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

THE COURT: JACKSON VERSUS A.E.G. LIVE, BC445597.

TO MY RIGHT IS SERGEANT WHEATCROFT. HE'S
THE GENTLEMAN I MENTIONED BEFORE. AND I DON'T WANT TO
TALK IN DEPTH TODAY ABOUT HIS SECURITY PLANS, BUT I DO
WANT TO ARRANGE A TIME WHEN HE CAN MEET WITH YOU.

DO YOU HAVE THIS CALENDAR?

SERGEANT WHEATCROFT, DO YOU HAVE YOURS WITH
YOU?

SERGEANT WHEATCROFT: I DO.

THE COURT: WE WANTED TO ARRANGE A TIME WHEN THE
ATTORNEYS COULD MEET WITH SERGEANT WHEATCROFT. I THINK
THE LAST TIME WE SPOKE, WE SAID THE 9TH OR 10TH; BUT
SERGEANT WHEATCROFT, I THINK, IS UNAVAILABLE, SO IS
THERE SOME OTHER TIME --

MR. PUTNAM: IS THERE NO TIME YOU CAN DO THURSDAY

1 AFTERNOON, BRIAN, ON THE 5TH?

2 MR. PANISH: NO, I CAN'T -- BUT HE'S OFF THAT
3 WEEK -- NEXT WEEK, I THINK HE'S OFF.

4 MR. PUTNAM: I'M TALKING ABOUT THIS WEEK, THE DAY
5 AFTER TOMORROW.

6 MR. PANISH: THE 5TH, I CAN'T DO.

7 THE COURT: WHAT ABOUT EARLY? "EARLY" MEANING
8 WHAT IF I HAD YOU COME IN A LITTLE EARLY AND THEN --
9 WAIT A MINUTE. ON THE 5TH, WE'RE SUPPOSED TO BE HERE
10 AT WHAT TIME RIGHT NOW?

11 THE CLERK: 10:30.

12 MR. PANISH: I WAS GOING TO ASK IF WE COULD HAVE
13 THAT HEARING AT 10:00. CAN WE COME AT 9:30 OR 9:15 TO
14 MEET WITH THE SERGEANT? BECAUSE HE'S GOING TO BE HERE
15 THIS WEEK. SO 9:15 ON --

16 THE COURT: LET ME ASK NELI TO CHECK OUT WHAT I
17 HAVE ON CALENDAR.

18 THE CLERK: 9:30 SHOULD BE OKAY, YOUR HONOR.

19 THE COURT: OKAY. SO IS 9:30 OKAY?

20 MR. BOYLE: FOR US TO --

21 MS. BINA: WE'LL MEET WITH THE SERGEANT AND THEN
22 AFTERWARDS DO THE NONSUIT ARGUMENT?

23 THE COURT: WHAT TIME DID WE SAY WE WERE GOING TO
24 CALL THE JURY?

25 MR. PUTNAM: THERE'S NO JURY ON THURSDAY.

26 THE COURT: OH, YEAH. THAT'S WHAT MAKES IT
27 GOOD.

28 MR. PANISH: IF WE CAN MAYBE -- I MEAN, I DON'T

1 KNOW HOW LONG IT'S GOING TO TAKE.

2 THE COURT: WHAT TIME DO YOU HAVE TO BE OUT OF
3 HERE?

4 MR. PANISH: I HAVE TO BE ON THE WEST SIDE AT
5 1:00 O'CLOCK TO TAKE MY SON AT THE DOCTOR.

6 THE COURT: IF WE START AT 9:30 WITH SERGEANT
7 WHEATCROFT, WE DO THE MOTION, I THINK YOU'LL BE OUT OF
8 HERE IN TIME.

9 MS. CAHAN: YOUR HONOR, JUST SINCE WE'RE DEALING
10 WITH SCHEDULING ISSUES, TO THE EXTENT WE HAVE
11 ADDITIONAL TIME EITHER AT THE END OF THE DAY TOMORROW
12 OR AFTER THE NONSUIT ARGUMENT ON THURSDAY, I WOULD LOVE
13 IF WE COULD RESOLVE ANY OUTSTANDING ISSUES ON THE TWO
14 DEPOSITION DESIGNATIONS THAT YOU HELD ON THAT WE WERE
15 HOPING TO ARGUE ON FRIDAY.

16 THE COURT: JUST REMIND ME. DON'T BE SHY ABOUT
17 THAT. I NEVER GET ANGRY ABOUT BEING REMINDED.

18 MS. CAHAN: SO EITHER TOMORROW AFTERNOON OR
19 THURSDAY AFTER THE OTHER ARGUMENTS WOULD BE IDEAL.

20 THE COURT: OKAY. THANK YOU. ALL RIGHT. SO --
21 SERGEANT WHEATCROFT: THANK YOU, YOUR HONOR.

22 THE COURT: THANK YOU.

23

24

25 (THE FOLLOWING PROCEEDINGS WERE HELD
26 IN OPEN COURT, IN THE PRESENCE OF THE
27 JURORS:)

28

1 THE COURT: KATHERINE JACKSON VERSUS A.E.G. LIVE,
2 BC445597. GOOD AFTERNOON.

3 LET'S CONTINUE.

4 MS. CAHAN: THANK YOU, YOUR HONOR.

6 CONTINUED DIRECT EXAMINATION

7 BY MS. CAHAN:

8 Q SO, DR. EARLEY, RIGHT BEFORE THE LUNCH
9 BREAK WE WERE TALKING ABOUT THAT STEEP DOSE RESPONSE
10 CURVE IDEA, THE IDEA THAT A SMALL CHANGE IN DOSE OF
11 PROPOFOL COULD HAVE A DRAMATIC EFFECT ON A PATIENT'S
12 BREATHING AND ABILITY TO LIVE.

13 A YES.

14 Q AND YOU SAID THAT IT VARIES EVEN FROM TIME
15 TO TIME -- THE DOSE THAT'S NECESSARY TO GET SOMEONE
16 INTO THE RIGHT SPOT FOR ANESTHESIA CAN VARY FROM TIME
17 TO TIME DEPENDING ON THE PERSON AND DEPENDING ON A
18 NUMBER OF FACTORS.

19 A YES.

20 Q AND YOU SAID EXPERIENCED ANESTHESIOLOGISTS
21 AND ANESTHESIA PROVIDERS CAN SORT OF HELP -- THEY WATCH
22 CAREFULLY AND THEY HELP TITRATE, ADJUST THE DOSE SO
23 THAT THAT THE PERSON STAYS IN THE RIGHT SPOT FOR
24 ANESTHESIA?

25 A CORRECT.

26 Q ASSUMING PROPOFOL WAS ALWAYS ADMINISTERED
27 TO MR. JACKSON BY A DOCTOR, WOULD HE BE SAFE IF HE HAD
28 SOMEONE SORT OF WATCHING THAT RESPONSE?

1 MR. PANISH: I'M GOING TO OBJECT; FOUNDATION ON
2 THIS WITNESS ON ADMINISTRATION OF PROPOFOL AND HOW IT'S
3 THE STANDARD AND WHAT'S TO BE DONE. THAT'S MY
4 OBJECTION. THERE'S NO FOUNDATION AS TO HIS EXPERIENCE
5 AND KNOWLEDGE OF GIVING PROPOFOL.

6 THE COURT: IT IS GETTING A LITTLE BEYOND --

7 MS. CAHAN: MAYBE I CAN LAY SOME FOUNDATION, YOUR
8 HONOR.

9 THE COURT: ALL RIGHT.

10 Q BY MS. CAHAN: IS THE STEEP DOSE RESPONSE
11 CURVE FOR PROPOFOL AND THE EASE OF OVERDOSE SOMETHING
12 THAT YOU'VE OBSERVED IN PATIENTS THAT YOU'VE TREATED
13 WHO HAVE BECOME PROPOFOL DEPENDENT OR ABUSED PROPOFOL?

14 A I'VE NOT BEEN THE DIRECT OBSERVER OF THAT,
15 BUT I TAKE CARE OF A LOT OF ANESTHESIOLOGISTS WHO
16 DESCRIBE THAT IN ARTICULATE DETAIL WHEN THEY WORK WITH
17 ME WHEN THEY'RE PROPOFOL DEPENDENT.

18 Q SO AND ANESTHESIOLOGISTS WHO YOU TAKE CARE
19 OF WHO ABUSE PROPOFOL CAN'T ALWAYS CONTROL THE DOSE THE
20 WAY THEY WANT TO FOR THEMSELVES?

21 A CORRECT.

22 AND AS A MATTER OF FACT, THAT'S OFTEN HOW
23 THEY PRESENT, IS THEY TAKE TOO MUCH, THEY'RE FOUND BLUE
24 ON THE FLOOR OF AN OPERATING ROOM BATHROOM OR SOMETHING
25 LIKE THAT.

26 Q AND WERE SOME OF THOSE ANESTHESIOLOGISTS
27 THAT YOU'VE TREATED SOME OF THE PATIENTS WHO WERE
28 INCLUDED IN THE PROPOFOL ADDICTION STUDY THAT YOU

1 PUBLISHED?

2 A THEY WERE.

3 Q SO WE WERE TALKING ABOUT -- A BIT EARLIER
4 TODAY ABOUT THE PROCESS FOR PUTTING THE STUDY TOGETHER
5 AND SUBMITTING IT FOR PUBLICATION, AND I JUST WANT TO
6 MAKE SURE WE FULLY COVERED THAT.

7 A OKAY.

8 Q WHEN IN THE PROCESS OF YOUR STUDY DID YOU
9 DISCLOSE THAT A.E.G. LIVE, TO THE PUBLISHERS -- LET ME
10 START THAT AGAIN.

11 WHEN IN THE PROCESS OF GETTING YOUR STUDY
12 PUBLISHED DID YOU DISCLOSE TO THE PUBLISHER THAT A.E.G.
13 LIVE WAS PROVIDING FUNDING FOR YOUR STUDY?

14 A WHEN YOU -- WHEN YOU FILL OUT THE INITIAL
15 SUBMISSION DOCUMENT, THERE ARE SPACES FOR AUTHOR NAMES,
16 ADDRESSES, FUNDING SOURCES, MANUSCRIPT, ABSTRACT. AND
17 IN THE LINE THAT SAID "FUNDING SOURCES," UPON
18 INITIAL -- UPON MY INITIAL SUBMISSION, I PUT A.E.G.
19 LIVE.

20 Q AND THAT WAS BACK IN 2012?

21 A CORRECT.

22 Q AND DID THE JOURNAL HAVE ANY QUESTIONS
23 ABOUT A.E.G. LIVE FUNDING THE STUDY?

24 A ACTUALLY, THEY DID. THEY CAME BACK AND
25 SAID, "WHO IS A.E.G. LIVE?" YOU COULD UNDERSTAND THAT
26 BECAUSE THE MAJORITY OF RESEARCH COMES FROM
27 NOT-FOR-PROFIT FOUNDATIONS SUCH AS ROBERT WOOD JOHNSON
28 OR MAYBE N.I.H.

1 SO THEY SAID, "WHO IS A.E.G. LIVE?" AND I
2 REPLIED THAT AT THE TIME THAT A.E.G. LIVE WAS AN
3 ENTERTAINMENT COMPANY THAT I WAS DOING RESEARCH FOR.

4 Q SO YOU TOLD THE PUBLISHERS THAT YOU WERE
5 DOING RESEARCH FOR A.E.G. LIVE AT THAT POINT IN TIME?

6 A CORRECT.

7 Q DID THE PUBLISHERS SAY THAT THEY THOUGHT
8 THERE MIGHT BE SOME KIND OF CONFLICT OF INTEREST
9 BECAUSE YOU WERE WORKING FOR A.E.G. LIVE AND WRITING
10 THE STUDY?

11 A NO.

12 Q DID YOU THINK THAT THERE WAS ANY CONFLICT
13 OF INTEREST?

14 A NO.

15 THIS WAS A SCIENTIFIC INQUIRY INTO PROPOFOL
16 ADDICTION.

17 Q AND DOES THE JOURNAL OF ADDICTION MEDICINE
18 ACTUALLY HAVE A CONFLICT OF INTEREST POLICY?

19 A THEY DO.

20 Q AND ARE YOU FAMILIAR WITH IT?

21 A I WAS.

22 Q DID YOU READ IT OVER BEFORE YOU SUBMITTED
23 THE STUDY FOR PUBLICATION?

24 A OF COURSE I DID. I WANTED TO MAKE SURE
25 THAT I ADHERED TO EVERYTHING I COULD DO TO -- TO -- FOR
26 THE PUBLICATION.

27 Q AND DID YOU THINK THAT THERE MIGHT BE SOME
28 KIND OF CONFLICT OF INTEREST UNDER THAT POLICY BECAUSE

1 YOU WERE DOING WORK FOR US?

2 A NO, BECAUSE MY RESEARCH -- WHAT I WAS DOING
3 FOR YOU AT THE TIME WAS RESEARCH ON PROPOFOL AND
4 PROPOFOL ADDICTION.

5 Q SO THAT WAS BEFORE WE HAD HIRED YOU TO BE A
6 TESTIFYING EXPERT WITNESS?

7 A YES.

8 AND, IN FACT, I -- I DIDN'T EVEN KNOW THAT
9 WAS IN THE PIKE. I JUST ASSUMED YOU WANTED THE
10 RESEARCH.

11 Q AND THAT WAS BEFORE WE SENT YOU ANY
12 MATERIALS FROM THIS CASE, ANY MEDICAL RECORDS OR
13 TESTIMONY?

14 A CORRECT.

15 Q AND SPEAKING OF THE JOURNAL OF ADDICTION
16 MEDICINE POLICIES, WOULD THERE BE ANY ISSUE WITH YOU
17 SENDING US A COPY OF A DRAFT OF YOUR STUDY AFTER YOU
18 HAD FIRST SUBMITTED IT TO THE JOURNAL AND BEFORE IT WAS
19 PUBLISHED?

20 A ACTUALLY, THERE IS NONE. I WOUND UP
21 SENDING A COPY AFTER IT WAS SUBMITTED BECAUSE -- AFTER
22 THE INITIAL SUBMISSION DATE BECAUSE I WANTED TO MAKE
23 SURE THAT AS FUNDERS OF THE STUDY, YOU KNEW THAT I HAD
24 REACHED THAT MILESTONE.

25 Q AND DID YOU ASK US FOR ANY INPUT ON THE
26 STUDY AT THAT POINT?

27 DID WE GIVE YOU ANY INPUT?

28 A NO.

1 Q AND, AGAIN, AT ANY POINT DID WE HAVE ANY
2 INFLUENCE OVER WHAT THE STUDY SAID, OR ITS ANALYSIS?

3 A NO.

4 Q SO GOING BACK TO YOUR SLIDE 4, WHICH IS
5 EXHIBIT 13565 --

6 A YES.

7 Q -- WE TALKED ABOUT THAT FIRST POINT, THE
8 PROPERTIES OF PROPOFOL. AND I WANT TO MOVE NOW ON TO
9 THE SECOND FACTOR YOU HAVE LISTED THERE. WE'VE ALREADY
10 TALKED ABOUT -- A LITTLE BIT ABOUT THE FACT THAT THE
11 APPROPRIATE PLACE FOR PROPOFOL TO BE ADMINISTERED IS A
12 HOSPITAL SETTING, YOU KNOW, WITH CERTAIN EQUIPMENT AND
13 SOMEBODY WITH -- YOU KNOW, UNDER PROPER SUPERVISION.

14 A RIGHT.

15 Q BASED ON YOUR REVIEW OF THE RECORD, DID
16 MICHAEL JACKSON EVER USE PROPOFOL IN AN INAPPROPRIATE
17 SETTING?

18 A YES, HE -- UNFORTUNATELY, HE WAS
19 ADMINISTERED PROPOFOL IN AN INAPPROPRIATE SETTING.
20 LATER ON IN THE COURSE, ONE COULD PROBABLY ARGUE
21 ABOUT -- ON THE "HISTORY" TOUR WHEN HE OBTAINED
22 PROPOFOL IN GERMANY BECAUSE THERE WAS SUFFICIENT
23 EQUIPMENT AROUND THAT THAT WAS AN APPROPRIATE SOURCE
24 EVEN THOUGH IT WASN'T A HOSPITAL.

25 THERE WERE TWO ANESTHESIOLOGISTS, THEY
26 COULD RELIEVE EACH OTHER -- IT'S NOT CLEAR THEY WERE
27 BOTH ANESTHESIOLOGISTS. THERE WERE TWO MEDICAL
28 PERSONNEL.

1 THERE WAS PLENTY OF TECHNICAL EQUIPMENT, TO
2 THE BEST OF MY UNDERSTANDING OF THE RECORD, SO ONE
3 COULD ARGUE THAT THAT WAS NOT NECESSARILY AN
4 APPROPRIATE USE OF THE PROPOFOL BUT AN APPROPRIATE
5 ADMINISTRATION TECHNIQUE.

6 Q DID THERE COME A TIME -- AT THE TIME THAT
7 MR. JACKSON PASSED AWAY IN JUNE 2009, WAS HE BEING --
8 DID YOU SEE EVIDENCE THAT HE WAS BEING GIVEN PROPOFOL
9 IN AN APPROPRIATE SETTING?

10 A NO, HE WAS GIVING -- HE WAS BEING GIVEN
11 PROPOFOL IN AN INAPPROPRIATE SETTING.

12 Q BY THE WAY, EVEN THOUGH WE KNOW FROM THE
13 RECORD THAT MR. JACKSON GOT PROPOFOL FOR SLEEP IN HIS
14 HOME IN JUNE 2009, DID YOU EVER SEE A SINGLE MEDICAL
15 RECORD DOCUMENTING IT?

16 A I DID NOT. THERE WAS NO MEDICAL RECORDS
17 THAT WERE MADE AVAILABLE TO ME, NOR DID I -- I ACTUALLY
18 ASKED FOR THEM; AND TO THE BEST OF MY UNDERSTANDING,
19 THEY DID NOT EXIST.

20 Q DOES IT MEAN -- BECAUSE THERE ARE NO
21 MEDICAL RECORDS OF -- STRIKE THAT.

22 WERE THERE ANY MEDICAL RECORDS THAT YOU SAW
23 FOR THE GERMANY -- THE TIME IN GERMANY?

24 A NO, THERE WERE NONE THAT I SAW.

25 Q SO JUST BECAUSE THERE WEREN'T ANY MEDICAL
26 RECORDS AVAILABLE TO YOU TO REVIEW ABOUT MR. JACKSON
27 GETTING PROPOFOL IN A NON-SURGICAL SETTING FOR SLEEP,
28 DOES THAT MEAN THAT IT DIDN'T HAPPEN?

1 A NO, THAT DOES NOT MEAN IT DIDN'T HAPPEN.

2 Q IS IMPROPER USE OF A DRUG, IN YOUR
3 EXPERIENCE, TYPICALLY RECORDED IN MEDICAL RECORDS?

4 A USUALLY NOT, DEPENDING ON THE DIFFICULTIES.
5 FOR INSTANCE, IF A PHYSICIAN WRITES A -- HAS A NEIGHBOR
6 WHO COMES BY AND ASKS FOR AN ANTIBIOTIC, HE MAY NOT
7 WRITE THAT. ALTHOUGH THAT IS NOT MEDICALLY CORRECT,
8 THERE IS SOME SLOPPINESS IN THAT THAT STILL EXISTS IN
9 OUR HEALTHCARE SYSTEM, ALTHOUGH LESS AND LESS OVER
10 TIME.

11 Q AND WHAT ABOUT YOUR PATIENTS WHO HAVE
12 SELF- -- THE MEDICAL PROVIDERS YOU'VE TAKEN CARE OF WHO
13 HAVE SELF-ADMINISTERED PROPOFOL? DO THEY TEND TO --

14 A THEY DO NOT TAKE A RECORD ON THEMSELVES,
15 NO. YES.

16 Q AND DO YOU HAVE A TIMELINE CHART THAT SORT
17 OF ADDRESSES MR. JACKSON'S USE OF PROPOFOL, A POSTER?

18 A I DO.

19 Q WOULD IT BE HELPFUL FOR YOU IF I PUT THAT
20 UP?

21 A YEAH. LET ME SEE IF I CAN REMEMBER WHICH
22 ONE THAT IS.

23 MS. CAHAN: WE'LL NEED TO GIVE THAT AN EXHIBIT
24 NUMBER. I THINK THIS WILL BE 13567.

25 MAY I APPROACH, YOUR HONOR, JUST TO PUT UP
26 THE --

27 THE COURT: YES.

28 Q BY MS. CAHAN: DO YOU HAVE A SMALL VERSION

1 OF THAT THERE?

2 A I DO.

3 MS. CAHAN: YOUR HONOR, FOR THIS ONE, LIKE WE HAD
4 LAST WEEK, WE HAVE 8 AND A HALF BY 11 COPIES TO HAND
5 OUT IF THAT WOULD BE HELPFUL FOR ANY OF THE JURORS.

6 THE COURT: YOU MAY.

7 MS. CAHAN: MAY I PROCEED, YOUR HONOR?

8 THE COURT: YES.

9 Q BY MS. CAHAN: SO, DR. EARLEY, DID YOU SEE
10 EVIDENCE IN THE RECORD THAT MR. JACKSON WAS WARNED BY
11 MEDICAL PROFESSIONALS THAT PROPOFOL SHOULD NOT BE
12 ADMINISTERED OUTSIDE OF A MEDICAL SETTING?

13 A ABSOLUTELY.

14 AND NOT ONLY WAS HE WARNED, HE WAS ALSO
15 WARNED REPEATEDLY; AND IN THIS CHART, YOU SEE SOME OF
16 THOSE TIMES.

17 Q AND DO YOU ALSO HAVE A SLIDE ABOUT WARNINGS
18 ON PROPOFOL AT HOME?

19 A I DO.

20 MS. CAHAN: AND THAT WOULD BE EXHIBIT
21 NUMBER 13568. IT'S SLIDE 6.

22 ANY OBJECTION?

23 MR. BOYLE: NO OBJECTION, OTHER THAN THE ONES
24 PRIOR.

25 THE COURT: YES. THOSE ARE PRESERVED.

26 MR. BOYLE: OKAY. THANK YOU, YOUR HONOR.

27 Q BY MS. CAHAN: AND CAN YOU TELL US WHAT'S
28 REFLECTED IN THIS SLIDE, PLEASE?

1 A YES.

2 ON THIS SLIDE, THROUGH TIME -- AND THE
3 FIRST ONE IS FROM DR. CHRISTINE QUINN, WHO WAS A DENTAL
4 ANESTHETIST. WHEN ASKED BY MR. JACKSON IF SHE WOULD
5 ADMINISTER PROPOFOL FOR SLEEP, SHE SAID IT'S NOT PROPER
6 TO GIVE PROPOFOL OUTSIDE OF THE MEDICAL SETTING.

7 DR. BARNEY VAN VALIN SAID TO HIM, ACCORDING
8 TO HIS DEPOSITION, THIS STUFF IS DANGEROUS. ACTUALLY,
9 HE WASN'T COMPLETELY CLEAR ABOUT IT AND TALKED WITH AN
10 ANESTHESIOLOGIST JUST TO FIRM UP HIS OPINION.

11 BUT HE SAID THIS STUFF IS DANGEROUS, THE
12 ONLY PLACE IT SHOULD EVER BE USED IS IN AN OPERATING
13 ROOM WITH AN ANESTHESIOLOGIST THAT SPECIALIZES IN IT.
14 AND THAT WAS IN THE 2002/2003 ERA. AND THEN
15 CHERILYN LEE, "I REMEMBER TELLING HIM THAT IT WASN'T
16 SOMETHING HE WANTED TO USE AT HOME."

17 YOU ALSO SEE ON THIS CHART HERE THAT --
18 THAT MS. ROWE ALSO SAYS TO HIM, YOU KNOW -- WARNS HIM,
19 ACCORDING TO HER TRIAL TESTIMONY, THAT SHE SAID TO
20 HIM -- INSTRUCTED HIM NOT TO USE PROPOFOL.

21 Q AND THAT WAS BACK IN 1993?

22 A I'M SORRY. THAT WAS IN 1993.

23 Q AND THAT WASN'T FOR -- ABOUT PROPOFOL FOR
24 SLEEP, RIGHT? SHE WAS JUST CONCERNED ABOUT THE
25 PROPOFOL GENERALLY?

26 A CORRECT, BECAUSE HE WAS USING IT QUITE
27 OFTEN FOR --

28 Q JUST TO MAKE SURE I'M FOLLOWING YOU HERE,

1 SO IN YOUR REVIEW OF THE RECORD, IN 1998 OR 1999, HE
2 ASKED DR. QUINN TO GIVE HIM PROPOFOL FOR SLEEP, AND SHE
3 SAYS NO, IT'S NOT PROPER OUTSIDE OF THE MEDICAL
4 SETTING?

5 A RIGHT.

6 Q AND THEN FOUR YEARS LATER, IN 2002 OR 2003,
7 HE ASKED DR. VAN VALIN AGAIN TO -- FOR PROPOFOL FOR
8 SLEEP, RIGHT?

9 A CORRECT.

10 Q THAT WAS THE CONTEXT FOR THIS STATEMENT?

11 A THAT'S CORRECT, THAT CONTEXT WAS THERE.

12 Q AND THEN AGAIN SIX OR SEVEN YEARS LATER, HE
13 ASKED CHERILYN LEE TO ARRANGE PROPOFOL FOR SLEEP FOR
14 HIM?

15 A YES.

16 Q AND, AGAIN, THIS IS A THIRD PERSON NOW
17 TELLING HIM NOT APPROPRIATE TO USE AT HOME?

18 A YES; SO HE HAD SUFFICIENT WARNING OVER A
19 PROLONGED PERIOD OF TIME.

20 Q AND WERE THEY RIGHT? IS IT DANGEROUS?

21 MR. BOYLE: I MOVE TO STRIKE THE STATEMENT. HE'S
22 NOT AN EXPERT ON WHAT'S A SUFFICIENT WARNING.

23 THE COURT: SUSTAINED. THE ANSWER IS STRICKEN.

24 Q BY MS. CAHAN: WERE THEY RIGHT THAT
25 PROPOFOL SHOULDN'T BE USED OUTSIDE OF AN APPROPRIATE
26 MEDICAL SETTING?

27 A ABSOLUTELY.

28 Q AND WHAT DOES THIS SERIES OF TESTIMONY SAY

1 TO YOU ABOUT MR. JACKSON'S BEHAVIOR WITH RESPECT TO
2 PROPOFOL?

3 A WELL, WE CAN'T PROJECT WHAT HE WAS THINKING
4 ABOUT; BUT WE CAN CERTAINLY SAY THAT HE HEARD THAT
5 PROPOFOL WAS DANGEROUS, AND THAT HE CONTINUED TO SEEK
6 IT OUT, AND HE TALKED TO MULTIPLE PROVIDERS REQUESTING
7 PROPOFOL OVER A PROLONGED PERIOD OF TIME.

8 Q IN YOUR REVIEW OF THE RECORDS AND
9 TESTIMONY, DID YOU SEE EVIDENCE THAT ANY MEDICAL
10 PROFESSIONALS EXPLAINED TO MR. JACKSON THAT PROPOFOL
11 ANESTHESIA IS NOT THE SAME THING AS NATURAL SLEEP?

12 A YES.

13 THERE WERE SEVERAL COMMENTS ABOUT THAT; AND
14 I THINK THERE'S A SLIDE THAT SHOWS THAT, AS WELL. I
15 THINK IT'S THE NEXT SLIDE.

16 MS. CAHAN: THAT WOULD BE 15369.

17 ANY OBJECTION? SLIDE 7.

18 MR. BOYLE: THANK YOU. NO OBJECTION.

19 THE WITNESS: AGAIN, FROM DR. CHRISTINE QUINN,
20 STATES THAT, "I TOLD HIM THAT THE SLEEP YOU GET WITH
21 ANESTHESIA IS NOT REAL SLEEP." AND THIS WAS PART OF
22 THE SAME CONVERSATION IN 1998 WHEN HE ASKED FOR THAT.
23 AND THEN CHERILYN LEE IN 2009, I REMEMBER TELLS HIM
24 THAT PROPOFOL WAS DEFINITELY NOT A MEDICATION FOR
25 INSOMNIA.

26 Q BY MS. CAHAN: SO, AGAIN, THERE'S A
27 TEN-YEAR GAP HERE?

28 A TEN-YEAR GAP THERE, YES.

1 Q AND DO YOU RECALL BOTH DR. QUINN AND
2 MS. LEE TESTIFYING THAT MR. JACKSON TOLD THEM PEOPLE
3 HAD TOLD HIM PROPOFOL WAS SAFE IF DONE PROPERLY AND IT
4 WAS OKAY TO USE IN THAT WAY FOR SLEEP?

5 A THAT WAS PART OF THE CONVERSATIONS FROM --
6 HIS RESPONSES, THAT IT WAS SAFE IF GIVEN PROPERLY.

7 Q DID YOU SEE ANYTHING IN ANY OF THE RECORDS
8 OR TESTIMONY YOU REVIEWED THAT CONFIRMED WHO TOLD
9 MR. JACKSON THAT PROPOFOL WAS OKAY TO USE FOR SLEEP?

