

<p>1 with an example.</p> <p>2 No, nothing comes up in mind right away. But,</p> <p>3 you know, when Jupiter is in a -- I used to teach a</p> <p>4 class at Northwestern on astrology, and the</p> <p>5 question in front of the students was prove to me</p> <p>6 that astrology is not a science. And it's very</p> <p>7 difficult. And so I would invite an astrologer to</p> <p>8 come to the class and give predictions.</p> <p>9 And these very bright medical students could</p> <p>10 not prove that this is bogus. And so if we go with</p> <p>11 your thinking, your argument, let's invite</p> <p>12 astrologist to medical schools, as doctors, as</p> <p>13 attorneys, it's upon her to prove that she has --</p> <p>14 that her suggestions have validity. It's not upon</p> <p>15 the community to say, oh, let's us prove that it</p> <p>16 doesn't have validity.</p> <p>17 MR. RAUSCHER: That -- that's not -- I'm going</p> <p>18 to move to strike that. That answer is</p> <p>19 nonresponsive to the question.</p> <p>20 MR. BAZAREK: I disagree.</p> <p>21 MR. RAUSCHER: Okay.</p> <p>22 BY MR. RAUSCHER:</p> <p>23 Q. My question is: If it would not be helpful for</p> <p>24 the jury to hear that package deals are offered -- are</p> <p>25 prevalent in false guilty pleas because Redlich doesn't</p>	<p>Page 114</p> <p>1 Q. Okay.</p> <p>2 A. -- whether I have the numbers for all of that</p> <p>3 is very, very strong. She cannot differentiate. She</p> <p>4 says she cannot differentiate between the false guilty</p> <p>5 plea and the true guilty plea.</p> <p>6 Q. So let -- you have a problem with her</p> <p>7 methodology, but you -- you're not saying one way or the</p> <p>8 other whether her conclusion that these factors are</p> <p>9 prevalent is actually correct as a general matter?</p> <p>10 A. I -- I don't disagree with her methodology.</p> <p>11 Q. You don't disagree with it or you do?</p> <p>12 A. No, I do not.</p> <p>13 Q. Okay.</p> <p>14 A. How she does her research, I don't disagree</p> <p>15 with, okay? What I disagree with is that she takes this</p> <p>16 set of knowledge that is still in its inception, it's</p> <p>17 young. And she tries to use it in a real-life situation</p> <p>18 without having done the basic homework. If she does not</p> <p>19 know, if she tells you, I mean, she testified to it, I</p> <p>20 cannot -- I -- I -- I'm paraphrasing.</p> <p>21 She cannot differentiate, she cannot say which</p> <p>22 plea is true and which plea is false. She constantly</p> <p>23 goes back, it has to be resolved by the court. Then</p> <p>24 what's the point of her testimony?</p> <p>25 Q. Is it fair to say you don't know one way or</p>
<p>Page 115</p> <p>1 know the baseline for how many package deals are</p> <p>2 offered, why would it be helpful for the jury to hear</p> <p>3 the opposite opinion from you?</p> <p>4 MR. BAZAREK: Object to the form of the</p> <p>5 question.</p> <p>6 THE WITNESS: If Dr. Redlich is going to</p> <p>7 testify in front of the jury that because these</p> <p>8 three risk factors are present in the case of</p> <p>9 Mr. Baker and Ms. Glenn, it's more likely than not,</p> <p>10 it's reasonably to think, it's -- correlates with</p> <p>11 false guilty plea, then there has to be an opinion</p> <p>12 offered to the jury that this is bunk. It's pure</p> <p>13 bunk. It's nonsense.</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q. And your --</p> <p>16 A. It's scientific nonsense.</p> <p>17 Q. Go ahead. It's nonsense and you're confident</p> <p>18 it's nonsense, even though you don't have the other --</p> <p>19 the data on the other side of that, and even though you</p> <p>20 acknowledge that false guilty pleas exist?</p> <p>21 A. Yes. But there is no connection established</p> <p>22 by Dr. Redlich that there was any causation. It's upon</p> <p>23 her to establish it.</p> <p>24 Q. So in --</p> <p>25 A. And my argument --</p>	<p>Page 117</p> <p>1 the other whether the factors Dr. Redlich identifies are</p> <p>2 prevalent in false guilty pleas?</p> <p>3 A. Well, we do. Her research shows that those</p> <p>4 factors are present in false guilty pleas, but --</p> <p>5 Q. I said --</p> <p>6 A. -- whether it's significant or not, we do not</p> <p>7 know.</p> <p>8 Q. And I said prevalent, not present, common.</p> <p>9 Same thing --</p> <p>10 A. But we would know how prevalent it is in true</p> <p>11 guilty pleas. So you can't compare the two. You don't</p> <p>12 know what validity, what usefulness it is.</p> <p>13 Q. I -- I'm not -- I'm not asking for that right</p> <p>14 now. I'm just asking -- the question is: Do you know</p> <p>15 one way or the other whether the factors Dr. Redlich,</p> <p>16 identifies as being prevalent in false guilty plea are</p> <p>17 in fact, prevalent in false guilty pleas; do you know?</p> <p>18 Not do science as a whole, just do you?</p> <p>19 A. People who have prostate cancer --</p> <p>20 Q. Sir, it's a yes or no. It's a yes or no. Do</p> <p>21 you know --</p> <p>22 A. No, it's not -- it's not.</p> <p>23 Q. It's not people who have prostate cancer. I</p> <p>24 know -- I'm not asking for an analogy.</p> <p>25 A. Well, the analogy --</p>

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1 MR. BAZAREK: Objection. Wait. Objection.
 2 Argumentative.
 3 BY MR. RAUSCHER:
 4 Q. All right. How -- let's try this. I'm going
 5 to ask you to answer that question yes or no. If you
 6 can't answer a yes or no, tell me why. But I don't want
 7 to start with an analogy on a totally different topic.

8 MR. BAZAREK: So are you going to read it
 9 back?

10 MR. RAUSCHER: Yeah. Can we please read back
 11 the question a few questions ago?

12 THE REPORTER: Yeah.

13 (REPORTER PLAYS BACK REQUESTED QUESTION)

14 THE WITNESS: Yes, I do know.

15 BY MR. RAUSCHER:

16 Q. Okay. Are the factors that Dr. Redlich
 17 identifies as being present in false guilty -- are
 18 prevalent in false guilty pleas, in fact, prevalent in
 19 false guilty pleas?

20 A. Yes, they are.

21 Q. There's a fairly big background section. Well,
 22 I shouldn't say fairly big. There are a number of facts
 23 that you go through in the -- I'll say the reasoning
 24 section of your report, Pages --

25 A. Yes.

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1 Q. -- 1 to 6. What's the significance of those
 2 facts to your opinion in the case?

3 A. I don't understand your question.

4 Q. So I can -- we can try some examples. If you
 5 look at Page 1 of your report, you've got a paragraph
 6 that talks about, you know, the date of the guilty plea.
 7 Then the second paragraph kind of gives a description of
 8 how the hearing went, basically you see that?

9 A. Yes.

10 Q. "Judge Toomin ruled" -- this is the last
 11 sentence carrying over to Page 2. "Judge Toomin ruled
 12 that the provided information regarding police
 13 misconduct was 'idle speculation,' 'blanket
 14 allegations,' and did not constitute a reason not to go
 15 ahead with the trial." Do you see that?

16 A. Yes.

17 Q. What's the significance of that statement?

18 A. In order to form an opinion as to Mr. Baker's
 19 and Ms. Glenn's competency to enter a plea, I am laying
 20 out the situation they were faced with. So it's a
 21 background that they had to think through. And that's
 22 the reason why I put it in the front page of the --
 23 front of the report.

24 Q. Okay. And it is sort of the same throughout,
 25 right? And that -- and then, it carries through to the

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1 substance of your opinion, basically, where later, one
 2 of the things you say is the judge didn't -- basically
 3 didn't buy the fact that these were corrupt police
 4 officers. And so it was reasonable for Baker and Glenn
 5 to take that into account when pleading guilty?

6 A. Yes.

7 Q. Okay.

8 A. And it's not -- well, I --

9 Q. No, no. Go ahead. I -- it's good -- that --
 10 A. I'm -- I'm not sure characterization is that
 11 he didn't buy it. He basically said there is no
 12 evidence, but...

13 Q. Okay. Fair enough. He wasn't willing to --
 14 based on what had been presented to him, the judge had
 15 made clear he wasn't willing to accept their -- the
 16 Baker and Glenn's version of events over the police
 17 officers; is that fair?

18 A. That's fair.

19 Q. Is there anything that you agree with in Dr.
 20 Redlich's research other than the one thing you said
 21 earlier about young people who have mental illness
 22 issues may not be competent to plead?

23 A. Just to correct the thing. It wasn't young
 24 people with mental illness. It was young people period,
 25 and mentally ill.

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1 Q. Okay.

2 A. Two different populations.

3 Q. I misunderstood.

4 A. And your question is, are there things that I
 5 agree with --

6 Q. Yeah. And you can answer.

7 A. -- in her research?

8 Q. In her research that you agree with?

9 A. I think it's extremely useful, her description
 10 of various incentives or factors, or risk factors,
 11 whatever you want to call it, that people, the
 12 defendants in the criminal system are facing. I think
 13 it's extremely important the beginning of the analysis
 14 of how time pressures may affect the reasoning capacity
 15 of individuals.

16 Her research, don't -- I -- I -- I hope I
 17 didn't give an impression that I think her research is
 18 bunk. It's not. This is how science starts. You start
 19 with description of the phenomenon you want to study.
 20 And her description is really good and can be extremely
 21 helpful to do further work.

22 Q. What further work should be done in your
 23 opinion?

24 A. Well, given what I see as the -- the direction
 25 that people are interested in, and that is to take it

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1 into real world, I think we need to figure out -- the
 2 people who do this, not me, need to figure out how to
 3 establish some of these issues that I brought up.

4 What is the frequency or base rate of false
 5 guilty pleas in the United States? How is plea
 6 bargaining or acceptance of plea is different in people
 7 who are guilty and people who are innocent? And that
 8 part of that research, she's doing already.

9 And then, there is something else one needs to
 10 think about, but it's a little bit -- I mean, that's the
 11 research that I think one has to go to. And another
 12 area that one has to consider is this: What happens if
 13 we get rid of plea bargaining? What are going to be the
 14 consequences to the defendants?

15 Q. That's a -- that's like a -- it's a policy
 16 issue more than a -- right?

17 A. Yes. But in order to answer those questions,
 18 right, you need a lot of smart people thinking about
 19 this and come up with different possible outcomes. And
 20 perhaps we should, if that's what people want to do,
 21 let's do an experiment.

22 You know, let's take a populous county with a
 23 lot of criminal cases and put that in effect and see how
 24 many guilty people go to trial and get worse sentences
 25 than they would've gotten if they were able to plea.

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1 Q. How would you do that? You mean would you do
 2 like fake trials or what -- how would you do that?

3 A. You do a real-life experiment --

4 Q. How would you do --

5 A. -- about the --

6 Q. Yeah, yeah, sorry. That one --

7 A. I don't know. I'm not -- I'm not a
 8 politician. I'm not a policy person, but, you know,
 9 maybe there is a way to say in this county for a period
 10 of two years, plea bargaining is not allowed.

11 Q. But there's no -- I think you would agree that
 12 there is probably no county in the United States that
 13 would knowingly -- should we -- should be able to agree
 14 that no county in the United States should knowingly try
 15 innocent people for crimes they didn't commit, right?

16 A. I'm sorry, I don't follow your question.

17 Q. So I thought you were saying the experiment
 18 should be, let's get rid of plea agreements and see how
 19 many innocent people versus guilty people get --

20 A. No, no, that's --

21 Q. Okay.

22 A. -- wasn't my point.

23 Q. Sorry.

24 A. I'm -- I'm a little -- couple steps ahead.

25 Plea bargaining is solving a certain number of problems

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1 in the society, particularly in the legal arena. What
 2 happens if we abolish plea bargaining, right?
 3 It's an interesting question. One possibility
 4 is, among many and many of them may happen altogether,
 5 is that guilty people who in the past would have been
 6 able to plea out and get a reduced sentence, now will
 7 have to go to court, potentially spend more time in jail
 8 in the pretrial detention, and then get more severe
 9 sentences than what the state would have offered them
 10 was there a plea deal.

11 And maybe we want this. We will take that
 12 outcome because we like the other outcome. And the
 13 other outcome is everybody gets a day in court. But I'm
 14 really here, you know, this is -- this is for legal
 15 scholars. This is, you know, people who think about
 16 these big issues. I just think about one patient at a
 17 time so you know.

18 Q. And we don't need -- you'd agree we don't need
 19 to answer that big policy question you've raised. Let
 20 me rephrase that. Redlich doesn't need to answer that
 21 big policy question to make her research on false guilty
 22 pleas have validity?

23 A. Of course not.

24 Q. I mean, you've identified things you see as
 25 problems, but one of those -- with her research. One of

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1 those problems is not that she doesn't then go on to
 2 say, well, if you accept that there are false guilty
 3 pleas, we have to look at all these other things that we
 4 might have to do.

5 A. I may be wrong. But in her articles, I --
 6 I -- I see that in-between the lines, that a guilty
 7 person should not be allowed to plea. I'm sorry,
 8 innocent person should not be allowed to plea. Okay. I
 9 mean, that's a reasonable thing to say. And I don't
 10 know if people like it or not, but okay.

11 It's not up to me. The problem is, my problem
 12 is, significantly further back in the evolution of this
 13 research, my problem is that we cannot use her findings
 14 to predict, to identify which particular Mr. Jones is
 15 guilty or not. Human beings have not invented a better
 16 way to find guilt or innocence than a trial.

17 Adversary trial in the United States.

18 Different set in Europe with Napoleonic Code. But
 19 that's the best we can do, at least for now.

20 Q. But -- right. And I think for the last
 21 question, I'm just trying to establish, you raised the
 22 idea of like, what would happen if we got rid of guilty
 23 pleas. We are in agreement that her research doesn't
 24 have to answer that question to be valid and helpful?

25 A. Yes, I agree.

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1 Q. And you said you read in her studies that she
 2 doesn't believe innocent people should be allowed to
 3 plead guilty. And I think you said maybe people like
 4 that, maybe people don't. Do you think there are people
 5 who might be opposed to the idea of -- or who might like
 6 the idea of innocent people pleading guilty?

7 MR. BAZAREK: I'd object to the form of the
 8 question. Incomplete hypothetical. That's my
 9 objection.

10 THE WITNESS: I don't think there are
 11 psychologically healthy individuals who want
 12 innocent people to go to jail or prison. May I
 13 give you an analogy?

14 BY MR. RAUSCHER:

15 Q. Do you think you need an analogy to answer
 16 that question?

17 A. I think it would be effective.

18 Q. So it -- just to be clear, to answer that --
 19 the question you're answering is whether people would
 20 like innocent people to be able to plead guilty to
 21 crimes they didn't do?

22 A. Yes, it -- it -- it is.

23 Q. Okay. Go ahead.

24 A. In general surgery, when a person comes in
 25 with symptoms of appendicitis, what is an acceptable

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1 MR. SULLIVAN: Object to form.
 2 MR. BAZAREK: All right. Just -- object --
 3 yeah. Object to form. Foundation. Compound.
 4 Argumentative.

5 THE WITNESS: Nothing in my example or our
 6 prior discussion is about accepting illegal
 7 activity by police officers. I'm not justifying
 8 it. I'm not excusing it. And I don't think
 9 anybody in their right mind would ever do that.
 10 But even without corrupt police officers, we cannot
 11 make sure that 100 percent of innocent people are
 12 found innocent.

13 BY MR. RAUSCHER:

14 Q. And you are qualified to render that opinion
 15 because why?

16 A. Because it's a basic fact of science. No
 17 human decisional capacity -- decisional -- no human --
 18 no area of where humans practice decisions is error
 19 proof. There is always a certain rate of error. Now,
 20 we can work on trying to reduce it, but we'll never be
 21 able to illuminate it -- eliminate it.

22 Q. Yeah.

23 A. Not possible.

24 Q. You mean, as that system, as a whole, it's not
 25 possible because that's how systems work, right?

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1 rate of healthy people receiving appendectomy? 30
 2 percent. Out of every hundred patients receiving
 3 appendectomy in the United States, a good surgeon will
 4 have a false positive rate, meaning he puts somebody
 5 healthy under anesthesia, nowadays at laparoscopy, puts
 6 metal in their belly and cuts their appendix out, and
 7 appendix is healthy.

8 Why do we accept 30 percent false positive
 9 rate? Because we cannot get anything better.

10 Q. Why do you think that's a good analogy for
 11 innocent people being charged with crimes they didn't
 12 commit and pleading guilty?

13 A. Because the reality is we cannot identify
 14 innocent people 100 percent of the time.

15 Q. But the police officers can, right? Certainly
 16 in these cases. If you accept what my client --

17 MR. BAZAREK: Object --

18 BY MR. RAUSCHER:

19 Q. -- if you accept what my clients are saying,
 20 wouldn't you agree that the acceptable rate would be
 21 zero? I mean, my clients are saying police officers
 22 bring me for drugs. I didn't have any drug crimes. I
 23 didn't commit it. It is not comparable to someone
 24 coming in with symptoms, and a doctor may be getting it
 25 wrong after careful consideration.

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1 A. That's how nature works.

