PART D

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,
MIKE HUNTER,
ATTORNEY GENERAL OF OKLAHOMA,

Plaintiff,

vs.

(1) PURDUE PHARMA L.P.;
(2) PURDUE PHARMA, INC.;
(3) THE PURDUE FREDERICK COMPANY,
(4) TEVA PHARMACEUTICALS USA, INC.;
(5) CEPHALON, INC.;
(6) JOHNSON & JOHNSON;
(7) JANSSEN PHARMACEUTICALS, INC,
(8) ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., n/k/a JANSSEN PHARMACEUTICALS;
(9) JANSSEN PHARMACEUTICA, INC., n/k/a JANSSEN PHARMACEUTICALS, INC.;
(10) ALLERGAN, PLC, f/k/a ACTAVIS PLC, f/k/a ACTAVIS, INC., f/k/a WATSON PHARMACEUTICALS, INC.;
(11) WATSON LABORATORIES, INC.;
(12) ACTAVIS LLC; and
(13) ACTAVIS PHARMA, INC., f/k/a WATSON PHARMA, INC.,

Defendants.

For Judge Balkman's Consideration

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY
FILED

MAR 15 2019

In the office of the
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

TEVA DEFENDANTS' MOTION TO COMPEL CORPORATE WITNESS TESTIMONY ON TOPICS 6, 7, 9 AND 36

A. Yes.
Q. Okay.
A. It would include all opioid prescriptions.
Q. So again we're back to that, that the state's contending it's been caused harm by all [PO-EULD] prescription [-PGS] [TK-URLG] the [R-EL] time time period?
MR. PATE: Objection, Mace sits his and it.
Q. Is that a yes or no?

A. Can you repeat your question.
Q. Sure is [T-T] state con [T-EPD] it was [HA-EURPLD] eye all opioid he prescriptions whether they were on label or off label?
MR. PATE: Objection, mission states testimony.
A. Again I would say that miss [THA-EUTS] what you're character ryeing as harm. I think you're saying harm is used several times throughout the petition and what thought but to answer your question [THO-FT]lilily I would need to know the specific harm that you would ask that the state is alleging that it's caused.
Q. Well, the paragraph you just read me talks

about the harm. So whatever -- however you define the harm in that paragraph that you just read to me, you can use that definition. So with whatever definition the state uses and you're here on behalf of the state, does the state contend that all opioid prescriptions have caused it harm?

A. ?

MR. PATE: Object to form, asked and answered.

A. I -- I would say since the state would contend that since the opioids had the misinformation

campaign, that would have gone along with the on label and off label use, that the stat would contend that there's the potential that all opioids prescribed caused harm.

Q. But you can only say that there's a [PO-URBL], right, because you just did?

A. Right.

Q. Right. You can't tell me?

A. I don't know what that's tall I can say.

Q. Well, can you tell me definitively does the state contend that all opioid prescriptions made

during the relevant time period have caused it harm?

MR. PATE: Object to form, asked and answered.

A. I -- I can only refer you back to my previous answer.

Q. Which is it's potential?

A. That the state contends and I'll just read it again.

Q. You don't need to read it again. You can point to the paragraph?

A. Would I would just say it's covered the paragraph No. 1.

Q. All right and paragraph No. 1 says all, right?

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A. It does.

MR. PATE: You're misreading paragraph one. It does not [SA-EUTD] [SA-UL] all opioid prescriptions call harm that I see if you want to appointment me where it says that please do but you're misrepresenting what he's said by suggesting that's what themement do [SA-ED].

MS. PATTERSON: I'm really trying not to rhyme really trying not to I asked him and read that

and first paragraph says during the relevant time period all opioid prescriptions reimbursed by the state including all of defendant's branded and generic opioids were subjected to misinformation by defaults, etc. etc. it goes on to talk about marketing campaign and then it goes on to say for information related to the Teva defaults role in this misinformation campaign as well as the harm caused to state it refers to another witness's testimony. So again, I'm not here to ask you about the marketing campaign, and as you'll notice there's nothing about the marketing campaign that's referenced in the the topics that I asked the witness to be here about today. Okay? My question is: And -- I think it's pretty simple, Dr. Beaman. I just want to know if the state contends that it has been harmed by all

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opioid prescriptions made in the State of Oklahoma during the relevant time period.

MR. PATE: Object to form. Asked and answered. I think you're asking for a legal position of the state rather than a factual base of the state's claims.

Q. I can't get to the factual [PWA-EUZ] nil know the copy of it that's what I'm trying to get to is it all claims or only?

MR. PATE: Same objections.

A. I would say during the relevant time period all opioid prescriptions were [STO-UPBLGD] the marketing campaign.

Q. Okay. I understand that's your belief?

A. Okay. And it's the state's contention that the marketing campaign caused harm.

Q. I understand that.

A. So if an opioid prescription was involved in that marketing campaign then it would be the state's contention it had the potential to cause harm.

Q. Okay?

A. And I don't know that I can clarify the answer anymore than that.

Q. [A-EPBL] you put in that word potential again there. So potential means it could have or it

might not have, right?

A. Yes.

Q. Okay. Let's -- does the state have a -- a position and again we're going to go back to proper

prescribing and appropriate use. Does the state have a position as to whether or not an off label prescription of an opioid can ever be medically necessary?

MR. PATE: Objection, outside the scope.

Q. I'm just asking if there's a position on that.

MR. PATE: Outside the scope.

A. Can you repeat the question?

Q. Sure. Does the state have a position as to whether or not an off label prescription of an opioid can ever be medically necessary?

MR. PATE: Outside the scope.

A. So the state does not regulate the on and off label prescribing of medications.

Q. I appreciate than aunderstand you don't regulate that, but again one of the things we were trying to find out about in our topics and again, it's specifically topic 11. I'm trying to determine if the state has a position one way or the other on whether or not off label prescription of an opioid

can ever be medically necessary.

MR. PATE: Objection, outside the scope.

A. The state would contend that the off label prescribing of an opioid would be subjected to the risk-benefit analysis of a patient -- of a doctor and his individualized patient based op full and accurate knowledge.

Q. And if the doctor had full and accurate knowledge and engaged in that risk benefit [TPHA-L] [S-EULGS] and nevertheless chose to prescribe to opioid for an off label purpose the state would agree that that's medically necessary?

MR. PATE: [KWR-EBGS].

Q. In that particular hypothetical you just set forth? Drew objection, outside the scope, improper hypothetical, calls for speculation?

A. Yeah, I don't think that that's a question that I can answer because it would depend on the individual patient and the individual physician, their discussion, and the risk-benefit analysis.

Q. Okay. You just can't answer that? Drew object to form, misstates his testimony?

A. I would just refer you to my previous answer.

Q. Your previous answer was the state would

contend that the off label prescribing of an opioid would be [STO-UPBLGD] the risk-benefit analysis of patient -- of a doctor and his individualized patient based on full and [KRA*-L] accurate knowledge?

A. That is correct.

Q. Okay. Is the state aware of-well, strike that. Can the state identify any particular instance where a physician made an off label prescription for Actiq or Fentora based upon influence of the marketing efforts that you outlined in your written statement?

A. So --

MR. PATE: Outside -- objection action scope, go ahead.

A. So to answer that question, I would refer you back to the prepared document in binder No. 1.

Q. Are there any -- are there any physicians listed there?

A. And on page 1 of document No. 1.

Q. Anywhere.

MR. PATE: I didn't hear you ask about physicians.

Q. That was the question. I'll reread the

question. Is the state aware of can the state -- okay. Can the state identify any particular instance

where a physician made an off label prescription for Actiq or Fentora based upon the influence of the marketing efforts you have outlined in your written statement? That's my only question. Can you identify a physician who has done that? I'm not asking you to give me a name I just want to know if you can do it.

MR. PATE: Objection. It's outside the scope I believe this was you ever had coy T.

A. That was my answer was going to be.

Q. Which witness?

A. It would be -- if I can just read from page 1.

Q. Sure?

A. Second to last line says additionally a corporate representative for the state already testified regarding harm to patients [PRAO-EUBGD] Actiq and Fentora. The witness testified I believe that most of these patients who were prescribed Actiq were harmed because I believe most of these patients

were prescribed Actiq who were prescribed Actiq were not opioid tolerant patients with cancer receiving Actiq for a breakthrough cancer pain. I believe that most of those prescription [-P] were to patient who did not have cancer and who were inappropriately

prescribed opioids for conditions in he [TRAO-EPL]ly potent opioid for conditions where opioids should not be you'd and so I think most of these patients were harmed by your client's product and I think that is in part and large part why your client was found guilty of criminal charges for the way in which it promoted Actiq and that would have been Dr. Kolodny on March 7th.

Q. Okay. I appreciate your reading that I'll object as being nonresponsive. My question was and I'll read it again [-PT] can the state and you're the representative of the state today identify any particular instance where a physician made an off label prescription of Actiq or Fentora based upon the influence of the marketing efforts you out[HRAO-EUPD] if your statement if doctor Drew jerks asked and answered outside the scope?

Q. Can you?

A. Certainly the state is aware that pharmaceutical representatives for Actiq and Fentora called upon physicians multiple times and denoting in their call logs that the physicianing did not treat cancer patients. So with the state would contend that the pharmaceutical drug representatives that were calling on these physicians was one part of the

marketing campaign. And so the state would also contend that visiting physicians knowing that they did not care for cancer pain, or individuals who could possibly have cancer pain, would be involved in that marketing influence and could have prescribed the product mentioned here.

Q. Objection, nonresponsive. Doctor, again, the question is: Can the state identify any particular physician -- I'm sorry, can the state identify any particular instance where a physician made an off label prescription for Actiq or Fentora based upon the influence of the marketing efforts that you have outlined in your written statement?

MR. PATE: Object to form, outside the scope. Asked and answered.

A. I owe I don't believe I could clarify it any further than my previous answer.
Q. So you can't give me the name of any particular answer?
A. I believe neat not what I said.
Q. Well, I didn't hear a name of a physician. What I heard you say is that you think generally figs who do not treat cancer patients may have been influenced. I'm asking a more specific question, okay? And I am well aware of what you've written in

your statement. My question's very specific. I'm trying to understand if the state can identify a -- any particular instance where a physician made an off label prescription of Actiq or Fentora based upon the influence of the marketing efforts that you've outlined in your statement?
MR. PATE: Object to form, scope, asked and answered.
A. And I would ask you marketing campaign outlined when and where? The one in --
Q. The one you've been reading about all day?
A. Okay, so.
Q. That's are your statement. You've set north

your estimates here the allegations that the state has been made about marketing campaign. I understand because I can read that what your allegation is. Okay? So accepting that for a minute, my question is [KW-U] on behalf of the state identify any particular physician who actually made an off label prescription for Actiq or Fentora to a patient because the physician was influenced by a marketing campaign to do so?

A. Yeah.

MR. PATE: Object to form, outside the scope, asked and answered.

A. Again, I don't think I could clarify it anymore.

Q. You can't give me an answer, can you?

MR. PATE: Object to form. That's not what he said. It's been [SKA-EPD] and that's. [-EUFLT].

MS. PATTERSON: Europe [*-R] [*-URPB] I'd ask for a ruling at this [PO-EUFPLT] I think it's a yes or no either he can identify an particular [STA-PBLGS] or he can't E. the answers are evasive and I think deliberately am of.

MR. PATE: It's not he [SRA-EUF] is I have I have [*-URPB]. I was here for two days for more than 12 hours of testimony last week. This is what Dr. Kolodny's state [R*-EPB]. Was asked about that's why his testimony was being read back because he was read back. Heard from Ms. Patterson today nowhere. I have all of these [KW-EPLS] about are about the are make [-RL] campaign, which when did our marketly campaign [TPHRAO-PBLGS] much that was last week's deposition. [-P] [KWR-UPBLG] [KWR-UPBLG] Ms. Patter, discovery deposition as we have here, I can't force the witness to answer any other way than the witness chooses to answer.

MS. PATTERSON: All right, [*-URPB]. June [SK-PBLG] I can't get myself involved in creating an

answer. You've asked it artfully any number of ways and he's going to answer the way he answers. Pat I understand [*-URPB]. Judge if you want to proceed some more. Go ahead.

MS. PATTERSON: I understand your ruling and I understand as with your prior comments on the prior issue we discussed earlier it's my understanding I can [P-UR] that [AO-US] the. In terms of fights

something [*-URPB]. Judge [SK-PBLG] you can do whatever you choose to do.

MS. PATTERSON: Thank you, [*-URPB]. Pat it.

