



**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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1	APPEARANCES (CONTINUED)	Page 6	1	STIPULATION	Page 8
2			2		
3	ON BEHALF OF THE DEFENDANT, RONALD WATTS:		3	The VIDEO deposition of DR. ALEXANDER OBOLSKY was taken	
4	Lisa McElroy, Esquire		4	at KENTUCKIANA REPORTER, 110 NORTH WACKER DRIVE, SUITE	
5	Johnson & Bell		5	2500, CHICAGO, ILLINOIS 60606, via videoconference in	
6	33 West Monroe Street		6	which all participants attended remotely, on WEDNESDAY	
7	Suite 2700		7	the 22ND day of MAY 2024 at 10:32 a.m. (CT); said	
8	Chicago, Illinois 60603		8	deposition was taken pursuant to the FEDERAL Rules of	
9	Telephone No.: (312) 372-0770		9	Civil Procedure. THE OATH IN THIS MATTER WAS SWORN	
10	E-mail: lmcelroy@jbltd.com		10	REMOTELY PURSUANT TO FRCP 30.	
11	(Appeared via videoconference)		11		
12			12	It is agreed that KORTNEY CHASE, being a Notary Public	
13	Also Present: Lo Ramanujam, Paralegal at Hale and		13	and Digital Reporter for the State of ILLINOIS, may swear	
14	Monico		14	the witness and that the reading and signing of the	
15			15	completed transcript by the witness is not waived.	
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17			17		
18			18		
19			19		
20			20		
21			21		
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1	INDEX	Page 7	1	PROCEEDINGS	Page 9
2		Page	2	THE REPORTER: We are now on the record. My	
3	PROCEEDINGS	9	3	name is Kortney Chase. I'm the online video	
4	DIRECT EXAMINATION BY MR. RAUSCHER	11	4	technician and court reporter today representing	
5			5	Kentuckiana Reporters located at 110 North Wacker	
6	EXHIBITS		6	Drive, Chicago, Illinois 60606. Today's the 22nd	
7	EXHIBIT	Page	7	day of May 2024, and the time is 10:32 a.m. Central	
8	1 - REPORT W/ ATTACHMENTS	13	8	Time. We are convened by videoconference to take	
9	2 - DR. REDLICH REPORT	156	9	the deposition of Dr. Alexander Obolsky in the	
10	3 - TRANSCRIPT SEPTEMBER 18, 2006 -		10	matter of Watts coordinated pretrial proceedings	
11	PL JOINT 0004983-005017	162	11	pending in United States District Court Northern	
12	4 - UNREDACTED INVOICE - DO JOINT		12	District of Illinois Eastern Division, master	
13	OBOLSKY 0005	170	13	docket case number 19-CV-01717. Will everyone but	
14	5 - NOTES - DO JOINT 124	183	14	the witness please state your appearance, how you	
15	6 - POWER POINT FOR DEFENSIN WORKERS COMP	200	15	are attending, and location you are attending from,	
16	7 - SUBPOENA FOR OBOLSKY	208	16	starting with plaintiff's counsel?	
17	8 - TRIBUNE ARTICLE	228	17	MR. RAUSCHER: Scott Rauscher on behalf of the	
18			18	plaintiffs attending remotely from the suburbs of	
19			19	Chicago.	
20			20	MR. BAZAREK: William Bazarek for the	
21			21	individual defendants represented by Hale & Monico	
22			22	and I'm also here remotely. And I'm here with Dr.	
23			23	Obolsky as well. He's somewhere else remote, but	
24			24	he's our witness today.	
25			25	MR. SULLIVAN: Sean Sullivan for Kallatt	

<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 an 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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1 did you do to prepare for your deposition today?

2 A. I spent time reviewing various records upon  
3 which my opinions -- that are foundational for my  
4 opinions.

5 Q. All right. Which records did you review to  
6 prepare for your deposition?

7 A. I looked at Dr. Redlich report, at her  
8 deposition. Let me pull it up because I have many of  
9 these documents open. Arrest report from December of  
10 2006, I believe. I reviewed the Adult Probation  
11 Department investigative report. I looked through COPA,  
12 C-O-P-A statements, investigative reports for Mr. Baker  
13 and Ms. Glenn.

14 I looked at the rap sheet. I, again, reviewed  
15 the proceedings of the September 18th plea bargaining. I  
16 may have reviewed other things, but that's what I can  
17 recall right now.

18 Q. And that -- what you're -- those are the ones  
19 that you believe you revert -- you reviewed to prepare  
20 for today's deposition?

21 A. Yes, obviously in addition to my report.

22 Q. Did you already bill for that work?

23 A. No.

24 Q. How long did you spend preparing for your  
25 deposition today?

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1 information that's attached to your report?

2 A. They should. I haven't reviewed the sources.  
3 The document itself, my staff -- pardon me. My staff  
4 is -- compiles that, but it should be there.

5 Q. So there's -- the -- none of the documents  
6 you've listed were newly provided to you since you  
7 issued the report?

8 A. Oh, that's correct. Yes.

9 Q. And to put it more clearly, you had all the  
10 documents that you just mentioned before you issued your  
11 report?

12 A. Correct. And these are all the documents that  
13 I have utilized in coming to my opinions in this case  
14 among others that I may not have reviewed after I have  
15 issued the report.

16 Q. Let me try to break that down. Maybe you can  
17 rephrase -- maybe you can rephrase --

18 A. Let me --

19 Q. -- what you're saying.

20 A. Yeah. So in preparation of the report, I  
21 reviewed many more documents, documents listed in the  
22 sources of information. In preparation for the  
23 deposition, I had a much more focused review of records,  
24 which did not encompass going through all of the records  
25 that I had available.

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1 A. Altogether, probably around 20 hours.

2 Q. Did you meet with any attorneys to prepare for  
3 your deposition?

4 A. Yes.

5 Q. Who did you meet with?

6 A. I met on Zoom with Mr. Bazarek.

7 Q. When did that meeting take place?

8 A. Yesterday.

9 Q. How long did you-all meet for?

10 A. About hour-and-a-half.

11 Q. Did you discuss any specific documents during  
12 that meeting?

13 MR. BAZAREK: Wait, wait, I'm going to object.  
14 It's privileged information, any discussions I had  
15 with Dr. Obolsky.

16 MR. RAUSCHER: All right. So you're -- I take  
17 it you're instructing him not to answer that  
18 question?

19 MR. BAZAREK: Yes, that's right.

20 MR. RAUSCHER: Dr. Obolsky, are you going to  
21 follow that instruction?

22 THE WITNESS: Yes, I will.

23 BY MR. RAUSCHER:

24 Q. Are all the documents that you just told me  
25 you reviewed, are they listed on the sources of

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1 Q. Understood. The -- you reviewed a subset of  
2 the sources of information for it -- to prepare for your  
3 deposition?

4 A. That is correct.

5 Q. How did you pick which subset to review for  
6 the deposition?

7 A. I did everything that I thought was most  
8 important to both support my opinion that both Mr.  
9 Braker [sic] and Ms. Glenn gave their -- entered the  
10 plea in September of 2006, knowingly, intelligently, and  
11 voluntarily as well as evidence contrary to Dr. Redlich  
12 opinions otherwise.