2 Q. All right. You don't need to be a doctor to
 3 make that statement, do you?

4 A. It helps if you're a doctor because this is
 5 what we deal with every day. I mean, how do you -- do I
 6 go about making a diagnosis? I take -- I make a
 7 judgment and I know that I may be wrong. I may be
 8 prescribing in the wrong treatment because I make a
 9 wrong diagnosis.

10 And my job is, as a physician, to follow the
 11 patient, see what happens, and if patient is not
 12 improving over a certain period of time, I have to go
 13 back and start thinking from the beginning. What did I
 14 miss? What else could it be? But working with error
 15 and knowing that errors are unavoidable is part what
 16 physician does every day.

17 Q. Isn't it part of what every profession that
 18 exercises any degree of judgment deals with every day?

19 MS. EKL: Objection. Foundation.

20 THE WITNESS: I --

21 MS. EKL: Form.

22 THE WITNESS: I -- I can't make this blank
 23 statement. I can talk about physicians because I
 24 know that's what we do. This is what -- part of
 25 our education. I'm sure there are other

<p style="text-align: right;">Page 130</p> <p>1 professions that also have to deal with error rate, 2 but I can't answer your question.</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q. So you can really only talk about error rates 5 in the medical profession?</p> <p>6 A. I think that error rates in the medical 7 profession are a general phenomenon. I mean, I know 8 it's a general phenomenon because a lot of other 9 industries and professions deal with the same -- same -- 10 same problem, right?</p> <p>11 Airline companies. Now, they cannot afford an 12 error because an error in their -- their case, it's 13 extremely fatal, and they have processes, which are much 14 better than we have in medicine by the way, to prevent 15 those kinds of errors. And they extremely effective, 16 but they still have errors and there are still accidents 17 and there are still bad outcomes.</p> <p>18 Q. So a pilot could also come in and say, well, 19 look, we know that guilty people are going to be 20 convicted because we know that there's errors, and I 21 make judgment calls and I know that other people do 22 also?</p> <p>23 MR. BAZAREK: Object to the form.</p> <p>24 THE WITNESS: That's -- damn, that's up to the 25 gatekeepers of the legal process. You want accept</p>	<p style="text-align: right;">Page 132</p> <p>1 A. They do.</p> <p>2 Q. What's the standard for -- what happens at 3 trial? What does a verdict say in a criminal case, 4 guilty or innocent?</p> <p>5 A. Not -- not guilty.</p> <p>6 Q. But not guilty isn't the same as innocent, is 7 it?</p> <p>8 A. I haven't thought about that. I -- I -- I 9 need to think about it before I answer. I don't --</p> <p>10 Q. Are you familiar with a certificate of 11 innocence, what that is?</p> <p>12 A. Yes.</p> <p>13 Q. Do you accept that if someone gets a 14 certificate of innocence, they are, in fact, innocent?</p> <p>15 MR. BAZAREK: I'd object to the form of the 16 question. Incomplete hypothetical. Lacks 17 foundation. And calls for a legal conclusion, I 18 think.</p> <p>19 THE WITNESS: My understanding of the 20 certificate of innocence is that, in order to 21 obtain it, the state's attorney's office has to 22 make a decision that they will not object, as I 23 understand. And the person is not going through the 24 trial and issued certificate of innocence.</p> <p>25 My knowledge here is very thin ice. From my</p>
<p style="text-align: right;">Page 131</p> <p>1 the pilot to come in and give you that testimony? 2 I think there is a much stronger connection between 3 me as a forensic psychiatrist dealing with my -- my 4 area of expertise and using what I know as a -- 5 both as a physician -- but I also know that it's 6 part of struggle that people have in other 7 specialties and other areas of life.</p> <p>8 BY MR. RAUSCHER:</p> <p>9 Q. In your work as a forensic psychiatrist, have 10 you had -- have you worked with individuals who are 11 innocent but pled guilty?</p> <p>12 A. I wouldn't know. So if the person is in 13 prison, he tells me he's innocent, I take it as he says 14 it, but I don't make a judgment whether he's actually 15 innocent or not. The only time that I can say somebody 16 is innocent but was found guilty is when the -- he goes 17 through a trial and he's found innocent.</p> <p>18 I don't have --</p> <p>19 Q. Well --</p> <p>20 A. -- I don't have a -- a -- what's -- what's it 21 called? I don't have the ability to read someone's mind 22 and have a vision that they commit this crime or not. 23 How would I know? I don't have that.</p> <p>24 Q. So why -- people aren't really found innocent 25 at trial, right?</p>	<p style="text-align: right;">Page 133</p> <p>1 understanding, certificate of innocence 2 realistically does not mean that the person was 3 innocent. It means that the state have decided not 4 to prosecute.</p> <p>5 BY MR. RAUSCHER:</p> <p>6 Q. And where does that understanding come from?</p> <p>7 A. Discussing it with various attorneys that I 8 work with and friends with.</p> <p>9 MR. BAZAREK: Yeah. Yeah. Doctor, don't -- 10 you don't -- you don't have to discuss any 11 privileged communications.</p> <p>12 THE WITNESS: Oh, okay.</p> <p>13 MR. RAUSCHER: Well, if there is a privileged 14 communication, I agree. If you're discussing 15 general topics with attorneys you're friends with, 16 I don't think that's privileged, so I'm going to 17 ask. I'm going to --</p> <p>18 THE WITNESS: I --</p> <p>19 BY MR. RAUSCHER:</p> <p>20 Q. I'm going to ask, who have you discussed that 21 with?</p> <p>22 A. Over the years, lots of people, but I don't 23 have independent recollection of the names of people.</p> <p>24 Q. So do you have any basis --</p> <p>25 A. I don't know --</p>

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1 Q. -- for the testimony -- I'm sorry. Do you
 2 have any basis for the testimony you just gave about how
 3 a certificate of innocence works other than
 4 conversations with attorneys over the years?

5 A. Yeah, my general knowledge, but I don't say
 6 that I'm an expert in certificates of innocence. I'm
 7 not.

8 Q. Where does your general knowledge about
 9 certificate of innocence come from?

10 A. Discussion with colleagues and reading.

11 Q. What -- what -- what have you read over the
 12 years about certificate of innocence?

13 A. I can't tell you.

14 Q. Nothing?

15 A. No, I can't tell you what I read and where.

16 Q. What -- which colleagues have you discussed
 17 that issue with?

18 A. Jesus. I -- I don't have independent
 19 recollection right now who I discussed it with, but at
 20 our professional meetings, people discuss all kinds of
 21 things and that's one of the things we discuss.

22 Q. What -- whose professional meetings?

23 A. Meetings of forensic psychiatrists.

24 Q. And is it your memory that, in one or more
 25 meetings of professional forensic psychiatrists, there

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1 state's attorney doesn't depose it?

2 A. That's my understanding.

3 Q. And so you don't have to prove anything, you
 4 just say I'd like a certificate of innocence. If the
 5 state doesn't oppose it, you get one?

6 A. I think the -- I -- I -- I -- I should not --
 7 I -- I don't know the process.

8 Q. Okay. What are the specific things in the
 9 articles that you read that Redlich worked on that you
 10 don't agree with?

11 A. I don't think there is anything that comes to
 12 mind that I disagree with. I mean, if -- I -- I don't
 13 remember, but if she makes a statement or an assumption
 14 that if a person who pled guilty and had these
 15 particular risk factors means that they are not -- that
 16 they enter the false guilty plea, that I would disagree
 17 with. But other than that, I think her description of
 18 various factors is very useful.

19 Q. Would you consider yourself -- or do you
 20 consider yourself an expert on guilty pleas?

21 A. I am an expert in evaluating individual
 22 competencies for various legal proceedings, including
 23 guilty plea. Yes, I am an expert.

24 Q. Not on guilty pleas, generally on evaluating
 25 competencies or guilty pleas?

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1 was a discussion about a certificate of innocence
 2 doesn't really mean that you're innocent?

3 A. You'd be surprised what kind of discussions
 4 forensic psychiatrists have, but, yeah, one of those --
 5 people have discussions about that, sure.

6 Q. And you -- but you don't really remember who
 7 it was or what they said beyond that?

8 A. No.

9 Q. Why is it that you are willing to accept a not
 10 guilty finding at trial in a way that you are not
 11 willing to accept a certificate of innocence as
 12 indication of innocence?

13 A. Because my understanding is that there is a
 14 difference in state's attorney saying, we will not bring
 15 your case forward even if we think you're guilty because
 16 we cannot prove it or we don't think we can prove it and
 17 having gone through the trial and been proven innocent
 18 or not guilty.

19 Q. Do you know whether a judge issues a
 20 certificate of innocence, or do you know how the process
 21 of getting it issued?

22 A. I don't know the details of the process. I
 23 know that the judge issues it.

24 Q. And do you think that the judge issues a
 25 certificate of innocence as a matter of right if the

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1 A. Correct.

2 Q. Page 7 of your report, if you look at the
 3 second to last paragraph. You see that paragraph?

4 A. Yes.

5 Q. There's a reference to, "almost a given,"
 6 and then a list of a number of factors. What do you
 7 mean by almost a given in that paragraph?

8 A. If you read the quote by Dr. Redlich right
 9 above, that's where it comes from.

10 Q. Okay. You're just taking what she said,
 11 not -- that's not an independent --

12 A. That's correct.

13 Q. -- belief you had? Sorry. You were -- you
 14 anticipated my question. On the next page, on Page 8,
 15 you ask, in the second paragraph, "What is the way to
 16 decide if defendant is in fact innocent or guilty?" And
 17 you answer, "Through the established legal processes
 18 including trial and plea bargaining." See that?

19 A. Yes.

20 Q. Isn't that circular? Are you just assuming
 21 your conclusion?

22 A. No.

23 Q. Why is that the only way to decide if
 24 defendants are, in fact, innocent or guilty?

25 A. Because that's how it's -- how it's done and

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1 because we don't have a better way of doing it. If
 2 you -- if an individual is accused of a crime, how we
 3 decide whether he is innocent or guilty? We have a
 4 trial.

5 Q. And then we have an appeal process, and we
 6 have post-conviction process, and we have certificate of
 7 innocence, right?

8 A. Sure.

9 Q. Wouldn't you agree those are also part of the
 10 process for determining guilt or innocence?

11 A. Yeah.

12 MR. BAZAREK: Going to object to the form of
 13 the question.

14 THE WITNESS: Yes. I include all the legal
 15 processes, including that of exoneration of people
 16 who were -- who were convicted and who were
 17 convicted on false evidence, lies by police
 18 officers, whoever else. I mean, I -- I don't have
 19 stock in prison companies.

20 BY MR. RAUSCHER:

21 Q. And you -- the way your sentences there are
 22 worded, it almost reads as though no research would ever
 23 be helpful in your opinion. Is that -- that's not what
 24 you meant, is it?

25 A. Which sentence you read that way?

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1 It's very rare.

2 Q. You could say, here are symptoms you're
 3 having. These symptoms are common in this illness.
 4 We're going to treat you for this illness.

5 A. We say that if you are walking down Michigan
 6 Avenue in Chicago and you hear hoofbeats behind you, it
 7 ain't zebra. Zebra is the medical term for unusual or
 8 rare or disease that is not commonly seen. Yes, of
 9 course, we do act upon what is the most prevalent
 10 disease in a particular population, particular time, but
 11 good medicine always has a differential diagnosis.

12 That's the sine qua non of good medicine. You
 13 never have one diagnosis. You always create two, three,
 14 four possible other diagnoses that may present exactly
 15 the same way. And then, you go and you rule them out
 16 one by one: Physical exam, biological testing,
 17 radiological testing. Only afterwards do you commit
 18 yourself to treating a particular disorder.

19 Because -- maybe too much of medical thinking.
 20 So most of medicine works by recognition of patterns,
 21 right? If I'm sitting in my office and I hear a
 22 shuffling gait of a particular type, I know that's most
 23 likely it's Parkinson's, okay? It may not be. So it's
 24 number one on my differential diagnosis list.

25 But if I were to say it's Parkinson's and

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1 Q. When you say, "What is the way to decide if
 2 defendant is in fact innocent or guilty? Through the
 3 established legal processes including trial and plea
 4 bargaining." But I guess I -- I'm going to -- I'll
 5 rephrase the question, which is: Are you saying that
 6 there is no research that could help people make that
 7 determination?

8 A. Well, we could continue to work on a lie
 9 detector test. We could do work on MRIs that measure
 10 brain activity when a person is questioned to see
 11 whether they are lying or not. We could work on a whole
 12 number of ways to figure out when the person is lying or
 13 telling the truth. To date, none of that has panned
 14 out.

15 Q. And I want to go back to the -- there -- the
 16 medical -- some of the medical analogies. Are there
 17 times in medicine where you make a decision based on the
 18 most -- you know, where you say, the most likely thing
 19 that's happening is this. And here are the factors I
 20 looked at and here is the path forward. Is that part of
 21 medicine, or do you always --

22 A. Yes.

23 Q. You don't always reach a conclusion with a
 24 absolute certainty, right?

25 A. There is no absolute certainty in medicine.

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1 nothing else, I will hurt a certain number of people
 2 because it's not Parkinson's. So in order to keep
 3 myself honest -- and that's how we talk about in
 4 medicine. In order for a doctor to keep himself honest,
 5 he has to go through a differential diagnosis list.

6 The patient will never know about it, okay?
 7 But in a chart, you will see DD, D/D, and a list of
 8 potential diagnoses. And then you write out what tests,
 9 what other things you're going to do to rule in or rule
 10 out a particular diagnosis.

11 Q. Are there times where you offer treatment
 12 before you know for certain what's causing the illness?

13 A. Of course.

14 Q. And when is that appropriate?

15 A. In extremists, medical term for life and death
 16 situation. There, I go on pure instinct and pure
 17 recognition. I have no time to think. I have to act.
 18 And so you know, if it's a 55, overweight guy and he is
 19 stop breathing, I'm not going to think, you know,
 20 whatever. I'm going to think heart attack.

21 And that's what I'm going to start treating
 22 him while still evaluating for potentially other things,
 23 right? But I'm not -- I -- I have couple minutes. I
 24 have four minutes before he dies. So yes, under those
 25 circumstances, I will act.

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1 Q. And no other circumstances other than life and
 2 death emergency will you act before you have, with
 3 certainty, reached a diagnosis?

4 A. Sure. Here's another aspect of medicine, and
 5 that is harm versus benefit. So let's say I have an
 6 illness that is inconvenient, give some pain, and I
 7 missed it. And so what? The patient will come back
 8 next week, and I have time to adjust my treatment.

9 But if I consider that -- oh, and my treatment
 10 doesn't cause much harm, but if I have a guy who comes
 11 in and he has mild disease but I misdiagnose him as
 12 something very serious, and I give him a treatment that
 13 can kill him, under some circumstances, those treatments
 14 are quite acceptable but not in the way that this guy
 15 presents. I'm committing negligence.

16 I should not be giving a life-threatening
 17 treatment unless I'm sure that the person is in
 18 extremist. I mean, that he really has a bad illness.
 19 And you constantly make these calculations as a
 20 physician.

21 Q. It's situational, when you can act on
 22 imperfect information?

23 A. There is no perfect information in medicine.
 24 There is no such thing. We always act in a situation of
 25 uncertainty and unknowns. That's why medicine's so

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1 Mary. We need to do A, B, and C because I'm worried
 2 that it's maybe this. It may be that.
 3 You know, let's do the test and we'll meet in
 4 couple of weeks and we'll follow up.

5 Q. Okay.

6 A. That's why we do biopsy, right? Sometimes, we
 7 can palpate the tumor and we know what it is, and we
 8 know whether it's even malignant or not. Most of time,
 9 we don't. So you have to do a biopsy.

10 Q. Right. And of course you explain, like,
 11 here's what I'm doing. Here's why I'm doing it. Here's
 12 what we're looking for.

13 A. You would -- after, you explain, yes. Because
 14 people get extremely anxious and you don't want people
 15 to be too anxious.

16 Q. Can you turn to Page 10 of your report,
 17 please?

18 A. Okay.

19 Q. So the first two paragraphs are identical, I
 20 think. And I -- I'm just wondering if that's a typo or
 21 if there was something else that you meant to be there.

22 A. I'm sorry. Which paragraphs are identical?

23 Q. I think the first two full paragraphs, unless
 24 it's just the way it printed on my screen.

25 A. Could you give me the first sentence?

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1 exciting, is that you have to hone your diagnostic
 2 skills and treatment skills in the condition of
 3 continual uncertainty.

4 Q. And you said that the patient's never going to
 5 know about the differential diagnosis. What -- there
 6 are -- there -- presumably, there are times when you
 7 have to -- have -- send them out for follow up tests or
 8 things like that, and you're going to tell them why
 9 you're doing that, right?

10 A. Of course.

11 Q. So like in the Parkinson's example, what would
 12 you -- what do you do to determine whether it's
 13 Parkinson's or something else?

14 A. You do a physical exam. That's very simple
 15 diagnosis you going to make in the consulting room. You
 16 going to get history. You're going to do physical exam.
 17 Your diagnosis is pretty -- relatively easy to achieve.
 18 And if you made a mistake, within short period of time,
 19 you'll know because you're going to put him on
 20 medications.

21 If he's not better, you have to think again
 22 and go through differential. But you absolutely right,
 23 and I -- when I said never, I mean, I exaggerated it.
 24 Obviously, patients know when they have a particular
 25 kind of potential illness. It's like, okay. Listen,

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1 Q. Yeah. It says "Dr. Redlich's opinion that
 2 defendants."