Q. And to be clear the only reason I talk about marketing cam pain is because it's contained in your notebooks and because you've read about that. That's why I've been asking questions just [RAO-EBT]ly because you keep revving to the marketing issues. Okay. Doctor. Let's move to Exhibit No. 12. And still focusing on the topic regarding proper prescribing and appropriate use and the state's understanding of the risks and appropriate uses of opioids manufactured by Teva I'm going to show you what I marked as Exhibit No. 11. This one's harder to read, Doctor, and I apologize for that. I don't have a bigger copy. But I think if you -- and again,

if you need to take a look at this to familiarize yourself with it please do so and just let me know when you're ready. I'm really only going to have some questions about the first page?

A. Okay. Go ahead.

Q. All right. Similar to what we have looked at previously today with regard to Actiq and Fentora, this is information regarding Oklahoma City [AO-E] Colorado done and Hydro color [HAO-EULD] stepped release tablets. Do you see that?

A. I do.

Q. And that's a generic reference to the drug known as OxyContin. [STHAO-EUT]?

A. Yes.

Q. Okay. And this is another example of a black box warning, correct?

A. It -- yes, I would say so.

Q. Okay. And again, we touched on this a little bit earlier about gentlemen [TPHA-EURBGS] and I think we're both in agreement that prescriptions at issue in this case and for which the state is seeking damages include prescriptions for brand drugs and practitioners for generic drugs.

A. That is correct.

Q. Okay. And you understand that a generic

product must have the same active ingredients as a branned product, correctment I would say that is the state's general knowledge?

Q. Okay. And do you understand that a label or does the state understand that a label for a generic product has to be approved by the FDA?

A. That is correct.

Q. Okay. So the state would understand fully that the -- that all generic versions of OxyContin would be required by the FDA to contain the same physical label allege the branded product, correctment I would say the state would not disagree with that?

Q. Okay. So this labeling information regarding the generic oxycodone Hydro chloride extend release tablets con tapes a blacks box warning, correct?

A. Correct.

Q. All right. And similar language I believe you will see at the very top under warning it says oxycodone Hydro [KHRAO-R] [KO-EUD] [ST-EPB]ed release tab etc. or an opioid ago agonist and schedule 2 controlled substance with an abuse liability similar to for morphine. Do you see that?

A. I do.

Q. Okay. And so this is a schedule 2 drug

which means it has a risk of abuse and addiction, correct?

A. That is correct.

Q. All right. And when generic oxycodone came on the market the state was aware that that was a risk of that generic drug, correct?

A. Correct.

Q. Okay. Doctor, let's take a look at the petition again, if you have it handy. And I want to switch gears on you.

A. Can you remind me what exhibit that is.

Q. Sure. I think it's Exhibit No. 6. All right and I want to switch gears for a moment and talk about topic No. 9 for a moment.

A. Okay.

Q. And you'll see -- if you want to look at that [-P] to I can, topic No. 9 deals with any allegedly false or fraudulent claims [TPRA-RP] submitted for payment to the Oklahoma Medicaid program or any other of your programs that the state seeks to attribute to and then it lists a number of the defaults. Do you see that?

A. I do.

Q. Okay. And the -- we already looked a short

time ago at paragraph 37, which talks about the

Cephalon entities, and you'll see there it takes about the Oklahoma Health Care Authority paying approximately 647 thousand $410 for those 245 prescriptions, correct?

A. That is correct.

Q. Okay. So I want to switch from talking about Actiq and Fentora for ament zero moment and I want to talk about opioids, the -- the generic opioids manufactured by the Teva defendants, okay?

A. Okay.

Q. Okay. Is the state seeking damages for generic opioids manufactured by the Teva defendants?

A. Yes.

Q. Okay. And has the state made a determination of the number of generic opioids for which it believes -- let me strike that. Has the state made a determination as to number of opioids manufactured by Teva which it believes has caused harm from the State of Oklahoma?

A. So I would refer you back to my previous statements where the -- referring to the court order, basically saying that the state did not take an

individualized prescription analysis, that it it did an aggregate approach.

Q. Okay. And you're the one that did the

aggregate approach?

A. I was one of the individuals involved in the aggregate approach.

Q. Who was was involved?

A. Well, Dr. James Gibson and -- I would limit it to those two at this time.

Q. To you and Dr. Gibson?

A. Yes.

Q. Okay. Okay. Do you understand that one of the claims that the state is making in this case is in fact based on allegedly [TPA-LGS] or fraudulent claims submitted for payment to the Oklahoma Medicaid program?

A. Yes.

Q. Okay. And it's what we referred to shorthand in the case as false claims, have you heard that term before?

A. Yes.

Q. Okay. Have you determined or strike that.

Has the state determined how many false claims were submitted to the State of Oklahoma for unbranded opioid medications manufactured by any of the Teva defendants as I've did he find those defendants earlier today?

A. So, again, the state did not take an

individualized approach. The state took an aggregate approach.

Q. Okay. Understanding that the state took an aggregate approach, in order to determine which claims the state deemed to be false, the state determined which claims it deemed to be medically unnecessary. Is that correct?

A. That is correct.

Q. Okay. And are you familiar with the statutory definition in the State of Oklahoma for medical necessity?

A. No. I mean, I've hearded referenced before but to be able to repeat it to you today, I could not.

Q. Doctor I'm going to show you what I've marked as Exhibit No. 12. All right. Doctor, again feel free to take a look at that and let me know when

you've had an opportunity to do so.

A. (Witness complies.)

Q. Okay.

Q. Okay. And so what I've handed you as Exhibit No. 12 is from the Oklahoma administrative code 317: 30-3-s. Do you see that?

A. I do.

Q. Okay. And if you'll take a look down at

sub-part D. there and it says payment to practitioners, on behalf of Medicaid eligible individual is made only for services that are medically necessary and essential to the diagnosis and treatment of the patient's presenting problem. Do you see that?

A. I do.

Q. Okay of and it goes on well patient exams and diagnostic tests are not covered for adults unless specifically set out in coverage guidelines. I'm really not concerned abouts asking but that. I just want to talk about figures section and and move of zero down to section F. it says receives provided within the scope of the Oklahoma Medicaid program and

you understand that's the program administered by the health care authority correct?

A. Consider he.

Q. So [S-EFGS] provided by Oklahoma Medicaid program shall Mead medical necessity criteria, correct?

A. Consider he okay.

Q. Else [O-EPLT] in it was selfs he shall not constitute medical necessity do you see that?

A. I do.

Q. And it goes on to say the Oklahoma Health

Care Authority shall serve at the final authority pertaining to all medical necessity and medical necessity is established but the following stamped [TKA-RD], correctment correct?

Q. Prior to me showing that and if you go on to next page you'll see there are six standard that are listed in the stat institute. Do you see that?

A. Yes.

Q. Prior to me me happeneding you that document today have you ever reviewed the sections of the stat institute I just read or the standard tore determining medical necessity?

A. Yes.
Q. You have. And when did you first review those?
A. Along time ago.
Q. Okay.
A. Maybe -- I can't even remember, but it was a year ago, probably longer.
Q. Was it in connection with this case?
A. It was.
Q. Okay. You understand that this document -- well strike that. The state understands that this is a statutory definition of medical necessity that's been enacted by the legislature, correct?

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A. I would say that I'm not aware of whether or not it's statutory as far as medical necessity guiding all physicians and all [K-PBGS]. I would say it's my understanding that this documentation is determining necessity for reimburse it through the Oklahoma Health Care Authority.
Q. Fair enough. I agree with you. So this pertains to reimbursement within the scope of the Oklahoma Medicaid program, correct?

A. Yes.
Q. Okay.
A. That is -- that is my understanding.
Q. Okay. And you're also aware -- well, strike that. It's my understanding and I'll just represent this to you from another deposition that was given by a Dr. Burl [PW-EZ] Lee. Do you know Dr. Bees Lee?
A. Name sounds familiar.
Q. Okay. It's my understanding from DC bees Lee who was the director of pharmacy at that time Oklahoma Health Care Authority in his testimony in a deposition as a corporate rep taken by one of the other defaults in this case that the Oklahoma Health Care Authority relies on doctors to make medical necessity determinations. Does the state agree with that?

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MR. PATE: Object to form, outside the scope.
A. I'm -- I'm not sure I completely understand the question.
Q. Okay. Do you agree as a representative of the state here today that the state relies on doctors -- the state being the Oklahoma Health Care

Authority for purposes of this question relies on doctors to make medical necessary Citis?

MR. PATE: Objection outside the scopements I would say it would be the state's contention that for reimburse. Medical necessity would be determined as out[HRAO-EUPD] in the document you provided me.

Q. Okay.

A. Does that answer your question.

Q. Well, I think it does partially am I understand how you qualified the answer by saying for reimburse: So does the Oklahoma Health Care Authority analyze medical necessity are for some other other than reimbursement?

MR. PATE: Outside the scope.

A. Yeah, I think I would have to point you to -- refer you to the health care authority when and what they analyze.

Q. Okay. Well, again, taking you back to the

topic that I'm trying to ask you about and I'm trying to understand what you -- what you know about this. The Oklahoma Medicaid program is making a claim that there were false or fraudulent claims that were

submitted or reimbursement and again I'm refer you to top I be No. 9 in the deposition notice. So is it your understanding as a representative of the State of Oklahoma here today that the false or fraudulent claims that the Oklahoma Medicaid program claims were submitted for reimbursement are claims which did not need the medical knees [STAO-E] requirements set forth in Exhibit 12?

A. I this it would be the state's contention that it did not rely on the definition in the document you provided, Exhibit No. 12, to determine medical necessary [STAO-E].

Q. Okay.

A. For the false claims analysis that was performed.

Q. Did the state rely on some other definition of medical necessity in order to determine which claims were false and fraudulent?

A. Yes.

Q. What definition of medical necessity did the state rely on in order the determine which claims

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were false and fraud length -- false or fraudulent that were submitted for payment to the Oklahoma

Medicaid program?

A. I would refer you to my disclosure on page 2, where I'll start in the middle of the first paragraph with word each.

Q. I see [*-R] I see where you are uh-huh?

A. Each prescription was determined to be either either medically unnecessary or not medical yell unnecessary the preparation. Was ton medically unnecessary only if it specified three out of three criteria. No. 1 the daily dose was greater that or net. 90 percent. I didn't have [HR-EPBLTS]. No. 2 no assessment was performed [TK-EPL] stating that the opioid prescription was utilized to improve function. And 3, the prescription was not provided for any of the following diagnoses. A.: Post servely [KA] and lumber are laminectomy epidural staring arachnoid [AO-EUTS]. [PW-RBGS] spinal cord injuries. C. spastic neuropathic pain [O-URPB] [PH-ULT] I can [SHRA-EUR] interrogatories. D. vertebral compression fracture [-URS]. E., cancer, F., spinal stenosis, G., rheumatoid arthritis, H., reflexive sympathetic dystrophy. I., a.m. I trough I can [HRA-T] recall [SKHRA-EUR] clogs. J., sick else cell anemia. K.

end of life care and L., an active taper used to decrease or discontinue opioids.

Q. And you just read from your disclosure, correct?

A. That is correct.

Q. All right. And what is the source of that criteria?

A. I believe that that's going into my expert witness role.

Q. Okay. Well, that is not -- well, clearly it's different from the statutory definition we looked at but let me ask you a different question. When you started reading you read each prescription was determined to be either medically unnecessary or not medically necessary. Nowhere in your disclosure do you -- does it talk about what constitutes or what -- let me -- let me start over. Nowhere in your disclosure do you talk about the criteria for a prescription to be medically necessary. Is that accurate?

A. That is correct.

Q. Okay. Medically necessary as I understand your testimony today is different than medically

unnecessary, correct?

A. That is correct.

Q. And medically necessary is also different from not medically unnecessary, correct?

A. That is correct.

Q. Okay. Does the State of Oklahoma -- strike that. On behalf of the State of Oklahoma, Dr. Beaman, can you tell me how many false or fraudulent claims the state contends were submitted by payment to the Oklahoma Medicaid program by Cephalon?

MR. PATE: Object to form.

A. I'm sorry. Can you ask that again?

Q. Absolutely. On behalf of the State of Oklahoma, Doctor Beaman, can you tell me how many false or fraud length claims the state contends were submitted for payment to the Oklahoma Medicaid program by Cephalon?

MR. PATE: Object to form.

Q. And again I'm directing your [TA-EPGS] to [-P] to I can No. 9.

A. Right. So --

MR. PATE: Same objections. That's an

additional question.