13 Q. Can you actually -- we're jumping around a  
14 little bit, but can you pull up -- did you tell -- I --  
15 did you tell me of the sources of information printed? I  
16 don't think you did actually, right?

17 A. I don't have my report, so let me pull it out.  
18 Give me a sec.

19 Q. Okay.

20 A. Okay. I have it in front of me.

21 Q. So can you -- tell me -- identify on the  
22 sources of information which documents you reviewed to  
23 prepare for your deposition, because it's not entirely  
24 clear to me.

25 A. Okay. You know what? I will -- it's easier

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

<p style="text-align: right;">Page 22</p> <p>1 I thought he gave the list of what he looked at,    2 and just have it read back. And then if there's,    3 like, follow-up to that, would that make it --</p> <p>4 MR. RAUSCHER: Yeah. Why don't we start -- I    5 can do that. It sounds like we have the list he's    6 asking for. Why don't I go through it, what I've    7 written down, and then he can look at the source of    8 information, see if that does it? Is that what you    9 were suggesting?</p> <p>10 MR. BAZAREK: Yeah, something, if there's some    11 ambiguity, I -- it -- because I can tell you, it    12 was clear to me --</p> <p>13 MR. RAUSCHER: Well, that's --</p> <p>14 MR. BAZAREK: -- what the doctor was talking    15 about. Anyway...</p> <p>16 MR. RAUSCHER: Yeah. That makes sense because    17 you-all issued the report. All right. Let's keep    18 going. I don't -- let's -- I think we'll be able    19 to get what we need.</p> <p>20 BY MR. RAUSCHER:</p> <p>21 Q. So why don't we try it that way, Dr. Obolsky?    22 Dr. Redlich's report and deposition, that is clear to    23 me. You said arrest report, you believed it was from    24 December 2006. Can you tell me on the sources of    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    2 give to your staff to create the sources of information?</p> <p>3 A. We break it -- the standard operating    4 procedure is to break it into the logical units and list    5 it as such.</p> <p>6 Q. And what do you mean the logical units?</p> <p>7 A. Well, every case has its own set of records    8 and there is typically a logical, obvious way to    9 organize the records. Most of it is -- so medical    10 records would be organized by hospital. If there are    11 different hospital -- hospitalizations, doctors will    12 separate them by different physicians.</p> <p>13 If there are depositions, the depositions will    14 be separated by who the deponent was, that kind of    15 stuff.</p> <p>16 Q. Do you ever list the Bates numbers of the    17 documents in the --</p> <p>18 A. No.</p> <p>19 Q. -- source of information? No? Why not?</p> <p>20 A. I don't find it useful</p> <p>21 Q. When you -- when you're going to look for a    22 document, so right now, like, how do you -- how is it    23 organized on your end?</p> <p>24 A. Well, the source of information is part of the    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    2 open up the document. Okay. So now I have the Bates    3 numbers as well. So I reviewed -- it's COPA-WATTS    4 002226 and the page preceding it, which doesn't have a    5 number, but should be 25.</p> <p>6 Q. Okay. That's the -- when you said arrest    7 report, that's what you're talking about, a COPA    8 statement?</p> <p>9 A. Yes.</p> <p>10 Q. Or -- sorry. That's the arrest report that    11 you're talking about, those pages?</p> <p>12 A. The arrest report for the December 11, 2005.</p> <p>13 Q. December 11, 2005. Got it. And then which    14 line is that on the sources of information?</p> <p>15 A. Okay. Let me open that. It's not here. It's    16 not listed separately.</p> <p>17 Q. What do -- is it listed as part of something    18 else?</p> <p>19 A. I don't know because I -- again, it was done    20 by my staff and I don't want to guess. It may be that    21 it was grouped together under number 14.</p> <p>22 Q. But those are dated 2018, right?</p> <p>23 A. Well, but that's when the COPA report was    24 done, and that police report was part of the exhibit    25 there.</p>	<p style="text-align: right;">Page 25</p> <p>1 it is organized.</p> <p>2 Q. So -- but I mean, how are the records    3 organized? So like, how are they structured on your    4 computer when you're going to look for them?</p> <p>5 A. Oh, they organize the way that they were    6 shared with me by the attorneys.</p> <p>7 Q. Do they show the Bates stamps on them?</p> <p>8 A. I don't know.</p> <p>9 Q. Well, can you look at the files and tell me    10 what some of the names are?</p> <p>11 A. Okay. So PL Joint 082704/PL Joint 081729, Ben    12 Baker Northwestern medical records.</p> <p>13 Q. So that PL Joint, that's a -- sorry. Go    14 ahead.</p> <p>15 A. That's how it labeled in the file that I    16 received of the documents.</p> <p>17 Q. And how is the COPA-WATTS one that you just    18 referenced earlier, that 12-11-2005, how is that one    19 labeled?</p> <p>20 A. The one that I was referring to is labeled    21 COPA-WATTS 001840-001858--2018-12-20, Investigative    22 Report Ben Baker, log number 1087742ATT156.</p> <p>23 Q. So you have -- you renamed the documents    24 basically on your sources of information; is that right?</p> <p>25 A. Well, I didn't, my staff did. And that's how</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>Page 26</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>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>Page 27</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>

<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>Page 30</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>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>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>

<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>

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

<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-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>

<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>	Page 46	<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>	Page 48
<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>	Page 47	<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>	Page 49

<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 -- 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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1       A. The role of the forensic psychiatrist, the way  
 2 that people in my profession conceptualize it, is that  
 3 if the question is, for example, is this individual --  
 4 was this individual insane at the time of the murder,  
 5 you cannot say, maybe, maybe not. You have to choose an  
 6 answer, which the evidence supports more than the other  
 7 outcome.

8           And typically -- obviously, in the criminal  
 9 case, the degree of certainty has to be significantly  
 10 higher than more likely than not, but even in civil  
 11 cases, most of people in my profession try to hold to a  
 12 pretty high standard. But I'm not answering your  
 13 question.

14          Typically, you have to choose if the --  
 15 it's -- it's the choice is dichotomous, yes or no. A  
 16 forensic psychiatrist, as -- as an expert has to choose  
 17 a side.

18          Q. Are there areas where you can say reasonable  
 19 forensic psychiatrists could disagree, could reasonably  
 20 disagree as to whether yes or no is the right answer?

21          A. Yes. Of course. Psychiatrists, forensic  
 22 psychiatrists, may disagree and the resolution is on a  
 23 basis for which -- upon which one has established one's  
 24 opinion.

25          Q. What do you mean by that?

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1       A. Well, the opinion is only as good as the basis  
 2 for it. And so if the basis are not particularly solid,  
 3 then the opinion is not particularly solid. So most of  
 4 the forensic work is in identifying, defining, testing,  
 5 to find data, evidence, facts, which will help you  
 6 resolve an issue one way or another.

7          Q. Did you get all of the information that you  
 8 wanted in the Baker-Glenn case in order to render your  
 9 opinions or your opinion?

10        A. Yes.

11        Q. What are the general types of expert work  
 12 that you do? So I'm backing up a step. There are  
 13 different -- well, I don't -- you gave me a puzzled  
 14 look, I thought. So was that question unclear to you or  
 15 poorly worded?