3 A. Jesus Christ. It's the same thing. It
 4 shouldn't be there.

5 Q. But it's not -- there's not something missing,
 6 though. It just shouldn't be there twice?

7 A. It shouldn't be there. Yeah. I --

8 Q. Okay.

9 A. -- I don't know how it got doubled. I
 10 apologize.

11 Q. The -- Subparagraph 1 on that page, you say --
 12 and we talked -- and we touched on this a little bit,
 13 but there's a discussion about a tentative -- well,
 14 there's a description of a tentative discussion that
 15 Mahoney, the criminal defense lawyer, had with
 16 Mr. Baker, right?

17 A. Yes.

18 Q. Do you know what he meant by tentative or
 19 tentatively?

20 A. I took in -- I -- my interpretation is that he
 21 had a discussion about tentatively whether they can
 22 accept or not accept the plea.

23 Q. And you're just --

24 A. I don't see another interpretation for it.

25 Q. Okay. That's -- from reading that paragraph,

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1 that's the interpretation you're drawing?

2 A. Yes. Well, from the paragraph and everything
3 else in the deposition that --

4 Q. So in Paragraph 2, you say, Dr. Redlich did
5 not take into consideration that Mr. Baker and Ms. Glenn
6 were not in the courtroom during the morning part of the
7 9-18-2006 hearing, in other words, before the break.

8 Did you see that?

9 A. Yes.

10 Q. Is your point there just that they had more --
11 they -- well, what is your -- what is the point you're
12 making in that paragraph?

13 A. Well, Dr. Redlich is raising an issue of that
14 they may not have had enough time to knowingly and
15 intelligently discuss acceptance or not acceptance of
16 the plea, and I say that, A, very concretely, Mr. Baker
17 and the attorney discussed it before the hearing
18 started, and then they discussed afterwards.

19 So it's not just half an hour, and it's not
20 clear whether after the hearing, it was 30 minutes or an
21 hour because I'm sure you remember the -- the
22 transcript. My point is that these individuals had more
23 than 30 minutes to discuss this. That's -- that's my
24 point.

25 Q. Do you have an opinion on how much time is

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1 choices were pretty stark, okay? The way Mr. Baker
2 verbalized it is, you know, I'll get a few extra years.
3 You go home. I -- I don't know. I mean, do you need 20
4 minutes for that? Do you need half an hour?

5 I mean, I think you can make that decision
6 relatively quickly. Is am I going to go home -- I -- if
7 -- am I going to go home with kids, or am I going to go
8 to jail? I -- I -- I -- in my opinion, you don't need
9 much time to make that decision.

10 Q. If you're being purely rational about your
11 chances and setting aside, or am I going to fight to
12 clear my name even if that's futile, right?

13 A. Sure. Sure. But -- and I may be making an
14 assumption, but how many mothers will give up mothering
15 three kids and leave them in the hands of a, I don't
16 know, family or whoever, and not take a probation? I
17 mean, I -- I don't think I'm making such a leap of
18 judgment that most mothers would take probation versus
19 leaving their kids without a father and a mother.

20 Q. Are you -- you're saying innocent people
21 there, right?

22 A. Both guilty and innocent.

23 Q. A pretty tough choice, you'd agree?

24 A. I would agree, yes.

25 Q. No -- but so you -- the -- you don't have a

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1 enough time for them -- would have been enough time for
2 them to think about the offer?

3 A. Given my understanding of the case, the
4 greatest amount of time would have been persuading
5 Ms. Glenn to accept the offer. It appears to me that
6 Mr. Baker was on board accepting the plea because he
7 didn't want his kids to be without a mother. And I
8 don't really -- and that's -- that's my understanding
9 from what I kind of can glean about these individuals.

10 Q. So is it -- is the answer, in other words,
11 that there's no specific amount of time? It's just
12 whatever the time was that was needed for Ms. Glenn to
13 come around was sufficient?

14 A. Well, if Mr. Baker made the decision, whatever
15 time it took him, and then there was enough time to
16 persuade her to accept the plea, yeah, that was enough
17 time.

18 Q. Isn't that kind of circular, though?

19 A. How so?

20 Q. Well, of course, it's a fact that they
21 accepted the plea. So are you saying the fact that they
22 accepted the plea means they had enough time to consider
23 the plea?

24 A. No, what I -- that would be circular. What
25 I'm saying is that they had more than 30 minutes. The

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1 specific time that you think would've been an
2 appropriate amount of time to give them to consider with
3 the plea?

4 A. I don't.

5 Q. Paragraph 3 says, "Dr. Redlich did not offer
6 any data that either Mr. Baker or Ms. Glenn experienced
7 any cognitive and/or emotional impairments that indicate
8 they needed or would have needed a specific amount of
9 time in order to evaluate and reach the decision whether
10 to accept the plea offer."

11 Is that significant in forming your opinion --
12 well, let me ask: What's the significance of that to
13 you?

14 A. One of the basic tenants of evaluating
15 individual for any competency in a legal process is to
16 identify whether or not they're suffering from any
17 mental disorder or any cognitive problems. Why? Because
18 those problems tend to have a negative effect on the
19 ability to think abstractly, make judgment.

20 You know, it -- it -- it affects the
21 intelligent aspect of the knowing, intelligence,
22 voluntary. And so that's important to know. Now, I
23 know from reviewing the medical records of Mr. Baker,
24 that other than very thick toenails, that the prison
25 didn't particularly like taking care of, he didn't have

<p>1 many medical problems.</p> <p>2 I don't believe I saw any medical records on</p> <p>3 Ms. Glenn, but I understand from all the reading is that</p> <p>4 she did not have any physical, emotional or mental</p> <p>5 problems that would affect her ability to -- to take a</p> <p>6 plea.</p> <p>7 Q. So that is -- that's about their competence to</p> <p>8 plea in a legal sense, not whether the pleas had</p> <p>9 indications that they were false guilty pleas; is that</p> <p>10 fair?</p> <p>11 A. Right. So if you -- okay. Let's say I have a</p> <p>12 patient who is acutely psychotic, okay? So he hears</p> <p>13 voices and he has a delusion that there is invasion of</p> <p>14 the Martians, and some of them are in the cell with him.</p> <p>15 And I evaluate him for his competency to plea. And he</p> <p>16 tells me -- I tell him, you know, what's going on? Oh,</p> <p>17 I've been charged with this kind of a crime.</p> <p>18 Okay. And you know, we go through all the</p> <p>19 details and I look how he's thinking, how he's able to</p> <p>20 process the information. And then I said, so what's</p> <p>21 your reasoning? Why would you want to accept the plea?</p> <p>22 You're telling me you innocent. You telling me that --</p> <p>23 you know, what's your reasoning?</p> <p>24 Again, I'm looking for -- to analyze his</p> <p>25 reasoning process. And he tells me, Doctor, if I don't</p>	<p>Page 150</p> <p>1 voluntary.</p> <p>2 Q. Right. But I -- I'm just saying specifically</p> <p>3 here, not in the hypothetical that you just told me.</p> <p>4 A. In case of Mr. Baker and Ms. Glenn?</p> <p>5 Q. Yes.</p> <p>6 A. Well, they don't have any evidence of mental</p> <p>7 problems.</p> <p>8 Q. So you -- but you were looking at that to</p> <p>9 determine whether there were issues with saying whether</p> <p>10 the plea was knowing, voluntary or -- and intelligent,</p> <p>11 right?</p> <p>12 A. Correct.</p> <p>13 Q. Paragraph 4, which carries on the next page,</p> <p>14 on 11. It looks like you're criticizing Redlich, Dr.</p> <p>15 Redlich, for not considering the effect of Mr. Baker's</p> <p>16 prior trial testimony, what effect that had on his</p> <p>17 decisional capacity. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. But she does actually consider that and what</p> <p>20 happened in her analysis of the report, right? That of</p> <p>21 the report, if something comes out and --</p> <p>22 A. Yeah. I -- it -- it -- it's -- it's not</p> <p>23 artfully phrased. He -- he considered it and said that</p> <p>24 research shows that prior court experience does not</p> <p>25 improve understanding, knowledge and, you know -- of</p>
<p>Page 151</p> <p>1 accept the plea, the Martians are going to cut me -- my</p> <p>2 ears off. That man cannot enter a plea voluntarily. The</p> <p>3 delusion is forcing him into this decision making.</p> <p>4 And so my testimony in front of a judge will</p> <p>5 be: This man cannot accept a plea. He needs to go to a</p> <p>6 hospital. He gets treatment. And once he's treated and</p> <p>7 his symptoms are in remission, we'll evaluate him again</p> <p>8 and see whether he can enter a plea. But at this point,</p> <p>9 he's not competent. He cannot do it.</p> <p>10 Q. And is --</p> <p>11 A. That's why mental illness is so important is</p> <p>12 because it can affect not only your knowledge, your</p> <p>13 intelligence, meaning ability to think through the</p> <p>14 problem, it can actually affect your voluntariness.</p> <p>15 Because if you are making decision based upon the</p> <p>16 delusion or what the voices are telling, it's not</p> <p>17 voluntary. You cannot accept it.</p> <p>18 Q. So is the answer to my question yes? You're</p> <p>19 analyzing that for -- in connection with your conclusion</p> <p>20 that the legal -- that the guilty plea was knowing,</p> <p>21 voluntary, and intelligent rather than whether it had</p> <p>22 indications of being a false or true guilty plea?</p> <p>23 A. That's correct. I would not be evaluating</p> <p>24 whether it's true or false guilty plea, unless it comes</p> <p>25 into the equation is it knowing, intelligent, and</p>	<p>Page 153</p> <p>1 court procedures.</p> <p>2 Q. Which is a different point. She does consider</p> <p>3 it. She says, well, of course it was futile to go to</p> <p>4 trial. And you agree with that, essentially, right?</p> <p>5 A. I'm sorry, could you repeat that again?</p> <p>6 Q. She does consider the fact that he had</p> <p>7 experience in front of Judge Toomin who had very -- and</p> <p>8 in very recent past said you haven't given me enough to</p> <p>9 find that these police officers are correct?</p> <p>10 A. I'm sorry, I'm -- I apologize. I'm not</p> <p>11 following it.</p> <p>12 Q. So you -- you're saying Dr. Redlich doesn't</p> <p>13 consider the effect of Mr. Baker's prior trial</p> <p>14 testimony had on his decisional capacity on the day he</p> <p>15 pled guilty, right?</p> <p>16 A. Correct.</p> <p>17 Q. But she actually does consider -- she does</p> <p>18 take that into account and she talks about it.</p> <p>19 A. Right, right. And I said that my -- didn't</p> <p>20 phrase it artfully.</p> <p>21 Q. Okay.</p> <p>22 A. She comes to a different conclusion based upon</p> <p>23 her reading of the literature and I disagreed with her</p> <p>24 conclusion. And elsewhere in her report and her</p> <p>25 deposition, she actually testifies opposite of her</p>

<p style="text-align: right;">Page 154</p> <p>1 opinion here where she states that, oh, people, of 2 course, learn and become better, adapt, in various legal 3 situations.</p> <p>4 Q. You're -- it sounds like you're taking issue 5 with the general proposition that she doesn't look at 6 people's criminal histories as opposed to whether she 7 looked at that specific piece of testimony, right?</p> <p>8 A. I actually -- in Paragraph 4, I'm actually 9 focused only on Baker and Glenn.</p> <p>10 Q. So should Paragraph 4 come out of your report? 11 If you were writing it again today, would you strike it?</p> <p>12 A. No, I wouldn't strike it.</p> <p>13 Q. Would you change it?</p> <p>14 A. Yeah. I would say that Dr. Redlich -- yeah. 15 Did not consider it. Probably should be phrased 16 considered but found it immaterial to the competency to 17 enter a plea.</p> <p>18 Q. What part of her report are you basing it on 19 where she found it immaterial?</p> <p>20 A. I mean, that's what I would phrase it. I 21 mean, I'm not saying that's what she said. But she 22 testified that prior court experience does not make 23 people more educated about court functioning.</p> <p>24 Q. She said that as a general point, right?</p> <p>25 A. Yeah. But I believe that was applied to this</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. The -- 2 A. I mean, the -- 3 Q. Well, hold on. 4 A. -- the whole process is -- 5 Q. Then I guess the answer is yes, if one of the 6 risk factors is futility of going to trial, that's in 7 that section. So if that's -- I -- would you agree that 8 she does, in fact, discuss it?</p> <p>9 A. You know what? Do you have the -- where she 10 says that, so that I can actually have the whole -- 11 Q. Yeah. 12 A. -- thing in front of me? 13 Q. Sure. 14 MR. BAZAREK: Is -- do -- Scott, is it an 15 exhibit yet or no, you're going to mark it? 16 MR. RAUSCHER: It can be. It's Exhibit -- 17 we can call it Exhibit 2 and it's on Page 12. It 18 was -- it was in the packet I circulated or should 19 have been in all those -- (EXHIBIT 2 MARKED FOR IDENTIFICATION) 20 MR. BAZAREK: Okay. Right. Potential 21 exhibits. Okay. Page 12? 22 THE WITNESS: Which document is this? 23 MR. RAUSCHER: It's Dr. Redlich's report at 24 Page 12. I can share the screen if that's easier.</p>
<p style="text-align: right;">Page 155</p> <p>1 case as well. She -- 2 Q. Do you remember that -- I'm sorry. Go ahead. 3 A. Go ahead. Go ahead. 4 Q. She says, in "Futility of Going to Trial" of 5 her report, "Mr. Baker had already undergone a bench 6 trial with Judge Toomin in which he was convicted of 7 charges involving Sergeant Watts and for which he 8 claimed innocent (and notably was later exonerated of)." 9 Do you see that or not do you see that, but do you 10 recall her saying that? 11 A. Can you repeat that again? 12 Q. "Mr. Baker had already undergone a bench trial 13 with Judge Toomin in which he was convicted of charges 14 involving Sergeant Watts and for which he claimed 15 innocence (and notably was later exonerated of)." 16 A. Right. But did she say anything about how 17 that would have affected Baker's decisional capacity? 18 Q. Well, what -- where -- what does she say in 19 general about Baker's decisional capacity? 20 A. That it's affected by the -- these three risk 21 factors, which makes it likely that he was innocent and 22 pled guilty. 23 Q. She said that his decisional capacity was 24 affected by those risk factors? 25 A. Yes.</p>	<p style="text-align: right;">Page 157</p> <p>1 THE WITNESS: Oh, that would be great. Thank 2 you. 3 BY MR. RAUSCHER: 4 Q. All right. You see it? 5 A. Could you make it larger, please? 6 Q. Yeah. Let me just go to the front so you can 7 at least -- 8 A. Yeah. 9 Q. -- so we can agree that we're looking at the 10 right document here. All right. Now I'm going to go to 11 Page 12. I'm going to try to make it larger, but I'm 12 working on a Mac and I have trouble with that sometimes 13 on those. Is that better or you need more? 14 A. No, that's good. 15 Q. Okay. 16 A. Yeah. The fourth paragraph should be removed. 17 Q. All right. Then I'm going to take this down. 18 The next paragraph, Paragraph 5, you say, Dr. Redlich 19 did not note that during the sentencing hearing -- I'm 20 sorry, the plea hearing, that Judge Toomin stated the 21 allegations made against the officers were "idle 22 speculations." See that? 23 A. Uh-huh. 24 Q. The -- I think we've already talked about 25 this, but is the point there that it was reasonable for</p>

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1 the -- for Baker and Glenn to determine that it would've
 2 been futile to go to trial?

3 A. I think so, yes. It would be -- they were
 4 able to predict the outcome and that's exactly what the
 5 attorney had informed them as well.

6 Q. So why does the fact that she didn't use that
 7 quote matter? Like, shouldn't this paragraph be removed
 8 also?

9 A. Give me one second.

10 Q. Sure. And I can -- if you want me to share
 11 her report again, I can. But I will read you a sentence
 12 that says, "In the pre-plea conference, Judge Toomin
 13 also made clear that the allegations against Watts and
 14 his fellow officers would not be admissible at trial."

15 A. Oh, I'm sorry. I -- I -- I -- I'm taking
 16 back. Both number 4 and number 5 stays. The reason why
 17 they stay is because I am not discussing the futility of
 18 going to trial. I'm discussing the inefficient time to
 19 consider the plea offer.

20 And given the fact that they already knew what
 21 judge is going to do, would -- would not -- would make
 22 the amount of time they needed significantly less
 23 because they can predict pretty -- with pretty good
 24 certainty that's what's going to happen. That's why
 25 it's there. Not because of futility could go to trial.

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1 Q. So the only thing that responds to is that
 2 they didn't have enough time to consider the offer?

3 A. Yes. That whole paragraph. That whole -- all
 4 of these points.

5 Q. Is that true for paragraph -- numbered
 6 Paragraphs 1 through 6 on Page 11?

7 A. Yeah. It's -- it's all the way until the next
 8 heading, "Package Plea Deal with Ms. Glenn. So you
 9 see -- you start on Page 9. Hold on. Let me -- I don't
 10 want to -- let me just think for a second. Let me look
 11 at it. Yeah. It starts on Page 9 with, "Dr. Redlich
 12 wrote," and it goes all the way to middle of Page 12 to
 13 the heading, "Package Plea Deal with Ms. Glenn."

