SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
- - -

BEVERLY SMITH, on behalf of herself and all others similarly situated and on behalf of the general public,

Plaintiff,

vs.

SMITHKLINE BEECHAM CORPORATION, dba GLAXOSMITHKLINE, a Pennsylvania Corporation, and DOES 1-100, inclusive,

Defendants.

Case No.: 04 CC 00590

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
- - -

PAMELA BLAIN, Individually and as Personal Representative of the Estate of TREVOR KYLE BLAIN, II, Deceased, and on Behalf of All Those Similarly Situated; TONYA D. Brooks, Individually and on Behalf of ALL of Those Similarly Situated; RONALD BLAIN, Individually; LEX BROOKS, Individually; Cheryl Brooks, Individually

Plaintiffs,

vs.

SMITHKLINE BEECHAM CORPORATION d/b/a/ GLAXOSMITHKLINE, a Pennsylvania Corporation,

Defendant.

Case No.: 06-1247-JD

DEPOSITION OF
NEAL RYAN, M.D.
PITTSBURGH, PENNSYLVANIA
OCTOBER 4, 2006

ATKINSON-BAKER, INC.
COURT REPORTERS
(800) 288-3376
www.depo.com
FILE NO.: A003EBF
REPORTED BY: MICHELE KOHAR, CSR

STATE OF MINNESOTA
COUNTY OF HENNEPIN

- - -

Leigh Ann Engh, Darcene and Greg Lensing, on behalf of the general public, themselves and all others similarly situated, Plaintiffs,

vs.

SMITHKLINE BEECHAM CORPORATION, d/b/a/GLAXOSMITHKLINE, a Pennsylvania corporation, Defendants.

Court No: PI-04-012879

Deposition of NEAL RYAN, M.D., taken on behalf of the Plaintiffs at Professional Suites, US Steel Tower, Suite 600, 600 Grant Street, Pittsburgh, Pennsylvania, commencing at 9:00 a.m., Thursday, October 4, 2006, before Michele A. Kohar, Certified Court Reporter.

A P P E A R A N C E S

FOR THE PLAINTIFFS:
BAUM HEDLUND
BY: GEORGE W. MURGATROYD ESQUIRE
12100 Wilshire Boulevard, Suite 950
Los Angeles, California 90025

FOR THE DEFENDANTS:
KING & SPAULDING
BY: TODD DAVIS, ESQUIRE
1180 PEACHTREE STREET
ATLANTA, GEORGIA 30309

FOR THE DEPONENT:
UNIVERSITY OF PITTSBURGH
OFFICE OF GENERAL COUNSEL
BY: PAMELA W. CONNELLY, ESQUIRE
1710 Cathedral of Learning
Pittsburgh, Pennsylvania 15260

I-N-D-E-X

WITNESS: NEAL RYAN, M.D.

EXHIBIT DEFENDANT'S DESCRIPTION

(NONE)

QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER

(NONE)

INFORMATION TO BE SUPPLIED: LINE PAGE

BY MR. MURGATROYD:

Q. Doctor, can you please state your full name for the record.

A. Neal David Ryan.

Q. Okay. And what is your current address?

A. University of Pittsburgh, 3811 O'Hara Street, Pittsburgh, 15213.

Q. And you understand that you're under oath?

A. Yes.

Q. Okay. It's the same oath as you would take as if you were in a court of law, right?

A. Yes.

Q. Have you been deposed before?

A. No.

Q. Have you had a chance to talk to your attorney about the ground rules of a deposition?

A. Yes.

Q. Let me go over them briefly to make sure we're on the same page. Okay?

A. Okay.

Q. The first thing is -- and what you're doing is great -- it's important that you wait for me to fully ask a question before you answer. Okay?

A. Yes.

Q. And make sure all your answers are out

loud, because the court reporter can't take down shrugs or nods. Okay?

A. Okay.

Q. Now, at some point in the not too distant future, probably in a few weeks, you'll receive a copy of the transcript of this deposition today, at which time you'll have an opportunity to change or make corrections to your testimony, but I need to caution you now that if you do change your testimony at a later date that fact of changing it can be used at trial. Do you understand that?

A. Yes.

Q. Okay. The idea today is to give your best testimony. Is there any reason why you can't?

A. No.

Q. Okay.

MR. DAVIS: Since we're talking about ground rules I assume that the deposition -- that we're proceeding in that all objections except for the form of the question or the responsiveness of the answer are reserved until such further use of the deposition or until time of trial?

MR. MURGATROYD: That's correct.

MR. DAVIS: Also, it's my understanding that when we agreed to this, this is for -- Dr.

Ryan's deposition is not only for Beverly Smith and the Blain case, but also the six other cases that have now been consolidated in front of Judge Savage in Federal Court in Pennsylvania as well as your firms other pediatric cases or clients?

MR. MURGATROYD: Not cases that are filed.

MS. CONNELLY: I don't understand that?

MR. MURGATROYD: Well, if it turns out that I have a client that was treated by Dr. Ryan or I have a client that has some other connections or I think I need to come back again we'll have to come back again.

MR. DAVIS: Well, we'll agree to disagree on that. If we're here to arrange to have Dr. Ryan's testimony I just don't see how his testimony is going to be different in those cases.

MR. MURGATROYD: We can agree to disagree. So the record is clear this deposition is being taken in what is called the ENGH case, E-N-G-H, which is pending in State Court in Minnesota, and normally there would be an attorney here by the name of Chris Coffin for that case. He is in Minnesota so he can't be here, but the transcript and the videotape for this deposition will be used for that case also.

MR. DAVIS: And you're here on behalf of the Plaintiffs?

MR. MURGATROYD: That's right.

MS. CONNELLY: My name is Pam Connelly. I represent Dr. Ryan in this proceeding. I have negotiated with Mr. Brava-Partain through your office --

MR. MURGATROYD: Right.

MS. CONNELLY: -- orally in the form of letters, and he has agreed that this deposition will be the deposition for Dr. Ryan for the cases in which you represent Plaintiffs relating to the pediatric or adolescent use of Paxil so we can argue about how that'll shake out later, but I wanted to get that on the record.

MR. MURGATROYD: That's fine. Also, for the record we have a videographer who is running late and when he gets here we'll take a short break and pick up the deposition at that point.

MS. CONNELLY: Not to nit-pick, but it's my understanding that the videographer was not scheduled and that we quickly had to schedule one this morning and he's on his way? Is that right?

MR. MURGATROYD: That's my understanding.

BY MR. MURGATROYD:

Q. Now, in preparing for your deposition today, Doctor, did you review any documents?

A. Yes.

Q. What did you review?

A. I reviewed the Keller article about the Paxil study and the three letters to the editor and the three responses, and I reviewed the ANCP article on which I was a coauthor on.

Q. And the ANCP paper that you were a coauthor on, do you recall the title of that?

A. I do not.

Q. Did you read the entire pages?

A. Yes.

Q. Did you see that the Keller article is referenced in that document?

A. Yes.

Q. Now, we'll probably get into that tomorrow.

Are you aware that the other coauthors of your article have been deposed in this case?

A. Yes.

Q. Okay. Have you seen or heard any portions of their depositions?

A. No.

Q. Have you discussed their depositions with any of them, and particularly Martin Keller?

MS. CONNELLY: Objection to the extent that it may involve anything that may invade the attorney/client privilege.

MR. MURGATROYD: I'm just asking him about discussions with Keller?

MS. CONNELLY: No. I think you said, Did you have any discussions relating to it? I'm not sure if that -- to the extent you're talking about discussions with counsel then I would direct him not to answer.

MR. MURGATROYD: That's okay. I'm not asking that.

BY MR. MURGATROYD:

Q. Have you had any discussions with Martin Keller regarding his deposition?

A. No.

Q. Have you had any discussions with Jim McCafferty about his deposition?

A. No.

Q. How about Karen Wagner?

A. No.

Q. Have you had any e-mails or -- by discussions I mean not just phone calls or in-person

meetings I'm talking about also e-mails, have you had any e-mails from any of those individuals regarding what happened in their depositions?

A. No.

Q. Okay. How is it you became aware they were deposed?

MS. CONNELLY: Objection to the extent it calls for communications between his lawyer and himself.

BY MR. MURGATROYD:

Q. Okay. Can you tell me?

MS. CONNELLY: Can you rephrase the question to: Other than discussions with counsel have you had any?

MR. MURGATROYD: Yes. That's fine.

MS. CONNELLY: What's the question you want to ask him now?

BY MR. MURGATROYD:

Q. Other than any discussions you had with your lawyer, how did you become aware that these other individuals had been deposed?

A. I don't know if there's an answer to the question the way you phrased it.

Q. Well, let me ask you this: Is the only way that you became aware of those depositions is

through your counsel?

A. Yes.

Q. Okay. Thank you.

Now, what is your educational background?

A. I have a degree in Computer Science and Electrical Engineering from MIT. I have a medical degree from Yale University. I did my residency in general psychiatry at Columbia and I did my child psychiatry fellowship at the University of Pittsburgh.

Q. When did you complete your education?

A. My bachelors degree was 1974. My medical degree was 1978. I finished my residency in 1982 and I finished my child psychiatry fellowship in -- oh, goodness -- I think it was '86.

Q. Are you currently employed by the University of Pittsburgh?

A. Yes.

Q. And what is your position?

A. I'm a professor of psychiatry at the University of Pittsburgh.

Q. How long have you been there?

A. I've been at the University of Pittsburgh since 1984 so it's 22 years now.

Q. Now, you have done work for pharmaceutical

companies in terms of doing clinical trials, correct?

A. Correct.

Q. How many?

A. Two.

Q. Were both of those with GlaxoSmithKline?

A. No.

Q. Okay. Why don't you tell me about the two?

A. The first study was with GlaxoSmithKline. The second study was with Wyeth.

Q. And what drug did you test for Wyeth?

A. Venlafaxine.

Q. Which is also known as Effexor?

A. Yes.

Q. Okay. And did you test this drug on kids?

A. Children and adolescents.

Q. When I use the term kids today I mean both kids and adolescents. I'm not going to differentiate. Is that okay?

A. Sure.

Q. Okay. Great. Now, are you or have you been a member of any drug company's advisory board?

A. I am not. I have been.

Q. Okay. And what companies?

A. I think the only one I was on was the Pediatric Advisory Board. It was for Abbott.
Q. And what years?
A. Don't remember. A few years ago.
Q. For how many years?
A. Approximately three years.
Q. And do you get paid by the year?
A. I got paid. I went to one meeting annually. I got one fee annually.
Q. Okay. Now, have you ever been a consultant for GFK -- actually, let me back up a minute -- when I refer to GSK I mean GlaxoSmithKline, do you understand that?
A. Yes.
Q. Have you ever been a consultant for GSK?
A. Yes.
Q. Okay. And you currently are a consultant or you currently are not?
A. I currently am not.
Q. Okay. And when did you first become a consultant for GSK?
A. You have the -- each time I was a consultant I was paid, and you have all that information so your information on yours would be more accurate that mine.

Q. Okay. And when did you cease being a consultant for GSK?

A. A few years ago, and again, I provided you all the 1099's and those are more accurate than my memory.

Q. Okay. Are you a member of the Speakers Borough for any drug company?

A. No.

Q. Have you ever?

A. No, not to the best of my knowledge.

Q. Okay. Now. You're right. You did provide me some information on payments you received from GlaxoSmithKline. Did that include a -- you did what is called a blinded review of 35 patients?

A. That's correct. I did that.

Q. Okay. For GlaxoSmithKline?

A. Right.

Q. Did you get paid for that?

A. I don't believe so.

Q. And we'll talk about that. That ended up -- that review was part of the process of drafting an article, correct?

A. Yes.

Q. Okay. In which you were listed as one of the original authors; do you remember that?

A. Yes.

Q. And that article was published recently, this year, 2006? Is that correct?

A. I don't know if that's correct. I did not see the article published.

Q. Okay. Well, it has been, and again, I'm just laying a foundation. We'll get into that later.

A. You'll need to show me the article then when we get into it.

Q. Okay. That's fine.

Are you on the editorial boards for any medical journals?

A. I am on the editorial board for -- that's a good question -- I have been at various times. I do not actually know whether or not I am right now. I think I am not.

Q. And what journals do you recall that you were on?

A. For Biological Psychiatry, for the American Academy for Child and Adolescents Psychiatry and for the Journal of Child and Adolescence Psychopharmacology.

Q. Okay. And do you consider yourself to be an expert in psychopharmacology?

A. In all of psychopharmacology? No.
Q. Okay. Is psychopharmacology broken into categories?
A. Yes.
Q. And do you consider yourself to be an expert in any of those categories?
A. Sure. The psychopharmacology in child and adolescent depression and anxiety, basically.
Q. Do you consider yourself to be an expert in suicidality?
A. No.
Q. Do you have a clinical practice?
A. Essentially no.
Q. So you don't currently treat patients?
A. That's not correct.
Q. Okay.
A. I treat patients in research protocol, but not in clinical practice.
Q. Okay. When you say research protocol, are there any current research protocols that you're doing?
A. Yes.
Q. Does it involve drugs?
A. Yes.
Q. Which drug?

A. It involves fluoxetine, sertraline and paroxetine.

Q. And who is financing that research?

A. Through the NIH.

Q. And what's the hypothesis that you're testing?

A. We're testing the -- whether on adolescents who have not responded to first-line Serotonin Reuptake Inhibitors -- whether the best treatment is to switch to a different class of agents or not or just switch to a different agent within class and whether to add psychotherapy or not.

Q. And what are the different classes of agents you are testing?

A. The two classes we're looking at are Serotonin Reuptake Inhibitors, and specifically fluoxetine and sertraline, and the other class is norepinephrine.

Q. And what class is that for? You said SNRI?

A. It's not a pure SNRI, but yes.

Q. Okay. And what does the public know citalopram as?

A. Celexa.

Q. And how many patients are enrolled in that research program?

A. In the Pittsburgh arm I believe the number's about 80.

Q. When -- let me go to -- specifically to the clinical study that you did for GSK that's commonly known as study 329; is that correct?

A. Yes.

Q. Okay. And were you paid personally for performing your part of that study?

MR. DAVIS: Object to the form.

MS. CONNELLY: Dr. Ryan, if there's an objection it's generally to preserve the record, and you can answer it unless there's a privilege issue and then I'll instruct you not to answer.

THE WITNESS: Okay. Sounds good. Was I paid personally?

BY MR. MURGATROYD:

Q. Yes.

A. It was -- I was paid -- let's see. Basically no.

Q. Was your department paid and then your department paid you? Is that how it worked?

A. The department was paid.

Q. Okay.

A. The University was paid.
Q. Okay.
A. And I was paid two components; one, my salary, which I would get any way although part of that would have been supported by the study, and then our department has the practice of paying additional incentive pay for a wide range of things including doing studies or extra clinical work. So I got a little bit of money from the additional incentive pay for having this particular grant.
Q. So the more money you bring into the university for research the more money you get paid? Is that correct?
A. Or the more clinical work I get; yes, that is correct.
Q. All right. So let me just make sure I have this right. So you got this for GSK and that was completed in 1997? Correct?
A. Correct.
Q. And the only other clinical trial you've done is the one you're currently doing?
A. That's not correct.
MS. CONNELLY: Object to form. He's done many, many clinical trials.
MR. MURGATROYD: Okay. Then maybe I

didn't get the answer.

MS. CONNELLY: I believe he did make mention of them.

BY MR. MURGATROYD:

Q. How many clinical trials have you done?

A. I don't know. That's an interesting question.

MS. CONNELLY: Funded by NIH? Funded by anyone?

BY MR. MURGATROYD:

Q. Yes. Clinical trials?

A. Funded by anyone?

Q. Yes.

A. Do you have a copy of my CV? I've done a bunch.

Q. It's not on your CV.

MS. CONNELLY: It wasn't requested in the Documents Request.

THE WITNESS: I've probably done about ten, and only two have been funded by industry and the rest were by NIH.

BY MR. MURGATROYD:

Q. So that's ten clinical trials since 1984?

A. I was involved in one other clinical trial when I was in Europe before 1984.

Q. And is the term clinical trial and study, are those synonymous terms?

A. Not to my mind.

Q. Okay. Well, when I say study 329, clinical trial 329, is there a difference?

A. No.

Q. I'm sorry?

A. No. There would be no difference.

Q. Okay. Why do studies have pre-specified outcomes?

A. Could you clarify your question, please?

Q. Well, do you know an outcome is for a trial?

A. Yes.

Q. Okay. And are there protocols for trials?

A. Yes.

Q. Okay. And the protocols normally specify the outcomes for -- well, let me ask you this: The protocols set forth a hypothesis as being tested in the study?

A. Yes.

Q. And are outcome measures defined so you know what you're looking for?

A. Yes.

Q. And why are there -- do you consider those

to be pre-specified outcomes?

A. Yes.

Q. And why do you have those?

A. There are a numbers of reasons that I -- clearly one of the most important reasons is saying to specify clearly which things you're putting the most money on for the outcome, which things you're saying is most important for the outcome, primarily to avoid the problem of testing a bunch of different ways, so doing too many comparisons.

Q. And why are there primary outcomes distinguished from secondary outcomes?

A. Because, for example -- again, I think the question before was -- the answer before was responsive to that -- but for example, regulatory agencies will require a positive significance on your one or two primary outcomes that you propose rather than a multitude of significant findings on secondary outcome measures, because that's the regulation about approval.

Q. Do you have primary outcome measures strictly for regulatory purposes or is it also scientific purposes?

A. It has a scientific purpose also, which is what I answered before.

Q. Okay. Now, in terms of clinical trials, what does it mean to say that there is a signal for efficacy? What does that mean?

A. Sure. Are you asking in this particular study or any?

Q. No. In general?

A. That a significant amount of the data came out in a way that would suggest that there's efficacy.

Q. And is there a difference between that and a safety signal?

A. Yes.

Q. And what's the difference?

A. One is about safety and one is about efficacy.

Q. But the same primaries apply?

MS. CONNELLY: Object to form.

MR. DAVIS: Objection.

THE WITNESS: Can you clarify your question, please.

BY MR. MURGATROYD:

Q. Sure. Now, you said a minute ago -- let's back up a minute -- I asked you what a signal for efficacy is?

A. Yes. You did ask that, and I said that --

Q. Maybe I'll get you to say your answer again, because I don't want to misquote you.

So a signal for efficacy -- and correct me if I'm wrong -- you said a significant amount of data, said a significant amount of that was statistically significant on a number of secondary studies?

THE WITNESS: Can you read that back.

(Answer read back.)

BY MR. MURGATROYD:

Q. Okay. A minute ago you said -- and correct me if I'm wrong -- you said a significant amount of data indicated that there was efficacy?

A. So let me see if I can -- in the example that you're talking about there was a significant P value. There was statistically significant findings on a number of the secondary measures of efficacy.

Q. No. I'm not talking about this. I'm talking about in general. We'll get into 329 a little bit later. I'm talking about a signal for efficacy just in a general form?

A. I'm doing my best to answer your question, but I'll try to generalize it.

Q. Okay.

A. So I think that would be the general case

whether it's 329 or another one, that if you say a bunch of the secondary measures came out positive -- I think that's what certainly I was referring to in that particular phrase and that is how I would refer to it on another study, and if you said the same thing on side effects or suicidality I think that would be a fair way of saying the signal. If you had significant P values not on side effect data or suicidality you are -- you would increase specified as an hypothesis, but on something you're looking at as a secondary analysis if those came out significantly significant, you know, more than just one thing.

Q. Okay. And do you believe that you have to have a statistical significance for signal?

A. I was -- the way I was suggesting it is meaning it was not only statistically significant on one examination, but on several different ways we examine them.

Q. Okay. Now, there is such a thing known as a randomized placebo controlled trial, correct?

A. Yes.

Q. And what is that exactly?

A. Sure. It's two separate concepts. The first is randomized, which means that you do a

computer equivalent of flipping a coin, so that a person is on one of several different treatments. And once you say placebo controlled it means that one of the arms is with the placebo, presumably one or more other arms of treatment are not with placebo or with active compounds and the people are assigned at random and the -- with the placebo the intent is that neither the study subject nor the investigators evaluating the placebo know which the patient's been assigned to.

Q. And is that considered the gold standard for determining efficacy of the drug that's being tested?

A. By many people it's not the only gold standard.

Q. Okay. But it is a gold standard?

A. Yes.

Q. And it is also the gold standard for determining the safety of the drug?

A. No.

Q. What is the gold standard for determining the safety of the drug?

A. It depends on the safety issue you're trying to address.

Q. Okay. What are the different

possibilities?

A. Sure. The gold standard for determining safety with a drug would be a large number of subjects, and certainly blinded would have some randomized controlled trials where they're blinded and someone on placebo would have significant advantages large enough to -- and then prospective hypothesis during testing of specific side effects.

Q. Okay. And what do you mean by prospective?

A. That you plan to look for those side effects form the get-go and so you're investigating what you could on those side effects.

Q. Okay. And if you want to look for -- you want to look at the safety of the drug regarding adverse events that weren't looked at prospectively, what's the method of doing that?

A. A method is to go back and see what you've got.

Q. Okay. All right. Now, turning to study 329, were you involved in the very beginning of the creation of the protocol for that study?

A. Yes.

Q. And were you a part of a team of people?

A. Yes.

Q. And who consisted of them? Who was on the team?

A. Yes. The -- it was Michael Strober at UCLA, Martin Keller at Grand University, myself, Boris Birmaher, B-I-R-M-A-H-E-R, at the University of Pittsburgh, and Rachel Gittelman-Klein, G-I-T-T-E-L-M-A-N, K-L-E-I-N, with a hyphen, who is at NYU. I do not believe there were others, but I'm not certain.

Q. And how did you all get together?

A. We met annually at a meeting called the Child Depression Consortium and the idea came up that we should do a study similar to this in a discussion there.

Q. And why was Martin Keller there? He's not a child psychiatrist?

A. He's been a member of the Child Depression Consortium for a long time before that, because he studies depression in families.

Q. Okay. And the idea was you guys wanted to get together and test any particular drugs on kids?

A. I'm sorry. I don't know how to answer your question.

Q. Well, you as a team, right, and I think Keller was -- did you have a chairman of the team or

was there a captain of the team?

A. No.

Q. They were all equally distributed?

A. Yes.

Q. Okay. Who pitched GSK to do the study 329?

MS. CONNELLY: Object to form. Did you say pitch?

BY MR. MURGATROYD:

Q. Yes. Who pitched it?

A. Okay. This is a different question than you asked me before, right?

Q. Yes.

A. Fine. When we designed the study -- because we were interested in looking at any of the then available serotonin Reuptake inhibitors and wanted to compare it to a tricyclic antidepressant, and in this case Imipramine. We were wondering what SSRI to test imipramine, I-M-I-P-R-A-M-I-N-E, and placebo and we were interested about which of the serotonin Reuptake inhibitors to test.

We thought that we would be able to get funding from several different pharmaceutical manufacturers for this study that we designed. Dr. Keller suggested that GSK or SKB at the time

might be interested so he negotiated with them to see if they were interested.

Q. Okay. Now prior to going to GSK, had you gone to another drug company first?

A. Not to my memory.

Q. You don't recall going to Lilly?

A. I don't recall doing that. We may have. I don't recall whether we did or not.

Q. Okay. How about Pfizer?

A. Again, I don't recall that we did that. I just don't know the answer to your question.

Q. Now, what was your primary responsibilities in regard to study 329?

A. I was one of the people that lead the design, wrote it up, and I managed the Pittsburgh team that carried it out and I was also responsible with all the other coauthors for the write up.

Q. Now, when the study was completed, who was responsible for analyzing the results?

A. GFK did the statistical analysis.

Q. Were you wholly dependant upon the results they told you were the results?

MR. DAVIS: Object; form, vague and ambiguous.

BY MR. MURGATROYD:

Q. Did you have any way of double checking their work?

A. No.

Q. Is it a correct statement to say that you were dependant upon GFK to do a correct analysis?

MR. DAVIS: Objection to form.

THE WITNESS: You mean a statistical analysis?

BY MR. MURGATROYD:

Q. Yes.

A. Yes.

Q. Okay. Did you ever have full access to all the raw data for that study?

A. No.

MR. DAVIS: Object to form.

(Ryan Deposition Exhibit No. 1 was marked for identification.)

BY MR. MURGATROYD:

Q. Let me show this to you, Dr. Ryan. Can you identify for the record what that document is, sir?

A. The title is "Adolescent Unipolar Major Depression: Multi-Center Pharmacology Study." It says draft, December 5, 1982. It is a document

describing the study that we proposed. I don't know who prepared this document.

Q. Does it appear to be authentic?

MS. CONNELLY: Objection. He just said he doesn't know who prepared it.

BY MR. MURGATROYD:

Q. I know that's -- you've seen that document before, right?

A. I do not know whether I've seen this document or similar documents. It certainly describes our study. I don't know who prepared this document.

Q. Okay. It would have been one of the members of your team, right?

MS. CONNELLY: Object to form and speculation.

THE WITNESS: I don't know the answer to that. I don't know whether this was prepared by someone at GFK based on what we've given them or one of the members of our team.

BY MR. MURGATROYD:

Q. Okay. Well, does this discuss outcome measures?

A. I looked through it briefly. I did not see those in there.

Q. Okay. Well, if --
A. If you want to give me more time or really want to tell me where they're described I'll review that part specifically.
Q. Page 14.
A. Where on page 14?
Q. Definition of responders.
A. I cannot tell whether they're talking here about responders here of the statistical analysis or responders for purposes of going into continuation phase. It could be either one or both -- and where it's on Page 14? I can't tell which purpose it's talking about it for?
Q. Okay. So you don't believe that the information on page 14 relates to outcome measures?
A. That's not what I said.
Q. You're not sure if it is?
A. I'm saying by the reference on page 14 they talk about responders and non-responders. I can certainly take more time and go through the whole thing. I don't know if they were talking about this for the purposes of the statistical analysis of the primary hypothesis versus secondary ones.
Q. Okay. Now, when 329 was completed, were

you provided a copy of the final clinical report by GFK?

A. I assume that I was, but I don't recall -- yes, I'm sure I was.

Q. Okay. Prior to that, had you been provided a copy of the protocol that was going to be used for the study?

A. Yes.

Q. Okay.

MS. CONNELLY: Do you want bates number identified for the record or are you all so familiar with these documents that it's not necessary?

MR. DAVIS: I'm fine.

(Ryan Deposition Exhibit No. 2 was marked for identification.)

BY MR. MURGATROYD:

Q. Have you have a chance to review that document?

A. I've looked at it briefly. It's a whole lot of pages. It's about 50 pages. I've not reviewed it.

Q. Okay. Can you identify for the record what the document is?

A. The document appears to be produced by SmithKline Beecham. Says "Study drug: BRL

29060/paroxetine." It appears to describe the Paxil study we did.

Q. And does this document contain information on the outcome measures that you were going to look at?

MR. DAVIS: Object to form.

THE WITNESS: I don't know. It would take me a considerable period of time to go through there. Do you want to tell me which pages it may be on and I can examine those pages in detail?

Q. 17.

A. Okay. Yes.

Q. Okay. And are there primary efficacy variables listed there?

A. Yes.

Q. As well as secondary efficacy variables?

A. Yes.

Q. Okay. And with regard to the two primary efficacy variables, were these changed at any time from this protocol to the time the study was finished?

A. Not to my memory. I don't believe so.

Q. Okay. When the study was complete and the data was analyzed -- well, so the record's clear, there are two primary efficacy variables, correct?

A. Yes.

Q. When the study was complete and the data was analyzed, how many of these measures or variables did Paxil separate statistically from placebo?

MS. CONNELLY: Object to form. Are you talking about primary?

MR. MURGATROYD: Yes. Primary.

THE WITNESS: Primary? None.

BY MR. MURGATROYD:

Q. Now, let's look at the secondary variables that are listed in the protocol. Can you state for the record what these are exactly?

A. There's five listed: Depression items in K-SAD-P, global impression, autonomic function checklist, self perception profile and sickness impact scale.

