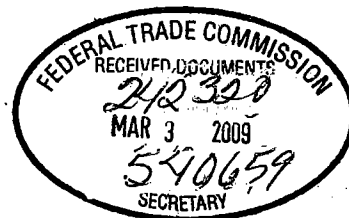


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of)
)
)

DANIEL CHAPTER ONE,)
a corporation, and)

Docket No. 9329

JAMES FEIJO,)
individually, and as an officer of)
Daniel Chapter One)
_____)

Public Document

DEPOSITION TESTIMONY SUBMITTED IN SUPPORT OF COMPLAINT
COUNSEL'S MOTION FOR SUMMARY DECISION

In the Matter of:
Daniel Chapter One, et al.

February 6, 2009
Denis R. Miller

Condensed Transcript with Word Index



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I N D E X

WITNESS:	EXAMINATION	PAGE
DR. DENIS R. MILLER	MR. J. TURNER	4

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
DCO 1	Labels for each of the four products.	135

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1 UNITED STATES DISTRICT COURT
2 FEDERAL TRADE COMMISSION

3
4 In the Matter of:)
5 DANIEL CHAPTER ONE, a corporation,) Docket No. 9329
6 and)
7 JAMES FEIJO, individually, and as)
8 an officer of Daniel Chapter One,)
9

10
11 Friday, February 6, 2009

12
13 Federal Trade Commission
14 One Bowling Green
15 New York, New York
16

17
18 The above-entitled matter came on for
19 deposition, pursuant to Agreement, at 9:30 a.m.
20

21 Pages 1 - 194
22 Reported by: Linda A. Schilt
23
24
25

1 DR. DENIS R. MILLER, having first been
2 duly sworn by a Notary Public of the State of New York,
3 was examined and testified as follows:

4 EXAMINATION BY
5 MR. S. TURNER:

6 Q. Good morning.

7 A. Good morning.

8 Q. Dr. Miller, could you state your name, address
9 and professional title for the record.

10 A. Yes. Denis R. Miller, D-E-N-I-S. My address
11 is 36 East Lake Road, Tuxedo Park, New York 10987.

12 My official title?

13 Q. Yes, whatever your professional title is.

14 A. I'm a therapeutic area leader for oncology
15 hematology at Parexel, P-A-R-E-X-E-L, all capital
16 letters, International.

17 Q. Thank you. Dr. Miller, you met Betsy Lehrfeld
18 who is here, Chris Turner, and I'm Jim Turner, and we
19 are representing the respondent in this case, Daniel
20 Chapter One.

21 A. Yes.

22 MR. J. TURNER: What we're planning to do today
23 is go over your expert witness report and talk about
24 that and I want to do three things: One is to talk
25 about how the report was prepared, that's the first

1 APPEARANCES:

2
3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:

4 THEODORE ZANG, JR., ESQ.
5 CAROLE A. PAYNTER, ESQ.
6 One Bowling Green - Suite 318
7 New York, New York 10004
8
9

10 ON BEHALF OF THE DEFENDANTS:

11 JAMES S. TURNER, ESQ.
12 CHRISTOPHER TURNER, ESQ.
13 BETSY E. LEHRFELD, ESQ.
14 SWANKIN & TURNER
15 1499 16th Street, N.W.
16 Washington, D.C. 20036
17
18
19
20
21
22
23
24
25

1 part; and the second part is to go through the report
2 itself; and then the third part is any leftover general
3 questions or concepts, stuff that we didn't cover in
4 the previous two sessions. We'll take probably all day
5 to do this, basically from now until five. I guess
6 we'll break for lunch for about an hour, 45-minutes to
7 an hour, right in the neighborhood.

8 MR. PAYNTER: That sounds fine.

9 MR. J. TURNER: Whatever makes sense, probably
10 around noon. If you have any need for a break at any
11 time, just say I need a break. If you need water,
12 anything like that, just say you need that, whatever,
13 and we'll do the same if I have to stop for a while.
14 We might take a break in the morning sometime and in
15 the afternoon, you know, for a few minutes. That's
16 kind of the way we've been doing it.

17 MR. PAYNTER: Just for the record, Dr. Miller
18 has an appointment for 7 o'clock this evening.

19 MR. J. TURNER: I'm reasonably sure I'll be
20 done by five. That's kind of what we agreed to. It
21 may go over a little more, it may end before that. I
22 know what I need to know and when we get there we'll
23 get there. I'm pretty sure it's not going to go past
24 five or maybe shortly after five.

25 MR. PAYNTER: Okay.

1 Q. I wanted to begin, Dr. Miller, with asking you
2 questions about how the report was prepared. So the
3 first question I have is how did you hear about this
4 case?

5 A. I believe I received a telephone call from
6 Mr. Zang, who's not here.

7 MR. PAYNTER: He's here.

8 A. There he is, I'm sorry.
9 And there may have been someone else on the
10 call at that time. I'm not sure if Carole was on the
11 call. I got a call from the FTC.

12 MR. J. TURNER: Are you saying, yes, you were?

13 MR. PAYNTER: I don't know if I was.

14 A. I know Ted was on the call and it was an
15 introductory call broadly finding out who I was and
16 what I had done and whether I had done any work on
17 issues relating to claims about the anticancer activity
18 of certain products.

19 And I reviewed my experience and we had a few
20 more teleconferences where after I had submitted my CV,
21 and it was at that point in time after I signed a
22 confidentiality agreement and a contract was set into
23 place I was then specifically asked to review whether
24 these four products of Daniel Chapter One would satisfy
25 some of the claims that were made about them and

1 claims made that these products all by themselves had
2 potent and effective anticancer activity.

3 Q. Now, I asked you before this answer that you
4 gave what was your understanding the products were,
5 what did you think they were?

6 A. Well, there were four products.

7 Q. What I mean is what class were they; foods,
8 drugs, food additives, what was your understanding?

9 A. Well, I looked at them as agents that would
10 have -- I asked the question do these agents or
11 products have any anticancer activity.

12 Q. How did you come to form that question as the
13 question you were asking or answer?

14 A. It was based upon claims that were made and in
15 support of these four products stating that they could
16 inhibit cancer growth or tumor growth, that they were
17 effective in the treatment of cancer, that they might
18 actually obviate some of the adverse effects of cancer
19 treatment itself.

20 Q. And how did you arrive at those claims as
21 claims that you were going to evaluate?

22 A. From the review of the Daniel Chapter One web
23 site and the supporting information that came from
24 their web site about what their products do and how
25 they might help patients with cancer.

1 whether there was reliable and supportable evidence
2 that these claims were reasonable, scientifically and
3 medically.

4 So then I began my work and that was in October
5 of 2008.

6 Q. And when you were asked about these products,
7 what did you understand the products to be?

8 A. I had to wait until I had gotten the complaint,
9 and I had to wait until I got specific information
10 about the products themselves, and then I began a
11 review of some of the literature and other documents
12 that were submitted by Daniel Chapter One in support of
13 their claims and evidence as well as my own very in
14 depth review of the literature that relates to a number
15 of these compounds or products that have been used in
16 the treatment of cancer.

17 Q. When you say "have been used in the treatment
18 of cancer," what do you mean by that?

19 A. A good example would be shark cartilage. There
20 have been reports of the use of a number of
21 complimentary medicines in its broadest definition that
22 have been used to complement conventional cancer
23 therapy to see whether it might improve quality of life
24 or it may have additive effect to conventional
25 anticancer therapy, and in some cases there have been

1 MR. PAYNTER: Can you read back the question,
2 please.

3 (The requested portion was read.)

4 Q. So now you had in your mind the claims. Had
5 you determined in your mind yet whether you were
6 dealing with a food, a drug, a food additive or some
7 other substance?

8 MR. PAYNTER: I'm just going to object on
9 foundational because you're asking him did he determine
10 the claims and I think you can ask him the question did
11 you determine what the claims were and that might
12 actually clarify it. I think the record is a little
13 unclear right now as to who determined the claims in
14 this case.

15 MR. J. TURNER: Well, actually, I'm going to
16 ask that question more specifically when we get to the
17 claims in the document. What I'm trying to understand
18 and am trying to ascertain is as he began the process
19 what was his assignment.

20 MR. PAYNTER: Well, that might be a better
21 question.

22 A. Well --

23 MR. J. TURNER: That's the generic question.
24 I had already asked that but we can go back through it
25 again.

1 Go ahead.
 2 A. I was asked by the FTC to determine whether
 3 there was competent and reliable scientific evidence to
 4 substantiate a number of claims about these four
 5 products; whether they inhibited tumor growth, whether
 6 they were effective in the treatment of cancer, whether
 7 they can actually eliminate tumors or whether they can
 8 actually heal or obviate the adverse effects or
 9 destructive effects of radiation therapy or
 10 chemotherapy. And I was asked to provide reliable and
 11 competent evidence, if I could find it, in support of
 12 these claims.

13 Q. Was this before or after you saw the complaint?

14 A. Was what before or after I saw the complaint?

15 Q. Had you looked at the web site and formulated
 16 some ideas about claims and had you begun your work and
 17 the question I'm asking is: Did that activity that you
 18 described, and there were some other things in there,
 19 take place before or after you read the FTC complaint?

20 A. I can't tell you exactly the order of things.
 21 There were so many different things that I reviewed.
 22 The complaint was one thing to get a focus on what the
 23 case was all about, but I reviewed all the literature
 24 that was provided by Daniel Chapter One in support of
 25 their position. I reviewed my own literature sources

1 that related to the same issues. I reviewed different
 2 web sites. I reviewed material from different cancer
 3 centers. I reviewed my own huge body of literature in
 4 this area because I've done a lot of work in it. So
 5 there were so many different sources that I reviewed
 6 before I even began writing my report or formalizing my
 7 opinions.

8 Q. I just want to understand. You don't recall
 9 whether you had seen the complaint before you started
 10 the process?

11 MR. PAYNTER: Objection.

12 A. I don't remember.

13 MR. PAYNTER: Objection.

14 MR. J. TURNER: On what ground?

15 MR. GREENE: That's a very unclear question.

16 Q. The question is that you said you began your
 17 activities in October, that's what you recalled?

18 A. Yes.

19 Q. Let's walk through it. Then you did a number
 20 of things that you laid out and described. When did
 21 you begin to do the work that ended up with the report?

22 A. When did I begin my work that related to my
 23 report? In October when I began a review of
 24 everything relating to these products.

25 Q. Do you have any idea when you received a copy

1 of the complaint?

2 A. I don't recall. I listed all the things that I
 3 reviewed but I didn't put down the date I reviewed all
 4 of them because it was an ongoing dynamic process.

5 Q. Okay. What was your reason for taking this
 6 assignment on?

7 A. What was my reason for taking the assignment
 8 on?

9 Q. Yes.

10 A. I'm an oncologist. I spent my career in
 11 treating, diagnosing and I think making some advances
 12 in the way we treat cancer patients, and I'm interested
 13 in all potentially effective therapies to improve the
 14 life of a cancer patient; and I've been doing that all
 15 my life. I've also done a lot of work in what I would
 16 call complimentary medicine, supportive care in cancer
 17 patients. And when I was asked to review this, it was
 18 something I had knowledge of and an interest in and
 19 said, yes, I'd be happy to review these products and
 20 see whether there is competent and reliable evidence to
 21 support their use in treating cancer.

22 Q. Um --

23 A. I never heard of them before and so it was --
 24 except for shark cartilage, but I never heard of this
 25 company before, nor had I heard of any of their

1 products.

2 Q. What are your thoughts about the company,
 3 having done this review, what is your impression of the
 4 company?

5 A. My impression of the company or my impression
 6 of the company doing the review? I'm not sure which
 7 part of that --

8 Q. You reviewed products of a company.

9 A. Yes.

10 Q. What are your impressions of the company?

11 A. I don't know how to answer that, okay.

12 Q. Okay.

13 A. I never met the people who own the company.
 14 All I've read is what they have in the public domain
 15 and that's all I know about them, and I read the
 16 depositions of Jim Feijo and his wife Patricia, Tricia.

17 Q. Okay.

18 A. That's all I know about the company, but I
 19 never met them personally, never interviewed them,
 20 never visited their sites of business.

21 Q. I want to now go to the second part of this,
 22 which is the main activity here, which is going over
 23 the report itself. We've done a little bit of that now
 24 because you used some of it to answer these questions
 25 but we may go over some of that.

Page 14

1 Do you have a background in nutrition?
 2 A. Am I a nutritionist, no. Do I know about
 3 nutrition as it relates to cancer patients, yes.
 4 Q. Can you describe your knowledge about nutrition
 5 as it relates to cancer patients?
 6 A. Well, I'm very aware of the importance of
 7 nutrition in cancer patients. I'm very well aware of
 8 the adverse effects of malnutrition. I'm aware of how
 9 important it is for cancer patients who are undergoing
 10 therapy to make sure that they're well hydrated and not
 11 malnourished and, if they are, to treat those
 12 deficiencies so they can tolerate their treatment
 13 better and have a better quality of life.
 14 I am constantly engaged in working with
 15 nutritionists and metabolic colleagues to help support
 16 cancer patients that I treated in a comprehensive and
 17 full way.
 18 Q. Do you have any training in nutrition?
 19 A. No.
 20 Q. Do you have any certifications in nutrition?
 21 A. No.
 22 Q. I noted in your credentials that you were
 23 involved in oncology/hematology. Is that your area of
 24 expertise?
 25 A. I'm board certified in oncology and hematology.

Page 15

1 Q. Do you have other board certifications?
 2 A. Pediatrics.
 3 Q. Could you describe what oncology/hematology is?
 4 A. Oncology is the study of the diagnosis, cause,
 5 treatment of cancer.
 6 And hematology is the study of the cause,
 7 diagnosis and treatment of blood diseases. Some blood
 8 diseases are cancers.
 9 Q. Do they involve tumors?
 10 A. Yes.
 11 Q. A blood disease -- does blood oncology involve
 12 tumors?
 13 A. Blood tumors.
 14 Q. Oncology/hematology, does that involve tumors?
 15 A. Oncology is cancer, which can include solid
 16 tumors and disorders like leukemia or lymphoma which
 17 are hematologic malignancies.
 18 Q. What is your board certification in?
 19 A. Pediatrics and pediatric hematology/oncology.
 20 Q. In hematology/oncology, that's two things; one
 21 is hematology and the other is oncology.
 22 A. In pediatric board certification you get
 23 certification for both oncology and hematology.
 24 Q. Go ahead.
 25 A. In medicine, internal medicine, it's divided

Page 16

1 into board certification in either oncology or
 2 hematology. Some people have one or the other and some
 3 people have both. In pediatrics it's a combined board
 4 certification.
 5 Q. When you're certified in oncology/hematology
 6 you're certified in all oncology?
 7 A. Yes.
 8 Q. All tumors and not just blood?
 9 A. No. Oncology covers all cancer and, as I said,
 10 some hematologic malignancies are also cancer.
 11 Leukemia is a cancer of the blood. Hematology goes
 12 beyond cancer. It includes things like anemia. It
 13 could include things like bleeding disorders, like
 14 hemophilia. It includes clotting disorders for people
 15 who develop blood clots. It might include
 16 non-malignant disorders that effect any of the
 17 different blood cells of the body.
 18 Q. Does leukemia involve tumors?
 19 A. Leukemia is a hematologic malignancy that is
 20 not considered a solid tumor. Blood malignancies are
 21 not the same as a colon cancer. There is nothing solid
 22 about leukemia.
 23 Q. When you're certified in oncology/hematology,
 24 you would be pediatric oncology/hematology, that is
 25 what your certification is in?

Page 17

1 A. Yes.
 2 Q. I want to understand, just to clarify. You
 3 originally said you were certified in pediatrics and
 4 that you were certified in oncology/hematology. Is
 5 that two separate certifications or one combined
 6 certification?
 7 A. One has to be trained in general pediatrics
 8 first, and then gets additional training in hematology
 9 and oncology to qualify for certification in hematology
 10 and oncology.
 11 Q. If someone is qualifying for oncology and
 12 hematology, do they have to have a certification in
 13 pediatrics?
 14 A. I didn't understand that.
 15 Q. If a person is seeking certification in
 16 oncology/hematology, do they need to be certified in
 17 pediatrics first?
 18 A. If it's pediatric hematology/oncology that
 19 they're going for, is that what you mean?
 20 Q. No. I'm just going by what it says here. Are
 21 you certified in pediatric oncology/hematology?
 22 A. Yes. Let me just clarify because it's very
 23 confusing for anybody trying to read this. You have to
 24 be certified in pediatrics first. That means you have
 25 to complete a residency in pediatrics. Once you've

1 done that, then you go on and take a fellowship in
2 oncology/hematology in pediatrics, and after
3 successfully completing your fellowship training, and
4 successfully passing the board examination, you then
5 become certified in hematology/oncology combined in
6 pediatrics.

7 Q. And that would certify you to be qualified to
8 do colon cancer, pediatric colon cancer?

9 A. Well, if indeed I saw a case of pediatric colon
10 cancer, and I have, yes, I'll be certified to do that.

11 Q. That's what I'm trying to get at. I had
12 skipped a paragraph.

13 You have been involved with a number of
14 institutions, University of Rochester Medical Center,
15 New York-Cornell Medical Center, Memorial Sloan
16 Kettering and Northwestern University Medical School;
17 is that right?

18 A. That's correct.

19 Q. How were you funded in those jobs? Were you
20 paid by those institutions?

21 A. I was paid by those institutions, correct.

22 Q. Did you have grants from any sources?

23 A. Yes, I did have grants that supported my
24 research work at those institutions.

25 Q. Can you tell me where those grants came from?

1 A. At Rochester Medical Center, New York
2 Hospital-Cornell, Memorial Sloan Kettering and at
3 Northwestern most of the grants came from the National
4 Cancer Institute

5 Q. How about the Cornell, same?

6 A. Well, Cornell is New York Hospital Medical
7 Center. Yes, the grants I had then came primarily from
8 the National Cancer Institute. At New York
9 Hospital-Cornell, our department, our division in
10 hematology/oncology was funded by a private
11 philanthropic organization, Children's Blood
12 Foundation, which is here in New York City, which
13 provided a large portion of the support for the whole
14 division. Salaries for the faculty, research program,
15 fellowship program and the funds went to the
16 university, to the medical school, but the research
17 foundation funded a great deal of what we were doing at
18 New York Hospital-Cornell.

19 At Memorial Sloan Kettering I had a large
20 program project grant from the National Cancer
21 Institute to study hematologic malignancies.

22 Q. Do hematologic malignancies involve tumors?

23 A. You asked me that question. I'll try to
24 explain it. When you think of a tumor, think of a
25 breast cancer, think of a brain tumor or think of

1 pancreatic cancer. They're solid tumors.

2 When you think of a blood tumor, malignancy of
3 the blood, hematologic malignancy, think of a cell
4 floating around the body in the blood stream or lymph
5 nodes. So they're not solid tumors, if you will,
6 they're liquid tumors. They're still cancer but it's
7 just what kind of cancer it is.

8 Q. In your practice you worked on both solid
9 tumors and liquid tumors that you just called them?

10 A. Yes.

11 Q. What is the ratio of solid tumor work you've
12 done versus liquid tumor?

13 A. Depends what part of my career.

14 Q. How about while you were working at these
15 institutions?

16 A. Up until 1990 when I had positions as either
17 chairman of a department or division head in a
18 hematology/oncology program, most of my own clinical
19 activities and my own research activities involved
20 hematologic malignancies, leukemia, although I took
21 care of patients with solid tumors, brain soft tissue
22 sarcomas or any of the solid tumors we saw in
23 pediatrics.

24 In 1990 I had a major career shift and at that
25 time joined an organization that was involved primarily

1 in the diagnosis and treatment of adult patients with
2 cancer. So that from 1990 until today, most of my
3 clinical activities involve tumors that are seen in
4 adult population more commonly than in pediatric
5 population.

6 Q. Those are more commonly solid tumors?

7 A. More commonly solid tumors, although I'm still
8 doing work with hematologic malignancies.

9 Q. You described this now as the treatment of
10 patients?

11 A. Diagnosis and treatment.

12 Q. And treatment. With regard to your research
13 activity, was it pretty much the same ratio and the
14 same experience in your career change?

15 A. Again, before 1990 it was primarily hematologic
16 malignancies and I would say 80 percent was hematologic
17 malignancy in terms of my time and effort in the clinic
18 or laboratory.

19 From 1990 until the present day the activity
20 has been more in solid tumors, like non-small cell lung
21 cancer, breast cancer, colon cancer, although there is
22 activities that I have now that relate to lymphomas and
23 leukemias, but it's more solid tumors because of the
24 adult population. Solid tumors are more common than
25 hematologic malignancy.

1 Q. You said in 1990 you had a major career change.
2 What was that career change?

3 A. I left an academic environment in a teaching
4 hospital and became the associate medical director of
5 an organization called Cancer Treatment Centers of
6 America, so I was the associate medical director there.
7 And I also was in charge of the clinic research program
8 at the different hospitals, centers and clinics of
9 Cancer Treatment Centers of America.

10 In 1993 I became the scientific director of the
11 not-for-profit research activity in Cancer Treatment
12 Centers of America called Cancer Treatment Research
13 Foundation. I still had my clinical activities at the
14 hospital and even during that time I had my own
15 clinical activities taking care of children and
16 adolescents with cancer, but my work shifted in terms
17 of actually directing the clinical research program
18 inpatients with adult patients with cancer, which meant
19 I helped in my own protocol development, brought in new
20 agents to evaluate patients with advanced stage cancer.
21 These were agents that were undergoing clinical
22 investigation and had not yet been approved. And we
23 also were involved in a very broad program of providing
24 total comprehensive care to patients.

25 Q. Can you describe what total comprehensive care

1 willing to give up. They're willing to try something
2 that might be effective that might prolong their lives
3 to get them from Thanksgiving through the new year.

4 So many of the patients that came were either
5 referred by other doctors or came as several referrals
6 of patients with very advanced stage disease and in
7 some cases we could offer those patients additional
8 therapies. I'm talking about conventional therapies,
9 or an investigational therapy they were interested in
10 participating in, clinical trial.

11 At the same time we were very tuned into
12 looking at the patient's nutrition, looking at other
13 deficiencies the patient might have, looking to see
14 whether there were psychosocial issues that were
15 impacting on their ability to tolerate therapy, were
16 they depressed, do they need psychosocial support. All
17 of those were part of the total comprehensive care the
18 patients got.

19 Q. What kind of criteria did you use to decide if
20 somebody said I don't want to give up and get my
21 affairs in order, I want to go from Thanksgiving to
22 Christmas, what kind of criteria do you use to assign
23 things to them?

24 A. Well, first of all, if you're going to put a
25 patient on a clinical trial, clinical study, you want

1 involves?

2 A. Patient has cancer, it has to be diagnosed and
3 treated effectively, but patients with cancer have
4 other needs. They have psychosocial problems, may have
5 nutritional problems. They need good supportive care
6 so the philosophy at Cancer Treatment Centers of
7 America was to provide total comprehensive care to
8 cancer patients to bring in not only cancer doctors but
9 nutritionists, psychosocial support people, other
10 members of the team that would improve the overall
11 therapy of the patient with cancer.

12 Q. What would the typical patient that comes to
13 American Cancer Centers -- is that it?

14 A. Cancer Treatment Centers of America.

15 Q. When they arrive there, what kind of program
16 would they be put into, treated as?

17 A. Depends on the patient. Most of these patients
18 were previously treated who had one or more recurrences
19 of their disease. Often they came because at their own
20 hospitals or in the clinics where they were being
21 treated, their advice was not too much more we can do
22 for you, your disease has been through all the
23 available therapies, you may want to just consider
24 quality of life, no more treatment and get your affairs
25 in order. And patients, many patients today are not

1 to make sure that the patient meets certain eligibility
2 criteria. If they're in congestive heart failure and
3 their liver is failed and kidneys aren't working,
4 they're not going to be able to tolerate treatment very
5 well. So you want to make sure that patients meet
6 rather straightforward and important criteria that
7 would make them eligible for the study, one of which
8 would be what is their estimated lifespan. If a
9 patient is so far advanced in the disease and the
10 disease has effected vital organs in the body, like the
11 liver or the heart or the lungs or kidneys, those
12 patients are not going to tolerate therapy very well so
13 you'll never be able to test whether a new treatment is
14 effective or not.

15 Q. What do you do with those patients?

16 A. We give them our advice about what we think
17 might be best for them. Some of those patients are not
18 considered candidates for treatment but they're given
19 supportive care.

20 Q. What kind of supportive care would you --

21 A. Well, if the patient is depressed, they might
22 need psychosocial, psychiatric support. If they're
23 malnourished, they could be treated with nutritional
24 support if they wanted it. If they have serious pain
25 problems, they could be given better coverage for their

1 pain because cancer pain is a major problem. Those are
2 the kinds of things that we would look at.

3 Q. What role does their desire play in your
4 treatment prescribed for them?

5 A. It's absolute. The patient has to provide you
6 with informed consent to go on any treatment and the
7 patient has to be a partner in that treatment program.
8 You can't force anything on somebody. They have some
9 empowerment. Yes, I want to go along with that
10 program, or no, I don't.

11 Q. Now, I understand from what you're saying that
12 some people who come there, even in the conditions that
13 they are, are treated with conventional
14 chemotherapeutic agents; is that right?

15 A. Depends on what their prior therapy has been.
16 Some patients may have been through all the
17 conventional hemotherapeutic agents, including
18 radiation and surgery, conventional therapeutic agents
19 and are maybe no longer responding to any of them. And
20 patients like that might be candidates for a study
21 that's looking at a new investigational drug at a much
22 earlier stage in the development. It may be
23 chemotherapy or what we call targeted therapy, going
24 after some unique feature of the cancer itself, and
25 these are early phase studies where we don't -- these

1 Q. What did you do at that point?

2 A. At that point I had a choice of going back into
3 academia or actually going into the pharmaceutical
4 industry or doing my own thing, and what I did was my
5 own thing. I created my own consulting company, one
6 chief, that was me, no Indians, and I worked with the
7 pharmaceutical industry in areas of my expertise to
8 help them in their development of primarily new agents
9 to treat cancer or blood diseases.

10 Q. What was the name of the organization?

11 A. Expert Medical Consultants, Inc.

12 Q. How long did you maintain that entity?

13 A. Well, I still maintain it but only for
14 activities like this. I'm full-time in the job I have
15 and I've been full-time in the industry since about
16 2003, but during that time --

17 Q. You said full-time in --

18 A. In industry.

19 Q. What do you mean by "industry"?

20 A. Either the pharmaceutical industry or with a
21 contract research organization.

22 Q. Is that a particular organization that you were
23 with?

24 A. Well, maybe we should go through my CV so it's
25 clear. I worked with a number of different

1 are not approved drugs. They've gone through a certain
2 process of evaluation before they ever were used in a
3 human being with cancer, but in some of these studies
4 we were just trying to determine what the most
5 effective dose might be to move on to seeing whether
6 it's going to be active against specific types of
7 cancer.

8 Q. I want to continue asking you questions about
9 what we just have been discussing, but I want to --
10 before I do that -- ask you some background questions.
11 How long did you remain at the cancer center?

12 A. I was at Cancer Treatment Centers of America
13 and the Cancer Treatment Research Foundation from 1990
14 until the end of 1996.

15 Q. Then what did you do career wise at that point?

16 A. I moved from the Chicago area back home, which
17 is the Metropolitan New York area, and actually joined
18 a start-up biotech company developing a new innovative
19 therapy for the treatment of cancer. I was their vice
20 president for clinical oncology.

21 Q. How long did you remain there?

22 A. Until the company went belly up, which was
23 about eight months later.

24 Q. Eight months later?

25 A. Yes.

1 organizations when I had my company called Expert
2 Medical Consultants. I work with, for example, a
3 company in New Jersey that was developing a new drug to
4 treat pancreatic cancer and mesothelioma, which is the
5 wall of the peritoneal cavity or pleural cavity. So I
6 worked part-time with them, helping them with their
7 clinical development program, interaction with the FDA.
8 I wrote some of their study reports and helped them
9 move their drug along.

10 At the same time I worked with another company
11 out in California that was developing a drug to treat
12 tumors that were pretty superficial where if you gave a
13 certain drug intravenously, it would be picked up by
14 the tumor in the tumor cells, and if you hit that tumor
15 with a certain wavelength, laser therapy, you could
16 cause a reaction inside the tumor that would result in
17 the destruction of the tumor cells, photodynamic
18 therapy. And a company out in California was
19 developing both the laser and the drug to treat
20 superficial cancers, like skin cancer, bladder cancer,
21 lung cancer, that could be reached by a tube that you
22 can put down the windpipe and into the major airway
23 passages in the lung.

24 I also worked with a contract research
25 organization at that time and was a medical monitor

1 managing one of their large clinical trials that they
2 were helping another pharmaceutical company conduct.
3 Small companies don't have the resources to do all
4 this, so they contact out to what is called a contract
5 research organization to do all of that study
6 management for them.

7 That was a drug that was being looked at in the
8 treatment of myeloid leukemia and malignant melanoma.
9 I also worked with the company I'm currently working
10 with as a medical monitor and I, as a consultant,
11 managed a huge study of a new targeted therapy that was
12 designed to treat non-small cell lung cancer. It was
13 something that could be given by mouth. It was
14 absorbed by the body. It was currently in phase II,
15 III to see whether it was effective in the treatment of
16 lung cancer patients who were on chemotherapy or could
17 it be used alone on inpatients who have been through a
18 number of different lines of treatment for their
19 disease.

20 Serving as a medical monitor on this study, I
21 interacted with the different oncologists around the
22 county who was entering patients on the study, answered
23 questions about eligibility and made sure there were no
24 safety issues that needed to be looked at more
25 vigilantly and made sure they were getting the drugs

1 anemia associated with chemotherapy.
2 I've been with PAREXEL since 2006, January 2006
3 as a therapeutic area leader for oncology and
4 hematology.

5 To summarize, since 1990 I would say that
6 95 percent of the studies that I have been involved in
7 as well as the drugs I've helped develop or the
8 supportive care drugs that I worked on have been
9 inpatients over the age of 18. I'm board certified in
10 hematology/oncology pediatrics but for the last
11 18 years my professional career has been basically
12 involved in understanding cancer in adult patients,
13 designing treatment programs for those patients and
14 evaluating the results of those treatment programs and
15 understanding more about their diseases and better ways
16 to treat them.

17 Q. During that time have you been also continuing
18 to treat patients?

19 A. I stopped any kind of patient care activities
20 in 1996.

21 Q. So from '96 --

22 A. I don't have any direct hands-on care
23 activities since 1996.

24 Q. What is a medical monitor?

25 A. A medical monitor is a physician trained in

1 that they needed to treat their patients.

2 While I was doing that as a consultant, I was
3 also doing consulting work for Hoffman LaRoche and at
4 that time was working on the development and eventual
5 approval of a brand new drug that was developed to
6 treat lymphoma, a real breakthrough, because that drug
7 when given with chemotherapy and for the first time in
8 about 25 years it really improved response rates, the
9 remission duration rates as well as survival of
10 patients with non-Hodgkin, H-O-D-G-K-I-N, lymphoma.

11 So I was involved in the whole process of
12 completing those clinical trials and helping get that
13 drug approved primarily in Europe first before it got
14 approved in the United States. It got approved in the
15 United States three years later.

16 Then I became full-time at Hoffman LaRoche in
17 about 2003 I think and was working on the lymphoma
18 project but also was working on another area of great
19 interest, and that was the use of an agent that is
20 actually a mimic of the same hormone our body produces
21 to help the body make red blood cells to treat the
22 anemia that is caused by the chemotherapy. I helped
23 that drug.

24 In 2004 I moved to Johnson and Johnson where I
25 was working on that same class of agents to treat the

1 oncology. For example, if it's a cancer study, who is
2 available to interact with the doctors at the clinics,
3 at the hospital who are actually treating their
4 patients on a particular clinical study. There are
5 questions that come up about whether a patient might be
6 eligible for the study, does the patient meet the
7 eligibility criteria for this drug in this indication,
8 do they have a specific diagnosis, do they have that
9 stage of disease, how many kinds of prior therapies
10 have they had, is their clinical condition adequate,
11 are the available tissues there for review. All of
12 those things are major questions, eligible questions
13 that come up all the time.

14 There is a lot of interaction with study nurse
15 coordinators that work with the oncologist at a
16 particular clinic or cancer hospital who may have
17 questions about the administration of the new drug
18 intravenously or maybe a better way to keep it stored.

19 Other things that come up are safety issues, a
20 patient has some adverse effect of treatment and there
21 was a question of whether it was caused by a new drug
22 or whether it was part of the disease.

23 The medical monitor also reviews a lot of the
24 safety reports. If a patient has some kind of adverse
25 event and it is a serious adverse event, a report has

1 to be filled out promptly and a determination has to be
2 made about whether that adverse event is related to the
3 drug or not related to the drug because if it is, a
4 report has to be sent in to the FDA. Other
5 investigators using that drug have to be alerted to the
6 fact. So that is a major role of a medical monitor is
7 to evaluate safety.

8 The monitor also looks at some of the
9 laboratory data coming in to make sure things are not
10 alarming or off the charts that might be related to the
11 drug itself.

12 Q. You had indicated that in one of your
13 positions, I guess Hoffman LaRoche, you came up with
14 something for the first time in 25 years that effected
15 various rates?

16 A. Yes.

17 Q. Tell me about the response rate. How did it
18 effect the response rate?

19 A. It improved it. The study was taking
20 conventional chemotherapy for the treatment of
21 non-Hodgkin lymphoma, which was -- had been used for
22 25 years, variations of it had to be used, attempts to
23 make it more toxic or more intense weren't better and
24 in the '90s people were available to develop a
25 monoclonal antibody. This monoclonal antibody, think

1 of it as a missile targeted to a specific target on the
2 lymphoma cell. This monoclonal antibody would
3 actually identify this target on the lymphoma cell,
4 attach to it and then set into motion a series of
5 events that would cause the destruction of that tumor
6 cell. And it was really like a targeted missile that
7 would effect that tumor cell rather than normal cells.
8 In a controlled trial patients were either given the
9 standard therapy or they were given the standard
10 therapy plus this monoclonal antibody, and the
11 response rates were statistically significantly better
12 because the numbers were large enough to show there was
13 a statistically chance improvement in the response
14 rate. The duration of that response in the patients
15 getting the monoclonal antibody and chemotherapy were
16 significantly better and the overall survival was
17 significantly better in the patients receiving
18 combination therapy monoclonal antibody.

19 Q. When you say "significantly better" what are
20 the rates we're talking about?

21 A. Response rates of over 75, 80 percent,
22 five-year survivals. Now it is even a seven-year
23 survival because recent update on the study is in the
24 range of 65 percent, and if you've survived lymphoma
25 for two years or more after your treatment has been

1 discontinued, chances are it's not going to come back
2 again.

3 Q. What was the difference between the treated
4 group and the controlled group?

5 A. 10 or 15 percent.

6 Q. So these were randomly?

7 A. Yes.

8 Q. So the people randomly assigned the new product
9 had a 15 percent better chance of surviving?

10 A. That's right.

11 Q. When I asked you about response rate -- and I
12 gather we just discussed survival rate?

13 A. I talked about the five-year survival rate. I
14 think I mentioned a number for the response rate. I
15 would really prefer to look at the document to give you
16 the exact numbers. I don't want to do something from
17 memory.

18 When I say there was a statistically
19 significant improvement in response rate, that's again
20 based on numbers of patients empowering the difference,
21 it's not by chance, and response is clearly evaluated.
22 It's not I feel better, gee, my tumor went away. It's
23 demonstration that there is no tumor based on physical
24 exam, medical imaging studies. That's what's needed to
25 quantify a response. You can tell how long the

1 response lasts by measuring the time from when it
2 occurred to when the disease comes back again. So we
3 have another measure, very important time to tumor
4 progress, or time to disease progression and that was
5 significantly better in the patient who got the
6 chemotherapy plus the monoclonal antibody. And the
7 same is true in a study that's been followed for over
8 seven years, which is a long time for a study.

9 So each one of those major end points,
10 response, but more important is survival, that is the
11 key thing, did you live or not, and survival was
12 significantly better.

13 Q. That goes for remission as well?

14 A. Remission was better. More important, a lot of
15 people go into remission but it doesn't last long and
16 the disease comes back. They get treated some other
17 kind of treatment. They go into remission but it
18 doesn't last long and often the second time around it
19 lasts shorter. These are patients who have never been
20 treated before and their response rates were better in
21 the group who received chemotherapy and monoclonal
22 antibody. Their time to tumor progression was longer
23 significantly and proportion of patients alive after
24 five, seven years was significantly higher in that
25 group.

Page 38

1 Q. How do people qualify to be in or out of such a
2 study?
3 A. For that particular study they had to have a
4 certain kind of non-Hodgkin lymphoma. It was the
5 aggressive kind. It had to be a lymphoma that
6 expressed the target of the monoclonal antibody. They
7 had to have a B cell lymphoma and they had to meet the
8 other eligibility criteria of the study relating to the
9 age, physical examination, organ function and of course
10 they had to provide consent to go on to the study.
11 Q. What happened to the people who didn't qualify
12 for the study?
13 A. They got treated some other kind of therapy for
14 non-Hodgkin lymphoma. Some patients wish not to go on
15 a clinical trial. Medical oncology, 90 percent,
16 95 percent of patients don't want to be enrolled in a
17 clinical trial.
18 Q. Why is that?
19 A. They want to get something that is going to be
20 effective. They don't want to be randomized perhaps
21 placebo. They don't want to have to travel to a major
22 cancer center with all of the inconvenience.
23 It's interesting in pediatric oncology. It's
24 reverse, 95 to 100 percent of children are enrolled in
25 a cancer center or international trial.

Page 39

1 Q. What is the difference?
2 A. Parents have a greater control over their
3 children and are responsible for them. An individual
4 may or may not wish to have any kind of treatment.
5 Q. How do the survival and remission and response
6 rates in the pediatric trials compare to those in the
7 adult trials?
8 A. Again, it would depend on what tumor you're
9 talking about. I can't give you a broad number for all
10 pediatric cancer. It includes many, many different
11 types of cancer, so if you would like to ask me about a
12 particular type of cancer, I'd be happy to address
13 that.
14 Q. Let's take Hodgkin lymphoma.
15 A. That isn't what I was talking about.
16 Q. What were you talking about?
17 A. Non-Hodgkin lymphoma.
18 Let me take acute lymphoblastic leukemia. I
19 would pick that because it is the most common
20 malignancy in children, 35, 30 to 35 percent of cancer
21 in children. Today's chemotherapy, the complete
22 remission rates are over 95 to 98 percent. The
23 patients who are alive and well and without relapse of
24 their leukemia three years later depends a little bit
25 on some of the disease factors or patient factors, but

Page 40

1 overall the cure rate of acute lymphoblastic leukemia
2 today is 80 percent. Some patients do better than
3 that.
4 Q. Is that unique for various types of cancers?
5 Is that a high rate or low?
6 A. Very high rate. There are Hodgkin diseases
7 that have a cure rate of 90 percent in children.
8 Certain solid tumors in children, like kidney tumors,
9 also have a very high cure rate. But there are other
10 tumor types that have been more difficult to cure,
11 certain bone tumors, certain tumors of the central
12 nervous system, certain brain tumors. So it's not
13 uniform, but acute lymphoblastic leukemia I think is
14 the model that we use to show that with clinical
15 trials, clinical research, learning more about the
16 biology of the disease, understanding what causes it,
17 going after specific targets of the disease,
18 understanding that not all patients with lymphoblastic
19 leukemia are the same. Some patients don't need as
20 much aggressive therapy as others, so you can minimize
21 the toxicity, maximize the efficacy and decrease a lot
22 of the toxic effects of therapy.
23 And I have been involved in a lot of studies
24 and there are other patients who may need more
25 aggressive therapy if you have a chance to cure their

Page 41

1 disease.
2 Q. Is pediatric --
3 MR. J. TURNER: Let me try to approach it this
4 way.
5 Q. The field of pediatric oncology, does it have
6 the reputation of being generally more successful in
7 the treatment it provides than the general level of
8 cancer treatments?
9 A. Generally as a general statement that's true.
10 Part of it relates to the nature of tumors in children
11 compared to adults. Lymphoblastic leukemia is much
12 more responsive to treatment than pancreatic cancer is.
13 Fortunately we don't see pancreatic cancer in children.
14 It's the nature of the tumor and available therapies we
15 have for it. Tumors are very responsive and others
16 don't respond at all. You can't cut out leukemia. You
17 can't do surgery on lymphoma unless it is a unique
18 unusual circumstance, but you can't go after all the
19 leukemia cells in the body which may measure, if you
20 like numbers, maybe at the time of diagnosis there are
21 10 to 11th power, okay, ten to the 11th power tumor
22 cells.
23 Q. That's when it starts to manifest itself?
24 A. That's when it manifests.
25 Q. When it's ten to the fifth power --

1 A. You're in remission.
 2 Q. What if you haven't had any that expressed
 3 itself yet?
 4 A. It would be very -- it's at the level of
 5 detection by going into the bone marrow or the blood
 6 and getting cells and then doing very special tests to
 7 see whether you can see the leukemic clone of cells.
 8 That would be the level of detection.
 9 Q. So maybe ten to the fourth you might?
 10 A. Trouble.
 11 Q. Trouble?
 12 A. Trouble.
 13 Q. Is there anything that can be done for people
 14 when they're at ten to the fourth or smaller that would
 15 help them not go to ten to the 11th?
 16 A. We're just learning about what we call minimal
 17 residual disease in patients who have been treated to
 18 see if we get the number of leukemic cells down to that
 19 lower level.
 20 Q. If you had them up and were bringing them down?
 21 A. We bring them down. We don't go in and do bone
 22 marrows on kids in the third grade just to see if they
 23 have ten to the third.
 24 Q. Before you ever have a manifestation, if you
 25 have somebody who is going to eventually have ten to

1 you're looking for something like polyps?
 2 A. We also know that some patients may be more
 3 susceptible and at higher risks. If a woman's mother
 4 had breast cancer, a small proportion of woman inherit
 5 that breast cancer from their mother and you can look
 6 for that gene that increases your risk of developing
 7 breast cancer.
 8 Q. Let me ask you about these phase studies that
 9 you have described. You had mentioned what you call
 10 phase II and III studies.
 11 A. Yes.
 12 Q. Could you give sort of a brief orienting
 13 summary of each of those?
 14 A. I'd be happy to. There is a little bit of a
 15 preface though because -- I'll limit it to oncology.
 16 Q. Yes. This is limited to oncology.
 17 A. Because there are differences. Before we get
 18 to phase I in oncology, we do what we call non-clinical
 19 studies. They can be done in what we call in vivo,
 20 which means in glass, like a petri dish or test tube
 21 where we take cancer cells, not necessarily from the
 22 patient, but cancer cells and see if certain agents
 23 have activity against them, cause their death and stop
 24 their proliferation. We look at how these new agents
 25 might work in specific metabolic pathways inside the

1 the 11th and they're going to start at ten to the one
 2 and build up; is that right?
 3 A. That can happen but in leukemia that is not a
 4 good model. There are other models to take people at
 5 risk.
 6 Q. How would a model like that work?
 7 A. Someone with a family history of polyps in
 8 their colon, grandfather had polyps and he developed
 9 colon cancer. Gentleman's father also had colon cancer
 10 and had polyps and we know polyps can develop into
 11 colon cancer, so they should have frequent
 12 colonoscopies at an early age and have the polyps
 13 excised and examined under the microscope to make sure
 14 it hasn't turned into a malignancy. We don't take out
 15 his colon, but we follow him carefully.
 16 That's why we do mammographies in women,
 17 because early detection, particularly of solid tumors,
 18 is very important for outcome.
 19 Q. But let me ask this question then. There is a
 20 point at which in this case you said ten to the 11th in
 21 every one of the diseases in cancer has a point which
 22 it can be detected?
 23 A. It's different for all, but correct.
 24 Q. Before that there is a point where the disease
 25 potential can't be detected necessarily. That's when

1 cancer cell. We can take tumor cells and inject them
 2 into mice or other rodents or other animals and treat
 3 them with these new agents to see whether we get
 4 evidence of shrinkage of the tumor or disappearance and
 5 we can look at different doses of the drug, give it in
 6 different ways, intravenously, orally or directly into
 7 the different cavities of the body.
 8 Once from the animal studies we have an idea
 9 about some of the safety features of the drug, what
 10 kind of toxicity does it cause, an idea about how its
 11 metabolized in the animals, about how it's excreted
 12 activity against different type of tumors, we take a
 13 much lower dose that we looked at in the animals and do
 14 what -- we do our first phase I study in cancer
 15 patients.
 16 But because we have active, approved, safe and
 17 effective therapies for cancer patients, we can't take
 18 a previously undiagnosed patient with colorectal cancer
 19 who would be a candidate for chemotherapy and put them
 20 on a phase I study. That is unethical. I don't know
 21 anything about the safety of the drug, I don't know
 22 what the right dose should be and I don't have any
 23 idea, I have no idea about whether it would be
 24 effective in colon cancer.
 25 So in phase I my aim is or our aim is to learn

1 a lot about the safety of the drug and what its side
 2 effects are in different tissues and organs of the
 3 body, effect on the blood, liver, the heart, lungs,
 4 kidneys, GI tract, all of those things are looked at.
 5 So safety is one of the most important things we do in
 6 phase I.

7 Another thing we do in phase I is to determine
 8 what the effective dose is going to be when we move
 9 into the next phase of clinical trials. So we start
 10 off with low doses and after three or six patients, we
 11 move the dose up and move it up again and keep moving
 12 up until we get what we call dose limiting toxicity,
 13 which means that we've identified certain kind of
 14 adverse effects that we will consider limiting in terms
 15 of whether we can advance the dose any further.

16 Once we've established that, we determine what
 17 we call the maximum tolerated dose and either that or
 18 one dose level lower is what's used in the next phase
 19 of a study, which we call phase II. In phase II our
 20 goal is to see whether the drug at that dose level has
 21 activity against either a single cancer type or
 22 multiple cancer types.

23 In the phase I all of these patients have been
 24 previously treated, they all have measurable disease,
 25 they have been diagnosed with cancer. They're not

1 often it's double blind, randomized, controlled trial
 2 where everyone is getting the same basic chemotherapy,
 3 for example, for non-small cell lung cancer and
 4 patients are going to be randomly assigned to either
 5 that plus a placebo, standard chemotherapy plus
 6 placebo, or standard chemo though brand-new targeted
 7 therapy directed against the specific target in the
 8 lung cancer cell.

9 On the surface there may be receptors. Think
 10 of it as a key in the lock and the key is this new
 11 targeted therapy. So we have the lock is the receptor
 12 on a non-small cell lung cancer cell and the new drug,
 13 which is something you can take by mouth, is directed
 14 against that target specifically. And if you don't
 15 express the target -- and now we know if you don't
 16 express it in a very special way where it's got
 17 changes, mutations, that drug isn't going to work. It
 18 can be a monoclonal antibody, it can be a small
 19 molecule, you can take by both and what you can do then
 20 if it's a little pill, some patients can get a placebo,
 21 other patients can get a new drug and see what kind of
 22 response rates they have, what kind --

23 Q. This is in phase III?

24 A. This is phase III. Response rates are not as
 25 important though, but what really is important is you

1 getting anything else but the experimental agent
 2 usually. Sometimes you might give a conventional
 3 therapeutic agent, but not often.

4 In phase II once you establish that dose, then
 5 you are looking for efficacy, you're looking for a
 6 response, tumor shrinkage primarily. You might look at
 7 a number of different tumor types, depends on what type
 8 of drug it might be and how it works best. If you see
 9 evidence of activity in a phase II, you might use it
 10 with other conventional therapeutic agents to see
 11 whether it is safe and also effective. There sometimes
 12 is a way to do a randomized trial in phase II where
 13 patients could go on conventional chemotherapy with the
 14 new agent versus conventional chemotherapy alone and
 15 look for response time to tumor progression.

16 Q. That study that you described for Hoffman
 17 LaRoche, that came up with the breakthrough?

18 A. It was a phase III trial. Again, in phase II
 19 you can take previously untreated patients, if you're
 20 comparing standard therapy alone with standard therapy
 21 plus the new agent, that would be reasonable because no
 22 one is going to be denied what is the standard of care,
 23 but in phase III, often you take the standard of care
 24 and in a randomized way, doesn't have to be double
 25 blind, but depends on the drug, can be open label, but

1 have prolonged the survival of that patient. You
 2 prolong the time from when their diagnosis has been
 3 made until their tumor progresses, so these are
 4 patients who have advanced stage disease generally.

5 Or also do it in a patient who had surgery,
 6 disease is gone, breast cancer, after surgery, they
 7 don't have the lump or have their breast but we know
 8 that is not enough, so we treat them with additional
 9 therapy to prevent the disease from coming back again
 10 because there are a few cells we can't see. So a
 11 number of different stages of the disease based on the
 12 extent of the disease but, again, the end points are in
 13 phase III improvement in what we call progression free
 14 survival or overall survival, that is what we're
 15 looking for. Response rates are not as important in
 16 phase III.

17 Q. What does it cost to do these studies?

18 A. From the beginning, from the non-clinical?

19 Q. You have a promising item.

20 A. Let's say you have gone through testing of 100
 21 different compounds in the clinic and you see one that
 22 might be better, so there is expense there. It may
 23 cost upwards of a hundred million dollars to go from
 24 the beginning to the time a drug goes through phase
 25 III.

1 Q. You mentioned in your report that out of 5,000
2 promising agents, maybe one would make it to the point
3 of going through a clinical trial like this?

4 A. I know -- yes.

5 Q. We don't have to put a lot of effort into
6 finding 5,000 promising agents discovered in the
7 laboratory, entering non-clinical testing, five enter
8 phase I and one is approved?

9 A. It goes through phase III randomized pivotal
10 trial and gets approved.

11 Q. Does that mean you have proved that 4,999 don't
12 work?

13 A. I think some good drugs may be lost in the
14 process. I don't think we lost too many but those are
15 the numbers that we see. So it's a very small number
16 that make it all the way to approval.

17 Q. I just want to clarify. You got the end point
18 of what I was asking, which is some might be lost, but
19 is it a conclusion of the process that starts with
20 5,000 promising agents and ends up with one approval,
21 the process, the logical process that you're engaged
22 in, can you conclude from that process that the 4,999
23 have been proven not to be useful?

24 A. If they don't pass certain hurdles along the
25 process, they will be discarded. You would like to

1 better. That wasn't much, but it was better than the
2 current available therapy. In my mind six weeks of
3 improvement in my lifespan when I have to spend half of
4 it in the hospital getting treated is not such a great
5 breakthrough, so that is a disease that really needs
6 help but there was a drug that provided something
7 better than the standard at the day.

8 Q. Let me take a side issue and ask you about
9 Justice Ginsberg. Did you read anything about her
10 situation? This is a side issue completely but what is
11 your thoughts?

12 A. I can't comment. I don't know the extent of
13 her disease. They thought they caught it earlier but I
14 read it in The New York Times. She had a great
15 surgeon. I know him very well.

16 MR. J. TURNER: Just a side issue, I didn't
17 mean to take us off the record here, off the focus.

18 Q. In the time you have been involved with cancer
19 as a treating doctor and then doing the research you
20 described, are there any drugs that are used for cancer
21 therapy that are, quote, off label?

22 A. Depends what part of the world you're in.

23 Q. In the United States?

24 A. In the United States, yes.

25 Q. What is the story about that? How does that

1 discard them, recall, before you invest too many
2 patients, you don't want to waste resources today.
3 They're limited.

4 Q. Let me do a comparison and see -- I'm trying
5 to -- I don't know if it's a philosophical point or
6 logical point, but when you get done with your process,
7 5,000 promising agents, one of which went through the
8 whole process, you feel confident that you have
9 established something that is useful and meets the
10 criteria that we would like to see in the therapeutic
11 world?

12 A. Absolutely, yes, whether it's going to be
13 blockbuster breakthrough that really improves outcome,
14 not necessarily. There have been some drugs that have
15 been approved to treat diseases that are horrible. In
16 my mind pancreatic cancer is the worst cancer that
17 anyone can have. It's diagnosed late and there's not
18 effective curative therapy, but a drug that was
19 approved in the turn of the century to treat pancreatic
20 cancer was a breakthrough --

21 Q. Turn of which century, from --

22 A. 1990 --

23 Q. 1990 to 2000?

24 A. Yes. It improved survival compared to the
25 control arm by maybe six weeks, and quality of life was

1 work?

2 A. For a drug to be approved, it has to go through
3 that process that we just talked about. So that the
4 label is based upon the clinical trial that was done
5 for a certain disease type, certain cancer, certain
6 stage of the disease, a certain phase of its treatment.
7 Is it second line after somebody has had primary
8 therapy or is it first line. So that the label has --
9 these are the indications for its use.

10 Oncologists are studious people. They're
11 learning all the time and read the medical literature
12 and go to medical meetings and they hear a presentation
13 about that drug being used for not lung cancer but
14 pancreatic cancer. Although it's not been through the
15 pivotal trial to get approval for pancreatic cancer,
16 the aim of the study is to get there eventually. That
17 oncologist knows it may be helpful in his patient with
18 pancreatic cancer and doesn't have anything else and he
19 can write out a prescription.

20 Medicaid is going to approve off label drugs of
21 some drugs in phase II, early stage III.

22 Q. Are all the off label uses of drugs in phase
23 trials and new indication?

24 A. I don't think you can take something that no
25 one has ever looked at before and hope to use it in the

Page 54

1 patient but there should be some evidence, not pivotal
 2 trial, enough to get approval, that it is safe. In
 3 Europe you can't do that. If a drug isn't approved by
 4 the European National Health Authority, the doctors
 5 can't write a prescription and get it covered by the
 6 health agencies in that country unless they're
 7 financially well off and go get it somewhere else.
 8 So we have a lot of off label use but there has
 9 been some liberalization about that, depending on other
 10 studies, to support the use of the drug. Just last
 11 week Medicaid -- I always get mixed up.
 12 Q. Medicaid is old people over 65.
 13 A. Us old people over 65. There is a drug called
 14 Avastin, A-V-A-S-T-I-N, it's an antiangiogenic agent,
 15 A-N-G-I-O-G-E-N-I-C, and it's a monoclonal antibody
 16 and it goes after the factor that actually stimulates
 17 new blood vessel formation. It's approved for the use
 18 with chemotherapy in colorectal cancer and recently
 19 approved in non-small cell lung cancer and breast
 20 cancer but there is evidence to suggest it may be
 21 helpful in treating brain tumors and looks like that
 22 agency, Medicaid, is going to permit physicians to
 23 write prescriptions to use it with chemotherapy in
 24 brain tumors.
 25 Q. When you say "permit" --

Page 55

1 A. They're going to reimburse for it, that's
 2 right. But it's interesting, in the United States if
 3 you're on a clinical trial, a lot of the health care
 4 providers are obligated to cover the cost of clinical
 5 trials.
 6 Q. Aren't there other constraints by what they
 7 call experimental drugs?
 8 A. Some may be, but generally the understanding in
 9 many states is if a patient is enrolled in a clinical
 10 trial, and I believe clinical trials are good for
 11 patients because they get very, very careful care,
 12 followed very carefully, seen more frequently,
 13 responses are evaluated, safety issues are taken care
 14 of and get all the other supportive care that a cancer
 15 patient needs. Many carriers are actually covering the
 16 cost of clinical trial. They don't provide the drugs.
 17 The drug company is going to provide the drug, but what
 18 the health insurance carrier will cover is a lot of the
 19 laboratory expenses, the clinic expenses and even the
 20 medical imaging expenses which would generally be
 21 standard. Clinical research isn't hard to do in the
 22 country. It's getting patients to be willing to
 23 participate.
 24 Q. Do you know how much off label use there is?
 25 A. Varies from drug to drug. I don't have a

Page 56

1 number off the top of my head.
 2 Q. Is there off label use by people writing
 3 prescriptions for things that they will not have
 4 reimbursement for from, say, Medicaid or Medicare?
 5 A. Probably not.
 6 Q. Okay. I wanted to ask you, you gave an
 7 indication of materials that you reviewed getting
 8 prepared for this process.
 9 A. Yes.
 10 Q. Could you just go through that again very
 11 quickly?
 12 A. Again, this is not in specific order but --
 13 Q. You don't have to do it extensively because we
 14 have it in writing, but just a quick rough summary.
 15 A. I reviewed the literature citations that were
 16 provided by Daniel Chapter One. I have them listed all
 17 here.
 18 I reviewed the deposition testimony of James
 19 and Tricia.
 20 I reviewed the transcripts from two of their
 21 Healthwatch Radio Programs that were done in July of
 22 this year.
 23 I reviewed the testimonials of the 30 patients,
 24 some who had cancer, some who didn't. These were
 25 testimonials submitted by patients or sometimes

Page 57

1 relatives or sometimes friends of the patients who had
 2 used the Daniel Chapter One products.
 3 I mentioned the complaint. I reviewed their
 4 bioguide, Biomolecular Guide for Daniel Chapter One
 5 listing all of the different products that they have in
 6 their company.
 7 I reviewed recently -- I don't have it in my
 8 report because I think it came in after I submitted it.
 9 It was an extensive listing of all the different
 10 diseases, not just cancer, but every disease imaginable
 11 or condition for which an individual could take one or
 12 several of Daniel Chapter One.
 13 Q. Do you know what that document was?
 14 A. Something for physicians, simple guide for
 15 doctors, so it was really geared for physicians to look
 16 this up and say, okay, I have a patient with cancer,
 17 which is a lot of different disorders, but this one had
 18 cancer as one single entity and listed a number of
 19 different products.
 20 Q. Who prepared this document?
 21 A. Daniel Chapter One.
 22 Q. Is that something you can provide to us?
 23 MR. PAYNTER: I think they were supposed to
 24 send it to you. So I have to check with David to see
 25 whether they did.

1 MR. J. TURNER: I don't recognize it.
2 MR. PAYNTER: It would have been in the last
3 day or so.

4 MR. J. TURNER: I don't recognize that, so --
5 A. I did review yesterday, because I just got them
6 yesterday, the expert reports from a number of the
7 experts for Daniel Chapter One. Then I did my own
8 literature search, and sources of that are in my
9 report. I have specific references supporting the four
10 different sections of my report for Bio*Shark, GDU,
11 BioMixx and 7 Herb Formula or in the appendix with the
12 specific references supporting those segments of my
13 report.

14 Then I did extensive searches of Google and
15 Memorial Sloan Kettering, Dana Farber, I used Stanford
16 HighWire, PubMed, Clinical Trials.gov gives you all the
17 clinical trials ongoing by different disease entities.

18 The journals I read that I get, subscribe to
19 them that are listed here. That includes Journal of
20 Clinical Oncology, New England Journal of Medicine,
21 British Journal of Hematology. I was on the editorial
22 board of that one and another, Supportive Care in
23 Oncology, which covers a lot of the alternative and
24 complimentary medicines. A very helpful book that was
25 written by Barry Cassileth and Lucarelli at Memorial

1 Sloan Kettering, "Herb Drug Interactions in Oncology."
2 It lists a lot of the different individual compounds in
3 some of the DCO, Daniel Chapter One, products, just
4 from some literature, if it's supported, pre-clinical,
5 non-clinical studies, if any were done.

6 Then my own experience, because I've done a lot
7 of work in the field of alternative medicine when I was
8 at Cancer Treatment Centers of America, and believe it
9 or not, we still see protocols and requests for
10 proposals coming from the pharmaceutical industry or
11 the neutropharaceuticals industry asking us to help
12 them design and conduct clinical trials looking at
13 alternative therapies in the treatment of cancer. So
14 we're doing that today.

15 Q. Can you give me an indication of --

16 A. I can't give you the specific names. I can
17 give you a general overview. This is a product that
18 has come from a mushroom, mushroom extract.

19 Q. Is that the one you mentioned?

20 A. No. I did that study at Cancer Treatment
21 Centers of America. This is another one that came from
22 a company. Confidentiality doesn't permit me to say
23 anymore, help us with phase I, II and beyond, looking
24 at product with conventional chemotherapy to see
25 whether patients might have tolerated treatment better,

1 less side effects and maybe have a better response to
2 disease progression.

3 So it was going to be phase I where you find
4 out what the best dose might be and look at
5 pharmacokinetics, K-I-N-E-T-I-C-S, where we see whether
6 there is any interaction between their product and the
7 conventional chemotherapy that might either have an
8 effect in keeping concentrations too high or lower in
9 their concentrations so they don't work.

10 Also seeing whether it might increase toxicity
11 of the chemotherapy or lower its efficacy and find out
12 what the best dose might be to move into a phase II
13 trial, which in this case can be randomized trial.
14 Patients would be randomized, in this case double blind
15 placebo controlled trial. You can find a liquid that
16 looks and tastes, buy it and randomized for
17 conventional chemotherapy for their disease with their
18 product or a placebo and see if you can meet the end
19 points and design the study so you have enough patients
20 in each arm to meet what you set up as a null,
21 N-U-L-L, hypothesis and say there is no difference
22 between response rates in patients getting mushroom
23 extract X or placebo. And you're basically going to
24 disprove the null hypothesis by showing there is a
25 statistical difference between the two that is not

1 based on chance alone. Then you've shown what we would
2 call reliable and competent evidence that this agent
3 actually increases the response rate in patients with
4 that particular disease.

5 (A recess was taken.)

6 Q. Couple of questions before we go on to the next
7 section, part two of the report. You've described a
8 fairly elaborate system for reviewing processing
9 agents. Is that because they tend to be toxic?

10 A. That is not the only reason. Safety is an
11 important part of the evaluation of a new drug, but the
12 efficacy is also important as well as the pharmacology,
13 pharmacokinetics.

14 Q. What is the pharmacokinetics?

15 A. Pharmacokinetics means how is the drug absorbed,
16 how is it distributed in the body, how and where is it
17 metabolized, where or how is it excreted, what's the
18 maximum level you can get in the blood, if you give it
19 by mouth, does it get absorbed. So what is its
20 bioavailability. If you give a compound by mouth and
21 it gets into the stomach and the stomach acids break it
22 down and activate it, you can't measure anything in the
23 blood. It may not be absorbed. There are certain
24 things that can't be absorbed, blocked.

25 Q. Is there a significant number of drugs that go

Page 62

1 through phase I, II and III studies, trials, that do
 2 not have a toxic component?
 3 MR. PAYNTER: I just object. In general or
 4 are we talking about oncology? Because you said --
 5 MR. J. TURNER: Make it oncology.
 6 A. Every drug has some kind of, you call it toxic,
 7 I would say some ad effect or adverse effect, yes.
 8 Q. Go ahead.
 9 A. It's okay.
 10 Q. If I didn't get the questions we talked about
 11 in the break, I'll get them at the end, but now we're
 12 going to go to that part of the report that's part two,
 13 "Scope of Work."
 14 You indicate that there are I think eight
 15 statements that you wrote here as you're looking for
 16 evidence to substantiate the following claims. Did you
 17 write "Bio*Shark inhibits tumor growth" as one of the
 18 claims?
 19 MR. PAYNTER: Objection.
 20 A. I wrote --
 21 MR. PAYNTER: What do you mean, did he
 22 physically write it or did he --
 23 A. What's in here I wrote.
 24 Q. What I'm asking you is, where did you get those
 25 words?

Page 63

1 A. They came from a section in the complaint. I
 2 don't recall the exact number.
 3 Q. Is that true for all of these?
 4 A. This is I think verbatim from the complaint.
 5 Q. From the complaint, okay. Actually, one of the
 6 questions I meant to ask you before we got to this, but
 7 that's a good beginning of that, I wanted to ask you if
 8 you had in your review of materials, had you reviewed
 9 any of the German monographs on herbs?
 10 A. Not the monographs, no.
 11 Q. Are you familiar with the monographs?
 12 A. I'm aware of them, I heard about them, but I
 13 did not read them.
 14 Q. Did you look at the United States Pharmacopeia
 15 on Herbs?
 16 A. Again, I'm aware of that but I did not read it.
 17 Q. How about the British Pharmacopeia?
 18 A. Did not read it.
 19 Q. Did you review the Complementary and
 20 Alternative Physician's Guide?
 21 A. Can you expand that? Which one?
 22 Q. It's published by Springhouse Publishing and
 23 it's the Guide to Complementary Physician Practice?
 24 A. I did not read that.
 25 Q. Did you review any material at all by Dr. James

Page 64

1 Duke?
 2 A. The only thing I read of Dr. Duke was his
 3 report. I did not read any of his listed publications.
 4 Q. You didn't look at the online database that he
 5 maintains at the U.S. Department of Agriculture on
 6 herbs?
 7 A. I did not.
 8 Q. I was going to ask, did you review anything
 9 from the American Botanical Council?
 10 A. No, I did not.
 11 Q. You indicated that you had reviewed -- I gather
 12 this list in your report is things that you reviewed.
 13 The part that says materials that I reviewed has a list
 14 of documents that apparently are those that were
 15 provided by -- given to you as having come from Daniel
 16 Chapter One. It's a list. Do you know what I'm
 17 speaking of here?
 18 A. No.
 19 Q. "I have also reviewed the following material
 20 provided to me by the FTC." Let me ask you about this.
 21 What did you learn from the transcripts of the radio
 22 programs?
 23 A. I learned that people with cancer called in,
 24 gave a brief capsule of their diagnosis or what they
 25 were advised to do and it might be surgery or might be

Page 65

1 radiation therapy or might be chemo or combinations,
 2 and they were given advice about what to do about their
 3 disease. Don't go through cancer therapy. Don't get
 4 radiation, chemotherapy is bad for you. Chemotherapy
 5 has never cured anybody. My relative had that and she
 6 died from it. There was advice being given to cancer
 7 patients about what they should do about the treatment
 8 of their disease. That was one thing I learned.
 9 Q. Let me ask, do we have transcripts of those?
 10 MR. PAYNTER: They would have all been
 11 produced.
 12 MR. J. TURNER: The transcripts themselves.
 13 A. That's what I learned. The rest was some other
 14 thing, discussing the products, but that is the primary
 15 bottom line thing that I learned from those radio
 16 programs.
 17 Q. The next thing was testimonials submitted by 30
 18 patients. How did you receive those 30 patients'
 19 testimonials?
 20 A. I think each of the patients had a one, two --
 21 one-page narrative of who they were, what their cancer
 22 was and what they did to treat it, what products they
 23 took and how they were benefited by it.
 24 Q. This was given to you by the FTC?
 25 A. Yes. Some of those testimonials appear in

1 other DCO materials on their web site or other of their
 2 documents.
 3 Q. Then continuing down it says articles -- can
 4 you find the place in your report -- you got that?
 5 A. Yes.
 6 Q. "Articles for research study of
 7 complimentary/alternative proprietary products in
 8 support of respondent's claim, (appendix III)."
 9 A. Yes.
 10 Q. What does it mean by alternative proprietary
 11 products?
 12 A. Well, I think that title came from DCO, but I
 13 don't think I wrote it that way. I think that's how
 14 they listed it in their responses.
 15 Q. Okay.
 16 A. So I don't know what they mean by
 17 complimentary/alternative proprietary products.
 18 Q. You have other cited articles and those are
 19 cited by whom?
 20 A. These are literature provided by DCO.
 21 Q. Then I wanted to ask you about some of those.
 22 That is the list I was looking for. Did you look at
 23 Dr. Nieper's "Revolution in Technology Medicine and
 24 Society"?
 25 A. I looked at all of these things here. I had a

1 beginning clinical trials to suggest that curcumin,
 2 which is from tumeric, may be -- may warrant additional
 3 studies to see if it can prevent particularly
 4 colorectal cancer. There have been a number of
 5 peer-reviewed articles suggesting that that particular
 6 compound, curcumin, is worthy of further investigation
 7 and I go into that in my report.
 8 Q. We're going to talk about that. Then there is
 9 one which is Foster, S. Echinacea, "Helping to Rebuild
 10 Your Immune System."
 11 A. No literature support -- this was just an
 12 opinion article with not very much supported data for
 13 what he is trying to say.
 14 Q. Do you have a sense of the immune's
 15 relationship to all of this dynamic that we're
 16 discussing?
 17 A. You made it sound so general, and it's much
 18 more specific.
 19 Q. Make it specific.
 20 A. The immune is important in fighting cancer, or
 21 the immune is suppressed in cancer patients, so if we
 22 beef up the immune, we can destroy the tumor, it's more
 23 complex than that.
 24 Q. These are not cancer people. These are just
 25 the whole world. If you beef up your immune, you'll be

1 stack of stuff.
 2 Q. What was your take away from the Nieper
 3 Revolution?
 4 A. I don't recall while I'm sitting here right
 5 now.
 6 Q. That's fine.
 7 A. I just don't recall.
 8 Q. On the Majeed M. Badmaev and Murray F. Tumeric
 9 and the Healing Curcuminoids, what was your take on
 10 that or take away from that?
 11 A. I'm going to make a general statement first and
 12 that is throughout this whole process. I relied on
 13 peer-reviewed articles that went through the normal
 14 process of review by experts and peers in the field.
 15 That's how we publish things in science. If an article
 16 contained reference to peer-reviewed articles, that was
 17 empty to me. If it was subjective review of the use of
 18 a product somewhere, like many of the pharmacopeias
 19 have without peer review, supporting data, to me the
 20 evidence was not as strong as somebody writing
 21 subjectively about their own opinions. That wasn't
 22 what I was relying upon.
 23 If I recall the Tumeric and Healing
 24 Curcuminoids, I will agree that there had been a number
 25 of very interesting non-clinical studies and some

1 healthier?
 2 A. As a general statement?
 3 Q. Yes.
 4 A. What if it's normal to begin with. Do you have
 5 to beef it up further to be healthier?
 6 Q. That is my question.
 7 A. I don't know.
 8 Q. Your argument would be if it's below normal,
 9 yes, but if it's normal we don't want to necessarily do
 10 that?
 11 A. Do you know what happens if you over beef up?
 12 You get auto immune, lupus, and maybe neurological
 13 disorders, so beefing it up, if it doesn't need to be
 14 beefed up, why do it?
 15 Let's beef up another system. Let's beef up
 16 the blood system. Hemoglobin in our body carries
 17 oxygen from the lungs to the tissues and then it
 18 carries the carbon dioxide back to the lungs and we
 19 breath it out. Normal hemoglobin for you is 14, 15, 14
 20 to 15 grams of hemoglobin per hundred MLs of your
 21 blood. Gee, let me make it up to 18, you'll be better
 22 because it's beefing it up. And you know what is going
 23 to happen, you'll clot something in your brain and have
 24 bad effects, so more isn't better. If it's too low,
 25 that is not good. Beefing it up may not be beneficial.

Page 70

1 Q. You're saying just like the blood system, that
 2 would be true of the immune?
 3 A. In many respects, yes. If I have normal immune
 4 I don't need to have it beefed up unless I have
 5 deficiencies. There are some diseases where we talk
 6 about gamma globulins. They are the proteins that help
 7 the body fight viral infections, fungal infections,
 8 maybe important in identifying foreign substances in
 9 our body. There are diseases where you make too many
 10 gammaglobulin because the cells are abnormal and it's a
 11 disease called multiple myeloma.
 12 Q. Is cancer a disease?
 13 A. Of course.
 14 Q. And when you're at ten to the four, do you have
 15 cancer or not?
 16 A. You do not have cancer.
 17 Q. What do you have?
 18 A. I don't know what you have because I'm not
 19 sure -- ten to the four may remain that way for the
 20 next 40 years.
 21 Q. And --
 22 A. Cancer is a diagnosis based on physical
 23 findings, laboratory findings, medical imaging
 24 findings. It's not lurking where it's not detectible.
 25 Q. So people who have -- people who show up with

Page 71

1 cancer that is ten to the 11 I guess you said --
 2 A. That was one particular type. Let's not
 3 generalize. Cancer is one disease, we can't say that.
 4 We have to separate things.
 5 Q. Here is what I'm trying to understand. At a
 6 given moment you are able to diagnosis something as the
 7 disease cancer?
 8 A. When it reaches a certain size, when there is a
 9 certain number of cells in a mass that is detectible by
 10 some medical imaging, CT scan, MRI, a bone marrow test,
 11 biopsy.
 12 Q. Before that you're healthy?
 13 A. Yes.
 14 Q. So a given day you're at ten to the five and
 15 the next day you're something greater than that until
 16 it manifests yourself, you're healthy at that point?
 17 A. You can't say you're ten to the fourth one day
 18 and the next day you're ten to the fifth because
 19 different tumors and different malignancies grow at a
 20 different rate. There is also a rate where tumor cells
 21 may die.
 22 Going back to your example of ten to the fourth
 23 or third, there may be a balance. There are cells that
 24 are growing and multiplying -- let me answer the
 25 question. There are cells multiplying and dividing and

Page 72

1 one cell becomes two. That is the growth rate. But at
 2 the same time there is an innate cell death rate. So
 3 some cells are dying. They go into what we call a
 4 programmed cell death.
 5 So cells are not constantly multiplying and
 6 dividing. There are some cells dying, multiplying and
 7 it may be balanced and it may remain ten to the three
 8 forever if that is the balancing effect.
 9 Q. What you're saying is in the whole universe of
 10 people that get ten to the three, some of them may be
 11 balanced?
 12 A. That's right. They may never have diagnosable
 13 cancer.
 14 Q. In the whole universe of people who get to the
 15 ten to the 11, is there anyone who never went to ten to
 16 the third?
 17 A. Of course. You don't just suddenly come up
 18 with --
 19 Q. You can't do that. So the universe of people
 20 who end up with tumors are people who started out
 21 probably somewhere below that and evolved to that?
 22 A. Yes, that's correct. What we're trying to do
 23 now is come up with molecular biological techniques to
 24 see if we can identify certain known abnormalities in
 25 cells that would go along with the development of a

Page 73

1 malignancy.
 2 Let me give you an example. There is a
 3 condition called chronic amyloid leukemia. There is an
 4 over production of white blood cells. It can go on for
 5 three, four, five years. Until recently there is a
 6 specific treatment to go after the molecular,
 7 biological defect in chronic amyloid leukemia, an
 8 abnormality in the chromosome where a piece of one
 9 chromosome hooks up to a piece of another chromosome,
 10 because they develop -- they dissolved it in
 11 Philadelphia. It's called the Philadelphia chromosome.
 12 People who have chronic amyloid leukemia, many of them,
 13 not all, have this Philadelphia chromosome.
 14 This new drug goes after the place where the
 15 two chromosome pieces are connected together and gets
 16 rid of the cells. And patients can be put into a
 17 remission where the white blood cell goes down to
 18 normal. You don't see the Philadelphia chromosome any
 19 longer and the next material level of making sure they
 20 don't have disease is you can't see any of the
 21 combination of the chromosome. There is a very fancy
 22 technique we can use for that. There is a limit of
 23 detection we can get down for that test, maybe ten to
 24 the minus one. So we can get down to very few cells.
 25 I guess you could screen people to see whether

1 they were expressing this chromosomal abnormality.
2 It's unlikely today in science if we were to detect a
3 very few of these Philadelphia chromosome positive
4 cells that were harboring this molecular fusion,
5 F-U-S-I-O-N, that we would begin treatment for those.

6 Q. Say that again?

7 A. We would not begin treatment for a patient like
8 that. Even though -- that might be the hallmark of
9 chronic amyloid leukemia. We don't usually treat
10 patients until they've got clinical --

11 Q. Why is that?

12 A. We're not sure whether it might be more harm
13 than good. There are patients -- prostate cancer.
14 Prostate cancer, if you live long enough and you're
15 male, you will develop it probably. So many men die,
16 at autopsy they have prostate cancer and never knew it.
17 There are many men who have low grade prostate cancer,
18 not aggressive, and they may not need any treatment for
19 it at all and live a healthy, normal life without
20 needing surgery, radiation therapy and certainly not
21 chemotherapy. There are diseases that are very low
22 aggressiveness and you can live with them for a long
23 period of time.

24 We have to look at cancer sometimes as a
25 chronic disease that our bodies may have to learn to

1 manifestations of recurrent disease.

2 Q. Do you know if diet has an impact on that
3 question?

4 A. Diet is important for any cancer patient.

5 Q. How do you interface diet with a cancer patient
6 in a situation that you just described?

7 A. Which one?

8 Q. The one --

9 A. Philadelphia chromosome one or breast cancer
10 patient?

11 Q. You just described one where there was a small
12 amount of circulating cancer cells.

13 A. For that situation, except for general
14 principals of restriction of fatty intake and vegetable
15 and fruits and making sure you get nutritious foods,
16 I'm not sure of any specific nutritional evidence that
17 something else would be better.

18 Q. For that situation you're not sure there is
19 anything. Are there any situations that are analogous
20 to that where you would have some idea about nutrition?

21 A. In a patient who already has been diagnosed
22 with cancer?

23 Q. We can start with that.

24 A. I wouldn't answer it any differently than I did
25 before.

1 live with without necessarily eradicating it. I prefer
2 to eradicate acute lymphoblastic leukemia in a child.
3 I want them to get rid of it but we have very sensitive
4 techniques now to measure residual tumor cells. For
5 example, a woman with metastatic breast cancer could
6 get treated with surgery -- with chemotherapy and I can
7 take a small amount, little more than a teaspoon full,
8 and I can identify cancer cells circulating in her
9 blood stream. And if there are a certain number of
10 those, not very many in that teaspoon and a half of
11 blood, if there are five or more circulating tumor
12 cells, I know that that woman is at a greater risk of
13 developing a reoccurrence of her disease even though
14 she doesn't have one now.

15 Q. So would you take --

16 A. What I would do, and that's what is being done,
17 let's see whether treatment now is better than waiting
18 until she really has evidence of metastatic disease.
19 It's an unknown question. You pose a scientific
20 question, is it more effective to treat somebody at
21 this first evidence, microscopic evidence of
22 reoccurrence or wait until the disease recurs. We
23 don't know the answer to that. You may be putting
24 people at harm if you treat them and may not be any
25 difference if you wait until they have the first

1 Q. How about somebody who you detected this small
2 amount of circulating cancer cells who has not been
3 diagnosed ever before?

4 A. I don't know the answer. I don't know whether
5 dietary manipulation and giving a patient Tracrium is
6 going -- whether giving them heavy metals of some kind
7 or elements of some kind is going to prevent them from
8 developing breast cancer. I don't know the answer.

9 Q. We've used some words that I just wanted to get
10 your take on, what they mean when you use them. The
11 first one is "drug." What do you mean by "drug"?

12 A. A drug is generally a chemical or
13 pharmaceutical that can be either synthesized or can be
14 a natural product that is used in a specific dose by a
15 specific route of administration to treat a medical
16 condition, in some cases prevent certain medical
17 conditions, and is given for a finite period of time in
18 a specific dose and dose schedule.

19 Q. Then another word that we've used a lot is
20 "disease." How would you describe the word "disease"?

21 A. Well, we have a state of normalcy and we have a
22 state of medical abnormalcy. I would consider a
23 disease abnormal state of health.

24 Q. In the progression from non-expressed cancer to
25

Page 78

1 expressed cancer, and the example we have been using,
 2 starting with ten to the first --
 3 A. One cell, ten cells?
 4 Q. Ten cells, ten to the 11th, is there a place in
 5 that progression that disease begins or manifests and
 6 how would you describe that? What would that place be?
 7 A. In terms of number or just in terms of clinical
 8 manifestation?
 9 Q. Clinical manifestation.
 10 A. Leukemia as an example. You have to understand
 11 what the disease is all about. And it's the
 12 advantageous growth and multiplication of leukemia
 13 cells in the bone marrow, that's where they're made,
 14 where the growth of the leukemia cells actually is much
 15 greater and faster and crowds out the normal bone
 16 marrow cells that produce red blood cells or white
 17 blood cells or platelets. What happens is that the
 18 bone marrow becomes filled up with leukemia cells and
 19 some of those may spill out into the blood stream.
 20 In the process of crowding out the bone marrow,
 21 because it's basically taking over because of the
 22 advantages of the leukemia cell and multiplying and
 23 dividing, if it's a rapid process, you might get from
 24 the replacement of the normal bone marrow by leukemia
 25 cells, you might get bone pain, back pain. You might

Page 79

1 get joint pain.
 2 So one of the earliest manifestations in a
 3 child, they complain of aches and pains. In three or
 4 four-year olds who are busy all the time, it's not
 5 considered to be anything. Sometimes if it's a rapidly
 6 growing process, the lymph nodes get filled up with
 7 leukemia cells also. So a child can have enlarged
 8 lymph glands in the neck, under the arm and it's
 9 considered to be a viral infection unless somebody does
 10 a blood count. If they do a blood count, they can see
 11 a number of different things, depending on how rapidly
 12 the disease is multiplying and dividing and how much
 13 cell death there is. It's not one process.
 14 So some children, because their marrows have
 15 been over taken by the leukemia cells and are not
 16 making red blood cells, they become anemic and the
 17 child looks pale. It may not be noticed if it's
 18 wintertime. Kids look pale in wintertime unless they
 19 live in Florida or California. They may have infection
 20 because they don't have normal white blood cells to
 21 fight the infection. They may have fever. If they're
 22 not making blood platelets, they may bruise easily,
 23 more so than they usually do.
 24 Hematologic manifestations are related to the
 25 decreased production of normal blood cells. The fever

Page 80

1 may be related to the disease process itself and some
 2 of the biochemicals that the body produces to
 3 counteract the leukemia, which can cause fever. And
 4 the bone pain and joint pain is filling up the bone
 5 marrow with tumor cells.
 6 Some kids may present with severe headache and
 7 may have leukemia cells in the brain or spinal fluid.
 8 Others may have leukemia cells in the liver or spleen,
 9 which get enlarged. I've seen patients who have
 10 leukemia cells in their intestinal tract and it
 11 perforated and they presented with what looked like
 12 appendicitis but was really leukemia. Those are the
 13 early clinical manifestations of the disease. If you
 14 suspect it, you do a blood test and you can often see
 15 leukemia cells in the blood smear and you can see
 16 changes in the platelet count or the hemoglobin level.
 17 Q. When you reach that clinical state, what is the
 18 proper course of action?
 19 A. Once you established the diagnosis, you then do
 20 other studies to help you with prognosis. We look in
 21 the chromosomes, not the one I was talking about
 22 before, that is chronic, but in acute leukemia we look
 23 at chromosomes in good laboratories. In Memorial Sloan
 24 Kettering they look for some of these molecular
 25 abnormalities that are part of the molecular genetics

Page 81

1 of the disease. We look at the biochemical picture of
 2 the patient because we have to support them very
 3 carefully when we start their treatment to make sure
 4 the kidneys are going to function normally.
 5 The next step, once we established the
 6 diagnosis and know where it is, we want to make sure
 7 it's not in the central nervous system, patients are
 8 started on chemotherapy.
 9 Q. Drugs?
 10 A. Yes.
 11 Q. Do all those drugs have a toxic side effect?
 12 A. I said earlier every drug has a toxic side
 13 effect. Herbals have a toxic side effect.
 14 Q. We talked about drugs, disease. What is a
 15 cure?
 16 A. It depends on the disease. If we're talking
 17 about acute lymphoblastic leukemia, generally if a
 18 patient has gone four or five years from the time that
 19 therapy has been completed, and they've never had
 20 disease reoccurrence, I would say 95 percent plus of
 21 those patients are going to be cured.
 22 Q. Do you have statistics on the life of these --
 23 this covert of people, that is the group that has gone
 24 say five years, do you have statistics on the rest of
 25 their lifespan?

1 A. I can give you statistics or I can give you my
2 own personal experience. What would you like?

3 Q. Both.

4 A. Children who have a malignancy of any kind, and
5 leukemia is one kind, who are treated with
6 chemotherapeutic agents and some received radiation
7 therapy, a small proportion, a very small proportion,
8 few percent, may be at risk of developing a second
9 malignant neoplasm at a later date.

10 When we treated children with acute
11 lymphoblastic leukemia, we knew that leukemia cells
12 were either in the central nervous system or can get in
13 there. And in the early days, all of the children not
14 only got treated with chemotherapy, but also radiation
15 therapy to their brain and the spinal canal to prevent
16 central nervous system leukemia.

17 In a certain group of patients began a very
18 small percentage, under three or four percent, in a
19 particular age group under ten years of age, some of
20 those patients went on to develop brain tumors related
21 to either some genetic pre-disposition and/or the
22 results of or the effects of therapy.

23 Now we've learned that certain patients don't
24 need radiation therapy. We don't use it and they get
25 treated with chemotherapy that's given directly into

1 when she was a kid and doesn't want to run that risk.
2 So it's mostly the guys who are afraid of marrying a
3 young lady who has leukemia so the marriage rate is
4 lower.

5 Now that we're not using radiation therapy,
6 we're not seeing the neuropsychological cognitive
7 defects, but I think those are the major. There are
8 some effects on organs of the body. If chemotherapy
9 might damage the liver, they usually get over it.
10 Central nervous effects are not as severe as they were
11 before.

12 The other effects of treatment might be related
13 to some of the specific drugs that were used that have
14 heart toxicity or liver toxicity where there may be
15 some effects.

16 Q. How does this compare to adults who are treated
17 for cancer and reach a five-year survival rate?

18 A. With adults, five-year survival is generally
19 interpreted as a good sign. We know in certain
20 cancers, breast cancer, there may be late recurrences
21 so five-year survival doesn't necessarily mean cure,
22 although the survival curves tend to flatten out at
23 that period of time.

24 Adult patients don't tolerate chemotherapy as
25 well as children do for a number of reasons. It's the

1 the spinal fluid. We also learn that chemotherapy
2 might have an effect on the growth of a child because
3 it effected the pituitary gland. So the children had
4 lower growth because they had less growth hormone and
5 they often were obese, and the third adverse effect of
6 radiation therapy was that some of the children,
7 particularly the young ones, had a neuropsychological
8 dysfunction, learning disabilities from the effects of
9 radiation therapy.

10 It was through clinical trials and primarily
11 that we now do not use radiation therapy for most
12 patients with acute lymphoblastic leukemia, so we're
13 obviating the effects on growth, the effects on obesity
14 and the neuropsychological defects. Otherwise, I think
15 these children live, and the data would support this,
16 they live good lives. They have trouble getting jobs,
17 interesting.

18 Q. Why do they have trouble getting jobs?

19 A. Insurance companies don't want to give them
20 coverage even though they had leukemia and they're
21 cured. I think their marriage rate is lower. I have
22 seen that from my own patients who are wonderful
23 people, cured of their leukemia, they're bright,
24 beautiful, vivacious and every time they meet somebody,
25 the guy gets scared because he heard she had leukemia

1 nature of their tumors that are not responsive, as
2 responsive to chemotherapy as many of the pediatric
3 tumors are. The adult patients have a lot of other
4 lifestyle things that effect organ function, the
5 smoker, drinker, the both, patients who are obese, who
6 have hypertension, they may have diabetes and a lot of
7 other comorbid medical conditions that make treating
8 their disease more problematic.

9 Adult patients maybe are not as tolerant of
10 some of the side effects of chemotherapy, like nausea
11 and vomiting, even though we have medicines now to
12 decrease that. I think doctors will decrease or delay
13 therapy in an adult patient, particularly if the adult
14 patient complains about some of the side effects. We
15 don't do that as much in pediatric oncology. So kids
16 get more therapy. They may be tougher soldiers and may
17 be one of the reasons they do better. Really
18 interesting stuff. I need to talk about it because you
19 asked about adults and children.

20 Q. Go ahead.

21 A. We'll take acute lymphoblastic leukemia. If
22 that child is treated by a pediatric oncologist with a
23 reasonable protocol, the results will be much better if
24 the pediatric oncologist is treating, let's say, a
25 16-year old. If that 16-year old happens to go to one

1 of my medical oncology colleagues using the same
2 protocol, the results are better with the pediatric
3 oncologist treating that 16-year old than the medical
4 oncologist because they're not as aggressive, chicken
5 out, I don't know what it is, being published and it's
6 really interesting.

7 So you have to understand the disease, you have
8 to understand the patients and what's at stake and why
9 it's so important to continue therapy. We have
10 supportive care for a lot of the side effects. You
11 can't say chemotherapy is terrible, everyone is going
12 to die, all these terrible things happen. We can treat
13 the anemia, low white blood cell counts, very effective
14 to treat serious infections, we have antibiotics -- I
15 don't mean stimulating their immune system to treat the
16 fungal infection. I want to get rid of the fungus and
17 need antifungal agents to do it. I can use medicines
18 to stop the nausea and vomiting. I can tell when
19 they're malnourished and put all those things into
20 place to treat them.

21 It's the whole patient. The whole patient in
22 cancer isn't let's just go after the body and forget
23 all the other stuff that kills them, that is not me
24 speaking, and I read their report. It's treat the
25 whole patient and understand all these different organ

1 systems and parts of the body are important. Don't
2 neglect any of them. And I think that's what we do in
3 oncology.

4 Q. Okay.
5 A. It's a big team caring for cancer patients
6 today, not just the oncologist injecting
7 chemotherapeutic agents in a patient.

8 Q. We talked earlier about early detection.
9 A. Yes.

10 Q. Are there tumors that go away by themselves?

11 A. Rarely there can be spontaneous remissions,
12 spontaneous disappearances of tumors. I've seen that
13 happen in tumors of the sympathetic nervous system
14 where a patient starts off with what appears to be a
15 malignancy and the patient's tumor goes from a
16 malignant tumor to a benign tumor and can be removed
17 surgically. We're looking at new drugs that actually
18 help that process of turning tumors that are mature to
19 go from a malignant state to a benign state.

20 Q. Say that again, I'm sorry.

21 A. We have drugs now that are designed to help a
22 tumor go from a malignant state to a more benign state,
23 because of maturation of the tumor, we call it
24 differentiation.

25 Q. Do you think of the products that you are

1 analyzing for Daniel Chapter One as drugs?

2 A. Again, any class of agent, I don't care what
3 you call it, any class of agent that's designed to
4 treat a disease, its basic disease or prevent a disease
5 is medicine, a drug. You can't separate conventional
6 medicine from alternative medicine if the aim is to
7 treat cancer. But there are different classes of
8 drugs, many different classes of drugs that fall into
9 what they're made of, what their chemical composition
10 is, what their target might be in the body.

11 Q. Do you have a way of thinking about classifying
12 the Daniel Chapter One products in one of those
13 category of drugs? I'd like to hear the answer?

14 A. Let's take Bio*Shark, B-I-O.

15 Q. For the record, we're going to go over each of
16 those in more detail.

17 A. Let's take Bio*Shark. From the work that was
18 done by the Harvard scientist back in the '80s, they
19 isolated from crude shark cartilage a peptide, protein.
20 This was highly purified. They started off with grams,
21 pounds of shark cartilage and came up with a few grams
22 of peptide. When they put it into a test tube or petri
23 dish with tumor cells or looked at new blood vessel
24 formation, they saw that this peptide from shark
25 cartilage actually prevented new blood vessel

1 formation. That's antiangiogenesis. One mechanism of
2 action of a drug would be antiangiogenesis active. I
3 think the shark cartilage is what that agent is
4 supposed to be doing.

5 Q. Okay. Do you think DCO, Daniel Chapter One,
6 thinks of these as drugs?

7 A. I don't know.

8 MR. PAYNTER: Objection. Objection. No
9 foundation. Objection.

10 Q. Have you read their materials?

11 A. Yes, I have.

12 Q. Based on your reading of their materials do you
13 believe they're thinking of these as drugs?

14 A. If they propose that their drugs can replace
15 conventional therapy, then yes, it's a drug.

16 A broader term would be anticancer agent. Some
17 of the things we use are monoclonal antibodies that
18 are a little bit different than a drug, but a drug has
19 a mechanism of action, excreted, metabolized in a
20 certain way so anything like that that's chemical or
21 structural formula that's used to go after a cancer
22 cell, is an anticancer agent.

23 Q. Is that true of a food as well?

24 A. What kind of food?

25 Q. Broccoli?

1 A. I don't think it has specific anticancer
 2 activities. It may provide nutrients that are
 3 important for the body and in certain circumstances may
 4 seem to have in a test tube some anticancer activity,
 5 green tea may. Other things we eat may.
 6 Q. Green tea would be a food in the way we're
 7 talking about now or a drug?
 8 A. If you're saying take these things because
 9 you'll feel better, they're good for you, they can't
 10 provide specific therapy for your cancer because it's
 11 not been proven, there is no competent or reliable
 12 evidence that these things work in treating human
 13 cancer. If they do no harm and may have some
 14 beneficial effects because they contain nutrients of
 15 some kind, I have no objection to that. I want to make
 16 sure my patients are getting good nutritional diets and
 17 getting enough calories and all the other things they
 18 need to be as healthy as possible. But I wouldn't ever
 19 substitute broccoli for Avastin and cisplatinum to
 20 treat their colon cancer.
 21 Q. Do you believe that is what Daniel Chapter
 22 One --
 23 A. I think they said it. I read it in their radio
 24 reports. If you read into the next layer beyond the
 25 label of their products and look at the pages in their

1 you were preparing your report?
 2 A. I may have.
 3 Q. If you may have seen it, how would you have
 4 treated it as far as your report goes?
 5 A. Well, there are other things in their web site
 6 and documents you can download on their web site that
 7 contradicts that and also things that they've said.
 8 Tricia gave --
 9 MR. PAYNTER: There is no question.
 10 A. Okay. I'll keep my mouth shut.
 11 (A luncheon recess was taken from 12:10 to
 12 1:10 p.m.)
 13 Q. You referred to an article by Angell and
 14 Kaiser, is that what it is?
 15 A. Kaiser. It was an editorial.
 16 Q. Who is Angell?
 17 A. It was Marcia Angell at the time. I think she
 18 was the editor of the New England Journal of Medicine.
 19 Q. Have you followed her work since she left the
 20 New England Journal of Medicine?
 21 A. Yes.
 22 Q. What has she been saying?
 23 A. She has had some comments about the industry.
 24 Q. Do you think she is a credible person?
 25 A. Yes.

1 web site, you can see that this is a treatment for
 2 cancer.
 3 Q. Um --
 4 A. They're saying treatment for cancer.
 5 Q. I want to clarify one thing. You said that you
 6 didn't hear it but you read it?
 7 A. I read the transcript.
 8 Q. You didn't hear the tape itself?
 9 A. I read the transcript.
 10 Q. I misunderstood that before. When you reviewed
 11 this material, how did you integrate this statement
 12 that appears on the web site that the information on
 13 this web site is not intended to diagnose a diagnosis,
 14 the information provided on the site is designed to
 15 support relationship that exists between patient's site
 16 visitor and his or her health care provider?
 17 MR. PAYNTER: I'm going to object. First ask
 18 him if he observed that when he was reading the web
 19 site.
 20 Q. Did you observe that? Do you recall observing
 21 that?
 22 A. I can't remember when I saw that, because I
 23 don't know when that appeared in their web site. Is it
 24 recent? I have no idea.
 25 Q. Let me ask you, did you see that statement when

1 Q. Was she critical of the drug industry?
 2 A. Yes.
 3 Q. Could you tell us some of the criticisms you
 4 remember?
 5 A. I can't remember them all but one was the
 6 pharmaceutical industry spends a great deal of time
 7 developing me too type drugs and not innovative enough.
 8 They spend too much money on marketing and advertising.
 9 Those are some of the things I remember.
 10 Q. Did she say anything about the quality of the
 11 studies done by the drug industry?
 12 A. I don't recall.
 13 Q. Do you think any of the things she said draw
 14 into question some of the outcomes of the studies that
 15 have been done by the pharmaceutical industry?
 16 A. I'm sure there were studies done by the
 17 pharmaceutical industry that were criticized and not
 18 perfect, yes.
 19 Q. You laid out the process that companies go
 20 through to get a product on the market.
 21 A. Yes.
 22 Q. Once they're on the market, does that mean
 23 they're home free and everything is fine?
 24 A. No.
 25 Q. Some of it may turn out not to be so good?

1 A. That's correct.
 2 Q. Has that happened in the cancer field?
 3 A. I'm not sure what you mean by not so good.
 4 Q. Did the FDA have to take drugs off the market
 5 that was previously approved?
 6 MR. PAYNTER: I'm going to object because he
 7 asked you to clarify.
 8 MR. J. TURNER: I asked what did the FDA say.
 9 MR. PAYNTER: That is another question than
 10 did the FDA remove something. He's asked you to
 11 clarify what you mean that some drugs were not so good.
 12 If you can please do that, but if you can't, please
 13 withdraw the question.
 14 Q. What I mean by not so good is that they pass
 15 tests and then turned out not to be able to remain on
 16 the market.
 17 A. You're specifically relating them to
 18 anticancer?
 19 Q. The first one I didn't but the second one I
 20 did.
 21 A. Can I talk about anticancer drugs?
 22 Q. Let's say without anticancer drugs.
 23 A. Have there been drugs withdrawn, yes.
 24 Q. Are there any anticancer drugs approved by the
 25 FDA that were subsequently withdrawn that you are aware

1 A. In the package insert of any drug, there's
 2 directions for its use. Or if you look at the PDR,
 3 physician's desk reference, for every drug listed there
 4 may be, not every one but for every drug there is a
 5 black box on top that is basically a warning.
 6 It then goes into this drug should not be given
 7 to patients who have had myocardial infarctions, heart
 8 attacks in the last six months because they may be at a
 9 greater risk. This drug should not be given to
 10 patients who have kidney dysfunction and there is a
 11 warning because after the drug was approved, additional
 12 patients who may have been excluded from the study were
 13 treated with the drug and low and behold they had some
 14 adverse effect.
 15 So there's warnings issued by the FDA to alert
 16 the farm -- physicians to be cautious with giving the
 17 drug or not giving it to certain patients at all.
 18 Q. The PDR pages, insert, is that a reprint of the
 19 package insert?
 20 A. Essentially.
 21 Q. Are there other warnings besides black box
 22 warnings within the PDR insert?
 23 A. Within the text of the use of the drug, in
 24 addition to describing what it's indicated for, what
 25 the doses are, how it should be given, formulated,

1 of?
 2 A. After they were approved, I'm not aware of any.
 3 Again, I'm specifically relating it to primary therapy
 4 of the cancer and not some supportive care agent.
 5 Q. Okay. Do you know of supportive care agents
 6 that have been approved by the FDA and then withdrawn?
 7 A. Not withdrawn but where the label was modified
 8 where warnings were put on it. That is the other thing
 9 that happens with drugs and is not surprising because
 10 there may be new adverse effects that occur in any new
 11 drug when the population of patients who are being
 12 treated is broadened beyond what was done in the
 13 clinical trial.
 14 So that should things -- some adverse effects
 15 of drugs may be uncovered until a much larger
 16 population of patients with many different other kinds
 17 of medication they're taking get exposed to it. What
 18 happens is when there are new side effects and
 19 everyone, very, very small percentage of patients,
 20 start developing those side effects, the FDA will issue
 21 what's called a black box warning and alert
 22 practitioners there may be additional concerns or tests
 23 they have to do or precautions they have to take in
 24 treating patients.
 25 Q. Okay. What is a black box warning?

1 there may be other warnings, other side effects and
 2 they usually list them all.
 3 Q. Okay. I want to now go to the part of the
 4 report "Detailed Discussion of Findings" and begin with
 5 Bio*Shark.
 6 A. Yes.
 7 Q. You began that by saying, "The key questions
 8 relating to Bio*Shark are: Does Bio*Shark inhibit
 9 tumor growth? Is Bio*Shark effective in the treatment
 10 of cancer?"
 11 A. Yes.
 12 Q. Who formulated those questions?
 13 A. Well, I formulated the questions in response to
 14 the scope of work on page four where I said I had been
 15 asked by the FTC to determine whether there is
 16 competent and reliable scientific evidence to support
 17 or substantiate the following claims, and the first
 18 one, does Bio*Shark inhibit tumor growth, and the
 19 second, Bio*Shark is effective in the treatment of
 20 cancer, and I turned it a -- I asked the question and
 21 addressed those questions with the available
 22 peer-reviewed literature that addressed whether or not
 23 Bio*Shark inhibits tumor growth and whether or not it's
 24 effective in the treatment of cancer.
 25 Q. You state that a number of reported

1 non-clinical studies suggested that a highly purified
 2 peptide isolated from shark cartilage may have
 3 antiangiogenic activity. Is that --
 4 A. That's correct.
 5 Q. Can you explain what that means?
 6 A. Well, do you want me to explain every word?
 7 Non-clinical study is not human, it's a test tube or
 8 animals. The highly purified peptides mean instead of
 9 taking crude shark cartilage, powdering it, chopping it
 10 up, they went through a biochemical process, very
 11 sophisticated biochemical process of actually purifying
 12 peptides or proteins that were within the shark
 13 cartilage. So they didn't just grind up the shark
 14 cartilage and throw it into the petri dish. They
 15 actually purified these proteins and then did tests in
 16 the test tube to see whether or not they could inhibit
 17 new blood vessel formation or angiogenesis.
 18 Q. Is there any shark cartilage that you're aware
 19 of on the market that you believe would meet standards
 20 that would allow it to perform in the way these studies
 21 described?
 22 MR. PAYNTER: Objection. No foundation. "Any
 23 shark cartilage"? There's no foundation. What is his
 24 experience with shark cartilage? There is no
 25 foundation for the question.

1 I can go into a health food store and get shark
 2 cartilage products in a health food store. If that's
 3 what you mean by "on the market."
 4 Q. Yes.
 5 A. But they're not highly purified.
 6 Q. You are saying -- I'm trying to understand --
 7 there are no, as far as you know, highly purified shark
 8 cartilage products on the market?
 9 A. That's right. Because they have been replaced
 10 by good antiangiogenic drugs that go after this
 11 process.
 12 Q. Can you tell me what some of those drugs are?
 13 A. Sure. There's a drug called Trastuzumab.
 14 Sorry about that. I always like the generic and its
 15 other name is Trastuzumab, T-R-A-S-T-U-Z-U-M-A-B, and
 16 its proprietary name is Avastin, A-V-A-S-T-I-N. Excuse
 17 me. It's name is Avastin, but its generic name is
 18 Bevacizumab. That's spelled B-E-V-A-C-I-Z-U-M-A-B.
 19 M-A-B at the end means monoclonal antibody, and that
 20 is Avastin. Bevacizumab is a synthetically generated
 21 monoclonal antibody. The target of Bevacizumab is a
 22 very important factor that stimulates new blood vessel
 23 growth.
 24 Q. And you said it stimulates?
 25 A. Stimulates, yes. The monoclonal antibody goes

1 Q. The question that I'm asking is regarding the
 2 statement "purified shark peptides" or whatever the
 3 word is that you used in that regard.
 4 MR. PAYNTER: Can we just let the record
 5 reflect accurately what he says. Just please read it
 6 accurately.
 7 MR. J. TURNER: Read it.
 8 A. "A number of reported non-clinical studies
 9 suggested that highly purified peptides isolated from
 10 shark cartilage may have antitumor activity and
 11 antiangiogenic activity," that is what I said. I
 12 didn't say crude shark cartilage. I said highly
 13 purified peptides from shark cartilage.
 14 Q. Are you aware of any shark cartilage products
 15 on the market?
 16 A. You have to tell me what you mean by "on the
 17 market."
 18 Q. Being sold to people who buy them.
 19 A. I'm not aware of highly purified peptides from
 20 shark cartilage on the market. I know about crude
 21 shark cartilage.
 22 Q. That is the question I asked you.
 23 A. I didn't understand it. I don't think you said
 24 purified peptides. You said am I aware of any shark
 25 cartilage on the market and that is different. I know

1 after the factor that stimulates new blood vessel
 2 formation and that factor is called V-E-G-F. It stands
 3 for vascular endothelial factor. So when the
 4 monoclonal antibody attaches, the VEGF stimulates it.
 5 So the stimulant for new blood formation is no longer
 6 there, so it inhibits new blood vessel growth. That
 7 drug, which is actually discovered by Genentech, is
 8 approved in the treatment of colorectal cancer with
 9 chemotherapy, approved in the treatment of non-small
 10 cell lung cancer and about to be approved in the
 11 treatment of breast cancer, always again with
 12 chemotherapy. Studies are on the way looking at it in
 13 brain tumors and other malignancies as well. That is
 14 just one.
 15 Q. Are you talking about just one or are you
 16 talking about two?
 17 A. Bevacizumab.
 18 Q. All one?
 19 A. So it's already approved with chemotherapy in
 20 the treatment of three different cancers and undergoing
 21 investigation for a number of others.
 22 There are other small molecules that go after
 23 the VEGF receptor, that is like a hormone, but the
 24 receptor is on a cell and when VEGF attaches to it, it
 25 sets into motion a series of biochemical reactions in

Page 102

1 the cancer cell, one of which is to turn on blood
 2 vessel formation or it inhibits the endothelial cells
 3 from multiplying and dividing and increasing new blood
 4 vessels.
 5 Q. Did you say it turns on?
 6 A. If you attach VEGF to the receptor, it sets
 7 into motion a series of biochemical reactions inside
 8 the cell. It could be in an endothelial cell. If you
 9 inhibit that by directing a chemical, small molecule,
 10 gets absorb, we know how much is absorbed, we know how
 11 much you need to inhibit new blood vessel formation, we
 12 know how much binds to the receptor, we know how long
 13 it stays on the receptors, we know it sets into motion
 14 these pathways and we also know it inhibits receptors
 15 and prevents all this from happening and there are a
 16 number of different drugs that do that.
 17 One is called Sunitinib, S-U-N-I-T-I-N-I-B.
 18 It's trade name is Sutent, and Sutent is made by
 19 Pfizer. And it's approved for the treatment of renal
 20 cell carcinoma and undergoing investigation in a number
 21 of other tumors. It is a breakthrough in the treatment
 22 of renal cell carcinoma.
 23 Another one is called Sorafenib,
 24 S-O-R-A-F-E-N-I-B, and its trade name is Nexavar,
 25 N-E-X-E-V-A-R, and Bayer makes that drug. It also is

Page 103

1 approved for renal cell carcinoma but also approved for
 2 the treatment of liver cancer for which there was very
 3 little before. So there are three different
 4 antiangiogenic medications but there are a number of
 5 others being evaluated today.
 6 Q. Are they redundant?
 7 A. No, not at all. If something is going after
 8 VEGF itself, that's completely different from Sunitinib
 9 or Sorafenib, which has different mechanisms of action,
 10 but one or more of the VEGF receptors is the target.
 11 Q. So a person that would be helped by the, let's
 12 just say, the Bayer drug might not be helped by -- did
 13 you say it was a Pfizer drug?
 14 A. Actually, people have been started on one or
 15 the other and switched over and have activity.
 16 Q. You said they were expanding the uses of those?
 17 A. Yes.
 18 Q. Do they have any side effects?
 19 A. Of course. Anything, every drug, whether
 20 pharmaceutical agent, or complimentary medicine,
 21 whether it's aspirin, it has side effects.
 22 Q. Do you know what kind of side effects these
 23 have?
 24 A. Yes.
 25 Q. What are they?

Page 104

1 A. Which one do you want me to start with?
 2 Q. Start with the same order that you did.
 3 A. The monoclonal antibody can cause high blood
 4 pressure. It may cause bleeding. It may cause
 5 allergic reaction because it's a monoclonal antibody.
 6 The Sunitinib may cause cardiovascular effects. The
 7 Sorafenib may also do some of that. It may have GI
 8 effects. But, again, some of these adverse effects can
 9 be graded in terms of their severity. If something
 10 causes nausea and vomiting, we have excellent agents
 11 that counteract the effect of a drug that causes that.
 12 Why should a patient suffer from an adverse effect that
 13 can be prevented or diminished so the drug is
 14 tolerable. Particularly if it improves survival of a
 15 patient.
 16 Renal cell carcinoma, if it spread to other
 17 parts of the body, up until recently it was very
 18 difficult to treat and Sunitinib now prolongs the
 19 survival of this disease.
 20 Q. Do you have any knowledge about how much it
 21 prolongs survival?
 22 A. Significantly prolongs survival by six months.
 23 Q. Six months?
 24 A. Yes.
 25 Q. Is that true of all three, about six months?

Page 105

1 A. Sunitinib has a better record in terms of
 2 overall survival. Bevacizumab has been very effective
 3 in prolonging time to tumor progression in colon
 4 cancer, lung cancer and breast.
 5 Q. When you say "very effective" --
 6 A. These are significant differences,
 7 statistically significant differences.
 8 Q. How much time would that add?
 9 A. It could be months.
 10 Q. How much did it cost to get each of these
 11 approved?
 12 A. I don't know.
 13 Q. Do you have an idea?
 14 A. I wouldn't guess.
 15 Q. Do you have an impression?
 16 A. I don't know what it cost Genentech, Bayer or
 17 Pfizer.
 18 Q. Do you think it's in the range of a hundred
 19 million dollars?
 20 A. I don't know the answer. I'm not going to
 21 guess what it costs them to do that, but it's
 22 expensive.
 23 Q. When you say "expensive," do you have a sense
 24 of what you mean by that?
 25 A. It may cost upwards of a hundred million

27 (Pages 102 to 105)

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1 dollars from beginning to development and completion of
 2 approval for a new drug.
 3 Q. Do you have the table that analyzes the
 4 Bio*Shark studies?
 5 A. Yes.
 6 Q. Mine got --
 7 MR. PAYNTER: Let me give you that.
 8 MR. J. TURNER: I don't need it.
 9 Q. So I just wondered if you could give me a quick
 10 summary of that chart.
 11 A. Each of these studies listed here were clinical
 12 studies that were published in peer-reviewed journals,
 13 and actually were studies that had a study design that
 14 set out to show that some end point was going to be the
 15 primary end point of the study, and also in some of
 16 them established some secondary end points.
 17 For example, when you decide to do a study to
 18 show that drug X is better than placebo or that drug X
 19 plus chemotherapy is better than chemotherapy alone,
 20 you define, as I said, your patient population, what
 21 disease or diseases they have, what kind of prior
 22 therapy they have. They have to satisfy all of the
 23 eligibility criteria we talked about. You have to have
 24 a schedule of when you're going to administer the
 25 therapy. You have to have a base line evaluation to

1 concurrent therapy. So it wasn't -- they were getting
 2 shark cartilage alone versus concurrent therapy or
 3 shark cartilage alone plus concurrent therapy and
 4 concurrent alone. It wasn't a randomized study.
 5 So in that study it would be impossible to tell
 6 it could have been the treatment they were getting.
 7 Q. Was there a historical database on the
 8 treatment the patients got?
 9 A. You mean what kind of prior therapy did they
 10 have?
 11 Q. What I meant was there's the standard therapy
 12 plus shark cartilage being applied here.
 13 A. That's right, yes.
 14 Q. Is there any data on what the standard
 15 therapy's effects were in the historical database?
 16 A. I'm not following that.
 17 Q. So that product, whatever that standard
 18 treatment was, went through a phase I, II, III trial.
 19 A. Yes.
 20 Q. And did that establish a level of effectiveness
 21 of that product?
 22 A. Yes.
 23 Q. And the question I'm asking is: Was there any
 24 ability to compare the results that came when you added
 25 shark cartilage to it, to that historical record?

1 know where they're starting from in terms of having not
 2 only measurable disease but they have to have a disease
 3 that's been proven to be the disease you claim to be
 4 treating. Not that the patient says I have colon
 5 cancer, I would like to go on your study. We need to
 6 have the slides for the pathologist to review, medical
 7 imaging studies to know where the disease is to verify
 8 the fact that a patient has colon cancer and can go on
 9 the study. Patients are reliable but they don't have
 10 all of the information that's necessary to make a
 11 diagnosis and give them the best therapy that is
 12 available for them.
 13 Anyway, all of these were studies that have a
 14 predefined clinical end point; response, progression,
 15 free survival, time to tumor progression, progression,
 16 overall survival, quality of life. Those are the
 17 things we might look at. They're all listed here. A
 18 number of them are just case study, looked --
 19 Q. Study by Pruden?
 20 A. P-R-U-D-E-N. For example, case studies of
 21 patients who had different kinds of advanced metastatic
 22 cancer. He used a product called Catrx, which is
 23 actually Bovine, not shark cartilage, crude, not
 24 purified peptides, and he saw responses, complete
 25 responses in 19 patients but the patients had

1 A. You couldn't do it in that study because it
 2 wasn't controlled to look at what the standard of care
 3 was alone versus the standard of --
 4 Q. Let me ask it. Is there a way of finding out
 5 what the standard of care produces?
 6 A. Based on historical, yes, but it's not valid
 7 because you need to have what we call a concurrent
 8 control. You have to have patients being treated at
 9 the same time receiving the same kinds of medical
 10 imaging studies to avail the response, getting the same
 11 kind of supportive care. You can't take patients
 12 treated ten years ago and look at their results and
 13 throw in 31 patients treated ten years later and see
 14 how they did in comparison. That's not an acceptable
 15 clinical trial.
 16 You want me --
 17 Q. Just --
 18 A. Can I highlight some of them?
 19 Q. Highlight some of them.
 20 A. A little background. At Cancer Treatment
 21 Centers of America, as I mentioned to you earlier, most
 22 of the patients had a diagnosis of cancer. They had
 23 been treated before. Their disease invariably had come
 24 back and we found that many patients, I would say the
 25 majority of patients were taking some kind of

Page 110

1 alternative therapies or complimentary therapies that
 2 either somebody advised that they take or heard about
 3 it on the internet, they read about it in the health
 4 care magazine, their friends told them about it. We
 5 found that 70, 80 percent of patients are doing yoga
 6 and acupuncture and shark cartilage and coffee enemas,
 7 all these things they were self-administering and
 8 sometimes their doctors knew and often they didn't tell
 9 them because the doctors would get upset if patients
 10 were doing these things.

11 We decided to do a study of shark cartilage,
 12 basically the same that William Lane had looked at in
 13 the patients in Cuba, and we decided to take patients
 14 who had been on prior therapy. They had a confirmed
 15 diagnosis of some advanced stage tumor, either lymphoma
 16 or other solid tumors, and the end treatment they were
 17 going to get would be shark cartilage, nothing else, no
 18 radiation therapy, only whatever general supportive
 19 care might be and our institution. It was very good
 20 supportive care, well nourished patients. They weren't
 21 randomized because what we were trying to do is, first
 22 of all, any evidence of activity, either tumor response
 23 or improvement in quality of life, after the first six
 24 weeks, if patients were tolerating the shark cartilage
 25 well, they would have their dose increase. It's dose

Page. 111

1 escalation and we followed them with medical imaging
 2 studies every six weeks, and we were looking for
 3 primary end point which was evidence of complete or
 4 patient remission, improvement in quality of life and
 5 even stable disease.

6 We plan to enroll a hundred patients in the
 7 study. We submitted the protocol to the FDA. They
 8 approved it, the cartilage product that we used was
 9 actually provided by a company who was selling it in
 10 the market. Actually, they gave us some support.

11 Q. Was that a purified --
 12 A. No, none of these are purified. Not one of
 13 these things is purified peptide. They say partially
 14 purified. It's not purified and Bevacizumab doesn't
 15 have any -- whatever. It turns out after the first
 16 sixty patients were enrolled, we did analysis and we
 17 didn't see any evidence of response, no CRs, complete
 18 remissions, no partial remissions. There wasn't even
 19 improvement in quality of life. Inpatients who stopped
 20 their prior therapy, and we have an instrument to
 21 evaluate quality of life, I don't mean how do you feel,
 22 the patient says I feel great, that means nothing.
 23 There are instruments that patients can respond to,
 24 questions they respond to that can quantify whether
 25 their quality of life is better, the same or worse.

Page 112

1 All of this is objective. The important word
 2 that I'm trying to say today. Anyway, the bottom line
 3 is after the first 60 patients where we didn't see any
 4 responses, improvement in quality of life, we didn't
 5 see a decrease in prostate specific antigen level, in
 6 the men with prostate cancer, we elected to close the
 7 study.

8 But it wasn't a controlled double blind
 9 randomized trial, but it didn't give us enough evidence
 10 to move evidence into a bigger study.

11 I want to go down to Loprinzi at the Mayo
 12 Clinic, and they looked at Benefin, which was William
 13 Lane's shark cartilage product, and they did a phase
 14 III PC, which means placebo controlled, DB means double
 15 blind, and these were patients who got either Benefin
 16 or a placebo in what was considered the standard dose,
 17 although we really don't know, gram per kilogram per
 18 day of shark cartilage powder usually mixed with water
 19 or juice or something. They looked at inpatients with
 20 breast cancer and colorectal cancer. They looked for
 21 an improvement in response, and in the 42 patients
 22 studied, they didn't see any differences at all in a
 23 placebo controlled trial.

24 Of all the studies listed here, I would range
 25 Loprinzi's as probably the best designed because it was

Page 113

1 a double blind placebo controlled trial.

2 However, there was another study that I mention
 3 in my report, and it was a -- it was another randomized
 4 double blind placebo controlled trial with a product
 5 called Neovastat. It was made by a Montreal company
 6 called Aeterna, A-E-T-E-R-N-A. They claim that they
 7 patiently purified it, although it certainly wasn't the
 8 peptides that I talked about. They used a lower dose
 9 than the other shark cartilage studies and they did, as
 10 I mentioned, at MD Anderson Hospital in Houston, Texas,
 11 they looked at patients with non-small cell lung cancer
 12 that had tumors that could not be operated upon and
 13 treated with either standard chemo that we use today,
 14 which is taxane, T-A-X-A-N-E, that is standard therapy
 15 or chemotherapy and radiation therapy with either the
 16 Neovastats or placebo. They saw no differences. It
 17 did not improve overall survival and actually
 18 Neovastats has stopped the development, Aeterna stopped
 19 the development of Neovastats in cancer patients.

20 That was presented at ASCO last year.

21 Q. That is the one you said you reviewed after the
 22 chart?
 23 A. Yes. I got this summary from the NCI that was
 24 published in 2008 and left out of the new study so I
 25 added it here. So all of these studies are basically

1 the same, that none of them have shown any what I would
 2 consider reliable and competent data to suggest that
 3 shark cartilage, crude shark cartilage has any
 4 beneficial effect in a patient with cancer.
 5 Q. Okay.
 6 A. I can't say that about Bevacizumab, which is a
 7 monoclonal antibody. I can't say that about Sunitinib
 8 or Sorafenib or some of the epidermal growth factor
 9 epithelial growth factor, or some of the other drugs
 10 that actually go after a number of different receptors,
 11 because those all show real antiangiogenic activity,
 12 not only in the test tube, you can show it in patients.
 13 You can show a drug is decreasing blood flow by doing
 14 very interesting medical imaging studies and that's
 15 what you're looking for, evidence in the test tube that
 16 it's stopping new blood vessel formation causing
 17 shrinkage of tumors, causing stabilization of patient's
 18 clinical status and prolonging survival. That is what
 19 you're looking for.
 20 Q. All right. Let's go to 7 Herb Formula.
 21 A. Okay.
 22 Q. Again, the same question that I had for
 23 Bio*Shark is how were the questions that you're
 24 addressing formed?
 25 A. The same way I formulated the ones for

1 who?
 2 Q. What we have here is the label also indicates
 3 that each ounce contains two percent of the daily value
 4 of vitamin A and C. What I'm asking is you mentioned
 5 the label here. Do you know how the label for a
 6 product like this, the one we're discussing, is
 7 formulated?
 8 A. No. I have no idea. I just read the label. I
 9 don't know who designed it, who decided what to put on
 10 the label. This label doesn't actually tell me how
 11 much of the different seven major components are in it.
 12 It doesn't tell me how much burdock root, cat's claw or
 13 watercress is in the material. It says there is no
 14 calories, no carbohydrates, no proteins or fat. It's
 15 interesting because some of these products are
 16 carbohydrates and fats and have other ingredients.
 17 What the label says is in there and what the components
 18 are don't match either.
 19 Q. Say that again.
 20 A. The label says that 7 Herb Formula contains no
 21 calories, no carbohydrates, no protein, no fat, no
 22 cholesterol, no sodium. But let's take a look at
 23 Burdock root. It contains a number of different
 24 carbohydrates, fatty acids, volatile oils. Cat's claw
 25 contains glycosides and alkaloids and polyphenols.

1 Bio*Shark.
 2 Q. Okay. What kind of a product is 7 Herb
 3 Formula? Do you know what it is? Is it a --
 4 A. Well, I know that four of the ingredients in it
 5 were in another complimentary medicine that was
 6 developed in Canada by I think a nun. She spelled her
 7 name backwards to call it Essiac, and four of the seven
 8 ingredients in 7 Herbal or 7 Herb Formula were Essiac,
 9 Burdock root, cat's claw, sheep sorrel and Siberian
 10 ginseng. There are three additional products that DCO
 11 added to make 7 Herbal.
 12 Q. What are those?
 13 A. Slippery elm bark, Turkish rhubarb root and
 14 watercress.
 15 Q. Are you aware that it's tea?
 16 A. Now that you mention it, yes.
 17 Q. Okay.
 18 A. You drink it, is that what you mean?
 19 Q. Correct.
 20 A. Yes.
 21 Q. By the way, do you know how the labels for
 22 products like this are created?
 23 MR. PAYNTER: Objection.
 24 MR. J. TURNER: On what basis?
 25 MR. PAYNTER: Products like what? Labels for

1 There are a lot -- Siberian ginseng contains
 2 carbohydrates. It also polyenic acid. Those are fats.
 3 So what's in it doesn't match what the label says.
 4 Q. Are you familiar with the labels for tea?
 5 A. What kind of tea?
 6 Q. Any tea.
 7 A. I don't read the labels for tea. I don't drink
 8 tea.
 9 Q. Okay. You have comments on cat's claw. Tell
 10 us about cat's claw.
 11 A. It's alkaloids, comes from a tree. I'm not
 12 sure what the tree is called uncaria tomentosa,
 13 U-N-C-A-R-I-A, T-O-M-E-N-T-O-S-A.
 14 In vivo studies, again, with known doses of the
 15 material, I can't tell you what they were, I don't
 16 remember now, seem to have some effect on the immune
 17 response by increasing tea helper cell function and
 18 cells that gobbled other cells. Their function was
 19 increased and it seemed to inhibit some other factors
 20 that might have a negative effect on the immune
 21 response.
 22 It also had antiinflammatory activity, cut down
 23 on the inflammatory response which makes sense if it
 24 inhibits the tumor necrosis factor.
 25 It also had some side effects. Because when

1 you gave it to patients who were taking medications for
2 their blood pressure, it could cause low blood
3 pressure. It could cause diarrhea. It also would
4 cause bleeding and had an effect on the cells that
5 helped the blood clot called platelets, so it would
6 increase the risk of bleeding. So, again, there are
7 immune effects but they're also side effects.

8 Q. I want to go back to the labeling question.
9 Are you familiar with the FDA regulations on labeling?

10 A. I am familiar with the FDA requirements for the
11 labeling of agents that I would use to treat cancer
12 patients or new drugs that are approved.

13 Q. Are you saying as a professional opinion that
14 the label for 7 Herb Formula violates labeling
15 regulations?

16 A. I don't know the answer to that. That's not
17 for me to decide. Some of the other products do have
18 the amount of material in them. They give you the
19 number of grams or milligrams of different components
20 for a lot of these, but what was interesting with 7
21 Herb Formula, it's got the seven components but there's
22 no how much of it is in there and I couldn't find out
23 anywhere how much is in there because I wanted to know
24 if I were to correlate the non-clinical studies where
25 specific amounts of some of these materials were added

1 Q. Do you know if they wrote about Burdock root?
2 You didn't cite it for Burdock root.

3 A. Burdock root is in their book. It's in their
4 book.

5 Q. How about cat's claw?

6 A. That is in the book.

7 Q. Was there a reason why you cited them on
8 Siberian ginseng but not on the others?

9 A. No intent. I know I reviewed Cassileth and
10 Lucarelli for all of these ingredients in 7 Herb
11 Formula. I can't tell you why I cited them for --
12 perhaps maybe I couldn't find a primary reference to
13 support the stimulation of tea lymphocytes and natural
14 killer cells has been reported, but the mechanism of
15 immunostimulation is unknown. And I think it was the
16 last part, the mechanism of the immunostimulation is
17 unknown, came from something that Cassileth and
18 Lucarelli said in their section on Siberian ginseng.

19 Q. Those are the four in the basic product, right?

20 A. Yes.

21 Q. And then the other three, let's see, slippery
22 elm?

23 A. Yes.

24 Q. What were the other two, Turkish rhubarb?

25 A. Turkish rhubarb root and watercress.

1 to test the activity, I didn't know how much was in
2 herb formula of the comparable materials to know how
3 close it came to the experimental conditions.

4 There is a dose response effect in medicine, in
5 pharmacology. As a certain dose you don't see any
6 effect. At another dose you might see the effect
7 you're looking for. Sometimes you increase the dose
8 and might see a reversal of that effect. There's
9 always a dose response for not only activity and
10 efficacy, but there's dose response for toxicity. It
11 would be important to know if you're comparing these --
12 ingredients in 7 Herb Formula to compare it to what is
13 in the published literature about the activity of these
14 different components.

15 Q. I noted that on Siberian ginseng you cited
16 Cassileth and Lucarelli.

17 A. Again, Cassileth and Lucarelli is not a peer
18 reviewed article. It goes over all of the different
19 herbals that are available, not 100 percent but there
20 are many in there. They describe what's in it, how it
21 works, if a mechanism of action is known, whether there
22 are any interactions with other anticancer drugs, what
23 the non-clinical data are and, if available, any
24 clinical studies to support their use in treating
25 cancer patients.

1 Q. Are those in the Cassileth book?

2 A. Yes.

3 Q. And so then the only one of those seven that
4 you cited was the Siberian ginseng?

5 A. That's correct. But, for example, under
6 watercress references are cited and those studies I
7 know were in the Cassileth and Lucarelli section on
8 watercress.

9 Q. Is Turkish rhubarb a food or a drug?

10 A. What are you using it for? Are you using it to
11 treat cancer, then it's a drug. If you're using it as
12 a supplemental to your diet or complimentary medicine
13 to cancer therapy and not making any claims that it has
14 anticancer activity and increase response to
15 chemotherapy or prolong your survival, if that's all
16 you're saying it would be, in my mind it's
17 supplemental.

18 Q. Supplement.

19 A. Yes.

20 Q. I noted when I read through here I didn't find
21 any place where you mention supplement. I may have
22 missed it. You never talked about any of these things
23 as a supplement.

24 A. Somewhere in this report I say if these things
25 are being used to add to but not replace proven

1 efficacious therapy that's based on reliable and
2 competent data, then to me that's complimentary
3 medicine, a supplement to what you're taking, but it's
4 not a replacement for.

5 Q. Are you familiar with the concept dietary
6 supplement?

7 A. Sure.

8 Q. How are you familiar with that?

9 A. They're recommended daily amounts, daily
10 requirements for a number of different vitamins,
11 minerals, iron, vitamin B, D complex and without those
12 over a period of time, one can become deficient and
13 suffer some of the metabolic effects of deficiency.

14 Q. How about herbs, are they a dietary supplement?

15 A. Depends how they're being used. I have no
16 argument with someone saying we would like to add these
17 things to conventional chemotherapy because we think it
18 might make you feel better. We don't want it to
19 replace, we're not making a claim it can cure your
20 cancer or stop your tumor growth, but we think it might
21 be helpful and not harmful. I have no argument with
22 that, but don't tell me that this can take the place of
23 treating your breast cancer because whatever.

24 Q. Do you believe that these products, each of the
25 ones that you're looking at, four of them, are

1 Irinotecan. I don't know the answer to that. The
2 point is there is a warning now don't take St. John's
3 Wort with this because it will decrease the beneficial
4 effect of the therapy.

5 Q. Where is that warning, is it with St. John's
6 Wort or --

7 A. With the chemotherapeutic agent.

8 Q. Are you familiar with warnings on other drugs
9 like that?

10 A. Yes.

11 Q. Tetracycline?

12 A. Yes.

13 Q. What is the warning?

14 A. I don't know what the warning is.

15 Q. Don't take it with cheese and dairy products?

16 A. I don't know. Virtually every drug in its
17 package insert or label, like PDR, will have warnings
18 about what it may interact with. There are drug
19 interactions with most drugs now that when we're
20 developing a new drug we are very concerned about
21 certain kinds of other medications that many people
22 take that can interfere with the metabolism of the drug
23 we're testing.

24 Two things can happen. The drug you might be
25 taking for a seizure disorder or a drug you might be

1 dangerous?

2 A. They could be for some of the reasons why I
3 talked about where some of them may cause side effects.
4 Some of these agents might interfere with effectiveness
5 and decrease their activity. So they could potentially
6 be dangerous. We know that's true.

7 I'm sure you heard of complimentary medicine
8 called St. John's Wort, W-O-R-T. And we now know that
9 St. John's Wort contains chemicals that actually
10 counteract the anticancer effects of a very effective
11 chemotherapeutic agent.

12 Q. What is that?

13 A. Camptothecin, C-A-M-P-T-O-T-H-E-C-I-N. That is
14 the class. The drug would be Irinotecan,
15 I-R-I-N-O-T-E-C-A-N. It is used in colon cancer, can
16 be used in lung cancer, might be used in breast cancer.

17 Q. Who manufactures that drug?

18 A. The Camptothecins?

19 Q. Yes.

20 A. Couple of them out there. I think Pfizer makes
21 one. I'm not sure about the other.

22 Q. Those are FDA approved?

23 A. FDA approved.

24 Q. So that costs maybe \$100 million?

25 A. I don't know how much it cost to develop

1 taking for hypertension may block the breakdown of the
2 chemotherapeutic agent. It blocks its metabolism. So
3 you convert it from something active, potentially toxic
4 for something that hangs around for a longer period of
5 time and you get toxic effects.

6 There may be other drugs that speed up the
7 process of metabolizing a drug. What happens is if you
8 break it down faster, you never get a level of the drug
9 in your body that's going to be beneficial.

10 A lot of people take blood thinners, we call
11 them Warfarin, W-A-R-F-A-R-I-N, to prevent clots and
12 sometimes the interaction of a drug and the drug you're
13 taking is such that you may get higher levels of
14 Warfarin that cause you to bleed. So we have to always
15 know what these what we call drug interactions are and
16 it's a very important part of the process of drug
17 development.

18 Q. What I was asking you is there are similar
19 things about drug food interactions?

20 A. Some drugs may not be absorbed on a full
21 stomach. Others it doesn't make any difference. Part
22 of the evaluation of every new drug is to do the study,
23 giving it to healthy volunteers, sometimes if it's not
24 a cancer drug or to cancer patients either on an empty
25 stomach or food to see if there is any difference in

Page 126

1 absorption.
 2 We do studies in patients with known kidney
 3 trouble to see if there is a difference in the
 4 metabolism. Safety evaluation is designed to protect
 5 patients. We can't study the drug interactions for
 6 every drug out there that has treated a lot of other
 7 disorders, like diabetes, hypertension, some of the
 8 statins used to treat high cholesterol levels, many
 9 American men for erectile dysfunction, but there may be
 10 interactions where someone is taking an erectile
 11 dysfunction drug and is on a chemotherapeutic agent and
 12 may not be tested in the earlier phases but it's
 13 possible one of the newer drugs might interact with one
 14 of these drugs.
 15 We know there are problems with patients who
 16 are on medications for high blood pressure that you
 17 hear every time on television and listen to one of the
 18 advertisements but not all the side effect are
 19 described. It should be in the label or package insert
 20 but sometimes we discover new side effects that we
 21 never encountered before.
 22 Q. How do those get into the labels?
 23 A. People are obliged to report adverse events
 24 even after a drug has been approved and marketed.
 25 These are post approval safety reporting. The

Page 127

1 companies are responsible for reporting it and if there
 2 is a trend, there are signals now if the new drug and
 3 some other agent is causing serious problems. There
 4 are warnings put out and eventually it gets into a
 5 black box.
 6 Q. How effective is that adverse reporting system?
 7 A. Doctors get letters and new results show there
 8 is a bad interaction with our new drug and patients on
 9 some other kind of drug, and be careful when you give
 10 it. Watch this. Do these tests.
 11 Once its been reported and someone pays no
 12 attention to it and this patient has some horrible
 13 adverse effect because she decided not to follow the
 14 advice, a patient would certainly have a recourse to
 15 sue the doctor for malpractice.
 16 Q. Talk a little bit about your report on Turkish
 17 rhubarb root.
 18 A. Okay.
 19 Q. Just describe it.
 20 A. Here's an interesting situation where different
 21 doses cause different effects. At low doses, again,
 22 these are specific doses now, we don't know what the
 23 dose is in 7 Herb Formula but at low doses, the rhubarb
 24 root tannins cause constipation and at higher doses,
 25 two other metabolites ingredients can cause diarrhea.

Page 128

1 One dose level you have constipation and a higher dose
 2 level is diarrhea. That is important to know how much
 3 is in there, what are the effects of doses being given,
 4 how much is being absorbed and what other interactions
 5 there may be.
 6 There have been some studies in mice to show
 7 antitumor effects but, again, I say this over and over
 8 again. No studies have been performed in humans with
 9 cancer, thus there is no supporting data. Because it
 10 worked in a mouse, doesn't mean that it's going to work
 11 in a human. We can cure cancer in mice. We can put
 12 pancreatic cancer cells into the behind limb of a
 13 little white mouse and treat it with different chemo
 14 agents and make the tumor disappear. Because I cure
 15 that mouse of pancreatic cancer that's from a human,
 16 can I cure pancreatic cancer in people? Five percent
 17 are surviving for a few years. We don't have any
 18 effective therapy. So even though it works in a mouse,
 19 I can't make that huge leap across the Grand Canyon of
 20 clinical research and say because it worked in a mouse,
 21 a nude mouse that has no immune or carefully
 22 genetically engineered mouse, I can't say because it
 23 worked in a mouse it will be efficacious in man. Can't
 24 say it. Otherwise you wouldn't have to do phase I, II,
 25 III studies. We do study in the mouse, see some tumor

Page 129

1 response and we can approve the drug. Won't work.
 2 Very dangerous.
 3 Q. With regard to watercress, describe your
 4 discoveries on watercress.
 5 A. Watercress seems to be an agent or components
 6 seem to be an agent that may have some benefit in
 7 urinary tract infections in children or bronchitis or
 8 even parasites that are invading the liver. Those were
 9 the studies of Hecht. It's not clear whether it's an
 10 irritant of mucous membranes or might reduce
 11 inflammation, so it's confusing, but there was a study
 12 again by Hecht, who seems to be the individual looking
 13 at watercress more than anybody else, in an animal
 14 model. He believed he could show the decrease in the
 15 production of a carcinogen that is present in tobacco
 16 smoke.
 17 Bottom line, there are no clinical studies to
 18 show any of these effects in either cancer treatment or
 19 cancer prevention. Patients were to chew watercress
 20 leaves and they were smokers, it would be interesting
 21 to show that in man you can decrease the formation of
 22 certain carcinogens that are present in tobacco smoke
 23 and smokers. If that were the case, you might be able
 24 to prevent lung cancer in smokers. Better thing would
 25 be to have them stop smoking but, again, there is just

1 not enough information to say that watercress will
 2 prevent cancer in a human being.
 3 Q. Is watercress a food or drug?
 4 A. I thought watercress was something I put in my
 5 salad. It's food.
 6 Q. Food?
 7 A. Again, you don't chop up watercress and put it
 8 in the test tube or give it to animals. You take the
 9 active ingredients. That's really what we should do.
 10 It's not the leaf. It's what's in the leaf in a
 11 certain amount that may be active.
 12 If you look at my table there are glycosides in
 13 watercress that may be the active ingredients that are
 14 having these effects on the generation of cancer
 15 causing chemicals.
 16 Q. I have the same question about the original
 17 four items that were in the first formula. Burdock
 18 root, is that in your opinion a drug or a food?
 19 A. Depends on how you're using it for the reason I
 20 gave.
 21 Q. Then Siberian ginseng?
 22 A. Again, Burdock root, let's look at Burdock
 23 root. What's in there? What does Burdock root have
 24 that might have some activity, flavonols and
 25 polyphenols, which is quercetins, and I think have some

1 Q. Can you describe what a pharmacologic effect
 2 is?
 3 A. Everything we take, any medication we take has
 4 an effect on some organ or tissue or metabolic pathway
 5 in our body and these are usually measurable. Simple
 6 example is aspirin, very widely used, but why do people
 7 who have had a heart attack take a baby aspirin every
 8 day or if they had a stroke. Low dose of aspirin
 9 readily absorbed by the body has the ingredient, active
 10 ingredient of acetylsalicylic,
 11 A-C-E-T-Y-L-S-A-L-I-C-Y-L-I-C, acid which binds to
 12 platelets. And platelets are sticky little cells that
 13 can clog up blood vessels. You've seen the
 14 advertisements for Plavix on television. If you can
 15 inhibit, block the ability of platelets from sticking
 16 together, you can prevent clot formation in blood
 17 vessels like arteries and you can protect people from
 18 developing another stroke or heart attack.
 19 So the pharmacological activity is that a
 20 certain dose of aspirin will have a specific effect on
 21 the function of platelets and you can measure that.
 22 You can see how sticky they are. You can test
 23 different doses of whatever drug it might be against a
 24 laboratory test of platelet function and you can see
 25 the pharmacological effect. It's dose response effect.

1 nutritional value. There have been studies to suggest
 2 that some of them may have anticancer activity in the
 3 laboratory. So I'm not opposed to those things but,
 4 again, how much is in there and how much of the Burdock
 5 root flavonols get absorbed and get absorbed in an
 6 amount that might have a beneficial effect. If you
 7 look at what is inside the Burdock root, you have to
 8 look at the active ingredient that will have an effect
 9 on cancer cells, cancer prevention.
 10 Q. Some --
 11 A. But if you're only using it to make people feel
 12 better and not stating this is to be used to treat your
 13 cancer or you can use it with your conventional cancer
 14 therapy and it's going to make it better, make the
 15 therapy better, I have no problem with that, if you
 16 have evidence to prove it. I want competent and
 17 reliable data to show if I gave a patient with
 18 non-small cell lung cancer the active measurable
 19 amounts of ingredients in Burdock root along with
 20 chemotherapy and they tolerated chemotherapy better,
 21 they had a better response rate, progression of time to
 22 tumor progression and I had a randomized trial to show
 23 the Burdock root plus the chemo is better than chemo
 24 alone, I wouldn't have any problem at all saying I
 25 don't have a problem with this.

1 Q. Do foods have pharmacologic effects?
 2 A. Depends on what food it might be.
 3 Q. Can you give an example of a food that has
 4 pharmacologic effects?
 5 A. Orange contains vitamin C.
 6 Q. So you would say that vitamin C does have
 7 pharmacological effects?
 8 A. Of course.
 9 Q. Do all vitamins?
 10 A. Yes.
 11 Q. And all minerals, do they have --
 12 A. All minerals?
 13 Q. Yes. Let's just talk about minerals that we
 14 consume as food.
 15 A. Lead is a mineral. I'm not sure it has a very
 16 good effect. I wouldn't recommend it.
 17 Q. Are all pharmacologic effects positive?
 18 A. No.
 19 Q. Lead effect, is that a pharmacological effect?
 20 A. Sure. It causes brain damage and all kinds of
 21 terrible things but most vitamins that we have minimum
 22 recommended amounts have a beneficial effect because --
 23 Q. But that is a pharmacological effect, is that
 24 what you're saying?
 25 A. Yes. What would we take it for? Why would we

1 take something if it isn't going to have a
 2 pharmacological physiological beneficial effect.
 3 Q. So are you saying that all effects of foods are
 4 pharmacologic effects?
 5 A. No. Some are purely nutritional and giving you
 6 calories.
 7 Q. That is what I was trying to make a distinction
 8 on. Caloric effects are not pharmacological?
 9 A. In having a specific mechanism of action, no.
 10 Q. So --
 11 A. We need calories in our diet. We need sugar,
 12 proteins, which are building blocks to help our body
 13 make protein, and there are other things that have
 14 specific biochemical or pharmacological effects on
 15 other pathways.
 16 Take iron. If we didn't have any iron in our
 17 diet and let's say we had early stage colon cancer and
 18 losing blood every day, we didn't know it over a period
 19 of time we would become iron deficient and anemic.
 20 Iron is present in some foods. All we can take is a
 21 supplement of iron, tablet. So those things are
 22 vitally important.
 23 If we don't have vitamin B12 in our diet, we
 24 can develop neurological problems or severe anemia,
 25 though cease to have important roles to play in normal

1 A. Yes, I do.
 2 Q. Is this the label you looked at?
 3 A. Mine was in black and white but it was the
 4 label I looked at.
 5 Q. You indicate that bromelain and boron --
 6 because the amounts of bromelain and boron are not
 7 provided in the label, daily amount of these
 8 ingredients is unknown. Can you find that?
 9 MR. PAYNTER: We haven't actually reached GDU,
 10 have we? I think you were just finished up --
 11 MR. J. TURNER: We were finishing up 7 Herb
 12 Formula.
 13 MR. PAYNTER: I don't think you started it.
 14 A. I see that. The only thing I can say since I
 15 put down the quantities of every other material, I just
 16 can't recall whether -- I didn't have a colored label.
 17 I had a black and white one. I'm not sure whether it
 18 was the same one, and when I say I don't know the
 19 amount of bromelain and CDU, according to this label
 20 there are -- I can't read it. My glasses are not good
 21 enough. Is it 20,000?
 22 Q. I think it's 2,000?
 23 A. 200,000?
 24 Q. 2-O-O-O.
 25 A. According to this label the amount of bromelain

1 physiology.
 2 (A recess was taken.)
 3 A. You had asked me in the discussion of 7 Hearing
 4 Formula why I had only cited Cassileth and Lucarelli
 5 under one of the ingredients, but actually in my table
 6 two, I have the constituents of 7 Herb Formula which
 7 lists the constituent and carbohydrate content, fat,
 8 cholesterol and other ingredients. And all of that
 9 came from the Cassileth and Lucarelli sections on each
 10 of the different compounds because that's how she
 11 organized her sections. So I did rely on it for other
 12 ingredients besides the one we talked about.
 13 MR. J. TURNER: Okay. I'd like this to be
 14 marked as our first exhibit, wherever we are in -- we
 15 don't have any.
 16 MR. PAYNTER: We don't have any, so this is
 17 number one.
 18 MR. J. TURNER: I think maybe one and only.
 19 (Labels for each of the four products were
 20 marked as DCO Exhibit 1 for identification; 2-6-09,
 21 L.S.)
 22 Q. I've given you DCO 1 which is the labels of
 23 each of the four products. I'm actually directing your
 24 attention to the GDU label. Do you recognize that
 25 label?

1 in a serving is listed on this label. I just don't
 2 remember whether the one I had had it, because I know I
 3 would have included it because it was very important
 4 for my discussion.
 5 Q. Is there a way that we can ascertain whether
 6 his label he reviewed had the numbers on it or not?
 7 MR. PAYNTER: I certainly can go back and look
 8 and see what we sent him.
 9 MR. J. TURNER: Can we?
 10 MR. PAYNTER: Now?
 11 MR. J. TURNER: No, at some point.
 12 MR. PAYNTER: I believe whatever we sent him
 13 were labels we received from the company in the course
 14 of the investigation. Maybe at some point it wasn't on
 15 there, but in any rate we can check.
 16 A. The fact that I didn't --
 17 MR. PAYNTER: There is no question.
 18 Q. Let me go back to the first GDU question, which
 19 is how were the questions that you addressed
 20 formulated?
 21 A. Exactly the way the other sets were formulated.
 22 Q. Could you describe the ingredients of GDU as
 23 you understand them?
 24 A. Yes. The components of GDU are bromelain,
 25 which is a proteolytic enzyme. And it also has an

1 enzyme that breaks down clots, called fibrinolytic
 2 enzyme. The next ingredient is curcumin, that's
 3 polyphenol. The next ingredient is Quercetin,
 4 Q-U-E-R-C-E-T-I-N, which is a plant flavanoid. The
 5 next one is Fever Few. The important thing about Fever
 6 Few is its active ingredient is Parthenolide,
 7 P-A-R-T-H-E-N-O-L-I-D-E. Those are the -- then it has
 8 boron.

9 It also contains what is called a biomolecular
 10 base, which is listed on the label and contains a
 11 number of different ingredients. I can't read this
 12 without a magnifying glass but I read it before. I
 13 used my magnifying glass to read it.

14 Bromelain, tumeric, quercetin, Fever Few, boron
 15 and then the biomolecular base which contains a lot of
 16 vitamins, minerals, elements.

17 Q. Have you discussed that base earlier in the
 18 report? I'm not sure if this is the place where it
 19 says "as discussed earlier," but I'm just --

20 A. I think I discuss it -- is it in 7 Herbs or
 21 BioMixx.

22 Q. BioMixx is next.

23 A. I'm just trying to think of where else it was.

24 MR. PAYNTER: I think it must be 7 Herb.

25 A. No. I think it should be below. I may have

1 A. Under the section on tumeric curcumin.
 2 Q. There's the beginning of a sentence which says
 3 tumeric, curcumin in parenthesis. The question is:
 4 Are you saying tumeric and curcumin are the same thing?
 5 It's after bromelain.

6 MR. PAYNTER: Can you repeat your question?

7 Q. Yes. That it's after the section on bromelain
 8 there is another section tumeric (curcumin) and I'm
 9 asking are you saying tumeric and curcumin are the same
 10 thing?

11 A. I'm not sure if they're exactly the same thing
 12 but I was using them interchangeably because I think
 13 the active material here is curcumin, which I think is
 14 in tumeric. I'm just not sure if they're exactly
 15 interchanged.

16 MR. PAYNTER: Can you let him answer the
 17 question?

18 A. I'm not sure if they're interchanged, when you
 19 talk about tumeric you're really talking about
 20 curcumin, and most of the studies that I refer to have
 21 been studies of curcumin rather than tumeric. If you
 22 look at the titles of the papers and what was
 23 evaluated, it was curcumin in those papers.

24 Q. Do you know how many single agents there are in
 25 tumeric?

1 changed the order of this. It should be as discussed
 2 below in BioMixx.

3 Q. We'll talk about it there. You indicate that
 4 tumeric or curcumin is the single most promising agent
 5 in the products you looked at.

6 A. Correct.

7 Q. What do you mean by "promising agent"?

8 A. Well, again, based upon peer-reviewed
 9 literature, both non-clinical and clinical studies,
 10 curcumin appears to be an agent warranting further
 11 study for two reasons. It may actually be a cancer
 12 preventive agent, particularly in colorectal cancer,
 13 for example, patients who may have polyps and it may
 14 have an antitumor effect.

15 Again, these are preliminary studies, but I
 16 think the available data today would suggest that it
 17 would warrant further investigation. Again, it's based
 18 on peer-reviewed literature, clinical trials and
 19 non-clinical studies.

20 Q. When you introduced that concept, you say
 21 tumeric and then in parentheses curcumin, do you see
 22 where that is in your report?

23 A. No.

24 Q. It's right -- we start GDU -- I have it but he
 25 doesn't. We have to try and get him to that point.

1 A. How many different agents there are? I don't
 2 know exactly.

3 Q. You indicate that it has a long history of
 4 traditional Indian and Chinese medicine to treat
 5 inflammatory diseases, abdominal disorders and other
 6 ailments, including cancer?

7 A. Yes.

8 Q. How did you learn that set of facts?

9 A. From papers on curcumin as well as treatises,
 10 like Cassileth and Lucarelli. Very often in a paper on
 11 curcumin, background, historical background might be
 12 included in the introduction of a paper. And some of
 13 the papers on studies in curcumin, for example, the --
 14 let me give you a specific citation.

15 The reference section on GDU references there's
 16 a paper by Huang, et al, 1994, "Inhibitor effects of
 17 dietary curcumin on forestomach, duodenal, colon
 18 carcinogenesis in mice."

19 Paper by Jiao, "Curcumin, a cancer
 20 chemopreventive and chemotherapeutic agent, is a
 21 biologically active iron chelator. Blood 2009," just
 22 published. Very interesting paper because curcumin
 23 actually binds with iron and may cause iron deficiency.
 24 Just published a few weeks ago.

25 Another paper by Kawamori, "Chemopreventive

Page 142

1 effect of curcumin."
 2 I don't know one by Rao, "Chemoprevention of
 3 colon carcinogenesis by dietary curcumin." So all of
 4 these papers that I've cited, talk about dietary
 5 curcumin. Some of them they may have mentioned where
 6 they came from, what the historical background was, but
 7 that is where that statement came from. All of these
 8 published papers and peer-reviewed literature use the
 9 term curcumin, not tumeric.
 10 Q. You make the statement concerning lacking
 11 double blind placebo controlled randomized clinical
 12 trials of curcumin. Could you summarize your -- the
 13 significance of that section in which you talk about
 14 the lack of those studies?
 15 A. Before I got to that sentence I described what
 16 are the reported studies and what some of the results
 17 were of those studies, particularly some of the studies
 18 in patients who are at high risk of developing colon
 19 cancer, but the ultimate step to demonstrate in a
 20 competent and reliable way that curcumin actually does
 21 these things would be to do a double blind placebo
 22 controlled randomized clinical trial. That's how we do
 23 things to show that it really is effective.
 24 Q. Effective?
 25 A. In preventing cancer or treating colon cancer.

Page 143

1 Q. Right under that then is the section on
 2 Quercetin?
 3 A. Yes.
 4 Q. Describe that section and what its significance
 5 is.
 6 A. This is a flavanoid. It is a number of things
 7 we eat or drink, like apples, tea, onions, buckwheat.
 8 The non-clinical studies are to show it has a number of
 9 different actions, cutting down on inflammation or
 10 being antioxidant or actually cutting down on allergic
 11 reactions. There have been some proposed mechanisms of
 12 action in a number of different areas that are
 13 important in cancer cells, like this P53 gene is
 14 important because if it's abnormal it doesn't shut down
 15 cancer cells.
 16 In other non-clinical studies it may cause
 17 cells to stop multiplying and dividing. It can inhibit
 18 certain important metabolic enzymes, tyrosine,
 19 T-Y-R-O-S-I-N-E, kinase. It can also block the binding
 20 of estrogens to the receptor which might be important
 21 in breast cancer.
 22 Heat-shock proteins are additional agents that
 23 can cause tumor cells to die. And if it blocks the
 24 expression of certain genes that are important in the
 25 cancer process, that might be beneficial also.

Page 144

1 But in summary, although these are proposed
 2 mechanisms of action mostly from non-clinical studies,
 3 we are again lacking any randomized clinical trials in
 4 quercetins alone, purified set dose in cancer patients
 5 to show that it has beneficial effects.
 6 Q. When you say to show it has beneficial effects,
 7 what do you mean by "beneficial effects"?
 8 A. I discussed some of those end points that can
 9 be evaluated. Does it, when given with anticancer
 10 therapy, improve response rates? Does it prolong the
 11 time to tumor progression? Does it prolong survival?
 12 Does it improve the quality of life? Does it increase
 13 the tolerance to conventional chemotherapy without any
 14 added toxicity? Those are all reasonable end points
 15 that one would look at to see whether or not something
 16 is effective as an anticancer treatment.
 17 Q. Then the next thing is Fever Few?
 18 A. Yes.
 19 Q. Could you describe Fever Few the way we did --
 20 A. As I state in my report, the major active
 21 ingredient in Fever Few is a chemical called
 22 parthenolide, P-A-R-T-H-E-N-O-L-I-D-E. A number of
 23 non-clinical studies have been done and they show, for
 24 example, in colon cancer it induces a programmed cell
 25 death, very important process in causing cancer cells

Page 145

1 to die.
 2 There's been an open label non-randomized phase
 3 I study of Fever Few, actually a proprietary form of it
 4 called Tanacet, T-A-N-A-C-E-T. And this was a
 5 condition in cancer patients and they started off --
 6 you usually do in a phase I study, as I mentioned
 7 earlier today, you do dose escalation, start off with a
 8 low dose and after a few patients are treated with a
 9 low dose and you don't see any dose limiting toxicity,
 10 you escalate the dose to another level and then another
 11 level and another level.
 12 In this study they treated 12 patients. The
 13 males had prostate cancer and the single female had
 14 breast cancer. They had measurable disease. They had
 15 defined performance status. They had a life expectancy
 16 of greater than three months. They were going to
 17 evaluate response by predefined criteria at set
 18 intervals and they were hoping to identify a safe and
 19 active dose, and they also did pharmacokinetic studies
 20 and they only administered Fever Few in these patients.
 21 I must say it's not necessary to show efficacy
 22 in a phase I study. You need to show what is the
 23 maximum tolerated dose and the safety profile and
 24 what's the dose we can use in phase II where you want
 25 to evaluate response or other end points of efficacy.

1 That wasn't done.
 2 They did find that in the patients who were
 3 given the parthenolide, they couldn't measure any of
 4 the compound in the circulation. It was given by
 5 mouth. And either it wasn't absorbed very well or what
 6 was absorbed was so low that it was below the level of
 7 detection by biochemical tests they used to measure it.
 8 It's not possible to say anything from this study
 9 because they never did get to the maximum tolerated
 10 dose, so that before you can say whether Fever Few is
 11 active in cancer patients, you have to do more studies
 12 with purified parthenolide, which is the admitted
 13 addictive ingredient here.
 14 We don't know anything at all about Fever Few
 15 yet. We don't have complete pharmacokinetic studies.
 16 We don't have pharmacodynamic studies. MTD was never
 17 established so we don't know what its full safety
 18 profile is.
 19 But it's interesting, you've asked me this many
 20 times today, are there side effects of these things,
 21 yes. Even at these extremely low doses where the
 22 amounts of parthenolide in the patients was so low it
 23 couldn't be detected and they were only getting
 24 parthenolide, there were a number of different side
 25 effects seen; fever, nausea, diarrhea, indigestion,

1 a capsule or serving, what is it?
 2 What I saw, and it's in my report and I took it
 3 from the label, I didn't make it up, I took it from the
 4 label that talked about recommended numbers of capsules
 5 a day. And the recommended DCO recommended daily dose
 6 of GDU, and this came from the label I saw said three
 7 to six capsules, two to four times per day. That would
 8 be a total of six to 24 capsules a day.
 9 Based on the label I saw, the amount of Fever
 10 Few would be then 600 to 2,400 milligrams because each
 11 serving or capsule, I can't tell, it's not clear, is a
 12 serving capsule or three capsules, that total would be
 13 600 to 2,400 milligrams of Fever Few a day.
 14 MR. PAYNTER: I just want to ask you where did
 15 you get this label?
 16 MR. J. TURNER: We got them from Daniel
 17 Chapter One.
 18 MR. PAYNTER: Because we did -- we produced to
 19 you what you guys produced to us, so those would have
 20 been more appropriate to us because we never received
 21 these.
 22 MR. C. TURNER: You can get the label.
 23 MR. J. TURNER: You say we have it because
 24 you've given it to us.
 25 MR. PAYNTER: Yes, in our production to you we

1 fatigue and blurred vision at the lowest dose.
 2 Q. Was this study done on Tanacet?
 3 A. Yes.
 4 Q. Is Tanacet a natural product?
 5 A. I have no idea. Fever Few.
 6 Q. Do you know whether it's synthetic?
 7 A. I don't know. I don't believe it is synthetic
 8 but --
 9 Q. You say the doses evaluated released two logs
 10 below the Fever Few recommended by DCO, 600 milligrams
 11 to 2,400 milligrams per se?
 12 A. That is Fever Few. I don't know what the
 13 content of parthenolide is in that DCO product.
 14 Q. How did you arrive at the 600 milligrams to
 15 2,400 milligrams a day, 600 to 2,400 milligrams per
 16 day.
 17 A. I had the label and the ones I looked at are
 18 different because I clearly state what the recommended
 19 amounts should be and this one, although I'm having
 20 trouble reading it, I think it says three capsules. I
 21 just can't read the small print.
 22 Q. Are you reading supplemental facts?
 23 A. Supplemental facts, and I'm looking at Fever
 24 Few and I think it says 100 milligrams and that is per
 25 serving and yet a serving is three capsules. You mean

1 produced the labels that were provided within the
 2 course of the investigation. So it's possible they
 3 made some changes subsequent to his report, so I don't
 4 know if it's appropriate to ask him about this.
 5 MR. J. TURNER: We're going to put this in as
 6 an exhibit. This is not a produced document. How can
 7 you ask him questions about something that was not
 8 produced to us? So it's not appropriate to ask
 9 something that is on a subsequent document which
 10 clearly this is.
 11 MR. C. TURNER: How do you know this isn't
 12 the one produced?
 13 MR. J. TURNER: Just wait. We will compare
 14 what you have to this.
 15 MR. PAYNTER: Certainly.
 16 MR. J. TURNER: We got this because we asked
 17 for the thing in color, so it is allegedly to us
 18 identical.
 19 MR. PAYNTER: It would seem it was better to
 20 use the document we Bates stamped, produced in our
 21 production to you. I don't know if we're able to find
 22 that now.
 23 MR. J. TURNER: We'll find it.
 24 MR. PAYNTER: Certainly you're asking
 25 questions, a whole line of questioning based on a label

Page 150

1 that is clearly not the label produced in the course of
 2 discovery, which is inappropriate. You can ask him
 3 questions about this new label, but it has nothing to
 4 do with the report.
 5 MR. J. TURNER: We don't know that.
 6 MR. C. TURNER: Off the record for a minute.
 7 (A discussion was held off the record.)
 8 MR. J. TURNER: Withdraw the exhibit.
 9 Q. It's at this point that we have a biomolecular
 10 base that has been discussed above in the next
 11 paragraph and you're saying it was discussed below?
 12 MR. PAYNTER: It was discussed above in the
 13 Bio*Shark.
 14 MR. J. TURNER: Let's go back to that.
 15 A. 16, page 16. It also contains 50 milligrams of
 16 biomolecular base. That's in Bio*Shark.
 17 MR. J. TURNER: Yes. Let's talk about that and
 18 let's make a point that this is a discussion that was
 19 also part of GDU.
 20 Q. With regard to Bio*Shark and GDU there is a
 21 biomolecular base that you refer to. Can you describe
 22 your view with respect to that?
 23 A. Yes. Bio*Shark contains 50 milligrams of
 24 what's called biomolecular base. It contains herbal
 25 ingredients like Eleuthero root, garlic and dandelion.

Page 151

1 It also contains elements and minerals, including
 2 barium, bismuth, gallium, silicone, silver, strontium,
 3 titanium, vanadium and zirconium.
 4 I searched the literature, Google and other
 5 sources, to try to determine whether there were any
 6 minimal daily requirements or any essential nutritional
 7 value for any of these elements and minerals and I was
 8 not able to find anything. We use barium for medical
 9 imaging solutions to do a barium enema. We use gallium
 10 in a ray isotropic imaging study for cancer. Silver
 11 I'm not sure what we use that for in nutrition. I have
 12 titanium in my golf clubs and golf balls, but I don't
 13 know whether I need it in my diet. I'm not sure what
 14 the purpose of that is, and I'm not sure what the
 15 nutritional value of any of these things are.
 16 Q. I think we're ready to go on then to BioMixx?
 17 A. Okay.
 18 Q. I have of course the same opening question
 19 about the questions we're focusing on. How did the
 20 questions you're focusing on get formed?
 21 A. Exactly the same way as for the other three
 22 compounds.
 23 Q. You indicate that BioMixx contains a mixture of
 24 so-called biomolecular nutrients. Explain what it is
 25 you're saying there in that part of the report.

Page 152

1 A. I'm not sure that biomolecular nutrients is
 2 my -- I originated that or it's in the label of
 3 BioMixx, but it does contain the things I listed here,
 4 goldenseal, echinacea, ginseng, gamma globulin complex,
 5 vitamins, minerals, amino acids and enzymes.
 6 It's got some other interesting ingredients
 7 that merit discussion. It contains guarana, which is
 8 caffeine plus some other things.
 9 It's got a lot of interesting things in it.
 10 One of the interesting things is goldenseal. The DCO
 11 recommended dose -- no. The recommended dose of golden
 12 seal from Cassileth and Lucarelli, and I'm not sure it
 13 comes recommended, it's what is in the available
 14 nutritional sources, is 250 to 500 milligrams three
 15 times a day, which would be 750 to 1,500 milligrams a
 16 day.
 17 Q. Let me ask you a question. When it says
 18 recommended, recommended for what?
 19 A. That's a quote from Cassileth and Lucarelli.
 20 Recommended for -- I have no idea. It is commonly
 21 quoted amounts, some I have no idea, but the important
 22 thing that I talk about is what does goldenseal contain
 23 that might be important from a pharmacological cancer
 24 therapeutic perspective. And the active ingredient in
 25 goldenseal is an alkaloid called Berberine. If you

Page 153

1 were to take how much goldenseal is recommended and
 2 what proportion of goldenseal is Berberine, that would
 3 mean a patient might get 4.5 or 90 milligrams a day of
 4 Berberine. If goldenseal was in the product and if
 5 pure goldenseal was taken and if the goldenseal
 6 contained that percentage of Berberine that has been
 7 reported in other goldenseal components -- do we have
 8 the label for BioMixx?
 9 MR. PAYNTER: They don't have labels.
 10 A. We don't have labels.
 11 MR. J. TURNER: Just these we've withdrawn.
 12 A. Because I looked for Berberine as one of the
 13 components of BioMixx, I couldn't find it. So this is
 14 one of the problems I had. There is active ingredient
 15 in something, how much of it is in the product that is
 16 being put forward by DCO and I have no idea.
 17 However, there have been studies of Berberine
 18 in tumor cells in vitro. And you need 50 micrograms
 19 per ML in the test tube to show that it might have a
 20 killing effect on brain tumor cells, either human brain
 21 tumor cells -- this is not in a human with a brain
 22 cancer. It's brain cells, brain tumor cells put in a
 23 test tube in the laboratory to see what concentration
 24 of pure Berberine would kill the tumor cells.
 25 So, again, if you're going to extrapolate from

1 in vitro non-clinical animal studies or petri dish
2 studies and then jump to I'm going to give a patient
3 goldenseal, you have to know how much Berberine is in
4 it, how much of the Berberine gets absorbed and you
5 have to know what levels of Berberine might be in what
6 a patient is getting and do they reach the levels that
7 would be an inhibitor of tumor cell growth, at least in
8 the animal model.

9 Those are the kind of data that you need to be
10 reliable and competent to say this agent has anticancer
11 activity in humans. We don't have that. We don't have
12 any clinical studies of goldenseal. We don't know
13 whether BioMixx contains goldenseal to be active in the
14 animal model, so we can't make any conclusions about
15 Berberine, goldenseal as an active anticancer agent.

16 Echinacea is present in BioMixx. There is a
17 recommendation of five scoops per day, and according to
18 my calculations that would be 25 milligrams of
19 echinacea. Recommended daily doses, whatever they are,
20 would be much much higher than that. 500 to a thousand
21 milligrams, three times a day or about 1,500 to
22 3,000 milligrams of echinacea for other nutritional
23 treatment, as I say, that is echinacea may be helpful.

24 What is in BioMixx is two percent of what is
25 the, quote, daily dose, so it is well under what is

1 recommended.

2 Q. Again, let me ask you, recommended for what?

3 A. Whatever nutritional sources recommend these
4 things. It's not like the recommended daily dose --
5 recommended dose of vincristine to treat acute
6 lymphoblastic leukemia is 1.5 milligrams per meter
7 squared per week intravenously. That is the
8 recommended dose. Every drug label has a dose. Be
9 very careful you are supposed to prescribe to that dose
10 based upon phase I testing, maximum tolerated dose,
11 does limit of toxicity.

12 So we don't know what the recommended dose is
13 for treating cancer patients. It's never been
14 established.

15 Other ingredients here we talked about before,
16 ginseng, bromelain, boron, but then I think there is
17 some novel ingredients that I think warrant discussion.
18 ATP is a high energy phosphate.

19 Q. What is ATP?

20 A. When the body is metabolizing glucose in a
21 process called glycolysis, which is a process which
22 converts glucose to high energy ATP. I have no idea
23 whether 153 milligrams of ATP taken by mouth is ever
24 going to get absorbed. It will still be ATP by the
25 time it gets across the intestinal track, and I see no

1 benefit at all of giving someone ATP if they're having
2 glucose in the diet where they make all the ATP they
3 need, enzymes that convert glucose to lactic acid, and
4 during the process a number of ATP are made in every
5 cell in the body. Taking ATP by mouth is no good. No
6 benefit. It may be of no harm but there's no use of
7 ATP taken this way.

8 Q. When you say no good --

9 A. It's of no use to you. You get ATP not by
10 taking it by mouth. It's not a nutritional supplement.
11 Your body makes ATP unless you have no enzymes to
12 convert glucose to lactic acid. If that were the case,
13 you would be dead. You can take another higher source
14 of ATP, by the way, would be to catch fireflies on some
15 August night and clip off the tail and have tons of ATP
16 because that is where the biochemical companies get the
17 ATP for biochemical reactions that you might do in the
18 laboratory. But that's in a test tube.

19 Q. They get it from fireflies?

20 A. Fireflies. That's why it lights up. It's a
21 high energy phosphate source and lights up at night
22 because it is the ATP. DNA, what use is that? How is
23 that going to help somebody, 1,400 milligrams of DNA,
24 2,900 milligrams of RNA? What kind of RNA is it I ask.
25 Is it viral RNA, is it messenger RNA? What about the

1 DNA? Do you have to take DNA by mouth? If you have
2 meat in your diet, you're going to have DNA. Again, I
3 don't understand the purpose of adding DNA to a diet if
4 somebody is getting protein. And if they're not
5 getting enough protein, there are better ways to get
6 these ingredients than by taking some purified DNA or
7 whatever.

8 The guarana is basically caffeine. It's a
9 stimulant, we all know that. We don't know whether it
10 has any anticancer activity. There is bee pollen in
11 here. There's nothing on the label that I could see
12 that alerted patients to avoid it if they're allergic
13 to bee stings.

14 Q. What is the relationship between bee stings and
15 bee pollen?

16 A. From Cassileth and Lucarelli, there may be
17 allergic reactions to bee pollen for people who are
18 allergic to it.

19 Q. To bee stings?

20 A. If they're allergic to bee stings and take bee
21 pollen, they might have an allergic reaction. It's a
22 risk.

23 Q. The label says BioMixx is used to assist the
24 body in fighting cancer and healing the destructive --
25 that's their quote.

1 A. I could find nothing to support that and the
2 only way you could do it would be study design that
3 I've offered them or offered in my report where, again,
4 it would be a randomized placebo control trial in which
5 patients who are on the same chemotherapy that may have
6 adverse, quote, destructive, unquote, effects would get
7 the chemotherapy with known side effects or radiation
8 therapy with the same dose, with or without BioMixa or
9 placebo.

10 Then what I would look at would be given the
11 doses that DCO is recommending, make sure the patients
12 have the same disease, getting the same chemotherapy
13 that has the same adverse effects or the same dose of
14 radiation over the same period of time for the same
15 disease and see whether or not BioMixa has a beneficial
16 effect in decreasing these, quote, destructive effects
17 of radiation in chemotherapy.

18 Q. What would a study like that cost?

19 A. Depends on how big a study you would want to do
20 and if it were a phase II study, you might be able to
21 do it with 40, 50 patients minimally, maybe more. But
22 let's say 40 patients in each arm of the study where
23 you would know there would be a certain proportion of
24 patients who would have side effects of the
25 chemotherapy or side effects of the radiation, similar

1 severity of all the expectant side effects of treatment
2 and grade them, mouth ulceration, how severe the anemia
3 would be, you want to be able see the frequency of the
4 side effects are different in the patients given
5 BioMixa or placebo.

6 So it might take three months to complete the
7 study. Then you analyze all your data. You're still
8 looking for a number.

9 Q. Uh-hum.

10 A. If you turn it all over to a CRO, leaving out
11 the cost of the product, which would be provided by the
12 company and ask them to do everything, probably
13 \$2 million.

14 Q. That would be a phase II study?

15 A. This would be a phase II study.

16 Q. You think that would be enough to find the
17 answers you're looking for?

18 A. Certainly give you important information, yes.

19 Q. Now, up until now I thought you needed to have
20 a phase III study in order to be able to actually come
21 to a conclusion.

22 A. Depends how robust the data are to show
23 differences. If you saw a huge value that BioMixa
24 lowered severity, P value of .0001 compared to placebo,
25 and this is an important need that cancer patients

1 across all patients and see whether you can decrease
2 the intensity and severity of those side effects and
3 they're all measurable.

4 Q. What would that cost?

5 A. Depends on how much help and support the
6 sponsor wanted in performing the study. How many of
7 their own resources would they use or if they didn't
8 have it, they would have to rely on an outside
9 organization, like a contract research organization, to
10 manage the clinical trial for them. They would provide
11 the BioMixa, since these are standard regimens, they
12 wouldn't have to provide chemotherapy. Radiation
13 therapy would be standard and you wouldn't have to pay
14 for that. They would have to provide the BioMixa and
15 placebo but the contract research organization would
16 identify the centers, sites or doctors who would
17 participate in the study. There could be somebody in
18 practice in Ridgewood, New Jersey in a community
19 hospital, doesn't have to be a big cancer center. You
20 would identify the sites, write the protocol, you would
21 have to write the informed consent, get all the
22 regulatory documents in order so it could be approved
23 by the institutional review board.

24 Then you would, since this is mostly a toxicity
25 study, you would have to record the frequency and

1 have, reduce the side effects of chemotherapy and the
2 data were very robust and you did a placebo controlled
3 randomized trial, approval is sometimes granted for
4 that if it's well designed, carefully controlled.

5 Q. On a phase II?

6 A. Yes.

7 Q. How frequently does a phase II trial lead to
8 approval?

9 A. Infrequently, but it can happen, particularly
10 if it's an unmedical need. What the FDA may require
11 is -- they might grant provisional approval based
12 upon --

13 Q. Most likely you're saying frequently it's a
14 phase III study?

15 A. But not always.

16 Q. What would that cost?

17 A. The larger -- and, again, it would depend on
18 how much the sponsor wanted the organization to cover,
19 if it was everything, small organization, they wouldn't
20 have the ability to do the data analysis, monitoring,
21 site management, review of all the data, writing of the
22 reports, it might be double that amount.

23 Q. So for the phase III it may be four million?

24 A. If it's twice as many patients and twice as
25 many sites, yes.

1 Q. And so a phase II and a phase III would be
 2 \$6 million?
 3 A. Well, we said the phase II would be two
 4 million, double it for the phase III.
 5 Q. So phase III would be equal to?
 6 A. Again, I need to have all this reviewed by a
 7 biostatistician to set up what differences we're
 8 looking for and make sure we have adequate numbers of
 9 patients to show differences.
 10 Q. In order to accomplish what you're saying do
 11 you need to do a phase I study?
 12 A. There's so many different things in BioMixx to
 13 do a phase I study with 70 different ingredients you
 14 would hate to do that. How do you do it for this
 15 compound which is so complex? It is not a single
 16 compound. You got tons of different amino acids and
 17 all these other things in here. For some of these
 18 supplementary medical things, like in the shark
 19 cartilage study, we didn't do pharmacokinetics,
 20 pharmacodynamics. What you're looking for is decrease
 21 in toxicity here.
 22 So one could do a very small phase I study to
 23 just make sure that certain ingredients could be
 24 measured and absorbed and it was an acceptable safety
 25 profile.

1 do that with supplemental agents that are attempting to
 2 decrease some of the side effects of therapy.
 3 Q. What is the nature of the difficulty?
 4 A. The complexity of the compound that you're
 5 looking at. It's not a single compound.
 6 Q. So the complexity of the compound makes the
 7 price go down?
 8 A. Well, if it's possible to measure all of the
 9 different ingredients of BioMixx to see what is being
 10 absorbed and what the pharmacokinetics are, that would
 11 be extremely expensive if you wanted to measure all
 12 these things. If you were looking at a single
 13 ingredient, you wanted to look at Berberine in the
 14 goldenseal, you want to pick one ingredient here that
 15 you thought was really going to have anticancer
 16 activity, that would be easier.
 17 If you want to study everything that you claim
 18 is active in BioMixx so you can fill it with all the
 19 different things in it, you would have to measure these
 20 things to see if they're absorbed, how they're excreted
 21 and whether they're having any effect at all on the
 22 other chemo drugs you're giving. That is very
 23 expensive. You're measuring 18 different amino acids.
 24 Once you start getting to that, there is a huge amount
 25 of data that you have to collect to show. That's what

1 Q. What would that cost?
 2 A. A lot less. It is a small study. Might be 36
 3 patients in that study, so much smaller.
 4 Q. How many were in your phase II and phase III?
 5 A. Phase II could be 40 to 80.
 6 Q. 40 to 80?
 7 A. That small. 40 is small, 80 is more
 8 reasonable. Randomized trial might be a couple
 9 hundred.
 10 Q. When you say a couple million dollars, were you
 11 talking about a 40, or 80?
 12 A. The more patients you have is the more money.
 13 Q. I'm asking --
 14 A. I'm giving you numbers that are not my primary
 15 responsibility. I never do the costing of studies.
 16 I'm thinking of similar type of trials that we've done
 17 that are in that range.
 18 Q. But earlier you said that going from scratch to
 19 the completion of a phase III study was about a hundred
 20 million dollars?
 21 A. That was because of the types of agents that
 22 were being developed, early development stages of that
 23 study. The fact that they were anticancer agents, that
 24 would have to be tested very carefully. There are more
 25 pharmacodynamic studies done. It's more difficult to

1 makes these studies very difficult.
 2 Q. So you said you could keep these in your
 3 BioMixx?
 4 A. You're saying BioMixx is important because it
 5 contains all these things, you better measure them.
 6 When we did our shark cartilage study, the only
 7 medicine that patients were getting was the shark
 8 cartilage and the FDA did not ask us to do a PK study
 9 to measure the active peptides that are in shark
 10 cartilage. However, if you're going to give it with
 11 chemotherapy, very often the FDA will ask you to do PK
 12 to make sure it's not having a negative or positive
 13 effect on the basic treatment.
 14 Q. How do you measure the interaction between the
 15 various single entities, synergy?
 16 A. You could be infinity, couldn't it? That's
 17 what makes it complex. It's very difficult to do that.
 18 Q. We discussed tumeric and you talked about one
 19 ingredient, which was a fairly substantial undertaking.
 20 A. Yes.
 21 Q. Do you know how many single entity ingredients
 22 there are in tumeric?
 23 A. The one that seems to be interesting that
 24 everyone studied is curcumin.
 25 Q. That's the one?

Page 166

1 A. Yes.
 2 Q. There's about 500 ingredients, so we have the
 3 same problem with working with that?
 4 A. I haven't seen studies to the extent that I've
 5 seen studies on curcumin in cancer, and so if I were to
 6 take the active ingredient, ingredient that is most
 7 promising in terms of its activity, I would look at
 8 curcumin.
 9 Q. What is the underlying theoretical reason for
 10 taking a complete substance made up of 500 units, 500
 11 single chemical entities like tumeric and taking one of
 12 them out and looking at it? What is the rationale for
 13 that?
 14 A. If you start off in the non-clinical studies to
 15 see whether purified active ingredients, any one of
 16 those 500 shows some evidence of anticancer activity,
 17 that would be the way we start.
 18 Q. Why would you do that?
 19 A. There has to be some starting place somewhere
 20 that just chemical or this component has some kind of
 21 anticancer activity, if that is where you want to use
 22 it.
 23 Q. Tumeric has been used in Chinese medicine, you
 24 said in here, for how long?
 25 A. A long time.

Page 167

1 Q. And for what purposes?
 2 A. Many purposes, including treating the number of
 3 ailments, including cancer.
 4 Q. So 2, 3,000 years?
 5 A. Does that prove it's an active --
 6 Q. I'm just asking. You're saying we got this
 7 thing, 2 or 3,000 years people have been using for this
 8 purpose, and what we should do is break it down into
 9 500 components and start looking at each one of them.
 10 A. No. I'm saying taking the most active
 11 ingredient, curcumin, and look at it.
 12 Q. How do you know that curcumin is the most
 13 promising?
 14 A. Read the literature and see what has been
 15 looked at.
 16 Q. So when we talked about there being 5,000
 17 promising single chemical entities of which one makes
 18 it all the way through, that's 4,995, and five makes
 19 it, how did the person -- how did the first person that
 20 picked one of the processing entities in tumeric know
 21 which one to pick?
 22 MR. PAYNTER: Objection. That question --
 23 could you --
 24 Q. How did the person that picked curcumin know
 25 they should pick curcumin?

Page 168

1 MR. PAYNTER: Objection. How would he know
 2 that? The studies speak for themselves as to why they
 3 were pursued.
 4 Q. Let me ask this question. You got 5,000 items
 5 that you said were promising entities.
 6 A. Yes.
 7 MR. PAYNTER: Okay. That's just pulling out
 8 of the blue. Are you talking about earlier --
 9 MR. J. TURNER: In his report.
 10 MR. PAYNTER: Please reference something.
 11 MR. J. TURNER: In his report he said --
 12 MR. PAYNTER: Please reference what you are
 13 talking about.
 14 Q. Did you understand my question?
 15 A. No, not really.
 16 Q. In your report you say of 5,000 processing
 17 entities that are accumulated, five of them will make
 18 it beyond the initial stage of being looked at and one
 19 of them will make it all the way through the process.
 20 A. Yes.
 21 Q. That leaves 4,995 --
 22 A. Right.
 23 Q. -- that get brushed aside?
 24 A. Right.
 25 Q. On what basis do you know how to pick the one

Page 169

1 you're going to study?
 2 A. It's been done since we've been developing
 3 anticancer drugs and that is you do screening and you
 4 do screening by taking purified compounds and you
 5 incubate them with tumor cells and you see whether you
 6 get tumor cell kill or you slow down the rate of
 7 division of the cancer cells, and that's how these
 8 agents screened, and you might find in that 5,010 that
 9 are promising and you move it along to the next stage
 10 of development.
 11 Q. How does that process detect any synergy
 12 between any of the substances in one product?
 13 A. Then you got to do studies of synergy or
 14 additive or negative effects to see that.
 15 Q. And --
 16 A. That's why, you know, these complex compounds
 17 are very difficult to show that they're active because
 18 they're so complex. You never know which is the active
 19 ingredient, but I will go back to my statement, look at
 20 all of the published data on what is in tumeric that
 21 appears to be active. And we're now into clinical
 22 trials with curcumin and not one of the other 490,099
 23 agents that you would like to study or may or not have
 24 been studied, I don't know.
 25 Q. The opening question of this whole line which

1 is what I'm trying to get at is: What is the rationale
2 for taking tumeric, a substance that has been
3 5,000 years or 3,000 years in Chinese medicine, and
4 saying let's break it down into 5,000 or 500 components
5 and look at one of them, what is the rationale for
6 that? Why does that make sense?

7 A. Because it may give you the opportunity to
8 identify the most active agent, avoids the ease of
9 other things that are inactive or may potentially be
10 harmful.

11 Thirdly, just because something has been used
12 for 5,000 years doesn't prove that it's effective and
13 safe in treating cancer patients.

14 Q. Is there any other way to approach it?

15 A. I talked about the process of developing cancer
16 drugs that will indicate whether they're safe and
17 effective in treating cancer.

18 Q. I'm saying is there any other way to do this
19 except the way you describe?

20 A. Not that I know of. Not if you're going to
21 make a claim that this is effective in stopping human
22 cancer growth, curing cancer or preventing cancer.

23 Q. Okay. You mentioned that this was not -- there
24 was no reason to think of this as a food additive. I
25 think it's ATP you were talking about.

1 A. Yes.

2 Q. We've been discussing drugs, foods, dietary
3 supplements. What is a food additive?

4 A. Could be coloring agent, artificial flavor.
5 That is what I look at as additives. I'm not sure how
6 you -- how you're looking at that word "additive."

7 Q. Go back to the question. I'm asking you how
8 the concept of food additives has no function as a food
9 additive that found its way into your discussion of
10 ATP. This is the only place it appears.

11 A. I guess what I meant there is this is a dietary
12 supplement. Food additive means dietary supplement,
13 something you should add to your daily intake of food
14 and it will help you. It's a supplement to your diet.

15 Q. Okay.

16 A. Added to the foods you're already taking is the
17 way I would respond to that.

18 Q. I'm trying to find the reference to Buffalo
19 wings.

20 MR. PAYNTER: Right after ATP.

21 Q. What were you saying there?

22 A. There's 1,400 milligrams of DNA in BioMixx and
23 where did DNA come from? Does it make any difference?
24 Whose DNA is it? Is it human DNA, grasshoppers, bald
25 eagle DNA, Buffalo wings?

1 MR. PAYNTER: What was the question? I'm
2 sorry.

3 MR. J. TURNER: What was the meaning of the
4 Buffalo wings.

5 Q. Shortly after that in the BioMixx discussion
6 you say the argument is that supposedly hundreds of
7 thousands of patients have been treated with DCO
8 products and claim benefit. Where did that come from?
9 Where did you have -- where did you find the hundreds
10 of thousands of patients?

11 A. Where are you now?

12 Q. It's right after you talk about the Buffalo
13 wings, and then the bee sting, and then it's the next
14 paragraph after the bee sting.

15 A. Okay.

16 Q. "All three received" and then it goes on to
17 "Summary and Conclusions." There's a sentence, second
18 sentence in summary and conclusions.

19 A. Okay.

20 Q. "The argument that supposedly hundreds or
21 thousands of patients have been treated with DCO
22 products," where did you find that argument?

23 A. Hundreds isn't a large number and thousands
24 isn't a large number, and I assume there are an awful
25 lot of people buying DCO products. I don't know the

1 exact number. I couldn't find it anywhere, but I don't
2 think a few hundred patients would keep them in
3 business and a few thousand wouldn't be enough either.

4 I don't know the exact number but just because
5 an X number of people took something doesn't prove its
6 benefit. That is not reliable and not competent
7 evidence to support its use or efficacy in treating a
8 particular disease.

9 Another interesting thing is who are the cancer
10 patients who are most likely to take alternative or
11 complimentary or unproven medicines? They're the
12 sickest, the patients with most advanced disease, their
13 patients who have been through multiple courses of
14 chemotherapy and they're most vulnerable to taking
15 things that may be of no benefit to them. They're the
16 most desperate.

17 Q. What do you base that on?

18 A. Recent publication.

19 Q. What is the publication?

20 A. It was in -- I don't know the exact source. I
21 can provide it to you. It was a peer-reviewed article
22 on who are the population of patients most likely to be
23 taking alternative therapies.

24 Q. So you're going to supply us with that?

25 A. Yes.

1 MR. PAYNTER: Sure.
 2 Q. You're saying that those are the kind of people
 3 that are most likely to take Daniel Chapter One
 4 products?
 5 A. Or other alternative therapies.
 6 Q. But we're talking about Daniel Chapter One.
 7 A. That's right.
 8 Q. It's more likely that those kind of people
 9 would take Daniel Chapter One products rather than say
 10 the members of their Christian ministry?
 11 MR. PAYNTER: Objection.
 12 A. I don't know who they are, I'm sorry.
 13 MR. J. TURNER: Objection on what grounds?
 14 MR. PAYNTER: No foundation. How does he know
 15 who buys the products?
 16 Q. You're saying you have no idea who buys DCO
 17 products?
 18 A. No, I'm saying --
 19 Q. You don't know whether the statement made in
 20 that article you're going to give us applies to Daniel
 21 Chapter One or not?
 22 You have to say the words. You can't shake
 23 your head.
 24 A. Yes.
 25 Q. I forgot to tell you that at the beginning.

1 A. Yes, there was a publication in --
 2 Q. You're saying that the position is that
 3 curcumin harms people?
 4 A. I'm saying that anything you take may have side
 5 effects. The idea that herbal medications have no side
 6 effects and chemo radiation just kills people is not
 7 honest.
 8 Q. Do you think that herbs have the same level of
 9 potential negative effects as pharmaceutical drugs?
 10 A. All pharmaceutical drugs, you're combining
 11 every single drug.
 12 Q. Let's deal with cancer treating agents.
 13 A. I can think of a lot of cancer treating agents
 14 that don't have a lot of side effects.
 15 Q. Can you tell me some that don't --
 16 MR. PAYNTER: Can you allow him to finish
 17 answers before you jump in?
 18 A. There are many classes of anticancer agents.
 19 Some are what we call cytotoxic agents, classical
 20 chemotherapeutic agents that kill cancer cells but they
 21 also can damage normal cells. Commonly the use of
 22 chemotherapeutic agents used in treating leukemia are
 23 beneficial but have side effects.
 24 A newer class of anticancer agents are more
 25 specific of what they're going after in the cancer

1 A. The article doesn't go into patients who might
 2 be taking or not taking DCO products. It is just who
 3 are the patients with cancer most likely to take
 4 alternative therapies or unproven therapies. I don't
 5 have an idea whether people who take DCO products are
 6 different from the population.
 7 Q. When you say "unproven" is that the same as
 8 disproved?
 9 A. Unproven means there's been no reliable or
 10 competent evidence to support the efficacy or safety of
 11 that particular product in treating a cancer patient.
 12 Q. Are there safety issues about the DCO products
 13 you reviewed?
 14 A. In some patients maybe.
 15 Q. What do you mean by that?
 16 A. Some of the products may interfere with the
 17 activity of certain chemotherapeutic agents.
 18 Curcumin -- and I alluded to curcumin more than I have
 19 other drugs or agents. A recent study was just
 20 published in January of this year that indicates that
 21 curcumin combined with iron and patients who have
 22 chronic disease like cancer, they become iron deficient
 23 and it's possible anemia caused by a revoke and restore
 24 deficiency would worsen.
 25 Q. Has that been established?

1 cell. So because they're much more specific and
 2 because these are targeted therapies, we find that side
 3 effects are much less than the classical cytotoxic
 4 agents.
 5 Q. Do you think in general herbs have the same
 6 level of side effect as the old class of drugs?
 7 A. I found that very effective anticancer agents
 8 often will have side effects and that the idea that
 9 there's something out there that is active in treating
 10 cancer and has no side effects at all I think is a
 11 figment of imagination. It doesn't happen.
 12 Q. So you're saying herbs that might effect cancer
 13 and the older category of drugs that might effect
 14 cancer both have side effects?
 15 MR. PAYNTER: He never said anything about
 16 herbs that effect cancer. You're reading into his
 17 testimony. He never testified there are herbs --
 18 Q. You don't believe there are any herbs that
 19 effect cancer?
 20 A. I don't know of one herb -- I'm going to
 21 exclude plant derived chemotherapeutic agents. There
 22 are a number of agents that are cytotoxic that
 23 originally came from plants or the bark of the yew tree
 24 that are now made synthetically, vincristine came from
 25 a plant. The taxane, paclitaxel, came from the yew

1 tree. Now it's made synthetically. There are plant
2 derived cytotoxic agents and a lot of medicines came
3 from plants. I will not deny that.

4 I will state I'm unaware of any of the herbs or
5 ingredients of any DCO product that has been shown with
6 competent and reliable evidence in patients with cancer
7 that they have a beneficial effect in decreasing growth
8 of tumors, curing tumors or preventing tumors.

9 Q. And do you have any credible scientific
10 evidence that they don't?

11 A. You have to tell me that they do. You have to
12 show me they do.

13 Q. You have proven that these products don't have
14 any --

15 A. You have to show me. You're saying they are
16 going to be used to treat somebody's cancer or decrease
17 the destructive effects of cancer therapy and to say
18 that you have to do the studies to do it.

19 Q. Is this a legal conclusion?

20 A. Medical conclusion, scientific.

21 Q. So it's not a legal conclusion?

22 A. I'm not here to make legal conclusions. I'm
23 here to give you scientific evidence of what is valid
24 and isn't. I devoted my whole life to helping kids and
25 now adults in fighting cancer to diminish the side

1 tried to reduce the doses of chemotherapy they were
2 getting, so they weren't getting so sick, they still
3 got sick. Something interesting is going on here.

4 And we determined that this young patient whose
5 mother was ready to stop her chemotherapy, very highly
6 educated woman whose parents were physicians, father
7 was a pathologist, she was a teacher, we decided to
8 look at it her way. She metabolized chemotherapeutic
9 drugs. It turned out she inherited from her mother and
10 father a gene that decreased the ability of the patient
11 to actually detoxify that chemotherapeutic drug. There
12 was a defect in the enzyme that metabolized it.

13 We wound up -- I sent blood samples on the
14 mother, father and child to St. Jude's Hospital. This
15 case has been published. And they found she was
16 lacking the enzyme, and her parents were both carriers
17 of the enzyme deficiency and we reduced her dose of one
18 of the chemotherapeutic agents from 50 milligrams a day
19 to 12.5 milligrams a week. That is a huge reduction.
20 Because that 12.5 milligrams a week was enough to keep
21 her disease in remission and she remained in remission,
22 she had no more side effects and she's now back -- this
23 was back when I was at Cancer Treatment Centers of
24 America. That was back in the '90s. She's cured.

25 What I'm trying to say is the more we learn

1 effects of treatment and prolong their lives and done
2 it at a very rigorous, difficult, not easy way. It's
3 been very, very arduous but the end results are better.

4 Today 80 percent of children with leukemia are
5 being cured. When I first started in this profession
6 of mine virtually every patient died.

7 Q. What percentage of adults with leukemia are
8 cured?

9 A. What kind of --

10 Q. The one you just used for children.

11 A. Acute lymphoblastic for adults are not as good.
12 Acute myeloid leukemia are not even as good. There are
13 other ways to treat those patients. If you can induce
14 a remission in a patient with acute myeloid leukemia,
15 adult patient or acute lymphoid leukemia and they have
16 a relative that is a match, they can be treated with a
17 stem cell transplantation and they can be cured.

18 Q. Okay.

19 A. I don't know of a patient of mine who had
20 leukemia who is cured with any herbal medication. I've
21 had patients who were very upset or got very sick from
22 the toxic effects of chemotherapy and went off to
23 Mexico or went down to the Caribbean for unproven
24 therapies and they came back, and I saw them in
25 consultation. And the interesting thing was when I

1 about cancer, what causes it, the biochemical pathways
2 that are involved in cancer development, better ways to
3 attack those pathways with specific drugs that have a
4 known mechanism of action and non-toxicity, we're going
5 to continue to make advances. There are no shortcuts
6 in curing cancer. There is not a shortcut. You try to
7 take the short cut, you're going to wind up with either
8 unexpected adverse effects or ineffective therapy, and
9 I don't think we should do that to patients.

10 (A recess was taken.)

11 Q. You mentioned taxol.

12 A. Yes.

13 Q. Where was taxol discovered? You said a plant?

14 A. No. The yew tree. I think came from China.

15 Q. Yew tree?

16 A. Y-E-W, the bark of it.

17 Q. And what was the process for it to be
18 developed, do you know how?

19 A. I don't know the full history of that.

20 Q. Okay. What, if any, is the value of
21 traditional uses of these herb products that we've been
22 discussing, the traditional use, any value to that?

23 A. I'm not sure I understand what you mean by the
24 traditional use. In what disease? What entity?

25 Q. Let's take -- you mentioned Chinese medicine in

1 your report and a lot of products, a lot of herbs have
 2 been used in Chinese medicine.
 3 A. Yes.
 4 Q. And a lot of knowledge has been attributed to
 5 that use.
 6 A. Yes.
 7 Q. What value is that to us in the present medical
 8 situation about cancer?
 9 A. I think from following lower and common usage
 10 some may come up with some leads that warrant further
 11 development. Following lower and common usage doesn't
 12 prove that something is active, safe and effective but
 13 it may provide leads for further investigation, further
 14 experimentation, further discovery.
 15 Q. Is there any current cancer drug that is
 16 100 percent effective?
 17 A. No. 100 percent effective, that cures all
 18 cancer?
 19 Q. No. For any cancer, cures all people with
 20 cancer X.
 21 A. I'm unaware of any cancer that is curable in
 22 100 percent of the cases that are cured by a drug. I
 23 can think of a number of cancers that can be cured by
 24 surgery, like melanoma if it's diagnosed early, or
 25 basal cell carcinoma of the skin, certain cervical

1 with liver cancer. There are many known causes of
 2 cancer, but there are a lot of cancers we don't yet
 3 know what the cause is. If you were to ask me what
 4 causes childhood lymphoblastic leukemia, I don't know
 5 yet. It's interesting because we can cure it but we
 6 don't know the cause.
 7 Q. In your career do you know how the incidents of
 8 the childhood cancers has grown or diminished?
 9 A. It varies depending on the different type of
 10 cancer.
 11 Q. What is the one that has had the least amount
 12 of increase or the most amount of decrease?
 13 A. I have to look that up. I'm a little tired
 14 right now.
 15 Q. Okay. How about do you know which ones are the
 16 most, increased the most?
 17 A. I think the lymphomas are the group of cancers
 18 that increased a lot in the pediatric population.
 19 Q. When you say "a lot" --
 20 A. I don't know the exact percentage.
 21 Q. Would it be 50 percent?
 22 A. No.
 23 Q. Ten percent?
 24 A. Probably less than that.
 25 Q. Less than ten?

1 cancers.
 2 Q. These are all by surgery?
 3 A. Mostly by surgery or radiation, or could be by
 4 cryotherapy. If it's small and early stage, it can be
 5 excised completely surgically and cured. If you had a
 6 choice between using surgery in an early stage melanoma
 7 or chemotherapy, I would hope that everybody would pick
 8 surgery.
 9 Q. Say that again?
 10 A. If you had a chance of treating early stage
 11 malignant melanoma with surgery or chemotherapy that
 12 might be used for later stage disease, I would hope you
 13 would certainly use surgery. It's much more effective.
 14 Q. Okay. What causes cancer?
 15 A. There are many different causes of cancer,
 16 inherited gene defects inherited from one generation to
 17 the other. There are other causes from external
 18 agents, like viruses that can cause cervical cancer or
 19 hepatitis virus that can go on and increase the risk of
 20 liver cancer. Radiation therapy or radiation itself
 21 can cause cancer. Other chemicals, like benzene, can
 22 cause leukemia. There are genetic factors,
 23 environmental factors, lifestyle factors. We certainly
 24 know the carcinogens in tobacco smoke can cause cancer.
 25 We know that alcohol can damage the liver and result

1 A. We're not talking about big increases.
 2 Q. So pretty much stayed steady?
 3 A. Well, there's been a slight increase in some
 4 and plateau in others.
 5 Q. How about for adult cancers?
 6 A. It's interesting. We're seeing an increase,
 7 for example, in non-small cell lung cancer in women and
 8 a plateau or decrease in men. We've seen a decrease in
 9 stomach cancer in both sexes, I think because of the
 10 concerns about dietary things. We've seen an increase
 11 in lymphoma in adults that may be environmental,
 12 occupational. We're going to see a decrease in
 13 mesothelioma related to asbestos.
 14 Q. Dying off?
 15 A. Protected in the workplace now so they're not
 16 exposed as much. It takes 40 years. We see a decrease
 17 in some. I think with preventive medicine I think we
 18 can see a decrease in many other tumor types or
 19 diagnosis them earlier, colorectal cancer diagnosed at
 20 an earlier stage. Breast cancer has an excellent
 21 prognosis diagnosed at an early stage. We need cancer
 22 preventive changes, overweight, decreased exercise have
 23 a negative effect on one's risk of developing cancer.
 24 How many cancers could we obviate if we stopped
 25 smoking, outlaw tobacco. Alcohol is a major problem in

1 terms of head and neck cancer, throat cancer. So there
2 are a number --

3 Q. Head and neck cancer are connected to alcohol?

4 A. Esophageal can be, drinking and smoking are not
5 a very good thing for that type of cancer.

6 Q. With adults overall, is there an increase in
7 incidence of cancer or decrease?

8 A. Interestingly there has been a suggestion that
9 the cancer incidence is increasing, again, small
10 numbers. Again, these are not huge percentages.

11 Q. What happens with patients who you tell there's
12 nothing more we can do to help you?

13 A. Are you sure there's nothing? Is there a
14 phase I study I might go on that I know it may not help
15 me or might help someone else, I know you're just
16 looking at the toxic dose, but it may be a benefit to
17 somebody else. Or they'll ask how much time do you
18 think I have and how much time do I have to get my life
19 in order before I die.

20 There used to be a time when people were very
21 reluctant to discuss the fact that realistically there
22 wasn't very much anyone can offer a patient in an
23 effective way that would have some meaningful effect on
24 their life and the quality of their life. I think
25 people are much more open now and cancer was a dreaded

1 everyone knew what the Jimmy Fund was. It was a
2 philanthropy of the Boston Red Sox and every kid in
3 Boston knew what it was because that is where kids with
4 cancer got treated, but a generation ago they were
5 never told what their diagnosis was.

6 Even the doctors in the clinic used code words
7 for different diagnoses. Leukemia was L Wilms,
8 W-I-L-M-S. All the kids knew what they had but the
9 doctors were in a dream world because they thought the
10 patients didn't know. You just have mononucleosis.

11 Why am I getting radiation therapy and chemo and all
12 this terrible thing I hear cancer patients get?

13 Q. When you say people are much more open now, are
14 you talking about doctors?

15 A. Doctors, nurses, health care providers.

16 Q. Patients?

17 A. I think so.

18 Q. So everybody?

19 A. Should be on the same page. You have to be
20 frank and honest because if things aren't working,
21 patients have to know.

22 Q. I think this will be one of the last questions.
23 What if one of the patients said I can't do anything
24 for you anymore, I'm going to use unproven treatments?
25 A. Many of them have.

1 word, it still is, but I think people are more open
2 about discussing it. It's interesting because children
3 today, depending upon what age they are, kids over five
4 or six are told they have cancer, it's explained to
5 them in a way they can understand it, and when they're
6 just diagnosed, it's very important for them to
7 understand what they have and why they're going to be
8 treated so aggressively and they have to be partner in
9 that and share in that and be helpful.

10 So I have patients help me when I was doing
11 bone marrow tests on them and they let me know when I
12 was inside the bone marrow cavity before I withdrew any
13 bone marrow blood, and it was a game we played. And
14 instead of being frightened, scared stiff and given
15 anesthesia, they were a participant in it. They have
16 to understand why they're being treated and what the
17 purpose of the treatments are and the tests they have
18 to go through because we can be positive. I think we
19 can be positive with adult patients also, but I think
20 they have to share an understanding of what's being
21 done, why it's being done and what their outlook is.

22 Some countries they don't talk to patients
23 about their cancer, like Japan, and there was a day
24 when kids were never told what the diagnosis was but
25 when they walked into the Jimmy Fund in Boston and

1 Q. What do you tell them?

2 A. I try to ask them where they're going, what
3 kind of therapy they're going to hope to get. I would
4 share with them what I know about it. And they're free
5 to do what they want. I can't tell them they can't go.
6 I can give them the best scientific and medical advice
7 based upon what I understand about what's going on.

8 I also recognize the fact they're desperate and
9 willing to try anything, but they need to know what to
10 expect and not to over expect because they can be taken
11 advantage of. Some of the treatments are very
12 expensive and requires a trip down to the Caribbean or
13 to Mexico and infusions and all kinds of other things
14 that have never been shown to be effective but yet
15 they're willing to spend many, many, many dollars on
16 hopefully some magical cure of their disease at that
17 particular stage.

18 But, for example, we're talking about
19 pancreatic cancer today. If you diagnose it early, you
20 have a small chance of surviving. If it is diagnosed
21 at an advanced stage and responds initially to
22 treatment, 100 percent of the cases almost it's going
23 to come back again, so nobody is going to survive. You
24 can try it, but from all of our experience at this
25 stage of your disease, there truly isn't anything that

Page 190

1 we know about that is effective and that's why we're
 2 looking at these investigational agents that are very
 3 early in the develop.
 4 When I talk about investigational agents, I'm
 5 talking about new formulations of old chemotherapy
 6 drugs. I'm talking about targets therapy that is today
 7 going after 75 different targets inside a cancer cell,
 8 along with immunotherapy, vaccines to go after the
 9 cancer, gene therapy, transplantation, all those things
 10 are possible. When you hear me talk about cancer
 11 therapy, I'm not just talking about the conventional
 12 anticancer agents. And I've been involved in
 13 investigations of that broad range of anticancer
 14 therapy from vaccines to between therapy to targeted
 15 therapies and many different types of conventional
 16 chemotherapies and combinations of those.
 17 Q. Do you think there are any unconventional
 18 treatments or unconventional approaches that have
 19 value?
 20 A. Prove it to me. Show me scientifically that
 21 they're beneficial.
 22 Q. And until --
 23 A. I keep an open mind but I need the evidence to
 24 show me that it is effective.
 25 Q. Okay.

Page 191

1 A. Am I aware of any that all by themselves will
 2 work? In my own experience, as I told you about,
 3 monoclonal antibody with the chemotherapy in lymphoma,
 4 the combination was better than the monoclonal
 5 antibody alone or the chemotherapy alone. We're seeing
 6 that these targeted therapies are great but all by
 7 themselves may not be as good as when you give them
 8 with something else.
 9 MR. J. TURNER: I don't have any further
 10 questions.
 11 MR. PAYNTER: We don't have any questions.
 12 (TIME NOTED: 4:45 P.M.)
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Page 192

1 CERTIFICATION OF REPORTER
 2
 3 CASE TITLE: FTC vs. DANIEL CHAPTER ONE
 4 DATE: FEBRUARY 6, 2009
 5
 6 I, HEREBY CERTIFY that the transcript contained
 7 herein is a full and accurate transcript of the notes
 8 taken by me in the above cause before the FEDERAL TRADE
 9 COMMISSION to the best of my knowledge and belief.
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 11 Dated: 2-9-09
 12
 13
 14 LINDA A. SCHILT
 15
 16 CERTIFICATION OF PROOFREADER
 17
 18 I HEREBY CERTIFY that I proofread the
 19 transcript for accuracy in spelling, hyphenation,
 20 punctuation and format.
 21
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 24
 25

Page 193

1 CERTIFICATE OF DEPONENT
 2
 3 I hereby certify that I have read and
 4 examined the foregoing transcript, and the same is
 5 a true and accurate record of the testimony given
 6 by me.
 7
 8 Any additions or corrections that I feel are
 9 necessary, I will attach on a separate sheet of
 10 paper to the original transcript.
 11
 12 DR. DENIS R. MILLER
 13
 14 I hereby certify that the individual
 15 representing himself/herself to be the above-named
 16 individual, appeared before me this
 17 _____ day of _____, 2009, and
 18 executed the above certificate in my presence.
 19
 20
 21 NOTARY PUBLIC IN AND FOR
 22
 23 MY COMMISSION EXPIRES: _____
 24
 25

1 WITNESS: DR. DENIS R. MILLER
 2 DATE: FEBRUARY 6, 2009
 3 CASE: FTC vs. DANIEL CHAPTER ONE
 4
 5 Please note any errors and the corrections
 thereof on this errata sheet. The rules require
 6 a reason for any change or correction. It may be
 general, such as "To correct stenographic error,"
 7 or "To clarify the record," or "To confirm with the
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8	9	PAGE	LINE	CORRECTION	REASON FOR CHANGE
10					
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22					
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A				
abdominal 141:5	acid 117:2 132:11 156:3,12	acute 39:18 40:1,13 75:2 80:22 81:17	adults 41:11 84:16 84:18 85:19	126:11 127:3
ability 24:15	acids 61:21 116:24 152:5 162:16	82:10 83:12 85:21	178:25 179:7,11	129:5,6 139:4,7
108:24 132:15	164:23	155:5 179:11,12	185:11 186:6	139:10,12 141:20
161:20 180:10	action 80:18 89:2	179:14,15	advance 46:15	154:10,15 170:8
able 25:4,13 71:6	89:19 103:9	ad 62:7	advanced 22:20	171:4
94:15 129:23	119:21 134:9	add 105:8 121:25	24:6 25:9 49:4	agents 8:9,10 22:20
149:21 151:8	143:12 144:2	122:16 171:13	107:21 110:15	22:21 26:14,17,18
158:20 160:3,20	181:4	added 108:24	173:12 189:21	28:8 31:25 44:22
abnormal 70:10	actions 143:9	113:25 115:11	advances 12:11	44:24 45:3 47:10
77:24 143:14	activate 61:22	118:25 144:14	181:5	50:2,6,20 51:7
abnormalcy 77:23	active 27:6 45:16	171:16	advantage 189:11	61:9 82:6 86:17
abnormalities	89:2 125:3 130:9	addictive 146:13	advantageous	87:7 95:5 104:10
72:24 80:25	130:11,13 131:8	adding 157:3	78:12	118:11 123:4
abnormality 73:8	131:18 132:9	addition 96:24	advantages 78:22	128:14 140:24
74:1	138:6 140:13	additional 17:8	adverse 8:18 10:8	141:1 143:22
above-entitled 2:18	141:21 144:20	24:7 49:8 68:2	14:8 33:20,24,25	163:21,23 164:1
above-named	145:19 146:11	95:22 96:11	34:2 46:14 62:7	169:8,23 175:17
193:10	152:24 153:14	115:10 143:22	83:5 95:10,14	175:19 176:12,13
absolute 26:5	154:13,15 164:18	additions 193:5	96:14 104:8,12	176:18,19,20,22
Absolutely 51:12	165:9 166:6,15	additive 7:24 9:6	126:23 127:6,13	176:24 177:4,7,21
absorb 102:10	167:5,10 169:17	169:14 170:24	158:6,13 181:8	177:22 178:2
absorbed 30:14	169:18,21 170:8	171:3,6,9,12	advertisements	180:18 183:18
61:15,19,23,24	177:9 182:12	additives 8:8 171:5	126:18 132:14	190:2,4,12
102:10 125:20	activities 11:17	171:8	advertising 93:8	aggressive 38:5
128:4 131:5,5	20:19,19 21:3,22	address 4:8,10	advice 23:21 25:16	40:20,25 74:18
132:9 146:5,6	22:13,15 28:14	39:12	65:2,6 127:14	86:4
154:4 155:24	32:19,23 90:2	addressed 97:21,22	189:6	aggressively 187:8
162:24 164:10,20	activity 6:17 8:2,11	137:19	advised 64:25	aggressiveness
absorption 126:1	10:17 13:22 21:13	addressing 114:24	110:2	74:22
academia 28:3	21:19 22:11 44:23	adequate 33:10	Aeterna 113:6,18	ago 109:12 141:24
academic 22:3	45:12 46:21 47:9	162:8	affairs 23:24 24:21	188:4
acceptable 109:14	90:4 98:3 99:10	administer 106:24	afraid 84:2	agree 67:24
162:24	99:11 103:15	administered	afternoon 5:15	agreed 5:20
accomplish 162:10	110:22 114:11	145:20	age 32:9 38:9 43:12	agreement 2:19
accumulated	117:22 119:1,9,13	administration	82:19,19 187:3	6:22
168:17	121:14 123:5	33:17 77:15	agencies 54:6	Agriculture 64:5
accuracy 192:19	130:24 131:2	admitted 146:12	agency 54:22	ahead 10:1 15:24
accurate 192:7	132:19 154:11	adolescents 22:16	agent 31:19 47:1,3	62:8 85:20
193:4	157:10 164:16	adult 21:1,4,24	47:14,21 54:14	ailments 141:6
accurately 99:5,6	166:7,16,21	22:18 32:12 39:7	61:2 88:2,3 89:3	167:3
acetylsalicylic	175:17	84:24 85:3,9,13	89:16,22 95:4	aim 45:25,25 53:16
132:10	acupuncture 110:6	85:13 179:15	103:20 123:11	88:6
aches 79:3		185:5 187:19	124:7 125:2	airway 29:22
				al 141:16

alarming 34:10	analyze 160:7	89:22 90:1,4	approval 31:5	8:10 9:24 10:2,10
alcohol 183:25	analyzes 106:3	94:18,21,22,24	50:16,20 53:15	12:17 19:23 36:11
185:25 186:3	analyzing 88:1	119:22 121:14	54:2 106:2 126:25	85:19 94:7,8,10
alert 95:21 96:15	Anderson 113:10	123:10 131:2	161:3,8,11	97:15,20 99:22
alerted 34:5 157:12	and/or 82:21	144:9,16 154:10	approve 53:20	135:3 146:19
alive 37:23 39:23	anemia 16:12 31:22	154:15 157:10	129:1	149:16
alkaloid 152:25	32:1 86:13 134:24	163:23 164:15	approved 22:22	asking 6:1 8:13 9:9
alkaloids 116:25	160:2 175:23	166:16,21 169:3	27:1 31:13,14,14	10:17 27:8 50:18
117:11	anemic 79:16	176:18,24 177:7	45:16 50:8,10	59:11 62:24 99:1
allegedly 149:17	134:19	190:12,13	51:15,19 53:2	108:23 116:4
allergic 104:5	anesthesia 187:15	antifungal 86:17	54:3,17,19 94:5	125:18 140:9
143:10 157:12,17	Angell 92:13,16,17	antigen 112:5	94:24 95:2,6	149:24 163:13
157:18,20,21	angiogenesis 98:17	antiinflammatory	96:11 101:8,9,10	167:6 171:7
allow 98:20 176:16	animal 45:8 129:13	117:22	101:19 102:19	aspirin 103:21
alluded 175:18	154:1,8,14	antioxidant 143:10	103:1,1 105:11	132:6,7,8,20
alternative 58:23	animals 45:2,11,13	antitumor 99:10	111:8 118:12	assign 24:22
59:7,13 63:20	98:8 130:8	128:7 139:14	123:22,23 126:24	assigned 36:8 48:4
66:10 88:6 110:1	ANN 192:23	anybody 17:23	159:22	assignment 9:19
173:10,23 174:5	answer 8:3,13	65:5 129:13	arduous 179:3	12:6,7
175:4	13:11,24 71:24	anymore 59:23	area 4:14 11:4	assist 157:23
America 22:6,9,12	75:23 76:24 77:4	188:24	14:23 27:16,17	associate 22:4,6
23:7,14 27:12	77:8 88:13 105:20	Anyway 107:13	31:18 32:3	associated 32:1
59:8,21 109:21	118:16 124:1	112:2	areas 28:7 143:12	assume 172:24
180:24	140:16	apparently 64:14	argument 69:8	ATP 155:18,19,22
American 23:13	answered 30:22	appear 65:25	122:16,21 172:6	155:23,24 156:1,2
64:9 126:9	answers 160:17	APPEARANCES	172:20,22	156:4,5,7,9,11,14
amino 152:5	176:17	3:1	arm 51:25 60:20	156:15,17,22
162:16 164:23	antiangiogenesis	appeared 91:23	79:8 158:22	170:25 171:10,20
amount 75:7 76:12	89:1,2	193:10	arrive 8:20 23:15	attach 35:4 102:6
77:2 118:18	antiangiogenic	appears 87:14	147:14	193:6
130:11 131:6	54:14 98:3 99:11	91:12 139:10	arteries 132:17	attaches 101:4,24
136:7,19,25 148:9	100:10 103:4	169:21 171:10	article 67:15 68:12	attack 132:7,18
161:22 164:24	114:11	appendicitis 80:12	92:13 119:18	181:3
184:11,12	antibiotics 86:14	appendix 58:11	173:21 174:20	attacks 96:8
amounts 118:25	antibodies 89:17	66:8	175:1	attempting 164:1
122:9 131:19	antibody 34:25,25	apples 143:7	articles 66:3,6,18	attempts 34:22
133:22 136:6	35:2,10,15,18	applied 108:12	67:13,16 68:5	attention 127:12
146:22 147:19	37:6,22 38:6	applies 174:20	artificial 171:4	135:24
152:21	48:18 54:15	appointment 5:18	asbestos 185:13	attributed 182:4
amyloid 73:3,7,12	100:19,21,25	approach 41:3	ascertain 9:18	August 156:15
74:9	101:4 104:3,5	170:14	137:5	Authority 54:4
analogous 76:19	114:7 191:3,5	approaches 190:18	ASCO 113:20	auto 69:12
analysis 111:16	anticancer 6:17	appropriate 148:20	aside 168:23	autopsy 74:16
161:20	7:25 8:2,11 89:16	149:4,8	asked 6:23 7:6 8:3	avail 109:10

available 23:23 33:2,11 34:24 41:14 52:2 97:21 107:12 119:19,23 139:16 152:13 Avastin 54:14 90:19 100:16,17 100:20 avoid 157:12 avoids 170:8 aware 14:6,7,8 63:12,16 94:25 95:2 98:18 99:14 99:19,24 115:15 191:1 awful 172:24 A-C-E-T-Y-L-S-... 132:11 A-E-T-E-R-N-A 113:6 A-N-G-I-O-G-E-... 54:15 A-V-A-S-T-I-N 54:14 100:16 a.m 2:19	balance 71:23 balanced 72:7,11 balancing 72:8 bald 171:24 balls 151:12 barium 151:2,8,9 bark 115:13 177:23 181:16 Barry 58:25 basal 182:25 base 106:25 138:10 138:15,17 150:10 150:16,21,24 173:17 based 8:14 36:20 36:23 49:11 53:4 61:1 70:22 89:12 109:6 122:1 139:8 139:17 148:9 149:25 155:10 161:11 189:7 basic 48:2 88:4 120:19 165:13 basically 5:5 32:11 60:23 78:21 96:5 110:12 113:25 157:8 basis 115:24 168:25 Bates 149:20 Bayer 102:25 103:12 105:16 beautiful 83:24 bee 157:10,13,14 157:15,17,19,20 157:20 172:13,14 beef 68:22,25 69:5 69:11,15,15 beefed 69:14 70:4 beefing 69:13,22,25 began 7:4,10 9:18 11:6,16,23 82:17 97:7 beginning 49:18,24 63:7 68:1 106:1	140:2 174:25 begins 78:5 begun 10:16 BEHALF 3:3,10 behold 96:13 belief 192:9 believe 6:5 55:10 59:8 89:13 90:21 98:19 122:24 137:12 147:7 177:18 believed 129:14 belly 27:22 beneficial 69:25 90:14 114:4 124:3 125:9 131:6 133:22 134:2 143:25 144:5,6,7 158:15 176:23 178:7 190:21 Benefin 112:12,15 benefit 129:6 156:1 156:6 172:8 173:6 173:15 186:16 benefited 65:23 benign 87:16,19,22 benzene 183:21 Berberine 152:25 153:2,4,6,12,17 153:24 154:3,4,5 154:15 164:13 best 25:17 47:8 60:4,12 107:11 112:25 189:6 192:9 Betsy 3:13 4:17 better 9:20 14:13 14:13 25:25 32:15 33:18 34:23 35:11 35:16,17,19 36:9 36:22 37:5,12,14 37:20 40:2 49:22 52:1,1,7 59:25 60:1 69:21,24	75:17 76:17 85:17 85:23 86:2 90:9 105:1 106:18,19 111:25 122:18 129:24 131:12,14 131:15,20,21,23 149:19 157:5 165:5 179:3 181:2 191:4 Bevacizumab 100:18,20,21 101:17 105:2 111:14 114:6 beyond 16:12 59:23 90:24 95:12 168:18 big 87:5 158:19 159:19 185:1 bigger 112:10 binding 143:19 binds 102:12 132:11 141:23 bioavailability 61:20 biochemical 81:1 98:10,11 101:25 102:7 134:14 146:7 156:16,17 181:1 biochemicals 80:2 bioguide 57:4 biological 72:23 73:7 biologically 141:21 biology 40:16 BioMixx 58:11 138:21,22 139:2 151:16,23 152:3 153:8,13 154:13 154:16,24 157:23 158:8,15 159:11 159:14 160:5,23 162:12 164:9,18 165:3,4 171:22	172:5 biomolecular 57:4 138:9,15 150:9,16 150:21,24 151:24 152:1 biopsy 71:11 biostatistician 162:7 biotech 27:18 Bio*Shark 58:10 62:17 88:14,17 97:5,8,8,9,18,19 97:23 106:4 114:23 115:1 150:13,16,20,23 bismuth 151:2 bit 13:23 39:24 44:14 89:18 127:16 black 95:21,25 96:5 96:21 127:5 136:3 136:17 bladder 29:20 bleed 125:14 bleeding 16:13 104:4 118:4,6 blind 47:25 48:1 60:14 112:8,15 113:1,4 142:11,21 block 125:1 132:15 143:19 blockbuster 51:13 blocked 61:24 blocks 125:2 134:12 143:23 blood 15:7,7,11,11 15:13 16:8,11,15 16:17,20 19:11 20:2,3,4 28:9 31:21 42:5 46:3 54:17 61:18,23 69:16,21 70:1 73:4,17 75:9,11 78:16,17,19 79:10
B				
B 1:5 38:7 122:11 baby 132:7 back 9:1,24 27:16 28:2 36:1 37:2,16 49:9 69:18 71:22 78:25 88:18 109:24 118:8 137:7,18 150:14 169:19 171:7 179:24 180:22,23 180:24 189:23 background 14:1 27:10 109:20 141:11,11 142:6 backwards 115:7 bad 65:4 69:24 127:8 Badmaev 67:8				

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79:10,16,20,22,25 80:14,15 86:13 88:23,25 98:17 100:22 101:1,5,6 102:1,3,11 104:3 114:13,16 118:2,2 118:5 125:10 126:16 132:13,16 134:18 141:21 180:13 187:13 blue 168:8 blurred 147:1 board 14:25 15:1 15:18,22 16:1,3 18:4 32:9 58:22 159:23 bodies 74:25 body 11:3 16:17 20:4 25:10 30:14 31:20,21 41:19 45:7 46:3 61:16 69:16 70:7,9 80:2 84:8 86:22 87:1 88:10 90:3 104:17 125:9 132:5,9 134:12 155:20 156:5,11 157:24 bone 40:11 42:5,21 71:10 78:13,15,18 78:20,24,25 80:4 80:4 187:11,12,13 book 58:24 120:3,4 120:6 121:1 boron 136:5,6 138:8,14 155:16 Boston 187:25 188:2,3 Botanical 64:9 bottom 65:15 112:2 129:17 Bovine 107:23 Bowling 2:14 3:6 box 95:21,25 96:5 96:21 127:5	brain 19:25 20:21 40:12 54:21,24 69:23 80:7 82:15 82:20 101:13 133:20 153:20,20 153:21,22,22 brand 31:5 brand-new 48:6 break 5:6,10,11,14 61:21 62:11 125:8 167:8 170:4 breakdown 125:1 breaks 138:1 breakthrough 31:6 47:17 51:13,20 52:5 102:21 breast 19:25 21:21 44:4,5,7 49:6,7 54:19 75:5 76:9 77:8 84:20 101:11 105:4 112:20 122:23 123:16 143:21 145:14 185:20 breath 69:19 brief 44:12 64:24 bright 83:23 bring 23:8 42:21 bringing 42:20 British 58:21 63:17 broad 22:23 39:9 190:13 broadened 95:12 broader 89:16 broadest 7:21 broadly 6:15 broccoli 89:25 90:19 bromelain 136:5,6 136:19,25 137:24 138:14 140:5,7 155:16 bronchitis 129:7 brought 22:19	bruise 79:22 brushed 168:23 buckwheat 143:7 Buffalo 171:18,25 172:4,12 build 43:2 building 134:12 burdock 115:9 116:12,23 120:1,2 120:3 130:17,22 130:22,23 131:4,7 131:19,23 business 13:20 173:3 busy 79:4 buy 60:16 99:18 buying 172:25 buys 174:15,16 B-E-V-A-C-I-Z... 100:18 B-I-O 88:14 B12 134:23 <hr/> C C 116:4 133:5,6 148:22 149:11 150:6 caffeine 152:8 157:8 calculations 154:18 California 29:11,18 79:19 call 6:5,10,11,11,14 6:15 12:16 26:23 42:16 44:9,18,19 46:12,17,19 49:13 55:7 61:2 62:6 72:3 87:23 88:3 109:7 115:7 125:10,15 176:19 called 20:9 22:5,12 29:1 30:4 54:13 64:23 70:11 73:3 73:11 95:21 100:13 101:2	102:17,23 107:22 113:5,6 117:12 118:5 123:8 138:1 138:9 144:21 145:4 150:24 152:25 155:21 Caloric 134:8 calories 90:17 116:14,21 134:6 134:11 Camptothecin 123:13 Camptothecins 123:18 Canada 115:6 canal 82:15 cancer 7:16,18,22 8:16,17,18,25 10:6 11:2 12:12 12:14,16,21 14:3 14:5,7,9,16 15:5 15:15 16:9,10,11 16:12,21 18:8,8 18:10 19:4,8,20 19:25 20:1,6,7 21:2,21,21,21 22:5,9,11,12,16 22:18,20 23:2,3,6 23:8,8,11,13,14 26:1,24 27:3,7,11 27:12,13,19 28:9 29:4,20,20,21 30:12,16 32:12 33:1,16 38:22,25 39:10,11,12,20 41:8,12,13 43:9,9 43:11,21 44:4,5,7 44:21,22 45:1,14 45:17,18,24 46:21 46:22,25 48:3,8 48:12 49:6 51:16 51:16,20 52:18,20 53:5,13,14,15,18 54:18,19,20 55:14	56:24 57:10,16,18 59:8,13,20 64:23 65:3,6,21 68:4,20 68:21,24 70:12,15 70:16,22 71:1,3,7 72:13 74:13,14,16 74:17,24 75:5,8 76:4,5,9,12,22 77:2,8,25 78:1 84:17,20 86:22 87:5 88:7 89:21 90:10,13,20 91:2 91:4 94:2 95:4 97:10,20,24 101:8 101:10,11 102:1 103:2 105:4,4 107:5,8,22 109:20 109:22 112:6,20 112:20 113:11,19 114:4 118:11 119:25 121:11,13 122:20,23 123:15 123:16,16 125:24 125:24 128:9,11 128:12,15,16 129:18,19,24 130:2,14 131:9,9 131:13,13,18 134:17 139:11,12 141:6,19 142:19 142:25,25 143:13 143:15,21,25 144:4,24,25 145:5 145:13,14 146:11 151:10 152:23 153:22 155:13 157:24 159:19 160:25 166:5 167:3 169:7 170:13,15,17,22 170:22,22 173:9 175:3,11,22 176:12,13,20,25 177:10,12,14,16
---	--	---	--	--

177:19 178:6,16	25:20 32:8,19,22	189:22	86:13 89:22	40:12 44:22 46:13
178:17,25 180:23	47:22,23 55:3,11	Cassileth 58:25	101:10,24 102:1,8	50:24 53:5,5,5,6
181:1,2,6 182:8	55:13,14 58:22	119:16,17 120:9	102:8,20,22 103:1	61:23 71:8,9
182:15,18,19,20	86:10 88:2 91:16	120:17 121:1,7	104:16 113:11	72:24 75:9 77:16
182:21 183:14,15	95:4,5 109:2,5,11	135:4,9 141:10	117:17 131:18	82:17,23 84:19
183:18,20,21,24	110:4,19,20	152:12,19 157:16	144:24 154:7	89:20 90:3 96:17
184:1,2,10 185:7	188:15	catch 156:14	156:5 169:6 177:1	119:5 124:21
185:9,19,20,21,23	career 12:10 20:13	category 88:13	179:17 182:25	129:22 130:11
186:1,1,3,5,7,9,25	20:24 21:14 22:1	177:13	185:7 190:7	132:20 143:18,24
187:4,23 188:4,12	22:2 27:15 32:11	Catrix 107:22	cells 16:17 29:14,17	158:23 162:23
189:19 190:7,9,10	184:7	cat's 115:9 116:12	31:21 35:7 41:19	175:17 182:25
cancers 15:8 29:20	careful 55:11 127:9	116:24 117:9,10	41:22 42:6,7,18	certainly 74:20
40:4 84:20 101:20	155:9	120:5	44:21,22 45:1	113:7 127:14
182:23 183:1	carefully 43:15	caught 52:13	49:10 70:10 71:9	137:7 149:15,24
184:2,8,17 185:5	55:12 81:3 128:21	cause 15:4,6 29:16	71:20,23,25 72:3	160:18 183:13,23
185:24	161:4 163:24	35:5 44:23 45:10	72:5,6,25 73:4,16	certificate 193:1,11
candidate 45:19	Caribbean 179:23	80:3 104:3,4,4,6	73:24 74:4 75:4,8	certification 15:18
candidates 25:18	189:12	118:2,3,4 123:3	75:12 76:12 77:2	15:22,23 16:1,4
26:20	caring 87:5	125:14 127:21,24	78:3,4,13,14,16	16:25 17:6,9,12
Canyon 128:19	Carole 3:5 6:10	127:25 141:23	78:16,17,18,25	17:15 192:1,16
capital 4:15	carrier 55:18	143:16,23 183:18	79:7,15,16,20,25	certifications 14:20
capsule 64:24	carriers 55:15	183:21,22,24	80:5,7,8,10,15	15:1 17:5
148:1,11,12	180:16	184:3,6 192:8	82:11 88:23 102:2	certified 14:25 16:5
capsules 147:20,25	carries 69:16,18	caused 31:22 33:21	117:18,18 118:4	16:6,23 17:3,4,16
148:4,7,8,12	cartilage 7:19	175:23	120:14 128:12	17:21,24 18:5,10
carbohydrate	12:24 88:19,21,25	causes 40:16	131:9 132:12	32:9
135:7	89:3 98:2,9,13,14	104:10,11 133:20	143:13,15,17,23	certify 18:7 192:6
carbohydrates	98:18,23,24 99:10	181:1 183:14,15	144:25 153:18,20	192:18 193:3,9
116:14,16,21,24	99:12,13,14,20,21	183:17 184:1,4	153:21,22,22,24	cervical 182:25
117:2	99:25 100:2,8	causing 114:16,17	169:5,7 176:20,21	183:18
carbon 69:18	107:23 108:2,3,12	127:3 130:15	center 18:14,15	chairman 20:17
carcinogen 129:15	108:25 110:6,11	144:25	19:1,7 27:11	chance 35:13 36:9
carcinogenesis	110:17,24 111:8	cautious 96:16	38:22,25 159:19	36:21 40:25 61:1
141:18 142:3	112:13,18 113:9	cavities 45:7	centers 11:3 22:5,8	183:10 189:20
carcinogens 129:22	114:3,3 162:19	cavity 29:5,5	22:9,12 23:6,13	chances 36:1
183:24	114:3,3 162:19	187:12	23:14 27:12 59:8	change 21:14 22:1
carcinoma 102:20	165:6,8,10	CDU 136:19	59:21 109:21	22:2 194:6,9
102:22 103:1	case 4:19 6:4 9:14	cease 134:25	159:16 180:23	changed 139:1
104:16 182:25	10:23 18:9 43:20	cell 20:3 21:20	central 40:11 81:7	changes 48:17
cardiovascular	60:13,14 107:18	30:12 35:2,3,6,7	82:12,16 84:10	80:16 149:3
104:6	107:20 129:23	38:7 45:1 48:3,8	century 51:19,21	185:22
care 12:16 20:21	156:12 180:15	48:12,12 54:19	certain 6:18 25:1	Chapter 2:5,8 4:20
22:15,24,25 23:5	192:3 194:3	72:1,2,4 73:17	27:1 29:13,15	6:24 7:12 8:22
23:7 24:17 25:19	cases 7:25 24:7	78:3,22 79:13	38:4 40:8,11,11	10:24 56:16 57:2
	77:16 182:22			

57:4,12,21 58:7 59:3 64:16 88:1 88:12 89:5 90:21 148:17 174:3,6,9 174:21 192:3 194:3 charge 22:7 chart 106:10 113:22 charts 34:10 check 57:24 137:15 cheese 124:15 chelator 141:21 chemical 77:12 88:9 89:20 102:9 144:21 166:11,20 167:17 chemicals 123:9 130:15 183:21 chemo 48:6 65:1 113:13 128:13 131:23,23 164:22 176:6 188:11 Chemoprevention 142:2 chemopreventive 141:20,25 chemotherapeutic 26:14 82:6 87:7 123:11 124:7 125:2 126:11 141:20 175:17 176:20,22 177:21 180:8,11,18 chemotherapies 190:16 chemotherapy 10:10 26:23 30:16 31:7,22 32:1 34:20 35:15 37:6 37:21 39:21 45:19 47:13,14 48:2,5 54:18,23 59:24 60:7,11,17 65:4,4	74:21 75:6 81:8 82:14,25 83:1 84:8,24 85:2,10 86:11 101:9,12,19 106:19,19 113:15 121:15 122:17 131:20,20 144:13 158:5,7,12,17,25 159:12 161:1 165:11 173:14 179:22 180:1,5 183:7,11 190:5 191:3,5 chew 129:19 Chicago 27:16 chicken 86:4 chief 28:6 child 75:2 79:3,7,17 83:2 85:22 180:14 childhood 184:4,8 children 22:15 38:24 39:3,20,21 40:7,8 41:10,13 79:14 82:4,10,13 83:3,6,15 84:25 85:19 129:7 179:4 179:10 187:2 Children's 19:11 China 181:14 Chinese 141:4 166:23 170:3 181:25 182:2 choice 28:2 183:6 cholesterol 116:22 126:8 135:8 chop 130:7 chopping 98:9 Chris 4:18 Christian 174:10 Christmas 24:22 CHRISTOPHER 3:12 chromosomal 74:1 chromosome 73:8	73:9,9,11,13,15 73:18,21 74:3 76:9 chromosomes 80:21,23 chronic 73:3,7,12 74:9,25 80:22 175:22 circulating 75:8,11 76:12 77:2 circulation 146:4 circumstance 41:18 circumstances 90:3 cisplatinum 90:19 citation 141:14 citations 56:15 cite 120:2 cited 66:18,19 119:15 120:7,11 121:4,6 135:4 142:4 cites 161:25 City 19:12 claim 66:8 107:3 113:6 122:19 164:17 170:21 172:8 claims 6:17,25 7:2 7:13 8:1,14,20,21 9:4,10,11,13,17 10:4,12,16 62:16 62:18 97:17 121:13 clarify 9:12 17:2,22 50:17 91:5 94:7 94:11 194:7 class 8:7 31:25 88:2 88:3 123:14 176:24 177:6 classes 88:7,8 176:18 classical 176:19 177:3 classifying 88:11	claw 115:9 116:12 116:24 117:9,10 120:5 clear 28:25 129:9 148:11 clearly 36:21 147:18 149:10 150:1 clinic 21:17 22:7 33:16 49:21 55:19 112:12 188:6 clinical 20:18 21:3 22:13,15,17,21 24:10,25,25 27:20 29:7 30:1 31:12 33:4,10 38:15,17 40:14,15 46:9 50:3 53:4 55:3,4,9 55:10,16,21 58:16 58:17,20 59:12 68:1 74:10 78:7,9 80:13,17 83:10 95:13 106:11 107:14 109:15 114:18 119:24 128:20 129:17 139:9,18 142:11 142:22 144:3 154:12 159:10 169:21 clinics 22:8 23:20 33:2 clip 156:15 clog 132:13 clone 42:7 close 112:6 119:3 clot 69:23 118:5 132:16 clots 16:15 125:11 138:1 clotting 16:14 clubs 151:12 code 188:6 coffee 110:6	cognitive 84:6 colleagues 14:15 86:1 collect 164:25 colon 16:21 18:8,8 18:9 21:21 43:8,9 43:9,11,15 45:24 90:20 105:3 107:4 107:8 123:15 134:17 141:17 142:3,18,25 144:24 colonoscopies 43:12 color 149:17 colorectal 45:18 54:18 68:4 101:8 112:20 139:12 185:19 colored 136:16 coloring 171:4 combination 35:18 73:21 191:4 combinations 65:1 190:16 combined 16:3 17:5 18:5 175:21 combining 176:10 come 8:12 26:12 33:5,13,19 36:1 59:18 64:15 72:17 72:23 109:23 160:20 171:23 172:8 182:10 189:23 comes 23:12 37:2 37:16 117:11 152:13 coming 34:9 49:9 59:10 comment 52:12 comments 92:23 117:9 Commission 2:2,13
---	---	---	--	--

3:3 192:9 193:16 common 21:24 39:19 182:9,11 commonly 21:4,6,7 152:20 176:21 community 159:18 comorbid 85:7 companies 30:3 83:19 93:19 127:1 156:16 company 12:25 13:2,4,5,6,8,10,13 13:18 27:18,22 28:5 29:1,3,10,18 30:2,9 55:17 57:6 59:22 111:9 113:5 137:13 160:12 comparable 119:2 compare 39:6 84:16 108:24 119:12 149:13 compared 41:11 51:24 160:24 comparing 47:20 119:11 comparison 51:4 109:14 competent 10:3,11 12:20 61:2 90:11 97:16 114:2 122:2 131:16 142:20 154:10 173:6 175:10 178:6 complain 79:3 complains 85:14 complaint 7:8 10:13,14,19,22 11:9 12:1 57:3 63:1,4,5 complement 7:22 Complementary 63:19,23 complete 17:25 39:21 107:24	111:3,17 146:15 160:6 166:10 completed 81:19 completely 52:10 103:8 183:5 completing 18:3 31:12 completion 106:1 163:19 complex 68:23 122:11 152:4 162:15 165:17 169:16,18 complexity 164:4,6 complimentary 7:21 12:16 58:24 103:20 110:1 115:5 121:12 122:2 123:7 173:11 complimentary/a... 66:7,17 component 62:2 166:20 components 116:11 116:17 118:19,21 119:14 129:5 137:24 153:7,13 167:9 170:4 composition 88:9 compound 61:20 68:6 146:4 162:15 162:16 164:4,5,6 compounds 7:15 49:21 59:2 135:10 151:22 169:4,16 comprehensive 14:16 22:24,25 23:7 24:17 concentration 153:23 concentrations 60:8,9 concept 122:5	139:20 171:8 concepts 5:3 concerned 124:20 concerning 142:10 concerns 95:22 185:10 conclude 50:22 conclusion 50:19 160:21 178:19,20 178:21 conclusions 154:14 172:17,18 178:22 concurrent 108:1,2 108:3,4 109:7 condition 33:10 57:11 73:3 77:16 145:5 conditions 26:12 77:17 85:7 119:3 conduct 30:2 59:12 confident 51:8 confidentiality 6:22 59:22 confirm 194:7 confirmed 110:14 confusing 17:23 129:11 congestive 25:2 connected 73:15 186:3 consent 26:6 38:10 159:21 consider 23:23 46:14 77:23 114:2 considered 16:20 25:18 79:5,9 112:16 constantly 14:14 72:5 constipation 127:24 128:1 constituent 135:7 constituents 135:6 constraints 55:6	consultant 30:10 31:2 Consultants 28:11 29:2 consultation 179:25 consulting 28:5 31:3 consume 133:14 contact 30:4 contain 90:14 152:3,22 contained 67:16 153:6 192:6 contains 116:3,20 116:23,25 117:1 123:9 133:5 138:9 138:10,15 150:15 150:23,24 151:1 151:23 152:7 154:13 165:5 content 135:7 147:13 continue 27:8 86:9 181:5 continuing 32:17 66:3 contract 6:22 28:21 29:24 30:4 159:9 159:15 contradicts 92:7 control 39:2 51:25 109:8 158:4 controlled 35:8 36:4 48:1 60:15 109:2 112:8,14,23 113:1,4 142:11,22 161:2,4 conventional 7:22 7:24 24:8 26:13 26:17,18 34:20 47:2,10,13,14 59:24 60:7,17 88:5 89:15 122:17	131:13 144:13 190:11,15 convert 125:3 156:3,12 converts 155:22 coordinators 33:15 copy 11:25 Cornell 19:5,6 corporation 2:5 correct 18:18,21 43:23 72:22 94:1 98:4 115:19 121:5 139:6 194:6 correction 194:6,9 corrections 193:5 194:5 correlate 118:24 cost 49:17,23 55:4 55:16 105:10,16 105:25 123:25 158:18 159:4 160:11 161:16 163:1 costing 163:15 costs 105:21 123:24 Council 64:9 count 79:10,10 80:16 counteract 80:3 104:11 123:10 countries 187:22 country 54:6 55:22 counts 86:13 county 30:22 couple 61:6 123:20 163:8,10 course 38:9 70:13 72:17 80:18 103:19 133:8 137:13 149:2 150:1 151:18 courses 173:13 COURT 2:1 cover 5:3 55:4,18
--	---	--	--	--

<p>161:18 coverage 25:25 83:20 covered 54:5 covering 55:15 covers 16:9 58:23 covert 81:23 created 28:5 115:22 credentials 14:22 credible 92:24 178:9 criteria 24:19,22 25:2,6 33:7 38:8 51:10 106:23 145:17 critical 93:1 criticisms 93:3 criticized 93:17 CRO 160:10 crowding 78:20 crowds 78:15 CRs 111:17 crude 88:19 98:9 99:12,20 107:23 114:3 cryotherapy 183:4 CT 71:10 Cuba 110:13 curable 182:21 curative 51:18 curcumin 68:1,6 138:2 139:4,10,21 140:1,3,4,8,9,13 140:20,21,23 141:9,11,13,17,19 141:22 142:1,3,5 142:9,12,20 165:24 166:5,8 167:11,12,24,25 169:22 175:18,18 175:21 176:3 Curcuminoids 67:9 67:24</p>	<p>cure 40:1,7,9,10,25 81:15 84:21 122:19 128:11,14 128:16 184:5 189:16 cured 65:5 81:21 83:21,23 179:5,8 179:17,20 180:24 182:22,23 183:5 cures 182:17,19 curing 170:22 178:8 181:6 current 52:2 182:15 currently 30:9,14 curves 84:22 cut 41:16 117:22 181:7 cutting 143:9,10 CV 6:20 28:24 cytotoxic 176:19 177:3,22 178:2 C-A-M-P-T-O-T... 123:13</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 1:1 4:1 122:11 daily 116:3 122:9,9 136:7 148:5 151:6 154:19,25 155:4 171:13 dairy 124:15 damage 84:9 133:20 176:21 183:25 Dana 58:15 dandelion 150:25 dangerous 123:1,6 129:2 Daniel 2:5,8 4:19 6:24 7:12 8:22 10:24 56:16 57:2 57:4,12,21 58:7 59:3 64:15 88:1 88:12 89:5 90:21</p>	<p>148:16 174:3,6,9 174:20 192:3 194:3 data 34:9 67:19 68:12 83:15 108:14 114:2 119:23 122:2 128:9 131:17 139:16 154:9 160:7,22 161:2,20 161:21 164:25 169:20 database 64:4 108:7,15 date 12:3 82:9 192:4 194:2 Dated 192:11 David 57:24 day 5:4 21:19 52:7 58:3 71:14,15,17 71:18 112:18 132:8 134:18 147:15,16 148:5,7 148:8,13 152:15 152:16 153:3 154:17,21 180:18 187:23 193:11 days 82:13 DB 112:14 DCO 1:7 59:3 66:1 66:12,20 89:5 115:10 135:20,22 147:10,13 148:5 152:10 153:16 158:11 172:7,21 172:25 174:16 175:2,5,12 178:5 dead 156:13 deal 19:17 93:6 176:12 dealing 9:6 death 44:23 72:2,4 79:13 144:25 decide 24:19</p>	<p>106:17 118:17 decided 110:11,13 116:9 127:13 180:7 decrease 40:21 85:12,12 112:5 123:5 124:3 129:14,21 159:1 162:20 164:2 178:16 184:12 185:8,8,12,16,18 186:7 decreased 79:25 180:10 185:22 decreasing 114:13 158:16 178:7 defect 73:7 180:12 defects 83:14 84:7 183:16 DEFENDANTS 3:10 deficiencies 14:12 24:13 70:5 deficiency 122:13 141:23 175:24 180:17 deficient 122:12 134:19 175:22 define 106:20 defined 145:15 definition 7:21 delay 85:12 demonstrate 142:19 demonstration 36:23 denied 47:22 Denis 1:3 4:10 193:8 194:1 deny 178:3 department 19:9 20:17 64:5 depend 39:8 161:17 depending 54:9</p>	<p>79:11 184:9 187:3 depends 20:13 23:17 26:15 39:24 47:7,25 52:22 81:16 122:15 130:19 133:2 158:19 159:5 160:22 DEPONENT 193:1 deposition 2:19 56:18 depositions 13:16 depressed 24:16 25:21 depth 7:14 derived 177:21 178:2 describe 14:4 15:3 22:25 77:20 78:6 119:20 127:19 129:3 132:1 137:22 143:4 144:19 150:21 170:19 described 10:18 11:20 21:9 44:9 47:16 52:20 61:7 76:6,11 98:21 126:19 142:15 describing 96:24 DESCRIPTION 1:6 design 59:12 60:19 106:13 158:2 designed 30:12 87:21 88:3 91:14 112:25 116:9 126:4 161:4 designing 32:13 desire 26:3 desk 96:3 desperate 173:16 189:8 destroy 68:22</p>
---	--	--	--	--

destruction 29:17 35:5 destructive 10:9 157:24 158:6,16 178:17 detail 88:16 Detailed 97:4 detect 74:2 169:11 detected 43:22,25 77:1 146:23 detectible 70:24 71:9 detection 42:5,8 43:17 73:23 87:8 146:7 determination 34:1 determine 9:9,11 10:2 27:4 46:7,16 97:15 151:5 determined 9:5,13 180:4 detoxify 180:11 develop 16:15 32:7 34:24 43:10 73:10 74:15 82:20 123:25 134:24 190:3 developed 31:5 43:8 115:6 163:22 181:18 developing 27:18 29:3,11,19 44:6 75:13 77:8 82:8 93:7 95:20 124:20 132:18 142:18 169:2 170:15 185:23 development 22:19 26:22 28:8 29:7 31:4 72:25 106:1 113:18,19 125:17 163:22 169:10 181:2 182:11 devoted 178:24	diabetes 85:6 126:7 diagnosable 72:12 diagnose 91:13 189:19 diagnosed 23:2 46:25 51:17 76:21 77:3 182:24 185:19,21 187:6 189:20 diagnoses 188:7 diagnosing 12:11 diagnosis 15:4,7 21:1,11 33:8 41:20 49:2 64:24 70:22 71:6 80:19 81:6 91:13 107:11 109:22 110:15 185:19 187:24 188:5 diarrhea 118:3 127:25 128:2 146:25 die 71:21 74:15 86:12 143:23 145:1 186:19 died 65:6 179:6 dieing 72:3,6 diet 76:2,4,5 121:12 134:11,17,23 151:13 156:2 157:2,3 171:14 dietary 77:5 122:5 122:14 141:17 142:3,4 171:2,11 171:12 185:10 diets 90:16 difference 36:3,20 39:1 60:21,25 75:25 125:21,25 126:3 171:23 differences 44:17 105:6,7 112:22 113:16 160:23 162:7,9	different 10:21 11:1,2,5 16:17 22:8 28:25 30:18 30:21 39:10 43:23 45:5,6,7,12 46:2 47:7 49:11,21 57:5,9,17,19 58:10,17 59:2 71:19,19,20 79:11 86:25 88:7,8 89:18 95:16 99:25 101:20 102:16 103:3,8,9 107:21 114:10 116:11,23 118:19 119:14,18 122:10 127:20,21 128:13 132:23 135:10 138:11 141:1 143:9,12 146:24 147:18 160:4 162:12,13 162:16 164:9,19 164:23 175:6 183:15 184:9 188:7 190:7,15 differentiation 87:24 differently 76:24 difficult 40:10 104:18 163:25 165:1,17 169:17 179:2 difficulty 164:3 diminish 178:25 diminished 104:13 184:8 dioxide 69:18 direct 32:22 directed 48:7,13 directing 22:17 102:9 135:23 directions 96:2 directly 45:6 82:25 director 22:4,6,10	disabilities 83:8 disappear 128:14 disappearance 45:4 disappearances 87:12 discard 51:1 discarded 50:25 discontinued 36:1 discover 126:20 discovered 50:6 101:7 181:13 discoveries 129:4 discovery 150:2 182:14 discuss 138:20 186:21 discussed 36:12 138:17,19 139:1 144:8 150:10,11 150:12 165:18 discussing 27:9 65:14 68:16 116:6 171:2 181:22 187:2 discussion 97:4 135:3 137:4 150:7 150:18 152:7 155:17 171:9 172:5 disease 15:11 23:19 23:22 24:6 25:9 25:10 30:19 33:9 33:22 37:2,4,16 39:25 40:16,17 41:1 42:17 43:24 46:24 49:4,6,9,11 49:12 52:5,13 53:5,6 57:10 58:17 60:2,17 61:4 65:3,8 70:11 70:12 71:3,7 73:20 74:25 75:13 75:18,22 76:1	77:20,20,24 78:5 78:11 79:12 80:1 80:13 81:1,14,16 81:20 85:8 86:7 88:4,4,4 104:19 106:21 107:2,2,3 107:7 109:23 111:5 145:14 158:12,15 173:8 173:12 175:22 180:21 181:24 183:12 189:16,25 diseases 15:7,8 28:9 32:15 40:6 43:21 51:15 57:10 70:5,9 74:21 106:21 141:5 dish 44:20 88:23 98:14 154:1 disorder 124:25 disorders 15:16 16:13,14,16 57:17 69:13 126:7 141:5 disprove 60:24 disproved 175:8 dissolved 73:10 distinction 134:7 distributed 61:16 DISTRICT 2:1 divided 15:25 dividing 71:25 72:6 78:23 79:12 102:3 143:17 division 19:9,14 20:17 169:7 DNA 156:22,23 157:1,1,2,3,6 171:22,23,24,24 171:25 Docket 2:5 doctor 52:19 127:15 doctors 23:8 24:5 33:2 54:4 57:15
--	---	--	--	---

85:12 110:8,9 127:7 159:16 188:6,9,14,15 document 9:17 36:15 57:13,20 149:6,9,20 documents 7:11 64:14 66:2 92:6 159:22 doing 5:16 12:14 13:6 19:17 21:8 28:4 31:2,3 42:6 52:19 59:14 89:4 110:5,10 114:13 187:10 dollars 49:23 105:19 106:1 163:10,20 189:15 domain 13:14 dose 27:5 45:13,22 46:8,11,12,15,17 46:18,20 47:4 60:4,12 77:14,18 77:18 110:25,25 112:16 113:8 119:4,5,6,7,9,10 127:23 128:1,1 132:8,20,25 144:4 145:7,8,9,9,10,19 145:23,24 146:10 147:1 148:5 152:11,11 154:25 155:4,5,8,8,9,10 155:12 158:8,13 180:17 186:16 doses 45:5 46:10 96:25 117:14 127:21,21,22,23 127:24 128:3 132:23 146:21 147:9 154:19 158:11 180:1 double 47:24 48:1 60:14 112:8,14	113:1,4 142:11,21 161:22 162:4 download 92:6 Dr 1:3 4:1,8,17 5:17 6:1 63:25 64:2 66:23 193:8 194:1 draw 93:13 dreaded 186:25 dream 188:9 drink 115:18 117:7 143:7 drinker 85:5 drinking 186:4 drug 9:6 26:21 29:3 29:9,11,13,19 30:7 31:5,6,13,23 33:7,17,21 34:3,3 34:5,11 45:5,9,21 46:1,20 47:8,25 48:12,17,21 49:24 51:18 52:6 53:2 53:13 54:3,10,13 55:17,17,25,25 59:1 61:11,15 62:6 73:14 77:11 77:11,12 81:12 88:5 89:2,15,18 89:18 90:7 93:1 93:11 95:11 96:1 96:3,4,6,9,11,13 96:17,23 100:13 101:7 102:25 103:12,13,19 104:11,13 106:2 106:18,18 114:13 121:9,11 123:14 123:17 124:16,18 124:20,22,24,25 125:7,8,12,12,15 125:16,19,22,24 126:5,6,11,24 127:2,8,9 129:1 130:3,18 132:23	155:8 176:11 180:11 182:15,22 drugs 8:8 27:1 30:25 32:7,8 50:13 51:14 52:20 53:20,21,22 55:7 55:16 61:25 81:9 81:11,14 84:13 87:17,21 88:1,8,8 88:13 89:6,13,14 93:7 94:4,11,21 94:22,23,24 95:9 95:15 100:10,12 102:16 114:9 118:12 119:22 124:8,19 125:6,20 126:13,14 164:22 169:3 170:16 171:2 175:19 176:9,10 177:6,13 180:9 181:3 190:6 Duke 64:1,2 duly 4:2 duodenal 141:17 duration 31:9 35:14 Dying 185:14 dynamic 12:4 68:15 dysfunction 83:8 96:10 126:9,11 D-E-N-I-S 4:10 D.C 3:16 <hr/> E E 1:1,5 3:13 4:1,1 eagle 171:25 earlier 26:22 52:13 81:12 87:8 109:21 126:12 138:17,19 145:7 163:18 168:8 185:19,20 earliest 79:2 early 26:25 43:12 43:17 53:21 80:13	82:13 87:8 134:17 163:22 182:24 183:4,6,10 185:21 189:19 190:3 ease 170:8 easier 164:16 easily 79:22 East 4:11 easy 179:2 eat 90:5 143:7 echinacea 68:9 152:4 154:16,19 154:22,23 editor 92:18 editorial 58:21 92:15 educated 180:6 effect 7:24 16:16 33:20 34:18 35:7 46:3 60:8 62:7,7 72:8 81:11,13,13 83:2,5 85:4 96:14 104:11,12 114:4 117:16,20 118:4 119:4,6,6,8 124:4 126:18 127:13 131:6,8 132:1,4 132:20,25,25 133:16,19,19,22 133:23 134:2 139:14 142:1 153:20 158:16 164:21 165:13 177:6,12,13,16,19 178:7 185:23 186:23 effected 25:10 34:14 83:3 effective 8:2,17 10:6 12:13 24:2 25:14 27:5 30:15 38:20 45:17,24 46:8 47:11 51:18 75:20 86:13 97:9	97:19,24 105:2,5 123:10 127:6 128:18 142:23,24 144:16 170:12,17 170:21 177:7 182:12,16,17 183:13 186:23 189:14 190:1,24 effectively 23:3 effectiveness 108:20 123:4 effects 8:18 10:8,9 14:8 40:22 46:2 46:14 60:1 69:24 82:22 83:8,13,13 84:8,10,12,15 85:10,14 86:10 90:14 95:10,14,18 95:20 97:1 103:18 103:21,22 104:6,8 104:8 108:15 117:25 118:7,7 122:13 123:3,10 125:5 126:20 127:21 128:3,7 129:18 130:14 133:1,4,7,17 134:3,4,8,14 141:16 144:5,6,7 146:20,25 158:6,7 158:13,16,24,25 159:2 160:1,4 161:1 164:2 169:14 176:5,6,9 176:14,23 177:3,8 177:10,14 178:17 179:1,22 180:22 181:8 efficacious 122:1 128:23 efficacy 40:21 47:5 60:11 61:12 119:10 145:21,25 173:7 175:10
---	--	--	--	--

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effort 21:17 50:5	enlarged 79:7 80:9	estrogens 143:20	examined 4:3 43:13	29:1 58:6
eight 27:23,24	enroll 111:6	et 141:16	193:3	expertise 14:24
62:14	enrolled 38:16,24	Europe 31:13 54:3	example 7:19 29:2	28:7
either 16:1 20:16	55:9 111:16	European 54:4	33:1 48:3 71:22	experts 58:7 67:14
24:4 28:20 35:8	enter 50:7	evaluate 8:21 22:20	73:2 75:5 78:1,10	EXPIRES 193:16
46:17,21 48:4	entering 30:22 50:7	34:7 111:21	106:17 107:20	explain 19:24 98:5
60:7 77:13 82:12	entities 58:17	145:17,25	121:5 132:6 133:3	98:6 151:24
82:21 110:2,15,22	165:15 166:11	evaluated 36:21	139:13 141:13	explained 187:4
112:15 113:13,15	167:17,20 168:5	55:13 103:5	144:24 185:7	exposed 95:17
116:18 125:24	168:17	140:23 144:9	189:18	185:16
129:18 146:5	entity 28:12 57:18	147:9	excellent 104:10	express 48:15,16
153:20 173:3	165:21 181:24	evaluating 32:14	185:20	expressed 38:6
181:7	environment 22:3	evaluation 27:2	excised 43:13 183:5	42:2 78:1
elaborate 61:8	environmental	61:11 106:25	exclude 177:21	expressing 74:1
elected 112:6	183:23 185:11	125:22 126:4	excluded 96:12	expression 143:24
elements 77:7	enzyme 137:25	evening 5:18	excreted 45:11	extensive 57:9
138:16 151:1,7	138:1,2 180:12,16	event 33:25,25 34:2	61:17 89:19	58:14
Eleuthero 150:25	180:17	events 35:5 126:23	164:20	extensively 56:13
eligibility 25:1	enzymes 143:18	eventual 31:4	Excuse 100:16	extent 49:12 52:12
30:23 33:7 38:8	152:5 156:3,11	eventually 42:25	executed 193:11	166:4
106:23	epidermal 114:8	53:16 127:4	exercise 185:22	external 183:17
eligible 25:7 33:6	epithelial 114:9	everybody 183:7	exhibit 135:14,20	extract 59:18 60:23
33:12	equal 162:5	188:18	149:6 150:8	extrapolate 153:25
eliminate 10:7	eradicate 75:2	evidence 7:1,13	exists 91:15	extremely 146:21
elm 115:13 120:22	eradicating 75:1	10:3,11 12:20	expand 63:21	164:11
empowering 36:20	erectile 126:9,10	45:4 47:9 54:1,20	expanding 103:16	
empowerment 26:9	errata 194:5	61:2 62:16 67:20	expect 189:10,10	F
empty 67:17	error 194:6	75:18,21,21 76:16	expectancy 145:15	F 67:8
125:24	errors 194:5	90:12 97:16	expectant 160:1	fact 34:6 107:8
encountered	escalate 145:10	110:22 111:3,17	expense 49:22	137:16 163:23
126:21	escalation 111:1	112:9,10 114:15	expenses 55:19,19	186:21 189:8
ended 11:21	145:7	131:16 166:16	55:20	factor 54:16 100:22
endothelial 101:3	Esophageal 186:4	173:7 175:10	expensive 105:22	101:1,2,3 114:8,9
102:2,8	ESQ 3:4,5,11,12,13	178:6,10,23	105:23 164:11,23	117:24
ends 50:20	essential 151:6	190:23	189:12	factors 39:25,25
enema 151:9	Essentially 96:20	evolved 72:21	experience 6:19	117:19 183:22,23
enemas 110:6	Essiac 115:7,8	exact 36:16 63:2	21:14 59:6 82:2	183:23
energy 155:18,22	establish 47:4	173:1,4,20 184:20	98:24 189:24	facts 141:8 147:22
156:21	108:20	exactly 10:20	191:2	147:23 194:7
engaged 14:14	established 46:16	137:21 140:11,14	experimental 47:1	faculty 19:14
50:21	51:9 80:19 81:5	141:2 151:21	55:7 119:3	failed 25:3
engineered 128:22	106:16 146:17	exam 36:24	experimentation	failure 25:2
England 58:20	155:14 175:25	examination 1:2	182:14	fairly 61:8 165:19
92:18,20	estimated 25:8	4:4 18:4 38:9	expert 4:23 28:11	fall 88:8
				familiar 63:11

117:4 118:9,10 122:5,8 124:8 family 43:7 fancy 73:21 far 25:9 92:4 100:7 Farber 58:15 farm 96:16 faster 78:15 125:8 fat 116:14,21 135:7 father 43:9 180:6 180:10,14 fatigue 147:1 fats 116:16 117:2 fatty 76:14 116:24 FDA 29:7 34:4 94:4 94:8,10,25 95:6 95:20 96:15 111:7 118:9,10 123:22 123:23 161:10 165:8,11 feature 26:24 features 45:9 February 2:11 192:4 194:2 Federal 2:2,13 3:3 192:8 feel 36:22 51:8 90:9 111:21,22 122:18 131:11 193:5 Feijo 2:7 13:16 fellowship 18:1,3 19:15 female 145:13 fever 79:21,25 80:3 138:5,5,14 144:17 144:19,21 145:3 145:20 146:10,14 146:25 147:5,10 147:12,23 148:9 148:13 fibrinolytic 138:1 field 41:5 59:7 67:14 94:2 fifth 41:25 71:18	fight 70:7 79:21 fighting 68:20 157:24 178:25 figment 177:11 fill 164:18 filled 34:1 78:18 79:6 filling 80:4 financially 54:7 find 10:11 60:3,11 60:15 66:4 118:22 120:12 121:20 136:8 146:2 149:21,23 151:8 153:13 158:1 160:16 169:8 171:18 172:9,22 173:1 177:2 finding 6:15 50:6 109:4 findings 70:23,23 70:24 97:4 fine 5:8 67:6 93:23 finish 176:16 finished 136:10 finishing 136:11 finite 77:17 fireflies 156:14,19 156:20 first 4:1,25 6:3 17:8 17:17,24 24:24 31:7,13 34:14 45:14 53:8 67:11 75:21,25 77:11 78:2 91:17 94:19 97:17 110:21,23 111:15 112:3 130:17 135:14 137:18 167:19 179:5 five 5:5,20,24,24 37:24 50:7 71:14 73:5 75:11 81:18 81:24 128:16	154:17 167:18 168:17 187:3 five-year 35:22 36:13 84:17,18,21 flatten 84:22 flavanoid 138:4 143:6 flavonols 130:24 131:5 flavor 171:4 floating 20:4 Florida 79:19 flow 114:13 fluid 80:7 83:1 focus 10:22 52:17 focusing 151:19,20 follow 43:15 127:13 followed 37:7 55:12 92:19 111:1 following 62:16 64:19 97:17 108:16 182:9,11 follows 4:3 food 8:8 9:6,6 89:23,24 90:6 100:1,2 121:9 125:19,25 130:3,5 130:6,18 133:2,3 133:14 170:24 171:3,8,8,12,13 foods 8:7 76:15 133:1 134:3,20 171:2,16 force 26:8 foregoing 193:3 foreign 70:8 forestomach 141:17 forever 72:8 forget 86:22 forgot 174:25 form 8:12 145:3 formalizing 11:6	format 192:20 formation 54:17 88:24 89:1 98:17 101:2,5 102:2,11 114:16 129:21 132:16 formed 114:24 151:20 formula 58:11 89:21 114:20 115:3,8 116:20 118:14,21 119:2 119:12 120:11 127:23 130:17 135:4,6 136:12 formulated 10:15 96:25 97:12,13 114:25 116:7 137:20,21 formulations 190:5 Fortunately 41:13 forward 153:16 Foster 68:9 found 109:24 110:5 171:9 177:7 180:15 foundation 19:12 19:17 22:13 27:13 89:9 98:22,23,25 174:14 foundational 9:9 four 1:8 6:24 8:6,15 10:4 58:9 70:14 70:19 73:5 81:18 82:18 97:14 115:4 115:7 120:19 122:25 130:17 135:19,23 148:7 161:23 fourth 42:9,14 71:17,22 four-year 79:4 frank 188:20 free 49:13 93:23	107:15 189:4 frequency 159:25 160:3 frequent 43:11 frequently 55:12 161:7,13 Friday 2:11 friends 57:1 110:4 frightened 187:14 fruits 76:15 FTC 6:11 10:2,19 64:20 65:24 97:15 192:3 194:3 full 14:17 75:7 125:20 146:17 181:19 192:7 full-time 28:14,15 28:17 31:16 function 38:9 81:4 85:4 117:17,18 132:21,24 171:8 Fund 187:25 188:1 funded 18:19 19:10 19:17 funds 19:15 fungus 70:7 86:16 fungus 86:16 further 46:15 68:6 69:5 139:10,17 182:10,13,13,14 191:9 fusion 74:4 F-U-S-I-O-N 74:5
G				
gallium 151:2,9 game 187:13 gamma 70:6 152:4 gammaglobulin 70:10 garlic 150:25 gather 36:12 64:11 GDU 58:10 135:24 136:9 137:18,22 137:24 139:24				

141:15 148:6 150:19,20 geared 57:15 gee 36:22 69:21 gene 44:6 143:13 180:10 183:16 190:9 Genentech 101:7 105:16 general 5:2 17:7 41:7,9 59:17 62:3 67:11 68:17 69:2 76:13 110:18 177:5 194:6 generalize 71:3 generally 41:6,9 49:4 55:8,20 77:12 81:17 84:18 generated 100:20 generation 130:14 183:16 188:4 generic 9:23 100:14 100:17 genes 143:24 genetic 82:21 183:22 genetically 128:22 genetics 80:25 Gentleman's 43:9 German 63:9 getting 30:25 35:15 42:6 47:1 48:2 52:4 55:22 56:7 60:22 83:16,18 90:16,17 108:1,6 109:10 146:23 154:6 157:4,5 158:12 164:24 165:7 180:2,2 188:11 GI 46:4 104:7 Ginsberg 52:9 ginseng 115:10 117:1 119:15	120:8,18 121:4 130:21 152:4 155:16 give 24:1,20 25:16 36:15 39:9 44:12 45:5 47:2 59:15 59:16,17 61:18,20 73:2 82:1,1 83:19 106:7,9 107:11 112:9 118:18 127:9 130:8 133:3 141:14 154:2 160:18 165:10 170:7 174:20 178:23 189:6 191:7 given 25:18,25 30:13 31:7 35:8,9 64:15 65:2,6,24 71:6,14 77:17 82:25 96:6,9,25 128:3 135:22 144:9 146:3,4 148:24 158:10 160:4 187:14 193:4 gives 58:16 giving 77:5,6 96:16 96:17 125:23 134:5 156:1 163:14 164:22 gland 83:3 glands 79:8 glass 44:20 138:12 138:13 glasses 136:20 globulin 152:4 globulins 70:6 glucolysis 155:21 glucose 155:20,22 156:2,3,12 glycosides 116:25 130:12 go 4:23 5:1,21,23	9:24 10:1 13:21 13:25 15:24 18:1 24:21 26:6,9 28:24 37:15,17 38:10,14 41:18 42:15,21 47:13 49:23 53:2,12 54:7 56:10 61:6 61:25 62:8,12 65:3 68:7 72:3,25 73:4,6 85:20,25 86:22 87:10,19,22 88:15 89:21 93:19 97:3 100:1,10 101:22 107:5,8 112:11 114:10,20 118:8 137:7,18 150:14 151:16 164:7 169:19 171:7 175:1 183:19 186:14 187:18 189:5 190:8 goal 46:20 gobbled 117:18 goes 16:11 37:13 49:24 50:9 54:16 73:14,17 87:15 92:4 96:6 100:25 119:18 172:16 going 5:23 8:21 9:8 9:15 13:22 17:19 17:20 24:24 25:4 25:12 26:23 27:6 28:2,3 36:1 38:19 40:17 42:5,25 43:1 46:8 47:22 48:4,17 50:3 51:12 53:20 54:22 55:1,17 60:3,23 62:12 64:8 67:11 68:8 69:22 71:22 77:6,7 81:4,21 86:11 88:15 91:17	94:6 103:7 105:20 106:14,24 110:17 125:9 128:10 131:14 134:1 145:16 149:5 153:25 154:2 155:24 156:23 157:2 163:18 164:15 165:10 169:1 170:20 173:24 174:20 176:25 177:20 178:16 180:3 181:4,7 185:12 187:7 188:24 189:2,3,7,22,23 190:7 golden 152:11 goldenseal 152:4 152:10,22,25 153:1,2,4,5,5,7 154:3,12,13,15 164:14 golf 151:12,12 good 4:6,7 7:19 23:5 43:4 50:13 55:10 63:7 69:25 74:13 80:23 83:16 84:19 90:9,16 93:25 94:3,11,14 100:10 110:19 133:16 136:20 156:5,8 179:11,12 186:5 191:7 Google 58:14 151:4 gotten 7:8 grade 42:22 74:17 160:2 graded 104:9 gram 112:17 grams 69:20 88:20 88:21 118:19 Grand 128:19 grandfather 43:8	grant 19:20 161:11 granted 161:3 grants 18:22,23,25 19:3,7 grasshoppers 171:24 great 19:17 31:18 52:4,14 93:6 111:22 191:6 greater 39:2 71:15 75:12 78:15 96:9 145:16 green 2:14 3:6 90:5 90:6 GREENE 11:15 grind 98:13 ground 11:14 grounds 174:13 group 36:4,4 37:21 37:25 81:23 82:17 82:19 184:17 grow 71:19 growing 71:24 79:6 grown 184:8 growth 8:16,16 10:5 62:17 72:1 78:12,14 83:2,4,4 83:13 97:9,18,23 100:23 101:6 114:8,9 122:20 154:7 170:22 178:7 guarana 152:7 157:8 guess 5:5 34:13 71:1 73:25 105:14 105:21 171:11 guide 57:4,14 63:20 63:23 guy 83:25 guys 84:2 148:19
H				
H 1:5				
half 52:3 75:10				

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<p>hallmark 74:8 hands-on 32:22 hangs 125:4 happen 43:3 69:23 86:12 87:13 124:24 161:9 177:11 happened 38:11 94:2 happening 102:15 happens 69:11 78:17 85:25 95:9 95:18 125:7 186:11 happy 12:19 39:12 44:14 harboring 74:4 hard 55:21 harm 74:12 75:24 90:13 156:6 harmful 122:21 170:10 harms 176:3 Harvard 88:18 hate 162:14 head 20:17 56:1 174:23 186:1,3 headache 80:6 heal 10:8 healing 67:9,23 157:24 health 54:4,6 55:3 55:18 77:24 91:16 100:1,2 110:3 188:15 healthier 69:1,5 Healthwatch 56:21 healthy 71:12,16 74:19 90:18 125:23 hear 6:3 53:12 88:13 91:6,8 126:17 188:12 190:10</p>	<p>heard 12:23,24,25 63:12 83:25 110:2 123:7 Hearing 135:3 heart 25:2,11 46:3 84:14 96:7 132:7 132:18 Heat-shock 143:22 heavy 77:6 Hecht 129:9,12 held 150:7 help 8:25 14:15 28:8 31:21 42:15 52:6 59:11,23 70:6 80:20 87:18 87:21 134:12 156:23 159:5 171:14 186:12,14 186:15 187:10 helped 22:19 29:8 31:22 32:7 103:11 103:12 118:5 helper 117:17 helpful 53:17 54:21 58:24 122:21 154:23 187:9 helping 29:6 30:2 31:12 68:9 178:24 hematologic 15:17 16:10,19 19:21,22 20:3,20 21:8,15 21:16,25 79:24 hematology 4:15 14:25 15:6,21,23 16:2,11 17:8,9,12 32:4 58:21 hematology/onco... 15:19,20 17:18 18:5 19:10 20:18 32:10 hemoglobin 69:16 69:19,20 80:16 hemophilia 16:14 hemotherapeutic</p>	<p>26:17 hepatitis 183:19 herb 58:11 59:1 114:20 115:2,8 116:20 118:14,21 119:2,12 120:10 127:23 135:6 136:11 138:24 177:20 181:21 herbal 115:8,11 150:24 176:5 179:20 herbals 81:13 119:19 herbs 63:9,15 64:6 122:14 138:20 176:8 177:5,12,16 177:17,18 178:4 182:1 high 40:5,6,9 60:8 104:3 126:8,16 142:18 155:18,22 156:21 higher 37:24 44:3 125:13 127:24 128:1 154:20 156:13 highlight 109:18,19 highly 88:20 98:1,8 99:9,12,19 100:5 100:7 180:5 HighWire 58:16 himself/herself 193:10 historical 108:7,15 108:25 109:6 141:11 142:6 history 43:7 141:3 181:19 hit 29:14 Hodgkin 39:14 40:6 Hoffman 31:3,16 34:13 47:16</p>	<p>home 27:16 93:23 honest 176:7 188:20 hooks 73:9 hope 53:25 183:7 183:12 189:3 hopefully 189:16 hoping 145:18 hormone 31:20 83:4 101:23 horrible 51:15 127:12 hospital 19:6 22:4 22:14 33:3,16 52:4 113:10 159:19 180:14 hospitals 22:8 23:20 Hospital-Cornell 19:2,9,18 hour 5:6,7 Houston 113:10 Huang 141:16 huge 11:3 30:11 128:19 160:23 164:24 180:19 186:10 human 27:3 90:12 98:7 128:11,15 130:2 153:20,21 170:21 171:24 humans 128:8 154:11 hundred 49:23 69:20 105:18,25 111:6 163:9,19 173:2 hundreds 172:6,9 172:20,23 hurdles 50:24 hydrated 14:10 hypertension 85:6 125:1 126:7 hyphenation</p>	<p>192:19 hypothesis 60:21 60:24 H-O-D-G-K-I-N 31:10</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>IACOBELLIS 192:23 idea 11:25 45:8,10 45:23,23 76:20 91:24 105:13 116:8 147:5 152:20,21 153:16 155:22 174:16 175:5 176:5 177:8 ideas 10:16 identical 149:18 identification 135:20 identified 46:13 identify 35:3 72:24 75:8 145:18 159:16,20 170:8 identifying 70:8 II 30:14 44:10 46:19,19 47:4,9 47:12,18 53:21 59:23 60:12 62:1 108:18 128:24 145:24 158:20 160:14,15 161:5,7 162:1,3 163:4,5 III 30:15 44:10 47:18,23 48:23,24 49:13,16,25 50:9 53:21 62:1 66:8 108:18 112:14 128:25 160:20 161:14,23 162:1,4 162:5 163:4,19 imaginable 57:10 imagination 177:11 imaging 36:24 55:20 70:23 71:10</p>
--	--	---	---	---