16        A. I apologize. I'm getting a call. I need to  
 17 turn off my --

18        Q. Okay.

19        A. -- phone.

20        MR. RAUSCHER: Why don't we go off? Oh, I'm  
 21 sorry. Okay.

22        THE WITNESS: No. No. I'm done. I'm done.

23        MR. RAUSCHER: Okay.

24        THE WITNESS: I'm not answering.

25        MR. RAUSCHER: Okay.

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1           THE WITNESS: Would you repeat your question,  
 2 please?

3        BY MR. RAUSCHER:

4        Q. Sure. What are the general types of expert  
 5 work that you do?

6        A. You mean the kind of forensic questions that I  
 7 answer?

8        Q. Yeah. I guess so.

9        A. Well, my specialty is an area of human  
 10 response to severe and not so severe physical injury,  
 11 mental injury, which includes, well, all types of  
 12 physical injuries. Includes chronic, medical,  
 13 neurological, and other illnesses.

14          And so the kind of forensic cases I frequently  
 15 take in the civil arena are cases where something bad  
 16 happened to an individual, and the question is whether  
 17 that individual has developed a psychiatric condition  
 18 due to this injurious event.

19          And then I also do some criminal work. And  
 20 there, it's a issue of insanity, which is very  
 21 infrequent nowadays, and also fitness to stand trial,  
 22 fitness to plea, and all kinds of other fitnesses that  
 23 are required in the criminal arena for the defendant.

24          Another area of civil cases that I get  
 25 involved in -- and these are not -- these are forensic

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1       cases, but they're not in litigation. So it could be  
 2 for a -- a -- a medical staff office evaluating whether  
 3 a physician is fit to practice medicine, governing  
 4 bodies for attorneys, whether there is a mental  
 5 condition preventing someone practicing as a lawyer or a  
 6 judge, police officer, firefighter, emergency medical  
 7 technician. You name it.

8          Now, it's all very different professions, but  
 9 the issue is very similar, and that is: What are the  
 10 emotional and cognitive requirements of a job and  
 11 whether that person has impairments or disabilities in  
 12 that particular area.

13          And another part that I do is prediction of  
 14 violence in the workplace, where an employer would send  
 15 somebody because they're concerned for potential  
 16 violence.

17        Q. All right. Anything else or have we covered  
 18 it?

19        A. Well, I'm sure I'm missing some of the -- but  
 20 this is the bulk of what -- what I do.

21        Q. I -- what about workers' comp cases? Do you  
 22 do those anymore?

23        A. I do significantly less, but again, that's  
 24 where my expertise in trauma comes in.

25        Q. Okay. So that would be part of that first

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1 category, some serious or not serious physical or mental  
2 injury?

3 A. Yes. Somebody has an amputation, traumatic  
4 amputation, traumatic burn. And the question is: What  
5 are their emotional damages? Are they related to the  
6 accident? That kind of stuff.

7 Q. In the civil cases, are you typically hired by  
8 the person who is alleging that they have been injured  
9 or the -- or someone else?

10 A. I tend to be -- in a civil litigation, I tend  
11 to be in personal injury. Let's put it this way.

12 Personal injury. It varies year by year. Again, I take  
13 whoever comes in. I -- I -- I don't care whether it's a  
14 plaintiff or a defense, but my defense case is  
15 predominate. So some years, it may be 90 percent. Some  
16 years, it may be 60 percent.

17 In workers' compensation, it's predominantly  
18 respondent, which is the employer. And that's because  
19 of the way the law is structured. Petitioners, the  
20 plaintiff, don't have a reason to hire an expert. They  
21 have their treating doctors testify.

22 In a criminal cases, it depends which -- which  
23 county. So Cook County, I work predominantly with  
24 public defenders and private defense attorneys. In Lake  
25 County, it's state's attorneys. Will County, I believe

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1 Q. What are some other explanations, if there are  
2 any?

3 A. There is another explanation and that is,  
4 depending how people phrase it, but I'm a stickler to  
5 looking at the data the way the data presents itself.  
6 And so in vast majority of the -- not -- I shouldn't say  
7 majority. In the preponderance of plaintiff cases that  
8 I have been involved in, I was not able to be helpful  
9 because I found information and data that was not useful  
10 to the plaintiff attorney in the civil case, for  
11 example. So that's -- that's another kind of a  
12 explanation.

13 Q. Right. In the civil context, when you're  
14 asked to examine or if you're asked to provide expertise  
15 where something bad has happened, some bad injury, or  
16 whether you're asking to determine whether an injury has  
17 occurred and what the significance is, how do you go  
18 about doing that?

19 A. What I do is that I -- the way I conceptualize  
20 it is that I need to have semi-autonomous sources of  
21 information, semi-autonomous from each other. And so I  
22 gather information from three main sources. One is the  
23 records.

24 And by records, I mean not just medical  
25 records, employment records, Department of Correction

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1 it's state's attorneys. Lake County, Indiana, state's  
2 attorneys. So it varies.

3 Q. And is that just based on how the criminal  
4 justice system is set up county-by-county or is there  
5 some other reason?

6 A. Well, one of the ways that you can undermine  
7 the credibility of an expert is to point out that he  
8 works only for one side or the other. And so once, you  
9 know, people decide, he's going to be defense expert,  
10 plaintiff attorneys will not hire him unless they come  
11 from other state or other, you know -- further away from  
12 where you have most of your practice.

13 So state's attorney office in Illinois is not  
14 going to hire me, because it's very important to point  
15 out to the jury that I tend to work for the defense  
16 attorneys. Although in workers' comp cases, it's the  
17 state's attorney's office that hires me. So that's --  
18 that's just the way it works.

19 Q. Have people explained? Have people said that  
20 to you? Have lawyers said that to you, or are you  
21 making an assumption as to why that's -- why it happens  
22 the way it does?

23 A. I have had conversations with -- on -- with  
24 attorneys from both sides of the aisle, and that is one  
25 of the explanations.

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1 records, but also witness statements, depositions of  
2 relatives, what have you. And that gives me information  
3 that may shed the light as to, A, how the injury  
4 happened, which helps me figure out what the progression  
5 of the injury should be over the years.

6 Documentation of what family members,  
7 employers, whatever, tell me about the functioning of an  
8 individual. So that comes from the records. And the  
9 other source of data is from the  
10 psychological-neuropsychological testing. Ever since  
11 I established -- the first job I had out of my  
12 fellowship was to establish division of forensic  
13 psychiatry at Northwestern.

14 And I have established a process where we  
15 keep -- I -- I mean we, meaning a department, but now me  
16 in private practice, I keep my psychologist blind as to  
17 the side that hired us. And I get information from my  
18 psychologist-neuropsychologist that is based as much as  
19 possible on the results of the tests.

20 The third and final source of information is  
21 from my forensic psychiatric interview. I think I was  
22 the second psychiatrist in Chicago who had started, from  
23 the beginning of my practice, audio taping every  
24 evaluation that I do and transcribing it. I always had  
25 one-way mirror in the -- the interview room, so that we

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1 could accommodate videotaping of the interview.  
 2 And the reason for it is because I want my  
 3 interviews to be as transparent as possible and open to  
 4 questioning by the opposing side and their expert.  
 5 Again, everything is focused on developing the data that  
 6 can be supported and is not biased, as much as it is  
 7 possible not to be biased.