Q. Okay. And on how many of these measures did Paxil separate statistically from placebo?

A. Two I believe.

Q. And what two are those?

A. The depression item in the K-SAD-L and the global impressions.

Q. Now, the global impressions. When the study was completed the mean global compression

separated statistically? Paxil separated statistically from placebo?

A. Yes.

Q. With regard to the mean global impressions?

A. This doesn't say mean.

Q. Okay. That's not my question.

A. Okay. Give me the paper and I'll double check before I answer.

Q. Okay.

MR. MURGATROYD: Let's go off the record while you look at that.

(Ryan Deposition Exhibit No. 3, 4 was marked for identification.)

(Recess taken.)

BY MR. MURGATROYD:

Q. Okay. We're now back on the record, and while we were off the record I handed the doctor a -- actually, let's stay off the record for a second because the videographer is here.

(Recess Taken.)

VIDEOGRAPHER: This is October 4, 2006 at approximately 10:10 a.m. The videotape operator is Martin Murray of Investigative Videography, 121 Glenwood Avenue, Pittsburgh, Pennsylvania 15209.

We are located at 660, USX Tower, Pittsburgh, Pennsylvania 15219. We are here to videotape the deposition of Neal Ryan, M.D. to be used at time of trial or for any other reason in the Superior Court in the State of California for the County of Orange. Case Number 04-CC-00590. We have Beverly Smith, Plaintiff versus SmithKline Beecham Corporation, et. al.

We also have in the United States District Court for the Eastern District of Pennsylvania Case No. 06-1247JD. We have Pamela Blain, Plaintiff versus SmithKline Beecham Corporation et.al.

We also have for the State of Minnesota, County of Hennepin, District Court, Fourth Judicial District, Case Number PI-04-012879. Leigh Ann Engh Plaintiff versus SmithKline Beecham Corporation et. al.

The witness has already been sworn. Would Counselors please identify themselves and who they represent.

MR. MURGATROYD: My name is Skip Murgatroyd and I represent the Plaintiffs in each of the actions.

MS. CONNELLY: My name is Pam Connelly. I represent Dr. Neal Ryan.

MR. DAVIS: Todd Davis representing GlaxoSmithKline and also here, but not entering an appearance is Thomas Moore with Bidddle and Reath.

VIDEOGRAPHER: Please continue.

BY MR. MURGATROYD:

Q. Doctor, when we went off the record we were talking about the secondary outcome measures that were listed in the protocol, which is listed in Exhibit 2, correct?

A. Hold on a second. Yes.

Q. Okay. And you had a question. A question came up with the secondary efficacy variables listed in the original protocol include global impressions; is that correct?

A. That's correct.

Q. And that question was whether or not that parameter reached statistical significance in favor of Paxil in study 329; is that correct?

A. I believe so.

Q. And you asked to look at the actual study -- the article that you had published?

A. That's correct.

Q. Regarding study 329?

A. Yes.
Q. To determine whether or not that parameter had reached statistical significance in favor of Paxil; is that correct?
A. Right.
Q. And were you able to find the answer to that?
A. Yes.
Q. Okay. And what is the answer?
A. The answer is yes by one analysis and no by the other.
Q. Okay. Now, I also showed you what is Exhibit 4.
A. Yes, you did.
Q. Which is the final clinical report, correct?
A. Correct.
Q. And on the third page of that document it talks about evaluation criteria?
A. I see that section.
Q. Okay. And in that section it lists the primary and secondary outcome measures, correct, in the second -- in the last paragraph of that page, third page of the document?
A. Yes. I have that page. I'm looking at it

now.

Q. Okay. And if you would, can you read the first two sentences into the record.

A. Of which paragraph would you like?

Q. That last paragraph.

A. "The protocol defined the primary efficacy parameters as the change from baseline in the HAM-D total score, and the proportion of responders defined as patients with a 50 percent reduction in the total HAM-D score or a score of eight or less."

Q. Okay. Let me stop you there just for a second. Now, we talked about that earlier. Those are the two primary efficacy variables, correct?

A. That's correct.

Q. And I believe you stated that with regard to either of those reaching statistical significance in favor of Paxil the answer was none?

A. That's correct.

Q. Okay. Now, can you read the second sentence, please.

A. "Secondary parameters included the change in baseline in the K-SADS-L depression subscale, the mean CGI score and the functional/quality of life instruments."

Q. Okay. Now with regard to those secondary

parameters, how many of those reached statistical significance in favor of Paxil, if any?

A. Of those secondary parameters? One.

Q. Okay. And which one was that?

A. The K-SADL-L depression subscale.

Q. And is that in your paper? Do you have a listing for that?

A. Yes.

Q. And where is that exactly in your paper?

A. It would be table 2.

Q. Okay.

A. Page 766. The paper you have referenced is -- we don't actually have an exhibit on this one.

Q. Actually, there's a number.

A. Oh, there is a number? Exhibit 3, and it would be about 40 percent of the way down the table.

Q. And what does it say exactly?

A. It says K-SADS-L depressed mood item and the P value is .05 of paroxetine compared to placebo.

Q. Okay. But this document talks about the K-SADS-L depression subscale?

MS. CONNELLY: Object to form. Which document are you referencing? The article?

MR. MURGATROYD: No. The evaluation

criteria in the final clinical report.

THE WITNESS: My apologies. I was reading the wrong one.

Q. You were correct?

A. I was incorrect. The KSADS-L depression subscale is about 60 percent of the way down and that has a P value of .07.

Q. Okay. And so did that reach statistical significance?

A. No. The statistical significance for this was set at priority point of .05 so it did not.

Q. Okay. So am a correct in stating that none of the secondary parameters that you just discussed reached statistical significance in favor of Paxil?

A. None of the secondary parameters that were in this particular document, Plaintiffs Exhibit 4, reached statistical significance.

Q. Okay. And in reviewing a study in which a drug failed on both primary outcome measures and all six secondary outcome measures as specified in its protocol, what would you conclude?

MR. DAVIS: Object to the form.

THE WITNESS: Right. You're saying a hypothetical. Are you saying that I had looked at

nothing else or are you saying that I looked at other?

BY MR. MURGATROYD:

Q. Yes.

A. If I had looked at nothing else I wouldn't have done the analysis correctly and I would assume it was negative. If I had looked at other things, which would be the correct thing to do, depends on how the other things come out.

Q. Well, let me ask you this. As one of the primary authors of that article and the original protocol in the study, because I think you said you helped design it, correct?

A. That's correct.

Q. What was your role in deciding from the outcome measures for the study as defined in this protocol?

A. Sure. At the time this study was designed we didn't know which were the best measures to look at depression in kids with treatment. There had been essentially no contributory data to that question so we picked, by guess and by golly, what would appear to be reasonable choices on this.

Q. And those were the six secondary efficacy variables and the two primary efficacy variables

that are listed in the protocol that's before you?

MR. DAVIS: Object to form.

THE WITNESS: I don't know. I don't know what you just said is correct. I certainly remember the two primary efficacy variables, which we've discussed. On the discussions of the secondary variables, because certainly we reported some more in here, I don't think I would say it the way you said it. I don't think I would agree with your second part of that question on the secondary variables.

BY MR. MURGATROYD:

Q. Okay. Well, who picked the six secondary variables that you just read into the record?

A. I have not reviewed enough of the paper trail to say were those precisely the ones that the group designed and gave to GSK or was this just an internal GSK internal document. I don't know the answer to your question.

Q. So with regard to the six secondary variables that are listed in the protocol, three had to do with function scales? What are those? Function scales, is that correct?

A. Yes. How people -- that is indeed correct -- about how people perform in the rest of

their life, not simply their depressed mood.

Q. Okay. And what were those scales?

A. It's in here. Let me go back and find them for you, please. I don't know. It's listed in the paper or you can you help me find them and I'll confirm if those are correct.

Q. Let me ask you this: What are the three function scales that were used in your study?

A. The self-perception profile, the autonomous functioning checklist and the sickness impact profile.

Q. Okay. Let's take up those one at a time. What is the autonomous checklist?

A. Yes. I think it's autonomous rather than autonomic.

Q. Okay.

A. I am not -- I did not review those scales before coming here today, and they're not scales I've used in other studies. I know what the purpose of -- I know what domains they're trying to assess, but I don't have more information on the scales than that. They're all trying assess how the children perform in the rest of their life in terms of their performance at school, performance with their family and with their friends and with tasks of everyday

living.

Q. And who fills out those forms?

A. I don't know. That's either self report or interview-rated, and I don't remember on those.

Q. Why don't I see if I can refresh your recollection by turning to the fourth page of the final clinical report, which we've marked as Exhibit 4.

A. Okay. So this says 000403 at the top? That is correct.

Okay. So these are just some of the pages from it and not all of the pages from it? Is that correct?

Q. That is correct.

A. Okay. So these are selected pages, and what's your pages now?

Q. Looking at this document, does that refresh your recollection as to who fills out the autonomous functioning checklist?

A. It appears to be a self report profile.

Q. And what exactly --

A. It's the patients's parent. I said that wrong. It's the parent fills this out on the child.

Q. Okay. And can you describe to the jury how that works? Is that the parent observing the

child, how they're doing in their life to see if they're doing better?

A. Yes. It would be the parent reporting on how they done over the interval. So that the parent report would be on an interval, not on how they're doing on that moment on a checklist of different questions.

Q. Okay. And how about the sickness impact profile? Who fills out that scale?

A. I don't know.

Q. Okay. By turning to the fourth page of Exhibit 4, does that help you with that?

A. It says the patients rated their present health so that appears to be the adolescent.

Q. And with regard to the self perception profile, who fills out that form?

A. Presumedly it's the adolescent. I don't have detail on it here. I don't remember.

Q. Okay. Now, with regard to these three secondary outcome measures, did any of them reach statistical significance in study 329 in favor of Paxil?

A. No.

Q. Now, I think you stated earlier, and I think it also states in this report on the bottom of

the third page of Exhibit 4 under "Evaluation Criteria"?

A. Yes.

Q. Do you see the last sentence of that paragraph?

A. Yes. I see it.

Q. Can you read that into the record, please.

A. "An analytical plan developed prior to the opening of the blind also described additional outcome measures including patients in quote 'remissions', (a score of 8 or less on the HAM-D total), and the mean changes in the depressed mood items from the HAM-D and the K-SADS-L instruments.

Q. And is that a correct statement?

A. Yes.

Q. Okay. So there were changes in the outcome measures as the study progressed?

A. I don't know that that's correct.

Q. Well, additional outcome measures were added from the original protocol, correct?

A. From what you presented me here as the original protocol it didn't outline very much on secondary analyses and this outlines some secondary analyses.

Q. Okay. Maybe we're confusing terms. By

original protocol I mean the original GSK protocol.

A. The original GSK protocol. Give me the page number on that one again. You gave it to me before. Sorry.

Q. 17.

A. Okay. From this document to this document they've added some secondary analyses.

Q. Okay. And that's not they? That's you, right? You as part of the group?

A. Presumably. I think that clearly the question on this is in a first study in an area is how broadly to look and what are the interesting domains to look, and so you have a moral and ethical obligation to specify what you're going to look at before you look at it, but I certainly can't tell you from here when the group listed all the different secondary analysis to look at.

Q. But you know that some were added after this protocol was finalized?

A. Correct. It appears so, yes.

Q. And you know that from your paper? From your article?

A. The article has some that are not it the protocol that you gave me today.

Q. Right.

A. Right.

Q. And I think we've established that all of the outcome measures, all eight in the primary, in the original protocol failed to reach statistical significance in favor of Paxil, correct?

A. Yes.

Q. Now, my question is: Did you participate in adding more secondary variables as the study progressed from the original protocol? Your role?

A. Right. Presumably so. I don't remember it specifically. It's clear that they were specified before the blind was broken and the analysis was done and I don't remember specifically when they were added. They were certainly extremely reasonable secondary measures that you should have looked at. These were things that would have been wrong not to look at.

Q. Okay. And who participated in the decision-making process to add the additional secondary variables -- efficacy variables?

A. Yes. Right. I don't know the answer to your question. They were the right things to look at. It was a group process on the things. I just don't remember the conversations for adding these, but it would have -- I mean, it would have been

unethical to look broadly at what improved and what didn't. So these were the right things to add.

Q. Okay. And a --

A. And they were added before it was analysed.

Q. Are you sure of that?

A. Well, this document was before the analysis. This was a document to plan the analysis, right?

Q. I'm sorry. Have you seen the statistical appendix of what was analysed with regard to the secondary variables?

MR. DAVIS: Object to the form. No foundation for the question.

THE WITNESS: I saw at the meeting presenting the data we were presented with the analysis.

BY MR. MURGATROYD:

Q. Okay. Let me show you what I'll mark as the next Exhibit.

MR. MURGATROYD: Let's go of the record for a second.

VIDEOGRAPHER: At this time we're going off the record. The time is 10:28 a.m.

(Pause in Proceedings.)

VIDEOGRAPHER: We are now going back on the record. The time is approximately 10:31 a.m.

(Ryan Deposition Exhibit No. 5 was marked for identification.)

BY MR. MURGATROYD:

Q. Doctor, I want to show you what we've marked as Exhibit 5 -- what I've marked as Exhibit 5. It's a document from Rosemary Oakes. Do you know who Rosemary Oakes is?

A. No, I do not.

Q. Okay. You are not aware that she did the statistical analysis for study 329?

A. I don't remember who did it so I don't remember whether it was her or not. I don't remember if I've ever met her.

Q. But you recall though or you can tell from your article that she was one of your coauthors, right?

MS. CONNELLY: Which exhibit is that?

MR. MURGATROYD: Number 5.

THE WITNESS: My apologies. I don't remember her name, but I can find out if she was a coauthor on there. She was the next to the last author.

BY MR. MURGATROYD:

Q. Okay. And let me show you what is known as the statistical appendix for 329, and it's a copy that was used with Dr. Keller in his deposition and the part that I'm going to refer you to is the page 5. You're perfectly free to look at any part of the document that you want, but I'm going to question you on page 5 regarding the secondary efficacy parameters that were analyzed with regard to study 329. Okay?

MR. DAVIS: And I want you to be very careful about what you represent to this witness about what that document is or is not given the record in this case and about the timing of what that -- when that document was done, the purpose for which it was done. I'm just putting you on notice.

MR. MURGATROYD: My gosh, I have no idea what you're talking about -- if you want to object --

MR. DAVIS: That's -- as I said --

MR. MURGATROYD: If you want to object that's fine.

MR. DAVIS: This was covered in Mr. McCafferty's deposition about the purpose for that

analysis. I'm just putting you on notice. Be very careful of what you represent it to be.

MR. MURGATROYD: I'm not representing -- if you have an objection --

MR. DAVIS: I'm just putting you on notice.

MR. MURGATROYD: You don't need to put me on notice. You have the right to object at a deposition. You don't put people on notice.

BY MR. MURGATROYD:

Q. Okay. So if you would, please take a look at that first major paragraph of that document.

MS. CONNELLY: Can we identify this document for the record?

MR. MURGATROYD: Yes. It's the results of GSK's analysis of study 329.

MR. DAVIS: Object to the form. That mischaracterizes the document.

MR. MURGATROYD: You can't object to the form. It's called "Statistical Appendix." Do you see that?

BY MR. MURGATROYD:

Q. It's called statistical appendix, do you see that on the top page, Doctor?

A. I see that is -- appears to an internal

e-mail from one GSK person to multiple other ones. It's entitled "Statistical Appendix." That's all I know about it of what you're representing it to be.

Q. Okay. That's fine. And if you would just take a look through the document and you'll see that -- well, let me ask you this: Did GSK not share the results of their analyses?

A. GSK shared the results of analyses.

Q. All the results?

A. How would I answer such a question?

Q. Well, this document answers the question. If you would take a look through it and see if you're familiar with all the results that are in that document.

A. Okay.

Q. Okay. And I'm talking about secondary parameters. We've already discussed the primary parameters.

MS. CONNELLY: Just for the record, if the witness is going to be required to review this new document -- just for the record, it is approximately 38 pages of apparent statistical analysis so there may be some delay.

MR. MURGATROYD: That's fine.

THE WITNESS: Okay. I briefly scanned the

document. I haven't reviewed it in its entirety. In answer to your question it appears that they did a thoughtful analyses of a lot of the data. We were -- I remember being presented a significant subset of this. I do not think it likely we were presented every number in here. I don't know that that would have been appropriate.

Q. That's fine. Well, in regard to the document in front of you, you see the page that you're turned to that lists the secondary parameters?

A. Again, remind me on the page. I'm sorry. I lost that one as you did it. Here it is. Page 5. Got it.

Q. Do you see the little handwritten numbers on it? That was Dr. Keller's handwriting.

MS. CONNELLY: Can I interject that -- just -- it assume facts that I don't know to be in evidence. Is that the testimony of Dr. Keller?

MR. MURGATROYD: Beyond dispute.

MS. CONNELLY: Okay.

MR. MURGSTROYD: Those are the 20's that Dr. Keller put on that document.

MR. MURGATROYD: Dr. Keller's handwriting on that document? Unless you know?

THE WITNESS: No. I don't know Dr. Keller's handwriting well enough to say anything cogent on that one.

MR. DAVIS: It's not disputed.

BY MR. MURGATROYD:

Q. Now, if you would, Doctor, as Dr. Keller did in his deposition, can you count the numbers of secondary efficacy variables that were analyzed by GSK?

A. Okay. The count on here was 20. I think that's an accurate count.

Q. Okay. Good. Now, can you go to the page that gives the results of the analysis of each of those secondary variables?

A. Do you want to help me out on that or?

Q. I think it's probably the next page or look for the first chart that has the statistic analyses.

A. Okay. I see a page for HAM-D for K-SADS-L depression scale. Do you think actually it would be on separate pages?

Q. Yes. But I think you'd get a summary on that first page that said "by investigators" right there. Do you recognize those as being the scales that are listed?

A. Those are the scales, but the statistic isn't referring to what you think it is.

Q. Okay. What's it referring to?

A. It's treatment by site. P values. Whether the sites had a specific interaction term on it is what it appears to be.

Q. Okay. Now, let's go to 20 that are marked -- that you look at earlier.

A. The P values on this are whether there was a mean difference between sites, not whether the Paxil was better than placebo.

Q. Okay. Let's go to down to 20 that are listed --

A. Why don't you show me which page you'd like me go to, please?

Q. Where you looked at the 20 --

A. The 20 before?

Q. Yes.

MS. CONNELLY: It might have been page 5?

THE WITNESS: Page 5. Yes.

BY MR. MURGATROYD:

Q. And of those 20 secondary efficacy parameters that were listed there, how many of those reached statistical significance in favor of Paxil?

A. I don't know. The HAMD depressed mood

certainly did. Let's see. I don't know if the other ones did. I would have to go through it.

Q. Okay. Why don't you take your time and go through it.

A. K-SADS-L subdepression subscale. Let's see. This does not appear to have the correct analysis on some of these because -- no -- I'm sorry -- I'm saying that wrong. No, I would still say that. Some are listed here. I do not find the P values for all of them listed here. You can show me where they are. I'm just not seeing them.

Q. No. That's fine. I'm just asking you if they're there?

A. I'm sorry. I thought you asked me how many of the 20 had a significant P value, and you gave me a document without most of the P values?

Q. Well, I just want -- to that degree you can interpret that document, Doctor, that would me helpful to the jury and me.

MS. CONNELLY: Is that a question?

MR. DAVIS: What's the question?

THE WITNESS: What's the question?

BY MR. MURGSTROYD:

Q. The question is how many of those --

A. I'm sorry. You gave me a document without

the data you asked me to report to you?

Q. Doctor, you may know it off the top of your head. I don't know whether or not -- what you know or not know. I mean, you can look at those and determine that you know some clearly did not reach statistical significance and --

A. I know some didn't, but you asked me a question that I told you I could not answer and isn't in this document.

Q. That's fine. Okay. Now, go down the ones and tell me the ones that you can't give me an answer for. Go down the list and find --

A. Fine. The ones that I can give you an answer for are the ones in this paper.

Q. So you cannot give me an answer --

A. For the other ones? No.

Q. Okay. That's fine. If you go down them, correct, are there function scales discussed in there?

A. The things that we don't report in the paper I don't have in my memory and they're not in this document.

Q. Okay. Well, let's look at that list right there of 20. Are there function scales listed in there?

A. Right. But what we reported negative is the total function scales in here. I'm not seeing the separate function subscales in here.

Q. Okay. So you're saying they're not listed?

A. They're listed here. I'm not finding them in the pages you gave me subsequently.

Q. Okay.

A. So I don't have the data you're asking me.

Q. Well, let me ask you this. I think you've established or you stated that the function subscales all failed to reach --

A. The overall ones, but that's different than the subscales. I don't know on the subscales. It was the overall scales we put in here that weren't significant.

Q. Okay. And have you -- were you -- did you never look at that data before?

MR. DAVIS: Object to the form.

THE WITNESS: I have no memory of seeing this document before.

BY MR. MURGATROYD:

Q. Were you ever presented with the results?

A. Yes.

Q. The subscale results?

A. I was presented with the total subscales, because they're in the paper. I don't if I saw the different break out of the subscales.

Q. Okay. Do you think you would have seen them if they had reached statistical significance?

MS. CONNELLY: Object to form.

THE WITNESS: Tell me if I'm supposed to answer if they object to the form. I'm just trying to find out what I'm supposed to do. I'm sorry.

MS. CONNELLY: I'm just objecting because it's speculation.

THE WITNESS: It seems likely.

BY MR. MURGATROYD:

Q. Okay. Do you recall? You don't recall?

A. I've answered that a whole bunch of different ways. I'm not recalling seeing them. I don't know if I didn't see them.

Q. Okay. That's fine. With regard to -- well, how many secondary variables did you and your paper find were statistically significant in favor of Paxil?

A. Let me refer to the chart. We found four that were significant, but to answer the imputed question there, these are related to the core functions. A lot of these other ones were things

that are of interest, but not related to the core of depression so they're not all created equal.

Q. Well, I'll move to strike your question, because my question was simply how many --

A. Okay.

Q. How many of the secondary variables did you find and stated in your paper reached statistically significance in --

A. Four.

Q. And again, it would be helpful if you would let me finish ask my question before you answer. That way the court reporter and the record is clear.

A. Didn't I let you finish asking your question before I answered?

Q. No.

MS. CONNELLY: Just for the record. To the extent the witness feels he needs to clarify or explain an answer he is free to do so, and you all can fight before the Judge as to whether or not it gets stricken later.

MR. MURGATROYD: Okay. That's fine.

BY MR. MURGATROYD:

Q. Now, in a study in which both primary efficacy variables failed to reach statistical

significance in favor of the drug being tested, and 16 of the 20 secondary variables failed to reach statistical significance in favor of the drug being tested, would you say that was a successful study for the drug being tested?

MR. DAVIS: Object to the form; it's vague, ambiguous and incomplete.

THE WITNESS: I think that if you're talking about this particular study, I think strongly that the secondary measures which came out were at the core of the issue and so I think that definitely gave a significant signal, a positive signal for efficacy. I think also that the fact that the two primary outcome measures didn't come out is absolutely the case and was presented clearly.

BY MR. MURGATROYD:

Q. And you were at some point in the study presented with what were call the top-line results? Do you recall that?

A. No, I do not.

Q. Do you recall the conference in which the GFK staff got together with the investigators to go over the results of the study?

A. Yes.

Q. Okay. Do you recall when that occurred?
A. It was in the fall, and I don't know, '97. '98, somewhere though there.
Q. Okay. Where did that take place?
A. Philadelphia.
Q. Okay. And do you recall getting a letter discussing the results?
A. I don't recall it specifically. Perhaps you could show me the letter.
Q. Okay. I'm going to show you a series of three documents which we'll mark as 6, 7, and 8.
(Ryan Deposition Exhibit No. 6, 7, 8 were marked for identification.)
A. Okay.
MR. DAVIS: Can I see those for just a minute?
MS. CONNELLY: One second. For the record, 6 and 7 are e-mails produced by Dr. Ryan. Number 8 is a document which was produced by some -- by a party presumably, not produced with Dr. Ryan's documents.
BY MR. MURGATROYD:
Q. Okay. Let's take the first exhibit, Exhibit 6, correct?
A. Yes.

Q. Can you identify for the record what that is?

A. That appears to be e-mail from me to Dr. Birmaher, who is my co-investigator on the Pittsburgh site CC'd to my administrative assistant at the time talking about the meeting that SKB was setting up and suggesting that Dr. Birmaher should also be at that meeting.

Q. And is this document authentic?

A. It appears to be so.

Q. Okay. And did you prepare this document?

A. It looks like it came from me and it looks like something I would have said.

Q. Now, let's go to the next document.

A. Huh-uh.

Q. Is that document that you describe to --

A. That's an e-mail from my administrative at the time to me saying that the meeting is at the Marriott in downtown Philadelphia and that Mr. McCafferty would be mailing out details of the meeting and I sent e-mail back asking her to find out where the hotel was and let Dr. Brent also know who's a consultant to the study and his administrator at the time. She said she would do her best.

Q. Okay. And the next document. Do you recognize that document?

A. The next document is a document that appears to have a SKB letterhead on it dated 3 November 1997. It says, "As a prelude to the meeting we would like to provide you a synopsis of the top line results of the 275 patients." It's typed signed by Jim McCafferty, Katherine Beebe, Ivan Gergel and Colin Broom.

Q. Okay. And did you receive this document?

A. I don't know.

Q. Is that saying you don't recall?

A. I don't recall. I'm sorry. Yes. I don't recall.

Q. And does this document give an analysis of the results of your study 329?

A. It purports to give -- it gives some data from the study. It's certainly not a complete analysis.

Q. Okay. And you'll see that one of the -- well, the first sentence of the second paragraph, can you read that into the record, please.

A. "Briefly, there is support that paroxetine produces benefits in treating adolescents with major depression."

Q. Okay. And then the next sentence it talks about "The number of patients who stopped therapy for insufficient effect." Right?

A. That's correct.

Q. And it shows that it provides clinical and statistical evidence of a P value of 0.05, correct?

A. Huh-huh.

Q. And that shows superiority of Paxil over placebo?

A. That's what this document says.

Q. Okay. And that actually is not true, though right? That primary did not reach statistical significance, did it?

A. I don't know the answer to your question.

Q. Well, is it in your paper?

A. It's not in our paper.

Q. Okay. If you would, please go to the Exhibit that is the "Final statistical Report."

A. What Exhibit is that?

MS. CONNELLY: It's Exhibit 4. Here it is.

THE WITNESS: Okay.

BY MR. MURGATROYD:

Q. And if you would, please turn to page 59 at the upper right-hand corner.

A. Okay.
Q. Do you see that table there?
A. It says number of number of randomized patients who completed or withdrawn, and paroxetine 28 percent, placebo 24 percent, imipramine 40 percent. Yes. I see that table.
Q. Okay. And how many patients withdrew for lack of effect?
A. Well, if this is table is correct it says four withdrew for lack of effect on paroxetine, one on imipramine and six on placebo.
Q. Okay. And do you think that it's likely to have been a statistically significant advantage for paroxetine when you have the numbers of four for placebo -- or six for placebo and four for paroxetine?
A. I can't do the statistics in my head. I think it's unlikely however.
Q. Highly unlikely, correct?
A. I think it's unlikely. I don't know how to distinguish the two. I mean, I'm no calculator or statistician. I think it's unlikely that's significant.
Q. Okay.
A. But you could probably run the numbers and

tell me.

Q. Okay. I just wanted your opinion. Okay. Now, when you -- let me ask you this: When you prepared the manuscript that ultimately resulted in a published article?

A. Huh-huh.

Q. Did you ask to review the statistical analyses, the complete analysis that GSK had done for the entire study?

A. No. Not to my memory.

Q. With regard to the manuscript that ultimately ended up in your article that was published, do you know who prepared the first draft of that manuscript?

