 Reports".</p> <p>24 Q. What are the dates of the statements that</p> <p>25 you're looking at or that you looked at? And what are</p>  | <p style="text-align: right;">Page 29</p> <p>1 screen. So whatever I told you -- I can start looking</p> <p>2 for it again, but...</p> <p>3 Q. Well, yeah. I mean, I would like to have</p> <p>4 confirmation that the COPA -- that the Adult Probation</p> <p>5 documents are the same as the Baker COPA investigative</p> <p>6 report. Or if they're different, I'd like to know that.</p> <p>7 A. Yeah. I -- I -- I'm confused here. So the</p> <p>8 Adult Probation report -- no, the police report is</p> <p>9 COPA-WATTS 002225 and 2226. Is that what you were</p> <p>10 looking for?</p> <p>11 Q. That was one thing I'm looking for. And that</p> <p>12 was -- that one -- so that's the 12-11-2005 arrest</p> <p>13 report, right?</p> <p>14 A. Okay. Hold on. I need to turn the pages. I</p> <p>15 need to rotate them because they're not rotated</p> <p>16 appropriately. Yeah, that's the arrest from 12-11-05.</p> <p>17 Q. Okay. And the only place that you believe</p> <p>18 that might be listed on the sources of information is in</p> <p>19 14, COPA investigation reports?</p> <p>20 A. I don't know. I mean, I don't know where it</p> <p>21 might be -- also be subsumed under.</p> <p>22 Q. Well, is it possible it's subsumed under</p> <p>23 nothing?</p> <p>24 A. No, because if it was separate, then it may be</p> <p>25 just put together with those documents. I mean --</p>              |



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| <p style="text-align: right;">Page 30</p> <p>1 Q. So --</p> <p>2 A. -- I don't have the -- I mean, I don't know</p> <p>3 how Ms. Fergemann had arranged it. But all of the</p> <p>4 records that I was given should be in the source of</p> <p>5 information.</p> <p>6 Q. It should be, but it doesn't appear that it</p> <p>7 is, right?</p> <p>8 A. They are.</p> <p>9 MR. BAZAREK: Well --</p> <p>10 BY MR. RAUSCHER:</p> <p>11 Q. Well, is there --</p> <p>12 MR. BAZAREK: Is there one document?</p> <p>13 BY MR. RAUSCHER:</p> <p>14 Q. Sorry, go ahead.</p> <p>15 A. No, go ahead.</p> <p>16 Q. I'm looking at the source of information. You</p> <p>17 did list two COPA investigative reports, you gave me</p> <p>18 Bates stamps, and there are dates that match up with</p> <p>19 line 14.</p> <p>20 A. Okay.</p> <p>21 Q. I don't see anywhere where it lists an arrest</p> <p>22 report or a date of 12-11-2005. And I want to know if</p> <p>23 you see something that I'm missing.</p> <p>24 A. As listed separately, no, but it is listed --</p> <p>25 it's part of the COPA investigation.</p>   | <p style="text-align: right;">Page 32</p> <p>1 Q. Why did you -- why did -- why did</p> <p>2 Ms. Fergemann list two dates on the sources of</p> <p>3 information for that line?</p> <p>4 A. Well, because as we have just looked at, one</p> <p>5 investigation report was dated 11-28-18 and another one,</p> <p>6 12-20-18.</p> <p>7 Q. And what about the -- all the other documents</p> <p>8 in there?</p> <p>9 A. What about them?</p> <p>10 Q. What are the dates on them?</p> <p>11 A. Would you like me to open each document and go</p> <p>12 through it?</p> <p>13 Q. So I want you to -- I actually wanted you to</p> <p>14 tell me, you said the exhibit. What do you mean by the</p> <p>15 exhibit?</p> <p>16 A. I meant the documents that I have in front of</p> <p>17 me.</p> <p>18 Q. So what do you call -- when you refer to an</p> <p>19 exhibit for number 14, are you talking about multiple</p> <p>20 documents?</p> <p>21 A. I may not have used the word exhibit</p> <p>22 appropriately. It's the -- what we labeled number 14,</p> <p>23 legal, contains the two COPA reports with exhibits</p> <p>24 attached to those COPA reports.</p> <p>25 Q. And you're saying that's what COPA attached,</p>  |
| <p style="text-align: right;">Page 31</p> <p>1 Q. How can you say that? What are you basing</p> <p>2 that on?</p> <p>3 MR. BAZAREK: Wait. I -- I'm going to object.</p> <p>4 That's argumentative. He's -- he's -- he's now</p> <p>5 answered this question at least a couple of times</p> <p>6 that there --</p> <p>7 BY MR. RAUSCHER:</p> <p>8 Q. Let me rephrase the -- let me rephrase that. I</p> <p>9 will strike the part that said how can you say that?</p> <p>10 The question is: What are you basing your</p> <p>11 answer on that it is part of the COPA investigation</p> <p>12 reports?</p> <p>13 A. Because it's in that exhibit.</p> <p>14 Q. In what exhibit?</p> <p>15 A. Number 14.</p> <p>16 Q. But what do you -- what do you mean it is in</p> <p>17 that exhibit?</p> <p>18 A. Well, if you open the exhibit, the report is</p> <p>19 part of the COPA report.</p> <p>20 Q. But I don't have that exhibit, so I can't open</p> <p>21 it.</p> <p>22 A. Well, but I did. If you have a COPA</p> <p>23 investigation report for Mr. Baker and you have the</p> <p>24 pages with the Bates numbers I've given you, you should</p> <p>25 have that police report.</p> | <p style="text-align: right;">Page 33</p> <p>1 not something you would -- you did, right?</p> <p>2 A. That's correct.</p> <p>3 Q. All right. What is the full Bates range of</p> <p>4 the document that you were referring to as the</p> <p>5 investigative reports plus exhibits?</p> <p>6 A. Okay. The COPA reports Bates numbers for</p> <p>7 Mr. Baker are 001840 - 001854.</p> <p>8 Q. Okay. What about for Glenn?</p> <p>9 A. 001436 to 001454.</p> <p>10 Q. Well, the police reports you just listed are</p> <p>11 not in that Bates range. There are 400 pages above that</p> <p>12 if I'm doing the math right.</p> <p>13 A. Well, I don't know what I can tell you. Oh, I</p> <p>14 think I misspoke. They're not in the COPA reports. Hold</p> <p>15 on. Where is the police report? Oh, oh, hold on. Okay.</p> <p>16 I misspoke. The police report is included in the -- in</p> <p>17 the deposition. No. I don't know which exhibits. It's</p> <p>18 exhibits by Officer Manuel Leano. And that's the Bates</p> <p>19 numbers -- police report is included in there. So it's</p> <p>20 Bates 2225, 2226.</p> <p>21 Q. So that's the -- there's an attachment. You</p> <p>22 have attachments to the transcripts. Where you listed</p> <p>23 transcripts, you actually have all the attachments; is</p> <p>24 that right?</p> <p>25 A. I have no way of knowing when I have all the</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 attachments, but I have had that attachment.</p> <p>2 Q. All right. How are you looking -- what does</p> <p>3 that look like on your end?</p> <p>4 A. I don't understand your question.</p> <p>5 Q. So you have a transcript. How do you know</p> <p>6 that it's a -- attached as an exhibit to the transcript</p> <p>7 of Manuel Leano?</p> <p>8 A. It's labeled that way.</p> <p>9 Q. How is it labeled that way? Like, physically</p> <p>10 on the document or in the title or the folder structure?</p> <p>11 A. It says exhibit, statement of Officer Manuel</p> <p>12 Leano, number 4303, date: March 18th, 2019.</p> <p>13 Q. March 18, 2019?</p> <p>14 A. Correct.</p> <p>15 Q. That's the statement you're looking at?</p> <p>16 A. That's what it says on the cover page.</p> <p>17 Q. What's the Bates page for that?</p> <p>18 A. 002217.</p> <p>19 Q. That's COPA-WATT 02217?</p> <p>20 A. It's COPA -- COPA-WATT -- WATTS 002217.</p> <p>21 Q. What's the full Bates range of the document</p> <p>22 that you are looking at?</p> <p>23 A. So it starts with 002217, and it goes all the</p> <p>24 way to 002290.</p> <p>25 Q. All right. And tell me what that is.</p>   | <p style="text-align: right;">Page 36</p> <p>1 Leano that you just mentioned, which I believe you said</p> <p>2 the range was COPA-WATTS 2217 to 2290?</p> <p>3 A. Yeah. So what's the question?</p> <p>4 Q. Do you have that document in front of you?</p> <p>5 A. Yes.</p> <p>6 Q. Is -- if you look at that document, is that a</p> <p>7 deposition?</p> <p>8 A. What do you mean?</p> <p>9 Q. I mean, is it a deposition, a transcript of a</p> <p>10 deposition?</p> <p>11 A. No, it's an exhibit.</p> <p>12 Q. What exhibit? What is the exhibit?</p> <p>13 A. I have to open all the exhibits to find out</p> <p>14 which one it is.</p> <p>15 Q. Okay. Is it one exhibit, is it one exhibit,</p> <p>16 one document, or that -- is that range of bunch of</p> <p>17 documents?</p> <p>18 A. Well, there are 27 exhibits.</p> <p>19 Q. So does the range 2217 to 2290 go through --</p> <p>20 is that all of the 27 exhibits, or is that one of them?</p> <p>21 A. No, that's only one. But there are other</p> <p>22 exhibits, right?</p> <p>23 Q. I see. So the -- that exhibit you're looking</p> <p>24 at was the statement of Leano to COPA that was an</p> <p>25 exhibit to the deposition transcript that you have?</p> |
| <p style="text-align: right;">Page 35</p> <p>1 A. It is labeled exhibit, statement of Officer</p> <p>2 Manuel Leano, number 4303, date:</p> <p>3 March 18th, 2019.</p> <p>4 Q. Can you tell me where on the sources of</p> <p>5 information that's disclosed?</p> <p>6 A. It is disclosed as number 18, 18, and that's a</p> <p>7 transcript of Officer Leano's deposition with all the</p> <p>8 attachments. And one of the attachments is the -- the</p> <p>9 document we're going through.</p> <p>10 Q. Why is the date January 26, 2022, and why</p> <p>11 doesn't it list attachments?</p> <p>12 MR. BAZAREK: Objection. Argumentative.</p> <p>13 THE WITNESS: I think it made sense for us to</p> <p>14 label it that way.</p> <p>15 BY MR. RAUSCHER:</p> <p>16 Q. With the wrong date?</p> <p>17 A. Well, the date is -- why do you say it's</p> <p>18 wrong?</p> <p>19 Q. Well, you told me that the statement was from</p> <p>20 2019 -- 2019, I believe. And now the -- unless I wrote</p> <p>21 it down wrong, that -- Line 18 says January 26, 2022?</p> <p>22 A. Right. The deposition was in</p> <p>23 January 26, 2022, but the attachments, exhibits to the</p> <p>24 deposition could range from various dates.</p> <p>25 Q. So you have in front of you the statement of</p> | <p style="text-align: right;">Page 37</p> <p>1 A. To the best of my understanding, yes.</p> <p>2 Q. Do you have a folder that has all --</p> <p>3 everything in number 18 on your sources of information</p> <p>4 in one place?</p> <p>5 A. Yes.</p> <p>6 Q. And what's that folder called?</p> <p>7 A. It is called attorney -- I mean Manuel Leano's</p> <p>8 deposition.</p> <p>9 Q. And in that folder, is the arrest report of</p> <p>10 Ben Baker that you were -- and Clarissa Glenn that you</p> <p>11 have referred to earlier today?</p> <p>12 A. That's correct.</p> <p>13 Q. What about the Adult Probation records?</p> <p>14 A. What about them?</p> <p>15 Q. What's the Bates range? Because I believe you</p> <p>16 gave me one earlier that is actually Ben Baker's</p> <p>17 statement to COPA.</p> <p>18 A. Okay. So Adult Probation investigative</p> <p>19 report. It was Exhibit number 9 for 8-10-23. I think</p> <p>20 that's his deposition.</p> <p>21 Q. Who -- for whose deposition?</p> <p>22 A. Baker.</p> <p>23 Q. Okay.</p> <p>24 A. And the Bates numbers are 70 to -- the</p> <p>25 relevant pages -- yeah, 70 to 76.</p>  |

