IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WENDY B. DOLIN, Individually and as Independent Executor of the Estate of STEWART DOLIN, Deceased, Plaintiff, -vs- SMITHKLINE BEECHAM CORPORATION, d/b/a GLAXOSMITHKLINE, a Pennsylvania corporation, Defendant.	Case No. 12 CV 6403 Chicago, Illinois March 29, 2017 1:30 p.m.

VOLUME 10-B
TRANSCRIPT OF PROCEEDINGS - Trial
BEFORE THE HONORABLE WILLIAM T. HART, and a Jury

APPEARANCES:

For the Plaintiff:

BAUM HEDLUND, ARISTEI & GOLDMAN, P.C.
BY: Mr. R. Brent Wisner
Mr. Michael L. Baum
12100 Wilshire Boulevard
Suite 950
Los Angeles, California 90025
(310) 207-3233

RAPOPORT LAW OFFICES, P.C.
BY: Mr. David E. Rapoport
Ms. Melanie Joy VanOverloop
Mr. Matthew S. Sims
20 North Clark Street
Suite 3500
Chicago, Illinois 60602
(312) 327-9880

Court Reporters:

CHARLES R. ZANDI, CSR, RPR, FCRR
JUDITH A. WALSH, CSR, RPR, CMR, FCRR
219 South Dearborn Street, Room 2128
Chicago, Illinois 60604
Telephone: (312) 435-5387
email: Charles_zandi@ilnd.uscourts.gov

APPEARANCES: (Continued)

For the Defendant:

KING & SPALDING
BY: Mr. Todd P. Davis
Mr. Andrew T. Bayman
Ms. Heather Howard
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309
(404) 572-4600

KING & SPALDING, LLP
BY: Ms. Ursula M. Henninger
100 North Tryon Street
Suite 3900
Charlotte, North Carolina 28202
(704) 503-2631

SNR DENTON US, LLP
BY: Mr. Alan Scott Gilbert
233 South Wacker Drive
Suite 7800
Chicago, Illinois 60606
(312) 876-8000

(Proceedings heard in open court, jury not present:)

[redacted]

(Jury enters courtroom.)

THE COURT: All right. Thank you very much, ladies and gentlemen. Please be seated. We will resume.

You may proceed, sir.

MR. RAPOPORT: Thank you, your Honor.

JOSEPH GLENMULLEN, PLAINTIFF'S WITNESS, DULY SWORN.

DIRECT EXAMINATION

BY MR. RAPOPORT:

Q. Let's zero in on those -- that last week or 10 days or so before Mr. Dolin died.

A. Sounds like a good idea.

Q. So, first thing -- first question is, please overall compare in general terms Mr. Dolin's condition from a mental health perspective before he started taking Paxil on July 10th or so and after.

A. I see. So, we walked through the notes from -- the visits from '89 to '96. We walked through in some more detail the visits with Mrs. Reed in 2007 and 2008.

And what she says in her notes when he comes back to see her in May 2010 is sort of same old anxieties, anxious about work and some anxiety about his father-in-law's

deteriorating health.

So -- and it's mild to moderate anxiety and depression. She said, "I expected him to get better like he did the last time, probably over the -- it probably would have taken months, like it had before." One would expect, you know, he'd start coming sporadically, like he had done before and taper off.

So, the kind of context or background here is it's the same as it's always been before. And we looked through years and years and years of history.

Then he goes on the medication, and it's like something leaps out of that background. He just goes over a cliff. And we'll look at multiple people that he worked with, that he worked for, the therapists saying they had never, ever seen him like that before. And he's really struggling to function. His client says that, and his -- the guy who leads the firm says that.

So, he just takes a nosedive. And we know that at the end of that six-day nosedive, worse anxiety, worse depression, agitation, worse insomnia, unusual changes in behavior, everything we saw on the list happened. And then the switch, unfortunately, went off, and he dives in front of a train like Superman and dies.

So, it's that unbelievably dramatic change in just six days.

Q. Have you pulled together for illustration purposes and to keep things moving here some of the evidence reflecting that change and put it into one of our exhibits today?
A. Yes.
Q. Do you believe that review of that information would be helpful to the jury in understanding the case?
A. Yes.
Q. And is this information as it's in this exhibit, which is Plaintiff's Exhibit 65, information that you have relied upon in forming your opinions in this case?
A. Exactly.

MR. RAPOPORT: Your Honor, at this time, we would move to display Exhibit 65 for demonstrative purposes.

THE COURT: You may proceed.

MR. DAVIS: Your Honor, I think this is -- before we show that to the jury, your Honor, this is kind of a summary document. It's really not a demonstrative at all, and I would object to that. I don't know if you've had a chance to look at it.

THE COURT: Well, for the time being, it won't be received in evidence, but it will be allowed to be used for demonstrative purposes only.

MR. DAVIS: It's got quotes in there from witnesses and what have you. It's not just medical records or a display of information. So, I don't believe that the witness can

utilize it. It's got hearsay evidence on it. So, I don't believe the witness can utilize that for purposes of displaying that information or expanding upon his opinion.

THE COURT: He may rely on it. You agree with that?

MR. DAVIS: He may rely upon it. I don't believe he gets to say the hearsay statements, though, your Honor.

THE COURT: Well, an expert can rely on hearsay to the extent that it supports his opinion. Whether it comes in evidence or not does not -- hearsay doesn't come into evidence, but he may rely on it.

You may proceed.

MR. RAPOPORT: Thank you, your Honor.

BY MR. RAPOPORT:

Q. I'm now presenting Plaintiff's Exhibit 65, and what I would like you to do is let's take it -- we'll blow it up, and let's take it item by item. And what I'd like you to do is explain what it is that you've selected to show and in each case why.

A. So, we're talking about six days, Saturday through Thursday, Saturday being the date that he started the medication. And we'll see that in the documentation of that, on medication.

So, Wendy testified that he had increased agitation, pacing, distorted thinking, loss of sleep, loss of appetite, feelings of worse depression, and that these started on Sunday

night and just got worse and worse the whole week, the whole six days.

Q. All right. And that's what you're illustrating with this first item that we have here, which I'll just show briefly?

A. Actually, it's just the one from 7-11.

Q. Oh, forgive me. Well, the next one is up there, too, so go ahead and tell us about that.

A. So then on Monday, July 12th, this is day three on Paxil. I put here, and we could look at the actual note if you wanted, "Started Paxil Saturday." So that's how we know when he started the medication. On Monday, she documented that he started on Saturday.

And you can see, he's on it now three days, and suicidal thoughts. He's got suicidal thoughts. She had given him a *DSM* checklist, which we're going to look at shortly, and he's reporting on Monday. We talked a little bit about passive means that at this stage of the game on Monday night, he had no plan. He had no intent. He was just thinking about death.

Q. Now, for perspective, this item that you've just discussed is from Dr. Sahlstrom's medical record? Is that what that says?

A. Straight out of it, yes.

Q. And this is her third session with him?

A. This is her third and final session with him. And we saw

the first session on the 29th of June. It said, "No suicidal thoughts."
Q. All right. And was there any mention of suicidal thoughts in the second session?
A. No.
Q. All right.
A. Which was also before Paxil -- excuse me, paroxetine.
Q. All right. So, now let's go to the next item that we have on here.
A. Oh, you know, let's go back. We didn't highlight it, but do you see where it says, "Client," meaning Stewart, "was scared what this meant." It's very frightening to people.
Okay. I'm sorry. Go ahead.
Q. Okay. So, then, moving forward, what is it -- we're still on page 1 of Exhibit 65. What is this that we're displaying now that has handwritten, "Stu Dolin," at the top and some other things?
A. So, she gave him a questionnaire. The manual that therapists and psychiatrists use to diagnose is called *The Diagnostic and Statistical Manual of Psychiatry*. It's published by the American Psychiatric Association.
And she had a detailed questionnaire that basically walks through all the symptoms that you would use to diagnose someone with all of these different kinds of conditions. And I've just reproduced here for you in Stewart's own

handwriting, he had signed -- he had put his -- he put, "Stu Dolin," at the top of the page, and then this is a little excerpt from the bottom left corner of the first page.

And these questions 16 through 21 deal with whether or not you're suicidal. So, you can see the first one, "Did you frequently think of dying in passive ways like going to sleep and not waking up?" And this is referring to the past two weeks, nearly every day. And he put yes, and then he put no. Okay?

"Did you wish you were dead? No."

"Did you think you'd be better off dead? No."

"Did you have thoughts of suicide, even though you would not really do it? Yes."

"Did you seriously consider taking your life? No."

"Did you think about a specific way of taking your life? No."

So, we have in Stu's own handwriting that his thoughts were very mild, no plan, no intent, not going to do it on Monday night, day three on paroxetine.

Q. What is this -- and I'll just call it out. We have something that has handwriting in there. What does that say, and what does it mean?

A. So, that is the abbreviation for a major depressive episode, which is the core of a major depressive disorder, and above this series of questions were a series of questions

about depression. And he had answered them in a way that would qualify him for a diagnosis of major depressive episode or major depressive disorder.

And that's now not his handwriting. That is the handwriting of Dr. Sahlstrom.

Q. All right. I have here -- we've not marked it as an exhibit because it's simply too large, but what am I holding up here?

A. So, that's the *Diagnostic and Statistical Manual* that I had just mentioned.

Q. And you have selected certain provisions out of this book to discuss a little bit later in your testimony?

A. Sure.

Q. All right. So, we've discussed the first page of Exhibit 65. Are there any other --

A. Do you want to do that now?

Q. I'm happy to.

A. I think we may as well.

Q. Okay. Great. Let me just go ahead and set that up then.

All right. We have marked as Plaintiff's Exhibit 57 a copy of the portion of the book that has diagnostic criteria as well as application of that in this questionnaire. And you've prepared that?

A. Correct.

Q. And would that be helpful to the Court and to the jury in

understanding your testimony in this case?
A. I believe so.
MR. RAPOPORT: At this time, your Honor, we'd move to display 57 as demonstrative evidence.
MR. DAVIS: No objection.
BY MR. RAPOPORT:
Q. All right. Shall we zoom in first on the standard?
A. Sure.
Q. Okay. Please explain what we're looking at here.
A. So, if you were to open that book up, that's a Xeroxed copy straight out of the book of the criteria. And you can see up at the top, we don't have it highlighted, but two-week period; and you have to have five of these nine symptoms to qualify for a diagnosis of a major depressive episode. So, five or more, two-week period. One of the five has to be either No. 1 or No. 2.
So then what's highlighted here are the ones that in the questionnaire he answered yes to. So, he answered two questions about having markedly diminished interest or pleasure. That was question 3 and question 4 on the questionnaire.
He answered another question about sleep, that he was having insomnia, and this is worse insomnia than he had had before he went on the Paxil.
He said that he had fatigue and loss of energy.

That's No. 6. And let's just look at the -- that was question No. 10 on the questionnaire.

Feelings of worthlessness, and that was on the questionnaire. We can just look and see how many questions he answered about that. If you -- can we see what the questions were that corresponded to that? If you can just move it over slightly.

Q. You want to come back to the questions?

A. Yeah. So, you can see, there were two questions, 12 and 13 were about that. And while we're here, there's two more questions that were about the last issue, which was difficulty concentrating.

And we'll see his -- the gentleman who runs his law firm said he was really struggling to do very basic legal things, so that's corroborated.

Q. What is the significance of this information that you've just shared with the jurors?

A. Well, I agree with Dr. Sahlstrom when she wrote, we looked at her handwriting, MDE, that the way he answered that questionnaire qualifies him for this diagnosis.

Q. Of major depressive episode?

A. And disorder.

Q. Was there -- did he qualify for that diagnosis before he took Paxil on July 10th of --

A. You know, that's a good question. And what the therapist

said was that -- particularly Mrs. Reed, who knew him well, that his symptoms were mild to moderate. I think --

MR. DAVIS: Your Honor, I would just object to the hearsay.

THE COURT: It is hearsay, but he may rely on hearsay as an expert in support of his opinions.

You may proceed.

BY THE WITNESS:

A. This is on Monday night, on day three of Paxil, and he's already having some passive suicidal thoughts. So, where he crossed that line, we don't exactly know.

BY MR. RAPOPORT:

Q. Shall we come back, then, to Exhibit 65 and go on from where we left off?

A. Yes.

Q. We're now on page 2 of the exhibit. What do you have here?

A. So, we just talked about the appointment that he had on Monday night with Dr. Sahlstrom. When he got home, his wife testified about that night, that she had never seen that kind of anxiety or agitation, that it was heightened, that everything was heightened. Everything was worse.