A. Dr. Keller.

Q. Did he tell you that?

A. He was the first author. It came from his -- his -- the -- no.

Q. Is that just an assumption that you made?

A. Yes.

Q. Have you ever heard of a woman called Sally Laden? L-A-D-E-N?

A. Yes.

Q. And did you have dealings with that particular person?

A. Yes.
Q. And who did she work for?
A. She has her own company. I don't know who she was working as an agent for in this particular one.
Q. Do you know what her job was?
A. She does lots of things. She certainly helps pulls stuff together for papers. She also organizes synopsy for industry. I don't know what else she does for a company.
Q. Is she what is known in the pharmaceutical industry as a ghost-writer?
MR. DAVIS: Object to the form.
BY MR. MURGATROYD:
Q. Do you know what a ghost-writer is?
A. I think I know what a ghost-writer is. I don't think she was a ghost-writer for this one.
Q. Okay. Well, let me have you define what your consider what a ghost-writer is.
A. Right. Somebody you dictates your memoirs to and they write up the book. I don't think that she did all the writing and Marty just put his name on here.
Q. Okay. Do you know who prepared the first draft? I guess that's the question?

A. To the best of my knowledge it was Dr. Keller.

Q. Okay. And again, that's an assumption, not something you know from personal experience? Did he tell you that? Did he ever tell you that he prepared the first manuscript?

MR. DAVIS: Objection; asked and answered.

THE WITNESS: I don't remember him ever telling me that, but that would be -- but I've never had a conversation with another author who said, I prepared this manuscript.

BY MR. MURGATROYD:

Q. Okay. I mean, did Sally Laden ever tell you that she personally prepared the original manuscript?

A. No.

Q. Okay. Do you recall that at the end of your meeting in Philadelphia where you went over the results of study 329 there was a consensus statement drafted?

A. I don't recall that. It seems possible. I don't recall it specifically, no.

Q. Okay. Let me show you the document.

(Ryan Deposition Exhibit No. 9 was marked for identification.)

MS. CONNELLY: For the record Exhibit 9 is a draft consensus statement. It appears to be produced by a party to this case.

MR. DAVIS: May I see it before you question Dr. Ryan about it?

MR. MURGATROYD: That's okay. No.

MR. DAVIS: Thank you very much.

BY MR. MURGATROYD:

Q. Okay. Have you had a chance to read that document, sir?

A. Yes.

Q. Okay. And can you read into the record the part that starts with "There was agreement."

A. It's the third paragraph down. "There was agreement that the overall results of the study were positive for Paxil in the treatment of this potentially devastating illness, whereas imipramine was no more effective than placebo. Patients treated with Paxil showed greater clinical improvement on several measures compared to placebo. The most common side effect reported in patients treated with Paxil were headache, dry mouth, nausea and dizziness. However, it was the opinion of the study group that Paxil was generally safe and well tolerated." Next paragraph?

Q. Okay. That's fine. Let's stop there. Does that paragraph accurately represent your views at the time that draft was issued?

A. I don't know that this draft was issued. It does accurately reflect my views at the time.

Q. Okay. And on what did you base your views at that time?

A. On the data that came out at the meeting that on a meaningful number of the core secondary analysis there was a robust effect of Paxil, and the directionally was correct on the primary ones it just didn't reach significance.

Q. And did you, at that time, see the summary tables of the analysis of all parameters?

A. It seems like we've gone over this question before. We saw a lot of summary tables. I have no idea whether we saw all the variables or not that were analyzed. It would be unusual to do that. I don't know that I reviewed all the variables in any study I've been involved with on any paper, because the statisticians do a lot of analysis.

Q. Well, let's take a look at the next Exhibit. It's actually two pages.

(Ryan Deposition Exhibit No. 10 was marked for identification.)

MS. CONNELLY: Do you want to see this?
MR. DAVIS: No. I have it. Thank you.
BY MR. MURGATROYD:
Q. Okay. All right. Can you identify for the record what that document is, sir?
A. It says "Paroxetine Study 329. A Multi-center Double-blind Placebo Controlled Study of Paroxetine and Imipramine in Adolescents with Unipolar Major Depression --
MR. MURGATROYD: Slow down a little bit.
THE WITNESS: I'm bad. I'm sorry.
BY MR. MURGATROYD:
Q. You're going to burn those fingers off over there on the court reporter. Why don't we take it from the top and go a little bit slower?
A. Sure. My apologies.
It says "Paroxetine Study 329, A Multi-center Double-blind Placebo Controlled Study of Paroxetine and Imipramine in Adolescents with Unipolar Major Depression. In the subheading is "Top line Results". It says. "To Kathy from Sylvia two pages." The second part of it is a page of printing that looks like my writing, only some of which I can read.
Q. Okay. And at the bottom of the page does

that have a Ryan bates number?

A. It says Ryan 002264 and 2265.

Q. Do you understand what that means?

A. No.

Q. What it means, and your counsel can clarify that, is that you gave me those documents.

A. Good.

Q. Okay. So those documents came from your file. Okay. Do you recognize them as coming from your file?

A. The first page, I wouldn't be sure that was my scribbling. The top is not my writing. The bottom of the first page could be mine or other peoples. The second page, as I said earlier, looks like my writing.

Q. Okay.

A. So I'm believing you on this one.

Q. Okay. Great. Does that document appear to be authentic?

A. I guess so.

Q. And did you produce it to me as it was produced to you?

MS. CONNELLY: I have to object. He produced documents to me and I produced them to you.

MR. MURGATROYD: Right. Through you?

THE WITNESS: Right. And I had staff producing them so I didn't look individually at all the documents that were produced.

BY MR. MURGATROYD:

Q. Okay. But you understand those are authentic documents, right?

A. The -- I have no reason to doubt that.

Q. Okay. Thank you. And looking at -- well, actually let's take the -- there's a date, handwritten date on the top of the first document, correct?

A. Right. I did not write the date. It says 1-21-98. It's to Kathy from Sylvia, and that looks like Sylvia Janosky's handwriting.

Q. Okay. And who is that Sylvia Janowski?

A. She was my administrator at the time.

Q. Okay. And -- and do you know what the top line results mean?

A. No.

Q. Okay. Does that appear to be an analyses of the data from your study 329?

A. It appears to be that, yes.

Q. Okay. And in that analyses, how many of the four efficacy variables that were found to be statistically significant in favor of Paxil in your

paper are listed in that document?

A. Okay. I don't know. I'm not sure that it's listing -- it looks like it has the depression item endpoint that was also in the paper. I'm not seeing the other ones. I'm also not sure -- I have no data that would indicate this is complete. I have no data that indicates this is the only table related to it, but I see one there, there may be more, but I only see one.

Q. Is there any reference there to the K-SAD-L depression item?

A. I'm not seeing it.

Q. Is there any reference in the document to the CGI of 1 or 2?

A. Global. I'm not seeing it.

Q. Is there?

A. I mean, if you want to point it out, I'm not deliberately trying to miss something. If you see something I'm not. I just got this.

Q. No. You didn't just get that. I got it from you.

A. Right. You're absolutely right. I stand corrected.

MS. CONNELLY: The witness has testified that his administrator gathered all the documents in

response to the subpoena and forwarded them to counsel. Dr. Ryan did not go through these documents, some of which are a decade old page-by-page, prior to this deposition.

THE WITNESS: I haven't seen this in a decade.

BY MR. MURGATROYD:

Q. That's fine. I'm just saying from looking at that document is there any reference in the result section that talks about a CGI of 1 or 2?

MS. CONNELLY: Asked and answered.

BY MR. MURGATROYD:

Q. Okay. The answer's, it's not there, right?

MR. DAVIS: Object to form.

MS. CONNELLY: It's asked and answered several time.

MR. MURGATROYD: Well, he actually questioned me. He asked me whether or not I saw it there and I said --

MS. CONNELLY: He said, I don't see it.

THE WITNESS: I don't see it here.

BY MR. MURGATROYD:

Q. Okay. Good. Okay. Fine.

A. But I also said I have no way of knowing

this is the complete thing.

Q. All right. Now, going to the bottom of the document, can you decipher the handwriting at the bottom of the document?

A. The handwriting is mine without a doubt. It says: "CGI very much" and it's got -- but it's my handwriting. "It's got worse, much worse." It looks like "very much improved, much improved." I assume that's "no change, minimally improved, no change, worse, and much worse", and it looks like I got percentages. I assume, but do not know for a fact, that I was copying this as this was being presented at the investigators meeting. That would be the most likely thing.

Q. Okay. Would it be reasonable to conclude that you were eyeballing the CGI pattern to see if it could be used in support a case for paroxetine?

MR. DAVIS: Object to the form.

THE WITNESS: Yeah. I think that would not be reasonable to assume.

BY MR. MURGATROYD:

Q. Okay. And why is that?

A. Because I was trying to find out what the data showed with respect to everything so I would not have been copying it for that end. I would have

been copying it because I wanted to know the data.

Q. And can you go to the second page of that document?

A. Yes.

Q. And can you decipher as much as you can and please read it into the record.

A. Yes. Sure. It says, "Hamilton D subscale." I cannot make out the next line. "For anxiety", it says. I believe that's anxiety on the third line and it says ".18" and then it says "there's a side, regular side for" -- and I can't make out the rest. It says ".10." The next one says "autonomous final checklist 0.148. Sickness impact", and it says home or heme, but it wouldn't say heme, home management or something 0.16 or 0.10 and then -- oh, boy, I can't read the next. It's something ".16." and then it has "SAE" and it's got -- there's a table and the heading of the columns are "P I and PI", and it says, "SAE", for sudden adverse events presumably -- I'm sorry. It's "PIS." So the left most column would be P for Paxil. The middle column would be I for Imipramine. The right most column would be PL for placebo. And for as SAE it has --

Q. What does SAE stand for?

A. Severe adverse event.
Q. Okay.
A. Presumably. I mean, that's the most likely abbreviation. Obviously abbreviations are multi-used, but that's what I assume it is. I don't know that for a fact. And the numbers under Paxil are 10, Imipramine 5 and Placebo 2. And there's a note with an arrow that says "worsening depression, worsening depression suicide" pointing to the 2 under placebo. And then it's got something that is illegible with "in order 12 for Paxil, 30 for imipramine and 6 for placebo, and something that's -- two lines that are completely and totally illegible in the labeling for 9, 8 and 0, and 12, 7 and 7 is the best I can make out. And then it says "SAE, colon," oh, boy, "CD", I assume that's conduct disorder. I cannot make out the next word at all. "A rash" and then "increasing depression" and the next word looks like, but I'm not sure on, "agitation" and then one on "chest pain" that's circled and that looks like that's SAE for imipramine.
Q. Let's stop there real quick. We have to change the tape.
VIDEOGRAPHER: We're now going off the

record. The time is 11:12 a.m. End of Tape Number 1.

(Pause in Proceedings.)

VIDEOGRAPHER: This is the beginning of Videotape Number 2 of the deposition of Dr. Neal Ryan. Please proceed.

BY MR. MURGATROYD:

Q. Okay. I think we were having you decipher your handwriting on the that second page of that exhibit; is that correct?

A. That's correct.

Q. Let's complete it.

A. Fine. The final block on the bottom right of the second page says "SAE" and I cannot make out the next word. It looks like taxes, which makes no sense. And it says -- and the things are up arrow with "TPR, increased depression", an up arrow with "ODD", increased oppositional defiance disorder, "two times" -- it may be fatigue. I'm just not sure what that next word is. And then one says "migraine" and then it looks like "hallucinations" but maybe not. Something that's completely illegible and the last one says "worsening of the DEPR" for worsening depression.

Q. Now, those are -- that document has bates

stamps on them, right?

A. That's correct.

Q. Are they consecutive?

A. They are consecutive.

Q. Now, and the documents does bear a date that you believe was placed on it by your secretary?

A. The first document bears a date that was placed on by my secretary. That's her handwriting, not mine.

Q. Okay. And do you believe that you had this document at the time you met in Philadelphia to go over the results of the study in November?

MS. CONNELLY: Objection. Which document are you talking about? The first page or the second page or both?

MR. MURGATROYD: Well, I think they're one document. I got them as one document.

MS. CONNELLY: Maybe you could ask him the question. I don't if it was one document or not.

MR. MURGATROYD: Okay. Maybe the question will sort itself out. Let's see. Let's ask the question.

THE WITNESS: Repeat your question for me, please.

BY MR. MURGATROYD:

Q. When do you believe you first obtained the first page of that document?

A. I don't know. It seems quite likely it was at the investigator's meeting, but it could have been subsequently. I simply don't know. It certainly wouldn't have been before that meeting, because I didn't have any results before that meeting.

Q. Okay. And but you don't know why that January date is on top of that document?

A. It appears that Sylvia was sending them to Cathy with a C. The last name is abbreviated. It could be Cathy Kalis, who is one of the nurses that worked on the project or it could be another Cathy. I just don't know which Cathy she was sending it to and I have no idea why she sent it, and it does say two pages, "2 pgs" at the top of the first page.

Q. Okay. And do you have any independent recollection as you sit here today of when you made those notes?

A. No, I do not.

Q. Okay. That's fine. Now with regard to the -- let me show you what I'm marking as Exhibit 11.

(Ryan Deposition Exhibit No. 11 was marked for identification.)

MR. MURGATROYD: Do you know need a paper clip?

THE WITNESS: Yes.

MR. MURGATROYD: I'll do that during lunch. I'll make sure it doesn't get.

MS. CONNELLY: Thanks.

MR. MURGATROYD: Sure.

MR. DAVIS: Is that the memo sending the skeleton report?

MR. MURGATROYD: I don't recall. I just glanced at it before I handed it to him. I'm just trying to find out for my own purposes.

MS. CONNELLY: I'll just look at the first page. For the record, the first page of Plaintiffs Exhibit 11 appears to be a letter to Dr. Ryan from someone at SmithKline, James McCafferty and Sarah Wheeler from SmithKline Beecham, March of 1997.

THE WITNESS: Does this contain two different documents?

BY MR. MURGATROYD:

Q. No. This is one continuous document.

A. All right. I understand the issue of what it is now.

MR. DAVIS: While Dr. Ryan is looking at that I'll just put on the record that that is incomplete. That they've said it doesn't include the complete package that was sent to Dr. Ryan as reflected in the letter.

THE WITNESS: Okay. I've looked at this one.

BY MR. MURGATROYD:

Q. Okay. And do you recall receiving this letter?

A. No.

Q. Do you recall being asked at any time for -- well, let me have you turn to the last page of the document that's attached, and that you have there.

A. Okay.

Q. And do you see where it has in bold in the middle of the page, "We need", starting there? Do you see that?

A. Yes, I do.

Q. Can you read that into the record.

A. It's all caps, bold. "We need to decide whether we want to include any other efficacy parameters. Any comments from the investigators whether this would useful or not."

Q. Okay. And what is the date of this document?

A. The date of the cover letter is 17 March 1997.

Q. Okay. And do you recall providing anyone with any additional efficacy parameters from that day forward?

A. I do not recall either way. I don't recall whether I did or whether I didn't.

(Ryan Deposition Exhibit No. 12 was marked for identification.)

Q. Okay. Let's take a look at the next document.

MS. CONNELLY: And this Plaintiff's Exhibit 12 is an e-mail from someone named Linda Dyer to someone at SmithKline -- I guess GSK now employees, produced by a party in this case.

MR. DAVIS: Can I see that.

MS. CONNELLY: Okay. Just so I know, who is the PAR bates stamp?

MR. MURGATROYD: That's GlaxcoSmithKline.

MS. CONNELLY: Okay. I guess we probably won't see any documents from Plaintiffs in this case anyway?

MR. MURGATROYD: No, you won't.

MS. CONNELLY: We won't see medical records?

MR. MURGATROYD: Nope.

BY MR. MURGATROYD:

Q. Okay. Now, that's a chart, correct?

A. Yes.

Q. Okay. And in the chart does it have a box for adding additional efficacy variables?

A. Yes. In the box number 6 "Additional Efficacy Parameters."

Q. Okay. What's the date of that document?

A. The date -- it looks like it's e-mail from SKB to SKB people dated 4-17-97.

Q. Okay. So that's exactly one month after the document that you just looked at requesting additional efficacy variables, correct?

A. I don't know. Let me go back. Can you refresh my memory on which document that is?

Q. Yes. It's the document you're looking at right there.

A. 17 March, 17 April. Exactly one month later. Yes.

Q. Okay. And are there -- in the box it says "Additional Efficacy Variables", do you see that?

A. Yes.

Q. And can you read those efficacy variables into the record.

A. Yes. It say: "Suggestions so far: 1. Kaplan-Meir", K-A-P-L-A-N, M-E-I-R. Those are both names. So capital K, capital M. "Survival method to analyze time to sustained response or time to time to first response during acute phase. 2. Percentage of patients who no longer meet DSM-III-R", all caps, dash, Roman numeral III-R, all caps, "criteria for MDD, all caps, at end of the acute phase. 3. Use one or more of instruments listed in Q4 to examine improvement in social functioning, feelings of competence, et cetera."

Q. Okay. And did you suggest any of those?

A. I have no memory of that.

Q. Okay.

A. I cannot -- I don't know yes or no to the answer of that.

Q. Okay. And are any of those in your paper -- in the article that was ultimately published regarding 329 of which you were one of the coauthors?

A. Well, the criteria, no. Social functioning feelings of competence. Certainly the measures that didn't come out positive --

significant, but were in there, certainly would capture those, but no, I don't think we included these analyses.

Q. Okay. Do you recall -- let me ask you this: Mike Strober, Michael Strober. He was one of the coauthors of your paper and one of the participates in this study, correct?

A. Correct.

Q. And where is he?

A. He's at UCLA, University of California, Los Angeles.

Q. Okay. Is he still there today?

A. Yes.

Q. And is he considered a competent person?

A. Yes.

Q. Okay. And is he a child psychiatrist?

A. No.

Q. Is he -- how was it that he became involved in this study if he wasn't a child psychiatrist?

A. He's a psychologist and his career's been treating children including depression and eating disorders.

Q. Okay. So he is not a psychiatrist obviously, correct?

A. That's correct.
Q. Okay. And do you recall his suggestions on adding additional efficacy -- secondary efficacy variables for this study?
A. I do not. I do not recall any specifics of who added what variables.
MR. MURGATROYD: Okay. Let's go off the record for a minute.
VIDEOGRAPHER: At this time we're going off the record. The time is approximately 11:30 a.m.
(Ryan Deposition Exhibit No. 13 was marked for identification.)
(Recess taken.)
VIDEOGRAPHER: We are now back on the record. The time is approximately 11:39 a.m. Please proceed.
MS. CONNELLY: We've been handed Plaintiffs Exhibit 13, which has no bates number, but appears to be an internal GSK document.
MR. DAVIS: May I see it, please.
MR. MURGATROYD: Yes. You might want to see that one, because it has no bates number.
BY MR. MURGATROYD:
Q. Okay. Have you had a chance to review

that document?

A. Yes.

Q. And the question that I asked prior to our break was, whether or not you were of Dr. Strober asking for additional analysis be performed in the study data regarding 329, correct?

A. Correct.

Q. Okay. Now that document does discuss Dr. Strober's request for additional analysis, correct?

MR. DAVIS: Object to the form.

THE WITNESS: This document appears to be internal mail from SKB from Mr. McCafferty to Rosemary Oakes from William Bushnell with a CC to Ivan Gergel that says Michael Strober suggested such and such additional analyses below. Yes.

BY MR. MURGATROYD:

Q. Okay. Can you read into the record what those additional analysis suggested by Dr. Strober were?

MS. CONNELLY: Object to form. He can't testify as to the suggestions. He can only testify as to what the document says the suggestions were.

BY MR. MURGATROYD:

Q. Right.

A. The document from Mr. McCafferty says that

the following were suggested by Dr. Strober: 1. Analyzing HAM-D using its four factors, [anxiety/somatization, sleep, cognitive disturbance and psychomotor slowing, and 2, if there's evidence of a treatment effect, analyze responsiveness of individual symptoms of depression via relevant pairwise comparisons of treatment. This amounts to repeated measures Anova to assess the effects of treatment, [Paroxetine versus Placebo, Imipramine versus placebo], Paroxetine versus imipramine, time, and their interaction, thereby illustrating different patterns of improvement across treatment.

Q. Okay. Now, taking the first series of analyses that he requested, number one that's listed there, was that included in your paper?

A. No.

Q. None of them?

A. Not to my knowledge, no.

Q. How about the second analyses requested by Dr. Strober, was that included in your paper?

A. In part, yes; in part, no.

Q. Okay. And what --

A. And so the pairwise comparisons that he asked for were and the time interactions were not. I don't know whether they were included in the paper

or not. I don't know whether they stated -- the question there is, does the time course differ and they were sort of -- they were included in a different format in the paper. I'm sorry -- which I can point out to you -- anyway -- I can tell you what it is. They were effectively included in a time wise graph of the clinical course, and so what his question is -- the poetry of the math on his question is, does the course differ, so that would be figure two in the paper and then if it differs, how do you analyze it? And how you analyze the difference in course depends on the sort of difference. And so he's saying that he wants to look at the time wise things and there's a lot of different methods of looking at it depending on how they vary, but there really wasn't course differences between the treatments so you wouldn't have done -- you wouldn't have put more than that in the paper and the figure clearly shows that.

Q. Okay. And what is the date of that e-mail in that exhibit?

A. The date on the exhibit is 7-03-96.

Q. Okay. So that would be July --

A. July 3. My apologies.

Q. Okay. And do you know when the blind was

broken? Well, actually, so the record's clear and the jury is clear, what does breaking the blind mean?

A. Yes. In a double blind study, as we discussed earlier, nobody except the fewest possible people have a link between subject I.D. user names and which medication they were on. At some point after all the people had been enrolled, after you got the last data on the last person there, after you cleaned up the data then you match up the treatment assignments with the individual subjects. That's what breaking the blind would mean.

Q. Okay. And at that point the data can then be analysed, correct?

A. That's correct.

Q. And do you know the date that the blind was broken with regard to study 329?

A. I do not.

Q. But I think you can state with certainty that it had been broken by the time you met in November in Philadelphia to discuss the results?

A. Yes, and almost certainly was broken very shortly before that. I would assume it took them a month to do the analyses so your guess would be something in the few months before that, perhaps a

little bit earlier.

Q. Okay.

A. It would take some to do the analyses that they did, but they obviously wanted to do the investigator's meeting as soon as possible so the blind would have been broken some time before then, not a long time before.

Q. All right. Was one of the secondary efficacy variables listed in your paper the K-SADS-L depressed mood item?

A. That's correct.

Q. And did that one show a statistical significance in favor of Paxil?

A. I believe that it did, yes.

(Ryan Deposition Exhibit No. 14 was marked for identification.)

MS. CONNELLY: Exhibit 14. Plaintiffs Exhibit 14 is a four-page document. It looks to be an internal SmithKline document.

BY MR. MURGATROYD:

Q. Did you by any chance get any clips at the break?

A. No, I did not, but I know the documents well enough that I can put them together.

MS. CONNELLY: I'm just worried about the

witness. He's not seen many of these documents before. I don't want the pages getting intermingled in our big pile that's accumulating over here.

MR. MURGATROYD: I will sort it out. Don't worry.

BY MR. MURGATROYD:

Q. Can you identify for the record what that document is?

MR. DAVIS: Object to form. There's no foundation laid. The witness can't identify it.

THE WITNESS: The document is what appears to be a computer printout. At the top it's labeled "SmithKline Beecham Pharmaceuticals." It says "Program: S329KSAD1.SAS by R. Oakes Date: 25-June-1998 for Jim McCafferty." There is what appears to be two pages of SAS program. That's S-A-S, all caps.

BY MR. MURGATROYD:

Q. Do you know what that is?

A. It's a language to program a statistical analyses package called SAS.

Q. Okay.

A. It's probably the most widely used for analyses such as this although there are others equally well used, and then there's two pages after

that, one page after that are the results table and one page after that is some more SAS programming. It does not appear that the pages are in the order generated by the computer, though perhaps I'm wrong, because the lines for the -- the -- yes, the lines for the title are after the table so I think these are probably not in the right order or not consecutive.

Q. Okay. And does it have consecutive bate stamps numbers?

A. 31, 32, 33, and 34. Yes, it does.

Q. Okay. And what is being analyzed there, is you can tell?

MR. DAVIS: Object to form.

THE WITNESS: Yes. I don't know the internal database so I can tell you what the table says.

BY MR. MURGATROYD:

Q. Okay. Do you see the heading at the top of the document though that says what's being analyzed?

A. The document says "GLM", general linear model, "Analyses for mean changes from baseline and creation of tables for KSADS Depressed Mood Item."

Q. Okay. And the KSADS Depressed Mood Item

is one of the secondary variables that's mentioned in your paper?

A. That's correct.

Q. And that's one of the secondary variables that achieved statistical significance in favor of Paxil, correct?

A. That's correct.

Q. Okay. And does that document show that statistical significance?

A. Yes, it does.

Q. Okay. And what's the date of that document?

A. The date of this document? The date of the document is 25 June, 1998; however, the date on the table you gave me is 26 June 1998 so I don't quite understand how this is all one document.

MS. CONNELLY: And for the record, he's merely reading dates off the document. It's not going to establish that he has any first-hand knowledge as to when any page of this document was provided.

MR. MURGATROYD: Okay. That's fine.

BY MR. MURGATROYD:

Q. My question to you is: Do you know why the statistical analysis for that item, for that

secondary efficacy item was done six months after the blind was broken?

MR. DAVIS: Object to the form of the question; states facts not in evidence, no foundation.

MS. CONNELLY: Same objection. It's not going to establish when that analysis was done.

THE WITNESS: Fine. I don't know that it was done six months later so I don't know how to answer your question.

BY MR. MURGATROYD:

Q. Okay. According to that document it appears to have been --

A. This run, I think is likely was done on the date it was said, but I have no first-hand knowledge of that.

Q. And what's the date of that run?

A. It appears to be 26 June 98. The date of the cover memo appears to be 25 June 98, but if you're saying, why was a particular sub-analysis -- if you're implying that this was done for the first time I certainly have no knowledge that would support that assertion.

Q. Okay. Does that document support that assertion?

A. No.
Q. Have you seen an analysis of that item prior to that date?
A. I do not know.
Q. Well, you know, you mean, you don't know, or you don't recall or you don't?
A. I have no knowledge of when I first saw the analysis of this item.
Q. Well, let me ask you this, have you -- that we've established is an analysis related to your study, right?
A. It looks like an analysis related to my study, absolutely.
Q. Okay. Have you seen any analyses such as that related to your study that was done by GSK?
A. This is the first time I've seen any SAS analyses. So we did end -- it would be -- I mean, I don't look at the SAS or all of the analyses for all of the studies or any of the studies that I do. You look at the results and you ask your statistician to see it so I would not have seen the SAS analyses. I don't remember seeing any. You know, that was a decade ago. I do not know more than that.
(Ryan Deposition Exhibit No. 15 was marked for identification.)

Q. Fine. Let me show you what I've marked as Exhibit 15.

MS. CONNELLY: I know you disagree with me, but this is becoming cumbersome for the witness not having --

MR. MURGATROYD: Just keep them separated. Just put them all on the other side of the table.

MS. CONNELLY: You've represented that you can go outside and get a box of paper clips.

MR. MURGATROYD: I intend to do that at lunch.

MS. CONNELLY: Can we please do that?

MR. MURGATROYD: All right. All right. I didn't want to stall the deposition. Let's go off the record.

VIDEOGRAPHER: At this time we're going off the record. The time is 11:54 a.m.

(Pause in Proceedings.)

VIDEOPERATOR: We're now back on the record. The time is approximately 11:57 a.m. Please proceed.