A. I -- I would say that the state does have that knowledge. It's my understanding that that knowledge has been provided to your client. I think

it's been provided in multiple ways. First of all, it's been provided just as which prescriptions we identified as being unnecessary. Also, we have provided you here the criteria that we utilized. We provided you with all of the prescriptions that were subject to analysis, and the medical records therein so that you would be able to know that number.

Q. Thank you, doctor. Has the State of Oklahoma provided defendant, the Teva defendants with the number of claimants it contends were submitted falsely or fraud dently by Cephalon is that your understanding?

A. Well, it's my understanding that we've told you which claims we were -- we were calling unnecessary.

Q. Okay.

A. And that you would be able to determine whether or not those claims -- because we also

provided you with a MMI S. data, you would be able to determine which claims where Cephalon and any of your other entities.

Q. Okay. So again, just making sure I understand, because I'll represent to you, Doctor, to my knowledge, we've thought been provided a number as to the number of claims that the state contends were

falsely or fraudulently submitted by Cephalon or any other Teva defendant. What we have been provided is a great deal of MMI S. data I certainly don't disdegree with you that and we've also been provided some medical records. But the topic that I'm asking you about is any alleged false or fraudulent claims that were submitted for payment and before I can ask but the specific claims I need to know if the state knows how many such claims for submitted by Cephalon and you're telling me that the state knows that.

MR. PATE: Object to form, asked and answered and we have provided you more than what [SKWRAO-UF] just described to the witness.

Q. Can you answer --

A. Is I also disagree with are youre- I would disagree with your conclusion that that hasn't been

provided to you.
Q. That's fine. You can disagree with that. That's not really the question?
A. Also we have provided with you medical records. We've provided with you criteria so certainly your client can analyze it in the way we did to come up with the number or their version of with number. So it's the state's contention that that information has been provided.

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Q. Okay. But the state knows the number of false claims it contends were submitted by Cephalon, yes or no?
A. Well I would say that the state has access to that information, but we did not separate out based on individual companies products or what not because again we're saying the whole thing. If you're asking me if state does post it not wet Cephalon and the number not to my knowledge.
Q. I'm not asking there as post it note doctor and I think you know that: I'm asking you if state has made a determination of the number of false and [TPR-UD] [KHR-EPT] claims that it believes were

submitted to Oklahoma Medicaid program for [R-URSZ].
Of false or flawed [TPR-EPT] [TPHR-EU] Cephalon. I
don't --
MR. PATE: Hold on. Object to the form
asked and answered it's vague as to how you're using
the term submitted also.
Q. Okay. All right. Do you understand what I
mean when I talk about claims being submitted?
A. No, if you could clarify would be helpful.
Q. Submitted for reimburse.
A. Okay.
Q. Does that help you?

A. Yes. I don't think it changes my answer. I
don't think I can clarify it anymore than I already
have.
Q. And just so you know I want -- because I'm
using the word submitted I want to make sure you
understand where I dot that, okay? If you look at
paragraph 37 op page 9 of the petition you'll see
there the Cephalon defendants have caused to be
submitted do you see that?
A. Uh-huh.
Q. Okay. So that's where that comes from. So

I just want to know and I'm going to have to ask it again because I don't believe I've gotten an appears, Dr. Beaman. Does the state know the number of false or fraudulent claims that it contends were submitted for payment to the Oklahoma Medicaid program by Cephalon?

MR. PATE: Do you just read caused to be submitted is that what you're asking because earlier it sound like you were asking about Cephalon product I'm not trike.

Q. I'm trying to read the question exactly. He [KW-EUFLD] with the word submitted and I want topped make sure he understood that word came from your petition.

MR. PATE: I quibble because I don't understand the way you're asking because submitting a claim to med Kay is causing a claim to be submitted. Are you about causing.

Q. We can do both if you like. I mean -- I mean I'm not sure your distinction but I'm happy to ask it both way and we'll just take longer on the topic. Pat president?

Q. Is there a distinction if your mind, Doctor, between a submitting a claim and causing a claim be to submitted and if so can you explain to me?

A. Yes.

Q. Explain the difference?

A. Submitteding the would actually be the doctor submitting a prescription for reimbursement to for that -- for that visit. Caused to be submitted could be any number of factors that contributed to the physician writing that prescription.

Q. Okay.

Q. Such as?

A. Well, for example, with the marketing campaign.

Q. Uh-huh.

A. Where physicians were told that opioids were not addictive, then even though the physician did not

write the -- that particular prescription and did not submit that for reimbursement, the fact that the physician was told that opioids are not addicting could have caused him to submit other opioid prescriptions for reimbursement.

Q. Mr. Okay. So all -- since you've

distinguished between those two terms I'm happy to ask you the questions. I'm use the terms we'll go through each section or each set of questions using each specific term. Does the State of Oklahoma -- well, let me ask it this way. Has the State of Oklahoma determined how many false or fraudulent claims were submitted for payment to the Oklahoma Medicaid program during the relevant time period by Cephalon?

A. So to answer that question, I would say first of all that the state performed a sample of -- a sample of opioid prescriptions. So any number that the state has as to that would be based on the sample analysis. Second, I would say that that number is knowable, but at this point I'm not sure that the state has broken down the number of prescriptions based on each manufacturer because again, the stated contends that all opioid prescriptions were subjected to this -- or influenced by this aggressive marketing

campaign and so the state would contend that for its purposes it did not break them down by manufacturer.

Q. Okay. We'll come back to that. But my

question was: Has the State of Oklahoma determined how many false or fraudulent claims were submitted for payment to the Oklahoma Medicaid program during the relevant time period and I think what I heard you say as a part of your answer is that number is knowable.

MR. PATE: Objection.

Q. Is that right? Drew object to form. It's misleading and vague.

Q. Is that number knowable doctor?

A. That number is knowable.

Q. Thank you. Now I'm going to ask it with the cause to be submitted phrase, okay? Has the State of Oklahoma determined how many false or fraud length claims were caused to be submitted for payment to the Oklahoma Medicaid program during the relevant time period by Cephalon?

A. So, the state again would contend that it was the marketing campaign of which -- was your question specific to Cephalon?

Q. Yes, sir.

A. So the state would contend that marketing

campaign by all Teva defendants including Cephalon

would be responsible for all medically unnecessary prescriptions and as listed in my expert disclosure it found that 8, zero 59 opioid prescriptions out of the 16 12 individual records composing of 384978 unique [PRO-EUGS] action [PH-ERP] 348 [KA-EL] unsays [TKPW-U] you're it snow staying the 8 [THO*-U] opioid prescriptions that you just testified were prescriptions [O*-ER] were all prescriptions of Teva products, are you.

A. Well, I think you're mischaracterizing my testimony.

Q. I'm certainly not trying to?

A. I to question about what was caused to be submitted and the state would contend that Cephalon's marketing campaign caused to be submitted at least in part and we don't separate out the individual marketing caused this one prescription and this individual marketing caused that prescription, so state would topped tend that Cephalon is response toll 8,059 prescriptions.

Q. So Cephalon -- it's the state's opinion and position that Cephalon is responsible for all 8,059 opioid prescriptions even if prescriptions are included in that number which were prescriptions of

products manufactured by one of the other defendants in this case?

A. Yes.

Q. Okay. And the state's position is further that Cephalon is responsible for all 8,059 of those opioid prescriptions even if that includes prescriptions for opioids manufactured by companies that are not even defendants in this case. Is that correct?

MR. PATE: Object to form. Outside the scope.

A. Yeah, I don't believe I can answer that question.

Q. Why not? I mean you're here on behalf of the state.

A. Right. But as it's listed in the topics, I did not review the products of not listed defendants in preparation for today's testimony.

Q. Okay. So you don't know whether or not there are production of non-listed or non-named defendants in the case clued in the 8 high blood pressure -- the 8,059 opioid prescriptions rev

represented in your disclosure, do you?

MR. PATE: Object to form.

A. I believe.

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MR. PATE: Outside the scope.

A. I believe that some of that information would involve me utilizing my expert witness role.

Q. Some of -- I'm sorry, some of what information?

A. To answer your question. Some of the information required for me to appears your question would volume me being an expert witness.

Q. About whether or not some of the 8,059 prescriptions referenced here were prescriptions of opioid medications manufactured by other companies?

A. Yes.

Q. That aren't defendants in the case?

A. Yes.

Q. The state doesn't know that?

MR. PATE: Object to form.

Q. Only its expert knows that?

MR. PATE: Object to form. Outside the dope. It's not what you asked for.

A. I would say the state relied on experts nor

that information.
Q. All right. And by the way -- well, strike that. So going back to the answer that you gave me that was not responsive to the question I asked but I'll go ahead and follow up on it. It would be the

state's position that Cephalon is responsible for all false or fraudulent claims submitted for payment to the Oklahoma Medicaid system as referenced in your disclosure even if Cephalon never communicated with a single physician in the State of Oklahoma.
A. Well, that's -- I believe you're definitely miss character ryeing my testimony because that was never a contention.
Q. What was never a contention?
A. That Cephalon has not communicated with any physician in State of Oklahoma.
Q. Okay.
A. I'm to it aware that is the keys the state would not agree with that conclusion.
Q. Does the state know whether or not Cephalon ever communicated with a physician in State of Oklahoma?

A. Yes.
Q. And the state believes that Cephalon has?
A. Yes.
Q. So let me go back to the question that started all of this and I'll ask it again. Has the State of Oklahoma determined how many -- I'm asking you for a number, not the cause, has the State of Oklahoma determined how many false or fraudulent

claims were caused to be submitted for payment to the Oklahoma Medicaid program during the relevant period of time by Cephalon?
MR. PATE: Objection, asked and answered.
A. I believe I answered that.
Q. I don't believe you have respectfully doctor you gave me a long annuls about the cause and about market and I'm the not asking you about the cause. I'm asking you simple the if ace. You document have to give me the number. You just want to know has the state determined how many false or fraud length claims caused to be submitted for payment?
A. Ly try.
Q. Is that -- that is the 8,059 number?
A. I'll try be clear. Yes, the state has

16 determined that number, and it has determined that
17 number to be 8,059.
18 Q. And all 8,059 of those claims for which the
19 state is seeking false claims damages, all 8,000 and
20 59, the state attributes to Cephalon?
21 A. I would say not only to Cephalon but does
22 attribute to thereon.
23 Q. Okay. But they're all attributed to
24 Cephalon?
25 A. Yes.

1 Q. And may be attributed to others as wellments
2 yes?
3 Q. And the same answer -- you would give me the same
4 ANSI take it if I asked you that question specific to
5 Teva USA, so the position of the state would be the
6 state contends that 8,059 opioid prescriptions were
7 falsely or fraud lengthly submitted for payment to
8 the Oklahoma Medicaid program by Teva USA?
9 A. Actually, I don't believe that's what the
10 state would contend. Probably my fault but I want to
11 clarify that was 8,059 out of the sample.
12 Q. Uh-huh, uh-huh. The sample that you looked

at which is the sample of 38,498 unique opioid prescriptions?

A. That is correct.

Q. All right. With that caveat the state would contend that all 8,059 prescriptions out of the sample that you've looked at, the state contends those were all false claims attributable to Teva?

A. That is correct.

Q. Okay. Now, I want to flip back to --

MR. PATE: Are you close to break?

Q. Let me ask him one more question. The question -- just using the word submitted, okay, has the State of Oklahoma determined how many false or

fraudulent claims were submitted for payment to the Oklahoma Medicaid program during the relevant time period which are attributable to Teva USA?

A. I would say that my answer would be identical to when that question was asked for Cephalon.

Q. That's that knowable number?

A. That's a knowable number.

Q. Thank you, Doctor. We can take a break.

THE VIDEOGRAPHER: Going off the record.

The time is 5:17.

(Whereupon, a short recess was held.)

THE VIDEOGRAPHER: We're back on the record. The time is 542. Beginning disk 5. [TKPRAO] Drew Nancy I think the witness has a clarification he needs to make if you'd like him to do that now. President.

MS. PATTERSON: Sure.

A. Two [SH-EUPBGS] I'd like to clarify again the 8,059 number anytime I represent that I'm talking about 5,00059 prescriptions that were determined to be medically unnecessary in a [SA-FRP] and that J. Jim Gibson would have taken that number from the [STA-FRPL] and extrapolated to it the prescription [TKA*-EUS] database as aly who. So anytime I

represent 8,059 I just want to be clear that is in the sample. The second clarification I would make is on the distinction between medically necessary as outlined in the statute that you referenced I believe in Exhibit No. 12.