And if you remember when we looked at the original lists, new or worse. So, some things are new, like not being able to function, and other things are worse, like more

trouble sleeping, worse depression, worse anxiety.
Q. And when we see quotation marks in this document, are you taking the testimony directly from the transcripts and showing what pages it came from and all that?
A. Yes. This was her deposition, the widow's deposition.
Q. Let's go on to the next item that you've selected, and please tell us, it says, "Susan Miniat Kolavo," up top. Let's start by who is she, to your understanding?
A. So, this is another piece -- I think it's an important part of the context. So, we talked about that he was a very busy lawyer with a lot of responsibilities. He had some very big clients, one of whom was the Miniat family. This is Susan Miniat Kolavo.

And they were the fourth generation of a family business. I think it was meat-packing, if I'm not mistaken, here in Chicago. And they had been clients of Mr. Dolin's for years and years and years. They had an upcoming meeting of their board that was supposed to happen on the Friday, the day after he died.

They had a cousin, Kevin, who we will see some of these quotes here, she described as having been a nuisance and difficult to deal with over many, many years. He was not a controlling person in the company. She and her brother were. But he was a stockholder, and he could be quite a nuisance.

So, this is going on in the background, this

particular week for Stewart.

Susan Miniat Kolavo had five conversations with him. We know that from the telephone logs. Four of them took place before he went on Paxil, and one of them took place on the Wednesday after he had been on Paxil five days. Right? I think it's the 14th.

So, this is her description of that phone conversation in her deposition.

Q. Yes. And please walk us through it. You've highlighted certain things, but there's a lot of information there, so --

A. Right. So, she is describing how totally different he was from anything she had ever encountered before. She had been sending him e-mails of things he needed to do for this meeting, and he hadn't done them; and that had never, ever happened before.

So, she says of the conversation, he wasn't present. He seemed preoccupied, completely unlike his routine behavior, noticeably off, unusual behavior. He apologized for not doing these routine things that he was supposed to do.

Q. Okay. And now I'm moving down to more testimony that's on the same page.

A. Yeah, she was asked, "What was unusual?" And she said, "His demeanor on the phone, his voice. He sounded vague. He sounded distant." And I think this is one of the most poignant words in light of what happened, he sounded

despairing to her. She was asked if he seemed preoccupied, and she answered yes.

Q. And now we're going on.

A. So, here is just a few more to give you a flavor of this, "Not present? Yes. Distracted? Yes. He sounded off. He sounded not like him."

This is straight out of what we looked at in the list, unusual changes in behavior and mood.

Q. Okay. And what else do we have from her?

A. So then she's asked explicitly near the end of this series of questions, "In the number of years that you had known Mr. Dolin, this was the first time that your questions had gone unanswered, correct?" And she says yes, meaning all those -- the e-mails that he had not responded to. And then she says, "This was unusual behavior, not like him, again, behavior that was uncharacteristic."

Q. And what is the significance of this testimony? Why have you selected to call attention to it?

A. So, the significance of this is someone who knows him very well who's providing evidence that he had gone very dramatically worse. He'd kind of fallen off a cliff.

He had -- remember, we looked at a decade of treatment in which she and others said he never had any difficulty functioning, and now he's having difficulty doing the most basic things. We'll see the gentleman who runs his

law firm tell us that.
Q. All right. And so we'll go to that shortly, but I want to ask you a different question. We're looking at July 14th, and folks here have seen movie testimony of, for example, the gentleman that Mr. Dolin had lunch with the next day who gives a somewhat different description. How does that fit in to this picture?
A. So, that's one example, the gentleman who had lunch with him the next day. Another example is the -- I presume you know at this point that his primary care doctor was a friend; and he had dinner with him the night before this, and he, too, didn't think that anything was wrong.

And I presume there's been some discussion that this can wax and wane, that people might not be aware of it. This was someone who he needed to get something done for, not just sit and have a meal.

So, I think it's actually very important that there were many people who didn't know that there was anything wrong, and that's what's so dangerous about this. Now this gentleman is walking around, day three, day four. Neither he nor the people close to him know that the switch could get flipped and he could jump in front of a train. So, it's also important evidence that there were other people who had no idea.

He might have been sitting at lunch tapping his foot,

and they didn't even notice it. It might have been nothing. So, that's really important context, too. But we have more than one person who did see the difficulties.

Q. You had pointed out some testimony of Mrs. Dolin, and the jurors have not had a chance to meet or hear her testimony yet. She will be here, but for obvious reasons is not --

MR. DAVIS: Objection, your Honor. Can we just ask a question instead?

THE COURT: Yes, yes. Just go on with the question.

MR. DAVIS: Thank you.

BY MR. RAPOPORT:

Q. So, the point is, with respect to testimony of Mrs. Dolin, before what happened to her husband happened and before she learned of certain things, was she in the moment -- when she's making these observations that you just pointed out on the sheet, was she in the moment appreciating that this was some terrible change?

A. No.

MR. DAVIS: Objection. That's speculation.

THE COURT: Yes, sustained.

BY MR. RAPOPORT:

Q. Yeah. My question really is aimed at her testimony that you've reviewed.

A. Yes.

Q. So, I'm not asking you an opinion question. I'm asking

you -- I meant to ask you about her testimony.
A. She testified that she didn't recognize --
MR. DAVIS: Objection, your Honor. I don't believe that there's any question yet that's been put by Mr. Rapoport --
THE COURT: Put a question, sir.
BY MR. RAPOPORT:
Q. Based on your review of Mrs. Dolin's deposition testimony, did she appreciate that there was a change before Mr. Dolin jumped in front of the train?
MR. DAVIS: Objection, your Honor. Again, appreciate goes to state of mind of Mrs. Dolin.
THE COURT: Overruled, sir.
You may answer.
BY THE WITNESS:
A. She testified that she had no idea that his worse insomnia, his worse anxiety, his being agitated could be this dangerous. She had no idea at the time, "Oh, my God, we have a crisis." No, not at all.
She thought, you know, it's the anxiety and depression. It's a little worse, but surely, it's going to be okay. It always has been in the past. She didn't -- she couldn't recognize until after the fact --
MR. DAVIS: Your Honor, I think we're past the answer, and now we're into Mrs. Dolin's state of mind.

THE COURT: Overruled, sir.
BY MR. RAPOPORT:
Q. Had you completed your answer?
A. I think so.
Q. Okay. So, let's then move forward in our exhibit to the next page.
A. I think there was one more page of Susan.
Q. Oh, yes, I see that now. We have it?
A. Yeah. So, I just want to emphasize, she was asked near the end all of these questions about -- specifically about the six conversations from July 1 to July 15, only one of which, the one on July 14, was after he had started the paroxetine. And she was asked, "Of those six, it's just that one that he was struggling?" And she said, "Correct."

And then she was asked, "In all the years that you had known him, was this the first time that he had sounded this way and had difficulty doing basic things for you," and she said, "Yes."

So, very, very dramatic change.

Q. Let's go on to the next page, and we're on page 6 of the exhibit now, six of a total of 14. And --
A. So, we might want to look back at the granular timeline and show where this visit is.

THE COURT: Let's go on with the pages. We can go back to that.

MR. RAPOPORT: Okay.
BY THE WITNESS:
A. So, we are now the day before he died. And he called Mrs. Reed and said, "Could I have an emergency appointment tonight," which he had never done before. And she was asked about that.
So, she said, "Was it typical for him to call like that?
"No.
"Can you ever remember him calling?
"No.
"Was this different?
"It was.
"What did he tell you?
"He thought he was having a nervous breakdown.
"Had he ever used those words before?
"No."
MR. DAVIS: Your Honor, I don't think there's any question that's been put to the witness right now.
THE COURT: He may proceed.
MR. DAVIS: Thank you.
BY MR. RAPOPORT:
Q. Please continue with your --
A. So, more evidence of something dramatically different, and Stu reaching out, trying to get help, but not -- nobody

understanding what was going on.

So, here's a note from her, again from her deposition. "The last session," which is the night of the 14th, "was the most anxious he had ever been. He hadn't calmed down in his usual way."

What she said was that all those other sessions in 2007, 2008, and before this, he would come in somewhat anxious, and they would talk through things; and by the time he left, he wasn't that anxious. And that didn't happen in the same way this time.

And then she -- she now, we have a second note, one from the 12th and now one from the 14th about the suicidal thoughts. And this is a little more specific, that he had a wish not to wake up. So that we know still, the night before his death, he had no plan. He had no intent to take his life. He just felt like he wished he could escape how awful he was feeling by falling asleep and not waking up. Still fairly mild suicidal thoughts, which we talked about on that spectrum.

Q. All right. Going on, then, to the next page, what is it you're calling our attention to here that supports your opinions in this case?

A. So, these are just a few more of her quotes, either from the typed notes from her appointments. She talked about that meeting coming up on the Friday with the Miniat family, and

she says here, "Friday, there was to be a meeting with a client he represented that had lost money. He needed to go to the meeting and apologize."

So, there was a second business issue going on that week, which was that another client that owned parking garages had been sued; and that client was a client of Stewart and the law firm, and the suit was actually brought by a different client of the same law firm. So, the parking garage client was very upset that the same law firm was doing this. And they called Stu or e-mailed him. I can't remember. So, there's two things going on.

And this is actually a little mixed in terms of what was going on. If the lawsuit against the parking garage was successful -- and it had just been started, so who knew -- they would lose money. There was no issue about the Miniats losing money, and that was the meeting on Friday.

So, exactly what Mr. Dolin told her, we don't know, but this is a little garbled. We know that he did apologize to Susan Miniat for not getting her the e-mails; but whether he was so disorganized that he couldn't explain it properly or she didn't quite get it, I just want to try to help clarify that a little bit.

And that was also clarified by the gentleman who runs his law firm. There were two separate things, and this is a little muddled, not a big deal, but important to know.

Q. Right. It's as good a time as any to ask you straight out, is there any evidence anywhere that Mr. Dolin was at risk of getting fired from the Reed Smith law firm?
A. No. So, a very important point. Both the gentleman who runs his law firm and another very senior person not in the Chicago office said absolutely not. He was very senior. He was very successful. He was highly respected. An award in his name was created after this happened, you may know that, that they give out annually to someone who's a really good team player, zero risk of him losing his job.

In this session, he said something like that to Sydney Reed, Mrs. Reed, or she thought he did. She thought -- if you heard videotape of her yesterday, it might have been in there, some fear of losing his job. To whatever degree he was afraid of that, it was completely irrational and just the kind of distorted, irrational thinking that happens to people when they're taking this nosedive.

Q. Let's focus on the next thing you have highlighted here that says, "Disconnected from his wife." This is from Sydney Reed's testimony or notes, I see.
A. Right, so --
Q. So, please correlate that for -- into your opinions in this case.
A. Well, there's another place, I don't know if we highlighted it, where she says, you know, that was a complete

misperception. He was very close to his wife. She had described the wife as a cheerleader for him a couple of years before. He had seen Dr. Sahlstrom a couple of weeks before that first visit. She had documented that their relationship was terrific.

When people are in this nosedive -- and I've interviewed people who survived it after serious suicide attempts -- they feel very alienated. They don't understand what's happening to them.

So, again, I think this is an important piece of information, but I agree with Sydney -- with Mrs. Reed that he wasn't really disconnected from her. To the degree that he felt that way, it would have been more of the distorted thinking.

Q. Ready to move on to the next page then?

A. Yes, sir.

Q. All right. We're going to page 8 of 14 of this exhibit, and please walk us through this.

A. So, I think the top one is her saying that was a misperception. He was very close to her. He was very connected. She had been a tremendous support.

Q. She being Mrs. Dolin?

A. Mrs. Dolin.

Q. Do you recall from the evidence how long they'd been together as a couple?

A. Well, I know it was decades, and multiple -- multiple depositions of people saying they had a great marriage.
Q. Okay. Let's go on to next highlighting then.
A. So, this is another important point. Mrs. Reed, who knew him very well because she had treated him for over a year in 2007-2008, said that he didn't sit still in the meeting, that he was a little bit more agitated, that he didn't calm down in the way that he usually does.

Now, because agitation is -- can be an important sign of all of this, she was asked a lot of questions, like, "Was he pacing? No. Did he get up in the middle of the session? No." And then she was offered, "Was he shifting in his chair?" And she said, "I think that would come the closest to it."