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| <p style="text-align: right;">Page 38</p> <p>1 Q. What's the -- how do this -- what's the full</p> <p>2 Bates? I can't -- I don't -- 70 to 76 what? Like,</p> <p>3 where does it start with?</p> <p>4 A. Okay. BAKER GLENN 0000. So the last page is</p> <p>5 76, and the first page is 70.</p> <p>6 Q. So which line -- that -- that's Line 28 in</p> <p>7 your sources of information?</p> <p>8 A. Yes.</p> <p>9 Q. So that should say transcripts of the</p> <p>10 deposition of Ben Baker with exhibits?</p> <p>11 A. I -- it -- it -- it goes without saying that</p> <p>12 the exhibits are included.</p> <p>13 Q. Why?</p> <p>14 A. Because that's how it is.</p> <p>15 Q. What do you mean that's how it is? I mean, we</p> <p>16 know that's how it is, but why does it go without</p> <p>17 saying?</p> <p>18 MR. BAZAREK: Objection. Argumentative.</p> <p>19 THE WITNESS: Because we have never thought</p> <p>20 that we need to include a statement that are --</p> <p>21 that deposition exhibits are included in that. It</p> <p>22 goes without saying in our experience.</p> <p>23 MR. BAZAREK: And I -- and I'll just note that</p> <p>24 Dr. Redlich's appendix doesn't make any reference</p> <p>25 to exhibits, no Bates numbers at least for</p>                       | <p style="text-align: right;">Page 40</p> <p>1 Q. But does the rate you charge for clinical work</p> <p>2 the same as the rate you charge for expert work?</p> <p>3 A. No.</p> <p>4 Q. What's the difference in rates?</p> <p>5 A. \$40 an hour.</p> <p>6 Q. So 460 for clinical work?</p> <p>7 A. That's correct.</p> <p>8 Q. How long has it been about 50/50 between</p> <p>9 clinical and expert work for you?</p> <p>10 A. In the past two or three years, it has been</p> <p>11 low to mid 40 percentage for clinical, and low 50-some</p> <p>12 percent for forensic.</p> <p>13 Q. Have you -- are you -- do you have a goal of</p> <p>14 having it 50/50?</p> <p>15 A. No.</p> <p>16 Q. How much did you take in last year as an</p> <p>17 expert?</p> <p>18 A. The gross income -- percentage -- well, I've</p> <p>19 been giving you percentages, so I'll stick to</p> <p>20 percentages.</p> <p>21 Q. Okay.</p> <p>22 A. So 59 percent was forensic and 41 percent was</p> <p>23 M.D. PC, my clinical practice.</p> <p>24 Q. And when you say forensic, does that encompass</p> <p>25 all of your expert work?</p>   |
| <p style="text-align: right;">Page 39</p> <p>1 depositions.</p> <p>2 MR. RAUSCHER: Okay. Well, I -- I'm going to</p> <p>3 request that you send me the documents as they were</p> <p>4 sent to him because I don't want to spend seven</p> <p>5 hours going through this. You probably don't want</p> <p>6 me to, and I can't tell what he has from this.</p> <p>7 MR. BAZAREK: All right. Scott, well, I take</p> <p>8 your point, so let me work on getting a -- like, a</p> <p>9 Dropbox link with the documents that were provided</p> <p>10 to --</p> <p>11 MR. RAUSCHER: Okay.</p> <p>12 MR. BAZAREK: -- Dr. Obolsky's office. No</p> <p>13 problem.</p> <p>14 MR. RAUSCHER: Thank you.</p> <p>15 MR. BAZAREK: Appreciate that.</p> <p>16 BY MR. RAUSCHER:</p> <p>17 Q. How much of your time is spent on expert work</p> <p>18 versus other things -- other -- how much of your work</p> <p>19 time is spent on expert work versus other things?</p> <p>20 A. At this point, it's about 50/50. 50 percent</p> <p>21 of my time is spent doing clinical work when I treat</p> <p>22 patients. Fifty percent of my time is spent doing</p> <p>23 medical-legal consulting.</p> <p>24 Q. And how much -- is that income 50/50, about?</p> <p>25 A. At this point, it almost is 50/50.</p> | <p style="text-align: right;">Page 41</p> <p>1 A. Yes.</p> <p>2 Q. And what was the total amount for the forensic</p> <p>3 expert work that you earned in 2023?</p> <p>4 A. I believe you're entitled to know either the</p> <p>5 percentages or the numbers, but not both.</p> <p>6 Q. Why do you believe that that's the case?</p> <p>7 A. That's how I was educated.</p> <p>8 Q. Who told you that?</p> <p>9 A. I don't recall, but that's how it's always</p> <p>10 been --</p> <p>11 Q. All right. Well --</p> <p>12 A. -- and my --</p> <p>13 Q. -- I'm asking you to tell me to -- I'm sorry.</p> <p>14 I don't mean to interrupt you. I'm asking to -- you to</p> <p>15 tell me the number. Are you refusing to disclose that?</p> <p>16 A. I will have to consult with my --</p> <p>17 MR. BAZAREK: Yeah.</p> <p>18 A. -- personal attorney to see.</p> <p>19 MR. BAZAREK: Yeah. All right. What's -- can</p> <p>20 you read the question back?</p> <p>21 THE REPORTER: Yes. One moment, please. Do</p> <p>22 you -- do you want the last exact question, or do</p> <p>23 you want a few before that?</p> <p>24 MR. BAZAREK: Let -- let's go a few before</p> <p>25 that, too.</p> |



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| <p style="text-align: right;">Page 42</p> <p>1 THE REPORTER: Okay. One moment. Okay.</p> <p>2 (REPORTER PLAYS BACK REQUESTED TESTIMONY)</p> <p>3 MR. BAZAREK: You know what? Why don't -- all</p> <p>4 right. Why don't we -- at some point, we -- can</p> <p>5 you table the question for now and at some point,</p> <p>6 I'll speak to the doctor about that.</p> <p>7 MR. RAUSCHER: We can, although I have some</p> <p>8 other questions on the same topic. So if you want</p> <p>9 to have that conversation now, that's also fine</p> <p>10 with me.</p> <p>11 MR. BAZAREK: So it sounds like the doctor is</p> <p>12 ready to just give you percentages, but you want</p> <p>13 dollar amounts. Is that what -- is that what</p> <p>14 you're asking?</p> <p>15 MR. RAUSCHER: Yeah. I mean, it sounds like</p> <p>16 he was drawing a line and saying I could only have</p> <p>17 one of the two, and I just -- I'm not familiar with</p> <p>18 that. I don't think that's right. I'm open to</p> <p>19 someone showing me that I'm wrong.</p> <p>20 THE WITNESS: Yeah.</p> <p>21 MR. BAZAREK: Well, I mean, obviously we've</p> <p>22 provided you his -- you know, the compensation, at</p> <p>23 least up to the point where the report was issued.</p> <p>24 So this is you -- now you're asking about some</p> <p>25 other type of work that he does. You want to know</p> | <p style="text-align: right;">Page 44</p> <p>1 Q. Do you know how much net?</p> <p>2 A. 240,500.</p> <p>3 Q. That's after paying salaries and expenses?</p> <p>4 A. Correct.</p> <p>5 Q. Were you the sole owner of the company?</p> <p>6 A. In 2023, I was.</p> <p>7 Q. And was that -- which company or companies did</p> <p>8 you do that work through?</p> <p>9 A. My forensic work in 2023 was done through</p> <p>10 Health &amp; Law Resource. My clinical practice was through</p> <p>11 M.D. PC.</p> <p>12 Q. And in -- is it the same structure in 2024?</p> <p>13 A. No.</p> <p>14 Q. What does it look like in 2024?</p> <p>15 A. In 2024, M.D. PC remains as my personal</p> <p>16 private practice. Health &amp; Law Resource has been</p> <p>17 renamed Illumental, I-I-L-L-U-M-E-N-T-A-L, Consulting and</p> <p>18 Testifying Experts. And then, I opened a new clinical</p> <p>19 group practice called Illumental Counseling and</p> <p>20 Psychiatry.</p> <p>21 Q. And is that -- the counseling and psychiatry</p> <p>22 one, is that a clinical practice?</p> <p>23 A. Yes.</p> <p>24 Q. Is Illumental Consulting and Testifying</p> <p>25 Experts different from Health &amp; Law Resource in any way</p> |
| <p style="text-align: right;">Page 43</p> <p>1 the dollar amounts, right?</p> <p>2 MR. RAUSCHER: For his work as an expert, yes.</p> <p>3 MR. BAZAREK: Okay. All right. Do you want</p> <p>4 to take a -- why don't we take a five-minute break?</p> <p>5 MR. RAUSCHER: Sure. Sounds good. Thanks.</p> <p>6 MR. BAZAREK: Okay.</p> <p>7 THE REPORTER: Okay. We are off the record at</p> <p>8 11:29 a.m. Central Time.</p> <p>9 (OFF THE RECORD)</p> <p>10 THE REPORTER: We are back on the record for</p> <p>11 the deposition of Dr. Alexander Obolsky being</p> <p>12 conducted by videoconference. Today is</p> <p>13 May 22nd, 2024, and the time is 11:37 a.m. Central</p> <p>14 Time.</p> <p>15 BY MR. RAUSCHER:</p> <p>16 Q. How much money did you make from expert</p> <p>17 witness work in 2023?</p> <p>18 A. I am not able to give you the number of how</p> <p>19 much I personally made because I have a company and</p> <p>20 there are other experts, other people that work for me.</p> <p>21 I'll give you the number for the company. And the</p> <p>22 company made \$609,000 in 2023.</p> <p>23 Q. Was that gross or net income or some other</p> <p>24 figure?</p> <p>25 A. That's gross.</p>   | <p style="text-align: right;">Page 45</p> <p>1 other than name?</p> <p>2 A. No, just the name.</p> <p>3 Q. The report you issued in this case looks like</p> <p>4 it was issued on Health &amp; Law Resource letterhead and</p> <p>5 has a Health &amp; Law Resource invoice?</p> <p>6 A. That's correct.</p> <p>7 Q. And why is that?</p> <p>8 A. Because the process of change is painfully</p> <p>9 slow, and we still have HLR paper -- I mean, letterhead.</p> <p>10 Q. Got it. So the company, is it -- is the</p> <p>11 Illumental Consulting and Testifying Experts the</p> <p>12 company -- the current company name but you just haven't</p> <p>13 updated the paper -- the letterhead?</p> <p>14 A. That's correct.</p> <p>15 Q. Okay. Did any of the staff change when you</p> <p>16 changed company names?</p> <p>17 A. No.</p> <p>18 Q. Did the scope of the work you do change?</p> <p>19 A. No.</p> <p>20 Q. What are the various types of expert work that</p> <p>21 you do?</p> <p>22 A. You know, before we leave the numbers --</p> <p>23 Q. Okay.</p> <p>24 A. -- I just -- I received this morning the</p> <p>25 updated financials, and I did not give you the correct</p>                               |

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| <p style="text-align: right;">Page 46</p> <p>1 percentage for 2023.</p> <p>2 Q. Okay.</p> <p>3 A. So for 2023, the gross income for forensics</p> <p>4 versus M.D. PC was 74 -- 73-and-a-half percent forensic,</p> <p>5 26.5 percent clinical.</p> <p>6 Q. Okay.</p> <p>7 A. And I testified it was 40. That's not</p> <p>8 correct.</p> <p>9 Q. Okay. Well, thank you for the --</p> <p>10 A. That is correct.</p> <p>11 Q. -- correction. Do -- are you expecting a</p> <p>12 similar breakdown this year?</p> <p>13 A. No, because I'm focused on growing the</p> <p>14 clinical group practice. I expect that most of -- I</p> <p>15 shouldn't say most of the money, but 40 percent or so</p> <p>16 will come from the clinical practice.</p> <p>17 Q. So before we go on to the next topic, how much</p> <p>18 of the income you earned from forensic -- or from expert</p> <p>19 work in 2023 came from the cases involving the City of</p> <p>20 Chicago or Chicago police officers?</p> <p>21 A. I'm not able to answer that question.</p> <p>22 Q. Can -- do you have a rough estimate?</p> <p>23 A. I do not.</p> <p>24 Q. Do you consider them an important client?</p> <p>25 A. All my clients are important.</p>  | <p style="text-align: right;">Page 48</p> <p>1 case of Howard, H-O-W-A-R-D. And then there were two</p> <p>2 cases that I recall, but I can't recall the names. And</p> <p>3 one was a physician who fell into a pothole, and the</p> <p>4 other one was a woman in a state of intoxication,</p> <p>5 climbed on a garbage truck and got injured. That's the</p> <p>6 extent of what I -- I can recall.</p> <p>7 Q. For the City of Chicago or Chicago employees?</p> <p>8 A. Correct.</p> <p>9 Q. And then you've -- obviously you got this case</p> <p>10 and you have the Waddy case where you testified in a</p> <p>11 deposition?</p> <p>12 A. That's correct.</p> <p>13 Q. And then, what time period was that over that</p> <p>14 we were just talking about? I asked five, but what time</p> <p>15 period were you referring to?</p> <p>16 A. I gave you -- I mean, I asked my staff to look</p> <p>17 it up and stuff like that for what we could because we</p> <p>18 don't keep these kinds of records. So the physician</p> <p>19 probably was very early in my career. I don't know, 25,</p> <p>20 30 years ago. But again, I'm guesstimating. The lady</p> <p>21 injured by the garbage truck at least 20 years ago.</p> <p>22 Jimenez, I think -- I didn't look up the date,</p> <p>23 but it's more recent case, relatively.</p> <p>24 Q. That was a --</p> <p>25 A. Obviously --</p> |
| <p style="text-align: right;">Page 47</p> <p>1 Q. Do they -- are they a significant client for</p> <p>2 your business?</p> <p>3 MR. BAZAREK: I -- yeah, I'd object to the</p> <p>4 form of that question. But you can answer if you</p> <p>5 understand it, Doctor.</p> <p>6 THE WITNESS: Again, I don't know if by</p> <p>7 significant you mean money-wise, income-wise. I</p> <p>8 can't answer. I don't know. But as I testified,</p> <p>9 all my clients are important and significant.</p> <p>10 BY MR. RAUSCHER:</p> <p>11 Q. Well, would it be a hit to your business if</p> <p>12 you -- if all of a sudden, they stopped retaining you?</p> <p>13 A. I'm sure it would be a -- a temporary -- well,</p> <p>14 I can't even say that. I mean, I don't know. Cases</p> <p>15 coming in all the time, so I don't know how to answer.</p> <p>16 Q. Do you know how many cases you've worked on</p> <p>17 for the City of Chicago or Chicago police officers over</p> <p>18 the last five years?</p> <p>19 A. Yeah, I was looking at it. I was able to</p> <p>20 identify five cases that I can recall. I don't know how</p> <p>21 many of them are police-related. So there was a case of</p> <p>22 Donald. I think it's in my discovery.</p> <p>23 Q. Yeah. That one's listed.</p> <p>24 A. Yeah, Cynthia Donald. Then it's James Gibson.</p> <p>25 Then Jimenez, Payne. And I just recently finished the</p> | <p style="text-align: right;">Page 49</p> <p>1 Q. Sorry, go ahead.</p> <p>2 A. No, go ahead.</p> <p>3 Q. That's a wrongful conviction case. Is that</p> <p>4 Thaddeus Jimenez, is that what the case is?</p> <p>5 A. I'm sorry, I didn't get it. It's a</p> <p>6 wrongful --</p> <p>7 Q. Conviction. Is that Thaddeus Jimenez?</p> <p>8 A. Yeah. I don't remember his first name, but</p> <p>9 it's a gentleman who was wrongly -- well, he was found</p> <p>10 guilty, incarcerated for the murder. I believe a young</p> <p>11 girl in Naperville --</p> <p>12 Q. Oh, okay.</p> <p>13 A. -- would be -- would be the case.</p> <p>14 Q. Different kid. Okay. Got it. So those are</p> <p>15 basically all of the cases involving the City of Chicago</p> <p>16 that you've been retained on for any time period as far</p> <p>17 as you know, understanding you don't keep records that</p> <p>18 way; is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. And in any of those cases, did you testify</p> <p>21 against the City of Chicago, or were you always retained</p> <p>22 by the City of Chicago or its employees? That may be a</p> <p>23 bit confusing because it sounded like -- did some of --</p> <p>24 did any of those -- let me rephrase that. Were the</p> <p>25 plaintiffs in any of those cases Chicago employees?</p>   |