MS. PATTERSON:

Q. Yes, sir.

A. That it is the state's position that every prescription that was found to be medically unnecessary in the false claim analysis is also -- does not meet the criteria for medical necessary [STAO-E] as outlined in Exhibit No. 12.

Q. So are you familiar with clarification that you?

A. Yes yes, ma'am.

Q. I [PRAO-PLT] [KWR-UD] in opportunity to take a break and talk to counsel for the taillight it is yes?

Q. So your class clarification I'm just reading it to make sure I read it correctly is that it is the state's position that every prescription that was found to be medically unnecessary in the false claims analysis also fails to meet the medical necessary [STAO-E] did he have incision anything's set forth in the statute. Is that correct?

A. That is correct.

Q. Okay. Could a claim meet the medical necessity definition in the statute yet be deemed medically unnecessary by the state for purposes of the false claim acts analysis [-UPBS] [*-R] under

your definition?

MR. PATE: [SKR-EBGS].

Q. In your disclosure.

MR. PATE: Sorry. Object to form, outside the copy.

Q. You can answer?

A. I would say that is the state's contention.

Q. Okay. So you agree with what I just said -- that that's the state's position I just want to make sure can a claim meet the medical necessity definition in the statute that we looked at Exhibit No. 12, still be deemed medically unnecessary for the purposes of the false claims act analysis based on the criteria in your disclosure?

MR. PATE: Object to form misstates his prior testimony about the [PH-EZ] [KA-EL] necessary prescriptions. Identified [-FD].

Q. I object to the speaking objection counsel. He can acknowledges the and request. Object to form.

MR. PATE: [KWR-UR] asking legal position

the state.

MS. PATTERSON: No I'm no he came in a and

just I have [TKPWA] us a clarify Fay indication unU [-LD] it after talk to counsel on the break.

MR. PATE: Pretty. Rash of depositing [-EPGS].

MS. PATTERSON:

Q. So, Dr. Beaman, --

A. Ly say it's a long question to follow. If you could maybe break it dawn a little bit.

Q. Sure. Okay. Let me do that. Is it the state's position that a claim could meet the medical necessity definition asset forth in the statute that we looked at as Exhibit No. 12 yet still be deemed medically unnecessary for purposes of the false claims act analysis based on the criteria set forth in your disclosure?

MR. PATE: Object to form. Calls for legal contentions of the state rather than the factual basis of the claims much it's outside the scope.

A. That is not the state's position.

Q. So then I think you've given me two different answers to that question?

A. It's possible I might have misspoke.

Q. Okay.

A. So I'm happy to clarify. Ly say that if -- I'll try to clarify it even more by saying it is the state's position that every prescription deemed medically unnecessary in my disclosure and my [TPHA-L] is also meets -- false to meet the criteria of medical necessity ask I understand that. Okay. I'm asking you a different question.

A. Okay.

Q. Okay? If a claim meets the medical necessity definition asset forth many the statute, is it the state's position that it can still be potentially deemed medically unnecessary for purposes of the false claims act analysis based on the criteria set forth in your disclosure?

MR. PATE: Object to form. Asked and answered. I think it's outside the scope, but --

A. I would say it's the state's position that that is not possible.

Q. What -- I don't understand what's not possible?

A. That a prescription could not be medically necessary as outlined in Exhibit 12, yet later found to be medically unnecessary in my analysis.

Q. Okay. You -- you threw a negative in there

so that makes a ANSI think a little confusing. So

let me ask it again. Is it the state's position that a claim, a prescription claim, could meet the medical necessity definition in the statute that we marked as Exhibit No. 12 yet still be deemed medically unnecessary for purposes of the false claims act [TPHA-L] [S-EULS] based on the criteria set forth in your dis[KHRO-RB]?

MR. PATE: Object to form asked and answered.

A. Again, it's the statement's position that would it no be possible.

Q. Why would that not be possible?

A. Because -- because every prescription that was found to be medically unnecessary is -- does not meet the definition of medical necessity.

Q. Uh-huh. But again, Doctor, I'm asking it from the -- from a different side?

A. I understand you're using different words.

Q. Okay?

A. But in my mind you're asking the same question.

Q. I'm asking it from a district side of the equation?
A. Maybe you can help [PH-EP] understand the difference [STKPWHR-S] sure.

A. Between the two.
Q. Sure. You told me if a claim for the pus of the families claims analysis that the state has performed, if a claim has been deemed med [KA*-EL] unnecessary based on the criteria set forth in your disclosure, that it is -- then per se medically per se it does not Mead the medically necessary definition under the statute, correct?
A. Right.
Q. So medically unnecessary under your criteria equals not medically necessary under the state's statute, correct?
A. Correct.
Q. Okay. Now I want to go at it from the other direction. If a claim in fact meets the definition of medical necessity under Exhibit No. 12, the statutory definition, could that claim under the state's false claims analysis still nevertheless be medically unnecessary for [P-URPLS] of the false

claims act analysis based on the [KAO*-EUT] and your disclosure?

A. No.

Q. .

MR. PATE: Objection, asked and answered.

Q. So if it's medically necessary, under the

statute, you wouldn't find it to be medically unnecessary under your criteria, would you?

A. I believe that that's going into my expert witness role.

Q. Well, I respectfullily disagree. Can you answer that question?

A. Not without my [KWRAO-UT] lying my expert opinion.

Q. Because the state doesn't have an opinion on that?

MR. PATE: Object to form. Outside the scope. Very confused at this point.

A. Yeah, I think I am too.

Q. I'll ask it again. Okay? Hang on. Let me get the exact question. I asked you if a claim in fact meets a definition of medically necessity under

Exhibit No. 12 the statutory definition, could the claim under the state false claims act analysis still nevertheless be medically unnecessary for the false claims act analysis based on the criteria set forth in your disclosure and you answered no. Is that still your answer?

A. Yes.

Q. And then I followed up and I said, so, if it's medically necessary, under the statute, you

wouldn't find it to be medically unnecessary under your criteria, would you?

A. So, again, you're using you as in Dr. Beaman.

Q. No, I'm using you as the state.

A. Okay. So if the State of Oklahoma determines it to be medically -- or meets medical necessity under Exhibit 12, then would the State of Oklahoma -- is there a possibility that the State of Oklahoma would find that prescription to be medically unnecessary for false claims.

Q. Yes.

A. And the answer still is no.

Q. Okay. Thank you, doctor. I think you

mentioned at some point earlier today a couple of times that in making the determination as to which claims the state deems to be false claims and for which it's seeking recover reefer under the false claims act, the state had analysis performed and that included the review of medical records, correct?

A. That is correct.

Q. So the medical records that were reviewed in that analysis formed some of the basis for the state's determination as to which claims it believes are false and fraudulent, correct?

A. That is correct.

Q. Okay. And do you know how far back in terms of date the state was able to obtain medical records for the purposes of that analysis?

A. I would say that the state relied on experts to perform that analysis and so that answer would be utilizing my expert role.

MR. PATE: You can answer that one.

A. I mean, we -- I think we requested records back to 1996.

Q. Okay.

A. The rate at which we were -- or the ability for us to receive those records varied.

Q. Okay. What do you mean by that, the ability to receive the records varied?

A. Well, the longer you go back, the more likely you are to not get a record.

Q. Okay, okay. Did the -- did the state receive records going all the way back to 199 [#], did they receive any records going back that far?

A. You know, just to be honest, I can't tell you the oldest record that we received.

Q. Okay.

A. So I can't answer that question.

Q. But it is your understanding I think from

what you told me earlier today that the records that state received and reviewed and deemed to support a finding of medically unnecessary prescriptions have been produced to the defendants in this case?

A. Well, I'm going to ask you to repeat your question.

Q. Sure, I'm happy [TO-FPLT] I know it's getting late, Doctor. All I'm trying to find out, you told me, the medical records that were reviewed

in this analysis formed some of the basis for the state's determination as to which claims were false and fraud [KHR-EPT], correct?

A. Correct.

Q. And I understand you requested records going way back, and you certainly didn't get records from every provider to whom you made a request, did you?

A. No.

Q. Okay. Let me see here. I'm going to try to go back to my exact question. Okay. The state did receive and have an opportunity to review records for at least each and every claim it ultimately deemed to be med ale unnecessary under your criteria, correct?

A. That is correct.

Q. Okay. Doctor, I want to hand you a document -- do you have the --

MR. PATE: We've got magnifying glasses.

Q. This one is very readable. En month Monday 12 point.

Q. Doctor, I'm going to mark an Exhibit 13 -- actually, I marked a copy that I wrote on. You see, Doctor, I've handed you and marked as Exhibit 13 a

spreadsheet.

MR. PATE: This is 13?

MS. PATTERSON: Yeah, 13.

MS. PATTERSON:

Q. And you'll notice at the bottom, Doctor, there's a -- there's a Bates number O. HCA 1. Do you see that at the very bottom?

A. I'm sorry.

Q. I'm just going to identify it for you and I'll give you as much time?

A. As you asked that question it reminds me I might have misspoke to your last question and so I'd like to clarify or to one of your previous questions.

Q. What was the question you believe you misspoke?

A. The one about reviewing records for everybody prescription that was deemed unnecessary.

Q. Tell me you need to clarify that answer?

A. Yes.

Q. Okay. Please do.

A. That -- that every prescription that I, Dr. Beaman, determined to be medically unnecessary, the records were reviewed. There was a statistical

sampling done for prescriptions in for years in which a large volume of medical records were not available in the sample of that -- that was determined to be medically none necessary was performed by Dr. Dr. Gibson.

Q. Okay. S so for that particular group of claims for that particular year, that were determined to be medically [SKR-UPB] necessary there were no records reviewed, is that what you're telling me, no medical records?

A. I won't say that there were no medical records. And I [O*-ER]ly just say out of the 8,059 prescriptions that were determined to be medically [KWR-UPB] necessary all medical records for those prescriptions are were reviewed saline understood than aappreciate that because those were the ones that you reviewed.

A. Yes.

Q. An you reviewed medical records as to all 8,059. Is that right?

A. Yes.

Q. Okay.

A. However, I did review records prior to 2007 when they were available and it would have made determinations based on them also.

Q. I'm sorry, Doctor, is your analysis limited to post 2007?

A. No. We an lysed records regarding the relevant time period, the -- I feel like in part I'm speaking on Dr. Gibson's methodology so I'm trying not to --

Q. I'm just asking you about what medical records were reviewed and I was trying -- all I was trying to find out and you con if you had me now because you threw a date in and I'm not sure what the significance of the date is. So let me ask that first why did you throw in the date 2007?

A. So because your question was for every medically unnecessary prescription or medical records reviewed and I can say definitively yes for the 8,059.

Q. Okay.

A. For other prescriptions that Dr. Gibson included in his analysis, there may have -- there were prescriptions that were deemed unnecessary in which medical records were not reviewed? That's what

I understood your previous testimony to be.
A. Okay.
Q. But but glad you're comfortable it's clear and I'm clear on that. Okay. What year was it that those claims -- well, you mentioned there was a particular year where there was a -- a lack of medical records. I don't want to misstate how you character ride that. What year are you talking about?
A. Well, it's my understanding that Dr. Gibson felt and I should probably read from his disclosure to -- to clarify what I'm saying because I don't want to -- to misstate. He's got a very lengthy report.
Q. I know he does.
A. Okay. So if I could read from Dr. Gibson's report.
Q. Sure. Can you give me a page number?
A. 44.
Q. Give me one second to get there?
A. I'm sorry. Dr. Gibson's disclosure.
Q. Okay. I'm with you.
A. Okay. And so we're going to start on the third paragraph that starts I began the construction.

24 Q. Okay. I'm with you?
25 A. Of the sample by strike that [TPAO-EUG] the

1 database by time. Oklahoma -- Oklahoma Medicaid
2 claims prior to June 1st, 2008 and those on or after
3 June 1st, 2008. So earlier when I you'd the date
4 2007, I should have been using 2008.
5 Q. Okay.
6 A. And then on the next page, 45, in the first
7 paragraph it ends in the [SKR-EUPLTS] written from
8 June 1st, 2008 on ward there are one million, 872, 66
9 1 die [TKA-BGTS]. So that is where -- that the --
10 that Dr. Gibson analysis was separated based on a
11 post 2008, in a pre-2008 sampling methodology.
12 Q. Okay. Thank you, Dr. Beaman. I don't think
13 that was my question, but -- and I appreciate you
14 went through there and can looking. My question was
15 simply what was the year that you were referring to
16 when you indicated that there was a lack of medical
17 records such that Dr. Gibson had to do some
18 extrapolation? It sounded like to me there was a
19 particular year?
20 A. I think it was 2008.