107:7 109:10 111:1 114:14 151:9,10 immune 68:10,20 68:21,22,25 69:12 70:2,3 86:15 117:16,20 118:7 128:21 immune's 68:14 immunostimulati... 120:15,16 immunotherapy 190:8 impact 76:2 impacting 24:15 importance 14:6 important 14:9 25:6 37:3,10,14 43:18 46:5 48:25 48:25 49:15 61:11 61:12 68:20 70:8 76:4 86:9 87:1 90:3 100:22 112:1 119:11 125:16 128:2 134:22,25 137:3 138:5 143:13,14,18,20 143:24 144:25 152:21,23 160:18 160:25 165:4 187:6 impossible 108:5 impression 13:3,5 13:5 105:15 impressions 13:10 improve 7:23 12:13 23:10 113:17 144:10,12 improved 31:8 34:19 51:24 improvement 35:13 36:19 49:13 52:3 110:23 111:4 111:19 112:4,21	improves 51:13 104:14 inactive 170:9 inappropriate 150:2 incidence 186:7,9 incidents 184:7 include 15:15 16:13 16:15 included 137:3 141:12 includes 16:12,14 39:10 58:19 including 26:17 141:6 151:1 167:2 167:3 inconvenience 38:22 increase 60:10 110:25 118:6 119:7 121:14 144:12 183:19 184:12 185:3,6,10 186:6 increased 117:19 184:16,18 increases 44:6 61:3 185:1 increasing 102:3 117:17 186:9 incubate 169:5 Indian 141:4 Indians 28:6 indicate 62:14 136:5 139:3 141:3 151:23 170:16 indicated 34:12 64:11 96:24 indicates 116:2 175:20 indication 33:7 53:23 56:7 59:15 indications 53:9 indigestion 146:25	individual 39:3 57:11 59:2 129:12 193:9,10 individually 2:7 induce 179:13 induces 144:24 industry 28:4,7,15 28:18,19,20 59:10 59:11 92:23 93:1 93:6,11,15,17 ineffective 181:8 infarctions 96:7 infection 79:9,19 79:21 86:16 infections 70:7,7 86:14 129:7 infinity 165:16 inflammation 129:11 143:9 inflammatory 117:23 141:5 information 7:9 8:23 91:12,14 107:10 130:1 160:18 informed 26:6 159:21 Infrequently 161:9 infusions 189:13 ingredient 131:8 132:9,10 138:2,3 138:6 144:21 146:13 152:24 153:14 164:13,14 165:19 166:6,6 167:11 169:19 ingredients 115:4,8 116:16 119:12 120:10 127:25 130:9,13 131:19 135:5,8,12 136:8 137:22 138:11 150:25 152:6 155:15,17 157:6	162:13,23 164:9 165:21 166:2,15 178:5 inherit 44:4 inherited 180:9 183:16,16 inhibit 8:16 97:8,18 98:16 102:9,11 117:19 132:15 143:17 inhibited 10:5 inhibitor 141:16 154:7 inhibits 62:17 97:23 101:6 102:2 102:14 117:24 initial 168:18 initially 189:21 inject 45:1 injecting 87:6 innate 72:2 innovative 27:18 93:7 inpatients 22:18 30:17 32:9 111:19 112:19 insert 96:1,18,19 96:22 124:17 126:19 inside 29:16 44:25 102:7 131:7 187:12 190:7 Institute 19:4,8,21 institution 110:19 institutional 159:23 institutions 18:14 18:20,21,24 20:15 instrument 111:20 instruments 111:23 insurance 55:18 83:19 intake 76:14 171:13	integrate 91:11 intended 91:13 intense 34:23 intensity 159:2 intent 120:9 interact 33:2 124:18 126:13 interacted 30:21 interaction 29:7 33:14 60:6 125:12 127:8 165:14 interactions 59:1 119:22 124:19 125:15,19 126:5 126:10 128:4 interchangeably 140:12 interchanged 140:15,18 interest 12:18 31:19 interested 12:12 24:9 interesting 38:23 55:2 67:25 83:17 85:18 86:6 114:14 116:15 118:20 127:20 129:20 141:22 146:19 152:6,9,10 165:23 173:9 179:25 180:3 184:5 185:6 187:2 Interestingly 186:8 interface 76:5 interfere 123:4 124:22 175:16 internal 15:25 international 4:16 38:25 internet 110:3 interpreted 84:19 intervals 145:18 interviewed 13:19
--	--	--	---	---

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intestinal 80:10 155:25	issues 6:17 11:1 24:14 30:24 33:19	juice 112:19	166:20 174:2,8	172:25 173:4,20
intravenously 29:13 33:18 45:6 155:7	55:13 175:12	July 56:21	179:9 189:3	174:12,14,19
introduced 139:20	item 49:19	jump 154:2 176:17	kinds 26:2 33:9	177:20 179:19
introduction 141:12	items 130:17 168:4	Justice 52:9	95:16 107:21	181:18,19 183:24
introductory 6:15	I-R-I-N-O-T-E-... 123:15	K	109:9 124:21	183:25 184:3,4,6
invading 129:8	J	Kaiser 92:14,15	133:20 189:13	184:7,15,20
invariably 109:23	J 1:3 4:22 5:9,19	Kawamori 141:25	knew 74:16 82:11	186:14,15 187:11
invest 51:1	6:12 9:15,23	keep 33:18 46:11	110:8 188:1,3,8	188:10,21 189:4,9 190:1
investigation 22:22 68:6 101:21	11:14 41:3 52:16	92:10 165:2 173:2	know 5:15,22,22	knowledge 12:18
102:20 137:14	58:1,4 62:5 65:12	180:20 190:23	6:13,14 13:11,15	14:4 104:20 182:4 192:9
139:17 149:2	94:8 99:7 106:8	keeping 60:8	13:18 14:2 43:10	known 72:24
182:13	115:24 135:13,18	KELLY 192:23	44:2 45:20,21	117:14 119:21
investigational 24:9 26:21 190:2 190:4	136:11 137:9,11	Kettering 18:16	48:15 49:7 50:4	126:2 158:7 181:4 184:1
investigations 190:13	148:16,23 149:5	19:2,19 58:15	51:5 52:12,15	knows 53:17
investigators 34:5	149:13,16,23	59:1 80:24	55:24 57:13 64:16	K-I-N-E-T-I-C-S 60:5
involve 15:9,11,14 16:18 19:22 21:3	150:5,8,14,17	key 37:11 48:10,10 97:7	66:16 69:7,11,22	
involved 14:23 18:13 20:19,25	153:11 168:9,11	kid 84:1 188:2	70:18 75:12,23	L
22:23 31:11 32:6	172:3 174:13	kidney 40:8 96:10 126:2	76:2 77:4,4,8 81:6	L 4:1,1 188:7
32:12 40:23 52:18	191:9	kidneys 25:3,11 46:4 81:4	84:19 86:5 89:7	label 47:25 52:21
181:2 190:12	James 2:7 3:11 56:18 63:25	kids 42:22 79:18	91:23 95:5 99:20	53:4,8,20,22 54:8
involves 23:1	January 32:2 175:20	80:6 85:15 178:24	99:25 100:7	55:24 56:2 90:25
Irinotecan 123:14 124:1	Japan 187:23	187:3,24 188:3,8	102:10,10,12,12	95:7 116:2,5,5,8
iron 122:11 134:16 134:16,19,20,21	Jersey 29:3 159:18	kill 153:24 169:6 176:20	102:13,14 103:22	116:10,10,17,20
141:21,23,23	Jiao 141:19	killer 120:14	105:12,16,20	117:3 118:14
175:21,22	Jim 4:18 13:16	killing 153:20	107:1,7 112:17	124:17 126:19
irritant 129:10	Jimmy 187:25 188:1	kills 86:23 176:6	115:3,4,21 116:5	135:24,25 136:2,4
isolated 88:19 98:2 99:9	job 28:14	kilogram 112:17	116:9 118:16,23	136:7,16,19,25
isotropic 151:10	jobs 18:19 83:16,18	kinase 143:19	119:1,2,11 120:1	137:1,6 138:10
issue 52:8,10,16 95:20	Johnson 31:24,24	kind 5:16,20 20:7	120:9 121:7 123:6	145:2 147:17
issued 96:15	John's 123:8,9 124:2,5	23:15 24:19,22	123:8,25 124:1,14	148:3,4,6,9,15,22
	joined 20:25 27:17	25:20 32:19 33:24	124:16 125:15	149:25 150:1,3
	joint 79:1 80:4	37:17 38:4,5,13	126:15 127:22	152:2 153:8 155:8 157:11,23
	Journal 58:19,20 58:21 92:18,20	39:4 45:10 46:13	128:2 134:18	labeling 118:8,9,11 118:14
	journals 58:18 106:12	48:21,22 62:6	136:18 137:2	labels 1:7 115:21
	JR 3:4	77:6,7 82:4,5	140:24 141:2	115:25 117:4,7
	Jude's 180:14	89:24 90:15	142:2 146:14,17	126:22 135:19,22
		103:22 106:21	147:6,7,12 149:4	137:13 149:1
		108:9 109:11,25	149:11,21 150:5	153:9,10
		115:2 117:5 127:9	151:13 154:3,5,12	laboratories 80:23
		154:9 156:24	155:12 157:9,9	
			158:23 165:21	
			167:12,20,24	
			168:1,25 169:16	
			169:18,24 170:20	

laboratory 21:18 34:9 50:7 55:19 70:23 131:3 132:24 153:23 156:18	letters 4:16 127:7 let's 11:19 39:14 49:20 69:15,15 71:2 75:17 85:24 86:22 88:14,17 94:22 103:11 114:20 116:22 120:21 130:22 133:13 134:17 150:14,17,18 158:22 170:4 176:12 181:25	107:16 110:23 111:4,19,21,25 112:4 144:12 145:15 178:24 186:18,24,24	48:20 75:7 89:18 103:3 109:20 127:16 128:13 132:12 184:13	139:5 147:17 153:12 167:15 168:18
lack 142:14	94:22 103:11 114:20 116:22 120:21 130:22 133:13 134:17 150:14,17,18 158:22 170:4 176:12 181:25	lifespan 25:8 52:3 81:25	live 37:11 74:14,19 74:22 75:1 79:19 83:15,16	looking 24:12,12 24:13 26:21 44:1 47:5,5 49:15 59:12,23 62:15 66:22 87:17 101:12 111:2 114:15,19 119:7 122:25 129:12 147:23 160:8,17 162:8,20 164:5,12 166:12 167:9 171:6 186:16 190:2
lacking 142:10 144:3 180:16	leukemia 15:16 16:11,18,19,22 20:20 30:8 39:18 39:24 40:1,13,19 41:11,16,19 43:3 73:3,7,12 74:9 75:2 78:10,12,14 78:18,22,24 79:7 79:15 80:3,7,8,10 80:12,15,22 81:17 82:5,11,11,16 83:12,20,23,25 84:3 85:21 155:6 176:22 179:4,7,12 179:14,15,20 183:22 184:4 188:7	lifestyle 85:4 183:23	liver 25:3,11 46:3 80:8 84:9,14 103:2 129:8 183:20,25 184:1	looks 34:8 54:21 60:16 79:17
lactic 156:3,12	leukemias 21:23	lights 156:20,21	lives 24:2 83:16 179:1	Loprinzi 112:11
lady 84:3	leukemic 42:7,18	limb 128:12	lock 48:10,11	Loprinzi's 112:25
laid 11:20 93:19	level 41:7 42:4,8,19 46:18,20 61:18 73:19 80:16 108:20 112:5 125:8 128:1,2 145:10,11,11 146:6 176:8 177:6	limit 44:15 73:22 155:11	logical 50:21 51:6	losing 134:18
Lake 4:11	levels 125:13 126:8 154:5,6	limited 44:16 51:3	logs 147:9	lost 50:13,14,18
Lane 110:12	liberalization 54:9	limiting 46:12,14 145:9	long 27:11,21 28:12 36:25 37:8,15,18 74:14,22 102:12 141:3 166:24,25	lot 11:4 12:15 33:14,23 37:14 40:21,23 46:1 50:5 54:8 55:3,18 57:17 58:23 59:2 59:6 77:19 85:3,6 86:10 117:1 118:20 125:10 126:6 138:15 152:9 163:2 172:25 176:13,14 178:2 182:1,1,4 184:2,18,19
Lane's 112:13	life 7:23 12:14,15 14:13 23:24 51:25 74:19 81:22	Linda 2:22 192:14	longer 26:19 37:22 73:19 101:5 125:4	low 40:5 46:10 69:24 74:17,21 86:13 96:13 118:2 127:21,23 132:8 145:8,9 146:6,21 146:22
large 19:13,19 30:1 35:12 172:23,24		line 53:7,8 65:15 106:25 112:2 129:17 149:25 169:25 194:9	look 26:2 36:15 44:5,24 45:5 47:6 47:15 57:15 60:4 63:14 64:4 66:22 74:24 79:18 80:20 80:22,24 81:1 90:25 96:2 107:17 109:2,12 116:22 130:12,22 131:7,8 137:7 140:22 144:15 158:10 164:13 166:7 167:11 169:19 170:5 171:5 180:8 184:13	lower 42:19 45:13 46:18 60:8,11 83:4,21 84:4
larger 95:15 161:17		lines 30:18	longer 26:19 37:22 73:19 101:5 125:4	
LaRoche 31:3,16 34:13 47:17		liquid 20:6,9,12 60:15	looked 8:9 10:15 30:7,24 45:13 46:4 53:25 66:25 80:11 88:23 107:18 110:12 112:12,19,20 113:11 136:2,4	
laser 29:15,19		list 64:12,13,16 66:22 97:2		
lasts 37:1,19		listed 12:2 56:16 57:18 58:19 64:3 66:14 96:3 106:11 107:17 112:24 137:1 138:10 152:3		
late 51:17 84:20		listen 126:17		
layer 90:24		listing 57:5,9		
lead 133:15,19 161:7		lists 59:2 135:7		
leader 4:14 32:3		literature 7:11,14 10:23,25 11:3 53:11 56:15 58:8 59:4 66:20 68:11 97:22 119:13 139:9,18 142:8 151:4 167:14		
leads 182:10,13		little 5:21 9:12 13:23 39:24 44:14		
leaf 130:10,10				
leap 128:19				
learn 45:25 64:21 74:25 83:1 141:8 180:25				
learned 64:23 65:8 65:13,15 82:23				
learning 40:15 42:16 53:11 83:8				
leaves 129:20 168:21				
leaving 160:10				
left 22:3 92:19 113:24				
leftover 5:2				
legal 178:19,21,22				
Lehrfeld 3:13 4:17				

113:8 182:9,11 lowered 160:24 lowest 147:1 Lucarelli 58:25 119:16,17 120:10 120:18 121:7 135:4,9 141:10 152:12,19 157:16 lump 49:7 lunch 5:6 luncheon 92:11 lung 21:20 29:21 29:23 30:12,16 48:3,8,12 53:13 54:19 101:10 105:4 113:11 123:16 129:24 131:18 185:7 lungs 25:11 46:3 69:17,18 lupus 69:12 lurking 70:24 lymph 20:4 79:6,8 lymphoblastic 39:18 40:1,13,18 41:11 75:2 81:17 82:11 83:12 85:21 155:6 179:11 184:4 lymphocytes 120:13 lymphoid 179:15 lymphoma 15:16 31:6,10,17 34:21 35:2,3,24 38:4,5,7 38:14 39:14,17 41:17 110:15 185:11 191:3 lymphomas 21:22 184:17 L.S 135:21	magical 189:16 magnifying 138:12 138:13 main 13:22 maintain 28:12,13 maintains 64:5 Majeed 67:8 major 20:24 22:1 26:1 29:22 33:12 34:6 37:9 38:21 84:7 116:11 144:20 185:25 majority 109:25 making 12:11 73:19 76:15 79:16 79:22 121:13 122:19 male 74:15 males 145:13 malignancies 15:17 16:10,20 19:21,22 20:20 21:8,16 71:19 101:13 malignancy 16:19 20:2,3 21:17,25 39:20 43:14 73:1 82:4 87:15 malignant 30:8 82:9 87:16,19,22 183:11 malnourished 14:11 25:23 86:19 malnutrition 14:8 malpractice 127:15 mammographies 43:16 man 128:23 129:21 manage 159:10 managed 30:11 management 30:6 161:21 managing 30:1 manifest 41:23 manifestation	42:24 78:8,9 manifestations 76:1 79:2,24 80:13 manifests 41:24 71:16 78:5 manipulation 77:5 manufactures 123:17 Marcia 92:17 marked 135:14,20 market 93:20,22 94:4,16 98:19 99:15,17,20,25 100:3,8 111:10 marketed 126:24 marketing 93:8 marriage 83:21 84:3 marrow 42:5 71:10 78:13,16,18,20,24 80:5 187:11,12,13 marrows 42:22 79:14 marrying 84:2 mass 71:9 match 116:18 117:3 179:16 material 11:2 63:25 64:19 73:19 91:11 116:13 117:15 118:18 136:15 140:13 materials 56:7 63:8 64:13 66:1 89:10 89:12 118:25 119:2 matter 2:4,18 maturation 87:23 mature 87:18 maximize 40:21 maximum 46:17 61:18 145:23 146:9 155:10	Mayo 112:11 MD 113:10 mean 7:18 8:7 17:19 28:19 50:11 52:17 62:21 66:10 66:16 77:10,11,21 84:21 86:15 93:22 94:3,11,14 98:8 99:16 100:3 105:24 108:9 111:21 115:18 128:10 139:7 144:7 147:25 153:3 175:15 181:23 meaning 172:3 meaningful 186:23 means 17:24 44:20 46:13 61:15 98:5 100:19 111:22 112:14,14 171:12 175:9 meant 22:18 63:6 108:11 171:11 measurable 46:24 107:2 131:18 132:5 145:14 159:3 measure 37:3 41:19 61:22 75:4 132:21 146:3,7 164:8,11 164:19 165:5,9,14 measured 162:24 measuring 37:1 164:23 meat 157:2 mechanism 89:1,19 119:21 120:14,16 134:9 181:4 mechanisms 103:9 143:11 144:2 Medicaid 53:20 54:11,12,22 56:4 medical 18:14,15	18:16 19:1,6,16 22:4,6 28:11 29:2 29:25 30:10,20 32:24,25 33:23 34:6 36:24 38:15 53:11,12 55:20 70:23 71:10 77:15 77:16,23 85:7 86:1,3 107:6 109:9 111:1 114:14 151:8 162:18 178:20 182:7 189:6 medically 7:3 Medicare 56:4 medication 95:17 132:3 179:20 medications 103:4 118:1 124:21 126:16 176:5 medicine 12:16 15:25,25 58:20 59:7 66:23 88:5,6 88:6 92:18,20 103:20 115:5 119:4 121:12 122:3 123:7 141:4 165:7 166:23 170:3 181:25 182:2 185:17 medicines 7:21 58:24 85:11 86:17 173:11 178:2 meet 25:5 33:6 38:7 60:18,20 83:24 98:19 meetings 53:12 meets 25:1 51:9 melanoma 30:8 182:24 183:6,11 members 23:10 174:10 membranes 129:10 Memorial 18:15
M				
M4 :1 67:8 magazine 110:4				

19:2,19 58:15,25 80:23 memory 36:17 men 74:15,17 112:6 126:9 185:8 mention 113:2 115:16 121:21 mentioned 36:14 44:9 50:1 57:3 59:19 109:21 113:10 116:4 142:5 145:6 170:23 181:11,25 merit 152:7 mesothelioma 29:4 185:13 messenger 156:25 met 4:17 13:13,19 metabolic 14:15 44:25 122:13 132:4 143:18 metabolism 124:22 125:2 126:4 metabolites 127:25 metabolized 45:11 61:17 89:19 180:8 180:12 metabolizing 125:7 155:20 metals 77:6 metastatic 75:5,18 107:21 meter 155:6 Metropolitan 27:17 Mexico 179:23 189:13 mice 45:2 128:6,11 141:18 micrograms 153:18 microscope 43:13 microscopic 75:21 Miller 1:3 4:8,10 4:17 5:17 6:1	193:8 194:1 milligrams 118:19 147:10,11,14,15 147:15,24 148:10 148:13 150:15,23 152:14,15 153:3 154:18,21,22 155:6,23 156:23 156:24 171:22 180:18,19,20 million 49:23 105:19,25 123:24 160:13 161:23 162:2,4 163:10,20 mimic 31:20 mind 9:4,5 51:16 52:2 121:16 190:23 mine 106:6 136:3 179:6,19 mineral 133:15 minerals 122:11 133:11,12,13 138:16 151:1,7 152:5 minimal 42:16 151:6 minimally 158:21 minimize 40:20 minimum 133:21 ministry 174:10 minus 73:24 minute 150:6 minutes 5:15 missed 121:22 missile 35:1,6 misunderstood 91:10 mixed 54:11 112:18 mixture 151:23 ML 153:19 MLs 69:20 model 40:14 43:4,6 129:14 154:8,14	models 43:4 modified 95:7 molecular 72:23 73:6 74:4 80:24 80:25 molecule 48:19 102:9 molecules 101:22 moment 71:6 money 93:8 163:12 monitor 29:25 30:10,20 32:24,25 33:23 34:6,8 monitoring 161:20 monoclonial 34:25 34:25 35:2,10,15 35:18 37:6,21 38:6 48:18 54:15 89:17 100:19,21 100:25 101:4 104:3,5 114:7 191:3,4 monographs 63:9 63:10,11 mononucleosis 188:10 months 27:23,24 96:8 104:22,23,25 105:9 145:16 160:6 Montreal 113:5 morning 4:6,7 5:14 mother 44:3,5 180:5,9,14 motion 35:4 101:25 102:7,13 mouse 128:10,13 128:15,18,20,21 128:22,23,25 mouth 30:13 48:13 61:19,20 92:10 146:5 155:23 156:5,10 157:1 160:2	move 27:5 29:9 46:8,11,11 60:12 112:10 169:9 moved 27:16 31:24 moving 46:11 MRI 71:10 MTD 146:16 mucous 129:10 multiple 46:22 70:11 173:13 multiplication 78:12 multiplying 71:24 71:25 72:5,6 78:22 79:12 102:3 143:17 Murray 67:8 mushroom 59:18 59:18 60:22 mutations 48:17 myeloid 30:8 179:12,14 myeloma 70:11 myocardial 96:7 M-A-B 100:19	necessary 107:10 145:21 193:6 neck 79:8 186:1,3 necrosis 117:24 need 5:10,11,11,12 5:22 17:16 23:5 24:16 25:22 40:19 40:24 69:13 70:4 74:18 82:24 85:18 86:17 90:18 102:11 106:8 107:5 109:7 134:11,11 145:22 151:13 153:18 154:9 156:3 160:25 161:10 162:6,11 185:21 189:9 190:23 needed 30:24 31:1 36:24 160:19 needing 74:20 needs 23:4 52:5 55:15 negative 117:20 165:12 169:14 176:9 185:23 neglect 87:2 neighborhood 5:7 neoplasm 82:9 Neovastat 113:5 Neovastats 113:16 113:18,19 nervous 40:12 81:7 82:12,16 84:10 87:13 neurological 69:12 134:24 neuropsychologi... 83:7,14 84:6 neutropharaceut... 59:11 never 12:23,24 13:13,19,19,20 25:13 37:19 65:5
N				
N 1:1 4:1				
name 4:8 28:10 100:15,16,17,17 102:18,24 115:7				
names 59:16				
narrative 65:21				
National 19:3,8,20 54:4				
natural 77:14 120:13 147:4				
nature 41:10,14 85:1 164:3				
nausea 85:10 86:18 104:10 146:25				
NCI 113:23				
necessarily 43:25 44:21 51:14 69:9 75:1 84:21				

72:12,15 74:16	77:25	78:7 79:11 84:25	objection 11:11,13	once 17:25 45:8
81:19 121:22	non-Hodgkin	97:25 99:8 101:21	62:19 89:8,8,9	46:16 47:4 80:19
125:8 126:21	31:10 34:21 38:4	102:16,20 103:4	90:15 98:22	81:5 93:22 127:11
146:9,16 148:20	38:14 39:17	107:18 114:10	115:23 167:22	164:24
155:13 163:15	non-malignant	116:23 118:19	168:1 174:11,13	oncologist 12:10
169:18 177:15,17	16:16	122:10 135:17	objective 112:1	33:15 53:17 85:22
187:24 188:5	non-randomized	138:11 143:6,8,12	obligated 55:4	85:24 86:3,4 87:6
189:14	145:2	144:22 146:24	obliged 126:23	oncologists 30:21
new 2:15,15 3:7,7	non-small 21:20	156:4 160:8 167:2	observe 91:20	53:10
4:2,11 18:15 19:1	30:12 48:3,12	172:23,24 173:1,4	observed 91:18	oncology 4:14
19:6,8,12,18	54:19 101:9	173:5 177:22	observing 91:20	14:25 15:4,11,15
22:19 24:3 25:13	113:11 131:18	182:23 186:2	obviate 8:18 10:8	15:21,23 16:1,6,9
26:21 27:17,18	185:7	numbers 35:12	185:24	17:9,10,11 27:20
28:8 29:3,3 30:11	non-toxicity 181:4	36:16,20 41:20	obviating 83:13	32:3 33:1 38:15
31:5 33:17,21	noon 5:10	50:15 137:6 148:4	occupational	38:23 41:5 44:15
36:8 44:24 45:3	normal 35:7 67:13	162:8 163:14	185:12	44:16,18 58:20,23
47:14,21 48:10,12	69:4,8,9,19 70:3	186:10	occur 95:10	59:1 62:4,5 85:15
48:21 52:14 53:23	73:18 74:19 78:15	nun 115:6	occurred 37:2	86:1 87:3
54:17 58:20 61:11	78:24 79:20,25	nurse 33:14	October 7:4 11:17	oncology/hemato...
73:14 87:17 88:23	134:25 176:21	nurses 188:15	11:23	14:23 15:3,14
88:25 92:18,20	normalcy 77:22	nutrients 90:2,14	offer 24:7 186:22	16:5,23,24 17:4
95:10,10,18 98:17	normally 81:4	151:24 152:1	offered 158:3,3	17:16,21 18:2
100:22 101:1,5,6	Northwestern	nutrition 14:1,3,4,7	officer 2:8	ones 83:7 114:25
102:3,11 106:2	18:16 19:3	14:18,20 24:12	official 4:12	122:25 147:17
113:24 114:16	Notary 4:2 193:14	76:20 151:11	oils 116:24	184:15
118:12 124:20	note 194:5	nutritional 23:5	okay 5:25 12:5	one's 185:23
125:22 126:20	noted 14:22 119:15	25:23 76:16 90:16	13:11,12,17 41:21	one-page 65:21
127:2,7,8 150:3	121:20 191:12	131:1 134:5 151:6	56:6 57:16 62:9	ongoing 12:4 58:17
159:18 190:5	notes 192:7	151:15 152:14	63:5 66:15 87:4	onions 143:7
newer 126:13	noticed 79:17	154:22 155:3	89:5 92:10 95:5	online 64:4
176:24	not-for-profit	156:10	95:25 97:3 114:5	open 47:25 145:2
Nexevar 102:24	22:11	nutritionist 14:2	114:21 115:2,17	186:25 187:1
Nieper 67:2	nourished 110:20	nutritionists 14:15	117:9 127:18	188:13 190:23
Nieper's 66:23	novel 155:17	23:9	135:13 151:17	opening 151:18
night 156:15,21	nude 128:21	nutritious 76:15	168:7 170:23	169:25
nodes 20:5 79:6	null 60:20,24	N-E-X-E-V-A-R	171:15 172:15,19	operated 113:12
non-clinical 44:18	number 1:6 7:14	102:25	179:18 181:20	opinion 68:12
49:18 50:7 59:5	7:20 10:4 11:19	N-U-L-L 60:21	183:14 184:15	118:13 130:18
67:25 98:1,7 99:8	18:13 28:25 30:18	N.W 3:15	190:25	opinions 11:7
118:24 119:23	36:14 39:9 42:18		old 54:12,13 85:25	67:21
139:9,19 143:8,16	47:7 49:11 50:15	O	85:25 86:3 177:6	opportunity 170:7
144:2,23 154:1	56:1 57:18 58:6	obese 83:5 85:5	190:5	opposed 131:3
166:14	61:25 63:2 67:24	obesity 83:13	older 177:13	orally 45:6
non-expressed	68:4 71:9 75:9	object 9:8 62:3	olds 79:4	Orange 133:5
		91:17 94:6		

<p>order 10:20 23:25 24:21 56:12 104:2 139:1 159:22 160:20 162:10 186:19 organ 38:9 85:4 86:25 132:4 organization 19:11 20:25 22:5 28:10 28:21,22 29:25 30:5 159:9,15 161:18,19 organizations 29:1 organized 135:11 organs 25:10 46:2 84:8 orienting 44:12 original 130:16 193:6 originally 17:3 177:23 originated 152:2 ounce 116:3 outcome 43:18 51:13 outcomes 93:14 outlaw 185:25 outlook 187:21 outside 159:8 overall 23:10 35:16 40:1 49:14 105:2 107:16 113:17 186:6 overview 59:17 overweight 185:22 oxygen 69:17 o'clock 5:18</p> <hr/> <p style="text-align: center;">P</p> <p>P 160:24 package 96:1,19 124:17 126:19 paclitaxel 177:25 page 1:2,6 97:14 150:15 188:19</p>	<p>194:9 pages 2:21 90:25 96:18 paid 18:20,21 pain 25:24 26:1,1 78:25,25 79:1 80:4,4 pains 79:3 pale 79:17,18 pancreatic 20:1 29:4 41:12,13 51:16,19 53:14,15 53:18 128:12,15 128:16 189:19 paper 141:10,12,16 141:19,22,25 193:6 papers 140:22,23 141:9,13 142:4,8 paragraph 18:12 150:11 172:14 parasites 129:8 parentheses 139:21 parenthesis 140:3 parents 39:2 180:6 180:16 Parexel 4:15 32:2 Park 4:11 part 5:1,1,2 13:7,21 20:13 24:17 33:22 41:10 52:22 61:7 61:11 62:12,12 64:13 80:25 97:3 120:16 125:16,21 150:19 151:25 parthenolide 138:6 144:22 146:3,12 146:22,24 147:13 partial 111:18 partially 111:13 participant 187:15 participate 55:23 159:17 participating 24:10</p>	<p>particular 28:22 33:4,16 38:3 39:12 61:4 68:5 71:2 82:19 173:8 175:11 189:17 particularly 43:17 68:3 83:7 85:13 104:14 139:12 142:17 161:9 partner 26:7 187:8 parts 87:1 104:17 part-time 29:6 pass 50:24 94:14 passages 29:23 passing 18:4 pathologist 107:6 180:7 pathway 132:4 pathways 44:25 102:14 134:15 181:1,3 patient 12:14 23:2 23:11,12,17 24:13 24:25 25:1,9,21 26:5,7 32:19 33:5 33:6,20,24 37:5 39:25 44:22 45:18 49:1,5 53:17 54:1 55:9,15 57:16 74:7 76:4,5,10,21 77:5 81:2,18 85:13,14 86:21,21 86:25 87:7,14 104:12,15 106:20 107:4,8 111:4,22 114:4 127:12,14 131:17 153:3 154:2,6 175:11 179:6,14,15,19 180:4,10 186:22 patiently 113:7 patients 8:25 12:12 12:17 14:3,5,7,9 14:16 20:21 21:1</p>	<p>21:10 22:18,20,24 23:3,8,17,25,25 24:4,6,7,18 25:5 25:12,15,17 26:16 26:20 30:16,22 31:1,10 32:12,13 32:18 33:4 35:8 35:14,17 36:20 37:19,23 38:14,16 39:23 40:2,18,19 40:24 42:17 44:2 45:15,17 46:10,23 47:13,19 48:4,20 48:21 49:4 51:2 55:11,22 56:23,25 57:1 59:25 60:14 60:19,22 61:3 65:7,18,18,20 68:21 73:16 74:10 74:13 80:9 81:7 81:21 82:17,20,23 83:12,22 84:24 85:3,5,9 86:8 87:5 90:16 95:11,16,19 95:24 96:7,10,12 96:17 107:9,21,25 107:25 108:8 109:8,11,13,22,24 109:25 110:5,9,13 110:13,20,24 111:6,16,23 112:3 112:15,21 113:11 113:19 114:12 118:1,12 119:25 125:24 126:2,5,15 127:8 129:19 139:13 142:18 144:4 145:5,8,12 145:20 146:2,11 146:22 155:13 157:12 158:5,11 158:21,22,24 159:1 160:4,25 161:24 162:9</p>	<p>163:3,12 165:7 170:13 172:7,10 172:21 173:2,10 173:12,13,22 175:1,3,14,21 178:6 179:13,21 181:9 186:11 187:10,19,22 188:10,12,16,21 188:23 patient's 24:12 87:15 91:15 114:17 Patricia 13:16 pay 159:13 PAYNTER 3:5 5:8 5:17,25 6:7,13 9:1 9:8,20 11:11,13 57:23 58:2 62:3 62:19,21 65:10 89:8 91:17 92:9 94:6,9 98:22 99:4 106:7 115:23,25 135:16 136:9,13 137:7,10,12,17 138:24 140:6,16 148:14,18,25 149:15,19,24 150:12 153:9 167:22 168:1,7,10 168:12 171:20 172:1 174:1,11,14 176:16 177:15 191:11 pays 127:11 PC 112:14 PDR 96:2,18,22 124:17 pediatric 15:19,22 16:24 17:18,21 18:8,9 21:4 38:23 39:6,10 41:2,5 85:2,15,22,24 86:2 184:18</p>
---	--	---	--	---

pediatrics 15:2,19 16:3 17:3,7,13,17 17:24,25 18:2,6 20:23 32:10	182:16,17,22 184:21,23 189:22	pharmacologic 132:1 133:1,4,17 134:4	photodynamic 29:17	181:13
peer 67:19 119:17	percentage 82:18 95:19 153:6 179:7 184:20	pharmacological 132:19,25 133:7 133:19,23 134:2,8 134:14 152:23	physical 36:23 38:9 70:22	plants 177:23 178:3
peers 67:14	percentages 186:10	pharmacology 61:12 119:5	physically 62:22	plateau 185:4,8
peer-reviewed 67:13,16 68:5 97:22 106:12 139:8,18 142:8 173:21	perfect 93:18	Pharmacopeia 63:14,17	physician 32:25 63:23	platelet 80:16 132:24
people 13:13 16:2,3 16:14 23:9 26:12 34:24 36:8 37:15 38:1,11 42:13 43:4 53:10 54:12 54:13 56:2 64:23 68:24 70:25,25 72:10,14,19,20 73:12,25 75:24 81:23 83:23 99:18 103:14 124:21 125:10 126:23 128:16 131:11 132:6,17 157:17 167:7 172:25 173:5 174:2,8 175:5 176:3,6 182:19 186:20,25 187:1 188:13	perforated 80:11	pharmacopeias 67:18	physicians 54:22 57:14,15 96:16 180:6	platelets 78:17 79:22 118:5 132:12,12,15,21
peptide 88:19,22 88:24 98:2 111:13	performance 145:15	pharmokinetics 60:5 61:13,14,15	physician's 63:20 96:3	Plavix 132:14
peptides 98:8,12 99:2,9,13,19,24 107:24 113:8 165:9	performed 128:8	phase 26:25 30:14 44:8,10,18 45:14 45:20,25 46:6,7,9 46:18,19,19,23 47:4,9,12,18,18 47:23 48:23,24 49:13,16,24 50:8 50:9 53:6,21,22 59:23 60:3,12 62:1 108:18 112:13 128:24 145:2,6,22,24 155:10 158:20 160:14,15,20 161:5,7,14,23 162:1,1,3,4,5,11 162:13,22 163:4,4 163:5,19 186:14	physiological 134:2	play 26:3 134:25
percent 21:16 32:6 35:21,24 36:5,9 38:15,16,24 39:20 39:22 40:2,7 81:20 82:8,18 110:5 116:3 119:19 128:16 154:24 179:4	performing 159:6	Philadelphia 73:11 73:11,13,18 74:3 76:9	physiology 135:1	played 187:13
	period 74:23 77:17 84:23 122:12 125:4 134:18 158:14	phases 126:12	pick 39:19 164:14 167:21,25 168:25 183:7	please 9:2 94:12,12 99:5 168:10,12 194:5
	peritoneal 29:5	pharmaceutical 28:3,7,20 30:2 59:10 77:13 93:6 93:15,17 103:20 176:9,10	picked 29:13 167:20,24	pleural 29:5
	permit 54:22,25 59:22	pharmacodynamic 146:16 163:25	picture 81:1	plus 35:10 37:6 47:21 48:5,5 81:20 106:19 108:3,12 131:23 152:8
	person 17:15 92:24 103:11 167:19,19 167:24	philanthropic 19:11	piece 73:8,9	point 6:21 27:15 28:1,2 43:20,21 43:24 50:2,17 51:5,6 71:16 106:14,15 107:14 111:3 124:2 137:11,14 139:25 150:9,18
	personal 82:2	philanthropy 188:2	pieces 73:15	points 37:9 49:12 60:19 106:16 144:8,14 145:25
	personally 13:19	philosophical 51:5	pill 48:20	pollen 157:10,15,17 157:21
	perspective 152:24	philosophy 23:6	pill 48:20	polyenic 117:2
	petri 44:20 88:22 98:14 154:1	phosphate 155:18 156:21	pituitary 83:3	polyphenol 138:3
	Pfizer 102:19 103:13 105:17 123:20		pivotal 50:9 53:15 54:1	polyphenols 116:25 130:25
	pharmaceutical 28:3,7,20 30:2 59:10 77:13 93:6 93:15,17 103:20 176:9,10		PK 165:8,11	polyps 43:7,8,10,10 43:12 44:1 139:13
	pharmacodynamic 146:16 163:25		place 6:23 10:19 66:4 73:14 78:4,6 86:20 121:21 122:22 138:18 166:19 171:10	population 21:4,5 21:24 95:11,16 106:20 173:22 175:6 184:18
	pharmacodynam... 162:20		placebo 38:21 48:5 48:6,20 60:15,18 60:23 106:18 112:14,16,23 113:1,4,16 142:11 142:21 158:4,9 159:15 160:5,24 161:2	portion 9:3 19:13
	pharmacokinetic 145:19 146:15		plan 111:6	
	pharmacokinetics 162:19 164:10		planning 4:22	
			plant 138:4 177:21 177:25 178:1	

pose 75:19	presentation 53:12	112:25 160:12	products 1:8 6:18	179:1
position 10:25	presented 80:11	184:24	6:24 7:6,7,10,15	prolonged 49:1
176:2	113:20	problem 26:1	8:1,4,6,11,15,24	prolonging 105:3
positions 20:16	president 27:20	131:15,24,25	10:5 11:24 12:19	114:18
34:13	pressure 104:4	166:3 185:25	13:1,8 57:2,5,19	prolongs 104:18,21
positive 74:3	118:2,3 126:16	problematic 85:8	59:3 65:14,22	104:22
133:17 165:12	pretty 5:23 21:13	problems 23:4,5	66:7,11,17 87:25	promising 49:19
187:18,19	29:12 185:2	25:25 126:15	88:12 90:25 99:14	50:2,6,20 51:7
possible 90:18	prevent 49:9 68:3	127:3 134:24	100:2,8 115:10,22	139:4,7 166:7
126:13 146:8	77:7,16 82:15	153:14	115:25 116:15	167:13,17 168:5
149:2 164:8	88:4 125:11	process 9:18 11:10	118:17 122:24	169:9
175:23 190:10	129:24 130:2	12:4 27:2 31:11	124:15 135:19,23	promptly 34:1
post 126:25	132:16	50:14,19,21,21,22	139:5 172:8,22,25	proofread 192:18
potent 8:2	prevented 88:25	50:25 51:6,8 53:3	174:4,9,15,17	PROOFREADER
potential 43:25	104:13	56:8 67:12,14	175:2,5,12,16	192:16
176:9	preventing 142:25	78:20,23 79:6,13	178:13 181:21	proper 80:18
potentially 12:13	170:22 178:8	80:1 87:18 93:19	182:1	proportion 37:23
123:5 125:3 170:9	prevention 129:19	98:10,11 100:11	profession 179:5	44:4 82:7,7 153:2
pounds 88:21	131:9	125:7,16 143:25	professional 4:9,13	158:23
powder 112:18	preventive 139:12	144:25 155:21,21	32:11 118:13	proposals 59:10
powdering 98:9	185:17,22	156:4 168:19	profile 145:23	propose 89:14
power 41:21,21,25	prevents 102:15	169:11 170:15	146:18 162:25	proposed 143:11
practice 20:8 63:23	previous 5:4	181:17	prognosis 80:20	144:1
159:18	previously 23:18	processing 61:8	185:21	proprietary 66:7
practitioners 95:22	45:18 46:24 47:19	167:20 168:16	program 19:14,15	66:10,17 100:16
precautions 95:23	94:5	produce 78:16	19:20 20:18 22:7	145:3
predefined 107:14	pre-clinical 59:4	produced 65:11	22:17,23 23:15	prostate 74:13,14
145:17	pre-disposition	148:18,19 149:1,6	26:7,10 29:7	74:16,17 112:5,6
preface 44:15	82:21	149:8,12,20 150:1	programmed 72:4	145:13
prefer 36:15 75:1	price 164:7	produces 31:20	144:24	protect 126:4
preliminary 139:15	primarily 19:7	80:2 109:5	programs 32:13,14	132:17
prepared 4:25 6:2	20:25 21:15 28:8	product 36:8 59:17	56:21 64:22 65:16	Protected 185:15
56:8 57:20	31:13 47:6 83:10	59:24 60:6,18	progress 37:4	protein 88:19
preparing 92:1	primary 53:7 65:14	67:18 77:14 93:20	progresses 49:3	116:21 134:13
prescribe 155:9	95:3 106:15 111:3	107:22 108:17,21	progression 37:4	157:4,5
prescribed 26:4	120:12 163:14	111:8 112:13	37:22 47:15 49:13	proteins 70:6 98:12
prescription 53:19	principals 76:14	113:4 115:2 116:6	60:2 77:25 78:5	98:15 116:14
54:5	print 147:21	120:19 147:4,13	105:3 107:14,15	134:12 143:22
prescriptions 54:23	prior 26:15 33:9	153:4,15 160:11	107:15 131:21,22	proteolytic 137:25
56:3	106:21 108:9	169:12 175:11	144:11	protocol 22:19
presence 193:11	110:14 111:20	178:5	project 19:20 31:18	85:23 86:2 111:7
present 21:19 80:6	private 19:10	production 73:4	proliferation 44:24	159:20
129:15,22 134:20	probably 5:4,9	79:25 129:15	prolong 24:2 49:2	protocols 59:9
154:16 182:7	56:5 72:21 74:15	148:25 149:21	121:15 144:10,11	prove 131:16 167:5

<p>170:12 173:5 182:12 190:20 proved 50:11 proven 50:23 90:11 107:3 121:25 178:13 provide 10:10 23:7 26:5 38:10 55:16 55:17 57:22 90:2 90:10 159:10,12 159:14 173:21 182:13 provided 10:24 19:13 52:6 56:16 64:15,20 66:20 91:14 111:9 136:7 149:1 160:11 provider 91:16 providers 55:4 188:15 provides 41:7 providing 22:23 provisional 161:11 Pruden 107:19 psychiatric 25:22 psychosocial 23:4,9 24:14,16 25:22 public 4:2 13:14 193:14 publication 173:18 173:19 176:1 publications 64:3 publish 67:15 published 63:22 86:5 106:12 113:24 119:13 141:22,24 142:8 169:20 175:20 180:15 Publishing 63:22 PubMed 58:16 pulling 168:7 punctuation 192:20</p>	<p>pure 153:5,24 purely 134:5 purified 88:20 98:1 98:8,15 99:2,9,13 99:19,24 100:5,7 107:24 111:11,12 111:13,14,14 113:7 144:4 146:12 157:6 166:15 169:4 purifying 98:11 purpose 151:14 157:3 167:8 187:17 purposes 167:1,2 pursuant 2:19 pursued 168:3 put 12:3 23:16 24:24 29:22 45:19 50:5 73:16 86:19 88:22 95:8 116:9 127:4 128:11 130:4,7 136:15 149:5 153:16,22 putting 75:23 P-A-R-E-X-E-L 4:15 P-A-R-T-H-E-N-... 138:7 144:22 P-R-U-D-E-N 107:20 p.m 92:12 191:12 P53 143:13</p> <hr/> <p style="text-align: center;">Q</p> <p>qualified 18:7 qualify 17:9 38:1 38:11 qualifying 17:11 quality 7:23 14:13 23:24 51:25 93:10 107:16 110:23 111:4,19,21,25 112:4 144:12 186:24</p>	<p>quantify 36:25 111:24 quantities 136:15 quercetin 138:3,14 143:2 quercetins 130:25 144:4 question 6:3 8:10 8:12,13 9:1,10,16 9:21,23 10:17 11:15,16 19:23 33:21 43:19 69:6 71:25 75:19,20 76:3 92:9 93:14 94:9,13 97:20 98:25 99:1,22 108:23 114:22 118:8 130:16 137:17,18 140:3,6 140:17 151:18 152:17 167:22 168:4,14 169:25 171:7 172:1 questioning 149:25 questions 5:3 6:2 13:24 27:8,10 30:23 33:5,12,12 33:17 61:6 62:10 63:6 97:7,12,13 97:21 111:24 114:23 137:19 149:7,25 150:3 151:19,20 188:22 191:10,11 quick 56:14 106:9 quickly 56:11 quote 52:21 152:19 154:25 157:25 158:6,16 quoted 152:21 Q-U-E-R-C-E-T-... 138:4</p> <hr/> <p style="text-align: center;">R</p> <p>R 1:3 4:1,1,10</p>	<p>193:8 194:1 radiation 10:9 26:18 65:1,4 74:20 82:6,14,24 83:6,9,11 84:5 110:18 113:15 158:7,14,17,25 159:12 176:6 183:3,20,20 188:11 radio 56:21 64:21 65:15 90:23 randomized 38:20 47:12,24 48:1 50:9 60:13,14,16 108:4 110:21 112:9 113:3 131:22 142:11,22 144:3 158:4 161:3 163:8 randomly 36:6,8 48:4 range 35:24 105:18 112:24 163:17 190:13 Rao 142:2 rapid 78:23 rapidly 79:5,11 Rarely 87:11 rate 34:17,18 35:14 36:11,12,13,14,19 40:1,5,6,7,9 61:3 71:20,20 72:1,2 83:21 84:3,17 131:21 137:15 169:6 rates 31:8,9 34:15 35:11,20,21 37:20 39:6,22 48:22,24 49:15 60:22 144:10 ratio 20:11 21:13 rationale 166:12 170:1,5</p>	<p>ray 151:10 reach 80:17 84:17 154:6 reached 29:21 136:9 reaches 71:8 reaction 29:16 104:5 157:21 reactions 101:25 102:7 143:11 156:17 157:17 read 9:1,3 10:19 13:14,15 17:23 52:9,14 53:11 58:18 63:13,16,18 63:24 64:2,3 86:24 89:10 90:23 90:24 91:6,7,9 99:5,7 110:3 116:8 117:7 121:20 136:20 138:11,12,13 147:21 167:14 193:3 readily 132:9 reading 89:12 91:18 147:20,22 177:16 ready 151:16 180:5 real 31:6 114:11 realistically 186:21 really 31:8 35:6 36:15 48:25 51:13 52:5 57:15 75:18 80:12 85:17 86:6 112:17 130:9 140:19 142:23 164:15 168:15 reason 12:5,7 61:10 120:7 130:19 166:9 170:24 194:6,9 reasonable 7:2 47:21 85:23</p>
---	---	--	--	--

144:14 163:8 reasonably 5:19 reasons 84:25 85:17 123:2 139:11 Rebuild 68:9 recall 11:8 12:2 51:1 63:2 67:4,7 67:23 91:20 93:12 136:16 recalled 11:17 receive 65:18 received 6:5 11:25 37:21 82:6 137:13 148:20 172:16 receiving 35:17 109:9 receptor 48:11 101:23,24 102:6 102:12 143:20 receptors 48:9 102:13,14 103:10 114:10 recess 61:5 92:11 135:2 181:10 recognize 58:1,4 135:24 189:8 recommend 133:16 155:3 recommendation 154:17 recommended 122:9 133:22 147:10,18 148:4,5 148:5 152:11,11 152:13,18,18,20 153:1 154:19 155:1,2,4,5,8,12 recommending 158:11 record 4:9 5:17 9:12 52:17 88:15 99:4 105:1 108:25 150:6,7 159:25	193:4 194:7 recourse 127:14 recurrences 23:18 84:20 recurrent 76:1 recurs 75:22 red 31:21 78:16 79:16 188:2 reduce 129:10 161:1 180:1 reduced 180:17 reduction 180:19 redundant 103:6 refer 140:20 150:21 reference 67:16 96:3 120:12 141:15 168:10,12 171:18 references 58:9,12 121:6 141:15 referrals 24:5 referred 24:5 92:13 reflect 99:5 regard 21:12 99:3 129:3 150:20 regarding 99:1 regimens 159:11 regulations 118:9 118:15 regulatory 159:22 reimburse 55:1 reimbursement 56:4 relapse 39:23 relate 21:22 related 11:1,22 34:2,3,10 79:24 80:1 82:20 84:12 185:13 relates 7:14 14:3,5 41:10 relating 6:17 11:24 38:8 94:17 95:3 97:8	relationship 68:15 91:15 157:14 relative 65:5 179:16 relatives 57:1 released 147:9 reliable 7:1 10:3,10 12:20 61:2 90:11 97:16 107:9 114:2 122:1 131:17 142:20 154:10 173:6 175:9 178:6 relied 67:12 reluctant 186:21 rely 135:11 159:8 relying 67:22 remain 27:11,21 70:19 72:7 94:15 remained 180:21 remember 11:12 91:22 93:4,5,9 117:16 137:2 remission 31:9 37:13,14,15,17 39:5,22 42:1 73:17 111:4 179:14 180:21,21 remissions 87:11 111:18,18 remove 94:10 removed 87:16 renal 102:19,22 103:1 104:16 reoccurrence 75:13 75:22 81:20 repeat 140:6 replace 89:14 121:25 122:19 replaced 100:9 replacement 78:24 122:4 report 4:23,25 5:1 6:2 11:6,21,23 13:23 33:25 34:4	50:1 57:8 58:9,10 58:13 61:7 62:12 64:3,12 66:4 68:7 86:24 92:1,4 97:4 113:3 121:24 126:23 127:16 138:18 139:22 144:20 148:2 149:3 150:4 151:25 158:3 168:9,11,16 182:1 reported 2:22 97:25 99:8 120:14 127:11 142:16 153:7 REPORTER 192:1 reporting 126:25 127:1,6 reports 7:20 29:8 33:24 58:6 90:24 161:22 representing 4:19 193:10 reprint 96:18 reputation 41:6 requested 9:3 requests 59:9 require 161:10 194:5 requirements 118:10 122:10 151:6 requires 189:12 research 18:24 19:14,16 20:19 21:12 22:7,11,12 22:17 27:13 28:21 29:24 30:5 40:15 52:19 55:21 66:6 128:20 159:9,15 residency 17:25 residual 42:17 75:4 resources 30:3 51:2 159:7	respect 150:22 respects 70:3 respond 41:16 111:23,24 171:17 respondent 4:19 respondent's 66:8 responding 26:19 responds 189:21 response 31:8 34:17,18 35:11,13 35:14,21 36:11,14 36:19,21,25 37:1 37:10,20 39:5 47:6,15 48:22,24 49:15 60:1,22 61:3 97:13 107:14 109:10 110:22 111:17 112:21 117:17,21,23 119:4,9,10 121:14 129:1 131:21 132:25 144:10 145:17,25 responses 55:13 66:14 107:24,25 112:4 responsibility 163:15 responsible 39:3 127:1 responsive 41:12 41:15 85:1,2 rest 65:13 81:24 restore 175:23 restriction 76:14 result 29:16 183:25 results 32:14 82:22 85:23 86:2 108:24 109:12 127:7 142:16 179:3 reversal 119:8 reverse 38:24 review 6:23 7:11,14 8:22 11:23 12:17
--	--	--	--	--

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<p>12:19 13:3,6 33:11 58:5 63:8 63:19,25 64:8 67:14,17,19 107:6 159:23 161:21 reviewed 6:19 10:21,23,25 11:1 11:2,3,5 12:3,3 13:8 56:7,15,18 56:20,23 57:3,7 63:8 64:11,12,13 64:19 91:10 113:21 119:18 120:9 137:6 162:6 175:13 reviewing 61:8 reviews 33:23 revoke 175:23 Revolution 66:23 67:3 rhubarb 115:13 120:24,25 121:9 127:17,23 rid 73:16 75:3 86:16 Ridgewood 159:18 right 5:7 9:13 18:17 26:14 36:10 43:2 45:22 55:2 67:4 72:12 100:9 108:13 114:20 120:19 139:24 143:1 168:22,24 171:20 172:12 174:7 184:14 rigorous 179:2 risk 43:5 44:6 75:12 82:8 84:1 96:9 118:6 142:18 157:22 183:19 185:23 risks 44:3 RNA 156:24,24,25 156:25</p>	<p>Road 4:11 robust 160:22 161:2 Rochester 18:14 19:1 rodents 45:2 role 26:3 34:6 roles 134:25 root 115:9,13 116:12,23 120:1,2 120:3,25 127:17 127:24 130:18,22 130:23,23 131:5,7 131:19,23 150:25 rough 56:14 route 77:15 rules 194:5 run 84:1</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 1:5 3:11 4:1,5 68:9 safe 45:16 47:11 54:2 145:18 170:13,16 182:12 safety 30:24 33:19 33:24 34:7 45:9 45:21 46:1,5 55:13 61:10 126:4 126:25 145:23 146:17 162:24 175:10,12 salad 130:5 Salaries 19:14 samples 180:13 sarcomas 20:22 satisfy 6:24 106:22 saw 10:13,14 18:9 20:22 88:24 91:22 107:24 113:16 148:2,6,9 160:23 179:24 saying 6:12 26:11 70:1 72:9 90:8 91:4 92:22 97:7</p>	<p>100:6 118:13 121:16 122:16 131:24 133:24 134:3 140:4,9 150:11 151:25 161:13 162:10 165:4 167:6,10 170:4,18 171:21 174:2,16,18 176:2 176:4 177:12 178:15 says 17:20 64:13 66:3 99:5 107:4 111:22 116:13,17 116:20 117:3 138:19 140:2 147:20,24 152:17 157:23 scan 71:10 scared 83:25 187:14 schedule 77:18 106:24 Schilt 2:22 192:14 school 18:16 19:16 science 67:15 74:2 scientific 10:3 22:10 75:19 97:16 178:9,20,23 189:6 scientifically 7:2 190:20 scientist 88:18 scoops 154:17 scope 62:13 97:14 scratch 163:18 screen 73:25 screened 169:8 screening 169:3,4 se 147:11 seal 152:12 search 58:8 searched 151:4 searches 58:14 second 5:1 13:21</p>	<p>37:18 53:7 82:8 94:19 97:19 172:17 secondary 106:16 section 61:7 63:1 120:18 121:7 140:1,7,8 141:15 142:13 143:1,4 sections 58:10 135:9,11 see 7:23 12:20 24:13 30:15 41:13 42:7,7,18,22 44:22 45:3 46:20 47:8,10 48:21 49:10,21 50:15 51:4,10 57:24 59:9,24 60:5,18 68:3 72:24 73:18 73:20,25 75:17 79:10 80:14,15 91:1,25 98:16 109:13 111:17 112:3,5,22 119:5 119:6,8 120:21 125:25 126:3 128:25 132:22,24 136:14 137:8 139:21 144:15 145:9 153:23 155:25 157:11 158:15 159:1 160:3 164:9,20 166:15 167:14 169:5,14 185:12 185:16,18 seeing 27:5 60:10 84:6 185:6 191:5 seeking 17:15 seen 11:9 21:3 55:12 80:9 83:22 87:12 92:3 132:13 146:25 166:4,5 185:8,10</p>	<p>segments 58:12 seizure 124:25 self-administering 110:7 selling 111:9 send 57:24 sense 5:9 68:14 105:23 117:23 170:6 sensitive 75:3 sent 34:4 137:8,12 180:13 sentence 140:2 142:15 172:17,18 separate 17:5 71:4 88:5 193:6 series 35:4 101:25 102:7 serious 25:24 33:25 86:14 127:3 servicing 30:20 137:1 147:25,25 148:1 148:11,12 sessions 5:4 set 6:22 35:4 60:20 106:14 141:8 144:4 145:17 162:7 sets 101:25 102:6 102:13 137:21 seven 37:8,24 115:7 116:11 118:21 121:3 seven-year 35:22 severe 80:6 84:10 134:24 160:2 severity 104:9 159:2 160:1,24 sexes 185:9 shake 174:22 share 187:9,20 189:4 shark 7:19 12:24 88:19,21,24 89:3</p>
---	--	---	---	--

98:2,9,12,13,18	side 46:1 52:8,10	76:6,13,18 127:20	solid 15:15 16:20	176:25 177:1
98:23,24 99:2,10	52:16 60:1 81:11	182:8	16:21 20:1,5,8,11	181:3
99:12,13,14,20,21	81:12,13 85:10,14	situations 76:19	20:21,22 21:6,7	specifically 6:23
99:24 100:1,7	86:10 95:18,20	six 46:10 51:25	21:20,23,24 40:8	9:16 48:14 94:17
107:23 108:2,3,12	97:1 103:18,21,22	52:2 96:8 104:22	43:17 110:16	95:3
108:25 110:6,11	117:25 118:7	104:23,25 110:23	solutions 151:9	speed 125:6
110:17,24 112:13	123:3 126:18,20	111:2 148:7,8	somebody 24:20	spelled 100:18
112:18 113:9	146:20,24 158:7	187:4	26:8 42:25 53:7	115:6
114:3,3 162:18	158:24,25 159:2	sixty 111:16	67:20 75:20 77:1	spelling 192:19
165:6,7,9	160:1,4 161:1	size 71:8	79:9 83:24 110:2	spend 52:3 93:8
sheep 115:9	164:2 176:4,5,14	skin 29:20 182:25	156:23 157:4	189:15
sheet 193:6 194:5	176:23 177:2,6,8	skipped 18:12	159:17 186:17	spends 93:6
shift 20:24	177:10,14 178:25	slides 107:6	somebody's 178:16	spent 12:10
shifted 22:16	180:22	slight 185:3	sophisticated 98:11	spill 78:19
short 181:7	sign 84:19	slippery 115:13	Sorafenib 102:23	spinal 80:7 82:15
shortcut 181:6	signals 127:2	120:21	103:9 104:7 114:8	83:1
shortcuts 181:5	signed 6:21	Sloan 18:15 19:2	sorrel 115:9	spleen 80:8
shorter 37:19	significance 142:13	19:19 58:15 59:1	sorry 6:8 87:20	sponsor 159:6
shortly 5:24 172:5	143:4	80:23	100:14 172:2	161:18
show 35:12 40:14	significant 36:19	slow 169:6	174:12	spontaneous 87:11
70:25 106:14,18	61:25 105:6,7	small 30:3 44:4	sort 44:12	87:12
114:11,12,13	significantly 35:11	48:18 50:15 75:7	sound 68:17	spread 104:16
127:7 128:6	35:16,17,19 37:5	76:11 77:1 82:7,7	sounds 5:8	Springhouse 63:22
129:14,18,21	37:12,23,24	82:18 95:19	source 156:13,21	squared 155:7
131:17,22 142:23	104:22	101:22 102:9	173:20	St 123:8,9 124:2,5
143:8 144:5,6,23	silicone 151:2	147:21 161:19	sources 10:25 11:5	180:14
145:21,22 153:19	silver 151:2,10	162:22 163:2,7,7	18:22 58:8 151:5	stabilization
160:22 162:9	similar 125:18	183:4 186:9	152:14 155:3	114:17
164:25 169:17	158:25 163:16	189:20	Sox 188:2	stable 111:5
178:12,15 190:20	simple 57:14 132:5	smaller 42:14	so-called 151:24	stack 67:1
190:24	single 46:21 57:18	163:3	speak 168:2	stage 22:20 24:6
showing 60:24	139:4 140:24	smear 80:15	speaking 64:17	26:22 33:9 49:4
shown 61:1 114:1	145:13 162:15	smoke 129:16,22	86:24	53:6,21 110:15
178:5 189:14	164:5,12 165:15	183:24	special 42:6 48:16	134:17 168:18
shows 166:16	165:21 166:11	smoker 85:5	specific 7:9 27:6	169:9 183:4,6,10
shrinkage 45:4	167:17 176:11	smokers 129:20,23	33:8 35:1 40:17	183:12 185:20,21
47:6 114:17	site 8:23,24 10:15	129:24	44:25 48:7 56:12	189:17,21,25
shut 92:10 143:14	66:1 91:1,12,13	smoking 129:25	58:9,12 59:16	stages 49:11 163:22
Siberian 115:9	91:14,15,19,23	185:25 186:4	68:18,19 73:6	stake 86:8
117:1 119:15	92:5,6 161:21	Society 66:24	76:16 77:14,15,18	stamped 149:20
120:8,18 121:4	sites 11:2 13:20	sodium 116:22	84:13 90:1,10	standard 35:9,9
130:21	159:16,20	soft 20:21	112:5 118:25	47:20,20,22,23
sick 179:21 180:2,3	sitting 67:4	sold 99:18	127:22 132:20	48:5,6 52:7 55:21
sickest 173:12	situation 52:10	soldiers 85:16	134:9,14 141:14	108:11,14,17

109:2,3,5 112:16 113:13,14 159:11 159:13 standards 98:19 stands 101:2 Stanford 58:15 start 43:1 46:9 76:23 81:3 95:20 104:1,2 139:24 145:7 164:24 166:14,17 167:9 started 11:9 72:20 81:8 88:20 103:14 136:13 145:5 179:5 starting 78:2 107:1 166:19 starts 41:23 50:19 87:14 start-up 27:18 state 4:2,8 77:22,23 77:24 80:17 87:19 87:19,22,22 97:25 144:20 147:18 178:4 statement 41:9 67:11 69:2 91:11 91:25 99:2 142:7 142:10 169:19 174:19 statements 62:15 states 2:1 31:14,15 52:23,24 55:2,9 63:14 stating 8:15 131:12 statins 126:8 statistical 60:25 statistically 35:11 35:13 36:18 105:7 statistics 81:22,24 82:1 status 114:18 145:15 stayed 185:2	stays 102:13 steady 185:2 stem 179:17 stenographic 194:6 step 81:5 142:19 sticking 132:15 sticky 132:12,22 stiff 187:14 stimulant 101:5 157:9 stimulates 54:16 100:22,24,25 101:1,4 stimulating 86:15 stimulation 120:13 sting 172:13,14 stings 157:13,14,19 157:20 stomach 61:21,21 125:21,25 185:9 stop 5:13 44:23 86:18 122:20 129:25 143:17 180:5 stopped 32:19 111:19 113:18,18 185:24 stopping 114:16 170:21 store 100:1,2 stored 33:18 story 52:25 straightforward 25:6 stream 20:4 75:9 78:19 Street 3:15 stroke 132:8,18 strong 67:20 strontium 151:2 structural 89:21 studied 112:22 165:24 169:24 studies 26:25 27:3	32:6 36:24 40:23 44:8,10,19 45:8 49:17 54:10 59:5 62:1 67:25 68:3 80:20 93:11,14,16 98:1,20 99:8 101:12 106:4,11 106:12,13 107:7 107:13,20 109:10 111:2 112:24 113:9,25 114:14 117:14 118:24 119:24 121:6 126:2 128:6,8,25 129:9,17 131:1 139:9,15,19 140:20,21 141:13 142:14,16,17,17 143:8,16 144:2,23 145:19 146:11,15 146:16 153:17 154:1,2,12 163:15 163:25 165:1 166:4,5,14 168:2 169:13 178:18 studious 53:10 study 15:4,6 19:21 24:25 25:7 26:20 29:8 30:5,11,20 30:22 33:1,4,6,14 34:19 35:23 37:7 37:8 38:2,3,8,10 38:12 45:14,20 46:19 47:16 53:16 59:20 60:19 66:6 96:12 98:7 106:13 106:15,17 107:5,9 107:18,19 108:4,5 109:1 110:11 111:7 112:7,10 113:2,24 125:22 126:5 128:25 129:11 139:11 145:3,6,12,22	146:8 147:2 151:10 158:2,18 158:19,20,22 159:6,17,25 160:7 160:14,15,20 161:14 162:11,13 162:19,22 163:2,3 163:19,23 164:17 165:6,8 169:1,23 175:19 186:14 stuff 5:3 67:1 85:18 86:23 subjective 67:17 subjectively 67:21 submitted 6:20 7:12 56:25 57:8 65:17 111:7 subscribe 58:18 subsequent 149:3,9 subsequently 94:25 substance 9:7 166:10 170:2 substances 70:8 169:12 substantial 165:19 substantiate 10:4 62:16 97:17 substitute 90:19 successful 41:6 successfully 18:3,4 suddenly 72:17 sue 127:15 suffer 104:12 122:13 sugar 134:11 suggest 54:20 68:1 114:2 131:1 139:16 suggested 98:1 99:9 suggesting 68:5 suggestion 186:8 Suite 3:6 summarize 32:5 142:12	summary 44:13 56:14 106:10 113:23 144:1 172:17,18 Sunitinib 102:17 103:8 104:6,18 105:1 114:7 superficial 29:12 29:20 supplement 121:18 121:21,23 122:3,6 122:14 134:21 156:10 171:12,12 171:14 supplemental 121:12,17 147:22 147:23 164:1 supplementary 162:18 supplements 171:3 supply 173:24 support 7:12 8:15 10:11,24 12:21 14:15 19:13 23:9 24:16 25:22,24 54:10 66:8 68:11 81:2 83:15 91:15 97:16 111:10 119:24 120:13 158:1 159:5 173:7 175:10 supportable 7:1 supported 18:23 59:4 68:12 supporting 8:23 58:9,12 67:19 128:9 supportive 12:16 23:5 25:19,20 32:8 55:14 58:22 86:10 95:4,5 109:11 110:18,20 supposed 57:23 89:4 155:9
---	--	--	--	--

supposedly 172:6 172:20	susceptible 44:3	132:3,3,7 133:25	48:11 177:2	term 89:16 142:9
suppressed 68:21	suspect 80:14	134:1,16,20 153:1	190:14 191:6	terms 21:17 22:16
sure 5:19,23 6:10	Sutent 102:18,18	156:13 157:1,20	targets 40:17 190:6	46:14 78:7,7
13:6 14:10 25:1,5	SWANKIN 3:14	160:6 166:6	190:7	104:9 105:1 107:1
30:23,25 34:9	switched 103:15	173:10 174:3,9	tastes 60:16	166:7 186:1
43:13 70:19 73:19	sworn 4:2	175:3,5 176:4	taxane 113:14	terrible 86:11,12
74:12 76:15,16,18	sympathetic 87:13	181:7,25	177:25	133:21 188:12
81:3,6 90:16	synergy 165:15	taken 55:13 61:5	taxol 181:11,13	test 25:13 44:20
93:16 94:3 100:13	169:11,13	79:15 92:11 135:2	tea 90:5,6 115:15	71:10 73:23 80:14
117:12 122:7	synthesized 77:13	153:5 155:23	117:4,5,6,7,8,17	88:22 90:4 98:7
123:7,21 133:15	synthetic 147:6,7	156:7 181:10	120:13 143:7	98:16 114:12,15
133:20 136:17	synthetically	189:10 192:8	teacher 180:7	119:1 130:8
138:18 140:11,14	100:20 177:24	takes 185:16	teaching 22:3	132:22,24 153:19
140:18 151:11,13	178:1	talk 4:23,24 68:8	team 23:10 87:5	153:23 156:18
151:14 152:1,12	system 40:12 61:8	70:5 85:18 94:21	teaspoon 75:7,10	tested 126:12
158:11 162:8,23	68:10 69:15,16	127:16 133:13	technique 73:22	163:24
165:12 171:5	70:1 81:7 82:12	139:3 140:19	techniques 72:23	testified 4:3 177:17
174:1 181:23	82:16 86:15 87:13	142:4,13 150:17	75:4	testimonials 56:23
186:13	127:6	152:22 172:12	Technology 66:23	56:25 65:17,19,25
surface 48:9	systems 87:1	187:22 190:4,10	Ted 6:14	testimony 56:18
surgeon 52:15	S-O-R-A-F-E-N...	talked 36:13 53:3	teleconferences	177:17 193:4
surgery 26:18	102:24	62:10 81:14 87:8	6:20	testing 49:20 50:7
41:17 49:5,6	S-U-N-I-T-I-N-I-B	106:23 113:8	telephone 6:5	124:23 155:10
64:25 74:20 75:6	102:17	121:22 123:3	television 126:17	tests 42:6 94:15
82:24 183:2,3,6	T	135:12 148:4	132:14	95:22 98:15
183:8,11,13	T 1:5	155:15 165:18	tell 10:20 18:25	127:10 146:7
surgically 87:17	table 106:3 130:12	167:16 170:15	34:17 36:25 86:18	187:11,17
183:5	135:5	talking 24:8 35:20	93:3 99:16 100:12	Tetracycline
surprising 95:9	tablet 134:21	39:9,15,16 62:4	108:5 110:8	124:11
survival 31:9 35:16	tail 156:15	80:21 81:16 90:7	116:10,12 117:9	Texas 113:10
35:23 36:12,13	take 5:4,14 10:19	101:15,16 140:19	117:15 120:11	text 96:23
37:10,11 39:5	18:1 39:14,18	163:11 168:8,13	122:22 148:11	Thank 4:17
49:1,14,14 51:24	43:4,14 44:21	170:25 174:6	174:25 176:15	Thanksgiving 24:3
84:17,18,21,22	45:1,12,17 47:19	185:1 188:14	178:11 186:11	24:21
104:14,19,21,22	47:23 48:13,19	189:18 190:5,6,11	189:1,5	THEODORE 3:4
105:2 107:15,16	52:8,17 53:24	Tanacet 145:4	ten 41:21,25 42:9	theoretical 166:9
113:17 114:18	57:11 67:2,9,10	147:2,4	42:14,15,23,25	therapeutic 4:14
121:15 144:11	75:7,15 77:10	tannins 127:24	43:1,20 70:14,19	26:18 32:3 47:3
survivals 35:22	85:21 88:14,17	tape 91:8	71:1,14,17,18,22	47:10 51:10
survive 189:23	90:8 94:4 95:23	target 35:1,3 38:6	72:7,10,15,15	152:24
survived 35:24	109:11 110:2,13	48:7,14,15 88:10	73:23 78:2,3,4,4	therapies 12:13
surviving 36:9	116:22 122:22	100:21 103:10	82:19 109:12,13	23:23 24:8,8 33:9
128:17 189:20	124:2,15,22	targeted 26:23	184:23,25	41:14 45:17 59:13
	125:10 130:8	30:11 35:1,6 48:6	tend 61:9 84:22	110:1,1 173:23

174:5 175:4,4 177:2 179:24 190:15 191:6 therapy 7:23,25 10:9 14:10 23:11 24:9,15 25:12 26:15,23 27:19 29:15,18 30:11 35:9,10,18 38:13 40:20,22,25 47:20 47:20 48:7,11 49:9 51:18 52:2 52:21 53:8 65:1,3 74:20 81:19 82:7 82:15,22,24 83:6 83:9,11 84:5 85:13,16 86:9 89:15 90:10 95:3 106:22,25 107:11 108:1,2,3,9,11 110:14,18 111:20 113:14,15 121:13 122:1 124:4 128:18 131:14,15 144:10 158:8 159:13 164:2 178:17 181:8 183:20 188:11 189:3 190:6,9,11 190:14,14 therapy's 108:15 thereof 194:5 thing 10:22 28:4,5 37:11 46:7 64:2 65:8,14,15,17 91:5 95:8 129:24 136:14 138:5 140:4,10,11 144:17 149:17 152:22 167:7 173:9 179:25 186:5 188:12 things 4:24 10:18 10:20,21 11:20	12:2 15:20 16:12 16:13 24:23 26:2 33:12,19 34:9 46:4,5 56:3 61:24 64:12 66:25 67:15 71:4 79:11 85:4 86:12,19 89:17 90:5,8,12,17 92:5 92:7 93:9,13 95:14 107:17 110:7,10 111:13 121:22,24 122:17 124:24 125:19 131:3 133:21 134:13,21 142:21 142:23 143:6 146:20 151:15 152:3,8,9,10 155:4 162:12,17 162:18 164:12,19 164:20 165:5 170:9 173:15 185:10 188:20 189:13 190:9 think 8:5 9:10,12 12:11 19:24,24,25 19:25 20:2,3 25:16 31:17 34:25 36:14 40:13 48:9 50:13,14 53:24 57:8,23' 62:14 63:4 65:20 66:12 66:13,13 83:14,21 84:7 85:12 87:2 87:25 89:3,5 90:1 90:23 92:17,24 93:13 99:23 105:18 115:6 120:15 122:17,20 123:20 130:25 135:18 136:10,13 136:22 138:20,23 138:24,25 139:16 140:12,13 147:20	147:24 151:16 155:16,17 160:16 170:24,25 173:2 176:8,13 177:5,10 181:9,14 182:9,23 184:17 185:9,17 185:17 186:18,24 187:1,18,19 188:17,22 190:17 thinking 88:11 89:13 163:16 thinks 89:6 thinners 125:10 third 5:2 42:22,23 71:23 72:16 83:5 Thirdly 170:11 thought 52:13 130:4 160:19 164:15 188:9 thoughts 13:2 52:11 thousand 154:20 173:3 thousands 172:7,10 172:21,23 three 4:24 31:15 39:24 46:10 72:7 72:10 73:5 79:3 82:18 101:20 103:3 104:25 115:10 120:21 145:16 147:20,25 148:6,12 151:21 152:14 154:21 160:6 172:16 throat 186:1 throw 98:14 109:13 time 5:11 6:10,21 20:25 21:17 22:14 24:11 28:16 29:10 29:25 31:4,7 32:17 33:13 34:14 37:1,3,4,8,18,22 41:20 47:15 49:2	49:24 52:18 53:11 72:2 74:23 77:17 79:4 81:18 83:24 84:23 92:17 93:6 105:3,8 107:15 109:9 122:12 125:5 126:17 131:21 134:19 144:11 155:25 158:14 166:25 186:17,18,20 191:12 times 52:14 146:20 148:7 152:15 154:21 tired 184:13 tissue 20:21 132:4 tissues 33:11 46:2 69:17 titanium 151:3,12 title 4:9,12,13 66:12 192:3 titles 140:22 tobacco 129:15,22 183:24 185:25 today 4:22 21:2 23:25 40:2 51:2 59:14 74:2 87:6 103:5 112:2 113:13 139:16 145:7 146:20 179:4 187:3 189:19 190:6 Today's 39:21 told 110:4 187:4,24 188:5 191:2 tolerable 104:14 tolerance 144:13 tolerant 85:9 tolerate 14:12 24:15 25:4,12 84:24 tolerated 46:17 59:25 131:20	145:23 146:9 155:10 tolerating 110:24 tomentosa 117:12 tons 156:15 162:16 top 56:1 96:5 total 22:24,25 23:7 24:17 148:8,12 tougher 85:16 toxic 34:23 40:22 61:9 62:2,6 81:11 81:12,13 125:3,5 179:22 186:16 toxicity 40:21 45:10 46:12 60:10 84:14,14 119:10 144:14 145:9 155:11 159:24 162:21 track 155:25 Tracrium 77:5 tract 46:4 80:10 129:7 trade 2:2,13 3:3 102:18,24 192:8 traditional 141:4 181:21,22,24 trained 17:7 32:25 training 14:18 17:8 18:3 transcript 91:7,9 192:6,7,19 193:3 193:6 transcripts 56:20 64:21 65:9,12 transplantation 179:17 190:9 Trastuzumab 100:13,15 travel 38:21 treat 12:12 14:11 28:9 29:4,11,19 30:12 31:1,6,21 31:25 32:16,18
--	---	---	--	--

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45:2 49:8 51:15 51:19 65:22 74:9 75:20,24 77:15 86:12,14,15,20,24 88:4,7 90:20 104:18 118:11 121:11 126:8 128:13 131:12 141:4 155:5 178:16 179:13 treated 14:16 23:3 23:16,18,21 25:23 26:13 36:3 37:16 37:20 38:13 42:17 46:24 52:4 75:6 82:5,10,14,25 84:16 85:22 92:4 95:12 96:13 109:8 109:12,13,23 113:13 126:6 145:8,12 172:7,21 179:16 187:8,16 188:4 treating 12:11,21 33:3 52:19 54:21 85:7,24 86:3 90:12 95:24 107:4 119:24 122:23 142:25 155:13 167:2 170:13,17 173:7 175:11 176:12,13,22 177:9 183:10 treatises 141:9 treatment 7:16,17 8:17,19 10:6 14:12 15:5,7 21:1 21:9,11,12 22:5,9 22:11,12 23:6,14 23:24 25:4,13,18 26:4,6,7 27:12,13 27:19 30:8,15,18 32:13,14 33:20 34:20 35:25 37:17	39:4 41:7,12 53:6 59:8,13,20,25 65:7 73:6 74:5,7 74:18 75:17 81:3 84:12 91:1,4 97:9 97:19,24 101:8,9 101:11,20 102:19 102:21 103:2 108:6,8,18 109:20 110:16 129:18 144:16 154:23 160:1 165:13 179:1 180:23 189:22 treatments 41:8 187:17 188:24 189:11 190:18 tree 117:11,12 177:23 178:1 181:14,15 trend 127:2 trial 24:10,25 35:8 38:15,17,25 47:12 47:18 48:1 50:3 50:10 53:4,15 54:2 55:3,10,16 60:13,13,15 95:13 108:18 109:15 112:9,23 113:1,4 131:22 142:22 158:4 159:10 161:3,7 163:8 trials 30:1 31:12 39:6,7 40:15 46:9 53:23 55:5,10 58:17 59:12 62:1 68:1 83:10 139:18 142:12 144:3 163:16 169:22 Trials.gov 58:16 Tricia 13:16 56:19 92:8 tried 180:1 trip 189:12	trouble 42:10,11,12 83:16,18 126:3 147:20 true 37:7 41:9 63:3 70:2 89:23 104:25 123:6 193:4 truly 189:25 try 19:23 24:1 41:3 139:25 151:5 181:6 189:2,9,24 trying 9:17,18 17:23 18:11 27:4 51:4 68:13 71:5 72:22 100:6 110:21 112:2 134:7 138:23 170:1 171:18 180:25 tube 29:21 44:20 88:22 90:4 98:7 98:16 114:12,15 130:8 153:19,23 156:18 tumeric 67:8,23 68:2 138:14 139:4 139:21 140:1,3,4 140:8,9,14,19,21 140:25 142:9 165:18,22 166:11 166:23 167:20 169:20 170:2 tumor 8:16 10:5 16:20 19:24,25 20:2,11,12 29:14 29:14,14,16,17 35:5,7 36:22,23 37:3,22 39:8 40:10 41:14,21 45:1,4 47:6,7,15 49:3 62:17 68:22 71:20 75:4,11 80:5 87:15,16,16 87:22,23 88:23 97:9,18,23 105:3	107:15 110:15,22 117:24 122:20 128:14,25 131:22 143:23 144:11 153:18,20,21,22 153:24 154:7 169:5,6 185:18 tumors 10:7 15:9 15:12,13,14,16 16:8,18 19:22 20:1,5,6,9,9,21,22 21:3,6,7,20,23,24 29:12 40:8,8,11 40:11,12 41:10,15 43:17 45:12 54:21 54:24 71:19 72:20 82:20 85:1,3 87:10,12,13,18 101:13 102:21 110:16 113:12 114:17 178:8,8,8 tuned 24:11 Turkish 115:13 120:24,25 121:9 127:16 turn 51:19,21 93:25 102:1 160:10 turned 43:14 94:15 97:20 180:9 Turner 1:3 3:11,12 3:14 4:5,18,18,22 5:9,19 6:12 9:15 9:23 11:14 41:3 52:16 58:1,4 62:5 65:12 94:8 99:7 106:8 115:24 135:13,18 136:11 137:9,11 148:16 148:22,23 149:5 149:11,13,16,23 150:5,6,8,14,17 153:11 168:9,11 172:3 174:13	191:9 turning 87:18 turns 102:5 111:15 Tuxedo 4:11 twice 161:24,24 two 5:4 15:20 17:5 35:25 56:20 60:25 61:7 62:12 65:20 72:1 73:15 101:16 116:3 120:24 124:24 127:25 135:6 139:11 147:9 148:7 154:24 162:3 type 39:12 45:12 46:21 47:7 53:5 71:2 93:7 163:16 184:9 186:5 types 27:6 39:11 40:4,10 46:22 47:7 163:21 185:18 190:15 typical 23:12 tyrosine 143:18 T-A-N-A-C-E-T 145:4 T-A-X-A-N-E 113:14 T-O-M-E-N-T-O... 117:13 T-R-A-S-T-U-Z... 100:15 T-Y-R-O-S-I-N-E 143:19
U				
Uh-hum 160:9 ulceration 160:2 ultimate 142:19 Um 12:22 91:3 unaware 178:4 182:21 uncaria 117:12 unclear 9:13 11:15 unconventional				

190:17,18 uncovered 95:15 undergoing 14:9 22:21 101:20 102:20 underlying 166:9 understand 7:7 9:17 11:8 17:2,14 26:11 71:5 78:10 86:7,8,25 99:23 100:6 137:23 157:3 168:14 181:23 187:5,7,16 189:7 understanding 8:4 8:8 32:12,15 40:16,18 55:8 187:20 undertaking 165:19 undiagnosed 45:18 unethical 45:20 unexpected 181:8 uniform 40:13 unique 26:24 40:4 41:17 United 2:1 31:14 31:15 52:23,24 55:2 63:14 units 166:10 universe 72:9,14,19 university 18:14,16 19:16 unknown 75:19 120:15,17 136:8 unmedical 161:10 unproven 173:11 175:4,7,9 179:23 188:24 unquote 158:6 untreated 47:19 unusual 41:18 update 35:23 upset 110:9 179:21	upwards 49:23 105:25 urinary 129:7 usage 182:9,11 use 7:20 12:21 24:19,22 31:19 40:14 47:9 53:9 53:25 54:8,10,17 54:23 55:24 56:2 67:17 73:22 77:10 82:24 83:11 86:17 89:17 96:2,23 113:13 118:11 119:24 131:13 142:8 145:24 149:20 151:8,9,11 156:6,9,22 159:7 166:21 173:7 176:21 181:22,24 182:5 183:13 188:24 useful 50:23 51:9 uses 53:22 103:16 181:21 usually 47:2 74:9 79:23 84:9 97:2 112:18 132:5 145:6 U-N-C-A-R-I-A 117:13 U.S 64:5	vegetable 76:14 VEGF 101:4,23,24 102:6 103:8,10 verbatim 63:4 verify 107:7 versus 20:12 47:14 108:2 109:3 vessel 54:17 88:23 88:25 98:17 100:22 101:1,6 102:2,11 114:16 vessels 102:4 132:13,17 vice 27:19 view 150:22 vigilantly 30:25 vincristine 155:5 177:24 violates 118:14 viral 70:7 79:9 156:25 virtually 124:16 179:6 virus 183:19 viruses 183:18 vision 147:1 visited 13:20 visitor 91:16 vital 25:10 vitality 134:22 vitamin 116:4 122:11 133:5,6 134:23 vitamins 122:10 133:9,21 138:16 152:5 vitro 153:18 154:1 vivacious 83:24 vivo 44:19 117:14 volatile 116:24 volunteers 125:23 vomiting 85:11 86:18 104:10 vs 192:3 194:3	vulnerable 173:14 V-E-G-F 101:2	<hr/> W <hr/> wait 7:8,9 75:22,25 149:13 waiting 75:17 walk 11:19 walked 187:25 wall 29:5 want 4:24 11:8 13:21 17:2 23:23 24:20,21,25 25:5 26:9 27:8,9 36:16 38:16,19,20,21 50:17 51:2 69:9 75:3 81:6 83:19 84:1 86:16 90:15 91:5 97:3 98:6 104:1 109:16 112:11 118:8 122:18 131:16 145:24 148:14 158:19 160:3 164:14,17 166:21 189:5 wanted 6:1 25:24 56:6 63:7 66:21 77:9 118:23 159:6 161:18 164:11,13 Warfarin 125:11 125:14 warning 95:21,25 96:5,11 124:2,5 124:13,14 warnings 95:8 96:15,21,22 97:1 124:8,17 127:4 warrant 68:2 139:17 155:17 182:10 warranting 139:10 Washington 3:16 wasn't 52:1 67:21 108:1,4 109:2	111:18 112:8 113:7 137:14 146:1,5 186:22 waste 51:2 Watch 127:10 water 5:11 112:18 watercress 115:14 116:13 120:25 121:6,8 129:3,4,5 129:13,19 130:1,3 130:4,7,13 wavelength 29:15 way 5:16 12:12 14:17 33:18 41:4 47:12,24 48:16 50:16 66:13 70:19 88:11 89:20 90:6 98:20 101:12 109:4 114:25 115:21 137:5,21 142:20 144:19 151:21 156:7,14 158:2 166:17 167:18 168:19 170:14,18,19 171:9,17 179:2 180:8 186:23 187:5 ways 32:15 45:6 157:5 179:13 181:2 web 8:22,24 10:15 11:2 66:1 91:1,12 91:13,18,23 92:5 92:6 week 54:11 155:7 180:19,20 weeks 51:25 52:2 110:24 111:2 141:24 went 19:15 27:22 36:22 51:7 67:13 72:15 82:20 98:10 108:18 179:22,23
---	--	--	--	--	--

weren't 34:23 110:20 180:2	withdrawn 94:23 94:25 95:6,7 153:11	Wort 123:8,9 124:3 124:6	4:2,11 19:1,6,8,12 19:18 27:17 52:14	1499 3:15 15 36:5,9 69:19,20
we'll 5:4,6,13,22 85:21 139:3 149:23	withdrew 187:12	worthy 68:6	York-Cornell 18:15	153 155:23
we're 4:22 35:20 42:16 49:14 59:14 62:11 68:8,15 72:22 74:12 81:16 83:12 84:5,6 87:17 88:15 90:6 116:6 122:19 124:19,23 149:5 149:21 151:16,19 162:7 169:21 174:6 181:4 185:1 185:6,12 189:18 190:1 191:5	witness 1:2 4:23 194:1	wouldn't 76:24 90:18 105:14 128:24 131:24 133:16 159:12,13 161:19 173:3	young 83:7 84:3 180:4	16 150:15,15
we've 5:16 13:23 46:13,16 77:9,19 82:23 153:11 163:16 169:2 171:2 181:21 185:8,10	woman 44:4 75:5 75:12 180:6	wound 180:13	Y-E-W 181:16	16th 3:15
white 73:4,17 78:16 79:20 86:13 128:13 136:3,17	woman's 44:3	write 53:19 54:5,23 62:17,22 159:20 159:21	<hr/> Z <hr/>	16-year 85:25,25 86:3
widely 132:6	women 43:16 185:7	writing 11:6 56:2 56:14 67:20 161:21	Zang 3:4 6:6	18 32:9,11 69:21 164:23
wife 13:16	wondered 106:9	written 58:25	zirconium 151:3	19 107:25
William 110:12 112:12	wonderful 83:22	wrote 29:8 62:15 62:20,23 66:13 120:1	<hr/> \$ <hr/>	194 2:21
willing 24:1,1 55:22 189:9,15	word 77:19,20 98:6 99:3 112:1 171:6 187:1	W-A-R-F-A-R-I-N 125:11	\$100 123:24	1990 20:16,24 21:2 21:15,19 22:1 27:13 32:5 51:22 51:23
Wilms 188:7	words 62:25 77:9 174:22 188:6	W-I-L-M-S 188:8	\$2 160:13	1993 22:10
wind 181:7	work 6:16 7:4 10:16 11:4,21,22 12:15 18:24 20:11 21:8 22:16 29:2 31:3 33:15 43:6 44:25 48:17 50:12 53:1 59:7 60:9 62:13 88:17 90:12 92:19 97:14 128:10 129:1 191:2	W-O-R-T 123:8	\$6 162:2	1994 141:16
windpipe 29:22	worked 20:8 28:6 28:25 29:6,10,24 30:9 32:8 128:10 128:20,23	<hr/> X <hr/>	<hr/> 0 <hr/>	1996 27:14 32:20 32:23
wings 171:19,25 172:4,13	working 14:14 20:14 25:3 30:9 31:4,17,18,25 166:3 188:20	X 1:1,5 60:23 106:18,18 173:5 182:20	0001 160:24	<hr/> 2 <hr/>
wintertime 79:18 79:18	workplace 185:15	<hr/> Y <hr/>	1	2 167:4,7
wise 27:15	works 47:8 119:21 128:18	year 24:3 56:22 113:20 175:20	1 1:7 2:21 135:20 135:22	2,000 136:22
wish 38:14 39:4	world 51:11 52:22 68:25 188:9	years 31:8,15 32:11 34:14,22 35:25 37:8,24 39:24 70:20 73:5 81:18 81:24 82:19 109:12,13 128:17 167:4,7 170:3,3 170:12 185:16	1,400 156:23 171:22	2,400 147:11,15,15 148:10,13
withdraw 94:13 150:8	worse 111:25	yesterday 58:5,6	1,500 152:15 154:21	2,900 156:24
	worsen 175:24	yew 177:23,25 181:14,15	1.5 155:6	2-O-O-O 136:24
	worst 51:16	yoga 110:5	1:10 92:12	2-6-09 135:20
		York 2:15,15 3:7,7	10 36:5 41:21	2-9-09 192:11
			100 38:24 49:20 119:19 147:24 182:16,17,22 189:22	20,000 136:21
			10004 3:7	200,000 136:23
			10987 4:11	2000 51:23
			11 71:1 72:15	2003 28:16 31:17
			11th 41:21,21 42:15 43:1,20 78:4	20036 3:16
			12 145:12	2004 31:24
			12.5 180:19,20	2006 32:2,2
			12:10 92:11	2008 7:5 113:24
			135 1:7	2009 2:11 141:21 192:4 193:11 194:2
			14 69:19,19	24 148:8
				25 31:8 34:14,22 154:18
				250 152:14

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3	115:2,8,8,11		
3,000 154:22 167:4	116:20 118:14,20		
167:7 170:3	119:12 120:10		
30 39:20 56:23	127:23 135:3,6		
65:17,18	136:11 138:20,24		
31 109:13	70 110:5 162:13		
318 3:6	75 35:21 190:7		
35 39:20,20	750 152:15		
36 4:11 163:2			
4	8		
4 1:3	80 21:16 35:21 40:2		
4,995 167:18	110:5 163:5,6,7		
168:21	163:11 179:4		
4,999 50:11,22	80s 88:18		
4.5 153:3	9		
4:45 191:12	9:30 2:19		
40 70:20 158:21,22	90 38:15 40:7 153:3		
163:5,6,7,11	90s 34:24 180:24		
185:16	9329 2:5		
42 112:21	95 32:6 38:16,24		
45-minutes 5:6	39:22 81:20		
490,099 169:22	96 32:21		
5	98 39:22		
5,000 50:1,6,20			
51:7 167:16 168:4			
168:16 170:3,4,12			
5,010 169:8			
50 150:15,23			
153:18 158:21			
180:18 184:21			
500 152:14 154:20			
166:2,10,10,16			
167:9 170:4			
6			
6 2:11 192:4 194:2			
60 112:3			
600 147:10,14,15			
148:10,13			
65 35:24 54:12,13			
7			
7 5:18 58:11 114:20			

In the Matter of:

Daniel Chapter One, et al.

January 13, 2009

James D. Feijo

Condensed Transcript with Word Index



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1	FEDERAL TRADE COMMISSION		
2	I N D E X		
3			
4	WITNESS:	EXAMINATION:	PAGE
5	JAMES FEIJO	BY MR. ZANG	4
6			
7	EXHIBIT:	DESCRIPTION	FOR ID
8	Number 1	Complaint	84
9	Number 2	Answer of Respondents Daniel Chapter One and James Feijo, Individually and as an Officer of Daniel Chapter One	97
10			
11	Number 3	Exhibits A through D of the FTC's complaint	104
12			
13	Number 4	FTC-DCO 0011-0032	104
14	Number 5	FTC-DCO 0711-0729	147
15	Number 6	FTC-DCO 0060-0063, BioMolecular Nutrition Product Catalog	156
16			
17	Number 7	Respondents' Responses to Complaint Counsel's First Set of Interrogatories	156
18			
19	Number 8	6-2-08 letter to T. Zang and R. Waldman from J. Turner	156
20	Number 9	Daniel Chapter One Monthly Gross Sales	206
21			
22	Number 10	12-15-08 e-mail from J. Harrison to T. Feijo w/attachment	206
23	Number 11	First Supplement to Respondents' Response to Complaint Counsel's First Set of Interrogatories	234
24			
25	Number 12	BioGuide	243

2

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)
DANIEL CHAPTER ONE, a corporation,)
and) Docket No. 9329
JAMES FEIJO, individually and as)
an officer of Daniel Chapter One)
-----)
Tuesday, January 13, 2009

Room 318
Federal Trade Commission
One Bowling Green
New York, New York 10004

The above-entitled matter came on for
deposition, pursuant to notice, at 11:02 a.m.

3

1 APPEARANCES:

2

3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:

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24

25

4

P R O C E E D I N G S

1

2

3 Whereupon --

4 JAMES FEIJO

5 a witness, called for examination, having been first

6 duly sworn, was examined and testified as follows:

7 EXAMINATION

8 BY MR. ZANG:

9 Q. Mr. Feijo, first of all, please help me

10 pronounce your name.

11 A. "Feijo."

12 Q. "Feijo." I'll try my best, and if I make a

13 mistake --

14 A. No problem. It doesn't matter. That's fine.

15 Q. Okay. Let me just tell you a few of the

16 procedural issues about this hearing so that it can run

17 smoothly.

18 First of all, you can note that to your right we

19 have a court reporter, and she's going to be taking down

20 your testimony today. And one of the important things

21 to keep in mind is that she's unable to record gestures

22 such as if you're shaking your head or something like

23 that, so please articulate all of your answers so that

24 she can record them.

25 Do you understand that?

5

1 A. Yes.
 2 Q. And if you don't understand any of my questions,
 3 please let me know, and I'll do my best to rephrase
 4 them, because it's very important that we have a record
 5 that accurately reflects your testimony and the only
 6 way it can be accurate is if you understand my
 7 questions. Okay?
 8 A. I understand.
 9 Q. And you're represented by counsel today, and I'm
 10 going to ask them to introduce themselves for the
 11 record.
 12 MR. J. TURNER: I'm Jim Turner.
 13 MS. LEHRFELD: Betsy Lehrfeld.
 14 MR. C. TURNER: Chris Turner.
 15 BY MR. ZANG:
 16 Q. And I'm joined today by co-counsel for the
 17 Federal Trade Commission, and my colleague,
 18 Carole Paynter, is here.
 19 In addition, from time to time -- he's not
 20 present now, but one other co-counsel may come into the
 21 room, and that's David Dulabon.
 22 If at any time you would like to take a break,
 23 just let me know, and I'll do my best to accommodate
 24 that as soon as possible. My only request is that if a
 25 question is pending, unless you have an emergency, that

7

1 Q. And are you taking any medication today that
 2 impairs your ability to testify fully and accurately?
 3 A. I don't have any medications at all.
 4 Q. Okay. And is there any other reason that you
 5 could not testify truthfully and accurately today?
 6 A. No, there's not a reason. I should be able to
 7 bring the truth.
 8 MR. ZANG: All right. There's a very short
 9 introductory statement that I'm going to read now for
 10 the record.
 11 So again, my name is Ted Zang, and I represent
 12 the Federal Trade Commission. And this is the
 13 deposition of James --
 14 THE WITNESS: Feijo.
 15 MR. ZANG: -- Feijo in the matter of
 16 Daniel Chapter One, a corporation, and James Feijo,
 17 individually and as an officer of Daniel Chapter One.
 18 The matter number is FTC Docket Number 9329. And it's
 19 being taken for all purposes in this case.
 20 And Mr. Turner, what I'd like to do is to
 21 stipulate that all objections will be reserved until
 22 depositions or deposition expert -- excerpts are offered
 23 at trial, with the exception of objections as to form
 24 and privilege objections.
 25 Is that acceptable to you?

6

1 we just finish the answer to that question and then we
 2 can go off the record and take a break as need be. And
 3 from time to time we'll take a break in any case because
 4 it will be a long day.
 5 Have you ever been deposed before?
 6 A. No, sir.
 7 Q. Okay.
 8 A. To the best of my knowledge. I don't really
 9 know what this is all about, so maybe. But I've never
 10 been through something like this that I can remember.
 11 Q. All right. Have you ever been a party to a
 12 lawsuit before?
 13 A. A lawsuit?
 14 No.
 15 You mean like a divorce or something? Is that
 16 considered --
 17 Q. Any type of lawsuit, and that would be an
 18 example.
 19 A. I went through a divorce, I mean.
 20 Q. And were you deposed for that?
 21 A. No. I don't -- we just went through the fun of
 22 being divorced, you know.
 23 Q. Okay.
 24 A. But no. I don't know what that -- nothing like
 25 this, no.

8

1 So in other words, any privileges that you want
 2 to assert can be asserted today as well as any
 3 objections as to form, but everything else is reserved.
 4 MR. J. TURNER: Are we -- in that stipulation
 5 will we include the fact that if we don't make an
 6 objection today that we could make it at the time of the
 7 presentation of this information at the hearing?
 8 MR. ZANG: Well, again, with the exception of
 9 privileges or objections as to form to allow me to
 10 attempt to rephrase the question, yes.
 11 MR. J. TURNER: With form I get that.
 12 Now, on the privilege question you want to --
 13 MR. ZANG: Those should be asserted today.
 14 MR. J. TURNER: Okay.
 15 MR. ZANG: Is that all right?
 16 MR. J. TURNER: Yep.
 17 MR. ZANG: Okay.
 18 MR. J. TURNER: With that, we're going to
 19 include in the privileges will be all our constitutional
 20 objections.
 21 MR. ZANG: Okay.
 22 BY MR. ZANG:
 23 Q. Mr. Feijo, I just want to again remind you that
 24 you are under oath today, and you understand that;
 25 correct?

9

1 A. I do.

2 **Q. Let me start by asking you some background**

3 **questions about Daniel Chapter One.**

4 **Are you familiar with the company**

5 **Daniel Chapter One?**

6 A. Yes.

7 **Q. And are you currently employed or otherwise**

8 **related to Daniel Chapter One?**

9 A. I'm the overseer.

10 **Q. Can you -- do you have any other positions with**

11 **them other than overseer?**

12 A. No, I don't. I do whatever is needed I guess,

13 you know.

14 **Q. All right. Now, you used the term "overseer."**

15 **Can you describe what that means, please?**

16 A. Yeah. God has set up individuals to be kind of

17 watchmen for his work here on earth, and so as an

18 overseer I have the duty and responsibility to make sure

19 that things abide by his law, his principles, and are

20 carried out in accordance to that need.

21 **Q. As an overseer do you have any specific**

22 **responsibilities for Daniel Chapter One?**

23 A. I -- my responsibilities oversees from washing

24 floors to being here, whatever it takes, you know.

25 **Q. And by "whatever it takes" could you be a little**

11

1 people will help each other out like in a family, you

2 know.

3 **Q. But I imagine that there are some people who**

4 **are more principal in serving that role than others.**

5 **Right?**

6 A. I don't understand.

7 **Q. Well, let me ask you, following up on your last**

8 **answer with respect to the people who help out, can you**

9 **give an estimate of the number of people who help out?**

10 A. The numbers? Oh, man. Twenty maybe. I don't

11 know. Fifteen. I don't know. It could be -- it

12 depends. Sometimes people come in and they stay and

13 they live with us and they may not even -- they just may

14 just help out, you know. It's -- we literally have

15 people come from all over the world. They stay for a

16 while and go and then they -- we'll lay hands on them

17 and send them out to some other part of the world, you

18 know. It's different, you know.

19 **Q. Are there some people who --**

20 MR. J. TURNER: Objection. I want to get on the

21 record our objection which is stated as our first

22 objection to your first -- second request for -- in your

23 second interrogatories, and it's just the same form as

24 it is. If you want, I can read it or else we could just

25 refer to it in the record.

10

1 **more explicit about what you mean.**

2 A. I shovel snow. I -- everything -- pay bills,

3 you know, or say way -- yeah. I don't really know what

4 more -- I mean everything pretty much I guess. I

5 just -- whatever the Lord gives me to do. Computer

6 programs. Make sure that things that people need are

7 taken care of, you know, so that if somebody has a need

8 to fulfill a role that -- graphics, whatever they need,

9 if they need ink for their machines, if they need

10 typewriter ribbon -- well, not typewriter ribbon but,

11 you know, computer things, whatever it is they need, to

12 make sure -- like if you need a pen there, to make sure

13 if you need a pen you have a pen, you know, if you need

14 paper.

15 And unfortunately too many times I have to --

16 the little things, I have to say why are we out of

17 paper, you know. It sounds silly, but it's the little

18 things.

19 So I try to be faithful to everything from the

20 beginning to the end.

21 **Q. Are there other people who work with you at**

22 **Daniel Chapter One?**

23 A. There's -- it's a ministry that has -- the Lord

24 has a lot of different individuals. Like anybody, you

25 have people doing different roles, and quite often

12

1 MR. ZANG: And Jim, what are you objecting to

2 specifically?

3 MR. J. TURNER: Okay. We're objecting to this

4 as a violation of this respondent's freedom of speech as

5 protected by the First Amendment. Request is based upon

6 the erroneous -- that is, the request for the documents,

7 your question -- assumption that all of respondents'

8 activities are commercial speech outside the protection

9 of the First Amendment.

10 The complaint has failed to meet its threshold

11 burden of having to lay the necessary factual predicate

12 that such speech was unlawful or misleading or, if not,

13 the necessary legal and factual practice that such

14 speech may be enjoined in pursuit of a substantial

15 government interest not more extensive than necessary to

16 advance that interest.

17 It's a First Amendment claim. We believe this

18 is an intrusion into his right of free speech.

19 MR. ZANG: And when you say "this," are you

20 referring --

21 MR. J. TURNER: Your question and essentially

22 actually your whole line of questions up until now. But

23 in the same time we can continue.

24 MR. ZANG: And if that's going to be a standing

25 objection, perhaps it would be most efficient if you

13

1 just stated it as a standing objection, if it is in fact
2 going to be a standing objection.

3 MR. J. TURNER: It will be a standing objection.
4 There will be some additional objections for other lines
5 of questioning, but it's a standing objection to
6 anything in this line of questioning that you're
7 involved -- you're raising at this point.

8 BY MR. ZANG:

9 Q. Mr. Feijo, so you mentioned that there are
10 about 15 to 20 people who help out the ministry.

11 Are there some people who help out day to day,
12 day in, day out?

13 I'm just trying to understand if there are,
14 let's say, three, four or five people who --

15 A. Everybody is basically their own authority.

16 In other words, they come and go. They set
17 their own times. I don't have time clocks. I don't --
18 I don't tell them you have to be here, there or do
19 anything. They basically determine what their needs are
20 to accomplish what they have to do. And if they have to
21 leave early, I don't know about it. If they stay late,
22 I don't know about it.

23 Everybody does -- and I don't hang over their
24 shoulders. They do what they hopefully -- hopefully
25 they're doing a righteous job, I mean. That's...

15

1 what I mean? Not that you would, you know, but
2 anyway...

3 Q. Let's return to your functions as overseer.

4 Can you describe what your typical day looks
5 like? Is there a typical day?

6 A. No. There never has been a typical day.

7 As a matter of fact, what's so hard for
8 everybody is that when you walk by the spirit of God
9 and you're being led by the spirit, things are
10 different. And there are times, even for my wife, when
11 in the middle of the night or someday in the middle of
12 a situation I say, We have to go. You know, we have to
13 go here. We're going to China. Wherever it is, we've
14 got to go. And it doesn't make sense sometimes to my
15 wife or anybody, but I have to do it, you know, and I
16 don't even know why, to be honest with you. It's -- it
17 doesn't -- you know, it's not human reasoning that I --
18 you know, when we make a lot of these moves.

19 I don't have a typical day. I don't have an
20 alarm clock. I don't have a clock, a watch. I don't
21 plan to work from 9:00 to 5:00. I don't expect people
22 to work from 9:00 to 5:00 or come and help us out 9:00
23 to 5:00. I don't expect that of my wife. We just -- as
24 things come up, we try to see what the need is, and I
25 present the need and how can we do it.

14

1 Q. How do these people decide what to do?

2 Do you give them any direction in that regard?

3 A. Well, I mean, if we need somebody to make
4 copies for this situation here, we'll say, I need
5 copies and can somebody make me copies, you know, can
6 somebody print this out, can someone e-mail so-and-so,
7 you know.

8 And if there's only one person there, I'll say,
9 Can you do that, you know, but there's like no
10 dictatorship thing. It's -- if something needs to get
11 done and whoever can get it done -- now, some people
12 have better skills than others at one thing, so whoever
13 has those, those people decide amongst themselves, you
14 know.

15 Sometimes personally I wish certain guys would
16 do something that don't do it, but that's not my role.
17 I mean, it's just I need something done and whoever gets
18 it done, I'm -- I just want to be happy to get it done,
19 you know.

20 You guys, you needed material here. I need to
21 get this material. The FTC needs this. Can I get this?
22 Who can get it for me. And I didn't have to dictate
23 which person does it. I don't have to hit them with a
24 ruler or something like, you know, but I just ask them
25 to get it done so that nobody gets mad at me. You know

16

1 Q. Now, you refer to your wife.

2 What is her role with DCO, with
3 Daniel Chapter One?

4 A. She's my helpmate from day one and she has been
5 by my side wherever we've gone in the world and at
6 Daniel Chapter One as far as ministering to people that
7 come in.

8 If -- and the nice thing about it is a lot of
9 ladies that -- female people that come in relate to a
10 woman better, you know, and so she's really gifted in
11 that and she has a real powerful -- a lot of wisdom from
12 the Lord on ministering to people, and so she -- she
13 doesn't come to me, and I don't tell her what her time
14 frame is, what she has to do.

15 I mean, you know, there's not -- we're
16 together, but we're doing different things. She's got
17 children, and it's -- her thing is tougher than anything
18 because we have -- I mean, there are people we've seen
19 that she deals with. I couldn't do what she does,
20 people with children that's been vaccine-harmed and
21 vegetables, I mean. And some of the things, the screams
22 that kids have been harmed by and the parents, I
23 couldn't do it. I'm too -- I couldn't do it. She's
24 pretty tough on that. It's hard.

25 Q. You mentioned that you don't really have a

1 **typical day, but you do have a radio show that is**
 2 **regular, don't you?**
 3 A. Yeah. Every day Monday-Friday 12:00 to 2:00
 4 Eastern Time we make every attempt to get there on time,
 5 and so that's a block of time that we're putting a lot
 6 of time into, you know, our energy, you know.
 7 And it's really a commitment that is real really
 8 important. And quite often we'll refer to it as
 9 John the Baptist crying in the wilderness because I
 10 don't know who's listening. And a lot of times we're on
 11 stations that nobody is listening. I don't know. Or
 12 who knows. We may not even get a call or two from them,
 13 but somehow some way it's used sometime, and so we'll
 14 continue it until we are led differently.
 15 **Q. You've mentioned at the outset that one of your**
 16 **responsibilities is paying bills.**
 17 **Can you describe what sort of bills you pay on a**
 18 **regular basis?**
 19 A. Well, I don't -- it's not that I pay them. I'm
 20 responsible to make sure that the funds are there so
 21 that they get paid, you know. And -- and I'm
 22 responsible for everything. I am -- there's --
 23 whatever it is that needs to be done, our commitment is
 24 that to owe no man anything, and I will not do anything
 25 where I would put Daniel Chapter One and every -- the

1 where if we know somebody -- I'll give you one example,
 2 is a gentleman had cancer and he lost his job, and the
 3 family was worried about losing their house. This was
 4 many years ago.
 5 Well, I met with several of the people in the
 6 fellowship. We just got together. I mentioned the
 7 situation and I said, What should we do? And we all
 8 agreed that we would take our rent money, which was
 9 about a thousand dollars, \$1100, and give it to his
 10 family and we would trust that we would be able to meet
 11 that need and so got out of that.
 12 And those things happen, you know. There's a
 13 lot of people that call up and they have a lot of needs,
 14 and we try to help out. We do different things to meet
 15 that, you know. That's why we exist, I mean.
 16 **Q. This is a topic I'd like to return to later, but**
 17 **I want to return to getting a general sense of**
 18 **Daniel Chapter One.**
 19 **So can you describe Daniel Chapter One's**
 20 **office?**
 21 A. Office?
 22 **Q. (Counsel nodding.)**
 23 A. Office.
 24 Well, we have the building. We have a building.
 25 It's -- there's a ground floor in the building. There's

1 ministry in the position that would jeopardize the
 2 testimony to Jesus because we could owe no man
 3 anything, and I don't -- we don't operate like that, so
 4 we try to cover everything so that there's no
 5 questions, you know.
 6 **Q. So to use your own language, how is it that you**
 7 **make sure that the funds are there?**
 8 A. Well, whatever funds we receive, that's what we
 9 use to go out. And if we need something, if there's a
 10 need, if we need computers, I don't get them if we don't
 11 have the money, you know.
 12 If somebody -- I'll give you an example.
 13 Sometimes we have our rents, when we had the rent, and
 14 we put money aside -- and I have a principle that out of
 15 the seven days in the week, whenever since we started
 16 Daniel Chapter One, I would put one day aside for the
 17 Lord.
 18 You know, a lot of churches and people put
 19 10 percent aside, and we just felt that wasn't enough.
 20 We actually didn't think one day was enough. We
 21 actually said the best of the seven days we would put
 22 aside and we wouldn't touch that for any reason for our
 23 own work, the ministry itself, and that was for needs of
 24 others, and so -- but sometimes that's dwindled up by a
 25 lot of people's needs, so it even brings us to a point

1 products on the walls all over the place with just the
 2 labels. We don't have any material about anything on --
 3 near the products.
 4 If you went in there and you walked into a room
 5 this size and you saw all the product in there and you
 6 had diabetes and you didn't have anybody to tell you how
 7 to use it, you'd -- you wouldn't be able to use anything
 8 because there's nothing there that tells you how to use
 9 them, even on the label, or what it's for.
 10 So out of 200-something products in that room,
 11 which we've been fortunate to see many individuals,
 12 testimonies of people who for many illnesses that
 13 they've said they had, they would come in, but nobody
 14 would know what to do with all those products, so it's
 15 kind of like useless. You know what I mean?
 16 If somebody came in there and there was nobody
 17 to minister to them, it's just a bunch of material. You
 18 know, I was sharing with Chris on the way up on the
 19 train ride, it's like you see these people that go
 20 out -- and when we first started Daniel Chapter One,
 21 people would come up with all these -- we didn't have
 22 our own product line. We used other people's products,
 23 and they'd come up with all these bottles from all these
 24 other companies.
 25 And I shared with Chris, I said, You know,

21	<p>1 Chris, all that stuff is just material stuff, it's 2 useless, in those jars. You know, unless the chemistry 3 works and somebody is there to guide them, it's 4 useless. 5 And that's pretty much what we have, is we have 6 a room full of products that could be useful but are 7 useless to anybody that walked in that didn't have the 8 knowledge of how to use them. 9 There's a couple of people who are working on 10 graphics stuff or audio stuff. In the back room we got 11 people answering phones, you know. 12 Then upstairs Trish has a room where she used to 13 counsel people, but she had to stop because last year 14 we've been busy with some other things, you know, trying 15 to deal with these things here. 16 So she doesn't counsel anybody up there or she 17 doesn't meet with people anymore, so she doesn't have a 18 chance to help people at this point, so she's up there 19 in that room. 20 And there's a back room which it's more like a 21 storage room. It's not really an office or anything. I 22 do most of my work right in the middle of the room for 23 the radio room where we do our radio out of. 24 And that's pretty much it I think, you know. 25 Q. Do you keep in the office records of people who</p>	22	<p>1 have come to -- for counseling or for other reasons? 2 A. No, we don't. 3 I used to have a ministry where people would 4 come to me for different reasons and I would meet with 5 them and I would use a computer program and I'd do 6 evaluations, and then their records I used to keep to 7 give to them so I could follow them up. 8 So if somebody had cancer and they were wasting 9 away with cancer cachexia, I could tell the 10 deamination that was taking place, the rate of 11 breakdown of the body, and so I would need to keep 12 those. Or if I had an athlete, I could see how they 13 were going, you know. 14 I don't do any of that anymore. I don't have 15 the time or the luxury, because it's consuming to sit 16 with a person and help them in these things, you know. 17 Q. Was that -- were there any other reasons why 18 you stopped keeping those types of records other than 19 the fact that you didn't have the time anymore to do 20 it? 21 A. We don't keep records at all. I think that's a 22 biblical principle that -- when I got saved, I got rid 23 of all of my trophies and any kind of that. Yesterday 24 doesn't matter to me. Today is enough of concerns. 25 Tomorrow I'm not worried about. And I don't believe</p>
23	<p>1 that keeping records serves anything, you know. 2 And someone once said, Well, why don't you? 3 Suppose somebody comes back and complains or something 4 like that or wants something or anything else. Then if 5 they complain, I give them what they want, you know. It 6 doesn't matter to me. If they need something, they say 7 something, that's good enough for me. 8 Q. Although there was a time previously when you 9 kept records of people coming in in order to, as you 10 described it, essentially follow their development? 11 A. Progression? 12 Q. Their progression; right? 13 A. Right. 14 Q. Was that a useful purpose? 15 A. Well, when I was working with them it was, you 16 know. But after that, it wasn't worthwhile, you know. 17 I mean, I don't think we've kept a record of a 18 client, of a person who was an athlete since China. I 19 can't remember the last time we did one. Maybe one of 20 the teams that I was brought in to evaluate their needs, 21 you know. 22 Q. And when was China? What year was that? 23 A. Oh, that was '89 and then '90. 24 Q. So these days how do you keep track of people's 25 progression, given that you don't maintain records</p>	24	<p>1 anymore? 2 A. We don't do any -- I don't do any of it. I 3 haven't -- I haven't done any of it. I haven't had a 4 chance to look at a person whether they had come to us 5 with some kind of health concern or whether they came to 6 us as an athlete. I haven't done one. I've actually 7 told people I don't do it anymore. And that goes back, 8 you know, a way. 9 Q. Does anybody at Daniel Chapter One keep those 10 records, like Trish? 11 A. No. 12 Q. Nobody? 13 A. No. Not that I'm aware of, I mean. 14 People who -- they're independent. They do -- I 15 don't know what they do. They're their own bosses, so 16 that's up to them, you know, what they do and what 17 they -- that's their thing, you know. But as far as 18 asking -- me asking them to keep things for 19 Daniel Chapter One, they're -- I really don't know. 20 And actually there's a lot of times I have to 21 ask them do you have anything I could use, you know. I 22 have to go and request stuff for requests that you had, 23 and so -- you know. 24 We didn't even keep pictures or anything of any 25 of our trips to Europe or anything, you know, any</p>

1 pictures that we had. When it doesn't -- it's not
2 relevant to us. We do something today. It's for that
3 purpose, you know, and not for -- we didn't decide to
4 keep all kinds of records of even of anybody that's come
5 through that got well and their health improved. We
6 didn't keep testimonies.

7 We didn't do things like maybe most people tell
8 you you should, you know, because then you can write
9 books. We don't really care about writing a book. What
10 we really care about is the person that comes in and why
11 they're there and why are they hurting and how can we
12 help them, and we'll do whatever we can to try to find
13 out a way from laying hands on and praying for them to
14 whatever it takes.

15 If they need money, they need the shirt on my
16 back, I'll give them that. That's how we've done that.

17 I mean, that's -- so we never -- the purpose of
18 records is for somebody for justification or for
19 glorification personally. At least that's what I think
20 it's for, I mean.

21 **Q. Well, let's focus on testimonies since you**
22 **mentioned them. And you mentioned that you don't keep**
23 **records of testimonies.**

24 **How do you know, first of all, if a testimony is**
25 **still accurate or valid?**

1 A. Well, everybody has to take their own oath like
2 I did today, you know, and personally a man's word is
3 his word yes or no. Of course all men are liars. I
4 know that, too, you know, so what am I going to say.
5 And I'm not exempt from that obviously, in the flesh, in
6 the spirit.

7 So as far as testimonies, we had just a few
8 testimonies that came our way that people came in that
9 we shared with people through our ministry by preparing
10 material for informing people. Okay?

11 So -- and of course that's through different
12 avenues. But we didn't go out and seek those or
13 whatever. People would call the radio and tell us their
14 testimonies. We wouldn't even know about it.

15 As a matter of fact, many of the people at the
16 radio network, even the phone center, would hear about
17 testimonies that we wouldn't even know took place. We'd
18 just share our knowledge with people, and if they feel
19 it's worthwhile and helped them, great. It doesn't
20 matter if anybody came back to tell us that. I don't
21 need that pat on the back from them. I just am happy
22 that they're helped.

23 But as far as testimonies, we only really
24 started asking testimonies since this whole thing came
25 up, and so we were asked to gather testimonies, so I

1 started asking people in June to send testimonies. And
2 any testimonies related to cancer, I asked them if they
3 would -- could notarize it, I'd be happy to pay for the
4 expense that they may have inquired (sic).

5 So in that process, since June, we've
6 gathered -- people started sending in testimonies about
7 everything you can imagine, the illnesses that they had
8 had, you know, and things that we didn't even know that
9 people used, I mean, stuff we didn't -- you know, they
10 just said, I used this and this is what happened.

11 We may not even have probably told them to use
12 that. They just shared, Hey, I took this, this
13 happened, you know.

14 And so that's pretty neat insight when those
15 kind of things happen because then it's not -- it's not
16 a man-driven thing. It's just the way life is, you
17 know, and that's the way it should be.

18 So -- and then it's like myself taking the oath
19 today. Then if somebody got an oath and had it
20 notarized, I'm taking them for their word, you know.

21 Plus many of those -- some of those -- I don't
22 say many. I don't know how many -- but you know, many
23 testimonies, whatever that means, that had
24 documentations, verification through doctors, hospitals,
25 you know, their paperwork, medical reports, you know, so

1 I trust that some of that is accurate.

2 MR. J. TURNER: But I want to just restate the
3 continuing objection and just be sure that we understand
4 that that continuing objection is ongoing.

5 MR. ZANG: You just did. That's fine.
6 Understood.

7 MR. J. TURNER: Yeah.

8 BY MR. ZANG:

9 **Q. Mr. Feijo, but with respect to the testimonies,**
10 **you've said that you take people for their word.**

11 **Is it accurate to say that you don't personally**
12 **check the testimonies out yourself, investigate them, so**
13 **to speak?**

14 A. Oh. Well, I can't say I -- there's so many of
15 them, I can't say I investigated all of them, but many
16 of them.

17 You know, I've talked to individuals like
18 Dr. Bob Lynch. He had -- he was an internal medicine
19 doctor out of Chicago. He heard our radio show, didn't
20 even talk to us, used some of our nutritional guidelines
21 that we were -- mentioned to somebody else, and then he
22 called us with his testimony, and we put it on our
23 Web site.

24 And just recently I spoke with his wife, and
25 she's really grateful. He has since passed on, you

1 know.
 2 In that sense, those ways, those come up. But I
 3 don't like every testimony -- like I said, I only
 4 started getting them in June basically, you know,
 5 that -- roughly June, you know.
 6 **Q. But you don't systematically check them out.**
 7 A. Well, I don't -- we never had intention of using
 8 them for anything, you know. I mean, we didn't -- some
 9 people we -- you know, there's no -- there's not a
 10 system. Okay? Because the intention of a system would
 11 be for justification I guess.
 12 I don't really -- I don't really care about
 13 testimonies in a sense because it's done. Those people
 14 are done. And we're not looking to write a book like --
 15 I really have a problem with all these natural company
 16 healers who are out there who they've got books all over
 17 the place, you know, and it's like why are they writing
 18 a book, to get -- what's the purpose, you
 19 know (indicating).
 20 **Q. But you do share at least some of these**
 21 **testimonies with others, for example, on the**
 22 **Daniel Chapter One Web site, don't you?**
 23 A. Oh, absolutely. Absolutely.
 24 **Q. Do you have any concern that some of those**
 25 **testimonies may not be accurate and yet they're being**

1 We have recently people that call in, they have
 2 testimony, we have someone take their testimony now, and
 3 they will have it -- ask them to have it notarized, you
 4 know.
 5 So I mean, you know, that system exists now.
 6 Before, we were just busy helping people. You know,
 7 when people come in, I just lay hands on them, pray for
 8 them, whatever needs to do, I mean, young, old.
 9 Many of the testimonies that we do have on the
 10 Web site are people I personally have -- Maria Rocha,
 11 you know, she was on death's bed. Her doctor told her
 12 she was going to die. And for three years we told
 13 Maria -- now, this is a lady who is a real solid
 14 Catholic, Christian woman who is involved in Catholic
 15 healing ministries, which we're not, but that's her
 16 thing. And she had that ministry, you know, with the
 17 Catholic priest up in Worcester and everything.
 18 So you know, we love her. You know, she's
 19 doing what she has to do and so -- but she got sick.
 20 And for three years we said, Maria, this is what you
 21 need, we believe God wants you to use, exactly how we
 22 said it.
 23 So one night I was sleeping, and in the middle
 24 of the night I just -- I just sat up. I was laying on
 25 my back and I just sat right up and I told my wife, I

1 shared?
 2 A. No. I think -- I think for the most part that
 3 the people that have -- a lot of people wouldn't listen
 4 to our radio program. We're not a -- our ministry on
 5 the radio is not one that is like really loved. The
 6 people that would listen to us are listening because the
 7 Holy Spirit has convicted them.
 8 A lot of church people probably might not want
 9 to listen to us, you know, but a lot of them that are
 10 there that are starting to hear things differently are
 11 starting to hear things a little different than the
 12 people -- I think they can sense the difference between
 13 health talk shows who are out there for the purpose of
 14 propagating themselves and advancing their accumulation
 15 of George Washingtons. I think they're trying to --
 16 because the purpose of their existence on radio health
 17 programs and TVs and -- are -- a lot of it I think is
 18 for a bank account, I mean, and I'd just as soon live in
 19 China in the streets, you know.
 20 **Q. But again, I'm trying to understand why you're**
 21 **not concerned -- I think that's what you said -- that**
 22 **some of the testimonies may not be accurate and yet**
 23 **people are listening to them because you're putting them**
 24 **on the radio or on the Web site.**
 25 A. Oh, I've -- I take them in as -- as accurate.

1 said, Maria is going to die if she doesn't do this.
 2 The next day her husband Joe came in in complete
 3 tears. She had veggied down to fifty pounds. He used
 4 to have to carry her in and out, and the doctor told him
 5 to go plan her funeral.
 6 Well, at that I said, Joe, please, take this,
 7 begin this. Let's just -- you've went everywhere.
 8 You've tried everything. Let's do this.
 9 This is many years later, you know, and she's
 10 doing fine.
 11 So in a sense many of those testimonies are
 12 actually people that I've experienced, and so almost
 13 every one of them somehow I had an experience with them,
 14 not necessarily -- I don't know how I can justify every
 15 one of them, but you know --
 16 **Q. But there's a difference between having an**
 17 **experience with them and checking out the accuracy of**
 18 **their testimonies, isn't there?**
 19 A. Yeah. To me, all you folks here, if you gave me
 20 your word, you said something to me, I'd take it, your
 21 word, you know. I just would. Naive I guess, but I
 22 think that we would be vindicated on the -- what's
 23 there.
 24 **Q. So other than --**
 25 **MR. J. TURNER: And I want to just restate the**

1 continuing objection because that's directly at the
2 heart of the First Amendment question, so just restate
3 it.

4 BY MR. ZANG:

5 **Q. So other than asking some of the people to**
6 **notarize their testimonies and other than your taking**
7 **their word, is there anything else that you do to**
8 **verify, try to verify the accuracy?**

9 MR. J. TURNER: I just -- I want to object
10 again. This time it's on form.

11 I don't believe he said he tries to verify
12 anything. My understanding was he does not try to
13 verify anything but because he was asked by counsel to
14 do something he's doing it, not because he's trying to
15 verify anything.

16 BY MR. ZANG:

17 **Q. Is that accurate?**

18 A. Well, I would never have asked anybody to
19 notarize it. I would never even ask them for their
20 testimonies. I don't care about having that. I just
21 care about the person is better.

22 I don't care if I ever meet a person that got
23 well from anything that we've ever shared. It's -- I've
24 been all over the world, and I've done a lot of things,
25 and many people have been blessed by what we've done,

1 whether it be laying our hands, fixing their backs or,
2 you know, even mechanical stuff, sewage stuff. You know
3 what I mean?

4 **Q. Mr. Feijo, you mentioned that it really wasn't**
5 **until June that you began collecting testimonies, but**
6 **isn't it the case that you did have testimonies on your**
7 **Web site prior to June?**

8 A. Sure. Yeah, we had testimonies. I didn't start
9 collecting them, personally asking to collect them, but
10 people submitted things or some individuals put in some
11 amazing stuff, I mean, and they gave us testimonies, you
12 know. I can't -- I couldn't tell you. I never -- I
13 don't think I've ever asked anybody for one. I can't
14 recall ever asking anybody for a testimony. How, what,
15 where, who, I don't know.

16 I mean, I'm just glad that people got better,
17 you know.

18 **Q. Did you also --**

19 A. I want to see them continue to get better.
20 That's why I'm trying to keep our freedom to minister to
21 people, you know. That's all I care about.

22 **Q. Did you also put testimonials in any**
23 **newsletters or other publications of**
24 **Daniel Chapter One?**

25 A. Oh, boy. Let me try to figure that one out.

1 I mean, so much stuff goes by all day long
2 every day. We don't have a set plan to accomplish
3 anything. We're a ministry.

4 If we were evaluated as a business, obviously
5 we should have failed a long time ago as a business,
6 but we just don't. I don't understand business
7 principles. I just get done what I need to get done to
8 help people.

9 So as far as -- I don't -- you know, it could
10 be a number of things. You know, we try a lot of
11 different things to get information out to people.

12 **Q. Well, you testified that you would have failed**
13 **as a business, but isn't it the case that over the**
14 **years you've sold a lot of Daniel Chapter One products?**

15 A. Well, we provide the option for people to use
16 nutrients that were created by the revelation of the
17 scripture. And the very first product that we ever
18 did -- we did not decide to start Daniel Chapter One as
19 a business to have a product line and a radio thing. We
20 couldn't care less about being known on the radio. I
21 couldn't care less about having other locations.

22 I'd be happy walking the streets just like I did
23 before I met my wife and I had a street ministry and all
24 I did is carry my bible and I had the clothes on my
25 back. That's -- being in Daniel Chapter One has been

1 one of the toughest things I've done because I am not an
2 indoor person.

3 And when God called me to do Daniel Chapter One,
4 I was -- I tried to give it away. I walked away from it
5 three times. I left it with other people. And every
6 time, the Lord brought us back. We left. Every time we
7 went out, we went with a one-way ticket, never deciding
8 to come back.

9 And as far as providing products, we provide the
10 opportunity for people to get products. That's it.
11 Products that we develop.

12 The very first product was our 1st Kings 17:6
13 based on the scripture, the ElectroCarbs based on
14 Deuteronomy 25:4.

15 The use of our Carniplex and other things comes
16 from what God says, you know, there are different types
17 of flesh.

18 That's all it is. It's just revelation and
19 taking those principles and allowing them to be present
20 for people to use, whether it's -- however they want to
21 use it.

22 **Q. Today, how many products does Daniel Chapter One**
23 **provide?**

24 A. There's like -- I really don't know -- maybe
25 thirty original formulas, and then after that, we try to

1 have the highest quality of a nutrient or vitamin or
2 something like that, so we don't have like multiple
3 grades and all that stuff.

4 I mean, we want to treat people like we would
5 want to be treated ourselves, so we have -- I want to
6 have the best.

7 If somebody came to us, you know, if we don't
8 have the best quality of something, then what am I doing
9 it for? To make money? That's not the purpose. The
10 purpose is to provide useful substances to people.

11 **Q. So again, about how many products do you offer
12 today?**

13 A. 150 to 200. I don't know. I can be -- because
14 of the economy right now and because the raw material
15 stuff, it's really tough trying to provide a
16 high-quality product with the best of everything today,
17 and we've -- and plus, number one, they want you to --
18 we're a small little nobody, you know, and I wish we
19 could do what the big companies do.

20 Our ministry is trying just to keep the
21 quality -- we're not going to sacrifice quality, so
22 we've got to -- and we can't raise the -- raise the
23 donation request on it. I mean, it's too high, which
24 I'm trying to get it to a point where a person can
25 afford -- I mean, it's hard for me to afford it. I

1 mean, these things are not cheap and it's, you know --

2 **Q. Let me ask you a question because you --**

3 A. It's cheap compared to drugs.

4 **Q. -- you just referred to donation requests, but
5 it seemed like you were almost about to say "price."**

6 **What's the relationship between the price of
7 the product and the donation request? Are they the
8 same?**

9 A. Basically it's a -- it's a hard issue to share
10 with individuals that -- people -- you're trying to
11 communicate to people a value of something, and I don't
12 know what term people want to use to create this is a
13 value of what this is worth, you know, and so whether
14 you put price or sale or whatever it is on it or a
15 donation, it's irrelevant to me because a lot of people
16 can't -- can't do it.

17 It's a suggestion, so we suggest that whatever
18 the term people want to label it, whatever dictionary
19 term they want to use, our position is people a lot of
20 times can't, so we work it out, try to work it out so
21 that people can -- we want to meet their need, so in
22 different ways we try to do that.

23 So we put a suggestion out. If they can -- are
24 capable of doing that, then great. You know, it helps
25 us out.

1 MR. J. TURNER: I have an objection at the
2 moment. I actually have an objection to form of the
3 last question, merely saying that he was about to say
4 "price." I just want to put on the record that I don't
5 know that he was about to say "price."

6 MR. ZANG: That's what I observed, but the
7 record will reflect the objection.

8 BY MR. ZANG:

9 **Q. Mr. Feijo, the Web site has a list of
10 Daniel Chapter One products with a price, doesn't it?**

11 A. There's a -- I think we have it now as a
12 suggested donation.

13 **Q. How do you come up with that suggested
14 donation?**

15 A. Oh, man. How do I come up with that.

16 Raw material cost, overhead cost, cost of
17 getting it out there, I mean, radio, you know. I mean,
18 we don't do -- you know, that's -- I don't know.

19 **Q. Are you the one who decides what the donation
20 request amount should be?**

21 A. Sure. Yes.

22 **Q. And how do you calculate your raw material
23 cost?**

24 **You mentioned three different inputs, raw
25 material cost, overhead and cost of getting it out**

1 **there. Let's start with the raw material cost.**

2 **How do you derive that?**

3 MR. J. TURNER: Object again with the
4 continuing objection.

5 THE WITNESS: They tell me how much it is.

6 BY MR. ZANG:

7 **Q. "They" being the distributor?**

8 A. Yeah. I send them -- I tell them -- they tell
9 me that it went up. They say gas went up, our costs
10 went up, our raw materials went up, this is what it's
11 going to be. Our percent has gone up 30 percent,
12 40 percent. Whatever they go up on me they go up, you
13 know.

14 **Q. Uh-huh.**

15 **And then the overhead, how do you arrive at
16 that?**

17 A. I don't know. I don't know. I don't even know.
18 I just try to make sure that what comes in goes out is
19 covered.

20 I mean, I -- it's -- I've been trying to do it
21 for X number of years now. I really -- it's -- I don't
22 know. It changes constantly, you know, and to be --
23 what it is today, we're probably losing money on most
24 things right now. I mean, there are things that we lose
25 money on I'm sure. We can't -- you know --

1 **Q. How do you know that?**
 2 A. I don't know. I have to go look at the new
 3 prices that they -- the new raw material prices. I
 4 don't even know them. I couldn't tell you what they are
 5 right now. Whatever it is it is.
 6 As a matter of fact, they send new prices to us,
 7 and I wouldn't be able to tell you what our prices cost
 8 anymore, you know. All I know is that we give
 9 high-quality product, heaping down, overflowing, and
 10 that we don't owe anybody and the people -- we can
 11 continue to do what we do.
 12 If the overhead cost -- to be honest with you,
 13 probably if anyone here ran my business, they'd probably
 14 cut out a bunch of people that are helping us. What I
 15 try to do over the years is consider the person that's
 16 here unlike -- you know, the economy is tough today, so
 17 a lot of companies are letting people go and everything
 18 else, and they have families.
 19 Well, we're no different. I mean, things are
 20 happening, and we have -- I can tell you right now
 21 there's maybe six people we could say, Why don't you go
 22 somewhere else. Those six people have three other
 23 people with them, their families, you know.
 24 So all I care about is that -- and I -- and I
 25 constantly from day one have dealt this ministry to care

1 about the individuals that are coming through our door,
 2 who stay with us, who live with us, some many times.
 3 Some help out; some don't help out. But even over the
 4 last few years, even probably the people that I'm
 5 helping probably if they were in my position would have
 6 let me go, you know, so -- because it's numbers for
 7 people, you know. And we've had times where we've had
 8 really difficult times, and I would not let anybody go
 9 because of that.
 10 **Q. But you've also had good times, haven't you?**
 11 A. We're -- we're -- we've had -- I think one of
 12 the things -- the reason we have a good time, remember
 13 9-11 happened. When that happened, at that time every
 14 health -- almost everybody in the health industry,
 15 nutrition industry -- let's say that -- had a -- many
 16 of them went out of business. They crashed, you know,
 17 because what they did was to acquire loans so that they
 18 could buy more equipment maybe or to do this or do that
 19 or live high on the hog or anything else like that.
 20 We never took -- we didn't put ourselves in
 21 that position, and so when 9-11 happened and all these
 22 companies had a real tough time because they couldn't
 23 pay those bills, they had to go bankrupt.
 24 What we've tried to do is not owe anything like
 25 that, which is the biblical principle to owe nobody, and

1 so we weren't in a position like that, so we were able
 2 to meet all of our responsibilities through that time,
 3 so that created what I would call definitely a good
 4 time. Because instead of being 30 percent in the hole
 5 like everybody else, because almost every company at
 6 that time, from what I understand, was, you know,
 7 30 percent less during that year, and we were able to
 8 stay even from what I understand or as I remember. And
 9 that to me was a -- made a good time. You know, we've
 10 been -- we just -- we're just steady. We're just like
 11 kind of a steady thing, you know.
 12 **Q. How do you track whether you're staying even or**
 13 **going into the hole, which it sounds like it's a concern**
 14 **of yours? How do you keep track of that?**
 15 A. Well, as the income comes in, the bills are
 16 there, and then we pay those bills, so that's --
 17 **Q. And is that through a bank account?**
 18 A. It's through an account. It's through a bank
 19 account.
 20 **Q. And who is it who writes the checks from that**
 21 **bank account?**
 22 A. Jill.
 23 **Q. And just for the record, could you state her**
 24 **name, please.**
 25 A. Yeah. Jill is my daughter, Jill Feijo.

1 **Q. And which bank is that with?**
 2 A. You know --
 3 MR. J. TURNER: I object to the question, the
 4 same continuing objection.
 5 THE WITNESS: I just -- I mean,
 6 Daniel Chapter One is not about money since the day I
 7 started it.
 8 BY MR. ZANG:
 9 **Q. I understand, but I really am just asking which**
 10 **bank account.**
 11 A. Right. And I was just trying to figure out in
 12 my little brain why that's so relevant to helping
 13 people. I'm just trying to -- I have a very simple
 14 mind. I'm a pretty basic guy. I happen to be alive to
 15 get through a lot of illnesses or situations, health
 16 situations, myself, and I'm just trying to, you know, be
 17 cooperative and understanding and loving and everything
 18 else and I just -- it's just the money issue is
 19 something that's just -- what is it to you.
 20 **Q. Mr. Feijo, I just want you to understand that I**
 21 **have a series of questions that I have to go through**
 22 **today.**
 23 A. Yeah. Yeah, that's great.
 24 **Q. And I'm listening with patience and trying to**
 25 **let you complete your answers, but today will go a lot**

1 more quickly if you do answer the questions directly.
2 So again, at this moment I really just am asking
3 which bank account.

4 A. We go through Citizens Bank.

5 Q. Okay. Now, is Daniel Chapter One registered as
6 a charity?

7 A. Daniel Chapter One is a corporate sole
8 registered in the state of Rhode Island -- in the state
9 of Washington and it's committed to the sovereignty of
10 Jesus Christ.

11 Q. And are you registered with the
12 Internal Revenue Service as a charity?

13 A. No.

14 Q. Have you ever checked out whether or not you
15 need to be as a matter of law?

16 A. Yes. And I don't need to be I believe.
17 We have registered with the State of
18 Rhode Island -- the State of Washington, and we have
19 filed with the IRS as a corporate sole, and I believe
20 those are the legal things that according to our
21 constitution that I should fulfill.

22 Q. Okay. And when you say you have filed with the
23 IRS in that matter, what do you mean? Have you
24 submitted the forms to the IRS in that regard?

25 A. Yes.

1 Q. Okay. Let me go back to some of your background
2 if I may.

3 Other than Daniel Chapter One, can you kindly
4 state whom else you've been employed by or had an
5 affiliation with prior to Daniel Chapter One?

6 A. Oh, Pennington School.
7 Ursinus College.
8 Oh, man. Gosh. I was all over the place.
9 Fall River Public Schools.
10 Newark schools up in New York.
11 Enfield schools in Connecticut.

12 Q. Have you ever held a position where you've had
13 to use any skills involving healthcare or involving
14 medicine?

15 A. Medicines?
16 Not medicines. Athletic injuries. I did
17 taping.

18 Q. And what is your educational background? Could
19 you state your last degree from an educational
20 institution.

21 MR. J. TURNER: I just object again with the
22 continuing objection.

23 THE WITNESS: Yeah. I have a master's in
24 psychological and educational services from
25 Springfield College.

1 Q. And I'm not a tax specialist myself, so could
2 you just describe for me for the record what sort of
3 forms those are.

4 A. Whatever the form was. I don't even know what
5 it was. Whatever form was required, you know. I don't
6 know.

7 Q. Do you file with the IRS annually?

8 A. No. We don't have to as a corporate sole.

9 Q. How about with the State of Washington? Do you
10 file any forms?

11 A. No. I don't have to. It's a corporate sole
12 ministry. Jesus Christ is the sovereign head of it,
13 and sovereignty means that it's sovereign, separation,
14 and the authority is entirely by the Lord God Almighty,
15 and there is the fact that there is -- the reality of
16 it is there is a bondage that we won't submit to.
17 Okay?

18 Q. So just so that the record is clear, it's your
19 testimony that you don't file either with the
20 State of Washington or with the federal government
21 annually; correct?

22 A. There's no requirement that I do.

23 Q. I understand, but -- your position, but -- so
24 the answer is no, that you don't; is that right?

25 A. Correct.

1 BY MR. ZANG:

2 Q. And when did you receive the master's?

3 A. Probably '72 -- I don't know. I -- I'm not a
4 record person, so you can catch -- you can use those
5 anyway you want, dates and stuff. I don't live that
6 way, so it may not meet, you know, standards, but I
7 don't live that way. I live to minister to people and
8 anybody in any place in any time and more concerned
9 about eternal things than what's going on at this
10 point.

11 So have your way.

12 Q. But you do live in the real world which, for
13 better or worse, is a world of laws also, is it not?

14 A. You know, there's laws, and it says that the key
15 thing -- you know, I used to believe in evolution. I
16 used to teach it. I have come to see that I was in
17 error.

18 And the interesting part of your question -- and
19 it's really a very interesting question, and the way I
20 see that answered is real simple. Men will see the
21 relationship of this world and the laws that rule it
22 differently, but there's only one truth. And that is
23 where I have come to stand now, that what man says is
24 true and is lawful compared to what God's order is may
25 be totally different.

1 So yes, this is an environment in which we live
2 that has rules and regulations, and those were
3 established by an almighty sovereign god that can't be
4 changed by any definition of any Nobel Prize winner or
5 any scientist, so -- and I want to fulfill those laws.

6 That's exactly right. That's a...

7 **Q. So if there is a conflict between the laws that
8 you want to fulfill and the laws of the state, is it the
9 case that you will fulfill your own laws and not the
10 laws of the state?**

11 A. I don't have any laws that I've created. I
12 submit to the sovereign laws of God Almighty and I hold
13 to the constitution, the Declaration of Independence,
14 more affirmatively than ever, and also the
15 Declaration of Independence and these are the -- our
16 founding fathers' statements which we all exist with
17 that we should be under in the authority here of the
18 United States, and so I will abide by those laws a
19 hundred percent. And I feel those laws that our
20 founding fathers created and wrote down for us and gave
21 their lives for are founded on the very principles of
22 the laws that God has given there, so yeah, sure, I
23 mean.

24 As far as -- so if something doesn't -- if
25 added laws to those come along and I'm in agreement

1 female. It doesn't matter to me.

2 You know, I've had -- I've had to repent because
3 initially I had some -- I had attitudes myself and I'm a
4 sinner, so I -- I just really wish I didn't have my own
5 mind sometimes starts because, you know, it's not easy
6 to feel that you've done something and people aren't
7 happy with you, you know.

8 **Q. But again, what is your understanding of why the
9 Federal Trade Commission filed its complaint?**

10 A. Why I don't know. What it said in it was that
11 we were misleading, defrauding and -- misleading -- we
12 were false marketing, false -- I don't -- I can't
13 remember. I'd have to go back. You know, my wife could
14 tell you because she's -- I don't really care about all
15 this stuff, you know, so I -- I -- whatever you --
16 whatever was said was said, and I don't know what was
17 said, you know. And something about false marketing,
18 false something -- there were three falses I think. I
19 can't remember. I'd have to look at the -- I'd have to
20 look at the -- at the whole thing again.

21 **Q. Well, let me ask you this.**

22 A. There's a lot of papers there. I can't remember
23 them all.

24 **Q. Does Daniel Chapter One make statements about
25 the products that it offers to the public?**

1 with that, and there's a conflict there -- I don't
2 know -- so if somebody is going to give some other kind
3 of laws, I'd have to wait until that time came up to
4 decide what it was, if I'd be willing to die for it,
5 you know.

6 But I -- I know I'm not going to ever denounce
7 the one who died at Calvary and shed his blood for me.
8 That, I know well. I don't want to ever.

9 **Q. What's your understanding of why the
10 Federal Trade Commission has brought an action against
11 you and Daniel Chapter One?**

12 A. That's another good question. I like that. I
13 really want to get a good answer for that because that
14 is -- I don't know. I'm dumbfounded about that. I
15 don't understand why they would do that because what
16 have we done.

17 Are we being brought to this time to -- because
18 we've had people brought to wellness when they were sick
19 and overcame certain maladies in their lives to the
20 point of where they even were supposed to have
21 inoperable growths and everything else? I don't know.

22 It's just I -- because all the stuff that we've
23 ever said was brought to bear with belief that we were
24 doing what we needed for my brothers on earth, no matter
25 who they are, white, black, yellow, young, old, male,

1 A. We try to explain the product's formation, the
2 revelation of how the product was developed and the
3 purpose of the product. And then if there's a -- the
4 best way we believe that it would fit into the ordering,
5 you know, your tissues, your body, your organs, your
6 brain, health.

7 And we try to -- and because of the -- because
8 of the principles that we saw that it's not about
9 selling products or having products, it's not about
10 dealing with diseases, it's about what is required for
11 the tissues, the cells or whatever, organs, what is it
12 that they need, you know, what kind of -- what kind of
13 substances would be best to use to meet those needs.

14 So yeah, we say use nutrients for this purpose.

15 **Q. Well, how do you get your revelations about your
16 products?**

17 A. Well, having taught some sciences, I have some
18 understanding of the physiology, the chemistry of the
19 body to some degree, you know.

20 So given that and then given the insight from
21 scripture, I saw that there was some things -- I'll give
22 you the -- one of the first examples, was God says there
23 are different types of flesh.

24 So the different types of flesh in the pulpit is
25 a means that -- that scripture is a means to create

1 revenue for the pastor -- okay? -- to support of the
 2 pastor.
 3 By having the thought process I have, I said
 4 why would God say there's different flesh, so I looked
 5 at it and I saw that there was pork, there was beef,
 6 there was birds and there was fish, and so I said -- I
 7 did a little study. And as I did that and I started
 8 grafting what was the contents of those, those flesh,
 9 that flesh, the content revealed a very interesting
 10 fact, that there was a substance in there that could,
 11 as you grafted it, showed an amazing outcome when it
 12 got to the fish.
 13 That understanding was contrary to every
 14 physiological scientific understanding up until that
 15 point twenty years ago, and I literally said that this
 16 is -- this is going to shake things up.
 17 And so I began dealing with the carnitine
 18 process -- okay? -- the carnitine transfer. And it just
 19 so happened that is the maximizing of energy into
 20 mitochondria.
 21 Now, twenty years ago, you could go to any
 22 health food store, any doctor, anybody else and ask
 23 them about carnitine, and nobody knew much about it.
 24 But when I started seeing that and I started saying I
 25 want the carnitine to utilize for people -- and it just

1 so happens that carnitine is imperative for the energy
 2 of the heart which beats a hundred thousand times a
 3 day, maximizing ATP for people who are dieting and
 4 they're starving and they're doing different things and
 5 they're exercising. I watch so many people exercise
 6 like crazy, and they're just skipping meals and
 7 skipping energy. Carnitine is imperative to maximize
 8 utilization of FFH, fats that's released during
 9 exercise.
 10 So that was one of my first understandings that
 11 made me start to -- in my somewhat scientific concepts
 12 to begin investigating things, and then it went on.
 13 Deuteronomy 25:4 about ElectroCarbs instead of
 14 Gatorade. Gatorade, I think people ought to look at
 15 really what that is, what it does, you know, artificial
 16 food coloring, sugar and everything else. They should
 17 compare that to our ElectroCarbs. And our ElectroCarbs
 18 is based on Deuteronomy 25:4 where the Lord says do not
 19 muzzle the oxen while it's threading (sic) out the
 20 grain.
 21 **Q. But with due respect, you yourself referred to**
 22 **your somewhat scientific approach.**
 23 **Isn't it the case that you have not conducted**
 24 **controlled studies with respect to any of the products**
 25 **that you sell?**

1 MR. J. TURNER: Objection. And again, that's a
 2 continuing objection.
 3 And just for the record so we understand, the --
 4 one of the objections that we are raising is that the
 5 reliance on that body of information, double-blind
 6 studies and so forth, is in its own right requiring
 7 respondent to adhere to that is a violation of his
 8 constitutional rights.
 9 MS. PAYNTER: Okay. But you can answer the --
 10 he can answer the question.
 11 THE WITNESS: Oh, sure. Yeah.
 12 You know, having -- let me give you an example.
 13 Okay?
 14 Having taught chemistry and biology and things
 15 like that in prep schools in different levels, I
 16 would -- I would have fun with the other teachers, you
 17 know.
 18 So they would ask me to come in and teach a
 19 class for them in the scientific method -- okay? -- just
 20 so you know. And by the way, I've got to tell you, I
 21 lived my life trying to prove there was no God.
 22 I mean, I wasn't just someone who said there was
 23 no God. I literally lived from waking to sleeping to
 24 prove there was no God, and I wrote a paper -- because I
 25 hated God, and I wrote a paper, The Fear: Reason for the

1 Existence of a God. And where this bears in, as I'll
 2 explain right now, I saw that man was weak and because
 3 of his lack of knowledge and -- fear was created, and
 4 that was corrected when we started to become
 5 knowledgeable through science.
 6 And so I wrote this paper trying to show that we
 7 do not need to trust in a god and I spent my days
 8 literally working that way, even as a teacher teaching
 9 classes.
 10 So with that in mind -- and so I really was
 11 adherent to science and you've got this is the answer
 12 thing. Okay?
 13 So -- and as I went along, I -- I was asked to
 14 teach -- you know, they knew I teach science, so they'd
 15 ask me to come in.
 16 And so one class, the science class, the teacher
 17 wanted me to do a thing on the scientific method, you
 18 know, teach the class the scientific method, so I said,
 19 Oh, yeah, sure, I'll do that.
 20 So I said -- and I did. I set it up, you know,
 21 our theories, you know, the whole show, what are we
 22 going to use for materials, what our ultimate results we
 23 would -- expectations would be and how we're going to do
 24 it, perform the test.
 25 Well, I used the scientific method to prove that

1 the earth was flat, so that's what I wanted to show, was
 2 all of this -- remember, men are liars, and it's a
 3 shame. It would be nice if science really was -- it --
 4 science can be awesome. Science in the hand of
 5 righteousness is powerful.
 6 So I'll just leave it at that.
 7 So I do have -- my method is scientific, to be
 8 honest with you.
 9 Now, double blind is a different story. Our
 10 stuff is the results of tens of thousands of evaluations
 11 of people using different guidelines and nutrients that
 12 we've had. It's been very powerful in the fact that
 13 there's consistency through it.
 14 And the consistency has taken place where
 15 Dr. Jimmie Angel actually has written a program, wrote
 16 an article in the scientific journal, a magazine, about
 17 the computer program I wrote. And he compared my
 18 results and his results, so he compared the work I did
 19 with his actual methods.
 20 When I was in China, the Chinese scientists and
 21 the Russian scientists, they knew -- I was given time to
 22 work there. I did the readings. They did the
 23 comparable readings at the same time. And they were
 24 always verified the same, so the verification of there
 25 was -- whether they used a different method, there was

1 A. No. Evaluations where I've --
 2 **Q. Okay.**
 3 A. -- I've done over the years readings on people.
 4 I don't know if tens of thousands, you know, thousands
 5 of people, you know.
 6 **Q. Could you describe how you conduct those**
 7 **readings?**
 8 A. Yeah. I used the calibrations. I used the
 9 Skyndex calipers to determine anthropometric
 10 measurements on individuals and I put them into the
 11 computer program I wrote.
 12 I wrote this computer program about twenty years
 13 ago. It literally was -- you know, it's hard because
 14 people -- you know, it's tough to say God gave it to me.
 15 You know what I mean?
 16 But I literally sat at a desk. I bought an old
 17 computer with a five-and-a-quarter-inch floppy in it and
 18 a gray-screen TV using Dr. Dawes, and Dawes at the time
 19 wrote this computer program. Because before that, I
 20 used to teach at a Christian school and I was -- I used
 21 to -- actually before it was known, I used to offer
 22 exams to them on disk, and they would come in and take
 23 the exam on a computer, so I would write the whole
 24 programs out.
 25 So I had -- I got this program because I had

1 always the comparable delta changes in the results, so
 2 there was never any conflict in there, so...
 3 **Q. Could you provide a copy of that article to the**
 4 **FTC.**
 5 A. The Dr. Jimmie Angel article?
 6 **Q. Yes.**
 7 A. Oh, I believe we -- I don't know if I've already
 8 not done so. I may have already done so. But --
 9 **MR. J. TURNER:** If you don't have it already,
 10 we'll --
 11 **THE WITNESS:** Sure, I'll be happy to. Yeah.
 12 Absolutely.
 13 Dr. Jimmie Angel is from Stanford University,
 14 and he invited me there and he's -- I haven't talked to
 15 him in a while, but I mean, I think he still is.
 16 **BY MR. ZANG:**
 17 **Q. But again, double-blinded studies you have not**
 18 **conducted for your products; right?**
 19 A. I mean, to do that -- I can't even afford -- I'm
 20 trying to afford existence, you know.
 21 **Q. So again, the answer would be no?**
 22 A. No. No double-blind studies.
 23 **Q. And you referenced tens of thousands of people**
 24 **I believe who have used your products? Is that**
 25 **accurate?**

1 some ideas. And these two young men came in, and they
 2 said, Would you talk to my mother?
 3 Sure. What's the matter?
 4 So they said, well, she was suffering from MS.
 5 I said -- so I had some ideas and I started on paper
 6 coming up with these formulas to evaluate what was going
 7 on because I had -- I had this theory that there's
 8 something going on with the immune system or at least
 9 the lean body mass.
 10 And so I started writing it out and then I
 11 finally wrote the computer program, and it all started
 12 coming to me. I had lots of paper, you know, different
 13 things, and it took me a long time to write it
 14 overnight one night and it started as -- it's a little
 15 more complicated than that now, but it was pretty
 16 helpful.
 17 **Q. Well, let's move to some specific products that**
 18 **are offered by Daniel Chapter One. Let's start with**
 19 **7 Herb Formula.**
 20 **That's a product that's offered by**
 21 **Daniel Chapter One; right?**
 22 A. Yes.
 23 **Q. And is it the case that from time to time**
 24 **Daniel Chapter One has indicated that 7 Herb Formula can**
 25 **either prevent or treat or cure cancer?**

1 A. No. We don't -- those terms -- God heals. God
 2 cures. We have a formula that has properties that God
 3 instilled in it, that God created in it, that has use in
 4 healing, you know, and so we would encourage people to
 5 use that for illnesses, different illnesses.
 6 **Q. But is it your testimony that Daniel Chapter One**
 7 **has not issued statements indicating that 7 Herb Formula**
 8 **treats, prevents or cures cancer?**
 9 A. I believe that would be correct unless -- yeah,
 10 I mean, I don't --
 11 **Q. The same question with respect to Bio*Shark.**
 12 **That's another Daniel Chapter One product,**
 13 **Bio*Shark; right?**
 14 A. Right.
 15 **Q. And is it the case that from time to time**
 16 **Daniel Chapter One has issued statements indicating that**
 17 **Bio*Shark either treats, prevents or cures cancer?**
 18 A. I don't believe we make emphatic statements at
 19 all like that, you know.
 20 **Q. And that would be the case in your product**
 21 **literature, for example?**
 22 A. I believe it is. Yeah.
 23 **Q. And on the Web site as well?**
 24 A. I believe it. Yeah.
 25 **Q. Have you examined your Web site recently?**

1 A. No, I haven't.
 2 **Q. When was the last time you looked at the**
 3 **Daniel Chapter One Web site?**
 4 A. Well, I mean, I look at the home page like all
 5 the time, but the Web site, to go through it, I don't
 6 have the time to do that. I mean, that's -- that's -- I
 7 don't think anybody could do that in a -- you know,
 8 you'd have to spend a day I think I would imagine, you
 9 know.
 10 **Q. Well, who is it -- who's responsible for the**
 11 **Daniel Chapter One Web site?**
 12 A. What do you mean by who's responsible for it?
 13 I'm responsible for it.
 14 **Q. Okay. And anybody else other than yourself?**
 15 A. I don't -- clarify what you mean by
 16 "responsible." I'm sorry. I just -- I'm trying to
 17 answer your question and I just -- you mean who -- what
 18 do you mean by that?
 19 **Q. Well, you've just testified that you're**
 20 **responsible for it, so --**
 21 A. Right.
 22 **Q. -- aren't you interested in knowing what is on**
 23 **the Daniel Chapter One Web site?**
 24 A. Yeah. It should be stuff that I had put up
 25 there or had put up there over the years.

1 **Q. And the information on the Web site should also**
 2 **be accurate, shouldn't it?**
 3 A. Yeah, it should be. Yeah.
 4 **Q. And do you check to make sure that the**
 5 **information on the Web site is accurate?**
 6 A. When it's put up, you know.
 7 **Q. Do you always check when it's put up to make**
 8 **sure that the information is accurate?**
 9 A. I --
 10 MR. C. TURNER: Objection.
 11 THE WITNESS: I don't know. I would have -- I
 12 ask people to do things, and hopefully they do them, so
 13 I would be the one that said do this. I would be the
 14 one. Now, if they didn't do it, of course I'm still
 15 responsible, you know.
 16 So that's not always the perfect thing that
 17 someone does exactly and sometimes -- and sometimes I
 18 ask people to do stuff, and there's a lot of things
 19 going on, and then we correct it, and they may -- I'm
 20 not justifying anything. I'm responsible. There's
 21 different things, correct this wording here, correct --
 22 and they don't get rid of the old one, do this, and it's
 23 sad to say I've been in situations where they sent me
 24 the not-corrected version.
 25 So it doesn't matter, though. I'm still

1 responsible for it. I'm not -- there's nobody
 2 responsible but me.
 3 So if there's something there that's not
 4 well-liked, then I'm responsible.
 5 BY MR. ZANG:
 6 **Q. Now, I take it that you are familiar with the**
 7 **complaint that the Federal Trade Commission first issued**
 8 **in this case, are you not?**
 9 A. I mean, I'm -- you know, I've read it.
 10 **Q. You've read it.**
 11 A. Oh, yeah. Oh, I highlighted it. I've read it.
 12 I threw it up against the -- you know what I mean. You
 13 know, it's really nice. I read it. I --
 14 **Q. Okay. And --**
 15 A. -- read it with interest.
 16 **Q. In our complaint, Mr. Feijo, we indicated that**
 17 **there were a series of representations that**
 18 **Daniel Chapter One made.**
 19 **Do you recall that part of the complaint?**
 20 A. I've read a lot of things from all you folks. I
 21 can't recall much unless I -- I'd have to -- I'd have to
 22 speculate I guess. I don't know.
 23 **Q. I don't want you to speculate.**
 24 A. I certainly could say yes, I recall, but I don't
 25 know what you're referring to.

65

1 MR. ZANG: Okay. This would be a good time,
 2 since we've been going for a while, to take a break, so
 3 let's go off the record.
 4 (Discussion off the record.)
 5 (Whereupon, at 12:33 p.m., a lunch recess was
 6 taken.)
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1 AFTERNOON SESSION
 2 (1:33 p.m.)
 3 BY MR. ZANG:
 4 Q. Mr. Feijo, I just remind you that you remain
 5 under oath.
 6 Do you understand?
 7 A. Yes.
 8 Q. Okay. I have a couple of specific follow-up
 9 questions to our session before lunch, the first one
 10 being you mentioned a computer program that you
 11 developed. Can you provide us with a copy of that
 12 program?
 13 Do you still have it?
 14 A. I can get a copy of it, I mean. I don't know.
 15 I'd have to -- I haven't used it in like a year or two,
 16 but I mean, I've got it -- I could try to get somebody
 17 to download it on something for you.
 18 Q. Does the program have a particular name? Did
 19 you give it a name?
 20 A. It's just Daniel Chapter One computer program,
 21 monitoring program.
 22 Q. Okay. And then you mentioned a bank account at
 23 Citizens Bank.
 24 Whose name is that account in?
 25 A. Daniel Chapter One.

67

1 Q. And is that a trust account?
 2 A. It's a Daniel Chapter One corporation sole
 3 account.
 4 Q. Okay. And you mentioned that there are a number
 5 of people -- in fact I think you mentioned there are six
 6 people that given the hard economic times right now
 7 that, you know, you could or others might have let go
 8 but that you're keeping them. I wanted to inquire
 9 further about the people who work with you.
 10 Do they get paid a salary or some other form of
 11 remuneration?
 12 MR. J. TURNER: Objection with the same
 13 continuing objection.
 14 THE WITNESS: The biblical principle is the work
 15 is worth their wages or the work is worth their energy,
 16 their time, like yourself, and they put whatever time
 17 they put in. They say how much time they put in, and I
 18 don't know what it is, and they get paid for whatever
 19 the time, so maybe they're there, they're not there. I
 20 have no idea.
 21 BY MR. ZANG:
 22 Q. And what is the rate that they get paid per
 23 hour?
 24 A. I wouldn't know one person's rate. I have no
 25 idea.

68

1 Q. What's the range of rates?
 2 A. I couldn't tell you.
 3 Q. Who -- who knows that at Daniel Chapter One?
 4 A. Well, some of the things is that people who --
 5 nobody should know what anybody else is doing. I think
 6 that that is a biblical principle because what happens
 7 is there can be -- people may think for different
 8 reasons right or wrong that this guy is doing more work
 9 and this guy is doing less work.
 10 There's a whole kind of a lot of problems that
 11 can happen, so we don't -- nobody should know what
 12 anybody else is doing. They should just do what they do
 13 and they get remunerated at the end of the week, you
 14 know.
 15 Q. I realize it's your position that nobody should
 16 know that information --
 17 A. Yeah. Sure.
 18 Q. -- but in fact there I presume is somebody that
 19 does know because these people have to be paid one way
 20 or the other.
 21 A. Oh, yeah. Sure.
 22 Q. So who pays them? Who is that person?
 23 A. My daughter Jill writes the checks out.
 24 Q. And they're paid by check from that
 25 Citizens Bank account?

1 A. The -- I don't know if everybody is. I think
2 some of them might be from a -- the radio section of it,
3 you know.

4 **Q. Okay. And then understanding that it's your
5 position that nobody should know that sort of
6 information, can you please describe what sort of
7 remuneration or reimbursement for time you personally
8 receive for Daniel Chapter One activities.**

9 A. Room and board and whatever expenses I need to
10 come here or do whatever I have to do.

11 I don't have a personal bank account. I don't
12 have a savings account. I don't have -- I don't have a
13 suit. I just -- I had to buy shoes to come here, I
14 mean, and things like that. I don't -- I don't -- I
15 drink 1st Kings for breakfast sometimes.

16 Sometimes I -- the way we used to work is when
17 food went bad, when we had a health food store, we
18 would eat the buggy rice. And now if something, a
19 thing gets broken or something, those are things that
20 we use. Or if somebody sends us samples from other
21 companies, that's what we do and we give the best to
22 other people.

23 But I don't -- you know, I don't have an income
24 per se.

25 **Q. But for room and board, for example, is that**

1 **paid from the Citizens Bank account?**

2 A. No. It's the -- the property is the property is
3 paid for and we just live in it.

4 **Q. Okay. So the property you live in, is that
5 located in the state of Rhode Island currently?**

6 A. We don't live per se in any location. I mean,
7 we -- we could be living in Jerusalem. We could be
8 wherever we are, you know. Where we are predominantly
9 right now is in Rhode Island.

10 **Q. You say predominantly, so where else besides
11 Rhode Island? Please describe all the places where you
12 sometimes have resided in the past year.**

13 A. How long in terms of residing? What do you mean
14 by "resided"?

15 **Q. Well, I mean slept.**

16 A. Slept?

17 **Q. Yeah.**

18 A. I sleep in homes all over the place. I can
19 sleep a week in one place. I -- I'll at least go to --
20 we just stay in homes of people, you know, when we go
21 to --

22 **Q. Just to cut to the chase, let's exclude homes of
23 other people, understanding that there may be many of
24 those. Just describe the ones --**

25 A. Daniel Chapter One has a building in Florida,

1 and we stay there and we use it as a residence for
2 people coming and going, you know.

3 **Q. And besides Florida, anywhere else that
4 Daniel Chapter One has a residence, has a place?**

5 A. No, there's no other place.

6 **Q. And where in Florida is that?**

7 A. That's in Deerfield Beach.

8 **Q. And could you describe how many rooms that
9 property is.**

10 A. Three bedrooms and a kitchen, living room,
11 things like that.

12 **Q. And is it on the water or is it away from the
13 water?**

14 A. No. No. It's inland. It's about six miles
15 from the water.

16 **Q. All right. And then could you describe what
17 cars, if any, Daniel Chapter One owns.**

18 A. Yeah. Daniel Chapter One owns a 2003 Cadillac
19 and it owns a 2004 Cadillac.

20 **Q. And were those two vehicles purchased new by
21 Daniel Chapter One at some point?**

22 A. One was used and the other one was new at the
23 time.

24 **Q. Okay. And those are the only two vehicles owned
25 by Daniel Chapter One?**

1 A. Yes.

2 I shook my head. I'm sorry. I'll try not to
3 forget.

4 Yes, sir.

5 **Q. And so you've described the property in Florida,
6 the two vehicles.**

7 **There's a property in Rhode Island as well;
8 correct?**

9 A. It's not Daniel Chapter One's.

10 **Q. Okay. Who is the owner of that property?**

11 A. It belongs to Messiah Y'Shua Shalom.

12 **Q. And what is your relationship to that
13 individual?**

14 A. It's another ministry.

15 **Q. So that's actually the name of the ministry?**

16 A. Uh-huh.

17 **Q. Is that a yes?**

18 A. Yes.

19 **Q. Okay.**

20 A. That's yes. I'm sorry.

21 **Q. And what's your relationship with that ministry?
22 Why are you --**

23 A. I'm overseer for that.

24 **Q. Okay. And could you describe what the purposes
25 of that ministry are compared to Daniel Chapter One.**

73

1 A. It houses the buildings where we do our ministry
 2 of Daniel Chapter One out of. That's -- that's, you
 3 know...

4 **Q. What's the reason for -- is that the only
 5 purpose for that other ministry?**

6 A. No. It's just a ministry that would be present
 7 to be utilized as God sees fits in other directions if
 8 someone is raised up. If someone is called to go in
 9 another direction, then that ministry could be there to
 10 help provide maybe a different path than health and
 11 healing.

12 **Q. So from that --**

13 A. See, originally Daniel Chapter One was founded
 14 to help home churches in communist countries. And then
 15 as communist countries started to break down, this --
 16 the whole thing started to evolve, but I don't know what
 17 purpose this will eventually serve, the
 18 Messiah Y'Shua Shalom, that is.

19 These things that -- are not thought of or
 20 contrived of. It's just leadings. It's not a group of
 21 men or anything else like that. It's just it's the
 22 purpose of having a presence.

23 **Q. For the record, could you please spell the name
 24 of the second ministry.**

25 A. M-E-S-S-I-A-H, Y, hyphen, you know, the little

75

1 A. Messiah Y'Shua Shalom.

2 **Q. And is your daughter responsible for --**

3 A. No.

4 **Q. -- that?**

5 **Who is responsible for that account?**

6 A. Me.

7 **Q. Okay. And are funds from that ministry's
 8 account used to support any of the work of
 9 Daniel Chapter One?**

10 A. No, it's not.

11 **Q. Are funds in that account received by
 12 Daniel Chapter One and then placed in that account?**

13 A. Yes.

14 **Q. Could you describe the circumstances under which
 15 that happens.**

16 A. Yeah. It's that part I told you about beginning
 17 when Daniel Chapter One started. I took the best
 18 fruits, the first fruits of the ministry every week and
 19 put it aside.

20 So now, instead of it just being somewhere in
 21 Daniel Chapter One, I take that first fruits and
 22 dedicate it to God's service to Messiah Y'Shua Shalom,
 23 so it goes into that.

24 **Q. And would that be about 10 percent of the
 25 Daniel Chapter One?**

74

1 thing, capital S-H-U-A, Shalom, S-H-A-L-O-M.

2 **Q. And when was that ministry founded by you -- was
 3 it founded by you?**

4 A. Yes.

5 **Q. And when was that?**

6 A. I think two years ago.

7 **Q. And earlier you testified as to the legal
 8 status, if you will, of Daniel Chapter One.**

9 **What is the legal status of the
 10 Messiah Y'Shua Shalom foundation? Is it organized under
 11 the State of Washington as well?**

12 A. Yes. It's a corporation sole. State of
 13 Washington, yes.

14 **Q. And anything else in terms of its incorporating
 15 documents that establish it other than the corporation
 16 sole business?**

17 A. It's just a ministry. It's not -- it's just a
 18 ministry. It's not a --

19 **Q. Okay.**

20 A. -- anything right now, other than, you know...

21 **Q. Does that ministry have a bank account as well?**

22 A. Yes.

23 **Q. Is that at Citizens Bank?**

24 A. Yes.

25 **Q. And in the name of the --**

76

1 A. I wouldn't know. It can be different. There's
 2 no -- there's no legalistic approach of how it's done.
 3 I can't even -- I wouldn't even know.

4 **Q. But to date, those funds are just sitting in
 5 the bank account, they haven't been used; is that
 6 correct?**

7 A. To the best of my knowledge. I mean, I can -- I
 8 don't know. I mean -- I mean, to the best of my
 9 knowledge, you know.

10 **Q. And is it your testimony that those funds --**

11 A. The reality of it is the Messiah Y'Shua Shalom
 12 was established to start the ministry that we had that
 13 we canceled because of the recent FTC inquiry, and that
 14 money is what we're using up now.

15 This money was set aside to fund the building
 16 which we had already put deposits on, that we had
 17 already planned and had the architects and everything
 18 design, a fellowship meeting house in Florida, which has
 19 been canceled.

20 That money now is going to be used up for
 21 whatever we have to do from here on out, and it won't be
 22 the building at this point.

23 **Q. What's the total amount of that money?**

24 A. I have no idea right now.

25 **Q. Well, roughly?**

1 A. I couldn't guess.
 2 **Q. Well, what was the deposit that you were going**
 3 **to --**
 4 A. I don't remember.
 5 **Q. -- place -- you don't remember?**
 6 A. I don't remember.
 7 **Q. And where was the fellowship meeting house to be**
 8 **located?**
 9 A. McAlpin, Florida.
 10 **Q. And you mentioned the two Cadillacs owned by**
 11 **Daniel Chapter One.**
 12 **Are there separate vehicles owned by**
 13 **Messiah Y'Shua Shalom?**
 14 A. No.
 15 **Q. Separate properties owned by the second**
 16 **ministry?**
 17 A. No.
 18 **Q. Are there any other ministries that you are**
 19 **involved in?**
 20 A. No.
 21 **Q. And you've testified that you are given monies**
 22 **from the Citizens Bank account that's held in the name**
 23 **of Daniel Chapter One to pay for your living expenses;**
 24 **is that correct?**
 25 **And I don't want to put words in your mouth.**

1 A. Messiah Y'Shua Shalom and Daniel Chapter One.
 2 **Q. Okay. So what properties does**
 3 **Messiah Y'Shua Shalom --**
 4 A. The one in Rhode Island.
 5 **Q. I'm sorry?**
 6 A. In Rhode Island.
 7 **Q. The Rhode Island one.**
 8 A. Yes, sir.
 9 **Q. And what about food? You did mention that**
 10 **sometimes you'll eat -- you'll use spoiled product or**
 11 **samples that are given to you, but do you have other**
 12 **foods that you use to live on?**
 13 A. As a -- you know, it's interesting. It's true.
 14 We have to live and we need food to eat. And it's
 15 interesting that when my wife and I were traveling and
 16 ministering overseas and we were stranded in East Berlin
 17 when the wall went down and we had no money. It was
 18 interesting that when we were stranded in Poland when
 19 communism crashed and we had to sleep out behind burnt
 20 buildings in the interfada in Berlin.
 21 And when were in China, we marched with the
 22 Chinese students and we didn't have money or support
 23 from any ministry, even Daniel Chapter One. We just
 24 walked by faith.
 25 We trusted God then and we trust God now, and

1 **You're pausing, so if living expenses is not --**
 2 A. I'm trying to -- I mean, the --
 3 **MR. J. TURNER: Let me object to that question**
 4 **because I don't think that's what he said, so --**
 5 **BY MR. ZANG:**
 6 **Q. And I don't want to put words in your mouth and**
 7 **I don't want to mischaracterize your testimony, so state**
 8 **again what funds you receive from that Citizens Bank**
 9 **account.**
 10 **MR. J. TURNER: Objection.**
 11 **I don't think he ever testified he was receiving**
 12 **any funds from the Citizens Bank account.**
 13 **THE WITNESS: I don't have an account. I don't**
 14 **have an income.**
 15 **BY MR. ZANG:**
 16 **Q. Okay. So your testimony is that you don't**
 17 **receive any money from that Citizens Bank account; is**
 18 **that correct?**
 19 A. Right. Yes.
 20 **Q. And so you do, however, have living expenses;**
 21 **isn't that the case?**
 22 A. I am housed in the buildings owned by those
 23 ministries.
 24 **Q. Okay. Now, you referred to those ministries. I**
 25 **thought that just one of the ministries --**

1 just as then the Lord provided then, he provides now,
 2 and I believe we have a right to be supported through
 3 our efforts which have resulted in a lot of positive
 4 things without falsehoods.
 5 **Q. But my question really is: Do you ever pay for**
 6 **your own food?**
 7 A. Do I pay for my own food.
 8 I use funds.
 9 Do I pay for my own food.
 10 **Q. Where do those funds come from?**
 11 A. I use the Daniel Chapter One credit card.
 12 **Q. Okay. And what bank is that credit card**
 13 **associated with?**
 14 A. I don't know.
 15 **Q. Is it a Visa?**
 16 A. It's an American Express.
 17 **Q. Okay. And how is that bill paid? Out of which**
 18 **account is that bill paid?**
 19 A. Daniel Chapter One I guess.
 20 **Q. Okay. In the last month, approximately how much**
 21 **money have you personally charged to that account?**
 22 A. I have no idea.
 23 **Q. Well, that's something that's easily verifiable,**
 24 **but you must have some idea of how much you spend on**
 25 **that account.**

81

1 A. I have no idea, absolutely none.
 2 **Q. That's your best testimony?**
 3 A. I couldn't tell you. Some days it's nothing.
 4 Today it's more because of people that are around us as
 5 part of whatever.
 6 **Q. Okay. What --**
 7 A. Yes.
 8 **Q. Can you please describe the types of expenses**
 9 **that you place on that credit card?**
 10 A. Food, gas.
 11 **Q. What else?**
 12 A. I don't -- it could be anything. I don't know.
 13 **Q. Well, do you mean that literally, that it could**
 14 **be a television, or are you --**
 15 A. No. No.
 16 As a matter of fact, how we get any material
 17 things usually is because of the reward points from a
 18 card that goes into that that's not in my name anyway.
 19 It doesn't belong to me anyway if I bought it.
 20 **Q. So the points, is that the American Express**
 21 **reward program?**
 22 A. Yeah.
 23 **Q. And what have you received from that program?**
 24 A. Let's see. A computer. A TV I guess.
 25 **Q. So that would have probably necessitated**

83

1 **Daniel Chapter One account, those points? Because there**
 2 **are other ways I suppose that points could go to that**
 3 **Daniel Chapter One account.**
 4 A. I have to say yeah, I guess. You know, I'm
 5 saying yes, but I'm not positive about that. I don't
 6 really know where they come from. I mean, I just --
 7 they're there.
 8 **Q. Okay. Is there anybody else who has access to**
 9 **that credit card other than yourself?**
 10 A. Anybody that needs it.
 11 **Q. And who specifically is that?**
 12 A. Anybody that needs it. It can be anybody. It
 13 could be anybody that needs to get something. It could
 14 be a person in the street if there's a need.
 15 **Q. Has that ever happened in fact that a person in**
 16 **the street has used the credit card?**
 17 A. As far as used it to get something for
 18 somebody?
 19 **Q. Yes.**
 20 A. We would do that.
 21 **Q. But has that in fact --**
 22 A. If somebody was hungry.
 23 **Q. I understand you would in principle. That's**
 24 **your testimony. But in fact has that happened?**
 25 A. I can't say for certain. And I can't say it

82

1 spending quite a bit of money on that American Express
 2 account because, you know, I have a point program with
 3 my credit card and it takes an awful lot of expenditures
 4 before I can get a prize like that, so you do spend a
 5 lot on that account.
 6 MR. J. TURNER: Objection to form.
 7 He didn't say the points came from that
 8 account.
 9 BY MR. ZANG:
 10 **Q. Okay. Well, in fact do the points come from the**
 11 **Daniel Chapter One account?**
 12 MR. J. TURNER: No. Again, objection.
 13 BY MR. ZANG:
 14 **Q. I'm retracting the last question.**
 15 **My question now is: Do the points that you use**
 16 **for the objects that you've just mentioned, do they come**
 17 **from --**
 18 MR. J. TURNER: Let me object to form again.
 19 Wouldn't it be better to say where do the points
 20 come from?
 21 MR. ZANG: Okay. I certainly can ask the
 22 question that way.
 23 THE WITNESS: They come from that credit card.
 24 BY MR. ZANG:
 25 **Q. I understand, but do they come from the**

84

1 hasn't for certain, you know.
 2 **Q. How many copies of that credit card exist?**
 3 A. There were two or three at one time.
 4 **Q. And today?**
 5 A. I don't know. I don't know if anybody is using
 6 it nowadays, you know.
 7 **Q. Are there any other credit cards other than the**
 8 **American Express one in the name of Daniel Chapter One?**
 9 A. No.
 10 **Q. And how about in the name of the**
 11 **Messiah Y'Shua Shalom?**
 12 A. No.
 13 **Q. Okay. Mr. Feijo, I'm going to ask the**
 14 **court reporter to mark this document as --**
 15 MR. J. TURNER: Can I see it?
 16 BY MR. ZANG:
 17 **Q. -- FTC Exhibit 1 for identification, which is --**
 18 **and it is the FTC complaint in this action.**
 19 (FTC Deposition Exhibit Number 1, Complaint, was
 20 marked for identification.)
 21 BY MR. ZANG:
 22 **Q. And when I give you an exhibit such as this one,**
 23 **Mr. Feijo, I just would ask you to take a look at it and**
 24 **familiarize yourself with it. And I'll be asking some**
 25 **questions and I'll probably direct your attention to**

1 particular pages, but take whatever time you need just
2 to familiarize yourself with it first.

3 MR. J. TURNER: I'm objecting to all questions
4 on the complaint as asking him for legal conclusions so
5 that the -- he probably doesn't know any way to answer
6 the questions, but then we can go forward, but that
7 objection is on the --

8 MR. ZANG: Okay.

9 MS. PAYNTER: And I have to say, I don't think
10 you should -- I think you're sort of prompting your
11 witness to answer. I'd be concerned if he answers some
12 factual questions that may be raised based on what
13 you --

14 MR. J. TURNER: I don't think there are any
15 factual questions you could ask about it.

16 MS. PAYNTER: Well, there might be, but I do
17 object that you sort of prepped him a little bit as to
18 how he might answer, so hopefully that will not impede
19 him from being able to give an answer.

20 MR. J. TURNER: I'm probably going to do it
21 again.

22 MS. PAYNTER: Okay.

23 BY MR. ZANG:

24 Q. All right. Mr. Feijo, let me direct your
25 attention to page 5 of this document, and you'll see the

1 BY MR. ZANG:

2 Q. All right. And so, Mr. Feijo, again directing
3 your attention to that statement that Bio*Shark inhibits
4 tumor growth, I'd like to ask you whether that statement
5 has ever appeared on either the Daniel Chapter One
6 Web site or any literature prepared by
7 Daniel Chapter One.

8 A. That terminology is not a terminology that we
9 would use in writing and in Web site material, not by my
10 encouragement.

11 Q. All right. And understanding that counsel
12 probably -- not probably, definitely has the same
13 objection, I'm going to go through each of the
14 statements in 14 and I'm going to ask you, Mr. Feijo,
15 the same question.

16 We're preserving those objections, Mr. Turner.

17 MR. J. TURNER: Right.

18 BY MR. ZANG:

19 Q. So the statement in b is: Bio*Shark is
20 effective in the treatment of cancer.

21 My question with respect to that, Mr. Feijo,
22 is: Has that statement ever either appeared on the
23 Daniel Chapter One Web site or in any of its
24 literature?

25 A. I don't -- I don't know if it has. I don't

1 number 14, paragraph 14 on page 5.

2 And I want to direct your attention to 14-a
3 which says --

4 MR. J. TURNER: Object again that --

5 MR. ZANG: Let me finish the question.

6 MR. J. TURNER: Okay.

7 BY MR. ZANG:

8 Q. -- which says, "Bio*Shark inhibits tumor
9 growth."

10 Do you see that statement written?

11 A. Uh-huh. Yes.

12 MR. J. TURNER: And I object to questions on
13 14-a through h on the grounds that they do not -- this
14 is the grounds.

15 We are filing a motion before the 28th of
16 February or whatever it is, a motion to dismiss on
17 failure to state a complaint, and we believe that the
18 statements a through h misrepresent what in fact is on
19 the Web site.

20 And I'm not instructing him not to answer, but
21 there's no way in our -- in my view that this can be
22 answered without violating his rights in terms of the,
23 A, making a legal conclusion, and B, we do not believe
24 that those statements represent what was actually on the
25 Web site.

1 believe it has. It's not something that I recall
2 putting up there.

3 Q. All right. And then the same question with
4 respect to c, which states, "7 Herb formula is effective
5 in the treatment or cure of cancer," has that statement
6 ever appeared on the Web site or in Daniel Chapter One
7 literature?

8 A. I do not recall any of these being statements
9 that we would have made.

10 Q. And by "any of these" you mean a through h
11 here?

12 A. Yeah. I can't recall.

13 I mean, there's so much stuff that we've done
14 over the years, I can't -- I mean, I can't recall. I
15 mean, it's whatever you -- that's probably what I would
16 say in each of these cases.

17 Q. And let's put aside what you --

18 A. It's a lot of stuff.

19 Q. All right. Let's put aside what you can and
20 cannot recall.

21 Looking at each of these statements from a to h,
22 are any of those statements accurate, in your opinion,
23 with respect to what they're saying?

24 A. Are they accurate.

25 Q. And take your time to read them.

1 A. Are they accurate from what I would claim?
 2 MR. J. TURNER: I have the same objection.
 3 MR. ZANG: Understood.
 4 THE WITNESS: Are they accurate?
 5 I mean, do I think they could do that or
 6 accurate, I mean?
 7 BY MR. ZANG:
 8 **Q. Correct.**
 9 A. Do I think it could be done?
 10 Well, our position is God heals and the body has
 11 the innate ability, vitalistic ability, to heal. That's
 12 our position. That's our position as it always has
 13 been.
 14 As far as relating specifically these
 15 statements, these things -- material things are just
 16 material things. The forces of healing is the body's
 17 ability through the endocrine and exocrine system and
 18 other means that God has placed in our body that allows
 19 the body to heal. These materials we believe are
 20 important for that process.
 21 As far as their actually fulfilling these
 22 statements, I don't recall that to be something I would
 23 have said in these materials.
 24 **Q. Well, do you believe --**
 25 A. Not in this extent.

1 **Q. All right. And do you believe that Bio*Shark**
 2 **inhibits tumor growth?**
 3 A. I believe that Bio*Shark contains the proteins
 4 that have been given the ability by God to prevent
 5 angiogenesis which in the process then, being an
 6 antiangiogenic property, would have that capabilities of
 7 preventing blood supplies to tumors, which therefore
 8 would hopefully stop that.
 9 **Q. And do you believe that Bio*Shark is effective**
 10 **in the treatment of cancer?**
 11 A. To the extent that the function of
 12 antiangiogenesis is available can be very useful in
 13 dealing with a body that has wayward cancer cells called
 14 cancer, you know.
 15 These are terms that people make up, you know.
 16 We're just trying to -- we don't deal with -- we don't
 17 deal with diseases. People name diseases.
 18 Even Hanneman taught that the only reason they
 19 use names of diseases is to relate to the person, you
 20 know, and really that a disease is just a state and a
 21 type of a disease with a name is nothing more than a
 22 state of unhealth or unwellness, you know, if that's a
 23 word, and that we all have -- and our whole principle,
 24 if I could say this, in everything that we do is to --
 25 and it goes back to when we developed the

1 1st Kings 17:6 -- there's two issues at hand in our
 2 principles of ministry and healing, is that we want to
 3 provide substances that are intended for wellness.
 4 If wellness exists, then -- we all have the
 5 propensity for a disease state caused by whatever
 6 means, accidents, stress, imbalances, genetics, who
 7 knows what, and just because somebody even has a
 8 genetic tendency or history that may incline them to
 9 have an illness doesn't mean that a person will get the
 10 illness.
 11 So our concept that we try to do in all these
 12 cases -- and for example, anyone that comes to us and
 13 asks us about hypertension or a cancer, the allopathic
 14 doctors, the doctors who will take that -- and they
 15 have guidelines that they follow to deal with a
 16 specific disease state -- we don't consider that that
 17 is the limitations in God's ability to heal someone.
 18 There are different types of cancers. Doctors
 19 treat them that way, differently.
 20 What we see is the body is ill. Someone uses
 21 the term of leukemia or squamous cell, whatever they
 22 use, to relate to what the doctors diagnosed them as.
 23 What we try to do is say okay, there's an
 24 imbalance here, and we don't ever look at anybody's
 25 illness as what we're trying to help them with. We're

1 trying to find out how we can best supply that body with
 2 the best.
 3 And in the case of hypertension, there may be
 4 stress causing that. It may be a lack of minerals. It
 5 may be genetics. It may be atherosclerotic conditions.
 6 We don't know. But we know the allopathic-method
 7 doctors will say use this medication, this medication.
 8 So the same thing with this system here, what
 9 we've tried to do and we may have not have -- I can't
 10 recall if these are things that I actually said. I
 11 really honestly can't. It's been many years doing these
 12 things, many days and hours.
 13 And honestly what I do want to say is that the
 14 purpose of these products was not to treat a cancer or
 15 to cure a cancer. It has been to provide a science,
 16 believe it or not, a thought of science based on
 17 principal understandings from some things from
 18 scripture, some things from exercise physiology books.
 19 And in the process of dealing with these
 20 products here, we understand, through science, through
 21 everybody, there's a blood supply to the cancers; right?
 22 And even now our principle always been was that God has
 23 given us an immune system.
 24 And so our principles always support the immune
 25 system. And years ago that was really out in left

93	<p>1 field, but today science is saying support the immune 2 system. And that's great. 3 I mean, when we see that, we're thrilled about 4 that. 5 So our whole concept in here was okay, we know 6 that it needs a blood supply. We believe in seeing 7 material that says this particular product has this 8 function, this particular product has this function, 9 but all of these was boost the immune system and try to 10 support the body's ability to counter what was going 11 on. 12 Q. But in some of the Daniel Chapter One 13 literature, such as product catalogs, isn't it the case 14 that some of the headings in those pieces of literature 15 refer to diseases such as cancer? 16 A. It says cancer. It may say diabetes. It may 17 say spinal stenosis. 18 And the purpose is like communication. If 19 you -- when we go to a -- Trish and I go to a foreign 20 country -- when we went into Poland, I don't know 21 Polish. I've got to learn to communicate with them 22 somehow. And the purpose of naming names that are 23 already established and are proved and accepted and 24 acknowledged is that it's already been accepted and 25 acknowledged.</p>	94	<p>1 For example, when I went to China, the Chinese 2 scientists said, Are you a Christian? and I told them 3 no. And the reason I said no was because the term 4 "Christian" had a specific understanding and revelation 5 to that scientist that asked me. And I know that 6 certain Christian groups have gone there before us, and 7 if I said yes, they would understand "Christian" based 8 on those revelations that they had from those people or 9 those teachings that those people had, which would not 10 equate where I was standing, and so -- but it was a 11 means -- they asked me for a communication. 12 Well, the same thing is evidenced with this. If 13 someone says they have diabetes, well, there's an 14 understanding, because of science, because of teachings 15 all over there, what diabetes is, what cancer is or may 16 be, and then they still don't know really, I mean. But 17 they certainly have some understanding due to science, 18 to a certain point they have an understanding of these 19 diseases. And as you know, there's no disease really 20 that they're able to have cures for, so -- but they do 21 try to communicate with people with those terms. 22 So because those people have those terms and 23 because those people when they call us on the radio they 24 say this, that and -- we immediately -- they say, oh, 25 so-and-so has -- hypertension is the easy one or</p>
95	<p>1 diabetes. Then what -- we understand what they 2 understand it to be, but that doesn't -- we don't come 3 out with a set standard and say this, this, this and 4 this because as they are sharing stuff there maybe 5 different insights to what really is their need, you 6 know. 7 Q. But in using that terminology such as 8 hypertension or cancer, you're not -- you use that also 9 in the United States on your radio program, not just in 10 China or Poland where -- 11 A. Sure. 12 Q. Right? 13 A. Yeah. Yes. 14 Q. And is it the case that in your ministry or 15 ministries that comfort, personal comfort, is not a 16 virtue? Is that a principle that you would subscribe 17 to? 18 A. We have the same biblical principles as the 19 Apostle Paul and we have actually gone through that 20 ourselves. It is not an -- a cornerstone of our life 21 and existence to live on the pleasures of the world. 22 But at the same time, Apostle Paul said that I learned 23 to do without and I learned to do with plenty. But in 24 any of those, none of those surpass the principles of 25 the ministry.</p>	96	<p>1 Q. So something I've been thinking about in the 2 last few minutes is the new Cadillac that was purchased 3 by Daniel Chapter One. It's a pretty comfortable car. 4 Why did the ministry purchase a new Cadillac? 5 A. Because the cars we had in the past would break 6 down all the time. They were dangerous. We're going 7 to have it for a long time. The -- it's a car that 8 doesn't demand a lot of upkeep, a lot of maintenance. 9 It's reliable, and anybody could use it if somebody 10 came by. 11 If we had a young girls that wanted to go 12 into -- be missionaries and they're there, they could 13 use a safe car. You know, it's going to endure. It's 14 a durable machine and it ends up in the long run we 15 think being more reliable than and safe than other 16 vehicles. 17 Q. But aren't there other vehicles that would meet 18 those specifications that wouldn't be as expensive, 19 shall we say? 20 A. I really don't think so because you could go get 21 a Buick and I don't think it would be as reliable or 22 much less efficient. It's required no -- hardly any 23 looking after. It's worry-free. 24 And the Cadillac we've gotten in the other 25 Cadillac we got actually cost less than a used car from</p>

1 anywhere else. I got it used, and we were able to -- I
 2 got that. And again, it's a reliable car. It's not
 3 requiring -- and it's cheaper than a brand-new car, you
 4 know.
 5 **Q. And why does the ministry need two cars? Could**
 6 **you describe what the need is there.**
 7 **A. Yeah. There's a car in Florida and there's a**
 8 **car up here so that if we're not here, somebody that's**
 9 **staying at this house -- there's people that we -- if**
 10 **they stay in the place in Florida, they have a vehicle**
 11 **to get around, so -- but -- but those are -- those are,**
 12 **you know, honestly good, great questions, but that's the**
 13 **truth behind it, you know.**
 14 **I mean, it's probably better than like a big**
 15 **fancy car. They're not really -- it is a Cadillac, but**
 16 **the name is more than it sounds.**
 17 **Q. I want to show you another document that is a**
 18 **legal document, so I imagine your lawyer will have an**
 19 **objection, but we're going to mark it as FTC Exhibit 2**
 20 **for identification, and it's your legal answer in this**
 21 **case, the answer of Daniel Chapter One and James Feijo.**
 22 **(FTC Deposition Exhibit Number 2, Answer of**
 23 **Respondents Daniel Chapter One and James Feijo,**
 24 **Individually and as an Officer of Daniel Chapter One,**
 25 **was marked for identification.)**

1 **Was that particular part of this answer accurate**
 2 **at the time that it was written?**
 3 **(Pause in the proceedings.)**
 4 **A. Well, is that referring to this thing**
 5 **here (indicating)?**
 6 **Q. You're pointing to Exhibit 1, and yes, it's**
 7 **referring to subparagraphs a through h of 14 in the FTC**
 8 **complaint. Yes.**
 9 **A. Well, it stands as it is.**
 10 **Q. Okay. And I'm going to go through some of the**
 11 **information in this answer, starting with paragraph 1**
 12 **where it states that respondents admit that their**
 13 **principal office and place of business are located at**
 14 **1028 East Main Road, Portsmouth, Rhode Island.**
 15 **Is that address the address of the**
 16 **Daniel Chapter One building that you were describing**
 17 **earlier?**
 18 **A. That's it.**
 19 **Q. I'm sorry. Say that again?**
 20 **A. That's it.**
 21 **Q. Okay. And then it says, "Respondents admit that**
 22 **Daniel Chapter One is a corporation sole organized under**
 23 **the laws of the state of Washington."**
 24 **That refers to your earlier testimony, does it**
 25 **not, about Daniel Chapter One being a corporation sole?**

1 **BY MR. ZANG:**
 2 **Q. So take a look at that, and let me just tell you**
 3 **that at least to begin I'm going to direct your**
 4 **attention to paragraph 14.**
 5 **And feel free to look at the whole document.**
 6 **(Pause in the proceedings.)**
 7 **MR. J. TURNER: And I object on the same**
 8 **grounds.**
 9 **(Pause in the proceedings.)**
 10 **BY MR. ZANG:**
 11 **Q. And Mr. Feijo, my first question is: Did you**
 12 **review this document before your lawyers completed it or**
 13 **sent it to the Federal Trade Commission?**
 14 **A. I believe so.**
 15 **Q. And was it accurate at the time that you**
 16 **reviewed it?**
 17 **A. To the best of my knowledge.**
 18 **Q. Okay. And directing you to page 3,**
 19 **paragraph 14, where it states, "Respondents answer the**
 20 **allegations in paragraph 14 of the complaint as**
 21 **follows: While continuing to deny any allegations**
 22 **contained in paragraphs 6 through 13 that are denied in**
 23 **this answer, respondents admit making the**
 24 **representations contained in subparagraphs a through h**
 25 **of paragraph 14."**

1 **A. Yes.**
 2 **Q. All right. And then in paragraph 2 -- and for**
 3 **the sake of time, I won't read it all into the record --**
 4 **paragraph 2 in part says that James Feijo is responsible**
 5 **for the activities of Daniel Chapter One as its**
 6 **overseer.**
 7 **And does that --**
 8 **A. That's correct.**
 9 **Q. So -- and admit that your principal office and**
 10 **place of business is the same as that of**
 11 **Daniel Chapter One.**
 12 **Is that accurate?**
 13 **And please feel free to correct any of this if**
 14 **it's not accurate.**
 15 **A. Our principal office and place is the principal,**
 16 **yeah. That's fine.**
 17 **Q. Okay. And then in paragraph 3 it states,**
 18 **"Respondents answer the allegations in paragraph 3 of**
 19 **the complaint as follows: admit that they distribute**
 20 **the named products."**
 21 **I'm going to represent to you that the named**
 22 **products -- I'll go through each of them. The first one**
 23 **is Bio*Shark.**
 24 **Is it the case that Daniel Chapter One**
 25 **distributes Bio*Shark?**

101

1 A. Yes.

2 Q. And I'm going to represent that another named

3 product is 7 Herb Formula.

4 My question is: Is it the case that

5 Daniel Chapter One distributes 7 Herb Formula?

6 A. We provide it. Yeah.

7 Q. And the same with -- the next product is GDU.

8 Do you distribute it?

9 A. Yes.

10 Q. And finally BioMixx, do you distribute it?

11 A. Yes.

12 Q. And then paragraph 3 says further that the

13 products sold by Respondent Daniel Chapter One are

14 dietary supplements.

15 Are each of those products that you -- well,

16 first of all, do you sell each of those four products?

17 A. We offer those for purchase by donations.

18 Q. Although this answer that was prepared by your

19 lawyers and reviewed by you doesn't say that. It just

20 says "sold"; isn't that the case?

21 A. It says "sold."

22 Q. Did you correct that terminology at the time

23 that you reviewed it?

24 A. No. Obviously I did not correct it.

25 Q. Okay.

103

1 or not -- that Daniel Chapter One distributes the four

2 named products and publishes information about the four

3 products.

4 Is that accurate?

5 And let's do each one separately.

6 A. Are you talking about 13?

7 Q. Well, let me just ask you --

8 A. Are you asking a question on 13 here?

9 Q. -- about 7, 9, 11 and 13. They all essentially

10 say the same thing --

11 A. Yeah.

12 Q. -- but I think they're referring to each of the

13 four products in turn.

14 So my question is: Is it the case that

15 Daniel Chapter One, first of all, distributes -- I think

16 you already answered this -- Bio*Shark, 7 Herb Formula,

17 GDU and BioMixx?

18 A. Yes.

19 Q. And is it the case that Daniel Chapter One

20 publishes information about each of those products?

21 A. Yes.

22 Q. Okay.

23 MR. J. TURNER: I have an objection on the form

24 of that complaint. I just want to be clear that he's

25 talking about distributes in a nonlegal sense in all of

102

1 A. And -- and -- that's good enough.

2 Q. Okay. And they are dietary supplements? Is

3 that your understanding of those four products?

4 A. Dietary supplements.

5 Q. Would you call either -- I'm sorry.

6 Would you call any of those four products

7 drugs?

8 A. No. Not at all.

9 Q. Okay. And then paragraph 4 of your answer says,

10 "Respondents answer the allegations in paragraph 4 of

11 the complaint as follows: admit that they distribute

12 the named products in commerce."

13 Is it the case that Bio*Shark, 7 Herb Formula,

14 GDU and BioMixx are distributed in commerce as this

15 answer says?

16 A. Yes.

17 Q. Okay. And then paragraph 5 says that

18 respondents admit that they operate a Web site that

19 provides information on the named products in a

20 religious and educational context.

21 Is that accurate?

22 A. Yes.

23 Q. All right. And then let's turn the page.

24 And paragraphs 7, 9, 11 and 13 all state in

25 essence that -- and I'm going to ask you if this is true

104

1 the -- in the entire analysis of the complaint that

2 you're doing, they're not legal conclusions that he's

3 offering.

4 MR. ZANG: And the testimony speaks for itself.

5 MR. J. TURNER: Uh-huh.

6 MR. ZANG: Okay. That's all for the moment with

7 this document, so you can put it aside.

8 Okay. Now I'm going to ask the court reporter

9 to please mark this document as FTC Exhibit 3 for

10 identification.

11 (FTC Deposition Exhibit Number 3, Exhibits A

12 through D of the FTC's complaint, was marked for

13 identification.)

14 MR. ZANG: And I will represent that this is

15 Exhibits A through D of the FTC's complaint.

16 (Pause in the proceedings.)

17 I'm also going to have the reporter mark -- it's

18 actually an identical copy but with numbers that the FTC

19 has put at the bottom of each page just so that when I

20 ask you questions, Mr. Feijo, I can say please look at

21 page X and you'll see.

22 So let me ask the reporter to mark this document

23 as FTC Exhibit 4 for identification.

24 (FTC Deposition Exhibit Number 4,

25 FTC-DCO 0011-0032, was marked for identification.)

105

1 BY MR. ZANG:
 2 Q. And I'll ask you to have it in front of you,
 3 and you can compare and make sure, but it is the same
 4 as our exhibit except with FTC Bates numbers at the
 5 bottom.
 6 THE WITNESS: Do you need to see this
 7 one (indicating)?
 8 MR. J. TURNER: I have the same. These two are
 9 the same and these two are the same (indicating).
 10 THE WITNESS: Yeah. Uh-huh.
 11 BY MR. ZANG:
 12 Q. And what I want to do is just first of all ask
 13 you to identify some of these pages as we go through
 14 them.
 15 A. Sure.
 16 Q. So let's start with what -- okay.
 17 So why don't you use the document with the
 18 numbers at the bottom just so I can tell you what page
 19 and it will be easier to follow.
 20 A. Yes.
 21 Q. So it's the document which is marked FTC-DCO 11.
 22 And can you identify this page?
 23 A. The first page here?
 24 Q. The first page.
 25 A. Page FTC-DCO 11.

107

1 A. No.
 2 Q. Oh, okay.
 3 A. Oh, what do you mean, I was testifying? The
 4 question you asked me about does Bio*Shark inhibit tumor
 5 growth?
 6 Q. Yes.
 7 A. This reference here that you have here in the
 8 next sentence, what I was referring to is what's here in
 9 this 0011 and -- but as you can see, the FTC thing on
 10 the respondents on page 5, 14-a, shows -- it's kind of
 11 like somebody took the two sentences and put them
 12 together that kind of made it sound like we made a
 13 statement that Bio*Shark inhibits tumor growth, and
 14 that's not what we have here.
 15 Q. Here, what do you have here?
 16 A. That the shark cartilage contains a protein that
 17 has the innate ability to prevent blood vessel
 18 formation, angiogenesis.
 19 Q. And in the next sentence it says, "This can stop
 20 tumor growth"; right?
 21 A. Yes. And in that it's like I can take somebody
 22 to the bridge and they can jump off. I mean, it doesn't
 23 mean it's going to happen. It's just this can possibly
 24 stop tumor growth. The stopping of angiogenesis,
 25 preventing of blood vessels to -- can have the possible

106

1 Yep. It's the Bio*Shark page.
 2 Q. And does that come from a Daniel Chapter One --
 3 A. Yes.
 4 Q. -- Web page?
 5 A. Yes, sir.
 6 Q. Okay. And do you see where it says "Bio*Shark:
 7 Tumors & Cysts"?
 8 A. No.
 9 Q. Okay. This is a heading under a picture of
 10 Bio*Shark.
 11 A. Oh. "Bio*Shark: Tumors & Cysts" is that?
 12 Q. Right.
 13 A. Yes. The headline.
 14 Q. My question is: Who would prepare a statement
 15 or a heading such as that?
 16 A. Probably me I guess. I don't know.
 17 Q. Okay.
 18 A. I don't know. Whoever may be -- I don't know.
 19 Q. All right. And then --
 20 A. Probably me I would imagine.
 21 Q. Okay. And then it states, "Pure skeletal tissue
 22 of sharks which provides a protein that inhibits
 23 angiogenesis - the formation of new blood vessels."
 24 Does that relate to what you were testifying to
 25 a little earlier?

108

1 desired effect.
 2 Q. Okay. Did anybody help you in writing this
 3 description of Bio*Shark?
 4 A. No.
 5 Q. And what basis did you have for what you wrote
 6 here?
 7 A. Oh, a lot of research, a lot of reading, books,
 8 articles, scientific reviews, things like
 9 that (indicating).
 10 Q. And --
 11 A. Going way back.
 12 Q. Going way back.
 13 Approximately when did you write this?
 14 A. Oh, man, I couldn't -- I wouldn't know.
 15 Q. It was a while ago, though; correct?
 16 A. Oh, it would be a long time ago.
 17 Q. Probably more than five years ago?
 18 A. Well, maybe four or so. I don't know. Maybe.
 19 Maybe more.
 20 Q. Okay.
 21 A. I don't know.
 22 Q. And is it the case that this statement or
 23 something very similar to it has been on your
 24 Daniel Chapter One Web site since that time?
 25 A. I don't know if it's still there or not.

1 Q. But it's been there for -- it was there for a
 2 while?
 3 A. Yes.
 4 Q. Okay. Let me now ask you please to turn the
 5 page to 13, DCO 13, FTC-DCO 13.
 6 Now, is this a Web page about 7 Herb Formula?
 7 A. It's a -- yeah. This is the old Web site,
 8 yeah.
 9 Q. This is the old Daniel Chapter One Web site?
 10 A. Yeah. This is the old Web site, yeah.
 11 Q. And when you say "the old Web site," can you
 12 just describe what that means?
 13 A. As computers and languages of computers and
 14 everything changes, so does the technology of it, and so
 15 different people would create different, you know, newer
 16 versions to create a Web site, so this was one of those.
 17 We had several I'm sure.
 18 Q. And could you put a time period as to when the
 19 old Web site, as you call it, was replaced with a newer
 20 version?
 21 A. It's two years maybe, three years.
 22 Q. Two or three years ago?
 23 A. Yeah.
 24 Q. Okay.
 25 A. I believe, you know. That's the best I can -- I

1 Q. And what support did you have at the time it was
 2 made for the fact that 7 Herb Formula fights tumor
 3 formation?
 4 A. Oh, it's -- and again, I want to make a note
 5 here that I want to clarify the reason we had a
 6 difficult time with those on this document, FTC 1
 7 exhibit.
 8 Q. The complaint, the FTC complaint.
 9 A. -- on the complaint on 14-a through g is that
 10 unintentionally I'm sure somehow the intention to
 11 present things it seems to, you know, overlap and it
 12 says 7 Herb inhibits tumor formation, but I don't think
 13 we've ever said that. But here we have said fights
 14 tumor formation, and the principle is that, given the
 15 knowledge that God has given us these herbs with the
 16 ability to boost the immune system and it is important
 17 that and one of the herbs in there, Eleuthero, has been
 18 known to prevent metastases of tumors, therefore we've
 19 shared with people that it has -- that it fights tumor
 20 formation, yes.
 21 So that -- but it doesn't fit into d where it
 22 says "inhibits tumor formation." We wouldn't use the
 23 word "inhibits."
 24 Q. Okay. What is the difference, in your opinion,
 25 between "inhibits" and "fights"?

1 can't --
 2 Q. Understand that the purpose of our deposition
 3 here is to try to gather factual information, and you're
 4 just testifying to the best of your ability.
 5 A. Yeah. I'm just trying to recall because these
 6 things -- so many things happen. You know, a lot of
 7 this stuff happens. My wife and I could have been
 8 overseas. We could have been -- I don't know. I
 9 really -- the time frame thing is not a major thing for
 10 me, but I'll try to do what I can do.
 11 Q. Now, you wrote this, this older Web page; is
 12 that right?
 13 A. I think I gave the information to people to lay
 14 out in it, so I would take responsibility of it.
 15 Q. And it says "7 Herb Formula." It has some
 16 bullet points.
 17 A. Yes.
 18 Q. "Purifies the blood" is -- why don't you just
 19 read those four bullet points, please.
 20 A. Yeah. It says "purifies the blood, promotes
 21 cell repair, fights tumor formation, fights pathogenic
 22 bacteria."
 23 Q. And were those accurate statements at the time
 24 that they were made?
 25 A. Oh, yes.

1 A. "Fights" I believe is a term that is acceptable
 2 that is not a -- as like "inhibits," which "inhibits" is
 3 a term that we would never use. That's more of a
 4 chemical attitude that would be used in allopathic
 5 oncologist terms. I don't think they ever use the word
 6 "fight." I think "fight" is just a general term that is
 7 benign.
 8 Q. Okay. And by the way --
 9 A. And also, you know, we understand that there --
 10 we've always understood that the regulations -- I mean,
 11 we try to do the best we can. And even to the people we
 12 have that help us as far as when we go to produce the
 13 products, they'll say that lawyers will tell you you
 14 can't use this word, you can't use that word, so we try
 15 to the best of our ability to conform to those righteous
 16 things because there should be those in authority from
 17 the government with a righteous purpose that we need to
 18 abide to, and that's what we -- my wife especially has
 19 always been the one and others, other people, to say you
 20 can't say this, you can't do that.
 21 So these words really are important, and to try
 22 to communicate something and still abide by these
 23 guidelines, it's hard, you know, but we try. We have to
 24 try to do that and still try to represent the truth.
 25 Q. Well, let me ask you then -- and take a look at

113

1 this same page where it says, "If you suffer from any
2 type of cancer, Daniel Chapter One suggests taking
3 this" -- it says "products," but I think maybe you meant
4 "product" in the singular, but -- oh, I'm sorry. No.

5 A. No. It's in reference to the products.

6 **Q. 7 Herb Formula, Bio*Shark, BioMixx and GDU Caps.**

7 A. Yes, sir.

8 **Q. Okay. My question is: Given the regulatory
9 framework you've just referenced and given what you've
10 testified earlier about trying to avoid using terms like
11 "cancer," why did you use the term "cancer" here?**

12 A. It's just that it's a term that -- "cancer" is a
13 term that people use to represent an illness. And all
14 we're trying to do is communicate to those who would
15 like to have acceptable some knowledge.

16 And you've got to understand. We really believe
17 that when Jesus said my people perish for lack of
18 knowledge that that's true. And I really believe, like
19 when you said, if there's a time that something goes
20 against my obeying God and overseeing these issues that
21 I need to decide who am I going to fear, you know, and I
22 think it's really, really my responsibility to anyone,
23 people who don't even like me, to be able to be able
24 there to be able to give them what I've witnessed to be
25 useful.

115

1 things that other people don't believe. And the Lord
2 tells us to become all things to all people that I might
3 save them.

4 So in this position, I cannot become to where
5 they're at if I don't become where they're at, and so
6 the term "cancer" is where they're at. It's not where
7 I'm at.

8 We all have disease cells that are DNA-damaged
9 which could be termed cancer. Disease cells is
10 something that they would not be able to understand, so
11 in order to share what I have to someone that has a
12 state and they're worried and they're fearful and
13 they're afraid of dying and I have some knowledge, I
14 confess I use the term "cancer." Yes, you're right.

15 **Q. But isn't that being misleading, given
16 everything you've testified --**

17 MR. J. TURNER: Objection. It calls for a legal
18 conclusion.

19 THE WITNESS: Yeah.

20 MR. ZANG: And I'm not using that in a legal
21 sense actually. I'm just --

22 THE WITNESS: I don't believe the fact that I
23 believe something, I'm not misleading them what my
24 belief is. I'm just meeting them where they're at.

25 When Jesus went to the woman at the well, he

114

1 **Q. But, Mr. Feijo, you've testified earlier -- I
2 wrote it down -- we don't deal with diseases.**

3 A. We don't.

4 **Q. And so why use the word "cancer"? With all due
5 respect, why use it?**

6 A. What term could I use there?

7 I'm not being -- please, forgive me. I
8 didn't --

9 **Q. Uh-huh.**

10 A. My thought to myself is what could I use
11 differently that would equate to someone that has the
12 allopathic teaching that this state of illness, this
13 cancer, how could I relate that to them. I -- so with
14 nothing better to be able to try to convey something
15 that would be useful to them, the term "cancer" is the
16 term that is used. I'm not --

17 **Q. But isn't that, following your principles,
18 misleading your followers or misleading whoever reads
19 this document, using the word "cancer" when that's not
20 what you deal with, according to your testimony?**

21 A. You know, that's -- that's a good point.
22 Hypocritical positions are really difficult to avoid,
23 you know, and that's I'm sure what it appears to be.
24 And I will be judged by the Lord for those hypocrisies.
25 But the reality of it is, I believe a lot of

116

1 didn't say that he was the Messiah. He didn't say he
2 was the son of God. He didn't say anything
3 scripturally. He didn't mention anything about who he
4 was or what he believed. He simply was at the well.
5 And the revelation to that woman was that he was the
6 Messiah, so that he wasn't hypocritical. He was meeting
7 her at that well.

8 And so what we've always believed is the "woman
9 at the well" principle. From day one at
10 Daniel Chapter One, one of the principles we had was
11 that we would consider other people more important than
12 ourselves and that we would be -- meet them where they
13 were at.

14 And I don't believe that to be misleading, but
15 certainly people have their, you know, inter- -- you
16 know, their opinions.

17 **Q. Let me ask you just generally, who is it that
18 comes up with the formulations for these four products
19 mentioned here: 7 Herb Formula, Bio*Shark, BioMixx and
20 GDU Caps?**

21 A. I did, all of them.

22 **Q. And how did you come up with those
23 formulations?**

24 A. That's always a -- I love that because it's
25 really -- I wish I could say I was so smart that I -- I

1 came up with everything.
 2 I mean, it really a lot of it is just sitting
 3 down and when -- I don't know if you ever had this
 4 experience, where people come into your life and
 5 they're -- they're in pain and their children are
 6 suffering or someone in their love is suffering, and you
 7 don't know the answers, you know. And someone comes in
 8 to you -- I try to give you an example just to try to
 9 answer the question, you know. I'm not -- I remember
 10 one case, a gentleman came in to me, and we just were
 11 beginning Daniel Chapter One, as green as you could get,
 12 you know, just trust in God, had things for healing, you
 13 know. He came right from -- the dentist's office was
 14 right across the street. He came right from the dentist
 15 and he had a big squamous cell cancer, you know. It was
 16 just huge in the inside of his mouth.
 17 I had just started reading about Bio*Shark and I
 18 didn't know if it was all true or not. And I -- to be
 19 honest with you, I came from the science background. I
 20 was really skeptical about all this stuff.
 21 I mean, especially before I got saved, I -- you
 22 know, I -- you know, I was teaching evolution and
 23 everything.
 24 So the issue came, he had this squamous cell, so
 25 I told him about Bio*Shark. I just told him what I

1 was -- just relating to him stuff I had read. I had
 2 never seen it work or anything.
 3 He took the bottle before he paid for it or
 4 anything, opened it up. It wasn't our brand or nothing.
 5 He opened it up. He put a couple tablets in his mouth
 6 and he chewed the tablets and he pushed it against that
 7 cancer (indicating).
 8 He came in weeks later. It was completely -- he
 9 showed me -- completely healed. I was amazed, you know.
 10 I mean, I didn't know what to say or do.
 11 So as different things happened, different
 12 people came in and different problems they had, we
 13 really -- originally I used to just lay hands on them.
 14 I'd say to the family, Do you mind if we pray for your
 15 son or lay hands on you? That's how we started.
 16 And I was really, really deadly opposed at
 17 selling vitamins and herbs because I told the Lord, I
 18 said, Why do I have to sell herbs? What's wrong with my
 19 faith? Can't I -- you said the prayer of a faithful man
 20 could do that. Can I just pray over people and lay
 21 hands on people like the word says, you know?
 22 I felt there must have been something wrong with
 23 my faith if I was going to use the herbs, and so I had a
 24 real problem with that. I didn't want to be in the
 25 building. I didn't want to sell herbs and vitamins. I

1 wanted to be out there saving souls. I didn't care
 2 about the physical body. I just wanted to go save
 3 people who were perishing.
 4 So I walked the streets morning, noon and night.
 5 That's what I did. And he put me in this building
 6 selling herbs, and it was really hard for me.
 7 I didn't surrender until he showed me in
 8 Colossians 1 that all things were created by Jesus for
 9 Jesus, nothing that was created seen or unseen unless he
 10 created it for his glory. I had peace at that point
 11 that okay, herbs, vitamins, minerals, whatever you want
 12 me to try to understand I'll try to understand.
 13 So I began that road and submitted to it.
 14 So as these products came up, I had no idea.
 15 There was lots of -- I don't really like those -- I
 16 mean, I read them, you know, the vitamin retailers and
 17 all these -- you know, all these people out there
 18 selling their products and all that stuff, so I'd read
 19 articles and I don't know. I just read them, try to get
 20 something, understand something.
 21 So that's not good enough, though, because
 22 that's just about a vitamin or about somebody's new
 23 product. They're always getting new products, you know.
 24 And other people say, Can't you get this? Can't you get
 25 that? It's not about selling products to people, so --

1 not that those products that come out aren't good. You
 2 know, I mean, I'm not saying that. Whatever their
 3 motives are are their motives. I'm not -- but the issue
 4 that came up was why develop a product.
 5 So what had happened is I didn't sit down and
 6 say I want to set a product, develop a product and make
 7 money. There would be an issue that came up about an
 8 individual or several individuals.
 9 In the early days, my wife and I, we had a
 10 little tiny health food store. You know, maybe cut this
 11 in two rooms (indicating). And people would come in,
 12 and we were selling herbs for twenty cents. But we
 13 noticed something, that wherever people came from, you
 14 could almost pick out where they were living because of
 15 the illness that they were talking about.
 16 So in that process, the first thing that we saw
 17 was the product we developed -- it's not these
 18 here (indicating). I'm just saying how these products
 19 developed. These also developed in a similar way -- was
 20 the 1st Kings 17:6. And I was reading through that and
 21 it hit me. And I know because of having been to some
 22 fellowships they would say the pastors would use that to
 23 raise money for themselves, you know, and I just never
 24 saw that in there. I mean, you could see it because
 25 they were presenting it.

121

1 But I saw something different having taught
 2 biology and sciences. I said there has to be
 3 something, other reason here, and it was the timing.
 4 It was so interesting that the raven came with meat and
 5 bread in the morning and then in the evening. Meat and
 6 bread. And then I started to see what's in meat and
 7 bread, so I did my research on that, tried to find out
 8 what's in it.
 9 But beyond that was the timing, in the morning
 10 and evening. And that's what directed me into it's not
 11 just about -- like I said, that building we have with
 12 all the stuff in it now, it's all useless. Even if you
 13 knew what was in it, there's timing to it because our
 14 bodies are controlled by hormones and enzymes. We could
 15 have the best organic food in the whole world, but if
 16 the enzymes and hormones are failing, you die, you know,
 17 so -- or are sick or something will happen.
 18 So I developed the 1st Kings 17:6 under that
 19 principle, and then it had to be assimilated as quickly
 20 as possible morning and evening, so that was the first
 21 concept that came about.
 22 So then as these things came about, the BioMixx
 23 came about when -- I remember a doctor coming in, and he
 24 had come in with his mom. She was late seventies and
 25 she had cancer, and it was a long time ago.

123

1 because -- product because it created -- and today, to
 2 be honest with you, there's stuff that I've been
 3 reading about some of these that science -- the science
 4 has even approved since we've come out with this, even
 5 has more evidence of some of the effectiveness of what's
 6 in it.
 7 But the real purpose was, in a disease state
 8 two things -- we know about all diseases and cancers
 9 that two things take place. You have inflammation,
 10 which is usually the precursor to the cancerous state
 11 because it leads to the DNA degradation, and then the
 12 second aspect after inflammation is the pH of the tissue
 13 in all disease states of illness becomes acid.
 14 So knowing those things, the first thing we
 15 realized was important was to help with the
 16 inflammation, and then the second utilization to help
 17 people was the protein digesting effect of the
 18 proteolytic activity of the GDU then became important
 19 with success of antiangiogenesis because that would help
 20 the body remove the skeletal -- the protein skeletal
 21 mass.
 22 And then the 7 Herb Formula, it -- and it
 23 goes -- that's the whole history of Rene Caisse, the
 24 Ojibwa Indians, Dr. Brusck --
 25 **Q. Say that again.**

122

1 And of course back then the way they did chemo
 2 is they would do heavy doses for so many treatments and
 3 then they'd pass it all and then they'd come back.
 4 So in between that, from those different people
 5 like him that came in I saw that there was -- what
 6 happened in between there, what happened during the
 7 treatment and then what happened afterwards, and then so
 8 knowing the physiology of the body, what was happening
 9 and why there was a recovery and why the doctors even
 10 wanted to wait was to recover the body to let the immune
 11 system recover actually. They actually knew what they
 12 were trying to get to.
 13 So that's when I looked at the BioMixx. I said
 14 what's the best way to help them overcome or heal during
 15 that in-between treatment. It wasn't to replace
 16 treatment. We never set these up to replace anything.
 17 As a matter of fact, a lot of people use all of
 18 these with their treatments now, and they testify to
 19 that and they've sent us things.
 20 And so I looked at that and I said what in God's
 21 creation is the best thing to help these people out, and
 22 in general that's how BioMixx came about.
 23 And the Biozymes was pretty simple. It was just
 24 the principle of antiangiogenesis.
 25 The GDU was a real interesting program

124

1 A. That's the whole history of Rene Caisse,
 2 Dr. Brusck -- and he was John F. Kennedy's personal
 3 physician and he worked with René Caisse when she came
 4 to the States.
 5 And then I had done a radio show and I knew some
 6 people who were missionaries in Peru, and these two
 7 gentlemen, they had their own plane and they would fly
 8 in to the Indians, and that's what they were doing.
 9 Well, they're the ones that actually -- I think they're
 10 the ones that literally were involved with bringing
 11 Cat's Claw to the forefront.
 12 And so Cat's Claw was added, and I was using
 13 this other product, so I can't take credit for all
 14 that. That's the Indians, Rene Caisse, Dr. Brusck and
 15 Maclean and all these guys. And then my friends who
 16 had the Cat's Claw, they introduced us to Dr. Maclean.
 17 Well, I had been using that formula, but I had
 18 been using -- back then it was Siberian ginseng which is
 19 now Eleuthero -- because of research that I had read
 20 saying that it had the ability to prevent metastases of
 21 cancer, so I had read that and I have that material
 22 somewhere.
 23 So with that knowledge, I -- when people were
 24 coming in and they were buying these other people's
 25 formulas, I would tell them about Siberian ginseng at

125

1 the time, so they would take the Siberian ginseng, too,
2 and we were getting very positive results.
3 And so we then pursued having that -- that's how
4 this formula, final formula, came about, and that's why
5 we added it. But almost all of our products, the
6 ElectroCarbs, they've always been based on a need to
7 support body function.
8 **Q. Uh-huh.**
9 A. That's pretty much it.
10 **Q. But isn't it the case that there's no known
11 treatment for cancer, for the cure of cancer?**
12 A. The term "treatment" is a difficult term. I
13 kind of -- it's such a -- it's a term that you can use
14 generally because, you know, treat, you know, and
15 unfortunately the medical position is usually
16 established, so the science of today, oncology, says
17 there is no cure.
18 Our evidence and testimonies that have been
19 actually followed by major cancer institutes and
20 individuals who have been followed by oncologists have
21 shown that people have passed that five years as much as
22 four, seven, eleven years.
23 **Q. But didn't you testify earlier that you don't
24 check out the accuracy of your testimonies?**
25 A. No. I said I don't generally do that all the

127

1 **Q. Where is that located?**
2 A. Boston. It's a major cancer institute.
3 **Q. Uh-huh.**
4 A. Dana, D-A-N-A, Farber, F-A-R-B-E-R. Yeah.
5 **Q. When was that?**
6 A. And they called -- oh, boy. Four or five years
7 ago maybe.
8 **Q. And do you remember who called from there?**
9 A. Yeah. Ann Cavaseris (phonetic). I'm not sure.
10 Ann Cavaseris maybe. I'm not positive. I've got the
11 name somewhere.
12 And they were sending people to us, but their
13 statement was that people were getting well using our
14 products, so I said to them -- and she had her --
15 somebody else on speakerphone, and I said, How do you
16 know it's our products? How do you know it's not
17 somebody else's products?
18 They said, Because we had been following these
19 people and people who were on other natural products and
20 weren't getting the results that you were getting.
21 So I don't go pursue the evidence for the sake
22 of getting it. That's -- so if there was a
23 misunderstanding in both comments, the point is we have
24 those, but I never chased them down for the sake of
25 chasing them down. They either came to us -- but it

126

1 time. I have -- I do contact people recently to do
2 that.
3 **Q. I thought Mr. Turner, your lawyer, even
4 interrupted and corrected me for incorrectly stating
5 something about your testimony and that he emphasized
6 that you don't check out the accuracy of your
7 testimonies, so please clarify what your testimony is in
8 that regard.**
9 A. Check out the accuracy?
10 **Q. Verify or investigate the accuracy of the
11 testimonies.**
12 A. Yeah. We had to because of the complaint here.
13 We had to call people.
14 And I didn't go and check out the Dana-Farber
15 hospital people who called us. They called me. I
16 didn't pursue them. They called me and said, Your
17 products are curing people, are helping people here.
18 And I say that in best of my recollection, but it was
19 their people -- they said that people that they were
20 monitoring -- I did not call them. I did not send the
21 people to them. Other doctors did. Other people used
22 our products and went there and were monitored at
23 Dana-Farber hospital.
24 **Q. And which hospital? I'm sorry.**
25 A. Dana-Farber.

128

1 wasn't my intention to do that until recently, you
2 know.
3 **Q. So when you first introduced these four
4 products that we've been talking about recently,
5 7 Herb Formula, Bio*Shark, BioMixx and GDU Caps, I take
6 it you didn't have these testimonials at that point
7 because you were just introducing the products; isn't
8 that correct?**
9 A. Those testimonies at this time. I'm trying
10 to -- I'm trying to put together testimonies and timing
11 of all this.
12 I think to develop these products, personally I
13 don't believe that a ministry under God in revelation of
14 the Holy Spirit requires to have testimonies in order to
15 develop God's order and creation.
16 **Q. And I respecting your testimony --**
17 A. Sure.
18 **Q. -- now, my question really is, I just want to
19 clarify for the record, yes or no, did you have
20 testimonial support at the time that you introduced
21 these products.**
22 MR. J. TURNER: Object to that question in
23 form.
24 THE WITNESS: Yeah, I couldn't -- I couldn't put
25 the timing together to recall it honestly. I may have

1 and I may not have. I would love to say yes or no, but
2 there's no way I could document that statement now.
3 I -- I mean, we had testimonies of people using
4 products, you know. I don't know exactly how to answer
5 that.

6 BY MR. ZANG:

7 Q. But you started selling the products before you
8 received the first testimonies, didn't you?

9 MR. J. TURNER: Object to that, the form of that
10 question.

11 He actually testified the opposite.

12 THE WITNESS: Yeah. I mean, we had --

13 MR. J. TURNER: You're characterizing his
14 testimony incorrectly.

15 BY MR. ZANG:

16 Q. Okay. Well, let me ask you, Mr. Feijo, to
17 clarify your answer and in your own words.

18 A. What's the question again?

19 Q. You started offering 7 Herb Formula, Bio*Shark,
20 BioMixx and GDU Caps before you received testimonials
21 about them.

22 A. Well, as the form -- as the formulas developed,
23 people were using the formula before the final formula
24 was developed. Okay?

25 Q. Okay.

1 So -- so these are the -- I told you how these
2 were developed. I don't know. I guess that's not good
3 enough.

4 Q. Let me move on.

5 A. Sure.

6 Q. And let me direct you to page 16.

7 A. 16? 0016?

8 Q. 0016.

9 A. Yes.

10 Q. Do you see where it says, "7 Herb Formula
11 battles cancer"?

12 A. Yes, sir.

13 Q. Did you write that?

14 A. I believe so.

15 Q. Okay. And at the time that you wrote that, did
16 you have support for that statement?

17 A. It was based on -- that title was a title that I
18 put for the fight of the testimony.

19 Q. Okay.

20 MR. J. TURNER: I'm sorry. I missed that
21 answer.

22 What?

23 THE WITNESS: This title here is what I tried to
24 title the testimony, you know, to relate to from my
25 newsletter I think.

1 A. So people were using GDU, but the whole -- the
2 whole disease state of using the term "cancer" is coming
3 in here. These products existed for a while. Some
4 people had diabetes. Some people had spinal stenosis.
5 Some people had arthritis. But these four products are
6 for the wellness of a body, and so they have a multi --
7 it's like some nutrients God has that's from trees are
8 multi-antipathogenic. Well, these are multinutritional
9 support systems.

10 In other words, like I said earlier, if you
11 manifest a wellness in the person's body, then different
12 things are going to happen. People have taken certain
13 products for a particular disease state they said they
14 had, but at the same time they've come back and told us
15 that something else was made better. But that's only
16 because if you're bringing the body into a wellness, a
17 health state, a balance state, that balance is going
18 to -- it is the precept of health, is to be in balance,
19 you know.

20 So if a person has an illness they -- as a
21 matter of fact, it's known that you can't exist
22 generally two -- two diseases in a person can't both be
23 manifested. One is going to show up; the other is going
24 to be suppressed. And then when the one is removed, the
25 other shows up.

1 BY MR. ZANG:

2 Q. Isn't it the case that some people could read
3 that and think that 7 Herb Formula battles cancer
4 regardless of Tracey's individual story?

5 A. If they did, it wouldn't -- it wouldn't be my
6 intention. It was just the intention to say the case of
7 an individual. I'm just trying to headline her -- the
8 girl's -- that's all.

9 I mean, I don't know what somebody could or
10 couldn't do. You know, I'm not in their head, I mean.
11 And I wasn't trying to get in their head. I can tell
12 you that much.

13 Q. But that title is bolded.

14 "7 Herb Formula battles cancer," that's bolded;
15 right?

16 A. Yeah. Just like in a newspaper you would do
17 that. Sure.

18 Q. And it doesn't say Tracey used 7 Herb Formula to
19 battle her cancer, does it?

20 A. It's in -- it's part of the -- it doesn't say in
21 those words.

22 Q. But wouldn't that have been more accurate to say
23 Tracey uses 7 Herb Formula to battle her cancer?

24 MR. J. TURNER: Object to the form.

25 Are you talking about more accurate in the

1 headline, more accurate in the whole story or...
 2 BY MR. ZANG:
 3 Q. Can you answer the question?
 4 A. You mean to put in the headline?
 5 Q. Right.
 6 A. I don't know. I'm not a writer. I'm not --
 7 Q. You're not a writer?
 8 A. I'm not a writer.
 9 Q. But you did write this; correct?
 10 A. I stated it and I said that's what I wanted to
 11 put there. I determined that's what I wanted to put
 12 there.
 13 Q. And wouldn't it have been more accurate to put
 14 there in the headline "Tracey uses 7 Herb Formula to
 15 battle her cancer"?
 16 A. My wife would probably be better to tell me
 17 what's better to be said there. I don't know. I
 18 flunked all my English classes. I'm a terrible writer.
 19 I do math and sciences well. I'm not a good writer.
 20 Q. But with all due respect --
 21 A. You may be right. You may be right.
 22 Q. With all due respect, Mr. Feijo, if -- since you
 23 testified that you flunked English or writing --
 24 A. Well, I don't know if I flunked it. I didn't do
 25 too well.

1 Q. Well, with all due respect, you might be
 2 misleading people by writing things in your
 3 Daniel Chapter One publications given that writing is
 4 not your strength; isn't that the case?
 5 A. Well, I come up with some of the statements. My
 6 wife certainly is the one that came up with the writings
 7 in it. She wrote the actual body of it.
 8 Q. Can you see how somebody could be misled by
 9 reading "7 Herb Formula battles cancer" and thinks that
 10 that would be the result that would obtain for anybody
 11 who uses it?
 12 A. I don't think that's what somebody would get out
 13 of it. I can't see -- to me, that's not what it -- if
 14 it could be better in the opinion of -- I mean, your
 15 opinion and other people's opinion, I'm certainly
 16 willing to accept those opinions. To me, this was
 17 pretty simple to try to just say 7 Herb Formula is --
 18 battles cancer. I thought that's a pretty honest
 19 statement.
 20 Q. But again, and respecting that your statement
 21 just now that -- regarding honesty, you testified
 22 earlier that we don't deal with diseases, and yet again
 23 you're talking about cancer here.
 24 A. Yeah. That's the common thing that people
 25 equate to. I'm not saying we deal with diseases. I'm

1 just saying that the term "cancer" that people relate
 2 to exists, and because it exists, it's there, and we
 3 are not saying 7 Herb is -- that the cancer is our
 4 ultimate goal. We're treating the 7 Herb Formula as
 5 battling the cancer by supporting the person. I mean,
 6 that's what it's doing. We're not saying
 7 that 7 Herb Formula is doing the job of battling a
 8 disease. It's just a name.
 9 I don't know. I think I answered that; right?
 10 Q. Uh-huh.
 11 Can you admit of the possibility that somebody
 12 would come onto the Daniel Chapter One Web site who
 13 knows nothing at all about --
 14 MR. J. TURNER: Object to the form of the
 15 question.
 16 BY MR. ZANG:
 17 Q. -- about Daniel Chapter One?
 18 A. Repeat that.
 19 Q. Sure.
 20 Can you admit the possibility that somebody
 21 would come to the Daniel Chapter One Web site without
 22 knowing anything about Daniel Chapter One before going
 23 to your Web site?
 24 A. Oh, sure.
 25 Q. Does that happen in fact?

1 A. I imagine it has.
 2 MR. J. TURNER: Objection. Objection to the
 3 form of the question. Also I object to he has no way of
 4 knowing the answer to that question.
 5 THE WITNESS: I mean, it's speculating. I
 6 imagine that they would, I mean.
 7 BY MR. ZANG:
 8 Q. What's the basis --
 9 A. If you throw a bunch of dimes up in the air, one
 10 of them may stand on its end. I mean, will it happen I
 11 don't know, but it could happen.
 12 Q. Somebody could come to your Web site by Googling
 13 "cancer"?
 14 A. Sure.
 15 Q. By Googling "cancer"?
 16 A. It probably wouldn't show up right away, but I'm
 17 sure they could, I mean.
 18 Q. Okay. Mr. Feijo, let me ask you to take a look,
 19 please, at page 17, 0017, where it says, "7 Herb
 20 eliminates precancerous growth."
 21 Did you write that?
 22 A. I believe my wife did these.
 23 Q. But it would have been either you or your wife?
 24 A. Oh, yeah.
 25 Q. Okay.

1 A. I'm pretty sure, I mean.
 2 **Q. Okay.**
 3 A. The headline may have been mine.
 4 **Q. Did you tend to do the headlines more than she?**
 5 A. Probably.
 6 I mean -- I mean, it's possible. She's really
 7 the writer.
 8 **Q. I'm sorry?**
 9 A. It's possible that I would have done the
 10 headlines or -- she would know more than I would
 11 honestly, you know. She -- she's good at that.
 12 **Q. When you say "she's good at that," what do you**
 13 **mean? What is she good at?**
 14 A. Writing. She's awesome. She's edited a
 15 scientific journal. She was the chief editor of a
 16 medical textbook with six editors.
 17 **Q. And let me direct your attention to page 0025.**
 18 **The title there is 7 Herb Formula: Detoxify,**
 19 **Acid Reflux & Cancer Help.**
 20 **Did you write that title?**
 21 A. I don't know.
 22 **Q. But again it would have been either you or your**
 23 **wife?**
 24 A. I'm pretty sure it would be one of us unless
 25 somebody -- the actual people that put it on the

1 **Was that something that you wrote?**
 2 A. Yes.
 3 **Q. And then the next paragraph says -- or -- I'm**
 4 **sorry -- the third paragraph, so two paragraphs down**
 5 **says "GDU is also used" and it lists many --**
 6 A. Yes.
 7 **Q. -- different conditions, and at the very end it**
 8 **says "as an adjunct to cancer therapy"; right?**
 9 A. Yes.
 10 **Q. Can you describe what that means, that it's used**
 11 **as an adjunct to cancer therapy?**
 12 A. Sure. The radiation causes -- the radiation
 13 used has been known not only to cause inflammation but
 14 is also carcinogenic. It's been listed as a cancer
 15 agent in humans.
 16 With the knowledge that it causes greater
 17 inflammation, in order to help someone, the knowledge
 18 about the anti-inflammatory effect of GDU would be
 19 valuable to someone that would want to use that.
 20 So if someone comes to us -- and some doctors
 21 may send somebody to us and we don't ask them to. At
 22 different times different doctors have a conviction
 23 about, say, a psychotropic drug they're worried might
 24 affect somebody and they know they don't like to be --
 25 it's a shame, but I mean, they want to help the patient,

1 Web site. I don't know. But you know, I would be
 2 responsible for it.
 3 **Q. You would have reviewed it at the time that it**
 4 **went up?**
 5 A. Oh, most likely. Yeah.
 6 **Q. Okay. And then let's move on, please, to**
 7 **page 28.**
 8 A. 28? Uh-huh.
 9 **Q. Again, this was from your Web site as well; is**
 10 **that right?**
 11 A. Yes.
 12 **Q. And was this what you called the old Web site?**
 13 A. Yeah. I think this was the one just before
 14 this.
 15 **Q. Just before the current Web site?**
 16 A. Yes. Yes.
 17 **Q. Okay. And it says here regarding GDU --**
 18 A. I think at this time I was really pretty ill
 19 with the MS, and so those were tough days, but I'm
 20 trying to remember everything. This sounds -- I
 21 remember this Web site, though.
 22 **Q. Okay. And it says with respect to GDU,**
 23 **"Contains natural proteolytic enzymes (from pineapple**
 24 **source bromelain) to help digest protein - even that of**
 25 **unwanted tumors and cysts."**

1 you know, so -- so they trust our knowledge.
 2 And so knowing that the possibility of the
 3 inflammation is associated with the radiation treatment
 4 and the fact that even after the radiation that material
 5 is still emanating rays, that the -- even though it
 6 destroyed the cancerous tissue, even now the cancerous
 7 tissue which is radiated ends up, what we've seen many,
 8 many times, the -- everywhere the radiation is obviously
 9 gets red and everything else. That just becomes
 10 necrotic most often.
 11 **Q. What's the word?**
 12 A. Necrotic.
 13 Not necessarily completely necrotic, but it may
 14 become necrotic. That's not really the problem.
 15 I mean, that's already possibly dead protein
 16 mass. The problem becomes on the perimeter of the area
 17 that was radiated that now becomes new inflammation to
 18 healthy tissue that now has the potential to become
 19 DNA-damaged. And what you usually see is multiple
 20 tumors grow in that area.
 21 The hope would be that by having the
 22 inflammation halted we could allow for whatever the
 23 doctors or anybody is doing that they can do their thing
 24 and we can spare someone. Many people now who have gone
 25 through squamous cell exposures to radiation where many

141	142
<p>1 people in the past the treatments would just -- it's 2 just necrotic tissue. I mean, you end up with a whole 3 empty neck, you know (indicating). But people we see 4 now who have gone through those same treatments, by 5 using the GDU and the 7 Herb, have been able to ward off 6 for quite a while, you know, having gone through all 7 their treatments, the surgery and all that stuff, have 8 been able to sustain -- I'm really impressed because 9 I've seen the whole years ago the treatments, but now -- 10 and I'm just -- and some were personal friends I know. 11 I'm just -- one gentleman told me, he says, Oh, man, 12 I -- you can't get rid of the 7 Herb, but he had the 13 same thing and he lost all his teeth. I don't know if 14 you know. They lose all their teeth because of the 15 radiation and bone necrosis. And he's doing really 16 well.</p> <p>17 So between the surgeries and the chemo and 18 radiation, he's doing pretty good.</p> <p>19 Q. But isn't it the case that individual results 20 may vary with respect to all of the products you were 21 talking about?</p> <p>22 A. Yeah. I mean, everybody is an individual. 23 Everybody's personal hygiene and genetic makeup and 24 everything, yeah.</p> <p>25 Q. So what one person says in her testimonial may</p>	<p>1 not apply to other people?</p> <p>2 A. Exactly.</p> <p>3 And we tell everybody that really these things 4 don't matter. It's the fact that there's an appointed 5 day and time and nobody is going to escape that and it 6 doesn't matter what you use, you know. We're just 7 trying to help people we believe have a healthy state or 8 get to a healthy state. That's all.</p> <p>9 Q. Okay. Let me ask you to turn to page 0031, 10 please.</p> <p>11 A. Yes.</p> <p>12 Q. And let me just ask you -- this states that this 13 is a Cancer Newsletter, Millennium Edition, 2002. 14 Was there a time when Daniel Chapter One 15 published a cancer newsletter?</p> <p>16 A. No. We only did this one issue.</p> <p>17 Q. Did you also do one two years later, or am I -- 18 A. I think it was the same -- I think it was pretty 19 much the same thing.</p> <p>20 I mean, you know, it may have been a reprint of 21 this for -- maybe we changed the content somewhat, but I 22 think it might have been almost identical as far as I 23 remember. But it wasn't like we did a newsletter and a 24 newsletter. It was just trying to get -- the purpose of 25 it was -- I guess we called it a newsletter. I don't</p>
143	144
<p>1 know why we called it a newsletter. It's more like just 2 an information booklet, you know. It's really not a 3 newsletter. It's more like a booklet, you know.</p> <p>4 Q. Was it geared to people who didn't know anything 5 about your products?</p> <p>6 A. I don't -- it was geared to people who -- if I 7 remember how this came about, was people calling in to 8 the program would ask about the products, do we have 9 information about it, do we do anything about it, so 10 they heard the show and the program and they heard about 11 these things and they wanted the information. I think 12 that's -- I think that's pretty much why that -- this 13 whole so-called newsletter came about.</p> <p>14 Q. And even though --</p> <p>15 A. I would have liked to have had a newsletter, but 16 we didn't.</p> <p>17 Q. And even though, recalling your testimony, 18 Daniel Chapter One doesn't deal with diseases, you chose 19 to highlight cancer quite prominently on this newsletter 20 or this publication, didn't you?</p> <p>21 A. Oh, it's strictly all about the products for 22 cancer.</p> <p>23 Q. Okay.</p> <p>24 A. It wasn't a newsletter, a general newsletter. 25 It was just -- it really wasn't a newsletter. It was an</p>	<p>1 information booklet about products for can -- the people 2 who had different cancers.</p> <p>3 Q. Cancer?</p> <p>4 A. Right.</p> <p>5 Q. And who prepared the newsletter?</p> <p>6 A. I think my wife and I did it together.</p> <p>7 Q. Sorry to bring up a touchy subject again, but I 8 want to go back to Messiah Y'Shua Shalom ministry -- 9 A. Sure.</p> <p>10 Q. -- and the monies that were in that bank account 11 for the ministry that you've had to spend, as I 12 understand it from your testimony, on this litigation?</p> <p>13 A. Yes.</p> <p>14 Q. How did you raise those funds? Was that through 15 donations for Daniel Chapter One?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And when you then took those funds to 18 devote them, albeit it not by your choice, to this, you 19 know, this unexpected litigation, did you inform the 20 people who donated the money that you were now spending 21 the money on the litigation?</p> <p>22 A. Oh, you mean a donation, outright donations or 23 donations for purchase of products?</p> <p>24 Q. Well, then why don't you answer that question. 25 The money --</p>

1 A. The money that came into Messiah Y'Shua Shalom
 2 went from the direct efforts of Daniel Chapter One in
 3 offering products to individuals and that it used to be
 4 that we would take the best of the seven days and put it
 5 into a fund for ministry, and some of that fund was in
 6 the Joseph fund, a specific aspect of that where we
 7 would support people who could no longer take -- they
 8 got wiped out of their insurances and everything else
 9 and they -- yet they needed help.

10 So that fund is dumped into the
 11 Messiah Y'Shua Shalom for the purpose of creating a fund
 12 to build a center that could be a ministry center for
 13 all types of people, not just people who may have an
 14 illness but people who are orphans or widows, just for
 15 things that we would want to try to do.

16 Q. And you mentioned earlier today that you try to
 17 take into account raw material costs and overhead and
 18 the cost of getting your products out there, as you put
 19 it, when you set the price or the donation request
 20 amount; right?

21 A. Uh-huh. Yes. Sorry.

22 Q. And I take it that the money that you put into
 23 the Daniel fund was sort of excess or profit after
 24 taking into account those three expenses?

25 A. Into the Daniel account or into the Messiah

1 Q. After somebody has already purchased it?

2 A. I believe that's where it is.

3 Q. Can you explain the logic behind that? If
 4 somebody --

5 A. It says it's a donation. I mean, it's just a --
 6 it says, "Thank you for your donation." Let's put it
 7 that way. It says, "Thank you for your donation."
 8 That's what that is. To my best knowledge, that's what
 9 it says, something along that line.

10 Q. Okay. But when somebody is purchasing the
 11 product, is there anywhere where it says that what they
 12 pay is a suggested or voluntary donation?

13 A. It doesn't say "voluntary"; it says "suggested."

14 Q. And where does it say that?

15 A. I think it says it right on the Web site. It
 16 should say it on the Web site. It should say it on --
 17 it should say it on the Web site.

18 Q. What I want to show you now is a series of
 19 pages that I will represent to you were captured by
 20 the Federal Trade Commission when we made a purchase
 21 in order to understand how Daniel Chapter One works, so
 22 let me have this marked, this document, as FTC Exhibit 5
 23 for identification.

24 (FTC Deposition Exhibit Number 5,
 25 FTC-DCO 0711-0729, was marked for identification.)

1 account?

2 Q. Well, into the -- I guess into the Messiah
 3 account --

4 A. Or you mean any --

5 Q. -- that you're now having to use for this
 6 litigation.

7 A. Right.

8 Q. That money that was set aside from the best of
 9 the seven days --

10 A. Right.

11 Q. -- was what you had left over after paying for
 12 the raw material cost and the overhead and the
 13 distribution cost.

14 A. Right.

15 Q. Okay. And in the documents that you provided to
 16 the Federal Trade Commission as well as the Web site, I
 17 don't recall seeing any statement that the amount that
 18 an individual must pay for the products is a voluntary
 19 donation.

20 Is there anywhere where that's stated?

21 A. There's a flier that goes out into the -- it's a
 22 suggested donation, so people can give more, so people
 23 can give less.

24 Q. And where is that flier?

25 A. That goes out in the purchase of the product.

1 BY MR. ZANG:

2 Q. And the Bates numbers on this are 711 through
 3 729.

4 Mr. Feijo, you'll see in a couple of places
 5 some blackouts and an indication that the page was
 6 redacted, and what that means is that there's some
 7 credit card information, that the FTC's credit card
 8 number is contained there, and that's what that
 9 blackout --

10 MR. J. TURNER: Objection to the question and
 11 form.

12 I don't think he has any way of knowing what
 13 that means.

14 BY MR. ZANG:

15 Q. Okay. Well, again, there are some --

16 MR. J. TURNER: I mean, you could -- you could
 17 offer that.

18 MR. ZANG: Yeah.

19 BY MR. ZANG:

20 Q. So I'm going to represent that there's some
 21 places where the information has been blacked out and
 22 that those blackouts represent the personal information
 23 that was used to make the purchase on the
 24 Daniel Chapter One Web site.

25 What I want you to do is to take a look at this

149

1 whole document, and then I'll have some questions.
 2 A. Sure.
 3 (Pause in the proceedings.)
 4 Yes.
 5 Q. Okay. So let me first direct your attention to
 6 page 711, the very first page, and the heading on the
 7 top left-hand side says "Daniel Chapter One Online
 8 Store."
 9 Is this the Daniel Chapter One Web page where an
 10 individual can obtain your products?
 11 A. Yes.
 12 Q. Okay. And can you describe what this page is?
 13 I don't want to put words in your mouth, so
 14 rather than my asking you specific questions, why don't
 15 you just identify this page.
 16 A. Well, this page has three products at the top
 17 and then a checkout of four products.
 18 Q. And does this represent what would be a typical
 19 checkout for somebody who was purchasing products? Of
 20 course the products might be different, but is this
 21 generally how a checkout page would look?
 22 A. I don't know. I don't -- I didn't design it.
 23 Q. Okay.
 24 A. People that we -- we have to buy these canned
 25 computer programs. We don't have lots of money to hire

151

1 But that has always been things that I've asked
 2 to -- can we change these things on our material, and
 3 they said it would be expensive and they didn't know how
 4 to do it. That's been since day one.
 5 Q. But then how is an individual supposed to know
 6 that what appears as a price here in fact is a suggested
 7 contribution?
 8 A. Basically everyone that listens to our
 9 program -- and we don't -- those are probably the only
 10 people that go to our -- it's kind of been like a
 11 community type of thing that people go there because
 12 they know us and they -- or someone goes there because
 13 they are told, somebody told them about us secondhand,
 14 you know, so --
 15 Q. But if somebody didn't tune in to your radio
 16 show and just saw this Web page, they would just see
 17 "price"; right?
 18 A. Sure. That's right.
 19 Q. And they wouldn't know that that was a suggested
 20 contribution as you've testified?
 21 A. Right.
 22 Q. All right.
 23 A. Yep.
 24 Q. And do you mention on each of your radio
 25 broadcasts that what people pay for your products is a

150

1 fancy people to go in and change the programs around,
 2 which is really pretty complicated from what I
 3 understand. And this is what we have to try to make our
 4 ministry work.
 5 Q. All right. So on the Daniel Chapter One
 6 checkout page there's an indication of price, isn't
 7 there?
 8 And I direct your attention to the middle of
 9 that page where it says "price" and then it has four
 10 different prices?
 11 A. Right. And we can't change that term. Our
 12 capabilities is not -- I don't have the means to fund
 13 somebody to change those.
 14 Q. So you could change it, but it's a question of
 15 funds; is that correct?
 16 A. Yeah. A lot of funds. It's not cheap.
 17 Q. Okay.
 18 A. I would love to change that.
 19 Q. Okay. And --
 20 A. I think we've been trying to change it, though,
 21 since you all brought this to our attention, you know.
 22 I think -- we don't have -- we have people who work hard
 23 at trying to accomplish things, and they try to learn
 24 the things. I mean, they do the best -- you know, we're
 25 trying to get there.

152

1 suggested contribution?
 2 A. I don't know about each of the programs. I
 3 think we even have a -- something to that thanking
 4 people for supporting us and donating.
 5 Q. What do you mean, you have something for that?
 6 Is that after they buy that you send them --
 7 A. Oh, no, no, no. It's a -- not an ad but, you
 8 know, time during the show saying thank you for
 9 listening, thank you for your donations, or donate, help
 10 support our ministry, donate by purchasing -- you know,
 11 it's kind of like some fellowships pass a basket around
 12 every week, and I find that hard because you're getting
 13 people to give. We give them something, and we're
 14 trying to give something that has a value to them so
 15 that they're not -- don't get me wrong. I guess it
 16 would be better if we just had some kind of system like
 17 all these other ministries out there, ministries, that
 18 they just get money and they don't give anything. You
 19 know what I mean? It's harder this way, but that's what
 20 we believe we should do.
 21 But you're right. It says "price" on it.
 22 Q. Let me direct your attention to page 714. And
 23 at the very bottom there it says "shipping and handling
 24 fee: \$20.95."
 25 Is it the case that Daniel Chapter One charges a

1 shipping and handling fee for the products?
 2 A. Yeah. I mean, we have to pay for the shipping
 3 and handling.
 4 Q. Okay. And how do you determine what that fee
 5 should be?
 6 A. I don't know.
 7 Q. But there's some set amount that's charged for
 8 shipping and handling; is that accurate?
 9 A. It's either -- it might be by weight, distance.
 10 I don't know. There's different ways they do it there.
 11 I left that up to the folks who are doing it.
 12 Q. And who is primarily doing that?
 13 A. It was done a while ago, and that person is
 14 probably not with us any longer. I'd have to ask who's
 15 doing it now.
 16 Q. Okay.
 17 A. It's been done, I mean -- it's -- UPS comes in
 18 and they -- UPS donates the shipping system to us, and
 19 we use whatever that system is, either by weight or by
 20 distance and weight. I know there's a map up there and
 21 they got it broken down into zones and I know -- so
 22 zones is part of it and weight probably is part of it,
 23 too.
 24 Q. But in any case, you get reimbursed,
 25 Daniel Chapter One does, for shipping?

1 A. For shipping, the cost of shipping, yeah.
 2 Q. Let me direct your attention to page 725.
 3 And this appears to be a coupon, 10 percent off
 4 your online store order --
 5 A. Yeah.
 6 Q. -- for your next order.
 7 A. Uh-huh.
 8 Q. Do you run promotions like this from time to
 9 time?
 10 A. I think so.
 11 Q. And what's the purpose of running a promotion?
 12 A. To give people a chance to get something with a
 13 better offer.
 14 Q. Okay.
 15 A. Yeah.
 16 Q. This would stimulate more business, would it
 17 not?
 18 A. It would hopefully give people more of an
 19 opportunity to take -- that the offer is at a lower
 20 offer, just to keep them -- we're trying to get people
 21 that can't -- that don't have a lot to be able to get
 22 things at a lower rate, to keep them using the products
 23 for their health. There are people that stop using
 24 stuff because they can't do it.
 25 And one of the things that we tell people is to

1 contact their local church, their local fellowship and,
 2 if they're not a member of fellowship, to go to the
 3 closest place that has a cross on it or any kind of
 4 religious symbol and ask them for help and to contact
 5 me so I can work with them to help them so that many
 6 people can get stuff actually for -- we like to have
 7 people at least have some contribution that they feel
 8 good about themselves, so if there's a small amount
 9 that they can put in their fellowship or a
 10 fellowship -- and we've actually had fellowships didn't
 11 even know anybody be willing to help us to help other
 12 people.
 13 Q. And I don't think you finished one of your last
 14 sentences, but this is in reference to giving product
 15 for less than the price that appears on the Web site?
 16 A. Suggested price. Yeah.
 17 Q. Do you keep records of those occasions when you
 18 do offer the product for less than that price on the
 19 Web site?
 20 A. No.
 21 Q. Can you testify as to how often that happens in
 22 terms of a percent?
 23 A. No. There's no -- there's no plan, you know.
 24 I mean, I don't know. I mean, it's -- I'd like
 25 to give it all to people, you know. I just -- I mean,

1 if I had some of the funds that some of these ministries
 2 had out there, I could help a lot of people, but I can't
 3 do it right now.
 4 MR. ZANG: Okay. All right. We've been going
 5 for a while, so let's go off the record for a second.
 6 (Discussion off the record.)
 7 (Recess)
 8 (FTC Deposition Exhibit Number 6,
 9 FTC-DCO 0060-0063, BioMolecular Nutrition Product
 10 Catalog, was marked for identification.)
 11 (FTC Deposition Exhibit Number 7, Respondents'
 12 Responses to Complaint Counsel's First Set of
 13 Interrogatories, was marked for identification.)
 14 (FTC Deposition Exhibit Number 8, 6-2-08 letter
 15 to T. Zang and R. Waldman from J. Turner, was marked for
 16 identification.)
 17 MR. ZANG: Back on the record.
 18 Mr. Turner, I think you wanted to put a
 19 statement on regarding some documents that you produced
 20 to us.
 21 MR. J. TURNER: Yeah.
 22 During the break, we provided complaint counsel
 23 with documents that are being supplied in response to
 24 requests for production 22 and 23, and they're
 25 self-explanatory and they have copies, and we will

157

1 provide them with Bates-stamped copies as a part of our
 2 production next week.
 3 MR. ZANG: And Jim, I think you mentioned off
 4 record that this may not be the sum total.
 5 MR. J. TURNER: Yeah.
 6 If there's any more financial response material,
 7 we'll get it to you as we get it. As far as we know,
 8 we've got everything that's available, but we've got
 9 people looking for stuff, and if we have more, if we
 10 find more -- and then some more came out in the
 11 examination, too, so...
 12 MR. ZANG: And will you be providing copies to
 13 us after you consult with your client?
 14 MR. J. TURNER: We'll consult, and that was one
 15 of the things I was thinking about. My belief is that
 16 probably we won't, but you'll be able to get them I
 17 think on the basis of the information you have. But
 18 we'll work on that question.
 19 MR. ZANG: Okay. And don't assume that we can
 20 get them because there may be some privacy or other
 21 issues there that will prevent us from directly getting
 22 them from the bank.
 23 MR. J. TURNER: All right. Well, we'll work on
 24 this and see if we can sort it out before I guess it's
 25 the 19th I think.

159

1 out. They said, But people need it, they're asking for
 2 it, and so I said, Do whatever you want, put something
 3 together, you know, to -- and so that's what they came
 4 up with.
 5 And I think when this came out I was having
 6 seizures at the time and I just said put something
 7 together. I'm pretty sure that's when this came out.
 8 And I don't even think -- I think they made one
 9 thing of it and then that was it.
 10 Q. By "thing" you mean one printing of it?
 11 A. Yes. I'm sorry. Yes, one printing.
 12 Q. And you still give this out sometimes these
 13 days?
 14 A. I don't even know if they have it anymore. I
 15 don't think they have any more. They may. I don't
 16 know. I really don't.
 17 Q. Now, are all the people who are affiliated with
 18 Daniel Chapter One, or who work with Daniel Chapter One
 19 I should say, are they familiar with the donation
 20 policy?
 21 A. I think so. I think they should be.
 22 I mean at least the people that are involved in
 23 the order center, not these people probably not. They
 24 just are graphics guys that put stuff
 25 together (indicating). And sometimes with the graphics

158

1 BY MR. ZANG:
 2 Q. So back to the deposition then.
 3 Mr. Feijo, I've asked the reporter to premark
 4 what's in front of you, which is FTC Exhibit 6, and it's
 5 entitled BioMolecular Nutrition Product Catalog, and
 6 it's Bates-numbered DCO 60 through 63.
 7 And Mr. Feijo, can you identify this document?
 8 A. Yeah. It's sent to individuals that are
 9 interested in the products with a product and a slight
 10 little description with a code for a donation.
 11 Q. All right. And I know in your testimony you're
 12 calling it a donation, but is there any indication in
 13 this document that --
 14 A. No.
 15 Q. -- of that?
 16 No?
 17 A. No.
 18 Q. And why not? Because this is not a computer
 19 software program, it's presumably something that you or
 20 Trish prepared?
 21 A. No, no, no. This is something a couple of our
 22 people put together because people would call up and
 23 they'd say they wanted something, can we do something,
 24 and I'd tell people -- because of the expense, I tell
 25 everybody, you know, it's expensive to put these things

160

1 guys I have a difficult time to get what I want.
 2 Q. Well, why is that?
 3 A. Because -- I wish it wasn't true, but they --
 4 they're honest. When somebody is honest, they're just
 5 not fun guys to work with because they get this -- you
 6 ask them to do something and they ask you why, you know,
 7 so after a while just put something together for people
 8 and it's good enough because I don't even want the thing
 9 anyway, you know.
 10 But this is an area in which we have fallen
 11 short on really, our whole issue of letting people know
 12 that the ministry -- that Daniel Chapter One is a
 13 ministry. We've really failed on -- we try to do that
 14 on the radio, and because of so many things going on, I
 15 just don't oversee a lot of this stuff to the point
 16 where I trust people.
 17 But they don't -- they just do it and they
 18 think, oh, this is good enough and they -- I was too
 19 tired of fighting them.
 20 Q. Because this product catalog looks like a
 21 product catalog from any nutrition, supplement or drug
 22 company; right?
 23 A. It looks like -- I don't know about drug
 24 company. I think they put out nicer than this. But to
 25 be honest with you, the nutrition companies out there

161

1 put stuff out a lot nicer than us. I try to do the
 2 cheapest thing I can. This was a color thing, too, but
 3 it wasn't cheap still. It wasn't big either.
 4 **Q. But as you just insinuated, there's really no**
 5 **mention in this product catalog --**
 6 A. Not at all.
 7 **Q. -- of the mission of the ministry?**
 8 A. No, not at all. It's just an idea. We tried to
 9 put information in something to keep the -- see this
 10 cover here (indicating)?
 11 **Q. Yes.**
 12 A. I didn't even want a cover because that's just
 13 an expense, but these guys, everybody, oh, you got to
 14 make it look nice, you want to look professional, you
 15 want to do this, you want to do that, and I'm like I
 16 just cut -- keep it down, my overhead down, because --
 17 but we want to -- people I guess -- everybody says they
 18 want it, they want it, they want it, so I said okay, put
 19 something together and that's where that --
 20 **Q. Were these graphics people believers? Were they**
 21 **part of the Daniel Chapter One ministry or --**
 22 **(Discussion off the record initiated by the**
 23 **court reporter.)**
 24 BY MR. ZANG:
 25 **Q. Or were they outsiders?**

163

1 we're out of it and nobody thinks to -- and then, you
 2 know, the other people don't know and the people who ran
 3 out, they don't tell anybody, so things happen. That's
 4 the way it is.
 5 I mean, I'm not -- I can't watch and try
 6 to encourage them. That's it.
 7 **Q. Now, when people get the products from**
 8 **Daniel Chapter One and, to use your testimony, make**
 9 **donations to Daniel Chapter One, do they receive in**
 10 **return a donation receipt in addition to the product?**
 11 A. I think that's what that is in the book. I
 12 think that's what they get when they place an order.
 13 It's a receipt.
 14 **Q. And does it indicate donation receipt on it?**
 15 A. I think so. Yes.
 16 **Q. Would you be able to provide a copy to your**
 17 **attorney if you haven't already so that we could get a**
 18 **copy?**
 19 A. I think we have. I think we have something
 20 somewhere.
 21 MR. ZANG: Well, I would request, Jim, that
 22 we --
 23 MR. J. TURNER: Do you mind following up these
 24 requests with a note?
 25 I mean, I'll try to remember them, but just in

162

1 A. Okay. They're independent contractor guys, but
 2 they have computers that are there that they use.
 3 So they come in. They've got their own access
 4 time. They put their own times in.
 5 So they're independent, and therefore, if I
 6 don't need them, I don't need them, but I -- we use
 7 them.
 8 **Q. And you pay them for their time?**
 9 A. Yeah. They get a check.
 10 **Q. And --**
 11 A. According to the time they put in.
 12 **Q. And they're familiar with the purposes of the**
 13 **ministry?**
 14 A. Yes. That part they are.
 15 And as far as the donation part, there's a lot
 16 of times I have to -- they're not -- I mean, I think
 17 with -- I think that just recently, because of all the
 18 stuff we've got going on, they've become aware of that
 19 issue, that it's to make a -- they need to present it to
 20 people properly.
 21 I had a tough time with people saying -- I said
 22 you need to put the fliers, you need to put description
 23 of this aspect of the ministry into any order that
 24 somebody gets so that they understand this, you know.
 25 And they'll run out of it and somebody just thinks, oh,

164

1 case I don't.
 2 MR. ZANG: Sure. Sure.
 3 BY MR. ZANG:
 4 **Q. And I know you're not a lawyer, so you may not**
 5 **know the answer to the question that's going to follow,**
 6 **but do you know whether individuals who make a donation**
 7 **to purchase your products or to receive your products**
 8 **are able to put in for a charitable contribution on**
 9 **their tax returns as a result?**
 10 MR. J. TURNER: I'm going to object to that
 11 question because it's calling for a legal opinion.
 12 BY MR. ZANG:
 13 **Q. Well, and just if you know.**
 14 A. I believe that they can.
 15 **Q. And do you provide any information or advice to**
 16 **individuals on that issue?**
 17 A. I'm not -- I'm not sure on that.
 18 MR. J. TURNER: Just for the record, I don't --
 19 I don't believe they can. Even a 501(c)(3), if you
 20 supply a dinner, you know, it's a hundred-dollar dinner
 21 and fifty dollars of that is for the dinner, that's not
 22 deductible. And I do not believe that anything other
 23 than something above the value of the product would be
 24 deductible.
 25 MR. ZANG: And not being a tax lawyer myself,

1 that does sound accurate.
 2 BY MR. ZANG:
 3 Q. Do you know whether Daniel Chapter One issues a
 4 statement to individuals who purchase these products
 5 stating the actual value of the product?
 6 A. No.
 7 Q. And Mr. Feijo, is the amount that you ask
 8 people to pay for these products as a donation, is that
 9 always more than what the product costs you?
 10 And we discussed this a little bit earlier, but
 11 I want to go back to that and ask you again.
 12 A. The price is reflective of what the cost of
 13 running Daniel Chapter One would be.
 14 Q. With everything you mentioned earlier?
 15 A. The material, the raw materials, the creation of
 16 labels, the person or the people, the heat, whatever,
 17 the radio, whatever it is.
 18 Q. But it also results -- by "it" I mean people
 19 acquiring or purchasing these products also results in
 20 some additional monies that you've been able to put
 21 aside --
 22 A. Yes.
 23 Q. -- in your bank account that you're now using
 24 for this litigation; right?
 25 A. Yes.

1 Q. Okay. And next to these products on the product
 2 catalog there are descriptions.
 3 Is that something that your graphics people
 4 prepared, or did you or Trish help prepare that?
 5 A. I think they might have taken them from other
 6 parts of our Web site or from our -- from our BioGuide.
 7 Q. All right.
 8 A. I think that's what they did.
 9 Q. All right. Let's move on, and I'm now going to
 10 ask you to take a look at what's been marked as FTC
 11 Exhibit 7 for identification, and it's entitled
 12 Respondents' Responses to Complaint Counsel's First Set
 13 of Interrogatories.
 14 (Pause in the proceedings.)
 15 Are you ready to begin? And feel free as I ask
 16 questions to take your time in looking at this document,
 17 but can we go ahead?
 18 A. Sure.
 19 Q. All right. So, Mr. Feijo, let me first direct
 20 your attention -- towards the back of this document
 21 there's something called Exhibit 3, and it says
 22 "Present Independent Contractors at DCO." It's about
 23 two-thirds of the way through.
 24 A. Right.
 25 Q. And I just want to go through some of these

1 people to get a better sense of what their --
 2 MR. J. TURNER: Let's find it first.
 3 MS. LEHRFELD: Which exhibit?
 4 MR. ZANG: This is Exhibit 3.
 5 BY MR. ZANG:
 6 Q. -- get a better sense of what their
 7 responsibilities are.
 8 MR. J. TURNER: All right. I have it.
 9 BY MR. ZANG:
 10 Q. All right. So the first person listed I believe
 11 is your daughter, Jill Feijo?
 12 A. Uh-huh.
 13 Q. And could you describe her responsibilities. It
 14 says here supervisor, order center, and banking.
 15 A. Yes. She oversees the center where the orders
 16 come in and she sends the checks out.
 17 Q. All right. And --
 18 A. Basically.
 19 Q. -- how many people generally work in the order
 20 center?
 21 A. One to three. One to three. They have
 22 children, so a lot of times we have to cover for one
 23 another and sometimes it's -- mostly one to three.
 24 Q. Okay. And generally is that order center
 25 contacted by telephone or by mail or by e-mail?

1 A. Predominantly telephone, but the other, the mail
 2 and the e-mail, are small contacts, a small number.
 3 Q. And there's a toll-free number to contact the
 4 order center?
 5 A. Yes.
 6 Q. Okay. And then Robin Chretien?
 7 A. "Chretien."
 8 Q. "Chretien"?
 9 She's responsible -- I assume it's a she --
 10 for --
 11 A. She and her daughter Jessica are -- she's a
 12 housewife. Her daughter is a high school student. And
 13 what they do is they come in and try to put time in to
 14 help so they can get mostly products for their own
 15 families, and that helps us out.
 16 So it helps them and it helps the girls there
 17 because these two will often fill in when one of the
 18 girls is or the other girls are out sick or their
 19 children are out.
 20 Q. And that's for the order center phone --
 21 A. Yes.
 22 Q. -- center?
 23 A. Yes.
 24 Q. Okay. And then Melissa Burns?
 25 A. She's the same as those, as Jill. She's there.