10 A I COULD NOT FIND THAT. AS A MATTER OF
11 FACT, THAT WAS A -- I TRIED TO LOOK FOR IT BECAUSE IT
12 WAS -- IT TWEAKED MY INTEREST, BUT I COULD NOT FIND IT.

13 Q SO APART FROM MR. JACKSON'S USE OF PROPOFOL
14 FOR SLEEP, FOR INSOMNIA, DID YOU SEE ANY OTHER EXAMPLES
15 IN YOUR REVIEW OF THE TESTIMONY AND RECORDS OF TIMES
16 WHEN MR. JACKSON USED PROPOFOL IN AN INAPPROPRIATE OR
17 ATYPICAL WAY FOR MEDICAL PROCEDURES?

18 A WELL, HE DID CERTAINLY RECEIVE GENERAL
19 ANESTHESIA FOR PROCEDURES THAT OTHER PEOPLE MIGHT NOT,
20 AND I THINK HIS STATEMENT ABOUT THAT WOULD BE WHICH --
21 WHICH THE PROVIDERS SAID, MANY OF THE PROVIDERS SAID,
22 AND THE -- HIS -- I THINK THE COMMENT WAS GENERALLY
23 THAT HE MIGHT HAVE HAD A LOW PAIN THRESHOLD.

24 Q AND WHAT ABOUT MR. JACKSON'S BEHAVIORS
25 AROUND PROPOFOL? DID HE HAVE A NAME -- A SPECIAL NAME
26 FOR PROPOFOL?

27 A HE DID.

28 HE CALLED PROPOFOL MILK, A COMMON THING

1 THAT PEOPLE DO, AN AFFECTION NAME TOWARDS A COMPOUND.

2 Q I DIDN'T CATCH THAT.

3 A WHEN PEOPLE -- WHEN PEOPLE ARE USING, AND
4 IT HAS POSITIVE ATTACHMENT TO IT, THEY OFTEN GIVE IT
5 NAMES.

6 MR. BOYLE: MOVE TO STRIKE; CALLS FOR
7 SPECULATION.

8 THE COURT: MOTION GRANTED, THE ANSWER IS
9 STRICKEN.

10 Q BY MS. CAHAN: IN YOUR EXPERIENCE IN
11 WORKING WITH PEOPLE WHO'VE DEVELOPED ADDICTIONS, DO
12 THEY OFTEN NICKNAME DRUGS?

13 A THAT'S CORRECT.

14 Q CAN YOU GIVE US SOME EXAMPLES OF THAT?

15 A SURE.

16 THERE'S LOTS OF -- I MEAN, PROBABLY MOST
17 PEOPLE HAVE HEARD ABOUT IT. YOU KNOW, HEROIN IS CALLED
18 JUNK, OR SOMETHING LIKE THAT. THERE ARE LOTS OF
19 DIFFERENT DRUGS THAT -- THAT -- MY YOUNG ADULTS CALL
20 OXYCONTIN OXIES, OR ROXICET, THEY CALL IT ROXIES. SO
21 THERE ARE ALL SORTS OF DIFFERENT NAMES, AND THAT'S PART
22 OF WHAT HAPPENS TO PEOPLE.

23 Q AND DID YOU SEE ANY EVIDENCE THAT
24 MR. JACKSON PERSONALLY POSSESSED PROPOFOL AT ANY POINT?

25 A YES.

26 ACTUALLY, IN 2002, FROM DR. VAN VALIN'S
27 TESTIMONY, HE STATED THAT MR. JACKSON CAME OUT WITH A
28 BOX OF PROPOFOL AT THE TIME.

1 ACTUALLY, DR. VAN VALIN DIDN'T EVEN KNOW
2 WHAT IT WAS. BUT HE CAME OUT WITH A BOX OF PROPOFOL
3 AND SAID, "HERE, YOU -- I'D LIKE YOU TO ADMINISTER IT,
4 AND HERE IS -- HERE IS THE COMPOUND, HERE IS --" HE HAD
5 A BOX OF IT IN HIS HOME AT NEVERLAND.

6 Q AND ARE THOSE THINGS THAT ARE CONSISTENT
7 WITH -- I KNOW YOU DON'T HAVE AN OPINION TO A
8 REASONABLE DEGREE OF MEDICAL CERTAINTY THAT MR. JACKSON
9 WAS ADDICTED TO PROPOFOL, BUT ARE THOSE BEHAVIORS AND
10 TRAITS THAT ARE CONSISTENT, IN YOUR EXPERIENCE, WITH
11 ABUSE OF PROPOFOL?

12 MR. PANISH: OBJECTION. THERE'S NO FOUNDATION.
13 HE'S ALREADY SAID HE HAS NO OPINION IN THAT REGARD, AND
14 "CONSISTENT" DOESN'T RISE TO THE STANDARD OF THE LEGAL
15 CRITERIA TO GIVE SUCH AN OPINION.

16 MR. PUTNAM: YOUR HONOR, HE INDICATED THAT HE
17 USED THE DRUG, HE JUST DIDN'T KNOW IF HE WAS ADDICTED,
18 AND HE INDICATED THIS WAS CONSISTENT WITH ABUSE.

19 MR. BOYLE: HE DIDN'T OFFER THIS OPINION IN HIS
20 DEPOSITION.

21 THE COURT: OVERRULED. YOU MAY ANSWER.

22 Q BY MS. CAHAN: I UNDERSTAND THAT YOU'RE NOT
23 OFFERING AN OPINION TO A DEGREE OF MEDICAL CERTAINTY
24 THAT MR. JACKSON WAS ADDICTED TO PROPOFOL; BUT ARE
25 THESE BEHAVIORS THAT WE'RE TALKING ABOUT, USING IT
26 OUTSIDE OF AN APPROPRIATE MEDICAL SETTING, A NICKNAME
27 FOR THE DRUG, AND KEEPING IT AT HOME, THINGS THAT ARE
28 CONSISTENT WITH PROPOFOL ABUSE THAT YOU'VE SEEN IN YOUR

1 HEALTHCARE PROVIDER PATIENTS?

2 A THEY ARE, AND -- THEY ARE.

3 Q GOING BACK TO YOUR SLIDE 4, I SEE THE THIRD
4 FACTOR HERE THAT'S ONE OF THE RISK FACTORS OF PROPOFOL
5 FOR MR. JACKSON THAT YOU PUT TOGETHER IS WHO
6 ADMINISTERED THE PROPOFOL, NOT TRAINED IN ADMINISTERING
7 ANESTHESIA.

8 CAN YOU JUST EXPLAIN BRIEFLY WHAT YOU MEAN
9 BY THAT?

10 A AND THAT'S PART OF WHAT WE SEE IN THE
11 HISTORY. THERE WERE CONTRASTING TIMES WHEN IT WAS
12 APPARENTLY -- ALTHOUGH THERE ARE NO MEDICAL RECORDS, IT
13 WAS APPARENTLY ADMINISTERED IN A SAFE SETTING; AND THEN
14 LATER ON, IT WAS ADMINISTERED IN A LESS SAFE SETTING.

15 IN 2009, IT WAS ADMINISTERED BY INDIVIDUALS
16 THAT WERE NOT -- BY CONRAD MURRAY, WHO DID NOT HAVE THE
17 TRAINING TO ADMINISTER ANESTHESIA, AND THE EQUIPMENT
18 WAS NOT PRESENT AT THAT TIME. AND I THINK THERE WAS A
19 SLIDE ON THAT, AS WELL, IF WE WANT TO DO THAT.

20 Q BEFORE WE GET TO THAT, I JUST WANT TO
21 EXPLORE THIS A LITTLE BIT.

22 SO HAVE YOU REVIEWED TESTIMONY AND RECORDS
23 ABOUT DR. MURRAY'S TRAINING AS A PHYSICIAN?

24 A I HAVE.

25 Q AND WHAT TYPE OF DOCTOR WAS DR. MURRAY?

26 A DR. MURRAY WAS INITIALLY TRAINED AS AN
27 INTERNAL MEDICINE SPECIALIST, AND WENT ON TO HAVE
28 TRAINING AS A CARDIOLOGIST.

1 Q DID YOU SEE ANY EVIDENCE THAT HE HAD
2 SPECIAL TRAINING IN ADMINISTERING ANESTHESIA?

3 A NO.

4 Q WOULD YOU EXPECT A CARDIOLOGIST TO BE
5 ADMINISTERING THAT AS PART OF THEIR LOCAL PRACTICE?

6 A NO.

7 Q WHAT ABOUT AN INTERNIST? WOULD YOU EXPECT
8 AN INTERNIST TO ADMINISTER PROPOFOL AS PART OF THEIR
9 GENERAL EXPERIENCE?

10 A NO.

11 Q BASED ON THE RECORDS THAT YOU REVIEWED, WAS
12 MR. JACKSON FAMILIAR WITH THE TYPES OF DOCTORS THAT
13 TYPICALLY ADMINISTER PROPOFOL?

14 A HE WAS.

15 AND, IN FACT, HE WENT TO ASK SEVERAL -- THE
16 RECORD REFLECTS THAT HE WENT AND ASKED SEVERAL
17 ANESTHESIOLOGISTS TO DO -- TO ADMINISTER PROPOFOL.

18 Q AND DO YOU HAVE A SLIDE ABOUT WHETHER
19 MR. JACKSON'S -- WHETHER MR. JACKSON WAS INFORMED ABOUT
20 WHO IS PROPER TO ADMINISTER ANESTHESIA?

21 A I DO, AND THAT'S MY NUMBER 9.

22 MS. CAHAN: I HAVE IT AT 8 IN MINE. IT'S TITLED
23 "WARNINGS TO MR. JACKSON, PROPOFOL MUST BE ADMINISTERED
24 BY SPECIALISTS." THAT WOULD BE 13570.

25 ANY OBJECTION?

26 MR. BOYLE: NO.

27 Q BY MS. CAHAN: CAN YOU EXPLAIN FOR US WHAT
28 WE HAVE HERE?

1 A WELL, THESE ARE, AGAIN, THE SAME QUOTES
2 THAT GO TO THIS ISSUE ABOUT DR. VAN VALIN IN 2003
3 SAYING AN ANESTHESIOLOGIST THAT SPECIALIZES IN IT
4 SHOULD ADMINISTER THAT.

5 AND THEN WITH CHERILYN LEE WHEN HE ASKED IF
6 SHE COULD HELP ARRANGE SOMEONE TO ADMINISTER PROPOFOL
7 TO HIM, SHE SAID IT CAN ONLY BE USED BY, YOU KNOW, AN
8 ANESTHESIOLOGIST. AND MR. JACKSON'S RESPONSE WAS,
9 "WELL, CAN YOU BRING ME AN ANESTHESIOLOGIST?" SO HE
10 DID UNDERSTAND THAT.

11 MR. PANISH: I MOVE TO STRIKE AS SPECULATION AS
12 TO WHAT MR. JACKSON UNDERSTOOD.

13 THE COURT: OKAY. SUSTAINED.

14 MR. PANISH: THERE'S NO FOUNDATION.

15 THE COURT: THE LAST SENTENCE IS STRICKEN.

16 MS. CAHAN: OKAY.

17 Q DR. EARLEY, YOU SAW FROM MS. LEE'S
18 TESTIMONY THAT AS OF APRIL 2009, HE WAS SAYING, "CAN
19 YOU GET ME AN ANESTHESIOLOGIST TO ADMINISTER PROPOFOL?"

20 A THAT'S CORRECT.

21 Q AND I THINK WE'VE ESTABLISHED THIS, BUT WAS
22 DR. MURRAY AN ANESTHESIOLOGIST?

23 A NO.

24 Q IS IT RISKY TO ALLOW SOMEONE TO ADMINISTER
25 ANESTHESIA IF THAT PERSON IS NOT PROPERLY TRAINED?

26 A IT IS.

27 Q AND IS THAT THE STEEP DOSE RESPONSE CURVE
28 THAT WE TALKED ABOUT BEFORE?

1 A THAT'S AT LEAST ONE OF THE MANY FACTORS
2 THAT ONE HAS TO CONSIDER, YES.

3 Q WHAT ARE OTHER FACTORS THAT ARE IMPORTANT
4 THERE?

5 A IF YOU'RE NOT TRAINED IN USING, FOR
6 INSTANCE, THE EQUIPMENT, THE CAPICNOGRAPH (PHONETIC),
7 THE OXYGEN DELIVERY SYSTEM -- IF YOU DON'T UNDERSTAND
8 THE SIGNS OF APNEA WHEN SOMEONE IS UNDER ANESTHESIA,
9 THOSE ARE THE KINDS OF THINGS YOU LEARN IN TRAINING.
10 IN TRAINING, YOU WATCH THAT SORT OF THING.

11 Q AND GOING BACK TO YOUR SLIDE 4, HAVE WE
12 COVERED WHAT YOU WANTED TO DISCUSS WITH RESPECT TO THAT
13 THIRD POINT?

14 A YES.

15 Q SO LOOKING AT THE FIRST ONE, IT SAYS "WHAT
16 ELSE WAS ADMINISTERED, SYNERGY WITH OTHER DRUGS." AND
17 I THINK YOU SAID EARLIER SYNERGY IS -- TO MAKE IT
18 SIMPLE, IS ONE PLUS ONE CAN EQUAL THREE WITH DRUGS?

19 A CORRECT.

20 Q AND WHAT DO YOU MEAN HERE ABOUT WHAT ELSE
21 WAS ADMINISTERED? WHAT'S THAT ABOUT?

22 A WELL, MR. JACKSON, AT THE TIME OF HIS
23 DEATH, HAD ANOTHER TYPE OF DRUG ON BOARD. HE HAD
24 BENZODIAZEPINES -- THREE DIFFERENT TYPES OF
25 BENZODIAZEPINES IN HIS BODY FLUIDS.

26 AND, ACTUALLY, BENZODIAZEPINES WORK ON THE
27 SAME RECEPTOR COMPLEX AS PROPOFOL DOES, SO THEY ARE
28 MORE THAN ADDITIVE IN CHANGING THAT -- THE BRAIN'S

1 RESPONSE, AND -- AND THEY DEEPEMED THE ANESTHESIA.

2 AND, AGAIN, IF YOU -- IF YOU DON'T KNOW ALL
3 THE DRUGS SOMEONE IS ON OR YOU'RE ADMINISTERING
4 MULTIPLE DRUGS, YOU RUN THE RISK OF INADVERTENTLY
5 DEEPEMED THE ANESTHESIA, GOING UP THAT DOSE RESPONSE
6 CURVE, AND PRIMARILY WHAT HAPPENS IS THE BREATHING
7 CENTERS SHUT DOWN.

8 Q SO AT THE TIME MR. JACKSON PASSED AWAY, HE
9 HAD BENZODIAZEPINES IN HIS SYSTEM AS WELL AS PROPOFOL?

10 A THAT'S CORRECT.

11 Q AND DID YOU SEE EVIDENCE AND TESTIMONY THAT
12 INDICATED THAT DR. MURRAY ADMINISTERED OR PRESCRIBED
13 THOSE BENZODIAZEPINES TO MR. JACKSON?

14 A I THINK IT -- IF MY RECOLLECTION IS
15 CORRECT, ONE OF THEM WAS PRESCRIBED BY DR. MURRAY,
16 AND -- BUT THERE WERE OTHER BENZODIAZEPINES PRESCRIBED
17 BY OTHER PHYSICIANS.

18 Q AND CAN YOU TELL FROM THE AUTOPSY REPORT IF
19 SOMEBODY HAS -- WHO GAVE SOMEONE THE DRUGS?

20 A NO, YOU CANNOT. YOU CAN ONLY TELL WHICH
21 DRUGS ARE PRESENT.

22 Q DID YOU SEE ANY EVIDENCE OR TESTIMONY TO
23 SUGGEST THAT DR. MURRAY EVER PRESCRIBED OPIOIDS -- ANY
24 OPIOIDS TO MR. JACKSON?

25 A I DID NOT.

26 Q AND DEMEROL IS AN OPIOID, RIGHT?

27 A DEMEROL IS AN OPIOID.

28 Q DID YOU SEE EVIDENCE THAT MR. JACKSON, IN

1 JUNE 2009, WAS RECEIVING OPIOIDS FROM ANY SOURCE?

2 A YES.

3 IN -- IN THAT YEAR, HE DID RECEIVE OPIOIDS
4 FROM DR. KLEIN; AND SO THAT INFORMATION WOULD BE
5 HELPFUL, OBVIOUSLY, THAT HE WAS -- HE WAS TAKING
6 OPIOIDS AT THAT TIME.

7 Q WERE THERE ANY OPIOIDS IN HIS -- FOUND IN
8 HIS SYSTEM AT AUTOPSY?

9 A THERE WERE NOT.

10 Q BUT HE WAS RECEIVING THEM IN JUNE 2009?

11 A THAT'S CORRECT.

12 Q SO ASSUMING THAT MR. JACKSON WAS GETTING
13 OPIOIDS FROM DR. KLEIN PERIODICALLY IN JUNE 2009, AND
14 ASSUMING THAT THAT HAD CONTINUED, IS THERE A RISK POSED
15 BY THE OPIOIDS ADMINISTERED OR PRESCRIBED BY DR. KLEIN
16 WITH RESPECT TO THE OTHER TYPES OF DRUGS THAT
17 MR. JACKSON WAS GETTING FROM DR. MURRAY?

18 A YES.

19 AND IT'S -- IT'S -- THIS ISN'T A HARD
20 SCIENCE BECAUSE THE INTERACTION DIFFERS ON THE
21 METABOLISM OF ONE PERSON VERSUS ANOTHER. BUT
22 BENZODIAZEPINES REMAIN IN THE SYSTEM FOR A LONG TIME;
23 SO IF YOU GET PROPOFOL WHEN THERE ARE BENZODIAZEPINES
24 IN THE SYSTEM, YOU COULD GO INTO A DEEPER, BASICALLY,
25 ANESTHETIC, ANESTHESIA STATE, YOU COULD STOP BREATHING.

26 THE OPPOSITE IS TRUE, AS WELL. IF YOU GET
27 OPIATES WHILE YOU'RE ON BENZODIAZEPINES, OR IF YOU ARE
28 CLOSE UPON THE TIME WHEN PROPOFOL IS ADMINISTERED, THAT

1 COULD AFFECT YOUR RESPONSE TO THE OPIATE DRUGS. SO
2 THERE'S MULTIPLE INTERACTIONS, ALL OF -- AND THE SUM OF
3 THAT IS IT'S UNPREDICTABLE.

4 Q SO ANY OF THOSE THREE DRUGS IN COMBINATION
5 COULD HAVE THIS SYNERGY THAT MIGHT CREATE AN EFFECT
6 THAT'S LARGER THAN WHAT YOU WOULD EXPECT OF ONE DRUG
7 PLUS ONE DRUG?

8 A CORRECT.
9 AND THAT'S BECAUSE ALL OF THESE DRUGS
10 AFFECT VERY DEEP -- WHAT'S CALLED THE PONTINE BREATHING
11 CENTER, THE CENTER IN YOUR BRAIN THAT REGULATES YOUR
12 BREATHING.

13 AND ALL OF THESE DRUGS AFFECT THAT AREA,
14 BUT IN DIFFERENT TYPES OF WAYS, AND SO THAT YOU HAVE
15 THE EFFECT OF POSSIBLY STOPPING BREATHING WHEN THESE
16 DRUGS ARE COMBINED.

17 Q SO I WANT YOU TO ASSUME FOR THE PURPOSES OF
18 THIS NEXT QUESTION THAT DR. MURRAY AND DR. KLEIN WERE
19 NOT AWARE OF EACH OTHER'S MEDICAL CARE OF MR. JACKSON.
20 OKAY? CAN YOU ASSUME THAT?

21 A OKAY.

22 Q IF THAT WERE THE CASE, WOULD THAT PRESENT
23 AN EVEN GREATER RISK THAN IF MR. JACKSON WAS GETTING
24 ALL THREE TYPES OF MEDICATIONS FROM THE SAME SINGLE
25 PHYSICIAN?

26 A ABSOLUTELY, BECAUSE IF -- IF YOU KNOW -- IF
27 ONE PHYSICIAN KNOWS HE'S GIVING MULTIPLE MEDICATIONS,
28 EVEN AN INTERNAL MEDICINE PHYSICIAN -- I DON'T MEAN TO

1 SAY "EVEN," BUT, YOU KNOW, INTERNAL MEDICINE PHYSICIANS
2 KNOW ABOUT DRUG-TO-DRUG INTERACTIONS AND WOULD THINK,
3 "OH, I'VE GIVEN OPIATE DRUGS, NOW I HAVE HIM ON -- NOW
4 I HAVE GIVEN HIM PROPOFOL, I NEED TO WORRY ABOUT THOSE
5 DOSING, I NEED TO BE MORE CAREFUL ABOUT MY DOSING."

6 SO IF THAT INFORMATION IS KNOWN, THEN THE
7 PHYSICIAN CAN MODULATE THEIR RESPONSE OR THEIR
8 ADMINISTRATION TECHNIQUE. IF IT'S UNKNOWN, THEN IT'S
9 PRETTY MUCH A CRAP SHOOT.

10 Q AND DID YOU SEE DR. LEVOUNIS'S TESTIMONY
11 ABOUT SECRECY AND DOCTOR SHOPPING?

12 A I DID.

13 Q AND THE SECRECY IN DOCTOR SHOPPING
14 INCREASED THE RISK OF A PROBLEM OCCURRING BECAUSE OF
15 DRUG SYNERGY?

16 A ABSOLUTELY.

17 Q SO THE NEXT FACTOR ON YOUR SLIDE HERE IS
18 PHYSICAL RISKS, SIZE OF JACKSON'S TONGUE, RISK OF BLOOD
19 CLOTS.

20 WHAT DO YOU MEAN THERE?

21 A WELL, THIS IS ONE OF THOSE -- ACTUALLY, THE
22 SIZE OF MICHAEL JACKSON -- EVERYONE --

23 MR. PANISH: YOUR HONOR, I'M GOING TO OBJECT TO
24 THE FOUNDATION OF THIS WITNESS AS TO THE ADMINISTRATION
25 OF PROPOFOL OR ANESTHESIA AND THE RISK ASSOCIATED WITH
26 PEOPLE'S PHYSIOLOGICAL BODY BECAUSE HE'S NOT QUALIFIED
27 ON THAT AREA, HAVING NEVER GIVEN THE DRUG OR KNOWING
28 HOW TO GIVE IT OR BEING TRAINED IN HOW TO GIVE IT.

1 MS. CAHAN: YOUR HONOR, THAT'S NOT TRUE; AND IF
2 THERE NEEDS TO BE SOME VOIR DIRE ABOUT HIS EXPERIENCE
3 WITH PROPOFOL AND PROPOFOL AS AN ANESTHETIC, THAT'S --

4 MR. PANISH: I'LL BE HAPPY TO VOIR DIRE.

5 THE COURT: DID HE GIVE TESTIMONY ON ANYTHING
6 LIKE THAT?

7 MS. CAHAN: YES. HE'S GOING TO TALK ABOUT THE
8 SPECIFIC TESTIMONY FROM OTHERS HERE. HE ALSO HAS
9 PERSONAL EXPERIENCE.

10 THE COURT: OVERRULED. YOU MAY CONTINUE.

11 Q BY MS. CAHAN: YOU WERE EXPLAINING THE
12 PHYSICAL RISK OF THE SIZE OF MR. JACKSON'S TONGUE?

13 A ONE OF THE THINGS THAT -- EVERYONE'S TONGUE
14 IS A DIFFERENT SIZE. I KNOW YOU THINK ABOUT -- THAT'S
15 THE WAY IT IS. SOME PEOPLE'S TONGUES ARE LARGER THAN
16 OTHERS', AND WHEN YOU GO UNDER ANY TYPE OF ANESTHESIA,
17 WHAT HAPPENS IS THE WHOLE BACK OF THE THROAT RELAXES.
18 THAT'S PART OF THAT MUSCULAR RELAXATION.

19 IF YOU HAVE A LARGE TONGUE, THE TONGUE
20 FALLS BACKWARDS INTO THE OROPHARYNX AND ESSENTIALLY
21 OCCLUDES OR BLOCKS OFF THE BREATHING TUBE. AND, IN
22 FACT, WE HAVE -- IN DR. ADAMS' TESTIMONY, HE STATED
23 THAT THIS WAS A COMMON OCCURRENCE. THIS WAS NOT A RARE
24 THING, AND HE ACTUALLY OBSERVED THAT TO OCCUR.

25 SO THE LARGE TONGUE AND HIS FREQUENT
26 ANESTHESIA FROM AN ANESTHESIA PROVIDER -- WHAT
27 DR. ADAMS DID IS HE WOULD NOTE IT. HE WOULD, YOU KNOW,
28 EITHER PUT A SPECIAL -- A SPECIAL BREATHING AREA THAT

1 BASICALLY PULLS THE TONGUE FORWARD OR HE WOULD ROTATE
2 THE HEAD OR HE WOULD -- SO HE WOULD KEEP THE TONGUE
3 FROM OCCLUDING THE AIRWAY.

4 AND THAT'S, AGAIN, SOMETHING A TRAINED
5 ANESTHESIA PROVIDER WOULD KNOW HOW TO DO. BUT SOMEONE
6 WHO IS NOT TRAINED WOULD NOT KNOW THAT AND DIDN'T --
7 YOU KNOW, PART OF AN ANESTHESIA PHYSICAL EVALUATION IS
8 TO LOOK AT THE SIZE OF THE TONGUE; SO THAT DID NOT
9 OCCUR, AS FAR AS WE KNOW, WITH DR. MURRAY.

10 Q SO DR. ADAMS TESTIFIED THAT HE GAVE
11 MR. JACKSON ANESTHESIA FOUR TIMES FOR DENTAL
12 PROCEDURES; IS THAT RIGHT?

13 A THAT'S CORRECT.

14 Q AND DO YOU REMEMBER HIM SAYING WHETHER HE
15 COULD PUT IN ONE OF THOSE BREATHING TUBES IN ADVANCE
16 FOR THE KIND OF PROCEDURE THAT HE WAS GIVING ANESTHESIA
17 FOR?

18 A HE COULD NOT BECAUSE IT WAS AN ORAL
19 PROCEDURE; AND IF YOU PUT THE BREATHING TUBE IN, IT
20 GETS IN THE WAY OF THE ACTUAL DENTAL PROCEDURE SO THAT
21 THE SURGERY CAN'T GO ON TO THE TEETH, SO HE HAD TO ACT
22 A DIFFERENT WAY.

23 Q SO IF SOMEBODY IS NOT HAVING ORAL SURGERY
24 AND THEY HAVE A BIG TONGUE, THAT MIGHT BE SOMETHING
25 WHERE THERE'S AN AIRWAY, SOMETHING COULD -- PHYSICALLY
26 LIKE A TUBE PUT IN IN ADVANCE TO PROTECT SOMEBODY'S
27 AIRWAY?

28 A CORRECT.

1 Q BUT DR. ADAMS DID NOT?

2 A HE DID NOT DO THAT BECAUSE OF THE ORAL
3 SURGERY, RIGHT.

4 Q AND YOU'VE REVIEWED THE TESTIMONY OF
5 MR. SENEFF, THE E.M.T.?

6 A I DID.

7 Q AND THE -- THE AUTOPSY REPORTS AND RELATED
8 RECORDS ABOUT MR. JACKSON'S PASSING?

9 A I DID.

10 Q DID YOU SEE ANY EVIDENCE THAT THERE WAS A
11 BREATHING TUBE EITHER IN PLACE FOR MR. JACKSON ON
12 JUNE 25TH OR AMONG THE MATERIALS COLLECTED BY THE
13 POLICE AT HIS HOME?

14 A I SAW NOTHING TO SAY THAT THERE WAS AN
15 AIRWAY IN PLACE, NOR WAS THERE AN AIRWAY PRESENT IN HIS
16 HOME WHERE HE WAS GIVEN ANESTHESIA.

17 Q OKAY. SO JUST TO MAKE SURE I UNDERSTAND
18 IT, THE PHYSICAL RISK OF THE SIZE OF MR. JACKSON'S
19 TONGUE YOU'RE TALKING ABOUT WAS WITH RESPECT TO GETTING
20 PROPOFOL FROM SOMEONE WHO WASN'T PROPERLY TRAINED AND
21 NOT IN A PROPER SETTING?

22 A CORRECT.

23 Q OKAY. AND CAN YOU EXPLAIN THE RISK OF
24 BLOOD CLOTS LISTED THERE?

25 A YEAH. THAT'S A LITTLE BIT TECHNICAL TOO,
26 BUT HAPPENS A LOT WITH INTRAVENOUS DRUG ADDICTS, IS
27 WHEN YOU GO TO THE HOSPITAL, THEY TEND TO PUT
28 INTRAVENOUS LINES IN YOUR ARMS, AND THERE'S A REASON

1 FOR THAT.

2 IT'S BECAUSE OF HOW THE VALVULAR SYSTEM
3 WORKS, HOW THE BLOOD CLOTTING -- HOW THE RETURN BLOOD
4 FLOW GOES TO THE LUNGS AFTER -- FROM YOUR VEINS, IF
5 A -- THEY MUCH PREFER THE UPPER ARMS BECAUSE OF THE WAY
6 OF THE MECHANICS OF THE BLOOD FLOW THAT RETURNS FROM
7 THE -- FROM THE HANDS AND THE ARMS, IT HAS A LOWER RISK
8 OF PRODUCING CLOTS.