Q. Okay. Thank you. Now, that the 800 -- I'm sorry, 38,000498 unique prescription [O*-ER] or unique opioid prescriptions that -- that you looked at, I think I understood you to say that some of those go all the way back to 1996. They could go

back to 1996?

Q. Okay. You have adjustment document know for sure as you sit here today how far they went back.

A. Correct.

Q. Okay. All right. So, let's look at Exhibit 13, please. So, as I was telling you or saying before we got on that, Exhibit 13 is a set of some of the M MI S. data that was produced to us in connection with this case and you'll notice down at the bottom there's a Bates number that says O. HCA, several zeros and then a one. Do you see that?

A. I do.

Q. Okay. And again, this is not the entirety of the MMI S. data that was provided to us. Obviously that's quite lengthy and would be difficult to copy, but this is a sub-set of the MMI S. data, which I'll represent to you, if you kind of flip back through it, it pertains to the 245 claim --

prescription claims for Actiq and Fentora corresponding on Exhibit No. 3 on the petition. You remember we looked at that chart?

A. Yes.

Q. And you'll notice, Doctor, because there were so many lines of data in the spreadsheets [RA-EPB] I know you're aware of that, correct?

A. Consider he.

Q. In document the way we had to do it and we tried to do it in the most -- most efficient manner that one can do that when look are [WO-RG]ing with big spread [SHRAO-ETSD] like this. You'll notice there's one through 134 linen [KWR-EPLD] up start back at the it starts at one?

A. Yes.

Q. So you understand huh to do that you're just kind of reading across?

A. I do.

Q. And then there's another spot further on down in the document where again it starts at one and again those are just more life expectancies ever data. All right? But again, I will represent to you

and I know you haven't had a chance to look at this, but I'll represent to you that data for the patient identified here as one, is consistent tall way across all of these lines, okay?

A. Okay.

Q. Okay. And and -- and again, I realize it's in a bit of an odd form now because it's not an actual spreadsheet on a computer but does this look familiar to you as -- does this look familiar to you to the MMI S. data that you have reviewed in terms of

how it's formatted on a spreadsheet?

A. So, I -- I think that question goes more into the expert witness role? I'm not -- I'm just asking if the data looks familiar in how it's set out here that's all.

A. I would say it looks consistent with the MMI S. date.

Q. That's all I'm asking. And I want [TO-EUBG] you a just -- we're bog to use line one as an example, okay? Which is just again I want to make sure I understand how this works because we're going to talk about which claims were reviewed based on what we understands because you told me earlier you

thought we were provided some information on this?
A. Okay.
Q. So I'm going show you what I have?
A. Okay [TKP] and see if it's what you think I have -- or see if what's you were referring to, okay? So this is just the data you've got prescribed date you've got a dispensed date, moving over past some of those other lines you've got a column for I. C. N. [TKO-UGS] that.
A. I do.
Q. Do you know what the I. C. N. column, what information that contains [-PLS] I do not?

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Q. I'll represent to you that the I. C. N. number is a number specific to a particular patient. Do you know that?
A. Well, I will agree with your representation.
Q. All right. And if you go over a couple more lines, you'll zero or a couple more columns I should say you'll see an N. DC code and an N. DC description, [TKO-UGS] that?
A. I do.
Q. Are you familiar with N. DC codes?

A. No.
Q. L. recognizing that you're not familiar with them are you at least familiar N. DC codes are where one can determine [AO*-E] there's a specific N. DC code for each drug?
A. Yes.
Q. And that's specific to the manufacturer and the dosage of a medication you understand all of that?
A. Yes.
Q. I'm not going into anywhere detail about that I have I just want and to make sure you understood all that. So this is patient one and we can see from this that patient one got Actiq, correct?

A. Correct.
Q. Okay. Now, let's move over to the -- where the -- where the lines start again over on one?
A. Okay.
Q. Flip back there? It's page 7, thank you. So if you see continuing on page 7 on line one, it has the description of the Actiq which is a fentanyl citrate you called 16 many. C. G. lose engine do you

see that?
A. I do.
Q. And then are another of other columns there.
Correct?
A. Correct.
Q. Now, let's go on over to page 13 where the
spreadsheet continues for patient No. 1. Do you see
that?
A. I do.
Q. And there again, a you be in of columns
including the fourth column which says totals
reimbursement amount, and then there's a column for
refill quantity and there's a column for corporation
name. [TKO-UGS] that?
A. I do.
Q. Okay. And then next to that there's a
column for name. Do you see that?

A. I do.
Q. Okay. And again, it's your understanding --
well, strike that. When you reviewed MMI S. data
provided to you -- well, strike that. The State of
Oklahoma maintains information in its MMI S. system

regarding the manufacturer of a particular medication which is reimbursed for a particular patient, correct?

A. That is correct.

Q. Okay. Second to the last column on page 13 you'll see a D. S. C. [STR*-EFPLT] column. Do you understand what that information is?

A. Yes.

Q. And what is that?

A. Well, it would be my understanding that that would be the dosage strength.

Q. Okay. And if you go on over to page 19, just to round this out. This is the -- these are the last columns pertaining to the 245 and we can look at patient one, and you'll see there's a column there for days supply. Do you see that?

A. I do.

Q. Okay. And then there's a D. identified member, which is a patient number, 434 16. Do you see that?

A. I do.

Q. And there's A. identified prescriber number and I'll just represent to you when the state

produced the prescription claims data to the defendants in the case, they took out the patient names for obvious reason and they also took out the prescriber names and they replaced those with numbers. Were you aware of that?

A. Yes.

Q. Okay. So -- all right. You can put that aside.

MR. PATE: Are you done with this?

MS. PATTERSON: For the moment.

MS. PATTERSON:

Q. And I take it Dr. Beeen make, looking at Exhibit No. 13, are you able on behalf of the state to tell us which prescriptions of the 245 prescriptions on Exhibit No. 13 the state has taken the position are unnecessary or excessive?

MR. PATE: Objection, asked and answered. Ment I would just refer you to my previous answers on that question.

Q. What -- I'm showing you the document now so you can see all of the prescriptions. Can you tell us which ones the state deems to be unnecessary or

excessive?

MR. PATE: Objection, asked and answered.

Q. Is the state able to do that?

A. Based on looking at this document that you provided to me.

Q. Right which is MMI S. data which you referred to earlier that the -- that the defendants were provided.

A. The -- I would say that state is not able to can lieu at this document that you provided and match that with the analysis of the prescriptions that were determined to be medically unnecessary.

Q. And so I guess you with would find it surprising that Teva captain look at in data and determine which of the 245 [SPR-EUPGS] prescriptions if any the state deems to be medically unnecessary?

A. That I would disagree with.

Q. Why?

A. Because certainly you have the -- your client has access to the criteria that was determined to determine medically unnecessary.

Q. Sure?

A. So they can then comply that criteria to this data including the medical records with the --

25 which the clients have access to also.

1 Q. Okay.
2 A. So through their analysis with this data and
3 the medical records they could [TK-UP]ly indicate the
4 methodology that was used to determine which ones
5 were unnecessary. Also it is my understanding that
6 the state has provided you with which one of these
7 was determined to be medically unnecessary.
8 Q. Okay.
9 A. I don't -- I don't have them memorized so I
10 can't look at which codes you give men me and them me
11 which ones are he is necessary and unnecessary.
12 Q. I understand. I'm just saying from this
13 claims data that we were provided there's nothing on
14 this claims data spreadsheet standing by itself --
15 there's nothing on this claims data sheet on its face
16 which identifies which if any of these prescriptions
17 was deemed or has been deemed by the state to be
18 unnecessary or excessive, you would agree with that
19 would you?
20 A. That is correct.
21 Q. Okay?
22 A. You would need to medical records to do

that.

Q. All right. So let me show you Exhibit number 14. Let me hand you Exhibit 14, Doctor.

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Okay. Doctor, I'll let you take a can lieu at this but I'll represent to you that Exhibit No. 14 is another spreadsheet -- I should say another sub-set of a larger spreadsheet that the state provided to the defaults in that case and that larger set of data was identified by the state in its production as O. K. Expert several 00s one 16 do you see that?

A. I do.

Q. And again I'll represent to you what we did is we took a sub-set of the larger spreadsheet of O. K. Expert 16 and we just pulled out the 225 unique prescriptions for Actiq and Fentora. Did I 245 -- 245 unique practitioner [-PGS] forever Actiq and Fentora which were referred to in paragraph 37 of the petition and Exhibit 3 of the petition. Do you see that?

A. Yes.

Q. Okay. Do you recognize this spreadsheet?

A. It -- I haven't seen this specific

spreadsheet but it looks familiar.

Q. Okay. It looks familiar to spreadsheets you've seen perhaps in an electronic form?

A. Yes.

Q. Okay. And there are some different columns in this one and this one has far fewer columns than

the one we looked at just a moment ago but if you look up for example at the first patient, again, you are see the I. C. N. number and I. C. N. number on -- row one the there beyond to the I. C. N. that was on row one on Exhibit 13. Do you see that?

A. I do.

Q. Number much [KHR-UPLTS], there's a column -- a few columns over it M. M.E. 3, do you see that?

A. I do.

Q. What does that indicate?

A. Well, M. M.E. is the standard terminology for morphine million [TKPWRA-P] equivalents. I'm not sure of the 3.

Q. Uh-huh: Why is that there?

Q. Okay.

A. And it appears that it's in straight a so the 3 may refer to three different straight up

18 although it appears that maybe there were more
19 straight up of less than 30, 30 to 60 and [#] zero
20 through 90 and then 90 through highest [STKPWHR-BG]
21 zero. And again, I'm just trying to figure out these
22 are documents that were -- that was data that was
23 provided to us by the state which is factual
24 underpink of the states false and fraud length claims
25 so I'm just trying to nod [WHA-ESZ] this the

1 document.
2 MR. PATE: This -- do you want me to be
3 helpful or not.
4 Q. Let me just ask him questions if you don't
5 mind.
6 MR. PATE: Okay.
7 Q. Dr. Beaman if you go on over you'll see some
8 other columns there include day, supply, etc. and
9 then [O-FBGS] there's a totals reimbursement amount.
10 Do you see that?
11 A. Yes.
12 Q. Okay. There's a column there, one, two,
13 four five [KWHR-UPLTS] over that says expert. Do you
14 see that?

A. I do.
Q. Okay. And if you'll flip through the pages of this spreadsheet, one, two, three four five and go all the way to the last page, page 6. The expert column is blank on pages 1, 2, 3, 4, and 5 and it's blank on -- for all of the rows on page 6 except the bottom 3. Do you see that?
A. I do.
Q. Do you know what the Y. designations mean in in document in the last three rows of the expert column?

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MR. PATE: Object to form. Outside the scope, calls for speculation.
A. I would say that I believe that that answer writers me to be -- utilize my expert witness role [STKPWHR-BG] zero. Well, [TKPW-EP], Doctor with all due we expect I'm trying to figure out a factual basis for the claims that the State of Oklahoma has deemed to be false or fraudulent including but not limited to any claims included in that 245 and of course, we talked about a bigger set 27 hundred with regard to Actiq and Fentora. But focusing on the 245 right now because that was the number that was in the

petition, so I'm trying to determine which claims the state things are false or fraudulent and were submitted to payment and as we saw earlier all of these claims were reimbursed so they must have been submitted for payment, correctment that would be my understanding.

Q. Are the three -- the last three rows here, the three -- the three instances in which the state takes the position that a claim for Actiq or Fentora was medically unnecessary?

MR. PATE: Object to form. Outside the scope.

A. Yeah, again, I don't think I can answer in a

without [KWRAO-UT] lying my expert witness.

Q.

MR. PATE: I don't know if you don't know the answer to this but I can tell you where this came from and maybe why the questions are confusing to the witness.

MS. PATTERSON: You can tell me. Drew did it's up to you. Pat it you a you can tell me where it came from.

MR. PATE: This was created by the expert Jim Gibson.

Q. Okay. So you don't know what that document [PHAO-EPLS]?

A. I have not seen this document.

Q. Okay.

A. So I'm not familiar with his --s.

Q. Coding?

A. Yes.

Q. Okay. Well, I'll tell you it's my understanding, Dr. Beaman, that the -- the whies that are listed there this the last three rows, indicate that those are the only three Actiq and Fentora prescriptions of the 245 that were even reviewed for the purposes of making a medical -- a medical necessity or a medically unnecessary determination.