14 Q. Got it. All of those are about the
 15 insufficient time and the insufficient time --

16 A. Correct. Yes.

17 Q. What way --

18 A. I could have put a heading there. That's
 19 what --

20 Q. Sorry. Go ahead. What did you say?

21 A. Could have had a heading there, so it would be
 22 clear.

23 Q. What weight, if any, did you put on the fact
 24 that Ms. Glenn had no previous criminal record?

25 A. As far as?

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1 Q. As far as time? Like, did she need the same
 2 amount of time as Mr. Baker or less time, more time? Can
 3 you not say?

4 A. She probably needed more time and appears to
 5 have had more conflict about accepting the plea.

6 Q. And are -- but how are you then -- how are you
 7 comfortable that she had enough time?

8 A. Well -- well, Ms. Glenn was married to
 9 Mr. Baker. Well, they got married in 2016. I don't --
 10 I don't know whether they were married at the time of
 11 this hearing. But they -- they -- they lived together,
 12 you know, had three kids together. And she went with
 13 Mr. Baker through his other experiences, legal
 14 experiences.

15 So she would also know and have experience
 16 that he had, both with plea bargaining and with the
 17 trials. There is also no evidence that Ms. Glenn had
 18 any cognitive emotional impairments. She was aware
 19 of Judge Toomin, both his sentence and his statements
 20 that -- allegations against police officers for idle
 21 speculation.

22 So I think all of these factors go to that,
 23 even though she did not have her own criminal history,
 24 she had experience with the legal system because she was
 25 a significant other of Mr. Baker.

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1 Q. Do you know whether she ever talked to
 2 Mr. Baker about the plea-bargaining process?

3 A. I do not.

4 Q. So you're just really speculating that she
 5 would've learned that from him?

6 A. I think it's a reasonable assumption that two
 7 people who live together would talk about accepting the
 8 plea.

9 Q. Well, I'm saying that -- not -- I'm not saying
 10 that. I'm asking about her learning about how plea
 11 bargaining works and about Mr. Baker's previous
 12 experience, if any, with plea bargaining?

13 A. And -- and that's what I'm saying. I think
 14 that his prior experiences, if they talked about it,
 15 obviously, would help her understand the process better.

16 Q. But you don't know if they talked about it?

17 A. I don't have information to say that, but I'm
 18 making an assumption that they did.

19 MR. RAUSCHER: Can we take like a five-minute
 20 break? Is that all right? We've been going for a
 21 couple hours.

22 THE WITNESS: Sure.

23 MR. BAZAREK: Is -- Doctor, is five enough? Do
 24 you want a little more or you --

25 THE WITNESS: I'm okay. Five is fine.

<p style="text-align: right;">Page 162</p> <p>1 MR. BAZAREK: Okay.</p> <p>2 MR. RAUSCHER: I mean, yeah. If you want</p> <p>3 more, that's fine, too.</p> <p>4 MR. BAZAREK: I -- I'm fine, too. I just want</p> <p>5 to --</p> <p>6 MR. RAUSCHER: Okay.</p> <p>7 MR. BAZAREK: -- be mindful of the witness.</p> <p>8 MR. RAUSCHER: Sure.</p> <p>9 THE REPORTER: We're off the record at 3:43</p> <p>10 p.m. Central Time.</p> <p>11 (OFF THE RECORD)</p> <p>12 THE REPORTER: We are back on the record for</p> <p>13 the deposition of Dr. Alexander Obolsky being</p> <p>14 conducted by videoconference. Today is May 22nd,</p> <p>15 2024, and the time is 3:51 p.m. Central Time.</p> <p>16 BY MR. RAUSCHER:</p> <p>17 Q. All right. Let's call -- we're going to call</p> <p>18 Exhibit 3 the September 18th, 2006 transcript. And the</p> <p>19 Bates range should be PL Joint 00 -- no, sorry. That's</p> <p>20 a -- yeah. PL Joint 004983 through 5017. And that was</p> <p>21 in the packet I circulated. And Dr. Obolsky, let me</p> <p>22 know if you'd like me to -- I don't know if you got</p> <p>23 these documents or not.</p> <p>24 (EXHIBIT 3 MARKED FOR IDENTIFICATION)</p> <p>25 A. I didn't get the documents from you, but I</p>	<p style="text-align: right;">Page 164</p> <p>1 A. "THE COURT: That will be the same for both</p> <p>2 Mr. Baker and Ms. Glenn?" "MR. LASKARIS:</p> <p>3 Yes."</p> <p>4 Q. So that --</p> <p>5 A. Then, there --</p> <p>6 A. -- your position is that -- is telling them</p> <p>7 that they are -- Baker and Glenn are under oath?</p> <p>8 A. Yes.</p> <p>9 Q. And they would've understood that?</p> <p>10 A. Yes.</p> <p>11 Q. Why do you think that they would've understood</p> <p>12 that that meant they were under oath?</p> <p>13 A. Well, because they obviously were sworn in</p> <p>14 earlier and now they're being told you can -- you are</p> <p>15 under oath again. You continue to be under oath.</p> <p>16 Q. Well, they're talking that -- they're being</p> <p>17 told waive re-swear, right? That's not explained.</p> <p>18 You'd agree that they're not explaining what waive</p> <p>19 re-swear means?</p> <p>20 A. I -- I -- I -- I agree to that. There was no</p> <p>21 explanation what waive re-swear means.</p> <p>22 Q. And what's the -- what -- what's the basis for</p> <p>23 you thinking that -- let's take it one by one. Clarissa</p> <p>24 Glenn would've known what waive re-swear means?</p> <p>25 MR. BAZAREK: Well, I will object just to the</p>
<p style="text-align: right;">Page 163</p> <p>1 have the plea transcript in front of me.</p> <p>2 BY MR. RAUSCHER:</p> <p>3 Q. Can you --</p> <p>4 A. Is that what we're looking at?</p> <p>5 Q. That's what it is. Yeah.</p> <p>6 A. Yep.</p> <p>7 Q. And so I think the part where they start</p> <p>8 talking about the plea probably starts at Page 20 of the</p> <p>9 PDF, which is PL Joint 005002. Let me know if you agree</p> <p>10 that that's right.</p> <p>11 A. I -- I don't know the focus of your questions.</p> <p>12 So the plea bargaining starts on Page -- the court</p> <p>13 proceeding starts on Page 20 at the top.</p> <p>14 Q. That's where it says, "We have Mr. Baker."</p> <p>15 It's recalled, We have Mr. Baker and Mr. Glenn [sic]</p> <p>16 Before the court?</p> <p>17 A. That's correct.</p> <p>18 Q. So the question is about them being sworn in</p> <p>19 and testifying under oath. And it -- I want you to tell</p> <p>20 me if you see that in the transcript and where it is.</p> <p>21 A. Page 20.</p> <p>22 Q. Okay.</p> <p>23 A. "MR. MAHONEY: No objection, waive re-swear,</p> <p>24 and re-execution."</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 165</p> <p>1 extent that it calls for speculation. But go --</p> <p>2 you can answer, Doctor.</p> <p>3 THE WITNESS: I don't -- I did not see</p> <p>4 anything that would make me -- would make me think</p> <p>5 that she does not -- would not understand it from a</p> <p>6 cognitive perspective. And there is no evidence of</p> <p>7 any emotional distress. So I see no evidence that</p> <p>8 she did not understand.</p> <p>9 BY MR. RAUSCHER:</p> <p>10 Q. But you -- well, you agree there's also no</p> <p>11 evidence that she did understand it?</p> <p>12 MR. BAZAREK: I'd object. That's</p> <p>13 argumentative.</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q. I will rephrase that. Would you agree that</p> <p>16 there is no evidence that she did understand what</p> <p>17 re-swear means?</p> <p>18 A. Give me a moment. All I can say is that I</p> <p>19 have no reason that she did not understand what it means</p> <p>20 to waive re-swear. She was sworn before and it's</p> <p>21 reasonable that she understood it throughout the rest of</p> <p>22 the proceeding.</p> <p>23 Q. And then, can you -- where -- do you know</p> <p>24 where she was, or where and when she was sworn in</p> <p>25 before?</p>

<p>1 A. I do not know.</p> <p>2 Q. Did you review the whole transcript before</p> <p>3 Page 20?</p> <p>4 A. Yes.</p> <p>5 Q. And you don't see it?</p> <p>6 A. And it was not there.</p> <p>7 Q. It's not there, right? They call the case and</p> <p>8 Ben Baker's not even in from IDOC and then they pass it,</p> <p>9 right?</p> <p>10 A. Correct.</p> <p>11 Q. So it is -- what -- you'd agree that it is</p> <p>12 not -- there is nothing in the -- this transcript</p> <p>13 reflecting that Baker and Glenn were sworn in or told</p> <p>14 the significance of that or explained what re-swearning</p> <p>15 meant, right?</p> <p>16 A. There is no discussion what re-swearning means</p> <p>17 in this transcript.</p> <p>18 Q. And they are not sworn in in this transcript?</p> <p>19 A. That's correct.</p> <p>20 Q. It -- do you still maintain, based on the re-</p> <p>21 swearing, that they were sworn -- based on that waving</p> <p>22 of re-swearning that they were sworn under oath when they</p> <p>23 said that they were not threatened or coerced to accept</p> <p>24 the plea?</p> <p>25 A. That they said what?</p>	<p>Page 166</p> <p>1 it personally?</p> <p>2 A. Because I was working remotely.</p> <p>3 Q. Did you review the final version of this</p> <p>4 before you signed it?</p> <p>5 A. I did.</p> <p>6 Q. Are all the opinions in it your opinions?</p> <p>7 A. Yes.</p> <p>8 Q. You say on Page 1 that it's your opinion,</p> <p>9 "held with a reasonable degree of forensic medical and</p> <p>10 psychiatric certainty"?</p> <p>11 A. Yes.</p> <p>12 Q. What does that mean? What does it mean to say</p> <p>13 you are holding your opinion in this case to a</p> <p>14 reasonable degree of forensic, medical, and psychiatric</p> <p>15 certainty?</p> <p>16 A. It means that, if the reasonable degree of</p> <p>17 medical -- forensic, medical, and psychiatric certainty</p> <p>18 means that I have the same certainty in my opinions as</p> <p>19 if I reached the decision about diagnosis and treatment</p> <p>20 for a patient.</p> <p>21 Q. And what is that level of certainty?</p> <p>22 A. Enough to make the diagnosis and provide</p> <p>23 treatment.</p> <p>24 Q. Can you give any more detail about what it</p> <p>25 means to have the -- a level -- a reasonable degree of</p>
<p>Page 167</p> <p>1 Q. So your Page 15, back to your report, says,</p> <p>2 "Mr. Baker and Ms. Glenn swore under oath that neither</p> <p>3 was threatened nor coerced to accept the plea." See</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. And you maintain that that's correct, based on</p> <p>7 that reference to waiving re-swearning?</p> <p>8 A. Yes.</p> <p>9 Q. All right. You haven't received or reviewed</p> <p>10 any additional data since you got this -- I'm sorry --</p> <p>11 since you rendered your report, right?</p> <p>12 A. That's correct.</p> <p>13 Q. Page 16, is that your signature on your</p> <p>14 report?</p> <p>15 A. I believe it's the stamped signature. Yes.</p> <p>16 Q. And then it -- the initials KF are circled.</p> <p>17 A. That's for Kathy Fergunson -- Fergunson --</p> <p>18 Fergemann.</p> <p>19 Q. All right. And she is someone who works for</p> <p>20 you, we talked about earlier?</p> <p>21 A. Yes.</p> <p>22 Q. So does that mean she's the one who physically</p> <p>23 put the stamp on this document?</p> <p>24 A. Yes.</p> <p>25 Q. And why did she do that instead of you signing</p>	<p>Page 169</p> <p>1 forensic, medical, and psychiatric certainty?</p> <p>2 A. I'm certain enough that -- I -- I don't know</p> <p>3 how I can rephrase it. I'm certain enough that it's</p> <p>4 similar to my certainty in clinical situations where I</p> <p>5 will reach an opinion, reach diagnosis, and provide</p> <p>6 treatment.</p> <p>7 Q. And is that a subjective standard or an</p> <p>8 objective one or some combination?</p> <p>9 A. It's a professional statement which I use in</p> <p>10 reaching the decision as to the person's diagnosis and</p> <p>11 providing treatment.</p> <p>12 Q. Are there any standards that someone could</p> <p>13 look at to test that against or to measure what you're</p> <p>14 saying against?</p> <p>15 A. That's an interesting question. So if I did</p> <p>16 not have the degree of certainty, let's say in the</p> <p>17 clinical situation, I would have ordered more tests or I</p> <p>18 would have consulted a -- a colleague. But here, my</p> <p>19 degree of certainty is such that I am confident in my</p> <p>20 diagnosis and proposed treatment.</p> <p>21 Q. That's an analogy, though. There's no</p> <p>22 diagnosis or proposed treatment in this case, right?</p> <p>23 A. That's correct. But it is --</p> <p>24 Q. So --</p> <p>25 A. -- at that level of certainty.</p>

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1 Q. -- your forensic and medical, psychiatric --
 2 the opinion you are offering to a reasonable degree of
 3 forensic, medical, and psychiatric certainty is that on
 4 9-18-2006, Mr. Baker and Ms. Glenn entered a guilty plea
 5 knowingly, intelligently, and voluntarily?

6 A. That's my opinion.

7 Q. I want to take a look at the invoice in this
 8 case, which is DO-JOINT-OBOLSKY 000005. I think that
 9 would be Exhibit 4. Do you have a copy of that?

10 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

11 A. I should, but if you don't mind putting it on
 12 the...

13 BY MR. RAUSCHER:

14 Q. Yeah. That's fine.

15 A. It would be easier before I have to find it.

16 Q. Give me one --

17 A. I found it.

18 Q. You got it?

19 A. I found it. Yeah.

20 Q. All right. Beat me to it. Does this invoice
 21 reflect the total amount of time, other than the
 22 deposition prep you described in today's deposition,
 23 that you've spent on the case?

24 A. Yes.

25 Q. So from inception to issuing the report, this

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1 is the amount of time you spent?

2 A. That's correct.

3 Q. About 40 hours or so? Just under?

4 A. Yeah. I think about, like, 38 hours. Yeah.
 5 40 hours.

6 Q. How was that time broken down?

7 A. Record review and report preparation. And
 8 sometimes, I did both at the same time.

9 Q. How much of the time did you spend on record
 10 review versus report prep?

11 MR. BAZAREK: You know, just hold on one
 12 second. I know that Dr. Redlich in her invoice, it
 13 was all redacted, the description of the work that
 14 she did. And when we produced Dr. Obolsky's
 15 invoice, we also redacted, just like Dr. Redlich
 16 did, the description of, you know, like, what, you
 17 know -- the description of what she was billing
 18 for.

19 So I guess I don't understand these questions.

20 MR. RAUSCHER: So if --

21 MR. BAZAREK: Or how it's not privileged --

22 MR. RAUSCHER: If --

23 MR. BAZAREK: -- for work --

24 MR. RAUSCHER: If you -- I didn't -- I did not
 25 recall that about Dr. Redlich. If you are telling

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1 me that that's right and if that's right, I will
 2 accept that you -- you know, if you -- if we stood
 3 on that, then I'm not going to ask those questions.
 4 If we have an agreement that it's moot, you know,
 5 it'll be the same. Then I won't ask that question.

6 MR. BAZAREK: Yeah. That's -- and I can --
 7 I'll, you know -- I'll send you the production.
 8 The only --

9 MR. RAUSCHER: Okay.

10 MR. BAZAREK: -- document we received in
 11 response to the subpoena was a redacted invoice.

12 MR. RAUSCHER: Okay.

13 MR. BAZAREK: It didn't show the description.
 14 Okay. I did this on this day or that on that day
 15 type thing.

16 MR. RAUSCHER: Okay.

17 BY MR. RAUSCHER:

18 Q. Is this a -- have you offered opinions in
 19 cases similar to the one you're offering here?

20 A. Well, I think the one that comes to mind is
 21 the other case, Waddy.

22 Q. Waddy, the other Watts-related case? Well, --
 23 okay. Here, go ahead.

24 A. I don't recall any recent cases with the same
 25 kind of question about the validity of the guilty plea,

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1 whether was valid or not.

2 MR. BAZAREK: It -- hey, Scott --

3 MR. RAUSCHER: Yeah.

4 MR. BAZAREK: Scott, going back, I just went
 5 and looked and it wasn't. For some reason, I
 6 thought it was. Maybe I'm thinking of a different
 7 case. But it looks like Redlich's subpoena
 8 response did, in fact, at least the copy I'm
 9 looking at right now -- Redlich's subpoena
 10 response, it's one page. It did include the
 11 description, so I'll --

12 MR. RAUSCHER: Okay.

13 MR. BAZAREK: -- take that back. And I'll --
 14 I -- I'll send you, as we're talking, an unredacted
 15 invoice.

16 MR. RAUSCHER: Okay. Yeah. I think there
 17 is -- you might've been thinking about an
 18 attorney-client reduction we made on something
 19 else, but if you -- yeah, let's just do that. I
 20 don't think that this --

21 MR. BAZAREK: All right.

22 MR. RAUSCHER: -- would be a --

23 MR. BAZAREK: Let me -- yeah, let me -- I'll
 24 get it to you in a minute.

25 MR. RAUSCHER: Okay. Thanks.

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1 BY MR. RAUSCHER:

2 Q. So we spent a lot of time on that sources of
 3 information document earlier today. I -- I'm going to
 4 try not to spend a lot more time on it today, but is it
 5 fair to say that you didn't actually look at all of the
 6 sources of information you were provided before you
 7 drafted this report?