9 IF YOU START USING VEINS IN THE LOWER
10 LEGS -- AND MR. JACKSON HAD SMALL VEINS. THAT WAS
11 RECORDED BY MULTIPLE ANESTHESIA PROVIDERS. THEY WERE
12 DIFFICULT TO STICK. EVEN TRAINED ANESTHESIOLOGISTS
13 SUCH AS DR. ADAMS SAID, "I HAD TO STICK HIM SOMETIMES
14 ONE OR TWO TIMES, SOMETIMES THREE TIMES."

15 THAT'S PRETTY UNUSUAL FOR AN
16 ANESTHESIOLOGIST. AND SO HE HAD TO GO TO -- THERE WERE
17 VEINS IN THE LOWER LEGS THAT YOU COULD USE FOR THE SAME
18 KIND OF VENOUS ACCESS. THE DIFFERENCE IS WHEN YOU
19 PLACE A FOREIGN BODY INSIDE A VEIN IN THE LOWER BODY,
20 THE LEGS, THERE'S A HIGHER PROBABILITY OF CLOTS FORMING
21 THAT GO UP TO THE LUNGS; AND THEN WHEN THEY STOP THE
22 BLOOD FLOW FOR THE LUNGS, BASICALLY, YOU DON'T GET ANY
23 OXYGEN TO THE BODY.

24 I'M SURE MANY OF YOU HAVE HEARD OF THIS
25 TERM, PULMONARY EMBOLI. THAT'S A PULMONARY EMBOLI.
26 ANY KIND OF INTRAVENOUS ACCESS TO THE LOWER LEGS HAS
27 HIGHER RISK OF DEVELOPING PULMONARY EMBOLI THAN AN
28 INTRAVENOUS IN THE ARM.

1 AND THROUGH NO FAULT OF HIS OWN,
2 MR. JACKSON DIDN'T HAVE GOOD VENOUS ACCESS IN HIS UPPER
3 BODY, SO WHAT HAPPENED WITH DR. MURRAY IS THE ACCESS
4 HAD TO GO INTO HIS LEGS, INCREASING THE RISK OF
5 PULMONARY EMBOLI, WHICH IS VERY DANGEROUS AND THE
6 CONSEQUENCE OF INTRAVENOUS ACCESS TO THE LOWER BODY.

7 MR. PANISH: I'D LIKE TO MOVE TO STRIKE THAT LAST
8 PART OF THE TESTIMONY AS TO PULMONARY EMBOLI AND THE
9 RISKS -- WAY OUT OF THIS EXPERT'S EXPERTISE AS AN
10 ADDICTION MEDICINE SPECIALIST. THIS IS IN THE FIELD OF
11 ANESTHESIA, AND HOW ANESTHESIA IS APPLIED, AND WHAT'S
12 COMMON FOR ANESTHESIOLOGISTS, AND HOW MANY TIMES THEY
13 HAVE TO INSERT AN I.V. THERE'S ABSOLUTELY NO
14 FOUNDATION FOR THIS WITNESS IN THAT AREA.

15 MS. CAHAN: YOUR HONOR, THIS MAY BE SOMETHING WE
16 NEED TO HANDLE AT SIDEBAR SO WE DON'T HAVE SPEAKING
17 OBJECTIONS. BUT HE TESTIFIED AT HIS DEPOSITION ABOUT
18 THE RISK OF BLOOD CLOTS, IT'S PART OF HIS DISCLOSED --

19 THE COURT: HE'S AN M.D., RIGHT?

20 MR. PUTNAM: YES, YOUR HONOR.

21 THE COURT: OVERRULED. YOU MAY CONTINUE.

22 Q BY MS. CAHAN: AND, DR. EARLEY, JUST TO
23 CLOSE OUT THIS POINT, HOW DO YOU KNOW THAT MR. JACKSON
24 WAS GETTING PROPOFOL BY I.V. IN HIS LEG ON JUNE 24TH,
25 JUNE 25TH?

26 A I FORGOT THAT DETAIL. MY APOLOGIES.

27 AT THE AUTOPSY, THERE WAS AN ACCESS SITE IN
28 HIS SAPHENOUS VEIN IN HIS LEG THAT WAS PRESENT; AND SO

1 WE AT LEAST KNOW ON THAT OCCASION, IT WAS IN HIS LOWER
2 EXTREMITY.

3 Q SO THE I.V. OR I.V. SITE WAS FOUND IN HIS
4 LEG ON JUNE 25TH?

5 A ON THE AUTOPSY AFTER JUNE 25TH, CORRECT.

6 Q LET'S TALK ABOUT THIS LAST BULLET HERE,
7 WHERE IT SAYS "OTHER RISKS, ACCIDENTS, NONDISCLOSURE
8 AND SECRECY." WE TOUCHED A LITTLE BIT ON THE
9 NONDISCLOSURE AND SECRECY POINT A MINUTE AGO WITH
10 RESPECT TO SYNERGY.

11 IS THERE SOMETHING MORE TO THAT WITH
12 RESPECT TO PROPOFOL RISK WITH MR. JACKSON?

13 A IN TERMS OF NONDISCLOSURE?

14 WELL, JUST THAT HE WAS -- JUST THAT HE WAS
15 GIVEN PROPOFOL IN PROPER MEDICAL SETTINGS FOR SURGICAL
16 PROCEDURES FAIRLY FREQUENTLY, BUT HIS PHYSICIANS DIDN'T
17 KNOW -- ONLY KAREN ROWE (SIC), CONRAD MURRAY AND THE
18 GERMAN DOCTORS WHOSE NAMES WE DON'T KNOW SEEM TO BE THE
19 ONLY PEOPLE THAT KNEW HE WAS GETTING PROPOFOL FOR
20 SLEEP. THIS WAS A PART OF THE SECRECY AROUND ALL OF
21 THAT.

22 Q I'M SORRY. I HEARD YOU SAY KAREN ROWE.

23 DO YOU MEAN DEBBIE ROWE?

24 A DEBBIE ROWE. MY APOLOGIES. SO MANY NAMES.

25 THE OTHER -- WE KNOW THIS WAS ALSO AN ISSUE
26 BECAUSE PRINCE JACKSON TESTIFIED THAT AT CAROLWOOD,
27 DESPITE THE FACT THAT HE WAS A WONDERFUL FATHER AND HIS
28 CHILDREN HAD -- HAD GREAT -- HE CARED FOR HIS CHILDREN

1 WELL, THAT HIS BEDROOM AT THE END WAS LOCKED, AND THEY
2 WERE UNABLE TO GO INTO THAT BEDROOM WHERE THE PROPOFOL
3 WAS ADMINISTERED.

4 SO THAT LOCKING KIND OF MAKES SURE THAT NO
5 ONE FINDS OUT ABOUT THE PROPOFOL USE. THE PROBLEM WITH
6 THAT IS THAT OTHER PHYSICIANS, OBVIOUSLY, WHO TREAT YOU
7 NEED TO KNOW ABOUT ANY KIND OF MEDICAL PROCEDURES
8 YOU'RE HAVING OR ANY KIND OF -- ESPECIALLY SOMETHING AS
9 IMPORTANT AS INTRAVENOUS PROPOFOL.

10 Q AND THAT'S SOMETHING THAT COMES UP WITH
11 DOCTOR SHOPPING, RIGHT? THE NONDISCLOSURE AND SECRECY
12 ARE A PART OF DOCTOR SHOPPING? JUST YES OR NO?

13 MR. BOYLE: YOUR HONOR, BOTH SECRECY AND DOCTOR
14 SHOPPING WERE COVERED AT LENGTH BY THEIR LAST EXPERT,
15 DR. LEVOUNIS. THIS IS CUMULATIVE.

16 THE COURT: TRUE. SUSTAINED.

17 MS. CAHAN: OKAY.

18 Q DID YOU SEE EVIDENCE THAT MR. JACKSON WAS
19 DOCTOR SHOPPING IN 2009 WITH RESPECT TO PROPOFOL?

20 MR. BOYLE: SAME OBJECTION.

21 THE COURT: WITH RESPECT TO PROPOFOL?
22 OVERRULED.

23 THE WITNESS: YES.

24 ACTUALLY, I THINK THAT'S ON YOUR CHART
25 HERE. HE ACTUALLY ASKED DR. DAVID ADAMS TO HELP HIM
26 REST, AND DR. ADAMS DID NOT DO THAT. HE TALKED TO
27 CHERILYN LEE AND ASKED FOR SOME HELP GETTING SOMEONE TO
28 GIVE HIM PROPOFOL TO SLEEP, SO HE WAS SEEKING OUT A

1 PROVIDER THAT WOULD PROVIDE PROPOFOL STARTING OUT WITH
2 DR. ADAMS, WHO WAS AN ANESTHESIOLOGIST, AND A VERY GOOD
3 CHOICE, AND THEN MOVING TO CHERILYN LEE, WHO WAS NOT AN
4 ANESTHESIOLOGIST, NOT A PHYSICIAN, SAYING, "CAN YOU
5 HELP ME SET SOMETHING UP?"

6 AND HE ALSO ASKS IN APRIL OF -- HE ASKS
7 DR. ALLAN METZGER FOR INTRAVENOUS SLEEP MEDICATION. SO
8 HE'S GOING FROM PLACE TO PLACE REQUESTING PROPOFOL.
9 THIS WAS NOT A PHYSICIAN-CHOSEN INTERVENTION,
10 THEREFORE, IT WAS HIM ASKING.

11 Q YOU JUST SAID DR. ADAMS WOULD HAVE BEEN A
12 GOOD CHOICE.

13 DO YOU THINK IT WOULD HAVE BEEN OKAY FOR
14 MR. JACKSON TO GET PROPOFOL FOR SLEEP FROM DR. ADAMS?

15 A BEST OF CIRCUMSTANCES IN A TERRIBLE
16 SITUATION, I GUESS IS THE WAY I WOULD HAVE PUT IT. IF,
17 YOU KNOW -- YOU DON'T WANT TO USE PROPOFOL FOR SLEEP.
18 THAT'S THE BOTTOM LINE. BUT, YOU KNOW, IF THAT
19 OCCURRED, IT WOULD CERTAINLY HAVE BEEN SAFER HAD HE HAD
20 AN ANESTHESIOLOGIST WITH PROPER EQUIPMENT IN A PROPER
21 SETTING.

22 IT STILL DOESN'T MAKE IT RIGHT OR CORRECT
23 FOR LOTS OF OTHER REASONS BECAUSE OF THE EFFECTS OF
24 PROPOFOL, BUT IT WOULD HAVE BEEN BETTER THAN HAVING
25 SOMEONE ELSE DO IT.

26 Q WHAT IS YOUR REFERENCE TO ACCIDENTS THERE?

27 A RIGHT.

28 THERE ARE SEVERAL ISSUES AROUND ACCIDENTS.

1 ONE OF THE THINGS WE FOUND IN THE PROPOFOL RESEARCH
2 STUDY IS THAT ONE OF THE MOST COMMON THINGS THAT
3 OCCURRED IN PROPOFOL-ADDICTED INDIVIDUALS IS THEY
4 MISJUDGED THEIR COORDINATION, THEIR ABILITY TO DRIVE
5 CARS, THAT SORT OF THING, SO HALF OF OUR PATIENTS WERE
6 INVOLVED IN PROPOFOL-RELATED AUTOMOBILE ACCIDENTS OR
7 FALLING OFF A TABLE WHEN THEY WERE UNDER THE -- WHEN
8 THEY WERE ON THE PROPOFOL, OR SOME OTHER TYPE OF
9 PHYSICAL INJURY THAT OCCURRED ASSOCIATED WITH PROPOFOL.

10 YOU HAVE TO REMEMBER YOU GO UNCONSCIOUS SO
11 YOU CAN'T DRIVE A CAR, YOU CAN'T DANCE, YOU CAN'T --
12 YOU KNOW, YOU -- PEOPLE WOULD DO THINGS LIKE FALL WHEN
13 THEY GOT UP FROM CHAIRS. ONE OF THE CARDINAL SIGNS OF
14 MY PROPOFOL-ADDICTED PATIENTS, ACTUALLY, WAS FACIAL
15 CONTUSIONS.

16 WHEN I SAW SOMEONE COMING INTO THE CENTER
17 WHO HAD FACIAL CONTUSIONS, I WOULD SAY TO THE INTAKE
18 STAFF, "OH, DO WE HAVE ANOTHER PROPOFOL ADDICT COMING
19 IN?" YOU COULD JUST SEE IT ON THEIR FACE BECAUSE THEY
20 HAD FALLEN SO MANY TIMES OR INJURED THEIR FACE OR UPPER
21 BODIES.

22 Q WELL, THOSE ARE PEOPLE WHO ARE
23 SELF-ADMINISTERING PROPOFOL, RIGHT? SO THEY'D GIVE
24 THEMSELVES PROPOFOL AND MIGHT BECOME UNCONSCIOUS AND
25 FALL OVER?

26 A SURE.

27 Q YOU DIDN'T SEE ANY EVIDENCE THAT
28 MR. JACKSON WAS SELF-ADMINISTERING PROPOFOL, RIGHT?

1 A I DID NOT.

2 HE WAS NOT SELF-ADMINISTERING.

3 Q SO HOW WAS MR. JACKSON STILL AT RISK FOR
4 ACCIDENTS IF HE WASN'T GIVING HIMSELF THE PROPOFOL?

5 A BECAUSE OF THIS MISJUDGING OF ONE'S
6 COORDINATION. IN OTHER WORDS, IF HE WOKE UP AT NIGHT,
7 GOT UP OUT OF BED, HE WOULD HAVE A HIGHER PROBABILITY
8 OF FALLING IN THE RESTROOM.

9 THE COORDINATION -- THAT'S WHY IN AN
10 OPERATING ROOM AFTER THE -- YOU KNOW, AFTER YOU HAVE
11 ANESTHESIA THAT YOU ARE IN A RECOVERY ROOM. YOU NEED A
12 SUFFICIENT TIME TO RECOVER; AND WHEN YOU'RE GIVEN
13 PROPOFOL IN -- IN A NON-MEDICAL SETTING, YOU'RE NO ONE
14 IS SAYING YOU'RE STRAPPED TO THE GURNEY, YOU CAN'T GET
15 UP AND GO ANYWHERE.

16 Q DID YOU SEE ANY EVIDENCE THAT MR. JACKSON
17 ACTUALLY SUFFERED ANY INJURIES LIKE THAT?

18 A THERE WAS -- ONE IS WE DON'T KNOW WHETHER
19 IT WAS PROPOFOL RELATED, BUT THERE WERE INJURIES IN THE
20 PAST WHERE HE WAS -- HAD A DANCE INJURY.

21 MR. BOYLE: OBJECTION; MOVE TO STRIKE, YOUR
22 HONOR. HE JUST SAID, "WE DON'T KNOW IF IT'S PROPOFOL
23 RELATED," AND THAT WAS THE QUESTION.

24 MS. CAHAN: AND I DON'T WANT YOU TO SPECULATE,
25 DR. EARLEY.

26 THE WITNESS: OKAY. THAT'S GOOD. I'M SORRY.

27 MS. CAHAN: THAT'S OKAY.

28 Q SO THERE'S SOME PERIOD OF TIME AFTER

1 SOMEBODY HAS GOTTEN PROPOFOL WHERE THEY WAKE UP AND
2 THEY'RE CLUMSY; IS THAT FAIR TO SAY?

3 A CORRECT. WELL SAID.

4 Q BUT THAT WEARS OFF, RIGHT?

5 A YES, IT WEARS OFF AT DIFFERING RATES.

6 Q AND IT CAN BE A FAIRLY SHORT AMOUNT OF TIME
7 IT TAKES TO WEAR OFF, DEPENDING ON THE AMOUNT OF
8 PROPOFOL AND HOW LONG IT WAS ADMINISTERED?

9 A YEAH; AND THE SYNERGY WITH OTHER DRUGS.

10 Q AND ONCE THE SIDE EFFECTS HAVE WORN OFF,
11 ARE THERE ANY OTHER SIGNS THAT SOMEONE HAS USED
12 PROPOFOL MAYBE A FEW HOURS EARLIER?

13 A NO.

14 Q SO ONCE SOMEONE HAS WOKEN UP AND HAD A
15 LITTLE BIT OF TIME PASS, IS THERE ANY WAY TO TELL THAT
16 THAT PERSON HAS BEEN RECEIVING PROPOFOL EARLIER?

17 A NOT WITH THE ONLY -- THE ONLY EXCEPTION
18 WOULD HAVE BEEN -- NO, THERE'S NO REAL WAY TO DETECT
19 THAT.

20 Q IS THAT DISTINCT FROM SOMETHING LIKE
21 OPIOIDS WHERE THEY CAN BE -- A PERSON CAN BE AWAKE AND
22 FUNCTIONING BUT ALSO SHOWING SIGNS -- EFFECT OF THE
23 DRUG?

24 A YES, OPIOIDS ARE VERY DIFFERENT. YOU CAN
25 BE -- MANY PEOPLE THAT ARE OPIOIDS ADDICTED ARE AWAKE
26 AND HIGHLY FUNCTIONING ON THE DRUGS.

27 Q HAVE WE COVERED THE RISK FACTORS LISTED
28 HERE NOW?

1 A I THINK SO.

2 Q SO THESE ARE RISK FACTORS THAT MADE
3 MR. JACKSON'S USE OF PROPOFOL THE WAY HE WAS USING IT
4 DANGEROUS, RIGHT?

5 A CORRECT.

6 Q AND YOU BELIEVE THAT THAT WOULD HAVE --
7 THAT HAD A NEGATIVE EFFECT ON HIS LIFE EXPECTANCY?

8 A ABSOLUTELY.

9 Q CAN YOU QUANTIFY THAT, OR CHARACTERIZE
10 THAT?

11 A WELL, THE PROPOFOL EFFECTS, BECAUSE THEY
12 ARE SO DRAMATIC, THEY ARE HUGE. AND I CAN'T GIVE YOU A
13 PERCENTAGE BECAUSE THERE'S NO DATA IN THE LITERATURE TO
14 BACK THAT UP.

15 BUT KNOW THAT -- THAT GIVING PROPOFOL,
16 BECAUSE OF MR. JACKSON'S TONGUE -- IF WE TAKE A LOOK AT
17 THAT ALONE IN A -- IN A NOT PROPERLY SUPERVISED
18 SETTING, EACH TIME -- IN LISTENING TO DR. ADAMS, WHO IS
19 AN ANESTHESIOLOGIST, ALMOST EVERY TIME HE PUT HIM
20 UNDER, HIS -- HE WOULD HAVE A LAX POSTERIOR OROPHARYNX
21 AND WOULD COME CLOSE TO ASPHYXIATING.

22 SO WE HAVE THIS IDEA THAT THIS IS NOT A
23 RARE OR UNUSUAL PHENOMENON; AND IN THE PROPER SETTING,
24 IN AN OPERATING ROOM SETTING, IS NOT A PROBLEM. BUT IN
25 AN IMPROPER SETTING, EACH TIME IT'S LIKE PLAYING
26 RUSSIAN ROULETTE.

27 Q IS THAT DANGEROUS?

28 A YES.

1 Q BASED ON YOUR REVIEW OF THE RECORD, WAS
2 MR. JACKSON TOLD HOW DANGEROUS IT WAS TO BE GETTING
3 PROPOFOL OUTSIDE OF A PROPER SETTING AND NOT -- AND FOR
4 SLEEP?

5 MR. PANISH: OBJECTION; IT'S BEEN ASKED AND
6 ANSWERED SEVERAL TIMES.

7 THE COURT: SUSTAINED. SEVERAL TIMES.

8 Q BY MS. CAHAN: WELL, WE TALKED ABOUT -- WE
9 TALKED ABOUT MR. JACKSON BEING TOLD DON'T GET PROPOFOL
10 AT HOME.

11 A CORRECT.

12 Q AND WE TOLD -- WE TALKED ABOUT MR. JACKSON
13 BEING TOLD DON'T GET PROPOFOL FOR SLEEP.

14 MR. PANISH: WELL --

15 Q BY MS. CAHAN: AND DID YOU SEE ANY EVIDENCE
16 THAT MR. JACKSON WAS TOLD, IN EFFECT, "THIS IS LIKE
17 PLAYING RUSSIAN ROULETTE, YOU COULD DIE FROM THIS"?

18 MR. PANISH: SAME OBJECTIONS. I MEAN, WE WENT
19 THROUGH THIS AT LENGTH WITH ALL THESE SLIDES AND --

20 THE COURT: IT SEEMS WE'VE ALREADY GONE THROUGH
21 THAT. IS THERE SOMETHING IN ADDITION YOU'RE GOING TO
22 ADD?

23 MS. CAHAN: THE -- I JUST WANTED TO TALK ABOUT
24 DR. METZGER AND MS. LEE'S TESTIMONY.

25 MR. BOYLE: COACHING THE WITNESS, YOUR HONOR.

26 THE COURT: WELL, WE TALKED ABOUT LEE ALREADY. I
27 THINK WE TALKED ABOUT METZGER, AS WELL.

28 MR. PANISH: YES, HE DID. HE DID. HE JUST GAVE

1 IT IN ONE OF HIS ANSWERS.

2 THE COURT: SUSTAINED.

3 Q BY MS. CAHAN: AND DID YOU SEE A PATTERN --
4 DID A PATTERN SHOW UP FOR YOU IN MR. JACKSON'S ATTEMPTS
5 TO GET PROPOFOL FOR SLEEP THAT'S REFLECTED ON THAT
6 TIMELINE?

7 MR. PANISH: JUST VAGUE AS TO WHICH -- THE ONE
8 THAT'S UP IN FRONT OF THE JURY, THAT ONE?

9 MS. CAHAN: YES, THE TIMELINE THAT'S ON THE
10 POSTER.

11 THE COURT: THE ONE THAT WAS HANDED OUT?

12 MS. CAHAN: YES.

13 THE WITNESS: YEAH, I THINK THERE IS CERTAINLY
14 A -- A PATTERN HERE. AND THIS IS -- WHEN HE GETS THE
15 DRUG ONCE IN GERMANY, COMES BACK FROM GERMANY, ASKS FOR
16 IT AGAIN, THE BOX OF PROPOFOL -- SOMEHOW THE BOX OF
17 PROPOFOL GETS TO NEVERLAND, WE DON'T KNOW HOW, IN 2003.
18 THEN WE HAVE A PERIOD OF TIME WHERE THERE ARE NO
19 RECORDS, AND -- FEW RECORDS.

20 AND THEN THERE'S THIS INTENSE INCREASE IN
21 SEEKING, AT LEAST THREE SEPARATE INSTANCES IN 2009
22 WHERE HE WINDS UP WITH DR. MURRAY GIVING HIM THE
23 PROPOFOL AND DIES.

24 MS. CAHAN: I WANT TO TALK NOW -- SWITCH FROM
25 TALKING ABOUT PROPOFOL TO TALKING ABOUT THE OTHER DRUGS
26 THAT YOU THINK POSED A RISK TO -- TO MR. JACKSON'S LIFE
27 EXPECTANCY. AND I THINK ON YOUR INITIAL SLIDE, YOU
28 HAVE LISTED OPIOIDS AND BENZODIAZEPINES.

1 THE WITNESS: THAT'S CORRECT.

2 MS. CAHAN: LET'S FIRST TALK ABOUT OPIOIDS.

3 Q DO YOU THINK MICHAEL JACKSON'S OPIOID
4 ADDICTION CREATED SERIOUS RISKS THAT AFFECTED HIS LIFE
5 EXPECTANCY?

6 A I DO, AND THERE'S EVIDENCE IN THE -- IN THE
7 MATERIALS I REVIEWED THAT INDICATE THAT THERE WAS
8 DANGER.

9 Q DID YOU REVIEW DR. SCHNOLL'S TESTIMONY IN
10 THIS CASE?

11 A I DID.

12 Q AND DO YOU REMEMBER HIM SAYING THAT OPIOIDS
13 ARE THE MOST COMMONLY PRESCRIBED DRUG IN THE
14 UNITED STATES?

15 A I DO.

16 Q IS THAT RIGHT?

17 A THAT IS TRUE.

18 Q DOESN'T THAT MEAN THAT THEY'RE PRETTY SAFE?

19 A NO.

20 Q WHY NOT?

21 A WELL, I THINK I'VE GOT ONE GRAPH I WANTED
22 TO SHOW THAT HAS THAT, ABOUT THAT. OPIOID ANALGESICS
23 ARE VERY COMMONLY PRESCRIBED. THE ONES THAT WE'RE
24 FAMILIAR WITH ARE THE DEMEROL IN THIS CASE; BUT
25 OXYCONTIN OR OXIES, PERCODAN, PERCOCET, TEN YEARS AGO,
26 THESE DRUGS IN MY FIELD WERE VERY RARELY ABUSED; BUT
27 TODAY, THEY'RE THE NUMBER 1 DRUG OF ABUSE BY YOUNG
28 ADULTS THAT COME INTO CENTERS SUCH AS MINE.

1 THE -- AND RUNNING A CENTER SUCH AS I HAVE
2 IN THE PAST SEVERAL YEARS, THE NUMBERS OF UNINTENTIONAL
3 DEATHS AND OVERDOSES HAVE GONE UP DRAMATICALLY. ANYONE
4 WHO -- REALLY ALL OF US HAVE BEEN EXPOSED TO THIS. IF
5 YOU HAVE YOUNG ADULT CHILDREN OR TEENAGE CHILDREN, YOU
6 KNOW THAT MANY OF THEM HAVE FRIENDS OR KNOW OF PEOPLE
7 THAT HAVE OVERDOSED AND DIED.

8 THIS WAS UNHEARD OF 15 -- 10, 15 YEARS AGO.
9 SO DESPITE DR. SCHNOLL'S TESTIMONY, IT KIND OF FLIES IN
10 THE FACE OF COMMON SENSE IN THAT CASE. BUT THERE'S
11 ALSO RESEARCH THAT SHOWS THAT, AS WELL.

12 Q AND DO YOU HAVE A SLIDE WITH -- SHOWING
13 SOME OF THE RESEARCH ABOUT OPIOID OVERDOSE?

14 A I DO. I HAVE IT NUMBER 10, ALTHOUGH WE
15 DON'T KNOW WHICH ONE --

16 MS. CAHAN: I HAVE IT 10, TOO. THAT'S A GOOD
17 SIGN. THAT WOULD BE SLIDE 10, EXHIBIT 13571.

18 ANY OBJECTION?

19 MR. BOYLE: THIS IS A NEW OPINION THAT WASN'T
20 OFFERED IN HIS DEPOSITION.

21 MS. CAHAN: NO, IT'S NOT A NEW OPINION.

22 MR. BOYLE: I'D LIKE TO SEE -- CAN YOU GIVE A
23 CITE TO HIS DEPOSITION?

24 MR. PUTNAM: THESE SLIDES WERE SHOWN IN ADVANCE
25 OF HIS TESTIMONY.

26 THE COURT: IF YOU NEED A SIDEBAR, LET'S HAVE A
27 SIDEBAR. IF YOU CAN JUST SHOW HIM SOMETHING EASILY,
28 THEN DO THAT; BUT IF YOU NEED A SIDEBAR, LET'S DO THAT.

1 MS. CAHAN: I'LL TRY TO FIND IT QUICKLY, YOUR
2 HONOR. I DIDN'T HEAR ANY CONCERN ABOUT THIS WHEN I --
3 I DON'T HAVE IT.

4 THE COURT: YOU DON'T NEED A COMMENT, JUST LOOK
5 AT --

6 MR. PANISH: COMMENTARY OF COUNSEL, IT'S SUPPOSED
7 TO GO BOTH WAYS.

8 MR. PUTNAM: SUCH AS A SPEAKING OBJECTION, YOUR
9 HONOR.

10 MR. PANISH: I MOVE TO STRIKE COUNSEL'S COMMENTS
11 AS --

12 THE COURT: I'LL STRIKE BOTH OF YOUR COMMENTS.

13 MR. PANISH: HIM, TOO.

14 THE COURT: DON'T POINT AT MR. BOYLE. HE DIDN'T
15 SAY ANYTHING.

16 MR. PANISH: I'M POINTING AT MR. PUTNAM.

17 THE COURT: MR. BOYLE, GET OUT OF THE WAY.

18 MS. CAHAN: I WAS JUST PASSED A NOTE THAT SAYS
19 THAT THE CHART HE'S GOING TO DISCLOSE COMES FROM AN
20 ARTICLE AT HIS DEPOSITION AND DISCLOSED AS A BASIS FOR
21 HIS OPINION THERE. I COULD TAKE SOME TIME AND TRY TO
22 FIND IF I WAS ASKED ABOUT IT. BUT AT HIS DEPOSITION --

23 THE COURT: DO YOU WANT A SIDEBAR, MR. BOYLE?
24 TELL ME.

25 MR. BOYLE: HE CAN GO AHEAD. THAT'S FINE, YOUR
26 HONOR. WE DON'T BELIEVE HE TESTIFIED ABOUT THIS AT HIS
27 DEPOSITION, BUT THAT'S OKAY.