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| <p style="text-align: right;">Page 50</p> <p>1 A. Ms. Donald was, I believe</p> <p>2 Q. In that case, which side were you retained by?</p> <p>3 A. City of Chicago.</p> <p>4 Q. Were you retained by the defense in all of</p> <p>5 those cases that you've listed?</p> <p>6 A. Yes.</p> <p>7 Q. Have you ever been retained to testify on the</p> <p>8 opposite side of the City of Chicago?</p> <p>9 A. There may have been one or two cases, a number</p> <p>10 of years ago, where I was hired by the plaintiffs suing</p> <p>11 City of Chicago in one way or another, but I can't</p> <p>12 recall, as I sit here, what the nature of the cases was.</p> <p>13 Q. None of those potential cases are among the</p> <p>14 cases that you've listed today, right?</p> <p>15 A. That's correct.</p> <p>16 Q. Do you charge the same rate for all of your</p> <p>17 expert work?</p> <p>18 A. Yes.</p> <p>19 Q. Have you ever turned down a case that the City</p> <p>20 of Chicago or Chicago police officers have brought to</p> <p>21 you?</p> <p>22 A. No.</p> <p>23 MR. BAZAREK: Wait. Hold on a minute. I</p> <p>24 think the problem with that question, Scott, is</p> <p>25 it's -- it could go to, like, consulting-type...</p>   | <p style="text-align: right;">Page 52</p> <p>1 A. Not that I recall.</p> <p>2 Q. You mentioned you turn down cases where you</p> <p>3 don't believe you have the proper expertise? What --</p> <p>4 A. Yes.</p> <p>5 Q. -- can you give me some examples? I don't</p> <p>6 need specific cases, but can you give me examples of the</p> <p>7 topics where you find yourself turning down requests for</p> <p>8 your work?</p> <p>9 A. Well, if a case involves children, it used to</p> <p>10 be that we adult forensic psychiatrists would take</p> <p>11 children cases because there were not enough child</p> <p>12 adolescent board-certified forensic psychiatrists. That</p> <p>13 is no longer the state of the affairs.</p> <p>14 And so I would not accept a case that involves</p> <p>15 evaluation and testimony regarding children or</p> <p>16 adolescents, but I would refer to my colleagues who are</p> <p>17 board-certified in that field. So that's kind of the</p> <p>18 immediate example that comes to mind. There are -- I'm</p> <p>19 sure there have been others.</p> <p>20 Q. All right. Well, if you think of any others,</p> <p>21 will you let me know today?</p> <p>22 A. Sure.</p> <p>23 Q. How do you view your role in a case when you</p> <p>24 are doing expert -- when you are -- let me rephrase</p> <p>25 that. How do you view your role in a case when you are</p> |
| <p style="text-align: right;">Page 51</p> <p>1 MR. RAUSCHER: Maybe if I went beyond that,</p> <p>2 but I don't know that -- I think he already</p> <p>3 answered, no, anyway.</p> <p>4 MR. BAZAREK: Oh, okay. All right. Okay. All</p> <p>5 right. Let's go. Let's --</p> <p>6 MR. RAUSCHER: All right.</p> <p>7 MR. BAZAREK: -- keep going.</p> <p>8 BY MR. RAUSCHER:</p> <p>9 Q. I did hear that correctly, right? You</p> <p>10 answered no?</p> <p>11 A. That's correct. I mean, when the cases come</p> <p>12 in, unless I'm asked to do something unethical, I -- I</p> <p>13 take the case and I evaluate it. I may or may not be</p> <p>14 useful to the attorney who called me or insurance</p> <p>15 company or whatever, but we take whatever case comes in.</p> <p>16 Oh, obviously, that I have the expertise for it. I mean,</p> <p>17 we -- I -- I -- I -- sorry. I didn't think this</p> <p>18 through.</p> <p>19 So there are number of cases every year that I</p> <p>20 turn down, because people come to me wanting my</p> <p>21 expertise, but it's outside the area of my expertise. So</p> <p>22 at that point, I would not take the case, obviously.</p> <p>23 Q. To your knowledge, have you worked on any</p> <p>24 cases for the City of Chicago where you were unable to</p> <p>25 render an opinion that was useful to them?</p> | <p style="text-align: right;">Page 53</p> <p>1 retained to provide an expert opinion or expert</p> <p>2 testimony?</p> <p>3 A. My role is the truth finder in the area of</p> <p>4 medicine and psychiatry. I strive toward objectivity. I</p> <p>5 strive to reach opinions that are supported by -- excuse</p> <p>6 me, please, a reliable data. And then I also see myself</p> <p>7 as a -- a teacher or educator to the jury and the judge</p> <p>8 on these cases where one needs psychiatric expertise to</p> <p>9 form an understanding of what's going on.</p> <p>10 Q. Do you view your role as neutral or for one</p> <p>11 side or the other?</p> <p>12 A. I strive for objectivity. I consider myself</p> <p>13 that my role is neutral to find the truth of the matter.</p> <p>14 That's how I see my role.</p> <p>15 Q. Do you ever find yourself in a situation where</p> <p>16 you think there may not just be one truth, like there</p> <p>17 isn't just one objective answer?</p> <p>18 A. I don't understand your question.</p> <p>19 Q. You're hired to be an expert frequently. I</p> <p>20 think you said your role is the truth finder in the area</p> <p>21 of medicine and psychiatry, right?</p> <p>22 A. Yes.</p> <p>23 Q. And is there always a bright line, yes or no,</p> <p>24 right or wrong, in the areas where you're asked to</p> <p>25 provide expert testimony?</p>    |

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| <p style="text-align: right;">Page 54</p> <p>1 A. The role of the forensic psychiatrist, the way<br/>2 that people in my profession conceptualize it, is that<br/>3 if the question is, for example, is this individual --<br/>4 was this individual insane at the time of the murder,<br/>5 you cannot say, maybe, maybe not. You have to choose an<br/>6 answer, which the evidence supports more than the other<br/>7 outcome.<br/>8 And typically -- obviously, in the criminal<br/>9 case, the degree of certainty has to be significantly<br/>10 higher than more likely than not, but even in civil<br/>11 cases, most of people in my profession try to hold to a<br/>12 pretty high standard. But I'm not answering your<br/>13 question.<br/>14 Typically, you have to choose if the --<br/>15 it's -- it's the choice is dichotomous, yes or no. A<br/>16 forensic psychiatrist, as -- as an expert has to choose<br/>17 a side.<br/>18 Q. Are there areas where you can say reasonable<br/>19 forensic psychiatrists could disagree, could reasonably<br/>20 disagree as to whether yes or no is the right answer?<br/>21 A. Yes. Of course. Psychiatrists, forensic<br/>22 psychiatrists, may disagree and the resolution is on a<br/>23 basis for which -- upon which one has established one's<br/>24 opinion.<br/>25 Q. What do you mean by that?</p> | <p style="text-align: right;">Page 56</p> <p>1 THE WITNESS: Would you repeat your question,<br/>2 please?<br/>3 BY MR. RAUSCHER:<br/>4 Q. Sure. What are the general types of expert<br/>5 work that you do?<br/>6 A. You mean the kind of forensic questions that I<br/>7 answer?<br/>8 Q. Yeah. I guess so.<br/>9 A. Well, my specialty is an area of human<br/>10 response to severe and not so severe physical injury,<br/>11 mental injury, which includes, well, all types of<br/>12 physical injuries. Includes chronic, medical,<br/>13 neurological, and other illnesses.<br/>14 And so the kind of forensic cases I frequently<br/>15 take in the civil arena are cases where something bad<br/>16 happened to an individual, and the question is whether<br/>17 that individual has developed a psychiatric condition<br/>18 due to this injurious event.<br/>19 And then I also do some criminal work. And<br/>20 there, it's a issue of insanity, which is very<br/>21 infrequent nowadays, and also fitness to stand trial,<br/>22 fitness to plea, and all kinds of other fitnesses that<br/>23 are required in the criminal arena for the defendant.<br/>24 Another area of civil cases that I get<br/>25 involved in -- and these are not -- these are forensic</p>                                      |
| <p style="text-align: right;">Page 55</p> <p>1 A. Well, the opinion is only as good as the basis<br/>2 for it. And so if the basis are not particularly solid,<br/>3 then the opinion is not particularly solid. So most of<br/>4 the forensic work is in identifying, defining, testing,<br/>5 to find data, evidence, facts, which will help you<br/>6 resolve an issue one way or another.<br/>7 Q. Did you get all of the information that you<br/>8 wanted in the Baker-Glenn case in order to render your<br/>9 opinions or your opinion?<br/>10 A. Yes.<br/>11 Q. What are the general types of expert work<br/>12 that you do? So I'm backing up a step. There are<br/>13 different -- well, I don't -- you gave me a puzzled<br/>14 look, I thought. So was that question unclear to you or<br/>15 poorly worded?<br/>16 A. I apologize. I'm getting a call. I need to<br/>17 turn off my --<br/>18 Q. Okay.<br/>19 A. -- phone.<br/>20 MR. RAUSCHER: Why don't we go off? Oh, I'm<br/>21 sorry. Okay.<br/>22 THE WITNESS: No. No. I'm done. I'm done.<br/>23 MR. RAUSCHER: Okay.<br/>24 THE WITNESS: I'm not answering.<br/>25 MR. RAUSCHER: Okay.</p>  | <p style="text-align: right;">Page 57</p> <p>1 cases, but they're not in litigation. So it could be<br/>2 for a -- a -- a medical staff office evaluating whether<br/>3 a physician is fit to practice medicine, governing<br/>4 bodies for attorneys, whether there is a mental<br/>5 condition preventing someone practicing as a lawyer or a<br/>6 judge, police officer, firefighter, emergency medical<br/>7 technician. You name it.<br/>8 Now, it's all very different professions, but<br/>9 the issue is very similar, and that is: What are the<br/>10 emotional and cognitive requirements of a job and<br/>11 whether that person has impairments or disabilities in<br/>12 that particular area.<br/>13 And another part that I do is prediction of<br/>14 violence in the workplace, where an employer would send<br/>15 somebody because they're concerned for potential<br/>16 violence.<br/>17 Q. All right. Anything else or have we covered<br/>18 it?<br/>19 A. Well, I'm sure I'm missing some of the -- but<br/>20 this is the bulk of what -- what I do.<br/>21 Q. I -- what about workers' comp cases? Do you<br/>22 do those anymore?<br/>23 A. I do significantly less, but again, that's<br/>24 where my expertise in trauma comes in.<br/>25 Q. Okay. So that would be part of that first</p> |

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| <p style="text-align: right;">Page 58</p> <p>1 category, some serious or not serious physical or mental<br/>2 injury?</p> <p>3 A. Yes. Somebody has an amputation, traumatic<br/>4 amputation, traumatic burn. And the question is: What<br/>5 are their emotional damages? Are they related to the<br/>6 accident? That kind of stuff.</p> <p>7 Q. In the civil cases, are you typically hired by<br/>8 the person who is alleging that they have been injured<br/>9 or the -- or someone else?</p> <p>10 A. I tend to be -- in a civil litigation, I tend<br/>11 to be in personal injury. Let's put it this way.<br/>12 Personal injury. It varies year by year. Again, I take<br/>13 whoever comes in. I -- I -- I don't care whether it's a<br/>14 plaintiff or a defense, but my defense case is<br/>15 predominate. So some years, it may be 90 percent. Some<br/>16 years, it may be 60 percent.</p> <p>17 In workers' compensation, it's predominantly<br/>18 respondent, which is the employer. And that's because<br/>19 of the way the law is structured. Petitioners, the<br/>20 plaintiff, don't have a reason to hire an expert. They<br/>21 have their treating doctors testify.</p> <p>22 In a criminal cases, it depends which -- which<br/>23 county. So Cook County, I work predominantly with<br/>24 public defenders and private defense attorneys. In Lake<br/>25 County, it's state's attorneys. Will County, I believe</p> | <p style="text-align: right;">Page 60</p> <p>1 Q. What are some other explanations, if there are<br/>2 any?</p> <p>3 A. There is another explanation and that is,<br/>4 depending how people phrase it, but I'm a stickler to<br/>5 looking at the data the way the data presents itself.<br/>6 And so in vast majority of the -- not -- I shouldn't say<br/>7 majority. In the preponderance of plaintiff cases that<br/>8 I have been involved in, I was not able to be helpful<br/>9 because I found information and data that was not useful<br/>10 to the plaintiff attorney in the civil case, for<br/>11 example. So that's -- that's another kind of a<br/>12 explanation.</p> <p>13 Q. Right. In the civil context, when you're<br/>14 asked to examine or if you're asked to provide expertise<br/>15 where something bad has happened, some bad injury, or<br/>16 whether you're asking to determine whether an injury has<br/>17 occurred and what the significance is, how do you go<br/>18 about doing that?</p> <p>19 A. What I do is that I -- the way I conceptualize<br/>20 it is that I need to have semi-autonomous sources of<br/>21 information, semi-autonomous from each other. And so I<br/>22 gather information from three main sources. One is the<br/>23 records.</p> <p>24 And by records, I mean not just medical<br/>25 records, employment records, Department of Correction</p>  |
| <p style="text-align: right;">Page 59</p> <p>1 it's state's attorneys. Lake County, Indiana, state's<br/>2 attorneys. So it varies.</p> <p>3 Q. And is that just based on how the criminal<br/>4 justice system is set up county-by-county or is there<br/>5 some other reason?</p> <p>6 A. Well, one of the ways that you can undermine<br/>7 the credibility of an expert is to point out that he<br/>8 works only for one side or the other. And so once, you<br/>9 know, people decide, he's going to be defense expert,<br/>10 plaintiff attorneys will not hire him unless they come<br/>11 from other state or other, you know -- further away from<br/>12 where you have most of your practice.</p> <p>13 So state's attorney office in Illinois is not<br/>14 going to hire me, because it's very important to point<br/>15 out to the jury that I tend to work for the defense<br/>16 attorneys. Although in workers' comp cases, it's the<br/>17 state's attorney's office that hires me. So that's --<br/>18 that's just the way it works.</p> <p>19 Q. Have people explained? Have people said that<br/>20 to you? Have lawyers said that to you, or are you<br/>21 making an assumption as to why that's -- why it happens<br/>22 the way it does?</p> <p>23 A. I have had conversations with -- on -- with<br/>24 attorneys from both sides of the aisle, and that is one<br/>25 of the explanations.</p>                            | <p style="text-align: right;">Page 61</p> <p>1 records, but also witness statements, depositions of<br/>2 relatives, what have you. And that gives me information<br/>3 that may shed the light as to, A, how the injury<br/>4 happened, which helps me figure out what the progression<br/>5 of the injury should be over the years.</p> <p>6 Documentation of what family members,<br/>7 employers, whatever, tell me about the functioning of an<br/>8 individual. So that comes from the records. And the<br/>9 other source of data is from the<br/>10 psychological-neuropsychological testing. Ever since<br/>11 I established -- the first job I had out of my<br/>12 fellowship was to establish division of forensic<br/>13 psychiatry at Northwestern.</p> <p>14 And I have established a process where we<br/>15 keep -- I -- I mean we, meaning a department, but now me<br/>16 in private practice, I keep my psychologist blind as to<br/>17 the side that hired us. And I get information from my<br/>18 psychologist-neuropsychologist that is based as much as<br/>19 possible on the results of the tests.</p> <p>20 The third and final source of information is<br/>21 from my forensic psychiatric interview. I think I was<br/>22 the second psychiatrist in Chicago who had started, from<br/>23 the beginning of my practice, audio taping every<br/>24 evaluation that I do and transcribing it. I always had<br/>25 one-way mirror in the -- the interview room, so that we</p> |