169

1 **Q. And she also does some Web orders?**
 2 A. Yes. She answers the phone and does most of the
 3 Web order things, right.
 4 **Q. And then Matt Ferrara, is that one of the**
 5 **graphic artists you were talking about?**
 6 A. He and Al are graphics guys, Al Rykhof.
 7 **Q. Albert R-Y-K-H-O-F.**
 8 A. Rykhof.
 9 **Q. But you've testified earlier that they just come**
 10 **when you need them?**
 11 A. No. No. They come on in -- they come and go
 12 as they -- I mean, there's no time clock. They come in
 13 and put hours in. Some -- sometimes they come in three
 14 days a week, sometimes two days a -- it's up to them,
 15 you know. Or if there's a, you know, project that they
 16 need to put some time into, they'll put in their own
 17 time.
 18 **Q. Can you just help for an understanding of what**
 19 **types of projects they've been working on recently? Is**
 20 **it the Web? Is it --**
 21 A. Oh, recently?
 22 **Q. -- publications?**
 23 A. Recently it's been all of our excitement here,
 24 getting all documents together and scanned and -- a lot
 25 of scanning, a lot, a lot of scanning, getting stuff off

171

1 companies.
 2 **Q. And for the record, which are those companies?**
 3 A. Universal does BioMixx, GDU and Bio*Shark for
 4 us. And I think it's Sundown Designs produces the
 5 7 Herb Formula.
 6 **Q. And what information do you give to them so that**
 7 **they could fulfill your orders?**
 8 A. Well, any of the products that I develop I send
 9 out to multiple labs to get samples, formulas, to find
 10 out who can provide the best quality, the best product.
 11 And then I work with them to get the right -- to get a
 12 price for it.
 13 And so Universal and Sundown are isolated on
 14 these four products, and so I give them my -- what I
 15 want to put in the product. They'll say -- and I'll
 16 design the label and I'll send them the label, and
 17 they'll say you can't put this on this label.
 18 A lot of the companies that you go out there
 19 already say -- or they help us. They'll say the FDA
 20 wants this or you have to put this on it, so they'll
 21 tell us, you know, you know, things that are -- specs,
 22 you know, the layout, the box and all this stuff. They
 23 have to watch out for that stuff for their own sake I
 24 guess, you know.
 25 **Q. Uh-huh.**

170

1 to Jim and you guys. It's been taking a lot of time.
 2 It's kind of good because it's created jobs for
 3 them because they're a couple of guys I don't really
 4 need. We're a small company. I don't need two graphics
 5 guys.
 6 But yes, mostly it's all around this right now.
 7 I don't think we did one project for our regular
 8 business. Every single thing I think we've produced has
 9 been -- through the two of them has been related to the
 10 last year here.
 11 **Q. And prior to that, what did they work on?**
 12 A. They designed the labels. They designed our
 13 labels for us and they helped work with the companies
 14 to -- printers to get the labels and design things. And
 15 all of our graphics have been done by them, our books,
 16 all our materials done in-house.
 17 **Q. And you haven't really testified as to how the**
 18 **product is manufactured and distributed. Just briefly**
 19 **address that.**
 20 So I think in the interrogatory answers -- but
 21 you'll correct me if I'm wrong -- there are two outside
 22 companies that you go to for the supply. Is that
 23 right?
 24 A. Oh, we have a lot of companies, but for these
 25 two products -- for these four products, there's two

172

1 A. Other than that, it's just I give them the
 2 product -- and what they also do is they'll check to see
 3 if when we print the label that it's not .95 when it
 4 should be 9.5, things like that, so they'll go over
 5 that, and we'll cross-check to make sure it's the right
 6 formula.
 7 **Q. So you print out the label, and then they put it**
 8 **on the package?**
 9 A. Right.
 10 **Q. Okay.**
 11 A. We'll go to a -- they'll create the product for
 12 me. And then once we've got that settled and I've got
 13 all the information, I go to the graphics guys and I
 14 say this is what I want. I send them the label to make
 15 sure that that's the formula, and then we take that
 16 label and we send it to a label company to make the
 17 labels and then send it to whatever companies we go to.
 18 **Q. Okay. And then do they have any role at all in**
 19 **your Web site in reviewing that?**
 20 A. No.
 21 **Q. And in your product literature?**
 22 A. No.
 23 **Q. Okay.**
 24 A. No.
 25 **Q. And I take it that they don't do any testing or**

1 anything of that sort of the product, or do they?

2 A. Testing? I don't think they actually test the
3 products that I ask for. I know their own I know they
4 do. I think they test to make sure that what they put
5 in it is themselves. I think they have to test their
6 part of it, but as far as testing the product to see if
7 it's safe and effective, nothing like that.

8 Q. So they would test just to make sure that they
9 have .5 grams of X ingredient and --

10 A. Yeah. There's certain FDA principles, you know,
11 like you're allowed -- I don't know what they call it --
12 a deviation, you know, like if you've got a hundred
13 capsules, you're allowed to have 1 percent or -- no --
14 three capsules -- I don't know what it is. You're
15 allowed to have so many because of the thing, so it
16 doesn't have to necessarily be a hundred, but they fall
17 within the --

18 Q. The range.

19 A. Yeah. It governs. Maybe there's 103 capsules
20 in it, you know, because of the machines and counting
21 each bottle would be hard. But I'm sure that -- and
22 that's what's great. Years ago, we just decided we just
23 want to help people and make or design the products and
24 offer products to deal with the people that we saw
25 coming in to us that were ill, so -- and the nice thing

1 about it, a lot of these companies started sprouting up,
2 and they're really pretty awesome and they're all
3 FDA-inspected and all that good stuff, so I don't have
4 to worry about any of that.

5 So that's really, you know -- any time you can
6 get any type of -- you can reduce human error or
7 variables that could cause problems, it's good, so by
8 having FDA inspect the labs it's good.

9 Q. And then they ship you a certain amount of
10 product, and do you have a warehouse where you keep it
11 until you ship it out?

12 A. Right.

13 Q. And is that warehouse actually where your office
14 is or --

15 A. No. It's in Portsmouth. It's -- we lease a
16 building.

17 Q. Okay. And then you have somebody -- and maybe
18 it's on this Exhibit 3 -- who actually --

19 A. Yeah.

20 Q. -- ships it?

21 A. The three bottom guys.

22 Q. And that would be Jay Butler?

23 A. Yeah. Kevin Vandenburg and Axel Busche.

24 Q. Okay. V-A-N-D-E-B-E-R-G (sic) for Kevin and
25 Axel, A-X-E-L, B-U-S-H-C-E.

1 And are those three people part-time at the
2 warehouse or full-time?

3 A. I think they like -- they run it themselves.
4 They -- I'm sure -- I haven't been there. They go -- I
5 think what will happen is maybe Jay has got to take his
6 daughter to college and those guys will cover for him,
7 you know, or maybe this guy has got to go home, his dog
8 is sick. They cover each other I'm sure.

9 And I -- there's no clock to punch, so they
10 just -- as long as they get the things out to people,
11 then I'm happy, you know.

12 Q. How did you find those three gentlemen? Did you
13 advertise for a position? Did they --

14 A. No.

15 Q. -- come to you?

16 How did that happen?

17 A. Nobody came through advertising here. Al, I ran
18 into a coffee shop and I saw him working on some
19 graphics things and I said, Hey, I need something done.
20 That was years ago, and he came by.

21 Matt Ferrara, I married his dad and his stepmom
22 and I met him through them, at the wedding actually.

23 Jay and Axel are friends of mine.

24 Kevin, his brother, he played football for a
25 friend of mine.

1 And that's how I ran in to those guys.

2 Q. Okay.

3 A. Yeah.

4 Q. And then you have two people on the next page
5 listed as past independent contractors, a warehouse
6 person and a phone person; is that right?

7 A. Yeah.

8 Q. Okay. And they've moved on?

9 A. Yes.

10 Q. All right. Well, let's move on ourselves.

11 Let me direct your attention to Exhibit 7.

12 A. One personal story about one of them?

13 Q. I would love a personal story, but I think in
14 the interest of time, unless it's relevant, we should
15 probably move on.

16 A. I'm okay. I'm sorry.

17 Q. All right.

18 A. I'm just trying to be helpful.

19 Q. I appreciate it.

20 A. I'm sorry. Where are we?

21 Q. So let's move on to Exhibit 7.

22 A. Exhibit 7?

23 Q. Yeah.

24 And that's very much -- oh, in this same
25 document.

1 A. Oh, still the same. Okay.

2 **Q. And there's a list of references there, and it**

3 **contains 47 references.**

4 **Do you see it?**

5 A. Yeah.

6 **Q. Can you just describe briefly what those are?**

7 A. Yeah. Those are materials, a variety of books,

8 research data. Some of them are like pamphlets or

9 magazines that we had gone through that had been used

10 somehow in coming to our understandings.

11 **Q. Your understandings of what?**

12 A. Of what we ended up writing and doing.

13 **Q. So do you mean that -- well, could you just**

14 **elaborate because I think I understand, but I'm not sure**

15 **that the record is clear.**

16 A. These 47 exhibits -- is that what it's called,

17 exhibits? -- are a variety of materials, books,

18 magazines, articles, research material that we had read

19 over the years that had a bearing on our understanding

20 of how certain substances in these four products could

21 be utilized to help healing. I don't know if that --

22 does that help?

23 **Q. And I note that the dates of some of these**

24 **publications are recent, such as 2003, and some go back**

25 **quite a few years.**

1 **My question is: Did you have only some of these**

2 **references at the time that you started to offer the**

3 **four products or did you have all of them?**

4 A. One way or another some of these may overlap in

5 information, but pretty much all the information that we

6 had when we put -- when I put the products together we

7 had at the time of developing all the products, so

8 somehow some shape -- one may have a later date or an

9 earlier date, but it had the same information, so we had

10 somehow -- there was material I used to put together, so

11 it wasn't -- it wasn't just like I sat there and God

12 just said use this for some reason.

13 It was more like the understanding of these

14 products were -- some form of science was applied.

15 Whether it be double blind or not I can't say. Most

16 likely they were just initial researches. It was

17 evidence of something took place, and so you know, I

18 think that's pretty much how that would, you know...

19 **Q. And did you personally read each of these**

20 **references at some point in time?**

21 A. I believe every one of them.

22 **Q. Did you read them --**

23 A. Entirely?

24 **Q. -- entirely?**

25 A. Pretty much every one of them.

1 **Q. And at the time that they came out or more**

2 **recently?**

3 A. At the time that we had them. And plus maybe

4 hundreds more.

5 **Q. All right. And did you pull some of these**

6 **together just recently in preparation for this matter**

7 **with the FTC?**

8 A. This was -- this was an exciting moment. It was

9 actually really something that we found important that

10 needed to be done, to be honest.

11 We find that there's -- my wife and I, as much

12 as, to be honest with you, we wish we were just dealing

13 with some of the people that we could help, we find that

14 this is very important, that having to answer all these

15 questions, get the histories and to bring -- we've

16 really been forced to recall so many things that we did

17 or got to do. And if it wasn't for my wife, I mean,

18 she -- we had pictures of our -- even of all of our

19 trips. We didn't even -- it was only because of this

20 that we had to go and search these out.

21 Because we move a lot and we travel a lot and

22 the things are in boxes, we didn't know if we had any

23 of this stuff, I mean, really. It's not like we kept

24 medical reports from years ago from somebody for the

25 purpose of in case we ever needed them. We just had

1 had them, and they were in boxes, and they were in

2 boxes because we had to move from one place to

3 another.

4 So the great thing about this was that getting

5 these -- to answer your question, to get this together

6 and pictures and everything else, this has forced us to

7 pull things together, which we really believe is an

8 important thing that needs to be done to -- so that we

9 can be sure of what's happened with you all and, who

10 knows, for maybe other reasons, you know, but at least

11 this should be evidence that should be brought forth,

12 so -- and if it was just me that you were asking to do

13 this stuff, none of this stuff would have been gathered

14 because I didn't know where anything was.

15 But my wife, she's amazing. She had some boxes

16 somewhere and she spent a lot of time pulling all this

17 together. And a lot of these books are on my library

18 shelf, you know, so that was not a -- this part wasn't

19 too bad (indicating).

20 **Q. Let me ask you another question.**

21 **With due respect, you've testified earlier that**

22 **you don't keep a lot of records or paper and yet your**

23 **wife was able to pull all of these together you've just**

24 **testified. Can you describe that, what sounds like an**

25 **apparent discrepancy there?**

1 A. Yeah. And I mean, it sounds like a discrepancy,
 2 but the only reason it's a discrepancy is because
 3 there's two different issues here. One is
 4 documentations that are materials that we used in our
 5 life to read, write and study which we just put aside
 6 somewhere.

7 If you ever come by our office, you'd see,
 8 when I do my radio, there's magazines here, books
 9 here. There's nothing -- it's just -- to find
 10 anything is -- the needle in a haystack would be
 11 easier, but -- so it's just there, you know, that kind
 12 of stuff and knowledge -- that's knowledge, you know,
 13 this kind of stuff is, that could be helpful. And I --
 14 and we have books that are kind of like resource
 15 materials and we just -- and people send us stuff like
 16 that, so we'll save those things. And we lose a lot of
 17 those things.

18 As a matter of fact, one of the things that
 19 we've -- one of the books we didn't -- my wife was
 20 fortunate enough to find was The Saving of an Angel.
 21 Things like that started to come up we didn't even know
 22 we had saved, you know. But research stuff we kind of
 23 keep.

24 **Q. Would it be fair to say that some of these**
 25 **references you might not have had in the past and you**

1 **only pulled together recently?**

2 A. No.

3 **Q. So it's your testimony that all of these**
 4 **references you did have at one time or another in the**
 5 **past?**

6 A. I would say every single one of them that I can
 7 tell of. Yep. Pretty much every one of them. These
 8 are things that we've had. Yeah.

9 I imagine right now I can't see one that I would
 10 have to say we didn't have from day one --

11 **Q. Okay.**

12 A. -- or, you know, early days.

13 **Q. Now, there was another list of references that**
 14 **was provided to the FTC, and that's contained in what**
 15 **has been premarked as FTC Exhibit 8, so I'm going to ask**
 16 **you to take a look at that.**

17 MR. J. TURNER: Do we have that, Exhibit 8?

18 MR. ZANG: Let's go off the record for one
 19 second.

20 (Discussion off the record.)

21 MR. ZANG: Mr. Dulabon reminds me that we have
 22 another copy of this document with FTC Bates numbers,
 23 and that has been produced to you guys, although of
 24 course it comes from you originally.

25 MR. J. TURNER: Uh-huh.

1 BY MR. ZANG:

2 **Q. So my question, Mr. Feijo, is -- there's -- if**
 3 **you look at the fourth page -- the fifth page of this**
 4 **document and onward, there's a list of medical sources**
 5 **there.**

6 **And my question is: What is this set of**
 7 **medical resources, and how is it the same or different**
 8 **from the references we were looking at in Exhibit 7?**

9 A. What page are we on?

10 **Q. And I'm on the fifth page (indicating).**

11 MR. J. TURNER: Back one page. Right
 12 here (indicating).

13 Is that right?

14 MR. ZANG: That's correct.

15 BY MR. ZANG:

16 **Q. It's headed Daniel Chapter One Medical Sources**
 17 **for Allegedly Deceptive Statements.**

18 A. Uh-huh.

19 **Q. So again my question is: How does this list of**
 20 **medical sources, as it's called, differ or how is it**
 21 **similar from the list of references we were looking at**
 22 **in Exhibit 7?**

23 A. These are research things that we needed to show
 24 that there was evidence that what we were doing did
 25 exist before 2005 or '6 or whatever it was.

1 So these are things not necessarily that we had
 2 in our hands but existed beforehand and somehow had
 3 either these sources or other sources may have gone
 4 through. I did not necessarily -- it was just
 5 information that existed.

6 **Q. I think you were -- were you going to say that**
 7 **you did not necessarily read all of these unlike the**
 8 **other set?**

9 A. No, no. I've read all these.

10 **Q. Okay.**

11 A. No. These and hundreds more. I mean, I've read
 12 them all. I've highlighted and read them all. You know
 13 what I mean?

14 **Q. Okay.**

15 A. But these are just evidence of documentation of
 16 scientific studies. Whether they were finalized
 17 conclusions or not, they had conclusions to them that
 18 certain properties in these nutrients in these -- in
 19 our products had activities that we were trying to
 20 relate to the stuff from your original complaint from a
 21 to g I think it was, although I can't remember
 22 exactly --

23 **Q. I see.**

24 A. -- but trying to satisfy the FTC's request.

25 **Q. Okay.**

1 A. Yes.

2 **Q. And some of these documents are dated pretty**

3 **recently like 2008, for example?**

4 A. Yeah. Yeah.

5 **Q. So the date was not an issue in your putting**

6 **this together I take it.**

7 A. No. I was just trying to get even the present

8 testimonies to -- actually the kind of new stuff was

9 good for me, you know, to keep -- the other good thing

10 about all of this work has been that it brought me to

11 see more things that have come out about what our

12 products had the capability of doing, so it's kind

13 of -- the last -- after developing the products, my

14 wife and I have been really -- I mean, my wife and I

15 have been going night and day sometimes. And my wife

16 with children and the requests she has from all over the

17 world -- she's really world renown -- I mean, she was

18 almost going crazy with helping people. You know, I

19 finally had to get her to take breaks, you know, and --

20 but she's committed that way, and so am I, so we

21 didn't -- once these products were going and were

22 helping people, we got caught in the needs of people,

23 you know.

24 And what happened is, the products were

25 helping, so we stopped doing anything, so when this

1 happened, in research, I said, Wow, I haven't done

2 investigational research in a long time, and here it is

3 and I was like I didn't know this was -- it's been --

4 not just these products, but we've come across other

5 things in the process, so it's been really helpful, and

6 hopefully it's going to be held to the betterment, you

7 know.

8 **Q. One thing that I do want to pin down is, at the**

9 **time that you were making statements in your literature**

10 **or on your Web site, to the extent that you were making**

11 **statements, about the four products, did you have**

12 **support for those statements?**

13 A. Yes. Yes. Those were all in that other --

14 those -- that list on the other --

15 **Q. In Exhibit 7?**

16 A. Was that ?? Yeah.

17 **Q. Why don't you check and make sure.**

18 A. Yeah, 7. It was 7, these here (indicating).

19 **Q. Okay. So that was the support that you had at**

20 **the time; that's your testimony?**

21 A. These were some of the ones that we gathered.

22 There's a lot of material, not these per se, but there

23 are a lot of things similar to these which we didn't --

24 you know, I didn't keep a lot of stuff. I kept these

25 because these were like in books or hardcover textbooks

1 or in mag- -- not magazines but, you know, hardcoverd

2 brochure type of things, you know, thick

3 things (indicating).

4 **Q. Okay. Mr. Feijo, just because somebody who may**

5 **be looking at this transcript later won't be able to**

6 **tell when you're pointing at something, what you're**

7 **referring to --**

8 A. Okay. I was referring to Exhibit 7 and a thing

9 called -- well, no. It's the -- how should I say this?

10 This says "Exhibit 7" on the front cover.

11 **Q. FTC Exhibit 7.**

12 A. All right. This says at the bottom.

13 And then in a list of references also called

14 Exhibit 7 near the back of the book, of the document,

15 thirty-something references -- 47 references, those were

16 available at the time.

17 **Q. Okay. And were there any other articles**

18 **available at the time, to the best of your knowledge,**

19 **that are not on that list in Exhibit 7?**

20 A. There has to be some that I couldn't recall or

21 find because there was so much material.

22 I mean, we used to do nothing but just get up

23 in the morning and go read all day long, and then that

24 was it, so I'm sure there were things that -- my wife

25 might remember some, but we can't -- we couldn't find

1 or -- but that's a pretty intense list. There may be

2 others.

3 **Q. But would it be --**

4 A. But I couldn't give you the name of them.

5 **Q. Would it be fair to say that that represents**

6 **the vast majority of the publications available at the**

7 **time?**

8 A. Oh, I think a small amount, a small amount of

9 information that was available. I think there was

10 probably a lot more material.

11 **Q. Now, what if I change the question to say**

12 **available and supported whatever statements you were**

13 **making about the products at the time?**

14 A. I think there were more material that would

15 support it but not necessarily a great amount of

16 material, you know.

17 **Q. And --**

18 A. Specifically to, you know, support those.

19 **Q. I just want to be sure again that the record is**

20 **clear.**

21 **Is it your testimony that you read all of the**

22 **articles in FTC Exhibit 7 at or about the time that --**

23 A. Right.

24 **Q. -- they were published?**

25 A. Before you guys called us.

1 Q. Certainly before the FTC --
 2 (Discussion off the record initiated by the
 3 court reporter.)
 4 BY MR. ZANG:
 5 Q. Certainly before the time that the FTC issued
 6 the complaint.
 7 A. Yes.
 8 Q. Okay. And let me just remind you -- and I'm
 9 reminding myself as well -- that we've been going a long
 10 while, so our court reporter is just as tired as we are
 11 and even more so, so let's try to slow down.
 12 A. I will. Okay.
 13 Q. All right. Let me ask you a few things about
 14 what is written in Exhibit 7, which is the responses to
 15 complaint counsel's or FTC's interrogatories.
 16 And I'm going to go through a few things and I'm
 17 just going to ask you whether what's written here is
 18 accurate or not, and if it's not accurate, please state
 19 so for the record so we can get it correctly.
 20 MR. J. TURNER: Which one are we on now?
 21 MR. ZANG: We're on FTC Exhibit 7.
 22 MR. J. TURNER: What's its title?
 23 MR. ZANG: It's the interrogatory responses to
 24 FTC's first set of interrogatories.
 25 MR. J. TURNER: Okay. And what page?

1 BY MR. ZANG:
 2 Q. Let's start with page 2, Mr. Feijo, which is
 3 response number 1. And I'm just going to excerpt from
 4 this in the interest of time, but feel free to read the
 5 whole submission. I just want to get some facts on the
 6 record, and that's my purpose here.
 7 So the first one is that Daniel Chapter One has
 8 no owner, officers, directors or employees, except the
 9 overseer for Christ who is James Feijo.
 10 Is that accurate?
 11 A. Yes.
 12 Q. All right. And then it states that
 13 Patricia Feijo, your wife, is the secretary of
 14 Daniel Chapter One.
 15 Is that accurate?
 16 A. Yes.
 17 Q. All right. And it states, in response 2 now,
 18 that yourself, James Feijo, is the individual
 19 responsible for the development, creation and production
 20 of the products.
 21 Is that accurate?
 22 A. Yes.
 23 Q. And specifically that would be the four products
 24 that we've been talking about.
 25 A. Yes.

1 Q. All right. And then let's move on to number 3
 2 on the next page.
 3 It states that Daniel Chapter One makes
 4 donations to James Feijo to defray his expenses as
 5 overseer and to provide for his support.
 6 Is that accurate?
 7 MR. J. TURNER: Is that 3?
 8 MR. ZANG: That is 3.
 9 BY MR. ZANG:
 10 Q. Is that accurate?
 11 A. I would say so.
 12 Q. All right. And we did talk about this issue
 13 previously, but can you describe, to the extent you
 14 haven't, what "support" means here?
 15 A. To come to travel here to -- most of the work
 16 that we do is to provide for needs of others, so if we
 17 travel somewhere, it's to bring something for somebody
 18 else, but obviously some of our needs have to be met,
 19 not always. Sometimes we just go without any support.
 20 We just -- we just leave and trust that God will raise
 21 somebody up. That's happened time and time again.
 22 But in order, you know, to come here, to go
 23 to -- to -- to perform whatever things we have to do.
 24 Q. Just to use a really mundane example, you wear
 25 eyeglasses. Is that the sort of thing that --

1 A. Yes.
 2 Q. -- that Daniel Chapter One pays for?
 3 A. Yes.
 4 Q. Okay. And again, let's try not to talk over
 5 each other just to make this go smoother.
 6 All right. Then moving on, it says, "James
 7 Feijo does not receive a personal income from
 8 Daniel Chapter One or any other source."
 9 Is that accurate?
 10 A. Yes.
 11 Q. That you own no real or personal property, is
 12 that accurate?
 13 A. Yes.
 14 Q. And that you have no personal bank accounts,
 15 health insurance, life insurance?
 16 A. Yes.
 17 Q. That's all accurate.
 18 A. Yes.
 19 Q. And no retirement accounts.
 20 A. I may have an old checking account that's got my
 21 name on it, but there's nothing in it.
 22 Q. Okay. Is it still open?
 23 A. I don't know. I mean, it's at Citizens, so...
 24 Q. Citizens Bank.
 25 A. Yeah. So --

1 Q. Okay.
2 A. Right.

3 Q. And then there's a reference here to something
4 being held in trust for the religious and educational
5 purposes of Daniel Chapter One.

6 Can you describe briefly what that is?

7 A. Where am I --

8 MR. J. TURNER: Object to the question to the
9 extent that it's seeking a legal conclusion.

10 BY MR. ZANG:

11 Q. Okay. Well, to the extent that you have an
12 understanding, it says here that James Feijo does not
13 receive a personal income from Daniel Chapter One, and
14 then it goes through the other things that you don't own
15 or have, and then it states "and holds" -- and
16 presumably this means you hold all monies in your
17 control for the trust and religious and educational
18 purposes of Daniel Chapter One.

19 Do you have an understanding of what that
20 means?

21 A. Yeah. The monies that are -- come into
22 Daniel Chapter One, I'm the one that has the authority
23 to where they'll be directed, whether it will be to the
24 creation of material or giving some money to somebody
25 who's sick or whatever, you know.

1 Jay -- I was standing in New York City here on 7th and
2 41st Street up at the WEVD building. I don't know if
3 you know that. It's a big 50,000-watt station.
4 Alan Colmes is in there and all those guys.

5 Well, we were on that station for a while, and
6 they were offering us a contract, and I had gotten
7 offers from other networks.

8 So I was standing here and I called Jedediah on
9 the phone and I said, Jay, what would it take to build a
10 network? And he told me some ridiculous millions of
11 dollars, and so I said, Forget it. And I asked him,
12 Look, it's impossible. Pray about it and let's see what
13 direction we can go and what it would cost.

14 And we didn't have much really then, but over
15 the years now we have some funds I put aside and now
16 I've got this money and I don't need the money just
17 sitting here. I want to know what can we do with it.

18 And so I asked him and I asked him to ask the
19 other people there to see if they would believe the Lord
20 would have us start a building, so we were all in
21 agreement and we then got -- they did all the work,
22 finding contractors or architects to design it and
23 something.

24 And so that's pretty much at times, you know,
25 but some of the mundane stuff just to keep things

1 Q. And does anybody else participate in that
2 decision or is it primarily you?

3 A. I will on the daily simple things that are
4 running. On the big things I will confer with
5 individuals such as Jedediah Harrison and others and
6 I'll say, We have this money saved. It's in
7 Messiah Y'Shua Shalom. What do you believe the Lord
8 would have us to do with this money?

9 And I'm trying to get them to hear and not to be
10 led around and to -- with my MS and the seizures and
11 stuff, I got to the point where I was concerned that I
12 might not be here, because it was a pretty horrible
13 time, and I was concerned about not just my wife but
14 everybody that's supported by our ministry, their
15 families or their children.

16 And they make nothing. I mean, they're pretty
17 simple people. And they -- so I will ask them, for
18 example, about that building that we're trying to --
19 that we wanted to build, to pray about it, and they all
20 believe that we should go ahead and pursue a fellowship
21 building there, you know, which would have a multiple
22 ministry out of it.

23 So they I would say -- and the same thing with
24 building -- with Daniel Chapter One, when we started our
25 radio, I called Jedediah Harrison one day and I said,

1 flowing, not to distract them, it's pretty simple.

2 Q. Your radio show, is that something that you
3 broadcast by yourself then with J?

4 A. Trish and I.

5 Q. You and Trish with --

6 A. Trish and I.

7 Q. But -- and who supports that?

8 A. Daniel Chapter One.

9 Q. Okay.

10 A. That's part of that overhead for the cost, the
11 suggested donations. The suggested donations that
12 they -- of those products provide for the whole
13 ministry, the support of the families at the -- that do
14 the network, the radio, and then those who are doing the
15 names there (indicating).

16 Q. And where could we find out what the cost is for
17 the network costs and the radio costs? How could we
18 get --

19 A. Well, I'd have to get it.

20 Q. Do you have a rough idea sitting here how much
21 that costs to produce?

22 A. Oh, man. Half a million, a million. I don't
23 know. Half a million.

24 Q. Per year?

25 A. I think, yeah. It's a -- I'm just throwing

197

1 figures out there. 200,000.
 2 **Q. Okay.**
 3 A. I don't -- I don't know. But they -- you know,
 4 obviously they -- and I know we pay our bills, so I can
 5 get that I'm sure.
 6 **Q. All right. Let's move on.**
 7 **Turn the page, please.**
 8 **And looking at the answer to interrogatory 5, it**
 9 **says, "James Feijo has written no articles, books,**
 10 **papers, theses or treatises relating to the products,**
 11 **alleged health claims for which are the subject of the**
 12 **complaint, cancer, the prevention of cancer or the**
 13 **treatment of cancer."**
 14 **Is that accurate?**
 15 A. Yes.
 16 **Q. All right. And then the next sentence goes to**
 17 **what you were testifying to earlier, that you host with**
 18 **your wife the Daniel Chapter One Health Watch radio**
 19 **program for two hours a day, Monday through Friday;**
 20 **right?**
 21 A. Yes.
 22 **Q. Let's turn now to answer number 9 a couple of**
 23 **pages later.**
 24 **It says here that James Feijo is the only member**
 25 **of Daniel Chapter One.**

199

1 information about the products at issue in this case are
 2 distributed?
 3 A. I don't know. I think they would be listed on
 4 the danielchapterone.com if there were.
 5 **Q. But are those three accurate?**
 6 A. The third one was a temporary one. I don't know
 7 if it's still even up.
 8 **Q. Okay. And is 7herbformula.com still up?**
 9 A. Yeah. I think that's still up.
 10 **Q. All right. Okay. Let's move on.**
 11 **The next page, the response, Mr. Feijo, says**
 12 **that you and your wife are responsible for the**
 13 **information shared in the above resources.**
 14 **What I want to focus on is actually the next**
 15 **sentence: The 7 Herb Formula Web site was created by**
 16 **Ruth Duffy.**
 17 **Is that accurate?**
 18 A. Yes.
 19 **Q. All right. And then it says, "Jeremy Turner,**
 20 **graphic artist, placed information on the other**
 21 **Web sites, and most recently Al Rykhof, graphic**
 22 **artist."**
 23 A. Right.
 24 **Q. That's accurate as well?**
 25 A. Yes.

198

1 **That's accurate?**
 2 A. Only member.
 3 **Q. And if it's not, then please just state it.**
 4 **There's no reason why all of this needs to be accurate**
 5 **necessarily. I'm just trying to get the facts out.**
 6 A. I think this is supposed to be only is -- only a
 7 member of Daniel Chapter One and has no other
 8 relationship with other companies.
 9 **Q. Okay.**
 10 MR. J. TURNER: I'd just object to the question
 11 again just to the extent that a legal conclusion is
 12 being called for in the term "member."
 13 MR. ZANG: Okay. So there may be a legal
 14 understanding there. Fine.
 15 BY MR. ZANG:
 16 **Q. And it says you are a trustee for all of**
 17 **Daniel Chapter One assets, including all funds, which**
 18 **are held in trust.**
 19 **Is that accurate?**
 20 A. Yes.
 21 **Q. Okay. And then let's move down to number 11.**
 22 **There's a list of some Web sites, and those**
 23 **are www.danielchapterone.com, 7herbformula.com and**
 24 **gdu2000.com.**
 25 **Are there any other Web sites through which**

200

1 **Q. And then there's a statement about Scott Dube**
 2 **who it states is your nephew.**
 3 **Is that accurate?**
 4 A. Yes.
 5 **Q. All right. And then the next sentence says,**
 6 **"The BioGuide and the Cancer Newsletter were originally**
 7 **created around 1999 and have not been recreated since**
 8 **(only reprinted)."**
 9 **I think you testified about that earlier, but is**
 10 **that an accurate statement?**
 11 A. I believe so. Yes.
 12 **Q. Okay. And then it says, "Ed Durant worked with**
 13 **DCO as a writer a couple of years prior and interviewed**
 14 **people and obtained testimonies at that time for the DCO**
 15 **Health Watch Newsletter."**
 16 **Is that accurate?**
 17 A. Yes.
 18 **Q. And it says that Mr. Durant obtained**
 19 **testimonies, which seems to conflict somewhat with what**
 20 **you testified earlier about that you did not go out to**
 21 **obtain or receive testimonies.**
 22 A. Right.
 23 **Q. Can you explain the difference?**
 24 A. Yeah. Ed Durant came on board -- he was -- we
 25 had done -- somehow his wife was sick and we helped her,

201

1 and he was a writer and he came -- he wanted to help us
 2 and he wanted to get the information about what we were
 3 doing. He thought what Daniel Chapter One was doing
 4 people should know about and people should be helped by
 5 it.
 6 So he on his own would hear things on the radio,
 7 and he's the one that started I think maybe calling and
 8 getting testimonies, you know.
 9 Excuse me. I've got to use this (indicating).
 10 (Pause in the proceedings.)
 11 Sorry.
 12 Yeah, he was --
 13 **Q. And approximately when was that that he started**
 14 **to do that?**
 15 A. It was 2000, something like that, probably
 16 2000-2001, somewhere around then.
 17 **Q. Okay.**
 18 A. I don't know. That's speculating.
 19 **Q. Okay.**
 20 A. To the best of my knowledge.
 21 **Q. All right. Let's move on to number 15.**
 22 The response says, "On behalf of respondents, no
 23 person has been involved in scientific testing,
 24 research, substantiation or clinical trials of the
 25 products, alleged health claims for which are the

203

1 value of all products and financial transactions were
 2 conducted by Jill Feijo."
 3 Is that accurate?
 4 A. Yes.
 5 **Q. All right. And then number 31 says, just in --**
 6 **in part it says, "DCO has no records of yearly monetary**
 7 **figures regarding refunds, but it is low," and then it**
 8 **says "(hundreds of dollars)."**
 9 **Does that sound accurate?**
 10 A. Yeah. I'm not -- regarding -- I don't know --
 11 there's very little refund requests.
 12 **Q. Okay. Then 32, at the end of that response it**
 13 **says -- and I'm only going to read an excerpt from it,**
 14 **but if you don't understand, then please read the whole**
 15 **response. But it says that some of the refunds were**
 16 **related to purchase of 7 Herb Formula for a person who**
 17 **did not live to take it or whose doctor told them not to**
 18 **take it.**
 19 **First of all, is that accurate?**
 20 A. Yes.
 21 **Q. And secondly, do you have any information or**
 22 **records regarding those instances?**
 23 A. No.
 24 **Q. Okay. And can you recall --**
 25 A. Not that I know of, I mean.

202

1 **subject of the complaint."**
 2 **Is that accurate?**
 3 A. Right. That's right.
 4 **Q. All right. And then number 16 says, "James and**
 5 **Patricia Feijo have been solely responsible for**
 6 **creating, drafting and approving the directions for**
 7 **usage and the recommended usages for the products."**
 8 **Is that accurate?**
 9 A. Yes.
 10 **Q. All right. We'll move on to number 19.**
 11 **It says, "The danielchapterone.com Web site was**
 12 **created in 1998."**
 13 **Does that sound accurate?**
 14 A. I think so, that it's accurate.
 15 **Q. All right. And then the same answer on the**
 16 **next page, at the top it says, "There is a suggested**
 17 **price on each product to cover the cost of producing**
 18 **and making available that product, but the DCO policy**
 19 **has been to not refuse a person in need of any**
 20 **product."**
 21 **Is that accurate?**
 22 A. Yes.
 23 **Q. All right. And then number 25, moving on, a few**
 24 **pages later.**
 25 **The response says, "James Feijo established the**

204

1 I recall a gentleman coming -- I can tell you a
 2 personal remembrance.
 3 I remember a gentleman coming in. I spent a lot
 4 of time sharing with him the knowledge and
 5 understanding. And he left with the products. He said,
 6 I'm going to show my doctor. I said, Fine.
 7 Went to his doctor, said -- came back, said, My
 8 doctor said not to take these. I said, Fine. And I
 9 watched him. I can still see the back of his coat as he
 10 walked out the double doors. And he died. But that's
 11 okay. It was his choice.
 12 You know, I'm only responsible to speak what I
 13 know and I'm only responsible for my brothers, because
 14 we do believe we're our brothers' keepers, and I'm not
 15 responsible for everyone unless the Lord tells me to.
 16 And so the principle is that I'm supposed to
 17 share something with an individual. I have to share it
 18 with him. If the Lord is not telling me to share it
 19 with him -- if he tells me to, I'll be held accountable
 20 for that person if I don't speak to him.
 21 So when someone comes in, I share what I know,
 22 and that's -- I'm covered. I won't be held account --
 23 so I had -- oh, this is out of the -- you know, this is
 24 just more stories, you know, but...
 25 **Q. Well, let me ask you a question.**

1 Is it the case that you have -- that you don't
2 have information regarding whether a person is going to
3 live longer using your products or not using the
4 Daniel Chapter One products?

5 A. Yeah. It's just like with any -- anybody,
6 whether it be naturopathic, allopathic, the appointed
7 time is the appointed time. We don't claim that anybody
8 is going to live longer. We just share with them we
9 believe that God has provided these nutrients and they
10 won't suffer from it, from the products.

11 Our intention is not to increase a person's life
12 but to help them live until that time healthy.

13 So a person has a choice. One, do
14 chemoradiation in the case of cancer. Here's your
15 options. And I -- and I'm all in favor of people
16 talking to -- people say to us, they say, Well, why
17 don't you get along with the allopaths?

18 I said, I know the doctors. I know lots of
19 doctors. A lot of times those are my friends and I talk
20 to them about a lot of these things and they say blah,
21 blah, blah, I agree with you, Jim, but this is where I'm
22 at, this is -- I don't agree with you, Jim. And we get
23 along. But they can't possibly at this point use us,
24 what we do.

25 And it really would be awesome if the

1 allopathic world and everybody would say this is --
2 does not have double-blind placebo studies, but there
3 have been people that have gone this way. And there's
4 no guarantees. You may find this helpful. But here's
5 what may or may not happen. Now, here's what evidence
6 takes place with chemoradiation surgeries, and let's
7 show you what happens. And I think people should have
8 both of those. And I'm all in favor of a person doing
9 whatever they want to do, and so we don't have studies
10 on them, you know.

11 Q. Would you like to take a break now or do you
12 want to press on?

13 A. I'm fine.

14 MR. ZANG: Okay. And how about you?

15 THE REPORTER: I'm fine.

16 MR. ZANG: Let's have marked the financial
17 documents that Mr. Turner produced to us today.

18 (FTC Deposition Exhibit Number 9,
19 Daniel Chapter One Monthly Gross Sales, was marked for
20 identification.)

21 (FTC Deposition Exhibit Number 10,
22 12-15-08 e-mail from J. Harrison to T. Feijo
23 w/attachment, was marked for identification.)

24 BY MR. ZANG:

25 Q. Understanding that the FTC has not had a long

1 time to look at these documents, I still want to try to
2 ask some questions to supplement the record.

3 So let's start with what's been marked as FTC
4 Exhibit 9, and it's a four-page document --

5 MR. J. TURNER: I don't think he has a copy of
6 it.

7 BY MR. ZANG:

8 Q. Okay. Now you do.

9 Did you put this document together?

10 A. Yes.

11 Q. Could you just describe a bird's-eye view of
12 what it represents.

13 A. A monthly total of donations, orders, however.

14 Q. Okay. So this is a monthly total of orders for
15 the four --

16 A. By month.

17 Q. -- by month for the four products in issue in
18 this case or for all DCO products?

19 A. Everything that we do.

20 Q. Okay.

21 A. The four products would be --

22 Q. And it goes from January of '06 I see through
23 December of '08. Right?

24 A. Yes.

25 Q. And generally can you just describe how you put

1 together this chart, what information you consulted in
2 order to come to these figures?

3 A. Our reports off of a program we use to send
4 invoices out with.

5 Q. Okay.

6 A. For shipping and taking the order.

7 Q. I'm sorry. For shipping and taking the --

8 A. Taking the order.

9 Q. All right. And is it fair to say that for every
10 order you receive you generate an invoice?

11 A. Yes.

12 Q. All right. And then on the first page it
13 says -- actually on each page it says, "Please note that
14 prices on this report are line item prices and do not
15 reflect transaction-level discounts."

16 Can you just describe what that means, please?

17 A. Yes. A lot of these is just the overall gross
18 call-ins. It doesn't indicate anything that was given
19 as gifts from us sent to pastors or doctors to help out
20 other people. It doesn't show any of that.

21 Q. And those would have --

22 A. That would just drive me crazy trying to figure
23 out. I couldn't do it.

24 Q. And those would have been additional product
25 besides what's listed here?

1 A. No.
 2 **Q. Okay. So that you'd better explain then because**
 3 **are you saying then that these sales figures on these**
 4 **documents include the items that you gave away?**
 5 A. Yes.
 6 **Q. Okay.**
 7 A. Some of the items, for example, would be
 8 30 percent difference, something like that, you know.
 9 **Q. Would that be the high end of how much was given**
 10 **away or the low end or what?**
 11 A. I -- we shouldn't be in business, I mean, people
 12 have said years ago. I mean, we just give a lot away.
 13 I couldn't tell you. I don't know. Maybe some of the
 14 other stuff is stuff we give out that doesn't show up on
 15 here, too. Maybe that's -- we don't keep track of it, I
 16 mean.
 17 **Q. Okay. But it's your testimony that the**
 18 **\$6 million -- \$6.25 million that's reflected on the last**
 19 **page, which I take it is sales from January of '06 to**
 20 **December of '08; right?**
 21 A. (Witness nodding.)
 22 **Q. That some of that 6.2 million was given away?**
 23 **Or is it that that was your total revenue --**
 24 A. Let's put it this way. I've sent tens of
 25 thousands of dollars to people to help them get started.

1 can minister them. They go to different fellowships,
 2 some not even part of the -- it's just an open
 3 fellowship, whoever is there. We don't put laws on
 4 them.
 5 So they get the product from us.
 6 So then we have a practice that if anybody in a
 7 fellowship that's associated with us that wants to be,
 8 if they take that purchase that they got from their
 9 local center and they bring that receipt to their
 10 fellowship, the church, the pastor or whoever is in
 11 charge there, the secretary, keeps those. They send
 12 them to us. Okay.
 13 Now, we already have an expense of a product.
 14 Okay? Our cost.
 15 And so we aren't getting the donation that
 16 those suggested donations say. We're getting
 17 40 percent, 10 percent -- I don't know what we're
 18 getting of it, but we're getting what the value is, and
 19 then those people can support their own local
 20 fellowship or ministries.
 21 So I've already given away supposedly support
 22 for us, but that's supporting them, which in a way is
 23 supporting us. That's great.
 24 The next step, like I said, what happens is
 25 that people buy these products and they go to a church.

1 I've given as much as \$20,000 worth of product to
 2 churches so that they could do their own ministries, and
 3 it wouldn't show up there I guess.
 4 **Q. So it won't show up here.**
 5 **Does that mean that the 6.2 million is --**
 6 A. For example, for example --
 7 **Q. Uh-huh.**
 8 A. -- if a place got \$20,000 worth of product they
 9 could sell and I sent it to them, it would show that
 10 that was there. And what we try to do is, if they sell
 11 the product to whoever has a need, you know, tell them
 12 to get the donation or whatever, so they give it -- most
 13 of the churches don't get anything for it, but we have
 14 an invoice that we're going to receive \$10,000 of that.
 15 They never send it.
 16 So how many times that's happened in there I
 17 can't tell you. Three times minimum, maybe six times,
 18 maybe more.
 19 The other thing it doesn't show is that some of
 20 those sales that it shows there went through centers.
 21 In Georgia, for example, we have three centers
 22 there. Those numbers in there include every month
 23 purchases from those centers. Those people get the
 24 product. They then have it there so that people don't
 25 have to wait for shipping and they can help them. They

1 Well, if the church sends me the total of the
 2 donations, we send them a love gift based on that, and
 3 so now there are probably sometimes where we are really
 4 just maybe breaking even, you know. That -- I can't
 5 say how many times that's the case, but it is a case,
 6 you know.
 7 How to work that into those numbers is hard to
 8 do, you know, because we don't -- I don't chart that
 9 stuff. We just exist like that.
 10 So anyway, there's different things in there
 11 that like if we didn't talk about it now, I would never
 12 have brought it up again, you know, just so you know.
 13 And there are people who can verify that, you know.
 14 **Q. And just so you know, at this point in this**
 15 **deposition, I'm only looking for a bird's-eye view**
 16 **because you just provided this to us, your counsel just**
 17 **provided this to us.**
 18 **So would it be fair to say that these numbers**
 19 **are not exact but that approximately \$2 million a year**
 20 **of product is sold at least if you look since '06 to**
 21 **'08?**
 22 A. Of all of our 200 products?
 23 **Q. Yes.**
 24 A. Yeah, I'd say approximately.
 25 **Q. Okay. Just approximately?**

1 A. I would say, yeah, approximately.
 2 **Q. And of that --**
 3 A. On average or whatever.
 4 **Q. -- can you break out the four products at issue**
 5 **in the case and what that represents? Is it -- and I**
 6 **know you may not be able to do it exactly. I'm not**
 7 **looking for exact.**
 8 A. I don't know. 20 percent of it. I don't know.
 9 20 percent maybe.
 10 **Q. Okay. And --**
 11 A. Or maybe not even 20 percent. I'd have to --
 12 I'd have to get other ideas, you know.
 13 Say 25 percent. I'm just speculating. That's
 14 all I can do from that. I really can't be honestly -- I
 15 don't want to be misleading.
 16 **Q. Understood.**
 17 **Would your receipts show that if this ever**
 18 **became an issue and somebody needed to put that**
 19 **together?**
 20 A. I don't think we could break that down. I
 21 mean, I don't think -- I don't know if that has the
 22 capability of doing it without full-time -- I don't
 23 know.
 24 **Q. Okay.**
 25 A. But I mean, if need be, I guess if we have to do

1 something, we'll have to do something, you know.
 2 **Q. All right. And then I just want to be sure.**
 3 **These sales figures, do they represent all sales**
 4 **from not only the telephone call center but the Internet**
 5 **and --**
 6 A. Everything.
 7 **Q. -- catalog?**
 8 **Everything. All right.**
 9 **And you mentioned the three centers that operate**
 10 **out of Georgia.**
 11 **Nationwide, how many centers operate for you?**
 12 A. Oh, I've got to get a figure here.
 13 (Pause in the proceedings.)
 14 I guess eleven or twelve. I'm pretty sure.
 15 **Q. And can you estimate what percent of --**
 16 A. This is theirs?
 17 **Q. Yes -- of this business is theirs?**
 18 A. 50 percent of it.
 19 **Q. Okay.**
 20 **All right. Let's move on.**
 21 A. That's speculative. I mean, I'm -- I'm just
 22 trying to grab numbers. I'm just -- to -- I'm not
 23 trying to be -- I'm not just throwing things out to be a
 24 short answer for you. I just don't know, but that's a
 25 guess.

1 **Q. And why are the finances such a --**
 2 A. I hate money.
 3 **Q. -- difficult issue for you to --**
 4 A. I asked the Lord years ago -- and I really
 5 appreciate that question.
 6 After I had gotten saved -- and I was not a good
 7 person -- I told the Lord that test me in every way
 8 that -- to prove me. And what happened was I was left
 9 with nothing except the clothes on my back. And then I
 10 went and did my own ministry by myself and my ex-wife
 11 ran away with the kids.
 12 And then I watched people with money and
 13 ministries and I watched them fall. Either pride or the
 14 love of money, which is the root of all evil, brought
 15 them down.
 16 And I literally left Daniel Chapter One. I
 17 tried to give Daniel Chapter One away. My wife can tell
 18 you at least three times I did not want to do
 19 Daniel Chapter One. And the last time, the only reason
 20 I came back -- and this was during the time I had the
 21 MS -- I was in China and I had asked the Lord for one
 22 more faith walk because I thought I was going to die.
 23 And I literally went out to die one night in the car and
 24 didn't expect to be up the next day, and we were able to
 25 go to China.

1 On the way back, we were in a house church, a
 2 home church. They accepted me and my authority. And
 3 in the process, I told them I wanted to stay and
 4 disciple people -- because when we got there they said
 5 that they hadn't had any baptism or any converts in
 6 years. And the day we walked in there, there were
 7 three baptisms that the Lord brought there in
 8 Southern China, then up in Beijing and Mongolia, and so
 9 I wanted to stay.
 10 The head of the fellowship there said -- I said,
 11 I don't want to do Daniel Chapter One. I don't want to
 12 buy and sell. I want to go back to doing my street
 13 ministry.
 14 And in the process, he turned to me and he said,
 15 You know, you're going to smell like whale breath. If
 16 God wants you to do Daniel Chapter One, which we were
 17 anointed on earlier when we first started, you've got to
 18 do it.
 19 When I got back, I was so afraid of falling away
 20 from the Lord, I just told the Lord I'll do
 21 Daniel Chapter One. I'll do whatever you want me to do
 22 with this. I just don't want pride. I don't care about
 23 being known. I don't want pride. And keep me away from
 24 what happens with money.
 25 I mean, I -- money and things I just --

1 that's -- that's the answer.
 2 **Q. You have a very unconventional way of dealing**
 3 **with the money that's brought in by Daniel Chapter One,**
 4 **don't you?**
 5 A. Yeah. I have a responsibility to be -- utilize
 6 it for the best I can. I try to.
 7 **Q. But other churches and ministries deal with**
 8 **money differently than you do; isn't that the case?**
 9 A. Yeah. I'm afraid that some of these other
 10 ministries, their -- the mammon, M-A-M-M-O-N, the love
 11 the money is priority. I do need money for some things,
 12 but --
 13 **Q. I know you answered this question, but to an**
 14 **outsider looking at a Cadillac, as the car that --**
 15 A. Yeah.
 16 **Q. -- you use for the ministry, that just seems --**
 17 A. Yeah. You know, that's a great -- that's a
 18 great observation. And one of the things that I've
 19 realized over the years -- and that was a consideration
 20 for many years. And I had a Volkswagen bus. The doors
 21 used to fall off. We had no spare tires. The
 22 windshield wipers didn't work. Then we got a little
 23 tiny -- what the heck kind of car was that?
 24 I had to constantly put tin cans over the
 25 muffler, and the drive shaft fell off and everything

1 else, and I was like always broken down somewhere, you
 2 know. And then when we finally were able to get the
 3 means to have something that removed that, we did it.
 4 And I think if you look at it over the period of
 5 time, it's going to be a wise investment. Initially up
 6 front it doesn't appear that way, but that's -- that's
 7 what happens.
 8 I -- one of the things that my wife and I have
 9 tried to encourage people that come into our fellowship
 10 is to -- the same thing that happened to us, is we have
 11 to break away with judging with our eyes and ears and
 12 the material stuff, and when you see the deeper things,
 13 then that's more important.
 14 But it's just a reliable machine, and that's --
 15 **Q. Mr. Feijo, again with due respect, the property**
 16 **down in Florida, what justifies the need for that as**
 17 **opposed to just staying in somebody's home when you're**
 18 **down in Florida?**
 19 A. It's not always easy to have people, and we have
 20 a place there that can be utilized.
 21 When we started out on -- we believe in two
 22 types of walk, a faith walk and a fellowship walk. This
 23 is just us, you know. Other people don't believe, other
 24 groups, but that's okay.
 25 So we would go somewhere. We ended up in, say,

1 Poland. Well, we get to Poland on a faith walk and we
 2 just go trust in God, you know. It was just a one-way
 3 ticket, get off somewhere and just start going
 4 somewhere.
 5 So we ended up in a home church there, and the
 6 family has -- not the family. It would be multiple
 7 people would come in, people from all over. And these
 8 people would come in and they would have 2500 zloty --
 9 that's a quarter -- and that's to buy a loaf of bread,
 10 and Trish and I would have nothing. We were a burden to
 11 those families.
 12 And so at this point we realize we have a home
 13 and a place, God has blessed us with it, and we want it
 14 and we utilize it that way. It's something we don't
 15 idolize. It's something that will be used for whoever
 16 is raised up.
 17 **Q. But in fact you have two homes, one in Florida**
 18 **and one in Rhode Island?**
 19 A. Well, that's -- one is up north, and that's used
 20 for that ministry, and it's a piece of property used for
 21 the ministry, and that's what it is.
 22 A lot of churches a lot of places have a lot
 23 more than us, and we don't -- and maybe they're more
 24 righteous than we are with it, but I -- it's not a --
 25 it's a matter of trying to see who's better or who's

1 wiser. It's just -- we just have something.
 2 We had nothing for many years. We started out
 3 in a tent, which is just as good right now if we had a
 4 tent. We literally lived in a tent with no income, and
 5 that's how we did it and that's how we started, and here
 6 we are and we don't cherish anything more now than we
 7 did then.
 8 **Q. All right. Let's take a look now at what's been**
 9 **marked as FTC Exhibit 10.**
 10 **And could you just run through -- for the**
 11 **record, it looks like there's the first page and then**
 12 **some additional pages -- and give us an overview.**
 13 A. I don't know what this is.
 14 **Q. Okay.**
 15 A. This is a report from our -- from Jay Harrison,
 16 who runs the radio network. This is a PayPal account.
 17 And I have, in order to have things work
 18 properly, different ways of allowing people to do
 19 things without knocking them down and getting my
 20 permission every three seconds, but they can have some
 21 authority.
 22 They need funds sometimes for ability to -- you
 23 know, maybe -- they don't use tubes anymore. Maybe a
 24 computer breaks, burns out or something like that, a
 25 hard drive. Whatever he needs to get, he needs to keep

221

1 things running, that's what they do.

2 So this is the first time I've actually seen the
3 report. He's never given me reports on it. I trust
4 him. I trust him with everything I have.

5 **Q. All right. Under Revenue there on the first
6 page there's a reference to eBay payments.**

7 **How do you use eBay at Daniel Chapter One?**

8 A. I don't know. I've never -- I don't use eBay.
9 Jay Harrison does, and I guess different folks at
10 Daniel Chapter One will if something comes up where they
11 can only get it through eBay cheaper. I don't know how
12 that works. I don't know how eBay works.

13 **Q. Is it your understanding that Jay Harrison is --**

14 A. I don't know what eCheck is. I don't know.

15 **Q. And is it your understanding that Jay Harrison
16 would be in the best position to answer that type of
17 question?**

18 A. Yes.

19 **Q. All right. And then there is a reference to
20 merchant referral bonuses, and on this it's only one
21 dollar, but do you know what that is?**

22 A. Where is that?

23 **Q. It's the third item under Revenue.**

24 A. Oh, merchant referral bonuses.

25 I don't know how that works.

223

1 lawyer that would put some flesh on that question
2 and --

3 A. On the cost of radio?

4 **Q. Yes.**

5 A. I can -- I can try to get them. I'll make
6 an -- I know things -- radio, you're on a station,
7 you're off a station, you know, you're on a new station,
8 you're off a station, so things fluctuate all the time.
9 Some kind of material we can -- expense for radio
10 operations.

11 **Q. All right. Another question that I want to ask
12 relates to the corporation sole status and choosing
13 Washington state to register as a corporation, so what
14 is Daniel Chapter One's connection with Washington
15 state, if any?**

16 A. It was a -- across the country there were
17 articles in Christian newspapers about 501(c)(3)s and
18 corporation soles, and so I was interested in it. And
19 the one that I ran across that people knew about was the
20 one from Washington.

21 And so that was my first contact, and I
22 understood it and I believed that when it said that
23 everything belonged to my story and that all -- then we
24 said this is what it is, it belongs to the Lord, what we
25 have now and forever. And I like that.

222

1 **Q. All right.**

2 A. It's pretty good, though, huh?

3 I'm sure that's some kind of thing that eBay
4 must have where if you're a good -- it must be like one
5 of those things if you're -- buy a lot of gas, they give
6 you extra gas. It has to be something like that.

7 **Q. All right. But you don't know for --**

8 A. No, I don't know, I don't, sir.

9 **Q. All right. Let's go on to the next page, and
10 can you give an overview of that?**

11 A. No. I wouldn't know any of those people or what
12 those things are. None of it.

13 **Q. Is this something that Jay Harrison prepared?**

14 A. Yes. I think. Or provided.

15 Yeah, it looks like all the stuff -- yeah.
16 Yeah, I couldn't tell you one of these things, sir.

17 **Q. All right. Mr. Feijo, no need to look at this
18 anymore, so put it aside.**

19 A. Yeah.

20 **Q. And a couple of more financial-related
21 questions.**

22 **The first is, earlier you mentioned that DCO
23 pays for the radio program and you gave an estimate of
24 an annual payment.**

25 **Are there documents that you could give to your**

224

1 **Q. All right. And is there any other connection
2 that you have with Washington state?**

3 A. No. No. I just...

4 **Q. Did you sell Daniel Chapter One products prior
5 to registering as a corporation sole?**

6 A. Yes.

7 **Q. For how long?**

8 A. Boy. Boy, a long time. Oh, no.
9 Daniel Chapter One products?

10 **Q. Yes.**

11 A. Oh, I don't know. We were -- I guess quite a
12 while. I'd have to look at those dates. I -- when it
13 all started I couldn't -- I know, you know, we started
14 in '86, so -- but we weren't selling products then.

15 **Q. And in your --**

16 A. I mean our products.

17 **Q. And in your mind, what advantage, if any, did
18 registering as a corporation sole give to you?**

19 A. The fact that it stated that we are a sovereign
20 entity of Jesus Christ. That's my -- and that I don't
21 want to own anything and it belongs to God, truly
22 belongs to him, and he'll judge me if I'm righteous and
23 unrighteous with it, or other people will, too, but...

24 **Q. Was there an individual who you consulted to --
25 regarding the status?**

1 A. I went to -- I went to Rita Johnson, who is the
 2 founder of the corporate sole, not mine but all -- to
 3 register them, in order to register in Washington.
 4 **Q. Okay. So that would be somebody at the state**
 5 **level, or is that -- who is that person?**
 6 A. Rita Johnson is -- she just died a few -- well,
 7 she died of cancer just a few months ago. She just had
 8 knowledge of corporation soles.
 9 **Q. And was she active in the Christian community?**
 10 A. Oh, she was really --
 11 **Q. And I'm sorry. I'm having trouble hearing. I**
 12 **know it's late.**
 13 (Discussion off the record with the
 14 court reporter.)
 15 THE WITNESS: Yes. She was -- I don't know
 16 what group of Christians she was. I know she was
 17 God-fearing of the Lord. That's all I know. She loves
 18 the Lord and --
 19 BY MR. ZANG:
 20 **Q. Again, I'm sorry, because you are mumbling now.**
 21 **God-fearing and --**
 22 A. I am, I am. I'm very sorry. Okay.
 23 **Q. We don't want to have to do this again.**
 24 A. No, no.
 25 Okay. She was active in Christianity, and I

1 don't know what nature of her relationship of any type
 2 of church.
 3 **Q. On those occasions in the past when you**
 4 **contemplated giving Daniel Chapter One away I think you**
 5 **mentioned three times --**
 6 A. Yes.
 7 **Q. -- were you planning to have somebody else**
 8 **operate Daniel Chapter One?**
 9 A. I did leave it with people in the fellowship.
 10 Yes.
 11 **Q. And at that time or times, did you have plans to**
 12 **do something else with your own life?**
 13 A. Yes.
 14 **Q. And what were those plans?**
 15 A. I left Daniel Chapter One with all of its
 16 resources and everything to individuals at the
 17 fellowship at that time. And we left to Europe one
 18 time, to Israel another time and to China a third time
 19 on one-way tickets, not expecting to come back, no group
 20 or anybody to go to, just knowing that we would be where
 21 we should be and not expecting to do anything as far as
 22 a business goes. We went to see how God would use us
 23 and let us walk by faith.
 24 So we didn't even expect to -- didn't want to
 25 turn back, didn't have expectations of coming back,

1 and -- but we ran into different situations as we were
 2 out there.
 3 **Q. At those times when you left, did you receive**
 4 **any donations from Daniel Chapter One?**
 5 A. No. Never. No. We totally left. If you're
 6 going to walk by faith, we believe we walk by faith.
 7 They never sent us a dime, didn't send us food,
 8 clothing, nothing.
 9 Were we entitled to it? Could have -- you
 10 know -- sometimes it could help, but it didn't.
 11 Yeah. And that's -- and it was really good
 12 things.
 13 **Q. If and when you retire from Daniel Chapter One,**
 14 **will you get any sort of donations from them for --**
 15 A. No.
 16 **Q. -- your retirement?**
 17 A. Never. When we leave, we leave. Whatever
 18 properties are available, whatever money is there is --
 19 belongs to Jesus and whoever he has oversee it, and we
 20 just go on. We just go somewhere else. We have
 21 literally no expectations to anything as to be in our
 22 pocket for us.
 23 Scripturally, the two things of the faith walk
 24 never -- the faith walk and the fellowship walk.
 25 Because a faith walk the Lord sends people out not

1 knowing where you're going, which not many churches
 2 understand that, but that's okay. You go out not
 3 knowing where you're going to go and you don't take
 4 anything for yourself.
 5 And then a fellowship walk is when you go out,
 6 and the body lays hands on you to send you out to take
 7 care of the needs of the fellowship, but you're still
 8 not taking it out for yourself.
 9 So for example, when we went into the home
 10 churches in China or wherever we were and we run in to
 11 a home church not knowing where they are, but we run in
 12 to them, the principal issue, the knowledge, the
 13 authority there -- and my wife can tell you that when
 14 we walk in and whoever the authority is there, I give
 15 them my money. There it is for whatever you guys need,
 16 and this is what I have. This is what we can use. And
 17 every -- that's -- whether it's -- whatever place it
 18 is.
 19 So the answer to that question is that we have
 20 no expectations that if we were to leave today that I
 21 deserve anything to take with us or responsible.
 22 MR. ZANG: And I think we should take a break
 23 now.
 24 Let's go off the record.
 25 (Recess)

1 BY MR. ZANG:

2 Q. For this segment, some of the questions will be
3 rather random, and that's just because they're cleanup
4 questions.

5 So the first one is: Can you testify as to how
6 often the prices or the amount that you ask for
7 donations for your products change over time?

8 A. Very few times. I think maybe three times in
9 the last ten years. I'm not sure.

10 But the only -- we usually -- the problem with
11 us is we usually don't change the prices so long, and
12 the price of the -- running, you know, Chapter One and
13 all the expenses and the people and personnel and
14 everything else and the cost of the product goes up so
15 much that we are forced to raise the suggested donation,
16 you know, offer.

17 Q. When was the last time that you raised the
18 suggested donation?

19 A. 9-11.

20 Well, two years ago maybe. I think it was two
21 years ago. I'm trying to remember. It was -- I don't
22 even think it was 9-11 but maybe two years ago.

23 There was a time when everything went --
24 whenever the -- everything went sky high because of all
25 the costs of shipping and everything doubled and

1 some numbers.

2 If they went through seven days of a bottle a
3 day -- let's say that. Let's make things easy life for
4 me. Okay? Let's say ten days. That would be \$700.
5 Okay? And then say over the next twenty days they get
6 another ten bottles, so let's use that. That's \$1400.
7 That's extremely high. Okay? That would be roughly
8 1700 and -- \$17,000 -- \$17,200 I think. That would be a
9 lot -- and that's a lot of money.

10 Q. On an annual basis?

11 A. Yeah.

12 But nobody ever does that, but I'm just using
13 that extreme. Okay?

14 Compare that to what a surgery would cost of
15 hundreds of thousands of dollars. It's pretty
16 reasonable.

17 Q. Why are these products so expensive? Are the
18 materials that are used to make them expensive?

19 A. Yeah. We use a high-quality product, and
20 there's shipping in it. There's shipping to bring these
21 so far.

22 And I tell you, one of the stuff is that the
23 ability to have a product that could save somebody's
24 life is worth something, you know.

25 I mean, they don't cause cancer. In

1 everything. Probably the -- but we only raised it like
2 a dollar or something.

3 Q. I'm sorry. You only raised it a dollar or
4 something?

5 A. A dollar or 1 percent or something like that and
6 it wasn't much.

7 Q. Well, there would be a big difference between a
8 dollar and 1 percent unless you're saying that a package
9 costs a hundred dollars.

10 A. Some -- I can't -- I couldn't tell you. I
11 don't -- we raised the prices I think across the board a
12 dollar for everything, whether it was -- whether it cost
13 fifty dollars to produce or suggestion to fifty-one or
14 ten dollars to eleven dollars, I think we just went a
15 dollar across the board.

16 Q. Mr. Feijo, given the dosages that you seem to
17 recommend on your radio show or elsewhere and the cost
18 of the product, it can add up, can't it, in terms of
19 what people have to pay?

20 A. Well, I have to tell you, it is a definite
21 concern to us.

22 For example, if you compare what we suggest at
23 the high end for the use of -- and since we're talking
24 about cancer -- 7 Herb Formula, a person buying ten
25 bottles for the first -- let's see. Let me give you

1 relationship to things that the world offers that can
2 cause cancer, that's pretty good.

3 Q. The 7 Herb Formula, how much does it cost for
4 you to obtain that from the distributor?

5 A. By the time it's all produced and everything and
6 all that stuff? Probably 30 percent of that.

7 Q. 30 percent of what you need to charge?

8 A. Well, what we ask for an offering.

9 Q. Okay.

10 A. That's not counting radio. That's not counting
11 everything under the sun, you know. It's not counting
12 knowledge. It's not counting ability to -- what's a
13 person's life that's been saved? You know, whatever,
14 you know.

15 Q. Okay.

16 A. And the other thing is they also -- when they
17 buy multiple, they get -- they can get a bottle free,
18 you know, an extra bottle if they want, so -- and plus
19 we use it for other people that can't, those who have,
20 and kind of like what Obama is trying to do.

21 Q. Okay. Some Web sites that I want to ask you
22 about. The first one is dconepages.com.

23 What is that?

24 A. I don't know. That's one of those crazy -- one
25 of those crazy things when you switch from one -- what

1 do they call them -- provider, or I don't know what they
2 are. In order to do one thing, you go through this
3 company, and then when you want to do another one, when
4 they switch or they close or they raise their --
5 whatever they do, they change, then you got to go
6 through another one. That's all -- I think
7 Jeremy Turner at the time was the one involved with that
8 or I don't know who was.

9 **Q. So the best of your knowledge, it has to do with
10 the provider of the Web page?**

11 A. Yeah. I think so. I mean, where it's housed I
12 think.

13 **Q. Where it's housed.**

14 A. Yeah.

15 **Q. And then dstore.com, what's that?**

16 A. That's another one that's a different -- they
17 house that system over there, you know.

18 **Q. But both of those Web sites are your own?**

19 A. Yeah. Yes.

20 **Q. All right. We spoke earlier this morning in
21 fact about recordkeeping, and you've testified that you
22 don't keep too many records, with the exception of some
23 of the articles that we spoke about, but what about
24 donations?**

25 **Do you keep records of donations to**

1 resources we had. He literally built it as of like a
2 twenty-year-old or twenty-one-year-old. And he
3 oversees that and he coordinates radio. He's -- he's
4 brilliant.

5 **Q. Do you have any sort of ownership interest
6 yourself in Accent Radio Network?**

7 A. No. It's -- it's a subsidiary of
8 Daniel Chapter One. Daniel Chapter One -- that's
9 Daniel Chapter One -- it belongs to Daniel Chapter One.

10 **Q. Okay. Andrew McGee, who is he?**

11 A. He's one of the board-op.

12 **Q. What does "board-op" mean?**

13 A. Anyone who -- if you were doing a show and they
14 would take the incoming calls, they would put you up on
15 the satellite, they would control volumes and -- it's
16 pretty complicated stuff. I used to do it when I first
17 started radio. I used to do everything when I started.

18 And that's what Andy does. He's great.

19 **Q. Then Jeremy Turner I assume is of no relation to
20 your attorney, Mr. Turner, here, but who is he?**

21 A. But he's very bright, too. He's a young
22 gentleman. His dad was a pastor, used to be a pastor
23 down there. Jeremy Turner came right out of
24 high school, worked for us, and just recently has been
25 married and moved on to a better income-producing job

1 **Daniel Chapter One?**

2 A. Only since -- only since the FTC started. But
3 that's to -- for those who want to help us to defray
4 cost. Other than that, I wouldn't.

5 Other than that, I wouldn't.

6 MR. ZANG: Let me ask the reporter to mark this
7 document as Exhibit 11 for identification.

8 (FTC Deposition Exhibit Number 11, First
9 Supplement to Respondents' Response to Complaint
10 Counsel's First Set of Interrogatories, was marked for
11 identification.)

12 BY MR. ZANG:

13 **Q. Mr. Feijo, this is a supplement to respondents'
14 answers to the FTC's interrogatories, and I want to ask
15 you to quickly go through the people listed here and
16 their responsibilities like we did earlier.**

17 A. Okay.

18 **Q. Let's start with Jay and Michelle Harrison.**

19 You already testified, did you not, to some
20 extent about Jay Harrison?

21 A. Yes.

22 **Q. And Audio Light Productions are their company?**

23 A. Jay Harrison is a gentleman who literally built
24 Accent Radio Network. There would be no -- without his
25 knowledge and wisdom -- all I did was provide whatever

1 for him.

2 What I try to do is to provide housing and
3 places for these -- some of these people so they have
4 places to live. That's one of our goals for that
5 property that we had down there so that we could have
6 housing for people.

7 **Q. By "down there" you mean Florida?**

8 A. Yes.

9 **Q. All right. And then let's move down to
10 Heather Cheek, C-H-E-E-K. I want to ask you about the
11 billing reference.**

12 **What is that function?**

13 A. That's the -- she's not with us any longer.
14 She's getting married. Everybody is getting married.

15 She would bill for Accent Radio Network people
16 who put ads on there or who bought time off our
17 satellites, to that extent, those kind of things.

18 Jay Harrison knows more -- he knows the answer
19 to that. And you'd be happy with his answers because he
20 knows what he's talking about.

21 **Q. But for the record, the radio does generate
22 revenue from either selling advertising or from --**

23 A. Yeah.

24 **Q. -- giving time on the stations?**

25 A. Different ways they try to support itself.

237

1 We're hoping it can support itself completely.
 2 **Q. Does it?**
 3 A. No. Daniel Chapter One does. Yes. No, it
 4 doesn't. I wish it did.
 5 **Q. Then Will Herndon, H-E-R-N-D-O-N, is listed but**
 6 **without functions.**
 7 **What are his functions?**
 8 A. He's an assistant to Jedediah, but he does -- he
 9 oversees -- he runs my program, Trish and I,
 10 Daniel Chapter One's program, and a multifunction there,
 11 kind of almost like an overseer there, more mature.
 12 **Q. And you've mentioned this a few times, and maybe**
 13 **because it's late I am just forgetting, but Jedediah,**
 14 **who is that? Or what is that?**
 15 A. Jedediah Harrison is the general manager of the
 16 whole thing.
 17 **Q. "The whole thing" is the radio?**
 18 A. Yeah. Accent Radio Network, he oversees it all,
 19 programming, technician, everything.
 20 **Q. Is that just another name for Jay?**
 21 A. Yes.
 22 **Q. Oh, okay.**
 23 A. Yes. Exactly. We should have --
 24 Jedediah Harrison. And actually when we refer to him as
 25 "Jay," we just use the letter J. We don't even use A-Y.

239

1 they can that hour, and they couldn't care who's getting
 2 better. Some people may not care; some people may care.
 3 But the intent of them is an infomercial-type program to
 4 sell product, and they don't have personal contact with
 5 the people, nor do they care to, and they just want to
 6 do a radio show and get out of there.
 7 And we have counseling and we have -- we try to
 8 do everything we can, and so our program -- we take a
 9 lot more time with people and we break all the rules.
 10 You're supposed to only -- according to radio, you're
 11 supposed to spend three minutes with somebody and then
 12 get right to the next caller, and it's just push, push,
 13 push. We spend ten to twenty minutes with one person,
 14 you know, I mean, but that's -- we're different. Some
 15 people like it that way; some people don't.
 16 Stations -- to try to get on a station for them
 17 to pick us up so they can get advertising to support us
 18 to pick us up, it's hard for them, you know.
 19 **Q. Reading one or two of the transcripts of the**
 20 **radio show, it appeared to me anyway that there was a**
 21 **lot of -- there were a lot of comments made about the**
 22 **FTC and the FDA and they were not very --**
 23 A. Well, I have been very apologetic lately.
 24 **Q. Let me finish -- and they were not very --**
 25 A. Flattering.

238

1 Is it A-Y here? Yeah. See, we don't even use
 2 A-Y.
 3 So Jedediah Harrison, that's him. I'm sorry.
 4 Yes.
 5 **Q. Joel Turner?**
 6 A. No longer with us. He also went on to get
 7 another job. He and Jeremy and his dad went to start a
 8 computer program, a computer service.
 9 **Q. But it indicates here that he worked on**
 10 **promotions.**
 11 **What kind of promotions?**
 12 A. He was supposed to come on. He was with us for
 13 like two months, was going to try to help promote us,
 14 affiliate programming to get us on other programs and
 15 whatever Jay would have needed to help improve Daniel --
 16 improve Accent Radio Network.
 17 **Q. Has anybody stepped into that role to do**
 18 **promotions?**
 19 A. No. I would -- no.
 20 We're not a very promotable program.
 21 **Q. Why is that?**
 22 A. Well, most health talk shows are trying to push
 23 a product. If you listen to some of these guys, they
 24 got one thing on their mind. Whether it's a doctor or
 25 anybody else, their whole goal is to make as much money

240

1 **Q. -- flattering comments.**
 2 A. I know.
 3 **Q. Is that something new or is that --**
 4 A. Yeah, it's pretty new. It was just new. I have
 5 to admit that I've repented of those things because
 6 initially I had very hurtful feelings because I really
 7 feel that what we're doing to help people has been
 8 hindered, and I kind of felt real -- my wife maybe, too,
 9 probably more so me, because I have to tell you in all
 10 honesty why -- and there's no justification for it, and
 11 I -- but I have to tell you. All I could think of is
 12 walking into my wife's office and seeing a young lady
 13 with a two-year-old child harmed by a vaccine and is a
 14 complete vegetable and people's faces ripped off or
 15 burnt away from --
 16 **Q. From what? Sorry?**
 17 A. From radiation.
 18 And it's just those kind of things in my mind
 19 that I feel this is impeding our -- us from doing what
 20 we believe is good, you know, and I -- and I have to
 21 tell you, in defense of the people who listen to us,
 22 they've come up to us and they're really wonderful
 23 people and they've said, Jim, Trish, you got to love
 24 people, and they told us we need to repent. And we're
 25 not beneath that.

1 So we received that from them, and I -- I have
2 been very -- part of it -- some of the stuff I used to
3 do about the FDA was just, you know, radio. But I got
4 to confess, this last year has been -- I've been bad.
5 And I apologize. I do.

6 **Q. The last person on this list, David Gornoski,
7 is listed as doing promotions, marketing and
8 fund-raising.**

9 **Can you describe that?**

10 A. Yeah. We're hoping that -- well, right now,
11 none of that is taking place because since he's come on
12 board, he's been doing a hundred percent helping us to
13 present our position.

14 We were -- his original intent was totally that,
15 what's listed here, and it hasn't happened because he's
16 taken on helping us. He's a really bright kid, really a
17 terrific kid.

18 **Q. I want to turn to the FDA, and it's our
19 understanding that they issued a warning letter, and
20 among other things, we saw the copy of the warning
21 letter on your Web site.**

22 A. Sure.

23 **Q. And believe it or not, we are not in regular
24 contact with them and wanted to just find out what
25 developments, if any, have happened with the FDA in the**

1 **last few months.**

2 A. They came to visit us and real nice folks that
3 came by and came by when I was on the radio show and I
4 just asked them to hang out and then I could would come
5 down as soon as I could because we're giving up the
6 radio show today and tomorrow and paying for all that
7 time, so...

8 They came down, and I told them, well, we had
9 talked to Jim Turner. And I told Jim. He says, Talk to
10 them. He says, This is what they request. Can you give
11 it to them? I said yes.

12 So we gave them the request, and they came back
13 again and they wanted samples of the products. We gave
14 them to them, and that was it.

15 Since then --

16 **Q. Have you heard anything from them?**

17 A. No thank you.

18 **Q. Do you have any idea what action, if any, they
19 might take?**

20 A. I don't have any idea what they might take, but
21 I don't think that our encouraging somebody to use
22 something makes it a drug, so obviously they're going to
23 want to hang me I guess. I don't know what they're
24 going to do. They're just going to -- I don't know what
25 they want to do.

1 I mean --

2 **Q. You haven't heard formally, though?**

3 A. No, no, no, no. We're -- we're just very happy
4 to be where we're at right now. This is good. Very
5 happy.

6 MR. ZANG: All right. Let me ask the reporter
7 to mark as the next exhibit -- that would be 12 --
8 something that's titled BioGuide.

9 (FTC Deposition Exhibit Number 12, BioGuide, was
10 marked for identification.)

11 BY MR. ZANG:

12 **Q. Mr. Feijo, this is a long document. I'm just
13 going to ask one general question and then a specific
14 question or two about page 353.**

15 **So, Mr. Feijo, can you identify this document?**

16 A. This is our publication called BioGuide 3. It's
17 our latest publication that has information from our
18 centers, our doctors, descriptions of our products and
19 testimonies from people and pets and everything.

20 **Q. Were you responsible for putting this together?**

21 A. Yes.

22 **Q. And does it go out to people who are interested
23 in your products?**

24 A. People who request it.

25 **Q. Let's go to page 353, FTC-DCO 353.**

1 A. Yep.

2 **Q. Its heading is Cancer Brain Tumor, and I presume
3 that much of the text is a testimonial regarding Tracey.
4 Is that right?**

5 A. Yes, sir.

6 **Q. Just a couple of questions.**

7 **It says up at the beginning that the doctors had
8 pretty much given up on Tracey, and I'm curious if you
9 wrote that or if your wife did.**

10 A. I believe that was -- it might have been from
11 Ed Durant.

12 **Q. All right.**

13 A. Or maybe -- my wife would know better I think.
14 She would be able to give you a correct answer.

15 **Q. All right.**

16 A. It's a statement that we received from her dad
17 or her.

18 **Q. And then at the very end of the page it says,
19 "Tracey, free of leukemia, brain, heart and liver tumors
20 using DC1 products, was given no hope by doctors that
21 summer of 1997 when she refused chemo and radiation."
22 Then it says, "She continues to live well, free of
23 cancer."**

24 **Do you know, is she still alive?**

25 A. Yes. Yes, she's still alive. She had back

245

246

1 surgery the last I heard, and I don't know more about
 2 that.
 3 Q. Okay.
 4 A. That was 11-12 years ago.
 5 Q. All right. Let's move on.
 6 What is the corporate structure, if you know, of
 7 Accent Radio Network? I know you mentioned that it's --
 8 I think you said it's a subsidiary of
 9 Daniel Chapter One. Is that right?
 10 A. Yeah. It just belongs to Daniel Chapter One.
 11 Q. And does it have an independent registration or
 12 corporate structure?
 13 A. No.
 14 Q. Does it file any tax returns for any revenue it
 15 generates for advertising?
 16 A. No.
 17 MR. ZANG: Well, I want to thank you very much
 18 for coming here today. I appreciate it.
 19 We have a bunch of documents that we discussed
 20 today that we will follow up on, and I think my
 21 colleague wants to make a statement at least just about
 22 a few of them that we'll want to get copies of.
 23 MR. DULABON: We'll go through the transcript
 24 and find out everything that was requested, but I know
 25 at least two -- and we'll put this in a letter as well,

1 but I just thought it would be easy to have this on the
 2 record, too -- requesting a copy of the form showing
 3 receipt to a charitable organization after a consumer
 4 purchases one of the products and documents relating to
 5 the costs involved for the radio program.
 6 So those are two things we discussed, and we'll
 7 look to see what other things are and put that in a
 8 letter to Mr. Turner.
 9 MR. ZANG: And Jim, is there anything that you
 10 want to put on the record?
 11 MR. J. TURNER: No. I think we're fine.
 12 MR. ZANG: Mr. Feijo, thank you again.
 13 THE WITNESS: Thank you all.
 14 MR. ZANG: Let's close the record.
 15 (Whereupon, the foregoing deposition was
 16 concluded at 6:25 p.m.)
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247

1 CERTIFICATION OF REPORTER
 2
 3 DOCKET/FILE NUMBER: 9329
 4 CASE TITLE: Daniel Chapter One and James Feijo
 5 HEARING DATE: January 13, 2009
 6
 7 I HEREBY CERTIFY that the transcript contained
 8 herein is a full and accurate transcript of the notes
 9 taken by me at the hearing on the above cause before the
 10 FEDERAL TRADE COMMISSION to the best of my knowledge and
 11 belief.
 12
 13 DATED: JANUARY 14, 2009
 14
 15
 16 JOSETT F. WHALEN, RMR
 17
 18
 19 CERTIFICATION OF PROOFREADER
 20
 21 I HEREBY CERTIFY that I proofread the transcript
 22 for accuracy in spelling, hyphenation, punctuation and
 23 format.
 24
 25 DIANE QUADE

A				
abide 9:19 49:18 112:18,22	145:25 146:1,3 165:23 192:20 204:22 220:16	163:10	ahead 166:17 194:20	181:20
ability 7:2 89:11,11 89:17 90:4 91:17 93:10 107:17 110:4 111:16 112:15 124:20 220:22 231:23 232:12	accountable 204:19	additional 13:4 165:20 208:24 220:12	air 136:9	angiogenesis 90:5 106:23 107:18,24
able 7:6 19:10 20:7 41:7 43:1,7 85:19 94:20 97:1 113:23 113:23,24 114:14 115:10 141:5,8 154:21 157:16 163:16 164:8 165:20 180:23 187:5 213:6 215:24 218:2 244:14	accounts 192:14,19	address 99:15,15 170:19	Al 169:6,6 175:17 199:21	Ann 127:9,10
above-entitled 2:17	accumulation 30:14	adhere 55:7	Alan 195:4	annual 222:24 231:10
absolutely 29:23,23 58:12 81:1	accuracy 32:17 33:8 125:24 126:6,9,10 247:22	adherent 56:11	alarm 15:20	annually 46:7,21
Accent 234:24 235:6 236:15 237:18 238:16 245:7	accurate 5:6 25:25 28:1,11 29:25 30:22,25 33:17 58:25 63:2,5,8 88:22,24 89:1,4,6 98:15 99:1 100:12 100:14 102:21 103:4 110:23 132:22,25 133:1 133:13 153:8 165:1 189:18,18 190:10,15,21 191:6,10 192:9,12 192:17 197:14 198:1,4,19 199:5 199:17,24 200:3 200:10,16 202:2,8 202:13,14,21 203:3,9,19 247:8	adjunct 139:8,11	albeit 144:18	anointed 216:17
accept 134:16	acid 123:13 137:19	admit 98:23 99:12 99:21 100:9,19 102:11,18 135:11 135:20 240:5	Albert 169:7	answer 1:9 6:1 11:8 45:1 46:24 50:13 55:9,10 56:11 58:21 62:17 85:5 85:11,18,19 86:20 97:20,21,22 98:19 98:23 99:1,11 100:18 101:18 102:9,10,15 117:9 129:4,17 131:21 133:3 136:4 144:24 164:5 179:14 180:5 197:8,22 202:15 214:24 217:1 221:16 228:19 236:18 244:14
acceptable 7:25 112:1 113:15	acknowledged 93:24,25	ads 236:16	alive 44:14 244:24 244:25	answered 48:20 86:22 103:16 135:9 217:13
accepted 93:23,24 216:2	acquire 42:17	advance 12:16	allegations 98:20,21 100:18 102:10	answering 21:11
access 83:8 162:3	accurately 5:5 7:2,5	advancing 30:14	alleged 197:11 201:25	answers 4:23 44:25 85:11 117:7 169:2 170:20 234:14 236:19
accidents 91:6	acid 123:13 137:19	advantage 224:17	Allegedly 183:17	anthropometric 59:9
accommodate 5:23	acknowledged 93:24,25	advertise 175:13	allopathic 91:13 112:4 114:12 205:6 206:1	antiangiogenesis 90:12 122:24 123:19
accomplish 13:20 35:2 150:23	action 50:10 84:18 242:18	advertising 175:17 236:22 239:17 245:15	allopathic-method 92:6	antiangiogenic 90:6
account 30:18 43:17 43:18,19,21 44:10 45:3 66:22,24 67:1 67:3 68:25 69:11 69:12 70:1 74:21 75:5,8,11,12 76:5 77:22 78:9,12,13 78:17 80:18,21,25 82:2,5,8,11 83:1,3 144:10 145:17,24	actively 225:9,25	afford 37:25,25 58:19,20	allopatics 205:17	anti-inflammatory 139:18
	activities 12:8 69:8 100:5 184:19	affirmatively 49:14	allowed 8:9 140:22 173:15	anybody 10:24 15:15 20:6 21:7,16 24:9 25:4 26:20 33:18 34:13,14 41:10 42:8 48:8 53:22 62:7,14 68:5
	activity 123:18	affiliation 47:5	allowing 36:19 220:18	
	actual 57:19 134:7 137:25 165:5	affirmatively 49:14	allows 89:18	
	ad 152:7	afford 37:25,25 58:19,20	almighty 46:14 49:3 49:12	
	add 230:18	afraid 115:13 216:19 217:9	amazed 118:9	
	added 49:25 124:12 125:5	agent 139:15	amazing 34:11 53:11 180:15	
	addition 5:19	ago 19:4 35:5 53:15 53:21 59:13 74:6 92:25 108:15,16 108:17 109:22 121:25 127:7 141:9 153:13 173:22 175:20 179:24 209:12 215:4 225:7 229:20,21,22 245:4	Amendment 12:5,9 12:17 33:2	
		agree 205:21,22	AMERICA 2:1	
		agreed 19:8	American 80:16 81:20 82:1 84:8	
		agreement 49:25 195:21	amount 39:20 76:23 145:20 146:17 153:7 155:8 165:7 174:9 188:8,8,15 229:6	
			analysis 104:1	
			Andrew 235:10	
			Andy 235:18	
			Angel 57:15 58:5,13	

[249]

68:12 83:8,10,12 83:12,13 84:5 96:9 108:2 134:10 140:23 155:11 163:3 194:1 205:5 205:7 211:6 226:20 238:17,25	article 57:16 58:3,5 articles 108:8 119:19 177:18 187:17 188:22 197:9 223:17 233:23 articulate 4:23 artificial 54:15 artist 199:20,22 artists 169:5 aside 18:14,16,19,22 75:19 76:15 88:17 88:19 104:7 146:8 165:21 181:5 195:15 222:18 asked 26:25 27:2 33:13,18 34:13 56:13 94:5,11 107:4 151:1 158:3 195:11,18,18 215:4,21 242:4 asking 9:2 24:18,18 26:24 27:1 33:5 34:9,14 44:9 45:2 84:24 85:4 103:8 149:14 159:1 180:12 asks 91:13 aspect 123:12 145:6 162:23 assert 8:2 asserted 8:2,13 assets 198:17 assimilated 121:19 assistant 237:8 associated 80:13 140:3 211:7 assume 157:19 168:9 235:19 assumption 12:7 atherosclerotic 92:5 athlete 22:12 23:18 24:6 Athletic 47:16 ATP 54:3 attempt 8:10 17:4 attention 84:25	85:25 86:2 87:3 98:4 137:17 149:5 150:8,21 152:22 154:2 166:20 176:11 attitude 112:4 attitudes 51:3 attorney 163:17 235:20 audio 21:10 234:22 authority 13:15 46:14 49:17 112:16 193:22 216:2 220:21 228:13,14 available 90:12 157:8 187:16,18 188:6,9,12 202:18 227:18 avenues 26:12 average 213:3 avoid 113:10 114:22 aware 24:13 162:18 awesome 57:4 137:14 174:2 205:25 awful 82:3 Axel 174:23,25 175:23 A-X-E-L 174:25 A-Y 237:25 238:1,2 a.m 2:18	226:25 242:12 244:25 background 9:2 47:1,18 117:19 backs 34:1 bacteria 110:22 bad 69:17 180:19 241:4 balance 130:17,17 130:18 bank 30:18 43:17,18 43:21 44:1,10 45:3 45:4 66:22,23 68:25 69:11 70:1 74:21,23 76:5 77:22 78:8,12,17 80:12 144:10 157:22 165:23 192:14,24 banking 167:14 bankrupt 42:23 baptism 216:5 baptisms 216:7 Baptist 17:9 based 12:5 36:13,13 54:18 85:12 92:16 94:7 125:6 131:17 212:2 basic 44:14 basically 13:15,19 29:4 38:9 151:8 167:18 basis 17:18 108:5 136:8 157:17 231:10 basket 152:11 Bates 105:4 148:2 182:22 Bates-numbered 158:6 Bates-stamped 157:1 battle 132:19,23 133:15 battles 131:11 132:3 132:14 134:9,18 battling 135:5,7	Beach 71:7 bear 50:23 bearing 177:19 bears 56:1 beats 54:2 bed 31:11 bedrooms 71:10 beef 53:5 began 34:5 53:17 119:13 beginning 10:20 75:16 117:11 244:7 behalf 3:3,15 201:22 Beijing 216:8 belief 50:23 115:24 157:15 247:11 believe 12:17 22:25 31:21 33:11 45:16 45:19 48:15 52:4 58:7,24 61:9,18,22 61:24 80:2 86:17 86:23 88:1 89:19 89:24 90:1,3,9 92:16 93:6 98:14 109:25 112:1 113:16,18 114:25 115:1,22,23 116:14 128:13 131:14 136:22 142:7 147:2 152:20 164:14,19 164:22 167:10 178:21 180:7 194:7,20 195:19 200:11 204:14 205:9 218:21,23 227:6 240:20 241:23 244:10 believed 116:4,8 223:22 believers 161:20 belong 81:19 belonged 223:23 belongs 72:11 223:24 224:21,22 227:19 235:9
---	---	--	---	---

245:10	121:22 122:13,22	bolded 132:13,14	220:24	136:9 245:19
beneath 240:25	128:5 129:20	bondage 46:16	breath 216:15	burden 12:11
benign 112:7	171:3	bone 141:15	bridge 107:22	219:10
Berlin 79:16,20	BioMolecular 1:15	bonuses 221:20,24	briefly 170:18 177:6	burns 168:24
best 4:12 5:3,23 6:8	156:9 158:5	book 25:9 29:14,18	193:6	220:24
18:21 37:6,8,16	Biozymes 122:23	163:11 187:14	bright 235:21	burnt 79:19 240:15
52:4,13 69:21	Bio*Shark 61:11,13	booklet 143:2,3	241:16	bus 217:20
75:17 76:7,8 81:2	61:17 86:8 87:3,19	144:1	brilliant 235:4	Busche 174:23
92:1,2 98:17	90:1,3,9 100:23,25	books 25:9 29:16	bring 7:7 144:7	business 35:4,5,6,13
109:25 110:4	102:13 103:16	92:18 108:7	179:15 191:17	35:19 41:13 42:16
112:11,15 121:15	106:1,6,10,11	170:15 177:7,17	211:9 231:20	74:16 99:13
122:14,21 126:18	107:4,13 108:3	180:17 181:8,14	bringing 124:10	100:10 154:16
145:4 146:8 147:8	113:6 116:19	181:19 186:25	130:16	170:8 209:11
150:24 171:10,10	117:17,25 128:5	197:9	brings 18:25	214:17 226:22
187:18 201:20	129:19 171:3	boost 93:9 111:16	broadcast 196:3	busy 21:14 31:6
217:6 221:16	birds 53:6	bosses 24:15	broadcasts 151:25	Butler 174:22
233:9 247:10	bird's-eye 207:11	Boston 127:2	brochure 187:2	buy 42:18 69:13
Betsy 3:17 5:13	212:15	bottle 118:3 173:21	broken 69:19	149:24 152:6
better 14:12 16:10	bit 82:1 85:17	231:2 232:17,18	153:21 218:1	211:25 216:12
33:21 34:16,19	165:10	bottles 20:23 230:25	bromelain 138:24	219:9 222:5
48:13 82:19 97:14	black 50:25	231:6	brother 175:24	232:17
114:14 130:15	blacked 148:21	bottom 104:19	brothers 50:24	buying 124:24
133:16,17 134:14	blackout 148:9	105:5,18 152:23	204:13,14	230:24
152:16 154:13	blackouts 148:5,22	174:21 187:12	brought 23:20 36:6	B-U-S-H-C-E
167:1,6 209:2	blah 205:20,21,21	bought 59:16 81:19	50:10,17,18,23	174:25
219:25 235:25	blah 205:20,21,21	236:16	150:21 180:11	
239:2 244:13	blessed 33:25	Bowling 2:14 3:9	185:10 212:12	C
betterment 186:6	219:13	box 171:22	215:14 216:7	c 4:1 5:14 63:10 88:4
beyond 121:9	blind 57:9 178:15	boxes 179:22 180:1	217:3	247:1,1,19,19
bible 35:24	block 17:5	180:2,15	Brusch 123:24	cachexia 22:9
biblical 22:22 42:25	blood 50:7 90:7	boy 34:25 127:6	124:2,14	Cadillac 71:18,19
67:14 68:6 95:18	92:21 93:6 106:23	224:8,8	buggy 69:18	96:2,4,24,25 97:15
big 37:19 97:14	107:17,25 110:18	brain 44:12 52:6	Buick 96:21	217:14
117:15 161:3	110:20	244:2,19	build 145:12 194:19	Cadillacs 77:10
194:4 195:3 230:7	board 69:9,25	brand 118:4	195:9	Caisse 123:23 124:1
bill 80:17,18 236:15	200:24 230:11,15	brand-new 97:3	building 19:24,24	124:3,14
billing 236:11	241:12	bread 121:5,6,7	19:25 70:25 76:15	calculate 39:22
bills 10:2 17:16,17	board-op 235:11,12	219:9	76:22 99:16	calibrations 59:8
42:23 43:15,16	Bob 28:18	break 5:22 6:2,3	118:25 119:5	calipers 59:9
197:4	bodies 121:14	65:2 73:15 96:5	121:11 174:16	call 17:12 19:13
BioGuide 1:25	body 22:11 52:5,19	156:22 206:11	194:18,21,24	26:13 31:1 43:3
166:6 200:6 243:8	55:5 60:9 89:10,18	213:4,20 218:11	195:2,20	94:23 102:5,6
243:9,16	89:19 90:13 91:20	228:22 239:9	buildings 73:1 78:22	109:19 126:13,20
biology 55:14 121:2	92:1 119:2 122:8	breakdown 22:11	79:20	158:22 173:11
BioMixx 101:10	122:10 123:20	breakfast 69:15	built 234:23 235:1	214:4 233:1
102:14 103:17	125:7 130:6,11,16	breaking 212:4	bullet 110:16,19	called 4:5 28:22
113:6 116:19	134:7 228:6	breaks 185:19	bunch 20:17 41:14	36:3 73:8 90:13
	body's 89:16 93:10			126:15,15,16

[251]

127:6,8 138:12 142:25 143:1 166:21 177:16 183:20 187:9,13 188:25 194:25 195:8 198:12 243:16 caller 239:12 calling 143:7 158:12 164:11 201:7 calls 115:17 235:14 call-ins 208:18 Calvary 50:7 canceled 76:13,19 cancer 19:2 22:8,9 27:2 60:25 61:8,17 87:20 88:5 90:10 90:13,14 91:13 92:14,15 93:15,16 94:15 95:8 113:2 113:11,11,12 114:4,13,15,19 115:6,9,14 117:15 118:7 121:25 124:21 125:11,11 125:19 127:2 130:2 131:11 132:3,14,19,23 133:15 134:9,18 134:23 135:1,3,5 136:13,15 137:19 139:8,11,14 142:13,15 143:19 143:22 144:3 197:12,12,13 200:6 205:14 225:7 230:24 231:25 232:2 244:2,23 cancerous 123:10 140:6,6 cancers 91:18 92:21 123:8 144:2 canned 149:24 cans 217:24 capabilities 90:6 150:12	capability 185:12 213:22 capable 38:24 capital 74:1 Caps 113:6 116:20 128:5 129:20 capsules 173:13,14 173:19 captured 147:19 car 96:3,7,13,25 97:2,3,7,8,15 215:23 217:14,23 carcinogenic 139:14 card 80:11,12 81:9 81:18 82:3,23 83:9 83:16 84:2 148:7,7 cards 84:7 care 10:7 25:9,10 29:12 33:20,21,22 34:21 35:20,21 41:24,25 51:14 119:1 216:22 228:7 239:1,2,2,5 Carniplex 36:15 carnitine 53:17,18 53:23,25 54:1,7 Carole 3:5 5:18 carried 9:20 carry 32:4 35:24 cars 71:17 96:5 97:5 cartilage 107:16 case 6:3 7:19 34:6 35:13 49:9 54:23 60:23 61:15,20 64:8 78:21 92:3 93:13 95:14 97:21 100:24 101:4,20 102:13 103:14,19 108:22 117:10 125:10 132:2,6 134:4 141:19 152:25 153:24 164:1 179:25 199:1 205:1,14 207:18 212:5,5 213:5 217:8 247:4 cases 88:16 91:12	catalog 1:15 156:10 158:5 160:20,21 161:5 166:2 214:7 catalogs 93:13 catch 48:4 Catholic 31:14,14 31:17 Cat's 124:11,12,16 caught 185:22 cause 139:13 174:7 231:25 232:2 247:9 caused 91:5 causes 139:12,16 causing 92:4 Cavaseris 127:9,10 cell 91:21 110:21 117:15,24 140:25 cells 52:11 90:13 115:8,9 center 26:16 145:12 145:12 159:23 167:14,15,20,24 168:4,20,22 211:9 214:4 centers 210:20,21 210:23 214:9,11 243:18 cents 120:12 certain 14:15 50:19 83:25 84:1 94:6,18 130:12 173:10 174:9 177:20 184:18 certainly 64:24 82:21 94:17 116:15 134:6,15 189:1,5 CERTIFY 247:7,21 chance 21:18 24:4 154:12 change 150:1,11,13 150:14,18,20 151:2 188:11 229:7,11 233:5 changed 49:4 142:21	changes 40:22 58:1 109:14 Chapter 1:9,10,20 2:5,8 7:16,17 9:3,5 9:8,22 10:22 16:3 16:6 17:25 18:16 19:18,19 20:20 24:9,19 29:22 34:24 35:14,18,25 36:3,22 39:10 44:6 45:5,7 47:3,5 50:11 51:24 60:18 60:21,24 61:6,12 61:16 62:3,11,23 64:18 66:20,25 67:2 68:3 69:8 70:25 71:4,17,18 71:21,25 72:9,25 73:2,13 74:8 75:9 75:12,17,21,25 77:11,23 79:1,23 80:11,19 82:11 83:1,3 84:8 87:5,7 87:23 88:6 93:12 96:3 97:21,23,24 99:16,22,25 100:5 100:11,24 101:5 101:13 103:1,15 103:19 106:2 108:24 109:9 113:2 116:10 117:11 134:3 135:12,17,21,22 142:14 143:18 144:15 145:2 147:21 148:24 149:7,9 150:5 152:25 153:25 159:18,18 160:12 161:21 163:8,9 165:3,13 183:16 190:7,14 191:3 192:2,8 193:5,13 193:18,22 194:24 196:8 197:18,25 198:7,17 201:3 205:4 206:19	215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 229:12 234:1 235:8,8,9,9 237:3,10 245:9,10 247:4 characterizing 129:13 charge 211:11 232:7 charged 80:21 153:7 charges 152:25 charitable 164:8 246:3 charity 45:6,12 chart 208:1 212:8 chase 70:22 chased 127:24 chasing 127:25 cheap 38:1,3 150:16 161:3 cheaper 97:3 221:11 cheapest 161:2 check 28:12 29:6 63:4,7 68:24 125:24 126:6,9,14 162:9 172:2 186:17 checked 45:14 checking 32:17 192:20 checkout 149:17,19 149:21 150:6 checks 43:20 68:23 167:16 Cheek 236:10 chemical 112:4 chemistry 21:2 52:18 55:14 chemo 122:1 141:17 244:21 chemoradiation 205:14 206:6 cherish 220:6 chewed 118:6
---	---	---	--	--

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Chicago 28:19	201:25	130:14 134:5	communist 73:14,15	158:18 220:24
chief 137:15	clarify 62:15 111:5	135:12,21 136:12	community 151:11	238:8,8
child 240:13	126:7 128:19	162:3 167:16	225:9	computers 18:10
children 16:17,20	129:17	168:13 169:9,11	companies 20:24	109:13,13 162:2
117:5 167:22	class 55:19 56:16,16	169:11,12,13	37:19 41:17 42:22	concept 91:11 93:5
168:19 185:16	56:18	175:15 181:7,21	69:21 160:25	121:21
194:15	classes 56:9 133:18	185:11 186:4	170:13,22,24	concepts 54:11
China 15:13 23:18	Claw 124:11,12,16	191:15,22 193:21	171:1,2,18 172:17	concern 24:5 29:24
23:22 30:19 57:20	cleanup 229:3	208:2 218:9 219:7	174:1 198:8	43:13 230:21
79:21 94:1 95:10	clear 46:18 103:24	219:8 226:19	company 9:4 29:15	concerned 30:21
215:21,25 216:8	177:15 188:20	238:12 240:22	43:5 160:22,24	48:8 85:11 194:11
226:18 228:10	client 23:18 157:13	241:11 242:4	170:4 172:16	194:13
Chinese 57:20 79:22	clinical 201:24	comes 23:3 25:10	233:3 234:22	concerns 22:24
94:1	clock 15:20,20	36:15 40:18 43:15	comparable 57:23	concluded 246:16
choice 144:18	169:12 175:9	91:12 116:18	58:1	conclusion 86:23
204:11 205:13	clocks 13:17	117:7 139:20	compare 54:17	115:18 193:9
choosing 223:12	close 233:4 246:14	153:17 182:24	105:3 230:22	198:11
chose 143:18	closest 155:3	204:21 221:10	231:14	conclusions 85:4
Chretien 168:6,7,8	clothes 35:24 215:9	comfort 95:15,15	compared 38:3	104:2 184:17,17
Chris 5:14 20:18,25	clothing 227:8	comfortable 96:3	48:24 57:17,18	conditions 92:5
21:1	coat 204:9	coming 23:9 42:1	72:25	139:7
Christ 45:10 46:12	code 158:10	60:6,12 71:2	complain 23:5	conduct 59:6
190:9 224:20	coffee 175:18	121:23 124:24	complains 23:3	conducted 54:23
Christian 31:14	colleague 5:17	130:2 173:25	complaint 1:8,12,17	58:18 203:2
59:20 94:2,4,6,7	245:21	177:10 204:1,3	1:23 12:10 51:9	confer 194:4
223:17 225:9	collect 34:9	226:25 245:18	64:7,16,19 84:18	confess 115:14
Christianity 225:25	collecting 34:5,9	comments 127:23	84:19 85:4 86:17	241:4
Christians 225:16	college 47:7,25	239:21 240:1	98:20 99:8 100:19	conflict 49:7 50:1
CHRISTOPHER	175:6	commerce 102:12	102:11 103:24	58:2 200:19
3:18	Colmes 195:4	102:14	104:1,12,15 111:8	conform 112:15
church 30:8 155:1	color 161:2	commercial 12:8	111:8,9 126:12	Connecticut 47:11
211:10,25 212:1	coloring 54:16	Commission 1:1 2:2	156:12,22 166:12	connection 223:14
216:1,2 219:5	Colossians 119:8	2:13 3:3,7 5:17	184:20 189:6,15	224:1
226:2 228:11	come 5:20 11:12,15	7:12 50:10 51:9	197:12 202:1	consider 41:15
churches 18:18	13:16 15:22,24	64:7 98:13 146:16	234:9	91:16 116:11
73:14 210:2,13	16:7,9,13 20:13,21	147:20 247:10	complete 32:2 44:25	consideration
217:7 219:22	20:23 22:1,4 24:4	commitment 17:7	240:14	217:19
228:1,10	25:4 29:2 31:7	17:23	completed 98:12	considered 6:16
circumstances 75:14	36:8 39:13,15	committed 45:9	completely 118:8,9	consistency 57:13
Citizens 45:4 66:23	48:16,23 49:25	185:20	140:13 237:1	57:14
68:25 70:1 74:23	55:18 56:15 59:22	common 134:24	complicated 60:15	constantly 40:22
77:22 78:8,12,17	69:10,13 80:10	communicate 38:11	150:2 235:16	41:25 217:24
192:23,24	82:10,16,20,23,25	93:21 94:21	computer 10:5,11	constitution 45:21
City 195:1	83:6 95:2 106:2	112:22 113:14	22:5 57:17 59:11	49:13
claim 12:17 89:1	116:22 117:4	communication	59:12,17,19,23	constitutional 8:19
205:7	120:1,11 121:24	93:18 94:11	60:11 66:10,20	55:8
claims 197:11	122:3 123:4	communism 79:19	81:24 149:25	consult 157:13,14

[253]

consulted 208:1 224:24	156:25 157:1,12 245:22	counsel's 1:17,23 156:12 166:12 189:15 234:10	cross 155:3 cross-check 172:5	83:1,3 84:8 87:5,7 87:23 88:6 93:12
consumer 246:3	copy 58:3 66:11,14 104:18 163:16,18	counter 93:10	crying 17:9	96:3 97:21,23,24
consuming 22:15	182:22 207:5	counting 173:20 232:10,10,11,12	cure 60:25 88:5 92:15 125:11,17	99:16,22,25 100:5 100:11,24 101:5
contact 126:1 155:1 155:4 168:3 223:21 239:4 241:24	cornerstone 95:20	countries 73:14,15	cures 61:2,8,17 94:20	101:13 103:1,15 103:19 106:2
contacted 167:25	corporate 45:7,19 46:8,11 225:2	country 93:20 223:16	curing 126:17	108:24 109:9 113:2 116:10
contacts 168:2	245:6,12	couple 21:9 66:8 118:5 148:4	curious 244:8	117:11 134:3
contained 98:22,24 148:8 182:14 247:7	corporation 2:5 7:16 67:2 74:12,15 99:22,25 223:12	158:21 170:3 197:22 200:13 222:20 244:6	current 138:15	135:12,17,21,22 142:14 143:18
contains 90:3 107:16 138:23 177:3	223:13,18 224:5 224:18 225:8	coupon 154:3	cut 41:14 70:22 120:10 161:16	144:15 145:2,23 145:25 147:21
contemplated 226:4	correct 8:25 46:21 46:25 61:9 63:19	course 26:3,11 63:14 122:1 149:20 182:24	cysts 106:7,11 138:25	148:24 149:7,9 150:5 152:25
content 53:9 142:21	63:21,21 72:8 76:6 77:24 78:18 89:8	court 4:19 84:14 104:8 161:23 189:3,10 225:14	C-H-E-E-K 236:10	153:25 159:18,18 160:12 161:21
contents 53:8	100:8,13 101:22	cover 18:4 161:10 161:12 167:22 175:6,8 187:10 202:17	D	163:8,9 165:3,13 183:16 190:7,14 191:3 192:2,8
context 102:20	101:24 108:15	covered 40:19 204:22	d 1:2,11 4:1 104:12 104:15 111:21 247:19	193:5,13,18,22 194:24 196:8 197:18,25 198:7 198:17 201:3
continue 12:23 17:14 34:19 41:11	128:8 133:9	co-counsel 5:16,20	dad 175:21 235:22 238:7 244:16	205:4 206:19 215:16,17,19 216:11,16,21
continues 244:22	150:15 170:21	crashed 42:16 79:19	daily 194:3	217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1
continuing 28:3,4 33:1 40:4 44:4 47:22 55:2 67:13 98:21	183:14 244:14	crazy 54:6 185:18 208:22 232:24,25	Dana 127:4	235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
contract 195:6	corrected 56:4 126:4	create 38:12 52:25 109:15,16 172:11	Dana-Farber 126:14,23,25	danielchapterone.... 199:4 202:11
contractor 162:1	correctly 189:19	created 35:16 43:3 49:11,20 56:3 61:3 119:8,9,10 123:1 170:2 199:15 200:7 202:12	dangerous 96:6	data 177:8
contractors 166:22 176:5 195:22	cost 39:16,16,16,23 39:25,25 40:1 41:7 41:12 96:25 145:18 146:12,13 154:1 165:12	creating 145:11 202:6	Daniel 1:9,10,20 2:5 2:8 7:16,17 9:3,5,8 9:22 10:22 16:3,6 17:25 18:16 19:18 19:19 20:20 24:9 24:19 29:22 34:24 35:14,18,25 36:3 36:22 39:10 44:6 45:5,7 47:3,5 50:11 51:24 60:18 60:21,24 61:6,12 61:16 62:3,11,23 64:18 66:20,25 67:2 68:3 69:8 70:25 71:4,17,18 71:21,25 72:9,25 73:2,13 74:8 75:9 75:12,17,21,25 77:11,23 79:1,23 80:11,19 82:11	215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
contrary 53:13	195:13 196:10,16 202:17 211:14 223:3 229:14 230:12,17 231:14 232:3 234:4	creation 122:21 128:15 165:15 190:19 193:24	Dana 127:4	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
contribution 151:7 151:20 152:1 155:7 164:8	costs 40:9 145:17 165:9 196:17,17 196:21 229:25 230:9 246:5	credit 80:11,12 81:9 82:3,23 83:9,16 84:2,7 124:13 148:7,7	Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
contrived 73:20	counsel 5:9 19:22 21:13,16 33:13 87:11 156:22 212:16		Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
control 193:17 235:15	counseling 22:1 239:7		Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
controlled 54:24 121:14			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
converts 216:5			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
convey 114:14			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
convicted 30:7			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
conviction 139:22			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
cooperative 44:17			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
coordinates 235:3			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4
copies 14:4,5,5 84:2			Dana-Farber 126:14,23,25	205:4 206:19 215:16,17,19 216:11,16,21 217:3 221:7,10 223:14 224:4,9 226:4,8,15 227:4 227:13 234:1 235:8,8,9,9 237:3 237:10 238:15 245:9,10 247:4

241:6	decided 173:22	149:12 167:13	diagnosed 91:22	dime 227:7
Dawes 59:18,18	decides 39:19	177:6 180:24	DIANE 247:25	dimes 136:9
day 6:4 13:11,11,12	deciding 36:7	191:13 193:6	dictate 14:22	dinner 164:20,20,21
13:12 15:4,5,6,19	decision 194:2	207:11,25 208:16	dictatorship 14:10	direct 84:25 85:24
16:4 17:1,3 18:16	Declaration 49:13	241:9	dictionary 38:18	86:2 98:3 131:6
18:20 32:2 35:1,2	49:15	described 23:10	die 31:12 32:1 50:4	137:17 145:2
41:25 44:6 54:3	dedicate 75:22	72:5	121:16 215:22,23	149:5 150:8
62:8 116:9 142:5	deductible 164:22	describing 99:16	died 50:7 204:10	152:22 154:2
151:4 182:10	164:24	description 1:7	225:6,7	166:19 176:11
185:15 187:23	deeper 218:12	108:3 158:10	dietary 101:14	directed 121:10
194:25 197:19	Deerfield 71:7	162:22	102:2,4	193:23
215:24 216:6	defense 240:21	descriptions 166:2	dieting 54:3	directing 87:2 98:18
231:3	definite 230:20	243:18	differ 183:20	direction 14:2 73:9
days 18:15,21 23:24	definitely 43:3	deserve 228:21	difference 30:12	195:13
56:7 81:3 92:12	87:12	design 76:18 149:22	32:16 111:24	directions 73:7
120:9 138:19	definition 49:4	170:14 171:16	200:23 209:8	202:6
145:4 146:9	defrauding 51:11	173:23 195:22	230:7	directly 33:1 45:1
159:13 169:14,14	defray 191:4 234:3	designed 170:12,12	different 10:24,25	157:21
182:12 231:2,4,5	degradation 123:11	Designs 171:4	11:18 15:10 16:16	directors 190:8
DCO 16:2 109:5	degree 47:19 52:19	desired 108:1	19:14 22:4 26:11	disciple 216:4
158:6 166:22	delta 58:1	desk 59:16	30:11 35:11 36:16	discounts 208:15
200:13,14 202:18	demand 96:8	destroyed 140:6	38:22 39:24 41:19	discrepancy 180:25
203:6 207:18	denied 98:22	determine 13:19	48:25 52:23,24	181:1,2
222:22	denounce 50:6	59:9 153:4	53:4 54:4 55:15	discussed 165:10
dconepages.com	dentist 117:14	determined 133:11	57:9,11,25 60:12	245:19 246:6
232:22	dentist's 117:13	Detoxify 137:18	61:5 63:21 68:7	Discussion 65:4
dcstore.com 233:15	deny 98:21	Deuteronomy 36:14	73:10 76:1 91:18	156:6 161:22
DC1 244:20	depends 11:12	54:13,18	95:5 109:15,15	182:20 189:2
dead 140:15	deposed 6:5,20	develop 36:11 120:4	118:11,11,12	225:13
deadly 118:16	deposit 77:2	120:6 128:12,15	121:1 122:4	disease 90:20,21
deal 21:15 90:16,17	deposition 2:18 7:13	171:8	130:11 139:7,22	91:5,16 94:19
91:15 114:2,20	7:22 84:19 97:22	developed 52:2	139:22 144:2	115:8,9 123:7,13
134:22,25 143:18	104:11,24 110:2	66:11 90:25	149:20 150:10	130:2,13 135:8
173:24 217:7	147:24 156:8,11	120:17,19,19	153:10 181:3	diseases 52:10 90:17
dealing 52:10 53:17	156:14 158:2	121:18 129:22,24	183:7 211:1	90:17,19 93:15
90:13 92:19	206:18,21 212:15	131:2	212:10 220:18	94:19 114:2 123:8
179:12 217:2	234:8 243:9	developing 178:7	221:9 227:1	130:22 134:22,25
deals 16:19	246:15	185:13	233:16 236:25	143:18
dealt 41:25	depositions 7:22	development 23:10	239:14	disk 59:22
deaminization	deposits 76:16	190:19	differently 17:14	dismiss 86:16
22:10	derive 40:2	developments	30:10 48:22 91:19	distance 153:9,20
death's 31:11	describe 9:15 15:4	241:25	114:11 217:8	distract 196:1
December 207:23	17:17 19:19 46:2	deviation 173:12	difficult 42:8 111:6	distribute 100:19
209:20	59:6 69:6 70:11,24	devote 144:18	114:22 125:12	101:8,10 102:11
Deceptive 183:17	71:8,16 72:24	diabetes 20:6 93:16	160:1 215:3	distributed 102:14
decide 14:1,13 25:3	75:14 81:8 97:6	94:13,15 95:1	digest 138:24	170:18 199:2
35:18 50:4 113:21	109:12 139:10	130:4	digesting 123:17	distributes 100:25

101:5 103:1,15,25 distribution 146:13 distributor 40:7 232:4 divorce 6:15,19 divorced 6:22 DNA 123:11 DNA-damaged 115:8 140:19 Docket 2:6 7:18 DOCKET/FILE 247:3 doctor 28:19 31:11 32:4 53:22 121:23 203:17 204:6,7,8 238:24 doctors 27:24 91:14 91:14,18,22 92:7 122:9 126:21 139:20,22 140:23 205:18,19 208:19 243:18 244:7,20 document 84:14 85:25 97:17,18 98:5,12 104:7,9,22 105:17,21 111:6 114:19 129:2 147:22 149:1 158:7,13 166:16 166:20 176:25 182:22 183:4 187:14 207:4,9 234:7 243:12,15 documentation 184:15 documentations 27:24 181:4 documents 12:6 74:15 146:15 156:19,23 169:24 185:2 206:17 207:1 209:4 222:25 245:19 246:4 dog 175:7 doing 10:25 13:25 16:16 31:19 32:10	33:14 37:8 38:24 50:24 54:4 68:5,8 68:9,12 92:11 104:2 124:8 135:6 135:7 140:23 141:15,18 153:11 153:12,15 177:12 183:24 185:12,25 196:14 201:3,3 206:8 213:22 216:12 235:13 240:7,19 241:7,12 dollar 221:21 230:2 230:3,5,8,12,15 dollars 19:9 164:21 195:11 203:8 209:25 230:9,13 230:14,14 231:15 donate 152:9,10 donated 144:20 donates 153:18 donating 152:4 donation 37:23 38:4 38:7,15 39:12,14 39:19 144:22 145:19 146:19,22 147:5,6,7,12 158:10,12 159:19 162:15 163:10,14 164:6 165:8 210:12 211:15 229:15,18 donations 101:17 144:15,22,23 152:9 163:9 191:4 196:11,11 207:13 211:16 212:2 227:4,14 229:7 233:24,25 door 42:1 doors 204:10 217:20 dosages 230:16 doses 122:2 double 57:9 178:15 204:10 doubled 229:25 double-blind 55:5	58:22 206:2 double-blinded 58:17 download 66:17 Dr 28:18 57:15 58:5 58:13 59:18 123:24 124:2,14 124:16 drafting 202:6 drink 69:15 drive 208:22 217:25 220:25 drug 139:23 160:21 160:23 242:22 drugs 38:3 102:7 Dube 200:1 due 54:21 94:17 114:4 133:20,22 134:1 180:21 218:15 Duffy 199:16 Dulabon 3:6 5:21 182:21 245:23 duly 4:6 dumbfounded 50:14 dumped 145:10 durable 96:14 Durant 200:12,18 200:24 244:11 duty 9:18 dwindled 18:24 dying 115:13 D-A-N-A 127:4 D.C 3:21	233:20 234:16 early 13:21 120:9 182:12 ears 218:11 earth 9:17 50:24 57:1 easier 105:19 181:11 easily 80:23 East 79:16 99:14 Eastern 17:4 easy 51:5 94:25 218:19 231:3 246:1 eat 69:18 79:10,14 eBay 221:6,7,8,11 221:12 222:3 eCheck 221:14 economic 67:6 economy 37:14 41:16 Ed 200:12,24 244:11 edited 137:14 Edition 142:13 editor 137:15 editors 137:16 educational 47:18 47:19,24 102:20 193:4,17 effect 108:1 123:17 139:18 effective 87:20 88:4 90:9 173:7 effectiveness 123:5 efficient 12:25 96:22 efforts 80:3 145:2 either 46:19 60:25 61:17 87:5,22 102:5 127:25 136:23 137:22 153:9,19 161:3 184:3 215:13 236:22 elaborate 177:14 ElectroCarbs 36:13 54:13,17,17 125:6 Eleuthero 111:17 124:19	eleven 125:22 214:14 230:14 eliminates 136:20 else's 127:17 emanating 140:5 emergency 5:25 emphasized 126:5 emphatic 61:18 employed 9:7 47:4 employees 190:8 empty 141:3 encourage 61:4 163:6 218:9 encouragement 87:10 encouraging 242:21 ended 177:12 218:25 219:5 endocrine 89:17 ends 96:14 140:7 endure 96:13 energy 17:6 53:19 54:1,7 67:15 Enfield 47:11 English 133:18,23 enjoined 12:14 entire 104:1 entirely 46:14 178:23,24 entitled 158:5 166:11 227:9 entity 224:20 environment 49:1 enzymes 121:14,16 138:23 equate 94:10 114:11 134:25 equipment 42:18 erroneous 12:6 error 48:17 174:6 escape 142:5 especially 112:18 117:21 ESQ 3:4,5,6,16,17 3:18 essence 102:25 essentially 12:21
E				
E 1:2 3:17 4:1,1 66:1 66:1 247:1,1,1,19 247:19,19 earlier 74:7 99:17 99:24 106:25 113:10 114:1 125:23 130:10 134:22 145:16 165:10,14 169:9 178:9 180:21 197:17 200:9,20 216:17 222:22				

23:10 103:9	191:24 194:18	215:24 226:24	46:15 53:10 57:12	162:15 173:6
establish 74:15	209:7 210:6,6,21	expectations 56:23	67:5 68:18 81:16	226:21 231:21
established 49:3	228:9 230:22	226:25 227:21	82:10 83:15,21,24	Farber 127:4
76:12 93:23	examples 52:22	228:20	86:18 111:2	fathers 49:16,20
125:16 202:25	exams 59:22	expecting 226:19,21	115:22 122:17	fats 54:8
estimate 11:9	exception 7:23 8:8	expenditures 82:3	130:21 135:25	favor 205:15 206:8
214:15 222:23	233:22	expense 27:4 158:24	140:4 142:4 151:6	FDA 171:19 173:10
eternal 48:9	excerpt 190:3	161:13 211:13	181:18 219:17	174:8 239:22
Europe 24:25	203:13	223:9	224:19 233:21	241:3,18,25
226:17	excerpts 7:22	expenses 69:9 77:23	facts 190:5 198:5	FDA-inspected
evaluate 23:20 60:6	excess 145:23	78:1,20 81:8	factual 12:11,13	174:3
evaluated 35:4	excitement 169:23	145:24 191:4	85:12,15 110:3	fear 55:25 56:3
evaluations 22:6	exciting 179:8	229:13	failed 12:10 35:5,12	113:21
57:10 59:1	exclude 70:22	expensive 96:18	160:13	fearful 115:12
evening 121:5,10,20	Excuse 201:9	151:3 158:25	failing 121:16	February 86:16
eventually 73:17	exempt 26:5	231:17,18	failure 86:17	federal 1:1 2:2,13
everybody 13:15,23	exercise 54:5,9	experience 32:13,17	fair 181:24 188:5	3:3,7 5:17 7:12
15:8 26:1 42:14	92:18	117:4	208:9 212:18	46:20 50:10 51:9
43:5 69:1 92:21	exercising 54:5	experienced 32:12	faith 79:24 118:19	64:7 98:13 146:16
141:22 142:3	exhibit 1:7 84:17,19	expert 7:22	118:23 215:22	147:20 247:10
158:25 161:13,17	84:22 97:19,22	explain 52:1 56:2	218:22 219:1	fee 152:24 153:1,4
194:14 206:1	99:6 104:9,11,23	147:3 200:23	226:23 227:6,6,23	feel 26:18 49:19
236:14	104:24 105:4	209:2	227:24,25	51:6 98:5 100:13
Everybody's 141:23	111:7 147:22,24	explicit 10:1	faithful 10:19	155:7 166:15
evidence 123:5	156:8,11,14 158:4	exposures 140:25	118:19	190:4 240:7,19
125:18 127:21	166:11,21 167:3,4	Express 80:16 81:20	fall 47:9 173:16	feelings 240:6
178:17 180:11	174:18 176:11,21	82:1 84:8	215:13 217:21	Feijo 1:5,10,22 2:7
183:24 184:15	176:22 182:15,17	extensive 12:15	fallen 160:10	4:4,9,11,12 7:14
206:5	183:8,22 186:15	extent 89:25 90:11	falling 216:19	7:15,16 8:23 13:9
evidenced 94:12	187:8,10,11,14,19	186:10 191:13	false 51:12,12,17,18	28:9 34:4 39:9
evil 215:14	188:22 189:14,21	193:9,11 198:11	falsehoods 80:4	43:25 44:20 64:16
evolution 48:15	206:18,21 207:4	234:20 236:17	false 51:18	66:4 84:13,23
117:22	220:9 234:7,8	extra 222:6 232:18	familiar 9:4 64:6	85:24 87:2,14,21
evolve 73:16	243:7,9	extreme 231:13	159:19 162:12	97:21,23 98:11
exact 212:19 213:7	exhibits 1:11 104:11	extremely 231:7	familiarize 84:24	100:4 104:20
exactly 31:21 49:6	104:15 177:16,17	ex-wife 215:10	85:2	114:1 129:16
63:17 129:4 142:2	exist 19:15 49:16	eyeglasses 191:25	families 41:18,23	133:22 136:18
184:22 213:6	84:2 130:21	eyes 218:11	168:15 194:15	148:4 158:3,7
237:23	183:25 212:9	e-mail 1:21 14:6	196:13 219:11	165:7 166:19
exam 59:23	existed 130:3 184:2	167:25 168:2	family 11:1 19:3,10	167:11 183:2
examination 1:4 4:5	184:5	206:22	118:14 219:6,6	187:4 190:2,9,13
4:7 157:11	existence 30:16 56:1		fancy 97:15 150:1	190:18 191:4
examined 4:6 61:25	58:20 95:21		far 16:6 24:17 26:7	192:7 193:12
example 6:18 18:12	exists 31:5 91:4	F 66:1 124:2 247:1,1	26:23 35:9 36:9	197:9,24 199:11
19:1 29:21 55:12	135:2,2	247:16,19,19,19	49:24 83:17 89:14	202:5,25 203:2
61:21 69:25 91:12	exocrine 89:17	faces 240:14	89:21 112:12	206:22 218:15
94:1 117:8 185:3	expect 15:21,23	fact 8:5 13:1 15:7	142:22 157:7	222:17 230:16
		22:19 26:15 41:6		

[257]

234:13 243:12,15 246:12 247:4 fell 217:25 fellowship 19:6 76:18 77:7 155:1,2 155:9,10 194:20 211:3,7,10,20 216:10 218:9,22 226:9,17 227:24 228:5,7 fellowships 120:22 152:11 155:10 211:1 felt 18:19 118:22 240:8 female 16:9 51:1 Ferrara 169:4 175:21 FFH 54:8 field 93:1 Fifteen 11:11 fifth 183:3,10 fifty 32:3 164:21 230:13 fifty-one 230:13 fight 112:6,6 131:18 fighting 160:19 fight 110:21,21 111:2,13,19,25 112:1 figure 34:25 44:11 208:22 214:12 figures 197:1 203:7 208:2 209:3 214:3 file 46:7,10,19 245:14 filed 45:19,22 51:9 filing 86:15 fill 168:17 final 125:4 129:23 finalized 184:16 finally 60:11 101:10 185:19 218:2 finances 215:1 financial 157:6 203:1 206:16 financial-related	222:20 find 25:12 92:1 121:7 152:12 157:10 167:2 171:9 175:12 179:11,13 181:9 181:20 187:21,25 196:16 206:4 241:24 245:24 finding 195:22 fine 4:14 28:5 32:10 100:16 198:14 204:6,8 206:13,15 246:11 finish 6:1 86:5 239:24 finished 155:13 first 1:17,23,24 4:5 4:9,18 11:21,22 12:5,9,17 20:20 25:24 33:2 35:17 36:12 52:22 54:10 64:7 66:9 75:18,21 85:2 98:11 100:22 101:16 103:15 105:12,23,24 120:16 121:20 123:14 128:3 129:8 149:5,6 156:12 166:12,19 167:2,10 189:24 190:7 203:19 208:12 216:17 220:11 221:2,5 222:22 223:21 229:5 230:25 232:22 234:8,10 235:16 fish 53:6,12 fit 52:4 111:21 fits 73:7 five 13:14 108:17 125:21 127:6 five-and-a-quarte... 59:17 fixing 34:1 flat 57:1	flattering 239:25 240:1 flesh 26:5 36:17 52:23,24 53:4,8,9 223:1 flier 146:21,24 fliers 162:22 floor 19:25 floors 9:24 floppy 59:17 Florida 70:25 71:3,6 72:5 76:18 77:9 97:7,10 218:16,18 219:17 236:7 flowing 196:1 fluctuate 223:8 flunked 133:18,23 133:24 fly 124:7 focus 25:21 199:14 folks 32:19 64:20 153:11 221:9 242:2 follow 22:7 23:10 91:15 105:19 164:5 245:20 followed 125:19,20 followers 114:18 following 11:7 114:17 127:18 163:23 follows 4:6 98:21 100:19 102:11 follow-up 66:8 food 53:22 54:16 69:17,17 79:9,14 80:6,7,9 81:10 120:10 121:15 227:7 foods 79:12 football 175:24 forced 179:16 180:6 229:15 forces 89:16 forefront 124:11 foregoing 246:15 foreign 93:19	forever 223:25 forget 72:3 195:11 forgetting 237:13 forgive 114:7 form 7:23 8:3,9,11 11:23 33:10 39:2 46:4,5 67:10 82:6 82:18 103:23 128:23 129:9,22 132:24 135:14 136:3 148:11 178:14 246:2 formally 243:2 format 247:23 formation 52:1 106:23 107:18 110:21 111:3,12 111:14,20,22 forms 45:24 46:3,10 formula 60:19,24 61:2,7 88:4 101:3 101:5 102:13 103:16 109:6 110:15 111:2 113:6 116:19 123:22 124:17 125:4,4 128:5 129:19,23,23 131:10 132:3,14 132:18,23 133:14 134:9,17 135:4,7 137:18 171:5 172:6,15 199:15 203:16 230:24 232:3 formulas 36:25 60:6 124:25 129:22 171:9 formulations 116:18 116:23 forth 55:6 180:11 fortunate 20:11 181:20 forward 85:6 found 179:9 foundation 74:10 founded 49:21	73:13 74:2,3 founder 225:2 founding 49:16,20 four 13:14 101:16 102:3,6 103:1,2,13 108:18 110:19 116:18 125:22 127:6 128:3 130:5 149:17 150:9 170:25 171:14 177:20 178:3 186:11 190:23 207:15,17,21 213:4 fourth 183:3 four-page 207:4 frame 16:14 110:9 framework 113:9 free 12:18 98:5 100:13 166:15 190:4 232:17 244:19,22 freedom 12:4 34:20 Friday 197:19 friend 175:25 friends 124:15 141:10 175:23 205:19 front 105:2 158:4 187:10 218:6 fruits 75:18,18,21 FTC 7:18 14:21 58:4 76:13 84:17 84:18,19 97:19,22 99:7 104:9,11,18 104:23,24 105:4 107:9 111:6,8 147:22,24 156:8 156:11,14 158:4 166:10 179:7 182:14,15,22 187:11 188:22 189:1,5,21 206:18 206:21,25 207:3 220:9 234:2,8 239:22 243:9 FTC's 1:12 104:12
--	---	--	--	---

104:15 148:7 184:24 189:15,24 234:14 FTC-DCO 1:13,14 1:15 104:25 105:21,25 109:5 147:25 156:9 243:25 fulfill 10:8 45:21 49:5,8,9 171:7 fulfilling 89:21 full 21:6 247:8 fully 7:2 full-time 175:2 213:22 fun 6:21 55:16 160:5 function 90:11 93:8 93:8 125:7 236:12 functions 15:3 237:6 237:7 fund 76:15 145:5,5 145:6,10,11,23 150:12 funds 17:20 18:7,8 75:7,11 76:4,10 78:8,12 80:8,10 144:14,17 150:15 150:16 156:1 195:15 198:17 220:22 fund-raising 241:8 funeral 32:5 further 67:9 101:12 F-A-R-B-E-R 127:4	138:17,22 139:5 139:18 141:5 171:3 gdu2000.com 198:24 geared 143:4,6 general 19:17 112:6 122:22 143:24 237:15 243:13 generally 116:17 125:14,25 130:22 149:21 167:19,24 207:25 generate 208:10 236:21 generates 245:15 genetic 91:8 141:23 genetics 91:6 92:5 gentleman 19:2 117:10 141:11 204:1,3 234:23 235:22 gentlemen 124:7 175:12 George 30:15 Georgia 210:21 214:10 gestures 4:21 getting 19:17 29:4 39:17,25 119:23 125:2 127:13,20 127:20,22 145:18 152:12 157:21 169:24,25 180:4 201:8 211:15,16 211:18,18 220:19 236:14,14 239:1 gift 212:2 gifted 16:10 gifts 208:19 ginseng 124:18,25 125:1 girls 96:11 168:16 168:18,18 girl's 132:8 give 11:9 14:2 18:12 19:1,9 22:7 23:5	25:16 36:4 41:8 50:2 52:21 55:12 66:19 69:21 84:22 85:19 113:24 117:8 146:22,23 152:13,13,14,18 154:12,18 155:25 159:12 171:6,14 172:1 188:4 209:12,14 210:12 215:17 220:12 222:5,10,25 224:18 228:14 230:25 242:10 244:14 given 23:25 49:22 52:20,20 57:21 67:6 77:21 79:11 90:4 92:23 111:14 111:15 113:8,9 115:15 134:3 208:18 209:9,22 210:1 211:21 221:3 230:16 244:8,20 gives 10:5 giving 155:14 193:24 226:4 236:24 242:5 glad 34:16 glorification 25:19 glory 119:10 go 6:2 11:16 13:16 15:12,13,14 18:9 20:19 24:22 26:12 32:5 40:12,12 41:2 41:17,21 42:6,8,23 44:21,25 45:4 47:1 51:13 53:21 62:5 65:3 67:7 70:19,20 73:8 83:2 85:6 87:13 93:19,19 96:11,20 99:10 100:22 105:13 112:12 119:2 126:14 127:21 144:8 150:1	151:10,11 155:2 156:5 165:11 166:17,25 169:11 170:22 171:18 172:4,11,13,17 175:4,7 177:24 179:20 182:18 187:23 189:16 191:19,22 192:5 194:20 195:13 200:20 211:1,25 215:25 216:12 218:25 219:2 222:9 226:20 227:20,20 228:2,3 228:5,24 233:2,5 234:15 243:22,25 245:23 goal 135:4 238:25 goals 236:4 god 9:16 15:8 31:21 36:3,16 46:14 49:3 49:12,22 52:22 53:4 55:21,23,24 55:25 56:1,7 59:14 61:1,1,2,3 73:7 79:25,25 89:10,18 90:4 92:22 111:15 113:20 116:2 117:12 128:13 130:7 178:11 191:20 205:9 216:16 219:2,13 224:21 226:22 God's 48:24 75:22 91:17 122:20 128:15 God-fearing 225:17 225:21 goes 24:7 35:1 40:18 75:23 81:18 90:25 113:19 123:23 146:21,25 151:12 193:14 197:16 207:22 226:22 229:14 going 4:19 5:10 7:9	8:18 12:24 13:2 15:13 22:13 26:4 31:12 32:1 37:21 40:11 43:13 48:9 50:2,6 53:16 56:22 56:23 60:6,8 63:19 65:2 71:2 76:20 77:2 84:13 85:20 87:13,14 93:10 96:6,13 97:19 98:3 99:10 100:21 101:2 102:25 104:8,17 107:23 108:11,12 113:21 118:23 130:12,17 130:23,23 135:22 142:5 148:20 156:4 160:14 162:18 164:5,10 166:9 182:15 184:6 185:15,18 185:21 186:6 189:9,16,17 190:3 203:13 204:6 205:2,8 210:14 215:22 216:15 218:5 219:3 227:6 228:1,3 238:13 242:22,24,24 243:13 good 23:7 42:10,12 43:3,9 50:12,13 65:1 97:12 102:1 114:21 119:21 120:1 131:2 133:19 137:11,12 137:13 141:18 155:8 160:8,18 170:2 174:3,7,8 185:9,9 215:6 220:3 222:2,4 227:11 232:2 240:20 243:4 Googling 136:12,15 Gornoski 241:6 Gosh 47:8 gotten 96:24 195:6
---	---	--	---	---

G

g 4:1 111:9 184:21
gas 40:9 81:10 222:5
222:6
gather 26:25 110:3
gathered 27:6
180:13 186:21
Gatorade 54:14,14
GDU 101:7 102:14
103:17 113:6
116:20 122:25
123:18 128:5
129:20 130:1

[259]

215:6	161:17 171:24	218:10 241:15,25	healers 29:16	177:21,22 179:13
government 12:15	210:3 213:25	happening 41:20	healing 31:15 61:4	201:1 205:12
46:20 112:17	214:14,25 221:9	122:8	73:11 89:16 91:2	208:19 209:25
governs 173:19	224:11 242:23	happens 54:1 68:6	117:12 177:21	210:25 227:10
grab 214:22	guide 21:3	75:15 110:7	heals 61:1 89:10	234:3 238:13,15
grades 37:3	guidelines 28:20	155:21 206:7	health 24:5 25:5	240:7
grafted 53:11	57:11 91:15	211:24 216:24	30:13,16 42:14,14	helped 26:19,22
grafting 53:8	112:23	218:7	44:15 52:6 53:22	170:13 200:25
grain 54:20	guy 44:14 68:8,9	happy 14:18 26:21	69:17 73:10	201:4
grams 173:9	175:7	27:3 35:22 51:7	120:10 130:17,18	helpful 60:16
graphic 169:5	guys 14:15,20	58:11 175:11	154:23 192:15	176:18 181:13
199:20,21	124:15 159:24	236:19 243:3,5	197:11,18 200:15	186:5 206:4
graphics 10:8 21:10	160:1,5 161:13	hard 15:7 16:24	201:25 238:22	helping 31:6 41:14
159:24,25 161:20	162:1 169:6 170:1	37:25 38:9 59:13	healthcare 47:13	42:5 44:12 126:17
166:3 169:6 170:4	170:3,5 172:13	67:6 112:23 119:6	healthy 140:18	185:18,22,25
170:15 172:13	174:21 175:6	150:22 152:12	142:7,8 205:12	241:12,16
175:19	176:1 182:23	173:21 212:7	heaping 41:9	helpmate 16:4
grateful 28:25	188:25 195:4	220:25 239:18	hear 26:16 30:10,11	helps 38:24 168:15
gray-screen 59:18	228:15 238:23	hardcover 186:25	194:9 201:6	168:16,16
great 26:19 38:24		hardcovered 187:1	heard 28:19 143:10	Herb 60:19,24 61:7
44:23 93:2 97:12	H	harder 152:19	143:10 242:16	88:4 101:3,5
173:22 180:4	h 86:13,18 88:10,21	harmed 16:22	243:2 245:1	102:13 103:16
188:15 211:23	98:24 99:7	240:13	hearing 4:16 8:7	109:6 110:15
217:17,18 235:18	Half 196:22,23	Harrison 1:21 194:5	225:11 247:5,9	111:2,12 113:6
greater 139:16	halted 140:22	194:25 206:22	heart 33:2 54:2	116:19 123:22
green 2:14 3:9	hand 57:4 91:1	220:15 221:9,13	244:19	128:5 129:19
117:11	handling 152:23	221:15 222:13	heat 165:16	131:10 132:3,14
gross 1:20 206:19	153:1,3,8	234:18,20,23	Heather 236:10	132:18,23 133:14
208:17	hands 11:16 25:13	236:18 237:15,24	heavy 122:2	134:9,17 135:3,4,7
ground 19:25	31:7 34:1 118:13	238:3	heck 217:23	136:19 137:18
grounds 86:13,14	118:15,21 184:2	hate 215:2	held 47:12 77:22	141:5,12 171:5
98:8	228:6	hated 55:25	186:6 193:4	199:15 203:16
group 73:20 225:16	hang 13:23 242:4,23	haystack 181:10	198:18 204:19,22	230:24 232:3
226:19	Hanneman 90:18	head 4:22 46:12	help 4:9 11:1,8,9,14	herbs 111:15,17
groups 94:6 218:24	happen 19:12 27:15	72:2 132:10,11	13:10,11 15:22	118:17,18,23,25
grow 140:20	44:14 68:11	216:10	19:14 21:18 22:16	119:6,11 120:12
growth 86:9 87:4	107:23 110:6	headed 183:16	25:12 35:8 42:3,3	Herndon 237:5
90:2 107:5,13,20	121:17 130:12	heading 106:9,15	73:10,14 91:25	Hey 27:12 175:19
107:24 136:20	135:25 136:10,11	149:6 244:2	108:2 112:12	he'll 224:22
growths 50:21	163:3 175:5,16	headings 93:14	122:14,21 123:15	high 37:23 42:19
guarantees 206:4	206:5	headline 106:13	123:16,19 137:19	168:12 209:9
guess 9:12 10:4	happened 27:10,13	132:7 133:1,4,14	138:24 139:17,25	229:24 230:23
29:11 32:21 64:22	42:13,13,21 53:19	137:3	142:7 145:9 152:9	231:7 235:24
77:1 80:19 81:24	83:15,24 118:11	headlines 137:4,10	155:4,5,11,11	highest 37:1
83:4 106:16 131:2	120:5 122:6,6,7	heal 89:11,19 91:17	156:2 166:4	highlight 143:19
142:25 146:2	180:9 185:24	122:14	168:14 169:18	highlighted 64:11
152:15 157:24	186:1 191:21	healed 118:9	171:19 173:23	184:12
	210:16 215:8			

high-quality 37:16 41:9 231:19	houses 73:1	243:15	Independence 49:13 49:15	information 8:7 35:11 55:5 63:1,5
hindered 240:8	housewife 168:12	idolize 219:15	independent 24:14 162:1,5 166:22	63:8 68:16 69:6
hire 149:25	housing 236:2,6	ill 91:20 138:18 173:25	176:5 245:11	99:11 102:19
histories 179:15	huge 117:16	illness 91:9,10,25 113:13 114:12	Indians 123:24 124:8,14	103:2,20 110:3,13
history 91:8 123:23 124:1	hub 222:2	120:15 123:13	indicate 163:14 208:18	143:2,9,11 144:1
hit 14:23 120:21	human 15:17 174:6	130:20 145:14	indicated 60:24 64:16	148:7,21,22
hog 42:19	humans 139:15	illnesses 20:12 27:7 44:15 61:5,5	indicates 238:9	157:17 161:9
hold 49:12 193:16	hundred 49:19 54:2 173:12,16 230:9	imagine 11:3 27:7 62:8 97:18 106:20	indicating 29:19 61:7,16 99:5 105:7	164:15 171:6
holds 193:15	241:12	136:1,6 182:9	105:9 108:9 118:7	172:13 178:5,5,9
hole 43:4,13	hundreds 179:4 184:11 203:8	imbalance 91:24	120:11,18 141:3	184:5 188:9 199:1
Holy 30:7 128:14	231:15	imbalances 91:6	159:25 161:10	199:13,20 201:2
home 62:4 73:14 175:7 216:2	hundred-dollar 164:20	immediately 94:24	180:19 183:10,12	203:21 205:2
218:17 219:5,12	hungry 83:22	immune 60:8 92:23 92:24 93:1,9	186:18 187:3	208:1 243:17
228:9,11	hurtful 240:6	111:16 122:10	196:15 201:9	informing 26:10
homes 70:18,20,22 219:17	hurting 25:11	impairs 7:2	indication 148:5 150:6 158:12	ingredient 173:9
honest 15:16 41:12 57:8 117:19 123:2	husband 32:2	impede 85:18	190:18 204:17	inhibit 107:4
134:18 160:4,4,25	hygiene 141:23	impeding 240:19	224:24	inhibits 86:8 87:3 90:2 106:22
179:10,12	hypertension 91:13 92:3 94:25 95:8	imperative 54:1,7	individually 1:10 2:7 7:17 97:24	107:13 111:12,22
honestly 92:11,13 97:12 128:25	hyphen 73:25	important 4:20 5:4 17:8 89:20 111:16	149:10 151:5	111:23,25 112:2,2
137:11 213:14	hyphenation 247:22	112:21 116:11	190:18 204:17	initial 178:16
honesty 134:21 240:10	hypocrisies 114:24	123:15,18 179:9	224:24	initially 51:3 218:5 240:6
hope 140:21 244:20	hypocritical 114:22 116:6	179:14 180:8	individuals 9:16 10:24 20:11 28:17	initiated 161:22 189:2
hopefully 13:24,24 63:12 85:18 90:8	H-E-R-N-D-O-N 237:5	impossible 195:12	34:10 38:10 42:1	injuries 47:16
154:18 186:6	I	impressed 141:8	59:10 120:8	ink 10:9
hoping 237:1 241:10	ID 1:7	improve 238:15,16	125:20 145:3	inland 71:14
hormones 121:14,16	idea 67:20,25 76:24 80:22,24 81:1	improved 25:5	158:8 164:6,16	innate 89:11 107:17
horrible 194:12	119:14 161:8	incline 91:8	165:4 194:5	inoperable 50:21
hospital 126:15,23 126:24	196:20 242:18,20	include 8:5,19 209:4 210:22	226:16	inputs 39:24
hospitals 27:24	ideas 60:1,5 213:12	including 198:17	indoor 36:2	inquire 67:8
host 197:17	identical 104:18 142:22	income 43:15 69:23 78:14 192:7	industry 42:14,15	inquired 27:4
hour 67:23 239:1	identification 84:17 84:20 97:20,25	193:13 220:4	inflammation 123:9 123:12,16 139:13	inquiry 76:13
hours 92:12 169:13 197:19	104:10,13,23,25	income-producing 235:25	139:17 140:3,17	inside 117:16
house 19:3 76:18 77:7 97:9 216:1	147:23,25 156:10	incoming 235:14	140:22	insight 27:14 52:20
233:17	156:13,16 166:11	incorporating 74:14	infomercial-type 239:3	insights 95:5
housed 78:22 233:11,13	206:20,23 234:7	incorrectly 126:4 129:14	inform 144:19	insinuated 161:4
	234:11 243:10	increase 205:11		inspect 174:8
	identify 105:13,22 149:15 158:7			instances 203:22

[261]

insurances 145:8	77:19 124:10	156:21 157:5,14	58:13	175:24
intended 91:3	159:22 201:23	157:23 163:23	jim@swankin-tur...	key 48:14
intense 188:1	233:7 246:5	164:10,18 167:2,8	3:23	kid 241:16,17
intent 239:3 241:14	involving 47:13,13	182:17,25 183:11	job 13:25 19:2 135:7	kids 16:22 215:11
intention 29:7,10	in-between 122:15	189:20,22,25	235:25 238:7	kind 9:16 20:15
111:10 128:1	in-house 170:16	191:7 193:8 196:3	jobs 170:2	22:23 24:5 27:15
132:6,6 205:11	irrelevant 38:15	198:10 206:22	Joe 32:2,6	43:11 50:2 52:12
inter 116:15	IRS 45:19,23,24	207:5 237:25	Joel 238:5	52:12 68:10
interest 12:15,16	46:7	246:11	John 17:9 124:2	107:10,12 125:13
64:15 176:14	Island 45:8,18 70:5	James 1:5,10 2:7	Johnson 225:1,6	151:10 152:11,16
190:4 235:5	70:9,11 72:7 79:4	3:16 4:4 7:13,16	joined 5:16	155:3 170:2
interested 62:22	79:6,7 99:14	97:21,23 100:4	Joseph 145:6	181:11,13,14,22
158:9 223:18	219:18	190:9,18 191:4	JOSETT 247:16	185:8,12 217:23
243:22	isolated 171:13	192:6 193:12	journal 57:16	222:3 223:9
interesting 48:18,19	Israel 226:18	197:9,24 202:4,25	137:15	232:20 236:17
53:9 79:13,15,18	issue 38:9 44:18	247:4	JR 3:4	237:11 238:11
121:4 122:25	117:24 120:3,7	January 2:10	judge 224:22	240:8,18
interfada 79:20	142:16 160:11	207:22 209:19	judged 114:24	kindly 47:3
internal 28:18 45:12	162:19 164:16	247:5,13	judging 218:11	kinds 25:4
Internet 214:4	185:5 191:12	jars 21:2	jump 107:22	Kings 36:12 69:15
interrogatories 1:17	199:1 207:17	Jay 174:22 175:5,23	June 27:1,5 29:4,5	91:1 120:20
1:24 11:23 156:13	213:4,18 215:3	195:1,9 220:15	34:5,7	121:18
166:13 189:15,24	228:12	221:9,13,15	justification 25:18	kitchen 71:10
234:10,14	issued 61:7,16 64:7	222:13 234:18,20	29:11 240:10	knew 53:23 56:14
interrogatory	189:5 241:19	234:23 236:18	justifies 218:16	57:21 121:13
170:20 189:23	issues 4:16 91:1	237:20,25 238:15	justify 32:14	122:11 124:5
197:8	113:20 157:21	Jedediah 194:5,25	justifying 63:20	223:19
interrupted 126:4	165:3 181:3	195:8 237:8,13,15		knocking 220:19
interviewed 200:13	item 208:14 221:23	237:24 238:3	K	know 5:3,23 6:9,22
introduce 5:10	items 209:4,7	jeopardize 18:1	keep 4:21 21:25	6:24 9:13,24 10:3
introduced 124:16		Jeremy 199:19	22:6,11,21 23:24	10:3,7,11,13,17
128:3,20	J	233:7 235:19,23	24:9,18,24 25:4,6	11:2,11,11,14,18
introducing 128:7	J 1:19,21 5:12 8:4	238:7	25:22 34:20 37:20	11:18 13:21,22
introductory 7:9	8:11,14,16,18	Jerusalem 70:7	43:14 154:20,22	14:5,7,9,14,19,24
intrusion 12:18	11:20 12:3,21 13:3	Jessica 168:11	155:17 161:9,16	14:25 15:1,12,15
investigate 28:12	28:2,7 32:25 33:9	Jesus 18:2 45:10	174:10 180:22	15:16,17,18 16:10
126:10	39:1 40:3 44:3	46:12 113:17	181:23 185:9	16:15 17:6,6,10,11
investigated 28:15	47:21 55:1 58:9	115:25 119:8,9	186:24 195:25	17:21 18:5,11,18
investigating 54:12	67:12 78:3,10 82:6	224:20 227:19	209:15 216:23	19:1,12,15 20:14
investigational	82:12,18 84:15	Jill 43:22,25,25	220:25 233:22,25	20:15,18,25 21:2
186:2	85:3,14,20 86:4,6	68:23 167:11	keepers 204:14	21:11,14,24 22:13
investment 218:5	86:12 87:17 89:2	168:25 203:2	keeping 22:18 23:1	22:16 23:1,5,16,16
invited 58:14	98:7 103:23 104:5	Jim 5:12 12:1 157:3	67:8	23:21 24:8,15,16
invoice 208:10	105:8 115:17	163:21 170:1	keeps 211:11	24:17,19,21,23,25
210:14	128:22 129:9,13	205:21,22 240:23	Kennedy's 124:2	25:3,8,24 26:2,4,4
invoices 208:4	131:20 132:24	242:9,9 246:9	kept 23:9,17 179:23	26:14,17 27:8,8,9
involved 13:7 31:14	135:14 136:2	Jimmie 57:15 58:5	186:24	27:13,17,20,22,22
	148:10,16 156:15		Kevin 174:23,24	

27:25,25 28:17	119:16,17,19,23	213:6,8,8,12,21,23	172:3,7,14,16,16	226:15,17 227:3,5
29:1,4,5,8,9,17,19	120:2,10,21,23	214:1,24 216:15	labels 20:2 165:16	left-hand 149:7
30:9,19 31:4,5,6	121:16 123:8	217:13,17 218:2	170:12,13,14	legal 12:13 45:20
31:11,16,18,18	125:14,14 127:16	218:23 219:2	172:17	74:7,9 85:4 86:23
32:9,14,15,21 34:2	127:16 128:2	220:13,23 221:8	labs 171:9 174:8	97:18,20 104:2
34:2,12,15,17,21	129:4,4 130:19	221:11,12,14,14	lack 56:3 92:4	115:17,20 164:11
35:9,10 36:16,24	131:2,24 132:9,10	221:21,25 222:7,8	113:17	193:9 198:11,13
37:7,13,18 38:1,12	133:6,17,24 135:9	222:11 223:6,7	ladies 16:9	legalistic 76:2
38:13,24 39:5,17	136:11 137:10,11	224:11,13,13	lady 31:13 240:12	Lehrfeld 3:17 5:13
39:18,18 40:13,17	137:21 138:1,1	225:12,15,16,17	language 18:6	5:13 167:3
40:17,17,22,22,25	139:24 140:1	226:1 227:10	languages 109:13	letter 1:18 156:14
41:1,2,4,8,8,16,23	141:3,6,10,13,14	229:12,16 231:24	late 13:21 121:24	237:25 241:19,21
42:6,7,16 43:6,9	142:6,20 143:1,2,3	232:11,13,14,18	225:12 237:13	245:25 246:8
43:11 44:2,16 46:4	143:4 144:19	232:24 233:1,8,17	lately 239:23	letting 41:17 160:11
46:5,6 48:3,6,14	149:22 150:21,24	239:14,18 240:2	latest 243:17	let's 13:14 15:3
48:15 50:2,5,6,8	151:3,5,12,14,19	240:20 241:3	law 9:19 45:15	25:21 32:7,8 40:1
50:14,21 51:2,5,7	152:2,8,10,19	242:23,24 244:13	lawful 48:24	42:15 60:17,18
51:10,13,15,16,17	153:6,10,20,21	244:24 245:1,6,7	laws 48:13,14,21	65:3 70:22 81:24
52:5,12,19 54:15	155:11,23,24,25	245:24	49:5,7,8,9,10,11	88:17,19 102:23
55:12,17,20 56:14	157:7 158:11,25	knowing 62:22	49:12,18,19,22,25	103:5 105:16
56:18,20,21 58:7	159:3,14,16 160:6	122:8 123:14	50:3 99:23 211:3	138:6 147:6 156:5
58:20 59:4,4,5,13	160:9,11,23	135:22 136:4	lawsuit 6:12,13,17	166:9 167:2
59:14,15 60:12	162:24 163:2,2	140:2 148:12	lawyer 97:18 126:3	176:10,21 182:18
61:4,19 62:7,9	164:4,5,6,13,20	226:20 228:1,3,11	164:4,25 223:1	189:11 190:2
63:6,11,15 64:9,12	165:3 169:15,15	knowledge 6:8 21:8	lawyers 98:12	191:1 192:4
64:13,22,25 66:14	171:21,21,22,24	26:18 56:3 76:7,9	101:19 112:13	195:12 197:6,22
67:7,18,24 68:5,11	173:3,3,10,11,12	98:17 111:15	lay 11:16 12:11 31:7	198:21 199:10
68:14,16,19 69:1,3	173:14,20 174:5	113:15,18 115:13	110:13 118:13,15	201:21 206:6,16
69:5,23 70:8,20	175:7,11 177:21	124:23 139:16,17	118:20	207:3 209:24
71:2 73:3,16,25	178:17,18 179:22	140:1 147:8	laying 25:13 31:24	214:20 220:8
74:20 76:1,3,8,9	180:10,14,18	181:12,12 187:18	34:1	222:9 228:24
79:13 80:14 81:12	181:11,12,21,22	201:20 204:4	layout 171:22	230:25 231:3,3,4,6
82:2 83:4,6 84:1,5	182:12 184:12	225:8 228:12	lays 228:6	234:18 236:9
84:5,6 85:5 87:25	185:9,18,19,23	232:12 233:9	leadings 73:20	243:25 245:5
90:14,15,20,22	186:3,7,24 187:1,2	234:25 247:10	leads 123:11	246:14
92:6,6 93:5,20	188:16,18 191:22	knowledgeable 56:5	lean 60:9	leukemia 91:21
94:5,16,19 95:6	192:23 193:25	known 35:20 59:21	learn 93:21 150:23	244:19
96:13 97:4,12,13	194:21 195:2,3,17	111:18 125:10	learned 95:22,23	level 225:5
106:16,18,18	195:24 196:23	130:21 139:13	lease 174:15	levels 55:15
108:14,18,21,25	197:3,3,4 199:3,6	216:23	leave 13:21 57:6	liars 26:3 57:2
109:15,25 110:6,8	201:4,8,18 203:10	knows 17:12 68:3	191:20 226:9	library 180:17
111:11 112:9,23	203:25 204:12,13	91:7 135:13	227:17,17 228:20	life 27:16 55:21
113:21 114:21,23	204:21,23,24	180:10 236:18,18	led 15:9 17:14	95:20 117:4 181:5
116:15,16 117:3,7	205:18,18 206:10	236:20	194:10	192:15 205:11
117:7,9,12,13,15	209:8,13 210:11		left 36:5,6 92:25	226:12 231:3,24
117:18,22,22	211:17 212:4,6,8		146:11 153:11	232:13
118:9,10,21	212:12,12,13,14		204:5 215:8,16	Light 234:22
		L		
		label 20:9 38:18		
		171:16,16,17		

[263]

liked 143:15	205:3,8,12 236:4	217:14	150:18 176:13	man-driven 27:16
limitations 91:17	244:22	looks 15:4 160:20,23	212:2 215:14	map 153:20
line 12:22 13:6	lived 55:21,23 220:4	220:11 222:15	217:10 240:23	marched 79:21
20:22 35:19 147:9	liver 244:19	Lord 10:5,23 16:12	loved 30:5	Maria 31:10,13,20
208:14	lives 49:21 50:19	18:17 36:6 46:14	loves 225:17	32:1
lines 13:4	living 70:7 71:10	54:18 80:1 114:24	loving 44:17	mark 84:14 97:19
list 39:9 177:2	77:23 78:1,20	115:1 118:17	low 203:7 209:10	104:9,17,22 234:6
182:13 183:4,19	120:14	194:7 195:19	lower 154:19,22	243:7
183:21 186:14	loaf 219:9	204:15,18 215:4,7	lunch 65:5 66:9	marked 84:20 97:25
187:13,19 188:1	loans 42:17	215:21 216:7,20	luxury 22:15	104:12,25 105:21
198:22 241:6	local 155:1,1 211:9	216:20 223:24	Lynch 28:18	147:22,25 156:10
listed 139:14 167:10	211:19	225:17,18 227:25		156:13,15 166:10
176:5 199:3	located 70:5 77:8	lose 40:24 141:14	M	206:16,19,23
208:25 234:15	99:13 127:1	181:16	machine 96:14	207:3 220:9
237:5 241:7,15	location 70:6	losing 19:3 40:23	218:14	234:10 243:10
listen 30:3,6,9	locations 35:21	lost 19:2 141:13	machines 10:9	marketing 51:12,17
238:23 240:21	logic 147:3	lot 10:24 15:18 16:8	173:20	241:7
listening 17:10,11	long 6:4 35:1,5	16:11 17:5,10	Maclea n 124:15,16	married 175:21
30:6,23 44:24	60:13 70:13 96:7	18:18,25 19:13,13	mad 14:25	235:25 236:14,14
152:9	96:14 108:16	24:20 30:3,8,9,17	mag 187:1	mass 60:9 123:21
listens 151:8	121:25 175:10	33:24 35:10,14	magazine 57:16	140:16
lists 139:5	186:2 187:23	38:15,19 41:17	magazines 177:9,18	master's 47:23 48:2
literally 11:14 53:15	189:9 206:25	44:15,25 51:22	181:8 187:1	material 14:20,21
55:23 56:8 59:13	224:7,8 229:11	63:18 64:20 68:10	mail 167:25 168:1	20:2,17 21:1 26:10
59:16 81:13	243:12	80:3 82:3,5 88:18	Main 99:14	37:14 39:16,22,25
124:10 215:16,23	longer 145:7 153:14	96:8,8 108:7,7	maintain 23:25	40:1 41:3 81:16
220:4 227:21	205:3,8 236:13	110:6 114:25	maintenance 96:8	87:9 89:15,16 93:7
234:23 235:1	238:6	117:2 122:17	major 110:9 125:19	124:21 140:4
literature 61:21	look 24:4 41:2 51:19	150:16 154:21	127:2	145:17 146:12
87:6,24 88:7 93:13	51:20 54:14 62:4	156:2 160:15	majority 188:6	151:2 157:6
93:14 172:21	84:23 91:24 98:2,5	161:1 162:15	makeup 141:23	165:15 177:18
186:9	104:20 112:25	167:22 169:24,25	making 86:23 98:23	178:10 186:22
litigation 144:12,19	136:18 148:25	169:25 170:1,24	186:9,10 188:13	187:21 188:10,14
144:21 146:6	149:21 161:14,14	171:18 174:1	202:18	188:16 193:24
165:24	166:10 182:16	179:21,21 180:16	maladies 50:19	218:12 223:9
little 9:25 10:16,17	183:3 195:12	180:17,22 181:16	male 50:25	materials 40:10
30:11 37:18 44:12	207:1 212:20	186:22,23,24	mammon 217:10	56:22 89:19,23
53:7 60:14 73:25	218:4 220:8	188:10 204:3	man 11:10 17:24	165:15 170:16
85:17 106:25	222:17 224:12	205:19,20 208:17	18:2 39:15 47:8	177:7,17 181:4,15
120:10 158:10	246:7	209:12 219:22,22	48:23 56:2 108:14	231:18
165:10 203:11	looked 53:4 62:2	219:22 222:5	118:19 141:11	math 133:19
217:22	122:13,20	231:9,9 239:9,21	196:22	Matt 169:4 175:21
live 11:13 30:18	looking 29:14 88:21	239:21	manager 237:15	matter 2:4,17 4:14
42:2,19 48:5,7,7	96:23 157:9	lots 60:12 119:15	manifest 130:11	7:15,18 15:7 22:24
48:12 49:1 70:3,4	166:16 183:8,21	149:25 205:18	manifested 130:23	23:6 26:15,20 41:6
70:6 79:12,14	187:5 197:8	love 31:18 116:24	manufactured	45:15,23 50:24
95:21 203:17	212:15 213:7	117:6 129:1	170:18	51:1 60:3 63:25
			man's 26:2	

81:16 122:17 130:21 142:4,6 179:6 181:18 219:25 mature 237:11 maximize 54:7 maximizing 53:19 54:3 McAlpin 77:9 McGee 235:10 meals 54:6 mean 6:15,19 10:1,4 13:25 14:3,17 15:1 16:15,18,21 19:15 20:15 23:17 24:13 25:17,20 27:9 29:8 30:18 31:5,8 34:3 34:11,16 35:1 37:4 37:23,25 38:1 39:17,17 40:20,24 41:19 44:5 45:23 49:23 55:22 58:15 58:19 59:15 61:10 62:4,6,12,15,17,18 64:9,12 66:14,16 69:14 70:6,13,15 76:7,8,8 78:2 81:13 83:6 88:10 88:13,14,15 89:5,6 91:9 93:3 94:16 97:14 107:3,22,23 112:10 117:2,21 118:10 119:16 120:2,24 129:3,12 132:9,10 133:4 134:14 135:5 136:5,6,10,17 137:1,6,6,13 139:25 140:15 141:2,22 142:20 144:22 146:4 147:5 148:16 150:24 152:5,19 153:2,17 155:24 155:24,25 159:10 159:22 162:16 163:5,25 165:18	169:12 177:13 179:17,23 181:1 184:11,13 185:14 185:17 187:22 192:23 194:16 203:25 209:11,12 209:16 210:5 213:21,25 214:21 216:25 224:16 231:25 233:11 235:12 236:7 239:14 243:1 means 9:15 27:23 46:13 52:25,25 89:18 91:6 94:11 109:12 139:10 148:6,13 150:12 191:14 193:16,20 208:16 218:3 meant 113:3 measurements 59:10 meat 121:4,5,6 mechanical 34:2 medical 27:25 125:15 137:16 179:24 183:4,7,16 183:20 medication 7:1 92:7 92:7 medications 7:3 medicine 28:18 47:14 medicines 47:15,16 meet 12:10 19:10,14 21:17 22:4 33:22 38:21 43:2 48:6 52:13 96:17 116:12 meeting 76:18 77:7 115:24 116:6 Melissa 168:24 member 155:2 197:24 198:2,7,12 men 26:3 48:20 57:2 60:1 73:21 mention 79:9 116:3	151:24 161:5 mentioned 13:9 16:25 17:15 19:6 25:22,22 28:21 34:4 39:24 66:10 66:22 67:4,5 77:10 82:16 116:19 145:16 157:3 165:14 214:9 222:22 226:5 237:12 245:7 merchant 221:20,24 merely 39:3 Messiah 72:11 73:18 74:10 75:1,22 76:11 77:13 79:1,3 84:11 116:1,6 144:8 145:1,11,25 146:2 194:7 met 19:5 35:23 175:22 191:18 metastases 111:18 124:20 method 55:19 56:17 56:18,25 57:7,25 methods 57:19 Michelle 234:18 middle 15:11,11 21:22 31:23 150:8 miles 71:14 Millennium 142:13 million 196:22,22,23 209:18,18,22 210:5 212:19 millions 195:10 mind 4:21 44:14 51:5 56:10 118:14 163:23 224:17 238:24 240:18 mine 137:3 175:23 175:25 225:2 minerals 92:4 119:11 minimum 210:17 minister 20:17 34:20 48:7 211:1 ministering 16:6,12	79:16 ministries 31:15 77:18 78:23,24,25 95:15 152:17,17 156:1 210:2 211:20 215:13 217:7,10 ministry 10:23 13:10 18:1,23 22:3 26:9 30:4 31:16 35:3,23 37:20 41:25 46:12 72:14 72:15,21,25 73:1,5 73:6,9,24 74:2,17 74:18,21 75:18 76:12 77:16 79:23 91:2 95:14,25 96:4 97:5 128:13 144:8 144:11 145:5,12 150:4 152:10 160:12,13 161:7 161:21 162:13,23 194:14,22 196:13 215:10 216:13 217:16 219:20,21 ministry's 75:7 minutes 96:2 239:11 239:13 mischaracterize 78:7 misleading 12:12 51:11,11 114:18 114:18 115:15,23 116:14 134:2 213:15 misled 134:8 misrepresent 86:18 missed 131:20 mission 161:7 missionaries 96:12 124:6 mistake 4:13 misunderstanding 127:23 mitochondria 53:20 mom 121:24 moment 39:2 45:2	104:6 179:8 Monday 197:19 Monday-Friday 17:3 monetary 203:6 money 18:11,14 19:8 25:15 37:9 40:23,25 44:6,18 76:14,15,20,23 78:17 79:17,22 80:21 82:1 120:7 120:23 144:20,21 144:25 145:1,22 146:8 149:25 152:18 193:24 194:6,8 195:16,16 215:2,12,14 216:24,25 217:3,8 217:11,11 227:18 228:15 231:9 238:25 Mongolia 216:8 monies 77:21 144:10 165:20 193:16,21 monitored 126:22 monitoring 66:21 126:20 month 80:20 207:16 207:17 210:22 monthly 1:20 206:19 207:13,14 months 225:7 238:13 242:1 morning 119:4 121:5,9,20 187:23 233:20 mother 60:2 motion 86:15,16 motives 120:3,3 mouth 77:25 78:6 117:16 118:5 149:13 move 60:17 131:4 138:6 166:9 176:10,15,21 179:21 180:2 191:1 197:6
--	--	--	---	---

[265]

198:21 199:10	natural 29:15	83:12,13 93:6	209:21	247:1,1,19,19,19
201:21 202:10	127:19 138:23	180:8 185:22	nonlegal 103:25	247:19
214:20 236:9	nature 226:1	191:16,18 198:4	noon 119:4	oath 8:24 26:1 27:18
245:5	naturopathic 205:6	220:25,25 228:7	north 219:19	27:19 66:5
moved 176:8 235:25	near 20:3 187:14	nephew 200:2	Northeast 3:8	Obama 232:20
moves 15:18	neat 27:14	network 26:16	notarize 27:3 33:6	obeying 113:20
moving 192:6	necessarily 32:14	195:10 196:14,17	33:19	object 33:9 40:3
202:23	140:13 173:16	220:16 234:24	notarized 27:20	44:3 47:21 78:3
muffler 217:25	184:1,4,7 188:15	235:6 236:15	31:3	82:18 85:17 86:4
multi 130:6	198:5	237:18 238:16	note 4:18 111:4	86:12 98:7 128:22
multifunction	necessary 12:11,13	245:7	163:24 177:23	129:9 132:24
237:10	12:15	networks 195:7	208:13	135:14 136:3
multinutritional	necessitated 81:25	never 6:9 15:6 25:17	notes 247:8	164:10 193:8
130:8	neck 141:3	29:7 33:18,19	notice 2:18	198:10
multiple 37:2	necrosis 141:15	34:12 36:7 42:20	noticed 120:13	objecting 12:1,3
140:19 171:9	necrotic 140:10,12	58:2 112:3 118:2	not-corrected 63:24	85:3
194:21 219:6	140:13,14 141:2	120:23 122:16	nowadays 84:6	objection 8:6 11:20
232:17	need 6:2 9:20 10:6,7	127:24 210:15	number 1:8,9,11,13	11:21,22 12:25
multi-antipathoge...	10:8,9,9,11,12,13	212:11 221:3,8	1:14,15,16,18,20	13:1,2,3,5 28:3,4
130:8	10:13 14:3,4,17,20	227:5,7,17,24	1:21,23,25 7:18,18	33:1 39:1,2,7 40:4
mumbling 225:20	15:24,25 18:9,10	new 2:15,15 3:10,10	11:9 35:10 37:17	44:4 47:22 55:1,2
mundane 191:24	18:10 19:11 22:11	41:2,3,6 47:10	40:21 67:4 84:19	63:10 67:12,13
195:25	23:6 25:15,15	71:20,22 96:2,4	86:1 97:22 104:11	78:10 82:6,12 85:7
muzzle 54:19	26:21 31:21 35:7	106:23 119:22,23	104:24 147:24	87:13 89:2 97:19
M-A-M-M-O-N	38:21 45:15,16	140:17 185:8	148:8 156:8,11,14	103:23 115:17
217:10	52:12 56:7 69:9	195:1 223:7 240:3	168:2,3 190:3	136:2,2 148:10
M-E-S-S-I-A-H	79:14 83:14 85:1	240:4,4	191:1 197:22	objections 7:21,23
73:25	95:5 97:5,6 105:6	Newark 47:10	198:21 201:21	7:24 8:3,9,20 13:4
	112:17 113:21	newer 109:15,19	202:4,10,23 203:5	55:4 87:16
	125:6 159:1 162:6	newsletter 131:25	206:18,21 234:8	objects 82:16
	162:6,19,22,22	142:13,15,23,24	243:9 247:3	observation 217:18
	169:10,16 170:4,4	142:25 143:1,3,13	numbers 11:10 42:6	observed 39:6
	175:19 195:16	143:15,19,24,24	104:18 105:4,18	obtain 134:10
	202:19 210:11	143:25 144:5	148:2 182:22	149:10 200:21
	213:25 217:11	200:6,15	210:22 212:7,18	232:4
	218:16 220:22	newsletters 34:23	214:22 231:1	obtained 200:14,18
	222:17 228:15	newspaper 132:16	nutrient 37:1	obviously 26:5 35:4
	232:7 240:24	newspapers 223:17	nutrients 35:16	101:24 140:8
	needed 9:12 14:20	nice 16:8 57:3 64:13	52:14 57:11 130:7	191:18 197:4
	50:24 145:9	161:14 173:25	184:18 205:9	242:22
	179:10,25 183:23	242:2	nutrition 1:15 42:15	occasions 155:17
	213:18 238:15	nicer 160:24 161:1	156:9 158:5	226:3
	needle 181:10	night 15:11 31:23,24	160:21,25	offer 37:11 59:21
	needs 13:19 14:10	60:14 119:4	nutritional 28:20	101:17 148:17
	14:21 17:23 18:23	185:15 215:23	N.W 3:20	154:13,19,20
	18:25 19:13 23:20	Nobel 49:4		155:18 173:24
	31:8 52:13 83:10	nodding 19:22		178:2 229:16
			O	
			O 4:1 66:1,1,1 247:1	

offered 7:22 60:18
60:20
offering 104:3
129:19 145:3
195:6 232:8
offers 51:25 195:7
232:1
office 19:20,21,23
21:21,25 99:13
100:9,15 117:13
174:13 181:7
240:12
officer 1:10 2:8 7:17
97:24
officers 190:8
oh 11:10 23:23
28:14 29:23 30:25
34:25 39:15 47:6,8
55:11 56:19 58:7
64:11,11 68:21
94:24 106:11
107:2,3 108:7,14
108:16 110:25
111:4 113:4 127:6
135:24 136:24
138:5 141:11
143:21 144:22
152:7 160:18
161:13 162:25
169:21 170:24
176:24 177:1
188:8 196:22
204:23 214:12
221:24 224:8,11
225:10 237:22
Ojibwa 123:24
okay 4:15 5:7 6:7,23
7:4 8:14,17,21
12:3 26:10 29:10
45:5,22 46:17 47:1
53:1,18 55:9,13,19
56:12 59:2 62:14
64:14 65:1 66:8,22
67:4 69:4 70:4
71:24 72:10,19,24
74:19 75:7 78:16
78:24 79:2 80:12

80:17,20 81:6
82:10,21 83:8
84:13 85:8,22 86:6
91:23 93:5 98:18
99:10,21 100:17
101:25 102:2,9,17
103:22 104:6,8
105:16 106:6,9,17
106:21 107:2
108:2,20 109:4,24
111:24 112:8
113:8 119:11
129:16,24,25
131:15,19 136:18
136:25 137:2
138:6,17,22 142:9
143:23 144:17
146:15 147:10
148:15 149:5,12
149:23 150:17,19
153:4,16 154:14
156:4 157:19
161:18 162:1
166:1 167:24
168:6,24 172:10
172:18,23 174:17
174:24 176:2,8,16
177:1 182:11
184:10,14,25
186:19 187:4,8,17
189:8,12,25 192:4
192:22 193:1,11
196:9 197:2 198:9
198:13,21 199:8
199:10 200:12
201:17,19 203:12
203:24 204:11
206:14 207:8,14
207:20 208:5
209:2,6,17 211:12
211:14 212:25
213:10,24 214:19
218:24 220:14
225:4,22,25 228:2
231:4,5,7,13 232:9
232:15,21 234:17
235:10 237:22

245:3
old 31:8 50:25 59:16
63:22 109:7,9,10
109:11,19 138:12
192:20
older 110:11
once 23:2 172:12
185:21
oncologist 112:5
oncologists 125:20
oncology 125:16
ones 70:24 124:9,10
186:21
One's 19:19 72:9
223:14 237:10
one-way 36:7 219:2
226:19
ongoing 28:4
online 149:7 154:4
onward 183:4
open 192:22 211:2
opened 118:4,5
operate 18:3 102:18
214:9,11 226:8
operations 223:10
opinion 88:22
111:24 134:14,15
134:15 164:11
opinions 116:16
134:16
opportunity 36:10
154:19
opposed 118:16
218:17
opposite 129:11
option 35:15
options 205:15
order 23:9 48:24
115:11 128:14,15
139:17 147:21
154:4,6 159:23
162:23 163:12
167:14,19,24
168:4,20 169:3
191:22 208:2,6,8
208:10 220:17
225:3 233:2

ordering 52:4
orders 167:15 169:1
171:7 207:13,14
organic 121:15
organization 246:3
organized 74:10
99:22
organs 52:5,11
original 36:25
184:20 241:14
originally 73:13
118:13 182:24
200:6
orphans 145:14
ought 54:14
outcome 53:11
outright 144:22
outset 17:15
outside 12:8 170:21
outsider 217:14
outsiders 161:25
overall 208:17
overcame 50:19
overcome 122:14
overflowing 41:9
overhead 39:16,25
40:15 41:12
145:17 146:12
161:16 196:10
overlap 111:11
178:4
overnight 60:14
overseas 79:16
110:8
oversee 160:15
227:19
overseeing 113:20
overseer 9:9,11,14
9:18,21 15:3 72:23
100:6 190:9 191:5
237:11
oversees 9:23
167:15 235:3
237:9,18
overview 220:12
222:10
owe 17:24 18:2

41:10 42:24,25
owned 71:24 77:10
77:12,15 78:22
owner 72:10 190:8
ownership 235:5
owns 71:17,18,19
oxen 54:19

P

P 4:1 247:1,19
package 172:8 230:8
page 1:4 62:4 85:25
86:1 98:18 102:23
104:19,21 105:18
105:22,23,24,25
106:1,4 107:10
109:5,6 110:11
113:1 131:6
136:19 137:17
138:7 142:9 148:5
149:6,6,9,12,15,16
149:21 150:6,9
151:16 152:22
154:2 176:4 183:3
183:3,9,10,11
189:25 190:2
191:2 197:7
199:11 202:16
208:12,13 209:19
220:11 221:6
222:9 233:10
243:14,25 244:18
pages 85:1 105:13
147:19 197:23
202:24 220:12
paid 17:21 67:10,18
67:22 68:19,24
70:1,3 80:17,18
118:3
pain 117:5
pamphlets 177:8
paper 10:14,17
55:24,25 56:6 60:5
60:12 180:22
papers 51:22 197:10
paperwork 27:25
paragraph 86:1
98:4,19,20,25

[267]

99:11 100:2,4,17 100:18 101:12 102:9,10,17 139:3 139:4 paragraphs 98:22 102:24 139:4 parents 16:22 part 11:17 30:2 48:18 64:19 75:16 81:5 99:1 100:4 132:20 153:22,22 157:1 161:21 162:14,15 173:6 180:18 196:10 203:6 211:2 241:2 participate 194:1 particular 66:18 85:1 93:7,8 99:1 130:13 parts 166:6 party 6:11 part-time 175:1 pass 122:3 152:11 passed 28:25 125:21 pastor 53:1,2 211:10 235:22,22 pastors 120:22 208:19 pat 26:21 path 73:10 pathogenic 110:21 patience 44:24 patient 139:25 Patricia 190:13 202:5 Paul 95:19,22 Pause 98:6,9 99:3 104:16 149:3 166:14 201:10 214:13 pausing 78:1 pay 10:2 17:17,19 27:3 42:23 43:16 77:23 80:5,7,9 146:18 147:12 151:25 153:2 162:8 165:8 197:4	230:19 paying 17:16 146:11 242:6 payment 222:24 payments 221:6 Paynter 3:5 5:18 55:9 85:9,16,22 PayPal 220:16 pays 68:22 192:2 222:23 peace 119:10 pen 10:12,13,13 pending 5:25 Pennington 47:6 people 10:6,21,25 11:1,3,8,9,12,15 11:19 13:10,11,14 14:1,11,13 15:21 16:6,9,12,18,20 18:18 19:5,13 20:12,19,21 21:9 21:11,13,17,18,25 22:3 23:9 24:7,14 25:7 26:8,9,10,13 26:15,18 27:1,6,9 28:10 29:9,13 30:3 30:3,6,8,12,23 31:1,6,7,10 32:12 33:5,25 34:10,16 34:21 35:8,11,15 36:5,10,20 37:4,10 38:10,11,12,15,18 38:19,21 41:10,14 41:17,21,22,23 42:4,7 44:13 48:7 50:18 51:6 53:25 54:3,5,14 57:11 58:23 59:3,5,14 61:4 63:12,18 67:5 67:6,9 68:4,7,19 69:22 70:20,23 71:2 81:4 90:15,17 94:8,9,21,22,23 97:9 109:15 110:13 111:19 112:11,19 113:13 113:17,23 115:1,2	116:11,15 117:4 118:12,20,21 119:3,17,24,25 120:11,13 122:4 122:17,21 123:17 124:6,23 125:21 126:1,13,15,17,17 126:19,19,21,21 127:12,13,19,19 129:3,23 130:1,4,4 130:5,12 132:2 134:2,24 135:1 137:25 140:24 141:1,3 142:1,7 143:4,6,7 144:1,20 145:7,13,13,14 146:22,22 149:24 150:1,22 151:10 151:11,25 152:4 152:13 154:12,18 154:20,23,25 155:6,7,12,25 156:2 157:9 158:22,22,24 159:1,17,22,23 160:7,11,16 161:17,20 162:20 162:21 163:2,2,7 165:8,16,18 166:3 167:1,19 173:23 173:24 175:1,10 176:4 179:13 181:15 185:18,22 185:22 194:17 195:19 200:14 201:4,4 205:15,16 206:3,7 208:20 209:11,25 210:23 210:24 211:19,25 212:13 215:12 216:4 218:9,19,23 219:7,7,8 220:18 222:11 223:19 224:23 226:9 227:25 229:13 230:19 232:19 234:15 236:3,6,15	239:2,2,5,9,15,15 240:7,21,23,24 243:19,22,24 people's 18:25 20:22 23:24 124:24 134:15 240:14 percent 18:19 40:11 40:11,12 43:4,7 49:19 75:24 154:3 155:22 173:13 209:8 211:17,17 213:8,9,11,13 214:15,18 230:5,8 232:6,7 241:12 perfect 63:16 perform 56:24 191:23 perimeter 140:16 period 109:18 218:4 perish 113:17 perishing 119:3 permission 220:20 person 14:8,23 22:16 23:18 24:4 25:10 33:21,22 36:2 37:24 41:15 48:4 68:22 83:14 83:15 90:19 91:9 130:20,22 135:5 141:25 153:13 165:16 167:10 176:6,6 201:23 202:19 203:16 204:20 205:2,13 206:8 215:7 225:5 230:24 239:13 241:6 personal 69:11 95:15 124:2 141:10,23 148:22 176:12,13 192:7 192:11,14 193:13 204:2 239:4 personally 14:15 25:19 26:2 28:11 31:10 34:9 69:7 80:21 128:12	178:19 personnel 229:13 person's 67:24 130:11 205:11 232:13 Peru 124:6 pets 243:19 pH 123:12 phone 26:16 168:20 169:2 176:6 195:9 phones 21:11 phonetic 127:9 physical 119:2 physician 124:3 physiological 53:14 physiology 52:18 92:18 122:8 pick 120:14 239:17 239:18 picture 106:9 pictures 24:24 25:1 179:18 180:6 piece 219:20 pieces 93:14 pin 186:8 pineapple 138:23 place 20:1 22:10 26:17 29:17 47:8 48:8 57:14 70:18 70:19 71:4,5 77:5 81:9 97:10 99:13 100:10,15 123:9 155:3 163:12 178:17 180:2 206:6 210:8 218:20 219:13 228:17 241:11 placebo 206:2 placed 75:12 89:18 199:20 places 70:11 148:4 148:21 219:22 236:3,4 plan 15:21 32:5 35:2 155:23 plane 124:7 planned 76:17
--	---	---	---	--

planning 226:7	114:22	193:16	22:22 42:25 67:14	120:16 186:5
plans 226:11,14	positive 80:3 83:5	presume 68:18	68:6 83:23 90:23	216:3,14
played 175:24	125:2 127:10	244:2	92:22 95:16	produce 112:12
please 4:9,23 5:3	possibility 135:11	pretty 10:4 16:24	111:14 116:9	196:21 230:13
9:15 32:6 43:24	135:20 140:2	21:5,24 27:14	121:19 122:24	produced 156:19
69:6 70:11 73:23	possible 5:24 107:25	44:14 60:15 96:3	204:16	170:8 182:23
81:8 100:13 104:9	121:20 137:6,9	122:23 125:9	principles 9:19 35:7	206:17 232:5
104:20 109:4	possibly 107:23	134:17,18 137:1	36:19 49:21 52:8	produces 171:4
110:19 114:7	140:15 205:23	137:24 138:18	91:2 92:24 95:18	producing 202:17
126:7 136:19	potential 140:18	141:18 142:18	95:24 114:17	product 1:15 20:5
138:6 142:10	pounds 32:3	143:12 150:2	116:10 173:10	20:22 35:17,19
189:18 197:7	powerful 16:11 57:5	159:7 174:2 178:5	print 14:6 172:3,7	36:12 37:16 38:7
198:3 203:14	57:12	178:18,25 182:7	printers 170:14	41:9 52:2,3 60:20
208:13,16	practice 12:13 211:6	185:2 188:1	printing 159:10,11	61:12,20 79:10
pleasures 95:21	pray 31:7 118:14,20	194:12,16 195:24	prior 34:7 47:5	93:7,8,13 101:3,7
plenty 95:23	194:19 195:12	196:1 214:14	170:11 200:13	113:4 119:23
plus 27:21 37:17	prayer 118:19	222:2 231:15	224:4	120:4,6,6,17 123:1
179:3 232:18	praying 25:13	232:2 235:16	priority 217:11	124:13 146:25
pocket 227:22	precancerous	240:4 244:8	privacy 157:20	147:11 155:14,18
point 13:7 18:25	136:20	prevent 60:25 90:4	privilege 7:24 8:12	156:9 158:5,9
21:18 37:24 48:10	precept 130:18	107:17 111:18	privileges 8:1,9,19	160:20,21 161:5
50:20 53:15 71:21	precursor 123:10	124:20 157:21	prize 49:4 82:4	163:10 164:23
76:22 82:2 94:18	predicate 12:11	preventing 90:7	probably 27:11 30:8	165:5,9 166:1
114:21 119:10	predominantly 70:8	107:25	40:23 41:13,13	170:18 171:10,15
127:23 128:6	70:10 168:1	prevention 197:12	42:4,5 48:3 81:25	172:2,11,21 173:1
160:15 178:20	premark 158:3	prevents 61:8,17	84:25 85:5,20	173:6 174:10
194:11 205:23	premarked 182:15	previously 23:8	87:12,12 88:15	202:17,18,20
212:14 219:12	prep 55:15	191:13	97:14 106:16,20	208:24 210:1,8,11
pointing 99:6 187:6	preparation 179:6	price 38:5,6,14 39:4	108:17 133:16	210:24 211:5,13
points 81:17,20 82:7	prepare 106:14	39:5,10 145:19	136:16 137:5	212:20 229:14
82:10,15,19 83:1,2	166:4	150:6,9 151:6,17	151:9 153:14,22	230:18 231:19,23
110:16,19	prepared 87:6	152:21 155:15,16	157:16 159:23	238:23 239:4
Poland 79:18 93:20	101:18 144:5	155:18 165:12	176:15 188:10	production 156:24
95:10 219:1,1	158:20 166:4	171:12 202:17	201:15 212:3	157:2 190:19
policy 159:20	222:13	229:12	230:1 232:6 240:9	Productions 234:22
202:18	preparing 26:9	prices 41:3,3,6,7	problem 4:14 29:15	products 20:1,3,10
Polish 93:21	prepped 85:17	150:10 208:14,14	118:24 140:14,16	20:14,22 21:6
pork 53:5	presence 73:22	229:6,11 230:11	229:10	35:14 36:9,10,11
Portsmouth 99:14	present 5:20 15:25	pride 215:13 216:22	problems 68:10	36:22 37:11 39:10
174:15	36:19 73:6 111:11	216:23	118:12 174:7	51:25 52:9,9,16
position 18:1 38:19	162:19 166:22	priest 31:17	procedural 4:16	54:24 58:18,24
42:5,21 43:1 46:23	185:7 241:13	primarily 153:12	proceedings 98:6,9	60:17 92:14,20
47:12 68:15 69:5	presentation 8:7	194:2	99:3 104:16 149:3	100:20,22 101:13
89:10,12,12 115:4	presenting 120:25	principal 11:4 92:17	166:14 201:10	101:15,16 102:3,6
125:15 175:13	preserving 87:16	99:13 100:9,15,15	214:13	102:12,19 103:2,3
221:16 241:13	press 206:12	228:12	process 27:5 53:3,18	103:13,20 112:13
positions 9:10	presumably 158:19	principle 18:14	89:20 90:5 92:19	113:3,5 116:18

[269]

119:14,18,23,25 120:1,18 125:5 126:17,22 127:14 127:16,17,19 128:4,7,12,21 129:4,7 130:3,5,13 141:20 143:5,8,21 144:1,23 145:3,18 146:18 149:10,16 149:17,19,20 151:25 153:1 154:22 158:9 163:7 164:7,7 165:4,8,19 166:1 168:14 170:25,25 171:8,14 173:3,23 173:24 177:20 178:3,6,7,14 184:19 185:12,13 185:21,24 186:4 186:11 188:13 190:20,23 196:12 197:10 199:1 201:25 202:7 203:1 204:5 205:3 205:4,10 207:17 207:18,21 211:25 212:22 213:4 224:4,9,14,16 229:7 231:17 242:13 243:18,23 244:20 246:4	237:19 238:14 programs 10:6 30:17 59:24 149:25 150:1 152:2 238:14 progression 23:11 23:12,25 project 169:15 170:7 projects 169:19 prominently 143:19 promotable 238:20 promote 238:13 promotes 110:20 promotion 154:11 promotions 154:8 238:10,11,18 241:7 prompting 85:10 pronounce 4:10 proofread 247:21 propagating 30:14 propensity 91:5 properly 162:20 220:18 properties 61:2 77:15 79:2 184:18 227:18 property 70:2,2,4 71:9 72:5,7,10 90:6 192:11 218:15 219:20 236:5 protected 12:5 protection 12:8 protein 106:22 107:16 123:17,20 138:24 140:15 proteins 90:3 proteolytic 123:18 138:23 prove 55:21,24 56:25 215:8 proved 93:23 provide 35:15 36:9 36:23 37:10,15 58:3 66:11 73:10	91:3 92:15 101:6 157:1 163:16 164:15 171:10 191:5,16 196:12 234:25 236:2 provided 80:1 146:15 156:22 182:14 205:9 212:16,17 222:14 provider 233:1,10 provides 80:1 102:19 106:22 providing 36:9 157:12 psychological 47:24 psychotropic 139:23 public 47:9 51:25 publication 143:20 243:16,17 publications 34:23 134:3 169:22 177:24 188:6 published 142:15 188:24 publishes 103:2,20 pull 179:5 180:7,23 pulled 182:1 pulling 180:16 pulpit 52:24 punch 175:9 punctuation 247:22 purchase 96:4 101:17 144:23 146:25 147:20 148:23 164:7 165:4 203:16 211:8 purchased 71:20 96:2 147:1 purchases 210:23 246:4 purchasing 147:10 149:19 152:10 165:19 Pure 106:21 purifies 110:18,20 purpose 23:14 25:3	25:17 29:18 30:13 30:16 37:9,10 52:3 52:14 73:5,17,22 92:14 93:18,22 110:2 112:17 123:7 142:24 145:11 154:11 179:25 190:6 purposes 7:19 72:24 162:12 193:5,18 pursuant 2:18 pursue 126:16 127:21 194:20 pursued 125:3 pursuit 12:14 push 238:22 239:12 239:12,13 pushed 118:6 put 17:25 18:14,16 18:18,21 28:22 34:10,22 38:14,23 39:4 42:20 59:10 62:24,25 63:6,7 67:16,17,17 75:19 76:16 77:25 78:6 88:17,19 104:7,19 107:11 109:18 118:5 119:5 128:10,24 131:18 133:4,11,11,13 137:25 145:4,18 145:22 147:6 149:13 155:9 156:18 158:22,25 159:2,6,24 160:7 160:24 161:1,9,18 162:4,11,22,22 164:8 165:20 168:13 169:13,16 169:16 171:15,17 171:20 172:7 173:4 178:6,6,10 181:5 195:15 207:9,25 209:24 211:3 213:18 217:24 222:18 223:1 235:14	236:16 245:25 246:7,10 putting 17:5 30:23 88:2 185:5 243:20 p.m 65:5 66:2 246:16 <hr/> Q <hr/> QUADE 247:25 quality 37:1,8,21,21 171:10 quarter 219:9 question 5:25 6:1 8:10,12 12:7,21 33:2 38:2 39:3 44:3 48:18,19 50:12 55:10 61:11 62:17 78:3 80:5 82:14,15,22 86:5 87:15,21 88:3 98:11 101:4 103:8 103:14 106:14 107:4 113:8 117:9 128:18,22 129:10 129:18 133:3 135:15 136:3,4 144:24 148:10 150:14 157:18 164:5,11 178:1 180:5,20 183:2,6 183:19 188:11 193:8 198:10 204:25 215:5 217:13 221:17 223:1,11 228:19 243:13,14 questioning 13:5,6 questions 5:2,7 9:3 12:22 18:5 44:21 45:1 66:9 84:25 85:3,6,12,15 86:12 97:12 104:20 149:1,14 166:16 179:15 207:2 222:21 229:2,4 244:6 quickly 45:1 121:19 234:15
--	---	--	--	--

quite 10:25 17:8 82:1 141:6 143:19 177:25 224:11	raven 121:4 raw 37:14 39:16,22 39:24 40:1,10 41:3 145:17 146:12 165:15 rays 140:5 read 7:9 11:24 64:9 64:10,11,13,15,20 88:25 100:3 110:19 118:1 119:16,18,19 124:19,21 132:2 177:18 178:19,22 181:5 184:7,9,11 184:12 187:23 188:21 190:4 203:13,14 reading 108:7 117:17 120:20 123:3 134:9 239:19 readings 57:22,23 59:3,7 reads 114:18 ready 166:15 real 16:11 17:7 31:13 42:22 48:12 48:20 118:24 122:25 123:7 192:11 240:8 242:2 reality 46:15 76:11 114:25 realize 68:15 219:12 realized 123:15 217:19 really 6:8 10:3 16:10 16:25 17:7,7 21:21 24:19 25:9,10 26:23 28:25 29:12 29:12,15 30:5 34:4 36:24 37:15 40:21 42:8 44:9 45:2 48:19 50:13 51:4 51:14 54:15 56:10 57:3 64:13 80:5 83:6 90:20 92:11	92:25 94:16,19 95:5 96:20 97:15 110:9 112:21 113:16,18,22,22 114:22 116:25 117:2,20 118:13 118:16,16 119:6 119:15 128:18 137:6 138:18 140:14 141:8,15 142:3 143:2,25 150:2 159:16 160:11,13 161:4 170:3,17 174:2,5 179:9,16,23 180:7 185:14,17 186:5 191:24 195:14 205:25 212:3 213:14 215:4 225:10 227:11 240:6,22 241:16 241:16 reason 7:4,6 18:22 42:12 55:25 73:4 90:18 94:3 111:5 121:3 178:12 181:2 198:4 215:19 reasonable 231:16 reasoning 15:17 reasons 22:1,4,17 68:8 180:10 recall 34:14 64:19 64:21,24 88:1,8,12 88:14,20 89:22 92:10 110:5 128:25 146:17 179:16 187:20 203:24 204:1 recalling 143:17 receipt 163:10,13,14 211:9 246:3 receipts 213:17 receive 18:8 48:2 69:8 78:8,17 163:9 164:7 192:7 193:13 200:21	208:10 210:14 227:3 received 75:11 81:23 129:8,20 241:1 244:16 receiving 78:11 recess 65:5 156:7 228:25 recollection 126:18 recommend 230:17 recommended 202:7 record 4:21,24 5:4 5:11 6:2 7:10 11:21,25 23:17 39:4,7 43:23 46:2 46:18 48:4 55:3 65:3,4 73:23 100:3 128:19 156:5,6,17 157:4 161:22 164:18 171:2 177:15 182:18,20 188:19 189:2,19 190:6 207:2 220:11 225:13 228:24 236:21 246:2,10,14 recordkeeping 233:21 records 21:25 22:6 22:18,21 23:1,9,25 24:10 25:4,18,23 155:17 180:22 203:6,22 233:22 233:25 recover 122:10,11 recovery 122:9 recreated 200:7 red 140:9 redacted 148:6 reduce 174:6 refer 11:25 16:1 17:8 93:15 237:24 reference 107:7 113:5 155:14 193:3 221:6,19 236:11 referenced 58:23	113:9 references 177:2,3 178:2,20 181:25 182:4,13 183:8,21 187:13,15,15 referral 221:20,24 referred 38:4 54:21 78:24 referring 12:20 64:25 99:4,7 103:12 107:8 187:7,8 refers 99:24 reflect 39:7 208:15 reflected 209:18 reflective 165:12 reflects 5:5 Reflux 137:19 refund 203:11 refunds 203:7,15 refuse 202:19 refused 244:21 regard 14:2 45:24 126:8 regarding 134:21 138:17 156:19 203:7,10,22 205:2 224:25 244:3 regardless 132:4 Region 3:8 register 223:13 225:3,3 registered 45:5,8,11 45:17 registering 224:5,18 registration 245:11 regular 17:2,18 170:7 241:23 regulations 49:2 112:10 regulatory 113:8 reimbursed 153:24 reimbursement 69:7 relate 16:9 90:19 91:22 106:24 114:13 131:24 135:1 184:20
---	--	--	---	--

[271]

related 9:8 27:2 170:9 203:16	rephrase 5:3 8:10	reserved 7:21 8:3	202:5 204:12,13	12:18 21:22 23:12
relates 223:12	replace 122:15,16	resided 70:12,14	204:15 228:21	23:13 31:25 37:14
relating 89:14 118:1 197:10 246:4	replaced 109:19	residence 71:1,4	243:20	40:24 41:5,20
relation 235:19	report 208:14 220:15 221:3	residing 70:13	restate 28:2 32:25 33:2	44:11 46:24 49:6
relationship 38:6 48:21 72:12,21 198:8 226:1 232:1	reporter 4:19 84:14 104:8,17,22 158:3 161:23 189:3,10 206:15 225:14 234:6 243:6	resource 181:14	result 134:10 164:9	55:6 56:2 58:18
released 54:8	reports 27:25 179:24 208:3 221:3	resources 183:7 199:13 226:16 235:1	resulted 80:3	60:21 61:13,14
relevant 25:2 44:12 176:14	represent 7:11 86:24 100:21 101:2 104:14 112:24 113:13 147:19 148:20,22 149:18 214:3	respect 11:8 28:9 54:21,24 61:11 87:21 88:4,23 114:5 133:20,22 134:1 138:22 141:20 180:21 218:15	results 56:22 57:10 57:18,18 58:1 125:2 127:20 141:19 165:18,19	62:21 67:6 68:8
reliable 96:9,15,21 97:2 218:14	representations 64:17 98:24	respecting 128:16 134:20	retailers 119:16	70:9 71:16 74:20
reliance 55:5	represented 5:9	respondent 55:7 101:13	retire 227:13	76:24 78:19 80:2
religious 102:20 155:4 193:4,17	represents 188:5 207:12 213:5	respondents 1:9,16 1:23 3:15 12:7 97:23 98:19,23 99:12,21 100:18 102:10,18 107:10 156:11 166:12 201:22 234:9,13	retirement 192:19 227:16	85:24 87:2,11,17
remain 66:4	reprint 142:20	respondent's 12:4	retracting 82:14	88:3,19 90:1 92:21
remember 6:10 23:19 42:12 43:8 51:13,19,22 57:2 77:4,5,6 117:9 121:23 127:8 138:20,21 142:23 143:7 163:25 184:21 187:25 204:3 229:21	reprinted 200:8	response 1:23 156:23 157:6 190:3,17 199:11 201:22 202:25 203:12,15 234:9	return 15:3 19:16 19:17 163:10	95:12 100:2
remembrance 204:2	request 5:24 11:22 12:5,6 24:22 37:23 38:7 39:20 145:19 163:21 184:24 242:10,12 243:24	responses 1:16 156:12 166:12 189:14,23	returns 164:9 245:14	102:23 106:12,19
remind 8:23 66:4 189:8	requested 245:24	responsibilities 9:22 9:23 17:16 43:2 167:7,13 234:16	revealed 53:9	107:20 110:12
reminding 189:9	requesting 246:2	responsibility 9:18 110:14 113:22 217:5	revelation 35:16 36:18 52:2 94:4 116:5 128:13	115:14 117:13,14
reminds 182:21	requests 24:22 38:4 156:24 163:24 185:16 203:11	responsible 17:20 17:22 62:10,12,13 62:16,20 63:15,20 64:1,2,4 75:2,5 100:4 138:2 168:9 190:19 199:12	revelations 52:15 94:8	117:14 132:15
remove 123:20	required 46:5 52:10 96:22		revenue 45:12 53:1 209:23 221:5,23 236:22 245:14	133:5,21,21 135:9
removed 130:24 218:3	requirement 46:22		review 98:12	136:16 138:10
remunerated 68:13	requires 128:14		reviewed 98:16 101:19,23 138:3	139:8 144:4
remuneration 67:11 69:7	requiring 55:6 97:3		reviewing 172:19	145:20 146:7,10
Rene 123:23 124:1,3 124:14	research 108:7 121:7 124:19 177:8,18 181:22 183:23 186:1,2 201:24		reviews 108:8	146:14 147:15
renown 185:17	researches 178:16		reward 81:17,21	150:5,11 151:17
rent 18:13 19:8			Rhode 45:8,18 70:5 70:9,11 72:7 79:4 79:6,7 99:14 219:18	151:18,21,22
rents 18:13			ribbon 10:10,10	152:21 156:3,4
repair 110:21			rice 69:18	157:23 158:11
Repeat 135:18			rid 22:22 63:22 141:12	160:22 165:24
repent 51:2 240:24			ride 20:19	166:7,9,19,24
repented 240:5			ridiculous 195:10	167:8,10,17 169:3
			right 4:18 6:11 7:8 8:15 9:14 11:5	170:6,23 171:11
				172:5,9 174:12
				176:6,10,17 179:5
				182:9 183:11,13
				187:12 188:23
				189:13 190:12,17
				191:1,12 192:6
				193:2 197:6,16,20
				199:10,19,23
				200:5,22 201:21
				202:3,3,4,10,15,23
				203:5 207:23
				208:9,12 209:20
				214:2,8,20 220:3,8
				221:5,19 222:1,7,9
				222:17 223:11
				224:1 233:20
				235:23 236:9
				239:12 241:10

243:4,6 244:4,12 244:15 245:5,9 righteous 13:25 112:15,17 219:24 224:22 righteousness 57:5 rights 55:8 86:22 ripped 240:14 Rita 225:1,6 River 47:9 RMR 247:16 road 99:14 119:13 Robin 168:6 Rocha 31:10 role 10:8 11:4 14:16 16:2 172:18 238:17 roles 10:25 room 2:12 5:21 20:4 20:10 21:6,10,12 21:19,20,21,22,23 69:9,25 71:10 rooms 71:8 120:11 root 215:14 rough 196:20 roughly 29:5 76:25 231:7 rule 48:21 ruler 14:24 rules 49:2 239:9 run 4:16 96:14 154:8 162:25 175:3 220:10 228:10,11 running 154:11 165:13 194:4 221:1 229:12 runs 220:16 237:9 Russian 57:21 Ruth 199:16 Rykhof 169:6,8 199:21 R-Y-K-H-O-F 169:7 S S 3:16 4:1 66:1,1,1 sacrifice 37:21 sad 63:23	safe 96:13,15 173:7 sake 100:3 127:21 127:24 171:23 salary 67:10 sale 38:14 sales 1:20 206:19 209:3,19 210:20 214:3,3 samples 69:20 79:11 171:9 242:13 sat 31:24,25 59:16 178:11 satellite 235:15 satellites 236:17 satisfy 184:24 save 115:3 119:2 181:16 231:23 saved 22:22 117:21 181:22 194:6 215:6 232:13 saving 119:1 181:20 savings 69:12 saw 20:5 52:8,21 53:5 56:2 120:16 120:24 121:1 122:5 151:16 173:24 175:18 241:20 saying 39:3 53:24 83:5 88:23 93:1 120:2,18 124:20 134:25 135:1,3,6 152:8 162:21 209:3 230:8 says 36:16 48:14,23 52:22 54:18 86:3,8 93:7,16 94:13 99:21 100:4 101:12,20,21 102:9,15,17 106:6 107:19 110:15,20 111:12,22 113:1,3 118:21 125:16 131:10 136:19 138:17,22 139:3,5 139:8 141:11,25 147:5,6,7,9,11,13	147:15 149:7 150:9 152:21,23 161:17 166:21 167:14 187:10,12 192:6 193:12 197:9,24 198:16 199:11,19 200:5 200:12,18 201:22 202:4,11,16,25 203:5,6,8,13,15 208:13,13 242:9 242:10 244:7,18 244:22 scanned 169:24 scanning 169:25,25 school 47:6 59:20 168:12 235:24 schools 47:9,10,11 55:15 science 56:5,11,14 56:16 57:3,4,4 92:15,16,20 93:1 94:14,17 117:19 123:3,3 125:16 178:14 sciences 52:17 121:2 133:19 scientific 53:14 54:11,22 55:19 56:17,18,25 57:7 57:16 108:8 137:15 184:16 201:23 scientist 49:5 94:5 scientists 57:20,21 94:2 Scott 200:1 screams 16:21 scripturally 116:3 227:23 scripture 35:17 36:13 52:21,25 92:18 se 69:24 70:6 186:22 search 179:20 second 11:22,23 73:24 77:15	123:12,16 156:5 182:19 secondhand 151:13 secondly 203:21 seconds 220:20 secretary 190:13 211:11 section 69:2 see 15:24 20:11,19 22:12 34:19 48:16 48:20,20 73:13 81:24 84:15 85:25 86:10 91:20 93:3 104:21 105:6 106:6 107:9 120:24 121:6 131:10 134:8,13 140:19 141:3 148:4 151:16 157:24 161:9 172:2 173:6 177:4 181:7 182:9 184:23 185:11 195:12,19 204:9 207:22 218:12 219:25 226:22 230:25 238:1 246:7 seeing 53:24 93:6 146:17 240:12 seek 26:12 seeking 193:9 seen 16:18 118:2 119:9 140:7 141:9 221:2 sees 73:7 segment 229:2 seizures 159:6 194:10 self-explanatory 156:25 sell 54:25 101:16 118:18,25 210:9 210:10 216:12 224:4 239:4 selling 52:9 118:17 119:6,18,25	120:12 129:7 224:14 236:22 send 11:17 27:1 40:8 41:6 126:20 139:21 152:6 171:8,16 172:14 172:16,17 181:15 208:3 210:15 211:11 212:2 227:7 228:6 sending 27:6 127:12 sends 69:20 167:16 212:1 227:25 sense 15:14 19:17 29:2,13 30:12 32:11 103:25 115:21 167:1,6 sent 63:23 98:13 122:19 158:8 208:19 209:24 210:9 227:7 sentence 107:8,19 197:16 199:15 200:5 sentences 107:11 155:14 separate 77:12,15 separately 103:5 separation 46:13 series 44:21 64:17 147:18 serve 73:17 serves 23:1 service 45:12 75:22 238:8 services 47:24 serving 11:4 session 66:9 set 1:17,24 9:16 13:16 35:2 56:20 76:15 95:3 120:6 122:16 145:19 146:8 153:7 156:12 166:12 183:6 184:8 189:24 234:10 settled 172:12
---	---	--	---	---

[273]

seven 18:15,21 125:22 145:4 146:9 231:2	147:18 151:16 152:8 183:23 196:2 204:6 206:7 208:20 209:14 210:3,4,9,19 213:17 230:17 235:13 239:6,20 242:3,6	109:11,16,19 135:12,21,23 136:12 138:1,9,12 138:15,21 146:16 147:15,16,17 148:24 155:15,19 166:6 172:19 186:10 199:15 202:11 241:21	99:22,25 223:12 224:5,18 225:2 solely 202:5 soles 223:18 225:8 solid 31:13 somebody 10:7 14:3 14:5,6 18:12 19:1 20:16 21:3 22:8 23:3 25:18 27:19 28:21 37:7 50:2 66:16 68:18 69:20 83:18,22 91:7 96:9 97:8 107:11,21 127:15,17 132:9 134:8,12 135:11 135:20 136:12 137:25 139:21,24 147:1,4,10 149:19 150:13 151:13,15 160:4 162:24,25 174:17 179:24 187:4 191:17,21 193:24 213:18 225:4 226:7 239:11 242:21	227:14 235:5 souls 119:1 sound 107:12 165:1 202:13 203:9 sounds 10:17 43:13 97:16 138:20 180:24 181:1 source 138:24 192:8 sources 183:4,16,20 184:3,3 Southern 216:8 sovereign 46:12,13 49:3,12 224:19 sovereignty 45:9 46:13 so-and-so 14:6 94:25 so-called 143:13 spare 140:24 217:21 speak 28:13 204:12 204:20 speakerphone 127:15 speaks 104:4 specialist 46:1 specific 9:21 60:17 66:8 91:16 94:4 145:6 149:14 243:13 specifically 12:2 83:11 89:14 188:18 190:23 specifications 96:18 specs 171:21 speculate 64:22,23 speculating 136:5 201:18 213:13 speculative 214:21 speech 12:4,8,12,14 12:18 spell 73:23 spelling 247:22 spend 62:8 80:24 82:4 144:11 239:11,13 spending 82:1 144:20
seventies 121:24 sewage 34:2 shaft 217:25 shake 53:16 shaking 4:22 Shalom 72:11 73:18 74:1,10 75:1,22 76:11 77:13 79:1,3 84:11 144:8 145:1 145:11 194:7 shame 57:3 139:25 shape 178:8 share 26:18 29:20 38:9 115:11 204:17,17,18,21 205:8 shared 20:25 26:9 27:12 30:1 33:23 111:19 199:13 sharing 20:18 95:4 204:4 shark 107:16 sharks 106:22 shed 50:7 shelf 180:18 ship 174:9,11 shipping 152:23 153:1,2,8,18,25 154:1,1 208:6,7 210:25 229:25 231:20,20 ships 174:20 shirt 25:15 shoes 69:13 shook 72:2 shop 175:18 short 7:8 160:11 214:24 shoulders 13:24 shovel 10:2 show 17:1 28:19 56:6,21 57:1 97:17 124:5 130:23 136:16 143:10	showed 53:11 118:9 119:7 showing 246:2 shown 125:21 shows 30:13 107:10 130:25 210:20 238:22 Siberian 124:18,25 125:1 sic 27:4 54:19 174:24 sick 31:19 50:18 121:17 168:18 175:8 193:25 200:25 side 16:5 149:7 silly 10:17 similar 108:23 120:19 183:21 186:23 simple 44:13 48:20 122:23 134:17 194:3,17 196:1 simply 116:4 single 170:8 182:6 singular 113:4 sinner 51:4 sir 6:6 72:4 79:8 106:5 113:7 131:12 222:8,16 244:5 sit 22:15 120:5 site 28:23 29:22 30:24 31:10 34:7 39:9 61:23,25 62:3 62:5,11,23 63:1,5 86:19,25 87:6,9,23 88:6 102:18 108:24 109:7,9,10	sites 198:22,25 199:21 232:21 233:18 sitting 76:4 117:2 195:17 196:20 situation 14:4 15:12 19:7 situations 44:15,16 63:23 227:1 six 41:21,22 67:5 71:14 137:16 210:17 size 20:5 skeletal 106:21 123:20,20 skeptical 117:20 skills 14:12 47:13 skipping 54:6,7 sky 229:24 Skydex 59:9 sleep 70:18,19 79:19 sleeping 31:23 55:23 slept 70:15,16 slight 158:9 slow 189:11 small 37:18 155:8 168:2,2 170:4 188:8,8 smart 116:25 smell 216:15 smoother 192:5 smoothly 4:17 snow 10:2 software 158:19 sold 35:14 101:13,20 101:21 212:20 sole 45:7,19 46:8,11 67:2 74:12,16	son 116:2 118:15 soon 5:24 30:18 242:5 sorry 62:16 72:2,20 79:5 99:19 102:5 113:4 126:24 131:20 137:8 139:4 144:7 145:21 159:11 176:16,20 201:11 208:7 225:11,20 225:22 230:3 238:3 240:16 sort 17:17 46:2 69:5 69:6 85:10,17 145:23 157:24 173:1 191:25	

spent 56:7 180:16 204:3	86:17 90:20,22 91:5,16 99:23 102:24 114:12 115:12 123:7,10 130:2,13,17,17 142:7,8 189:18 198:3 223:13,15 224:2 225:4	steady 43:10,11	155:6 157:9 159:24 160:15 161:1 162:18 169:25 171:22,23 174:3 179:23 180:13,13 181:12 181:13,15,22 184:20 185:8 186:24 194:11 195:25 209:14,14 212:9 218:12 222:15 231:22 232:6 235:16 241:2	suit 69:13 Suite 3:9,20 sum 157:4 summer 244:21 sun 232:11 Sundown 171:4,13 supervisor 167:14 supplement 1:23 160:21 207:2 234:9,13 supplements 101:14 102:2,4 supplied 156:23 supplies 90:7 supply 92:1,21 93:6 164:20 170:22 support 53:1 75:8 79:22 92:24 93:1 93:10 111:1 125:7 128:20 130:9 131:16 145:7 152:10 186:12,19 188:15,18 191:5 191:14,19 196:13 211:19,21 236:25 237:1 239:17 supported 80:2 188:12 194:14 supporting 135:5 152:4 211:22,23 supports 196:7 suppose 23:3 83:2 supposed 50:20 151:5 198:6 204:16 238:12 239:10,11 supposedly 211:21 suppressed 130:24 sure 9:18 10:6,12,12 17:20 18:7 28:3 34:8 39:21 40:18 40:25 49:22 55:11 56:19 58:11 60:3 63:4,8 68:17,21 95:11 105:3,15 109:17 111:10 114:23 127:9
spinal 93:17 130:4	stated 11:21 13:1 133:10 146:20 224:19	stenosis 93:17 130:4	subject 144:7 197:11 202:1 submission 190:5 submit 46:16 49:12 submitted 34:10 45:24 119:13 subparagraphs 98:24 99:7 subscribe 95:16 subsidiary 235:7 245:8 substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
spirit 15:8,9 26:6 30:7 128:14	statement 7:9 86:10 87:3,4,19,22 88:5 106:14 107:13 108:22 127:13 129:2 131:16 134:19,20 146:17 156:19 165:4 200:1,10 244:16 245:21	step 211:24	stopped 22:18 185:25 stopping 107:24 storage 21:21 store 53:22 69:17 120:10 149:8 154:4 stories 204:24 story 57:9 132:4 133:1 176:12,13 223:23 stranded 79:16,18 street 3:20 35:23 83:14,16 117:14 195:2 216:12 streets 30:19 35:22 119:4 strength 134:4 stress 91:6 92:4 strictly 143:21 structure 245:6,12 student 168:12 students 79:22 studies 54:24 55:6 58:17,22 184:16 206:2,9 study 53:7 181:5 stuff 21:1,1,10,10 24:22 27:9 34:2,2 34:11 35:1 37:3,15 48:5 50:22 51:15 57:10 62:24 63:18 88:13,18 95:4 110:7 117:20 118:1 119:18 121:12 123:2 141:7 154:24	
spoiled 79:10	statements 49:16 51:24 61:7,16,18 86:18,24 87:14 88:8,21,22 89:15 89:22 110:23 134:5 183:17 186:9,11,12 188:12	stimulate 154:16	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
spoke 28:24 233:20 233:23	statements 49:16 51:24 61:7,16,18 86:18,24 87:14 88:8,21,22 89:15 89:22 110:23 134:5 183:17 186:9,11,12 188:12	stipulate 7:21	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
Springfield 47:25	states 2:1 49:18 88:4 95:9 98:19 99:12 100:17 106:21 123:13 124:4 142:12 190:12,17 191:3 193:15 200:2	stipulation 8:4	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
sprouting 174:1	stating 126:4 165:5	stop 21:13 90:8 107:19,24 154:23	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
squamous 91:21 117:15,24 140:25	station 195:3,5 223:6,7,7,8 239:16	stopped 22:18 185:25	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
stand 48:23 136:10	stations 17:11 236:24 239:16	stopping 107:24	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
standard 95:3	status 74:8,9 223:12 224:25	storage 21:21	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
standards 48:6	stay 11:12,15 13:21 42:2 43:8 70:20 71:1 97:10 216:3,9	store 53:22 69:17 120:10 149:8 154:4	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
standing 12:24 13:1 13:2,3,5 94:10 195:1,8	staying 43:12 97:9 218:17	stories 204:24	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
stands 99:9	staying 43:12 97:9 218:17	story 57:9 132:4 133:1 176:12,13 223:23	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
Stanford 58:13	staying 43:12 97:9 218:17	streets 30:19 35:22 119:4	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
start 9:2 34:8 35:18 40:1 54:11 60:18 76:12 105:16 190:2 195:20 207:3 219:3 234:18 238:7	staying 43:12 97:9 218:17	strength 134:4	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
started 18:15 20:20 26:24 27:1,6 29:4 44:7 53:7,24,24 56:4 60:5,10,11,14 73:15,16 75:17 117:17 118:15 121:6 129:7,19 174:1 178:2 181:21 194:24 201:7,13 209:25 216:17 218:21 220:2,5 224:13,13 234:2 235:17,17	staying 43:12 97:9 218:17	stress 91:6 92:4	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
starting 30:10,11 99:11	staying 43:12 97:9 218:17	strictly 143:21	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
starts 51:5	staying 43:12 97:9 218:17	structure 245:6,12	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
starving 54:4	staying 43:12 97:9 218:17	student 168:12	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	
state 43:23 45:8,8,17 45:18 46:9,20 47:4 47:19 49:8,10 70:5 74:11,12 78:7	staying 43:12 97:9 218:17	students 79:22	substance 53:10 substances 37:10 52:13 91:3 177:20 substantial 12:14 substantiation 201:24 success 123:19 suffer 113:1 205:10 suffering 60:4 117:6 117:6 sugar 54:16 suggest 38:17 230:22 suggested 39:12,13 146:22 147:12,13 151:6,19 152:1 155:16 196:11,11 202:16 211:16 229:15,18 suggestion 38:17,23 230:13 suggests 113:2	

[275]

128:17 131:5	123:9 124:13	Ted 7:11	94:21,22 112:5	128:16 129:14
132:17 135:19,24	125:1 128:5	teeth 141:13,14	113:10 155:22	131:18,24 143:17
136:14,17 137:1	136:18 145:4,7,17	telephone 167:25	230:18	144:12 158:11
137:24 139:12	145:22 148:25	168:1 214:4	terrible 133:18	163:8 182:3
144:9 149:2	154:19 166:10,16	television 81:14	terrific 241:17	186:20 188:21
151:18 159:7	172:15,25 175:5	tell 4:15 13:18 16:13	test 56:24 173:2,4,5	209:17
164:2,2,17 166:18	182:16 185:6,19	20:6 22:9 25:7	173:8 215:7	testing 172:25 173:2
172:5,15 173:4,8	195:9 203:17,18	26:13,20 34:12	testified 4:6 35:12	173:6 201:23
173:21 175:4,8	204:8 206:11	40:5,8,8 41:4,7,20	62:19 74:7 77:21	text 244:3
177:14 180:9	209:19 211:8	51:14 55:20 68:2	78:11 113:10	textbook 137:16
186:17 187:24	220:8 228:3,6,21	81:3 98:2 105:18	114:1 115:16	textbooks 186:25
188:19 197:5	228:22 235:14	112:13 124:25	129:11 133:23	thank 147:6,7 152:8
214:2,14 222:3	239:8 242:19,20	132:11 133:16	134:21 151:20	152:9 242:17
229:9 241:22	taken 7:19 10:7	142:3 154:25	169:9 170:17	245:17 246:12,13
surgeries 141:17	57:14 65:6 130:12	158:24,24 163:3	180:21,24 200:9	thanking 152:3
206:6	166:5 241:16	171:21 182:7	200:20 233:21	theirs 214:16,17
surgery 141:7	247:9	187:6 204:1	234:19	THEODORE 3:4
231:14 245:1	takes 9:24,25 25:14	209:13 210:11,17	testify 7:2,5 122:18	theories 56:21
surpass 95:24	82:3 206:6	215:17 222:16	125:23 155:21	theory 60:7
surrender 119:7	talk 28:20 30:13	228:13 230:10,20	229:5	therapy 139:8,11
sustain 141:8	60:2 191:12 192:4	231:22 240:9,11	testifying 106:24	theses 197:10
Swankin 3:19	205:19 212:11	240:21	107:3 110:4	they'd 20:23 41:13
switch 232:25 233:4	238:22 242:9	telling 204:18	197:17	56:14 122:3,3
sworn 4:6	talked 28:17 58:14	tells 20:8 115:2	testimonial 128:20	158:23
symbol 155:4	242:9	204:15,19	141:25 244:3	thick 187:2
system 29:10,10	talking 103:6,25	temporary 199:6	testimonials 34:22	thing 14:10,12 16:8
31:5 60:8 89:17	120:15 128:4	ten 229:9 230:14,24	128:6 129:20	16:17 24:17 26:24
92:8,23,25 93:2,9	132:25 134:23	231:4,6 239:13	testimonies 20:12	27:16 31:16 35:19
111:16 122:11	141:21 169:5	tend 137:4	25:6,21,23 26:7,8	43:11 48:15 51:20
152:16 153:18,19	190:24 205:16	tendency 91:8	26:14,17,23,24,25	56:12,17 63:16
233:17	230:23 236:20	tens 57:10 58:23	27:1,2,6,23 28:9	69:19 73:16 74:1
systematically 29:6	taping 47:17	59:4 209:24	28:12 29:13,21,25	92:8 94:12 99:4
systems 130:9	taught 52:17 55:14	tent 220:3,4,4	30:22 31:9 32:11	103:10 107:9
S-H-A-L-O-M 74:1	90:18 121:1	term 9:14 38:12,18	32:18 33:6,20 34:5	110:9,9 120:16
S-H-U-A 74:1	tax 46:1 164:9,25	38:19 91:21 94:3	34:6,8,11 125:18	122:21 123:14
	245:14	112:1,3,6 113:11	125:24 126:7,11	134:24 140:23
	teach 48:16 55:18	113:12,13 114:6	128:9,10,14 129:3	141:13 142:19
	56:14,14,18 59:20	114:15,16 115:6	129:8 185:8	151:11 159:9,10
	teacher 56:8,16	115:14 125:12,12	200:14,19,21	160:8 161:2,2
	teachers 55:16	125:13 130:2	201:8 243:19	170:8 173:15,25
	teaching 56:8	135:1 150:11	testimony 4:20 5:5	180:4,8 185:9
	114:12 117:22	198:12	18:2 25:24 28:22	186:8 187:8
	teachings 94:9,14	termed 115:9	29:3 31:2,2 34:14	191:25 194:23
	teams 23:20	terminology 87:8,8	46:19 61:6 76:10	210:19 218:10
	tears 32:3	95:7 101:22	78:7,16 81:2 83:24	222:3 232:16
	technician 237:19	terms 61:1 70:13	99:24 104:4	233:2 237:16,17
	technology 109:14	74:14 86:22 90:15	114:20 126:5,7	238:24

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things 4:20 9:19 10:6,11,16,18 15:9 15:24 16:16,21 19:12,14 21:14,15 22:16 24:18 25:7 27:8,15 30:10,11 33:24 34:10 35:10 35:11 36:1,15 38:1 40:24,24 41:19 42:12 45:20 48:9 52:21 53:16 54:4 54:12 55:14 60:13 63:12,18,21 64:20 68:4 69:14,19 71:11 73:19 80:4 81:17 89:15,15,16 92:10,12,17,18 108:8 110:6,6 111:11 112:16 115:1,2 117:12 118:11 119:8 121:22 122:19 123:8,9,14 130:12 134:2 142:3 143:11 145:15 150:23,24 151:1,2 154:22,25 157:15 158:25 160:14 163:3 169:3 170:14 171:21 172:4 175:10,19 179:16,22 180:7 181:16,17,18,21 182:8 183:23 184:1 185:11 186:5,23 187:2,3 187:24 189:13,16 191:23 193:14 194:3,4 195:25 201:6 205:20 212:10 214:23 216:25 217:11,18 218:8,12 220:17 220:19 221:1 222:5,12,16 223:6 223:8 227:12,23 231:3 232:1,25	236:17 240:5,18 241:20 246:6,7 think 18:20 21:24 22:21 23:17 25:19 30:2,2,12,15,17,21 32:22 34:13 39:11 42:11 51:18 54:14 58:15 62:7,8 67:5 68:5,7 69:1 74:6 78:4,11 85:9,10,14 89:5,9 96:15,20,21 103:12,15 110:13 111:12 112:5,6 113:3,22 124:9 128:12 131:25 132:3 134:12 135:9 138:13,18 142:18,18,22 143:11,12 144:6 147:15 148:12 150:20,22 152:3 154:10 155:13 156:18 157:3,17 157:25 159:5,8,8 159:15,21,21 160:18,24 162:16 162:17 163:11,12 163:15,19,19 166:5,8 170:7,8,20 171:4 173:2,4,5 175:3,5 176:13 177:14 178:18 184:6,21 188:8,9 188:14 196:25 198:6 199:3,9 200:9 201:7 202:14 206:7 207:5 213:20,21 218:4 222:14 226:4 228:22 229:8,20,22 230:11,14 231:8 233:6,11,12 240:11 242:21 244:13 245:8,20 246:11 thinking 96:1	157:15 thinks 134:9 162:25 163:1 third 139:4 199:6 221:23 226:18 thirty 36:25 thirty-something 187:15 thought 53:3 73:19 78:25 92:16 114:10 126:3 134:18 201:3 215:22 246:1 thousand 19:9 54:2 thousands 57:10 58:23 59:4,4 209:25 231:15 threading 54:19 three 13:14 31:12,20 36:5 39:24 41:22 51:18 71:10 84:3 109:21,22 145:24 149:16 167:21,21 167:23 169:13 173:14 174:21 175:1,12 199:5 210:17,21 214:9 215:18 216:7 220:20 226:5 229:8 239:11 threshold 12:10 threw 64:12 thrilled 93:3 throw 136:9 throwing 196:25 214:23 ticket 36:7 219:3 tickets 226:19 time 5:19,19,22 6:3 6:3 8:6 12:23 13:17 16:13 17:4,4 17:5,6 22:15,19 23:8,19 33:10 35:5 36:6,6 42:12,13,22 43:2,4,6,9 48:8 50:3,17 57:21,23 59:18 60:13,23,23	61:15,15 62:2,5,6 65:1 67:16,16,17 67:19 69:7 71:23 84:3 85:1 88:25 95:22 96:6,7 98:15 99:2 100:3 101:22 108:16,24 109:18 110:9,23 111:1,6 113:19 121:25 125:1 126:1 128:9 128:20 130:14 131:15 138:3,18 142:5,14 152:8 154:8,9 159:6 160:1 162:4,8,11 162:21 166:16 168:13 169:12,16 169:17 170:1 174:5 176:14 178:2,7,20 179:1,3 180:16 182:4 186:2,9,20 187:16 187:18 188:7,13 188:22 189:5 190:4 191:21,21 194:13 200:14 204:4 205:7,7,12 207:1 215:19,20 218:5 221:2 223:8 224:8 226:11,17 226:18,18,18 229:7,17,23 232:5 233:7 236:16,24 239:9 242:7 times 10:15 13:17 15:10 17:10 24:20 36:5 38:20 42:2,7 42:8,10 54:2 67:6 139:22 140:8 162:4,16 167:22 195:24 205:19 210:16,17,17 212:5 215:18 226:5,11 227:3 229:8,8 237:12 timing 121:3,9,13 128:10,25	tin 217:24 tiny 120:10 217:23 tired 160:19 189:10 tires 217:21 tissue 106:21 123:12 140:6,7,18 141:2 tissues 52:5,11 title 131:17,17,23,24 132:13 137:18,20 189:22 247:4 titled 243:8 today 4:20 5:9,16 7:1,5 8:2,6,13,24 22:24 25:2 26:2 27:19 36:22 37:12 37:16 40:23 41:16 44:22,25 81:4 84:4 93:1 123:1 125:16 145:16 206:17 228:20 242:6 245:18,20 told 24:7 27:11 31:11,12,25 32:4 75:16 94:2 117:25 117:25 118:17 130:14 131:1 141:11 151:13,13 195:10 203:17 215:7 216:3,20 240:24 242:8,9 toll-free 168:3 tomorrow 22:25 242:6 top 149:7,16 202:16 topic 19:16 total 76:23 157:4 207:13,14 209:23 212:1 totally 48:25 227:5 241:14 touch 18:22 touchy 144:7 tough 16:24 37:15 41:16 42:22 59:14 138:19 162:21 tougher 16:17 toughest 36:1
---	---	---	---	---

[277]

Tracey 132:18,23 133:14 244:3,8,19	219:10 237:9 240:23	113:14 122:12 128:9,10 132:7,11	157:14,23 163:23 164:10,18 167:2,8	169:19 218:22 typewriter 10:10,10
Tracey's 132:4	trophies 22:23	138:20 142:7,24	182:17,25 183:11	typical 15:4,5,6,19
track 23:24 43:12 43:14 209:15	trouble 225:11	150:20,23,25	189:20,22,25	17:1 149:18
Trade 1:1 2:2,13 3:3 3:7 5:17 7:12	true 48:24 79:13 102:25 113:18	152:14 154:20	191:7 193:8	tzang@ftc.gov 3:12
50:10 51:9 64:7	117:18 160:3	176:18 184:19,24	198:10 199:19	
98:13 146:16	truly 224:21	185:7 194:9,18	206:17 207:5	U
147:20 247:10	trust 19:10 28:1 56:7 67:1 79:25	198:5 208:22	233:7 235:19,20	Uh-huh 40:14 72:16
train 20:19	117:12 140:1	214:22,23 219:25	235:23 238:5	86:11 104:5
transactions 203:1	160:16 191:20	229:21 232:20	242:9 246:8,11	105:10 114:9
transaction-level 208:15	193:4,17 198:18	238:22	TV 59:18 81:24	125:8 127:3
transcript 187:5 245:23 247:7,8,21	trusted 79:25	tubes 220:23	TVs 30:17	135:10 138:8
transcripts 239:19	trustee 198:16	Tuesday 2:10	twelve 214:14	145:21 154:7
transfer 53:18	truth 7:7 48:22 97:13 112:24	tumor 86:8 87:4 90:2 107:4,13,20	twenty 11:10 53:15 53:21 59:12	167:12 171:25
travel 179:21 191:15 191:17	truthfully 7:5	107:24 110:21	120:12 231:5	182:25 183:18
traveling 79:15	try 4:12 10:19 15:24 18:4 19:14 25:12	111:2,12,14,19,22	239:13	210:7
treat 37:4 60:25 91:19 92:14	33:8,12 34:25	244:2	twenty-one-year-... 235:2	ultimate 56:22 135:4
125:14	35:10 36:25 38:20	tumors 90:7 106:7 106:11 111:18	twenty-year-old 235:2	unable 4:21
treated 37:5	38:22 40:18 41:15	138:25 140:20	two 17:12 60:1 66:15 71:20,24	unconventional 217:2
treating 135:4	52:1,7 66:16 72:2	244:19	72:6 74:6 77:10	understand 4:25 5:2 5:6,8 8:24 11:6
treatises 197:10	91:11,23 93:9	tune 151:15	84:3 91:1 97:5	13:13 28:3 30:20
treatment 87:20 88:5 90:10 122:7	94:21 110:3,10	turn 102:23 103:13 109:4 142:9 197:7	105:8,9 107:11	35:6 43:6,8 44:9
122:15,16 125:11	112:11,14,21,23	197:22 226:25	109:21,22 120:11	44:20 46:23 50:15
125:12 140:3	112:24,24 114:14	241:18	123:8,9 124:6	55:3 66:6 82:25
197:13	117:8,8 119:12,12	turned 216:14	130:22,22 139:4	83:23 92:20 94:7
treatments 122:2,18 141:1,4,7,9	119:19 134:17	Turner 1:19 3:16,18 3:19 5:12,12,14,14	142:17 168:17	95:1,2 110:2 112:9
treats 61:8,17	145:15,16 150:3	7:20 8:4,11,14,16	169:14 170:4,9,21	113:16 115:10
trees 130:7	150:23 160:13	8:18 11:20 12:3,21	170:25,25 176:4	119:12,12,20
trial 7:23	161:1 163:5,25	13:3 28:2,7 32:25	181:3 197:19	144:12 147:21
trials 201:24	168:13 189:11	33:9 39:1 40:3	218:21 219:17	150:3 162:24
tried 32:8 36:4 42:24 92:9 121:7	192:4 207:1	44:3 47:21 55:1	227:23 229:20,20	177:14 203:14
131:23 161:8	210:10 217:6	58:9 63:10 67:12	229:22 238:13	228:2
215:17 218:9	223:5 236:2,25	78:3,10 82:6,12,18	239:19 243:14	understanding 33:12 44:17 50:9
tries 33:11	238:13 239:7,16	84:15 85:3,14,20	245:25 246:6	51:8 52:18 53:13
trips 24:25 179:19	trying 13:13 21:14 30:15,20 33:14	86:4,6,12 87:16,17	two-thirds 166:23	53:14 69:4 70:23
Trish 21:12 24:10 93:19 158:20	34:20 37:15,20,24	89:2 98:7 103:23	two-year-old 240:13	87:11 94:4,14,17
166:4 196:4,5,6	38:10 40:20 44:11	104:5 105:8	type 6:17 90:21 113:2 151:11	94:18 102:3
	44:13,16,24 55:21	115:17 126:3	174:6 187:2	169:18 177:19
	56:6 58:20 62:16	128:22 129:9,13	221:16 226:1	178:13 193:12,19
	78:2 90:16 91:25	131:20 132:24	types 22:18 36:16 52:23,24 81:8	198:14 204:5
	92:1 110:5 113:10	135:14 136:2	91:18 145:13	206:25 221:13,15
		148:10,16 156:15		241:19
		156:18,21 157:5		understandings 54:10 92:17

177:10,11	217:16 220:23	verified 57:24	wall 79:17	171:20 211:7
understood 28:6	221:7,8 226:22	verify 33:8,8,11,13	walls 20:1	216:16 245:21
89:3 112:10	228:16 230:23	33:15 126:10	want 8:1,12,23	ward 141:5
213:16 223:22	231:6,19 232:19	212:13	11:20,24 14:18	warehouse 174:10
unexpected 144:19	237:25,25 238:1	version 63:24	19:17 23:5 28:2	174:13 175:2
unfortunately 10:15	242:21	109:20	30:8 32:25 33:9	176:5
125:15	useful 21:6 23:14	versions 109:16	34:19 36:20 37:4,5	warning 241:19,20
unhealth 90:22	37:10 90:12	vessel 107:17	37:5,17 38:12,18	washing 9:23
unintentionally	113:25 114:15	vessels 106:23	38:19,21 39:4	Washington 3:21
111:10	useless 20:15 21:2,4	107:25	44:20 48:5 49:5,8	45:9,18 46:9,20
United 2:1 49:18	21:7 121:12	view 86:21 207:11	50:8,13 53:25	74:11,13 99:23
95:9	uses 91:20 132:23	212:15	64:23 77:25 78:6,7	223:13,14,20
Universal 171:3,13	133:14 134:11	vindicated 32:22	86:2 91:2 92:13	224:2 225:3
University 58:13	usually 81:17	violating 86:22	97:17 103:24	Washingtons 30:15
unlawful 12:12	123:10 125:15	violation 12:4 55:7	105:12 111:4,5	wasn't 18:19 23:16
unrighteous 224:23	140:19 229:10,11	virtue 95:16	118:24,25 119:11	34:4 55:22 116:6
unseen 119:9	utilization 54:8	Visa 80:15	120:6 128:18	118:4 122:15
unwanted 138:25	123:16	visit 242:2	139:19,25 144:8	128:1 132:11
unwellness 90:22	utilize 53:25 217:5	vitalistic 89:11	145:15 147:18	142:23 143:24,25
upkeep 96:8	219:14	vitamin 37:1 119:16	148:25 149:13	160:3 161:3,3
UPS 153:17,18	utilized 73:7 177:21	119:22	159:2 160:1,8	178:11,11 179:17
upstairs 21:12	218:20	vitamins 118:17,25	161:12,14,15,15	180:18 230:6
Ursinus 47:7		119:11	161:17,18,18,18	wasting 22:8
usage 202:7	V	Volkswagen 217:20	165:11 166:25	watch 15:20 54:5
usages 202:7	vaccine 240:13	volumes 235:15	171:15 172:14	163:5 171:23
use 18:6,9 20:7,7,8	vaccine-harmed	voluntary 146:18	173:23 186:8	197:18 200:15
21:8 22:5 24:21	16:20	147:12,13	188:19 190:5	watched 204:9
27:11 31:21 35:15	valid 25:25	V-A-N-D-E-B-E-...	195:17 199:14	215:12,13
36:15,20,21 38:12	valuable 139:19	174:24	206:9,12 207:1	watchmen 9:17
38:19 47:13 48:4	value 38:11,13		213:15 214:2	water 71:12,13,15
52:13,14 56:22	152:14 164:23	W	215:18 216:11,11	way 5:6 10:3 17:13
61:3,5 69:20 71:1	165:5 203:1	W 3:6	216:12,21,22,23	20:18 24:8 25:13
79:10,12 80:8,11	211:18	wages 67:15	219:13 223:11	26:8 27:16,17 48:6
82:15 87:9 90:19	Vandeburg 174:23	wait 50:3 122:10	224:21 225:23	48:7,11,19 52:4
91:22 92:7 95:8	variables 174:7	210:25	226:24 232:18,21	55:20 56:8 68:19
96:9,13 105:17	variety 177:7,17	waking 55:23	233:3 234:3,14	69:16 82:22 85:5
111:22 112:3,5,14	vary 141:20	Waldman 1:19	236:10 239:5	86:21 91:19
112:14 113:11,13	vast 188:6	156:15	241:18 242:23,25	108:11,12 112:8
114:4,5,6,10	vegetable 240:14	walk 15:8 215:22	245:17,22 246:10	120:19 122:1,14
115:14 118:23	vegetables 16:21	218:22,22,22	wanted 56:17 57:1	129:2 136:3 147:7
120:22 122:17	veggied 32:3	219:1 226:23	67:8 96:11 119:1,2	148:12 152:19
125:13 139:19	vehicle 97:10	227:6,6,23,24,24	122:10 133:10,11	163:4 166:23
142:6 146:5	vehicles 71:20,24	227:25 228:5,14	143:11 156:18	178:4 185:20
153:19 162:2,6	72:6 77:12 96:16	walked 20:4 21:7	158:23 194:19	206:3 209:24
163:8 178:12	96:17	36:4 79:24 119:4	201:1,2 216:3,9	211:22 215:7
191:24 201:9	verifiable 80:23	204:10 216:6	241:24 242:13	216:1 217:2 218:6
205:23 208:3	verification 27:24	walking 35:22	wants 23:4 31:21	219:14 239:15
	57:24	240:12		

[279]

ways 29:2 38:22 83:2 153:10 220:18 236:25	230:14 231:2 238:6,7	179:15 181:19 182:8 186:4 189:9 190:24	246:13	worse 48:13
wayward 90:13	weren't 43:1 127:20 224:14	whale 216:15	witnessed 113:24	worth 38:13 67:15 67:15 210:1,8 231:24
weak 56:2	WEVD 195:2	WHALEN 247:16	woman 16:10 31:14 115:25 116:5,8	worthwhile 23:16 26:19
wear 191:24	we'll 6:3 11:16 14:4 17:8,13 25:12	white 50:25	Worcester 31:17	wouldn't 18:22 20:7 26:14,17 30:3 41:7 67:24 76:1,3 82:19 96:18 108:14 111:22 132:5,5,22 133:13 136:16 151:19 210:3 222:11 234:4,5
Web 28:23 29:22 30:24 31:10 34:7 39:9 61:23,25 62:3 62:5,11,23 63:1,5 86:19,25 87:6,9,23 88:6 102:18 106:4 108:24 109:6,7,9 109:10,11,16,19 110:11 135:12,21 135:23 136:12 138:1,9,12,15,21 146:16 147:15,16 147:17 148:24 149:9 151:16 155:15,19 166:6 169:1,3,20 172:19 186:10 198:22,25 199:15,21 202:11 232:21 233:10,18 241:21	we're 8:18 12:3 15:13 16:15,16 17:5,10 29:14 30:4 31:15 35:3 37:18 37:21 40:23 41:19 42:11,11 43:10,10 56:23 76:14 87:16 90:16 91:25,25 93:3 96:6 97:8,19 113:14 135:4,6 142:6 150:24 152:13 154:20 163:1 170:4 189:21 194:18 204:14 210:14 211:16,17,18 230:23 237:1 238:20 239:14 240:7,24 241:10 242:5 243:3,3,4 246:11	widows 145:14	word 26:2,3 27:20 28:10 32:20,21 33:7 90:23 111:23 112:5,14,14 114:4 114:19 118:21 140:11	wouldn't 18:22 20:7 26:14,17 30:3 41:7 67:24 76:1,3 82:19 96:18 108:14 111:22 132:5,5,22 133:13 136:16 151:19 210:3 222:11 234:4,5
wedding 175:22	we've 15:13 16:5,18 20:11 21:14 23:17 25:16 27:5 33:23 33:25 37:17,22 42:7,7,11,24 43:9 50:18,22 57:12 65:2 88:13 92:9 96:24 111:13,18 112:10 116:8 123:4 128:4 140:7 150:20 155:10 156:4 157:8,8 160:13 162:18 170:8 172:12	wife 15:10,15,23 16:1 28:24 31:25 35:23 51:13 79:15 110:7 112:18 120:9 133:16 134:6 136:22,23 137:23 144:6 179:11,17 180:15 180:23 181:19 185:14,14,15 187:24 190:13 194:13 197:18 199:12 200:25 215:17 218:8 228:13 240:8 244:9,13	wording 63:21	Wow 186:1
week 18:15 68:13 70:19 75:18 152:12 157:2 169:14	wife's 240:12	wilderness 17:9	words 8:1 13:16 77:25 78:6 112:21 129:17 130:10 132:21 149:13	write 25:8 29:14 59:23 60:13 108:13 131:13 133:9 136:21 137:20 181:5
weeks 118:8	willing 50:4 134:16 155:11	windshield 217:22	work 9:17 10:21 15:21,22 18:23 21:22 38:20,20 57:18,22 67:9,14 67:15 68:8,9 69:16 75:8 118:2 150:4 150:22 155:5 157:18,23 159:18 160:5 167:19 170:11,13 171:11 185:10 191:15 195:21 212:7 217:22,220:17	writer 133:6,7,8,18 133:19 137:7 200:13 201:1
weight 153:9,19,20 153:22	wind 145:8	wipers 217:22	worked 124:3 200:12 235:24 238:9	writes 43:20 68:23
wellness 50:18 91:3 91:4 130:6,11,16	wisdom 16:11 234:25	wisdom 16:11 234:25	working 21:9 23:15 56:8 169:19 175:18	writing 25:9 29:17 60:10 87:9 108:2 133:23 134:2,3 137:14 177:12
well-liked 64:4	wisely 218:5	wisely 218:5	works 21:3 147:21 221:12,12,25	writings 134:6
went 6:19,21 20:4 32:7 36:7,7 40:9,9 40:10,10 42:16 54:12 56:13 69:17 79:17 93:20 94:1 115:25 126:22 138:4 145:2 204:7 210:20 215:10,23 225:1,1 226:22 228:9 229:23,24	wish 14:15 37:18 51:4 116:25 160:3 179:12 237:4	wisdom 16:11 234:25	world 11:15,17 16:5 33:24 48:12,13,21 95:21 121:15 185:17,17 206:1 232:1	written 57:15 86:10 99:2 189:14,17 197:9
	witness 1:4 4:5 7:14 40:5 44:5 47:23 55:11 58:11 63:11 67:14 78:13 82:23 85:11 89:4 105:6 105:10 115:19,22 128:24 129:12 131:23 136:5 209:21 225:15	wisdom 16:11 234:25	worried 19:3 22:25 115:12 139:23	wrong 68:8 118:18 118:22 152:15 170:21
		wisdom 16:11 234:25	worry 174:4	wrote 49:20 55:24 55:25 56:6 57:15 57:17 59:11,12,19 60:11 108:5 110:11 114:2 131:15 134:7 139:1 244:9
			worry-free 96:23	www.danielchapt... 198:23
				w/attachment 1:22 206:23

X

X 1:2 40:21 104:21 173:9	170:10 196:24 212:19 241:4	98:1,10 104:4,6,14 105:1,11 115:20 129:6,15 132:1 133:2 135:16 136:7 148:1,14,18 148:19 156:4,15 156:17 157:3,12 157:19 158:1 161:24 163:21 164:2,3,12,25 165:2 167:4,5,9 182:18,21 183:1 183:14,15 189:4 189:21,23 190:1 191:8,9 193:10 198:13,15 206:14 206:16,24 207:7 225:19 228:22 229:1 234:6,12 243:6,11 245:17 246:9,12,14	212:20 0711-0729 1:14 147:25 08 207:23 209:20 212:21	17:6 36:12 91:1 120:20 121:18 1700 231:8 19 202:10 19th 157:25 1997 244:21 1998 202:12 1999 200:7
Y	yearly 203:6 years 19:4 31:12,20 32:9 35:14 40:21 41:15 42:4 53:15 53:21 59:3,12 62:25 74:6 88:14 92:11,25 108:17 109:21,21,22 125:21,22 127:6 141:9 142:17 173:22 175:20 177:19,25 179:24 195:15 200:13 209:12 215:4 216:6 217:19,20 220:2 229:9,20,21 229:22 245:4	zloty 219:8 zones 153:21,22	1 1 1:8 84:17,19 99:6 99:11 111:6 119:8 173:13 190:3 230:5,8 1st 36:12 69:15 91:1 120:20 121:18 1:33 66:2 10 1:21 18:19 75:24 154:3 206:21 211:17 220:9 10004 2:15 3:10 101 3:20 1028 99:14 103 173:19 104 1:11,13 11 1:23 102:24 103:9 105:21,25 198:21 234:7,8	2 2 1:9 97:19,22 100:2 100:4 190:2,17 2:00 17:3 20 13:10 213:8,9,11 200 37:13 212:22 200,000 197:1 200-something 20:10 2000 201:15 2000-2001 201:16 2002 142:13 2003 71:18 177:24 20036 3:21 2004 71:19 2005 183:25 2008 185:3 2009 2:10 247:5,13 202 3:22 206 1:20,21 212 3:11 22 156:24 23 156:24 234 1:23 243 1:25 25 202:23 213:13 25:4 36:14 54:13,18 2500 219:8 28 138:7,8 28th 86:15
Y 73:25 yeah 9:16 10:3 17:3 28:7 32:19 34:8 40:8 43:25 44:23 44:23 47:23 49:22 52:14 55:11 56:19 58:11 59:8 61:9,22 61:24 62:24 63:3,3 64:11 68:17,21 70:17 71:18 75:16 81:22 83:4 88:12 95:13 97:7 100:16 101:6 103:11 105:10 109:7,8,10 109:10,23 110:5 110:20 115:19 126:12 127:4,9 128:24 129:12 132:16 134:24 136:24 138:5,13 141:22,24 148:18 150:16 153:2 154:1,5,15 155:16 156:21 157:5 158:8 162:9 173:10,19 174:19 174:23 176:3,7,23 177:5,7 181:1 182:8 185:4,4 186:16,18 192:25 193:21 196:25 199:9 200:24 201:12 203:10 205:5 212:24 213:1 217:5,9,15 217:17 222:15,15 222:16,19 227:11 231:11,19 233:11 233:14,19 236:23 237:18 238:1 240:4 241:10 245:10 year 21:13 23:22 43:7 66:15 70:12	yellow 50:25 Yep 8:16 106:1 151:23 182:7 244:1 Yesterday 22:23 York 2:15,15 3:10 3:10 47:10 195:1 young 31:8 50:25 60:1 96:11 235:21 240:12 Y'Shua 72:11 73:18 74:10 75:1,22 76:11 77:13 79:1,3 84:11 144:8 145:1 145:11 194:7	\$ \$10,000 210:14 \$1100 19:9 \$1400 231:6 \$17,000 231:8 \$17,200 231:8 \$2 212:19 \$20,000 210:1,8 \$20.95 152:24 \$6 209:18 \$6.25 209:18 \$700 231:4	10004 2:15 3:10 101 3:20 1028 99:14 103 173:19 104 1:11,13 11 1:23 102:24 103:9 105:21,25 198:21 234:7,8 11-12 245:4 11:02 2:18 12 1:25 243:7,9 12-15-08 1:21 206:22 12:00 17:3 12:33 65:5 13 2:10 98:22 102:24 103:6,8,9 109:5,5,5 247:5 14 86:1,1 87:14 98:4 98:19,20,25 99:7 247:13 14-a 86:2,13 107:10 111:9 1400 3:20 147 1:14 15 13:10 201:21 150 37:13 156 1:15,16,18 16 131:6,7 202:4 16th 3:20 17 136:19	3 3 1:11 98:18 100:17 100:18 101:12 104:9,11 166:21 167:4 174:18 191:1,7,8 243:16 30 40:11 43:4,7 209:8 232:6,7
Z	Zang 1:5,18 3:4 4:8 5:15 7:8,11,15 8:8 8:13,15,17,21,22 12:1,19,24 13:8 28:5,8 33:4,16 39:6,8 40:6 44:8 48:1 58:16 64:5 65:1 66:3 67:21 78:5,15 82:9,13,21 82:24 84:16,21 85:8,23 86:5,7 87:1,18 89:3,7	0 0011 107:9 0011-0032 1:13 104:25 0016 131:7,8 0017 136:19 0025 137:17 0031 142:9 0060-0063 1:15 156:9 06 207:22 209:19		

[281]

31 203:5	171:5 176:11,21
318 2:12 3:9	176:22 183:8,22
32 203:12	186:15,16,18,18
353 243:14,25,25	187:8,10,11,14,19
	188:22 189:14,21
4	199:15 203:16
4 1:5,13 102:9,10	230:24 232:3
104:23,24	7herbformula.com
40 40:12 211:17	198:23 199:8
41st 195:2	7th 195:1
462-8800 3:22	711 148:2 149:6
47 177:3,16 187:15	714 152:22
	72 48:3
5	725 154:2
5 1:14 85:25 86:1	729 148:3
102:17 107:10	
147:22,24 173:9	8
197:8	8 1:18 156:14
5:00 15:21,22,23	182:15,17
50 214:18	84 1:8
50,000-watt 195:3	86 224:14
501(c)(3) 164:19	89 23:23
501(c)(3)s 223:17	
	9
6	9 1:20 102:24 103:9
6 1:15 98:22 156:8	197:22 206:18
158:4 183:25	207:4
6-2-08 1:18 156:14	9-11 42:13,21
6.2 209:22 210:5	229:19,22
6:25 246:16	9.5 172:4
60 158:6	9:00 15:21,22,22
607-2816 3:11	90 23:23
63 158:6	9329 2:6 7:18 247:3
	95 172:3
	97 1:9
7	
7 1:16 60:19,24 61:7	
88:4 101:3,5	
102:13,24 103:9	
103:16 109:6	
110:15 111:2,12	
113:6 116:19	
123:22 128:5	
129:19 131:10	
132:3,14,18,23	
133:14 134:9,17	
135:3,4,7 136:19	
137:18 141:5,12	
156:11 166:11	

For The Record, Inc.

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In the Matter of:

Daniel Chapter One, et al.

January 14, 2009

Patricia Feijo

Condensed Transcript with Word Index



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1 FEDERAL TRADE COMMISSION
 2 I N D E X
 3
 4 WITNESS: EXAMINATION: PAGE
 5 PATRICIA FEIJO BY MS. PAYNTER 4
 6 218
 7 BY MR. J. TURNER 204
 8
 9
 10 EXHIBIT: DESCRIPTION FOR ID
 11 Number 13 DCO 0001-0155 97
 12 Number 14 Bio*Shark labels 163
 13 Number 15 7 Herb Formula labels 169
 14 Number 16 GDU Caps labels 191
 15 Number 17 BioMixx labels 195
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 UNITED STATES OF AMERICA
 2 FEDERAL TRADE COMMISSION
 3
 4 In the Matter of:)
 5 DANIEL CHAPTER ONE, a corporation,)
 6 and) Docket No. 9329
 7 JAMES FEIJO, individually and as)
 8 an officer of Daniel Chapter One)
 9 -----)
 10 Wednesday, January 14, 2009
 11
 12 Room 318
 13 Federal Trade Commission
 14 One Bowling Green
 15 New York, New York 10004
 16
 17 The above-entitled matter came on for
 18 deposition, pursuant to notice, at 9:36 a.m.
 19
 20
 21
 22
 23
 24
 25

1 APPEARANCES:
 2
 3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:
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 24
 25 ALSO PRESENT: JAMES FEIJO

1 P R O C E E D I N G S
 2 - - - - -
 3 Whereupon --
 4 PATRICIA FEIJO
 5 a witness, called for examination, having been first
 6 duly sworn, was examined and testified as follows:
 7 EXAMINATION
 8 BY MS. PAYNTER:
 9 Q. Good morning, Mrs. Feijo.
 10 My name is Carole Paynter, and I'm an attorney
 11 with the Federal Trade Commission, and I'm here today to
 12 take your testimony in the matter of Daniel Chapter One
 13 and Jim Feijo, a complaint that we have lodged against
 14 those two individuals and entities.
 15 Are you aware of that?
 16 A. Yes, I am.
 17 Q. Okay. And this deposition today is being taken
 18 for all purposes for this case.
 19 Today I'm here with my co-counsel, Ted Zang, as
 20 well as David Dulabon.
 21 A. Uh-huh.
 22 Q. And altogether we represent the
 23 Federal Trade Commission.
 24 And if your counsel can state their names for
 25 the record.

5

1 MR. J. TURNER: Yeah. I'm Jim Turner,
 2 Swankin & Turner, and I'm the lead counsel for
 3 Daniel Chapter One.
 4 MS. LEHRFELD: Betsy Lehrfeld,
 5 Swankin & Turner.
 6 MR. C. TURNER: Chris Turner, Swankin & Turner.
 7 MS. PAYNTER: And Mr. Turner, Jim, can we
 8 maintain the same stipulation as we had yesterday, that
 9 any objections will be reserved until deposition
 10 excerpts or the entireties are offered at trial in this
 11 case?
 12 MR. J. TURNER: They're all reserved, and what I
 13 want to do is just name -- just for the record is that
 14 they're all the objections that were contained in our
 15 written documents, and then we won't have to read them
 16 into the record.
 17 MS. PAYNTER: That's acceptable, yes.
 18 Thank you.
 19 BY MS. PAYNTER:
 20 Q. Can you just please state your name for the
 21 record.
 22 A. Patricia Feijo.
 23 MS. PAYNTER: Do you need a spelling of that,
 24 Court Reporter?
 25 THE REPORTER: No.

7

1 A. Okay. I will.
 2 Q. And if you can, keep your voice up so the
 3 court reporter can get all of your answer correctly.
 4 A. Okay.
 5 Q. And also if I ask you a question that you don't
 6 understand, please ask me to clarify it, and I will try
 7 to do that.
 8 Do you understand?
 9 A. I will. I understand.
 10 Q. And at any point if you give an answer and later
 11 you think you'd like to correct that answer, please just
 12 state that, and we'll make sure that the record reflects
 13 accurately what you want to testify.
 14 A. All right. Thank you.
 15 Q. We'll make any correction you need to.
 16 A. Uh-huh.
 17 Q. Also if you need to take a break at any point,
 18 just please let me know, and when it's appropriate,
 19 we'll stop as soon as we can. Okay?
 20 A. Okay. Thank you.
 21 Q. Very good.
 22 And are you taking any medications that could
 23 impair your testimony today?
 24 A. No, I'm not.
 25 Q. Did you do anything to prepare for today's

6

1 BY MS. PAYNTER:
 2 Q. And Mrs. Feijo, you were previously sworn in by
 3 a notary; is that correct?
 4 A. That was correct.
 5 Q. And so you understand that today your testimony
 6 is under oath?
 7 A. I do.
 8 Q. And that means any false statements that you may
 9 make today would subject -- could subject you to the
 10 charges of perjury.
 11 Do you understand that?
 12 A. I understand, yes.
 13 Q. Have you ever given a deposition before?
 14 A. I have not.
 15 Q. Well, just to explain it a little bit, you
 16 understand that I'm going to ask you questions, and I
 17 would like you to give a verbal answer because the
 18 court reporter can't take down shakes of the head or any
 19 other kind of noise you may make, so we need you to
 20 answer affirmatively or negatively.
 21 Do you understand that?
 22 A. Okay. I do.
 23 Q. And as well I know I tend to speak fast
 24 sometimes, so please, if I'm speaking too fast, ask me
 25 to slow down, and I will do that.

8

1 deposition?
 2 A. I did look over some documents.
 3 Q. Okay. Do you recall what you looked over?
 4 A. I looked over very briefly some financial
 5 records that I saw for the first time last night. I saw
 6 the portions of -- I'm not -- I think it might have been
 7 off the Web site. Right now I don't remember, but
 8 portions of the actual wording that we have used at
 9 Daniel Chapter One. And I also saw a list of the
 10 allegations from the FTC.
 11 Q. And did you review that last night or prior to
 12 coming to New York City?
 13 A. Last night I saw the -- well, I had seen that --
 14 which?
 15 Q. The complaint, for example, or the allegations
 16 of the FTC.
 17 A. I had seen that before working on the
 18 interrogatories.
 19 Q. And without telling me what was said, did you
 20 meet with the attorneys who are present here today?
 21 A. Yes, I did.
 22 Q. And how long did you meet with them?
 23 A. When?
 24 Q. When did you -- well, when did you meet with
 25 them in preparation for today?

9

1 A. We first went to Washington, D.C. and spent a
 2 couple of days there. I don't know how many hours, but
 3 a few hours.
 4 **Q. Okay. Have you ever been a party to an action**
 5 **brought by the Federal Trade Commission?**
 6 A. No, I have not.
 7 **Q. Have you ever been party to an action brought by**
 8 **any federal agency?**
 9 A. No, I have not.
 10 **Q. Any state agency?**
 11 A. No, I have not.
 12 **Q. Okay. Have you ever sued any agency of the**
 13 **federal government?**
 14 A. No.
 15 **Q. Or sued any agency of the state?**
 16 A. No.
 17 **Q. Okay. Have you ever been party to any lawsuit?**
 18 A. No.
 19 **Q. Okay. And where do you reside?**
 20 A. There's really not a place. My husband and I
 21 move around a lot. We're back and forth between
 22 Rhode Island and Florida, but also, as God sends us,
 23 we'll end up in different states, even different
 24 countries at times.
 25 **Q. Do you have an official address?**

10

1 A. I have an address official for mailing purposes.
 2 Sure.
 3 **Q. And what is that?**
 4 A. 1028 East Main Road, actually P.O. Box 223.
 5 **Q. And when you say you're between Rhode Island**
 6 **and Florida, where do you stay when you are in**
 7 **Rhode Island?**
 8 A. At 1028 East Main Road.
 9 **Q. And where do you stay when you're in Florida?**
 10 A. 2271 Deer Creek.
 11 **Q. And when you are in Rhode Island, do you stay**
 12 **with anyone in particular?**
 13 **Does anyone else stay at that premises?**
 14 A. I stay with my husband.
 15 **Q. And in Florida as well?**
 16 A. Correct.
 17 **Q. And what is your occupation?**
 18 A. Oh, well, first of all, I'm the wife to my
 19 husband. I'm his helpmate as under God. I am secretary
 20 for all intent purposes to our ministry. And also I am
 21 a homeopath.
 22 **Q. Okay. Do you have any current employment?**
 23 A. How would you define "employment"?
 24 **Q. Paid employment.**
 25 A. I'm supported by the ministry, but it's -- I

11

1 don't think of it in terms of work and, you know,
 2 quote-unquote, employment.
 3 **Q. Is there any other --**
 4 A. I mean, it's a lifestyle. It's a 24/7.
 5 **Q. Okay. Well, how long have you been in the**
 6 **ministry?**
 7 A. Since 1986. Twenty-two years.
 8 **Q. Prior to 1986, did you have employment outside**
 9 **of the ministry?**
 10 A. No, I did not. No. And I got married in 1983
 11 and consented to not working outside of the home and, as
 12 God says, to be a woman busy at home and serving as my
 13 husband's helpmate.
 14 **Q. And what is your education?**
 15 A. I graduated from the New England School of
 16 Homeopathy in 1993.
 17 Prior to that, I had put in three years at the
 18 old SMU, which is now UMass Dartmouth in Massachusetts,
 19 as an English writing major, and I left after my junior
 20 year to get married. And it was in 1993 that I
 21 graduated from the New England School of Homeopathy.
 22 **Q. And how long were you at New England School of**
 23 **Homeopathy?**
 24 A. That was a one-year -- it was a two-year
 25 program. I did it in one year.

12

1 **Q. And can you just describe what that program**
 2 **was?**
 3 A. In what sense?
 4 **Q. I'm not that familiar with what you would have**
 5 **to study or whether you got a degree from that program,**
 6 **so if you can just describe that, please.**
 7 A. Yes. It's really not degreed. It was a
 8 certificate of completion that I received after, you
 9 know, putting in the hours needed. And it involved
 10 learning the principles of homeopathy and learning, you
 11 know, the general methods of practice and applying those
 12 principles.
 13 **Q. Can you define "homeopathy" for the record?**
 14 A. Homeopathy is a natural system of working with
 15 the body to actually restore balance, and we use
 16 homeopathic remedies.
 17 **Q. Remedies being -- what would remedies be?**
 18 A. They're energetic.
 19 The greatest critics of homeopathy say that they
 20 can't possibly do anything because they're not anything
 21 and they truly are not anything material to speak of,
 22 but they're energetic remedies. And we believe in a
 23 sense they are spiritlike as Hahnemann taught, and they
 24 work on the spiritlike vital force of the body which is
 25 on the dynamic plane.

1 Q. So when you say "remedies," can you give me an
2 example of a remedy, a homeopathic remedy?

3 A. Allium cepa. And that's a Latin name for onion.
4 And true to a homeopathic remedy, it is made from a
5 natural substance, in that case the onion, and yet also
6 true to a homeopathic remedy, it is diluted beyond
7 Avogadro scale, so beyond where there is any molecules
8 of the original material remaining. There is the
9 imprint of the energy.

10 Q. And what would that be used for, for example?

11 A. It is a good example because, again, true to
12 homeopathy, which means that we're -- I'm trying to slow
13 down for her -- that we are using similars, it's kind of
14 a classic remedy that people use for hayfever. And you
15 have those very classic signs of the itchy eyes,
16 scratchy throat, you know, burning, maybe runny nose,
17 much like when you're cutting an onion, those very
18 symptoms that you might experience.

19 And so when you use the Allium cepa, which is
20 the energy equivalent only -- it's, you know, nothing
21 but a dynamic spiritlike force -- it has an effect on
22 your body's energy.

23 And so if you're suffering with what I just
24 described and you use homeopathic Allium cepa, rather
25 mysteriously it seems those symptoms will go away, and

1 Classical Homeopathy.

2 And I later studied at Pioneer University, which
3 is based in the U.K., and received a fellowship. And
4 that's in advanced case management.

5 Q. Okay. Well, just -- so first we can stay with
6 New England School of Homeopathy.

7 Does that qualify you to do anything specific,
8 that certificate you received?

9 A. It does. To practice homeopathy as a lay
10 homeopath, as a professional homeopath.

11 Q. And have you done that since you received that
12 certificate?

13 A. I have.

14 Q. And then you mentioned you were at
15 Renaissance Institute of Classical Homeopathy; correct?

16 A. Uh-huh.

17 Q. How long were you there?

18 A. Since about the year 2000 -- I'm not sure
19 exactly, but '99-2000 and to the present. My last
20 course was taken sometime last summer. I don't recall
21 exactly when.

22 Q. And is that supposed to sort of continue your --
23 developing your knowledge or what --

24 A. Right.

25 Q. What's the purpose of that?

1 it's because your body has been restored to balance.

2 Q. Well, in the course of study at New England
3 School of Homeopathy, can you say what sort of courses
4 you had to take?

5 A. It really was not that kind of program. It was
6 the course. We met for every other month a long weekend
7 Friday morning to Sunday evening and spent those hours
8 studying the principles of homeopathy, the application
9 of homeopathy, and then untold hours at home where we
10 had to spend reading more in depth. It's actually quite
11 a laborious thing to undertake.

12 Q. Did you have to study chemical makeup of the
13 body?

14 A. No.

15 Q. Okay. Or biology of -- nothing like that?

16 A. No.

17 Q. And you received a certificate for that?

18 A. I did.

19 Q. Okay. And that's -- are you certified -- what's
20 the status of that as a --

21 A. To go back -- and I'm sorry -- to add to beyond
22 graduating from the New England School of Homeopathy, I
23 did do later study, a lot of self-study, and I took
24 courses along the way. And then years later I did
25 advanced study at the Renaissance Institute of

1 A. It's ongoing education.

2 Q. So you do that annually or -- do you go there
3 annually?

4 A. Not necessarily annually. It does work out to
5 be about that, but I may go, you know, a couple of years
6 without taking courses at the Renaissance Institute. I
7 believe that there were a year or two that I didn't take
8 courses and then sometimes I'll do, you know, two or
9 three courses in a year.

10 Q. And how long would the courses -- it will be a
11 weekend as well?

12 A. Correct. A long weekend. Yes. Sometimes a
13 four-day -- you know, the courses are really more like
14 seminars.

15 Q. Okay. And then in -- and then you mentioned
16 Pioneer University in the U.K.?

17 A. Correct.

18 Q. And you have a fellowship in advanced case
19 management; correct?

20 A. Uh-huh.

21 Q. And can you describe what that is?

22 A. Well, that was a fellowship program that I was
23 invited into, you know, to receive a fellowship, which
24 shows that I am experienced and skilled in advanced
25 homeopathic therapeutics.

17

1 **Q. And in terms -- and advanced case management,**
 2 **can you describe a little more what that entails?**
 3 A. Well, for one thing, it is using the advanced
 4 methods of Hahnemann. Samuel Hahnemann founded
 5 homeopathy, and in his advanced methods he has you put
 6 the energetic remedy in water and to use it in a
 7 slightly different way from just taking the homeopathic
 8 remedy pills.
 9 And case management is really the more difficult
 10 aspect of homeopathy, and so an advanced practitioner,
 11 which I am considered, is well-skilled also in knowing
 12 how to best guide the person taking the remedy as to
 13 when they should be repeating the remedy, when they
 14 should be waiting.
 15 **Q. So you act as -- you consult with an individual**
 16 **who comes to you with a particular problem; is that**
 17 **correct?**
 18 A. I meet with the person --
 19 **Q. And --**
 20 A. -- and suggest to them a remedy.
 21 **Q. And do you receive any payment for that**
 22 **service?**
 23 A. It varies. Sometimes I do take payment. I've
 24 never turned anyone away if they could not pay.
 25 Sometimes I barter and sometimes it's just a service

18

1 part of the ministry that I offer.
 2 **Q. If someone has a long-term condition and you're**
 3 **working with them, would you normally have a charge for**
 4 **that?**
 5 A. Again, it really varies with the individual,
 6 just as it is a very individualistic type of thing and
 7 just as also in our ministry it depends on the person's
 8 circumstances.
 9 That's a difficult thing to answer, but in
 10 the -- in a case where a person may be needing the
 11 service for a while, it's especially in those cases
 12 where they get most of my time free, free of charge.
 13 **Q. Okay. And in order to practice homeopathy, do**
 14 **you have to have any state license?**
 15 A. I do not.
 16 **Q. Okay. Let me rephrase that.**
 17 **You don't have one, you don't have a state**
 18 **license; right?**
 19 A. I do not need one.
 20 **Q. And it's not required also.**
 21 A. And I don't have one. Correct.
 22 **Q. Thank you.**
 23 **And do you use homeopathy in your ministry as**
 24 **well?**
 25 A. I do.

19

1 **Q. And can you describe how that -- how you use**
 2 **it?**
 3 A. Well, again, it's another way of helping
 4 people. It works really nicely in conjunction with the
 5 other things that God has given us to help people, be
 6 it herbs, minerals, vitamins.
 7 **Q. And you had mentioned before in terms of**
 8 **training with Dr. Hahnemann I think it was that there**
 9 **are homeopathic remedy pills?**
 10 A. Yeah. I didn't train with Samuel Hahnemann. He
 11 founded homeopathy --
 12 **Q. Sorry.**
 13 A. -- 200 years ago.
 14 **Q. Okay. Well, but in terms of learning his**
 15 **principles, you mentioned homeopathic remedy pills.**
 16 **Could you describe what those are.**
 17 A. They're sugar pills. Sac lac is actually the
 18 Latin name, and they are sugar pills.
 19 So there the greatest critics of homeopathy say
 20 it's just placebo, there's nothing in there. But they
 21 have been imbibed with energy. They're dynamic.
 22 **Q. And imbibed with energy by yourself or who --**
 23 A. Not by myself. They're done in licensed
 24 laboratories in homeopathic pharmacies.
 25 **Q. Okay. You mentioned that you had studied**

20

1 **English I believe for three years?**
 2 A. I was an English writing major.
 3 **Q. Okay.**
 4 A. Yeah. At UMass Dartmouth for three years.
 5 **Q. Have you done any writing in connection with**
 6 **your ministry?**
 7 A. I've done quite a bit. I'm, you know, mainly
 8 the writer. We've had other people along the way
 9 helping.
 10 **Q. So can you describe what exactly you've**
 11 **written?**
 12 A. Uh-huh.
 13 **Q. In regards to the ministry?**
 14 A. Newsletters primarily were written by me.
 15 The BioGuide was primarily -- the content of
 16 information was mostly mine. Some of the titles and --
 17 I don't know what to call them -- little embellishments,
 18 you know, the more artistic aspect, was usually done by
 19 an artist or someone else on staff, but you know, again,
 20 the content of information for the BioGuide, the
 21 newsletter.
 22 The Web site I haven't been so involved in, but
 23 the Web site has primarily been -- the information on it
 24 I believe has been pulled from the BioGuide and from
 25 newsletters.