28 MS. CAHAN: OKAY. SO, PAM, PUT UP SLIDE 13571,

1 PLEASE.

2 Q WHAT DOES THIS SLIDE SHOW?

3 A SO THIS IS A HISTORICAL CHART; AND YOU SEE
4 ALONG THE BOTTOM, THESE ARE YEARS. FROM 1999 TO 2008,
5 ACTUALLY, IS THE LAST BAR. WE DON'T HAVE DATA FOR MORE
6 RECENTLY. AND THIS IS A -- FROM THE CENTERS FOR
7 DISEASE CONTROL. SO THIS IS THEIR -- THEIR RESEARCH,
8 OBVIOUSLY DONE COMPLETELY INDEPENDENT OF ANYONE FROM
9 THIS ROOM.

10 AND IT'S TITLED "UNINTENTIONAL DRUG
11 POISONING IN THE UNITED STATES." AND YOU SEE WITH
12 HEROIN THE AMOUNT OF UNINTENTIONAL OVERDOSE DEATHS IS
13 REMARKABLY FLAT DURING THIS PERIOD OF TIME. THERE'S A
14 RISE IN THE UNINTENTIONAL OVERDOSE OF COCAINE.

15 WHAT WE MEAN BY "UNINTENTIONAL OVERDOSE" IS
16 SOMEONE USES THE DRUG FOR WHATEVER REASON, FOR PAIN,
17 FOR -- IN THE CASE OF OPIOIDS, OR TO GET HIGH,
18 INDIFFERENT TO THAT. OBVIOUSLY, COCAINE AND HEROIN ARE
19 USED TO GET HIGH.

20 OPIOID ANALGESICS -- AND UNINTENTIONALLY,
21 THEY TAKE TOO MUCH OF THE DRUG AND DIE. SO WHAT WE SEE
22 HERE IS OPIOID ANALGESICS HAVE GONE FROM 1999 AT, SAY,
23 3,000 DEATHS PER YEAR -- YOU HAVE TO ALMOST 12,000
24 DEATHS PER YEAR IN 2008, WHICH IS CLEARLY DIFFERENT
25 INFORMATION FROM THE C.D.C. THAN WHAT DR. SCHNOLL IS
26 TESTIFYING TO.

27 THE OTHER ISSUE IS IN THE LAST DECADE,
28 OPIOID OVERDOSES HAVE TRIPLED; AND IN 30 OF THE STATES,

1 UNINTENTIONAL OVERDOSE FROM POISONING WITH THESE DRUGS
2 IS THE LEADING CAUSE OF DEATH FROM INJURY. THAT MEANS,
3 YOU KNOW, NOT FROM CANCER, FROM THAT SORT OF THING. SO
4 WE'RE TALKING ABOUT A HUGE PROBLEM.

5 IT IS ALSO -- IT IS ALSO THE NUMBER ONE
6 CAUSE OF EMERGENCY ROOM VISITS IN L.A. COUNTY. SO THIS
7 IS A HUGE PROBLEM, AND I THINK IT'S -- A LOT OF -- YOU
8 HAVE TO REMEMBER THAT A LOT OF THESE FOLKS ARE BEING
9 GIVEN THESE DRUGS FOR PAIN BY PAIN PHYSICIANS WHO
10 SAY -- WHO TRY TO CONTROL THAT.

11 SO THIS IS NOT NECESSARILY PEOPLE THAT ARE
12 SEEKING TO GET HIGH. THEY'RE POTENT DRUGS, THEY'RE
13 EASY TO TAKE TOO MUCH OF, AND PEOPLE GET -- WHAT
14 HAPPENS OVER TIME IS YOU DEVELOP TOLERANCE FOR THESE
15 DRUGS.

16 YOU TAKE THE DRUGS AND YOU GET LESS AND
17 LESS OF A PAIN EFFECT, BUT THE TOXIC EFFECT LEVEL
18 DOESN'T CHANGE, SO YOU GET CLOSER AND CLOSER TO THE
19 LEVEL WHERE YOU COULD HAVE A BAD SIDE EFFECT WITH
20 CHRONIC USE. THAT'S WHY WE'RE SEEING THIS.

21 MR. PANISH: WHICH EXHIBIT TO HIS DEPOSITION IS
22 THIS?

23 MS. CAHAN: I'LL HAVE SOMEBODY -- IT'S
24 EXHIBIT 16.

25 Q BY MS. CAHAN: JUST TO MAKE SURE I
26 UNDERSTAND THIS, THIS NUMBER OF -- THE RED LINE IS
27 OVERDOSE DEATHS FROM OPIOIDS?

28 A CORRECT.

1 Q AND THAT'S JUST NOT -- THAT'S NOT JUST
2 PEOPLE WHO ARE ADDICTED TO OPIOIDS, THAT COULD BE
3 SOMEBODY WHO IS TAKING IT AS PRESCRIBED BY THEIR
4 DOCTOR?

5 A WELL, "AS PRESCRIBED," PROBABLY INACCURATE,
6 BECAUSE IF -- NO PHYSICIAN WOULD PRESCRIBE THE DRUG AT
7 A TOXIC DOSE. BUT, RATHER, TAKING THE DRUG AND
8 UNINTENTIONALLY TAKING TOO MUCH OF IT AND DYING.

9 Q OKAY. SO SOME OF THE PEOPLE WHO
10 UNINTENTIONALLY TOOK TOO MANY OF THE OPIOIDS AND
11 OVERDOSED AND UNFORTUNATELY PASSED AWAY WERE NOT TAKING
12 THEM TO TRY TO GET HIGH, THEY WERE TAKING THEM TO
13 ADDRESS PAIN OR -- AND THEY HAD GOTTEN THEM FROM A
14 DOCTOR?

15 A YES.

16 Q AND I SEE THAT THIS CUTS OFF AT 2007.
17 ARE YOU AWARE OF WHETHER THE TREND HAS
18 CONTINUED SINCE 2007?

19 A THE TREND IS CONTINUING. IT'S ACTUALLY
20 FLATTENING OUT JUST A NUBBIN IN THE PAST SEVERAL YEARS,
21 AND THAT'S BECAUSE THE -- THE F.D.A. HAS STARTED
22 MANDATORY -- MANDATORY EDUCATION FOR PHYSICIANS IN
23 PROPER OPIOID PRESCRIBING.

24 THE F.D.A. IS CONCERNED THAT THERE ARE TOO
25 MANY OPIOIDS PRESCRIBED IN THE UNITED STATES, AND
26 THOSE -- THAT -- THOSE NUMBERS ARE CAUSING THIS --
27 THIS -- THESE UNINTENTIONAL DEATHS, SO -- AND I'M
28 ACTUALLY PART OF A COMMITTEE THAT'S HELPING TRAIN

1 PHYSICIANS ON THAT.

2 Q OKAY. AND SO --

3 A I'M SORRY.

4 Q THAT'S OKAY.

5 SO SOME OF THE PEOPLE WHO HAVE OVERDOSED --
6 HAVE HAD FATAL OVERDOSES OF OPIOIDS ARE NOT ADDICTED.

7 IS THE RISK HIGHER FOR PEOPLE WHO ARE
8 OPIOID ADDICTS, THE RISK OF FATAL OVERDOSE?

9 A YES, THE RISK IS HIGHER BECAUSE OPIOID
10 ADDICTS TEND TO HAVE MORE DISCONTROL OVER THEIR USE.
11 ONCE YOU START USING THE DRUGS, YOU HAVE MORE
12 DIFFICULTIES IN TAKING THE DRUGS IN A RESPONSIBLE
13 FASHION. THAT'S PART OF THE ILLNESS.

14 Q AND DID YOU ALSO SEE DR. SCHNOLL'S
15 TESTIMONY THAT NOT A LARGE PERCENTAGE OF PEOPLE WHO ARE
16 TREATED WITH OPIOID DRUGS BECOME ADDICTED?

17 A YES.

18 THAT'S ACTUALLY A SOMEWHAT OLD-FASHIONED
19 NOTION, AND ALL THE TIME IN TREATMENT SETTINGS WE SEE
20 PEOPLE THAT CAME IN WHO HAD REAL SIGNIFICANT PAIN
21 PROBLEMS WHICH STARTED ON OPIOIDS FOR REAL SIGNIFICANT
22 PAIN PROBLEMS AND WIND UP BECOMING ADDICTED,
23 UNFORTUNATELY.

24 IT'S A COMMON CAUSATIVE AGENT IN MY FIELD
25 OF ADDICTION MEDICINE.

26 Q DID YOU SEE IN DR. SCHNOLL'S TESTIMONY THAT
27 HE STOPPED TREATING PATIENTS IN 2001?

28 A I DID.

1 Q AND YOU'RE SAYING THE THINKING ON OPIOIDS
2 HAS CHANGED IN THAT DECADE PLUS SINCE THAT TIME?

3 A THAT'S CORRECT.

4 Q BASED ON DR. SCHNOLL'S TESTIMONY, WHAT
5 TYPES OF WORK HAS HE BEEN DOING SINCE HE STOPPED SEEING
6 PATIENTS IN 2001?

7 MR. BOYLE: OBJECTION, YOUR HONOR. HE'S
8 TESTIFYING ABOUT DR. SCHNOLL'S TESTIMONY. IT'S NOT AN
9 OPINION, IT'S NOT AIDING THE JURY IN ANY WAY, HE'S JUST
10 GOING TO REPEAT WHAT DR. SCHNOLL SAID.

11 MR. PANISH: AND, ALSO, DR. LEVOUNIS TESTIFIED
12 ABOUT THIS ALREADY.

13 MS. CAHAN: HE DIDN'T, BUT --

14 MR. PANISH: HE DID.

15 THE COURT: SUSTAINED.

16 Q BY MS. CAHAN: SO FOCUSING NOW ON
17 MR. JACKSON'S OPIOID ADDICTION, DO YOU -- HAVE YOU
18 ASSESSED SOME RISK FACTORS THAT MR. JACKSON FACED
19 BECAUSE OF HIS OPIOID ADDICTION?

20 A I HAVE.

21 Q AND DO YOU HAVE A SLIDE OF THOSE?

22 A I DO.

23 MINE IS NUMBER 11.

24 MR. BOYLE: MINE IS, TOO. AND SO THAT WOULD MAKE
25 IT EXHIBIT NUMBER 113572.

26 ANY OBJECTION TO THAT?

27 MR. BOYLE: NO OBJECTION.

28 MS. CAHAN: OTHER THAN TO THE THIRD POINT UNDER 1

1 AS CUMULATIVE, DOCTOR SHOPPING AND SECRECY.

2 MS. CAHAN: WE WON'T GO INTO THAT, YOUR HONOR.

3 THE COURT: OKAY.

4 MS. CAHAN: SO THE FIRST NUMBERED ITEM YOU HAVE
5 LISTED HERE IS RISK OF UNINTENTIONAL OVERDOSE.

6 Q SO THAT'S OVERDOSE OF OPIOIDS?

7 A CORRECT.

8 Q WHY DO YOU THINK MR. JACKSON WAS AT RISK OF
9 AN UNINTENTIONAL OVERDOSE? AND BEFORE -- AT A HIGH
10 LEVEL.

11 A OKAY.

12 MR. JACKSON HAD MULTIPLE PHYSICIANS IN HIS
13 LIFE, AND SPENT LOTS OF TIMES WITH PHYSICIANS, AND MANY
14 OF WHOM STARTED SAYING, "HE'S MY FRIEND," AND THE
15 REASON --

16 MR. BOYLE: YOUR HONOR, AGAIN, I'M SORRY TO
17 INTERRUPT, BUT THIS IS CUMULATIVE. DR. LEVOUNIS
18 TESTIFIED AT LENGTH ABOUT JACKSON BEING FRIENDS WITH
19 DOCTORS. THIS IS ALL TESTIFIED TO.

20 THE COURT: IT DOES SEEM TO BE CUMULATIVE. LET'S
21 TRY TO GET SOME NEW THINGS SO WE'RE NOT REPEATING
22 TESTIMONY.

23 MS. CAHAN: IT'S NOT MY INTENTION TO REPEAT, YOUR
24 HONOR.

25 Q DID THE THINGS THAT DR. LEVOUNIS TESTIFIED
26 TO ABOUT MR. JACKSON'S BEHAVIORS WITH RESPECT TO
27 OPIOIDS THAT ARE LISTED IN THESE BULLETS HERE CREATE A
28 RISK OF UNINTENTIONAL OVERDOSE AND, THEREFORE, A

1 DIMINISHMENT OF MR. JACKSON'S LIFE EXPECTANCY, IN YOUR
2 VIEW?

3 A IT DID.

4 Q HOW SO?

5 A I'M TRYING TO FIGURE OUT HOW I CAN SAY THIS
6 WITHOUT -- BECAUSE -- BECAUSE OF HIS RELATIONSHIP, AND
7 BECAUSE OF HIS SECRECY, HE HAD A HIGHER PROBABILITY
8 OF -- OF HAVING MULTIPLE MEDICATIONS, AND HE WAS
9 SOMEONE THAT HAS TAKEN THEM OVER A LONG PERIOD OF TIME,
10 SO HE'S SOMEWHAT -- AND OVER TIME, EVERYONE BECOMES
11 LESS WORRIED ABOUT THE TOXIC EFFECTS.

12 IT'S A NATURAL THING THAT EVERYONE DOES,
13 AND MULTIPLE DRUGS FROM MULTIPLE PHYSICIANS IN HIGH
14 DOSES INCREASES RISKS.

15 Q OKAY. SO SOMEONE -- SOMEONE WHO IS
16 ADDICTED TO OPIOIDS FOR A LONG TIME TENDS TO USE THEM
17 IN HIGHER AMOUNTS?

18 A YES.

19 THAT'S BECAUSE OF TOLERANCE, YES.

20 Q AND HIGHER AMOUNTS MAKE IT MORE LIKELY FOR
21 SOMEONE TO OVERDOSE?

22 A RIGHT.

23 TAKEN IN HIGHER AMOUNTS BECAUSE THEY GET --
24 THEY DEVELOP TOLERANCE TO THE EFFECTS OF THE DRUG AND
25 YET THEY DON'T DEVELOP TOLERANCE TO THE POTENTIAL
26 TOXICITY FROM THE DRUG.

27 Q AND I THINK YOU JUST SAID A MINUTE AGO WHEN
28 PEOPLE ASSESS THE RISKINESS OF THEIR USE OF OPIOIDS,

1 THEY SORT OF MINIMIZE THE RISKINESS THE LONGER THEY'RE
2 ADDICTED?

3 A SURE.

4 THE SAME THING HAPPENS WITH ANY MEDICATION.
5 IF YOU -- THE FIRST TIME YOU TAKE A NEW ANTIBIOTIC, YOU
6 WONDER IF YOU'RE GOING TO BE ALLERGIC TO IT; BUT AS YOU
7 TAKE IT OVER TIME, YOU SAY "OH, YEAH, I'VE TAKEN THAT,
8 THAT'S NOT A PROBLEM." THAT'S HUMAN NATURE.

9 Q SO IN YOUR REVIEW OF THE EVIDENCE AND
10 TESTIMONY, YOU THINK THAT MR. JACKSON WAS AT A -- HOW
11 WOULD YOU QUANTIFY HIS RISK OF UNINTENTIONAL OVERDOSE
12 OF OPIOIDS?

13 A VERY HIGH.

14 Q AND THE NEXT BULLET YOU HAVE THERE IS "RISK
15 OF ACCIDENT."

16 WHAT DOES THAT MEAN WITH RESPECT TO
17 MR. JACKSON'S USE OF OPIOIDS?

18 A WELL, THERE WERE SEVERAL INSTANCES WHERE WE
19 KNOW FROM THE HISTORY THAT MR. JACKSON IGNORED
20 POSTOPERATIVE CARE INSTRUCTIONS. AT ONE POINT AFTER AN
21 ANESTHESIA PROCEDURE WITH MR. FOURNIER, HE SPRAINED HIS
22 ANKLE, HAD TO BE CARRIED ONSTAGE IN 1994.

23 SO WE HAVE ONE INCIDENT WHERE WE KNOW
24 HIS -- HIS NOT -- HIS RISK OF ACCIDENTS WERE INCREASED
25 AND CAUSED -- AND CAUSED SIGNIFICANT PROBLEMS. SO PAST
26 BEHAVIOR PREDICTS FUTURE BEHAVIOR. THAT'S PART OF
27 HUMAN NATURE.

28 Q DO OPIOID ADDICTS TEND TO INJURE THEMSELVES

1 MORE OFTEN THAN THE GENERAL POPULATION?

2 A FOR REASONS THAT WE DO NOT UNDERSTAND, THEY
3 DO.

4 Q AND WHAT IS THE DEMEROL METABOLITE
5 INDICATION THERE, THE THIRD ITEM YOU HAVE?

6 A THE MOST COMMON METABOLITE OF DEMEROL AND
7 THE REASON IT'S NOT USED NOW IS BECAUSE THE MOST COMMON
8 METABOLITE OF DEMEROL IS NORMEPERIDINE. WHEN YOUR BODY
9 BREAKS DOWN DEMEROL, IT BREAKS IT DOWN FROM MEPERIDINE,
10 WHICH IS DEMEROL, TO NORMEPERIDINE. AND THAT DRUG,
11 THAT METABOLIC PRODUCT -- I'M SORRY -- IS TOXIC.

12 IT TENDS TO ACCUMULATE OVER A LONGER PERIOD
13 OF TIME. IT HAS WHAT'S CALLED A LONGER HALF LIFE; AND
14 WHEN THAT HAPPENS, IT PLACES YOU AT RISK OF HAVING
15 SEIZURES. THAT'S ONE OF THE REASONS WHY DEMEROL IS
16 USED LESS OFTEN TODAY; AND WHEN IT IS USED, IT'S USED
17 IN LOWER DOSES; BECAUSE PHYSICIANS ARE VERY CONCERNED
18 ABOUT THIS TOXIC METABOLITE.

19 Q AND CAN THOSE SEIZURES OR THE EFFECT OF
20 SEIZURES LIKE FALLING AND HITTING YOUR HEAD BE FATAL AT
21 TIMES?

22 A ABSOLUTELY.

23 IF YOU'RE WALKING DOWN THE STAIRS, YOU CAN
24 FALL DOWN THE STAIRS AT THE TIME. I HAVE MANY PATIENTS
25 THAT ARE DEMEROL ADDICTED WHO PRESENT TO TREATMENT
26 BECAUSE THEY'VE HAD A SEIZURE. SO THIS IS NOT AN
27 UNCOMMON PRESENTING SIGN.

28 Q AND SYNERGY WITH OTHER DRUGS, IS THAT JUST

1 WHAT WE'VE TALKED ABOUT BEFORE IN TERMS OF OPIOIDS PLUS
2 ANY OTHER DRUG IS EXTRA DANGEROUS?

3 A RIGHT.

4 AND THEY -- BECAUSE ALL OF THESE DRUGS ARE
5 SEDATING, THEY'RE DISCOORDINATING. THEY ALL INCREASE
6 THE RISK OF INJURY, THEY INCREASE THE RISK OF AN
7 UNINTENTIONAL OVERDOSE. AND THAT IS SYNERGISTIC. IT'S
8 NOT JUST ONE DRUG DOING THIS BUT THE COMBINATION OF THE
9 OTHER DRUGS STARTS CREATING MORE OF AN ADDITIVE EFFECT
10 THAT CAN RESULT IN INJURY.

11 Q AND IT'S -- MR. JACKSON WAS ADDICTED TO
12 OPIOIDS FROM 1993 UP UNTIL HIS DEATH, RIGHT?

13 A YES.

14 Q AND HIS OPIOID ADDICTION WAS SEVERE?

15 A IT WAS SEVERE.

16 Q SO BASED ON THE LENGTH AND SEVERITY OF
17 MR. JACKSON'S OPIOID ADDICTION, AND THE RISK FACTORS
18 THAT WE'VE BEEN TALKING ABOUT, HOW WOULD YOU ASSESS THE
19 EFFECT OF HIS OPIOID ADDICTION ON HIS LIFE EXPECTANCY?

20 A IT WOULD BE -- IT WOULD BE VERY
21 DELETERIOUS. I CAN'T GIVE YOU, AGAIN, A PERCENTAGE;
22 BUT IT WOULD HIGHLY AFFECT HIS -- HIS LONGEVITY.

23 Q SO WE'VE TALKED ABOUT PROPOFOL USE AND
24 OPIOID ADDICTION ON MR. JACKSON'S LIFE EXPECTANCY, AND
25 I THINK THE NEXT BULLET FROM THAT VERY FIRST SLIDE WAS
26 THE EFFECT OF DRUG SYNERGY ON LIFE EXPECTANCY.

27 IS THAT, AGAIN, JUST THE IDEA OF NOT -- NOT
28 A GOOD IDEA TO USE MULTIPLE TYPES OF DRUGS?

1 A YES.

2 ESPECIALLY IF ONE DOCTOR DOESN'T KNOW ABOUT
3 THE OTHER DRUGS, YES.

4 Q DID YOU SEE THE TESTIMONY FROM PLAINTIFFS'
5 EXPERT DR. SCHNOLL THAT IF MR. JACKSON HAD GOTTEN
6 PROPER TREATMENT FROM HIS DRUG USE, HE WOULD HAVE LIVED
7 A NORMAL, HEALTHY, FULL LIFE?

8 A I DID.

9 Q BASED ON YOUR REVIEW OF THE RECORD, AND
10 SETTING ASIDE DR. MURRAY, DID YOU SEE ANY EVIDENCE THAT
11 MICHAEL JACKSON DIDN'T ALWAYS GET THE BEST MEDICAL
12 TREATMENT?

13 A UNFORTUNATELY, HE DID NOT.

14 Q CAN YOU THINK OF ANY EXAMPLES OF THAT?

15 A WELL, HE WENT OFF TO TREATMENT IN '93,
16 ACCORDING TO HIS OWN ADMISSION; AND THERE WAS NO
17 INFORMATION ABOUT CONTINUED FOLLOWUP. ADDICTION IS A
18 CHRONIC ILLNESS.

19 ONCE YOU DEVELOP ADDICTION DISORDERS, YOU
20 HAVE TO CARE FOR IT EVERY DAY OF THE LIFE, MUCH LIKE
21 DIABETES AND HYPERTENSION, YOU HAVE TO TAKE YOUR HIGH
22 BLOOD PRESSURE MEDICATION, YOU HAVE TO TAKE YOUR
23 INSULIN, YOU HAVE TO DO A SERIES OF THINGS EVERY DAY OF
24 YOUR LIFE TO STAY IN RECOVERY.

25 SO THE FACT THAT HE DID NOT HAVE PROPER
26 FOLLOWUP IS ONE ISSUE. ANOTHER ISSUE WOULD BE THAT
27 UNFORTUNATELY, BECAUSE OF HIS PAIN-RELATED PROBLEMS, HE
28 WAS RE-EXPOSED TO OPIATES OVER AND OVER AGAIN. THE

1 VERY DRUG THAT HE WAS ADDICTED TO WAS USED FOR HIS PAIN
2 PROCEDURES.

3 AND I'M NOT SAYING HE SHOULD GRIN AND BEAR
4 IT, OR -- THAT WOULD BE CRUEL. BUT I AM SAYING THAT
5 PHYSICIANS -- AS AN ADDICTION MEDICINE PHYSICIAN, WHAT
6 I DO WHEN PEOPLE HAVE PAIN PROBLEMS IS WE'RE VERY
7 CAREFUL ABOUT USING OPIOID MEDICATIONS IN SOMEONE WITH
8 A HISTORY OF OPIOID ADDICTION BECAUSE IT TURNS ON THE
9 SAME SWITCH IN THE BRAIN.

10 AND SO THAT DIDN'T OCCUR.

11 Q AND LET ME JUST STOP YOU THERE.

12 YOU'RE NOT SAYING THAT IT WAS MR. JACKSON'S
13 FAULT THAT HE BECAME ADDICTED TO DRUGS?

14 A I'M ABSOLUTELY NOT.

15 Q AND YOU'RE NOT BLAMING THE ADDICT, ARE YOU?

16 A NO.

17 IN OUR FIELD, WE DON'T BLAME THE ADDICT. I
18 CERTAINLY WOULD NOT DO THAT MYSELF BECAUSE I MYSELF
19 HAVE -- AM IN RECOVERY FOR MY OPIATE ADDICTION FOR OVER
20 30 YEARS; AND I'VE LEARNED THAT BLAME HAS NOT BEEN
21 HELPFUL FOR ME, NOR IS IT HELPFUL FOR MY PATIENTS.

22 Q AND WHAT ABOUT THE OTHER PEOPLE IN AN
23 ADDICT'S LIFE? AS AN ADDICTION PHYSICIAN, DO YOU BLAME
24 ANYONE FOR AN ADDICTION?

25 A NO.

26 BLAMING IS NOT HELPFUL FOR GETTING PEOPLE
27 BETTER AND DOESN'T BELONG IN A MEDICAL SETTING. THE
28 WORD "RESPONSIBILITY," HOWEVER, DOES.

1 Q AND HOW SO? HOW DOES RESPONSIBILITY FACTOR
2 IN?

3 A ONCE ONE REALIZES THAT THEY HAVE AN
4 ADDICTION DISORDER, IT BECOMES THEIR RESPONSIBILITY TO
5 CARE FOR IT. AGAIN, USING THE ANALOGY OF HIGH BLOOD
6 PRESSURE OR DIABETES, IF YOU ARE DIABETIC, YOU HAVE TO
7 TAKE YOUR INSULIN EVERY DAY, YOU HAVE TO CHECK YOUR
8 BLOOD SUGAR.

9 THE SAME KIND OF RESPONSIBILITY OR
10 ATTENTION TO THE ILLNESS IS PART OF A GOOD RECOVERY
11 PROGRAM

12 Q AND ALTHOUGH YOU DON'T BLAME THE ADDICT IN
13 ADDICTION MEDICINE, ARE YOU AWARE OF WAYS IN WHICH
14 ADDICTS CAN BE HELD RESPONSIBLE FOR THE CONSEQUENCES OF
15 THEIR BEHAVIOR WHEN THEY'RE SUFFERING FROM ADDICTION?

16 A YES, THERE ARE WAYS OF DOING THAT.

17 IN MY CASE, THE WAY -- WHAT HELPED ME GET
18 SOBER WAS A COMBINATION OF THE LEGAL SYSTEM AND MY
19 MEDICAL LICENSE, AND THOSE TWO THINGS -- THAT SORT OF
20 EXTERNAL PRESSURE HELPED ME PAY ATTENTION TO MY
21 RECOVERY IN THE EARLY YEARS WHEN I WAS AMBIVALENT ABOUT
22 IT, WHEN I WAS THINKING, "DO I REALLY HAVE THIS
23 PROBLEM? I DON'T KNOW" SORT OF THING.

24 AND OVER TIME, I BEGAN TO SAY, "WHAT
25 HAPPENED TO ME?" SO EARLY ON, YES, YOU COULD -- YOU
26 USE -- YOU USE WHATEVER YOU'VE GOT. IF YOU HAVE THE
27 LEGAL SYSTEM, YOU USE THAT. IF YOU HAVE A LICENSE, YOU
28 USE THAT. IF YOU HAVE FAMILY PRESSURE, YOU USE THAT.

1 YOU USE WHATEVER YOU HAVE THAT'S GOING
2 TO -- BECAUSE YOU'RE FIGHTING A BEAST WHICH IS BIGGER
3 THAN THE LOVE OF A FAMILY, FIGHTING A BEAST WHICH IS
4 BIGGER THAN -- THAN A PERSON BY THEMSELVES.

5 Q SO APPLYING THAT TO MR. JACKSON, AND -- AND
6 DR. SCHNOLL'S OPINION THAT HE COULD HAVE GOTTEN INTO
7 RECOVERY AND SUCCESSFULLY RECOVERED AND LIVED A LONG,
8 HEALTHY LIFE, DID YOU SEE IN YOUR REVIEW OF THE RECORDS
9 AND MATERIAL THAT MR. JACKSON HAD SOME OBSTACLES TO
10 SUCCESSFUL RECOVERY?

11 A I DID.
12 AND THERE WERE NUMEROUS; AND I'VE GOT, I
13 THINK, A CHART THAT SHOWS THAT, AS WELL.

14 Q AND I HAVE THAT AS SLIDE 12. IS THAT WHAT
15 YOU HAVE AT SLIDE 12?

16 A WE'RE SYNCED ON THAT ONE.
17 MS. CAHAN: OKAY. AND THAT WOULD BE
18 EXHIBIT 13573.

19 ANY OBJECTION TO THAT ONE?

20 MR. BOYLE: AS LONG AS HE'S NOT GOING TO GET INTO
21 THE CUMULATIVE THINGS, NO OBJECTION.

22 MS. CAHAN: JUST SO THAT YOU UNDERSTAND THAT, THE
23 LEGAL ISSUE THERE, THE IDEA IS THAT YOU DON'T TALK
24 ABOUT IN DETAIL ANYTHING THAT DR. LEVOUNIS ALREADY
25 TESTIFIED TO.