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| <p style="text-align: right;">Page 62</p> <p>1 could accommodate videotaping of the interview.</p> <p>2 And the reason for it is because I want my</p> <p>3 interviews to be as transparent as possible and open to</p> <p>4 questioning by the opposing side and their expert.</p> <p>5 Again, everything is focused on developing the data that</p> <p>6 can be supported and is not biased, as much as it is</p> <p>7 possible not to be biased.</p> <p>8 <b>Q. So there's a --</b></p> <p>9 A. And then --</p> <p>10 <b>Q. I'm sorry. Go ahead. You should go.</b></p> <p>11 A. Go ahead.</p> <p>12 <b>Q. Okay.</b></p> <p>13 A. And -- and --</p> <p>14 <b>Q. What is the difference between the second and</b></p> <p>15 <b>third steps that you described?</b></p> <p>16 A. The result of neuropsychological testing? You</p> <p>17 compare the performance and report of symptoms by the</p> <p>18 individual to various control groups. And so you can --</p> <p>19 we can say that this person is reporting symptoms</p> <p>20 consistent with known people who have schizophrenia.</p> <p>21 Okay. Let's put it that way.</p> <p>22 And so it helps me validate the concerns of</p> <p>23 the individual. It also helps me to identify the</p> <p>24 concerns, because when people come in and often they</p> <p>25 already have an idea of what's wrong with them, and they</p>  | <p style="text-align: right;">Page 64</p> <p>1 <b>that?</b></p> <p>2 A. Mental status exam is -- it's like a physical</p> <p>3 exam, but in psychiatry. We evaluate individual's mood,</p> <p>4 affect, thought process, thought content, cognitive</p> <p>5 functioning, that kind of stuff.</p> <p>6 <b>Q. Are any of the three steps that you listed for</b></p> <p>7 <b>your civil cases more important than the other ones?</b></p> <p>8 A. At the end, one of them may bring more</p> <p>9 important and decision-important information than the</p> <p>10 other two, but going in, you don't know which one is</p> <p>11 going to be more important. So each of them, from the</p> <p>12 start, is relatively similarly important. And -- and so</p> <p>13 one other thing I didn't mention, and I, you know -- it</p> <p>14 may help you.</p> <p>15 If two of the sources, right, give me a result</p> <p>16 that is different from another, so two versus one -- so</p> <p>17 let's say in my interview, I don't see what</p> <p>18 psychological testing is finding and what the records</p> <p>19 indicate or it's some other way. So psychological</p> <p>20 testing and psychiatric interview come in with -- they</p> <p>21 agree with each other.</p> <p>22 They're concurrent, congruent, and -- but</p> <p>23 doesn't fit what the records to show. And then one have</p> <p>24 to sit down and try to understand why there is this lack</p> <p>25 of fitness between the three, the sources of data. And</p>  |
| <p style="text-align: right;">Page 63</p> <p>1 just report it, it's important to ask questions and</p> <p>2 compare them to other groups, because they may have an</p> <p>3 illness that they don't know about or don't know the</p> <p>4 right name for it.</p> <p>5 So it's very different from the interview,</p> <p>6 because interview is -- has a very different function</p> <p>7 than psychological testing and develops different sort</p> <p>8 of data.</p> <p>9 <b>Q. The psychological testing you're talking</b></p> <p>10 <b>about, that's something that your office does?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And the interview, tell me more about the</b></p> <p>13 <b>interview process.</b></p> <p>14 A. Well, my interviews typically last three</p> <p>15 hours. Sometimes, they go on for eight hours, six</p> <p>16 hours, eight hours. Sometimes they are briefer, but</p> <p>17 typically around three hours. When I go into the</p> <p>18 interview, I already know what are the questions that</p> <p>19 are -- remain open, based upon my review of records and</p> <p>20 the results of psychological testing.</p> <p>21 It also gives me an opportunity to do mental</p> <p>22 status exam and gather further history that wasn't</p> <p>23 gathered or remains unclear from review of records and</p> <p>24 psychological testing.</p> <p>25 <b>Q. What's a mental status exam as you're using</b></p> | <p style="text-align: right;">Page 65</p> <p>1 those are probably some of the most challenging cases,</p> <p>2 but also very, very interesting, because typically, it's</p> <p>3 something that is unusual, not a typical phenomena.</p> <p>4 <b>Q. So what -- give me -- could you give me an</b></p> <p>5 <b>example, like, what a concrete example of that would</b></p> <p>6 <b>look like where records said one thing, for example, and</b></p> <p>7 <b>you found something different in the second and third</b></p> <p>8 <b>steps?</b></p> <p>9 A. So I was evaluating a -- a physician. She had</p> <p>10 symptoms that were -- that looked like panic disorder,</p> <p>11 and she was filing for Disability with a private</p> <p>12 insurance carrier who referred her to me. And the</p> <p>13 records were pretty solid about -- that there is not --</p> <p>14 that there wasn't anything documented that she had a</p> <p>15 heart condition.</p> <p>16 So it looked like, by exclusion, that it was</p> <p>17 most likely panic disorder. On psychological testing,</p> <p>18 nothing came up other than, yes, she has high levels of</p> <p>19 anxiety, which is consistent with a panic disorder. But</p> <p>20 on an interview, it -- it -- I -- it didn't fit.</p> <p>21 And what happened was I brought her back and</p> <p>22 had further interactions with her. And what I found out</p> <p>23 was that she actually had a cardiologist who told her</p> <p>24 that if she continues to work in the hospital, her heart</p> <p>25 will stop working, and she -- she truly believed that</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 cardiologist.</p> <p>2 And so it's not that she had panic attacks. I</p> <p>3 mean, she had anxiety attacks, but they were not driven</p> <p>4 by biology as it is with most panic disorders. It was</p> <p>5 driven by the fact that she has in her mind that she may</p> <p>6 have a heart attack and die. She had a long family</p> <p>7 history of women with heart attacks, so it kind of fit</p> <p>8 and that's it.</p> <p>9 She -- she couldn't walk into the hospital.</p> <p>10 And so the solution was to find her a very, very top-</p> <p>11 notch cardiologist, who would evaluate her and either</p> <p>12 reassure her or conclude that, yes, indeed, she has some</p> <p>13 kind of cardiomyopathy, whatever, that if she gets</p> <p>14 stressed out and her heart starts working harder, she</p> <p>15 has significantly increased risks of heart attack.</p> <p>16 Q. So did you refer her to another cardiologist?</p> <p>17 A. Well, I'm not a cardiologist, but we found</p> <p>18 her -- I believe we found it, but it, at that point, you</p> <p>19 know, I got the insurance company involved, and in most</p> <p>20 cases, I never knew the result. I met her about --</p> <p>21 couple years later, and the cardiologist told her that</p> <p>22 she does have a heart condition. And she stopped</p> <p>23 practicing medicine.</p> <p>24 Q. All right. Tell me about the steps in your</p> <p>25 criminal work. So tell me -- I'm sorry. Let me</p> | <p style="text-align: right;">Page 68</p> <p>1 Q. Got it. When was the last case you -- what</p> <p>2 was the last case you worked on where you were asked to</p> <p>3 provide an expert opinion on someone's fitness to plead</p> <p>4 guilty?</p> <p>5 A. At least couple of years ago.</p> <p>6 Q. Do you remember which case that was?</p> <p>7 A. I do not. I think it was Cook County public</p> <p>8 defender's office.</p> <p>9 Q. And can you tell me what you did in that case</p> <p>10 to render an opinion?</p> <p>11 A. I don't have independent recollection of, you</p> <p>12 know, the case itself in any great detail. But again,</p> <p>13 it's -- it's -- I follow the same process no matter</p> <p>14 what. So the public defender send me the records. I</p> <p>15 may have requested further records. In -- in -- in --</p> <p>16 in a -- in a plea evaluation, just like as in fitness to</p> <p>17 stand trial evaluation, those two evaluations are very</p> <p>18 similar.</p> <p>19 I would interview the defense attorney because</p> <p>20 part of fitness is to be able to cooperate with your</p> <p>21 counsel. And obviously in a plea, I need to know what</p> <p>22 the defendant feels about his attorney, the trust and</p> <p>23 the degree of trust they have -- he has with his</p> <p>24 attorney. So that would be it.</p> <p>25 Q. Would you agree that the process you used in</p> |
| <p style="text-align: right;">Page 67</p> <p>1 rephrase that. Tell me about the process in the work</p> <p>2 that you do for criminal cases.</p> <p>3 A. Very similar to civil. I review the records,</p> <p>4 understand what happened, so what happened during</p> <p>5 alleged crime. Understand the person's psychiatric</p> <p>6 mental health history, whatever else, social history. I</p> <p>7 will send my psychologist to the jail if the person is</p> <p>8 incarcerated, or they come to us if they are on bail.</p> <p>9 We do that.</p> <p>10 And then I will visit the individual, again,</p> <p>11 in the jail or what have you, or they come to my office</p> <p>12 and do similar kind of an interview with one caveat. We</p> <p>13 do not tape record our interviews in the criminal cases</p> <p>14 because of potential of self-incrimination and what have</p> <p>15 you.</p> <p>16 Although in Illinois, state attorneys are not</p> <p>17 allowed to use information obtained during -- I think</p> <p>18 it's called BCX to establish guilt. But in -- in any</p> <p>19 way, we don't tape record those. And then I analyze the</p> <p>20 data, and put it together, and come up with an opinion.</p> <p>21 Q. I'm sorry. What was the last thing? Come up</p> <p>22 with --</p> <p>23 A. An opinion.</p> <p>24 Q. An opinion. Okay.</p> <p>25 A. Reach an opinion -- reach a conclusion.</p>  | <p style="text-align: right;">Page 69</p> <p>1 this case is different than the process you've described</p> <p>2 that you typically use in civil and criminal cases?</p> <p>3 A. Yes and no.</p> <p>4 Q. Can you explain that?</p> <p>5 A. It's different in that I did not interview</p> <p>6 Mr. Monahan. That's not his name. Yeah. Monahan, I</p> <p>7 did not interview --</p> <p>8 Q. Who is Mr. Monahan?</p> <p>9 A. Am I -- I'm not using the correct name.</p> <p>10 Q. His --</p> <p>11 A. His defense attorney.</p> <p>12 Q. Okay. Yeah. That's what I -- okay.</p> <p>13 A. Is it Monahan or what -- no.</p> <p>14 Q. It's okay. You're -- the criminal defense</p> <p>15 attorney is what you mean, right?</p> <p>16 A. Yeah.</p> <p>17 Q. Okay.</p> <p>18 A. Well, now I need to know.</p> <p>19 Q. That's fine. It's all right.</p> <p>20 A. I don't want to take -- I did not interview</p> <p>21 his defense attorney. I did not interview Mr. Baker or</p> <p>22 Ms. Glenn. So my -- and there was no psychological</p> <p>23 testing done. Although in a fitness and plea</p> <p>24 evaluations, which are competency evaluations, unless</p> <p>25 the testing is done more if I really suspect that there</p>   |