1 **Q. I wonder if we can take out a BioGuide. I don't**
 2 **know if one was -- because just when you say "the**
 3 **embellishments," I'm not really sure what you're**
 4 **referring to.**
 5 A. Yeah. I don't know what word to use.
 6 MR. J. TURNER: We have the BioGuide if you want
 7 to use it (indicating).
 8 MS. PAYNTER: Well, I have the one that we
 9 marked yesterday, so why don't we --
 10 (Discussion off the record initiated by the
 11 court reporter.)
 12 BY MS. PAYNTER:
 13 **Q. So it's Exhibit 12, FTC 12, which we're looking**
 14 **at, and the witness is looking at FTC 12, which is the**
 15 **BioGuide.**
 16 A. It's the whole thing.
 17 **Q. So if you can point out what you consider**
 18 **embellishments, that would be helpful.**
 19 A. Okay.
 20 **Q. Can you just say the page, and that would be**
 21 **helpful.**
 22 A. And for lack of a better word, right on the
 23 table of contents --
 24 **Q. Is there a page number at the bottom?**
 25 MR. J. TURNER: Right here (indicating).

1 A. The last one -- well, it was really done in
 2 succession, so the last one, Al that is presently at
 3 Daniel Chapter One. Prior to that, Jim's nephew,
 4 Scott Dube.
 5 **Q. Is Exhibit 12, is this the current BioGuide that**
 6 **you --**
 7 A. The BioGuide 3, I believe, yes, that's the one
 8 that we currently use I think.
 9 **Q. Can you look through the BioGuide and see if**
 10 **there are any other areas where you would -- of what you**
 11 **would call embellishments in there?**
 12 A. Okay. Well, here again on the next page, 311,
 13 at the top -- again, this was not my layout --
 14 Dr. Luc De Schepper had sent in a quote to us, a
 15 testimony, and the artist, whoever it was at the time,
 16 extrapolated from that and placed that at the top.
 17 And I just want it to be clear that when I say I
 18 wrote the BioGuide that if you were to open to this
 19 page, you know, I didn't put those words at the top, and
 20 you might think so if I claim to be the author and those
 21 words are not in quotation marks, indicating anybody
 22 else other than the author put them there.
 23 **Q. Okay. Well, maybe can we look at another page**
 24 **where -- on page that's marked 0317.**
 25 A. Uh-huh.

1 THE WITNESS: 310.
 2 BY MS. PAYNTER:
 3 **Q. Okay.**
 4 A. Now, here's an example. I believe Dr. Register
 5 sent in what you see above his name. He had e-mailed or
 6 mailed that in to us when we asked him to make a
 7 comment.
 8 Below that, "Thanks to Daniel Chapter One
 9 products our patients have the opportunity to improve
 10 their health naturally without the adverse effects of
 11 allopathic medicine."
 12 My point is simply, those are not Trish's words.
 13 Now that I look at it, I see that was extrapolated from
 14 Dr. Register's quote. I refer to that that I just read
 15 as an embellishment. I'm not certain what word to use,
 16 but meaning it's more an artistic, it took up a little
 17 white space there.
 18 And so I don't do the layout. I'm not the
 19 artist, the graphic artist. The information content was
 20 written mostly by me. The artist arranges things, and
 21 then he might pull something out to fill up white space
 22 or he might even use his own words, that he gets a sense
 23 of something and he'll put it in that space.
 24 **Q. And who is the artist who prepared the**
 25 **BioGuide?**

1 **Q. And this page describes a product or body care**
 2 **actually, I guess an area of --**
 3 A. Uh-huh.
 4 **Q. -- work that these products might do.**
 5 **And did you prepare the information in these?**
 6 A. Right. That's the information that I'm more
 7 responsible for. Uh-huh.
 8 **Q. And on page 318 where it says "Amino Acids"?**
 9 A. Yes.
 10 **Q. And there's a little description in italics that**
 11 **the body utilizes amino acids to build protein**
 12 **molecules, et cetera.**
 13 **Do you see that area?**
 14 A. Right.
 15 **Q. Did you write that?**
 16 A. I don't recognize it as mine. It's possible
 17 that somebody took that from a book and fit that in
 18 there.
 19 **Q. Okay. Going below that, Amino Free Form.**
 20 A. Uh-huh.
 21 **Q. Do you see the description under that heading?**
 22 A. Uh-huh. Yes.
 23 **Q. Did you write that?**
 24 A. I believe I did.
 25 Now, the original BioGuide I worked on years

25

1 ago, I mean, close to a decade ago, so it is really hard
 2 to remember and say with certainty, but I'm quite
 3 certain that it looks like, you know, my style of
 4 writing, and I'm basically putting together information
 5 the way that I try to do that to educate and to share
 6 information with people.
 7 **Q. So in the original BioGuide you wrote that**
 8 **solely?**
 9 **Were you the sole author of that?**
 10 A. The information content --
 11 **Q. Okay. Not the artistic --**
 12 A. -- was primarily mine. There may have been
 13 contributions from people that we just inserted in, so I
 14 can't say I wrote that. And I would really have to go
 15 through it page by page, which I could do, and point out
 16 what I believe is mine.
 17 **Q. And then how many -- how many versions of the**
 18 **BioGuide are there?**
 19 A. I think just three. I think this is the current
 20 one that we use, the BioGuide 3.
 21 **Q. And were you involved in the revisions of the**
 22 **BioGuide?**
 23 A. Not so much beyond the first one. I most likely
 24 was asked to edit it because that's another duty that,
 25 you know, I do at Daniel Chapter One. I try to edit

27

1 **looked at, the original one, and later reviewed other**
 2 **drafts of that.**
 3 **You mentioned a newsletter.**
 4 **Can you describe that a little more?**
 5 A. We haven't done one for a long time, but we
 6 used to have a little newspaper, a newsletter for our
 7 community, and it was almost family oriented in tone as
 8 a way of giving information, sharing information within
 9 our community, you know, even updating people who had
 10 joined in the ministry in, you know, what was going on.
 11 The Cancer Newsletter, which I did not name
 12 that -- but we came to call it that for a matter of
 13 convenience -- that was a one-time special edition of a
 14 newsletter that was meant to really just pull some
 15 information, you know, specifically together. And that
 16 was -- I'm not even certain when the first one was done,
 17 but maybe again around the year 2000, and that has been
 18 simply reprinted since that time. It hasn't been
 19 rewritten since that time.
 20 **Q. So there are two newsletters you're -- is that**
 21 **correct?**
 22 **I'm not sure I understood your answer.**
 23 A. Yeah. I used to work on a newsletter and I
 24 don't remember exactly -- I believe we maybe put it out
 25 monthly. And that was to, you know, let people know

26

1 labels and BioGuides. Really anything written I try to
 2 look at.
 3 **Q. Okay. In terms of the final product when the**
 4 **revision has happened, have you reviewed that?**
 5 A. In every case?
 6 **Q. Yes.**
 7 A. I am supposed to. And every now and then a
 8 little pamphlet or a little label or something will get
 9 out and, you know, come to find out somebody told
 10 somebody or somebody thought that Trish did a final edit
 11 when in fact, you know, I didn't. But the rule is that
 12 I'm supposed to look at the final and in most cases
 13 have.
 14 **Q. So with respect to the BioGuide, the current**
 15 **version, you did approve it, you reviewed it and**
 16 **approved it?**
 17 A. I'm quite certain, yeah, to the best of my
 18 recollection.
 19 **Q. Okay. Thank you.**
 20 A. And then I would have to really almost go
 21 through it page by page and look at everything and see
 22 if it looked familiar to me or not.
 23 **Q. Okay. So we were just discussing what things**
 24 **you may have written with regard to Daniel Chapter One's**
 25 **products, so you mentioned the BioGuide, which we've**

28

1 what was happening at the ministry and to give them some
 2 information. You know, it was just a little -- I don't
 3 know -- four or six-page item before the year 2000. It
 4 was a while ago.
 5 And the Cancer Newsletter is the one that it
 6 had, you know, kind of a topic, and we tried to put
 7 information together that went together. And that was
 8 the one that we've continued to put out, you know, since
 9 that, in the last five years say, the only one that
 10 we've continued to disseminate.
 11 I've helped to work on information on labels.
 12 **Q. Okay.**
 13 A. The Web site is one thing that I have not had so
 14 much a hand in. Things on the Web site have been
 15 written by me but usually pulled from past things that I
 16 wrote for a newsletter or for the BioGuide.
 17 **Q. Do you review the Web site?**
 18 A. Not that often. I really haven't had time.
 19 **Q. Do you prepare pamphlets regarding -- about the**
 20 **different products?**
 21 A. Not that much. That's something that -- you
 22 know, to remind you, I was practicing homeopathy, which
 23 took a lot of time, and doing radio and doing other
 24 many, you know, things at the ministry. And obviously
 25 one person can't do it all, and we have other people

1 helping us, and so you know, there's a lot of functions
2 at the ministry and our whole warehouse department I
3 have really nothing to do with.

4 The Web site I've had very little to do with.

5 **Q. Who is in charge of the Web site?**

6 A. It has been different people at different times,
7 and currently I really am not certain. It could be
8 Matt, the young man with us now that he does a lot.

9 Jeremy Turner at one point was doing a lot with
10 the Web site. He's no longer with us, but he was for
11 many years.

12 **Q. Okay. Well, with respect to writing about
13 Daniel Chapter One products, have you done any other
14 writing besides what you've already named here?**

15 A. Years ago in the '90s I wrote a column
16 Wise and Simple for the local newspaper, and that was
17 roughly for a year, maybe a little less than that.

18 And then I also for about a year wrote for the
19 Good News in Rhode Island. It's a Christian newspaper.
20 And I was trying to do a monthly column at their
21 request. I wasn't getting paid for it. They asked me
22 if I would do that, a monthly column about health and,
23 you know, for the Christian. And that was again roughly
24 a year. I don't remember exactly how long I did that
25 for.

1 **Q. And what year was that approximately?**

2 A. I don't remember.

3 **Q. Okay. If you do remember -- yes -- and you can
4 provide us with the answer, that would be helpful.**

5 A. Uh-huh.

6 **Q. And what kind of topics did you write about in
7 the Good News publication?**

8 A. Topics that had to do with health and from a
9 Christian perspective.

10 **Q. Can you just elaborate when you say health from
11 a Christian perspective?**

12 A. Uh-huh. Yeah. I'm trying to remember some
13 examples so that I can give you.

14 One article I believe had to do with children
15 and the overdrugging of children for so-called ADD/ADHD.
16 I don't use those names. I don't hold to such, you
17 know, titles. I think it's unfortunate that children
18 are labeled with those.

19 But the fact remains that children are being
20 overdrugged, and so I would write an article expressing
21 that and that I don't believe that Jesus intends for us
22 to be drugging our children.

23 **Q. Okay. And in terms of -- is that the Christian
24 perspective on health? Would you describe that as
25 Jesus doesn't want us to be using drugs? Is that your**

1 view?

2 A. As a general opinion, that's correct.

3 **Q. Okay. Just going back to your answer about the
4 Cancer Newsletter, you were saying that you didn't
5 create the title of it; is that correct?**

6 A. Right.

7 **Q. And who developed the title?**

8 A. I don't remember. The, again, body of the
9 content of the information I did provide as we have
10 educating people to share information with people, and
11 you know, it came to be called the Cancer Newsletter.
12 You know, however that happened I don't know. But how
13 to fight cancer is your choice.

14 The title, that was not, you know, my title. It
15 could have been the artist at the time. I really don't
16 know.

17 **Q. I think you may have testified by saying that it
18 was a matter of convenience that that title was used.
19 Is that correct?**

20 A. Well, it's to try to communicate to people, and
21 you know, it's an idea. It's a word that people, you
22 know, certainly are familiar with, concerned about and
23 understanding of, so...

24 **Q. So?**

25 A. So you know, we use it in an attempt to

1 communicate with people.

2 **Q. So when you say it's not a -- it was a matter of
3 convenience, are you saying that the term "cancer"
4 doesn't have significance for you?**

5 A. Not really, it does not, no.

6 What I know to be true, what I believe is that
7 correct the vital force, which is your life energy,
8 it's out of balance if you have any kind of a symptom
9 or any kind of disease. Your body has a lack of ease.
10 It's out of balance. And what is required is for the
11 body to be brought back into balance, which only God,
12 the Almighty, you know, our creator -- he is the great
13 physician -- only he can do that and he can bring the
14 body into balance and allow the body to heal itself.
15 He has placed that within the human body that he's
16 created.

17 Now, if we put as a title how to rebalance your
18 body, how to bring your vital force into harmony,
19 people would not be able to connect to that in any way.

20 **Q. But for example, in the BioGuide you do use the
21 word "cancer" as well, if we wanted to -- do we want to
22 take a look at that again?**

23 A. Uh-huh.

24 (Pause in the proceedings.)

25 **Q. Okay. For example, on page 0353 of the**

33

1 **BioGuide?**
 2 A. Uh-huh.
 3 **Q. And the title says "Cancer Brain Tumor"?**
 4 A. Correct.
 5 **Q. And if you -- would you just like to read that**
 6 **page to yourself and...**
 7 **(Pause in the proceedings.)**
 8 MR. J. TURNER: Could we add that page as a
 9 special page in the record so somebody reading the
 10 record would know what she was reading.
 11 MS. PAYNTER: I think I said it, but the
 12 witness is reviewing page 0353 of Exhibit -- FTC
 13 Exhibit 12.
 14 Is that sufficient?
 15 MR. J. TURNER: Yeah.
 16 MS. PAYNTER: Okay.
 17 **(Pause in the proceedings.)**
 18 BY MS. PAYNTER:
 19 **Q. Have you read it?**
 20 A. Oh. Yes. I was waiting for you.
 21 **Q. Now, on this page there is description of a**
 22 **patient who suffered from cancer; correct?**
 23 A. Right.
 24 **Q. So is it not -- it's not always a matter of**
 25 **convenience that you're going to use the term**

35

1 phone.
 2 What I submitted to the artist is that testimony
 3 that you see in quotations with the picture that she
 4 sent.
 5 I'm not the graphic artist. The graphic artist
 6 took the testimony, put in the picture and then put the
 7 extrapolated portions, designed a title, made that page
 8 in a way that could be communicated to people, so I'd
 9 call that a convenient means of communication. It's to
 10 give it a title, to give it some structure.
 11 **Q. Towards the bottom of the testimony on that --**
 12 **the left-hand column there, it says, "Tracey, free of**
 13 **leukemia, brain, heart and liver tumors using DC1**
 14 **products," et cetera.**
 15 **Do you see that?**
 16 A. I do.
 17 **Q. Did you write that?**
 18 A. I did not. I don't believe I did.
 19 **Q. Okay. Can I ask you, who is Jill Feijo?**
 20 A. My stepdaughter.
 21 **Q. And does she work for Daniel Chapter One?**
 22 A. She does try -- yeah. She works at the
 23 ministry.
 24 **Q. And what does she do at the ministry?**
 25 A. Let's see. Jill helps to run the order center

34

1 **"cancer" -- that you use the term "cancer" in the**
 2 **BioGuide.**
 3 A. What do you -- I'm sorry. I don't understand
 4 that.
 5 **Q. In this page it references the use of**
 6 **products --**
 7 A. Yes.
 8 **Q. -- produced by Daniel Chapter One --**
 9 A. Right.
 10 **Q. -- right?**
 11 A. Uh-huh.
 12 **Q. And this person's testimony is that she used it**
 13 **and it --**
 14 **(Discussion off the record initiated by the**
 15 **court reporter.)**
 16 BY MS. PAYNTER:
 17 **Q. And the person's testimony is that she used**
 18 **Daniel Chapter One's BioMixx and 7 Herb Formula --**
 19 A. Uh-huh.
 20 **Q. -- and that she was cured of cancer; correct?**
 21 It says, "By May 1988, Tracey was free of
 22 cancer."
 23 A. I took this testimony in Tracey's words. I have
 24 some written out by her father. We also have words
 25 written out by Tracey. And I spoke with Tracey on the

36

1 room and she takes phone calls and sometimes phone
 2 orders and answers e-mails and helps her dad with the
 3 checks that need to be written out.
 4 **Q. Uh-huh. Okay. Thank you.**
 5 **In terms of your homeopathic practice, are you**
 6 **still practicing --**
 7 A. No.
 8 **Q. -- homeo -- no?**
 9 A. I had to put that on hold because of this FTC
 10 thing.
 11 **Q. In terms -- prior to this action -- and when you**
 12 **say "on hold," do you mean because of the complaint**
 13 **being filed or prior to that?**
 14 A. Because of the time that this is taking from me,
 15 I can't continue right now.
 16 **Q. How long has it been since you've practiced**
 17 **homeopathy?**
 18 A. I'm counting up the years. I actually began
 19 back in '93 after first graduating and up until just
 20 about a year ago, maybe less than that. I realized that
 21 with the paperwork and the travel required for this case
 22 I couldn't continue.
 23 **Q. And as part of your practice, did you -- would**
 24 **you recommend Daniel Chapter One products to**
 25 **individuals?**

37	<p>1 A. Sometimes I would. Yeah. It wasn't my main 2 focus in practicing homeopathy. It was more focusing on 3 the person and a homeopathic remedy that would help 4 balance them, but there certainly were needs, you know, 5 plenty of needs. 6 And I worked a lot with special needs children, 7 and many of them have, you know, a lot of 8 gastrointestinal weaknesses and things that our 9 products are really, you know, supreme for, so in those 10 cases I would make recommendations, but not in every 11 case. 12 Q. Well, can you just describe in your own words 13 what Daniel Chapter One, the ministry of 14 Daniel Chapter One, is? 15 A. Well, going back to when we first started 16 Daniel Chapter One, my husband and I desired to be 17 missionaries, and we were looking to go out into the 18 world, and we did some of that, but God showed us that 19 he was going to give us a ministry where he would be 20 bringing people in to us with needs, you know, all 21 kinds of physical, mental, emotional and spiritual 22 needs. 23 And so we began, you know, Daniel Chapter One, 24 which at the time was really a health food store, and 25 you know, health foods primarily is what we had</p>	38	<p>1 available, and it was largely to help support the home 2 church around the world. 3 We had met believers in Poland, in Israel and in 4 China, and you know, they really -- you know, they have 5 nothing. They have far less than we do, and it was a 6 way of to help to fund them. 7 But also, as God grew our knowledge about the 8 foods and the nutrients and whatnot, there are things 9 available all over the world that God has created, and 10 so on the idea of teaching a man to fish rather than 11 supplying the fish, we were working with people in 12 those various home churches, showing them where they 13 also could, you know, in kind access the herbs and the 14 nutrients and things locally and provide them and have, 15 you know, their own ministry. And it's all a part of 16 our ministry which is part of the one church of Jesus. 17 Q. When you say "home church," can you define what 18 that is, in your understanding? 19 A. Versus meeting in a church building, which is an 20 organization of men, it goes back to in the Book of Acts 21 the very early church. You know, we are living stones 22 and we are the church, God's people, and they met in 23 homes, which makes sense. There's no overhead there. 24 You meet in the homes, the place that you already live 25 in, because God does not only meet with you in a</p>
39	<p>1 building, you know, fancy building. 2 In a home church, again getting back to the 3 Book of Acts, there's a freedom in the spirit there 4 where God really has his way. 5 And of course in communist countries where they 6 are suppressed, and if they have any access at all to an 7 organized religion, it's really of the government, 8 people that want to worship in spirit and in truth are 9 meeting in their homes, as we do here in this country 10 and again as they did from the very earliest time, you 11 know, after Jesus was resurrected. 12 Q. And Daniel Chapter One is a home church also? 13 A. Correct. 14 Q. And when did the ministry first begin? 15 A. Well, Daniel Chapter One, the ministry, that was 16 1986. 17 Q. And you mentioned that you were selling health 18 food in the beginning? 19 A. Yeah. It was a health food little, you know -- 20 Q. So I just -- I don't want to misstate what you 21 say either, so please, you know, let me say my 22 understanding, and if I'm incorrect, please correct me. 23 A. Uh-huh. 24 Q. So you and your husband were -- you had a health 25 food store; is that correct?</p>	40	<p>1 A. Right. 2 Q. And that was in Rhode Island? 3 A. Correct. 4 Q. Okay. And out of that, the ministry developed; 5 is that correct? 6 A. Well, the health food store. And we lived 7 there, and that was the ministry. And people came in 8 and we had people living with us and, you know, working 9 with us there, and we had health food and we had a huge 10 organic garden. 11 And we met the needs of the people and went out 12 as God told us to go out and -- you know, in other 13 words, what we often would do as God led us to is to 14 take from the ministry there and go to Poland and share, 15 you know, bring money. And actually, you know, Jim and 16 I try to never be a burden to anyone and try to, you 17 know, give as much as we can. 18 Q. And at that time it was called 19 Daniel Chapter One? 20 A. Correct. 21 Q. And what's the significance of the name? 22 A. From the Book of Daniel in the Old Testament, in 23 that very first chapter, Daniel and his men were in 24 Babylonia in captivity by King Nebuchadnezzar, and they 25 were expected to eat the king's very rich diet, you</p>

41

1 know, meats and to drink his wine. And in obedience to
 2 God, their dietary laws were to not eat that way, and so
 3 they requested permission of the king to just each
 4 pulse, which is -- it's in the King James version, but
 5 that would be vegetation and, you know, perhaps lamb
 6 but, you know, lentils, beans, grains -- and to just
 7 drink water.
 8 And at first the king's men said to Daniel when
 9 he asked -- when he requested that permission, he said,
 10 Surely you'll get sick, and the king will have our head.
 11 And Daniel said, Let us try it for ten days, and then
 12 you decide.
 13 And so they ate that way and drank water for ten
 14 days, and it's recorded at the end of that chapter that
 15 their eyes were brighter and they were stronger than all
 16 the king's men and continued to grow in knowledge and
 17 wisdom.
 18 And that was very significant to Jim and I.
 19 **Q. In what way?**
 20 A. That Daniel Chapter One is about first of all
 21 obeying God, living to please and obey God, and that
 22 there is in a sense good fruit to bear for that. You
 23 know, God doesn't, you know, tell us things that are bad
 24 for us.
 25 And it was significant in that they didn't live

43

1 **of balance, how does that relate? How does**
 2 **Daniel Chapter One's philosophy relate to --**
 3 A. Uh-huh. Well, God changes not. He's the same
 4 today as he was from the beginning. And what he has
 5 created for our bodies is still the best thing for our
 6 bodies and we believe what he intended for our bodies.
 7 Just as he created us from the dust of the earth
 8 and, you know, the actual dust of the earth, the
 9 substance, you know, carries with it vitamins and
 10 nutrients, the natural plants have that, and so
 11 therefore, natural things have a compatibility with the
 12 human body, and that is simply what he intended for our
 13 nourishment. And when your body is being nourished,
 14 then it's operating as God intended and there's a
 15 balance there.
 16 And you know, I suppose a simple example of what
 17 man can do is eat a very synthetic diet, a very
 18 chemical-laden diet, even very high in refined sugar,
 19 and it's a known fact that you won't have good health
 20 and you will be in that sense out of balance.
 21 **Q. Is any part of the philosophy based on the fact**
 22 **that you should use God's products over chemical**
 23 **products or man's products to cure disease?**
 24 A. Well, God cures disease. You know, he -- I
 25 mean, he's the only one. He's the great physician. He

42

1 after the lust of the flesh or in that sense
 2 specifically what would appease the palate, but again
 3 to honor and glorify God, they ate and drank with
 4 purpose.
 5 **Q. And then how does that translate into your**
 6 **ministry?**
 7 A. Well, in a number of ways I think on different
 8 levels it does. Our message is for people to obey God,
 9 to seek him and his wishes for them and to obey him, and
 10 he promises that when you do that things will go well
 11 for you.
 12 And when it comes to diet, which we do talk
 13 about, it's very applicable today. I think it's a known
 14 fact that if we give in to the advertisements we're
 15 being bombarded with on TV and, you know, the fast food
 16 and all the packaged food, you know, as you walk down
 17 the store aisles that that's not ideal for our health,
 18 and it's much better to walk the periphery of the
 19 grocery store and get the fresh fruits and the
 20 vegetables. It's a very simple way of returning to what
 21 God really intended for us.
 22 **Q. And in --**
 23 A. To the more natural and away from the chemical
 24 and the synthetic.
 25 **Q. And in terms of disease or your body being out**

44

1 allows our bodies -- you know, we have the mechanism
 2 that he's placed there whereby we can -- our bodies can
 3 heal themselves given the right nourishment. Healing
 4 cannot come from without. We know that it has to come
 5 from within. And you know, that can happen when you are
 6 following God's order in creation, which is to -- first
 7 of all, he intended our bodies to get nourishment, so we
 8 need that good nourishment.
 9 **Q. Okay. I'm not sure if you answered my question**
 10 **because my question is, when it comes to disease, is**
 11 **part of the philosophy of Daniel Chapter One that it's**
 12 **preferable to use the natural resources versus man-made**
 13 **or chemical resources?**
 14 A. We don't look at disease the way modern medicine
 15 looks at disease. It's not the symptoms. And we don't
 16 use disease names. That's just a sign that the body is
 17 out of balance.
 18 You cannot restore balance with a chemical drug,
 19 and so you have to meet the greater need of the body.
 20 And that might be a spiritual need. It may be a need
 21 for nutrients. It may be a dynamic homeopathic remedy
 22 to restore a deeper dynamic imbalance.
 23 **Q. And thereby ridding yourself of the condition?**
 24 A. And then your body can be restored to balance.
 25 Uh-huh.

1 Q. Okay. So you mentioned that you can't --
2 chemicals can't restore that balance; is that what you
3 just testified?

4 A. That's correct.

5 Q. Okay.

6 A. Yeah, you don't suffer from a chemical
7 deficiency when you have a disease.

8 A child that is hyperactive does not have a
9 Ritalin deficiency, so to give that child Ritalin is
10 not bringing healing at all. It's not correcting.
11 It's suppressing that child's symptoms. It's
12 suppressing his or her hyperactivity. But it's a
13 chemical that is toxic to the body, and that's why you
14 have side effects.

15 Q. So I think your answer is yes to my question,
16 that you -- that Daniel Chapter One's view is that
17 chemical -- chemical --

18 MR. J. TURNER: Yeah, I object as to form on
19 that.

20 You said, "I think your answer is yes." She's
21 repeatedly refused to say yes, so --

22 MS. PAYNTER: Well, I was trying to -- I'm
23 trying to -- she hasn't said -- well, I'm summarizing
24 what she's saying in the sense that she hasn't said the
25 word "yes"; however, the substance of her testimony --

1 A. That was very much a slow process. That
2 happened over some years. But we began our own product
3 line at a point when we had a very small section of
4 nutritional supplements. You know, we really pushed for
5 the whole foods.

6 But at any rate, in that small section of
7 supplements there was a product that we had that we
8 found out through a lab assay we had done that it was an
9 overpriced product for what it was. There were --
10 Hot Stuff was the name of it. It was a carbohydrate, an
11 overpriced carbohydrate powder basically. And the other
12 ingredients in it, the more costly ingredients, were
13 there really in token amount. And my husband and I were
14 upset that that was, you know, a little misleading to --
15 misleading to the customer.

16 So it was at that that Jim decided to look into
17 formulating his own products to have the greater control
18 over the content of the package so that we could provide
19 people with truthful products and truly nutritious
20 products.

21 And you know, God says to give a measure
22 heaping, overflowing, in other words, don't skimp
23 people, be generous with them, and so we began with one
24 product. I believe it was called Metabolic Optimizer.
25 I'm quite certain that was our very first product. And

1 MR. J. TURNER: Same objection.

2 BY MS. PAYNTER:

3 Q. I mean, you have testified that chemicals
4 outside -- things outside the body cannot put your body
5 back in balance; correct?

6 A. Correct.

7 Q. Okay. And the preference is to use products or
8 natural substances that may bring your body back into
9 balance?

10 A. For me it certainly is.

11 Q. Is that a view of Daniel Chapter One as well?

12 A. Yeah. I would say that it is.

13 Q. Okay. Just going back to the health food store
14 at the time when you were -- had begun the ministry,
15 were you selling Daniel Chapter One products at that
16 time?

17 A. No, we were not.

18 Q. What were you selling at that time?

19 A. Mostly food.

20 Q. Okay.

21 A. We used to get all kinds of bulk food and weigh
22 up, you know, all the bulk, the grains, beans, dried
23 fruit, whole-grain pastas.

24 Q. Do you recall when did you begin selling the
25 products that you're selling now?

1 that was a protein, carbohydrate, vitamin and mineral
2 supplement.

3 And we put no money to speak of, I mean, very
4 little, the least amount we could, into the packaging
5 and, you know, the label and yet chose the
6 greatest-quality ingredients.

7 When we got product samples in, soy protein,
8 there was this spectrum, and you could get an
9 inexpensive soy protein that was kind of chalky tasting
10 and the availability wasn't as great, you know, for the
11 body the form that it was in. And then on the high
12 end, like a higher-end ingredient, it mixed better, it
13 tasted better, and the bioavailability was greater to
14 the body.

15 Well, that product, soy protein, cost more, but
16 that's what we used because, you know, for all those
17 reasons. And we did that for each ingredient so that
18 what we put together was a good-tasting, you know,
19 very-high-in-quality product.

20 Again, we didn't care about the packaging and
21 didn't do any advertising, so you know, we could keep
22 costs down in every way and so adhere to God's word in
23 providing people a very good and generous product.

24 Q. And what was the purpose of the
25 Metabolic Optimizer?

1 A. To optimize the body's metabolism I suppose.
2 Jim named it, my husband named it. And that
3 Metabolic Optimizer went on to have several names. At
4 one time it was AMPM.

5 And if you nourish the body in the morning and
6 in the evening, it feeds the endocrine system 24 hours a
7 day, and that's why we came to call the product -- well,
8 ENDO-24 and a very similar product, 1st Kings, the
9 original. 1st Kings 17:6 is the full name. There
10 again, my husband named that but from a scriptural
11 account of the prophet being fed by the raven, and it
12 was in morning and evening, and so we see God's wisdom
13 in that.

14 **Q. And then you said you had done a lab assay on
15 that initial product?**

16 A. I'm sorry. We did not do it. We had one
17 conducted. You know, you can pay a lab to assay a
18 product to see what's in it.

19 **Q. And in terms of the developing the -- just the
20 whole product of the metabolic atomizer (sic), how long
21 did it take you to develop that or the final product
22 that you had?**

23 A. I did not do it and I can't say how long that
24 took, but Jim worked on the formula, and it did take him
25 quite a while to find the resources for the ingredients,

1 you know, that he wanted, put it all together and find a
2 lab that would then, you know, make that product for
3 him. Yeah, I can't say how long that took.

4 **Q. Okay. And how did you fund that first product
5 being produced?**

6 A. With the money coming in.

7 What we did from day one, we honestly started
8 Daniel Chapter One with nothing. And we were told you
9 can't start a business with nothing. And we did it
10 purely by faith.

11 God gave us our first building, long story
12 short, gave us the first building to use for a few
13 months. And he allowed a company to let us have a
14 30-day credit, which is unheard of having no credit. We
15 had no credit, no collateral. We were living in a
16 little trailer behind a gas station. And we had a
17 company credit us for the bulk goods.

18 My parents came down and helped out. We made a
19 table in Daniel Chapter One in the store from an old
20 door. Jim put together some shelves. He made a
21 handmade sign.

22 I mean, it was really done on probably less than
23 a shoestring. And from day one, if we made, you know,
24 \$20 that first day, that went back into the ministry, it
25 went back into Daniel Chapter One. And it's been that

1 way to this day. It's just everything goes back in, and
2 that's how we were able to grow.

3 And that first product, I don't remember the
4 year that he made that, but we were still, you know,
5 very small and had at the time several people living
6 with us. We had a couple of families living with us and
7 helping in the ministry, and they had left and there
8 were some people remaining.

9 But you know, the point is, it was not a costly
10 venture for us because of the way that God allowed us to
11 do it, much as with everything, you know, to the
12 present, our radio network. We would not have had the
13 money to build a radio network, but God allowed the
14 abilities of a man in the ministry, and buying used
15 equipment on eBay and shopping at Wal-Mart, you know,
16 God -- he can do a lot with very little.

17 **Q. Uh-huh.**

18 **Okay. So you started -- just -- well, strike
19 that.**

20 **But at some point you filed for corporate status
21 for Daniel Chapter One?**

22 A. I am not sure corporate status --

23 **Q. To become a corporation sole?**

24 A. What that means, but because -- oh, the
25 corporation sole, that was I believe in the year 2002,

1 to the best of my memory from seeing the document, and
2 that's the only way that I remember the year.

3 **Q. And how did it come to be that you filed to make
4 Daniel Chapter One a corporation sole?**

5 A. My husband was led to do that. He had been
6 praying about how God wanted him to manage everything.
7 And I don't know how he even came in touch with the
8 individuals except that it had to have been by the
9 Holy Spirit. It had to have been divine.

10 But he was led to that and, you know, told me,
11 you know, basically that the corporate sole was just
12 what -- how we lived and how we felt in our hearts, and
13 he said this is great because it puts Jesus Christ as
14 the authority and it makes everything his and the
15 church and Jim the overseer and myself as the
16 secretary.

17 **Q. Okay. Do you know who the individual was who
18 gave that advice to your husband?**

19 A. He spoke with a man, Jim Levitt --

20 **Q. Uh-huh.**

21 A. -- out there in I believe Washington state.

22 And Rita Johnson drew up the document -- or it's
23 one that she had already -- she didn't draw it up for
24 us. I believe she passed away last year.

25 **Q. Uh-huh.**

53

1 I know you've mentioned a number of things that
2 you do with regard to the ministry, and I don't know --
3 can you just capsulize for the record again exactly what
4 your role is in the ministry?

5 A. Yeah. It's not a really defined role.

6 First of all, I'm my husband's wife. I'm his
7 helpmate. That's from God. The ministry we -- you
8 know, we do unto the Lord together, and so I help Jim as
9 he is the head of our home and overseer of the ministry,
10 so that can entail any number of things.

11 You know, in a sense the most formal, if you
12 will, is the ministering to people and getting
13 information to them, educating people, the, you know,
14 radio program.

15 I write. I help write at Daniel Chapter One.

16 Our home is open. The Lord brings people in. I
17 might be on any given day feeding people, clothing
18 people. I wash the bathrooms at Daniel Chapter One.

19 Q. So in terms of actually the running of the
20 business, I understand it is a ministry, but the
21 business aspect of it, are you involved in that at all
22 besides the writing?

23 A. I'm really not. No.

24 You know, you can't have two heads, according to
25 the word of God, and my husband is the head, and I've

54

1 always been comfortable with that he makes those
2 decisions.

3 And so, you know, very little involvement from
4 me as to decision-making, and you know, consequently I
5 know what I need to know, but there is a lot that I
6 don't know about the day-to-day, the actual, as you've
7 seen, on the functioning of the business, but...

8 Q. All right. Well, are you a signatory to
9 Daniel Chapter One's bank accounts, as secretary of the
10 corporation?

11 A. I am not certain. I want to say I must be. I
12 very well may be.

13 Q. Do you ever write checks or ask for checks to be
14 written to pay bills for Daniel Chapter One?

15 A. I do write checks, so therefore I'm -- I'm -- I
16 must be a signatory.

17 Q. Okay.

18 A. So sure, I do write checks. I don't take
19 checks. I don't get paid and that kind of thing.

20 Q. Okay. That was my next question.

21 Do you get any kind of compensation from
22 Daniel Chapter One?

23 A. No.

24 Q. How do you --

25 A. You know, I'm supported.

55

1 Q. -- pay your expenses?

2 A. I'm supported in the ministry. And God has
3 always had it that we've lived, even in the early
4 days -- you know, we moved from the little trailer above
5 the store, so we never had the extra overhead. We
6 lived, you know, within the actual physical place of the
7 ministry.

8 Q. So when -- you said you're supported in the
9 ministry; is that correct?

10 A. Uh-huh.

11 Q. How -- can you just elaborate more on what you
12 mean by that?

13 A. My daily needs are met.

14 Q. Okay.

15 A. And daily needs I think is important to
16 understand because we don't have health insurance, life
17 insurance, IRAs, retirement funds, I mean, none of that,
18 personal savings. Everything is the ministry.

19 Q. So in terms of your daily needs, the money that
20 comes into the ministry is used to meet your daily
21 needs; is that correct?

22 A. We live from the ministry.

23 Q. Okay.

24 A. Yeah, we're -- our needs are met by the ministry
25 or within it.

56

1 Q. Do you own any property personally?

2 A. No. It's all in the ministry.

3 Q. So the property in Rhode Island is owned by
4 Daniel Chapter One; is that...

5 A. The -- I'm really not sure. I have to think
6 about this. The property in Rhode Island may be under
7 Messiah Y'Shua Shalom.

8 Q. And what is that?

9 A. A corporate sole.

10 I am not certain about this. I'd have to ask,
11 double-check with my husband.

12 Q. Can you say what is Messiah Y'Shua Shalom?

13 A. Yeah. That's a corporate sole.

14 Q. Does it do anything? Does it have any business
15 that you're aware of?

16 A. It's all part of Daniel Chapter One, the
17 actual -- the same ministry.

18 Q. Do you produce products in the name of this
19 ministry?

20 A. No. Daniel Chapter One.

21 Q. Do you do any kind of promotion in the name of
22 this ministry?

23 A. (Witness shaking head.)

24 MR. J. TURNER: Speak. Say the answer.

25 THE WITNESS: Oh, I'm sorry.

57

1 No.
 2 BY MS. PAYNTER:
 3 **Q. Okay. So just going -- you believe the**
 4 **Rhode Island property may be owned by this second**
 5 **ministry.**
 6 **Just say what you know. I mean, if you don't**
 7 **know, that's okay if you don't know.**
 8 A. Yeah. I'm just not certain.
 9 MS. PAYNTER: Okay. Just could we go off the
 10 record for a second.
 11 (Discussion off the record.)
 12 BY MS. PAYNTER:
 13 **Q. And how many people have purchased**
 14 **Daniel Chapter One's products?**
 15 A. I wouldn't know that number.
 16 **Q. No?**
 17 **Would you say over a thousand?**
 18 A. I'm sure it's over a thousand.
 19 **Q. Are there any records that would show how many**
 20 **people have purchased products?**
 21 A. I haven't seen any. I don't have any.
 22 **Q. Do you know how many products Daniel Chapter One**
 23 **offers?**
 24 A. I do not. I'd have to count them.
 25 **Q. And you mentioned the metabolic atomizer (sic).**

59

1 For the most part, though, it's really been my
 2 husband.
 3 **Q. And you mentioned at the beginning they were**
 4 **just sold out of the -- the product was sold out of the**
 5 **store; correct?**
 6 A. In the beginning, yes.
 7 **Q. And at what point do you recall -- first of all,**
 8 **did you ever have a time when you started to do mass --**
 9 **sort of mass -- a mass offering of the product?**
 10 A. Of our own product.
 11 **Q. Yes.**
 12 A. Well, early on, I'm sure we were meeting real
 13 minimums. We were never a big operation, so you know,
 14 mass marketing, but at what point the Web site was
 15 created I really don't remember. Yeah, I don't want to
 16 guess the year.
 17 **Q. Okay. Okay. But would you say that was -- when**
 18 **the Web site was created, was that when you began having**
 19 **the more mass -- I'll use the term "marketing" in this**
 20 **respect -- of the products?**
 21 A. In the early years of our Web site, I don't
 22 remember it really, you know, generating much activity
 23 at all. It just, you know, was a sensible thing to have
 24 a Web site.
 25 **Q. Uh-huh.**

58

1 **I'm sorry.**
 2 A. Optimizer?
 3 **Q. Optimizer.**
 4 A. Uh-huh. Yeah, that was back in the '90s.
 5 **Q. And after that product, did you -- a time came**
 6 **when you began to produce a second product?**
 7 A. Right. Yeah. It was a whole process where we
 8 now have a Daniel Chapter One line but beginning with
 9 Metabolic Optimizer -- and I can't tell you the second
 10 product -- but it was a very slow process. It was one
 11 by one over -- you know, to bring us to the present.
 12 We've had Daniel Chapter One 22 years.
 13 **Q. In terms of products after the first one, were**
 14 **you involved in developing any of those products?**
 15 A. Somewhat. A little involvement.
 16 Micro Cal Plus I had input on. My husband had
 17 MS at the time, and we were trying to, you know, help
 18 his body nutritionally. And I was reading
 19 Dr. Hans Nieper, who was doing a lot of work in Germany
 20 and was talking about minerals, you know, as being a
 21 helpful adjunct for MS, and I remember that input.
 22 We have a product FGC, and I had been reading
 23 in, you know, several good herb books about a couple of
 24 those herbs specifically and, you know, had some input
 25 on that formulation.

60

1 A. I don't remember when we had people outside of
 2 people physically coming in locally for things. I don't
 3 remember the time that we began to make product
 4 available. And I'm sure that even there it was a very
 5 slow -- very slow growth because it was never a main
 6 goal with ours.
 7 You know, we didn't do advertising. We didn't
 8 have an advertising campaign, a strategy, these things
 9 that, you know, a business normally would be doing, not
 10 our focus.
 11 And also, in the course of time since we
 12 started in '86, there were at least two times that God
 13 sent us out, and so we were, you know, not even there
 14 and not knowing if we'd return, I mean, you know, just
 15 being sent out and at least one time very much
 16 believing that we would never even be returning to the
 17 States.
 18 And so the -- you know, God has really gifted
 19 my husband I believe, that it's a mantle that has been
 20 put on him to really grow in the product line
 21 development and whatnot, so the couple of times that we
 22 left and, you know, just bestowed everything on other
 23 people there in the ministry, nobody else was doing
 24 that, you know, creating products or -- you know,
 25 actually to the contrary, we could see the wisdom in

1 God bringing us back when we were in Poland because we
2 came back to really bare shelves and in the red, and
3 that was very grievous to us because God says to owe no
4 man and we've always paid our bills as they come in and
5 the people there were really mismanaging things.

6 **Q. Well, in terms of your original product and
7 later products, did you put any ads in the Christian
8 newspaper, for example, that you mentioned?**

9 A. Not that I remember.

10 **Q. So who was principally purchasing the product in
11 the beginning?**

12 A. Our own product?

13 **Q. Yes.**

14 A. I would think that it would have been people
15 that heard us on the radio that were at a distance where
16 they couldn't come in, you know, local people certainly
17 in the very early days.

18 As a matter of fact, I can remember my husband
19 used to make some of the -- you know, the labels were
20 all very crude, all our packaging was, and very, very
21 simple, and I can remember local people coming in for
22 those products.

23 Yeah, I just don't remember the way that things,
24 you know, came to grow.

25 **Q. Okay. Well, did you in the beginning ship, or**

1 A. I don't do that much of it myself. I have a
2 general knowledge, you know, a general idea.

3 **Q. Do you know any -- can you identify any of the
4 manufacturers of your products?**

5 A. Universal Nutrition.

6 **Q. Uh-huh.**

7 **Any others?**

8 A. Are you talking the entire product line or are
9 you focusing on certain products right now?

10 **Q. Let's talk about the products that we have --
11 that are the subject of our complaint --**

12 A. Okay.

13 **Q. -- which would be --**

14 A. Yeah, I thought you might just be concerned
15 about that.

16 That would be Universal Nutrition. And the
17 7 Herb Formula we get from another manufacturer, and
18 I'm really not certain the name, if it's Sundowner
19 or -- I mean, I would really have to ask Jill who
20 she -- you know, the company name that she writes those
21 checks to.

22 **Q. And in terms of manufacturing the product, the
23 formula is provided by Daniel Chapter One?**

24 A. GDU, Bio*Shark, BioMixx and the 7 Herb. Yes.

25 **Q. And you do charge for the products; correct?**

1 **did you ship to people if they had called in for a
2 product?**

3 A. Not in the very beginning. That's what I mean.
4 I don't remember the point at which we began to reach
5 out to other states. I would think the natural vehicle
6 was the radio and the Web site, and I don't know which
7 came first, where people would hear about our products
8 in another state and be interested in obtaining them.

9 **Q. Okay. And you said before, you thought it was a
10 sensible thing to have -- to set up a Web site. And
11 could you explain that a little more.**

12 A. I did not personally, but my husband felt that,
13 you know, we should have a Web site, we should have a
14 presence where people could access information, and you
15 know, we could -- the ministry would be
16 greater-reaching.

17 And you know, again, God told us to stay put.
18 We wanted to be missionaries and had a vision originally
19 of going afar, which we did do to serve him, but he
20 brought us, you know, back to the States and gave us,
21 you know, kind of a base where he told us he would be
22 bringing people to us.

23 **Q. Okay. In terms of creating the product, have
24 you -- are you familiar with the manufacturers that
25 Daniel Chapter One uses?**

1 A. There is a suggested price on there. It's
2 really a suggested donation price.

3 **Q. Uh-huh.**

4 **When you say "on there," what do you mean, "on
5 there"?**

6 A. On there on the Web site.

7 And if a person calls up, they will be given
8 that, you know, suggested donation price.

9 **Q. And if a person calls up and says they can't
10 afford it, what do you -- what's the reaction at
11 Daniel Chapter One?**

12 A. We help out in any way that we can.

13 Years ago, we actually announced that if you
14 can't afford it, we'll give you the product, and we had
15 people come into Daniel Chapter One, we had people call
16 Daniel Chapter One and order a few hundred dollars
17 worth of stuff and say, Just send it to me. And the
18 girls in the order center did that, and we had no way
19 of knowing if that was a real need or if that was, you
20 know, an abuse, that was just, you know, someone being
21 greedy.

22 So we have a suggested price on there which
23 gives a value to the product. You would have no idea
24 who would know how much 7 Herb Formula is worth. It's a
25 very expensive product to produce because there's seven

65

1 herbs. Each is prepared separately.
 2 The Siberian ginseng is expeller pressed. You
 3 know, we had to get a very piece of equipment just to do
 4 that.
 5 The herbal tea concentrate is poured boiling
 6 into an amber glass bottle, and that glass bottle is
 7 shipped, which is heavy and expensive.
 8 So you aren't talking about a free product or a
 9 cheap or inexpensive product for us. And for us to be
 10 sending that out every which way, much like we
 11 experienced coming back from Poland, those people were
 12 either selfish or careless, or at any rate, they poorly
 13 mismanaged and there was almost no ministry left.
 14 So the suggested price is to cover what we know,
 15 cost of operation, cost of materials, what helps us
 16 maintain the ministry, but if a person says, you know, I
 17 really can't afford it, we have a Joseph fund, and we
 18 used to then just, you know, still, you know, outright
 19 provide product, but what the Lord led my husband to do
 20 for accountability is -- and this is all according to
 21 scriptural guidelines -- is to suggest to the person
 22 that they go to a church.
 23 If they have a fellowship, go there, tell them
 24 you have a need. If you don't belong to a fellowship,
 25 go to a church because in the word God says that the

66

1 church is supposed to be taking care of the people, not
 2 the government. You know, the church is so -- you know,
 3 he says, Knock on the door and let them know you have a
 4 need. Have them call me.
 5 And then asking the church to chip in a bit, and
 6 they can ascertain more if that person -- if there's
 7 really a need. And if there's really not, the person
 8 may not go to that length.
 9 And then on our end, Daniel Chapter One, we chip
 10 in. We ask the person to help out a little bit if they
 11 can, for a number of reasons, to give them a sense of
 12 contributing, and that's according to scriptural
 13 principle also.
 14 Now, I have to say there are other times when a
 15 person may not even ask and we feel led by the spirit
 16 that there's a real need there, and we don't want anyone
 17 to go without products that they need. God says to give
 18 food to a hungry person.
 19 As a matter of fact, he says do that before you
 20 share the gospel. You know, don't tell them about God
 21 and send them on their way hungry.
 22 So we will -- Jim and I day to day are prayerful
 23 and ask the Lord first of all to bring in those that he
 24 will and then to have us be sensitive to the needs. And
 25 we will sometimes, you know, just -- either just send

67

1 product outright to a person or we will sometimes ask
 2 them their situation and ask if, you know, there's a
 3 need that we can help meet.
 4 So we've literally given away many thousands,
 5 you know, maybe more than that, but multiple thousands
 6 of dollars worth of product.
 7 **Q. So when someone calls in for -- do you have an**
 8 **800 number?**
 9 A. Uh-huh.
 10 **Q. Okay. When someone calls in on the 800 number**
 11 **to purchase product, you have call center people who**
 12 **answer the phone --**
 13 A. Right.
 14 **Q. -- is that right?**
 15 **Are they -- is it the policy of**
 16 **Daniel Chapter One to ask people or to tell people this**
 17 **is a suggested donation?**
 18 A. I am not sure how the girls, you know, do deal
 19 with the customers calling in. You know, what
 20 exactly -- how they answer the phone, what's said, I
 21 really don't know.
 22 **Q. Okay. Because I'm trying to understand because**
 23 **you say that that is what you and your husband do, so**
 24 **I'm trying to see how that is conveyed to the people who**
 25 **might answer the phone so that that is conveyed to**

68

1 **people who call in.**
 2 A. Well, the girls that work in the order center,
 3 there's only two or three there at any time. It's a
 4 small operation. But -- and Jim's daughter Jill has
 5 been there the longest. But they are very familiar with
 6 our ministry and how we operate and they know that if
 7 someone ever expresses that they need product they can't
 8 afford, they would bring that to us.
 9 And I mean, Jill over the years, she's seen, you
 10 know, a lot of product that, you know, we have just sent
 11 out.
 12 **Q. Okay. But in terms of the actual operation,**
 13 **there's not -- there doesn't -- there's not been stated**
 14 **to those representatives to tell people our suggested**
 15 **price for GDU is \$50.**
 16 A. I know on paper we have that in the store.
 17 **Q. And how does it appear in the store like that?**
 18 A. Right at the -- it's not really a cash register,
 19 it's a computer, but right at the front computer, and
 20 what you would call a cash register is a little homemade
 21 wooden box, but there's a paper saying, you know, that
 22 we're a ministry and, you know, appreciate your
 23 donation, you know, for the product.
 24 **Q. Well, in the store where, let's say, GDU, for**
 25 **example, is stocked -- is that in the store in an area?**

1 A. Right.

2 **Q. Is there a price that's -- that appears anywhere**

3 **near that product?**

4 A. No.

5 **Q. So how does someone know what it costs when they**

6 **get to the cash register?**

7 A. Well, we have those what we call a suggested

8 price, you know, a price sheet.

9 **Q. Oh, you have a list. Okay.**

10 A. And that is not displayed in the store. You

11 know, it's in the computer.

12 **Q. Okay.**

13 A. And there have been many times where people have

14 come in the store and they needed product and we've sent

15 people out the door with bags full of product that they

16 didn't pay anything for or that they paid only a portion

17 of, again, depending on the need.

18 But when you -- when you proclaim, if you will,

19 free product, you have people taking advantage.

20 Here's an example or, you know, a comparison.

21 Our homes are open to -- our places that we stay

22 are open. They always have been. We let strangers stay

23 there with us, even if we aren't there. It's God's

24 house, so people can come and stay there.

25 I won't put a sign out front, anyone can stay

1 here, come stay here, you know, crash at this house.

2 You know, it has to be conducted with wisdom, and that's

3 where we trust the Holy Spirit for his leading, you

4 know, his guidance.

5 **Q. And -- well, in terms of the Web site, for**

6 **example, do you know -- are you -- if there's anywhere**

7 **on there that says "suggested donation"?**

8 A. I don't know.

9 **Q. And do you know what -- what percentage of**

10 **sales is connected to walk-in -- walk ins versus the**

11 **Web site?**

12 A. I wouldn't know that.

13 **Q. Would you say most of the sales are through the**

14 **Web site currently?**

15 A. I don't know a percentage, but I would not say

16 most.

17 **Q. And how would most of the sales you would think**

18 **are generated?**

19 A. This may not be correct. This is honestly a

20 guess here.

21 **Q. Okay.**

22 A. But I think it -- I guess it would be the

23 800 number. I don't know the percentage from the

24 Web site versus or compared to the percentage from the

25 800 number. What I can tell you is that's the majority

1 of sales versus walk in to Daniel Chapter One.

2 **Q. And how is the 800 number -- go ahead.**

3 A. Yeah. The other thing and, you know, just as I

4 think about it, we do have doctors that carry our

5 product line and stores, and I don't know there also

6 what percentage that is. You know, of course they're

7 getting it at, you know, a lesser price because then,

8 you know, they're going to be selling it, you know, and

9 I don't know again what percentage that would be.

10 But each one of those doctors called us and

11 asked to carry the product. We've never solicited --

12 we've never, you know, made phone calls or had, you

13 know, people out there knocking on doors, trying to get

14 doctors to carry the product line, or stores for that

15 matter. We really weren't interested in that.

16 But the doctors and the stores that carry our

17 product, they approached us and in a sense are part of

18 the ministry. You know, they understand what we're

19 doing, what it's all about, which is why we've not

20 solicited. It's not a matter of, you know, just let's

21 get this product into as many stores as we can.

22 **Q. Are they -- do they pay outright for the**

23 **product?**

24 A doctor, for example, would pay outright for

25 the product?

1 A. Some of them have accounts.

2 And in some cases we've actually given an

3 entire, you know, many thousand dollars worth display

4 to people to -- I know we did it to at least one church

5 and we've done it for a couple of individuals to allow

6 them to begin their own ministry. And in at least a

7 couple of those cases we never saw any money for the

8 product.

9 **Q. Do you know how many doctors -- do you have**

10 **doctors who regularly purchase the product or receive**

11 **the product from you?**

12 A. We do.

13 **Q. Do you know how many --**

14 A. I can't tell you how many. It's not that many.

15 I don't think there's more than a dozen.

16 **Q. And you mentioned stores also carry your**

17 **product; is that right?**

18 A. Uh-huh. There again, not that many.

19 **Q. Is that in the Rhode Island area or is it**

20 **nationally?**

21 A. It's national but limited to a few states.

22 There's a couple in Georgia, one or two in Florida, one

23 in Pennsylvania, to give you an idea of the size of what

24 we're talking about.

25 **Q. And in terms of their sales of the product, are**

1 they told it's suggested donations?
 2 A. I don't believe that we govern them in any way.
 3 **Q. Okay. Only because you mentioned they know it's**
 4 **a ministry and it's part of the ministry, so I wondered**
 5 **if that was conveyed to them.**
 6 A. I mean, it's really just the way that it's
 7 worked out, but there -- you know, our doctors are --
 8 you know, for the most part they're like family. You
 9 know, they've become like family. You know, there's,
 10 you know, a nice personal relationship there and
 11 they're, you know, carrying Daniel Chapter One,
 12 appreciating the quality of the product but also
 13 appreciating the message and the spirit behind it.
 14 **Q. Okay. Speaking of doctors, are you familiar**
 15 **with Dr. Bill Maclean or "Maclean"?**
 16 A. I'm familiar with him.
 17 **Q. Can you tell me who he is, please?**
 18 A. He's the man that Jim consulted with about our
 19 7 Herb Formula.
 20 **Q. Does he do any -- does he continue to work with**
 21 **Daniel Chapter One?**
 22 A. He doesn't work with us.
 23 **Q. Does he -- does Daniel Chapter One consult with**
 24 **him?**
 25 A. Not on any regular basis.

1 clearance on that and...
 2 **Q. What kind of doctor is Dr. Maclean? Do you**
 3 **know?**
 4 A. I forget the term, but he has a Ph.D. I
 5 believe, and it's in something that is like
 6 chiropractic.
 7 **Q. In terms of -- you mentioned there are**
 8 **several -- there are other doctors who carry the**
 9 **products.**
 10 **Can you recall their names?**
 11 A. Dr. Mink at Mink Chiropractic.
 12 Dr. Register.
 13 Dr. Orr in Pennsylvania.
 14 Dr. Scott Moore.
 15 Dr. Beech.
 16 **Q. Anyone else you can remember?**
 17 A. Not off the top of my head. Those are I would
 18 say our main doctors.
 19 **Q. Okay. I want you to actually look at another**
 20 **exhibit that was marked yesterday, FTC Exhibit 6.**
 21 **And this is the BioMolecular Nutrition**
 22 **Product Catalog; is that correct?**
 23 **Are you familiar with this document?**
 24 A. You know, I saw this last night and I honestly
 25 was like where did this come from besides seeing it

1 Jim consulted with Dr. Maclean when he wanted to
 2 private-label the 7 Herb Formula, which at the time
 3 there was no 7 Herb. There was, you know, a basic
 4 formula based on the Ojibwa Indian herbal formula.
 5 And we had met Dr. Maclean. When we were in
 6 Florida, we were on a radio program, and he and a doctor
 7 from Germany was on that radio program. And the doctor
 8 in Germany was talking about, you know, how just
 9 wonderful that herbal product had been for him, you
 10 know, in working with people.
 11 And we understood -- knowing the history of the
 12 herbal formula, we understood the potential benefits of
 13 it, and so Jim had contacted him and asked if he would,
 14 you know, see a way that we could have that made for us,
 15 and my husband really wanted the eleuthero added to it,
 16 which is another herb.
 17 And so Dr. Maclean in turn consulted with a
 18 traditional -- a Chinese medical or a traditional -- I'm
 19 looking for the Oriental term, you know, the Chinese or
 20 Japanese -- an expert, because he's not, so he in turn
 21 consulted with an expert as to the compatibility of
 22 adding eleuthero -- kind of a slang. It's Siberian
 23 ginseng. We can't use that term anymore -- so the
 24 eleuthero but the compatibility of that with the other
 25 herbs already in the formula and, you know, got

1 recently. I don't know how this is being used, if at
 2 all, at Daniel Chapter One.
 3 **Q. Well, it was produced by Daniel Chapter One, so**
 4 **I'm assuming it's -- it's being used in some respect --**
 5 A. Uh-huh.
 6 **Q. -- because it was produced by --**
 7 A. Yeah. I don't know how.
 8 **Q. Okay. But I just wanted you to take a look at**
 9 **it.**
 10 A. Uh-huh.
 11 **Q. And as you can see, you know, there are three**
 12 **pages listing products; correct?**
 13 A. Yeah, correct.
 14 **Q. Okay. And beside each product there's a price**
 15 **listed there; correct?**
 16 **Can you see that?**
 17 A. Correct.
 18 **Q. For example, on the 1st Kings?**
 19 A. Uh-huh. Yes.
 20 **Q. And it just -- if you take a minute just to look**
 21 **through, do you see anywhere where it says these are**
 22 **suggested prices?**
 23 MR. J. TURNER: I'm objecting to the whole line
 24 of questioning on the basis that she said she was not
 25 familiar with this until I showed it to her last night.

1 She doesn't know where it's used and she doesn't know
2 anything about it.

3 MS. PAYNTER: Okay. That's noted.

4 BY MS. PAYNTER:

5 **Q. But do you see anywhere on here where it says**
6 **"suggested donation" connected to the prices on here?**

7 (Pause in the proceedings.)

8 A. I see: "This catalog is intended to provide
9 information, record, and testimony about God and his
10 creation. It is not intended to diagnose or treat
11 disease."

12 I don't see anything about donation.

13 **Q. Okay. Who determines what price is charged on a**
14 **product?**

15 A. I believe that would be my husband as overseer,
16 and he knows the cost of production.

17 **Q. Do you have any -- do you have any connection**
18 **with the pricing of products?**

19 A. I don't.

20 **Q. I think earlier you mentioned that factors that**
21 **were considered were cost of operation, cost of**
22 **materials and maintenance of the ministry. Is that**
23 **correct?**

24 A. Right. Yeah. As overseer, that's, you know, my
25 husband's responsibility to, you know, maintain, allow

1 the ministry to maintain itself and have funds available
2 to keep the ministry going to, you know, be able to
3 minister to anybody and not allow it to, you know, just
4 collapse as, you know, the bad example we saw of other
5 people that were either doing it with not the right
6 motive or ability.

7 **Q. Does he ever confer with you on pricing for**
8 **products?**

9 A. I don't recall a time that he has.

10 **Q. Are you familiar with the prices that are**
11 **charged for the components of the products?**

12 A. I'm not.

13 **Q. Are you familiar with how often the prices**
14 **change on products?**

15 A. I'll be somewhat aware if, you know, there's a
16 price change. I can't say that I'm always fully aware
17 of price changes.

18 I know with the recent, you know, when the gas
19 went sky high and other, you know, costs of production
20 went up, I know Jim, as always, he, you know, commented
21 to me that he was trying to not have to raise any
22 prices, you know, to get through that time because
23 people need the products, and you know, so we can't
24 continue to raise prices even as our cost goes up,
25 so...

1 **Q. Okay. Might the only reason for a price**
2 **increase be, for example, the economic condition or the**
3 **gas price increase, for example, or would there be other**
4 **reasons?**

5 A. Right. Right. No. That would be the primary.

6 **Q. Has Daniel Chapter One ever advertised its**
7 **products?**

8 A. No.

9 **Q. In any newspaper?**

10 A. (Witness shaking head.)

11 **Q. No?**

12 A. No. I don't believe so.

13 **Q. Has it ever advertised in a journal like a**
14 **PennySaver?**

15 A. I don't know what that is.

16 **Q. It's a little local publication.**

17 A. Yeah, like one of those little coupon envelopes
18 that you send out?

19 **Q. Yeah.**

20 A. No.

21 If anything, some outside people have brought
22 that criticism to us, why don't you advertise, you guys
23 need to advertise, and we've had in all these years no
24 advertising budget, advertising campaign, advertising
25 plan or form of advertisement. It's always been just,

1 you know, a word-of-mouth sharing of information that
2 has brought people to us and has grown it, and you know,
3 we continue to trust God and --

4 **Q. Okay. Let us go -- you mentioned before that**
5 **there was a radio program; is that correct?**

6 A. That is correct.

7 **Q. And when did the radio program begin?**

8 A. There also I cannot give you a year --

9 **Q. Right.**

10 A. -- or even exact number of years, but it would
11 have been in the '90s.

12 Maybe the first program was over ten years ago.
13 And as with everything we do, it began very small. We
14 were asked. It wasn't our idea. We were asked to do a
15 local one-hour program, and then we did that for a year
16 or more. And then it was suggested to us that we take
17 that, because it had become, you know, quite popular
18 locally, people liked it, and we were told to try going
19 national.

20 And as an aside, when we started that one-hour
21 program, we were told not to call it Daniel Chapter One
22 Health Watch, that nobody would listen. And my husband
23 used to say "May God bless you" at the end of every
24 program, often to a caller but at the end of every
25 program. And we were on a secular radio station, and

1 they called us into the office and said, You shouldn't
 2 say "God bless you," you know, you shouldn't use
 3 Daniel Chapter One because you're going to limit your
 4 audience.
 5 And Jim said, It's about who God wants to hear
 6 this program and, you know, we aren't trying to appeal
 7 to a wide audience and, you know, shared with me
 8 privately, he said, Trish, we have to honor God, and I'm
 9 not going to stop using his name.
 10 And so at any rate, despite that as the point,
 11 you know, the program actually was popular, and so then
 12 we started doing one hour on a Sunday evening on
 13 national radio on Talk America Radio Network, and that
 14 also became -- as kind of a surprise to everyone, people
 15 liked it. It's like people were thirsty, you know, for
 16 water that we were providing.
 17 And it started to grow, and then we were asked
 18 or it was suggested to us that we do more than just that
 19 one hour a week and began to do a daily program, which I
 20 really didn't want to do, you know, because of the work
 21 involved. It's a lot of time and energy.
 22 And my husband said to me at that point, he
 23 goes, Look, Trish, if God wants us to do this, then we
 24 have to do it. And I said, You're right. And he said,
 25 For each person that we can help sharing with them, if

1 advertisement during our program that we didn't want to
 2 be aligned with. We didn't want to confuse our message
 3 to people.
 4 And so, you know, it might have to do with a
 5 witchcraft type like an occult thing. I remember there
 6 used to be like palm reading and sexual enhancement
 7 products. And you know, we just -- we didn't care for
 8 some of the advertisement because people often, when
 9 they're listening to talk radio, they think that we're
 10 like -- you know, they're sponsoring us or that we're
 11 tied in with them.
 12 And so, you know, we prayed about, you know, how
 13 we could have more freedom and to be freed from that,
 14 and so God led us to -- it was in roughly the year 2000,
 15 and the network we were on was going to be ending, you
 16 know, folding. And the producer of our program at the
 17 time, a young man, Jedediah, we knew he was about to be
 18 out of work, and he had at least two children, maybe
 19 three. He had one on the way, you know, just a young
 20 family, and my husband was concerned for him. And he
 21 said to me, You know, gee, you know, if we could help
 22 Jedediah right now, he's going to have a need to provide
 23 for his family.
 24 And my husband said, Jedediah, what would it
 25 cost to build a radio network and have our own? And

1 we're on the radio, we can meet, you know, with so many
 2 more and touch so many more lives at the same time. And
 3 I said, You're right.
 4 And so we began to do a two-hour program Monday
 5 through Friday every day of the week.
 6 **Q. Okay. And is that your -- you mentioned first**
 7 **you were on a secular station, and are you on a**
 8 **different station now?**
 9 A. We're on AM and FM and predominantly secular
 10 stations versus on a Christian radio, and that's, you
 11 know, why they thought that the name would be offensive
 12 to people or, you know, that they would just turn it
 13 right off. But we are still I believe predominantly on
 14 secular radio. And I know we have been on some
 15 Christian stations.
 16 **Q. And how did it develop that you are on this --**
 17 **can I use the word "network of stations"? Is that okay**
 18 **to use?**
 19 A. Uh-huh.
 20 **Q. Okay. How did it develop that you got onto**
 21 **different stations?**
 22 A. Going back to when we saw a need to develop our
 23 own radio network, we were grieved that when we were on
 24 Talk America Radio Network -- and we were on a couple
 25 little ones after that, but they used to play

1 Jedediah said, Well, generally it would cost X number of
 2 however many, you know, thousands or millions, and
 3 time-wise it would usually take so long.
 4 And Jim said, What do you think we could do it
 5 for like just bare, you know, on a shoestring? And he
 6 said, Well, you know, I think maybe I could do it for --
 7 and I honestly don't know a dollar amount, but he said,
 8 you know, a fraction of what a radio network would
 9 normally cost to build.
 10 And you know, my husband told him to pray about
 11 it, which Jedediah did, and so he went forward.
 12 So that's a little history of
 13 Accent Radio Network, and that was almost ten years ago.
 14 I think it may have started in 2000. I'm not sure if
 15 that's an accurate date. But around there.
 16 **Q. Okay.**
 17 A. And so now that we're on Accent Radio Network,
 18 our program is beamed up on satellite and any network
 19 can, you know, pull in that program.
 20 **Q. Do they pay for that or...**
 21 A. I don't know if we have -- no. I'm sorry. They
 22 don't. That's free for them if they want that.
 23 **Q. But do you get -- I believe -- I believe we**
 24 **received a list of stations that your radio show appears**
 25 **on.**

1 A. Uh-huh.
 2 **Q. Correct?**
 3 **And do those stations pay to receive your**
 4 **program?**
 5 A. I think many of them do. I don't know anything
 6 about the workings, the actual, you know, any of the
 7 technicals going on at ARN.
 8 **Q. And what's the format of the show?**
 9 A. We most often bring to the table or every day we
 10 try to have newspaper articles, magazine articles, you
 11 know, whatever, you know, basically the people are being
 12 bombarded with information-wise. And we read it and we
 13 share from what we believe, you know, a more godly
 14 perspective is and at least another perspective and from
 15 our opinion and information.
 16 And as, you know, we often share, as I often
 17 say, there's no freedom without choice, so it's a way of
 18 bringing information to people, educating them to
 19 empower them to make more informed choices.
 20 **Q. Regarding health specifically or anything else?**
 21 A. Oh, I'm sorry. Yes. Yeah.
 22 **Q. Because I think you mentioned Ritalin and the**
 23 **use of Ritalin in children, is that a topic that's been**
 24 **covered?**
 25 A. That was an example of one newspaper article I

1 talking about flow in and flow out, and so we just need
 2 to be really clear that we're talking two languages.
 3 It's as if we're talking in English and they're talking
 4 in Polish.
 5 I mean, just understand so maybe you can help
 6 pull that out.
 7 And there was one other very quick thing.
 8 There's been I think a slight misunderstanding.
 9 The ministry that they have preexists the name
 10 Daniel Chapter One so that there is a whole framework
 11 that's not in the record that you're making.
 12 Now, I'm trying to think about should we wait
 13 until the end and bring it in or should we just put it
 14 in our responses, but there's a preexisting period, and
 15 the name came as a part of the ministry, so there's a
 16 whole process that led to this, and all this that we're
 17 talking about grows out of something that's much bigger
 18 than just the Daniel Chapter One event that occurred.
 19 So I just put --
 20 MS. PAYNTER: I think that was clear. I didn't
 21 have a misunderstanding about --
 22 MR. J. TURNER: You asked no questions previous
 23 to the name Daniel Chapter One.
 24 MS. PAYNTER: Well, I asked about the health
 25 food store and I asked --

1 remember writing, but that is the kind of thing we talk
 2 about on the program.
 3 **Q. Do you talk about cancer treatments and, let's**
 4 **say, medical discoveries in cancer?**
 5 A. We will --
 6 MR. J. TURNER: Object to the form of that
 7 question.
 8 There's a fundamental problem -- I want to just
 9 take a minute.
 10 MS. PAYNTER: Sure.
 11 MR. J. TURNER: And I in a way apologize for
 12 making it be an objection, because it is an objection
 13 formally in the process, but there's a fundamental
 14 problem in that you talk in a language that is
 15 complete -- or we talk in a language that is completely
 16 different than the language that they talk in, so it's
 17 very difficult to merge the answers to the questions.
 18 So I just mention that. The difference that
 19 they talk in is this thing about balance. It's been
 20 true in the health parts of the discussion and it will
 21 be true as you go forward. It's also true in the money
 22 parts. Because the point they make in the money is the
 23 same as the point they make in the health. It's a
 24 balance.
 25 So we talk about price, but they're actually

1 MR. J. TURNER: That's after Daniel Chapter One.
 2 There's a whole previous -- before there was a health
 3 food store, before there was Daniel Chapter One, before
 4 there was any of the things we've talked about today,
 5 there were several years of activity that had nothing to
 6 do with any of this, and this is a specific out of that
 7 whole experience.
 8 All I'm saying is, there's a reality here that's
 9 getting lost in the effort to push it into our world, so
 10 I just want that on the record.
 11 MS. PAYNTER: Well, I would say a couple things
 12 in response.
 13 First of all, I feel I understand that -- what
 14 we're talking about, so I don't have that
 15 misunderstanding. And I -- if the record is not clear,
 16 certainly at the end you can ask your questions to
 17 clarify the record. Obviously that's fair.
 18 And you know, to the extent that you want to
 19 qualify the use of the terminology that we are using
 20 here today, price, et cetera, I think that obviously
 21 that's going to be arguments that you would have to make
 22 in your papers, so I don't know if it's appropriate
 23 necessarily to make it here.
 24 To the extent the witness understands what I'm
 25 asking, I've already instructed her that if she doesn't

89

1 understand something, she's free to ask me to clarify
 2 it, and I'm happy to do that.
 3 And I think in terms of the questioning that I'm
 4 doing now about the radio show, she has testified that
 5 they look at newspaper articles, so to -- you know, and
 6 if newspaper articles, for example, that used the term
 7 "cancer."
 8 If it was a newspaper article that discussed
 9 cancer and you feel that you can answer that,
 10 Mrs. Feijo, please, you know, answer that, or if you
 11 feel you want me to change the use of that word, you --
 12 please, you just let me know. This is not about me
 13 putting words into your mouth. It's about you
 14 testifying, you know, truthfully and honestly to your
 15 understanding. Okay?
 16 So I mean, your objection is noted, and I think
 17 it is something -- obviously you're free to ask her
 18 questions.
 19 MR. ZANG: And just one other point is that to
 20 the extent that Ms. Paynter or myself use the
 21 terminology of cancer, for example, it's because that
 22 terminology is used in the Daniel Chapter One
 23 literature. We don't want to put words into any of the
 24 witnesses' mouths, but that terminology is used in the
 25 literature.

91

1 **ever discussing on the radio show?**
 2 A. Well, we talk about things like the article
 3 that there's been a salmonella outbreak and everyone is
 4 fearful, and so we say, Look, you don't have to fear the
 5 salmonella. It's not the germ that's going to make you
 6 sick. It's if your body is in a weakened state, so
 7 strengthen your body. Your immune system can fight
 8 that. You don't have to live in fear.
 9 So we bring those kind of topics to the table.
 10 **Q. Do you keep records of the topics that are**
 11 **discussed?**
 12 A. No, we don't keep any records.
 13 **Q. Do you keep recordings?**
 14 A. I don't. They do at Accent Radio Network, you
 15 know, which is states away, I mean, in Florida at the,
 16 you know, radio network headquarters, but I don't in my
 17 office or our radio room.
 18 **Q. How do you determine what's discussed on each**
 19 **program?**
 20 A. Well, it's very much dictated by the
 21 Holy Spirit. We pray before each program. We pray for
 22 the callers.
 23 **Q. And is it fully a call-in show, or do you have**
 24 **guests who come to speak on the show?**
 25 A. We will sometimes have a guest. It

90

1 MR. J. TURNER: "Cancer" is used, "price" is
 2 used and "ministry" is used. Those are the three words
 3 I talked about just now. "Ministry" is much larger than
 4 Daniel Chapter One. "Cancer" has a much broader meaning
 5 than the specific, narrow, allopathic use of the word
 6 "cancer." And "price" is something that is -- it's
 7 about value.
 8 Now, all I'm just saying is that there's an
 9 effort to narrow it down to the more brittle meanings
 10 when what she keeps trying to do is say no, it's
 11 something bigger than that, and then every restatement
 12 brings it back to that and their own meaning.
 13 That's all that I wanted to -- and we'll put it
 14 in papers, too, but just know -- and if -- in the terms
 15 of the ministry, if you don't ask, I mean, I will at the
 16 end just to get the pre-period.
 17 BY MS. PAYNTER:
 18 **Q. As I said, I have instructed her -- if there's**
 19 **something that I'm saying that's not clear, you must ask**
 20 **me to clarify it, or if you would like to restate it,**
 21 **you're free to do that.**
 22 **As I said, this particular line of questioning**
 23 **was just about what was mentioned, and so maybe I'll ask**
 24 **you a broader question.**
 25 **What kind of newspaper articles do you recall**

92

1 predominantly is a call-in health talk program.
 2 **Q. And these are just individuals calling in to the**
 3 **show?**
 4 A. Uh-huh. Yes.
 5 **Q. And when they call in, are they discussing the**
 6 **articles that you've discussed?**
 7 A. They sometimes call in with topics. They most
 8 often call in with questions, and we share information
 9 with them so that they have a choice.
 10 **Q. Can you state what kinds of questions they call**
 11 **in about?**
 12 A. All kinds of things. You know, we invite all
 13 kinds of callers and we don't screen any.
 14 A person may call in with depression, and we'll
 15 talk to them a little bit and perhaps hear that there's
 16 a problem of sin in their life or they'll share that.
 17 They may need nutrients that they aren't getting, and
 18 very often we share with people, because they don't
 19 realize, that, you know, it can be a nutritional
 20 deficiency. They may lack amino acids for, you know,
 21 proper, you know, emotional well-being, emotional
 22 balance, you know, things like that.
 23 **Q. And do you recommend Daniel Chapter One's**
 24 **products for some of your callers?**
 25 A. Right. We do.

1 Q. Do you have any callers who call in about having
2 cancer?

3 A. We do.

4 Q. Have you ever done any shows topic-wise just
5 where you talked about cancer and cancer treatment?

6 A. No.

7 You know, one thing we -- I would like to say
8 that we often share with people on our program is that
9 God is the author, you know, he's the creator of our
10 days and he has set our birth date and our death date.

11 And people will often call up, and they have
12 been in most cases -- or I shouldn't say most -- but
13 many cases given up on, you know, by medicine and they
14 either haven't been able to manage their pain with any
15 drug or they've been, you know, sent home to die because
16 anything the doctors had, you know, for them in their
17 state of cancer didn't work.

18 And we'll hear, you know, that they have been
19 given two weeks to live or three months to live, and we
20 say, You don't know. No man knows that.

21 And we have those testimonies. We have many of
22 those testimonies where now it's seven years later or
23 ten years later. And it's not that -- and we're very
24 clear about this on the radio and when we talk to
25 people. It's not that we have extended their life. We

1 people. It's not that we have extended their life. We
2 couldn't possibly do that. It's that the doctor was
3 wrong and that God had intended for them to live beyond
4 that death sentence imposed upon them by a doctor."

5 BY MS. PAYNTER:

6 Q. In those cases where people have called in with
7 this death sentence by their doctors, have you advised
8 them to take Daniel Chapter One products?

9 A. We share with them what God has created to
10 nourish our bodies.

11 And I would like to add that it's not only that
12 we of course cannot heal any body. We cannot add to
13 anyone's length of days, nor can our products. You
14 know, that's God's domain.

15 But going back to a very earlier question, you
16 know, that I answered, there is a benefit to following
17 God's order, and his intention and his design and that
18 if a person is malnourished and suffering from it and
19 they get nourishment, then their body has the tools,
20 the material, whereby it could then, you know, heal
21 itself.

22 And so we encourage people that only God knows
23 the day and, look, this is what he's created and, you
24 know, partake of it. He created it for us.

25 Q. Have you ever advised anyone calling -- any --

1 couldn't possibly do that. It's that the doctor was
2 wrong and that God had intended for them to live beyond
3 that death sentence imposed upon them by a doctor.

4 Q. And some of those people who call in -- I'm
5 sorry. Can you just read back her testimony, please.

6 (The record was read as follows:)

7 "ANSWER: No.

8 "You know, one thing we -- I would like to say
9 that we often share with people on our program is that
10 God is the author, you know, he's the creator of our
11 days and he has set our birth date and our death date.

12 "And people will often call up, and they have
13 been in most cases -- or I shouldn't say most -- but
14 many cases given up on, you know, by medicine and they
15 either haven't been able to manage their pain with any
16 drug or they've been, you know, sent home to die because
17 anything the doctors had, you know, for them in their
18 state of cancer didn't work.

19 "And we'll hear, you know, that they have been
20 given two weeks to live or three months to live, and we
21 say, You don't know. No man knows that.

22 "And we have those testimonies. We have many
23 of those testimonies where now it's seven years later
24 or ten years later. And it's not that -- and we're
25 very clear about this on the radio and when we talk to

1 strike that.

2 Has anyone ever called in who was taking
3 traditional cancer treatments?

4 Have you ever -- have you ever had someone call
5 in who claims to have cancer and is taking traditional
6 cancer treatments?

7 A. Yes.

8 Q. Yes?

9 A. Uh-huh. Yes.

10 Q. Have you ever advised such a person to not take
11 the treatments that's been recommended by their doctor?

12 A. We tell them what we would do. We tell them
13 what others have done. We share with them choices that
14 they have and give them information, and we're very
15 clear to them that it is their choice.

16 Q. And is it also -- do you also say that the
17 natural products are better for them than traditional
18 cancer treatment?

19 A. Again, what we will share is what we know we
20 would use, what we believe to be the best medicine.

21 Q. Have you ever known any person who has called in
22 and was receiving traditional cancer treatment and
23 they've called to tell you they stopped taking that and
24 are taking Daniel Chapter One products instead?

25 A. In most cases that I can recall right now, it's

1 a situation -- it most often is a situation where the
2 person's radiation treatments have ended, they're done
3 with chemotherapy.

4 In some cases they call us because they've been
5 through it before. The cancer has come back. They
6 don't want to do the chemotherapy and the radiation
7 again. They don't want to suffer like that again.

8 Every case is different.
9 **Q. Okay. I would like to actually turn to -- I'd
10 like to mark a document, FTC Exhibit 13, for
11 identification.**

12 (FTC Deposition Exhibit Number 13,
13 DCO 0001-0155, was marked for identification.)

14 BY MS. PAYNTER:
15 **Q. And for the record, these are documents that
16 were produced in response to the**

17 **Federal Trade Commission's interrogatories --**
18 MR. J. TURNER: Excuse me. The documents were
19 produced or the names of the documents?

20 MS. PAYNTER: These documents were produced.

21 MR. J. TURNER: This actual document.

22 MS. PAYNTER: Yes. This actual document was
23 produced in response to the Federal Trade Commission's
24 interrogatory request number 18, and the documents are
25 numbered DCO 0001 through DCO 0155.

1 THE WITNESS: Uh-huh. Yes.

2 BY MS. PAYNTER:

3 **Q. Okay. And have you had a chance to -- do you
4 want to take a second to look through the package, or
5 are you familiar with this set of documents?**

6 A. It's the first time I've seen this package.

7 **Q. Okay.**

8 A. I recognize the --

9 **Q. All right. Let me ask you some questions about
10 them so we can --**

11 A. Okay.

12 **Q. -- because we received them unstapled, so I'd
13 like to just -- if we can go over and figure out what --
14 that everything is together and the way it should be,
15 that would be helpful.**

16 MR. J. TURNER: Oh, I'm sorry. I
17 misunderstood. I thought this was the book itself. I
18 see what it is.

19 MS. PAYNTER: Yes.

20 MR. J. TURNER: Because I knew we hadn't
21 provided the book itself. I was saying where did this
22 book come from, so I see what it is.

23 BY MS. PAYNTER:

24 **Q. So why don't we begin.
25 The first document in this set begins DCO 0001**

1 through 0006; is that correct?

2 **If you could take a look at it.**

3 (Pause in the proceedings.)

4 A. Uh-huh.

5 **Q. Are you familiar with this document?**

6 A. Well, somewhat familiar. It's a book that we've
7 had for many years. I read it many years ago and, in
8 response to an FTC, you know, request for what we had,
9 you know, at the time that we put certain material
10 together, pulled it out. And I recognize the little tab
11 indications where, you know, we had indicated some of
12 the material that we had, you know, gleaned from for
13 information that we share with people.

14 **Q. Okay. And you have the entire book at home; is
15 that correct?**

16 A. Correct.

17 **Q. And this is an excerpt that was just provided in
18 response to the Federal Trade Commission?**

19 A. With these little tabs?

20 **Q. Yes.**

21 A. That's correct.

22 **Q. Okay. Do you -- okay.**

23 **Looking at page 0004, which is on the lower --**

24 A. Yes.

25 **Q. -- which is on the lower right hand, you**

1 mentioned the tabs there --

2 A. Correct.

3 **Q. -- right?**

4 **On the side that has the number 40 at the upper
5 left-hand corner?**

6 A. Yes.

7 **Q. And there's a notation here that in -- "Then, in
8 1971, Dr. Folkman published his now-famous hypothesis in
9 The New England Journal of Medicine. His main points
10 were: Tumors cannot grow without a network of blood
11 vessels to nourish them and to remove waste products;
12 Inhibiting the development of blood vessels could be a
13 potential cancer therapy."**

14 **You see that; correct?**

15 A. Correct.

16 **Q. And how did you use this information with regard
17 to Daniel Chapter One products?**

18 A. Well, in sharing information with people within
19 the, you know, ability within the law that we have to
20 share with people, it indicates a structure and
21 function. And that's -- I mean, the structure of
22 things, the function of things, we don't make that up.
23 We get that from resource material, so here is one.

24 **Q. And you said you used it to give information to
25 people --**

101

1 A. Right.
 2 **Q. -- right?**
 3 **Did you also use it in the development of any**
 4 **products, this information?**
 5 A. I can't say for sure what was used in the
 6 development of products because -- and here again, just
 7 one more case of trying to force a square peg in a
 8 round hole -- we rest upon years of knowledge that God
 9 has given us that we've gleaned, amassed, compiled from
 10 a number of different sources, in conversations with
 11 people, from things we've seen, from things we've read.
 12 So to say that Daniel Chapter One created
 13 Bio*Shark because of this, I can't say it was because
 14 of this. This is one source of some information about
 15 the protein in Bio*Shark that has the ability to
 16 prevent angiogenesis.
 17 **Q. Okay. And would that be the same for the other**
 18 **notation on page 41, the other side, where it says:**
 19 **"Without nourishment, there can be no growth; it's that**
 20 **simple. But where could inhibitors be found or how**
 21 **could they be developed?"**
 22 **Is that...**
 23 A. What was the question?
 24 **Q. Your response before was that this was just**
 25 **part -- this information on page 41 -- on page 40,**

103

1 document.
 2 THE WITNESS: Oh, I didn't know a question was
 3 pending. I'm sorry.
 4 I do.
 5 BY MS. PAYNTER:
 6 **Q. And what do you recognize this document to be?**
 7 **That's the last question.**
 8 **And what do you know this to be?**
 9 A. This is from Dr. Nieper's book Revolution in
 10 Technology, Medicine and Society.
 11 MS. PAYNTER: So why don't we break for lunch
 12 now, and when I come back, I'll ask you some questions
 13 about that. Okay?
 14 MR. ZANG: Let's go off the record.
 15 (Whereupon, at 12:03 p.m., a lunch recess was
 16 taken.)
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 25

102

1 **rather, of the document is just part of information**
 2 **developed over the years regarding angiogenesis or**
 3 **something like that so that I'm just wondering, on 41 as**
 4 **well, that's information that just was part of all of**
 5 **the information developed over the years or garnered**
 6 **over the years by you and your husband?**
 7 A. Right. This is an idea. Without nourishment,
 8 there can be no growth.
 9 **Q. Okay. Can we look at the next document in**
 10 **here.**
 11 **Which I believe is DCO 0007 I think through DCO**
 12 **00013. Would that be right?**
 13 **(Pause in the proceedings.)**
 14 **(Discussion off the record initiated by the**
 15 **court reporter.)**
 16 BY MS. PAYNTER:
 17 **Q. If you can just take a minute or two again just**
 18 **to look at it.**
 19 A. Uh-huh.
 20 **Q. If it's too rushed, tell me, and then we'll come**
 21 **back, but...**
 22 **(Pause in the proceedings.)**
 23 MR. J. TURNER: Could you repeat the question
 24 just for me.
 25 MS. PAYNTER: Just does she recognize the

104

1 AFTERNOON SESSION
 2 (12:56 p.m.)
 3 MR. J. TURNER: I have one item to put on the
 4 record.
 5 You had asked a question, and she misunderstood
 6 the question.
 7 The question was: Do you receive money for
 8 being on other stations?
 9 And so either you could ask her that again or
 10 I'll ask her and then she can answer it.
 11 BY MS. PAYNTER:
 12 **Q. Okay. Mrs. Feijo, you wanted to correct a prior**
 13 **answer; correct, that you gave?**
 14 A. It was brought to my attention I may have
 15 misunderstood the question. The question, if it was
 16 asked how many stations pay us, the answer is no
 17 stations pay us. I understood the question was how many
 18 stations do we pay to be on.
 19 **Q. Uh-huh.**
 20 A. And that information I don't have, but I know
 21 that we do pay to be on stations and Jedediah at ARN
 22 would have that information.
 23 **Q. Actually before we go back into questioning, you**
 24 **were served with a subpoena requesting that you bring**
 25 **documents with you today, and were you able to bring**

105

1 them with you today?

2 MR. J. TURNER: If you could go down the

3 document, she can explain what she has and what she

4 doesn't have.

5 MS. PAYNTER: So why don't we proceed while he's

6 getting that then.

7 MR. J. TURNER: Yes.

8 BY MS. PAYNTER:

9 Q. Before we broke for lunch, we were looking at

10 the document that had been produced by

11 Daniel Chapter One, number 0007 through 0013, and you

12 said you were familiar with this, this document.

13 A. Correct.

14 Q. Just looking at the page that's marked 0009 on

15 the lower right-hand side --

16 A. Yes.

17 Q. -- there's a -- on the right-hand side there's

18 an indentation or some type of notation.

19 Do you see that?

20 A. Letter G?

21 Q. Yes.

22 A. Yes.

23 Q. Do you know what's the purpose of this letter

24 G?

25 A. I don't have the key that goes with this, so G

106

1 would have had a word beside it, so I'll have to read to

2 see.

3 (Pause in the proceedings.)

4 It's referencing I believe bromelain in

5 sentence 3, which is a key ingredient in

6 Daniel Chapter One GDU.

7 Q. Okay. And you mentioned that there was a key

8 that goes along with this document?

9 A. There should be so that the FTC has each letter

10 and what that word was.

11 Q. Okay. I don't recall seeing that.

12 A. You never got that?

13 MR. J. TURNER: Well, we'll check and see.

14 BY MS. PAYNTER:

15 Q. Yes.

16 So we'll just make a request now if you can

17 provide us with a copy of the key so we can match that

18 up to the references.

19 A. Yes. Uh-huh.

20 MR. J. TURNER: We did -- yesterday, David

21 said he was going to go through the record and find out

22 all the things that were asked for and he's going to

23 send us a letter, so if you could add those things to

24 that.

25 MS. PAYNTER: Absolutely.

107

1 BY MS. PAYNTER:

2 Q. And again, Mrs. Feijo, I ask you, did you help

3 in preparing this package of documents?

4 A. I did. I worked on it with my husband. Some

5 of the books he found and some I found between our

6 offices.

7 Q. So let's -- looking at the next document -- I'm

8 more or less trying to make sure that we have all the

9 different articles segregated properly and as well what

10 you might have used them for.

11 So the next one is 0014, and I believe it ends

12 at 0032, if you could confirm that for me, please.

13 A. Yep. Yes.

14 Q. And do you recognize this document?

15 A. Yes.

16 Q. And what is it?

17 A. It's a book entitled Herbal Medicine, Expanded

18 Commission E Monographs, that is a book we have, Jim and

19 I.

20 Q. And what's the contents of the book?

21 A. Well, it's one source of information regarding

22 herbs and other ingredients in some of our products.

23 Q. And again when we turn to page 0017 --

24 A. 17?

25 Q. Yes.

108

1 It's entitled Bromelain.

2 A. Yes.

3 Q. There are letters G and E.

4 Do you see those?

5 A. Yes, I do.

6 Q. Was this also what that key should have --

7 A. Part of the key, correct. G and E and even the

8 A, B we marked and then we originally had a key that

9 went with it.

10 Q. Okay. And that would explain -- what would the

11 key explain actually?

12 A. This was in response to the FTC's request for

13 any of the so-called substantiation for statements made

14 in information we provide.

15 Q. Right.

16 A. And the FTC, to the best of my recollection,

17 gave us categories and statements, and so we went

18 through and used those -- we made up our own key with

19 these letters, but we went point by point and went

20 through books to provide some of the resource material

21 that we've used in putting together that information.

22 Q. Okay. So it would be really important for us to

23 have us since our experts are going to need to see what

24 you're referring to.

25 A. Yes.

1 Q. And the information contained in the
2 Herbal Medicine excerpt, that's, as you said,
3 information that was used to develop some products or
4 the products at issue here?

5 A. It may have been. It's really information that
6 we have drawn from over the years that is part of, has
7 contributed to the knowledge base that we have that we
8 use to provide information to people when it comes to
9 sharing structure and function with them.

10 Q. Okay. So why don't we go on to the next one.
11 Just for the record, the next document begins
12 DCO 0033, and I believe it ends at DCO 0046.

13 (Pause in the proceedings.)

14 MR. J. TURNER: Is there a question pending?

15 BY MS. PAYNTER:

16 Q. Are you finished looking at it? Are you -- are
17 you familiar with the document?

18 A. Yes, I'm done.

19 Q. And what is this document?

20 A. This is another book that we have in our
21 possession, and it provides information,
22 structure/function information, regarding some
23 ingredients in some of our products. And you can see
24 that there's scientific references here that they used
25 in putting this information together (indicating).

1 information -- I trusted this information that
2 documented these references.

3 BY MS. PAYNTER:

4 Q. Okay. So the purpose -- can we go back to
5 page 0036, please, which is a -- regarding the
6 product -- or it was regarding echinacea, is the actual
7 substance.

8 A. Yes.

9 Q. And there are notations besides three scientific
10 references.

11 Do you see those?

12 A. I do see them. I don't believe I made them.

13 Q. Okay.

14 A. Perhaps my husband did.

15 Q. Okay. And again, if you look on this page,
16 there seems to be A, B, C, D marked -- notations there.

17 Do you see that?

18 A. Yeah.

19 Q. Was that something that was made --

20 A. Yeah. Again, it was a joint effort Jim and I
21 worked on together, and I can't say who did what.

22 Q. Okay. And the next document we can look at
23 begins at DCO 0047. I'm not sure where it ends, so if
24 you can determine where it ends.

25 A. I believe it ends at 0052.

1 Q. Okay. Have you ever read any of the references
2 that are listed here?

3 A. Not to my recollection.

4 Q. Okay.

5 MR. J. TURNER: Go to the references, the
6 reference page.

7 THE WITNESS: Yeah. I'd have to --

8 BY MS. PAYNTER:

9 Q. Well, for example --

10 A. Yeah. It --

11 Q. Again, I think you've indicated here where the
12 references -- where scientific references are.

13 MR. J. TURNER: I'm just saying in order to
14 answer she just should take a look and see.

15 THE WITNESS: Right.

16 I mean, for instance, Goldenseal, page 0042,
17 Steven Foster is listed as the second author of
18 Goldenseal, and he writes for the
19 American Botanical Council, and we do have -- we used to
20 get HerbalGram, which I believe is produced by the
21 American Botanical Council. At any rate, he's a writer
22 for that magazine, that journal, if you will.

23 I perhaps have read that before. To my memory,
24 you know, I, in other words, did not take these
25 references and check each to make sure this

1 Q. Okay. Thanks.

2 (Pause in the proceedings.)

3 And you're familiar with this document?

4 A. Yes.

5 Q. And what is it?

6 A. Turmeric and the Healing Curcuminoids. It's a
7 book that we have in our possession. And again, we
8 used it for information regarding structure and
9 function.

10 Q. And do you know which of the products at issue
11 has turmeric in it?

12 A. I know that GDU does.

13 Q. Okay.

14 A. I don't know if it's the only one that does,
15 but I know that it's one of the main ingredients in
16 GDU.

17 Q. Okay. And if you can go to page 0052.

18 A. Yes.

19 Q. There's a handwritten notation do you see?
20 Did you make that notation?

21 A. I did not.

22 Q. Okay. Do you recognize what it says at all?

23 A. It says "main curcuminoid in turmeric."

24 Q. Do you know what that means?

25 A. It means curcumin, which it's referencing, if

1 you follow the arrow, is the main curcuminoid in
 2 turmeric.
 3 **Q. And what's curcumin -- sorry. I can't pronounce**
 4 **that word.**
 5 **What is that used for? What's the benefit of**
 6 **that curcuminoid, as you said?**
 7 A. Well, it's part of the structure of turmeric.
 8 Turmeric is a spice they used in Indian cooking, and it
 9 also has properties, as you can see, that it has some
 10 function also in the human body as many of the spices
 11 do.
 12 **Q. Okay. The next document starts DCO 0053, and I**
 13 **believe it ends 0054.**
 14 A. Uh-huh.
 15 **Q. And do you recognize this?**
 16 A. I do.
 17 **Q. Okay. And can you tell me what it is, please?**
 18 A. That's author Phillip Steinberg and it's an
 19 article for the Townsend Letter, which we subscribe to.
 20 As you can see, it's an informal letter magazine for
 21 doctors, communicating with doctors. And he writes
 22 here about Uncaria tomentosa, otherwise known as
 23 cat's claw.
 24 **Q. And --**
 25 A. Another reference that we have used in answer to

1 the request that we had for substantiation for the
 2 information we share.
 3 The cat's claw is an ingredient in
 4 7 Herb Formula.
 5 **Q. Okay. Do you keep these documents in a file**
 6 **somewhere in the office?**
 7 A. In all these years we have not really been able
 8 to properly file things away. We do have some files.
 9 We've done a lot of traveling. We've left the
 10 ministry on a couple of occasions not expecting to come
 11 back and other people were running things. We've moved,
 12 you know, actually twice since beginning
 13 Daniel Chapter One.
 14 And the other thing is, in the capacity that
 15 we're working in the ministry, it's -- you know, we
 16 aren't doctors. We aren't research scientists. We
 17 aren't acting as if we were. We're people that are
 18 sharing information with people. Most of these things
 19 we have read for our benefit first and then have used it
 20 for various articles or, you know, the information that
 21 we share with people.
 22 So when we had the request from the FTC, we had
 23 more than anything tons of books, bookcases full, boxes
 24 full of books and magazines and some research abstracts
 25 versus all filed and orderly and ready to go, so it was

1 a lot of work to put together what we did, and this is
 2 really a sample of what we have used over the 22 years.
 3 **Q. Okay. Do any of these articles -- the ones**
 4 **we've looked at so far, do any of them talk about the**
 5 **products -- or the substances referred to in those**
 6 **articles, do any talk about the cure, curing of cancer**
 7 **by using those products or substances, rather?**
 8 A. I can't say. I can't answer that without
 9 rereading each of these.
 10 **Q. Is there ever a time in your memory that you**
 11 **knew that they -- that they said these substances can**
 12 **cure cancer?**
 13 A. I can't say. I would have to reread -- it's too
 14 general a question. I would have to reread each one of
 15 them.
 16 **Q. Okay. Just in terms of your own knowledge, do**
 17 **you know whether any of the substances referred to in**
 18 **these articles cure cancer?**
 19 A. What I know to be true is only God can cure
 20 cancer. God is the great physician. He can cure
 21 cancer. And he will often use the herbs he created, the
 22 nutrients he created to assist the body to heal itself
 23 of even cancer.
 24 **Q. Okay. We can go on because there's a few more**
 25 **to finish in here and then we can move forward.**

1 **Actually before we go there, I mean, you just**
 2 **testified that, you know, you and your husband are**
 3 **putting out information for people based on things**
 4 **you've read.**
 5 A. Uh-huh. Yes.
 6 **Q. But you're not doctors, as you mentioned.**
 7 **Do you -- do you have a sense that it's**
 8 **truthful to put out information where it talks about**
 9 **reducing tumors or perhaps curing cancer when you can't**
 10 **really say yourself that you have specific knowledge**
 11 **about curing cancer or treating cancer from this?**
 12 A. We do have knowledge that is experiential. We
 13 have seen how these products work. God has shown us and
 14 given us a wealth of knowledge and information that --
 15 and we feel it is very truthful and actually our duty to
 16 share with people.
 17 **Q. In terms of the Web site, which we'll -- we'll**
 18 **look at that a little bit more -- and in terms of the**
 19 **other materials that you disseminate about the products,**
 20 **do you talk -- do you say that this is God's way of**
 21 **healing or do you make references like that in your**
 22 **materials?**
 23 A. We very often do.
 24 **Q. Have you written anything yourself like that?**
 25 A. The articles that I've written mentioned

1 earlier, you know, for the newspaper, Christian
2 newspaper, the column that I used to do for the local
3 paper, yes, that is most often the tone. That's the
4 place that we're coming from.

5 **Q. In terms of Daniel Chapter One's own materials,**
6 **the BioGuide, for example, is that --**

7 A. Right.

8 **Q. -- a premise in the BioGuide?**

9 A. Have you read the introduction to the BioGuide?

10 **Q. Not recently.**

11 **Is there something you want to point out?**

12 A. Simply that we're --

13 **Q. And actually it would be helpful if we just look**
14 **at the official exhibit, which is here, if you don't**
15 **mind (indicating). That's Exhibit 12.**

16 A. "The essential principles of
17 BioMolecular Nutrition have their origins in the
18 Word of God," and it goes on to cite scripture verses.

19 And we share further, "Sickness can result from
20 sin or simply be for the glory of God." The reference
21 is from the Book of John, chapter 9, verses 1 through 7.

22 We share our own testimony there.

23 The point being we're very clear and truthful
24 and not misleading with people about who we are, where
25 we're coming from and, in all these years, against the

1 advice of anyone that tried to counsel us from a
2 business point of view.

3 **Q. Does someone purchasing 7 Herb or BioMixx or the**
4 **other products that we are challenging here today,**
5 **purchasing that to treat their cancer, do they have to**
6 **believe in God in order to use that?**

7 A. No, they don't.

8 **Q. So is it your testimony that Daniel Chapter One**
9 **is not selling this in terms of -- well, strike that.**

10 **So it's your testimony that the product itself,**
11 **because God has created it, could cure someone whether**
12 **they believed in God is a possibility or not?**

13 A. Absolutely. God says he causes the rain to fall
14 on the righteous and the unrighteous, on the just and
15 the unjust.

16 **Q. Okay. So we can move forward, please.**

17 **So we're on article number 8. That's the**
18 **notation up at the upper left-hand -- right-hand corner,**
19 **rather, and it says DCO 0055 through 0057.**

20 **And do you recognize this document?**

21 A. I do somewhat, again, in compiling this package
22 for the FTC, and this was one I believe from a magazine,
23 which we have a lot of, that we had pulled off a
24 bookshelf or out of a box that was again another
25 resource of information that we've gleaned from

1 concerning the structure/function of in this case the
2 herb echinacea.

3 **Q. And again, these have notations. On the bottom**
4 **of page 0055 it has a marking.**

5 A. Right. That's all what you need the key for.

6 **Q. Okay. And echinacea is a substance in which of**
7 **the products, if you recall?**

8 A. It would be in the BioMixx.

9 **Q. Okay. Let's go to the next document, please.**

10 **And this is document marked DCO 0058, and I**
11 **believe it ends at DCO 0061.**

12 **And do you recognize this document?**

13 A. Only vaguely from compiling this.

14 **Q. Okay.**

15 A. I'm not really familiar with it.

16 Again, it's written by Steven Foster. I'm
17 familiar with him. I'm not sure what this was.
18 Evidently from a magazine or journal or something in our
19 possession.

20 **Q. And again, it's talking about echinacea;**
21 **correct?**

22 A. Oh, I just noticed at the bottom, it is from
23 Better Nutrition, which is a little health magazine.

24 **Q. Okay.**

25 A. And I'm sorry. That question again?

1 **Q. That is about echinacea and the uses of**
2 **echinacea.**

3 A. Correct.

4 **Q. Okay. In going through your records to compile**
5 **this response, did you come across any studies,**
6 **abstracts of studies or written studies about any of the**
7 **components in your products?**

8 A. I don't remember.

9 **Q. Was it your practice to obtain studies,**
10 **scientific studies done about the products?**

11 A. Scientific abstracts in the way that they're
12 used more in the world of pharmacy and pharmaceutical
13 drugs as types of abstracts?

14 **Q. Yes.**

15 A. No. Not to say there have not been some done on
16 herbs and may have entered into the documentation of
17 some of the articles we have or books we have, but we
18 don't make it a point to search out abstracts. They
19 really aren't so applicable to what we do.

20 **Q. And why is that?**

21 A. We're working with people, and again, it's
22 experiential and it's working with the whole person. We
23 are not treating disease or symptoms of disease, so we
24 aren't looking for A to treat X.

25 **Q. Okay.**

1 A. And not based on hypothesis, which is, you know,
 2 why they conduct their double-blind placebo-controlled
 3 studies.
 4 **Q. Okay. Well, the next document I believe is only**
 5 **a one-page document, DCO 0062.**
 6 **Is that correct? Is it just one page?**
 7 A. Yes. It appears to be.
 8 **Q. And are you familiar with this, this document?**
 9 A. Somewhat.
 10 I mean, it's from Vitamin Retailer. We've
 11 collected a lot of those over the years. And this
 12 would have been another that myself or Jim, you know,
 13 found and scanned so that we could send it over to the
 14 FTC.
 15 **Q. I see there's a notation towards the bottom on**
 16 **the right-hand side. It's bracketed text do you see?**
 17 **It says, "Turmeric research heats up."**
 18 **On the right-hand side, the lower --**
 19 A. And it's number 10. I don't know what that
 20 means.
 21 **Q. Okay. Do you think that relates to the key also**
 22 **or...**
 23 A. I don't know.
 24 **Q. Did you create the key?**
 25 A. Jim did.

1 **Q. And do you know which of the products contain**
 2 **goldenseal?**
 3 A. The goldenseal would be in the BioMixx.
 4 It's possible that some of these ingredients are
 5 in some of the other products because we do have what we
 6 call Micro Min or a proprietary blend base that has a
 7 lot of different things, as in nature.
 8 So I can't say for sure that it's not in
 9 anything else, but I'm quite certain it's in the
 10 BioMixx.
 11 **Q. And again, this has the -- on the second page,**
 12 **0065, has that key notation --**
 13 A. Yes.
 14 **Q. -- that we'll all need --**
 15 A. Yeah, you need the key.
 16 **Q. -- and references to the scientific**
 17 **information.**
 18 **I guess, do you know if this is underlying this**
 19 **article? Do you know what that is about?**
 20 A. Is the question regarding the number 12?
 21 **Q. Yes.**
 22 A. I don't know. In some of -- it may or may not
 23 be pertinent to this case because some of these we had
 24 already made our own notes on --
 25 **Q. Okay.**

1 **Q. Okay. Can we look at the next document,**
 2 **please.**
 3 **And I believe that's DCO 0063.**
 4 **And are you familiar with this document?**
 5 A. Yeah. I was just going to say this document
 6 goes back, and I just noticed the date, July 1985. This
 7 is something that we got years ago and held onto. Yeah.
 8 It's a past, an old article that we've had in our
 9 possession.
 10 **Q. Okay. And what does it talk about in this**
 11 **article?**
 12 A. Strengthening your immune system with herbs, so
 13 evidently that, and apparently it's primarily about
 14 echinacea.
 15 **Q. I believe the next document is DCO 0064 --**
 16 A. Yes.
 17 **Q. -- through 0065.**
 18 **And you recognize this document?**
 19 A. Yes.
 20 **Q. And what is it?**
 21 A. This was produced by -- Optimal Nutrients is a
 22 company, and they put together some good information
 23 that's referenced, and we have some binders of the
 24 information that they provide, and this is specifically
 25 about goldenseal.

1 A. -- being in our position before this FTC case.
 2 **Q. And you said there were binders that contain**
 3 **these, that particular article we just looked at?**
 4 A. I believe that's where that came from. It may
 5 have been a loose article.
 6 **Q. Okay.**
 7 A. I'm not sure.
 8 **Q. And both you and your husband maintain these**
 9 **kinds of documents? Or is one of you responsible for**
 10 **maintaining?**
 11 A. We share the documents and they're, again, in
 12 our bookshelves and boxes and as we've collected things
 13 over the years.
 14 **Q. Okay. And the next article starts at DCO 0066.**
 15 A. Right.
 16 **Q. I believe it ends at 0068.**
 17 **Do you recognize this one?**
 18 A. I'm not real familiar.
 19 I have to say, for one thing, these are
 20 photocopies, which lack color, and sometimes I reference
 21 things like, oh, yeah, the yellow book or Optimal often
 22 puts like a blue band on the top or however.
 23 And when you say "familiar," it looks vaguely
 24 familiar. Am I very intimately familiar, very -- you
 25 know, do I remember everything here, I can't say I do,

125

1 so I don't know to what extent you're asking am I
2 familiar.

3 **Q. Have you seen it before?**
4 A. To the best of my memory, yes.

5 **Q. Okay.**
6 A. I trust that this is part of the package we sent
7 over.

8 **Q. Did you see the package before it was sent out?**
9 A. Not the actual package.

10 But I worked with Jim on the content, and when
11 we had literally a box full of books and some magazines
12 and some articles that was all we could manage to get
13 together at short notice and what we had in our
14 possession and had had these years, we gave it to our
15 graphic artist and asked him to scan, since he has the
16 scanner, all the material together, and then we had it
17 sent over.

18 Did I see the actual scanned work in the
19 computer, I did not. Once it left my hands, that book
20 of boxes, I didn't see anything further.

21 **Q. Okay. Now we're looking at a document that
22 begins at DCO 0069 and ends at 0070.**
23 **And you know, understanding what you have just
24 put on the record, is this a document that you've seen
25 before?**

127

1 possession. There's no title or author, so
2 Echinacea In-Depth, an article about echinacea, I can't
3 tell you where it came from.

4 **Q. Okay. The next article is DCO 0075, and I
5 believe it ends at 0081.**
6 **And do you recognize this one?**
7 A. I do.

8 **Q. And what is this article?**
9 A. It's actually -- well, Back to Eden is a book by
10 Jethro Kloss. And let's see. I copied several pages
11 from Back to Eden, which is an herb book.

12 **Q. Okay. And I see the title of it -- of this
13 excerpt is Herbs Used to Treat Disease. Is that
14 correct? Do you see that at the top of the...**
15 A. I don't see that. Where?

16 **Q. If you go on to page 0077.**
17 A. Oh. That is the title that he used.

18 **Q. Okay. And what was the -- what was the purpose
19 of using this book?**
20 A. It's a great herb book. He was a very godly man
21 and knew a lot about herbs and wrote Back to Eden. And
22 it's been around a long time. It's a real classic --

23 **Q. Okay.**
24 A. -- if you're at all in the herb industry.

25 **Q. And this is another writing that you relied on**

126

1 A. I believe I have.

2 **Q. And the next document is DCO 0071 through 0073.
3 Do you recognize this document?**
4 A. Yes. I somewhat do.

5 **Q. Okay. And this is -- and what is this
6 document?**
7 A. Evidently an article about cat's claw again.

8 **Q. There's a -- if you turn to page 0072, there's a
9 handwritten notation at the bottom of the last column.**
10 A. Uh-huh.

11 **Q. Do you see that?**
12 A. I do.

13 **Q. Did you write that?**
14 A. I did not.

15 **Q. Okay. Do you recognize what it says?**
16 A. "This is stupid we recommend it."

17 **Q. Do you know who wrote that?**
18 A. I don't. I didn't.

19 **Q. Okay. The next document is DCO 0074.
20 And do you recognize this document?**
21 A. Again, it's keyed as we've been keying
22 everything. It's numbered at the top as we numbered
23 everything. It's in keeping with the package we put
24 together. I imagine I've seen it. I couldn't tell you
25 where it came from. It's something we had in our

128

1 **in developing the Daniel Chapter One products?**
2 MR. J. TURNER: I object to that form of
3 question.

4 MS. PAYNTER: Okay.

5 MR. J. TURNER: The documents and so forth are
6 not about the formulation of products. This is about
7 substantiation of claims. There's nothing in anything
8 that's involved in this, her answers or anything about
9 the material that's provided about how the products were
10 formulated.

11 MS. PAYNTER: Okay. But I'm just asking her was
12 it --

13 MR. J. TURNER: This is about claims.

14 MS. PAYNTER: I'm asking her was that used.

15 MR. J. TURNER: Well, she said that several
16 times she said that, and you keep coming back using two
17 concepts, cure, which she said she doesn't use, and --
18 (Discussion off the record initiated by the
19 court reporter.)

20 MR. J. TURNER: Let me just finish up.

21 What we're trying to say here is that you've
22 consistently talked about the use of these documents to
23 formulate products, and she's consistently said they're
24 not used to formulate products, so what I'm trying to
25 say is this is the -- this is information about

1 substantiation, substantiating claims. It's not about
 2 formulating products.
 3 MS. PAYNTER: Okay. But I don't believe what's
 4 what I -- I don't believe she said that they don't --
 5 MR. J. TURNER: Could you repeat the question.
 6 MS. PAYNTER: Can I just finish what I'm saying,
 7 please?
 8 MR. J. TURNER: Uh-huh.
 9 MS. PAYNTER: Thank you.
 10 I don't believe that -- I don't believe she's
 11 testified that they don't use these to formulate
 12 products. I'm talking about --
 13 MR. J. TURNER: Okay. We're going to stop right
 14 now.
 15 MS. PAYNTER: I'm talking about what is in her
 16 knowledge in terms of developing products. That's what
 17 I asked her. And she can answer yes or no.
 18 MR. J. TURNER: I would like to go off the
 19 record and take a break.
 20 MS. PAYNTER: Your objection is completely out
 21 of line.
 22 MR. J. TURNER: I want to take a break and go
 23 back through the record and show you places where --
 24 MS. PAYNTER: No, we're not going to do that.
 25 I'll withdraw the question.

1 BY MS. PAYNTER:
 2 **Q. Can we look at the next document, please.**
 3 **And it's marked DCO 0082, and I believe it ends**
 4 **at DCO 0084.**
 5 **Is that correct?**
 6 A. Correct.
 7 **Q. Okay. And are you familiar with this document?**
 8 A. One Answer to Cancer was written by a
 9 Dr. Kelley. It's an account of how he treated his own
 10 cancer.
 11 And what was the question again?
 12 **Q. Well, I said, are you familiar with the**
 13 **document, and yes, you are?**
 14 A. Yes, One Answer to Cancer.
 15 Dr. Kelley talks in the book about the function
 16 of enzymes.
 17 **Q. Is this -- is it a whole -- it's an entire book**
 18 **actually.**
 19 A. It is. It's a small, little paperback.
 20 **Q. Is this information that you would share with**
 21 **people?**
 22 A. I may in part share some of this. We don't hold
 23 to everything that Dr. Kelley did or says, but we have
 24 used it as one reference to substantiate what we have
 25 said about enzymes and their function in the body.

1 **Q. Okay. Thanks.**
 2 **The next document is DCO 0085, and I believe it**
 3 **ends at 0088.**
 4 **Are you familiar with this?**
 5 A. Nutrition Almanac is a book that we have.
 6 **Q. And you see on page 0087 -- or do you see,**
 7 **rather, that there's a heading on that page that says**
 8 **"Cancer"?**
 9 A. There is.
 10 **Q. And do you recall what Nutrition Almanac says**
 11 **about cancer or what this was discussing?**
 12 A. I don't. I can see what is underlined here, and
 13 I may have been the one that did the underlining. It
 14 would have been years ago.
 15 **Q. Uh-huh.**
 16 A. But Nutrition Almanac is another classic in the
 17 health world. People that do look for information about
 18 nutrients, they really rely on Nutrition Almanac because
 19 it's a sound reference source. And we've used it for
 20 our own knowledge, for our own information.
 21 And once again, this was in response to the FTC
 22 saying how do you substantiate what you have said about
 23 these products. And when you consider my description
 24 of the 7 Herb Formula and each of those seven herbs and
 25 the structure of them, what they have inherent in them

1 and how it works, this is the type of material resource
 2 I turned to and saw that -- well, in this case -- I may
 3 have gotten off from the question, but I did use the
 4 Nutrition Almanac to look up some of the nutrient
 5 content of things.
 6 In this case evidently they're talking in a
 7 portion here about cancer and the need for nutrients.
 8 **Q. Well, you mentioned the 7 Herb Formula in your**
 9 **answer just now.**
 10 A. Uh-huh.
 11 **Q. And did Daniel Chapter One ever have the**
 12 **components of 7 Herb Formula studied by any outside lab**
 13 **to see whether its components were actually having the**
 14 **effect that you believe it has?**
 15 A. We have not had a lab study the effects.
 16 We have experiential information, many
 17 testimonies, many hundreds if not thousands of
 18 testimonies.
 19 **Q. Okay. The next document is DCO 0089, and I**
 20 **believe it ends at 0092.**
 21 **And are you familiar with this one?**
 22 A. I am. This is another book in our possession.
 23 We've had it for a while.
 24 **Q. And what do you use the book for?**
 25 A. This book also is one reference piece, it's one

1 resource that in the past 22 years we have used to gain
2 knowledge, to get information. And in response to the
3 FTC request for substantiation for anything that we have
4 said about ingredients or any of our products,
5 ingredients in them, it's one that I pulled off a shelf
6 and said okay, here's one. That's another one.

7 **Q. Do you have other items at home that were not
8 produced here in this package?**

9 A. We gave you what we could find, what we had.

10 **Q. Okay. Are you intending to supplement --
11 counsel, I don't know if I can address this to Jim --
12 or is there intention to supplement any of this
13 material?**

14 MR. J. TURNER: I -- we have never even
15 considered that question before, but now that you've
16 raised it, we can probably supplement it.

17 I mean, I'll go -- I'll walk through it with
18 them and see what else they have.

19 MS. PAYNTER: Okay.

20 MR. J. TURNER: And my understanding is there's
21 a huge amount more, so how we should supplement will be
22 a...

23 BY MS. PAYNTER:

24 **Q. Okay. The next document is DCO 0093, and I
25 believe it ends at 0096.**

1 **And do you recognize this document?**

2 A. Yes. It's a book that we own, that we have in
3 our possession.

4 **Q. And what -- basically what's the substance of
5 the book?**

6 A. Well, it's more information about herbs.

7 **Q. The next document is DCO 0097.**

8 **And do you recognize this document?**

9 A. I do. It's another sheet that we had or from a
10 magazine that we have.

11 **Q. And it's discussing shark and bovine cartilage,
12 or is it something else?**

13 A. That's what it seems to be about.

14 **Q. Okay. I'm just looking actually at the
15 document. There are scientific references at the end of
16 the text.**

17 **Do you see that?**

18 A. Yes.

19 **Q. And there's a reference number 27 --**

20 A. Uh-huh.

21 **Q. -- that's bracketed?**

22 A. Right.

23 **Q. Did you bracket that?**

24 A. I don't remember.

25 **Q. Okay.**

1 A. But there's no key pointing to it, so I don't
2 think that was for this purpose.

3 **Q. Okay.**

4 A. That was a notation I believe that myself or Jim
5 or somebody else made at one time.

6 **Q. Okay. Thank you.**

7 **The next document is DCO 0098 through
8 DCO 00100.**

9 **Do you recognize this document?**

10 A. Yeah. We have several The Protocol Journal of
11 Botanical Medicine, and this is another that we supplied
12 in fulfillment of your request.

13 **Q. On page 0100 there's also some notations G and
14 O.**

15 **Do you see that on the left -- on the right-hand
16 side?**

17 A. I do.

18 **Q. Do you recall what the G stands for?**

19 A. I don't. You need the key.

20 **Q. Who would have the key?**

21 A. I'm turning to my attorney because this is
22 really redundant (indicating).

23 The key that we first designed so that we could
24 send it with the material so that you could see why we
25 were sending what we sent and you could see the various

1 references, that key I thought was sent over with the
2 material. If you don't have it, we're going to have to
3 supply it. Right now I'd have to be best-guessing at
4 each letter what it meant.

5 MS. PAYNTER: Okay. So as far as, Mr. Turner,
6 you never received a key or don't you --

7 MR. J. TURNER: No. We received the key and we
8 believe we sent it to you, but if you don't have it,
9 we'll go back and find out what happened to it.

10 I believe it's probably in the materials you've
11 got somewhere. I just went through here to see, and
12 it's not in what you put here, but this isn't all we
13 sent I don't believe (indicating).

14 MS. PAYNTER: No. There's testimonials which I
15 didn't bring with me.

16 MR. J. TURNER: So it may be in with that.

17 MS. PAYNTER: Well, you know what -- okay.
18 When we break, I will go and check and see if it's
19 there.

20 BY MS. PAYNTER:

21 **Q. Okay. So this document -- the next document is
22 DCO 0101, and it ends at 0102.**

23 A. Uh-huh.

24 **Q. Is there actually any --**

25 A. I think it ends at 0103.

1 Q. Okay. Thank you.
 2 And you're familiar with this document?
 3 A. Yes. Again, somewhat.
 4 Q. And how often does The Protocol Journal of
 5 Botanical Medicine get published? Do you know?
 6 A. I don't remember.
 7 Q. Do you know -- looking at this document, it just
 8 seems to be discussing echinacea; is that correct?
 9 A. It does seem to be.
 10 Q. Do you know, does echinacea have any -- strike
 11 that.
 12 Is echinacea used at all to treat cancer or
 13 tumors, to your knowledge?
 14 A. We don't use it to treat tumors or cancer.
 15 It's a great supporter of the body's immune
 16 system, and we believe that that's what God created it
 17 for. And experientially that's borne out, and also it's
 18 a very time-tested herb. It's been around for centuries
 19 obviously, and there's been a lot of research done on
 20 echinacea. It is common knowledge that echinacea boosts
 21 the immune system.
 22 Q. The next document is DCO 0104, and it ends at
 23 0107 I believe.
 24 And are you familiar with this document?
 25 MR. J. TURNER: My copy only has -- oh, I've got

1 MR. J. TURNER: So when we get back there
 2 Friday, we'll look for it.
 3 (Pause in the proceedings.)
 4 MS. PAYNTER: Sorry. Could we go off the
 5 record.
 6 (Discussion off the record.)
 7 BY MS. PAYNTER:
 8 Q. So are you familiar with it at all?
 9 I know you said there are strange notations on
 10 here, so I'm not sure. Are you?
 11 A. I didn't call them strange. I couldn't tell you
 12 what they mean.
 13 Q. Okay. But you're familiar with the document?
 14 A. Yes. Somewhat.
 15 Q. And this document is talking about treatment of
 16 patients with shark cartilage; correct?
 17 Treatment of cancer patients. Excuse me.
 18 A. I would have to read it.
 19 Q. Okay. Well, let me just read the title into the
 20 record.
 21 It says "High rate of bioactivity (reduction in
 22 gross tumor size) observed in advanced cancer patients
 23 treated with shark cartilage material."
 24 Do you see that?
 25 A. I do.

1 it. Okay. I'm fine.
 2 MS. PAYNTER: Okay.
 3 BY MS. PAYNTER:
 4 Q. Have you had a chance to look at this?
 5 A. Yes. It looks somewhat familiar. I don't know
 6 what "SKC 1" means. And on the -- you know, we not only
 7 had the key but also a type of like bibliography, so 26,
 8 I don't know how we had that listed.
 9 MR. J. TURNER: 26 is the number in this
 10 list (indicating).
 11 THE WITNESS: Right. But Jim and I used that --
 12 I mean, that was our --
 13 MR. J. TURNER: No. What I mean is this one
 14 here is 25 (indicating).
 15 THE WITNESS: Right. But I mean, Jim and I
 16 numbered each of the things in the package as part of
 17 our key like we numbered our material.
 18 MS. PAYNTER: Just so -- we just -- we did
 19 have -- Len just checked, and there is no key in the
 20 materials we received.
 21 Is there any way someone at the office can send
 22 that over to us?
 23 MR. J. TURNER: Unfortunately, no, because the
 24 guy that put these together is on vacation.
 25 MS. PAYNTER: Okay.

1 With authors I.W. Lane, Ph.D. and E. Contreras,
 2 Jr. M.D.
 3 Q. Are you familiar with those authors?
 4 A. In name only.
 5 Q. Okay. And in what respect?
 6 A. Dr. Contreras is an individual who does use some
 7 natural substances in his practice, and Lane I believe
 8 is the author of Sharks Don't Have Cancer, if I remember
 9 that correctly.
 10 Q. Okay. Thank you.
 11 And anything else you want to add on that?
 12 A. (Witness shaking head.)
 13 Q. Okay. Can we go to -- the next document is
 14 DCO 0108, and I believe it ends at 0109.
 15 And do you recognize this document?
 16 A. As much as I did the other one.
 17 Q. Okay.
 18 A. I don't deny that this is ours and it looks
 19 familiar, but when you ask me am I familiar, I'm not
 20 ready to be quizzed on any of these documents, and to
 21 know the content to truly be familiar with it I would
 22 have to reread it, but you mean familiar in that is
 23 this --
 24 Q. What you put together --
 25 A. -- part of the package, yes, I believe it is.

141

1 Q. Okay. And this document, if we go -- can I read
2 again the title into the record.

3 It says "Research Abstract: Shark Cartilage
4 Contains Inhibitors of Tumor Angiogenesis"; correct?
5 Do you see that?

6 A. Yes.

7 Q. And which of the products besides Bio*Shark
8 contains shark cartilage, if you're aware?

9 A. Well, to the best of my knowledge right now,
10 it -- the Bio*Shark contains shark cartilage.

11 MR. J. TURNER: A clarification.

12 The question that you answered is not the
13 question that was asked.

14 Could you ask the question again.

15 THE WITNESS: Yeah. Please.

16 BY MS. PAYNTER:

17 Q. Which of the products besides -- in fact, can
18 you read it back, please.

19 MR. J. TURNER: Why don't we read the question
20 and the answer.

21 MS. PAYNTER: Yes. Certainly.

22 (The record was read as follows:)

23 "QUESTION: And which of the products besides
24 Bio*Shark contains shark cartilage, if you're aware?

25 "ANSWER: Well, to the best of my knowledge

142

1 right now, it -- the Bio*Shark contains shark
2 cartilage."

3 MS. PAYNTER: I'm fine with that answer, unless
4 you want to clarify that at all.

5 MR. J. TURNER: Let me just ask a question just
6 at this point.

7 MS. PAYNTER: Not at this point, no, not at this
8 point.

9 MR. J. TURNER: Does any other product --

10 MS. PAYNTER: Mr. Turner, not at this point. If
11 you want to clarify that afterwards, I am fine with the
12 witness' answer. Please. It is a long afternoon. We'd
13 like to continue, all of us.

14 BY MS. PAYNTER:

15 Q. So I'm fine with that answer. If you would like
16 to clarify further?

17 A. I'll add, I don't remember if it appears in any
18 of the other challenged products.

19 Q. Okay. Very good. Thank you.

20 The next article is DCO 0110, and I believe it
21 ends at DCO 0114.

22 And do you recognize this document?

23 A. Again, as much as the others as part of the
24 package we sent over.

25 Q. There's -- at the bottom of the document 0110,

143

1 there's a date at the bottom of that.

2 Do you see it? 3-6-2008?

3 A. Yes.

4 Q. Do you know what that date is referring to?

5 A. I don't.

6 Q. Do you recall, is this a document that was in
7 the files that you maintain in your office?

8 A. I don't remember. I don't know where this came
9 from.

10 Q. Well, at this point there's probably about 15
11 or so more documents that we need to -- is that the
12 number?

13 MR. ZANG: Yeah, about 15. You're right.

14 MS. PAYNTER: So why don't we just take a
15 five-minute break, because I know this is a bit
16 tedious, and when we come back, we'll finish this and
17 we'll go on to something else. Okay? For the
18 court reporter to rest her hand a little bit or we
19 stretch a little.

20 (Recess)

21 BY MS. PAYNTER:

22 Q. Before we go back with the documents, why don't
23 we go over the subpoena duces tecum and see what you
24 were able to bring with you today.

25 A. Yes.

144

1 Q. So the first request was for documents not
2 limited to employment contracts or agreements governing
3 the business relationship between Patricia Feijo and
4 Daniel Chapter One.

5 Are there any such documents?

6 A. There are none.

7 Q. And number 2 was copies of all articles
8 referenced in response number 8 to respondents'
9 responses to complaint counsel's first set of
10 interrogatories, a copy of which was attached to the
11 subpoena, and those were articles which I believe it
12 referenced things you had written?

13 A. Right.

14 Q. Do you have any of those?

15 A. I answered in the interrogatory, because it was
16 a very general question, anything I had ever written.

17 Years ago, I had written some newspaper
18 articles, limited, and you know, so I answered that. I
19 didn't have those to bring, so I didn't bring them.

20 The only thing that I had that I wrote, the
21 BioGuide, the Cancer Newsletter -- that's all I can
22 remember right now -- you should already have.

23 Q. Yes. Okay.

24 And the third one was all documents relating to
25 the claims that Bio*Shark, GDU, 7 Herb Formula and/or

1 **BioMixx prevent, treat or cure cancer or tumors or other**
 2 **serious medical illnesses.**
 3 **Do you have --**
 4 A. We don't make those claims.
 5 **Q. Okay. And finally, the current curriculum vitae**
 6 **of Patricia A. Feijo.**
 7 **Do you have one?**
 8 A. That's what I have here, and it's not a formal,
 9 but that's all I have (indicating).
 10 **Q. Okay. Thank you.**
 11 MR. J. TURNER: I think that should already be
 12 in your --
 13 MS. PAYNTER: Is that the back of--
 14 MR. J. TURNER: Yeah.
 15 THE WITNESS: Oh.
 16 MR. J. TURNER: See if it's the last page of
 17 that (indicating).
 18 THE WITNESS: It is.
 19 MS. PAYNTER: So that's FTC Exhibit Number 12,
 20 is it?
 21 MR. J. TURNER: This one is not marked, but --
 22 THE WITNESS: 0381.
 23 MS. LEHRFELD: It's 12, yeah. The BioGuide?
 24 Yeah, it's 12.
 25 MS. PAYNTER: Okay. Thank you.

1 question that she's asking us now is can we let her know
 2 by Monday if we're going to do it, and then we'll tell
 3 her by that time how fast we can do it.
 4 THE WITNESS: Okay.
 5 BY MS. PAYNTER:
 6 **Q. Continuing with this series of documents, we**
 7 **have DCO 0115, and I believe it ends at 0116.**
 8 **Do you see that?**
 9 **Are you familiar with this document?**
 10 **(Pause in the proceedings.)**
 11 A. I'm not. And 28 begins 0110, actually 29 begins
 12 0115, so I think you may have lumped a couple of things
 13 together.
 14 **Q. Okay. So let's go back. I just want to be sure**
 15 **we're looking -- so 28, you're saying document that's**
 16 **numbered 28 at the upper right-hand corner?**
 17 A. Right.
 18 **(Pause in the proceedings.)**
 19 **Q. And what is it you think the two documents --**
 20 **they're part of one or...**
 21 A. I thought you said it went to 0116.
 22 **Q. Okay.**
 23 A. Maybe it does all go together.
 24 MR. J. TURNER: Here, this is one. 29 is 011 --
 25 MS. PAYNTER: 5 to 0116.

1 **(Pause in the proceedings.)**
 2 Actually I just wanted to ask counsel -- we
 3 were going over the fact that there may -- there are
 4 other articles that the Feijos have regarding
 5 scientific or support for their claim -- the claims
 6 they've made.
 7 Is that something -- how soon will you let us
 8 know if you're going to be providing additional --
 9 MR. J. TURNER: I'll try to let you know by next
 10 Monday. We'll back in Washington on Friday. They'll be
 11 back tomorrow. We'll see if it -- there's more
 12 material. I don't know yet whether it's relevant or
 13 not. I have to -- because what I asked them for was
 14 narrow, four products, and so you can see they went
 15 through books and pulled things.
 16 MS. PAYNTER: Okay.
 17 MR. J. TURNER: But I'll -- I think we should go
 18 through some of the other material and see what there
 19 is, too.
 20 MS. PAYNTER: Certainly because I guess our
 21 expert will need to look at them and incorporate them in
 22 his reports, so --
 23 THE WITNESS: I need to just say, though, that
 24 we're leaving on a trip Saturday, so we will not be --
 25 MR. J. TURNER: We'll work it out. The only

1 MR. J. TURNER: That's 29. That's --
 2 THE WITNESS: 28 beginning 0110.
 3 MR. J. TURNER: Yeah.
 4 And then there's 30, 31. Those are all from the
 5 research data --
 6 THE WITNESS: Right. Yeah, this is all the
 7 research data, and the it actually continues on 31.
 8 BY MS. PAYNTER:
 9 **Q. That might have just been one Web site that**
 10 **was -- I don't know -- accessed.**
 11 A. And again, I'm not intimately familiar with
 12 this. Judah Folkman, I know his name. When I begin to
 13 look at some of the information here, it's all somewhat
 14 familiar because I've, you know, seen this information
 15 at different times. This itself is not something that I
 16 personally contributed (indicating).
 17 **Q. Okay. When you say "this itself," can you just**
 18 **identify the page numbers you're talking about?**
 19 A. Well, all --
 20 **Q. When I say "the page numbers," on the lower**
 21 **right-hand side, the DCO numbers, can you say --**
 22 A. Well, perhaps even some that we've gone by, but
 23 this 0117 to 0116 and perhaps beyond and perhaps
 24 before.
 25 **Q. So you're not familiar with the actual**

1 documents?
 2 (Pause in the proceedings.)
 3 A. I'm not very familiar. I'm only vaguely
 4 familiar.
 5 Q. Okay. So we're going to look at document that's
 6 marked DCO 0124.
 7 A. Yes.
 8 Q. And I believe it ends at 0128.
 9 Do you agree with that?
 10 A. Yes. This is a book that we have,
 11 Michael Murray, Encyclopedia of Natural Medicine.
 12 Q. And that pertains to what exactly, this
 13 encyclopedia?
 14 A. I don't remember exactly.
 15 Q. Do you want to just take a second and look at
 16 it?
 17 A. Uh-huh.
 18 (Pause in the proceedings.)
 19 This is just another resource material that we
 20 had and have in our possession that we've used for
 21 information.
 22 Q. Okay.
 23 All right. The next document is DCO 0129, and
 24 mine ends at 0130.
 25 A. Yes.

1 Q. It says "List of Plates."
 2 Is this -- do you know what this is
 3 referencing?
 4 A. I believe plates has more to do with the
 5 artwork, I think pictures in the book of those
 6 substances. And this I believe was part of the
 7 material, you know, the books, et cetera, that we had
 8 combined towards the end of our putting all this
 9 together and it was just a lot of work.
 10 We told the graphic artist to just scan some of
 11 the titles of books in our possession that, again, as a
 12 general resource as an example of some of the things
 13 that we have to show that we have a library, we are not
 14 pulling ideas from the air.
 15 Q. Okay. So you didn't have any specific material
 16 demarcated from here or you -- and you just -- I'm not
 17 sure why you produced this then.
 18 A. I don't remember either.
 19 MS. PAYNTER: Okay. I guess so I would just
 20 ask counsel, if this is something you can go back and
 21 look at to provide relevant material, that would be
 22 helpful.
 23 MR. J. TURNER: Yes. What we may do is just
 24 submit the entire books and then mark the relevance.
 25 The point I think they're making here is they

1 have a fairly extensive library of detailed information,
 2 and that's what they've been relying on.
 3 THE WITNESS: Right.
 4 MS. PAYNTER: Okay. So if -- the document
 5 marked 0131 to 0132, that's a similar. It's just the
 6 two pages, the --
 7 MR. J. TURNER: And all the rest of them the
 8 same.
 9 THE WITNESS: And 0133.
 10 MS. PAYNTER: Okay. I see.
 11 THE WITNESS: And to the best of my memory,
 12 when we were putting this together and it was getting
 13 to that point, the FTC was primarily concerned about
 14 certain ingredients or certain products and gave us a
 15 list, and some of these books in our library had other
 16 information, nutritional or herbal or general
 17 information that still served us in putting information
 18 together, but it wasn't as specific where we could link
 19 it to why we said this, well, because this book says
 20 this, so I think for that reason we just began to scan
 21 pictures of the books rather than send you the books, to
 22 show that we had the books.
 23 MS. PAYNTER: Okay. Well, I think we would just
 24 ask counsel to, you know, make sure that you specify
 25 what we should be looking at because, as I said, our

1 expert has to base his opinion on something and there
 2 has to be more than the covers of the books, so as soon
 3 as you can by Monday, please.
 4 MR. J. TURNER: We'll let you know what we
 5 have.
 6 MS. PAYNTER: What else you're going to add if
 7 you'd like to supplement.
 8 So is it that all of the remaining documents
 9 here, that they're all just titles?
 10 MR. J. TURNER: Uh-huh.
 11 MS. PAYNTER: Okay.
 12 MR. ZANG: Somebody should say yes. I don't --
 13 MS. PAYNTER: Yes. Someone -- Ms. Feijo, yes.
 14 THE WITNESS: I'm still looking.
 15 MS. PAYNTER: Okay. So when you're done, please
 16 just --
 17 MR. J. TURNER: The last page is different. I
 18 don't know what the last page is.
 19 MS. PAYNTER: Okay.
 20 (Pause in the proceedings.)
 21 THE WITNESS: I see, you know, the photocopy of
 22 pages stuck in these books and I think another reason we
 23 got to this point where we weren't so carefully scanning
 24 the specific pages inside is the information began to
 25 get redundant also, and so...

1 BY MS. PAYNTER:
 2 **Q. Okay. Well, I mean, it's important for the case**
 3 **for it to be exactly the things that -- even if it is**
 4 **redundant, to produce everything that's relevant to, you**
 5 **know, how you all determined what to say about your**
 6 **products, so we'll just leave that at that.**
 7 **So I just want to be clear that the documents**
 8 **that end 0154, those are all book covers, and now we're**
 9 **at the document DCO 0155; is that right?**
 10 A. Right.
 11 **Q. Are you familiar with this one?**
 12 A. Yeah. This looks familiar to me.
 13 Yeah, Donald Brown is an individual that knows
 14 about herbs. We've heard him speak. And this is one of
 15 the single sheets that we have. Judging from the
 16 bottom, Quarterly Review of Natural Medicine, it was
 17 taken from that publication.
 18 **Q. Okay.**
 19 A. More about turmeric.
 20 **Q. This is about turmeric. Okay. Thank you.**
 21 **(Pause in the proceedings.)**
 22 **I'd like us to turn to the FTC's complaint, the**
 23 **exhibits attached to the FTC's complaint, which I**
 24 **believe is FTC --**
 25 A. Can I take a quick bathroom break?

1 MS. PAYNTER: Absolutely.
 2 MR. ZANG: Let's go off the record.
 3 (Recess)
 4 BY MS. PAYNTER:
 5 **Q. So back on the record, and we're going to be**
 6 **looking at what's been marked FTC Exhibit 4, which is a**
 7 **packet of pages from Daniel Chapter One's Web site and**
 8 **that they've been marked with -- there are Bates numbers**
 9 **on the bottom so we can refer to them easily.**
 10 **Would you like to take a minute to look at that?**
 11 **You can look through the packet.**
 12 **(Pause in the proceedings.)**
 13 A. Okay.
 14 **Q. Okay. First I just wanted to ask you, what is**
 15 **Bio*Shark?**
 16 A. Bio*Shark is a Daniel Chapter One product.
 17 **Q. And what is it used for?**
 18 A. Well, it's used to support healing in the body,
 19 to help maintain health. There's any number of things
 20 that a person, you know, may choose to use it for.
 21 **Q. And who developed it?**
 22 A. That, I believe Jim -- well, he developed the --
 23 he had the concept for.
 24 You know, we don't make anything at
 25 Daniel Chapter One. You know, we have licensed labs do

1 that. But he put together the formula.
 2 **Q. Were you involved in any way in putting together**
 3 **the formula?**
 4 A. I don't remember being involved so much in the
 5 Bio*Shark.
 6 **Q. Do you know when Bio*Shark was first developed?**
 7 A. I don't remember.
 8 **Q. Do you know when it was first offered to the**
 9 **public?**
 10 A. No. I don't remember.
 11 **Q. Was it sold in the store solely?**
 12 A. I don't remember.
 13 **Q. Are there any records at Daniel Chapter One that**
 14 **would help you recall when the Bio*Shark was first**
 15 **created?**
 16 A. I don't know. In order to accurately answer the
 17 question I would have to at least attempt to research
 18 that, and I don't know if we would even be able to come
 19 up with that. I just don't know.
 20 MS. PAYNTER: Okay. Well, I would make a
 21 request to counsel to -- we'd like some records showing
 22 when Bio*Shark was first sold or first developed and
 23 sold to the public.
 24 MR. J. TURNER: Either the records or the
 25 statement that they don't have the records.

1 MS. PAYNTER: Certainly.
 2 MR. J. TURNER: Okay.
 3 I do have a question about that just to
 4 understand that.
 5 The complaint seems to begin it looks like to us
 6 as from 2005 and beyond, so you want information before
 7 2005, too; is that right?
 8 MS. PAYNTER: Yes.
 9 MR. J. TURNER: Okay. Now, we may end up
 10 objecting to that. We had that raised by a couple of
 11 our other counsel.
 12 MS. PAYNTER: Okay.
 13 BY MS. PAYNTER:
 14 **Q. Okay. Looking at Exhibit 4, if we can, the page**
 15 **marked 0011, and there's some statements on there that I**
 16 **wanted to draw your attention to.**
 17 **The first one is that it says -- there's a**
 18 **heading Bio*Shark: Tumors & Cysts.**
 19 **Do you see that statement?**
 20 A. I do.
 21 **Q. And beneath that it says: "Pure skeletal tissue**
 22 **of sharks which provides a protein that inhibits**
 23 **angiogenesis - the formation of new blood vessels. This**
 24 **can stop tumor growth and halt the progression of eye**
 25 **diseases such as diabetic retinopathy and macular**

1 degeneration."

2 Do you see those two statements?

3 A. I'm reading it with you.

4 Q. Okay. Did you write these statements?

5 A. I don't remember with utmost certainty, but in
6 all probability I did. This was written many years ago.
7 Most of the information I did write.

8 Q. And do you -- what would be the basis for the
9 first -- for making that first statement?

10 A. The basis being the substantiation --

11 Q. Yes.

12 A. -- from --

13 Q. From that material --

14 A. -- the material we showed you.

15 Q. Yes. If you can recall.

16 A. Well, generally the substantiation is from
17 material that we had read that shark cartilage provides
18 a protein that inhibits angiogenesis and the information
19 we have that we have had and have read and compiled for
20 many years now.

21 Angiogenesis is the ability for the body to cut
22 off the blood supply feeding a tumor. This can stop the
23 growth of a tumor.

24 Q. And did you --

25 A. Et cetera.

1 Q. Okay. Thank you.

2 A. Uh-huh.

3 Q. When you say "This can stop the growth of a
4 tumor," have you read any scientific studies that
5 support that statement?

6 A. I have.

7 Q. Uh-huh.

8 Have you provided any of those or identified
9 them to the FTC?

10 A. I don't remember if any of those are in
11 here (indicating). They may be.

12 Q. Okay. Well, just again, it is important, I
13 mean, this is what this suit is about, is the truth and
14 the support that you -- Daniel Chapter One has for its
15 products, so it's really essential that if you have any
16 of those kinds of studies to identify them to us.

17 Okay?

18 A. Any of the information we put out has always
19 been truthful. We did the best we could to put
20 together what we had when the complaint was filed. Not
21 anticipating such a complaint in 22 years, we didn't
22 hold onto everything and formally file it, as
23 explained.

24 Q. Okay. Going further into this text, the
25 sentence -- the last sentence of the first paragraph

1 says, "Shark cartilage is an excellent source of
2 calcium, phosphorous, amino acids, and a family of
3 carbohydrates called mucopolysaccharides (sulfated
4 oligosaccharides and chondroitin sulfates A and C)."

5 Do you see that statement?

6 A. I do.

7 Q. What was the basis for making this statement?

8 A. That would have come from some material we read,
9 and at the time this was made, that material would have
10 been right in front of us as we made it. I don't know
11 if we had that to supply you.

12 Q. Okay. The next paragraph, which reads, "In
13 summary, Bio*Shark works to reduce inflammation and
14 swelling, affects the formation of new blood vessels and
15 provides essential nutrients for healing," do you see
16 that?

17 A. I do.

18 Q. And what was the basis for making this
19 statement?

20 A. I would say same as previous answers.

21 Q. Was this a sum -- was it -- was this a
22 summarization by yourself or the author of the research,
23 or was it --

24 A. I don't remember.

25 Q. You don't remember?

1 A. It was written years ago.

2 Q. Okay. Also looking where it says
3 "Bio*Shark: Tumors & Cysts" at the top of this, of the
4 text, was that your title?

5 A. No. I don't believe so.

6 You know, the titles to the entire BioGuide and
7 then on the Web site, which I really had nothing to do
8 with the creation of the Web site, but the information
9 was provided by me and the titles were more the graphic
10 artist who had to organize and structure things in a way
11 that the public could use it.

12 Q. Did you disagree with that presentation?

13 A. No.

14 Q. Okay.

15 A. I obviously didn't because, you know, I let it
16 go.

17 Q. Okay. Also towards the right, upper right-hand
18 side of the page, it says -- and it's a little bit cut
19 off here, but it says "cancerous tum," and I'm assuming
20 that's tumors.

21 Do you see that?

22 A. Yes.

23 Q. Do you know why this is referenced here?

24 A. I don't know why.

25 MR. J. TURNER: Where? I don't see that? Where

161

1 is it?

2 MS. PAYNTER: Right below Buy, the word "buy."

3 THE WITNESS: She's looking at

4 here (indicating).

5 MR. J. TURNER: Oh, right, I see it.

6 MR. ZANG: If you look at Exhibit A to complaint

7 counsel's complaint, there's a better copy, and it says

8 "cancerous tumor," singular.

9 MS. PAYNTER: Well, let's hold this to the side

10 because there's so many copies around.

11 BY MS. PAYNTER:

12 **Q. Did Daniel Chapter One have any scientific**

13 **testing done on Bio*Shark?**

14 A. No. I believe I already answered that we've had

15 no scientific testing done on any of our -- any of these

16 products.

17 **Q. Okay. I understand you did answer that, but**

18 **sometimes just for clarity sake I will go through and**

19 **maybe ask specifically for each just because we want the**

20 **record to be clear.**

21 A. Okay.

22 **Q. Okay?**

23 I know it's a little tedious, but we're almost

24 done.

25 A. Uh-huh.

163

1 **Q. Okay.**

2 A. That's not a novel idea to most people -- to

3 people that are at -- you know, involved, you know, with

4 using these natural things.

5 **Q. And when you say "European studies," are you --**

6 **are you familiar with actual clinical studies that were**

7 **done on shark cartilage?**

8 A. I'm not right now. No.

9 **Q. Okay. Are you familiar with the components of**

10 **what's in Bio*Shark?**

11 A. Beyond the main ingredient, which is shark

12 cartilage, I'm not. I would have to look at a label.

13 It may be one of the products that does have our

14 proprietary base.

15 MS. PAYNTER: Okay. Well, actually I do have

16 labels, and we can mark this as FTC 14.

17 (FTC Deposition Exhibit Number 14, Bio*Shark

18 labels, was marked for identification.)

19 BY MS. PAYNTER:

20 **Q. Okay. And I'm presenting for identification**

21 **FTC 14, which is a series of pages of labels of the**

22 **different products at issue in this case. This package**

23 **was produced by Daniel Chapter One to the FTC in**

24 **response to the request for interrogatories or**

25 **document -- documents, and it's numbered FTC-DCO 0065**

162

1 **Q. Okay. And do you know if anyone else has ever**

2 **performed any scientific studies on Bio*Shark?**

3 A. I'm quite sure there have been scientific

4 studies done on it.

5 **Q. And why would you say that you're quite sure**

6 **that they have?**

7 A. Well, from past reading -- and I cannot remember

8 specifics, you know, and I'm not going to venture to be

9 any more certain than I honestly am, but you know, I

10 believe that Dr. Lane conducted studies on the shark

11 cartilage, and I would have to refer to his book to give

12 you specifics on that.

13 **Q. Okay. And apart from Dr. Lane's studies, are**

14 **you aware of any other studies that might have been done**

15 **on Bio*Shark or shark cartilage?**

16 A. Not right now.

17 In all these years that, you know, we've had

18 Daniel Chapter One, we've seen and have been aware of a

19 lot of research that has been done on natural substances

20 and herbs, a lot of it European research. You know,

21 we've seen it again, you know, have heard of it, so in

22 my thinking and in my understanding, it has come to be

23 more common knowledge. This is an accepted thing that

24 shark cartilage has a protein in it that can inhibit

25 angiogenesis.

164

1 **and it goes through 0128.**

2 MR. J. TURNER: It's just a clarification. My

3 numbers go 0065 -- 65, 66 and then 122.

4 THE WITNESS: Mine also.

5 MR. J. TURNER: And then 123.

6 THE WITNESS: Oh, they're out of order.

7 MS. PAYNTER: It's grouped by the actual

8 product.

9 THE WITNESS: So leave them in the order they're

10 in?

11 MS. PAYNTER: Yes, we can leave them in this

12 order.

13 And we'll just identify --

14 MR. J. TURNER: It still doesn't actually go

15 from 65 to 128.

16 MS. PAYNTER: Okay. Let's go -- okay.

17 So what we'll do is -- I'm going to make them

18 each a separate document.

19 MR. J. TURNER: There aren't as many pages here

20 as the numbers between 66 and 128.

21 MR. ZANG: Okay.

22 MS. PAYNTER: Well, we'll reference -- how

23 should we put this?

24 MR. ZANG: Why don't you just read into the

25 record the numbers.

165

1 MS. PAYNTER: Let's see.
 2 (Pause in the proceedings.)
 3 Okay. What I'm going to do then, I'll amend.
 4 FTC document 14 is -- will be the first four
 5 documents you have there, and they'll be numbered
 6 FTC-DCO 0065, 0066, 0122 and 0123
 7 MR. J. TURNER: That's good.
 8 MS. PAYNTER: Okay?
 9 THE WITNESS: Uh-huh. Yes.
 10 BY MS. PAYNTER:
 11 **Q. Okay. So do you recognize 0065?**
 12 A. Yes, I do. It's the label to our Bio*Shark.
 13 **Q. And does this indicate what actual components of**
 14 **Bio*Shark are?**
 15 A. Yes.
 16 So now I can accurately say that it's
 17 predominantly shark cartilage, 750 milligrams, and the
 18 biomolecular base, which I refer to as our proprietary
 19 base, 50 milligrams of the following, and when you see
 20 all that's in there, you're getting a very small amount
 21 of each one of those.
 22 **Q. And when you say "proprietary base," is that**
 23 **registered with any agency as a proprietary?**
 24 A. I don't know if it's registered.
 25 **Q. Okay.**

167

1 Sometimes it's a very general low, one capsule a day.
 2 In a case like this, I believe that that's
 3 something that Jim and I worked on together to make a
 4 recommendation from reading and from experience.
 5 **Q. Do you -- can you tell me what are the active**
 6 **and inactive components of this product?**
 7 A. In the sense that the question is being asked,
 8 the shark cartilage is the active. However, all the
 9 nutrients in the biomolecular base, we can't call them
 10 inactive. They do have, you know, some bearing,
 11 although it's small and it's in a more holistic sense.
 12 Like when you -- and that's the reason we did
 13 it. When you get nutrients in food, you don't get just
 14 a whopping amount of one isolated nutrient, you get the
 15 synergy that that's how God created it, and so we tried
 16 to in that sense, you know, emulate what God did in
 17 nature.
 18 **Q. And can you tell me what would be the purpose of**
 19 **the barium that's in your biomolecular base?**
 20 A. I cannot tell you that.
 21 **Q. Or what would be the purpose of the silver?**
 22 A. Yeah. I don't know.
 23 **Q. Are you familiar with generally what the**
 24 **effects of ingesting silver or barium is -- or are,**
 25 **rather?**

166

1 A. And then other ingredients at the very bottom
 2 because they're capsules. You're talking about a little
 3 bit of gelatin in the capsule, the whey, magnesium
 4 stearate and stearic acid, which are just little bits of
 5 ingredients necessary for the encapsulation.
 6 **Q. Okay. Who determined -- I'm sorry.**
 7 **Also on this label it -- on the left-hand side**
 8 **it says "suggested usage."**
 9 **Do you see that?**
 10 A. Yes.
 11 **Q. Okay. And it says, "As a dietary supplement,**
 12 **adults take two to three capsules three times a day or**
 13 **as directed by a physician or by a**
 14 **BioMolecular Nutrition healthcare professional"; is that**
 15 **correct?**
 16 A. Correct.
 17 **Q. And did you -- do you determine or -- strike**
 18 **that.**
 19 **Who determines what amount someone should take**
 20 **of this product?**
 21 A. My husband and I together worked on suggested
 22 usage for most of our labels. And we would sometimes
 23 take the general recommended that the company producing
 24 that supplement already had as a suggested. Sometimes
 25 the suggested is -- and it is just that, a suggested.

168

1 A. Right now I don't remember. You know, these are
 2 all naturally occurring elements, and I did not put
 3 together the biomolecular base. I believe that, you
 4 know, my husband is the one that had, you know, more a
 5 role to play in that, and I just can't tell you why each
 6 one of those individually is in there.
 7 **Q. So that's your answer similarly if we said why**
 8 **the sulfur or the cobalt is in there as well?**
 9 A. Exactly. Yeah, just naturally occurring
 10 elements.
 11 **Q. Okay. Also there's a disclaimer on here if**
 12 **you -- well, what I'll refer to as a disclaimer, where**
 13 **it says: "This statement has not been evaluated by the**
 14 **FDA. This product is not intended to diagnose, treat,**
 15 **cure, or prevent any disease."**
 16 **Do you see that?**
 17 A. Correct. Yes, I do.
 18 **Q. And what was the purpose of including this**
 19 **statement?**
 20 A. Well, we put that disclaimer on all our labels.
 21 That's the FDA disclaimer.
 22 MS. PAYNTER: Okay.
 23 Okay. I need to take a very short break.
 24 (Recess)
 25 BY MS. PAYNTER:

1 Q. Okay. We are going to now look at -- I think if
2 you can give her back the -- I want to take back the
3 extra pages from that set, and we'll be marking them
4 additionally.

5 A. Oh, she wants to mark them separate?

6 Q. Yes. I think that's the best thing that we're
7 going to do.

8 This would be 15.
9 (FTC Deposition Exhibit Number 15,
10 7 Herb Formula labels, was marked for identification.)
11 BY MS. PAYNTER:

12 Q. Actually we're going to return to Exhibit 3,
13 which is in front of you, which is the Web site, pages
14 from the Web site -- or Exhibit 4, rather.

15 And turning to page 0013, do you see that?

16 A. Yes.

17 Q. And this page references the product
18 7 Herb Formula --

19 MR. J. TURNER: Excuse me. What's the page
20 number?

21 MS. PAYNTER: Okay. We're back to Exhibit 4,
22 which is the --

23 MR. J. TURNER: Oh. I got you.

24 MS. PAYNTER: Okay.

25 THE WITNESS: Oh, these were the extras.

1 MR. J. TURNER: I got you.

2 MS. PAYNTER: There's a lot of paper now.

3 MR. J. TURNER: I've got it.

4 BY MS. PAYNTER:

5 Q. And this references, as I said, 7 Herb Formula.
6 Can you tell me what is 7 Herb Formula?

7 A. 7 Herb Formula is a Daniel Chapter One product.

8 Q. Uh-huh.

9 And what is it used for?

10 A. It's used for a lot of different things. It can
11 even be utilized to maintain good health and, you know,
12 help to support the immune system.

13 Q. Okay. Well, looking at Exhibit 4, page 0013, it
14 lists -- it says "7 Herb Formula" in large type and
15 beneath that it lists with bullet points four different
16 I suppose -- would you call those uses -- would that be
17 fine to say "uses" -- of 7 Herb Formula?

18 A. Yes. And functions.

19 Q. Okay. And one of those, the third one from the
20 top, says "fights tumor formation"; correct?

21 A. Correct.

22 Q. And can you tell me what exactly that means?

23 A. Well, according to the structure/function and
24 the function of these herbs that are known to detoxify
25 blood, the 7 Herb Formula can help to detoxify or purify

1 the blood, can help to promote cell repair. This can
2 help fight tumor formation and helps to fight pathogenic
3 bacteria.

4 Q. Okay. Is this also used if a person is
5 suffering from cancer? Is this a product they could
6 use?

7 A. Sure, they could. Yeah. People use 7 Herb for
8 a lot of things.

9 Q. Well, beneath that listing of the uses of
10 7 Herb Formula there's another sentence that says, "If
11 you suffer from any type of cancer, Daniel Chapter One
12 suggests taking this products to fight it," and
13 7 Herb Formula is the first one written there; correct?

14 A. Sure.

15 If you suffer from any type of cancer, it would
16 behoove you to purify your blood, promote cell repair.
17 That's very important. That's an important way to
18 support your body.

19 Q. When was 7 Herb Formula first developed?

20 A. I don't remember.

21 Q. Who created 7 Herb Formula?

22 A. The actual formula is based on an Ojibwa Indian,
23 Canadian Indian formula, and that would date back a long
24 time ago. I can't tell you since when the Ojibwa
25 Indians had it.

1 But I know in our knowledge the lineage is the
2 Ojibwa Indian formula was shared with a nurse in
3 Canada, Rene Caisse, who used the formula extensively
4 with people and came to work with a Dr. Charles Brusch
5 here in America.

6 And the original formula, to the best of my
7 recollection, was a five-herb formula. And the
8 cat's claw ingredient has been added and
9 Daniel Chapter One has added eleuthero to that original
10 formula in an attempt to improve upon the formula.

11 Q. And when you say Daniel Chapter One has added
12 eleuthero -- is that what you said?

13 A. Uh-huh. Yes.

14 Q. -- to it, who in Daniel Chapter One has done
15 that?

16 A. Jim Feijo.

17 Q. Were you involved with that at all?

18 A. Not with that specifically.

19 That was through Jim's research and reading, he
20 saw that eleuthero could be of benefit to add, and he in
21 turn consulted with Dr. Maclean, asked him about that,
22 who in turn consulted with an herbal expert to see if in
23 fact that would be safe and beneficial.

24 Q. Do you know who the herbal expert was?

25 A. I don't for certainty.

1 Q. Was that Rita -- did you mention someone named
2 Rita earlier?

3 A. No. Rita Johnson -- I did mention Rita, but
4 Rita Johnson was the originator of our 508, the
5 corporation sole. She wrote the actual document.

6 Q. Do you know when 7 Herb Formula was created?

7 A. I don't remember.

8 Q. Okay. Why don't we look at what's now been
9 marked as FTC Exhibit 15, which are two pages of labels
10 that are numbered FTC-DCO 0064 and FTC-DCO 0124.

11 (Pause in the proceedings.)

12 A. Yeah.

13 Have you asked a question yet?

14 Q. No, not yet.

15 Just have you looked at it?

16 A. Yes.

17 Q. Okay. And can you tell me what are the active
18 ingredients in 7 Herb Formula?

19 A. Well, the herbs in the 7 Herb Formula are
20 cat's claw, burdock root, Siberian ginseng,
21 sheep sorrel, slippery elm, watercress, and turkey
22 rhubarb.

23 Q. Do you know what the components are of -- you
24 know, what percentage of each of that is in the
25 product?

1 A. I do not.

2 Q. Is there anywhere at Daniel Chapter One where
3 that is maintained?

4 A. Not to my knowledge.

5 And according to my knowledge, these are
6 probably in order of the amount, but again I don't have
7 that information, the percentage of each ingredient.

8 Q. Do you believe there are any records at
9 Daniel Chapter One that would show that?

10 A. Not to my knowledge.

11 Q. Is this -- this is manufactured by whom? Do you
12 know what company actually creates --

13 A. Yeah. I would have to really research into
14 that --

15 Q. Okay.

16 A. -- you know, double-check with the actual
17 manufacturer. And Jill at Daniel Chapter One could at
18 least tell us I believe, you know, where the checks are
19 written to --

20 Q. Okay.

21 A. -- when we purchase it.

22 Q. Do you know, would the manufacturer have the
23 percentages of what should go into each -- go into this
24 product, rather?

25 A. Right. Yeah. I don't know. I can't say if

1 they do.

2 Q. Okay. As well on this, on the left-hand side of
3 0064, there is -- there are directions.

4 Do you see that in the second paragraph?

5 A. Yes.

6 Q. It says: Mix one to two ounces of
7 7 Herb Formula with two to four ounces of hot or cold
8 filtered or distilled water --

9 A. Yes.

10 Q. -- and take twice daily or as directed by a
11 healthcare professional.

12 A. Yes.

13 Q. Who determined the dosage here?

14 A. To the best of my memory, that would have been
15 my husband or myself or working together Jim and myself.
16 And that's just a general recommendation.

17 Q. Okay. Going back to Exhibit 4, if you can --
18 I'm sorry to keep jumping back and forth, but things are
19 in different places -- what would be the basis -- when
20 we look at again that document that says
21 "7 Herb Formula," I think that's 0013?

22 A. Yes.

23 Q. What's the basis for asserting that if you have
24 any type of cancer, using 7 Herb Formula will help you?

25 A. Well, the basis again is knowing what we do

1 about the structure/function of the separate ingredients
2 and the history of the herbal formula, so experientially
3 as well, we can say generally that if you suffer from
4 any type of cancer that we suggest taking -- it should
5 be "this product" --

6 Q. Okay.

7 A. -- but anyway -- to fight it.

8 Q. And do you see beneath all -- beneath the
9 writing there are some pictures of products.

10 Do you see that section as you go lower down on
11 the page?

12 A. I don't see pictures.

13 Q. It starts with BioMixx?

14 MR. J. TURNER: It's not on our page.

15 BY MS. PAYNTER:

16 Q. It's not on your page?

17 A. No. We have no pictures.

18 MR. J. TURNER: We have that one (indicating).

19 MS. PAYNTER:

20 Q. Okay. So on 14, page 0014, there are some
21 pictures and with products BioMixx, 7 Herb, Bio*Shark
22 and GDU?

23 A. Yes.

24 Q. And it says beside that "Daniel Chapter One's
25 cancer solutions"; correct?

1 A. Uh-huh. Correct.

2 **Q. So 7 Herb Formula is one of the items that is**

3 **recommended to treat cancer?**

4 A. Well, we use it to help the whole person.

5 And that's one of those little subtitles, if you

6 will, or little extra statements that was put in for the

7 white space by the graphic artist. I didn't put that in

8 there.

9 **Q. Well, do you agree with the statement?**

10 A. I cannot disagree with the -- I mean, in the

11 true sense of each of those words being a solution to a

12 problem, my problem is I need to help my body fight, you

13 know, this imbalance that I have, then it is a solution

14 to that problem. It is a means to help fight and

15 support your body nutritionally.

16 **Q. So even though it's just filling the white**

17 **space, it's your opinion that it's a truthful statement**

18 **nonetheless.**

19 A. That's a truthful statement.

20 **Q. Okay. Going on actually towards the middle of**

21 **the page 0014, there's a heading there --**

22 A. Yes.

23 **Q. -- that says "Lump is gone without dangerous**

24 **surgery!"**

25 **Do you see that?**

1 A. Yes.

2 **Q. Who wrote that heading?**

3 A. I believe that was Ed Durant. At the time, we

4 had a retired journalist, an elderly man that was

5 working with us a few hours every week. And

6 considering even the exclamation point, I think that

7 was most likely Ed. I'm not certain. I don't believe

8 that was me.

9 But I do recall that, to the best of my memory,

10 Ed got this testimony from Joe Rocha, who has since

11 given us an affidavit, you know, signing and getting it

12 stamped notary public saying that this story is true.

13 But the style of writing as it appears is not

14 mine.

15 **Q. Okay. Going on to DCO 0016 --**

16 A. Yes.

17 **Q. -- there's a heading towards the top that says,**

18 **"7 Herb Formula battles cancer."**

19 **Do you see that?**

20 A. Yes.

21 **Q. Did you write that?**

22 A. I didn't.

23 **Q. Did you -- can you take a second to look at**

24 **that testimony where it says, "Tracey was given no**

25 **hope"?**

1 A. Yes.

2 Yes. And here again, Ed may have had a hand in

3 this. It may have been also the graphic artist at the

4 time giving it this title "7 Herb Formula battles

5 cancer."

6 I didn't object to it. It's not the language

7 that I personally use, but I allowed for it because it

8 is truthful and it is the language or the communication

9 that people are used to and can relate to.

10 And you know, sometimes I see that these other

11 people that have come in to help us, besides the fact

12 that no one person can do it all -- I can't do

13 everything. Jim can't do everything -- but to me they

14 do bring something to the table in that they don't have

15 the depth of understanding that we do and nor do all of

16 them have the spiritual insights that we do, so it's

17 often their understanding and how they can -- you know,

18 in a sense they speak the same language as most of the

19 people, you know, certainly that are looking for answers

20 to some of their questions or problems.

21 And you know, so if I thought that anything was

22 really untruthful or really misleading or, you know,

23 that I objected to, then, you know, obviously I would

24 not allow for that or I would take that out.

25 **Q. If it's the view that these products support the**

1 **body, why not just have that be the advertising?**

2 A. If you have specifically cancer, would you begin

3 to research on the Web site or look for information

4 Googling "body support"? I don't know. You might.

5 A lot of people don't have that knowledge to do

6 that or that understanding because of, you know,

7 cultural conditioning, how people think in America. It

8 comes back to the language that we use, and I mean,

9 words can be inadequate, but they're all that we have to

10 express ideas.

11 So it's again trying to speak your language and

12 then, you know, we'll give a further explanation.

13 As to a claim, a definitive claim, I've never

14 made those, Jim has never made those.

15 To cure or treat, you know, mitigate, prevent

16 cancer or any serious disease.

17 **Q. What would you -- would you accept that somebody**

18 **reading -- who has cancer and goes to your Web site and**

19 **reads the statement that says "7 Herb Formula battles**

20 **cancer," would you accept that someone may take that to**

21 **mean that this is a good product to fight cancer with**

22 **or...**

23 MR. J. TURNER: I object to the formation of the

24 question.

25 BY MS. PAYNTER:

1 **Q. Do you understand my question?**
 2 A. Should I have her rephrase the question?
 3 **Q. No. If you can answer it, please answer it.**
 4 MR. J. TURNER: I want to object.
 5 MS. PAYNTER: You object, yes.
 6 MR. J. TURNER: I want to object and say that
 7 the answer will not be responsive because you've got a
 8 compound question.
 9 MS. PAYNTER: Can you read back the question,
 10 please.
 11 (The record was read as follows:)
 12 "QUESTION: What would you -- would you accept
 13 that somebody reading -- who has cancer and goes to your
 14 Web site and reads the statement that says
 15 '7 Herb Formula battles cancer,' would you accept that
 16 someone may take that to mean that this is a good
 17 product to fight cancer with or..."
 18 BY MS. PAYNTER:
 19 **Q. I'll strike the "or" and that's the question.**
 20 A. I believe that they would be informed that there
 21 are things out there and here is a good thing that they
 22 can use to help themselves. Sure.
 23 **Q. Okay. And are you -- strike that.**
 24 **Does Daniel Chapter One collect testimonies or**
 25 **testimonials from people who use their products?**

1 A. In all these years we rarely did.
 2 When we first created the BioGuide, because the
 3 intent was to educate and inform, we tried to put in a
 4 cross-section of different testimonies, you know, for
 5 people sharing with people and, you know, have carried
 6 that on. But outside of that, we didn't really see a
 7 purpose in collecting testimonies or keeping any
 8 documentation.
 9 Because of the FTC's charges against us, in our
 10 defense we began to ask people for their affidavits, for
 11 testimonies.
 12 **Q. Are you aware of any people who took**
 13 **Daniel Chapter One's products who -- strike that.**
 14 **Are you aware of people who were suffering from**
 15 **cancer and took Daniel Chapter One products and died?**
 16 A. Yes.
 17 And there have been a very few but cases where
 18 we received really heartfelt letters, e-mails, you know,
 19 from the loved ones.
 20 There's a local person who after her husband
 21 lived many months beyond what the doctors expected, but
 22 it was a very end stage, she came in, you know, with
 23 great thanks for the quality that he did have and the
 24 many more months that was expected, and so we actually
 25 in that case we set up where in lieu of flowers we

1 donated a quantity of 7 Herb and some of these other
 2 products. We told her we're going to have that for
 3 people that need it like your husband, you know, can't
 4 afford it.
 5 So you know, sure, people died. God is in
 6 control of that. No one has ever died from the
 7 products.
 8 **Q. Do you put on your Web site anywhere God is in**
 9 **control, we are -- we don't make any claims, God is in**
 10 **control?**
 11 A. We do have a disclaimer --
 12 MR. J. TURNER: It's in here (indicating).
 13 THE WITNESS: Oh.
 14 The information on this Web site is intended to
 15 provide record and testimony about God and his creation.
 16 It is not intended to diagnose a disease.
 17 BY MS. PAYNTER:
 18 **Q. Okay. But that's not -- there's no indication**
 19 **in there God is in control, you can still die of cancer;**
 20 **correct?**
 21 A. That's a very basic truth that -- that I think
 22 everybody knows that -- not necessarily God is in
 23 control. Some people don't believe in God. But is
 24 there any certain thing that will keep you from dying
 25 from cancer if you have cancer? We've never made such a

1 claim.
 2 **Q. Would full disclosure of the limitations perhaps**
 3 **of the product behoove you to put something like that on**
 4 **here?**
 5 A. The limitations of the product being?
 6 **Q. Of the fact that -- well, of the product and**
 7 **God's healing through the product, it's not an**
 8 **absolute.**
 9 A. Any time we have been asked for, you know, some
 10 kind of a guarantee of results or time expected for a
 11 person to even feel better, we are very clear that God
 12 is in control of that. And actually unlike in
 13 allopathic medicine, we don't venture those which would
 14 be just guesses. Only God knows that, and we certainly
 15 do tell people that.
 16 **Q. But there's nowhere on the Web site where that's**
 17 **stated based on the review of these documents.**
 18 A. This disclaimer.
 19 **Q. But beyond that disclaimer that you just read,**
 20 **there's nowhere else where it says that.**
 21 A. I don't know. I would have to go through the
 22 Web site. I haven't been that involved in the
 23 Web site.
 24 **Q. Okay. So now why don't we move forward in the**
 25 **Web site pages.**

185

1 (Pause in the proceedings.)
 2 And we're looking at page 0028.
 3 And 0028 references the product GDU Caps;
 4 correct?
 5 A. Correct.
 6 Q. Can you tell me what GDU Caps is used for -- or
 7 are used for, rather?
 8 A. GDU is an enzyme formula. And enzymes --
 9 they're proteolytic enzymes which naturally do help with
 10 inflammation and can help with pain, usually due to
 11 inflammation. And enzymes have a great function in the
 12 body and perhaps one of the most important things a
 13 person can take since, according to homeopathic
 14 philosophy and even a lot of recent research, many --
 15 much illness, many diseases begin with inflammation in
 16 the body.
 17 Q. Who created GDU?
 18 A. I believe my husband Jim did.
 19 Q. Did you have any role in the creation of GDU?
 20 A. I don't remember. We've had that a long time.
 21 Q. Do you recall generally when GDU was first
 22 offered?
 23 A. I don't remember.
 24 Q. Looking at this, at page 0028, if we can, it
 25 states in here, "Contains natural proteolytic enzymes

187

1 A. Well, that it is used as an adjunct to cancer
 2 therapy by many people, some professionals, some the
 3 patients. And we have seen -- all of these statements
 4 that -- the information we try to provide people, it's
 5 not limited to what we have read. To me, that wouldn't
 6 be satisfactory to read something and then tell you that
 7 this might work this certain way because I read it.
 8 It's all been borne out experientially.
 9 And when you see something enough times work in
 10 a certain way, that gives you some substantiation from
 11 your experience, some credibility or at least, speaking
 12 for myself, the confidence to then share with you this
 13 may do this for you because this has done that for all
 14 these other people.
 15 Q. Well, when you say "an adjunct to cancer
 16 therapy," can you elaborate on what that means?
 17 A. Well, going back to Dr. Kelley, he was a big
 18 proponent for using enzymes when you have cancer because
 19 he himself had a very serious cancer -- I believe it was
 20 pancreatic cancer, which allopathic medicine has really
 21 nothing for -- and at any rate, he used primarily
 22 enzymes. He did some dietary things and I believe
 23 coffee enemas, which we don't do. But he was cured of
 24 cancer, and then he went on to share that book and to
 25 share with many, many patients the same thing.

186

1 (from pineapple source bromelain) to help digest
 2 protein - even that of unwanted tumors and cysts."
 3 Do you see that statement?
 4 A. Yes.
 5 Q. Did you write that statement?
 6 A. I believe I did.
 7 Q. And what was the basis for that statement?
 8 A. Well, GDU, which stands for gelatin-dissolving
 9 units, its primary ingredient is proteolytic enzymes.
 10 And by nature, a proteolytic enzyme digests protein, and
 11 cysts and tumors are a protein mass. It's an unwanted
 12 protein.
 13 And in some of the information we sent you
 14 there's most likely some substantiation, but I do know
 15 that over the years I've read substantiation for making
 16 that statement from that. Is it a deduction?
 17 Q. Okay. Going further down to the third paragraph
 18 that begins "GDU is also used for acute postoperative
 19 swelling," do you see that paragraph?
 20 A. Yes. Uh-huh. Yes.
 21 Q. At the end of it, it says "and as an adjunct to
 22 cancer therapy."
 23 A. Yes.
 24 Q. Do you see that?
 25 And what's the basis for that statement?

188

1 And you know, again, we feel a responsibility to
 2 share with people what we believe can help them. And in
 3 that case Dr. Kelley could have kept that to himself,
 4 but he shared his knowledge, his information, his
 5 experience with other people, and consequently other
 6 people had a choice and have used enzymes as an adjunct
 7 to whatever else they were doing for their cancer with
 8 good results, and we've seen that ourselves.
 9 And that's why we share the testimonies we do in
 10 the BioGuide, on the Web site. You know, that was the
 11 primary purpose, to give people the more information so
 12 that they could then make a choice and some decisions
 13 for themselves.
 14 Q. Do you know specifically how this works, how GDU
 15 works as an adjunct to cancer therapy?
 16 A. Proteolytic enzymes help to break down a protein
 17 mass.
 18 In my mother's situation, we were using
 19 herbs -- you know, we had shared herbs with her, you
 20 know, along with some dietary things, and the tumor
 21 literally had stopped growing, gotten smaller, softer,
 22 more movable.
 23 Q. Do you need a minute?
 24 We can stop for a minute.
 25 A. The doctor that cut it out went into her room

1 after with a funny smile on his face, and he said, That
2 was the funniest-looking tumor I ever saw. It was all
3 shriveled up.

4 It was all shriveled up and it had no life to
5 it, but the fact that it was there still panicked
6 everyone. And my brother was studying to be a cancer
7 doctor, and the pressure was on her to cut it out, and
8 so she went through the surgery, and then they bombarded
9 her with radiation and chemo. And there's no doubt
10 because the doctors admitted those treatments killed
11 her.

12 And I wish back then I knew what I know now,
13 because along with the herbs that we used with her, what
14 she needed to support her body was to help break that
15 unwanted protein mass down faster than her body could do
16 it. It could be still that eventually her body would
17 have been able to dismantle that, that protein mass, but
18 again, from all that I've read and all that I've seen,
19 the proteolytic enzymes in a product like GDU could have
20 assisted her.

21 And I want this on the record. My mother said
22 to me as she was dying -- I helped take care of her, and
23 she said, Tricia, if my story will help anybody else,
24 you share it. And that's what I'm doing.

25 Q. Okay.

1 MR. ZANG: Let's take a break actually.

2 BY MS. PAYNTER:

3 Q. Are you okay? You can take a break.

4 A. No. I'm good.

5 Q. Is GDU something that a person with cancer would
6 take by itself, or would they take other
7 Daniel Chapter One products? Would you recommend they
8 take other products, too?

9 A. Well, people make their own decisions. They
10 do -- you know, what they want to do is what we
11 encourage, but we would not normally recommend just GDU
12 by itself.

13 However, there have been people that have used
14 just GDU and in one case Dolores Winters in our
15 BioGuide, and hers may have been benign, but she did
16 have a breast lump, and to the best of my memory, she
17 just used GDU and it disappeared. And she was ecstatic
18 and shared her testimony with us when she got the good
19 report back.

20 Q. Was GDU ever subjected to clinical trials?

21 A. No.

22 Q. Why don't we look at what we'll mark as
23 Exhibit 16, which would be labels for GDU that are
24 numbered 0125, 0126, 0067 and 0068.

25 And she'll provide that to you when she marks

1 it.
2 (FTC Deposition Exhibit Number 16, GDU Caps
3 labels, was marked for identification.)

4 BY MS. PAYNTER:

5 Q. So Mrs. Feijo, do you recognize the document
6 you've received, Exhibit 16?

7 A. Yes, I do. It's a label for GDU.

8 Q. And on the left -- let's look at the right-hand
9 side of page -- I'm looking at 0125. I want to make
10 sure we're on the same one -- which says
11 "Supplement Facts"?

12 A. Yes.

13 Q. And can you just identify what are the active
14 and inactive ingredients in this product?

15 A. Yes. Bromelain is the primary ingredient, and
16 then you have turmeric, quercetin, feverfew and boron.
17 And in our proprietary blend, which is, you know, as
18 explained before --

19 Q. Yes.

20 A. -- you know, just that Micro Min base.

21 Q. And it says "serving size: three capsules."

22 A. Yes.

23 Q. And who set the serving size?

24 A. Well, I'm looking. The serving size is actually
25 different than suggested usage. A serving size gives

1 you the -- you know the amount that the amounts of these
2 ingredients are found in, so that looks like
3 2,000 gelatin-dissolving units of bromelain is contained
4 in three capsules.

5 Q. I see.

6 So then I guess going to the left side of the
7 label, it says "suggested usage"?

8 A. Right.

9 Q. Okay. And there it says, as a dietary
10 supplement, take three to eight capsules two to four
11 times per day one --

12 A. That might be three to six.

13 Q. Three to six? Okay. Yes, I think you're
14 right.

15 A. Uh-huh.

16 Q. -- capsules two to four times per day one-half
17 hour before meals or as directed by a physician or
18 BioMolecular Nutrition healthcare professional.

19 A. Correct.

20 Q. And so in terms of this being the actual
21 suggested dosage that -- who -- who set that
22 suggestion?

23 A. I believe that was my husband and myself.

24 And from experience, seeing the amount, you
25 know, it's a dietary supplement, it's not a drug, so

1 it's not a concentrated chemical, so we want to give
2 people a general recommendation but a recommendation
3 that is enough to make a difference, you know, to, say,
4 affect their pain, so the three to six capsules is what
5 we see as a good amount.

6 And a half an hour before meals is important
7 because, if you take it with food, the proteolytic
8 enzymes will work on the protein in your stomach. And
9 that's not a bad thing, but we don't sell it as a
10 digestive enzyme necessarily. You know, there are other
11 things that are better utilized for that. You know, for
12 the other purposes that a person may be looking for
13 support from GDU, it's better to take it one-half hour
14 before meals.

15 And you know, a supplement only stays in your
16 body for so long and then it's processed, and so we
17 suggested two to four times a day, whether it's morning
18 and evening, so it's in your system pretty much, you
19 know, close to the 24 hours, or more, and the more may
20 be because of pain that the person has.

21 **Q. Would GDU be recommended for any type of
22 cancer?**

23 A. It wouldn't really be so helpful in a case of,
24 say, a blood cancer like leukemia.

25 **Q. It would be more just on just the organs?**

1 A. Because of the function of the -- well, no. The
2 GDU function is more the proteolytic enzyme that can
3 help to help the body break down this protein mass, and
4 in the case of a leukemia, which is a blood cancer, you
5 know, that's really not required.

6 **Q. Do you know whether GDU counteracts any
7 conventional cancer medicine a patient might -- a person
8 might be taking?**

9 A. To my knowledge, it would not counteract
10 anything that a person would be taking.

11 **Q. Have you ever done any studies to know whether
12 this would counteract with any conventional cancer
13 medicine someone was taking?**

14 A. No. But I have to say that, you know, the word
15 "counteract," meaning, what, that it won't allow
16 chemotherapy to do its job? Chemotherapy will do its
17 job. It's much stronger than GDU.

18 GDU is primarily bromelain derived from
19 pineapple. If you're on chemotherapy and you eat
20 pineapple, even lots of it, the chemotherapy is still
21 going to be a poison and kill cells in your body. The
22 idea being that you want to kill cancer cells, it's
23 going to kill other cells as well.

24 **Q. Well, I'm not really that familiar with cancer
25 treatment, so I mean, certainly radiation or**

1 chemotherapy would be probably the high end. I'm sure
2 there -- I'm not aware of if there are other medicines
3 lower than chemotherapy that somebody may take which --
4 and so my question is in terms of something besides
5 chemotherapy.

6 **Are you aware of whether GDU would counteract
7 any --**

8 A. Well, the same would be true of radiation. The
9 radiation is so strong, it would have no bearing, no
10 interaction.

11 **Q. Finally let's look at FTC -- a document that's
12 been numbered FTC-DCO 0127 and 0128, which are labels
13 for BioMixx.**

14 **The court reporter will mark those.
15 (FTC Deposition Exhibit Number 17, BioMixx
16 labels, was marked for identification.)**

17 BY MS. PAYNTER:

18 **Q. And do you recognize the document -- what is on
19 0127?**

20 A. Yes, I do. It's the label for our BioMixx.

21 **Q. And what is BioMixx?**

22 A. BioMixx is a supplement food, and it's a powder
23 that you blend up in water, or actually in soy milk or
24 milk it tastes great. And that's to provide the body
25 with nutritional support for nourishment.

1 **Q. There's a -- does it do anything else?**

2 **The BioMixx, does it have any other effects on
3 the body?**

4 A. Well, we also put in some of the herbs that help
5 to purify the blood, you know, that helps to detoxify
6 the body.

7 **Q. Who developed BioMixx?**

8 A. My husband did.

9 **Q. And did you assist him in that at all?**

10 A. Perhaps in conversation. You know, he shares
11 things with me. It's been more his role to develop
12 products, but I'll have often some input suggesting an
13 ingredient, or he'll finally, when he has the formula,
14 share it with me to see what I think, you know, that
15 kind of thing. You know, we pray about things. But not
16 that I remember a specific.

17 **Q. Okay. I don't know if on your copy you can
18 actually read what the ingredients are. It's very
19 small.**

20 A. Yeah, it's small and it's kind of a poor copy I
21 think.

22 **Q. Okay. Well, would you know without looking at
23 this what the active ingredient in BioMixx is?**

24 A. I wouldn't. I really need to look at the
25 label.

1 Q. Okay.

2 A. And what I'm looking for now is the main -- the

3 major -- it's really not very readable.

4 Q. No.

5 (Pause in the proceedings.)

6 Okay. So we can't really see, for example, the

7 dosage that's recommended, but is that something that

8 you would have worked on with your husband?

9 A. Directions for usage or do you mean --

10 Q. Yes, directions for usage.

11 A. -- the dosage?

12 The dosage is five rounded scoops.

13 I most likely worked on that with him. I

14 honestly cannot read it to -- you know, to serve my

15 memory to read it and say if it's familiar or not.

16 Q. Okay.

17 A. But, you know, simply in keeping with how we've

18 been doing things, how we generally, you know, work

19 together.

20 Q. And actually if we go to Exhibit 4, and I'm now

21 looking at page 0032 -- Exhibit 4 would be the Web site

22 pages. Go to that document.

23 MR. J. TURNER: This one here (indicating).

24 THE WITNESS: Oh, 14?

25 MS. PAYNTER: No. 4.

1 THE WITNESS: Oh, I'm sorry. Back here.

2 MR. J. TURNER: The last page.

3 THE WITNESS: Okay.

4 BY MS. PAYNTER:

5 Q. And on this page 0032, there is a testimony;

6 correct, of Texas -- it says, "Texas businessman has

7 true friends for life."

8 A. Yes.

9 Q. And beside that there is a column that says

10 "BioMixx."

11 Do you see that?

12 A. Yes.

13 Q. And it says "trademark."

14 Do you see the "TM" right beside the word

15 "Mixx"?

16 A. Yes.

17 Q. Are your products all trademarked?

18 A. That, I don't know.

19 Q. Who would know that?

20 A. My husband Jim may.

21 Q. As we go down in that section of the text where

22 it says, under BioMixx, the heading, the last paragraph

23 of the column?

24 A. Yes.

25 Q. And the final sentence there, it says, "It is

1 used to assist the body in fighting cancer and in

2 healing the destructive effects of radiation and

3 chemotherapy treatments"; correct?

4 A. Yes. Yes.

5 Q. Did you write that statement?

6 A. I don't remember with certainty, but I very

7 possibly did.

8 And I have no problem with that statement. It

9 is used to assist the body in fighting. It's a

10 difficult thing for the body to recover from radiation

11 and chemotherapy. This is used to assist the body in

12 that fight, you know, to regain some kind of balance.

13 Q. Okay. Well, we can put these aside now. I

14 believe I'm finished with those.

15 Just separately I wanted to ask you, were any

16 tests done on BioMixx, clinical studies done on

17 BioMixx?

18 A. No.

19 Q. Did Daniel Chapter One engage anybody else to do

20 any kind of clinical tests on BioMixx?

21 A. No.

22 Q. And what's your support for saying that this

23 product fights cancer?

24 A. That it can be used to help fight cancer.

25 Q. Okay.

1 A. Based on the structure of the ingredients, what

2 we know that to be, and based on the function of those

3 ingredients, what we know that to be, and based on the

4 experiential evidence, the witness of many.

5 Q. Okay. I only have a few more minutes, so I

6 don't know if you want to just stretch your legs or you

7 want to go to the end, just hang out for a second, let

8 me see if I have a few more questions or --

9 A. Yeah.

10 Q. Okay.

11 (Pause in the proceedings.)

12 Okay. I'd like to show you FTC Exhibit 8, which

13 is a letter, a letter from Swankin & Turner to the

14 Federal Trade Commission.

15 A. Yes.

16 Q. Have you ever seen that letter?

17 A. Yes. This was the early objection we had to

18 the -- well, after we objected to the order, the charge

19 in the order.

20 Q. Okay.

21 A. And the letter from our attorney.

22 Q. And attached to that letter is a chart that

23 lists different articles, if you'll take a look at the

24 back there.

25 A. Yes.

201

1 **Q. It's several pages. When you've looked at it**
 2 **all, just let me know, please.**
 3 **(Pause in the proceedings.)**
 4 A. Yes.
 5 **Q. Have you ever seen that chart before?**
 6 A. I have. It looks familiar.
 7 **Q. Did you create that chart?**
 8 A. I did not create it.
 9 **Q. And in what context have you seen it before?**
 10 A. If I remember correctly, I saw it last night.
 11 **Q. And had you seen it before last night?**
 12 A. I may have. I don't remember.
 13 **Q. Do you know who put it together?**
 14 A. I believe that we did it, Daniel Chapter One,
 15 but I really don't remember.
 16 **Q. Would you have any records in your office that**
 17 **would help you remember --**
 18 A. I don't know.
 19 **Q. -- whether you put it together?**
 20 **Do you have anything in your office that**
 21 **might --**
 22 A. Yeah, I would have to look.
 23 **Q. Okay. Well, reviewing that, that states that**
 24 **this -- that these articles reflect the substantiation**
 25 **for the various claims that we've asserted have been**

203

1 **that was marked yesterday.**
 2 A. Yes.
 3 **Q. That's Exhibit Number 9 --**
 4 A. Yes.
 5 **Q. -- which I believe -- well, can you tell me**
 6 **actually what that is?**
 7 A. Well, I saw this for the first time last night,
 8 and I've never seen this before last night, and it
 9 really has no bearing on anything I do or have been
 10 interested in up till now, nor am I all that interested
 11 in it.
 12 **Q. So you don't know who prepared that or...**
 13 A. I believe my husband did, to the best of my
 14 memory from brief discussion last night, that he did in
 15 response to, you know, the FTC investigation here.
 16 Beyond that, again, I've never known any figures going
 17 on at Daniel Chapter One through the ministry, and even
 18 now it's not really of interest to me.
 19 MS. PAYNTER: I don't have any further
 20 questions.
 21 MR. J. TURNER: Okay.
 22 MS. PAYNTER: So I know Mr. Turner has some he
 23 wants to put on the record, so why don't we do that
 24 now.
 25 MR. J. TURNER: Can we take a break?

202

1 **made.**
 2 **Do you see that?**
 3 A. Yeah.
 4 **Q. And would you agree that those articles are**
 5 **substantiation for the claims that have been made or**
 6 **we've asserted have been made?**
 7 A. They appear to be substantiation.
 8 **Q. Uh-huh.**
 9 A. If we share that shark cartilage may be used as
 10 an adjunct, you know, in a person's fighting cancer and
 11 I see here Shark Cartilage for Cancer Treatment from the
 12 American Journal of Health System Pharmacol., I mean, it
 13 seems to be.
 14 **Q. Would those articles be located at**
 15 **Daniel Chapter One's offices?**
 16 A. They may be. I can't say right now. I don't
 17 remember.
 18 Therapeutic potential of curcumin in human
 19 prostate cancer, that looks very familiar.
 20 My husband and I have read a lot. We used to
 21 read hours, literally, every day, everything we could
 22 get our hands on, because we wanted to build up our own
 23 knowledge base, our information, and that's how one does
 24 that.
 25 **Q. Okay. And I'd like to show you another exhibit**

204

1 MS. PAYNTER: Absolutely.
 2 MR. J. TURNER: Just a short break?
 3 MS. PAYNTER: Absolutely.
 4 (Recess)
 5
 6 EXAMINATION
 7 BY MR. J. TURNER:
 8 **Q. I just have a couple of follow-up questions. It**
 9 **shouldn't take us very long.**
 10 **Mrs. Feijo, you're under oath you remember?**
 11 A. Yes.
 12 **Q. And I wanted to ask you about the ministry**
 13 **before the name Daniel Chapter One came into being.**
 14 A. Okay. When Jim and I married, it -- do I look
 15 at you?
 16 **Q. Yeah, you can look at me.**
 17 A. -- it was for the express purpose of serving God
 18 together.
 19 **Q. When was that?**
 20 A. That was in 1983.
 21 **Q. Okay.**
 22 A. And we actually between us felt that we would
 23 first serve the kingdom of God and his righteousness,
 24 consider others more important than ourselves, and from
 25 scripture ask God for just our daily bread.

205

1 In scripture, God's word is: For if I have too
2 little, I may steal it; if I have too much, I may
3 forget you.

4 So we went into our marriage that way again
5 from scripture seeing that there's an advantage to
6 having two because God says, if one falls, the other
7 can pick him up, and with Jesus we believe that we're a
8 cord of three strands not easily broken.

9 And it was our desire to be missionary and
10 serve him in that way, and we imagined that that would
11 be to go overseas, and so we investigated the
12 possibility of going to different countries, which we
13 did end up doing --

14 **Q. And this was all before the Daniel Chapter One
15 concept had emerged.**

16 A. Correct, all before Daniel Chapter One --
17 although right off the bat we read in
18 Daniel Chapter One and we were intrigued by that and we
19 decided to just eat vegetables and drink water for ten
20 days as Daniel and his men did to see because God's
21 word is always true. Whether or not we understand it,
22 it's always true.

23 And so we did that and found that in fact our
24 eyes were bright, they sparkled, we had lots of energy,
25 and we thought, wow, that's great, that it's really good

207

1 realized that a person in such a weak, compromised
2 state needs, if anything, more nutrients to support
3 them, and at any rate they certainly need nutrients.

4 So from that early experience and with the
5 protein powder that we saw really help him, you know,
6 we had the idea that, you know, gee, anyone in a sick
7 or weak state would benefit from this kind of thing,
8 and I --

9 **Q. Did Fred talk to you about Daniel Chapter One?**

10 A. He did.

11 When we -- right before we got married, Fred
12 laid hands on us and, you know, blessed us in a
13 spiritual way into the service of the Lord.

14 And when we first began Daniel Chapter One, he
15 was in the nursing home at the time, and you know, as
16 all things spiritual, we were sharing with him what God
17 was doing in our life at that time. And he got very
18 excited and he said, Oh, I wish I could be with you in
19 Rhode Island to be part of that work. And we said, What
20 work? And he said, To be part of that ministry.

21 And we said it's really no big deal, it's just a
22 little, you know, mom-and-pop health shop and people are
23 coming in. But we said, Fred, if it's going to save one
24 soul, it's worth it. And he said, Oh, not one, pray for
25 many.

206

1 for your health and obviously we can eat in such a way
2 that we're going to benefit from.

3 We had a heart to serve him together by
4 ministering to other people, and that included visiting
5 people shut in, including those in nursing homes.

6 And there was an elderly, Fred Bob, that we used
7 to visit -- actually he owned a nursing home. He and
8 his wife ran a very small nursing home, and then he
9 himself a couple of years later ended up in a state
10 nursing home.

11 And we used to visit Fred, who was always a big
12 part of our life together, and it was when Fred suddenly
13 took pneumonia and almost died from that and we realized
14 and brought him actually nutrient supplement powders in
15 an attempt to help him --

16 **Q. When was this?**

17 A. That would have been -- it was all before 1986.
18 It was between 1983 and 1986, maybe 1984, around there.

19 And you know, we saw that the nutrient powders
20 actually supported him nutritionally, and he didn't die
21 as expected from the pneumonia. He pulled through.

22 And what caused us to be concerned is seeing
23 not only Fred but all the elderly people around, the
24 food being wheeled in. It was white bread and it was
25 Jell-O and nothing of much nutritive substance. And we

208

1 **Q. And that's when you started forming the
2 Daniel Chapter One concept.**

3 A. We already had Daniel Chapter One. We believed
4 that the Lord led us to name that ministry
5 Daniel Chapter One from the very first day.

6 The whole story is a miracle how it even came to
7 be because we had nothing, but we prayed that God would
8 use us and use that ministry, Daniel Chapter One, and
9 every day we would pray that he would bring who he
10 wanted in, if it was one person, that he would bring in
11 those that he wanted us to minister to. And it was a
12 very unlikely little spot in a very unlikely place for
13 anyone really to come in.

14 **Q. Prior to your getting married, did you work in
15 the cancer field?**

16 A. I did. I was in cancer research for several
17 years.

18 **Q. What did you do?**

19 A. I worked at Mason Research in Worcester, Mass.,
20 and I was a technician there, so I was working directly
21 with the animals. I was executing the assays for the
22 doctors, testing all the chemotherapeutic drugs on the
23 mice and the rats.

24 **Q. How long did you do that?**

25 A. I did that for about three years.

1 **Q. What did you learn while you were doing that?**

2 A. Well, working with the mice, injecting them with
3 the chemo every day, we had to, to fulfill the assay, no
4 matter what state they were in, we had to, you know,
5 pick up all five or whatever in a cage -- and there
6 would be like twenty cages for one assay, five mice in a
7 cage, and we had to pick them up one by one every day
8 and inject the chemotherapy into their body.

9 And as the days went on, the tumors would be
10 often enormous, and they would be I would think
11 sometimes dead in the cage, and then you'd see a little
12 sign of life. And they would be so weak and so sick,
13 they would have stopped eating and drinking, and we
14 still had to pick them up and inject the chemotherapy
15 into them for the purpose of the assay.

16 At the end of the assay, we would put them in
17 the gas chamber and kill them all that way. If the gas
18 chamber was down, then we would pop their little heads
19 off, cervical dislocation, and basically annihilate them
20 that way.

21 I hated destroying so much life, but I believed
22 that for the purpose of humanity it was important to be
23 testing these chemotherapeutic agents on mice and rats.

24 And in the few years that I worked there, there
25 were several meetings that the doctors held where they

1 announced to us that the people were not really
2 responding the same way as the mice were at all, so I
3 had to question then why are we doing this.

4 And towards the end of my time there at
5 Mason Research we were directly linked with
6 UMass Hospital in Worcester, Mass., and there were
7 people there with cancer, dying of cancer.

8 And I was at that point working on the new mice
9 that had no thymus and consequently no immune system,
10 and they were bred to not have a thymus or an immune
11 system.

12 And so they were on the top floor. And the
13 advantage here is we would receive cancerous tumors from
14 UMass. And I was head of surgery at that point. And we
15 would cut up the tumors and we would put them under the
16 renal cavity, you know, the kidney cavity.

17 And because these mice had no immune system, the
18 great thing was the tumor would grow very quickly. It
19 would like double in size daily so that within a seven
20 to ten-day period we could get a really good size tumor
21 and in that same time period use the chemotherapeutic
22 agents to see which would at least prevent the growth
23 of the tumor or which would do that supposedly the
24 best.

25 I don't remember a whole lot of difference

1 amongst the chemicals, although some mice would get
2 sick and die sooner than others, but I do remember that
3 the patients in the hospital in UMass were all dying,
4 and there again I had to question what are we doing
5 this for. The word that I got again in meetings with
6 the doctors is the humans were not responding the same
7 way as the mice anyway.

8 **Q. You mentioned in the testimony earlier that your
9 brother is a cancer surgeon?**

10 A. No. My brother is a doctor. He works in an
11 emergency room. He was studying to be an oncologist at
12 the time that my mother had cancer, and at that time he
13 was really supporting the conventional treatment because
14 it's what he was learning and what he believed would be,
15 you know, her best chance at surviving.

16 By then, because of my personal experience in
17 cancer research and from all that I had seen in working
18 with people and all that I had read -- and now you're
19 talking of numerous years between leaving the research
20 and at that point when my mom had cancer -- I didn't
21 believe that she should go through the conventional
22 cancer treatment. However, I supported her in her
23 decision as we do, you know, with everyone.

24 And at that time, you know, again, my brother
25 was planning to be an oncologist. When my mom died and

1 the doctors even acknowledged to my dad that the
2 chemotherapy was like fertilizer to the cancer and my
3 brother saw for himself that she suffered greatly from
4 the radiation, you know, I mean, the side effects of
5 the radiation, which destroyed her immune system,
6 everything they did caused the cancer to get far worse,
7 you know, besides the suffering that it caused her, it
8 was after that that he decided not to become a cancer
9 doctor.

10 And I inherited his books. He asked me if I
11 wanted his textbooks, and so I have his oncology
12 textbooks. Again, he became an emergency room
13 physician instead.

14 **Q. You indicated that in your products, some of
15 your products at least are useful in conjunction with
16 chemotherapy and radiation.**

17 **Do you have any experience with any mainstream
18 institutions about that fact?**

19 A. There was a time period that Dana-Farber, which
20 is a cancer hospital, they were so excited that people
21 using our products, even while they were going through
22 chemotherapy and radiation, they had more energy, they
23 were able to withstand the treatments better, not losing
24 their hair as much, as quickly -- and this is very
25 important -- they were not suffering the cachexia, which

213

1 is the muscle wasting that a cancer patient experiences
 2 and usually ultimately dies from.
 3 And in many cases our products were turning
 4 around the cachexia and helping people undergoing those
 5 treatments begin to put on muscle mass, and that's
 6 almost unheard of.
 7 And they were sending many patients to us for
 8 our products.
 9 **Q. Okay. I wanted to call your attention -- now, I**
 10 **don't remember what -- this is I guess FTC 1, which is**
 11 **the complaint?**
 12 MS. PAYNTER: Uh-huh.
 13 BY MR. J. TURNER:
 14 **Q. And I wanted to call your attention to the --**
 15 MS. PAYNTER: Can you have her just use the
 16 official exhibit.
 17 MR. J. TURNER: Yeah.
 18 BY MR. J. TURNER:
 19 **Q. So turn to page 8.**
 20 A. Uh-huh.
 21 Yes.
 22 **Q. Now, you'll see there's eight statements that**
 23 **are listed there?**
 24 A. Yes.
 25 **Q. And --**

215

1 nowhere that we made that definitive statement. I
 2 believe that was taken from "Pure skeletal tissue of
 3 sharks which provides a protein that inhibits
 4 angiogenesis - the formation of new blood vessels. This
 5 can stop tumor growth."
 6 **Q. So you're saying that in your -- you believe**
 7 **that those are -- those statements are different.**
 8 A. Correct, I do believe that they're different.
 9 **Q. And then it says that Bio*Shark -- the second**
 10 **one is: Bio*Shark is effective in the treatment of**
 11 **cancer.**
 12 A. I could not find that statement either.
 13 **Q. And what is your -- what is the statement that**
 14 **you make about Bio*Shark in relation to cancer?**
 15 **(Pause in the proceedings.)**
 16 A. I do not see anything about cancer. I don't
 17 see the word "cancer" here. I'd have to refer to
 18 the --
 19 **Q. How about the word "treatment"?**
 20 A. -- BioGuide perhaps.
 21 I don't see the word "treatment" either.
 22 **Q. So -- but your -- say your view of the**
 23 **relationship between Bio*Shark and cancer. What do you**
 24 **mean? What are the -- what's the concept?**
 25 MS. PAYNTER: Can I -- I object to that.

214

1 MR. ZANG: Can you just state which those are?
 2 MR. J. TURNER: Do you want the --
 3 MS. PAYNTER: Just explain for the record where
 4 you're looking.
 5 BY MR. J. TURNER:
 6 **Q. Okay. We're looking at page 8. It's Roman**
 7 **numeral I in the complaint, and it's the first -- I**
 8 **think it's the first operative paragraph of the proposed**
 9 **order.**
 10 **So it's on page 8 and it's Roman numeral I**
 11 **carried over from page 7, and there are eight statements**
 12 **that are alleged to be statements that were made by**
 13 **Daniel Chapter One. And I want to go through these**
 14 **statements and ask you if in fact these are statements**
 15 **that you recognize as statements that Daniel Chapter One**
 16 **made.**
 17 **So number 1 is: Bio*Shark inhibits tumor**
 18 **growth.**
 19 A. Well, I remember in working on interrogatories
 20 or after working on a sequence to those interrogatories,
 21 I recall doing just this, having our words on one side
 22 and this listing from the FTC on the other, and
 23 realizing that it was not exactly our words what the FTC
 24 represented.
 25 Bio*Shark inhibits tumor growth. I could find

216

1 I think she already testified to all of that. I
 2 think -- you said there were statements that you wanted
 3 to put on the record. I know I asked her already what
 4 the purpose of that product is and we went over what
 5 this -- what the language on the Web site states in
 6 terms of treatment.
 7 MR. J. TURNER: The statement is, the situation
 8 we're addressing is that -- and we're going to ask about
 9 the answer to 14.
 10 The answer to 14 says that they made these
 11 statements. The position is that they do not agree that
 12 they made these statements, they do not acknowledge that
 13 they made these statements, and the belief is that these
 14 are misrepresentations and they were misunderstood when
 15 we read them before.
 16 MS. PAYNTER: When we read them before when?
 17 MR. J. TURNER: When we answered the complaint.
 18 That these statements --
 19 MS. PAYNTER: Mr. Turner, the proper way to do
 20 that is to try to amend your answer. However,
 21 yesterday I recall you saying, when we asked Mr. Feijo
 22 questions, that these are legal conclusions and he
 23 couldn't answer. I don't know if -- if you remember
 24 that.
 25 So I don't --

217

1 MR. J. TURNER: Let me --
 2 MS. PAYNTER: If you want to make that
 3 correction, it's not the appropriate place to do it.
 4 She's already testified as to what is on the
 5 Web site. We went extensively over what is on these
 6 representations here, what does it mean about cancer
 7 treatment, and she's already done that.
 8 If there's other things, then that's not what
 9 you represented you wanted to do at this juncture.
 10 MR. J. TURNER: Well, then what I'm going to do
 11 then is I'm going to ask her whether she admits that
 12 these statements are statements that Daniel Chapter One
 13 made.
 14 THE WITNESS: Those are not my words. They're
 15 not statements we made. We do not make such definitive
 16 statements.
 17 MR. J. TURNER: Okay. So we will amend the
 18 complaint on that point.
 19 MS. PAYNTER: Thank you.
 20 MS. LEHRFELD: The answer, amend the answer.
 21 MR. J. TURNER: Amend the answer, right. Amend
 22 the answer.
 23 Okay. We have no further questions.
 24 MS. PAYNTER: Okay. Thank you.
 25 (Pause in the proceedings.)

219

1 A. The nutritionist at Dana-Farber contacted
 2 Daniel Chapter One and expressed enthusiasm about the
 3 patients at Dana-Farber using Daniel Chapter One
 4 products and the great results that they were getting
 5 and again primarily concerned that they could stop the
 6 muscle wasting, the cachexia, and even begin to reverse
 7 it.
 8 **Q. Were the patients -- was there a formal
 9 arrangement for the patients to use this product?**
 10 A. There was no formal arrangement that I know of.
 11 The nutritionist would make recommendations, suggestions
 12 to the patients to use our products.
 13 Even though Mega Gains is not one of the four
 14 challenged products, I believe that it still says
 15 something about the quality of our products and the
 16 knowledge and the information that Jim and I bring to
 17 providing these products.
 18 **Q. Do you have the name of the nutritionist who --**
 19 A. Ann Chiavacci. Ann Chiavacci.
 20 **Q. And were these patients who had been using the
 21 product and were also at the hospital getting
 22 treatment?**
 23 A. I don't know if they were outpatient or in the
 24 hospital, but they were patients at Dana-Farber there
 25 for receiving conventional cancer treatment, and

218

1 And I'm sorry. We do have some -- just one or
 2 two very brief questions.
 3 - - - - -
 4 EXAMINATION
 5 BY MS. PAYNTER:
 6 **Q. You mentioned that Dana-Farber, the hospital
 7 Dana-Farber, that doctors were excited about the use
 8 of -- I'm not sure which the product was.
 9 Which product specifically were they excited
 10 about?**
 11 A. It was primarily the Mega Gains.
 12 **Q. And -- okay.**
 13 A. Yeah. I believe it was primarily the
 14 Mega Gains --
 15 **Q. So that's not one of the products at issue.**
 16 A. -- to the best of my recollection.
 17 **Q. Sorry.**
 18 **Not one of the products that we're challenging
 19 here in this action; right?**
 20 A. Correct.
 21 **Q. And can you just describe -- they contacted you
 22 directly and talked to Daniel Chapter One about the
 23 product?**
 24 A. The -- who did?
 25 **Q. Well, you tell me who.**

220

1 Dana-Farber saw that Daniel Chapter One products could
 2 be used as an adjunct beneficially.
 3 **Q. And did they -- did Dana-Farber ever purchase
 4 products from you to use with their patients?**
 5 A. Not to my knowledge did they.
 6 **Q. Just going back to the complaint actually on
 7 page 8, since we've looked at these claims here --**
 8 MR. J. TURNER: I object to this now if you cut
 9 me off from asking about it.
 10 MS. PAYNTER: Well, you did get in a little bit
 11 about it. You got in -- you did ask about statement
 12 number 1.
 13 BY MS. PAYNTER:
 14 **Q. So I just want to be -- I just want to -- to
 15 refer to the beginning of the page, if you could see the
 16 top of the page where it says "shall not make any
 17 representation, in any manner, expressly or by
 18 implication, including through the use of product or
 19 program names or endorsements," et cetera.
 20 Do you see that?**
 21 A. Yes.
 22 **Q. That it says "expressly or by implication"?**
 23 A. Yes.
 24 **Q. And do you understand the meaning of the word
 25 "by implication"?**

1 A. I do.
 2 **Q. And what would that mean to you?**
 3 A. It would mean that we provide information that
 4 in a sense is saying Bio*Shark inhibits tumor growth.
 5 We don't speak definitively like that. Again,
 6 we know that God is the great physician. There's no
 7 healing that takes place apart from him. He allows the
 8 body to heal itself. There's nothing any man or any
 9 product can do outside of those two things.
 10 MS. PAYNTER: Okay. Thank you.
 11 I have no further questions.
 12 Again, thank you very much for your time and
 13 your patience today.
 14 So --
 15 MR. ZANG: Let's go off the record.
 16 MS. PAYNTER: -- go off the record.
 17 (Whereupon, the foregoing deposition was
 18 concluded at 4:37 p.m.)
 19
 20
 21
 22
 23
 24
 25

1 CERTIFICATION OF REPORTER
 2
 3 DOCKET/FILE NUMBER: 9329
 4 CASE TITLE: Daniel Chapter One and James Feijo
 5 HEARING DATE: January 14, 2009
 6
 7 I HEREBY CERTIFY that the transcript contained
 8 herein is a full and accurate transcript of the notes
 9 taken by me at the hearing on the above cause before the
 10 FEDERAL TRADE COMMISSION to the best of my knowledge and
 11 belief.
 12
 13 DATED: JANUARY 15, 2009
 14
 15
 16 JOSETT F. WHALEN, RMR
 17
 18
 19 CERTIFICATION OF PROOFREADER
 20
 21 I HEREBY CERTIFY that I proofread the transcript
 22 for accuracy in spelling, hyphenation, punctuation and
 23 format.
 24
 25 DIANE QUADE

A	173:17 191:13 196:23	advertising 48:21 60:7,8 79:24,24,24 180:1	altogether 4:22 amassed 101:9 amber 65:6 amend 165:3 216:20 217:17,20,21,21 America 2:1 81:13 82:24 172:5 180:7 American 110:19,21 202:12 amino 24:8,11,19 92:20 159:2 amount 47:13 48:4 84:7 133:21 165:20 166:19 167:14 174:6 192:1,24 193:5 amounts 192:1 AMPM 49:4 and/or 144:25 angiogenesis 101:16 102:2 141:4 156:23 157:18,21 162:25 215:4 animals 208:21 Ann 219:19,19 annihilate 209:19 announced 64:13 210:1 annually 16:2,3,4 answer 6:17,20 7:3 7:10,11 18:9 27:22 30:4 31:3 45:15,20 56:24 67:12,20,25 89:9,10 94:7 104:10,13,16 110:14 113:25 115:8 129:17 130:8,14 132:9 141:20,25 142:3 142:12,15 155:16 161:17 168:7 181:3,3,7 216:9,10 216:20,23 217:20 217:20,21,22 answered 44:9 95:16 141:12 144:15,18 161:14	216:17 answers 36:2 86:17 128:8 159:20 179:19 anticipating 158:21 anybody 23:21 78:3 189:23 199:19 anymore 74:23 anyone's 95:13 anyway 176:7 211:7 apart 162:13 221:7 apologize 86:11 apparently 122:13 appeal 81:6 appear 68:17 202:7 APPEARANCES 3:1 appears 69:2 84:24 121:7 142:17 178:13 appease 42:2 applicable 42:13 120:19 application 14:8 applying 12:11 appreciate 68:22 appreciating 73:12 73:13 approached 71:17 appropriate 7:18 88:22 217:3 approve 26:15 approved 26:16 approximately 30:1 area 24:2,13 68:25 72:19 areas 23:10 arguments 88:21 ARN 85:7 104:21 arrangement 219:9 219:10 arranges 22:20 arrow 113:1 article 30:14,20 85:25 89:8 91:2 113:19 118:17 122:8,11 123:19
abilities 51:14	173:17 191:13 196:23	advice 52:18 118:1	amend 165:3 216:20 217:17,20,21,21	
ability 78:6 100:19 101:15 157:21	activity 59:22 88:5	advised 95:7,25 96:10	America 2:1 81:13 82:24 172:5 180:7	
able 32:19 51:2 78:2 93:14 94:15 104:25 114:7 143:24 155:18 189:17 212:23	Acts 38:20 39:3	afar 62:19	American 110:19,21 202:12	
above-entitled 2:17	actual 8:8 43:8 54:6 55:6 56:17 68:12 85:6 97:21,22 111:6 125:9,18 148:25 163:6 164:7 165:13 171:22 173:5 174:16 192:20	affect 193:4	amino 24:8,11,19 92:20 159:2	
absolute 184:8	acute 186:18	affidavit 178:11	amount 47:13 48:4 84:7 133:21 165:20 166:19 167:14 174:6 192:1,24 193:5	
Absolutely 106:25 118:13 154:1 204:1,3	add 14:21 33:8 95:11,12 106:23 140:11 142:17 152:6 172:20	affidavits 182:10	amounts 192:1	
Abstract 141:3	added 74:15 172:8,9 172:11	affirmatively 6:20	AMPM 49:4	
abstracts 114:24 120:6,11,13,18	adding 74:22	afford 64:10,14 65:17 68:8 183:4	and/or 144:25	
abuse 64:20	additional 146:8	agency 9:8,10,12,15 165:23	angiogenesis 101:16 102:2 141:4 156:23 157:18,21 162:25 215:4	
Accent 84:13,17 91:14	additionally 169:4	agents 209:23 210:22	animals 208:21	
accept 180:17,20 181:12,15	address 9:25 10:1 133:11	ago 19:13 25:1,1 28:4 29:15 36:20 64:13 80:12 84:13 99:7 122:7 131:14 144:17 157:6 160:1 171:24	Ann 219:19,19	
acceptable 5:17	addressing 216:8	agree 149:9 177:9 202:4 216:11	annihilate 209:19	
accepted 162:23	ADD/ADHD 30:15	agreements 144:2	announced 64:13 210:1	
access 38:13 39:6 62:14	adhere 48:22	ahead 71:2	annually 16:2,3,4	
accessed 148:10	adjunct 58:21 186:21 187:1,15 188:6,15 202:10 220:2	air 150:14	answer 6:17,20 7:3 7:10,11 18:9 27:22 30:4 31:3 45:15,20 56:24 67:12,20,25 89:9,10 94:7 104:10,13,16 110:14 113:25 115:8 129:17 130:8,14 132:9 141:20,25 142:3 142:12,15 155:16 161:17 168:7 181:3,3,7 216:9,10 216:20,23 217:20 217:20,21,22	
account 49:11 130:9	admits 217:11	aisles 42:17	annually 16:2,3,4	
accountability 65:20	admitted 189:10	AI 23:2	announced 64:13 210:1	
accounts 54:9 72:1	ads 61:7	aligned 83:2	annually 16:2,3,4	
accuracy 222:22	adults 166:12	allegations 8:10,15	annually 16:2,3,4	
accurate 84:15 222:8	advanced 14:25 15:4 16:18,24 17:1 17:3,5,10 139:22	alleged 214:12	annually 16:2,3,4	
accurately 7:13 155:16 165:16	advantage 69:19 205:5 210:13	Allium 13:3,19,24	annually 16:2,3,4	
acid 166:4	adverse 22:10	allopathic 22:11 90:5 184:13 187:20	annually 16:2,3,4	
acids 24:8,11 92:20 159:2	advertise 79:22,23	allow 32:14 72:5 77:25 78:3 179:24 194:15	annually 16:2,3,4	
acknowledge 216:12	advertised 79:6,13	allowed 50:13 51:10 51:13 179:7	annually 16:2,3,4	
acknowledged 212:1	advertisement 79:25 83:1,8	allows 44:1 221:7	annually 16:2,3,4	
act 17:15	advertisements 42:14	Almanac 131:5,10 131:16,18 132:4	annually 16:2,3,4	
acting 114:17		Almighty 32:12	annually 16:2,3,4	
action 9:4,7 36:11 218:19			annually 16:2,3,4	
active 167:5,8			annually 16:2,3,4	

[224]

124:3,5,14 126:7 127:2,4,8 142:20 articles 85:10,10 89:5,6 90:25 92:6 107:9 114:20 115:3,6,18 116:25 120:17 125:12 144:7,11,18 146:4 200:23 201:24 202:4,14 artist 20:19 22:19 22:19,20,24 23:15 31:15 35:2,5,5 125:15 150:10 160:10 177:7 179:3 artistic 20:18 22:16 25:11 artwork 150:5 ascertain 66:6 aside 80:20 199:13 asked 22:6 25:24 29:21 41:9 71:11 74:13 80:14,14 81:17 87:22,24,25 104:5,16 106:22 125:15 129:17 141:13 146:13 167:7 172:21 173:13 184:9 212:10 216:3,21 asking 66:5 88:25 125:1 128:11,14 147:1 220:9 aspect 17:10 20:18 53:21 assay 47:8 49:14,17 209:3,6,15,16 assays 208:21 asserted 201:25 202:6 asserting 175:23 assist 115:22 196:9 199:1,9,11 assisted 189:20 assuming 76:4 160:19	ate 41:13 42:3 atomizer 49:20 57:25 attached 144:10 153:23 200:22 attempt 31:25 155:17 172:10 206:15 attention 104:14 156:16 213:9,14 attorney 4:10 135:21 200:21 attorneys 8:20 audience 81:4,7 author 23:20,22 25:9 93:9 94:10 110:17 113:18 127:1 140:8 159:22 authority 52:14 authors 140:1,3 availability 48:10 available 38:1,9 60:4 78:1 Avogadro 13:7 aware 4:15 56:15 78:15,16 141:8,24 162:14,18 182:12 182:14 195:2,6 a.m 2:18	145:13 146:10,11 147:14 150:20 154:5 169:2,2,21 171:23 175:17,18 180:8 181:9 187:17 189:12 190:19 198:1 200:24 220:6 bacteria 171:3 bad 41:23 78:4 193:9 bags 69:15 balance 12:15 14:1 32:8,10,11,14 37:4 43:1,15,20 44:17 44:18,24 45:2 46:5 46:9 86:19,24 92:22 199:12 band 124:22 bank 54:9 bare 61:2 84:5 barium 167:19,24 barter 17:25 base 62:21 109:7 123:6 152:1 163:14 165:18,19 165:22 167:9,19 168:3 191:20 202:23 based 15:3 43:21 74:4 116:3 121:1 171:22 184:17 200:1,2,3 basic 74:3 183:21 basically 25:4 47:11 52:11 85:11 134:4 209:19 basis 73:25 76:24 157:8,10 159:7,18 175:19,23,25 186:7,25 bat 205:17 Bates 154:8 bathroom 153:25 bathrooms 53:18 battles 178:18 179:4 180:19 181:15	beamed 84:18 beans 41:6 46:22 bear 41:22 bearing 167:10 195:9 203:9 Beech 75:15 began 36:18 37:23 47:2,23 58:6 59:18 60:3 62:4 80:13 81:19 82:4 151:20 152:24 182:10 207:14 beginning 39:18 43:4 58:8 59:3,6 61:11,25 62:3 114:12 148:2 220:15 begins 98:25 109:11 111:23 125:22 147:11,11 186:18 begun 46:14 BEHALF 3:3,15 behoove 171:16 184:3 belief 216:13 222:11 believe 12:22 16:7 20:1,24 22:4 23:7 24:24 25:16 27:24 30:14,21 32:6 35:18 43:6 47:24 51:25 52:21,24 57:3 60:19 73:2 75:5 77:15 79:12 82:13 84:23,23 85:13 96:20 102:11 106:4 107:11 109:12 110:20 111:12,25 113:13 118:6,22 119:11 121:4 122:3,15 124:4,16 126:1 127:5 129:3 129:4,10,10 130:3 131:2 132:14,20 133:25 135:4 136:8,10,13 137:16,23 140:7	140:14,25 142:20 144:11 147:7 149:8 150:4,6 153:24 154:22 160:5 161:14 162:10 167:2 168:3 174:8,18 178:3,7 181:20 183:23 185:18 186:6 187:19,22 188:2 192:23 199:14 201:14 203:5,13 205:7 211:21 215:2,6,8 218:13 219:14 believed 118:12 208:3 209:21 211:14 believers 38:3 believing 60:16 belong 65:24 beneath 156:21 170:15 171:9 176:8,8 beneficial 172:23 beneficially 220:2 benefit 95:16 113:5 114:19 172:20 206:2 207:7 benefits 74:12 benign 190:15 best 17:12 26:17 43:5 52:1 96:20 108:16 125:4 141:9,25 151:11 158:19 169:6 172:6 175:14 178:9 190:16 203:13 210:24 211:15 218:16 222:10 bestowed 60:22 best-guessing 136:3 Betsy 3:18 5:4 better 21:22 42:18 48:12,13 96:17 119:23 161:7
--	--	--	---	--

B

B 3:17 108:8 111:16
Babylonia 40:24
back 9:21 14:21
31:3 32:11 36:19
37:15 38:20 39:2
46:5,8,13 50:24,25
51:1 58:4 61:1,2
62:20 65:11 82:22
90:12 94:5 95:15
97:5 102:21
103:12 104:23
111:4 114:11
122:6 127:9,11,21
128:16 129:23
136:9 139:1
141:18 143:16,22

184:11 193:11,13 212:23	155:5,6,14,22 156:18 159:13 160:3 161:13 162:2,15 163:10 163:17 165:12,14 176:21 214:17,25 215:9,10,14,23 221:4	boiling 65:5 bombarded 42:15 85:12 189:8 book 24:17 38:20 39:3 40:22 98:17 98:21,22 99:6,14 103:9 107:17,18 107:20 109:20 112:7 117:21 124:21 125:19 127:9,11,19,20 130:15,17 131:5 132:22,24,25 134:2,5 149:10 150:5 151:19 153:8 162:11 187:24	brain 33:3 35:13 bread 204:25 206:24 break 7:17 103:11 129:19,22 136:18 143:15 153:25 168:23 188:16 189:14 190:1,3 194:3 203:25 204:2 breast 190:16 bred 210:10 brief 203:14 218:2 briefly 8:4 bright 205:24 brighter 41:15 bring 32:13,18 40:15 46:8 58:11 66:23 68:8 85:9 87:13 91:9 104:24 104:25 136:15 143:24 144:19,19 179:14 208:9,10 219:16 bringing 37:20 45:10 61:1 62:22 85:18 brings 53:16 90:12 brittle 90:9 broader 90:4,24 broke 105:9 broken 205:8 bromelain 106:4 108:1 186:1 191:15 192:3 194:18 brother 189:6 211:9 211:10,24 212:3 brought 9:5,7 32:11 62:20 79:21 80:2 104:14 206:14 Brown 153:13 Brusch 172:4 budget 79:24 build 24:11 51:13 83:25 84:9 202:22 building 38:19 39:1 39:1 50:11,12	bulk 46:21,22 50:17 bullet 170:15 burden 40:16 burdock 173:20 burning 13:16 business 50:9 53:20 53:21 54:7 56:14 60:9 118:2 144:3 businessman 198:6 busy 11:12 buy 161:2,2 buying 51:14
bibliography 138:7 big 59:13 187:17 206:11 207:21 bigger 87:17 90:11 Bill 73:15 bills 54:14 61:4 binders 122:23 124:2 bioactivity 139:21 bioavailability 48:13 BioGuide 20:15,20 20:24 21:1,6,15 22:25 23:5,7,9,18 24:25 25:7,18,20 25:22 26:14,25 28:16 32:20 33:1 34:2 117:6,8,9 144:21 145:23 160:6 182:2 188:10 190:15 215:20 BioGuides 26:1 biology 14:15 BioMixx 1:15 34:18 63:24 118:3 119:8 123:3,10 145:1 176:13,21 195:13 195:15,20,21,22 196:2,7,23 198:10 198:22 199:16,17 199:20 biomolecular 75:21 117:17 165:18 166:14 167:9,19 168:3 192:18 Bio*Shark 1:12 63:24 101:13,15 141:7,10,24 142:1 144:25 154:15,16	birth 93:10 94:11 bit 6:15 20:7 66:5,10 92:15 116:18 143:15,18 160:18 166:3 220:10 bits 166:4 blend 123:6 191:17 195:23 bless 80:23 81:2 blessed 207:12 blood 100:10,12 156:23 157:22 159:14 170:25 171:1,16 193:24 194:4 196:5 215:4 blue 124:22 Bob 206:6 bodies 43:5,6,6 44:1 44:2,7 95:10 body 12:15,24 14:1 14:13 24:1,11 31:8 32:9,11,14,14,15 32:18 42:25 43:12 43:13 44:16,19,24 45:13 46:4,4,8 48:11,14 49:5 58:18 91:6,7 95:12 95:19 113:10 115:22 130:25 154:18 157:21 171:18 177:12,15 180:1,4 185:12,16 189:14,15,16 193:16 194:3,21 195:24 196:3,6 199:1,9,10,11 209:8 221:8 body's 13:22 49:1 137:15	bookcases 114:23 books 58:23 107:5 108:20 114:23,24 120:17 125:11 146:15 150:7,11 150:24 151:15,21 151:21,22 152:2 152:22 212:10 bookshelf 118:24 bookshelves 124:12 boosts 137:20 borne 137:17 187:8 boron 191:16 Botanical 110:19,21 135:11 137:5 bottle 65:6,6 bottom 21:24 35:11 119:3,22 121:15 126:9 142:25 143:1 153:16 154:9 166:1 bovine 134:11 Bowling 2:14 3:10 box 10:4 68:21 118:24 125:11 boxes 114:23 124:12 125:20 bracket 134:23 bracketed 121:16 134:21	bulky 46:21,22 50:17 bullet 170:15 burden 40:16 burdock 173:20 burning 13:16 business 50:9 53:20 53:21 54:7 56:14 60:9 118:2 144:3 businessman 198:6 busy 11:12 buy 161:2,2 buying 51:14	
C				
C 4:1 5:6 111:16 159:4 222:1,1,19 222:19 cachexia 212:25 213:4 219:6 cage 209:5,7,11 cages 209:6 Caisse 172:3 Cal 58:16 calcium 159:2 call 20:17 23:11 27:12 35:9 49:7 64:15 66:4 67:11 68:1,20 69:7 80:21 92:5,7,8,10,14 93:1,11 94:4,12 96:4 97:4 123:6 139:11 167:9 170:16 213:9,14 called 4:5 31:11 40:18 47:24 62:1 71:10 81:1 95:6 96:2,21,23 159:3 caller 80:24 callers 91:22 92:13 92:24 93:1 calling 67:19 92:2 95:25 calls 36:1 64:7,9 67:7,10 71:12 call-in 91:23 92:1 campaign 60:8 79:24 Canada 172:3				

Canadian 171:23	captivity 40:24	212:7	36:24 37:13,14,16	checked 138:19
cancer 27:11 28:5	carbohydrate 47:10	causes 118:13	37:23 39:12,15	checks 36:3 54:13
31:4,11,13 32:3,21	47:11 48:1	cavity 210:16,16	40:19,23 41:14,20	54:13,15,18,19
33:3,22 34:1,1,20	carbohydrates	cell 171:1,16	43:2 44:11 45:16	63:21 174:18
34:22 86:3,4 89:7	159:3	cells 194:21,22,23	46:11,15 50:8,19	chemical 14:12
89:9,21 90:1,4,6	care 24:1 48:20 66:1	center 35:25 64:18	50:25 51:21 52:4	42:23 43:22 44:13
93:2,5,5,17 94:18	83:7 189:22	67:11 68:2	53:15,18 54:9,14	44:18 45:6,13,17
96:3,5,6,18,22	carefully 152:23	centuries 137:18	54:22 56:4,16,20	45:17 193:1
97:5 100:13 115:6	careless 65:12	cepa 13:3,19,24	57:14,22 58:8,12	chemicals 45:2 46:3
115:12,18,20,21	Carole 3:4 4:10	certain 22:15 25:3	62:25 63:23 64:11	211:1
115:23 116:9,11	carried 182:5	26:17 27:16 29:7	64:15,16 66:9	chemical-laden
116:11 118:5	214:11	47:25 54:11 56:10	67:16 71:1 73:11	43:18
130:8,10,14 131:8	carries 43:9	57:8 63:9,18 99:9	73:21,23 76:2,3	chemo 189:9 209:3
131:11 132:7	carry 71:4,11,14,16	123:9 151:14,14	79:6 80:21 81:3	chemotherapeutic
137:12,14 139:17	72:16 75:8	162:9 178:7	87:10,18,23 88:1,3	208:22 209:23
139:22 140:8	carrying 73:11	183:24 187:7,10	89:22 90:4 92:23	210:21
144:21 145:1	cartilage 134:11	certainly 31:22 37:4	95:8 96:24 100:17	chemotherapy 97:3
171:5,11,15	139:16,23 141:3,8	46:10 61:16 88:16	101:12 105:11	97:6 194:16,16,19
175:24 176:4,25	141:10,24 142:2	141:21 146:20	106:6 114:13	194:20 195:1,3,5
177:3 178:18	157:17 159:1	156:1 179:19	117:5,21 118:8	199:3,11 209:8,14
179:5 180:2,16,18	162:11,15,24	184:14 194:25	128:1 132:11	212:2,16,22
180:20,21 181:13	163:7,12 165:17	207:3	144:4 154:7,16,25	Chiavacci 219:19,19
181:15,17 182:15	167:8 202:9,11	certainty 25:2 157:5	155:13 158:14	child 45:8,9
183:19,25,25	case 4:18 5:11 13:5	172:25 199:6	161:12 162:18	children 30:14,15
186:22 187:1,15	15:4 16:18 17:1,9	certificate 12:8	163:23 170:7	30:17,19,22 37:6
187:18,19,20,24	18:10 26:5 36:21	14:17 15:8,12	171:11 172:9,11	83:18 85:23
188:7,15 189:6	37:11 97:8 101:7	certified 14:19	172:14 174:2,9,17	child's 45:11
190:5 193:22,24	119:1 123:23	CERTIFY 222:7,21	176:24 181:24	China 38:4
194:4,7,12,22,24	124:1 132:2,6	cervical 209:19	182:13,15 190:7	Chinese 74:18,19
199:1,23,24	153:2 163:22	cetera 24:12 35:14	199:19 201:14	chip 66:5,9
202:10,11,19	167:2 182:25	88:20 150:7	202:15 203:17	chiropractic 75:6,11
208:15,16 210:7,7	188:3 190:14	157:25 220:19	204:13 205:14,16	choice 31:13 85:17
211:9,12,17,20,22	193:23 194:4	chalky 48:9	205:18 207:9,14	92:9 96:15 188:6
212:2,6,8,20 213:1	222:4	challenged 142:18	208:2,3,5,8 214:13	188:12
215:11,14,16,17	cases 18:11 26:12	219:14	214:15 217:12	choices 85:19 96:13
215:23 217:6	37:10 72:2,7 93:12	challenging 118:4	218:22 219:2,3	chondroitin 159:4
219:25	93:13 94:13,14	218:18	220:1 222:4	choose 154:20
cancerous 160:19	95:6 96:25 97:4	chamber 209:17,18	charge 18:3,12 29:5	chose 48:5
161:8 210:13	182:17 213:3	chance 98:3 138:4	63:25 200:18	Chris 5:6
capacity 114:14	cash 68:18,20 69:6	211:15	charged 77:13 78:11	Christ 52:13
Caps 1:14 185:3,6	catalog 75:22 77:8	change 78:14,16	charges 6:10 182:9	Christian 29:19,23
191:2	categories 108:17	89:11	Charles 172:4	30:9,11,23 61:7
capsule 166:3 167:1	cat's 113:23 114:3	changes 43:3 78:17	chart 200:22 201:5	82:10,15 117:1
capsules 166:2,12	126:7 172:8	chapter 2:5,8 4:12	201:7	CHRISTOPHER
191:21 192:4,10	173:20	5:3 8:9 22:8 23:3	cheap 65:9	3:17
192:16 193:4	cause 222:9	25:25 26:24 29:13	check 106:13 110:25	church 38:2,16,17
capsulize 53:3	caused 206:22 212:6	34:8,18 35:21	136:18	38:19,21,22 39:2

39:12 52:15 65:22 65:25 66:1,2,5 72:4 churches 38:12 circumstances 18:8 cite 117:18 City 8:12 claim 23:20 146:5 180:13,13 184:1 claims 96:5 128:7,13 129:1 144:25 145:4 146:5 183:9 201:25 202:5 220:7 clarification 141:11 164:2 clarify 7:6 88:17 89:1 90:20 142:4 142:11,16 clarity 161:18 classic 13:14,15 127:22 131:16 Classical 15:1,15 claw 113:23 114:3 126:7 172:8 173:20 clear 23:17 87:2,20 88:15 90:19 93:24 94:25 96:15 117:23 153:7 161:20 184:11 clearance 75:1 clinical 163:6 190:20 199:16,20 close 25:1 193:19 clothing 53:17 cobalt 168:8 coffee 187:23 cold 175:7 collapse 78:4 collateral 50:15 collect 181:24 collected 121:11 124:12 collecting 182:7 color 124:20 column 29:15,20,22	35:12 117:2 126:9 198:9,23 combined 150:8 come 26:9 44:4,4 52:3 61:4,16 64:15 69:14,24 70:1 75:25 91:24 97:5 98:22 102:20 103:12 114:10 120:5 143:16 155:18 159:8 162:22 179:11 208:13 comes 17:16 42:12 44:10 55:20 109:8 180:8 comfortable 54:1 coming 8:12 50:6 60:2 61:21 65:11 117:4,25 128:16 207:23 comment 22:7 commented 78:20 Commission 1:1 2:2 2:13 3:3,8 4:11,23 9:5 99:18 107:18 200:14 222:10 Commission's 97:17 97:23 common 137:20 162:23 communicate 31:20 32:1 communicated 35:8 communicating 113:21 communication 35:9 179:8 communist 39:5 community 27:7,9 company 50:13,17 63:20 122:22 166:23 174:12 compared 70:24 comparison 69:20 compatibility 43:11 74:21,24	compensation 54:21 compile 120:4 compiled 101:9 157:19 compiling 118:21 119:13 complaint 4:13 8:15 36:12 63:11 144:9 153:22,23 156:5 158:20,21 161:6,7 213:11 214:7 216:17 217:18 220:6 complete 86:15 completely 86:15 129:20 completion 12:8 components 78:11 120:7 132:12,13 163:9 165:13 167:6 173:23 compound 181:8 compromised 207:1 computer 68:19,19 69:11 125:19 concentrate 65:5 concentrated 193:1 concept 154:23 205:15 208:2 215:24 concepts 128:17 concerned 31:22 63:14 83:20 151:13 206:22 219:5 concerning 119:1 concluded 221:18 conclusions 216:22 condition 18:2 44:23 79:2 conditioning 180:7 conduct 121:2 conducted 49:17 70:2 162:10 confer 78:7 confidence 187:12 confirm 107:12	confuse 83:2 conjunction 19:4 212:15 connect 32:19 connected 70:10 77:6 connection 20:5 77:17 consented 11:11 consequently 54:4 188:5 210:9 consider 21:17 131:23 204:24 considered 17:11 77:21 133:15 considering 178:6 consistently 128:22 128:23 consult 17:15 73:23 consulted 73:18 74:1,17,21 172:21 172:22 contacted 74:13 218:21 219:1 contain 123:1 124:2 contained 5:14 109:1 192:3 222:7 contains 141:4,8,10 141:24 142:1 185:25 content 20:15,20 22:19 25:10 31:9 47:18 125:10 132:5 140:21 contents 21:23 107:20 context 201:9 continue 15:22 36:15,22 73:20 78:24 80:3 142:13 continued 28:8,10 41:16 continues 148:7 Continuing 147:6 contracts 144:2 contrary 60:25 Contreras 140:1,6	contributed 109:7 148:16 contributing 66:12 contributions 25:13 control 47:17 183:6 183:9,10,19,23 184:12 convenience 27:13 31:18 32:3 33:25 convenient 35:9 conventional 194:7 194:12 211:13,21 219:25 conversation 196:10 conversations 101:10 conveyed 67:24,25 73:5 cooking 113:8 copied 127:10 copies 144:7 161:10 copy 106:17 137:25 144:10 161:7 196:17,20 cord 205:8 corner 100:5 118:18 147:16 corporate 51:20,22 52:11 56:9,13 corporation 2:5 51:23,25 52:4 54:10 173:5 correct 6:3,4 7:11 10:16 15:15 16:12 16:17,19 17:17 18:21 27:21 31:2,5 31:19 32:7 33:4,22 34:20 39:13,22,25 40:3,5,20 45:4 46:5,6 55:9,21 59:5 63:25 70:19 75:22 76:12,13,15 76:17 77:23 80:5,6 85:2 99:1,15,16,21 100:2,14,15 104:12,13 105:13 108:7 119:21
--	--	--	---	--

120:3 121:6	95:12	115:18,19,20	64:15,16 66:9	94:11 95:13
127:14 130:5,6	courses 14:3,24 16:6	118:11 128:17	67:16 71:1 73:11	205:20 209:9
137:8 139:16	16:8,9,10,13	145:1 168:15	73:21,23 76:2,3	day-to-day 54:6
141:4 166:15,16	court 5:24 6:18 7:3	180:15	79:6 80:21 81:3	DCO 1:11 97:13,25
168:17 170:20,21	21:11 34:15	cured 34:20 187:23	87:10,18,23 88:1,3	97:25 98:25
171:13 176:25	102:15 128:19	cures 43:24	89:22 90:4 92:23	102:11,11 109:12
177:1 183:20	143:18 195:14	curing 115:6 116:9	95:8 96:24 100:17	109:12 111:23
185:4,5 192:19	cover 65:14	116:11	101:12 105:11	113:12 118:19
198:6 199:3	covered 85:24	current 10:22 23:5	106:6 114:13	119:10,11 121:5
205:16 215:8	covers 152:2 153:8	25:19 26:14 145:5	117:5 118:8 128:1	122:3,15 124:14
218:20	co-counsel 4:19	currently 23:8 29:7	132:11 144:4	125:22 126:2,19
correcting 45:10	cpaynter@ftc.gov	70:14	154:7,16,25	127:4 130:3,4
correction 7:15	3:13	curriculum 145:5	155:13 158:14	131:2 132:19
217:3	crash 70:1	customer 47:15	161:12 162:18	133:24 134:7
correctly 7:3 140:9	create 31:5 121:24	customers 67:19	163:23 170:7	135:7,8 136:22
201:10	201:7,8	cut 157:21 160:18	171:11 172:9,11	137:22 140:14
cost 48:15 65:15,15	created 32:16 38:9	188:25 189:7	172:14 174:2,9,17	142:20,21 147:7
77:16,21,21 78:24	43:5,7 59:15,18	210:15 220:8	176:24 181:24	148:21 149:6,23
83:25 84:1,9	95:9,23,24 101:12	cutting 13:17	182:13,15 190:7	153:9 178:15
costly 47:12 51:9	115:21,22 118:11	cysts 156:18 160:3	199:19 201:14	DC1 35:13
costs 48:22 69:5	137:16 155:15	186:2,11	202:15 203:17	De 23:14
78:19	167:15 171:21		204:13 205:14,16	dead 209:11
Council 110:19,21	173:6 182:2		205:18,20 207:9	deal 67:18 207:21
counsel 4:24 5:2	185:17	D	207:14 208:2,3,5,8	death 93:10 94:3,11
118:1 133:11	creates 174:12	D 1:2 4:1 111:16	214:13,15 217:12	95:4,7
146:2 150:20	creating 60:24 62:23	222:19	218:22 219:2,3	decade 25:1
151:24 155:21	creation 44:6 77:10	dad 36:2 212:1	220:1 222:4	decide 41:12
156:11	160:8 183:15	daily 55:13,15,19,20	Dartmouth 11:18	decided 47:16
counsel's 144:9	185:19	81:19 175:10	20:4	205:19 212:8
161:7	creator 32:12 93:9	204:25 210:19	data 148:5,7	decision 211:23
count 57:24	94:10	Dana-Farber	date 84:15 93:10,10	decisions 54:2
counteract 194:9,12	credibility 187:11	212:19 218:6,7	94:11,11 122:6	188:12 190:9
194:15 195:6	credit 50:14,14,15	219:1,3,24 220:1,3	143:1,4 171:23	decision-making
counteracts 194:6	50:17	dangerous 177:23	222:5	54:4
counting 36:18	Creek 10:10	Daniel 2:5,8 4:12	DATED 222:13	deduction 186:16
countries 9:24 39:5	criticism 79:22	5:3 8:9 22:8 23:3	daughter 68:4	deeper 44:22
205:12	critics 12:19 19:19	25:25 26:24 29:13	David 3:6 4:20	Deer 10:10
country 39:9	cross-section 182:4	34:8,18 35:21	106:20	defense 182:10
couple 9:2 16:5 51:6	crude 61:20	36:24 37:13,14,16	day 49:7 50:7,23,24	deficiency 45:7,9
58:23 60:21 72:5,7	cultural 180:7	37:23 39:12,15	51:1 53:17 66:22	92:20
72:22 82:24 88:11	curcumin 112:25	40:19,22,23 41:8	66:22 82:5 85:9	define 10:23 12:13
114:10 147:12	113:3 202:18	41:11,20 43:2	95:23 166:12	38:17
156:10 204:8	curcuminoid 112:23	44:11 45:16 46:11	167:1 192:11,16	defined 53:5
206:9	113:1,6	46:15 50:8,19,25	193:17 202:21	definitive 180:13
coupon 79:17	Curcuminoids	51:21 52:4 53:15	208:5,9 209:3,7	215:1 217:15
course 14:2,6 15:20	112:6	53:18 54:9,14,22	days 9:2 41:11,14	definitively 221:5
39:5 60:11 71:6	cure 43:23 115:6,12	56:4,16,20 57:14	55:4 61:17 93:10	degeneration 157:1
		57:22 58:8,12		
		62:25 63:23 64:11		

degree 12:5	154:21,22 155:6	210:5 218:22	113:21,21 114:16	71:19 78:5 81:12
degreed 12:7	155:22 171:19	disagree 160:12	116:6 182:21	89:4 188:7 189:24
demarcated 150:16	196:7	177:10	189:10 208:22	197:18 205:13
deny 140:18	developing 15:23	disappeared 190:17	209:25 211:6	207:17 209:1
department 29:2	49:19 58:14 128:1	disclaimer 168:11	212:1 218:7	210:3 211:4
depending 69:17	129:16	168:12,20,21	document 52:1,22	214:21
depends 18:7	development 60:21	183:11 184:18,19	75:23 97:10,21,22	dollar 84:7
deposition 2:18 4:17	100:12 101:3,6	disclosure 184:2	98:25 99:5 102:1,9	dollars 64:16 67:6
5:9 6:13 8:1 97:12	diabetic 156:25	discoveries 86:4	103:1,6 105:3,10	72:3
163:17 169:9	diagnose 77:10	discussed 89:8	105:12 106:8	Dolores 190:14
191:2 195:15	168:14 183:16	91:11,18 92:6	107:7,14 109:11	domain 95:14
221:17	DIANE 222:25	discussing 26:23	109:17,19 111:22	Donald 153:13
depression 92:14	dictated 91:20	91:1 92:5 131:11	112:3 113:12	donated 183:1
depth 14:10 179:15	die 93:15 94:16	134:11 137:8	118:20 119:9,10	donation 64:2,8
derived 194:18	183:19 206:20	discussion 21:10	119:12 121:4,5,8	67:17 68:23 70:7
describe 12:1,6	211:2	34:14 57:11 86:20	122:1,4,5,15,18	77:6,12
16:21 17:2 19:1,16	died 182:15 183:5,6	102:14 128:18	125:21,24 126:2,3	donations 73:1
20:10 27:4 30:24	206:13 211:25	139:6 203:14	126:6,19,20 130:2	door 50:20 66:3
37:12 218:21	dies 213:2	disease 32:9 42:25	130:7,13 131:2	69:15
described 13:24	diet 40:25 42:12	43:23,24 44:10,14	132:19 133:24	doors 71:13
describes 24:1	43:17,18	44:15,16 45:7	134:1,7,8,15 135:7	dosage 175:13
description 1:10	dietary 41:2 166:11	77:11 120:23,23	135:9 136:21,21	192:21 197:7,11
24:10,21 33:21	187:22 188:20	127:13 168:15	137:2,7,22,24	197:12
131:23	192:9,25	180:16 183:16	139:13,15 140:13	double 210:19
design 95:17	difference 86:18	diseases 156:25	140:15 141:1	double-blind 121:2
designed 35:7	193:3 210:25	185:15	142:22,25 143:6	double-check 56:11
135:23	different 9:23,23	dislocation 209:19	147:9,15 149:5,23	174:16
desire 205:9	17:7 28:20 29:6,6	dismantle 189:17	151:4 153:9	doubt 189:9
desired 37:16	42:7 82:8,21 86:16	display 72:3	163:25 164:18	dozen 72:15
despite 81:10	97:8 101:10 107:9	displayed 69:10	165:4 173:5	Dr 19:8 22:4,14
destroyed 212:5	123:7 148:15	disseminate 28:10	175:20 191:5	23:14 58:19 73:15
destroying 209:21	152:17 163:22	116:19	195:11,18 197:22	74:1,5,17 75:2,11
destructive 199:2	170:10,15 175:19	distance 61:15	documentation	75:12,13,14,15
detailed 151:1	182:4 191:25	distilled 175:8	120:16 182:8	100:8 103:9 130:9
determine 91:18	200:23 205:12	divine 52:9	documented 111:2	130:15,23 140:6
111:24 166:17	215:7,8	Docket 2:6	documents 5:15 8:2	162:10,13 172:4
determined 153:5	difficult 17:9 18:9	DOCKET/FILE	97:15,18,19,20,24	172:21 187:17
166:6 175:13	86:17 199:10	222:3	98:5 104:25 107:3	188:3
determines 77:13	digest 186:1	doctor 71:24 74:6,7	114:5 124:9,11	drafts 27:2
166:19	digestive 193:10	75:2 94:1,3 95:2,4	128:5,22 140:20	drank 41:13 42:3
detoxify 170:24,25	digests 186:10	96:11 188:25	143:11,22 144:1,5	draw 52:23 156:16
196:5	diluted 13:6	189:7 211:10	144:24 147:6,19	drawn 109:6
develop 49:21 82:16	directed 166:13	212:9	149:1 152:8 153:7	drew 52:22
82:20,22 109:3	175:10 192:17	doctors 71:4,10,14	163:25 165:5	dried 46:22
196:11	directions 175:3	71:16 72:9,10 73:7	184:17	drink 41:1,7 205:19
developed 31:7 40:4	197:9,10	73:14 75:8,18	doing 28:23,23 29:9	drinking 209:13
101:21 102:2,5	directly 208:20	93:16 94:17 95:7	58:19 60:9,23	drug 44:18 93:15

[230]

94:16 192:25	edition 27:13	149:13	186:9 187:18,22	excellent 159:1
drugging 30:22	educate 25:5 182:3	ended 97:2 206:9	188:6,16 189:19	excerpt 99:17 109:2
drugs 30:25 120:13	educating 31:10	endocrine 49:6	193:8	127:13
208:22	53:13 85:18	endorsements	equipment 51:15	excerpts 5:10
Dube 23:4	education 11:14	220:19	65:3	excited 207:18
duces 143:23	16:1	ENDO-24 49:8	equivalent 13:20	212:20 218:7,9
due 185:10	effect 13:21 132:14	ends 107:11 109:12	especially 18:11	exclamation 178:6
Dulabon 3:6 4:20	effective 215:10	111:23,24,25	ESQ 3:4,5,6,7,16,17	Excuse 97:18 139:17
duly 4:6	effects 22:10 45:14	113:13 119:11	3:18	169:19
Durant 178:3	132:15 167:24	124:16 125:22	essential 117:16	executing 208:21
dust 43:7,8	196:2 199:2 212:4	127:5 130:3 131:3	158:15 159:15	exhibit 1:10 21:13
duty 25:24 116:15	effort 88:9 90:9	132:20 133:25	et 24:12 35:14 88:20	23:5 33:12,13
dying 183:24 189:22	111:20	136:22,25 137:22	150:7 157:25	75:20,20 97:10,12
210:7 211:3	eight 192:10 213:22	140:14 142:21	220:19	117:14,15 145:19
dynamic 12:25	214:11	147:7 149:8,24	European 162:20	154:6 156:14
13:21 19:21 44:21	either 39:21 65:12	enemas 187:23	163:5	161:6 163:17
44:22	66:25 78:5 93:14	energetic 12:18,22	evaluated 168:13	169:9,12,14,21
D.C 3:21 9:1	94:15 104:9	17:6	evening 14:7 49:6	170:13 173:9
	150:18 155:24	energy 13:9,20,22	49:12 81:12	175:17 190:23
	215:12,21	19:21,22 32:7	193:18	191:2,6 195:15
E	elaborate 30:10	81:21 205:24	event 87:18	197:20,21 200:12
E 1:2 3:18 4:1,1	55:11 187:16	212:22	eventually 189:16	202:25 203:3
104:1,1 107:18	elderly 178:4 206:6	engage 199:19	everybody 183:22	213:16
108:3,7 140:1	206:23	England 11:15,21	evidence 200:4	exhibits 153:23
222:1,1,1,19,19,19	elements 168:2,10	11:22 14:2,22 15:6	evidently 119:18	Expanded 107:17
earlier 77:20 95:15	eleuthero 74:15,22	100:9	122:13 126:7	expected 40:25
117:1 173:2 211:8	74:24 172:9,12,20	English 11:19 20:1,2	132:6	182:21,24 184:10
earliest 39:10	elm 173:21	87:3	exact 80:10	206:21
early 38:21 55:3	embellishment	enhancement 83:6	exactly 15:19,21	expecting 114:10
59:12,21 61:17	22:15	enormous 209:10	20:10 27:24 29:24	expeller 65:2
200:17 207:4	embellishments	entail 53:10	53:3 67:20 149:12	expenses 55:1
earth 43:7,8	20:17 21:3,18	entails 17:2	149:14 153:3	expensive 64:25
ease 32:9	23:11	entered 120:16	168:9 170:22	65:7
easily 154:9 205:8	emerged 205:15	enthusiasm 219:2	214:23	experience 13:18
East 10:4,8	emergency 211:11	entire 63:8 72:3	examination 1:4 4:5	88:7 167:4 187:11
eat 40:25 41:2 43:17	212:12	99:14 130:17	4:7 204:6 218:4	188:5 192:24
194:19 205:19	emotional 37:21	150:24 160:6	examined 4:6	207:4 211:16
206:1	92:21,21	entireties 5:10	example 8:15 13:2	212:17
eating 209:13	employment 10:22	entities 4:14	13:10,11 22:4	experienced 16:24
eBay 51:15	10:23,24 11:2,8	entitled 107:17	32:20,25 43:16	65:11
echinacea 111:6	144:2	108:1	61:8 68:25 69:20	experiences 213:1
119:2,6,20 120:1,2	empower 85:19	envelopes 79:17	70:6 71:24 76:18	experiential 116:12
122:14 127:2,2	emulate 167:16	enzyme 185:8	78:4 79:2,3 85:25	120:22 132:16
137:8,10,12,20,20	encapsulation 166:5	186:10 193:10	89:6,21 110:9	200:4
economic 79:2	encourage 95:22	194:2	117:6 150:12	experientially
ecstatic 190:17	190:11	enzymes 130:16,25	197:6	137:17 176:2
Ed 178:3,7,10 179:2	encyclopedia 149:11	185:8,9,11,25	examples 30:13	187:8
Eden 127:9,11,21				
edit 25:24,25 26:10				

[232]

129:2	158:9 163:16,17	209:17,17	give 6:17 7:10 13:1	214:13 221:15,16
formulation 58:25	163:21,23 165:4	gastrointestinal	28:1 30:13 35:10	goal 60:6
128:6	169:9 173:9 191:2	37:8	35:10 37:19 40:17	God 9:22 10:19
forth 9:21 128:5	195:11,15 200:12	GDU 1:14 63:24	42:14 45:9 47:21	11:12 19:5 32:11
175:18	203:15 213:10	68:15,24 106:6	64:14 66:11,17	37:18 38:7,9,25
forward 84:11	214:22,23	112:12,16 144:25	72:23 80:8 96:14	39:4 40:12,13 41:2
86:21 115:25	FTC's 108:12	176:22 185:3,6,8	100:24 162:11	41:21,21,23 42:3,8
118:16 184:24	153:22,23 182:9	185:17,19,21	169:2 180:12	42:21 43:3,14,24
Foster 110:17	FTC-DCO 163:25	186:8,18 188:14	188:11 193:1	47:21 50:11 51:10
119:16	165:6 173:10,10	189:19 190:5,11	given 6:13 19:5 44:3	51:13,16 52:6 53:7
found 47:8 101:20	195:12	190:14,17,20,23	53:17 64:7 67:4	53:25 55:2 60:12
107:5,5 121:13	fulfill 209:3	191:2,7 193:13,21	72:2 93:13,19	60:18 61:1,3 62:17
192:2 205:23	fulfillment 135:12	194:2,6,17,18	94:14,20 101:9	65:25 66:17,20
founded 17:4 19:11	full 49:9 69:15	195:6	116:14 178:11,24	77:9 80:3,23 81:2
four 28:3 146:14	114:23,24 125:11	gee 83:21 207:6	gives 64:23 187:10	81:5,8,23 83:14
165:4 170:15	184:2 222:8	gelatin 166:3	191:25	93:9 94:2,10 95:3
175:7 192:10,16	fully 78:16 91:23	gelatin-dissolving	giving 27:8 179:4	95:9,22 101:8
193:17 219:13	function 100:21,22	186:8 192:3	glass 65:6,6	115:19,20 116:13
four-day 16:13	109:9 112:9	general 12:11 31:2	gleaned 99:12 101:9	117:18,20 118:6
fraction 84:8	113:10 130:15,25	63:2,2 115:14	118:25	118:11,12,13
framework 87:10	170:24 185:11	144:16 150:12	glorify 42:3	137:16 167:15,16
Fred 206:6,11,12,23	194:1,2 200:2	151:16 166:23	glory 117:20	183:5,8,9,15,19,22
207:9,11,23	functioning 54:7	167:1 175:16	go 13:25 14:21 16:2	183:23 184:11,14
free 18:12,12 24:19	functions 29:1	193:2	16:5 25:14 26:20	204:17,23,25
34:21 35:12 65:8	170:18	generally 84:1	37:17 40:12,14	205:6 207:16
69:19 84:22 89:1	fund 38:6 50:4	157:16 167:23	42:10 57:9 65:22	208:7 221:6
89:17 90:21	65:17	176:3 185:21	65:23,25 66:8,17	godly 85:13 127:20
freed 83:13	fundamental 86:8	197:18	71:2 80:4 86:21	God's 38:22 43:22
freedom 39:3 83:13	86:13	generated 70:18	98:13 103:14	44:6 48:22 49:12
85:17	funds 55:17 78:1	generating 59:22	104:23 105:2	69:23 95:14,17
fresh 42:19	funniest-looking	generous 47:23	106:21 109:10	116:20 184:7
Friday 14:7 82:5	189:2	48:23	110:5 111:4	205:1,20
139:2 146:10	funny 189:1	Georgia 72:22	112:17 114:25	goes 38:20 51:1
friends 198:7	further 117:19	germ 91:5	115:24 116:1	78:24 81:23
front 68:19 69:25	125:20 142:16	Germany 58:19	119:9 127:16	105:25 106:8
159:10 169:13	158:24 180:12	74:7,8	129:18,22 133:17	117:18 122:6
fruit 41:22 46:23	186:17 203:19	getting 29:21 39:2	136:9,18 139:4	164:1 180:18
fruits 42:19	217:23 221:11	53:12 71:7 88:9	140:13 141:1	181:13
FTC 8:10,16 21:13	G	92:17 105:6	143:17,22,23	going 6:16 24:19
21:14 33:12 36:9	G 4:1 105:20,24,25	151:12 165:20	146:17 147:14,23	27:10 31:3 33:25
75:20 97:10,12	108:3,7 135:13,18	178:11 208:14	150:20 154:2	37:15,19 46:13
99:8 106:9 108:16	gain 133:1	219:4,21	160:16 161:18	57:3 62:19 71:8
114:22 118:22	Gains 218:11,14	gifted 60:18	164:3,14,16	78:2 80:18 81:3,9
121:14 124:1	219:13	ginseng 65:2 74:23	174:23,23 176:10	82:22 83:15,22
131:21 133:3	garden 40:10	173:20	184:21 197:20,22	85:7 88:21 91:5
145:19 151:13	garnered 102:5	girls 64:18 67:18	198:21 200:7	95:15 106:21,22
153:24 154:6	gas 50:16 78:18 79:3	68:2	205:11 211:21	108:23 120:4

122:5 129:13,24	137:15 182:23	hair 212:24	207:22	127:24 131:24
136:2 146:3,8	185:11 195:24	half 193:6	healthcare 166:14	132:8,12 137:18
147:2 149:5 152:6	205:25 210:18	halt 156:24	175:11 192:18	144:25 169:10,18
154:5 158:24	219:4 221:6	hand 28:14 99:25	heaping 47:22	170:5,6,7,14,17,25
162:8 164:17	greater 44:19 47:17	143:18 179:2	hear 62:7 81:5 92:15	171:7,10,13,19,21
165:3 169:1,7,12	48:13	handmade 50:21	93:18 94:19	173:6,18,19 175:7
175:17 177:20	greater-reaching	hands 125:19	heard 61:15 153:14	175:21,24 176:21
178:15 183:2	62:16	202:22 207:12	162:21	177:2 178:18
186:17 187:17	greatest 12:19 19:19	handwritten 112:19	hearing 222:5,9	179:4 180:19
192:6 194:21,23	greatest-quality	126:9	heart 35:13 206:3	181:15 183:1
203:16 205:12	48:6	hang 200:7	heartfelt 182:18	herbal 65:5 74:4,9
206:2 207:23	greatly 212:3	Hans 58:19	hearts 52:12	74:12 107:17
212:21 216:8	greedy 64:21	happen 44:5	heats 121:17	109:2 151:16
217:10,11 220:6	Green 2:14 3:10	happened 26:4	heavy 65:7	172:22,24 176:2
goldenseal 110:16	grew 38:7	31:12 47:2 136:9	held 122:7 209:25	HerbalGram 110:20
110:18 122:25	grieved 82:23	happening 28:1	help 19:5 37:3 38:1	herbs 19:6 38:13
123:2,3	grievous 61:3	happy 89:2	38:6 53:8,15 58:17	58:24 65:1 74:25
good 4:9 7:21 13:11	grocery 42:19	hard 25:1	64:12 66:10 67:3	107:22 115:21
29:19 30:7 41:22	gross 139:22	harmony 32:18	81:25 83:21 87:5	120:16 122:12
43:19 44:8 48:23	grouped 164:7	hated 209:21	107:2 154:19	127:13,21 131:24
58:23 122:22	grow 41:16 51:2	hayfever 13:14	155:14 170:12,25	134:6 153:14
142:19 165:7	60:20 61:24 81:17	head 6:18 41:10	171:1,2 175:24	162:20 170:24
170:11 180:21	100:10 210:18	53:9,25 56:23	177:4,12,14	173:19 188:19,19
181:16,21 188:8	growing 188:21	75:17 79:10	179:11 181:22	189:13 196:4
190:4,18 193:5	grown 80:2	140:12 210:14	185:9,10 186:1	he'll 22:23 196:13
205:25 210:20	grows 87:17	heading 24:21 131:7	188:2,16 189:14	high 43:18 48:11
goods 50:17	growth 60:5 101:19	156:18 177:21	189:23 194:3,3	78:19 139:21
good-tasting 48:18	102:8 156:24	178:2,17 198:22	196:4 199:24	195:1
Googling 180:4	157:23 158:3	headquarters 91:16	201:17 206:15	higher-end 48:12
GORDON 3:7	210:22 214:18,25	heads 53:24 209:18	207:5	history 74:11 84:12
gospel 66:20	215:5 221:4	heal 32:14 44:3	helped 28:11 50:18	176:2
gotten 132:3 188:21	guarantee 184:10	95:12,20 115:22	189:22	hold 30:16 36:9,12
govern 73:2	guess 24:2 59:16	221:8	helpful 21:18,21	130:22 158:22
governing 144:2	70:20,22 123:18	healing 44:3 45:10	30:4 58:21 98:15	161:9
government 9:13	146:20 150:19	112:6 116:21	117:13 150:22	hole 101:8
39:7 66:2	192:6 213:10	154:18 159:15	193:23	holistic 167:11
graduated 11:15,21	guesses 184:14	184:7 199:2 221:7	helping 19:3 20:9	Holy 52:9 70:3
graduating 14:22	guest 91:25	health 22:10 29:22	29:1 51:7 213:4	91:21
36:19	guests 91:24	30:8,10,24 37:24	helpmate 10:19	home 11:11,12 14:9
grains 41:6 46:22	guidance 70:4	37:25 39:17,19,24	11:13 53:7	38:1,12,17 39:2,12
graphic 22:19 35:5	guide 17:12	40:6,9 42:17 43:19	helps 35:25 36:2	53:9,16 93:15
35:5 125:15	guidelines 65:21	46:13 55:16 80:22	65:15 171:2 196:5	94:16 99:14 133:7
150:10 160:9	guy 138:24	85:20 86:20,23	herb 1:13 34:18	206:7,8,10 207:15
177:7 179:3	guys 79:22	87:24 88:2 92:1	58:23 63:17,24	homemade 68:20
great 32:12 43:25		119:23 131:17	64:24 73:19 74:2,3	homeo 36:8
48:10 52:13		154:19 170:11	74:16 114:4 118:3	homeopath 10:21
115:20 127:20		202:12 206:1	119:2 127:11,20	15:10,10
	H			
	Hahnemann 12:23			
	17:4,4 19:8,10			

[234]

homeopathic 12:16 13:2,4,6,24 16:25 17:7 19:9,15,24 36:5 37:3 44:21 185:13	116:2 124:8 166:21 168:4 175:15 182:20 183:3 185:18 192:23 196:8 197:8 198:20 202:20 203:13	204:24 209:22 212:25 imposed 94:3 95:4 imprint 13:9 improve 22:9 172:10 inactive 167:6,10 191:14 inadequate 180:9 included 206:4 including 168:18 206:5 220:18 incorporate 146:21 incorrect 39:22 increase 79:2,3 indentation 105:18 Indian 74:4 113:8 171:22,23 172:2 Indians 171:25 indicate 165:13 indicated 99:11 110:11 212:14 indicates 100:20 indicating 21:7,25 23:21 109:25 117:15 135:22 136:13 138:10,14 145:9,17 148:16 158:11 161:4 176:18 183:12 197:23 indication 183:18 indications 99:11 individual 17:15 18:5 52:17 140:6 153:13 individualistic 18:6 individually 2:7 168:6 individuals 4:14 36:25 52:8 72:5 92:2 industry 127:24 inexpensive 48:9 65:9 inflammation 159:13 185:10,11	185:15 inform 182:3 informal 113:20 information 20:16 20:20,23 22:19 24:5,6 25:4,6,10 27:8,8,15 28:2,7 28:11 31:9,10 53:13 62:14 77:9 80:1 85:15,18 92:8 96:14 99:13 100:16,18,24 101:4,14,25 102:1 102:4,5 104:20,22 107:21 108:14,21 109:1,3,5,8,21,22 109:25 111:1,1 112:8 114:2,18,20 116:3,8,14 118:25 122:22,24 123:17 128:25 130:20 131:17,20 132:16 133:2 134:6 148:13,14 149:21 151:1,16,17,17 152:24 156:6 157:7,18 158:18 160:8 174:7 180:3 183:14 186:13 187:4 188:4,11 202:23 219:16 221:3 information-wise 85:12 informed 85:19 181:20 ingesting 167:24 ingredient 48:12,17 106:5 114:3 163:11 172:8 174:7 186:9 191:15 196:13,23 ingredients 47:12,12 48:6 49:25 107:22 109:23 112:15 123:4 133:4,5 151:14 166:1,5	173:18 176:1 191:14 192:2 196:18 200:1,3 inherent 131:25 inherited 212:10 inhibit 162:24 Inhibiting 100:12 inhibitors 101:20 141:4 inhibits 156:22 157:18 214:17,25 215:3 221:4 initial 49:15 initiated 21:10 34:14 102:14 128:18 inject 209:8,14 injecting 209:2 input 58:16,21,24 196:12 ins 70:10 inserted 25:13 inside 152:24 insights 179:16 instance 110:16 Institute 14:25 15:15 16:6 institutions 212:18 instructed 88:25 90:18 insurance 55:16,17 intended 42:21 43:6 43:12,14 44:7 77:8 77:10 94:2 95:3 168:14 183:14,16 intending 133:10 intends 30:21 intent 10:20 182:3 intention 95:17 133:12 interaction 195:10 interest 203:18 interested 62:8 71:15 203:10,10 interrogatories 8:18 97:17 144:10 163:24 214:19,20
homes 38:23,24 39:9 69:21 206:5	husband's 11:13 53:6 77:25 hyperactive 45:8 hyperactivity 45:12 hyphenation 222:22 hypothesis 100:8 121:1			
honestly 50:7 70:19 75:24 84:7 89:14 162:9 197:14	I			
honor 42:3 81:8	ID 1:10			
hope 178:25	idea 31:21 38:10 63:2 64:23 72:23 80:14 102:7 163:2 194:22 207:6			
hospital 210:6 211:3 212:20 218:6 219:21,24	ideal 42:17			
hot 47:10 175:7	ideas 150:14 180:10			
hour 81:12,19 192:17 193:6,13	identification 97:11 97:13 163:18,20 169:10 191:3 195:16			
hours 9:2,3 12:9 14:7,9 49:6 178:5 193:19 202:21	identified 158:8			
house 69:24 70:1	identify 63:3 148:18 158:16 164:13 191:13			
huge 40:9 133:21	illness 185:15			
human 32:15 43:12 113:10 202:18	illnesses 145:2			
humanity 209:22	imagine 126:24			
humans 211:6	imagined 205:10			
hundred 64:16	imbalance 44:22 177:13			
hundreds 132:17	imbibed 19:21,22			
hungry 66:18,21	immune 91:7 122:12 137:15,21 170:12 210:9,10,17 212:5			
husband 9:20 10:14 10:19 37:16 39:24 47:13 49:2,10 52:5 52:18 53:25 56:11 58:16 59:2 60:19 61:18 62:12 65:19 67:23 74:15 77:15 80:22 81:22 83:20 83:24 84:10 102:6 107:4 111:14	impair 7:23 implication 220:18 220:22,25 important 55:15 108:22 153:2 158:12 171:17,17 185:12 193:6			

interrogatory 97:24 144:15	141:11,19 142:5,9 145:11,14,16,21 146:9,17,25 147:24 148:1,3 150:23 151:7 152:4,10,17 155:24 156:2,9 160:25 161:5 164:2,5,14,19 165:7 169:19,23 170:1,3 176:14,18 180:23 181:4,6 183:12 197:23 198:2 203:21,25 204:2,7 213:13,17 213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	198:20 204:14 219:16 Jim's 23:3 68:4 172:19 jim@swankin-tur... 3:23 job 194:16,17 Joe 178:10 John 117:21 Johnson 52:22 173:3,4 joined 27:10 joint 111:20 Joseph 65:17 JOSETT 222:16 journal 79:13 100:9 110:22 119:18 135:10 137:4 202:12 journalist 178:4 Jr 3:5 140:2 Judah 148:12 Judging 153:15 July 122:6 jumping 175:18 junction 217:9 junior 11:19	kidney 210:16 kill 194:21,22,23 209:17 killed 189:10 kind 6:19 13:13 14:5 28:6 30:6 32:8,9 38:13 48:9 54:19 54:21 56:21 62:21 74:22 75:2 81:14 86:1 90:25 91:9 184:10 196:15,20 199:12,20 207:7 kinds 37:21 46:21 92:10,12,13 124:9 158:16 king 40:24 41:3,4,10 kingdom 204:23 Kings 49:8,9 76:18 king's 40:25 41:8,16 Kloss 127:10 knew 83:17 98:20 115:11 127:21 189:12 Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	52:10,11,17 53:1,2 53:8,11,13,24 54:3 54:4,5,5,6,25 55:4 55:6 57:6,7,7,15 57:22 58:11,17,20 58:23,24 59:13,22 59:23 60:7,9,13,14 60:18,22,24,24 61:16,19,24 62:6 62:13,15,17,20,21 63:2,3,20 64:8,20 64:20,24 65:3,14 65:16,18,18 66:2,2 66:3,20,25 67:2,5 67:18,19,21 68:6 68:10,10,16,21,22 68:23 69:5,8,11,20 70:1,2,4,6,8,9,12 70:15,23 71:3,5,6 71:7,8,8,9,12,13 71:18,20 72:3,4,9 72:13 73:3,7,8,9,9 73:10,11 74:3,8,10 74:14,19,25 75:3 75:24 76:1,7,11 77:1,1,24,25 78:2 78:3,4,15,18,18,19 78:20,20,22,23 79:15 80:1,2,17 81:2,6,7,11,15,20 82:1,11,12,14 83:4 83:7,10,12,12,16 83:19,21,21 84:2,5 84:6,7,8,10,19,21 85:5,6,11,11,13,16 88:18,22 89:5,10 89:12,14 90:14 91:15,16 92:12,19 92:20,21,22 93:7,9 93:13,15,16,18,20 94:8,10,14,16,17 94:19,21 95:14,16 95:20,24 96:19 99:8,9,11,12 100:19 103:2,8 104:20 105:23 110:24 112:10,12
involved 12:9 20:22 25:21 53:21 58:14 81:21 128:8 155:2 155:4 163:3 172:17 184:22	170:1,3 176:14,18 180:23 181:4,6 183:12 197:23 198:2 203:21,25 204:2,7 213:13,17 213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	JOSETT 222:16 journal 79:13 100:9 110:22 119:18 135:10 137:4 202:12 journalist 178:4 Jr 3:5 140:2 Judah 148:12 Judging 153:15 July 122:6 jumping 175:18 junction 217:9 junior 11:19	king 40:24 41:3,4,10 kingdom 204:23 Kings 49:8,9 76:18 king's 40:25 41:8,16 Kloss 127:10 knew 83:17 98:20 115:11 127:21 189:12 Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
involvement 54:3 58:15	204:2,7 213:13,17 213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	kept 7:2 48:21 78:2 91:10,12,13 114:5 128:16 175:18 183:24 keeping 126:23 182:7 197:17 keeps 90:10 Kelley 130:9,15,23 187:17 188:3 kept 188:3 key 105:25 106:5,7 106:17 108:6,7,8 108:11,18 119:5 121:21,24 123:12 123:15 135:1,19 135:20,23 136:1,6 136:7 138:7,17,19 keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
In-Depth 127:2	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
IRAs 55:17	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
Island 9:22 10:5,7 10:11 29:19 40:2 56:3,6 57:4 72:19 207:19	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
isolated 167:14	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
Israel 38:3	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
issue 109:4 112:10 163:22 218:15	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
italics 24:10	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
itchy 13:15	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
item 28:3 104:3	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
items 133:7 177:2	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
I.W 140:1	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
J	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
J 1:7 5:1,12 21:6,25 33:8,15 45:18 46:1 56:24 76:23 86:6 86:11 87:22 88:1 90:1 97:18,21 98:16,20 102:23 104:3 105:2,7 106:13,20 109:14 110:5,13 128:2,5 128:13,15,20 129:5,8,13,18,22 133:14,20 136:7 136:16 137:25 138:9,13,23 139:1	213:18 214:2,5 216:7,17 217:1,10 217:17,21 220:8	keyed 126:21 keying 126:21	Knock 66:3 knocking 71:13 know 6:23 7:18 9:2 11:1 12:9,11 13:16 13:20 16:5,8,13,23 20:7,17,18,19 21:2 21:5 23:19 25:3,25 26:9,11 27:9,10,15 27:25,25 28:2,3,6 28:8,22,24 29:1,23 30:17 31:11,12,12 31:14,16,21,22,25 32:6,12 33:10 37:4 37:7,9,20,23,25 38:4,4,13,15,21 39:1,11,19,21 40:8 40:12,15,15,17 41:1,5,6,23,23 42:15,16 43:8,9,16 43:24 44:1,4,5 46:22 47:4,14,21 48:5,10,16,18,21 49:17 50:1,2,23 51:4,9,11,15 52:7	
J 1:7 5:1,12 21:6,25 33:8,15 45:18 46:1 56:24 76:23 86:6 86:11 87:22 88:1 90:1 97:18,21 98:16,20 102:23 104:3 105:2,7 106:13,20 109:14 110:5,13 128:2,5 128:13,15,20 129:5,8,13,18,22 133:14,20 136:7 136:16 137:25 				