BY MR. MURGATROYD:

Q. While we were off the record, Doctor, I gave you a new exhibit, correct?

A. Yes.

Q. And what number is that, please.
A. 1-5. 15.
Q. Okay. And can you identify for the record what that document is?
A. The document has at the top a "SmithKline Beecham Pharmaceuticals." Again, it looks like SAS output. "Program: S329CGIR.SAS. By: N.Pugh. Date: 26-June-98. Description: Paroxetine 329 CATMOD Model Analysis for Responders Acute Phase Only. CGI Global Improvement of 1 or 2.
Q. Okay. And is that one of the secondary parameters that's listed in your article?
A. Yes.
Q. And was that parameter also statistically significant in favor of Paxil?
A. Yes.
Q. Okay. And what is the date of that document, sir?
A. 26 June 98 is the date on the top page of the first page of SAS. There's three pages of SAS. The document -- but you have another page that says 30 June 98, so I have no way of linking that to the SAS at the first.
Q. Okay. And does that mean 1998?
MS. CONNELLY: Object to form. He has no

first-hand knowledge of this document. He can only read what it says.

THE WITNESS: You have given me something that is clearly more than one document. It's something that's clearly more than one document. You identified it as one document. It has several different dates. I have no indication that this was -- that the two are linked. I have no indication that this was the first time they ran the analysis.

BY MR. MURGATROYD:

Q. Well, what is the earliest date on that document?

A. The earliest date? This is not one document. It's labeled as one exhibit. It's clearly not one document. The date on the SAS program here, the three pages of it is 26 June 98. So some SAS program was run on 26 June 98. There's a table here labeled 30 June 98, so it's clearly not related to this run, that does appear to have the analysis for the CGI 1 or 2 end point.

Q. Okay. And, Doctor, can you explain why this run was not done until after six months after the blind was broken?

A. There's absolutely no evidence that it wasn't done until six months after this.

Q. I'm sorry. Is there any evidence that shows it was done before this?

MS. CONNELLY: Object to the form. Dr. Ryan is not a party to this case and does not have access to the -- I assume -- hundreds of thousands of documents which have been produced. He has asked and answered your question.

BY MR. MURGATROYD:

Q. My question is: Does that document indicate that analysis of CGI of 1 or 2 was done in June of 1998?

MR. DAVIS: Object to the form.

THE WITNESS: I don't -- this is two documents. There's no evidence linking the two. I do have a table dated 30 June 98, which is clearly not from these first three pages, that an analysis -- a table showing the analyses of that date. There is no indication here that this is the first time this was done.

BY MR. MURGATROYD:

Q. Okay. Do you have any evidence in your possession or in your personal knowledge that an analysis of CGI 1 or 2 was done prior to June 1998?

A. I do not have in my personal knowledge. I do not remember the first time it was done. I did

not review all the documents reproduced for you so I cannot answer the first part of your question.

Q. Now, in being a coauthor of a paper such as the one you did for 329, right?

A. Huh-huh.

Q. Do you agree that it's your responsibility to make sure that the information that's contained in that paper is truthful and accurate?

A. I agree that you -- let's see -- authors do not have, in general, the ability to -- that all aspects of a paper so I have to assure that to the best of my knowledge it's truthful and accurate. I certainly did not in this case have the ability to make sure, as you're saying, that it was all truthful and accurate.

Q. Well, let me ask you this: You could have asked for the statistical analysis? You only get -- there's only a handful of variables that's discussed in your paper, right, eight?

MS. CONNELLY: Object to the form of the question. It's sort of -- you started in one sentence and ended in another. For the record, I don't know what your question is.

BY MR. MURGATROYD:

Q. How many variables are analysed for the

analysis of which are presented in your paper total?

A. Well, let me look at the paper. This approximately looks likes it's something like -- I would say 100 different analyses here.

Q. I'm talking about the table? The actual statistical analysis in the table?

A. I'm sorry. That's not the question you asked me before. I was trying to be responsive to your question.

Q. Okay. The table that you list, right?

A. I'm sorry?

Q. There's a table in your paper?

A. There's several tables in the paper. What's your question?

Q. Is there a table in there that lists statistical analysis regarding the primary and secondary end points?

A. Yes.

Q. And how many are there there?

A. There would be -- it looks like about 22.

Q. Okay. And -- can I see that paper?

A. Sure.

Q. Are you stating there's 22 primary and secondary efficacy variables in that table?

A. No. That's not the question you asked me.

Q. Well, actually that was my question. Maybe it wasn't clear.

A. Could you read the question back, please.

Q. No. I'll -- we'll make sure it's very clear.

How many primary and secondary efficacy variables are in that table?

A. 12.

Q. Okay. And of those 12, how many reached statistical significance in favor of Paxil?

A. One, two, three four. Four. And another two were a strong trend, and they all went in the direction of favoring Paxil.

Q. My question was: How many reached statistical significance in favor of Paxil?

MS. CONNELLY: Asked and answered.

BY MR. MURGATROYD:

Q. Okay. Now, you've answered more than my question. My question was very simple and very precise. If I ask a general question you can ask me to make it more precise.

My question was: Specifically, how many of the variables reached statistical significance in favor of Paxil? What's the answer?

A. I answered that a second ago. I'll answer

it again. It looks like one, two, three, four.

Q. Four out of 12?

MR. DAVIS: Objection to the form.

BY MR. MURGATROYD:

Q. Correct?

A. Yes.

Q. And, Doctor, can you state under oath right now that you could not have asked GSK prior to writing that paper for the statistical analyses that it did for 12 variables?

A. That's -- no, I could indeed of asked them for 12 variables or I could have asked them for all the important variables in the paper.

Q. And did you do that?

A. I have never done that on another paper. I did not do it on this one.

Q. When you -- strike that --

You're aware that there have been allegations made concerning fraud relating to your study, correct?

A. I am not aware of that.

Q. You are not aware of the lawsuit that was brought by the Attorney General Spitzer in the State of New York?

MR. DAVIS: Object to form.

BY MR. MURGATROYD:

Q. Regarding Paxil use in kids?

A. I am aware that Attorney General Spitzer brought a lawsuit, yes. I am not aware that lawsuit alleged fraud in this study.

Q. You're aware of an alleged fraud though, correct?

A. No. I'm sorry. I'm not aware of alleged fraud.

Q. So I want to make sure I understand the process. You produced documents to your lawyer in this case, right?

A. Yes.

Q. And you're stating under oath you didn't even look at those?

A. That's correct.

Q. Okay. Do you recall writing an e-mail to Martin Keller in which you attached the Attorney General's statement concerning lawsuit against GSK regarding fraud?

A. No, but I'll take your word on it.

Q. Okay.

A. It's still not my memory that he asserted fraud in this case though, did he?

Q. Have you read the various journal articles

that have discussed whether or not there was fraud relating to study 329 article?

A. I have never seen a journal article asserting fraud in this study.

Q. Okay. We'll get into that probably tomorrow.

A. Okay.

Q. Now, going back to the exhibit -- I think it's 4, the final statistical study report. Do you see that?

A. I have the document in front of me, yes.

Q. Okay. Now, did you have any role in the preparation of that report?

A. Not to my knowledge. I don't think so.

Q. Okay. Well, the study was your idea, right? You and your teams's idea?

A. That's correct.

Q. How do you feel about giving the control of the analyses of the data over to a different entity?

A. In retrospect if I was to do another industry study I would put as a clause in there that the university and I had the right to the entire data set for analyses.

Q. Okay. Thank you.

If you would, please, turn to -- actually, can I see that document real quick? Thanks. Okay. I'm going to hold off on that question until tomorrow.

Now, with regard to your work that you have done with GSK you're aware that there were other studies being done that were placebo -- randomized placebo controlled trials looking at whether or not Paxil was effective in treating kids with major depressive disorder; is that correct?

A. Yes.

Q. Do you recall the numbers of those other studies?

A. No.

Q. Okay. Are you aware of the total number?

A. The -- I am aware of two other studies that they did.

Q. Okay. And how -- what is the basis of your knowledge of that?

A. Yes. I saw it one time a poster presentation for the second study that they did, the study that followed this one, and I saw in one of the FDA things or in one of the articles I read they had done a third study. It was certainly the third study was reported in the -- by the FDA analysis of

suicidality.

Q. Okay. And --

A. And it's been reported in some things subsequent.

Q. All right. And have you had a chance to review the synopsis or full study report of either of those other studies?

A. I have not reviewed the full study report of either of the studies. I know from the FDA suicidality study and from other articles that both studies were negative. I don't remember the details of negative, you know, I don't remember the details -- you know, I remember the sample sizes were approximately 80 to 100 percel and in both did not find evidence of Paxil to placebo.

Q. And those were both, according to your understanding negative studies, correct?

A. That's my understanding.

Q. When you say a negative study, what's the definition? What definition are you using for a negative study?

A. There was indication of efficacy on those two studies.

Q. And are you aware that the FDA stated that your study 329 was also a negative study?

MR. DAVIS: Object to form.
THE WITNESS: I am aware that the FDA did not find it positive by the FDA requirements for what it considers for an-usage indication.
BY MR. MURGATROYD:
Q. Have you seen the document where it specifically states that your study 329 was negative?
MR. DAVIS: Object to form.
MS. CONNELLY: Object to form. If you have a document you want to show him. It's assuming facts not in evidence.
MR. MURGATROYD: No. I'm just asking him if he has seen the document? That's all. I'm asking him if he's seen it?
MS. CONNELLY: So you're saying the document. So you're putting the witness in a position of believing that there's a document.
MR. MURGATROYD: Okay. That's fine. I'll correct it.
BY MR. MURGATROYD:
Q. Have you seen any documents?
A. Yes.
Q. Okay. And what documents have you seen that listed 329 as being a negative study?

A. The Terrick whoever analyses on the suicidality. The analyses of suicidality they did also talked about efficacy to the best of my memory, and that was a FDA document to the best of my memory indicated that the three were negative. I'm not certain that that's correct or it was, but that's the best I can remember right now.

Q. Okay. That's fine. Now, are you aware of --

A. I gave you an incomplete answer on the one before that though.

Q. You can go ahead and correct it.

A. I'm just adding to it, which is that the FDA criteria for what it considers positive is a result of a lot of FDA sort of regulatory case law. They've established what they require for a positive indication, which is different than finding evidence that it works. They have a certain thing, you know, that you have to have typically one of two or two of three of the primary indicators positive.

Q. Okay. And how do you know that?

A. How do I know that? I don't remember how I first learned that. I did for a while serve on the FDA Psychopharm Advisory Committee, but I'm sure I knew that before then.

Q. Okay. Now, let me show you a -- and actually we probably should have done this a little bit earlier -- I have shown you today documents that have been stamped confidential by GSK. Do you see that on the bottom of some of those documents?

MS. CONNELLY: Mr. Murgatroyd, while we were waiting for the court reporter to arrive.

MR. MURGATROYD: Yes.

MS. CONNELLY: Dr. Ryan executed the stipulated -- the affidavit in support of the stipulated protective order in the Blain case.

MR. MURGATROYD: Excellent.

MS. CONNELLY: Because we worked that out with him ahead of time.

MR. MURGATROYD: That's absolutely fine. That's just what I was going to get into. I wanted to make sure we had everything properly done here.

MS. CONNELLY: Just a facilitator here.

MR. MURGATROYD: Absolutely. Why don't we mark that as an exhibit and make it part of the formal record. Is that okay by you?

MS. CONNELLY: Fine by me.

MR. MURGATROYD: I think we're up to Exhibit 16.

MR. DAVIS: We just need the court

reporter to execute the notary.

MR. MURGATROYD: Okay.

(Ryan Deposition Exhibit No. 16 was marked for identification.)

BY MR. MURGATROYD:

Q. This is formality so that nobody gets in trouble. Do you understand that?

A. Yes.

Q. Okay. And the idea is that you will be shown and have been shown confidential documents today and you're not to share those with other people without the permission from GSK. Do you understand that?

A. I understand that.

Q. Okay. Great. Let me put that in the pile.

MS. CONNELLY: Just to be aware of time. It's about 12:20.

MR. MURGATROYD: Okay.

MS. CONNELLY: So we'll take a break relatively soon for lunch.

MR. MURGATROYD: Moving right along here, aren't we?

(Ryan Deposition Exhibit No. 17 was marked for identification.)

BY MR. MURGATROYD:

Q. Let me show you what I've marked as Exhibit 17, sir.

A. Okay.

MR. DAVIS: May I see that for a second?

MS. CONNELLY: Is this one of the documents that you're concerned about confidentiality, Mr. Murgatroyd?

MR. MURGATROYD: Well, it's confidential, yes. And you'll see at the bottom it's stamped "Confidential For Sales Force Information Only."

MR. DAVIS: Yes. Let me just clarify something here for the record. The cover memo, the first two pages are confidential pursuant to the protective order. The last part, that's the current medical information letter, would not be subject to the protective order.

MR. MURGATROYD: Okay.

MR. DAVIS: Okay.

BY MR. MURGATROYD:

Q. It's a rather voluminous document and I'll only be asking you about the documents entitled "use of Paxil CR" or "Paxil in pediatric patients", and I'm going to be referring to the third bullet point on that page. You're absolutely free to review the

rest of the document and you may have even seen this document, but we'll discuss that in a second.

Q. Okay. Are you ready?

A. Huh-huh.

Q. Okay. Great. Have you ever seen any part of this document before?

A. Not to the best of my knowledge.

Q. And you'll see on the cover page -- what is that the date?

A. September 10, 2003.

Q. Okay. And we're talking about the use of Paxil CR or Paxil in pediatric patients, the part that's attached to that document, do you see that?

A. Okay.

Q. And do you see the third bullet point?

A. Yes.

Q. And can you read that bullet point into the -- actually, just the first two sentences of that bullet point?

A. Yes. "From an efficacy standpoint, trials in pediatric patients have shown Paxil to be statistically superior to placebo in the treatment of OCD and social anxiety disorders." Is this the one you want?

Q. Yes.

A. "These studies did not show a benefit for the treatment of MDD in children or adolescents under 18 years of age."

Q. And is that your understanding that's a true statement?

MR. DAVIS: If the witness can.

THE WITNESS: I think that this statement is one -- the best I can tell from this -- is the official position of I guess at the time GSK after the two other studies had reported in this is how either they're evaluating it or how their official legal position for the world is at that time.

BY MR. MURGATROYD:

Q. Okay. And you'll see that this is a document that was sent out to their sales force, right? Do you see that on the cover page?

A. I see it on the cover page, yes.

Q. Okay. Well, let me show you the next document and we will discuss it.

(Ryan Deposition Exhibit No. 18 was marked for identification.)

Q. Okay.

A. Okay.

Q. And this appears to be a series of e-mails, correct?

A. It appears to be a series of e-mails.
Q. And from the -- from the section of the top of the first page you see Sheila Hood mentioned?
A. Sheila Hood is from at the very top of what appears to be a chain of e-mails, yes.
Q. And do you know who Sheila Hood is?
A. No, I do not.
Q. And going down to the first full paragraph, you see where it starts with, "Yes please"? Do you see that?
A. I see that.
Q. Okay. And can you read that paragraph into the record, please.
A. Okay. But this is not from Sheila Hood it appears.
Q. Okay.
A. Okay. So this looks like it's from -- the best I can tell this one's from a Holly White who I also don't know at YR.com who I also don't know where that's from.
Q. That's fine.
A. To Sheila Hook.
Q. Okay.
A. Paragraph says, "Yes, please. Originally we had planned to do extensive media relations

surrounding this study until we actually viewed the results. Essentially the study did not show Paxil as effective in treating adolescent depression, which is not something we want to publicize."

Q. Okay. Let's stop there.

A. Huh-huh.

Q. Now, do you agree with this statement?

A. No.

Q. Were -- have you seen or read about the internal memo that was issued by GSK discussing very similar conclusions to your study such as this?

MR. DAVIS: Objection to form.

MS. CONNELLY: Object to form; it's facts not in evidence.

MR. DAVIS: I mean, I don't even know what document's being discussed.

BY MR. MURGATROYD:

Q. That's fine. I'm just asking, have you seen any or heard about, read about, any document, GSK document that discuss the results of your study?

MS. CONNELLY: Just to be clear, my objection is it is misleading to the witness to frame the question in such a way that it's -- you're talking about the document.

MR. MURGATROYD: That's fine. I corrected

it. I got it. I got it.

MR. DAVIS: I still don't know what document -- if you have a document that you want to show him, but I don't know what --

MR. MURGATROYD: I'm asking him a question.

THE WITNESS: I don't yet understand your question. Could you state it again for me, please.

BY MR. MURGATROYD:

Q. I understand. I don't think I've had a chance to ask it fully, but let's take it from the top.

Have you read about the existence of any document that GSK created internally that said something similar to this document that your study did not really show Paxil was effective in treating adolescent depression?

A. No.

Q. Well, we got -- actually, I'm not going to break my promise. I said we're going to break for lunch. We're breaking for lunch.

VIDEOGRAPHER: At this time we're going off the record. The time is 12:26 p.m.

(Luncheon Recess.)

VIDEOGRAPHER: We are now back on the

record. The time is approximately 1:33 p.m. please proceed.

BY MR. MURGATROYD:

Q. Doctor, with regard to study 329 and the article that you wrote following that study, the completion of that study, how many efficacy variables did you find or GSK find or the group of you find reached statistical significance in favor of Paxil?

A. Four.

Q. Okay. And can you identify for the record which four of those are?

A. Yes. They are the Hamilton-D less than eight.

Q. Okay. Is it less and equal to or less?

A. Less and or equal to. My apologies. You're correct.

Q. And is that also the definition of remission?

MR. DAVIS: Object to form.

THE WITNESS: The -- the -- I think the answer to that is no, right? I'm sorry. Rephrase your question, please.

BY MR. MURGATROYD:

Q. Is Hamilton-D less and or equal to eight

also known as remission as an endpoint in your study?

A. I'll have to look up the wording on it. The other ones were -- let me see what we have. Hamilton-D Depressed Mood Item. K-SAD-L Depressed Mood Item --

Q. Not too fast. Hamilton-D Depressed?

A. Mood Item.

Q. Yes.

A. K-SADS-L Depressed Mood Item.

Q. And the last one is?

A. CIG score of 1 or 2.

Q. Okay. Now, do you recall Dr. McCafferty asking that the HAMD Mood Item be included as a secondary efficacy variable?

A. I don't recall who suggested that item for a secondary efficacy variable.

Q. Okay. What was the last number?

MS. CONNELLY: I think the last number was 18.

MR. MURGATROYD: Thanks.

(Ryan Deposition Exhibit No. 19 was marked for identification.)

BY MS. CONNELLY:

Q. Exhibit 19 is an unlabeled -- un-bates

numbered I should say, apparent e-mail from Jim McCafferty.

MR. DAVIS: Can I see that, please?

MS. CONNELLY: I'm sorry.

MR. MURGATROYD: Actually, it has it on mine, but it's kind of down at the bottom.

MR. DAVIS: Yes. Right.

MR. MURGATROYD: It didn't quite copy right.

MR. DAVIS: The legend that -- the production legend has been -- is not on this copy.

MS. CONNELLY: Is this a designated confidential document?

MR. DAVIS: It is.

BY MR. MURGATROYD:

Q. Have you have ever had a chance to look at that?

A. I have.

Q. And you see that it is an e-mail from James McCafferty to William Bushnell, both GSK employees, correct?

A. I don't know Mr. Bushnell. The e-mail address looks consistent with other people I know to be GSK employees.

Q. Okay. And what's the date of it?

A. 8-28-1997.
Q. Okay. So this was a few months before the blind was broken, correct?
MS. CONNELLY: Objection.
THE WITNESS: I don't know the date of the blind being broken.
MR. MURGATROYD: I think we can actually stipulate to that on the record. Do you have any problem with that?
MR. DAVIS: I don't.
BY MR. MURGATROYD:
Q. It's October 22, 1997.
A. Okay. So this is before.
Q. Okay. Two months before approximately, little less than two months, right?
A. Right.
Q. Okay. And do you see that Mr. McCafferty -- and so the record's clear and the jury knows -- Mr. McCafferty, who was he? Who is he?
A. I don't know what he's doing now. He was an employee of SKB who had significant responsibility for the study. I don't know his reporting line. I can't tell you his official title or official relationship with the study. He certainly was one of the people that did a lot of

SKB's interfacing with the investigators on the study.

Q. Including yourself?

A. Yes.

Q. And I take it you met with him on many occasions? Quite a few occasions?

A. Quite a few I'll give you. I don't know, how many is.

Q. Okay. That's fine. And do you see that in this e-mail he's requesting a tabulation analysis of the HAM-D Mood Item. Do you see that?

A. Yes.

Q. Okay. And that's consistent with the HAM-D Mood Item that's actually, ultimately shows you up in your paper, correct?

A. Yes.

Q. Okay. Let me show you what I'm going to mark as Exhibit 20, and for the purposes of this document I'm going to mark -- I hate to be inconsistent so I'm not going to be -- I'm just going to mark the whole document 20, and then we'll discuss it. Okay?

(Ryan Deposition Exhibit No. 20 was marked for identification.)

MS. CONNELLY: Plaintiffs Exhibit 20

contains four pages. It appears to be a SmithKline Beecham internal document.

BY MR. MURGATROYD:

Q. Okay. This is another one of the communication printouts, correct, and table?

MS. CONNELLY: Object to form. You haven't established any personal knowledge.

BY MR. MURGATROYD:

Q. Well, is that what it appears to be?

A. This appears to be a computer printout and a table.

Q. Okay. And I've shown you two of these earlier, correct?

A. You're shown me two earlier exhibits that contained both computer printouts and tables.

Q. Right. And I guess that's what I want to clarify, and so it's clear for those earlier documents we may have to go over them again, but the first two pages, correct?

A. The first two pages appear to be a SAS computer program.

Q. Okay. And you are a computer guy?

A. I'm a computer guy. I don't know SAS however.

Q. Okay. But do you understand this as

requesting a table setup?

A. Let me see if I can give you an answer on that one.

Q. I think if you look at the very top it says "table."

A. Well, I completely understand that it says that. I do not know enough SAS to tell you that this is SAS that generated that table. I don't know enough to say it didn't. I just don't know.

Q. Okay. It says on it "table", correct?

A. Well, I see a table. I see the word table in a comment.

Q. Do you see at the top --

A. I'm sorry?

Q. Do you see at the top it says --

A. Program da, da, da, typed table, yes, but, presumably that's actually a comment, not anything else. So yes, it does indeed say in what appears to be a comment, it says, "Type: Table."

Q. And it has to do with the creation of tables, right, for ITT Efficacy Variable HAM-D Depression Item, correct?

MS. CONNELLY: Object to the form. It's really vague and confusing, and you haven't established that he has any personal knowledge of

what this is requesting.

MR. MURGATROYD: That's fine. You can object.

BY MR. MURGATROYD:

Q. Okay.

A. There's -- there's a -- what appears to be a -- again, a comment area.

Q. Yes.

A. That comments that it's asking for "GLM Analysis of mean changes from baseline and creation of tables for ITT efficacy variable HAM-D Depression Item."

Q. Okay. Great.

A. Yes. I see that.

Q. See that?

A. Yes.

Q. Okay. Good. Now, do you see the date of this document?

A. Well, in the beginning it appears to be two documents.

Q. Okay. The --

A. The first two pages of SAS says 28 August 97.

Q. Okay. And now let's look at the exhibit before this one, No. 19.

A. Okay.
Q. And what's the date of that document again?
A. It says 28 August 97.
Q. Okay. Same day, right?
A. Yes.
Q. Okay. And now looking at the last two pages of this document, and again, these documents are in bates stamp order, correct?
A. Yes.
Q. Okay. And looking at the last two pages of the document, do you see that it's the table that analyze the results of the HAM-D Depression Item, correct?
MS. CONNELLY: Object to form.
THE WITNESS: This appears --
MR. DAVIS: I join in that objection. Sorry, Dr. Ryan.
THE WITNESS: No. My apologies for talking first.
I believe that actually that's incorrect from the data that I have in front of me.
BY MR. MURGATROYD:
Q. Okay. What is it?
A. Because the dates are different.

Q. I understand.
A. And so I have absolutely no way of linking this table with the statistical program.
Q. Well, does this -- well, that's what we're going to attempt to do here.
A. Okay.
MS. CONNELLY: I have to object to this. He -- you haven't even asked him if created this document, if he ever saw this document before. So to the extent that you're trying to use this witness to link these two documents.
MR. MURGATROYD: Well, let's see if he can do it. He's a computer guy. That's it. If he can't, he can't.
MS. CONNELLY: And I object to the phrase computer guy. I don't even know what that means. He's a doctor.
MR. MURGATROYD: He has a degree in computer. Didn't you say you have a degree in Computer Science?
THE WITNESS: I have a degree in 1974 in Compter Science.
BY MR. MURGATROYD:
Q. Okay. Great. So that we have the second two pages is a table, right?

A. No. The third page is a table. The fourth page is some more SAS program.

Q. Okay. Let's take a look at the table, which is the third page, right?

A. Yes.

Q. What does this table relate to?

A. The table is labeled "Baseline and mean changes from baseline at weekly Intervals -- HAMD. Depressed Mood Item. Acute Phase. Intent to Treat Population."

Q. Okay.

A. It also says "Table 13.35."

Q. Okay. And is that similar to the descriptive item on the first page of the document?

A. It is similar. Yes.

Q. Okay. Now, let's look at the date of this document, of the table.

A. Of the table, yes.

Q. What is the date of that table?

A. It says 30 October 97.

Q. Okay. So you would agree that this table was created after the breaking of the blind?

MR. DAVIS: Object to the form.

THE WITNESS: Again, since I've never seen this before. Since I wasn't involved in the

analysis I will agree that the date 30 October 97 is -- I'm sorry -- when did we stipulate the blind was broken?

Q. October 22, 1997.

A. So I will agree that the date on this table is later than the date you told me we've broken the blind, but I don't know when this table was first created. I know the date on this table.

Q. That's fine.

A. Okay.

Q. That's fine. Now, the -- does that help, what we just did, help explain why there are different dates on the other two exhibits that are similar to this exhibit?

MR. DAVIS: Objection; no foundation for this witness to answer that question.

THE WITNESS: I don't think it explains it at all.

BY MR. MURGATROYD:

Q. Okay. Well, let's go back to those earlier exhibits.

A. What exhibits do you want me to go back to?

Q. The two computer runs and tables.

MS. CONNELLY: Do you know what numbers

those are?

MR. MURGATROYD: No, but they're in that pile.

THE WITNESS: They have stuff that looks like fixed lines in the beginning.

Yes. Okay. So it looks like it's 14 and 15. Again, could you restate your question for me?

BY MR. MURGATROYD:

Q. Yes. Sure. All right. Let's take 14 first.

A. Okay.

Q. Does that have the word "table" in it also?

A. Creation of tables, plural, yes.

Q. Okay. Does that appear to be a document that's asking the computer to create a table?

A. It does, but I don't know the answer to that.

Q. Okay. What's the date of that document?

A. This again, the date of the SAS program appears to be 25 June 98. The date of the table appears to be 26 June 98.

Q. And would you agree, sir, that both of those dates are after the breaking of the blind?

A. I'm sorry? The breaking of the blind? Yes. I would agree with that. I mean, given on what you've stipulated to. Sure.

Q. Okay. Let's go to the next table, 15.

A. Okay.

Q. Okay. Now, do you see that that -- our next document 15 -- do you see that also has the word table in the first document, in the computer-generated document?

A. I'm not seeing it. I'm not seeing it at all there. Perhaps you want to look and tell me where it is. Okay.

Q. Let me take a look at it. Thanks.

MR. DAVIS: We're on 20?

THE WITNESS: Soon to be on Exhibit 15.

MR. DAVIS: Thank you.

BY MR. MURGATROYD:

Q. Yes. You'll see table number, right here, "Initial set up for commands to create." If you'll take a look at that, please.

A. "Initial set up commands to create libnanes and macros for output data set." My apologies. I'm -- oh, table number. Says, "output file, protocol, table number, and population types."