8 A. It's fair to say that many sources I looked
 9 through exceedingly fast as I was looking for the
 10 documents that would give me most of the information
 11 that I thought was useful to reach my opinions.

12 Q. You didn't -- it's fair to say you didn't read
 13 every document?

14 A. That's correct.

15 Q. Are the documents that you thought were
 16 important to your analysis referenced in the body of
 17 your report?

18 A. Not all of them.

19 Q. So can you tell me which documents were
 20 significant that are not referenced in the body of your
 21 report?

22 A. Sure. Let me pull up my report.

23 Q. And if -- you know, I think the easiest way to
 24 track this would be if you could give Bates ranges, but
 25 if you can't, then we -- we'll do it another way.

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1 not look at the video, but I looked at most of the
 2 exhibit. I mean, all of the exhibits. Now, it doesn't
 3 mean that I found them useful.

4 THE REPORTER: Dr. Obolsky, I'm going to stop
 5 you. It looked like Bill dropped off.

6 THE WITNESS: Oh, okay.

7 MR. RAUSCHER: Yeah. Thanks. You're right.
 8 THE REPORTER: Do you want to go off the
 9 record while we wait for him?

10 MR. RAUSCHER: Yeah, let's do that. Thanks.

11 THE REPORTER: Okay. We're off the record at
 12 4:15 p.m. Central Time.

13 (OFF THE RECORD)

14 THE REPORTER: We are back on the record for
 15 the deposition of Dr. Alexander Obolsky, being
 16 conducted by videoconference. Today is May 22nd,
 17 2024, and the time is 4:17 p.m. Central Time.

18 A. I don't know at what point you -- your
 19 computer stopped working. So I was talking about the
 20 deposition of Mr. Baker, deposition of Ms. Glenn. And I
 21 made a point that I looked at exhibits and that I did
 22 not read all the volumes of the depositions, but looked
 23 at particular areas of interest.

24 I mentioned Mr. Mahoney. Among the officers,
 25 I looked on Officer Jones, but very quickly, Officer

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1 A. You know what? I received the link to what
 2 the records were released, so let me go there. And
 3 maybe that will be the -- okay. So not in any
 4 particular order.

5 Q. Okay.

6 A. Dr. Redlich deposition, report, and all the
 7 exhibits during her deposition.

8 Q. Just to make sure I understand, you're looking
 9 at that Dropbox link that was circulated earlier today?

10 A. No. It's not useful for me, because it's
 11 organized completely different --

12 Q. Okay.

13 A. -- from the way that I have it in -- in front
 14 of me. I mean, the way that I was looking at it.
 15 Because I had them in a particular file, computer file.

16 Q. Got it.

17 A. And that's how I was working with it.

18 Q. You -- you're looking at it as you had them
 19 organized for your work?

20 A. Correct.

21 Q. Okay.

22 A. So right now, I'm going through different
 23 files. So Attorney Mahoney, his deposition and all his
 24 exhibits. Baker deposition and exhibits, but I will
 25 tell you I did not read the whole deposition, and I did

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1 Leano. Who was the other one? I believe it was Nichols
 2 who was involved. And then Watts, but I just briefly
 3 looked at that. I mentioned Ms. -- Dr. Redlich.

4 I don't remember whether it was the second
 5 amended complaint or the first. I think it's the second
 6 one that I read in toto. I walk through COPA Glenn
 7 report and COPA Baker report. I skimmed over their
 8 affidavits. I look at Ben Baker's criminal history
 9 report, the plea transcript.

10 What are they? Oh, Ms. Glenn's complaints
 11 regarding police. I think there are three of those.
 12 I'll give you the numbers. So it's 023764, 2023774,
 13 012928 through 012936, and 012903 to 012927.

14 I looked at all the medical records for
 15 available on the list: Mr. Baker, which is Illinois
 16 Department of Corrections, Henry Hill, Mercy Hospital
 17 medical records, and then Northwestern Medicine medical
 18 records. I did not look at the podcast of Mr. Tepfer.
 19 That concludes my answer.

20 BY MR. RAUSCHER:

21 Q. Okay. So those -- if you listed -- like,
 22 for -- if you listed a document there, did that mean,
 23 other than the podcast, that it was significant or just
 24 that you looked at it?

25 A. That -- that I opened it, looked at it, read

<p>1 it, some more thoroughly than others, but...</p> <p>2 Q. What -- was there any significance in your 3 report to Ms. Glenn's CRS, complaints against the 4 police?</p> <p>5 A. Only to the degree that it -- that she made 6 those complaints.</p> <p>7 Q. But it -- so the -- well, what -- I guess, how 8 was it relevant to you that she made the complaints?</p> <p>9 A. It gives me a window into the kind of life 10 situation that she -- she was experiencing.</p> <p>11 Q. And in what way does it give you a window into 12 the life situation that she was experiencing?</p> <p>13 A. Well, at least allegedly, she alleged that 14 police officers would walk into her apartment and, if I 15 remember correctly, threaten her.</p> <p>16 Q. And then, how was that relevant to your 17 opinions in the case or to your opinion in the case?</p> <p>18 A. That she is cognizant of her avenues to 19 complaint against the police officers. She wrote. I 20 did not notice too many -- I didn't notice any spelling 21 mistakes. The writing was logical. The writing was, 22 you know, focused. So what I saw is cognitively and 23 emotionally competent individual.</p> <p>24 Q. Okay. All right. You mentioned you read Ben 25 Baker's criminal history report. Is that --</p>	Page 178	<p>1 hour. Can you explain that?</p> <p>2 A. Sure. It -- it's not one hour. I hope it 3 doesn't say that.</p> <p>4 Q. It does.</p> <p>5 A. It's a flat fee of \$1,000, and it covers 6 administrative work that will occur in the case.</p> <p>7 Q. So maybe one hour is just because that's the 8 unit of how you have to record things. Well, I don't 9 know. I should just ask you. It does say one hour. Do 10 you know why?</p> <p>11 A. Yeah. I -- I don't have it in front of me, 12 but that's -- it shouldn't be one hour, because it's a 13 flat fee and it covers administrative work for the 14 duration of the case.</p> <p>15 Q. I'm going to -- can you see? Am I sharing the 16 right e-mail or --</p> <p>17 A. Oh, yeah. Thank you. Yeah. I can't find it.</p> <p>18 Q. You see my invoice, right? Not my e-mail?</p> <p>19 A. Yep.</p> <p>20 Q. Okay. Sounds good. So that, the case 21 management fee, it's just a flat fee. It doesn't 22 reflect an hour of work?</p> <p>23 A. That's correct.</p> <p>24 Q. And do you take that -- have you already 25 accepted a case when you take that, or are you still in</p>	Page 180
<p>1 A. Yes.</p> <p>2 Q. -- something you would look at when you are -- 3 if you're asked in a criminal case to evaluate whether 4 someone is competent to plead guilty or to stand trial, 5 would you look at their criminal history report?</p> <p>6 A. In any criminal case, I have to look at the 7 rap sheet. I need to know the history that the 8 individual has both in crimes as well as, depending on 9 the competency, experience with the court system.</p> <p>10 Q. And in Mr. Baker's case, it was -- you believe 11 it was relevant to show his experience with the court 12 system or something else?</p> <p>13 A. Court -- experience was the court system.</p> <p>14 Q. I got a -- the redacted version of your expert 15 report.</p> <p>16 MR. RAUSCHER: And if no one objects, we can 17 just call that one Exhibit 4 and just instead of 18 using the redacted version, because we're doing 19 this electronically anyway.</p> <p>20 MR. BAZAREK: That's fine.</p> <p>21 MR. RAUSCHER: All right. So we'll just swap 22 it out. Call Exhibit 4 the unredacted version.</p> <p>23 BY MR. RAUSCHER:</p> <p>24 Q. The first entry is April 15th. It says, 25 "STAFF," "KF," and then, "Case Management Fee," for one</p>	Page 179	<p>1 the evaluation phase?</p> <p>2 A. No. We have accepted the case if we are 3 charging the -- charging anything.</p> <p>4 Q. All right. And then you've got three days 5 basically of record review, the 9th, 10th, and 11th of 6 May?</p> <p>7 A. Correct.</p> <p>8 Q. Does that mean that those are the first three 9 days that you reviewed the records in this case?</p> <p>10 A. Yes.</p> <p>11 Q. And then 5-12, record review and report 12 preparation, 9.4 hours?</p> <p>13 A. Correct.</p> <p>14 Q. Do you know, can that be split? Can that be 15 broken down or is it just you were doing both and 16 there's not really a way to say which is which?</p> <p>17 A. It's doing both. And I don't -- there is no 18 way for me to separate that.</p> <p>19 Q. Same for May 13th? Can't break it down?</p> <p>20 A. That's correct.</p> <p>21 Q. During this time period, did you have any 22 conversations with the attorneys who retained you?</p> <p>23 A. I did not.</p> <p>24 Q. And is there anyone else on your staff whose 25 time was utilized in preparing your report?</p>	Page 181

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1 A. No. Yes, but we don't -- I mean, that's part
 2 of the case management fee. So Kathy, Ms. Fergemann
 3 would -- what's it called? She does the editing. Not
 4 sure. Her English is so much better than mine, but I
 5 have problems with the articles the and a, but she does
 6 her job to kind of edit my English.

7 And then she puts it on our stationary, make
 8 sure the pagination is right, you know, all of that kind
 9 of stuff.

10 Q. Okay. And then she does the source list also,
 11 right?

12 A. Yes, she does.

13 Q. Is there any other -- do you do all the rest
 14 of the work?

15 A. In this case, I did. Yes.

16 Q. Okay. And if you did --

17 A. But no else --

18 Q. Sorry. Go ahead.

19 A. Pardon me?

20 Q. No, you go ahead.

21 A. There was no one else involved. Nobody read
 22 it for me. Nobody wrote my report. That's all I did.

23 Q. Did the attorneys ask you to assume any facts
 24 in preparing your report or working on this case?

25 A. No. I did not -- well --

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1 notes on May 9th?

2 A. Yes.

3 Q. How come you didn't take notes on the 10th or
 4 11th when you were reviewing documents?

5 A. You know, it's -- there is no logical
 6 decision-making. It's sometimes I feel like taking
 7 notes. Sometimes I don't. Typically, I take notes on
 8 the first day when I kind of put the skeleton of data.
 9 And after that, I -- I -- what I do initially is a very
 10 brief look through all of the records.

11 I kind of go through and see what's there. I
 12 tend to read the complaint. I tend to read the
 13 responses to the complaint, to understand the legal
 14 issues involved. And here, I think the first thing I
 15 was reading was the -- the complaint.

16 And then, when I kind of have an idea of
 17 what's going on, I start going through specific records,
 18 looking for data that I assume would be there. And
 19 sometimes it's there. Sometimes it's not.

20 And at the time when I start writing a report,
 21 I already have in my mind, you know, which records have
 22 what, where I'm going to find it, and then I put it in
 23 a -- a logical order in the -- what eventually is going
 24 to be my report.

25 Q. Do you have any notes other than these four

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1 Q. Go ahead.

2 A. That's fine. No. No. I'll wait for your
 3 question.

4 Q. Did you assume any facts when you were working
 5 on this report or writing it?

6 A. No.

7 Q. I want to mark it -- let's call it Exhibit 5.
 8 These are going to be your notes, which is
 9 DO-JOINT-OBOLSKY 1 to 4. Do you have a copy of your
 10 notes or would you like me to share those?

11 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

12 A. If you don't mind sharing, because for
 13 whatever reason I can't pull it up and takes time.

14 BY MR. RAUSCHER:

15 Q. Yep. Give me one second. Can you see this?
 16 Can you read this --

17 A. Yep.

18 Q. -- okay?

19 A. Sure.

20 Q. So it looks to me like all of the notes are
 21 dated 5-9?

22 A. Correct.

23 Q. Does that sound right to you?

24 A. Yes.

25 Q. Did that -- does that mean that you took these

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1 pages of notes?

2 A. I do not.

3 Q. Nothing written on documents or on PDFs or
 4 held saved on the computer, nothing like that?

5 A. No.

6 Q. I'm going to ask you to help me understand
 7 some of the handwriting on here.

8 A. Sure.

9 Q. The first line, ten -- does it say ten years
 10 something?

11 A. Yeah. Ten years incarceration.

12 Q. Ten years incarceration. Okay.

13 A. Baker times three drug crimes, 18 years
 14 incarceration. Glenn, one drug crime, one year
 15 probation.

16 Q. Okay. Those were notes on their sentences. Is
 17 that what -- how much time they served?

18 A. Yeah.

19 Q. All right. "BB," is that Ben Baker?

20 A. Correct.

21 Q. 48 years old?

22 A. Yes.

23 Q. What does the line underneath it say?

24 A. Lives with -- letter C with a line over it
 25 means with -- C.G., Ms. Glenn. Oh, and they were

<p>1 married in 2006. That's right.</p> <p>2 Q. Does that say married?</p> <p>3 A. Yeah.</p> <p>4 Q. Okay. All right. Then the next one, it looks</p> <p>5 to me like, "False charges." And then is that date</p> <p>6 July 11, 2004?</p> <p>7 A. Correct.</p> <p>8 Q. Four-and-a-half months in Cook County Jail</p> <p>9 pretrial. Case dismissed?</p> <p>10 A. Correct.</p> <p>11 Q. All right. There -- there's a note. So then</p> <p>12 if you down a couple, it says -- we're down to</p> <p>13 12-11-2005. It says, B.B. on bond. B.B., Clarissa</p> <p>14 Glenn Police Department; is that right? Is that what PD</p> <p>15 is?</p> <p>16 A. Police officer, PO.</p> <p>17 Q. Okay. Police officer planted drugs, and then</p> <p>18 an arrow from BB and underscore or underlined, "pled</p> <p>19 guilty"?</p> <p>20 A. Correct.</p> <p>21 Q. What is that referring to?</p> <p>22 A. It refers the 2006, September 18th, when they</p> <p>23 accepted the plea.</p> <p>24 Q. And as a general question in the notes, can</p> <p>25 you tell which notes come from which document or</p>	Page 186	<p>1 document, maybe the complaint; is that right?</p> <p>2 A. From the complaint. Yes.</p> <p>3 Q. Okay. And, "Loss" --</p> <p>4 A. "Loss of" --</p> <p>5 Q. Yeah.</p> <p>6 A. Sorry.</p> <p>7 Q. "Loss of consortium," that's also the</p> <p>8 complaint?</p> <p>9 A. Right.</p> <p>10 Q. And then -- yeah. Go ahead.</p> <p>11 A. "Redlich. 03-27-24." I believe that's the</p> <p>12 date of her report. So now I'm reviewing her report.</p> <p>13 Q. Okay.</p> <p>14 A. Do you want me to read it into the record or</p> <p>15 you want to -- it's more --</p> <p>16 Q. Yeah. I don't want you to -- I don't want to</p> <p>17 make you just read the whole thing. I'm not trying to</p> <p>18 do that. The third line, though. Well, maybe the</p> <p>19 fourth. Does it say, also B.B. percentage, something?</p> <p>20 A. Sorry. Also Ben Baker C/O, complained of.</p> <p>21 Q. CO -- Okay. Complaint of other -- Ben Baker</p> <p>22 complained of other instances of planted drugs, false</p> <p>23 arrest, threats of jail?</p> <p>24 A. Turning off electricity. Yeah.</p> <p>25 Q. All right. Sorry. Turning over what?</p>	Page 188
<p>1 documents?</p> <p>2 A. I didn't write it down, but I know that the</p> <p>3 first thing I -- what this refers to is the</p> <p>4 plaintiff's -- I -- I'm now blocking on the name of the</p> <p>5 document that puts out all the --</p> <p>6 Q. The complaint?</p> <p>7 A. Yeah. Complaint. Thank you.</p> <p>8 Q. And it says Baker COI times two. Is that</p> <p>9 certificate of innocence?</p> <p>10 A. Yes.</p> <p>11 Q. All right. Turn to the next page. I am</p> <p>12 having a lot of trouble reading anything in that first</p> <p>13 paragraph.</p> <p>14 A. I apologize.</p> <p>15 Q. No. You don't have to apologize. I --</p> <p>16 handwriting -- my handwriting is also not great. I'm</p> <p>17 just trying to understand what you wrote.</p> <p>18 A. B and G, 5-09-24, emotional pain and suffering</p> <p>19 secondary to -- to with a dot on top. "Lost 10 years.</p> <p>20 Physical sickness. Emotional damages." Intent -- I'm</p> <p>21 blocking on the word. "Inflection of emotional --</p> <p>22 infliction of the emotional distress. Great mental</p> <p>23 anguish, humiliation, degradation. Physical and</p> <p>24 emotional pain and suffering."</p> <p>25 Q. Those are notes that you're taking from some</p>	Page 187	<p>1 Electricity.</p> <p>2 Q. Turning off electricity. Got it. Okay. Could</p> <p>3 it -- I'm sorry. I don't get -- yeah. If you could</p> <p>4 just tell me what the next few are on that page.</p> <p>5 A. Consistently professed innocence. B.B.</p> <p>6 convicted 06-06, bond revoked. Pled</p> <p>7 September 20, 2006. In jail for three-and-a-half</p> <p>8 months.</p> <p>9 Q. And then just to up on that page, it says, "BB</p> <p>10 served." Does that say served or saved 9.5 years?</p> <p>11 A. Served.</p> <p>12 Q. Served. Okay. All right. I see on the next</p> <p>13 page, Baker and Glenn, you have the date of their plea.</p> <p>14 What's to the right of that on that first line?</p> <p>15 A. Same date for trial.</p> <p>16 Q. Got it. Like trial that --</p> <p>17 A. Trial to the -- the trial --</p> <p>18 Q. -- for that day -- sorry, I cut you off. I</p> <p>19 didn't mean to.</p> <p>20 A. No -- no. Referring to the fact that the</p> <p>21 state and the judge were ready for trial on that date</p> <p>22 and officers were present to testify.</p> <p>23 Q. And then what does the second line there say?</p> <p>24 A. Allegations versus police officers</p> <p>25 inadmissible.</p>	Page 189