26 Q OKAY?

27 A YES.

28 AND I'M SURE SOMEONE WILL STOP ME IF I GO

1 THERE. I CERTAINLY DON'T WANT TO DO THAT.

2 Q OKAY. AND CAN WE PUT THAT SLIDE UP, PAM?

3 THANK YOU.

4 SO IS THIS YOUR ASSESSMENT OF THE OBSTACLES
5 THAT MR. JACKSON FACED TO SUCCESSFUL RECOVERY?

6 A YES, THOSE ARE THE CATEGORIES OF THE
7 OBSTACLES.

8 Q AND HOW IS THIS ORGANIZED? IS THERE A
9 SEQUENCE?

10 A IT STARTS OUT AT SOMETHING ABOUT THE
11 ADDICTION ILLNESS ITSELF, AND THEN MOVES ON TO WHAT
12 HAPPENS IN TREATMENT. AND AT THE VERY END, IT TALKS
13 ABOUT WHAT HAPPENS IF HE OBTAINED TREATMENT. AND THOSE
14 ARE OBSTACLES AT EACH STEP OF THE WAY, IF YOU WOULD.

15 Q SO WE JUST TALKED ABOUT MR. JACKSON WAS
16 ADDICTED TO OPIOIDS AT LEAST FROM 1993 TO THE END OF
17 HIS LIFE?

18 A YES.

19 Q HOW DOES THAT AFFECT HIS CHANCES OF
20 SUCCESSFUL RECOVERY?

21 A THERE IS A SUBSTANTIAL BODY OF RESEARCH
22 THAT SAYS THE LONGER SOMEONE IS ON OPIATE DRUGS, THE
23 HARDER IT IS TO ADJUST TO -- TO ADJUST -- SUSTAIN A
24 LIFE IN RECOVERY FROM THOSE OPIATE DRUGS. AND THAT
25 DATA IS RICH AND OVER MULTIPLE DECADES WITH MULTIPLE
26 TYPES OF DRUGS -- MULTIPLE TYPES OF OPIATE DRUGS.

27 THE OPIATE DRUGS ESPECIALLY ARE LIKE A WARM
28 BLANKET, AND IT'S BEEN -- YOU STOP TAKING THEM, IT'S

1 LIKE SOMEONE RIPS OFF THE BLANKET AND YOU HAVE TO FEEL
2 FEELINGS YOU HAVEN'T FELT, ET CETERA, ET CETERA.

3 Q THE NEXT POINT ON YOUR LIST OF OBSTACLES
4 THERE IS NO EVIDENCE OF DRUG-REFUSAL SKILLS.

5 WHAT ARE DRUG REFUSAL SKILLS?

6 A EVERYONE WHO IS CHEMICALLY DEPENDENT -- AND
7 THIS MAKES COMMON SENSE. IF ANYONE IN THE ROOM HAS HAD
8 TO STOP SMOKING, FOR INSTANCE, YOU HAVE TO LEARN HOW TO
9 PROTECT YOURSELVES.

10 WHEN SOMEONE SAYS, "DO YOU WANT A
11 CIGARETTE?" YOU HAVE TO FIGURE OUT IMMEDIATELY, NO
12 DELAY, HOW TO SAY IT, WHAT TO SAY, GET AWAY FROM IT.
13 SAME THING IF YOU'RE AN ALCOHOLIC IN RECOVERY AND
14 YOU'RE AT A PARTY AND SOMEONE SAYS, "WOULD YOU LIKE A
15 BEER?"

16 YOU HAVE TO HAVE SOME IMMEDIATE RESPONSE.
17 IF PEOPLE ARE PERSISTENT, NOT KIND ABOUT IT, "COME ON,
18 HAVE A BEER," THEN YOU HAVE TO START RATCHETING UP YOUR
19 RESPONSES. THERE'S A WHOLE SERIES OF SKILLS ONE HAS TO
20 HAVE TO CLOSE DOWN PEOPLE BECAUSE THEY DON'T KNOW --
21 THEY DON'T KNOW THAT THE ALCOHOL IS -- OR THE DRUGS ARE
22 LIKE DYNAMITE.

23 IT'S JUST A BEER, AFTER ALL, TO OTHER
24 PEOPLE. SO YOU HAVE TO HAVE THESE DRUG-REFUSAL SKILLS.

25 Q DID YOU SEE ANY EVIDENCE IN THE RECORD THAT
26 MR. JACKSON HAD GOTTEN TRAINING IN DRUG-REFUSAL SKILLS
27 PRIOR TO THE TIME HE PASSED AWAY?

28 A NO, I DID NOT.

1 Q AND THEN NEXT IS FAILED RECOVERY ATTEMPTS,
2 AND WE'VE HEARD A BIT ABOUT THE EVIDENCE THERE.

3 HOW DID MR. JACKSON'S ATTEMPTS --
4 UNSUCCESSFUL ATTEMPTS TO RECOVER CREATE AN OBSTACLE.

5 A WHEN YOU ATTEMPT TO RECOVER FROM CHEMICAL
6 ADDICTION OF ANY SORT -- AGAIN, WE CAN USE THE ANALOGY
7 OF SMOKING, THE MORE TIMES YOU FAIL, YOU LOSE SOMETHING
8 THAT'S CALLED PERCEIVED EFFICACY. YOU BEGIN TO FEEL
9 LIKE YOU'RE NEVER GOING TO KICK IT AND SO WITH EACH
10 SUBSEQUENT FAILURE, YOU BEGIN TO LOSE FAITH THAT YOU
11 HAVE THE STRENGTH TO OVERCOME IT.

12 SO OFTENTIMES WHEN I TREAT PEOPLE WHO HAVE
13 BEEN THROUGH SIX OR SEVEN TREATMENTS, WHICH IS -- YOU
14 KNOW, SOMETIMES THE PEOPLE I WOULD SEE, MY JOB WAS TO
15 SAY -- WAS TO FIGURE OUT HOW TO WORK WITH THEM TO
16 INCREASE THEIR SENSE OF SELF EFFICACY THAT THEY MAY BE
17 ABLE TO OVERCOME IT AND CRAFT SOMETHING THAT WOULD
18 HELP.

19 Q MOVING -- I'M SORRY. GO AHEAD.

20 A NO. I'M DONE.

21 Q YOU'RE GOOD ON THAT? OKAY.

22 NONDISCLOSURE AND SECRECY, WE TALKED ABOUT
23 WITH RESPECT TO MR. JACKSON'S ABUSE OF PROPOFOL AND THE
24 ISSUE OF SYNERGY OF DRUGS. HOW DOES NONDISCLOSURE AND
25 SECRECY CREATE AN OBSTACLE TO SUCCESSFUL RECOVERY?

26 A WHEN YOU START CREATING SILOS WITH YOUR
27 HEALTHCARE PROVIDERS -- AND THIS IS ONE OF THE THINGS
28 WE DO IN MY PREVENTION TRAINING.

1 MR. BOYLE: YOUR HONOR, I'M GOING TO OBJECT.
2 HE'S GETTING INTO THE PREVIOUSLY TESTIFIED -- IT'S FINE
3 IF HE'S GOING TO SAY THAT'S ONE OF THE FACTORS HE
4 RELIED ON, BUT NOW IT'S REITERATING THE WHOLE --

5 MS. BINA: YOUR HONOR, HE DOESN'T GET A SENTENCE
6 OUT BEFORE HE'S INTERRUPTED. HE'S RELYING ON
7 DR. LEVOUNIS'S OPINION. HE OCCASIONALLY HAS TO REFER
8 TO IT. THAT DOESN'T MAKE IT CUMULATIVE.

9 THE COURT: OVERRULED.

10 MS. CAHAN: WE WERE TALKING ABOUT HOW
11 NONDISCLOSURE AND SECRECY CREATED A PROBLEM IN
12 MR. JACKSON SUCCESSFULLY RECOVERING.

13 THE WITNESS: WHEN YOU CREATE THESE SILOS AND
14 DON'T TELL ONE PHYSICIAN WHAT THE OTHER PHYSICIAN IS
15 DOING, THEN YOU INCREASE THE POSSIBILITY THAT SOMEONE
16 IS GOING TO MAKE A BAD CHOICE AROUND MEDICATION
17 PRESCRIBING, AROUND MANAGEMENT.

18 THAT SECRECY COULD BE AS DEEP AS NOT
19 TELLING YOUR PROVIDER THAT YOU'RE IN RECOVERY FROM
20 CHEMICAL DEPENDENCY. ONE OF THE THINGS THAT I DO WHEN
21 I GO TO THE DOCTOR IS -- I WENT AND HAD SURGERY ON MY
22 KNEE; AND THEY SAID, "ANYTHING YOU NEED TO TELL ME?"

23 AND I SAID, "YEP. YOU DON'T WANT TO GIVE
24 ME OPIATES."

25 THEY SAID, "WHY NOT?"

26 I SAID, "BECAUSE ALL HECK BREAKS LOSE. YOU
27 JUST DON'T WANT TO DO THAT." WE HAD A LONG DISCUSSION
28 ABOUT THAT AND FOUND OTHER WAYS OF MANAGING IT. THAT

1 WAS BECAUSE OF FULL DISCLOSURE. IT WASN'T PARTICULARLY
2 PLEASANT FOR ME TO TELL MY SURGEON THAT I WAS A DRUG
3 ADDICT, BUT IT WAS THERE TO SAVE MY LIFE.

4 Q BY MS. CAHAN: CAN YOU JUST FIX THE
5 PROBLEMS WITH NONDISCLOSURE AND SECRECY BY DOING
6 SOMETHING LIKE DAILY URINE TESTS?

7 A NO, YOU CAN'T, BECAUSE FIRST OF ALL, NOT
8 EVERYONE WILL HAVE ACCESS TO THOSE URINE SCREENS.
9 SECOND OF ALL, IN MR. JACKSON'S CASE, HE WAS A VERY
10 PRIVATE MAN, AND I DON'T THINK URINE DRUG SCREENS WOULD
11 HAVE EVER WORKED IN SOMEONE WHO -- WITH HIS FEELINGS
12 ABOUT PRIVACY.

13 Q AND AREN'T -- ISN'T IT TRUE THAT
14 MR. JACKSON HAD LEGITIMATE PAIN AND MEDICAL NEED
15 SOMETIMES TO TAKE PRESCRIPTION MEDICATIONS?

16 A ABSOLUTELY.

17 Q AND WOULD A DRUG -- A URINE DRUG SCREEN BE
18 ABLE TO TELL THE DIFFERENCE BETWEEN MR. JACKSON TAKING
19 PAINKILLERS FOR AN APPROPRIATE MEDICAL NEED OR ABUSING
20 THE SAME PAINKILLERS?

21 A ALL THE DRUG SCREEN CAN SAY, DRUGS PRESENT,
22 DRUGS NOT PRESENT. THEY DON'T SAY ANYTHING ABOUT
23 WHETHER THEY WERE A RELAPSE OR WHETHER THEY WERE AN
24 APPROPRIATE DRUG USE FOR A MEDICAL PROBLEM.

25 MS. CAHAN: YOUR HONOR, DID YOU WANT TO TAKE A --

26 THE COURT: NO. I WANT HIM TO FINISH. HE'S
27 ALMOST DONE, RIGHT?

28 MS. CAHAN: YES.

1 THE COURT: LET'S JUST FINISH YOUR QUESTIONS.

2 MS. CAHAN: THE NEXT RISK FACTOR THERE WAS
3 GETTING INTO TREATMENT, AND WE'VE HEARD ABOUT FAILED
4 INTERVENTIONS THAT WERE ATTEMPTED WITH MR. JACKSON.

5 Q WHAT'S THE REFERENCE TO "CELEBRITY LIMITED
6 TREATMENT AND SUPPORT GROUP OPTIONS" THERE?

7 A WELL, THIS COMES FROM MY EXPERIENCE IN
8 TAKING CARE OF PEOPLE THAT ARE, OBVIOUSLY, NOWHERE NEAR
9 AS FAMOUS AS MR. JACKSON, BUT CELEBRITIES OF A MEDIUM
10 GRADE. EVEN WITH THOSE TYPES OF PEOPLE, YOU HAVE A
11 DIFFERENT RELATIONSHIP.

12 WHEN YOU ARE THE PROVIDER, WHEN YOU TAKE
13 CARE OF PROVIDERS -- WHEN A PROVIDER TAKES CARE OF
14 SOMEONE THAT IS A CELEBRITY, YOU TEND TO LOSE YOUR
15 BOUNDARIES. YOU TEND TO WANT TO SAY, "CAN I GO TO YOUR
16 CONCERT?" SO THAT'S A VERY DIFFICULT THING. AND
17 SUPERVISION AROUND THAT IS VERY DIFFICULT, MAKING SURE
18 THAT HAPPENS.

19 WHEN YOU GO TO A SUPPORT GROUP, REMEMBER
20 THAT CONTINUED SUPPORT GROUP AND ASKING FOR HELP FROM
21 OTHERS IS ONE OF THE FOUNDATIONS OF LONG-TERM RECOVERY.
22 AND PEOPLE AROUND A VERY FAMOUS PERSON HAVE TERRIBLE
23 PROBLEMS -- I'VE BEEN AROUND NOT ONLY AT A.A. BUT ALSO
24 IN -- I GUESS I SHOULDN'T SAY THAT IN PUBLIC. STRIKE
25 THAT.

26 I HAVE KNOWN PEOPLE THAT GO TO ALCOHOLICS
27 ANONYMOUS THAT HAVE BEEN AROUND PEOPLE WHO ARE FAMOUS;
28 AND IT'S VERY DIFFICULT FOR THEM TO ASK FOR HELP, TO

1 GET THE HELP THEY NEED WITHOUT MIXED AGENDAS ABOUT THE
2 PERSON.

3 SO NOT ONLY PROVIDERS, BUT ALSO SUPPORT
4 GROUPS, A.A. SPONSORS, ALL THOSE SORTS OF FOLKS, IT'S
5 DIFFICULT TO HAVE TRUST ENOUGH TO ASK FOR HELP WHEN YOU
6 ARE -- WHEN YOU HAVE CELEBRITY STATUS. IT'S VERY
7 COMPLICATED.

8 SO, FOR INSTANCE, IN THE -- IN WASHINGTON,
9 THERE'S A VERY SELECT A.A. MEETING THAT SENATORS AND
10 CONGRESSMEN GO TO; BUT, YOU KNOW, YOU DON'T KNOW ABOUT
11 IT, I DON'T KNOW ABOUT IT, AND THE PEOPLE WHO VOTE FOR
12 THEM DON'T KNOW ABOUT IT.

13 MR. BOYLE: NO FOUNDATION IF HE DOESN'T KNOW
14 ABOUT IT, YOUR HONOR.

15 MR. PANISH: SPECULATION.

16 THE COURT: SUSTAINED.

17 THE WITNESS: GOOD POINT.

18 Q BY MS. CAHAN: AND, DR. EARLEY, SO YOU SAW
19 THAT THE FAILED INTERVENTIONS WITH MR. JACKSON WERE
20 INDICATIVE OF HIM NOT WANTING TO GO INTO TREATMENT AT
21 CERTAIN PERIODS OF HIS LIFE?

22 A YES.

23 Q ALTHOUGH HE DID SEEK -- GO INTO A REHAB
24 TREATMENT VOLUNTARILY IN 1993?

25 A AND HE DID SEE DR. FARSHCHIAN FOR
26 NALTREXONE IMPLANTS, AS WELL.

27 Q BUT YOU SAW EVIDENCE THAT HE CONTINUED TO
28 USE AFTER THOSE TIMES?

1 A I DID.

2 Q AND WHAT ABOUT CHRONIC PAIN AND PROCEDURES?
3 HOW DID THOSE CREATE OBSTACLES TO SUCCESSFUL RECOVERY
4 FOR MR. JACKSON?

5 A I THINK I COVERED THAT EARLIER, BUT THE
6 ISSUE SIMPLY IS WHEN YOU HAVE TO HAVE OPIATES AND
7 YOU'RE AN OPIOID ADDICT, IT'S REALLY COMPLICATED
8 BECAUSE THE BRAIN DOESN'T KNOW THE DIFFERENCE. THE
9 BRAIN DOESN'T KNOW WHETHER YOU TOOK THEM TO GET HIGH OR
10 THE DOCTOR GAVE THEM TO YOU. THE BRAIN JUST GOES, "OH,
11 DEMEROL," AND IT LIGHTS UP AND YOU'RE OFF TO THE RACES.

12 Q OKAY. AND ACCESS TO DRUGS, CAN YOU JUST
13 BRIEFLY TELL US WHAT THAT IS A REFERENCE TO?

14 A WELL, THERE'S SEVERAL ISSUES WITH ACCESS
15 TO DRUGS. I THINK IT'S CLEAR IN THE -- FROM THE OTHER
16 TESTIMONY THAT YOU'VE HEARD THAT HE HAD READY ACCESS TO
17 DRUGS BECAUSE OF HIS RELATIONSHIP WITH PHYSICIANS,
18 BECAUSE OF HIS CELEBRITY STATUS, AND BECAUSE OF HIS
19 PAIN ISSUES.

20 ALL OF THOSE THINGS LED TO MANY PEOPLE
21 BEING -- FALLING OVER THEMSELVES TO PRESCRIBE. THAT'S
22 WHAT WAS SAID BY MS. ROWE.

23 MS. CAHAN: YOUR HONOR, THERE ARE A COUPLE OF
24 OTHER THINGS I WANTED TO COVER WITH HIM THAT AREN'T ON
25 THE SLIDES. IT WILL PROBABLY TAKE 15, 20 MINUTES.

26 THE COURT: YOU'RE GOING TO HAVE TO TELL ME WHAT
27 THAT IS BEFORE WE ALLOW YOU TO DO THAT, SO LET'S TAKE A
28 BREAK NOW.

1 MS. CAHAN: OKAY.

2 THE COURT: 15 MINUTES.

3

4 (THE FOLLOWING PROCEEDINGS WERE HELD

5 IN OPEN COURT, OUTSIDE THE PRESENCE

6 OF THE JURY:)

7

8 THE COURT: WHAT DO YOU HAVE TO COVER THAT YOU
9 HAVEN'T COVERED ALREADY?

10 MS. CAHAN: IT'S QUICK, YOUR HONOR. ONE POINT IS
11 THAT UNLIKE -- I DON'T KNOW IF YOU WANT HIM TO STEP OUT
12 FOR THIS.

13 THE COURT: OKAY. WHY DON'T YOU COME BACK IN
14 15 MINUTES.

15 THE WITNESS: OKAY.

16 MR. PUTNAM: SINCE WE HAVEN'T DONE THIS WITH
17 ANOTHER WITNESS, I'M CURIOUS WHAT YOUR HONOR'S CONCERN
18 IS.

19 THE COURT: MY CONCERN IS WE'VE AGAIN OVER A LOT
20 OF THIS STUFF ALREADY AND IT'S BEING REPEATED. I DON'T
21 MIND GOING OVER NEW THINGS, BUT REPEATED TESTIMONY IS
22 JUST -- JUST THAT, REPEATED. SO WHAT IS IT THAT'S NEW
23 THAT YOU'RE ADDING FOR AN EXTRA 15 OR 20 MINUTES?

24 MS. CAHAN: TWO POINTS. ONE IS UNLIKE ANY OTHER
25 PHYSICIANS OR EXPERTS WHO HAVE TESTIFIED IN THIS CASE,
26 HE IS IN A UNIQUE POSITION OF TREATING PATIENTS WITH
27 OPIOID, BENZO AND PROPOFOL DEPENDENCE ISSUES, SO I WANT
28 TO EXPLORE WITH HIM A LITTLE BIT THE RELATIVE

1 INCIDENCES OF THOSE AND WHETHER HE SEES A PATTERN OF
2 PEOPLE WHO ABUSE OPIATES, OPIOIDS, TEND TO GO TO
3 PROPOFOL OR NOT, AND THAT WILL JUST BE A COUPLE OF
4 MINUTES.

5 THE COURT: OKAY. SO IT'S NOT 15 TO
6 20 MINUTES.

7 MS. CAHAN: THAT WILL BE A FEW MINUTES. AND THEN
8 THE OTHER TOPIC, WHICH WILL ALSO BE A FEW MINUTES, IS I
9 WANT TO TALK TO HIM A LITTLE BIT ABOUT THE SYMPTOMS
10 THAT WERE OBSERVED WITH MR. JACKSON ON JUNE 19TH.

11 BECAUSE WE'VE HAD DR. SCHNOLL COME IN AND
12 SAY THAT HE DIDN'T THINK THAT WAS CONSISTENT WITH
13 OPIOID WITHDRAWAL BECAUSE OF THE TIMING OF THE DOSAGES
14 HE GOT FROM DR. KLEIN. WE ALSO HAD DR. CZEISLER COME
15 IN AND SAY HE THINKS IT WAS CONSISTENT WITH CHRONIC
16 SLEEP DEPRIVATION, SO I JUST WANT US TO GET
17 DR. EARLEY'S TAKE ON WHAT THOSE SYMPTOMS LOOK LIKE TO
18 HIM AND WHAT MAKES THE MOST SENSE TO HIM.

19 AND THAT WILL BE A FEW MINUTES, AND THAT
20 WILL BE IT.

21 MR. BOYLE: I DON'T REALLY UNDERSTAND THE FIRST
22 ONE; BUT THE SECOND ONE, THAT'S A NEW OPINION. HE
23 DIDN'T TESTIFY ABOUT WHAT -- I MEAN, JUNE 19TH WAS WELL
24 KNOWN TO EVERYBODY AT THE TIME OF HIS DEPOSITION, AND
25 HE HAD NO OPINION ON ANY OF THAT STUFF.

26 MS. CAHAN: I BELIEVE THAT HE SAID THAT THE
27 SYMPTOMS ON JUNE 19TH WERE CONSISTENT WITH HIM WITH
28 OPIOID WITHDRAWAL. HE CERTAINLY TALKED ABOUT WHAT

1 OPIOID WITHDRAWAL LOOKS LIKE, AND HE TESTIFIED AT
2 DEPOSITION BEFORE DR. CZEISLER AND BEFORE DR. SCHNOLL.

3 AND, ALSO, OBVIOUSLY, THE TRIAL TESTIMONY
4 HAS ADDRESSED THAT, AND HE HASN'T HAD AN OPPORTUNITY,
5 AND HE WAS DESIGNATED AS A REBUTTAL EXPERT. AGAIN,
6 IT'S JUST A FEW MINUTES.

7 MR. PANISH: WELL, IT'S NOT REBUTTAL. THERE'S NO
8 SUCH THING AS REBUTTAL FOR THE DEFENSE.

9 MS. CAHAN: HE WAS DESIGNATED AS AN EXPERT.

10 THE COURT: MS. CAHAN, I'M TRYING TO LISTEN TO
11 MR. PANISH.

12 MR. PANISH: YOUR HONOR, I BELIEVE EXHIBIT 2 TO
13 HIS DEPOSITION, HE LISTS THE SPECIFICS OF HIS OPINIONS,
14 WHICH EVERY ONE OF THEM, WE'VE GONE THROUGH SO FAR
15 TODAY, AND THAT IS NOWHERE NEAR ANYWHERE.

16 AND, IN FACT, THE MATERIALS THAT HE
17 REVIEWED DID NOT INCLUDE AND RELIED ON THE DEPOSITIONS
18 OF THE PEOPLE THERE, NOR ANY OF THE E-MAILS OR ANY OF
19 THE OTHER INFORMATION RELATED TO THAT, SO IT'S CLEARLY
20 A NEW OPINION.

21 MS. BINA: JUST A REMINDER OF THE LAW HERE, YOUR
22 HONOR. A WITNESS IS NOT PRECLUDED FROM OFFERING COLOR
23 OR EVEN FURTHER OPINIONS WITHIN THEIR EXPERTISE UNLESS
24 THEY SPECIFICALLY STATE AT THEIR DEPOSITION THEY
25 WEREN'T GOING TO BE OFFERING IT. CASE LAW SAYS YOU CAN
26 OFFER NEW OPINIONS AT TRIAL.

27 I DON'T THINK THERE IS A NEW OPINION, BUT
28 THERE'S NO RULE AGAINST RESPONDING TO TRIAL TESTIMONY,

1 WHICH IS WHAT DR. EARLEY IS DOING HERE. HE'S
2 RESPONDING TO TESTIMONY THAT HAD NOT BEEN GIVEN AT THE
3 TIME OF HIS DEPOSITION AND PROVIDING HIS OWN COLOR ON
4 IT WITHIN HIS AREA OF EXPERTISE, WHICH IS PERFECTLY
5 APPROPRIATE.

6 MS. CAHAN IS MORE FAMILIAR WITH THE
7 DEPOSITION TESTIMONY THAN I AM; BUT EITHER WAY, IT
8 WOULD BE APPROPRIATE TO SPEND A FEW MINUTES ON THIS
9 BECAUSE IT'S CLEARLY WITHIN HIS EXPERTISE AND IT'S
10 RESPONDING TO TRIAL TESTIMONY THAT HE'S REVIEWED.

11 MR. PANISH: YOUR HONOR, HE DOESN'T EVEN HAVE
12 THAT INFORMATION LISTED ON ALL THE STUFF SHE READ INTO
13 THE RECORD THAT HE RELIED ON AND CONSIDERED FOR HIS
14 OPINIONS. HE DOESN'T LIST GONGAWARE, ANY OF THE
15 E-MAILS, PHILLIPS, ANY OF THOSE PEOPLE'S TESTIMONY, AND
16 HE DIDN'T -- HE DIDN'T HAVE IT AT THE TIME OF HIS
17 DEPOSITION, ANY OF THAT INFORMATION, TO BE QUESTIONED
18 UPON, AND HE DOESN'T HAVE IT ON THE EXHIBIT.

19 THE COURT: DID HE HAVE ANY E-MAILS?

20 MR. BOYLE: NO.

21 BECAUSE I SHOWED HIM SOME E-MAILS, AND THEY
22 MADE A BIG POINT THAT HE HAD NEVER SEEN ANY OF THOSE
23 BEFORE.

24 MR. PANISH: RIGHT.

25 AND MS. CAHAN WENT THROUGH AND READ INTO
26 THE RECORD EVERYTHING HE REVIEWED, RELIED ON IN THIS
27 CASE, AND NONE OF THAT INFORMATION IS CONTAINED
28 ANYWHERE WITHIN THAT OR AT HIS DEPOSITION. SO WHEN WE

1 ASKED HIM AND HE HADN'T HAD IT, HE HAS NO OPINION.

2 FOR HIM NOW, AT THE 9TH -- 11TH HOUR,
3 WHATEVER YOU WANT TO CALL IT -- NOW COME UP WITH THIS
4 NEW OPINION IS INAPPROPRIATE.

5 MS. CAHAN: YOUR HONOR, IT'S NOT -- FIRST OF ALL,
6 THE TRIAL TESTIMONY HE SAID HE'S RELYING ON INCLUDES
7 DR. CZEISLER AND DR. SCHNOLL, WHO BOTH OPINED --
8 EXPRESSED THEIR CHARACTERIZATION OF THE SYMPTOMS OF
9 JUNE 19TH AND OPINED ON THEM.

10 ALSO KAREN FAYE, KENNY ORTEGA,
11 TRAVIS PAYNE, YOU KNOW, HE HAS REVIEWED TESTIMONY --
12 DIRECT TESTIMONY, HE WAS SHOWN DOCUMENTS AT HIS
13 DEPOSITION.

14 IT'S NOT GOING TO BE A LARGE AREA OF
15 EXPLORATION, BUT JUST TO THE EXTENT -- I THINK THERE'S
16 SORT OF CONSENSUS ABOUT THE TYPES OF SYMPTOMS THAT WERE
17 OBSERVED ON JUNE 19TH, AND A DIFFERING VIEW AMONG THE
18 EXPERTS AS TO WHAT THOSE ARE REFLECTIVE OF.

19 MR. PANISH: HE HAD NO OPINION ON ANY OF THIS
20 INFORMATION AT THE TIME OF HIS DEPOSITION. HE GAVE A
21 LENGTHY LIST, EXHIBIT 2, OF ALL THE AREAS THAT HE WAS
22 GOING TO GO INTO, AND IT'S NOT ANYWHERE EVEN CLOSE.

23 THE COURT: WELL, HAD CZEISLER TESTIFIED YET, OR
24 ANY OF THESE OTHER EXPERTS?

25 MS. CAHAN: NO.

26 YOUR HONOR, HE DID CARVE OUT HIS RIGHT TO
27 OFFER ADDITIONAL TESTIMONY AT PAGE 229 OF THE
28 DEPOSITION. HE WAS ASKED, "DO YOU UNDERSTAND THAT YOU

1 HAVE BEEN -- THAT YOUR DESIGNATION AS A TESTIFYING
2 EXPERT IN THIS CASE INCLUDES THAT YOU MAY OFFER
3 REBUTTAL OPINIONS IN RESPONSE TO THE TESTIMONY OF
4 PEOPLE WHO HAVEN'T YET TESTIFIED IN THIS CASE?"

5 ANSWER, "YEAH, YES, THAT'S -- THAT'S HOW I
6 UNDERSTAND IT."

7 THE COURT: OKAY. YOU HAVE TEN MINUTES.

8 MR. PANISH: YOUR HONOR, THEY NEVER ASKED US --
9 THEY NEVER -- UNDER THE CASES, THEY NEVER NOTIFIED US
10 THAT THIS WITNESS WAS GOING TO HAVE A NEW OPINION.
11 OKAY?