[236]

112:14,15,24	209:4 210:16	laid 207:12	200:13,13,16,21	214:22
114:12,15,20	211:15,23,24	lamb 41:5	200:22	lists 170:14,15
115:17,19 116:2	212:4,7 216:3,23	Lane 140:1,7 162:10	letters 108:3,19	200:23
117:1 121:1,12,19	219:10,23 221:6	Lane's 162:13	182:18	literally 67:4 125:11
121:23 123:1,18	knowing 17:11	language 86:14,15	let's 35:25 63:10	188:21 202:21
123:19,22 124:25	60:14 64:19 74:11	86:16 179:6,8,18	68:24 71:20 86:3	literature 89:23,25
125:1,23 126:17	175:25	180:8,11 216:5	103:14 107:7	little 6:15 17:2 20:17
133:11 136:17	knowledge 15:23	languages 87:2	119:9 127:10	22:16 24:10 26:8,8
137:5,7,10 138:5,6	38:7 41:16 63:2	large 170:14	147:14 154:2	27:4,6 28:2 29:4
138:8 139:9	101:8 109:7	largely 38:1	161:9 164:16	29:17 39:19 47:14
140:21 143:4,8,15	115:16 116:10,12	larger 90:3	165:1 190:1 191:8	48:4 50:16 51:16
144:18 146:8,9,12	116:14 129:16	Latin 13:3 19:18	195:11 221:15	54:3 55:4 58:15
147:1 148:10,12	131:20 133:2	law 100:19	leukemia 35:13	62:11 66:10 68:20
148:14 150:2,7	137:13,20 141:9	laws 41:2	193:24 194:4	79:16,17 82:25
151:24 152:4,18	141:25 162:23	lawsuit 9:17	levels 42:8	84:12 92:15 99:10
152:21 153:5	172:1 174:4,5,10	lay 15:9	Levitt 52:19	99:19 116:18
154:20,24,25	180:5 188:4 194:9	layout 22:18 23:13	library 150:13 151:1	119:23 130:19
155:6,8,16,18,19	202:23 219:16	lead 5:2	151:15	143:18,19 160:18
159:10 160:6,15	220:5 222:10	leading 70:3	license 18:14,18	161:23 166:2,4
160:23,24 161:23	known 42:13 43:19	learn 209:1	licensed 19:23	177:5,6 205:2
162:1,8,9,17,20,21	96:21 113:22	learning 12:10,10	154:25	207:22 208:12
163:3,3 165:24	170:24 203:16	19:14 211:14	lieu 182:25	209:11,18 220:10
167:10,16,22	knows 77:16 93:20	leave 153:6 164:9,11	life 32:7 55:16 92:16	live 38:24 41:25
168:1,4,4 170:11	94:21 95:22	leaving 146:24	93:25 95:1 189:4	55:22 91:8 93:19
172:1,24 173:6,23	153:13 183:22	211:19	198:7 206:12	93:19 94:2,20,20
173:24 174:12,16	184:14	led 40:13 52:5,10	207:17 209:12,21	95:3
174:18,22,25		65:19 66:15 83:14	lifestyle 11:4	lived 40:6 52:12
177:13 178:11	L	87:16 208:4	liked 80:18 81:15	55:3,6 182:21
179:10,17,19,21	lab 47:8 49:14,17	left 11:19 51:7 60:22	limit 81:3	liver 35:13
179:22,23 180:4,6	50:2 132:12,15	65:13 114:9	limitations 184:2,5	lives 82:2
180:12,15 182:4,5	label 26:8 48:5	125:19 135:15	limited 72:21 144:2	living 38:21 40:8
182:18,22 183:3,5	163:12 165:12	191:8 192:6	144:18 187:5	41:21 50:15 51:5,6
184:9,21 186:14	166:7 191:7 192:7	left-hand 35:12	line 47:3 58:8 60:20	local 29:16 61:16,21
188:1,10,14,19,20	195:20 196:25	100:5 118:18	63:8 71:5,14 76:23	79:16 80:15 117:2
189:12 190:10	labeled 30:18	166:7 175:2	90:22 129:21	182:20
191:17,20 192:1	labels 1:12,13,14,15	legal 216:22	lineage 172:1	locally 38:14 60:2
192:25 193:3,10	26:1 28:11 61:19	legs 200:6	link 151:18	80:18
193:11,15,19	163:16,18,21	Lehrfeld 3:18 5:4,4	linked 210:5	located 202:14
194:5,6,11,14	166:22 168:20	145:23 217:20	list 8:9 69:9 84:24	lodged 4:13
196:5,10,14,15,17	169:10 173:9	Len 138:19	138:10 150:1	long 8:22 11:5,22
196:22 197:14,17	190:23 191:3	length 66:8 95:13	151:15	14:6 15:17 16:10
197:18 198:18,19	195:12,16	lentils 41:6	listed 76:15 110:2	16:12 27:5 29:24
199:12 200:2,3,6	laboratories 19:24	LEONARD 3:7	110:17 138:8	36:16 49:20,23
201:2,13,18	laborious 14:11	lesser 71:7	213:23	50:3,11 84:3
202:10 203:12,15	labs 154:25	letter 105:20,23	listen 80:22	127:22 142:12
203:22 206:19	lac 19:17	106:9,23 113:19	listening 83:9	171:23 185:20
207:5,6,12,15,22	lack 21:22 32:9	113:20 136:4	listing 76:12 171:9	193:16 204:9
	92:20 124:20			

208:24	loose 124:5	163:11 197:2	149:6 151:5 154:6	55:17 57:6 60:14
longer 29:10	Lord 53:8,16 65:19	mainstream 212:17	154:8 156:15	62:3 63:19 64:4
longest 68:5	66:23 207:13	maintain 5:8 65:16	163:18 169:10	68:9 73:6 87:5
long-term 18:2	208:4	77:25 78:1 124:8	173:9 191:3	89:16 90:15 91:15
look 8:2 22:13 23:9	losing 212:23	143:7 154:19	195:16 203:1	100:21 110:16
23:23 26:2,12,21	lost 88:9	170:11	marketing 59:14,19	116:1 121:10
32:22 44:14 47:16	lot 9:21 14:23 28:23	maintained 174:3	marking 119:4	133:17 138:12,13
75:19 76:8,20	29:1,8,9 37:6,7	maintaining 124:10	169:3	138:15 139:12
81:23 89:5 91:4	51:16 54:5 58:19	maintenance 77:22	marks 23:21 190:25	140:22 153:2
95:23 98:4 99:2	68:10 81:21 114:9	major 11:19 20:2	marriage 205:4	158:13 177:10
102:9,18 110:14	115:1 118:23	197:3	married 11:10,20	180:8,21 181:16
111:15,22 116:18	121:11 123:7	majority 70:25	204:14 207:11	194:25 197:9
117:13 122:1	127:21 137:19	makeup 14:12	208:14	202:12 212:4
130:2 131:17	150:9 162:19,20	making 86:12 87:11	Mason 208:19 210:5	215:24 217:6
132:4 138:4 139:2	170:2,10 171:8	150:25 157:9	mass 59:8,9,14,19	221:2,3
146:21 148:13	180:5 185:14	159:7,18 186:15	186:11 188:17	meaning 22:16 90:4
149:5,15 150:21	202:20 210:25	malnourished 95:18	189:15,17 194:3	90:12 194:15
154:10,11 161:6	lots 194:20 205:24	man 29:8 38:10	208:19 210:6	220:24
163:12 169:1	loved 182:19	43:17 51:14 52:19	213:5	meanings 90:9
173:8 175:20	low 167:1	61:4 73:18 83:17	Massachusetts	means 6:8 13:12
178:23 180:3	lower 99:23,25	93:20 94:21	11:18	35:9 51:24 112:24
190:22 191:8	105:15 121:18	127:20 178:4	match 106:17	112:25 121:20
195:11 196:24	148:20 176:10	221:8	material 12:21 13:8	138:6 170:22
200:23 201:22	195:3	manage 52:6 93:14	95:20 99:9,12	177:14 187:16
204:14,16	Luc 23:14	94:15 125:12	100:23 108:20	meant 27:14 136:4
looked 8:3,4 26:22	lump 177:23 190:16	management 15:4	125:16 128:9	measure 47:21
27:1 115:4 124:3	lumped 147:12	16:19 17:1,9	132:1 133:13	meats 41:1
173:15 201:1	lunch 103:11,15	manner 220:17	135:24 136:2	mechanism 44:1
220:7	105:9	mantle 60:19	138:17 139:23	medical 74:18 86:4
looking 21:13,14	lust 42:1	manufactured	146:12,18 149:19	145:2
37:17 74:19 99:23		174:11	150:7,15,21	medications 7:22
105:9,14 107:7	M	manufacturer 63:17	157:13,14,17	medicine 22:11
109:16 120:24	Maclean 73:15,15	174:17,22	159:8,9	44:14 93:13 94:14
125:21 134:14	74:1,5,17 75:2	manufacturers	materials 65:15	96:20 100:9
137:7 147:15	172:21	62:24 63:4	77:22 116:19,22	103:10 107:17
151:25 152:14	macular 156:25	manufacturing	117:5 136:10	109:2 135:11
154:6 156:14	magazine 85:10	63:22	138:20	137:5 149:11
160:2 161:3	110:22 113:20	man's 43:23	Matt 29:8	153:16 184:13
170:13 179:19	118:22 119:18,23	man-made 44:12	matter 2:4,17 4:12	187:20 194:7,13
185:2,24 191:9,24	134:10	mark 97:10 150:24	27:12 31:18 32:2	medicines 195:2
193:12 196:22	magazines 114:24	163:16 169:5	33:24 61:18 66:19	meet 8:20,22,24
197:2,21 214:4,6	125:11	190:22 195:14	71:15,20 209:4	17:18 38:24,25
looks 25:3 44:15	magnesium 166:3	marked 21:9 23:24	meals 192:17 193:6	44:19 55:20 67:3
124:23 138:5	mailed 22:6	75:20 97:13	193:14	82:1
140:18 153:12	mailing 10:1	105:14 108:8	mean 11:4 25:1	meeting 38:19 39:9
156:5 192:2 201:6	main 10:4,8 37:1	111:16 119:10	36:12 43:25 46:3	59:12
202:19	60:5 75:18 100:9	130:3 145:21	48:3 50:22 55:12	meetings 209:25
	112:15,23 113:1			

[238]

211:5	millions 84:2	missionary 205:9	muscle 213:1,5	64:19 65:24 66:4,7
Mega 218:11,14	Min 123:6 191:20	misstate 39:20	219:6	66:16,17 67:3 68:7
219:13	mind 117:15	misunderstanding	mysteriously 13:25	69:17 78:23 79:23
memory 52:1	mine 20:16 24:16	87:8,21 88:15	M.D 140:2	82:22 83:22 87:1
110:23 115:10	25:12,16 149:24	misunderstood	N	92:17 108:23
125:4 151:11	164:4 178:14	98:17 104:5,15	N 1:2 4:1 104:1,1,1	119:5 123:14,15
175:14 178:9	mineral 48:1	216:14	222:1,19	132:7 135:19
190:16 197:15	minerals 19:6 58:20	mitigate 180:15	name 4:10 5:13,20	143:11 146:21,23
203:14	minimums 59:13	Mix 175:6	13:3 19:18 22:5	168:23 177:12
men 38:20 40:23	minister 78:3	mixed 48:12	27:11 40:21 47:10	183:3 188:23
41:8,16 205:20	208:11	Mixx 198:15	49:9 56:18,21	196:24 207:3
mental 37:21	ministering 53:12	modern 44:14	63:18,20 81:9	needed 12:9 69:14
mention 86:18 173:1	206:4	molecules 13:7	82:11 87:9,15,23	189:14
173:3	ministry 10:20,25	24:12	140:4 148:12	needing 18:10
mentioned 15:14	11:6,9 18:1,7,23	mom 211:20,25	204:13 208:4	needs 37:4,5,6,20,22
16:15 19:7,15,25	20:6,13 27:10 28:1	mom-and-pop	219:18	40:11 55:13,15,19
26:25 27:3 39:17	28:24 29:2 35:23	207:22	named 29:14 49:2,2	55:21,24 66:24
45:1 53:1 57:25	35:24 37:13,19	Monday 82:4	49:10 173:1	207:2
59:3 61:8 72:16	38:15,16 39:14,15	146:10 147:2	names 4:24 30:16	negatively 6:20
73:3 75:7 77:20	40:4,7,14 42:6	152:3	44:16 49:3 75:10	nephew 23:3
80:4 82:6 85:22	46:14 50:24 51:7	money 40:15 48:3	97:19 220:19	network 51:12,13
90:23 100:1 106:7	51:14 53:2,4,7,9	50:6 51:13 55:19	narrow 90:5,9	81:13 82:17,23,24
116:6,25 132:8	53:20 55:2,7,9,18	72:7 86:21,22	146:14	83:15,25 84:8,13
211:8 218:6	55:20,22,24 56:2	104:7	national 72:21	84:17,18 91:14,16
merge 86:17	56:17,19,22 57:5	Monographs 107:18	80:19 81:13	100:10
message 42:8 73:13	60:23 62:15 65:13	month 14:6	nationally 72:20	never 17:24 40:16
83:2	65:16 68:6,22	monthly 27:25	natural 12:14 13:5	55:5 59:13 60:5,16
Messiah 56:7,12	71:18 72:6 73:4,4	29:20,22	42:23 43:10,11	71:11,12 72:7
met 14:6 38:3,22	77:22 78:1,2 87:9	months 50:13 93:19	44:12 46:8 62:5	106:12 133:14
40:11 55:13,24	87:15 90:2,3,15	94:20 182:21,24	96:17 140:7	136:6 180:13,14
74:5	114:10,15 203:17	Moore 75:14	149:11 153:16	183:25 203:8,16
metabolic 47:24	204:12 207:20	morning 4:9 14:7	162:19 163:4	new 2:15,15 3:11,11
48:25 49:3,20	208:4,8	49:5,12 193:17	185:25	8:12 11:15,21,22
57:25 58:9	Mink 75:11,11	mother 189:21	naturally 22:10	14:2,22 15:6 100:9
metabolism 49:1	minute 76:20 86:9	211:12	168:2,9 185:9	156:23 159:14
methods 12:11 17:4	102:17 154:10	mother's 188:18	nature 123:7 167:17	210:8 215:4
17:5	188:23,24	motive 78:6	186:10	News 29:19 30:7
mice 208:23 209:2,6	minutes 200:5	mouth 89:13	near 69:3	newsletter 20:21
209:23 210:2,8,17	miracle 208:6	mouths 89:24	Nebuchadnezzar	27:3,6,11,14,23
211:1,7	misleading 47:14,15	movable 188:22	40:24	28:5,16 31:4,11
Michael 149:11	117:24 179:22	move 9:21 115:25	necessarily 16:4	144:21
Micro 58:16 123:6	mismanaged 65:13	118:16 184:24	88:23 183:22	newsletters 20:14,25
191:20	mismanaging 61:5	moved 55:4 114:11	193:10	27:20
middle 177:20	misrepresentations	mucopolysacchari...	necessary 166:5	newspaper 27:6
milk 195:23,24	216:14	159:3	need 5:23 6:19 7:15	29:16,19 61:8 79:9
milligrams 165:17	missionaries 37:17	multiple 67:5	7:17 18:19 36:3	85:10,25 89:5,6,8
165:19	62:18	Murray 149:11	44:8,19,20,20 54:5	90:25 117:1,2

144:17	138:9 143:12	222:19,19,19,19	145:15 161:5	128:11 129:3,13
nice 73:10	144:7,8 145:19	oath 6:6 204:10	164:6 169:5,23,25	130:7 131:1
nicely 19:4	154:19 163:17	obedience 41:1	183:13 197:24	132:19 133:6,10
Nieper 58:19	169:9,20 191:2	obey 41:21 42:8,9	198:1 207:18,24	133:19,24 134:14
Nieper's 103:9	195:15 203:3	obeying 41:21	Ojibwa 74:4 171:22	134:25 135:3,6
night 8:5,11,13	214:17 220:12	object 45:18 86:6	171:24 172:2	136:5,17,21 137:1
75:24 76:25	222:3	128:2 179:6	okay 4:17 6:22 7:1,4	138:1,2,25 139:13
201:10,11 203:7,8	numbered 97:25	180:23 181:4,5,6	7:19,20 8:3 9:4,12	139:19 140:5,10
203:14	126:22,22 138:16	215:25 220:8	9:17,19 10:22 11:5	140:13,17 141:1
noise 6:19	138:17 147:16	objected 179:23	14:15,19 15:5	142:19 143:17
normally 18:3 60:9	163:25 165:5	200:18	16:15 18:13,16	144:23 145:5,10
84:9 190:11	173:10 190:24	objecting 76:23	19:14,25 20:3	145:25 146:16
Northeast 3:9	195:12	156:10	21:19 22:3 23:12	147:4,14,22
nose 13:16	numbers 148:18,20	objection 46:1 86:12	23:23 24:19 25:11	148:17 149:5,22
notary 6:3 178:12	148:21 154:8	86:12 89:16	26:3,19,23 28:12	150:15,19 151:4
notation 100:7	164:3,20,25	129:20 200:17	29:12 30:3,23 31:3	151:10,23 152:11
101:18 105:18	numeral 214:7,10	objections 5:9,14	32:25 33:16 35:19	152:15,19 153:2
112:19,20 118:18	numerous 211:19	observed 139:22	36:4 40:4 44:9	153:18,20 154:13
121:15 123:12	nurse 172:2	obtain 120:9	45:1,5 46:7,13,20	154:14 155:20
126:9 135:4	nursing 206:5,7,8	obtaining 62:8	50:4 51:18 52:17	156:2,9,12,14
notations 111:9,16	206:10 207:15	obviously 28:24	54:17,20 55:14,23	157:4 158:1,12,17
119:3 135:13	nutrient 132:4	88:17,20 89:17	57:3,7,9 59:17,17	158:24 159:12
139:9	167:14 206:14,19	137:19 160:15	61:25 62:9,23	160:2,14,17
noted 77:3 89:16	nutrients 38:8,14	179:23 206:1	63:12 67:10,22	161:17,21,22
notes 123:24 222:8	43:10 44:21 92:17	occasions 114:10	68:12 69:9,12	162:1,13 163:1,9
notice 2:18 125:13	115:22 122:21	occult 83:5	70:21 73:3,14	163:15,20 164:16
noticed 119:22	131:18 132:7	occupation 10:17	75:19 76:8,14 77:3	164:16,21 165:3,8
122:6	159:15 167:9,13	occurred 87:18	77:13 79:1 80:4	165:11,25 166:6
nourish 49:5 95:10	207:2,3	occurring 168:2,9	82:6,17,20 84:16	166:11 168:11,22
100:11	Nutrition 63:5,16	offensive 82:11	89:15 97:9 98:3,7	168:23 169:1,21
nourished 43:13	75:21 117:17	offer 18:1	98:11 99:14,22,22	169:24 170:13,19
nourishment 43:13	119:23 131:5,10	offered 5:10 155:8	101:17 102:9	171:4 173:8,17
44:3,7,8 95:19	131:16,18 132:4	185:22	103:13 104:12	174:15,20 175:2
101:19 102:7	166:14 192:18	offering 59:9	106:7,11 108:10	175:17 176:6,20
195:25	nutritional 47:4	offers 57:23	108:22 109:10	177:20 178:15
novel 163:2	92:19 151:16	office 81:1 91:17	110:1,4 111:4,13	181:23 183:18
now-famous 100:8	195:25	114:6 138:21	111:15,22 112:1	184:24 186:17
number 1:11,12,13	nutritionally 58:18	143:7 201:16,20	112:13,17,22	189:25 190:3
1:14,15 21:24 42:7	177:15 206:20	officer 2:8	113:12,17 114:5	192:9,13 196:17
53:1,10 57:15	nutritionist 219:1	offices 107:6 202:15	115:3,16,24	196:22 197:1,6,16
66:11 67:8,10	219:11,18	official 9:25 10:1	118:16 119:6,9,14	198:3 199:13,25
70:23,25 71:2	nutritious 47:19	117:14 213:16	119:24 120:4,25	200:5,10,12,20
80:10 84:1 97:12	nutritive 206:25	oh 10:18 33:20	121:4,21 122:1,10	201:23 202:25
97:24 100:4	N.W 3:20	51:24 56:25 69:9	123:25 124:6,14	203:21 204:14,21
101:10 105:11		85:21 98:16 103:2	125:5,21 126:5,15	203:21 204:14,21
118:17 121:19		119:22 124:21	126:19 127:4,12	213:9 214:6
123:20 134:19		127:17 137:25	127:18,23 128:4	217:17,23,24
				218:12 221:10

[240]

old 11:18 40:22 50:19 122:8	organic 40:10	page 1:4 21:20,24 23:12,19,23,24 24:1,8 25:15,15 26:21,21 32:25 33:6,8,9,12,21 34:5 35:7 99:23 101:18,25,25 105:14 107:23 110:6,16 111:5,15 112:17 119:4 121:6 123:11 126:8 127:16 131:6,7 135:13 145:16 148:18,20 152:17,18 156:14 160:18 169:15,17 169:19 170:13 176:11,14,16,20 177:21 185:2,24 191:9 197:21 198:2,5 213:19 214:6,10,11 220:7 220:15,16	214:8	104:21
oligosaccharides 159:4	organization 38:20	pages 76:12 127:10 151:6 152:22,24 154:7 163:21 164:19 169:3,13 173:9 184:25 197:22 201:1	parents 50:18	payment 17:21,23
once 125:19 131:21	organize 160:10	paid 10:24 29:21 54:19 61:4 69:16	part 18:1 36:23 38:15,16 43:21 44:11 56:16 59:1 71:17 73:4,8 87:15 101:25 102:1,4 108:7 109:6 113:7 125:6 130:22 138:16 140:25 142:23 147:20 150:6 206:12 207:19,20	Paynter 1:5 3:4 4:8 4:10 5:7,17,19,23 6:1 21:8,12 22:2 33:11,16,18 34:16 45:22 46:2 57:2,9 57:12 77:3,4 86:10 87:20,24 88:11 89:20 90:17 95:5 97:14,20,22 98:2 98:19,23 102:16 102:25 103:5,11 104:11 105:5,8 106:14,25 107:1 109:15 110:8 111:3 128:4,11,14 129:3,6,9,15,20,24 130:1 133:19,23 136:5,14,17,20 138:2,3,18,25 139:4,7 141:16,21 142:3,7,10,14 143:14,21 145:13 145:19,25 146:16 146:20 147:5,25 148:8 150:19 151:4,10,23 152:6 152:11,13,15,19 153:1 154:1,4 155:20 156:1,8,12 156:13 161:2,9,11 163:15,19 164:7 164:11,16,22 165:1,8,10 168:22 168:25 169:11,21 169:24 170:2,4 176:15,19 180:25 181:5,9,18 183:17 190:2 191:4 195:17 197:25 198:4 203:19,22 204:1,3 213:12,15 214:3 215:25 216:16,19 217:2 217:19,24 218:5 220:10,13 221:10
oncologist 211:11,25	organized 39:7	pain 93:14 94:15 185:10 193:4,20	partake 95:24	
oncology 212:11	organs 193:25	palate 42:2	particular 10:12 17:16 90:22 124:3	
ones 82:25 115:3 182:19	Oriental 74:19	palm 83:6	parts 86:20,22	
One's 26:24 34:18 43:2 45:16 54:9 57:14 92:23 117:5 154:7 176:24 182:13 202:15	oriented 27:7	pamphlet 26:8	party 9:4,7,17	
One's 26:24 34:18 43:2 45:16 54:9 57:14 92:23 117:5 154:7 176:24 182:13 202:15	original 13:8 24:25 25:7 27:1 49:9 61:6 172:6,9	pamphlets 28:19	passed 52:24	
one-half 192:16 193:13	originally 62:18 108:8	pancreatic 187:20	pastas 46:23	
one-hour 80:15,20	originator 173:4	panicked 189:5	pathogenic 171:2	
one-page 121:5	origins 117:17	paper 68:16,21 117:3 170:2	patience 221:13	
one-time 27:13	Orr 75:13	paperback 130:19	patient 33:22 194:7 213:1	
one-year 11:24	ounces 175:6,7	papers 88:22 90:14	patients 22:9 139:16 139:17,22 187:3 187:25 211:3 213:7 219:3,8,9,12 219:20,24 220:4	
ongoing 16:1	outbreak 91:3	paperwork 36:21	Patricia 1:5 4:4 5:22 144:3 145:6	
onion 13:3,5,17	outpatient 219:23	paragraph 158:25 159:12 175:4 186:17,19 198:22	Pause 32:24 33:7,17 77:7 99:3 102:13 102:22 106:3 109:13 112:2 139:3 146:1 147:10,18 149:2 149:18 152:20 153:21 154:12 165:2 173:11 185:1 197:5 200:11 201:3 215:15 217:25	
open 23:18 53:16 69:21,22	outright 65:18 67:1 71:22,24		pay 17:24 49:17 54:14 55:1 69:16 71:22,24 84:20 85:3 104:16,17,18	
operate 68:6	outside 11:8,11 46:4 46:4 60:1 79:21 132:12 182:6 221:9			
operating 43:14	overdrugged 30:20			
operation 59:13 65:15 68:4,12 77:21	overdrugging 30:15			
operative 214:8	overflowing 47:22			
opinion 31:2 85:15 152:1 177:17	overhead 38:23 55:5			
opportunity 22:9	overpriced 47:9,11			
Optimal 122:21 124:21	overseas 205:11			
optimize 49:1	overseer 52:15 53:9 77:15,24			
Optimizer 47:24 48:25 49:3 58:2,3 58:9	owe 61:3			
order 18:13 35:25 44:6 64:16,18 68:2 95:17 110:13 118:6 155:16 164:6,9,12 174:6 200:18,19 214:9	owned 56:3 57:4 206:7			
orderly 114:25				
orders 36:2				
	P			
	P 4:1 222:1,19			
	package 47:18 98:4 98:6 107:3 118:21 125:6,8,9 126:23 133:8 138:16 140:25 142:24 163:22			
	packaged 42:16			
	packaging 48:4,20 61:20			
	packet 154:7,11			

221:16	percentage 70:9,15 70:23,24 71:6,9 173:24 174:7	physical 37:21 55:6	pneumonia 206:13 206:21	195:22 207:5
peg 101:7	percentages 174:23	physically 60:2	point 7:10,17 21:17 22:12 25:15 29:9 47:3 51:9,20 59:7 59:14 62:4 81:10 81:22 86:22,23 89:19 108:19,19 117:11,23 118:2 120:18 142:6,7,8 142:10 143:10 150:25 151:13 152:23 178:6 210:8,14 211:20 217:18	powders 206:14,19
pending 103:3 109:14	performed 162:2	physician 32:13 43:25 115:20 166:13 192:17 212:13 221:6	poison 194:21	practice 12:11 15:9 18:13 36:5,23 120:9 140:7
Pennsylvania 72:23 75:13	period 87:14 210:20 210:21 212:19	Ph.D 75:4 140:1	Poland 38:3 40:14 61:1 65:11	practiced 36:16
PennySaver 79:14	periphery 42:18	pick 205:7 209:5,7 209:14	policy 67:15	practicing 28:22 36:6 37:2
people 13:14 19:4,5 20:8 25:6,13 27:9 27:25 28:25 29:6 31:10,10,20,21 32:1,19 35:8 37:20 38:11,22 39:8 40:7 40:8,11 42:8 47:19 47:23 48:23 51:5,8 53:12,13,16,17,18 57:13,20 60:1,2,23 61:5,14,16,21 62:1 62:7,14,22 64:15 64:15 65:11 66:1 67:11,16,16,24 68:1,14 69:13,15 69:19,24 71:13 72:4 74:10 78:5,23 79:21 80:2,18 81:14,15 82:12 83:3,8 85:11,18 92:18 93:8,11,25 94:4,9,12 95:1,6 95:22 99:13 100:18,20,25 101:11 109:8 114:11,17,18,21 116:3,16 117:24 120:21 130:21 131:17 163:2,3 171:7 172:4 179:9 179:11,19 180:5,7 181:25 182:5,5,10 182:12,14 183:3,5 183:23 184:15 187:2,4,14 188:2,5 188:6,11 190:9,13 193:2 206:4,5,23 207:22 210:1,7 211:18 212:20 213:4	perjury 6:10	picture 35:3,6	Poish 87:4	prayerful 66:22
	permission 41:3,9	pills 17:8 19:9,15,17 19:18	poor 196:20	praying 52:6
	person 17:12,18 18:10 28:25 37:3 64:7,9 65:16,21 66:6,7,10,15,18 67:1 81:25 92:14 95:18 96:10,21 120:22 154:20 171:4 177:4 179:12 182:20 184:11 185:13 190:5 193:12,20 194:7,10 207:1 208:10	piece 65:3 132:25	poorly 65:12	predominantly 82:9 82:13 92:1 165:17
	personal 55:18 73:10 211:16	pineapple 186:1 194:19,20	pop 209:18	preexisting 87:14
	personally 56:1 62:12 148:16 179:7	Pioneer 15:2 16:16	popular 80:17 81:11	preexists 87:9
	person's 18:7 34:12 34:17 97:2 202:10	place 9:20 38:24 55:6 117:4 208:12 217:3 221:7	portion 69:16 132:7	preferable 44:12
	perspective 30:9,11 30:24 85:14,14	placebo 19:20	portions 8:6,8 35:7	preference 46:7
	pertains 149:12	placebo-controlled 121:2	position 124:1 216:11	premise 117:8
	pertinent 123:23	placed 23:16 32:15 44:2	possession 109:21 112:7 119:19 122:9 125:14 127:1 132:22 134:3 149:20 150:11	premises 10:13
	pharmaceutical 120:12	places 69:21 129:23 175:19	poorly 65:12	preparation 8:25
	pharmacies 19:24	plan 79:25	pop 209:18	prepare 7:25 24:5 28:19
	Pharmacol 202:12	plane 12:25	pop 209:18	prepared 22:24 65:1 203:12
	pharmacy 120:12	planning 211:25	pop 209:18	preparing 107:3
	Phillip 113:18	plants 43:10	pop 209:18	presence 62:14
	philosophy 43:2,21 44:11 185:14	plates 150:1,4	pop 209:18	present 3:25 8:20 15:19 51:12 58:11
	phone 35:1 36:1,1 67:12,20,25 71:12	play 82:25 168:5	pop 209:18	presentation 160:12
	phosphorous 159:2	please 5:20 6:24 7:6 7:11,18 12:6 39:21 39:22 41:21 73:17 89:10,12 94:5 107:12 111:5 113:17 118:16 119:9 122:2 129:7 130:2 141:15,18 142:12 152:3,15 181:3,10 201:2	pop 209:18	presenting 163:20
	photocopies 124:20	plenty 37:5	pop 209:18	presently 23:2
	photocopy 152:21	Plus 58:16	pop 209:18	pressed 65:2
			possibly 118:12 205:12	pressure 189:7
			possible 24:16 123:4	pretty 193:18
			possibly 12:20 94:1 95:2 199:7	prevent 101:16 145:1 168:15 180:15 210:22
			postoperative 186:18	previous 87:22 88:2 159:20
			potential 74:12 100:13 202:18	previously 6:2
			poured 65:5	pre-period 90:16
			powder 47:11	price 64:1,2,8,22 65:14 68:15 69:2,8

[242]

69:8 71:7 76:14 77:13 78:16,17 79:1,3 86:25 88:20 90:1,6 prices 76:22 77:6 78:10,13,22,24 pricing 77:18 78:7 primarily 20:14,15 20:23 25:12 37:25 122:13 151:13 187:21 194:18 218:11,13 219:5 primary 79:5 186:9 188:11 191:15 principally 61:10 principle 66:13 principles 12:10,12 14:8 19:15 117:16 prior 8:11 11:8,17 23:3 36:11,13 104:12 208:14 privately 81:8 private-label 74:2 probability 157:6 probably 50:22 133:16 136:10 143:10 174:6 195:1 problem 17:16 86:8 86:14 92:16 177:12,12,14 199:8 problems 179:20 proceed 105:5 proceedings 32:24 33:7,17 77:7 99:3 102:13,22 106:3 109:13 112:2 139:3 146:1 147:10,18 149:2 149:18 152:20 153:21 154:12 165:2 173:11 185:1 197:5 200:11 201:3 215:15 217:25 process 47:1 58:7,10	86:13 87:16 processed 193:16 proclaim 69:18 produce 56:18 58:6 64:25 153:4 produced 34:8 50:5 76:3,6 97:16,19,20 97:23 105:10 110:20 122:21 133:8 150:17 163:23 producer 83:16 producing 166:23 product 24:1 26:3 47:2,7,9,24,25 48:7,15,19,23 49:7 49:8,15,18,20,21 50:2,4 51:3 58:5,6 58:10,22 59:4,9,10 60:3,20 61:6,10,12 62:2,23 63:8,22 64:14,23,25 65:8,9 65:19 67:1,6,11 68:7,10,23 69:3,14 69:15,19 71:5,11 71:14,17,21,23,25 72:8,10,11,17,25 73:12 74:9 75:22 76:14 77:14 111:6 118:10 142:9 154:16 164:8 166:20 167:6 168:14 169:17 170:7 171:5 173:25 174:24 176:5 180:21 181:17 184:3,5,6,7 185:3 189:19 191:14 199:23 216:4 218:8,9,23 219:9,21 220:18 221:9 production 77:16 78:19 products 22:9 24:4 26:25 28:20 29:13 34:6 35:14 36:24	37:9 43:22,23,23 46:7,15,25 47:17 47:19,20 56:18 57:14,20,22 58:13 58:14 59:20 60:24 61:7,22 62:7 63:4 63:9,10,25 66:17 75:9 76:12 77:18 78:8,11,14,23 79:7 83:7 92:24 95:8,13 96:17,24 100:11 100:17 101:4,6 107:22 109:3,4,23 112:10 115:5,7 116:13,19 118:4 119:7 120:7,10 123:1,5 128:1,6,9 128:23,24 129:2 129:12,16 131:23 133:4 141:7,17,23 142:18 146:14 151:14 153:6 158:15 161:16 163:13,22 171:12 176:9,21 179:25 181:25 182:13,15 183:2,7 190:7,8 196:12 198:17 212:14,15,21 213:3,8 218:15,18 219:4,12,14,15,17 220:1,4 professional 15:10 166:14 175:11 192:18 professionals 187:2 program 11:25 12:1 12:5 14:5 16:22 53:14 74:6,7 80:5 80:7,12,15,21,24 80:25 81:6,11,19 82:4 83:1,16 84:18 84:19 85:4 86:2 91:19,21 92:1 93:8 94:9 220:19 progression 156:24 promises 42:10	promote 171:1,16 promotion 56:21 pronounce 113:3 proofread 222:21 proper 92:21 216:19 properly 107:9 114:8 properties 113:9 property 56:1,3,6 57:4 prophet 49:11 proponent 187:18 proposed 214:8 proprietary 123:6 163:14 165:18,22 165:23 191:17 prostate 202:19 protein 24:11 48:1,7 48:9,15 101:15 156:22 157:18 162:24 186:2,10 186:11,12 188:16 189:15,17 193:8 194:3 207:5 215:3 proteolytic 185:9,25 186:9,10 188:16 189:19 193:7 194:2 Protocol 135:10 137:4 provide 30:4 31:9 38:14 47:18 65:19 77:8 83:22 106:17 108:14,20 109:8 122:24 150:21 183:15 187:4 190:25 195:24 221:3 provided 63:23 98:21 99:17 128:9 158:8 160:9 provides 109:21 156:22 157:17 159:15 215:3 providing 48:23 81:16 146:8 219:17	public 155:9,23 160:11 178:12 publication 30:7 79:16 153:17 published 100:8 137:5 pull 22:21 27:14 84:19 87:6 pulled 20:24 28:15 99:10 118:23 133:5 146:15 206:21 pulling 150:14 pulse 41:4 punctuation 222:22 purchase 67:11 72:10 174:21 220:3 purchased 57:13,20 purchasing 61:10 118:3,5 Pure 156:21 215:2 purely 50:10 purify 170:25 171:16 196:5 purpose 15:25 42:4 48:24 105:23 111:4 127:18 135:2 167:18,21 168:18 182:7 188:11 204:17 209:15,22 216:4 purposes 4:18 10:1 10:20 193:12 pursuant 2:18 push 88:9 pushed 47:4 put 11:17 17:5 22:23 23:19,22 27:24 28:6,8 32:17 35:6 35:6 36:9 46:4 48:3,18 50:1,20 60:20 61:7 62:17 69:25 87:13,19 89:23 90:13 99:9 104:3 115:1 116:8 122:22 125:24
--	---	--	--	--

126:23 136:12 138:24 140:24 155:1 158:18,19 164:23 168:2,20 177:6,7 182:3 183:8 184:3 196:4 199:13 201:13,19 203:23 209:16 210:15 213:5 216:3 puts 52:13 124:22 putting 12:9 25:4 89:13 108:21 109:25 116:3 150:8 151:12,17 155:2 p.m 103:15 104:2 221:18 P.O 10:4	questions 6:16 86:17 87:22 88:16 89:18 92:8,10 98:9 103:12 179:20 200:8 203:20 204:8 216:22 217:23 218:2 221:11 quick 87:7 153:25 quickly 210:18 212:24 quite 14:10 20:7 25:2 26:17 47:25 49:25 80:17 123:9 162:3,5 quizzed 140:20 quotation 23:21 quotations 35:3 quote 22:14 23:14 quote-unquote 11:2	rats 208:23 209:23 raven 49:11 reach 62:4 reaction 64:10 read 5:15 22:14 33:5 33:19 85:12 94:5,6 99:7 101:11 106:1 110:1,23 114:19 116:4 117:9 139:18,19 141:1 141:18,19,22 157:17,19 158:4 159:8 164:24 181:9,11 184:19 186:15 187:5,6,7 189:18 196:18 197:14,15 202:20 202:21 205:17 211:18 216:15,16 readable 197:3 reading 14:10 33:9 33:10 58:18,22 83:6 157:3 162:7 167:4 172:19 180:18 181:13 reads 159:12 180:19 181:14 ready 114:25 140:20 real 59:12 64:19 66:16 124:18 127:22 reality 88:8 realize 92:19 realized 36:20 206:13 207:1 realizing 214:23 really 9:20 12:7 14:5 16:13 17:9 18:5 19:4 21:3 23:1 25:1,14 26:1,20 27:14 28:18 29:3,7 31:15 32:5 37:9,24 38:4 39:4,7 42:21 47:4,13 50:22 53:5 53:23 56:5 59:1,15 59:22 60:18,20 61:2,5 63:18,19	64:2 65:17 66:7,7 67:21 68:18 71:15 73:6 74:15 81:20 87:2 108:22 109:5 114:7 115:2 116:10 119:15 120:19 131:18 135:22 158:15 160:7 174:13 179:22,22 182:6 182:18 187:20 193:23 194:5,24 196:24 197:3,6 201:15 203:9,18 205:25 207:5,21 208:13 210:1,20 211:13 reason 79:1 151:20 152:22 167:12 reasons 48:17 66:11 79:4 rebalance 32:17 recall 8:3 15:20 46:24 59:7 75:10 78:9 90:25 96:25 106:11 119:7 131:10 135:18 143:6 155:14 157:15 178:9 185:21 214:21 216:21 receive 16:23 17:21 72:10 85:3 104:7 210:13 received 12:8 14:17 15:3,8,11 84:24 98:12 136:6,7 138:20 182:18 191:6 receiving 96:22 219:25 recess 103:15 143:20 154:3 168:24 204:4 recognize 24:16 98:8 99:10 102:25 103:6 107:14	112:22 113:15 118:20 119:12 122:18 124:17 126:3,15,20 127:6 134:1,8 135:9 140:15 142:22 165:11 191:5 195:18 214:15 recollection 26:18 108:16 110:3 172:7 218:16 recommend 36:24 92:23 126:16 190:7,11 recommendation 167:4 175:16 193:2,2 recommendations 37:10 219:11 recommended 96:11 166:23 177:3 193:21 197:7 record 4:25 5:13,16 5:21 7:12 12:13 21:10 33:9,10 34:14 53:3 57:10 57:11 77:9 87:11 88:10,15,17 94:6 97:15 102:14 103:14 104:4 106:21 109:11 125:24 128:18 129:19,23 139:5,6 139:20 141:2,22 154:2,5 161:20 164:25 181:11 183:15 189:21 203:23 214:3 216:3 221:15,16 recorded 41:14 recordings 91:13 records 8:5 57:19 91:10,12 120:4 155:13,21,24,25 174:8 201:16 recover 199:10 red 61:2
Q	R			
QUADE 222:25 qualify 15:7 88:19 quality 73:12 182:23 219:15 quantity 183:1 Quarterly 153:16 quercetin 191:16 question 7:5 44:9,10 45:15 54:20 86:7 90:24 95:15 101:23 102:23 103:2,7 104:5,6,7 104:15,15,17 109:14 115:14 119:25 123:20 128:3 129:5,25 130:11 132:3 133:15 141:12,13 141:14,19,23 142:5 144:16 147:1 155:17 156:3 167:7 173:13 180:24 181:1,2,8,9,12,19 195:4 210:3 211:4 questioning 76:24 89:3 90:22 104:23	R 4:1 104:1 222:1,1 222:1,1,19,19,19 222:19 radiation 97:2,6 189:9 194:25 195:8,9 199:2,10 212:4,5,16,22 radio 28:23 51:12 51:13 53:14 61:15 62:6 74:6,7 80:5,7 80:25 81:13,13 82:1,10,14,23,24 83:9,25 84:8,13,17 84:24 89:4 91:1,14 91:16,17 93:24 94:25 rain 118:13 raise 78:21,24 raised 133:16 156:10 ran 206:8 rarely 182:1 rate 47:6 65:12 81:10 110:21 139:21 187:21 207:3			

<p>reduce 159:13 reducing 116:9 reduction 139:21 redundant 135:22 152:25 153:4 refer 22:14 154:9 162:11 165:18 168:12 215:17 220:15 reference 110:6 113:25 117:20 124:20 130:24 131:19 132:25 134:19 164:22 referenced 122:23 144:8,12 160:23 references 34:5 106:18 109:24 110:1,5,12,12,25 111:2,10 116:21 123:16 134:15 136:1 169:17 170:5 185:3 referencing 106:4 112:25 150:3 referred 115:5,17 referring 21:4 108:24 143:4 refined 43:18 reflect 201:24 reflects 7:12 refused 45:21 regain 199:12 regard 26:24 53:2 100:16 regarding 28:19 85:20 102:2 107:21 109:22 111:5,6 112:8 123:20 146:4 regards 20:13 Region 3:9 register 22:4 68:18 68:20 69:6 75:12 registered 165:23,24 Register's 22:14 regular 73:25</p>	<p>regularly 72:10 relate 43:1,2 179:9 relates 121:21 relating 144:24 relation 215:14 relationship 73:10 144:3 215:23 relevance 150:24 relevant 146:12 150:21 153:4 relied 127:25 religion 39:7 rely 131:18 relying 151:2 remaining 13:8 51:8 152:8 remains 30:19 remedies 12:16,17 12:17,22 13:1 remedy 13:2,2,4,6 13:14 17:6,8,12,13 17:20 19:9,15 37:3 44:21 remember 8:7 25:2 27:24 29:24 30:2,3 30:12 31:8 51:3 52:2 58:21 59:15 59:22 60:1,3 61:9 61:18,21,23 62:4 75:16 83:5 86:1 120:8 124:25 134:24 137:6 140:8 142:17 143:8 144:22 149:14 150:18 155:4,7,10,12 157:5 158:10 159:24,25 162:7 168:1 171:20 173:7 185:20,23 196:16 199:6 201:10,12,15,17 202:17 204:10 210:25 211:2 213:10 214:19 216:23 remind 28:22</p>	<p>remove 100:11 Renaissance 14:25 15:15 16:6 renal 210:16 Rene 172:3 repair 171:1,16 repeat 102:23 129:5 repeatedly 45:21 repeating 17:13 rephrase 18:16 181:2 report 190:19 reporter 5:24,25 6:18 7:3 21:11 34:15 102:15 128:19 143:18 195:14 reports 146:22 represent 4:22 representation 220:17 representations 217:6 representatives 68:14 represented 214:24 217:9 reprinted 27:18 request 29:21 97:24 99:8 106:16 108:12 114:1,22 133:3 135:12 144:1 155:21 163:24 requested 41:3,9 requesting 104:24 required 18:20 32:10 36:21 194:5 reread 115:13,14 140:22 rereading 115:9 research 114:16,24 121:17 137:19 141:3 148:5,7 155:17 159:22 162:19,20 172:19 174:13 180:3</p>	<p>185:14 208:16,19 210:5 211:17,19 reserved 5:9,12 reside 9:19 resource 100:23 108:20 118:25 132:1 133:1 149:19 150:12 resources 44:12,13 49:25 respect 26:14 29:12 59:20 76:4 140:5 respondents 3:15 144:8 responding 210:2 211:6 response 88:12 97:16,23 99:8,18 101:24 108:12 120:5 131:21 133:2 144:8 163:24 203:15 responses 87:14 144:9 responsibility 77:25 188:1 responsible 24:7 124:9 responsive 181:7 rest 101:8 143:18 151:7 restate 90:20 restatement 90:11 restore 12:15 44:18 44:22 45:2 restored 14:1 44:24 result 117:19 results 184:10 188:8 219:4 resurrected 39:11 Retailer 121:10 retinopathy 156:25 retired 178:4 retirement 55:17 return 60:14 169:12 returning 42:20 60:16</p>	<p>reverse 219:6 review 8:11 28:17 153:16 184:17 reviewed 26:4,15 27:1 reviewing 33:12 201:23 revision 26:4 revisions 25:21 Revolution 103:9 rewritten 27:19 Rhode 9:22 10:5,7 10:11 29:19 40:2 56:3,6 57:4 72:19 207:19 rhubarb 173:22 rich 40:25 ridding 44:23 right 7:14 8:7 15:24 18:18 21:22,25 24:6,14 31:6 33:23 34:9,10 36:15 40:1 44:3 54:8 58:7 63:9 67:13,14 68:18,19 69:1 72:17 77:24 78:5 79:5,5 80:9 81:24 82:3,13 83:22 92:25 96:25 98:9 99:25 100:3-101:1 101:2 102:7,12 108:15 110:15 117:7 119:5 124:15 129:13 134:22 136:3 138:11,15 141:9 142:1 143:13 144:13,22 147:17 148:6 149:23 151:3 153:9,10 156:7 159:10 160:17 161:2,5 162:16 163:8 168:1 174:25 192:8,14 198:14 202:16 205:17 207:11 217:21</p>
---	--	--	---	---

218:19	save 207:23	School 11:15,21,22	141:5 143:2,23	135:25 213:7
righteous 118:14	savings 55:18	14:3,22 15:6	145:16 146:11,14	sends 9:22
righteousness	saw 8:5,5,9,13 72:7	scientific 109:24	146:18 147:8	sense 12:3,23 22:22
204:23	75:24 78:4 82:22	110:12 111:9	151:10 152:21	38:23 41:22 42:1
right-hand 105:15	132:2 172:20	120:10,11 123:16	156:19 157:2	43:20 45:24 53:11
105:17 118:18	189:2 201:10	134:15 146:5	159:5,15 160:21	66:11 71:17 116:7
121:16,18 135:15	203:7 206:19	158:4 161:12,15	160:25 161:5	167:7,11,16
147:16 148:21	207:5 212:3 220:1	162:2,3	165:1,19 166:9	177:11 179:18
160:17 191:8	saying 31:4,17 32:3	scientists 114:16	168:16 169:15	221:4
Rita 52:22 173:1,2,3	45:24 68:21 88:8	scoops 197:12	172:22 175:4	sensible 59:23 62:10
173:3,4	90:8,19 98:21	Scott 23:4 75:14	176:8,10,12	sensitive 66:24
Ritalin 45:9,9 85:22	110:13 129:6	scratchy 13:16	177:25 178:19	sent 22:5 23:14 35:4
85:23	131:22 147:15	screen 92:13	179:10 182:6	60:13,15 68:10
RMR 222:16	178:12 199:22	scriptural 49:10	186:3,19,24 187:9	69:14 93:15 94:16
Road 10:4,8	215:6 216:21	65:21 66:12	192:5 193:5	125:6,8,17 135:25
Rocha 178:10	221:4	scripture 117:18	196:14 197:6	136:1,8,13 142:24
role 53:4,5 168:5	says 11:12 24:8 33:3	204:25 205:1,5	198:11,14 200:8	186:13
185:19 196:11	34:21 35:12 47:21	search 120:18	202:2,11 205:20	sentence 94:3 95:4,7
Roman 214:6,10	61:3 64:9 65:16,25	second 57:4,10 58:6	209:11 210:22	106:5 158:25,25
room 2:12 36:1	66:3,17,19 70:7	58:9 98:4 110:17	213:22 215:16,17	171:10 198:25
91:17 188:25	76:21 77:5 101:18	123:11 149:15	215:21 220:15,20	separate 164:18
211:11 212:12	112:22,23 118:13	175:4 178:23	seeing 52:1 75:25	169:5 176:1
root 173:20	118:19 121:17	200:7 215:9	106:11 192:24	separately 65:1
roughly 29:17,23	126:15 130:23	secretary 10:19	205:5 206:22	199:15
83:14	131:7,10 139:21	52:16 54:9	seek 42:9	sequence 214:20
round 101:8	141:3 150:1	section 47:3,6	seen 8:13,17 54:7	series 147:6 163:21
rounded 197:12	151:19 156:17,21	176:10 198:21	57:21 68:9 98:6	serious 145:2 180:16
rule 26:11	159:1 160:2,18,19	secular 80:25 82:7,9	101:11 116:13	187:19
run 35:25	161:7 166:8,11	82:14	125:3,24 126:24	serve 62:19 197:14
running 53:19	168:13 170:14,20	see 22:5,13 23:9	148:14 162:18,21	204:23 205:10
114:11	171:10 175:6,20	24:13,21 26:21	187:3 188:8	206:3
runny 13:16	176:24 177:23	35:3,15,25 49:12	189:18 200:16	served 104:24
rushed 102:20	178:17,24 180:19	49:18 60:25 67:24	201:5,9,11 203:8	151:17
	181:14 184:20	74:14 76:11,16,21	211:17	service 17:22,25
	186:21 191:10,21	77:5,8,12 98:18,22	segregated 107:9	18:11 207:13
	192:7,9 198:6,9,13	100:14 105:19	selfish 65:12	serving 11:12
	198:22,25 205:6	106:2,13 108:4,23	self-study 14:23	191:21,23,24,25
	215:9 216:10	109:23 110:14	sell 193:9	204:17
	219:14 220:16,22	111:11,12,17	selling 39:17 46:15	set 62:10 93:10
S	scale 13:7	112:19 113:9,20	46:18,24,25 71:8	94:11 98:5,25
S 3:16 4:1 104:1,1,1	scan 125:15 150:10	121:15,16 125:8	118:9	144:9 169:3
Sac 19:17	151:20	125:18,20 126:11	seminars 16:14	182:25 191:23
safe 172:23	scanned 121:13	127:10,12,14,15	send 64:17 66:21,25	192:21
sake 161:18	125:18	131:6,6,12 132:13	79:18 106:23	seven 64:25 93:22
sales 70:10,13,17	scanner 125:16	133:18 134:17	121:13 135:24	94:23 131:24
71:1 72:25	scanning 152:23	135:15,24,25	138:21 151:21	210:19
salmonella 91:3,5	Schepper 23:14	136:11,18 139:24	sending 65:10	sexual 83:6
sample 115:2				
samples 48:7				
Samuel 17:4 19:10				
satellite 84:18				
satisfactory 187:6				
Saturday 146:24				

[246]

shakes 6:18	91:24 92:3 129:23	site 8:7 20:22,23	solicited 71:11,20	90:5 116:10
shaking 56:23 79:10	150:13 151:22	28:13,14,17 29:4,5	solution 177:11,13	150:15 151:18
140:12	174:9 200:12	29:10 59:14,18,21	solutions 176:25	152:24 196:16
Shalom 56:7,12	202:25	59:24 62:6,10,13	somebody 24:17	specifically 27:15
share 25:5 31:10	showed 37:18 76:25	64:6 70:5,11,14,24	26:9,10,10 33:9	42:2 58:24 85:20
40:14 66:20 85:13	157:14	116:17 148:9	135:5 152:12	122:24 161:19
85:16 92:8,16,18	showing 38:12	154:7 160:7,8	180:17 181:13	172:18 180:2
93:8 94:9 95:9	155:21	169:13,14 180:3	195:3	188:14 218:9
96:13,19 99:13	shown 116:13	180:18 181:14	somewhat 58:15	specifics 162:8,12
100:20 114:2,21	shows 16:24 93:4	183:8,14 184:16	78:15 99:6 118:21	specify 151:24
116:16 117:19,22	shriveled 189:3,4	184:22,23,25	121:9 126:4 137:3	spectrum 48:8
124:11 130:20,22	shut 206:5	188:10 197:21	138:5 139:14	spelling 5:23 222:22
187:12,24,25	Siberian 65:2 74:22	216:5 217:5	148:13	spend 14:10
188:2,9 189:24	173:20	situation 67:2 97:1,1	soon 7:19 146:7	spent 9:1 14:7
196:14 202:9	sic 49:20 57:25	188:18 216:7	152:2	spice 113:8
shared 81:7 172:2	sick 41:10 91:6	six 192:12,13 193:4	sooner 211:2	spices 113:10
188:4,19 190:18	207:6 209:12	six-page 28:3	sorrel 173:21	spirit 39:3,8 52:9
shares 196:10	211:2	size 72:23 139:22	sorry 14:21 19:12	66:15 70:3 73:13
sharing 27:8 80:1	Sickness 117:19	191:21,23,24,25	34:3 49:16 56:25	91:21
81:25 100:18	side 45:14 100:4	210:19,20	58:1 84:21 85:21	spiritlike 12:23,24
109:9 114:18	101:18 105:15,17	SKC 138:6	94:5 98:16 103:3	13:21
182:5 207:16	121:16,18 135:16	skeletal 156:21	113:3 119:25	spiritual 37:21
shark 134:11 139:16	148:21 160:18	215:2	139:4 166:6	44:20 179:16
139:23 141:3,8,10	161:9 166:7 175:2	skilled 16:24	175:18 198:1	207:13,16
141:24 142:1	191:9 192:6 212:4	skimp 47:22	218:1,17	spoke 34:25 52:19
157:17 159:1	214:21	sky 78:19	sort 14:3 15:22 59:9	sponsoring 83:10
162:10,15,24	sign 44:16 50:21	slang 74:22	soul 207:24	spot 208:12
163:7,11 165:17	69:25 209:12	slight 87:8	sound 131:19	square 101:7
167:8 202:9,11	signatory 54:8,16	slightly 17:7	source 101:14	staff 20:19
sharks 140:8 156:22	significance 32:4	slippery 173:21	107:21 131:19	stage 182:22
215:3	40:21	slow 6:25 13:12 47:1	159:1 186:1	stamped 178:12
sheep 173:21	significant 41:18,25	58:10 60:5,5	sources 101:10	stands 135:18 186:8
sheet 69:8 134:9	signing 178:11	small 47:3,6 51:5	soy 48:7,9,15 195:23	start 50:9
sheets 153:15	signs 13:15	68:4 80:13 130:19	so-called 30:15	started 37:15 50:7
shelf 133:5	silver 167:21,24	165:20 167:11	108:13	51:18 59:8 60:12
shelves 50:20 61:2	similar 49:8 151:5	196:19,20 206:8	space 22:17,21,23	80:20 81:12,17
she'll 190:25	similarly 168:7	smaller 188:21	177:7,17	84:14 208:1
ship 61:25 62:1	similarly 13:13	smile 189:1	sparkled 205:24	starts 113:12 124:14
shipped 65:7	simple 29:16 42:20	SMU 11:18	speak 6:23 12:21	176:13
shoestring 50:23	43:16 61:21	Society 103:10	48:3 56:24 91:24	state 4:24 5:20 7:12
84:5	101:20	softer 188:21	153:14 179:18	9:10,15 18:14,17
shop 207:22	simply 22:12 27:18	sold 59:4,4 155:11	180:11 221:5	52:21 62:8 91:6
shopping 51:15	43:12 117:12,20	155:22,23	speaking 6:24 73:14	92:10 93:17 94:18
short 50:12 125:13	197:17	sole 25:9 51:23,25	187:11	206:9 207:2,7
168:23 204:2	sin 92:16 117:20	52:4,11 56:9,13	special 27:13 33:9	209:4 214:1
show 57:19 84:24	single 153:15	173:5	37:6	stated 68:13 184:17
85:8 89:4 91:1,23	singular 161:8	solely 25:8 155:11	specific 15:7 88:6	statement 155:25

156:19 157:9	stopped 96:23	studying 14:8 189:6	68:14 69:7 70:7	170:16
158:5 159:5,7,19	188:21 209:13	211:11	73:1 76:22 77:6	supposed 15:22 26:7
168:13,19 177:9	store 37:24 39:25	stuff 47:10 64:17	80:16 81:18 166:8	26:12 66:1
177:17,19 180:19	40:6 42:17,19	stupid 126:16	166:21,24,25,25	supposedly 210:23
181:14 186:3,5,7	46:13 50:19 55:5	style 25:3 178:13	191:25 192:7,21	suppressed 39:6
186:16,25 199:5,8	59:5 68:16,17,24	subject 6:9,9 63:11	193:17	suppressing 45:11
215:1,12,13 216:7	68:25 69:10,14	subjected 190:20	suggesting 196:12	45:12
220:11	87:25 88:3 155:11	submit 150:24	suggestion 192:22	supreme 37:9
statements 6:8	stores 71:5,14,16,21	submitted 35:2	suggestions 219:11	sure 7:12 10:2 15:18
108:13,17 156:15	72:16	subpoena 104:24	suggests 171:12	21:3 27:22 44:9
157:2,4 177:6	story 50:11 178:12	143:23 144:11	suit 158:13	51:22 54:18 56:5
187:3 213:22	189:23 208:6	subscribe 113:19	Suite 3:10,20	57:18 59:12 60:4
214:11,12,14,14	strands 205:8	substance 13:5 43:9	sulfated 159:3	67:18 84:14 86:10
214:15 215:7	strange 139:9,11	45:25 111:7 119:6	sulfates 159:4	101:5 107:8
216:2,11,12,13,18	strangers 69:22	134:4 206:25	sulfur 168:8	110:25 111:23
217:12,12,15,16	strategy 60:8	substances 46:8	sum 159:21	119:17 123:8
states 2:1 9:23 60:17	Street 3:20	115:5,7,11,17	summarization	124:7 139:10
62:5,20 72:21	strengthen 91:7	140:7 150:6	159:22	147:14 150:17
91:15 185:25	Strengthening	162:19	summarizing 45:23	151:24 162:3,5
201:23 216:5	122:12	substantiate 130:24	summary 159:13	171:7,14 181:22
station 50:16 80:25	stretch 143:19 200:6	131:22	summer 15:20	183:5 191:10
82:7,8	strike 51:18 96:1	substantiating	Sunday 14:7 81:12	195:1 218:8
stations 82:10,15,17	118:9 137:10	129:1	Sundowner 63:18	Surely 41:10
82:21 84:24 85:3	166:17 181:19,23	substantiation	supplement 48:2	surgeon 211:9
104:8,16,17,18,21	182:13	108:13 114:1	133:10,12,16,21	surgery 177:24
status 14:20 51:20	strong 195:9	128:7 129:1 133:3	152:7 166:11,24	189:8 210:14
51:22	stronger 41:15	157:10,16 186:14	191:11 192:10,25	surprise 81:14
stay 10:6,9,11,13,14	194:17	186:15 187:10	193:15 195:22	surviving 211:15
15:5 62:17 69:21	structure 35:10	201:24 202:5,7	206:14	Swankin 3:19 5:2,5
69:22,24,25 70:1	100:20,21 109:9	subtitles 177:5	supplements 47:4,7	5:6 200:13
stays 193:15	112:8 113:7	succession 23:2	supplied 135:11	swelling 159:14
steal 205:2	131:25 160:10	suddenly 206:12	supply 136:3 157:22	186:19
stearate 166:4	200:1	sued 9:12,15	159:11	sworn 4:6 6:2
stearic 166:4	structure/function	suffer 45:6 97:7	supplying 38:11	symptom 32:8
Steinberg 113:18	109:22 119:1	171:11,15 176:3	support 38:1 146:5	symptoms 13:18,25
stepdaughter 35:20	170:23 176:1	suffered 33:22	154:18 158:5,14	44:15 45:11
Steven 110:17	stuck 152:22	212:3	170:12 171:18	120:23
119:16	studied 15:2 19:25	suffering 13:23	177:15 179:25	synergy 167:15
stipulation 5:8	132:12	95:18 171:5	180:4 189:14	synthetic 42:24
stocked 68:25	studies 120:5,6,6,9	182:14 212:7,25	193:13 195:25	43:17
stomach 193:8	120:10 121:3	sufficient 33:14	199:22 207:2	system 12:14 49:6
stones 38:21	158:4,16 162:2,4	sugar 19:17,18	supported 10:25	91:7 122:12
stop 7:19 81:9	162:10,13,14	43:18	54:25 55:2,8	137:16,21 170:12
129:13 156:24	163:5,6 194:11	suggest 17:20 65:21	206:20 211:22	193:18 202:12
157:22 158:3	199:16	176:4	supporter 137:15	210:9,11,17 212:5
188:24 215:5	study 12:5 14:2,12	suggested 64:1,2,8	supporting 211:13	
219:5	14:23,25 132:15	64:22 65:14 67:17	suppose 43:16 49:1	
				T
				T 104:1 222:1,1,1,19

[248]

222:19	tasted 48:13	192:20 195:4	18:6,9 21:16 28:13	145:11 146:17
tab 99:10	tastes 195:24	216:6	36:10 43:5 54:19	147:12,19 150:5
table 21:23 50:19	tasting 48:9	Testament 40:22	59:23 62:10 71:3	150:25 151:20,23
85:9 91:9 179:14	taught 12:23	testified 4:6 31:17	83:5 86:1,19 87:7	152:22 169:1,6
tabs 99:19 100:1	tea 65:5	45:3 46:3 89:4	93:7 94:8 114:14	175:21 178:6
take 4:12 6:18 7:17	teaching 38:10	116:2 129:11	124:19 144:20	180:7 183:21
14:4 16:7 17:23	technicals 85:7	216:1 217:4	162:23 169:6	192:13 196:14,21
21:1 32:22 40:14	technician 208:20	testify 7:13	181:21 183:24	209:10 214:8
49:21,24 54:18	Technology 103:10	testifying 89:14	187:25 193:9	216:1,2
76:8,20 80:16 84:3	tecum 143:23	testimonials 136:14	196:15 199:10	thinking 162:22
86:9 95:8 96:10	Ted 4:19	181:25	207:7 210:18	third 144:24 170:19
98:4 99:2 102:17	tedious 143:16	testimonies 93:21,22	things 19:5 22:20	186:17
110:14,24 129:19	161:23	94:22,23 132:17	26:23 28:14,15,24	thirsty 81:15
129:22 143:14	tell 41:23 58:9 65:23	132:18 181:24	37:8 38:8,14 41:23	thought 26:10 62:9
149:15 153:25	66:20 67:16 68:14	182:4,7,11 188:9	42:10 43:11 46:4	63:14 82:11 98:17
154:10 166:12,19	70:25 72:14 73:17	testimony 4:12 6:5	53:1,10 60:2,8	136:1 147:21
166:23 168:23	96:12,12,23	7:23 23:15 34:12	61:5,23 88:4,11	179:21 205:25
169:2 175:10	102:20 113:17	34:17,23 35:2,6,11	91:2 92:12,22	thousand 57:17,18
178:23 179:24	126:24 127:3	45:25 77:9 94:5	100:22,22 101:11	72:3
180:20 181:16	139:11 147:2	117:22 118:8,10	101:11 106:22,23	thousands 67:4,5
185:13 189:22	167:5,18,20 168:5	178:10,24 183:15	114:8,11,18 116:3	84:2 132:17
190:1,3,6,6,8	170:6,22 171:24	190:18 198:5	123:7 124:12,21	three 11:17 16:9
192:10 193:7,13	173:17 174:18	211:8	132:5 138:16	20:1,4 25:19 68:3
195:3 200:23	184:15 185:6	testing 161:13,15	144:12 146:15	76:11 83:19 90:2
203:25 204:9	187:6 203:5	208:22 209:23	147:12 150:12	93:19 94:20 111:9
taken 4:17 15:20	218:25	tests 199:16,20	153:3 154:19	166:12,12 191:21
103:16 153:17	telling 8:19	Texas 198:6,6	160:10 163:4	192:4,10,12,13
215:2 222:9	ten 41:11,13 80:12	text 121:16 134:16	170:10 171:8	193:4 205:8
takes 36:1 221:7	84:13 93:23 94:24	158:24 160:4	175:18 181:21	208:25
talk 42:12 63:10	205:19	198:21	185:12 187:22	throat 13:16
81:13 82:24 83:9	tend 6:23	textbooks 212:11,12	188:20 193:11	thymus 210:9,10
86:1,3,14,15,16,19	ten-day 210:20	thank 5:18 7:14,20	196:11,15 197:18	tied 83:11
86:25 91:2 92:1,15	term 32:3 33:25	18:22 26:19 36:4	207:16 217:8	till 203:10
93:24 94:25 115:4	34:1 59:19 74:19	129:9 135:6 137:1	221:9	time 8:5 18:12 23:15
115:6 116:20	74:23 75:4 89:6	140:10 142:19	think 7:11 8:6 11:1	27:5,18,19 28:18
122:10 207:9	terminology 88:19	145:10,25 153:20	19:8 23:8,20 25:19	28:23 31:15 36:14
talked 88:4 90:3	89:21,22,24	158:1 217:19,24	25:19 30:17 31:17	37:24 39:10 40:18
93:5 128:22	terms 11:1 17:1 19:7	221:10,12	33:11 42:7,13	46:14,16,18 49:4
218:22	19:14 26:3 30:23	thanks 22:8 112:1	45:15,20 55:15	51:5 58:5,17 59:8
talking 58:20 63:8	36:5,11 42:25	131:1 182:23	56:5 61:14 62:5	60:3,11,15 68:3
65:8 72:24 74:8	49:19 53:19 55:19	THEODORE 3:5	70:17,22 71:4	74:2 78:9,22 81:21
87:1,2,3,3,17	58:13 61:6 62:23	Therapeutic 202:18	72:15 77:20 83:9	82:2 83:17 98:6
88:14 119:20	63:22 68:12 70:5	therapeutics 16:25	84:4,6,14 85:5,22	99:9 115:10
129:12,15 132:6	72:25 75:7 89:3	therapy 100:13	87:8,12,20 88:20	127:22 135:5
139:15 148:18	90:14 115:16	186:22 187:2,16	89:3,16 102:11	147:3 159:9
166:2 211:19	116:17,18 117:5	188:15	110:11 121:21	171:24 178:3
talks 116:8 130:15	118:9 129:16	thing 14:11 17:3	135:2 136:25	179:4 184:9,10

185:20 203:7	topic 28:6 85:23	trial 5:10	100:10 116:9	213:18 214:2,5
207:15,17 210:4	topics 30:6,8 91:9,10	trials 190:20	137:13,14 145:1	216:7,17,19 217:1
210:21 211:12,12	92:7	Tricia 189:23	156:18 160:3,20	217:10,17,21
211:24 212:19	topic-wise 93:4	tried 28:6 118:1	186:2,11 209:9	220:8
221:12	touch 52:7 82:2	167:15 182:3	210:13,15	turning 135:21
times 9:24 29:6	Townsend 113:19	trip 146:24	turkey 173:21	169:15 213:3
60:12,21 66:14	toxic 45:13	Trish 26:10 81:8,23	turmeric 112:6,11	TV 42:15
69:13 128:16	Tracey 34:21,25,25	Trish's 22:12	112:23 113:2,7,8	twenty 209:6
148:15 166:12	35:12 178:24	true 13:4,6,11 32:6	121:17 153:19,20	Twenty-two 11:7
187:9 192:11,16	Tracey's 34:23	86:20,21,21	191:16	twice 114:12 175:10
193:17	Trade 1:1 2:2,13 3:3	115:19 177:11	turn 74:17,20 82:12	two 4:14 16:7,8
time-tested 137:18	3:8 4:11,23 9:5	178:12 195:8	97:9 107:23 126:8	27:20 53:24 60:12
time-wise 84:3	97:17,23 99:18	198:7 205:21,22	153:22 172:21,22	68:3 72:22 83:18
tissue 156:21 215:2	200:14 222:10	truly 12:21 47:19	213:19	87:2 93:19 94:20
title 31:5,7,14,14,18	trademark 198:13	140:21	turned 17:24 132:2	102:17 128:16
32:17 33:3 35:7,10	trademarked	trust 70:3 80:3	Turner 1:7 3:16,17	147:19 151:6
127:1,12,17	198:17	125:6	3:19 5:1,1,2,5,6,6	157:2 166:12
139:19 141:2	traditional 74:18,18	trusted 111:1	5:6,7,12 21:6,25	173:9 175:6,7
160:4 179:4 222:4	96:3,5,17,22	truth 39:8 158:13	29:9 33:8,15 45:18	192:10,16 193:17
titles 20:16 30:17	trailer 50:16 55:4	183:21	46:1 56:24 76:23	205:6 218:2 221:9
150:11 152:9	train 19:10	truthful 47:19 116:8	86:6,11 87:22 88:1	two-hour 82:4
160:6,9	training 19:8	116:15 117:23	90:1 97:18,21	two-year 11:24
TM 198:14	transcript 222:7,8	158:19 177:17,19	98:16,20 102:23	type 18:6 83:5
today 4:11,17,19 6:5	222:21	179:8	104:3 105:2,7	105:18 132:1
6:9 7:23 8:20,25	translate 42:5	truthfully 89:14	106:13,20 109:14	138:7 170:14
42:13 43:4 88:4,20	travel 36:21	try 7:6 25:5,25 26:1	110:5,13 128:2,5	171:11,15 175:24
104:25 105:1	traveling 114:9	31:20 35:22 40:16	128:13,15,20	176:4 193:21
118:4 143:24	treat 77:10 118:5	40:16 41:11 80:18	129:5,8,13,18,22	types 120:13
221:13	120:24 127:13	85:10 146:9 187:4	133:14,20 136:5,7	
today's 7:25	137:12,14 145:1	216:20	136:16 137:25	U
token 47:13	168:14 177:3	trying 13:12 29:20	138:9,13,23 139:1	Uh-huh 4:21 7:16
told 26:9 40:12 50:8	180:15	30:12 45:22,23	141:11,19 142:5,9	15:16 16:20 20:12
52:10 62:17,21	treated 130:9	58:17 67:22,24	142:10 145:11,14	23:25 24:3,7,20,22
73:1 80:18,21	139:23	71:13 78:21 81:6	145:16,21 146:9	30:5,12 32:23 33:2
84:10 150:10	treating 116:11	87:12 90:10 101:7	146:17,25 147:24	34:11,19 36:4
183:2	120:23	107:8 128:21,24	148:1,3 150:23	39:23 43:3 44:25
tomentosa 113:22	treatment 93:5	180:11	151:7 152:4,10,17	51:17 52:20,25
tomorrow 146:11	96:18,22 139:15	tum 160:19	155:24 156:2,9	55:10 58:4 59:25
tone 27:7 117:3	139:17 194:25	tumor 33:3 139:22	160:25 161:5	63:6 64:3 67:9
tons 114:23	202:11 211:13,22	141:4 156:24	164:2,5,14,19	72:18 76:5,10,19
tools 95:19	215:10,19,21	157:22,23 158:4	165:7 169:19,23	82:19 85:1 92:4
top 23:13,16,19	216:6 217:7	161:8 170:20	170:1,3 176:14,18	96:9 98:1 99:4
75:17 124:22	219:22,25	171:2 188:20	180:23 181:4,6	102:19 104:19
126:22 127:14	treatments 86:3	189:2 210:18,20	183:12 197:23	106:19 113:14
160:3 170:20	96:3,6,11 97:2	210:23 214:17,25	198:2 200:13	116:5 126:10
178:17 210:12	189:10 199:3	215:5 221:4	203:21,22,25	129:8 131:15
220:16	212:23 213:5	tumors 35:13	204:2,7 213:13,17	132:10 134:20
				136:23 149:17

[250]

152:10 158:2,7 161:25 165:9 170:8 172:13 177:1 186:20 192:15 202:8 213:12,20 ultimately 213:2 UMass 11:18 20:4 210:6,14 211:3 Uncaria 113:22 undergoing 213:4 underlined 131:12 underlining 131:13 underlying 123:18 understand 6:5,11 6:12,16,21 7:6,8,9 34:3 53:20 55:16 67:22 71:18 87:5 88:13 89:1 156:4 161:17 181:1 205:21 220:24 understanding 31:23 38:18 39:22 89:15 125:23 133:20 162:22 179:15,17 180:6 understands 88:24 understood 27:22 74:11,12 104:17 undertake 14:11 unfortunate 30:17 Unfortunately 138:23 unheard 50:14 213:6 UNITED 2:1 units 186:9 192:3 Universal 63:5,16 University 15:2 16:16 unjust 118:15 unrighteous 118:14 unstapled 98:12 untold 14:9 untruthful 179:22 unwanted 186:2,11 189:15	updating 27:9 upper 100:4 118:18 147:16 160:17 upset 47:14 usage 166:8,22 191:25 192:7 197:9,10 use 12:15 13:14,19 13:24 17:6 18:23 19:1 21:5,7 22:15 22:22 23:8 25:20 30:16 31:25 32:20 33:25 34:1,5 43:22 44:12,16 46:7 50:12 59:19 74:23 81:2 82:17,18 85:23 88:19 89:11 89:20 90:5 96:20 100:16 101:3 109:8 115:21 118:6 128:17,22 129:11 132:3,24 137:14 140:6 154:20 160:11 171:6,7 177:4 179:7 180:8 181:22,25 208:8,8 210:21 213:15 218:7 219:9,12 220:4,18 useful 212:15 uses 62:25 120:1 170:16,17 171:9 usually 20:18 28:15 84:3 185:10 213:2 utilized 170:11 193:11 utilizes 24:11 utmost 157:5 U.K 15:3 16:16	114:20 135:25 201:25 vegetables 42:20 205:19 vegetation 41:5 vehicle 62:5 venture 51:10 162:8 184:13 verbal 6:17 verses 117:18,21 version 26:15 41:4 versions 25:17 versus 38:19 44:12 70:10,24 71:1 82:10 114:25 very-high-in-qual... 48:19 vessels 100:11,12 156:23 159:14 215:4 view 31:1 45:16 46:11 118:2 179:25 215:22 vision 62:18 visit 206:7,11 visiting 206:4 vitae 145:5 vital 12:24 32:7,18 vitamin 48:1 121:10 vitamins 19:6 43:9 voice 7:2	129:22 140:11 142:4,11 147:14 149:15 153:7 156:6 161:19 169:2 181:4,6 189:21 190:10 191:9 193:1 194:22 200:6,7 214:2,13 217:2 220:14,14 wanted 32:21 50:1 52:6 62:18 74:1,15 76:8 90:13 104:12 146:2 154:14 156:16 199:15 202:22 204:12 208:10,11 212:11 213:9,14 216:2 217:9 wants 81:5,23 169:5 203:23 warehouse 29:2 wash 53:18 Washington 3:21 9:1 52:21 146:10 wasn't 29:21 37:1 48:10 80:14 151:18 waste 100:11 wasting 213:1 219:6 Watch 80:22 water 17:6 41:7,13 81:16 175:8 195:23 205:19 watercress 173:21 way 14:24 17:7 19:3 20:8 25:5 27:8 32:19 35:8 38:6 39:4 41:2,13,19 42:20 44:14 48:22 51:1,10 52:2 61:23 64:12,18 65:10 66:21 73:2,6 74:14 83:19 85:17 86:11 98:14 116:20 120:11 138:21 155:2 160:10	171:17 187:7,10 205:4,10 206:1 207:13 209:17,20 210:2 211:7 216:19 ways 42:7 weak 207:1,7 209:12 weakened 91:6 weaknesses 37:8 wealth 116:14 Web 8:7 20:22,23 28:13,14,17 29:4,5 29:10 59:14,18,21 59:24 62:6,10,13 64:6 70:5,11,14,24 116:17 148:9 154:7 160:7,8 169:13,14 180:3 180:18 181:14 183:8,14 184:16 184:22,23,25 188:10 197:21 216:5 217:5 Wednesday 2:10 week 81:19 82:5 178:5 weekend 14:6 16:11 16:12 weeks 93:19 94:20 weigh 46:21 well-being 92:21 well-skilled 17:11 went 9:1 28:7 40:11 49:3 50:24,25 78:19,20 84:11 108:9,17,19,19 136:11 146:14 147:21 187:24 188:25 189:8 205:4 209:9 216:4 217:5 weren't 71:15 152:23 we'll 7:12,15,19 9:23 64:14 90:13 92:14 93:18 94:19 102:20 106:13,16
	V	W		
	vacation 138:24 vaguely 119:13 124:23 149:3 value 64:23 90:7 varies 17:23 18:5 various 38:12	W 3:6 wait 87:12 waiting 17:14 33:20 walk 42:16,18 70:10 71:1 133:17 walk-in 70:10 Wal-Mart 51:15 want 5:13 7:13 21:6 23:17 30:25 32:21 39:8,20 54:11 59:15 66:16 75:19 81:20 83:1,2 84:22 86:8 88:10,18 89:11,23 97:6,7 98:4 117:11		

116:17,17 123:14 136:9 139:2 143:16,17 146:10 146:11,25 147:2 152:4 153:6 164:13,17,22 169:3 180:12 190:22 we're 9:21 13:12 21:13 42:14 55:24 68:22 71:18 72:24 82:1,9 83:9,10 84:17 87:2,3,16 88:14 93:23 94:24 96:14 114:15,17 117:4,12,23,25 118:17 120:21 125:21 128:21 129:13,24 136:2 146:24 147:2,15 149:5 153:8 154:5 161:23 169:6,12 169:21 183:2 185:2 191:10 205:7 206:2 214:6 216:8,8 218:18 we've 20:8 26:25 28:8,10 55:3 58:12 61:4 67:4 69:14 71:11,12,19 72:2,5 79:23 88:4 99:6 101:9,11,11 108:21 114:9,9,11 115:4 118:25 121:10 122:8 124:12 126:21 131:19 132:23 148:22 149:20 153:14 161:14 162:17,18,21 183:25 185:20 188:8 197:17 201:25 202:6 220:7 WHALEN 222:16 whatnot 38:8 60:21 wheeled 206:24	whey 166:3 white 22:17,21 177:7,16 206:24 whole-grain 46:23 whopping 167:14 wide 81:7 wife 10:18 53:6 206:8 wine 41:1 Winters 190:14 wisdom 41:17 49:12 60:25 70:2 Wise 29:16 wish 189:12 207:18 wishes 42:9 witchcraft 83:5 withdraw 129:25 withstand 212:23 witness 1:4 4:5 21:14 22:1 33:12 56:23,25 79:10 88:24 98:1 103:2 110:7,15 138:11 138:15 140:12 141:15 142:12 145:15,18,22 146:23 147:4 148:2,6 151:3,9,11 152:14,21 161:3 164:4,6,9 165:9 169:25 183:13 197:24 198:1,3 200:4 217:14 witnesses 89:24 woman 11:12 wonder 21:1 wondered 73:4 wonderful 74:9 wondering 102:3 wooden 68:21 Worcester 208:19 210:6 word 21:5,22 22:15 31:21 32:21 45:25 48:22 53:25 65:25 82:17 89:11 90:5 106:1,10 113:4	117:18 161:2 194:14 198:14 205:1,21 211:5 215:17,19,21 220:24 wording 8:8 words 22:12,22 23:19,21 34:23,24 37:12 40:13 47:22 89:13,23 90:2 110:24 177:11 180:9 214:21,23 217:14 word-of-mouth 80:1 work 11:1 12:24 16:4 24:4 27:23 28:11 35:21 58:19 68:2 73:20,22 81:20 83:18 93:17 94:18 115:1 116:13 125:18 146:25 150:9 172:4 187:7,9 193:8 197:18 207:19,20 208:14 worked 24:25 37:6 49:24 73:7 107:4 111:21 125:10 166:21 167:3 197:8,13 208:19 209:24 working 8:17 11:11 12:14 18:3 38:11 40:8 74:10 114:15 120:21,22 175:15 178:5 208:20 209:2 210:8 211:17 214:19,20 workings 85:6 works 19:4 35:22 132:1 159:13 188:14,15 211:10 world 37:18 38:2,9 88:9 120:12 131:17 worse 212:6 worship 39:8	worth 64:17,24 67:6 72:3 207:24 wouldn't 57:15 70:12 187:5 193:23 196:24 wow 205:25 write 24:15,23 30:6 30:20 35:17 53:15 53:15 54:13,15,18 126:13 157:4,7 178:21 186:5 199:5 writer 20:8 110:21 writes 63:20 110:18 113:21 writing 11:19 20:2,5 25:4 29:12,14 53:22 86:1 127:25 176:9 178:13 written 5:15 20:11 20:14 22:20 26:1 26:24 28:15 34:24 34:25 36:3 54:14 116:24,25 119:16 120:6 130:8 144:12,16,17 157:6 160:1 171:13 174:19 wrong 94:2 95:3 wrote 23:18 25:7,14 28:16 29:15,18 126:17 127:21 144:20 173:5 178:2 X X 1:2 84:1 120:24 Y yeah 5:1 19:10 20:4 21:5 26:17 27:23 30:12 33:15 35:22 37:1 39:19 45:6,18 46:12 50:3 53:5 55:24 56:13 57:8 58:4,7 59:15 61:23 63:14 71:3 76:7,13 77:24 79:17,19	85:21 110:7,10 111:18,20 122:5,7 123:15 124:21 135:10 141:15 143:13 145:14,23 145:24 148:3,6 153:12,13 167:22 168:9 171:7 173:12 174:13,25 196:20 200:9 201:22 202:3 204:16 213:17 218:13 year 11:20,25 15:18 16:7,9 27:17 28:3 29:17,18,24 30:1 36:20 51:4,25 52:2 52:24 59:16 80:8 80:15 83:14 years 11:7,17 14:24 16:5 19:13 20:1,4 24:25 28:9 29:11 29:15 36:18 47:2 58:12 59:21 64:13 68:9 79:23 80:10 80:12 84:13 88:5 93:22,23 94:23,24 99:7,7 101:8 102:2 102:5,6 109:6 114:7 115:2 117:25 121:11 122:7 124:13 125:14 131:14 133:1 144:17 157:6,20 158:21 160:1 162:17 182:1 186:15 206:9 208:17,25 209:24 211:19 yellow 124:21 Yep 107:13 yesterday 5:8 21:9 75:20 106:20 203:1 216:21 York 2:15,15 3:11 3:11 8:12 young 29:8 83:17,19
---	--	--	---	--

[252]

<p>Y'Shua 56:7,12</p> <p>Z</p> <p>Zang 3:5 4:19 89:19 103:14 143:13 152:12 154:2 161:6 164:21,24 190:1 214:1 221:15</p> <p>\$</p> <p>\$20 50:24 \$50 68:15</p> <p>0</p> <p>0001 97:25 98:25 0001-0155 1:11 97:13 00013 102:12 0004 99:23 0006 99:1 0007 102:11 105:11 0009 105:14 00100 135:8 0011 156:15 0013 105:11 169:15 170:13 175:21 0014 107:11 176:20 177:21 0016 178:15 0017 107:23 0028 185:2,3,24 0032 107:12 197:21 198:5 0033 109:12 0036 111:5 0042 110:16 0046 109:12 0047 111:23 0052 111:25 112:17 0053 113:12 0054 113:13 0055 118:19 119:4 0057 118:19 0058 119:10 0061 119:11 0062 121:5 0063 122:3</p>	<p>0064 122:15 173:10 175:3 0065 122:17 123:12 163:25 164:3 165:6,11 0066 124:14 165:6 0067 190:24 0068 124:16 190:24 0069 125:22 0070 125:22 0071 126:2 0072 126:8 0073 126:2 0074 126:19 0075 127:4 0077 127:16 0081 127:5 0082 130:3 0084 130:4 0085 131:2 0087 131:6 0088 131:3 0089 132:19 0092 132:20 0093 133:24 0096 133:25 0097 134:7 0098 135:7 0100 135:13 0101 136:22 0102 136:22 0103 136:25 0104 137:22 0107 137:23 0108 140:14 0109 140:14 011 147:24 0110 142:20,25 147:11 148:2 0114 142:21 0115 147:7,12 0116 147:7,21,25 148:23 0117 148:23 0122 165:6 0123 165:6 0124 149:6 173:10</p>	<p>0125 190:24 191:9 0126 190:24 0127 195:12,19 0128 149:8 164:1 195:12 0129 149:23 0130 149:24 0131 151:5 0132 151:5 0133 151:9 0154 153:8 0155 97:25 153:9 0317 23:24 0353 32:25 33:12 0381 145:22</p> <p>1</p> <p>1 117:21 138:6 213:10 214:17 220:12 1st 49:8,9 76:18 10 121:19 10004 2:15 3:11 101 3:20 1028 10:4,8 12 21:13,13,14 23:5 33:13 117:15 123:20 145:19,23 145:24 12:03 103:15 12:56 104:2 122 164:3 123 164:5 128 164:15,20 13 1:11 97:10,12 14 1:12 2:10 163:16 163:17,21 165:4 176:20 197:24 216:9,10 222:5 1400 3:20 15 1:13 143:10,13 169:8,9 173:9 222:13 16 1:14 190:23 191:2,6 16th 3:20 163 1:12 169 1:13</p>	<p>17 1:15 107:24 195:15 17:6 49:9 18 97:24 191 1:14 195 1:15 1971 100:8 1983 11:10 204:20 206:18 1984 206:18 1985 122:6 1986 11:7,8 39:16 206:17,18 1988 34:21 1993 11:16,20</p> <p>2</p> <p>2 144:7 2,000 192:3 200 19:13 2000 15:18 27:17 28:3 83:14 84:14 2002 51:25 20036 3:21 2005 156:6,7 2009 2:10 222:5,13 202 3:22 204 1:7 212 3:12 218 1:6 22 58:12 115:2 133:1 158:21 223 10:4 2271 10:10 24 49:6 193:19 24/7 11:4 25 138:14 26 138:7,9 27 134:19 28 147:11,15,16 148:2 29 147:11,24 148:1</p> <p>3</p> <p>3 23:7 25:20 106:5 169:12 3-6-2008 143:2 30 148:4</p>	<p>30-day 50:14 31 148:4,7 310 22:1 311 23:12 318 2:12 3:10 24:8</p> <p>4</p> <p>4 1:5 154:6 156:14 169:14,21 170:13 175:17 197:20,21 197:25 4:37 221:18 40 100:4 101:25 41 101:18,25 102:3 462-8800 3:22</p> <p>5</p> <p>5 147:25 50 165:19 508 173:4</p> <p>6</p> <p>6 75:20 607-2813 3:12 65 164:3,15 66 164:3,20</p> <p>7</p> <p>7 1:13 34:18 63:17 63:24 64:24 73:19 74:2,3 114:4 117:21 118:3 131:24 132:8,12 144:25 169:10,18 170:5,6,7,14,17,25 171:7,10,13,19,21 173:6,18,19 175:7 175:21,24 176:21 177:2 178:18 179:4 180:19 181:15 183:1 214:11 750 165:17</p> <p>8</p> <p>8 118:17 144:8 200:12 213:19 214:6,10 220:7</p>
---	--	---	---	--

800 67:8,10 70:23,25
71:2
86 60:12

9

9 117:21 203:3
9:36 2:18
90s 29:15 58:4 80:11
93 36:19
9329 2:6 222:3
97 1:11
99-2000 15:19

In the Matter of:

Daniel Chapter One, et al.

January 15, 2009

Claudia P. Bauhoffer, Kinney

Condensed Transcript with Word Index



For The Record, Inc.

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1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FEDERAL TRADE COMMISSION
I N D E X

WITNESS:	EXAMINATION:	PAGE
CLAUDIA P. BAUHOFFER-KINNEY	BY MR. ZANG	4

EXHIBIT:	DESCRIPTION	FOR ID
Number 18	subpoenas	4
Number 19	product labels	35
Number 20	Universal Nutrition documents	44
Number 21	9-22-05 letter to J. Feijo from C.P. Bauhoffer-Kinney	50

2

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)
DANIEL CHAPTER ONE, a corporation,)
and) Docket No. 9329
JAMES FEIJO, individually and as)
an officer of Daniel Chapter One)
-----)

Thursday, January 15, 2009

Room 318
Federal Trade Commission
One Bowling Green
New York, New York 10004

The above-entitled matter came on for deposition, pursuant to subpoena, at 9:32 a.m.

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1 APPEARANCES:

2

3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:

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4

P R O C E E D I N G S

1
2
3 Whereupon --
4 CLAUDIA PETRA BAUHOFFER-KINNEY
5 a witness, called for examination, having been first
6 duly sworn, was examined and testified as follows:
7 (FTC Deposition Exhibit Number 18, subpoenas,
8 was marked for identification.)
9
10 EXAMINATION
11 BY MR. ZANG:
12 Q. Good morning, Ms. Kinney.
13 My name is Theodore Zang. I'm an attorney with
14 the Federal Trade Commission.
15 And I understand that before we went on the
16 record you were sworn in by a notary public. Is that
17 correct?
18 A. Yes.
19 Q. Before we begin, let me just tell you about some
20 ground rules of how this deposition will work, which is
21 pretty much like any deposition.
22 And also I want to state that you are here
23 pursuant to a subpoena issued by the
24 Federal Trade Commission. Is that correct?
25 A. Yes, that's correct.

1 Q. And I also want to repeat a briefer version of
 2 something I mentioned to you when you first walked in
 3 the room today in the presence of Mr. Turner, who is
 4 counsel for Daniel Chapter One.
 5 And that is that at the present time, as you
 6 understand, you or your company are not defendants in
 7 the lawsuit that the Federal Trade Commission has
 8 brought against Daniel Chapter One and that I understand
 9 you have not had a chance to review the complaint. Is
 10 that right?
 11 A. That's correct.
 12 Q. So it is publicly available for review on our
 13 Web site.
 14 A. Okay.
 15 Q. And I'd also be happy to give you a copy at some
 16 point today during a break.
 17 But the essence of the complaint, in part, is
 18 that we are alleging that Daniel Chapter One is making
 19 unsubstantiated claims about four of the products that
 20 they sell. And there are some other elements to the
 21 complaint, but that's the principal focus of the
 22 complaint.
 23 A. Okay.
 24 Q. And we may discuss that later, so --
 25 A. Okay.

1 case.
 2 I'll be asking you a series of questions.
 3 Have you ever been deposed before?
 4 A. No.
 5 Q. Okay. Well, that's probably fortunate.
 6 But I will be asking you a series of questions,
 7 and if at any time you don't understand my question,
 8 please let me know, and I'll do my best to state it in a
 9 different way so that hopefully you'll understand it.
 10 A. Okay. I'll do that.
 11 Q. Also, if at any point you need to take a break
 12 for personal or other reasons, let me know, and we'll do
 13 that.
 14 A. Okay.
 15 Q. If I'm speaking too quickly, let me know, and
 16 I'll slow down, and in fact we both need to speak a
 17 little less quickly than we would in normal
 18 conversation so that the reporter can take down what
 19 we're saying.
 20 A. Okay.
 21 Q. Also we have to try to avoid talking over each
 22 other for the same reason.
 23 And if at any point you want to supplement or
 24 change an answer that you've given to me because you
 25 realize that it's incomplete or incorrect, just let me

1 Q. Let me tell you now a little bit about how the
 2 deposition will proceed.
 3 A. Okay.
 4 Q. And I take it you're not represented here today
 5 by counsel. Is that right?
 6 A. No, I am not.
 7 Q. So especially because of that, I want to be sure
 8 that you understand what happens here.
 9 There is a court reporter sitting to your
 10 right, and she is going to be taking down what I say
 11 and what you say and what counsel for
 12 Daniel Chapter One say, if anything. And because of
 13 that, I would ask that instead of shaking your head, as
 14 we often do in conversation, that you articulate your
 15 answer, say yes or no, so that she can mark them down
 16 for the record.
 17 A. Okay.
 18 Q. As I already indicated, this is a deposition in
 19 the case of Daniel Chapter One, a corporation, and
 20 James Feijo, individually and as an officer of
 21 Daniel Chapter One.
 22 A. Uh-huh.
 23 Q. And the FTC has brought this case, and it has
 24 an official case number, which is 9329, and this
 25 deposition is being taken for all purposes in this

1 know, and by all means you'll have an opportunity to do
 2 that. The important thing is that the record accurately
 3 reflects whatever knowledge and information you have
 4 pertaining to the questions I ask. Okay?
 5 A. Okay.
 6 Q. So just one question just to make sure that the
 7 record will be accurate, and that is: Are you taking
 8 any medications or are there any other reasons why you
 9 cannot answer my questions truthfully today?
 10 A. No.
 11 Q. And accurately?
 12 A. No.
 13 Q. Okay.
 14 A. I didn't expect that question.
 15 MR. ZANG: All right. Mr. Turner, why don't
 16 you introduce yourself and your colleagues for the
 17 record.
 18 MR. J. TURNER: I'm Jim Turner. I'm the
 19 attorney for Daniel Chapter One and James Feijo.
 20 This is Betsy Lehrfeld. She's attorney for the
 21 same defendants in this case.
 22 And Christopher Turner, who is also an attorney
 23 and is also representing Daniel Chapter One and the
 24 Feijos.
 25 THE WITNESS: Okay.

1 BY MR. ZANG:

2 Q. And what I'm going to do from time to time is
3 show you a document, and when I do that, I'll just ask
4 you to take a look at it before I ask any questions just
5 to make sure you know what you're talking about, and
6 then as I continue to ask questions about it, feel free
7 to take time to look at it.

8 So the first one is a document that has been
9 premarked as FTC Exhibit 18, and it's the two subpoenas
10 that were issued to you to appear today, and I just want
11 to ask you to take a look and confirm that that is what
12 it is.

13 A. Yes, it is.

14 Q. Okay. And Ms. Kinney, what I want to do is
15 direct your attention to the subpoena that asks you to
16 bring documents today. And I know that you handed me
17 some documents when you came in, and I just want to
18 quickly put onto the record what requests that we made
19 you had documents for.

20 So I'm going to direct your attention, please,
21 to page 4 of the document request, which is towards the
22 end of this document. And I'm just going to read
23 through these, and please tell me if you -- well, first
24 of all tell me generally if you have responded fully,
25 to the best of your knowledge, to this document

1 subpoena.

2 A. Okay.

3 Q. So have you?

4 A. Oh. Yes, I have.

5 Q. And you reviewed it in your office I presume?

6 A. Several times.

7 Q. Okay. So looking at document request number 1,
8 it requested all documents, including but not limited to
9 contracts, agreements or work orders, relating to the
10 production of Bio*Shark, GDU and BioMixx.

11 And did you find documents responsive to that
12 request?

13 A. Yes, I did.

14 Q. And you've brought those in today?

15 A. Yes, I did.

16 Q. And the same question with respect to number 2.

17 Let me read that simply for the record, and that
18 is: All documents relating to payments made by
19 Daniel Chapter One and/or James Feijo for the production
20 or purchase of Bio*Shark, GDU and BioMixx from
21 January 1, 2003 to the present.

22 A. Yes, I brought those as well.

23 Q. Okay. And then the same question for number 3.

24 The document request there is: All documents
25 relating to the claims that Bio*Shark, GDU and/or

1 BioMixx prevent, treat or cure cancer or tumors or other
2 serious medical illnesses.

3 Did you bring documents for that?

4 A. I don't have any such documents.

5 Q. Okay. And with respect to that, did you ever
6 have such documents?

7 A. No.

8 Q. All right.

9 A. No. I'm strictly a manufacturer.

10 Q. All right. And we'll get more into that later.

11 A. Sure. Sure.

12 Q. And then finally number 4 is your curriculum
13 vitae.

14 A. Which I don't have.

15 Q. All right.

16 All right. So you could put this exhibit
17 aside.

18 A. Okay.

19 Q. And I'm going to begin by asking you a couple
20 of personal questions and then some questions related to
21 your current employment, so let's begin with the
22 personal questions.

23 Can you please state your full name for the
24 record.

25 A. Claudia Petra Bauhoffer-Kinney.

1 Q. All right.

2 A. Yes.

3 Q. And at some point from time to time you may need
4 to spell some things for the court reporter.

5 A. Sure.

6 Q. So why don't you just spell your middle names,
7 please.

8 A. My middle name is P-E-T-R-A.

9 And do you want my maiden name, Bauhoffer?
10 B-A-U-H-O-F-F-E-R and hyphen Kinney, K-I-N-N-E-Y.

11 Q. And you already testified that you've not been
12 deposed before; correct?

13 A. Right.

14 Q. Have you ever testified in a case before?

15 A. I was involved in a case -- God, I barely
16 remember it. It has to be 18 years ago -- where we
17 manufactured a product line for another company -- I
18 don't even remember what the lawsuit was about, but I
19 know I had to go to an attorney's office, and it was
20 this -- I don't know what it was. I'd have to look. I
21 don't even remember, it was that long ago.

22 I think it was a quality issue with the tablet.

23 I think they said there was a problem with the tablet,
24 that it was turning dark or something like that.

25 Q. Okay. And have you ever personally been party

1 to a lawsuit?
 2 A. I was sued for an automobile accident.
 3 Q. All right. And other than that, anything else?
 4 A. No. Thank goodness.
 5 Q. And again, let me just ask you to speak up.
 6 A. I'm sorry.
 7 Thank goodness.
 8 Q. And I'll do the same.
 9 A. I'm sorry.
 10 Q. Now, are you currently employed?
 11 A. Yes.
 12 Q. Who is your employer?
 13 A. Universal Nutrition.
 14 Q. Has Universal Nutrition been party to a lawsuit,
 15 to the best of your knowledge, let's say, within the
 16 last five years?
 17 A. Yes.
 18 Q. And are there many such instances?
 19 A. No.
 20 Q. All right. So to the best of your knowledge,
 21 can you just state the general circumstances of those
 22 lawsuits as you understand.
 23 A. The only two I'm aware of is where athletes were
 24 tested positive for doping and then they blamed it on
 25 their supplement use.

1 Q. I'm going to turn to your employment at
 2 Universal Nutrition and ask you some questions about
 3 that.
 4 What is your current title?
 5 A. I'm a senior sales executive.
 6 Q. And how long have you been a senior sales
 7 executive?
 8 A. 18 years.
 9 Q. And prior to that time?
 10 A. I did secretarial work, just about everything.
 11 Q. For Universal Nutrition?
 12 A. Yes. For Universal, yes.
 13 Q. Do you currently report to anybody at the
 14 company?
 15 A. Yes. I have a sales manager. And the owner of
 16 the company.
 17 Q. And for the record, who are those two people?
 18 A. The sales manager is Tim Tantum.
 19 Q. And?
 20 A. The owner is Clyde Rockoff. And I guess I would
 21 report to his son as well, Michael Rockoff.
 22 Q. And what is his position?
 23 A. Vice president.
 24 Q. Anybody else that you report to?
 25 A. No.

1 Q. All right.
 2 All right. Let me focus now on your educational
 3 background.
 4 A. Sure.
 5 Q. Can you describe your most recent educational
 6 degree?
 7 A. I have a bachelor's degree in communications
 8 from Rutgers University.
 9 Q. All right. And is that the highest educational
 10 degree?
 11 A. Yes, that is.
 12 Q. And prior to being employed by
 13 Universal Nutrition, were you employed?
 14 A. That would be when I was still attending
 15 college. I've worked for Universal for 22 years now, so
 16 I worked in a department store in North Carolina.
 17 Q. All right. And other than Universal Nutrition,
 18 have you ever worked for a company that is involved in
 19 the same industry as it is?
 20 A. No.
 21 Q. All right. And what industry is that, by the
 22 way?
 23 A. It is the sports nutrition industry.
 24 Q. All right.
 25 A. Food supplement.

1 Q. And just let me finish before you answer so it
 2 will be easier for the reporter.
 3 A. Sure.
 4 Q. And then in terms of people who report to you,
 5 are there any?
 6 A. I have an assistant.
 7 Q. And what's his or her name?
 8 A. Her name is Lori Neilsen.
 9 Q. And anybody else?
 10 A. No.
 11 Q. Can you describe generally what your work
 12 responsibilities are in your position?
 13 A. Sure. I have my own customers and I am
 14 responsible for taking orders, making sure they're
 15 fulfilled, they're done correctly. I collect the
 16 money. I arrange shipments if needed. I do paperwork
 17 if needed. And that's it. I get the order out the
 18 door.
 19 Q. And approximately how many customers do you
 20 currently have?
 21 A. Oh, gosh. I probably have 75 customers.
 22 Q. Are they located throughout the United States?
 23 A. My main business is international, so mine are
 24 more overseas.
 25 Q. Okay. And just, for the record, give an

1 overview of where internationally those customers are
2 located.

3 A. Europe. Russia. South America. They're really
4 all over. Middle East.

5 **Q. Are you familiar with a company named
6 Daniel Chapter One?**

7 A. I am.

8 **Q. And in what context?**

9 A. They are also a customer of mine.

10 **Q. Okay. And are they located here in the
11 United States?**

12 A. They are.

13 **Q. How is it that they became a customer of yours?**

14 A. You know, I don't remember how our initial
15 contact came about. I don't remember.

16 **Q. All right. And given that your customer base
17 is primarily international, can you describe why it is
18 that Daniel Chapter One is in your portfolio of
19 customers?**

20 A. They -- I also do private label work.

21 Universal does two things. We have our own
22 brand of products, and we are a private label
23 manufacturer as well.

24 And Daniel Chapter One falls under the private
25 label part of our company.

1 **Q. For somebody who isn't as familiar with the
2 industry as you are, could you describe how the private
3 label part of it works.**

4 A. Sure. What that is is when they have their own
5 product line, generally the customers, either I will
6 solicit them or they will come to us, and they have
7 their own formulas or they have an idea of what they are
8 looking for.

9 We bid on the products, and usually we're
10 bidding with other companies. And depending on the
11 pricing and the service we can offer, the turnaround
12 time, the minimums -- that's all taken into account --
13 they will decide on which manufacturer to go with.

14 **Q. And the private label business is in contrast to
15 that part of the business where you sell products with
16 your own label on it?**

17 A. Yes.

18 **Q. And what is the breakdown overall for
19 Universal Nutrition of private label versus your own?**

20 A. I'm not sure on these numbers, but our main
21 focus is our own brand, so I would guess that it's
22 75 percent to 25, our brand, 25 private label.

23 **Q. When did, to the best of your memory,
24 Daniel Chapter One become a customer of
25 Universal Nutrition?**

1 MR. J. TURNER: I'm going to object now and
2 restate the continuing objection to any information
3 about Daniel Chapter One from this witness, and that's
4 restating all the objections from what we wrote in our
5 papers and then on Tuesday and Wednesday's depositions,
6 and also say that the Feijos asked Claudia not to
7 release any financial information, and she brought the
8 material here for us to sort out here.

9 MR. ZANG: And Jim, because that was a very
10 broad objection, I would ask you simply to state for the
11 record what categories of information you're objecting
12 to specifically.

13 Is it everything that follows?

14 MR. J. TURNER: All the financial information.

15 MR. ZANG: Okay.

16 MR. J. TURNER: Anything else we're
17 basically -- we're objecting to all financial
18 information and then any information on claims,
19 although I understand there isn't any information on
20 claims, but if there were, we would object to that.
21 And it's on all financial information and the business
22 relationship.

23 MR. ZANG: And financial information in the
24 context of Daniel Chapter One?

25 MR. J. TURNER: Daniel Chapter One, correct.

1 MR. ZANG: Anything else or just that?

2 MR. J. TURNER: Just Daniel Chapter One's
3 information.

4 MR. ZANG: Okay.

5 BY MR. ZANG:

6 **Q. All right. So Ms. Kinney, although Mr. Turner
7 has made an objection, you can now continue to answer my
8 questions. He just wanted to state his objections for
9 the record.**

10 A. Okay.

11 **Q. And again, the question that was pending is:
12 When did Daniel Chapter One first become a customer?**

13 A. It would be I would say 15 years ago.

14 **Q. Okay.**

15 A. Somewhere around that.

16 **Q. And let me state for the record that the focus
17 of the Federal Trade Commission's lawsuit is I believe
18 three products that Universal Nutrition manufactures,
19 and they were mentioned in the document subpoena that
20 you received.**

21 **But I want you to state for the record first of
22 all what products or, if it's a whole bunch of products,
23 how many products it is that Universal manufactures for
24 Daniel Chapter One.**

25 A. Oh, goodness. They have a big product line.

21	22
<p>1 We probably do -- I'm guessing again. I'm sorry. I 2 didn't know I would need to know this -- 35 to 3 40 products.</p> <p>4 Q. For Daniel Chapter One. 5 A. For Daniel Chapter One.</p> <p>6 Q. And then let me ask you about the three 7 products -- well, actually four products that are the 8 subject of this lawsuit. 9 The first one is 7 Herb Formula. 10 Do you manufacture that? 11 A. 7 Herb Formula? 12 Q. Yes. 13 A. No. 14 Q. All right. And Bio*Shark? 15 A. Yes. 16 Q. And GDU? 17 A. I do. 18 Q. BioMixx? 19 A. Yes. 20 Q. Okay. I'll come back to those and ask some more 21 questions. 22 A. Sure. 23 Q. In general, has your business with 24 Daniel Chapter One stayed constant over time with 25 respect to those three products that you make for them?</p>	<p>1 A. I couldn't tell you the numbers of those 2 specific three products. I could give you an overall 3 but not specifically those three.</p> <p>4 Q. All right. And of those three products, are any 5 of them big-volume sellers for you to 6 Daniel Chapter One? 7 A. No. 8 Q. How about within the context of the 9 Daniel Chapter One products? 10 A. Probably for them I would think GDU would be a 11 good seller. The other two I don't really recall a huge 12 purchase of. 13 Q. All right. And before I get into the specifics 14 of those products in any further detail, let me ask you 15 again some general questions. 16 What sort of records does the company keep 17 generally about sales to Daniel Chapter One, your 18 sales? 19 A. Well, usually Daniel Chapter One will send over 20 a PO. Then the order will be written up. And we have a 21 purchase order sheet where we write up orders. 22 The orders are then are assigned its own unique 23 number, and that number goes with it throughout the 24 whole tracking and invoicing system. 25 So of course we keep track of the raw materials</p>
23	24
<p>1 we use, the weights, the finished tablet weight, the 2 finished powder weight, and where there's a unique lot 3 number assigned to every order as well.</p> <p>4 And then when the product is finished, a 5 retention sample is kept, and it is invoiced using the 6 lot number. And then that folder, the PL folder, the 7 original, is filed away. And we keep that I think for 8 five years. Legally we have to keep it.</p> <p>9 Q. And you referred to the PL folder? 10 A. We refer to the PL. It's called private label, 11 and that's why we call it PL.</p> <p>12 Q. How does Universal Nutrition decide what to put 13 into a particular product? 14 A. Usually the customer dictates that to us.</p> <p>15 Q. And in what format is that usually dictated? 16 A. E-mail, over the phone, fax. Someone sends us a 17 label of an existing product perhaps.</p> <p>18 Q. In general, does your company advise a potential 19 client or customer on the formulation? 20 A. Yes. 21 Q. And in what regard? 22 A. If we can manufacture it, if any of the numbers, 23 any of the milligrams we feel may be too high, if 24 there's an iron warning needed, things like that we try 25 to do, yes.</p>	<p>1 Q. And so that in part is with an eye to regulatory 2 issues? 3 A. Yes. Exactly. The FDA regulations.</p> <p>4 Q. Does Universal Nutrition get involved ever with 5 product literature that is distributed? 6 A. No, we do not. 7 Q. Do you ever review any product literature? 8 A. No. 9 Q. And how about product advertisements? 10 A. Yes. 11 Q. Now, how about product labels? 12 A. Yes. Because oftentimes I will print the 13 labels. 14 Q. And what sort of issues generally do you look at 15 on the product labels? 16 A. On the label I will make sure that the 17 nutritional supplement panel is correct -- that's my 18 main thing -- serving size is correct, ingredients are 19 correct, other ingredients are listed, and it's up to 20 the FDA requirements. 21 "A dietary supplement" has to be written on the 22 front of the panel. I make sure that's there. 23 We always recommend the FDA disclaimers on all 24 labels, anything legally that must be on there. 25 And I look for as well as for visually, if</p>

1 there's something that looks wrong, if something is
2 spelled wrong, just things like that mainly.

3 **Q. On the private label product does
4 Universal Nutrition's name generally appear?**

5 A. Never.

6 **Q. What sort of testing, if any, does
7 Universal Nutrition do for private label, private label
8 products?**

9 A. We don't do any.

10 **Q. Do you do any testing to see if your
11 manufacturing is producing the correct formulations?**

12 A. Rarely we do. Rarely.

13 **Q. But aside from that, any other testing?**

14 A. No. When we buy raw materials, we require
15 C-of-As from the raw material supplier, certificate of
16 analysis.

17 **Q. And what does that look at? Is that for
18 purity?**

19 A. It's for purity. It's for bacteria, any type of
20 heavy metals.

21 And so that's really about it.

22 **Q. Do you ever evaluate whether a particular
23 ingredient in your products might be unsafe for human
24 consumption?**

25 A. No.

1 **Q. So again, this is -- because I myself am not
2 terribly familiar with this end of your industry, how do
3 you know if all the ingredients in a particular product
4 are in fact safe, or is that just not a concern of
5 yours?**

6 A. The materials that we buy are all on the GRAS
7 list, G-R-A-S, generally recommended as safe, which is
8 set forth by the FDA. And everything that we are
9 allowed to purchase is on there so that we assume -- we
10 try to buy from reputable suppliers, so we are
11 essentially taking their word.

12 **Q. Okay. I want to talk generally about your
13 pricing, and let's focus on private label pricing.**

14 **Generally how does Universal Nutrition set the
15 pricing that is established for its private label
16 customers?**

17 A. I don't do the pricing myself. My sales manager
18 does all the pricing.

19 **Q. And how does your sales manager do that?**

20 A. I submit a formula to him.

21 **Q. And then is there a typical markup?**

22 A. I don't know what it is. I'm sure there is.

23 **Q. Do you have a general idea of what it is?**

24 A. I would guess 30 percent.

25 **Q. Does Universal Nutrition have any role at all in**

1 **the prices that its customers charge to end users?**

2 A. No. No, we do not.

3 **Q. Do you ever comment on that in any regard?**

4 A. No.

5 **Q. Does Universal Nutrition ever receive complaints
6 from end users about the products that it manufactures
7 in the private label context?**

8 A. From the end user?

9 **Q. Right.**

10 A. No.

11 **Q. How about from your customers?**

12 A. Yes.

13 **Q. Has Daniel Chapter One ever lodged a complaint
14 for any reason?**

15 A. Sure.

16 **Q. And can you describe in general what types of
17 complaints?**

18 A. If I remember correctly, perhaps a powder, the
19 flavor not being consistent, or maybe a tablet, maybe
20 the color being a little off as compared to a previous
21 batch, generally like that, if there are any.

22 **Q. And whom at Daniel Chapter One do you personally
23 deal with?**

24 A. I deal with Jill and I deal with Jim and a
25 little bit with Tricia.

1 **Q. And I think I know who you're talking about, but
2 for the record, are those all Feijos?**

3 A. They are.

4 **Q. And why don't you describe, going through each
5 one, what sort of matters you tend to deal with -- let's
6 start first with Jill Feijo.**

7 A. Sure. Jill, she is the one who I speak to about
8 orders going out, if there's a question on an order.
9 She pays the bills.

10 Jim, I really don't speak to him very often.
11 He's the one who will submit any new products, any
12 formula changes.

13 And Tricia, I usually -- I don't speak to her
14 very often. She'll, you know, ask about a product every
15 once in a while, but that would be about it.

16 **Q. When Jill sends payments to Universal Nutrition,
17 how is that payment made?**

18 A. It's made over the phone with a credit card.

19 **Q. And is that an American Express credit card or
20 some other brand?**

21 A. Usually American Express.

22 **Q. How often does that payment tend to occur?**

23 A. Probably once to twice a month.

24 **Q. Have you had an opportunity to discuss the
25 Federal Trade Commission's lawsuit with any of the**

1 Feijos?
 2 A. Briefly. Yes.
 3 Q. Can you please describe for the record those
 4 conversations.
 5 A. Sure. I know that when this originally
 6 started-- I don't remember what when it was -- Jim told
 7 me that a complaint was filed against him and that he
 8 didn't think it had any merit and that he was going to
 9 stand up for himself.
 10 Q. And any other conversations with him?
 11 A. Basically that was it.
 12 I mean, they're all -- the ones that have been
 13 pretty much the same.
 14 And I spoke with him yesterday after he was done
 15 here, and he just said that he apologized that he
 16 couldn't stay to see me today, because I've only ever
 17 met him once, and that he wasn't feeling good and he was
 18 going home.
 19 Q. Well, I hope it wasn't as a result of our
 20 deposition.
 21 Okay. Have you ever had an opportunity to look
 22 at a Daniel Chapter One product catalog that they
 23 publish?
 24 A. No. I've never seen one.
 25 Q. Have you ever had an opportunity to listen to a

1 radio show that they produce, the Feijos?
 2 A. When I've been put on hold.
 3 Q. Okay.
 4 A. For maybe a minute or two at a time, but I've
 5 never listened to a radio show fully.
 6 Q. Have you ever been a guest on their radio show?
 7 A. No.
 8 Q. Okay. I think what I'd like to do now is to
 9 turn to the individual products that are the subject of
 10 this lawsuit, so why don't we start with GDU.
 11 A. Right.
 12 Q. And firstly, can you tell me, without referring
 13 to any papers, generally what the principal ingredients
 14 of GDU are?
 15 A. I know it's 500 milligrams of a digestive
 16 enzyme, but I can't remember what it is off the top of
 17 my head.
 18 Q. And when did you first start manufacturing GDU?
 19 A. I'm not sure, but I would think eight years
 20 ago.
 21 Q. And were you involved at that time in working
 22 with Daniel Chapter One to formulate it?
 23 A. He came to me with the formula.
 24 Q. "He" being Mr. Feijo?
 25 A. Mr. Feijo, yes, Jim.

1 Q. And in those eight or so years, has the formula
 2 changed?
 3 A. No, it has not.
 4 Q. And at that time, when you first started
 5 manufacturing it, did you have an understanding of what
 6 its intended purpose was?
 7 A. No.
 8 Q. Did Mr. Feijo explain anything in that regard?
 9 A. No, he did not.
 10 Q. How about today? Do you have an understanding
 11 of what -- of how Daniel Chapter One markets GDU?
 12 A. I do not.
 13 Q. And is there any product that
 14 Universal Nutrition manufactures that's similar to GDU
 15 but for other customers?
 16 A. Not that I'm aware of, no.
 17 Q. Are you aware of any of the claims, if there are
 18 any, that Daniel Chapter One makes about GDU?
 19 A. No, I'm not.
 20 Q. Have you ever received any complaints -- and I
 21 know I asked you this generally, but I do want to ask it
 22 specifically -- about GDU from end users?
 23 A. No.
 24 Q. And I believe you testified earlier that of the
 25 Daniel Chapter One products, GDU is the -- is one with a

1 higher volume. Is that correct?
 2 A. Yes.
 3 Q. And can you quantify that volume in rough
 4 terms?
 5 A. Gosh. 500 units a month.
 6 Q. What I want to do -- and I have not had time to
 7 copy the documents you brought in today, so I may not at
 8 this point mark them as exhibits, if that's all right
 9 with Mr. Turner.
 10 MR. J. TURNER: That's fine.
 11 BY MR. ZANG:
 12 Q. But I want to give you back the documents just
 13 to refresh your recollection about GDU.
 14 So can you kindly take a quick look -- I'll
 15 just give you back everything -- and give me an idea,
 16 let's say in the last year, of the approximate volume
 17 of GDU that you've manufactured for Daniel Chapter One.
 18 A. Sure.
 19 Do you want me to look at the invoices and add
 20 them up for you?
 21 Q. That would be perfect, and I can give you a pen
 22 if you need.
 23 A. Thank you.
 24 (Pause in the proceedings.)
 25 Now, I didn't separate the two sizes. Did you

1 want me to do that?
 2 **Q. Well, for the record, what are those two**
 3 **milligrams?**
 4 A. They're not milligrams. They're amount --
 5 tablets per bottle. One is 120 and the other one is
 6 300 tablets per bottle.
 7 **Q. Okay. I would like you to separate them,**
 8 **please.**
 9 A. Okay. I'll start from the beginning.
 10 **Q. Because you're just calculating a total volume**
 11 **number; correct, not a dollar amount?**
 12 A. No. I thought you wanted units.
 13 **Q. Units, yes.**
 14 A. Yes.
 15 **Q. But while you're doing this, Ms. Kinney, could**
 16 **you also add up the dollar amount?**
 17 A. Sure.
 18 **Q. And it can be, you know, plus or minus a dollar**
 19 **or two. Don't worry about the cents.**
 20 A. Thank you.
 21 (Pause in the proceedings.)
 22 **Q. Okay. And my apologies for putting you through**
 23 **that mathematical exercise.**
 24 **What did you come up with?**
 25 A. For the smaller size, the 120 size --

1 totaling \$5,127.00 for the 120-tablet size.
 2 For the larger size, the 300 size, there were
 3 7,523 units. The cost is \$7.07. I multiplied the units
 4 by seven, and the total cost is \$52,661.00.
 5 **Q. And do you ever receive from Daniel Chapter One**
 6 **returns of GDU product for whatever reason, either**
 7 **quality issues or because they don't sell?**
 8 A. I don't accept returns if they don't sell. If
 9 there's a quality issue, yes.
 10 **Q. And so to the best of your memory, within the**
 11 **last year have you received GDU returns?**
 12 A. No.
 13 **Q. Okay. And during a break, I'm going to have**
 14 **what you provided to us marked as an exhibit, but for**
 15 **the moment let's press on.**
 16 **What I would like to do now is mark as an**
 17 **exhibit some product labels that were given to us by**
 18 **Daniel Chapter One, and this I want to give to you to**
 19 **help understand a little bit more about these products.**
 20 **So let me ask the reporter to mark these three**
 21 **pages as FTC Exhibit 19 for identification.**
 22 **(FTC Deposition Exhibit Number 19, product**
 23 **labels, was marked for identification.)**
 24 **MR. ZANG: I'm going to go off the record for**
 25 **one minute so I can get these copied.**

1 **MR. J. TURNER: I have one question to clarify**
 2 **one thing.**
 3 **What is the period of time we're talking about?**
 4 **BY MR. ZANG:**
 5 **Q. This would be the for the last 12 months; is**
 6 **that correct, or the last calendar year? Which is it,**
 7 **Ms. Kinney?**
 8 A. It is for 2008.
 9 **Q. Okay. So go ahead.**
 10 A. Okay.
 11 For the 120 size, there were 1,709 units
 12 shipped.
 13 And for the 300 size, there were 7,523 units
 14 shipped.
 15 **Q. All right. And did you have an opportunity to**
 16 **calculate the dollar total?**
 17 A. I'll do it now.
 18 **Q. Okay. Can you state for the record how you come**
 19 **up with that dollar total? Is there a formula?**
 20 A. Sure. Oh, there is a formula.
 21 The units times the price -- you told me I could
 22 leave off the cents -- which their full price was 3.28,
 23 so I multiplied by three.
 24 **Q. \$3.28.**
 25 A. \$3.00. I multiplied it by three, \$3.00,

1 (Discussion off the record.)
 2 **BY MR. ZANG:**
 3 **Q. Let me direct your attention to the second page**
 4 **of this exhibit, which appears to be a product label for**
 5 **GDU. Is that correct?**
 6 A. Yes.
 7 **Q. And I'm showing you this just to help you**
 8 **refresh your memory, but could you describe what the**
 9 **principal ingredients of -- the active ingredients of**
 10 **GDU are.**
 11 A. Well, the principal ingredient would be the
 12 bromelain.
 13 **Q. Okay. And any others?**
 14 A. Yes. Secondary would be the turmeric, the
 15 quercetin, the feverfew and the boron.
 16 **Q. And Ms. Kinney, you mentioned that you do**
 17 **review, in the course of your work responsibilities,**
 18 **labels.**
 19 **Were there any issues that came up with respect**
 20 **to this label for GDU or similar labels but for GDU over**
 21 **the eight years?**
 22 A. The only issue that's ever come up with his
 23 labels as far as this is the supplement facts box is not
 24 really correct according to the latest requirements
 25 because vitamins and minerals have to be put in a

1 certain order, they have to be separated, and he has a
2 blend that he puts in his products, and in there there
3 are vitamins and minerals and they really should not be
4 listed this way.

5 **Q. And have you conveyed that information to
6 Daniel Chapter One?**

7 A. I have.

8 **Q. Have you conveyed it to Mr. Feijo?**

9 A. I have.

10 **Q. And what was his response?**

11 A. Well, I gave him an option to do it listing it
12 the correct way, which, when you look at the label, it
13 doesn't make sense, so he opted to do it this way and
14 just released us of all label liability.

15 **Q. Okay. And when you had those discussions with
16 Mr. Feijo, what did he say to you, if anything, about
17 why he wanted to leave the label his way?**

18 A. It just it didn't make sense for -- the primary
19 ingredients are -- is the bromelain, and then to have a
20 little bit of a vitamin B and a vitamin C up there, the
21 milligrams weren't high up, it just didn't make any
22 sense. If you took it out of the blend and left it as
23 an individual ingredient, it didn't make sense to have
24 it in the product, and then the dosage is low, so it
25 just didn't make sense for the product.

1 concerns to him?

2 A. I did.

3 **Q. And did you bring any of that with you?**

4 A. Yes. It should be in the document, in
5 here (indicating).

6 **Q. I think you have everything in front of you.
7 Why don't you just identify that.**

8 A. It would be this document right
9 here (indicating).

10 **Q. Okay. And did Mr. Feijo send anything in
11 writing back to you?**

12 A. That label, I believe that's signed by him.
13 It's faxed.

14 **Q. Okay. And so this includes his release of
15 liability; is that correct?**

16 A. That's correct.

17 **Q. Okay.**

18 **Okay. I want to mark this and introduce it as
19 an exhibit, but in the interest of time, we'll put it
20 aside and do that a little bit later.**

21 A. Okay.

22 **Q. In the sports nutrition industry, is there
23 either -- is there a standard markup that your customers
24 put on the products you manufacture for them?**

25 A. I am guessing, and it varies according to the

1 MR. J. TURNER: I object also to your asking for
2 legal conclusions.

3 I actually could draft that label and probably
4 it's okay the way that it is, but you wouldn't have to
5 do it the way she's talking about to comply with FDA
6 rules.

7 MR. ZANG: Jim, the purpose of this hearing is
8 not to allow you to testify. If you have an objection,
9 state it.

10 MR. J. TURNER: I'm saying she's giving legal
11 conclusions and I'm saying that I'm objecting to her
12 giving legal conclusions.

13 BY MR. ZANG:

14 **Q. Okay. All right. Nonetheless, you can go ahead
15 and continue to answer the questions.**

16 So let me ask you, what was it that Mr. Feijo
17 explained, if anything, about why he did not want to
18 arrange the label the way you were asking him to or
19 giving him the choice of doing?

20 A. Simply because this product is GDU capsules,
21 it's not GDU plus vitamin A, B and C, so it didn't make
22 sense to break up the blend.

23 **Q. That's what he said.**

24 A. Yeah.

25 **Q. Okay. And did you document, Ms. Kinney, your**

1 product because some products are commodities and the
2 markup is limited, but I would imagine it would be three
3 times.

4 **Q. All right. And is GDU a commodity as you
5 understand it?**

6 A. The ingredient bromelain is. GDU, no.

7 **Q. Okay. And is it the case that for noncommodity
8 items the markup would be higher or lower?**

9 A. For noncommodity it would be higher.

10 **Q. So would you characterize GDU in general as a
11 commodity product or a noncommodity?**

12 A. I would probably -- a commodity item. It's
13 very, very common.

14 **Q. Who are some of the other manufacturers --
15 strike that.**

16 **Who are some of the other customers of
17 Universal Nutrition that sell products that are
18 similar, according to your understanding, similar to
19 GDU?**

20 A. I don't know who we would manufacture that's
21 similar to GDU, but if you go to any GNC, you go to any
22 health food store, you go to any Pathmark -- that's our
23 food stores -- they have their own line, and bromelain
24 is a very, very common item.

25 **Q. And again, just so that the record is clear,**

1 based on your understanding, the principal ingredient of
 2 **GDU is bromelain.**
 3 A. Yes.
 4 **Q. Okay. When you were talking about a**
 5 **noncommodity item, can you state very generally what the**
 6 **markup tends to be?**
 7 A. That would be three times.
 8 **Q. For noncommodity?**
 9 A. For noncommodity.
 10 **Q. And for commodity items?**
 11 A. It depends on the market. It can be one. It
 12 could be one and a half. It varies. You have to see
 13 what the market will bear.
 14 **Q. Okay. All right. Let's move on to the second**
 15 **product now, and why don't we focus on Bio*Shark.**
 16 A. Bio*Shark.
 17 **Q. And since you have these labels in front of you**
 18 **in Exhibit 19, why don't you use that if you need to**
 19 **refresh your memory, but what are the principal**
 20 **ingredients or what is the principal ingredient of**
 21 **Bio*Shark?**
 22 A. Shark cartilage.
 23 **Q. And anything else in that product?**
 24 A. He has his blend that's in here.
 25 **Q. And is his blend a significant component, in**

1 your opinion, of Bio*Shark?
 2 A. No.
 3 **Q. So the principal ingredient in your opinion is**
 4 **the shark cartilage?**
 5 A. Yes.
 6 **Q. And in your opinion, is Bio*Shark a**
 7 **commodity-type item?**
 8 A. No.
 9 **Q. And why is that?**
 10 A. It was -- I would say that would be more of
 11 a -- it was a trendier item. It came out several years
 12 ago. It was popular for a long time. The book came
 13 out, Sharks Don't Get Cancer, so it was extremely
 14 popular for a very, very long time. It's kind of
 15 tapered off.
 16 **Q. And do you have a general understanding of why**
 17 **interest in shark cartilage has tapered off?**
 18 A. No, I don't. I think people have just gone on
 19 to the next thing.
 20 **Q. Has Daniel Chapter One's purchase of Bio*Shark**
 21 **from you stayed constant or gone down over time?**
 22 A. I honestly don't know off the top of my head.
 23 **Q. When did you first start manufacturing Bio*Shark**
 24 **for Daniel Chapter One?**
 25 A. Oh, boy. Again, I'm not sure of the date.

1 Eight to ten years ago.
 2 **Q. And can you describe the circumstances at that**
 3 **time in terms of how you came up with the formulation?**
 4 A. I would assume it's Jim, Jim Feijo, had
 5 requested a shark product.
 6 **Q. And do you have a specific memory of that?**
 7 A. I don't, no. I'm sorry. I do not. I
 8 apologize.
 9 **Q. Do you remember whether you had any input into**
 10 **the formulation of it?**
 11 A. No, I do not. I did not have any input is what
 12 I mean. I'm sorry.
 13 **Q. And do you manufacture Bio*Shark in different**
 14 **bottle quantities?**
 15 **In other words, the different numbers of**
 16 **capsules?**
 17 A. Yeah. I don't think so.
 18 I brought the labels in. If you'd like me to
 19 look, I'd be happy --
 20 **Q. Sure. Why don't you check.**
 21 A. Oh, yes, we have a smaller size. I'm sorry. It
 22 looks like we have a 100 and a 300.
 23 **Q. Okay. And could you state, please, for the**
 24 **record what you charge Daniel Chapter One for the 100**
 25 **and what you charge for the 300.**

1 A. I'd have to look it up.
 2 May I look it up?
 3 **Q. Absolutely.**
 4 **Would it be in the 2008 documents?**
 5 A. It would be in any of them. Yeah.
 6 MR. ZANG: What I'm going to do now, since we
 7 have copies, is have the reporter mark as FTC Exhibit 20
 8 for identification a number of documents that were
 9 produced by Universal Nutrition. They're not
 10 Bates-numbered.
 11 (FTC Deposition Exhibit Number 20,
 12 Universal Nutrition documents, was marked for
 13 identification.)
 14 BY MR. ZANG:
 15 **Q. Okay. And so you can refer now to this exhibit**
 16 **and -- if that helps.**
 17 A. Okay.
 18 The Bio*Shark 100 is \$3.15 a unit.
 19 The 300 size is \$8.75 a unit.
 20 **Q. Ms. Kinney, I don't want to torture you with**
 21 **math today, but could you calculate, as you did for GDU,**
 22 **what the volume of sales were --**
 23 A. Sure.
 24 **Q. -- in 2008.**
 25 (Pause in the proceedings.)

1 A. Okay.
 2 The smaller size, the 100 unit, there were
 3 479 units purchased in 2008, with a total of \$1,437.00.
 4 The larger size of 300, 782 units were purchased
 5 in 2008, with a total of \$6,256.00.
 6 **Q. And for the record, what is the multiplier or**
 7 **the cost per unit that you were using?**
 8 A. I used for the smaller one \$3.00 and the actual
 9 price is \$3.15.
 10 The larger one is \$8.75 and I used \$8.00.
 11 **Q. And you may have already stated this, but -- so**
 12 **forgive me if I'm asking you again, but would you**
 13 **consider Bio*Shark to be a noncommodity? Is that what**
 14 **you said?**
 15 A. That's right.
 16 **Q. Okay. And is it the case that you have not done**
 17 **any testing on Bio*Shark?**
 18 A. In relation to?
 19 **Q. In relation -- well, have you done any testing**
 20 **at all on Bio*Shark?**
 21 A. Testing? Quality testing or -- what do you
 22 mean, "testing"?
 23 **Q. Let's start with quality testing.**
 24 A. No. Huh-uh.
 25 **Q. And how about any other type of testing?**

1 A. 19. This is the labels, yes, 19.
 2 **Q. And can you please state what the principal**
 3 **ingredient or ingredients of BioMixx are.**
 4 A. Well, it is a protein and carbohydrate product
 5 with what we call the kitchen sink. This product came
 6 out many, many years ago, and it was a very popular
 7 product where a little bit of everything was added, a
 8 little bit of a fat burner, a little bit of an herbal
 9 stimulant, a little bit of digestive enzymes, so it's a
 10 blend of -- a fix-all type of product. It does
 11 everything, if that helps.
 12 **Q. And that's what you mean by "kitchen sink"?**
 13 A. Yeah. I'm sorry. That's what I mean, yes.
 14 **Q. That's okay.**
 15 **And you said it came out a number of years ago;**
 16 **is that right?**
 17 A. Many years ago, yes.
 18 **Q. And was that something that was also produced by**
 19 **you for other customers?**
 20 A. Not -- not this particular formula, but these --
 21 this idea was. Yes.
 22 **Q. And would you consider this product to be a**
 23 **commodity-type product or --**
 24 A. No.
 25 **Q. And why is that?**

1 A. No.
 2 **Q. Okay. And just for the record, the exhibit**
 3 **that is now before you, which is FTC Exhibit 20, is**
 4 **that what you referred to in order to calculate the**
 5 **volume and the dollar figures for GDU a little while**
 6 **ago?**
 7 A. Yes.
 8 **Q. Let's move on to the third product now,**
 9 **BioMixx.**
 10 A. Should I start?
 11 **Q. Yes. I want you to do the math again.**
 12 **(Pause in the proceedings.)**
 13 A. Okay. From the BioMixx there's only one size,
 14 the three-pound. The cost is 11.50 a unit. They
 15 purchased 798 units last year. I multiplied it by
 16 \$11.00 and came up with \$8,778.00.
 17 **Q. Thank you.**
 18 A. You're welcome.
 19 **Q. And incidentally, were there any labeling issues**
 20 **with respect to Bio*Shark?**
 21 A. No.
 22 **Q. The same question with BioMixx now.**
 23 A. No.
 24 **Q. And I see that you have before you FTC**
 25 **Exhibit 19?**

1 A. This product really isn't sold very frequently
 2 anymore. It's been discontinued many, many years ago
 3 by most customers.
 4 **Q. And do you have an understanding of why that**
 5 **is?**
 6 A. Our industry is very trendy. It changes.
 7 Probably every six months there's something new and
 8 revolutionary on the market, and it just changes.
 9 And a lot of customers will discontinue older
 10 products that don't sell as well. Obviously 798 units a
 11 year is not much, so those products would more than
 12 likely be discontinued and a new product would be put in
 13 its place.
 14 **Q. Since you mentioned that your industry tends to**
 15 **be trendy, do you have an understanding, based on your**
 16 **own experience, of how Daniel Chapter One fits into the**
 17 **industry?**
 18 A. He doesn't. He's not in my industry. I'm
 19 sports nutrition, so he's a totally different realm.
 20 **Q. Can you elaborate what you mean and why?**
 21 A. I'm not that familiar with how he sells his
 22 products, but his is more for general good health, where
 23 I am athletes, bodybuilders, dieting. That's my -- the
 24 vain part of the spectrum, that's my business, that's my
 25 product line, and his is more general health.

1 **Q. And what is the basis for your opinion that his**
2 **is more general good health?**

3 A. Because his products are not -- they're not
4 sports oriented as mine are. Mine are sports -- I don't
5 have my catalog. I'm sorry.

6 But my product line, my best-seller is called
7 Animal Pak and the "animal" meaning the animal in the
8 gym, and he has nothing even close to that or those
9 types of names for products that we use.

10 **Q. Are you familiar at all with -- strike that.**
11 **To the best of your understanding, is there any**
12 **sort of religious component to Daniel Chapter One?**

13 A. Yes.

14 **Q. And can you describe your understanding of**
15 **that?**

16 A. Well, on every label there are bible verses.
17 I know Jim is a very I would say faithful man.
18 He believes in Jesus. He believes in his works. He
19 believes there are -- he should follow the bible in
20 living his life and his wife's and I believe his
21 family's, so definitely. He's a ministry.

22 **Q. And what do you base all that on?**

23 A. Just because over the years obviously I read.
24 I've read the labels. I've spoken to him about that
25 particular topic.

1 I mean, he's told me before his main purpose is
2 to help people, you know, and he felt that -- he feels
3 that Jesus has -- that's why he's on this earth, is to
4 help people. Just from personal conversation.

5 And if you ever listen to his radio, if you're
6 ever put on hold for a minute or two, you'll hear it.
7 There's no question.

8 **Q. Have you ever done any testing for BioMixx?**

9 A. No, sir. No.

10 MR. ZANG: Okay. Let me have the reporter mark
11 the three pages that you've provided to the FTC relating
12 to the GDU labeling issue, and we'll mark this as FTC
13 Exhibit 21 for identification.

14 (FTC Deposition Exhibit Number 21,
15 9-22-05 letter to J. Feijo from C.P. Bauhoffer-Kinney,
16 was marked for identification.)

17 BY MR. ZANG:

18 **Q. For the record, Ms. Kinney, can you identify**
19 **this exhibit, which is three pages?**

20 A. Yes. This is a letter I sent to Jim Feijo,
21 requesting him to sign, releasing Universal Nutrition of
22 any possible labeling issues.

23 **Q. With respect to GDU?**

24 A. With respect to GDU, yes.

25 **Q. And does that also contain the reasons for your**

1 **concern about the GDU labeling?**

2 A. That's correct.

3 **Q. Okay. Let me go back now -- you can put that**
4 **aside -- to Daniel Chapter One generally.**

5 **In your experience in the sports nutrition**
6 **industry, is it unusual for a company to put religious**
7 **statements on its labels?**

8 A. No. I've seen it before.

9 **Q. Can you describe some others?**

10 A. Another company that was actually a sports
11 nutrition company, Genesis Nutrition, that was their
12 whole focus. He was a Christian, and obviously
13 Genesis Nutrition was his product line, and he -- if I
14 remember correctly, he also had bible verses on his
15 label. And it was well-known that he was a Christian
16 man, had Christian beliefs. I believe his literature
17 also had that, so it was very well-known.

18 **Q. Okay. What I want to do now is focus your**
19 **attention on some of the claims that the**
20 **Federal Trade Commission is bringing to issue in this**
21 **case.**

22 **And I'm going to hand to you what has been**
23 **previously marked as FTC Exhibit 4 for identification.**

24 **And also let the record reflect that**
25 **Carole Paynter, my colleague, has walked in and --**

1 MS. PAYNTER: Sorry.

2 BY MR. ZANG:

3 **Q. Let me hand you Exhibit 4.**

4 A. I'm just going to grab my coat.

5 MR. ZANG: Okay. Let's go off the record for a
6 second.

7 (Discussion off the record.)

8 BY MR. ZANG:

9 **Q. Ms. Kinney, I understand you testified earlier**
10 **that you have not had the opportunity to see**
11 **Daniel Chapter One's product literature or product**
12 **statements in the past. Is that correct?**

13 A. That's correct.

14 **Q. So I want to direct your attention to the first**
15 **page of this exhibit, which is marked DCO 11 at the**
16 **bottom.**

17 **And do you see where it says "Bio*Shark:**
18 **Tumors & Cysts"?**

19 A. No, I do not. Where does it say -- oh, yes.
20 Stops tumors and cysts, is this what you
21 mean (indicating)? Oh, I'm sorry. Right in front of
22 me.

23 **Q. Let me direct your attention to the heading.**

24 A. Yes.

25 **Q. And then under there, do you see where it says:**

1 "Pure skeletal tissue of sharks which provides a protein
2 that inhibits angiogenesis - the formation of new blood
3 vessels. This can stop tumor growth and halt the
4 progression of eye diseases such as diabetic retinopathy
5 and macular degeneration"?

6 Do you see that?

7 A. I do.

8 Q. Based on your understanding of the ingredients
9 in Bio*Shark -- well, first of all, do you have an
10 understanding of the ingredients in Bio*Shark?

11 A. Not really.

12 I mean, I know what shark cartilage is. I know
13 why it was generally sold. But I've done no research,
14 no reading, no anything additional on shark cartilage.

15 Q. Do you have any understanding as to whether or
16 not that statement that I just read into the record is
17 accurate or not?

18 MR. J. TURNER: I object to that question.
19 She's not qualified to answer that question.

20 BY MR. ZANG:

21 Q. You may answer the question.

22 A. I do not know. I do not know.

23 Q. In your opinion, what would be necessary in
24 order to determine whether or not that statement is
25 correct --

1 MR. J. TURNER: Objection again.

2 BY MR. ZANG:

3 Q. Let me finish the question -- or accurate?

4 MR. J. TURNER: I object to that.

5 She's not an expert. You're asking for an
6 opinion.

7 BY MR. ZANG:

8 Q. And you may answer it.

9 A. I would assume there would need to be a medical
10 study, some research.

11 Q. And in your experience in the industry and your
12 general knowledge of the industry, is it unusual for
13 such a statement to be made about shark cartilage?

14 A. I don't know if this particular statement is
15 common or not, but there are many -- there have been
16 many, many claims on shark cartilage in our industry, no
17 doubt, many medical curing diseases-type claims.

18 Q. Do you have an understanding of what diseases
19 are involved in that respect?

20 A. The one I know mainly is cancer.

21 Q. And do you have in your mind any other products
22 or companies that --

23 A. I don't off the top of my head. I'm sorry.

24 Q. So what's the basis for your understanding that
25 cancer is something --

1 A. Well, there was the book, Sharks Don't
2 Get Cancer, and that was a big seller and that's what
3 I'm sure spurred many other companies to pick up the
4 shark cartilage and put it in their product line, and
5 I'm sure it sold very, very well.

6 Q. And it's your testimony that that trend is now
7 decreased?

8 A. It has decreased, yes, it has.

9 Q. And you may have testified a little bit to this,
10 but what is your understanding as to why that trend has
11 decreased?

12 A. I don't know why it's decreased. I guess
13 something bigger and better has come out. I don't know.

14 I'm not really in the health as much as I am the
15 sports nutrition, so...

16 Q. Let me now ask you to please take a look at what
17 is marked as DCO 14. It's a few pages in. And it
18 references BioMixx.

19 Do you see the picture of BioMixx at the top of
20 that page?

21 A. Yes, I do.

22 Q. And under that it says, "How to fight cancer is
23 your choice!"

24 A. Uh-huh. Yes.

25 Q. And under that there is a quote it appears from

1 Jethro Kloss, K-L-O-S-S.

2 Do you know who that is?

3 A. No.

4 Q. And under that it says, "Lump is gone without
5 dangerous surgery!"

6 Do you see that?

7 A. I do.

8 Q. Do you have any understanding as to whether the
9 ingredient mix in BioMixx, the kitchen-sink components
10 as you described it, are ever described by companies to
11 fight cancer?

12 A. I do not know that. No.

13 Q. And do you know whether or not that mix is in
14 fact effective in fighting cancer?

15 A. I do not know that.

16 MR. J. TURNER: I'm going to object to those
17 questions and have a continuing objection to all those
18 questions as we go forward.

19 When I say "all those questions," I mean
20 questions that ask about conclusions on or opinions on
21 the effectiveness or the truthfulness of claims,
22 effectiveness of products or truthfulness of claims.

23 MR. ZANG: Your objection is noted, Jim.

24 BY MR. ZANG:

25 Q. Let me now direct your attention, Ms. Kinney, to

1 DCO 28.
 2 And do you see the picture of GDU Caps on this
 3 page?
 4 A. I do.
 5 Q. All right. And let me represent to you that
 6 this is a Web page from Daniel Chapter One's Web site.
 7 And do you see where it says, "Contains natural
 8 proteolytic enzymes (from pineapple source bromelain) to
 9 help digest protein - even that of unwanted tumors and
 10 cysts"?
 11 A. I do.
 12 Q. Do you have any understanding as to whether
 13 that's a property of bromelain that is --
 14 A. I do not know if it is or if it is not.
 15 Q. And have you seen that sort of claim in the past
 16 with respect to bromelain?
 17 A. It is a digestive enzyme, but that would be as
 18 far as I have seen it.
 19 Q. And the verbiage about helping to digest even
 20 unwanted tumors and cysts, you have not seen that
 21 before?
 22 A. I'm not familiar with that. No.
 23 MR. ZANG: Okay.
 24 All right. Let's go off the record.
 25 (Discussion off the record.)

1 BY MR. ZANG:
 2 Q. A couple of questions.
 3 First of all, are you familiar with somebody
 4 named Jay Butler at Daniel Chapter One?
 5 A. Yes.
 6 Q. And who is that?
 7 A. He's Jim's employee. I'm not sure what his
 8 title is.
 9 Q. And in what context do you have dealings with
 10 him?
 11 A. I deal with him. He will ask about orders, look
 12 for status of orders. He will have labels reprinted.
 13 He's I guess like an assistant to Jim. I'm not sure
 14 what his title is.
 15 Q. And I'm looking at one e-mail here from
 16 Jay Butler, dated May 8, 2008, written to you, in which
 17 Jay says: What? Us legal? God forbid if we did that.
 18 It's no fun.
 19 A. Right.
 20 Q. Do you have an understanding of why he sent
 21 that?
 22 A. Oh, that was a joke. That was a joke. Because
 23 we had been going back and forth and back and forth on a
 24 nutritional claim, not a claim but a number, a milligram
 25 dosage and how to write it, and I think that was from a

1 while ago. And when the FDA changed the nutritional
 2 panel, it was so confusing.
 3 I mean, it took us -- we had to go through
 4 lawyers to figure out what was -- what they actually
 5 wanted and what was correct and what was legal and what
 6 was not legal, so it was a running joke that no matter
 7 how often we tried to fix something, we were wrong.
 8 Q. And I also noticed in this set of e-mails that
 9 you provided to the FTC some reference to a price
 10 increase imposed by Universal Nutrition.
 11 A. Sure.
 12 Q. How often are price increases imposed on your
 13 customers generally?
 14 A. I would say within the last two years every
 15 single order that is placed is checked, pricing is
 16 verified. Prior to the last two years, maybe every two
 17 to three years.
 18 Q. And now it's more frequent than that?
 19 A. It's all the time.
 20 Q. What explains that?
 21 A. We've just had a huge increase. When the fuel
 22 went up, you know, bottles, lids, cotton, raw materials,
 23 capsules, you name it, everything went up.
 24 So that's the reason for the constant price
 25 check.

1 Q. And I see that there are some references in some
 2 of these e-mails to Jim Feijo being in Florida and I see
 3 Jay Butler providing you Mr. Feijo's cell number so you
 4 could reach him. Is that correct?
 5 A. Yeah.
 6 Q. Is it the case that, to the best of your
 7 knowledge, Mr. Feijo sometimes is down in Florida?
 8 A. Yeah.
 9 Q. Is that frequent? Do you have any
 10 understanding?
 11 A. Maybe once or twice a year. I really don't
 12 know.
 13 Q. And do you know whether you've reached him
 14 anywhere else other than Florida?
 15 A. No.
 16 Q. Have you reached him in Rhode Island?
 17 A. Oh, yes. Of course. I'm sorry.
 18 Q. Do you have any understanding, Ms. Kinney, as
 19 to the profits or lack of profits earned by
 20 Daniel Chapter One in its business?
 21 A. I have no idea.
 22 MR. ZANG: Okay. I have no further questions.
 23 I really want to thank you for coming here
 24 today.
 25 THE WITNESS: My pleasure.

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1 MR. ZANG: And we can go off the record.
 2 MR. J. TURNER: I have no questions.
 3 (Whereupon, the foregoing deposition was
 4 concluded at 10:57 a.m.)
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1 CERTIFICATION OF REPORTER
 2
 3 DOCKET/FILE NUMBER: 9329
 4 CASE TITLE: Daniel Chapter One and James Feijo
 5 HEARING DATE: January 15, 2009
 6

7 I HEREBY CERTIFY that the transcript contained
 8 herein is a full and accurate transcript of the notes
 9 taken by me at the hearing on the above cause before the
 10 FEDERAL TRADE COMMISSION to the best of my knowledge and
 11 belief.
 12

13 DATED: JANUARY 16, 2009

16 JOSETT F. WHALEN, RMR

18
 19 CERTIFICATION OF PROOFREADER
 20

21 I HEREBY CERTIFY that I proofread the transcript
 22 for accuracy in spelling, hyphenation, punctuation and
 23 format.
 24

25 DIANE QUADE

<p>A</p> <p>above-entitled 2:17</p> <p>Absolutely 44:3</p> <p>accept 35:8</p> <p>accident 13:2</p> <p>account 18:12</p> <p>accuracy 62:22</p> <p>accurate 8:7 53:17 54:3 62:8</p> <p>accurately 8:2,11</p> <p>active 36:9</p> <p>actual 45:8</p> <p>add 32:19 33:16</p> <p>added 47:7</p> <p>additional 53:14</p> <p>advertisements 24:9</p> <p>advise 23:18</p> <p>ago 12:16,21 20:13 30:20 42:12 43:1 46:6 47:6,15,17 48:2 59:1</p> <p>agreements 10:9</p> <p>ahead 34:9 38:14</p> <p>alleging 5:18</p> <p>allow 38:8</p> <p>allowed 26:9</p> <p>America 2:1 17:3</p> <p>American 28:19,21</p> <p>amount 33:4,11,16</p> <p>analysis 25:16</p> <p>and/or 10:19,25</p> <p>angiogenesis 53:2</p> <p>animal 49:7,7,7</p> <p>answer 6:15 7:24 8:9 16:1 20:7 38:15 53:19,21 54:8</p> <p>anybody 15:13,24 16:9</p> <p>anymore 48:2</p> <p>apologies 33:22</p> <p>apologize 43:8</p> <p>apologized 29:15</p> <p>appear 9:10 25:4</p> <p>APPEARANCES 3:1</p> <p>appears 36:4 55:25</p>	<p>approximate 32:16</p> <p>approximately 16:19</p> <p>arrange 16:16 38:18</p> <p>articulate 6:14</p> <p>aside 11:17 25:13 39:20 51:4</p> <p>asked 19:6 31:21</p> <p>asking 7:2,6 11:19 38:1,18 45:12 54:5</p> <p>asks 9:15</p> <p>assigned 22:22 23:3</p> <p>assistant 16:6 58:13</p> <p>assume 26:9 43:4 54:9</p> <p>athletes 13:23 48:23</p> <p>attending 14:14</p> <p>attention 9:15,20 36:3 51:19 52:14 52:23 56:25</p> <p>attorney 4:13 8:19 8:20,22</p> <p>attorney's 12:19</p> <p>automobile 13:2</p> <p>available 5:12</p> <p>avoid 7:21</p> <p>aware 13:23 31:16 31:17</p> <p>a.m 2:18 61:4</p> <hr/> <p>B</p> <p>B 3:16 37:20 38:21</p> <p>bachelor's 14:7</p> <p>back 21:20 32:12,15 39:11 51:3 58:23 58:23</p> <p>background 14:3</p> <p>bacteria 25:19</p> <p>barely 12:15</p> <p>base 17:16 49:22</p> <p>based 41:1 48:15 53:8</p> <p>basically 19:17 29:11</p> <p>basis 49:1 54:24</p> <p>batch 27:21</p> <p>Bates-numbered 44:10</p>	<p>Bauhoffer 12:9</p> <p>Bauhoffer-Kinney 1:5,12 4:4 11:25 50:15</p> <p>bear 41:13</p> <p>beginning 33:9</p> <p>BEHALF 3:3,14</p> <p>belief 62:11</p> <p>beliefs 51:16</p> <p>believe 20:17 31:24 39:12 49:20 51:16</p> <p>believes 49:18,18,19</p> <p>best 7:8 9:25 13:15 13:20 18:23 35:10 49:11 60:6 62:10</p> <p>best-seller 49:6</p> <p>Betsy 3:17 8:20</p> <p>better 55:13</p> <p>bible 49:16,19 51:14</p> <p>bid 18:9</p> <p>bidding 18:10</p> <p>big 20:25 55:2</p> <p>bigger 55:13</p> <p>big-volume 22:5</p> <p>bills 28:9</p> <p>BioMixx 10:10,20 11:1 21:18 46:9,13 46:22 47:3 50:8 55:18,19 56:9</p> <p>Bio*Shark 10:10,20 10:25 21:14 41:15 41:16,21 42:1,6,20 42:23 43:13 44:18 45:13,17,20 46:20 52:17 53:9,10</p> <p>bit 6:1 27:25 35:19 37:20 39:20 47:7,8 47:8,9 55:9</p> <p>blamed 13:24</p> <p>blend 37:2,22 38:22 41:24,25 47:10</p> <p>blood 53:2</p> <p>bodybuilders 48:23</p> <p>book 42:12 55:1</p> <p>boron 36:15</p> <p>bottle 33:5,6 43:14</p> <p>bottles 59:22</p>	<p>bottom 52:16</p> <p>Bowling 2:14 3:8</p> <p>box 36:23</p> <p>boy 42:25</p> <p>brand 17:22 18:21 18:22 28:20</p> <p>break 5:16 7:11 35:13 38:22</p> <p>breakdown 18:18</p> <p>briefe 5:1</p> <p>Briefly 29:2</p> <p>bring 9:16 11:3 39:3</p> <p>bringing 51:20</p> <p>broad 19:10</p> <p>bromelain 36:12 37:19 40:6,23 41:2 57:8,13,16</p> <p>brought 5:8 6:23 10:14,22 19:7 32:7 43:18</p> <p>bunch 20:22</p> <p>burner 47:8</p> <p>business 16:23 18:14,15 19:21 21:23 48:24 60:20</p> <p>Butler 58:4,16 60:3</p> <p>buy 25:14 26:6,10</p> <p>B-A-U-H-O-F-F-... 12:10</p> <hr/> <p>C</p> <p>C 4:1 37:20 38:21 62:1,1,19,19</p> <p>calculate 34:16 44:21 46:4</p> <p>calculating 33:10</p> <p>calendar 34:6</p> <p>call 23:11 47:5</p> <p>called 4:5 23:10 49:6</p> <p>cancer 11:1 42:13 54:20,25 55:2,22 56:11,14</p> <p>Caps 57:2</p> <p>capsules 38:20 43:16 59:23</p> <p>carbohydrate 47:4</p> <p>card 28:18,19</p>	<p>Carole 3:5 51:25</p> <p>Carolina 14:16</p> <p>cartilage 41:22 42:4 42:17 53:12,14 54:13,16 55:4</p> <p>case 6:19,23,24 7:1 8:21 12:14,15 40:7 45:16 51:21 60:6 62:4</p> <p>catalog 29:22 49:5</p> <p>categories 19:11</p> <p>cause 62:9</p> <p>cell 60:3</p> <p>cents 33:19 34:22</p> <p>certain 37:1</p> <p>certificate 25:15</p> <p>CERTIFY 62:7,21</p> <p>chance 5:9</p> <p>change 7:24</p> <p>changed 31:2 59:1</p> <p>changes 28:12 48:6 48:8</p> <p>Chapter 2:5,8 5:4,8 5:18 6:12,19,21 8:19,23 10:19 17:6 17:18,24 18:24 19:3,24,25 20:2,12 20:24 21:4,5,24 22:6,9,17,19 27:13 27:22 29:22 30:22 31:11,18,25 32:17 35:5,18 37:6 42:20 42:24 43:24 48:16 49:12 51:4 52:11 57:6 58:4 60:20 62:4</p> <p>characterize 40:10</p> <p>charge 27:1 43:24 43:25</p> <p>check 43:20 59:25</p> <p>checked 59:15</p> <p>choice 38:19 55:23</p> <p>Christian 51:12,15 51:16</p> <p>Christopher 3:16 8:22</p> <p>circumstances 13:21</p>
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43:2	5:22 27:13 29:7	39:15,16 51:2	57:6 58:4 60:20	disclaimers 24:23
claim 57:15 58:24	complaints 27:5,17	52:12,13 53:25	62:4	discontinue 48:9
58:24	31:20	59:5 60:4	dark 12:24	discontinued 48:2
claims 5:19 10:25	comply 38:5	correctly 16:15	date 42:25 62:5	48:12
19:18,20 31:17	component 41:25	27:18 51:14	dated 58:16 62:13	discuss 5:24 28:24
51:19 54:16,17	49:12	cost 35:3,4 45:7	DCO 52:15 55:17	Discussion 36:1
56:21,22	components 56:9	46:14	57:1	52:7 57:25
clarify 34:1	concern 26:4 51:1	cotton 59:22	deal 27:23,24,24	discussions 37:15
Claudia 1:5 4:4	concerns 39:1	counsel 5:4 6:5,11	28:5 58:11	diseases 53:4 54:18
11:25 19:6	concluded 61:4	couple 11:19 58:2	dealings 58:9	diseases-type 54:17
clear 40:25	conclusions 38:2,11	course 22:25 36:17	decide 18:13 23:12	distributed 24:5
client 23:19	38:12 56:20	60:17	decreased 55:7,8,11	Docket 2:6
close 49:8	confirm 9:11	court 6:9 12:4	55:12	DOCKET/FILE
Clyde 15:20	confusing 59:2	credit 28:18,19	defendants 5:6 8:21	62:3
coat 52:4	consider 45:13	cure 11:1	definitely 49:21	document 9:3,8,21
colleague 51:25	47:22	curing 54:17	degeneration 53:5	9:22,25 10:7,24
colleagues 8:16	consistent 27:19	current 11:21 15:4	degree 14:6,7,10	20:19 38:25 39:4,8
collect 16:15	constant 21:24	currently 13:10	department 14:16	documents 1:11
college 14:15	42:21 59:24	15:13 16:20	depending 18:10	9:16,17,19 10:8,11
color 27:20	consumption 25:24	curriculum 11:12	depends 41:11	10:18,24 11:3,4,6
come 18:6 21:20	contact 17:15	customer 17:9,13,16	deposed 7:3 12:12	32:7,12 44:4,8,12
33:24 34:18 36:22	contain 50:25	18:24 20:12 23:14	deposition 2:18 4:7	doing 33:15 38:19
55:13	contained 62:7	23:19	4:20,21 6:2,18,25	dollar 33:11,16,18
coming 60:23	Contains 57:7	customers 16:13,19	29:20 35:22 44:11	34:16,19 46:5
comment 27:3	context 17:8 19:24	16:21 17:1,19 18:5	50:14 61:3	door 16:18
Commission 1:1 2:2	22:8 27:7 58:9	26:16 27:1,11	depositions 19:5	doping 13:24
2:13 3:3,6 4:14,24	continue 9:6 20:7	31:15 39:23 40:16	describe 14:5 16:11	dosage 37:24 58:25
5:7 51:20 62:10	38:15	47:19 48:3,9 59:13	17:17 18:2 27:16	doubt 54:17
Commission's 20:17	continuing 19:2	cysts 52:18,20 57:10	28:4 29:3 36:8	draft 38:3
28:25	56:17	57:20	43:2 49:14 51:9	duly 4:6
commodities 40:1	contracts 10:9	C-of-As 25:15	described 56:10,10	D.C 3:20
commodity 40:4,11	contrast 18:14	C.P 1:12 50:15	DESCRIPTION 1:8	
40:12 41:10	conversation 6:14		detail 22:14	
commodity-type	7:18 50:4		determine 53:24	
42:7 47:23	conversations 29:4		diabetic 53:4	
common 40:13,24	29:10	D 1:2 4:1 62:19	DIANE 62:25	
54:15	conveyed 37:5,8	dangerous 56:5	dictated 23:15	
communications	copied 35:25	Daniel 2:5,8 5:4,8	dictates 23:14	
14:7	copies 44:7	5:18 6:12,19,21	dietary 24:21	
companies 18:10	copy 5:15 32:7	8:19,23 10:19 17:6	dieting 48:23	
54:22 55:3 56:10	corporation 2:5	17:18,24 18:24	different 7:9 43:13	
company 5:6 12:17	6:19	19:3,24,25 20:2,12	43:15 48:19	
14:18 15:14,16	correct 4:17,24,25	20:24 21:4,5,24	digest 57:9,19	
17:5,25 22:16	5:11 12:12 19:25	22:6,9,17,19 27:13	digestive 30:15 47:9	
23:18 51:6,10,11	24:17,18,19 25:11	27:22 29:22 30:22	57:17	
compared 27:20	32:1 33:11 34:6	31:11,18,25 32:17	direct 9:15,20 36:3	
complaint 5:9,17,21	36:5,24 37:12	35:5,18 37:6 42:20	52:14,23 56:25	

E

E 1:2 3:17 4:1,1 62:1
62:1,1,19,19,19
earlier 31:24 52:9
earned 60:19
earth 50:3
easier 16:2
East 17:4
educational 14:2,5,9
effective 56:14
effectiveness 56:21
56:22
eight 30:19 31:1
36:21 43:1
either 18:5 35:6
39:23

<p>elaborate 48:20 elements 5:20 employed 13:10 14:12,13 employee 58:7 employer 13:12 employment 11:21 15:1 enzyme 30:16 57:17 enzymes 47:9 57:8 especially 6:7 ESQ 3:4,5,15,16,17 essence 5:17 essentially 26:11 established 26:15 Europe 17:3 evaluate 25:22 Exactly 24:3 examination 1:4 4:5 4:10 examined 4:6 executive 15:5,7 exercise 33:23 exhibit 1:8 4:7 9:9 11:16 35:14,17,21 35:22 36:4 39:19 41:18 44:7,11,15 46:2,3,25 50:13,14 50:19 51:23 52:3 52:15 exhibits 32:8 existing 23:17 expect 8:14 experience 48:16 51:5 54:11 expert 54:5 explain 31:8 explained 38:17 explains 59:20 Express 28:19,21 extremely 42:13 eye 24:1 53:4 e-mail 23:16 58:15 e-mails 59:8 60:2</p> <hr/> <p style="text-align: center;">F</p> <p>F 62:1,1,16,19,19,19 fact 7:16 26:4 56:14</p>	<p>facts 36:23 faithful 49:17 falls 17:24 familiar 17:5 18:1 26:2 48:21 49:10 57:22 58:3 family's 49:21 far 36:23 57:18 fat 47:8 fax 23:16 faxed 39:13 FDA 24:3,20,23 26:8 38:5 59:1 Federal 1:1 2:2,13 3:3,6 4:14,24 5:7 20:17 28:25 51:20 62:10 feel 9:6 23:23 feeling 29:17 feels 50:2 Feijo 1:12 2:7 6:20 8:19 10:19 28:6 30:24,25 31:8 37:8 37:16 38:16 39:10 43:4 50:15,20 60:2 60:7 62:4 Feijos 8:24 19:6 28:2 29:1 30:1 Feijo's 60:3 felt 50:2 feverfew 36:15 fight 55:22 56:11 fighting 56:14 figure 59:4 figures 46:5 filed 23:7 29:7 finally 11:12 financial 19:7,14,17 19:21,23 find 10:11 fine 32:10 finish 16:1 54:3 finished 23:1,2,4 first 4:5 5:2 9:8,23 20:12,21 21:9 28:6 30:18 31:4 42:23 52:14 53:9 58:3</p>	<p>firstly 30:12 fits 48:16 five 13:16 23:8 fix 59:7 fix-all 47:10 flavor 27:19 Florida 60:2,7,14 focus 5:21 14:2 18:21 20:16 26:13 41:15 51:12,18 folder 23:6,6,9 follow 49:19 follows 4:6 19:13 food 14:25 40:22,23 forbid 58:17 foregoing 61:3 forgive 45:12 format 23:15 62:23 formation 53:2 formula 21:9,11 26:20 28:12 30:23 31:1 34:19,20 47:20 formulas 18:7 formulate 30:22 formulation 23:19 43:3,10 formulations 25:11 forth 26:8 58:23,23 fortunate 7:5 forward 56:18 four 5:19 21:7 free 9:6 frequent 59:18 60:9 frequently 48:1 front 24:22 39:6 41:17 52:21 FTC 4:7 6:23 9:9 35:21,22 44:7,11 46:3,24 50:11,12 50:14 51:23 59:9 fuel 59:21 fulfilled 16:15 full 11:23 34:22 62:8 fully 9:24 30:5 fun 58:18 further 22:14 60:22</p>	<p style="text-align: center;">G</p> <p>G 4:1 GDU 10:10,20,25 21:16 22:10 30:10 30:14,18 31:11,14 31:18,22,25 32:13 32:17 35:6,11 36:5 36:10,20,20 38:20 38:21 40:4,6,10,19 40:21 41:2 44:21 46:5 50:12,23,24 51:1 57:2 general 13:21 21:23 22:15 23:18 26:23 27:16 40:10 42:16 48:22,25 49:2 54:12 generally 9:24 16:11 18:5 22:17 24:14 25:4 26:7,12,14 27:21 30:13 31:21 41:5 51:4 53:13 59:13 Genesis 51:11,13 give 5:15 16:25 22:2 32:12,15,15,21 35:18 given 7:24 17:16 35:17 giving 38:10,12,19 GNC 40:21 go 12:19 18:13 34:9 35:24 38:14 40:21 40:21,22 51:3 52:5 56:18 57:24 59:3 61:1 God 12:15 58:17 goes 22:23 going 6:10 9:2,20,22 11:19 15:1 19:1 28:4,8 29:8,18 35:13,24 44:6 51:22 52:4 56:16 58:23 good 4:12 22:11 29:17 48:22 49:2 goodness 13:4,7</p>	<p>20:25 gosh 16:21 32:5 grab 52:4 GRAS 26:6 Green 2:14 3:8 ground 4:20 growth 53:3 guess 15:20 18:21 26:24 55:12 58:13 guessing 21:1 39:25 guest 30:6 gym 49:8 G-R-A-S 26:7</p> <hr/> <p style="text-align: center;">H</p> <p>half 41:12 halt 53:3 hand 51:22 52:3 handed 9:16 happens 6:8 happy 5:15 43:19 head 6:13 30:17 42:22 54:23 heading 52:23 health 40:22 48:22 48:25 49:2 55:14 hear 50:6 hearing 38:7 62:5,9 heavy 25:20 help 35:19 36:7 50:2 50:4 57:9 helping 57:19 helps 44:16 47:11 Herb 21:9,11 herbal 47:8 high 23:23 37:21 higher 32:1 40:8,9 highest 14:9 hold 30:2 50:6 home 29:18 honestly 42:22 hope 29:19 hopefully 7:9 huge 22:11 59:21 Huh-uh 45:24 human 25:23 hyphen 12:10 hyphenation 62:22</p>
---	--	---	---	--

<p>I</p> <p>ID 1:8</p> <p>idea 18:7 26:23 32:15 47:21 60:21</p> <p>identification 4:8 35:21,23 44:8,13 50:13,16 51:23</p> <p>identify 39:7 50:18</p> <p>illnesses 11:2</p> <p>imagine 40:2</p> <p>important 8:2</p> <p>imposed 59:10,12</p> <p>incidentally 46:19</p> <p>includes 39:14</p> <p>including 10:8</p> <p>incomplete 7:25</p> <p>incorrect 7:25</p> <p>increase 59:10,21</p> <p>increases 59:12</p> <p>indicated 6:18</p> <p>indicating 39:5,9 52:21</p> <p>individual 30:9 37:23</p> <p>individually 2:7 6:20</p> <p>industry 14:19,21 14:23 18:2 26:2 39:22 48:6,14,17 48:18 51:6 54:11 54:12,16</p> <p>information 8:3 19:2,7,11,14,18,18 19:19,21,23 20:3 37:5</p> <p>ingredient 25:23 36:11 37:23 40:6 41:1,20 42:3 47:3 56:9</p> <p>ingredients 24:18,19 26:3 30:13 36:9,9 37:19 41:20 47:3 53:8,10</p> <p>inhibits 53:2</p> <p>initial 17:14</p> <p>input 43:9,11</p> <p>instances 13:18</p>	<p>intended 31:6</p> <p>interest 39:19 42:17</p> <p>international 16:23 17:17</p> <p>internationally 17:1</p> <p>introduce 8:16 39:18</p> <p>invoiced 23:5</p> <p>invoices 32:19</p> <p>invoicing 22:24</p> <p>involved 12:15 14:18 24:4 30:21 54:19</p> <p>iron 23:24</p> <p>Island 60:16</p> <p>issue 12:22 35:9 36:22 50:12 51:20</p> <p>issued 4:23 9:10</p> <p>issues 24:2,14 35:7 36:19 46:19 50:22</p> <p>item 40:12,24 41:5 42:7,11</p> <p>items 40:8 41:10</p> <hr/> <p>J</p> <p>J 1:12 8:18 19:1,14 19:16,25 20:2 32:10 34:1 38:1,10 50:15 53:18 54:1,4 56:16 61:2</p> <p>James 2:7 3:15 6:20 8:19 10:19 62:4</p> <p>January 2:10 10:21 62:5,13</p> <p>Jay 58:4,16,17 60:3</p> <p>Jesus 49:18 50:3</p> <p>Jethro 56:1</p> <p>Jill 27:24 28:6,7,16</p> <p>Jim 8:18 19:9 27:24 28:10 29:6 30:25 38:7 43:4,4 49:17 50:20 56:23 58:13 60:2</p> <p>Jim's 58:7</p> <p>jim@swankin-tur... 3:22</p> <p>joke 58:22,22 59:6</p> <p>JOSETT 62:16</p>	<p>JR 3:4</p> <hr/> <p>K</p> <p>keep 22:16,25 23:7,8</p> <p>kept 23:5</p> <p>kind 42:14</p> <p>kindly 32:14</p> <p>Kinney 4:12 9:14 12:10 20:6 33:15 34:7 36:16 38:25 44:20 50:18 52:9 56:25 60:18</p> <p>kitchen 47:5,12</p> <p>kitchen-sink 56:9</p> <p>Kloss 56:1</p> <p>know 7:8,12,15 8:1 9:5,16 12:19,20 17:14 21:2,2 26:3 26:22 28:1,14 29:5 30:15 31:21 33:18 40:20 42:22 49:17 50:2 53:12,12,22 53:22 54:14,20 55:12,13 56:2,12 56:13,15 57:14 59:22 60:12,13</p> <p>knowledge 8:3 9:25 13:15,20 54:12 60:7 62:10</p> <p>K-I-N-N-E-Y 12:10</p> <p>K-L-O-S-S 56:1</p> <hr/> <p>L</p> <p>label 17:20,22,25 18:3,14,16,19,22 23:10,17 24:16 25:3,7,7 26:13,15 27:7 36:4,20 37:12 37:14,17 38:3,18 39:12 49:16 51:15</p> <p>labeling 46:19 50:12 50:22 51:1</p> <p>labels 1:10 24:11,13 24:15,24 35:17,23 36:18,20,23 41:17 43:18 47:1 49:24 51:7 58:12</p> <p>lack 60:19</p>	<p>larger 35:2 45:4,10</p> <p>latest 36:24</p> <p>lawsuit 5:7 12:18 13:1,14 20:17 21:8 28:25 30:10</p> <p>lawsuits 13:22</p> <p>lawyers 59:4</p> <p>leave 34:22 37:17</p> <p>left 37:22</p> <p>legal 38:2,10,12 58:17 59:5,6</p> <p>legally 23:8 24:24</p> <p>Lehrfeld 3:17 8:20</p> <p>letter 1:12 50:15,20</p> <p>let's 11:21 13:15 26:13 28:5 32:16 35:15 41:14 45:23 46:8 52:5 57:24</p> <p>liability 37:14 39:15</p> <p>lids 59:22</p> <p>life 49:20</p> <p>limited 10:8 40:2</p> <p>line 12:17 18:5 20:25 40:23 48:25 49:6 51:13 55:4</p> <p>list 26:7</p> <p>listed 24:19 37:4</p> <p>listen 29:25 50:5</p> <p>listened 30:5</p> <p>listing 37:11</p> <p>literature 24:5,7 51:16 52:11</p> <p>little 6:1 7:17 27:20 27:25 35:19 37:20 39:20 46:5 47:7,8 47:8,9 55:9</p> <p>living 49:20</p> <p>located 16:22 17:2 17:10</p> <p>lodged 27:13</p> <p>long 12:21 15:6 42:12,14</p> <p>look 9:4,7,11 12:20 24:14,25 25:17 29:21 32:14,19 37:12 43:19 44:1,2 55:16 58:11</p>	<p>looking 10:7 18:8 58:15</p> <p>looks 25:1 43:22</p> <p>Lori 16:8</p> <p>lot 23:2,6 48:9</p> <p>low 37:24</p> <p>lower 40:8</p> <p>Lump 56:4</p> <hr/> <p>M</p> <p>macular 53:5</p> <p>maiden 12:9</p> <p>main 16:23 18:20 24:18 50:1</p> <p>making 5:18 16:14</p> <p>man 49:17 51:16</p> <p>manager 15:15,18 26:17,19</p> <p>manufacture 21:10 23:22 39:24 40:20 43:13</p> <p>manufactured 12:17 32:17</p> <p>manufacturer 11:9 17:23 18:13</p> <p>manufacturers 40:14</p> <p>manufactures 20:18 20:23 27:6 31:14</p> <p>manufacturing 25:11 30:18 31:5 42:23</p> <p>mark 6:15 32:8 35:16,20 39:18 44:7 50:10,12</p> <p>marked 4:8 35:14 35:23 44:12 50:16 51:23 52:15 55:17</p> <p>market 41:11,13 48:8</p> <p>markets 31:11</p> <p>markup 26:21 39:23 40:2,8 41:6</p> <p>material 19:8 25:15</p> <p>materials 22:25 25:14 26:6 59:22</p> <p>math 44:21 46:11</p> <p>mathematical 33:23</p>
--	--	---	---	--

matter 2:4,17 59:6	59:23	N.W 3:19	opinion 42:1,3,6 49:1 53:23 54:6	pen 32:21
matters 28:5	named 17:5 58:4		opinions 56:20	pending 20:11
mean 29:12 43:12 45:22 47:12,13 48:20 50:1 52:21 53:12 56:19 59:3	names 12:6 49:9	O	opportunity 8:1 28:24 29:21,25 34:15 52:10	people 15:17 16:4 42:18 50:2,4
meaning 49:7	natural 57:7	O 4:1 62:1,1,1,19,19 62:19,19	opted 37:13	percent 18:22 26:24
means 8:1	necessary 53:23	object 19:1,20 38:1 53:18 54:4 56:16	option 37:11	perfect 32:21
medical 11:2 54:9 54:17	need 7:11,16 12:3 21:2 32:22 41:18 54:9	objecting 19:11,17 38:11	order 16:17 22:20 22:21 23:3 28:8 37:1 46:4 53:24 59:15	period 34:3
medications 8:8	needed 16:16,17 23:24	objection 19:2,10 20:7 38:8 54:1 56:17,23	orders 10:9 16:14 22:21,22 28:8 58:11,12	personal 7:12 11:20 11:22 50:4
memory 18:23 35:10 36:8 41:19 43:6	Neilsen 16:8	objections 19:4 20:8	oriented 49:4	personally 12:25 27:22
mentioned 5:2 20:19 36:16 48:14	never 25:5 29:24 30:5	obviously 48:10 49:23 51:12	original 23:7	pertaining 8:4
merit 29:8	new 2:15,15 3:9,9 28:11 48:7,12 53:2	occur 28:22	originally 29:5	Petra 4:4 11:25
met 29:17	noncommodity 40:7 40:9,11 41:5,8,9 45:13	offer 18:11	overall 18:18 22:2	phone 23:16 28:18
metals 25:20	normal 7:17	office 10:5 12:19	overseas 16:24	pick 55:3
Michael 15:21	North 14:16	officer 2:8 6:20	overview 17:1	picture 55:19 57:2
middle 12:6,8 17:4	Northeast 3:7	official 6:24	owner 15:15,20	pineapple 57:8
milligram 58:24	notary 4:16	oftentimes 24:12		PL 23:6,9,10,11
milligrams 23:23 30:15 33:3,4 37:21	noted 56:23	oh 10:4 16:21 20:25 34:20 42:25 43:21 52:19,21 58:22 60:17	P	place 48:13
mind 54:21	notes 62:8	okay 5:14,23,25 6:3 6:17 7:5,10,14,20 8:4,5,13,25 9:14 10:2,7,23 11:5,18 12:25 16:25 17:10 19:15 20:4,10,14 21:20 26:12 29:21 30:3,8 33:7,9,22 34:9,10,18 35:13 36:13 37:15 38:4 38:14,25 39:10,14 39:17,18,21 40:7 41:4,14 43:23 44:15,17 45:1,16 46:2,13 47:14 50:10 51:3,18 52:5 57:23 60:22	P 1:5 4:1 62:1,19	placed 59:15
mine 16:23 17:9 49:4,4	noticed 59:8	older 48:9	page 1:4 9:21 36:3 52:15 55:20 57:3,6	please 7:8 9:20,23 11:23 12:7 29:3 33:8 43:23 47:2 55:16
minerals 36:25 37:3	number 1:9,10,11 1:12 4:7 6:24 10:7 10:16,23 11:12 22:23,23 23:3,6 33:11 35:22 44:8 44:11 47:15 50:14 58:24 60:3 62:3	once 28:15,23 29:17 60:11	pages 35:21 50:11 50:19 55:17	pleasure 60:25
minimums 18:12	numbers 18:20 22:1 23:22 43:15	ones 29:12	Pak 49:7	plus 33:18 38:21
ministry 49:21	nutrition 1:11 13:13 13:14 14:13,17,23 15:2,11 18:19,25 20:18 23:12 24:4 25:7 26:14,25 27:5 28:16 31:14 39:22 40:17 44:9,12 48:19 50:21 51:5 51:11,11,13 55:15 59:10	One's 20:2 42:20 52:11 57:6	panel 24:17,22 59:2	PO 22:20
minus 33:18	nutritional 24:17 58:24 59:1		papers 19:5 30:13	point 5:16 7:11,23 12:3 32:8
minute 30:4 35:25 50:6	Nutrition's 25:4		paperwork 16:16	popular 42:12,14 47:6
mix 56:9,13			part 5:17 17:25 18:3 18:15 24:1 48:24	portfolio 17:18
moment 35:15			particular 23:13 25:22 26:3 47:20 49:25 54:14	position 15:22 16:12
money 16:16			party 12:25 13:14	positive 13:24
month 28:23 32:5			Pathmark 40:22	possible 50:22
months 34:5 48:7			Pause 32:24 33:21 44:25 46:12	potential 23:18
morning 4:12			payment 28:17,22	powder 23:2 27:18
move 41:14 46:8			payments 10:18 28:16	premarked 9:9
multiplied 34:23,25 35:3 46:15			Paynter 3:5 51:25 52:1	presence 5:3
multiplier 45:6			pays 28:9	present 5:5 10:21
				president 15:23
N				press 35:15
N 1:2 4:1 62:1,19				presume 10:5
name 4:13 11:23 12:8,9 16:7,8 25:4				pretty 4:21 29:13
				prevent 11:1
				previous 27:20
				previously 51:23

price 34:21,22 45:9 59:9,12,24	25:8,23 27:6 28:11 30:9 31:25 35:19 37:2 39:24 40:1,17 48:10,11,22 49:3,9 54:21 56:22	10:16,23 20:11 28:8 34:1 46:22 50:7 53:18,19,21 54:3	34:18 35:24 36:1 40:25 43:24 45:6 46:2 50:18 51:24 52:5,7 53:16 57:24 57:25 61:1	requested 10:8 43:5 requesting 50:21 requests 9:18 require 25:14 requirements 24:20 36:24 research 53:13 54:10 respect 10:16 11:5 21:25 36:19 46:20 50:23,24 54:19 57:16 responded 9:24 RESPONDENTS 3:14 response 37:10 responsibilities 16:12 36:17 responsible 16:14 responsive 10:11 restate 19:2 restating 19:4 result 29:19 retention 23:5 retinopathy 53:4 returns 35:6,8,11 review 5:9,12 24:7 36:17 reviewed 10:5 revolutionary 48:8 Rhode 60:16 right 5:10 6:5,10 8:15 11:8,10,15,16 12:1,13 13:3,20 14:1,2,9,17,21,24 17:16 20:6 21:14 22:4,13 27:9 30:11 32:8 34:15 38:14 39:8 40:4 41:14 45:15 47:16 52:21 57:5,24 58:19 RMR 62:16 Rockoff 15:20,21 role 26:25 room 2:12 5:3 rough 32:3 rules 4:20 38:6
pricing 18:11 26:13 26:13,15,17,18 59:15	profits 60:19,19	questions 7:2,6 8:4 8:9 9:4,6 11:20,20 11:22 15:2 20:8 21:21 22:15 38:15 56:17,18,19,20 58:2 60:22 61:2	records 22:16 refer 23:10 44:15 reference 59:9 references 55:18 60:1 referred 23:9 46:4 referring 30:12 reflect 51:24 reflects 8:3 refresh 32:13 36:8 41:19 regard 23:21 27:3 31:8 Region 3:7 regulations 24:3 regulatory 24:1 related 11:20 relating 10:9,18,25 50:11 relation 45:18,19 relationship 19:22 release 19:7 39:14 released 37:14 releasing 50:21 religious 49:12 51:6 remember 12:16,18 12:21 17:14,15 27:18 29:6 30:16 43:9 51:14 repeat 5:1 report 15:13,21,24 16:4 reporter 6:9 7:18 12:4 16:2 35:20 44:7 50:10 represent 57:5 represented 6:4 representing 8:23 reprinted 58:12 reputable 26:10 request 9:21 10:7,12 10:24	
primary 17:17 primary 37:18 principal 5:21 30:13 36:9,11 41:1,19,20 42:3 47:2 print 24:12 prior 14:12 15:9 59:16 private 17:20,22,24 18:2,14,19,22 23:10 25:3,7,7 26:13,15 27:7 probably 7:5 16:21 21:1 22:10 28:23 38:3 40:12 48:7 problem 12:23 proceed 6:2 proceedings 32:24 33:21 44:25 46:12 produce 30:1 produced 44:9 47:18 producing 25:11 product 1:10 12:17 18:5 20:25 23:4,13 23:17 24:5,7,9,11 24:15 25:3 26:3 28:14 29:22 31:13 35:6,17,22 36:4 37:24,25 38:20 40:1,11 41:15,23 43:5 46:8 47:4,5,7 47:10,22,23 48:1 48:12,25 49:6 51:13 52:11,11 55:4 production 10:10,19 products 5:19 17:22 18:9,15 20:18,22 20:22,23 21:3,7,7 21:25 22:2,4,9,14	progression 53:4 proofread 62:21 property 57:13 protein 47:4 53:1 57:9 proteolytic 57:8 provided 35:14 50:11 59:9 provides 53:1 providing 60:3 public 4:16 publicly 5:12 publish 29:23 punctuation 62:22 purchase 10:20 22:12,21 26:9 42:20 purchased 45:3,4 46:15 Pure 53:1 purity 25:18,19 purpose 31:6 38:7 50:1 purposes 6:25 pursuant 2:18 4:23 put 9:18 11:16 23:12 30:2 36:25 39:19 39:24 48:12 50:6 51:3,6 55:4 puts 37:2 putting 33:22 P-E-T-R-A 12:8	quick 32:14 quickly 7:15,17 9:18 quote 55:25		
	Q	R		
	QUADE 62:25 qualified 53:19 quality 12:22 35:7,9 45:21,23 quantify 32:3 quantities 43:14 quercetin 36:15 question 7:7 8:6,14	R 4:1 62:1,1,1,1,19 62:19,19,19 radio 30:1,5,6 50:5 Rarely 25:12,12 raw 22:25 25:14,15 59:22 reach 60:4 reached 60:13,16 read 9:22 10:17 49:23,24 53:16 reading 53:14 realize 7:25 really 17:3 22:11 25:21 28:10 36:24 37:3 48:1 53:11 55:14 60:11,23 realm 48:19 reason 7:22 27:14 35:6 59:24 reasons 7:12 8:8 50:25 recall 22:11 receive 27:5 35:5 received 20:20 31:20 35:11 recollection 32:13 recommend 24:23 recommended 26:7 record 4:16 6:16 8:2 8:7,17 9:18 10:17 11:24 15:17 16:25 19:11 20:9,16,21 28:2 29:3 33:2		

running 59:6	sharks 42:13 53:1	specifically 19:12	subpoenas 1:9 4:7	55:9
Russia 17:3	55:1	22:3 31:22	9:9	testify 38:8
Rutgers 14:8	sheet 22:21	specifics 22:13	sued 13:2	testimony 55:6
S	She'll 28:14	spectrum 48:24	Suite 3:8,19	testing 25:6,10,13
S 3:15 4:1	shipments 16:16	spell 12:4,6	supplement 7:23	45:17,19,21,21,22
safe 26:4,7	shipped 34:12,14	spelled 25:2	13:25 14:25 24:17	45:23,25 50:8
sales 15:5,6,15,18	show 9:3 30:1,5,6	spelling 62:22	24:21 36:23	thank 13:4,7 32:23
22:17,18 26:17,19	showing 36:7	spoke 29:14	supplier 25:15	33:20 46:17 60:23
44:22	sign 50:21	spoken 49:24	suppliers 26:10	Theodore 3:4 4:13
sample 23:5	signed 39:12	sports 14:23 39:22	sure 6:7 8:6 9:5	thing 8:2 24:18 34:2
saying 7:19 38:10,11	significant 41:25	48:19 49:4,4 51:5	11:11,11 12:5 14:4	42:19
says 52:17,25 55:22	similar 31:14 36:20	51:10 55:15	16:3,13,14 18:4,20	things 12:4 17:21
56:4 57:7 58:17	40:18,18,21	spurred 55:3	21:22 24:16,22	23:24 25:2
second 36:3 41:14	simply 10:17 19:10	stand 29:9	26:22 27:15 28:7	think 12:22,23
52:6	38:20	standard 39:23	29:5 30:19 32:18	22:10 23:7 28:1
Secondary 36:14	single 59:15	start 28:6 30:10,18	33:17 34:20 42:25	29:8 30:8,19 39:6
secretarial 15:10	sink 47:5,12	33:9 42:23 45:23	43:20 44:23 55:3,5	42:18 43:17 58:25
see 25:10 29:16	sir 50:9	46:10	58:7,13 59:11	third 46:8
41:12 46:24 52:10	site 5:13 57:6	started 29:6 31:4	surgery 56:5	thought 33:12
52:17,25 53:6	sitting 6:9	state 4:22 7:8 11:23	Swankin 3:18	three 20:18 21:6,25
55:19 56:6 57:2,7	six 48:7	13:21 19:10 20:8	sworn 4:6,16	22:2,3,4 34:23,25
60:1,2	size 24:18 33:25,25	20:16,21 34:18	system 22:24	35:20 40:2 41:7
seen 29:24 51:8	34:11,13 35:1,2,2	38:9 41:5 43:23	T	50:11,19 59:17
57:15,18,20	43:21 44:19 45:2,4	47:2	T 62:1,1,1,19,19	three-pound 46:14
sell 5:20 18:15 35:7	46:13	stated 45:11	tablet 12:22,23 23:1	Thursday 2:10
35:8 40:17 48:10	sizes 32:25	statement 53:16,24	27:19	Tim 15:18
seller 22:11 55:2	skeletal 53:1	54:13,14	tablets 33:5,6	time 5:5 7:7 9:2,2,7
sellers 22:5	slow 7:16	statements 51:7	take 6:4 7:11,18 9:4	12:3,3 15:9 18:12
sells 48:21	smaller 33:25 43:21	52:12	9:7,11 32:14 55:16	21:24 30:4,21 31:4
send 22:19 39:10	45:2,8	States 2:1 16:22	taken 6:25 18:12	32:6 34:3 39:19
sends 23:16 28:16	sold 48:1 53:13 55:5	17:11	62:9	42:12,14,21 43:3
sends 23:16 28:16	solicit 18:6	status 58:12	talk 26:12	59:19
senior 15:5,6	somebody 18:1 58:3	stay 29:16	talking 7:21 9:5	times 10:6 34:21
sense 37:13,18,22,23	son 15:21	stayed 21:24 42:21	28:1 34:3 38:5	40:3 41:7
37:25 38:22	sorry 13:6,9 21:1	stimulant 47:9	41:4	tissue 53:1
sent 50:20 58:20	43:7,12,21 47:13	stop 53:3	Tantum 15:18	title 15:4 58:8,14
separate 32:25 33:7	49:5 52:1,21 54:23	Stops 52:20	tapered 42:15,17	62:4
separated 37:1	60:17	store 14:16 40:22	tell 4:19 6:1 9:23,24	today 5:3,16 6:4 8:9
series 7:2,6	sort 19:8 22:16	stores 40:23	22:1 30:12	9:10,16 10:14
serious 11:2	24:14 25:6 28:5	Street 3:19	ten 43:1	29:16 31:10 32:7
service 18:11	49:12 57:15	strictly 11:9	tend 28:5,22	44:21 60:24
serving 24:18	source 57:8	strike 40:15 49:10	tends 41:6 48:14	told 29:6 34:21 50:1
set 26:8,14 59:8	South 17:3	study 54:10	terms 16:4 32:4 43:3	top 30:16 42:22
seven 35:4	speak 7:16 13:5 28:7	subject 21:8 30:9	terribly 26:2	54:23 55:19
shaking 6:13	28:10,13	submit 26:20 28:11	tested 13:24	topic 49:25
shark 41:22 42:4,17	speaking 7:15	subpoena 2:18 4:23	testified 4:6 12:11	torture 44:20
43:5 53:12,14	specific 22:2 43:6	9:15 10:1 20:19	12:14 31:24 52:9	total 33:10 34:16,19
54:13,16 55:4				

[70]

35:4 45:3,5 totaling 35:1 totally 48:19 track 22:25 tracking 22:24 Trade 1:1 2:2,13 3:3 3:6 4:14,24 5:7 20:17 28:25 51:20 62:10 transcript 62:7,8,21 treat 11:1 trend 55:6,10 trendier 42:11 trendy 48:6,15 Tricia 27:25 28:13 tried 59:7 truthfully 8:9 truthfulness 56:21 56:22 try 7:21 23:24 26:10 Tuesday 19:5 tumor 53:3 tumors 11:1 52:18 52:20 57:9,20 turmeric 36:14 turn 15:1 30:9 turnaround 18:11 Turner 3:15,16,18 5:3 8:15,18,18,22 19:1,14,16,25 20:2 20:6 32:9,10 34:1 38:1,10 53:18 54:1 54:4 56:16 61:2 turning 12:24 twice 28:23 60:11 two 9:9 13:23 15:17 17:21 22:11 30:4 32:25 33:2,19 50:6 59:14,16,16 type 25:19 45:25 47:10 types 27:16 49:9 typical 26:21 tzang@ftc.gov 3:11	5:8 6:8 7:7,9 13:22 19:19 35:19 40:5 52:9 understanding 31:5 31:10 40:18 41:1 42:16 48:4,15 49:11,14 53:8,10 53:15 54:18,24 55:10 56:8 57:12 58:20 60:10,18 unique 22:22 23:2 unit 44:18,19 45:2,7 46:14 United 2:1 16:22 17:11 units 32:5 33:12,13 34:11,13,21 35:3,3 45:3,4 46:15 48:10 Universal 1:11 13:13,14 14:13,15 14:17 15:2,11,12 17:21 18:19,25 20:18,23 23:12 24:4 25:4,7 26:14 26:25 27:5 28:16 31:14 40:17 44:9 44:12 50:21 59:10 University 14:8 unsafe 25:23 unsubstantiated 5:19 unusual 51:6 54:12 unwanted 57:9,20 use 13:25 23:1 41:18 49:9 user 27:8 users 27:1,6 31:22 usually 18:9 22:19 23:14,15 28:13,21	vessels 53:3 Vice 15:23 visually 24:25 vitae 11:13 vitamin 37:20,20 38:21 vitamins 36:25 37:3 volume 32:1,3,16 33:10 44:22 46:5	15:10 16:11 17:20 36:17 worked 14:15,16,18 working 30:21 works 18:3 49:18 worry 33:19 wouldn't 38:4 write 22:21 58:25 writing 39:11 written 22:20 24:21 58:16 wrong 25:1,2 59:7 wrote 19:4	\$3.15 44:18 45:9 \$3.28 34:24 \$5,127.00 35:1 \$52,661.00 35:4 \$6,256.00 45:5 \$7.07 35:3 \$8,778.00 46:16 \$8.00 45:10 \$8.75 44:19 45:10	
U Uh-huh 6:22 55:24 understand 4:15 5:6	U vain 48:24 varies 39:25 41:12 verbiage 57:19 verified 59:16 verses 49:16 51:14 version 5:1 versus 18:19	W walked 5:2 51:25 want 4:22 5:1 6:7 7:23 9:10,14,17 12:9 20:21 26:12 31:21 32:6,12,19 33:1 35:18 38:17 39:18 44:20 46:11 51:18 52:14 60:23 wanted 20:8 33:12 37:17 59:5 warning 23:24 Washington 3:20 wasn't 29:17,19 way 7:9 14:22 37:4 37:12,13,17 38:4,5 38:18 Web 5:13 57:6,6 Wednesday's 19:5 weight 23:1,2 weights 23:1 welcome 46:18 well-known 51:15 51:17 went 4:15 59:22,23 weren't 37:21 we'll 7:12 11:10 39:19 50:12 we're 7:19 18:9 19:16,17 34:3 We've 59:21 WHALEN 62:16 wife's 49:20 witness 1:4 4:5 8:25 19:3 60:25 word 26:11 words 43:15 work 4:20 10:9	X X 1:2	Y Yeah 38:24 43:17 44:5 47:13 60:5,8 year 32:16 34:6 35:11 46:15 48:11 60:11 years 12:16 13:16 14:15 15:8 20:13 23:8 30:19 31:1 36:21 42:11 43:1 47:6,15,17 48:2 49:23 59:14,16,17 yesterday 29:14 York 2:15,15 3:9,9	1 1 10:7,21 1,709 34:11 10:57 61:4 100 43:22,24 44:18 45:2 10004 2:15 3:9 101 3:19 11 52:15 11.50 46:14 12 34:5 120 33:5,25 34:11 120-tablet 35:1 14 55:17 1400 3:19 15 2:10 20:13 62:5 16 62:13 16th 3:19 18 1:9 4:7 9:9 12:16 15:8 19 1:10 35:21,22 41:18 46:25 47:1,1
			Z Zang 1:5 3:4 4:11,13 8:15 9:1 19:9,15 19:23 20:1,4,5 32:11 34:4 35:24 36:2 38:7,13 44:6 44:14 50:10,17 52:2,5,8 53:20 54:2,7 56:23,24 57:23 58:1 60:22 61:1	2 2 10:16 20 1:11 44:7,11 46:3 2003 10:21 20036 3:20 2008 34:8 44:4,24 45:3,5 58:16 2009 2:10 62:5,13 202 3:21 21 1:12 50:13,14 212 3:10 22 14:15 25 18:22,22 28 57:1	
			\$ \$1,437.00 45:3 \$11.00 46:16 \$3.00 34:25,25 45:8		

<p>3 3 10:23 3.28 34:22 30 26:24 300 33:6 34:13 35:2 43:22,25 44:19 45:4 318 2:12 3:8 35 1:10 21:2</p>				
<p>4 4 1:5,9 9:21 11:12 51:23 52:3 40 21:3 44 1:11 462-8800 3:21 479 45:3</p>				
<p>5 50 1:12 500 30:15 32:5</p>				
<p>6 607-2816 3:10</p>				
<p>7 7 21:9,11 7,523 34:13 35:3 75 16:21 18:22 782 45:4 798 46:15 48:10</p>				
<p>8 8 58:16</p>				
<p>9 9-22-05 1:12 50:15 9:32 2:18 9329 2:6 6:24 62:3</p>				

In the Matter of:

Daniel Chapter One, et al.

January 22, 2009

Jill Susan Feijo

Condensed Transcript with Word Index



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1			
2	FEDERAL TRADE COMMISSION		
3	I N D E X		
4	WITNESS:	EXAMINATION:	PAGE
5	JILL SUSAN FEIJO	BY MS. PAYNTER	4
6			
7			
8	EXHIBIT:	DESCRIPTION	FOR ID
9	(none)		
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
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2

1 UNITED STATES OF AMERICA
2 FEDERAL TRADE COMMISSION
3
4 In the Matter of:)
5 DANIEL CHAPTER ONE, a corporation,)
6 and) Docket No. 9329
7 JAMES FEIJO, individually and as)
8 an officer of Daniel Chapter One)
9 -----)
10 Thursday, January 22, 2009
11
12 Room 318
13 Federal Trade Commission
14 One Bowling Green
15 New York, New York 10004
16
17 The above-entitled matter came on for
18 deposition, pursuant to notice, at 11:04 a.m.
19
20
21
22
23
24
25

3

1 APPEARANCES:
2
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23
24
25

4

1 P R O C E E D I N G S
2 - - - - -
3 Whereupon --
4 JILL SUSAN FEIJO
5 a witness, called for examination, having been first
6 duly sworn, was examined and testified as follows:
7 EXAMINATION
8 BY MS. PAYNTER:
9 Q. Good morning, Ms. Feijo.
10 A. Good morning.
11 Q. My name is Carole Paynter, and I'm an attorney
12 with the Federal Trade Commission and I'm one of the
13 complaint counsel in this case, which is the matter of
14 Daniel Chapter One and James Feijo, an investigation
15 into the sale of products by that company.
16 Are you aware of that -- are you aware of the
17 case?
18 A. Yes.
19 Q. And today's deposition is being taken pursuant
20 to rule 3.33(c) of the rules of practice, which is a
21 deposition of a representative of the company, and you
22 are here as the representative of the company.
23 Do you understand that today?
24 A. Yes.
25 Q. And that the deposition actually for today is

5

1 being taken for all purposes and can be used if we go
 2 forward into trial.
 3 Do you understand that?
 4 A. Yes.
 5 MR. TURNER: Okay. And of course the record
 6 reflects that you are represented or Daniel Chapter One
 7 is represented by counsel, if you'd put your appearance
 8 on the record.
 9 MR. J. TURNER: Jim Turner.
 10 Do you need more than that?
 11 THE REPORTER: No.
 12 MR. C. TURNER: Chris Turner.
 13 MS. PAYNTER: And Mr. Turner, are we going to
 14 maintain the same stipulations as we have throughout
 15 these depositions?
 16 MR. J. TURNER: Right. And we want to put our
 17 objections that we have put in the other depositions and
 18 in writing. I just preserve them for the rest of this
 19 deposition and will not raise any further objections on
 20 those points.
 21 MS. PAYNTER: Very good. Thanks.
 22 BY MS. PAYNTER:
 23 Q. Ms. Feijo, can you just please state your full
 24 name for the record.
 25 A. Jill Susan Feijo.

6

1 Q. And Ms. Feijo, you have just been sworn in by
 2 the court reporter; is that correct?
 3 A. Yes.
 4 Q. And you understand that your testimony today is
 5 taken under oath?
 6 A. Yes.
 7 Q. And you understand that means if you do make
 8 false statements you could be subject to charges of
 9 perjury.
 10 Do you understand that?
 11 A. Yes.
 12 Q. Have you ever given deposition testimony
 13 before?
 14 A. No, I have not.
 15 Q. Well, let me just explain a little bit to you.
 16 I'm going to ask you a series of questions, and
 17 we require you to give a verbal response to that so that
 18 the court reporter can record your answer.
 19 Do you understand?
 20 A. Yes.
 21 Q. So you can't really shake your head or do
 22 anything else but, you know, use words to indicate your
 23 answer; correct?
 24 A. Yes.
 25 Q. Do you understand that? Yes.

7

1 And also can you just keep your voice up so the
 2 court reporter can take down all that you're saying
 3 today?
 4 A. Yes.
 5 Q. Okay? Yes.
 6 And also, if I am speaking too quickly or you
 7 don't understand my question, please ask me to repeat
 8 the question for you or to clarify it for you.
 9 Do you understand that?
 10 A. Yes.
 11 Q. Okay. If at any point you need to take a little
 12 break, please let -- you know, just tell me that, and at
 13 an appropriate point we'll stop the deposition to take a
 14 break. Okay?
 15 A. Okay.
 16 Q. Did you take any medication today that could
 17 impair your ability to answer my questions?
 18 A. No.
 19 Q. Did you do anything to prepare for today's
 20 deposition?
 21 A. No.
 22 Q. Okay. Did you look at any documents for today's
 23 deposition?
 24 A. How to survive the deposition?
 25 Q. Did you look at any documents regarding the case

8

1 itself?
 2 A. No.
 3 Q. Did you meet with the attorneys for
 4 Daniel Chapter One to prepare for today?
 5 Without telling me what was said, just did you
 6 meet with them?
 7 A. Yes.
 8 Q. And how long did you meet with them?
 9 A. A matter of minutes. Minutes.
 10 Q. Have you ever been a party to an action brought
 11 by the Federal Trade Commission?
 12 A. No.
 13 Q. Have you ever been in an action to any matter
 14 brought by a federal agency?
 15 A. No.
 16 Q. Or by a state agency?
 17 A. No.
 18 Q. Have you ever sued the federal government
 19 yourself?
 20 A. No.
 21 Q. Have you ever been a party to any lawsuit?
 22 A. No.
 23 Q. Okay. I would just like to go into some
 24 questions about your background.
 25 I'll first ask you, where do you reside?

9

1 A. Portsmouth, Rhode Island.
 2 **Q. And what's your address?**
 3 A. Oh, I'm sorry.
 4 33 North Drive, Portsmouth, Rhode Island.
 5 **Q. And with whom do you reside?**
 6 A. My two daughters.
 7 **Q. And what's your occupation?**
 8 A. I only have a title.
 9 **Q. Well, you're currently employed? Are you**
 10 **currently employed?**
 11 A. Well, I would -- -- I wouldn't know how to word
 12 that. I could say I volunteer.
 13 **Q. Okay. That's fine.**
 14 A. Okay.
 15 **Q. You volunteer where?**
 16 A. At Daniel Chapter One.
 17 **Q. And how long have you done that?**
 18 A. Nine years.
 19 **Q. Well, as a volunteer at Daniel Chapter One what**
 20 **do you do?**
 21 A. I answer phones. I view e-mails. And I also
 22 write checks.
 23 **Q. And anything else that you do there?**
 24 A. Well, vacuum, all the other, you know, just
 25 daily routines, chores.

11

1 A. It's a health ministry that provides
 2 information.
 3 **Q. Anything else does Daniel Chapter One do?**
 4 A. Yes.
 5 **Q. And please describe what that is.**
 6 A. For people that, you know, wish to get product
 7 for donations -- in exchange for donations. I'm sorry.
 8 **Q. And where does the product come from?**
 9 A. There isn't a -- different manufacturers.
 10 **Q. Are you involved at all in obtaining product?**
 11 A. No.
 12 **Q. Do you know when Daniel Chapter One began?**
 13 A. Bear with me.
 14 I -- I cannot recall.
 15 **Q. Okay. Well, you said you've been there for nine**
 16 **years.**
 17 A. Yes.
 18 **Q. Was that at the start of the company or had it**
 19 **already been --**
 20 A. No.
 21 **Q. Or the ministry -- excuse me -- at the**
 22 **ministry?**
 23 A. Yes.
 24 **Q. It was not at the start of the ministry?**
 25 A. No, I did not join at the start. No.

10

1 **Q. So vacuum.**
 2 **Anything else?**
 3 **Do you answer correspondence?**
 4 A. As in e-mail?
 5 **Q. You did mention e-mail.**
 6 **Besides e-mail, anything else?**
 7 A. Just with the phone calls.
 8 **Q. Okay.**
 9 A. Yes.
 10 **Q. And what is your education?**
 11 A. Some college.
 12 **Q. Where did you attend college?**
 13 A. Bay State College in Boston.
 14 **Q. When were you there?**
 15 A. 1996.
 16 **Q. For one year or more?**
 17 A. One and a half. It was a two-year school.
 18 **Q. Okay. Did you obtain a degree?**
 19 A. No, I did not.
 20 **Q. You mentioned that you're a volunteer at**
 21 **Daniel Chapter One; correct?**
 22 A. Yes.
 23 **Q. And please describe or -- strike that.**
 24 **Could you please tell me what Daniel Chapter One**
 25 **is.**

12

1 **Q. When you joined, what was the company or --**
 2 **excuse me -- what was the ministry doing at that time?**
 3 A. I'm sorry. I don't understand.
 4 **Q. Was it doing the same thing that it's doing**
 5 **currently, providing information and product?**
 6 A. Yes.
 7 **Q. Do you know who began Daniel Chapter One?**
 8 A. My dad, Jim Feijo, and his wife, Tricia Feijo.
 9 **Q. Besides providing information and product, does**
 10 **Daniel Chapter One have any other activities in its**
 11 **ministry?**
 12 A. Well, my dad helps other people, if that's
 13 what --
 14 **Q. Sure.**
 15 A. Okay.
 16 **Q. Can you tell me more about that?**
 17 A. He helps missionaries and whatnot himself that
 18 doesn't involve product or -- or he gives product on his
 19 own.
 20 **Q. Okay. As a volunteer at Daniel Chapter One do**
 21 **you receive any kind of compensation?**
 22 A. My dad gives me money. Yes.
 23 **Q. Does he give you money on a regular basis?**
 24 A. Yes.
 25 **Q. What would be -- what's the time interval he**

1 gives you money? Every week?
 2 A. Every week.
 3 Q. Is there a set amount that you receive?
 4 A. Yes.
 5 Q. And can you tell me what that amount is?
 6 A. \$700 a week.
 7 Q. Do you know, is that -- is it given in cash or
 8 by check?
 9 A. Cash.
 10 Q. Just going back to your occupation, I don't
 11 know -- I'd like to show you a document that was marked
 12 at a prior deposition as FTC 8, Exhibit 8, and if you
 13 could just take a look at this.
 14 MS. PAYNTER: Off the record.
 15 (Discussion off the record.)
 16 BY MS. PAYNTER:
 17 Q. So if you'll take a look at this document and
 18 just look through it and tell me whether you've seen it.
 19 This is the interrogatories.
 20 MR. J. TURNER: Uh-huh.
 21 (Pause in the proceedings.)
 22 THE WITNESS: You want me just to look over it,
 23 not read it.
 24 BY MS. PAYNTER:
 25 Q. Yes. No. Just see if you're familiar with it.

1 (Pause in the proceedings.)
 2 Have you had a chance to look at it?
 3 A. Just now?
 4 Q. Yes.
 5 A. Briefly. I just skimmed through it. I had
 6 never read it before.
 7 Q. Okay. Just with regard to your function at
 8 Daniel Chapter One, I'd just like to read your response
 9 that was actually provided by the company --
 10 A. Okay.
 11 Q. -- in response to questions that we asked.
 12 We had a question, number 30 that was:
 13 Identify all individuals who have reviewed or responded
 14 to any consumer complaints or refund requests received
 15 by or on behalf of respondents, and for each person
 16 identified, please include the duties and
 17 responsibilities of such person, the position such
 18 person held, and the time period during which such
 19 person held that position.
 20 And the response was: Jill Feijo is a person
 21 who has reviewed and responded to customer contacts or
 22 refund requests received on behalf of respondents.
 23 Jill Feijo has supervised the order center for the past
 24 nine years while also taking phone orders.
 25 Do you understand what I just read to you?

1 A. Yes, I do.
 2 Q. And is that an accurate statement of what you do
 3 at Daniel Chapter One?
 4 A. Yes.
 5 Q. Okay. So can you just describe to me what the
 6 order center is?
 7 A. Yes. We have people that will call, call in,
 8 and they will get products in return for donation
 9 purposes. Not everyone pays a set amount. Most of our
 10 people actually have discounts or do get some sort of
 11 discount. And we send them product.
 12 Q. And there's -- is there an 800 number that the
 13 company maintains?
 14 A. Yes.
 15 Q. And where -- do you know where the 800 number is
 16 disseminated?
 17 A. What state?
 18 Q. No. Just generally how is it actually provided
 19 to the public, how do they learn of the number.
 20 A. I would -- the Web site.
 21 I believe it may be in our BioGuide, which is
 22 just an information booklet.
 23 Word of mouth.
 24 Q. The radio program?
 25 A. Yes.

1 Q. And how many people work in the order center?
 2 A. We have two girls -- well, including myself,
 3 two, and then we have a girl that helps, helps out once
 4 in a while.
 5 Q. And what are the hours of the order center?
 6 A. 9:00 till 8:00.
 7 Q. Is that every day?
 8 A. Monday through Friday.
 9 Q. And then Saturday at all?
 10 A. No.
 11 Q. Okay. Where it says here you have supervised
 12 the order center, how -- what -- could you describe how
 13 you supervise the order center.
 14 A. I will listen, overhear, just monitor other --
 15 you know, if someone else is on the phone if there's,
 16 you know, something that they just have a question that
 17 was a general question, then they would ask me, and if I
 18 didn't know, then...
 19 Q. Do you all use a sales script at all in taking
 20 orders?
 21 A. No.
 22 Q. Do you -- do -- when people call in, do they ask
 23 for specific products?
 24 A. Every call is different. Most people want
 25 information --

1 Q. And --
 2 A. -- a book, you know, providing them information
 3 about different products.
 4 Q. And what do you do in response to those kinds of
 5 calls?
 6 A. We would get their name and address and send
 7 them our book.
 8 Q. And do they -- is there a charge for the book?
 9 A. No.
 10 Q. And for people who call in looking for products,
 11 do you give any advice to them about what products they
 12 should use?
 13 A. No, I do not.
 14 Q. If someone needed to talk to a person about what
 15 product they should use, who would take that kind of
 16 call?
 17 A. I would direct them to call in to the radio
 18 program.
 19 Q. So with respect to taking phone orders, can you
 20 describe how that happens?
 21 A. When a person calls in?
 22 Q. Uh-huh.
 23 A. They would call in to the order center or the
 24 phone center, and basically if they were already in
 25 my -- our little program, then I would just, you know,

1 Q. Are there any records that would show how many
 2 customers have made purchases?
 3 A. I wouldn't know. I don't know at the moment.
 4 Q. You mentioned a computer -- there's a computer
 5 program?
 6 A. Yes.
 7 Q. And would that make -- what's in that computer
 8 program?
 9 A. It would have the names, so I'm sure there's a
 10 way.
 11 Q. Uh-huh.
 12 To -- there might be a way to find out how many
 13 customers have --
 14 A. How many names?
 15 Q. Uh-huh.
 16 A. I would -- I would say yes.
 17 Q. Okay. Who maintains the computer system, if
 18 anyone?
 19 A. As far as maintenance?
 20 Q. Yes.
 21 A. I -- I don't -- I don't handle that.
 22 Q. Do you monitor the other salespeople's actual
 23 sales amounts?
 24 A. Well, they're not so much sales. I don't
 25 monitor them, no.

1 confirm their name and address. If they wanted, you
 2 know, vitamin C, whatnot, we would put the code in, and
 3 then it would come up, and if they wanted you know, to
 4 pay credit card, we do credit card, and then we would
 5 send it.
 6 Q. And how is payment received? Just by credit
 7 card?
 8 A. No.
 9 Q. Do you do COD?
 10 A. Occasionally.
 11 Q. Then with regard to the Internet, are orders
 12 also taken on the Internet?
 13 A. Yes.
 14 Q. And how -- describe how that happens, you know,
 15 if you're familiar with that.
 16 A. I don't -- I'm not positive how that takes
 17 place. I don't have anything to do with that.
 18 Q. Okay. Thanks.
 19 Do you know, are most orders for product
 20 received by phone or over the Internet?
 21 A. By phone.
 22 Q. And in the nine years that you've been there,
 23 approximately how many customers have you, the order
 24 center, sold product to?
 25 A. I couldn't -- I don't have a number.

1 Q. So on a daily basis is there like a tally made
 2 of how much product was requested?
 3 A. We could see on a daily base if you I guess ran
 4 a report on that day.
 5 Q. And how do orders -- is all the product located
 6 at Daniel Chapter One?
 7 A. In -- well, we have a separate building that has
 8 the products, not where I am.
 9 Q. A separate building -- well, tell me -- first of
 10 all, tell me how many buildings are there.
 11 A. Two.
 12 Q. And the building that you're in, what's in that
 13 building?
 14 A. Just -- well, we are -- our -- where we are.
 15 Q. Which is the --
 16 A. Like an office, just, you know, the office.
 17 Q. It's just an office there?
 18 A. Yes.
 19 Q. And it's just yourself and the other people
 20 working the order center there?
 21 A. Yes.
 22 Q. And then what is the other building?
 23 A. That's just where we have our products, and they
 24 would be shipped from there.
 25 Q. Okay. And so can you just tell me the steps

1 that when an order comes in, what do you do with that?

2 A. If it were a phone order, I would take the
3 order, process it, however the form of payment, and
4 then we would e-mail that down to where the products
5 are, and they would fill the order, and then it would
6 be shipped.

7 Q. And who is in charge of the order center, if you
8 know -- or, I mean, the area where the product comes
9 from?

10 A. In charge.
11 We don't really have anyone in charge.

12 Q. Who are the people who work with that area?

13 A. Well, we have Kevin.

14 Q. Uh-huh.

15 A. Axel.

16 Q. Do you know their last names?

17 A. Axel Busche.
18 Kevin Vandeburg.

19 Q. Anyone else?

20 A. Jay Butler.

21 Q. Anyone else?

22 A. No.

23 Q. You were mentioning before that people pay
24 different prices for the product; is that correct?

25 A. Yes.

1 Q. And is there a set price for the product?

2 A. We have a set donation price just because we
3 need some sort of value for people. They do vary.

4 Q. And when you say "set donation price," is that
5 how it's described in any material that
6 Daniel Chapter One provides to people?

7 A. Well, the books that we have, our BioGuide
8 doesn't have prices in it. It's just product
9 descriptions and some testimonials. But we do ask for,
10 you know, a price donation.

11 Q. And just tell me, how do you ask for a price
12 donation? Do you actually phrase it as a donation when
13 you're speaking to someone?

14 A. At the end of the call, yes.

15 Q. And if someone says that they can't pay that
16 donation or they'd like to make a different amount, what
17 generally is the policy with that?

18 A. We do have people that we help as far as
19 discounting prices and that also maybe get help with
20 their church or their family members or whatnot, so
21 there's different -- we have so many different -- I
22 don't want to say possibilities, but payment options. I
23 don't know.

24 Q. Okay. That's fine.

25 Do you -- is there anything in writing regarding

1 the donation policy?

2 A. Not that I recall. We have thank you for your
3 donation and whatnot, but not --

4 Q. Where do you have that?

5 A. We put that with each order.

6 Q. That goes into the -- is it shipped in a box,
7 the orders?

8 A. Yes.

9 Q. That goes into each box?

10 A. Yes.

11 Q. Are there people who pay the amount, the
12 suggested -- is it a suggested donation?

13 A. Yes.

14 Q. Are there people who pay the suggested
15 donation?

16 A. Yes.

17 Q. About, if you could just give an estimate, how
18 many people who you speak with each day, for example, on
19 a given day would ask for a lowered -- a donation other
20 than the suggested donation?

21 A. Not many.

22 Q. Okay. And do you -- are you -- do you have
23 staff meetings with the other people or...

24 A. No.

25 Q. Okay. And who conveyed to you the fact that

1 we -- the donation amount could be lowered?

2 A. It's always been like that. Prior to when I
3 got -- when I came to help.

4 Q. Do you know what the donation amount is --
5 strike that -- how the donation amount is actually
6 created for a specific product?

7 A. I do not know.

8 Q. Does that donation amount change? Has it ever
9 changed since you've been there?

10 A. Yes.

11 Q. And can you describe the circumstance under
12 which a donation amount has ever changed?

13 A. It's actually gone down, which was recently.

14 Q. Okay. Was there any specific reason why?

15 A. To help people.

16 Q. Uh-huh.

17 To help people -- can you just elaborate a
18 little further?

19 A. Well, to make it a little nicer for them to know
20 that the price had gone down because it's been a hard
21 time.

22 Q. Okay. Do you know how many -- well, how
23 recently was that?

24 A. I don't have an exact date. I would estimate
25 around the fall.

1 Q. And any other time that you can recall donation
 2 prices changing?
 3 A. Not that I can recall.
 4 Q. And have -- do you recall actually ever get --
 5 allowing someone to pay a lesser amount than suggested?
 6 A. Yes, I do.
 7 Q. Can you give me an example of one time?
 8 A. Well, just this week I gave someone product
 9 they had --
 10 Q. You gave -- can you just -- you gave them the
 11 product?
 12 A. Without charging.
 13 Q. And what were the circumstances of that?
 14 A. I knew -- you know, you know their background.
 15 You know they just want -- they want to get well. They
 16 want help. They want to do the product. In some
 17 circumstances a lot of people don't have a lot. Things
 18 are hard these days, and that's what we do, so I gave
 19 them product.
 20 Q. So this was someone who has purchased
 21 product -- who has given donations before for product?
 22 A. Yes.
 23 Q. And they were calling to obtain some more of
 24 it?
 25 A. Yes.

1 Q. And then if you could just describe how the
 2 whole thing, how the call went, and that would be
 3 helpful just to get an idea of how you do give product
 4 for free.
 5 A. Oh, sure.
 6 For this one particular time or for -- we
 7 have --
 8 Q. Just this one instance you said last week, for
 9 example.
 10 A. Sure.
 11 This person had actually -- was not a phone
 12 call. This person had come in to my office. And
 13 they've been in before just a couple times that I know,
 14 and the father is ill. And they did purchase a powder,
 15 a drink for their dad, and said he was feeling well, had
 16 energy, and I -- I gave them a couple more without
 17 charging.
 18 Q. Okay. And have you ever had a circumstance --
 19 and you -- you didn't charge for -- was this -- was
 20 there a reason why you didn't charge for the additional
 21 product?
 22 A. Just to help them.
 23 Q. Are you familiar with their financial
 24 circumstances?
 25 A. The person that came in?

1 Q. Yeah.
 2 A. I wouldn't know their financials.
 3 Q. So you said you gave it just to help.
 4 A. Yes.
 5 Q. And have you ever had situations where someone
 6 has called on -- let's say on a phone order has said
 7 when the suggested donation is told to them that, oh, I
 8 can't afford that? Have you ever had had that happen?
 9 A. Yes.
 10 Q. And what generally will happen in that kind of a
 11 circumstance?
 12 A. In most cases we -- depending on what the
 13 situation is. They might have someone willing to help.
 14 A lot of people call and have others help, and
 15 then we'll of course -- whatever it may be. Everyone is
 16 different. I can't answer that in one exact way.
 17 You know, I could give someone something for
 18 free. Then someone else, we might help them and drop
 19 the price halfway or it's -- I can't -- I don't have a
 20 set answer for how I would --
 21 Q. Well, let's see. If somebody calls and says,
 22 Oh, I can't afford that donation price, what would be
 23 the first response to that?
 24 A. I would say we'd be willing to help of course.
 25 I'd also suggest that, you know, if they have anyone at

1 the local church that could help as well, a lot of
 2 people tend to do that, and that's been great. It
 3 helps a lot of people so we can work together. And
 4 then that's usually my suggestion, and then we go from
 5 there.
 6 Q. And if someone says, Well, I'm not affiliated
 7 with the church and I don't really have any family to
 8 help me, in that kind of circumstance what would you --
 9 A. Then we'd go from there.
 10 Q. Has anyone ever been refused product because
 11 they couldn't afford a donation?
 12 A. No.
 13 Q. Do you know if any of the other customer service
 14 people have refused somebody?
 15 A. No.
 16 No, they have not refused anyone. I'm sorry.
 17 Q. Okay. Now, you testified that you receive
 18 \$700 a week.
 19 Do the other people -- first of all, who else
 20 works in the center with you? What are their names?
 21 A. Melissa Burns.
 22 Q. Okay.
 23 A. And Rajeanne -- E-A-N-N-E -- Rioes.
 24 Q. And do they -- do you know whether Melissa Burns
 25 receives any money?

1 A. Yes.
 2 **Q. And do you know how much money she receives?**
 3 A. Not offhand.
 4 **Q. And do you know whether Ms. Rioes receives any**
 5 **money?**
 6 A. Yes, she does.
 7 **Q. And do they receive that money weekly as you**
 8 **do?**
 9 A. Yes, they do.
 10 **Q. Do you know -- do you file taxes yourself?**
 11 A. I file everything that needs to be legally
 12 paid. Yes.
 13 **Q. Okay. Do you -- you were saying you're a**
 14 **volunteer at Daniel Chapter One; correct?**
 15 A. Yes.
 16 **Q. Are you considered an independent contractor?**
 17 A. Yes.
 18 **Q. Is that for tax purposes?**
 19 A. Yes.
 20 **Q. Are you issued a W -- are you issued a -- is it**
 21 **a 1099?**
 22 A. I don't recall offhand what the form is.
 23 **Q. But you are issued a form by Daniel Chapter One**
 24 **for tax purposes?**
 25 A. Daniel Chapter One doesn't issue a form. Each

1 person would do their own.
 2 **Q. Okay. Can you describe that to me, what you**
 3 **do?**
 4 **Do you keep records of how much money you**
 5 **receive each week?**
 6 A. Yes.
 7 **Q. And then you provide -- you -- you provide your**
 8 **own form?**
 9 A. I would do my own. Yes.
 10 **Q. You don't have any statement received from**
 11 **Daniel Chapter One as to what monies were provided to**
 12 **you?**
 13 A. No, I do not.
 14 **Q. Do you know whether any statement is provided to**
 15 **Melissa Burns or Ms. Rioes?**
 16 A. I cannot speak for them.
 17 **Q. Okay. Well, when you're considered an**
 18 **independent contractor, what does that term mean?**
 19 MR. J. TURNER: Objection on the record just
 20 to --
 21 BY MS. PAYNTER:
 22 **Q. -- to you?**
 23 MR. J. TURNER: As long as it's not a legal
 24 conclusion.
 25 MS. PAYNTER: Certainly not.

1 BY MS. PAYNTER:
 2 **Q. What does it mean to you? What does that term**
 3 **mean to you?**
 4 A. That I'm responsible for what I pay out.
 5 **Q. Okay. And you mentioned earlier that you write**
 6 **checks; correct?**
 7 A. Yes, I do.
 8 **Q. And what -- you write checks for**
 9 **Daniel Chapter One?**
 10 A. Yes, I do.
 11 **Q. And what bank account do you write checks on?**
 12 A. I use a program.
 13 **Q. Okay.**
 14 A. I don't handle the banking.
 15 **Q. You do -- you use a program to do what?**
 16 A. You write the checks.
 17 **Q. So an electronic check, is that what you do?**
 18 A. Well, printed but done online like through the
 19 computer.
 20 **Q. And what bank are you accessing through the**
 21 **computer?**
 22 A. What bank do we have?
 23 **Q. Yes.**
 24 A. Jim Feijo has Citizens Bank.
 25 **Q. And when you say "Jim Feijo," what does -- what**

1 **do you mean by that?**
 2 A. My dad. I don't -- it would be his bank
 3 accounts.
 4 **Q. Okay. And --**
 5 MR. J. TURNER: I just want to clarify again, as
 6 long as there's no legal conclusion in that, it may
 7 be -- for all we know it may be a Daniel Chapter One
 8 bank account rather than Jim Feijo's bank account.
 9 MS. PAYNTER: Well, let me ask the witness.
 10 MR. J. TURNER: Sure.
 11 BY MS. PAYNTER:
 12 **Q. Do you know if -- when you said it's Jim -- is**
 13 **it in Jim Feijo's name as far as you --**
 14 A. No. I'm sorry. I'm glad Mr. Turner interjected
 15 there.
 16 No, it's not under Jim Feijo's name.
 17 **Q. Whose name is it under?**
 18 A. It could be Daniel -- Daniel Chapter One.
 19 **Q. It could be?**
 20 A. I'm not aware of all his accounts. I don't know
 21 them all.
 22 **Q. But when you write a check, normally there's a**
 23 **bank -- there's a bank indicated on a check, so I'm**
 24 **asking you --**
 25 A. It's Citizens Bank.

1 Q. Yes.
 2 A. And there is a Daniel Chapter One, yes.
 3 Q. Okay. That is on -- listed on the -- that is on
 4 the check when you write it?
 5 A. That is on the check.
 6 I'm sorry. I'm thinking. I want to make sure.
 7 Q. Okay. Take your time.
 8 A. On the checks that I write it's not
 9 Daniel Chapter One, it's Creation Science Funding.
 10 Q. And that is with Citizens Bank; is that what
 11 you're saying?
 12 A. Yes.
 13 Q. Okay. And what is -- do you know what
 14 Creation Science Funding is?
 15 A. No, I do not.
 16 Q. And does -- do you write checks on any other
 17 banks?
 18 A. No, I do not.
 19 Q. Do you know whether Daniel Chapter One has a
 20 bank account?
 21 A. Yes. They do.
 22 Q. And do you know what bank that is at?
 23 A. Citizens Bank.
 24 Q. Is there more than one account at Citizens Bank
 25 for Daniel Chapter One?

1 A. Sometimes.
 2 Q. What are you writing checks for?
 3 A. Electric bills, utilities.
 4 Q. Do you write bills for -- sorry -- write checks
 5 for product?
 6 A. No, I do not.
 7 Q. Okay. Are any checks written to pay
 8 individuals?
 9 A. Yes.
 10 Q. And who would receive a check through
 11 Creation Science Funding?
 12 A. Melissa Burns.
 13 Q. Okay. And who else?
 14 A. Rajeane Rioes.
 15 Q. Okay. Who else?
 16 A. Axel Busche.
 17 Q. Uh-huh.
 18 A. Kevin Vandeburg.
 19 Q. Anyone else?
 20 A. And Jay Butler.
 21 Q. And you write those checks? You --
 22 A. Yes, I do.
 23 Q. Yes.
 24 So can you recall how much money Melissa Burns
 25 receives?

1 A. Yes. There are those.
 2 Q. There are those?
 3 A. Daniel Chapter One and Creation Science Funding.
 4 Q. Okay. Do you know whether Daniel Chapter One
 5 has any other account at any other bank?
 6 A. No, I do not.
 7 Q. Do you see bank statements for the account that
 8 you write checks on?
 9 A. No, I do not.
 10 Q. Do you know who receives the bank statements?
 11 A. My dad.
 12 Q. Well, how do you know if there's money to cover
 13 a check that you're writing?
 14 A. I don't.
 15 Q. So you -- who -- do you have authority to write
 16 the checks?
 17 A. Yes, I do.
 18 Q. Are you a signatory on the bank account?
 19 A. No. I use a stamp.
 20 Q. Okay. You use what? You stamp whose name on
 21 it?
 22 A. I stamp the check with obviously his initial,
 23 his name.
 24 Q. And do you have to ask him before you write
 25 checks?

1 A. No, I cannot.
 2 Q. Are there records that would show how much money
 3 she's received?
 4 A. No. It would -- it would vary weekly. People
 5 put in different time, so I don't have a set amount.
 6 Q. So Melissa Burns is paid, what, by the hour, or
 7 how is she paid?
 8 A. Yes.
 9 Q. Are you sure?
 10 A. Yes.
 11 Q. Okay. How much is she paid an hour?
 12 A. 11.50.
 13 Q. And Ms. Rioes is also paid by the hour?
 14 A. She is.
 15 Q. And how much is she paid?
 16 A. \$9.00.
 17 Q. And Mr. Bush is paid by the hour?
 18 A. Yes.
 19 Q. And what is he paid?
 20 A. \$15.00.
 21 Q. And Mr. Vandeburg?
 22 A. 12.50.
 23 Q. And Mr. Butler?
 24 A. Bear with me. I'm trying to figure out the math
 25 in my head.

1 Q. Okay.
 2 A. I'm going to say 13.
 3 Q. Do you also write checks to Mr. Feijo?
 4 A. No, I do not.
 5 Q. Do you write checks to Mrs. Feijo?
 6 A. No, I do not.
 7 Q. Do you know if they receive any compensation
 8 from Daniel Chapter One?
 9 A. No, I do not know.
 10 Q. And do you know whether Daniel -- I don't know
 11 if I asked this before, so I apologize if I have.
 12 Does Daniel Chapter One have a bank account at
 13 any other bank besides Citizens Bank?
 14 A. Not to my knowledge.
 15 Q. Okay. Do you know how Mr. and Mrs. Feijo -- do
 16 you know -- do they take any kinds of money from
 17 Daniel Chapter One?
 18 A. I wouldn't know. Not that I recall. I -- I
 19 can't speak for that. I don't know.
 20 Q. Do you know whether they receive monies to live
 21 on from Daniel Chapter One?
 22 A. I would have to guess.
 23 Q. Well, to the best of your knowledge.
 24 A. I would think they would be able to live.
 25 Q. Sure.

1 A. I don't know a number or amount. I don't know
 2 what they do exactly.
 3 Q. Okay. Do you ever write checks for bills on
 4 their behalf, to pay bills on their behalf?
 5 A. Yes. The utilities, electric.
 6 Q. Do they have cell phones?
 7 A. Yes. Phone bills.
 8 Q. And are the utilities -- whose name are the
 9 utilities in?
 10 A: Patricia Feijo.
 11 Q. And the telephones?
 12 A. Patricia Feijo as well as James Feijo.
 13 Q. Do you ever write checks to pay for clothing for
 14 Mr. and Mrs. Feijo?
 15 A. No, I do not.
 16 Q. To purchase -- excuse me.
 17 Is the office in their home -- is in their home
 18 as well? Is that their --
 19 A. No. It's in a building separate.
 20 Q. And where is their home in location to the
 21 office?
 22 A. Right in front of the building (indicating).
 23 Q. And then there's another building where products
 24 are stored?
 25 A. Yes. We rent from a building.

1 Q. And is that all on the same property, if
 2 you're --
 3 A. No.
 4 Q. Okay. So where their home is, there's their
 5 home and then the office on one property?
 6 A. Yes.
 7 Q. And do you live there also?
 8 A. No, I do not.
 9 Q. And then where the product is stored, that's
 10 another location?
 11 A. That's a separate building.
 12 Q. Okay. A separate building on that property?
 13 A. No. On a different property.
 14 Q. Okay. And do you pay the -- do you write a
 15 check to pay for the rental of that property?
 16 A. I do.
 17 Q. And who is the check made to?
 18 A. I do not know offhand. I don't know the name
 19 offhand.
 20 Q. Do you know, does Daniel Chapter One own that
 21 property?
 22 A. No, we do not -- no, they do not.
 23 Q. So have you ever heard of something called
 24 Y'Shua ministry?
 25 A. I heard of the name.

1 Q. Do they own that property?
 2 A. I do not know.
 3 Q. Are you familiar with Y'Shua ministry at all?
 4 A. Other than the name, no, I'm not.
 5 Q. Have you ever seen any bank account for Y'Shua
 6 ministry?
 7 A. No, I have not.
 8 Q. Do you also pay credit card bills?
 9 A. No, I do not.
 10 Q. Does Daniel Chapter One have a credit card?
 11 A. No.
 12 Q. Does Jim Feijo have a credit card?
 13 A. Yes.
 14 Q. And what kind of credit card?
 15 A. American Express.
 16 Q. Is that card used to purchase product?
 17 A. Yes.
 18 Q. Do you order product yourself?
 19 Strike that.
 20 Do you order product from manufacturers?
 21 A. No, I do not.
 22 Q. Who does that?
 23 A. My dad.
 24 Q. Are you familiar with the manufacturers of the
 25 product?

41

1 A. The names.
 2 Q. Yes.
 3 A. The names of them?
 4 Q. Yes.
 5 A. Yes.
 6 Q. And can you identify them, please.
 7 A. Universal Nutrition.
 8 Q. Uh-huh.
 9 Anyone else?
 10 A. NOW Foods.
 11 Douglas Laboratories.
 12 Q. Okay. Any other?
 13 A. Randall.
 14 And Sundowner Research.
 15 Q. Do you ever have communication with anyone at
 16 these manufacturers?
 17 A. Yes. Occasionally.
 18 Q. And in what context would you have
 19 communication?
 20 A. To check on an arrival of a shipment of
 21 product.
 22 Q. And does Daniel Chapter One have a refund
 23 policy?
 24 A. Yes.
 25 Q. And what is the refund policy?

43

1 I'm trying to think of a specific for you.
 2 Q. Okay. So if it arrives broken, someone might
 3 call and complain about that.
 4 A. Right. Yes.
 5 Q. Does anyone complain about whether the product
 6 is working or not?
 7 A. No. Not that I can recall.
 8 Q. When the complaints come over the phone, do they
 9 ever come in writing?
 10 A. I had one this week in writing that the product
 11 was damaged when they got it, but that would be more
 12 UPS' problem.
 13 Q. Okay. Do you -- you said it was in writing, so
 14 by e-mail?
 15 A. No. They actually mailed it in, took a picture
 16 of the box and...
 17 Q. Do you recall receiving any other complaints in
 18 writing?
 19 A. No, I do not.
 20 Q. Have you ever received complaints by e-mail?
 21 A. No, I do not.
 22 Q. Do you keep records of people calling or
 23 contacting you about broken product?
 24 A. No, we do not. We would enter it in their notes
 25 with their name and address. We'd put that they called

42

1 A. We -- depending on the problem.
 2 Any product unopened that someone would like to
 3 send back would get a full refund.
 4 If the product has been opened, we'll most
 5 likely give 75 to 50 percent of what they paid for it
 6 back just because we can't, you know, reuse it unless we
 7 use it ourselves.
 8 Q. Have you ever had product be returned?
 9 A. Yes.
 10 Q. In what circumstances has product been
 11 returned?
 12 A. We've had people return product that decided not
 13 to use it. We've had people return product if they
 14 ordered it for someone else, and we've had people return
 15 it if they bought it for someone else and the person
 16 passed away and they can't use it. We've had people,
 17 well, change their mind, you know, the first.
 18 Most often if we do have someone return a
 19 product, it would be because either they ordered it for
 20 someone else and that person either didn't want to do it
 21 or for whatever reason I don't know or they passed away.
 22 In most cases people order stuff for someone that's
 23 already ill and don't get to use it.
 24 Q. Does anyone ever complain about product?
 25 A. If it arrives broken.

44

1 and the box was broken or a product was broken and that
 2 we sent out a new replacement, so we would know that.
 3 We could keep track of that, yes.
 4 Q. Okay. And are you familiar with the product
 5 Bio*Shark?
 6 A. Yes, I am.
 7 Q. And what is Bio*Shark?
 8 A. I'm trying to -- shark cartilage. I'm sorry. I
 9 was thinking like, oh, what is it.
 10 Shark cartilage.
 11 Q. I don't mean the components but more what is
 12 Bio*Shark used for, to your understanding.
 13 MR. J. TURNER: I want to object also. This is
 14 not a scientific conclusion. This is just her sense
 15 of --
 16 MS. PAYNTER: Just her understanding.
 17 THE WITNESS: What people are using it for that
 18 I know. I have callers that would like to get the
 19 Bio*Shark or they tell me, yes, they tell me they use
 20 it for -- we have people that are using the Bio*Shark
 21 for when they have cancers, different types of cancers.
 22 BY MS. PAYNTER:
 23 Q. Did Mr. Feijo ever tell you what Bio*Shark is
 24 used for?
 25 A. Not the scientific, no. I don't know --

1 **Q. Not the science, just why someone would order**
 2 **that.**
 3 A. Well, related to the shark cartilage, I've read
 4 that myself, that it's been known, it's been proven, not
 5 with myself, but to aid with halting maybe in some cases
 6 tumor growth.
 7 **Q. Well, my question was did anyone ever -- when**
 8 **you came into the ministry, did anyone ever talk to you**
 9 **about what the different products are used for?**
 10 A. No.
 11 I mean, I've read. I've overheard my dad, you
 12 know, talk before.
 13 **Q. Okay. And you've read in the BioGuide**
 14 **yourself?**
 15 A. Yes. And you know, just in general online to
 16 learn myself, not with our Web site but just in
 17 general.
 18 **Q. Okay. Do you know what the product**
 19 **7 Herb Formula is used for?**
 20 A. Yes.
 21 **Q. And what is it --**
 22 A. Primarily Seven Herb is intended to just kind of
 23 cleanse, purify.
 24 **Q. And the product GDU, what is that used for?**
 25 A. GDU -- in most cases the people that we have

1 the mail or whatnot, we just have them in the office.
 2 No set person would handle that.
 3 **Q. Do you know -- do you know, does**
 4 **Daniel Chapter One have an accountant?**
 5 A. No, they do not.
 6 **Q. Do you know who maintains the financial records**
 7 **of the company?**
 8 A. My dad.
 9 **Q. Do you know whether Daniel Chapter One pays any**
 10 **taxes?**
 11 A. Yes.
 12 **Q. What kind of taxes do they pay that you're aware**
 13 **of?**
 14 A. Property. Car tax.
 15 **Q. Do you know whether Mr. Feijo pays taxes?**
 16 A. For the car and the --
 17 **Q. Oh, personal taxes.**
 18 A. I do not know.
 19 **Q. Well, do you know whether Mrs. Feijo pays**
 20 **personal taxes?**
 21 A. I do not know.
 22 **Q. Okay. And before the -- you mentioned the**
 23 **employees who you write checks for.**
 24 **Do you know what is their status? Are they also**
 25 **independent contractors?**

1 contacting us using the GDU have used it for
 2 inflammation, for arthritis, headaches.
 3 **Q. Okay. And what about the product BioMixx?**
 4 A. The BioMixx -- overall we have people that use
 5 the BioMixx just for immunity, just for -- you know,
 6 just for an immune supplement.
 7 **Q. Do you ever receive phone calls from people with**
 8 **good reports about using the product?**
 9 A. Yes.
 10 **Q. And can you describe some of those?**
 11 A. Yes. We get quite a few. Seeing that we have
 12 reoccurring people that call us, you know, we tend to
 13 hear most of the feedback.
 14 Because they're reoccurring and then most likely
 15 noticing, we'll get positive feedback using the products
 16 you mentioned. Absolutely. And people are eager to
 17 share with others.
 18 **Q. Do you get anything in writing from people?**
 19 A. Yes, we do.
 20 **Q. Do you maintain those?**
 21 A. Testimonies?
 22 **Q. Yes.**
 23 A. Yes, we do.
 24 **Q. And who maintains those?**
 25 A. We just have -- I mean, we -- if we get them in

1 A. Yes.
 2 **Q. Okay. Do you provide receipts for donations**
 3 **that you receive from people who purchase product?**
 4 A. Yes, I do.
 5 **Q. Okay. Is that what you mentioned before?**
 6 **Thank you for your donation, is that it?**
 7 A. Yes.
 8 **Q. Or is that something separate?**
 9 A. And it would have the amount on there as well
 10 for them. Yes.
 11 **Q. Do you know how -- I'll strike that.**
 12 **I think you said before most sales come over the**
 13 **phone versus the Internet. Is that correct?**
 14 A. Yes.
 15 **Q. Do people also purchase coming -- they walk in**
 16 **and purchase product?**
 17 A. We do have some, a few people that would walk
 18 in.
 19 **Q. Do you know how much sales are -- occur annually**
 20 **for Daniel Chapter One's products?**
 21 A. I do not know.
 22 **Q. Do you know -- is there anyone who would know**
 23 **that?**
 24 A. My dad, if he knows.
 25 **Q. In terms of product where people can't afford**

1 the full donation, about what percentage is actually
 2 given away to people?
 3 A. Not including free, what would we take off a
 4 product, is that what --
 5 Q. No. Just for what you give away completely or
 6 for free, any -- for free.
 7 A. For free how much value?
 8 Q. No. Just in terms of the product that's
 9 actually I'm going to use the word "sold" by
 10 Daniel Chapter One, how much of that do you give for
 11 free, like a percentage? 1 percent?
 12 A. Oh, gosh.
 13 So just in general?
 14 Q. Yeah.
 15 A. More than 1 percent.
 16 Free, not discounted, or discounted?
 17 Q. Well, let's do discounted.
 18 A. Probably more than 50 percent of the people
 19 would get something, discount, free.
 20 Q. Okay. And when you say "people," you mean the
 21 people who call in or walk in?
 22 A. The people that would call -- yeah. Yeah.
 23 Q. Is there any way over the Internet to pay a
 24 lesser amount?
 25 A. To get a -- I can't answer that entirely. I'm

1 not familiar with how the Internet works.
 2 Q. Okay. Do you know whether Mr. Feijo has a bank
 3 account in his name?
 4 A. I -- I cannot say for sure.
 5 Q. Okay. Or do you know whether Mrs. Feijo has a
 6 bank account in her name?
 7 A. I -- I can't say. I don't know.
 8 Q. Okay.
 9 A. Not that I'm aware of.
 10 Q. Besides paying utilities and phone bills, as you
 11 mentioned, are there any other payments that you write
 12 checks for?
 13 A. Other than utilities?
 14 No, there are not.
 15 Q. We were just -- do you make any -- are there any
 16 car payments paid through that account?
 17 A. No. No, I don't pay any.
 18 Q. And you said you don't receive the statement.
 19 A. No, I do not.
 20 Q. And to your knowledge, what's the balance in the
 21 account?
 22 A. I don't know. I wouldn't know.
 23 Q. Okay. Do you pay bills regularly?
 24 A. Monthly. Yes. Utilities and whatnot.
 25 Q. Okay. I just wanted to show you a document

1 that was previously marked FTC 9, which is just the
 2 sales figures, and just ask you to take a look at
 3 those.
 4 (Pause in the proceedings.)
 5 Okay. Have you had a chance to look at that?
 6 A. Brief --
 7 Q. Just briefly.
 8 All right. Have you ever seen this before?
 9 A. No, I have not.
 10 Q. And I just want to show you another document, if
 11 you could take a look at that, which is FTC --
 12 previously marked FTC 10, which is an e-mail copy and
 13 some records attached.
 14 (Pause in the proceedings.)
 15 Have you had a chance to look at it?
 16 A. Yes.
 17 Q. Have you ever seen this before?
 18 A. No, I have not.
 19 Q. Are you aware of whether the company has a
 20 PayPal account?
 21 A. I'm not.
 22 Q. Is that your --
 23 A. I wouldn't know. Not that I'm aware of. They
 24 may.
 25 Q. Okay.

1 A. I should say I have nothing to do with that. I
 2 don't know if they do.
 3 Q. Besides the American Express card, is there any
 4 other charge card or credit card used by Mr. Feijo?
 5 A. Yes.
 6 Q. And what would that be?
 7 A. American -- I'm sorry. A MasterCard and a
 8 Visa.
 9 Q. Okay. Do you know what banks the MasterCard and
 10 Visa are with?
 11 A. No, I do not.
 12 Q. Do you know what the credit lines are?
 13 A. No, I do not.
 14 Q. Do you have access to those accounts?
 15 A. No, I do not.
 16 Q. Okay. And what would the American Express card
 17 be used for? Strike that.
 18 What have you used the American Express card
 19 for?
 20 A. I've used the American Express for paying a
 21 company for product.
 22 Q. Uh-huh.
 23 Any other reason?
 24 A. No.
 25 Q. Besides the \$700 you receive in cash, do you

1 receive -- do you have access to use those credit cards
2 for your own purpose?

3 A. No, I do not.

4 Q. Do you receive any other monies from
5 Daniel Chapter One?

6 A. From Daniel Chapter One? No, I do not.

7 Q. Is it your understanding the \$700 is payment for
8 your --

9 A. For my help, for being there, yes.

10 Q. And that comes from Daniel Chapter One?

11 A. From my dad.

12 Q. Well, when you fill out your tax form, what do
13 you mark on there?

14 A. It would be Daniel Chapter One.

15 Q. Okay. Do you know if Daniel Chapter One owns
16 any property?

17 A. I don't know if Daniel Chapter One, no, I do
18 not.

19 Q. Do you know whether Mr. Feijo owns any
20 property?

21 A. I don't know if Mr. Feijo owns any property. I
22 wouldn't know. I don't -- I couldn't say --

23 Q. Okay.

24 A. -- if it was under -- if he had anything.

25 Q. Well, you said you pay real estate taxes?

1 A. Well, on the property, yeah.

2 Q. Do you know who is listed on the property?

3 A. Patricia Feijo.

4 Q. And is that the property in Rhode Island?

5 A. Yes.

6 Q. Is there any other property that taxes are paid
7 for?

8 A. Florida.

9 Q. And do you know who -- whose name that property
10 is under?

11 A. I can't answer that for sure. I'm not sure
12 offhand. I don't know if it's Patricia.

13 Q. Do you pay the taxes for the property in
14 Florida?

15 A. I believe Tricia does.

16 MS. PAYNTER: I'm just speaking to your attorney
17 because, Mr. Turner, we were supposed to receive the
18 tax -- the real estate tax information.

19 Is that something you have yet?

20 MR. J. TURNER: I don't have it yet. I think
21 there's still a little bit of confusion because some of
22 it that they thought originally was -- had taxes paid on
23 it actually turned out not to have taxes paid on it. It
24 turned out to be nontaxable, so I'm trying to sort out
25 which one is which and --

1 MS. PAYNTER: Okay. Okay.

2 I don't think I have anything more, but let me
3 just -- could we just take five minutes. Okay?

4 THE WITNESS: Sure.

5 (Recess).

6 BY MS. PAYNTER:

7 Q. Do you rent -- where you reside, you rent that,
8 you rent that property?

9 A. I do rent.

10 Q. And who pays the rent on that property?

11 A. I do.

12 Q. So you receive no additional monies from
13 Daniel Chapter One to pay the rent?

14 A. No, I do not.

15 Q. Okay. And you said you don't receive -- you
16 never see the bank statement?

17 A. I don't see the bank statement, no.

18 Q. Do you ever contact the bank to find how much is
19 in there before you write checks?

20 A. No, I do not.

21 Q. And when you -- you have to ask your father
22 before you write checks or you're just -- you just
23 generally write them?

24 A. I just generally write them.

25 Q. And do you give him a statement as to how much

1 you're writing?

2 A. No, I do not.

3 MS. PAYNTER: Okay.

4 Okay. I don't have any further questions.

5 MR. J. TURNER: Okay.

6 MS. PAYNTER: So thank you very much for your
7 time.

8 (Whereupon, the foregoing deposition was
9 concluded at 12:21 p.m.)

57

58

CERTIFICATION OF REPORTER

DOCKET/FILE NUMBER: 9329
CASE TITLE: Daniel Chapter One and James Feijo
HEARING DATE: January 22, 2009

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

DATED: JANUARY 22, 2009

JOSETT F. WHALEN, RMR

CERTIFICATION OF PROOFREADER

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

DIANE QUADE

CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

JILL SUSAN FEIJO

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this day of , 2009, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

59

WITNESS: JILL SUSAN FEIJO
DATE: January 22, 2009
CASE: In the Matter of Daniel Chapter One and James Feijo

Please note any errors and the corrections thereof on this errata sheet. The rules require a reason for any change or correction. It may be general, such as "to correct stenographic error" or "to clarify the record" or "to conform with the facts."

PAGE LINE CORRECTION REASON FOR CHANGE

A	appearance 5:7	believe 15:21 54:15	calls 10:7 17:5,21	charges 6:8
ability 7:17	APPEARANCES	best 37:23 57:10	27:21 46:7	charging 25:12
able 37:24	3:1	bills 35:3,4 38:3,4,7	cancers 44:21,21	26:17
above-entitled 2:17	appeared 58:13	40:8 50:10,23	car 47:14,16 50:16	check 13:8 31:17
above-named 58:12	appropriate 7:13	BioGuide 15:21	card 18:4,4,7 40:8	32:22,23 33:4,5
Absolutely 46:16	approximately	22:7 45:13	40:10,12,14,16	34:13,22 35:10
access 52:14 53:1	18:23	BioMixx 46:3,4,5	52:3,4,4,16,18	39:15,17 41:20
accessing 31:20	area 21:8,12	Bio*Shark 44:5,7	cards 53:1	checks 9:22 31:6,8
account 31:11 32:8	arrival 41:20	44:12,19,20,23	Carole 3:4 4:11	31:11,16 33:8,16
32:8 33:20,24 34:5	arrives 42:25 43:2	bit 6:15 54:21	cartilage 44:8,10	34:8,16,25 35:2,4
34:7,18 37:12 40:5	arthritis 46:2	book 17:2,7,8	45:3	35:7,21 37:3,5
50:3,6,16,21 51:20	asked 14:11 37:11	booklet 15:22	case 4:13,17 7:25	38:3,13 47:23
accountant 47:4	asking 32:24	books 22:7	57:4 59:3	50:12 55:19,22
accounts 32:3,20	attach 58:6	Boston 10:13	cases 27:12 42:22	chores 9:25
52:14	attached 51:13	bought 42:15	45:5,25	Chris 5:12
accuracy 57:22	attend 10:12	Bowling 2:14 3:8	cash 13:7,9 52:25	CHRISTOPHER
accurate 15:2 57:8	attorney 4:11 54:16	box 23:6,9 43:16	cause 57:9	3:15
58:4	attorneys 8:3	44:1	cell 38:6	church 22:20 28:1,7
action 8:10,13	authority 34:15	break 7:12,14	center 14:23 15:6	circumstance 24:11
activities 12:10	aware 4:16,16 32:20	Brief 51:6	16:1,5,12,13 17:23	26:18 27:11 28:8
actual 19:22	47:12 50:9 51:19	briefly 14:5 51:7	17:24 18:24 20:20	circumstances 25:13
additional 26:20	51:23	broken 42:25 43:2	21:7 28:20	25:17 26:24 42:10
55:12	Axel 21:15,17 35:16	43:23 44:1,1	Certainly 30:25	Citizens 31:24 32:25
additions 58:5	a.m 2:18	brought 8:10,14	certificate 58:1,15	33:10,23,24 37:13
address 9:2 17:6	B	building 20:7,9,12	certify 57:7,21 58:2	clarify 7:8 32:5 59:8
18:1 43:25	B 3:15	20:13,22 38:19,22	58:11	cleanse 45:23
advice 17:11	back 13:10 42:3,6	38:23,25 39:11,12	chance 14:2 51:5,15	clothing 38:13
affiliated 28:6	background 8:24	buildings 20:10	change 24:8 42:17	COD 18:9
afford 27:8,22 28:11	25:14	Burns 28:21,24	59:7,10	code 18:2
48:25	balance 50:20	30:15 35:12,24	changed 24:9,12	college 10:11,12,13
agency 8:14,16	bank 31:11,20,22,24	36:6	changing 25:2	come 11:8 18:3
aid 45:5	32:2,8,8,23,23,25	Busche 21:17 35:16	Chapter 2:5,8 4:14	26:12 43:8,9 48:12
allowing 25:5	33:10,20,22,23,24	Bush 36:17	5:6 8:4 9:16,19	comes 21:1,8 53:10
AMERICA 2:1	34:5,7,10,18 37:12	Butler 21:20 35:20	10:21,24 11:3,12	coming 48:15
American 40:15	37:13,13 40:5 50:2	36:23	12:7,10,20 14:8	Commission 1:1 2:2
52:3,7,16,18,20	50:6 55:16,17,18	C	15:3 20:6 22:6	2:13 3:3,6 4:12
amount 13:3,5 15:9	banking 31:14	C 4:1 5:12 18:2 57:1	29:14,23,25 30:11	8:11 57:10 58:20
22:16 23:11 24:1,4	banks 33:17 52:9	57:1,19,19	31:9 32:7,18 33:2	communication
24:5,8,12 25:5	base 20:3	call 15:7,7 16:22,24	33:9,19,25 34:3,4	41:15,19
36:5 38:1 48:9	basically 17:24	17:10,16,17,23	37:8,12,17,21	company 4:15,21,22
49:24	basis 12:23 20:1	22:14 26:2,12	39:20 40:10 41:22	11:18 12:1 14:9
amounts 19:23	Bay 10:13	27:14 43:3 46:12	47:4,9 48:20 49:10	15:13 47:7 51:19
annually 48:19	Bear 11:13 36:24	49:21,22	53:5,6,10,14,15,17	52:21
answer 6:18,23 7:17	began 11:12 12:7	called 4:5 27:6	55:13 57:4 59:3	compensation 12:21
9:21 10:3 27:16,20	behalf 3:3,13 14:15	39:23 43:25	charge 17:8 21:7,10	37:7
49:25 54:11	14:22 38:4,4	callers 44:18	21:11 26:19,20	complain 42:24 43:3
apologize 37:11	belief 57:11	calling 25:23 43:22	52:4	43:5

[61]

<p>complaint 4:13 complaints 14:14 43:8,17,20 completely 49:5 components 44:11 computer 19:4,4,7 19:17 31:19,21 concluded 56:9 conclusion 30:24 32:6 44:14 confirm 18:1 conform 59:9 confusion 54:21 considered 29:16 30:17 consumer 14:14 contact 55:18 contacting 43:23 46:1 contacts 14:21 contained 57:7 context 41:18 contractor 29:16 30:18 contractors 47:25 conveyed 23:25 copy 51:12 corporation 2:5 correct 6:2,23 10:21 21:24 29:14 31:6 48:13 59:8 correction 59:7,10 corrections 58:5 59:5 correspondence 10:3 counsel 4:13 5:7 couple 26:13,16 course 5:5 27:15,24 court 6:2,18 7:2 cover 34:12 cpaynter@ftc.gov 3:11 created 24:6 Creation 33:9,14 34:3 35:11 credit 18:4,4,6 40:8</p>	<p>40:10,12,14 52:4 52:12 53:1 currently 9:9,10 12:5 customer 14:21 28:13 customers 18:23 19:2,13</p> <p style="text-align:center">D</p> <p>D 1:2 4:1 57:19 dad 12:8,12,22 26:15 32:2 34:11 40:23 45:11 47:8 48:24 53:11 daily 9:25 20:1,3 damaged 43:11 Daniel 2:5,8 4:14 5:6 8:4 9:16,19 10:21,24 11:3,12 12:7,10,20 14:8 15:3 20:6 22:6 29:14,23,25 30:11 31:9 32:7,18,18 33:2,9,19,25 34:3 34:4 37:8,10,12,17 37:21 39:20 40:10 41:22 47:4,9 48:20 49:10 53:5,6,10,14 53:15,17 55:13 57:4 59:3 date 24:24 57:5 59:2 DATED 57:13 daughters 9:6 day 16:7 20:4 23:18 23:19 58:14 days 25:18 decided 42:12 degree 10:18 depending 27:12 42:1 DEPONENT 58:1 deposition 2:18 4:19 4:21,25 5:19 6:12 7:13,20,23,24 13:12 56:8 depositions 5:15,17 describe 10:23 11:5</p>	<p>15:5 16:12 17:20 18:14 24:11 26:1 30:2 46:10 described 22:5 DESCRIPTION 1:8 descriptions 22:9 DIANE 57:25 different 11:9 16:24 17:3 21:24 22:16 22:21,21 27:16 36:5 39:13 44:21 45:9 direct 17:17 discount 15:11 49:19 discounted 49:16,16 49:17 discounting 22:19 discounts 15:10 Discussion 13:15 disseminated 15:16 Docket 2:6 DOCKET/FILE 57:3 document 13:11,17 50:25 51:10 documents 7:22,25 doing 12:2,4,4 donation 15:8 22:2 22:4,10,12,12,16 23:1,3,12,15,19,20 24:1,4,5,8,12 25:1 27:7,22 28:11 48:6 49:1 donations 11:7,7 25:21 48:2 Douglas 41:11 drink 26:15 Drive 9:4 drop 27:18 duly 4:6 duties 14:16 D.C 3:18</p> <p style="text-align:center">E</p> <p>E 1:2 4:1,1 57:1,1,1 57:19,19,19 eager 46:16</p>	<p>earlier 31:5 education 10:10 either 42:19,20 elaborate 24:17 electric 35:3 38:5 electronic 31:17 employed 9:9,10 employees 47:23 energy 26:16 enter 43:24 entirely 49:25 errata 59:6 error 59:8 errors 59:5 ESQ 3:4,5,14,15 estate 53:25 54:18 estimate 23:17 24:24 exact 24:24 27:16 exactly 38:2 examination 1:4 4:5 4:7 examined 4:6 58:2 example 23:18 25:7 26:9 exchange 11:7 excuse 11:21 12:2 38:16 executed 58:15 Exhibit 1:8 13:12 EXPIRES 58:20 explain 6:15 Express 40:15 52:3 52:16,18,20 E-A-N-N-E 28:23 e-mail 10:4,5,6 21:4 43:14,20 51:12 e-mails 9:21</p> <p style="text-align:center">F</p> <p>F 57:1,1,16,19,19,19 fact 23:25 facts 59:9 fall 24:25 false 6:8 familiar 13:25 18:15 26:23 40:3,24 44:4 50:1</p>	<p>family 22:20 28:7 far 19:19 22:18 32:13 father 26:14 55:21 federal 1:1 2:2,13 3:3,6 4:12 8:11,14 8:18 57:10 feedback 46:13,15 feel 58:5 feeling 26:15 Feijo 1:5 2:7 4:4,9 4:14 5:23,25 6:1 12:8,8 14:20,23 31:24,25 37:3,5,15 38:10,12,12,14 40:12 44:23 47:15 47:19 50:2,5 52:4 53:19,21 54:3 57:4 58:9 59:1,4 Feijo's 32:8,13,16 figure 36:24 figures 51:2 file 29:10,11 fill 21:5 53:12 financial 26:23 47:6 financials 27:2 find 19:12 55:18 fine 9:13 22:24 first 4:5 8:25 20:9 27:23 28:19 42:17 five 55:3 Florida 54:8,14 follows 4:6 Foods 41:10 foregoing 56:8 58:3 form 21:3 29:22,23 29:25 30:8 53:12 format 57:23 Formula 45:19 forward 5:2 free 26:4 27:18 49:3 49:6,6,7,11,16,19 Friday 16:8 front 38:22 FTC 13:12 51:1,11 51:12 full 5:23 42:3 49:1</p>
---	---	--	---	---

57:8 function 14:7 Funding 33:9,14 34:3 35:11 further 5:19 24:18 56:4	hard 24:20 25:18 head 6:21 36:25 headaches 46:2 health 11:1 hear 46:13 heard 39:23,25 hearing 57:5,9 held 14:18,19 help 22:18,19 24:3 24:15,17 25:16 26:22 27:3,13,14 27:18,24 28:1,8 53:9 helpful 26:3 helps 12:12,17 16:3 16:3 28:3 Herb 45:19,22 himself/herself 58:12 home 38:17,17,20 39:4,5 hour 36:6,11,13,17 hours 16:5 hyphenation 57:22	17:2 54:18 initial 34:22 instance 26:8 intended 45:22 interjected 32:14 Internet 18:11,12,20 48:13 49:23 50:1 interrogatories 13:19 interval 12:25 investigation 4:14 involve 12:18 involved 11:10 Island 9:1,4 54:4 issue 29:25 issued 29:20,20,23	know 6:22 7:12 9:11 9:24 11:6,12 12:7 13:7,11 15:15 16:15,16,18 17:2 17:25 18:2,3,14,19 19:3,3 20:16 21:8 21:16 22:10,23 24:4,7,19,22 25:14 25:14,15 26:13 27:2,17,25 28:13 28:24 29:2,4,10 30:14 32:7,12,20 33:13,19,22 34:4 34:10,12 37:7,9,10 37:10,15,16,18,19 37:20 38:1,1 39:18 39:18,20 40:2 42:6 42:17,21 44:2,18 44:25 45:12,15,18 46:5,12 47:3,3,6,9 47:15,18,19,21,24 48:11,19,21,22,22 50:2,5,7,22,22 51:23 52:2,9,12 53:15,17,19,21,22 54:2,9,12 knowledge 37:14,23 50:20 57:10 known 45:4 knows 48:24	location 38:20 39:10 long 8:8 9:17 30:23 32:6 look 7:22,25 13:13 13:17,18,22 14:2 51:2,5,11,15 looking 17:10 lot 25:17,17 27:14 28:1,3 lowered 23:19 24:1
G G 4:1 GDU 45:24,25 46:1 general 16:17 45:15 45:17 49:13 59:7 generally 15:18 22:17 27:10 55:23 55:24 girl 16:3 girls 16:2 give 6:17 12:23 17:11 23:17 25:7 26:3 27:17 42:5 49:5,10 55:25 given 6:12 13:7 23:19 25:21 49:2 58:4 gives 12:18,22 13:1 glad 32:14 go 5:1 8:23 28:4,9 goes 23:6,9 going 5:13 6:16 13:10 37:2 49:9 good 4:9,10 5:21 46:8 gosh 49:12 government 8:18 great 28:2 Green 2:14 3:8 growth 45:6 guess 20:3 37:22	I ID 1:8 idea 26:3 identified 14:16 identify 14:13 41:6 ill 26:14 42:23 immune 46:6 immunity 46:5 impair 7:17 include 14:16 including 16:2 49:3 independent 29:16 30:18 47:25 indicate 6:22 indicated 32:23 indicating 38:22 individual 58:11,13 individually 2:7 individuals 14:13 35:8 inflammation 46:2 information 11:2 12:5,9 15:22 16:25	J J 5:9,16 13:20 30:19 30:23 32:5,10 44:13 54:20 56:5 James 2:7 3:14 4:14 38:12 57:4 59:4 January 2:10 57:5 57:13 59:2 Jay 21:20 35:20 Jill 1:5 4:4 5:25 14:20,23 58:9 59:1 Jim 5:9 12:8 31:24 31:25 32:8,12,13 32:16 40:12 jim@swankin-tur... 3:20 join 11:25 joined 12:1 JOSETT 57:16 JR 3:5	L Laboratories 41:11 lawsuit 8:21 learn 15:19 45:16 legal 30:23 32:6 legally 29:11 lesser 25:5 49:24 let's 27:6,21 49:17 LINE 59:10 lines 52:12 listed 33:3 54:2 listen 16:14 little 6:15 7:11 17:25 24:18,19 54:21 live 37:20,24 39:7 local 28:1 located 20:5	M mail 47:1 mailed 43:15 maintain 5:14 46:20 maintains 15:13 19:17 46:24 47:6 maintenance 19:19 manufacturers 11:9 40:20,24 41:16 mark 53:13 marked 13:11 51:1 51:12 MasterCard 52:7,9 material 22:5 math 36:24 matter 2:4,17 4:13 8:9,13 59:3 mean 21:8 30:18 31:2,3 32:1 44:11 45:11 46:25 49:20 means 6:7 medication 7:16 meet 8:3,6,8 meetings 23:23 Melissa 28:21,24 30:15 35:12,24 36:6 members 22:20 mention 10:5 mentioned 10:20 19:4 31:5 46:16 47:22 48:5 50:11 mentioning 21:23 mind 42:17 ministry 11:1,21,22 11:24 12:2,11 39:24 40:3,6 45:8

minutes 8:9,9 55:3	N.W 3:17	online 31:18 45:15	13:14,16,24 30:21	Portsmouth 9:1,4
missionaries 12:17		opened 42:4	30:25 31:1 32:9,11	position 14:17,19
moment 19:3	O	options 22:22	44:16,22 54:16	positive 18:16 46:15
Monday 16:8	O 4:1 57:1,1,1,19,19	order 14:23 15:6	55:1,6 56:3,6	possibilities 22:22
money 12:22,23	57:19,19	16:1,5,12,13 17:23	PayPal 51:20	powder 26:14
13:1 28:25 29:2,5	oath 6:5	18:23 20:20 21:1,2	pays 15:9 47:9,15,19	practice 4:20
29:7 30:4 34:12	object 44:13	21:3,5,7 23:5 27:6	55:10	prepare 7:19 8:4
35:24 36:2 37:16	Objection 30:19	40:18,20 42:22	people 11:6 12:12	presence 58:15
monies 30:11 37:20	objections 5:17,19	45:1	15:7,10 16:1,22,24	preserve 5:18
53:4 55:12	obtain 10:18 25:23	ordered 42:14,19	17:10 20:19 21:12	previously 51:1,12
monitor 16:14 19:22	obtaining 11:10	orders 14:24 16:20	21:23 22:3,6,18	price 22:1,2,4,10,11
19:25	obviously 34:22	17:19 18:11,19	23:11,14,18,23	24:20 27:19,22
Monthly 50:24	Occasionally 18:10	20:5 23:7	24:15,17 25:17	prices 21:24 22:8,19
morning 4:9,10	41:17	original 58:7	27:14 28:2,3,14,19	25:2
mouth 15:23	occupation 9:7	originally 54:22	36:4 42:12,13,14	Primarily 45:22
	13:10	overall 46:4	42:16,22 43:22	printed 31:18
N	occur 48:19	overhear 16:14	44:17,20 45:25	prior 13:12 24:2
N 1:2 4:1 57:1,19	offhand 29:3,22	overheard 45:11	46:4,7,12,16,18	Probably 49:18
name 4:11 5:24 17:6	39:18,19 54:12	owns 53:15,19,21	48:3,15,17,25 49:2	problem 42:1 43:12
18:1 32:13,16,17	office 20:16,16,17		49:18,20,21,22	proceedings 13:21
34:20,23 38:8	26:12 38:17,21	P	percent 42:5 49:11	14:1 51:4,14
39:18,25 40:4	39:5 47:1	P 4:1 57:1,19	49:15,18	process 21:3
43:25 50:3,6 54:9	officer 2:8	PAGE 1:4 59:10	percentage 49:1,11	product 11:6,8,10
names 19:9,14 21:16	oh 9:3 26:5 27:7,22	paid 29:12 36:6,7,11	period 14:18	12:5,9,18,18 15:11
28:20 41:1,3	44:9 47:17 49:12	36:13,15,17,19	perjury 6:9	17:15 18:19,24
necessary 58:6	Okay 5:5 7:5,11,14	42:5 50:16 54:6,22	person 14:15,17,18	20:2,5 21:8,24
need 5:10 7:11 22:3	7:15,22 8:23 9:13	54:23	14:19,20 17:14,21	22:1,8 24:6 25:8
needed 17:14	9:14 10:8,18 11:15	paper 58:6	26:11,12,25 30:1	25:11,16,19,21,21
needs 29:11	12:15,20 14:7,10	particular 26:6	42:15,20 47:2	26:3,21 28:10 35:5
never 14:6 55:16	15:5 16:11 18:18	party 8:10,21	personal 47:17,20	39:9 40:16,18,20
new 2:15,15 3:9,9	19:17 20:25 22:24	passed 42:16,21	phone 10:7 14:24	40:25 41:21 42:2,4
44:2	23:22,25 24:14,22	Patricia 38:10,12	16:15 17:19,24	42:8,10,12,13,19
nicer 24:19	26:18 28:17,22	54:3,12	18:20,21 21:2	42:24 43:5,10,23
nine 9:18 11:15	29:13 30:2,17 31:5	Pause 13:21 14:1	26:11 27:6 38:7	44:1,4 45:18,24
14:24 18:22	31:13 32:4 33:3,7	51:4,14	43:8 46:7 48:13	46:3,8 48:3,16,25
nontaxable 54:24	33:13 34:4,20 35:7	pay 18:4 21:23	50:10	49:4,8 52:21
normally 32:22	35:13,15 36:11	22:15 23:11,14	phones 9:21 38:6	products 4:15 15:8
North 9:4	37:1,15 38:3 39:4	25:5 31:4 35:7	phrase 22:12	16:23 17:3,10,11
Northeast 3:7	39:12,14 41:12	38:4,13 39:14,15	picture 43:15	20:8,23 21:4 38:23
NOTARY 58:18	43:2,13 44:4 45:13	40:8 47:12 49:23	place 18:17	45:9 46:15 48:20
note 59:5	45:18 46:3 47:22	50:17,23 53:25	please 5:23 7:7,12	program 15:24
notes 43:24 57:8	48:2,5 49:20 50:2	54:13 55:13	10:23,24 11:5	17:18,25 19:5,8
notice 2:18	50:5,8,23,25 51:5	paying 50:10 52:20	14:16 41:6 59:5	31:12,15
noticing 46:15	51:25 52:9,16	payment 18:6 21:3	point 7:11,13	proofread 57:21
number 14:12 15:12	53:15,23 55:1,1,3	22:22 53:7	points 5:20	property 39:1,5,12
15:15,19 18:25	55:15 56:3,4,5	payments 50:11,16	policy 22:17 23:1	39:13,15,21 40:1
38:1 57:3	once 16:3	Paynter 1:5 3:4 4:8	41:23,25	47:14 53:16,20,21
Nutrition 41:7	One's 48:20	4:11 5:13,21,22		

54:1,2,4,6,9,13 55:8,10 proven 45:4 provide 30:7,7 48:2 provided 14:9 15:18 30:11,14 provides 11:1 22:6 providing 12:5,9 17:2 public 15:19 58:18 punctuation 57:22 purchase 26:14 38:16 40:16 48:3 48:15,16 purchased 25:20 purchases 19:2 purify 45:23 purpose 53:2 purposes 5:1 15:9 29:18,24 pursuant 2:18 4:19 put 5:7,16,17 18:2 23:5 36:5 43:25 p.m 56:9	reason 24:14 26:20 42:21 52:23 59:6 59:10 recall 11:14 23:2 25:1,3,4 29:22 35:24 37:18 43:7 43:17 receipts 48:2 receive 12:21 13:3 28:17 29:7 30:5 35:10 37:7,20 46:7 48:3 50:18 52:25 53:1,4 54:17 55:12 55:15 received 14:14,22 18:6,20 30:10 36:3 43:20 receives 28:25 29:2 29:4 34:10 35:25 receiving 43:17 Recess 55:5 record 5:5,8,24 6:18 13:14,15 30:19 58:4 59:8 records 19:1 30:4 36:2 43:22 47:6 51:13 reflects 5:6 refund 14:14,22 41:22,25 42:3 refused 28:10,14,16 regard 14:7 18:11 regarding 7:25 22:25 Region 3:7 regular 12:23 regularly 50:23 related 45:3 rent 38:25 55:7,7,8 55:9,10,13 rental 39:15 reoccurring 46:12 46:14 repeat 7:7 replacement 44:2 report 20:4 reporter 5:11 6:2,18	7:2 reports 46:8 representative 4:21 4:22 represented 5:6,7 representing 58:12 requested 20:2 requests 14:14,22 require 6:17 59:6 Research 41:14 reside 8:25 9:5 55:7 respect 17:19 responded 14:13,21 respondents 3:13 14:15,22 response 6:17 14:8 14:11,20 17:4 27:23 responsibilities 14:17 responsible 31:4 rest 5:18 return 15:8 42:12 42:13,14,18 returned 42:8,11 reuse 42:6 reviewed 14:13,21 Rhode 9:1,4 54:4 right 5:16 38:22 43:4 51:8 Rioes 28:23 29:4 30:15 35:14 36:13 RMR 57:16 Room 2:12 routines 9:25 rule 4:20 rules 4:20 59:6	27:21 28:6 school 10:17 science 33:9,14 34:3 35:11 45:1 scientific 44:14,25 script 16:19 see 13:25 20:3 27:21 34:7 55:16,17 Seeing 46:11 seen 13:18 40:5 51:8 51:17 send 15:11 17:6 18:5 42:3 sense 44:14 sent 44:2 separate 20:7,9 38:19 39:11,12 48:8 58:6 series 6:16 service 28:13 set 13:3 15:9 22:1,2 22:4 27:20 36:5 47:2 Seven 45:22 shake 6:21 share 46:17 shark 44:8,10 45:3 sheet 58:6 59:6 shipment 41:20 shipped 20:24 21:6 23:6 show 13:11 19:1 36:2 50:25 51:10 signatory 34:18 site 15:20 45:16 situation 27:13 situations 27:5 skimmed 14:5 sold 18:24 49:9 somebody 27:21 28:14 sorry 9:3 11:7 12:3 28:16 32:14 33:6 35:4 44:8 52:7 sort 15:10 22:3 54:24 speak 23:18 30:16	37:19 speaking 7:6 22:13 54:16 specific 16:23 24:6 24:14 43:1 spelling 57:22 staff 23:23 stamp 34:19,20,22 start 11:18,24,25 state 5:23 8:16 10:13 15:17 statement 15:2 30:10,14 50:18 55:16,17,25 statements 6:8 34:7 34:10 STATES 2:1 status 47:24 stenographic 59:8 steps 20:25 stipulations 5:14 stop 7:13 stored 38:24 39:9 Street 3:17 strike 10:23 24:5 40:19 48:11 52:17 stuff 42:22 subject 6:8 sued 8:18 suggest 27:25 suggested 23:12,12 23:14,20 25:5 27:7 suggestion 28:4 Suite 3:8,17 Sundowner 41:14 supervise 16:13 supervised 14:23 16:11 supplement 46:6 supposed 54:17 sure 12:14 19:9 26:5 26:10 32:10 33:6 36:9 37:25 50:4 54:11,11 55:4 survive 7:24 Susan 1:5 4:4 5:25 58:9 59:1
Q QUADE 57:25 question 7:7,8 14:12 16:16,17 45:7 questions 6:16 7:17 8:24 14:11 56:4 quickly 7:6 quite 46:11	Q QUADE 57:25 question 7:7,8 14:12 16:16,17 45:7 questions 6:16 7:17 8:24 14:11 56:4 quickly 7:6 quite 46:11			
R R 4:1 57:1,1,1,1,19 57:19,19,19 radio 15:24 17:17 raise 5:19 Rajeanne 28:23 35:14 ran 20:3 Randall 41:13 read 13:23 14:6,8,25 45:3,11,13 58:2 real 53:25 54:18 really 6:21 21:11 28:7	R R 4:1 57:1,1,1,1,19 57:19,19,19 radio 15:24 17:17 raise 5:19 Rajeanne 28:23 35:14 ran 20:3 Randall 41:13 read 13:23 14:6,8,25 45:3,11,13 58:2 real 53:25 54:18 really 6:21 21:11 28:7			
		S S 3:14 4:1 sale 4:15 sales 16:19 19:23,24 48:12,19 51:2 salespeople's 19:22 Saturday 16:9 saying 7:2 29:13 33:11 says 16:11 22:15		

Swankin 3:16 sworn 4:6 6:1 system 19:17	24:21 25:1,7 26:6 33:7 36:5 56:7 times 26:13 title 9:8 57:4 today 4:23,25 6:4 7:3,16 8:4 today's 4:19 7:19,22 told 27:7 track 44:3 Trade 1:1 2:2,13 3:3 3:6 4:12 8:11 57:10 transcript 57:7,8,21 58:3,7 trial 5:2 Tricia 12:8 54:15 true 58:3 trying 36:24 43:1 44:8 54:24 tumor 45:6 turned 54:23,24 Turner 3:14,15,16 5:5,9,9,12,12,13 5:16 13:20 30:19 30:23 32:5,10,14 44:13 54:17,20 56:5 two 9:6 16:2,3 20:11 two-year 10:17 types 44:21	42:16,23 44:19 46:4 49:9 53:1 usually 28:4 utilities 35:3 38:5,8 38:9 50:10,13,24	wife 12:8 willing 27:13,24 wish 11:6 witness 1:4 4:5 13:22 32:9 44:17 55:4 59:1 word 9:11 15:23 49:9 words 6:22 work 16:1 21:12 28:3 working 20:20 43:6 works 28:20 50:1 wouldn't 9:11 19:3 27:2 37:18 50:22 51:23 53:22 write 9:22 31:5,8,11 31:16 32:22 33:4,8 33:16 34:8,15,24 35:4,4,21 37:3,5 38:3,13 39:14 47:23 50:11 55:19 55:22,23,24 writing 5:18 22:25 34:13 35:2 43:9,10 43:13,18 46:18 56:1 written 35:7	\$9.00 36:16 1 1 49:11,15 10 51:12 10004 2:15 3:9 101 3:17 1099 29:21 11.50 36:12 11:04 2:18 12.50 36:22 12:21 56:9 13 37:2 1400 3:17 16th 3:17 1996 10:15 2 20036 3:18 2009 2:10 57:5,13 58:14 59:2 202 3:19 212 3:10 22 2:10 57:5,13 59:2 3 3.33(c) 4:20 30 14:12 318 2:12 3:8 33 9:4 4 4 1:5 462-8800 3:19 5 50 42:5 49:18 6 607-2813 3:10 7 7 45:19 75 42:5 8 8 13:12,12 8:00 16:6 800 15:12,15
T T 57:1,1,1,19,19 take 7:2,11,13,16 13:13,17 17:15 21:2 33:7 37:16 49:3 51:2,11 55:3 taken 4:19 5:1 6:5 18:12 57:9 takes 18:16 talk 17:14 45:8,12 tally 20:1 tax 29:18,24 47:14 53:12 54:18,18 taxes 29:10 47:10,12 47:15,17,20 53:25 54:6,13,22,23 telephones 38:11 tell 7:12 10:24 12:16 13:5,18 20:9,10,25 22:11 44:19,19,23 telling 8:5 tend 28:2 46:12 term 30:18 31:2 terms 48:25 49:8 testified 4:6 28:17 testimonials 22:9 Testimonies 46:21 testimony 6:4,12 58:4 thank 23:2 48:6 56:6 Thanks 5:21 18:18 THEODORE 3:5 thereof 59:5 they'd 22:16 thing 12:4 26:2 Things 25:17 think 37:24 43:1 48:12 54:20 55:2 thinking 33:6 44:9 thought 54:22 Thursday 2:10 till 16:6 time 12:2,25 14:18	U Uh-huh 13:20 17:22 19:11,15 21:14 24:16 35:17 41:8 52:22 understand 4:23 5:3 6:4,7,10,19,25 7:7 7:9 12:3 14:25 understanding 44:12,16 53:7 UNITED 2:1 Universal 41:7 unopened 42:2 UPS 43:12 use 6:22 16:19 17:12 17:15 31:12,15 34:19,20 42:7,13	V vacuum 9:24 10:1 value 22:3 49:7 Vandenburg 21:18 35:18 36:21 vary 22:3 36:4 verbal 6:17 versus 48:13 view 9:21 Visa 52:8,10 vitamin 18:2 voice 7:1 volunteer 9:12,15 9:19 10:20 12:20 29:14	W W 29:20 walk 48:15,17 49:21 want 5:16 13:22 16:24 22:22 25:15 25:15,16,16 32:5 33:6 42:20 44:13 51:10 wanted 18:1,3 50:25 Washington 3:18 way 19:10,12 27:16 49:23 Web 15:20 45:16 week 13:1,2,6 25:8 26:8 28:18 30:5 43:10 weekly 29:7 36:4 went 26:2 we'll 7:13 27:15 42:4 46:15 we've 42:12,13,14 42:16 WHALEN 57:16 whatnot 12:17 18:2 22:20 23:3 47:1 50:24	X X 1:2 Y yeah 27:1 49:14,22 49:22 54:1 year 10:16 years 9:18 11:16 14:24 18:22 York 2:15,15 3:9,9 Y'Shua 39:24 40:3,5 Z ZANG 3:5 \$ \$15.00 36:20 \$700 13:6 28:18 52:25 53:7

9

9 51:1

9:00 16:6

9329 2:6 57:3

In the Matter of:

Daniel Chapter One, et al.