But this is documentation -- this is evidence in her deposition that he was agitated.
Q. All right. Going on, then, to the next page, 9 of 14, this one starts out with reference to Mike LoVallo. Please walk us through what you've selected with his testimony.
A. So, we've just talked about the appointment with Mrs. Reed on Wednesday night. The next day is the day that he will die. On Thursday morning, I'm pretty sure that's the morning that he worked out. So, again, it does not appear that he was planning to kill himself, or why would he work out?

He had a meeting for 45 minutes on the Thursday

morning with the gentleman who runs the law firm, and his name is Mike LoVallo. And these are quotes from his deposition talking about how Stewart was in their meeting that morning. And you can see that he's saying that Stewart was having some difficulty sorting out fairly routine legal matters.

So now we're talking about really serious difficulties functioning, a very dramatic change, something that had never happened before. He described him as uneasy. He said that the issues with the Miniat family meeting on Friday were really sort of a much-ado-about-nothing situation. It was the kind of thing he'd seen many, many times before, but he was having trouble sorting it out intellectually.

He couldn't think straight, very basic stuff, Thursday morning in particular, only that week. And he was on Paxil that entire week, Monday through Thursday. Not thinking as clearly. Again, fairly simple, straightforward, almost common technique, and he was having trouble sorting things out logically. It was a pretty simple, routine matter, and his concentration didn't seem to be what it would be normally.

And again, we looked at over a decade of treatment during which there was nothing like this. This is something dramatically different in the six days that he's on Paxil -- on paroxetine.

Q. Do you have an opinion, based on a reasonable degree of medical and scientific certainty, about whether these dramatic

changes that you have described were causally related to the paroxetine?
A. I do.
Q. What is that opinion?
A. Yes. They're classic. They're absolutely classic in a case like this.
Q. Let's go forward, then, to page 10 of 14, and please explain to us what you've highlighted there.
A. So, this was more of the same, just the way he was not able to process things in the way that he normally would. And again, he gets asked very specific questions, as did his client, Susan Miniat. "You felt you had the conversation for the first time, and then you had it again? Yeah." In other words, these were things that they had gone over earlier in the week. "Going over the same thing? Yeah. You discussed previously? Yes. And he was having difficulty with it."
Q. Now, what's the next thing that you've chosen to highlight?
A. So, one of the things that happened was that Mr. Dolin asked Mr. LoVallo if he would come to the meeting on the Friday. And Mr. LoVallo just thought, well, that would be overkill. That would be making a much bigger deal of this cousin who can be difficult. I mean, it's a routine, simple matter.
So, this is more evidence that Mr. Dolin, just as

Mr. LoVallo is saying, is feeling like he can't function, and he would need Mr. LoVallo to come with him to the meeting. And that they decided -- Mr. LoVallo said, "Oh, that can't be necessary. We don't want to give it that much attention," and they agreed no.

Q. Moving forward, then, to the next page, 11 of 14, what do you have here?

A. So, this is just to let you know, that meeting did not take place on the Friday when Stewart died, as I recall; but he did say that a month later, it went forward, and it was no problem. The difficulty with the cousin didn't in any way get in the way of the vote that the rest of the family wanted to have.

Q. Moving forward, then, to page 12 of 14, please tell us what you have here.

A. So now we're on -- we're in Thursday morning. He had that 45-minute meeting with Mr. LoVallo. He talked to the gentleman -- there was a gentleman who had been appointed to co-lead that group of lawyers across the country. There had been a co-leader when he was first appointed back in '07, '08. Then he'd been doing it on his own. There was now someone helping. They had several conversations. That person said he didn't notice anything. His secretary said she didn't notice anything.

But now we have Mrs. Reed so concerned about what she

had seen the night before that she actually called him at work on Thursday morning. And she testified, "I had never called him at work before." So, again, evidence of a very dramatic change.

And she explained that in a little more detail, that she was very uneasy about what was going on with him. "I called him at his office. I'd just like you to think about calling your doctor and getting on a different medication, an anti-anxiety medication."

So, there's a couple of important things about that quote.

Q. What's that?

A. So, you see, she's still not worried about him killing himself. She didn't call because she thought he was at risk to kill himself. She's worried that he's so anxious, that he's so much more anxious than usual. And she's saying, "You know, why don't you call your doctor and get an anti-anxiety medication," which Stewart, in the condition he was in, was in no condition to do that.

MR. DAVIS: Objection, your Honor. That's just pure speculation.

MR. RAPOPORT: He's talking about his psychological condition.

THE COURT: Yes, you may proceed.

BY THE WITNESS:

A. And secondly, an anti-anxiety agent in these circumstances can actually be dangerous. They're Valium-type drugs. They can have what's called disinhibiting effects, so if you have urges to do something dangerous, they can make it easier for you to do it, like a drink of alcohol or something.

So, this was a very reasonable thing for her to think of, not understanding the full picture. But I just want to put that context around it.

BY MR. RAPOPORT:

Q. Okay. And then there are a couple of other things you've highlighted down toward the bottom. What are those about?

A. So, she was asked how long she had been a practicing social worker, and she said 36 years. And she was asked, "How often have you advised a patient that they should talk to their doctor about changing their medication like that?" And she said once in her career. And she was asked on the next page, "When was that?" And she said, "Stewart Dolin."

So, again, this is something incredibly out of the ordinary.

Q. What do you make of that? What difference does that make?

A. We're -- as part of this, we're looking at: Is this his normal anxiety and depression? I don't -- my answer is no. Is this him plummeting on the drug, and if so, what's really new, really different, really dramatic?

One of it is that his therapist, who never called him

at work before, did; and that she'd never, ever before advised a patient to get a different medication or talk to his doctor about that.

Q. What else have you chosen to highlight from her testimony?

A. So, I think she -- it was just more of the same, that this was very different; that she'd never seen this before; that she'd never advised him before to call his doctor; that she'd never given him advice of any kind about medication before.

Q. And this sort of thing at the bottom is just sort of giving the bearings so that anybody who wants to see the testimony you've highlighted could?

A. Those are the pages of the depositions.

Q. Finally, we have the last page of this exhibit. Please tell us about what we're looking at here.

A. So, Bari Dolin is his daughter, one of two children, a daughter and a son. And she also happened to speak with him by phone. I think she -- she lives in New York, I believe, so this was a long-distance phone call -- no, she was living in Chicago at the time, and they had a routine. He would often call her and say, "Hey, you want to go work out together?" And they liked to do the exercise bike together. And she said that it was usually him initiating it, and he was always very excited to do that with his daughter.

So, she says of this brief conversation that he sounded a little weird, that she brought up with him, "Should

we go to the gym and work out?" And his answer was, "I don't know. I'm not sure. Maybe." And she said, "It was so weird because he was always excited when I wanted to work out together." And she was asked, "So that was unusual?" And she said, "Very unusual."

Q. All right. So, we've completed reviewing that exhibit. My next question is: Is this a reasonable time to go forward to your diagnostic differential that you described initially?

A. I'd like to talk briefly about the circumstances of the death.

Q. Okay. Please. Please do.

A. So, you probably know that after all of these -- after the meeting with Mr. LoVallo, the conversation with the therapist, Mrs. Reed, the other conversations that we've touched on briefly, he went to lunch with a gentleman who didn't notice anything wrong and was very, very shocked.

He -- at some point after the lunch, approximately within a half an hour or an hour, he left the building; and he was observed by a nurse, who has testified in the case, at the subway station where he died pacing like a polar bear. So, one more person observing him very agitated, looking so unusual.

This guy testified that he's kind of interested in people, and he'll look at people who are doing unusual things, but this was very unusual. And this gentleman observed him

dive, like Superman, in front of the train.

The train conductor was very, very upset, obviously, brought the train to a halt as quickly as he could; but Mr. Dolin was trapped underneath several cars and did not survive.

So, in my opinion, it's somewhere in that half hour to an hour that the flipped -- the switch flipped, and he just -- this is what happens. You see this run-up, and then you see a suicide attempt. In this case, it's a completed suicide.

Q. Have you seen any evidence that addresses whether Mr. Dolin had any paroxetine in his blood found after he was gone?

A. Yes.

Q. What does that evidence tell us?

A. So, there is an autopsy report, and he had multiple traumas, multiple broken bones. He would have had massive bleeding. When you have that kind of trauma and bleeding, you get all sorts of fluid shifts between the blood and the other fluids in the body.

He was taken -- physically taken to the hospital and then to the morgue; and the next day after he'd been dead for a day, it wasn't possible to take blood from a vein because he had bled out, or an artery because he -- so much trauma. But they were able to take some blood from the chest cavity where

the lungs are, but that would have been all mixed in with other body fluids because of the trauma and because it's not in the intact bloodstream anymore.

That sample -- so, he died in July. In early November, that blood sample was sent to a laboratory to be tested to see if there was evidence of paroxetine in his blood, and there was. It tested positive. It tested negative for alcohol, negative for Valium-type drugs, but it tested positive for paroxetine.

Now, the level was low, which is not a surprise, because it did -- it was low relative to what you would get if the person was still living and you could take a blood sample from their bloodstream; but because it was cavity blood, because it had sat around for months, which can also cause the paroxetine to degrade, the level was low.

But the remarkable thing is that it was still there, and it's so helpful to us to know that he had taken it and that it was in his blood system at the time that he died.

Q. All right. We have marked as Plaintiff's Exhibits 31 and 32 the toxicology reports that you've just referred to.

MR. RAPOPORT: And at this time, I would move to admit into evidence Plaintiff's 31 and 32.

MR. DAVIS: The toxicology report? No objection.

THE COURT: It may be received.

MR. RAPOPORT: Thank you.

(Said exhibits admitted in evidence.)
BY MR. RAPOPORT:
Q. Let's just go through these briefly. I will get them up on display. And what I'd like you to do is just take us through in plain English. First of all, this first one we're looking at, where it says, "Results of Toxicology," makes clear that it is Mr. Dolin's toxicology; and then it says three things that were tested were negative.

The easy one, I think everybody would recognize. Ethanol would be where you would see evidence if somebody had been drinking alcohol?
A. Correct.
Q. But tell us about the other two. Opiates is probably second easiest. What are opiates?
A. So, opiates are -- you know, we know sadly so many people are addicted to opiates now, pain medicines or things like Oxycontin or heroin. So, there's nothing like that in his blood.

And I'm just noticing actually, this says report date 7-30, so these three things must have been tested a couple of weeks after his death. But then we'll look at the paroxetine level.
Q. Yeah, we'll do that one next. Before we leave here --
A. The benzos? So, that's the Valium-type drug, so anti-anxiety medication, so Valium, Librium, Ativan, things

like that. And again, he had nothing in his system.

These are important when we go back to that list of possible causes. Like was alcohol one of them? This tells us no. Was drug abuse one of them? This tells us no.

Q. Thank you. Then let's go on. I'm going to display 32 and bring it up so it's readable. And then if you would, please walk us through the information in this -- I notice that it's page 2 of 2. Let me get to page 1 of 2 first.

Okay. What are we looking at here?

A. So, you can see here the report date is 11-3, 2010, so this is months later that the sample was sent specifically for paroxetine testing.

Q. All right. And what --

A. And you can see the level here, "paroxetine 4.5," and you can see it's cavity blood. It's not arterial blood.

Q. Okay. Is there anything else of significance then on the page that we're looking at?

A. Is there anything down on the bottom?

Q. Let me make sure.

A. Yeah, the specimen was received on 11-1. So, it had sat for, August, September, October, three-and-a-half months. And part of the issue here and why the level might be lower than you would expect in arterial blood, in addition to the trauma and the fluid shifts and diluting it in other fluids, is that there are certain preservatives that need to be put in if

you're going to test for something like paroxetine. There's refrigeration issues. And if anything goes wrong in those three-and-a-half months for a couple of hours, it, too, could be responsible for the level being low.

But as I say, the remarkable thing is that it has survived at all. And it's so helpful to us as evidence that at the time of his death, paroxetine was in his system.

Q. Do you have an opinion, based on a reasonable degree of medical and scientific certainty, about whether the results that we're looking at, under the circumstances that they were taken, are consistent with Mr. Dolin being on paroxetine at the dosage that was prescribed to him for a number of days before his death?

MR. DAVIS: I don't believe there's any foundation laid for that testimony, your Honor, or in terms of Dr. Glenmullen's expertise in that area.

THE COURT: You may answer. You may take it up on cross-examination.

BY THE WITNESS:

A. I do have an opinion.

BY MR. RAPOPORT:

Q. What is that opinion?

A. That this is very consistent. We saw -- we have pharmacy records that he filled the prescription. We have a medical record telling us the date that he started it. We know that

he's a responsible person who followed doctor's orders. And this, if you like, is sort of the capstone. It's the proof that he was taking it.