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[T-UZ] the state have any reason to disagree with that?

A. No, I would not disagree with that.

Q. Okay. And it's further my understanding that the -- of the three Actiq or Fentora claims which were reviewed, as represented by those last three [HRAO-EUFRPBS] all three of those were deemed

to be medically necessary or not medically unnecessary. Does the stated have any reason to disagree with that?

MR. PATE: Object to form, outside the scope.

A. I would say that the -- well, so the state would contend that Exhibit 12 lists the criteria for medical necessity.

Q. The statutory criteria?

A. The statutory criteria for medical necessity which I believe you're saying that these three prescriptions met that criteria.

Q. No that's not what I'm saying?

A. Then I misunderstand your question.

Q. That's fine. I'll ask it again. It's my understanding that the three claims noted at the bottom of the spreadsheet, claims 243, 244 and 245 are zero [*-R] the only three claims out of the 245

that were reviewed in connection with this case to determine whether they were or were not medically unnecessary. Do you have any -- does the state have any reason to disagree that?

MR. PATE: Object to form, outside the scope.

A. So I'm [O*-ER] I'm a little confused as to whether you're saying these three are the only three out of the 245 that were included in the sample that I analyzed. Is that what you're asking?

Q. Sure. Answer that question.

A. I would -- I would it no be able --

MR. PATE: Object to the form outside the scope.

A. I would not be able to answer that question without utilizing my expert witness role.

Q. I thought you said Dr. Gibson review these [-EUPLTS] [KHRA]. I did not say that. I think the attorney Mr. [PA-EUT] said that the spreadsheet was provided by Dr. Gibson?

Q. Oh, okay. All rightment but you provided some information for Dr. Gibson to put into the spreadsheet?

A. That is correct.

Q. On behalf of the state. Okay. So again,

what -- it's my understanding and I want to see if the state agrees or disagrees with this. It's my

understanding that only three of the 245 Actiq or Fentora claims were reviewed by the state to determine whether they were medically unnecessary and with respect to those three claims it was determined by the state they were not medically up un[STPH-ES]. Does the state have any reason to disagree with that?

MR. PATE: Object to form. Outside the scope. Calls for expert testimony.

A. I would say, no, the state would not agree with that.

Q. Okay. Thank you, doctor. Doctor, I want to look at -- before I forget can you get the [HRA-PLG]er notebook in front of you which is going back to topic No. 11 and 12?

A. (Witness complies.)

Q. And I want to make sure I understand all the documents that you brought today.

A. Okay.

Q. And at least in this binder. And over on page 2 of your prepared statement down at the bottom there are a number of footnotes referring to a number of documents and I think all of those documents are what are attached here, correct?

A. That is correct.
Q. Okay. Let's go to -- let's go to tab one which is the frequently asked questions document about Actiq?
A. Okay.
Q. This is a document you reviewed in order to prepare for your deposition today as the corporate rep, correct?
A. Correct.
Q. Okay. Which of the topics or for which of the topics did you feel the need to prepare -- I'm sorry, to review this document in order to prepare?
A. I would specifically say topic No. 11 and 12.
Q. Okay. And is the same true for all of the documents contained in this binder that you felt the [THAO-ED] to review all of these in order to provide corporate representative testimony as to topics 11 and 12?
A. Yes.
Q. Okay.
A. It doesn't preclude me thinking they might have also been helpful for the other topics but as a

general rule, yes.

Q. Okay. And -- I'm going to show you a

document, Doctor, and I don't have copies of this I [SPO-L] apologize I'll just handled it over to.

A. Okay.

Q. Again this was a notebook that was produced to us on Monday of this week by another corporate representative for the state on some different topics, but I want to see if you recognize and it's -- I think this was marked as -- as Exhibit 3 in that deposition of Mr. Tate. It may have been Exhibit 4 and I'm looking under tab rom up numb [AO-UT] prior to authorize [SA*-Z] criteria and it has a dry lab?

A. Okay.

Q. Have you ever seen that document before?

A. I have not.

Q. Okay. Have you ever seen any document that the state has adopted or I implemented related to prior authorize [SKA*-EUGS]s for the drugs Actiq or Fentora?

MR. PATE: Object to form, outside the scope.

A. I will say that I did not review any prior authorization documentation produced by the state in preparation for my testimony.

Q. Okay. [TKPW-EP], I'm asking you about this

and I just have a couple of questions about it because if there's some language in the document which [S-UFLTS] the state's position on what is an appropriate use for Actiq and Fentora and the other drugs mentioned in that. Do you see down there at the bottom where there's a discussion of use only where there is a diagnosis of cancer?

A. So I'm going to ask you to clarify your question or repeat it.

Q. Do you see -- and I'm not looking at the document so I can't point you to exact language but do you see some language if there that indicates a prior authorization will not be grand for Actiq or Fentora or the other drugs listed unless there is a diagnosis of cancer?

A. Yes, I do see that language.

Q. Okay. And again, I will represent to you that this is a document that was produced to us by

EGID, not by the Oklahoma Health Care Authority. Have you seen any similar document regarding prior authorize [SKA*-EUGS] for Fentora or Actiq which is implemented by the health care authority?

A. I did not review.

MR. PATE: Object to the form outside the scopement I did not review any prior [THO-URZ]

[SA*-EUS] documents for state, any of the state entities in preparation for my testimony today.

Q. Okay. Do you see a date on that document if you go back over to the first page?

A. Yes. It -- it whats a copy right of 2017.

Q. Okay. Let me ask this. The owe do you have any reason to disagree with the testimony provided by the EGID, that prior authorization was implemented if 2008 for Actiq?

MR. PATE: Object to form outside the scope.

A. I would say I have no knowledge one way or the other.

Q. Okay. You would have the same answer for when a prior authorization requirement was implemented for Fentora?

A. Yes.

MR. PATE: Object to form. Outside the scope.

A. Are we done with this one?

Q. Yes, for now. You can just sort of set that up here.

A. (Witness complies.)

Q. I'll show you Exhibit 15 --

MR. PATE: Is there another copy there?

THE WITNESS: Oh, sorry.

MR. PATE: You're fine.

Q. Have you ever seen Exhibit 15 before?

A. I don't know.

Q. Okay. And I'm just going to really refer you to one table in this document but just to identify it, it's an article from the American journal of drug and alcohol abuse and the authors of Shelly [KAO-EFT] Nancy necessarier and Kevin farmer. Do you recognize those names or any of those names?

A. Not off-hand.

Q. Okay. I'll represent to you that Ms. Necessarier for example is one of the pharmacy directors at the Oklahoma Health Care Authority. Are

you aware of that?

A. I -- vaguely familiar with that.

Q. Okay. And as you can see from the bottom of the document it was marked in a prior deposition in this case, and the document was published online in December of 2014. Look over at the top of page -- I guess it's page No. 2. It's the table one up at the top. Do you see that?

A. I do.

Q. Okay. Are you familiar with any of those categories of actions or -- it says products or action and it has a policy category and a date and

then an officer. Are you familiar with any of those policy categories or the dates they were implemented by the State of Oklahoma?

A. I would say.

MR. PATE: Object to form outside the scope.

A. -- I did not review the policy categories or the date of implementation in preparation for my testimony.

Q. Okay. So you would unable to tell me what information the State of Oklahoma had on any of those particular dates as to the risks or benefits of Actiq

or Fentora or any other opioid prescription -- or opioid medication, correct?

MR. PATE: Objection -- object to form, vague, outside the scope.

A. I think -- I would disagree with that.

Q. Okay. So do you know what information about the risks and benefits of Actiq or Fentora were known to the state in October of 2003 which led to the implementation of quantity limits op Fentanyl high crow more phone methadone mare per Dean and oxycodone?

MR. PATE: Objection. Outside the scope.

A. Yeah, I would say I did not review information related to that in preparation for my

testimony today.

Q. Okay. Again, so you -- so you don't know what information the state was relying on in -- in terms of information about risks and appropriate use you don't know what information the state was relying on in making that quantity limits I am Mel [PHR-E] main [TA-EUGS] it is I could way?

MR. PATE: Objection, scope.

A. I would say that's rev recommends.

Q. As far as farm tee lock in program [-EFRPL] implemented in 2006, do you know what information the state had knowledge of us a of the that date which led to and again information regarding appropriate use and the risks of Actiq, Fentora or any other opioid medication which led to the implementation of the pharmacy lock in program?

MR. PATE: Objection, outside the scope.

A. I did not review information regarding the pharmacy lock I didn't know program.

Q. Okay.

A. In preparation for my testimony today.

Q. Okay. Are there any of these and I don't want to go through one I one I certainly can to save time are there any of these remaining actions which were implemented at different dates that you could

tell me on behalf of the state what information the state had at that time regarding the appropriate use or risks of Actiq, Fentora or any other opioid manufactured by Teva?

A. No.

MR. PATE: Object to form.

Q. Okay. Thank you. And again, Doctor, let's go back to this notebook. I got -- yeah.

A. (Witness complies.)

Q. Go to tap 1, please. Tab 1 is a document that particularlies asking questions about Actiq do you see that?

A. I do.

Q. Okay. Why is that relevant to your testimony on the topics in this case?

A. It is used to support the language in my prepared statement on page 2, and last paragraph, starting with beginning in approximately 1996, the State of Oklahoma understood the magnitude of the risks of addiction in a patients taking opioids including Actiq, Fentora, and other prescription opioids manufactured by the Teva defendants under the care of and as directed by a physician to be none in which that contention is supported by tab No. 1.

Q. Okay. So your paragraph begins by saying

beginning in approximately 1996, and the documents which you've attached here in this notebook bear a number of it's [*-FR] difficult dates. I see 2005,

2006, 2008, 2003, etc. Do you see that?

A. I do.

Q. So and we've already established I think that Actiq wasn't even approved it came on the market until November of 1998. So you're not saying that the State of Oklahoma had some knowledge about the risk of addiction to Actiq or Fentora as far back as 1996, are you?

A. No.

Q. Okay. Do you know or strike that. Can the State of Oklahoma tell me what, if any, generic opioid medications manufactured by the Teva defaults were even on the market in 19996?

MR. PATE: Object to form, outside the scope.

Q. Well, I mean he brought the document. So I'm asking him about the D.O. he brought it to answer the [KWR-EPBS] that are in the topics. So?

MR. PATE: Outside the scope.

A. I can -- I cannot.

Q. Okay. So can you tell me when the state believed that there was no risk of addiction related

to Actiq, Fentora or any other prescription opioid

manufactured by the Teva defendants? I'm trying to figure out what period of time the state believed there was no risk of addiction as it relates to those two brand of drugs or to any other opioid manufactured by Teva?

MR. PATE: Object to form, misstates his testimony.

A. Yeah, I'm sorry I need you to repeat the question.

Q. Sure. You brought this document so I'm trying to ask you about --

A. Okay.

Q. The document you brought me and this is your answer to topic No. 11. Okay?

A. Correct.

Q. Right? Right? Okay. So at some point it looks like you're saying that the state was -- that the state believed that there was no risk of addiction from Actiq, Fentora or any other prescription opioid manufactured by the Teva defendants. Is that your testimony on behalf of the state?

A. Yes.

Q. So that -- so my next question then is at

what point in time or for what period of time did the state believe that there was no risk of addiction related to Actiq or Fentora or any other opioid manufactured by Teva?

A. So, the state would contend that its belief about the addiction risk changed over time, and that the -- that the timeframe in which you're asking would vary depending on the individual agent and the -- I would say marketing material that was used in the State of Oklahoma at that time for that individual agent. If we are talking about a generic agent, then the state would understand those risks to be similar to the branded agent, and so it would be dependent on the marketing material available of the branding agent during that time period.

Q. And when you use the term individual agent you're talking about an individual drug?

A. Yes.

Q. Okay. Okay. But again, my question is: And I understand you say it changed the state's understanding of the magnitude of the risks of addiction, changed over the years and you even say

that in page 2 here that the State of Oklahoma's understanding of the magnitude of the risks specifically the risk of addiction and diversion and

we haven't talked about diversion yet has changed significantly in recent years. I -- I accept that. Okay? What I'm trying to understand is it sound like initially the state's belief was that there was no risk of addiction, correct?

MR. PATE: Object to form.