Q. Okay. And what is --

A. -- and it's clearly in the comment.
Q. Okay. And what is the date of that computer-generated document?
A. The document says 26 June 98.
Q. Okay. And what is the date of the table?
A. The table says 30 June 98.
Q. Okay. And would you agree, Doctor, that both of those dates were after the breaking of the blind?
A. Yes.
Q. Okay. Now, I asked you a minute ago how remission was defined in your study 329?
A. Yes. I have to just go look through the paper and make sure that I understand the answer to your question. If you want to tell me what you believe it is and I'll see if I can confirm it. That'll save some time. It's up to you?
Q. Well, it's my understanding it's HAM-D score of less or equal to eight, but I want you to confirm that for yourself, please.
A. Sure. My apologies, but I'm not seeing where the definition -- where that's defined, do you want to show me?
Q. I'll print out a document at our next break and show it to you, but I want you to assume

for the purposes of this deposition, at this point in time, that that is the definition of remission? Okay?

MR. DAVIS: Object to the form; no foundation.

THE WITNESS: No.

MR. MURGATROYD: No? Okay. Good. Go off the record.

VIDEOPERATOR: At this time we're going off the record. The time is approximately 1:50 p.m.

(Pause in Proceedings.)

VIDEOGRAPHER: We're now back on the record. The time is approximately 1:58 p.m. Please proceed.

(Ryan Deposition Exhibit No. 21 was marked for identification.)

MS. CONNELLY: Plaintiffs Exhibit 21 appears to be one of the documents under the protective order. It appears to be a GSK internal document.

MR. DAVIS: Object to the use of that document to this witness, because there's no foundation established that the Doc -- the witness is familiar with it.

MR. MURGATROYD: We could say that about

half the documents, Todd, that's not an objection.

MR. DAVIS: I certainly can agree with you on there, Skip.

BY MR. MURGATROYD:

Q. Doctor, you can -- you're certainly free to read the whole thing, but what we're going to concentrate on is the last paragraph.

A. Okay.

Q. Okay. Do you see the word remission in the last paragraph?

A. Yes.

Q. And how's it defined?

A. In this document from GSK folks to GSK folks it states -- let's see. Let me give you enough that you can get the whole thing.

To paraphrase it: A Hamilton-D of less than or equal to eight was defined as, quote "remission." It says, although it was, quote, "remission", unquote, was defined in the protocol and remission by itself was a key secondary parameter and Paxil versus Placebo was shown to be statistically significant.

Q. Okay. Does that clarify the issue of how --

A. No. It does not.

Q. Well, less than -- does that say the remission is defined as less than or equal -- HAM-D score of less than or equal to eight?

A. That's what this document says.

Q. Okay. And is HAM-D less than or equal to eight one of the secondary parameters in your paper?

A. Yes, it is.

Q. And did it reach statistical significance?

A. Yes, it did.

Q. Okay. And does that say that it reached statistical significance there?

A. Yes, it does.

Q. And do you think there's any difference between those?

MS. CONNELLY: Object to form. Between what?

THE WITNESS: Your question was misleading, and so the answer will be inadvertently misleading because this paper never refers to it as remission.

BY MR. MURGATROYD:

Q. Okay.

A. The fact that an internal GSK document called it remission doesn't mean it was defined as remission by the investigators, and I don't think it

would be called remission by the investigators as best I can tell.

Q. Okay. Well, fine. So the reason --

A. So it's --

Q. -- the reason I'm setting that foundation is for the next document. I think it will make sense to you.

A. Okay.

MR. MURGATROYD: What I'm going to mark as Exhibit 21.

(Ryan Deposition Exhibit No. 22 was marked for identification.)

Q. The next exhibit is a printout with a table and it's a computer printout.

A. Okay.

Q. Okay. Now you seen GSK's definition of remission in their earlier document I showed you of a Hamilton-D score of less than or equal to eight. Okay. Does this document appear to -- the first three pages, which is the computer printout right, appear to address a tables or table to set up the analysis for remission?

MS. CONNELLY: Object to form. We just haven't established that this is one document and I haven't looked at it closely. Based on the other

ones that he has been presented, the witness has been presented, they have appeared to be a mixture of different documents and perhaps --

THE WITNESS: This is the same document --

MR. MURGATROYD: This is the same.

THE WITNESS: -- this appears to be the same thing only more so. The first part of this is a SAS program dated 7 May 97. The second part is a table dated 28 October 97.

BY MR. MURGATROYD:

Q. Right. The same thing as the other ones, right?

A. Well, the other ones were off by a date. This is off by half a year so I have no reason to assume there is any substantive linkage between the two.

Q. Well, that's -- let's see if you can figure it out. Let's go back to the document that talks about the HAM-D Depressed Item. Go back to that.

MS. CONNELLY: Sir, could you please tell us the document number?

THE WITNESS: The one we just got, document 21?

MR. MURGATROYD: Yes.

THE WITNESS: Okay.
MR. MURGATROYD: No. The HAM-D --
THE WITNESS: My apologies. The HAM-D document. I was wrong on that.
MS. CONNELLY: Do you know the Exhibit Number?
MR. MURGATROYD: Well, it's one of the last five. You've gone too far if they're in order.
THE WITNESS: Is it this one right here? No. I'm sorry.
MS. CONNELLY: That's okay. It's not --
THE WITNESS: There's not too many there.
MS. CONNELLY: It's not well organized.
THE WITNESS: This is for the HAM-D.
MR. MURGATROYD: Okay.
BY MR. MURGATROYD:
Q. Now, look at the date on the computer printout sheet?
A. Huh-uh.
Q. And what is the date again?
A. The date on this computer printout is --
Q. No. No. Not on the computer printout, not --
A. It is 28 August and --
Q. Okay. Hang on.

A. And 30 August.
Q. Okay. Slow down. 28 August, correct?
A. On the computer program -- there's several dates -- all of this is obviously computer printout, which part are you asking me about?
Q. Okay. What is the -- can I see that document for a second?
A. Sure.
Q. Okay. You read the dates wrong. I just wanted to make sure that I had it right. The computer printout, right, that discusses a table is the first two pages of that document, correct?
A. The first two pages of the document is a computer printout.
Q. Okay. Now, what is the date of that?
A. Is 28 August 97 is the date printed on there.
Q. Right. And we agreed that was the same date that Mr. McCafferty asked Mr. Bushnell to do a tabulation analysis for the HAM-D Mood Item 1, correct?
MS. CONNELLY: Objection. We have a printout of a document which you haven't asked him if he had ever seen before. He can't testify as to whether or not that happened. He cannot

authenticate that document.

MR. MURGATROYD: I'm not asking him to authenticate the document. I asked him a question.

MS. CONNELLY: It's not a fair question.

BY MR. MURGATROYD:

Q. Is it the same date that --

A. No. You asked me if that's the date Mr. McCafferty did such and such. I have no information to answer your question.

Q. According to the exhibit that you've been presented?

A. It's the date he sent him an e-mail related to it, yes.

Q. Okay. That's fine. Now, is that date prior to the breaking of the blind?

MS. CONNELLY: Object to form.

THE WITNESS: I'm sorry? What date again?

BY MR. MURGATROYD:

Q. The date on the computer run right there in your hand --

A. Okay.

Q. -- is that date, 28 August 1997, prior to the breaking of the blind?

A. The breaking of the blind? Remind me again, please?

Q. October 22, 1997.
A. The 28 August would be two months ahead of that.
Q. Okay. Now, go to the table on that document right there.
A. Right.
Q. What is the date of that table?
A. I have no information that this table is linked to this computer program.
Q. I'm sorry. Does the table have a name?
A. The names are the same. I have no -- I have nothing to indicate to me that this table is a result of running this program.
Q. Fine. What is the date of that table?
A. 30 October 97.
Q. Would you agree, sir, that that is a date after the breaking of the blind?
A. Yes.
Q. Okay. Now, let's go to the last -- the document we're talking about now in remission, does the computer run have a date prior -- the computer run document, the first three pages, have a date prior to breaking the blind?
A. 7 May 97.
Q. You agree that that's prior to breaking

the blind?

A. Yes.

Q. Okay. Now look at the table.

A. Right.

Q. What is the date of the table?

A. 28 October 97.

Q. Okay. Would you agree that is after the breaking of the blind?

A. Yes.

Q. Okay. So would you agree that of the four computer runs and tables that I've shown you in exhibits, two the computer run and table were after the breaking of the blind? Do you agree with that?

MS. CONNELLY: Object to form; no foundation.

THE WITNESS: Okay. Run it again. Say it again, please. I'm sorry.

BY MR. MURGATROYD:

Q. Okay. The CGI score of one or two document computer run and table, right, both had dates after the breaking of the blind, correct?

MR. DAVIS: Object to the form; no foundation.

THE WITNESS: I'm sorry. Give me the CGI again. Let me get it correct then you can ask me.

MR. MURGATROYD: No. I agree.
MS. CONNELLY: Is this it?
THE WITNESS: Hand me the other two of those, if you wouldn't mind. I'm sorry.
MS. CONNELLY: Yes. Aren't there six and not four?
MR. MURGATROYD: There's four.
MS. CONNELLY: Is this it?
THE WITNESS: And there should be one more. So this looks like it's a CGI and the -- which one is this? K-SAD-L Depressed Mood Item. Okay.
BY MR. MURGATROYD:
Q. Okay. Now, so you have before you four computer runs and tables, correct?
A. Yes. That is correct.
Q. Okay. And they relate to the four variables that you found had statistical significance in favor of Paxil in your paper, right?
A. They appear to, yes.
Q. Okay. Good. Now the CGI -- got that one?
A. Yes, I do.
Q. There's a computer run and table --
A. Right.
Q. -- occur after the blind was broken?

MR. DAVIS: Object to the form of the question; it's been asked and answered.

THE WITNESS: So 26 June 98 and 30 June 98, the dates on both of these are later. I do not know how they're late.

BY MR. MURGATROYD:

Q. That's fine. After the breaking of the blind. That's all I'm asking?

A. The dates on these two documents included in one exhibit are later than the dates we've stipulated as the breaking of the blind.

Q. Okay. Now, let's go to K-SADS-L Depressed Mood Item.

A. Okay. Sorry it takes me a while here.

Q. I think it's the one in your hand.

A. Okay. Well, that could be. K-SADS-L Mood Depressed Item. Okay.

Q. Okay. Now, is the computer run and table dates both after the breaking of the blind?

MR. DAVIS: Object to the form; no foundation.

THE WITNESS: The computer run and table dates on these documents are both after the date of breaking of the blind.

BY MR. MURGATROYD:

Q. Now, in your paper, in your article, did you state, you and your coauthors state that the -- these four secondary variables had been declared what is known as A priority?

A. Show me a page. I -- they were certainly -- do you want to find the document with that statement for me?

Q. No. That's your job, sir.

A. Okay.

MS. CONNELLY: Take your time, Doctor.

THE WITNESS: Okay. I'm not seeing it here. I'm not seeing such a statement.

BY MR. MURGATROYD:

Q. Do you know what the word A priority means?

A. Yes.

Q. And what does it mean?

A. It means before the fact.

Q. Okay. And in terms of medical literature, journal articles, such as the one before you, does that mean that the secondary and primary end points were created or agreed upon prior to the breaking of the blind?

A. No. It means prior to looking at the data for that question.

Q. Okay. Now, do you recall you being questioned on whether or not the -- any of the end points were included in your paper after the blind were broken?

A. I don't recall that.

Q. Okay. We'll we're going to go through that document tomorrow.

A. Okay.

Q. Now, in your -- in the abstract of that paper in front of you, right, the article?

MS. CONNELLY: Is that a question?

BY MR. MURGATROYD:

Q. Yes. I want you to look at it.

A. I'm sorry?

Q. The abstract right there. It's right in front of you. Do you see that?

A. Huh-huh.

Q. How many efficacy variables are stated in the abstract?

A. I think it talks about five plus two.

Q. And that gives you a total of what?

A. Seven.

Q. Okay. And of that number, how many achieved statistical significance?

A. Four of the secondary ones.

Q. Okay. Would that indicate that the majority of those seven end points reached statistical significance?

A. Yes. Although phrasing it that way would be misleading.

Q. Okay.

A. Because the abstract is -- that's -- that's the abstract trying to emphasize what came out in the study, not the presentation of all the things one looked at or all the things one considered.

Q. Okay. So if somebody walked away from that paper thinking that the majority of the end points had reached statistical significance they would be misreading that paper, correct?

A. Yes, as they would be misreading most papers. Most secondary end points don't -- you know, the majority of secondary end points wouldn't typically come out significant even in a positive study.

Q. Right. I'm just asking: If somebody read your paper and walked away with the idea that the majority of the end points had reached statistical significance in favor of Paxil they would have misread your paper, correct?

A. Yes. But the answer again is misleading, because there were a lot of end points not related to depression. We were very clear these were the depression related end points.

Q. Okay. Again, doctor, if you just listen to my question. I'm just asking: If a person walked away from that paper believing --

A. I just answered your question.

Q. Okay. Now, there's seven listed in the abstract. We agreed upon that, right?

A. Yes.

Q. And how many are listed in the table?

A. Basically eight.

Q. Okay. And how many of those achieved statistical significance?

A. Four.

Q. So that would be 50 percent, right?

A. Huh-huh.

Q. So you couldn't say that a majority reached statistical significance from that table, correct?

A. From this table? The majority? No, it was 50/50.

Q. Okay. Now, you agree, sir, that that table leaves out a number of predefined secondary

variables that did not reach statistical significance, correct?

A. Yes, but the table is also not -- the label of the table wouldn't indicate that it would include those. This says, the depression related variables.

Q. I understand. I'm just saying that table does not, right, include all the secondary variables that were analyzed --

A. I just answered your question.

MS. CONNELLY: Asked and answered. He gave you a complete answer.

MR. MURGATROYD: Okay. He gives me answers that are ...

MS. CONNELLY: In all fairness to the witness you have to allow him to give you a complete and accurate answer. He is under oath.

MR. MURGATROYD: Great.

MS. CONNELLY: The fact that you don't like his answer doesn't necessarily mean it's improper.

MR. MURGATROYD: I don't dislike his answer. I think his answer's fine.

BY MR. MURGATROYD:

Q. My question was: Does the table include

other secondary variables that failed to reach statistical significance?

MS. CONNELLY: It's asked and answered.

MR. DAVIS: I join in that.

BY MR. MURGATROYD:

Q. Okay. Does it?

A. I'm sorry. Say your question again, please?

Q. Does the table include other secondary variables that did not reach statistical significance?

A. Does the table include secondary variables that didn't reach significance? Yes.

Q. Okay. And how many secondary variables that were analysed that did not reach statistical significance are not in that table?

A. I don't know the answer to that.

Q. Okay. How many do you know from reading your paper that were not included in that table?

A. I'm sorry. I still don't know the answer to your question. I'm sorry. The table was concentrating on the depression specific secondary items.

Q. I understand.

A. Okay. And your question was about

secondary items in general?

Q. Correct.

A. We looked at a lot of things for secondary analyses that weren't strongly related to depression as well as some related to depression.

Q. Okay.

A. My paper was only for the depression related ones.

Q. Okay. I understand. I'm just asking how many total --

A. I told you earlier I didn't know the answer to that.

Q. But I'm asking, how many do you know the answer for?

A. I don't know.

Q. Well, your paper talks about some of them, right?

A. Undoubtedly, you're correct.

Q. Okay. Do you recall which ones?

A. No.

Q. Okay. How about the functioning items? Do you discuss the functioning items in your paper?

A. Yes.

Q. Okay. Did they reach statistical significance?

A. No.
Q. Okay. So if you're counting all the secondary variables we have eight in your table, correct?
A. No. We had -- do we have eight in the table?
Q. Yes.
A. No. The table has the primary ones as well as the secondary ones.
Q. Okay. So all efficacy variables?
MR. DAVIS: Object to the form.
THE WITNESS: You said that wasn't your question, right?
BY MR. MURGATROYD:
Q. I understand. I'm correcting my question. All efficacies -- how many -- we have a total of eight efficacy variables in the your table, correct?
A. Yes.
Q. Okay. And now we have other efficacy variables that you discuss in your paper that failed to reach statistical significance such as the functioning scales, correct?
A. Correct.
Q. And how many of those were there?
A. That's what I'm saying. I don't know

offhand, but they were not germain to the table.

Q. I understand, Doctor. I'm completely understand what you've said. I'm just asking how many of those are there?

A. I don't feel like I can give you an answer that reflects the truth if you interrupt me in the middle of it.

Q. Well, I'm asking for the functioning scores? You discussed those in your paper, right?

A. We discussed three different functional score outcomes.

Q. Okay. And those?

A. Those were all negative.

Q. Okay. So if you take -- and they were variables, right? Outcome measures that you looked at?

A. Yes.

Q. Okay. So you had eight in the table and three others that you just discussed, right?

A. That's correct.

Q. A total of 11 that your paper actually talks about?

A. Okay.

Q. Okay. And would you agree that the minority of these end points achieved statistical

significance in favor of Paxil?

MR. DAVIS: Object to the form; misconstrues the data.

THE WITNESS: 4 out of the 11 things you're talking about 4 are positive so that would be a minority. Yes, I agree.

BY MR. MURGATROYD:

Q. Okay. Thank you. Now, when you put that paper together, did you rely on GSK to give you accurate information as to when the variables were first analyzed? Did you rely upon that?

MR. DAVIS: Object to the form.

THE WITNESS: Not to my knowledge.

BY MR. MURGATROYD:

Q. Okay. So you confirm -- I think we already discussed this -- you confirmed for yourself when these different efficacy variables were analyzed?

A. No.

Q. Okay. So then you relied upon GSK as to when these efficacy variables were analyzed, right?

MR. DAVIS: Object to the form of the question.

THE WITNESS: What do you mean relied upon them to do such and such?

BY MR. MURGATROYD:

Q. Well, the information regarding when the efficacy variables were performed, analyzed by GSK is information that GSK has, right?

A. Yes, but I don't know that there's -- I mean, I don't know that there was any reliance on dates of analyses in the paper.

Q. Okay.

A. Whoever had the information on that, I'm not sure that the paper relies on dates of analyses.

Q. Okay. Do you think your paper, your article, included two secondary variables, specifically the HAM-D Depressed -- I'm sorry -- the K-SADS Depressed Mood item -- K-SADS-L Depressed Mood Item and the CGI score of one or two were secondary variables that were decided to be used in the paper after the blind was broken?

MR. DAVIS: Object to the form; asked and answered.

THE WITNESS: To the best of my knowledge they were decided ahead of time, but I don't have definitive answers -- I don't have a definitive answer for that one.

BY MR. MURGATROYD:

A. Okay. So to determine the dates on when

those were actually analysed you would rely upon GSK?

MS. CONNELLY: Object.

MR. DAVIS: Object to the form.

THE WITNESS: If I was trying to determine the dates I guess I'd rely on all available information including what GSK had, so.

BY MR. MURGATROYD:

Q. Okay. And if you wanted to you could call up GSK, Jim McCafferty and say, Jim, I want to know when the CGI score of one or two data was analysed, right? You could do that?

A. I'm sorry. Are you asking me if I could call him or are you aking me if he'd give me an answer?

Q. I'm asking -- you could call him and ask him, correct?

A. I could call and ask him.

Q. And you can call and ask him for the same thing regarding the K-SAD-L Mood Depressed Item, correct, the analysis for that?

A. Right.

Q. Have you ever done that?

A. No.

Q. Now, would you agree, Doctor, that it

would be improper to state that a secondary efficacy variable was predefined, meaning before the breaking of the blind, when, in fact, it was analyzed and agreed upon after the breaking of the blind?

A. Predefined would not necessarily be before breaking the blind. It means you have a hypothesis that could be different and you went and looked at it. The secondary analysis traditionally -- the primary analysis are the ones that you say, you know, this is for regulatory purposes ahead of time. The secondary analysis are -- you don't look at everything first and then say this was secondary. You have hypothesis that they should be different, but it would not necessarily always before the breaking of the blind that you looked at data like that.

Q. Would you state in the paper discussing the results of the study that, in fact, certain efficacy variables were decided to be included in the paper after the blind was broken?

A. Not typically.

Q. Isn't that called post-hoc?

A. No. Post-hoc is you look at 30 things in an unstructured way and then you say this one came out positive.

Q. Yes.
A. So the answer to your question I think was no.
Q. Okay. Did, to your knowledge, GSK decide after the blind was broken which secondary variables would be included in your paper?
A. Not to my knowledge. I do not know whether they were decided before or after the blind was broken.
Q. Okay. Now, in your paper 329, in the abstract portion there is a part called a conclusion, right?
A. Correct.
Q. And could you please read the conclusion into the record.
A. Let's see.
Q. It's the last sentence of the abstract.
A. "Conclusions: Paroxetine is generally well tolerated and effective for major depression in adolescents."
Q. Okay. Now, are you aware of the different statements by GSK, the FDA, and other regulatory bodies that dispute that finding?
MS. CONNELLY: Object to the form.
MR. DAVIS: Object to form. Excuse me.

Dispute what finding?

MR. MURGATROYD: That conclusion. Thank you for correcting me.

MR. DAVIS: What conclusion?

MR. MURGATROYD: The conclusion he just read into the record.

MR. DAVIS: I'm sorry. I didn't hear a conclusion read into the record.

MR. MURGATROYD: Do you want him to read it again?

MR. DAVIS: Sure.

BY MR. MURGATROYD:

Q. Doctor, can you read the conclusion again, please?

A. "Paroxetine is generally well tolerated and effective for major depression in adolescents."

Q. Okay. Now my question is: Are you aware of the various, if any, documents produced, created by GSK and regulatory bodies around the world that dispute that conclusion?

A. I'm aware of the GSK document you showed me earlier today. I'm aware of the FDA analyses.

Q. Okay.

A. That's however not a complete answer.

Q. All right.

A. Because this was the best available data at the time this was published. Two subsequent negative studies change your assessment of the efficacy of the compound overall.

Q. Okay. Let's go to the next document. Let me ask you this: Do you claim that your study 329 was conclusively proved that Paxil was effective in the treatment of adolescent depression?

A. No.

Q. Do you contend that is a signal or suggestive of efficacy?

A. Yes. That was the best data on Earth when we published that and it was a signal for efficacy. It was certainly far from conclusively proving it since that requires replication.

Q. Okay. Now let's take a look at -- let's take a look at this one.

(Ryan Deposition Exhibit No. 23 was marked for identification.)

MS. CONNELLY: Plaintiffs Exhibit 23 appears to be a European "Dear Healthcare professional" document two pages long.

BY MR. MURGATROYD:

Q. Okay?

A. Okay.

Q. And do you know what Seroxat is?
A. That's a name in parts of Europe for paroxetine.
Q. Okay. And are -- you're familiar with "Dear Healthcare Professional" letters are?
A. In the general case, yes, in the specific case of how they're used in Europe, no.
Q. Generally, you know what -- they're sent to doctors?
A. Yes.
Q. Okay. And can you read the first -- I'm sorry, the second paragraph into the record?
A. "A recently completed programme of clinical trials in children and adolescents under 18 years of age failed to demonstrate efficacy in Major Depressive Disorder and there was a doubling of the rate of reporting of adverse events in the paroxetine group compared with placebo, including decreased appetite, tremor, sweating, hyperkinesia, hostility, agitation, emotional lability, (including crying, mood fluctuations, self-harm, suicidal thoughts and attempted suicide)."
Q. Okay. Now, do you disagree with the statement that a recently completed program of clinical trials in children and adolescents under 18

years of age failed to demonstrate efficacy in major depressive disorder?

MR. DAVIS: Object to the form.

THE WITNESS: No, I do not disagree. There was in the first trial, as we correctly pointed out, a signal for efficacy. There was two subsequent trials without evidence and so aggregating them up I think that's a fair enough statement.

MR. MURGATROYD: Okay.

(Ryan Deposition Exhibit No. 24 was marked for identification.)

MS. CONNELLY: PlaintiffS Exhibit 24 appears to be a GKS document subject to the protective order titled "Summary of Product Characteristics."

MR. DAVIS: Yes. Thank you.

BY MR. MURGATROYD:

Q. Doctor, I know it's a longer document. To save you time I'm going to refer you to the -- well, the third page is probably the easiest and it's under the section entitled "Children and Adolescents."

A. Okay.

Q. Okay. Can you read that into the record,

please?

MS. CONNELLY: What's the date? Do we have a date on this document just not having seen it before.

MR. DAVIS: Maybe at the end.

MR. MURGATROYD: No. Actually, the date's not in here. It has a date of the vision, the text. It doesn't have a date.

THE WITNESS: I'm not finding a date.

BY MR. MURGATROYD:

Q. Okay. Now, let's --

A. I'm sorry. You had asked me to --

Q. Yes. We're going to the third page under Children and Adolescents. Do you see that? Can you read that paragraph into the record, please.

A. "Controlled clinical studies failed to demonstrate efficacy and do not support the use of paroxetine in the treatment of children and adolescents with Major Depressive Disorder."

Q. Okay. And do you agree with that statement, sir?

MR. DAVIS: Object to the form of the question.

THE WITNESS: I think that this is the correct interpretation when we aggregate the three

studies together that they do not reach the level of proof to support using this compound.

BY MR. MURGATROYD:

Q. Okay. And the document before you relates to Paxil, right?

A. I'm sorry. This document relates to Paxil.

Q. Okay. I'll show you the next document.

MS. CONNELLY: Does that say 25?

MR. MURGATROYD: It should. My handwriting's not that good. I can tell you that.

(Ryan Deposition Exhibit No. 25 was marked for identification.)

MS. CONNELLY: Plaintiffs Exhibit 25 appears to be an internal GSK document subject to the protective order labeled as "Appendix 1." I didn't check for a date on it.

THE WITNESS: November '03.

BY MR. MURGATROYD:

Q. Okay. And, Doctor, if you would turn to the fourth page of the document under "Special Warnings" and particularly "Precautions for use." Do you see that?

A. "Special Warnings" and "Precautions for use." Yes, I see that.

Q. Okay. And do you see the second paragraph "in addition", Do you see that?

A. Yes.

Q. And can you read that into the record.

A. "In addition, during three clinical trials carried out on children and adolescents", and then the first bullet: "Paroxetine was not more effective then the placebo in the treatment for the major depressive episodes."

Q. Okay. let's stop there.

A. Okay.

Q. Do you agree with that statement?

A. No.

Q. Do you think GSK is not providing a truthful statement in this document?

MR. DAVIS: Object to the form. He can't characterize the intent or the nature of the document or the statement from GlaxoSmithKline.

BY MR. MURGATROYD:

Q. Well, do you think that statement is incorrect?

A. I think that that statement would be the negotiation of a company with a regulatory body saying did it meet -- for example, did it meet the FDA's criteria for efficacy? It did it not. Does

it have an indication of efficacy? It does. So saying that it wasn't more effective by the regulatory definitions would be correct. Saying it was not more effective by how I would define it and how he described it would be incorrect.

Q. Okay. I'm going to strike your answer as nonresponsive to my question. My questions was simply --

MS. CONNELLY: He asked and answered your question fully.

MR. MURGATROYD: No, he didn't fully answer the question.

MS. CONNELLY: You have to allow the witness an opportunity to testify truthfully. He gave you a complete answer to that question.

MR. MURGATROYD: I understand. If you think that's true I disagree and I move to strike and we'll let the court decide. That's why we have judges.

MR. DAVIS: But here's the problem. You don't get to go and ask the question again. I mean, you don't get to go back multiple times and get multiple attacks at him when he's giving you a full response. I don't think that's fair to the witness. That's not part of the process.

MR. MURGATROYD: It's simple, Todd. I move to strike it. If you want to use this statement at trial you can see if you can get my objection overridden. That's all. It's not a complicated fact.

MR. DAVIS: Fine. And then you can move on to another question, because that's the answer.

MR. MURGATROYD: I will do what I want to do as you know I always do.

MS. CONNELLY: Well, I represent Dr. Ryan and that's not necessarily going to be the case in this deposition.

MR. MURGATROYD: Well, you can certainly state your objections for the record and the court will certainly rule on them. I can tell you that.

MS. CONNELLY: I understand that the judge in Philadelphia is used to your phones calls, but I except that he would side with the witness in being allowed an opportunity for a fair and complete answer.