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| <p style="text-align: right;">Page 70</p> <p>1 is a mental illness or some kind of a cognitive<br/>2 disorder.</p> <p>3 So those are two major differences between<br/>4 what I have done in this case and what a typical<br/>5 evaluation would...</p> <p>6 <b>Q. And how are they -- how was the methodology<br/>7 the same? Is it that you reviewed records?</b></p> <p>8 A. Well, I reviewed records. I particularly<br/>9 looked at the records to form -- understand what was the<br/>10 relationship between Mr. Baker and Ms. Glenn and the<br/>11 attorney, the defense attorney. I looked at and<br/>12 reviewed the deposition of the defense attorney to form<br/>13 an understanding, whether he felt that his clients were<br/>14 able to cooperate with him and he was able to represent<br/>15 them appropriately.</p> <p>16 I reviewed -- I looked for any evidence of<br/>17 mental condition of mental ill being. So any<br/>18 psychological, psychiatric disorders, any cognitive<br/>19 disorders, any physical disorders that would cause<br/>20 emotional or cognitive symptoms and decline and what<br/>21 have you.</p> <p>22 And then, of course, I reviewed what both<br/>23 defendants were testifying and filled out their<br/>24 affidavits and what have you.</p> <p>25 <b>Q. Were -- did you want to interview the criminal</b></p>   | <p style="text-align: right;">Page 72</p> <p>1 What kind of behaviors he would be involved in when he's<br/>2 manic or depressed.</p> <p>3 So there, it would be much more difficult to<br/>4 rely only on the record. You -- you really need to<br/>5 evaluate an individual. So that would be one clear<br/>6 situation where interviewing and doing psych testing<br/>7 would be important.</p> <p>8 <b>Q. So with -- your opinion here was that Mr.<br/>9 Baker and Ms. Glenn entered a guilty plea knowingly,<br/>10 intelligently, and voluntarily, correct?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And that -- is that another way of saying they<br/>13 were legally competent to plead guilty?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. Is -- so is it your testimony that you -- to<br/>16 render that type of opinion, you only need to<br/>17 interview --</b></p> <p>18 A. I --</p> <p>19 <b>Q. I'm sorry, I was...</b></p> <p>20 A. I'm sorry. My opinion -- whether they were --<br/>21 well, first of all, every U.S. citizen is assumed to be<br/>22 competent unless found otherwise. And the competency is<br/>23 established by the judge. It's a legal decision. So my<br/>24 opinion would not go to that ultimate issue.</p> <p>25 My opinion would be that, you know, the</p>   |
| <p style="text-align: right;">Page 71</p> <p>1 <b>defense attorney or Baker or Glenn?</b></p> <p>2 A. Well, if I had the time and there was an<br/>3 opportunity, I would have loved to interview them. But<br/>4 there was neither the time nor opportunity. And also,<br/>5 based upon the available evidence, I believe I have both<br/>6 sufficient and necessary data to reach an opinion that I<br/>7 have reached.</p> <p>8 <b>Q. Wouldn't that be the case in every -- wouldn't<br/>9 that be the same situation in every civil case where<br/>10 there are depositions and records produced?</b></p> <p>11 A. No.</p> <p>12 <b>Q. Okay. Can you explain that?</b></p> <p>13 A. Sure. Let's say, for example, there is<br/>14 evidence that Mr. Baker suffers from bipolar disorder<br/>15 and there is -- there are records that he has<br/>16 fluctuating mental functioning. I would really want to<br/>17 interview him. And I really would like to do psych<br/>18 testing because I need to establish the course of<br/>19 illness.</p> <p>20 I need to establish how frequently the<br/>21 episodes are, what -- the way that they fluctuate from<br/>22 depression to mania. What's the -- the period of slow<br/>23 onset or depressive symptoms -- I'm blanking on the term<br/>24 for it. How long do depressions last, treated and<br/>25 untreated? How long mania lasts, treated or untreated?</p> | <p style="text-align: right;">Page 73</p> <p>1 individual is -- was able mentally, emotionally,<br/>2 cognitively able to enter the plea agreement because,<br/>3 from the mental health perspective, his decision was<br/>4 done knowingly, with -- intelligently and<br/>5 volitionally -- voluntarily. Volitionally.</p> <p>6 <b>Q. And you're using those terms in a way that<br/>7 you've read in case law; is that right?</b></p> <p>8 A. Yes. Case law, what -- what is the consensus<br/>9 among forensic psychiatrist. Yes.</p> <p>10 <b>Q. Is your -- is it your opinion that, in order<br/>11 to give that type of -- well, let me strike that. Is it<br/>12 your testimony that, in order to render an opinion as to<br/>13 whether someone entered a plea knowingly, intelligently,<br/>14 and voluntarily, you only need to interview those people<br/>15 if there are indications in records that they may have<br/>16 some sort of mental health issue?</b></p> <p>17 A. No. I think your question was a little bit<br/>18 different.</p> <p>19 <b>Q. Okay.</b></p> <p>20 A. I think your question was, if I remember<br/>21 correctly, under what circumstances it becomes necessary<br/>22 to perform psychiatric interview and -- and/or psych<br/>23 testing. Your current question, if you could repeat it,<br/>24 please?</p> <p>25 <b>Q. Is it your position that, to evaluate whether</b></p> |



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| <p style="text-align: right;">Page 74</p> <p>1 someone entered a guilty plea knowingly, intelligently,<br/> 2 and voluntarily, you only need to interview them if<br/> 3 there is some indication in records that they have a<br/> 4 mental health or cognitive issues?</p> <p>5 A. No. I mean, I think that it would be<br/> 6 reasonable to interview every defendant whenever the --<br/> 7 one of the attorneys is raising the issue of competency<br/> 8 to -- to plea or competency to stand trial or any other<br/> 9 competency involved in the criminal investigation,<br/> 10 criminal case. That would be the preference.</p> <p>11 Q. When is it necessary? If you can answer that<br/> 12 in broad strokes as opposed to just reasonable or<br/> 13 preferred.</p> <p>14 A. It's necessary, again, as I mentioned earlier,<br/> 15 if there is a history of psychiatric condition of some<br/> 16 sort at the time of -- when this issue has been raised.<br/> 17 It's necessary if the defense attorney or the state's<br/> 18 attorney sends the person for an evaluation because they<br/> 19 see something.</p> <p>20 Well, if the -- if the attorney is seeing<br/> 21 something or the judge sees something, it behooves me to<br/> 22 take a look at it and see it myself. So those cases<br/> 23 come to mind as necessary for one-on-one evaluation.</p> <p>24 Q. Tell me what -- how do you see your role in<br/> 25 this particular case?</p>                                  | <p style="text-align: right;">Page 76</p> <p>1 hour, irrelevant pretty much. It's that Mahoney talked<br/> 2 to Mr. Baker before coming to Judge -- to the hearing<br/> 3 and that apparently, they have discussed it, and this is<br/> 4 nothing new as to what they were facing.</p> <p>5 So all of that is indicative to me that -- and<br/> 6 I go into details that the decision vis-a-vis having<br/> 7 enough time and the relationship with the attorney was<br/> 8 knowing, intelligent, and voluntary.</p> <p>9 Q. All right. Mahoney says on the record that he<br/> 10 had a tentative conversation with Baker, right? That's<br/> 11 what he tells the judge?</p> <p>12 A. Yes.</p> <p>13 Q. Where are you gathering from that that he had<br/> 14 provided all of the relevant information to Baker and<br/> 15 Glenn that there was nothing new?</p> <p>16 A. Well, the way that I read the deposition is<br/> 17 that, at least Attorney Mahoney and -- and maybe I'm<br/> 18 making an inference in that say they had conversations<br/> 19 with his clients, that given the fact that in the prior<br/> 20 case, where they have put Mr. Baker on the stand and he<br/> 21 testified to the alleged behavior by various police<br/> 22 officers framing him, that Judge Toomin did -- you know,<br/> 23 gave more credence to the police officer's testimony and<br/> 24 not Mr. Baker. And now they were facing very similar<br/> 25 situation.</p> |
| <p style="text-align: right;">Page 75</p> <p>1 A. My role in this case was to evaluate the<br/> 2 available data, to see whether or not Mr. Baker and Ms.<br/> 3 Glenn entered the plea in September of 2006 knowingly,<br/> 4 intelligently, and voluntarily.</p> <p>5 Q. Were there any documents that were more<br/> 6 significant than others in rendering that -- rendering<br/> 7 your opinion that they did plead guilty knowingly,<br/> 8 intelligently, and voluntarily?</p> <p>9 A. I'm thinking. It's not so much that the<br/> 10 documents, it's the information that I note in my report<br/> 11 that was important. So for example, the fact that the<br/> 12 relationship between Mr. Baker, Ms. Glenn, and the<br/> 13 defense attorney was very positive, was -- they had --<br/> 14 they have a few cases together under the belt. So they<br/> 15 worked together.</p> <p>16 Mr. Mahoney was definitely a very, in my<br/> 17 judgment, was very strong advocate for his clients. And<br/> 18 that -- that important because it showed me that it's --<br/> 19 the decision was, you know, when Dr. -- don't tell me.<br/> 20 I constantly forget how to pronounce it. Redlich --<br/> 21 Redlich says that, well, they only had 30 minutes.<br/> 22 Well, they didn't have 30 minutes.</p> <p>23 I mean, maybe after the conversation between<br/> 24 the judge, the state's attorney, and Mr. Mahoney. It's<br/> 25 not clear, it may have been 30 minutes, may have been an</p> | <p style="text-align: right;">Page 77</p> <p>1 And during the hearing, judge to me basically<br/> 2 said, without more than just Mr. Baker's report about<br/> 3 inappropriate behaviors by the police department,<br/> 4 basically, he will give more credence to the police<br/> 5 testimony than Mr. Baker.</p> <p>6 So to me, looking at the totality of<br/> 7 situation, it -- it -- it definitely looks that there<br/> 8 was sufficient time and discussion to -- that this makes<br/> 9 this plea knowing and intelligent and voluntary.</p> <p>10 Q. So is it fair to say when you're -- when you<br/> 11 said no new information a couple answers ago, what you<br/> 12 meant was no new information that would change what the<br/> 13 judge was going to do from what he had done before?</p> <p>14 A. I mean, no new information that<br/> 15 strategically -- that Mr. Mahoney could use to change<br/> 16 the expected outcome of -- of the trial.</p> <p>17 Q. And you -- I'm sorry, go ahead.</p> <p>18 A. No, no, that's fine.</p> <p>19 Q. You said, I want to say at least a couple<br/> 20 times, and we can look at the report, essentially what<br/> 21 they -- what Baker and Glenn did here was reasonable<br/> 22 given the way the record looked at the time. Is that<br/> 23 fair summary?</p> <p>24 A. Yes.</p> <p>25 Q. Is that -- do you think you have a</p>  |

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| <p style="text-align: right;">Page 78</p> <p>1 disagreement with Ms. Redlich on that point?</p> <p>2 A. Well, Dr. Redlich opines that the plea was not</p> <p>3 done -- was not done knowingly, intelligently, and</p> <p>4 voluntarily. And that's my disagreement with her. The</p> <p>5 other disagreement with Dr. Redlich is that she's using</p> <p>6 the presence of three situational risk factors, as she</p> <p>7 refers to them, as -- as establishing the falseness of</p> <p>8 the guilty plea. And by falseness, she means that they</p> <p>9 did not commit the crime they were charged with. And I</p> <p>10 don't think that her research allows her to make such</p> <p>11 judgements.</p> <p>12 Q. And you didn't render an opinion one way or</p> <p>13 the other on whether you believe the pleas were false in</p> <p>14 the sense that they actually were innocent, right?</p> <p>15 A. No.</p> <p>16 Q. You're -- no you're agreeing with me or no,</p> <p>17 you're disagreeing with me?</p> <p>18 A. I did not make a finding that the plea was</p> <p>19 false.</p> <p>20 Q. You didn't make a finding one way or the</p> <p>21 other, whether it was false or not false?</p> <p>22 MR. BAZAREK: Object to the form of the</p> <p>23 question.</p> <p>24 THE WITNESS: There is -- the plea was entered</p> <p>25 knowingly, intelligently, and voluntarily. And</p> | <p style="text-align: right;">Page 80</p> <p>1 Q. And how did you form that understanding of the</p> <p>2 case?</p> <p>3 A. From reading Dr. Redlich -- Redlich -- Redlich</p> <p>4 report, her opinions. That's how I formed the</p> <p>5 understanding.</p> <p>6 Q. And is it your understanding or belief that an</p> <p>7 expert could not talk about factors that lead to false</p> <p>8 guilty pleas?</p> <p>9 A. I think it will not bring any clarity for the</p> <p>10 judge or the jury. I think it will be confusing. I</p> <p>11 think it is -- it doesn't bring anything that anyone can</p> <p>12 use, lay public, people who have to make a judgment on</p> <p>13 facts whether or not that plea was made by people who</p> <p>14 were competent or incompetent --</p> <p>15 Q. Well, why do --</p> <p>16 A. -- to make a plea.</p> <p>17 Q. Why do you think that anyone's going to be</p> <p>18 asked whether Baker and Glenn made their plea</p> <p>19 competently in a legal sense?</p> <p>20 A. Because that's the question that -- well, one,</p> <p>21 because the research on false guilty pleas offers no</p> <p>22 information to figure out whether or not the plea was</p> <p>23 false or true.</p> <p>24 THE WITNESS: I'm sorry, somebody's talking?</p> <p>25 MR. RAUSCHER: Someone's not on mute. Bill, I</p> |
| <p style="text-align: right;">Page 79</p> <p>1 that's the only parameter that is important in the</p> <p>2 legal question that is in front of us.</p> <p>3 MR. RAUSCHER: So -- sorry, continue.</p> <p>4 THE WITNESS: In front of us as experts. For</p> <p>5 attorneys, it's a different thing. But for</p> <p>6 experts, neither she nor I can opine whether it is</p> <p>7 false or true, because that is the -- something</p> <p>8 that has to be established through a -- a legal</p> <p>9 procedure. And part of that legal procedure is the</p> <p>10 plea bargaining.</p> <p>11 BY MR. RAUSCHER:</p> <p>12 Q. Who decided that the only issue for an expert</p> <p>13 to opine on here would be whether the pleas were</p> <p>14 knowing, voluntary, and intelligent -- intelligently</p> <p>15 made?</p> <p>16 A. I don't know, but I saw that that was the --</p> <p>17 I'm sorry. I may not have understood your question.</p> <p>18 Would you --</p> <p>19 Q. So you said the only issue before the experts</p> <p>20 in this case is whether the plea was knowing,</p> <p>21 intelligent, and voluntary, right?</p> <p>22 A. Yes.</p> <p>23 Q. What are you basing that opinion -- what are</p> <p>24 you basing that testimony on?</p> <p>25 A. My understanding of the case.</p>  | <p style="text-align: right;">Page 81</p> <p>1 think you're not on mute.</p> <p>2 THE WITNESS: I think they're on mute now.</p> <p>3 Would you mind repeating your question?</p> <p>4 MR. RAUSCHER: Could you read it back? I got</p> <p>5 a little distracted. Sorry.</p> <p>6 THE WITNESS: Yeah. So did I.</p> <p>7 MR. RAUSCHER: I'm not sure why I apologized.</p> <p>8 I don't apologize, but I'll have her read it back.</p> <p>9 MR. BAZAREK: Before we read it back to you,</p> <p>10 are we going to talk about a break or lunch or, you</p> <p>11 know --</p> <p>12 MR. RAUSCHER: Oh, sure.</p> <p>13 MR. BAZAREK: -- talk to the witness?</p> <p>14 MR. RAUSCHER: Whatever you-all want to do is</p> <p>15 fine with me. I'm, obviously I'm going to be going</p> <p>16 for a while. So whatever you --</p> <p>17 MR. BAZAREK: Right.</p> <p>18 MR. RAUSCHER: -- guys want to do for lunch is</p> <p>19 fine.</p> <p>20 MR. BAZAREK: Well, it's whatever Dr. Obolsky,</p> <p>21 if he needs the break or, you know, that's all I</p> <p>22 was going to --</p> <p>23 MR. RAUSCHER: Okay.</p> <p>24 THE WITNESS: If it's okay with everyone, we</p> <p>25 can go until 1:00 and then take a break?</p>  |