Q. You say here none right?

A. Right, yes. So I would say yes.

Q. Okay. And so all I'm trying to find out, Doctor, is during what period of time was it the state's belief that there was no risk of addiction related to Actiq or Fentora or any other opioid manufactured by Teva?

MR. PATE: Object to form outside the scope.

A. Again, I think that that's a very complicated question to answer because there are many agents involved involving marketing campaign by multiple manufacturers over several time period.

Q. Uh-huh.

A. And so the -- the -- I'm trying to find the

right word. It's the culmination of all marketing efforts by all of the manufacturers that are being sued by the state that -- so what I would say multiple manufacturers disseminated information in the State of Oklahoma over the period of time

starting in 1996 saying that opioids were not addictive. That may be as about as specific as I can get. If there's a specific agent you would like to ask, but I think that that would be depend Octoberen [-EPT] on the agent.

Q. I'll break it down by the ate let he just ask you about Actiq?

A. Okay.

Q. Okay? In 19 -- [TKPW-EP], Actiq wasn't approved by the FDA until November of 1998, and according to what a previous witness on behalf the state has testified it didn't bottom a cover drug until January of 1989 -- I'm sorry.

MR. PATE: You said 89.

Q. 1999, okay. So when -- and you already told me, Doctor, that when Actiq was released in the market the state was aware that it was a schedule 2

drug, right? You've already testified to that.

A. Yes.

Q. Same is true for Fentora when Fentora was later released in -- approved in 2006 and -- and became covered by the State of Oklahoma, a little bit later in 2006, you've already told me the state was aware that Fentora as of that time was a schedule 2 drug, correct?

A. Correct.

Q. Okay. So let's go back to Actiq. When Actiq came on the market in 1999 or 1998 and became covered by the State of Oklahoma in 1999, it -- is it the state's position that the state believed at that time that there was no risk of addiction connected to or related to Actiq?

A. Yes.

Q. Okay. Even though the state knew it was a schedule 2 drug?

A. Yes. Well, no -- I will -- clarify my answer.

Q. Sure.

A. Is that the state was aware that there was a risk of addiction if Actiq were being used for cancer

pain.
Q. Okay. It's -- was the designation of Actiq as a schedule 2 drug -- I mean a schedule 2 drug is made a schedule 2 drug because there's a risk addiction, right?
A. I think that's.
MR. PATE: Object to form, outside the scope.
A. I think there are several ropes why a drug may be schedule 2 and I believe that that is

requiring me to be utilize my expert opinion and knowledge and was not information I reviewed in preparation for my testimony today.
Q. Okay. But you've already told me that the state understood that Actiq was a schedule 2 drug. So that's not something that requires expert testimony, is it?
A. No, he than that's correct the state would have agreed and would also agree that one of the things that is specified in the schedule drug is that it has a risk a addiction.
Q. Thank you. That's all I was trying to get

to. Okay. Yet, you are telling me that even though the state was aware it was a schedule the drug, Actiq, and the state was aware that a schedule 2 drug means that drug has a risk addiction that the state nevertheless as of 1999 when Actiq came on the market, that the state nevertheless believed there was no risk of addiction?

A. That is correct.

Q. Okay. And tell me please why it is that the stated believed that there was no risk of addiction related to Actiq notwithstanding the fact that the state was aware it [A-FPS] schedule 2 drug which necessarily means there is a risk addiction?

A. So the information provided to the state in the frequently asked questions on what is -- on page 6 of the actual manufacturers page 6, one of the frequently asked questions is will I get addicted to this medicine? You will not get addicted to Actiq.

Q. Okay. So you're pointing to the document that's behind tab 1, correct?

A. That is correct.

Q. Okay. And you're saying that this document was provided to the State of Oklahoma in 1999.

MR. PATE: Object to form, misstates his testimony.

Q. Go ahead.

A. I would say that this document was available to the state at that time period and it's information that the state -- and I'm not sure that this particular document was available on the day that the drug was first available in Oklahoma but it would have been available -- it's the state's belief that this document was available during the relevant time period and it outlines you will not get a [TK-EUT]ed to Actiq.

Q. And again I'm looking back at what you're -- your answer and you said so the information provided to the state in the frequently asked questions on

page 6 and then you referred back to this document so I'm just trying to find out, was this document provided to the state in -- at or around the time that Actiq was introduced onto the market or do you know?

MR. PATE: Object to form, outside the scope.

A. Well, --

MR. PATE: Calls for speculation.

A. The state would contend that this document was the information that the manufacturers were did he say [S-EPL] anytime Natting about their medication and it's thes's condition zero tense the in is a document related to that medication that only the document would contain that information but that the other marketing instruments employed by the manufacturers would have similarly used information and so if the frequently asked questions for patients I saying they will not get a[TK-EUBGTD] then it's the state's position that the pharmaceutical [R*-EPTS] were likely telling the physicians in the State of Oklahoma at the time that they would not get a [TK-EUBTD]. It's further the state's contention that when Oklahoma doctors would attend medical conference, CME [AO-E] [SR-EPLTS] in other medical

education type events that -- that the defendants were -- located at that they would likely be saying similar information to the physicians who would then come back to Oklahoma and believe what was told to them during those events.

Q. Objection, nonresponsive. Doctor, I simply asked you and I'm looking at the question I'm going read it back to you. Was this document provided to the state at or around the time that Actiq was introduced onto the market do you know?

MR. PATE: Objection, outside the scope, calls for special [HRA-EUGS].

A. I would say no.

Q. Do you know if this document behind tab 1, the frequently asked questions document about Actiq was ever provided to the state?

MR. PATE: Object to form, outside the scope.

A. I would say that it would have been available to the state.

Q. Was it was provided to the state, Doctor, does -- does the state know if this document was ever provided to it outside the context of this litigation?

A. Well, the state --

MR. PATE: Object to form [O*-RBGS] doctor, sorry object to form [O-UGS] the scope.

Q. [TKPW-EP], to be clear, Doctor, I'm asking questions about these documents that you brought with you and upon which you have relied to provide your written response to the deposition topics that we noticed for today. Okay? So let me -- let me ask you question. Was this document -- does the state know if this document was ever provided to the state outside the context of discovery in this [HR-EUTD] [TKPWA-EUGS]?

MR. PATE: Object to form, outside the scope.

A. I would say that this document would have been available to the state in the same way that Exhibit 8, Exhibit 9, Exhibit 10, and Exhibit 11 would have been available to the state.

Q. Okay.

A. So if -- as I mentioned earlier when I said that the black box warnings were -- that the state would have been aware of those black box warnings, I would utilize that same terminology to describe the state's awareness being provided with this documentation. The -- I did not review the process for manufacturers disseminating frequently asked

questions to the State of Oklahoma in preparation for my testimony today.

Q. But what you did do was prepare this written document in conjunction with the lawyers for the state which said and I'm reading from it on page 2, beginning in approximately 19896 the State of Oklahoma understood the magnitude of the risk of addiction in patients taking opioids and then it continues on and it says initially the state's understanding was that there was no risk of addiction and then you cite to this document. Okay? So that's why I'm asking you about it, Doctor. So you said that the state -- that this document, tab 1, would have been I think you said generally available to the state -- was that the term you used?

A. Yeah, I believe so.

Q. That this document, tab 1, would have been generally available to the state in the same manner as Exhibits 8, 09, 10 and 11, correct?

A. Correct.

Q. And Exhibits 8, 9, 10 and 11 are the various FDA warning label documents that we went through earlier today, correct?

A. I believe them to be more than just warning

label documents, but include the warning label I

would agree with you they're more than warning label documents so I appreciate the clarification but Exhibit 8, 910 and 11 include the FDA warning [HRA-EUBTS] for Actiq and Fentora indicated or the documents.

A. That is correct.

Q. Will okay. So how is it -- let's just focus on those four exhibits since you referenced them, how is it that warning label information and the other information contained in those documents becomes generally available to the state?

A. Well, so, the -- I would say numerous ways.

Q. Give me -- list for me every way the state and you're the representative of the state and you told me that those types of information and those documents is generally available to the state -- tell me how the state comes into possession of that.

A. Well, are I would say that the information would be available on the Internet [SPHR] okay.

A. And I would say that that's one way that it's generally available. Did I not review every syringe

else specific way that all drug information is made available to the State of Oklahoma in preparation for my testimony today.

Q. Okay. But when you say it's generally

available to the state, the labeling information, the black box warnings and the contraindications and that sort of stuff, one of the ways that that information would have been generally available would be on the Internet?

A. Yes.

Q. Okay. Now, let's go back to this document, the frequently asked questions document. You said that this document would have been generally available to the State of Oklahoma. Is that the same answer that it would have been generally available to State of Oklahoma on the Internet?

MR. PATE: Object to form, outside the scope.

A. It looks to be like a -- a more specific document. I'm not aware of the medium in which this document was used for transmission, but it appears to be information that would be available on the Internet.

Q. Okay. But you don't know for sure.
A. No.
Q. Okay. And you don't know how, if at all, the State of Oklahoma ever came into possession of this document other than in this litigation.
MR. PATE: Object to form outside the scope.

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Q. Is that right?
A. That's correct.
Q. Okay. Let's go to tab 2: Oh, actually and before I go to tab 2 I want to make sure I understand. Is it the state's position that back at the time that Actiq came on the market and the state was aware of the warnings and the contraindications and the black box warning and the labeling material that we looked at, that the state also was aware of this frequently asked questions document and that the state made the determination that there was no risk of addiction based on this frequently asked questions document notwithstanding the FDA label is that the state's position?
MR. PATE: Object to form, outside the scope.

A. I'm sorry, that was a long question can you --

Q. Sure I'm happy to?

A. Can you [PWRA-EUB] it down.

Q. Sure I can break it down a [PWHR-EULT]. My understanding is the state's position is that it would have had generally available to it at around the time that Actiq came on the market not only the labeling information including the black box warning

but also you've told me it would have had available to it generally the frequently asked questions document. I'm just trying to find out is it state's position that notwithstanding the information and the label that we've [HRAO-PBGD] at including the designation of Actiq as a schedule 2 drug that the state nevertheless briefed that there was no risk of addiction related to Actiq because it relied on this document?

MR. PATE: Object to form.

Q. Tab 1?

MR. PATE: Object to form, outside the scope.

A. I would say that the -- the state did not

solely rely on the document located under tab 1.
Q. Okay. What other documents did the state rely on to initially believe that there was no risk of addiction related to Actiq?
MR. PATE: Object to form, outside the scope.
A. So the -- the state would contend that Actiq being an opioid medication would have been subject to the same risk of addiction education as all other opioids being manufactured or distributed or being sold and prescribed in the State of Oklahoma during

the relevant time period. So if other opioids were being branded as non-addicting, then those -- that could be then utilized to influence physicians in the State of Oklahoma that Actiq was not addicting. Similarly just like when physicians are told that Actiq is not addicting, they can extrapolate that to mean other opioids are not addicting.
Q. Objection, nonresponsive. Doctor, my question was: What other documents did the state rely on to initially believe there was no addiction related to Actiq?

MR. PATE: Object to form, outside the scope and asked and answered.

A. Yeah, I don't think I can clarify my answer anymore.

Q. Well, again, I believe your answer was not responsive to my question respectfully doctor. I simply asked you what other documents did the state rely on to initially believe that there was no risk of addiction related to Actiq. You told me about the document behind tab 1. I just want to know what other documents did the state rely upon initially to believe there was no risk of addiction?

MR. PATE: Object to form outside the scope.

Q. If there aren't others you can tell me that

but if there are other documents I'd [HRAO-EUBLD] to know what they are. Drew did?

A. Well.

MR. PATE: Hold on that's not a question it wait for her to request [SK*] [STKPWHR-EPB] what other documents did state rely to initial believe this was to [-EUBGS] did Actiq.

MR. PATE: Object to form outside the scope asked and answered. I would say all of the documents

that are listed on page 2 where it says opioids manufactured by the Teva defendants under the care of and as directed by a physician to be none, a chance and not often uncommon in patients without personal or family history of substance abuse .0 3 percent rarely occurring and very low. Now, similarly, I'm still read willing.