MR. MURGATROYD: We'll let the court decide. That's why we have judges.

MR. DAVIS: Can I see that last document?

THE WITNESS: Here it is.

MR. DAVIS: Thanks, Dr. Ryan.

MR. MURGATROYD: Okay. Let's take a look at this next document. Let me keep my copy. I think there's one page that belongs to me on that.

MS. CONNELLY: This has two pages.

MR. MURGATROYD: Oh, actually, add these. That's the whole document. I don't want to give him an incomplete document.

(Ryan Deposition Exhibit No. 26 was marked for identification.)

MS. CONNELLY: Plaintiffs Exhibit 26 looks like another GSK document subject to the protective order. It's entitled the "Department of Health Press Release. June 10, 2003."

BY MR. MURGATROYD:

Q. Okay. And can I see that document for one second, sir?

A. Okay.

Q. Can you please read the second paragraph into the record, please.

A. Yes: New expert advise recommends that the drug Seroxat (paroxetine) is not to be used to treat children and teenagers under the age of 18 years for depressive illness, said Professor A-L-A-S-D-A-I-R, Alasdair Breckenridge, Chairman of the Medicines and Healthcare Products Regulatory

Agency.

Q. Okay. Keep reading.

A. I'm sorry. New paragraph. "New data received within the last two weeks, has been evaluated and considered by the Committee on Safety of Medicines,(csm), and its Expert Working Group on SSRIs. It shows that there is an increase in the rate of self harm and potentially suicidal behaviour in this age group when Seroxat is used for depressive illness. It has become clear that the benefits of Seroxat in children, for the treatment of depressive illness, do not outweigh these risks."

Q. Okay. Do you agree with that statement, sir?

A. I think the data is insufficient to say that the statement's correct.

Q. Okay. Well, do you agree that the risks of Paxil in the use of kids with major depressive disorder -- strike that -- let me start again.

Do you agree that the risks outweigh the benefit for kids who take Paxil for the treatment of depressive disorder?

A. By kids, you mean what group?

Q. Less than 18.

MR. DAVIS: Object to the form.

THE WITNESS: Okay. I think there's insufficient data to say that. I do not agree.
BY MR. MURGATROYD:
Q. So you disagree with that statement in that document, correct?
A. That's correct.
Q. Okay. And so you think health agencies have access to more data than you do concerning a drug?
A. That's a sneaky question. I think that they have access to more data, but not necessarily -- I don't think that necessarily makes them right and my opinion wrong. I think that there's a lot more thing to weigh and there's also more data since this came out that was included in my answer about whether this statement was correct. You asked, is this statement correct now, right?
Q. I just asked.
A. There's a lot more data that's come out since they made this statement.
MR. MURGATROYD: Okay. Let's look at the next document.
(Ryan Deposition Exhibit No. 27 was marked for identification.).
MS. CONNELLY: Plaintiffs Exhibit No. 27

is another document subject to the protective order titled: "FDA Talk Paper" dated June 19, 2003.

BY MR. MURGATROYD:

Q. Okay. Have you seen this document before today?

A. Can you tell me whose document this is? I don't know that I've seen it. I don't know that I haven't. Is this a FDA document? Is this a SKB document?

Q. That is a FDA document with an SKB stamp across it.

A. Okay. So this was an FDA statement of June 2003. I don't remember this specifically, but I certainly knew that the FDA was looking at this question so quite possibly I saw it before. I can't recall specifically.

MR. MURGATROYD: Okay. Can I see the document briefly?

THE WITNESS: Yes.

VIDEOGRAPHER: Can we go off the record to change tapes?

MR. MURGATROYD: Yes, please.

VIDEOGRAPHER: At this time we're going off the record. The time is 2:41 p.m.

(Recess taken.)

VIDEOPERATOR: We are now back on the record. This is the beginning of Tape No. 4 of the deposition of Dr. Neal Ryan. The time is 2:48 p.m. Please proceed.

(Ryan Deposition Exhibit No. 28 was marked for identification.)

MR. MURGATROYD: Okay. Let's take a look at the next exhibit, please.

MS. CONNELLY: Exhibit 27 does not have a bates number. It's a Questions and Answers document three or four pages long.

MR. DAVIS: I thought 27 was the FDA document. Are we not?

MS. CONNELLY: Let's double check.

MR. MURGATROYD: Oh, I'm sorry. Wait. You're right. That was.

MS. CONNELLY: Wait. Where'd that go?

MR. MURGATROYD: It's right here. I thought that I had not used that one yet. So that's 27. Can you mark that one 28 or I will?

MS. CONNELLY: Sure.

MR. MURGATROYD: Great. Thanks. So let's put that in the pile.

MS. CONNELLY: Here's 28 for you.

BY MR. MURGATROYD:

Q. And this document is entitled "Questions and Answers, New advise on Seroxat", and I think we've agreed that that is Paxil, right?

A. Yes.

Q. From the Committee on Safety of Medicines. Do you see that at the top?

A. Yes, I do.

Q. And do you see the question 1? What is the new advise?

A. Yes.

Q. And can you please read that into the record.

A. "New advise from the government's independent scientific advisory committee. The Committee on Safety of Medicines (CSM) is that Seroxat should not be used in children and adolescents under the age of 18 for the treatment of depressive illness. This new advise follows the receipt of new data in children under 18, which shows no benefit in the treatment of depressive illness and suggests an increase in the rate of reporting of suicidal thoughts and behaviours in this age group when treated with Seroxat."

Q. And you'll see the part that says no evidence of -- shows no benefit in the treatment of

depressive illness? Did I say that right? Did I quote that right?

MS. CONNELLY: Can you restate that? I think the record might be messy.

MR. MURGATROYD: Okay. That's fine.

BY MR. MURGATROYD:

Q. Do you see it says "No benefit in the treatment of depressive illness." Did I read that right?

A. Yes, you did.

Q. Okay. And do you contend that this Committee on Safety and Medicine has got that wrong?

MR. DAVIS: Object to form.

THE WITNESS: I disagree with that conclusion, yes.

(Ryan Deposition Exhibit No. 29 was marked for identification.)

MR. MURGATROYD: Okay. Let me show you what I've marked as Exhibit 29.

MS. CONNELLY: Plaintiffs Exhibit 29 is a voluminous document subject to the protective order produced by GSK entitled "Pediatric Advisory Panel Meeting June 10, 2003."

BY MR. MURGATROYD:

Q. Okay. Now, do you want to take the time

to look through that document?

MS. CONNELLY: Would you like the witness to read the whole thing?

MR. MURGATROYD: I just want to see if he has any familiarity with it, and I think --

BY MR. MURGATROYD:

Q. Were you present at that presentation?

A. No.

Q. Okay. Were you aware of that meeting?

A. Yes.

Q. Okay. And what is the date of that meeting?

A. June 10, 2003.

Q. Okay. And how were you aware of it?

A. Because I was on the FDA psychopharmacology Advisory Committee at the time and the FDA decided I was in conflict for this meeting.

Q. I think you have them confused.

MR. DAVIS: I agree.

THE WITNESS: Okay. Sorry.

MR. DAVIS: No. There's a lot for --

THE WITNESS: Which meeting is this?

BY MR. MURGATROYD:

Q. Well, that's what we're going to try and

sort out. What's the date of the document?

A. June 10, 2003.

Q. And what's the title of the document?

A. Pediatric Advisory Panel Meeting.

Q. Okay. And that, I will tell you, and I think Counsel will agree is a GSK document concerning a GSK meeting.

A. So this was an internal GSK meeting with Pediatric Advisory?

Q. Okay.

A. My apologies for being confused.

Q. No problem.

A. Okay.

Q. My question is: Did you attend that meeting?

A. I do not know.

Q. Does that mean you don't recall or?

A. I don't recall.

Q. Okay. Can you turn to the last page of that document? I'm sorry, on the second to last page, and can you read the last sentence in the last paragraph into the record.

A. "Controlled clinical trials did not provide evidence of efficacy and do not support the use of Paxil in the treatment of pediatric patients

with major depressive disorder."

Q. Okay. And do you agree with GSK's statement there?

A. Not in -- no.

Q. Okay.

A. Well, I'm sorry. That's an incomplete answer. I agree with the part that they do not support for regulatory purposes use of compounds in adolescents and children, because they didn't meet the threshold for that. I do not agree with the portion that it did not provide evidence for efficacy. It provided some.

Q. Okay. Let's take a look at the next document

(Ryan Deposition Exhibit No. 30 was marked for identification.)

Q. Okay. Let's look at the next one.

MS. CONNELLY: Plaintiffs Exhibit 30 is a GSK produced document subject to the protective order titled "Statistical Review."

MR. DAVIS: Yes. That's a publicly available document. That was inadvertently stamped. That's publicly available so that's not subject to the protective order.

MS. CONNELLY: Okay.

BY MR. MURGATROYD:

Q. Have you had a chance to review that document?

A. I scanned briefly the front page.

Q. Okay. You may want to look through the whole thing. Well, actually maybe you don't. Are you familiar with that document?

A. No, I'm not.

Q. Okay. You've never seen it before?

A. Not to my memory.

Q. Okay. I think you might want to take the time to read the portion on study 329.

THE WITNESS: Do you happen to know the page it's on otherwise it'll take --

MR. MURGATROYD: I think it's the fourth page, but it might be the third.

THE WITNESS: Okay.

MR. MURGATROYD: Why don't we go off the record and give the Doctor a chance to read this.

VIDEOGRAPHER: At this time we're going off the record. The time is approximately 2:56 p.m.

(Pause in Proceedings.)

VIDEOPERATOR: We are now back on the record. The time is now approximately 2:58 p.m. Please proceed.

BY MR. MURGATROYD:

Q. Doctor, when we were off the record, did you get a chance to look at that document?

A. Yes.

Q. Okay. Can you identify for the record what that document is, please.

A. This document says confidential to -- let's see -- produced by -- no -- I'm sorry. So it says "Pediatric Exclusivity Supplement". It's a report that appears to be by Andy Mosholder, an M.P.H.D, an employee of the FDA. It looks like a ruling on a pediatric exclusivity supplement for Paxil.

Q. Okay.

MS. CONNELLY: Excuse me. Do you want -- to take a break?

MR. MURGATROYD: Do you want to take a minute off to get some drinks?

THE WITNESS: Yes.

VIDEOGRAPHER: We're now going off the record.

(Pause in Proceedings.)

VIDEOGRAPHER: We're now back on the record. The time is approximately 3:00 p.m. Please proceed.

BY MR. MURGATROYD:

Q. Okay. How are you doing?

A. Good. Thank you.

Q. Okay. Good. Now, you were identifying that document for the record, correct?

A. That's correct.

Q. And does it have a date?

A. The date is -- well, it's got three dates. It says, date submitted 4-11-02, PDUFA due date 10-11-02 and review completion date 10-7-02. I assume this is -- I assume the date this was produced was the completion date.

Q. Okay. And, again, that was in 2002?

A. Yes.

Q. And do you know who Andrew Mosholder is?

A. I know Dr. Mosholder.

Q. Okay. And who is he?

A. He is an FDA employee. I don't know his official title or position. He had worked in the psychopharmacology group.

Q. Okay. Is he a competent person, to your knowledge?

A. To the best of my knowledge.

Q. Okay. And he has a section of the paper that discusses study 329, correct?

A. Yes.
Q. And he has a conclusion regarding his review of 329?
A. Yes.
Q. And can you read that into the record, please.
A. "Although there was some evidence of activity of paroxetine on the secondary outcome measures, the paroxetine treatment group did not separate statistically from placebo on the a priori primary efficacy measures in this trial. There was not evidence that imipramine was more effective than placebo in this trial. On balance, this trial should be considered as a failed trial, in that neither active treatment group showed superior over placebo over by a statistically significant margin".
Q. Okay. And do you agree with Dr. Mosholder's analyses?
A. In parts yes; in parts no.
Q. Now, in -- with regard to the adverse events that occurred during the statistical trial 329?
A. Yes.
Q. Whose responsibility was it to analyze the data of those adverse events?

A. The first analyses was done by GSK and presented to the investigators. Subsequent analyses were done by the FDA in the past couple of years done by Columbia University so they've been done twice.

Q. Okay. Buy my question was: With regard to the study?

A. GSK.

Q. Okay. Yes. The answer is?

A. The answer was GSK.

Q. Okay. Great. Could you, as an individual investigator, do a complete analyses of all the serious adverse events that occurred during the clinical trial?

MR. DAVIS: Object to the form.

THE WITNESS: I did not have the data set for the entire thing so I separately would not have been able to do that.

BY MR. MURGATROYD:

Q. Okay. And would that be the same for each of your fellow investigators?

A. To the best of my knowledge.

Q. Okay. Would you agree that you relied upon GSK to do a proper analyses of the safety data regarding 329?

A. Yes.

Q. And with regard to your particular study, you're aware that there was a risk ratio of 5.9 with regard to possible suicide events related to kids taking Paxil versus those kids taking the placebo, correct?

A. There were a number of analysis and questions similar to that one. Can you show me the data that showed you the 5.9?

Q. Yes.

A. Because there's a whole bunch of different analyses of that equation.

MR. MURGATROYD: Let's go off the record.

VIDEOGRAPHER: We're going off the record. The time is approximately 3:04 p.m.

(Pause in Proceedings.)

VIDEOGRAPHER: We are now back on the record. The time is approximately 3:08 p.m. Please proceed.

(Ryan Deposition Exhibit No. 31 was marked for identification.)

BY MR. MURGATROYD:

Q. Doctor, do you see the document that I presented you with is a series of e-mails between GSK and the FDA?

A. Yes.
Q. Okay. And do you see the reference to the 329 trial?
A. Yes.
Q. Okay. And do you see the section that talks about "Possibly Suicide Related"?
A. Yes.
Q. Okay. And what is the risk ratio of Paxil versus placebo with regard to possibly suicide related events?
A. What it says here is 5.9.
Q. And can you explain to the jury what a risk ratio is?
A. Yes. A risk ratio would be the -- the -- the ratio. The division of one risk by the other express a percentage.
Q. Okay. How does that relate to people?
A. It says that the one number's higher than one, suggests there's more risk with the course on the numerator and less than one -- or less than one to suggest that there's more risk with a course on the denominator, but without a confidence interval you don't know whether that's significantly different than the rest.
Q. I understand. If you had to explain this

term to a lay person, what would you tell them a risk ratio means?

MS. CONNELLY: Asked and answered.

BY MR. MURGATROYD:

Q. Put into term, but do you think a lay person could just understand your statement?

A. I will try again. It's the raw number that gives you the single estimate of the ratio of the -- I mean, you know, the product of division. If one can't understand that it's hard to explain the entirety of the two numbers; obviously, the risk ratio presented as a number alone you have no idea whether it's statistically significant or not.

Q. I understand that. But just as a risk ratio? I'm just trying to?

A. I think I've answered that one before.

Q. Well, let me ask you this: Does it mean that a child who took Paxil in your study 329 was five times more likely than a child who took placebo in your study to experience a possible suicide related event?

MR. DAVIS: Object to the form.

THE WITNESS: Not necessarily. This means on one analyses on the way that the FDA was looking at it they were saying it was that many more times

likely.
BY MR. MURGATROYD:
Q. Okay.
A. But there's a question of whether that was statistically significant, and there's a question of -- this as analyzed a whole bunch of ways and I cannot tell you which analyses this particular one was.
Q. Okay. Again, that wasn't my question. My question was -- I'm just trying to understand, and I want the jury to understand what a risk ratio is. That's the only purpose of my question.
THE WITNESS: Could you read back the question again because there seemed like there was more in there and I was trying to answer the whole question. It seems like you're asking me about the specific one and not the ratio.
MR. MURGATROYD: Let's see if she can read it back.
(Record read.)
BY MR. MURGATROYD:
Q. Let's goes down to the next section that talks about suicide attempts. Do you see that?
A. Yes.
Q. And what percentage of the kids taking

Paxil in study 329 experienced a suicide attempt?

A. That's a different question than anything related to this document.

Q. Okay. Well, what does -- where it says drug 5.4 percent, what does that mean?

A. Right. There -- you're going to have to refer me -- I mean, this document doesn't explain about which group they're including in suicide attempts, from later data and analyses that turned out to be a really hard question and so this --

Q. I'm just asking --

A. No. I'm sorry. You asked me what --

Q. I'm just trying to figure out what the 5.4 means? What does it mean?

MS. CONNELLY: Object to form; he didn't create this document.

BY MR. MURGATROYD:

Q. All right. If you know? If you don't know that's fine, you can say so.

A. I was -- there were a number of different analyses so you asked me what the 5.4 percent meant in this study, not in this document, and I was trying to answer your question. Do you want to ask me a new question?

Q. What does in this document -- do you

understand the percentage of 5.4 for people -- kids taking Paxil with regard to suicide attempts?

A. Yes. By some method of looking at suicide attempts my understanding in this document is that by measures of looking at suicide attempts, and there were many in the analyses that were done subsequent to this and during this time, there was 5.4 percent of these subjects it says on drugs, and I assume that's just on Paxil, but that could be Paxil plus imipramine.

MS. CONNELLY: I'm very late on this, but I just wanted to object to kids. I think the study was just on adolescents.

MR. MURGATROYD: I think we made it clear in the beginning when I say the terms kids I mean children and adolescents.

THE WITNESS: Yeah, though.

MR. MURGATROYD: Anybody under 17. That's how I'm using kids.

THE WITNESS: No. It's a good point. So adolescents on this one. This study didn't include children. So this was an adolescent study and it's looking like that by some analyses there was a 5.4 percent rate, and it says drugs, and I do not know whether that's in the imipramine group, the Paxil

group or both combined. The placebo group had zero percent. It says risk ratio, hyphen, meaning you couldn't calculate it.

BY MR. MURGATROYD:

Q. And what does that -- that's the next question. What does it mean you can't calculate it?

A. Because you would be dividing by zero.

Q. Okay. So there's no way of -- if you have hypothetically a trial of 100 people and it's a placebo controlled trial, 100 in each arm, right? 100 people on Paxil, 100 people on placebo, and 50 of the people in the Paxil group tried attempt suicide and zero in the placebo group attempted to commit suicide, can you not create a risk ratio because of the fact of that zero?

MR. DAVIS: Object to the form.

THE WITNESS: That's correct. That's correct. You would not have a value for the risk value simply mathematically.

BY MR. MURGATROYD:

Q. So, but if you had one person on placebo who did try attempted suicide, you would be able to create a risk ratio based on the 50 versus one, correct?

A. That's correct.

Q. Now, you personally have looked into the issue of Paxil's association with suicidality in kids taking the drug, correct?

A. We did that in the paper and we did that in one of the letters to the editor following it.

Q. Okay. Now, I understand that, but you personally have investigated the issue of kids and the percentage of kids, and the risk ratio of Paxil kids experiencing a suicide event versus placebo kids experiencing a suicide event, right?

A. What I have done, to the best of my knowledge, is published in the original article plus the responses to the letters.

Q. Well, what about the research you did with regard to what is now known as the Apter article?

A. Give me the article and let me look at it. I can tell you, please.

VIDEOGRAPHER: Go off the record?

MR. MURGATROYD: Yes. Go off and I can print it out.

VIDEOPERATOR: At this time we're going off the record. The time is 3:16 p.m.

(Recess taken.)

VIDEOGRAPHER: We're now back on the record. The time is approximately 3:35 p.m. Please

proceed.

(Ryan Deposition Exhibit No. 32 was marked for identification.)

BY MR. MURGATROYD:

Q. Doctor, while we were off the record I handed you what I've marked as Exhibit 32, correct?

A. Yes.

Q. Can you identify for the record what that document is?

A. It's e-mail correspondence and then a draft manuscript of a manuscript entitled "Paroxetine Pediatric Suicidality Manuscript."

Q. Okay. And were you part of that e-mail chain?

A. I was.

Q. Okay. Do you recognize that document?

A. Yes.

Q. And does it appear to be authentic?

A. As far as I can tell.

Q. Okay. And did you receive it in the ordinary course of your business?

A. I'm sorry?

Q. Did you receive it in the ordinary course of your business?

A. I apologize. I have no idea what you

mean.

Q. Okay. You received it, right?

A. It came to my e-mail at work, yes.

Q. Okay. Great. And attached to that document is a manuscript, correct?

A. Yes.

Q. And what is the title of that manuscript?

A. "Evaluation of Suicidal Thoughts and Behaviors in Children and Adolescents taking Paroxetine."

Q. Okay. And who are the listed authors?

A. The listed authors are Karen Dineen-Wagner, Neal Ryan, David Shaffer, Regan Fong, David Carpenter, Erica Wetherhold, Philip Perera, John Davies and Alan Lipschitz.

Q. Okay. And of all those authors you just read, how many would be considered external to GSK?

A. Three to my knowledge; myself, Dr. Wagner and Dr. Shaffer.

Q. Okay. And Dr. Wagner also was involved in study 329, correct?

A. That's correct.

Q. She had a site in Texas?

A. Yes.

Q. Okay. And Dr. Shaffer? Who is Dr.

Shaffer?

A. He's a child psychiatrist and director of the division of child psychiatry at Columbia University.

Q. Okay. And who prepared that manuscript that you're looking at right now?

A. It was one of the GSK authors. I'm not sure who lead the preparation.

Q. Okay.

A. To the best of my knowledge.

Q. And when, if you recall, were you asked to participate in drafting up and publishing this article?

A. I was asked to participate in a blinded evaluation of the GSK suicide data maybe about a year before this draft.

Q. Okay. And what's the date of that draft again, I'm sorry?

A. The date is September 25, 2003.

Q. Okay. So you believe you were asked to participate in September of 2002?

A. Approximately a year. I couldn't say. I don't know. Approximately a year is the best I can do.

Q. Okay. Sometime in 2002?

A. My best guess.
Q. Okay. I don't want you to guess. I want an estimate. Is that a best estimate?
MR. DAVIS: Object to form.
THE WITNESS: I thought I said that before.
BY MR. MURGATROYD:
Q. Okay. Well, there's a difference between a guess and an estimate.
A. Well, it's my best estimate. I thought I said that.
Q. Okay. That's fine. And who contacted you to get involved in this -- is this a project that you were involved in? Is that how you would describe it?
A. Sure. That would be a fine description.
Q. Okay.
A. I believe it was Dr. Kong or Dr. Carpenter. Probably Dr. Carpenter.
Q. Okay. And how was it presented to you?
A. That they wanted to -- that they knew that the FDA was doing a blinded analysis and they wanted to do the right analysis of their suicidality data. In all of these studies there --
Q. Let me stop you there just for one second.

Suicide data just related to kids, right?

MR. DAVIS: Object to form.

THE WITNESS: To children and adolescents yes, and the problem was that in all of the studies that industry had done and certainly the ones, to the best of my knowledge, that GSK done and certainty in the study 329 there were not a lot of systematic questions on suicidality, and so there were some questions on suicidality in the instruments and those didn't come out significantly different or even a trend in difference between the two groups. What they had was some -- the adverse events, which were coded ambiguously and they were hard to decode which were related to suicide and which weren't.

BY MR. MURGATROYD:

Q. Okay.

A. So they wanted to do a blinded review to see which were fair and square suicide and which were something else to see whether or not there was more suicidality with the Paxil.

Q. Okay. And it turns out that there was -- we're going to get into that in more detail, but there was more suicidality with Paxil after you completed that review, correct?

MR. DAVIS: Object to form.

THE WITNESS: I didn't actually complete this because the FDA analysis came out before -- the FDA analysis came out and so I wasn't involved in completing this, because I thought the FDA analysis was more complete than what GSK had done.

Q. Okay. And --

A. And on the FDA analysis there wasn't more with Paxil.

Q. There was not?

A. Was not statistically significantly more with Paxil is my memory, but I hope we'll go over that.

Q. We will go over that.

A. Good. Okay.

Q. Okay. And who's responsible for coding the adverse -- serious adverse events that occurred during the statistical trials?

A. Yes. It was consensuses conferences with Dr. Wagner, myself and Dr. Apter on blinded --

Q. No. No. I'm sorry. Let me stop you. I think you're going the wrong way.

During the clinical trial?

A. During the clinical trial that was typically the nurse who would see the patient.

Q. Okay. Who would code --
A. No. I'm sorry. I gave you the wrong answer invertedly.
Q. Okay.
A. The nurse wrote down words to describe it.
Q. Right.
A. It was GSK staff who would do the coding into the different categories and the categories were predefined and used standard by pharmaceutical industry, and the categories are too broad.
Q. Okay.
A. Standings in the category with suicidality were other things unrelated to suicidality.
Q. Such as?
A. Aggression, irritability.
Q. And how did GSK code those events?
A. They were all coded together.
Q. And what were they called?
A. The FDA document has the note for that. I don't remember.
Q. If I give you a term, do you think that may refresh your recollection?
A. That would be super.
Q. How about emotional lability?
A. I don't know that that's the code. I

mean, if you -- if that's the correct code we can treat that. I don't have data in front of me to tell me that code. It's not a code that investigators -- it's not a code that university folks work with and I'm not remembering it.

Q. Okay. And it's a code that lumped different serious adverse effects together, correct?

A. Yes, but not all. Just a group of them together. Yes, that's correct.

Q. Right. If you looked at the term, whether it's emotionable lability or any other term you could not tell by looking at it how many suicide events were in that term?

A. That's correct.

Q. And so you were asked to try to separate that out?

A. That's correct.

Q. And what was the process that was developed for you to do that?

A. Sure. The process was that GSK sent the cases to two other child psychiatrists uninvolved with any of the studies or anything prior or subsequent for redacting.

Q. Okay.

A. So that they redacted the minimum amount

that would blind a reviewer to medication.

Q. So you wouldn't know what drug the kid was taking?

A. So you would have -- not just that it wouldn't list which drug, but you'd take out other information which would give you clues to the drug.

Q. Right. Which would be typical side effects of the imipramine, which would be cardiovascular problems?

A. Yes. That would be a good example.

Q. Okay.

A. And then the case summaries were sent to Dr. Apter, Dr. Wagner and myself, and we then gave a consensus blind rating on whether these were definitely suicide related, probably suicide related, possibly suicide related, or not.

Q. Okay. And who -- when you said it was sent to outside people who weren't involved in anything to make sure the data was not discernible as to what kid -- what kid the drug was taking?

A. Yes.

Q. Who were those two people?

A. It was two child psychiatrists. One was at the University of Pittsburgh. His name will come to me in a minute. He just moved to San Antonio,

and the other one I don't remember. The first one I do remember I'm just not getting his name. I'll get it for you in a few minutes or we can look it up or it would be in other documents.

Q. Okay. But it's one of your colleagues here at the University?

A. Well, no longer here, and it's embarrassing that I'm forgetting his name, but yes.

Q. Okay. Was it a man or a woman?

A. Man.

Q. Brent?

A. No. It wasn't David Brent.

Q. Okay.

A. I can certainly get you that information by tomorrow. It'll probably come to me in a few minutes.

Q. Okay. And those two psychiatrists, were they considered experts in suicidality?

A. They were both child psychiatrists and so would have reasonable expertise at that. Neither one of them were major child psychiatrists researchers in suicide, but there's only, you know, David Shaffer and David Brent, there's very few people in that category.

Q. Okay. And how were you presented the data

after those two child psychiatrists did what --

A. We were presented in text form for the details they had around the suicidal thing. We were presented the data on the rating scales they'd done, you know, in that interval.

Q. Okay. And do you still have those documents?

A. No.

Q. Okay. What happened to them?

A. I threw them away when we were done.

Q. Okay. And so you were asked to try to determine which -- no -- how many events were you -- what was the universe? How many events, that's if you recall?

A. Don't remember. Sorry.

Q. Okay. Was it events relating to just the depression trials or all the pediatric trials conducted by GSK?

A. I don't remember. I thought it was all the trials. I'm not sure.

Q. Okay. Does the number of 35 sound --

A. That sounds approximately correct.

Q. Okay. And what exactly were you asked to do?

A. We were asked to look at them ahead and

then be on joint conference phone calls where we discussed the cases and reached a best estimate on, you know, which level of suicidality that was; again, blind to which medication or placebo that they were on.