February 9, 2009
James A. Duke, Ph.D.

Condensed Transcript with Word Index



For The Record, Inc.
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1

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
I N D E X

WITNESS: EXAMINATION:
JAMES A. DUKE, Ph.D. 5
BY MR. GORDON

EXHIBITS	DESCRIPTION	FOR ID
Number 1	Herbalgram, Number 81, February-April 2009,	9
Number 2	Listing of four Daniel Chapter One products	35
Number 3	CV of James A. Duke,	39
Number 4	Report of Expert Witness James Duke	56
Number 5	Appendices to Report of Expert Witness James Duke	56
Number 6	MAMs for the 16 DCO Herbs	56
Number 7	Corrected Substitute Section V.1.A	56
Number 8	Dr. Duke's Phytochemical and Ethnobotanical Databases,	96
Number 8	Herbalists' Desk Reference	172
Number 10	Biblical Botany	175
Number 11	Excerpt of The Green Pharmacy	176

3

1
2
3
4
5
6
7
8
9
10
11
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13
14
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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)
DANIEL CHAPTER ONE,)
a corporation,) Docket No. 9329
and)
JAMES FEJO, individually and)
as an officer of DANIEL)
CHAPTER ONE.)
-----)

Monday, February 9, 2009

Swankin & Turner
1400 16th Street, N.W.
Washington, D.C. 20580

The above-entitled matter came on for
deposition, pursuant to notice, at 9:32 a.m.

2

EXHIBITS	DESCRIPTION	FOR ID
Number 12	Mother Earth News, Winged Bean Fights Cancer	185

REQUESTS	PAGE
Index of abbreviations	122
Paper published by Dr. Duke and an M.D.	171
Clarification of second entry on Exhibit 5	142

4

1
2
3
4
5
6
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APPEARANCES:

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5

1 PROCEEDINGS
 2 - - - - -
 3 Whereupon--
 4 JAMES A. DUKE, Ph.D.
 5 a witness, called for examination, having been first
 6 duly sworn, was examined and testified as follows:
 7 EXAMINATION
 8 BY MR. GORDON:
 9 Q. Good morning, Dr. Duke. Again, for the record,
 10 my name is Leonard Gordon. I'm counsel for the Federal
 11 Trade Commission today. You have also got today counsel
 12 for the respondents, Messrs. Turner.
 13 Have you ever had your deposition taken before?
 14 A. Never that I recall.
 15 Q. Okay. Let me just give you sort of the rules of
 16 the road. I'm sure Mr. Turner probably went over these
 17 with you, but I'll do it again.
 18 This is not a typical conversation. In a
 19 typical conversation, you and I would finish each
 20 others' sentences, we would interrupt each other, we'd
 21 nod, we'd talk at the same time, all things that are
 22 perfectly appropriate in normal conversation.
 23 Today, we have a stenographer, and she's going
 24 to try to take down every question that I ask you and
 25 every answer that you give to those questions. So, it's

6

1 important that you let me finish my questions, I let you
 2 finish your answers, so that she can take down both the
 3 questions and the answers.
 4 It's also important that when you agree or
 5 disagree with something I say, you say "yes" or "no,"
 6 rather than nod your head, or "uh-huh" or "un-huh,"
 7 because again, that poses a challenge for the court
 8 reporter to take everything down.
 9 If you don't understand any of my questions,
 10 just let me know. I'll try and rephrase them. If you
 11 need to take a break for biological or other reasons,
 12 just let us know. We'll accommodate you.
 13 Hold on a second.
 14 (Pause in the proceedings.)
 15 BY MR. GORDON:
 16 Q. Are you taking any medications today or
 17 suffering from any medical condition that would make it
 18 difficult for you to understand or respond truthfully to
 19 my questions today?
 20 A. I have taken one medication, and that is
 21 Zylamend. It will not interfere with my ability to
 22 answer.
 23 Q. If, as we're going through today, you realize
 24 you gave me an incorrect answer, an incomplete answer,
 25 please let me know, and we'll let you fix your answer so

7

1 that it accurately reflects your recollection or your
 2 opinions.
 3 Do you understand the instructions we've gone
 4 over?
 5 A. I believe I recall what you just iterated
 6 before --
 7 Q. Okay, great.
 8 A. -- the interruption.
 9 Q. What did you do to get ready for today?
 10 A. I did a lot of research, which I found very
 11 interesting, and I also went through various iterations
 12 of the report.
 13 Q. Okay. Between Wednesday, when you submitted
 14 your report, and today, what did you do? Let's focus on
 15 that length of time first.
 16 A. Between this past Wednesday and today?
 17 Q. Correct.
 18 A. I'm retired and don't really remember day by
 19 day. I have some notes at home that would indicate -- I
 20 usually look at my computer to see what was done the day
 21 before.
 22 Q. Let me ask you it this way: Since you submitted
 23 your report in final form to today, what did you do to
 24 get ready to offer your testimony today?
 25 A. I did several things that had dual purposes. I

8

1 was particularly interested in a study on turmeric that
 2 came to my attention probably on Wednesday or Thursday
 3 of this week. And in writing for that, I was at the
 4 same time preparing for this testimony. Almost
 5 everything I do has got a double intention.
 6 Q. In either writing your report or preparing for
 7 your testimony today, did you meet with Mr. and Mrs.
 8 Feijo?
 9 A. I did not. I have never met them.
 10 Q. Did you have a telephone conversation with them?
 11 A. I did not.
 12 Q. Did you either meet or speak on the telephone
 13 with any of the other persons who are serving as expert
 14 witnesses on behalf of Daniel Chapter One in this
 15 matter?
 16 A. I have not met any of them that I know of, nor
 17 have I talked with any of them. As a matter of fact, I
 18 only know one by name.
 19 Q. And who is that?
 20 A. Miller.
 21 Q. Dennis Miller, the doctor for -- Dr. Dennis
 22 Miller?
 23 A. I presume so.
 24 Q. How do you know Dr. Miller?
 25 A. I don't, except from what I've read that was

9

1 sent to me.

2 **Q. You mentioned that sometime in the last week or**

3 **so, you became aware of a turmeric study or a study**

4 **concerning the herb turmeric?**

5 A. Yes.

6 **Q. Who brought that study to your attention?**

7 A. It came by mail. A journal arrived at my house

8 last week.

9 **Q. What journal?**

10 A. Here it is. (Document tendered.)

11 **Q. Okay, give me a second.**

12 **Your book got reviewed, I see.**

13 **Off the record.**

14 **(Discussion off the record.)**

15 **(Duke Deposition Exhibit Number 1, Herbalgram,**

16 **Number 81, February-April 2009, was marked for**

17 **identification.)**

18 BY MR. GORDON:

19 **Q. The court reporter has marked as Duke Exhibit**

20 **Number 1 a magazine titled Herbalgram, which appears to**

21 **be the Journal of the American Botanical Council. It's**

22 **the February to April 2009 issue, Number 81.**

23 **Could you take a look? Is the article to which**

24 **you were referring, is that the article that appears on**

25 **page 23?**

10

1 A. Yes.

2 **Q. Okay. And that's a study that was done at the**

3 **M.D. Anderson Cancer Institute?**

4 A. It's the review of a study that was done at M.D.

5 Anderson.

6 **Q. Have you actually reviewed the study itself?**

7 A. I have not. I have been unable to locate it on

8 PubMed. I have ordered it from various places, but I

9 have not seen it, so this is secondhand.

10 **Q. Did reviewing this article in Duke Exhibit**

11 **Number 1 on page 23 alter your opinions at all that**

12 **you're going to give in this matter?**

13 A. Slightly.

14 **Q. How so?**

15 A. It was the first case I had seen of turmeric

16 versus pancreatic cancer, which is on people's mind this

17 week.

18 **Q. And as you understand it, this was a controlled**

19 **clinical study testing turmeric and its efficacy in**

20 **treating patients with pancreatic cancer?**

21 A. I think it was more testing the toxicity, but it

22 had some conclusions that would make you think that it

23 was competitive with pharmaceuticals for pancreatic

24 cancer.

25 **Q. What's your recollection of how many patients**

11

1 **who were suffering from pancreatic cancer responded**

2 **positively to the turmeric?**

3 A. Two out of about 24.

4 **Q. Do you have an understanding of what the**

5 **response rate is for pharmaceuticals?**

6 A. Yes.

7 **Q. And what is --**

8 A. According to this review.

9 **Q. And that would be what?**

10 A. About 10 percent.

11 **Q. Do you have an understanding as to how the**

12 **turmeric was administered in this study?**

13 A. It was administered at eight grams a day. I am

14 not sure, I think it was oral.

15 **Q. Have you seen other clinical trials of turmeric**

16 **for cancer patients?**

17 A. I should specify that most of the trials have

18 been on curcumin, the major ingredient of turmeric, the

19 major biological active ingredient, and there -- I have

20 seen several studies of curcumin in various types of

21 cancer.

22 **Q. Understanding that you have seen several**

23 **studies, how about clinical studies? Were there**

24 **controlled clinical studies, a control group taking a**

25 **different drug or a placebo as compared to people taking**

12

1 **the drug or herb that's being tested?**

2 A. I think there have been several coming out of

3 M.D. Anderson, and I have seen at least the abstracts of

4 several.

5 **Q. Did those other studies that you looked at play**

6 **a role in the opinions that you expressed in your**

7 **report?**

8 A. They influenced the scorings that I have given

9 to various trials on curcumin.

10 **Q. And that's in your MAM section of your report?**

11 A. It's in the MAM section and also in what we call

12 the IE, the Indications Evaluations.

13 **Q. Okay, we will get to that later, because that's**

14 **going to take some time to get through.**

15 **Your CV mentions that you have consulted at**

16 **times with the M.D. Anderson Institute. Is that**

17 **correct?**

18 A. I have met with people who work for the M.D.

19 Anderson at a place where they raise turmeric in Latin

20 America.

21 **Q. Was that an official visit? I mean, were you**

22 **there for a purpose or you just happened to be --**

23 A. I was there in an advisory capacity.

24 **Q. And what was the nature of the advice that you**

25 **were to provide?**

13

1 A. I was to pipe in when I heard something
 2 mentioned that I might know something about.
 3 **Q. And what would that be? Would that be as to how**
 4 **to best grow turmeric for medicinal purposes or dosages?**
 5 **What was the -- what were the items that you were to**
 6 **opine on or advise on?**
 7 A. I don't know what they had in mind, but I do
 8 have some experience growing turmeric. I certainly
 9 respect it as a Biblical spice and a very promising
 10 medicinal, and I suspect they would have liked me to
 11 chime in any time I had anything constructive to say.
 12 **Q. Who was it from M.D. Anderson that you were**
 13 **meeting with?**
 14 A. Robert Newman, I believe his name is. He's one
 15 of the authors of the study.
 16 **Q. And when was this?**
 17 A. I believe it was April or March of the past
 18 year. The meeting was to be in April of this year, and
 19 I won't be able to attend this year. But I've been
 20 three times, I think, to the place in Costa Rica where
 21 they grow turmeric organically.
 22 **Q. Was this meeting with just you and folks from**
 23 **M.D. Anderson, or were there people from other research**
 24 **facilities there and other experts there?**
 25 A. There were several advisory -- some of their

14

1 scientific advisory board. I'm not officially on that,
 2 but I frequently am there for such meetings.
 3 **Q. Whose scientific advisory board, the farm in**
 4 **Costa Rica or the Anderson Institute?**
 5 A. The New Chapter herbal institute up in
 6 Brattleboro, Connecticut -- Vermont, I think it is. I
 7 don't know the exact title of New Chapter, but the
 8 Zyflamend I took this morning was from New Chapter.
 9 **Q. What is Zyflamend?**
 10 A. It's an anti-inflammatory mixture of ten herbs,
 11 including turmeric.
 12 **Q. So, the trip to Costa Rica where I guess**
 13 **Dr. Newman from the M.D. Anderson Institute was**
 14 **attending, was that an event that was sponsored or**
 15 **organized by the New Chapter herbal institute?**
 16 A. Yes.
 17 **Q. Were there other cancer centers present as well?**
 18 A. I don't recall any other cancer institutes. I
 19 could sort of mentally go through and name the other
 20 organizations, but I don't, at the moment, recall any
 21 other cancer institutes, except, marginally, Michael
 22 Balick, who has been under contract with the National
 23 Cancer Institute for their cancer screening program, one
 24 in which I participated many years ago.
 25 **Q. But last year when you were in Costa Rica, was**

15

1 **Mr. Balick there representing the National Cancer**
 2 **Institute?**
 3 A. No. He was representing the New York Botanical
 4 Garden, which has collaborated with the National Cancer
 5 Institute over the years.
 6 **Q. Was there anyone there from the National Cancer**
 7 **Institute, to your knowledge?**
 8 A. Not to my knowledge.
 9 **Q. What other organizations were present?**
 10 A. Missouri Botanical Garden.
 11 **Q. I'm sorry? What was that?**
 12 A. Missouri --
 13 **Q. Oh, Missouri. I'm sorry. Okay.**
 14 A. -- Botanical Garden, who had two participants;
 15 an editor from an herb magazine, whose name -- I don't
 16 remember her name or the magazine's name, was there; two
 17 or three representatives of the herb company, New
 18 Chapter, were there; another scientist specializing in
 19 omega-3 fatty acids was there. I don't recall his name
 20 or affiliation, but one of the universities.
 21 **Q. What is New Chapter? I mean, is it a company**
 22 **that sells herbs? Because you said "New Chapter Herbal**
 23 **Institute."**
 24 A. "Herbal Institute" is not its name.
 25 **Q. Okay.**

16

1 A. It's just called New Chapter, to the best of my
 2 recollection.
 3 **Q. And what do they do?**
 4 A. They manufacture and sell herbal products and
 5 what we call vitamins. Supplements would be the term I
 6 was looking for.
 7 **Q. And are you paid by New Chapter?**
 8 A. I am not.
 9 **Q. Have you been in the past?**
 10 A. I have had those trips, but no -- no money
 11 passed hands.
 12 **Q. When you go to Costa Rica, do they pay your**
 13 **expenses?**
 14 A. They do pay my expenses.
 15 **Q. How big is New Chapter?**
 16 A. I don't know.
 17 **Q. How many products, approximately, do they sell?**
 18 A. I know of at least a dozen, but I expect it's
 19 closer to a hundred. I have never examined their
 20 catalog.
 21 **Q. Do you know if they sell anything to treat or**
 22 **cure cancer?**
 23 A. I am sure they're more -- they're careful with
 24 their labeling and would not so state. They go with the
 25 FDA preferred wording, whatever that is.

17

1 **Q. Who's your contact at New Chapter?**
 2 A. I normally contact Tom Newmark.
 3 **Q. What's his role at that company?**
 4 A. I don't know his official title, but it's way up
 5 top.
 6 **Q. Anybody else from New Chapter that you deal**
 7 **with?**
 8 A. Early on, I dealt with Paul Schulick, whose
 9 daughter had glioma. And he's way up top, too. I think
 10 they're the founding people for that organization, but
 11 I'm not sure of the organizational structure.
 12 **Q. You mentioned before that you had -- somewhere**
 13 **in your preparation, you had come across Dr. Miller,**
 14 **Dr. Dennis Miller. Did you read the report that he**
 15 **prepared in this matter?**
 16 A. I glanced through the report. I did not read it
 17 in its entirety. I forget who sent it to me, but it was
 18 sent to me.
 19 **Q. What were your impressions, having glanced**
 20 **through it?**
 21 A. We shared many common interests. He, like I,
 22 had been sponsored by the NCI, I think. I'm sure that I
 23 was for five years. And we're in different schools of
 24 opinion about scientific research.
 25 **Q. And what school would you put Dr. Miller in?**

18

1 A. Allopathic is what I call it. And jokingly, I
 2 call mine psychopathic.
 3 **Q. Well, when you're not joking, what do you call**
 4 **it?**
 5 A. Herbalism is one word which is applied. I call
 6 myself an economic botanist.
 7 **Q. Do you have patients?**
 8 A. I have never practiced medicine.
 9 **Q. I understand that. Do people consult with you**
 10 **as to what herbs they should take for specific**
 11 **conditions?**
 12 A. People very frequently ask me what I would
 13 recommend, and I answer in the following way: "If you
 14 were my daughter, I would suggest you take so-and-so."
 15 **Q. Do you ever receive compensation for advising**
 16 **people on what herbs they might take to treat various**
 17 **conditions?**
 18 A. Only once in my life did I receive compensation,
 19 and that was unsolicited. A money order came to me.
 20 **Q. What's the story behind that?**
 21 A. I don't remember the person's name. I suspect
 22 he has AIDS, just from what he mentioned. And he asked
 23 if I knew an herbal -- herbally inclined physician or
 24 what we call a holistic physician in New York where he
 25 was. And I provided the names of some holistic

19

1 physicians in New York.
 2 **Q. Do you consult with holistic physicians?**
 3 **They'll call you for advice?**
 4 A. Yes. Some do call me for advice.
 5 **Q. Any on the treatment of cancer?**
 6 A. Paul Schulick, who is not a physician, asked me
 7 about cancer when his daughter was suffering glioma.
 8 **Q. Is Mr. Schulick the fellow from New Chapter?**
 9 A. Yes.
 10 **Q. Okay. But have any holistic physicians**
 11 **consulted with you on the treatment of cancer?**
 12 A. I do not recall specific cases of cancer
 13 discussions with holistic physicians.
 14 **Q. How about with homeopaths? Same question.**
 15 A. Homeopaths visit my garden frequently, and they
 16 have not asked me, that I recall, to share information
 17 on cancer.
 18 **Q. Has -- other than Mr. Schulick, has anyone asked**
 19 **you to provide advice on a particular case regarding the**
 20 **treatment of cancer?**
 21 A. I have probably gotten email responses and
 22 telephone calls by the hundreds in the last years, since
 23 I worked with the NCI from 1977 to 1982.
 24 **Q. Were those calls and emails, as you can recall,**
 25 **on cancer prevention or on cancer treatment?**

20

1 A. Both.
 2 **Q. And would you respond to people who sought your**
 3 **advice?**
 4 A. With that same terminology, that I'm not a
 5 physician, but if it were me, I would do so-and-so.
 6 **Q. You mentioned the National Cancer Institute.**
 7 **What kind of work did you do for them?**
 8 A. From 1977 until 1982, I was to collect plants
 9 from various parts of the world, which were then to go
 10 into what they called their cancer screen, looking for
 11 anticancer activity.
 12 **Q. And your role was to help select which plants**
 13 **went into the screen?**
 14 A. My role was to go to the specified country and
 15 pick those things that were most poisonous. That was
 16 the first priority of the National Cancer Institute.
 17 And then look into other indicators, like folklore, and
 18 go through the literature to see which had folklore
 19 reputations for cancer.
 20 **Q. And once you gathered either the poisonous**
 21 **plants or the plants that had a folkloric reputation for**
 22 **healing, what happened next?**
 23 A. They were submitted to the National Cancer
 24 Institute, where their technicians would fractionate and
 25 run them through their various clinical trials -- tests.

21

1 Tests, not clinical trials.
 2 **Q. Do you know whether that process that you were**
 3 **involved in resulted in any cancer treatments that are**
 4 **generally accepted by the allopathic medical community**
 5 **today?**
 6 A. I note three very important drugs,
 7 pharmaceuticals, have resulted; two, I think, not as a
 8 basis of my collection, but some of my predecessors'
 9 collections.
 10 **Q. Which pharmaceuticals are those?**
 11 A. Taxol. It is Paclitaxel, I believe it is. It
 12 was first named Taxol, but then Bristol-Myers put a
 13 particular P-A-C-L-I-T-A-X-E-L, or something like that.
 14 And my lab collected Taxol specimens from all over the
 15 world, including my backyard, and Maine, the ones that I
 16 collected in Maine, and that led to the \$2 billion a
 17 year Taxol, but it took 30 years of collaboration. And
 18 I was not specifically involved in that collaboration
 19 myself, but my predecessors were.
 20 **Q. Okay. And then what other -- you said there**
 21 **were three. That's one.**
 22 A. Etoposide is a modified lignan, L-I-G-N-A-N,
 23 from the local forest weed called Mayapple. Etoposide,
 24 the last I heard, was worth about \$400 million a year,
 25 and that, too, accrues to Bristol-Myers or did when it

22

1 was first put out.
 2 **Q. And --**
 3 A. There's another one that would have passed
 4 through the cancer screen that has been for 50 years
 5 very important in leukemia and lymphoma and Hodgkin's
 6 disease, and that's a couple of alkaloids from the
 7 Madagascar periwinkle, and the marketed drugs are
 8 Vincristine and Vinblastine.
 9 **Q. Did you play any role in Etoposide?**
 10 A. No.
 11 **Q. And for the Madagascar periwinkle?**
 12 A. I played no role in any of these.
 13 **Q. Okay.**
 14 A. I don't know that any of my collection has
 15 resulted in major drugs.
 16 **Q. And correct me if I'm wrong, but my**
 17 **understanding of what you've outlined is that elements**
 18 **of these herbs were identified through research, went**
 19 **through lab testing, ultimately ended up in medication**
 20 **that went through clinical trials and all the way**
 21 **through FDA approval. Is that what these three episodes**
 22 **represent?**
 23 A. Those are, I think, the most important
 24 pharmaceuticals that have been derived from whole or
 25 constituents of herbs or plants, I should say.

23

1 **Q. For the treatment of cancer?**
 2 A. Another that I haven't mentioned is Camptotheca,
 3 which has served as a -- the drug is camptothecin, but
 4 that was -- had been through clinical trials, too, I
 5 think, but I don't hear much about it these days. Those
 6 three are the ones you hear the most about, still used.
 7 I think the Taxol is still a \$2 billion a year
 8 drug. The Vincristine and Vinblastine have run about
 9 \$100 million a year for 50 years almost.
 10 **Q. Do you know the relationship between the dosage**
 11 **that cancer patients now get for these drugs and the**
 12 **amount of the active ingredient that's available from**
 13 **the herbs in a natural state?**
 14 A. Rephrase that, please.
 15 **Q. Sure.**
 16 **When someone gets a dose of Taxol --**
 17 A. Okay.
 18 **Q. -- how does that equate to eating or consuming**
 19 **the herb on which the drug originally was premised?**
 20 A. Well, better than most people, I realize there
 21 is extreme variation in the quantities of these
 22 chemicals in plants. I have a database online at USDA
 23 where I've got the highs and the lows that I've
 24 encountered in the literature.
 25 And I have no knowledge of the dosage of Taxol

24

1 as a pharmaceutical, but I know that in -- within my own
 2 yard, I have had specimens of yew taxus, scientifically,
 3 that had Taxol contents of lower than 100 parts per
 4 million, and then one that I collected in Maine and
 5 brought back to my estate had closer to 500 parts per
 6 million Taxol. The western yew, Taxus brevifolia, on
 7 which the original studies were approved, has about 100
 8 parts per million Taxol in the bark, but you can
 9 anticipate that that could vary from ten to 1000. I
 10 don't have the ten figure or the 1000.
 11 **Q. Right. And you don't know how much -- how many**
 12 **parts per million are in a dose of Taxol when it's**
 13 **prescribed by a physician?**
 14 A. I do not. I think they would give you
 15 milligrams of Taxol, and I believe it's injected by drip
 16 infusion, but I have a -- an ampule at home that I carry
 17 around when I lecture, and I have a yew branch.
 18 I do not recommend eating a yew. Horses have
 19 died downtown from eating yew as they were waiting for
 20 the caisson to move on. I know people who recommend
 21 eating yew, and I just divorce myself from those people.
 22 All of those are major poisons.
 23 **Q. When you say "all of those," you're talking**
 24 **about Taxol, the herb --**
 25 A. Taxol, Etoposide, Vincristine, Vinblastine.

25

1 **Q. Is that the extent of the work you did at NCI?**
 2 A. At one point, I was negotiating with the late
 3 Herb Pierson to get involved in a designer food program,
 4 which was to design foods that might help prevent
 5 cancer. That never was officially formalized. He died
 6 of cancer, by the way.
 7 **Q. I should have gotten this at the beginning.**
 8 **Where do you live?**
 9 A. I live in Fulton, Maryland, which is in Howard
 10 County.
 11 **Q. And the address there?**
 12 A. 8210 Murphy Road.
 13 **Q. And the estate and the farm that you've**
 14 **mentioned a couple times before, that's located there as**
 15 **well?**
 16 A. It's a six-acre farmette, I should call it,
 17 rather than estate, although it is to be inherited by
 18 the Tai Sophia Healing Institute, which is one mile
 19 north of me.
 20 **Q. I'm sorry?**
 21 A. It will be inherited by the Tai Sophia Healing
 22 Institute, which is one mile north of me. So, I have a
 23 life estate arrangement so that my garden reverts to
 24 them when I pass on.
 25 **Q. Now, the -- what is the Healing Institute?**

26

1 A. It's a consortium of acupuncturists and clinical
 2 herbalists, and I'm on the adjunct faculty and teach
 3 medicinal plants in my garden at 8210 Murphy Road.
 4 **Q. Okay. Does that institute treat cancer**
 5 **patients?**
 6 A. I would bet that among their clientele, some of
 7 the acupuncture students are -- some of the patients
 8 that come for acupuncture are probably cancer patients
 9 in pain, and the acupuncturists relieve the pain. But I
 10 don't -- I have no knowledge of who's doing what up
 11 there. I rarely go to the institute. They come to me,
 12 bring their classes to me. As a matter of fact, we had
 13 a tour just yesterday from Tai Sophia in my garden, and
 14 we looked at yew, Y-E-W.
 15 **Q. Has the State or Federal Government ever brought**
 16 **any kind of enforcement action against you?**
 17 A. No.
 18 **Q. You're serving as an expert witness in this**
 19 **case. Have you ever been hired to serve as an expert**
 20 **witness before?**
 21 A. Never.
 22 **Q. How did you first become aware of Daniel Chapter**
 23 **One?**
 24 A. Through Mr. Turner.
 25 **Q. Did you know Mr. Turner before this lawsuit?**

27

1 A. I have known Mr. Turner for at least a decade,
 2 probably more.
 3 **Q. In what kind of capacity?**
 4 A. We share garden experiences, and I have been to
 5 his place, and he has been to my place.
 6 **Q. What did Mr. Turner tell you about Daniel**
 7 **Chapter One?**
 8 A. He asked if I could help him defend Daniel
 9 Chapter One.
 10 **Q. And what did he tell you about them?**
 11 A. He told me that they were rather a religious
 12 organization and that they were inspired by Daniel
 13 Chapter One, and since I had the Bible on my computer, I
 14 went to read Chapter 1, and I was intrigued, because
 15 that was the first case of a trial of pulses or legumes,
 16 I believe, versus meat, the first published comparative
 17 trial of vegetarianism versus carnivorousism, I would say.
 18 And I was glad to have read Chapter 1, even
 19 though I'm not religious myself. I like finding early,
 20 roughly by 550 BC, reference to -- if we can call it
 21 published reference to a subclinical trial.
 22 **Q. Okay. What happened next after you had this**
 23 **conversation with Mr. Turner?**
 24 A. Mr. Turner asked me to send things that might
 25 support my belief that in many cases, herbs are better

28

1 than pharmaceuticals. I am a devout spokesman in this
 2 direction and have been arguing this direction for about
 3 20 years, even after my work with the National Cancer
 4 Institute.
 5 What I found with the NCI, every time they would
 6 find one compound in a plant that would work against
 7 cancer, there were several closely related compounds
 8 there, and that's what inspired my database, which I
 9 have drawn upon to support -- to produce lines of
 10 evidence that there are many anticancer ingredients in
 11 all plants. There are also carcinogens in all plants.
 12 **Q. Who should determine what plant someone takes**
 13 **for cancer? Should that be a doctor?**
 14 A. There are those who believe that allopathic
 15 physicians are the only answer. There are those who
 16 realize that allopaths kill 140,000 people a year by
 17 prescribing approved pharmaceuticals, according to
 18 figures published in JAMA.
 19 There are others who think that supporting the
 20 whole body -- these we will call holistic physicians;
 21 some are herbalists; some are homeopaths. I'm just a
 22 botanist myself, but I am of the school that we need to
 23 support the immune system as well as fight the disease.
 24 **Q. You mentioned earlier the Taxol, Etoposide, the**
 25 **Madagascar periwinkle, and there was a Campto --**

1 A. Camptotheca is the plant; camptothecin is the
 2 drug, C-A-M-P-T-O-T-H-E-C-I-N.
 3 **Q. Okay. In all these episodes where an herb**
 4 **ultimately led to a pharmaceutical, there was laboratory**
 5 **work and clinical trials, correct?**
 6 A. Yes.
 7 **Q. And that's part of what's going on now, it**
 8 **appears, with the curcuminoids from turmeric, correct?**
 9 A. That's what that study would imply.
 10 **Q. Are there other -- but there are also herbs out**
 11 **there that haven't gone through those types of clinical**
 12 **trials that sometimes are recommended for cancer**
 13 **treatment, correct?**
 14 A. I would say yes, correct.
 15 **Q. Okay. In connection with your work, have you**
 16 **ever managed or participated in any studies to measure**
 17 **the efficacy of an herb in treating cancer?**
 18 A. Not specifically. I have, myself, served as a
 19 Guinea pig on five USDA studies, but they weren't
 20 studying cancer. They were studying things that might
 21 have a bearing on cancer, but they were not cancer
 22 studies.
 23 **Q. Have you ever been a consultant on such a study,**
 24 **where the anticancer effects of an herb were being**
 25 **measured on a group of patients?**

1 in this matter, but I concurred that it smelled of
 2 chicanery.
 3 **Q. When was that?**
 4 A. About ten years ago. I don't have the -- I
 5 don't even have the records on it, to my knowledge. But
 6 one of the -- it's one of the stories that I hear
 7 frequently and tend to believe, that much of the
 8 pharmaceutical data is falsified.
 9 **Q. Who have you heard that from?**
 10 A. I read it.
 11 **Q. Where?**
 12 A. Well, the last book I heard was by a naturopath
 13 up in Vancouver, Canada, and I don't remember his name.
 14 Abramson or something like that. And I think it's
 15 pretty general knowledge among some of my associates who
 16 work with either the FDA or other agencies, that they
 17 will do many trials and only publish the good trial and
 18 bury the bad trial.
 19 I suppose if I consulted my literature, I could
 20 come up with answers, but I have none. But I'm as
 21 skeptical of the pharmaceutical data as big pharma is of
 22 the herbal data.
 23 **Q. Well, what is the herbal data? What kind of**
 24 **data is out there on herbs?**
 25 A. Well, let's talk curcuminoids.

1 A. I don't remember any consultancies with -- where
 2 my role was to advise or rate clinical trials.
 3 **Q. How about nonclinical trials, more informal**
 4 **trials, where they were trying to -- where the sponsors**
 5 **of the study were trying to at least draw some**
 6 **inferences regarding the efficacy of the herb in**
 7 **treating cancer?**
 8 A. I don't know that I was paid, but I was
 9 consulted frequently when there were trials against the
 10 Hoxsey Cancer Formula.
 11 **Q. I'm sorry? What was the --**
 12 A. H-O-X-S-E-Y. It was what some people believed
 13 was quackery, and it finally went to Mexico, and the --
 14 and they asked me what compounds in the herbs that they
 15 were using might be useful in cancer and that I could
 16 answer with my USDA database.
 17 **Q. Any other clinical or nonclinical trials**
 18 **regarding cancer that you've been involved with?**
 19 A. I seem to be dredging up one, but it's -- I
 20 would defer it to later, and if it crosses my mind,
 21 I'll -- one of the famous cancer institutes, it didn't
 22 involve me as a consultant, but their -- their trials.
 23 I think it had to do with Laetrile, and the -- the
 24 sponsor of that trial, I think, falsified the data to
 25 make Laetrile look worse. I was not a paid consultant

1 **Q. Okay.**
 2 A. You see that data.
 3 **Q. Right. That's a clinical trial.**
 4 A. That's right. And that's one I like to quote,
 5 because that one, to me, as I read that study this past
 6 week for the first time -- and I'm unable to get the
 7 original study, but I do know Mr. Newman and trust him.
 8 There have been clinical trials in Iran showing that the
 9 drug imipramine at 100 milligrams is equivalent to
 10 saffron, the herb, the Biblical herb, at 30 milligrams.
 11 Now, when I mention this to my students, I say,
 12 "Would I trust an Iranian study more than an American
 13 study?" I say, "I don't trust many of the
 14 pharmaceutical data that are presented in JAMA," and I
 15 can probably back that up with some -- some of these
 16 books that I've read, but there are many cases where
 17 the -- the trials are overseas and not accepted by our
 18 FDA, but they do accept the data that are presented by
 19 big pharma, which is very often manipulated.
 20 MR. GORDON: Can I see what my last question
 21 was?
 22 THE REPORTER: Sure.
 23 (Record reviewed.)
 24 BY MR. GORDON:
 25 **Q. We have talked about the clinical trials with**

1 **curcuminoid. Are there other clinical trials that**
2 **you're aware of concerning herbs' efficacy in fighting**
3 **cancer?**

4 A. I suspect that if we went through the
5 appendices, any time you see a 2 in the Indications
6 Evaluations, it has either been clinically compared, an
7 extract of the plant, or it has been approved by the
8 German Commission E. That's what a 2 means in my
9 compilations in these books.

10 **Q. Okay. We'll get to that, then.**

11 A. So, there are many.

12 **Q. What is the German Commission E?**

13 A. German Commission E is a commission in Germany
14 of allopathic physicians, herbalists, pharmacists,
15 chemists, and other pertinent disciplines who evaluated
16 several hundred herbs that the Germans were using and
17 approved them as safe and efficacious for given
18 indications.

19 **Q. Is that a government body or a nongovernmental**
20 **body?**

21 A. I suspect it was a mixed bag. I don't really
22 know. I have a book at home on the German Commission E
23 and what it approved, and that would have generated many
24 of the 2s in my Indications Evaluations.

25 And I don't think I mentioned, there is a

1 a day with the book and see, but I doubt it.

2 **Q. Okay. And how about --**

3 A. They are very conservative.

4 **Q. And how about the Tramil -- is that how you say**
5 **it?**

6 A. Tramil. I don't remember them approving, but
7 I'm not -- I'm speaking from memory. I have their book
8 at home, too.

9 **Q. Okay.**

10 A. Both are indicated in the Harvelt (phonetic)
11 table I submitted to you. T-R-A stands for Tramil
12 Commission; K-O-N stands for Commission E.

13 **Q. When you got started assisting Mr. Turner in**
14 **defending the Feijos and Daniel Chapter One, what**
15 **information did he send you?**

16 A. I have one sheet here that was -- I brought four
17 of these.

18 MR. J. TURNER: Here are the -- here, if you
19 want it.

20 MR. GORDON: Yeah.

21 Can we mark this as 2?

22 (Duke Deposition Exhibit Number 2, Listing of
23 four Daniel Chapter One products, was marked for
24 identification.)

25 BY MR. GORDON:

1 comparable Tramil Commission in the West Indies, which I
2 consider just as conservative and which okays many of
3 the Caribbean medicines for use.

4 **Q. The Tramil Commission, T-R-A-M-I-L, is that a**
5 **governmental body?**

6 A. That's a multinational mixture of scientists
7 from the West Indian Islands. I did consult with them.
8 I went on one of their tours once. They rarely involve
9 gringos, but they liked my database, and they liked the
10 Napralert database, so they had another gringo from that
11 with them. But they were evaluating, just as the German
12 Commission E evaluated some of the commonly used herbs
13 and approved them for certain indications.

14 **Q. Do you know if the German Commission E has**
15 **approved any herbs for the treatment of cancer?**

16 A. I think that they were very cautious, and I know
17 that in writing for Rodale, Rodale tells me not to
18 mention cancer. I sometimes get away with it, but I
19 would certainly, myself, take turmeric before I would
20 take the two pharmaceuticals mentioned had I pancreatic
21 cancer, without hesitation.

22 **Q. But the question I asked you was, has the German**
23 **Commission E approved products for the treatment of**
24 **cancer?**

25 A. I do not remember. I offer you -- I could spend

1 **Q. The court reporter has marked as Exhibit 2 a**
2 **piece of paper received this morning. It's got A, GDU;**
3 **B, BioShark; C, 7 Herb Formula; and D, BioMixx.**

4 **Is this something that Mr. Turner provided to**
5 **you?**

6 A. I don't remember who emailed it to me. It came
7 by email.

8 **Q. But it was in connection with your --**

9 A. It was strictly in connection with my role as
10 possible expert here.

11 **Q. And to my eyes, this appears to be a list of**
12 **ingredients in some of the products that Daniel Chapter**
13 **One sells. Is that what it is to you, as well, or does**
14 **it have some other meaning to you?**

15 A. I assume it is the ingredients of four of their
16 products, some of which may be being challenged; all of
17 which contain herbs. And I was asked what I knew about
18 those herbs.

19 **Q. Did Mr. Turner or someone on behalf of Daniel**
20 **Chapter One send to you a copy of the Complaint in this**
21 **matter?**

22 A. I don't remember seeing the Complaint.

23 **Q. How about a copy of any of the advertisements**
24 **that the Federal Trade Commission has challenged as the**
25 **predicate for the Complaint?**

1 A. I have no knowledge of those. They were not
 2 sent to me.
 3 **Q. Were you sent any of Daniel Chapter One's**
 4 **products?**
 5 A. No.
 6 **Q. The list, which is now Exhibit 2, was this sent**
 7 **to you fairly early on in your work on this case?**
 8 A. I would say it came two or three days after I
 9 was into the case.
 10 **Q. And after you got this list, you went and**
 11 **researched the ingredients? Is that fair?**
 12 A. No. I went to my database and pulled up what
 13 was already there.
 14 **Q. Okay. That's what I meant by "research," but**
 15 **that's fine.**
 16 **Beyond going to your database, did you do any**
 17 **other research?**
 18 A. I went to PubMed to see if there were new
 19 abstracts or articles on any of the 16 herbs that show
 20 up in this list.
 21 **Q. Do you recall finding any?**
 22 A. Yes.
 23 **Q. Okay. Are they reflected -- where are -- where**
 24 **is what you found reflected?**
 25 A. It's not. I was -- I was working until the last

1 minute, and not everything is reflected in the report,
 2 as far as the one that you have.
 3 **Q. Understood, on turmeric.**
 4 A. There are usually 100 abstracts on turmeric in a
 5 year lately. Turmeric's one of the leaders.
 6 **Q. Up until now, how much time have you spent**
 7 **working on this case?**
 8 A. Two full days, and then I have accumulated
 9 probably about 15 hours since those two full days, and
 10 I've only been partially -- I've been looking at related
 11 things, developing articles that would go elsewhere, but
 12 strengthening my memory of what's involved here. So, I
 13 would say, counting today, about four days.
 14 **Q. Have you been paid anything yet?**
 15 A. I have.
 16 **Q. Who paid you?**
 17 A. I believe the checks were from Mr. Turner's
 18 firm.
 19 **Q. And you get compensated at either \$2,500 a day**
 20 **or \$350 per hour, correct?**
 21 A. I think that's what it is. The first checks
 22 were for \$2,500.
 23 **Q. Have you spoken to any persons who have taken**
 24 **Daniel Chapter One products for the treatment of cancer?**
 25 A. No.

1 **Q. Have you reviewed the medical records of anyone**
 2 **who claims to have taken Daniel Chapter One products for**
 3 **the treatment of cancer?**
 4 A. I have not.
 5 **Q. Have you reviewed any testimonials provided by**
 6 **anyone who claimed to have taken Daniel Chapter One**
 7 **products for the treatment of cancer?**
 8 A. Only one volunteered by Chris yesterday, but he
 9 was not taking it for cancer. I never heard of Daniel
 10 Chapter One until Mr. Turner apprised me.
 11 **Q. Have you ever listened to the Daniel Chapter One**
 12 **radio show, either live or on a tape?**
 13 A. I'm not aware of it until yesterday. I have
 14 never listened.
 15 (Duke Deposition Exhibit Number 3, CV of James
 16 A. Duke, was marked for identification.)
 17 BY MR. GORDON:
 18 **Q. The court reporter has marked as Duke Exhibit 3**
 19 **a document bearing the Bates stamp DCO 216 through 224**
 20 **and then DCO 307 attached at the end. This was produced**
 21 **to us as your CV. Can you just confirm that that's what**
 22 **it is, as far as you can tell?**
 23 A. There are many permutations of my CV, and
 24 certainly almost all of this will be found in my home
 25 computer where I have many permutations of my CV.

1 **Q. Okay.**
 2 A. I have many more publications than this, but --
 3 **Q. That's fine.**
 4 A. -- I selectively select for a given case.
 5 **Q. Okay.**
 6 A. Since I realized that they were Biblical, we
 7 have stressed the Biblical publications of mine, even
 8 though I'm not a religious person.
 9 **Q. What's the significance of the Biblical**
 10 **references to you if you're not a religious person? I'm**
 11 **just trying to understand that.**
 12 A. It's said -- I'm stating from memory, not
 13 accurately necessarily -- that about 90 percent of
 14 people benefit from prayer, and if those people are
 15 religious people, I think they would be more inclined to
 16 be helped by a Biblical herb than by a non-Biblical
 17 herb, because believing is half of the curing. That's
 18 what you call the mind-body effect.
 19 **Q. Have you tested that hypothesis?**
 20 A. I don't think I have tested any hypotheses. No,
 21 I have not tested that hypothesis. It is in print,
 22 though, by others.
 23 **Q. Who? Give me a for-instance.**
 24 A. I would have to go back to the meeting in -- of
 25 the Scripts School in San Diego one or two years ago,

41

1 but there were a number of people talking about
 2 mind-body and how prayer helps and how -- I don't know
 3 that they specifically said that the Bible -- the
 4 quoting of the reference to a Biblical herb improves the
 5 healing capacity.
 6 I speculate that if it reinforces your belief,
 7 it is reinforcing the strength of your body to heal.
 8 And I think if you have, for example, an Ayurvedic
 9 Indian who is also questioning it and he found a term
 10 that was mentioned both in the Bible and in Ayurvedic
 11 traditional medicine, he is more liable to be helped by
 12 the turmeric than by the pharmaceutical, especially if
 13 he is skeptical of the pharmaceutical data. Mind-body.
 14 **Q. But to your knowledge, there are no tests that**
 15 **demonstrate either the truth or falsity of that**
 16 **speculation on your part.**
 17 A. There are tests where prayer has helped, but I
 18 don't remember anything where I'm speculating.
 19 **Q. Let me just try and clean this up.**
 20 **So, understood that there are tests where prayer**
 21 **helps. What I'm trying to say is in other tests where**
 22 **the patient prays and one group of patients gets a**
 23 **Biblically referenced herb and the other group of**
 24 **patients prays and gets an allopathic treatment, are**
 25 **there any tests or studies comparing the results between**

42

1 **those two cohorts?**
 2 A. I know of none.
 3 **Q. Your CV, Exhibit 3, references that you serve as**
 4 **a senior science advisor to Nature's Herbs.**
 5 A. Correct.
 6 **Q. What's Nature's Herbs?**
 7 A. Nature's Herbs is a or was one of the bigger
 8 Mormon-run firms out of Utah, and --
 9 **Q. You say "was." They are no longer in existence?**
 10 A. They have been swallowed up by, I think, a New
 11 York firm and another firm.
 12 **Q. What do you advise on as a senior science**
 13 **advisor?**
 14 A. I wrote a newsletter for them and was asked
 15 questions as they were thinking about new formulations,
 16 what I thought might make a good thing. And I would go
 17 to their major meetings out in Utah.
 18 **Q. Did Nature's Herbs sell products that were**
 19 **advertised to cure cancer, treat cancer?**
 20 A. I don't think their ads mentioned or recommended
 21 any of the herbs for cancer. They were very savvy and
 22 worked with the FDA wording.
 23 **Q. And what about the AllHerb.com? What's your**
 24 **role as a senior science advisor for them?**
 25 A. Again, I wrote a newsletter for them, and they

43

1 asked me about -- they were mostly selling other
 2 people's products. They weren't -- they didn't last
 3 long, and they didn't develop any herbal products, to my
 4 knowledge, on their own.
 5 **Q. Did AllHerb.com sell any products that were**
 6 **advertised to treat or cure cancer?**
 7 A. Not that I recall.
 8 **Q. What was the impetus for your online database**
 9 **that I guess is still housed at USDA?**
 10 A. Yes. It draws more visitors than any site that
 11 my unit had, even though I've been retired since 1995.
 12 **Q. That's because we've been checking it out so**
 13 **much. No.**
 14 A. Okay, good. And when I was involved with the
 15 NCI and preparing for trips, I would go through the
 16 literature, the folk literature and herbal medicine
 17 literature for the country to which I was going, and
 18 that's when I started that database. It would have the
 19 folk uses of those chemicals -- of those plants, and I
 20 was advised to collect the poisonous plants and those
 21 that were folklorically used for cancer. So, that was
 22 sometime in that period, I think probably in my first
 23 year, in 1977, that it was started, and the crashes were
 24 frequent. So, it's been around a while.
 25 **Q. Do you have assistants that assist you with**

44

1 **gathering this information, synthesizing it, putting it**
 2 **into the database?**
 3 A. I gather myself, but I have assistants who get
 4 it into the database, even in retirement. I pay a lady
 5 in Hawaii to get new data in. It's not -- I have twice
 6 as much data at home that will never end up in there.
 7 **Q. Your CV references that there's a growing**
 8 **interest in your data from people in companies and**
 9 **organizations, including Procter & Gamble. What's the**
 10 **nature of P&G's interest in your data?**
 11 A. This is hearsay from a friend of mine who is
 12 trying to promote me to Procter & Gamble, and I know
 13 that they do consult my database, and this friend of
 14 mine made a bad statement about Procter & Gamble, and it
 15 all came to naught.
 16 **Q. Ah.**
 17 A. But I think it had to do with a new product they
 18 were coming out with.
 19 **Q. Do you recall what the product was for?**
 20 A. For the skin.
 21 **Q. New Chapter, I think we've already discussed**
 22 **them, correct? You said that they also have an interest**
 23 **in your database, and I think we talked about --**
 24 A. Oh, yes.
 25 **Q. -- New Chapter. Okay.**

1 **How about Herbal Science? What's the nature of**
2 **your relationship, if any, with them? You said they**
3 **have got an interest in your data.**

4 A. What page is that?

5 **Q. It's on the first page, the second -- well,**
6 **sorry, the third full paragraph.**

7 A. Oh, Herbal Science is my friend Alberti in
8 Florida, Naples I think it is, who has a fantastic
9 database and finds that turmeric contains about 5000
10 phytochemicals, and we both agree that all are
11 biologically active.

12 **Q. What does New Science do -- I mean, I'm sorry.**
13 **New Chapter, I apologize. No, Herbal Science, sorry.**

14 A. Herbal Science --

15 **Q. Let me give you a better question.**

16 **What does Herbal Science do?**

17 A. Herbal Science can concentrate the anticancer --
18 although I'm throwing that at you. I know they've
19 concentrated it in antiviral elements from the herb
20 elderberry. They can figure out from my database which
21 have antiviral activity, and they have a system whereby
22 they can concentrate selected -- of the 5000 chemicals
23 therein, they can concentrate the ones that have the
24 antiviral activity.

25 **Q. So, does Herbal Science sell products or are**

1 **done with the M.D. Anderson Cancer Institute that we**
2 **haven't talked about?**

3 A. I had a long-time relationship with a John Boik,
4 who at one time was with them, and he has a book on
5 herbal approaches to cancer.

6 **Q. Is he a physician or a research scientist?**

7 A. I think he's a research scientist.

8 **Q. How do you spell that one? B --**

9 A. B-O-I-K, and he would be referenced in the
10 database as BO1, and the addition 2 would be BO2.

11 **Q. Can you turn to the page that's got the number**
12 **on the bottom 219 of Exhibit 3? There's an article, the**
13 **second from the top, "The Food Pharmacy. From Hoxsey to**
14 **Herbal Snuff -- Can Red Clover Combat Cancer?" It's**
15 **published in 1998.**

16 **What was your -- tell me about that article.**

17 A. I would have to refresh myself on it. It's one
18 of the quickies that I put out, but I'm sure that I
19 would list the chemicals that were in the Hoxsey
20 Formula, to which I alluded earlier, and would tell what
21 chemicals in those would help or have been shown to help
22 in cancer, to have anticancer activity.

23 And red clover, I'm sure I would have mentioned,
24 has the same phytoestrogen, genistein, daidzein,
25 formononetin and biochanin, which are in soy, and those

1 **they a contract laboratory? What is it they do?**

2 A. I think they are a contract laboratory. I have
3 never visited them, but he is one I did not mention that
4 was at some of the Costa Rica meetings with New Chapter.
5 He does collaborate with New Chapter.

6 **Q. Does Herbal Science sell any products or**
7 **manufacture any products for cancer?**

8 A. I don't know.

9 **Q. Okay. And then the next entity that's**
10 **referenced there is GAIA Herbs.**

11 A. GAIA Herbs has had me down a couple of times,
12 and they are the type that would use my database and the
13 Napralert database.

14 **Q. What does GAIA Herbs do?**

15 A. GAIA Herbs makes herbal products and sells
16 herbal products, and that is their major concern.

17 **Q. Do they sell any products that are advertised to**
18 **cure cancer?**

19 A. I give my same answer. I think they are
20 FDA-conscious and make only those claims that the FDA
21 would permit, and I don't think the FDA permits
22 advertising for cancer unless clinically proven.

23 **Q. We earlier talked about the M.D. Anderson Cancer**
24 **Institute when we were referencing the article which is**
25 **included in Exhibit 1. Is there anything else you've**

1 have been epidemiologically shown -- not proven -- but
2 hinted to prevent cancer. But I have not seen that
3 article since it left my -- I rarely read my articles
4 unless something like this comes up after they publish
5 it.

6 **Q. You said "epidemiologically shown." What do you**
7 **mean by that?**

8 A. Japanese and Chinese who eat a whole lot of soy
9 products have a much lower incidence of breast cancer
10 until they move to Hawaii and assume our diet, and then
11 their breast cancer incidence catches up.
12 Epidemiologically shown is probably an implication they
13 are blaming it on the soybean consumption, especially
14 the people who sell soy products. That's epidemiology.

15 With turmeric, they use -- they say
16 epidemiologically, the Indians have less Alzheimer's
17 than we do, and they rationalize that may be due to the
18 turmeric, which has some proven anti-Alzheimer's
19 activities.

20 **Q. On the next page, 220, of Exhibit 3, the fourth**
21 **entry down there is an article you wrote for Mother**
22 **Earth News. Do you remember that one?**

23 A. I do remember roughly what that was about,
24 because I've been talking herbal COX-2 inhibitors since
25 the approval of Celebrex and Vioxx, and when they were

49

1 approved, I predicted that one or the other would be
 2 recalled in ten years, because that's the average recall
 3 rate.
 4 And I named some herbal COX-2 inhibitors and
 5 perhaps even introduced a formula, which I called
 6 "Courage Celery," that showed up in some of my things,
 7 which contains several herbal COX-2 inhibitors, and
 8 COX-2 inhibition was being promoted off label for those
 9 days for Celebrex and Vioxx for the prevention of
 10 prostate cancer.
 11 And I said, well, if herbal COX-2 inhibitors are
 12 safer and as efficacious as the pharmaceutical COX-2
 13 inhibitors, one of which is permanently recalled now,
 14 then I would go with dietary herbal COX-2 inhibitors or
 15 foods that are approved by the FDA. And that would,
 16 again, include turmeric, which is a COX-2 inhibitor.
 17 The curcumin is a COX-2 inhibitor.
 18 **Q. Do you go in the lab and actually do the work**
 19 **on -- under a microscope or in Petrie dishes to**
 20 **determine COX-2 inhibition and those types of things?**
 21 A. I do not. I'm a compiler.
 22 **Q. Okay.**
 23 A. I grow the herbs, and I have used the microscope
 24 in the identification of the herb, but not in clinical
 25 or chemical studies. I have sponsored some chemical

50

1 analyses when I find that there's a given compound
 2 that's very rich in certain activities. I have talked
 3 people into analyzing things that I'm growing in my
 4 garden so I'll know how much is in the specimen in my
 5 garden. It's a living voucher of the level of certain
 6 chemicals.
 7 **Q. Can you turn to the page numbered 223?**
 8 A. Okay.
 9 **Q. The fifth entry on page 223 of Exhibit 3**
 10 **references a program, "the Second Annual Johns Hopkins**
 11 **CME Program; Current Concepts in Complementary and**
 12 **Alternative Medicine" --**
 13 A. Excuse me. What page?
 14 **Q. 223.**
 15 A. Oh, I'm on the wrong page.
 16 **Q. I'm sorry.**
 17 A. Yes.
 18 **Q. The Hopkins entry.**
 19 A. Right.
 20 **Q. Did you present a paper there?**
 21 A. I presented a paper there, and I believe they
 22 toured my garden another day during that conference.
 23 **Q. CME, continuing medical education, is that what**
 24 **that reference means?**
 25 A. Yes.

51

1 **Q. Okay. And then "evidence based medicine," what**
 2 **does that phrase mean?**
 3 A. That is largely an allopathic term which I am
 4 bringing over to the herbal world by accumulating all
 5 the evidence I can that would indicate that the herb is
 6 competitive with the pharmaceutical. But it was first
 7 used by the allopaths to sort of deride us herbalists.
 8 **Q. We have mentioned the curcumin study from the**
 9 **Anderson Institute and we've talked about three or four**
 10 **pharmaceuticals, Taxol, Etoposide, the Madagascar**
 11 **periwinkle, and the Campto --**
 12 A. Camptothecin.
 13 **Q. I'm sorry. I can't pronounce it. All of those**
 14 **involved herbs ultimately possibly resulting in**
 15 **pharmaceuticals and going through clinical trials. Are**
 16 **there other herbs that you can think of that have gone**
 17 **through clinical trials regarding the treatment of**
 18 **cancer?**
 19 A. If I could refer to the --
 20 **Q. You need to look at the MAM?**
 21 A. -- the Indications Evaluations.
 22 **Q. Okay. We'll --**
 23 A. The MAM wouldn't tell me -- it would just tell
 24 me what should be investigated. That's what the MAM
 25 tells me. But the indications with my scores tell me

52

1 which have been suggested for cancer, either based on --
 2 it would have a 2, based on either Commission E, Tramil,
 3 or clinical trials.
 4 **Q. Okay.**
 5 A. And I would have to fish to -- fish out which is
 6 really based on the clinical trial as opposed to that
 7 approval. That's the fault in my system that I can't
 8 correct this late in the game.
 9 MR. GORDON: Let's go off the record.
 10 (Discussion off the record.)
 11 BY MR. GORDON:
 12 **Q. Page 224 of Exhibit 3 in your CV, there's a**
 13 **reference to a Townsend Letter, the fifth line down --**
 14 **fifth entry down. I'm sorry. Ask Your Doctor?**
 15 A. Yes.
 16 **Q. What was that? Was that an article? Was that a**
 17 **letter?**
 18 MR. TURNER: Excuse me. Just for the purposes
 19 of the record, can we just read the thing he's referring
 20 to?
 21 BY MR. GORDON:
 22 **Q. Sure. It's on page 224 of Exhibit 3. It's**
 23 **dated 2008, "Ask Your Doctor (for evidence based**
 24 **medicine) Townsend Letter January 2008, page 105."**
 25 A. Whenever I have a rant that I can't get

1 published anywhere else, the Townsend Letter will
2 usually accept it, and this was probably one of my MAMs.
3 I would have to refer back to it, and I don't even keep
4 the journal, but it -- and they have published one or
5 two of my Multiple Activity Menus with the suggestion
6 that these herbs should be compared with competing
7 pharmaceuticals.

8 And there, I am using the allopathic
9 evidence-based medicine, because I'm -- probably in that
10 I point out that Celebrex and Vioxx were recalled after
11 less than ten years, both for relabeling and one
12 permanently. I don't remember which rant that is,
13 though.

14 **Q. What is the Townsend Letter?**

15 A. It's a monthly journal coming out of California
16 that is largely a naturopathic, homeopathic, and
17 herbalistic, as opposed to allopathic. A rather slick
18 journal.

19 **Q. I'm sorry?**

20 A. A rather shiny journal and a big one.

21 **Q. Okay.**

22 A. But I would suggest not peer-reviewed.

23 **Q. You already answered my next question.**

24 **Your CV is chock full with an impressive array
25 of publications. Have you ever written an article in a**

1 **Q. It is?**

2 A. Herbalgram is now peer-reviewed. It was not in
3 1988 -- '98 when I published -- first published on
4 turmeric.

5 **Q. Have you ever tried to measure in a
6 statistically significant way the efficacy of an herb in
7 the treatment of cancer?**

8 A. I have what I call a fractionated MAM, which
9 tells you roughly -- I would say yes.

10 **Q. Okay. And describe that for me.**

11 A. Okay, I will answer that question now. The
12 fractionated MAM approximates how many anticancer
13 activities are reported in the database at the USDA that
14 could help with cancer, and you count those activities,
15 and then you divide those by the number of species --
16 chemicals reported, and that would give you a rough
17 estimate, first approximation, of which should be
18 analyzed, should be checked out for cancer, unless --
19 like turmeric, it ranks number five in one of the Daniel
20 Chapter herbs.

21 **Q. How about measuring the efficacy of herbs as a
22 treatment for cancer in a controlled patient population?
23 Have you ever done anything like that?**

24 A. No.

25 MR. GORDON: Let's take a quick break.

1 **peer-reviewed journal that discussed the efficacy of an
2 herb in treating cancer?**

3 A. I would suggest I have danced around that in
4 several of my articles in either the blue or the green
5 journal, Complementary and Alternative Therapies and
6 Complementary and Alternative -- something. One is blue
7 and one is green.

8 But I frequently will go through -- I did go
9 through turmeric, I think, and talked about how it was
10 competitive with pharmaceuticals, as far as I was
11 concerned, and gave my evidence and suggested that.

12 Whether or not they are peer-reviewed, I'm not
13 sure. Herbalgram is peer-reviewed, and I first
14 published on turmeric in Herbalgram in 1998, I believe
15 it was, and probably even had some hints at anticancer
16 activity back in 1998.

17 **Q. You lost me with the blue and the green
18 journals. What --**

19 A. One is called Complementary and Alternative
20 Medicine, I don't know whether it's the green or the
21 blue, and the other one is Complementary and Alternative
22 Therapies, and I have both, but I just sent my copies
23 off to the Tai Sophia Healing Institute Library last
24 week. But I appear in those off and on. Whether they
25 are peer-reviewed, I don't know. Herbalgram is.

1 (A brief recess was taken.)

2 BY MR. GORDON:

3 **Q. Dr. Duke, just a couple of cleanup questions.
4 You are not a medical doctor, correct?**

5 A. Correct.

6 **Q. Not licensed to practice medicine in any state,
7 correct?**

8 A. Correct.

9 **Q. Not a board-certified oncologist, correct?**

10 A. I am not.

11 **Q. Have you ever published any articles in any
12 peer-reviewed medical journals?**

13 A. I don't recall. I've submitted a few to JAMA,
14 but I don't think they were ever accepted.

15 **Q. Okay.**

16 (Duke Deposition Exhibit Number 4, Report of
17 Expert Witness James Duke, was marked for
18 identification.)

19 (Duke Deposition Exhibit Number 5, Appendices to
20 Report of Expert Witness James Duke, was marked for
21 identification.)

22 (Duke Deposition Exhibit Number 6, MAMs for the
23 16 DCO Herbs, was marked for identification.)

24 (Duke Deposition Exhibit Number 7, Corrected
25 Substitute Section V.I.A, was marked for

57

1 identification.)
 2 BY MR. GORDON:
 3 Q. The court reporter has marked four exhibits.
 4 Let me just make sure we understand them for the record.
 5 Number 4 is the expert report that we were
 6 provided on February 4th. Does that look familiar to
 7 you, Mr. Duke -- Dr. Duke?
 8 A. Yes.
 9 Q. Who typed this up, you or the folks at Swankin &
 10 Turner?
 11 A. I submitted email to Turner's office, and they,
 12 in turn, typed it up per my email. That's my
 13 assumption.
 14 Q. Okay. Did you review what's now been marked as
 15 Exhibit 4 in its final form before it was sent to the
 16 FTC?
 17 A. I was provided a copy and did glance at it, yes,
 18 an email copy.
 19 Q. Okay. Exhibit 5 are appendices to Exhibit 4.
 20 Appendix 1 is additional material relied on; then
 21 Exhibit 2 is labeled "MAMs for" --
 22 A. Exhibit what?
 23 Q. Appendix 2.
 24 MR. TURNER: Here, Appendix 2.
 25 THE WITNESS: Oh, okay.

58

1 MR. TURNER: This page 1 is there.
 2 BY MR. GORDON:
 3 Q. And then Appendix 2 is on the next page.
 4 A. Okay.
 5 Q. Then on page 18 starts Appendix 3, "Herb-Drug
 6 Comparisons"; and on page 22 of Exhibit 5 are Appendices
 7 4 and 5, "Additional Herb/Drug Contrasts."
 8 Does this all look familiar to you as
 9 information you provided to Mr. Turner's office?
 10 A. Yes.
 11 Q. Okay. Now, Exhibit 6 and Exhibit 7 are data
 12 received -- I think we received Exhibit 6 on Friday and
 13 Exhibit 7 we received today, and I'd like you, if you
 14 can, sir, to tell me -- to make sure I understand what 6
 15 and 7 change in 4 and 5.
 16 A. Somewhere within the last three days, I realized
 17 that the MAMs had not been included in the appendices.
 18 Instead, they had included what we call the IEs, the
 19 Indications Evaluations.
 20 Q. We've covered this a little bit, but I just want
 21 to make sure. Define "MAM" for me, as you use that
 22 term.
 23 A. Right. That is my term of about five years now,
 24 plus or minus, Multiple Activities Menu.
 25 Q. And the significance of a Multiple Activities

59

1 Menu is what?
 2 A. I chose that terminology -- well, the
 3 significance is it lists the chemicals reported for a
 4 given herb that have some indications that would help
 5 prevent or treat cancer, at least according to the
 6 literature on those chemicals.
 7 Q. And then the IE stands for what?
 8 A. Indications Evaluations.
 9 Q. And what is that supposed to measure?
 10 A. That is where, as I've gone through all these
 11 abstracts over the years, I've scored for a given
 12 indication. If it's folklore and that's all I have, it
 13 would receive an "F"; if it has a chemical or an
 14 epidemiological or an animal or an in vitro evidence,
 15 I've given it a 1; and then the 2, as we mentioned
 16 earlier, that means it's either been clinically
 17 approved -- an extract of the plant has been clinically
 18 approved or it's been approved by the Commission E or
 19 the Tramil Commission for that indication. These are
 20 lines of evidence that point to me which ones are most
 21 important and should be studied for cancer.
 22 Q. Can you turn back now to Exhibit 4, your
 23 February 4th report?
 24 A. Right.
 25 Q. And under "Scope of Work," it says, "Review and

60

1 offer opinions supported by evidence and experience on
 2 the ingredients of the challenged products; to review
 3 the science of herbal efficacy; and to clarify the
 4 complex nature of herbal science's -- herbal science
 5 versus the relatively simple science of
 6 pharmaceuticals."
 7 Could you explain what you mean by the phrase
 8 "science of herbal efficacy"?
 9 A. I mean the documented evidence of efficacy in
 10 scientific publications.
 11 Q. And it appears that from Exhibit 4 that you view
 12 that science as more complex than the relatively simple
 13 science of pharmaceuticals? Is that correct?
 14 A. Amen.
 15 Q. Why so?
 16 A. Because the pharmaceutical is usually a single
 17 compound, and the herb, as we've learned from the people
 18 in Florida, usually contains about 5000 nameable
 19 entities. And it's easy to test one, single compound.
 20 At one point, the FDA required that you prove all the
 21 chemicals in a plant safe and efficacious. So, that's
 22 astronomically more complex if that still maintains.
 23 Q. Is it possible to test herbal efficacy by
 24 isolating one chemical at a time?
 25 A. That does not prove that the chemical -- that

61

1 the herb, the whole herb, is effective.

2 **Q. Would it be possible to conduct clinical trials**

3 **on herbal medicine?**

4 A. I say yes.

5 **Q. But do all herbalists agree with you?**

6 A. No. Most of them say it's ridiculous to waste

7 your money because it's better than the pharmaceutical.

8 Herbalists.

9 **Q. Herbalists, and that's -- the herbalists are so**

10 **convinced their product is superior, they don't even**

11 **think it needs to be tested? Is that what they're**

12 **saying?**

13 A. I think some herbalists believe that. Some of

14 us are skeptical and look for the evidence and would

15 like to see it in clinical trials, compared with the

16 pharmaceutical. That's been my goal for at least ten

17 years. I even argued in Congress for that.

18 **Q. Why hasn't that happened?**

19 A. I like to attribute it to big pharma being

20 afraid of that happening, because in many cases, when we

21 finally get around to comparing the herbal with the

22 pharmaceutical, the herb proves best, as in the case in

23 2002 with St. John's Wort. St. John's Wort, the press

24 told us, was no better than a placebo against Zolofit,

25 but the same article in JAMA showed that Zolofit was

62

1 inferior to the St. John's Wort, and neither be placebo.

2 **Q. You're talking about the Duke study on this?**

3 A. Pardon?

4 **Q. It was Duke University, not James Duke. I'm**

5 **sorry.**

6 A. Yes. That's James B. Duke.

7 **Q. But, you know, Exhibit 1 does have a clinical**

8 **study of an herb. It can be done.**

9 A. No. It's a clinical study of curcuminoids.

10 **Q. Okay. So, they were extracted from the plant?**

11 A. Yes.

12 **Q. Okay.**

13 A. And that would only get a 1 in my book, because

14 that's just three chemicals out of the 5000. For it to

15 get a 2, it has to be the whole herb or the

16 unconcentrated extract. So, that would only get a 1 in

17 my scoring system. I entered it yesterday into my

18 database, but it will not be on the USDA database for

19 six months, at best.

20 **Q. Why the delay?**

21 A. My assistant is in New Zealand --

22 **Q. Ah.**

23 A. -- and her computer is broken down. And the

24 USDA is not always anxious to take the data. We have to

25 catch them in a receptive mood. They love the database,

63

1 but changing it occupies their time.

2 **Q. All right. Looking at your report -- I'm sorry.**

3 **Who developed the scope of the work? Was that**

4 **something that you developed or was that something that**

5 **Mr. Turner said, "Here's what we want you to do"?**

6 A. That was developed by Mr. Turner.

7 **Q. Turning to page 3 of your report, which is**

8 **Exhibit 4, there are three opinions there: One**

9 **regarding 7-Herb Formula; one regarding GDU; and one**

10 **regarding BioMixx. If we look at Exhibit --**

11 A. What page?

12 **Q. I'm on page 3, under Roman numeral IV of Exhibit**

13 **4.**

14 A. Okay.

15 **Q. Let me rephrase. On page 3 of Exhibit 4, under**

16 **the heading Roman numeral IV, "Summary of Opinion,"**

17 **there are three opinions there: One regarding 7-Herb**

18 **Formula; one regarding GDU; and one regarding BioMixx.**

19 **I note that on the list of products that**

20 **Mr. Turner sent you, which is Exhibit 2, there's**

21 **BioShark, and you don't appear to be offering any**

22 **opinions on BioShark. I just want to confirm that you**

23 **are not going to be offering opinions on BioShark.**

24 A. Because the major ingredient is an animal, and I

25 don't deal in animals. I presume that's the reason. I

64

1 was not asked an opinion.

2 **Q. Do you have an opinion on the efficacy of shark**

3 **cartilage in treating or curing cancer?**

4 A. I do.

5 **Q. And what is that opinion?**

6 A. I don't think highly of the studies that have

7 been published on shark --

8 **Q. On shark cartilage?**

9 A. -- shark cartilage.

10 **Q. Why is that?**

11 A. I don't think they've been very well accepted.

12 **Q. By? You say well accepted. By whom?**

13 A. The allopaths. And frankly, I didn't -- I was

14 not convinced of the efficacy of the shark cartilage in

15 the studies that I read.

16 **Q. Do you recall --**

17 A. And I'm glad I didn't have to offer that

18 opinion. The herbs are quite good, though.

19 **Q. Okay. In drafting this summary of opinion, who**

20 **drafted that? Was that you or was that Mr. Turner?**

21 A. Mr. Turner, after consulting with me over the

22 phone.

23 **Q. Okay. The phrase "reasonable basis," can you**

24 **explain what's meant by that?**

25 A. Yes. It's quite reasonable to believe that

65	<p>1 three of the best herbal immunostimulants can boost the 2 immune system.</p> <p>3 Q. So, you're talking about for -- is that true 4 for -- when you say three of the best, are you talking 5 about the three products that are referenced here or are 6 you talking about just the -- some of the constituents 7 of one of those three products?</p> <p>8 A. Let me see BioMixx here. If you have this?</p> <p>9 Q. I have it right in front of me.</p> <p>10 A. Okay. The BioMixx contains Astragalus 11 membranaceus, which is widely sold and accepted as an 12 immune modulator. True also of Eleutherococcus 13 senticosus, which is a poor man's ginseng sold to boost 14 the immune system. And in my database, the garlic has 15 over 12 immune-boosting chemicals named in the 16 literature.</p> <p>17 So, those three alone make it a very promising 18 immune modulator, and we, in the herbal community, think 19 that's almost as important as killing the cancer.</p> <p>20 Q. Why?</p> <p>21 A. Because you're fighting the cancer, and your 22 pharmaceuticals lower the immune system, which makes you 23 more susceptible to the cancer. By boosting the immune 24 system, you're enabling your body to fight back.</p> <p>25 Q. And the conclusion that these elements boost the</p>	67
66	<p>1 immune system is based on what?</p> <p>2 A. The chemical studies in the literature.</p> <p>3 Q. Any clinical trials that you're aware of?</p> <p>4 A. I -- I bet I could find some, but I can't recall 5 any right now.</p> <p>6 Q. Okay. And when you were ticking off the 7 ingredients of BioMixx, you were referencing the 8 subparts of D on Exhibit 2, correct?</p> <p>9 A. Yes, except for whey, which I claim no expertise 10 in, and Colustrum, which I claim no expertise in.</p> <p>11 Q. Right.</p> <p>12 A. I do maintain that Selenium has proven 13 epidemiologically to prevent the three cancers to which 14 I'm most liable. They are lung cancer, because of a 15 90-pack-year habit; they are prostate cancer, because 16 I'm a male; and they are colon cancer, because my dad 17 and two of his brothers died of colon cancer at age 65. 18 That's why I didn't retire until I was 66.</p> <p>19 Q. Does the amount of these elements in a 20 particular product make a difference?</p> <p>21 A. Certainly.</p> <p>22 Q. How do you determine what is the appropriate 23 amount?</p> <p>24 A. By the analysis of the chemical constituents, 25 how much is in the given herb, and if you wanted to</p>	68
65	<p>1 strengthen a particular chemical, some of these are 2 shared by all three of those. For example, quercetin, 3 named in another family, occurs in all plants, but it's 4 most abundant in the garlic family, so that would help 5 there.</p> <p>6 Q. But if someone was going to take BioMixx to 7 treat cancer, how is it determined how much that person 8 should take?</p> <p>9 A. That person -- I don't know how it was 10 determined by BioMixx, but if it were me, there would be 11 different plants there, and I would use the quantitative 12 amount of the various chemicals, especially those that 13 have been proven synergistic, and that has been proven 14 in many cases.</p> <p>15 And then we would -- we would try to get a tasty 16 combination, because, again, liking your medicine, it is 17 more liable to help you than getting a medicine that you 18 dislike. That's unproven. That's Duke's speculation. 19 That's mind-body.</p> <p>20 I have been asked on occasion to formulate 21 products, and I say I'm afraid of the efficacy, so I 22 would -- here's the herbs that I would use, and I'll let 23 you take it from there.</p> <p>24 Q. So, you're not able to express opinions on sort 25 of what the minimum dosage would be necessary to achieve</p>	67
66	<p>1 cancer-fighting?</p> <p>2 A. Yes. I could speculate on that.</p> <p>3 Q. Okay.</p> <p>4 A. But you always -- among those 5000 chemicals, 5 there are antagonisms, additive reactions, or 6 synergistic reactions, and we haven't studied all 5000, 7 and we're not going to study all 5000. Therefore, we 8 are getting close to the pharmaceutical world in proving 9 a single compound, curcumin, or the three curcuminoids 10 named in the Herbalgram, because we can get clinical 11 trials for those if we narrow this -- what's the word? 12 -- chaotic interaction of 5000 biologically active 13 chemicals in the herb. You compare the whole herb.</p> <p>14 Now, I have not argued myself for mixtures of 15 herbs, but the Chinese have long used mixed herbs, and 16 sometimes they have compared them with single herbs and 17 gotten synergies proven.</p> <p>18 Q. Do you have an opinion whether 7 Herb Formula is 19 effective in the treatment or cure of cancer?</p> <p>20 A. Five of those -- four or five of those 21 ingredients are in a formula called the Essiac formula, 22 of which there are have been some positive and negative 23 studies, but I have seen proven activity of Burdock 24 lignans against lymphoma, for example, and then the 25 others of these -- your question was do I have an</p>	68

69	71
<p>1 opinion?</p> <p>2 Q. Yes.</p> <p>3 A. Yes.</p> <p>4 Q. What is your opinion?</p> <p>5 A. My opinion is that this is probably as good as</p> <p>6 most pharmaceuticals for the prevention of cancer and</p> <p>7 perhaps for the treatment of cancer.</p> <p>8 Q. Why the --</p> <p>9 A. Pharmaceuticals have a lousy track record, just</p> <p>10 as shown in that Herbalgram paper.</p> <p>11 Q. Why do you say that pharmaceuticals have a lousy</p> <p>12 track record in the treatment of cancer?</p> <p>13 A. That's what the world knows. That's just my</p> <p>14 general opinion.</p> <p>15 Q. Is it your --</p> <p>16 A. I've been involved with this war on cancer for</p> <p>17 only five years, but we're still not gaining. We're</p> <p>18 giving much more expensive pharmaceuticals that are</p> <p>19 rigged trials, is my belief.</p> <p>20 Q. Your belief. Do you have any understanding</p> <p>21 what's happened to the life expectancy of people that</p> <p>22 are diagnosed with cancer in the last 25 years?</p> <p>23 A. Yes. In 2002, one of my major observations was</p> <p>24 that when they took away the pharmaceutical HRT, the</p> <p>25 incidence of breast cancer started going up -- down.</p>	<p>1 Q. Do you have an understanding of how much of the</p> <p>2 various components of 7 Herb Formula a person would have</p> <p>3 to take in order to effectively treat their cancer?</p> <p>4 In other words, how much of Burdock? how much of</p> <p>5 sheep sorrell? how much of Siberian ginseng?</p> <p>6 A. I could, in some cases, give you the dosage of a</p> <p>7 single herb. I have not gathered evidence for</p> <p>8 multiple-herb formulations. But I could tell you how</p> <p>9 much Burdock it would take to prevent a lymphoma or to</p> <p>10 arrest a lymphoma in vitro. This does not carry over to</p> <p>11 human. I could tell you how much -- how much of the</p> <p>12 anticancer compounds in Nasturtium it would take in in</p> <p>13 vitro studies to arrest the development of the tumor.</p> <p>14 That's all I can do.</p> <p>15 Q. And you understand that there's a difference</p> <p>16 between --</p> <p>17 A. I certainly do.</p> <p>18 Q. Remember the first rule. You have got to let me</p> <p>19 finish. I'm guilty of it, too. Don't worry.</p> <p>20 You understand there's a difference between</p> <p>21 something being efficacious in an in vitro study and</p> <p>22 something being efficacious in human beings?</p> <p>23 A. I do, and that's why the 1 and 2 are in my</p> <p>24 Indications Evaluations.</p> <p>25 Q. To the extent you're able, for, say, Burdock,</p>
70	72
<p>1 Down. And I think early diagnosis is more to be</p> <p>2 attributed than pharmacy to the -- to this increased</p> <p>3 life expectancy.</p> <p>4 Q. But you acknowledge that life expectancy over</p> <p>5 the last 25 years has improved for --</p> <p>6 A. I don't know that for a fact.</p> <p>7 Q. You don't --</p> <p>8 A. But it wouldn't surprise me. Certainly I know</p> <p>9 the NCI grabs for such figures, and they might even</p> <p>10 manipulate their figures to show that.</p> <p>11 Q. Do you have any basis for saying the NCI</p> <p>12 manipulates their figures, other than your subjective</p> <p>13 belief?</p> <p>14 A. Only in regard to the one study of Laetrile, and</p> <p>15 that's not NCI.</p> <p>16 Q. And what's the story behind the Laetrile that</p> <p>17 gives you suspicion?</p> <p>18 A. The -- the cancer agency that published that, it</p> <p>19 was shown in the literature, at least that was available</p> <p>20 to me, to be rigged to make Laetrile look worse than it</p> <p>21 was.</p> <p>22 Q. What agency was that?</p> <p>23 A. I can't recall.</p> <p>24 Q. And what publication did you read that in?</p> <p>25 A. I can't recall.</p>	<p>1 how much in vitro -- how much -- what's your</p> <p>2 understanding of how much in vitro would be necessary to</p> <p>3 eliminate cancer?</p> <p>4 A. I have no idea. I would have to go to my -- my</p> <p>5 computer and my library, but I think the data would tell</p> <p>6 me how much the two antilymphomic chemicals it would</p> <p>7 take to arrest it in vitro, and I know the hazards of</p> <p>8 transposing data from in vitro to in homo.</p> <p>9 Q. And I assume your answer would be the same for</p> <p>10 the remaining ingredients in 7 Herb Formula?</p> <p>11 A. What was the question?</p> <p>12 Q. How much would be necessary to eliminate a tumor</p> <p>13 or cancer?</p> <p>14 A. I -- I suspect I could come up with positive</p> <p>15 numbers based on the same assumption, that the in</p> <p>16 vitro -- which is a bad assumption -- in vitro could</p> <p>17 relate to in homo. I think there's a lot of data on the</p> <p>18 Nasturtium and a lot of new data on the Uncaria, and</p> <p>19 then there's that weak Essiac data, which is not</p> <p>20 quantified to the best of my knowledge. So, my answer</p> <p>21 would be I could work out suggestions based on the</p> <p>22 chemistry, but that would not apply to the whole</p> <p>23 formula.</p> <p>24 Q. Earlier you had mentioned that sometimes these</p> <p>25 chemicals have synergistic effects and sometimes they</p>

1 have antagonistic effects.
 2 A. Right.
 3 **Q. Do you have any understanding of how the**
 4 **constituents in 7 Herb Formula might interact with each**
 5 **other in the treatment of cancer?**
 6 A. I understand that four of them, in their own
 7 formula, called the Essiac formula, have had both
 8 positive and negative trials published in PubMed.
 9 **Q. Beyond that, any further opinions as to how**
 10 **these elements might interact regarding efficacy?**
 11 A. I would bet on them. That's all I could do.
 12 Speculation.
 13 **Q. How familiar are you with the process from when**
 14 **you take the herb in a garden to it's sold in a powder**
 15 **or a tablet?**
 16 A. I have seen Nature's Herbs' incoming herb and
 17 going through the mill. I have seen that at GAIA. And
 18 I don't really care to see any more, but there's a lot
 19 can happen to an herb between the garden and the
 20 receiver.
 21 **Q. Such as?**
 22 A. Evaporation, contamination, pathogenic invasion.
 23 **Q. What does that mean?**
 24 A. A fungus might -- a fungal spore might -- might
 25 land on an improperly dried specimen, and it might

1 And I attribute it to the Zyflamend, which does
 2 contain the natural COX-2 inhibitor curcumin, which we
 3 have talked about a lot today, among other
 4 anti-inflammatories. Mostly COX-2 inhibitors, herbal
 5 COX-2 inhibitors, safe COX-2 inhibitors.
 6 **Q. The support for the notion that 7 Herb Formula**
 7 **would inhibit tumor formation, the backup for that, is**
 8 **that reflected in your various appendices?**
 9 A. Yes. The IEs will tell you what scores they
 10 attained in various trials, and if it gets a 2 there, I
 11 figure that's equivalent to a pharmaceutical. I don't
 12 think there will be many 2s there.
 13 And the MAM compilation will tell you what my
 14 database said and could say right now if we accessed it,
 15 which chemicals within each of these seven species have
 16 been shown in vitro or however to arrest or improve or
 17 prevent cancer.
 18 **Q. On the in vitro tests that you referenced, what**
 19 **goes in vitro? I mean, is it an element of the herb or**
 20 **is it the whole herb?**
 21 A. They will actually have a tumor growing in a
 22 medium, and they will introduce known levels of these
 23 chemicals and report the effective dose to lower it 50
 24 percent or some such pharmacological term, but it's on a
 25 phytochemical that your genes have known for millions of

1 germinate, and it might produce aflatoxin, for example,
 2 which is carcinogenic.
 3 **Q. When you recommend to folks that they take**
 4 **various herbs, do you recommend they take them in a**
 5 **natural state or in a processed state?**
 6 A. Both. In some cases, I recommend a highly
 7 respected and one brand that has been studied, not
 8 necessarily clinically but close to clinically, and in
 9 others, I say, "Come to my garden and pick it yourself."
 10 If you wanted to ask about a given herb, I might
 11 have a strong feeling, but I usually don't have any
 12 strong feeling. And it's hard to know which herb
 13 company has maintained the same standards for the last
 14 ten years.
 15 **Q. Which herb -- I'm sorry.**
 16 A. Excuse me. I'm sorry.
 17 **Q. Which herb company is it that you recommend?**
 18 A. New Chapter I recommend, because I take it, and
 19 it has replaced celery seed for me in the prevention of
 20 gout. Celery seed prevented gout in me, Nature's Herb
 21 celery seed, for close to ten years, and then when I
 22 tried the Zyflamend that I mentioned once today, I found
 23 that by experimenting with it myself, it also prevented
 24 the crisis of gout. And if you have had gout, that's a
 25 very serious problem.

1 years instead of a pharmaceutical that your genes have
 2 only known 150 years, at most.
 3 **Q. But it's an extract of the herb; it's not --**
 4 A. It can be a pure chemical; it can be an extract.
 5 The pure chemical would get just a 1 in my database, and
 6 the extract, if it's rather whole, an aqueous extract,
 7 that would get a 2 in my database if it arrested that
 8 tumor, but the 2 is only for clinical trials with that
 9 extract. The in vitro would only get it a 1.
 10 **Q. And we've talked about this a little bit, but**
 11 **the difference between in vitro trials and clinical**
 12 **trials is because the liver breaks down some of these**
 13 **chemicals and they don't ever get to the tumor?**
 14 A. Rephrase, please.
 15 **Q. Sure. Well, in your opinion, why are the in**
 16 **vitro studies not a good proxy for human studies?**
 17 A. I think they should be followed by human studies
 18 of the whole herb. I -- I -- in vitro is a start in the
 19 right direction, especially if it's a natural
 20 pharmaceutical -- a natural chemical rather than a
 21 synthetic chemical, which your genes don't know.
 22 **Q. But why is the in vitro testing not enough?**
 23 A. Because of the FDA and FTC.
 24 **Q. But for the FDA and the FTC, you think in vitro**
 25 **testing would be sufficient to demonstrate the efficacy**

77

1 of these products?
 2 A. I do not.
 3 **Q. Why not?**
 4 A. Because I don't even believe that they prove the
 5 efficacy of the whole product myself. It proves the --
 6 the single compound. If it's -- if it's an extract, I
 7 believe that's -- just in vitro, you have to prove that
 8 an extract works in humans to meet FDA and FTC
 9 requirements, as I recall.
 10 **Q. But how about as a matter of science? If the**
 11 **extract works in vitro, do you think that proves that it**
 12 **would work in a human?**
 13 A. I do not.
 14 **Q. Why not?**
 15 A. You have to try it in a human to get proof
 16 acceptable to the FDA and the FTC.
 17 **Q. But assume the FDA and the FTC don't exist for a**
 18 **second. I want to know, as a matter of science,**
 19 **whether, if the extract works in vitro, that proves that**
 20 **it will work in humans.**
 21 A. It does not. That is why I recommended for ten
 22 years the third-arm trial where the whole plant or an
 23 extract thereof is compared with a competing
 24 pharmaceutical. In the cases that I review, about 50
 25 percent of the cases, the whole herb or extract is

78

1 superior to the pharmaceutical and cheaper and safer.
 2 That's science.
 3 **Q. As to GDU, do you have an opinion as to whether**
 4 **GDU eliminates tumors?**
 5 A. I know there have been studies on turmeric that
 6 prove that it can kill tumors in vitro. I know that
 7 Bromelain has some studies and does dissolve protein,
 8 including proteins of cancers. And I think quercetin, a
 9 rather ubiquitous compound, has some proven activities.
 10 And the Feverfew, more well-known for helping migraines,
 11 does contain several antitumor compounds, which would be
 12 listed. I have no comment on the boron.
 13 **Q. Why not?**
 14 A. It's a -- it's not one of my phytochemicals,
 15 although it does occur in all living organisms, I
 16 suppose, including plants. But I deal with the non --
 17 the phytochemicals as opposed to the minerals.
 18 **Q. Do you know how much of any of these elements**
 19 **that are in GDU are actually in the product sold by**
 20 **Daniel Chapter One?**
 21 A. I do not.
 22 **Q. Is that true for the 7 Herb Formula and the**
 23 **BioMixx, as well?**
 24 A. Yes.
 25 MR. TURNER: I want to object now, just a

79

1 general objection to any opinions that he's offered that
 2 are outside his report.
 3 MR. GORDON: Okay.
 4 BY MR. GORDON:
 5 **Q. For BioMixx, how does BioMixx help the body**
 6 **fight cancer?**
 7 A. I think the answers are in the appendices.
 8 **Q. Okay. Let me just go to --**
 9 A. At least for the herbs. And Selenium has got a
 10 good track record, which I don't think is included in
 11 the report, but I can email that to those of interest.
 12 I have nothing to say about Colustrum and whey protein.
 13 That's out of my domain. But those herbs -- those five
 14 herbs there are all good in many directions and well
 15 recognized as such in the herbal community.
 16 **Q. Moving to Roman V of Exhibit 4 on page 3 --**
 17 A. Page 5?
 18 **Q. No, Roman numeral V on page 3.**
 19 A. Okay.
 20 **Q. You state that you base your conclusions from**
 21 **your experience and knowledge on three analytical**
 22 **points, and the first is, "Herbal based and nutritional**
 23 **food information can be drawn from the Bible."**
 24 **What is the significance of the Bible to the**
 25 **opinions you're expressing?**

80

1 A. The Bible mentions, for example, I believe it
 2 was Leah who got her friend pregnant or enabled her to
 3 conceive with a contraceptive -- not contraceptive, the
 4 aphrodisiac called mandrake. The Bible mentions that
 5 Solomon cured or treated his boils with the proteolytic
 6 juice of the fig. And that --
 7 **Q. Those words, "proteolytic juice," are in the**
 8 **Bible?**
 9 A. Yeah.
 10 **Q. Okay.**
 11 A. No, no, no. He used fig juice to treat his
 12 boil. And Daniel 1:2, which I've more recently
 13 reviewed -- 1:12, talks about a clinical comparison of
 14 vegetarianism with carnivorousism and wine versus water. I
 15 think that our modern society believes that meat and
 16 wine are negative from a cancer point of view, and
 17 legumes, like soybeans and the Biblical legumes,
 18 Fenugreek, chickpea, lentil, and fava beans, all contain
 19 estrogen in this case -- phytoestrogenic compounds that
 20 will -- at least have been shown to help cancer,
 21 specifically, genistein.
 22 **Q. Is there any place in the Bible where there's**
 23 **reference to consuming certain herbs to fight cancer, or**
 24 **is that an inference that you're making?**
 25 A. I don't think the word "cancer" shows up in the

81

1 Bible. I have it online at home and could check, but I
 2 predict it won't be there.
 3 However, there have been interpretations of
 4 gangrenous sores as tumors. I have a book by Jonathan
 5 Hartwell of the National Cancer Institute, Folklore
 6 Against Cancer, with over 3000 plants, and that will be
 7 referenced in the evidence as "f," folklore.
 8 **Q. But it's a matter of inference that you're**
 9 **drawing from the Bible to support the notion that these**
 10 **herbs can be effective in the treatment of cancer?**
 11 A. Boils was specifically one of Dr. Hartwell's, at
 12 NCI, words for -- if -- he would include boil in his
 13 index of folkloric cancer. There's a lot of words you
 14 and I have never heard of he interpreted as cancer.
 15 **Q. Well, how about you?**
 16 A. I would not normally interpret boil as a cancer.
 17 **Q. Your third point under Roman V is I think what**
 18 **you referred to earlier as your third-arm approach.**
 19 **Could you describe what you mean by the third arm?**
 20 A. With pleasure. The third arm would compare a
 21 given herb with a given pharmaceutical and placebo,
 22 except here, for a change, we're including the herb.
 23 That's the third arm.
 24 **Q. Has that approach been followed, to your**
 25 **knowledge?**

82

1 A. I have a poem about -- yes. The St. John's Wort
 2 trial had a placebo and Zolof, the pharmaceutical, and
 3 the pharmaceutical did -- had more side effects than the
 4 St. John's Wort did. Both were inferior to placebo,
 5 because the design of the study had been changed from
 6 mild to moderate depression to major depression, and
 7 neither herb nor pharmaceutical was better than placebo.
 8 **Q. Any other studies that you are aware of where**
 9 **the herb, the pharmaceutical, and a placebo were studied**
 10 **in a side-by-side manner?**
 11 A. No. For example, milk thistle should be
 12 compared with interferon and placebo. Both have beat
 13 placebo, but they have not been in the same -- that's
 14 where we're going to find the truth. I want the best
 15 for myself and my family, be it synthetic or be it
 16 herbal. We don't know which is best until they are
 17 clinically compared, I confess.
 18 **Q. Why aren't there more studies like the study**
 19 **from the Anderson Center that we referenced in Exhibit**
 20 **1?**
 21 A. The biggest figure I've seen is \$1.7 billion to
 22 prove a new drug safe and efficacious, and that's
 23 usually the single compound. I've been following that
 24 since it was \$50 million. Through the years I've seen
 25 it creep up, through '91 and on and on, and no herb

83

1 company, to my knowledge, has that much profit per year.
 2 So, it's an economic matter. The pharmaceutical firms
 3 will lose if this happens, and I dare say they resist it
 4 at all turns.
 5 **Q. All right. Can you take what's been marked as**
 6 **Exhibit 7?**
 7 MR. TURNER: Here it is.
 8 THE WITNESS: I have it.
 9 BY MR. GORDON:
 10 **Q. Okay. So, as I understand it -- but I want to**
 11 **make sure that I understand this correctly -- what's now**
 12 **been marked as Deposition Exhibit 7 is to take the place**
 13 **of that portion of your report which previously was**
 14 **marked as Exhibit 4 that begins on page 4 of Exhibit 4**
 15 **under A. Is that correct?**
 16 A. I have both documents in hand. Rephrase the
 17 question.
 18 **Q. Okay. My understanding of Exhibit 7 is that it**
 19 **is to take the place of that portion of Exhibit 4 that**
 20 **is under 1, "The Science of Herbs," and then begins with**
 21 **subsection A, "The MAM is a listing." I just want to**
 22 **make sure I am correct in understanding where this goes**
 23 **in your report.**
 24 MR. TURNER: This replaces that is the question.
 25 THE WITNESS: I think your understanding is

84

1 correct.
 2 BY MR. GORDON:
 3 **Q. Okay. Then take a look at page 8 of Exhibit 4,**
 4 **the original report, which has the IEs. It refers then**
 5 **to Appendix 3, and I want to make sure that hasn't**
 6 **changed.**
 7 MR. TURNER: Let's take it -- the original
 8 appendix. What is the --
 9 MR. GORDON: The appendix -- the appendices are
 10 Exhibit 5.
 11 MR. TURNER: This one right here.
 12 THE WITNESS: Those are --
 13 MR. TURNER: Well, just wait until we get to it
 14 and see if it's -- let me just see what Appendix 3 is.
 15 MR. GORDON: It starts on page 18.
 16 MR. TURNER: Is that IEs?
 17 THE WITNESS: No. IEs are before that.
 18 MR. TURNER: Okay. So, this that says Appendix
 19 2, which we -- which was marked MAMs, is actually IEs?
 20 THE WITNESS: This is an IE.
 21 MR. TURNER: Okay. Now, just look here.
 22 THE WITNESS: That is an IE, IE.
 23 MR. TURNER: All of this?
 24 THE WITNESS: All of these are IEs.
 25 MR. TURNER: Okay. Okay, so answer -- go ahead

1 and answer --
 2 BY MR. GORDON:
 3 Q. Yes. Let me ask you a question, then.
 4 All right. So, on Exhibit 5, which are the
 5 appendices to your February 4th report, Appendix 2 says
 6 it's MAMs for DCO herbs, but it really should be IEs for
 7 DCO herbs. Is that correct?
 8 A. That's correct.
 9 Q. Okay. And the reference then in page 8 of
 10 Exhibit 4 should also be to Exhibit 2, not to Exhibit 3?
 11 I'm just trying to make sense of all this.
 12 Appendix 2, not Exhibit 2. Do you want me to
 13 ask the question again?
 14 MR. TURNER: Yes. Direct us to the page.
 15 BY MR. GORDON:
 16 Q. Page 8 of Exhibit 4 says that the IEs are at --
 17 well, no. Maybe not. I'm sorry.
 18 What is on page 8? What is that -- of Exhibit
 19 4? What is that?
 20 MR. TURNER: That should be 2.
 21 MR. GORDON: Well, I'm not sure. That's what
 22 I'm trying --
 23 MR. TURNER: Yeah, okay. Ask -- answer the
 24 question that's --
 25 BY MR. GORDON:

1 Q. Okay. What is this on page 8 of Exhibit 4?
 2 A. B?
 3 MR. TURNER: Yes.
 4 THE WITNESS: We refer to the Indications
 5 Evaluations, which we're now calling IEs rather than
 6 just the verb indications, for the 16 DCO herbs.
 7 BY MR. GORDON:
 8 Q. So, this is a summary of the IEs. Is that fair?
 9 A. This is a verbal summary of well-known
 10 indications, but the formal indications summary is --
 11 we've lost the first page.
 12 MR. TURNER: Here. So, that should -- okay.
 13 THE WITNESS: The formal Appendix 2 of Duke
 14 Exhibit 5 is the list of indications of the 16 herbs.
 15 BY MR. GORDON:
 16 Q. Okay. Could you explain to me what changed
 17 between that portion of Exhibit 4 that is now replaced
 18 with Exhibit 7? How -- I mean, I got this this morning,
 19 so I haven't had a chance to compare the two. So, I'm
 20 asking you to tell me how they've changed.
 21 A. The problem is that early on in the report, both
 22 the IEs and the MAMs were referred to and said to see
 23 the appendix, but the appendix had -- had MAMs again
 24 rather than IEs, and I called that to their attention,
 25 and that's what created these changes.

1 There may be some word changes, because this has
 2 been through some permutation. I feel that there have
 3 been no change in the substance of the -- the two
 4 appendices.
 5 Q. Okay. Right before -- Exhibit 4.
 6 A. All right.
 7 Q. It says, "The Science of Herbs: I begin with
 8 the third point first. "Here are three ways I use to
 9 establish the efficacy of an herb" --
 10 A. Excuse me.
 11 Q. It's on page 4, under "The Science of Herbs."
 12 A. Okay.
 13 Q. Okay. You say you begin with your third point
 14 first. "Here are three ways I use to establish the
 15 efficacy of an herb: one is the MAM Menu; the second is
 16 the IEs; and the third is 60 abstracts in PubMed," and
 17 then you state you're only presenting ways one and two
 18 here.
 19 Are the 60 abstracts that you're referring to --
 20 A. They are not --
 21 Q. -- in PubMed anywhere in any of the documents
 22 you've prepared?
 23 A. I think not. I went through 60 new documents on
 24 turmeric, but that was late in the game and was not
 25 included in the report, to the best of my knowledge.

1 Q. Okay. What role, if any, did those abstracts
 2 that you looked at in PubMed form in your opinions that
 3 you're expressing here?
 4 A. I always go to PubMed to see if there's anything
 5 new on anything I'm writing about or talking about or in
 6 this case deposing about.
 7 Q. But did anything you read in those 60 or so
 8 abstracts change any of the opinions that you've
 9 expressed here today or that you express in your report?
 10 A. No. I already had a very positive feeling for
 11 turmeric as competitive with pharmaceuticals for several
 12 types of cancers, not just --
 13 Q. Were the 60 or so abstracts that you read in
 14 PubMed all limited to turmeric?
 15 A. No. Most of them were, in fact, talking about
 16 curcumin --
 17 Q. Okay.
 18 A. -- which is an ingredient, the most important
 19 ingredient, in turmeric.
 20 Q. Okay. Other than turmeric or curcumin, are
 21 there any other extracts you can recall looking at?
 22 A. Yes. I looked at abstracts on the Essiac
 23 formula.
 24 Q. And what do you recall about that?
 25 A. Positive and negative, as reported earlier.

89

1 **Q. Are there any other chemicals or elements that**
 2 **you can recall reviewing the abstracts for?**
 3 A. No. That's what I would be doing for April, if
 4 we materialize, because there is new data, and it will
 5 usually support my -- add to my evidence. Turmeric, we
 6 just found 60 with the words "turmeric," "clinical," and
 7 "cancer," 60 abstracts came up.
 8 **Q. All right. Explain to me the MAM system.**
 9 **There's ratios here. I need to understand what they**
 10 **are.**
 11 A. I will do my best.
 12 **Q. Okay.**
 13 A. And anyone can consult this for themselves
 14 online at the USDA. The ratios came about late in the
 15 game. The MAM summary, which you have there in Exhibit
 16 7, is a list pulled out of the computer of those
 17 chemicals that were reported from the named herb that
 18 had anticancer potential, either preventive or curative
 19 or ameliorative, and the first number in that
 20 fraction -- which I intended not to include in the
 21 report, because it is so complicated -- that first
 22 number is a count as it comes out of the machine of the
 23 colons or semicolons, and those were changed to commas
 24 in that reading, but if you count those commas, there
 25 will be a comma only when there are more than one

90

1 compound, and that could imply synergy or antagonism,
 2 but that is a count -- essentially, it should add up to
 3 about what we have in commas here. That means that that
 4 has so many compounds working in so many directions
 5 against cancer.
 6 The second number is the number of chemicals
 7 that were in the database for that herb at the time the
 8 MAM was run. Why? To even the playing field. Some of
 9 these just have ten or 15 chemicals, and they will only
 10 have a few commas. Garlic and turmeric have close to
 11 500 chemicals by now -- they had zero when I did the
 12 MAM -- but the first number is a count of words there,
 13 roughly. It's not quite that. It's commas, because I
 14 can do that mechanically. I couldn't count the words
 15 mechanically. So, it's a count of the commas over the
 16 number of chemicals in that herb at the time the MAM was
 17 run, because this database continually grows at home.
 18 It does not grow continually at the USDA, but in spurts.
 19 That's why we have to have that, to level the playing
 20 field.
 21 Approximation two, which we have not arrived at
 22 yet, will take into account quantities, and there will
 23 be more chemicals and more activities added.
 24 **Q. What is the significance of the ratio between**
 25 **those numbers?**

91

1 A. The higher the ratio, the more promising it
 2 looks for cancer, if you assume that these are valid
 3 anticancer buzzwords.
 4 **Q. And if that assumption is false, then everything**
 5 **in the ratio is faulty, correct?**
 6 A. The ratio is indicative -- I won't say correct.
 7 The ratio is indicative of the relative anticancer
 8 potential, and the more chemicals you have, the lower it
 9 becomes, because the low ones might have a bias towards
 10 the anticancer. That's why I had to put the number of
 11 chemicals in there.
 12 **Q. Does the --**
 13 A. I say it's not -- excuse me. It's not a
 14 positive indication, but it certainly is indicative, and
 15 I don't speak of it as the answer, but we get closer to
 16 the truth as the chemicals are added and as the
 17 buzzwords are added and as you divide by the number of
 18 chemicals. That means that 50 percent of those
 19 chemicals are useful. That's a supposition, 50 percent.
 20 **Q. Would it be fair to summarize the Multiple**
 21 **Activities Menu as an attempt to identify herbs that**
 22 **show promise in fighting disease?**
 23 A. Yes. I had, in particular, Mr. Gates' targets
 24 in Africa when I developed this system. He's targeting
 25 malaria, tuberculosis, leishmaniasis, and AIDS, and I

92

1 think this gives him some good leads to look at.
 2 **Q. Have you consulted with the Gates Foundation?**
 3 A. I have been unable, even though I have a nephew
 4 who works with them.
 5 **Q. Does the Multiple Activities Menu and the ratio**
 6 **that it yields prove that any one of these herbs are**
 7 **effective in fighting or treating cancer?**
 8 A. It does not. May I add to that?
 9 **Q. Of course.**
 10 A. It adds a listing of the chemicals in that herb
 11 that have been shown or assumed to help with cancer.
 12 **Q. And if you wanted to figure out the next level**
 13 **of detail, would you go to the IE? Is there a**
 14 **relationship between the --**
 15 A. No. There is -- excuse me. There was no
 16 relationship. The IE has been used in three of these
 17 books to identify those things that have the highest
 18 potential, again, through a different line of evidence;
 19 my evaluation of what is said about those indications in
 20 the literature that I've consulted.
 21 **Q. Okay. So, just so we're clear --**
 22 A. They're very different. And that's why it was
 23 imperative that we change and add the correct appendix.
 24 **Q. Okay. The references that yield these ratios,**
 25 **how do you keep track of them to make sure they're not**

1 counted twice or --
 2 A. Many of the chemicals -- excuse me.
 3 Q. Yeah, go ahead.
 4 A. Again, many of the chemicals do show up twice,
 5 as -- because they have many activities. This is called
 6 pleiomory, having many activities, P-L-E-I-O-M-O-R-Y.
 7 Q. So, the -- strike that.
 8 When you enter in the MAM an activity for an
 9 herb, what level of proof do you require before you make
 10 that entry?
 11 A. I only enter that -- the reference to that
 12 source as it may be a good source; it may be a bad
 13 source.
 14 Q. So, there's no screening; it's just a --
 15 A. The -- as it's recorded in the database, it
 16 would be accompanied by the source. "This guy says it's
 17 good for cancer."
 18 Q. If I go back online and look at the database,
 19 can I see what the sources are?
 20 A. In some cases, yes; in some cases, no. In this
 21 book, the three-letter abbreviations or a PubMed
 22 citation will identify what the source is, and that's
 23 why I've uniquely used the PubMed here. If you're
 24 searching, all you've got to do is put that
 25 eight-letter -- eight-digit number in your PubMed screen

1 and out comes the extract, and you say bump or you say,
 2 "Hey, this is potent."
 3 Q. You were referring to a book. Can you just
 4 identify what that book is?
 5 A. This is Medicinal Plants of the Bible, which
 6 this came out -- it is copyrighted 19 -- 2008, and in
 7 this, I went through the various interpretations of
 8 about 150 species that are mentioned somewhere in the
 9 Bible, and I went through the indications and activities
 10 evaluations. I have not bothered you with the
 11 activities evaluations, because the indication is more
 12 important. And this has -- may I show it to you?
 13 Q. Sure.
 14 A. This cost so much, I can't give you a free copy.
 15 I'll show the curcumin. Beautifully illustrated by
 16 Mrs. -- here is the saffron crocus, which has been shown
 17 clinically to help depression better than the
 18 imipramine, in Iran. On my way to curcuma. There's
 19 cucumber. Cumin, Biblical also. Cupressus
 20 sempervirens. Finally, the turmeric.
 21 And where is the illustration for the turmeric?
 22 Ah, there's the turmeric, which I do grow and is hardy
 23 as far north as Virginia Beach, and in that we have an
 24 earlier version of the indications evaluation, because
 25 they grow -- (document tendered) -- the indications that

1 I have found in the literature for turmeric, and also
 2 the activities for turmeric, and the three-letter
 3 abbreviations following each are the sources of where I
 4 got that information.
 5 I personally know some that are weak and some
 6 that are strong, but there's no way for you to know
 7 that. I have never put that in my computer. It's in
 8 this mental computer (indicating). And the three-letter
 9 abbreviations are from various books, some of which I
 10 mentioned, that if you're looking at cancer, you'll find
 11 a lot of JLH, which is Johnson L. Hartwell. And most of
 12 those three-letter abbreviations mean something to me
 13 but nothing to you. But somewhere in the book, there's
 14 a listing of the -- of the --
 15 Q. So, just -- let me see if I can make sense of --
 16 this is Duke's Handbook of Medicinal Plants of the
 17 Bible, hard-cover edition, which you were kind enough to
 18 share with us today, and I'm on page 165, and its
 19 subheading, "Activities For Turmeric."
 20 Is this essentially an IE?
 21 A. No.
 22 Q. What's the difference between what's here and an
 23 IE?
 24 A. They are almost the same. The -- anticancer
 25 would be the activity. Cancer, up above, would be the

1 indication. So, it's -- it's almost redundant, but you
 2 sometimes want to search for both those words. Of
 3 course, all that is in a database at home, searchable
 4 database.
 5 Q. If I wanted to go to your database and find --
 6 A. Excuse me. The IEs are not online at the USDA.
 7 Q. Ah.
 8 A. The -- we have a -- all sorts of things
 9 available, but that's strictly developed in conjunction
 10 with these books, and the database is proprietary.
 11 Q. Okay. That which is online, I guess it's the
 12 Multiple Activities Menus are online, correct?
 13 A. Yes.
 14 Q. Is it possible to put in the word "cancer" and
 15 find what products or what herbs might be suitable?
 16 A. At the USDA database, you could -- there is one
 17 point where you could ask for herbs with anticancer
 18 activity, you would have to put the name of the herb; or
 19 another where you just put "anticancer," and it lists
 20 phytochemicals that have been reported as having
 21 anticancer activities, including the biggies, and it
 22 will probably be several hundred.
 23 (Duke Deposition Exhibit Number 8, Dr. Duke's
 24 Phytochemical and Ethnobotanical Databases, was marked
 25 for identification.)

97

1 BY MR. GORDON:
 2 **Q. The court reporter has marked as Exhibit 8 some**
 3 **pages from www.ars-grin.gov/duke/.**
 4 **Is this the database we were talking about?**
 5 A. That's the way it appears on the screen. That
 6 is not the MAM database. That has an independent and
 7 not published number, but I think it may show up in the
 8 report. It certainly shows up in what I sent to
 9 Mr. Turner.
 10 **Q. So, what is the database that's -- the top pages**
 11 **of which are reflected as Exhibit 8? What is this?**
 12 A. This is what I call my phytochemical and
 13 ethnobotanical database.
 14 **Q. And what -- what's in here as opposed to what's**
 15 **in the MAMs? I'm trying to understand the difference**
 16 **between the two.**
 17 A. The MAMs are drawn from this. This would go
 18 through the whole database and pull out all the
 19 chemicals in a given species that have that, because it
 20 has all the chemicals and all their activities in there,
 21 too.
 22 Which one would do that? If you wanted to see
 23 all the chemicals and activities in turmeric, you would
 24 put the scientific name or turmeric itself in the first
 25 column, and it would print out every compound that I've

98

1 ever seen reported for turmeric and all their reported
 2 activities. And then the MAM would go through and pull
 3 out those, as it does, and I can provide you with that
 4 number, too. Each of those queries has specific
 5 objectives, but that one, I think, would pretty much
 6 overwhelm you.
 7 **Q. That one would what? I'm sorry.**
 8 A. This number one, if you printed out all the
 9 activities reported for turmeric, it would be probably
 10 close to 20 pages. I don't -- I haven't -- I have
 11 printed it out, but I didn't count.
 12 **Q. No problem.**
 13 **Speaking of turmeric, are there any risks**
 14 **associated with taking that?**
 15 A. All medicines have a poisonous dose.
 16 **Q. And what is it for turmeric?**
 17 A. I suspect, at the bottom of the activities, it
 18 will leave out curcumin. It won't talk about -- it will
 19 give you the LD-50, the lethal dose at which 50 percent
 20 of animals, whatever the test animal, is killed. But
 21 all medicines have a toxic dose.
 22 **Q. Any side effects from turmeric?**
 23 A. All chemicals have side effects. Turmeric has
 24 5000, some of which are carcinogenic. All plants
 25 contain carcinogens and carcinogenic compounds.

99

1 **Q. We've got your book open here. How do we**
 2 **determine from these verses in the Song of Solomon, on**
 3 **page 162, that the author is speaking of turmeric?**
 4 A. I went through all the prepublished books that I
 5 could get my hands on, and when I see a Zohari and an
 6 Israeli saying this is what is meant. And in the Hebrew
 7 text, it's kurkum, K-U-R-K-U-M. I don't have that
 8 there, I don't think. I don't know what is in the quote
 9 there.
 10 **Q. Okay. But at least on page 162, kurkum,**
 11 **curcumin, turmeric, it doesn't appear, correct, in the**
 12 **Biblical verses that you've cited? If you want to look,**
 13 **go ahead.**
 14 A. I think the word "saffron" was interpreted.
 15 Yeah, I've underlined saffron.
 16 **Q. Is saffron the same thing as turmeric?**
 17 A. There is another thing called saffron that I
 18 showed you an earlier picture of, and it's only
 19 mentioned one time in the Bible. Some scholars have --
 20 let me show you the other picture. Saffron would be --
 21 this -- this is saffron, which grows in the
 22 Mediterranean -- excuse me -- on page -- illustrated on
 23 page 145, and I have it growing in my garden, as I have
 24 the turmeric growing in my greenhouse right now.
 25 And since it's mentioned only once in the Bible,

100

1 some scholars have determined that it's the saffron
 2 crocus, page 145, and other scholars have determined
 3 that it was kurkum, because of the Hebraic name, kurkum.
 4 Both can be grown there. Nobody knows.
 5 There are no voucher specimens of the -- to
 6 prove what was meant by kurkum -- turmeric -- saffron in
 7 the English -- excuse me, erase that. There is no
 8 voucher to show whether this was Curcuma longa or
 9 whether it was Crocus sativus, both of which I have and
 10 both of which have been proven better than
 11 pharmaceuticals in some conditions.
 12 **Q. To get back to my question, though, the -- the**
 13 **word "curcumin" and "turmeric" doesn't appear in the**
 14 **Song of Solomon, so you're using others' research to --**
 15 A. No.
 16 **Q. -- infer that that is the plant to which --**
 17 A. That's correct.
 18 **Q. -- that's the plant referred to in that verse of**
 19 **the Bible? Okay.**
 20 A. There are many others that have two
 21 interpretations. Leek could be the onion-like compound
 22 or it could be fenugreek, a Biblical pulse, both of
 23 which can be grown there. I didn't -- I put both,
 24 because I don't know. Nobody knows.
 25 **Q. Looking at Exhibit 8, is this the Web site I**

101	<p>1 would go to to find the plants that have cancer</p> <p>2 activities, or is it a different Web site?</p> <p>3 A. You could go to this and find -- you could find</p> <p>4 it, one, by printing out this first -- that would print</p> <p>5 out all the chemicals, and it would have the word</p> <p>6 "anticancer."</p> <p>7 Q. What are you indicating? Okay.</p> <p>8 A. The first query.</p> <p>9 Q. The first query.</p> <p>10 A. Chemicals and activities in a particular plant</p> <p>11 would give you an answer, but a convoluted answer. Now,</p> <p>12 if you wanted the third entry, chemicals with one</p> <p>13 activity, that would give you the chemical -- you would</p> <p>14 type in the word "anticancer," and here again,</p> <p>15 ambiguously, you would type in "antitumor," because the</p> <p>16 FD -- the NCI has different definitions for those, and</p> <p>17 the authors may have different definitions. But if you</p> <p>18 wanted the completer list, you would type in</p> <p>19 "anticancer" and "antitumor."</p> <p>20 Ethnobotanical uses, you could type in "cancer,"</p> <p>21 and it would tell you what things were folklorically</p> <p>22 used for cancer, and that would use all those 3000 that</p> <p>23 are in the Johnson Hartwell study, if they're in the</p> <p>24 database.</p> <p>25 List chemicals and activities for a plant, that</p>	103	<p>1 have anticancer or antitumor activity.</p> <p>2 And then the LD-50, the toxicity dose, if I have</p> <p>3 found one published, it will be there for Taxol, for</p> <p>4 phenyl carpine, for Vincristine, Vinblastine, for any of</p> <p>5 them, if I found them.</p> <p>6 And then another entry to the same question,</p> <p>7 ethnobotanical uses, it would tell you which plants have</p> <p>8 been used for cancer folklorically. Ethnobotanical to</p> <p>9 me means folkloric, not necessarily proven.</p> <p>10 Q. On the third page of the exhibit, you've got a</p> <p>11 link of interest to The Cancer Chronicles.</p> <p>12 MR. DULABON: I think this exhibit is missing a</p> <p>13 page now that I see it. I have got a 1 and I have got a</p> <p>14 3.</p> <p>15 MR. GORDON: I apologize. It looks like there's</p> <p>16 a photocopying problem. It says 3 of 3 in the upper</p> <p>17 right-hand corner, which --</p> <p>18 MR. DULABON: It's page 2 of the exhibit.</p> <p>19 THE WITNESS: Yeah, I have got page 3 of 3.</p> <p>20 BY MR. GORDON:</p> <p>21 Q. Yeah. I don't know what happened to page 2 in</p> <p>22 the photocopying.</p> <p>23 All right, The Cancer Chronicles, do you see</p> <p>24 where I am on Exhibit 8?</p> <p>25 A. Right.</p>
102	<p>1 would be redundant with the first one.</p> <p>2 And then under "Chemical Searches,"</p> <p>3 activities -- you could ask about any chemical, and the</p> <p>4 second one under "Chemical Search," activities of a</p> <p>5 chosen chemical, and if that chemical were Taxol, it</p> <p>6 would tell you the reported activities of Taxol, not</p> <p>7 just anticancer, but it would give you all, but</p> <p>8 anticancer would be there. So, that one would also show</p> <p>9 you anticancer.</p> <p>10 List activities in plants for a chemical. If</p> <p>11 you knew that Taxol was an anticancer compound and</p> <p>12 wanted to know what plants it appeared in, that would</p> <p>13 tell you. Taxol, strangely, only occurred in the genus</p> <p>14 Taxus and the unrelated hazelnut. So, this list common</p> <p>15 activities for a list of chemicals, this is a routine,</p> <p>16 and I don't recall how to use. Only my girl in New</p> <p>17 Zealand can answer, but it would probably tell you what</p> <p>18 compounds have been shown synergistically anticancer.</p> <p>19 Plants with a specific activity, that's the one</p> <p>20 you asked about, and I'm slowly getting there. There,</p> <p>21 you could type -- type in the "anticancer" again, and it</p> <p>22 would name the species rather than the chemical that has</p> <p>23 the anticancer.</p> <p>24 Chemicals with a specific activity, that's</p> <p>25 redundant. That would show you which chemicals would</p>	104	<p>1 Q. What's the significance of -- why is that there?</p> <p>2 I'll ask you that first.</p> <p>3 A. I have no idea. I don't even think I put it in</p> <p>4 there.</p> <p>5 Q. Who else would have?</p> <p>6 A. The database manager at the USDA. Remember,</p> <p>7 I've been retired for 14 years.</p> <p>8 Q. Okay. Would Mary Jo Bogenschutz have put it on</p> <p>9 there?</p> <p>10 A. Bogenschutz? I don't think it would have been</p> <p>11 her.</p> <p>12 Q. She's the woman in Hawaii you mentioned before?</p> <p>13 A. Yes. When I want to get something updated and</p> <p>14 we are nice to the USDA, we can get some more data in</p> <p>15 it. I am now working on the proprietary database, which</p> <p>16 will have twice as much data as the USDA data. Nor do I</p> <p>17 know why the Non-Timber Forest Products is there.</p> <p>18 Q. There's a page, going back a little bit further</p> <p>19 in Exhibit 8, the "Ethnobotany query." Do you see that?</p> <p>20 The last page of the exhibit.</p> <p>21 A. Yes.</p> <p>22 Q. How does this work, this part of your Web site?</p> <p>23 A. You would type in the scientific name, and if it</p> <p>24 were garlic, for example, you would type in Allium</p> <p>25 sativum, but if you wanted onion and garlic and leek,</p>

105

1 too, you would just type in Allium, and then it would
 2 list all the Allium species, or if you specified Allium
 3 sativum for garlic, you would only get the
 4 ethnobotanical uses reported from that, and this was way
 5 back in 1982. This one has not been changed since 1982,
 6 to the best of my knowledge. It was at the end of my
 7 time with the Cancer Institute.
 8 MR. GORDON: Why don't we go off the record for
 9 a second.
 10 (Discussion off the record.)
 11 (Whereupon, at 12:35 p.m., a lunch recess was
 12 taken.)
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106

1 AFTERNOON SESSION
 2 (1:39 p.m.)
 3 BY MR. GORDON:
 4 Q. We are back on the record after lunch.
 5 We spoke --
 6 MR. J. TURNER: Before you go on, I just wanted
 7 to restate that objection I made halfway through this
 8 morning, just objecting to any questions and answers
 9 that are outside the body of his report that he turned
 10 in.
 11 MR. GORDON: Objection noted.
 12 BY MR. GORDON:
 13 Q. We've talked a bunch this morning about curcumin
 14 and turmeric. How much curcumin is in turmeric?
 15 A. I would have to go to my USDA database, and I
 16 will have a high figure and a low figure.
 17 Q. Give me a ballpark percentage-wise. Say a gram
 18 of turmeric has how much curcumin?
 19 A. I think a maximum would be 10 to 20 percent and
 20 a minimum would be down even below 1 percent. That's
 21 how much variation there is in nature.
 22 Q. Okay. The --
 23 A. And humans, as well. Chemicals in humans vary,
 24 not curcumin, unless they're taking it.
 25 Q. Okay. Now I understand. That actually leads to

107

1 my next question. The magazine, Herbalgram, that we
 2 marked previously this morning as Deposition Exhibit 1
 3 discusses some of the findings from the Anderson Cancer
 4 Institute study, and one of the things that the article
 5 notes is the bioavailability of the curcuminoids was
 6 poor.
 7 Would that be any different if turmeric was
 8 consumed instead of curcumin?
 9 A. I think that that's a possibility. I know that
 10 one can increase the availability of turmeric with black
 11 pepper, especially its alkaloid, piperine, up to 24
 12 according to the literature, so that that study would
 13 have benefited from piperine.
 14 Q. The piperine would have done what?
 15 A. Increased the uptake of the curcumin from the
 16 human patient -- in the human patient.
 17 Q. And the basis for that observation is what?
 18 A. Studies in India.
 19 Q. Okay.
 20 A. Several of them.
 21 Q. Clinical studies? What types of studies?
 22 A. I suppose they would have to be. I think they
 23 checked out the levels of curcumin in the blood. I
 24 don't know that, though. That would be acceptable, but
 25 I don't know how you do that in vitro.

108

1 Q. The -- no, that's all right.
 2 We talked a little bit this morning about
 3 Essiac.
 4 A. Right.
 5 Q. You had mentioned that there have been some
 6 negative studies. What do the negative studies find?
 7 A. No positive results, as I recall from my quick
 8 tour of -- I believe it was nine extracts on Essiac in
 9 PubMed.
 10 Q. Now, how does that make its way into your -- if
 11 at all -- into your MAM or your IE?
 12 A. It does not make its way into the MAM. It does
 13 not make its way into the IE. It makes it into a
 14 section that I call "Extracts," where I put positive and
 15 negative findings. But I do -- the books will have many
 16 negative findings in a separate section.
 17 Q. How do you go about making sure that the studies
 18 that you reference in the MAMs are reliable, or that you
 19 count in the MAMs, I guess?
 20 A. I have to confess, it's gut feeling, as for
 21 pharmaceuticals and as for drugs -- herbs.
 22 Q. The same for the IEs? You rely on your gut
 23 feeling as to whether something's reliable?
 24 A. No. I report it, and I tell you where I
 25 reported it, and you can snoop further if you need to.

109	111
<p>1 But as I said this morning, I have a mental estimate of 2 some books that are good and some books that are bad and 3 some that are terrible, but I dare not put that in 4 print. 5 Q. Sure. 6 A. I would have it in my database if I weren't 7 afraid it would be captured. 8 Q. The IEs are -- you know, it's a compendium of 9 information, correct? 10 A. Yes. 11 Q. How do you make sure that information is 12 reliable, though? I mean, do you put things in there 13 that you see but happen to disagree with? 14 A. Yes. I put negatives in, too. 15 Q. Okay. 16 A. May I qualify that answer? 17 Q. Sure. 18 A. In rethinking that, I have just told you that I 19 don't put the negative into the IE and the MAM. 20 Q. Okay. 21 A. And then what was your last question? Forgive 22 me. 23 Q. How do you assess the reliability of what goes 24 in the MAM? Well, strike that. 25 If you see something for turmeric that indicates</p>	<p>1 If I ate a hundred Brazil nuts, my hair would 2 fall out, and I would be suffering from Selenium 3 toxicity. As we mentioned this morning, all drugs have 4 a toxic level, including boron and Selenium. 5 Q. Are there any other negative studies you recall 6 reviewing or coming across as you reviewed your report 7 involving products that we're talking about today? 8 A. I don't recall them, but I'm sure that's my 9 80-year old or my 79-year-old mind rather than -- there 10 probably were some. 11 Q. Did you note any of them in your report, as you 12 can recall? 13 A. I do not remember right now noting them. I do 14 remember noting Essiac. 15 Q. All right. Exhibit 7, which is the new 16 subsection, Roman V.1.A. 17 A. I have it. 18 Q. Right before we get to the -- just take me 19 through the first entry and make sure I understand what 20 one of those words is supposed to signify. You can use 21 the first entry. 22 A. On page 1? 23 Q. Yeah. That's fine. 24 A. Okay. The first entry is, regrettably, one 25 whose name has changed, Actaea Cimicifuga, is that what</p>
110	112
<p>1 that it's not effective in the treatment of cancer, how 2 would that get reflected, first in the MAM and then in 3 the IE? 4 A. It's not -- it's not reflected in either. It's 5 reflected in the other places, in my writings. In my 6 database, I don't think there is a place for it. 7 Q. How about in your report today as we have got 8 its various constituent parts? Data or studies that 9 disagree with your findings, how is that, if at all, 10 reflected in your report? 11 A. I don't remember any negative things being 12 reported in this report, although I have mentioned them 13 to various participating parties in this room. 14 Q. Well, I know we talked a little bit -- 15 A. About Essiac -- excuse me. About Essiac, I said 16 they are not very strong. 17 Q. Any other products beyond Essiac that you recall 18 discussing negative findings? 19 A. In the report? Selenium is to me a major 20 supplement needed by most people for the prevention of 21 at least those three cancers that I named, but if I took 22 100 -- if I -- 200 micrograms is the dose of Selenium 23 that will prevent the cancers that I named this morning, 24 epidemiologically, that is, but if -- that's in three 25 Brazil nuts.</p>	<p>1 you're -- 2 Q. Yes. 3 A. Okay. That is -- 4 Q. So, that's the Latin name for this plant? 5 A. Yeah. It used to be Cimicifuga racemosa. Today 6 it's Actaea racemosa, and we herbalists have a 7 standardized list of names, and I'm supposed to say 8 Actaea racemosa anymore or black cohosh. 9 Q. And black cohosh is sort of the familiar name of 10 the plant? 11 A. Yes. It's the common name. It's one that grows 12 in the woods right around here. 13 Q. Okay. And then the reference "for Cancer," that 14 means what? 15 A. That means -- that's the score of my MAM. 16 Q. Okay. 17 A. That first number is a very small one. It means 18 that there were only 15 commas, plus or minus one or 19 two, and the second number, 14, is the number of 20 chemicals that were in the database when I ran the MAM. 21 So, that meant of those 14 chemicals, there were words 22 in there that indicated anticancer 15 times. And then 23 that 1.07 is the score I get when I fractionate that. 24 Q. Does anybody besides you do a similar type 25 exercise as the MAM?</p>

113

1 A. I am solely responsible for this.

2 **Q. Does -- have you seen it -- the MAM cited in any**

3 **peer-reviewed journals?**

4 A. No.

5 **Q. Let me ask you to go to the next page on Exhibit**

6 **7.**

7 A. May I back up?

8 **Q. You may.**

9 A. I think some of my MAMs have been presented in

10 the Townsend Letter, which is not peer-reviewed, but I

11 think some of them may have also shown up in my

12 Complementary and Alternative Therapies, the blue and

13 green books I referred to this morning, but this is in

14 my own writings. I don't remember other authors

15 alluding to them.

16 **Q. Okay. On page 2 of Exhibit 7, we've got the MAM**

17 **for Curcuma longa, turmeric, and then what do the next**

18 **two and a half pages represent? Are they how we get to**

19 **that 213/66?**

20 A. Yes.

21 **Q. So, I haven't counted, but are there -- should**

22 **there be 213 lines of text here after that?**

23 A. No. There should be 213 commas.

24 **Q. Ah.**

25 A. Plus or minus.

114

1 **Q. So, 66 lines of text?**

2 A. Pardon?

3 **Q. Should there then be 66 lines of text?**

4 A. No. The 66 means that those 213 positive

5 anticancer words were based on the cancer -- chemical

6 file, which at that time had 66 chemicals. So, that

7 means they averaged 3.28 words of anticancer activity.

8 **Q. In doing your MAM work, your IEs, or anything in**

9 **your report today, have you differentiated between**

10 **different types of cancer as to whether these products**

11 **might be effective for some types but not other types of**

12 **cancer?**

13 A. I have not in preparation for this report, but

14 we do have separate MAMs, I think, for each type of

15 cancer. But this is an overall cancer MAM. You'll

16 notice in anticancer that the curcumin has shown

17 activity in several: breast, cervix, colon, duodenum,

18 mammary, skin, stomach, and today, pancreatic.

19 **Q. And going down that first page for turmeric, the**

20 **first one, "Anticancer (Breast): curcumin."**

21 **Do you see that entry?**

22 A. Yes.

23 **Q. Now, what's the basis for that?**

24 A. I would have to go to my other databases to find

25 out where I got that.

115

1 **Q. Okay.**

2 A. Oh, it's -- it doesn't come out with the MAM,

3 but every chemical entry has somewhere a reference. I

4 suspect I could find five or six in PubMed, but I don't

5 always add every reference. I add the most recent, or

6 when I first add it, and then I quit adding. I don't

7 document all references at all times.

8 **Q. The text right before the description for**

9 **turmeric, it says, "There are 66 indications of Turmeric**

10 **affecting cancer in this MAM." Then it says, "Some are**

11 **bolded," but I don't --**

12 A. That is an error. Excuse me.

13 **Q. Okay.**

14 A. And that's when -- that's where you should see

15 the IE, which will have the bolded --

16 **Q. Ah, okay.**

17 A. May I?

18 **Q. Yeah.**

19 A. This is my first affair. Is it all right for me

20 to mark on an exhibit?

21 **Q. I would probably prefer you not.**

22 MR. TURNER: Mark on one of these.

23 THE WITNESS: Oh. Okay. I almost did, and

24 then --

25 MR. GORDON: No, that's all right. That's a

116

1 good question.

2 MR. TURNER: Mark this one here, and -- here,

3 mark on this one, and we will give this one back to her.

4 This is the official one. You can mark on that one, and

5 we'll just keep that one.

6 THE WITNESS: What page were we on when I asked

7 that question?

8 BY MR. GORDON:

9 **Q. It was page 2, I think, of Exhibit 7.**

10 A. Yes, okay.

11 **Q. What's the note you're writing there?**

12 A. "Cancer in the IE."

13 **Q. Ah. Got it. All right.**

14 **Now, do you have Exhibit 4 in front of you?**

15 **It's the earlier version of your report.**

16 A. Three, 6 -- 4, yes.

17 **Q. Okay. Now, it says -- there's an entry there on**

18 **page 5, that long entry that begins at the second half**

19 **of page 5 of Exhibit 4, and that's the IE for turmeric,**

20 **correct?**

21 A. That is correct.

22 **Q. Okay.**

23 A. On page 5, the IE for turmeric.

24 **Q. Yes. And there's -- okay. So, it begins "with**

25 **some anticancer activities."**

117	119
<p>1 When you say "some anticancer activities," can 2 you explain what that means? 3 MR. TURNER: Right here (indicating.) 4 THE WITNESS: Okay. As of today, I've seen 5 convincing evidence that turmeric or curcumin works for 6 prostate cancer, pancreatic cancer, and probably many of 7 those that are bolded here. Cancer of the abdomen, 8 cancer of the bladder, and if you want to go to that 9 18342436 and see whether that was a strong extract, 10 order the document, and I would predict from my knowing 11 the scoring that this means that curcumin helped in 12 bladder cancer in that PubMed abstract or document. 13 BY MR. GORDON: 14 Q. All right, let's use that one. So, help me out. 15 Where does -- that entry begins with a slash. Is that 16 where -- 17 A. Yes. That slash had been removed from my copy 18 because that's a flag to tell my girl in New Zealand 19 that that is not in the earlier versions. That's new. 20 That's an addition. I have two sets of flags. If 21 you'll back up to adenocarcinoma, you'll see a backwards 22 apostrophe, whatever you call that. That is to tell my 23 girl in New Zealand that this was not in the published 24 database. This is in our proprietary database. So, 25 those are science to my lady in New Zealand,</p>	<p>1 cancer, and probably controlled studies, but that's why 2 you have that number. If you are sitting here analyzing 3 this paper, you can call that up on PubMed right away. 4 Delete the X if you try to use it. 5 Q. Right. Now, what's the significance of the 1? 6 Does that -- as opposed to a 2 or a 3? 7 A. Yeah, I'll go through that once more. An "f" is 8 folklore; a 1 is in vitro, animal, or chemical proof or 9 epidemiological data. 10 Q. And the 1 only describes the "f"; it does not 11 describe the entries that come after the semicolon? 12 A. No, the "f" is independent. If entries you'll 13 see are just "f." 14 Q. Okay. 15 A. Meaning it only has folklore. 16 Q. Okay. 17 A. Then, if -- following along in life, if I 18 encounter data suggesting that it's epidemiological or 19 working in animals or working in test tube models, I 20 will give it a 1 score, which is added to, or I may find 21 new folklore published. So, these are evolving in the 22 proprietary database. 23 Q. Okay. But does the 1 also describe the 24 publications in PubMed or not? 25 A. No.</p>
118	120
<p>1 alternatively Hawaii, that these are not in the USDA 2 database. 3 Q. So, the backwards apostrophe means it's not in 4 the -- 5 A. Both of them. Both of those are -- 6 Q. Why do you use one as opposed to the other? 7 A. Because when I clean up a volume and send it to 8 the girl in Hawaii, I erase the one symbol and start 9 from there on with a new symbol. 10 Q. Okay. So, then it says, "Cancer" -- going back 11 to X18342436, it says, "Cancer, bladder (f1)." What is 12 the significance of f1? 13 A. The "f" means it's folklore. 14 Q. Ah. 15 A. The 1 means probably that curcumin, an isolated 16 ingredient, was functional in bladder cancer. 17 Q. Okay. 18 A. And we have three different citations. That 19 makes it stronger in my mind. 20 Q. Okay. Then the next three citations, they don't 21 relate to the folklore; they relate to other studies 22 that were done? 23 A. That relates to where I arrived at my scores, 24 and I'm predicting, without remembering by the number, 25 that all of those were studies of curcumin with bladder</p>	<p>1 Q. Okay. 2 A. It only describes that -- it gets that level in 3 my Indications Evaluations, based -- now, it got the 1 4 probably on all three of those, but I don't always cite 5 every. I just cite the first one, always. And usually, 6 the 18 would be last year, and 16 would be about two 7 years ago, those starting, and one starting 11 might be 8 four or five years back. So, there are probably three 9 published studies, probably, suggesting or to me 10 suggesting strongly that this would be useful in bladder 11 cancer, the isolated ingredient, not the turmeric. It 12 would have a 2 if the turmeric had been tested itself. 13 Q. Do you know if there's any studies on turmeric 14 itself? 15 A. Based on my one experience this week in looking 16 at 60, there were two or three studies that were on 17 turmeric, but they were not conclusive. 18 Q. So, the studies on turmeric weren't conclusive, 19 and there's promising studies on curcumin? 20 A. Excuse me. I was actually working -- my three 21 search parameters were turmeric, clinical, and cancer. 22 Most of those studies were on curcumin. So, I think if 23 I did a study on curcumin in cancer, I might even get 24 more, but that would only get a 1 in my database. It 25 has to be on turmeric or an extract -- a whole extract</p>

121	<p>1 to get a 2.</p> <p>2 Q. There are all kinds of initials in here.</p> <p>3 A. Yes.</p> <p>4 Q. What do they mean?</p> <p>5 A. Let's start with the first one.</p> <p>6 Q. Okay.</p> <p>7 A. FNF is my abbreviation for Father Nature's</p> <p>8 Pharmacy, and I think that's explained in the</p> <p>9 introduction to these books. TRA is the Tramil</p> <p>10 Commission, of which I spoke this morning, the West</p> <p>11 Indian Commission.</p> <p>12 And Achlorhydria, I think it's -- without enough</p> <p>13 hydrochloric acid in your mouth -- I'm not even sure</p> <p>14 without looking it up. The KHA is one of the</p> <p>15 Egyptian -- excuse me, Indian authors that I have a book</p> <p>16 by. HOS, under adenocarcinoma, is my own Handbook of</p> <p>17 Spices, which we don't have in evidence here. MES, I've</p> <p>18 forgotten, but those are abbreviations to my most</p> <p>19 frequently consulted textbooks.</p> <p>20 Q. Do you have a key that you use to keep your</p> <p>21 abbreviations straight?</p> <p>22 A. We have a key that we use to try to keep our</p> <p>23 abbreviations straight, and they are emailed constantly</p> <p>24 when I introduce a new one between me and the lady, and</p> <p>25 she says, "Uh-oh, you have used this one," and we have</p>	123
122	<p>1 Q. Okay. The first entry, black cohosh -- easier</p> <p>2 to say -- what indications are there about its</p> <p>3 effectiveness in treating or curing cancer?</p> <p>4 A. Only those in the IE and the MAM.</p> <p>5 Q. Okay. But there's nothing -- if there was an</p> <p>6 indication in either the IE or the MAM about cancer and</p> <p>7 it didn't make it to this list on page 8, why would that</p> <p>8 be?</p> <p>9 A. Well, that's because I do not think of this as a</p> <p>10 major cancer -- anticancer herb, a minor anticancer</p> <p>11 herb, but its main indication, it's the leading drug</p> <p>12 product for menopause difficulties in the United States.</p> <p>13 Glaxo, I think, has it.</p> <p>14 Q. Okay.</p> <p>15 A. And it gets a 2 for menopause, but I don't think</p> <p>16 it gets any 2s for cancer.</p> <p>17 Q. The next entry is for garlic on page 8, and</p> <p>18 there's an asterisk next to the Latin name for garlic.</p> <p>19 Why is that?</p> <p>20 A. The asterisk reminds me that that is a Biblical</p> <p>21 herb mentioned in the Bible.</p> <p>22 Q. Ah.</p> <p>23 A. Only once, like the saffron.</p> <p>24 Q. And again, the -- you don't use the word</p> <p>25 "cancer" in describing garlic, but is cancer encompassed</p>	124
122	<p>1 to back up and correct it.</p> <p>2 Q. Would it be possible to get a copy of that key</p> <p>3 so we don't have to go through today every one of these</p> <p>4 entries in the --</p> <p>5 A. I could send you my latest version.</p> <p>6 Q. All right. Send it to Mr. Turner, and he will</p> <p>7 send it to me. That will save us considerable time.</p> <p>8 Otherwise, we are going to have to --</p> <p>9 MR. TURNER: Sure.</p> <p>10 MR. GORDON: Okay.</p> <p>11 BY MR. GORDON:</p> <p>12 Q. Turning to page 8 of Exhibit 4, this, I believe</p> <p>13 you said, is sort of a summary of the IEs that we'll</p> <p>14 look at or we've looked at some and we'll look at more</p> <p>15 later.</p> <p>16 A. I would prefer to say that it's -- these are my</p> <p>17 one-word -- one-sentence description of how I evaluated</p> <p>18 an herb myself.</p> <p>19 Q. Okay.</p> <p>20 A. Without looking at my Indications Evaluations.</p> <p>21 But this is what is common knowledge in the herbal</p> <p>22 community.</p> <p>23 Q. Okay.</p> <p>24 A. Knowledge which may be based on unclinical</p> <p>25 trials.</p>	124
122	<p>1 within all major killers?</p> <p>2 A. Yes. Cancer, diabetes, heart disease.</p> <p>3 Q. And on garlic, are there clinical studies that</p> <p>4 you're aware of?</p> <p>5 A. I think so. Again, I would have to refer to</p> <p>6 the -- the IE.</p> <p>7 Q. Okay. We'll get there, then. That's fine.</p> <p>8 A. I think we've even got some 3s there because</p> <p>9 whole garlic rather than garlic extract was used, just</p> <p>10 the garlic itself.</p> <p>11 Q. The next entry for Bromelain, it says has many</p> <p>12 proven activities. Again, do you recall whether there's</p> <p>13 any proven cancer activities?</p> <p>14 A. I think that if you go to Bromelain on PubMed,</p> <p>15 you will find some studies where it was indicated to be</p> <p>16 helpful, but I don't remember any clinical studies.</p> <p>17 Q. Okay. How about for Burdock? And let me ask</p> <p>18 you a preliminary question. What is a lignan?</p> <p>19 A. A lignan is a chemicals -- not lignin, which is</p> <p>20 in wood --</p> <p>21 Q. Ah.</p> <p>22 A. -- lignan is the -- there are five in Mayapple,</p> <p>23 which was mentioned in proven cancer. One of the</p> <p>24 lignans in the Mayapple was converted into the drug</p> <p>25 Etoposide. There are two lignans, that's a class of</p>	124

125

1 chemicals, and I could not define them if my life
2 depended on it.

3 **Q. Okay.**

4 A. But that's standard nomenclature.

5 **Q. Okay. And these lignans have antilymphomic
6 properties?**

7 A. Two of the lignans in Burdock have shown
8 antilymphomic properties, probably in vitro. If it were
9 clinical, it would have a 2 in the IE.

10 **Q. The next entry is for Huang Qi or yellow root,
11 and the description there says it's widely sold as -- in
12 America and China as an anticancer immunomodulator.
13 Does the fact that it's widely sold mean that it's
14 effective?**

15 A. No, with herbs or pharmaceuticals.

16 **Q. The next entry is for green tea, and again,
17 it's -- the entry there says it's widely and
18 scientifically promoted for many indications. Again,
19 does that mean it's effective?**

20 A. No, neither for herb nor pharmaceutical.

21 **Q. Okay. Turmeric, I think we've spent enough time
22 on.**

23 The next entry, Eleuthero, sold widely as an
24 alternative to ginseng adaptogenic tonic. There's no
25 reference to cancer there. Why?

126

1 A. Because that's not one of the major things that
2 are said about it.

3 **Q. Okay. Next we go to soybean. Who's Judah
4 Folkman?**

5 A. He is a deceased person from Children's Hospital
6 in Boston who led the advancement of anti-angiogenic
7 chemicals against cancer, for preventing cancer or
8 metastases, and he's spelled two ways in the PubMed,
9 sometimes with a V, but more frequently with an F, so
10 you may find it both ways in the reports.

11 **Q. As you recall, were these clinical trials or in
12 vitro trials that Dr. Folkman --**

13 A. I recall his trials very dramatically. He had
14 Petrie dishes with egg yolks in them, live egg yolks,
15 and this was in a meeting of some sort, looked like
16 gelatin, and if he put an anti-angiogenic chemical in
17 there, there would be no blood vessels radiating out
18 from the -- from the egg yolk, but if he put an
19 anti-angiogenic -- if he didn't have the
20 anti-angiogenic, it would have blood vessels. So, it
21 was preventing what they call this angiogenesis, the
22 development of new blood vessels, which is necessary for
23 metastases.

24 **Q. Do you recall whether those studies ever made it
25 to the clinical level, the studies done by Dr. Folkman?**

127

1 A. He -- I would wager that some did make it to the
2 clinical level, because of not -- not the genistein, not
3 the plant chemical, but some of the real drugs are based
4 on anti-angiogenic activity.

5 **Q. Okay. But any of soy -- so, none of the soy
6 chemicals that you're aware of got to clinical trials.
7 Is that correct?**

8 A. I certainly don't think I gave any 2s, but if I
9 gave some 2s, I would qualify my answer to let me go
10 home and check it out.

11 **Q. To the best of your knowledge today --**

12 A. I think it would be on top instead of on the
13 bottom if I had seen anything clinical. That's when I
14 jump and get it into the database as soon as possible.

15 **Q. Understood.**

16 **Next entry, for watercress, what's a crucifer?**

17 A. All members of the cabbage family.

18 **Q. Ah. Is that what a Brassicaceae is?**

19 A. Brassicaceae is the scientific name for the
20 cabbage family.

21 **Q. Your description says it's properly touted as a
22 cancer preventive. Why?**

23 A. Because it's been shown in vitro that several
24 different classes of compounds, isothiocyanate,
25 glucosinolates, and then one recently from Baltimore,

128

1 sulforaphane, probably akin to those first two groups of
2 compounds, at certain levels will prevent chemical
3 modulations that lead to cancer.

4 **Q. And, again, this is in vitro?**

5 A. I know of no clinical trials. My database may
6 have other, but no clinical trials of crucifers, but
7 probably the sulforaphane has been in trials. So, that
8 would give it a 1, not a 2.

9 **Q. What's sulforaphane?**

10 A. It was done on broccoli sprouts in Baltimore, a
11 study by Dr. Paul Talalay of Johns Hopkins, who claims
12 that sulforaphane would prevent cancer. He's widely
13 respected, but I don't think it's -- I don't know that
14 it's clinical. But I'll bet it's clinical, only the
15 component itself, sulforaphane.

16 **Q. That's not one of the components in the products
17 we're talking about today, correct?**

18 A. It's -- I would bet 50/50 that if we analyzed
19 watercress for it, we would find it, but I don't have it
20 in my database yet. I have to have a citation for it
21 before I can put it in the database.

22 **Q. And the studies that you've seen, are those for
23 treating cancer or preventing cancer?**

24 A. Mostly for preventing.

25 **Q. Do you recall seeing any for treating, any**

129	131
<p>1 studies?</p> <p>2 A. I will wager that I have seen studies, but I</p> <p>3 don't remember them specifically.</p> <p>4 Q. The next entry concerns Chinese rhubarb. Again,</p> <p>5 it says that it's in the Essiac family -- excuse me, the</p> <p>6 Essiac formula, which we discussed previously, and that</p> <p>7 it's touted for cancer. When you say "touted," what</p> <p>8 does that mean?</p> <p>9 A. I confess that's a derogatory name. I don't</p> <p>10 think much of the Essiac formula.</p> <p>11 Q. Okay, that's what I thought.</p> <p>12 The same for the next entry, sheep sorrell?</p> <p>13 Again, touted for cancer in the Essiac formula?</p> <p>14 A. Yes.</p> <p>15 Q. The next one, Sarsaparilla, there's no reference</p> <p>16 there to cancer. Why not? That's not one of its</p> <p>17 principal benefits, as far as you can tell?</p> <p>18 A. No. It's -- it's -- it, I'm sure, has some --</p> <p>19 something in the MAM and something in the IE for cancer,</p> <p>20 but it's certainly not one of my first-line anticancer</p> <p>21 plants.</p> <p>22 Q. The next entry is for Feverfew. Again, there's</p> <p>23 nothing there for cancer.</p> <p>24 A. I'm saying that these -- because it's the last</p> <p>25 thing in -- it's not the first thing I think about when</p>	<p>1 was a reasonable basis that 7 Herb Formula fought tumor</p> <p>2 formation. What components of the 7 Herb Formula do you</p> <p>3 believe do that given the comments you've made about</p> <p>4 Essiac, which is four of the seven components of 7 Herb</p> <p>5 Formula?</p> <p>6 A. If I had to rank these in my mental speculative</p> <p>7 estimate as to their anticancer potential, the Burdock</p> <p>8 and the Nasturtium would be the major ones. The</p> <p>9 Eleutherococcus is an immune booster, and remember, we</p> <p>10 herbalists, unlike allopaths, believe in stimulating and</p> <p>11 improving the health of the immune system. However, the</p> <p>12 FDA elects the wording.</p> <p>13 Q. I'm sorry. I couldn't hear the end of your</p> <p>14 answer?</p> <p>15 A. However, whichever words the FDA would approve.</p> <p>16 The cat's claw, I know a man in Peru swears he went into</p> <p>17 remission from prostate cancer from cat's claw, but</p> <p>18 that's anecdotal. You can get anecdotal reports on all</p> <p>19 of these. That's even below, I think, my lines of</p> <p>20 evidence.</p> <p>21 Q. I think we agree on that. Okay.</p> <p>22 Let me ask you to turn to page 9 of your report</p> <p>23 that page begins with the sentence, "Half of the new</p> <p>24 pharmaceuticals will be relabeled (with stronger</p> <p>25 warnings) or partially or completely recalled within a</p>
130	132
<p>1 I'm thinking cancer.</p> <p>2 Q. Right.</p> <p>3 A. But I believe that's the one that came out</p> <p>4 high -- very high in my MAMs, which surprised me, and I</p> <p>5 now, for the first time, would recommend that it be</p> <p>6 studied for cancer. It has proven, I think clinically,</p> <p>7 for Feverfew -- for migraine, and that's its most widely</p> <p>8 used and promoted indication. I would rank it better</p> <p>9 than Sumatriptan. It hasn't killed anybody.</p> <p>10 Sumatriptan has.</p> <p>11 Q. The next one is slippery elm. Again, it's part</p> <p>12 of the Essiac formula, and it's touted for cancer.</p> <p>13 A. Yep. I would recommend that more for stomach</p> <p>14 problems, mucous membrane problems. It's famous for</p> <p>15 that.</p> <p>16 Q. Okay.</p> <p>17 A. But it is not one of the first things in my</p> <p>18 cancer category.</p> <p>19 Q. The next entry is for cat's claw, and the next</p> <p>20 entry says, "Famed immunomodulator from Latin America;</p> <p>21 proofs possibly more promotional than scientific." I</p> <p>22 take that to be a derogatory comment?</p> <p>23 A. That's a touted comment, yes. I take it, but I</p> <p>24 took it for Lyme disease, not for cancer.</p> <p>25 Q. You had testified earlier that you thought there</p>	<p>1 decade."</p> <p>2 What's your basis for that statement?</p> <p>3 A. A GAO publication, which I have not been able to</p> <p>4 relocate, but I think Mr. Turner has it.</p> <p>5 Q. Do you recall when that study came out?</p> <p>6 A. In the eighties or nineties.</p> <p>7 Q. Do you have any basis for inferring that the --</p> <p>8 that that ratio is still good?</p> <p>9 A. I would say it's probably worse by now, because</p> <p>10 the pharmaceuticals are getting, I think, more dangerous</p> <p>11 than they used to be.</p> <p>12 Q. Have you, yourself, made any effort to study</p> <p>13 whether that, in fact, is true, whether the amount of</p> <p>14 recalls has continued to increase?</p> <p>15 A. I have not made any recent study of that. I</p> <p>16 wouldn't even know where to begin. That was GAO and I</p> <p>17 think fairly reliable, and it was just slightly over 50</p> <p>18 percent. But that to me, I still say one of ten will --</p> <p>19 excuse me, within the first decade, more than half will</p> <p>20 be recalled for relabeling or permanently recalled.</p> <p>21 Q. The last sentence of that paragraph, the first</p> <p>22 paragraphs, says, "The total number of annual iatrogenic</p> <p>23 deaths in America is 783,936."</p> <p>24 What does "iatrogenic" mean?</p> <p>25 A. Induced by medicine or doctors.</p>

133	<p>1 Q. And who's Mr. Null or Dr. Null?</p> <p>2 A. Gary Null, and I believe it is a doctor, but one</p> <p>3 of those manufactured doctors of the Union Institute or</p> <p>4 something like that. He's a popular radio announcer,</p> <p>5 and he's into vegetarianism and alternative medicine.</p> <p>6 That's why I prefer to quote the 140,000 fatalities from</p> <p>7 JAMA rather than the 783. I think the true figure is</p> <p>8 somewhere in between.</p> <p>9 Q. The next paragraph begins, "Remember,</p> <p>10 pharmaceuticals have been with us less than 150 years."</p> <p>11 In those 150 years, what's happened to life</p> <p>12 expectancy?</p> <p>13 A. It has gone up considerably.</p> <p>14 Q. Do you attribute any of that to pharmaceuticals?</p> <p>15 A. Yes.</p> <p>16 Q. The homeostatic mechanisms of balancing that you</p> <p>17 describe at the bottom of page 9, have you written any</p> <p>18 peer-reviewed articles on that?</p> <p>19 A. I don't remember that any were -- were</p> <p>20 peer-reviewed. It shows up in my books and lectures.</p> <p>21 We can prove homeostasis with simple things like zinc</p> <p>22 and Selenium, but I think it will prove true of many of</p> <p>23 the phytochemicals. I try to catalyze the research. I</p> <p>24 don't do it myself.</p> <p>25 Q. How about in the context of cancer? Has the</p>
134	<p>1 homeostatic balancing been the subject of any</p> <p>2 peer-reviewed articles in connection with the treatment</p> <p>3 or cure of cancer?</p> <p>4 A. I certainly believe not. I don't know, because</p> <p>5 most people don't believe my belief that the</p> <p>6 body-mind -- that if it needs zinc, it will grab it,</p> <p>7 because there's zinc in every food that you eat. If you</p> <p>8 need Selenium, it will grab it. And if you don't need</p> <p>9 it, it will kick it out. That's homeostasis. You can</p> <p>10 prove it through simple things, but you cannot prove it</p> <p>11 for these 4999 other chemicals. It hasn't been done to</p> <p>12 my knowledge.</p> <p>13 Q. On page 10, the second full paragraph begins,</p> <p>14 "Restoring chemical balance." About midway through,</p> <p>15 there's a sentence, "I'm not saying there is no place</p> <p>16 for pharmaceuticals."</p> <p>17 Is, in your mind, cancer one of the places for</p> <p>18 pharmaceuticals?</p> <p>19 A. Even though my laboratory was somewhat involved</p> <p>20 in the development of Taxol and two of my relatives have</p> <p>21 been helped by Taxol, I think I would go an herbal route</p> <p>22 myself. So, that's for those of us, if we believe</p> <p>23 within our system, we are more liable to help ourselves</p> <p>24 than with the very poisonous chemical Taxol. Taxol</p> <p>25 kills some people; Taxol saves some people.</p>
135	<p>1 Q. If someone has cancer and they want to pursue</p> <p>2 the herbal remedies that you've been discussing, how do</p> <p>3 they do that? How do they know what to take? How do</p> <p>4 they know how much to take? How do they monitor their</p> <p>5 progress?</p> <p>6 A. They read the same things that I have read or</p> <p>7 they ask their holistic physician, of whom I have one</p> <p>8 out in Columbia, Maryland, and he believes that if -- if</p> <p>9 he disbelieves in the pharmaceutical and believes in the</p> <p>10 herbal, he will prescribe an herb for you, because he</p> <p>11 thinks that mind-body connection is more important than</p> <p>12 the poisonous pharmaceutical.</p> <p>13 Q. The fellow in Columbia, he's an M.D.?</p> <p>14 A. He is an M.D. and was trained as an allopath,</p> <p>15 but he's evolved into a holistic physician. Warren Ross</p> <p>16 is his name.</p> <p>17 Q. Do you believe people should self-medicate with</p> <p>18 herbal remedies in treating cancer?</p> <p>19 A. I would. I would not recommend it. I would say</p> <p>20 if you were my daughter, I would recommend that you also</p> <p>21 do this, but remember, I am not a physician and cannot</p> <p>22 prescribe.</p> <p>23 Q. But how about people who are listening to a</p> <p>24 radio show or browsing on the Internet and looking for</p> <p>25 cancer cures?</p>
136	<p>1 A. My wife reads every journal that comes in the</p> <p>2 house for -- even though she is more allopathically</p> <p>3 inclined than I, she reads all the Ladies Home Journals</p> <p>4 and all these weird journals, the bottom line, and all</p> <p>5 the herbal and nonherbal suggestions, and I suppose</p> <p>6 that's what some people do on the radio. I keep CNN on</p> <p>7 when I'm compiling just so I can hear what's new on</p> <p>8 either side of the fence, the allopathic or the -- my</p> <p>9 psychopathic side.</p> <p>10 Q. Do you think there's a danger in people</p> <p>11 self-medicating and self-treating with herbal formulas</p> <p>12 since they're not required to have a physician prescribe</p> <p>13 those medications for them?</p> <p>14 A. I think the dangers are three orders of</p> <p>15 magnitude less than dealing with pharmaceuticals</p> <p>16 prescribed by physicians.</p> <p>17 Q. And why is that?</p> <p>18 A. Because we can only count fewer than 100 deaths</p> <p>19 due to herbal medication.</p> <p>20 Q. Do you think there's a risk that people will</p> <p>21 pursue herbal medications instead of effective</p> <p>22 pharmaceutical medications and thereby die?</p> <p>23 A. I'm sure some will.</p> <p>24 Q. Have you ever tried to measure any of that?</p> <p>25 A. I have not, but I have never found a fatality</p>

<p style="text-align: right;">137</p> <p>1 higher than 100 in a year for herbal medication, nor has 2 the FDA or people trying to find that number, and it's 3 so easy to go to JAMA and find over 100,000 fatalities a 4 year due to FDA-approved pharmaceuticals taken as 5 prescribed. That statistic is amazing to me. 6 Q. In your report on page 10, you say, "If you 7 believe in me and my Biblical food pharmaceutical 8 shotgun more than you believe in your allopath and his 9 or her expensive pharmaceutical silver bullets, there's 10 a better chance that my natural approach will help you." 11 What do you mean by the shotgun and the rifle 12 there? 13 A. The 5000 chemicals in turmeric as opposed to the 14 one chemical, Taxol, is a silver bullet. The shotgun is 15 those 5000 chemicals in turmeric. 16 Q. So, for turmeric, do you think turmeric is more 17 effective in fighting cancer than curcumin in an 18 isolated form, like they were doing in the study we 19 referenced in Exhibit 1? 20 A. I will answer that I'm not sure. Certainly, 21 most of the studies have been on the turmeric, but I 22 know that even the FDA says lycopene won't help prevent 23 prostate cancer, but they will let you say tomato will, 24 and lycopene is to tomato what curcumin is to turmeric. 25 I find that very strange, too.</p>	<p style="text-align: right;">139</p> <p>1 within the last year they've landed on Avandia, I 2 believe. But it -- mark my word, it will be one of 3 those 50 percent that are recalled, I predict; I 4 speculate. 5 Q. And all of these are Biblical herbs? 6 A. Yes. All of these are in this book and my 7 earlier Bible books. 8 Q. Now, there's a reference about halfway through 9 to "black mustard -- cancer -- Lorenzo's Oil." 10 A. Yes. 11 Q. And then, "Neither real promising." What does 12 that refer to? 13 A. You may have seen the movie or heard of the 14 movie called "Lorenzo's Oil." Well, that was based on 15 an acid -- excuse me, a -- yes, erucic acid, which 16 occurs in most of the cabbage family, Brassicaceae, the 17 same family, and that erucic acid and some other 18 component helped some kid with some kind of dystrophy 19 that was the subject of the movie "Lorenzo's Oil." 20 And given early in life, this could help, 21 because it's got the erucic acid, just like the curcumin 22 is to the turmeric, the erucic acid is to the whole 23 mustard family, particularly in some, particularly high 24 in some, and it's a negative thing, too. They speak of 25 LEAR, low erucic acid content, and HEAR, high erucic</p>
<p style="text-align: right;">138</p> <p>1 Q. On page 12 of your report, what does -- what do 2 these entries have to do with your opinions concerning 3 the efficacy of Daniel Chapter One's products? 4 A. These are more to point out by what -- what I 5 mean, that there are third-arm trials should be 6 conducted, and I believe I sent these believing at first 7 that all ODC or DCO herbs were going to be Biblical, and 8 then three or four days into the affair, I found that 9 they only had three or four Biblical herbs, and all the 10 others are non-Biblical. But this is a list of what I 11 would call third-arm candidates from the Bible and the 12 pharmaceutical with which they should be compared, 13 because until we do this, we don't know which is best. 14 I think even the FDA is saying -- the FDA would agree 15 that we don't know which is best until they're 16 clinically compared. 17 Q. There's an asterisk next to Cinnamomum 18 aromaticum. Why? 19 A. Because that's one of my real favorites, and 20 when the FDA toured my garden, I had cinnamon in the 21 garden, and I had a tube representing Avandia, because 22 that's about to face the same thing that Celebrex faced, 23 because this FDA-approved drug is causing a lot of heart 24 attacks. Cinnamon, on the contrary, improves your 25 cardio -- cardiac situation. That's recent. That's</p>	<p style="text-align: right;">140</p> <p>1 acid content, when labeling members of the mustard 2 family, for canola oil, for example. 3 So, it's a good guy and a bad guy, but if you 4 have got that kind of dystrophy, you take that risk, and 5 I would just as soon take that as anything that's out 6 there for dystrophy, but I don't think it would help me 7 beyond age six or seven. 8 Q. But the reference here, "Cancer not real 9 promising"? 10 A. Brassicaceae shows up as having some anticancer 11 activity. All members of the mustard family -- excuse 12 me. 13 Q. No, go ahead. 14 A. All members of the mustard family have 15 anticancer potential. 16 Q. But the notation, "Neither real promising"? 17 A. I was talking about the -- regrettably, I was 18 talking about the dystrophy, whose name I can't 19 remember, that Lorenzo's Oil was used to treat. I don't 20 think you're going to heal it with pharmaceutical or 21 herb, the herb being the oil from Brassica nigra, high 22 erucic acid. 23 And the cinnamon, that's why the asterisk by the 24 cinnamon is there. They are really promising. Down 25 below, excuse me. We saw cinnamon somewhere else, and</p>

141

1 again, I'm really betting on that, that cinnamon will be
 2 better than Avandia. I would stake a thousand dollars
 3 on it readily.

4 **Q. How is the cinnamon to be administered?**
 5 A. I took two at noon. It's a capsule. And
 6 there's USDA studies that have shown that it helps in
 7 diabetes. Not mine, Richard Anderson. And in
 8 quantities less than 500 milligrams, cinnamon helped the
 9 insulin status, and these were clinical trials in Asia,
 10 but with American involvement. It's cheaper there.

11 **Q. Can you get Exhibit 5?**
 12 MR. TURNER: Here it is.
 13 THE WITNESS: Yeah.
 14 BY MR. GORDON:

15 **Q. Appendix 1, as part of Exhibit 5, purports to be
 16 a list of some additional things that you --**
 17 MR. TURNER: I'm sorry. What --
 18 MR. GORDON: Appendix 1 in Exhibit 5. The first
 19 page.
 20 BY MR. GORDON:

21 **Q. This purports to be a list of some of the
 22 additional materials that you relied on. The Townsend
 23 Letter, we've talked about that before. It's a
 24 newsletter for the --**
 25 A. For what some people would call the flake

142

1 community; the homeopaths, the herbalists,
 2 chiropractors.

3 **Q. Okay. Is there anything in particular in that
 4 August-September 2007 time frame that you were looking
 5 at?**
 6 A. This was probably the references to one of my
 7 lists of alternatives, and I do not remember whether
 8 this was my article or someone else's without going back
 9 to that article.

10 **Q. Okay. What's the second entry? It's not clear
 11 to me if it's complete.**
 12 A. I would quite agree with you, and I will have to
 13 go to my files to answer that question.

14 **Q. Okay.**
 15 A. And I might even have a difficulty in my files,
 16 because it might have been in the paper submitted to
 17 Townsend Letter, which they are not very careful with
 18 the bibliography.

19 **Q. All right. Well, if you could clarify that with
 20 Mr. Turner, that would be helpful.**
 21 **The next item, number 3, it looks like some kind
 22 of comparison study between Crocus and imipramine in the
 23 treatment of depression. I'm trying to figure out how
 24 that relates to the cancer efficacy of DCO products.**
 25 A. Well, this was, as I think I suggested, one of

143

1 the -- this is the bibliography for one of those tables
 2 like we just went through, and this is where I mentioned
 3 this morning that imipramine at 100 milligrams was no
 4 more effective than 30 milligrams of the herb saffron
 5 for depression. That has nothing to do with cancer
 6 unless you believe that a depression contributes to a
 7 lower immune system. Some people do believe that.

8 **Q. The next entry is your phytochemical database,
 9 and it says, "Accessed May 15, 2007."**
 10 A. They normally get you -- that means that all of
 11 this was probably prepared about then, at the tail-end
 12 of one of my rants.

13 **Q. Okay. So --**
 14 A. This -- this particular -- they specify that you
 15 say when you accessed it for the bibliographies, because
 16 it's different today than it would be then, very
 17 different.

18 **Q. When do you think you were first contacted by
 19 Mr. Turner regarding this matter?**
 20 A. ODC [sic]?
 21 **Q. Yeah, DCO.**
 22 A. I think he might have given me an inquiry at
 23 some time back about my knowledge of Biblical herbs, but
 24 I don't think he said why, because I recall when he
 25 was -- thought I might be useful was about two weeks

144

1 ago.

2 **Q. So, you had accessed the database sometime in
 3 May 2007 and had compiled at least some of this
 4 information for some other report or study that you were
 5 doing and then referenced it back when you were
 6 preparing your expert report in this matter?**
 7 A. I sent the whole -- the -- what I call the
 8 handouts, and this would be probably at the rear end of
 9 one of my handouts, and my handouts would be a list of
 10 third-arm trial candidates, which I've been proposing
 11 for over ten years.

12 **Q. Okay. The next item, number 5, that's the GAO
 13 study on FDA drug reviews and recalls that you were
 14 referencing previously, correct?**
 15 A. Right, yeah, and I averaged it out perfectly,
 16 1990. I believe I suggested somewhere between -- in the
 17 eighties or nineties.

18 **Q. Okay. And then item 6, I guess the same
 19 question. Does this relate specifically to your work in
 20 this case, evaluating the efficacy of DCO's products?**
 21 A. It does not.

22 **Q. How about number 7? The same question. Does
 23 that entry relate to your --**
 24 A. Only in the sense that here we're talking about
 25 prayer helping and belief helping.

145

1 **Q. Number 8, again, that doesn't relate to --**
 2 **strike that.**
 3 **Is number 8 the study that compared Zolof,**
 4 **St. John's Wort, and a placebo that we discussed**
 5 **earlier?**
 6 A. Yes. You couldn't tell that from the title,
 7 though, could you?
 8 **Q. Yeah. It takes a while.**
 9 A. I wonder why? Excuse me. Your question.
 10 **Q. No problem.**
 11 **Number 9, does that relate to the work you've**
 12 **done to evaluate the efficacy of DCO's products in this**
 13 **case?**
 14 A. I did not recently con -- consult this in
 15 relation to DCO.
 16 **Q. Okay.**
 17 A. But this supports my urging that milk thistle be
 18 compared with interferon, which is 100 times more
 19 expensive, for hepatitis.
 20 **Q. Number 10 appears to be an article in Russian.**
 21 **Did you read that and/or consult that in connection with**
 22 **your work in this case?**
 23 A. I do not read Russian. I probably -- it
 24 probably -- and I don't even know this. It probably had
 25 an abstract in English.

146

1 **Q. Okay. But do you recall consulting the abstract**
 2 **in connection with your work specifically in this case?**
 3 A. I do not.
 4 **Q. Number 11, did you consult this article**
 5 **specifically in connection with your work on this case?**
 6 A. No. This would have been in conjunction with my
 7 recommendation that Saul palmetto was better than the
 8 pharmaceutical for benign prostatic hypertrophy, which
 9 is probably one of the third-arm trials I would suggest.
 10 **Q. And then the last entry is a WebMD Melanoma**
 11 **Guide entry. Again, did you consult this in connection**
 12 **with your work evaluating DCO's product?**
 13 A. Obviously not. It was 2007 when I consulted
 14 that.
 15 **Q. Okay.**
 16 A. That's what makes it good that you have that
 17 when you access that. I'm just realizing that today.
 18 **Q. There you go.**
 19 **All right. The next page in Exhibit 5. Now, I**
 20 **think we've established these are called -- the exhibit**
 21 **is written MAMs, but we now know that these are your**
 22 **IEs, correct?**
 23 A. Yes, but I won't mark on this one.
 24 **Q. Okay.**
 25 A. Let's trade again.

147

1 MR. TURNER: Give me that one. Okay.
 2 BY MR. GORDON:
 3 **Q. How quickly can you look at these and figure out**
 4 **what's here?**
 5 **Let's go off the record for a second.**
 6 **(Discussion off the record.)**
 7 BY MR. GORDON:
 8 **Q. The first entry is for black cohosh. I don't**
 9 **see any clinical studies referenced here, but can you**
 10 **take a look at that and correct me if I'm wrong?**
 11 A. Look at hot flashes.
 12 **Q. Let me limit my answer to cancer. Let me limit**
 13 **my question to cancer.**
 14 A. Oh, okay.
 15 **Q. Let me ask a better question.**
 16 **For black cohosh, page 2 of Exhibit 5, are there**
 17 **any clinical trials referenced there as to the efficacy**
 18 **of this product as to cancer?**
 19 A. I have to look through slowly to make sure that
 20 there are no 2s. If there are no 2s, there are -- there
 21 are none.
 22 **Q. Okay.**
 23 A. So, no.
 24 **Q. No, okay.**
 25 A. No clinical trials.

148

1 **Q. Okay. The next product is garlic. Any clinical**
 2 **trials there regarding its efficacy as to cancer?**
 3 A. No. I think I've bolded everything -- every
 4 activity there that got a high score, and I don't see
 5 cancer there.
 6 **Q. Okay. Moving to -- moving to page 5, pineapple**
 7 **Bromelain.**
 8 A. Right.
 9 **Q. Let me ask you the same question. Are there any**
 10 **clinical studies referenced there regarding the efficacy**
 11 **of that product in treating cancer?**
 12 A. There are none.
 13 **Q. The next product, Burdock. Are there any**
 14 **clinical studies referenced there evaluating the**
 15 **efficacy of that product in treating cancer?**
 16 A. I'm looking for lymphoma, which is a type of
 17 cancer. If it has a 2, there has probably been. If
 18 there is no 2 there, and I see none that obtained a 2,
 19 no clinical studies.
 20 **Q. Okay.**
 21 **I need to take a quick break and just run down**
 22 **the hall. I'll be right back.**
 23 **(A brief recess was taken.)**
 24 BY MR. GORDON:
 25 **Q. Continuing in Exhibit 5, page -- the bottom of**

149

1 **page 6, carrying over onto page 7, there's the IE for**
 2 **yellow root. Are there any references there indicating**
 3 **clinical studies demonstrating the efficacy of that**
 4 **product in treating cancer?**
 5 A. None.
 6 **Q. Moving to page 7 of Exhibit 5, the entry for**
 7 **green tea. Are there any studies referenced there**
 8 **indicating the efficacy of that product in clinical**
 9 **trials in treating cancer?**
 10 A. Here, I have to repeat the same qualification I
 11 mentioned this morning. That 2 -- well, I don't think
 12 Commission E recommended anything for cancer. So, I
 13 would suspect that all the things that are bolded there
 14 are clinical.
 15 **Q. Are clinical?**
 16 A. I would suggest that clinical studies have been
 17 done. I only see one with a PubMed extract that you
 18 could check immediately. PH2, after cancer of the
 19 rectum -- yeah, after cancer of the rectum, is German
 20 Herbal Desk -- Herbal Desk Reference, I believe it's
 21 called, and that would probably have hinted that this
 22 was approved by Commission E for cancer of the rectum.
 23 Ditto for cancer of the stomach, the PH2 refers to
 24 Commission E, and I would check those PubMed abstracts
 25 to see if there were clinical trials.

150

1 **Q. From what's here, can you -- you can't determine**
 2 **whether those were clinical trials?**
 3 A. No. I will always say and apologize for the
 4 fact that Tramil Commission, the Commission E, got 2 if
 5 they were approved by those distinguished committees,
 6 and that ranks with the clinical trials. Now, there may
 7 be clinical trials reported in these books, but if my
 8 job were to come up with clinical trials, I could do
 9 that, but it would take several more days.
 10 **Q. Okay.**
 11 A. And I'd find some new ones in the process.
 12 **Q. For cancer of the rectum, for example, is that**
 13 **1, 2 or 12? I'm trying to understand --**
 14 A. That's my -- my units for the evaluations are
 15 "f," 1, 2, and 3, and if they got all four, that's all
 16 the better. I like having the folk medicine there, too.
 17 But the 3 is where -- tea itself, if it had gotten a 3,
 18 tea itself, not an extract of the tea, would have been
 19 proven in clinical trials. Very rare. But I think we
 20 had some of those for garlic, for garlic itself. I'm
 21 not sure if it was in cancer, though.
 22 **Q. So, for cancer of the rectum, on page 8, the 12**
 23 **indicates that there have been both in vitro and --**
 24 A. Any of the other options for 1.
 25 **Q. Right.**

151

1 A. In vitro, animal, chemical, epidemiological; and
 2 2 has three different possibilities: the Tramil
 3 Commission, but Tramil was not cited; PH2 was based on,
 4 in part, Commission E. So, that's probably based on
 5 Commission E approval, which I speculated they didn't
 6 allow, but this particular physician's herb reference,
 7 Edition 2, which is what this refers to, was patterned
 8 after our Physician's Desk Reference.
 9 And this makes me want to go back to my PH2, and
 10 I think I'll find a square there by cancer of the
 11 rectum, but I don't know this. That's why I have the
 12 citation for everything. I can get back to that. And
 13 it may say -- that square implies that it was approved
 14 by Commission E for this and that indication. This
 15 morning, I said I don't know that they approved cancer.
 16 That would also apply to cancer of the stomach, but you
 17 have also got folklore thrown in there. So, you have
 18 got three levels of evidence, folk, in vitro, in vivo,
 19 animal, and the 2, Commission E or clinical trial.
 20 **Q. Do you see any other indications under the green**
 21 **tea entry for -- that indicate that possibly clinical**
 22 **trials were done in evaluating the efficacy of that**
 23 **product in treating cancer?**
 24 A. I think I bolded everything that had the 2 in
 25 it.

152

1 **Q. Okay.**
 2 A. Anything that has a 2, that's a possibility. I
 3 would have to sort it out.
 4 **Q. Okay. The next entry is turmeric, and here,**
 5 **the -- again, the bold entries indicate that there's the**
 6 **possibility that there's a clinical evaluation having**
 7 **been done, correct?**
 8 A. Correct.
 9 **Q. But we don't know whether that's clinical**
 10 **evaluation or whether just approval by the Tramil**
 11 **Commission or Commission E?**
 12 A. I don't know that we have any 2s for cancer.
 13 **Q. For cancer, okay. It's just for any of the**
 14 **products -- for any of the uses, I'm sorry, that's what**
 15 **the bolding signifies, that it's either a clinical**
 16 **trial --**
 17 A. If it got a 2.
 18 **Q. A 2.**
 19 A. So, now you're asking about other things than
 20 cancer?
 21 **Q. I'm just making sure I understand why the things**
 22 **were bolded.**
 23 A. Because those are -- anything that gets bolded
 24 that has a 2 is something that I think is ready for a
 25 trial, comparative trials, with pharmaceuticals,

153

1 comparative.
 2 **Q. Got it.**
 3 **Going to page 11 of Exhibit 5, the entry for**
 4 **Eleuthero that carries over onto page 12, any**
 5 **indications there of this product being evaluated in**
 6 **clinical trials for its efficacy in treating cancer?**
 7 A. Nothing but folklore.
 8 **Q. Okay. Mr. Dulabon reminds me, I'm not sure I**
 9 **asked you the right question for turmeric.**
 10 **Are there any indications for turmeric, based on**
 11 **pages 9 and 10 of Exhibit 5 -- 9, 10, and 11 of Exhibit**
 12 **5, that that product, turmeric, has been evaluated in**
 13 **clinical trials for its efficacy in treating cancer?**
 14 A. I -- my answer is I think not from my review.
 15 **Q. Okay. Page 12 of Exhibit 5, for soybean, and I**
 16 **think we spoke about Dr. Folkman earlier. There's a**
 17 **plus sign next to his name. Does that have some**
 18 **significance or --**
 19 A. I think I was telling myself to check the
 20 spelling, and I did go to PubMed, and most of the time,
 21 it's with an F, and I don't -- maybe I can mark on this
 22 one. I would change that to F, because that's the
 23 majority spelling in PubMed.
 24 **Q. Okay. For the entry for soybean on pages 12 and**
 25 **13 of Exhibit 5, are there any indications there of**

154

1 **clinical trials having been done to evaluate the**
 2 **efficacy of soybean in treating cancer?**
 3 A. Nothing is scored higher than 1, which tells me
 4 that if there had been, it was based upon the genistein,
 5 the silver bullet, rather than the whole herb. My
 6 answer is no, there is no evidence that there are
 7 clinical trials on soybean.
 8 **Q. And can you tell from the entries on pages --**
 9 **pages 12 and 13 whether there have been clinical trials**
 10 **on the isolated element?**
 11 A. No.
 12 **Q. Page 13 of Exhibit 5, carrying over to page 14,**
 13 **the entry for watercress, there's an asterisk there.**
 14 **The significance of that?**
 15 A. Biblical.
 16 **Q. Okay. And the same question, for watercress, is**
 17 **there any indication on pages 13 or 14 that watercress**
 18 **has been evaluated in clinical trials for its efficacy**
 19 **in treating cancer?**
 20 A. There is none.
 21 **Q. The next entry on page 14 of Exhibit 5 for**
 22 **turkey rhubarb, is there any indication there that that**
 23 **product has been evaluated in clinical trials for the**
 24 **treatment of cancer?**
 25 A. May I back up?

155

1 **Q. You may.**
 2 A. On page 13, this is tenuous, but under the -- it
 3 did get a 2 score, meaning there had been clinical
 4 trials showing that watercress aided inflammation. Now,
 5 I think you'll find "anti-inflammatory" is a buzzword
 6 for cancer. So, this is very tenuous, but it is
 7 suggestive.
 8 Now, back to your next question.
 9 **Q. But anti-inflammatory could also be for achy**
 10 **knees or achy elbows, itchy skin?**
 11 A. Oh, yes.
 12 **Q. Yeah. Page 14, I don't know that you answered**
 13 **that question, so I'll ask it again.**
 14 **I don't -- I'll ask it. Any indication that**
 15 **turkey rhubarb has been evaluated in clinical trials to**
 16 **treat cancer?**
 17 A. None.
 18 **Q. The next entry on page 15 of Exhibit 5, for**
 19 **sheep sorrell, any indication that sheep sorrell has**
 20 **been evaluated in clinical trials to measure its**
 21 **efficacy in treating cancer?**
 22 A. There is none showing that sheep sorrell alone
 23 helped cancer.
 24 **Q. Again, here it says -- you said, "sheep sorrell**
 25 **alone." That implied there is some --**

156

1 A. There is some positive and negative evidence for
 2 the group of four, not the group of seven.
 3 **Q. By "group of four," you mean Essiac, and "group**
 4 **of seven," you mean the 7 Herb Formula, correct?**
 5 A. Yes.
 6 **Q. The trials for Essiac, were they clinical**
 7 **trials, do you recall?**
 8 A. I used the buzzword "clinical," but in one
 9 obviously a clinical study should be undertaken. So,
 10 that was not a clinical study. I believe one was a
 11 clinical study.
 12 **Q. And do you remember the results of that clinical**
 13 **study? Was it one of the positive ones or one of the**
 14 **negative ones?**
 15 A. I don't remember. I was not strongly impressed
 16 with the negative or the positive.
 17 **Q. Okay. On page 15 of Exhibit 5, the entry for --**
 18 **"sarsaparilla" or "sarsaparilla"?**
 19 A. I've heard it both ways. I say "sarsaparilla"
 20 when I'm in Latin America; "sarsaparilla" up here.
 21 **Q. Okay. Any entries for sarsaparilla indicating**
 22 **that it's been evaluated for its efficacy in treating**
 23 **cancer in clinical trials?**
 24 A. None.
 25 **Q. Continuing down on page 15 of Exhibit 5, the**

157

1 entry for Feverfew, which continues over to page 16.
 2 Are there any indications there that Feverfew has been
 3 evaluated in clinical trials for its efficacy in
 4 treating cancer?
 5 A. None.
 6 Q. On page 16 of Exhibit 5, the entry for slippery
 7 elm, is there any indication there that slippery elm has
 8 been evaluated in clinical trials for its efficacy in
 9 treating cancer?
 10 A. None, except the fact that it was perhaps
 11 clinically tried against inflammation, and I think it
 12 had been proven against inflammation, and inflammation
 13 is one of the factors that leads to cancer. So, that's
 14 very secondhand information.
 15 Q. Okay. No clinical trials regarding the
 16 treatment of existing cancer, correct?
 17 A. To my knowledge, and certainly not on that page.
 18 Q. Right. All right. Moving to page 17 of Exhibit
 19 5, the entry for cat's claw, there's a little
 20 introductory parenthetical there that says, "Famed
 21 immunomodulator from Latin America; proofs possibly more
 22 promotional than scientific."
 23 Why is that here in Exhibit 5?
 24 A. I have seen literature on the cat's claw which
 25 was not very important in folklore even until the

158

1 thirties or the forties when there was a remission in
 2 Peru, and that stimulated new studies on this, and I
 3 think some of them hinted that it was useful in cancer,
 4 but I would attribute it mostly as anecdotal.
 5 Now, I have no -- no 2s there, and so I would
 6 suggest that they took chemicals from this plant, and
 7 they were tried against cancer, but no clinical trials.
 8 Q. Okay. So, no clinical trials evaluating the
 9 efficacy of cat's claw, correct?
 10 A. Correct.
 11 Q. Appendix 3, starting on page 18 of Exhibit 5,
 12 has herb-drug comparisons. I'm trying to understand how
 13 these fit into the opinions you've offered regarding the
 14 efficacy of Daniel Chapter One products.
 15 A. Again, these are my recommendations from an
 16 earlier drawn-up handout suggesting that almonds should
 17 be compared with whatever you're taking for cardiopathy,
 18 because California studies have shown that it helps, and
 19 all of these, as I look down, are Biblical.
 20 This was submitted during the first three days
 21 when I thought all their products were going to be
 22 Biblical. And this is more to show that there are herbs
 23 out there that are competitive with the existing
 24 pharmaceuticals. And as always, until they are
 25 clinically compared, neither the FDA, the FTC, nor me,

159

1 nor my allopaths, nor my psychopaths, know which is
 2 better.
 3 Q. There's a reference on page 18 to black cumin's
 4 thymoquinone for cancer, a reference to a Lai and Roy
 5 study.
 6 Do you see that?
 7 A. Yes.
 8 Q. What can you tell me about the Lai and Roy
 9 reference?
 10 A. That is probably an Asian study in which they
 11 said, themselves, that the thymoquinone, one of the
 12 major ingredients in the black cumin, alias Nigella, was
 13 a very good antiseptic.
 14 Q. But then the next entry is for cancer. That's
 15 the one I was really --
 16 A. Since I have not given the -- well, the black
 17 cumin is not one of the IEs. I don't know whether -- I
 18 suspect this was not a clinical trial, but a suggestion
 19 that thymoquinone could be useful in cancer.
 20 Q. Okay.
 21 A. One could go to my USDA database, and if I had
 22 seen quotations with thymoquinone, that would be in the
 23 indications for thymoquinone. You can find the
 24 activities of all these chemicals in my USDA database.
 25 Since that's way back in 2004, it may have gotten into

160

1 the database. It's certainly in the home database,
 2 which I could consult with, the proprietary database.
 3 Q. Is it in one of your books?
 4 A. It's a possibility it's in this one.
 5 Q. Take a look.
 6 A. The herb is. That's one of the -- the Muslims
 7 regard as a cure for all diseases, except death. Black
 8 cumin, not thymoquinone.
 9 Let's see, nigella -- this one doesn't answer
 10 that question, but it does address cancer. The seed
 11 oil -- page 303.
 12 MR. TURNER: Tell the name of the book, as well.
 13 THE WITNESS: Duke's Handbook of Medicinal
 14 Plants of the Bible, 2008. "The seed oil produces a
 15 concentration-dependent inhibition of tissue-type
 16 plasminogen activator (t-PA), urokinase-type plasminogen
 17 activators and plasminogen activator inhibitor type.
 18 The seed oil decreases the fibrinolytic potential of
 19 human fibrosarcoma" -- which is a type of cancer --
 20 "cells in vitro" -- which is not clinical -- "possibly"
 21 -- I say conservatively -- "slowing local tumor invasion
 22 and metastasis." And this is referenced to the PubMed
 23 abstract 15 -- document 15693715.
 24 Next, Khan and Sultana, 2005, show inhibition of
 25 renal carcinogenesis, et cetera, by Nigella sativa, and

161	163
<p>1 that apparently was based on rat data, animal data. So, 2 that would only get 1. But I haven't found anything 3 yet -- here's thymoquinone. Thymoquinone is an 4 anticonvulsant, hypnotic, and muscle relaxant, and 5 alters motor coordination and locomotor activity, based 6 on this one PubMed reference, another one, 15795687. 7 That does not mean that there aren't -- that 8 thymoquinone is not listed as anticancer on other 9 evidence, but it's not mentioned here as an anticancer 10 ingredient. So, the answer is this does not address 11 that question, is thymoquinone anticarcinogenic? My 12 database will either have it or not have it. 13 Q. I understand how you got your botanical 14 training. How did you get your medicinal training, the 15 knowledge that you have in your book about carcinogenics 16 and metastasis and other medicinal aspects of these 17 plants? How did you obtain that knowledge? 18 A. I -- when I was transferred from other divisions 19 of the USDA into the Cancer Screening Division, I got 20 keenly interested, because it was something that I'd 21 observed in Panama. 22 In Panama, living with the best facilities at 23 the Gorgas Memorial Institute, my kids got treated, and 24 I was working with the Indians out in Darien for weeks 25 at a time, and their kids were just as healthy and happy</p>	<p>1 A. Exhibit 5. 2 MR. TURNER: That's it. 3 THE WITNESS: Yeah. 4 MR. TURNER: That's it. 5 THE WITNESS: Page what? 6 BY MR. GORDON: 7 Q. Eighteen. 8 A. Eighteen, okay. 9 Q. There's a reference there for Brier, Solanum 10 incanum, for skin cancer. What does that refer to or 11 relate to? 12 A. Several species of Solanum, which is the same 13 genus to which the potato belongs, contain the chemical 14 solasodine, an alkaloid, and that alkaloid has been 15 recommended highly in Australia, and probably off label 16 in Florida, for skin cancer. And I believe it was shown 17 to help with certain types of either squamous cell or -- 18 THE REPORTER: I'm sorry. I didn't hear what 19 you said after squamous cell. 20 THE WITNESS: Squamous cell, and then I was 21 groping for another word, another type. 22 BY MR. GORDON: 23 Q. All right. Turn to page 19 of Exhibit 5. The 24 third entry there, it has to do with the spoilage of 25 sausage, and I'm just trying to understand how that</p>
162	164
<p>1 as mine with the best of medical conditions. 2 And at that point, I decided, "Hey, there's 3 something to this folk medicine." I had been a botanist 4 all along but had never -- and a survivor of edible 5 plants, but had never gotten into medicinal plants until 6 at age 37, I think it was, I had a midlife conversion, 7 and I decided that there's a lot to folk medicine that 8 we don't know about yet, and I started accumulating. 9 So, I'm self-taught as far as medicine is concerned. 10 Q. Have you lectured at any medical schools? 11 A. Yes. 12 Q. Which ones? 13 A. I can't remember, but it's up north. I've 14 lectured at Johns Hopkins, as we noted this morning, and 15 I've done 57 eco-tours to Peru, almost all of which were 16 given CE credits in various -- the last one was -- next 17 to last one was a Washington State Medical School 18 training session, CE, and I was the only psychopath 19 there. There were three allopaths, and I won. 20 Q. You won, okay. How did you win? 21 A. With the truth. 22 Q. What was the debate? 23 A. Are natural medicines good? 24 Q. Back to more mundane questions. Focusing on 25 Appendix 3, page 18 of Exhibit 5 --</p>	<p>1 relates to what's got us here today. 2 A. I'm just suggesting that coriander should be 3 compared in a third-arm trial to chelation -- which is 4 not exactly allopathic, is a little bit more flakey -- 5 in case you have overdosed on lead and mercury, because 6 it's suggested in this paper, which grabbed my 7 attention. 8 I eat Vienna Sausage, and everybody says I 9 shouldn't. I don't anymore. But I would say that 10 doesn't get an asterisk because it's not a very exciting 11 potential. All third-arm potentials are not good. 12 Q. Moving down, there's a fig and benzaldehyde 13 versus Laetrile for cancer. 14 A. Yes. 15 Q. So, there, it's two alternative therapies being 16 evaluated? Is that fair? 17 A. Yeah, because benzaldehyde is a silver bullet 18 from the whole fig or the whole fig latex -- 19 Q. Ah. 20 A. -- which would be the shotgun. And the Laetrile 21 is clearly not a -- an FDA-approved pharmaceutical, but 22 Laetrile is close kin to benzaldehyde, and benzaldehyde 23 does have proven antitumor activity. 24 Q. What's the Kings II reference there? 25 A. If I were at home, I could dial up Kings II in</p>

165	<p>1 the Bible and read the verse, and I would have to read</p> <p>2 the whole chapter or I would have to find where it --</p> <p>3 well, actually, I could search for "fig."</p> <p>4 Q. But it's a Biblical reference?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And all of these are comparisons you</p> <p>7 think should be done. Is that fair?</p> <p>8 A. Some weak; some strong.</p> <p>9 Q. Okay.</p> <p>10 A. Yes. We don't know, until we do them, which is</p> <p>11 best.</p> <p>12 Q. Okay. Moving forward to page 22, Appendices 4</p> <p>13 and 5, what are -- what do these entries represent?</p> <p>14 Specifically, how do they relate to the opinions you're</p> <p>15 offering regarding the efficacy of Daniel Chapter One's</p> <p>16 products?</p> <p>17 A. Actually, this is another version of the</p> <p>18 handouts that we've been discussing and with the same</p> <p>19 intent. So, I sent Mr. Turner three handouts that are</p> <p>20 in my computer at home, and these change as I give</p> <p>21 lectures. There's some new added, some that are less</p> <p>22 promising dropped, and he has seen fit to include all</p> <p>23 three.</p> <p>24 I would, had I had more time, would have gone</p> <p>25 through and gotten the best and put the asterisks there.</p>	167	
166	<p>1 That's what my life work is about evaluating these</p> <p>2 things, and some of them are trivial and some of them</p> <p>3 are fabulous.</p> <p>4 Q. There's -- the third entry there, the Crocus</p> <p>5 sativus, it has two asterisks.</p> <p>6 A. That one has been proven clinically, at least</p> <p>7 according to Iranian standards.</p> <p>8 Q. Okay. And then the -- two down, the Curcuma</p> <p>9 longa, turmeric for Celebrex -- as against Celebrex,</p> <p>10 again, an asterisk there.</p> <p>11 A. I would bet on the whole turmeric, and I take</p> <p>12 this compound, Zyflamend, as an anti-arthritis, a gout</p> <p>13 preventive, and if I were to fail with my usual one</p> <p>14 Zyflamend capsule and get a crisis of gout, which has</p> <p>15 not happened so far, I would take two or three, and it</p> <p>16 would work on that type of arthritis known as gout.</p> <p>17 Q. The entry a little bit further down, the</p> <p>18 Gossypium herbaceum, do you see that one?</p> <p>19 A. Yes.</p> <p>20 Q. "Works but dangerous." What does that whole</p> <p>21 entry relate to?</p> <p>22 A. There is a compound in cotton and even some</p> <p>23 cotton seed oil which gets through the FDA which</p> <p>24 contains a male contraceptive known as Gossypol. It's</p> <p>25 probably also in okra of the same family. And it works</p>	<p>1 reversibly in Chinese clinical studies as a male</p> <p>2 contraceptive, but reversible.</p> <p>3 Q. And it's, I take it, dangerous for overall</p> <p>4 health?</p> <p>5 A. Gossypol is dangerous. I think all</p> <p>6 contraceptives are.</p> <p>7 Q. The next entry for Juniperus communis, what does</p> <p>8 that relate to? There's a reference, again, that it</p> <p>9 "kills a few people."</p> <p>10 A. Okay, here we're talking about lignans again,</p> <p>11 and the same lignan that occurs in Mayapple we mentioned</p> <p>12 this morning occurs in a few other species, including</p> <p>13 this juniper, the one that's out by the airport at</p> <p>14 Dulles, you see all these cedar trees. They contain</p> <p>15 this compound, podophyllotoxin, which Bristol-Myers has</p> <p>16 modified, or a relative lignan in the root of the</p> <p>17 Mayapple to make the expensive pharmaceutical Etoposide.</p> <p>18 This is saying that if we ran out of Mayapple,</p> <p>19 endangered it, we could get the same Etoposide by</p> <p>20 working with juniper.</p> <p>21 Now, that's for the cancer. Condylomata is</p> <p>22 genital warts, and genital warts have been treated for</p> <p>23 years with the podophyllotoxin, and the toxin is</p> <p>24 important, because topically applied, podophyllotoxin,</p> <p>25 the resin from the Mayapple, has caused fatalities in</p>	168

169

1 the cherry family, the plum family, do contain
 2 benzaldehyde, and they all smell the same. If I wanted
 3 Laetrile and couldn't get it, I would take almond pills.
 4 **Q. Do you think Laetrile is effective in the**
 5 **treatment of cancer?**
 6 A. I suspect it's competitive with most
 7 pharmaceuticals and could be called a pharmaceutical.
 8 It used to be a vitamin, I think.
 9 **Q. You've got Exhibit 6 there. It's somewhere in**
 10 **that stack. Take a second. Yeah.**
 11 A. Yep.
 12 **Q. Just so that we're clear, what's Exhibit 6?**
 13 **These are the MAMs for --**
 14 A. It's another presentation of the MAMs.
 15 **Q. How do these differ than the MAMs you presented**
 16 **previously?**
 17 A. Almost nothing, unless it's above. I don't
 18 think anything was intentionally changed by Mr. Turner
 19 or by me. But in my home database, pancreatic cancer
 20 has been added to the indications for curcumin and two
 21 of the curcuminoids.
 22 **Q. Have you ever had discussions with the Anderson**
 23 **Institute or Johns Hopkins or any of these other large**
 24 **medical facilities that you've consulted with on having**
 25 **them sponsor your third-way trials?**

170

1 A. No.
 2 **Q. Or third-arm trials?**
 3 A. But I have a friend who's tried to get Mayo
 4 to -- the Mayo Clinic. She's a cancer patient there.
 5 **Q. Did you have discussions directly with the Mayo**
 6 **Clinic?**
 7 A. I had some email conversations with one young
 8 man, whose name I don't recall.
 9 **Q. How long ago was that?**
 10 A. Within a year.
 11 **Q. Was there any particular product that you were**
 12 **focused on?**
 13 A. No. My friend, who had been through the clinic
 14 there, was suggesting that they should come study my
 15 database, and we had even talked with Tai Sophia where I
 16 teach about -- they have several computers, and it
 17 really helps when you have the computer in front of you,
 18 and I could tell them about the shortcomings and the
 19 longcomings of the database in person. It never
 20 materialized.
 21 **Q. Any other school -- any other discussions with**
 22 **cancer centers or cancer researchers about doing the**
 23 **types of studies that you are urging, existing cancer**
 24 **therapies against herbal therapies?**
 25 A. Certainly Dr. Talalay up at Johns Hopkins, who's

171

1 sort of triggered the studies on broccoli sprouts for
 2 cancer prevention. He and I had discussions, even
 3 analyzed one of my weeds, which -- also in the cabbage
 4 family, which also contains sulforaphane. And I will be
 5 teaching some of his -- not his directly, but a student
 6 of his will be bringing students to my garden next
 7 spring. And he's in cahoots with Dr. Talalay and this,
 8 I would say, promotion of broccoli spouts high in
 9 sulforaphane as a cancer preventive, and I would concur
 10 that it makes sense on paper.
 11 **Q. Have you authored any papers with any M.D.s**
 12 **regarding the cancer-fighting or cancer-treating**
 13 **properties of herbs?**
 14 A. I would have to go through the 400 which are in
 15 my computer at home, and I'm sure that often they invite
 16 me or I invite them so that we have a mix of allopaths
 17 and psychopaths.
 18 **Q. But you can't specifically recall one now on**
 19 **cancer specifically?**
 20 A. No, but I'll bet I could send you one tonight
 21 after I go --
 22 **Q. Well, if you think of it, send it to Mr. Turner.**
 23 A. I'll send it to him, and he can send it on.
 24 **Q. Okay.**
 25 A. Any M.D. on any paper dealing with cancer,

172

1 whether peer-reviewed or not, and I don't always know
 2 that they're peer-reviewed. I know some that are not
 3 generally peer-reviewed.
 4 **Q. What's The Herbalists' Desk Reference?**
 5 A. That is I believe what I referred to as the
 6 abbreviation PH2, a German book. The first edition, it
 7 was just called -- I'll have to look that up.
 8 **Q. All right. Well, let me show you something and**
 9 **maybe it will help.**
 10 **(Duke Deposition Exhibit Number 8, Herbalists'**
 11 **Desk Reference, was marked for identification.)**
 12 **BY MR. GORDON:**
 13 **Q. The court reporter has marked as Deposition**
 14 **Exhibit Number 8 a printout from the Agricultural**
 15 **Research Service Web site. It appears to be -- well,**
 16 **what is it? Do you recognize this?**
 17 A. Yes, I certainly do.
 18 **Q. And what is it?**
 19 A. It is a compendium in which some of my herbal
 20 beliefs are exposed. It's one of the things that was
 21 linked to -- it's one part of a syllabus of a course I
 22 taught at the University of Maryland.
 23 **Q. Okay.**
 24 A. Remember that I retired in 1995, and none of
 25 that stuff was put in by me, but they liked the course

173	<p>1 that I gave. I forget when I gave it. But I did not</p> <p>2 tell them to put this on, but I'm glad it's there.</p> <p>3 Q. Okay. So, when do you think this was created,</p> <p>4 as best you could tell?</p> <p>5 A. Close to my retirement age when I gave that</p> <p>6 course with about 20 students at the University of</p> <p>7 Maryland.</p> <p>8 Q. Okay.</p> <p>9 A. And there again, we had the computers there,</p> <p>10 sort of like I was trying to teach them like I wanted to</p> <p>11 teach Mayo Clinic.</p> <p>12 Q. The first two pages -- well, what are the first</p> <p>13 two pages? I'm trying to understand what Capsicum,</p> <p>14 cayenne, Cassia senna, what do those references mean?</p> <p>15 A. These are the prices of some of the top-selling</p> <p>16 herbs at the time that this was assembled.</p> <p>17 Q. Ah, okay. And then starting on page 3 of</p> <p>18 Exhibit 9, there's descriptions of various products, I</p> <p>19 guess activities, indications, posology. What's</p> <p>20 posology?</p> <p>21 A. Dosage.</p> <p>22 Q. Ah. And side effects and caveats.</p> <p>23 A. This is where I put in the 1s, as in all these</p> <p>24 books, mostly -- excuse me -- to cover my derriere.</p> <p>25 Some highly exaggerated.</p>	175	
174	<p>1 Q. Do you recall if in here you made any</p> <p>2 recommendations on these products being indicated for</p> <p>3 cancer? I didn't see any, but you may have a better</p> <p>4 recollection of that than I.</p> <p>5 A. Remember, this was either before or the year</p> <p>6 1995, and I don't remember having to purge cancer as I</p> <p>7 had been advised to do in most of my Rodale books. They</p> <p>8 said, "Don't flirt with cancer." So, I don't recall</p> <p>9 what's my most promising cancer herb.</p> <p>10 Garlic, let's see. No, I was very conservative</p> <p>11 then. And if you study this carefully, you will see</p> <p>12 that all this has evolved into these books here.</p> <p>13 Q. Okay.</p> <p>14 A. I'm rather surprised. I don't see it here. I</p> <p>15 reckon I was being chicken.</p> <p>16 Q. Now, you mentioned -- you said you -- somebody</p> <p>17 told you to purge the cancer references?</p> <p>18 A. I wrote chapters on prevention and/or treatment</p> <p>19 of cancer, which were not included in the final versions</p> <p>20 of some of my Rodale books, like the one that you have.</p> <p>21 I don't think there's a chapter on cancer in there. If</p> <p>22 there is, it would surprise me.</p> <p>23 Q. All right. Well, we can get there in a minute.</p> <p>24 The text you've got there, Duke's Handbook of</p> <p>25 Medicinal Plants of the Bible -- well, let me have the</p>	<p>1 court reporter mark this as Exhibit 10.</p> <p>2 MR. TURNER: Oh, we have to take a break to ask</p> <p>3 you a question.</p> <p>4 MR. GORDON: All right.</p> <p>5 MR. TURNER: Let me just go find out what the</p> <p>6 question is.</p> <p>7 (Pause in the proceedings.)</p> <p>8 (Duke Deposition Exhibit Number 10, Biblical</p> <p>9 Botany, was marked for identification.)</p> <p>10 BY MR. GORDON:</p> <p>11 Q. The court reporter has marked as Deposition</p> <p>12 Exhibit 10 something from the Agricultural Research</p> <p>13 Service Web site. It's Module 12, Biblical Botany. Is</p> <p>14 this from the same class that you were discussing before</p> <p>15 that you taught at the University of Maryland?</p> <p>16 A. This was from the same series. I was developing</p> <p>17 a bunch of modules, and if you'll notice, several of</p> <p>18 those modules are developing into books.</p> <p>19 Q. Okay. And Biblical Botany, did that morph into</p> <p>20 Medicinal Plants of the Bible?</p> <p>21 A. Same subject, yes.</p> <p>22 Q. Yes.</p> <p>23 A. But -- actually, it is more medicinal plants</p> <p>24 than botany. There is not much botany here. It's</p> <p>25 mostly medicine.</p>	176

1 The Green Pharmacy, was marked for identification.)

2 BY MR. GORDON:

3 Q. The court reporter has marked as Deposition
4 Exhibit Number 11 copies of some of the pages of The
5 Green Pharmacy, paperback edition, by St. Martin's. I
6 have the 1997 edition.

7 Is there a newer edition of The Green Pharmacy?

8 A. It has been published in seven, I think,
9 languages since this, translations have been published,
10 and there are now four derivatives that still bear The
11 Green Pharmacy. That's the latest in the derivative
12 series (indicating).

13 Q. Could I see that real quick?

14 MR. TURNER: (Document tendered.)

15 MR. GORDON: Thanks.

16 BY MR. GORDON:

17 Q. In the '97 version, portions of which are now
18 Exhibit 11, there's a chapter on cancer prevention.
19 There's not a chapter on cancer treatment. It looks
20 like, based on the version you just -- your lawyer has
21 just handed me, the current version, The Green Pharmacy
22 Guide to Healing Foods, has no cancer reference. Is
23 that consistent with your recollection?

24 A. I sent several chapters that were not included.
25 I don't remember whether -- I have not studied this book

1 A. I do not recall.

2 Q. If you hadn't had that discussion and they
3 allowed you to publish as you wished, would you have had
4 a section in the book on cancer treatments?

5 A. I certainly would have.

6 Q. And what would you have said in there?

7 A. Is this inside the scope of the --

8 Q. I would think so, yes.

9 MR. TURNER: I object to anything that's outside
10 the scope, and we can -- go ahead and answer, and we can
11 debate --

12 MR. GORDON: Sort it out later, yeah.

13 MR. TURNER: -- whether it's in or out later.

14 THE WITNESS: I would certainly recommend
15 turmeric in the diet of anyone targeted for cancer or
16 with cancer, and I would certainly recommend immune
17 boosters, like garlic. And if it were a prostate cancer
18 candidate, I would certainly recommend Saul palmetto,
19 which is not Biblical, but lycopene, which the FDA has
20 said is no good, and I would agree with them that
21 lycopene is probably better in its full context with
22 tomatoes and in a raw vegetarian diet.

23 I would recommend, as a result of this
24 association, that they read Daniel 2 and consider
25 cutting back on their meat and their wine. And I never

1 since it came out in November.

2 Q. Okay.

3 A. Obviously, if you don't find it in the index --
4 that surprises me, because I would certainly talk about,
5 "This is also reputedly used for cancer."

6 Q. Let's focus on the Exhibit 11 version, at least
7 for right now. There's a chapter in here on cancer
8 prevention and advice on cancer prevention as to what
9 foods to eat and herbs to eat and things to drink made
10 from some of those products, but there is not a section
11 on cancer treatment. That is --

12 A. They, I think, advised me to shy away from that.

13 Q. And the "they" would be who?

14 A. In that particular -- in that first edition, I
15 was dealing with an editor, Alice Finestein, but each of
16 the derivatives have been with a different editor.

17 Q. What was the reason given for that?

18 A. I think they thought they'd get in trouble.

19 Q. Do you recall what, if anything, specifically
20 that they said?

21 A. No, because we conceived this book about two
22 years before it came out.

23 Q. At what point in the development of the book did
24 you have the discussion that cancer treatments wouldn't
25 be discussed?

1 read Daniel 1 until this association knowingly.

2 Q. Take a look at the portion of The Green Pharmacy
3 that's been made Exhibit 11 and the cancer prevention
4 section.

5 A. Okay.

6 Q. Tell me if you -- if, you know, 12 years later,
7 nine years later -- 12 years later, sorry, you'd change
8 any of the advice that's here.

9 A. I would enjoy doing that. 137, more cereals and
10 whole grains, less processed sugar, I do this now, and
11 remember, I'm a colon cancer candidate. More natural
12 food colors, like --

13 Q. You have to slow down. She's trying to write
14 this.

15 A. More natural food colors, like anato (phonetic),
16 to my knowledge, the only FDA-approved color, and fewer
17 artificial colors. I believe that some of them have
18 been shown to be carcinogenic.

19 More herbal spices, fewer artificial flavorings.
20 I think that the spices are among the best of
21 antioxidant and anti-inflammatory herbs and that, as
22 such -- as such, alone, they are cancer preventers.
23 More natural whole foods, fewer processed foods, Amen.

24 More estrogen-like chemicals from plants,
25 phytoestrogens, fewer synthetic hormones. I would

1 certainly still maintain this, although I would say that
2 if you're a beta receptor positive for estrogen, you
3 should want to cut back on your phytoestrogens as well,
4 but that's a very limited number of breast cancer
5 positives -- potentials.

6 More fruit and vegetable juices, fewer alcoholic
7 beverages, I would still recommend this, but the
8 alcohol, being selfish, I would tolerate two to four
9 glasses in a male, but only one in a female, as of data
10 that I read this month. I don't know where.

11 More fresh air, less smoke and pollution-filled
12 air, Amen, still. More tranquility, less stress, Amen.
13 Stress reduces your immune system -- weakens your immune
14 system.

15 More exercise, less television. You'll find me
16 on my bicycle watching television, usually CNN medical
17 programs. More organic gardens and farms, fewer
18 pesticides, Amen. More herbal alternatives, fewer
19 pharmaceutical magic bullets. That, I was practicing or
20 preaching 20 years ago, and I'm preaching louder, more
21 stridently, of late.

22 I would not change one of those. I would throw
23 that one caveat into the estrogen comment.

24 **Q. And then on page 139, there's sort of The Green
25 Pharmacy for cancer prevention. Is there anything there**

1 out at this stage. But there are many that I would
2 recommend based on the chemicals within, like tomatoes,
3 but there's better sources of lycopene than tomato.

4 And there is an invasive weed in my backyard
5 called autumn olive, and it would be in there as the
6 world's best source of lycopene and the world's best
7 sources of paraldehyde and certain related chemicals.
8 Cumin and the seeds that are on rye bread -- they elude
9 me.

10 **Q. Caraway?**

11 A. Yes, thank you. Yes, see, I've listed several
12 of those chemicals here. And the limonene mentioned in
13 the citrus is more in the caraway than there is in the
14 citrus fruits on a dry weight basis. I'm glad to see I
15 had the lycopene. And the capsaicin is more potent than
16 Vioxx as a COX-2 inhibitor. I'd say that's a pretty
17 good chapter for ten years ago.

18 MR. GORDON: Do you want to take a break now?

19 MR. TURNER: Sure.

20 (A brief recess was taken.)

21 BY MR. GORDON:

22 **Q. The Green Pharmacy, the version I was able to
23 find at Borders, the '97 version, has the cancer
24 prevention section, but the new version, the hardback,
25 doesn't have a section on cancer.**

1 **that you would change? If you just want to look at it
2 and tell us whether there is anything there you want to
3 change, it might be a little bit easier on the court
4 reporter.**

5 A. (Document review.) I think other vegetables,
6 spices, and herbs would rise closer to the top of my
7 recommendations than the ones listed here in my cancer
8 prevention herbal salad.

9 **Q. Which ones would those be that would now rise to
10 the top?**

11 A. Well, not remembering what's here, I would
12 certainly kick out the pokesalad, just because it's
13 dangerous.

14 **Q. What is pokesalad?**

15 A. Elvis Presley wrote a song about it. Pokeweed.

16 **Q. Pokesalad, yeah.**

17 A. It's a weed all around Maryland and New York,
18 and although it is studied by M.D. Anderson for cancer,
19 it's monoclonal therapy where you're using the poison
20 directed toward that tumor. That's why it's there,
21 because I knew it had antitumor activity.

22 But certainly I would add the Biblical spices,
23 like turmeric now, even if we weren't involved in this
24 process. And I probably would have put together a list
25 like this five times in the interim, but nothing jumps

1 A. Does it even index the word?

2 **Q. No, not to my examination. Feel free to check
3 yourself.**

4 A. Well, I loved my first editor. I hated this
5 editor.

6 MR. TURNER: Are we on the record with that?
7 It's okay.

8 BY MR. GORDON:

9 **Q. Were you a party to discussions about
10 specifically taking cancer references out of that book
11 as it was updated?**

12 A. I think I talked with her on the phone three
13 times. We would email. And I don't remember any email
14 allusions to taking it out, but this may be hangover
15 from earlier admonitions. I'm not sure.

16 **Q. So, it's possible that there was an iteration of
17 the book between that which we have marked as Exhibit 11
18 and the hard-copy version you have got today, and the
19 cancer references could have disappeared at some point
20 between there and here?**

21 A. That's possible. I would have to look through
22 those, which I have rarely consulted since they came
23 out.

24 **Q. Do you remember being party to a discussion at
25 any point along the way, since '97, when there was a --**

185

1 the substance was to take the cancer out?
 2 A. I can't remember a specific conversation. It's
 3 just a gut feeling that I might have read into that
 4 conversation. I don't think they ever said it
 5 specifically, "We're not going to include a chapter on
 6 treating cancer."
 7 Q. In the context of your work on this case, has
 8 Mr. Turner sent to you any articles that Mr. and Mrs.
 9 Feijo believe substantiated the claims that they made
 10 regarding these particular products?
 11 A. I do not recall seeing anything like that.
 12 (Duke Deposition Exhibit Number 12, Mother Earth
 13 News, Winged Bean Fights Cancer, was marked for
 14 identification.)
 15 BY MR. GORDON:
 16 Q. The court reporter now has marked as Deposition
 17 Exhibit 12 a printout from Mother Earth News Web site.
 18 It's my understanding it's a letter that Mr. Duke --
 19 Dr. Duke wrote to Mother Earth News. Can you confirm
 20 that this is -- that that's what this is?
 21 A. I recall something like this. I -- it's little
 22 known that winged bean is the best source of betulinic
 23 acid, best food source, and when they did an article on
 24 winged bean, I thought it worth mentioning this.
 25 Q. So, this was a letter to the editor that you

186

1 wrote or --
 2 A. I, at one time, wrote for them, and I think I
 3 just emailed Sharon or whatever her name was, and they
 4 picked up on it, as I anticipated they would.
 5 Q. The --
 6 A. Ah, that's where the lupines came that you were
 7 asking about earlier. No, that's 2006. That's a new
 8 one. Excuse me.
 9 Q. Sure. No problem.
 10 The next to last paragraph begins, "It does
 11 almost take -- strike that.
 12 "It does take almost a leap of faith (often
 13 useful in desperate situations like late stages of
 14 melanoma) to hope that a food pharmacy combo like winged
 15 bean, best source of betulinic acid, and milk thistle,
 16 unique source of silymarin, might be healthier and
 17 cheaper, if not as efficacious as the chemotherapeutic
 18 dicarbazine and interferon."
 19 When you say "leap of faith," what do you mean
 20 by that?
 21 A. Most people tend to believe that only allopathic
 22 medicine is useful, not only in cancer, but in anything,
 23 and those people would be slow to adopt a food
 24 pharmaceutical as opposed to a real pharmaceutical.
 25 Q. And is that because of the lack of controlled

187

1 clinical studies demonstrating the efficacy of the food
 2 pharmacy combo?
 3 A. They have probably been convinced that this is
 4 the case, and a lot of people -- well, a lot of people
 5 are hard-core allopaths. They just don't think anything
 6 that hasn't been gone through the school will work, but
 7 we're finding out through third-arm trials, accidentally
 8 or on purpose, that many of these natural things are
 9 better than the pharmaceutical. I would bet on the
 10 silymarin against interferon, and I would bet on the
 11 betulinic acid against dacarbazine, which is just one
 12 chemotherapeutic I could drag up on the spot.
 13 Q. But why the reference to the leap of faith?
 14 That's what I'm trying to get at.
 15 A. Because most people think we're crazy.
 16 Q. Why do they think you're crazy?
 17 A. Because they're not well informed.
 18 Q. What is it they don't know?
 19 A. They don't know that herbs work.
 20 Q. And the evidence that the herbs work is?
 21 A. In many cases, stronger than the evidence for
 22 the pharmaceutical if the truth be known.
 23 Q. And that implies what truth isn't known?
 24 A. That ten of the studies were negative and they
 25 only published the one positive study, for example, on

188

1 St. John's Wort. I don't know that that's the truth,
 2 but I've heard that from people who are in the FDA.
 3 It's very disheartening to believe that much of the
 4 pharmaceutical information is scam, but I believe that.
 5 Q. Do you have any evidence of that?
 6 A. I think it was the Abramson book documenting
 7 some of the behind the scenes, and I have been
 8 corresponding with another who wrote that when the FDA
 9 officials -- and I don't think any FTC officials -- were
 10 caught up in real scams. I could find it and get it to
 11 him.
 12 Q. What was the name of the author?
 13 A. The first one I mentioned was Abramson, and I'd
 14 have to go back to Vancouver to find the -- make sure
 15 that -- and the second one I have in my house somewhere,
 16 but I have a \$140,000 library, and that was more
 17 recently. And the information is convincing to me and
 18 many of my colleagues. I would welcome getting that to
 19 you, the names of them.
 20 Q. You've mentioned it a couple of times, but I'm
 21 not sure we have really defined it or explained it. You
 22 believe that taking the whole herb, the turmeric, is
 23 more effective than the individual element of curcumin.
 24 You said you think eating a tomato is more effective
 25 than taking the lycopene. Can you explain the thought

1 behind that notion?

2 A. Yes. During my five years with the Cancer
3 Institute, always they found several anticancer
4 compounds, not just the one lignan. They'd find four or
5 five that were closely related chemically, and they
6 would have different modes -- slightly different modes
7 or timings of activity, such that synergy was almost
8 always the case. I should include some of my synergy
9 chapters in my bibliography, but I've documented many
10 cases, including that on the Mayapple.

11 There were really five lignans there that were
12 more antiseptic and presumably antitumor than the one
13 that was used to make the FDA-approved Etoposide, and
14 there are close to a hundred alkaloids in the Madagascar
15 periwinkle, many of which would have anticancer,
16 antilymphomic, antileukemic, anti-Hodgkin's disease
17 activities.

18 Taxol contains -- Taxol -- not Taxol, the yew
19 leaf, taxus, contains not just Taxol but probably 20 or
20 30 compounds called taxanes, each of which has slightly
21 different -- many of which has slightly different
22 anticancer activities.

23 Q. That hypothesis, is that scientifically
24 provable?

25 A. Synergy has been demonstrated, for example, with

1 A. I made no effort, because I never heard of it
2 until two weeks ago, and I never saw this list until
3 about a week ago. And that's when I realized that most
4 of their herbs are not Biblical.

5 MR. GORDON: Do you want to put something in
6 or --

7 MR. TURNER: No.

8 MR. GORDON: Okay. I don't have anything
9 further.

10 MR. TURNER: There are some things that have
11 been asked for that we'll try to get to you, and some of
12 the questions asked might -- we might put some stuff in
13 from his books.

14 MR. GORDON: Okay.

15 MR. TURNER: I have no questions.

16 (Reading and signature reserved.)

17 (Whereupon, at 4:22 p.m., the deposition was
18 concluded.)

1 the four lignans in Mayapple, four of the lignans, to
2 the -- the mixture of the four was more efficacious than
3 an equivalent amount of any one of the four.

4 Q. What study was that?

5 A. I would have to dig. It's probably 20 years
6 old, probably close to when I was working with the
7 Cancer Institute.

8 Q. What kind of study was that?

9 A. In vitro.

10 Q. Have you made any effort to evaluate whether the
11 mixtures that Daniel Chapter One sells, the GDU, the 7
12 Herb Formula, the BioMixx, whether that combination of
13 ingredients in each of those products has any
14 synergistic effects?

15 A. It's, again, hard to prove synergy between whole
16 herbs than it is to between four unique chemicals, like
17 the lignans in Mayapple. I have made no efforts to
18 prove those, and I don't remember -- I think I mentioned
19 earlier that the Chinese very frequently do have
20 mixtures, and they claim their mixture is better, but I
21 am sometimes skeptical of the Chinese data.

22 Q. Did you make any effort to see whether there
23 were any studies of any sort regarding the particular
24 products that Daniel Chapter One sells, the GDU, the 7
25 Herb Formula, the BioMixx?

1 CERTIFICATION OF REPORTER
2 DOCKET/FILE NUMBER: 9329
3 CASE TITLE: DANIEL CHAPTER ONE
4 DATE: FEBRUARY 9, 2009
5

6 I HEREBY CERTIFY that the transcript contained
7 herein is a full and accurate transcript of the notes
8 taken by me at the hearing on the above cause before the
9 FEDERAL TRADE COMMISSION to the best of my knowledge and
10 belief.

11
12 DATED: 2/10/09
13
14

15
16 SUSANNE BERGLING, RMR-CLR
17

18 CERTIFICATION OF PROOFREADER

19
20 I HEREBY CERTIFY that I proofread the transcript
21 for accuracy in spelling, hyphenation, punctuation and
22 format.
23

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25 DIANE QUADE

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I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

JAMES A. DUKE, Ph.D.

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this _____ day of _____, _____, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

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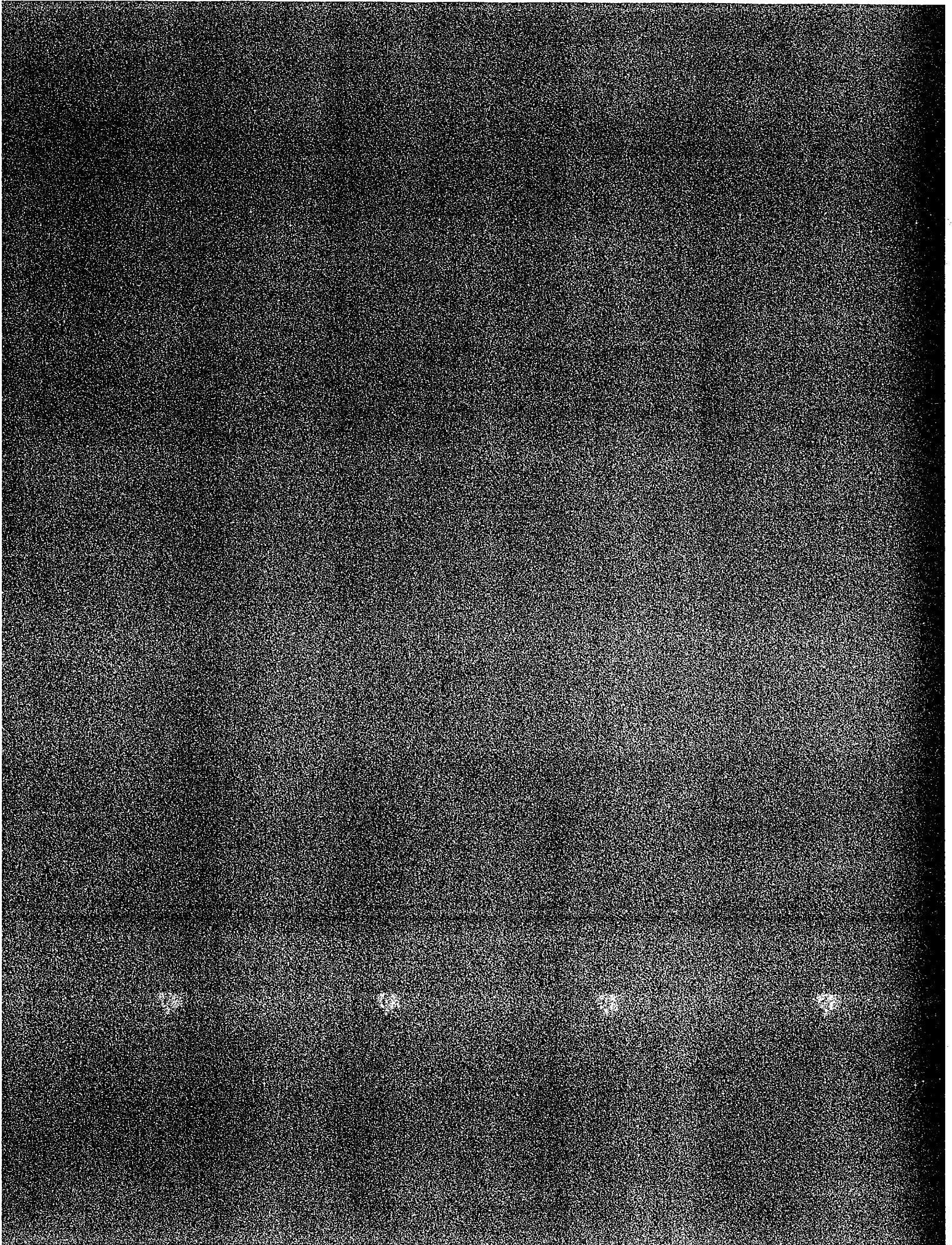
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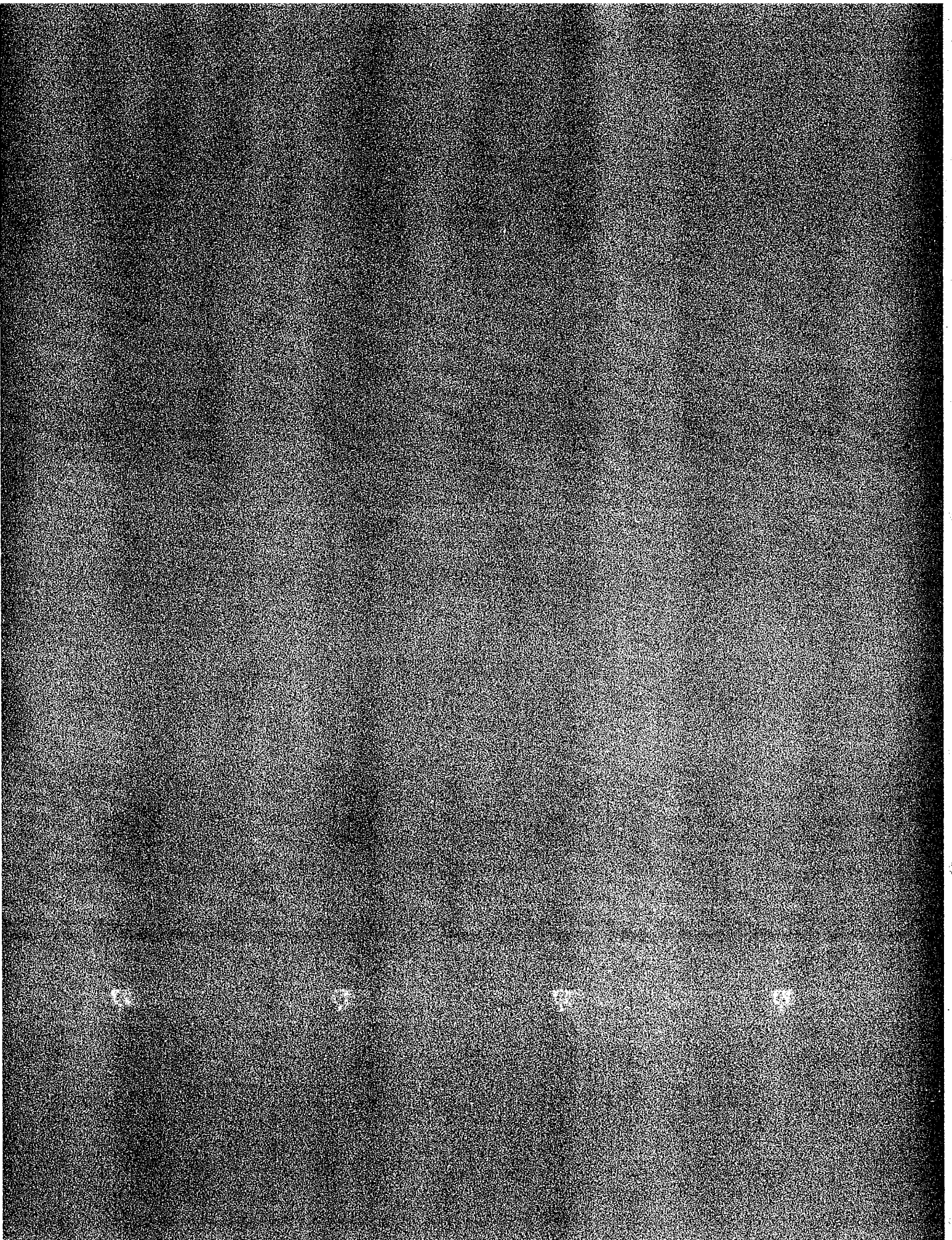
DATE: FEBRUARY 9, 2009

CASE: DANIEL CHAPTER ONE

Please note any errors and the corrections thereof on this errata sheet. The rules require a reason for any change or correction. It may be general, such as "To correct stenographic error," or "To clarify the record," or "To conform with the facts."