12 THE COURT: TEN MINUTES. I'M GOING TO GIVE HER
13 TEN MINUTES.

14 MR. PANISH: UNDER THE CASE OF KENNEMUR, SHRIVER,
15 AND -- WHAT'S THE NAME OF THE OTHER CASE?

16 MR. BOYLE: ACTUALLY, BRIAN --
17 YOUR HONOR, MR. KOSKOFF FOUND THIS FOR ME.
18 I REMEMBER WHEN I WAS TRYING TO SHOW AN E-MAIL AT HIS
19 DEPOSITION, I SPECIFICALLY ASKED, "ARE YOU GOING TO BE
20 OPINING ABOUT THE LAST TWO MONTHS OF HIS LIFE?" AND HE
21 SAYS NO. I MEAN, HE SPECIFICALLY --

22 MS. CAHAN: WHERE IS THAT IN THE DEPOSITION?

23 MR. BOYLE: I'LL SHOW YOU, MS. CAHAN.

24 THE COURT: YOU WORK THAT OUT, WE'LL TALK ABOUT
25 IT WHEN WE COME BACK. TEN MINUTES.

26
27 (11-MINUTE RECESS TAKEN.)
28

1 THE COURT: JACKSON VERSUS A.E.G. LIVE, BC445597.

2 DID YOU HAVE A CHANCE TO GO OVER THOSE

3 OPINIONS AND --

4 MS. CAHAN: YES, YOUR HONOR; AND I DECIDED NOT TO

5 COVER THE JUNE 19TH PIECE AND WE'RE JUST GOING TO TALK

6 FOR A COUPLE OF MINUTES ABOUT HIS POSITION TREATING

7 PEOPLE WITH ABUSES OF ALL THREE DRUGS.

8 THE COURT: ABUSE OF ALL THREE DRUGS. OKAY.

9

10 (THE FOLLOWING PROCEEDINGS WERE HELD

11 IN OPEN COURT, IN THE PRESENCE OF THE

12 JURORS:)

13

14 THE COURT: JACKSON VERSUS A.E.G. LIVE, BC445597.

15 YOU MAY FINISH.

16 MS. CAHAN: THANK YOU, YOUR HONOR.

17 DR. EARLEY, EARLIER TODAY, WE TALKED A BIT

18 ABOUT THE DIFFERENCES BETWEEN THE ANESTHETIC PROPOFOL

19 AND PRESCRIPTION DRUGS LIKE OPIOIDS AND

20 BENZODIAZEPINES.

21 Q DO YOU REMEMBER THAT?

22 A I DO.

23 Q AND I THINK YOU SAID IT'S MUCH MORE COMMON

24 FOR A PERSON TO ABUSE OPIOIDS OR BENZODIAZEPINES THAN

25 PROPOFOL, RIGHT?

26 A MUCH MORE COMMON.

27 Q AND THAT'S EVEN TRUE IN THE SPECIAL GROUP

28 OF THE SPECIALIZED PATIENT POPULATION THAT YOU TAKE

1 CARE OF, MEDICAL PROVIDERS?

2 A CORRECT.

3 Q AND I THINK YOU SAID 1.6 PERCENT OF MEDICAL
4 PROVIDERS REPORT ABUSE OF PROPOFOL.

5 A CORRECT.

6 Q SO IF YOU HAD A PATIENT THAT YOU KNEW WAS
7 ADDICTED TO PRESCRIPTION OPIOIDS, WOULD YOU EXPECT THAT
8 THAT PATIENT WAS ALSO ABUSING PROPOFOL?

9 A NOT AT ALL.

10 Q WOULD IT SURPRISE YOU TO FIND OUT THAT
11 SOMEONE WHO WAS ABUSING OPIOIDS OR BENZODIAZEPINES WAS
12 ALSO ADDICTED TO PROPOFOL?

13 A THAT WOULD SURPRISE ME.

14 Q WHY?

15 A PARTIALLY BECAUSE IT'S SO RARE, PARTIALLY
16 BECAUSE THE ACCESS TO PROPOFOL IS SO LIMITED, AND
17 PARTIALLY BECAUSE AS A DRUG OF ABUSE, IT'S -- I DON'T
18 KNOW QUITE HOW TO DESCRIBE IT BESIDES TO SAY IT'S NOT
19 THAT ATTRACTIVE.

20 Q OKAY. AND BEFORE WHEN I ASKED YOU ABOUT
21 THE 1.6 PERCENT OF MEDICAL PROVIDERS, THAT'S NOT
22 1.6 PERCENT OF ALL MEDICAL PROVIDERS, RIGHT?

23 A RIGHT. I WAS GOING TO CORRECT YOU ON THAT.
24 THAT'S 1.6 PERCENT OF HEALTHCARE
25 PROFESSIONALS WHO SHOW UP WITH ADDICTION DISORDERS.
26 THANKS GOODNESS IT'S NOT 1.6 PERCENT --

27 Q SO BASED ON YOUR EXPERIENCE TAKING CARE OF
28 PEOPLE WHO DO HAVE A VARIETY OF PRESCRIPTION DRUG

1 ADDICTION ISSUES, DO YOU THINK IT'S FORESEEABLE THAT
2 SOMEONE WOULD ABUSE PROPOFOL JUST BECAUSE THEY HAD A
3 HISTORY OF ABUSING OPIOID PAINKILLERS?

4 MR. BOYLE: OBJECT, YOUR HONOR; NO FOUNDATION,
5 CALLS FOR SPECULATION, NOT WITHIN HIS AREA OF
6 EXPERTISE. AND, ALSO, AT HIS DEPOSITION HE SAID HE WAS
7 GOING TO TESTIFY ABOUT WHAT A.E.G. KNEW OR DIDN'T KNOW.

8 THE COURT: HE CAN'T DO THAT.

9 MR. PANISH: AND, ALSO, FORESEEABILITY IS A LEGAL
10 QUESTION FOR THE JURY.

11 THE COURT: I DIDN'T GET THE QUESTION CALLED FOR
12 THAT. IF THAT'S WHAT HIS INTENTION IS, HE CAN'T
13 TESTIFY TO THAT.

14 MS. CAHAN: NO. I'M NOT ASKING ABOUT DEFENDANTS
15 IN THIS CASE, I'M JUST SAYING ANYBODY --

16 THE COURT: LET ME HEAR THE QUESTION.

17 BEFORE YOU ANSWER, LET ME HEAR THE
18 QUESTION.

19 Q BY MS. CAHAN: DR. EARLEY, WOULD YOU EXPECT
20 THAT SOMEONE WOULD ABUSE PROPOFOL JUST BECAUSE THEY HAD
21 A HISTORY OF ABUSING OPIOID PAINKILLERS?

22 A NO.

23 Q AND DID YOU REVIEW THE AUTOPSY AND
24 TOXICOLOGY REPORT FOR MR. JACKSON?

25 A I DID.

26 Q AND WE ESTABLISHED EARLIER THERE WAS NO
27 DEMEROL FOUND IN MR. JACKSON'S SYSTEM AT THE TIME OF
28 HIS PASSING?

1 A CORRECT.

2 Q AND ACCORDING TO THE AUTOPSY, WHAT WAS THE
3 CAUSE OF MR. JACKSON'S DEATH?

4 A PROPOFOL TOXICITY OR PROPOFOL OVERDOSE.

5 Q WE HEARD TESTIMONY FROM CHERILYN LEE LAST
6 WEEK THAT SHE'S SPOKEN WITH SOME ANESTHESIOLOGISTS WHO
7 HAVE BEEN ASKED BY PATIENTS ABOUT PROPOFOL FOR SLEEP.

8 DID YOU REVIEW THAT TESTIMONY?

9 A I DID.

10 Q AND DOES THAT CHANGE YOUR OPINION THAT
11 PROPOFOL IS NOT AN APPROPRIATE TREATMENT FOR INSOMNIA?

12 A NO.

13 Q DOES THAT CHANGE YOUR VIEW ABOUT HOW RARE
14 IT IS FOR ANYONE TO ABUSE PROPOFOL?

15 A NO.

16 Q HAVE YOU SEEN ANY TESTIMONY FROM ANYONE IN
17 THIS CASE WHO HAS SUGGESTED THAT PROPOFOL IS A PROPER
18 TREATMENT FOR INSOMNIA?

19 A NO.

20 Q IF YOU HAD A PATIENT WHO YOU KNEW HAD A
21 HISTORY OF INSOMNIA, WOULD YOU EXPECT THAT PATIENT TO
22 BE ABUSING PROPOFOL?

23 A NO.

24 Q AND WOULD IT SURPRISE YOU TO FIND OUT THAT
25 A PATIENT OF YOURS WAS ABUSING -- USING PROPOFOL TO
26 TREAT INSOMNIA?

27 A IT CERTAINLY WOULD.

28 Q WHY IS THAT?

1 A BECAUSE IT'S -- IT'S JUST NOT COMMONLY
2 AVAILABLE. I THINK I'VE GONE OVER MANY OF THOSE
3 THINGS. IT'S NOT COMMONLY AVAILABLE, IT'S DIFFICULT TO
4 ADMINISTER, IT'S HARD TO GET A HOLD OF, THIS SORT OF
5 THING.

6 Q AND FAIR TO SAY THAT YOU'VE SEEN A LOT
7 OF -- TREATED A LOT OF PATIENTS WHO REPORT SIGNS OF
8 INSOMNIA?

9 A ABSOLUTELY.

10 Q ABOUT HOW COMMON IS THAT?

11 A APPROXIMATELY 60 TO 70 PERCENT OF PATIENTS
12 THAT HAVE SUBSTANCE ABUSE DISORDERS HAVE SIGNIFICANT
13 INSOMNIA.

14 Q AND IN YOUR ENTIRE CAREER, YOU'VE TAKEN
15 CARE OF A HANDFUL OF PEOPLE WITH PROPOFOL ADDICTION?

16 A CORRECT.

17 MS. CAHAN: NOTHING FURTHER AT THIS TIME, YOUR
18 HONOR.

19 THE COURT: THANK YOU.

20 CROSS-EXAMINATION.

21 MR. BOYLE: YES, YOUR HONOR.

22

23

CROSS-EXAMINATION

24 BY MR. BOYLE:

25 Q DR. EARLEY, HOW ARE YOU DOING?

26 A I'M GOOD.

27 Q GOOD.

28 AND YOU AND I MET AT YOUR DEPOSITION,

1 CORRECT?

2 A THAT'S CORRECT.

3 Q NICE TO SEE YOU AGAIN.

4 A UH-HUH.

5 Q AND, SIR, I'M GOING TO ASK YOU TODAY TO TRY
6 TO LISTEN TO MY QUESTION AND ANSWER ONLY MY QUESTION.
7 IS THAT OKAY?

8 A ABSOLUTELY.

9 Q BECAUSE SOMETIMES YOU MIGHT WANT TO
10 EDITORIALIZE -- NOT YOU SPECIFICALLY, BUT PEOPLE DO,
11 AND WANT TO SAY, "WELL, I CAN'T ANSWER THAT YES OR NO,
12 BUT I WANT TO ADD SOMETHING." YOUR LAWYER CAN COME
13 BACK AND HAVE YOU SAY WHAT YOU WANT TO SAY AFTER I ASK
14 YOU THE QUESTIONS; BUT FOR NOW, I JUST WANT YOU TO
15 ANSWER MY QUESTIONS.

16 IS THAT OKAY?

17 A IF I CAN ANSWER YES OR NO, I CERTAINLY
18 WILL.

19 Q OR WHATEVER IT CALLS FOR, BUT JUST THE
20 QUESTION. OKAY? AND I'LL REMIND YOU IF YOU'RE NOT.
21 OKAY?

22 A OKAY.

23 Q SIR, DR. EARLEY, WHO GAVE MR. JACKSON THE
24 PROPOFOL THAT KILLED HIM?

25 A CONRAD MURRAY.

26 Q AND, SIR, IN THE LAST TWO MONTHS OF
27 MR. JACKSON'S LIFE, DID ANYONE GIVE MR. JACKSON
28 PROPOFOL BUT FOR CONRAD MURRAY?

1 A NOT THAT THE RECORD REFLECTS.

2 Q SO THERE'S NO EVIDENCE THAT ANYBODY BUT
3 CONRAD MURRAY GAVE MR. JACKSON PROPOFOL, RIGHT?

4 A IN THE LAST TWO MONTHS OF HIS LIFE, THAT'S
5 CORRECT.

6 MR. BOYLE: AND, SIR, YOU -- ON THIS CHART UP
7 HERE --

8 YOUR HONOR, MAY I APPROACH THE CHART?

9 THE COURT: YES, YOU MAY.

10 MR. BOYLE: THANK YOU. AND THE EXHIBIT NUMBER IS
11 13567.

12 Q ON THIS CHART UP HERE -- DID YOU MAKE THIS
13 CHART OR DID THE LAWYERS MAKE THE CHART?

14 A I NEED TO SEE THE CHART.

15 Q THIS CHART HERE.

16 A I REVIEWED THE HISTORY AND ASKED THEM TO
17 CREATE THE GRAPHICS AND MAKE IT LOOK NICE BECAUSE I
18 HAVE NO TALENT IN THAT AREA.

19 Q SIR, COULD YOU HOLD UP YOUR STACK OF
20 SLIDES, THIS ONE RIGHT HERE, SHOW IT TO THE JURY?

21 I NOTICE THAT ALL THE SLIDES HAVE THIS SORT
22 OF BLUE ON TOP AND BLUE AROUND.

23 DID YOU SELECT THAT BLUE COLOR?

24 A I DID NOT.

25 I'M ALSO NOT GOOD WITH COLOR.

26 Q SO DID YOU CALL THE EXPERT -- ALL THE OTHER
27 DEFENSE EXPERTS AND SAY, "HEY, WE SHOULD MAKE ALL OUR
28 SLIDES BLUE"?

1 A I DID NOT.

2 Q SO THE LAWYERS DID THAT, RIGHT?

3 A THE LAWYERS PREPARED THE ACTUAL SLIDES
4 BECAUSE THEY HAVE TALENT IN THAT AREA.

5 Q OKAY. AND, SIR, I SEE ON THIS CHART YOU
6 HAVE "APRIL 19TH, MICHAEL JACKSON ASKS LEE FOR PROPOFOL
7 FOR SLEEP."

8 DO YOU SEE THAT?

9 A I DO.

10 Q OKAY. WELL, REALLY WHAT HE DID IS HE ASKED
11 HER IF SHE COULD HELP HIM FIND AN ANESTHESIOLOGIST,
12 CORRECT?

13 A TO THE BEST OF MY RECOLLECTION, THAT'S
14 CORRECT.

15 Q OKAY. AND THEN ALSO ON APRIL 18TH, 2009,
16 HE ASKED HIS DOCTOR, DR. METZGER, FOR INTRAVENOUS SLEEP
17 MEDICATION; IS THAT RIGHT?

18 A THAT'S CORRECT.

19 Q OKAY. SO THIS IS -- WE'RE TALKING ABOUT
20 NEAR LATE APRIL HERE. HE ASKED TWO MEDICAL PEOPLE FOR
21 SOMETHING IN REGARDS TO HELPING HIM FIND PROPOFOL,
22 CORRECT?

23 A CORRECT.

24 Q AND IT WAS FOR SLEEP, RIGHT? IT WAS
25 ALWAYS -- IT WAS ALWAYS RELATED TO SLEEP? HE DIDN'T
26 SAY, "GIVE ME SOME PROPOFOL, I JUST WANT TO TAKE
27 PROPOFOL," IT WAS, "I NEED SOME HELP SLEEPING, SO I
28 NEED SOME PROPOFOL," RIGHT?

1 A THAT'S CORRECT.

2 Q AND PRETTY -- AND SO THAT'S -- THAT WAS TWO
3 OF THE TIMES MR. JACKSON EVER ASKED A MEDICAL PROVIDER
4 FOR PROPOFOL FOR SLEEP, CORRECT?

5 A THOSE ARE TWO OF THE TIMES, YES.

6 Q RIGHT.

7 AND THEN WE KNOW OF A DR. QUINN. IN 1988
8 OR '89, HE ASKED DR. QUINN FOR PROPOFOL FOR SLEEP,
9 CORRECT?

10 MS. CAHAN: OBJECTION; MISSTATES THE EVIDENCE.

11 MR. BOYLE: I'M SORRY. '98 OR '99.

12 THE WITNESS: '98 OR '99 IS CORRECT.

13 Q BY MR. BOYLE: THAT WAS FOR SLEEP, ALSO?

14 A CORRECT.

15 Q AND SHE DIDN'T GIVE IT TO HIM, DID SHE?

16 A SHE DID NOT.

17 Q AND DR. METZGER DIDN'T GIVE IT TO
18 MR. JACKSON, DID HE?

19 A NO.

20 Q AND DR. LEE DIDN'T HELP HIM FIND AN
21 ANESTHESIOLOGIST TO GIVE IT TO HIM, DID SHE?

22 A SHE DID NOT.

23 Q AND, DOCTOR, ALSO, IS THERE ANY OTHER TIME
24 IN THE RECORD WHERE YOU KNOW MR. JACKSON ASKED SOMEBODY
25 FOR PROPOFOL FOR SLEEP?

26 A SPECIFICALLY ASKING FOR PROPOFOL, NO. HE
27 DID ASK FOR -- FOR -- TO HELP HIM REST FROM DR. ADAMS,
28 FOR INSTANCE.

1 Q DR. ADAMS IS THE DOCTOR IN LAS VEGAS?

2 A HE'S THE ANESTHESIOLOGIST.

3 Q THE ONE THAT LOOKS LIKE KEVIN GARNETT?

4 ALL RIGHT. OKAY. SO HE ASKED DR. ADAMS
5 FOR SOME HELP SLEEPING, RIGHT?

6 A CORRECT.

7 Q AND WHAT YEAR WAS THAT?

8 A 2009, MARCH.

9 Q OKAY. 2009.

10 SO BASICALLY IN MARCH OF 2009, MICHAEL
11 WAS -- ASKED DR. ADAMS FOR SOME HELP SLEEPING, BUT HE
12 DIDN'T SPECIFY PROPOFOL, RIGHT?

13 A HE DID NOT.

14 Q AND YOU READ DR. ADAMS' DEPOSITION, I'M
15 ASSUMING?

16 A I DID.

17 Q AND YOU READ IT CLOSELY, RIGHT?

18 A I DID MY BEST.

19 Q OKAY. AND SO THEN YOU SAW THAT DR. ADAMS
20 ACTUALLY SAID THAT HE -- HE TEXTED DR. MURRAY BACK AND
21 SAID, "HEY, I WILL -- I WILL DO THIS. I WILL GO ON
22 TOUR WITH YOU," RIGHT?

23 RIGHT?

24 A YES, TO THE BEST OF MY RECOLLECTION, HE
25 DID.

26 Q AND YOU ALSO READ THAT DR. ADAMS SAID "THIS
27 IS GOING TO BE A WORLD TOUR, AND IT WAS GOING TO BE A
28 THREE-YEAR WORLD TOUR, AND I'M GOING TO GO ON IT WITH

1 YOU GUYS," RIGHT?

2 YOU SAW DR. ADAMS SAY THAT?

3 A I THINK I -- I'M JUST GOING TO HAVE TO
4 ASSUME YOU'RE RIGHT ABOUT THAT. I DON'T REMEMBER THE
5 EXACT --

6 MR. BOYLE: I THINK THE JURY SAW THAT.

7 MR. PUTNAM: YOUR HONOR, I ASK THE WITNESS NOT TO
8 ASSUME. IT CALLS FOR SPECULATION IF HE DOESN'T KNOW.

9 MR. PANISH: HE'S COACHING THE WITNESS.

10 MR. PUTNAM: MOVE TO STRIKE FOR SPECULATION, YOUR
11 HONOR.

12 THE COURT: MOTION GRANTED.

13 MR. BOYLE: TOMORROW, I'LL PLAY THE DR. ADAMS
14 VIDEO TESTIMONY FOR YOU AND YOU CAN SEE WHAT HE SAID ON
15 THAT.

16 Q SIR, WHEN YOU READ DR. ADAMS CLOSELY, DID
17 YOU SEE WHERE DR. ADAMS SAID THAT MICHAEL TOLD HIM THE
18 PROMOTERS WOULD GIVE HIM WHATEVER HE WANTED?

19 DID YOU READ THAT?

20 A I DO NOT RECALL THAT SPECIFICALLY.

21 Q OKAY. BUT YOU READ IT CLOSELY, RIGHT?

22 A I DID MY BEST.

23 MR. BOYLE: OKAY. NOW, SIR.

24 YOUR HONOR, MAY I KEEP APPROACHING THIS
25 CHART?

26 THE COURT: YES, YOU MAY. YOU DON'T HAVE TO KEEP
27 ASKING ME.

28 MR. BOYLE: THANK YOU. BUT IT'S BLOCKING THE

1 FAN, SO THEY PROBABLY WANT THIS THING GONE.

2 Q SO APRIL 18TH AND APRIL 19TH, MR. JACKSON
3 WAS ASKING FOR PROPOFOL FOR SLEEP; IS THAT CORRECT?

4 A THAT'S CORRECT.

5 Q SIR, DO YOU KNOW WHAT HAPPENED ON MAY 6TH,
6 2009?

7 MR. PUTNAM: OBJECTION; VAGUE, YOUR HONOR.

8 MR. BOYLE: WITH REGARD TO THIS CASE.

9 Q DO YOU KNOW A SIGNIFICANT THING THAT
10 HAPPENED IN REGARD TO THIS CASE ON MAY 6TH, 2009?

11 THE COURT: OVERRULED.

12 THE WITNESS: I DON'T KNOW EXACTLY ABOUT WHAT
13 HAPPENED ON THAT DATE, NO. I CAN LOOK THAT UP IF YOU'D
14 LIKE ME TO.

15 MR. BOYLE: NO. THAT'S OKAY. I'M GOING TO ASK
16 THAT MR. DOWELL PUT UP EXHIBIT -- SHOW IT FIRST TO THE
17 COUNSEL AND THE COURT, EXHIBIT 1129, WHICH IS A VERSION
18 OF YOUR CHART THAT I MADE OVER LUNCH.

19 MS. CAHAN: IS THAT IN EVIDENCE?

20 MR. BOYLE: NOT YET.

21 IT HAS AN INLAY OF 17351 WHICH IS IN
22 EVIDENCE. IT'S THE GONGAWARE DONE AT "150 K PER MONTH"
23 E-MAIL.

24 MS. CAHAN: THAT'S FINE.

25 MR. BOYLE: MR. DOWELL, WOULD YOU PLEASE SHOW
26 THIS. AND I'LL TAKE THIS DOWN AND LET YOU HAVE SOME
27 AIR. OKAY.

28 SO, DR. EARLEY -- OKAY.

1 SO, JOSH, COULD YOU BLOW UP THE INLAY OF
2 EXHIBIT 175.

3 ALL RIGHT.

4 Q SO, DR. EARLEY, APRIL 18TH, HE ASKS METZGER
5 FOR INTRAVENOUS SLEEP MEDICATION, CORRECT?

6 A YES.

7 Q APRIL 19TH, MR. JACKSON ASKS DR. LEE TO
8 HELP HIM FIND AN ANESTHESIOLOGIST TO HELP HIM GET
9 PROPOFOL FOR SLEEP, CORRECT?

10 A THAT LOOKS CORRECT, YES.

11 Q OKAY. THEN ON MAY 6TH, 2009,
12 PAUL GONGAWARE E-MAILS MR. JACKSON'S ASSISTANT AND
13 SAYS -- WITH AN E-MAIL TITLED "DR. MURRAY," AND IT SAYS
14 "DONE AT 150 K PER MONTH."

15 HAVE YOU SEEN THAT E-MAIL BEFORE?

16 A NOT TO MY RECOLLECTION.

17 Q NOW, SIR, LET ME ASK YOU THIS. AFTER
18 MAY 6TH, 2009, IS THERE ANY EVIDENCE IN THE RECORD THAT
19 MR. JACKSON EVER ASKED ANYBODY ELSE FOR PROPOFOL?

20 A THERE'S NO EVIDENCE. SOUNDS LIKE HE GOT
21 IT.

22 Q SOUNDS LIKE HE GOT THE PROPOFOL FROM
23 DR. MURRAY, CORRECT?

24 A THAT'S WHAT IT SOUNDS LIKE.

25 Q RIGHT.

26 AND DO YOU KNOW WHO PAUL GONGAWARE IS?

27 A HE -- HE WORKS -- HE'S UP IN THE HIERARCHY
28 OF A.E.G. LIVE. I DON'T KNOW HIS EXACT --

1 Q SO C.E.O. OF A.E.G. LIVE FOR CONCERTS WEST,
2 RIGHT?

3 MS. CAHAN: OBJECTION; CALLS FOR SPECULATION.

4 THE COURT: OVERRULED.

5 Q BY MR. BOYLE: DID YOU READ HIS DEPOSITION?

6 A YES, BUT I DIDN'T REMEMBER HIS TITLE.

7 Q OKAY. BUT HE'S HIGH UP AT A.E.G. LIVE,
8 RIGHT?

9 A I KNEW THAT.

10 Q AND ON MAY 6, 2009, HE SENT AN E-MAIL,
11 SUBJECT LINE "DR. MURRAY," RIGHT?

12 IS THAT CORRECT?

13 A THAT LOOKS CORRECT.

14 Q AND YOU KNOW, SIR, FROM YOUR REVIEW OF THE
15 RECORD THAT DR. MURRAY WAS GOING TO BE PAID 150 K PER
16 MONTH, CORRECT?

17 MS. CAHAN: OBJECTION; CALLS FOR SPECULATION,
18 OUTSIDE THE SCOPE.

19 THE COURT: OVERRULED.

20 THE WITNESS: THAT'S WHAT THE E-MAIL SAYS.

21 Q BY MR. BOYLE: BUT YOU'VE HEARD THAT IN
22 OTHER THINGS YOU'VE READ IN THE RECORD, RIGHT? 150,000
23 A MONTH, ALL THAT, RIGHT?

24 A I HAVE HEARD IT ELSEWHERE, AS WELL.

25 Q SO MR. JACKSON FOUND HIS PROPOFOL, CORRECT?

26 A THAT'S CORRECT.

27 Q FROM THE DOCTOR HIRED BY A.E.G. LIVE,
28 RIGHT?

1 MS. CAHAN: OBJECTION --

2 MR. PUTNAM: THAT GOES TO THE ULTIMATE FACT, YOUR
3 HONOR.

4 THE COURT: SUSTAINED AS TO THE USE OF THE WORD
5 "HIRED."

6 MR. BOYLE: OKAY.

7 Q ASSUMING THAT A.E.G. LIVE HIRED
8 DR. MURRAY -- ARE YOU OKAY WITH THAT ASSUMPTION, JUST
9 ASSUMING THAT?

10 A OKAY. I'LL ASSUME THAT AS A HYPOTHETICAL.

11 Q BY MR. BOYLE: AND AS YOU TESTIFIED BEFORE,
12 MR. JACKSON FOUND HIS PROPOFOL, RIGHT?

13 A MR. JACKSON FOUND -- WHAT HE FOUND HERE WAS
14 DR. MURRAY. I DON'T KNOW ABOUT THE PROPOFOL PART, BUT
15 I CERTAINLY KNOW --

16 Q SIR, I CAN PULL UP YOUR TESTIMONY. YOU
17 SAID BEFORE IT WAS -- WHEN I ASKED YOU IF HE ASKED
18 ANYBODY ELSE FOR PROPOFOL AFTER MAY 6TH, YOU SAID NO
19 BECAUSE HE ALREADY FOUND HIS PROPOFOL, DIDN'T YOU?

20 A THAT'S PROBABLY ACCURATE.

21 Q OKAY. SO WHAT CHANGED BETWEEN APRIL 19TH
22 AND MAY 6TH IS PAUL GONGAWARE GOT THE DEAL DONE WITH
23 DR. MURRAY, CORRECT?

24 MR. PUTNAM: OBJECTION; CALLS FOR SPECULATION,
25 YOUR HONOR, AND VAGUE, AS WELL.

26 THE COURT: OVERRULED.

27 THE WITNESS: ALL I KNOW FROM THIS IS THAT IT
28 SAYS "DONE." I DON'T KNOW WHO -- IT SAYS WHO DID IT OR

1 HOW IT WAS DONE, IT JUST SAYS IT WAS DONE.

2 MR. BOYLE: OKAY.

3 Q SO THE DEAL WAS DONE, CORRECT?

4 MR. PUTNAM: SAME OBJECTION, YOUR HONOR. IT GOES
5 TO THE ULTIMATE ISSUE, LEGAL CONCLUSION.

6 THE COURT: JUST DONE. OVERRULED.

7 THE WITNESS: THE DEAL WAS DONE.

8 MR. BOYLE: OKAY. ALL RIGHT, JOSH. YOU CAN TAKE
9 THAT DOWN.

10 Q DR. EARLEY, YOU HAVE AN EXTENSIVE WEBSITE;
11 IS THAT CORRECT?

12 A I'M NOT SURE I'D CHARACTERIZE IT AS
13 EXTENSIVE; BUT I DO HAVE A WEBSITE, YES.

14 Q DO YOU RECALL YOU AND I, IN YOUR
15 DEPOSITION, TALKED ABOUT YOUR WEBSITE A LOT?

16 A WE DID.

17 Q AND WE TALKED ABOUT ALL THE VARIOUS PAGES
18 AND BLOGS AND ARTICLES YOU HAVE LINKED ON YOUR WEBSITE,
19 RIGHT?

20 A RIGHT.

21 MR. BOYLE: OKAY. AND, JOSH, I'D LIKE TO SHOW TO
22 COUNSEL AND THE JUDGE -- JOSH, ARE YOU READING MY MIND?
23 13028. I'M SORRY. 13024. 13024. AND FOR THE
24 DEFENSE, THIS WAS EXHIBIT 7 TO DR. EARLEY'S
25 DEPOSITION -- EXHIBIT 17 TO DR. EARLEY'S DEPOSITION.