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| <p style="text-align: right;">Page 82</p> <p>1 MR. RAUSCHER: Sure.</p> <p>2 MR. BAZAREK: Yeah.</p> <p>3 MR. RAUSCHER: That's another ten minutes or</p> <p>4 so.</p> <p>5 THE REPORTER: Okay. Let me read the last</p> <p>6 question.</p> <p>7 (REPORTER PLAYS BACK REQUESTED QUESTION)</p> <p>8 BY MR. RAUSCHER:</p> <p>9 Q. So the -- I think the question got cut off at</p> <p>10 the beginning, but it was, why do you believe that</p> <p>11 anybody is going to ask a jury to determine whether, in</p> <p>12 the legal sense, Baker and Glenn pled guilty in a way</p> <p>13 that was knowing, intelligent, and voluntary?</p> <p>14 A. Maybe not, but neither Dr. Redlich nor I can</p> <p>15 answer the question whether this was a false or true</p> <p>16 guilty plea.</p> <p>17 Q. Well, you didn't try to answer that question,</p> <p>18 right?</p> <p>19 A. Well --</p> <p>20 MR. BAZAREK: Objection.</p> <p>21 THE WITNESS: Well, it did --</p> <p>22 MR. BAZAREK: Argumentative. Go ahead.</p> <p>23 THE WITNESS: Neither I nor Dr. Redlich has</p> <p>24 any ability to answer the question, whether it's a</p> <p>25 true or guilty plea, because that's a legal</p>  | <p style="text-align: right;">Page 84</p> <p>1 have to listen to everything there is to listen about.</p> <p>2 I, as a psychiatrist, cannot substitute my judgment for</p> <p>3 the trial.</p> <p>4 Q. So then you're not -- you didn't answer my</p> <p>5 question and I think before that you substituted an</p> <p>6 answer for a question I didn't ask. So I'm going to try</p> <p>7 to ask the same question that I asked a couple times ago</p> <p>8 again, which is: You did not try to determine whether</p> <p>9 this was a false guilty plea, correct?</p> <p>10 A. Yeah, I did. I analyzed the evidence as</p> <p>11 presented by Dr. Redlich with the situational risk</p> <p>12 factors. I evaluated her research that indicates -- to</p> <p>13 see whether or not it indicates that these risk factors</p> <p>14 can be used in prospective manner, meaning to predict or</p> <p>15 decide whether the plea was true or false.</p> <p>16 And in that respect, I did attempt to answer</p> <p>17 the question whether or not there is evidence that this</p> <p>18 is a false guilty plea or true --</p> <p>19 Q. And --</p> <p>20 A. -- guilty plea.</p> <p>21 Q. And where in your report did you put this</p> <p>22 analysis of whether this -- whether you believe this was</p> <p>23 a false or true guilty plea?</p> <p>24 A. I think my whole report is about that, where I</p> <p>25 indicate that the evidence that Dr. Redlich is using is</p>                                     |
| <p style="text-align: right;">Page 83</p> <p>1 question for a trier of fact.</p> <p>2 BY MR. RAUSCHER:</p> <p>3 Q. So that -- a judge will decide what people are</p> <p>4 allowed to testify to or not allowed to testify to. And</p> <p>5 I think you understand that from your years of</p> <p>6 experience as an expert, right?</p> <p>7 A. Sure. But Dr. Redlich herself stated that --</p> <p>8 Q. All right.</p> <p>9 A. -- in her deposition.</p> <p>10 Q. So can you just answer my question though? You</p> <p>11 didn't try to determine whether this was a false guilty</p> <p>12 plea?</p> <p>13 A. I have no reason to believe, there is no</p> <p>14 evidence that would indicate that this was a false</p> <p>15 guilty plea.</p> <p>16 Q. And what -- and how are you defining the term</p> <p>17 false guilty plea in that sentence?</p> <p>18 A. That Mr. Baker and Ms. Glenn did not have</p> <p>19 drugs in their car and that the drugs were planted by</p> <p>20 the arresting officers.</p> <p>21 Q. In your testimony, as you have seen no</p> <p>22 evidence supporting their claim?</p> <p>23 A. In order to answer that question, I need to be</p> <p>24 on a jury, listen to the testimony of witnesses, make a</p> <p>25 judgment. Whether the witnesses are credible or not, I</p> | <p style="text-align: right;">Page 85</p> <p>1 not -- does not stand up to scrutiny.</p> <p>2 Q. Well, you have problems with her methodology,</p> <p>3 but show me where in your report you say this is --</p> <p>4 there is no evidence that this is a false guilty plea?</p> <p>5 A. I'll have to look through it, but that's --</p> <p>6 definitely was the, you know, assumed -- or maybe not so</p> <p>7 assumed, but the decision here. But I -- I'll need to</p> <p>8 take a look to find you the sentence that would address</p> <p>9 that issue specifically. In the -- are we back?</p> <p>10 Q. Yeah, go. We're still on. Yeah, we're just</p> <p>11 waiting for you.</p> <p>12 A. Okay. Yeah. In the -- in the way that my</p> <p>13 report is structured, I go through the evidence that</p> <p>14 Dr. Redlich brings up, which is on Page -- on Page 9.</p> <p>15 Dr. Redlich stated that there are three primary risk</p> <p>16 factors present in Mr. Baker's and Ms. Glenn's cases</p> <p>17 that are consistent with proven falsey -- false guilty</p> <p>18 pleas.</p> <p>19 She listed these risk factors as well as her</p> <p>20 opinion that the defendant may not have had sufficient</p> <p>21 time to think through the plea offer. The factors I</p> <p>22 identify as: Insufficient time to consider the plea</p> <p>23 offer, package plea deal, futility of going to trial,</p> <p>24 and extreme plea discounts.</p> <p>25 And I go through each of those risk factors</p> |

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| <p style="text-align: right;">Page 86</p> <p>1 and show that they are not probative. They are not<br/> 2 useful in making the decision. She cannot make a<br/> 3 decision that the plea was false. So the whole emphasis<br/> 4 of that part of the report is on showing that there is<br/> 5 no evidence for a false guilty plea.</p> <p>6 Q. When you say there is no evidence, what I<br/> 7 think you mean is that Dr. Redlich did not identify<br/> 8 evidence that you believe supports the fact -- the<br/> 9 conclusion that there's a false guilty plea, not that<br/> 10 there is no evidence, right?</p> <p>11 A. Correct. I do not know the complete set of<br/> 12 data because I'm not part of the -- I'm not the judge<br/> 13 and I'm not on a jury. It will be up to them to decide<br/> 14 how much weight they going to proportion to different<br/> 15 people in their testimonies.</p> <p>16 What my report says is that Dr. Redlich<br/> 17 conclusion that the identified situational factors and<br/> 18 the lack of sufficient time made it that it leads to the<br/> 19 conclusion that it is a false guilty plea, which<br/> 20 actually, she never gives that conclusion. She always<br/> 21 says it's consistent with -- she hedges her terms. And<br/> 22 then -- then, she goes in and she's -- also goes into<br/> 23 the question of whether it was knowing, intelligent,<br/> 24 and/or -- and voluntary.</p> <p>25 Q. You actually agree with her factually, I</p> | <p style="text-align: right;">Page 88</p> <p>1 says it would've been futile for them to go to trial.<br/> 2 You say the same thing?</p> <p>3 A. That was the decision of public defender. I<br/> 4 mean, public defender -- defense attorney. And yes, I<br/> 5 mean, that was the factor that the defendants had to<br/> 6 consider.</p> <p>7 Q. Well, and you say it was a reasonable decision<br/> 8 given all the facts known at the time, right?</p> <p>9 A. Yes.</p> <p>10 Q. And probably the most sensible decision?</p> <p>11 A. Under the circumstances, yes.</p> <p>12 Q. And then the extreme plea discount, which is<br/> 13 potential sentence, if you go to trial versus sentence<br/> 14 that you get by pleading. That happened, right? There<br/> 15 was a very large discount they got.</p> <p>16 A. Well, here -- one has to be careful about the<br/> 17 use of language. So package plea deal is neutral,<br/> 18 meaning Mr. Baker gets lenient sentence and very<br/> 19 important for both of them, is Ms. Glenn gets probation<br/> 20 and she's not in jail and she can take care of the kids.</p> <p>21 But when you start talking about futility of<br/> 22 going to trial, the word futility has tremendous<br/> 23 emotional impact. The attorney, Mr. Mahoney, discussed<br/> 24 with his client that given the fact that Judge Toomey<br/> 25 [sc] did not buy, did not agree with testimony of</p>  |
| <p style="text-align: right;">Page 87</p> <p>1 believe, on a number of the factors that she identifies,<br/> 2 right?</p> <p>3 MR. BAZAREK: Object to the form of the<br/> 4 question. And also as to lack of foundation.</p> <p>5 THE WITNESS: I don't know what you mean.</p> <p>6 BY MR. RAUSCHER:</p> <p>7 Q. All right. Let's try to break it down. Page<br/> 8 9, the page you identified, she's got four bullet<br/> 9 points. I'm sorry, not she does. You have four bullet<br/> 10 points. You say, "The factors she," meaning Dr.<br/> 11 Redlich, "identified are," right; you see that?</p> <p>12 A. Give me one sec.</p> <p>13 Q. Okay.</p> <p>14 A. Yeah.</p> <p>15 Q. The first is, "Insufficient time to consider<br/> 16 the plea offer," right?</p> <p>17 A. Yes.</p> <p>18 Q. That one, I think you've said you don't agree<br/> 19 with and you've explained why, correct?</p> <p>20 A. Yes.</p> <p>21 Q. All right. There was a package plea deal with<br/> 22 Mr. Baker and Ms. Glenn. That's -- you agree that that<br/> 23 happened, right?</p> <p>24 A. Yes.</p> <p>25 Q. The, "Futility of going to trial," Dr. Redlich</p>   | <p style="text-align: right;">Page 89</p> <p>1 Mr. Baker that he was framed in the previous trial, that<br/> 2 given the same -- to give the same information to the<br/> 3 judge without more, the judge is not going to rule<br/> 4 differently because judge cannot go, you know, he cannot<br/> 5 counter -- go against his previous decision without<br/> 6 more.</p> <p>7 And the judge says as much. Is it futility?<br/> 8 It -- it's -- it's a -- it's a -- it's a not a<br/> 9 value-neutral term, okay? Was there a good prediction<br/> 10 of the outcome of the trial? Yes. Would the outcome of<br/> 11 the trial would not be to the -- not as advantageous to<br/> 12 Mr. Baker and Ms. Glenn? Absolutely.</p> <p>13 The extreme plea discount, judging by<br/> 14 testimony and by Mr. Baker and Ms. Glenn and the defense<br/> 15 attorney, the fact that she would not spend a -- she<br/> 16 would have a year on probation, then I forget what it<br/> 17 was, a year or two years of jail sentence that she might<br/> 18 get, was an important inducement, was an important<br/> 19 factor to consider and even though -- well, yeah.</p> <p>20 So is it extreme? I don't know how one judges<br/> 21 whether it's extreme or not, you know? And then<br/> 22 Dr. Redlich does not identify what extreme is. I mean,<br/> 23 she went -- goes through calculations of 90 percent, 95<br/> 24 percent reduction. You know, did any of the defendants<br/> 25 ever make calculations like this? Of course not.</p> |



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| <p style="text-align: right;">Page 90</p> <p>1 The fact that Ms. Glenn could spend the -- you</p> <p>2 know, could be with her children. Her children don't</p> <p>3 have to go to relatives or, God forbid, the CFS or what</p> <p>4 have you. That's, you know, that's very important</p> <p>5 factor. But the term extreme is just doesn't have the</p> <p>6 place in here. But otherwise, yes, I agree. These</p> <p>7 situational factors were present.</p> <p>8 <b>Q. You said that they -- Baker and Glenn</b></p> <p>9 <b>exercised good judgment by pleading guilty?</b></p> <p>10 A. I did say that.</p> <p>11 <b>Q. And that it was the most reasonable decision</b></p> <p>12 <b>to be made?</b></p> <p>13 A. Under the circumstances, yes. But let me --</p> <p>14 I -- you didn't ask me why I think that, but --</p> <p>15 <b>Q. Right. I'm just going through your report.</b></p> <p>16 A. I understand.</p> <p>17 MR. RAUSCHER: Do you want to -- it's after</p> <p>18 1:00. It's 1:05. You know, we're --</p> <p>19 THE WITNESS: Yeah, maybe we should.</p> <p>20 MR. RAUSCHER: Okay. How about --</p> <p>21 MR. BAZAREK: Doctor, how much --</p> <p>22 MR. RAUSCHER: Yeah. Go ahead.</p> <p>23 MR. BAZAREK: Doctor, how much time would you</p> <p>24 like for break?</p> <p>25 THE WITNESS: Half an hour, 35 minutes will be</p> | <p style="text-align: right;">Page 92</p> <p>1 because we talked about it on the record, but I did</p> <p>2 supply to you and the other counsel that are in</p> <p>3 this deposition the materials that are contained in</p> <p>4 a link, and those were documents that were supplied</p> <p>5 to Dr. Obolsky's office.</p> <p>6 MR. RAUSCHER: Yes. Thank you. I got it. I</p> <p>7 downloaded them. I, maybe needless to say, don't</p> <p>8 have time today to go through all of it, but if</p> <p>9 there are questions after, we'll deal with it</p> <p>10 after. Are we ready?</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. RAUSCHER:</p> <p>13 <b>Q. Are you a -- I don't know that I asked you</b></p> <p>14 <b>this, so I'm sorry if I did already, but are you acting</b></p> <p>15 <b>as a forensic psychiatrist in this case?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. And what in your background as a forensic</b></p> <p>18 <b>psychiatrist qualifies you to render your opinions in</b></p> <p>19 <b>this case?</b></p> <p>20 A. Well, I'm -- the opinion whether or not the</p> <p>21 plea was entered knowingly, intelligently, and</p> <p>22 voluntarily is (inaudible) forensic psychiatry. Analysis</p> <p>23 of new theories or new research and how it may affect</p> <p>24 the resolution of a legal question, which is -- talks</p> <p>25 about motivation, attitudes of individuals, how they</p> |
| <p style="text-align: right;">Page 91</p> <p>1 fine.</p> <p>2 MR. BAZAREK: Okay. Let's do 35. Does that</p> <p>3 work for everybody?</p> <p>4 MR. RAUSCHER: It's fine with me.</p> <p>5 THE WITNESS: If other people want to have 45</p> <p>6 minutes, an hour, I'm -- I'm game. I mean that.</p> <p>7 MR. BAZAREK: All right. So right now, it's</p> <p>8 about 1:05. You want to just come back at -- we</p> <p>9 can come back at 1:40 or 1:45.</p> <p>10 THE WITNESS: Let's come back at 1:45. It's a</p> <p>11 nice number.</p> <p>12 MR. RAUSCHER: Okay.</p> <p>13 MR. BAZAREK: Okay. Perfect.</p> <p>14 THE REPORTER: All right. We are off</p> <p>15 record --</p> <p>16 THE WITNESS: Okay. Thank you.</p> <p>17 THE REPORTER: -- at 1:05 p.m. Central Time.</p> <p>18 (OFF THE RECORD)</p> <p>19 THE REPORTER: We are back on the record for</p> <p>20 the deposition of Dr. Alexander Obolsky being</p> <p>21 conducted by videoconference. Today is</p> <p>22 May 22nd, 2024, and the time is 1:47 p.m. Central</p> <p>23 Time.</p> <p>24 MR. BAZAREK: Hey, Scott, before we start,</p> <p>25 just I want -- I do want to put on the record</p>  | <p style="text-align: right;">Page 93</p> <p>1 make decisions.</p> <p>2 That is all part and parcel of psychiatry and</p> <p>3 forensic psychiatry in particular.</p> <p>4 <b>Q. And when you're talking about that second</b></p> <p>5 <b>part, not the knowing, intelligent, and voluntary part,</b></p> <p>6 <b>but the second part, are you talking about your analysis</b></p> <p>7 <b>of Dr. Redlich's opinion?</b></p> <p>8 A. Yes.</p> <p>9 <b>Q. So before we get into that, there were a</b></p> <p>10 <b>couple times in your report where you noted that</b></p> <p>11 <b>Baker and Glenn were under oath when they swore -- when</b></p> <p>12 <b>they -- were sworn under oath before they pled guilty.</b></p> <p>13 <b>Do you recall that?</b></p> <p>14 A. If you can point me where in the report, so I</p> <p>15 have the context.</p> <p>16 <b>Q. Sure. All right. Page 13, the second to last</b></p> <p>17 <b>full paragraph and then Page 15, right in the middle.</b></p> <p>18 <b>But you're making the same point in both.</b></p> <p>19 A. Yep. If I may have a second.</p> <p>20 <b>Q. Yeah, of course.</b></p> <p>21 A. Okay.</p> <p>22 <b>Q. What -- what's the significance of the</b></p> <p>23 <b>state -- the idea that they were under oath in that</b></p> <p>24 <b>context, the context you used it?</b></p> <p>25 A. That they understand what the oath is and what</p>           |