PAGE LINE CORRECTION REASON FOR CHANGE





A				
abbreviation 121:7 172:6	121:12 achy 155:9,10	165:21 169:20 adding 115:6	agency 70:18,22	allopaths 28:16 51:7 64:13 131:10 159:1 162:19 171:16 187:5
abbreviations 2:7 93:21 95:3,9,12 121:18,21,23	acid 121:13 139:15 139:15,17,21,22 139:25 140:1,22 185:23 186:15 187:11	addition 47:10 117:20	ago 14:24 31:4 40:25 120:7 144:1 170:9 181:20 183:17 191:2,3	allow 151:6
abdomen 117:7	acids 15:19	additional 57:20 58:7 141:16,22	agree 6:4 45:10 61:5 131:21 138:14 142:12 176:7 179:20	allowed 179:3
ability 6:21	acknowledge 70:4	additions 193:5	Agricultural 172:14 175:12	alluded 47:20
able 13:19 67:24 71:25 132:3 183:22	Actaea 111:25 112:6 112:8	address 25:11 160:10 161:10	Ah 44:16 62:22 94:22 96:7 113:24 115:16 116:13 118:14 123:22 124:21 127:18 164:19 173:17,22 186:6	alluding 113:15
above-entitled 3:20	action 26:16	adds 92:10	ahead 84:25 93:3 99:13 140:13 179:10	allusions 184:14
above-named 193:11	activator 160:16,17	adenocarcinoma 117:21 121:16	AIDS 18:22 91:25	almond 168:11,15 169:3
Abramson 31:14 188:6,13	activators 160:17	adjunct 26:2	ailed 155:4	almonds 158:16 168:20
abstract 117:12 145:25 146:1 160:23	active 11:19 23:12 45:11 68:12	administered 11:12 11:13 141:4	Ailment 176:18	alter 10:11
abstracts 12:3 37:19 38:4 59:11 87:16 87:19 88:1,8,13,22 89:2,7 149:24	activities 48:19 50:2 55:13,14 58:24,25 78:9 90:23 91:21 92:5 93:5,6 94:9 94:11 95:2,19 96:12,21 97:20,23 98:2,9,17 101:2,10 101:25 102:3,4,6 102:10,15 116:25 117:1 124:12,13 159:24 173:19 189:17,22	admonitions 184:15	air 181:11,12	alternative 50:12 54:5,6,19,21 113:12 125:24 133:5 164:15
abundant 67:4	activity 20:11 45:21 45:24 47:22 53:5 54:16 68:23 93:8 95:25 96:18 101:13 102:19,24 103:1 114:7,17 127:4 140:11 148:4 161:5 164:23 182:21 189:7	adopt 186:23	airport 167:13	alternatively 118:1
accept 32:18 53:2	acupuncture 26:7,8	ads 42:20	akin 128:1	alternatives 142:7 181:18
acceptable 77:16 107:24	acupuncturists 26:1 26:9	advancement 126:6	Alberti 45:7	alters 161:5
accepted 21:4 32:17 56:14 64:11,12 65:11	adaptogenic 125:24	advertised 42:19 43:6 46:17	alcohol 181:8	Alzheimer's 48:16
access 146:17	add 89:5 90:2 92:8 92:23 115:5,5,6 182:22	advertisements 36:23	alcoholic 181:6	amaretto 168:19
accessed 75:14 143:9,15 144:2	added 90:23 91:16 91:17 119:20	advertising 46:22	alias 159:12	amazing 137:5
accidentally 187:7		advice 12:24 19:3,4 19:19 20:3 178:8 180:8	Alice 178:15	ambiguously 101:15
accommodate 6:12		advise 13:6 30:2 42:12	alkaloid 107:11 163:14,14	ameliorative 89:19
accompanied 93:16		advised 43:20 174:7 178:12	alkaloids 22:6 189:14	Amen 60:14 180:23 181:12,12,18
account 90:22		advising 18:15	AllHerb.com 42:23 43:5	America 1:1 3:1 12:20 125:12 130:20 132:23 156:20 157:21
accrues 21:25		advisor 42:4,13,24	Allium 104:24 105:1 105:2,2	American 9:21 32:12 141:10
accumulated 38:8		advisory 12:23 13:25 14:1,3	allopah 135:14 137:8	amount 23:12 66:19 66:23 67:12 132:13 190:3
accumulating 51:4 162:8		affair 115:19 138:8	allopath 135:14 137:8	ampule 24:16
accuracy 192:21		affiliation 15:20	allopathic 18:1 21:4 28:14 33:14 41:24 51:3 53:8,17 136:8 164:4 186:21	analyses 50:1
accurate 192:7 193:4		aflatoxin 74:1	alopathically 136:2	analysis 66:24
accurately 7:1 40:13		afraid 61:20 67:21 109:7		analytical 79:21
achieve 67:25		Africa 91:24		analyzed 55:18 128:18 171:3
Achlorhydria		AFTERNOON 106:1		analyzing 50:3 119:2
		age 66:17 140:7 162:6 173:5		anato 180:15
		agencies 31:16		

[196]

Anderson 10:3,5 12:3,16,19 13:12 13:23 14:4,13 46:23 47:1 51:9 82:19 107:3 141:7 169:22 182:18	114:5,7,16,20 116:25 117:1 123:10,10 125:12 129:20 131:7 140:10,15 161:8,9 189:3,15,22	118:3	approximation 55:17 90:21	assisting 35:13
and/or 145:21 174:18	anticarcinogenic 161:11	apparently 161:1	apricots 168:21	associated 98:14
anecdotal 131:18,18 158:4	anticipate 24:9	appear 54:24 63:21 99:11 100:13	April 9:22 13:17,18 89:3	associates 31:15
angiogenesis 126:21	anticipated 186:4	APPEARANCES 4:1	aqueous 76:6	association 179:24 180:1
animal 59:14 63:24 98:20 119:8 151:1 151:19 161:1	anticonvulsant 161:4	appeared 102:12 193:12	argued 61:17 68:14	assume 36:15 48:10 72:9 77:17 91:2
animals 63:25 98:20 119:19	antileukemic 189:16	appears 9:20,24 29:8 36:11 60:11 97:5 145:20 172:15	arguing 28:2	assumed 92:11
announcer 133:4	antilymphomic 72:6 125:5,8 189:16	appendices 1:16 33:5 56:19 57:19 58:6,17 75:8 79:7 84:9 85:5 87:4 165:12	arm 81:19,20,23	assumption 57:13 72:15,16 91:4
annual 50:10 132:22	antioxidant 180:21	apple 168:24	arrangement 25:23	asterisk 123:18,20 138:17 140:23 154:13 164:10 166:10
answer 5:25 6:22,24 6:24,25 18:13 28:15 30:16 46:19 55:11 72:9,20 84:25 85:1,23 91:15 101:11,11 102:17 109:16 127:9 131:14 137:20 142:13 147:12 153:14 154:6 160:9 161:10 176:14 179:10	antiseptic 159:13 189:12	applied 18:5 167:24 168:1	array 53:24	asterisks 165:25 166:5
answered 53:23 155:12	antitumor 78:11 101:15,19 103:1 164:23 182:21 189:12	apply 72:22 151:16	arrest 71:10,13 72:7 75:16	astonomically 60:22
answers 6:2,3 31:20 79:7 106:8 176:14	antiviral 45:19,21 45:24	apprised 39:10	arthritis 166:16	Astragalus 65:10
antagonism 90:1	anti-Alzheimer's 48:18	approach 81:18,24 137:10	article 9:23,24 10:10 46:24 47:12,16 48:3,21 52:16 53:25 61:25 107:4 142:8,9 145:20 146:4 185:23	ate 111:1
antagonisms 68:5	anti-angiogenic 126:6,16,19,20 127:4	approaches 47:5	articles 37:19-38:11 48:3 54:4 56:11 133:18 134:2 185:8	attach 193:6
antagonistic 73:1	anti-arthritis 166:12	appropriate 5:22 66:22	artificial 180:17,19	attached 39:20
anticancer 20:11 28:10 29:24 45:17 47:22 54:15 55:12 71:12 89:18 91:3,7 91:10 95:24 96:17 96:19,21 101:6,14 101:19 102:7,8,9 102:11,18,21,23 103:1 112:22	anti-Hodgkin's 189:16	approval 22:21 48:25 52:7 151:5 152:10	Asia 141:9	attacks 138:24
	anti-inflammatories 75:4	approve 131:15	Asian 159:10	attained 75:10
	anti-inflammatory 14:10 155:5,9 180:21	approved 24:7 28:17 33:7,17,23 34:13,15,23 49:1 49:15 59:17,18,18 149:22 150:5 151:13,15	asked 18:22 19:6,16 19:18 27:8,24 30:14 34:22 36:17 42:14 43:1 64:1 67:20 102:20 116:6 153:9 191:11,12	attempt 91:21
	anxious 62:24	approving 35:6	asking 86:20 152:19 186:7	attend 13:19
	anybody 17:6 112:24 130:9	approximately 16:17	articles 37:19-38:11 48:3 54:4 56:11 133:18 134:2 185:8	attending 14:14
	anymore 112:8 164:9	approximates 55:12	artificial 180:17,19	attention 8:2 9:6 86:24 164:7
	aphrodisiac 80:4		Asia 141:9	attribute 61:19 75:1 133:14 158:4
	apologize 45:13 103:15 150:3		Asian 159:10	attributed 70:2
	apostrophe 117:22		asked 18:22 19:6,16 19:18 27:8,24 30:14 34:22 36:17 42:14 43:1 64:1 67:20 102:20 116:6 153:9 191:11,12	August-September 142:4
			asking 86:20 152:19 186:7	Australia 163:15
			aspects 161:16	Australian 176:21
			assembled 173:16	author 99:3 188:12
			assess 109:23	authored 171:11
			assist 43:25	authors 13:15 101:17 113:14 121:15
			assistant 62:21	autumn 183:5
			assistants 43:25 44:3	availability 107:10
				available 23:12 70:19 96:9
				Avandia 138:21 139:1 141:2
				average 49:2

averaged 114:7 144:15	127:3 139:14 151:3,4 153:10 154:4 161:1,5 177:20 183:2	believed 30:12 believes 80:15 135:8 135:9 believing 40:17 138:6 176:5,5,6	bias 91:9 Bible 27:13 41:3,10 79:23,24 80:1,4,8 80:22 81:1,9 94:5 94:9 95:17 99:19 99:25 100:19 123:21 138:11 139:7 160:14 165:1 174:25 175:20	63:21,22,23 bit 58:20 76:10 104:18 108:2 110:14 164:4 166:17 182:3 black 107:10 112:8 112:9 123:1 139:9 147:8,16 159:3,12 159:16 160:7 bladder 117:8,12 118:11,16,25 120:10 blaming 48:13 blood 107:23 126:17 126:20,22 blue 54:4,6,17,21 113:12 board 14:1,3 board-certified 56:9 body 28:20 33:19,20 34:5 41:7 65:24 79:5 106:9 body-mind 134:6 Bogenschutz 104:8 104:10 BOI 47:10 Boik 47:3 boil 80:12 81:12,16 boils 80:5 81:11 bold 152:5 bolded 115:11,15 117:7 148:3 149:13 151:24 152:22,23 bolding 152:15 book 9:12 31:12 33:22 35:1,7 47:4 62:13 81:4 93:21 94:3,4 95:13 99:1 121:15 139:6 160:12 161:15 172:6 176:15 177:25 178:21,23 179:4 184:10,17 188:6 books 32:16 33:9 92:17 95:9 96:10
aware 9:3 26:22 33:2 39:13 66:3 82:8 124:4 127:6 Ayurvedic 41:8,10 176:6,7 a.m 3:21	basis 21:8 64:23 70:11 107:17 114:23 131:1 132:2,7 183:14 Bates 39:19 BC 27:20 Beach 94:23 bean 2:2 185:13,22 185:24 186:15 beans 80:18 bear 177:10 bearing 29:21 39:19 beat 82:12 Beautifully 94:15 beginning 25:7 begins 83:14,20 116:18,24 117:15 131:23 133:9 134:13 186:10 behalf 4:3,12 8:14 36:19 beings 71:22 belief 27:25 41:6 69:19,20 70:13 134:5 144:25 192:10 beliefs 172:20 believe 7:5 13:14,17 21:11 24:15 27:16 28:14 31:7 38:17 50:21 54:14 61:13 64:25 77:4,7 80:1 108:8 122:12 130:3 131:3,10 133:2 134:4,5,22 135:17 137:7,8 138:6 139:2 143:6 143:7 144:16 149:20 156:10 163:16 172:5 176:4,8 180:17 185:9 186:21 188:3,4,22	benefit 40:14 benefited 107:13 benefits 129:17 176:10 benign 146:8 benzaldehyde 164:12,17,22,22 168:17,19,24 169:2 BERGLING 192:16 best 13:4 16:1 61:22 62:19 65:1,4 72:20 82:14,16 87:25 89:11 105:6 127:11 138:13,15 161:22 162:1 165:11,25 168:16 173:4 176:18 180:20 183:6,6 185:22,23 186:15 192:9 bet 26:6 66:4 73:11 128:14,18 166:11 171:20 187:9,10 beta 181:2 better 23:20 27:25 45:15 61:7,24 82:7 94:17 100:10 130:8 137:10 141:2 146:7 147:15 150:16 159:2 174:3 176:12 179:21 183:3 187:9 190:20 betting 141:1 betulinic 185:22 186:15 187:11 beverages 181:7 beyond 37:16 73:9 110:17 140:7	Biblical 1:23 13:9 32:10 40:6,7,9,16 41:4 80:17 94:19 99:12 100:22 123:20 137:7 138:7,9 139:5 143:23 154:15 158:19,22 165:4 175:8,13,19 176:2 176:5,11,15,19,20 179:19 182:22 191:4 Biblically 41:23 bibliographies 143:15 bibliography 142:18 143:1 189:9 bicycle 181:16 big 16:15 31:21 32:19 53:20 61:19 bigger 42:7 biggest 82:21 biggies 96:21 billion 21:16 23:7 82:21 bioavailability 107:5 biochanin 47:25 biological 6:11 11:19 biologically 45:11 68:12 BioMixx 36:3 63:10 63:18 65:8,10 66:7 67:6,10 78:23 79:5 79:5 190:12,25 BioShark 36:3	
B				
B 4:14 36:3 47:8 62:6 86:2 back 24:5 32:15 40:24 53:3 54:16 59:22 65:24 93:18 100:12 104:18 105:5 106:4 113:7 116:3 117:21 118:10 120:8 122:1 142:8 143:23 144:5 148:22 151:9,12 154:25 155:8 159:25 162:24 179:25 181:3 188:14 backup 75:7 backwards 117:21 118:3 backyard 21:15 183:4 bad 31:18 44:14 72:16 93:12 109:2 140:3 bag 33:21 balance 134:14 balancing 133:16 134:1 Balick 14:22 15:1 ballpark 106:17 Baltimore 127:25 128:10 bark 24:8 base 79:20 based 51:1 52:1,2,6 52:23 66:1 72:15 72:21 79:22 114:5 120:3,15 122:24				

99:4 108:15 109:2 109:2 113:13 121:9 133:20 139:7 150:7 160:3 173:24 174:7,12 174:20 175:18 191:13 boost 65:1,13,25 booster 131:9 boosters 179:17 boosting 65:23 Borders 183:23 boron 78:12 111:4 Boston 126:6 botanical 9:21 15:3 15:10,14 161:13 botanist 18:6 28:22 162:3 botany 1:23 175:9 175:13,19,24,24 176:15 bothered 94:10 bottom 47:12 98:17 127:13 133:17 136:4 148:25 Bowling 4:7 BO2 47:10 branch 24:17 brand 74:7 Brassica 140:21 Brassicaceae 127:18 127:19 139:16 140:10 Brattleboro 14:6 Brazil 110:25 111:1 bread 183:8 break 6:11 55:25 148:21 168:6 175:2 183:18 breaks 76:12 breast 48:9,11 69:25 114:17,20 181:4 brevifolia 24:6 brief 56:1 148:23 168:7 183:20 Brier 163:9 bring 26:12	bringing 51:4 171:6 Bristol-Myers 21:12 21:25 167:15 broccoli 128:10 171:1,8 broken 62:23 Bromelain 78:7 124:11,14 148:7 brothers 66:17 brought 9:6 24:5 26:15 35:16 browsing 135:24 bullet 137:14 154:5 164:17 bullets 137:9 181:19 bump 94:1 bunch 106:13 175:17 Burdock 68:23 71:4 71:9,25 124:17 125:7 131:7 148:13 bury 31:18 buzzword 155:5 156:8 buzzwords 91:3,17 B-O-I-K 47:9	80:4 86:24 93:5 99:17 139:14 146:20 149:21 169:7 172:7 183:5 189:20 calling 86:5 calls 19:22,24 Campto 28:25 51:11 Camptotheca 23:2 29:1 camptothecin 23:3 29:1 51:12 Canada 31:13 cancer 2:2 10:3,16 10:20,24 11:1,16 11:21 14:17,18,21 14:23,23 15:1,4,6 16:22 19:5,7,11,12 19:17,20,25,25 20:6,10,16,19,23 21:3 22:4 23:1,11 25:5,6 26:4,8 28:3 28:7,13 29:12,17 29:20,21,21 30:7 30:10,15,18,21 33:3 34:15,18,21 34:24 38:24 39:3,7 39:9 42:19,19,21 43:6,21 46:7,18,22 46:23 47:1,5,14,22 48:2,9,11 49:10 51:18 52:1 54:2 55:7,14,18,22 59:5 59:21 64:3 65:19 65:21,23 66:14,15 66:16,17 67:7 68:19 69:6,7,12,16 69:22,25 70:18 71:3 72:3,13 73:5 75:17 79:6 80:16 80:20,23,25 81:5,6 81:10,13,14,16 89:7 90:5 91:2 92:7,11 93:17 95:10,25 96:14 101:1,20,22 103:8 103:11,23 105:7	107:3 110:1 112:13 114:5,10 114:12,15,15 115:10 116:12 117:6,6,7,8,12 118:10,11,16 119:1 120:11,21 120:23 123:3,6,10 123:16,25,25 124:2,13,23 125:25 126:7,7 127:22 128:3,12 128:23,23 129:7 129:13,16,19,23 130:1,6,12,18,24 131:17 133:25 134:3,17 135:1,18 135:25 137:17,23 139:9 140:8 142:24 143:5 147:12,13,18 148:2,5,11,15,17 149:4,9,12,18,19 149:22,23 150:12 150:21,22 151:10 151:15,16,23 152:12,13,20 153:6,13 154:2,19 154:24 155:6,16 155:21,23 156:23 157:4,9,13,16 158:3,7 159:4,14 159:19 160:10,19 161:19 163:10,16 164:13 167:21 168:16 169:5,19 170:4,22,22,23 171:2,9,19,25 174:3,6,8,9,17,19 174:21 177:18,19 177:22 178:5,7,8 178:11,24 179:4 179:15,16,17 180:3,11,22 181:4 181:25 182:7,18 183:23,25 184:10 184:19 185:1,6,13	186:22 189:2 190:7 cancers 66:13 78:8 88:12 110:21,23 cancer-fighting 68:1 171:12 cancer-treating 171:12 candidate 179:18 180:11 candidates 138:11 144:10 canola 140:2 capacity 12:23 27:3 41:5 capsaicin 183:15 Capsicum 173:13 capsule 141:5 166:14 captured 109:7 caraway 183:10,13 carcinogenesis 160:25 carcinogenic 74:2 98:24,25 180:18 carcinogenics 161:15 carcinogens 28:11 98:25 cardiac 138:25 cardio 138:25 cardiopathy 158:17 care 73:18 careful 16:23 142:17 carefully 174:11 Caribbean 34:3 carnivorism 27:17 80:14 carpine 103:4 carries 153:4 carry 24:16 71:10 carrying 149:1 154:12 cartilage 64:3,8,9,14 case 10:15 19:19 26:19 27:15 37:7,9 38:7 40:4 61:22
--	--	---	---	---

80:19 88:6 144:20 145:13,22 146:2,5 164:5 185:7 187:4 189:8 192:3 194:3 cases 19:12 27:25 32:16 61:20 67:14 71:6 74:6 77:24,25 93:20,20 176:22 187:21 189:10 Cassia 173:14 catalog 16:20 catalyze 133:23 catch 62:25 catches 48:11 category 130:18 cat's 130:19 131:16 131:17 157:19,24 158:9 caught 188:10 cause 192:8 caused 167:25 causing 138:23 cautious 34:16 caveat 181:23 caveats 173:22 cayenne 173:14 CE 162:16,18 cedar 167:14 Celebrex 48:25 49:9 53:10 138:22 166:9,9 celery 49:6 74:19,20 74:21 cell 163:17,19,20 cells 160:20 Center 82:19 centers 14:17 170:22 cereals 180:9 certain 34:13 50:2,5 80:23 128:2 163:17 183:7 certainly 13:8 34:19 39:24 66:21 70:8 71:17 91:14 97:8 127:8 129:20 134:4 137:20	157:17 160:1 170:25 172:17 176:20 178:4 179:5,14,16,18 181:1 182:12,22 certificate 193:1,13 certify 192:6,20 193:3,11 cervix 114:17 cetera 160:25 challenge 6:7 challenged 36:16,24 60:2 chance 86:19 137:10 change 58:15 81:22 87:3 88:8 92:23 153:22 165:20 180:7 181:22 182:1,3 194:5,7 changed 82:5 84:6 86:16,20 89:23 105:5 111:25 169:18 changes 86:25 87:1 changing 63:1 chaotic 68:12 chapter 1:13 3:6,11 8:14 14:5,7,8,15 15:18,21,22 16:1,7 16:15 17:1,6 19:8 26:22 27:7,9,13,14 27:18 35:14,23 36:12,20 37:3 38:24 39:2,6,10,11 44:21,25 45:13 46:4,5 55:20 74:18 78:20 138:3 158:14 165:2,15 174:21 177:18,19 178:7 183:17 185:5 190:11,24 192:3 194:3 chapters 174:18 177:24 189:9 cheaper 78:1 141:10 186:17 check 81:1 127:10	149:18,24 153:19 184:2 checked 55:18 107:23 checking 43:12 checks 38:17,21 chelation 164:3 chemical 49:25,25 59:13 60:24,25 66:2,24 67:1 76:4 76:5,20,21 101:13 102:2,3,4,5,5,10 102:22 114:5 115:3 119:8 126:16 127:3 128:2 134:14,24 137:14 151:1 163:13 chemically 189:5 chemicals 23:22 43:19 45:22 47:19 47:21 50:6 55:16 59:3,6 60:21 62:14 65:15 67:12 68:4 68:13 72:6,25 75:15,23 76:13 89:1,17 90:6,9,11 90:16,23 91:8,11 91:16,18,19 92:10 93:2,4 97:19,20,23 98:23 101:5,10,12 101:25 102:15,24 102:25 106:23 112:20,21 114:6 124:19 125:1 126:7 127:6 134:11 137:13,15 158:6 159:24 180:24 183:2,7,12 190:16 chemistry 72:22 chemists 33:15 chemotherapeutic 186:17 187:12 cherry 169:1 chicanery 31:2 chicken 174:15	chickpea 80:18 Children's 126:5 chime 13:11 China 125:12 Chinese 48:8 68:15 129:4 167:1 190:19,21 chiropractors 142:2 chock 53:24 chose 59:2 chosen 102:5 Chris 39:8 CHRISTOPHER 4:14 Chronicles 103:11 103:23 Cimicifuga 111:25 112:5 Cinnamomum 138:17 cinnamon 138:20,24 140:23,24,25 141:1,4,8 citation 93:22 128:20 151:12 citations 118:18,20 cite 120:4,5 cited 99:12 113:2 151:3 citrus 183:13,14 claim 66:9,10 190:20 claimed 39:6 claims 39:2 46:20 128:11 185:9 Clarification 2:9 clarify 60:3 142:19 194:5 class 124:25 175:14 classes 26:12 127:24 claw 130:19 131:16 131:17 157:19,24 158:9 clean 41:19 118:7 cleanup 56:3 clear 92:21 142:10 169:12	clearly 164:21 clientele 26:6 clinic 170:4,6,13 173:11 clinical 10:19 11:15 11:23,24 20:25 21:1 22:20 23:4 26:1 29:5,11 30:2 30:17 32:3,8,25 33:1 49:24 51:15 51:17 52:3,6 61:2 61:15 62:7,9 66:3 68:10 76:8,11 80:13 89:6 107:21 120:21 124:3,16 125:9 126:11,25 127:2,6,13 128:5,6 128:14,14 141:9 147:9,17,25 148:1 148:10,14,19 149:3,8,14,15,16 149:25 150:2,6,7,8 150:19 151:19,21 152:6,9,15 153:6 153:13 154:1,7,9 154:18,23 155:3 155:15,20 156:6,8 156:9,10,11,12,23 157:3,8,15 158:7,8 159:18 160:20 167:1 187:1 clinically 33:6 46:22 59:16,17 74:8,8 82:17 94:17 130:6 138:16 157:11 158:25 166:6 close 68:8 74:8,21 90:10 98:10 164:22 173:5 189:14 190:6 closely 28:7 189:5 closer 16:19 24:5 91:15 182:6 clover 47:14,23 CME 50:11,23 CNN 136:6 181:16 cohorts 42:1
--	---	--	---	---

[200]

cohosh 112:8,9 123:1 147:8,16	59:18,19 121:10 121:11 149:12,22 149:24 150:4,4 151:3,4,5,14,19 152:11,11 192:9 193:19	compilations 33:9	concern 46:16	constituents 22:25 65:6 66:24 73:4
collaborate 46:5	committees 150:5	compiled 144:3	concerned 54:11 162:9	constructive 13:11
collaborated 15:4	common 17:21 102:14 112:11 122:21	compiler 49:21	concerning 9:4 33:2 138:2	consult 18:9 19:2 34:7 44:13 89:13 145:14,21 146:4 146:11 160:2
collaboration 21:17 21:18	commonly 34:12	compiling 136:7	concerns 129:4	consultancies 30:1
colleagues 188:18	communis 167:7	Complaint 36:20,22 36:25	concluded 191:18	consultant 29:23 30:22,25
collect 20:8 43:20	community 21:4 65:18 79:15 122:22 142:1	Complementary 50:11 54:5,6,19,21 113:12	conclusion 65:25	consulted 12:15 19:11 30:9 31:19 92:2,20 121:19 146:13 169:24 184:22
collected 21:14,16 24:4	companies 44:8	complete 142:11	conclusions 10:22 79:20	consulting 64:21 146:1
collection 21:8 22:14	company 15:17,21 17:3 74:13,17 83:1	completely 131:25	conclusive 120:17 120:18	consumed 107:8
collections 21:9	comparable 34:1	completer 101:18	concur 171:9	consuming 23:18 80:23
colon 66:16,17 114:17 180:11	comparative 27:16 152:25 153:1	complex 60:4,12,22	concluded 31:1	consumption 48:13
colons 89:23	compare 68:13 81:20 86:19 168:14	complicated 89:21	condition 6:17	contact 17:1,2
color 180:16	compared 11:25 33:6 53:6 61:15 68:16 77:23 82:12 82:17 138:12,16 145:3,18 158:17 158:25 164:3	component 128:15 139:18	conditions 18:11,17 100:11 162:1	contacted 143:18
colors 180:12,15,17	company 15:17,21 17:3 74:13,17 83:1	components 71:2 128:16 131:2,4	conduct 61:2	contain 36:17 75:2 78:11 80:18 98:25 163:13 167:14 168:24 169:1
Columbia 135:8,13	comparative 27:16 152:25 153:1	compound 28:6 50:1 60:17,19 68:9 77:6 78:9 82:23 90:1 97:25 100:21 102:11 166:12,22 167:15	Condylomata 167:21	contained 192:6
column 97:25	compare 68:13 81:20 86:19 168:14	compounds 28:7 30:14 71:12 78:11 80:19 90:4 98:25 102:18 127:24 128:2 168:22 189:4,20	conference 50:22	contains 45:9 49:7 60:18 65:10 166:24 168:17 171:4 189:18,19
Colostrum 66:10 79:12	comparing 41:25 61:21	computer 7:20 27:13 39:25 62:23 72:5 89:16 95:7,8 165:20 170:17 171:15	confess 82:17 108:20 129:9	contamination 73:22
Combat 47:14	comparison 80:13 142:22	computers 170:16 173:9	confirm 39:21 63:22 185:19	content 139:25 140:1
combination 67:16 190:12	comparisons 58:6 158:12 165:6	con 145:14	conform 194:6	contents 24:3
combo 186:14 187:2	compendium 109:8 172:19	conceive 80:3	Congress 61:17	context 133:25 179:21 185:7
come 17:13 26:8,11 31:20 72:14 74:9 115:2 119:11 150:8 168:20 170:14	compensated 38:19	conceived 178:21	conjunction 96:9 146:6	continually 90:17 90:18
comes 48:4 89:22 94:1 136:1	compensation 18:15 18:18	concentrate 45:17 45:22,23	connection 29:15 36:8,9 134:2 135:11 145:21 146:2,5,11 176:13	content 139:25 140:1
coming 12:2 44:18 53:15 111:6	competing 53:6 77:23	concentrated 45:19 168:15	conservative 34:2 35:3 174:10	contents 24:3
comma 89:25	competitive 10:23 51:6 54:10 88:11 158:23 169:6	concentration-de... 160:15	conservatively 160:21	context 133:25 179:21 185:7
commas 89:23,24 90:3,10,13,15 112:18 113:23	compilation 75:13	Concepts 50:11	consider 34:2 179:24	continually 90:17 90:18
comment 78:12 130:22,23 181:23			considerable 122:7	continued 132:14
comments 131:3			considerably 133:13	continues 157:1
commission 1:2 3:2 4:3,6 5:11 33:8,12 33:13,13,22 34:1,4 34:12,14,23 35:12 35:12 36:24 52:2			consistent 177:23	continuing 50:23 148:25 156:25
			consortium 26:1	contraceptive 80:3,3 166:24 167:2
			constantly 121:23	
			constituent 110:8	

<p>contraceptives 167:6</p> <p>contract 14:22 46:1 46:2</p> <p>contrary 138:24</p> <p>Contrasts 58:7</p> <p>contributes 143:6</p> <p>control 11:24</p> <p>controlled 10:18 11:24 55:22 119:1 186:25</p> <p>conversation 5:18 5:19,22 8:10 27:23 185:2,4</p> <p>conversations 170:7</p> <p>conversion 162:6</p> <p>convert 168:23</p> <p>converted 124:24 168:25</p> <p>convinced 61:10 64:14 187:3</p> <p>convincing 117:5 188:17</p> <p>convoluted 101:11</p> <p>coordination 161:5</p> <p>copies 54:22 177:4</p> <p>copy 36:20,23 57:17 57:18 94:14 117:17 122:2</p> <p>copyrighted 94:6</p> <p>coriander 164:2</p> <p>corner 103:17</p> <p>corporation 3:7</p> <p>correct 7:17 12:17 22:16 29:5,8,13,14 38:20 42:5 44:22 52:8 56:4,5,7,8,9 60:13 66:8 83:15 83:22 84:1 85:7,8 91:5,6 92:23 96:12 99:11 100:17 109:9 116:20,21 122:1 127:7 128:17 144:14 146:22 147:10 152:7,8 156:4 157:16 158:9,10</p>	<p>194:5</p> <p>Corrected 1:19 56:24</p> <p>correction 194:5,7</p> <p>corrections 193:5 194:4</p> <p>correctly 83:11</p> <p>corresponding 188:8</p> <p>cost 94:14</p> <p>Costa 13:20 14:4,12 14:25 16:12 46:4</p> <p>cotton 166:22,23</p> <p>Council 9:21</p> <p>counsel 5:10,11</p> <p>count 55:14 89:22 89:24 90:2,12,14 90:15 98:11 108:19 136:18</p> <p>counted 93:1 113:21</p> <p>counting 38:13</p> <p>country 20:14 43:17</p> <p>County 25:10</p> <p>couple 22:6 25:14 46:11 56:3 188:20</p> <p>Courage 49:6</p> <p>course 92:9 96:3 172:21,25 173:6</p> <p>court 6:7 9:19 36:1 39:18 57:3 97:2 172:13 175:1,11 177:3 182:3 185:16</p> <p>cover 173:24</p> <p>covered 58:20</p> <p>COX-2 48:24 49:4,7 49:8,11,12,14,16 49:17,20 75:2,4,5 75:5 183:16</p> <p>crashes 43:23</p> <p>crazy 187:15,16</p> <p>created 86:25 173:3</p> <p>credits 162:16</p> <p>creep 82:25</p> <p>crisis 74:24 166:14</p> <p>crocus 94:16 100:2 100:9 142:22</p>	<p>166:4</p> <p>crosses 30:20</p> <p>crucifer 127:16</p> <p>crucifers 128:6</p> <p>cucumber 94:19</p> <p>cumin 94:19 159:12 159:17 160:8 183:8</p> <p>cumin's 159:3</p> <p>Cupressus 94:19</p> <p>curative 89:18</p> <p>curcuma 94:18 100:8 113:17 166:8</p> <p>curcumin 11:18,20 12:9 49:17 51:8 68:9 75:2 88:16,20 94:15 98:18 99:11 100:13 106:13,14 106:18,24 107:8 107:15,23 114:16 114:20 117:5,11 118:15,25 120:19 120:22,23 137:17 137:24 139:21 169:20 188:23</p> <p>curcuminoid 33:1</p> <p>curcuminoids 29:8 31:25 62:9 68:9 107:5 169:21</p> <p>cure 16:22 42:19 43:6 46:18 68:19 134:3 160:7</p> <p>cured 80:5</p> <p>cures 135:25</p> <p>curing 40:17 64:3 123:3</p> <p>current 50:11 177:21</p> <p>cut 181:3</p> <p>cutting 179:25</p> <p>CV 1:14 12:15 39:15 39:21,23,25 42:3 44:7 52:12 53:24</p> <p>C-A-M-P-T-O-T... 29:2</p>	<p>D 1:3 5:1 36:3 66:8 192:18</p> <p>dacarbazine 187:11</p> <p>dad 66:16</p> <p>daidzein 47:24</p> <p>danced 54:3</p> <p>danger 136:10</p> <p>dangerous 132:10 166:20 167:3,5 182:13</p> <p>dangers 136:14</p> <p>Daniel 1:12 3:6,10 8:14 26:22 27:6,8 27:12 35:14,23 36:12,19 37:3 38:24 39:2,6,9,11 55:19 78:20 80:12 138:3 158:14 165:15 179:24 180:1 190:11,24 192:3 194:3</p> <p>dare 83:3 109:3</p> <p>Darien 161:24</p> <p>data 30:24 31:8,21 31:22,23,24 32:2 32:14,18 41:13 44:5,6,8,10 45:3 58:11 62:24 72:5,8 72:17,18,19 89:4 104:14,16,16 110:8 119:9,18 161:1,1 181:9 190:21</p> <p>database 23:22 28:8 30:16 34:9,10 37:12,16 43:8,18 44:2,4,13,23 45:9 45:20 46:12,13 47:10 55:13 62:18 62:18,25 65:14 75:14 76:5,7 90:7 90:17 93:15,18 96:3,4,5,10,16 97:4,6,10,13,18 101:24 104:6,15 106:15 109:6 110:6 112:20</p>	<p>117:24,24 118:2 119:22 120:24 127:14 128:5,20 128:21 143:8 144:2 159:21,24 160:1,1,2 161:12 169:19 170:15,19</p> <p>databases 1:21 96:24 114:24</p> <p>DATE 192:4 194:2</p> <p>dated 52:23 192:12</p> <p>daughter 17:9 18:14 19:7 135:20 176:19</p> <p>DAVID 4:5</p> <p>day 7:18,19,20 11:13 35:1 38:19 50:22 193:13</p> <p>days 23:5 37:8 38:8 38:9,13 49:9 58:16 138:8 150:9 158:20</p> <p>DCO 1:18 39:19,20 56:23 85:6,7 86:6 138:7 142:24 143:21 145:15</p> <p>DCO's 144:20 145:12 146:12</p> <p>deal 17:6 63:25 78:16 176:16</p> <p>dealing 136:15 171:25 178:15</p> <p>dealt 17:8</p> <p>death 160:7</p> <p>deaths 132:23 136:18</p> <p>debate 162:22 179:11</p> <p>decade 27:1 132:1 132:19</p> <p>deceased 126:5</p> <p>decided 162:2,7</p> <p>decreases 160:18</p> <p>defend 27:8</p> <p>defending 35:14</p> <p>defer 30:20</p> <p>define 58:21 125:1</p>
D				

[202]

defined 188:21	Desk 1:22 149:20,20 151:8 172:4,11	dig 190:5	doctors 132:25 133:3	drink 178:9
definitions 101:16 101:17	desperate 186:13	Direct 85:14	document 9:10 39:19 94:25 115:7 117:10,12 160:23 177:14 182:5	drip 24:15
delay 62:20	detail 92:13	directed 182:20	documented 60:9 189:9	dropped 165:22
Delete 119:4	determine 28:12 49:20 66:22 99:2 150:1	direction 28:2,2 76:19	documents 83:16 87:21,23	drug 11:25 12:1 23:3,8,19 29:2 32:9 82:22 123:11 124:24 138:23 144:13
demonstrate 41:15 76:25	determined 67:7,10 100:1,2	directions 79:14 90:4	doing 26:10 89:3 114:8 137:18 144:5 170:22 180:9	drugs 21:6 22:7,15 23:11 108:21 111:3 127:3
demonstrated 189:25	determining 176:2	directly 170:5 171:5	dollars 141:2	dry 183:14
demonstrating 149:3 187:1	develop 43:3	disagree 6:5 109:13 110:9	domain 79:13	dual 7:25
Dennis 8:21,21 17:14	developed 63:3,4,6 91:24 96:9	disappeared 184:19	dosage 23:10,25 67:25 71:6 173:21	due 48:17 136:19 137:4
depended 125:2	developing 38:11 175:16,18	disbelieves 135:9	dosages 13:4	Duke 1:6,14,15,17 2:8 5:4,9 9:15,19 10:10 35:22 39:15 39:16,18 56:3,16 56:17,19,20,22,24 57:7,7 62:2,4,4,6 86:13 96:23 172:10 175:8 176:25 185:12,18 185:19 193:9 194:1
DEPONENT 193:1	development 71:13 126:22 134:20 178:23	disciplines 33:15	dose 23:16 24:12 75:23 98:15,19,21 103:2 110:22	Duke's 1:20 67:18 95:16 96:23 160:13 174:24
deposing 88:6	devout 28:1	discussed 44:21 54:1 129:6 145:4 178:25	doubt 35:1	Dulabon 4:5 103:12 103:18 153:8 168:8
deposition 3:21 5:13 9:15 35:22 39:15 56:16,19,22,24 83:12 96:23 107:2 172:10,13 175:8 175:11 176:25 177:3 185:12,16 191:17	diabetes 124:2 141:7	discusses 107:3	downtown 24:19	dulcis 168:11
depression 82:6,6 94:17 142:23 143:5,6	diagnosed 69:22	discussing 110:18 135:2 165:18 175:14	dozen 16:18	Dulles 167:14
deride 51:7	diagnosis 70:1	discussion 9:14 52:10 105:10 147:6 178:24 179:2 184:24	Dr 1:20 2:8 5:9 8:21 8:24 14:13 17:13 17:14,25 56:3 57:7 81:11 96:23 126:12,25 128:11 133:1 153:16 170:25 171:7 185:19	duly 5:6
derivative 177:11	dial 164:25	discussions 19:13 169:22 170:5,21 171:2 184:9	drafted 64:20	duodenum 114:17
derivatives 177:10 178:16	DIANE 192:25	disease 22:6 28:23 91:22 124:2 130:24 189:16	drafting 64:19	dystrophy 139:18 140:4,6,18
derived 22:24	dicarbazine 186:18	diseases 160:7	drag 187:12	D.C 3:18 4:18
derogatory 129:9 130:22	die 136:22	disheartening 188:3	dramatically 126:13	
derriere 173:24	died 24:19 25:5 66:17	dishes 49:19 126:14	draw 30:5	E
describe 55:10 81:19 119:11,23 133:17	differ 169:15	dislike 67:18	drawing 81:9	E 1:3 5:1,1 33:8,12 33:13,22 34:12,14 34:23 35:12 52:2 59:18 149:12,22 149:24 150:4 151:4,5,14,19 152:11 192:1,1,1
describes 119:10 120:2	difference 66:20 71:15,20 76:11 95:22 97:15	dissolve 78:7	drawn 28:9 79:23 97:17	
describing 123:25	different 11:25 17:23 67:11 92:18 92:22 101:2,16,17 107:7 114:10 118:18 127:24 143:16,17 151:2 178:16 189:6,6,21 189:21	distinguished 150:5	drawn-up 158:16	
description 1:10 2:1 115:8 122:17 125:11 127:21	differentiated 114:9	Ditto 149:23	draws 43:10	
descriptions 173:18	difficult 6:18	divide 55:15 91:17	dredging 30:19	
design 25:4 82:5	difficulties 123:12	Division 161:19	dried 73:25	
designer 25:3	difficulty 142:15	divisions 161:18		
		divorce 24:21		
		Docket 3:7		
		DOCKET/FILE 192:2		
		doctor 8:21 28:13 52:14,23 56:4 133:2		

192:18,18,18	186:17 190:2	eliminates 78:4	153:3,24 154:13	96:24 97:13
earlier 28:24 46:23	efficacy 10:19 29:17	elm 130:11 157:7,7	154:21 155:18	101:20 103:7,8
47:20 59:16 72:24	30:6 33:2 54:1	else's 142:8	156:17 157:1,6,19	105:4
81:18 88:25 94:24	55:6,21 60:3,8,9	elude 183:8	159:14 163:24	Ethnobotany
99:18 116:15	60:23 64:2,14	Elvis 182:15	166:4,17,21 167:7	104:19
117:19 130:25	67:21 73:10 76:25	email 19:21 36:7	168:11,13	Etopicide 21:22,23
139:7 145:5	77:5 87:9,15 138:3	57:11,12,18 79:11	epidemiological	22:9 24:25 28:24
153:16 158:16	142:24 144:20	170:7 184:13,13	59:14 119:9,18	51:10 124:25
168:17 184:15	145:12 147:17	emailed 36:6 121:23	151:1	167:17,19 189:13
186:7 190:19	148:2,10,15 149:3	186:3	epidemiologically	evaluate 145:12
early 17:8 27:19	149:8 151:22	emails 19:24	48:1,6,12,16 66:13	154:1 190:10
37:7 70:1 86:21	153:6,13 154:2,18	enabled 80:2	110:24	evaluated 33:15
139:20	155:21 156:22	enabling 65:24	epidemiology 48:14	34:12 122:17
Earth 2:2 48:22	157:3,8 158:9,14	encompassed	episodes 22:21 29:3	153:5,12 154:18
185:12,17,19	165:15 176:2	123:25	equate 23:18	154:23 155:15,20
easier 123:1 182:3	187:1	encounter 119:18	equivalent 32:9	156:22 157:3,8
easily 168:23	effort 132:12 190:10	encountered 23:24	75:11 190:3	164:16
easy 60:19 137:3	190:22 191:1	endangered 167:19	erase 100:7 118:8	evaluating 34:11
eat 48:8 134:7 164:8	efforts 190:17	endangering 168:5	errata 194:4	144:20 146:12
178:9,9	egg 126:14,14,18	ended 22:19	error 115:12 194:5	148:14 151:22
eating 23:18 24:18	Egyptian 121:15	enforcement 26:16	errors 194:4	158:8 166:1
24:19,21 188:24	eight 11:13	English 100:7	erucic 139:15,17,21	evaluation 92:19
economic 18:6 83:2	Eighteen 163:7,8	145:25	139:22,25,25	94:24 152:6,10
eco-tours 162:15	eighties 132:6	enjoy 180:9	140:22	evaluations 12:12
edible 162:4	144:17	enter 93:8,11	especially 41:12	33:6,24 51:21
edition 95:17 151:7	eight-digit 93:25	entered 62:17	48:13 67:12 76:19	58:19 59:8 71:24
172:6 177:5,6,7	eight-letter 93:25	entirety 17:17	107:11	86:5 94:10,11
178:14	either 8:6,12 20:20	entities 60:19	ESQ 4:4,5,13,14	120:3 122:20
editor 15:15 178:15	31:16 33:6 38:19	entity 46:9	essentially 90:2	150:14
178:16 184:4,5	39:12 41:15 52:1,2	entries 119:11,12	95:20	Evaporation 73:22
185:25	54:4 59:16 89:18	122:4 138:2 152:5	Essiac 68:21 72:19	event 14:14
education 50:23	110:4 123:6 136:8	154:8 156:21	73:7 88:22 108:3,8	everybody 164:8
effect 40:18	152:15 161:12	165:13	110:15,15,17	evidence 28:10 51:1
effective 61:1 68:19	163:17 174:5	entry 2:9 48:21 50:9	111:14 129:5,6,10	51:5 52:23 54:11
75:23 81:10 92:7	elbows 155:10	50:18 52:14 93:10	129:13 130:12	59:14,20 60:1,9
110:1 114:11	elderberry 45:20	101:12 103:6	131:4 156:3,6	61:14 71:7 81:7
125:14,19 136:21	elects 131:12	111:19,21,24	establish 87:9,14	89:5 92:18 117:5
137:17 143:4	element 75:19	114:21 115:3	established 146:20	121:17 131:20
169:4 188:23,24	154:10 188:23	116:17,18 117:15	estate 24:5 25:13,17	151:18 154:6
effectively 71:3	elements 22:17	123:1,17 124:11	25:23	156:1 161:9
effectiveness 123:3	45:19 65:25 66:19	125:10,16,17,23	estimate 55:17	187:20,21 188:5
effects 29:24 72:25	73:10 78:18 89:1	127:16 129:4,12	109:1 131:7	evidence-based 53:9
73:1 82:3 98:22,23	Eleuthero 125:23	129:22 130:19,20	estrogen 80:19	evolved 135:15
173:22 190:14	153:4	142:10 143:8	181:2,23	174:12
efficacious 33:17	Eleutherococcus	144:23 146:10,11	estrogen-like 180:24	evolving 119:21
49:12 60:21 71:21	65:12 131:9	147:8 149:6	et 160:25	exact 14:7
71:22 82:22	eliminate 72:3,12	151:21 152:4	ethnobotanical 1:21	exactly 164:4

exaggerated 173:25	116:19 122:12	express 67:24 88:9	157:20	192:4 194:2
examination 1:5 5:5 5:7 184:2	137:19 141:11,15 141:18 146:19,20	expressed 12:6 88:9	familiar 57:6 58:8 73:13 112:9	February-April 1:11 9:16
examined 5:6 16:19 193:3	147:16 148:25 149:6 153:3,11,11	expressing 79:25 88:3	family 67:3,4 82:15 127:17,20 129:5	Federal 1:2 3:2 4:3 4:6 5:10 26:15
example 41:8 67:2 68:24 74:1 80:1 82:11 104:24 140:2 150:12 187:25 189:25	153:15,25 154:12 154:21 155:18 156:17,25 157:6 157:18,23 158:11 162:25 163:1,23 168:10 169:9,12 172:10,14 173:18 175:1,8,12 176:25 177:4,18 178:6 180:3 184:17 185:12,17	extent 25:1 71:25	139:16,17,23 140:2,11,14 166:25 168:24 169:1,1 171:4	feel 87:2 184:2 193:5
Excerpt 1:24 176:25	exhibits 1:10 2:1 57:3	extract 33:7 59:17 62:16 76:3,4,6,9 77:6,8,11,19,23,25 94:1 117:9 120:25 120:25 124:9 149:17 150:18 168:15	famous 30:21 130:14	feeling 74:11,12 88:10 108:20,23 185:3
exciting 164:10	exist 77:17	extracted 62:10	fantastic 45:8	Feijo 3:9 8:8 185:9
excuse 50:13 52:18 74:16 87:10 91:13 92:15 93:2 96:6 99:22 100:7 110:15 115:12 120:20 121:15 129:5 132:19 139:15 140:11,25 145:9 173:24 186:8	existence 42:9	extracts 88:21 108:8 108:14	far 38:2 39:22 54:10 94:23 129:17 162:9 166:15	Feijos 35:14
executed 193:13	existing 157:16 158:23 170:23	extreme 23:21	farm 14:3 25:13	fellow 19:8 135:13
exercise 112:25 181:15	expect 16:18	eyes 36:11	Farmacy 121:8	female 181:9
exhibit 2:10 9:15,19 10:10 35:22 36:1 37:6 39:15,18 42:3 46:25 47:12 48:20 50:9 52:12,22 56:16,19,22,24 57:15,19,19,21,22 58:6,11,11,12,13 59:22 60:11 62:7 63:8,10,12,15,20 66:8 79:16 82:19 83:6,12,14,14,18 83:19 84:3,10 85:4 85:10,10,10,12,16 85:18 86:1,14,17 86:18 87:5 89:15 96:23 97:2,11 100:25 103:10,12 103:18,24 104:19 104:20 107:2 111:15 113:5,16 115:20 116:9,14	expectancy 69:21 70:3,4 133:12	F	farmette 25:16	fence 136:8
	expenses 16:13,14	f 59:13 81:7 118:13 119:7,10,12,13 126:9 150:15 153:21,22 192:1,1 192:18,18,18	farms 181:17	fenugreek 80:18 100:22
	expensive 69:18 137:9 145:19 167:17	face 138:22	fatalities 133:6 137:3 167:25	Feverfew 78:10 129:22 130:7 157:1,2
	experience 13:8 60:1 79:21 120:15	faced 138:22	fatality 136:25	fewer 136:18 180:16 180:19,23,25 181:6,17,18
	experiences 27:4	facilities 13:24 161:22 169:24	Father 121:7	fibrinolytic 160:18
	experimenting 74:23	fact 8:17 26:12 70:6 88:15 125:13 132:13 150:4 157:10 168:18	fatty 15:19	fibrosarcoma 160:19
	expert 1:15,17 8:13 26:18,19 36:10 56:17,20 57:5 144:6	factors 157:13	fault 52:7	field 90:8,20
	expertise 66:9,10	facts 194:6	faulty 91:5	fifth 50:9 52:13,14
	experts 13:24	faculty 26:2	fava 80:18	fig 80:6,11 164:12 164:18,18 165:3 168:18
	EXPIRES 193:19	fail 166:13	favorites 138:19	fight 28:23 65:24 79:6 80:23
	explain 60:7 64:24 86:16 89:8 117:2 188:25	fair 37:11 86:8 91:20 164:16 165:7	FD 101:16	fighting 33:2 65:21 91:22 92:7 137:17
	explained 121:8 188:21	fairly 37:7 132:17	FDA 16:25 22:21 31:16 32:18 42:22 46:20,21 49:15 60:20 76:23,24 77:8,16,17 131:12 131:15 137:2,22 138:14,14,20 144:13 158:25 166:23 179:19 188:2,8	Fights 2:2 185:13
	exposed 172:20	faith 176:12 186:12 186:19 187:13	FDA-approved 137:4 138:23 164:21 180:16 189:13	figure 24:10 45:20 75:11 82:21 92:12 106:16,16 133:7 142:23 147:3
		fall 111:2	FDA-conscious 46:20	figures 28:18 70:9 70:10,12
		false 91:4	February 3:14 9:22 57:6 59:23 85:5	file 114:6
		falsified 30:24 31:8		files 142:13,15
		falsity 41:15		final 7:23 57:15 174:19
		Famed 130:20		

finally 30:13 61:21 94:20	176:15 178:14 184:4 188:13	79:23 134:7 137:7 180:12,15 185:23	156:2,3 177:10 181:8 189:4 190:1	GAO 132:3,16 144:12
find 28:6 50:1 66:4 82:14 95:10 96:5 96:15 101:1,3,3 108:6 114:24 115:4 119:20 124:15 126:10 128:19 137:2,3,25 150:11 151:10 155:5 159:23 165:2 175:5 178:3 181:15 183:23 188:10,14 189:4	first-line 129:20 fish 52:5,5 fit 158:13 165:22 five 17:23 29:19 55:19 58:23 68:20 68:20 69:17 79:13 115:4 120:8 124:22 182:25 189:2,5,11 fix 6:25 flag 117:18 flags 117:20 flake 141:25 flakey 164:4 flashes 147:11 flavor 168:19 flavorings 180:19 flirt 174:8 Florida 45:8 60:18 163:16 FNF 121:7 focus 7:14 178:6 focused 170:12 Focusing 162:24 folk 43:16,19 150:16 151:18 162:3,7 folklore 20:17,18 59:12 81:5,7 118:13,21 119:8 119:15,21 151:17 153:7 157:25 folkloric 20:21 81:13 103:9 folklorically 43:21 101:21 103:8 Folkman 126:4,12 126:25 153:16 folks 13:22 57:9 74:3 followed 76:17 81:24 following 18:13 82:23 95:3 119:17 follows 5:6 food 25:3 47:13	foods 25:4 49:15 177:22 178:9 180:23,23 foregoing 193:4 forest 21:23 104:17 forget 17:17 173:1 Forgive 109:21 forgotten 121:18 form 7:23 57:15 88:2 137:18 formal 86:10,13 formalized 25:5 format 192:22 formation 75:7 131:2 formononetin 47:25 formula 30:10 36:3 47:20 49:5 63:9,18 68:18,21,21 71:2 72:10,23 73:4,7,7 75:6 78:22 88:23 129:6,10,13 130:12 131:1,2,5 156:4 190:12,25 formulas 136:11 formulate 67:20 formulations 42:15 71:8 forties 158:1 forward 165:12 for-instance 40:23 fought 131:1 found 7:10 28:5 37:24 39:24 41:9 74:22 89:6 95:1 103:3,5 136:25 138:8 161:2 189:3 Foundation 92:2 founding 17:10 four 1:12 35:16,23 36:15 38:13 51:9 57:3 68:20 73:6 120:8 131:4 138:8 138:9 150:15	fraction 89:20 fractionate 20:24 112:23 fractionated 55:8,12 frame 142:4 frankly 64:13 free 94:14 184:2 frequent 43:24 frequently 14:2 18:12 19:15 30:9 31:7 54:8 121:19 126:9 190:19 fresh 181:11 Friday 58:12 friend 44:11,13 45:7 80:2 170:3,13 front 65:9 116:14 170:17 fruit 181:6 fruits 183:14 FTC 57:16 76:23,24 77:8,16,17 158:25 188:9 full 38:8,9 45:6 53:24 134:13 179:21 192:7 Fulton 25:9 functional 118:16 fungus 73:24 fungus 73:24 further 73:9 104:18 108:25 166:17 191:9 fl 118:11,12	garden 15:4,10,14 19:15 25:23 26:3 26:13 27:4 50:4,5 50:22 73:14,19 74:9 99:23 138:20 138:21 171:6 gardens 181:17 garlic 65:14 67:4 90:10 104:24,25 105:3 123:17,18 123:25 124:3,9,9 124:10 148:1 150:20,20 174:10 179:17 Gary 133:2 Gates 91:23 92:2 gather 44:3 gathered 20:20 71:7 gathering 44:1 GDU 36:2 63:9,18 78:3,4,19 190:11 190:24 gelatin 126:16 general 31:15 69:14 79:1 194:5 generally 21:4 172:3 generated 33:23 genes 75:25 76:1,21 genistein 47:24 80:21 127:2 154:4 genital 167:22,22 genus 102:13 163:13 German 33:8,12,13 33:22 34:11,14,22 149:19 172:6 Germans 33:16 Germany 33:13 germinate 74:1 getting 67:17 68:8 102:20 132:10 188:18 ginseng 65:13 71:5 125:24 girl 102:16 117:18 117:23 118:8
			G	
			G 5:1 GAIA 46:10,11,14 46:15 73:17 gaining 69:17 Gamble 44:9,12,14 game 52:8 87:24 89:15 gangrenous 81:4	

[206]

give 5:15,25 9:11 10:12 24:14 40:23 45:15 46:19 55:16 71:6 94:14 98:19 101:11,13 102:7 106:17 116:3 119:20 128:8 147:1 165:20	179:10 188:14 goal 61:16 goes 75:19 83:22 109:23 going 5:23 6:23 10:12 12:14 29:7 37:16 43:17 51:15 63:23 67:6 68:7 69:25 73:17 82:14 104:18 114:19 118:10 122:8 138:7 140:20 142:8 153:3 158:21 185:5	gotten 19:21 25:7 68:17 150:17 159:25 162:5 165:25 gout 74:20,20,24,24 166:12,14,16 government 26:15 33:19 governmental 34:5 grab 134:6,8 grabbed 164:6 grabs 70:9 grains 180:10 gram 106:17 grams 11:13 great 7:7 green 1:24 4:7 54:4 54:7,17,20 113:13 125:16 149:7 151:20 177:1,5,7 177:11,21 180:2 181:24 183:22 greenhouse 99:24 gringo 34:10 gringos 34:9 groping 163:21 group 11:24 29:25 41:22,23 156:2,2,3 156:3 groups 128:1 grow 13:4,21 49:23 90:18 94:22,25 growing 13:8 44:7 50:3 75:21 99:23 99:24 grown 100:4,23 grows 90:17 99:21 112:11 guess 14:12 43:9 96:11 108:19 144:18 173:19 Guide 146:11 177:22 guilty 71:19 Guinea 29:19 gut 108:20,22 185:3 guy 93:16 140:3,3	H habit 66:15 hair 111:1 half 40:17 113:18 116:18 131:23 132:19 168:23 halfway 106:7 139:8 hall 148:22 hand 83:16 Handbook 95:16 121:16 160:13 174:24 handed 177:21 handout 158:16 handouts 144:8,9,9 165:18,19 hands 16:11 99:5 hangover 184:14 happen 73:19 109:13 happened 12:22 20:22 27:22 61:18 69:21 103:21 133:11 166:15 happening 61:20 happens 83:3 happy 161:25 hard 74:12 190:15 hardback 183:24 hardy 94:22 hard-copy 184:18 hard-core 187:5 hard-cover 95:17 Hartwell 81:5 95:11 101:23 Hartwell's 81:11 Harvelt 35:10 hated 184:4 Hawaii 44:5 48:10 104:12 118:1,8 hazards 72:7 hazelnut 102:14 head 6:6 heading 63:16 heal 41:7 140:20 healing 20:22 25:18 25:21,25 41:5	54:23 176:13 177:22 health 131:11 167:4 healthier 186:16 healthy 161:25 hear 23:5,6 31:6 131:13 136:7 139:25 163:18 heard 13:1 21:24 31:9,12 39:9 81:14 139:13 156:19 188:2 191:1 hearing 192:8 hearsay 44:11 heart 124:2 138:23 Hebraic 100:3 Hebrew 99:6 help 20:12 25:4 27:8 47:21,21 55:14 59:4 67:4,17 79:5 80:20 92:11 94:17 117:14 134:23 137:10,22 139:20 140:6 163:17 168:4 172:9 176:6 176:13 helped 40:16 41:11 41:17 117:11 134:21 139:18 141:8 155:23 helpful 124:16 142:20 helping 78:10 144:25,25 helps 41:2,21 141:6 158:18 170:17 176:5 hepatitis 145:19 herb 9:4 12:1 15:15 15:17 23:19 24:24 25:3 29:3,17,24 30:6 32:10,10 36:3 40:16,17 41:4,23 45:19 49:24 51:5 54:2 55:6 59:4 60:17 61:1,1,2,2 62:8,15 66:25
---	--	---	---	---

68:13,13,18 71:2,7 72:10 73:4,14,16 73:19 74:10,12,15 74:17,20 75:6,19 75:20 76:3,18 77:25 78:22 81:21 81:22 82:7,9,25 87:9,15 89:17 90:7 90:16 92:10 93:9 96:18 122:18 123:10,11,21 125:20 131:1,2,4 135:10 140:21,21 143:4 151:6 154:5 156:4 160:6 174:9 176:6,6,17,20,21 188:22 190:12,25	herbs 1:18 14:10 15:22 18:10,16 22:18,25 23:13 27:25 29:10 30:14 31:24 33:2,16 34:12,15 36:17,18 37:19 42:4,6,7,18 42:21 46:10,11,14 46:15 49:23 51:14 51:16 53:6 55:20 55:21 56:23 64:18 67:22 68:15,15,16 73:16 74:4 79:9,13 79:14 80:23 81:10 83:20 85:6,7 86:6 86:14 87:7,11 91:21 92:6 96:15 96:17 108:21 125:15 138:7,9 139:5 143:23 158:22 171:13 173:16 178:9 180:21 182:6 187:19,20 190:16 191:4	holistic 18:24,25 19:2,10,13 28:20 135:7,15 home 7:19 24:16 33:22 35:8 39:24 44:6 81:1 90:17 96:3 127:10 136:3 160:1 164:25 165:20 169:19 171:15 homeopathic 53:16 homeopaths 19:14 19:15 28:21 142:1 homeostasis 133:21 134:9 homeostatic 133:16 134:1 homo 72:8,17 hope 186:14 Hopkins 50:10,18 128:11 162:14 169:23 170:25 hormones 180:25 Horses 24:18 HOS 121:16 Hospital 126:5 hot 147:11 hour 38:20 hours 38:9 house 9:7 136:2 188:15 housed 43:9 Howard 25:9 Hoxsey 30:10 47:13 47:19 HRT 69:24 Huang 125:10 human 71:11,22 76:16,17 77:12,15 107:16,16 160:19 humans 77:8,20 106:23,23 168:1 hundred 16:19 33:16 96:22 111:1 189:14 hundreds 19:22 hydrochloric 121:13	hypertrophy 146:8 hyphenation 192:21 hypnotic 161:4 hypotheses 40:20 hypothesis 40:19,21 189:23 H-O-X-S-E-Y 30:12	imperative 92:23 impetus 43:8 implication 48:12 implied 155:25 implies 151:13 187:23 imply 29:9 90:1 importance 176:1 important 6:1,4 21:6 22:5,23 59:21 65:19 88:18 94:12 135:11 157:25 167:24 impressed 156:15 impressions 17:19 impressive 53:24 improperly 73:25 improve 75:16 improved 70:5 improves 41:4 138:24 improving 131:11 incanum 163:10 incidence 48:9,11 69:25 inclined 18:23 40:15 136:3 include 49:16 81:12 89:20 165:22 185:5 189:8 included 46:25 58:17,18 79:10 87:25 174:19 177:24 including 14:11 21:15 44:9 78:8,16 81:22 96:21 111:4 167:12 189:10 incoming 73:16 incomplete 6:24 incorrect 6:24 increase 107:10 132:14 increased 70:2 107:15 independent 97:6 119:12
herbaceum 166:18 herbal 14:5,15 15:22,24 16:4 18:23 31:22,23 43:3,16 45:1,7,13 45:14,16,17,25 46:6,15,16 47:5,14 48:24 49:4,7,11,14 51:4 60:3,4,4,8,23 61:3,21 65:1,18 75:4 79:15,22 82:16 122:21 134:21 135:2,10 135:18 136:5,11 136:19,21 137:1 149:20,20 170:24 172:19 180:19 181:18 182:8 Herbalgram 1:11 9:15,20 54:13,14 54:25 55:2 68:10 69:10 107:1 Herbalism 18:5 herbalistic 53:17 herbalists 1:22 26:2 28:21 33:14 51:7 61:5,8,9,9,13 112:6 131:10 142:1 172:4,10 herbally 18:23	herb-drug 58:5 158:12 Herb/Drug 58:7 hesitation 34:21 Hey 94:2 162:2 high 106:16 130:4,4 139:23,25 140:21 148:4 171:8 higher 91:1 137:1 154:3 highest 92:17 highly 64:6 74:6 163:15 173:25 highs 23:23 himself/herself 193:11 hinted 48:2 149:21 158:3 hints 54:15 hired 26:19 Hodgkin's 22:5 Hold 6:13	I iatrogenic 132:22,24 ID 1:10 2:1 idea 72:4 104:3 identification 9:17 35:24 39:16 49:24 56:18,21,23 57:1 96:25 172:11 175:9 177:1 185:14 identified 22:18 identify 91:21 92:17 93:22 94:4 IEs 58:18 75:9 84:4 84:16,17,19,24 85:6,16 86:5,8,22 86:24 87:16 96:6 108:22 109:8 114:8 122:13 146:22 159:17 II 164:24,25 illustrated 94:15 99:22 illustration 94:21 imipramine 32:9 94:18 142:22 143:3 immediately 149:18 immune 28:23 65:2 65:12,14,18,22,23 66:1 131:9,11 143:7 179:16 181:13,13 immune-boosting 65:15 immunomodulator 125:12 130:20 157:21 immunostimulants 65:1		

index 2:7 81:13 178:3 184:1	inflammation 155:4 157:11,12,12	30:21	Iran 32:8 94:18	53:4,15,18,20 54:1 54:5 136:1
India 107:18	influenced 12:8	instructions 7:3	Iranian 32:12 166:7	journals 54:18
Indian 34:7 41:9 121:11,15	informal 30:3	insulin 141:9	Islands 34:7	56:12 113:3 136:3 136:4
Indians 48:16 161:24	information 19:16 35:15 44:1 58:9 79:23 95:4 109:9 109:11 144:4 157:14 188:4,17	intended 89:20	isolated 118:15 120:11 137:18 154:10	jsturneresq@cs.c... 4:20
indicate 7:19 51:5 151:21 152:5	informed 187:17	intent 165:19	isolating 60:24	Judah 126:3
indicated 35:10 112:22 124:15 174:2	infusion 24:16	intention 8:5	isothiocyanate 127:24	juice 80:6,7,11
indicates 109:25 150:23	ingredient 11:18,19 23:12 63:24 88:18 88:19 118:16 120:11 161:10	intentionally 169:18	Israeli 99:6	juices 181:6
indicating 95:8 101:7 117:3 149:2 149:8 156:21 177:12	ingredients 28:10 36:12,15 37:11 60:2 66:7 68:21 72:10 159:12 190:13	interact 73:4,10	issue 9:22	jump 127:14
indication 59:12,19 91:14 94:11 96:1 123:6,11 130:8 151:14 154:17,22 155:14,19 157:7	inherited 25:17,21	interaction 68:12	itchy 155:10	jumps 182:25
indications 12:12 33:5,18,24 34:13 51:21,25 58:19 59:4,8 71:24 86:4 86:6,10,10,14 92:19 94:9,24,25 115:9 120:3 122:20 123:2 125:18 151:20 153:5,10,25 157:2 159:23 169:20 173:19	inhibit 75:7	interest 44:8,10,22 45:3 79:11 103:11	item 142:21 144:12 144:18	juniper 167:13,20 168:3
indicative 91:6,7,14	inhibition 49:8,20 160:15,24	interested 8:1 161:20	items 13:5	Juniperus 167:7
indicators 20:17	inhibitor 49:16,17 75:2 160:17 183:16	interesting 7:11	iterated 7:5	K
Indies 34:1	inhibitors 48:24 49:4,7,11,13,14 75:4,5,5	interests 17:21	iteration 184:16	keenly 161:20
individual 188:23 193:11,12	initials 121:2	interfere 6:21	iterations 7:11	keep 53:3 92:25 116:5 121:20,22 136:6
individually 3:9	injected 24:15	interferon 82:12 145:18 186:18 187:10	IV 63:12,16	key 121:20,22 122:2
Induced 132:25	inquiry 143:22	interim 182:25	J	KHA 121:14
infer 100:16	inside 179:7	Internet 135:24	J 35:18 106:6	Khan 160:24
inference 80:24 81:8	inspire 176:12	interpret 81:16	JAMA 28:18 32:14 56:13 61:25 133:7 137:3	kick 134:9 182:12
inferences 30:6	inspired 27:12 28:8	interpretations 81:3 94:7 100:21	James 1:6,14,15,17 3:9 4:13 5:4 39:15 56:17,20 62:4,6 193:9 194:1	kid 139:18
inferior 62:1 82:4	institute 10:3 12:16 14:4,5,13,15,23 15:2,5,7,23,24 20:6,16,24 25:18 25:22,25 26:4,11 28:4 46:24 47:1 51:9 54:23 81:5 105:7 107:4 133:3 161:23 169:23 189:3 190:7	interpreted 81:14 99:14	January 52:24	kids 161:23,25
inferring 132:7	institutes 14:18,21	interrupt 5:20	Japanese 48:8	kill 28:16 78:6
		interruption 7:8 176:24	Jesus 176:5	killed 98:20 130:9
		intrigued 27:14	JLH 95:11	killers 124:1
		introduce 75:22 121:24	Jo 104:8	killing 65:19
		introduced 49:5	job 150:8	kills 134:25 167:9
		introduction 121:9	John 47:3	kin 164:22
		introductory 157:20	Johns 50:10 128:11 162:14 169:23 170:25	kind 20:7 26:16 27:3 31:23 95:17 139:18 140:4 142:21 190:8
		invasion 73:22 160:21	Johnson 95:11 101:23	kinds 121:2
		invasive 183:4	John's 61:23,23 62:1 82:1,4 145:4 188:1	Kings 164:24,25
		investigated 51:24	joking 18:3	knees 155:10
		invite 171:15,16	jokingly 18:1	knew 18:23 36:17 102:11 182:21
		involve 30:22 34:8	Jonathan 81:4	know 6:10,12,25 8:16,18,24 13:2,7 14:7 16:16,18,21 17:4 21:2 22:14 23:10 24:1,11,20 26:25 30:8 32:7
		involved 21:3,18 25:3 30:18 38:12 43:14 51:14 69:16 134:19 182:23	journal 9:7,9,21	
		involvement 141:10		
		involving 111:7		

33:22 34:14,16	49:18	lecture 24:17	124:24,25 125:5,7	living 50:5 78:15
41:2 42:2 44:12	label 49:8 163:15	lectured 162:10,14	167:10 189:11	161:22
45:18 46:8 50:4	labeled 57:21	lectures 133:20	190:1,1,17	local 21:23 160:21
54:20,25 62:7 67:9	labeling 16:24 140:1	165:21	lignin 124:19	locate 10:7
70:6,8 72:7 74:12	laboratory 29:4	led 21:16 29:4 126:6	liked 13:10 34:9,9	located 25:14
76:21 77:18 78:5,6	46:1,2 134:19	leek 100:21 104:25	172:25	locomotor 161:5
78:18 82:16 95:5,6	168:23	left 48:3	liking 67:16	long 43:3 68:15
99:8 100:24	lack 186:25	legs 168:4	limit 147:12,12	116:18 170:9
102:12 103:21	Ladies 136:3	legumes 27:15 80:17	limited 88:14 181:4	longa 100:8 113:17
104:17 107:9,24	lady 44:4 117:25	80:17	limonene 183:12	166:9
107:25 109:8	121:24	leishmaniasis 91:25	line 52:13 92:18	longcomings 170:19
110:14 120:13	Laetrile 30:23,25	length 7:15	136:4 194:7	longer 42:9
128:5,13 131:16	70:14,16,20	lentil 80:18	lines 28:9 59:20	long-time 47:3
132:16 134:4	164:13,20,22	Leonard 4:4 5:10	113:22 114:1,3	look 7:20 9:23 20:17
135:3,4 137:22	168:15,16,20,22	lethal 98:19	131:19	30:25 51:20 57:6
138:13,15 145:24	168:25 169:3,4	letter 52:13,17,24	link 103:11	58:8 61:14 63:10
146:21 151:11,15	Lai 159:4,8	53:1,14 113:10	linked 172:21	70:20 84:3,21 92:1
152:9,12 155:12	land 73:25	141:23 142:17	list 36:11 37:6,10,20	93:18 99:12
159:1,17 162:8	landed 139:1	185:18,25	47:19 63:19 86:14	122:14,14 147:3
165:10 172:1,2	languages 177:9	let's 7:14 31:25 52:9	89:16 101:18,25	147:10,11,19
180:6 181:10	large 169:23	55:25 84:7 117:14	102:10,14,15	158:19 160:5
187:18,19 188:1	largely 51:3 53:16	121:5 146:25	105:2 112:7 123:7	172:7 180:2 182:1
knowing 117:10	late 25:2 52:8 87:24	147:5 160:9 168:6	138:10 141:16,21	184:21
knowingly 180:1	89:14 181:21	174:10 178:6	144:9 182:24	looked 12:5 26:14
knowledge 15:7,8	186:13	leukemia 22:5	191:2	88:2,22 122:14
23:25 26:10 31:5	lately 38:5	level 50:5 90:19	listed 78:12 161:8	126:15
31:15 37:1 41:14	latest 122:5 177:11	92:12 93:9 111:4	182:7 183:11	looking 16:6 20:10
43:4 72:20 79:21	latex 164:18	120:2 126:25	listened 39:11,14	38:10 63:2 88:21
81:25 83:1 87:25	Latin 12:19 112:4	127:2	listening 135:23	95:10 100:25
105:6 122:21,24	123:18 130:20	levels 75:22 107:23	listing 1:12 35:22	120:15 121:14
127:11 134:12	156:20 157:21	128:2 151:18	83:21 92:10 95:14	122:20 135:24
143:23 157:17	lawsuit 26:25	lgordon@ftc.gov	lists 59:3 96:19	142:4 148:16
161:15,17 180:16	lawyer 177:20	4:10	142:7	looks 91:2 103:15
192:9	LD-50 98:19 103:2	liable 41:11 66:14	literature 20:18	142:21 177:19
known 27:1 75:22	lead 128:3 164:5	67:17 134:23	23:24 31:19 43:16	Lorenzo's 139:9,14
75:25 76:2 166:16	176:12	library 54:23 72:5	43:16,17 59:6	139:19 140:19
166:24 185:22	leaders 38:5	188:16	65:16 66:2 70:19	lose 83:3
187:22,23	leading 123:11	licensed 56:6	92:20 95:1 107:12	lost 54:17 86:11
knows 69:13 100:4	leads 92:1 106:25	life 18:18 25:23	157:24	lot 7:10 48:8 72:17
100:24	157:13	69:21 70:3,4	little 58:20 76:10	72:18 73:18 75:3
kurkum 99:7,10	leaf 189:19	119:17 125:1	104:18 108:2	81:13 95:11
100:3,3,6	Leah 80:2	133:11 139:20	110:14 157:19	138:23 162:7
K-O-N 35:12	leap 186:12,19	166:1 168:5	164:4 166:17	176:16 187:4,4
K-U-R-K-U-M 99:7	187:13	lignan 21:22 124:18	182:3 185:21	louder 181:20
<hr/>	LEAR 139:25	124:19,22 167:11	live 25:8,9 39:12	lousy 69:9,11
L	learned 60:17	167:16 189:4	126:14	love 62:25
<hr/>	leave 98:18	lignans 68:24	liver 76:12	loved 184:4
L 4:4 95:11				
lab 21:14 22:19				

[210]

low 91:9 106:16 139:25	MAM 12:10,11 51:20,23,24 55:8	175:11 177:1,3 184:17 185:13,16	measure 29:16 55:5 59:9 136:24 155:20	65:11
lower 24:3 48:9 65:22 75:23 91:8 143:7	55:12 58:21 75:13 83:21 87:15 89:8 89:15 90:8,12,16 93:8 97:6 98:2	marketed 22:7 Martin's 177:5 Mary 104:8 Maryland 25:9 135:8 172:22 173:7 175:15 182:17	measured 29:25 measuring 55:21 meat 27:16 80:15 179:25 mechanically 90:14 90:15	membrane 130:14 Memorial 161:23 memory 35:7 38:12 40:12 menopause 123:12 123:15
lows 23:23 lunch 105:11 106:4 lung 66:14 lupines 186:6	108:11,12 109:19 109:24 110:2 112:15,20,25 113:2,16 114:8,15 115:2,10 123:4,6 129:19	material 57:20 materialize 89:4 materialized 170:20 materials 141:22 matter 3:5,20 8:15 8:17 10:12 17:15 26:12 31:1 36:21 77:10,18 81:8 83:2 143:19 144:6 168:18	mechanisms 133:16 medical 6:17 21:4 39:1 50:23 56:4,12 162:1,10,17 169:24 181:16 medication 6:20 22:19 136:19 137:1 medications 6:16 136:13,21,22 medicinal 13:4,10 26:3 94:5 95:16 160:13 161:14,16 162:5 174:25 175:20,23	mental 95:8 109:1 131:6 mentally 14:19 mention 32:11 34:18 46:3 mentioned 9:2 13:2 17:12 18:22 20:6 23:2 25:14 28:24 33:25 34:20 41:10 42:20 47:23 51:8 59:15 72:24 74:22 94:8 95:10 99:19 99:25 104:12 108:5 110:12 111:3 123:21 124:23 143:2 149:11 161:9 167:11 168:17 174:16 183:12 188:13,20 190:18
lycopen 137:22,24 179:19,21 183:3,6 183:15 188:25	mammary 114:18 MAMs 1:18 53:2 56:22 57:21 58:17 84:19 85:6 86:22 86:23 97:15,17 108:18,19 113:9 114:14 130:4 146:21 169:13,14 169:15	maximum 106:19 Mayapple 21:23 124:22,24 167:11 167:17,18,25 168:3 189:10 190:1,17 Mayo 170:3,4,5 173:11 mean 12:21 15:21 45:12 48:7 51:2 60:7,9 73:23 75:19 81:19 86:18 95:12 109:12 121:4 125:13,19 129:8 132:24 137:11 138:5 156:3,4 161:7 173:14 186:19	medicine 18:8 41:11 43:16 50:12 51:1 52:24 53:9 54:20 56:6 61:3 67:16,17 132:25 133:5 150:16 162:3,7,9 175:25 186:22 medicines 34:3 98:15,21 162:23 Mediterranean 99:22 medium 75:22 meet 8:7,12 77:8 meeting 13:13,18,22 40:24 126:15 meetings 14:2 42:17 46:4 melanoma 146:10 186:14 members 127:17 140:1,11,14 168:25 membranaceous	mentioned 9:2 13:2 17:12 18:22 20:6 23:2 25:14 28:24 33:25 34:20 41:10 42:20 47:23 51:8 59:15 72:24 74:22 94:8 95:10 99:19 99:25 104:12 108:5 110:12 111:3 123:21 124:23 143:2 149:11 161:9 167:11 168:17 174:16 183:12 188:13,20 190:18 mentioning 185:24 mentions 12:15 80:1 80:4 Menu 58:24 59:1 87:15 91:21 92:5 Menus 53:5 96:12 mercury 164:5 MES 121:17 Messrs 5:12 met 8:9,16 12:18 metastases 126:8,23 metastasis 160:22 161:16 Mexico 30:13 Michael 14:21 micrograms 110:22 microscope 49:19 49:23 midlife 162:6 midway 134:14
L-I-G-N-A-N 21:22	man 131:16 170:8 managed 29:16 manager 104:6 mandrake 80:4 manipulate 70:10 manipulated 32:19 manipulates 70:12 manner 82:10 manufacture 16:4 46:7 manufactured 133:3 man's 65:13 March 13:17 marginally 14:21 mark 35:21 115:20 115:22 116:2,3,4 139:2 146:23 153:21 175:1 marked 9:16,19 35:23 36:1 39:16 39:18 56:17,20,23 56:25 57:3,14 83:5 83:12,14 84:19 96:24 97:2 107:2 172:11,13 175:9	mean 12:21 15:21 45:12 48:7 51:2 60:7,9 73:23 75:19 81:19 86:18 95:12 109:12 121:4 125:13,19 129:8 132:24 137:11 138:5 156:3,4 161:7 173:14 186:19 meaning 36:14 119:15 155:3 means 33:8 50:24 59:16 90:3 91:18 103:9 112:14,15 112:17 114:4,7 117:2,11 118:3,13 118:15 143:10 meant 37:14 64:24 99:6 100:6 112:21	medicinal 13:4,10 26:3 94:5 95:16 160:13 161:14,16 162:5 174:25 175:20,23 medicine 18:8 41:11 43:16 50:12 51:1 52:24 53:9 54:20 56:6 61:3 67:16,17 132:25 133:5 150:16 162:3,7,9 175:25 186:22 medicines 34:3 98:15,21 162:23 Mediterranean 99:22 medium 75:22 meet 8:7,12 77:8 meeting 13:13,18,22 40:24 126:15 meetings 14:2 42:17 46:4 melanoma 146:10 186:14 members 127:17 140:1,11,14 168:25 membranaceous	mentioned 9:2 13:2 17:12 18:22 20:6 23:2 25:14 28:24 33:25 34:20 41:10 42:20 47:23 51:8 59:15 72:24 74:22 94:8 95:10 99:19 99:25 104:12 108:5 110:12 111:3 123:21 124:23 143:2 149:11 161:9 167:11 168:17 174:16 183:12 188:13,20 190:18 mentioning 185:24 mentions 12:15 80:1 80:4 Menu 58:24 59:1 87:15 91:21 92:5 Menus 53:5 96:12 mercury 164:5 MES 121:17 Messrs 5:12 met 8:9,16 12:18 metastases 126:8,23 metastasis 160:22 161:16 Mexico 30:13 Michael 14:21 micrograms 110:22 microscope 49:19 49:23 midlife 162:6 midway 134:14
M				
machine 89:22 Madagascar 22:7,11 28:25 51:10 189:14 magazine 9:20 15:15 107:1 magazine's 15:16 magic 181:19 magnitude 136:15 mail 9:7 main 123:11 Maine 21:15,16 24:4 maintain 66:12 181:1 maintained 74:13 maintains 60:22 major 11:18,19 22:15 24:22 42:17 46:16 63:24 69:23 82:6 110:19 123:10 124:1 126:1 131:8 159:12 majority 153:23 making 80:24 108:17 152:21 malaria 91:25 male 66:16 166:24 167:1 181:9				

migraine 130:7	modulator 65:12,18	12:16,18 13:12,23	25:1 28:5 43:15	158:2 165:21
migraines 78:10	Module 175:13	14:13 46:23 47:1	70:9,11,15 81:12	182:17 183:24
mild 82:6	modules 175:17,18	135:13,14 171:25	101:16	186:7
mile 25:18,22	moment 14:20	182:18	necessarily 40:13	newer 177:7
milk 82:11 145:17	Monday 3:14	M.D.s 171:11	74:8 103:9	Newman 13:14
186:15	money 16:10 18:19		necessary 67:25	14:13 32:7
mill 73:17	61:7		72:2,12 126:22	Newmark 17:2
Miller 8:20,21,22,24	monitor 135:4	N	193:6	News 2:2 48:22
17:13,14,25	monoclonal 182:19	N 1:3 5:1 192:1,18	need 6:11 28:22	185:13,17,19
milligrams 24:15	month 181:10	name 5:10 8:18	51:20 89:9 108:25	newsletter 42:14,25
32:9,10 141:8	monthly 53:15	13:14 14:19 15:15	134:8,8 148:21	141:24
143:3,4	months 62:19	15:16,16,19,24	needed 110:20	nice 104:14
million 21:24 23:9	mood 62:25	18:21 31:13 96:18	needs 61:11 134:6	nigella 159:12 160:9
24:4,6,8,12 82:24	Mormon-run 42:8	97:24 100:3	negative 68:22 73:8	160:25
millions 75:25	morning 5:9 14:8	102:22 104:23	80:16 88:25 108:6	nigra 140:21
mind 10:16 13:7	36:2 86:18 106:8	111:25 112:4,9,11	108:6,15,16	nine 108:8 180:7
30:20 111:9	106:13 107:2	123:18 127:19	109:19 110:11,18	nineties 132:6
118:19 134:17	108:2 109:1	129:9 135:16	111:5 139:24	144:17
mind-body 40:18	110:23 111:3	140:18 153:17	156:1,14,16	nod 5:21 6:6
41:2,13 67:19	113:13 121:10	160:12 170:8	187:24	nomenclature 125:4
135:11 176:4,12	143:3 149:11	186:3 188:12	negatives 109:14	non 78:16
mine 18:2 40:7	151:15 162:14	nameable 60:18	negotiating 25:2	nonclinical 30:3,17
44:11,14 141:7	167:12 176:8	named 21:12 49:4	neither 62:1 82:7	nongovernmental
162:1	morph 175:19	65:15 67:3 68:10	125:20 139:11	33:19
minerals 78:17	Mother 2:2 48:21	89:17 110:21,23	140:16 158:25	nonherbal 136:5
minimum 67:25	185:12,17,19	names 18:25 112:7	nephew 92:3	non-Biblical 40:16
106:20	motor 161:5	188:19	never 5:14 8:9 16:19	138:10
minor 123:10	mouth 121:13	Naples 45:8	18:8 25:5 26:21	Non-Timber 104:17
minus 58:24 112:18	move 24:20 48:10	Napralert 34:10	39:9,14 44:6 46:3	noon 141:5
113:25	movie 139:13,14,19	46:13	81:14 95:7 136:25	normal 5:22
minute 38:1 174:23	moving 79:16 148:6	narrow 68:11	162:4,5 170:19	normally 17:2 81:16
missing 103:12	148:6 149:6	Nasturtium 71:12	179:25 191:1,2	143:10
Missouri 15:10,12	157:18 164:12	National 14:22 15:1	new 4:8,8 14:5,7,8	north 25:19,22
15:13	165:12	15:4,6 20:6,16,23	14:15 15:3,17,21	94:23 162:13
mix 171:16	mucous 130:14	28:3 81:5	15:22 16:1,7,15	NOTARY 193:16
mixed 33:21 68:15	multinational 34:6	natural 23:13 74:5	17:1,6 18:24 19:1	notation 140:16
mixture 14:10 34:6	Multiple 53:5 58:24	75:2 76:19,20	19:8 37:18 42:10	note 21:6 63:19
190:2,20	58:25 91:20 92:5	137:10 162:23	42:15 44:5,17,21	111:11 116:11
mixtures 68:14	96:12	180:11,15,23	44:25 45:12,13	194:4
190:11,20	multiple-herb 71:8	187:8	46:4,5 62:21 72:18	noted 106:11 162:14
models 119:19	mundane 162:24	nature 12:24 44:10	74:18 82:22 87:23	notes 7:19 107:5
moderate 82:6	Murphy 25:12 26:3	45:1 60:4 106:21	88:5 89:4 102:16	192:7
modern 80:15	muscle 161:4	Nature's 42:4,6,7,18	111:15 117:18,19	notice 3:21 114:16
modes 189:6,6	Muslims 160:6	73:16 74:20 121:7	117:23,25 118:9	175:17
modified 21:22	mustard 139:9,23	naturopath 31:12	119:21 121:24	noting 111:13,14
167:16	140:1,11,14	naturopathic 53:16	126:22 131:23	notion 75:6 81:9
modulations 128:3	M.D 2:8 10:3,4 12:3	naught 44:15	136:7 150:11	189:1
		NCI 17:22 19:23		

[212]

November 178:1	occur 78:15	104:8 106:22,25	One's 37:3 138:3	overall 114:15 167:3
Null 133:1,1,2	occurred 102:13	107:19 109:15,20	165:15	overdosed 164:5
number 1:11,11,12	occurs 67:3 139:16	111:24 112:3,13	one-sentence 122:17	overseas 32:17
1:14,15,16,18,19	167:11,12	112:16 113:16	one-word 122:17	overwhelm 98:6
1:20,22,23,24 2:2	ODC 138:7 143:20	115:1,13,16,23	onion 104:25	
9:15,16,20,22	offer 7:24 34:25	116:10,17,22,24	onion-like 100:21	P
10:11 35:22 39:15	60:1 64:17	117:4 118:10,17	online 23:22 43:8	P 5:1 192:1,18
41:1 47:11 55:15	offered 79:1 158:13	118:20 119:14,16	81:1 89:14 93:18	Paclitaxel 21:11
55:19 56:16,19,22	offering 63:21,23	119:23 120:1	96:6,11,12	page 2:6 9:25 10:11
56:24 57:5 89:19	165:15	121:6 122:10,19	open 99:1	45:4,5 47:11 48:20
89:22 90:6,6,12,16	office 57:11 58:9	122:23 123:1,5,14	opine 13:6	50:7,9,13,15 52:12
91:10,17 93:25	officer 3:10	124:7,17 125:3,5	opinion 17:24 63:16	52:22,24 58:1,3,5
96:23 97:7 98:4,8	official 12:21 17:4	125:21 126:3	64:1,2,5,18,19	58:6 63:7,11,12,15
112:17,19,19	116:4	127:5 129:11	68:18 69:1,4,5,14	79:16,17,18 83:14
118:24 119:2	officially 14:1 25:5	130:16 131:21	76:15 78:3	84:3,15 85:9,14,16
132:22 137:2	officials 188:9,9	142:3,10,14	opinions 7:2 10:11	85:18 86:1,11
142:21 144:12,22	Oh 15:13 44:24 45:7	143:13 144:12,18	12:6 60:1 63:8,17	87:11 95:18 99:3
145:1,3,11,20	50:15 57:25 115:2	145:16 146:1,15	63:22,23 67:24	99:10,22,23 100:2
146:4 172:10,14	115:23 147:14	146:24 147:1,14	73:9 79:1,25 88:2	103:10,13,18,19
175:8 176:25	155:11 175:2	147:22,24 148:1,6	88:8 138:2 158:13	103:21 104:18,20
177:4 181:4	oil 139:9,14,19	148:20 150:10	165:14	111:22 113:5,16
185:12 192:2	140:2,19,21	152:1,4,13 153:8	opposed 52:6 53:17	114:19 116:6,9,18
numbered 50:7	160:11,14,18	153:15,24 154:16	78:17 97:14 118:6	116:19,23 122:12
numbers 72:15	166:23	156:17,21 157:15	119:6 137:13	123:7,17 131:22
90:25	okay 5:15 7:7,13	158:8 159:20	186:24	131:23 133:17
numeral 63:12,16	9:11 10:2 12:13	162:20 163:8	options 150:24	134:13 137:6
79:18	15:13,25 19:10	165:6,9,12 166:8	oral 11:14	138:1 141:19
nutritional 79:22	21:20 22:13 23:17	167:10 171:24	order 18:19 71:3	146:19 147:16
nuts 110:25 111:1	26:4 27:22 29:3,15	172:23 173:3,8,17	117:10	148:6,25 149:1,1,6
N.W 3:17 4:16	32:1 33:10 35:2,9	174:13 175:19	ordered 10:8	150:22 153:3,4,15
	37:14,23 40:1,5	176:23 178:2	orders 136:14	154:12,12,21
O	43:14 44:25 46:9	180:5 184:7 191:8	organic 181:17	155:2,12,18
O 5:1 192:1,1,1,18	49:22 50:8 51:1,22	191:14	organically 13:21	156:17,25 157:1,6
192:18,18,18	52:4 53:21 55:10	okays 34:2	organisms 78:15	157:17,18 158:11
object 78:25 179:9	55:11 56:15 57:14	okra 166:25	organization 17:10	159:3 160:11
objecting 106:8	57:19,25 58:4,11	old 111:9 190:6	27:12	162:25 163:5,23
objection 79:1 106:7	62:10,12 63:14	olive 183:5	organizational	165:12 168:10,10
106:11	64:19,23 65:10	omega-3 15:19	17:11	173:17 181:24
objectives 98:5	66:6 68:3 79:3,8	once 18:18 20:20	organizations 14:20	194:7
observation 107:17	79:19 80:10 83:10	34:8 74:22 99:25	15:9 44:9	pages 97:3,10 98:10
observations 69:23	83:18 84:3,18,21	119:7 123:23	organized 14:15	113:18 153:11,24
observed 161:21	84:25,25 85:9,23	oncologist 56:9	original 24:7 32:7	154:8,9,17 173:12
obtain 161:17	86:1,12,16 87:5,12	ones 21:15 23:6	84:4,7 193:6	173:13 177:4
obtained 148:18	87:13 88:1,17,20	45:23 59:20 91:9	originally 23:19	paid 16:7 30:8,25
obviously 146:13	89:12 92:21,24	131:8 150:11	outlined 22:17	38:14,16
156:9 178:3	96:11 99:10	156:13,14 162:12	outside 79:2 106:9	pain 26:9,9
occasion 67:20	100:19 101:7	182:7,9	179:9	palmetto 146:7
occupies 63:1				179:18

Panama 161:21,22	pathogenic 73:22	189:15	133:10,14 134:16	piece 36:2
pancreatic 10:16,20	patient 41:22 55:22	permanently 49:13	134:18 136:15	Pierson 25:3
10:23 11:1 34:20	107:16,16 170:4	53:12 132:20	137:4 152:25	pig 29:19
114:18 117:6	patients 10:20,25	permit 46:21	158:24 169:7	pills 169:3
169:19	11:16 18:7 23:11	permits 46:21	pharmacists 33:14	pineapple 148:6
paper 2:8 36:2	26:5,7,8 29:25	permutation 87:2	pharmacological	pipe 13:1
50:20,21 69:10	41:22,24	permutations 39:23	75:24	piperine 107:11,13
119:3 142:16	patterned 151:7	39:25	pharmacy 1:25	107:14
164:6 171:10,25	Paul 17:8 19:6	person 40:8,10 67:7	47:13 70:2 177:1,5	place 12:19 13:20
193:6	128:11	67:9 71:2 126:5	177:7,11,21 180:2	27:5,5 80:22 83:12
paperbook 177:5	Pause 6:14 175:7	168:5 170:19	181:25 183:22	83:19 110:6
papers 171:11	pay 16:12,14 44:4	personally 95:5	186:14 187:2	134:15
paragraph 45:6	peer-reviewed	persons 8:13 38:23	phenyl 103:4	placebo 11:25 61:24
132:21 133:9	53:22 54:1,12,13	person's 18:21	phone 64:22 184:12	62:1 81:21 82:2,4
134:13 186:10	54:25 55:2 56:12	pertinent 33:15	phonetic 35:10	82:7,9,12,13 145:4
paragraphs 132:22	113:3,10 133:18	Peru 131:16 158:2	180:15	places 10:8 110:5
paraldehyde 183:7	133:20 134:2	162:15	photocopying	134:17
parameters 120:21	172:1,2,3	pesticides 181:18	103:16,22	plant 28:6,12 29:1
Pardon 62:3 114:2	people 11:25 12:18	Petrie 49:19 126:14	phrase 51:2 60:7	33:7 59:17 60:21
parenthetical	13:23 17:10 18:9	pharma 31:21 32:19	64:23	62:10 77:22
157:20	18:12,16 20:2	61:19	physician 18:23,24	100:16,18 101:10
part 29:7 41:16	23:20 24:20,21	pharmaceutical	19:6 20:5 24:13	101:25 112:4,10
104:22 130:11	28:16 30:12 40:14	24:1 29:4 31:8,21	47:6 135:7,15,21	127:3 158:6
141:15 151:4	40:14,15 41:1 44:8	32:14 41:12,13	136:12	plants 20:8,12,21,21
172:21	48:14 50:3 60:17	49:12 51:6 60:16	physicians 19:1,2,10	22:25 23:22 26:3
partially 38:10	69:21 110:20	61:7,16,22 68:8	19:13 28:15,20	28:11,11 43:19,20
131:25	134:5,25,25	69:24 75:11 76:1	33:14 136:16	67:3,11 78:16 81:6
participants 15:14	135:17,23 136:6	76:20 77:24 78:1	physician's 151:6,8	94:5 95:16 98:24
participated 14:24	136:10,20 137:2	81:21 82:2,3,7,9	phytochemical 1:20	101:1 102:10,12
29:16	141:25 143:7	83:2 125:20 135:9	75:25 96:24 97:12	102:19 103:7
participating	167:9 176:7,16	135:12 136:22	143:8	129:21 160:14
110:13	186:21,23 187:4,4	137:7,9 138:12	phytochemicals	161:17 162:5,5
particular 19:19	187:15 188:2	140:20 146:8	45:10 78:14,17	174:25 175:20,23
21:13 66:20 67:1	people's 10:16 43:2	164:21 167:17	96:20 133:23	180:24
91:23 101:10	pepper 107:11	168:16 169:7	phytoestrogen	plasminogen 160:16
142:3 143:14	percent 11:10 40:13	176:22 181:19	47:24	160:16,17
151:6 170:11	75:24 77:25 91:18	186:24,24 187:9	phytoestrogenic	play 12:5 22:9
178:14 185:10	91:19 98:19	187:22 188:4	80:19	played 22:12
190:23	106:19,20 132:18	pharmaceuticals	phytoestrogens	playing 90:8,19
particularly 8:1	139:3	10:23 11:5 21:7,10	180:25 181:3	please 6:25 23:14
139:23,23	percentage-wise	22:24 28:1,17	Ph.D 1:6 5:4 193:9	76:14 194:4
parties 110:13	106:17	34:20 51:10,15	194:1	pleasure 81:20
parts 20:9 24:3,5,8	perfectly 5:22	53:7 54:10 60:6,13	PH2 149:18,23	pleiomory 93:6
24:12 110:8	144:15	65:22 69:6,9,11,18	151:3,9 172:6	plum 169:1
party 184:9,24	period 43:22	88:11 100:11	pick 20:15 74:9	plus 58:24 112:18
pass 25:24	periwinkle 22:7,11	108:21 125:15	picked 186:4	113:25 153:17
passed 16:11 22:3	28:25 51:11	131:24 132:10	picture 99:18,20	podophyllotoxin

167:15,23,24	164:11	presumably 189:12	148:17 149:21	profit 83:1
poem 82:1	potentials 164:11	presume 8:23 63:25	151:4 159:10	program 14:23 25:3
point 25:2 53:10	181:5	pretty 31:15 98:5	163:15 166:25	50:10,11
59:20 60:20 80:16	powder 73:14	183:16	179:21 182:24	programs 181:17
81:17 87:8,13	practice 56:6	prevent 25:4 48:2	187:3 189:19	progress 135:5
96:17 138:4 162:2	practiced 18:8	59:5 66:13 71:9	190:5,6	promise 91:22
178:23 184:19,25	practicing 181:19	75:17 110:23	problem 74:25	promising 13:9
points 79:22	prayer 40:14 41:2	128:2,12 137:22	86:21 98:12	65:17 91:1 120:19
poison 168:2 182:19	41:17,20 144:25	prevented 74:20,23	103:16 145:10	139:11 140:9,16
poisonous 20:15,20	176:10	preventers 180:22	186:9	140:24 165:22
43:20 98:15	prays 41:22,24	preventing 126:7,21	problems 130:14,14	174:9
134:24 135:12	preaching 181:20,20	128:23,24	proceedings 6:14	promote 44:12
poisons 24:22	predecessors 21:8	prevention 19:25	175:7	promoted 49:8
pokesalad 182:12	21:19	49:9 69:6 74:19	process 21:2 73:13	125:18 130:8
182:14,16	predicate 36:25	110:20 171:2	150:11 182:24	promotion 171:8
Pokeweed 182:15	predict 81:2 117:10	174:18 177:18	processed 74:5	promotional 130:21
pollution-filled	139:3	178:8,8 180:3	180:10,23	157:22
181:11	predicted 49:1	181:25 182:8	Procter 44:9,12,14	pronounce 51:13
poor 65:13 107:6	predicting 118:24	183:24	produce 28:9 74:1	proof 77:15 93:9
popular 133:4	prefer 115:21	preventive 89:18	produced 39:20	119:8 176:9,9
population 55:22	122:16 133:6	127:22 166:13	produces 160:14	proofread 192:20
portion 83:13,19	preferred 16:25	171:9	product 44:17,19	proofs 130:21
86:17 180:2	pregnant 80:2	previously 83:13	61:10 66:20 77:5	157:21
portions 177:17	preliminary 124:18	107:2 129:6	78:19 123:12	properly 127:21
poses 6:7	premised 23:19	144:14 169:16	146:12 147:18	properties 125:6,8
positive 68:22 72:14	preparation 17:13	prices 173:15	148:1,11,13,15	171:13
73:8 88:10,25	114:13	principal 129:17	149:4,8 151:23	proposing 144:10
91:14 108:7,14	prepared 17:15	print 40:21 97:25	153:5,12 154:23	proprietary 96:10
114:4 156:1,13,16	87:22 143:11	101:4 109:4	170:11	104:15 117:24
181:2 187:25	preparing 8:4,6	printed 98:8,11	products 1:13 16:4	119:22 160:2
positively 11:2	43:15 144:6	printing 101:4	16:17 34:23 35:23	prostate 49:10 66:15
positives 181:5	prepublished 99:4	printout 172:14	36:12,16 37:4	117:6 131:17
posology 173:19,20	prescribe 135:10,22	185:17	38:24 39:2,7 42:18	137:23 179:17
possibilities 151:2	136:12	priority 20:16	43:2,3,5 45:25	prostatic 146:8
possibility 107:9	prescribed 24:13	probably 5:16 8:2	46:6,7,15,16,17	protein 78:7 79:12
152:2,6 160:4	136:16 137:5	19:21 26:8 27:2	48:9,14 60:2 63:19	proteins 78:8
possible 36:10 60:23	prescribing 28:17	32:15 38:9 43:22	65:5,7 67:21 77:1	proteolytic 80:5,7
61:2 96:14 122:2	presence 193:13	48:12 53:2,9 54:15	96:15 104:17	provable 189:24
127:14 184:16,21	present 14:17 15:9	69:5 96:22 98:9	110:17 111:7	prove 60:20,25 77:4
possibly 51:14	50:20 168:8	102:17 111:10	114:10 128:16	77:7 78:6 82:22
130:21 151:21	presentation 169:14	115:21 117:6	138:3 142:24	92:6 100:6 133:21
157:21 160:20	presented 32:14,18	118:15 119:1	144:20 145:12	133:22 134:10,10
potato 163:13	50:21 113:9	120:4,8,9 125:8	152:14 158:14,21	190:15,18
potent 94:2 183:15	169:15	128:1,7 132:9	165:16 173:18	proved 176:9
potential 89:18 91:8	presenting 87:17	142:6 143:11	174:2 176:3	proven 46:22 48:1
92:18 131:7	Presley 182:15	144:8 145:23,24	178:10 185:10	48:18 66:12 67:13
140:15 160:18	press 61:23	145:24 146:9	190:13,24	67:13 68:17,23

78:9 100:10 103:9 124:12,13,23 130:6 150:19 157:12 164:23 166:6 proves 61:22 77:5 77:11,19 provide 12:25 19:19 98:3 provided 18:25 36:4 39:5 57:6,17 58:9 proving 68:8 proxy 76:16 Prunis 168:11 psychopath 162:18 psychopathic 18:2 136:9 psychopaths 159:1 171:17 PUBLIC 193:16 publication 70:24 132:3 publications 40:2,7 53:25 60:10 119:24 publish 31:17 48:4 179:3 published 2:8 27:16 27:21 28:18 47:15 53:1,4 54:14 55:3 55:3 56:11 64:7 70:18 73:8 97:7 103:3 117:23 119:21 120:9 176:15 177:8,9 187:25 PubMed 10:8 37:18 73:8 87:16,21 88:2 88:4,14 93:21,23 93:25 108:9 115:4 117:12 119:3,24 124:14 126:8 149:17,24 153:20 153:23 160:22 161:6 pull 97:18 98:2 pulled 37:12 89:16	pulse 100:22 pulses 27:15 punctuation 192:21 pure 76:4,5 purge 174:6,17 purports 141:15,21 purpose 12:22 176:11 187:8 purposes 7:25 13:4 52:18 pursuant 3:21 pursue 135:1 136:21 put 17:25 21:12 22:1 47:18 91:10 93:24 95:7 96:14,18,19 97:24 100:23 104:3,8 108:14 109:3,12,14,19 126:16,18 128:21 165:25 172:25 173:2,23 182:24 191:5,12 putting 44:1 P&G's 44:10 P-A-C-L-I-T-A-X... 21:13 P-L-E-I-O-M-O-... 93:6 p.m 105:11 106:2 191:17	53:23 55:11 68:25 72:11 83:17,24 85:3,13,24 100:12 103:6 107:1 109:21 116:1,7 124:18 142:13 144:19,22 145:9 147:13,15 148:9 153:9 154:16 155:8,13 160:10 161:11 175:3,6 questioning 41:9 questions 5:25 6:1,3 6:9,19 42:15 56:3 106:8 162:24 191:12,15 quick 55:25 108:7 148:21 168:6 177:13 quickies 47:18 quickly 147:3 quit 115:6 quite 64:18,25 90:13 142:12 quotations 159:22 quote 32:4 99:8 133:6 quoting 41:4	91:7 92:5 132:8 rationalize 48:17 ratios 89:9,14 92:24 raw 179:22 reactions 68:5,6 read 8:25 17:14,16 27:14,18 31:10 32:5,16 48:3 52:19 64:15 70:24 88:7 88:13 135:6,6 145:21,23 165:1,1 179:24 180:1 181:10 185:3 193:3 readily 141:3 reading 89:24 191:16 reads 136:1,3 ready 7:9,24 152:24 real 127:3 138:19 139:11 140:8,16 177:13 186:24 188:10 realize 6:23 23:20 28:16 realized 40:6 58:16 191:3 realizing 146:17 really 7:18 33:21 52:6 73:18 85:6 140:24 141:1 159:15 170:17 188:21 189:11 rear 144:8 reason 63:25 178:17 194:4,7 reasonable 64:23,25 131:1 reasons 6:11 recall 5:14 7:5 14:18 14:20 15:19 19:12 19:16,24 37:21 43:7 44:19 49:2 56:13 64:16 66:4 70:23,25 77:9 88:21,24 89:2 102:16 108:7	110:17 111:5,8,12 124:12 126:11,13 126:24 128:25 132:5 143:24 146:1 156:7 170:8 171:18 174:1,8 178:19 179:1 185:11,21 recalled 49:2,13 53:10 131:25 132:20,20 139:3 recalls 132:14 144:13 receive 18:15,18 59:13 received 36:2 58:12 58:12,13 receiver 73:20 receptive 62:25 receptor 181:2 recess 56:1 105:11 148:23 168:7 183:20 reckon 174:15 recognize 172:16 recognized 79:15 recollection 7:1 10:25 16:2 174:4 177:23 recommend 18:13 24:18,20 74:3,4,6 74:17,18 130:5,13 135:19,20 176:20 176:21,21 179:14 179:16,18,23 181:7 183:2 recommendation 146:7 recommendations 158:15 174:2 182:7 recommended 29:12 42:20 77:21 149:12 163:15 record 5:9 9:13,14 32:23 52:9,10,19 57:4 69:9,12 79:10	
	Q				
	Qi 125:10 quackery 30:13 QUADE 192:25 qualification 149:10 qualify 109:16 127:9 quantified 72:20 quantitative 67:11 quantities 23:21 90:22 141:8 quercitin 67:2 78:8 queries 98:4 query 101:8,9 104:19 question 5:24 19:14 32:20 34:22 45:15	R	R 5:1 192:1,1,1,1,18 192:18,18,18 racemosa 112:5,6,8 radiating 126:17 radio 39:12 133:4 135:24 136:6 raise 12:19 ran 112:20 167:18 rank 130:8 131:6 ranks 55:19 150:6 rant 52:25 53:12 rants 143:12 rare 150:19 rarely 26:11 34:8 48:3 184:22 rat 161:1 rate 11:5 30:2 49:3 ratio 90:24 91:1,5,6		

105:8,10 106:4 147:5,6 184:6 193:4 194:5 recorded 93:15 records 31:5 39:1 rectum 149:19,19,22 150:12,22 151:11 red 47:14,23 reduces 181:13 redundant 96:1 102:1,25 refer 51:19 53:3 86:4 124:5 139:12 163:10 reference 1:22 27:20 27:21 41:4 50:24 52:13 80:23 85:9 93:11 108:18 112:13 115:3,5 125:25 129:15 139:8 140:8 149:20 151:6,8 159:3,4,9 161:6 163:9 164:24 165:4 167:8 172:4 172:11 176:2 177:22 187:13 referenced 41:23 46:10 47:9 65:5 75:18 81:7 82:19 137:19 144:5 147:9,17 148:10 148:14 149:7 160:22 references 40:10 42:3 44:7 50:10 92:24 115:7 142:6 149:2 173:14 174:17 176:11 184:10,19 referencing 46:24 66:7 144:14 referred 81:18 86:22 100:18 113:13 172:5 referring 9:24 52:19 87:19 94:3	refers 84:4 149:23 151:7 reflected 37:23,24 38:1 75:8 97:11 110:2,4,5,10 reflects 7:1 refresh 47:17 regard 70:14 160:7 regarding 19:19 30:6,18 51:17 63:9 63:9,10,17,18,18 73:10 143:19 148:2,10 157:15 158:13 165:15 171:12 185:10 190:23 regrettably 111:24 140:17 reinforces 41:6 reinforcing 41:7 relabeled 131:24 relabeling 53:11 132:20 relate 72:17 118:21 118:21 144:19,23 145:1,11 163:11 165:14 166:21 167:8 related 28:7 38:10 183:7 189:5 relates 118:23 142:24 164:1 relation 145:15 relationship 23:10 45:2 47:3 92:14,16 relative 91:7 167:16 relatively 60:5,12 relatives 134:20 relaxant 161:4 reliability 109:23 reliable 108:18,23 109:12 132:17 relied 57:20 141:22 relieve 26:9 religious 27:11,19 40:8,10,15 176:16 176:17	relocate 132:4 rely 108:22 remaining 72:10 remedies 135:2,18 remember 7:18 15:16 18:21 30:1 31:13 34:25 35:6 36:6,22 41:18 48:22,23 53:12 71:18 104:6 110:11 111:13,14 113:14 124:16 129:3 131:9 133:9 133:19 135:21 140:19 142:7 156:12,15 162:13 172:24 174:5,6 177:25 180:11 184:13,24 185:2 190:18 remembering 118:24 182:11 reminds 123:20 153:8 remission 131:17 158:1 removed 117:17 renal 160:25 repeat 149:10 rephrase 6:10 23:14 63:15 76:14 83:16 replaced 74:19 86:17 replaces 83:24 report 1:15,16 7:12 7:14,23 8:6 12:7 12:10 17:14,16 38:1 56:16,20 57:5 59:23 63:2,7 75:23 79:2,11 83:13,23 84:4 85:5 86:21 87:25 88:9 89:21 97:8 106:9 108:24 110:7,10,12,19 111:6,11 114:9,13 116:15 131:22 137:6 138:1 144:4	144:6 reported 55:13,16 59:3 88:25 89:17 96:20 98:1,1,9 102:6 105:4 108:25 110:12 150:7 reporter 6:8 9:19 32:22 36:1 39:18 57:3 97:2 163:18 172:13 175:1,11 177:3 182:4 185:16 reports 126:10 131:18 represent 22:22 113:18 165:13 representatives 15:17 representing 15:1,3 138:21 193:11 reputation 20:21 reputations 20:19 reputedly 178:5 REQUESTS 2:6 require 93:9 194:4 required 60:20 136:12 requirements 77:9 research 7:10 13:23 17:24 22:18 37:14 37:17 47:6,7 100:14 133:23 172:15 175:12 researched 37:11 researchers 170:22 reserved 191:16 resin 167:25 resist 83:3 respect 13:9 respected 74:7 128:13 respond 6:18 20:2 responded 11:1 RESPONDENT 4:12 respondents 5:12	response 11:5 responses 19:21 responsible 113:1 restate 106:7 Restoring 134:14 result 179:23 resulted 21:3,7 22:15 resulting 51:14 results 41:25 108:7 156:12 rethinking 109:18 retire 66:18 retired 7:18 43:11 104:7 172:24 retirement 44:4 173:5 reversible 167:2 reversibly 167:1 reverts 25:23 review 10:4 11:8 57:14 59:25 60:2 77:24 153:14 182:5 reviewed 9:12 10:6 32:23 39:1,5 80:13 111:6 reviewing 10:10 89:2 111:6 reviews 144:13 rhubarb 129:4 154:22 155:15 Rica 13:20 14:4,12 14:25 16:12 46:4 rich 50:2 Richard 141:7 ridiculous 61:6 rifle 137:11 rigged 69:19 70:20 right 24:11 32:3,4 50:19 58:23 59:24 63:2 65:9 66:5,11 73:2 75:14 76:19 83:5 84:11 85:4 87:5,6 89:8 99:24 103:23,25 108:1,4 111:13,15,18
---	--	--	---	--

112:12 115:8,19 115:25 116:13 117:3,14 119:3,5 122:6 130:2 142:19 144:15 146:19 148:8,22 150:25 153:9 157:18,18 163:23 172:8 174:23 175:4 176:1 178:7	75:5 82:22 safer 49:12 78:1 saffron 32:10 94:16 99:14,15,16,17,20 99:21 100:1,6 123:23 143:4 salad 182:8 San 40:25 sarsaparilla 129:15 156:18,18,19,20 156:21 sativa 160:25 sativum 104:25 105:3 sativus 100:9 166:5 Saul 146:7 179:18 sausage 163:25 164:8 save 122:7 saves 134:25 savvy 42:21 saw 140:25 191:2 saying 61:12 70:11 99:6 129:24 134:15 138:14 167:18 says 59:25 84:18 85:5,16 87:7 93:16 103:16 115:9,10 116:17 118:10,11 121:25 124:11 125:11,17 127:21 129:5 130:20 132:22 137:22 143:9 155:24 157:20 164:8 scam 188:4 scams 188:10 scenes 188:7 scholars 99:19 100:1 100:2 school 17:25 28:22 40:25 162:17 170:21 187:6 schools 17:23 162:10 Schulick 17:8 19:6,8	19:18 science 42:4,12,24 45:1,7,12,13,14,16 45:17,25 46:6 60:3 60:4,5,8,12,13 77:10,18 78:2 83:20 87:7,11 117:25 science's 60:4 scientific 14:1,3 17:24 60:10 97:24 104:23 127:19 130:21 157:22 scientifically 24:2 125:18 189:23 scientist 15:18 47:6 47:7 176:1 scientists 34:6 scope 59:25 63:3 179:7,10 score 112:15,23 119:20 148:4 155:3 scored 59:11 154:3 scores 51:25 75:9 118:23 scoring 62:17 117:11 scorings 12:8 screen 20:10,13 22:4 93:25 97:5 screening 14:23 93:14 161:19 Scripts 40:25 search 96:2 102:4 120:21 165:3 searchable 96:3 Searches 102:2 searching 93:24 second 2:9 6:13 9:11 45:5 47:13 50:10 77:18 87:15 90:6 102:4 105:9 112:19 116:18 134:13 142:10 147:5 168:10 169:10 188:15	secondhand 10:9 157:14 section 1:19 12:10 12:11 56:25 108:14,16 178:10 179:4 180:4 183:24,25 see 7:20 9:12 20:18 32:2,20 33:5 35:1 37:18 61:15 65:8 73:18 84:14,14 86:22 88:4 93:19 95:15 97:22 99:5 103:13,23 104:19 109:13,25 114:21 115:14 117:9,21 119:13 147:9 148:4,18 149:17 149:25 151:20 159:6 160:9 166:18 167:14 174:3,10,11,14 177:13 183:11,14 190:22 seed 74:19,20,21 160:10,14,18 166:23 seeds 168:24 183:8 seeing 36:22 128:25 185:11 seen 10:9,15 11:15 11:20,22 12:3 48:2 68:23 73:16,17 82:21,24 98:1 113:2 117:4 127:13 128:22 129:2 139:13 157:24 159:22 165:22 176:9,9 select 20:12 40:4 selected 45:22 selectively 40:4 Selenium 66:12 79:9 110:19,22 111:2,4 133:22 134:8 selfish 181:8 self-medicate	135:17 self-medicating 136:11 self-taught 162:9 self-treating 136:11 sell 16:4,17,21 42:18 43:5 45:25 46:6,17 48:14 176:16 selling 43:1 sells 15:22 36:13 46:15 190:11,24 semicolon 119:11 semicolons 89:23 sempervirens 94:20 send 27:24 35:15 36:20 118:7 122:5 122:6,7 171:20,22 171:23,23 senior 42:4,12,24 senna 173:14 sense 85:11 95:15 144:24 171:10 sent 9:1 17:17,18 37:2,3,6 54:22 57:15 63:20 97:8 138:6 144:7 165:19 177:24 185:8 sentence 131:23 132:21 134:15 sentences 5:20 senticosus 65:13 separate 108:16 114:14 193:6 series 175:16 177:12 serious 74:25 serve 26:19 42:3 served 23:3 29:18 Service 172:15 175:13 serving 8:13 26:18 session 106:1 162:18 sets 117:20 seven 75:15 131:4 140:7 156:2,4 177:8 share 19:16 27:4
S				
S 4:13 5:1 safe 33:17 60:21				

[218]

95:18	153:18 154:14	snoop 108:25	soybean 48:13 126:3	spoke 106:5 121:10
shared 17:21 67:2	168:13	Snuff 47:14	153:15,24 154:2,7	153:16
shark 64:2,7,8,9,14	significant 55:6	society 80:15	soybeans 80:17	spoken 38:23
Sharon 186:3	signifies 152:15	Solanum 163:9,12	so-and-so 18:14	spokesman 28:1
sheep 71:5 129:12	signify 111:20	solasodine 163:14	20:5	sponsor 30:24
155:19,19,22,24	silver 137:9,14	sold 65:11,13 73:14	speak 8:12 91:15	169:25
sheet 35:16 193:6	154:5 164:17	78:19 125:11,13	139:24	sponsored 14:14
194:4	silymarin 186:16	125:23	speaking 35:7 98:13	17:22 49:25
shiny 53:20	187:10	solely 113:1	99:3	sponsors 30:4
shortcomings	similar 112:24	Solomon 80:5 99:2	specializing 15:18	spore 73:24
170:18	168:22	100:14	species 55:15 75:15	spot 187:12
shotgun 137:8,11,14	simple 60:5,12	somebody 174:16	94:8 97:19 102:22	spouts 171:8
164:20	133:21 134:10	something's 108:23	105:2 163:12	spring 171:7
show 37:19 39:12	single 60:16,19 68:9	somewhat 134:19	167:12	sprouts 128:10
70:10 91:22 93:4	68:16 71:7 77:6	song 99:2 100:14	specific 18:10 19:12	171:1
94:12,15 97:7	82:23	182:15	98:4 102:19,24	spurts 90:18
99:20 100:8 102:8	sir 58:14	soon 127:14 140:5	185:2	squamous 163:17,19
102:25 135:24	site 43:10 100:25	Sophia 25:18,21	specifically 21:18	163:20
158:22 160:24	101:2 104:22	26:13 54:23	29:18 41:3 80:21	square 151:10,13
172:8	172:15 175:13	170:15	81:11 129:3	St 61:23,23 62:1
showed 49:6 61:25	185:17	sores 81:4	144:19 146:2,5	82:1,4 145:4 177:5
99:18	sitting 119:2	sorrell 71:5 129:12	165:14 171:18,19	188:1
showing 32:8 155:4	situation 138:25	155:19,19,22,24	178:19 184:10	stack 169:10
155:22	situations 186:13	sorry 15:11,13	185:5	stage 183:1
shown 47:21 48:1,6	six 62:19 115:4	25:20 30:11 45:6	specified 20:14	stages 186:13
48:12 69:10 70:19	140:7	45:12,13 50:16	105:2	stake 141:2
75:16 80:20 92:11	six-acre 25:16	51:13 52:14 53:19	specify 11:17 143:14	stamp 39:19
94:16 102:18	skeptical 31:21	62:5 63:2 74:15,16	specimen 50:4 73:25	standard 125:4
113:11 114:16	41:13 61:14	85:17 98:7 131:13	specimens 21:14	standardized 112:7
125:7 127:23	190:21	141:17 152:14	24:2 100:5	standards 74:13
141:6 158:18	skin 44:20 114:18	163:18 180:7	speculate 41:6 68:2	166:7
163:16 180:18	155:10 163:10,16	sort 5:15 14:19 51:7	139:4	stands 35:11,12 59:7
shows 80:25 97:8	slash 117:15,17	67:24 112:9	speculated 151:5	start 76:18 118:8
133:20 140:10	slick 53:17	122:13 126:15	speculating 41:18	121:5
168:14	slightly 10:13	152:3 171:1	speculation 41:16	started 35:13 43:18
shy 178:12	132:17 189:6,20	173:10 179:12	67:18 73:12	43:23 69:25 162:8
Siberian 71:5	189:21	181:24 190:23	speculative 131:6	starting 120:7,7
sic 143:20	slippery 130:11	sorts 96:8	spell 47:8	158:11 173:17
side 82:3 98:22,23	157:6,7	sought 20:2	spelled 126:8	starts 58:5 84:15
136:8,9 173:22	slow 180:13 186:23	source 93:12,12,13	spelling 153:20,23	state 16:24 23:13
side-by-side 82:10	160:21	93:16,22 183:6	192:21	26:15 56:6 74:5,5
sign 153:17	slowing 160:21	185:22,23 186:15	spend 34:25	79:20 87:17
signature 191:16	147:19	186:16	spent 38:6 125:21	162:17
significance 40:9	small 112:17	sources 93:19 95:3	spice 13:9	statement 44:14
58:25 59:3 79:24	smell 169:2	183:3,7	spices 121:17 180:19	132:2
90:24 104:1	smelled 31:1	soy 47:25 48:8,14	180:20 182:6,22	States 1:1 3:1
118:12 119:5	smoke 181:11	127:5,5	spoilage 163:24	123:12

stating 40:12	107:21 108:6,6,17	suffering 6:17 11:1	16:23 17:11,22	52:7 62:17 65:2,14
statistic 137:5	110:8 111:5	19:7 111:2	23:15 32:22 47:18	65:22,24 66:1 89:8
statistically 55:6	118:21,25 119:1	sufficient 76:25	47:23 52:22 54:13	91:24 131:11
status 141:9	120:9,13,16,18,19	sugar 180:10	57:4 58:14,21	134:23 143:7
stenographer 5:23	120:22 124:3,15	suggest 18:14 53:22	76:15 83:11,22	181:13,14
stenographic 194:5	124:16 126:24,25	54:3 146:9 149:16	84:5 85:21 92:25	
stimulated 158:2	128:22 129:1,2	158:6	94:13 108:17	T
stimulating 131:10	137:21 141:6	suggested 52:1	109:5,11,17 111:8	T 192:1,1,1,18,18
stomach 114:18	147:9 148:10,14	54:11 142:25	111:19 121:13	table 35:11
130:13 149:23	148:19 149:3,7,16	144:16 164:6	122:9 129:18	tables 143:1
151:16	158:2,18 167:1	suggesting 119:18	136:23 137:20	tablet 73:15
stories 31:6	170:23 171:1	120:9,10 158:16	147:19 150:21	Tai 25:18,21 26:13
story 18:20 70:16	187:1,24 190:23	164:2 170:14	152:21 153:8	54:23 170:15
straight 121:21,23	study 8:1 9:3,3,6	suggestion 53:5	171:15 183:19	tail-end 143:11
strange 137:25	10:2,4,6,19 11:12	159:18	184:15 186:9	take 5:24 6:2,8,11
strangely 102:13	13:15 29:9,23 30:5	suggestions 72:21	188:14,21	9:23 12:14 18:10
Street 3:17 4:16	32:5,7,12,13 51:8	136:5	surprise 70:8 174:22	18:14,16 34:19,20
strength 41:7	62:2,8,9 68:7	suggestive 155:7	surprised 130:4	55:25 62:24 67:6,8
strengthen 67:1	70:14 71:21 82:5	suitable 96:15	174:14	67:23 71:3,9,12
strengthening 38:12	82:18 101:23	Suite 4:17	surprises 178:4	72:7 73:14 74:3,4
stress 181:12,13	107:4,12 120:23	sulforaphane 128:1	survivor 162:4	74:18 83:5,12,19
stressed 40:7	128:11 132:5,12	128:7,9,12,15	SUSANNE 192:16	84:3,7 90:22
strictly 36:9 96:9	132:15 137:18	171:4,9	susceptible 65:23	111:18 130:22,23
stridently 181:21	142:22 144:4,13	Sultana 160:24	suspect 13:10 18:21	135:3,4 140:4,5
strike 93:7 109:24	145:3 156:9,10,11	Sumatriptan 130:9	33:4,21 72:14	147:10 148:21
145:2 186:11	156:13 159:5,10	130:10	98:17 115:4	150:9 160:5
strong 74:11,12 95:6	170:14 174:11	summarize 91:20	149:13 159:18	166:11,15 167:3
110:16 117:9	187:25 190:4,8	summary 63:16	169:6	168:6 169:3,10
165:8	studying 29:20,20	64:19 86:8,9,10	suspicion 70:17	175:2 180:2
stronger 118:19	stuff 172:25 191:12	89:15 122:13	swallowed 42:10	183:18 185:1
131:24 187:21	subclinical 27:21	superior 61:10 78:1	Swankin 3:16 4:15	186:11,12
strongly 120:10	subheading 95:19	super-sensitive	57:9	taken 5:13 6:20
156:15	subject 134:1	168:5	swears 131:16	38:23 39:2,6 56:1
structure 17:11	139:19 175:21	supplement 110:20	sworn 5:6	105:12 137:4
student 171:5	subjective 70:12	Supplements 16:5	syllabus 172:21	148:23 168:7
students 26:7 32:11	submitted 7:13,22	support 27:25 28:9	symbol 118:8,9	183:20 192:8
171:6 173:6	20:23 35:11 56:13	28:23 75:6 81:9	synergies 68:17	takes 28:12 145:8
studied 59:21 68:6	57:11 142:16	89:5	synergistic 67:13	Talalay 128:11
74:7 82:9 130:6	158:20	supported 60:1	68:6 72:25 190:14	170:25 171:7
177:25 182:18	subparts 66:8	supporting 28:19	synergistically	talk 5:21 31:25
studies 11:20,23,23	subsection 83:21	supports 145:17	102:18	98:18 178:4
11:24 12:5 24:7	111:16	suppose 31:19 78:16	synergy 90:1 189:7	talked 8:17 32:25
29:16,19,22 41:25	substance 87:3	107:22 136:5	189:8,25 190:15	44:23 46:23 47:2
49:25 64:6,15 66:2	185:1	supposed 59:9	synthesizing 44:1	50:2 51:9 54:9
68:23 71:13 76:16	substantiated 185:9	111:20 112:7	synthetic 76:21	75:3 76:10 106:13
76:16,17 78:5,7	Substitute 1:19	supposition 91:19	82:15 180:25	108:2 110:14
82:8,18 107:18,21	56:25	sure 5:16 11:14	system 28:23 45:21	141:23 170:15
				184:12

[220]

talking 24:23 41:1 48:24 62:2 65:3,4 65:6 88:5,15 97:4 111:7 128:17 140:17,18 144:24 167:10	182:2 telling 153:19 tells 34:17 51:25 55:9 154:3 ten 14:10 24:9,10 31:4 49:2 53:11 61:16 74:14,21 77:21 90:9 132:18 144:11 183:17 187:24 tend 31:7 176:8 186:21 tendered 9:10 94:25 177:14 tenuous 155:2,6 term 16:5 41:9 51:3 58:22,23 75:24 terminology 20:4 59:2 terrible 109:3 test 60:19,23 98:20 119:19 tested 12:1 40:19,20 40:21 61:11 120:12 testified 5:6 130:25 testimonials 39:5 testimony 7:24 8:4,7 193:4 testing 10:19,21 22:19 76:22,25 tests 20:25 21:1 41:14,17,20,21,25 75:18 text 99:7 113:22 114:1,3 115:8 174:24 textbooks 121:19 thank 183:11 Thanks 177:15 theory 176:4 therapies 54:5,22 113:12 164:15 170:24,24 therapy 182:19 thereof 77:23 194:4 they'd 178:18 189:4	thing 42:16 52:19 99:16,17 129:25 129:25 138:22 139:24 things 5:21 7:25 20:15 27:24 29:20 38:11 49:6,20 50:3 92:17 96:8 101:21 107:4 109:12 110:11 126:1 130:17 133:21 134:10 135:6 141:16 149:13 152:19,21 166:2 172:20 178:9 187:8 191:10 think 10:21,22 11:14 12:2 13:20 14:6 17:9,22 21:7 22:23 23:5,7 24:14 28:19 30:23,24 31:14 33:25 34:16 38:21 40:15,20 41:8 42:10,20 43:22 44:17,21,23 45:8 46:2,19,21 47:7 51:16 54:9 56:14 58:12 61:11 61:13 64:6,11 65:18 70:1 72:5,17 75:12 76:17,24 77:11 78:8 79:7,10 80:15,25 81:17 83:25 87:23 92:1 97:7 98:5 99:8,14 103:12 104:3,10 106:19 107:9,22 110:6 113:9,11 114:14 116:9 120:22 121:8,12 123:9,13,15 124:5 124:8,14 125:21 127:8,12 128:13 129:10,25 130:6 131:19,21 132:4 132:10,17 133:7 133:22 134:21	136:10,14,20 137:16 138:14 140:6,20 142:25 143:18,22,24 146:20 148:3 149:11 150:19 151:10,24 152:24 153:14,16,19 155:5 157:11 158:3 162:6 165:7 167:5 169:4,8,18 171:22 173:3 174:21 177:8 178:12,18 179:8 180:20 182:5 184:12 185:4 186:2 187:5,15,16 188:6,9,24 190:18 thinking 42:15 130:1 176:15 thinks 135:11 third 45:6 81:17,19 81:20,23 87:8,13 87:16 101:12 103:10 163:24 166:4 third-arm 77:22 81:18 138:5,11 144:10 146:9 164:3,11 170:2 187:7 third-way 169:25 thirties 158:1 thistle 82:11 145:17 186:15 thought 42:16 129:11 130:25 143:25 158:21 178:18 185:24 188:25 thousand 141:2 three 13:20 15:17 21:6,21 22:21 23:6 37:8 51:9 58:16 62:14 63:8,17 65:1 65:4,5,7,17 66:13 67:2 68:9 79:21	87:8,14 92:16 110:21,24 116:16 118:18,20 120:4,8 120:16,20 136:14 138:8,9 151:2,18 158:20 162:19 165:19,23 166:15 184:12 three-letter 93:21 95:2,8,12 throw 181:22 throwing 45:18 thrown 151:17 Thursday 8:2 thymoquinine 161:11 thymoquinone 159:4,11,19,22,23 160:8 161:3,3,8 ticking 66:6 time 5:21 7:15 8:4 12:14 13:11 28:5 32:6 33:5 38:6 47:4 60:24 63:1 90:7,16 99:19 105:7 114:6 122:7 125:21 130:5 142:4 143:23 153:20 161:25 165:24 173:16 186:2 times 12:16 13:20 25:14 46:11 112:22 115:7 145:18 182:25 184:13 188:20 timings 189:7 tissue-type 160:15 title 14:7 17:4 145:6 192:3 titled 9:20 today 5:11,11,23 6:16,19,23 7:9,14 7:16,23,24 8:7 21:5 38:13 58:13 74:22 75:3 88:9 95:18 110:7 111:7
---	--	--	---	---

112:5 114:9,18 117:4 122:3 127:11 128:17 143:16 146:17 164:1 184:18 told 27:11 61:24 109:18 174:17 tolerate 181:8 Tom 17:2 tomato 137:23,24 183:3 188:24 tomatoes 179:22 183:2 tonic 125:24 tonight 171:20 top 17:5,9 47:13 97:10 127:12 182:6,10 topically 167:24 168:1 top-selling 173:15 total 132:22 tour 26:13 108:8 toured 50:22 138:20 tours 34:8 touted 127:21 129:7 129:7,13 130:12 130:23 Townsend 52:13,24 53:1,14 113:10 141:22 142:17 toxic 98:21 111:4 toxicity 10:21 103:2 111:3 toxin 167:23 TRA 121:9 track 69:9,12 79:10 92:25 trade 1:2 3:2 4:3,6 5:11 36:24 146:25 192:9 traditional 41:11 trained 135:14 training 161:14,14 162:18 Tramil 34:1,4 35:4,6 35:11 52:2 59:19	121:9 150:4 151:2 151:3 152:10 tranquility 181:12 transcript 192:6,7 192:20 193:4,6 transdermal 168:2 transferred 161:18 translations 177:9 transposing 72:8 treat 16:21 18:16 26:4 42:19 43:6 59:5 67:7 71:3 80:11 140:19 155:16 168:4 treated 80:5 161:23 167:22 treating 10:20 29:17 30:7 54:2 64:3 92:7 123:3 128:23 128:25 135:18 148:11,15 149:4,9 151:23 153:6,13 154:2,19 155:21 156:22 157:4,9 185:6 treatment 19:5,11 19:20,25 23:1 29:13 34:15,23 38:24 39:3,7 41:24 51:17 55:7,22 68:19 69:7,12 73:5 81:10 110:1 134:2 142:23 154:24 157:16 169:5 174:18 177:19 178:11 treatments 21:3 178:24 179:4 trees 167:14 trial 27:15,17,21 30:24 31:17,18 32:3 52:6 77:22 82:2 144:10 151:19 152:16,25 159:18 164:3 trials 11:15,17 12:9 20:25 21:1 22:20	23:4 29:5,12 30:2 30:3,4,9,17,22 31:17 32:8,17,25 33:1 51:15,17 52:3 61:2,15 66:3 68:11 69:19 73:8 75:10 76:8,11,12 122:25 126:11,12,13 127:6 128:5,6,7 138:5 141:9 146:9 147:17,25 148:2 149:9,25 150:2,6,7 150:8,19 151:22 152:25 153:6,13 154:1,7,9,18,23 155:4,15,20 156:6 156:7,23 157:3,8 157:15 158:7,8 169:25 170:2 187:7 tried 55:5 74:22 136:24 157:11 158:7 170:3 triggered 171:1 trip 14:12 trips 16:10 43:15 trivial 166:2 trouble 178:18 true 65:3,12 78:22 132:13 133:7,22 193:4 trust 32:7,12,13 truth 41:15 82:14 91:16 162:21 187:22,23 188:1 truthfully 6:18 try 5:24 6:10 41:19 67:15 77:15 119:4 121:22 133:23 191:11 trying 30:4,5 40:11 41:21 44:12 85:11 85:22 97:15 137:2 142:23 150:13 158:12 163:25 173:10,13 180:13 187:14	tube 119:19 138:21 tuberculosis 91:25 tumor 71:13 72:12 75:7,21 76:8,13 131:1 160:21 182:20 tumors 78:4,6 81:4 turkey 154:22 155:15 turmeric 8:1 9:3,4 10:15,19 11:2,12 11:15,18 12:19 13:4,8,21 14:11 29:8 34:19 38:3,4 41:12 45:9 48:15 48:18 49:16 54:9 54:14 55:4,19 78:5 87:24 88:11,14,19 88:20 89:5,6 90:10 94:20,21,22 95:1,2 95:19 97:23,24 98:1,9,13,16,22,23 99:3,11,16,24 100:6,13 106:14 106:14,18 107:7 107:10 109:25 113:17 114:19 115:9,9 116:19,23 117:5 120:11,12 120:13,17,18,21 120:25 125:21 137:13,15,16,16 137:21,24 139:22 152:4 153:9,10,12 166:9,11 179:15 182:23 188:22 Turmeric's 38:5 turn 47:11 50:7 57:12 59:22 131:22 163:23 turned 106:9 Turner 3:16 4:13,14 4:15 5:12,16 26:24 26:25 27:1,6,23,24 35:13,18 36:4,19 39:10 52:18 57:10 57:24 58:1 63:5,6	63:20 64:20,21 78:25 83:7,24 84:7 84:11,13,16,18,21 84:23,25 85:14,20 85:23 86:3,12 97:9 106:6 115:22 116:2 117:3 122:6 122:9 132:4 141:12,17 142:20 143:19 147:1 160:12 163:2,4 165:19 169:18 171:22 175:2,5 177:14 179:9,13 183:19 184:6 185:8 191:7,10,15 Turner's 38:17 57:11 58:9 Turning 63:7 122:12 turns 83:4 twice 44:5 93:1,4 104:16 two 11:3 15:14,16 21:7 34:20 37:8 38:8,9 40:25 42:1 53:5 66:17 72:6 86:19 87:3,17 90:21 97:16 100:20 112:19 113:18 117:20 120:6,16 124:25 125:7 126:8 128:1 134:20 141:5 143:25 164:15 166:5,8,15 169:20 173:12,13 176:14 178:21 181:8 191:2 type 46:12 101:14 101:15,18,20 102:21,21 104:23 104:24 105:1 112:24 114:14 148:16 160:17,19 163:21 166:16 typed 57:9,12
---	---	--	--	--

[222]

types 11:20 29:11 49:20 88:12 107:21 114:10,11 114:11 163:17 170:23	units 150:14 universities 15:20 University 62:4 172:22 173:6 175:15	126:9 valid 91:2 Vancouver 31:13 188:14 variation 23:21 106:21	visitors 43:10 vitamin 169:8 vitamins 16:5 vitro 59:14 71:10,13 71:21 72:1,2,7,8 72:16,16 75:16,18 75:19 76:9,11,16 76:18,22,24 77:7 77:11,19 78:6 107:25 119:8 125:8 126:12 127:23 128:4 150:23 151:1,18 160:20 190:9	water 80:14 watercress 127:16 128:19 154:13,16 154:17 155:4 way 7:22 17:4,9 18:13 22:20 25:6 55:6 94:18 95:6 97:5 105:4 108:10 108:12,13 159:25 184:25 ways 87:8,14,17 126:8,10 156:19 weak 72:19 95:5 165:8 weakens 181:13 Web 100:25 101:2 104:22 172:15 175:13 185:17 WebMD 146:10 Wednesday 7:13,16 8:2 weed 21:23 182:17 183:4 weeds 171:3 week 8:3 9:2,8 10:17 32:6 54:24 120:15 191:3 weeks 143:25 161:24 191:2 weight 183:14 weird 136:4 welcome 188:18 well-known 78:10 86:9 went 5:16 7:11 20:13 22:18,20 27:14 30:13 33:4 34:8 37:10,12,18 87:23 94:7,9 99:4 131:16 143:2 weren't 29:19 43:2 109:6 120:18 182:23 West 34:1,7 121:10 western 24:6 we'll 6:12,25 33:10 51:22 116:5
typical 5:18,19 t-PA 160:16 T-R-A 35:11 T-R-A-M-I-L 34:4	unproven 67:18 unrelated 102:14 unsolicited 18:19 un-huh 6:6 updated 104:13 184:11 upper 103:16 uptake 107:15 urging 145:17 170:23 urokinase-type 160:16 USDA 23:22 29:19 30:16 43:9 55:13 62:18,24 89:14 90:18 96:6,16 104:6,14,16 106:15 118:1 141:6 159:21,24 161:19 use 34:3 46:12 48:15 58:21 67:11,22 87:8,14 101:22 102:16 111:20 117:14 118:6 119:4 121:20,22 123:24 useful 30:15 91:19 120:10 143:25 158:3 159:19 186:13,22 uses 43:19 101:20 103:7 105:4 152:14 usual 166:13 usually 7:20 38:4 53:2 60:16,18 74:11 82:23 89:5 120:5 181:16 Utah 42:8,17	various 7:11 10:8 11:20 12:9 18:16 20:9,25 67:12 71:2 74:4 75:8,10 94:7 95:9 110:8,13 162:16 173:18 vary 24:9 106:23 vegetable 181:6 vegetables 182:5 vegetarian 179:22 vegetarianism 27:17 80:14 133:5 venereal 168:1 verb 86:6 verbal 86:9 Vermont 14:6 verse 100:18 165:1 verses 99:2,12 version 94:24 116:15 122:5 165:17 177:17,20 177:21 178:6 183:22,23,24 184:18 versions 117:19 174:19 versus 10:16 27:16 27:17 60:5 80:14 164:13 vessels 126:17,20,22 Vienna 164:8 view 60:11 80:16 Vinblastine 22:8 23:8 24:25 103:4 Vincristine 22:8 23:8 24:25 103:4 Vioxx 48:25 49:9 53:10 183:16 Virginia 94:23 visit 12:21 19:15 visited 46:3	vivo 151:18 volume 118:7 volunteered 39:8 voucher 50:5 100:5 100:8 V.1.A 1:19 56:25 111:16	
U	V	W		
ubiquitous 78:9 uh-huh 6:6 Uh-oh 121:25 ultimately 22:19 29:4 51:14 unable 10:7 32:6 92:3 Uncaria 72:18 unclinical 122:24 unconcentrated 62:16 underlined 99:15 understand 6:9,18 7:3 10:18 18:9 40:11 57:4 58:14 71:15,20 73:6 83:10,11 89:9 97:15 106:25 111:19 150:13 152:21 158:12 161:13 163:25 173:13 understanding 11:4 11:11,22 22:17 69:20 71:1 72:2 73:3 83:18,22,25 185:18 understood 38:3 41:20 127:15 undertaken 156:9 Union 133:3 unique 186:16 190:16 uniquely 93:23 unit 43:11 United 1:1 3:1 123:12	updated 104:13 184:11 upper 103:16 uptake 107:15 urging 145:17 170:23 urokinase-type 160:16 USDA 23:22 29:19 30:16 43:9 55:13 62:18,24 89:14 90:18 96:6,16 104:6,14,16 106:15 118:1 141:6 159:21,24 161:19 use 34:3 46:12 48:15 58:21 67:11,22 87:8,14 101:22 102:16 111:20 117:14 118:6 119:4 121:20,22 123:24 useful 30:15 91:19 120:10 143:25 158:3 159:19 186:13,22 uses 43:19 101:20 103:7 105:4 152:14 usual 166:13 usually 7:20 38:4 53:2 60:16,18 74:11 82:23 89:5 120:5 181:16 Utah 42:8,17	valid 91:2 Vancouver 31:13 188:14 variation 23:21 106:21 various 7:11 10:8 11:20 12:9 18:16 20:9,25 67:12 71:2 74:4 75:8,10 94:7 95:9 110:8,13 162:16 173:18 vary 24:9 106:23 vegetable 181:6 vegetables 182:5 vegetarian 179:22 vegetarianism 27:17 80:14 133:5 venereal 168:1 verb 86:6 verbal 86:9 Vermont 14:6 verse 100:18 165:1 verses 99:2,12 version 94:24 116:15 122:5 165:17 177:17,20 177:21 178:6 183:22,23,24 184:18 versions 117:19 174:19 versus 10:16 27:16 27:17 60:5 80:14 164:13 vessels 126:17,20,22 Vienna 164:8 view 60:11 80:16 Vinblastine 22:8 23:8 24:25 103:4 Vincristine 22:8 23:8 24:25 103:4 Vioxx 48:25 49:9 53:10 183:16 Virginia 94:23 visit 12:21 19:15 visited 46:3	vivo 151:18 volume 118:7 volunteered 39:8 voucher 50:5 100:5 100:8 V.1.A 1:19 56:25 111:16	wager 127:1 129:2 wait 84:13 waiting 24:19 want 35:19 58:20 63:5,22 77:18 78:25 82:14 83:10 83:21 84:5 85:12 96:2 99:12 104:13 117:8 135:1 151:9 181:3 182:1,2 183:18 191:5 wanted 66:25 74:10 92:12 96:5 97:22 101:12,18 102:12 104:25 106:6 169:2 173:10 war 69:16 warnings 131:25 Warren 135:15 warts 167:22,22 168:1,4 Washington 3:18 4:18 162:17 waste 61:6 watching 181:16

[224]

155:18 156:17,25 160:23 150 76:2 94:8 133:10,11 15693715 160:23 15795687 161:6 16 1:18 37:19 56:23 86:6,14 120:6 157:1,6 16th 3:17 4:16 162 99:3,10 165 95:18 17 157:18 171 2:8 172 1:22 175 1:23 176 1:24 18 58:5 84:15 120:6 158:11 159:3 162:25 18342436 117:9 185 2:2 19 94:6 163:23 1977 19:23 20:8 43:23 1982 19:23 20:8 105:5,5 1988 55:3 1990 144:16 1995 43:11 172:24 174:6 1997 177:6 1998 47:15 54:14,16	147:16 148:17,18 148:18 149:11 150:4,13,15 151:2 151:7,19,24 152:2 152:17,18,24 155:3 179:24 2s 33:24 75:12 123:16 127:8,9 147:20,20 152:12 158:5 2/10/09 192:12 20 28:3 98:10 106:19 173:6 181:20 189:19 190:5 200 110:22 2002 61:23 69:23 20036 4:18 2004 159:25 2005 160:24 2006 186:7 2007 142:4 143:9 144:3 146:13 2008 52:23,24 94:6 160:14 2009 1:11 3:14 9:16 9:22 192:4 194:2 202 4:19 20580 3:18 212 4:9 213 113:22,23 114:4 213/66 113:19 216 39:19 219 47:12 22 58:6 165:12 220 48:20 223 50:7,9,14 224 39:19 52:12,22 23 9:25 10:11 168:10 24 11:3 107:11 25 69:22 70:5	84:5,14 85:10 103:14,16,16,19 103:19 119:6 142:21 150:15,17 150:17 158:11 162:25 173:17 3s 124:8 3.28 114:7 30 21:17 32:10 143:4 189:20 3000 81:6 101:22 303 160:11 307 39:20 35 1:12 37 162:6 39 1:14	50 22:4 23:9 75:23 77:24 91:18,19 98:19 132:17 139:3 50/50 128:18 500 24:5 90:11 141:8 5000 45:9,22 60:18 62:14 68:4,6,7,12 98:24 137:13,15 550 27:20 56 1:15,16,18,19 57 162:15	123:7,17 145:1,3 150:22 172:10,14 80-year 111:9 81 1:11 9:16,22 8210 25:12 26:3
2 1:12 33:5,8 35:21 35:22 36:1 37:6 47:10 52:2 57:21 57:23,24 58:3 59:15 62:15 63:20 66:8 71:23 75:10 76:7,8 84:19 85:5 85:10,12,12,20 86:13 103:18,21 113:16 116:9 119:6 120:12 121:1 123:15 125:9 128:8	200 110:22 2002 61:23 69:23 20036 4:18 2004 159:25 2005 160:24 2006 186:7 2007 142:4 143:9 144:3 146:13 2008 52:23,24 94:6 160:14 2009 1:11 3:14 9:16 9:22 192:4 194:2 202 4:19 20580 3:18 212 4:9 213 113:22,23 114:4 213/66 113:19 216 39:19 219 47:12 22 58:6 165:12 220 48:20 223 50:7,9,14 224 39:19 52:12,22 23 9:25 10:11 168:10 24 11:3 107:11 25 69:22 70:5	4 1:15 56:16 57:5,15 57:19 58:7,15 59:22 60:11 63:8 63:13,15 79:16 83:14,14,14,19 84:3 85:10,16,19 86:1,17 87:5,11 116:14,16,19 122:12 165:12 4th 57:6 59:23 85:5 4:22 191:17 400 171:14 462-8800 4:19 4999 134:11	6 1:18 56:22 58:11 58:12,14 116:16 144:18 149:1 169:9,12 60 87:16,19,23 88:7 88:13 89:6,7 120:16 607-2801 4:9 65 66:17 66 66:18 114:1,3,4,6 115:9	9 1:11 3:14 131:22 133:17 145:11 153:11,11 173:18 192:4 194:2 9:32 3:21 90 40:13 90-pack-year 66:15 91 82:25 9329 3:7 192:2 96 1:20 97 177:17 183:23 184:25 98 55:3
	3 1:14 39:15,18 42:3 47:12 48:20 50:9 52:12,22 58:5 63:7 63:12,15 79:16,18	5 1:7,16 2:10 56:19 57:19 58:6,7,15 79:17 84:10 85:4 86:14 116:18,19 116:23 141:11,15 141:18 144:12 146:19 147:16 148:6,25 149:6 153:3,11,12,15,25 154:12,21 155:18 156:17,25 157:6 157:19,23 158:11 162:25 163:1,23 165:13 168:10	7 1:19 36:3 56:24 58:11,13,15 68:18 71:2 72:10 73:4 75:6 78:22 83:6,12 83:18 86:18 89:16 111:15 113:6,16 116:9 131:1,2,4 144:22 149:1,6 156:4 190:11,24 7-Herb 63:9,17 783 133:7 783,936 132:23 79-year-old 111:9	8 1:20,22 84:3 85:9 85:16,18 86:1 96:23 97:2,11 100:25 103:24 104:19 122:12

122:13,14 124:7 191:11 we're 6:23 17:23 68:7 69:17,17 81:22 82:14 86:5 92:21 111:7 128:17 144:24 167:10 169:12 185:5 187:7,15 we've 7:3 43:12 44:21 51:9 58:20 60:17 76:10 86:11 99:1 106:13 113:16 122:14 124:8 125:21 141:23 146:20 165:18 why 66:9 79:12 whichever 131:15 widely 65:11 125:11 125:13,17,23 128:12 130:7 wife 136:1 win 162:20 wine 80:14,16 179:25 winged 2:2 185:13 185:22,24 186:14 wished 179:3 witness 1:5,15,17 5:5 26:18,20 56:17 56:20 57:25 83:8 83:25 84:12,17,20 84:22,24 86:4,13 103:19 115:23 116:6 117:4 141:13 160:13 163:3,5,20 179:14 194:1 witnesses 8:14 woman 104:12 won 162:19,20 wonder 145:9 wood 124:20 woods 112:12 word 18:5 68:11 80:25 87:1 96:14	99:14 100:13 101:5,14 123:24 139:2 163:21 184:1 wording 16:25 42:22 131:12 words 71:4 80:7 81:12,13 89:6 90:12,14 96:2 111:20 112:21 114:5,7 131:15 work 12:18 20:7 25:1 28:3,6 29:5 29:15 31:16 37:7 49:18 59:25 63:3 72:21 77:12,20 104:22 114:8 144:19 145:11,22 146:2,5,12 166:1 166:16 185:7 187:6,19,20 worked 19:23 42:22 working 37:25 38:7 90:4 104:15 119:19,19 120:20 161:24 167:20 190:6 works 77:8,11,19 92:4 117:5 166:20 166:25 world 20:9 21:15 51:4 68:8 69:13 world's 183:6,6 worry 71:19 worse 30:25 70:20 132:9 Wort 61:23,23 62:1 82:1,4 145:4 188:1 worth 21:24 185:24 wouldn't 51:23 70:8 132:16 178:24 write 180:13 writing 8:3,6 34:17 88:5 116:11 writings 110:5 113:14 written 53:25	133:17 146:21 wrong 22:16 50:15 147:10 wrote 42:14,25 48:21 174:18 182:15 185:19 186:1,2 188:8 www.ars-grin.gov... 97:3 <hr/> X <hr/> X 1:3 119:4 X18342436 118:11 <hr/> Y <hr/> yard 24:2 yeah 35:20 80:9 85:23 93:3 99:15 103:19,21 111:23 112:5 115:18 119:7 141:13 143:21 144:15 145:8 149:19 155:12 163:3 164:17 169:10 179:12 182:16 year 13:18,18,19 14:25 21:17,24 23:7,9 28:16 38:5 43:23 83:1 120:6 137:1,4 139:1 170:10 174:5 years 14:24 15:5 17:23 19:22 21:17 22:4 23:9 28:3 31:4 40:25 49:2 53:11 58:23 59:11 61:17 69:17,22 70:5 74:14,21 76:1 76:2 77:22 82:24 104:7 120:7,8 133:10,11 144:11 167:23 178:22 180:6,7,7 181:20 183:17 189:2 190:5 yellow 125:10 149:2 Yep 130:13 169:11	yesterday 26:13 39:8,13 62:17 yew 24:2,6,17,18,19 24:21 26:14 189:18 yield 92:24 yields 92:6 yolk 126:18 yolks 126:14,14 York 4:8,8 15:3 18:24 19:1 42:11 182:17 young 170:7 Y-E-W 26:14 <hr/> Z <hr/> Zealand 62:21 102:17 117:18,23 117:25 zero 90:11 zinc 133:21 134:6,7 Zohari 99:5 Zoloft 61:24,25 82:2 145:3 Zyflamend 6:21 14:8,9 74:22 75:1 166:12,14 <hr/> \$ <hr/> \$1.7 82:21 \$100 23:9 \$140,000 188:16 \$2 21:16 23:7 \$2,500 38:19,22 \$350 38:20 \$400 21:24 \$50 82:24 <hr/> 1 <hr/> 1 1:11 9:15,20 10:11 27:14,18 46:25 57:20 58:1 59:15 62:7,13,16 71:23 76:5,9 82:20 83:20 103:13 106:20 107:2 111:22 118:15 119:5,8,10 119:20,23 120:3	120:24 128:8 137:19 141:15,18 150:13,15,24 154:3 161:2 180:1 Is 173:23 1.07 112:23 1:12 80:13 1:2 80:12 1:39 106:2 10 1:23 11:10 106:19 134:13 137:6 145:20 153:11,11 175:1,8 175:12 100 24:3,7 32:9 38:4 110:22 136:18 137:1 143:3 145:18 100,000 137:3 1000 24:9,10 10004 4:8 101 4:17 105 52:24 11 1:24 120:7 146:4 153:3,11 176:25 177:4,18 178:6 180:3 184:17 12 2:2 65:15 138:1 150:13,22 153:4 153:15,24 154:9 175:13 180:6,7 185:12,17 12:35 105:11 122 2:7 13 153:25 154:9,12 154:17 155:2 137 180:9 139 181:24 14 104:7 112:19,21 154:12,17,21 155:12 140,000 28:16 133:6 1400 3:17 4:16 142 2:9 145 99:23 100:2 1538:9 90:9 112:18 112:22 143:9
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In the Matter of:
Daniel Chapter One, et al.

February 11, 2009
James K. Dews

Condensed Transcript with Word Index



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1	FEDERAL TRADE COMMISSION	1
2	I N D E X	
3		
4	WITNESS:	
5	JAMES K. DEWS	EXAMINATION:
6		BY MS. PAYNTER
7		PAGE
8		4
9	EXHIBIT:	
10	Number 1 (WITHDRAWN) complaint	FOR ID
11	Number 1	39
12		68
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

3

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2

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25

2

1 UNITED STATES OF AMERICA

2 FEDERAL TRADE COMMISSION

3

4 In the Matter of:)

5 DANIEL CHAPTER ONE, a corporation,)

6 and) Docket No. 9329

7 JAMES FEIJO, individually and as)

8 an officer of Daniel Chapter One)

9 -----)

10 Wednesday, February 11, 2009

11

12 Room 318

13 Federal Trade Commission

14 One Bowling Green

15 New York, New York 10004

16

17 The above-entitled matter came on for

18 deposition, pursuant to notice, at 10:34 a.m.

19

20

21

22

23

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4

1 PROCEEDINGS

2

3 Whereupon --

4 JAMES K. DEWS

5 a witness, called for examination, having been first

6 duly sworn, was examined and testified as follows:

7 EXAMINATION

8 BY MS. PAYNTER:

9 Q. Good morning, Mr. Dews.

10 A. Good morning.

11 Q. My name is Carole Paynter, and I'm an attorney

12 with the Federal Trade Commission.

13 Along here with me are my co-counsel, Ted Zang

14 and David Dulabon.

15 And we all represent the commission in this

16 case.

17 A. Okay.

18 Q. And you're here this morning to give your

19 deposition for all purposes.

20 A. Okay.

21 MS. PAYNTER: Okay. And first, before we move

22 forward into your testimony, just I would like to put on

23 the record, Mr. Turner, what actually is the respondent

24 alleging Mr. Dews is an expert on.

25 MR. TURNER: Herbal formulations, specifically

5

7

1 7 Herb Formula.

2 MS. PAYNTER: Okay. Because I believe that the
3 submission you gave previously said preclaim
4 substantiation of respondents' challenged claims, so it
5 was very broad, so are you limiting that now?

6 MR. TURNER: Yes. Well, that's -- what I just
7 said is what it should be and that's what it should have
8 said, so I didn't catch that when it went in.

9 MS. PAYNTER: Okay. Just to 7 Herb Formula.

10 MR. TURNER: Correct.

11 MS. PAYNTER: Okay. Thank you.

12 THE WITNESS: I'm not aware of what charges the
13 FTC has made and I don't want to be.

14 BY MS. PAYNTER:

15 Q. Okay. Well, we'll see as we go forward what we
16 can get from you today. Okay?

17 As I mentioned, we are here to take your
18 testimony regarding matters in this case, the
19 Federal Trade Commission's action against
20 Daniel Chapter One and Mr. James Feijo, who is an
21 officer and owner of the company.

22 A. Uh-huh.

23 Q. First, have you ever been deposed before?

24 A. Oh, yes.

25 Q. Okay. And how many times have you been

1 overrelax and actually knock the people out to where
2 they don't know what's going on, and that's how this
3 came about.

4 And I told him I could not supply that because
5 it was questionable, that he wouldn't know what to do
6 with it or how to properly use it. He was not a
7 physician, so therefore -- he was not a medical doctor;
8 therefore, he could not use it.

9 Then he said, Well, I've got to have it. And I
10 said the closest thing I can get to it is
11 beta-hydroxybutyrate, which is the common amino acid
12 L-threonine, T-H-R-E-O-N-I-N-E, which has a similar
13 action.

14 And I said now -- he said he wanted to use it
15 for research and so he wanted a kilo. Everything we do
16 is metric, so that's I think metrically.

17 And so we supplied it, and I labeled it
18 properly. Well, he got it and he was telling his
19 patients it was HMB. He got a knock on his door at
20 two o'clock one morning, and they tore the door down and
21 put him in prison, and so they were charging him with
22 selling an unapproved substance.

23 In the meantime, they analyzed it and found
24 that it was L-threonine. They checked our records, and
25 it was indeed L-threonine. But they had to go on

6

8

1 deposed?

2 A. I've lost count. Five or six times.

3 Q. And in what kind of action have you been
4 deposed?

5 A. This was mostly competitors, ex-employees,
6 things of that sort.

7 Q. Have you ever appeared as an expert witness in a
8 case?

9 A. I did in the State of New York -- New Jersey
10 versus Alan Shair in which the state had charged him
11 with selling a not dangerous substance, and my testimony
12 won him an acquittal and they changed the laws as a
13 result.

14 Q. So can you give me more information about that?
15 What was he selling?

16 A. Yeah. I had a customer who was a psychologist,
17 not a psychiatrist, so he was not an M.D., he was a
18 Ph.D., and he was very much interested in products that
19 could be used for -- in his practice, and he had asked
20 me to produce a substance known as hydroxymethylbutyrate
21 or HMB.

22 Now, that is what is commonly sometimes referred
23 to as the date rape drug. Now, it is a drug. It is
24 used. And in the right amounts it's helpful in that it
25 helps to relax the patient. In large amounts you can

1 through with the trial. It ended up that they thanked
2 me.

3 And as a result, you have to be careful with
4 chemical names. Just a slight difference can make a
5 major difference in the way they work.

6 Q. Okay. Well, do you remember what year that was,
7 the case was?

8 A. It's been about five or ten years ago.

9 Q. Actually before we go on further, you mentioned
10 drugs. I should ask you today, are you taking any
11 medication that might affect your testimony today?

12 A. No.

13 Q. Okay. Thank you.

14 And just -- I know you've been deposed before,
15 so I know you've heard some of these instructions
16 already, but you know, when you do answer, we need you
17 to give a verbal response to the questions --

18 A. Yes, ma'am.

19 Q. -- so the court reporter can take it down.

20 If you don't understand something I've asked,
21 please ask me to clarify it and, you know, let me know,
22 and I'll rephrase it if I can.

23 If there is -- if you need to take a break, just
24 let me know, and at an appropriate time we can take a
25 break.

1 And then also, if there's anything that, as I
 2 said, that you need me to correct, I'll go back and
 3 correct it, and we can correct it on the record here
 4 today.
 5 Do you understand those instructions?
 6 A. Yes, ma'am.
 7 I might mention, for her benefit, I'm stone deaf
 8 in that ear and I wear a hearing aid in this one, so I'm
 9 trying to speak clearly (indicating).
 10 Q. Am I speaking --
 11 A. And I'll try to hear -- yes. You're doing
 12 fine.
 13 Q. Okay. Very good. Thank you.
 14 So sometimes I do speak fast. If I'm speaking
 15 too fast, please let me know and --
 16 A. Okay. Yeah. But this bad ear is on her side,
 17 so...
 18 Q. Okay.
 19 So court reporter, you've been warned. You have
 20 to shout.
 21 A. You'll notice I'll turn my head.
 22 Q. Okay. Well, do you want to sit on this side or
 23 are you --
 24 A. No. It's fine. It's fine. I do pretty well.
 25 This is a pretty good hearing aid.

1 schools in Fort Worth. I was raised in Fort Worth. And
 2 then I went to the University of Texas at Arlington --
 3 and of course the University of Texas has different
 4 schools around the state, and Arlington is between
 5 Dallas and Fort Worth -- and I majored in science.
 6 Then my father was an accountant, and I was
 7 helping him with his practice some, and so I also went
 8 to Texas Wesleyan, which is now a university, in
 9 Fort Worth, and I majored in business administration and
 10 accounting.
 11 Q. And did you obtain a degree in any of the --
 12 A. Didn't finish it.
 13 Q. How many years did you attend college?
 14 A. About two or three at UTA and about two at
 15 Texas Wesleyan.
 16 Q. Since attending college, have you obtained any
 17 licenses or other certifications?
 18 A. Well, I belong to quite a few of the different
 19 organizations involved, such as the tie, the
 20 AOAC (indicating). That's -- it used to be the
 21 American Organization of Analytical Chemists. Now
 22 they -- it's international, so they just changed the
 23 name to AOAC. But that is the agency that sets the
 24 methods of analyzing chemical compounds and determining
 25 the correct or the official method of analysis, which is

1 Q. Okay. Good.
 2 So you mentioned that you were involved in an
 3 action with the State of New Jersey as an expert, but
 4 have you ever been involved in any action with yourself
 5 or your company where the federal government has sued
 6 you?
 7 A. Right. Well, we do have two companies, but
 8 we've never been involved. We are regulated, certainly
 9 used to be inspected on a regular basis by the FDA. Now
 10 it's changed with the current situation. Usually it's
 11 the TDH, and sometimes the FDA follows up.
 12 Q. And what's the TDH?
 13 A. Texas Department of Health. They do the primary
 14 inspecting now.
 15 Q. Have you ever been sued by the Texas
 16 Department of Health?
 17 A. No.
 18 Q. Or any other -- or any action by them?
 19 A. No. I get along with them just fine.
 20 (Discussion off the record initiated by the
 21 court reporter.)
 22 BY MS. PAYNTER:
 23 Q. Mr. Dews, can you tell me what your educational
 24 background is.
 25 A. Yes. After high school -- I graduated from

1 one of the things I do in my profession.
 2 Q. Okay. And how long have you been a member of
 3 that group?
 4 A. I think you have to be there I think it's eight
 5 or ten years before they give you a tie.
 6 Q. And do they give you a certification?
 7 A. Yes.
 8 Q. And is it something that you have to update
 9 annually?
 10 A. You have to be invited to join. You don't
 11 just -- they invite you.
 12 Q. Okay.
 13 A. And usually they require a degree. I gave them
 14 my background and they said, Hey, you're in.
 15 Q. Okay.
 16 A. Of course I also belong to the ACS,
 17 American Chemical Society; International Society of
 18 Pharmaceutical Engineers; International Food
 19 Technologists; Cosmetic, Toiletries and Fragrances
 20 Association -- we also make cosmetics -- you know,
 21 District Export Council.
 22 Q. What kind of associations are those, the ones
 23 you mentioned, the cosmetic association and --
 24 A. Well, if you're going to make cosmetics or
 25 perfumes or anything of that sort, then that's certainly

1 an organization you would belong to.
 2 And of course we kind of specialize -- we make
 3 all kinds of products. We don't determine that. Our
 4 customers ask us what they want. But we do a lot of
 5 nutraceuticals, which we were the first company to make
 6 them, mostly because physicians were asking for those
 7 kinds of products.

8 **Q. Well, just going back, the associations, though,**
 9 **those are trade associations? Do you get --**

10 A. Trade associations. Some of them are quasi.
 11 Just like Food Chemical Codex, that's made up of
 12 government and industry where they set the monographs
 13 for each ingredient and what it's used for and whether
 14 it's safe to use or what the -- what conditions it might
 15 not be safe.

16 **Q. Okay. And going back to the case of the**
 17 **State of New Jersey versus Mr. Shair -- was it Shair,**
 18 **was his name?**

19 A. Yeah.

20 **Q. In terms of your testimony, were you testifying**
 21 **just about what you had done for him?**

22 A. What I had done which was confirmed by the tests
 23 that they ran.

24 **Q. Okay. So were you testifying just about the**
 25 **effects of the drug or more of the factual --**

1 don't remember them all and I didn't save the
 2 transcripts.

3 **Q. Okay. Well, just that in terms of, you know,**
 4 **your purpose here is to be as an expert --**

5 A. Yeah. I'm called quite often. Like insurance
 6 companies will call me and ask me if some nutraceutical,
 7 would that -- they're trying -- someone is trying to get
 8 it covered by insurance and would that just be
 9 justified, and I said, well, theoretically it may not
 10 because it's not intended to cure or help to cure a
 11 disease.

12 Nutraceuticals cannot be claimed to cure or help
 13 to cure a disease. That's the definition, the legal
 14 definition.

15 **Q. Okay. In regards to -- well, let's go into what**
 16 **your company -- you said -- you mentioned you have two**
 17 **companies; is that correct?**

18 A. Yeah. Dews Research Laboratory only makes
 19 products for other companies to sell, period. We don't
 20 get involved in the marketing. We've got enough to do
 21 just making the products.

22 **Q. And your other company, what's the other**
 23 **company?**

24 A. Now, unfortunately, it's kind of the analogy
 25 would be like the farmer. The farmer doesn't get much

1 A. It's not a drug. Threonine is an amino acid.
 2 It's a food.

3 **Q. I apologize. Yeah.**

4 A. Okay. And that can get pretty tough because,
 5 you know, who would know which is which. Sometimes
 6 there's a thin line.

7 But mainly that what I supplied was L-threonine.
 8 I did label it correctly. What he relabeled it as was
 9 out of my control. The only thing that I could -- if
 10 you ask my opinion, the only thing I could say he was
 11 guilty of is poor judgment.

12 **Q. So then your testimony wasn't really about the**
 13 **effects of the amino acid, for example --**

14 A. No.

15 **Q. -- or efficacy; it was about the facts of the**
 16 **actual --**

17 A. The similarities in chemical construction.

18 **Q. Okay. And were you actually qualified as an**
 19 **expert or you were just called as a witness?**

20 A. I was called as a witness in the -- in his
 21 trial.

22 **Q. Okay. Well, in terms of giving testimony based**
 23 **on your expertise in the pharmaceutical/nutraceutical**
 24 **area, have you ever given testimony in that regard?**
 25 A. Probably over the years, yes, but you know, I

1 for his crop, but the company marketing the food does
 2 because they have the advertising behind them.

3 The same thing with us. My customers make a
 4 tremendous profit. I don't make that much. I have to
 5 compete with companies that aren't as careful about the
 6 quality, so price is definitely a driving factor.

7 Now, the profit is in the marketing. And there
 8 are a lot of products which I became familiar with and a
 9 lot of physicians saying, Yeah, I want you to make this
 10 product, and I'll say, Well, this is the minimum order,
 11 and then I can't afford that. But I hear that enough
 12 and I say, Hmm, there's enough demand for that product,
 13 why not --

14 **Q. Okay.**

15 A. -- put it in a company, so we formed a separate
 16 company, and that's all they do is market -- it's one of
 17 my customers.

18 **Q. What is the separate company? What's it**
 19 **called?**

20 A. It's Dews Twenty First Century Products.

21 **Q. And that company actually sells products.**

22 A. Yeah. My wife and daughters run that company.
 23 I don't -- certainly I -- the gentlemen would probably
 24 agree with me if they've been married. You don't tell
 25 your wife how to run her company; you advise her.

1 Q. And can you just give me an example of what kind
2 of products you sell?

3 A. A lot of nutraceuticals, a lot of cosmeceuticals
4 in this country because they're much easier to make and
5 they're much easier to sell. The profit margins are
6 reasonable.

7 It's a good business to be in if your point is
8 to be in business. And I have to be. I have to
9 generate the cash flow.

10 Q. Well, are you involved in creating the products,
11 or is it just your wife and your daughters?

12 A. They market. I do most of the creation and --
13 because I get the calls and then -- where they're not
14 willing to put up enough money to make a minimum batch,
15 so when I get enough calls, I say, Barbara, you know,
16 there's a lot of demand for this.

17 And a lot of times they're old drugs that are no
18 longer drugs.

19 Q. And Barbara is your wife?

20 A. My wife.

21 Q. Okay. Well, can you tell me -- you've used the
22 word "nutraceuticals" before. Can you just define what
23 those are?

24 A. Yeah. Basically they -- if you were to merge
25 food supplements and pharmaceuticals together, you would

1 That's what I do.

2 I received my basic scientific training. I
3 took the courses in chemistry, physics, biology, all of
4 this, pretty much in premed, but I went this direction.

5 Then you take that and you -- it's the chemical
6 that you want. You have to be able to analyze it.

7 Now, a lot of times we'll take that food or that
8 herb and we'll start separating it. We take it apart.

9 That's the science of pharmacology.

10 Now, I received my basic education and then I
11 worked within companies, and I do work with a lot of
12 universities with their research center and their
13 scientists, and so I was trained after that by
14 pharmacologists, mostly European, how to do this
15 profession.

16 Q. Okay. Well, can you tell me what kind of
17 nutraceutical your company might produce?

18 A. Sure. Well, popular when I started in that --
19 and this kind of gets -- and I apologize for that. It's
20 not an easy question.

21 Q. No. But just --

22 A. Hey, we've got five minutes. Tell me how to do
23 a brain surgery. No. It doesn't work that way.

24 But anyway, I was talking about one in
25 particular, and that's the anthocyanins. These are

1 get nutraceuticals.

2 If you merged cosmetics and pharmaceuticals
3 together, you would get cosmeceuticals. That's what I
4 was going to a while ago.

5 The difference? Well, of course,
6 nutraceuticals, you ingest it, and cosmeceuticals, you
7 put it on the outside. That's the nuts and bolts of the
8 actual manufacturing of nutraceuticals, cosmeceuticals,
9 pharmaceuticals, OTC or prescription. It's the same.
10 The ingredients are different, but the technology is the
11 same.

12 Q. Okay. So can you give me an example of a
13 nutraceutical?

14 A. Yeah. Right now, a very popular thing is to
15 extract out certain chemical compounds that are in many
16 foods, and this is interesting because, well, is it an
17 herb or is it a food. Well, the only difference is in
18 what you call it.

19 Q. Okay.

20 A. Now, does the herb do anything or does the food
21 do anything? Well, in a roundabout way, it's not the
22 herb or the food that's doing anything; it's the
23 chemicals that exist within that. And that's why we
24 have to be able to analyze these things, to measure, to
25 see if that chemical is there, and that's pharmacology.

1 things which have an antioxidant property. And they
2 exist in a lot of foods, particularly fruits, but they
3 also exist in other foods. And the chemical compounds
4 are very much identifiable. You can measure them.

5 Now, we take that whole food, and what's the
6 most largest percentage in there? Water. Is that a
7 chemical? Is that the chemical we want? No. So we get
8 rid of the water.

9 The second thing, well, fiber. Does fiber? No.

10 We're looking for this chemical. By removing
11 things we increase the level of the chemical. This is
12 traditional pharmacology. This is just standard -- it's
13 Pharmacology 101.

14 Q. Okay.

15 A. Okay?

16 Then we increase that level so that that could
17 be put into a tablet or a capsule or in a cosmetic or
18 whatever, and it has a benefit.

19 Does it rise to the level of a drug claim?
20 Probably not.

21 Would it be beneficial? Probably would.

22 Would it hurt anybody? That's the first rule.

23 No.

24 Then why not do it. I guess I'm just a stupid
25 Texan, but it makes sense to me and evidently it makes

1 sense to a lot of people. This is a multibillion-dollar
 2 industry now.
 3 **Q. Okay. Well, I know you have a lot to share, so**
 4 **I'm going to try to keep --**
 5 A. Okay. You asked me and I think --
 6 (Discussion off the record initiated by the
 7 court reporter.)
 8 BY MS. PAYNTER:
 9 **Q. You were mentioning you need -- when you're**
 10 **preparing nutraceuticals or pharmaceuticals, you need to**
 11 **make sure that it's safe?**
 12 A. Uh-huh.
 13 **Q. And how do you go about doing that?**
 14 A. Well, the first thing we look at is the herb
 15 itself. And there is data published, easily found,
 16 that tells you exactly what's in it. Beyond that, it
 17 tells you what it should do, what properties that
 18 chemical would have if used externally or internally.
 19 That's published. It's usually backed up by clinical
 20 data.
 21 Does that clinical data rise to the level that
 22 the Federal Trade Commission would say it substantiates
 23 the claim? Maybe not. But there certainly is data,
 24 and it tells exactly what this should do and at what
 25 level.

1 veterinary products.
 2 So right there, you would go to the PDR, which
 3 is privately published but semiofficial in that this is
 4 the reference physicians use in the United States about
 5 that particular herb or that particular ingredient. And
 6 right there it will tell you what it is, what the active
 7 chemicals are.
 8 I've already determined what the active
 9 chemicals are. Now I'm going to look to see are those
 10 dangerous and, if they are dangerous, at what level,
 11 because a lot of things can be harmless at a lower level
 12 and very dangerous at too much.
 13 So -- and then other times the active chemical
 14 that we find in an herb and the customer wants to use
 15 another herb, are they compatible. One could negate the
 16 properties of the other, so we have to determine that.
 17 And there also the data tells us what level it's
 18 normally used.
 19 So -- so -- and it will tell you the whole herb
 20 or the extracted herb or the concentrated herb.
 21 And so all that data is published. It's
 22 published in the PDR. It's published in the German
 23 monographs, the Chinese monographs, the
 24 British Pharmacopoeia.
 25 A lot more herbs are used by the rest of the

1 **Q. So when someone calls you to develop or -- do**
 2 **you develop the product or you just --**
 3 A. I put it together. Yeah. I make it.
 4 I'm sorry.
 5 (Discussion off the record initiated by the
 6 court reporter.)
 7 BY MS. PAYNTER:
 8 **Q. When someone calls you or contacts you to make**
 9 **them a product, what are the steps that you go into to**
 10 **say whether you could make it or not?**
 11 A. First I go to the references which are
 12 published. There are quite a few of them.
 13 As far as chemical and structure and how to
 14 analyze them, that's in the Merck Index. It's an
 15 international compilation of almost any chemical that
 16 you could think of for any use, and it tells you what
 17 it is, what the history of it is, what studies have
 18 been done on it, how you can identify it in your
 19 laboratory, everything there is that you'd want to know
 20 about it.
 21 Then you go into the different -- there's the
 22 Physicians' Desk Reference. And there is one for
 23 prescription pharmaceuticals. There's also one for
 24 over-the-counter drugs. There's also one for herbal
 25 products. And as a matter of fact, there's one for

1 world than are used in this country.
 2 **Q. Okay. So when someone asks --**
 3 A. Officially.
 4 Excuse me.
 5 **Q. When someone asks you to make a product and you**
 6 **do that analysis, do they tell you why they would like**
 7 **to create this particular --**
 8 A. What we run into a lot is they're looking at it
 9 strictly from marketing and people are asking for these
 10 herbs and a lot of times you say, Well, why do you want
 11 to use that combination? Well, someone told me that's
 12 good stuff. Good stuff in what way, you know. That --
 13 so a lot of times we find what's driving the request is
 14 more hype, and that does occur, so we want to make sure
 15 to get rid of the hype.
 16 **Q. And how do you do that?**
 17 A. By looking at any incompatibilities, any
 18 possible harm, and then we have to say, well, do not
 19 exceed this amount, you know, you better put that on
 20 your label. And by doing our due diligence, that's what
 21 we do. We're not involved in their marketing, but I do
 22 have to have a rough idea of what they're trying to
 23 achieve and why they're trying to achieve it.
 24 **Q. Do you have anyone ever contact you to make a**
 25 **product to treat cancer, for example?**

1 A. I've -- off the record, I always tell them, you
 2 know, don't even mention that word to me. You know,
 3 you're not doing yourself any favor. You're not only
 4 shooting yourself in the foot; you're slitting your own
 5 throat. This is the surest way in the world to make
 6 sure that product idea never sees the light of day.
 7 Keep it simple.

8 **Q. And why do you -- well, can you just elaborate**
 9 **why you say that they'd be shooting themselves in the**
 10 **foot?**

11 A. Because I know how our government views this
 12 sort of thing.

13 **Q. How do we -- can you just tell me how we view**
 14 **that sort of thing?**

15 A. Well, you have to be -- a study was done by
 16 Tufts University for the FDA, what is the average cost
 17 of a new drug approval, how long does it take average
 18 and how much does it cost. I can remember when it cost
 19 a thousand bucks, but I'm an old man. Today the study
 20 found out five years and \$1.4 billion.

21 How much do you have to sell that product for
 22 if you're going to gamble? You may not get approved.
 23 You may go through phase one, phase two, phase three,
 24 phase four, any number. How much oversight is enough?
 25 So the worst thing you could do is get this

1 approved as a drug, if that's the product you're trying
 2 to do, do you have that kind of money to gamble.

3 **Q. But if someone -- but you said if someone calls**
 4 **you and they might say something about cancer and your**
 5 **advice would be to them --**

6 A. Don't ever mention that word to me again or I'm
 7 going to drop you so fast, it will make your head swim.

8 **Q. And why is that?**

9 A. Because I know it's a very negative thing. And
 10 I can see both sides of the argument. But if it helps
 11 them, well, yeah, I understand how you feel about this.

12 The problem is that the public's and the
 13 government's interpretation of the word "cure" is
 14 totally different. To the public, if it makes me feel
 15 better psychologically or actually, it's a cure. To the
 16 government, that's not so.

17 **Q. Okay. And --**

18 A. You might as well be speaking two different
 19 languages.

20 **Q. So in your experience, the government's idea of**
 21 **a cure is at a higher level than the average person?**

22 A. It's at a level that they set. The
 23 government -- governments set and bureaucracies set
 24 whatever rules they set. They're doing this as
 25 Congress dictates them to do or as they understand what

1 Congress dictates them to do. And that's it. That's
 2 the rules.

3 I don't agree that wearing a seat belt is
 4 necessarily going to save my life, but I'll guarantee
 5 you I don't want to pay the \$200 fine.

6 **Q. Okay. So with respect to cancer then, your**
 7 **view is the government doesn't want -- doesn't allow**
 8 **people to say that they have products that cure cancer?**

9 A. They have certain rules and they are the police,
 10 and you obey the rules.

11 **Q. Okay. Well, in your -- is it a laboratory? Is**
 12 **that what you have?**

13 A. Yes, that's exactly what it is.

14 **Q. In the laboratory do you also -- do you test**
 15 **drugs at all?**

16 A. We do test a lot of things.

17 And keep in mind, what's a drug in this country
 18 is usually not a drug in any other country. The
 19 United States is totally at odds with the rest of the
 20 world because I manufacture -- over half of my business
 21 goes overseas, and every country is different.

22 **Q. Well, in this country, what is -- what would --**
 23 **in your experience, what is considered a drug?**

24 A. Well, it's something -- a drug or a
 25 pharmaceutical, I mean, that's what the proper name

1 should be. You also use the word "drug" for illegal
 2 street drugs --

3 **Q. Right.**

4 A. -- so you have to make that -- but the claim is
 5 that it cures or helps to cure a disease, and that we
 6 just don't do, will not be involved in that. And if we
 7 see that one of our customers is doing it, we will
 8 advise them that I would stop doing this if I were you.

9 **Q. Well, then in terms of a drug or pharmaceutical**
 10 **and the testing of those, do you test those? Do you**
 11 **test drugs in your lab?**

12 A. We test to see if that chemical compound that is
 13 in that herb or that food is actually there and what the
 14 level is.

15 If you're going to say it in your documents,
 16 which they prepare their own labels from that, then they
 17 need to have that information.

18 **Q. And so you would provide them with a written**
 19 **statement --**

20 A. It has so much of this chemical compound in it,
 21 and we have certified that, usually done with a
 22 certificate of analysis, and we prepare the certificate
 23 of analysis.

24 Now, keep in mind all these -- no other country
 25 has nutraceuticals, only the USA, so in foreign

1 countries we have to submit the documents for a new drug
2 approval in their country according to their
3 regulations. They're not interested in ours.

4 As a matter of fact, you insult them to say that
5 they don't know what they're doing.

6 **Q. Well, have you ever conducted any controlled
7 studies at your --**

8 A. Not in a clinical -- I'm not a clinician. I
9 don't practice medicine. I don't practice any part of
10 healthcare itself. I'm interested in making the product
11 and trying to make sure that it's probably safe for its
12 intended use.

13 **Q. Okay. Are you involved in the labeling of the
14 products?**

15 A. Very seldom. And we prefer not to. I try to do
16 that as best I can for my wife's company, and sometimes
17 we will help to find a printer who can print the labels
18 and we try to go through the -- I'm very familiar with
19 Title 21 of the congressional Federal Register and I
20 have to know that and I generally know it better than
21 most of the people inspecting me because I've been at it
22 longer.

23 **Q. And you mentioned before you provide a
24 certification for the products you --**

25 A. The certificate of analysis, depending on what

1 can certify that it's there and we can certify as to all
2 the other physical characteristics.

3 **Q. Okay. Well, as I mentioned before, this is a
4 case against a company called Daniel Chapter One --**

5 A. Uh-huh.

6 **Q. -- correct?**

7 **Are you familiar with that company?**

8 A. No. Not until this came up.

9 **Q. Are you familiar with the owner of the company,
10 James Feijo?**

11 A. Never heard of him.

12 **Q. Or Patricia Feijo?**

13 A. No. I think they talked to me on the telephone
14 since this has come up.

15 **Q. Okay.**

16 A. That was my first time I ever heard of them.

17 **Q. Was there a reason specifically why you were
18 retained as an expert in this case?**

19 A. Not a lot of companies do this. And you wonder,
20 well, why do you do this, why don't you -- it's -- the
21 industry in this country has moved to the point some
22 years ago that the pharmaceutical industry and the
23 healthcare industry is pretty well dominated by the big
24 international conglomerates. The little guy is really
25 just not a player anymore.

1 each country requires.

2 **Q. Do you maintain those records?**

3 A. Yeah.

4 **Q. And how long do you maintain records for?**

5 A. You keep records forever.

6 **Q. Okay.**

7 A. You keep samples of every batch of every product
8 and every ingredient that you produce yourself because
9 we do that, we make some of the ingredients themselves,
10 and extraction is a perfect example. But those samples
11 are kept for six years because most of the dating we put
12 is five years.

13 Now, I know that dating is not required on a
14 nutraceutical in the United States, but it is in the
15 rest of the world, and nothing is sold only in the
16 United States anymore.

17 **Q. So dating, what does that refer to?**

18 A. You put a date, best before, and usually we use
19 five years. And then the Title 21 says whatever date
20 you put plus a year, and that's six years.

21 **Q. And so that's what you put on the certification
22 that you send to the -- to the --**

23 A. That it has been, we've done an analysis, the
24 active ingredient that we're suggesting you could put on
25 the label has been analyzed in our laboratory, and we

1 Well, if you're going to be a little guy, what
2 can you do. Well, when physicians began to ask for me
3 for -- they said, You know, we want vitamin C tablets.
4 I said, Why don't you send them to the health food
5 store, or even the pharmacy has a department that has
6 that. And the answer was: We want pharmaceutical
7 quality control in these types of products. We want to
8 know that it goes through a more rigorous manufacturing
9 and quality control and quality assurance.

10 Well, we were already making pharmaceuticals, so
11 we never really changed anything.

12 Now, this did not make us very competitive in
13 the nutraceutical field because we're competing against
14 companies that don't do that.

15 Interesting enough, since the FDA put in their
16 new GMPs, our business has shot up a thousand percent.

17 **Q. And what's a GMP?**

18 A. Good manufacturing practices.

19 **Q. Oh.**

20 A. These are the steps that are required to assure
21 the quality and that the product is made the way it
22 should be. And actually they call it now CGMPs,
23 current good manufacturing practices, because they do
24 change.

25 And I know we have to do certificates of free

1 sale for most of the countries, foreign countries, and
 2 that we have to have the agency that oversees our
 3 operation directly to certify that this product is
 4 freely sold throughout the United States and is approved
 5 to be sold and that the company has been inspected
 6 within the last year and found to be in compliance with
 7 all of the regulations, and we are.

8 And we have the TDH there, and every once in a
 9 while we see the FDA that kind of follows up, usually
 10 not on the whole inspection, just one or two questions
 11 the TDH was not experienced enough to know the answer
 12 to, and that happens quite often.

13 But we get those certificates. We've never been
 14 turned down on them. And they generally state that we
 15 are in significant compliance, which means we go beyond
 16 what most companies do.

17 **Q. And is that why you were retained as an expert**
 18 **in this case?**

19 A. I think so.

20 **Q. Okay.**

21 A. Because I do have knowledge of herbs. I do have
 22 knowledges of where you can find the references. I know
 23 they are widely published and very easily obtained.

24 **Q. Well, has your company ever created products for**
 25 **Daniel Chapter One?**

1 A. No. Not that I was aware of.

2 **Q. And what products of Daniel Chapter One are you**
 3 **familiar with?**

4 A. Well, since this has happened, I understand they
 5 have a product called the 7 Herb Formula, which I
 6 recognized because it's based on an old pharma known as
 7 essiac, which is four herbs that were used, the story
 8 is -- and I don't know whether it's true or not. Maybe
 9 this is an urban, you know, story.

10 But the story is a nurse in Canada -- I believe
 11 she was from Quebec, judging by the spelling of her
 12 name -- created these four herbs that she knew that the
 13 Indians living in that area or at least she said had
 14 used these herbs and that she recommended it for cancer.
 15 I was aware of that.

16 Now, does that mean I can't touch it because
 17 someone else misused it? No. It just means don't
 18 mention it for cancer. That's all.

19 And I was asked by a gentleman out of Dallas if
 20 I could make that product. He didn't know where to get
 21 the herbs or what proportions to use, though it's
 22 published. You just need to know where to look. And
 23 then he said okay. And I told him, I said, Well, here's
 24 where to get these herbs. I can even sell you little
 25 bags of it, you know, if that's what you want, and I can

1 put it together in the right proportions.

2 And then he said, Well, there's some other herbs
 3 could we add, and then we kind of -- he had suggestions
 4 of other herbs, and I suggested a few things that you
 5 might want to put with it, not saying what it could be
 6 used for but would that be synergistic, would that be a
 7 good combination if someone would strictly want it for
 8 the herbal purposes, and that's how they came up with
 9 the 7 Herb.

10 I never heard any more from him after that. And
 11 I've learned since then that his customer was Daniel,
 12 but I didn't know that until this came up.

13 **Q. So did you -- did he actually have an official**
 14 **account with you to create that --**

15 A. We had made a few products for him in the past,
 16 and he said, I'm going to ask you to do something a
 17 little different, can you tell me where to find these
 18 herbs and can you give me some direction on how much to
 19 use and if they're safe to use.

20 **Q. And I'm sorry. His name was?**

21 A. Bill Maclean.

22 **Q. And do you know -- was he a doctor?**

23 A. I don't think so. I think he called himself
 24 that, but as I started this whole thing, that's more
 25 respect than it is official title.

1 **Q. Okay.**

2 A. And you can call yourself a doctor.

3 **Q. Okay. Do you -- did he work for any specific**
 4 **company that you're aware of?**

5 A. He had his own company.

6 None of my customers work for me.

7 **Q. And you mentioned that you talked to the Feijos**
 8 **since you've been --**

9 A. One telephone call, and that's the first time
 10 I'd heard their name.

11 **Q. And had you discussed 7 Herb Formula?**

12 A. Not with them. You know, I put this together
 13 for Bill Maclean. I didn't know what he did with it.
 14 And we didn't -- after we did that once or twice, we
 15 never heard from him again on the subject.

16 **Q. So -- well, I guess the best thing we can do --**
 17 **in preparation for today, for example, did you look at**
 18 **any documents before you came in here today?**

19 A. Not much. As I told Mr. Turner from the start,
 20 I will not testify as to any of their marketing because
 21 I don't know anything about it and I'm -- that's not
 22 what I do. I make products. That's all.

23 **Q. You will not testify -- well, will you**
 24 **testify --**

25 A. As to the claims or counterclaims or -- I'm

1 just -- that's not what I do. I'm not -- I don't know
 2 about that and I don't want to know about that.
 3 **Q. So are you willing today to give an opinion**
 4 **about the claims that were made by the company?**
 5 A. No. I don't even want to see the claims.
 6 **Q. So -- excuse me. Off the record.**
 7 **(Discussion off the record.)**
 8 **(Recess)**
 9 BY MS. PAYNTER:
 10 **Q. Before we went off the record, I was asking you**
 11 **whether you had ever seen Daniel Chapter One's**
 12 **advertising; correct?**
 13 A. I saw it after this, after I was asked to
 14 testify. I saw their Internet site, and the only thing
 15 I looked at, what is the 7 Herb Formula. I need to know
 16 what herbs they're talking about.
 17 **Q. And are you aware that the 7 Herb Formula is**
 18 **recommended to be used with people --**
 19 A. I'm not aware of that.
 20 **Q. Can you hold on? Hold on.**
 21 A. I'm sorry.
 22 **Q. When you looked on the Web site, did you see**
 23 **there were statements about 7 Herb Formula being --**
 24 A. I made a --
 25 **Q. -- being used --**

1 questions about this and I was responding, they got on
 2 the line and introduced themselves. That's the first
 3 time I had ever heard of them.
 4 **Q. Well, did they mention to you that they were**
 5 **being prosecuted for making claims about cancer?**
 6 A. They didn't have to. Mr. Turner had already
 7 told me that.
 8 **Q. Okay. So are you prepared to talk about how**
 9 **these herbs may or may not benefit somebody who has**
 10 **cancer?**
 11 A. No. I'm willing to talk about what these herbs
 12 have been used for and what studies have been done,
 13 period.
 14 **Q. Okay. I'm going to have the court reporter mark**
 15 **the Federal Trade Commission's complaint against**
 16 **Daniel Chapter One, which I'm going to ask you some**
 17 **questions about 7 Herb Formula. Okay?**
 18 **So she's going to mark this for us.**
 19 **(Dews Deposition Exhibit Number 1, complaint,**
 20 **was marked for identification.)**
 21 THE WITNESS: Okay. I need to ask a question
 22 here. Are you asking me to study this form that you
 23 just got through --
 24 BY MS. PAYNTER:
 25 **Q. No. I'm not going to ask you to study it.**

1 **(Discussion off the record initiated by the**
 2 **court reporter.)**
 3 BY MS. PAYNTER:
 4 **Q. -- in connection with cancer treatment?**
 5 A. Because of my role in this whole process, I was
 6 very careful to make sure I need to know the names of
 7 the seven herbs, period. I will not look or make any
 8 determination of anything else. That's not what I'm
 9 hired to do.
 10 **Q. Well, with respect to your knowledge about**
 11 **herbs, are you familiar with the way herbs have been**
 12 **studied by scientifically or otherwise for the effects**
 13 **of the herbs, the chemicals in the herbs?**
 14 A. That's the question? Okay.
 15 Yes, I am familiar with what has been published
 16 on the effects of these herbs.
 17 **Q. Okay. So we'll talk about in that respect. Is**
 18 **that okay?**
 19 A. That's it.
 20 **Q. Okay. When -- you mentioned also that you had**
 21 **spoken to the Feijos after being --**
 22 A. They got on the --
 23 **Q. -- after being retained in this case.**
 24 A. Yeah. They -- one of the times that Mr. Turner
 25 or another attorney from his office was asking me

1 A. Okay.
 2 **Q. Okay?**
 3 **But we'll use it as a reference as we go, asking**
 4 **some questions about the herbs themselves.**
 5 A. Okay.
 6 **Q. Okay?**
 7 A. As I've said and I told Mr. Turner from the
 8 start, I will not testify as to the charges that the FTC
 9 has made nor as what your defenses, so that's your job.
 10 I'm only -- can testify as to what the herbs are and how
 11 they're used.
 12 **Q. Okay.**
 13 A. So therefore, I give this back to you. I refuse
 14 to read it because I think it has the charges that you
 15 made. If I wouldn't do it for him, I'm not going to do
 16 it for you either.
 17 **Q. Okay. But would you be willing just to look**
 18 **at -- you looked at the Web site already; right?**
 19 A. No. Only as to the herbs that are in the
 20 7 Herb Formula.
 21 **Q. So I'm going to show you a page that was taken**
 22 **from the Web site. You don't have to read the charges.**
 23 **You don't have to read the charges, but it does have the**
 24 **list of the herbs that are in here, and I wanted to go**
 25 **over some of the statements about the herbs because you**

41

43

1 are a specialist in the herbs and what they do.
 2 Correct?
 3 A. I know what the herbs are and I have them
 4 memorized, so ask me the herb, and I'll tell you what's
 5 been published on it. I don't have to read that.
 6 Q. Well, I would just like you to take a look at it
 7 with -- and it's not -- you know, it's not making you
 8 liable for anything, but you have been put forward as an
 9 expert on the herbs, and it is appropriate for me to
 10 show you a reference that we can use here in this
 11 deposition.
 12 A. I in my opinion --
 13 Q. So if you want to talk to Mr. Turner about
 14 whether you want to continue here today, that's
 15 between -- we're happy to step out and allow you to
 16 discuss that.
 17 A. Okay. I'm going to tell you I've been around
 18 this long enough, I know what -- how these things go.
 19 I know what the herbs are. I know what they've
 20 been recommended before officially. I do not know what
 21 they have -- what you allege they said.
 22 For me to read that would be sheer speculation
 23 on my part. I'm not an expert in marketing, nor am I an
 24 expert on how the rules are promulgated by the
 25 Federal Trade Commission, and so therefore, I'm not

1 A. Right.
 2 Q. Okay?
 3 So can you just please tell me what are the
 4 seven herbs in 7 Herb Formula.
 5 A. Yeah. Let's just go with the names first.
 6 Q. Yes, please.
 7 A. Sorrel is one. Sheep sorrel I think is the
 8 common name.
 9 Slippery elm.
 10 Burdock root.
 11 That's three.
 12 Rhubarb root.
 13 That's four and that's the essiac. To that
 14 they have added Siberian ginseng, watercress, and
 15 cat's claw.
 16 See, I do have them.
 17 Q. Yes. You got them right.
 18 So why don't we talk about first burdock root.
 19 What is burdock root?
 20 A. Burdock root used in sufficient quantities can
 21 give a laxative action, although used in less it would
 22 not. It's used for inflammation.
 23 As I recall, I think the German monograph makes
 24 the statement "used for purifying the blood." Well, I
 25 suppose that would be true in Germany but not in this

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44

1 interested. I'm not going to read what you have said
 2 you charged them with.
 3 Q. All right. Well, let's see if we can do it
 4 without the exhibit. Okay?
 5 A. Right.
 6 Q. We'll make our best effort.
 7 Well, first of all, you said you are aware of
 8 what's in 7 Herb Formula.
 9 Can you tell me what's in it?
 10 A. Yeah. I think -- and I may not get these in the
 11 correct order, if there is an order -- there is one
 12 called sorrel. And this is a -- it's a member of the
 13 Rumex family. We refer to it as dock or yellow dock.
 14 Herbs have a lot of different names, even
 15 different plant genus names from one country to
 16 another.
 17 And it's generally used for inflammation. It
 18 does help to reduce inflammation. It does have a very
 19 mild laxative action if you take enough of it. If you
 20 don't take enough of it, it doesn't have any such
 21 action. And mainly that's what it's used for.
 22 Now, this -- do you want me to take them one at
 23 a time?
 24 Q. Well, first I'm asking you to tell me what's in
 25 7 Herb.

1 country, although I think it's in the PDR also, the
 2 herbal PDR.
 3 So those are the general uses for it, to reduce
 4 inflammation and that sort of thing.
 5 Q. Do you know whether burdock root has ever been
 6 used in the treatment of cancer?
 7 A. I'm sure it has and I'm sure it was used
 8 informally. It could have been used by a medical
 9 practitioner, but I don't know that they would be too
 10 verbal about the fact.
 11 Q. Are you aware of any studies that have ever been
 12 done on burdock root and its treatment of cancer?
 13 A. I don't recall seeing cancer mentioned
 14 specifically, only the general properties.
 15 Q. And sheep sorrel you mentioned.
 16 A. Uh-huh.
 17 Q. Can you tell me again what sheep sorrel is?
 18 A. It's in the Rumex family. It's also referred to
 19 as dock. It's also antiinflammatory. It helps as a
 20 diuretic to get rid of excess moisture content.
 21 You could probably make the stretch to say,
 22 well, with cancer don't you have excess fluids. I
 23 suppose, but I've never seen it specifically stated that
 24 way.
 25 Q. Well, have you ever seen any studies done on

1 sheep sorrel --

2 A. That it reduces inflammation.
3 I'm sorry.

4 **Q. -- studies of sheep sorrel in connection with
5 the treatment of cancer?**

6 A. It -- only that it reduces inflammation.

7 **Q. And so can you say what kind of studies have you
8 seen in connection with sheep sorrel?**

9 A. Yes. It's in the PDR for herbal drugs. It's in
10 the German monographs. It's in quite a few books that
11 are published for physicians' references.

12 Physicians are very interested in this sort of
13 subject because it's become very popular, so their
14 patients are asking for this.

15 It's in the -- I believe it's in the
16 Chinese Medica which is the official, and so -- and in
17 the British Pharmacopoeia it's listed.

18 **Q. Are you familiar with whether sheep sorrel has
19 ever been used in folk -- let's say, as a folk remedy
20 for cancer?**

21 A. Yeah. Now, there, any of these seven herbs
22 could have been used folk-wise for that, but not
23 officially, not bluntly.

24 **Q. Well, when you say "not officially," you mean in
25 terms of the scientific studies done?**

1 A. Right. Generally they speak in terms -- anyone
2 who's a health practitioner, whether they're a physician
3 or even a naturopath, they're well aware that certainly
4 in many conditions which might be considered to be
5 diseases there are symptoms that -- such as excess fluid
6 retention in soft tissue, that some of these things will
7 reduce the inflammation in soft tissue, but they're not
8 going to say it helps with cancer, other than folk
9 medicine.

10 **Q. Okay.**

11 **Okay. The other -- the other component --
12 another component is Siberian ginseng or ginseng.**

13 A. Uh-huh.

14 **Q. Can you describe what that is?**

15 A. Sure. Sure. It's -- I'm trying to remember
16 the plant genus name, but anyway, it's --
17 Eleutherococcus. It is used mainly to -- for energy.
18 It's an energizing -- it contains chemicals that tend
19 to energize. But I've never seen it stated that it
20 helps with cancer, just that it energizes.

21 Certainly if you're on chemotherapy or
22 something of that, your energy levels are pretty low,
23 so it might be beneficial. It certainly won't hurt.
24 It might help.

25 **Q. Are you familiar with the statement that**

1 **Siberian ginseng produces saponins or --**

2 A. Yeah. The saponins are plant hormones,
3 phytohormones, and almost any food has these things in
4 it, and they have effects upon the body depending upon
5 which one you're using.

6 **Q. Would they have effects on tumors?**

7 A. Might. Certainly a tumor would require that a
8 lot of moisture go into that area and maybe more than
9 the surrounding tissue. Therefore, if you were to
10 reduce the moisture content, it might, it could be
11 helpful, but I've never seen it stated exactly that
12 way.

13 **Q. Have you ever seen any studies that have found
14 that Siberian ginseng reduces tumors?**

15 A. No. Just that it reduces in -- or it gives a
16 person more energy and which I think is mainly what it's
17 used for.

18 Most of these herbs have a lot of different uses
19 that have been used. Some of them were, you know, like
20 you say, native or traditional and some were studies,
21 and they tend to get kind of mixed up.

22 **Q. Okay. Another component is cat's claw, as you
23 mentioned.**

24 A. Uh-huh.

25 **Q. And what is cat's claw?**

1 A. Cat's claw's plant genus name is -- oh, what is
2 that? Tomentosa is the second name. I can't think of
3 the first name now. I didn't get enough coffee this
4 morning.

5 **Q. Okay.**

6 A. But anyway, it's used in South America. It's
7 supposed to support the immune system.

8 **Q. Have you seen studies that have found cat's --**

9 A. The PDR says so and also give the bibliography
10 of the studies.

11 **Q. Have you ever seen any of those studies?**

12 A. Yes.

13 **Q. And do you know what kind of studies those were?
14 Were they double-blind studies?**

15 A. Most of them were more single-blind, although
16 some were double-blind, and I'd have to go back and look
17 at it to see exactly which ones were and which ones
18 weren't.

19 But yes, it does seem to have an effect upon
20 supporting the immune system.

21 Could it be used by itself? No. Of course not.

22 Would it be helpful? It might would.

23 **Q. Well, when you say "could it be used by itself,"
24 you mean to treat cancer?**

25 A. For any particular condition, and I'm not

1 singling out cancer.
 2 **Q. Why do you say it couldn't be used by itself?**
 3 A. If the only thing it's doing is supporting the
 4 immune system, the word "support" itself means it has to
 5 work with something else, so that right there would
 6 negate such a claim.
 7 **Q. Another component is slippery elm.**
 8 A. Slippery elm again helps -- it's emollient; that
 9 is, it helps tissue. It helps to get the moisture,
 10 excess moisture, down. It's very soothing to the lower
 11 tract.
 12 It's very high in sugars, and sugars are very
 13 good. And there's quite a few sugars; there's not just
 14 one. And that's -- it's used a lot in cough syrups
 15 because it helps to get the excess fluids out, and so
 16 it -- that's its purpose.
 17 **Q. Have you ever seen any studies showing that it**
 18 **can help with, for example, stomach cancer?**
 19 A. No. I've never seen that specifically in those
 20 words.
 21 **Q. Well, in other words?**
 22 A. Well, if it reduces inflammation of the
 23 stomach, whatever the condition is, it might be
 24 helpful.
 25 **Q. But as far as you're aware, you've never seen**

1 you know.
 2 But they talk about the upper burner. Well,
 3 that's your sinuses and your lungs. The lower burner is
 4 your stomach, you know. But on first when you read the
 5 names, you know, that -- what are they talking about.
 6 Then as you dig into it, oh.
 7 And this is the sort of thing -- maybe this is
 8 why I ended up doing what I do. I love to study and
 9 learn things.
 10 **Q. Well, as we go on, the last component is turkey**
 11 **rhubarb root and --**
 12 A. Rhubarb used in sufficient quantities has a
 13 laxative action. And if it's low quantities, it
 14 wouldn't, enough, it would. It depends on the person.
 15 It depends on the person's psyche at the time that
 16 they -- or physiological makeup at the time that they
 17 use it, but it does -- and it is listed also as a blood
 18 purifier, and I guess if you get a mild laxative action,
 19 that could be said to be one way to do it.
 20 **Q. One way to do what?**
 21 A. If you remove excess feces from your intestinal
 22 tract, that probably would help to purify your system.
 23 **Q. Okay. Well, have you ever seen any studies of**
 24 **rhubarb root as it relates to treating cancer?**
 25 A. Only in a native, you know, and in traditional.

1 **any actual scientific studies done that would show that**
 2 **it's helpful in any disease.**
 3 A. No. Helpful maybe, but curing, no.
 4 **Q. Okay. Thank you for that clarification.**
 5 **Another component is watercress, and what would**
 6 **that be used for?**
 7 A. Watercress is the flower nasturtium and so of
 8 the mustard family, and it's used mainly to reduce
 9 inflammation.
 10 **Q. Are there any studies, scientific studies**
 11 **conducted on --**
 12 A. There are studies on all of these but
 13 not usually pertaining to any particular disease but
 14 only to their overall effect upon the body.
 15 **Q. And in your business you have to be familiar**
 16 **with those studies?**
 17 A. Oh, yeah. The first thing I've got to do.
 18 It was real interesting when we started doing
 19 the Chinese herbs because they have a totally different
 20 way of looking at healthcare particularly, and it
 21 sounded so foreign when the first thing I had to
 22 understand is how does that relate to western medicine.
 23 And as I got into it, the only difference was the
 24 terminology or most of the differences was in the
 25 terminology. There's some things that are different,

1 **Q. Traditional medicine?**
 2 A. Could you call it medicine?
 3 **Q. No.**
 4 **So when you say in the native folklore -- is**
 5 **that what you're saying?**
 6 A. Yeah.
 7 **Q. But in terms of the scientific studies, have you**
 8 **ever seen any on rhubarb root?**
 9 A. Not really.
 10 **Q. Okay.**
 11 A. The only thing it could mention is purifying,
 12 but it wouldn't specifically say for any disease.
 13 **Q. So what would be your opinion if a company were**
 14 **to make a claim that all of these herbs or in**
 15 **combination actually could help to treat cancer? Would**
 16 **you agree with that statement?**
 17 A. Well, certainly if someone were to ask me that,
 18 number one, I don't advise on that subject other than
 19 maybe my wife, but I would say, If I were you, I
 20 wouldn't go there.
 21 That's just like you can get into your car and
 22 you can drive from here to another city and drive a
 23 hundred miles an hour and not get caught and not get a
 24 ticket, but does that change the law. If I were you, I
 25 wouldn't do that. You're just asking for a problem.

1 Q. Well, is it your view that there's any -- is
2 there any truth in the statement that these herbs taken
3 together could treat cancer?

4 A. Well, remember, you're talking about officially
5 or in the opinion of the person --

6 Q. Just your opinion, not officially.

7 A. In my opinion, I don't know that it would rise
8 to that level, but I don't know that it would be
9 detrimental to use it.

10 Q. Okay. And just for the record, are you familiar
11 with the product Bio*Shark?

12 A. Never heard of it.

13 But it's the typical kind of name they usually
14 would use for chondroitin -- let's see if I can spell
15 it. C-H-O-N-D-R-O-I-T-I-N -- sulfate, just like the
16 mineral, S-U-L-F-A-T-E.

17 This is a -- it's a very complex carbohydrate
18 and it's actually a protein-carbohydrate complex. It
19 exists in many things, but it's particularly high in
20 shark cartilage. And it does help your body to produce
21 hyaluronic acid.

22 And studies have shown that it does help to
23 lubricate the joints, and certainly being 73 years old,
24 I have a need to lubricate my joints. I use it. It
25 works. It's not a drug. It's not approved as a cure

1 sermons.

2 Q. Well, let's see.

3 Well, are you familiar with the product GDU?

4 A. No. I don't have a clue what that is.

5 Q. Are you familiar with the product called
6 BioMixx?

7 A. No.

8 Q. When you went back to look at the Web site, did
9 you -- to look at the herbs in 7 Herb Formula, did you
10 get any information about the quantities of each
11 component within it?

12 A. I don't recall that being in there. And since I
13 had put the seven herbs together for Mr. Maclean, I knew
14 what the quantities are.

15 Q. Well, what are the quantities?

16 A. Oh, I'd have to go back and look now. I don't
17 have that in front of me, but I'm guessing that he
18 continued to use the same proportions as they did
19 before, which -- I also told him where to find the
20 references. Hey, look them up for yourself.

21 Q. So did you have -- do you have records regarding
22 the transaction with Dr. Maclean?

23 A. It's so far back, I'd have to dig to find them,
24 but I probably could. I don't know. I really -- having
25 been in business 35 years, I have a lot of records.

1 for anything, but then it's not curing, is it? It's not
2 getting at the cause of the arthritis; it's helping with
3 the results of it.

4 Q. Well, are you familiar with the use of shark
5 cartilage in the treatment of cancer?

6 A. No. I've heard that, but I've never really seen
7 any data.

8 Now, there may be some out there, but generally
9 when I see those, a mention of a disease, particularly
10 cancer or weight loss, I shy away with whatever it's
11 saying about it.

12 Q. And why is that?

13 A. Because I know it's just going to get you in
14 trouble.

15 Q. Okay. Well, what about in terms of the truth of
16 the ability to, you know, affect cancer?

17 A. I think at some point, whether you're doing what
18 I do in making the products or doing what they're doing
19 in marketing the products, what are you here for? Are
20 you here to preach a sermon of what you believe? Are
21 you here to help the public? Are you here to make a
22 living?

23 I think number one it would be to make a
24 living, number two and almost as close is helping the
25 public, but that doesn't leave any room for preaching

1 I've run out of -- I have to build buildings to store
2 them, and a lot of them I just throw away.

3 Q. Do you remember if Dr. Maclean told you what the
4 7 Herb was going to be used for?

5 A. No. And I don't want to know.

6 Q. Okay.

7 A. That's not what I do.

8 Q. Did he ever come back to you and say, Can you
9 just test the 7 Herb to make sure I have the components
10 correct?

11 A. As I said, he said -- after I told him where to
12 get the herbs and where to find the references on them
13 since he didn't want me to make the product, I made up a
14 few small but just the herbs in the right proportions in
15 little bags, and I said, if you'll take this and put it
16 in water and heat the water and brew a tea, then you can
17 make the product, but know, if I were you, I'd add a
18 preservative to it, you don't want this stuff mildewing
19 on you, and advised him.

20 But if he ever tried to tell me any disease
21 state, I would shut him up in a New York minute and say,
22 I don't want to hear it. I don't go there.

23 Q. Well, you advised him to make it as a tea; is
24 that right?

25 A. Oh, yeah.

1 **Q. And why as a tea?**
 2 A. Because he said he wanted to make a liquid. A
 3 liquid is a tea. It depends on what you call it.
 4 **Q. So do you know, was he providing it as an actual**
 5 **like a powder substance or actual tea bags?**
 6 A. It's my understanding that he was brewing a
 7 liquid of some sort.
 8 I think he wanted to test the herbs in those
 9 combinations to see if it achieved the result that he
 10 was trying to get, and as I said, I don't want to know
 11 what results you're trying to get.
 12 **Q. Well, could you use the combination of herbs as**
 13 **just something to put into like a drink?**
 14 A. Uh-huh, you could.
 15 **Q. Does it have to be --**
 16 A. It's just a food. It doesn't have to be a
 17 drug.
 18 **Q. Does it have to be heated to get any effects?**
 19 A. Well, if you want to get the chemicals out of
 20 the herb -- remember, they're bound up there with the
 21 fiber and other naturally occurring compounds. If you
 22 want to -- you know, that's the first thing we have to
 23 do is, when we look at the herb, what's in there that
 24 we're trying to get out and what is it soluble in it.
 25 That's how you separate it.

1 A. I've never seen any, and if anyone tried to
 2 present them to me, I'd do the same thing I did here a
 3 while ago. I really don't think it's a good idea for me
 4 to look at that.
 5 **Q. And what about if there are any studies on**
 6 **whether it prevents cancer?**
 7 A. I guess a lot of things could, but I don't know
 8 of any studies.
 9 **Q. And are you aware of whether there are any**
 10 **studies showing that 7 Herb Formula inhibits tumor**
 11 **formation?**
 12 A. No. I had never heard of the 7 Herb Formula
 13 until this, this came up, so I really haven't had time
 14 to delve into it. And besides that, that's not what I
 15 do. I'm busy doing what I do.
 16 **Q. Well, with regard to the herbs in**
 17 **7 Herb Formula, are you familiar with whether there are**
 18 **any studies that say there's anticancer activity in any**
 19 **of those components?**
 20 A. No studies, no. And you know, there might be
 21 some mention it might. Some physicians might have
 22 indicated it. I'm not sure whether it was a
 23 double-blind study or what because I really didn't delve
 24 into it.
 25 **Q. And then are you familiar with the studies that**

1 Fiber is not soluble in water, not even hot
 2 water.
 3 **Q. Okay.**
 4 A. That's pharmacology.
 5 **Q. Besides looking at the Web site to go over the**
 6 **seven herbs in here, did you read anything else in**
 7 **preparation for today?**
 8 A. I think you asked that and I've answered it. I
 9 made a point, I only want to see the herbs. I want to
 10 make sure it's the same herbs that I remember.
 11 **Q. Okay. But I think in your report did you go**
 12 **back -- you mentioned the German monographs and**
 13 **other --**
 14 A. I look at each herb, yeah, what's the herb,
 15 what are the different references that have been
 16 published on it, what do they use it for and what it's
 17 been indicated for officially and unofficially, at what
 18 levels. Again, all that information is readily
 19 available.
 20 **Q. So can I ask you, to your knowledge, are there**
 21 **any controlled studies regarding 7 Herb Formula and its**
 22 **effectiveness in treating cancer?**
 23 A. I've never seen any.
 24 **Q. Have you ever seen any studies that would say**
 25 **that 7 Herb Formula is effective in curing cancer?**

1 **are done to get drugs to market?**
 2 A. Oh, yeah. Yeah. I've done it.
 3 **Q. Can you just describe generally --**
 4 A. It varies from country to country, but generally
 5 you get a medical school at one of the universities, and
 6 I've participated in a lot of them.
 7 I did the only one done on DHEA as a matter of a
 8 fact. I did that for Southwestern Medical. And we did
 9 the study.
 10 And it has to be controlled. You have to set
 11 it up to where the physicians don't know which is
 12 which. You've got a placebo. Sometimes there's a
 13 triple blind where you might have three things. One of
 14 them will be the actual chemical itself. At that point
 15 it's not a drug because it hasn't gone through the
 16 studies. It's in the process yet. And then you make
 17 up a placebo which looks exactly like it. And the
 18 only -- and you have to label it for a study only and
 19 not to be sold.
 20 And the only distinction between the placebo and
 21 the real thing is a lot number. And the only person who
 22 can know which is which within the physicians' side or
 23 the university or the physicians is one secretary. We
 24 prefer not to have the physicians know because we don't
 25 want them to begin to see results that are not really

61

1 there because they want to see the results and which is
2 the placebo.

3 In my company, I don't know. I have one
4 secretary that knows which is which that keeps up with
5 that.

6 And then you compile the data that you got from
7 the study, depending on how many respondents, how many
8 people were in the study, and you analyze that data and
9 then you say, well, this many under this lot number this
10 is the results we saw and under this lot number this is
11 the results you saw. Then we can say okay. Now, are
12 you through, there's no more data coming? No. That's
13 it. Okay. Now we can determine which is which and
14 compile the results.

15 **Q. And your company has participated in studies
16 like that?**

17 A. Oh, yeah. Yeah.

18 **Q. In what kind of studies?**

19 A. We made the active component. We made the
20 placebo. We were asked to do this. We did it. There's
21 not a lot of companies that do what I do.

22 **Q. Okay. And what kind of -- you mentioned DHEA
23 was --**

24 A. Dehydroepiandrosterone. It's one of those
25 phytohormones. It's -- it's a precursor to the anabolic

62

1 hormones. It could be any one of them.

2 And that's -- they say, Well, boy, that's the
3 latest thing out. I said, That's old hat. Good Lord, I
4 did that study twenty-some-odd years ago.

5 You don't know what it's going to turn into. It
6 depends on how your body handles it.

7 Understand something, which is a misconception
8 everybody has, including the government, no vitamin, no
9 mineral, no drug, none of them do anything by
10 themselves. Your body uses that to perform certain
11 functions, mixes that or combines it with or metabolizes
12 it with something else, and that has an effect that
13 leads to a structure/function claim.

14 So getting the idea of, oh, well, yeah, this
15 drug and it does -- no, it doesn't. It helps your body
16 to do it. A drug does that and so does a nutraceutical.
17 The difference is, a drug you can make a disease-curing
18 claim, a nutraceutical you can't.

19 **Q. 7 Herb Formula, is that a nutraceutical?**

20 A. Oh, yeah. It would be classified as such, if
21 you kept all your labeling and all your advertising
22 within line.

23 **Q. And has your company ever done any studies --
24 you mentioned the double-blind studies -- with regard to
25 cancer drugs have you been involved?**

63

1 A. No. We haven't been asked to do that. We
2 don't do anything unless we're asked. And usually it's
3 the university that's doing the study. We're just
4 supplying the necessary materials to do it with and the
5 control.

6 **Q. And in terms --**

7 A. And I have to fight with the physicians
8 sometimes. I'm not going to tell you which is which.

9 **Q. Well, when you reach -- before you reach the
10 stage of giving actual drugs, what -- are you familiar
11 with the stages that come before that, you know, the
12 phase one, phase two trials?**

13 A. It could run through as many as four phases and
14 which is why our healthcare is so high, and so you see
15 why people are turning to nutraceuticals, and a lot of
16 them are old pharmaceuticals that are no longer
17 pharmaceuticals.

18 **Q. And in terms of phase one/phase two animal
19 studies, are you -- is it your opinion that findings in
20 animal studies can be extrapolated to --**

21 A. In this country --

22 **Q. -- to humans?**

23 A. Oh, I'm sorry. I know the answer and I
24 apologize.

25 **Q. Okay.**

64

1 A. In this country, animal studies are no longer
2 the end usable result. You tend to go to human studies.
3 You might start with animal studies. You want to see,
4 well, you know, looking at this chemical structure and a
5 potential for harm -- and that's the study of
6 pharmacology. And you see why I can't get involved with
7 too many things, because this is difficult enough in
8 itself.

9 **Q. Right.**

10 A. -- looking at that, I think there's a potential
11 here for harm.

12 Well, how much should I use? Well, we don't
13 know yet, do we?

14 So let's try it on animals first. We can begin
15 to get some feedback of if it's harmful and what levels
16 to use. If we kill the animal, we know that's too much.
17 If we get no results, that's too little.

18 So we begin to zero in on what is safe for an
19 animal. Now, with that data, we can take that and see
20 whether we want to go to phase two or phase three or
21 whatever phase, because you may have several animal
22 studies, and to see, well, now let's try it on humans.
23 You know, we have a pretty good idea of what's too much,
24 what's too little, and the fact that it's safe, it
25 appears to be safe up to this point, and now we can

1 begin -- so by the time the humans actually get it,
2 we've already done that safety.

3 **Q. Okay. And so that now it's not proper to take**
4 **results from animal studies to say that it works in**
5 **humans the --**

6 A. As a rule, that's not done -- in other countries
7 it's still done -- because a funny thing has occurred
8 here. People will spend whatever for their health.
9 They'll go in debt, they'll sell everything they've got
10 to stay alive a little bit longer.

11 At what point does the cost override the
12 benefit. And that's a tough call. I'm not saying that
13 anybody is right in this. It's a tough call. Other
14 countries say the main thing is for the health of the
15 public. In this country, well, I'm not saying it's
16 right or wrong. I'm saying that's the way it is.

17 **Q. Well, in terms of your knowledge of herbs, are**
18 **you familiar with the -- with turmeric?**

19 A. Yes.

20 **Q. Or which is -- what's the active component in**
21 **that?**

22 A. The active chemical is curcumin.

23 **Q. Yes.**

24 A. Curcumin is very good at reducing inflammation,
25 very, very good, and that's why the Indians put so much

1 A. Yes. There are quite a few studies. It does
2 reduce inflammation.

3 If someone were really doing a study or if I was
4 involved in a study and someone says, Well, we want to
5 do a study on curing cancer, I'll say, Well, then count
6 me out. Because I think you have to start with you're
7 trying to work upon the symptoms of the disease. We're
8 not trying to cure the disease by working on a symptom
9 of the disease. There's a big difference.

10 So if you want to do this study on curcumin to
11 see if it does indeed reduce inflammation and to what
12 degree and at what level can you get too much, if any,
13 and at what level is too low, well, I talked about this
14 a while ago, then count me in, but when you start trying
15 to cure a disease when you haven't even figured out how
16 to do anything about the symptom, I know I'm dealing
17 with a bunch of amateurs.

18 MS. PAYNTER: Okay. Again, I'm just going to
19 step out one second. I'll be right back. We're almost
20 finished I think.

21 (Recess)

22 MS. PAYNTER: So I'm going to withdraw Exhibit
23 Number 1 --

24 THE WITNESS: Okay.

25 MS. PAYNTER: -- and I would like to make

1 of it in all their foods. It's also why it's a main
2 thing used in allopathic medicine. It does reduce
3 inflammation.

4 Now, can you say that reducing inflammation is a
5 cure for any particular disease? No. But could you say
6 that it might be helpful? Yeah, you could probably make
7 that statement.

8 **Q. And are there studies that have shown that**
9 **curcumin is helpful?**

10 A. Yeah. It is -- of all the -- and by the way, if
11 you think that all of pharmaceuticals -- and I'm talking
12 about prescription -- are not herbs, you're wrong. A
13 lot of them are, and boy, I mean there's a list a mile
14 long.

15 And you know, the point is, you're interested in
16 a certain chemical compound, and where you get it really
17 doesn't matter as long as you've got it. You can make
18 it synthetically. You can find it in plants. These
19 plants develop these compounds.

20 So yes, it has effect. Generally when we look
21 at that, we're not interesting in curing cancer, we're
22 interested in reducing inflammation. There's a
23 distinction.

24 **Q. Well, with curcumin, have you seen actual**
25 **studies on humans using curcumin?**

1 Exhibit Number 1 Mr. Dews' expert report.

2 (Dews Deposition Exhibit Number 1, Report of
3 Expert Witness Jim Dews, was marked for
4 identification.)

5 BY MS. PAYNTER:

6 **Q. So, Mr. Dews, I'm handing you Exhibit Number 1,**
7 **which is a copy of your expert report.**

8 A. Let me get my glasses.

9 Here we go. Let's see what it is.

10 Yeah, this is -- this is -- was answering
11 questions which they asked me over the telephone.

12 **Q. Okay.**

13 A. Yeah.

14 **Q. If you can go to page 7, please.**

15 A. Okay.

16 Okay.

17 **Q. And I just wanted to ask you questions just**
18 **regarding some things that are on here.**

19 It says you're being compensated \$35.00 per
20 hour?

21 A. Yes. Uh-huh.

22 **Q. Or 280 per day plus expenses; correct?**

23 A. Right.

24 **Q. And in section III it says "Materials**
25 **Considered."**

69

1 **Do you see that?**
 2 A. Okay. Section --
 3 **Q. On page 7?**
 4 A. On page 7?
 5 **Q. Yes.**
 6 A. I don't see that.
 7 **Q. Do you see at the bottom?**
 8 A. Oh, this. I'm looking at the wrong number.
 9 **Q. Page 7, please.**
 10 A. Sorry.
 11 **Q. That's okay.**
 12 MR. TURNER: It's I think here (indicating).
 13 THE WITNESS: Now we got it. I'll keep those in
 14 order. Yeah. Okay.
 15 BY MS. PAYNTER:
 16 **Q. And it says "Materials Considered."**
 17 **Do you see that?**
 18 A. Yes. Uh-huh.
 19 **Q. And it says that you reviewed the German**
 20 **monographs on herbs --**
 21 A. Right.
 22 **Q. -- in the 7 Herb Formula.**
 23 A. Yeah.
 24 **Q. And what is the German monographs on herbs?**
 25 A. Okay. The German government -- herbal medicine

70

1 is -- remained official there even when it stopped being
 2 here. And it's, according to the German government or
 3 their variation of the FDA, what can be used by a
 4 practitioner and what claims can be made for it. And
 5 that's -- those are the official laws in that country
 6 for using these types of products. The indications are
 7 spelled out.
 8 **Q. In reviewing the herbs in 7 Herb Formula as**
 9 **identified in the German monographs, were there any**
 10 **indications for use in cancer treatment?**
 11 A. I don't -- I don't -- generally speaking, in
 12 most countries that use herbal medicine, you just don't
 13 see that kind of claim. You see it reduces
 14 inflammation. It helps to purify the blood, you see
 15 that. You'll see -- but they don't mention a disease as
 16 a rule.
 17 **Q. Would it --**
 18 A. More the symptoms.
 19 **Q. So for example, they might say that one of those**
 20 **components helps reduce tumors?**
 21 A. It helps reduce inflammation.
 22 **Q. Okay. The next item says "Herbal Drugs and**
 23 **Phytopharmaceuticals."**
 24 **Do you see that one?**
 25 A. Yeah. And that really is the same. The German

71

1 monographs are published in that book. And the reason
 2 why someone had to do that is because in Germany they
 3 speak and read German.
 4 **Q. Okay.**
 5 A. In the United -- it is published -- it was
 6 published in German and then republished in English so
 7 the rest of the world could read what they're saying.
 8 **Q. Okay. The next item is British Pharmacopoeia,**
 9 **and you have a notation here, "Burdock root is**
 10 **recognized as a drug if you're in England."**
 11 A. Right. And there are quite a few of the herbs
 12 in the seven herbs that are.
 13 And the official listing of the
 14 British Pharmacopoeia is the Martindale. It's not the
 15 same Martindale you attorneys use. And that is the
 16 British Pharmacopoeia, and it's published by a
 17 publishing company but in connection with the British
 18 government. And it lists -- there's a lot of herbs
 19 listed in there and indications and uses and
 20 contraindications and how a physician would use it.
 21 **Q. And again, it would be in connection with saying**
 22 **treats inflammation or supports immune system?**
 23 A. Right. As a rule, that's what you do. You --
 24 and a physician -- you're not going to go to that
 25 physician and he's going to pull out one pill and here,

72

1 take this pill and it will cure your disease. He has to
 2 use all of the tools at his disposal.
 3 How am I going to go about alleviating your
 4 symptoms? Well, reducing the inflammation is certainly
 5 one of the things that you would do, but it doesn't cure
 6 the disease by itself.
 7 **Q. Okay. Well, in the British Pharmacopoeia, do**
 8 **you recall all of the herbs are listed in there?**
 9 A. Most of them are listed. There are a few that
 10 are maybe not as popular in some countries, and so they
 11 tend to get -- not make it.
 12 **Q. Okay.**
 13 A. The next -- oh, excuse me. Go ahead.
 14 **Q. The next one then, the USP or the**
 15 **United States Pharmacopoeia.**
 16 A. Right. That's everything that's officially a
 17 drug. And of course to be officially a drug you have to
 18 treat a disease, and certainly since we don't do that in
 19 this country with herbs, they're not listed as a drug,
 20 as a cure for any specific disease.
 21 **Q. So the components in 7 Herb are not listed in**
 22 **number 4; is that what you're saying?**
 23 A. Right. It's just I need to look at that to make
 24 sure they're not listed.
 25 **Q. I see.**

1 Okay. And then number 5, the Complementary and
2 Alternative Physician's Guide, is that an American
3 publication?

4 A. It's American. It's published in America for
5 American physicians.

6 And a lot of physicians are very much interested
7 in this subject now because their patients are demanding
8 it and they see some results.

9 So therefore, they needed a guide, and so a lot
10 of guides began to be published, and this was one of
11 them. This is a physician's handbook.

12 A medical doctor who says, Well, my patient came
13 in and wanted burdock root. I want to learn all about
14 it. If you look in that reference, it will tell you
15 everything about that herb, every study that's been done
16 on it and exactly what it's indicated for and how to use
17 it and when not to use it.

18 Q. Well, as you say that, in terms of the seven
19 herbs in 7 Herb Formula, are you aware of whether they
20 counteract any pharmaceuticals?

21 A. Not aware of any looking at what I can learn
22 about them. I don't see any problem. As I've repeated,
23 it can't hurt; it might help.

24 Q. Okay. The next thing you looked at were the
25 Physicians' Desk Reference?

1 that's ridiculous.

2 Q. Oh, okay.

3 A. And the only reason why someone couldn't find it
4 is they never bothered to look.

5 Q. Okay. Okay.

6 A. Of course I guess you would have to ask, well,
7 what are you trying to find.

8 Q. That's true.

9 A. Are we through with that one?

10 Q. Yes. I think we're through with this. Let me
11 just make sure.

12 A. Okay.

13 Q. And I don't recall -- we were talking about
14 Dr. Maclean before.

15 Do you recall what the name of his company is?

16 A. You know, I don't now. It's been a long time,
17 and he's someone that just suddenly appeared and
18 suddenly disappeared and I never heard from him again.
19 A lot of them do that.

20 Q. Okay.

21 A. They get ahold of my name somehow and say, I
22 heard that you know something about this and I need some
23 help.

24 Q. Did Dr. Maclean contact you in connection with
25 this case?

1 A. Uh-huh.

2 Q. And what publication is that?

3 A. That's the Physicians' Desk Reference. It is
4 published by Thomson Publishing but with -- under -- in
5 control with, in relation with the government that they
6 do go through there and check everything to make sure
7 that there's no statements made that our regulatory
8 agencies would have a problem with.

9 And there is a PDR for herbal drugs and again,
10 just like the one above it, the Complementary and
11 Alternative Physician's Guide, everything about it is
12 listed, the active chemical that you're looking for,
13 what the indications are, what the contraindications
14 are, everything, and including the bibliography where
15 you can look up the studies that have been done on it.

16 Q. Okay. Now --

17 A. And all seven herbs are in the PDR and one of
18 them says for purifying the blood.

19 Q. Okay.

20 A. I suppose a laxative would do that.

21 Q. Well, now, number 7, I'm not sure what this
22 statement means, so can you --

23 A. Well, they just asked me in general would you --
24 would you agree with the statement that no one could
25 find out about these herbs or the indications. I said

1 A. He did not. As a rule, someone like that would
2 never, never mention the name of their customer.
3 They're afraid I might try to steal it from them, which
4 I wouldn't, but they don't know that.

5 Q. Okay.

6 A. I don't want the customer.

7 MR. TURNER: Let me just clarify. I don't think
8 he understood the question.

9 MS. PAYNTER: Okay. Go ahead.

10 MR. TURNER: The question you said was did
11 Dr. Maclean contact you in conjunction with this case.

12 THE WITNESS: Not in this case, no. No.
13 Never. I haven't even heard from him in, gosh,
14 15-20 years.

15 MS. PAYNTER: Thank you, Jim.

16 THE WITNESS: I'm sorry.

17 BY MS. PAYNTER:

18 Q. That's okay.

19 Let me just check my last list, and I'll -- I
20 think we're finished, but let me just check.

21 (Pause in the proceedings.)

22 Just -- I just want to ask you, are you
23 familiar with what are called conventional cancer
24 treatments?

25 A. Oh, yes. Yes. Very much so.

1 **Q. And just a few would be --**
 2 A. Well, it's what's used in this country today,
 3 and that's fine. That's not my field. I'm not a
 4 clinician.
 5 **Q. Okay. I mean, do you have an opinion as to**
 6 **whether those treatments are effective or not or...**
 7 A. No. I really don't have any -- I guess they
 8 are. They use them. There must be a reason.
 9 **Q. And going back just to your experience, when did**
 10 **you start working in the pharmaceutical area?**
 11 A. Oh, it must have been 19 -- I worked for a
 12 wholesale drug company fresh out of school. Gosh, it
 13 would have been late '50s.
 14 **Q. And you worked for them as a salesperson at that**
 15 **time?**
 16 A. I worked for a wholesale drug company. Then I
 17 went to work as a detail man with the company, and
 18 they -- there are two kinds of detail men. This is kind
 19 of an inside thing, almost a joke. One kind is what we
 20 call the golf buddy. He's too dumb to ever really
 21 understand the chemistry. And let me explain that a
 22 little bit further.
 23 As I said, the company I was with at that time,
 24 Wampole Laboratories, was a technology transfer company
 25 for MIT, Massachusetts Institute of Technology. They

1 physicians tended to prescribe their items because they
 2 liked them.
 3 The other group were product-knowledge people
 4 that really, really, really concentrated on
 5 understanding every word those old men were telling
 6 them and asked questions afterwards. That's what I
 7 did.
 8 And usually those end up being moved to the
 9 home office. I didn't want to move up there, and so I
 10 ended up being in -- staying in Texas. We had medical
 11 diagnostics and pharmaceuticals.
 12 I would go into a clinic, put my card in for
 13 each of the doctors -- there might be seven doctors --
 14 and go to the lab and start -- and carry two detail
 15 bags and start detailing the lab technician on how to
 16 do the analysis and doing the blood samples and the
 17 urine samples, and then as the -- and I'd usually get a
 18 pizza or several pizzas, depending on how many
 19 physicians, and they would wander in during lunchtime
 20 and eat pizza and we'd talk about -- now that we talked
 21 about diagnosing it, now we're going to talk about
 22 treating it.
 23 And I did that. And I led the company in sales
 24 every year that I was there, 10 or 15 years, because I
 25 worked my butt off and because I love to learn things,

1 had professors who were mostly European pharmacologists.
 2 Those were my teachers.
 3 And what we would do, we would go in for
 4 training sessions. They hire bright, young people that
 5 they think can do this. And these old professors with
 6 their horrible European accents got up there and taught
 7 pharmacology, at least the part that related to the
 8 products that we would be detailing the physician
 9 about.
 10 A detail person's job is to sit down with the
 11 physician and say, We have this drug, and this is what
 12 it's used for, and would you need -- if you have any
 13 patients that might have a need for this, we wish you'd
 14 think about us when you write the prescription.
 15 And some of the guys just -- or gals, because it
 16 began to evolve about that time, they really never
 17 learned anything. They went out and partied the night
 18 before because we had these meetings in places like
 19 Bourbon Street in New Orleans, and so they were so hung
 20 over the next morning and too dumb to understand it in
 21 the first place or too lazy.
 22 **Q. Right.**
 23 A. And so they really never learned it very good.
 24 Oh, well, here's the card, you know, the product
 25 card (indicating). Oh, let's go play golf. And the

1 so I dug into it. And from that I would get -- became
 2 very familiar with other detail men, physicians,
 3 pharmacists, hospitals, and they began to ask me would
 4 you join us in a new company, which we did, and I
 5 formed the company, got it on its feet, left and
 6 started my own company with the intentions of making
 7 only ethical pharmaceuticals. It's not what I was
 8 asked to make.
 9 **Q. And what are ethical pharmaceuticals?**
 10 A. Well, that's pharmaceuticals that would require
 11 a prescription.
 12 **Q. Okay.**
 13 A. You know, they had some over-the-counter also.
 14 And a lot of times a drug, a pharmaceutical, will start
 15 out as only under prescription, and after it's been on
 16 the market a while and particularly after the patent has
 17 run out, then they go to over-the-counter if it appears
 18 to be safe enough to use without that control.
 19 And so that's -- then these nutraceuticals came
 20 along, and there they were using a lot of native things.
 21 They were using a lot of vitamins, minerals, amino
 22 acids.
 23 We were the first company to market free-form
 24 amino acids or combinations, coenzyme vitamins. We were
 25 the first company to market coenzyme vitamins, very

1 popular in this field now.
2 And I can explain what a coenzyme vitamin is if
3 you want to hear it.

4 **Q. Sure. Go ahead.**

5 A. A coenzyme vitamin, that vitamin does not go
6 into your body and do anything. And where I got onto
7 this, I was working with a group of psychiatrists from
8 the American Psychiatric Association, and they noticed
9 that when they gave megadoses of vitamin B6 that people
10 who were schizophrenic would get better, but then after
11 a while it stopped working.

12 And I said -- they said, Why?

13 You know, that's what I do. You go to a
14 pharmacologist for something like that. Jim, can you
15 figure out what's going on here?

16 And so I looked into it. And I said, Doctor,
17 I've done some research on this -- or Doctors -- and
18 what I found out is that vitamin B6 -- its chemical name
19 is pyridoxine. I always like chemical names. It tells
20 me what it is. Then I know what the structure is.

21 And I said that it's not used by the body in
22 that form. I said what you have to do, you have to
23 phosphorylate it.

24 In other words, you link a molecule of
25 phosphorus to the vitamin and you turn it from a vitamin

1 coming in is going off on the sides and they can't use
2 it, and you call them schizophrenic. It's not the only
3 cause. It's one of the causes.

4 There is never, never one cause for any disease.
5 There are many.

6 So using this, if you explain it that way, you
7 explain it, and of course now pyridoxal-5-phosphate is
8 one of the most popular nutraceuticals out there.

9 And I remember I said, Well, where was it
10 developed? It was developed by Merck, not in the
11 United States, in Darmstadt, Germany.

12 Well, I knew their director of sales. I went in
13 early one day because of the time difference, picked up
14 the phone and called Darmstadt, and I called him and I
15 said, Do you have any pyridoxal-5-phosphate?

16 And of course he could speak English quite well,
17 and he said, Yeah, I think we have maybe a kilo. We got
18 the patent back in the '50s and never came up with
19 anything from it and we just can't figure a use for it.

20 I said, Can I buy that kilo?

21 Now, why?

22 I said, Well, I've got a idea.

23 He said, Okay, fine.

24 So I took that kilo and we made some tablets,
25 put 50 milligrams. Well, the physicians wanted me to

1 into a coenzyme vitamin. It's another step. You've
2 done something that their body hasn't done.

3 Well, does everybody need that? No. People
4 that can't metabolize it properly.

5 Well, why is that so? Well, if I was trying to
6 think of a simple way to explain it -- and that's one
7 thing I always tried to do when I was detailing
8 doctors, I would explain it so that anybody could
9 understand it. And the doctor would say, Well, you
10 know, I knew the technical answer, but now I can
11 explain it to my patients. And I would kind of --
12 fine. Whatever.

13 But the point is this. Let's say that the
14 process of phosphorylizing that vitamin -- let's do an
15 analogy. I love analogies. It's something that you can
16 understand. And let's say that in the body that part
17 that does that is like a funnel, so all of these
18 vitamins and other minerals and other things go into the
19 funnel, and then it's metabolized into the coenzyme
20 form. After all, phosphorus is a mineral, B6 is a
21 vitamin, and they're linked together, and it comes out
22 the other end which is a very small opening, and then
23 your body can use it.

24 Now, in people that can't do it, their funnel is
25 upside down, so all the vitamin B6 and phosphorus that's

1 use 250. I said, No, no, no, you don't need that much.
2 I could use less than 50 and it would work. Five --
3 three our four would work of the right form, and try
4 that just on your schizophrenic patients. That wasn't a
5 double-blind study.

6 And they tried it and it worked. They took them
7 off of it; they went back. It would turn them on and
8 off like a faucet. Nothing but a vitamin. That's a
9 miracle.

10 Is that a cure? We didn't claim it was. We
11 know what they're using it for. But we don't think it's
12 very smart to invest over a billion dollars in a new
13 drug approval.

14 **Q. Well, in terms of your knowledge of putting
15 together -- you know, extracting the chemicals out of
16 herbs, at what point in your career did you begin doing
17 that kind of work? Was that always --**

18 A. Almost from the start.

19 **Q. From the beginning. Okay.**

20 A. And that's why they kept calling me, because I
21 am creative.

22 **Q. Okay.**

23 A. I like to say I'm just a dumb Texan. I don't
24 know I can't do this, so I do it.

25 MS. PAYNTER: Okay.

1 I don't have any more questions. I don't
 2 know -- Mr. Turner, do you?
 3 MR. TURNER: No, no questions.
 4 (Whereupon, the foregoing deposition was
 5 concluded at 12:24 p.m.)
 6 (Reading and signature not waived.)
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1 CERTIFICATE OF DEPONENT
 2 I hereby certify that I have read and examined
 3 the foregoing transcript, and the same is a true and
 4 accurate record of the testimony given by me.
 5 Any additions or corrections that I feel are
 6 necessary, I will attach on a separate sheet of paper to
 7 the original transcript.
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JAMES K. DEWS

I hereby certify that the individual
 representing himself/herself to be the above-named
 individual, appeared before me this
 day of , 2009, and
 executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

1 CERTIFICATION OF REPORTER
 2
 3 DOCKET/FILE NUMBER: 9329
 4 CASE TITLE: Daniel Chapter One and James Feijo
 5 HEARING DATE: February 11, 2009
 6
 7 I HEREBY CERTIFY that the transcript contained
 8 herein is a full and accurate transcript of the notes
 9 taken by me at the hearing on the above cause before the
 10 FEDERAL TRADE COMMISSION to the best of my knowledge and
 11 belief.
 12
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DATED: FEBRUARY 11, 2009

JOSETT F. WHALEN, RMR

CERTIFICATION OF PROOFREADER

I HEREBY CERTIFY that I proofread the transcript
 for accuracy in spelling, hyphenation, punctuation and
 format.

DIANE QUADE

1 WITNESS: JAMES K. DEWS
 2 DATE: February 11, 2009
 3 CASE: In the Matter of Daniel Chapter One and
 4 James Feijo
 5 Please note any errors and the corrections thereof on
 6 this errata sheet. The rules require a reason for any
 7 change or correction. It may be general, such as "to
 8 correct stenographic error" or "to clarify the record"
 9 or "to conform with the facts."
 10 PAGE LINE CORRECTION REASON FOR CHANGE
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 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

butt 79:25	48:1,8	64:4 65:22 66:16	comes 82:21	18:15 20:3 57:21
buy 83:20	caught 52:23	74:12 81:18,19	coming 61:12 83:1	66:19
B6 81:9,18 82:20,25	cause 54:2 83:3,4	chemicals 18:23	commission 1:1 2:2	concentrated 23:20
	86:9	23:7,9 38:13 46:18	2:13 3:3,7 4:12,15	79:4
	causes 83:3	57:19 84:15	21:22 41:25 86:10	concluded 85:5
C	center 19:12	chemistry 19:3	87:20	condition 48:25
C 4:1 32:3 86:1,1,19	Century 16:20	77:21	Commission's 5:19	49:23
86:19	certain 18:15 27:9	Chemists 11:21	39:15	conditions 13:14
call 15:6 18:18	62:10 66:16	chemotherapy	common 7:11 43:8	46:4
32:22 36:2,9 52:2	certainly 10:8 12:25	46:21	commonly 6:22	conducted 29:6
57:3 65:12,13	16:23 21:23 46:3	Chinese 23:23 45:16	companies 10:7 15:6	50:11
77:20 83:2	46:21,23 47:7	50:19	15:17,19 16:5	confirmed 13:22
called 4:5 14:19,20	52:17 53:23 72:4	chondroitin 53:14	19:11 31:19 32:14	conform 88:9
15:5 16:19 31:4	72:18	city 52:22	33:16 61:21	conglomerates
34:5 35:23 42:12	certificate 28:22,22	claim 20:19 21:23	company 5:21 10:5	31:24
55:5 76:23 83:14	29:25 87:1,15	28:4 49:6 52:14	13:5 15:16,22,23	Congress 26:25 27:1
83:14	certificates 32:25	62:13,18 70:13	16:1,15,16,18,21	congressional 29:19
calling 84:20	33:13	84:10	16:22,25 19:17	conjunction 76:11
calls 17:13,15 22:1,8	certification 12:6	claimed 15:12	29:16 31:4,7,9	connection 38:4
26:3	29:24 30:21	claims 5:4 36:25	33:5,24 36:4,5	45:4,8 71:17,21
Canada 34:10	certifications 11:17	37:4,5 39:5 70:4	37:4 52:13 61:3,15	75:24
cancer 24:25 26:4	certified 28:21	clarification 50:4	62:23 71:17 75:15	considered 27:23
27:6,8 34:14,18	certify 31:1,1 33:3	clarify 8:21 76:7	77:12,16,17,23,24	46:4 68:25 69:16
38:4 39:5,10 44:6	86:7,21 87:2,11	88:8	79:23 80:4,5,6,23	construction 14:17
44:12,13,22 45:5	CGMPs 32:22	classified 62:20	80:25	contact 24:24 75:24
45:20 46:8,20	challenged 5:4	claw 43:15 47:22,25	compatible 23:15	76:11
48:24 49:1,18	change 32:24 52:24	claw's 48:1	compensated 68:19	contacts 22:8
51:24 52:15 53:3	88:7,10	clearly 9:9	compete 16:5	contained 86:7
54:5,10,16 58:22	changed 6:12 10:10	clinic 79:12	competing 32:13	contains 46:18
58:25 59:6 62:25	11:22 32:11	clinical 21:19,21	competitive 32:12	content 44:20 47:10
66:21 67:5 70:10	Chapter 2:5,8 5:20	29:8	competitors 6:5	continue 41:14
76:23	31:4 33:25 34:2	clinician 29:8 77:4	compilation 22:15	continued 55:18
capsule 20:17	37:11 39:16 86:4	close 54:24	compile 61:6,14	contraindications
car 52:21	88:3	closest 7:10	complaint 39:15,19	71:20 74:13
carbohydrate 53:17	characteristics 31:2	clue 55:4	Complementary	control 14:9 32:7,9
card 78:24,25 79:12	charged 6:10 42:2	Codex 13:11	73:1 74:10	63:5 74:5 80:18
career 84:16	charges 5:12 40:8	coenzyme 80:24,25	complex 53:17,18	controlled 29:6
careful 8:3 16:5	40:14,22,23	81:2,5 82:1,19	compliance 33:6,15	58:21 60:10
38:6	charging 7:21	coffee 48:3	component 46:11,12	conventional 76:23
Carole 3:4 4:11	check 74:6 76:19,20	college 11:13,16	47:22 49:7 50:5	copy 68:7
carry 79:14	checked 7:24	combination 24:11	51:10 55:11 61:19	corporation 2:5
cartilage 53:20 54:5	chemical 8:4 11:24	35:7 52:15 57:12	65:20	correct 5:10 9:2,3,3
case 4:16 5:18 6:8	12:17 13:11 14:17	combinations 57:9	components 56:9	11:25 15:17 31:6
8:7 13:16 31:4,18	18:15,25 19:5 20:3	80:24	59:19 70:20 72:21	37:12 41:2 42:11
33:18 38:23 75:25	20:7,7,10,11 21:18	combines 62:11	compound 28:12,20	56:10 68:22 88:8
76:11,12 86:4 88:3	22:13,15 23:13	come 31:14 56:8	66:16	correction 88:7,10
cash 17:9	28:12,20 60:14	63:11	compounds 11:24	corrections 87:5
catch 5:8				
cat's 43:15 47:22,25				

88:5	67:8,15 72:1,5,20	demanding 73:7	50:19,25 58:15	double-blind 48:14
correctly 14:8	84:10	department 10:13	difficult 64:7	48:16 59:23 62:24
cosmeceuticals 17:3	cures 28:5	10:16 32:5	dig 51:6 55:23	84:5
18:3,6,8	curing 50:3 54:1	depending 29:25	diligence 24:20	Dr 55:22 56:3 75:14
cosmetic 12:19,23	58:25 66:21 67:5	47:4 61:7 79:18	direction 19:4 35:18	75:24 76:11
20:17	current 10:10 32:23	depends 51:14,15	directly 33:3	drink 57:13
cosmetics 12:20,24	customer 6:16 23:14	57:3 62:6	director 83:12	drive 52:22,22
18:2	35:11 76:2,6	DEPONENT 87:1	disappeared 75:18	driving 16:6 24:13
cost 25:16,18,18	customers 13:4 16:3	deposed 5:23 6:1,4	discuss 41:16	drop 26:7
65:11	16:17 28:7 36:6	8:14	discussed 36:11	drug 6:23,23 13:25
cough 49:14	C-H-O-N-D-R-O-...	deposition 2:18 4:19	Discussion 10:20	14:1 20:19 25:17
Council 12:21	53:15	39:19 41:11 68:2	21:6 22:5 37:7	26:1 27:17,18,23
count 6:2 67:5,14	D	85:4	38:1	27:24 28:1,9 29:1
counteract 73:20	D 1:2 4:1 86:19	describe 46:14 60:3	disease 15:11,13	53:25 57:17 60:15
counterclaims 36:25	Dallas 11:5 34:19	DESCRIPTION 1:8	28:5 50:2,13 52:12	62:9,15,16,17
countries 29:1 33:1	dangerous 6:11	Desk 22:22 73:25	54:9 56:20 66:5	71:10 72:17,17,19
33:1 65:6,14 70:12	23:10,10,12	74:3	67:7,8,9,15 70:15	77:12,16 78:11
72:10	Daniel 2:5,8 5:20	detail 77:17,18	72:1,6,18,20 83:4	80:14 84:13
country 17:4 24:1	31:4 33:25 34:2	78:10 79:14 80:2	diseases 46:5	drugs 8:10 17:17,18
27:17,18,21,22	35:11 37:11 39:16	detailing 78:8 79:15	disease-curing	22:24 27:15 28:2
28:24 29:2 30:1	86:4 88:3	82:7	62:17	28:11 45:9 60:1
31:21 42:15 44:1	Darmstadt 83:11,14	determination 38:8	disposal 72:2	62:25 63:10 70:22
60:4,4 63:21 64:1	data 21:15,20,21,23	determine 13:3	distinction 60:20	74:9
65:15 70:5 72:19	23:17,21 54:7 61:6	23:16 61:13	66:23	due 24:20
77:2	61:8,12 64:19	determined 23:8	District 12:21	dug 80:1
course 11:3 12:16	date 6:23 30:18,19	determining 11:24	diuretic 44:20	Dulabon 3:6 4:14
13:2 18:5 48:21	86:5 88:2	detrimental 53:9	dock 42:13,13 44:19	duly 4:6
72:17 75:6 83:7,16	DATED 86:13	develop 22:1,2	Docket 2:6	dumb 77:20 78:20
courses 19:3	dating 30:11,13,17	66:19	DOCKET/FILE	84:23
court 8:19 9:19	daughters 16:22	developed 83:10,10	86:3	D.C 3:18
10:21 21:7 22:6	17:11	Dews 1:5,10 4:4,9	doctor 7:7 35:22	
38:2 39:14	David 3:6 4:14	4:24 10:23 15:18	36:2 73:12 81:16	
covered 15:8	day 25:6 68:22	16:20 39:19 68:1,2	82:9	
co-counsel 4:13	83:13 87:14	68:3,6 87:9 88:1	doctors 79:13,13	
cpaynter@ftc.gov	deaf 9:7	DHEA 60:7 61:22	81:17 82:8	
3:12	dealing 67:16	diagnosing 79:21	documents 28:15	
create 24:7 35:14	debt 65:9	diagnostics 79:11	29:1 36:18	
created 33:24 34:12	defenses 40:9	DIANE 86:25	doing 9:11 18:22	
creating 17:10	define 17:22	dictates 26:25 27:1	21:13 24:20 25:3	
creation 17:12	definitely 16:6	difference 8:4,5	26:24 28:7,8 29:5	
creative 84:21	definition 15:13,14	18:5,17 50:23	49:3 50:18 51:8	
crop 16:1	degree 11:11 12:13	62:17 67:9 83:13	54:17,18,18 59:15	
curcumin 65:22,24	67:12	differences 50:24	63:3 67:3 79:16	
66:9,24,25 67:10	Dehydroepiandro...	different 11:3,18	84:16	
cure 15:10,10,12,13	61:24	18:10 22:21 26:14	dollars 84:12	
26:13,15,21 27:8	delve 59:14,23	26:18 27:21 35:17	dominated 31:23	
28:5 53:25 66:5	demand 16:12 17:16	42:14,15 47:18	door 7:19,20	
				E
				E 1:2 4:1,1 86:1,1,1
				86:19,19,19
				ear 9:8,16
				early 83:13
				easier 17:4,5
				easily 21:15 33:23
				easy 19:20
				eat 79:20
				education 19:10
				educational 10:23
				effect 48:19 50:14
				62:12 66:20
				effective 58:25 77:6
				effectiveness 58:22
				effects 13:25 14:13
				38:12,16 47:4,6

57:18	42:4 67:22 68:1,2 68:6	FDA 10:9,11 25:16 32:15 33:9 70:3	folklore 52:4	funny 65:7
efficacy 14:15	exist 18:23 20:2,3	February 2:10 86:5 86:13 88:2	folk-wise 45:22	further 8:9 77:22
effort 42:6	exists 53:19	feces 51:21	follows 4:6 10:11 33:9	G
eight 12:4	expenses 68:22	federal 1:1 2:2,13 3:3,7 4:12 5:19 10:5 21:22 29:19 39:15 41:25 86:10	food 12:18 13:11 14:2 16:1 17:25 18:17,20,22 19:7 20:5 28:13 32:4 47:3 57:16	G 4:1
either 40:16	experience 26:20 27:23 77:9	feedback 64:15	foods 18:16 20:2,3 66:1	gals 78:15
elaborate 25:8	experienced 33:11	feel 26:11,14 87:5	foot 25:4,10	gamble 25:22 26:2
Eleutherococcus 46:17	expert 1:10 4:24 6:7 10:3 14:19 15:4 31:18 33:17 41:9 41:23,24 68:1,3,7	feet 80:5	foregoing 85:4 87:3	GDU 55:3
elm 43:9 49:7,8	expertise 14:23	Feijo 2:7 5:20 31:10 31:12 86:4 88:4	foreign 28:25 33:1 50:21	general 44:3,14 74:23 88:7
emollient 49:8	EXPIRES 87:20	Feijos 36:7 38:21	form 39:22 81:22 82:20 84:3	generally 29:20 33:14 42:17 46:1 54:8 60:3,4 66:20 70:11
ended 8:1 51:8 79:10	explain 77:21 81:2 82:6,8,11 83:6,7	fiber 20:9,9 57:21 58:1	format 86:23	generate 17:9
energize 46:19	Export 12:21	field 32:13 77:3 81:1	formation 59:11	gentleman 34:19
energizes 46:20	externally 21:18	fight 63:7	formed 16:15 80:5	gentlemen 16:23
energizing 46:18	extract 18:15	figure 81:15 83:19	Formula 5:1,9 34:5 36:11 37:15,17,23 39:17 40:20 42:8 43:4 55:9 58:21,25 59:10,12,17 62:19 69:22 70:8 73:19	genus 42:15 46:16 48:1
energy 46:17,22 47:16	extracted 23:20	figured 67:15	formulations 4:25	German 23:22 43:23 45:10 58:12 69:19,24,25 70:2,9 70:25 71:3,6
Engineers 12:18	extracting 84:15	find 23:14 24:13 29:17 33:22 35:17 55:19,23 56:12 66:18 74:25 75:3,7	Fort 11:1,1,5,9	Germany 43:25 71:2 83:11
England 71:10	extraction 30:10	findings 63:19	forward 4:22 5:15 41:8	getting 54:2 62:14
English 71:6 83:16	extrapolated 63:20	fine 9:12,24,24 10:19 27:5 77:3 82:12 83:23	found 7:23 21:15 25:20 33:6 47:13 48:8 81:18	ginseng 43:14 46:12 46:12 47:1,14
errata 88:6	ex-employees 6:5	finish 11:12	four 25:24 34:7,12 43:13 63:13 84:3	give 4:18 6:14 8:17 12:5,6 17:1 18:12 35:18 37:3 40:13 43:21 48:9
error 88:8	F	finished 67:20 76:20 13:5 16:20 20:22 21:14 22:11 31:16 36:9 39:2 42:7,24 43:5,18 48:3 50:17 50:21 51:4 57:22 64:14 78:21 80:23 80:25	Fragrances 12:19	given 14:24 87:4
errors 88:5	F 86:1,1,16,19,19,19	first 4:5,21 5:23 13:5 16:20 20:22 21:14 22:11 31:16 36:9 39:2 42:7,24 43:5,18 48:3 50:17 50:21 51:4 57:22 64:14 78:21 80:23 80:25	free 32:25	gives 47:15
ESQ 3:4,5,6,15	fact 22:25 29:4 44:10 60:8 64:24	five 6:2 8:8 19:22 25:20 30:12,19 84:2	freely 33:4	giving 14:22 63:10
essiac 34:7 43:13	factor 16:6	flow 17:9	free-form 80:23	glasses 68:8
ethical 80:7,9	facts 14:15 88:9	flower 50:7	fresh 77:12	GMP 32:17
European 19:14 78:1,6	factual 13:25	fluid 46:5	fruits 20:2	GMPs 32:16
everybody 62:8 82:3	familiar 16:8 29:18 31:7,9 34:3 38:11 38:15 45:18 46:25 50:15 53:10 54:4 55:3,5 59:17,25 63:10 65:18 76:23 80:2	fluids 44:22 49:15	FTC 5:13 40:8	go 5:15 7:25 8:9 9:2 15:15 21:13 22:9 22:11,21 23:2 25:23 29:18 33:15 40:3,24 41:18 43:5 47:8 48:16 51:10 52:20 55:16 56:22 58:5,11 64:2,20 65:9 68:9,14 71:24 72:3,13 74:6 76:9
evidently 20:25	family 42:13 44:18 50:8	folk 45:19,19 46:8	full 86:8	
evolve 78:16	far 22:13 49:25 55:23		functions 62:11	
exactly 21:16,24 27:13 47:11 48:17 60:17 73:16	farmer 15:25,25		funnel 82:17,19,24	
examination 1:4 4:5 4:7	fast 9:14,15 26:7			
examined 4:6 87:2	father 11:6			
example 14:13 17:1 18:12 24:25 30:10 36:17 49:18 70:19	faucet 84:8			
exceed 24:19	favor 25:3			
excess 44:20,22 46:5 49:10,15 51:21				
excuse 24:4 37:6 72:13				
executed 87:15				
exhibit 1:8 39:19				

78:3,25 79:12,14 80:17 81:4,5,13 82:18 goes 27:21 32:8 going 7:2 12:24 13:8 13:16 18:4 21:4 23:9 25:22 26:7 27:4 28:15 32:1 35:16 39:14,16,18 39:25 40:15,21 41:17 42:1 46:8 54:13 56:4 62:5 63:8 67:18,22 71:24,25 72:3 77:9 79:21 81:15 83:1 golf 77:20 78:25 good 4:9,10 9:13,25 10:1 17:7 24:12,12 32:18,23 35:7 49:13 59:3 62:3 64:23 65:24,25 78:23 gosh 76:13 77:12 government 10:5 13:12 25:11 26:16 26:23 27:7 62:8 69:25 70:2 71:18 74:5 governments 26:23 government's 26:13 26:20 graduated 10:25 Green 2:14 3:9 group 12:3 79:3 81:7 guarantee 27:4 guess 20:24 36:16 51:18 59:7 75:6 77:7 guessing 55:17 guide 73:2,9 74:11 guides 73:10 guilty 14:11 guy 31:24 32:1 guys 78:15	handbook 73:11 handing 68:6 handles 62:6 happened 34:4 happens 33:12 happy 41:15 harm 24:18 64:5,11 harmful 64:15 harmless 23:11 hat 62:3 head 9:21 26:7 health 10:13,16 32:4 46:2 65:8,14 healthcare 29:10 31:23 50:20 63:14 hear 9:11 16:11 56:22 81:3 heard 8:15 31:11,16 35:10 36:10,15 39:3 53:12 54:6 59:12 75:18,22 76:13 hearing 9:8,25 86:5 86:9 heat 56:16 heated 57:18 help 15:10,12 29:17 42:18 46:24 49:18 51:22 52:15 53:20 53:22 54:21 73:23 75:23 helpful 6:24 47:11 48:22 49:24 50:2,3 66:6,9 helping 11:7 54:2,24 helps 6:25 26:10 28:5 44:19 46:8,20 49:8,9,15 62:15 70:14,20,21 herb 5:1,9 18:17,20 18:22 19:8 21:14 23:5,14,15,19,20 23:20 28:13 34:5 35:9 36:11 37:15 37:17,23 39:17 40:20 41:4 42:8,25 43:4 55:9 56:4,9	57:20,23 58:14,14 58:21,25 59:10,12 59:17 62:19 69:22 70:8 72:21 73:15 73:19 herbal 4:25 22:24 35:8 44:2 45:9 69:25 70:12,22 74:9 herbs 23:25 24:10 33:21 34:7,12,14 34:21,24 35:2,4,18 37:16 38:7,11,11 38:13,13,16 39:9 39:11 40:4,10,19 40:24,25 41:1,3,9 41:19 42:14 43:4 45:21 47:18 50:19 52:14 53:2 55:9,13 56:12,14 57:8,12 58:6,9,10 59:16 65:17 66:12 69:20 69:24 70:8 71:11 71:12,18 72:8,19 73:19 74:17,25 84:16 Hey 12:14 19:22 55:20 high 10:25 49:12 53:19 63:14 higher 26:21 himself/herself 87:12 hire 78:4 hired 38:9 history 22:17 HMB 6:21 7:19 Hmm 16:12 hold 37:20,20 home 79:9 hormones 47:2 62:1 horrible 78:6 hospitals 80:3 hot 58:1 hour 52:23 68:20 human 64:2 humans 63:22 64:22	65:1,5 66:25 hundred 52:23 hung 78:19 hurt 20:22 46:23 73:23 hyaluronic 53:21 hydroxymethylbu... 6:20 hype 24:14,15 hyphenation 86:22	I ID 1:8 idea 24:22 25:6 26:20 59:3 62:14 64:23 83:22 identifiable 20:4 identification 39:20 68:4 identified 70:9 identify 22:18 III 68:24 illegal 28:1 immune 48:7,20 49:4 71:22 including 62:8 74:14 incompatibilities 24:17 increase 20:11,16 Index 22:14 Indians 34:13 65:25 indicated 58:17 59:22 73:16 indicating 9:9 11:20 69:12 78:25 indications 70:6,10 71:19 74:13,25 individual 87:11,13 individually 2:7 industry 13:12 21:2 31:21,22,23 inflammation 42:17 42:18 43:22 44:4 45:2,6 46:7 49:22 50:9 65:24 66:3,4 66:22 67:2,11 70:14,21 71:22	72:4 informally 44:8 information 6:14 28:17 55:10 58:18 ingest 18:6 ingredient 13:13 23:5 30:8,24 ingredients 18:10 30:9 inhibits 59:10 initiated 10:20 21:6 22:5 38:1 inside 77:19 inspected 10:9 33:5 inspecting 10:14 29:21 inspection 33:10 Institute 77:25 instructions 8:15 9:5 insult 29:4 insurance 15:5,8 intended 15:10 29:12 intentions 80:6 interested 6:18 29:3 29:10 42:1 45:12 66:15,22 73:6 interesting 18:16 32:15 50:18 66:21 internally 21:18 international 11:22 12:17,18 22:15 31:24 Internet 37:14 interpretation 26:13 intestinal 51:21 introduced 39:2 invest 84:12 invite 12:11 invited 12:10 involved 10:2,4,8 11:19 15:20 17:10 24:21 28:6 29:13 62:25 64:6 67:4 item 70:22 71:8 items 79:1
H half 27:20					

<p>J</p> <p>James 1:5 2:7 3:15 4:4 5:20 31:10 86:4 87:9 88:1,4</p> <p>Jersey 6:9 10:3 13:17</p> <p>Jim 1:10 68:3 76:15 81:14</p> <p>jim@swankin-tur... 3:20</p> <p>job 40:9 78:10</p> <p>join 12:10 80:4</p> <p>joints 53:23,24</p> <p>joke 77:19</p> <p>JOSETT 86:16</p> <p>JR 3:5</p> <p>judging 34:11</p> <p>judgment 14:11</p> <p>justified 15:9</p>	<p>25:2,2,11 26:9 29:5,20,20 30:13 32:3,8,25 33:11,22 34:8,9,20,22,25 35:12,22 36:12,13 36:21 37:1,2,15 38:6 41:3,7,18,19 41:19,20 44:5,9 47:19 48:13 51:1,4 51:5,25 53:7,8 54:13,16 55:24 56:5,17 57:4,10,22 59:7,20 60:11,22 60:24 61:3 62:5 63:11,23 64:4,13 64:16,23 66:15 67:16 75:16,22 76:4 78:24 80:13 81:13,20 82:10 84:11,15,24 85:2</p> <p>knowledge 33:21 38:10 58:20 65:17 84:14 86:10</p> <p>knowledges 33:22</p> <p>known 6:20 34:6</p> <p>knows 61:4</p>	<p>leads 62:13</p> <p>learn 51:9 73:13,21 79:25</p> <p>learned 35:11 78:17 78:23</p> <p>leave 54:25</p> <p>led 79:23</p> <p>left 80:5</p> <p>legal 15:13</p> <p>let's 15:15 42:3 43:5 45:19 53:14 55:2 64:14,22 68:9 78:25 82:13,14,16</p> <p>level 20:11,16,19 21:21,25 23:10,11 23:17 26:21,22 28:14 53:8 67:12 67:13</p> <p>levels 46:22 58:18 64:15</p> <p>liable 41:8</p> <p>licenses 11:17</p> <p>life 27:4</p> <p>light 25:6</p> <p>liked 79:2</p> <p>limiting 5:5</p> <p>line 14:6 39:2 62:22 88:10</p> <p>link 81:24</p> <p>linked 82:21</p> <p>liquid 57:2,3,7</p> <p>list 40:24 66:13 76:19</p> <p>listed 45:17 51:17 71:19 72:8,9,19,21 72:24 74:12</p> <p>listing 71:13</p> <p>lists 71:18</p> <p>little 31:24 32:1 34:24 35:17 56:15 64:17,24 65:10 77:22</p> <p>living 34:13 54:22 54:24</p> <p>long 12:2 25:17 30:4 41:18 66:14,17 75:16</p>	<p>longer 17:18 29:22 63:16 64:1 65:10</p> <p>look 21:14 23:9 34:22 36:17 38:7 40:17 41:6 48:16 55:8,9,16,20 57:23 58:14 59:4 66:20 72:23 73:14 74:15 75:4</p> <p>looked 37:15,22 40:18 73:24 81:16</p> <p>looking 20:10 24:8 24:17 50:20 58:5 64:4,10 69:8 73:21 74:12</p> <p>looks 60:17</p> <p>Lord 62:3</p> <p>loss 54:10</p> <p>lost 6:2</p> <p>lot 13:4 16:8,9 17:3 17:3,16,17 19:7,11 20:2 21:1,3 23:11 23:25 24:8,10,13 27:16 31:19 42:14 47:8,18 49:14 55:25 56:2 59:7 60:6,21 61:9,10,21 63:15 66:13 71:18 73:6,9 75:19 80:14 80:20,21</p> <p>love 51:8 79:25 82:15</p> <p>low 46:22 51:13 67:13</p> <p>lower 23:11 49:10 51:3</p> <p>lubricate 53:23,24</p> <p>lunchtime 79:19</p> <p>lungs 51:3</p> <p>L-threonine 7:12,24 7:25 14:7</p>	<p>maintain 30:2,4</p> <p>major 8:5</p> <p>majored 11:5,9</p> <p>makeup 51:16</p> <p>making 15:21 29:10 32:10 39:5 41:7 54:18 80:6</p> <p>man 25:19 77:17</p> <p>manufacture 27:20</p> <p>manufacturing 18:8 32:8,18,23</p> <p>margins 17:5</p> <p>mark 39:14,18</p> <p>marked 39:20 68:3</p> <p>market 16:16 17:12 60:1 80:16,23,25</p> <p>marketing 15:20 16:1,7 24:9,21 36:20 41:23 54:19</p> <p>married 16:24</p> <p>Martindale 71:14 71:15</p> <p>Massachusetts 77:25</p> <p>materials 63:4 68:24 69:16</p> <p>matter 2:4,17 22:25 29:4 60:7 66:17 88:3</p> <p>matters 5:18</p> <p>ma'am 8:18 9:6</p> <p>mean 27:25 34:16 45:24 48:24 66:13 77:5</p> <p>means 33:15 34:17 49:4 74:22</p> <p>measure 18:24 20:4</p> <p>Medica 45:16</p> <p>medical 7:7 44:8 60:5,8 73:12 79:10</p> <p>medication 8:11</p> <p>medicine 29:9 46:9 50:22 52:1,2 66:2 69:25 70:12</p> <p>meetings 78:18</p> <p>megadoses 81:9</p> <p>member 12:2 42:12</p>
<p>K</p> <p>K 1:5 4:4 87:9 88:1</p> <p>keep 21:4 25:7 27:17 28:24 30:5,7 69:13</p> <p>keeps 61:4</p> <p>kept 30:11 62:21 84:20</p> <p>kill 64:16</p> <p>kilo 7:15 83:17,20 83:24</p> <p>kind 6:3 12:22 13:2 15:24 17:1 19:16 19:19 26:2 33:9 35:3 45:7 47:21 48:13 53:13 61:18 61:22 70:13 77:18 77:19 82:11 84:17</p> <p>kinds 13:3,7 77:18</p> <p>knew 34:12 55:13 82:10 83:12</p> <p>knock 7:1,19</p> <p>know 7:2,5 8:14,15 8:16,21,21,24 9:15 12:20 14:5,5,25 15:3 17:15 21:3 22:19 24:12,19</p>	<p>L</p> <p>lab 28:11 79:14,15</p> <p>label 14:8 24:20 30:25 60:18</p> <p>labeled 7:17</p> <p>labeling 29:13 62:21</p> <p>labels 28:16 29:17</p> <p>Laboratories 77:24</p> <p>laboratory 15:18 22:19 27:11,14 30:25</p> <p>languages 26:19</p> <p>large 6:25</p> <p>largest 20:6</p> <p>late 77:13</p> <p>latest 62:3</p> <p>law 52:24</p> <p>laws 6:12 70:5</p> <p>laxative 42:19 43:21 51:13,18 74:20</p> <p>lazy 78:21</p>	<p>link 81:24</p> <p>linked 82:21</p> <p>liquid 57:2,3,7</p> <p>list 40:24 66:13 76:19</p> <p>listed 45:17 51:17 71:19 72:8,9,19,21 72:24 74:12</p> <p>listing 71:13</p> <p>lists 71:18</p> <p>little 31:24 32:1 34:24 35:17 56:15 64:17,24 65:10 77:22</p> <p>living 34:13 54:22 54:24</p> <p>long 12:2 25:17 30:4 41:18 66:14,17 75:16</p>	<p>M</p> <p>Maclean 35:21 36:13 55:13,22 56:3 75:14,24 76:11</p> <p>main 65:14 66:1</p>	<p>maintain 30:2,4</p> <p>major 8:5</p> <p>majored 11:5,9</p> <p>makeup 51:16</p> <p>making 15:21 29:10 32:10 39:5 41:7 54:18 80:6</p> <p>man 25:19 77:17</p> <p>manufacture 27:20</p> <p>manufacturing 18:8 32:8,18,23</p> <p>margins 17:5</p> <p>mark 39:14,18</p> <p>marked 39:20 68:3</p> <p>market 16:16 17:12 60:1 80:16,23,25</p> <p>marketing 15:20 16:1,7 24:9,21 36:20 41:23 54:19</p> <p>married 16:24</p> <p>Martindale 71:14 71:15</p> <p>Massachusetts 77:25</p> <p>materials 63:4 68:24 69:16</p> <p>matter 2:4,17 22:25 29:4 60:7 66:17 88:3</p> <p>matters 5:18</p> <p>ma'am 8:18 9:6</p> <p>mean 27:25 34:16 45:24 48:24 66:13 77:5</p> <p>means 33:15 34:17 49:4 74:22</p> <p>measure 18:24 20:4</p> <p>Medica 45:16</p> <p>medical 7:7 44:8 60:5,8 73:12 79:10</p> <p>medication 8:11</p> <p>medicine 29:9 46:9 50:22 52:1,2 66:2 69:25 70:12</p> <p>meetings 78:18</p> <p>megadoses 81:9</p> <p>member 12:2 42:12</p>

memorized 41:4	monograph 43:23	78:16,23 83:4,4,18	officially 24:3 41:20	opening 82:22
men 77:18 79:5 80:2	monographs 13:12	new 2:15,15 3:10,10	45:23,24 53:4,6	operation 33:3
mention 9:7 25:2	23:23,23 45:10	6:9,9 10:3 13:17	58:17 72:16,17	opinion 14:10 37:3
26:6 34:18 39:4	58:12 69:20,24	25:17 29:1 32:16	oh 5:24 32:19 48:1	41:12 52:13 53:5,6
52:11 54:9 59:21	70:9 71:1	56:21 78:19 80:4	50:17 51:6 55:16	53:7 63:19 77:5
70:15 76:2	morning 4:9,10,18	84:12	56:25 60:2 61:17	order 16:10 42:11
mentioned 5:17 8:9	7:20 48:4 78:20	night 78:17	62:14,20 63:23	42:11 69:14
10:2 12:23 15:16	move 4:21 79:9	normally 23:18	69:8 72:13 75:2	organization 11:21
29:23 31:3 36:7	moved 31:21 79:8	Northeast 3:8	76:25 77:11 78:24	13:1
38:20 44:13,15	multibillion-dollar	NOTARY 87:18	78:25	organizations 11:19
47:23 58:12 61:22	21:1	notation 71:9	okay 4:17,20,21 5:2	original 87:7
62:24	mustard 50:8	note 88:5	5:9,11,15,16,25	Orleans 78:19
mentioning 21:9	M.D 6:17	notes 86:8	8:6,13 9:13,16,18	OTC 18:9
Merck 22:14 83:10		notice 2:18 9:21	9:22 10:1 12:2,12	outside 18:7
merge 17:24	N	noticed 81:8	12:15 13:16,24	overall 50:14
merged 18:2	N 1:2 4:1 86:1,19	number 1:9,10	14:4,18,22 15:3,15	overrelax 7:1
metabolize 82:4	name 4:11 11:23	25:24 39:19 52:18	16:14 17:21 18:12	override 65:11
metabolized 82:19	13:18 27:25 34:12	54:23,24 60:21	18:19 19:16 20:14	overseas 27:21
metabolizes 62:11	35:20 36:10 43:8	61:9,10 67:23 68:1	20:15 21:3,5 24:2	oversees 33:2
method 11:25	46:16 48:1,2,3	68:2,6 69:8 72:22	26:17 27:6,11	oversight 25:24
methods 11:24	53:13 75:15,21	73:1 74:21 86:3	29:13 30:6 31:3,15	over-the-counter
metric 7:16	76:2 81:18	nurse 34:10	33:20 34:23 36:1,3	22:24 80:13,17
metrically 7:16	names 8:4 38:6	nutraceutical 15:6	38:14,17,18,20	owner 5:21 31:9
mild 42:19 51:18	42:14,15 43:5 51:5	18:13 19:17 30:14	39:8,14,17,21 40:1	o'clock 7:20
mildewing 56:18	81:19	32:13 62:16,18,19	40:2,5,6,12,17	
mile 66:13	nasturtium 50:7	nutraceuticals 13:5	41:17 42:4 43:2	P
miles 52:23	native 47:20 51:25	15:12 17:3,22 18:1	46:10,11 47:22	P 4:1 86:1,19
milligrams 83:25	52:4 80:20	18:6,8 21:10 28:25	48:5 50:4 51:23	page 1:4 40:21
mind 27:17 28:24	naturally 57:21	63:15 80:19 83:8	52:10 53:10 54:15	68:14 69:3,4,9
mineral 53:16 62:9	naturopath 46:3	nuts 18:7	56:6 58:3,11 61:11	88:10
82:20	necessarily 27:4	N.W 3:17	61:13,22 63:25	paper 87:6
minerals 80:21	necessary 63:4 87:6		65:3 67:18,24	part 29:9 41:23 78:7
82:18	need 8:16,23 9:2	O	68:12,15,16 69:2	82:16
minimum 16:10	21:9,10 28:17	O 4:1 86:1,1,1,19,19	69:11,14,25 70:22	participated 60:6
17:14	34:22 37:15 38:6	86:19,19	71:4,8 72:7,12	61:15
minute 56:21	39:21 53:24 72:23	obey 27:10	73:1,24 74:16,19	particular 19:25
minutes 19:22	75:22 78:12,13	obtain 11:11	75:2,5,5,12,20	23:5,5 24:7 48:25
miracle 84:9	82:3 84:1	obtained 11:16	76:5,9,18 77:5	50:13 66:5
misconception 62:7	needed 73:9	33:23	80:12 83:23 84:19	particularly 20:2
misused 34:17	negate 23:15 49:6	occur 24:14	84:22,25	50:20 53:19 54:9
MIT 77:25	negative 26:9	occurred 65:7	old 17:17 25:19 34:6	80:16
mixed 47:21	never 10:8 25:6	occurring 57:21	53:23 62:3 63:16	partied 78:17
mixes 62:11	31:11 32:11 33:13	odds 27:19	78:5 79:5	patent 80:16 83:18
moisture 44:20 47:8	35:10 36:15 44:23	office 38:25 79:9	once 33:8 36:14	patient 6:25 73:12
47:10 49:9,10	46:19 47:11 49:19	officer 2:8 5:21	ones 12:22 48:17,17	patients 7:19 45:14
molecule 81:24	49:25 53:12 54:6	official 11:25 35:13	One's 37:11	73:7 78:13 82:11
money 17:14 26:2	58:23 59:1,12 75:4	35:25 45:16 70:1,5	one/phase 63:18	84:4
	75:18 76:2,2,13	71:13		Patricia 31:12

Pause 76:21	20:13 58:4 64:6	plant 42:15 46:16	prevents 59:6	property 20:1
pay 27:5	78:7	47:2 48:1	previously 5:3	proportions 34:21
Paynter 1:5 3:4 4:8	Pharmacopeia	plants 66:18,19	price 16:6	35:1 55:18 56:14
4:11,21 5:2,9,11	72:15	play 78:25	primary 10:13	prosecuted 39:5
5:14 10:22 21:8	Pharmacopoeia	player 31:25	print 29:17	protein-carbohyd...
22:7 37:9 38:3	23:24 45:17 71:8	please 8:21 9:15	printer 29:17	53:18
39:24 67:18,22,25	71:14,16 72:7	43:3,6 68:14 69:9	prison 7:21	provide 28:18 29:23
68:5 69:15 76:9,15	pharmacy 32:5	88:5	privately 23:3	providing 57:4
76:17 84:25	phase 25:23,23,23	plus 30:20 68:22	probably 14:25	psyche 51:15
PDR 23:2,22 44:1,2	25:24 63:12,12,18	point 17:7 31:21	16:23 20:20,21	Psychiatric 81:8
45:9 48:9 74:9,17	64:20,20,21	54:17 58:9 60:14	29:11 44:21 51:22	psychiatrist 6:17
people 7:1 21:1 24:9	phases 63:13	64:25 65:11 66:15	55:24 66:6	psychiatrists 81:7
27:8 29:21 37:18	phone 83:14	82:13 84:16	problem 26:12	psychologically
61:8 63:15 65:8	phosphorus 81:25	police 27:9	52:25 73:22 74:8	26:15
78:4 79:3 81:9	82:20,25	poor 14:11	proceedings 76:21	psychologist 6:16
82:3,24	phosphorylate	popular 18:14 19:18	process 38:5 60:16	public 26:14 54:21
percent 32:16	81:23	45:13 72:10 81:1	82:14	54:25 65:15 87:18
percentage 20:6	phosphorylating	83:8	produce 6:20 19:17	publication 73:3
perfect 30:10	82:14	possible 24:18	30:8 53:20	74:2
perform 62:10	physical 31:2	potential 64:5,10	produces 47:1	public's 26:12
perfumes 12:25	physician 7:7 46:2	powder 57:5	product 16:10,12	published 21:15,19
period 15:19 38:7	71:20,24,25 78:8	practice 6:19 11:7	22:2,9 24:5,25	22:12 23:3,21,22
39:13	78:11	29:9,9	25:6,21 26:1 29:10	23:22 33:23 34:22
person 26:21 47:16	physicians 13:6 16:9	practices 32:18,23	30:7 32:21 33:3	38:15 41:5 45:11
51:14 53:5 60:21	22:22 23:4 32:2	practitioner 44:9	34:5,20 53:11 55:3	58:16 71:1,5,6,16
person's 51:15	45:11,12 59:21	46:2 70:4	55:5 56:13,17	73:4,10 74:4
78:10	60:11,22,23,24	preach 54:20	78:24	publishing 71:17
pertaining 50:13	63:7 73:5,6,25	preaching 54:25	products 6:18 13:3	74:4
pharma 34:6	74:3 79:1,19 80:2	preclaim 5:3	13:7 15:19,21 16:8	pull 71:25
pharmaceutical	83:25	precursor 61:25	16:20,21 17:2,10	punctuation 86:22
12:18 27:25 28:9	physician's 73:2,11	prefer 29:15 60:24	22:25 23:1 27:8	purifier 51:18
31:22 32:6 77:10	74:11	premed 19:4	29:14,24 32:7	purify 51:22 70:14
80:14	physics 19:3	preparation 36:17	33:24 34:2 35:15	purifying 43:24
pharmaceuticals	physiological 51:16	58:7	36:22 54:18,19	52:11 74:18
17:25 18:2,9 21:10	phytohormones	prepare 28:16,22	70:6 78:8	purpose 15:4 49:16
22:23 32:10 63:16	47:3 61:25	prepared 39:8	product-knowledge	purposes 4:19 35:8
63:17 66:11 73:20	Phytopharmaceut...	preparing 21:10	79:3	pursuant 2:18
79:11 80:7,9,10	70:23	prescribe 79:1	profession 12:1	put 4:22 7:21 16:15
pharmaceutical/n...	Ph.D 6:18	prescription 18:9	19:15	17:14 18:7 20:17
14:23	picked 83:13	22:23 66:12 78:14	professors 78:1,5	22:3 24:19 30:11
pharmacists 80:3	pill 71:25 72:1	80:11,15	profit 16:4,7 17:5	30:18,20,21,24
pharmacologist	pizza 79:18,20	presence 87:15	promulgated 41:24	32:15 35:1,5 36:12
81:14	pizzas 79:18	present 59:2	proofread 86:21	41:8 55:13 56:15
pharmacologists	place 78:21	preservative 56:18	proper 27:25 65:3	57:13 65:25 79:12
19:14 78:1	placebo 60:12,17,20	pretty 9:24,25 14:4	properly 7:6,18 82:4	83:25
pharmacology	61:2,20	19:4 31:23 46:22	properties 21:17	putting 84:14
18:25 19:9 20:12	places 78:18	64:23	23:16 44:14	pyridoxal-5-phos...

83:7,15 pyridoxine 81:19 p.m 85:5	reasonable 17:6 recall 43:23 44:13 55:12 72:8 75:13 75:15 received 19:2,10 Recess 37:8 67:21 recognized 34:6 71:10 recommended 34:14 37:18 41:20 record 4:23 9:3 10:20 21:6 22:5 25:1 37:6,7,10 38:1 53:10 87:4 88:8 records 7:24 30:2,4 30:5 55:21,25 reduce 42:18 44:3 46:7 47:10 50:8 66:2 67:2,11 70:20 70:21 reduces 45:2,6 47:14,15 49:22 70:13 reducing 65:24 66:4 66:22 72:4 refer 30:17 42:13 reference 22:22 23:4 40:3 41:10 73:14 73:25 74:3 references 22:11 33:22 45:11 55:20 56:12 58:15 referred 6:22 44:18 refuse 40:13 regard 14:24 59:16 62:24 regarding 5:18 55:21 58:21 68:18 regards 15:15 Region 3:8 Register 29:19 regular 10:9 regulated 10:8 regulations 29:3 33:7 regulatory 74:7	reabeled 14:8 relate 50:22 related 78:7 relates 51:24 relation 74:5 relax 6:25 remained 70:1 remedy 45:19 remember 8:6 15:1 25:18 46:15 53:4 56:3 57:20 58:10 83:9 remove 51:21 removing 20:10 repeated 73:22 rephrase 8:22 report 1:10 58:11 68:1,2,7 reporter 8:19 9:19 10:21 21:7 22:6 38:2 39:14 represent 4:15 representing 87:12 republished 71:6 request 24:13 require 12:13 47:7 80:10 88:6 required 30:13 32:20 requires 30:1 research 7:15 15:18 19:12 81:17 respect 27:6 35:25 38:10,17 respondent 4:23 respondents 3:14 5:4 61:7 responding 39:1 response 8:17 rest 23:25 27:19 30:15 71:7 result 6:13 8:3 57:9 64:2 results 54:3 57:11 60:25 61:1,10,11 61:14 64:17 65:4 73:8	retained 31:18 33:17 38:23 retention 46:6 reviewed 69:19 reviewing 70:8 rhubarb 43:12 51:11,12,24 52:8 rid 20:8 24:15 44:20 ridiculous 75:1 right 6:24 10:7 18:14 23:2,6 28:3 35:1 40:18 42:3,5 43:1,17 46:1 49:5 56:14,24 64:9 65:13,16 67:19 68:23 69:21 71:11 71:23 72:16,23 78:22 84:3 rigorous 32:8 rise 20:19 21:21 53:7 RMR 86:16 role 38:5 room 2:12 54:25 root 43:10,12,18,19 43:20 44:5,12 51:11,24 52:8 71:9 73:13 rough 24:22 roundabout 18:21 rule 20:22 65:6 70:16 71:23 76:1 rules 26:24 27:2,9 27:10 41:24 88:6 Rumex 42:13 44:18 run 16:22,25 24:8 56:1 63:13 80:17	79:16,17 saponins 47:1,2 save 15:1 27:4 saw 37:13,14 61:10 61:11 saying 16:9 35:5 52:5 54:11 65:12 65:15,16 71:7,21 72:22 says 30:19 48:9 67:4 68:19,24 69:16,19 70:22 73:12 74:18 schizophrenic 81:10 83:2 84:4 school 10:25 60:5 77:12 schools 11:1,4 science 11:5 19:9 scientific 19:2 45:25 50:1,10 52:7 scientifically 38:12 scientists 19:13 seat 27:3 second 20:9 48:2 67:19 secretary 60:23 61:4 section 68:24 69:2 see 5:15 18:25 23:9 26:10 28:7,12 33:9 37:5,22 42:3 43:16 48:17 53:14 54:9 55:2 57:9 58:9 60:25 61:1 63:14 64:3,6,19,22 67:11 68:9 69:1,6,7,17 70:13,13,14,15,24 72:25 73:8,22 seeing 44:13 seen 37:11 44:23,25 45:8 46:19 47:11 47:13 48:8,11 49:17,19,25 51:23 52:8 54:6 58:23,24 59:1 66:24 sees 25:6 seldom 29:15 sell 15:19 17:2,5
Q QUADE 86:25 qualified 14:18 quality 16:6 32:7,9 32:9,21 quantities 43:20 51:12,13 55:10,14 55:15 quasi 13:10 Quebec 34:11 question 19:20 38:14 39:21 76:8 76:10 questionable 7:5 questions 8:17 33:10 39:1,17 40:4 68:11,17 79:6 85:1 85:3 quite 11:18 15:5 22:12 33:12 45:10 49:13 67:1 71:11 83:16	R R 4:1 86:1,1,1,1,19 86:19,19,19 raised 11:1 ran 13:23 rape 6:23 reach 63:9,9 read 40:14,22,23 41:5,22 42:1 51:4 58:6 71:3,7 87:2 readily 58:18 Reading 85:6 real 50:18 60:21 really 14:12 31:24 32:11 52:9 54:6 55:24 59:3,13,23 60:25 66:16 67:3 70:25 77:7,20 78:16,23 79:4,4,4 reason 31:17 71:1 75:3 77:8 88:6,10	S S 3:15 4:1 safe 13:14,15 21:11 29:11 35:19 64:18 64:24,25 80:18 safety 65:2 sale 33:1 sales 79:23 83:12 salesperson 77:14 samples 30:7,10		

25:21 34:24 65:9 selling 6:11,15 7:22 sells 16:21 semiofficial 23:3 send 30:22 32:4 sense 20:25 21:1 separate 16:15,18 57:25 87:6 separating 19:8 sermon 54:20 sermons 55:1 sessions 78:4 set 13:12 26:22,23 26:23,24 60:10 sets 11:23 seven 38:7 43:4 45:21 55:13 58:6 71:12 73:18 74:17 79:13 Shair 6:10 13:17,17 share 21:3 shark 53:20 54:4 sheep 43:7 44:15,17 45:1,4,8,18 sheer 41:22 sheet 87:6 88:6 shooting 25:4,9 shot 32:16 shout 9:20 show 40:21 41:10 50:1 showing 49:17 59:10 shown 53:22 66:8 shut 56:21 shy 54:10 Siberian 43:14 46:12 47:1,14 side 9:16,22 60:22 sides 26:10 83:1 signature 85:6 significant 33:15 similar 7:12 similarities 14:17 simple 25:7 82:6 single-blind 48:15 singling 49:1	sinuses 51:3 sit 9:22 78:10 site 37:14,22 40:18 40:22 55:8 58:5 situation 10:10 six 6:2 30:11,20 slight 8:4 slippery 43:9 49:7,8 slitting 25:4 small 56:14 82:22 smart 84:12 Society 12:17,17 soft 46:6,7 sold 30:15 33:4,5 60:19 soluble 57:24 58:1 somebody 39:9 soothing 49:10 sorrel 42:12 43:7,7 44:15,17 45:1,4,8 45:18 sorry 22:4 35:20 37:21 45:3 63:23 69:10 76:16 sort 6:6 12:25 25:12 25:14 44:4 45:12 51:7 57:7 sounded 50:21 South 48:6 Southwestern 60:8 speak 9:9,14 46:1 71:3 83:16 speaking 9:10,14 26:18 70:11 specialist 41:1 specialize 13:2 specific 36:3 72:20 specifically 4:25 31:17 44:14,23 49:19 52:12 speculation 41:22 spell 53:14 spelled 70:7 spelling 34:11 86:22 spend 65:8 spoken 38:21 stage 63:10	stages 63:11 standard 20:12 start 19:8 36:19 40:8 64:3 67:6,14 77:10 79:14,15 80:14 84:18 started 19:18 35:24 50:18 80:6 state 6:9,10 10:3 11:4 13:17 33:14 56:21 stated 44:23 46:19 47:11 statement 28:19 43:24 46:25 52:16 53:2 66:7 74:22,24 statements 37:23 40:25 74:7 States 2:1 23:4 27:19 30:14,16 33:4 72:15 83:11 stay 65:10 staying 79:10 steal 76:3 stenographic 88:8 step 41:15 67:19 82:1 steps 22:9 32:20 stomach 49:18,23 51:4 stone 9:7 stop 28:8 stopped 70:1 81:11 store 32:5 56:1 story 34:7,9,10 street 3:17 28:2 78:19 stretch 44:21 strictly 24:9 35:7 structure 22:13 64:4 81:20 structure/function 62:13 studied 38:12 studies 22:17 29:7 39:12 44:11,25 45:4,7,25 47:13,20	48:8,10,11,13,14 49:17 50:1,10,10 50:12,16 51:23 52:7 53:22 58:21 58:24 59:5,8,10,18 59:20,25 60:16 61:15,18 62:23,24 63:19,20 64:1,2,3 64:22 65:4 66:8,25 67:1 74:15 study 25:15,19 39:22,25 51:8 59:23 60:9,18 61:7 61:8 62:4 63:3 64:5 67:3,4,5,10 73:15 84:5 stuff 24:12,12 56:18 stupid 20:24 subject 36:15 45:13 52:18 73:7 submission 5:3 submit 29:1 substance 6:11,20 7:22 57:5 substantiates 21:22 substantiation 5:4 suddenly 75:17,18 sued 10:5,15 sufficient 43:20 51:12 sugars 49:12,12,13 suggested 35:4 suggesting 30:24 suggestions 35:3 Suite 3:9,17 sulfate 53:15 supplements 17:25 supplied 7:17 14:7 supply 7:4 supplying 63:4 support 48:7 49:4 supporting 48:20 49:3 supports 71:22 suppose 43:25 44:23 74:20 supposed 48:7	sure 19:18 21:11 24:14 25:6 29:11 38:6 44:7,7 46:15 46:15 56:9 58:10 59:22 72:24 74:6 74:21 75:11 81:4 surest 25:5 surgery 19:23 surrounding 47:9 Swankin 3:16 swim 26:7 sworn 4:6 symptom 67:8,16 symptoms 46:5 67:7 70:18 72:4 synergistic 35:6 synthetically 66:18 syrups 49:14 system 48:7,20 49:4 51:22 71:22 S-U-L-F-A-T-E 53:16
				T
				T 86:1,1,1,19,19 tablet 20:17 tablets 32:3 83:24 take 5:17 8:19,23,24 19:5,7,8 20:5 25:17 41:6 42:19 42:20,22 56:15 64:19 65:3 72:1 taken 40:21 53:2 86:9 talk 38:17 39:8,11 41:13 43:18 51:2 79:20,21 talked 31:13 36:7 67:13 79:20 talking 19:24 37:16 51:5 53:4 66:11 75:13 taught 78:6 TDH 10:11,12 33:8 33:11 tea 56:16,23 57:1,3 57:5 teachers 78:2

technical 82:10	theoretically 15:9	75:16 77:15,23	treats 71:22	U
technician 79:15	thereof 88:5	78:16 83:13	tremendous 16:4	
Technologists 12:19	they'd 25:9	times 5:25 6:2 17:17	trial 8:1 14:21	Uh-huh 5:22 21:12
technology 18:10	thin 14:6	19:7 23:13 24:10	trials 63:12	31:5 44:16 46:13
77:24,25	thing 7:10 14:9,10	24:13 38:24 80:14	tried 56:20 59:1	47:24 57:14 68:21
Ted 4:13	16:3 18:14 20:9	tissue 46:6,7 47:9	82:7 84:6	69:18 74:1
telephone 31:13	21:14 25:12,14,25	49:9	triple 60:13	unapproved 7:22
36:9 68:11	26:9 35:24 36:16	title 29:19 30:19	trouble 54:14	understand 8:20 9:5
tell 10:23 16:24	37:14 44:4 49:3	35:25 86:4	true 34:8 43:25 75:8	26:11,25 34:4
17:21 19:16,22	50:17,21 51:7	today 5:16 8:10,11	87:3	50:22 62:7 77:21
23:6,19 24:6 25:1	52:11 57:22 59:2	9:4 25:19 36:17,18	truth 53:2 54:15	78:20 82:9,16
25:13 35:17 41:4	60:21 62:3 65:7,14	37:3 41:14 58:7	try 9:11 21:4 29:15	understanding 57:6
41:17 42:9,24 43:3	66:2 73:24 77:19	77:2	29:18 64:14,22	79:5
44:17 56:20 63:8	82:7	Toiletries 12:19	76:3 84:3	understood 76:8
73:14	things 6:6 12:1	told 7:4 24:11 34:23	trying 9:9 15:7,7	unfortunately 15:24
telling 7:18 79:5	18:24 20:1,11	36:19 39:7 40:7	24:22,23 26:1	United 2:1 23:4
tells 21:16,17,24	23:11 27:16 35:4	55:19 56:3,11	29:11 46:15 57:10	27:19 30:14,16
22:16 23:17 81:19	41:18 46:6 47:3	Tomentosa 48:2	57:11,24 67:7,8,14	33:4 71:5 72:15
ten 8:8 12:5	50:25 51:9 53:19	tools 72:2	75:7 82:5	83:11
tend 46:18 47:21	59:7 60:13 64:7	tore 7:20	Tufts 25:16	universities 19:12
64:2 72:11	68:18 72:5 79:25	totally 26:14 27:19	tumor 47:7 59:10	60:5
tended 79:1	80:20 82:18	50:19	tumors 47:6,14	university 11:2,3,8
terminology 50:24	think 7:16 12:4,4	touch 34:16	70:20	25:16 60:23 63:3
50:25	21:5 22:16 31:13	tough 14:4 65:12,13	turkey 51:10	unofficially 58:17
terms 13:20 14:22	33:19 35:23,23	tract 49:11 51:22	turmeric 65:18	update 12:8
15:3 28:9 45:25	40:14 42:10 43:7	trade 1:1 2:2,13 3:3	turn 9:21 62:5 81:25	upper 51:2
46:1 52:7 54:15	43:23 44:1 47:16	3:7 4:12 5:19 13:9	84:7	upside 82:25
63:6,18 65:17	48:2 54:17,23 57:8	13:10 21:22 39:15	turned 33:14	urban 34:9
73:18 84:14	58:8,11 59:3 64:10	41:25 86:10	Turner 3:15,16 4:23	urine 79:17
test 27:14,16 28:10	66:11 67:6,20	traditional 20:12	4:25 5:6,10 36:19	USA 28:25
28:11,12 56:9 57:8	69:12 75:10 76:7	47:20 51:25 52:1	38:24 39:6 40:7	usable 64:2
testified 4:6	76:20 78:5,14 82:6	trained 19:13	41:13 69:12 76:7	use 7:6,8,14 13:14
testify 36:20,23,24	83:17 84:11	training 19:2 78:4	76:10 85:2,3	22:16 23:4,14
37:14 40:8,10	Thomson 74:4	transaction 55:22	turning 63:15	24:11 28:1 29:12
testifying 13:20,24	thousand 25:19	transcript 86:7,8,21	Twenty 16:20	30:18 34:21 35:19
testimony 4:22 5:18	32:16	87:3,7	twenty-some-odd	35:19 40:3 41:10
6:11 8:11 13:20	three 11:14 25:23	transcripts 15:2	62:4	51:17 53:9,14,24
14:12,22,24 87:4	43:11 60:13 64:20	transfer 77:24	twice 36:14	54:4 55:18 57:12
testing 28:10	84:3	treat 24:25 48:24	two 7:20 10:7 11:14	58:16 64:12,16
tests 13:22	Threonine 14:1	52:15 53:3 72:18	11:14 15:16 25:23	70:10,12 71:15,20
Texan 20:25 84:23	throat 25:5	treating 51:24 58:22	26:18 33:10 54:24	72:2 73:16,17 77:8
Texas 10:13,15 11:2	throw 56:2	79:22	63:12,18 64:20	80:18 82:23 83:1
11:3,8,15 79:10	ticket 52:24	treatment 38:4 44:6	77:18 79:14	83:19 84:1,2
Thank 5:11 8:13	tie 11:19 12:5	44:12 45:5 54:5	types 32:7 70:6	uses 44:3 47:18
9:13 50:4 76:15	time 8:24 31:16 36:9	70:10	typical 53:13	62:10 71:19
thanked 8:1	39:3 42:23 51:15	treatments 76:24	T-H-R-E-O-N-I-...	USP 72:14
THEODORE 3:5	51:16 59:13 65:1	77:6	7:12	usually 10:10 12:13
				21:19 27:18 28:21

30:18 33:9 50:13 53:13 63:2 79:8,17 UTA 11:14	24:12 25:5 32:21 38:11 44:24 47:12 50:20 51:19,20 65:16 66:10 82:6 83:6	26:6,13 28:1 49:4 79:5 words 49:20,21 81:24 work 8:5 19:11,23 36:3,6 49:5 67:7 77:17 84:2,3,17 worked 19:11 77:11 77:14,16 79:25 84:6 working 67:8 77:10 81:7,11 works 53:25 65:4 world 24:1 25:5 27:20 30:15 71:7 worst 25:25 Worth 11:1,1,5,9 wouldn't 7:5 40:15 51:14 52:12,20,25 76:4 write 78:14 written 28:18 wrong 65:16 66:12 69:8	yellow 42:13 York 2:15,15 3:10 3:10 6:9 56:21 young 78:4	573:1 50 83:25 84:2 50s 77:13 83:18
V	wear 9:8 wearing 27:3 Web 37:22 40:18,22 55:8 58:5 Wednesday 2:10 weight 54:10 went 5:8 11:2,7 19:4 37:10 55:8 77:17 78:17 83:12 84:7 weren't 48:18 Wesleyan 11:8,15 western 50:22 we'll 5:15 19:7,8 38:17 40:3 42:6 we're 20:10 24:21 30:24 32:13 41:15 57:24 63:2,3 66:21 66:21 67:7,19 75:10 76:20 79:21 we've 10:8 15:20 19:22 30:23 33:13 65:2	X	Z	6
variation 70:3 varies 60:4 verbal 8:17 44:10 versus 6:10 13:17 veterinary 23:1 view 25:13 27:7 53:1 views 25:11 vitamin 32:3 62:8 81:2,5,5,9,18,25 81:25 82:1,14,21 82:25 84:8 vitamins 80:21,24 80:25 82:18	WHALEN 86:16 wholesale 77:12,16 widely 33:23 wife 16:22,25 17:11 17:19,20 52:19 wife's 29:16 willing 17:14 37:3 39:11 40:17 wish 78:13 withdraw 67:22 WITHDRAWN)c... 1:9 witness 1:4,10 4:5 5:12 6:7 14:19,20 39:21 67:24 68:3 69:13 76:12,16 88:1 won 6:12 wonder 31:19 word 17:22 25:2	X 1:2	Zang 3:5 4:13 zero 64:18	607-2813 3:11 68 1:10
W		Y	\$	7
W 3:6 waived 85:6 Wampole 77:24 wander 79:19 want 5:13 9:22 13:4 16:9 19:6 20:7 22:19 24:10,14 27:5,7 32:3,6,7 34:25 35:5,7 37:2 37:5 41:13,14 42:22 56:5,13,18 56:22 57:10,19,22 58:9,9 60:25 61:1 64:3,20 67:4,10 73:13 76:6,22 79:9 81:3 wanted 7:14,15 40:24 57:2,8 68:17 73:13 83:25 wants 23:14 warned 9:19 Washington 3:18 wasn't 14:12 84:4 water 20:6,8 56:16 56:16 58:1,2 watercress 43:14 50:5,7 way 8:5 18:21 19:23		yeah 6:16 9:16 13:19 14:3 15:5,18 16:9,22 17:24 18:14 22:3 26:11 30:3 38:24 42:10 43:5 45:21 47:2 50:17 52:6 56:25 58:14 60:2,2 61:17 61:17 62:14,20 66:6,10 68:10,13 69:14,23 70:25 83:17 year 8:6 30:20 33:6 79:24 years 8:8 11:13 12:5 14:25 25:20 30:11 30:12,19,20 31:22 53:23 55:25 62:4 76:14 79:24	\$1.4 25:20 \$200 27:5 \$35.00 68:19	75:1,9 34:5 35:9 36:11 37:15,17,23 39:17 40:20 42:8 42:25 43:4 55:9 56:4,9 58:21,25 59:10,12,17 62:19 68:14 69:3,4,9,22 70:8 72:21 73:19 74:21 73 53:23
			1	9
			10	9329 2:6 86:3
			10004 2:15 3:10 101 3:17 20:13 11 2:10 86:5,13 88:2 12:24 85:5 1400 3:17 15 79:24 15-20 76:14 16th 3:17 19 77:11	
			2	
			20036 3:18 2009 2:10 86:5,13 87:14 88:2 202 3:19 21 29:19 30:19 212 3:11 250 84:1 280 68:22	
			3	
			318 2:12 3:9 35 55:25 39 1:9	
			4	
			4 1:5 72:22 462-8800 3:19	
			5	

In the Matter of:

Daniel Chapter One, et al.