<p style="text-align: right;">Page 190</p> <p>1 Q. That's referring to the judge making that 2 determination? 3 A. That's correct. 4 Q. Can you help me with the next paragraph? 5 A. Baker and Glenn discussed with defense 6 attorney plus/minus 30 minutes. Glenn states that 7 unfair because her and husband cases are handled 8 together. 9 Q. And that's something that's reflected on the 10 transcript? 11 A. I'm sorry, I -- I spaced out. 12 Q. That -- is that something that is reflected on 13 the transcript? 14 A. Yes. Well, no -- no -- no. This is 15 Dr. Redcliff -- Redlich documentation in her report. 16 Q. Those are your notes from her report? 17 A. That is correct. 18 Q. Understood. And then, you got a couple next 19 paragraphs that both to the left of them, say, "AR" with 20 an arrow; is that right? 21 A. Yeah. 22 Q. And is this more notes of what she says in her 23 report? 24 A. Yeah. But what does AR stands for? Oh -- 25 Q. I think --</p>	<p style="text-align: right;">Page 192</p> <p>1 A. That's correct. 2 Q. All right. Is the -- Page 4, is that still 3 about her report? 4 A. Yes. 5 Q. I think I can get the first couple lines, 6 Baker and Glenn, "Futility of going to trial," right? 7 A. Yeah. 8 Q. Judge ruled allegations versus -- I -- I'm 9 going to just ask if you can... 10 A. Yeah. Judge ruled that allegations against 11 police officers were inadmissible. Extreme plea 12 discount. 'Trial tax. Baker's and Glenn's guilty pleas 13 bear many hallmarks of false guilty plea and many 14 factors common to false guilty pleas. 15 And as you see lots of these statements in 16 quotation marks, because I'm taking directly from Dr. 17 Redlich report, "Invalid guilty plea -- not knowing, not 18 voluntary or based on (made with) factual basis of 19 guilt." Circumstances were sufficient to induce an 20 innocent to enter a fake guilty plea -- false guilty 21 plea. 22 Q. Okay. Again, that's still all -- that is just 23 you taking notes from her report, not you offering 24 opinions on any of those topics? 25 A. That's correct.</p>
<p style="text-align: right;">Page 191</p> <p>1 A. -- her first name is... 2 Q. Yeah. 3 A. Yeah. 4 Q. Allison Redlich? 5 A. Allison... 6 Q. Redlich? 7 A. Redlich. Risk factors for false guilty pleas: 8 Package plea deal, futility of trial, extreme plea 9 discounts. 10 Q. What's the next -- can you help me with the 11 next paragraph? 12 A. Sure. Risk of false guilty plea extremely 13 likely. "May have insufficient time to consider plea 14 offer." 15 Q. Package plea deal next? 16 A. Package plea deal. Primary reasons for B.B. 17 pleading guilty: Glenn avoids jail, Glenn 18 stays home with to raise kids -- and raise kids, B.B., 19 Mr. Baker, begged Glenn to take the deal. Glenn only 20 pled because Baker asked. This may induce guilty plea. 21 This is from Dr. Redlich report, in this case, 22 circumstances greatly influenced the voluntariness of 23 guilty plea. 24 Q. So these are all still on this page, you 25 making notes about her report?</p>	<p style="text-align: right;">Page 193</p> <p>1 Q. We didn't talk about the trial tax at all. Can 2 you explain what your understanding of a trial tax is? 3 A. My understanding is that judges -- and I don't 4 know how well this is researched or -- getting late in 5 the day, that the judges will pass more lengthy prison 6 sentences to individuals who refuse to take a plea deal. 7 Q. And do you believe that is a real thing? 8 A. I don't have a way of knowing it. 9 Q. Is that different, in your mind, than the idea 10 that you get a break on your sentence from taking a 11 plea? 12 A. Like how so? 13 Q. I'm just asking you, is it different? Oh, 14 you're saying how so, how do you get a break? 15 A. No. No. How -- what's the comparison between 16 trial tax and the break? 17 Q. Sorry. Between trial tax and what? 18 A. And the tax break -- trial tax. 19 Q. So if a trial tax is that if you go to trial, 20 you get more time, is that different than getting less 21 time than the potential time that you could serve for 22 pleading guilty? 23 A. I'm sorry, I must be missing something. 24 Q. I think you've -- you agree that you -- that 25 one of the reasons people plead guilty is because</p>

<p style="text-align: right;">Page 194</p> <p>1 they're -- they give less time than they would if they 2 didn't plead guilty, right? 3 A. Correct. 4 Q. Is that different than a trial tax or is it 5 the -- 6 A. Yes. 7 Q. -- I guess -- yeah. So -- okay. So how is it 8 different in your view? 9 A. Well, because the -- during the plea 10 negotiation, it's the state's attorney who is reducing 11 the charges or reducing the -- the offer is to reduce 12 the charges to reduce the possible sentences. Here is a 13 judge, for whatever reason, decides that if the 14 defendant didn't take a plea, he on his own will impose 15 a more serious sentence. 16 Q. Got it. 17 A. More lengthy sentence. 18 Q. And you don't know -- 19 A. That's my understanding. 20 Q. Sorry. You don't know one way or the other 21 whether the trial tax is a real thing? 22 A. I do not. 23 Q. And you don't know one way or the other 24 whether Judge Toomin imposed a trial tax, in general, 25 whether he was -- whether he did that in general?</p>	<p style="text-align: right;">Page 196</p> <p>1 review? 2 A. I believe I started with the first article she 3 mentioned in her deposition and it went from there. 4 Q. But -- and then how -- from there -- how from 5 there? 6 A. The way that I like to review literature is 7 that, you know, I start with a particular article and 8 then as I read it, the author would have a footnote to a 9 particular research. And if that note, that research 10 seems important to me, I will follow up and find that 11 article. 12 And so that's how I go from one article and I 13 go through -- you know, and then it may become a dozen 14 articles or more. 15 Q. All right. Shifting gears a little bit. Do 16 you know whether any of the -- any opinions that you've 17 tried to offer have been excluded in whole or in part by 18 judges? 19 A. In my 30-year career? 20 Q. Yeah. 21 A. I'm not aware of any, but as you know, it 22 doesn't mean that it wasn't, it just that it may have 23 been and the attorneys would not tell me. 24 Q. Okay. 25 A. So as far as I know, it was never barred or</p>
<p style="text-align: right;">Page 195</p> <p>1 A. Well, attorney -- the defense attorney 2 testified that he -- in his opinion, Judge Toomin did 3 impose a trial tax. 4 Q. You don't have any reason to disagree with 5 that conclusion? 6 A. I do not. 7 Q. Going back to your invoice, is any of the time 8 on here dedicated to reading the -- or does any of the 9 time on here reflect the time you spent reading 10 Dr. Redlich's research? 11 A. Yes. 12 Q. How much of the time is -- was spent reading 13 her research? 14 A. I cannot tell you. 15 Q. Do you know which days you were -- you read 16 the -- her research? 17 A. I read it throughout and I would go to a 18 particular article as the particular issues came up, so 19 that I can understand her thinking and rationale, as 20 well as the findings of her research. 21 Q. And when you say throughout, you mean the 22 three, four -- the three days of record review and the 23 two days of combined record review and report writing? 24 A. Yes. 25 Q. How did you decide which of her articles to</p>	<p style="text-align: right;">Page 197</p> <p>1 anything like that. 2 Q. You've got a -- there's an 11-page attachment 3 to your report that I think is like a combination of a 4 few things, maybe a -- or a resume and some 5 publications. Do you know what I'm talking about? 6 A. I do not. 7 Q. All right. Let me share -- why don't I just 8 share that? I think I'm still sharing, so why don't I 9 just flip over to your report? 10 MR. BAZAREK: And is -- Scott, this is all 11 part of Exhibit 1? 12 MR. RAUSCHER: Yeah. Yeah. This is all part 13 of Exhibit 1, so -- 14 MR. BAZAREK: Okay. 15 BY MR. RAUSCHER: 16 Q. It starts right after the sources of 17 information. You see it on the screen? 18 A. Yes, that's my curriculum vitae. 19 Q. And is all -- are all 11 pages of it your CV? 20 A. Yes. And -- and the -- and the last page you 21 should have the last time it was updated. 22 Q. On March 1st, 2024? 23 A. Correct. 24 Q. Is there anything that has changed since 25 March 1st, 2024?</p>

<p>1 A. No, I don't think so.</p> <p>2 Q. You -- is the list of publications a complete</p> <p>3 list of your publications?</p> <p>4 A. It should be.</p> <p>5 Q. Okay. What about presentations, is that</p> <p>6 supposed to be a complete list?</p> <p>7 A. No, that's probably has been -- you know,</p> <p>8 the -- all the presentations that I don't repeat after</p> <p>9 whatever number of years is removed. Although I see</p> <p>10 here, going back to 2011, probably should take those</p> <p>11 out, too.</p> <p>12 Q. 2010, actually.</p> <p>13 A. Yeah.</p> <p>14 Q. It -- should it be a complete list from 2010</p> <p>15 on?</p> <p>16 A. Presentations to the medical community or</p> <p>17 nurses working with insurance company, works</p> <p>18 compensation companies. If I give presentations to</p> <p>19 attorneys or that kind of stuff, I don't put it as a</p> <p>20 presentation because it's more of a -- part marketing,</p> <p>21 part education.</p> <p>22 Q. Well, what do you mean part marketing, part</p> <p>23 education?</p> <p>24 A. Well, if I present something to a group of</p> <p>25 attorneys, I do a presentation and if they have a case</p>	Page 198	<p>1 Psychiatry and Law was on malpractice where a patient</p> <p>2 committed suicide.</p> <p>3 Q. Are those presented -- who are those presented</p> <p>4 to? Who are the mock trials presented to?</p> <p>5 A. Other physicians.</p> <p>6 Q. Which of the presentations, if any, are</p> <p>7 relevant for your opinions in this case?</p> <p>8 A. I -- I -- specifically, competencies in the</p> <p>9 criminal process, including plea bargaining, none.</p> <p>10 Q. I'm going to mark the -- Exhibit 6. I'm going</p> <p>11 to just bring this up. Do you see this?</p> <p>12 (EXHIBIT 6 MARKED FOR IDENTIFICATION)</p> <p>13 A. Uh-huh.</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q. Is this one -- is this listed on your CV?</p> <p>16 A. I don't know. We need to take a look.</p> <p>17 Q. Okay. Do you need me to keep going?</p> <p>18 A. Well, I think the date there was December of</p> <p>19 2013.</p> <p>20 Q. Yeah, that's right.</p> <p>21 A. Yeah. No, it's not listed.</p> <p>22 Q. Do you know why it wasn't listed?</p> <p>23 A. For the same reason that there are other</p> <p>24 typing errors and whatever else.</p> <p>25 Q. It wasn't intentionally left off?</p>
<p>1 that they think I may be helpful to evaluate their</p> <p>2 issues, they have -- I have been in front of them.</p> <p>3 Q. But -- so why do you not list that on the list</p> <p>4 of presentations on your CV?</p> <p>5 A. Because this is more professional rather</p> <p>6 than -- although some of them are actually here, so like</p> <p>7 Pollart Miller presentation in Denver that was attorneys</p> <p>8 and nurses and others working in workers' compensation</p> <p>9 arena.</p> <p>10 Q. Was that people on both sides of the aisle for</p> <p>11 the workers' compensation cases for that seminar?</p> <p>12 A. Yes.</p> <p>13 Q. Do you just not list the ones that are</p> <p>14 one-sided?</p> <p>15 A. You know what, I may have to take it back. I</p> <p>16 think everything is listed, including the presentation</p> <p>17 to non-psychiatric, nonclinical audiences. Yep, seems</p> <p>18 like everything is listed.</p> <p>19 Q. What are those mock -- there's two mock trial</p> <p>20 ones on here. What are those?</p> <p>21 A. Well, American Academy of Psychiatry and Law</p> <p>22 and International Psychogeriatric Association. Well,</p> <p>23 IPA has a forensic section, and so we had a mock trial</p> <p>24 for a -- a person suffering dementia for a competency</p> <p>25 evaluation. And mock trial for American Academy of</p>	Page 199	<p>1 A. I don't think so.</p> <p>2 Q. Do you give any presentations on prosecuting</p> <p>3 or bringing workers' compensation claims?</p> <p>4 A. To do what?</p> <p>5 Q. To bring -- do you -- this is called defending</p> <p>6 workers' compensation psychiatric claims?</p> <p>7 A. Right.</p> <p>8 Q. Have you given any presentations on how to</p> <p>9 pursue a workers' compensation claim?</p> <p>10 A. No. And the reason for it is, again, because</p> <p>11 petitioner's attorneys don't need experts because they</p> <p>12 use treating doctors. But I have given, I don't know,</p> <p>13 three, four, maybe five presentations to the Workers'</p> <p>14 Compensation Attorney Association, which is both</p> <p>15 petitioner's and respondent's attorneys.</p> <p>16 Q. Who's Rich Lenkov?</p> <p>17 A. Rich Lenkov is the partner and in the firm</p> <p>18 Lenkov and -- I don't remember the -- maybe it's -- oh,</p> <p>19 Bryce Downey & Lenkov.</p> <p>20 Q. Is that somebody -- somebody you've worked</p> <p>21 with before?</p> <p>22 A. Yes.</p> <p>23 Q. Was this a marketing piece, an education</p> <p>24 piece, both?</p> <p>25 A. It was both. And for what it's worth, the</p>

<p>1 title was not made by me.</p> <p>2 Q. Did you sign off on the title before --</p> <p>3 A. Nope.</p> <p>4 Q. All right. When did you first see the title?</p> <p>5 A. When I was presenting.</p> <p>6 Q. Did it make you uncomfortable or...</p> <p>7 A. I don't present emphasizing one part or</p> <p>8 another. I present how I, as a forensic psychiatrist,</p> <p>9 address the issue. Now, obviously, I will discuss</p> <p>10 things like malingering, which is more important to the</p> <p>11 defense side, so...</p> <p>12 Q. But what was the -- what -- I mean, is it an</p> <p>13 accurate description, was the purpose of the</p> <p>14 presentation to teach people how to defend workers'</p> <p>15 compensation claims?</p> <p>16 A. I think that was Attorney Lenkov marketing</p> <p>17 strategy.</p> <p>18 Q. And it was -- was it your -- was it your</p> <p>19 marketing strategy also?</p> <p>20 A. As I already testified, I tend to be very</p> <p>21 even-handed in my presentations because nobody wants to</p> <p>22 waste resources on legitimate cases and so I have to</p> <p>23 discuss both. If it's a mostly defense audience,</p> <p>24 discuss the reality and when it's not -- when it's an</p> <p>25 exaggerated claim.</p>	<p>Page 202</p> <p>1 the two, I worked as a head of psychiatric services at</p> <p>2 the pain clinic, or maybe it was at the same time.</p> <p>3 And after that, when I left Elgin, I was</p> <p>4 full-time in private practice.</p> <p>5 Q. You list both -- from '96 to the present, you</p> <p>6 list a solo clinical psychotherapy practice and then you</p> <p>7 also list counseling and psychiatry practice at</p> <p>8 Illumental. Is that -- do you -- what's the difference</p> <p>9 between your practices that you're listing in your</p> <p>10 resume?</p> <p>11 A. Would you mind bringing it down the screen?</p> <p>12 Q. Yeah, of course.</p> <p>13 A. So if you scroll down to the earlier times.</p> <p>14 That's it. So -- that's interesting, it should be '92,</p> <p>15 '93.</p> <p>16 Q. What's the --</p> <p>17 A. Oh, oh --</p> <p>18 Q. -- what's the issue you --</p> <p>19 A. Yeah, yeah. No. No, that -- that's</p> <p>20 fine, it's just arranged inappropriately. In any case,</p> <p>21 so when I started at Northwestern -- so I established</p> <p>22 the division of forensic psychiatry, as I said, both in</p> <p>23 the university side and in clinical side. I also</p> <p>24 established a program for study organizational behavior.</p> <p>25 I was running the day treatment at associate -- American</p>
<p>Page 203</p> <p>1 Q. So there are some cases where you'd say, as an</p> <p>2 expert, you shouldn't spend money defending this case</p> <p>3 and there's others where you say, this isn't legit; is</p> <p>4 that fair?</p> <p>5 A. Well, in -- in workers' compensation arena, we</p> <p>6 mostly deal with post-injury psychiatric conditions. So</p> <p>7 post-traumatic stress disorder, post-traumatic</p> <p>8 depression, whatever. And there are a lot of people who</p> <p>9 develop, after the injury, actual psychiatric condition</p> <p>10 and they should receive treatment and they should --</p> <p>11 they're not malingering. They're not exaggerating.</p> <p>12 They're not misattributing.</p> <p>13 And so my presentation is, there is a reality,</p> <p>14 this what real cases look like, these are what -- cases</p> <p>15 that you should pay more attention because there are</p> <p>16 these red flags.</p> <p>17 Q. Okay. And I can bring it up again if you'd</p> <p>18 like me to, but are there any jobs that you've held</p> <p>19 since you've received a medical degree that are not</p> <p>20 reflected on your CV?</p> <p>21 A. I don't think so. I started my career at</p> <p>22 Northwestern. I established the division of forensic</p> <p>23 psychiatry and law at the university and in medical</p> <p>24 practice. Then I went to work at Elgin, where I was</p> <p>25 assistant medical director. No, in -- in a year between</p>	<p>Page 205</p> <p>1 Day Treatment Centers, as part of my Northwestern job,</p> <p>2 established and co-directed professionals at risk</p> <p>3 program.</p> <p>4 And if we can go up, that's all at</p> <p>5 Northwestern, different jobs at Northwestern. And also</p> <p>6 when at Northwestern, I was a staff psychiatrist seeing</p> <p>7 both inpatients and outpatients. And then I was</p> <p>8 consultant to Health and Law Resource. Oh, that's the</p> <p>9 Pain & Rehabilitation Clinic of Chicago from '98 to '99.</p> <p>10 And if we go up --</p> <p>11 Q. Can you just pause for one second, because I</p> <p>12 want to make sure we don't blend two things. Consultant</p> <p>13 at Health and Law Resource is not the same thing as</p> <p>14 director of Pain & Rehabilitation Clinic, right?</p> <p>15 A. That -- that's correct.</p> <p>16 Q. Okay. And you call it --</p> <p>17 A. And then in '98 -- sorry. Go ahead.</p> <p>18 Q. No, you go. And you can keep going with your</p> <p>19 answer, I just wanted to clarify that.</p> <p>20 A. Okay. In 1998, I go to Elgin as an assistant</p> <p>21 medical director and, doing that, I establish my</p> <p>22 forensic and my clinical practice.</p> <p>23 Q. Okay. Is there something different currently</p> <p>24 about your solo -- well, do you still have a solo</p> <p>25 clinical psychotherapy practice?</p>