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| <p style="text-align: right;">Page 94</p> <p>1 it entails. And therefore, they are -- they were --</p> <p>2 they are able to take the oath and act accordingly.</p> <p>3 <b>Q. What do you mean, take the oath and act</b></p> <p>4 <b>accordingly?</b></p> <p>5 A. Well, they know wrong from right. They know</p> <p>6 what the oath means, to tell the truth. And therefore,</p> <p>7 when they -- they accept the plea and they say that it's</p> <p>8 voluntary, they were not under duress. Those statements</p> <p>9 deserve a lot of credence.</p> <p>10 <b>Q. Because they did it under oath?</b></p> <p>11 A. In part because they did it under oath, in</p> <p>12 part because their mental state was that of a unimpaired</p> <p>13 individuals, because they went through a discussion with</p> <p>14 a very competent defense attorney, because they had a</p> <p>15 understanding of the -- it was -- they had the</p> <p>16 understanding.</p> <p>17 They -- they knew what's going on. They were</p> <p>18 able to think through and there was no threat, promise,</p> <p>19 coercion. And -- and I -- I list it all in the early</p> <p>20 parts in the report. Therefore, the fact that they took</p> <p>21 the oath, they were able to take the oath, and they were</p> <p>22 able to understand what it means.</p> <p>23 <b>Q. So you listed a few things there, I think, and</b></p> <p>24 <b>one of them was the oath, but it is -- does the oath</b></p> <p>25 <b>matter there or does it not matter for your analysis?</b></p> | <p style="text-align: right;">Page 96</p> <p>1 <b>conclusion. It's about how did you bring your</b></p> <p>2 <b>experience to bear in analyzing her opinions?</b></p> <p>3 A. But I just explained, I -- I don't --</p> <p>4 <b>Q. That's the first --</b></p> <p>5 A. Go ahead. Sorry.</p> <p>6 <b>Q. Sorry. So just -- so that's the first half of</b></p> <p>7 <b>your answer about how you were trained in decision-</b></p> <p>8 <b>making and looking at new ideas and treatments, et</b></p> <p>9 <b>cetera?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. And does that experience render you qualified</b></p> <p>12 <b>to offer opinions and analysis outside of the medical</b></p> <p>13 <b>field?</b></p> <p>14 A. Well, but this is not outside, right? It's a</p> <p>15 decision theory. What she is trying to do is to say</p> <p>16 that, because there are these characteristics of false</p> <p>17 guilty plea, I am able to tell you which plea is false</p> <p>18 or guilty -- or true. It is my medical training that</p> <p>19 says, hold on. Not so fast.</p> <p>20 Don't true guilty pleas have the same</p> <p>21 characteristics? Yes, they do.</p> <p>22 <b>Q. And you're --</b></p> <p>23 A. What is the base rate of -- I mean, that's</p> <p>24 number one. Yes, all true guilty pleas have some of the</p> <p>25 characteristics that are present in situational risk</p> |
| <p style="text-align: right;">Page 95</p> <p>1 A. What --</p> <p>2 <b>Q. Does the fact that they --</b></p> <p>3 A. I --</p> <p>4 <b>Q. -- were under oath -- go ahead. Does the idea</b></p> <p>5 <b>that they were under oath matter for your analysis or</b></p> <p>6 <b>does it not matter?</b></p> <p>7 A. It matters because they are under obligation</p> <p>8 to testify truthfully and they're capable of testifying</p> <p>9 truthfully.</p> <p>10 <b>Q. How did you bring your forensic psychiatry</b></p> <p>11 <b>background and experience to bear in analyzing Dr.</b></p> <p>12 <b>Redlich's opinions?</b></p> <p>13 A. As a physician, I have been trained and</p> <p>14 continuously upgrade my skills in decision-making.</p> <p>15 Medicine is full of untested theories, new ideas, new</p> <p>16 treatments. So as a physician, I constantly have to</p> <p>17 evaluate what I am going to use in my clinical practice.</p> <p>18 What is logical, what is reasonable, what is</p> <p>19 safe? How do you evaluate safety? So the fact that Dr.</p> <p>20 Redlich -- Redlich made wonderful career describing the</p> <p>21 various aspects of false guilty plea yet -- and it's</p> <p>22 great. It's important to know. But you cannot use her</p> <p>23 description to differentiate which plea is true or false</p> <p>24 and she knows it and she testifies to that.</p> <p>25 <b>Q. Well, but my question is not about your</b></p>   | <p style="text-align: right;">Page 97</p> <p>1 factors and they're not really risk factors. They're</p> <p>2 parameters. Because every plea will have some of it.</p> <p>3 Some will have more, some will have less. But you</p> <p>4 cannot differentiate a false guilty plea from a true</p> <p>5 guilty plea based upon the parameters that she has</p> <p>6 identified.</p> <p>7 <b>Q. And you know that because?</b></p> <p>8 A. I can think.</p> <p>9 <b>Q. Have you done any research -- let's back up a</b></p> <p>10 <b>sec. You do accept that concept that a false guilty</b></p> <p>11 <b>plea is a real thing, right?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. That people who are innocent may plead guilty?</b></p> <p>14 A. Of course.</p> <p>15 <b>Q. And they may do that because of lots of</b></p> <p>16 <b>reasons. For example, packaged plea deals, big</b></p> <p>17 <b>discounts, things like that?</b></p> <p>18 A. I'm sorry?</p> <p>19 MS. EKL: Objection. Form.</p> <p>20 THE WITNESS: I'm sorry?</p> <p>21 MR. RAUSCHER: Sir, what -- she was objecting</p> <p>22 for the record, but what was the answer?</p> <p>23 THE WITNESS: There are many life</p> <p>24 circumstances that a person who did not commit the</p> <p>25 crime may be experiencing that it makes sense to</p>  |

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| <p style="text-align: right;">Page 98</p> <p>1 accept the guilty plea, even if the person is not</p> <p>2 guilty and the law does not prohibit that.</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q. So what --</p> <p>5 THE WITNESS: The law -- the law accepts the</p> <p>6 fact that guilty people have the right to plea --</p> <p>7 innocent people have the right to plead guilty if</p> <p>8 it makes sense in their calculus.</p> <p>9 BY MR. RAUSCHER:</p> <p>10 Q. So I have two follow-up questions to that. The</p> <p>11 first one is --</p> <p>12 A. Sure.</p> <p>13 Q. -- so what? What -- so what -- what's the</p> <p>14 significance of that to what you're talking about?</p> <p>15 MR. BAZAREK: Object to that question as</p> <p>16 argumentative.</p> <p>17 THE WITNESS: When you say so what, can you</p> <p>18 put some meat on the bone? What -- what are we</p> <p>19 talking about?</p> <p>20 BY MR. RAUSCHER:</p> <p>21 Q. I'm not sure. You just volunteered that the</p> <p>22 law recognizes the right for innocent people to plead</p> <p>23 guilty, and I'm wondering why you volunteered that.</p> <p>24 A. Because that's the reality of a situation,</p> <p>25 right? Part of being a psychiatrist and part of being</p>  | <p style="text-align: right;">Page 100</p> <p>1 A. No, no, that's fine.</p> <p>2 Q. How is any of what you just said relevant to</p> <p>3 the question of whether it would make more sense to not</p> <p>4 frame people in the first place than to let them -- let</p> <p>5 innocent people plead guilty?</p> <p>6 MR. BAZAREK: Object to the incomplete</p> <p>7 hypothetical. Form of the question. And it's</p> <p>8 argumentative.</p> <p>9 THE WITNESS: First of all, we do not know</p> <p>10 with whether Mr. Baker and Ms. Glenn were framed.</p> <p>11 Just because the officers have been acting</p> <p>12 corruptly in other cases, they may have been</p> <p>13 absolutely correct and true in this case. That is</p> <p>14 a matter of litigation and a matter to figure out.</p> <p>15 We do not know ahead of time when somebody is</p> <p>16 framed or not. There is no magic wand that anybody</p> <p>17 can use to say before the trial and before plea</p> <p>18 guilty -- plea -- somebody taking plea in the legal</p> <p>19 process, we can't figure out who is guilty and who</p> <p>20 is not.</p> <p>21 Now, we can force people to go through fire,</p> <p>22 like in middle ages. We can throw them in the</p> <p>23 river and see if they float. If they float, then</p> <p>24 they're not guilty. If they sink, they were</p> <p>25 guilty. Or we can use the current American system,</p> |
| <p style="text-align: right;">Page 99</p> <p>1 mentally healthy individual is to understand the</p> <p>2 reality. The reality, legal reality is it makes sense</p> <p>3 under certain circumstances for innocent people to plead</p> <p>4 guilty.</p> <p>5 Q. It would make more sense to not frame people</p> <p>6 for crimes, right?</p> <p>7 MR. BAZAREK: Objection, argumentative.</p> <p>8 THE WITNESS: It would. And perhaps Dr.</p> <p>9 Redlich findings could influence the legislation --</p> <p>10 legislatures -- legislators to do some adjustments</p> <p>11 in the way the criminal system works. Get all the</p> <p>12 stakeholders, state's attorneys, prosecutors,</p> <p>13 defense attorneys, community organizations, and</p> <p>14 come up with adjustments to our system.</p> <p>15 It's -- her research may be very helpful.</p> <p>16 Although again, because she did not study true</p> <p>17 guilty pleas other than the mentally ill and</p> <p>18 adolescents, because she does not know the base</p> <p>19 rate of guilty -- false guilty pleas, it's going to</p> <p>20 be very iffy research information upon which to</p> <p>21 build and change the current system.</p> <p>22 But that's outside of my pay grade.</p> <p>23 BY MR. RAUSCHER:</p> <p>24 Q. What's the -- how -- I'm sorry, go ahead.</p> <p>25 Continue.</p> | <p style="text-align: right;">Page 101</p> <p>1 which is a really good one compared to what's exist</p> <p>2 in the world.</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q. So you're not a -- you -- you'd agree you were</p> <p>5 not an advocate for police officers, right? You're a</p> <p>6 doctor?</p> <p>7 A. That's -- I'm not advocating for police</p> <p>8 officers.</p> <p>9 Q. You're not -- it shouldn't be controversial,</p> <p>10 should it, to say that we should not allow police</p> <p>11 officers to frame people?</p> <p>12 MR. BAZAREK: Object to the form of the</p> <p>13 question. Incomplete hypothetical. Foundation.</p> <p>14 THE WITNESS: Counselor, of course it's not</p> <p>15 controversial that people should not be framed.</p> <p>16 You cannot get 100 percent situation where nobody</p> <p>17 ever gets framed. It's impossible. Human beings</p> <p>18 are crooked, right? I think it was Immanuel Kant</p> <p>19 who talked about the crooked timber of humanity.</p> <p>20 People are not perfect. People can be very</p> <p>21 bad. All we can do and what American genius is, is</p> <p>22 to set up one set of people's interest against the</p> <p>23 other people's interests and let them battle it out</p> <p>24 without anybody having absolute power.</p> <p>25 BY MR. RAUSCHER:</p>  |