8 Q. So there's a --

9 A. And then --

10 Q. I'm sorry. Go ahead. You should go.

11 A. Go ahead.

12 Q. Okay.

13 A. And -- and --

14 Q. What is the difference between the second and  
 15 third steps that you described?

16 A. The result of neuropsychological testing? You  
 17 compare the performance and report of symptoms by the  
 18 individual to various control groups. And so you can --  
 19 we can say that this person is reporting symptoms  
 20 consistent with known people who have schizophrenia.  
 21 Okay. Let's put it that way.

22 And so it helps me validate the concerns of  
 23 the individual. It also helps me to identify the  
 24 concerns, because when people come in and often they  
 25 already have an idea of what's wrong with them, and they

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1 that?

2 A. Mental status exam is -- it's like a physical  
 3 exam, but in psychiatry. We evaluate individual's mood,  
 4 affect, thought process, thought content, cognitive  
 5 functioning, that kind of stuff.

6 Q. Are any of the three steps that you listed for  
 7 your civil cases more important than the other ones?

8 A. At the end, one of them may bring more  
 9 important and decision-important information than the  
 10 other two, but going in, you don't know which one is  
 11 going to be more important. So each of them, from the  
 12 start, is relatively similarly important. And -- and so  
 13 one other thing I didn't mention, and I, you know -- it  
 14 may help you.

15 If two of the sources, right, give me a result  
 16 that is different from another, so two versus one -- so  
 17 let's say in my interview, I don't see what  
 18 psychological testing is finding and what the records  
 19 indicate or it's some other way. So psychological  
 20 testing and psychiatric interview come in with -- they  
 21 agree with each other.

22 They're concurrent, congruent, and -- but  
 23 doesn't fit what the records to show. And then one have  
 24 to sit down and try to understand why there is this lack  
 25 of fitness between the three, the sources of data. And

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1 just report it, it's important to ask questions and  
 2 compare them to other groups, because they may have an  
 3 illness that they don't know about or don't know the  
 4 right name for it.

5 So it's very different from the interview,  
 6 because interview is -- has a very different function  
 7 than psychological testing and develops different sort  
 8 of data.

9 Q. The psychological testing you're talking  
 10 about, that's something that your office does?

11 A. Yes.

12 Q. And the interview, tell me more about the  
 13 interview process.

14 A. Well, my interviews typically last three  
 15 hours. Sometimes, they go on for eight hours, six  
 16 hours, eight hours. Sometimes they are briefer, but  
 17 typically around three hours. When I go into the  
 18 interview, I already know what are the questions that  
 19 are -- remain open, based upon my review of records and  
 20 the results of psychological testing.

21 It also gives me an opportunity to do mental  
 22 status exam and gather further history that wasn't  
 23 gathered or remains unclear from review of records and  
 24 psychological testing.

25 Q. What's a mental status exam as you're using

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1 those are probably some of the most challenging cases,  
 2 but also very, very interesting, because typically, it's  
 3 something that is unusual, not a typical phenomena.

4 Q. So what -- give me -- could you give me an  
 5 example, like, what a concrete example of that would  
 6 look like where records said one thing, for example, and  
 7 you found something different in the second and third  
 8 steps?

9 A. So I was evaluating a -- a physician. She had  
 10 symptoms that were -- that looked like panic disorder,  
 11 and she was filing for Disability with a private  
 12 insurance carrier who referred her to me. And the  
 13 records were pretty solid about -- that there is not --  
 14 that there wasn't anything documented that she had a  
 15 heart condition.

16 So it looked like, by exclusion, that it was  
 17 most likely panic disorder. On psychological testing,  
 18 nothing came up other than, yes, she has high levels of  
 19 anxiety, which is consistent with a panic disorder. But  
 20 on an interview, it -- it -- I -- it didn't fit.

21 And what happened was I brought her back and  
 22 had further interactions with her. And what I found out  
 23 was that she actually had a cardiologist who told her  
 24 that if she continues to work in the hospital, her heart  
 25 will stop working, and she -- she truly believed that

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1 cardiologist.

2 And so it's not that she had panic attacks. I  
 3 mean, she had anxiety attacks, but they were not driven  
 4 by biology as it is with most panic disorders. It was  
 5 driven by the fact that she has in her mind that she may  
 6 have a heart attack and die. She had a long family  
 7 history of women with heart attacks, so it kind of fit  
 8 and that's it.

9 She -- she couldn't walk into the hospital.  
 10 And so the solution was to find her a very, very top-  
 11 notch cardiologist, who would evaluate her and either  
 12 reassure her or conclude that, yes, indeed, she has some  
 13 kind of cardiomyopathy, whatever, that if she gets  
 14 stressed out and her heart starts working harder, she  
 15 has significantly increased risks of heart attack.

16 Q. So did you refer her to another cardiologist?

17 A. Well, I'm not a cardiologist, but we found  
 18 her -- I believe we found it, but it, at that point, you  
 19 know, I got the insurance company involved, and in most  
 20 cases, I never knew the result. I met her about --  
 21 couple years later, and the cardiologist told her that  
 22 she does have a heart condition. And she stopped  
 23 practicing medicine.

24 Q. All right. Tell me about the steps in your  
 25 criminal work. So tell me -- I'm sorry. Let me

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1 Q. Got it. When was the last case you -- what  
 2 was the last case you worked on where you were asked to  
 3 provide an expert opinion on someone's fitness to plead  
 4 guilty?

5 A. At least couple of years ago.

6 Q. Do you remember which case that was?

7 A. I do not. I think it was Cook County public  
 8 defender's office.

9 Q. And can you tell me what you did in that case  
 10 to render an opinion?

11 A. I don't have independent recollection of, you  
 12 know, the case itself in any great detail. But again,  
 13 it's -- it's -- I follow the same process no matter  
 14 what. So the public defender send me the records. I  
 15 may have requested further records. In -- in --  
 16 in a -- in a plea evaluation, just like as in fitness to  
 17 stand trial evaluation, those two evaluations are very  
 18 similar.

19 I would interview the defense attorney because  
 20 part of fitness is to be able to cooperate with your  
 21 counsel. And obviously in a plea, I need to know what  
 22 the defendant feels about his attorney, the trust and  
 23 the degree of trust they have -- he has with his  
 24 attorney. So that would be it.

25 Q. Would you agree that the process you used in

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1 rephrase that. Tell me about the process in the work  
 2 that you do for criminal cases.

3 A. Very similar to civil. I review the records,  
 4 understand what happened, so what happened during  
 5 alleged crime. Understand the person's psychiatric  
 6 mental health history, whatever else, social history. I  
 7 will send my psychologist to the jail if the person is  
 8 incarcerated, or they come to us if they are on bail.  
 9 We do that.

10 And then I will visit the individual, again,  
 11 in the jail or what have you, or they come to my office  
 12 and do similar kind of an interview with one caveat. We  
 13 do not tape record our interviews in the criminal cases  
 14 because of potential of self-incrimination and what have  
 15 you.