Q. All right. Let's go on to page No. 2, then, and have you point out anything else of any significance that you feel would be helpful to the jury in figuring this case out.

A. Well, let's just look. The steady state levels -- if you highlight 20 milligrams a day --

Q. I will do so.

A. Just the 20.

Q. Okay.

A. So, again, if you are able to take a blood sample from a living person's intact cardiovascular system and if they were taking 20 milligrams -- and he was taking only half of that -- you'd expect the results to be somewhere between 23 and 75, with a mean, which is a kind of average, of around 49.

And we saw that the level that came out for him was much, much lower, but I've explained to you why that would be the case.

Q. One follow-up question to make sure I get it. Are you saying if we were looking -- if 10 was on there, that it would be half of the 23 to 75?

A. Approximately. It would depend on the testing. I'm not certain exactly what it would be, but it would certainly be lower.

Q. All right. We had a 4-1/2 here or something?
A. We had a 4-1/2.
Q. Okay. Anything else on this page that points out something new that we haven't already gone over?
A. I don't think so.
Q. All right. So, do you have an opinion, based on a reasonable degree of medical and scientific certainty, about the significance, from a probability perspective, of that pacing like a polar bear that was witnessed by Mr. Pecoraro?
A. You mean what its importance is?
Q. Yes.
A. Yes.
Q. What is that?
A. That it's very important. That we looked at one of the side effects that can be a precursor to people becoming suicidal is agitation, and that can range anywhere from just inner, subjective agitation, to additional observable agitation, which can range from anywhere like fairly subtle foot-tapping that a lot of people might not notice, to having difficulty sitting still, to actually pacing.

And we see that at the time when the switch was flipped for Mr. Dolin, he was pacing like a caged polar bear.
Q. All right. Is now an appropriate time, then, to move forward to the differential?
A. Sure.

Q. I want to put back up the exhibit you showed earlier today, Plaintiff's 52, describing the differential diagnosis process. So, you touched upon it already, I think, but remind us just briefly, what is a differential diagnosis?
A. So, this is the template that I or your doctor if they were seeing you would have in their head. What are all the things I'm going to consider as the possible causes for a medical condition, in this case, the medical condition being the suicide? It's kind of a post-mortem diagnosis, so to speak.
Q. All right. Have you considered in your analysis of this case the first item on your list, depression, as the cause of Mr. Dolin's death?
A. I have.
Q. And what is your opinion upon that question?
A. So, in my opinion, his depression is not responsible for his death. We have a great deal of information about what his depressions looked like. They were mild to moderate. There was no history of suicidal plans, suicidal attempts, hospitalizations, no history of difficulty functioning. Fairly routine therapy or group therapy had been able to treat them.

There's nothing -- I want to make it clear that if he had a very different history -- let's say we looked at that timeline, and every time he got depressed, he made a suicide

attempt, then I couldn't sit here and tell you that when that happened in July, it was the drug.

So, again, it's like there's this background of years of information that we have that his depression did not do this. Something very different happened in July of 2010.

Q. And the next item on there is anxiety. Do you have an opinion -- all of these will be based on a reasonable degree of certainty. I won't keep saying it.

Do you have an opinion about whether anxiety accounted for why Mr. Dolin and the train collided on July 15th of '10?

A. I do.

Q. What is that opinion?

A. That his anxiety, for pretty much the same reasons, was not responsible. If Mr. Dolin was here and none of this had happened, we know from the records that he tended to tell caregivers that he had anxiety. That's how he would label it. He had a mixture of anxiety and some symptoms of depression.

But like the symptoms of depression, we have years' worth of information about what his anxiety looked like; and it had never made him make a suicide attempt, be hospitalized, not be able to function. It had never had this dramatic, over the cliff, downhill course.

So, to a reasonable degree of medical certainty, his anxiety was not responsible for this. His -- Mrs. Reed said,

"It's the same anxieties, work stress and family. I expect him to get better." And I would, too. But he didn't. He plummeted. And I don't think his anxiety can account for that.

Q. Is it a reasonable thing to do to scratch depression and anxiety out of the differential diagnosis as having been ruled out?

A. Sure.

Q. And would it be reasonable for us to skip Paxil and come back to it after we go through the rest of the list?

A. Fair.

Q. Okay. I've gone ahead in my very bad handwriting and scratched them out, but is that a fair reflection of what we've done so far?

A. Yes.

Q. Okay. Let's go on, then, to work-related stress. Is it your belief that it was work-related stress that resulted in Mr. Dolin's death?

A. No, sir.

Q. Why not?

A. So, again, we have a great deal of information in this case. We know that in 2007 and 2008, when he got into treatment with Mrs. Reed, he was under a great deal of stress with his law firm moving -- merging with an international law firm and him taking on a much bigger job. And that stress

never caused him to make a suicide attempt, never caused him to be hospitalized, never caused him to have difficulty functioning, never caused him to have distorted thinking of this -- to the degree that he did then.

So, of course, I wanted to consider that; and we're very fortunate to have all of this information, those detailed records from his therapist and her testimony in 2007 and 2008, that under a great deal of distress, with family concerns. His mother-in-law and father-in-law had moved back from Florida because of their deteriorating health and because they needed some help financially. Nothing like this had happened to him.

So, in my opinion, based on that history and what we know from his client and from his law partner who ran the firm, who said, "This was business as usual. Sure, it was stressful, but lawyers in jobs like his have this kind of stress all the time. He was normally able to function," I do not believe that it was his work stress.

Q. Did you rule out work stress as a cause?

A. Yes. And again I'm trying to be very thorough, considering every possible angle here.

Q. Next I'm going to go ahead and present -- so that one's ruled out. The next one on the list is his father-in-law's deteriorating health. Does that explain Mr. Dolin's death?

A. In my opinion, it does not.

Q. Why not?
A. His father-in-law was 92 when they had moved back from Florida in 2007, 2008. They had lived with the Dolins for a couple of months before moving into, I think, some kind of assisted living place. And at this point in time, he had to be moved to a higher level of care separated from his wife. It was clear that he was not going to live very long.

So, sure, that was stressful; but he had been through this kind of stress before, and it had never made him make a suicide attempt, get hospitalized, not be able to function, have such distorted thinking.

Q. So, that factor was ruled out?
A. Yes, sir.
Q. All right. Let's go on to marital problems. First of all, did you find evidence of marital problems?
A. I did not.
Q. And did you rule out marital problems as a potential cause or contributing factor here?
A. Yes. Multiple people, including people like Mr. LoVallo, who worked with him and who led the firm, and many, many, many friends, and the therapist's notes, Mrs. Reed's notes that Wendy was his cheerleader, Mrs. -- Dr. Sahlstrom's notes that he had a terrific marriage. So, I think there's actually a lot of evidence that they had an excellent marriage that had lasted a long time with two great kids.

But again, I'm trying to be really thorough. I found no evidence of marital problems, anything unusual, anything that could possibly lead to this.

Q. All right. How about financial concerns?

A. In my opinion, the financial concerns are not the cause of the death, but I'd like to talk about that in a little more detail.

Q. Please do.

A. I don't know if you know that Mr. Dolin made about a million dollars a year, between a million and a-million-two. We talked a little bit about earlier that one of the stressors at this time was that he had done so much administrative work in 2009 that his billable hours, how much he was actually doing with clients, had declined.

He was told that, projecting his income into 2010, he was going to make $135,000 less. He was not happy about that. He appealed it. He lost the appeal.

But he -- by July, his decision was, "Okay. If the firm values my time with clients more than my administrative time, I'm going to reverse that balance again." And he knew that he had accomplished that.

He billed more in the first six months of 2010 than he had billed in the entire year 2009, and his bonus for that would have made up for the 135,000.

Moreover, if he was making 270,000 and his pay was

going to potentially go down by 135, that would be 50 percent, and then you would expect it to influence his lifestyle. But to go from a-million-two to a million, even if that had happened, and he already knew that it was going to be made up for, was not going to affect his lifestyle.

So -- and there were multiple people like the financial adviser and others. The Dolins were worth $3 million and had no debt. The house was paid off.

So, I went through all of that. It was very important to ask, you know, what was the role of this. But I think it's reasonable to conclude that, you know, as much money as that is, it was not going to have a big impact.

And he already knew -- he had told Mrs. Reed, you know, I'm so busy, you know, I turned it around. People testified from the firm, he turned it around. He billed more in 2000 -- half of 2010 than all of 2009. So, I do not believe that that's why he killed himself.

Q. The next thing on the list is psychotic disorder. Please explain what it is that you were thinking about in analyzing that issue.

A. So, there are certain psychotic disorders like schizophrenia that can have very dangerous psychotic episodes and someone could do something as tragic as this like jumping in front of a train, but Mr. Dolin had absolutely no history of anything like that.

His thinking got very distorted in the last few days of his life on Paxil -- I'm sorry, or paroxetine, but nothing like -- he'd never been psychotic, never diagnosed as psychotic, never diagnosed as schizophrenic or some other psychotic condition. But again, just trying to think of all the possibilities.

Q. Is that one ruled out?

A. Yes, sir.

Q. All right. Let's go on, then, to his chronic alcoholism. Did he have that?

A. He did not. He was a social drinker, and nobody reported that he'd ever had any difficulties with alcohol.

And it's very valuable to us that we have that toxicology testing that showed no alcohol in his system at the time of his death, so I was able to rule it out on that basis, that people were asked about drinking, nothing in the medical records about drinking, nothing in all of those therapy sessions about, "Oh, yeah, I have a problem drinking," zero. And then there's none in his -- he hadn't even had a drink before he did this.

Q. Let me ask a question on the topic, but slightly off to the right, which is: You know a lot about suicidality and suicidology. When somebody is consciously choosing to kill themselves, do they usually like to do it without any pain killers so it hurts as much as possible?

MR. DAVIS: Objection. Speculation, your Honor.

THE COURT: Yes, sustained.

MR. RAPOPORT: Okay.

BY MR. RAPOPORT:

Q. Let's go on, then, to the substance abuse. Wait a minute.

All right. How do people that intentionally kill themselves usually do it?

A. Well, I think the important point here about Mr. Dolin is Mr. Dolin was a very conscientious man, a planner, organized, disciplined. I -- in my opinion, if he was planning a suicide, you know, it wouldn't have just happened all of a sudden like this, something so gruesome, so painful, so frightening to other people around, no note to his family, who he loved, no kind of putting your matters in order if you were thinking of doing something like this.

So, I think this was very -- there's no evidence that Stewart was independently suicidal, meaning independent of paroxetine suicidal. And this would not be the way you would imagine Stewart Dolin would do it, hypothetically, if he ever was.

And I would like to add, this is not really suicide. This is --

Q. Please explain that.

A. This is a medication --

MR. DAVIS: Excuse me, Dr. Glenmullen.

Your Honor, I would move to strike the entire answer as purely speculative about what Stewart Dolin would or would not have done, because Dr. Glenmullen cannot get inside Mr. Dolin's head.

THE COURT: With that understanding, correct, it may stand.

MR. RAPOPORT: Thank you, your Honor.

BY MR. RAPOPORT:

Q. Please go ahead and explain this point that you were just talking about. Did I hear you right; you said it's not a suicide?

A. Correct.

Q. But he jumped in front of a train.

A. Correct. So, the definition of a suicide is that you intentionally take your life. If you are cleaning a gun and it goes off accidentally and you die, even though you died by your own hand, you didn't commit suicide. It was an accident.

And when you're in this state, you can't form the intent to kill yourself. It's a drug-induced reaction, a compulsion to kill yourself, which again, I've interviewed people who have survived these attempts.

So, I refer to them as a paroxetine-induced accident, not a suicide. It's paroxetine. It's the label that didn't warn that is the cause, not the -- not Mr. Dolin.

Q. So, the next item on the list is substance abuse. Did

Mr. Dolin have a substance abuse problem? Is there any evidence of that?

A. Zero. Again, in all of those depositions, there's lots of questions. If that had been an issue, it would have come up in the medical records with the therapist he was being so open with. Zero. And again, we have that toxicology test, no drugs on board other than paroxetine.

Q. What is the evidence -- I should have asked you with alcoholism, what is the evidence of Mr. Dolin's habits for sobriety or drinking patterns?

A. I think I said he was just a light social drinker. That's what people testified.

Q. All right. So, substance -- oops, I missed.

Substance abuse was ruled out. The next thing you have on here is character disorder. What is that?