26 MS. CAHAN: NO OBJECTION.

27 MR. BOYLE: I'D LIKE TO -- I'D LIKE TO SHOW THIS
28 TO THE JURY, PLEASE, JOSH.

1 Q AND, DR. EARLEY, YOU TOLD ME IN YOUR
2 DEPOSITION THIS IS A -- WOULD YOU CALL THIS A BLOG THAT
3 YOU WROTE?

4 A YES.

5 Q AND IT'S TITLED "MICHAEL JACKSON, ADDICTION
6 IN THE PRIVILEGED"; IS THAT CORRECT?

7 A YES.

8 Q AND THEN IT'S GOT A PICTURE OF PROPOFOL ON
9 IT, RIGHT?

10 A YES.

11 Q NOW, SIR, WHEN YOU -- WHEN YOU WROTE AND
12 POSTED THIS BLOG, THIS WAS SHORTLY AFTER MR. JACKSON'S
13 DEATH, CORRECT?

14 A IT WAS.

15 Q WITHIN -- WITHIN DAYS, CORRECT?

16 A PROBABLY WEEKS IS MORE ACCURATE.

17 Q OKAY. WITHIN WEEKS.

18 NOW, SIR, HAD YOU BEEN HIRED BY A.E.G. ON
19 THIS CASE AT THAT TIME?

20 A I HAD NOT.

21 Q YOU HAD NOT. OKAY.

22 SO, SIR, HAD YOU SEEN ANY OF THE MEDICAL
23 RECORDS IN THIS CASE AT THE TIME?

24 A I HAD NOT.

25 Q SIR, HAD YOU SEEN ANY OF THE DEPOSITIONS IN
26 THIS CASE AT THE TIME?

27 A I HAD NOT.

28 Q HAD YOU SEEN THE CORONER'S REPORT?

1 A I HAD NOT. I HAD ONLY --

2 Q THE CORONER'S REPORT WASN'T EVEN OUT YET,
3 WAS IT?

4 A I WOULDN'T KNOW THAT, BUT I HAD NOT SEEN
5 IT.

6 Q SO MICHAEL JACKSON DIED ON JUNE 25TH, 2009.
7 WITHIN A FEW WEEKS OF THAT, SIR, YOU ALREADY PUBLICLY
8 DETERMINED THAT HE WAS ADDICTED TO PROPOFOL AND PUT IT
9 ON YOUR WEBSITE WITHOUT READING ONE THING, DIDN'T YOU?

10 A THAT'S ACTUALLY INCORRECT.

11 Q OH, IT IS?

12 THE TITLE OF THE ARTICLE IS NOT
13 "MICHAEL JACKSON, ADDICTION IN THE PRIVILEGED"?

14 A THAT IS --

15 Q IS THAT THE TITLE OF THE ARTICLE, SIR?

16 A THAT IS THE TITLE OF THE ARTICLE, AND
17 YOU'RE MISREPRESENTING IT.

18 Q SIR, DOESN'T THAT IMPLY THAT YOU'RE SAYING
19 MICHAEL JACKSON WAS PRIVILEGED?

20 A I WOULD SAY THAT EVERYONE WOULD AGREE THAT
21 MR. JACKSON WAS PRIVILEGED, YES.

22 Q OKAY, SIR. AND DOESN'T IT ALSO IMPLY THAT
23 MICHAEL JACKSON WAS ADDICTED?

24 MR. PUTNAM: OBJECTION; VAGUE AS TO "ADDICTED,"
25 YOUR HONOR.

26 THE COURT: OVERRULED.

27 THE WITNESS: THE -- YOU'RE MISREPRESENTING THE
28 INTENT OF THE BLOG AND --

1 MR. BOYLE: TRY TO ANSWER MY QUESTION, SIR.

2 Q DOESN'T IT IMPLY, LIKE YOU SAID --

3 A IT DOES NOT.

4 Q -- COLON, "PRIVILEGE" -- YOU SAID IT
5 IMPLIED PRIVILEGE.

6 DOESN'T IT ALSO IMPLY THAT YOU WERE SAYING
7 THAT MICHAEL JACKSON WAS ADDICTED?

8 A I WAS NOT IMPLICATING HIM AS BEING ADDICTED
9 BY THAT BLOG.

10 Q OKAY. AND THEN YOU PUT A BIG GIANT BOTTLE
11 OF PROPOFOL IN THERE, TOO.

12 COULD YOU BLOW THAT UP, JOSH.

13 NOW, SIR, WEREN'T YOU IMPLYING WITHIN A FEW
14 WEEKS OF MR. JACKSON DYING THAT HE WAS ADDICTED TO
15 PROPOFOL WITHOUT KNOWING ONE THING ABOUT THIS CASE?

16 A IF YOU READ THE ENTIRE BLOG YOU WOULD KNOW
17 THAT THAT'S NOT THE CASE. YOU'RE MISCONSTRUING WHAT I
18 WROTE.

19 Q I DID READ THE ENTIRE BLOG, SIR.

20 SIR, DO YOU THINK THAT THE A.E.G. LAWYERS
21 FROM O'MELVENY & MYERS FOUND YOU BY GOOGLING AND THEY
22 FOUND YOUR BLOG AND THAT'S WHY THEY CALLED YOU?

23 MR. PUTNAM: OBJECTION; CALLS FOR SPECULATION.

24 THE COURT: SUSTAINED, CALLING FOR SPECULATION.

25 Q BY MR. BOYLE: DO YOU KNOW HOW THEY FOUND
26 YOU?

27 A I DO NOT.

28 Q IS IT A POSSIBILITY THAT THEY FOUND YOU ON

1 A GOOGLE SEARCH, AND THEY SAY, "HEY, WE GOTTA HIRE THIS
2 GUY. HE ALREADY THINKS MICHAEL WAS ADDICTED TO
3 PROPOFOL"?

4 MR. PUTNAM: OBJECTION; ARGUMENTATIVE AND CALLS
5 FOR --

6 THE COURT: SUSTAINED; ARGUMENTATIVE.

7 Q BY MR. BOYLE: SIR, YOU DON'T EVEN HAVE THE
8 OPINION THAT MICHAEL JACKSON WAS ADDICTED TO PROPOFOL
9 AS YOU SIT HERE TODAY, CORRECT?

10 A THAT'S CORRECT, BECAUSE I'VE USED
11 SCIENTIFIC PRINCIPLES TO UNDERSTAND IT.

12 Q SO WHY DIDN'T YOU TAKE THIS BLOG DOWN OFF
13 YOUR WEBSITE?

14 MR. PUTNAM: OBJECTION; VAGUE AND CALLS FOR
15 SPECULATION, YOUR HONOR. HE'S ALREADY INDICATED HE
16 DOESN'T BELIEVE --

17 MR. PANISH: YOUR HONOR, MR. PUTNAM --

18 THE COURT: OVERRULED.

19 Q BY MR. BOYLE: WHY DIDN'T YOU TAKE THE BLOG
20 OFF YOUR WEBSITE?

21 A BECAUSE THE BLOG -- IF YOU READ THE ENTIRE
22 BLOG, THE BLOG DOES NOT -- IT DOES NOT IMPLY THAT
23 MR. JACKSON WAS ADDICTED. THE STORY UNDERSCORES THAT
24 ISSUE.

25 MR. BOYLE: I DISAGREE WITH YOU, SIR.

26 MR. PUTNAM: OBJECTION; MOVE TO STRIKE, YOUR
27 HONOR.

28 THE COURT: MOTION GRANTED.

1 Q BY MR. BOYLE: SIR, HAVE YOU POSTED ON YOUR
2 WEBSITE ANYWHERE THAT YOU -- YOU DIDN'T HAVE ENOUGH
3 INFORMATION TO DETERMINE THAT MICHAEL JACKSON WAS
4 ADDICTED TO PROPOFOL?

5 HAVE YOU POSTED THAT ANYWHERE?

6 A IT'S IMPLIED IN THE CONTEXT IF YOU READ IT
7 CAREFULLY.

8 Q OH, SO YOU HAD ALREADY MADE YOUR OPINION UP
9 ON THAT A FEW WEEKS AFTER MICHAEL JACKSON DIED?

10 A NO.

11 I DIDN'T THINK IT WAS MY PLACE TO IMPLY
12 THAT HE WAS ADDICTED, BUT THAT THE STORY UNDERSCORES AN
13 ISSUE WHICH IS PREVALENT IN OUR SOCIETY. THAT'S WHAT I
14 WAS TRYING -- THE POINT I WAS TRYING TO MAKE; AND IF
15 YOU READ THE BLOG, YOU'D SEE THAT

16 Q OKAY. I'LL READ THE FIRST TWO SENTENCES.
17 FIRST SENTENCE, "ADDICTION IS A DISEASE OF EXCESS."
18 SECOND SENTENCE, "ONE MIGHT HYPOTHESIZE HOW
19 MICHAEL JACKSON WAS A VICTIM OF CHILDHOOD ABUSE AND
20 WOUND UP USING DRUGS INITIALLY TO QUELL HIS PAIN."

21 DO YOU SEE THAT SENTENCE? YOU WROTE THAT,
22 CORRECT?

23 A THAT'S CORRECT.

24 Q AND YOU NEVER MET ANYBODY IN MR. JACKSON'S
25 FAMILY, CORRECT?

26 A THAT'S WHY I USED THE WORD "HYPOTHESIZE"
27 AND I DID NOT USE THE WORD "ADDICTION" IN THAT
28 SENTENCE, SIR.

1 Q SO YOU'RE JUST THROWING THAT OUT THERE TO
2 THE WORLD THAT ONE MIGHT HYPOTHESIZE THAT HE WAS ABUSED
3 AS A CHILD?

4 MR. PUTNAM: OBJECTION, YOUR HONOR;
5 ARGUMENTATIVE.

6 THE COURT: WAIT A MINUTE, THERE'S AN
7 OBJECTION.

8 MR. BOYLE: SIR, ARE YOU HAPPY THAT MRS. JACKSON
9 IS NOT HERE TODAY TO SEE YOU --

10 THE COURT: WAIT. THERE'S AN OBJECTION.

11 MR. PUTNAM: OBJECTION, YOUR HONOR;
12 ARGUMENTATIVE.

13 THE COURT: SUSTAINED.

14 START ALL OVER, MR. BOYLE.

15 Q BY MR. BOYLE: DR. EARLEY, DIDN'T YOU --
16 DIDN'T YOU VIOLATE -- DIDN'T YOU MAKE ETHICAL
17 VIOLATIONS BY POSTING THIS BLOG?

18 A I DID NOT.

19 MR. PUTNAM: OBJECTION; VAGUE AS TO "ETHICAL
20 VIOLATIONS," YOUR HONOR.

21 THE COURT: OVERRULED.

22 THE WITNESS: I DID NOT.

23 MR. BOYLE: YOU DID NOT. OKAY.

24 Q SIR, YOU'RE A MEMBER OF ASAM, ARE YOU NOT?

25 A YES.

26 IT'S CALLED ASAM.

27 Q ASAM. SORRY.

28 AND WHAT DOES IT STAND FOR?

1 A THE AMERICAN SOCIETY OF ADDICTION MEDICINE.

2 Q AND ARE YOU TELLING US RIGHT -- AS YOU SIT
3 HERE TODAY IT IS OKAY WITH THE AMERICAN SOCIETY FOR
4 ADDICTION MEDICINE TO WRITE A BLOG OR AN INTERNET SITE
5 THAT IMPLIES SOMETHING ABOUT A CELEBRITY AND ADDICTION?
6 ARE YOU TELLING US THAT'S OKAY?

7 MR. PUTNAM: OBJECTION; VAGUE, YOUR HONOR. HE'S
8 INDICATED THAT'S NOT WHAT HE BELIEVES OR IMPLIES,
9 THAT'S WHY --

10 THE COURT: OVERRULED.

11 THE WITNESS: THAT IS NOT WHAT THE -- IF YOU READ
12 THE ARTICLE CAREFULLY AND YOU DIDN'T HAVE A PREJUDICE
13 ABOUT IT, YOU WOULD COME TO THE SAME CONCLUSION THAT I
14 WAS TRYING ILLUSTRATE THE POINT.

15 MR. BOYLE: I'M NOT THE ONE WITH THE PREJUDICE,
16 SIR.

17 MS. CAHAN: OBJECTION; ARGUMENTATIVE.

18 THE COURT: SUSTAINED. THE QUESTION IS
19 STRICKEN.

20 Q BY MR. BOYLE: MY QUESTION WAS, ARE THERE
21 A.S.A.M. STANDARDS THAT PREVENT DOCTORS WHO ARE MEMBERS
22 OF A.S.A.M. FROM PUBLICLY OPINING ON THE ADDICTION
23 STATUS OF CELEBRITIES?

24 A THERE ARE STANDARDS WHICH SAY ONE CANNOT
25 DIAGNOSE THOSE PEOPLE, BUT THERE -- YOU KNOW, STORIES
26 IN OUR CULTURE HELP US UNDERSTAND THIS -- THIS DISEASE
27 WHICH IS MISUNDERSTOOD. MY PURPOSE IN WRITING THE BLOG
28 WAS TO HELP PEOPLE UNDERSTAND THE COMPLEX DISEASE OF

1 ADDICTION.

2 Q SIR, REMEMBER WHEN I ASKED YOU AT THE VERY
3 BEGINNING IF YOU'D JUST TRY TO ANSWER MY QUESTIONS?

4 A I WILL DO MY BEST.

5 Q THAT'S ONE OF THOSE TIMES.

6 A I'M SORRY. I WAS TRYING TO HELP. I
7 APOLOGIZE.

8 Q SO A.S.A.M. HAS A STANDARD THAT SAYS A
9 MEMBER OF A.S.A.M. LIKE YOURSELF CAN'T PUBLICLY
10 DIAGNOSE A CELEBRITY, CORRECT?

11 A THAT'S NOT A WRITTEN STANDARD. THAT IS
12 SOMETHING THAT WE ADHERE TO, THOUGH.

13 Q OKAY. AND DID YOU RUN THAT BY THE MEMBERS
14 OF YOUR ORGANIZATION TO SEE IF IT'S OKAY IF YOU START
15 BLOGGING ABOUT THE DEATH OF MICHAEL JACKSON IN YOUR
16 BLOG?

17 A I DID NOT.

18 Q OKAY.

19 A BECAUSE --

20 Q AND, SIR, IN THAT BLOG ABOUT
21 MICHAEL JACKSON, DIDN'T YOU MAKE A DETERMINATION AS TO
22 HOW HE WAS TAKING THE DRUG?

23 A YES.

24 BECAUSE THE DRUG CAN ONLY BE USED
25 INTRAVENOUSLY TO ANY GOOD EFFECT; SO IT WASN'T AN
26 ASSUMPTION, IT WAS A MEDICAL CERTITUDE.

27 Q MR. DOWELL, WOULD YOU PLEASE PUT BACK UP
28 13024. THE THIRD PARAGRAPH DOWN, I'D LIKE YOU TO SHOW

1 THE FIRST SENTENCE.

2 "PROPOFOL IS ONLY USED INTRAVENOUSLY SO WE
3 ARE -- SO WE ARE CLEAR THAT DRUGS WERE BEING MAINLINED
4 IN THE JACKSON HOUSEHOLD," RIGHT?

5 A THAT'S WHAT IT SAYS.

6 Q SO THREE WEEKS AFTER MR. JACKSON'S DEATH --
7 AT THIS TIME YOU HADN'T READ THE POLICE REPORT, RIGHT?

8 A CORRECT.

9 Q HADN'T READ THE CORONER'S REPORT, RIGHT?
10 MR. PUTNAM: OBJECTION; ASKED AND ANSWERED, YOUR
11 HONOR.

12 THE COURT: OVERRULED.

13 Q BY MR. BOYLE: RIGHT?

14 A CORRECT.

15 Q HADN'T READ ANYTHING IN THIS CASE, CORRECT?

16 A I HAD ONLY READ WHAT I HAD SEEN IN THE
17 PAPERS.

18 Q BUT YOU MADE THE DETERMINATION AS AN
19 ADDICTION MEDICINE DOCTOR THAT MR. JACKSON WAS, QUOTE,
20 MAINLINING PROPOFOL IN HIS HOUSE, RIGHT?

21 A I WAS MAKING THE CONCLUSION THAT IT WAS
22 INTRAVENOUSLY ADMINISTERED TO MAKE A POINT ABOUT THE
23 DANGERS OF THE DRUG.

24 Q YOU DON'T THINK "MAINLINE" CONTAINS SOME
25 NEGATIVE CONNOTATIONS?

26 A MUCH OF WHAT I DO IN ADDICTION MEDICINE HAS
27 CONNOTATIONS WHICH ARE DIFFICULT OR COMPLEX.

28 Q WERE YOU CONCERNED WHEN YOU WROTE THIS AND

1 PUT IT ON YOUR WEBSITE THAT MR. JACKSON'S MOTHER MIGHT
2 SEE IT?

3 A ACTUALLY, I WAS HOPING THAT THE JACKSONS
4 WOULD USE THIS AS AN OPPORTUNITY TO UNDERScore
5 ADDICTION AND TO HELP PEOPLE KNOW MORE ABOUT IT.

6 Q OH, REALLY?

7 SO THREE WEEKS AFTER HE DIED, YOU WANTED TO
8 SEND A MESSAGE TO MRS. JACKSON AND MAKE HER UNDERSTAND
9 MAINLINING OF PROPOFOL? THAT WAS YOUR MOTIVATION HERE?

10 A NO. YOU'RE KIND OF REDUCING THIS -- MY
11 THOUGHTS; BUT AT THE TIME, IT WAS -- BECAUSE IT WAS IN
12 THE NEWS, BECAUSE ADDICTION IS SO MISUNDERSTOOD IN OUR
13 SOCIETY, IT WAS HELPFUL TO USE THIS AS A WAY OF
14 UNDERSTANDING THIS DISEASE.

15 Q MR. DOWELL, WOULD YOU SHOW THE FIRST
16 PARAGRAPH HERE?

17 AND I WANT -- THE -- THE SECOND TO LAST
18 SENTENCE SAYS "ONCE ADDICTION TAKES HOLD," FOUR LINES
19 UP FROM THE END OF THE FIRST PARAGRAPH.

20 "ONCE ADDICTION TAKES HOLD, THE ADDICT HAS
21 WINDOWS OF OPPORTUNITY EVERY TIME THEY SUFFER
22 CONSEQUENCES. THE CONSEQUENCES, ESPECIALLY WHEN
23 SEVERE, PUNCTURE THE ADDICT'S DEFENSES AND DENIAL, A
24 WIFE FILING FOR DIVORCE, BEING THROWN IN JAIL FOR DRUNK
25 DRIVING UNDER THE INFLUENCE, ET CETERA, MAY FORCE THE
26 ADDICT TO RETHINK THEIR CURRENT PATH."

27 THERE YOU WERE WRITING ABOUT THE
28 CONSEQUENCES OF ADDICTION, CORRECT?

1 A THAT'S CORRECT.

2 Q AND THAT SOMETIMES THOSE CONSEQUENCES GIVE
3 THE ADDICT AN OPPORTUNITY TO GET BEYOND THEIR
4 ADDICTION, RIGHT?

5 A THAT'S CORRECT.

6 Q NOW, MR. DOWELL, SHOW THE FIRST SENTENCE OF
7 THE NEXT PARAGRAPH.

8 "FOR MICHAEL JACKSON, THE CONSEQUENCES
9 NEVER DID OCCUR." YOU WROTE THAT, RIGHT?

10 A THAT'S CORRECT.

11 Q SO WEREN'T YOU IMPLYING THERE THAT
12 MICHAEL JACKSON WAS AN ADDICT?

13 A NO, SIR.

14 I WAS TRYING TO BE CLEAR ABOUT THE FACT --
15 TRYING TO USE THIS CASE AS A WAY OF HELPING PEOPLE
16 UNDERSTAND WHAT HAPPENS IN ADDICTION, WHICH IS HIGHLY
17 MISUNDERSTOOD IN OUR SOCIETY.

18 Q WELL, SIR, RIGHT ABOVE IT YOU WERE TALKING
19 ABOUT CONSEQUENCES SUFFERED BY ADDICTS, AND THEN YOU
20 SAY FOR MICHAEL JACKSON, THE CONSEQUENCES NEVER DID
21 OCCUR.

22 ARE YOU TRYING TO TELL US YOU WEREN'T
23 TRYING TO IMPLY THAT MR. JACKSON WAS AN ADDICT?

24 A NO, BECAUSE THE FIRST SENTENCE YOURSELF
25 SAID ONCE IT TAKES HOLD THE ADDICT HAS WINDOWS OF
26 OPPORTUNITIES. AND THEN I CONTRAST IT AND SAY FOR
27 MICHAEL JACKSON, THIS DIDN'T OCCUR. IF ANYTHING, IF
28 YOU WOULD READ THOSE TWO SENTENCES, YOU WOULD SAY HE

1 MUST NOT BE TALKING ABOUT AN ADDICT WITHOUT --

2 Q YOU'RE SAYING THAT WITH A STRAIGHT FACE?

3 MR. PUTNAM: MOTION TO STRIKE, YOUR HONOR.

4 THE COURT: MOTION GRANTED.

5 MR. BOYLE: PLEASE READ THE FIRST SENTENCE OF THE
6 SECOND PARAGRAPH LOUD.

7 THE WITNESS: "FOR MICHAEL JACKSON, THE
8 CONSEQUENCES NEVER DID OCCUR."

9 Q BY MR. BOYLE: THE CONSEQUENCES NEVER
10 OCCUR, RIGHT?

11 A UH-HUH.

12 Q CORRECT?

13 A UH-HUH.

14 Q IS THAT A YES?

15 A THAT IS CORRECT.

16 Q THE CONSEQUENCE OF ADDICTION, YOU WERE
17 REFERRING TO, CORRECT?

18 A RIGHT.

19 Q RIGHT.

20 THEN YOU SAY UP THERE -- YOU JUST TRIED TO
21 TALK YOUR WAY OUT OF IT, BUT IT'S PRETTY CLEAR ONCE
22 ADDICTION TAKES HOLD, THE ADDICT HAS WINDOWS OF
23 OPPORTUNITY EVERY TIME THEY SUFFER CONSEQUENCES, RIGHT?
24 THAT'S WHAT THAT SENTENCE SAYS?

25 MR. PUTNAM: I MOVE TO STRIKE AGAIN. HE KEEPS
26 COMMENTING ABOUT WHAT HE THINKS ABOUT THE TESTIMONY.

27 THE COURT: MOTION DENIED.

28 MR. BOYLE: RIGHT? IS THAT WHAT IT SAYS, SIR?

1 THAT WAS MY QUESTION.

2 THE WITNESS: WHEN YOU WRITING, IT'S COMPARE AND
3 CONTRAST; AND I WAS TRYING TO COMPARE AND CONTRAST.

4 Q BY MR. BOYLE: DID I READ THAT SENTENCE
5 RIGHT? "ONCE ADDICTION TAKES HOLD, THE ADDICT HAS
6 WINDOWS OF OPPORTUNITY EVERY TIME THEY SUFFER
7 CONSEQUENCES"? DID I READ THAT RIGHT?

8 A YES.

9 Q TELL ME IF I READ THIS ONE RIGHT. "FOR
10 MICHAEL JACKSON, THE CONSEQUENCES NEVER DID OCCUR,"
11 CORRECT?

12 A RIGHT.

13 BECAUSE THE ADDICT HAS WINDOWS OF
14 OPPORTUNITY. I DON'T KNOW --

15 Q OKAY. LET'S LOOK AT THE NEXT SENTENCE,
16 THEN.

17 "THIS IS AN OLD STORY, ONE THAT IS REPEATED
18 OVER AND OVER WITH THE HOLLYWOOD SET." NOW, WHAT YOU
19 WERE REFERRING TO THERE -- CORRECT? -- IS THAT THE
20 PEOPLE IN THE HOLLYWOOD SET, THE ADDICT IN THE
21 HOLLYWOOD SET, SOMETIMES DON'T SUFFER THE CONSEQUENCES,
22 RIGHT?

23 A IF YOU'RE AN ADDICT AND YOU I DON'T HAVE
24 CONSEQUENCES, WHAT I WAS TRYING TO SHOW THERE IS THAT
25 THAT IS EXTREMELY DANGEROUS.

26 Q SO -- OKAY. HOW ABOUT THE -- HOW ABOUT THE
27 FIRST SENTENCE OF THE FOURTH PARAGRAPH, "THE ISSUE WITH
28 PROPOFOL ADDICTION IN PROFESSIONALS HAS COME TO THE

1 FOREFRONT DUE TO MICHAEL JACKSON'S UNTIMELY DEATH"?

2 DID I READ THAT ONE CORRECTLY?

3 A YOU DID.

4 Q ARE YOU STANDING BY YOUR STATEMENT THAT
5 THIS BLOG WAS NOT TRYING TO IMPLY THAT MICHAEL JACKSON
6 WAS ADDICTED?

7 A THE -- THE POINT I WAS TRYING TO MAKE IS
8 THAT HIS UNTIMELY DEATH BRINGS THIS TO THE FORE, AND
9 IT'S TIME TO TALK ABOUT IT. IT WAS AN ATTEMPT TO GET
10 PEOPLE TO TALK ABOUT AN ILLNESS THAT PEOPLE DON'T OFTEN
11 TALK ABOUT.

12 Q MY QUESTION WAS, DON'T YOU THINK THE BLOG
13 IMPLIES THAT MICHAEL JACKSON WAS ADDICTED TO PROPOFOL?

14 A THE -- THE BLOG CERTAINLY SAYS THAT HE USED
15 PROPOFOL, IT WAS GOING ON IN THE HOUSE, AND THAT IT
16 UNDERSCORES THAT THESE TYPES OF THINGS HAPPEN WITH
17 ADDICTION. I DON'T --

18 Q IS.

19 YOUR ANSWER NO, YOU I DON'T THINK IT
20 IMPLIES THAT? THAT WAS MY QUESTION, DO YOU THINK IT
21 DOES OR DOESN'T.

22 A I DON'T THINK IT DIRECTLY IMPLIES THAT, NO.

23 Q DOES IT INDIRECTLY IMPLY IT?

24 A I THINK WHAT IT DOES IS HELP PEOPLE
25 UNDERSTAND THAT THIS IS A PROBLEM THAT CAN OCCUR IN ALL
26 TYPES OF PEOPLE, WHETHER HE WAS AN ADDICT OR NOT.

27 Q OKAY. AND YOU WROTE THAT THREE WEEKS AFTER
28 HE DIED?

1 MS. CAHAN: OBJECTION; MISSTATES THE EVIDENCE.

2 MR. BOYLE: THAT'S WHAT HE SAID.

3 THE COURT: OVERRULED.

4 THE WITNESS: I ACTUALLY SAID WITHIN SEVERAL
5 WEEKS AFTER HE DIED. I WASN'T SURE OF THE EXACT
6 TIME.

7 MR. BOYLE: OKAY.

8 Q WHAT DO YOU CONSIDER "SEVERAL" TO BE?

9 A A WINDOW OF TIME. I -- IF YOU WANT ME GO
10 ON MY WEBSITE, I CAN GO IN THE BACK END AND FIND OUT
11 THE EXACT TIME IF IT WOULD BE HELPFUL FOR YOU.

12 Q OKAY. OKAY. SIR, LET'S TALK ABOUT THE
13 STUDY THAT -- THE STUDY THAT WAS FUNDED BY A.E.G. LIVE.

14 BEFORE YOU TAKE THAT DOWN, ON YOUR BLOG
15 THAT YOU PUT ON YOUR WEBSITE ABOUT MICHAEL JACKSON,
16 HAVE YOU -- SINCE YOU PUT IT UP, HAVE YOU PUT A
17 DISCLAIMER ANYWHERE ON THERE TO LET THE READER KNOW
18 THAT YOU'RE A HIRED EXPERT FOR A.E.G. LIVE IN THE CASE
19 OF MICHAEL JACKSON'S DEATH?

20 A I HAVE NOT.

21 Q DON'T YOU THINK THE READER SHOULD BE AWARE
22 OF THAT; THAT YOUR BLOG WRITING MIGHT BE INFLUENCED BY
23 THE FACT THAT YOU'RE GETTING PAID TO TESTIFY FOR THE
24 DEFENDANT IN THE MICHAEL JACKSON WRONGFUL DEATH TRIAL?

25 A I THINK THAT MY BLOG WAS THERE TO HELP
26 EDUCATE PEOPLE AND HELP PEOPLE UNDERSTAND ABOUT A
27 DISEASE WHICH IS SECRETIVE AND CAN OCCUR TO ALL TYPES
28 OF PEOPLE, INCLUDING THE PRIVILEGED. AND IT DOESN'T

1 SEEM RELEVANT, THE FACT THAT, YOU KNOW -- THIS IS TRUE
2 NO MATTER WHAT I -- YOU KNOW, NO MATTER WHAT I
3 SUBSEQUENTLY DO.