<p>1 A. Yes, I do.</p> <p>2 Q. And is that different than your counseling and</p> <p>3 psychiatry practice with Illumental?</p> <p>4 A. Yes.</p> <p>5 Q. How is it different?</p> <p>6 A. So the company that I started is working on a</p> <p>7 principal that I have a number of counselors who provide</p> <p>8 counseling psychotherapy and I provide supervision, as</p> <p>9 well as medication coverage for those patients who need</p> <p>10 medications. And that's why it says</p> <p>11 psychopharmacologist, because I don't do counseling or</p> <p>12 psychotherapy through Illumental.</p> <p>13 And then, forensic practice changed its name</p> <p>14 and we talked about it, what I do there.</p> <p>15 Q. And so you have your own practice as a</p> <p>16 psychiatrist where you see patients; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. And then through Illumental counseling, you</p> <p>19 supervise counselors, and you will prescribe medicine</p> <p>20 when needed, but you don't see patients; is that right?</p> <p>21 A. Well, they become my patients if I prescribe</p> <p>22 medication, just that I don't offer psychotherapy</p> <p>23 through that clinic.</p> <p>24 Q. Okay.</p> <p>25 A. And it's just started this year, so something</p>	<p>Page 206</p> <p>1 A. Yeah. Yeah. I already saw them.</p> <p>2 Q. Okay. Tell me when to stop or to slow down</p> <p>3 or...</p> <p>4 A. None.</p> <p>5 Q. Okay. Yeah. You -- your fee schedule, I</p> <p>6 think, is fairly self-explanatory, but just to -- I</p> <p>7 guess, your deposition is, if I understand it, you've</p> <p>8 got a minimum three hours and then at -- after three</p> <p>9 hours, you're billing at 500 an hour prorated?</p> <p>10 A. Correct.</p> <p>11 Q. All right. Court testimony is similar</p> <p>12 structure, but with just a higher minimum; is that</p> <p>13 right?</p> <p>14 A. Yeah. If -- if I'm called to testify in the</p> <p>15 morning, I charge for a full day because I cannot</p> <p>16 schedule anything else because we never know when it's</p> <p>17 going to end and that's why I prefer to testify after</p> <p>18 1:00, then I don't have to schedule anything afterwards</p> <p>19 and it's less expensive.</p> <p>20 Q. Okay. I -- did you look at the subpoena</p> <p>21 response that was issued on your behalf?</p> <p>22 A. Yes, I did.</p> <p>23 Q. I want to -- hopefully not -- won't take too</p> <p>24 long, but I'd like to go through that with you and we'll</p> <p>25 call it Exhibit 7 -- 6, I -- yeah, it would be</p>
<p>1 new.</p> <p>2 MR. BAZAREK: Doctor, you -- do we -- do you</p> <p>3 want a break or anything? You want to -- need a</p> <p>4 few minutes or you're good?</p> <p>5 THE WITNESS: No, I'm good.</p> <p>6 MR. BAZAREK: Okay.</p> <p>7 THE WITNESS: Thanks.</p> <p>8 BY MR. RAUSCHER:</p> <p>9 Q. How do you become a distinguished fellow of</p> <p>10 the American Psychiatric Association?</p> <p>11 A. Oh, God. I don't remember. There are some</p> <p>12 criteria that you have to fulfill and you have to apply</p> <p>13 and you have to have sponsors. That's best of my</p> <p>14 recollection.</p> <p>15 Q. Do you believe that the ethical guidelines for</p> <p>16 the practice of forensic psychiatry govern your</p> <p>17 obligations as an expert in this case?</p> <p>18 A. Yes, of course.</p> <p>19 Q. Or I should say maybe apply to is better,</p> <p>20 but -- which -- I've asked you about presentations.</p> <p>21 Which of your publications, if any, are relevant to the</p> <p>22 opinion you've offered in this case?</p> <p>23 A. Would you mind scrolling further down?</p> <p>24 Q. Sure. From the -- so you see the ones that</p> <p>25 are up here for now, right?</p>	<p>Page 207</p> <p>1 Exhibit 6.</p> <p>2 THE REPORTER: 7.</p> <p>3 MR. RAUSCHER: It is 7? All right. I was</p> <p>4 close. We'll call it Exhibit 7.</p> <p>5 BY MR. RAUSCHER:</p> <p>6 Q. Do you want me to share that with you on the</p> <p>7 screen or do you have --</p> <p>8 (EXHIBIT 7 MARKED FOR IDENTIFICATION)</p> <p>9 A. Please, I -- I don't have to look for it.</p> <p>10 BY MR. RAUSCHER:</p> <p>11 Q. All right. You see this as the response to</p> <p>12 the subpoena directed to you?</p> <p>13 A. Yep.</p> <p>14 Q. I -- I'm going to skip over the general</p> <p>15 objections, but I will go back if you have questions or</p> <p>16 want me to. The first request asked for basically all</p> <p>17 documents and materials prepared by you, and there were</p> <p>18 some objections, but I -- then there was a production of</p> <p>19 your notes and we have the report, obviously.</p> <p>20 Is there anything else that you've created in</p> <p>21 connection with this case?</p> <p>22 A. No.</p> <p>23 Q. Is it right that you have not had any</p> <p>24 communications with any third-party witnesses?</p> <p>25 A. That's correct.</p>

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1 Q. We asked for any and all documents and other
 2 materials provided to you and --
 3 A. Believe that was disclosed.
 4 Q. Right. So that was -- we got -- we went
 5 through the sources of information and we have now
 6 received a Dropbox link of the documents, which should
 7 answer that, correct?

8 A. Yes.

9 Q. Dr. Redlich's research wasn't provided to you;
 10 is that right?

11 A. Which point are we looking at?

12 Q. So I -- I'm just -- I guess I'm asking a
 13 question. You mentioned that you reviewed a number of
 14 Dr. Redlich's research papers?

15 A. Yeah. It was not provided --

16 Q. You did --

17 A. -- to me by anyone, it was all self-generated.

18 Q. Okay. We -- the -- we have the only invoice
 19 that you have issued --

20 A. That's correct.

21 Q. -- correct? Okay. How often do you invoice,
 22 if you have a practice?

23 A. I wish I did. Whenever the Gods smile upon
 24 us. I'm sorry. I'm being sarcastic. We try to do it
 25 as expeditiously as possible, but there is no rhyme or

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1 reason at this point.

2 Q. All right.

3 MR. BAZAREK: Scott, are you asking to get
 4 that invoice for the deposition --

5 MR. RAUSCHER: I almost was --

6 MR. BAZAREK: -- by tomorrow?

7 MR. RAUSCHER: -- going to say, I said it in
 8 my head. I said, please take your time on that.
 9 But I was not going to say it. And now you --
 10 you're goading me into saying it. So you -- don't
 11 feel the need to rush on the deposition invoice.

12 BY MR. RAUSCHER:

13 Q. Any -- is there any correspondence that you're
 14 aware of that wouldn't be privileged between you and the
 15 law firms involved in this case?

16 A. I wouldn't know what is privileged or not.

17 And --

18 Q. Well, can you tell me that -- general --
 19 just -- I don't need details, but what types of
 20 correspondence would you have had or did you have
 21 with --

22 A. I did --

23 Q. Go ahead.

24 A. I did not have any correspondence with anyone
 25 from the office of Mr. Bazarek. I know my office had

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1 correspondence and that, to my knowledge, is to, you
 2 know, send the report, receive the request for records,
 3 respond to it, maybe scheduling my meeting with
 4 Mr. Bazarek. That would be my --

5 Q. Okay.

6 A. -- idea what communication might have been.

7 Q. Do you have any retainer agreements for this
 8 case or a written contract?

9 A. That's a good question. I don't know. If it
 10 wasn't --

11 Q. Do you --

12 A. -- disclosed, then we don't have it.

13 Q. All right. Would you typically have that?

14 A. Typically, yes, and I probably shouldn't --
 15 I -- I -- I don't know. I -- I -- I don't want to
 16 answer and be wrong.

17 Q. All right, well --

18 MR. BAZAREK: You know, and I'll just pipe in.
 19 To my knowledge, there is not one.

20 MR. RAUSCHER: Okay.

21 MR. BAZAREK: There's no retainer agreement.

22 MR. RAUSCHER: If you could just double check,
 23 but you know, obviously if there isn't, there
 24 isn't.

25 BY MR. RAUSCHER:

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1 Q. All right. Number 9 asks for any and all
 2 articles, books, and other writings authored in whole or
 3 in part by you relative to your opinions in this case.
 4 And then you -- you know, there's some objections. And
 5 then you refer to the -- your curriculum vitae and the
 6 written report. Any other articles that you have
 7 authored or published that are relevant for your opinion
 8 in this case?

9 A. No.

10 Q. And that would be the same question for number
 11 11, about seminars, lectures, and speaking engagements?

12 A. Any and all or...

13 Q. Well, any of that are relevant.

14 A. No, there is nothing that I lectured that I
 15 would have paper on this.

16 Q. Did you give any lectures that you wouldn't
 17 have paper that would be relevant?

18 A. No. I think we went through it. I -- I don't
 19 believe I gave presentations on the -- on pleas.

20 Q. All right. Well, we've talked about some of
 21 your cases and we'll spend a little bit of time on that.
 22 So I'm going to skip 12 and 13. Are there any, and I
 23 think I've already asked you this, but I just want to
 24 make sure. Are there any, looking at 15, policies or
 25 standards relevant to your expert report that aren't

<p style="text-align: right;">Page 214</p> <p>1 listed in your report?</p> <p>2 A. No.</p> <p>3 Q. All right. You didn't get any summary or</p> <p>4 table or spreadsheet or anything like that, right?</p> <p>5 A. No.</p> <p>6 Q. All right. I think that's all I got on the</p> <p>7 subpoena. I want to go back to one of the attachments</p> <p>8 to your report, which was part of Exhibit 1, which was</p> <p>9 your testimony on expert work over the past four years.</p> <p>10 Other than Waddy, are any of the cases that you've been</p> <p>11 an expert in over the past four years similar in any way</p> <p>12 to this case? I shouldn't -- I'm going to rephrase</p> <p>13 that.</p> <p>14 Is your expert -- are your expert opinions on</p> <p>15 the same topics in any of those other cases as they are</p> <p>16 in this case?</p> <p>17 A. No.</p> <p>18 Q. All right. I'm going to try to just go</p> <p>19 quickly through some of them. So the first -- do you</p> <p>20 need me to pull this up or do you have it?</p> <p>21 A. I -- I have it in front of me.</p> <p>22 Q. Okay. So Cynthia Donald v. City of Chicago,</p> <p>23 that was a case -- was that the case against Eddie</p> <p>24 Johnson?</p> <p>25 A. I believe so, yes.</p>	<p style="text-align: right;">Page 216</p> <p>1 A. That's correct.</p> <p>2 Q. And was that one where you evaluated the</p> <p>3 plaintiff on behalf of the City of Chicago?</p> <p>4 A. I did not evaluate her.</p> <p>5 Q. How did you render your opinion in that case?</p> <p>6 A. Based on the records and the report of the</p> <p>7 opposing expert who did evaluate her.</p> <p>8 Q. Do you know why you didn't evaluate the</p> <p>9 plaintiff in that case?</p> <p>10 A. I requested and I believe the city has also</p> <p>11 requested, but I believe the judgment was against it.</p> <p>12 Q. Okay. Were you still --</p> <p>13 A. It was only --</p> <p>14 Q. -- able to render an opinion without</p> <p>15 conducting that examination?</p> <p>16 A. Yes.</p> <p>17 Q. What is -- what was the case of, if you</p> <p>18 remember, Irma Aragon-Morales v. Vine Line Trucking</p> <p>19 about?</p> <p>20 A. Just a recent case. I believe -- I mean, I --</p> <p>21 it's emotional damages after -- I believe it was a car</p> <p>22 accident.</p> <p>23 Q. Did you examine the plaintiff in that case?</p> <p>24 A. To the best of my recollection, I did.</p> <p>25 Q. And do you know what conclusion you reached?</p>
<p style="text-align: right;">Page 215</p> <p>1 Q. Do you know what your role -- do you remember</p> <p>2 what your role was in that case?</p> <p>3 A. To evaluate Ms. Donald for emotional damages.</p> <p>4 Q. And did you meet with her, examine her?</p> <p>5 A. To the best of my recollection, I did.</p> <p>6 Q. All right. What about James Gibson v. City of</p> <p>7 Chicago? What was your role in that case, or what is</p> <p>8 your role in that case?</p> <p>9 A. The deposition already occurred. I'm blocking</p> <p>10 on what the issue was with Mr. Gibson.</p> <p>11 Q. That was a case, I think, alleging torture by</p> <p>12 like Jon Burge and --</p> <p>13 A. Oh, yes. Yeah.</p> <p>14 Q. Does that refresh your recollection?</p> <p>15 A. It does.</p> <p>16 Q. What was your role in that case or what is</p> <p>17 your role in that case?</p> <p>18 A. Again, to evaluate for emotional damages.</p> <p>19 Q. And you did that -- did you do that by meeting</p> <p>20 with Mr. Gibson?</p> <p>21 A. Yes.</p> <p>22 Q. All right. We -- we're going to skip Waddy,</p> <p>23 which is the next page. Morgan Kendall Howard v. Marcus</p> <p>24 Smith. Was that about whether someone had suffered PTSD</p> <p>25 after a car accident?</p>	<p style="text-align: right;">Page 217</p> <p>1 A. I don't recall.</p> <p>2 Q. How often, in your experience, do you find</p> <p>3 yourself agreeing with a plaintiff's expert?</p> <p>4 A. Occasionally, at times, sure.</p> <p>5 Q. 1 percent, 5 percent, 10 percent?</p> <p>6 MR. BAZAREK: I think I'm just going to object</p> <p>7 to the -- the -- the form of the question. It's</p> <p>8 incomplete hypothetical. That's my objection.</p> <p>9 THE WITNESS: I can answer your question a</p> <p>10 little bit if we -- rephrase your question. How</p> <p>11 frequently do I find -- my findings are not useful</p> <p>12 to the attorneys that have hired me.</p> <p>13 BY MR. RAUSCHER:</p> <p>14 Q. You can -- why don't you start with that one,</p> <p>15 yeah?</p> <p>16 A. I mean, I think I just paraphrased your</p> <p>17 question. And I'm taking it both that I'm hired by the</p> <p>18 defense and I find against the defense and I'm hired by</p> <p>19 plaintiff, I find against plaintiff. I think it's fair</p> <p>20 to say 25, 30 percent of the time.</p> <p>21 Q. Can you break that down further by which side?</p> <p>22 So if -- for that -- is that -- or is that consistent</p> <p>23 for plaintiff and defendants?</p> <p>24 A. It's probably more frequently for plaintiffs</p> <p>25 that I would find against the plaintiff -- the plaintiff</p>