16 Although in Illinois, state attorneys are not  
 17 allowed to use information obtained during -- I think  
 18 it's called BCX to establish guilt. But in -- in any  
 19 way, we don't tape record those. And then I analyze the  
 20 data, and put it together, and come up with an opinion.

21 Q. I'm sorry. What was the last thing? Come up  
 22 with --

23 A. An opinion.

24 Q. An opinion. Okay.

25 A. Reach an opinion -- reach a conclusion.

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1 this case is different than the process you've described  
 2 that you typically use in civil and criminal cases?

3 A. Yes and no.

4 Q. Can you explain that?

5 A. It's different in that I did not interview  
 6 Mr. Monahan. That's not his name. Yeah. Monahan, I  
 7 did not interview --

8 Q. Who is Mr. Monahan?

9 A. Am I -- I'm not using the correct name.

10 Q. His --

11 A. His defense attorney.

12 Q. Okay. Yeah. That's what I -- okay.

13 A. Is it Monahan or what -- no.

14 Q. It's okay. You're -- the criminal defense  
 15 attorney is what you mean, right?

16 A. Yeah.

17 Q. Okay.

18 A. Well, now I need to know.

19 Q. That's fine. It's all right.

20 A. I don't want to take -- I did not interview  
 21 his defense attorney. I did not interview Mr. Baker or  
 22 Ms. Glenn. So my -- and there was no psychological  
 23 testing done. Although in a fitness and plea  
 24 evaluations, which are competency evaluations, unless  
 25 the testing is done more if I really suspect that there

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

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1 someone entered a guilty plea knowingly, intelligently,  
 2 and voluntarily, you only need to interview them if  
 3 there is some indication in records that they have a  
 4 mental health or cognitive issues?

5 A. No. I mean, I think that it would be  
 6 reasonable to interview every defendant whenever the --  
 7 one of the attorneys is raising the issue of competency  
 8 to -- to plea or competency to stand trial or any other  
 9 competency involved in the criminal investigation,  
 10 criminal case. That would be the preference.

11 Q. When is it necessary? If you can answer that  
 12 in broad strokes as opposed to just reasonable or  
 13 preferred.

14 A. It's necessary, again, as I mentioned earlier,  
 15 if there is a history of psychiatric condition of some  
 16 sort at the time of -- when this issue has been raised.  
 17 It's necessary if the defense attorney or the state's  
 18 attorney sends the person for an evaluation because they  
 19 see something.

20 Well, if the -- if the attorney is seeing  
 21 something or the judge sees something, it behooves me to  
 22 take a look at it and see it myself. So those cases  
 23 come to mind as necessary for one-on-one evaluation.

24 Q. Tell me what -- how do you see your role in  
 25 this particular case?

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1 A. My role in this case was to evaluate the  
 2 available data, to see whether or not Mr. Baker and Ms.  
 3 Glenn entered the plea in September of 2006 knowingly,  
 4 intelligently, and voluntarily.

5 Q. Were there any documents that were more  
 6 significant than others in rendering that -- rendering  
 7 your opinion that they did plead guilty knowingly,  
 8 intelligently, and voluntarily?

9 A. I'm thinking. It's not so much that the  
 10 documents, it's the information that I note in my report  
 11 that was important. So for example, the fact that the  
 12 relationship between Mr. Baker, Ms. Glenn, and the  
 13 defense attorney was very positive, was -- they had --  
 14 they have a few cases together under the belt. So they  
 15 worked together.

16 Mr. Mahoney was definitely a very, in my  
 17 judgment, was very strong advocate for his clients. And  
 18 that -- that important because it showed me that it's --  
 19 the decision was, you know, when Dr. -- don't tell me.  
 20 I constantly forget how to pronounce it. Redlich --  
 21 Redlich says that, well, they only had 30 minutes.  
 22 Well, they didn't have 30 minutes.

23 I mean, maybe after the conversation between  
 24 the judge, the state's attorney, and Mr. Mahoney. It's  
 25 not clear, it may have been 30 minutes, may have been an

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1 hour, irrelevant pretty much. It's that Mahoney talked  
 2 to Mr. Baker before coming to Judge -- to the hearing  
 3 and that apparently, they have discussed it, and this is  
 4 nothing new as to what they were facing.

5 So all of that is indicative to me that -- and  
 6 I go into details that the decision vis-a-vis having  
 7 enough time and the relationship with the attorney was  
 8 knowing, intelligent, and voluntary.

9 Q. All right. Mahoney says on the record that he  
 10 had a tentative conversation with Baker, right? That's  
 11 what he tells the judge?

12 A. Yes.

13 Q. Where are you gathering from that that he had  
 14 provided all of the relevant information to Baker and  
 15 Glenn that there was nothing new?

16 A. Well, the way that I read the deposition is  
 17 that, at least Attorney Mahoney and -- and maybe I'm  
 18 making an inference in that say they had conversations  
 19 with his clients, that given the fact that in the prior  
 20 case, where they have put Mr. Baker on the stand and he  
 21 testified to the alleged behavior by various police  
 22 officers framing him, that Judge Toomin did -- you know,  
 23 gave more credence to the police officer's testimony and  
 24 not Mr. Baker. And now they were facing very similar  
 25 situation.

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1 And during the hearing, judge to me basically  
 2 said, without more than just Mr. Baker's report about  
 3 inappropriate behaviors by the police department,  
 4 basically, he will give more credence to the police  
 5 testimony than Mr. Baker.

6 So to me, looking at the totality of  
 7 situation, it -- it -- it definitely looks that there  
 8 was sufficient time and discussion to -- that this makes  
 9 this plea knowing and intelligent and voluntary.

10 Q. So is it fair to say when you're -- when you  
 11 said no new information a couple answers ago, what you  
 12 meant was no new information that would change what the  
 13 judge was going to do from what he had done before?

14 A. I mean, no new information that  
 15 strategically -- that Mr. Mahoney could use to change  
 16 the expected outcome of -- of the trial.

17 Q. And you -- I'm sorry, go ahead.

18 A. No, no, that's fine.

19 Q. You said, I want to say at least a couple  
 20 times, and we can look at the report, essentially what  
 21 they -- what Baker and Glenn did here was reasonable  
 22 given the way the record looked at the time. Is that  
 23 fair summary?

24 A. Yes.

25 Q. Is that -- do you think you have a

<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>

<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>	Page 82	<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>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>	Page 83	<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 false -- 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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1 and show that they are not probative. They are not  
 2 useful in making the decision. She cannot make a  
 3 decision that the plea was false. So the whole emphasis  
 4 of that part of the report is on showing that there is  
 5 no evidence for a false guilty plea.

6 Q. When you say there is no evidence, what I  
 7 think you mean is that Dr. Redlich did not identify  
 8 evidence that you believe supports the fact -- the  
 9 conclusion that there's a false guilty plea, not that  
 10 there is no evidence, right?

11 A. Correct. I do not know the complete set of  
 12 data because I'm not part of the -- I'm not the judge  
 13 and I'm not on a jury. It will be up to them to decide  
 14 how much weight they going to proportion to different  
 15 people in their testimonies.