4 THESE ISSUES ARE HUGE, AND THEY NEED TO BE
5 ADDRESSED.

6 Q YOU KNOW HOW SOMETIMES IN A NEWSPAPER WHEN
7 THERE'S AN ARTICLE ABOUT A CERTAIN COMPANY, THEY'LL SAY
8 "DISCLAIMER, THIS COMPANY OWNS THIS NEWSPAPER"? HAVE
9 YOU EVER SEEN THAT?

10 A I HAVE.

11 Q AND THEY DO THAT BECAUSE THEY WANT THE
12 READER TO KNOW, YOU KNOW, WHETHER OR NOT THE ARTICLE IS
13 ACTUALLY BIASED, THEY WANT THE READER TO KNOW ALL THE
14 INFORMATION THAT THERE COULD BE SOME BIAS, CORRECT?

15 MR. PUTNAM: OBJECTION; CALLS FOR SPECULATION.

16 THE COURT: OVERRULED.

17 THE WITNESS: I'M NOT A NEWSPAPER; AND, YOU KNOW,
18 PEOPLE READ BLOGS ALL THE TIME THAT HAVE OPINIONS IN
19 THEM; AND I THINK IN OUR CULTURE MOST PEOPLE KNOW
20 THEY'RE THE OPINIONS OF ONE PERSON, AND THERE'S -- YOU
21 KNOW, I THINK THAT'S PART OF WHAT PEOPLE DO WHEN THEY
22 READ BLOGS.

23 MR. BOYLE: SIR, I'M BACK TO THAT ISSUE ABOUT
24 TRYING TO ANSWER MY QUESTIONS. OKAY?

25 THE WITNESS: I'M SORRY. I WAS TRYING TO EXPLAIN
26 MYSELF AGAIN.

27 MR. BOYLE: SO THE QUESTION WAS ABOUT NEWSPAPERS.

28 Q THEY PUT IN THERE, "NOTE, THIS NEWSPAPER IS

1 OWNED BY THE COMPANY THAT THE ARTICLE IS ABOUT" BECAUSE
2 THEY WANT PEOPLE TO HAVE FULL INFORMATION ABOUT
3 POTENTIAL BIASES OF THE ARTICLE, CORRECT?

4 MR. PUTNAM: SAME OBJECTION.

5 THE COURT: OVERRULED.

6 THE WITNESS: SURE, THAT --

7 MR. BOYLE: IF YOU DON'T KNOW, TELL ME YOU DON'T
8 KNOW.

9 THE WITNESS: I HAVE NOT SEEN THAT ON ONLINE
10 NEWSPAPERS, I HAVE SEEN IT IN PRINTED NEWSPAPERS.

11 Q BY MR. BOYLE: BUT ARE YOU GOING TO ANSWER
12 MY QUESTION? WHY DO THEY DO IT?

13 A THEY -- THEY DO THAT BECAUSE THEY ARE KNOWN
14 TO BE -- SUPPOSED TO BE JOURNALISTICALLY PURE SOURCES
15 THAT -- THAT PEOPLE HOLD TO HIGHER STANDARDS THAN
16 BLOGGERS.

17 Q OKAY. AND SO YOU BLOG AND YOU PUT YOUR
18 ARTICLES OUT TO THE WORLD, RIGHT?

19 A YEAH.

20 PROBABLY ALL OF 600 PEOPLE HAVE READ IT,
21 TOO.

22 MR. BOYLE: NOW A LOT MORE ARE GOING TO, SIR.
23 WE'LL TALK ABOUT THAT LATER.

24 MR. PUTNAM: OBJECTION, MOVE TO STRIKE, YOUR
25 HONOR.

26 THE COURT: MOTION GRANTED.

27 MR. BOYLE: OKAY.

28 Q SIR, AND YOU ALSO WRITE A SCHOLARLY -- AT

1 LEAST ONE SCHOLARLY ARTICLE, CORRECT?

2 A THAT'S CORRECT.

3 Q AND HOW MANY HAVE YOU WRITTEN, ONE
4 SCHOLARLY ARTICLE?

5 A NO.

6 I HAVE FIVE ARTICLES, ACTUALLY.

7 Q HOW MANY OF THEM WERE FUNDED BY A.E.G.
8 LIVE?

9 A ONE.

10 Q WERE ANY OF YOUR OTHER ARTICLES FUNDED BY
11 ANY OTHER CONCERT PROMOTERS?

12 A NO.

13 Q LIVENATION DIDN'T FUND ONE OF YOUR
14 ARTICLES?

15 A WHO?

16 Q LIVENATION?

17 A I DON'T KNOW WHO THAT IS.

18 Q SIR, WHEN YOU READ THE MEDICAL LITERATURE,
19 DO YOU SEE A LOT OF ARTICLES THAT WERE FUNDED BY
20 CONCERT PROMOTERS?

21 MR. PUTNAM: OBJECTION; CALLS FOR SPECULATION.

22 THE COURT: OVERRULED.

23 THE WITNESS: I SEE LOTS OF ARTICLES THAT ARE
24 FUNDED BY LOTS OF SOURCES THESE DAYS BECAUSE OF
25 DECREASED GRANTS FROM N.I.H. AND N.I.M.H., AND IT IS
26 SOMEWHAT UNUSUAL TO HAVE ONE FUNDED BY A CONCERT
27 PROMOTER.

28 Q BY MR. BOYLE: SIR, MY QUESTION WAS HAVE

1 YOU EVER SEEN AN ARTICLE OR A STUDY AND READ WHO FUNDED
2 IT, AND IT WAS A CONCERT PROMOTER? HAVE YOU EVER SEEN
3 THAT?

4 A I HAVE NOT.

5 Q OKAY. BECAUSE THAT'S REALLY WEIRD, ISN'T
6 IT?

7 MS. CAHAN: OBJECTION; ARGUMENTATIVE, YOUR
8 HONOR.

9 THE COURT: SUSTAINED.

10 MR. BOYLE: OKAY. I'LL SAY IT IN A DIFFERENT
11 VOICE.

12 Q THAT'S KIND OF WEIRD, ISN'T IT?

13 MS. CAHAN: OBJECTION.

14 THE COURT: SUSTAINED.

15 Q BY MR. BOYLE: SIR, WASN'T IT ODD ENOUGH
16 THAT WHEN YOU SUBMITTED THE ARTICLE THAT THE EDITORS OF
17 A.S.A.M. CALLED YOU AND SAID, "WHO IS A.E.G. LIVE?"

18 A IF THEY -- YEAH. IT WAS -- THEY ASKED ME
19 WHO IS A.E.G. LIVE, AND THEY HAD NEVER HEARD OF THEM,
20 AND I HAD TO SAY IT'S A PROMOTIONS COMPANY, CONCERT
21 COMPANY.

22 Q AND THEY WERE CONCERNED ABOUT IT --
23 RIGHT? -- BECAUSE THEY DIDN'T KNOW WHO IT IS THAT'S
24 FUNDING A STUDY THAT'S GOING TO APPEAR IN THEIR
25 SCHOLARLY JOURNAL, RIGHT?

26 MR. PUTNAM: YOUR HONOR, CALLS FOR SPECULATION.
27 HE'S ASKING WHAT THE SPEAKER KNOWS.

28 THE COURT: SUSTAINED.

1 Q BY MR. BOYLE: YOU'RE ON THE BOARD OF
2 A.S.A.M., RIGHT?

3 A YES.

4 Q AND YOU TALKED TO THE A.S.A.M. PEOPLE ABOUT
5 THIS ARTICLE, RIGHT?

6 A NO. ACTUALLY, THAT'S NOT HOW IT WORKS.
7 WHEN YOU DO AN ARTICLE IN A PEER-REVIEWED JOURNAL, YOU
8 NEVER TALK TO THE REVIEWERS BECAUSE IT HAS TO BE
9 BLINDED BY INDEPENDENT REVIEWERS, SO I DON'T KNOW WHO
10 REVIEWED THAT ARTICLE.

11 Q I THOUGHT EARLIER WHEN YOU WERE TALKING
12 ABOUT THE ARTICLE WITH DEFENSE COUNSEL, YOU SAID THEY
13 CALLED YOU AND YOU TALKED TO THEM AND THEY ASKED YOU
14 WHO A.E.G. LIVE WAS. I THOUGHT THAT'S WHAT YOU
15 TESTIFIED TO.

16 A THEY CONTACTED ME. "CALL" IS THE INCORRECT
17 WORD. WHEN YOU COMMUNICATE ABOUT -- IN A CONFIDENTIAL
18 JOURNAL SITUATION, WHAT HAPPENS IS YOU SEND IN THE
19 ARTICLE BLINDLY. THEY SEND IT OUT TO BLIND REVIEWERS.
20 YOU GET -- IT SAYS "REVIEWER NUMBER 6 ASKS THE QUESTION
21 WHO IS A.E.G. LIVE," QUESTION MARK. THE RESPONSE I
22 GAVE BACK WAS A.E.G. LIVE IS AN ENTERTAINMENT COMPANY.
23 THE ISSUE AT HAND --

24 Q SIR -- SO THEY DIDN'T CALL YOU -- I JUST
25 ASKED -- THEY CONTACTED YOU IN WHAT WAY? DID THEY
26 E-MAIL YOU?

27 A IT'S DONE THROUGH A WEB PORTAL WHERE THE
28 JOURNALS ARE SUBMITTED AND THEN RESPONSES ARE REGULARLY

1 QUERIED BACK THROUGH THE JOURNAL OF ADDICTION MEDICINE.

2 Q I COULD HAVE SWORN YOU SAID EARLIER THAT
3 THEY CALLED YOU AND THEY SAID, "WHO IS A.E.G. LIVE?" I
4 COULD HAVE SWORN YOU TESTIFIED TO THAT.

5 A CALL, SENT ME -- YOU KNOW, IT WAS A SLIP OF
6 THE TONGUE. I MEAN, YOU KNOW, THEY COMMUNICATED WITH
7 ME. DOES THAT HELP YOU WITH THAT?

8 Q DID YOU TELL THEM -- EITHER THROUGH TALK OR
9 WHATEVER TONGUE SLIPPAGE, DID YOU TELL THEM THAT YOU
10 WERE WORKING FOR A.E.G. LIVE IN A MAJOR LITIGATION OVER
11 THE DEATH OF MICHAEL JACKSON THAT INVOLVED THE ISSUE OF
12 PROPOFOL?

13 A I --

14 Q DID YOU TELL THEM THAT?

15 A I INDICATED THAT I WAS DOING RESEARCH FOR
16 THIS COMPANY.

17 Q RIGHT.

18 YOU TOLD THEM YOU WERE DOING RESEARCH FOR
19 THE COMPANY, RIGHT?

20 A AND THAT SETTLED THEIR CONCERNS.

21 Q RIGHT.

22 BUT WHAT YOU WITHHELD FROM THEM WAS THAT
23 YOU WERE WORKING IN A CONSULTING CAPACITY WITH REGARD
24 TO A LITIGATION THAT CONCERNS PROPOFOL AND THAT THE
25 COMPANY HAD BILLIONS OF DOLLARS TO LOSE.

26 YOU DIDN'T TELL THEM THAT, DID YOU?

27 A IT WAS NOT RELEVANT TO A SCIENTIFIC ARTICLE
28 WHERE I WENT BACK TO LOOK AT ADDICTS RETROSPECTIVELY.

1 Q WHAT RELEVANCE DOES A CONCERT PROMOTER HAVE
2 TO DO WITH FUNDING OF A PROPOFOL ADDICTION STUDY?

3 A THE ISSUE THAT THEY LOOK FOR IN CONFLICT IS
4 DO MY RESULTS AFFECT WHAT DRUGS ARE USED, A TREATMENT
5 PROTOCOL. THE PURPOSES OF CONFLICT IN MEDICAL
6 LITERATURE IS TO PREVENT MY RESEARCH TO BE BIASED
7 AROUND FUTURE MEDICAL PRACTICE. IT HAS NOTHING TO DO
8 WITH THE LEGAL REALM.

9 Q SIR, ARE YOU FAMILIAR WITH SCANDALS THAT
10 CAME OUT IN THE 50'S AND 60'S WHERE TOBACCO COMPANIES
11 WERE FUNDING STUDIES THAT WERE SAYING THAT CIGARETTES
12 WERE SAFE?

13 MS. CAHAN: OBJECTION; RELEVANCE.

14 THE COURT: OVERRULED.

15 THE WITNESS: YES.

16 MR. BOYLE: ALL RIGHT.

17 Q AND THAT'S NOT OKAY, IS IT?

18 A THAT'S BECAUSE THE TOBACCO COMPANIES WERE
19 DIRECTLY FUNDING THE RESEARCH THAT -- TO SAY THAT
20 TOBACCO WAS NOT TOXIC.

21 Q RIGHT.

22 A IN FACT, THE FINDINGS FROM MY RESEARCH
23 SAID -- LED ME TO UNDERSTAND THAT MICHAEL JACKSON WAS
24 NOT PROPOFOL DEPENDENT.

25 Q RIGHT.

26 BUT IT LED YOU TO -- IT LED YOU TO TESTIFY
27 THAT HIS PROGNOSIS WAS GRAVE, RIGHT?

28 A THOSE FACTORS HAD NOTHING TO DO WITH THE

1 OUTCOME OF THE PAPER WITH THE EXCEPTION OF THE
2 "ACCIDENTS" COLUMN.

3 Q SIR, AFTER THE DEFENSE COUNSEL ASKED YOU
4 YOUR CREDENTIALS THIS MORNING, THE FIRST PIECE OF
5 SUBSTANTIVE EVIDENCE YOU GAVE WAS THAT 1.6 PERCENT OF
6 PHYSICIANS WHO PRESENT WITH ADDICTION PROBLEMS ARE
7 ADDICTED TO PROPOFOL, RIGHT?

8 A YES.

9 Q THAT WAS THE FIRST PIECE OF SUBSTANTIVE
10 EVIDENCE YOU TESTIFIED TO THIS JURY IN THIS CASE,
11 RIGHT?

12 A RIGHT.

13 Q AND THAT'S FROM YOUR STUDY, ISN'T IT?

14 A IT IS.

15 Q RIGHT. SO THE VERY FIRST THING YOU
16 TESTIFIED TO CAME FROM A STUDY THAT WAS FUNDED BY THE
17 DEFENDANT, WASN'T IT?

18 A IT WAS ABOUT HEALTHCARE PROFESSIONALS THAT
19 ARE ADDICTED.

20 Q RIGHT.

21 NO, THE -- THE INFORMATION CAME FROM THE
22 STUDY, CORRECT?

23 A THE STUDY TALKED ABOUT HEALTHCARE
24 PROFESSIONALS THAT WERE ADDICTED.

25 Q AND IT WAS THE FIRST SUBSTANTIVE THING YOU
26 TESTIFIED TO TODAY AFTER YOU FINISHED GIVING YOUR
27 CREDENTIALS, RIGHT?

28 A YES, BECAUSE SHE ASKED ME ABOUT THE STUDY.

1 Q OKAY. I'D LIKE TO SHOW THE STUDY, PLEASE,
2 WHICH I BELIEVE IS EXHIBIT 13012. THIS IS ALREADY IN
3 EVIDENCE, AND THIS WAS EXHIBIT 5 TO DR. EARLEY'S
4 DEPOSITION.

5 DR. EARLEY, THIS IS THE STUDY THAT WE WERE
6 TAKING ABOUT, RIGHT?

7 A IT IS.

8 MR. BOYLE: OKAY. WOULD YOU SHOW THE TITLE,
9 JOSH.

10 YOUR HONOR, DO YOU NEED ONE? I'M ONLY
11 GOING TO SHOW ONE PAGE FOR NOW.

12 THE COURT: NO, THAT'S OKAY.

13 MR. BOYLE: OKAY.

14 Q AND PAUL H. EARLEY, THAT'S YOU, CORRECT?

15 A CORRECT.

16 Q AND THEN TORIN FINVER WAS YOUR ASSISTANT IN
17 THIS STUDY?

18 A YEAH, HE WAS MY COLLABORATOR.

19 Q DID YOU TELL DR. TORIN FINVER THAT YOU WERE
20 WORKING ON A LITIGATION WITH A.E.G. WHILE YOU WERE
21 DOING THIS STUDY?

22 A I WAS -- I TOLD HIM THAT I WAS DOING
23 RESEARCH. BECAUSE HE SAID, "WHY ARE WE GETTING FUNDING
24 FROM A.E.G. LIVE."

25 AND I SAID, "I'M DOING RESEARCH FOR THEM,
26 AND THEY HAVE SOME SORT OF A CASE." AND HE SAID OKAY.

27 Q WAIT, WAIT. SO YOU TOLD HIM THEY HAVE SOME
28 SORT OF A CASE?

1 A THAT'S WHAT THE RESEARCH WAS FOR.

2 Q SIR, DID YOU WITHHOLD FROM DR. FINVER ALSO
3 THAT YOU WERE INVOLVED IN THE LITIGATION WITH A.E.G.
4 LIVE?

5 A I WAS NOT INVOLVED EXCEPT FOR PROVIDING
6 RESEARCH FOR THEM AT THE TIME.

7 Q YOU WEREN'T -- YOU WERE HIRED BY
8 O'MELVENY & MYERS, THE DEFENSE FIRM FOR A.E.G. LIVE, IN
9 FEBRUARY OF 2011, CORRECT?

10 A THAT'S CORRECT.

11 Q RIGHT.
12 THIS LAWSUIT WAS FILED IN SEPTEMBER OF
13 2011, CORRECT?

14 MS. CAHAN: OBJECTION; MISSTATES THE RECORD.

15 MR. BOYLE: SEPTEMBER OF 2010. I'M SORRY. THANK
16 YOU, MS. CAHAN.

17 Q IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q RIGHT.

20 SO YOU WERE WORKING FOR A.E.G. LIVE AT THE
21 TIME YOU DID THIS STUDY WITH REGARDS TO THIS LITIGATION
22 THAT WE'RE ALL HERE FOR RIGHT NOW, CORRECT?

23 A THEY ASKED ME TO PROVIDE RESEARCH, AND I
24 DIDN'T -- IT WAS O'MELVENY & MYERS THAT ASKED ME TO
25 PROVIDE RESEARCH TO HELP THEM UNDERSTAND PROPOFOL
26 ADDICTION, BECAUSE VERY LITTLE IS KNOWN ABOUT IT.

27 Q LET ME TRY TO ASK YOU AN EASY ONE HERE,
28 SIR.

1 ARE YOU CURRENTLY TESTIFYING IN THE
2 WRONGFUL DEATH CASE FOR THE DEATH OF MICHAEL JACKSON?

3 A I AM.

4 Q OKAY. AND WERE YOU CALLED TO THE WITNESS
5 STAND BY O'MELVENY & MYERS, WHO IS REPRESENTING A.E.G.
6 LIVE?

7 A I WAS.

8 Q OKAY. AND YOU WERE FIRST RETAINED BY THEM
9 IN FEBRUARY OF 2011, CORRECT?

10 A YES, AS A RESEARCHER, THAT'S CORRECT.

11 Q RIGHT.

12 AND YOU SPOKE WITH MR. PUTNAM NUMEROUS
13 TIMES, CORRECT?

14 MR. PUTNAM: OBJECTION; VAGUE AS TO "NUMEROUS."

15 THE COURT: OVERRULED.

16 THE WITNESS: TWICE, I THINK, YES.

17 MR. BOYLE: I THOUGHT YOU TOLD ME SIX TIMES IN
18 THE DEPOSITION.

19 THE WITNESS: WELL, MAYBE -- MAYBE IT WAS.

20 MR. BOYLE: OKAY.

21 Q DID YOU E-MAIL WITH HIM?

22 A WE E-MAILED, YES.

23 Q OKAY. AND YOU THINK YOU HAD TWO PHONE
24 CALLS?

25 A THAT SOUNDS ABOUT RIGHT.

26 Q DID THE NAME MICHAEL JACKSON EVER COME UP?

27 A IT DID.

28 Q OKAY. SO THEN WHEN -- SO YOU'RE TALKING TO

1 HIM, YOU CLEARLY KNEW MICHAEL JACKSON DIED, RIGHT? WE
2 KNOW THAT FROM YOUR BLOG?

3 A RIGHT.

4 Q OKAY. YOU'RE BEING CALLED BY THIS LAW FIRM
5 IN LOS ANGELES, RIGHT?

6 A RIGHT.

7 Q YOU KNEW THERE WAS A LAWSUIT GOING ON,
8 RIGHT?

9 A RIGHT.

10 Q OKAY. SO NOW BACK TO MY ORIGINAL QUESTION.
11 DID YOU TELL DR. FINVER, "HEY, COME WORK ON
12 THIS STUDY WITH ME. OH, BY THE WAY, I'M WORKING AS AN
13 EXPERT ON A WRONGFUL DEATH LITIGATION FOR A.E.G. LIVE"?
14 DID YOU TELL HIM THAT?

15 A NO.

16 I TOLD HIM THAT I WAS WORKING AS A
17 RESEARCHER TO UNDERSTAND PROPOFOL DEPENDENCE, AND THAT
18 O'MELVENY & MYERS SAID IF -- "LITTLE IS KNOWN ABOUT
19 THIS ADDICTION DISORDER, IT WOULD HELP US IN THE CASE,"
20 AND SO THEY'RE FUNDING THIS STUDY. AND HE SAID OKAY.

21 Q SO -- OKAY. SO THEY DID TELL YOU IT WOULD
22 HELP THEM IN THE CASE, RIGHT?

23 A IT WOULD HELP THEM UNDERSTAND THE CASE.
24 THEY -- SO LITTLE IS KNOWN ABOUT PROPOFOL DEPENDENCE
25 THAT THERE WAS NOTHING IN THE LITERATURE, AND MY -- MY
26 CONVERSATIONS WITH -- AND E-MAILS WITH MR. PUTNAM WERE
27 TERSE AND TO THE POINT AND SAID, "WE DON'T UNDERSTAND
28 MUCH ABOUT PROPOFOL ADDICTION."

1 MY RESPONSE IS, "GEE, NO ONE ELSE DOES,
2 EITHER." THAT'S HOW THIS --

3 Q SO IS IT YOUR TESTIMONY THAT A.E.G. LIVE
4 WAS JUST FUNDING THIS STUDY OUT OF THE GOODNESS OF ITS
5 HEART?

6 A THEY WERE TRYING TO UNDERSTAND PROPOFOL
7 DEPENDENCE, AND I HAD A CURIOSITY ABOUT IT MYSELF, AND
8 THAT'S HOW IT CAME ABOUT.

9 Q SIR, THEY WERE TRYING TO CREATE MATERIAL
10 THAT THEY COULD USE IN THIS LITIGATION, WEREN'T THEY?

11 MR. PUTNAM: OBJECTION; CALLS FOR SPECULATION,
12 YOUR HONOR.

13 Q BY MR. BOYLE: RIGHT? JUST LIKE THE
14 TOBACCO COMPANIES, RIGHT?

15 THE COURT: SUSTAINED. ARGUMENTATIVE.

16 MR. PUTNAM: MOVE TO STRIKE, YOUR HONOR.

17 THE COURT: MOTION GRANTED.

18 MR. BOYLE: MR. DOWELL, WILL YOU SHOW THE LOWER
19 LEFT CORNER OF THE ARTICLE.

20 THE COURT: FIVE MORE MINUTES BEFORE WE'RE GOING
21 TO ADJOURN, JUST SO YOU'RE AWARE.

22 MR. BOYLE: OKAY. THANK YOU VERY MUCH, YOUR
23 HONOR.

24 Q AND THE -- THE THIRD LINE DOWN, IT SAYS
25 "RECEIVED FOR PUBLICATION OCTOBER 25TH, 2012," CORRECT?

26 A CORRECT.

27 Q AND AT THAT TIME, YOU WERE ALREADY WORKING
28 FOR A.E.G. LIVE IN YOUR CONSULTING CAPACITY AS AN

1 EXPERT ON THIS LITIGATION, RIGHT?

2 A AT THAT TIME, MY -- THAT'S ACTUALLY
3 INCORRECT. AT THAT TIME MY RESEARCH HAD CONCLUDED, I
4 HAD PROVIDED THEM WITH THE INFORMATION ABOUT THE
5 HISTORY, THE EFFECTS OF PROPOFOL, HOW IT MAKES PEOPLE
6 ILL, ET CETERA, ET CETERA, ET CETERA, AND I -- SO THAT
7 PART HAD ENDED AND WE MOVED ON TO THE RESEARCH.

8 Q SIR, YOU GATHERED INFORMATION FOR THIS
9 ARTICLE AT THE SAME PERIOD OF TIME -- YOU'VE ALREADY
10 TOLD US -- THE SAME PERIOD OF TIME YOU WERE ALSO
11 WORKING AS A CONSULTANT FOR A.E.G. LIVE, CORRECT?

12 YOU'RE NOT GOING TO REALLY TRY TO TELL US
13 THERE WAS SOME DELINEATING LINE, ARE YOU?

14 A I'M JUST TRYING TO BE HELPFUL AND HOPING
15 YOU UNDERSTAND IT.

16 MR. PUTNAM: YOUR HONOR, ARGUMENTATIVE. MOTION
17 TO STRIKE.

18 THE COURT: MOTION DENIED.

19 MR. BOYLE: YOU TOLD US IN YOUR DEPOSITION THAT
20 SHORTLY BEFORE FEBRUARY 2013, THE A.E.G. LIVE LAWYERS
21 CALLED YOU AND SAID, "OKAY. WE'RE CHANGING YOU FROM A
22 CONSULTING EXPERT TO A TESTIFYING EXPERT."

23 Q DO YOU REMEMBER TELLING ME THAT IN YOUR
24 DEPOSITION?

25 A IN 2013, YES, THAT IS CORRECT.

26 Q THAT'S WHAT I'M SAYING.

27 SO AS OF 2012 -- YOU WERE HIRED IN
28 FEBRUARY 2011 -- RIGHT? -- BY A.E.G. LIVE THROUGH

1 O'MELVENY?

2 A CORRECT.

3 Q OKAY. GREAT. NOW LET'S GO TO THE NEXT
4 LINE. LET'S HIGHLIGHT THAT.

5 "THE AUTHORS DECLARE NO CONFLICTS OF
6 INTEREST."

7 IS THAT WHAT IT SAYS?

8 A THAT IS WHAT IT SAYS.

9 Q OKAY. NOW, SIR, DON'T YOU THINK IT WOULD
10 BE HELPFUL TO YOUR DOCTOR ASSOCIATES WHO READ YOUR
11 ARTICLE TO KNOW THAT AT THE TIME YOU WORKED ON THIS
12 ARTICLE AND PUBLISHED THIS ARTICLE, YOU WERE WORKING
13 FOR A.E.G. LIVE, THE FUNDER OF THE ARTICLE, IN A
14 LITIGATION CAPACITY?

15 DON'T YOU THINK THAT'S SOMETHING THEY
16 SHOULD KNOW?

17 A IT'S IRRELEVANT TO THE FINDINGS OF
18 HEALTHCARE PROFESSIONALS. IT DOESN'T APPLY TO
19 MR. JACKSON'S CASE. IT ONLY APPLIES TO HEALTHCARE
20 PROFESSIONALS BECAUSE THAT'S WHO WE TREATED.

21 Q YOU DIDN'T ANSWER MY QUESTION.

22 DON'T YOU THINK YOUR COLLEAGUES SHOULD KNOW
23 ABOUT THAT?

24 A THE ANSWER IS NO.

25 Q YOU DON'T THINK THEY SHOULD KNOW ABOUT
26 THAT?

27 A THE ANSWER IS IT WOULDN'T AFFECT THEIR
28 UNDERSTANDING OF THE PAPER WHATSOEVER.

1 Q SO YOU'RE PERFECTLY OKAY IF I CALL UP THE
2 A.S.A.M. TONIGHT AND LET THEM KNOW?

3 A I WOULDN'T CARE.

4 MR. BOYLE: OKAY. IS THAT IT FOR TODAY, YOUR
5 HONOR?

6 THE COURT: 9:45 FOR YOU.

7 ATTORNEYS, 9:30 FOR YOU.

8
9 (THE FOLLOWING PROCEEDINGS WERE HELD
10 IN OPEN COURT, OUTSIDE THE PRESENCE
11 OF THE JURY:)

12
13 THE COURT: I'M ASKING YOU TO COME A LITTLE BIT
14 EARLY IN CASE WE HAVE SOMETHING THAT COMES UP LIKE
15 TODAY.

16 MS. BINA: BY THE WAY, YOUR HONOR, MS. CHANG AND
17 I HAD TALKED ON THURSDAY ABOUT ARGUING THE FAYE TEXT
18 ISSUE TODAY. MS. CHANG IS ACTUALLY ILL. MAYBE
19 TOMORROW OR THURSDAY, IF THERE'S TIME WITH THE NONSUIT,
20 WE COULD ARGUE IT THEN. BUT I WANTED TO LET YOU KNOW
21 WHY THAT WAS NOT BEING DEALT WITH.

22 MR. PANISH: THANK YOU, MS. STEBBINS BINA.

23 THE COURT: THANK YOU.

24

25 (PROCEEDINGS ADJOURNED TO WEDNESDAY,
26 AUGUST 4, 2013, AT 9:30 A.M.)

27

28