A. So, they are another category of psychiatric diagnoses. It's kind of personality disorders or character disorders, so I just wanted them to be on the list. There being like a borderline personality disorder or a sociopath or a severe narcissistic personality disorder, which particularly like a borderline personality disorder, they can often be suicidal.

So, did Stewart have that? There's zero evidence. There's lots of evidence that he had a very outstanding character, got along really well with lots of people, very successful with his clients and his colleagues, you know, his

family, nothing in the medical record that he had a character disorder. But I did want to rule it out.

Q. All right. I just drew a line through it. So, the next and almost last -- the second-to-last item on this list, another psychiatric condition. What are you looking at there?

A. So, there again, you saw that book. It's a big book. So, you want to think about: Is there anything else? And there was nothing else in the medical records. The only discussion was about mild to moderate anxiety and depression. But thoroughness, it's an important thing to ask: Was there anything else in the medical records suggestive of? And there wasn't.

Q. So, that's ruled out?

A. That's ruled out.

Q. And finally, we have on the list, "another medication." What are we talking about there?

A. Well, since paroxetine could make him suicidal, was there any other medication in the picture? So now we're talking about prescription medications, as opposed to alcohol or drugs of abuse.

And he had taken an antibiotic from -- I think it's June 27 to July 6, something like that, which I went and looked at the information on that antibiotic; and it says that it can occasionally cause psychiatric side effects and even have people report suicidal thoughts.

But it's -- I then did a medical literature search, and there have been very isolated reports of that, nothing like the kind of evidence that I'm sure you heard with Dr. Healy about this particular drug and suicidality, nothing like a black box warning.

But again, just being thorough, he was off that drug July 6th, four days before he started the paroxetine. He hadn't reported any suicidality while he was on that drug.

So, to a reasonable degree of medical certainty, that did not make any contribution.

Q. Were you able to rule out the Levaquin -- that's the drug we're talking about?

A. Yes, the Levaquin, yes.

Q. Were you able to rule out the Levaquin as a cause or contributing factor of what happened to Mr. Dolin on July 15th of '10?

A. Yes.

Q. Was there any Levaquin found in his blood anyway?

A. No. We saw that. Good point.

Q. Okay. So, we've gone through the -- everything on the list. What is it that you forgot to put on the list? Anything?

A. No.

Q. And there's one thing left.

A. There's one thing left.

Q. Is that all we need to know?
A. Well, we should -- we should come back to the slide that we looked at at the very beginning of what the run-up to this was for him, the slide from the medication guide.
Q. Okay. I'm going to get that.

Is that -- we have two versions. The one I put up is the complete list, and then we have the other version where you apply it to his situation. Would you like the other one?
A. Yes. And remember, there's two pages, the front page and the second page, too.
Q. Front page first, then.

Is this what you're referring to?
A. Right. So, remember, this is written about children, adolescents, and young adults, but I'm using the same blueprint to think about Mr. Dolin, who was 57, because it's paroxetine in particular and all the evidence that you've heard before.

So, antidepressant medications may increase the risk of suicidal thoughts or actions within the first few months of treatment. Was this within the first few months of treatment? Yes, first six days. So, it's kind of like check that box.
Q. What about that business of first six days? Isn't that too fast for this to happen?
A. No. There are people who have this happen on the first dose.

Q. All right. Is that everything, then, for Exhibit 62? Ready to go on to the next one?
A. No, there was another highlighted piece there.
Q. Okay. That's up now.
A. So, pay close attention for any changes, especially sudden changes, in mood, behavior, thoughts, or feelings. So, the question is: Were there sudden changes in Mr. Dolin's mood, behavior, thoughts, and feelings? Check that box. We just walked through it.

This is very important when the medication is started or the dose is changed. Did it happen when it was started? Check that box yes.
Q. Now moving forward to display -- oops, it's the wrong version. Pardon.

We now have up Plaintiff's Exhibit 61, which is the list that you asked me to put up.
A. Right. So, again, just a reminder, new or worse. Some of these are going to be new; some of these are going to be worse.

Thoughts about suicide or dying. We saw that was new. He started the drug on Saturday, July 10th; and that first appears in Dr. Sahlstrom's record on Monday, July 12th, and appears again in Mrs. Reed's record on Wednesday, July 14th.

Attempts to commit suicide? Yes. Unfortunately, it

was a completed suicide.

New or worse depression? We saw that all over the medical records and all over the depositions of Mrs. Reed, his wife, his client, Susan Miniat Kolavo, his -- the gentleman who runs his law firm. So, multiple reports that he'd gotten worse.

The next one, the same thing, worse anxiety. Feeling agitated or restless. We have Mrs. Dolin saying that he was agitated and restless. We have Mrs. Reed saying that he had -- he wasn't -- didn't sit still, although it was relatively subtle, but she noticed it. And we have Mr. Pecoraro at the train station saying he was pacing like a polar bear.

Trouble sleeping is another one that was worse. He did have trouble sleeping pretty routinely all of those years. When he would get his mild to moderate anxiety and depression, he would have some trouble sleeping; but it was worse on the Paxil.

Acting on dangerous impulses, obviously, the suicide is that.

Other unusual changes in behavior or mood are very important in this case, because we heard the testimony from his therapist, Mrs. Reed, that she'd never, ever seen him like this before, which prompted her to call him at work the next morning.

We had the testimony from his client, Susan Miniat Kolavo, who said that in all the years she'd worked with him, she'd never seen him like this; and the five calls that she'd had with him that month before the paroxetine, only on the paroxetine did he have this unusual difficulty focusing and concentrating and doing basic legal things.

And last, but not least, Mr. LoVallo, the partner in the law firm, who runs the law firm, who we saw his testimony that he couldn't do basic legal functions. So, a dramatic change, unusual behavior and mood, multiple people.

Q. From a scientific standpoint, what is your level of confidence with respect to your conclusion that Mr. Dolin's was a paroxetine-induced, Paxil-label-induced death?

A. So, experts weigh -- just like doctors, put things in weighing scales. So, the requirement is that -- which way the scales tip. You know, is there some -- is it 51-49 or more? Okay? In this case, I'm 100 percent certain.

This is a classic case. This is a textbook case. I've evaluated a lot of cases. I've said of a number of them, many of them, no, you can't conclude that that was the medication. I'm 100 percent certain about this one.

Q. Mr. Dolin dove like -- or jumped or dove like Superman in front of the Blue Line subway train around here. Are you saying this is not his fault even a little?

A. No, it's not his fault.

Q. Why?
A. So, this is very important. If you warn a patient, if you say to a patient, "Okay. You've got mild to moderate depression. I'm going to put you on an antidepressant, but I just want you to know that in some cases, thank God it's not very common, but in some cases, people paradoxically get worse, and they can actually become suicidal. And I want you to know that because if that happens to you, I want you to know that it might -- it could be the drug, which you think is going to help, rather than your underlying condition."

That way, as a person starts to go through this, they have that perspective; and they have that understanding, "Hey, maybe this isn't my depression and anxiety. Maybe this isn't going to go the way it's always gone in the past. Maybe this is the drug. I've got to call the doctor. I've got to do something. He said we would take me off of this."

Mr. Dolin did not have the advantage of that, so he had no way of knowing that his deterioration was not his own condition. He had no way of knowing how dangerous it was to be walking around continuing to take this drug, that the switch could get flipped, and he'd dive in front of a train.

I don't consider -- zero responsibility.

Q. Well, Mrs. Dolin's a social worker. Isn't this her fault?
A. Oh, absolutely not.
Q. Why not?

A. Because again, the 2010 label, you know that means the prescribing information, from GlaxoSmithKline said this does not happen to people over 24. Dr. Sachman said --

MR. DAVIS: Objection, your Honor. That's hearsay. The jury's heard from Dr. Sachman and Dr. Sachman's views, and whatever Dr. Glenmullen is going to say is not in evidence.

THE COURT: Overruled.

BY THE WITNESS:

A. Dr. Sachman said that if he'd known -- and of course he couldn't; it wasn't in the 2010 label -- he wouldn't have prescribed the drug, so then this wouldn't have happened to Stewart.

So, in my opinion, but for Paxil, but for paroxetine, he would still be alive; and he has zero responsibility. His wife has zero responsibility, because how could they have recognized things that they weren't told about?

BY MR. RAPOPORT:

Q. Well, Dr. Sahlstrom and social worker Reed and Dr. Sachman all weren't talking to one another. It's a disaster of communication. Isn't it their fault?

A. Absolutely not.

MR. DAVIS: Your Honor, I think we're beyond issues and now into issues the jury must decide about --

THE COURT: Sustained.

MR. DAVIS: Thank you.

BY MR. RAPOPORT:
Q. Thank you. All right. I have -- you mentioned this book, and we've had it here. You talked about one section of it. Are there any other sections of either this book or its cousin, the *DSM V*, that are pertinent to your analysis that you haven't yet discussed yet?
A. We could perhaps look at the definition of akathisia if you think that would be helpful.
Q. Okay. Let's do so. And that comes out of *DSM V*, is that right?
A. Right.
Q. Could you explain what this IV and V are all about while I get it?
A. So, I think you've -- oh, IV and V. So, the diagnostic manual has gone through several editions. It's now in its fifth. So, the edition that was in place in 2010 when he was in treatment was the *DSM IV TR*, TR standing for text revision, just small revisions to the *IV*. And now we're into the *V*.
BY MR. RAPOPORT:
Q. You think we're into the *V*, but that depends on my finding it. Here we go.
THE COURT: I think, Mr. Rapoport, we'll take our break now, and ladies and gentlemen, you may step out.
MR. RAPOPORT: Thanks, your Honor.
(Jury exits courtroom.)

[redacted]

[redacted]

(Recess had.)

(Change of reporters -- Volume 9-C.)

(Proceedings heard in open court. Jury out.)

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

(Proceedings heard in open court. Jury in.)

THE COURT: Thank you very much, ladies and gentlemen. Please be seated. And we will resume.

You may proceed, sir.

BY MR. RAPOPORT:

Q. All right. Before the break, we were starting to discuss akathisia --

A. Yes.

Q. -- and this big book that I have on the desk here we've marked as Plaintiff's Exhibit 323 from the *Diagnostic and Statistical Manual for Mental Disorders* the portion that includes the discussion of akathisia.

MR. RAPOPORT: I would like at this time, your Honor, to move to display the akathisia definition from this book to the jury and have the witness discuss it.

THE COURT: You may proceed.

MR. RAPOPORT: Thank you.

BY MR. RAPOPORT:

Q. Just as a little bit of background, the DSM-5, we talked about the DSM-4-TR before. This is DSM-5. You briefly discussed it. But what's this book used for in the real world?

A. Diagnosis in psychiatry and all of mental health, so social workers and psychologists use it, too.

Q. All right. Please walk us through the portion that you've had us highlight here. Did I get the right portion?

A. Right. So this was mentioned in the 4-TR as a possible new diagnosis that would get an actual code. It's in the 5 that it becomes a formal diagnosis, and it gets this

five-digit code which just to explain why we're showing you the 5 instead of the 4-TR. And you can see it's medication-induced. In this case, it would be paroxetine. And we'll go back and look at the list of all the precursor side effects. This is just one, but it might be one that was less familiar.

And the definition of it in the official book is subjective complaints of restlessness -- that means the inner emotional state -- often, but not always, accompanied by observable movements which can range, in parenthesis, from fidgeting all the way up to rocking your foot, pacing, unable to sit still developing within weeks, days or weeks meaning early on after the drug is stopped -- started or the dose is changed either up or down.

I think that's the important parts for us. And in terms of Mr. Dolin, we saw that there were people who he interacted with in the last six days of his life who didn't notice anything like this. Maybe there was nothing. Maybe there was a little bit of fidgeting that nobody would notice.

And we saw other people who did say he was more restless, he had difficulty sitting still, he was pacing like a caged polar bear. It can wax and wane, this particular side effect, and it can have a kind of cascade effect. It's extremely uncomfortable, that inner agitation. And it can worsen anxiety. It can worsen depression. It can worsen

sleep. So it sometimes can be used almost as an abbreviation for some of those other -- in the list, which we can go back and look at now.

Q. Okay. And just before we do, I want to zero in on one word that I circled there, "subjective."

A. Right.

Q. And I want to talk for a minute about medicine overall, this business of subjective and objective. That's standard charting for trained medical professionals, isn't it?