Q. Okay. And how many conference calls -- was this conference calls just between the three -- let me -- did this include Dr. Shaffer too? Did he participate in this?

A. I don't remember whether he did or not. That's a good question. I don't -- I don't -- I'm not remembering that Dr. Shaffer was on those phone calls. I certainly remember -- I don't know the answer to that. I apologize. I should remember. I don't remember that.

Q. Okay. Who do you recall being part --

A. Dr. Wagner and Dr. Apter and myself.

Q. Anybody from GSK?

A. I also should know the answer to that. I believe that there was to record what we said a GSK person on there. They certainly did not take part in the discussions.

Q. Okay. Didn't have a vote?

A. Well, but just not didn't have a vote, didn't talk.

Q. Okay. And do you recall who that person was?
A. No.
Q. Do you have any record that could refresh your recollection?
A. No.
Q. And how many conference calls did you have?
A. My best estimate is on the order of say six.
Q. And did GSK set up those conference calls for you?
A. Yes.
Q. Okay. And the purpose of the calls was to rate the number of -- the different patients whose records you were reviewing?
A. That's correct.
Q. Okay. And did you complete that process?
A. Yes.
Q. Okay. And do you recall approximately when you completed that process?
A. No.
Q. And did you do it to the best of your ability?
A. Yes.

Q. And do you believe that was done also to the best abilities or Drs. Apter and Wagner?

MS. CONNELLY: Object to the form.

MR. DAVIS: Object to form.

THE WITNESS: Yes.

BY MR. MURGATROYD:

Q. Okay. And have you seen those results?

A. I have seen this draft here. I didn't see drafts after that point.

Q. Okay. At which point did you no longer become involved in the project?

A. When the FDA -- when the HAMD analyses went up on the FDA web site I thought that this was redundant and no longer contained separate information because they'd done the same methodology only they done it on the universe of data about all the SSRI's rather just than on Paxil. So I thought this was no longer -- I mean, this was just scoop basically. This would have been valuable if we had gotten it out of there ahead of time, because it was the best data we had. When it didn't get out of there ahead of time there was no additional value to this one in my opinion.

Q. Okay. Well, actually, the analysis you did on the data was actually different than the

analysis the FDA did, correct?

A. That's correct. Now, we didn't have assess to their partial -- you know, we didn't have assess to their work product until they released the whole analysis. We used similar methodology what they used. Once they published it using similar methodology by very good people, it was lead by Dr. Shaffer this one was redundant .

Q. Okay. Did you drop out of the project because you thought it would interfere with your ability to sit on the advisory committee that looked into the issue of suicidality in antidepressants in February of 2004?

A. No.

Q. And I think we've established that GSK never sent you the published article?

A. They did not.

Q. Okay. So as you sit here today you have not read the published article?

A. That is true.

Q. And you don't know the conclusions of the published article?

A. That's true.

MR. MURGATROYD: I think that -- let's go off the record for just a second.

VIDEOPERATOR: We're going off the record. The time is approximately 3:40 p.m.

(Recess taken.)

VIDEOGRAPHER: We are back on the record. The time is approximately 3:47 p.m. Please proceed.

(Ryan Deposition Exhibit No. 33 was marked for identification.)

BY MR. MURGATROYD:

Q. Okay. While we were off the record, Doctor, did you get a chance to review that article that's in your hand?

A. Yes.

Q. And can you identify for the record what that article is?

A. It's an article published in 2006 in the Journal of Child and Adolescent Psychopharmacology entitled Evaluation of Suicidal Thoughts and Behaviors in Children and Adolescents Taking Paroxetine.

Q. Okay. And is that the same title of the manuscript that you looked at in the proceeding exhibit?

A. It's approximately the same, and in a second I'll tell you if it's identical. It's identical.

Q. Okay. And this published version -- and it's in the Journal of Child and Adolescent Psychopharmacology, right?

A. That's correct.

Q. Is that one of the publications that you said you were once upon a time a --

A. That's correct. I was a -- on the editorial board of that journal some time ago.

Q. Okay. And is that a reputable journal?

A. Yes.

Q. And does it submit its articles to peer review so the jury knows?

A. Sure. The purpose of peer review is to weed out scientific flaws and prioritize how important a paper is to the field compared to other ones so the editor can make decisions about competing things and published.

Q. Okay. Now, with regard to the published article, you are no longer listed as an author, correct?

A. That's correct.

Q. And Karen Wagner is now longer listed as an author, correct?

A. That's correct.

Q. And the sole external author to GSK is now

Alan Apter according to this author; is that correct?

A. I don't know everybody on there, but I will take your word for it. I don't know anybody else who is external. On the list I don't know all the people on the list.

Q. Okay. And you can look at the bottom and you can see that's there's little --

A. GSK on everybody.

Q. I'm sorry?

A. It looks like everybody else is GSK.

Q. Okay. So it's Alan Apter and everybody else is GSK, correct?

A. Yes.

Q. Who is Alan Apter?

A. Alan Apter is an Israeli child psychiatrist who has done a lot of work in suicide.

Q. Okay. Is he a competent doctor to your knowledge?

A. Yes.

Q. Okay. And you read the statistical part, the statistical analysis of the suicide events that you helped rate?

A. I didn't help write the draft.

Q. No. Rate. Rate. Help rate?

A. Oh, rate? I did. I did.
Q. And is there an odds ratio mentioned or discussed in this paper regarding Paxil versus placebo?
A. There's several odd ratios discussed. It looks like -- I mean, the odds ratio -- the sort of the one that's in the abstract and discussed again in the discussion in most detail is suicide related events occurring more often in paroxetine with an odds ratio of 3.86.
Q. Okay. And did that odds ratio reach statistical significance?
A. That was significantly different then one with a P value of .003 in this analysis.
Q. And what does that mean to a lay person that it's is statistically different -- or significant -- I'm sorry?
A. It doesn't have an easy lay explanation. What it means is there's less than one chance in -- it really doesn't have an easy lay explanation.
Q. Does it try to take the randomness out of the equation?
MS. CONNELLY: Object to form.
BY MR. MURGATROYD:
Q. Do you understand what that means?

A. Yes. I understand what that means.
Q. Different events can occur randomly, correct?
A. That's correct.
Q. And a P value, when you reach a P value of 05 that statistically is supposed to take out the random factor? Correct?
A. That's not correct.
Q. Okay. Why don't you explain it to the jury?
A. Sure. Any odd thing could happen by happenstance.
Q. Right.
A. You could flip a coin 20 times in a row and it can come up heads even though it was a fair coin. You could win the lottery. So it -- requiring a P value less .5 decreases, but doesn't eliminate the chance that the finding is by happenstance.
Q. Okay.
A. And you have to simply have a conventional level of where you say, well, we'll say it's probably not happenstance. We can never be certain.
Q. Okay. Because there are no absolutes?
A. I'll agree with that. There are no

absolutes. I would agree with that. It was the clausal implication in there that I wasn't agreeing with.

Q. Okay. Now, it says that the odds ratio is 3.86. Round it off would be 3.9, correct?

A. Yes.

Q. Okay. Now, with regard to the pediatric studies done by GSK, does that mean that a child who was placed on -- or a kid, because I don't want to mix up adults and children -- a kid who was placed on Paxil versus a kid who was placed on placebo was 3.9 times more likely to experience a possible suicide event?

A. No.

Q. Okay. What does it mean?

A. The odds ratio is a different number than the risk ratio. So what it means -- and there's no particularly easy way to do this one -- is it means the odds of having the event over not having the event are 3.9 times as great. The math is different then what you described.

Q. Okay. So how would you explain that in a lay term, in a lay person's term the kids taking Paxil versus the kids taking placebo?

A. Someone more skilled than I may have an

explanation. I do not for an odds ratio. It's not an easy lay explanation.

Q. Okay. Is it the same as gambling odds?

A. Yes, actually, but an odds ratio is different than gambling. So if you say the odds of something are two to one --

Q. Right.

A. -- it means you'd have a 66 percent chance of getting it.

Q. Okay.

A. If you said an odds ratio was one to two it would be a 33 percent chance. If you looked at the odds ratio on those that would be four to one odds ratio.

Q. Okay. So in terms of the odds ratio with regard to the clinical trials conducted by GSK on kids taking Paxil showed that the kids taking Paxil were more likely to experience a suicide event than a kid taking placebo?

MR. DAVIS: Object to the form; suicide event, that's not what's described in the paper.

THE WITNESS: Possible suicide.

MR. DAVIS: No. That's wrong too.

THE WITNESS: Yes. I think to give you a complete answer on that one there's sort of a couple

of problems, which is that there were, thankfully, no completed suicides in any of these studies and we do not know the relationship between a suicidal gesture or suicidal ideation and completed suicide. What we do know is that there's something like 1000 kids who think about suicide -- actually there's something like 2000 kids who think about suicide and something on the order of 1000 kids who make an attempt for each one who completes it, and so the relationship between this number and the risk of completing suicide is completely unknown. This second problem with saying -- with agreeing with your assertion is that as I look through here relatively briefly they look at two different things, one of which was the cryptic description and the adverse event form and they also looked at the data from the systematically collected data about suicidality.

BY MR. MURGATROYD:

Q. Okay. Doctor, let me just stop you for a second. I think we're kinda going down the wrong path.

A. I was trying to answer your question.

Q. Well, I think maybe you misunderstood my question. I'm going to try to shortcut it.

The first sentence of the results, do you see that?

A. Yes.

Q. Can you read that first sentence into the record, please.

A. Suicide-related events occurred more often in paroxetine (22 of 642, 3.4 percent) than in placebo groups (5 of 549 0.9 percent); odds ratio OR) 3.86 (95 percent confidence interval 1.45, 10.26; P equals 0.0003.

Q. Now, my question is and I think it's right here: More kids on Paxil experience a suicidal event than kids on placebo?

MS. CONNELLY: That's not a question. That's a statement.

BY MR. MURGATROYD:

Q. Is that correct? I'm just asking, is that correct?

MS. CONNELLY: You didn't ask, is that correct? You just made a statement.

BY MR. MURGATROYD:

Q. Okay. Is that correct?

A. The -- by their suicide attempt -- I'm sorry, suicide related events in here, by the definitions they used, by the way they did it; yes,

that's correct.

Q. Okay. And according to this article, and again, it was based on the information you did with regard to the blinded analysis, correct?

A. That's correct.

Q. Acccording to this article 22 or 3.4 percent of the kids taking Paxil experienced a suicide related event, correct?

A. That's correct.

Q. And that is opposed to 5 of 549 kids or 0.9 percent of the kids taking placebo who experience a suicide related event; is that correct?

A. Yes.

Q. Okay. Now, does that appear to be about a four times difference?

MR. DAVIS: Object to the form.

BY MR. MURGATROYD:

Q. Approximately a four times difference?yes.

A. Little bit less than four.

Q. Okay.

A. Percent. Four times different, yes.

Q. Okay. Now, going back to study 329, did that article separate out the individual studies for analysis?

A. It would take me a long time to be competent -- I mean, it would certainly take me a couple of hours to review this enough to answer all your questions like that. If you want to tell me where to look at them I'll look at them. I didn't see in the scan that it separated out the separate studies. One would not necessarily -- I didn't see that it did that.

Q. And did you in your analysis with Drs. Wagners and Apter separate -- did you know which study the kids were in when you were analyzing?

A. No. We never knew which study the were in and I didn't do any analysis. I pulled out at the end of sort of doing all the blind, whatever, and seeing the one manuscript so I was not responsible for any analysis and I did not in detail review the analysis in the prior exhibit, in the draft manuscript.

Q. Have you ever seen a distribution of how the suicide related events were distributed among the different sites in study 329?

A. In the different sites? No, I've not.

Q. Okay.

A. To the best of my knowledge.

Q. Okay. But you were aware that you in your suit had multiple suicide related events, correct?

MR. DAVIS: Object to the form.

THE WITNESS: Yes.

BY MR. MURGATROYD:

Q. Okay. And how many?

A. Don't know.

Q. You just know that there was more than one?

A. Yes.

Q. And with regard to your participation in study 329, was that a hands job where you actually interviewed the kids and provided them with the drugs?

A. No. That was Dr. Birmaher.

Q. And with regard to 329 after your site had been approved and appointed for here in Pittsburgh, what did you do -- what was your exact role in conducting the study?

A. Yes. My role was supervisory in conducting the study.

Q. Let me ask you this: Where did you get the kids?

A. Advertising and from self referral to the child psychiatric clinic.

MS. CONNELLY: Also, object to form. I don't think there was any children. I think it was were adolescents.
BY MR. MURGATROYD: Again, I think I've said this four or five times. I'm referring to --
MS. CONNELLY: That may be what you're referring to because it's vague, because my understanding of this particular study about what you were questioning is that it was not all kids. It was adolescents.
MR. DAVIS: That's a big difference between a seven year old and a 18 year old.
BY MR. MURGATROYD:
Q. Well, let me ask you this: What were the age ranges of the kids in the study?
A. 12 to 18.
Q. Okay. Now, in terms of advertising, was that radio or newspaper?
A. My memory is radio and newspaper. I can't tell you definitely that that's all we used.
Q. And how many kids did you end up getting n the study?
MS. CONNELLY: Object to form on kids.
THE WITNESS: Fine. Adolescents in the study I don't know. I don't remember the exact

number.
BY MR. MURGATROYD:
Q. Do you know if it was more than 10 or less than 10?
A. Yes. It was more than 10.
Q. Was it more that 20?
A. Yes. It was more than 20.
Q. Okay. More than 30?
A. Do you know the number and could I verify it?
Q. I don't know the number off the top of my head. I'm just asking you, for your knowledge?
MS. CONNELLY: If you don't recall you don't recall. You're under oath.
THE WITNESS: Right. My best guess is more than 30. I don't recall the exact number. My apologies.
BY MR. MURGATROYD:
Q. And do you recall what percentage of adolescents in your site experienced a suicidal-related event?
A. No.
Q. Okay. And prior to you publishing your article on 329, had GSK to your knowledge, analyzed the suicide events and determined what the risk

ratio was?

A. They had given us the data as it is in the paper on that whole category, and they had analyzed whether any -- any -- in the investigator's meeting they presented the side effect categories that they had including that category, and we reported the only side effect that came out different and statistically significant, which was not the category related to suicide events in this study.

Q. Okay. But from the information that GSK provided you, could you determine how many suicide events there were?

A. You can get close in the suicide events, and so it's -- with the degree here no, but yes, and I believe in the paper we report that, you know, the best data we had at the time.

Q. Okay.

A. It included -- it clearly could include things other than the suicide event. That was the trouble with that scale. No, they did not separate out the suicide from the other things that got in that adverse event category if that better answers your question.

Q. Okay. Thank you. Were you aware that there was a study being conducted in Europe at the

same time your study was being done called 511?

A. I was aware that there was a study being conducted in Europe. I don't know that I knew the particular number for it.

Q. You have since reviewed the data regarding study 511, correct?

A. I did review it at one point in my career, yes. I haven't reviewed it recently. I haven't reviewed it in a decade.

MR. DAVIS: I still don't believe the witness understands what study you're talking about. There were two studies in Europe.

BY MR. MURGATROYD:

Q. Okay. Do you know what I mean by 511? Di you know what I'm talking about?

A. No.

MS. CONNELLY: Thank you. I didn't know there was two studies in Europe.

BY MR. MURGATROYD:

Q. Well, there was 377 and 511. Do you recall the study in Europe that did not use a placebo control?

A. No, I did not know about that one.

Q. But you did at some later time, right?

A. I knew from something that I saw published

something that there was a later one. I hadn't known about it before.

Q. Okay.

A. And I've never seen that data on the one without a placebo control. I've never seen the data

Q. But you've seen the data since your article's been published, right?

A. That's not -- no I haven't. What I have seen is that the FDA said that there was no significant effect on that and with that I would -- I probably saw the same size, but I'm not certain. I've not seen more data on that study to the best of my knowledge.

Q. Do you recall the number of suicide acts that occurred during that study?

A. No.

MR. MURGATROYD: Okay. Let's go off the record for a minute.

VIDEOGRAPHER: We're going off the record. The time is 4:11 p.m.

(Pause in Proceedings.)

VIDEOGRAPHER: We are back on the record. This is Tape No. 5 of the deposition of Dr. Neal Ryan. The time is approximately 4:28 p.m. Please

proceed.

MR. MURGATROYD: Pamela, what's our next Exhibit?

MS. CONNELLY: Next will be 34.

MR. MURGATROYD: 34. Thanks.

(Ryan Deposition Exhibit No. 34 was marked for identification.)

BY MR. MURGATROYD:

Q. Can you identify for the record what Exhibit 34 is, please.

A. Yes. Exhibit 34 is a printout of an e-mail from myself to Dr. Martin Keller entitled "RE: Paxil data on the web," and it references or it contains in its body another e-mail from myself to Dr. Keller, Dr. Strober, Dr. Wagner and Dr. Graham Emslie on a press release from the Wall Street Journal dated June 16, 2004 related -- announcing the New York Attorney General Eliot Spitzer's accusations of fraud and secrecy against GSK.

Q. Okay. And I think we talked about whether or no you were aware of Attorney General Spitzer's action?

A. Yes.

Q. And did you get a chance to read that?

A. Yes, I do.

Q. Does that refresh your recollection as to what Attorney General --

A. Yes.

Q. Okay. Do you know what had happened in that case?

A. No.

Q. Okay. Now the first part of that e-mail to Dr. Keller at the top part?

A. Yes.

Q. What does that say? Can you read it into the record?

A. It says in entirety, "Did we know about study 551 before today? See web site," and then I give a link to a GSK web site detailing stuff on presumedly on that study.

Q. And did you look at that web site and look at that study on that date?

A. At the time I looked at the web site. I don't remember the details of that study.

Q. Okay. Was it a concern to you?

MR. DAVIS: Object to form.

THE WITNESS: I do not remember that the results of the study were a concern. What my comment here to Dr. Keller was, is to the best of my knowledge this was the first I had heard about that

study.
BY MR. MURGATROYD:
Q. Okay. And we talked about the two other depression studies, and so I'm going to use the numbers so 701 and 377 were the other two depression studies. Okay?
A. Yes.
Q. 377 was in Europe. 701 was not.
A. I'm sorry. 701 was -- I'm sorry. I'm sorry. I'm getting confused.
Q. Yes. I want to make sure you -- you may want to write it down because I'll be asking you different questions --
A. This is about study 511?
Q. That's 511. Correct.
A. Do you have anything that would refresh my data on the details of this if you want me to answer on the details?
Q. Yes. I'm going to give that to you in a minute, but I want to make sure
A. The other studies that -- does anybody have a writing utensil I can share, as we say? So 329, 511, 701.
Q. And 377.
A. Okay. Now I have those numbers. Can you

detail 701 and 377 if I'm to answer any questions on them?

Q. Yes. Let me get show you some documents on them so you're not getting it from me you're getting it from the documents.

A. Okay.

Q. I'll show you what I'm going to mark as Exhibit 35, which is the study synopsis for 377, and I'll mark as Exhibit 36 the study synapsis for study 301 and just so the record's complete I'll mark as Exhibit 37 a study synopsis for your study 329.

(Ryan Deposition Exhibit No. 35, 36, 37 was marked for identification.)

The questions I'll be asking you about these studies really have to do with the dates. I think we've already talked about the results, but we may briefly talk about the results. Then just to round it out I'm going to show you 38. We can go off the record. It may take the doctor some time to go through these.

(Ryan Deposition Exhibit No. 38 was marked for identification.)

VIDEOPERATOR: We're going off the record. The time is 4:35 p.m.

(Pause in Proceedings.)

VIDEOGRAPHER: We're back on the record. The time is approximately 4:38 p.m. Please proceed.
BY MR. MURGATROYD:
Q. And, Doctor, while we were off the record you reviewed a number of documents to either inform you or refresh your recollection as to which numbers are which trials, correct?
A. Yes.
Q. And let's take 377 first.
A. That's Exhibit 35.
Q. I have it here. Okay. And that was a study of Paxil in kids with just depressive disorder, correct?
A. In the time allowed I scanned it briefly. That appears correct. Actually, I'm sorry. Is this children or adolescents or both? This is adolescents only.
Q. Okay. And I think you've stated earlier that that study achieve statistical significance in regards to any of its end points, correct?
A. That was the best knowledge I had before looking at this. This is an internal GSK document, and what I had only before was basically from the FDA web site so I stated it didn't have significance on it, as far as I knew, and --

Q. Well, we didn't get the conclusion. Does it have a conclusion?

A. I don't know. Let me -- probably go to the back -- it'd probably more likely be there.

It looks like this one had a nearly significant, but not significant trend on one analysis if they did age groups greater than 16 years old and --

Q. Again, just looking for statistical significance.

MR. DAVIS: Object to the extent that these synopses are not the complete study reports so it's difficult for the witness to answer the questions.

THE WITNESS: It -- the conclusions state that they didn't show superiority of paroxetine over placebo in the treatment of adolescents depression. In the analysis presented here none reached the .05 level of statistical significance that I see.

BY MR. MURGATROYD:

Q. Okay. And that would fit into a category of a failed or a negative trial, correct?

MR. DAVIS: Object to the form.

THE WITNESS: Not as it was used earlier today, no.

BY MR. MURGATROYD:

Q. Okay. What category would you put that in?

A. A negative trial. A failed trial has a different meaning that what we've seen today.

Q. And by negative trial, you mean failed in all regards?

MR. DAVIS: Object to the form.

THE WITNESS: No.

BY MR. MURGATROYD:

Q. Okay. What do you mean?

A. Primary outcomes measures not significantly different between the medication and placebo.

Q. Okay. And let's go to 701.

A. Okay.

Q. And actually before you do that, 377, look at the -- I think it's the first two pages that give you the study dates? Do you see these?

A. Yes.

Q. And what were the study dates for that study?

A. The study dates for this study reported in this document is 26 April 1995 until 15 May 1998.

Q. Almost cotemporaneous with your study 329,

correct?

A. Yes.

Q. Okay. And let's go to 701. When -- actually one more question, 'm sorry. I hate to make you jump around. When that study was concluded, did GSK provide you the results of that study?

A. In a poster format only. Yes, they did. This is the -- the trouble is that they have two and they provided me one of the two in a poster format. I assume it's this one. I'm not certain it's this one versus the other one.

Q. When you say they provided it to you in a poster format --

A. Sorry. Power Point attachment to e-mail point at some point in my life.

Q. Oh, okay. And you don't know if it was 701 or 377?

A. I don't know. Presumably they indicated it at the time. I don't remember.

Q. Okay. But it represented a failed study?

MR. DAVIS: Object to the form.

THE WITNESS: You -- A failed study has a different meaning than the question you're asking me.

BY MR. MURGATROYD:

Q. Okay. A negative study? I'm sorry.

A. Yes.

Q. Okay. Good. Let's go down to

A. A failed study does have a meaning, but it's different then that.

Q. Okay. Let's go to 701.

A. Okay. 701 is No. 36. Okay.

Q. And is that the report synopsis for that study?

A. Looks to be.

Q. Okay. And is that also -- is the third study in which Paxil was been tested on kids with major depression?

MS. CONNELLY: Object to form; on kids, again,

THE WITNESS: This one's in children and adolescents both. It appears to be the first study in both, and let me look at the dates on this to see if it would make it as the third one. Yes. From the dates on the other one this looks to be the third one done.

BY MR. MURGATROYD:

Q. Okay. And, again, you don't know whether you received the results of that one or 377?

A. No. I believe I received the results of the other one. I hadn't looked in detail enough at 701. So I received at one point of 377 not 701 by the dates here.

Q. Okay. That's great. Now, we were talking about -- and that was also, 701 was also a negative study in that Paxil did not separate from placebo in a statistically significant manner, correct?

A. Yes, though, this one was more interesting in that it sort of looked like the trend was for Paxil to be better, not statistically significant, if I was reading this right earlier. Was I reading that right?

Q. Actually, it was the other -- one where the where placebo was better.

A. Or was the trend -- was that where it was? Favor of placebo. You're right.

Q. So placebo was doing better than Paxil with regard to some efficacy points in that study, correct?

A. Age by group. No. So let's see. It's s children 7 to 11, but not the whole group did better in one on the placebo.

Q. Okay. And so now we have the three depression studies?

A. That's correct.
Q. We have a number for all three of them, correct?
A. Yes.
Q. Okay. Good. And now we have 511?
A. 511. Yes.
Q. Which was presented to you in a article, and article -- an journal article format, correct?
A. That's correct.
Q. Okay. And have you read that study before today?
A. No, I have not.
Q. But you were aware that it existed according to your e-mail?
A. I was aware -- my e-mail indicates that I learned first of it from the Wall Street Journal and was surprised.
Q. And that date was that?
A. The date on that was Wednesday, June 16, 2004, which embarrassingly enough was after the publication date on this paper.
Q. Okay.
A. So I should have seen it, but did not.
Q. Okay. That's fine. It's also several years after your article was published though,

right?

A. Yes.

Q. Okay. And theres a table on page 27 of that journal article.

A. Okay.

Q. Okay. And do you see in that table an entry for suicidal acts?

A. Yes.

Q. Okay. And what percentage of the kids who were taking Paxil experienced a suicidal act?

A. Obviously that's assuming that -- I don't know the answer to that. This list under the Suicidal Act" line 10.1 percent on clomipramine and 12.1 percent on paroxetine, on Paxil

Q. Okay. So to answer my question: I asked, how many kids experienced a suicidal act on Paxil. The answer is?

A. Well, I was not just trying to be difficult. I had not had time to review the paper to say what they're including in what they call a suicidal act and they assessed it.

Q. I'm just asking you to look at the table and tell me what the number is?

A. That seems different than your question to me.

Q. Okay. What is the number?
A. The number on the paper is 12.7 on paroxetine and 10.1 on clomipramine.
Q. Okay. And they're listed as suicidal acts, correct, on that table?
A. Yes.
Q. Now, in your paper, right? Did you have a similar number that broke out the number of kids or adolescents, so you don't object, that experienced a suicidal act?
MR. DAVIS: Object to the form.
THE WITNESS: No.
BY MR. MURGATROYD:
Q. Okay. Did GSK participate in the drafting of your article?
A. Not to my knowledge.
Q. The GSK authors did not participate?
A. You said in the drafting of the article?
Q. Yes.
A. Would you explain to me what you mean by drafting?
Q. Well, the -- was the article that was eventually published regarding 329 a collaborative effort between all the authors?
A. Yes.

Q. And that includes the GSK?
A. Yes.
Q. Okay. And were aware that that article had to be approved by GSK's legal before it was allowed to go out to be published?
MS. CONNELLY: Objection; form.
MR. DAVIS: Objection; no foundation.
MS. CONNELLY: Yes. There's not facts in evidence that that's true.
MR. MURGATROYD: Okay. He can answer.
MS. CONNELLY: I think you have to rephrase the question, because to answer that he has to assume that fact that you just stated that there was a required approval by legal. I have no reason to think that there was or wasn't, neither does this witness.
BY MR. MURGATROYD:
Q. Do you know whether or not the article that you were the coauthor of on study 329 required approval by the legal department at GSK before it would be allowed to be published?
A. I have no knowledge on that.
Q. Okay. Have you ever seen any e-mails from GSK employees -- strike that -- we'll come back to that later.

Now, in study 329, do you know what the ultimate number after the final review was done, which you were part of which resulted in the Apter article, what the final number was for the suicide acts -- actually let be rephrase it -- possible suicide-related events was for study 329?

A. No.

Q. Okay. Do you know what percentage of the kids on Paxil experienced such an event?

MS. CONNELLY: Object to form; it's vague as to what study and you're saying kids again.

MR. MURGATROYD: Okay.

BY MR. MURGATROYD:

Q. 329. Okay. Adolescents. That's fine.

A. 329 adolescents I do not know. I mean, w. I don't know, you know, the number in the paper for the whole number, but the number of -- but I don't know precisely -- or one, we presumably could find it from the papers here.