16 What my report says is that Dr. Redlich  
 17 conclusion that the identified situational factors and  
 18 the lack of sufficient time made it that it leads to the  
 19 conclusion that it is a false guilty plea, which  
 20 actually, she never gives that conclusion. She always  
 21 says it's consistent with -- she hedges her terms. And  
 22 then -- then, she goes in and she's -- also goes into  
 23 the question of whether it was knowing, intelligent,  
 24 and/or -- and voluntary.

25 Q. You actually agree with her factually, I

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1 says it would've been futile for them to go to trial.

2 You say the same thing?

3 A. That was the decision of public defender. I  
 4 mean, public defender -- defense attorney. And yes, I  
 5 mean, that was the factor that the defendants had to  
 6 consider.

7 Q. Well, and you say it was a reasonable decision  
 8 given all the facts known at the time, right?

9 A. Yes.

10 Q. And probably the most sensible decision?

11 A. Under the circumstances, yes.

12 Q. And then the extreme plea discount, which is  
 13 potential sentence, if you go to trial versus sentence  
 14 that you get by pleading. That happened, right? There  
 15 was a very large discount they got.

16 A. Well, here -- one has to be careful about the  
 17 use of language. So package plea deal is neutral,  
 18 meaning Mr. Baker gets lenient sentence and very  
 19 important for both of them, is Ms. Glenn gets probation  
 20 and she's not in jail and she can take care of the kids.

21 But when you start talking about futility of  
 22 going to trial, the word futility has tremendous  
 23 emotional impact. The attorney, Mr. Mahoney, discussed  
 24 with his client that given the fact that Judge Toomey  
 25 [sc] did not buy, did not agree with testimony of

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1 believe, on a number of the factors that she identifies,  
 2 right?

3 MR. BAZAREK: Object to the form of the  
 4 question. And also as to lack of foundation.

5 THE WITNESS: I don't know what you mean.

6 BY MR. RAUSCHER:

7 Q. All right. Let's try to break it down. Page  
 8 9, the page you identified, she's got four bullet  
 9 points. I'm sorry, not she does. You have four bullet  
 10 points. You say, "The factors she," meaning Dr.  
 11 Redlich, "identified are," right; you see that?

12 A. Give me one sec.

13 Q. Okay.

14 A. Yeah.

15 Q. The first is, "Insufficient time to consider  
 16 the plea offer," right?

17 A. Yes.

18 Q. That one, I think you've said you don't agree  
 19 with and you've explained why, correct?

20 A. Yes.

21 Q. All right. There was a package plea deal with  
 22 Mr. Baker and Ms. Glenn. That's -- you agree that that  
 23 happened, right?

24 A. Yes.

25 Q. The, "Futility of going to trial," Dr. Redlich

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1 Mr. Baker that he was framed in the previous trial, that  
 2 given the same -- to give the same information to the  
 3 judge without more, the judge is not going to rule  
 4 differently because judge cannot go, you know, he cannot  
 5 counter -- go against his previous decision without  
 6 more.

7 And the judge says as much. Is it futility?  
 8 It -- it's -- it's a -- it's a -- it's a not a  
 9 value-neutral term, okay? Was there a good prediction  
 10 of the outcome of the trial? Yes. Would the outcome of  
 11 the trial would not be to the -- not as advantageous to  
 12 Mr. Baker and Ms. Glenn? Absolutely.

13 The extreme plea discount, judging by  
 14 testimony and by Mr. Baker and Ms. Glenn and the defense  
 15 attorney, the fact that she would not spend a -- she  
 16 would have a year on probation, then I forget what it  
 17 was, a year or two years of jail sentence that she might  
 18 get, was an important inducement, was an important  
 19 factor to consider and even though -- well, yeah.

20 So is it extreme? I don't know how one judges  
 21 whether it's extreme or not, you know? And then  
 22 Dr. Redlich does not identify what extreme is. I mean,  
 23 she went -- goes through calculations of 90 percent, 95  
 24 percent reduction. You know, did any of the defendants  
 25 ever make calculations like this? Of course not.

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

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1 it entails. And therefore, they are -- they were --  
 2 they are able to take the oath and act accordingly.

3 Q. What do you mean, take the oath and act  
 4 accordingly?

5 A. Well, they know wrong from right. They know  
 6 what the oath means, to tell the truth. And therefore,  
 7 when they -- they accept the plea and they say that it's  
 8 voluntary, they were not under duress. Those statements  
 9 deserve a lot of credence.

10 Q. Because they did it under oath?

11 A. In part because they did it under oath, in  
 12 part because their mental state was that of a unimpaired  
 13 individuals, because they went through a discussion with  
 14 a very competent defense attorney, because they had a  
 15 understanding of the -- it was -- they had the  
 16 understanding.

17 They -- they knew what's going on. They were  
 18 able to think through and there was no threat, promise,  
 19 coercion. And -- and I -- I list it all in the early  
 20 parts in the report. Therefore, the fact that they took  
 21 the oath, they were able to take the oath, and they were  
 22 able to understand what it means.

23 Q. So you listed a few things there, I think, and  
 24 one of them was the oath, but it is -- does the oath  
 25 matter there or does it not matter for your analysis?

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1 conclusion. It's about how did you bring your  
 2 experience to bear in analyzing her opinions?

3 A. But I just explained, I -- I don't --

4 Q. That's the first --

5 A. Go ahead. Sorry.

6 Q. Sorry. So just -- so that's the first half of  
 7 your answer about how you were trained in decision-  
 8 making and looking at new ideas and treatments, et  
 9 cetera?

10 A. Yes.

11 Q. And does that experience render you qualified  
 12 to offer opinions and analysis outside of the medical  
 13 field?

14 A. Well, but this is not outside, right? It's a  
 15 decision theory. What she is trying to do is to say  
 16 that, because there are these characteristics of false  
 17 guilty plea, I am able to tell you which plea is false  
 18 or guilty -- or true. It is my medical training that  
 19 says, hold on. Not so fast.

20 Don't true guilty pleas have the same  
 21 characteristics? Yes, they do.

22 Q. And you're --

23 A. What is the base rate of -- I mean, that's  
 24 number one. Yes, all true guilty pleas have some of the  
 25 characteristics that are present in situational risk

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1 A. What --

2 Q. Does the fact that they --

3 A. I --

4 Q. -- were under oath -- go ahead. Does the idea  
 5 that they were under oath matter for your analysis or  
 6 does it not matter?

7 A. It matters because they are under obligation  
 8 to testify truthfully and they're capable of testifying  
 9 truthfully.

10 Q. How did you bring your forensic psychiatry  
 11 background and experience to bear in analyzing Dr.  
 12 Redlich's opinions?

13 A. As a physician, I have been trained and  
 14 continuously upgrade my skills in decision-making.  
 15 Medicine is full of untested theories, new ideas, new  
 16 treatments. So as a physician, I constantly have to  
 17 evaluate what I am going to use in my clinical practice.

18 What is logical, what is reasonable, what is  
 19 safe? How do you evaluate safety? So the fact that Dr.  
 20 Redlich -- Redlich made wonderful career describing the  
 21 various aspects of false guilty plea yet -- and it's  
 22 great. It's important to know. But you cannot use her  
 23 description to differentiate which plea is true or false  
 24 and she knows it and she testifies to that.