A. Well, this is very, very important in terms of this side effect. So there's two parts. One is the inner, what's going on in someone's head and not observable. Okay. And that's actually the more dangerous part of it, that inner agitation. And then there may or may not, as it says here, often but not necessarily accompanied by objective visible restlessness which again can range from a little fidgetiness to pacing and not being able to sit still.

So that subjective quality, that inner -- those two parts, that inner agitation which is the more dangerous part and the outer visible restlessness which may or may not be present are the two pieces of this.

Q. When you refer to "inner" and "outer," are you talking about whether an outsider can see it or not?

A. Precisely. The inner subjective part is what the person is experiencing and might tell a therapist, you know. "I'm

really agitated. I'm really distressed." But you wouldn't necessarily be able to see it. The outer objective part, if it's present, somebody might be able to see, maybe not if it's just a little fidgetiness and they weren't looking for it, but by the time it's pacing, they would notice.

Q. Within the definition of akathisia within your community of psychiatrists -- that's who uses this, right?

A. Oh, yeah. This -- now, it's very important, this book is published by the American Psychiatric Association. It says in the early material that it's a consensus, meaning this is what the field agrees upon, and that it's based on science. It's based on medical literature. So yes, this is the official definition of it.

Q. Is this the diagnosis book that psychiatrists are using rather than general practitioners or social workers or --

A. No.

Q. -- a GP --

A. Everyone in mental health would use it.

Q. Everyone in mental health?

A. Yes.

Q. But general practitioners are not regularly using it?

A. No, that is a good point. General practitioners would be much less familiar with this.

Q. Now, within this definition that we're looking at --

A. Well, actually, and let me just say, because this is a

medication side effect, so would social workers and psychologists. They're not prescribing medication, so they wouldn't necessarily know as much about this as psychiatrists.
Q. Okay. Within this definition, do I understand you correctly that it does not require an outer manifestation that anyone else can observe in order to meet the definition of akathisia?
A. Correct. That's the word "often," meaning often but not necessarily.
Q. Do you have an opinion based on a reasonable degree of medical and scientific certainty about whether Stewart Dolin suffered from medication-induced acute akathisia as described in the exhibit that we have in front of the jury today?
A. I do have an opinion.
Q. What is that opinion?
A. That he did suffer from it, that it waxed and waned, means come and go, you know, more worse, up and down, but that it was only one of the precursor side effects that he had. He had a number of them.
MR. DAVIS: Your Honor, I believe this is related to the issues we took up with your Honor this morning, and I would move to strike that comment by Dr. Glenmullen.
THE COURT: It may stand. Proceed.
BY MR. RAPOPORT:
Q. All right. So is there anything else then about this

definition that we haven't discussed already that's pertinent to the folks figuring this case out?
A. Just to perhaps look at the list of all the side effects that includes this word --
Q. Okay.
A. -- in the label.
Q. So let me return to that. Are you looking for the one then that is from the med guide or the other one?
A. The other one.
Q. I'll get that in a moment.
A. The highlighted version if you have it.
Q. Yes.
A. The one with Stewart.
Q. Here it comes. This is Exhibit 59.
A. I think we have one that -- do we have one that's highlighted for Stewart's?
Q. Oh, forgive me. I thought this was that. Let me --
A. We may not.
Q. No, we do.
A. Okay.
Q. I just picked the wrong one. Forgive me. Now you have it. It's Plaintiff's Exhibit 60.
A. Right. So this was one of the lists we looked at earlier. He had worse anxiety. He had agitation. He had insomnia. We've skipped panic attacks, irritability, hostility,

aggressiveness, impulsivity. And there's that word "akathisia" in the middle of the paragraph with a parenthesis, psychomotor, meaning in your head and as we looked at the definition, maybe motoric, you could see the restlessness. Hypomania and mania, unusual changes in behavior, worsening of depression, suicidal ideation.

So that's the whole list, and this is one of them. What's highlighted here is what Stewart had happen: The anxiety, the agitation, the insomnia, the akathisia, the changes, unusual changes in behavior, worsening depression, suicidal thoughts especially early on.

So because it's a technical medical term, it's useful to just review it with you so you understand and then to realize it's just one of a number and just one of a number that he suffered.

Q. All right. Thank you, Doctor. I want to come to another topic that we touched upon much earlier but I want to return to about Mr. Dolin's previous use of Paxil before he started taking it on or around July 10th of 2010.

MR. DAVIS: Your Honor, if Mr. Rapoport can rephrase the question. He's mentioning Paxil as opposed to paroxetine.

THE COURT: Proceed.

BY MR. RAPOPORT:

Q. Thank you. So Exhibit 69 is coming up. This has been seen by the jury before during Dr. Sachman's testimony as a

summary of the prescriptions that were in the record from the drugstore. But you mentioned, and we have at the top here a prescription for Paxil listed, but then earlier you mentioned that in 2003, there was a reference in another medical record that he might have been on 10 milligrams of Paxil earlier than this --

A. Correct.

Q. -- correct?

And so one of the things I want to do is to try to write in that -- did you say that was 2003 when you testified to that before?

A. 2003.

Q. So this, I'm not going to be able to successfully write it, but we'll just move forward from that.

So there were two other times in his life when he had had some Paxil apparently?

A. Correct.

Q. One that we know a lot about in terms of details.

A. Yes.

Q. And the other that we really just have an indirect reference in a record but other records have been located.

A. Correct.

Q. Okay. So what is the significance, if any, of the fact that he had been on Paxil as shown in Exhibit 69 and also as referenced by you on those other occasions?

A. Well, I think we talked a little bit about this, but it's a good thing to come back to. He had had prior exposures to Paxil, and he had had prior exposures to Zoloft that as far as we know did not provoke certainly a reaction this bad. We know that the Zoloft he took in 2007, and when the dose was increased to 100, and he was seeing a therapist regularly, coincident with that was that suicidal thoughts that we saw.

Whether or not in the prior exposures he had not as severe reaction and then habituated to it and was okay, we don't know. But we do know that by 2008 when he was exposed to a higher dose of Zoloft, he had a milder version of this reaction and then habituated and was okay. That's the six weeks between the increased dose and this. We know that in 2010 that prescription for Zoloft for 2 -- only 25 milligrams, he had such a bad reaction, he went off of after a few days. And then we know what happened on the third exposure to Paxil.

So I have seen this with other patients where they are put on a drug and they don't have the reaction and then years later, they're put on it and they do. And it's very understandable that as people's physiology changes, as they age -- you know, this has not been adequately studied by the pharmaceutical companies to understand better why a later exposure would provoke a much bigger reaction, but it's an important point to go over.

But really, especially since we have the evidence

from the Zoloft in 2008 at a much lower dose -- sorry, the Zoloft in 2008 to the increasing dose and again in 2010 to a much lower dose, it's very consistent with, he was aging. His physiology was changing. He was much more vulnerable to this reaction.

Q. Coming to the question about your fundamental opinions that have been expressed here today, when we factor in these other medications, Paxil itself, as you mentioned, and the Zoloft, we factor in that and what you've just said, please explain to folks on the bottom line whether that information enhances your opinions that this is Paxil-induced, takes away from it, or it just doesn't matter.

A. Oh, it enhances it.

Q. All right.

A. Mrs. Dolin testified that every time he went on one of these medications, his sleep got worse. That's one of those side effects that we saw. We know from the records that in 2008 when the dose was increased, he had suicidal thoughts. So that's more evidence that he's sensitive to this group of side effects.

We know that by 2010, he can't tolerate 25 milligrams of Zoloft. We don't know the details, but he had such a bad reaction, he went off in a matter of days. So it's actually part of a pattern and helpful.

Q. Final topic. I want to return to your testimony earlier

about your opinion that it was the Paxil label that caused Mr. Dolin's death. Could you please explain that opinion in more detail?

A. Well, let's look at the black box. I think that would help.

Q. Okay. There it is.

A. Okay. So --

Q. For the record, just so it's clear, I've got Plaintiff's 64 up.

A. So the crucial piece we want to look at is the full sentences in the middle, so short-term studies -- we have talked about the black box is about children, adolescents, and young adults, that there's an increased risk. And then there's explicit language that short-term studies did not show an increase in the risk of suicidality with antidepressants compared to sugar pills in adults beyond age 24. That is Stewart Dolin's territory. He's 57.

There was a reduction in risk with antidepressants compared to placebo in adults aged 65 and older. And then this next important sentence is crucial: "Depression and certain other psychiatric disorders are themselves associated with increases in risk of suicide."

So what that tells me as a practicing psychiatrist is that if I'm treating a 57-year-old patient and I put them on Paxil, Paxil couldn't make them worse. Paxil couldn't make them suicidal. It would be, and it says explicitly, their

depression or other psychiatric condition.

So then all of the things that we looked at on those lists for kids about worse depression, worse anxiety, worse sleep, this overall black box is telling me, in an adult, that couldn't be Paxil. That couldn't be paroxetine. It has to be the psychiatric condition. That's really bad because you don't -- the doctor is not warned. The doctor can't warn the patient.

And here's another dimension to it. If the patient gets worse and it might be the drug, what do you do? You take them off the drug to see. If they get worse and it couldn't be the drug but it's the depression, what do you do? You increase the drug, which is going to worsen the risk. So it's very dangerous. And that's why, in my opinion, it's really this lack of a warning that's responsible for his death.

MR. RAPOPORT: Thank you, Doctor. I don't have any further questions.

THE COURT: All right. Cross-examination.

MR. DAVIS: Thank you. Give me a little -- a few minutes to get organized, your Honor.

THE COURT: Sure.

(Pause.)

MR. DAVIS: May I approach the witness, your Honor?

THE COURT: Sure.

THE WITNESS: Thank you.

MR. DAVIS: There you go.

(Pause.)

MR. DAVIS: Your Honor, may I approach?

Do you have it?

MR. WISNER: I have the exhibits. I think there are some transcripts.

MR. DAVIS: Dr. Glenmullen, you have Volume 1 of testimony, right?

THE WITNESS: It's -- I believe so.

MR. DAVIS: Okay. I think --

THE WITNESS: Yes.

MR. DAVIS: -- that should be what we need to kind of get started here.

And Ms. Hogan, when you finish, can you bring up Volume 2 and distribute it to counsel?

MR. RAPOPORT: Actually, we already have Volume 2.

MR. DAVIS: They need Volume 1. I apologize.

CROSS-EXAMINATION

BY MR. DAVIS:

Q. Your Honor, ladies and gentlemen of the jury, counsel, Dr. Glenmullen, good afternoon.

A. Good afternoon.

Q. I'm Todd Davis. You and I met at your deposition?

A. Correct.

Q. Doctor, it's my opportunity to ask you questions about

your opinions in the case. And I want to start off by talking a little bit about your time at Harvard since that was mentioned to the jury as far as your qualifications and background.

Up until March of 2008, you worked part-time in the Harvard law school clinic attending to law students who had various psychological -- psychiatric problems, right?

A. Students, staff, and faculty. And it was not limited to law school students. It was -- the law school is adjacent to the undergraduate college or the graduate school, so I saw people from all over the university.

Q. But what -- it was a half, what you call a half-time job basically because it was two days a week, right?

A. No, sir. It was five days a week.

Q. Okay.

A. It was a half-time job because it was 20 hours, and about 15 of that was seeing patients and the rest was paperwork, but many years, I was there five days a week.

Q. All right. Will you please turn to Tab 9 in your testimony notebook and go to Page 16?

MR. WISNER: Mr. Davis, we need it before you do this.

THE WITNESS: I'm not sure which -- you said Volume 1. I have Volume 1, but it's not deposition testimony.

BY MR. DAVIS:

Q. I think I gave you Volume 1. I think it was the third

notebook that I gave you.
A. Okay. It's a different Volume 1. Which tab?
Q. It would be Tab 9 and Lines --
A. These are all my depositions?
Q. Yes. It's prior testimony you've given.
A. So it's the ninth one.
Q. Tab 9. And if you'll go to Page 16, Line 11, to Page 17, Line 13 and let me know when you've finished reading that.
A. Okay.
Q. Are you there?
A. Right.
Q. All right. You were asked this question, and did you give this answer under oath:

"As I understand it, and we talked about it before, at some point in the last year, you left your part-time position at the Harvard law school clinic, right?

"Answer: Correct."

"When did that happen?

"Answer: If my memory is correct, it's March 1, 2008."

A. Sorry. Which one are you reading?
Q. I'm on Page 16, Line 11. Are you ready?
A. Okay.
Q. Yes.

"As I understand it, and we talked about it before, at some point in the last year, you left your part-time

position at the Harvard law school clinic, right?

"Answer: Correct."