Q. Okay. Now, would you agree that if -- that if in fact Paxil -- that with regard to Paxil there is a definite risk of increased suicidality in adolescents that Paxil would not be considered a safe drug?

MS. CONNELLY: Object; it's compound.

MR. DAVIS: Object to the form.

THE WITNESS: Let me split it out for you. It -- I think there is at present no data to suggest that Paxil is different from other compounds in the class. There is some data to suggests that there may be an increase in suicidal events in primarily adolescents. There's little data on children separately in with acute treatment with these compounds. This is some data to suggest that there may be overall fewer completed suicide in treated adolescents with this class of compounds then in a untreated adolescents. And so I think the data is mixed, and I thinks it's certainly premature to say that the compounds increase completed suicides. There is data on these things categorized as suicidal acts and there is meaningful data. It's certainly not -- it's certainly a little bit mixed, but there's certainly is data suggesting there's more of these suicidal events in this group.

Q. Okay.

A. And there was a compound bit that forget by the end. Do you want me to answer that second part?

Q. No, we'll came back to it.

Do you agree that adolescents treated with

paroxetine, there is a definite risk of increased suicidality?

MS. CONNELLY: Objection; he just answered that question.

MR. DAVIS: It is asked and answered.

THE WITNESS: I think my prior answer -- okay. Say your question again, please.

BY MR. MURGATROYD:

Q. Do you agree -- let me ask you this. I'll make it easier. Do you agree with the following statement: In adolescents treated with paroxetine there is a definite risk of increased suicidality?

A. No.

Q. Okay. Have you seen any documents -- do you know what the Global Safety Board is within GSK.

A. No.

Q. Do you think GSK as a corporation has more knowledge about the drug Paxil than you personally do?

MR. DAVIS: Object to the form.

THE WITNESS: They have knowledge that I do not have. They also have constraints I don't have to follow. So if the corollary of that is their statements -- would I accept their statements as truth without the data? No.

BY MR. MURGATROYD:

Q. Okay. Would --

A. Would a reasonable person accept a statement in their's opposed to my conclusion? I don't think that would be a correct conclusion from that.

Q. How many kids were treated with Paxil in the Paxil studies?

A. In all the studies put together I -- it was in one of the documents here. It's looking like it's -- I don't know 4 or 500 kids on Paxil, but, you'll -- I mean, you'll have to give me some time to wade through here if want a better number then that.

Q. Well, it's hundreds, hundreds, right?

A. Yes.

Q. And how many did you adolescents did you give Paxil?

MS. CONNELLY: Object to form.

THE WITNESS: As part as this study on the order of 15 or 20, but since we didn't see our data unlighted separately and since I'm not remembering our total site enrollment that's as close as I can do, and as part of this study plus certainly some other children at the same time and before treated

with Paxil.
BY MR. MURGATROYD:
Q. Well, how many children have you personally given the drug Paxil?
A. Probably 20 or 30.
Q. And do you think GSK has more information than that, the effects of Paxil on 20 or 30 kids?
MS. CONNELLY: Object to the form.
MR. DAVIS: Joined.
MS. CONNELLY: It was vague and confusing.
BY MR. MURGATROYD:
Q. Did you understand the question?
A. Not entirely, but.
Q. Okay. Well, do you think GSK as a corporation has more knowledge then what the effects were on 20 or 20 kids?
MS. CONNELLY: Same objection. They have more knowledge than what the effects were? You mean what the effects were? I don't understand your question. Can you rephrase it?
MR. DAVIS: Objection, form.
THE WITNESS: Do you saying -- if you're question is, at one time did they have data related to the effects that were not publicly available so I couldn't evaluate? Yes.

If you're saying, do they have meaningful amounts of data on this question that hasn't been released so I cannot even include it in my evaluation I have no knowledge on that one.

BY MR. MURGATROYD:

Q. Okay. Were you aware that GSK has access to adverse event reports that are submitted to the FDA?

A. Yes.

Q. And you don't have assess to that, do you?

A. Well, I don't look at that. I have no idea whether the public -- whether we have access to those. I don't know the answer to your question.

Q. You have not looked at that information, have you?

A. I have not looked at that.

Q. And you are aware obviously that adverse event reports get submitted direct to GSK, correct?

A. That's correct. Those are however non-contributory to the question of if there's an increased hazard for suicide. We could discuss in detail the reason that the adverse reports just don't tell you anything, but they don't. So that certainly doesn't support a contention that I'm less qualified to make any evaluation of this than

somebody internal to GSK.

Q. So you think that you -- you can state under oath -- that you having given Paxil to 20 or 30 kids have comparable or greater knowledge of the effects, the safety effects that Paxil has on children and adolescents given Paxil than GSK?

A. I think your question was worded to inadvertently to put words in my mouth.

Q. Well, you can answer it.

A. So the number of children that I've given Paxil to is immaterial to the question of assessing the available data on hazard of suicidality, because if personal experience was the measure we'd never have a reasonable assessment of the risks of these compounds.

Q. Well, you agree that GSK obviously has a lot more information than you have?

MR. DAVIS: Object to the form.

BY MR. MURGATROYD:

Q. About the affects of Paxil -- the serious adverse effects of Paxil on children and adolescents given the drug? Do you agree with that?

A. GSK has more data than I have. I do not know if there is material that hasn't been released yet. Lots more data rather its material -- whether

I can make a better answer than GSK I cannot, but they have different constraints in the decisions that they make. Whether my evaluation of this is separately inferior to theirs so not worth making seems to be what you're getting at and certainly I see no data that my -- my evaluation of this question is, is because of the things you are trying to raise inferior to theirs and so it shouldn't be made.

Q. I just asked u a simple question, Doctor. You didn't have to put anything into it.

MS. CONNELLY: Objection; you're trying to argue with the witness.

MR. MURGATROYD: I'm not trying --

MS. CONNELLY: Do you have a question for him?

BY MR. MURGATROYD:

Q. I'm just trying to make the record clear. The statement that in adolescents treated with paroxetine there is a definite risk of increased suicidality made by a GSK employee who is a member of the Global Safety Committee, bears no weight with you?

MR. DAVIS: Object to the form; There's no foundation. How's the witness supposed to answer

that question?

MR. MURGATROYD: Well, let me show you the document.

MS. CONNELLY: What a novel idea.

(Ryan Deposition Exhibit No. 39 was marked for identification.)

BY MR. MURGATROYD:

Q. Let's take a look at 39.

MR. DAVIS: May I see that when you get a chance?

MS. CONNELLY: You can go first.

MR. DAVIS: Thank you.

MS. CONNELLY: Okay. Plaintiffs Exhibit 39 appears to be a GSK produced document subject to the protective order. It appears to be an internal e-mail between GSK people.

BY MR. MURGATROYD:

Q. Have you had a chance to look at that document?

A. Yes.

Q. Okay. Can you read the first paragraph and the first three bullet points into the record, please.

MR. DAVIS: Yes. And let me just object to the use of this document with this witness.

There's no foundation laid that this witness knows anything about the document, the context of the document or the contest of the discussion.

THE WITNESS: Okay. This is a document that's from Ronald L. Krall at GSK. I do not know him and do not belive I met him, to Trevor G. Gibbs.

BY MR. MURGATROYD:

Q. Actually, that's Colin Dollery to Ronald Krall, right?

A. It doesn't appear to be the case.

Q. What's the left-hand side say?

A. Oh, you're right. My apologies. You're absolutely right. It's from Colin Dollery to Ronald Krall and Trevor Gibbs and Alan Metz. I don't know any of the individuals, and the subject line is entitled "GSB Discussion."

Q. Okay.

A. It says: Dear Ron, I have been reflecting on the three presentations the Global Safety Board has received in relation to the safety of paroxetine. I thought it might be helpful if I list my provisional conclusions prior to our discussion this afternoon. The first bullet point. The presentations (adolescents, adults, epidemiology) were of high quality and well balanced.

Second bullet point: In adolescents treated with paroxetine there's a definite risk of increased suicidality.

Third bullet point: We have little or no evidence of efficacy in major depressive illness at this age group.

Q. Okay. Now, you see that it says the Global Safety Board? Do you see that?

A. Yes.

Q. Okay. And have you ever, to your knowledge, been presented with presentations that have been presented to the Global Safety Board?

A. Not to my knowledge.

Q. Have you ever been presented any epidemiologic studies that were done by GSK that were presented to the Global Safety Board concerning the safety of Paxil and the treatment of adolescents with major depressive disorder?

A. I have no information about such studies being done. I don't remember seeing such. I don't know that they occurred.

MS. CONNELLY: If you have documents showing such studies --

MR. MURGSTROYD: I just asking if he's ever seen it?

MS. CONNELLY: It's one of those questions where it makes it a fact not in evidence.

MR. MURGATROYD: Well, it is a fact in evidence. It's says right here. "The presentations, (adolescents, adults, epidemiology) were of high quality and well balanced." I just wanted to know.

THE WITNESS: I'm sorry. It does not indicate that there were any child or adolescent epidemiology studies here.

MR. DAVIS: Join in the objection.

BY MR. MURGATROYD:

Q. My question was simple: Have you ever been presented with any epidemiology studies that were ever presented to GSK's Global Safety Board? That's all I want to know?

A. All right. I thought I answered that. No.

Q. Okay. Great. In determining whether or not Paxil is causing suicidality in kids -- meaning adolescents -- who take the drug for depressive disorder, is an epidemiologic study something you would want to see in order to determine that if, in fact, that --

A. To the best of my knowledge no

epidemiologic studies had been done at this point in children.

Q. And what's the date of this document?

A. This document is 11-4-2004.

Q. And you don't content to know everything that GSK has done, do you?

A. No.

Q. Okay. Now, this document also says "We have little or no evidence of efficacy in major depressive illness in this age group." Do you see that?

A. Huh-uh.

Q. And do you agree or disagree with that statement?

A. We've discussed that before. I think there's a little bit of evidence, so it's above no, but for me when you aggregate it all it's in the little category.

Q. Okay. Now, with regard to Paxil and its use in children and adolescents, you have given different presentations on that subject, correct?

A. I have given presentations on that subject; that's correct.

Q. Okay. How many presentations?

A. I remember one at the APA, American

Psychiatric Association.

Q. Okay. What was the date? Let's take one at a time and go through the details of each of these.

A. Okay. I don't know the date.

Q. Okay. So we have one with the APA?

A. Right.

Q. And do you know what year?

A. No.

Q. Okay. And who was your audience?

A. It was -- would in general be members of the APA, but it wouldn't have been restricted to that. Anybody can register for the meeting, but Largely psychiatrists, largely from North America, but not exclusivity. They could be lay people. It could be other professionals in the audience.

Q. And what type of presentation did you put

A. It was a discussion of the study we're calling 329, and the findings in that study.

Q. And what kind of presentation was it?

A. It was a presentation before an audience with power point slides.

Q. And who prepared those slides?

A. I prepared the slides. GSK then put them in their uniform slide logo without changing the

content, just changing the decoration about them.

Q. Okay. And where are those slides today?

A. I don't know.

Q. You didn't keep them?

A. I can check tonight. I don't remember that, but I'll double check.

Q. Okay. Where would you look for them?

A. I'll look for them on my computer work. I tried to look through the things relevant, and if I didn't produce them -- I don't know if I have them or not, but I will double check.

Q. Okay. How long was this presentation, if you recall?

A. 45 minutes-ish.

Q. And that was 45 minutes of just you talking?

A. Yes. Plus the -- approximately 45 minutes, 50 minutes with me, and then a discussion.

Q. Okay. And during your presentation, did you state that Paxil was effective in treating adolescents with major depressive disorder?

A. I don't know.

Q. I take it your slides would help refresh your recollection on that regard?

A. Yes.

Q. Okay. Is that something that you've ever stated publicly?

A. I've stated that -- that there was an indication for efficacy, yes.

Q. Have you stated definitively that Paxil is effective for the treatment of adolescents with major depressive disorder?

A. I don't know. I think that the trouble -- I mean, that we got a signal in that direction, but exactly how I stated it I don't know.

Q. Okay. That's one presentation, correct?

A. Huh-uh.

Q. Any others?

A. Not to my memory.

Q. Okay. Was this presentation recorded by anybody to your knowledge?

A. There was a crew from England, a television crew that recorded some of the presentations that morning, I believe, including mine.

Q. Okay. And do you know who -- do you know any of the names of these people?

A. No.

Q. And did GSK ask you to present this information at the APA?

A. It was a symposium organized by GSK, yes.
Q. And did you get paid either directly or indirectly by GSK for doing this?
A. I got an honorarium from the APA that was provided by GSK, you know, an unrestricted educational grant to the APA. They paid me a combination of honorary and then travel fees.
Q. Okay. Let me make sure I got that right. GSK pays the APA and the APA pays you?
A. That's correct.
Q. Okay. And why is that? Why doesn't GSK just pay you directly? Same difference, right?
MR. DAVIS: Object to form.
THE WITNESS: It's not the same difference, because the APA reviews the content and presentation of those. So you're responsible to the APA for balance and fairness in the presentations, as well as they let the presentations be done.
BY MR. MURGATROYD:
Q. So if your presentation is unbalanced or unfair, would that make you susceptible to some kind of rules within the APA?
A. Yes. Though, I don't -- but I can't tell you offhand the details of it, but yes.
Q. Okay. And do you agree that one of the

ways that GSK promotes its drug Paxil is by giving presentations at symposium?

MR. DAVIS: Object to the form.

THE WITNESS: I think that helps them promote their compound, yes.

BY MR. MURGATROYD:

Q. Okay. Now, another way of promoting their compound is what are known as posters, correct?

A. Here -- the way you word your question -- posters are done by investigators to present the data. They would have a secondary effect of promoting the compound, yes.

Q. Okay. And you personally were involved in how many posters regarding Paxil and its use by adolescents for the treatment of depressive disorder?

A. Two or three to my memory.

Q. And let's take up each of those at a time, and actually before I do that, have you produced any of those to me?

A. No. I don't have those. I wasn't primarily responsible for the posters, and I don't have copies of those.

Q. Okay. You don't have copies anywhere?

A. No. I produced everything I had, and I

have to check on the slides. That may have been an oversight on my part, not deliberately have been, but I will definitely check tonight and I will get them back to you by the morning.

Q. That's fine. And so there's two or three posters, correct?

A. That's the best I can guess.

Q. Okay. Again, that's an estimate not a guess.

A. My apologies. It's an estimate.

Q. Okay. There's a great analogy on the difference between a guess and an estimate?

A. No. No. No. I'm not.

Q. You got the difference between the two?

A. No. Not up. What's the difference?

Q. All right. If I were to ask you what kind of car do I drive you would have no information upon which to base that, correct, so you would have to guess.

A. Okay.

Q. But if I were to ask you to tell me the length of this table either in inches, feet or yards, you could give some sort of estimate, correct?

A. Works for me. So it was an estimate.

Q. Okay.

A. Could not guess a BMW. See? Your point's well taken then.

Q. No. Much faster. I don't drive slow cars. Two or three posters. Let's go over each one of those.

A. Right. I don't know. I don't remember where they were presented. As I remember there was a poster with the results of the study before the publication. It was -- and so this is a guess as opposed to an estimation -- my guess is it was presented at the APA or the NCDEU or a meeting like that, but I don't know where it was presented.

Q. Okay.

A. And I remember that --

Q. Wait a minute. I'm going to ask you?

A. My apologies.

Q. We're going to confuse the jury as well as the court reporter. NCDEU?

A. New statistical -- NCDEU. It's a meeting that's always known by those initials and never by more of a name. It's a meeting sponsored by the NIMH that's held annually typically in Florida.

Q. And what kind of people attend such a meeting?

A. Adult and child psychiatry. Primarily pharmacology, but not exclusivity.

Q. Okay. And did we get what those initials stand for?

A. The initials stand for a part of the NIMH that existed 20 years ago that hasn't existed since then called the New statistical Drug Evaluation Unit, but what it stood for has been come disassociated with the name. The name is now the NCDEU meeting.

Q. Okay. But that part of the NIMH doesn't exist anymore?

A. That's correct. It's now just --

Q. Carried on its name?

A. It's like USX. It used to be US Steel.

Q. Okay. Great. Now, the posters -- well, maybe you can explain to the jury, how does a poster work? What is a poster and what it its purpose and?

A. The poster is a presentation of selling a data from a study on a -- on a bulletin board that you carry up a rolled up piece of paper to the meeting that's got the details on it. You put it up on the bulletin board. Colleagues come by and discuss it with you for a couple of hours and you take it back down.

Q. Okay. So -- and who prepares the poster?
A. The investigator or the pharmaceutical industry in collaboration with the investigator depending on the studies.
Q. Okay. And with regard to the two posters you did, did you create either of those posters?
A. No. I didn't. I was a coauthor on two posters. I wasn't the primary author, and no I did not.
Q. Okay. And were you present when your posters were presented to the people who gathered for the meeting?
A. I was not for either one.
Q. Okay. And with a poster, does one of the coauthors or authors of the poster stand next to the poster?
A. Typically the first author stands next to the poster, typically other authors would not.
Q. Okay. And what are their job? To field any questions?
A. Yes.
Q. Do they also give a lecture or do they just --
A. No.
Q. Okay. And how is it set up? Are they in

a meeting hall room where?

A. It would be set up in a meeting hall room with 50 to 150 other posters in long lines. You can sort of see, you know, long lines of the poster boards just in aisles down four or five rows of those perhaps.

Q. That's so the doctors or whoever's attending the meetings view each poster and if the have a question they can talk to the presenter?

A. That's correct.

Q. And have you seen recently the poster that was presented that had you as a coauthor?

A. I have no idea which poster you're talking about so I can't answer your question.

Q. Well, maybe, can you differentiate between the posters that you coauthored?

A. The one's I'm remembering now are two.

Q. Okay.

A. One was a poster on the overall results of the study before the paper came out, and there was a second poster where the lead author was Dr. Boris Birmaher. B-I-R-M-A-H-E-R.

Q. Okay.

A. Presented at the American Academy of Child and Adolescent Psychiatry doing a sub analysis

of saying whether the kids with conduct disorder problems or oppositional defiant disorder responded differently?

Q. Okay.

A. Those are the two that I can remember.

Q. And to your knowledge, was your name stuck on other posters by GSK?

A. There was one other poster that I was a coauthor on.

MR. DAVIS: Excuse me. Object to the form.

Sorry, Doctor.

MS. CONNELLY: Yes. I don't know what stuck means? Using glue or?

THE WITNESS: There was one other poster that I was a coauthor on for study -- help me get this study right now. I suppose it's -- which was the second study completed?

MR. MURGATROYD: 377.

THE WITNESS: For study 377. That I was a coauthor on that poster. I did see it before it was presented.

BY MR. MURGATROYD:

Q. And why would you be a coauthor on 377 when it was an European study?

A. Right. They were two issued involved in that. One, they needed a member of a particular organization to present at that study, and I felt it was -- they did show me the data on that. I had been a participate in the design of that study and I had done training for the raters in that study. So it was -- I made a modest, but real scientific contribution to the study.

Q. Okay. When you say you participated in the designed of that study, can you --

A. That's correct.

Q. Can you explain that please.

A. Sure. SKB, GSK had called a design meeting with a relatively small number of people to talk about the design parameters in the study, so, for example, which assessment instruments to use. Whether to use a run-in placebo period or not, how long a study to do, how to titrate the medication.

Q. Okay. Where did that meeting take place?

A. I don't remember.

Q. Okay. And who else was present other than yourself?

A. Don't remember. I'm certain that -- or it seems very -- my memory is that Dr. Graham Emslie was. I don't remember the other participates.

Q. Okay. Now, let me pull out one of the posters. Well, other the three that you now described, are you aware of any others?

A. I'm not remembering any others right now.

Q. Did GSK ever say your name was included on the poster -- well, let me ask you this: Is it proper for GSK to obtain your permission to put your name on a poster before they do it?

A. Yes. It would -- yes, it would be proper to obtain -- not only to obtain my permission, but -- yes, it would be proper to obtain my permission before they put my name on a poster, yes.

Q. Were you ever made aware that you were named in what's called poster 69 on the safety of Paroxetine and imipramine in the treatment of adolescent depression?

A. Show me the poster and it'll refresh my memory, please.

MR. DAVIS: Can I see that first?

MS. CONNELLY: Yes. Sure.

(RYAN Deposition Exhibit No. 40 was marked for identification.)

THE WITNESS: Okay. I'm ready whenever you want to discuss it.

BY MR. MURGATROYD:

Q. Absolutely. First of all, why don't you identify it for the record what this is.

A. Sure. This says, "Poster No. 69." The title is "Safety of paroxetine and Imipramine in the Treatment of Adolescent Depression." It does not indicate a date. It does not indicate which meeting it was presented at.

The authors are the physicians outside of GSK and other professionals, you know, Dr. Gittleman-Klein is a Ph.D outside of GSK that participated in the study. There are no GSK coauthors on this study so it does to appear to -- it appears to be a poster done very early, because it simply reiterates what is going to be in the paper so it wouldn't have been appropriate to submit it after the paper was published just because it's redundant. The paper is redundant with this and contains basically the side effect data that's presented in the paper.

Q. Okay. And your name is on this poster?

A. My name is on this.

Q. And were you presented with this poster prior to it being presented at the meeting?

A. The first author is Dr. Wagner. I assume

I would. I certainly would have signed off on this poster. It appears perfectly fair and fine.

Q. Do you recall signing off on this poster?

A. No.

Q. Do you have a copy of this poster in your possession?

A. I gave you everything I had. No.

Q. Do you recall before today ever seeing this poster?

A. Right now I don't recall seeing this before --

Q. Okay.

A. -- but it's certainly is something that I would have signed off on. It's a very reasonable poster and it also gives no indication of being prepared by GSK. I mean, this is -- this is typed up and ugly so it's not the way that pharmaceutical companies prepare posters.

Q. My question was -- do you recall my question?

A. Why don't you refresh my memory, please?

Q. I reask you.

A. This was, what? About a decade ago?

Q. There's no question pending. Just be patient.

Do you know who prepared this poster?

A. It seems overwhelmingly likely that Dr. Wagner did it, but I have no direct knowledge of that.

Q. Okay.

A. It would be most usual for the first author to prepare the poster. Almost always done that way.

Q. Okay. Now, assuming the FDA's analysis: That in your study Paxil had a risk factor of 5.19 with regard to possible suicide events, would you state that Paxil is a safe drug?

MR. DAVIS: Object to the form of the question.

THE WITNESS: Right. The 5.9 was not statistically significant in that study and so one can never state that something's a safe drug. All you can state, you know, from a statistical standpoint, all you can state is that it's not safe. There were not indications in that study that it was not safe.

Q. Well, in this poster it's affirmatively stating that the drug is safe, right?

A. Okay. Says, "Demonstrates the safety of paroxetine in the treatment of adolescent

depression."

Q. Do you believe that your study 329 demonstrated the safety of paroxetine in the treatment of adolescent depression considering the number of suicidal events that occurred during that trial?

MR. DAVIS: Object to the form.

THE WITNESS: That was the best available data at the time. I do believe the analysis was correct of it, that it wasn't statistically significant different. It wasn't close to being statistically significant different. So I think that this is a condensed, but fair enough way of saying what is obviously a long statistical argument.

Q. Well, my question was -- maybe I can make it clear: Do you contend that Paxil is safe in the treatment of adolescent depression?

A. I'm sorry. Are you asking me about the data available to the world now or the data available --

Q. Yes. Right now. Yes. To the world now?

A. I think there is meaningful data that it may not be safe.

Q. Now, and do you agree that it was up to

GSK to present you with data that could show the drug was unsafe?

MS. CONNELLY: Object to form.

THE WITNESS: Do you mean they had an obligation to present data to me after this study was ended or related to this study?

BY MR. MURGATROYD:

Q. Related to the study?

A. I believe they had an obligation, and I believe they did it.

Q. Okay. Do you feel that you have to defend GSK at this deposition?

A. No.

Q. Okay. If GSK failed to give you vital information regarding the safety of the drug, is that something that would bother you?

MR. DAVIS: Object to the form; no foundation; that that's a fact of case.

THE WITNESS: Yes. If they failed to give me important data related to it that would bother me.

BY MR. MURGATROYD:

Q. Okay. And it says in this poster that side effects were modest with paroxetine?

A. Huh-huh.

Q. That's not a true statement, is it?
A. That's a completely true statement.
Q. Really? How many serious adverse events were in in 329?
A. Were there six?
Q. That's all you recall? How many do you say in your paper?
A. Let me go look. When you say serious adverse events. Oh, 11 in the paper -- sorry -- in the paroxetine group. Two in imipramine and two in placebo.
Q. And serious adverse event actually has a technical definition, doesn't it?
A. Yes, it does.
Q. And what is that definition?
A. I can't get it exactly, but basically things requiring hospitalization, significant worsening in the condition, a change of treatment.
Q. Life threatening?
A. That would be included, but almost none of the statistical -- almost no SAE in any study I've ever been involved with was -- very few was life threatening.
Q. Well, you had kids in study 329 who tried to kill themselves, right?

MR. DAVIS: Object to the form; no foundation.

MS. CONNELLY: I'm going to object to the kids once again. This is an adolescent study.

MR. MURGATROYD: Okay. That's fine.

BY MR. MURGATROYD:

Q. You had adolescents in your study 329 who tried to kill themselves?

MR. DAVIS: Object to the form; no foundation.

THE WITNESS: Right. There were adolescents in 329 who made suicide gestures and suicide attempts. That's different from them being life threatening.

BY MR. MURGATROYD:

Q. How many of the adolescents in 329 had to be hospitalized because of the serious adverse affect?

A. Let me find out. Two with worsening depression, two with emotional lability, two with conduct problems and one with euphoria.

Q. They were all put in the hospital?

A. That's what it says here.

Q. Okay. Do you consider a side effect modest if it requires hospitalization?

A. Modest or more so, but it's -- obviously you have the problem -- these kids had serious depression before they started.

Q. Well, that's not quite true. Let's sort that one out right now. For a HAM-D score of 12, what type of depression is that? Mild, moderate or severe?

MR. DAVIS: Excuse me. I will move to strike Counsel's comment about that not being true.

MS. CONNELLY: And by agreement of the parties just so everyone knows we're to stop in about two minutes.

MR. MURGATROYD: That's fine. We'll finish this question and then we'll stop.

THE WITNESS: Right.

BY MR. MURGATROYD:

Q. All right. Hamilton-D score of 12?

A. Mild.

Q. Okay. You agree that because you had a recruiter problem with 329 you reduced that Hamilton score to 9 to get more patients, right?

MR. DAVIS: Object to the form.

THE WITNESS: Yes, but what you're saying is misleading in that many of the kids in this study had some more severe depressions so that the -- the

threshold for the study was relatively low, doesn't at all indicate that there weren't severe kids in this study and that worsening of a depression from somebody even with a Hamilton-D of 12 was clearly a result of the medication.

Q. Let me ask you this: How many of the kids who tried to kill themselves, had a suicide attempt, entered the study with a Hamilton-D score of 12?

A. I don't know.

Q. How many had the Hamilton-D score of 15?

A. I don't know the correlation between the Hamilton-D score at entries of the study and attempting suicide. When the analysis of what predicted suicidality was largely negative, because I remember suggesting that that's not probably a strong predictor across these studies. I don't know that we ever looked at that in this particular study.

MR. MURGATROYD: Okay. That's fine. We'll stop here. Thank you.

VIDEOGRAPHER: That's the end of the deposition for today. The time is 5:27 p.m.

(Ending time: 5:27 p.m.)

REPORTER'S CERTIFICATION

I, Michele Kohar, Court Reporter certify; that the foregoing proceedings were taken by me at the time and place therein set forth;at which time the witness was put under oath by me;

That the testimony of the witness, the questions propounded, and all the objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any of the attorneys of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of Pennsylvania that the foregoing is true and accurate.

Dated this 1st day of November, 2006.

_____

MICHELE A. KOHAR, COURT REPORTER.

E

T

U