25 Q. Well, but my question is not about your

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1 factors and they're not really risk factors. They're  
 2 parameters. Because every plea will have some of it.  
 3 Some will have more, some will have less. But you  
 4 cannot differentiate a false guilty plea from a true  
 5 guilty plea based upon the parameters that she has  
 6 identified.

7 Q. And you know that because?

8 A. I can think.

9 Q. Have you done any research -- let's back up a  
 10 sec. You do accept that concept that a false guilty  
 11 plea is a real thing, right?

12 A. Yes.

13 Q. That people who are innocent may plead guilty?

14 A. Of course.

15 Q. And they may do that because of lots of  
 16 reasons. For example, packaged plea deals, big  
 17 discounts, things like that?

18 A. I'm sorry?

19 MS. EKL: Objection. Form.

20 THE WITNESS: I'm sorry?

21 MR. RAUSCHER: Sir, what -- she was objecting  
 22 for the record, but what was the answer?

23 THE WITNESS: There are many life  
 24 circumstances that a person who did not commit the  
 25 crime may be experiencing that it makes sense to

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

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1       Q. What research have you conducted about guilty  
2       pleas?

3       A. I read Dr. Redlich. I read some of the people  
4       that she relies on or quoted in her articles. And then  
5       of course, in my training and continual education, I  
6       would, you know, the continual medical education part of  
7       it is for competencies in the criminal -- criminal  
8       arena.

9       Q. When did you first read Dr. Redlich's  
10      research?

11      A. I may have read one article or two, years ago,  
12      but the bulk of the study I have done after I started  
13      involvement with the Waddy case.

14      Q. The Waddy state court case?

15      A. Waddy. Yes.

16      Q. Which articles do you think you read years  
17      ago, or which article or articles?

18      A. I -- I -- I would be guessing if I tell you,  
19      but it's probably the one that, it was pretty widely  
20      read and that's, I believe, her 2010 article.

21      Q. All right. And since then, so since the Waddy  
22      case, which article or articles have you read?

23      A. This is a partial list.

24      Q. And before you give it --

25      A. Henderson --

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1 minute, please. So I don't know if I mentioned this.  
2 Redlich, Domagalski, "Guilty plea hearings in juvenile  
3 and criminal court," 2022. I read that.

4       Redlich, Summers, Hoover, "Self-reported false  
5 confessions and false guilty pleas among offenders with  
6 mental illness." Here's the one that -- 2010. Where is  
7 it? It's -- I just opened it. Yeah. There it is. It's  
8 Redlich, Summers, and Hoover, "Self-reported false  
9 confessions and false guilty pleas among offenders with  
10 mental illness."

11      Q. From 2010?

12      A. That's 2010.

13      Q. That's the one you think you read back in --  
14      back years ago?

15      A. Yeah.

16      Q. And you said -- is that -- oh, I'm sorry. Are  
17      you still going down the list? That's what I was going  
18      to ask.

19      A. Yes.

20      Q. Okay.

21      A. Scherr, Redlich, Kassin, what's the year?  
22      2020, "Cumulative Disadvantage: A  
23      Psychological Framework for Understanding How Innocence  
24      Can Lead to Confession, Wrongful Conviction, and  
25      Beyond." I think that's the extent of the literature

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1       Q. Sorry. Just real quick before you give it,  
2       are you reading off a list or do you remember any?

3       A. No, I'm reading off the articles that -- on my  
4       table. I mean, on my computer top.

5       Q. And what are you reading off? Like, is this a  
6       list you created?

7       A. It's not a list. It's -- the article is  
8       actually in front of me.

9       Q. Oh, okay. Tell me which articles.

10      A. Henderson and Levett, 2018, "Investigating  
11      Predictors of True and False Guilty Pleas"; "The  
12      Innocent Defendant's Dilemma" by Vanessa Edkins, and  
13      that's 2013; "On the General Acceptance of Confession  
14      Research" by Kassin, Redlich -- Redlich, Alceste, and  
15      Lake, sorry, Luke, and that's 2018.

16      Article by Zottoli, Daftary-Kapur, Edkins, and  
17      Redlich, et al., and that's the article from 2019;

18      State of States: A Survey of Statutory Law  
19      Regulations and Court Rules Pertaining to Guilty Pleas  
20      Across the United States; Redlich, Domagalski, et al.,  
21      "Guilty plea hearings in juvenile and criminal court,"  
22      2022.

23      Hold on. Redlich, Edkins, et al., "The  
24      psychology of defendant plea decision making." That's  
25      the one. No, that's not. It's 2017. Hold on one

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1       that I have reviewed.

2       Q. And those are full articles that you have in  
3       your computer in front of you?

4       A. Yes.

5       Q. Did you talk about those articles anywhere in  
6       your report?

7       A. No.

8       Q. Why not?

9       A. I don't see a reason why I should.

10      Q. Well, were they relevant to your opinions that  
11      you rendered?

12      A. They gave me -- I -- I mean, I read, I believe  
13      before Waddy case, I -- I -- I read enough and there  
14      were only a couple of articles at that point that I  
15      discussed in that deposition, that the overall  
16      conclusion was pretty obvious, as far as these kinds of  
17      cases.

18      You cannot use the presence of identified risk  
19      factors as the guide or predictor that the plea was  
20      either guilty or -- the guilty plea was either false or  
21      true. I read everything else and did not change my  
22      original take on the research. There is nothing --  
23      other than one thing.

24      But it was obvious -- people knew it before  
25      Redlich research, but it doesn't hurt to have more

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1 evidence. If you have mental illness, your competency  
 2 to plea may be reduced or impaired. If you are young  
 3 and your judgment and your thinking is still immature,  
 4 your ability to participate in the criminal process,  
 5 particularly such things as cooperating with -- I mean,  
 6 the fitness to stand trial, ability to plea could be  
 7 diminished, impaired.

8 And that's -- you know, we knew that when I  
 9 was still in the fellowship. I mean, it's nothing new.  
 10 But yes, it -- it -- those -- those are important. But  
 11 again, just because you have mental illness doesn't mean  
 12 that your ability to plea is impaired.

13 That's when you do BSX, even you send them to  
 14 the Psychiatric Institute. If the judge, defense  
 15 attorney, or state's attorney has a concern that a  
 16 particular defendant at a particular time is not able to  
 17 participate in this process. But you cannot make a  
 18 blank statement that if you have mental illness, chances  
 19 are, your plea is invalid. Can't do that.

20 Q. When you're -- in your practice as a doctor or  
 21 in your experience as a doctor, it is -- you do identify  
 22 relevant factors that you are looking at to determine  
 23 what's going on with the patient, right?

24 A. Okay. So in medicine -- yes. May I explain?  
 25 Do you want more?

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1 Q. No. In --

2 A. Okay.

3 Q. In forensic psychiatry, do you also look at  
 4 relevant factors?

5 A. Of course.

6 Q. Your problem with Redlich is that you're --  
 7 you say that she's confusing cause and effect with  
 8 correlation, right? Is that essentially what you're  
 9 saying?

10 A. No, it's, -- I think it's -- it's called  
 11 fallacy of attribution. When it rains, the pavement  
 12 gets wet. Pavement is wet, therefore, it rained. Nope.  
 13 The therefore doesn't follow from the two statements  
 14 above.