"When did" --

"Question: When did that happen?

"Answer: If my memory is correct, it's March 1, '08.

"Question: Oh.

"Answer: I kept giving you my CV.

"Question: I didn't notice.

"Answer: Our understanding is I only give you when there's a change.

"Question: And you were working three days a week at the time?

"Answer: Two.

"Question: Two?

"Answer: Two days."

And next question:

"And you've been at the clinic for approximately 20 years?

"Answer: Precisely."

Did I read that testimony under oath correct?

A. Sure.

Q. Okay.

A. It's the same thing I said today.

Q. And you've not -- excuse me. And you've not and never been --

MR. WISNER: Objection, your Honor. He cannot interrupt the witness. He's explaining that it's the same thing he testified to today.

THE COURT: There's no question pending. Go ahead.

MR. DAVIS: Thank you, Judge.

BY MR. DAVIS:

Q. You've not and never been a tenured faculty member at the Harvard Medical School, true?

A. That's correct, ladies and gentlemen. I think we told you at the beginning, I'm a lecturer in psychiatry. When I finished my training, I was offered a tenure track position, and I took it, and I was in it for many years. But I so enjoyed seeing patients that I decided I wanted to devote more time to that, so I switched into a clinical track. And we were very honest earlier today that I'm a lecturer in psychiatry.

Q. So the short answer is, yes, you've never been a tenured faculty member at Harvard Medical School, right?

A. That's right.

Q. Yes. And you were not compensated for any work you may have done in connection with the Harvard Medical School, true?

A. Totally untrue.

Q. Okay. Why don't you turn to Tab No. 20, Volume 2. Do you have Volume 2?

A. So you're going to another deposition?

Q. Yes. Do you have Volume 2? Do you have Volume 2?
A. Oh, Volume 2, the second -- there's another volume of my depositions?
Q. Here you go, Doctor.
A. Okay. Thank you.
Q. Tab 20.
A. Aye, yi, yi.
Q. Can you turn to Page 12, Line 19 through 23?
A. Page 12.
Q. 19.
A. 19.
Q. To 23.
A. This is discussing -- Tab 12, Page 12.
Q. Page 12, Line 19, it says, "Question: And the work you do at the Harvard Medical School is" --
A. No, that's not what I have. It's discussing Bradford Hill criteria.
Q. Are you behind Tab 20?
A. No. You said -- I thought you said 12.
Q. 20, Page 12. Tab 20, Page 12.
A. Page 12, Line --
Q. 19.
A. Right.
Q. "And the work" -- and did you give this testimony under oath:

"Question: And the work you do at the Harvard Medical School as a clinical instructor in psychiatry is uncompensated; is that correct?

"Answer: That's correct."

Did I read that sworn testimony correctly?

A. Yeah. And that's not the question you had just asked me. I was paid when I was in the tenure track position.

Q. You worked on the law -- on the law school clinical staff, when you worked at that position, you would not call yourself a professor at the Harvard Medical School, would you?

A. No, sir.

Q. No, you would not?

A. I would not.

Q. Okay. And you don't teach formal classes at Harvard Medical School, do you?

A. Not anymore. I did when I was in the tenure track position.

Q. The last time you taught a formal course at Harvard Medical School was 1989, some 27 years ago, true?

A. That's probably right.

Q. And you were a volunteer adjunct faculty member, and you made yourself available to consult with residents and graduate students for up to three hours a week; is that right?

A. I would describe it a little differently. I was offered a very nice position to donate three hours of my time to teaching social work interns, psychology interns, and

psychiatrists, but it was a -- it's a position you're offered. I think I was the only person in my graduating class offered that.

Q. Your position was called clinical instructor, which is the lowest level of recognition of instructor status, right?

A. It's Harvard faculty so...

Q. My question was, it's the lowest level --

A. I think --

Q. -- of recognition?

A. -- that's true. And now it's lecturer.

Q. And you've never advanced from the position because you did not publish very many peer-reviewed papers which is what you need to do for that purpose, right?

A. I chose not to do that.

Q. My question was: You never advanced from that position because you did not publish very many papers -- peer-reviewed papers which is what you need to do for that purpose, right?

A. I think I just explained to you that I actually stepped down from the tenure track position because I enjoyed seeing patients so much, and I never applied to go up again. I never -- it wasn't a priority for me.

Q. Okay. And so but we can agree that you didn't advance beyond the position that you had, right?

A. Yes.

Q. Okay.

A. It's a weird way to phrase it, but go ahead.
Q. And you retired from your Harvard law school clinic position in 2008, right?
A. Correct. I think that's correct.
Q. In fact, you're not being paid by Harvard currently, are you?
A. Well, I'm a Harvard retiree.
Q. Other than what you may get as a retiree, you're not receiving any kind of compensation for -- for Harvard?
A. That's correct.
Q. Okay. And in your clinical practice, you currently see about half a day to a day of patients a week, right?
A. That is correct.
Q. And Dr. Glenmullen, you're no stranger to being in that witness chair, are you?
A. Well, these two binders which you've brought clearly indicate that, sir.
Q. Yes, sir. And you're very familiar with this process of direct examination like you went through with Mr. Rapoport and also this process we're in right now called cross-examination, right?
A. Yeah. Well, most of the depositions are just cross-examination by the defendant's attorneys.
Q. You've also testified in a number of trials, have you not?
A. Yes.

Q. You've testified in cases in which other drugs, other drugs were involved, have you not?
A. Correct.
Q. You've also testified in trials where there's a medical malpractice claim that's being made, and you've testified on behalf of the plaintiff, true?
A. Those were typically cases where I was asked if the drug was responsible and the company, and I said no, but there's clear evidence that there was malpractice. There's far, far fewer of those, but yes.
Q. Yes. And you've testified at trial in those kinds of malpractice cases, have you not?
A. I think that's true.
Q. And your -- since retiring in March of 2008, your litigation work occupies a large part of your professional activities, true?
A. Correct. That's when the big government case came.
Q. And, in fact, being a professional witness has been a substantial majority of your work over the last several years, true?
A. Yes. The government brought me huge cases that I thought were very important to dedicate a lot of time to, which is what they requested.
Q. And it's not just the government who's actually -- that you claim that has looked -- has come and retained you, you've

also been retained by plaintiff's lawyers who file lawsuits against pharmaceutical companies, true?
A. Sure. If I think it's a strong case, then I take it, but plenty of them I say, "I don't think it's a strong case. I can't do this."
Q. And for the past several years, the substantial majority of your work in terms of income has come as being a professional witness in litigation, true?
A. Sure.
Q. And for the past several years, you've charged $650 an hour for your time, right?
A. Correct.
Q. And the primary source of your income is from being a professional witness testifying in litigation, true?
A. Sure. I'm not sure I would phrase it exactly that way, but yeah, I agree with you.
Q. And in this case, you're charging $650 an hour, true?
A. Right.
Q. Do you charge anything differently for having to come to testify at trial and be on that witness stand?
A. No. It's my usual hourly rate.
Q. When did you arrive in Chicago?
A. I arrived here Saturday.
Q. Did you spend time between Saturday and before you came on the stand today talking with plaintiff's counsel about the

case?
A. Sure.
Q. And that's nothing unusual or out of the ordinary, is it, for you?
A. Right. We had to prepare some of those slides and think about how best to try to help the jury in the job that they have.
Q. Sure. My question to you simply was, it wasn't out of the ordinary for you to do that, was it?
A. It's actually important to do.
Q. And through your deposition that you had in this case, you made a little over $147,000, true?
A. I think that's right.
Q. And you've testified against a number of different antidepressants in your past when you've been a paid professional expert, true?
A. Sure.
Q. For example, you've testified against the medication Effexor, right?
A. Correct.
Q. You've testified against Zoloft, or sertraline, true?
A. Correct.
Q. You've testified against the medication Celexa, right?
A. Yes.
Q. You've testified against the medication Prozac or

fluoxetine, right?

MR. RAPOPORT: Forgive me. I'm a little slow at objecting here, but I'm reminded that we believe this is an area of improper cross-examination. I object at this point.

MR. DAVIS: This shows bias and goes to -- and credibility, your Honor.

THE COURT: Well, without commenting on it, you may continue with the list, but that's it.

MR. DAVIS: Thank you.

BY MR. DAVIS:

Q. You've also testified against -- so just to clear it up, you've testified against the medication called Prozac, or fluoxetine, right?

A. Yes.

Q. You've also testified against a medication called Cymbalta, right?

A. True.

Q. You've also testified -- and each of those litigations that I just mentioned involving those antidepressants, you have actually worked with Mr. Wisner and his partner, Michael Baum, who is in the courtroom today, right?

A. I'm not sure it's all of those drugs on the list, but I have worked with them before, sure.

Q. Many of them, you've worked with -- and those litigations involving those drugs, you worked with Mr. Wisner and Mr. Baum

in other cases, right?
A. Yes.
Q. Okay.
A. And I think all of the Paxil litigation, all the GSK litigation, yeah.
Q. And in each of those litigations -- excuse me. You've also testified against a drug Chantix which is not an antidepressant, true?
A. Correct, but it had a warning that it could make people suicidal, and that's one of my expertise.
Q. You've also testified against the company that makes Abilify, true?
A. Correct.
Q. You've also testified against the company that makes Neurontin, true?
A. Correct.
Q. You've also testified against the company that makes Risperdal, true?
A. Yes.
Q. And today, you're here offering your opinions about a different medication by the name of paroxetine, true?
A. Right, and the GlaxoSmithKline label, the prescribing information.
Q. Yes. And the medication that Mr. Dolin received was a generic called -- a generic paroxetine, right?

A. Right, with GlaxoSmithKline's label.
Q. And you understand that the medication he actually picked up at the pharmacy was a generic, right?
A. I do, but so the jury isn't confused, the label is GSK's. That's controlled by GSK.
MR. DAVIS: Your Honor, I think this process will go a lot faster if we can just get a quick response to the answer.
THE COURT: It can go faster, I'll say that. Proceed.
BY MR. DAVIS:
Q. And you agree that in judging your credibility, you agree that in judging your credibility, it is fair to consider the fact that you are being paid for your time, true?
A. I don't, sir, because when I got into this, I had a mentor at Harvard who was one of the sort of founding members of forensic psychiatry. And you learn very early on that as an expert, you're meant to stay objective. You're meant to be reasonable. I don't overstate things. I understate things. I consider myself to be working for the court, working for the jury. As I've said a few times, I reject cases that I do not think are strong.
Q. Can you please turn to Tab 18? I'll come back to that, Dr. Glenmullen.
A. Okay.
Q. Now, you have never been -- you've never been Stewart

Dolin's doctor, true?
A. He was deceased by the time I came into the case, correct.
Q. And you are not here speaking on -- as his treating physician, are you?
A. Correct.
Q. And you've never made -- you never had to make the decision to prescribe a medication to him, true?
A. Correct.
Q. And when you're actually treating patients outside the courtroom, you have never diagnosed a patient without physically meeting them, have you?
A. Correct, in the practice of medicine. This is a psychological autopsy of someone who is deceased. It's not possible to evaluate him in person.
Q. Okay. Now, although you talked about the American Psychiatric Association, I think, in your testimony in terms of the DSM-4, just so the jury understands, the American Psychiatric Association is the principal organization of psychiatrists in this country, right?
A. Right.
Q. You're not a member of the American Psychiatric Association, are you?
A. Correct.
Q. You're also not a member of an organization that's called the American College of Neuropsychopharmacology which one

witness has told the jury that that's the experts in the field of drugs?
A. I'm not a member, and I wouldn't describe it that way.
Q. You've never held a position in any recognized professional organization that studies the causes or prevention of suicide, have you?
A. I'm not sure I would agree with that. I think we talked about that I'm on the board of the American Foundation for Suicide Prevention, the board of the Boston chapter. I'm a member of another group, a suicidology group.
Q. When did you --
A. I'm not sure --
Q. - join each of those organizations?
A. Years ago. It would be in my CV.
Q. Okay. If you can turn to Tab 20 and go to Page 307, please, do you see that -- first of all, just for reference, this was testimony you gave in September of 2006?
A. Which case was it? Okay.
Q. Okay. And then if you go to Page 307, Lines 1 through 4, are you there, Dr. Glenmullen?
A. I am.
Q. Okay. Did you give this answer under oath:

"Question: Have you ever held a position in any recognized body that studies the causes of prevention of suicide?"

And your answer was: "No."

Did I read that correctly?