Q. Sure.

A. Similarly responsible opioid prescribing a physician's guide to which Cephalon attributed at least $100,000 states that opioids are often underutilized due to confusion about the risks [SO-ERTD] with the use of these drugs particularly about addiction. The state's understanding of the non-existent rare and very low risks of addiction was reinforced by the con set of pseudo addiction the

Teva defendants provided information to the physicians within the State of Oklahoma as well as the State of Oklahoma that sued auto addiction was medicine seeking behavior caused by not taking enough pain medicine and could be mistaken for addiction and or was drug seeking behave similar to addiction but

is due to a need for more medication for control of pain rather than psychological depend earnings per share on the drug. The Teva defendant Cephalon provided a $100,000 for the development and distribution of responsible opioid prescribing which contains [STKRAO-EPL]ly mission leading information let [-LD] to the concept of sued a addiction. The Teva defaults further informed that pseudo addiction is not addiction as out[HRAO-EUPD] in documents 11 and 12. The state's understanding of this [R-EUFG] of addiction and [K-URPBGS] of pseudo addiction are the Teva defendant [PR-UPBGTS] arose from the [TKAO*-EFT] defendants and other defaults provision of the information underlying this understanding on a nationwide in Oklahoma specific basis regarding the Teva defendants specifically, this information was conveyed through direct selling, sales driven medical education [PRA-PLTS], medical Lee asons peer to peer education, K. M. A. programs including three

telephone conference [S-EUPL] pose I can't, [TPHAO-GS] letter and websites, direct mailings, Internet promotion that will activity, journal activities, peer reviewed publications patient

education programs, consultant meetings and advisory boards as list in document No. 13 under tab 13. The Teva defaults conveyance of this information into the State of Oklahoma was so effective that by 2012, the Oklahoma City territory contained more -- more committed and tore [TA-RBGTS] [THRA*-EPB] than any other include territories including New York City Los Angeles and Chicago Fentora [TA-RBGT] [-LD] all Fentora prescription also written. So, the State of Oklahoma relied on the documents because you want to know which documents I would say documents located under tabs 1, 2, 3, 4, 5, 6, 7, 8, 13, 10 and 11 and 12, so documents one through 13 specifically. My trouble in answering your question is your use of the word initially. And if you want to tell me which documents we had available at which timeframe I'm happy to go tab by tab and answer that question. I find initially to be broad and not something I feel comfortable answering without having more kind of specific criteria.

Q. Objection, nonresponsive. The question,

Doctor, is at the time Actiq initially released on

the market and that was the context of [PH-EUF] earlier questions, what other documents did the state rely upon own what's behind tab 1 to believe there was no risk to addition [-FRLT] I don't believe I can annuls the question anymore than itch?

Q. Well what you've just done other than reading a long passage from your written statement is to refer to a number of documents which you've provided here today which are dated 2003, 2005, 2006, 2007, 2008, okay? I -- I understand from what you said here is that when the -- when the Actiq initially came on the market, notwithstanding that it was a schedule 2 drug the state believed that was no addictive. Isn't that you've told me here today?

A. Yes.

Q. Okay. And so we're talking about when it first came on the market. Can you point me to any document other than what's behind tab No. 1, which you think was generally available to the state at that time, upon which the state based its belief back at the time this came on the market in 1999, was that this drug was no addictive?

A. So.

MR. PATE: Objection, asked and answered,

and outside the scope.

A. The state would not contend that it relied solely on documentation provided by the manufacturers.

Q. Uh-huh.

A. But also on direct sales, sales driven medical education programs, medical Lee asonen peer to peer Ted, CMA including through tell conference [S-EUPL] pose I can'ts newsletters and westbound [TAO-EUTS] direct mailings [SPWR-PBLT] promodel that will [T-EUFLT], journal advertisement peer re[RAO-U] publications. He. Dry and advisory boards to determine that Actiq was not addictive.

Q. Can you identify for me, Doctor, any other document I'm not asking but CME, I'm not asking you about -- any of those other things you just said. Can you identify for me as we sit here today as the representative of the state any other document on -- upon which the state basis its claim that at the time Actiq was released according to your statement the state believed there was no risk of addiction?

MR. PATE: Object to form, [O-UG] the scope [SKA-EPD] multiple [TAO-EUPLSZ]?

A. No.
Q. Okay. Thank you. Now I'm back on the

bottom of page 2 of your written answer to topic No. 11, and after you say none, then you say at some point in time the state believed that there was a chance of addiction but not often. Do you see that?
A. Yes.
Q. Okay. And you cite for that proposition a Fentora patient kit from 2008. Do you see that?
A. Yes.
Q. All right. And we're going to come back to that because I want to stick to Actiq for the moment. Okay? I believe the next thing at in terms in what you have foot knotted there that references Actiq I believe is tab No. 5. I'm not even sure tab No. 5 speaks specifically to Actiq. I may be wrong about that. I'm sorry. It's tab No. 4. It's a document -- the front page of it says Actiq, a pain primer. A reference for the rest of us and Cephalon logo on it and it says not for promotional use. Do you see that?
A. Yes.

Q. Okay. And that according to your footnote is a document that came out in 2006. Is that the state's understanding?

MR. PATE: Object to form.

A. Yes.

Q. It's footnote 5 of your prepared statement, correct?

A. Yes.

Q. Okay. And according to the document a pain primer, what was the -- which again I think -- take it your position that the state became generally aware of this document in or around 2006 when it came out? Is that the state's position?

A. Yeah.

MR. PATE: Object to form.

Q. Okay. And where in this document does the -- is it represented that addiction is -- that there's a chance of addiction, but it does not occur often?

A. On the page that has Teva O. K. Ending in 243.

Q. Okay. Give me a second. Okay. I think I'm with you. All right?

A. All right. Has two columns.
Q. Yes, sir?
A. Look at column number [KW-UPB].
Q. Yes, sir?
A. Under the bullet point a [-EUBGS] did. Addiction refers to dependence on a drug due to it's psychological rather than physical effects often this

did he end [-EPBS] is so strong that the addicted person experiences an overwhelming compulsion to obtain the drug at any cost even risk harm. A common misconception that is the use of opioid drugs will lead to addiction. In truth addiction rarely occurs in patients taking opioids properly under the doctor's supervision.
Q. Okay. Is there anywhere else in this particular document that there's a discussion of the risk of addiction with regard to Actiq?
A. There is the use of the term pseudo addiction on same page.
Q. I see it.
A. Pseudo addiction and pseudo tolerance where it states that pseudo addiction is drug seeking

16 behavior that appears similar to addiction but is due
17 to a need for more medication to control one's pain
18 rather than to psychological dependence on a drug.
19 Q. Okay. So we looked at the frequently asked
20 questions document this I think you testified became
21 general available to the state sometime around the
22 time Actiq was released, right. Yes?
23 Q. And now we're looking at a 2006 document related
24 to Actiq all right and your testimony is this was
25 generally available to statement around that time?

1 A. Correct.
2 A. Correct.
3 Q.
4 MR. PATE: Object to form.
5 Q. You are are there I in other doctors you're
6 aware of of doctor, that state [PWA-EPL] ail wear
7 of -- let he rephrase it. Are there any other
8 documents that state became aware of between the time
9 it became aware of document under tab 1, the
10 frequently asked questions presume bely sometime
11 around 1999 until 2006 when this other document that
12 we're looking at, the pain primer is dated, is there
13 any other documents that the state relied upon in

connection with whether or not or to what extent Actiq was addictive?

A. Well, zero in --

MR. PATE: Object to form, outside the scope.

A. In and of the fact that Actiq is a opioid, the state would have relied on documents that all opioid manufacturers and all of the other forms of [TPH-FRLGS] dissemination that I outlined if my written statement.

Q. Uh-huh: Regarding the risks of opioids?

Q. Okay. So you just sort of deferred to generally

speaking, the risks of opioids, correct? And you know, Doctor, and the state knows that all opioids are schedule 2 medications, correct?

A. I -- I would disagree with that.

Q. Okay. Well you certainly know that Actiq was we talked about several teams you certainly know that Fentora was correct?

A. Consider correct.

Q. And you certainly know that OxyContin in its generic are a schedule 2 drug?

A. Yes.
Q. So my question is he is it really your testimony that the state believed in 2006 that Actiq carried with it no risk of addiction?
MR. PATE: Object to form, mistates his testimony.
Q. Is it your belief, Doctor, b 2006 it was the state's belief that Actiq only carried with it a chance of addiction but that addiction would not happen often? I just want to know what the state believed at that point in time.
MR. PATE: Object to form, outside the scope.
A. I would say that the state would believe information provided by pharmaceutical manufacturers.

Q. Okay. So the state believed -- I'm not asking what they would believe or what it would believe I'm asking what it did believe. Did the state believe as of 2006 that there was only a chance of addiction related to Actiq and it wouldn't happen often?
A. I would say that the state believed in 2006 information provided to it through multiple forms

including direct information from the manufacturers, along with information provided through direct selling, sales driven medical education programs, medical Lee ace answer peer [PO] peer. Three through coal the con [TPR-EPGS] symptom pose [KWR-UPL], he [TO-FPLT] awent [SAO-EULT], direct mailings. [TKP] [SPWA-RBL].

MR. PATE: Jason, slow down.

A. I'm sorry. Journal advertisements, peer reviewed publications, patient education programs, [SKO-ULT] meetings and add rise boards.

Q. Objection, nonresponsive much let's look at your statement, page 2.

A. Okay. Is it the state's testimony that the state has -- that the state's understanding of the risks associated with Actiq has changed since that drug was initially released.

A. Yes.

Q. Okay. And it went from an initial belief that there was no risk of addiction, correct?

A. Correct.

MR. PATE: Object to form, outside the

scope.

A. Correct.

Q. And as we sit here today in 2019, does the state believe that there was a risk of addiction related to Actiq?

MR. PATE: Objection, asked and answered.

A. Yes.

Q. Okay. So it went from at some point you believed there was no risk addiction and today the state believes there is a risk addiction, correct?

A. Correct.

Q. Okay. At what point in that range of time did the state determine that there was in fact a risk of addiction related to Actiq?

MR. PATE: Object to form, outside the scope.

A. The State of Oklahoma is an incredibly large entity exposed of multiple agencies that would interesect with this type of information. Those agencies rely on different information at different

times through different sources. For knowledge of the risk and benefits regarding opioid medications. So I think it would very specifically depend on the

agency within the State of Oklahoma.

Q. Okay.

A. And the opioid that you're specifically talking about and the form in which the information was disseminated from the manufacturer to that entity in -- on when the -- the state became aware. So to answer that question, I would say that the state became aware multiple different times through its multiple different agencies through multiple different aches.

Q. [A-FLS] that [THRO-EUFPD] drug Actiq?

A. Yes.

Q. So the state would have been become aware that the drug Actiq because that's what I was asking you about, has with or carries with it a risk of addiction at different points of time for different [A-EUG]s. Is that your testimony?

A. Yes.

Q. Okay. Let's -- since you asked me or suggested that I should specify an agency let me specify the Oklahoma Health Care Authority which administers the medication program which is seeking

to recover for false claims reyou are reimbursed by the Medicaid program in the lawsuit, okay?

MR. PATE: Object to form.

Q. Can the state tell me and can you as the representative of the state tell me at what point in 1999 to today the -- that Oklahoma Health Care Authority knew that Actiq carried with it a risk of addiction?

MR. PATE: Object to form, outside the scope.

A. I can say that the state is -- the state would contend that it's knowledge of the addiction of Actiq at the -- through the lens of the Oklahoma Health Care Authority changed over time.

Q. I understand.

A. I specifically would defer you to the Oklahoma Health Care Authority for more specific information regarding that in that I did not review documentation as to the Oklahoma Health Care Authority's knowledge of the risk of addiction in preparation for my testimony today.

Q. Okay. I understand. You -- do you understand, though, that one of the things that you were presented on here today was your understanding

being the State of Oklahoma's understanding of the

risks of Actiq, Fentora and the other opioids, correct?

A. That is correct.

Q. Okay. And you would agree with me that at some point in time after 1999, the State of Oklahoma health care authority did come to know that Actiq was -- carried with it a risk of addiction, correct?

A. Yes.

Q. Okay. You just don't know when that was, do you?

A. That is correct.

Q. Okay. Thank you. Let's take a short break.

THE VIDEOGRAPHER: Going off the record the time is 722.

(Whereupon, a short recess was held.)

MS. PATTERSON: [PWA-PBG] the record. Ill think [W-EU] what we've decided to do is adjourn [TPWO-R] the [AO-EPG] and reconvene tomorrow morninger at in[STA] script or at Ms. Fissure's office depending on where -- what we hear from [PH-EUZ] fissure later on this [TKAO-EPBG] and we'ring go to [STA-EURT] at 8:30 and every [TK-EFRPB]

to finish by 11:30.

MR. PATE: I have nothing to add that's what the judge said. All right. We dot what judge says.

MS. PATTERSON: Thank you.

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