15 Q. You -- your -- you --

16 A. There are other reasons.

17 Q. Sorry.

18 A. There are other reasons for the rain -- for  
 19 the person -- for the pavement to be wet.

20 Q. You call that the -- that's affirming the  
 21 consequence, logical fallacy in your report, right?

22 A. Yeah.

23 Q. Is there something unique in your background  
 24 as a doctor that qualifies you to talk about logical  
 25 fallacies?

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1 A. Yes, because it's one of the dangers in  
 2 medicine.

3 Q. And you read --

4 A. Flu --

5 Q. Go ahead.

6 A. Flu causes fever. Mr. Jones has fever.

7 Therefore, he has flu. If I have a medical student who  
 8 thinks like that, he's in deep trouble because there is  
 9 a 1,001 other reasons why a person may have fever. Now  
 10 you can say the top three causes of fever of people of  
 11 that age living in that situation in this period of time  
 12 when we have a flu epidemic. Okay.

13 Q. And that would be helpful for a layperson to  
 14 hear from a doctor, right? Hey, here are the top  
 15 reasons where you're going to -- why you're going to  
 16 look for flu and here's what you think about it.

17 A. No.

18 Q. No? It's not helpful?

19 A. It's not helpful. Because --

20 Q. Why not?

21 A. -- of why -- because that's why we have  
 22 doctors.

23 Q. That's what I said.

24 A. It's my job.

25 Q. Sorry. You missed -- I -- you may have

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1 misheard the question. It would be helpful to a  
 2 layperson to have a doctor explain them? That's the  
 3 question.

4 A. No, not necessarily. The inner workings of a  
 5 physician's brain are not necessarily -- when made  
 6 public are not necessarily useful for the general  
 7 public, but we go through four years of torturous  
 8 education to learn to think like doctors. And I'm not  
 9 going to tell my patient that the top three reasons for  
 10 you having a fever is A, B, or C.

11 I'm going to create anxiety and I'm going to  
 12 create havoc in the person's life. It's my decision to  
 13 decide what's causing the fever. And we have developed,  
 14 over the past 2,000 years, a very good process of how we  
 15 do that. We do -- take history. We do physical exam.

16 We order labs. Then you put it all together  
 17 and then you decide why the patient has a fever. Dr.  
 18 Redlich is going around that process and making the most  
 19 -- in my opinion, no disrespect to Dr. Redlich, makes a  
 20 very easy mistake.

21 Q. Which is?

22 A. The fact that she identified are not  
 23 pathognomonic. Pathognomonic symptom is a symptom that  
 24 if you have it, the only disease that can explain it is  
 25 that disease.

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1 Q. But you also say she doesn't say that, right?  
 2 She says those factors can be present in true guilty  
 3 pleas.

4 A. She does. And she never says it's her opinion  
 5 with a reasonable degree of psychological certainty. And  
 6 that's why I think it's extremely confusing for the  
 7 trier of fact to hear all of that.

8 Q. Well, you're --

9 A. Because it's super confusing.

10 Q. In your opinion, it may be confusing, but you  
 11 are -- it appears that you are accusing her of doing  
 12 something that you also acknowledge she didn't do.

13 A. But she does, right? Because she constantly  
 14 goes close to the line and she says things like  
 15 possibly, maybe, likely, consistent with. That's right,  
 16 she never says there is a causal -- it's not even a  
 17 causal. It's a causal connection and what that  
 18 definitely tells us -- she can't even give you a  
 19 percentage.

20 How likely is it when the defendant has those  
 21 three things that she identified? What's the chance  
 22 that the plea is false? She doesn't have the data,  
 23 because she doesn't have the base rate. It's impossible  
 24 for her to give you the potential so that at least,  
 25 okay, there is a 30 percent chance.

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1 If you have three of these factors, the plea  
 2 is false or 30 percent that it's true, whatever. She  
 3 can't do that. She doesn't have the science behind  
 4 that.

5 Q. All right. So that's a -- you have a  
 6 criticism of her methodology, but that isn't -- still  
 7 not the same as her saying the ground is wet, therefore,  
 8 it must have rained because you're acknowledging she  
 9 doesn't actually say that.

10 A. Well, but why then say anything? Why offer  
 11 your testimony in the court of law that, in a scientific  
 12 environment, cannot be relied on? Why? What's the  
 13 point? People who have pled guilty and were guilty, and  
 14 she says that, have all these parameters, all these  
 15 factors present. So what -- what use is this?

16 Q. What's the percentage of people who pled  
 17 guilty who were offered a package deal?

18 A. Don't know.

19 Q. All right. Well then, how can you say the  
 20 first thing you just said, if you don't know the answer  
 21 to the question I just asked you?

22 MR. BAZAREK: Objection --

23 THE WITNESS: But I'm not testifying --

24 MR. BAZAREK: Objection. Argumentative.

25 THE WITNESS: I'm not bringing that testimony

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1 to laypeople, suggesting that this testimony is  
 2 going to clarify things.

3 BY MR. RAUSCHER:

4 Q. All right. So you are not --

5 A. And --

6 Q. Go ahead. Sorry. I didn't mean to cut you  
 7 off.

8 A. No, no, you are absolutely right. We don't  
 9 know the base rate of any kinds of these situational  
 10 factors. You don't have the base rate of false guilty  
 11 pleas in the way she tries to calculate, because she  
 12 understands the problem. Dr. Redlich is a -- a very  
 13 competent person.

14 She understands the problem and she tries to  
 15 calculate it. But it's -- it's -- it's -- it's --  
 16 doesn't stand up to scrutiny, but you correct. And  
 17 that's why we cannot bring it in front of a jury.

18 Q. So you are agreeing -- you are not going to go  
 19 to the jury and say that packaged deals are part of the  
 20 guilty plea process in general?

21 A. I am.

22 Q. You're agreeing with me. You are not going to  
 23 do that?

24 A. No, I will.

25 Q. Oh, you're going to do it, but she can't do

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1 it?

2 MR. BAZAREK: Objection. Argumentative.

3 THE WITNESS: I can only say that all of these  
 4 -- all the factors that she has identified in her  
 5 research are present in people who are guilty and  
 6 plea -- pleading guilty and in people who are  
 7 innocent and pleading guilty.

8 BY MR. RAUSCHER:

9 Q. How --

10 THE WITNESS: Hold up. And the fact that  
 11 those factors are present in the case of Mr. Baker  
 12 and Ms. Glenn is -- doesn't help you figure out  
 13 whether their plea is false or true.

14 BY MR. RAUSCHER:

15 Q. But if you can't tell the jury how many people  
 16 are offered package deals, how is it going to be helpful  
 17 for them for you to just stand up there and say, well, I  
 18 think that this is a factor in all kinds of plea deals.

19 MS. EKL: Objection. Form.

20 THE WITNESS: Because, in science, the way it  
 21 works, is that if you are offering a new theory, a  
 22 new hypothesis, it's upon you to show that it's  
 23 reasonable, that it -- there is -- there are  
 24 numbers for it. I can say anything then, if we go  
 25 with your logic. People -- let -- let me come up