<p>Page 218</p> <p>1 -- against the -- perceived attorney's interest. So 2 plaintiff attorney approaches me. I review the case. 3 Frequently, I will have doubts about validity of the 4 case before I will interview the person. 5 And so I will share those concerns. And 6 typically, it stops at that.</p> <p>7 Q. What is it that makes you more skeptical, 8 generally, in plaintiff cases?</p> <p>9 A. It's not that I'm more skeptical. It is that 10 I am -- I -- I don't know how to say it. I'm by the 11 book, okay? You have to have -- if you have symptoms, 12 you have to have symptoms. They have to be legitimate. 13 They cannot be exaggerated, malingered, misattributed, 14 and I dig a lot.</p> <p>15 And so people who come in and they are kind of 16 pretending and didn't do their homework so that I cannot 17 pick up that they're pretending. I -- I -- I will find 18 that they're pretending.</p> <p>19 Q. And you find that more on the -- why -- do 20 you -- why do you think you find that more on the 21 plaintiff's side than on the defense side?</p> <p>22 A. Because I think it's much more prevalent on 23 the plaintiff's side. The literature states that, in 24 the personal injury arena, 40 percent of plaintiffs are 25 not legit. In workers' comp, the literature is 35</p>	<p>Page 220</p> <p>1 than in practice?</p> <p>2 A. Yes.</p> <p>3 Q. And how is the research conducted to determine 4 that 40 percent figure in the research you're talking 5 about?</p> <p>6 A. You know what? I don't remember offhand how 7 they did it. I -- I -- I'm trying to remember the name 8 of the guy, Middleton I believe that was the kind of 9 foundational -- it's a German name, so it's not 10 Middleton. It's something else. Kind of a foundational 11 article. Now there's much more work.</p> <p>12 The -- the other reason why the field in the 13 last 35 years has moved, became so sophisticated in 14 identifying and people who are not legitimate, their 15 emotional complaints, psychiatric complaints are not 16 legitimate, it -- it's -- it's -- it's unbelievable.</p> <p>17 It is a very sophisticated way that we can 18 analyze an individual's complaints, behavior, what have 19 you, and have a very good degree of certainty that the 20 person is not legitimate, which was not the case when I 21 started out in my career.</p> <p>22 Q. So how is it, then, that plaintiffs find 23 experts who are licensed doctors to offer opinions?</p> <p>24 A. I don't know. What do you mean?</p> <p>25 Q. I mean --</p>
<p>Page 219</p> <p>1 percent. In my opinion, it's higher. 2 And so if I find that somebody is not 3 legitimate and I'm working for the defense, you know, I 4 will continue to work and will testify and what have 5 you. But with the defense, it's also, if I find for 6 that the plaintiff is legitimate, the defense has to -- 7 I mean, some way or other, they will have to disclose 8 me.</p> <p>9 The plaintiff is somewhat easier because if I 10 have a adverse opinion, the plaintiff attorney just says 11 thank you very much and tries to find another expert. 12 So that's just how it works.</p> <p>13 Q. What -- what's the literature that you're 14 relying on that says that 40 percent of, and I may 15 paraphrase this incorrectly, so correct me if I say it 16 wrong, but 40 percent of plaintiff cases are not 17 legitimate?</p> <p>18 A. I can't quote you an article or set of 19 articles, but there is significant literature that has 20 addressed the issue of what's called prevalence of 21 exaggeration, outright malingerer, misattribution of 22 causation, in civil litigation, in workers' comp 23 litigation, in criminal litigation, and also in clinical 24 practice where a percentage is about 8 percent.</p> <p>25 Q. So it's a lot higher in the litigation setting</p>	<p>Page 221</p> <p>1 A. 60 percent of plaintiffs are legitimate people 2 who were legitimately injured. My recommendation to 3 plaintiff attorneys when I talk to them is -- 4 MR. BAZAREK: Wait, Doctor, I -- Doctor -- 5 THE WITNESS: I'm sorry. 6 MR. BAZAREK: -- I do want to say one thing. 7 In terms of your communications with lawyers that 8 may have retained you to look at something, you 9 don't have to disclose your discussions with them 10 because it's a privileged -- 11 THE WITNESS: Okay. 12 MR. BAZAREK: -- communication. So if you 13 can, generally, if you could describing something, 14 I'm just letting you know -- 15 THE WITNESS: Yeah. 16 MR. BAZAREK: -- that you don't have to 17 disclose that information. Okay. 18 THE WITNESS: Yep. I'll wait for the next 19 question. 20 MR. RAUSCHER: Oh, I -- I -- I thought you 21 were just going to describe your general practice, 22 which I think is fine. I'm not asking for any 23 specific examples or specific conversations. 24 MR. BAZAREK: Yeah. And that -- and that's 25 why I was just letting him know that, you know, I</p>

<p>1 wasn't sure how it was going to go. Okay. But 2 yeah, generally -- 3 THE WITNESS: Would you -- 4 MR. BAZAREK: -- you can -- yeah. 5 THE WITNESS: Would you repeat your question, 6 please? 7 BY MR. RAUSCHER: 8 Q. I was asking how plaintiffs find doctors if -- 9 to give -- render opinions if 40 percent of them are 10 not legitimate claims, and you are saying my 11 recommendation -- in part, you were saying, my 12 recommendation to plaintiffs lawyers is -- and then, 13 that was... 14 A. To hire forensic psychiatrists behind the 15 scenes to review the records. And before the plaintiff 16 attorney invests a lot of effort, time, and money into 17 prosecuting a case, it behooves the attorney to know 18 what they're dealing with, right? The last thing you 19 want to do is spend God knows how many years and 20 resources and then it blows up because the patient is -- 21 the individual is not legitimate. Nobody wins. 22 So forensic psychiatrists can be very helpful 23 for the plaintiff bar by helping weed out individuals 24 who are not legitimately injured. And then, 25 legitimately injured individuals deserve good, solid </p>	<p>Page 222 1 Q. Right. 2 A. Because -- 3 Q. They still wouldn't have to disclose that, 4 right -- right -- right? 5 A. They don't have to disclose that, correct. 6 Q. You would give them their reasons and then 7 presumably, they would not issue an opinion that 8 contradicted this version of events that they were 9 defending? 10 A. I'm sorry? 11 Q. That was a bad question. If -- have you ever 12 had an experience where you said to defense counsel, I 13 don't think I can help you. Here's why. I'm going to 14 give an opinion that agrees with what the plaintiff's 15 theory of damages is. And then the defense still went 16 ahead and said, let's draft that and disclose it? 17 A. No. What I know has happened in a number of 18 occasions is, I would help them walk through the 19 settlement for the psychiatric part, if they decide to 20 do that. Frequently, they may decide to go and look for 21 another expert. 22 Q. Let's go back to your cases for a little bit. 23 There's two cases in Lake Superior Court in Indiana, the 24 civil division. James and is it Jelina or... 25 A. Jelina.</p>
<p>Page 223 1 forensic psychiatrists to -- to present their findings 2 when the person is legitimately injured. 3 Q. You said that if the defense -- you know, if 4 you were working for a defendant and you said you came 5 up with an opinion that wasn't helpful for them, they 6 would still have to disclose it. Why do you think 7 that's the case? 8 A. Well, because if I interviewed the plaintiff, 9 the plaintiff attorney knows that I interviewed them. 10 Q. It only applies if you interview the 11 plaintiff, in that context; is that -- 12 A. Correct. 13 Q. -- right? 14 A. That's like with the plaintiff, I have only 15 reviewed the records. It's -- I -- I remain a 16 consulting psychiatrist and not disclosed. 17 Q. And same for defense? If you reviewed records 18 and said, you know what, I can't help you, they don't 19 have to disclose that, right? 20 A. Correct. 21 Q. Okay. 22 A. But you know, a -- a -- a good forensic 23 psychiatrist doesn't say, I cannot help you. A good 24 forensic psychiatrist says I cannot help you, here's 25 why. </p>	<p>Page 225 1 Q. Jelina. James and Jelina Dow v. Kubiak? 2 A. Right. 3 Q. What -- what -- what kind of case is that? 4 A. Personal injury. 5 Q. And what was your role in that case? 6 A. I evaluated both the husband and wife for 7 emotional damages. 8 Q. Jan Parsons v. Randall Thrall and Goodwill. Do 9 you know what that case is? 10 A. They just settled and I have absolutely no 11 recall what the case was about. I apologize. 12 Q. Do you recall what you did in that case? 13 A. I evaluated the individual, wrote the report, 14 gave a deposition. 15 Q. Then you have two workers' comp cases. And in 16 both of those, did you evaluate the individual claiming 17 injury and issue a report or reports? 18 A. Yes. 19 Q. And we've talked about why those would only be 20 for the defense. I don't think -- 21 A. Correct. 22 Q. -- we need to do that again. And the last one 23 you have is a criminal case, People of the State of 24 Illinois v. Robert Hill. You were retained by the 25 defense in that case; is that right? </p>

<p style="text-align: right;">Page 226</p> <p>1 A. Yeah. Ms. Placek, public defender.</p> <p>2 Q. All right. And what was your role in that</p> <p>3 case?</p> <p>4 A. I evaluated -- I reviewed the records,</p> <p>5 interviewed Mr. Hill, and my opinion was that -- not</p> <p>6 helpful to -- for the defense. But for whatever reason,</p> <p>7 Ms. Placek decided that she wanted me to testify and</p> <p>8 then I swore to what my name was. There was a kerfuffle</p> <p>9 [sic] and the judge told me to go home.</p> <p>10 Q. Okay. I -- If I'm reading --</p> <p>11 A. My -- the testimony was not barred --</p> <p>12 Q. Oh.</p> <p>13 A. -- it was some kind of a conflict between the</p> <p>14 state's attorney and the public defender.</p> <p>15 Q. In any event, you did not end up testifying</p> <p>16 other than saying your name?</p> <p>17 A. That's correct.</p> <p>18 Q. You have not issued a report or provided</p> <p>19 testimony on behalf of any plaintiffs in the past four</p> <p>20 years, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Do you remember saying that people who commit</p> <p>23 murders are generally not very smart and bragging is</p> <p>24 very important to them?</p> <p>25 A. I don't remember saying that. I'm not saying</p>	<p style="text-align: right;">Page 228</p> <p>1 my screen with you again.</p> <p>2 MR. BAZAREK: Is this an exhibit or what are</p> <p>3 we looking at?</p> <p>4 MR. RAUSCHER: We can call it an exhibit. This</p> <p>5 would be Exhibit 8. This is a Tribune article from</p> <p>6 1996, updated in 2021. "CONFESIONS SAY SOMETHING</p> <p>7 ABOUT SUSPECTS," that's what it's called.</p> <p>8 BY MR. RAUSCHER:</p> <p>9 Q. I'm going to -- you can read the whole thing,</p> <p>10 but I'm going to go down to the part where I believe</p> <p>11 it's talking about you. You see Dr. Alexander Obolsky,</p> <p>12 that's you, right?</p> <p>13 (EXHIBIT 8 MARKED FOR IDENTIFICATION)</p> <p>14 A. Uh-huh. I don't recognize the cases that they</p> <p>15 mentioned. And I have to tell you that I used to give a</p> <p>16 lot of interviews both to print and TV media. And at</p> <p>17 some point, I stopped doing it because they misquote</p> <p>18 you. They don't want to understand the issues. So I</p> <p>19 have no idea whether I said it or not. And I have no</p> <p>20 independent recall of talking to journalists in 1996</p> <p>21 about this.</p> <p>22 BY MR. RAUSCHER:</p> <p>23 Q. Is it a belief that you hold, this quote?</p> <p>24 A. No. Because people who kill are all over the</p> <p>25 spectrum. So I don't know whether we were talking about</p>
<p style="text-align: right;">Page 227</p> <p>1 I didn't say something like that or close to it, but I</p> <p>2 don't have recollection.</p> <p>3 Q. Or that they derive a tremendous amount of</p> <p>4 self-esteem by bragging about it? It feels so good to</p> <p>5 tell officers how stupid they are?</p> <p>6 A. It's so good to talk about what?</p> <p>7 Q. Sorry. It's -- they derive a tremendous</p> <p>8 amount of self-esteem by bragging about it? It feels so</p> <p>9 good to tell officers how stupid they are?</p> <p>10 A. The officers are stupid?</p> <p>11 Q. Do you recall saying that?</p> <p>12 A. Yeah.</p> <p>13 Q. Is that a belief that you hold, that people</p> <p>14 who commit murders tend to brag about them and have a</p> <p>15 very hard time keeping quiet?</p> <p>16 A. Well, I have no idea what the -- if I said it</p> <p>17 and what the context was. What I can tell you is people</p> <p>18 with antisocial personality disorder will brag about</p> <p>19 their criminal activity. It's important for their</p> <p>20 self-esteem, and that's what they do.</p> <p>21 And they think, quite frequently, that other</p> <p>22 people are not as smart as they are, which typically</p> <p>23 leads to their downfall. But that's huge</p> <p>24 generalization, and, you know...</p> <p>25 Q. Well, why don't I just -- I'm going to share</p>	<p style="text-align: right;">Page 229</p> <p>1 serial killers, whether we were talking about, you know,</p> <p>2 whatever. I have no idea.</p> <p>3 Q. Do you hold a belief that people, in general,</p> <p>4 like to brag about crimes that they commit?</p> <p>5 A. Not particularly, no.</p> <p>6 MR. RAUSCHER: Can we take a quick break? I</p> <p>7 promise to get you to your dinner and I think I'm</p> <p>8 getting pretty close.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. RAUSCHER: Just like ten minutes.</p> <p>11 THE REPORTER: We're off the record at</p> <p>12 5:37 p.m. Central Time.</p> <p>13 (OFF THE RECORD)</p> <p>14 THE REPORTER: We are back on the record for</p> <p>15 the deposition of Dr. Alexander Obolsky being</p> <p>16 conducted by videoconference. Today is</p> <p>17 May 22nd, 2024, and the time is 5:45 p.m. Central</p> <p>18 time.</p> <p>19 BY MR. RAUSCHER:</p> <p>20 Q. Do you have any licenses or certifications or</p> <p>21 degrees that are not listed on your CV?</p> <p>22 A. Not that I can think of.</p> <p>23 MR. RAUSCHER: That was actually my last</p> <p>24 question.</p> <p>25 MR. BAZAREK: Okay.</p>

<p>Page 230</p> <p>1 THE WITNESS: Are we done?</p> <p>2 MR. BAZAREK: We will -- yeah, we'll reserve</p> <p>3 signature.</p> <p>4 MR. RAUSCHER: All right. I will --</p> <p>5 THE WITNESS: Yes.</p> <p>6 MR. RAUSCHER: -- I'd like to order the</p> <p>7 transcript.</p> <p>8 THE REPORTER: Okay, perfect. So Scott, do</p> <p>9 you just want your standard order?</p> <p>10 MR. RAUSCHER: Yeah, please.</p> <p>11 THE REPORTER: Okay, perfect. Bill, do you</p> <p>12 want a copy of the transcript?</p> <p>13 MR. BAZAREK: Yes.</p> <p>14 THE REPORTER: Okay, perfect. And you want me</p> <p>15 to send, since you reserve signature, you want me</p> <p>16 to send it to you?</p> <p>17 MR. BAZAREK: Sure. I can get it. I'll get</p> <p>18 it to the doctor. Sure.</p> <p>19 THE REPORTER: Perfect. Thank you. And</p> <p>20 Elizabeth, would you like a copy of the transcript?</p> <p>21 MS. EKL: No, thank you.</p> <p>22 THE REPORTER: Okay. Sean, would you like a</p> <p>23 copy of the transcript?</p> <p>24 MR. SULLIVAN: No, thanks. Not today.</p> <p>25 THE REPORTER: I'm just going to go in order.</p>	<p>Page 232</p> <p>1 CERTIFICATE OF DIGITAL REPORTER</p> <p>2 STATE OF ILLINOIS</p> <p>3</p> <p>4 I do hereby certify that the witness in the foregoing</p> <p>5 transcript was taken on the date, and at the time and</p> <p>6 place set out on the Title page hereof, by me after</p> <p>7 first being duly sworn to testify the truth, the whole</p> <p>8 truth, and nothing but the truth; and that the said</p> <p>9 matter was recorded digitally by me and then reduced to</p> <p>10 typewritten form under my direction, and constitutes a</p> <p>11 true record of the transcript as taken, all to the best</p> <p>12 of my skill and ability. I certify that I am not a</p> <p>13 relative or employee of either counsel and that I am in</p> <p>14 no way interested financially, directly or indirectly,</p> <p>15 in this action.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 KORTNEY CHASE,</p> <p>23 DIGITAL REPORTER/NOTARY</p> <p>24 MY COMMISSION EXPIRES: 09/24/2025</p> <p>25 SUBMITTED ON: 06/04/2024</p>
<p>Page 231</p> <p>1 Ken, would you like a copy of the transcript today?</p> <p>2 MR. FLAXMAN: No.</p> <p>3 THE REPORTER: Okay. Thank you. And Lisa,</p> <p>4 would you like a copy of the transcript?</p> <p>5 MS. MCELROY: No, thank you. If you can hear</p> <p>6 me, no.</p> <p>7 THE REPORTER: Thank you. And Tim, would you</p> <p>8 like a copy of the transcript?</p> <p>9 MR. SCAHILL: No, thanks.</p> <p>10 THE REPORTER: Perfect. We are off the record</p> <p>11 then at 5:46 p.m.</p> <p>12 (DEPOSITION CONCLUDED AT 5:47 P.M. CT)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	