MR. RAPOPORT: Objection, your Honor. It's improper impeachment because there's no testimony that he was a member of such organizations 11 years ago or whenever it was he gave this testimony. That's hardly impeachment.

MR. DAVIS: Your Honor, I'm going to follow up on that and clarify the time period.

THE COURT: Proceed.

MR. DAVIS: Thank you.

BY MR. DAVIS:

Q. So was that your sworn testimony back in September of 2006?

A. Yeah.

Q. Okay. So subsequent -- sometime subsequent then, you joined the three organizations that you mentioned, right?

A. I think it's only two.

Q. Only two organizations. Okay.

A. Right.

Q. And you can't tell us when you did that, right?

A. Right. I didn't say it was subsequent. I said I don't know when I joined.

Q. Excuse me?

A. I didn't say it was subsequent. I said I didn't know when I joined.

Q. But we -- all right. Thank you, Doctor. You have

testified that you have no idea whether you would be considered an expert in suicidal -- suicidology by the community of suicidologists, true?
A. I don't recall it, but if you're saying I testified that, I'll take your word for it.
Q. Okay. And you've also stated that you are not a specialist in suicidology per se if you're looking at the professional population, true?
A. I think I changed my testimony on that over this -- over a series of depositions that I certainly consider myself an expert in suicide, and particularly an expert in medications that have warnings related to suicide.
Q. So help me out here. You're saying that at one time, you testified you're not a specialist in suicidology per se and then you later, when you were testifying in litigation, you said that you were, in fact, an expert in suicidality?
A. I don't -- so an expert in -- which word did you use, suicidology or suicidality?
Q. Suicidology.
A. Yes. So suicidology is a sort of name given to certain individuals. It's, a lot of them are psychologists who specialize in the topic of suicide, and they often have suicidology organizations. It would not necessarily be -- most of it, if not all of it, would not be medication related. And I have never been a member of a suicidology organization.

I've never advertised myself as a suicidologist, but I am a specialist in suicide and, particularly, medications that have warnings about it.

Q. Can you come back to my question, please, which was: What you're telling us is that at one time, you testified you were not a specialist in suicidology per se, but then in subsequent depositions, you said that you were an expert in suicidology?

A. I said I don't exactly recall. I think it's a question I've been asked a number of times.

Q. Why don't you look at Tab 21. Go to Page 37, please.

A. Okay.

Q. Were you asked this question, if you go down to Line 14 through Line 23:

"Question: Do you hold yourself out to the scientific and medical community as a specialist in the study of suicide?

"Answer: Well, that's actually a very good distinction between expert, and I would use the word 'specialist,' and I would describe myself as a specialist in antidepressant-induced suicide, suicidality. I'm not a specialist in suicidology per se as if you're looking at the professional population."

Did I read that correctly?

A. That's exactly what I just said.

Q. And you don't have a doctorate or even an undergraduate

degree in pharmacology, correct?
A. No. I have a medical degree.
Q. But -- yes. And so pharmacology is the study of medications, correct?
A. Well, wait. Don't -- that's -- that can be confusing. There are Ph.D.s in pharmacology that do kind of lab research and pharmacy-type stuff. That's very different from clinical work, but all doctors know a lot about medications, medical doctors. And within psychiatry, we have a term psychopharmacology, which is the use of psychologically active medications. So I don't have a Ph.D. in pharmacology, but I am a psychiatrist, a medical doctor, and a psychopharmacologist.
Q. Doctor, you don't have any admitting privileges to any psychiatric hospitals, do you?
A. I did for 20 years while I was on the staff of the Harvard health services. Since I retired from that, I'm just an outpatient psychiatrist, so currently, no.
Q. Thank you. In your entire life, you have only submitted four articles to a peer-reviewed publication, true?
A. I'll take your word for it. It's on my CV. It's not a lot. It's like four to six. I don't know.
Q. Okay. And none of those peer-reviewed publications -- let me back up. Peer-reviewed publications are where you sent -- when an author, a researcher, a scientist, sends a scientific

paper in to a medical journal, it's reviewed and critiqued by other professionals in that particular field; and then if it's deemed worthy, it's published in the medical journal, right? That's the peer review process?

A. Yeah, sure.

Q. And none of the peer review publications that you have deal with paroxetine and suicidality or akathisia, true?

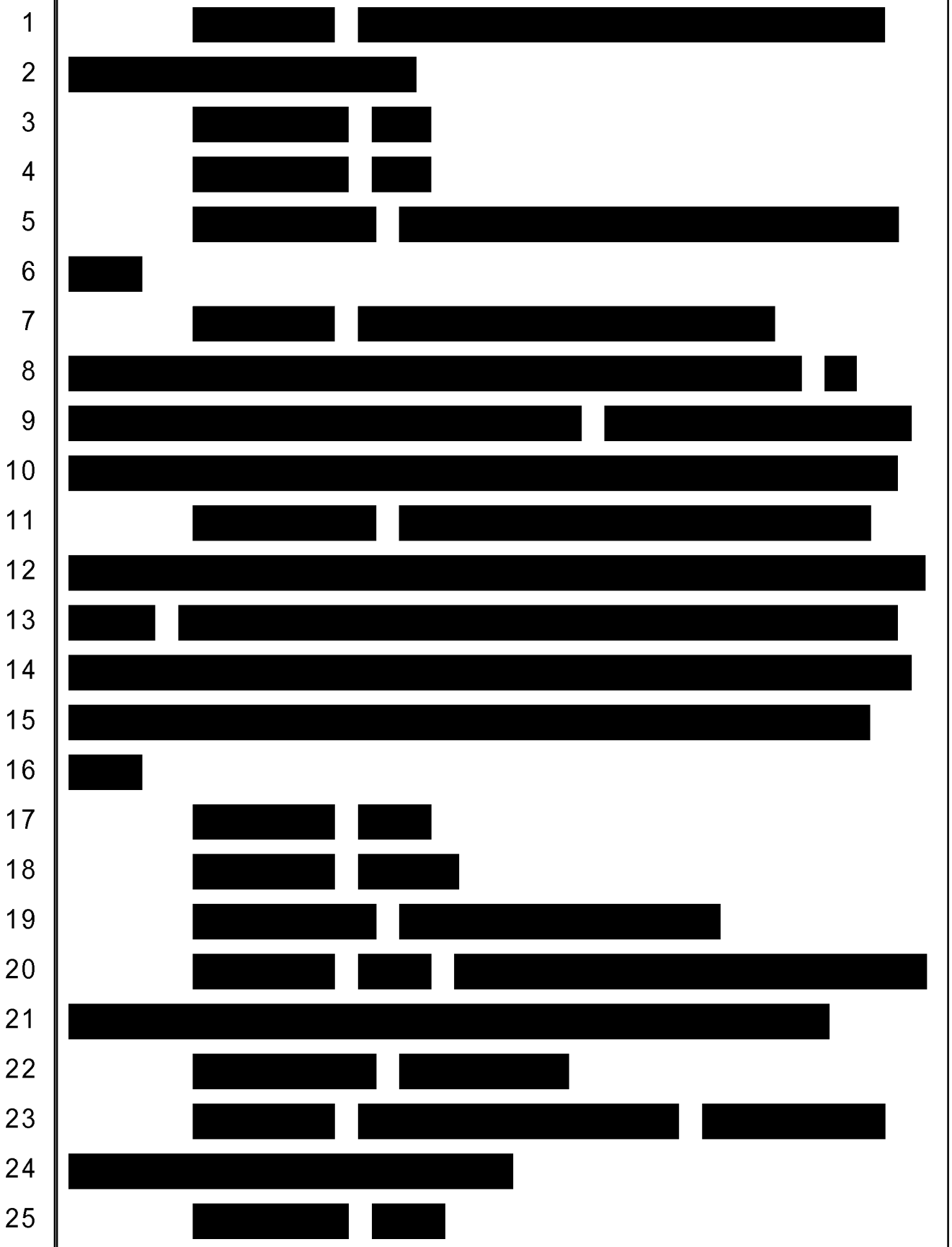
A. There was one paper -- there's a paper on suicidality. I don't remember where paroxetine ranked in the list.

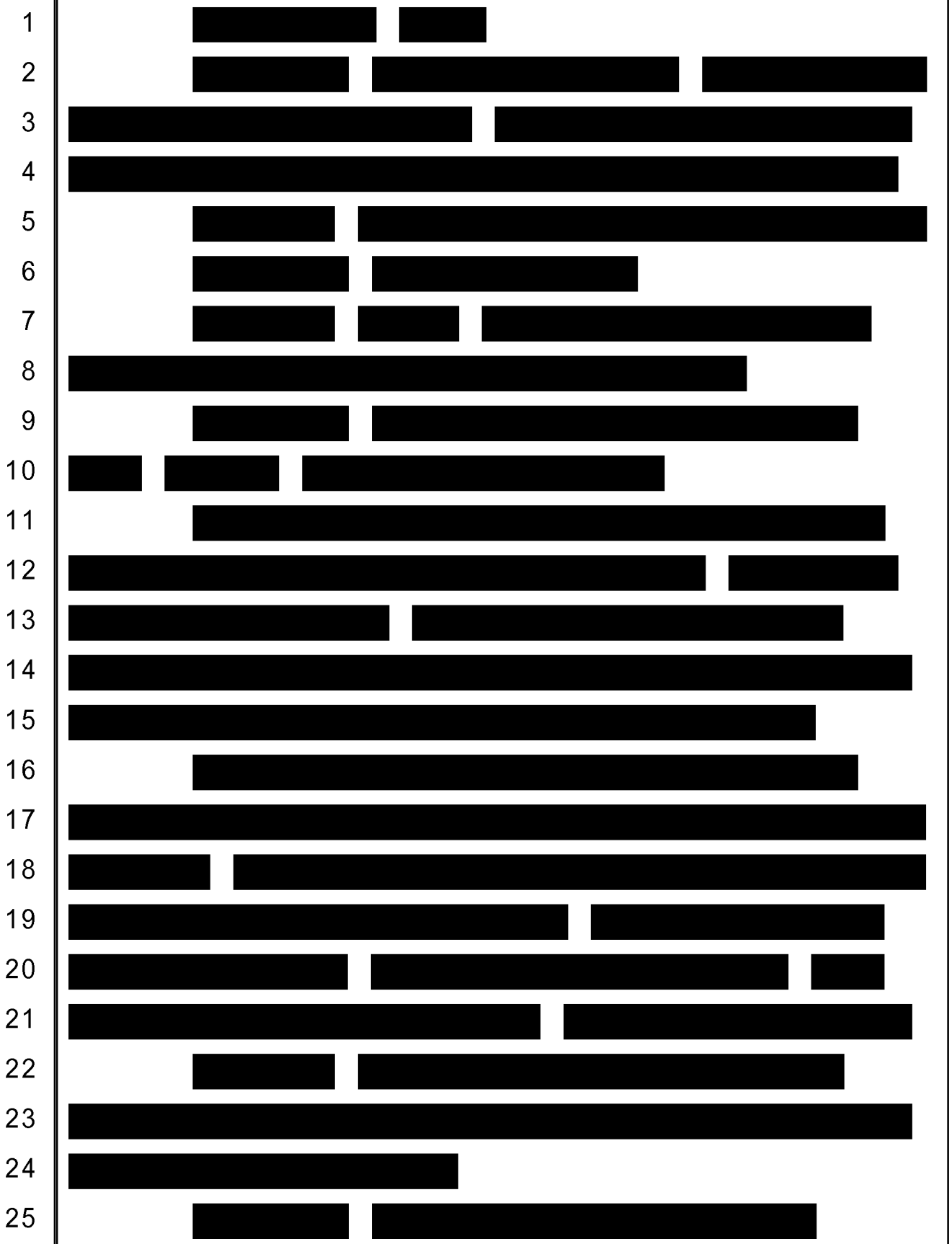
Q. Why don't you -- okay. Tell me what that publication is --

THE COURT: With that, with that question pending, we'll get the answer tomorrow. We will adjourn.

(Proceedings heard in open court. Jury out.)

[redacted]





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(Proceedings recessed from 4:35 p.m. to 9:30 a.m.)

C E R T I F I C A T E

We, Charles R. Zandi and Judith A. Walsh, do hereby certify that the foregoing is a complete, true, and accurate transcript of the proceedings had in the above-entitled case before the Honorable WILLIAM T. HART, one of the judges of said Court, at Chicago, Illinois, on March 29, 2017.

/s/ *Charles R. Zandi, CSR, RPR, CRR* March 29, 2017

/s/ *Judith A. Walsh, CSR, RDR, F/CRR* March 29, 2017

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