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| <p style="text-align: right;">Page 102</p> <p>1 Q. What research have you conducted about guilty<br/>2 pleas?</p> <p>3 A. I read Dr. Redlich. I read some of the people<br/>4 that she relies on or quoted in her articles. And then<br/>5 of course, in my training and continual education, I<br/>6 would, you know, the continual medical education part of<br/>7 it is for competencies in the criminal -- criminal<br/>8 arena.</p> <p>9 Q. When did you first read Dr. Redlich's<br/>10 research?</p> <p>11 A. I may have read one article or two, years ago,<br/>12 but the bulk of the study I have done after I started<br/>13 involvement with the Waddy case.</p> <p>14 Q. The Waddy state court case?</p> <p>15 A. Waddy. Yes.</p> <p>16 Q. Which articles do you think you read years<br/>17 ago, or which article or articles?</p> <p>18 A. I -- I -- I would be guessing if I tell you,<br/>19 but it's probably the one that, it was pretty widely<br/>20 read and that's, I believe, her 2010 article.</p> <p>21 Q. All right. And since then, so since the Waddy<br/>22 case, which article or articles have you read?</p> <p>23 A. This is a partial list.</p> <p>24 Q. And before you give it --</p> <p>25 A. Henderson --</p>  | <p style="text-align: right;">Page 104</p> <p>1 minute, please. So I don't know if I mentioned this.<br/>2 Redlich, Domagalski, "Guilty plea hearings in juvenile<br/>3 and criminal court," 2022. I read that.</p> <p>4 Redlich, Summers, Hoover, "Self-reported false<br/>5 confessions and false guilty pleas among offenders with<br/>6 mental illness." Here's the one that -- 2010. Where is<br/>7 it? It's -- I just opened it. Yeah. There it is. It's<br/>8 Redlich, Summers, and Hoover, "Self-reported false<br/>9 confessions and false guilty pleas among offenders with<br/>10 mental illness."</p> <p>11 Q. From 2010?</p> <p>12 A. That's 2010.</p> <p>13 Q. That's the one you think you read back in --<br/>14 back years ago?</p> <p>15 A. Yeah.</p> <p>16 Q. And you said -- is that -- oh, I'm sorry. Are<br/>17 you still going down the list? That's what I was going<br/>18 to ask.</p> <p>19 A. Yes.</p> <p>20 Q. Okay.</p> <p>21 A. Scherr, Redlich, Kassin, what's the year?<br/>22 2020, "Cumulative Disadvantage: A<br/>23 Psychological Framework for Understanding How Innocence<br/>24 Can Lead to Confession, Wrongful Conviction, and<br/>25 Beyond." I think that's the extent of the literature</p> |
| <p style="text-align: right;">Page 103</p> <p>1 Q. Sorry. Just real quick before you give it,<br/>2 are you reading off a list or do you remember any?</p> <p>3 A. No, I'm reading off the articles that -- on my<br/>4 table. I mean, on my computer top.</p> <p>5 Q. And what are you reading off? Like, is this a<br/>6 list you created?</p> <p>7 A. It's not a list. It's -- the article is<br/>8 actually in front of me.</p> <p>9 Q. Oh, okay. Tell me which articles.</p> <p>10 A. Henderson and Levett, 2018, "Investigating<br/>11 Predictors of True and False Guilty Pleas"; "The<br/>12 Innocent Defendant's Dilemma" by Vanessa Edkins, and<br/>13 that's 2013; "On the General Acceptance of Confession<br/>14 Research" by Kassin, Redlich -- Redlich, Alceste, and<br/>15 Lake, sorry, Luke, and that's 2018.</p> <p>16 Article by Zottoli, Daftary-Kapur, Edkins, and<br/>17 Redlich, et al., and that's the article from 2019;<br/>18 State of States: A Survey of Statutory Law<br/>19 Regulations and Court Rules Pertaining to Guilty Pleas<br/>20 Across the United States; Redlich, Domagalski, et al.,<br/>21 "Guilty plea hearings in juvenile and criminal court,"<br/>22 2022.</p> <p>23 Hold on. Redlich, Edkins, et al., "The<br/>24 psychology of defendant plea decision making." That's<br/>25 the one. No, that's not. It's 2017. Hold on one</p> | <p style="text-align: right;">Page 105</p> <p>1 that I have reviewed.</p> <p>2 Q. And those are full articles that you have in<br/>3 your computer in front of you?</p> <p>4 A. Yes.</p> <p>5 Q. Did you talk about those articles anywhere in<br/>6 your report?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. I don't see a reason why I should.</p> <p>10 Q. Well, were they relevant to your opinions that<br/>11 you rendered?</p> <p>12 A. They gave me -- I -- I mean, I read, I believe<br/>13 before Waddy case, I -- I -- I read enough and there<br/>14 were only a couple of articles at that point that I<br/>15 discussed in that deposition, that the overall<br/>16 conclusion was pretty obvious, as far as these kinds of<br/>17 cases.</p> <p>18 You cannot use the presence of identified risk<br/>19 factors as the guide or predictor that the plea was<br/>20 either guilty or -- the guilty plea was either false or<br/>21 true. I read everything else and did not change my<br/>22 original take on the research. There is nothing --<br/>23 other than one thing.</p> <p>24 But it was obvious -- people knew it before<br/>25 Redlich research, but it doesn't hurt to have more</p>                    |



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| <p style="text-align: right;">Page 106</p> <p>1 evidence. If you have mental illness, your competency<br/>2 to plea may be reduced or impaired. If you are young<br/>3 and your judgment and your thinking is still immature,<br/>4 your ability to participate in the criminal process,<br/>5 particularly such things as cooperating with -- I mean,<br/>6 the fitness to stand trial, ability to plea could be<br/>7 diminished, impaired.</p> <p>8 And that's -- you know, we knew that when I<br/>9 was still in the fellowship. I mean, it's nothing new.<br/>10 But yes, it -- it -- those -- those are important. But<br/>11 again, just because you have mental illness doesn't mean<br/>12 that your ability to plea is impaired.</p> <p>13 That's when you do BSX, even you send them to<br/>14 the Psychiatric Institute. If the judge, defense<br/>15 attorney, or state's attorney has a concern that a<br/>16 particular defendant at a particular time is not able to<br/>17 participate in this process. But you cannot make a<br/>18 blank statement that if you have mental illness, chances<br/>19 are, your plea is invalid. Can't do that.</p> <p>20 Q. When you're -- in your practice as a doctor or<br/>21 in your experience as a doctor, it is -- you do identify<br/>22 relevant factors that you are looking at to determine<br/>23 what's going on with the patient, right?</p> <p>24 A. Okay. So in medicine -- yes. May I explain?<br/>25 Do you want more?</p> | <p style="text-align: right;">Page 108</p> <p>1 A. Yes, because it's one of the dangers in<br/>2 medicine.</p> <p>3 Q. And you read --</p> <p>4 A. Flu --</p> <p>5 Q. Go ahead.</p> <p>6 A. Flu causes fever. Mr. Jones has fever.<br/>7 Therefore, he has flu. If I have a medical student who<br/>8 thinks like that, he's in deep trouble because there is<br/>9 a 1,001 other reasons why a person may have fever. Now<br/>10 you can say the top three causes of fever of people of<br/>11 that age living in that situation in this period of time<br/>12 when we have a flu epidemic. Okay.</p> <p>13 Q. And that would be helpful for a layperson to<br/>14 hear from a doctor, right? Hey, here are the top<br/>15 reasons where you're going to -- why you're going to<br/>16 look for flu and here's what you think about it.</p> <p>17 A. No.</p> <p>18 Q. No? It's not helpful?</p> <p>19 A. It's not helpful. Because --</p> <p>20 Q. Why not?</p> <p>21 A. -- of why -- because that's why we have<br/>22 doctors.</p> <p>23 Q. That's what I said.</p> <p>24 A. It's my job.</p> <p>25 Q. Sorry. You missed -- I -- you may have</p>  |
| <p style="text-align: right;">Page 107</p> <p>1 Q. No. In --</p> <p>2 A. Okay.</p> <p>3 Q. In forensic psychiatry, do you also look at<br/>4 relevant factors?</p> <p>5 A. Of course.</p> <p>6 Q. Your problem with Redlich is that you're --<br/>7 you say that she's confusing cause and effect with<br/>8 correlation, right? Is that essentially what you're<br/>9 saying?</p> <p>10 A. No, it's, -- I think it's -- it's called<br/>11 fallacy of attribution. When it rains, the pavement<br/>12 gets wet. Pavement is wet, therefore, it rained. Nope.<br/>13 The therefore doesn't follow from the two statements<br/>14 above.</p> <p>15 Q. You -- your -- you --</p> <p>16 A. There are other reasons.</p> <p>17 Q. Sorry.</p> <p>18 A. There are other reasons for the rain -- for<br/>19 the person -- for the pavement to be wet.</p> <p>20 Q. You call that the -- that's affirming the<br/>21 consequence, logical fallacy in your report, right?</p> <p>22 A. Yeah.</p> <p>23 Q. Is there something unique in your background<br/>24 as a doctor that qualifies you to talk about logical<br/>25 fallacies?</p>   | <p style="text-align: right;">Page 109</p> <p>1 misheard the question. It would be helpful to a<br/>2 layperson to have a doctor explain them? That's the<br/>3 question.</p> <p>4 A. No, not necessarily. The inner workings of a<br/>5 physician's brain are not necessarily -- when made<br/>6 public are not necessarily useful for the general<br/>7 public, but we go through four years of torturous<br/>8 education to learn to think like doctors. And I'm not<br/>9 going to tell my patient that the top three reasons for<br/>10 you having a fever is A, B, or C.</p> <p>11 I'm going to create anxiety and I'm going to<br/>12 create havoc in the person's life. It's my decision to<br/>13 decide what's causing the fever. And we have developed,<br/>14 over the past 2,000 years, a very good process of how we<br/>15 do that. We do -- take history. We do physical exam.<br/>16 We order labs. Then you put it all together<br/>17 and then you decide why the patient has a fever. Dr.<br/>18 Redlich is going around that process and making the most<br/>19 -- in my opinion, no disrespect to Dr. Redlich, makes a<br/>20 very easy mistake.</p> <p>21 Q. Which is?</p> <p>22 A. The fact that she identified are not<br/>23 pathognomonic. Pathognomonic symptom is a symptom that<br/>24 if you have it, the only disease that can explain it is<br/>25 that disease.</p> |

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| <p style="text-align: right;">Page 110</p> <p>1 Q. But you also say she doesn't say that, right?</p> <p>2 She says those factors can be present in true guilty</p> <p>3 pleas.</p> <p>4 A. She does. And she never says it's her opinion</p> <p>5 with a reasonable degree of psychological certainty. And</p> <p>6 that's why I think it's extremely confusing for the</p> <p>7 trier of fact to hear all of that.</p> <p>8 Q. Well, you're --</p> <p>9 A. Because it's super confusing.</p> <p>10 Q. In your opinion, it may be confusing, but you</p> <p>11 are -- it appears that you are accusing her of doing</p> <p>12 something that you also acknowledge she didn't do.</p> <p>13 A. But she does, right? Because she constantly</p> <p>14 goes close to the line and she says things like</p> <p>15 possibly, maybe, likely, consistent with. That's right,</p> <p>16 she never says there is a causal -- it's not even a</p> <p>17 causal. It's a causal connection and what that</p> <p>18 definitely tells us -- she can't even give you a</p> <p>19 percentage.</p> <p>20 How likely is it when the defendant has those</p> <p>21 three things that she identified? What's the chance</p> <p>22 that the plea is false? She doesn't have the data,</p> <p>23 because she doesn't have the base rate. It's impossible</p> <p>24 for her to give you the potential so that at least,</p> <p>25 okay, there is a 30 percent chance.</p> | <p style="text-align: right;">Page 112</p> <p>1 to laypeople, suggesting that this testimony is</p> <p>2 going to clarify things.</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q. All right. So you are not --</p> <p>5 A. And --</p> <p>6 Q. Go ahead. Sorry. I didn't mean to cut you</p> <p>7 off.</p> <p>8 A. No, no, you are absolutely right. We don't</p> <p>9 know the base rate of any kinds of these situational</p> <p>10 factors. You don't have the base rate of false guilty</p> <p>11 pleas in the way she tries to calculate, because she</p> <p>12 understands the problem. Dr. Redlich is a -- a very</p> <p>13 competent person.</p> <p>14 She understands the problem and she tries to</p> <p>15 calculate it. But it's -- it's -- it's -- it's --</p> <p>16 doesn't stand up to scrutiny, but you correct. And</p> <p>17 that's why we cannot bring it in front of a jury.</p> <p>18 Q. So you are agreeing -- you are not going to go</p> <p>19 to the jury and say that packaged deals are part of the</p> <p>20 guilty plea process in general?</p> <p>21 A. I am.</p> <p>22 Q. You're agreeing with me. You are not going to</p> <p>23 do that?</p> <p>24 A. No, I will.</p> <p>25 Q. Oh, you're going to do it, but she can't do</p>   |
| <p style="text-align: right;">Page 111</p> <p>1 If you have three of these factors, the plea</p> <p>2 is false or 30 percent that it's true, whatever. She</p> <p>3 can't do that. She doesn't have the science behind</p> <p>4 that.</p> <p>5 Q. All right. So that's a -- you have a</p> <p>6 criticism of her methodology, but that isn't -- still</p> <p>7 not the same as her saying the ground is wet, therefore,</p> <p>8 it must have rained because you're acknowledging she</p> <p>9 doesn't actually say that.</p> <p>10 A. Well, but why then say anything? Why offer</p> <p>11 your testimony in the court of law that, in a scientific</p> <p>12 environment, cannot be relied on? Why? What's the</p> <p>13 point? People who have pled guilty and were guilty, and</p> <p>14 she says that, have all these parameters, all these</p> <p>15 factors present. So what -- what use is this?</p> <p>16 Q. What's the percentage of people who pled</p> <p>17 guilty who were offered a package deal?</p> <p>18 A. Don't know.</p> <p>19 Q. All right. Well then, how can you say the</p> <p>20 first thing you just said, if you don't know the answer</p> <p>21 to the question I just asked you?</p> <p>22 MR. BAZAREK: Objection --</p> <p>23 THE WITNESS: But I'm not testifying --</p> <p>24 MR. BAZAREK: Objection. Argumentative.</p> <p>25 THE WITNESS: I'm not bringing that testimony</p>                                    | <p style="text-align: right;">Page 113</p> <p>1 it?</p> <p>2 MR. BAZAREK: Objection. Argumentative.</p> <p>3 THE WITNESS: I can only say that all of these</p> <p>4 -- all the factors that she has identified in her</p> <p>5 research are present in people who are guilty and</p> <p>6 plea -- pleading guilty and in people who are</p> <p>7 innocent and pleading guilty.</p> <p>8 BY MR. RAUSCHER:</p> <p>9 Q. How --</p> <p>10 THE WITNESS: Hold up. And the fact that</p> <p>11 those factors are present in the case of Mr. Baker</p> <p>12 and Ms. Glenn is -- doesn't help you figure out</p> <p>13 whether their plea is false or true.</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q. But if you can't tell the jury how many people</p> <p>16 are offered package deals, how is it going to be helpful</p> <p>17 for them for you to just stand up there and say, well, I</p> <p>18 think that this is a factor in all kinds of plea deals.</p> <p>19 MS. EKL: Objection. Form.</p> <p>20 THE WITNESS: Because, in science, the way it</p> <p>21 works, is that if you are offering a new theory, a</p> <p>22 new hypothesis, it's upon you to show that it's</p> <p>23 reasonable, that it -- there is -- there are</p> <p>24 numbers for it. I can say anything then, if we go</p> <p>25 with your logic. People -- let -- let me come up</p> |