February 12, 2009

Rustum Roy

Condensed Transcript with Word Index



For The Record, Inc.
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1			
2	FEDERAL TRADE COMMISSION		
3	I N D E X		
4	WITNESS:	EXAMINATION:	PAGE
5	RUSTUM ROY	BY MR. GORDON	4
6		BY MR. TURNER	79
7			71
8			
9			
10	EXHIBIT:	DESCRIPTION	FOR ID
11	Number 1	Rustum Roy Professional Biographical Data	25
12	Number 2	Report of Expert Witness Rustum Roy	40
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

3

1 APPEARANCES:

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2

1 UNITED STATES OF AMERICA

2 FEDERAL TRADE COMMISSION

3

4 In the Matter of:)

5 DANIEL CHAPTER ONE, a corporation,)

6 and) Docket No. 9329

7 JAMES FEJO, individually and as)

8 an officer of Daniel Chapter One)

9 -----)

10 Thursday, February 12, 2009

11

12 Room 318

13 Federal Trade Commission

14 One Bowling Green

15 New York, New York 10004

16

17 The above-entitled matter came on for

18 deposition, via videoconference, pursuant to notice, at

19 10:28 a.m.

20

21

22

23

24

25

4

1 PROCEEDINGS

2 - - - - -

3 Whereupon --

4 RUSTUM ROY

5 a witness, called for examination, having been first

6 duly sworn, was examined and testified as follows:

7 MR. GORDON: I guess the first order of

8 business, Jim, I think you and I need to stipulate that

9 the swearing via teleconference is effective.

10 MR. TURNER: Yes.

11 MR. GORDON: Okay. So stipulated.

12 - - - - -

13 EXAMINATION

14 BY MR. GORDON:

15 Q. Dr. Roy, good morning.

16 My name is --

17 A. Good morning.

18 Q. -- Leonard Gordon. I'm the director of the

19 Northeast Regional Office for the

20 Federal Trade Commission.

21 We're here for your deposition today. We're

22 doing it via video teleconference.

23 Let me briefly go over with you some of the

24 rules of the road for the deposition, and some of these

25 rules are even more important today because of the

5

7

1 mechanism by which we're conducting the deposition.
 2 In any deposition it's important that I let you
 3 finish your answers and that you let me finish my
 4 questions so that the court reporter can take down
 5 accurately both my questions and your answers. That
 6 becomes even more important today because, although this
 7 technology is quite wonderful, as our words and images
 8 travel over the Internet between each other, there is a
 9 little bit of a delay.

10 So please make sure I'm finished my question
 11 before you answer. I will try and make sure you are
 12 finished your answer before I ask the next question. I
 13 talk fast, but I'll try and slow down to make sure
 14 that, using this technology, we can get a decent
 15 transcript.

16 If I ask you a question today and you don't
 17 understand it, let me know. I'll rephrase it.

18 You are under oath and subject to the penalties
 19 of perjury.

20 And with that, let me just ask you a couple of
 21 sort of organizational questions.

22 In conversations with Mr. Turner's office, we
 23 had asked that you bring with you, since I can't hand
 24 them to you today, certain documents, and specifically
 25 I'd asked that you have a copy of your report with you.

1 can refer to it, but I'm fairly certain that you'll be
 2 able to figure out if I'm referring to items on there
 3 what those items are. I'm sure between the two of us we
 4 can figure that out.

5 MR. GORDON: Mr. Turner, could you just clarify
 6 for us, what is it, in what field actually is Dr. Roy
 7 being offered as an expert in?

8 MR. TURNER: He's an expert in the conduct of
 9 scientific research and with the focus on health and
 10 materials.

11 BY MR. GORDON:

12 Q. Dr. Roy, to prepare for your deposition today
 13 can you just describe for me what it is you've done?

14 A. I have read what's in my report, I've reread
 15 what was in the report and have gone back over relevant
 16 materials to statements in that report.

17 Q. In connection with any of the work that you've
 18 done in this case to date, have you reviewed the
 19 complaint that the Federal Trade Commission has filed
 20 against Daniel Chapter One and Mr. Feijo?

21 A. No.

22 Q. Have you reviewed any of the advertisements on
 23 which the FTC's complaint is predicated?

24 A. No.

25 Q. Have you reviewed or obtained any of the product

6

8

1 Do you have a copy of your report with you
 2 today?

3 A. Yes, I do.

4 Q. Okay. Great.

5 And then I'd also asked that you have a copy of
 6 your CV.

7 And can you just confirm that you've got a copy
 8 of your CV with you today.

9 A. I've got a copy of my official CV, as you call
 10 it.

11 Q. Okay. Well, by your official CV, can you
 12 describe what you mean just so I make sure -- since I
 13 can't see it, I need you to describe it for me.

14 A. It's called Professional Biographical Data at
 15 the top line.

16 Q. And it's three pages long?

17 A. Correct.

18 Q. And then Mr. Turner's office also provided to us
 19 something called Recent Publications, which is,
 20 goodness, forty or fifty pages long.

21 Do you have a copy of that with you as well?

22 A. No. I didn't bring down a copy of that because
 23 I -- it was too long.

24 Q. Okay. That's fine. I may ask that the
 25 court reporter mark that as an exhibit just so that we

1 or product labels for the products at issue in this
 2 litigation?

3 A. No.

4 Q. Have you spoken with Mr. or Mrs. Feijo either in
 5 person or by telephone?

6 A. No.

7 Q. Have you spoken in person or by telephone with
 8 any of the other individuals who are serving as expert
 9 witnesses on behalf of Daniel Chapter One or Mr. Feijo?

10 A. No.

11 Q. Have you reviewed any of the reports prepared by
 12 any of the expert witnesses in this matter other than
 13 yourself?

14 A. No.

15 Q. Have you conducted any tests on products
 16 manufactured by Daniel Chapter One or similar products
 17 in connection with your work particularly on this case?

18 A. I have not conducted any work on any product
 19 made that I know was made by Mr. Feijo. We have done in
 20 our lab some work on homeopathic products from the
 21 University of Arizona and from various suppliers to
 22 that.

23 Q. What types of products, sir?

24 A. They were labeled homeopathic samples. But we
 25 don't work in this field. To them they're just -- to us

1 the samples that are supplied have been supplied by
 2 Professor Bell at the University of Arizona, who is an
 3 expert in the field, and she has selected them and
 4 supplied them to us, and one other supplier that she
 5 recommended has supplied samples to us, for research,
 6 not for anything to do with healing activities.

7 **Q. So the nature of the tests that you were**
 8 **performing on these homeopathic samples, what was it**
 9 **that your research was trying to uncover?**

10 A. That is the key question. Our thesis as
 11 scientists was that the argument used against homeopathy
 12 was totally absurd science. It was so ridiculous to a
 13 chemist and a materials scientist that we thought, as
 14 responsible materials scientists, this kind of
 15 absurdity, scientific absurdity, should not be allowed
 16 to be perpetrated without challenge.

17 That's what science is about. If somebody makes
 18 a claim which is ludicrous or even wrong, we who know a
 19 little bit about that should say, Wait a minute, this is
 20 completely wrong.

21 And so that's -- we are experts in the structure
 22 of water, and the statements about water and the fact
 23 that it can't be changed is a fundamental mistake that
 24 we were challenging.

25 **Q. So the experiments that you were conducting on**

1 **interrupted you, but you used a term I was not familiar**
 2 **with.**

3 **You said that you were comparing these samples,**
 4 **and it wasn't clear to me to what you were comparing**
 5 **them.**

6 A. Our thesis was that if the critics were
 7 accurate, then there should be no difference between a
 8 series of samples which had been diluted more and shaken
 9 more among each other and with other samples.

10 In other words, the theme that the critics used
 11 was water is just water. And to their defense I have to
 12 say that it is kind of the intuitive general public
 13 response that, heck, water is just water. You can't
 14 change water. Water is a liquid, and it's just water.

15 That is such a gross error that that is what I
 16 was -- as a materials scientist of some repute, I said
 17 this is total, unadulterated nonsense. Liquids can
 18 change. Who said they can't change?

19 Most of the critics, if they have any training
 20 in the physical sciences, it's limited to I would say
 21 high school chemistry or maybe college chemistry, and
 22 that's the end of their training, so they don't have a
 23 clue about modern, contemporary materials science.

24 **Q. What is materials science?**

25 A. Well, it's the science of all materials. We

1 **these homeopathic samples involved water-based products**
 2 **or what exactly?**

3 A. They were water-based products. They were
 4 supplied, as I said, by Professor Bell as standard,
 5 important examples. They were just exemplars of the
 6 homeopathic art, whatever it is. And we compared
 7 different samples which had, let us say, different
 8 remedies in them and different succussions.

9 **Q. Sorry. What was that word?**

10 A. The word is succussion. It's a rare word.
 11 S-U-C-C-U-S-S-I-O-N.

12 **Q. And what does that word mean?**

13 A. The word "succussion," I don't know where it
 14 came from, but it is used to describe the process that
 15 Hahnemann apparently did, which was to dilute his sample
 16 ten times or a hundred times and then shake it. The
 17 shaking is very important, very important.

18 So Hahnemann had, A, dilution and, B, shaking,
 19 and the shaking is an extremely key part of that process
 20 which has been missed by the critics. It is shaken,
 21 shaken, shaken several thousand times rather rapidly in
 22 a specific device.

23 And so succussion is the shaking process of the
 24 diluted sample.

25 **Q. Thank you. And I broke my own rule and**

1 have the whole world in our hands. It's literally -- I
 2 mean, I started as a geochemist. I worked with the
 3 materials of the earth and I ended up -- my biggest
 4 papers are concerned with very dilute water samples.

5 And I work on diamonds. My lab has the biggest
 6 diamond in the world and making diamonds at room
 7 temperature, room pressure.

8 So any material is in our province.

9 **Q. How does one dilute water?**

10 A. No. They dilute remedies which are themselves,
 11 as I understand it -- I'm no expert in homeopathy. But
 12 as I understand homeopathy, it is addition initially of
 13 a particular remedy, whether it is sodium chloride or
 14 whether it is an herb or whether it is another chemical
 15 or a mineral, and which is added to the water or to the
 16 alcohol solution, in our case water, and then it is
 17 shaken. Then it is rediluted by a factor of ten at
 18 least and then shaken again, then diluted again by a
 19 factor of ten or a hundred and then shaken again.

20 And this is the process which is done -- now,
 21 don't get me wrong. It is done hundreds of times, so
 22 the dilution gets so weak that the number of good
 23 molecules is so low that it passes what we call the
 24 Avogadro number, 6.3 times 10²³.

25 When it passes that dilution, then Mr. Avogadro

13

1 had calculated that there are no molecules left, in
 2 other words, that there are only water molecules left,
 3 and therefore, especially these high-dilution remedies
 4 are complete nonsense because they're just shaking
 5 water.
 6 So the argument was based on the fact that water
 7 cannot be changed by -- if it's got only water.
 8 **Q. Are these experiments that you've been**
 9 **discussing concerning water-based homeopathic products**
 10 **the extent of your research on homeopathic products, or**
 11 **have you done other types of research on these**
 12 **products?**
 13 A. No. Let me be very clear. We do no other
 14 research.
 15 I'm going to qualify that. We do very
 16 different kinds of measurements in the lab on the
 17 structure of water. Those are our -- that's the sum
 18 total, but that's a complex set of measurements that we
 19 make.
 20 We do zero clinical trials. We have nothing to
 21 do with causing healing or not in a human being. We are
 22 not homeopathic practitioners who have much more than
 23 just the water to give the patient.
 24 So we do nothing outside of the
 25 physical-chemical measurements of the structure of the

14

1 homeopathic remedies.
 2 **Q. So when you were conducting these experiments,**
 3 **you were not measuring the efficacy of these products;**
 4 **correct?**
 5 A. Correct.
 6 **Q. And you've never done any experiments to**
 7 **measure the efficacy of any medical treatments;**
 8 **correct?**
 9 A. Not at the human level, no. Zero.
 10 **Q. Your answer implies that you may have done it at**
 11 **some other level, some non --**
 12 A. No. We've just studied, quite outside
 13 homeopathy -- you generalized the question, so we have
 14 studied all kinds of effects of Chinese practitioners of
 15 something in the habits of not eating, and so on. We've
 16 studied people who are claimed to have not eaten for
 17 five years, and so on, so that is a completely different
 18 set of studies. That's the only contact we have with
 19 human beings.
 20 **Q. And what is that discipline called where people**
 21 **do not eat for five years? Is there a name for that**
 22 **discipline?**
 23 A. Yes, there is. And it is not a discipline. It
 24 is arrived at by qigong -- that's Q-I-G-O-N-G -- qigong
 25 practitioners who follow certain practices faithfully

15

1 and they arrive in this condition which are now named
 2 bigu, B-I-G-U. That means in Chinese without food.
 3 So by some process the system is sent into a
 4 state where they can live more or less -- drink water
 5 and some tea or something but less than, say, a couple
 6 of hundred calories per day for times of up to 10, 12,
 7 15 years. That's what they claimed, and our studies
 8 there were aimed at verifying whether this statement or
 9 these statements were accurate or not.
 10 **Q. And what did you find?**
 11 A. Oh, yeah, it works. I mean, there's no doubt
 12 that they're not cheating or something.
 13 But all we were doing was to show the power of
 14 nonphysical methods on changing the human being. You
 15 don't have to go that far to do it, but the Chinese --
 16 this particular practice -- and what we do is we bring
 17 in the world's leading scientists. We don't fiddle
 18 around with any juniors. We had the successor to
 19 Heisenberg and Einstein chairing the meeting. We had
 20 various -- the number two nuclear physicist of China was
 21 present. We had hundreds of faculty members, deans of
 22 engineering colleges of the United States, the dean of
 23 medicine at the University of Oklahoma.
 24 We don't do amateur work.
 25 **Q. When you say "we," is there some institute that**

16

1 **you're referring to or...**
 2 A. Yes, yes, yes. This is Penn State's
 3 Materials Research Lab which I founded in 1962, and so
 4 it's a -- it was ranked number one in the world in 19 --
 5 2003.
 6 **Q. And the -- I'm probably going to get the**
 7 **pronunciation wrong.**
 8 **The qigong practitioners, is it through**
 9 **meditation that they are able to adapt their bodies to**
 10 **survive in this condition?**
 11 A. As far as we could determine. We were
 12 scientists, we were looking at this phenomenon, and we
 13 asked the very question that you have asked, what do
 14 they do to arrive at this state.
 15 And the universal response was they practice
 16 the -- which is both physical exercise and they do some
 17 meditation and some recitations of something, so they
 18 meet once or twice a week -- actually they meet in the
 19 materials lab now. There are different groups at
 20 Penn State. There are several different qigong groups
 21 or maybe a couple, and they meet -- one of them meets in
 22 our lab in the conference room. And they -- on Friday
 23 nights they have a session and they meditate, they
 24 chant -- they don't do much chanting. The Indians do
 25 the chanting. But they repeat some phrases and meet for

17

1 about an hour and they do that regularly, and at home
2 they also continue the practice of meditation and chant,
3 repetition of phrases.

4 **Q. Let me introduce David Dulabon, one of my**
5 **colleagues. Mr. Dulabon attended Penn State University.**
6 **And I've asked him about this, and he informs me that he**
7 **ate the food that the qigong folks left over, so --**

8 MR. DULABON: Hi, Dr. Roy.

9 BY MR. GORDON:

10 **Q. Back to more serious matters.**

11 **The homeopathic experiments on water that we**
12 **discussed and the qigong experiments that you've**
13 **discussed, is that the extent of the experiments that**
14 **you've performed or supervised concerning the medical**
15 **field?**

16 A. No, no, no, no, no. No. We do extensive
17 physical-chemical evaluations in the area where the
18 human condition is affected by nontraditional vectors.
19 What do I mean.

20 Unfortunately, in today's medicine, the main
21 vector that is used is in the shape of a bell. You
22 know, most of us think by the needle of a bell to put a
23 chemical into a biochemical body, so we add new
24 chemicals into a biochemical body. And that model is
25 what we have as analysts said this is a ridiculous model

18

1 of a human being, that a human being consists of a body
2 and it's mainly biochemistry. There's no physics. Oh,
3 wait a minute. There's no materials science. Wait.
4 Hold on. The bones are our business.

5 I wrote a lot of papers about calcium phosphate
6 which goes into those bones. My wife has a very
7 profitable patent on how to simulate bones with new
8 calcium phosphate materials.

9 So how come they never talk to other scientists?
10 A body and medicine is not biochemistry, so if you make
11 a gross error of that size, you're in deep trouble.
12 That is what modern and western medicine has ended up in
13 because -- now, what is our thesis.

14 Our thesis is a human being is an elaborate
15 picocomposite. It's a nano -- people use that word a
16 lot -- it's a mixture of mind, body and spirit. No big
17 deal. We are mental people. We are human beings which
18 are a mixture of our mind, body and spirit at a very
19 intimate level.

20 The evidence is so overwhelming with all the
21 effects in every university in every word that shows the
22 effects of the mind on the body wherever mind and spirit
23 edging is difficult to define, but it is certainly not
24 true that a body is only a piece of meat into which you
25 can punch in more biochemicals.

19

1 We have remained as a physics site, so we said
2 how come these traditional physicians ignore physics,
3 creation, light and sound. For crying out loud, you do
4 all your analysis -- we are the people that invented
5 MRIs. What do these guys know? Nothing to do with
6 chemicals. We are looking at an MRI at the water in
7 your brain or your body that is being changed by
8 radiation.

9 But these characters -- I'm sorry to call them
10 characters, but my colleagues in the medical field, not
11 all of them of course, have been ignoring the whole of
12 physics. Wait a minute. Radiation? That radiation --
13 again, by "radiation" I don't only mean x-rays; I mean
14 light, the light bulb above in your room and my room,
15 the radio that's bringing us the radio waves and
16 microwaves in your home oven. How can anybody ignore
17 these things? Because they affect humans profoundly.

18 So you asked me do we study other things. The
19 main other area we work on is the effects of radiation
20 of various kinds on matter and then on matter which is
21 connected to humans of which the matter that we focus on
22 happens to be the most important single phase, single
23 material, relevant to all of humans in healing, which is
24 water.

25 So my focus of my research in my group has been

20

1 very specifically on water as it applies to homeopathy,
2 yes, but most of our work is on how radiation, that
3 light bulb above you, the radiowave can change water.

4 And we've had of course -- you may have read an
5 article -- spectacular successes which has dampened the
6 ardor of anyone who would like to challenge it because
7 you may have read about the work of this amateur
8 engineer in Erie, Pennsylvania who with a radiowave was
9 able to burn water. Well, that set the poor old physics
10 community on its head because that was completely
11 inconceivable, how could a radiowave cause water to
12 burn.

13 So we're in the absolute frontier of proving
14 that the role of water in human health can be -- we're
15 right at the beginning -- that radiation can be as
16 powerful a healing agent as all the biochemistry put
17 together.

18 So that's the kind of -- we've initiated a new
19 field. We haven't made any progress. We've shown that,
20 yes, you can tickle water and make it different, so
21 maybe you can make a new pill and, instead of using very
22 complex new chemicals, use radiation.

23 **Q. Dr. Roy, I know your CV mentions that you're a**
24 **visiting professor of medicine at the**
25 **University of Arizona.**

1 **What is it -- do you actually teach there, or is**
 2 **it a research professorship?**
 3 A. I do both. I work with Professor Bell on the
 4 research side. She is a senior research person. I
 5 teach -- I used to teach directly to the doctors
 6 about -- in the winter semester I headquarter at
 7 Phoenix where I am now and I drive down to Tucson, and
 8 once a week I go down there and teach in Dr. Andrew
 9 Weil's program on integrative medicine, and I teach
 10 with them, I confer with them, and now it's all being
 11 done online.
 12 So yes, I teach there, and I interact with them
 13 on research also.
 14 I just had an op-ed with Dr. Weil, which is
 15 coming out tomorrow we think in The Arizona Republic, so
 16 we work together.
 17 **Q. What is your op-ed with Dr. Weil on?**
 18 A. On how to save the healthcare system, a modest
 19 effect, a modest goal.
 20 **Q. What is Professor Bell's first name?**
 21 A. Iris.
 22 **Q. You mentioned that when you go down to Tucson to**
 23 **work at the medical school you confer with folks.**
 24 **Do you confer with folks concerning conditions**
 25 **being suffered by particular patients?**

1 had hurt her career or something.
 2 **Q. She had been denied tenure or something like**
 3 **that?**
 4 A. Got it. Yes.
 5 **Q. That was at Penn State?**
 6 A. Yes.
 7 **Q. And in the Anchor Hocking-Corning dispute, what**
 8 **was the field on which you were testifying?**
 9 A. I was in the same kind of area. I was
 10 testifying on the structure of glass, which is like
 11 water -- it's a liquid which has been solidified -- and
 12 how that glass may be changed into a crystal. Corning
 13 claimed one process and Anchor Hocking claimed another.
 14 So basically I was saying from my research what
 15 my research showed, that the Corning view was wrong.
 16 **Q. Did you actually testify in court in that**
 17 **matter?**
 18 A. Yes.
 19 **Q. And for which of the two parties were you**
 20 **testifying?**
 21 A. Well, I'm supposed to be a neutral expert
 22 witness, so I don't know what that means.
 23 **Q. Who paid you?**
 24 A. I think Anchor Hocking -- that's right.
 25 Anchor Hocking paid the travel at least.

1 A. No, no, no, no, no. I confer -- my departmental
 2 base is the program on integrative medicine, so my
 3 colleagues there are the head of the teaching operation,
 4 Dr. Victoria Maizes and Dr. Iris Bell -- I mean, they're
 5 the senior people.
 6 **Q. Okay.**
 7 **Dr. Roy, you've been offered in this matter as**
 8 **an expert witness.**
 9 **Have you served as an expert witness before in**
 10 **any litigation?**
 11 A. Yes.
 12 **Q. Could you tell me about that.**
 13 A. In a couple of -- the major -- there was a very,
 14 very major litigation between the Anchor Hocking Company
 15 and the Corning Glass Works Company, probably in the
 16 late '70s.
 17 **Q. Was that a patent --**
 18 A. The trial was in -- it was a patent issue on --
 19 between Corning's patents and Anchor Hocking's.
 20 **Q. Is that the only other time, sir?**
 21 A. I can't think of -- an expert witness. I've
 22 been deposed before but not as an expert witness.
 23 **Q. In what connection were you deposed before?**
 24 A. Oh, there was a university lawsuit where another
 25 professor had said -- made some claims against what I

1 **Q. Okay.**
 2 A. Actually I don't recall -- I don't recall
 3 exactly the financial details, but as far as I can
 4 remember -- so I'm not certain if I was a court witness
 5 or a witness for Anchor Hocking.
 6 **Q. But Anchor Hocking paid your travel at least.**
 7 A. Correct.
 8 **Q. While we're speaking of money matters, are you**
 9 **being paid for your testimony here today?**
 10 **One submission that we got from respondents**
 11 **indicated that you're only being paid your expenses, and**
 12 **then another one said that you're being paid a fee of**
 13 **\$3500, so I'm trying to figure out which of those was**
 14 **correct.**
 15 A. I haven't been paid anything, but I'm told by
 16 Mr. Turner that I will be paid for my -- whatever that
 17 report I presented and...
 18 **Q. Okay. In connection with your work on this**
 19 **case, we talked about the fact that you hadn't done any**
 20 **experiments.**
 21 **Have you done any literature searches regarding**
 22 **the ingredients in any of the products that**
 23 **Daniel Chapter One sells that are being challenged in**
 24 **this case?**
 25 A. I have no idea what Daniel products contain. I

1 studied particular materials which Dr. Bell had chosen
 2 as very important exemplars of homeopathy.
 3 **Q. But in connection specifically with your work in**
 4 **this case, you haven't done any literature searches or**
 5 **any literature research concerning any of the**
 6 **ingredients in Daniel Chapter One's products; correct?**

7 A. I have not.

8 **Q. Up till this morning, how much time have you**
9 **spent on this matter?**

10 A. What do you mean by "this matter"?
11 On the science of water I've spent a few years
12 on, but --

13 **Q. No.**

14 **On preparing your report, drafting your report,**
15 **talking to Mr. Turner, et cetera, how much time have you**
16 **spent working on this case?**

17 A. I'd say an aggregate of a few days.

18 **Q. And that was spent mostly drafting your report**
19 **or doing what?**

20 A. Drafting the report, talking to Mr. Turner, but
21 mainly gathering the relevant materials which would
22 substantiate what I would say in the report.

23 (Roy Deposition Exhibit Number 1, Rustum Roy
24 Professional Biographical Data, was marked for
25 identification.)

1 BY MR. GORDON:

2 **Q. The court reporter has marked as Roy Deposition**
3 **Exhibit Number 1 the professional biographical data that**
4 **you have I believe in front of you, and then attached to**
5 **that as well are the recent publication pages that**
6 **Mr. Turner's office provided to us.**

7 I know you're currently a visiting professor of
8 medicine.

9 **Do you have any formal training in medicine,**
10 **sir?**

11 A. Not in what is called medicine, no.

12 I've been involved with a very large number of
13 the world's leading critics of modern medicine.

14 I start with Ivan Illich, whom I hired and
15 brought to Penn State after many, many years, who wrote
16 the first major critique in 1973, and with
17 Norman Cousins who started -- editor of the
18 Saturday Review, who started the psychoneuroimmunology
19 group at UCLA after leaving the editorship of the
20 Saturday Review.

21 I was a kind of protégé of Linus Pauling.

22 Linus Pauling was obviously the man we all looked up to
23 as the greatest American chemist ever, and he happened
24 to have reviewed my very first scientific paper, so I
25 became a close friend and a protégé of Pauling's

1 thinking. I was never his postdoc or anything, but we
2 were very close right up to his death.

3 So I learned about vitamin C from the master
4 himself in the '50s. In the '50s he used to send me
5 samples, so I've been involved.

6 I was very close to Mr. Rodale. I in fact gave
7 the eulogy at his funeral. And Rodale, as you may
8 recall, was the person who started the magazine called
9 Prevention.

10 And so on the edges of what I would call human
11 healing, of which medicine is a tiny part, I have been
12 involved with the leading figures, not professionally.
13 Nobody ever pays me a cent. Or if I get any money, I
14 give it to a foundation, so I refuse to take any
15 compensation in anything connected with this.

16 So I've been -- thirty or forty years I've been
17 close to people who have challenged the conventional
18 wisdom on human healing.

19 And I know Mr. Yan Xin, the qigong master.
20 That's how I got into it. Mr. Yan Xin has been in the
21 White House of the first Bush presidency five times for
22 many years because fortunately for us, for the nation,
23 our intelligence agencies are fully aware of the amazing
24 advances that the rest of the world has made --
25 principally I would say in Russia, India and China -- in

1 areas which may in fact impact our security. That's all
2 they're concerned about. But we have learned that
3 people like Dr. Yan Xin are profoundly important in what
4 they've been able to do in healing.

5 So that's my connection with -- you call it
6 medicine. I call it healing.

7 **Q. And I think this was somewhere in your answer,**
8 **but just let me make sure.**

9 **You've never treated or consulted with healers**
10 **who were treating particular patients; correct?**

11 A. Correct.

12 **Q. On what's page 3 of your professional**
13 **biographical data, part of Exhibit 1, at the top of the**
14 **carryover portion there, in describing research areas,**
15 **there's an entry "integrative medicine data precursors**
16 **to paradigm changing science."**

17 **To what does that refer?**

18 A. That was scientific linguistic obfuscation which
19 means what I've been talking about.

20 "Integrative medicine" means this new stuff,
21 which includes healing by radiation, by meditation, by
22 preventive things like better diets, and so on, and
23 these are the data. We have been collecting data on all
24 of these areas, what does prevention do, what does
25 radiation do, what does water do, so these are -- and

1 that's why we call them precursors to paradigm changing
2 science.

3 We're looking at the physics and chemistry and
4 materials science, which is not directly at the patient
5 interface. We don't do that. But we've been looking at
6 these which I've mentioned, correlated waters,
7 radiation-changed waters, geopathic waters, meditation,
8 radiation -- meditation and radiation are not too far
9 apart.

10 So that's what that means, if that's of any
11 help.

12 **Q. It is.**

13 **And I'm not sure I heard the very last part of**
14 **your answer.**

15 **Did you say meditation and radiation are not too**
16 **far apart?**

17 A. No. One can put that -- yes.

18 I'm going to answer that in this sense. We have
19 established now pretty scientifically without any
20 question that weaker and weaker radiations can influence
21 matter, but we've also shown -- and this is pretty much
22 my work. I'm the main creditor or guy who has the
23 credit for this -- is the vector field -- now, what
24 is -- is much more important than the scalar field. And
25 let me explain that.

1 realizes that meditation, as you called it, and human
2 intention, as we call it, human intention has a vector
3 quality, a specific person, a specific thought, specific
4 directions, so we are seeing these parallels.

5 These are scientific dreams. That's how new
6 science arrives. We have to conceive of something
7 really new.

8 And our parallelism is between the vector fields
9 in electromagnetic and acoustic radiation are very
10 powerful and so is meditation and human intention when
11 it has a specific goal. And I coined the term
12 "expectation effect," and it is a universally used term
13 now.

14 Two weeks ago, on PBS, I was stunned to hear
15 Alan Alda at Harvard University doing a deal with a
16 professor called Kaptchuck about placebo. And he was
17 giving placebo acupuncture, not really puncturing but
18 pretending he was puncturing, and it worked.

19 And so Alda and Kaptchuck both used the term
20 "expectation effect." That's the term I coined for what
21 is called placebo.

22 If I expect something and I really want it,
23 that's a vector field. I'm sucking it in as it were.

24 So that's a very important angle to our
25 scientific view that the analogy between the radical

1 "Vector" means a direction -- a mass and a
2 direction, and those are the fields which actually are
3 able to change matter when a regular field can't do it.

4 So you can't put a magnet next to something and
5 have it do something only. It's not as powerful as
6 changing the direction of the magnetic field and making
7 it a vector field.

8 Similarly with light, if I can change it to a
9 vector field, which means something with a direction, I
10 have profound effects. That's why this Mr. Kanzius
11 succeeded in burning water with a radio beam.

12 Similarly, human intention, this is the
13 contention which Heisenberg introduced into quantum
14 mechanics, that there is some interaction, one with
15 interaction of the -- observe -- which he observed.

16 So if human beings can really intend
17 something -- just thinking good thoughts is not so good.
18 The practices of meditation, the practices of human
19 intention, which prayer is an example, which Mr. Benson
20 at Harvard has been trying to study for years and
21 years -- Professor Herbert Benson at Harvard University
22 has written several books on the power of prayer, and
23 Professor Dossey in New Mexico has written much better
24 books.

25 The difference between the two is that Dossey

1 difference, mainly my work, 90 percent of it mine,
2 between microwaves which don't have a vector quality and
3 microwaves which have just a scalar quality.

4 So when it comes to intention, it's the same
5 way. If I just have a warm fuzzy feeling, that's nice,
6 but if I really learn how to give it a vector quality,
7 it's much more profound.

8 Jesus says in the gospel in one place, he says,
9 Do you really believe? He's asking the blind man, Hey,
10 do you really expect this to happen to you? And that's
11 a kind of vector idea that we say.

12 So good meditators are those that are able to
13 project their intentions and genuinely get involved with
14 another person.

15 So those are the analogies.

16 **Q. Got it.**

17 **Do you go to a physician?**

18 A. Not much.

19 **Q. Good for you.**

20 A. I've only had one operation in my life, quite
21 recently, so I've been lucky. That's all. It's not
22 good or anything else. I claim nothing.

23 **Q. Do you think there's any role for traditional**
24 **medicine in treating illness?**

25 A. Tremendous.

1 Let me give you a good example. They've done a
2 heckuva lot of good.

3 I had a wonderful family physician with the kids
4 being born, and she came to our house 2:00 in the
5 morning.

6 As Hippocrates says, cure sometimes, comfort --
7 or always comfort, cure and really improve -- or cure
8 sometimes, improve always and -- sometimes and comfort
9 always.

10 I believe the role of a physician in the total
11 package of healing is really to be a supportive person
12 mentally and spiritually for sure. In addition, that
13 person can do -- can provide little vectors of
14 chemistry, which are aspirin, which is good, but some
15 antibiotics have been very helpful obviously for
16 millions of people, some of the psychopharmacological
17 drugs, for instance, lithium.

18 Lithium was not found by any scientific
19 process. It was found by a Syrian physician who had
20 his head screwed on. He just found accidentally that
21 he was giving all his monkeys lithium, sodium and
22 potassium and that lithium monkeys were very calm and
23 very nice, so he said let me try it in somebody -- I'll
24 try it on myself. It worked. He tried it on his wife.
25 She felt pretty cool. He gave it to the kids. It

1 worked. So he said, guess what, lithium is good for
2 calming you down.

3 That was the total research done for a fine,
4 good observation. I'm trying to separate good
5 observation.

6 Mr. Cade -- his name was Cade -- he found the
7 most important psychopharmacologics agent by a good
8 observation.

9 So human beings throughout the ages have
10 discovered -- quinine was found that way. Hey, this
11 plant works. This one works. And by that kind of
12 observation we have very nice healing agents which are
13 relatively harmless and don't have too many side effects
14 and do a lot of good.

15 So I think that I have no quarrel with the
16 general use of -- primary physicians are very valuable,
17 and I honor the expertise of my colleagues, my own
18 surgeon who did a good job on me, so I have no -- I'm a
19 holist person. I think that we've gone too far with
20 specialization.

21 **Q. In the recent publications section of Exhibit 1,**
22 **there's a text referred to, The Science of Whole Person**
23 **Healing.**

24 **Are you the editor of that or the author?**
25 **What's your role with that text?**

1 A. The role is we put on a series of conferences
2 called The Science of Whole Person Healing, and I edit
3 the -- I think I've edited two or three sequential --
4 the papers that were presented at -- I presented a paper
5 of course at each, but I edited the volume. Yes.

6 **Q. The papers that you yourself put on at these**
7 **symposia, did they -- do those papers relate to cancer**
8 **treatment?**

9 A. I don't think they have much to do with it. No.
10 Not specifically at all.

11 **Q. Do you recall if any of the papers that were**
12 **presented at any of the symposia leading to the -- well,**
13 **The Science of Whole Person Healing symposia, were any**
14 **of those papers related to cancer treatment?**

15 A. I cannot recall because there were dozens and
16 dozens. No, I cannot recall.

17 **Q. In the list of -- I guess it's articles that**
18 **you've drafted and it's number -- it's number 801 in**
19 **Exhibit 1. It's an article in the Journal of**
20 **Alternative and Complementary Medicine, written by you,**

21 **S. Novella, D. Marcus, I.R. Bell, N. Davidovitch and**
22 **A. Saine, and the title of the article is "A Debate:**
23 **Homeopathy -- Quackery of a Key to the Future of**
24 **Medicine?" Maybe that's supposed to be "or a Key to the**
25 **Future of Medicine?"**

1 What was that article about in broad strokes?

2 A. In broad strokes, that was events that took
3 place as a webinar on a worldwide webinar organized at
4 the University of Connecticut. I was invited to talk
5 about our work on water, and Professor Novella from Yale
6 was -- started it off, and Professor Bell also spoke and
7 somebody from Israel spoke.

8 And so this was a kind of a debate sessions
9 organized at the University of Connecticut to kind of
10 give -- is there a scientific argument supporting the
11 plausibility of homeopathy, and I gave the paper
12 basically on water, on the structure of water.

13 **Q. We've been using the term, and I should have**
14 **probably had you do this at the beginning.**

15 **When you say "homeopathy," to what does that**
16 **refer?**

17 A. My association with the word "homeopathy" is a
18 tradition of healing started by a man called Hahnemann
19 in Germany a couple of hundred years ago in which he had
20 posed the theory of similars, that the material that is
21 similar to the vector for the disease is more likely to
22 cure it, and he thought that a little bit of this stuff
23 would be good for the curing process.

24 So homeopathy in my view is a tradition of
25 healing based on Hahnemann's ideas in which you took a

1 few drops of medicine or some little sugar pills and
 2 that contained this stuff and that it was a vector for
 3 healing and that -- that's basically -- I mean,
 4 that's -- so I associate that with the science of saying
 5 you can get a lot of good out of a very small amount of
 6 stuff.

7 **Q. And on that same page, entry 800 in the journal**
 8 **Homeopathy is a paper I guess by you and M.L. Rao,**
 9 **I.R. Bell and R. Hoover, entitled The Defining Role of**
 10 **Structure (Including Epitaxy) in the Plausibility of**
 11 **Homeopathy.**

12 **What was that paper about in broad terms?**

13 A. That paper, sir, is probably the really
 14 relevant paper as to what my contribution is in this
 15 business. We show that -- we summarize in that paper
 16 that structure of water can be changed by many things,
 17 including -- the three that we chose was pressure --
 18 when you shake something, you had -- if you take a --
 19 and I showed this forty years ago, that if you grind
 20 something in a mortar, you are generating huge
 21 pressures because your force goes in a very tiny area,
 22 so if you make -- so that means you get tens of
 23 thousands of atmospheres of pressure. It's a huge
 24 pressure.

25 So when you shake something rapidly, if you have

1 changes, no chemistry. But you move no chemistry, yet
 2 the liquid layer takes on the structure of the solid
 3 layer.

4 We use that to make a lot of the new
 5 gallium oxides and all the new semiconductors. It's
 6 called liquid-phase epitaxy used in millions of dollars
 7 worth of products made all the time.

8 So epitaxy is a very commonly used process in
 9 materials science and technology and the term -- "epi-"
 10 means a surface. It means transferring the structure of
 11 the surface -- of one surface to another surface without
 12 moving any atoms, so it's an informational science.
 13 It's the transfer of information without the transfer of
 14 matter.

15 **Q. In the rear of what's been marked as Exhibit 1,**
 16 **your list of publications, it looks as if the last**
 17 **several pages are lists of newspaper or magazine**
 18 **articles that you've authored. And number 311 is**
 19 **Homeophobia Must Not Be Tolerated. It appears to be a**
 20 **letter to The Guardian, dated December 19, 2007.**

21 **To what does that relate?**

22 A. I was sent an article by -- I forget his
 23 name -- apparently a British journalist -- I forget his
 24 name -- in the magazine The Guardian in which he had
 25 said, oh, this homeopathy is all rubbish and water

1 little, little bubbles and little, little particles of
 2 water, when they hit each other, they make pressures, so
 3 one of the vectors which arises in homeopathic
 4 preparation is pressure.

5 The second vector that arises in homeopathy is
 6 the creation of little bubbles. You know, when you
 7 shake the water, there's bubbles, and the big bubbles
 8 come up and the little ones come up, but what about the
 9 little ones, the really little ones? They never come up
 10 because they're nanobubbles and they're stable.

11 So you can embed tiny particles of water -- of
 12 air in water.

13 So the first one is pressure, the second one is
 14 nanobubbles, and the third one is epitaxy.

15 Now, what is epitaxy. Unfortunately, most of my
 16 colleagues in even in physics have rarely bothered to
 17 find out, but it's a very useful term used
 18 conventionally in materials science for sure -- that's
 19 our business -- and it is used in the semiconductor
 20 industry.

21 Everything that you've got in your chips is made
 22 typically by epitaxy, which means the transmission of
 23 information from a solid to the liquid layers above it
 24 and sometimes from a liquid to the liquid layers above
 25 it. You transfer only information. No chemistry

1 is -- he basically made the same thing, water is just
 2 water and you can't change it, a bunch of scientific
 3 nonsense.

4 So that paper that you referred to is my
 5 response to such uninformed propaganda from journalists
 6 which -- who have the power to transmit utter scientific
 7 rubbish on the public. To say that water can't be
 8 changed, he made that kind of claim, so since I'm an
 9 expert in that field, I wrote that letter to
 10 The Guardian.

11 MR. GORDON: Let me ask the court reporter to
 12 mark another exhibit.

13 (Roy Deposition Exhibit Number 2, Report of
 14 Expert Witness Rustum Roy, was marked for
 15 identification.)

16 BY MR. GORDON:

17 **Q. Sir, the court reporter has marked as**
 18 **Roy Deposition Exhibit Number 2 your report dated**
 19 **February 4, 2009.**

20 **Just so we're clear, the version I've got is six**
 21 **pages long.**

22 **Is the version you've got six pages long?**

23 A. Yes.

24 **Q. Okay. I'm pretty confident we're talking about**
 25 **the same document. It's a little bit of a challenge**

1 given the way we're doing this, but if for some reason
2 I refer to something in the report and you don't see it
3 there, let me know, and we'll try and sort that out.

4 Who actually typed up what's now

5 Deposition Exhibit Number 2?

6 A. I did not. I presume Mr. Turner's firm did it.

7 Q. And did you review what's now been marked as
8 Deposition Exhibit 2 before it was submitted to the FTC,
9 if you know?

10 A. I reviewed a draft.

11 Q. How did you communicate that which was supposed
12 to be in your report to Mr. Turner?

13 A. On the telephone.

14 Q. And was that in one telephone call or in a
15 series of calls?

16 A. This was one very long telephone call. Most of
17 this stuff is from one long telephone call.

18 Q. Do you recall approximately when that was?

19 Using February 4 as a marker, how long before
20 February 4 was that telephone call with Mr. Turner?

21 A. It was a weekend. I was in Tucson, Arizona. It
22 was a Saturday I think. It was a Saturday, so that must
23 be -- well, a couple of Saturdays ago.

24 Q. Okay. You had a telephone call with
25 Mr. Turner, it lasted a long time, a couple Saturdays

1 MR. GORDON: Okay. Good. We'll keep the
2 connection open and I'll be right back.

3 THE WITNESS: Okay.

4 (Recess)

5 BY MR. GORDON:

6 Q. Sir, would it be fair to say that you don't know
7 what it is that Daniel Chapter One sells?

8 A. Yes, it is fair to say that.

9 Q. Your report, Deposition Exhibit Number 2, in
10 describing the scope of work and summary of opinions,
11 the scope of work says, number one, "to provide expert
12 opinions concerning the scientific validity of randomly
13 controlled trials to evaluate whole-person healing," and
14 then in the summary of opinions number 1 is: "It is
15 inappropriate to use traditional randomly controlled
16 double-blind studies to evaluate whole-person healing
17 approaches."

18 In your opinion, what should be used to
19 evaluate whole-person healing approaches? How should
20 the efficacy of those approaches be measured so that we
21 can determine what approaches work and what approaches
22 don't work?

23 A. We should do them in the same method we use for
24 science.

25 Let me first make clear that I am fully

1 ago.

2 How long before that Saturday had you first
3 been contacted by Mr. Turner or someone from his
4 office?

5 A. About a deposition?

6 Q. About serving as an expert witness in this
7 litigation.

8 A. I'm not certain, but a couple of weeks. I'm not
9 certain. But obviously he gave me some notice.

10 Q. What did Mr. Turner tell you about this
11 lawsuit?

12 A. He said there was a lawsuit concerning some
13 homeopathic matters and that I'd been studying the
14 structure of water and had written about it and would I
15 be willing to be an expert witness.

16 Q. Did he tell you anything else about the methods
17 or products that Daniel Chapter One and Mr. Feijo were
18 selling or practicing?

19 A. I never heard the names of Daniel or Feijo. I'm
20 not even sure if I'm pronouncing it right.

21 Q. Okay.

22 A. No.

23 MR. GORDON: Let's take a very short biological
24 break. We'll keep --

25 THE WITNESS: I wanted that, too.

1 sympathetic with my colleagues in medicine. Five of my
2 sisters and brothers-in-law are physicians, so I have
3 nothing against the profession.

4 But in science we don't make -- we don't go
5 beyond the data, so the method that we should use is
6 cause and effect that we use in science. If I have this
7 cause and it has that effect, that's when I would say
8 that works.

9 Now, it may have certain boundary conditions
10 under which it works, so all of the mental healing
11 practices, which are fully demonstrated time and again,
12 which are outside what is conventional medicine, which
13 may not have been tested by randomly controlled
14 trials -- and I'll illustrate why. Maybe because they
15 can't be -- should not be rejected.

16 Let me give you one example.

17 At Cornell University Medical Center about
18 35 years ago, to do an experiment on showing that what
19 the power of the mind is -- the name is escaping me now.
20 It's a very classical procedure -- he puts a patient
21 under hypnosis and said, I'm going to touch your hand
22 with a red-hot poker. He takes a pencil and touches the
23 top of the person's hand with the pencil and he releases
24 him from hypnosis, and that point blisters.

25 This is a classical experiment that we can say

1 mind controlled the human system, no ifs, ands or buts
 2 about it. You can do that again. It happens again.
 3 But you can't take a population of a thousand people or
 4 a few hundred people and say different people get put
 5 pencils on them and see if that works or something.

6 That is the limitation of the -- one limitation
 7 of the randomly controlled trial method is. The
 8 proposition that is used in RCTs is a statistical
 9 proposition, that I can get a certain distribution of
 10 effects if I have the same cause, and thereby I can say,
 11 well, it works.

12 There's so many problems with this.
 13 Statistically it is a laughable proposition. What do I
 14 mean by that. I mean when the director of the
 15 Cornell Institute of Mathematics sitting next to me says
 16 this is laughable, why, because a typical randomly
 17 controlled trial makes the assumption of equality
 18 because we use the statistics of dice playing.

19 You know if you throw the dice and the dice are
 20 not loaded, then if you -- you can tell how many sixes
 21 and ones will come up, and there will be a Gaussian
 22 distribution. But you assume that the dice is not
 23 loaded and it is identical, and if you have several
 24 dice, you assume that they are all identical, and
 25 therefore you have an identity problem.

1 numbers in Brazil go up. Why? Because they put the
 2 pill color the main football team's color.

3 So there are many factors which are totally
 4 ignored. There are very subtle factors which have
 5 shown the tremendous spread in randomly controlled
 6 trials.

7 And I don't fault them because the FDA needs a
 8 way in which to say, well, about how many people will
 9 be affected by this, and so on, but to think of that as
 10 science, as a kind of a -- it must be qualified hugely.

11 All Americans without any control on their
 12 eating habits, without any control on their exercise
 13 habits, living near Chicago, this will apply. Okay.
 14 But say that. But we don't limit it enough.

15 So it is a problem how to decide what medicine
 16 to give where and for whom, and that is one of the
 17 advantages of whole-person healing, the connection
 18 between what I call the expectation effect between the
 19 giver and the receiver. That's the size of the vector,
 20 do you trust the doctor.

21 At Yale they did studies on taking the same
 22 doctor, saying with this doctor this is the greatest
 23 pill, Mrs. So-and-so, you really need it, and he did
 24 that for all 20 patients. Then with another set of
 25 20 patients he said, you know, there's new research and

1 Human beings are not identical. Their genetics
 2 are not identical. They do not control their diet.
 3 They do not control their exercise. And then they
 4 see -- give them a medicine and see what it does.

5 That is the problem with trying to apply
 6 randomly controlled trials to, let's say, spiritual
 7 healing or qigong practices. You have to separate out
 8 specifics.

9 Remember I talked about the vector. It is from
 10 one point to another point. It may be much more
 11 individualized.

12 So typically randomly controlled trials do not
 13 apply to the process for many whole-person healing
 14 practices. That was my -- that's the content of that.

15 **Q. Do you think randomly controlled trials apply to
 16 any medical applications?**

17 A. It's a very dangerous technique and for this
 18 reason.

19 You can look at any set. If you'd look at
 20 16 randomly controlled trials done on the same medicine,
 21 let us say, in different countries, it is astounding the
 22 difference. And in Brazil the effects of Viagra may be
 23 20 percent, and in Italy it may be 70 percent, in
 24 Chicago it may be 55 percent.

25 If they change the color of the pill, the

1 this may do you some good and maybe it won't do you some
 2 good, and so -- but it was much less efficacious if he
 3 said it that way. Why? We understand it now.
 4 Expectation. The power of that pull of saying. The
 5 patient expected more; she got more. The patient was a
 6 little dubious, got less.

7 So I think that the randomly controlled trial
 8 is such a primitive -- from a scientific viewpoint, it
 9 is so primitive that we think it could be improved
 10 vastly and it should be done and we should look much
 11 more at single case studies and take the wisdom out of
 12 that.

13 **Q. So to your view, how should the FDA determine
 14 what drugs to allow onto the market?**

15 A. It's a very tough question and I'm fully -- as I
 16 started my statement, I'm sympathetic with the problem
 17 of the FDA. That doesn't mean that I think that the FDA
 18 is solving it. They're too lazy. They haven't thought
 19 because they haven't taken into consideration what I've
 20 just said.

21 When Don -- what do you call it? Because the
 22 chief of the FDA came from Stanford.

23 MR. TURNER: Kennedy.

24 THE WITNESS: He was the president of Stanford.

25 MR. TURNER: Don Kennedy.

1 THE WITNESS: Don Kennedy was -- he was the
2 president of Stanford. Now he's on the board, an
3 engineering board, and so I knew him when he came in. I
4 said, you know, you really should take a look at this
5 because -- but FDA chairmen have a lot of things to do,
6 but somebody surely should address it.

7 I would say that the way to do it is to
8 constrain the allowances, but no pill manufacturer would
9 like that, is to say this should go with this kind of
10 other treatments.

11 The problem with that statement I've made is
12 that that would limit their markets, because if I were
13 to say this pill will work much better if you don't eat
14 hamburgers with more than 3,000 calories in them or
15 something, it would be a -- that's the kind of statement
16 which ought to be made under what other boundary
17 conditions.

18 It's a very difficult problem. For
19 international validation of a single pill, that
20 mechanism is fundamentally limited.

21 BY MR. GORDON:

22 **Q. In your report, which is Exhibit 2, in the**
23 **summary of opinions, the second numbered paragraph says:**
24 **"Homeopathy is an empirical science-based health**
25 **modality and its practitioners are knowledgeable about**

1 **what constitutes an effect on the structure and function**
2 **of the whole person, the true approach to healing as**
3 **distinct from using a drug to cure the symptoms of a**
4 **disease."**

5 **In this case, one of the allegations that the**
6 **Federal Trade Commission has made is that**
7 **Daniel Chapter One has sold products over the Internet**
8 **to people obviously that Daniel Chapter One had never**
9 **seen, met, examined the medical records for.**

10 **How does that practice that I've just described**
11 **relate to homeopathy?**

12 A. Selling over the Internet -- I don't know
13 anything about that. I didn't know Daniel sold over the
14 Internet, so --

15 **Q. But assume for purposes of this question that**
16 **that is true.**

17 **How does that practice relate to homeopathy, if**
18 **at all?**

19 A. It obviously limits it.

20 I think that what I've described here is the
21 ideal homeopathy. Like an ideal physician does the same
22 thing. My family care physician in the community I live
23 is exactly -- he does all this stuff. It is empirical
24 science modality. Practitioners are knowledgeable about
25 that.

1 I have no idea what Daniel does.

2 I know that a homeopathic vector says to this
3 patient, I'm going to find out all about you and I'll
4 prescribe this remedy, that kind of interaction, which
5 is -- should be true of most pill-taking in regular
6 medicine also.

7 So I cannot speak to the question of what Daniel
8 does. I'd have no idea. And it certainly wouldn't --
9 if you describe it accurately, that may not be the --
10 that's not fulfilling all my requirements.

11 **Q. Your description of homeopathy would not include**
12 **selling products over the Internet to persons that the**
13 **seller has not met; correct?**

14 A. It certainly would not be ideal.

15 **Q. You mention in paragraph 3 of your summary of**
16 **opinions herbal medicines.**

17 **Would you consider shark cartilage to be an**
18 **herbal medicine?**

19 A. Shark cartilage could -- well, it could be a
20 traditional medicine used -- it isn't herbal medicine.
21 I would say it's not a herb obviously, but it could be a
22 traditional medicine. I'm sure that many of the native
23 American tribes have used things like that, whales and
24 all that stuff, so if "herbal medicine" is used in a
25 broader context -- traditional medicine would include

1 shark cartilage.

2 **Q. But not herbal medicine.**

3 A. But what?

4 **Q. But not herbal medicine? You would agree with**
5 **that?**

6 A. Herbal is pushing it.

7 **Q. And one of the reasons that you think herbal**
8 **medicine is preferable to modern medicine is that our**
9 **bodies over generations have grown up consuming herbs;**
10 **correct?**

11 A. Correct. All these -- our human system has
12 evolved over a few million years in contact with a lot
13 of other natural products, both herbal -- and this is
14 where I may have expanded that -- herbal and obviously
15 have eaten bones of lions and all kinds of rubbish so
16 that there are traditions which said the things around
17 us we got used to, so the human system as a biological
18 system got used to these other biological stuff around
19 us and they adapted to each other.

20 So that is not true of a new chemical I produce
21 in the lab.

22 **Q. You talked a little bit before about the**
23 **expectation effect, and as I understand that, you coined**
24 **that phrase to describe a situation where a healthcare**
25 **provider tells a patient things that cause that patient**

1 to expect an effect, and because of the power of the
2 mind, that expectation is fulfilled.

3 Is that an accurate description of the
4 expectation effect?

5 A. Roughly. Yeah. I think that it isn't only what
6 that patient -- what the healthcare provider tells the
7 patient. It is also what the patient already knows.

8 The reason we spend about \$20 billion in
9 advertising on clinical -- pharmaceutical companies
10 spend so many billions on advertising is to prepare the
11 mind of the patient to say, Hey, I know what's better.

12 Many, many doctors in all the surveys have said
13 the patient comes in and tells me, Hey, Doc, why don't
14 you give me that, because he or she has seen it on
15 television and said, I saw that this stuff is a great
16 cure. He quickly looks up in his samples and says,
17 That's okay and I'll give it to you.

18 So expectation can be -- all I'm commenting on
19 is the expectation can be created by a tradition, my
20 momma told me this or I saw it on TV, but the
21 expectation being built up is a very powerful add-on to
22 the power of any tool, any healing vector.

23 Q. How is the FDA to evaluate the expectation
24 effect in considering whether it should allow a certain
25 medication to be sold?

1 I've never seen a panel of the IOM saying we ought to
2 look at this for God's sake.

3 I mean, it's real, folks. They are very bad
4 scientists. They're failing in their scientific duty
5 not to examine it.

6 I cannot answer off the top of my mind. I'm not
7 a know-it-all that says what can I do better. I
8 certainly think we should try to answer your question,
9 sir, how should the FDA do it. It's vastly important
10 for us to do that.

11 Q. You mentioned, when you were talking about the
12 National Academy of Sciences, IOM. I'm not sure what
13 that is.

14 A. That's the -- there are three national
15 academies. One is the National Academy of Sciences, one
16 is the National Academy of Engineering, and one is the
17 National Academy -- the Institute of Medicine. It's
18 called IOM. I'm sorry I didn't --

19 Q. Got it.

20 A. It's a medical...

21 Q. Would you agree with me, sir, that there's a
22 great possibility of mischief or for mischief if people
23 are allowed to claim that even though there's no science
24 behind their product working, it should be allowed to be
25 sold because of the expectation effect?

1 A. If I was the FDA commissioner, I would
2 absolutely start immediately a National Academy panel on
3 trying to answer this fundamental -- you really hit on
4 the fundamental question, which you asked me before, how
5 would we do better.

6 And I'm a meliorist. I want to do better. I
7 don't think anyone is perfect.

8 So the FDA should set up a panel and say, Look,
9 how could we do this and how -- one of the things the
10 FDA could conclude is we should immediately ban
11 television advertising of drugs, which is what we had
12 twenty years ago, and which, by the way, I should
13 remark that two weeks ago SmithKline Glaxo decided to
14 cut their television advertising budget from
15 4.2 billion to one-point-something, drastically dropped
16 it, because they said people are so irritated by this
17 when we are forced to give them the side effects, and
18 so on, that the people are just irritated by this
19 advertising, so now they have found that this has a
20 countereffect.

21 Now, I'm saying that the FDA should say how do
22 we deal with the fact of the expectation effect. The
23 tragedy is that I don't -- I'm sure there are very good
24 scientists within the FDA who are saying this, but how
25 can it be? I have been on 25 National Academy panels.

1 A. I was trying to think which is the greater
2 mischief. Yes, I would say overall.

3 The present mischief is that we allow certain
4 products to be sold as the only way -- and I'm not
5 talking about homeopathy or any of the whole-person
6 healing products -- we allow certain products to be sold
7 as a way to cure a particular condition when much
8 simpler products, such as abstinence from alcohol,
9 abstinence from smoking, stop eating 5,000 calories or
10 3,500 calories, the school lunch programs, that these
11 alternatives are not offered for ADD for kids and we say
12 give them Ritalin.

13 So I think that it is a sin of omission partly
14 that what else should we be doing, advertising,
15 information, propaganda, whatever you wish to call it --
16 "education" is my term -- if you've got it to build up,
17 we should be really building up the community with good
18 knowledge.

19 And I know in a free society you ask the
20 question should anybody be allowed to sell snake oil.
21 Snake oil sold by a -- well, maybe snake oil sold by a
22 good person, a caring person, is about as effective as
23 many pills, so I think the nature of the relationship,
24 the creation of that expectation effect, and so on, is
25 part of what should be carefully regulated. But now it

1 is tipped in one direction, so I can't answer that
2 question in a yes-or-no way.

3 **Q. To your knowledge, does the expectation effect
4 work for everyone, or are some folks better suited to
5 succeed as a result of the expectation effect?**

6 A. Very good question.

7 There are two or three papers by Wayne Jonas
8 and -- Jonas and Moerman on long -- long, very long,
9 very nice papers summarizing the huge clinical studies
10 on expectation effects. And among that -- would you ask
11 me that question again. I want to get to the point. I
12 lost it.

13 **Q. Does the expectation effect work for everybody?**

14 A. In that, it shows some very interesting studies
15 on expectation effects by country, by region, by all
16 kinds of -- so the answer is it's distributed and
17 probably in a Gaussian manner so that some people are
18 more susceptible to expectation effects and some are
19 less susceptible.

20 Most of us scientists are a bunch of skeptics,
21 and we are less susceptible to expectation effects. And
22 I find that in my own case is that I am trained to be
23 critical, to be skeptical, a little bit. Unfortunately,
24 the scientists have carried it too far, not for their
25 healing but in their own science.

1 So yes, I would say there probably is -- it is
2 true that different people are differently susceptible
3 at any one point.

4 **Q. I want to make sure. You said the success rate
5 was distributed -- I think was that a bell-shaped
6 manner?**

7 A. Yes, bell-shaped. Gaussian or bell.

8 **Q. Do you believe that some conditions are more
9 susceptible or amenable to effective treatment through
10 the expectation effect than other conditions or
11 ailments?**

12 A. You're getting very technical. I don't know.
13 No. I would say I just don't know.

14 **Q. Okay. In your report, which is now Exhibit 2,
15 under Roman V, Analysis and Findings, subparagraph 1-a,
16 at the bottom of page 2 you say: "The narrow focus on
17 the single drug-single disease/treatment option has
18 caused incalculable harm and held back a truly
19 interdisciplinary health paradigm, which would broaden
20 that focus to include the sciences noted above,
21 approaches that have been found to promote healing the
22 whole person."**

23 **What is the incalculable harm that you reference
24 there?**

25 A. Today, the best new data would suggest that the

1 total medical system, in which I include principally
2 the current emphasis on new pill-based or
3 pharmaceutical-based interventions, is the leading
4 cause of death in the United States.

5 Now, this is Gary Null's new book. It is
6 several hundred pages. It is full of data which I'm
7 sure is susceptible to discussion and challenge, and so
8 on, but we're not talking small because the
9 National Academy just said a couple years ago about a
10 hundred thousand people killed a year due to medical
11 mistakes, the number due to the pill-taking is 110,000,
12 the number in hospital infections is in that order, so
13 it runs up.

14 So in a sense our system, which I'm attributing
15 that to the current paradigm, is not doing very well on
16 health, so the "incalculable harm" refers to the several
17 sources of data on the dangers of going to hospitals and
18 the infections that we pick up in the way we have an
19 atmosphere of modern medicine.

20 **Q. Do you think modern medicine has played any role
21 in the increase in longevity that the population has
22 experienced in, say, the last 200 years?**

23 A. About a third of it is probably attributable to
24 modern medicine. A lot of that is surgery, which, as
25 you know, in England is not the same as medicine.

1 Surgery is really physics, chemistry and engineering. I
2 mean, medicine contributes very little.

3 Most of that longevity has been due to civil
4 engineers who have given us clean water and taken away
5 the feces so that all the analyses show that about
6 two-thirds of the increase in longevity is due to civil
7 engineering. A substantial amount, about a third of it,
8 is a modern medical system, which includes many things
9 better than we include.

10 I think the healing physician -- my model of the
11 healer, which is the physician running off in the cold
12 in the middle of Iowa to treat a patient twenty miles
13 away, that shows a vector of concern which was very
14 profoundly healing and it still exists in a good faction
15 of our healing professors.

16 So I think that, yes, it has made a
17 contribution, but by no means is it the single cause.
18 And I must expressly remind you that clean water is the
19 single most important vector in improving our longevity,
20 no ifs, ands or buts.

21 **Q. We talked a few minutes ago about herbal
22 remedies.**

23 **Is it your view that all herbal remedies are
24 effective?**

25 A. Oh, I would never give a blanket -- absolutely

1 not.
 2 **Q. Okay. How do we figure out which herbal**
 3 **remedies are effective?**
 4 A. They should be -- have a very important
 5 system -- and this is again the issue of saying how do
 6 we qualify them and make sure that these are
 7 trustworthy, and so on. There should be a quality
 8 control system, which I imagine in most herbal remedies
 9 certainly in India is very poor, and they've been
 10 taking all kinds -- I would say the best way to look at
 11 that is to look at countries like India and China where
 12 this is obviously more prevalent and they're trying to
 13 get a quality control system in that to at least
 14 guarantee that this is what it is, it hasn't been
 15 contaminated, and so on.
 16 So QC things should be very important as a
 17 means of saying, if I'm selling XYZ, it should be clear
 18 that that is what it is, so quality control is
 19 important, very important.
 20 **Q. But how about for determining I'm selling XYZ to**
 21 **treat this condition? How do we or how should, in your**
 22 **view, society regulate what herbal remedies are**
 23 **advertised for what conditions?**
 24 A. Yeah. I think -- well, I will -- that's the
 25 kind of question which I said the National Academy

1 your question, and I believe the National Academy and
 2 the IOM, and so on -- not only the IOM. I absolutely
 3 insist that --
 4 (Discussion off the record initiated by the
 5 court reporter.)
 6 THE WITNESS: I absolutely insist on the three
 7 academies be involved because, as I said earlier, the
 8 engineers contribute so much.
 9 I mean, all of modern surgery, all of modern
 10 diagnostics has nothing to do with the normal
 11 biochemical training. Similarly, all of modern -- I'm
 12 talking modern physics. That means post quantum
 13 mechanics physics, but that can contribute.
 14 So if we had such a committee looking at the
 15 question you asked me, we would be able to give the kind
 16 of solid advice, not my personal opinion. I'm an
 17 outsider to the field, and nobody has paid me a cent to
 18 work in this field.
 19 So I think that it is a very important question
 20 and we should be addressing it. It is beyond my
 21 individual competence.
 22 BY MR. GORDON:
 23 **Q. You had used the phrase "snake oil" a couple of**
 24 **minutes ago.**
 25 **Do you think it's appropriate for society to**

1 should be invited to say immediately start a
 2 commission. A normal study takes a couple of years.
 3 We'll bring in all the experts and come up with an
 4 answer for that.
 5 I have been in India, where the National Academy
 6 of Sciences convened three years ago, every director of
 7 every major lab sitting in the front row and the
 8 president of the National Academy talking about the kind
 9 of questions we are discussing here and followed by the
 10 director general of all the labs, followed by me, an
 11 outside expert so-called, and so on, to answer some of
 12 these questions.
 13 We are three years behind even, but they are now
 14 saying yes, we've got to address this question, we've
 15 got to look at the quality control.
 16 I was then asked as an outside visitor to meet
 17 with six or seven directors of national labs to say how
 18 should we do this kind of stuff, what should the
 19 national chemical lab in Pune be looking at, should
 20 they be analyzing all these, and where we said yes,
 21 they started immediately to say great quality control
 22 and look at the process, trying to understand the
 23 process.
 24 So I think it is a very important thing that we
 25 start to look at the process by which we should answer

1 **protect people from those who sell snake oil?**
 2 A. When I used the term "snake oil," I was
 3 thinking -- I think it was Burt Lancaster in some movie,
 4 and the movies often contain a lot of useful truth. I
 5 remember it was shown -- I forget. It was a
 6 Tennessee Williams I think play. Maybe one of you can
 7 help me out.
 8 Anyway, it was a feared snake oil salesman who
 9 also cared, and so it was a very interesting mix of
 10 concerns. First, he was getting rich by selling snake
 11 oil, but B, he cared, so how does that work.
 12 So if I can by pure and simple intention or
 13 expectation in fact use a pencil to cause a blister, I
 14 can give you water to heal where there may be nothing in
 15 the water or this particular herb to do something where
 16 it may not be the right one, so that combination of --
 17 you said advertising. I think that's an important
 18 question.
 19 If it is advertising with no concern and no
 20 connection, it may be different, so you will have to
 21 specify is it a caring mother giving to a child and
 22 saying, Here, take chicken soup because it is my vector
 23 of caring which I'm telling you, chicken soup is the
 24 carrier of my caring, that would work, so should we
 25 allow chicken soup to be advertised in certain cultures

1 as a cure-all.
 2 So again, I think that those are -- this is the
 3 kind of question which I wish would be debated in the
 4 pages of The New York Times. I don't see enough of it.
 5 You know, I must tell you this because it is
 6 totally relevant. I happen to know the science editors
 7 of The Times. It used to be then Nick Broad and --
 8 Bill Broad and Nick Wade.
 9 And I was in the qigong meeting where I picked
 10 up all that information which stunned me about this bigu
 11 condition. I called Bill -- it was a Friday -- and I
 12 said, Bill, get your tail over here, because how can it
 13 be that The New York Times, which is hardly ten blocks
 14 away in the conference center, the big conference center
 15 on First Avenue, I said, How can it be -- on
 16 Twelfth Avenue, how can it be that you're not here?
 17 This is fantastic science.
 18 I got back to him on Monday and I said, Bill,
 19 get over there, this is something to report, but --
 20 (Discussion off the record initiated by the
 21 court reporter.)
 22 MR. GORDON: Can you stop for a second. We lost
 23 your picture for a second there.
 24 Can you hear us?
 25 (Pause in the proceedings due to technical

1 difficulty.)
 2 THE WITNESS: Okay.
 3 BY MR. GORDON:
 4 Q. She lost you when you were telling the editor of
 5 the science page to get his butt over there a second
 6 time, so if you would continue your answer.
 7 A. Well, I'll continue.
 8 I said, Bill, get over here because this is the
 9 kind of new science which the public is not exposed to.
 10 You can be critical. You're a damn good reporter.
 11 Talk to the people, see what they -- hear what they're
 12 saying, report it, because this is really new science.
 13 I mean, I'm a very senior scientist, but nobody
 14 paid any attention, and I said these -- at the next
 15 meeting we had the successor to Einstein and Heisenberg
 16 and we couldn't get a single major reporter to report
 17 this.
 18 There's something wrong in culture that says,
 19 quote, snake oil. If snake oil is a way to prevent me
 20 from dealing with reality, it's a very dangerous thing.
 21 I'm willing to look at snake oil.
 22 So that I think that we should look at these
 23 new -- I'm a scientist. I help to explore new
 24 phenomena. New observations is where everything in the
 25 world has all our sciences come from.

1 Even Galileo looking down the telescope and
 2 seeing what's on the moon and saying to the
 3 Cardinal Bellarmine, Now, please look up through the
 4 telescope and you'll see them, and Cardinal Bellarmine
 5 says, No, no, I know it is perfect, I won't look, that
 6 is what our culture is doing now. We know the truth.
 7 We will not look at the bigu phenomenon or we'll not
 8 look at what certain herbs can do.
 9 So I think the danger today is that we -- and
 10 I'm a member of the establishment in every sense of that
 11 term -- I think we in the science establishment have
 12 become the new Vatican and we are -- we actually say
 13 Neil Lauchstadt -- I trust you're classically educated
 14 to know that there was an office which said this may be
 15 published, nothing stands in the way. That is where the
 16 media have come to. The media now can filter out like
 17 the Vatican we won't publish that, and I gave you an
 18 example.
 19 Q. In one of your answers an answer or two back you
 20 referenced someone's new book concerning the harm that
 21 the medical establishment --
 22 A. Yeah.
 23 Q. Whose book was that?
 24 A. It's a book by six authors and including
 25 Dr. Gary Null, N-U-L-L, Gary Null. You can look it up

1 on Google.
 2 Q. I thought that's what you were referring to, but
 3 I didn't hear.
 4 Backtracking for a minute, you were talking at
 5 the beginning of the deposition about some testing that
 6 you had done at the University of Arizona with
 7 Professor Bell on certain homeopathic remedies.
 8 Do you know whether any of those homeopathic
 9 remedies were remedies for cancer?
 10 A. I don't know that.
 11 Q. Okay.
 12 A. Can you see me?
 13 Q. Yes.
 14 A. Oh, I can't see you guys, but I'm not missing a
 15 lot.
 16 Q. You certainly aren't.
 17 To your mind, in homeopathy, how do we determine
 18 what works for a particular patient?
 19 A. Well, I'm not a homeopath. I haven't been to a
 20 homeopath in this country ever. I don't know what they
 21 do.
 22 Q. Okay.
 23 A. I'll tell you what we do at Arizona.
 24 In the university I was very impressed by
 25 Dr. Weil's operation. They have a patient intake in

1 which I as a scientist was allowed to sit in several
2 times and I sat in on the patient intake. And they had
3 three or four different specialists from different
4 areas. One may be qigong, one may be homeopathy,
5 whatever.

6 And they listened to the patient and asked for
7 the family background on his -- what's happening with
8 the kids or what's happening in your job because the
9 whole person -- what's happening in your family, are you
10 having trouble with something, that whole picture of
11 that person. And then they had a conference among
12 themselves, the healers, the different specialists, and
13 then they prescribed.

14 And that was my impression of a good healing
15 system where there are different viewpoints of healers
16 and they took the full information about the patient --
17 this is time and it's expensive -- and then they met
18 together and decided what to do, what to prescribe.

19 **Q. And would you agree with me that that's an awful**
20 **lot different than somebody advertising and selling**
21 **remedies over the Internet to folks that they've never**
22 **met?**

23 A. Well, it depends what you mean by advertise -- I
24 can't comment too much on that, but of course if the
25 person was prescribed by that process a particular

1 to tie up some --

2 THE WITNESS: Oh, Jim. Let me take a biology
3 break for one minute.

4 MR. TURNER: Okay. That's good.

5 THE WITNESS: Okay. One minute.

6 (Recess)

7 - - - - -

8 EXAMINATION

9 BY MR. TURNER:

10 **Q. Okay. I have just a few questions just to**
11 **follow up on some issues you addressed in the earlier**
12 **examination.**

13 **The first area is the preparation of the**
14 **report.**

15 **You mentioned -- you described the long,**
16 **four-hour or many-hour Saturday-afternoon call.**

17 **Do you recall if that was a recorded call?**

18 A. Yes. I was asked to agree to the recording. It
19 was -- I assume this was a transcript then from which I
20 edited it again.

21 **Q. And then the words in the report that you**
22 **prepared and signed, are those words that were from that**
23 **transcript?**

24 A. Yeah. Very largely, yes. Very largely.

25 **Q. And then you went back through and edited them**

1 homeopathic remedy and he or she then went and bought
2 that on the Internet, that's only a part of it. But if
3 the only information -- the only vector was only
4 advertising, nothing else, because that's making it
5 available, but the homeopath is prescribing it.

6 **Q. But for the situation where the person decides**
7 **to purchase it based on the advertising that they see**
8 **on the Internet, you would agree that that's very**
9 **different than the homeopathic situation you observed**
10 **at the University of Arizona in Dr. Weil's clinic;**
11 **correct?**

12 A. Yes. But it is not very different from the
13 Cialis and Viagra advertising or any other pill that can
14 be bought on the Internet from any other country, so I
15 guess that's a similarity. I don't know what the
16 advertising stuff involved.

17 MR. GORDON: Give me a minute, and I may be
18 done.

19 MR. TURNER: Sure.

20 (Pause in the proceedings.)

21 MR. GORDON: I don't have any other questions.

22 MR. TURNER: I have a few.

23 MR. GORDON: Okay.

24 MR. TURNER: I just have a couple of questions.

25 Dr. Roy, I'm going to ask a few questions just

1 **yourself after you got them back from us?**

2 A. Indeed. I edited it and approved it.

3 **Q. I wanted to -- then I want to go on to another**
4 **area. You've been talking about materials, and I wish**
5 **you could -- oops, you're going away.**

6 A. No, I'm not going away.

7 **Q. Okay. I would like you to illustrate the**
8 **difference between the chemical makeup of something and**
9 **the material structure of something using the example of**
10 **carbon pencils and diamonds.**

11 A. Well, thank you for reminding me.

12 In that discussion with -- at Yale with -- at
13 Connecticut with the Yale professors, and so on, I used
14 this illustration. It is such a perfect fit because
15 Dr. Novella kept saying it's just water, so I used the
16 example to show how powerful materials science is in
17 helping the cause.

18 I said in my lab -- we're the experts of
19 diamonds. I've been working with them for fifty years.
20 And -- but I said you know that graphite and diamond are
21 exactly the same composition, exactly, chemically.
22 Nothing is added.

23 So if I were to say it's just carbon and you say
24 it's just water, so whatever I do to it, it's just
25 water, let me show you how wrong you are, Dr. Novella.

1 If I take graphite in my lab, I can zap it in
2 one microsecond and make it into a diamond. I didn't
3 add anything. I didn't subtract anything. I made it
4 into a diamond. I can take another laser and zap it and
5 make diamond into graphite.

6 So it is absurd to think that the chemical
7 composition is the only thing that changes properties.
8 Yes, chemical composition does change properties a
9 little bit, but many other things change the structure,
10 and it is structure that controls properties vastly more
11 than composition.

12 And that illustration, Jim, thank you for
13 reminding me because it is the best one to show how
14 lacking has been this idea that to say that homeopathy,
15 because it's just water, it can't be different. No. We
16 can really make it different.

17 **Q. All right. Now I wanted to direct your**
18 **attention to the whole-person healing volumes that you**
19 **edited.**

20 A. Yes.

21 **Q. Do you recall if Dr. Jim Gordon participated in**
22 **any of your conferences?**

23 A. I know that Jim Gordon participated. I may not
24 be able to say exactly if he gave a paper or something.

25 **Q. Could you describe who Jim Gordon is.**

1 A. Jim Gordon is a physician in Washington, D.C. at
2 Georgetown and he has been very well-known as one of the
3 leaders in this whole-person healing movement. He was
4 the chairman of President Clinton's commission on
5 alternative medicine, whatever it was -- I don't know
6 the detailed name again. CAM it was called,
7 complementary and alternative medicine.

8 So he's a very prominent figure in the world of
9 whole-person healing.

10 **Q. And do you recall the program that he is the**
11 **chairman of, his organization?**

12 A. I've got so many -- you would ask me that
13 question. I forget his --

14 **Q. Let me just direct you.**

15 **Does he work on cancer?**

16 A. Jim works on all kinds of things, including
17 cancer. Yes.

18 **Q. Do you know if any of his participation in the**
19 **whole-person healing organization -- activities that you**
20 **read books on, edited books on, included things on**
21 **cancer by him?**

22 A. I cannot exactly recall whether the papers he
23 gave there had anything to do with cancer. I can't
24 recall that.

25 **Q. Okay. I want to now just redirect or direct**

1 **your attention to the process for approving**
2 **pharmaceuticals through the FDA.**

3 **Does that process --**

4 A. Okay.

5 **Q. Does that process always come up with the right**
6 **answer?**

7 MR. GORDON: I'm going to object to the form,
8 but go ahead.

9 THE WITNESS: Well, it comes up -- well, yeah, I
10 will answer that question without saying it's the right
11 or the wrong answer.

12 The typical process means that, depending on how
13 much money you have, you do a series of
14 first-stage/second-stage trials which involve larger and
15 larger numbers of people. And if you look at those
16 data, as a scientist, I just -- I mean, I burst into
17 laughter. I have seen the same medicine examined in ten
18 clinical trials -- and these are all in Jonas and
19 Moerman's paper, hundreds and hundreds of references --
20 and you get a spread from 75 percent effective to
21 20 percent effective. Sometimes you'll get spreads from
22 nearly zero to nearly a hundred percent.

23 So it of course mentioned the bell curve. In a
24 way it looks like it's almost a bell curve, and very
25 often a pharmaceutical company by sponsoring many trials

1 gets a few clustered up near the top, say 60-70 percent.
2 Then they go to the FDA with only those.

3 FDA could require that you must report every
4 clinical trial done, and then you take those four and
5 get approval for that.

6 So I fault the process with saying every
7 clinical trial that is known to you must be revealed.
8 Whether it's done in India or China or Europe, it should
9 be revealed. That would be a fairer method for the FDA
10 to make a judgment. They've got a tough job, and
11 because of this spread due to the expectation effect or
12 the lack of dietary controls, they should look at the
13 whole range of such results.

14 BY MR. TURNER:

15 **Q. In your experience, does the FDA have to recall**
16 **products that it has previously approved?**

17 MR. GORDON: Objection to the form. Way beyond
18 the scope of his report.

19 Go ahead.

20 THE WITNESS: Well, of course they recall
21 products, so obviously it failed, but no one is perfect,
22 and so on. But in a sense, yes. Vioxx, Celebrex, all
23 kinds of things had problems.

24 BY MR. TURNER:

25 **Q. Okay. I have one more question.**

1 **You have a background in religion; is that**
 2 **correct?**
 3 A. Yes, I do have a -- I'm actively participating
 4 at the national level and international level.
 5 **Q. And we had a -- one of the areas of focus that**
 6 **we were talking about was -- one of the issues that we**
 7 **were addressing was the relationship between religion**
 8 **and science.**
 9 **Do you see them as antithetical?**
 10 A. Well, having written so many books to show that
 11 they're not, no, they're not antithetical because
 12 they're -- I use the technical term "incommensurable"
 13 which means that they're not measured on the same scale.
 14 I will make it simpler.
 15 Science and theology are commensurable. They
 16 are theories and knowledge about something. Religion
 17 and technology are commensurable. They are things what
 18 you do. Religion is praxis. It is also praxis,
 19 correct, do this stuff. Every religion prescribes that
 20 you should feed the poor or help the needy, and so on,
 21 and do your religious practices. That's the
 22 prescription. That's what you do.
 23 Science is a set of beliefs, and religion is a
 24 set -- it's a set of theories and religion is a set of
 25 theories. We can use alternative terms, but those are

1 interaction of the human expectation -- you know, the
 2 team will say, Oh, we've got to win this -- that has a
 3 profound effect on what will happen.
 4 So yes, expectation has more to do with
 5 technology and religion than it has to do with science
 6 and theology, but it certainly has a profound effect on
 7 human beings in their normal life.
 8 MR. TURNER: That's all I have.
 9 - - - - -
 10 EXAMINATION
 11 BY MR. GORDON:
 12 **Q. Dr. Roy, just one quick follow-up based on a**
 13 **couple of Mr. Turner's questions.**
 14 **Have you yourself ever been involved at all in**
 15 **trying to secure for some medication FDA approval?**
 16 A. No.
 17 MR. GORDON: I don't have anything else.
 18 Thank you very much. It was nice to meet you.
 19 MR. TURNER: Thank you very much. I really
 20 appreciate it.
 21 THE WITNESS: It was very nice to meet you.
 22 (Whereupon, the foregoing deposition was
 23 concluded at 12:43 p.m.)
 24 (Reading and signature not waived.)
 25

1 the proper matching terms. And technology is what you
 2 do. We wear garb, we dress up, we eat and we do all
 3 kinds of what we do.
 4 In religion you forbid people from eating
 5 certain things. Muslims and Jews are forbidden from
 6 eating pork, and so that's a proscription.
 7 So technology delivers -- to me they deliver
 8 synthetic-looking things which look like hot dogs which
 9 are made of soil or something.
 10 So I think that religion and technology can be
 11 compared and science and theology. Science is pretty
 12 much a theology for modern people.
 13 **Q. Is there a commensurability between or a**
 14 **relationship between the expectation effect and**
 15 **religion?**
 16 A. Expectation effect is part of I think the human
 17 condition, so much more with religion and technology
 18 than with science and theology. A kind of science and
 19 theology both tend to exclude such things as a whole
 20 person interacting. Only the whole person can have an
 21 expectation effect.
 22 So expectation effect, by the way, in a football
 23 team of why we always get the last-minute scores, of why
 24 the Australian rugby team does well, a lot of people
 25 have written books on this about how that the

1 CERTIFICATION OF REPORTER
 2
 3 DOCKET/FILE NUMBER: 9329
 4 CASE TITLE: Daniel Chapter One and James Feijo
 5 HEARING DATE: February 12, 2009
 6
 7 I HEREBY CERTIFY that the transcript contained
 8 herein is a full and accurate transcript of the notes
 9 taken by me at the hearing on the above cause before the
 10 FEDERAL TRADE COMMISSION to the best of my knowledge and
 11 belief.
 12
 13 DATED: FEBRUARY 12, 2009
 14
 15
 16 JOSETT F. WHALEN. RMR
 17
 18
 19 CERTIFICATION OF PROOFREADER
 20
 21 I HEREBY CERTIFY that I proofread the transcript
 22 for accuracy in spelling, hyphenation, punctuation and
 23 format.
 24
 25 DIANE QUADE

CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

RUSTUM ROY

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this day of , 2009, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

WITNESS: RUSTUM ROY

DATE: February 12, 2009

CASE: In the Matter of Daniel Chapter One and James Feijo

Please note any errors and the corrections thereof on this errata sheet. The rules require a reason for any change or correction. It may be general, such as "to correct stenographic error" or "to clarify the record" or "to conform with the facts."

PAGE LINE CORRECTION REASON FOR CHANGE

A	54:11,14,19 56:14 64:17,19 69:20 70:4,7,13,16 advice 63:16 affect 19:17 agencies 27:23 agent 20:16 34:7 agents 34:12 ages 34:9 aggregate 25:17 ago 31:14 36:19 37:19 41:23 42:1 44:18 54:12,13 59:9 60:21 62:6 63:24 agree 52:4 55:21 69:19 70:8 71:18 ahead 75:8 76:19 ailments 58:11 aimed 15:8 air 38:12 Alan 31:15 alcohol 12:16 56:8 Alda 31:15,19 allegations 50:5 allow 48:14 53:24 56:3,6 64:25 allowances 49:8 allowed 9:15 55:23 55:24 56:20 69:1 alternative 35:20 74:5,7 77:25 alternatives 56:11 amateur 15:24 20:7 amazing 27:23 amenable 58:9 AMERICA 2:1 American 26:23 51:23 Americans 47:11 amount 37:5 60:7 analogies 32:15 analogy 31:25 analyses 60:5 analysis 19:4 58:15 analysts 17:25 analyzing 62:20	Anchor 22:14,19 23:7,13,24,25 24:5 24:6 Andrew 21:8 ands 45:1 60:20 angle 31:24 answer 5:11,12 14:10 28:7 29:14 29:18 54:3 55:6,8 57:1,16 62:4,11,25 66:6 67:19 75:6,10 75:11 answers 5:3,5 67:19 antibiotics 33:15 antithetical 77:9,11 anybody 19:16 56:20 apart 29:9,16 apparently 10:15 39:23 APPEARANCES 3:1 appeared 81:13 appears 39:19 applications 46:16 applies 20:1 apply 46:5,13,15 47:13 appreciate 79:20 approach 50:2 approaches 43:17 43:19,20,21,21 58:21 appropriate 63:25 approval 76:5 79:15 approved 72:2 76:16 approving 75:1 approximately 41:18 ardor 20:6 area 17:17 19:19 23:9 37:21 71:13 72:4 areas 28:1,14,24 69:4 77:5 argument 9:11 13:6	36:10 arises 38:3,5 Arizona 8:21 9:2 20:25 21:15 41:21 68:6,23 70:10 arrive 15:1 16:14 arrived 14:24 arrives 31:6 art 10:6 article 20:5 35:19,22 36:1 39:22 articles 35:17 39:18 asked 5:23,25 6:5 16:13,13 17:6 19:18 54:4 62:16 63:15 69:6 71:18 asking 32:9 aspirin 33:14 associate 37:4 association 36:17 assume 45:22,24 50:15 71:19 assumption 45:17 astounding 46:21 ate 17:7 atmosphere 59:19 atmospheres 37:23 atoms 39:12 attach 81:6 attached 26:4 attended 17:5 attention 66:14 73:18 75:1 attributable 59:23 attributing 59:14 Australian 78:24 author 34:24 authored 39:18 authors 67:24 available 70:5 Avenue 65:15,16 Avogadro 12:24,25 aware 27:23 awful 69:19 a.m 2:19 B B 10:18 64:11	back 7:15 17:10 43:2 58:18 65:18 67:19 71:25 72:1 background 69:7 77:1 Backtracking 68:4 bad 55:3 ban 54:10 base 22:2 based 13:6 36:25 70:7 79:12 basically 23:14 36:12 37:3 40:1 beam 30:11 beginning 20:15 36:14 68:5 behalf 3:3,13 8:9 beings 14:19 18:17 30:16 34:9 46:1 79:7 belief 80:11 beliefs 77:23 believe 26:4 32:9 33:10 58:8 63:1 bell 9:2 10:4 17:21 17:22 21:3 22:4 25:1 35:21 36:6 37:9 58:7 68:7 75:23,24 Bellarmino 67:3,4 Bell's 21:20 bell-shaped 58:5,7 Benson 30:19,21 best 58:25 61:10 73:13 80:10 better 28:22 30:23 49:13 53:11 54:5,6 55:7 57:4 60:9 beyond 44:5 63:20 76:17 big 18:16 38:7 65:14 biggest 12:3,5 bigu 15:2 65:10 67:7 Bill 65:8,11,12,18 66:8 billion 53:8 54:15 billions 53:10
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<p>biochemical 17:23 17:24 63:11</p> <p>biochemicals 18:25</p> <p>biochemistry 18:2 18:10 20:16</p> <p>biographical 1:11 6:14 25:24 26:3 28:13</p> <p>biological 42:23 52:17,18</p> <p>biology 71:2</p> <p>bit 5:9 9:19 36:22 40:25 52:22 57:23 73:9</p> <p>blanket 60:25</p> <p>blind 32:9</p> <p>blister 64:13</p> <p>blisters 44:24</p> <p>blocks 65:13</p> <p>board 49:2,3</p> <p>bodies 16:9 52:9</p> <p>body 17:23,24 18:1 18:10,16,18,22,24 19:7</p> <p>bones 18:4,6,7 52:15</p> <p>book 59:5 67:20,23 67:24</p> <p>books 30:22,24 74:20,20 77:10 78:25</p> <p>born 33:4</p> <p>bothered 38:16</p> <p>bottom 58:16</p> <p>bought 70:1,14</p> <p>boundary 44:9 49:16</p> <p>Bowling 2:14 3:8</p> <p>brain 19:7</p> <p>Brazil 46:22 47:1</p> <p>break 42:24 71:3</p> <p>briefly 4:23</p> <p>bring 5:23 6:22 15:16 62:3</p> <p>bringing 19:15</p> <p>British 39:23</p> <p>broad 36:1,2 37:12 65:7,8</p>	<p>broaden 58:19</p> <p>broader 51:25</p> <p>broke 10:25</p> <p>brothers-in-law 44:2</p> <p>brought 26:15</p> <p>bubbles 38:1,6,7,7</p> <p>budget 54:14</p> <p>build 56:16</p> <p>building 56:17</p> <p>built 53:21</p> <p>bulb 19:14 20:3</p> <p>bunch 40:2 57:20</p> <p>burn 20:9,12</p> <p>burning 30:11</p> <p>burst 75:16</p> <p>Burt 64:3</p> <p>Bush 27:21</p> <p>business 4:8 18:4 37:15 38:19</p> <p>but 45:1 60:20</p> <p>butt 66:5</p> <p>B-I-G-U 15:2</p> <p style="text-align: center;">C</p> <p>C 4:1 27:3 80:1,1,19 80:19</p> <p>Cade 34:6,6</p> <p>calcium 18:5,8</p> <p>calculated 13:1</p> <p>call 6:9 12:23 19:9 27:10 28:5,6 29:1 31:2 41:14,16,17 41:20,24 47:18 48:21 56:15 71:16 71:17</p> <p>called 4:5 6:14,19 14:20 26:11 27:8 31:1,16,21 35:2 36:18 39:6 55:18 65:11 74:6</p> <p>calls 41:15</p> <p>calm 33:22</p> <p>calming 34:2</p> <p>calories 15:6 49:14 56:9,10</p> <p>CAM 74:6</p> <p>cancer 35:7,14 68:9</p>	<p>74:15,17,21,23</p> <p>carbon 72:10,23</p> <p>Cardinal 67:3,4</p> <p>care 50:22</p> <p>cared 64:9,11</p> <p>career 23:1</p> <p>carefully 56:25</p> <p>caring 56:22 64:21 64:23,24</p> <p>carried 57:24</p> <p>carrier 64:24</p> <p>carryover 28:14</p> <p>cartilage 51:17,19. 52:1</p> <p>case 7:18 8:17 12:16 24:19,24 25:4,16 48:11 50:5 57:22 80:4 82:3</p> <p>cause 20:11 44:6,7 45:10 52:25 59:4 60:17 64:13 72:17 80:9</p> <p>caused 58:18</p> <p>causing 13:21</p> <p>Celebrex 76:22</p> <p>cent 27:13 63:17</p> <p>center 44:17 65:14 65:14</p> <p>certain 5:24 7:1 14:25 24:4 42:8,9 44:9 45:9 53:24 56:3,6 64:25 67:8 68:7 78:5</p> <p>certainly 18:23 51:8 51:14 55:8 61:9 68:16 79:6</p> <p>certificate 81:1,15</p> <p>certify 80:7,21 81:2 81:11</p> <p>cetera 25:15</p> <p>chairing 15:19</p> <p>chairman 74:4,11</p> <p>chairmen 49:5</p> <p>challenge 9:16 20:6 40:25 59:7</p> <p>challenged 24:23 27:17</p>	<p>challenging 9:24</p> <p>change 11:14,18,18 20:3 30:3,8 40:2 46:25 73:8,9 82:7 82:10</p> <p>changed 9:23 13:7 19:7 23:12 37:16 40:8</p> <p>changes 39:1 73:7</p> <p>changing 15:14 28:16 29:1 30:6</p> <p>chant 16:24 17:2</p> <p>chanting 16:24,25</p> <p>Chapter 2:5,8 7:20 8:9,16 24:23 25:6 42:17 43:7 50:7,8 80:4 82:3</p> <p>characters 19:9,10</p> <p>cheating 15:12</p> <p>chemical 12:14 17:23 52:20 62:19 72:8 73:6,8</p> <p>chemically 72:21</p> <p>chemicals 17:24 19:6 20:22</p> <p>chemist 9:13 26:23</p> <p>chemistry 11:21,21 29:3 33:14 38:25 39:1,1 60:1</p> <p>Chicago 46:24 47:13</p> <p>chicken 64:22,23,25</p> <p>chief 48:22</p> <p>child 64:21</p> <p>China 15:20 27:25 61:11 76:8</p> <p>Chinese 14:14 15:2 15:15</p> <p>chips 38:21</p> <p>chloride 12:13</p> <p>chose 37:17</p> <p>chosen 25:1</p> <p>Cialis 70:13</p> <p>civil 60:3,6</p> <p>claim 9:18 32:22 40:8 55:23</p> <p>claimed 14:16 15:7 23:13,13</p>	<p>claims 22:25</p> <p>clarify 7:5 82:8</p> <p>classical 44:20,25</p> <p>classically 67:13</p> <p>clean 60:4,18</p> <p>clear 11:4 13:13 40:20 43:25 61:17</p> <p>clinic 70:10</p> <p>clinical 13:20 53:9 57:9 75:18 76:4,7</p> <p>Clinton's 74:4</p> <p>close 26:25 27:2,6 27:17</p> <p>clue 11:23</p> <p>clustered 76:1</p> <p>coined 31:11,20 52:23</p> <p>cold 60:11</p> <p>colleagues 17:5 19:10 22:3 34:17 38:16 44:1</p> <p>collecting 28:23</p> <p>college 11:21</p> <p>colleges 15:22</p> <p>color 46:25 47:2,2</p> <p>combination 64:16</p> <p>come 18:9 19:2 38:8 38:8,9 45:21 62:3 66:25 67:16 75:5</p> <p>comes 32:4 53:13 75:9</p> <p>comfort 33:6,7,8</p> <p>coming 21:15</p> <p>commensurability 78:13</p> <p>commensurable 77:15,17</p> <p>comment 69:24</p> <p>commenting 53:18</p> <p>commission 1:1 2:2 2:13 3:3,6 4:20 7:19 50:6 62:2 74:4 80:10 81:20</p> <p>commissioner 54:1</p> <p>committee 63:14</p> <p>commonly 39:8</p> <p>communicate 41:11</p>
---	---	--	--	---

community 20:10 50:22 56:17	conform 82:9	6:21,22	cure-all 65:1	define 18:23
companies 53:9	connected 19:21 27:15	Cornell 44:17 45:15	curing 36:23	Defining 37:9
company 22:14,15 75:25	Connecticut 36:4,9 72:13	Corning 22:15 23:12,15	current 59:2,15	delay 5:9
compared 10:6 78:11	connection 7:17 8:17 22:23 24:18 25:3 28:5 43:2 47:17 64:20	Corning's 22:19	currently 26:7	deliver 78:7
comparing 11:3,4	consider 51:17	corporation 2:5	curve 75:23,24	delivers 78:7
compensation 27:15	consideration 48:19	correct 6:17 14:4,5 14:8 24:7,14 25:6 28:10,11 51:13 52:10,11 70:11 77:2,19 82:8	cut 54:14	demonstrated 44:11
competence 63:21	considers 53:24	correction 82:7,10	CV 6:6,8,9,11 20:23	denied 23:2
complaint 7:19,23	consists 18:1	corrections 81:5 82:5	D	departmental 22:1
complementary 35:20 74:7	constitutes 50:1	correlated 29:6	D 1:2 4:1 35:21 80:19	depending 75:12
complete 13:4	constrain 49:8	countereffect 54:20	damn 66:10	depends 69:23
completely 9:20 14:17 20:10	consulted 28:9	countries 46:21 61:11	dampened 20:5	DEPONENT 81:1
complex 13:18 20:22	contact 14:18 52:12	country 57:15 68:20 70:14	danger 67:9	deposed 22:22,23
composition 72:21 73:7,8,11	contacted 42:3	couple 5:20 15:5 16:21 22:13 36:19 41:23,25 42:8 59:9 62:2 63:23 70:24 79:13	dangerous 46:17 66:20	deposition 2:18 4:21 4:24 5:1,2 7:12 25:23 26:2 40:13 40:18 41:5,8 42:5 43:9 68:5 79:22
conceive 31:6	contain 24:25 64:4	course 19:11 20:4 35:5 69:24 75:23 76:20	dangers 59:17	describe 6:12,13 7:13 10:14 51:9 52:24 73:25
concern 60:13 64:19	contained 37:2 80:7	court 5:4 6:25 23:16 24:4 26:2 40:11,17 63:5 65:21	Daniel 2:5,8 7:20 8:9,16 24:23,25 25:6 42:17,19 43:7 50:7,8,13 51:1,7 80:4 82:3	described 50:10,20 71:15
concerned 12:4 28:2	contaminated 61:15	Cousins 26:17	data 1:11 6:14 25:24 26:3 28:13,15,23 28:23 44:5 58:25 59:6,17 75:16	describing 28:14 43:10
concerning 13:9 17:14 21:24 25:5 42:12 43:12 67:20	contemporary 11:23	created 53:19	date 7:18 80:5 82:2	description 1:10 51:11 53:3
concerns 64:10	content 46:14	creation 19:3 38:6 56:24	dated 39:20 40:18 80:13	detailed 74:6
conclude 54:10	contention 30:13	credit 29:23	David 3:5 17:4	details 24:3
concluded 79:23	context 51:25	critical 57:23 66:10	Davidovitch 35:21	determine 16:11 43:21 48:13 68:17
condition 15:1 16:10 17:18 56:7 61:21 65:11 78:17	continue 17:2 66:6,7	critics 10:20 11:6,10 11:19 26:13	day 15:6 81:14	determining 61:20
conditions 21:24 44:9 49:17 58:8,10 61:23	contribute 63:8,13	crying 19:3	days 25:17	device 10:22
conduct 7:8	contributes 60:2	crystal 23:12	deal 18:17 31:15 54:22	diagnostics 63:10
conducted 8:15,18	contribution 37:14 60:17	culture 66:18 67:6	dealing 66:20	diamond 12:6 72:20 73:2,4,5
conducting 5:1 9:25 14:2	control 46:2,3 47:11 47:12 61:8,13,18 62:15,21	cultures 64:25	dean 15:22	diamonds 12:5,6 72:10,19
confer 21:10,23,24 22:1	controlled 43:13,15 44:13 45:1,7,17 46:6,12,15,20 47:5 48:7	cure 33:6,7,7 36:22 50:3 53:16 56:7	deans 15:21	DIANE 80:25
conference 16:22 65:14,14 69:11	controls 73:10 76:12		death 27:2 59:4	dice 45:18,19,19,22 45:24
conferences 35:1 73:22	convened 62:6		debate 35:22 36:8	diet 46:2
confident 40:24	conventional 27:17 44:12		debated 65:3	dietary 76:12
confirm 6:7	conventionally 38:18		December 39:20	diets 28:22
	conversations 5:22		decide 47:15	difference 11:7 30:25 32:1 46:22 72:8
	cool 33:25		decided 54:13 69:18	
	copy 5:25 6:1,5,7,9		decides 70:6	
			deep 18:11	
			defense 11:11	different 10:7,7,8

13:16 14:17 16:19 16:20 20:20 45:4 46:21 58:2 64:20 69:3,3,12,15,20 70:9,12 73:15,16 differently 58:2 difficult 18:23 49:18 difficulty 66:1 dilute 10:15 12:4,9 12:10 diluted 10:24 11:8 12:18 dilution 10:18 12:22 12:25 direct 73:17 74:14 74:25 direction 30:1,2,6,9 57:1 directions 31:4 directly 21:5 29:4 director 4:18 45:14 62:6,10 directors 62:17 discipline 14:20,22 14:23 discovered 34:10 discussed 17:12,13 discussing 13:9 62:9 discussion 59:7 63:4 65:20 72:12 disease 36:21 50:4 disease/treatment 58:17 dispute 23:7 distinct 50:3 distributed 57:16 58:5 distribution 45:9,22 Doc 53:13 Docket 2:6 DOCKET/FILE 80:3 doctor 47:20,22,22 doctors 21:5 53:12 document 40:25 documents 5:24 dogs 78:8	doing 4:22 15:13 25:19 31:15 41:1 56:14 59:15 67:6 dollars 39:6 Don 48:21,25 49:1 Dossey 30:23,25 double-blind 43:16 doubt 15:11 dozens 35:15,16 Dr 4:15 7:6,12 17:8 20:23 21:8,14,17 22:4,4,7 25:1 28:3 67:25 68:25 70:10 70:25 72:15,25 73:21 79:12 draft 41:10 drafted 35:18 drafting 25:14,18,20 drastically 54:15 dreams 31:5 dress 78:2 drink 15:4 drive 21:7 dropped 54:15 drops 37:1 drug 50:3 drugs 33:17 48:14 54:11 drug-single 58:17 dubious 48:6 due 59:10,11 60:3,6 65:25 76:11 Dulabon 3:5 17:4,5 17:8 duly 4:6 duty 55:4 D.C 3:17 74:1	edging 18:23 edit 35:2 edited 35:3,5 71:20 71:25 72:2 73:19 74:20 editor 26:17 34:24 66:4 editors 65:6 editorship 26:19 educated 67:13 education 56:16 effect 21:19 31:12 31:20 44:6,7 47:18 50:1 52:23 53:1,4 53:24 54:22 55:25 56:24 57:3,5,13 58:10 76:11 78:14 78:16,21,22 79:3,6 effective 4:9 56:22 58:9 60:24 61:3 75:20,21 effects 14:14 18:21 18:22 19:19 30:10 34:13 45:10 46:22 54:17 57:10,15,18 57:21 efficacious 48:2 efficacy 14:3,7 43:20 Einstein 15:19 66:15 either 8:4 elaborate 18:14 electromagnetic 31:9 embed 38:11 emphasis 59:2 empirical 49:24 50:23 ended 12:3 18:12 engineer 20:8 engineering 15:22 49:3 55:16 60:1,7 engineers 60:4 63:8 England 59:25 entitled 37:9 entry 28:15 37:7	epi 39:9 epitaxy 37:10 38:14 38:15,22 39:6,8 equality 45:17 Erie 20:8 errata 82:6 error 11:15 18:11 82:8 errors 82:5 escaping 44:19 especially 13:3 ESQ 3:4,5,14 established 29:19 establishment 67:10 67:11,21 et 25:15 eulogy 27:7 Europe 76:8 evaluate 43:13,16 43:19 53:23 evaluations 17:17 events 36:2 everybody 57:13 evidence 18:20 evolved 52:12 exactly 10:2 24:3 50:23 72:21,21 73:24 74:22 examination 1:4 4:5 4:13 71:8,12 79:10 examine 55:5 examined 4:6 50:9 75:17 81:2 example 30:19 33:1 44:16 67:18 72:9 72:16 examples 10:5 exclude 78:19 executed 81:15 exemplars 10:5 25:2 47:12 exhibit 1:10 6:25 25:23 26:3 28:13 34:21 35:19 39:15 40:12,13,18 41:5,8 43:9 49:22 58:14	exists 60:14 expanded 52:14 expect 31:22 32:10 53:1 expectation 31:12 31:20 47:18 48:4 52:23 53:2,4,18,19 53:21,23 54:22 55:25 56:24 57:3,5 57:10,13,15,18,21 58:10 64:13 76:11 78:14,16,21,22 79:1,4 expected 48:5 expenses 24:11 expensive 69:17 experience 76:15 experienced 59:22 experiment 44:18 44:25 experiments 9:25 13:8 14:2,6 17:11 17:12,13 24:20 expert 1:12 7:7,8 8:8 8:12 9:3 12:11 22:8,9,21,22 23:21 40:9,14 42:6,15 43:11 62:11 expertise 34:17 experts 9:21 62:3 72:18 EXPIRES 81:20 explain 29:25 explore 66:23 exposed 66:9 expressly 60:18 extensive 17:16 extent 13:10 17:13 extremely 10:19
	E		F	
	E 1:2 4:1,1 80:1,1,1 80:19,19,19 earlier 63:7 71:11 earth 12:3 eat 14:21 49:13 78:2 eaten 14:16 52:15 eating 14:15 47:12 56:9 78:4,6 edges 27:10		F 80:1,1,16,19,19,19 fact 9:22 13:6 24:19 27:6 28:1 54:22 64:13 faction 60:14 factor 12:17,19 factors 47:3,4	

facts 82:9	61:2 74:8	58:21	32:6 33:1 36:10	Green 2:14 3:8
faculty 15:21	figures 27:12	foundation 27:14	44:16 46:4 47:16	grind 37:19
failed 76:21	filed 7:19	founded 16:3	53:14,17 54:17	gross 11:15 18:11
failing 55:4	filter 67:16	four 69:3 76:4	56:12 60:25 63:15	group 19:25 26:19
fair 43:6,8	financial 24:3	four-hour 71:16	64:14 70:17	groups 16:19,20
fairer 76:9	find 15:10 38:17	free 56:19	given 41:1 60:4 81:4	grown 52:9
fairly 7:1	51:3 57:22	Friday 16:22 65:11	giver 47:19	guarantee 61:14
faithfully 14:25	Findings 58:15	friend 26:25	giving 31:17 33:21	Guardian 39:20,24
familiar 11:1	fine 6:24 34:3	front 26:4 62:7	64:21	40:10
family 33:3 50:22	finish 5:3,3	frontier 20:13	glass 22:15 23:10,12	guess 4:7 34:1 35:17
69:7,9	finished 5:10,12	FTC 41:8	Glaxo 54:13	37:8 70:15
fantastic 65:17	firm 41:6	FTC's 7:23	go 4:23 15:15 21:8	guy 29:22
far 15:15 16:11 24:3	first 4:5,7 21:20	fulfilled 53:2	21:22 32:17 44:4	guys 19:5 68:14
29:8,16 34:19	26:16,24 27:21	fulfilling 51:10	47:1 49:9 72:3	
57:24	38:13 42:2 43:25	full 59:6 69:16 80:8	75:8 76:2,19	H
fast 5:13	64:10 65:15 71:13	fully 27:23 43:25	goal 21:19 31:11	habits 14:15 47:12
fault 47:7 76:6	first-stage/second...	44:11 48:15	God's 55:2	47:13
FDA 47:7 48:13,17	75:14	function 50:1	goes 18:6 37:21	Hahnemann 10:15
48:17,22 49:5	fit 72:14	fundamental 9:23	going 13:15 16:6	10:18 36:18
53:23 54:1,8,10,21	five 14:17,21 27:21	54:3,4	29:18 44:21 51:3	Hahnemann's 36:25
54:24 55:9 75:2	44:1	fundamentally	59:17 70:25 72:5,6	hamburgers 49:14
76:2,3,9,15 79:15	focus 7:9 19:21,25	49:20	75:7	hand 5:23 44:21,23
feared 64:8	58:16,20 77:5	funeral 27:7	good 4:15,17 12:22	hands 12:1
February 2:10	folks 17:7 21:23,24	Future 35:23,25	30:17,17 32:12,19	happen 32:10 65:6
40:19 41:19,20	55:3 57:4 69:21	fuzzy 32:5	32:22 33:1,2,14	79:3
80:5,13 82:2	follow 14:25 71:11		34:1,4,4,7,14,18	happened 26:23
feces 60:5	followed 62:9,10	G	36:23 37:5 43:1	happening 69:7,8,9
Federal 1:1 2:2,13	follows 4:6	G 4:1	48:1,2 54:23 56:17	happens 19:22 45:2
3:3,6 4:20 7:19	follow-up 79:12	Galileo 67:1	56:22 57:6 60:14	harm 58:18,23
50:6 80:10	food 15:2 17:7	gallium 39:5	66:10 69:14 71:4	59:16 67:20
fee 24:12	football 47:2 78:22	garb 78:2	goodness 6:20	harmless 34:13
feed 77:20	forbid 78:4	Gary 59:5 67:25,25	Google 68:1	Harvard 30:20,21
feel 81:5	forbidden 78:5	gathering 25:21	Gordon 1:5 3:4 4:7	31:15
feeling 32:5	force 37:21	Gaussian 45:21	4:11,14,18 7:5,11	head 20:10 22:3
Feijo 2:7 7:20 8:4,9	forced 54:17	57:17 58:7	17:9 26:1 40:11,16	33:20
8:19 42:17,19 80:4	foregoing 79:22	general 11:12 34:16	42:23 43:1,5 49:21	headquarter 21:6
82:4	81:3	62:10 82:7	63:22 65:22 66:3	heal 64:14
felt 33:25	forget 39:22,23 64:5	generalized 14:13	70:17,21,23 73:21	healer 60:11
fiddle 15:17	74:13	generating 37:20	73:23,25 74:1 75:7	healers 28:9 69:12
field 7:6 8:25 9:3	form 75:7 76:17	generations 52:9	76:17 79:11,17	69:15
17:15 19:10 20:19	formal 26:9	genetics 46:1	gospel 32:8	healing 9:6 13:21
23:8 29:23,24 30:3	format 80:23	genuinely 32:13	graphite 72:20 73:1	19:23 20:16 27:11
30:6,7,9 31:23	fortunately 27:22	geochemist 12:2	73:5	27:18 28:4,6,21
40:9 63:17,18	forty 6:20 27:16	geopathic 29:7	great 6:4 53:15	33:11 34:12,23
fields 30:2 31:8	37:19	Georgetown 74:2	55:22 62:21	35:2,13 36:18,25
fifty 6:20 72:19	found 33:18,19,20	Germany 36:19	greater 56:1	37:3 43:13,16,19
figure 7:2,4 24:13	34:6,10 54:19	getting 58:12 64:10	greatest 26:23 47:22	44:10 46:7,13
		give 13:23 27:14		47:17 50:2 53:22

[88]

56:6 57:25 58:21 60:10,14,15 69:14 73:18 74:3,9,19 health 7:9 20:14 49:24 58:19 59:16 healthcare 21:18 52:24 53:6 hear 31:14 65:24 66:11 68:3 heard 29:13 42:19 hearing 80:5,9 heck 11:13 heckuva 33:2 Heisenberg 15:19 30:13 66:15 held 58:18 help 29:11 64:7 66:23 77:20 helpful 33:15 helping 72:17 herb 12:14 51:21 64:15 herbal 51:16,18,20 51:24 52:2,4,6,7 52:13,14 60:21,23 61:2,8,22 Herbert 30:21 herbs 52:9 67:8 Hey 32:9 34:10 53:11,13 Hi 17:8 high 11:21 high-dilution 13:3 himself/herself 81:12 Hippocrates 33:6 hired 26:14 hit 38:2 54:3 Hocking 22:14 23:13,24,25 24:5,6 Hocking's 22:19 Hocking-Corning 23:7 Hold 18:4 holist 34:19 home 17:1 19:16 homeopath 68:19,20	70:5 homeopathic 8:20 8:24 9:8 10:1,6 13:9,10,22 14:1 17:11 38:3 42:13 51:2 68:7,8 70:1,9 homeopathy 9:11 12:11,12 14:13 20:1 25:2 35:23 36:11,15,17,24 37:8,11 38:5 39:25 49:24 50:11,17,21 51:11 56:5 68:17 69:4 73:14 Homeophobia 39:19 honor 34:17 Hoover 37:9 hospital 59:12 hospitals 59:17 hot 78:8 hour 17:1 house 27:21 33:4 huge 37:20,23 57:9 hugely 47:10 human 13:21 14:9 14:19 15:14 17:18 18:1,1,14,17 20:14 27:10,18 30:12,16 30:18 31:1,2,10 34:9 45:1 46:1 52:11,17 78:16 79:1,7 humans 19:17,21,23 hundred 10:16 12:19 15:6 36:19 45:4 59:6,10 75:22 hundreds 12:21 15:21 75:19,19 hurt 23:1 hyphenation 80:22 hypnosis 44:21,24	identical 45:23,24 46:1,2 identification 25:25 40:15 identity 45:25 ifs 45:1 60:20 ignore 19:2,16 ignored 47:4 ignoring 19:11 Illich 26:14 illness 32:24 illustrate 44:14 72:7 illustration 72:14 73:12 images 5:7 imagine 61:8 immediately 54:2,10 62:1,21 impact 28:1 implies 14:10 important 4:25 5:2 5:6 10:5,17,17 19:22 25:2 28:3 29:24 31:24 34:7 55:9 60:19 61:4,16 61:19,19 62:24 63:19 64:17 impressed 68:24 impression 69:14 improve 33:7,8 improved 48:9 improving 60:19 inappropriate 43:15 incalculable 58:18 58:23 59:16 include 51:11,25 58:20 59:1 60:9 included 74:20 includes 28:21 60:8 including 37:10,17 67:24 74:16 incommensurable 77:12 inconceivable 20:11 increase 59:21 60:6 India 27:25 61:9,11 62:5 76:8	Indians 16:24 indicated 24:11 individual 63:21 81:11,13 individualized 46:11 individually 2:7 individuals 8:8 industry 38:20 infections 59:12,18 influence 29:20 information 38:23 38:25 39:13 56:15 65:10 69:16 70:3 informational 39:12 informs 17:6 ingredients 24:22 25:6 initially 12:12 initiated 20:18 63:4 65:20 insist 63:3,6 instance 33:17 institute 15:25 45:15 55:17 intake 68:25 69:2 integrative 21:9 22:2 28:15,20 intelligence 27:23 intend 30:16 intention 30:12,19 31:2,2,10 32:4 64:12 intentions 32:13 interact 21:12 interacting 78:20 interaction 30:14,15 51:4 79:1 interdisciplinary 58:19 interesting 57:14 64:9 interface 29:5 international 49:19 77:4 Internet 5:8 50:7,12 50:14 51:12 69:21	70:2,8,14 interrupted 11:1 interventions 59:3 intimate 18:19 introduce 17:4 introduced 30:13 intuitive 11:12 invented 19:4 invited 36:4 62:1 involve 75:14 involved 10:1 26:12 27:5,12 32:13 63:7 70:16 79:14 IOM 55:1,12,18 63:2,2 Iowa 60:12 Iris 21:21 22:4 irritated 54:16,18 Israel 36:7 issue 8:1 22:18 61:5 issues 71:11 77:6 Italy 46:23 items 7:2,3 Ivan 26:14 I.R. 35:21 37:9
				J
				James 2:7 3:14 80:4 82:4 Jesus 32:8 Jews 78:5 Jim 4:8 71:2 73:12 73:21,23,25 74:1 74:16 jim@swankin-tur... 3:19 job 34:18 69:8 76:10 Jonas 57:7,8 75:18 JOSETT 80:16 journal 35:19 37:7 journalist 39:23 journalists 40:5 judgment 76:10 juniors 15:18
				K
				Kanzius 30:10 Kaptchuck 31:16,19

keep 42:24 43:1	lack 76:12	list 35:17 39:16	lunch 56:10	mean 6:12 10:12
Kennedy 48:23,25 49:1	lacking 73:14	listened 69:6		12:2 15:11 17:19
kept 72:15	Lancaster 64:3	lists 39:17	M	19:13,13 22:4
key 9:10 10:19 35:23,24	large 26:12	literally 12:1	magazine 27:8 39:17,24	25:10 37:3 45:14
kids 33:3,25 56:11 69:8	largely 71:24,24	literature 24:21 25:4,5	magnet 30:4	45:14 48:17 55:3
killed 59:10	larger 75:14,15	lithium 33:17,18,21 33:22 34:1	magnetic 30:6	60:2 63:9 66:13
kind 9:14 11:12 20:18 23:9 26:21	lasted 41:25	litigation 8:2 22:10 22:14 42:7	main 17:20 19:19 29:22 47:2	69:23 75:16
32:11 34:11 36:8,9	last-minute 78:23	little 5:9 9:19 33:13 36:22 37:1 38:1,1	Maizes 22:4	means 15:2 23:22 28:19,20 29:10
40:8 47:10 49:9,15	late 22:16	38:1,1,6,8,9,9	major 22:13,14 26:16 62:7 66:16	30:1,9 37:22 38:22
51:4 61:25 62:8,18	Lauchstadt 67:13	40:25 48:6 52:22 57:23 60:2 73:9	makeup 72:8	39:10,10 60:17
63:15 65:3 66:9 78:18	laughable 45:13,16	live 15:4 50:22	making 12:6 30:6 70:4	61:17 63:12 75:12 77:13
kinds 13:16 14:14 19:20 52:15 57:16	laughter 75:17	living 47:13	man 26:22 32:9 36:18	measure 14:7
61:10 74:16 76:23 78:3	lawsuit 22:24 42:11 42:12	loaded 45:20,23	manner 57:17 58:6	measured 43:20 77:13
knew 49:3	layer 39:2,3	long 6:16,20,23 40:21,22 41:16,17	manufactured 8:16	measurements 13:16,18,25
know 5:17 8:19 9:18 10:13 17:22 19:5	layers 38:23,24	41:19,25 42:2 57:8 57:8,8 71:15	manufacturer 49:8	measuring 14:3
20:23 23:22 26:7	lazy 48:18	longevity 59:21 60:3 60:6,19	many-hour 71:16	meat 18:24
27:19 38:6 41:3,9	leaders 74:3	look 46:19,19 48:10 49:4 54:8 55:2	Marcus 35:21	mechanics 30:14 63:13
43:6 45:19 47:25	leading 15:17 26:13 27:12 35:12 59:3	61:10,11 62:15,22 62:25 66:21,22	mark 6:25 40:12	mechanism 5:1 49:20
49:4 50:12,13 51:2	learn 32:6	67:3,5,7,8,25 75:15 76:12 78:8	marked 25:24 26:2 39:15 40:14,17 41:7	media 67:16,16
53:11 56:19 58:12	learned 27:3 28:2	looked 26:22	marker 41:19	medical 14:7 17:14 19:10 21:23 44:17
58:13 59:25 65:5,6	leaving 26:19	looking 16:12 19:6 29:3,5 62:19 63:14 67:1	market 48:14	46:16 50:9 55:20
67:5,6,14 68:8,10	left 13:1,2 17:7	looks 39:16 53:16 75:24	markets 49:12	59:1,10 60:8 67:21
68:20 70:15 72:20	Leonard 3:4 4:18	lost 57:12 65:22 66:4	mass 30:1	medication 53:25 79:15
73:23 74:5,18 79:1	letter 39:20 40:9	lot 18:5,16 33:2 34:14 37:5 39:4	master 27:3,19	medicine 15:23 17:20 18:10,12
knowledge 56:18 57:3 77:16 80:10	let's 42:23 46:6	49:5 52:12 59:24 64:4 68:15 69:20 78:24	matching 78:1	20:24 21:9 22:2 26:8,9,11,13 27:11
knowledgeable 49:25 50:24	level 14:9,11 18:19 77:4,4	loud 19:3	material 12:8 19:23 36:20 72:9	28:6,15,20 32:24 35:20,24,25 37:1
known 76:7	lgordon@ftc.gov 3:11	low 12:23	materials 7:10,16 9:13,14 11:16,23	44:1,12 46:4,20
knows 53:7	life 32:20 79:7	lucky 32:21	11:24,25 12:3 16:3 16:19 18:3,8 25:1	47:15 51:6,18,20
know-it-all 55:7	light 19:3,14,14 20:3 30:8	ludicrous 9:18	25:21 29:4 38:18 39:9 72:4,16	51:20,22,24,25
L	limit 47:14 49:12		Mathematics 45:15	52:2,4,8,8 55:17
L 3:4	limitation 45:6,6		matter 2:4,17 8:12 19:20,20,21 22:7	59:19,20,24,25
lab 8:20 12:5 13:16 16:3,19,22 52:21	limited 11:20 49:20		23:17 25:9,10 29:21 30:3 39:14 82:3	60:2 74:5,7 75:17
62:7,19 72:18 73:1	limits 50:19		matters 17:10 24:8 42:13	medicines 51:16
labeled 8:24	line 6:15 82:10			meditate 16:23
labels 8:1	linguistic 28:18			meditation 16:9,17 17:2 28:21 29:7,8
labs 62:10,17	Linus 26:21,22			
	lions 52:15			
	liquid 11:14 23:11 38:23,24,24 39:2			
	Liquids 11:17			
	liquid-phase 39:6			

[90]

29:15 30:18 31:1 31:10 meditators 32:12 meet 16:18,18,21,25 62:16 79:18,21 meeting 15:19 65:9 66:15 meets 16:21 meliorist 54:6 member 67:10 members 15:21 mental 18:17 44:10 mentally 33:12 mention 51:15 mentioned 21:22 29:6 55:11 71:15 75:23 mentions 20:23 met 50:9 51:13 69:17,22 method 43:23 44:5 45:7 76:9 methods 15:14 42:16 Mexico 30:23 microsecond 73:2 microwaves 19:16 32:2,3 middle 60:12 miles 60:12 million 52:12 millions 33:16 39:6 mind 18:16,18,22,22 44:19 45:1 53:2,11 55:6 68:17 mine 32:1 mineral 12:15 minute 9:19 18:3 19:12 68:4 70:17 71:3,5 minutes 60:21 63:24 mischievous 55:22,22 56:2,3 missed 10:20 missing 68:14 mistake 9:23 mistakes 59:11	mix 64:9 mixture 18:16,18 modality 49:25 50:24 model 17:24,25 60:10 modern 11:23 18:12 26:13 52:8 59:19 59:20,24 60:8 63:9 63:9,11,12 78:12 modest 21:18,19 Moerman 57:8 Moerman's 75:19 molecules 12:23 13:1,2 momma 53:20 Monday 65:18 money 24:8 27:13 75:13 monkeys 33:21,22 moon 67:2 morning 4:15,17 25:8 33:5 mortar 37:20 mother 64:21 move 39:1 movement 74:3 movie 64:3 movies 64:4 moving 39:12 MRI 19:6 MRIs 19:5 Muslims 78:5 M.L. 37:8 N N 1:2 4:1 35:21 80:1 80:19 name 4:16 14:21 21:20 34:6 39:23 39:24 44:19 74:6 named 15:1 names 42:19 nano 18:15 nanobubbles 38:10 38:14 narrow 58:16 nation 27:22	national 54:2,25 55:12,14,15,16,17 59:9 61:25 62:5,8 62:17,19 63:1 77:4 native 51:22 natural 52:13 nature 9:7 56:23 near 47:13 76:1 nearly 75:22,22 necessary 81:6 need 4:8 6:13 47:23 needle 17:22 needs 47:7 needy 77:20 Neil 67:13 neutral 23:21 never 14:6 18:9 27:1 28:9 38:9 42:19 50:8 55:1 60:25 69:21 new 2:15,15 3:9,9 17:23 18:7 20:18 20:21,22 28:20 30:23 31:5,7 39:4 39:5 47:25 52:20 58:25 59:2,5 65:4 65:13 66:9,12,23 66:23,24 67:12,20 newspaper 39:17 nice 32:5 33:23 34:12 57:9 79:18 79:21 Nick 65:7,8 nights 16:23 non 14:11 nonphysical 15:14 nonsense 11:17 13:4 40:3 nontraditional 17:18 normal 62:2 63:10 79:7 Norman 26:17 Northeast 3:7 4:19 NOTARY 81:18 note 82:5 noted 58:20	notes 80:8 notice 2:18 42:9 Novella 35:21 36:5 72:15,25 nuclear 15:20 Null 67:25,25 Null's 59:5 number 1:11,12 12:22,24 15:20 16:4 25:23 26:3,12 35:18,18 39:18 40:13,18 41:5 43:9 43:11,14 59:11,12 80:3 numbered 49:23 numbers 47:1 75:15 N-U-L-L 67:25 N.W 3:16 O O 4:1 80:1,1,1,19,19 80:19,19 oath 5:18 obfuscation 28:18 object 75:7 Objection 76:17 observation 34:4,5,8 34:12 observations 66:24 observe 30:15 observed 30:15 70:9 obtained 7:25 obviously 26:22 33:15 42:9 50:8,19 51:21 52:14 61:12 76:21 offered 7:7 22:7 56:11 office 4:19 5:22 6:18 26:6 42:4 67:14 officer 2:8 official 6:9,11 oh 15:11 18:2 22:24 39:25 60:25 68:14 71:2 79:2 oil 56:20,21,21 63:23 64:1,2,8,11 66:19,19,21	okay 4:11 6:4,11,24 22:6 24:1,18 40:24 41:24 42:21 43:1,3 47:13 53:17 58:14 61:2 66:2 68:11,22 70:23 71:4,5,10 72:7 74:25 75:4 76:25 Oklahoma 15:23 old 20:9 omission 56:13 once 16:18 21:8 ones 38:8,9,9 45:21 One's 25:6 one-point-somethi... 54:15 online 21:11 oops 72:5 open 43:2 operation 22:3 32:20 68:25 opinion 43:18 63:16 opinions 43:10,12 43:14 49:23 51:16 option 58:17 op-ed 21:14,17 order 4:7 59:12 organization 74:11 74:19 organizational 5:21 organized 36:3,9 original 81:7 ought 49:16 55:1 outside 13:24 14:12 44:12 62:11,16 outsider 63:17 oven 19:16 overall 56:2 overwhelming 18:20 oxides 39:5 P P 4:1 80:1,19 package 33:11 page 1:4 28:12 37:7 58:16 66:5 82:10 pages 6:16,20 26:5
--	--	---	---	--

39:17 40:21,22 59:6 65:4 paid 23:23,25 24:6,9 24:11,12,15,16 63:17 66:14 panel 54:2,8 55:1 panels 54:25 paper 26:24 35:4 36:11 37:8,12,13 37:14,15 40:4 73:24 75:19 81:6 papers 12:4 18:5 35:4,6,7,11,14 57:7,9 74:22 paradigm 28:16 29:1 58:19 59:15 paragraph 49:23 51:15 parallelism 31:8 parallels 31:4 part 10:19 27:11 28:13 29:13 56:25 70:2 78:16 participated 73:21 73:23 participating 77:3 participation 74:18 particles 38:1,11 particular 12:13 15:16 21:25 25:1 28:10 56:7 64:15 68:18 69:25 particularly 8:17 parties 23:19 partly 56:13 passes 12:23,25 patent 18:7 22:17,18 patents 22:19 patient 13:23 29:4 44:20 48:5,5 51:3 52:25,25 53:6,7,7 53:11,13 60:12 68:18,25 69:2,6,16 patients 21:25 28:10 47:24,25 Pauling 26:21,22 Pauling's 26:25	Pause 65:25 70:20 pays 27:13 PBS 31:14 penalties 5:18 pencil 44:22,23 64:13 pencils 45:5 72:10 Penn 16:2,20 17:5 23:5 26:15 Pennsylvania 20:8 people 14:16,20 18:15,17 19:4 22:5 27:17 28:3 33:16 45:3,4,4 47:8 50:8 54:16,18 55:22 57:17 58:2 59:10 64:1 66:11 75:15 78:4,12,24 percent 32:1 46:23 46:23,24 75:20,21 75:22 76:1 perfect 54:7 67:5 72:14 76:21 performed 17:14 performing 9:8 perjury 5:19 perpetrated 9:16 person 8:5,7 21:4 27:8 31:3 32:14 33:11,13 34:19,22 35:2,13 50:2 56:22 56:22 58:22 69:9 69:11,25 70:6 78:20,20 personal 63:16 persons 51:12 person's 44:23 pharmaceutical 53:9 75:25 pharmaceuticals 75:2 pharmaceutical-b... 59:3 phase 19:22 phenomena 66:24 phenomenon 16:12 67:7	Phoenix 21:7 phosphate 18:5,8 phrase 52:24 63:23 phrases 16:25 17:3 physical 11:20 16:16 physical-chemical 13:25 17:17 physician 32:17 33:3,10,19 50:21 50:22 60:10,11 74:1 physicians 19:2 34:16 44:2 physicist 15:20 physics 18:2 19:1,2 19:12 20:9 29:3 38:16 60:1 63:12 63:13 pick 59:18 picked 65:9 picocomposite 18:15 picture 65:23 69:10 piece 18:24 pill 20:21 46:25 47:2 47:23 49:8,13,19 70:13 pills 37:1 56:23 pill-based 59:2 pill-taking 51:5 59:11 place 32:8 36:3 placebo 31:16,17,21 plant 34:11 plausibility 36:11 37:10 play 64:6 played 59:20 playing 45:18 please 5:10 67:3 82:5 point 44:24 46:10,10 57:11 58:3 poker 44:22 poor 20:9 61:9 77:20	population 45:3 59:21 pork 78:6 portion 28:14 posed 36:20 possibility 55:22 post 63:12 postdoc 27:1 potassium 33:22 power 15:13 30:22 40:6 44:19 48:4 53:1,22 powerful 20:16 30:5 31:10 53:21 72:16 practice 15:16 16:15 17:2 50:10,17 practices 14:25 30:18,18 44:11 46:7,14 77:21 practicing 42:18 practitioners 13:22 14:14,25 16:8 49:25 50:24 praxis 77:18,18 prayer 30:19,22 precursors 28:15 29:1 predicated 7:23 preferable 52:8 preparation 38:4 71:13 prepare 7:12 53:10 prepared 8:11 71:22 preparing 25:14 prescribe 51:4 69:18 prescribed 69:13,25 prescribes 77:19 prescribing 70:5 prescription 77:22 presence 81:15 present 15:21 56:3 presented 24:17 35:4,4,12 presidency 27:21 president 48:24 49:2 62:8 74:4 pressure 12:7 37:17	37:23,24 38:4,13 pressures 37:21 38:2 presume 41:6 pretending 31:18 pretty 29:19,21 33:25 40:24 78:11 prevalent 61:12 prevent 66:19 prevention 27:9 28:24 preventive 28:22 previously 76:16 primary 34:16 primitive 48:8,9 principally 27:25 59:1 probably 16:6 22:15 36:14 37:13 57:17 58:1 59:23 problem 45:25 46:5 47:15 48:16 49:11 49:18 problems 45:12 76:23 procedure 44:20 proceedings 65:25 70:20 process 10:14,19,23 12:20 15:3 23:13 33:19 36:23 39:8 46:13 62:22,23,25 69:25 75:1,3,5,12 76:6 produce 52:20 product 7:25 8:1,18 55:24 products 8:1,15,16 8:20,23 10:1,3 13:9,10,12 14:3 24:22,25 25:6 39:7 42:17 50:7 51:12 52:13 56:4,6,6,8 76:16,21 profession 44:3 professional 1:11 6:14 25:24 26:3
---	---	--	--	--

28:12	publication 26:5	62:9,12 70:21,24	rear 39:15	religion 77:1,7,16,18
professionally 27:12	publications 6:19	70:25 71:10 79:13	reason 41:1 46:18	77:19,23,24 78:4
professor 9:2 10:4	34:21 39:16	quick 79:12	53:8 82:6,10	78:10,15,17 79:5
20:24 21:3,20	publish 67:17	quickly 53:16	reasons 52:7	religious 77:21
22:25 26:7 30:21	published 67:15	quinine 34:10	recall 24:2,2 27:8	remained 19:1
30:23 31:16 36:5,6	pull 48:4	quite 5:7 14:12	35:11,15,16 41:18	remark 54:13
68:7	punch 18:25	32:20	71:17 73:21 74:10	remedies 10:8 12:10
professors 60:15	punctuation 80:22	quote 66:19	74:22,24 76:15,20	13:3 14:1 60:22,23
72:13	puncturing 31:17	Q-I-G-O-N-G 14:24	receiver 47:19	61:3,8,22 68:7,9,9
professorship 21:2	31:18	R	Recess 43:4 71:6	69:21
profitable 18:7	Pune 62:19	R 4:1 37:9 80:1,1,1,1	recitations 16:17	remedy 12:13 51:4
profound 30:10	purchase 70:7	80:19,19,19,19	recommended 9:5	70:1
32:7 79:3,6	pure 64:12	radiation 19:8,12,12	record 63:4 65:20	remember 24:4 46:9
profoundly 19:17	purposes 50:15	19:13,19 20:2,15	81:4 82:8	64:5
28:3 60:14	pursuant 2:18	20:22 28:21,25	recorded 71:17	remind 60:18
program 21:9 22:2	pushing 52:6	29:8,8,15 31:9	recording 71:18	reminding 72:11
74:10	put 17:22 20:16	radiations 29:20	records 50:9	73:13
programs 56:10	29:17 30:4 35:1,6	radiation-changed	rediluted 12:17	repeat 16:25
progress 20:19	45:4 47:1	29:7	redirect 74:25	repetition 17:3
project 32:13	puts 44:20	radical 31:25	red-hot 44:22	rephrase 5:17
prominent 74:8	p.m 79:23	radio 19:15,15	refer 7:1 28:17	report 1:12 5:25 6:1
promote 58:21	Q	30:11	36:16 41:2	7:14,15,16 24:17
pronouncing 42:20	QC 61:16	radiowave 20:3,8,11	reference 58:23	25:14,14,18,20,22
pronunciation 16:7	qigong 14:24,24	randomly 43:12,15	referenced 67:20	40:13,18 41:2,12
proofread 80:21	16:8,20 17:7,12	44:13 45:7,16 46:6	references 75:19	43:9 49:22 58:14
propaganda 40:5	27:19 46:7 65:9	46:12,15,20 47:5	referred 34:22 40:4	65:19 66:12,16
56:15	69:4	48:7	referring 7:2 16:1	71:14,21 76:3,18
proper 78:1	Quackery 35:23	range 76:13	68:2	reporter 5:4 6:25
properties 73:7,8,10	QUADE 80:25	ranked 16:4	refers 59:16	26:2 40:11,17 63:5
proposition 45:8,9	qualified 47:10	Rao 37:8	refuse 27:14	65:21 66:10,16
45:13	qualify 13:15 61:6	rapidly 10:21 37:25	regarding 24:21	reports 8:11
proscription 78:6	quality 31:3 32:2,3	rare 10:10	region 3:7 57:15	representing 81:12
protect 64:1	32:6 61:7,13,18	rarely 38:16	Regional 4:19	Republic 21:15
protégé 26:21,25	62:15,21	rate 58:4	regular 30:3 51:5	repute 11:16
provide 33:13 43:11	quantum 30:13	RCTs 45:8	regularly 17:1	require 76:3 82:6
provided 6:18 26:6	63:12	read 7:14 20:4,7	regulate 61:22	requirements 51:10
provider 52:25 53:6	quarrel 34:15	74:20 81:2	regulated 56:25	reread 7:14
province 12:8	question 5:10,12,16	Reading 79:24	rejected 44:15	research 7:9 9:5,9
proving 20:13	9:10 14:13 16:13	real 55:3	relate 35:7 39:21	13:10,11,14 16:3
psychoneuroimm...	29:20 48:15 50:15	reality 66:20	50:11,17	19:25 21:2,4,4,13
26:18	51:7 54:4 55:8	realizes 31:1	related 35:14	23:14,15 25:5
psychopharmacol...	56:20 57:2,6,11	really 30:16 31:7,17	relationship 56:23	28:14 34:3 47:25
33:16	61:25 62:14 63:1	31:22 32:6,9,10	77:7 78:14	respondents 3:13
psychopharmacol...	63:15,19 64:18	33:7,11 37:13 38:9	relatively 34:13	24:10
34:7	65:3 74:13 75:10	47:23 49:4 54:3	releases 44:23	response 11:13
public 11:12 40:7	76:25	56:17 60:1 66:12	relevant 7:15 19:23	16:15 40:5
66:9 81:18	questions 5:4,5,21	73:16 79:19	25:21 37:14 65:6	responsible 9:14

rest 27:24	salesman 64:8	scientifically 29:19	series 11:8 35:1	37:13 40:17 43:6
result 57:5	sample 10:15,24	scientist 9:13 11:16	41:15 75:13	55:9,21
results 76:13	samples 8:24 9:1,5,8	66:13,23 69:1	serious 17:10	sisters 44:2
revealed 76:7,9	10:1,7 11:3,8,9	75:16	served 22:9	sit 69:1
review 26:18,20	12:4 27:5 53:16	scientists 9:11,14	serving 8:8 42:6	site 19:1
41:7	sat 69:2	15:17 16:12 18:9	session 16:23	sitting 45:15 62:7
reviewed 7:18,22,25	Saturday 26:18,20	54:24 55:4 57:20	sessions 36:8	situation 52:24 70:6
8:11 26:24 41:10	41:22,22 42:2	57:24	set 13:18 14:18 20:9	70:9
rich 64:10	Saturdays 41:23,25	scope 43:10,11	46:19 47:24 54:8	six 40:20,22 62:17
ridiculous 9:12	Saturday-afternoon	76:18	77:23,24,24,24	67:24
17:25	71:16	scores 78:23	seven 62:17	sixes 45:20
right 20:15 23:24	save 21:18	screwed 33:20	shake 10:16 37:18	size 18:11 47:19
27:2 42:20 43:2	saw 53:15,20	searches 24:21 25:4	37:25 38:7	skeptical 57:23
64:16 73:17 75:5	saying 23:14 37:4	second 38:5,13	shaken 10:20,21,21	skeptics 57:20
75:10	47:22 48:4 54:21	49:23 65:22,23	11:8 12:17,18,19	slow 5:13
Ritalin 56:12	54:24 55:1 61:5,17	66:5	shaking 10:17,18,19	small 37:5 59:8
RMR 80:16	62:14 64:22 66:12	section 34:21	10:23 13:4	SmithKline 54:13
road 4:24	67:2 72:15 75:10	secure 79:15	shape 17:21	smoking 56:9
Rodale 27:6,7	76:6	security 28:1	shark 51:17,19 52:1	snake 56:20,21,21
role 20:14 32:23	says 32:8,8 33:6	see 6:13 41:2 45:5	sheet 81:6 82:6	63:23 64:1,2,8,10
33:10 34:25 35:1	43:11 45:15 49:23	46:4,4 65:4 66:11	short 42:23	66:19,19,21
37:9 59:20	51:2 53:16 55:7	67:4 68:12,14 70:7	show 15:13 37:15	society 56:19 61:22
Roman 58:15	66:18 67:5	77:9	60:5 72:16,25	63:25
room 2:12 12:6,7	scalar 29:24 32:3	seeing 31:4 67:2	73:13 77:10	sodium 12:13 33:21
16:22 19:14,14	scale 77:13	seen 50:9 53:14 55:1	showed 23:15 37:19	soil 78:9
Roughly 53:5	school 11:21 21:23	75:17	showing 44:18	sold 50:7,13 53:25
row 62:7	56:10	selected 9:3	shown 20:19 29:21	55:25 56:4,6,21,21
Roy 1:5,11,13 4:4,15	science 9:12,17	sell 56:20 64:1	47:5 64:5	solid 38:23 39:2
7:6,12 17:8 20:23	11:23,24,25 18:3	seller 51:13	shows 18:21 57:14	63:16
22:7 25:23,23 26:2	25:11 28:16 29:2,4	selling 42:18 50:12	60:13	solidified 23:11
40:13,14,18 70:25	31:6 34:22 35:2,13	51:12 61:17,20	side 21:4 34:13	solution 12:16
79:12 81:9 82:1	37:4 38:18 39:9,12	64:10 69:20	54:17	solving 48:18
rubbish 39:25 40:7	43:24 44:4,6 47:10	sells 24:23 43:7	signature 79:24	somebody 9:17
52:15	50:24 55:23 57:25	semester 21:6	signed 71:22	33:23 36:7 49:6
rugby 78:24	65:6,17 66:5,9,12	semiconductor	similar 8:16 36:21	69:20
rule 10:25	67:11 72:16 77:8	38:19	similarity 70:15	someone's 67:20
rules 4:24,25 82:6	77:15,23 78:11,11	semiconductors	Similarly 30:8,12	sorry 10:9 19:9
running 60:11	78:18,18 79:5	39:5	63:11	55:18
runs 59:13	sciences 11:20 55:12	send 27:4	similar 36:20	sort 5:21 41:3
Russia 27:25	55:15 58:20 62:6	senior 21:4 22:5	simple 64:12	sound 19:3
Rustum 1:5,11,13	66:25	66:13	simpler 56:8 77:14	soup 64:22,23,25
4:4 25:23 40:14	science-based 49:24	sense 29:18 59:14	simulate 18:7	sources 59:17
81:9 82:1	scientific 7:9 9:15	67:10 76:22	sin 56:13	So-and-so 47:23
S	26:24 28:18 31:5	sent 15:3 39:22	single 19:22,22	so-called 62:11
S 3:14 4:1 35:21	31:25 33:18 36:10	separate 34:4 46:7	48:11 49:19 58:17	speak 51:7
Saine 35:22	40:2,6 43:12 48:8	81:6	60:17,19 66:16	speaking 24:8
sake 55:2	55:4	sequential 35:3	sir 8:23 22:20 26:10	specialists 69:3,12

<p>specialization 34:20 specific 10:22 31:3,3 31:3,11 specifically 5:24 20:1 25:3 35:10 specifics 46:8 specify 64:21 spectacular 20:5 spelling 80:22 spend 53:8,10 spent 25:9,11,16,18 spirit 18:16,18,22 spiritual 46:6 spiritually 33:12 spoke 36:6,7 spoken 8:4,7 sponsoring 75:25 spread 47:5 75:20 76:11 spreads 75:21 stable 38:10 standard 10:4 stands 67:15 Stanford 48:22,24 49:2 start 26:14 54:2 62:1,25 started 12:2 26:17 26:18 27:8 36:6,18 48:16 62:21 state 15:4 16:14,20 17:5 23:5 26:15 statement 15:8 48:16 49:11,15 statements 7:16 9:22 15:9 States 2:1 15:22 59:4 State's 16:2 statistical 45:8 Statistically 45:13 statistics 45:18 stenographic 82:8 stipulate 4:8 stipulated 4:11 stop 56:9 65:22 Street 3:16</p>	<p>strokes 36:1,2 structure 9:21 13:17 13:25 23:10 36:12 37:10,16 39:2,10 42:14 50:1 72:9 73:9,10 studied 14:12,14,16 25:1 studies 14:18 15:7 43:16 47:21 48:11 57:9,14 study 19:18 30:20 62:2 studying 42:13 stuff 28:20 36:22 37:2,6 41:17 50:23 51:24 52:18 53:15 62:18 70:16 77:19 stunned 31:14 65:10 subject 5:18 submission 24:10 submitted 41:8 subparagraph 58:15 substantial 60:7 substantiate 25:22 subtle 47:4 subtract 73:3 succeed 57:5 succeeded 30:11 success 58:4 successes 20:5 successor 15:18 66:15 succession 10:10,13 10:23 successions 10:8 sucking 31:23 suffered 21:25 sugar 37:1 suggest 58:25 Suite 3:8,16 suited 57:4 sum 13:17 summarize 37:15 summarizing 57:9 summary 43:10,14</p>	<p>49:23 51:15 supervised 17:14 supplied 9:1,1,4,5 10:4 supplier 9:4 suppliers 8:21 supporting 36:10 supportive 33:11 supposed 23:21 35:24 41:11 sure 5:10,11,13 6:12 7:3 28:8 29:13 33:12 38:18 42:20 51:22 54:23 55:12 58:4 59:7 61:6 70:19 surely 49:6 surface 39:10,11,11 39:11 surgeon 34:18 surgery 59:24 60:1 63:9 surveys 53:12 survive 16:10 susceptible 57:18,19 57:21 58:2,9 59:7 Swankin 3:15 swearing 4:9 sworn 4:6 sympathetic 44:1 48:16 symposia 35:7,12,13 symptoms 50:3 synthetic-looking 78:8 Syrian 33:19 system 15:3 21:18 45:1 52:11,17,18 59:1,14 60:8 61:5 61:8,13 69:15 S-U-C-C-U-S-S-I-... 10:11</p> <p style="text-align: center;">T</p> <p>T 80:1,1,1,19,19 tail 65:12 take 5:4 27:14 37:18 42:23 45:3 48:11</p>	<p>49:4 64:22 71:2 73:1,4 76:4 taken 48:19 60:4 80:9 takes 39:2 44:22 62:2 talk 5:13 18:9 36:4 66:11 talked 24:19 46:9 52:22 60:21 talking 25:15,20 28:19 40:24 55:11 56:5 59:8 62:8 63:12 68:4 72:4 77:6 tea 15:5 teach 21:1,5,5,8,9,12 teaching 22:3 team 78:23,24 79:2 team's 47:2 technical 58:12 65:25 77:12 technique 46:17 technology 5:7,14 39:9 77:17 78:1,7 78:10,17 79:5 teleconference 4:9 4:22 telephone 8:5,7 41:13,14,16,17,20 41:24 telescope 67:1,4 television 53:15 54:11,14 tell 22:12 42:10,16 45:20 65:5 68:23 telling 64:23 66:4 tells 52:25 53:6,13 temperature 12:7 ten 10:16 12:17,19 65:13 75:17 tend 78:19 Tennessee 64:6 tens 37:22 tenure 23:2 term 11:1 31:11,12 31:19,20 36:13</p>	<p>38:17 39:9 56:16 64:2 67:11 77:12 terms 37:12 77:25 78:1 tested 44:13 testified 4:6 testify 23:16 testifying 23:8,10,20 testimony 24:9 81:4 testing 68:5 tests 8:15 9:7 text 34:22,25 thank 10:25 72:11 73:12 79:18,19 theme 11:10 theology 77:15 78:11,12,18,19 79:6 theories 77:16,24,25 theory 36:20 thereof 82:5 thesis 9:10 11:6 18:13,14 thing 40:1 50:22 62:24 66:20 73:7 things 19:17,18 28:22 37:16 49:5 51:23 52:16,25 54:9 60:8 61:16 73:9 74:16,20 76:23 77:17 78:5,8 78:19 think 4:8 17:22 21:15 22:21 23:24 28:7 32:23 34:15 34:19 35:3,9 41:22 46:15 47:9 48:7,9 48:17 50:20 52:7 53:5 54:7 55:8 56:1,13,23 58:5 59:20 60:10,16 61:24 62:24 63:19 63:25 64:3,6,17 65:2 66:22 67:9,11 73:6 78:10,16 thinking 27:1 30:17 64:3</p>
--	--	---	--	---

<p>third 38:14 59:23 60:7 thirty 27:16 thought 9:13 31:3 36:22 48:18 68:2 thoughts 30:17 thousand 10:21 45:3 59:10 thousands 37:23 three 6:16 35:3 37:17 55:14 57:7 62:6,13 63:6 69:3 throw 45:19 Thursday 2:10 tickle 20:20 tie 71:1 till 25:8 time 22:20 25:8,15 39:7 41:25 44:11 66:6 69:17 times 10:16,16,21 12:21,24 15:6 27:21 65:4,7,13 69:2 tiny 27:11 37:21 38:11 tipped 57:1 title 35:22 80:4 today 4:21,25 5:6,16 5:24 6:2,8 7:12 24:9 58:25 67:9 today's 17:20 told 24:15 53:20 Tolerated 39:19 tomorrow 21:15 tool 53:22 top 6:15 28:13 44:23 55:6 76:1 total 11:17 13:18 33:10 34:3 59:1 totally 9:12 47:3 65:6 touch 44:21 touches 44:22 tough 48:15 76:10 Trade 1:1 2:2,13 3:3 3:6 4:20 7:19 50:6</p>	<p>80:10 tradition 36:18,24 53:19 traditional 19:2 32:23 43:15 51:20 51:22,25 traditions 52:16 tragedy 54:23 trained 57:22 training 11:19,22 26:9 63:11 transcript 5:15 71:19,23 80:7,8,21 81:3,7 transfer 38:25 39:13 39:13 transferring 39:10 transmission 38:22 transmit 40:6 travel 5:8 23:25 24:6 treat 60:12 61:21 treated 28:9 treating 28:10 32:24 treatment 35:8,14 58:9 treatments 14:7 49:10 tremendous 32:25 47:5 trial 22:18 45:7,17 48:7 76:4,7 trials 13:20 43:13 44:14 46:6,12,15 46:20 47:6 75:14 75:18,25 tribes 51:23 tried 33:24 trouble 18:11 69:10 true 18:24 50:2,16 51:5 52:20 58:2 81:3 truly 58:18 trust 47:20 67:13 trustworthy 61:7 truth 64:4 67:6 try 5:11,13 33:23,24</p>	<p>41:3 55:8 trying 9:9 24:13 30:20 34:4 46:5 54:3 56:1 61:12 62:22 79:15 Tucson 21:7,22 41:21 Turner 1:7 3:14,15 4:10 7:5,8 24:16 25:15,20 41:12,20 41:25 42:3,10 48:23,25 70:19,22 70:24 71:4,9 76:14 76:24 79:8,19 Turner's 5:22 6:18 26:6 41:6 79:13 TV 53:20 Twelfth 65:16 twenty 54:12 60:12 twice 16:18 two 7:3 15:20 23:19 30:25 31:14 35:3 54:13 57:7 67:19 two-thirds 60:6 typed 41:4 types 8:23 13:11 typical 45:16 75:12 typically 38:22 46:12</p> <p style="text-align:center">U</p> <p>UCLA 26:19 unadulterated 11:17 uncover 9:9 understand 5:17 12:11,12 48:3 52:23 62:22 Unfortunately 17:20 38:15 57:23 uninformed 40:5 United 2:1 15:22 59:4 universal 16:15 universally 31:12 university 8:21 9:2 15:23 17:5 18:21 20:25 22:24 30:21</p>	<p>31:15 36:4,9 44:17 68:6,24 70:10 use 18:15 20:22 34:16 39:4 43:15 43:23 44:5,6 45:18 64:13 77:12,25 useful 38:17 64:4 utter 40:6</p> <p style="text-align:center">V</p> <p>V 58:15 validation 49:19 validity 43:12 valuable 34:16 various 8:21 15:20 19:20 vastly 48:10 55:9 73:10 Vatican 67:12,17 vector 17:21 29:23 30:1,7,9 31:2,8,23 32:2,6,11 36:21 37:2 38:5 46:9 47:19 51:2 53:22 60:13,19 64:22 70:3 vectors 17:18 33:13 38:3 verifying 15:8 version 40:20,22 Viagra 46:22 70:13 Victoria 22:4 video 4:22 videoconference 2:18 view 23:15 31:25 36:24 48:13 60:23 61:22 viewpoint 48:8 viewpoints 69:15 Vioxx 76:22 visiting 20:24 26:7 visitor 62:16 vitamin 27:3 volume 35:5 volumes 73:18</p> <p style="text-align:center">W</p>	<p>W 3:5 Wade 65:8 wait 9:19 18:3,3 19:12 waived 79:24 want 31:22 54:6 57:11 58:4 72:3 74:25 wanted 42:25 72:3 73:17 warm 32:5 Washington 3:17 74:1 wasn't 11:4 water 9:22,22 11:11 11:11,13,13,14,14 11:14 12:4,9,15,16 13:2,5,6,7,17,23 15:4 17:11 19:6,24 20:1,3,9,11,14,20 23:11 25:11 28:25 30:11 36:5,12,12 37:16 38:2,7,11,12 39:25 40:1,2,7 42:14 60:4,18 64:14,15 72:15,24 72:25 73:15 waters 29:6,7,7 water-based 10:1,3 13:9 waves 19:15 way 32:5 34:10 41:1 47:8 48:3 49:7 54:12 56:4,7 57:2 59:18 61:10 66:19 67:15 75:24 76:17 78:22 Wayne 57:7 weak 12:22 weaker 29:20,20 wear 78:2 webinar 36:3,3 week 16:18 21:8 weekend 41:21 weeks 31:14 42:8 54:13 Weil 21:14,17</p>
---	---	---	--	---

<p>Weil's 21:9 68:25 70:10 well-known 74:2 went 70:1 71:25 western 18:12 we'll 41:3 42:24 43:1 62:3 67:7 we're 4:21,21 5:1 20:13,14 24:8 29:3 40:20,24 41:1 59:8 72:18 we've 14:12,15 20:4 20:18,19 29:5,21 34:19 36:13 62:14 62:14 79:2 WHALEN 80:16 whales 51:23 White 27:21 whole-person 43:13 43:16,19 46:13 47:17 56:5 73:18 74:3,9,19 wife 18:6 33:24 Williams 64:6 willing 42:15 66:21 win 79:2 winter 21:6 wisdom 27:18 48:11 wish 56:15 65:3 72:4 witness 1:4,12 4:5 22:8,9,21,22 23:22 24:4,5 40:14 42:6 42:15,25 43:3 48:24 49:1 63:6 66:2 71:2,5 75:9 76:20 79:21 82:1 witnesses 8:9,12 wonderful 5:7 33:3 word 10:9,10,10,12 10:13 18:15,21 36:17 words 5:7 11:10 13:2 71:21,22 work 7:17 8:17,18 8:20,25 12:5 15:24 19:19 20:2,7 21:3 21:16,23 24:18</p>	<p>25:3 29:22 32:1 36:5 43:10,11,21 43:22 49:13 57:4 57:13 63:18 64:11 64:24 74:15 worked 12:2 31:18 33:24 34:1 working 25:16 55:24 72:19 works 15:11 22:15 34:11,11 44:8,10 45:5,11 68:18 74:16 world 12:1,6 16:4 27:24 66:25 74:8 worldwide 36:3 world's 15:17 26:13 worth 39:7 wouldn't 51:8 written 30:22,23 35:20 42:14 77:10 78:25 wrong 9:18,20 12:21 16:7 23:15 66:18 72:25 75:11 wrote 18:5 26:15 40:9</p> <p style="text-align: center;">X</p> <p>X 1:2 Xin 27:19,20 28:3 XYZ 61:17,20 x-rays 19:13</p> <p style="text-align: center;">Y</p> <p>Yale 36:5 47:21 72:12,13 Yan 27:19,20 28:3 yeah 15:11 53:5 61:24 67:22 71:24 75:9 year 59:10 years 14:17,21 15:7 25:11 26:15 27:16 27:22 30:20,21 36:19 37:19 44:18 52:12 54:12 59:9 59:22 62:2,6,13</p>	<p>72:19 yes-or-no 57:2 York 2:15,15 3:9,9 65:4,13</p> <p style="text-align: center;">Z</p> <p>zap 73:1,4 zero 13:20 14:9 75:22</p> <p style="text-align: center;">\$</p> <p>\$20 53:8 \$3500 24:13</p> <p style="text-align: center;">1</p> <p>1 1:11 25:23 26:3 28:13 34:21 35:19 39:15 43:14 1-a 58:15 10 15:6 10:28 2:19 10004 2:15 3:9 101 3:16 1023 12:24 110,000 59:11 12 2:10 15:6 80:5,13 82:2 12:43 79:23 1400 3:16 15 15:7 16 46:20 16th 3:16 19 16:4 39:20 1962 16:3 1973 26:16</p> <p style="text-align: center;">2</p> <p>2 1:12 40:13,18 41:5 41:8 43:9 49:22 58:14,16 2:00 33:4 20 46:23 47:24,25 75:21 200 59:22 2003 16:5 20036 3:17 2007 39:20 2009 2:10 40:19</p>	<p>80:5,13 81:14 82:2 202 3:18 212 3:10 25 1:11 54:25</p> <p style="text-align: center;">3</p> <p>3 28:12 51:15 3,000 49:14 3,500 56:10 311 39:18 318 2:12 3:8 35 44:18</p> <p style="text-align: center;">4</p> <p>4 1:5 40:19 41:19,20 4.2 54:15 40 1:12 462-8800 3:18</p> <p style="text-align: center;">5</p> <p>5,000 56:9 50s 27:4,4 55 46:24</p> <p style="text-align: center;">6</p> <p>6.3 12:24 60-70 76:1 607-2801 3:10</p> <p style="text-align: center;">7</p> <p>70 46:23 70s 22:16 71 1:7 75 75:20 79 1:6</p> <p style="text-align: center;">8</p> <p>800 37:7 801 35:18</p> <p style="text-align: center;">9</p> <p>90 32:1 9329 2:6 80:3</p>
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In the Matter of:
Daniel Chapter One, et al.

February 13, 2009
Jay Lehr

Condensed Transcript with Word Index



For The Record, Inc.
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1 FEDERAL TRADE COMMISSION
 2 I N D E X
 3
 4 WITNESS: EXAMINATION: PAGE
 5 JAY LEHR BY MS. PAYNTER 4
 6
 7
 8 EXHIBIT: DESCRIPTION FOR ID
 9 Number 1 Report of Expert Witness Jay Lehr 36
 10 Number 2 CV 51
 11 Number 3 jobs list 52
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

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1 UNITED STATES OF AMERICA
 2 FEDERAL TRADE COMMISSION
 3
 4 In the Matter of:)
 5 DANIEL CHAPTER ONE, a corporation,)
 6 and) Docket No. 9329
 7 JAMES FEIJO, individually and as)
 8 an officer of Daniel Chapter One)
 9 -----)
 10 Friday, February 13, 2009
 11
 12 Federal Trade Commission
 13 One Bowling Green
 14 New York, New York 10004
 15
 16 The above-entitled matter came on for
 17 deposition, pursuant to notice, at 10:34 a.m.
 18
 19
 20
 21
 22
 23
 24
 25

1 P R O C E E D I N G S
 2 - - - - -
 3 Whereupon --
 4 JAY LEHR
 5 a witness, called for examination, having been first
 6 duly sworn, was examined and testified as follows:
 7 EXAMINATION
 8 BY MS. PAYNTER:
 9 Q. Good morning.
 10 A. Good morning.
 11 Q. Dr. Lehr?
 12 A. Yes.
 13 Q. I should just let you know we can't speak at the
 14 same time. You have to be careful to let me finish what
 15 I'm saying so the court reporter can get down all of
 16 our -- all of the things we say today.
 17 But my name is Carole Paynter, and I'm an
 18 attorney with the Federal Trade Commission and one of
 19 the counsels representing the commission in this action,
 20 which is an action against Daniel Chapter One and its
 21 owner, Jim Feijo.
 22 I'm here with my co-counsel, David Dulabon,
 23 another attorney on the case.
 24 As you're aware, we're here today for you to
 25 give your testimony in this matter; correct?

5

1 A. Correct.

2 **Q. And you're represented today by Mr. Turner?**

3 MR. TURNER: Yes. Jim Turner.

4 MS. PAYNTER: And Mr. Turner, can we just agree

5 to maintain the same stipulations? I don't think I did

6 it at my last one, but we've had some objections as to

7 form that we'll just maintain the same stipulations.

8 MR. TURNER: Uh-huh.

9 MS. PAYNTER: Thank you.

10 BY MS. PAYNTER:

11 **Q. And is it Dr. Lehr or Mr. Lehr?**

12 A. Dr. Lehr.

13 **Q. Dr. Lehr. Okay.**

14 **And you understand you've been sworn in by the**

15 **court reporter and you're testifying under oath today;**

16 **correct?**

17 A. I do.

18 **Q. Subject to penalty of perjury if there's any**

19 **false statements that you make today; correct?**

20 A. Yes.

21 **Q. If you don't understand something that I ask**

22 **you as we're going forward, please just ask me to**

23 **clarify what I've asked, and I'll be happy to do that.**

24 **Okay?**

25 A. Okay.

6

1 **Q. Sometimes I speak a little quickly, so if I'm**

2 **doing that, please ask me to slow down, and I will.**

3 **If you need to take a break at any point, you**

4 **can just ask, and we'll stop if we need to.**

5 A. Yes.

6 Are there any more water bottles around?

7 **Q. Unfortunately, no.**

8 **(Discussion off the record.)**

9 BY MS. PAYNTER:

10 **Q. Again, the court reporter, you know, she can't**

11 **take us down when we're both talking, so please let me**

12 **finish what I'm saying, and I'll let you finish what**

13 **you're saying. As well, she needs to have verbal**

14 **responses, so anything you need to give a verbal**

15 **response to.**

16 **Do you understand that?**

17 A. I do.

18 **Q. Are you taking any medications today that could**

19 **affect your testimony here today?**

20 A. No, I am not.

21 **Q. So why don't we go on now.**

22 **Could you please state your name again for the**

23 **record.**

24 A. My name is Jay Lehr.

25 **Q. And have you ever used any other name or gone by**

7

1 **any other --**

2 A. I have not.

3 **Q. And are you employed currently?**

4 A. I am.

5 **Q. And where are you employed?**

6 A. I am the science director of

7 The Heartland Institute, a nonprofit think tank in

8 Chicago.

9 I'm the chief scientist of a company called

10 Earth Water Global, which is an international drinking

11 water supply company in Washington, D.C. -- Alexandria,

12 Virginia, to be more specific.

13 And I am the senior scientist at

14 Environmental Education Enterprises in Ostrander, Ohio,

15 a company that does environmental education.

16 **Q. And do you work -- you work out of each of those**

17 **offices?**

18 A. I do.

19 **Q. Okay. Can you just give the addresses of those**

20 **offices, please.**

21 A. The Heartland Institute is at

22 19 South LaSalle Street, Chicago, Illinois.

23 Earth Water Global is at 10 Prince Street,

24 Alexandria, Virginia.

25 And Environmental Education Enterprises is at

8

1 6011 Houseman Road in Ostrander, Ohio,

2 O-S-T-R-A-N-D-E-R.

3 **Q. And Dr. Lehr, have you ever been deposed**

4 **before?**

5 A. Yes.

6 **Q. In what kind of circumstances?**

7 A. I cannot remember.

8 **Q. Was it a personal matter?**

9 A. No.

10 **Q. Have you been deposed as an expert witness**

11 **before?**

12 A. Yes.

13 **Q. Do you recall the circumstances?**

14 A. No. It was more than 45 years ago.

15 **Q. Okay. Have you ever been party to an action by**

16 **the federal government?**

17 A. What would that be?

18 **Q. Have you ever sued or been sued by the federal**

19 **government?**

20 A. No.

21 **Q. Have you ever sued a state authority?**

22 A. No.

23 **Q. Or local government?**

24 A. No.

25 **Q. And in terms of today's deposition, what did you**

9

1 do to prepare for today?
 2 A. I don't think I did anything to prepare for
 3 today. I didn't do anything to prepare for today.
 4 Q. Did you write a report in this case?
 5 A. I did.
 6 Q. Did you --
 7 A. No, no. I spoke with Jim Turner, and he made a
 8 report of our interview, and I signed that report.
 9 Q. Okay. Did you read that report for today?
 10 A. I did, I read the report.
 11 Q. Did you read any materials about
 12 Daniel Chapter One?
 13 A. No, I did not.
 14 Q. Did you speak with Mr. Turner apart from
 15 preparing the report?
 16 A. No.
 17 Q. And can you just please tell me your educational
 18 background.
 19 A. I have a Ph.D. in environmental science from the
 20 University of Arizona, an engineering degree from
 21 Princeton University.
 22 Q. And you mentioned that you currently are working
 23 at three different institutions.
 24 How long have you been working at the first
 25 one?

10

1 A. I've been with The Heartland Institute for
 2 fourteen years.
 3 I've been with Earth Water Global for two
 4 years.
 5 I've been with Environmental Education
 6 Enterprises for eighteen years.
 7 Q. And just generally, do you ever give people
 8 advice regarding the use of herbal products?
 9 A. I do.
 10 Q. In what circumstances have you done that?
 11 A. Well, I'm a fairly prominent senior athlete.
 12 I'm one of the early Hawaiian Ironman competitors. I
 13 started racing in 1981 and have maintained a level of
 14 athleticism and fitness that is rather unusual for a
 15 72-year-old, so people are always seeking my advice.
 16 And in I think 1991 I completed a book called
 17 Fit, Firm and Fifty, which included all my experiences
 18 up to that time with health and fitness, so it's fairly
 19 common.
 20 And I'm still doing the Ironman, I won the
 21 Florida Ironman Triathlon last year, and so yes, people
 22 are always asking my advice, and to the extent that I'm
 23 knowledgeable of their questions, I do answer them.
 24 Q. Has anyone ever consulted you about using herbs
 25 in connection with cancer?

11

1 A. No.
 2 Q. Or regarding the prevention of cancer? Has
 3 anyone ever asked you what kind of herbs they could take
 4 to keep healthy?
 5 A. All of the questions that would come to me in
 6 that regard deal with diet in general rather than
 7 specific herbs.
 8 Q. And you said you have appeared as an expert
 9 witness before but many years ago?
 10 A. Yeah. It was I know something to do with water
 11 supply, but I can't recall.
 12 Oh, I do recall.
 13 Q. Okay. Good.
 14 A. I remember.
 15 Q. Please.
 16 A. It was a patent infringement case on -- about a
 17 downed home television camera in Kansas City and maybe
 18 it was only fifteen -- ten or fifteen years ago now that
 19 I remember.
 20 Q. Thank you.
 21 Do you remember if it was a state court or a
 22 federal?
 23 A. That, I don't know.
 24 Q. Okay. Infringement probably is a federal.
 25 A. It was patent infringement.

12

1 Q. Okay. And regarding what you do, for example,
 2 for Heartland -- is that what you said?
 3 A. Yes.
 4 Q. What do you do at Heartland?
 5 A. I oversee all their science. They put out a
 6 number of publications that are developed for state
 7 legislators. The primary one is called
 8 Environmental Climate News, and then another one is
 9 called Health Reform News. And I kind of oversee the
 10 correctness of the scientific materials. I write for
 11 them, for the publications, and I give probably forty
 12 lectures a year on a wide variety of subjects on behalf
 13 of The Heartland Institute.
 14 Q. So when you say you oversee the science, are
 15 there studies being done at Heartland, or what do you
 16 mean?
 17 A. At Heartland it's all literature searches.
 18 Q. And then you conduct -- people -- other people
 19 are doing -- conducting searches and you're just making
 20 sure they've done things properly; is that right?
 21 A. That's correct.
 22 Q. And at the -- I'm sorry. I've forgotten the
 23 names.
 24 A. Earth Water Global.
 25 Q. What are you doing there?

13	<p>1 A. We are an international water supply company, 2 and we do do research in groundwater development, and we 3 try to locate groundwater supplies in foreign countries 4 throughout the world, and we're using very advanced 5 technologies. Basically we have figured out how to use 6 petroleum and mineral investigation technologies in the 7 pursuit of water, and so we are doing very high-level 8 data simulations.</p> <p>9 We have the world's largest computer screen, 10 ten feet by six feet, and we can project anywhere on 11 the earth down to a one-foot resolution, so it's pretty 12 high-level work. And we're working in a number of 13 foreign countries. And I am the senior chief 14 scientist.</p> <p>15 Q. Okay. So those are -- how do you develop those 16 kinds of studies?</p> <p>17 A. Well, again, we have people on staff that have 18 worked in, let's say, groundbreaking research in the 19 utilization of various kinds of geological data, 20 chemical data, a lot of chemistry, in trying to 21 determine what assemblages of data tend to show the 22 existence of underground water. And then we drill wells 23 and find out if we're right or not.</p> <p>24 Q. And at the third institution, what do you do? 25 A. At Environmental Education Enterprises, I'm the</p>	15
14	<p>1 senior scientist. We over the years -- we teach many, 2 many environmental short courses, a great deal of 3 chemistry and remediation and biology and things like 4 that. And mostly we've over the years have taught many, 5 many hundreds of three-day courses to environmental 6 scientists around the world. Now mostly I teach 7 independent individual seminars there.</p> <p>8 Q. So in terms of -- and in terms of the years 9 prior to working at I guess -- which is the one you were 10 at the longest with? The Environmental Education?</p> <p>11 A. Yeah.</p> <p>12 Q. Okay. Prior to that, what work were you 13 involved in?</p> <p>14 A. I was a college professor at the 15 University of Arizona and the Ohio State University, 16 and then I was executive director of a science 17 association called the Association of Groundwater 18 Scientists and Engineers where I ran a fairly 19 significant research operation on issues relating to 20 underground water.</p> <p>21 Q. Were any of those related to water being 22 contaminated or being beneficial to people?</p> <p>23 A. Probably most of it. Most of it.</p> <p>24 Q. So what would you be looking for in that 25 regard?</p>	16
13	<p>1 A. Well, I wrote a book with my colleagues there on 2 domestic water treatment, and we looked at all the 3 chemicals that one could find in natural water or could 4 be added to water that affect, you know, people's health 5 and the environment. Everything is always human health 6 and the environment.</p> <p>7 Q. Are any of those related to cancer or how 8 water --</p> <p>9 A. I am sure that some of -- that there would be a 10 mention by, you know, one of my coauthors. I am 11 definitely -- I am not a cancer expert.</p> <p>12 Q. In terms of your science background, have you 13 ever been involved in doing controlled studies?</p> <p>14 A. In all literature searches I'm studying 15 controlled studies, so you know, I'm very familiar with 16 the protocols of controlled studies. I have not been a 17 principal investigator on a controlled study effort.</p> <p>18 Q. Have you ever tested any pharmaceutical drugs? 19 Have you ever been involved in the testing of 20 pharmaceutical drugs?</p> <p>21 A. Only on myself.</p> <p>22 Q. Okay.</p> <p>23 A. Although maybe pharmaceutical -- well, I guess 24 pharmaceutical wouldn't be correct. I've never tested 25 prescription drugs.</p>	15
14	<p>1 Q. Okay.</p> <p>2 A. I've not really taken any. But I've tested all 3 kinds of herbal supplements and things of that nature in 4 trying to be the fittest 72-year-old on the planet.</p> <p>5 Q. Tested on yourself.</p> <p>6 A. Yes.</p> <p>7 Q. So how did you become aware of the company 8 called Daniel Chapter One?</p> <p>9 A. About ten years ago -- and it could be eleven -- 10 my son-in-law, who is also an endurance athlete like 11 myself, introduced me to Jim Feijo's son, who was at 12 Ohio Wesleyan University, and also introduced me to 13 Jim Feijo. And actually before I met them he had 14 discovered a supplement called PrePost and suggested I 15 try it for my training. And when it had rather 16 extraordinary results on my performance, he introduced 17 me to Mr. Feijo, who was there visiting his son at 18 college.</p> <p>19 Q. Okay. And when did you first become aware of 20 the FTC's action against Daniel Chapter One?</p> <p>21 A. A few weeks ago or...</p> <p>22 Q. How did that come about?</p> <p>23 A. Either an e-mail or a telephone call from Jim or 24 Mr. Feijo.</p> <p>25 Q. And just what -- had asked -- what --</p>	16

1 MR. TURNER: Excuse me. By "Jim" you meant me.
 2 THE WITNESS: Yes. Jim Turner.
 3 BY MS. PAYNTER:
 4 **Q. Because there are actually two Jims in this**
 5 **case.**
 6 A. Oh, okay.
 7 **Q. Okay.**
 8 **Do you recall what the e-mail said or the**
 9 **contact said?**
 10 A. It asked me if I would be willing to describe my
 11 experiences with the company and Mr. Feijo in regard to
 12 the products that I have been taking and my tests
 13 personally on them and that there were a number of
 14 products that were being challenged. That's about it.
 15 **Q. Okay. You mentioned you took a product called**
 16 **PrePost; correct?**
 17 A. Yes.
 18 **Q. Have you taken other Daniel Chapter One**
 19 **products?**
 20 A. Yes. I take three products every day.
 21 **Q. Okay. Could you tell me which ones they are.**
 22 A. Yes.
 23 One is called Endurosine and one is called
 24 Mito/ATP, M-I-T-O-slash-A-T-P.
 25 **Q. Okay. So had you -- you've personally met**

1 **Jim Feijo.**
 2 A. Yes, I did. About ten years ago.
 3 **Q. And do you maintain contact with him?**
 4 A. By e-mail and telephone. Yes. Very much so.
 5 **Q. Have you met Patricia Feijo?**
 6 A. Yes. At the same time I met Jim.
 7 **Q. Okay. Have you ever worked for**
 8 **Daniel Chapter One?**
 9 A. No.
 10 **Q. Are you aware of any other Daniel Chapter One**
 11 **products?**
 12 A. I've also taken their electrolyte drink. I
 13 think it's called ElectroCarb. Yes. I've used
 14 ElectroCarb, not daily as I use the other three.
 15 And I'm just beginning to test a product called
 16 GDU. Again, on myself.
 17 **Q. And what are the circumstances for you beginning**
 18 **to test GDU?**
 19 A. I have an arthritic hip that gets sore and I've
 20 tried a number of different things for it, and Jim
 21 suggested that GDU might be useful.
 22 **Q. And are you finding it useful?**
 23 A. I've only taken it for a week, so it's too early
 24 to say.
 25 **Q. You mentioned your son-in-law also took**

1 **PrePost?**
 2 A. Oh, yes. Pretty much everybody I know. My
 3 wife takes it every day. My son-in-law takes it every
 4 day.
 5 **Q. Do you know whether he takes any other?**
 6 A. No.
 7 **Q. No, you don't know or --**
 8 A. I do not know.
 9 **Q. Okay.**
 10 A. I do not.
 11 **Q. Do you know, does your wife take any other**
 12 **product from Daniel Chapter One?**
 13 A. She does not.
 14 **Q. Have you had an opportunity to speak to any**
 15 **person who has taken Daniel Chapter One products to**
 16 **treat cancer?**
 17 A. No.
 18 **Q. And have you ever reviewed any of the medical**
 19 **claims of someone who stated that Daniel Chapter One's**
 20 **products have helped them to cure their cancer?**
 21 A. No, I have not.
 22 **Q. And are you being compensated for appearing here**
 23 **today?**
 24 A. I am not.
 25 **Q. Even expenses?**

1 A. Yes. They paid my plane fare here and my cab
 2 fare downtown.
 3 **Q. You mentioned that you spoke to Mr. Turner and**
 4 **they prepared a report as a result?**
 5 A. Mr. Turner interviewed me on the telephone,
 6 typed up a transcript, sent me the transcript, ask
 7 asked me to review it and, if it was okay, to sign it.
 8 It was precisely accurate, and I signed it and returned
 9 it.
 10 **Q. Did you have more than one conversation with him**
 11 **about it?**
 12 A. Only one conversation where I was actually
 13 being interviewed about my involvement with a
 14 Daniel Chapter One product or with Mr. Feijo in
 15 general.
 16 **Q. Are you aware of the Daniel Chapter One radio**
 17 **show?**
 18 A. I am.
 19 **Q. And have you ever appeared on that show as a**
 20 **guest?**
 21 A. I've called in a number of times. Yes. It's
 22 the easiest way to get ahold of Jim when you have a
 23 question.
 24 **Q. Just generally what is the show -- what is the**
 25 **show about?**

1 A. It's a call-in show where people ask advice on
2 medical problems and/or health problems. And as I said,
3 I've -- when I need to talk to Jim to explain something
4 to me about the products and how they're affecting me,
5 if I can get in on the radio show, I ask him the
6 question and get my answers.

7 **Q. Okay. Have you ever heard anyone calling in
8 about cancer, having a problem with cancer and getting
9 advice on that?**

10 A. I probably have waiting to get on, but I can't
11 say that I've -- I can recall any specific conversations
12 at all.

13 **Q. Do you ever sell the Daniel Chapter One
14 products?**

15 A. No.

16 **Q. Okay. In terms of your science, have you ever
17 studied any products beyond the ones you're taking, any
18 other Daniel Chapter One products?**

19 A. Other than those three, I have not.

20 **Q. Are you familiar with a product called
21 Bio*Shark?**

22 A. I am not.

23 **Q. You've never heard of that product?**

24 A. I've read his catalogs. I've probably seen the
25 word, but I've never, you know, focused on it. I've

1 middle range would be four capsules twice a day.

2 **Q. So have you done any studies beyond your
3 personal study, studies on yourself, of any of the four
4 products that I just mentioned?**

5 A. I have not.

6 **Q. Have you done any literature searches on the
7 products or their components?**

8 A. Well, PrePost is an energy drink. It's a meal
9 replacement which has, you know, a couple dozen things
10 in it, all of which I've read about over the years and
11 their efficacy. And I take a number of, you know,
12 health newsletters, but they're all, let's say,
13 conventional ingredients and vitamins and minerals and
14 supplements, and I've made myself familiar with all of
15 them.

16 **Q. Okay. Well, just -- can you just tell me in
17 your own words then what your testimony -- what you
18 intend for your testimony to -- how you -- strike
19 that -- how you intend your testimony to assist
20 Daniel Chapter One.**

21 A. Well, I've been taking vitamin and mineral
22 supplements almost my whole life. And when I -- I've
23 been a senior athlete -- I've been an athlete all my
24 life, but when I committed to essentially try to be as
25 good as I was in my youth as I grew older, I would try a

1 only looked at the products that I thought might be
2 useful to me, and there are three, as I say, I use every
3 day.

4 **Q. Have you ever heard of the product
5 7 Herb Formula?**

6 A. I've heard of it. I remember reading about it
7 in the -- in his catalog.

8 **Q. Have you ever heard of the product BioMixx?**

9 A. No.

10 **Q. And you mentioned that you're now taking GDU.**

11 A. Yes. I just started.

12 **Q. And Mr. Feijo said to you it would be good to
13 help with your arthritis?**

14 A. It was a -- I have a pain in my hip from
15 arthritis, and he said he's had people that have
16 reported some interesting results with it, and I figure
17 I'll give it a try.

18 **Q. Did he tell you what's in GDU?**

19 A. No. I looked on the bottle, though.

20 **Q. And so do you know what's in it?**

21 A. A lot of things. A long list of vitamins and
22 minerals.

23 **Q. And mostly what dosage do you take of the
24 product?**

25 A. What it says on the bottle, which is -- the

1 wide variety of products for a number of months, and if
2 I had then no impact, I would stop.

3 And in all cases I would try to get information
4 on the products in terms of their efficacy or ask
5 questions about them if I thought they might be good.
6 And until Mr. Feijo, I never got any really good, you
7 know, scientific answers. I never found any of the
8 companies to have, you know, people that would spend
9 time with me and explain why I'm experiencing a
10 particular outcome.

11 I found Mr. Feijo to be absolutely unique, and
12 over the years that I've known him, through telephone
13 and e-mail conversations, I've found him to be about the
14 most intelligent biochemist person in that when you ask
15 him a small technical question, you get a very detailed,
16 long technical answer that is, you know, quite
17 understanding. And with my knowledge of chemistry and
18 biology, he puts it into a realm that I totally
19 understand, and that, you know, has made me ever more
20 consternate that the results that I've seen in my own
21 body are to be expected because of, you know, what he's
22 done in creating the product.

23 **Q. Have you ever spoken to him about Bio*Shark?**

24 A. I have not.

25 **Q. Have you ever spoken to him about the**

1 **7 Herb Formula?**
 2 A. I have not.
 3 **Q. Or BioMixx?**
 4 A. I have not.
 5 Nor has he ever, you know, suggested I, you
 6 know, take them. I mean, the products that he's
 7 suggested to me have entirely been to improve my
 8 athletic performance.
 9 **Q. Okay. Except that given that you're coming as**
 10 **an expert and you presented to us as somebody who can**
 11 **give preclaim substantiation, in other words, you can**
 12 **substantiate the basis that they -- of the claims that**
 13 **they have made regarding these products, so that's why**
 14 **I'm asking you --**
 15 A. Right. I can only substantiate the claims that
 16 they have made on the three products that I've taken
 17 regularly now for ten years.
 18 **Q. Okay. Have you spoken to Mr. Feijo about GDU**
 19 **and what its components are?**
 20 A. No, I have not.
 21 Well, I mean, he just suggested it might be
 22 useful for a particular minor problem that I'm having.
 23 **Q. And then I just want to ask you again.**
 24 **You haven't done any literature searches on, for**
 25 **example, Bio*Shark?**

1 A. No.
 2 **Q. Okay. Do you have any involvement at all -- I**
 3 **mean, beyond your picture being on the label, do you**
 4 **ever review any of the --**
 5 A. No.
 6 **Q. -- publication -- okay.**
 7 **Or their Web site? Have you reviewed their**
 8 **Web site before?**
 9 A. I've seen their Web site. I've not reviewed it,
 10 you know.
 11 **Q. In terms -- you haven't been asked to review it**
 12 **in terms of the statements they've made?**
 13 A. I have not.
 14 **Q. Okay. Well, are you aware this case is about**
 15 **products that the company is selling to help people --**
 16 **MR. TURNER: Objection.**
 17 **BY MS. PAYNTER:**
 18 **Q. -- with cancer?**
 19 **MR. TURNER: Objection. Alleged.**
 20 **MS. PAYNTER: So noted.**
 21 **But can you just read back the question, please.**
 22 **(The record was read as follows:)**
 23 **"QUESTION: Well, are you aware this case is**
 24 **about products that the company is selling to help**
 25 **people with cancer?"**

1 A. I have not.
 2 **Q. Have you done any scientific literature searches**
 3 **on 7 Herb Formula?**
 4 A. I have not.
 5 **Q. Or on the BioMixx?**
 6 A. No.
 7 **Q. Or have you done one on GDU to see whether --**
 8 A. No, I have not.
 9 **Q. Okay. Did you have any involvement in the**
 10 **advertising Daniel Chapter One has made on PrePost?**
 11 A. I have not other than, unbeknownst to me, I
 12 found a little picture of me jumping out of an airplane
 13 on the label of the product.
 14 **Q. Okay.**
 15 A. And they did not say they were going to do it,
 16 and I was pleased as punch when I -- you know, I was
 17 kind of -- I took it as a tremendous compliment that
 18 they did that.
 19 **Q. Okay. And in terms of the 7 Herb Formula, have**
 20 **you been involved in any advertising?**
 21 A. No.
 22 **Q. Or with the Bio*Shark either?**
 23 A. No.
 24 **Q. No.**
 25 **Or BioMixx; right?**

1 **THE WITNESS: Yes.**
 2 **BY MS. PAYNTER:**
 3 **Q. And do you have any familiarity with the**
 4 **products that are being sold to help people in the**
 5 **treatment of cancer?**
 6 A. I do not.
 7 **Q. Has Mr. Feijo ever shared with you the results**
 8 **of any testing done on BioMixx?**
 9 A. He has not.
 10 **Q. Are you aware of whether he's ever done any**
 11 **testing on BioMixx?**
 12 A. I am not.
 13 **Q. Are you aware of whether he's done any testing**
 14 **on Bio*Shark?**
 15 A. I am not.
 16 **Q. Or done any testing on 7 Herb Formula?**
 17 A. I'm not aware.
 18 **Q. And even on the GDU, are you aware of whether**
 19 **he's done testing on that?**
 20 A. I'm not. I'm only aware of the testing he's
 21 done on PrePost and the other products which he has
 22 shared with me. He's done a number of tests and
 23 literature searches on the components as they affect
 24 athletes like myself.
 25 **In fact, we had an extensive discussion a few**

1 years ago when he reformulated PrePost and I was
2 concerned about it since it had already been working so
3 well with me. And he had some new studies particularly
4 on the relationship of protein-to-carbohydrate ratios
5 with athletes, an extensive test that was done on some
6 really, let's say, professional cyclists or really
7 high-level cyclists and that he felt it was important to
8 change that ratio.

9 And I was -- the product was working so well on
10 me, I was very concerned, and so we had a very long and
11 extensive series of conversations in which he convinced
12 me that the change was being made for really solid
13 scientific reasons, and I was satisfied and then I would
14 say the product became even better in terms of its
15 impact on me.

16 **Q. And what are the components of PrePost?**

17 A. PrePost is actually a -- you could live on it.
18 It has virtually everything the body needs in terms of a
19 balance of carbohydrate, protein and fats, all the daily
20 vitamin requirements you'd want plus a variety of other
21 things like chromium picolinate, which is a strength
22 situation, and probably contains every -- a bit of every
23 vitamin and mineral that would be sold in most health
24 products in a health store.

25 But what he's done with the product that's

1 different from any other -- and I've tested dozens --
2 is the rapidity in which it works on you either --
3 feeding energy into the system. He appears to have
4 manufactured it in a particle size that goes into the
5 bloodstream so rapidly that when you take it a half
6 hour before your exercise event, you know, you really
7 have stoked your furnace, so to speak, to give you an
8 exceptional amount of energy to get through many hours
9 of exercise.

10 Of more important impact, which a hundred
11 percent of the people I've shared it with and tested it
12 on, is that when you take it immediately after a
13 lengthy endurance athletic event, if you take it within
14 thirty minutes -- normally, let's say, if you run a
15 marathon or you bike a hundred miles or something even
16 considerably less than that, you're okay when you
17 finish the event, but three hours later it's over, I
18 mean, your body just totally bonks. And when you take
19 PrePost within thirty minutes of finishing an event,
20 three hours later you don't even remember you did the
21 event.

22 It replenishes your energy stores absolutely
23 dramatically, and I've never found it to vary with
24 anybody who's ever took it, which allows people to
25 train at very high levels without becoming fatigued and

1 paying the price afterwards.

2 **Q. And is it Mr. Feijo created the whole formula**
3 **for that, for PrePost, as far as you're aware?**

4 A. To the best of my knowledge. He's -- we've over
5 the last ten years have spent many, many hours
6 discussing it. In fact I've even -- it's kind of
7 interesting. I even suggested that he start promoting
8 it in other ways where it has benefited me.

9 About five years ago I had a number of
10 extraordinary events which led me to make this
11 suggestion. I'd done so well as an athlete. While I'm
12 never sick, sometimes I'm not a hundred percent. And I
13 got into the habit of taking it additionally, not just
14 before and after my training. And I work out between
15 three and four hours a day.

16 I started deciding that when I wasn't a hundred
17 percent -- when you're a well-tuned athlete, you know if
18 you're a hundred percent or 83 percent or 67. You
19 really know your body better than normal people.

20 And so I decided I would try -- when I didn't
21 feel a hundred percent for reasons I didn't know, I'd
22 take a bottle of PrePost and see what the impact was.
23 And I found that within thirty minutes I was back to a
24 hundred percent. And I did this seven or eight times
25 and finally called him one day and I said, You really

1 ought to be sharing this with people, you know, maybe
2 who are out of sorts for one reason or other.

3 But first I asked him what was happening, and
4 he explained why I was finding the result. He said
5 when you're not, you know, feeling a hundred percent,
6 your immune system isn't functioning as it should and
7 it needs, you know, a variety of reserves in terms of
8 vitamins and minerals and calories as well and that
9 essentially the product, you know, beefed your immune
10 system up to where it could fight, you know, whatever
11 was going on in your body. We really had just a needed
12 discussion about it.

13 And over the last five years, you know, if I'm,
14 you know, at any point in time at any given day and if I
15 don't feel I'm functioning a hundred percent, I'll take
16 an extra, you know, bottle of it.

17 The downside of it for average people is it's
18 got 585 calories in it, so it's, you know -- you have to
19 be able to handle that additional set of calories which,
20 you know, endurance athletes can.

21 **Q. So is it your opinion that because PrePost works**
22 **so well on you that Daniel Chapter One's other products**
23 **should be as effective with other --**

24 A. You know, that is my opinion. I've found him to
25 be -- as I said, I've -- I'm very skeptical of

1 everything. I'm a scientist. I mean, that's all I've
 2 ever done my whole life. And while I'm skeptical, I'm
 3 open-minded, so if you tell me you've got something that
 4 you think will work and if there's no, you know, harm to
 5 it or no potential downside, which is why I don't
 6 take -- I really have been -- I've never been on a
 7 prescription drug because the side effects scare me.
 8 You know, you hear all the drugs advertised on the radio
 9 and that you really ought to look into this and the
 10 side effects are nausea, bleeding, vomiting, you know,
 11 all that kind of stuff.

12 So I tend to stay with things that have -- are
 13 not seen to have side effects. And I've just felt that
 14 this formulation and the other two products I take are
 15 so good and so well thought out, my -- I believe that
 16 it's likely that he's done equally impressive work on
 17 his other products, though I have no experience with
 18 them.

19 **Q. Would that extend so far as to say that their
 20 products could cure cancer?**

21 A. I would not, you know, speculate on that. I
 22 mean, that's now outside of my area of expertise.

23 But I do believe that when Jim Feijo says that
 24 he's done studies and he has this belief system based on
 25 his research, I find him more credible than anyone I've

1 met in the vitamin and supplement industry.

2 **Q. But you've never spoken to him about his
 3 products that are there supposedly to treat cancer or to
 4 treat tumors?**

5 A. I have never, no.

6 **Q. And are you familiar with what's called
 7 conventional cancer treatments?**

8 A. Well, I mean, I'm familiar with radiation
 9 therapy, chemotherapy, I mean, things of that nature,
 10 also, you know, patients that are put on diets.

11 I mean, there's none of us today that doesn't
 12 know somebody that's had cancer and seen what they've
 13 gone through, so to that extent, but I've not
 14 participated in any kind of a scientific study on
 15 cancer.

16 **Q. Well, do you have any opinion about whether
 17 conventional cancer treatments are effective?**

18 A. Well, I've seen people positively impacted by
 19 the treatments, but I've also -- you know, one is always
 20 hearing case studies of people who have improved on
 21 various diets and things of that, but I'm not expert at
 22 it, and obviously we have a lot to learn.

23 I mean, we've made great strides in some forms
 24 of cancer but in others we've less so.

25 **Q. And in terms of your scientific background,**

1 **you've not been involved in any kinds of studies
 2 regarding prevention or cure or treatment of cancer in
 3 humans?**

4 A. I have not. But I read extensive literature,
 5 and it would appear right now -- and I read a lot of
 6 medical literature. It's part of my work. When I'm
 7 lecturing on fitness and health, I want to have a
 8 background in the medical literature as well.

9 And one of the things that is appearing in all
 10 the health newsletters -- my favorite one is the
 11 University of California Berkeley newsletter -- is that
 12 they're finding that significant amounts of exercise
 13 are having a positive impact on an extraordinarily long
 14 list of diseases, including some forms of cancer, and
 15 you know, it's beginning to look like the fitter you
 16 are, you know, that it's a positive impact on a lot of
 17 things, not all things, but it's interesting.

18 **Q. Well, did you have an opportunity to read any
 19 scientific studies that Daniel Chapter One has about
 20 their products?**

21 A. I did not.

22 **Q. I'm just going to mark -- oh, sorry. The
 23 court reporter can just mark this, and you can take a
 24 look at it in a second.**

25 A. Okay.

1 **Q. It's a copy of your report.**

2 **Actually we don't have a signed one.**

3 **Do you have a signed one?**

4 MR. TURNER: You should have gotten a signed
 5 page.

6 (Discussion off the record.)

7 (Recess)

8 (Lehr Deposition Exhibit Number 1, Report of
 9 Expert Witness Jay Lehr, was marked for identification.)

10 BY MS. PAYNTER:

11 **Q. If you just want to take a look at it, I'm going
 12 to ask you some questions about it.**

13 A. Sure.

14 **Q. Just on the second page where it says
 15 "Scope of Work" -- I don't know if I -- did I introduce
 16 it on the record? No. Okay.**

17 So let me just say, Dr. Lehr, I'm showing you
 18 what has been identified as Lehr Exhibit 1 for
 19 identification.

20 **And is that a copy of your expert report?**

21 A. Yes.

22 **Q. And you mentioned before, you -- did you prepare
 23 this actually?**

24 A. No. I spoke it.

25 **Q. Okay.**

1 A. And it was sent to me as a representation of the
 2 words I spoke.
 3 **Q. Was this a verbatim transcript?**
 4 A. Pretty close, yeah.
 5 **Q. Okay.**
 6 A. As far as I can tell, yeah.
 7 **Q. So in section II on the second page it says**
 8 **"Scope of Work," and it says, "I was asked to present an**
 9 **opinion, based on my experience, scientific training and**
 10 **study of the DCO products, of the efficacy of the DCO**
 11 **products."**
 12 **Do you see that?**
 13 A. Yes.
 14 **Q. And can you just tell me what study you did of**
 15 **the DCO products?**
 16 A. Just a long-term study of the three products
 17 that I take on myself, performing athletic events with
 18 and without them over a long period of time, always
 19 going back to not using them, you know, what was my
 20 performance when I used the product, what was my
 21 performance when I didn't use the product, literally,
 22 you know, I'd say at least a hundred times on every
 23 product.
 24 **Q. And I know you mentioned PrePost.**
 25 A. PrePost, Mito/ATP and Endurosine.

1 This is a -- but there's also other things in it that
 2 aren't as good for you, and the ATP is just a pure
 3 energy supplement.
 4 **Q. And do you know whether any testing was done on**
 5 **the PrePost by Daniel Chapter One?**
 6 A. I know that they have a lot of studies using the
 7 formulation. I'm not familiar with any of their actual
 8 protocols themselves.
 9 **Q. And how do you know they have studies?**
 10 A. I don't. I know -- oh, well, I've discussed
 11 with Jim Feijo the studies that he has used to create
 12 the product and his explanations of, you know, how he
 13 created the product.
 14 **Q. And do you know whether Mr. Feijo or**
 15 **Daniel Chapter One conducted any studies on Endurosine?**
 16 A. I believe Mr. Feijo has, you know, again told me
 17 of his studies of it. I'm not familiar with whether he
 18 performed protocols in his laboratory or on people, but
 19 his explanations always contained his discussion of
 20 studies.
 21 **Q. And what about with the Mito/ATP?**
 22 A. The same.
 23 **Q. The same thing?**
 24 A. The same thing.
 25 **Q. So was there any particular reason you didn't**

1 **Q. Okay. And do you know -- I know you**
 2 **mentioned -- is PrePost just for high-endurance athletes**
 3 **or is it for anyone's use?**
 4 A. The label on it certainly speaks to athletic
 5 training.
 6 **Q. And are you aware if it's used for anything**
 7 **else?**
 8 A. I am not.
 9 **Q. And the Endurosine, what is that intended for?**
 10 A. It increases the oxygen-carrying capacity of
 11 your blood so that in a -- you can tell your wind is
 12 better with the Endurosine than it is without it.
 13 **Q. And the Mito/ATP is what?**
 14 A. That's a pure energy distillate. It would be a
 15 more perfect form of adding sugar. The muscle --
 16 adenotriphosphate is the final product the muscle takes
 17 in. It's the fuel for the muscle. The body creates
 18 adenotriphosphate from all the food you eat and
 19 essentially, through the internal chemical things going
 20 on in your body, it distills it down and ultimately what
 21 goes into the muscle is ATP. It can be distilled down,
 22 you know, outside of the body, and Mito/ATP is a purer
 23 form of energy.
 24 In other words, everyone has taken a candy bar,
 25 and they know they get a blast of energy from the sugar.

1 talk to him about, let's say, Bio*Shark, for example,
 2 what studies he did on Bio*Shark?
 3 A. I had no need for any other supplements for any
 4 medical problems. My interests have strictly been
 5 athletic.
 6 **Q. But in preparation for giving expert testimony,**
 7 **did you have any -- did you see any need to talk with**
 8 **him about the products that are the subject of this**
 9 **action?**
 10 A. I did not because I feel that the only
 11 testimony I can give is to my knowledge of him being,
 12 in my mind, an outstanding scientist able to deal with
 13 me in terms of my physical needs and the products that
 14 I am taking that he has created, so I have not gone
 15 outside of what I consider my area of expertise.
 16 **Q. Okay. Going to the next page of your report**
 17 **where it says "Summary of Opinions" --**
 18 A. The last --
 19 **Q. I'm sorry. It would be Roman IV.**
 20 A. Yes. I got it.
 21 **Q. And it talks about that there are four**
 22 **conceptual ideas that you've discussed with him and that**
 23 **you yourself have explored, and it says "the notion of**
 24 **the smallness of the particles."**
 25 **Can you tell me what that means?**

1 A. The product goes --
 2 **Q. Now, when you say "the product" --**
 3 A. I'm sorry. Daniel Chapter One. The impact on
 4 you is almost instantaneous.
 5 **Q. I'm sorry. I just want -- PrePost.**
 6 A. PrePost.
 7 The impact of PrePost --
 8 **Q. Okay.**
 9 A. -- on you spent on the recovery side and on the
 10 preside is extremely rapid as no other product that I've
 11 ever taken in my long athletic career. And in early
 12 discussions with Mr. Feijo about that, he explained that
 13 they were able to manufacture it in a form that the
 14 particle size of the minerals and vitamins and fats and
 15 proteins and carbohydrates was so small that it absorbed
 16 into the bloodstream, and you know, it went in the body
 17 where it was needed more rapidly.
 18 I mean, you know, certain foods take forever to
 19 digest. I mean, we no longer eat a lot of protein
 20 before an athletic event. The body takes a long time to
 21 digest it, so we tend to eat carbohydrates because
 22 they're much easier.
 23 Well, in this particular case it had to do with
 24 particle size, and the impact that it has in raising
 25 your energy level is quite amazing.

1 you're fatigued and your immune system is not operating
 2 a hundred percent.
 3 And he explained to me that the formulation is
 4 such that what I was experiencing over and over again is
 5 that it's supplying the various ingredients to the
 6 immune system to build it back up after I've torn it
 7 down so it can fight, you know, whatever is going on in
 8 my body in a negative way. And I've found it to be
 9 true with virtually no exceptions. And I have kind of
 10 gone back over the last number of years since I
 11 recognized this and I've been taking it. I'm just
 12 estimating I've done that experiment about forty times.
 13 **Q. Did Mr. Feijo say whether that's a general
 14 concept that they use with all of their products, that
 15 to, you know, assess the immune system?**
 16 A. I would interpret my conversation with him as
 17 being that a focus of the immune system is very
 18 significant in all their work. No specifics, but as I
 19 relate the conversations, I would say that was --
 20 building up the immune system was a fairly important
 21 part of what he does.
 22 **Q. And you would say that it would seem to go
 23 across all of the work they do with their products.**
 24 A. That would be a guess.
 25 **Q. Okay. But that's your impression.**

1 **Q. And do you know whether the smallness of the
 2 particles is an issue with all of their products --**
 3 A. I do not know.
 4 **Q. -- or is it just -- okay.**
 5 **Also your next statement is "assessing the
 6 immune system."
 7 Can you describe that?**
 8 A. Well, in the years since I first discovered it
 9 had a tremendous impact in bringing me back to a
 10 hundred percent from a feeling that something was going
 11 on in my body and that I wouldn't have a peak
 12 performance, he explained to me that the formulation is
 13 such that it rapidly builds the immune system up.
 14 And so what he explained to me is in the many,
 15 many times -- and now it's many more times -- you know,
 16 that I'm going through a day -- and when you work out
 17 three or four hours seven days a week -- I mean, it's an
 18 extraordinary amount of training -- you are certainly
 19 subject to fatigue and you're subject to -- I mean,
 20 you're in a sense beating yourself up.
 21 I mean, obviously there are many advantages to
 22 being fit, but when you are an extreme endurance athlete
 23 like I am, you will tend to suffer fatigue. And if
 24 you're training very hard and some bacteria gets into
 25 your body, you're liable to lose that fight because

1 A. Yes, that would be my impression.
 2 **Q. Okay.**
 3 A. That would be definitely my impression.
 4 **Q. And the third thing you mention here, creating
 5 the energy framework, what is that?**
 6 A. The balance of carb -- the balance, the
 7 carbohydrate-fat-protein balance. And that particularly
 8 came out when I challenged him to having changed the
 9 formula.
 10 In fact, I was really very disturbed, because I
 11 had a product that was doing great and all of a sudden
 12 the formulation was changed. And I actually accused him
 13 of changing it because maybe he was losing less
 14 expensive ingredients. It turned out the opposite was
 15 true. And he explained the studies that had come in
 16 showing that the energy availability would be increased
 17 by altering that balance between carbohydrate and
 18 protein.
 19 **Q. In terms of energy framework, is that an
 20 issue -- did you have an impression that goes across the
 21 rest of their products? Is that a concern to them?**
 22 A. That, I cannot speak to.
 23 **Q. Okay.**
 24 A. I do not know.
 25 **Q. And lastly it says "the timing of the**

<p>45</p> <p>1 consumption of the products." 2 A. That's critical. 3 If you took PrePost too many hours before, your 4 body would have used up too much of it. 5 And afterwards is most critical. 6 If you were to take the PrePost two hours after 7 the event, it's over. 8 I mean, the window of replenishing your energy 9 stores to prevent serious fatigue setting in definitely 10 does not extend beyond two hours, and probably fifteen 11 to thirty minutes is the best window to get this stuff 12 in your body, and its efficacy, you know, declines 13 somewhat through the next hour. 14 You probably don't -- you maybe want to take it 15 immediately, but you maybe want to let your stomach, you 16 know, settle down after you're doing stuff, so I 17 generally aim at fifteen to thirty minutes. And it's 18 astounding, and I know no one that I've -- the dozens of 19 people that I've recommended it to found the same, the 20 same thing. 21 Q. And is that something you discovered on your own 22 or was that recommended by the company? 23 A. It was recommended. 24 But I tested it seriously. I'll never forget 25 being on a 200-mile bike ride with a friend of mine who</p>	<p>47</p> <p>1 A. Well, most studies are a double-blind study 2 where you take a cohort of people that you're going to 3 give the drug to and a cohort that you will not and 4 neither knows. 5 "Double-blind" means nobody knows if they have 6 the real product or the placebo. 7 And then you have them on it for a period of 8 time and then you measure the results and then you 9 figure out who had the product and who did not and you 10 determine statistically whether the differences are 11 significant. 12 I am not aware of what Daniel Chapter One has 13 done in that type of study. 14 Q. Okay. And you're not aware in connection with 15 the products you take; correct, you're not aware of any 16 studies done in connection with the products you take? 17 A. I am not. 18 Q. And you're not aware of any studies done in 19 connection with Bio*Shark; correct? 20 A. Correct. 21 Q. Any double-blind studies? 22 A. That's correct. 23 Q. Or in connection with BioMixx; is that correct? 24 A. That's correct. 25 Q. Or the other product, 7 Herb Formula?</p>
<p>46</p> <p>1 has done this particular ride for years, and he said he 2 never goes to work the next day. He just can't. I 3 mean, he just wipes out. And the ride is a 4 Saturday-Sunday ride, and I -- his name is Doug, and I 5 said, Well, you take this PrePost and tell me how you 6 feel tomorrow. He called me. He couldn't believe it. 7 Q. Okay. In terms of timing of the consumption of 8 products, is that a general concept you think goes 9 throughout the product line of Daniel Chapter One? 10 A. I do not know that. 11 Q. And also in the same section that I'm -- that we 12 were looking at, your last sentence says, "I have 13 concluded and it is my opinion that DCO brings a highly 14 credible scientific rigor to their products." 15 What's your basis for that? 16 A. I base that on the products that I take, the 17 information I've gotten from them. I'm making the 18 inference that if these three products that I've taken 19 for all these years measure up by my scientific 20 standards, I'm making the inference that their other 21 products would as well. 22 Q. And in terms of scientific standards, are you 23 familiar with what's considered acceptable studies on, 24 let's say, on drugs or products that individuals may 25 take?</p>	<p>48</p> <p>1 A. That's correct. 2 Q. Okay. And you mentioned that you had met 3 Mr. Feijo through your son-in-law? 4 A. That's correct. 5 Q. And that he was -- do you know the name of 6 Mr. Feijo's son? 7 A. I believe it's Eric. 8 Q. Eric? 9 A. I think. I'm pretty sure. 10 Q. How much does PrePost cost? 11 A. I think it's like 26 or 28 dollars a canister. 12 It generally runs between three and four dollars for a 13 full serving. 14 Q. So that lasts you, what, a week? Is that about 15 a week's serving? 16 A. Yes. 17 Q. And how much does the Endurosine -- how much 18 does that cost? 19 A. You know, I can't remember. Maybe 15 or 20 20 dollars a bottle, something like that. 21 Q. Is it a pill or -- 22 A. It's a capsule or powder. 23 Q. How much does the Mito/ATP cost? 24 A. In that same range. They're not terribly 25 expensive.</p>

1 Q. When you purchased those products, did you ever
 2 receive any indication from Daniel Chapter One that you
 3 were making a donation?
 4 Do you recall seeing anything like that on your
 5 receipts?
 6 A. I don't, but that doesn't mean it wasn't there.
 7 Q. Okay. And do you get it regularly? Do you
 8 do -- they just have you on a regular schedule?
 9 A. They have me on a regular schedule.
 10 Q. So -- and how do you pay for the product?
 11 A. Credit card normally. Because I've -- they've
 12 also given me some free products.
 13 Q. And why have they given you free product?
 14 A. I can't say.
 15 Q. What are the circumstances where they've given
 16 you free product?
 17 A. Well, just, you know, I -- I wore their --
 18 well, I wore their T-shirt when I won the Ironman in
 19 Florida.
 20 Q. Okay. Oh, so they gave you something as a --
 21 A. They give me a T-shirt.
 22 Q. Okay. And then do they give you product as
 23 well? No?
 24 A. They've given me product, yes.
 25 Q. Do they give you --

1 where we're going and you can kind of predict what the
 2 future holds in different areas, not based on a crystal
 3 ball but just based on an assessment of a great deal of
 4 information.
 5 So it's a term used for, you know, people that
 6 have the broad experience and exposure that I have.
 7 MS. PAYNTER: Okay. Actually can we -- we're
 8 going to just mark this, the CV, as an exhibit.
 9 (Lehr Deposition Exhibit Number 2, CV, was
 10 marked for identification.)
 11 BY MS. PAYNTER:
 12 Q. So we've just marked your CV -- can you just
 13 take a look at it and identify it -- as -- for
 14 identification Lehr Exhibit Number 2.
 15 (Pause in the proceedings.)
 16 And is that -- that's a -- is that an accurate
 17 copy of your --
 18 A. It's rather short. I do much -- you know, I've
 19 really never applied for a job, so I don't really have
 20 a normal CV. Probably, you know, there's a list
 21 somewhere of different jobs or different organizations,
 22 but it's -- it's a pretty short summary of what I've
 23 done.
 24 Q. You did -- you came with a document today that
 25 you said would be your CV. Can we mark that? Is this

1 (Discussion off the record initiated by the
 2 court reporter.)
 3 THE WITNESS: Your question was do they give you
 4 products to give to other people.
 5 BY MS. PAYNTER:
 6 Q. Yes.
 7 A. They do not.
 8 Q. And how long have you been taking the GDU?
 9 A. Oh. Just a week.
 10 Q. Just a week. Okay.
 11 And what testing are you going to do on that?
 12 A. I will take it for about a month and see if I
 13 see -- and I'll stop taking some other things I'm taking
 14 for arthritis and just take their product and see if I
 15 feel any different.
 16 Q. Okay. I was just looking at your -- I guess
 17 it's your CV which we just received, and it says you're
 18 an economist and futurist (indicating).
 19 Can you tell me what that is?
 20 A. Well, I've been lecturing in a wide variety of
 21 scientific endeavors for fifty years now and I've become
 22 broadly aware of economic aspects that relate to
 23 science. And when you're on the scene for fifty years
 24 and you attend fifty meetings a year and you listen to
 25 people, you get a pretty good feel for a consensus in

1 what you...
 2 (Pause in the proceedings.)
 3 A. Yeah. I think they -- yeah, this is a list of
 4 jobs that I've had.
 5 MS. PAYNTER: So we're going to mark that as
 6 Lehr Exhibit Number 3.
 7 (Lehr Deposition Exhibit Number 3, jobs list,
 8 was marked for identification.)
 9 MS. PAYNTER: We're going to step out for a
 10 second. We're almost done.
 11 MR. TURNER: Sure.
 12 (Recess)
 13 BY MS. PAYNTER:
 14 Q. Just -- you were mentioning before that you
 15 think Jim Feijo has a lot of science knowledge.
 16 Do you know what his exact background is in
 17 science?
 18 A. I do not.
 19 Q. And do you know whether he's been trained in
 20 science at all?
 21 A. There's no question in my mind that he has to
 22 be trained to be able to describe -- I mean, you know,
 23 as a scientist who's done nothing else but, to be able
 24 to explain the biomechanics, chemistry, biomolecular
 25 situations, which I am familiar with, he's -- whether

1 he's self-trained or has degrees I'm uncertain, but his
2 knowledge is, in my mind -- and again, it's over a
3 period of a decade or more -- measured against other
4 people in the same field who I find wanting, I'm quite
5 convinced that he's just got amazing knowledge.

6 **Q. And do you know whether Daniel Chapter One
7 manufactures PrePost itself?**

8 A. I do not.

9 **Q. Okay. I think you mentioned before -- do they
10 have a lab, to your knowledge? Is there a lab on --**

11 A. I have no idea.

12 **Q. Okay.**

13 A. I mean, he's always talking about, you know, and
14 the question is what we do and how they manufacture and
15 specifications, but where that is actually done I do not
16 know.

17 **Q. Does he ever talk to you about the religious
18 beliefs about the products?**

19 A. Not to me. But I've -- on the radio show and
20 it's obvious on the products there's always some quote I
21 guess from the bible, so I'm aware that they're very,
22 very religious people, but he's never discussed that
23 with me.

24 **Q. And you mentioned in terms of the testing you
25 did with PrePost.**

1 I mean, I have a U.S. patent. I calculated -- I
2 figured out how to cure tennis elbow and invented a
3 little device and got a patent. And it works for
4 everybody. And my son started a little business selling
5 it, and that grew into a big business.

6 But periodically -- and I wear it all the time.
7 I get it from weightlifting. But periodically I'd say
8 to myself, come on, I'm not smart enough to invent a
9 cure for tennis elbow. I'm going to stop wearing it for
10 a while and see what happens, and invariably the tennis
11 elbow comes back, and I put the device back on and it
12 goes away.

13 So I do exactly the same thing with all the
14 products. I'm really a born skeptic with an open
15 mind. And you know, we can all be led to have ideas
16 that, you know, it's in our mind, and so I do
17 periodically not take all these products just to remind
18 myself how effective they are and see what the
19 difference is.

20 MS. PAYNTER: Okay. Well, thank you very much
21 for your testimony.

22 Mr. Turner, do you have any questions?

23 MR. TURNER: No, no questions.

24 MS. PAYNTER: Okay. Thank you.
25 We're off the record.

1 A. Yes.

2 **Q. Did you ever have anyone else do testing --**

3 A. Yes.

4 **Q. -- in that way?**

5 **You have.**

6 A. My wife.

7 **Q. Okay.**

8 A. She's an elite marathoner, does the
9 Boston Marathon, and she'll probably win the
10 National Duathlon Championship in her age group. She's
11 55 this year.

12 And it's just been the same. She'd be giving
13 you the very same story. And I have to -- I mean, she's
14 been out doing a 16-mile run and then she goes right to
15 gardening or housework or whatever it is she's doing and
16 then she'll get -- a few hours later she's tired, and
17 I'll say, Janet, did you take -- forget to drink your
18 PrePost? And she -- (indicating). She would --
19 couldn't survive without it.

20 I mean as an endurance athlete.

21 **Q. And the Endurosine you've tested at the same
22 level. You took it for a while and then you stopped and
23 you measured the effects of it?**

24 A. I've done that many, many times. And I tend to
25 do that just to ensure that I'm not fooling myself.

1 (Whereupon, the foregoing deposition was
2 concluded at 11:57 a.m.)
3 (Reading and signature not waived.)
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1 CERTIFICATION OF REPORTER
 2
 3 DOCKET/FILE NUMBER: 9329
 4 CASE TITLE: Daniel Chapter One and James Feijo
 5 HEARING DATE: February 13, 2009
 6
 7 I HEREBY CERTIFY that the transcript contained
 8 herein is a full and accurate transcript of the notes
 9 taken by me at the hearing on the above cause before the
 10 FEDERAL TRADE COMMISSION to the best of my knowledge and
 11 belief.
 12
 13 DATED: FEBRUARY 13, 2009
 14
 15
 16 JOSETT F. WHALEN, RMR
 17
 18
 19 CERTIFICATION OF PROOFREADER
 20
 21 I HEREBY CERTIFY that I proofread the transcript
 22 for accuracy in spelling, hyphenation, punctuation and
 23 format.
 24
 25 DIANE QUADE

1 WITNESS: JAY LEHR
 2 DATE: February 13, 2009
 3 CASE: In the Matter of Daniel Chapter One and
 4 James Feijo
 5 Please note any errors and the corrections thereof on
 6 this errata sheet. The rules require a reason for any
 7 change or correction. It may be general, such as "to
 8 correct stenographic error" or "to clarify the record"
 9 or "to conform with the facts."
 10 PAGE LINE CORRECTION REASON FOR CHANGE
 11
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1 CERTIFICATE OF DEPONENT
 2 I hereby certify that I have read and examined
 3 the foregoing transcript, and the same is a true and
 4 accurate record of the testimony given by me.
 5 Any additions or corrections that I feel are
 6 necessary, I will attach on a separate sheet of paper to
 7 the original transcript.
 8
 9 JAY LEHR
 10
 11 I hereby certify that the individual
 12 representing himself/herself to be the above-named
 13 individual, appeared before me this
 14 day of , 2009, and
 15 executed the above certificate in my presence.
 16
 17
 18 NOTARY PUBLIC IN AND FOR
 19
 20 MY COMMISSION EXPIRES:
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[67]

31:7
suggestion 31:11
Suite 3:8,16
summary 40:17
 51:22
supplement 16:14
 34:1 39:3
supplements 16:3
 23:14,22 40:3
supplies 13:3
supply 7:11 11:11
 13:1
supplying 43:5
supposedly 34:3
sure 12:20 15:9
 36:13 48:9 52:11
survive 54:19
Swankin 3:15
sworn 4:6 5:14
system 30:3 32:6,10
 33:24 42:6,13 43:1
 43:6,15,17,20

T

T 57:1,1,1,19,19
take 6:3,11 11:3
 17:20 19:11 22:23
 23:11 25:6 30:5,12
 30:13,18 31:22
 32:15 33:6,14
 35:23 36:11 37:17
 41:18 45:6,14 46:5
 46:16,25 47:2,15
 47:16 50:12,14
 51:13 54:17 55:17
taken 16:2 17:18
 18:12,23 19:15
 25:16 38:24 41:11
 46:18 57:9
takes 19:3,3,5 38:16
 41:20
talk 21:3 40:1,7
 53:17
talking 6:11 53:13
talks 40:21
tank 7:7
taught 14:4
teach 14:1,6

technical 24:15,16
technologies 13:5,6
telephone 16:23
 18:4 20:5 24:12
television 11:17
tell 9:17 17:21 22:18
 23:16 33:3 37:6,14
 38:11 40:25 46:5
 50:19
ten 11:18 13:10 16:9
 18:2 25:17 31:5
tend 13:21 33:12
 41:21 42:23 54:24
tennis 55:2,9,10
term 51:5
terms 8:25 14:8,8
 15:12 21:16 24:4
 26:19 27:11,12
 29:14,18 32:7
 34:25 40:13 44:19
 46:7,22 53:24
terribly 48:24
test 18:15,18 29:5
tested 15:18,24 16:2
 16:5 30:1,11 45:24
 54:21
testified 4:6
testifying 5:15
testimony 4:25 6:19
 23:17,18,19 40:6
 40:11 55:21 58:4
testing 15:19 28:8
 28:11,13,16,19,20
 39:4 50:11 53:24
 54:2
tests 17:12 28:22
thank 5:9 11:20
 55:20,24
therapy 34:9
thereof 59:5
thing 39:23,24 44:4
 45:20 55:13
things 4:16 12:20
 14:3 16:3 18:20
 22:21 23:9 29:21
 33:12 34:9,21 35:9
 35:17,17 38:19

39:1 50:13
think 5:5 7:7 9:2
 10:16 18:13 33:4
 46:8 48:9,11 52:3
 52:15 53:9
third 13:24 44:4
thirty 30:14,19
 31:23 45:11,17
thought 22:1 24:5
 33:15
three 9:23 17:20
 18:14 21:19 22:2
 25:16 30:17,20
 31:15 37:16 42:17
 46:18 48:12
three-day 14:5
time 4:14 10:18 18:6
 24:9 32:14 37:18
 41:20 47:8 55:6
times 20:21 31:24
 37:22 42:15,15
 43:12 54:24
timing 44:25 46:7
tired 54:16
TITLE 57:4
today 4:16,24 5:2,15
 5:19 6:18,19 9:1,3
 9:3,9 19:23 34:11
 51:24
today's 8:25
told 39:16
tomorrow 46:6
torn 43:6
totally 24:18 30:18
Trade 1:1 2:2,12 3:3
 3:6 4:18 57:10
train 30:25
trained 52:19,22
training 16:15 31:14
 37:9 38:5 42:18,24
transcript 20:6,6
 37:3 57:7,8,21
 58:3,7
treat 19:16 34:3,4
treatment 15:2 28:5
 35:2
treatments 34:7,17

34:19
tremendous 26:17
 42:9
Triathlon 10:21
tried 18:20
true 43:9 44:15 58:3
try 13:3 16:15 22:17
 23:24,25 24:3
 31:20
trying 13:20 16:4
tumors 34:4
turned 44:14
Turner 3:14,15 5:2
 5:3,3,4,8 9:7,14
 17:1,2 20:3,5
 27:16,19 36:4
 52:11 55:22,23
twice 23:1
two 10:3 17:4 33:14
 45:6,10
type 47:13
typed 20:6
T-shirt 49:18,21

U

Uh-huh 5:8
ultimately 38:20
unknownst 26:11
uncertain 53:1
underground 13:22
 14:20
understand 5:14,21
 6:16 24:19
understanding
 24:17
Unfortunately 6:7
unique 24:11
UNITED 2:1
University 9:20,21
 14:15,15 16:12
 35:11
unusual 10:14
use 10:8 13:5 18:14
 22:2 37:21 38:3
 43:14
useful 18:21,22 22:2
 25:22
utilization 13:19

U.S 55:1

V

variety 12:12 24:1
 29:20 32:7 50:20
various 13:19 34:21
 43:5
vary 30:23
verbal 6:13,14
verbatim 37:3
Virginia 7:12,24
virtually 29:18 43:9
visiting 16:17
vitamin 23:21 29:20
 29:23 34:1
vitamins 22:21
 23:13 32:8 41:14
vomiting 33:10

W

W 3:5
waiting 21:10
waived 56:3
want 25:23 29:20
 35:7 36:11 41:5
 45:14,15
wanting 53:4
Washington 3:17
 7:11
wasn't 31:16 49:6
water 6:6 7:10,11,23
 10:3 11:10 12:24
 13:1,7,22 14:20,21
 15:2,3,4,8
way 20:22 43:8 54:4
ways 31:8
wear 55:6
wearing 55:9
Web 27:7,8,9
week 18:23 42:17
 48:14 50:9,10
weeks 16:21
week's 48:15
weightlifting 55:7
wells 13:22
well-tuned 31:17
went 41:16
Wesleyan 16:12

17:11	ride 45:25 46:1,3,4	seeing 49:4	six 13:10	statements 5:19
regarding 10:8 11:2	right 12:20 13:23	seeking 10:15	size 30:4 41:14,24	27:12
12:1 25:13 35:2	25:15 26:25 35:5	seen 21:24 24:20	skeptic 55:14	STATES 2:1
Region 3:7	54:14	27:9 33:13 34:12	skeptical 32:25 33:2	statistically 47:10
regular 49:8,9	rigor 46:14	34:18	slow 6:2	stay 33:12
regularly 25:17 49:7	RMR 57:16	self-trained 53:1	small 24:15 41:15	stenographic 59:8
relate 43:19 50:22	Road 8:1	sell 21:13	smallness 40:24	step 52:9
related 14:21 15:7	Roman 40:19	selling 27:15,24 55:4	42:1	stipulations 5:5,7
relating 14:19	rules 59:6	seminars 14:7	smart 55:8	stoked 30:7
relationship 29:4	run 30:14 54:14	senior 7:13 10:11	sold 28:4 29:23	stomach 45:15
religious 53:17,22	runs 48:12	13:13 14:1 23:23	solid 29:12	stop 6:4 24:2 50:13
remediation 14:3		sense 42:20	somebody 25:10	55:9
remember 8:7 11:14	S	sent 20:6 37:1	34:12	stopped 54:22
11:19,21 22:6	S 3:14 4:1	sentence 46:12	somewhat 45:13	store 29:24
30:20 48:19	satisfied 29:13	separate 58:6	son 16:11,17 48:6	stores 30:22 45:9
remind 55:17	Saturday-Sunday	series 29:11	55:4	story 54:13
replacement 23:9	46:4	serious 45:9	son-in-law 16:10	Street 3:16 7:22,23
replenishes 30:22	saying 4:15 6:12,13	seriously 45:24	18:25 19:3 48:3	strength 29:21
replenishing 45:8	says 22:25 33:23	serving 48:13,15	sore 18:19	strictly 40:4
report 1:9 9:4,8,8,9	36:14 37:7,8 40:17	set 32:19	sorry 12:22 35:22	strides 34:23
9:10,15 20:4 36:1	40:23 44:25 46:12	setting 45:9	40:19 41:3,5	strike 23:18
36:8,20 40:16	50:17	settle 45:16	sorts 32:2	studied 21:17
reported 22:16	scare 33:7	seven 31:24 42:17	South 7:22	studies 12:15 13:16
reporter 4:15 5:15	scene 50:23	shared 28:7,22	speak 4:13 6:1 9:14	15:13,15,16 23:2,3
6:10 35:23 50:2	schedule 49:8,9	30:11	19:14 30:7 44:22	29:3 33:24 34:20
representation 37:1	science 7:6 9:19	sharing 32:1	speaks 38:4	35:1,19 39:6,9,11
represented 5:2	12:5,14 14:16	sheet 58:6 59:6	specific 7:12 11:7	39:15,17,20 40:2
representing 4:19	15:12 21:16 50:23	She'd 54:12	21:11	44:15 46:23 47:1
58:12	52:15,17,20	she'll 54:9,16	specifications 53:15	47:16,18,21
require 59:6	scientific 12:10 24:7	short 14:2 51:18,22	specifics 43:18	study 15:17 23:3
requirements 29:20	26:2 29:13 34:14	show 13:21 20:17,19	speculate 33:21	34:14 37:10,14,16
research 13:2,18	34:25 35:19 37:9	20:24,25 21:1,5	spelling 57:22	47:1,13
14:19 33:25	46:14,19,22 50:21	53:19	spend 24:8	studying 15:14
reserves 32:7	scientist 7:9,13	showing 36:17	spent 31:5 41:9	stuff 33:11 45:11,16
resolution 13:11	13:14 14:1 33:1	44:16	spoke 9:7 20:3 36:24	subject 5:18 40:8
RESPONDENTS	40:12 52:23	sick 31:12	37:2	42:19,19
3:13	scientists 14:6,18	side 33:7,10,13 41:9	spoken 24:23,25	subjects 12:12
response 6:15	Scope 36:15 37:8	sign 20:7	25:18 34:2	substantiate 25:12
responses 6:14	screen 13:9	signature 56:3	staff 13:17	25:15
rest 44:21	searches 12:17,19	signed 9:8 20:8 36:2	standards 46:20,22	substantiation
result 20:4 32:4	15:14 23:6 25:24	36:3,4	start 31:7	25:11
results 16:16 22:16	26:2 28:23	significant 14:19	started 10:13 22:11	sudden 44:11
24:20 28:7 47:8	second 35:24 36:14	35:12 43:18 47:11	31:16 55:4	sued 8:18,18,21
returned 20:8	37:7 52:10	simulations 13:8	state 6:22 8:21	suffer 42:23
review 20:7 27:4,11	section 37:7 46:11	site 27:7,8,9	11:21 12:6 14:15	sugar 38:15,25
reviewed 19:18 27:7	see 26:7 31:22 37:12	situation 29:22	stated 19:19	suggested 16:14
27:9	40:7 50:12,13,14	situations 52:25	statement 42:5	18:21 25:5,7,21
	55:10,18			

[65]

38:10 O-S-T-R-A-N-D-... 8:2	32:5,15 42:10 43:2 perfect 38:15 performance 16:16 25:8 37:20,21 42:12 performed 39:18 performing 37:17 period 37:18 47:7 53:3 periodically 55:6,7 55:17 perjury 5:18 person 19:15 24:14 personal 8:8 23:3 personally 17:13,25 petroleum 13:6 pharmaceutical 15:18,20,23,24 physical 40:13 Ph.D 9:19 picolinate 29:21 picture 26:12 27:3 pill 48:21 placebo 47:6 plane 20:1 planet 16:4 please 5:22 6:2,11 6:22 7:20 9:17 11:15 27:21 59:5 pleased 26:16 plus 29:20 point 6:3 32:14 positive 35:13,16 positively 34:18 potential 33:5 powder 48:22 precisely 20:8 preclaim 25:11 predict 51:1 preparation 40:6 prepare 9:1,2,3 36:22 prepared 20:4 preparing 9:15 PrePost 16:14 17:16 19:1 23:8 26:10 28:21 29:1,16,17	30:19 31:3,22 32:21 37:24,25 38:2 39:5 41:5,6,7 45:3,6 46:5 48:10 53:7,25 54:18 prescription 15:25 33:7 presence 58:15 present 37:8 presented 25:10 preside 41:10 pretty 13:11 19:2 37:4 48:9 50:25 51:22 prevent 45:9 prevention 11:2 35:2 price 31:1 primary 12:7 Prince 7:23 Princeton 9:21 principal 15:17 prior 14:9,12 probably 11:24 12:11 14:23 21:10 21:24 29:22 45:10 45:14 51:20 54:9 problem 21:8 25:22 problems 21:2,2 40:4 proceedings 51:15 52:2 product 17:15 18:15 19:12 20:14 21:20 21:23 22:4,8,24 24:22 26:13 29:9 29:14,25 32:9 37:20,21,23 38:16 39:12,13 41:1,2,10 44:11 46:9 47:6,9 47:25 49:10,13,16 49:22,24 50:14 products 10:8 17:12 17:14,19,20 18:11 19:15,20 21:4,14 21:17,18 22:1 23:4 23:7 24:1,4 25:6	25:13,16 27:15,24 28:4,21 29:24 32:22 33:14,17,20 34:3 35:20 37:10 37:11,15,16 40:8 40:13 42:2 43:14 43:23 44:21 45:1 46:8,14,16,18,21 46:24 47:15,16 49:1,12 50:4 53:18 53:20 55:14,17 professional 29:6 professor 14:14 project 13:10 prominent 10:11 promoting 31:7 proofread 57:21 properly 12:20 protein 29:19 41:19 44:18 proteins 41:15 protein-to-carboh... 29:4 protocols 15:16 39:8 39:18 PUBLIC 58:18 publication 27:6 publications 12:6,11 punch 26:16 punctuation 57:22 purchased 49:1 pure 38:14 39:2 purer 38:22 pursuant 2:17 pursuit 13:7 put 12:5 34:10 55:11 puts 24:18	53:4 quote 53:20
P			R	
P 4:1 57:1,19 page 1:4 36:5,14 37:7 40:16 59:10 paid 20:1 pain 22:14 paper 58:6 part 35:6 43:21 participated 34:14 particle 30:4 41:14 41:24 particles 40:24 42:2 particular 24:10 25:22 39:25 41:23 46:1 particularly 29:3 44:7 party 8:15 patent 11:16,25 55:1 55:3 patients 34:10 Patricia 18:5 Pause 51:15 52:2 pay 49:10 paying 31:1 Paynter 1:5 3:4 4:8 4:17 5:4,9,10 6:9 17:3 27:17,20 28:2 36:10 50:5 51:7,11 52:5,9,13 55:20,24 peak 42:11 penalty 5:18 people 10:7,15,21 12:18,18 13:17 14:22 21:1 22:15 24:8 27:15,25 28:4 30:11,24 31:19 32:1,17 34:18,20 39:18 45:19 47:2 50:4,25 51:5 53:4 53:22 people's 15:4 percent 30:11 31:12 31:17,18,18,21,24	R 4:1 57:1,1,1,1,19 57:19,19,19 racing 10:13 radiation 34:8 radio 20:16 21:5 33:8 53:19 raising 41:24 ran 14:18 range 23:1 48:24 rapid 41:10 rapidity 30:2 rapidly 30:5 41:17 42:13 ratio 29:8 ratios 29:4 read 9:9,10,11 21:24 23:10 27:21,22 35:4,5,18 58:2 reading 22:6 56:3 real 47:6 really 16:2 24:6 29:6 29:6,12 30:6 31:19 31:25 32:11 33:6,9 44:10 51:19,19 55:14 realm 24:18 reason 32:2 39:25 59:6,10 reasons 29:13 31:21 recall 8:13 11:11,12 17:8 21:11 49:4 receipts 49:5 receive 49:2 received 50:17 Recess 36:7 52:12 recognized 43:11 recommended 45:19 45:22,23 record 6:8,23 27:22 36:6,16 50:1 55:25 58:4 59:8 recovery 41:9 Reform 12:9 reformulated 29:1			
			Q	
		QUADE 57:25 question 20:23 21:6 24:15 27:21,23 50:3 52:21 53:14 questions 10:23 11:5 24:5 36:12 55:22,23 quickly 6:1 quite 24:16 41:25		

53:2,5,10 57:10	long 9:24 22:21 24:16 29:10 35:13 37:18 41:11,20 50:8	measured 53:3 54:23	need 6:3,4,14 21:3 40:3,7	oh 11:12 17:6 19:2 35:22 39:10 49:20 50:9
knowledgeable 10:23	longer 41:19	medical 19:18 21:2 35:6,8 40:4	needed 32:11 41:17	Ohio 7:14 8:1 14:15 16:12
known 24:12	longest 14:10	medications 6:18	needs 6:13 29:18 32:7 40:13	okay 5:13,24,25 7:19 8:15 9:9 11:13,24 12:1 13:15 14:12 15:22 16:1,19 17:6,7,15 17:21,25 18:7 19:9 20:7 21:7,16 23:16 25:9,18 26:9,14,19 27:2,6,14 30:16 35:25 36:16,25 37:5 38:1 40:16 41:8 42:4 43:25 44:2,23 46:7 47:14 48:2 49:7,20,22 50:10,16 51:7 53:9 53:12 54:7 55:20 55:24
knows 47:4,5	long-term 37:16	meetings 50:24	negative 43:8	older 23:25
L	look 33:9 35:15,24 36:11 51:13	mention 15:10 44:4	neither 47:4	ones 17:21 21:17
lab 53:10,10	looked 15:2 22:1,19	mentioned 9:22 17:15 18:25 20:3 22:10 23:4 36:22 37:24 38:2 48:2 53:9,24	never 15:24 21:23 21:25 24:6,7 30:23 31:12 33:6 34:2,5 45:24 46:2 51:19 53:22	One's 19:19 32:22
label 26:13 27:3 38:4	looking 14:24 46:12 50:16	mentioning 52:14	new 2:14,14 3:9,9 29:3	one-foot 13:11
laboratory 39:18	lose 42:25	met 16:13 17:25 18:5,6 34:1 48:2	News 12:8,9	open 55:14
largest 13:9	losing 44:13	middle 23:1	newsletter 35:11	open-minded 33:3
LaSalle 7:22	lot 13:20 22:21 34:22 35:5,16 39:6 41:19 52:15	miles 30:15	newsletters 23:12 35:10	operating 43:1
lastly 44:25	M	mind 40:12 52:21 53:2 55:15,16	nonprofit 7:7	operation 14:19
lasts 48:14	maintain 5:5,7 18:3	mine 45:25	normal 31:19 51:20	opinion 32:21,24 34:16 37:9 46:13
learn 34:22	maintained 10:13	mineral 13:6 23:21 29:23	normally 30:14 49:11	Opinions 40:17
lectures 12:12	making 12:19 46:17 46:20 49:3	minerals 22:22 23:13 32:8 41:14	Northeast 3:7	opportunity 19:14 35:18
lecturing 35:7 50:20	manufacture 41:13 53:14	minor 25:22	NOTARY 58:18	opposite 44:14
led 31:10 55:15	manufactured 30:4	minutes 30:14,19 31:23 45:11,17	note 59:5	organizations 51:21
legislators 12:7	manufactures 53:7	Mito/ATP 17:24 37:25 38:13,22 39:21 48:23	noted 27:20	original 58:7
Lehr 1:5,9 4:4,11 5:11,11,12,13 6:24 8:3 36:8,9,17,18 51:9,14 52:6,7 58:9 59:1	marathon 30:15 54:9	month 50:12	notes 57:8	Ostrand 7:14 8:1
lengthy 30:13	marathoner 54:8	months 24:1	notice 2:17	ought 32:1 33:9
let's 13:18 23:12 29:6 30:14 40:1 46:24	mark 35:22,23 51:8 51:25 52:5	morning 4:9,10	notion 40:23	outcome 24:10
level 10:13 41:25 54:22	marked 36:9 51:10 51:12 52:8	muscle 38:15,16,17 38:21	number 1:9,10,11 12:6 13:12 17:13 18:20 20:21 23:11 24:1 28:22 31:9 36:8 43:10 51:9,14 52:6,7 57:3	outside 33:22 38:22 40:15
levels 30:25	materials 9:11 12:10	M-I-T-O-slash-A-... 17:24	N.W 3:16	outstanding 40:12
liable 42:25	matter 2:4,16 4:25 8:8 59:3	N	O	oversee 12:5,9,14
life 23:22,24 33:2	meal 23:8	N 1:2 4:1 57:1,19	O 4:1 57:1,1,1,19,19 57:19,19	owner 4:21
line 46:9 59:10	mean 12:16 25:6,21 27:3 30:18 33:1,22 34:8,9,11,23 41:18 41:19 42:17,19,21 45:8 46:3 49:6 52:22 53:13 54:13 54:20 55:1	name 4:17 6:22,24 6:25 46:4 48:5	oath 5:15	oxygen-carrying
list 1:11 22:21 35:14 51:20 52:3,7	means 40:25 47:5	names 12:23	Objection 27:16,19	
listen 50:24	meant 17:1	National 54:10	objections 5:6	
literally 37:21	measure 46:19 47:8	natural 15:3	obvious 53:20	
literature 12:17 15:14 23:6 25:24 26:2 28:23 35:4,6 35:8		nature 16:3 34:9	obviously 34:22 42:21	
little 6:1 26:12 55:3 55:4		nausea 33:10	officer 2:8	
live 29:17		necessary 58:6	offices 7:17,20	
local 8:23				
locate 13:3				

[63]

26:7 28:18 50:8
general 11:6 20:15
 43:13 46:8 59:7
generally 10:7 20:24
 45:17 48:12
geological 13:19
getting 21:8
give 4:25 6:14 7:19
 10:7 12:11 22:17
 25:11 30:7 40:11
 47:3 49:21,22,25
 50:3,4
given 25:9 32:14
 49:12,13,15,24
 58:4
giving 40:6 54:12
Global 7:10,23 10:3
 12:24
go 6:21 43:22
goes 30:4 38:21 41:1
 44:20 46:2,8 54:14
 55:12
going 5:22 26:15
 32:11 35:22 36:11
 37:19 38:19 40:16
 42:10,16 43:7 47:2
 50:11 51:1,8 52:5
 52:9 55:9
good 4:9,10 11:13
 22:12 23:25 24:5,6
 33:15 39:2 50:25
gotten 36:4 46:17
government 8:16,19
 8:23
great 14:2 34:23
 44:11 51:3
Green 2:13 3:8
grew 23:25 55:5
groundbreaking
 13:18
groundwater 13:2,3
 14:17
group 54:10
guess 14:9 15:23
 43:24 50:16 53:21
guest 20:20

H

habit 31:13
half 30:5
handle 32:19
happening 32:3
happens 55:10
happy 5:23
hard 42:24
harm 33:4
Hawaiian 10:12
health 10:18 12:9
 15:4,5 21:2 23:12
 29:23,24 35:7,10
healthy 11:4
hear 33:8
heard 21:7,23 22:4,6
 22:8
hearing 34:20 57:5
 57:9
Heartland 7:7,21
 10:1 12:2,4,13,15
 12:17
help 22:13 27:15,24
 28:4
helped 19:20
Herb 22:5 25:1 26:3
 26:19 28:16 47:25
herbal 10:8 16:3
herbs 10:24 11:3,7
high 30:25
highly 46:13
high-endurance
 38:2
high-level 13:7,12
 29:7
himself/herself
 58:12
hip 18:19 22:14
holds 51:2
home 11:17
hour 30:6 45:13
hours 30:8,17,20
 31:5,15 42:17 45:3
 45:6,10 54:16
Houseman 8:1
housework 54:15
human 15:5
humans 35:3

hundred 30:10,15
 31:12,16,18,21,24
 32:5,15 37:22
 42:10 43:2
hundreds 14:5
hyphenation 57:22

I

ID 1:8
idea 53:11
ideas 40:22 55:15
identification 36:9
 36:19 51:10,14
 52:8
identified 36:18
identify 51:13
II 37:7
Illinois 7:22
immediately 30:12
 45:15
immune 32:6,9 42:6
 42:13 43:1,6,15,17
 43:20
impact 24:2 29:15
 30:10 31:22 35:13
 35:16 41:3,7,24
 42:9
impacted 34:18
important 29:7
 30:10 43:20
impression 43:25
 44:1,3,20
impressive 33:16
improve 25:7
improved 34:20
included 10:17
including 35:14
increased 44:16
increases 38:10
independent 14:7
indicating 50:18
 54:18
indication 49:2
individual 14:7
 58:11,13
individually 2:7
individuals 46:24
industry 34:1

inference 46:18,20
information 24:3
 46:17 51:4
infringement 11:16
 11:24,25
ingredients 23:13
 43:5 44:14
initiated 50:1
instantaneous 41:4
Institute 7:7,21 10:1
 12:13
institution 13:24
institutions 9:23
intelligent 24:14
intend 23:18,19
intended 38:9
interesting 22:16
 31:7 35:17
interests 40:4
internal 38:19
international 7:10
 13:1
interpret 43:16
interview 9:8
interviewed 20:5,13
introduce 36:15
introduced 16:11,12
 16:16
invariably 55:10
invent 55:8
invented 55:2
investigation 13:6
investigator 15:17
involved 14:13
 15:13,19 26:20
 35:1
involvement 20:13
 26:9 27:2
Ironman 10:12,20
 10:21 49:18
issue 42:2 44:20
issues 14:19
IV 40:19

J

James 2:7 3:14 57:4
 59:4
Janet 54:17

Jay 1:5,9 4:4 6:24
 36:9 58:9 59:1
Jim 4:21 5:3 9:7
 16:11,13,23 17:1,2
 18:1,6,20 20:22
 21:3 33:23 39:11
 52:15
Jims 17:4
jim@swankin-tur...
 3:19
job 51:19
jobs 1:11 51:21 52:4
 52:7
JOSETT 57:16
jumping 26:12

K

Kansas 11:17
keep 11:4
kind 8:6 11:3 12:9
 26:17 31:6 33:11
 34:14 43:9 51:1
kinds 13:16,19 16:3
 35:1
know 4:13 6:10
 11:10,23 15:4,10
 15:15 19:2,5,7,8
 19:11 21:25 22:20
 23:9,11 24:7,8,16
 24:19,21 25:5,6
 26:16 27:10 30:6
 31:17,19,21 32:1,5
 32:7,9,10,13,14,16
 32:18,20,24 33:4,8
 33:10,21 34:10,12
 34:19 35:15,16
 36:15 37:19,22,24
 38:1,1,22,25 39:4
 39:6,9,10,12,14,16
 41:16,18 42:1,3,15
 43:7,15 44:24
 45:12,16,18 46:10
 48:5,19 49:17 51:5
 51:18,20 52:16,19
 52:22 53:6,13,16
 55:15,16
knowledge 24:17
 31:4 40:11 52:15

57:19,19,19	10:6 13:25	experiment 43:12	favorite 35:10	five 31:9 32:13
early 10:12 18:23	entirely 25:7	expert 1:9 8:10 11:8	February 2:10 57:5	Florida 10:21 49:19
41:11	environment 15:5,6	15:11 25:10 34:21	57:13 59:2	focus 43:17
earth 7:10,23 10:3	environmental 7:14	36:9,20 40:6	federal 1:1 2:2,12	focused 21:25
12:24 13:11	7:15,25 9:19 10:5	expertise 33:22	3:3,6 4:18 8:16,18	follows 4:6 27:22
easier 41:22	12:8 13:25 14:2,5	40:15	11:22,24 57:10	food 38:18
easiest 20:22	14:10	EXPIRES 58:20	feeding 30:3	foods 41:18
eat 38:18 41:19,21	equally 33:16	explain 21:3 24:9	feel 31:21 32:15	fooling 54:25
economic 50:22	Eric 48:7,8	52:24	40:10 46:6 50:15	foregoing 56:1 58:3
economist 50:18	errata 59:6	explained 32:4	50:25 58:5	foreign 13:3,13
education 7:14,15	error 59:8	41:12 42:12,14	feeling 32:5 42:10	forever 41:18
7:25 10:5 13:25	errors 59:5	43:3 44:15	feet 13:10,10	forget 45:24 54:17
14:10	ESQ 3:4,5,14	explanations 39:12	Feijo 2:7 4:21 16:13	forgotten 12:22
educational 9:17	essentially 23:24	39:19	16:17,24 17:11	form 5:7 38:15,23
effective 32:23	32:9 38:19	explored 40:23	18:1,5 20:14 22:12	41:13
34:17 55:18	event 30:6,13,17,19	exposure 51:6	24:6,11 25:18 28:7	format 57:23
effects 33:7,10,13	30:21 41:20 45:7	extend 33:19 45:10	31:2 33:23 39:11	forms 34:23 35:14
54:23	events 31:10 37:17	extensive 28:25 29:5	39:14,16 41:12	formula 22:5 25:1
efficacy 23:11 24:4	everybody 19:2 55:4	29:11 35:4	43:13 48:3 52:15	26:3,19 28:16 31:2
37:10 45:12	exact 52:16	extent 10:22 34:13	57:4 59:4	44:9 47:25
effort 15:17	exactly 55:13	extra 32:16	Feijo's 16:11 48:6	formulation 33:14
eight 31:24	examination 1:4 4:5	extraordinary	felt 29:7 33:13	39:7 42:12 43:3
eighteen 10:6	4:7	35:13	field 53:4	44:12
either 16:23 26:22	examined 4:6 58:2	extraordinary 16:16	fifteen 11:18,18	forty 12:11 43:12
30:2	example 12:1 25:25	31:10 42:18	45:10,17	forward 5:22
elbow 55:2,9,11	40:1	extreme 42:22	fifty 10:17 50:21,23	found 24:7,11,13
ElectroCarb 18:13	exceptional 30:8	extremely 41:10	50:24	26:12 30:23 31:23
18:14	exceptions 43:9	e-mail 16:23 17:8	fight 32:10 42:25	32:24 43:8 45:19
electrolyte 18:12	Excuse 17:1	18:4 24:13	43:7	four 23:1,3 31:15
eleven 16:9	executed 58:15		figure 22:16 47:9	40:21 42:17 48:12
elite 54:8	executive 14:16	F	figured 13:5 55:2	fourteen 10:2
employed 7:3,5	exercise 30:6,9	F 57:1,1,16,19,19,19	final 38:16	framework 44:5,19
endeavors 50:21	35:12	fact 28:25 31:6	finally 31:25	free 49:12,13,16
endurance 16:10	exhibit 1:8 36:8,18	44:10	find 13:23 15:3	Friday 2:10
30:13 32:20 42:22	51:8,9,14 52:6,7	facts 59:9	33:25 53:4	friend 45:25
54:20	existence 13:22	fairly 10:11,18	finding 18:22 32:4	FTC's 16:20
Endurosine 17:23	expected 24:21	14:18 43:20	35:12	fuel 38:17
37:25 38:9,12	expenses 19:25	false 5:19	finish 4:14 6:12,12	full 48:13 57:8
39:15 48:17 54:21	expensive 44:14	familiar 15:15 21:20	30:17	functioning 32:6,15
energy 23:8 30:3,8	48:25	23:14 34:6,8 39:7	finishing 30:19	furnace 30:7
30:22 38:14,23,25	experience 33:17	39:17 46:23 52:25	Firm 10:17	future 51:2
39:3 41:25 44:5,16	37:9 51:6	familiarity 28:3	first 4:5 9:24 16:19	futurist 50:18
44:19 45:8	experiences 10:17	far 31:3 33:19 37:6	32:3 42:8	
engineering 9:20	17:11	fare 20:1,2	fit 10:17 42:22	G
Engineers 14:18	experiencing 24:9	fatigue 42:19,23	fitness 10:14,18 35:7	G 4:1
ensure 54:25	43:4	45:9	fitter 35:15	gardening 54:15
Enterprises 7:14,25		fatigued 30:25 43:1	fittest 16:4	GDU 18:16,18,21
		fats 29:19 41:14		22:10,18 25:18

54:10 change 29:8,12 59:7 59:10 changed 44:8,12 changing 44:13 Chapter 2:5,8 4:20 9:12 16:8,20 17:18 18:8,10 19:12,15 19:19 20:14,16 21:13,18 23:20 26:10 32:22 35:19 39:5,15 41:3 46:9 47:12 49:2 53:6 57:4 59:3 chemical 13:20 38:19 chemicals 15:3 chemistry 13:20 14:3 24:17 52:24 chemotherapy 34:9 Chicago 7:8,22 chief 7:9 13:13 chromium 29:21 circumstances 8:6 8:13 10:10 18:17 49:15 City 11:17 claims 19:19 25:12 25:15 clarify 5:23 59:8 Climate 12:8 close 37:4 coauthors 15:10 cohort 47:2,3 colleagues 15:1 college 14:14 16:18 come 11:5 16:22 44:15 55:8 comes 55:11 coming 25:9 commission 1:1 2:2 2:12 3:3,6 4:18,19 57:10 58:20 committed 23:24 common 10:19 companies 24:8 company 7:9,11,15	13:1 16:7 17:11 27:15,24 45:22 compensated 19:22 competitors 10:12 completed 10:16 compliment 26:17 components 23:7 25:19 28:23 29:16 computer 13:9 concept 43:14 46:8 conceptual 40:22 concern 44:21 concerned 29:2,10 concluded 46:13 56:2 conduct 12:18 conducted 39:15 conducting 12:19 conform 59:9 connection 10:25 47:14,16,19,23 consensus 50:25 consider 40:15 considerably 30:16 considered 46:23 consternate 24:20 consulted 10:24 consumption 45:1 46:7 contact 17:9 18:3 contained 39:19 57:7 contains 29:22 contaminated 14:22 controlled 15:13,15 15:16,17 conventional 23:13 34:7,17 conversation 20:10 20:12 43:16 conversations 21:11 24:13 29:11 43:19 convinced 29:11 53:5 copy 36:1,20 51:17 corporation 2:5 correct 4:25 5:1,16	5:19 12:21 15:24 17:16 47:15,19,20 47:22,23,24 48:1,4 59:8 correction 59:7,10 corrections 58:5 59:5 correctness 12:10 cost 48:10,18,23 counsels 4:19 countries 13:3,13 couple 23:9 courses 14:2,5 court 4:15 5:15 6:10 11:21 35:23 50:2 co-counsel 4:22 cpaynter@ftc.gov 3:11 create 39:11 created 31:2 39:13 40:14 creates 38:17 creating 24:22 44:4 credible 33:25 46:14 Credit 49:11 critical 45:2,5 crystal 51:2 cure 19:20 33:20 35:2 55:2,9 currently 7:3 9:22 CV 1:10 50:17 51:8 51:9,12,20,25 cyclists 29:6,7	DATED 57:13 David 3:5 4:22 day 17:20 19:3,4 22:3 23:1 31:15,25 32:14 42:16 46:2 58:14 days 42:17 DCO 37:10,10,15 46:13 deal 11:6 14:2 40:12 51:3 decade 53:3 decided 31:20 deciding 31:16 declines 45:12 definitely 15:11 44:3 45:9 degree 9:20 degrees 53:1 DEPONENT 58:1 deposed 8:3,10 deposition 2:17 8:25 36:8 51:9 52:7 56:1 describe 17:10 42:7 52:22 DESCRIPTION 1:8 detailed 24:15 determine 13:21 47:10 develop 13:15 developed 12:6 development 13:2 device 55:3,11 DIANE 57:25 diet 11:6 diets 34:10,21 difference 55:19 differences 47:10 different 9:23 18:20 30:1 50:15 51:2,21 51:21 digest 41:19,21 director 7:6 14:16 discovered 16:14 42:8 45:21 discussed 39:10	40:22 53:22 discussing 31:6 discussion 6:8 28:25 32:12 36:6 39:19 50:1 discussions 41:12 diseases 35:14 distillate 38:14 distilled 38:21 distills 38:20 disturbed 44:10 Docket 2:6 DOCKET/FILE 57:3 document 51:24 doing 6:2 10:20 12:19,25 13:7 15:13 44:11 45:16 54:14,15 dollars 48:11,12,20 domestic 15:2 donation 49:3 dosage 22:23 double-blind 47:1,5 47:21 Doug 46:4 downed 11:17 downside 32:17 33:5 downtown 20:2 dozen 23:9 dozens 30:1 45:18 Dr 4:11 5:11,12,13 8:3 36:17 dramatically 30:23 drill 13:22 drink 18:12 23:8 54:17 drinking 7:10 drug 33:7 47:3 drugs 15:18,20,25 33:8 46:24 Duathlon 54:10 Dulabon 3:5 4:22 duly 4:6 D.C 3:17 7:11
		D		
		D 1:2 4:1 57:19 daily 18:14 29:19 Daniel 2:5,8 4:20 9:12 16:8,20 17:18 18:8,10 19:12,15 19:19 20:14,16 21:13,18 23:20 26:10 32:22 35:19 39:5,15 41:3 46:9 47:12 49:2 53:6 57:4 59:3 data 13:8,19,20,21 DATE 57:5 59:2		
				E

A				
able 32:19 40:12 41:13 52:22,23	amounts 35:12	authority 8:21	big 55:5	12:7,9 14:17 16:8
above-entitled 2:16	and/or 21:2	availability 44:16	bike 30:15 45:25	16:14 17:15,23,23
above-named 58:12	answer 10:23 24:16	average 32:17	biochemist 24:14	18:13,15 20:21
absolutely 24:11 30:22	answers 21:6 24:7	aware 4:24 16:7,19 18:10 20:16 27:14	biology 14:3 24:18	21:20 31:25 34:6
absorbed 41:15	anybody 30:24	27:23 28:10,13,17	biomechanics 52:24	46:6
acceptable 46:23	anyone's 38:3	28:18,20 31:3 38:6	BioMixx 22:8 25:3 26:5,25 28:8,11	calling 21:7
accuracy 57:22	apart 9:14	47:12,14,15,18	47:23	call-in 21:1
accurate 20:8 51:16 57:8 58:4	appear 35:5	50:22 53:21	biomolecular 52:24	calories 32:8,18,19
accused 44:12	APPEARANCES 3:1	a.m 2:17 56:2	Bio*Shark 21:21 24:23 25:25 26:22	camera 11:17
action 4:19,20 8:15 16:20 40:9	appeared 11:8 20:19 58:13		28:14 40:1,2 47:19	cancer 10:25 11:2 15:7,11 19:16,20
actual 39:7	appearing 19:22 35:9	B	bit 29:22	21:8,8 27:18,25
added 15:4	appears 30:3	back 27:21 31:23 37:19 42:9 43:6,10	blast 38:25	28:5 33:20 34:3,7
adding 38:15	applied 51:19	55:11,11	bleeding 33:10	34:12,15,17,24
additional 32:19	area 33:22 40:15	background 9:18 15:12 34:25 35:8	blood 38:11	35:2,14
additionally 31:13	areas 51:2	52:16	bloodstream 30:5 41:16	candy 38:24
additions 58:5	Arizona 9:20 14:15	bacteria 42:24	body 24:21 29:18 30:18 31:19 32:11	canister 48:11
addresses 7:19	arthritic 18:19	balance 29:19 44:6 44:6,7,17	38:17,20,22 41:16	capacity 38:10
adenotriphosphate 38:16,18	arthritis 22:13,15 50:14	ball 51:3	41:20 42:11,25	capsule 48:22
advanced 13:4	asked 5:23 11:3 16:25 17:10 20:7	bar 38:24	43:8 45:4,12	capsules 23:1
advantages 42:21	27:11 32:3 37:8	base 46:16	bonks 30:18	carb 44:6
advertised 33:8	asking 10:22 25:14	based 33:24 37:9 51:2,3	book 10:16 15:1	carbohydrate 29:19 44:17
advertising 26:10,20	aspects 50:22	Basically 13:5	born 55:14	carbohydrates 41:15,21
advice 10:8,15,22 21:1,9	assemblages 13:21	basis 25:12 46:15	Boston 54:9	carbohydrate-fat-... 44:7
affect 6:19 15:4 28:23	assess 43:15	beating 42:20	bottle 22:19,25 31:22 32:16 48:20	card 49:11
age 54:10	assessing 42:5	becoming 30:25	bottles 6:6	career 41:11
ago 8:14 11:9,18 16:9,21 18:2 29:1 31:9	assessment 51:3	beefed 32:9	Bowling 2:13 3:8	careful 4:14
agree 5:4	assist 23:19	beginning 18:15,17 35:15	break 6:3	Carole 3:4 4:17
ahold 20:22	association 14:17,17	behalf 3:3,13 12:12	bringing 42:9	case 4:23 9:4 11:16 17:5 27:14,23
aim 45:17	astounding 45:18	belief 33:24 57:11	brings 46:13	34:20 41:23 57:4
airplane 26:12	athlete 10:11 16:10 23:23,23 31:11,17	beliefs 53:18	broad 51:6	59:3
Alexandria 7:11,24	42:22 54:20	believe 33:15,23 39:16 46:6 48:7	broadly 50:22	cases 24:3
Alleged 27:19	athletes 28:24 29:5 32:20 38:2	beneficial 14:22	build 43:6	catalog 22:7
allows 30:24	athletic 25:8 30:13 37:17 38:4 40:5	benefited 31:8	building 43:20	catalogs 21:24
altering 44:17	41:11,20	Berkeley 35:11	builds 42:13	cause 57:9
amazing 41:25 53:5	athleticism 10:14	best 31:4 45:11 57:10	business 55:4,5	certain 41:18
AMERICA 2:1	ATP 38:21 39:2	better 29:14 31:19 38:12	C 4:1 57:1,1,19,19	certainly 38:4 42:18
amount 30:8 42:18	attach 58:6	beyond 21:17 23:2 27:3 45:10	cab 20:1	certificate 58:1,15
	attend 50:24	bible 53:21	calculated 55:1	certify 57:7,21 58:2 58:11
	attorney 4:18,23		California 35:11	challenged 17:14 44:8
			call 16:23	Championship
			called 4:5 7:9 10:16	

<p>we'll 5:7 6:4 we're 4:24 5:22 6:11 13:4,12,23 51:1,7 52:5,9,10 55:25 we've 5:6 14:4 31:4 34:23,24 51:12 WHALEN 57:16 wide 12:12 24:1 50:20 wife 19:3,11 54:6 willing 17:10 win 54:9 wind 38:11 window 45:8,11 wipes 46:3 witness 1:4,9 4:5 8:10 11:9 17:2 28:1 36:9 50:3 59:1 won 10:20 49:18 word 21:25 words 23:17 25:11 37:2 38:24 wore 49:17,18 work 7:16,16 13:12 14:12 31:14 33:4 33:16 35:6 36:15 37:8 42:16 43:18 43:23 46:2 worked 13:18 18:7 working 9:22,24 13:12 14:9 29:2,9 works 30:2 32:21 55:3 world 13:4 14:6 world's 13:9 wouldn't 15:24 42:11 write 9:4 12:10 wrote 15:1 <p style="text-align: center;">X</p> <p>X 1:2 <p style="text-align: center;">Y</p> <p>yeah 11:10 14:11 37:4,6 52:3,3 year 10:21 12:12</p> </p></p>	<p>50:24 54:11 years 8:14 10:2,4,6 11:9,18 14:1,4,8 16:9 18:2 23:10 24:12 25:17 29:1 31:5,9 32:13 42:8 43:10 46:1,19 50:21,23 York 2:14,14 3:9,9 youth 23:25 <p style="text-align: center;">1</p> <p>1 1:9 36:8,18 10 7:23 10:34 2:17 10004 2:14 3:9 101 3:16 11:57 56:2 13 2:10 57:5,13 59:2 1400 3:16 15 48:19 16th 3:16 16-mile 54:14 19 7:22 1981 10:13 1991 10:16 <p style="text-align: center;">2</p> <p>2 1:10 51:9,14 20 48:20 200-mile 45:25 20036 3:17 2009 2:10 57:5,13 58:14 59:2 202 3:18 212 3:10 26 48:11 28 48:11 <p style="text-align: center;">3</p> <p>3 1:11 52:6,7 318 3:8 36 1:9 <p style="text-align: center;">4</p> <p>4 1:5 45 8:14 462-8800 3:18</p> </p></p></p></p>	<p style="text-align: center;">5</p> <p>51 1:10 52 1:11 55 54:11 585 32:18 <p style="text-align: center;">6</p> <p>6011 8:1 607-2813 3:10 67 31:18 <p style="text-align: center;">7</p> <p>7 22:5 25:1 26:3,19 28:16 47:25 72-year-old 10:15 16:4 <p style="text-align: center;">8</p> <p>83 31:18 <p style="text-align: center;">9</p> <p>9329 2:6 57:3</p> </p></p></p></p>		
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In the Matter of:

Daniel Chapter One, et al.

February 17, 2009
Sally Blake LaMont, N.D.

Condensed Transcript with Word Index



For The Record, Inc.
(301) 870-8025 - www.ftrinc.net - (800) 921-5555

FEDERAL TRADE COMMISSION

I N D E X

WITNESS:	EXAMINATION:	PAGE
SALLY B. LaMONT, N.D.	BY MR. ZANG	4

EXHIBIT:	DESCRIPTION	FOR ID
Number 1	6-2-08 letter to T. Zang and R. Waldman from J. Turner w/enclosures	57
Number 2	Respondents's Responses to Complaint Counsel's First Set of Interrogatories	59
Number 3	1-27-09 letter to L. Gordon, et al., from J. Turner w/attachments	81
Number 4	3-10-02 Letter from Joseph Fins, M.D. and Tieraona Low Dog, M.D.	97
Number 5	Exhibits A through D of the FTC's complaint	121
Number 6	Medicinal Plants of the World excerpt	154
Number 7	Web site page	154

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1 UNITED STATES OF AMERICA
2 FEDERAL TRADE COMMISSION
3

4 In the Matter of:)
5 DANIEL CHAPTER ONE, a corporation,)
6 and) Docket No. 9329
7 JAMES FEIJO, individually and as)
8 an officer of Daniel Chapter One)
9 -----)

10 Tuesday, February 17, 2009
11
12 Room 318
13 Federal Trade Commission
14 One Bowling Green
15 New York, New York 10004
16

17 The above-entitled matter came on for
18 deposition, pursuant to notice, at 9:30 a.m.
19
20
21
22
23
24
25

1 PROCEEDINGS
2 - - - - -
3

4 Whereupon --
5 SALLY BLAKE LaMONT, N.D.
6 a witness, called for examination, having been first
7 duly sworn, was examined and testified as follows:
8 EXAMINATION

9 BY MR. ZANG:
10 Q. Good morning, Dr. LaMont.
11 My name again is Theodore Zang, and I'm an
12 attorney representing the Federal Trade Commission.
13 This is a deposition in the action of the
14 Federal Trade Commission versus Daniel Chapter One and
15 James Feijo, and the deposition is being taken now for
16 all purposes in this case.

17 A couple of procedural things before we go into
18 the substance of the deposition.

19 I want the record to reflect that you are
20 represented today by counsel. Is that correct?

21 A. Yes.
22 MR. ZANG: And Jim, do you want to introduce
23 yourselves?

24 MR. J. TURNER: Yeah.
25 Jim Turner, Swankin & Turner, and
Christopher Turner from Swankin & Turner.

1 APPEARANCES:

2
3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:

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5 Federal Trade Commission
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11

12 ON BEHALF OF THE RESPONDENTS:

13 JAMES S. TURNER, ESQ.
14 CHRISTOPHER B. TURNER, ESQ.
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21
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23
24
25

1 Betsy Lehrfeld will be joining us in the
2 afternoon.

3 MR. ZANG: Okay.
4 And one of my colleagues may be coming in
5 shortly as well, David Dulabon.

6 THE WITNESS: Okay.
7 MR. ZANG: And also procedurally, Jim, can we
8 agree to the same procedural rules that we've been
9 following, which is that all objections except as to the
10 form of the question and as to the claim of privilege
11 are reserved?

12 MR. J. TURNER: Yes.

13 MR. ZANG: Okay.

14 BY MR. ZANG:
15 Q. Dr. LaMont, have you ever had your deposition
16 taken before?

17 A. No, I haven't.

18 Q. So let me tell you a little bit about the ground
19 rules. And I'm sure that Mr. Turner has said something
20 similar to you, but it's a very odd experience if you've
21 never had your deposition taken before.

22 So one thing I want to remind you of is that we
23 have a court reporter here, and she's taking down
24 everything that everybody says, and it's important to
25 articulate your answer rather than to shake your head as

Page 6

1 you might otherwise do in conversation.
 2 A. Right.
 3 Q. Okay. And if you don't understand a question
 4 that I ask, please let me know, and I'll do my best to
 5 state it again.
 6 A. Okay.
 7 Q. If at any point you need to take a break, please
 8 let me know, and we can stop and do that.
 9 A. Okay.
 10 Q. But one question which I need to ask is whether
 11 you're taking any medication today which would prevent
 12 you from testifying truthfully and accurately.
 13 A. No.
 14 Q. And is there any other reason why you wouldn't
 15 be able to testify truthfully and accurately?
 16 A. No.
 17 Q. Okay. If at any point you give an answer and
 18 then you realize that you want to change that answer or
 19 supplement it, please let me know because, again, the
 20 important point is to have a full and accurate record --
 21 A. Right.
 22 Q. -- so I'd like you to do that if that should
 23 occur.
 24 A. Okay.
 25 Q. All right. Before we begin, do you have any

Page 7

1 questions?
 2 A. I don't think so.
 3 Q. All right. Let's go ahead then.
 4 A. All right.
 5 Q. So can you state your full name for the record,
 6 please.
 7 A. Sally Blake LaMont.
 8 Q. And can you also provide your business address,
 9 please. If it's the same as your home address, that's
 10 fine, too.
 11 A. Well, I have a practice, a part-time practice.
 12 Which would you prefer?
 13 Q. The practice address is fine.
 14 A. Okay. 131 Camino Alto, Suite F, in Mill Valley,
 15 California, 94941, if you need that.
 16 MR. ZANG: And Mr. Turner, now that we're into
 17 the substance, could you please state what Dr. LaMont is
 18 being offered as an expert in.
 19 MR. J. TURNER: Yes.
 20 She's an expert in naturopathic medicine, herbal
 21 medicine, functional medicine, which would encompass
 22 those, and acupuncture and in -- she is an -- we're
 23 offering her as an expert on nutritional supplements and
 24 botanical medicines in the prevention and treatment of
 25 illness and as an expert in reviewing the evidence that

Page 8

1 supports the functional uses of the four products that
 2 are the challenged products.
 3 MR. ZANG: All right.
 4 BY MR. ZANG:
 5 Q. And Dr. LaMont, have you ever been a party to a
 6 lawsuit before?
 7 A. No.
 8 Q. Why don't you describe briefly your educational
 9 background, please.
 10 A. All right. I have an undergraduate degree in
 11 human biology with an emphasis in microbiology from
 12 Wichita State University in Wichita, Kansas, where I
 13 grew up.
 14 And I then went on to the National College of
 15 Naturopathic Medicine in Portland, Oregon -- and that's
 16 a four-year, graduate-level naturopathic medical
 17 school -- and took board exams for that. And I can
 18 define that later.
 19 And then I went through the Emperor's College of
 20 Traditional Oriental Medicine in Santa Monica,
 21 California, Los Angeles area, and earned my degree as an
 22 acupuncturist there and as a naturopathic doctor at the
 23 first school, the National College of Naturopathic
 24 Medicine.
 25 Q. And what I want to do now is briefly put on the

Page 9

1 record your employment background, so let's begin with
 2 the present time.
 3 Are you presently employed or working for
 4 yourself in some capacity?
 5 A. Yes. I have a private practice in Mill Valley,
 6 and so I am self-employed.
 7 Q. And can you describe briefly the nature of your
 8 private practice?
 9 A. Yes. And maybe it would be helpful just to
 10 describe naturopathic medicine and my work as an N.D.
 11 and as an acupuncturist.
 12 Q. Sure, that would be helpful.
 13 A. Right.
 14 So naturopathic medicine is a primary
 15 healthcare practice that focuses on health promotion
 16 and disease prevention and the treatment of disease
 17 with an array of natural therapies that strengthen the
 18 body's innate healing capacities.
 19 And naturopathic doctors provide
 20 patient-centered care and practice what would be termed
 21 functional medicine, which addresses the unique
 22 genetic, environmental and lifestyle factors that
 23 contribute to chronic disease and, you know, influence
 24 our health.
 25 Q. Let me ask you a question about that.

1 A. Right.
2 Q. So when you are engaging in naturopathic
3 medicine, do you ever work in conjunction with I guess I
4 would call it a traditional physician?

5 A. Absolutely. Yes.
6 Q. And could you describe a little bit how that
7 process works.

8 A. Right. Right.
9 I'm independently licensed to diagnose and
10 treat disease, so I do do that, and I run lab tests and
11 do physical exams and do very thorough intakes. And in
12 the course of that, if -- well, often patients come to
13 me having already been working with a doctor,
14 conventional doctor, and they are looking for me to
15 comanage their care in that regard.

16 But if in the course of doing a workup on a
17 patient I find some potentially life-threatening
18 problem, say, an abnormal cardiac rhythm or a diagnosis
19 that looks like it could be cancer or, say, some kind of
20 a psychiatric emergency, then I would absolutely refer.
21 I'm trained to refer and then to comanage patient care
22 from then on.

23 You know, naturopathic doctors are trained in
24 the basic biomedical sciences. The first two years of
25 our training are the anatomy, physiology, pathology,

1 cadaver dissection, embryology, microbiology, all those
2 basic medical sciences, so we know medical terminology
3 and can intelligently discuss patient care.

4 And the last two years of our training focuses
5 on what we'd call the organ system studies, so
6 gastroenterology and cardiology and gynecology and the
7 rest of the "-ologies," if you will.

8 And we study nutritional medicine during that
9 time. We have two years of nutritional medicine and
10 study nutritional pharmacology, which is the use of
11 nutrients as pharmacological agents to prevent and to
12 treat disease.

13 And we study conventional pharmacology because
14 an important part of our practice is helping people
15 manage the medicines that they're on, especially if
16 they're on multiple drug regimens, and when appropriate
17 assist them in reducing the number of drugs they're on,
18 and that is where we work very closely with their
19 conventional provider.

20 Q. Do any naturopathic doctors specialize in a
21 particular disease area?

22 A. Absolutely. There are in fact naturopathic
23 oncologists, those who have done additional training and
24 an exam that certifies them to focus exclusively -- not
25 exclusively but specially on cancer.

1 I haven't done that training. I have kept my
2 practice very general.

3 And that is in fact a new specialty
4 organization within our profession. But many N.D.s
5 focus in women's healthcare or in, you know, various
6 aspects of medicine.

7 Q. And for the naturopathic oncologists, what
8 additional specialized training do they take?

9 A. You know, I honestly don't know. I have not
10 done that. And I'm contemplating doing it after delving
11 into all of this information.

12 I took some time from treating cancer patients
13 because -- I guess this is as good a time as any to
14 share that my first husband was a medical doctor, a
15 physician, who had non-Hodgkin's lymphoma when I met
16 him. And through our ten years of marriage and his
17 eventual death I was really immersed in dealing with
18 cancer patients, and I kind of chose to step back from
19 that for several years and have since going back into
20 practice had a number of cancer patients come to me.
21 And you know, I just -- I needed some time to, you know,
22 not live and breathe that lifestyle.

23 So I can't tell you exactly what the specialty
24 training is. It -- I'll leave it at that.

25 Q. But it would be fair to say that it's at least

1 an additional course of study of some duration,
2 one-year, two-year, whatever?

3 A. Yeah. I'm not -- I really don't know.

4 Q. And why don't you describe your current
5 practice. Let's start with how frequently you
6 practice.

7 Is it daily or some other time?

8 A. Well, I am coming back into practice. I
9 started practicing in 1981 and practiced through 2000.
10 And at that point I took eight years away from practice
11 to raise a daughter that I had in my second marriage
12 and to lead the campaign to license naturopathic
13 doctors in California, which had not been the case
14 prior to us passing the bill to license N.D.s in 2003,
15 and so I took a few more years off after that to
16 recuperate from the challenges of working in the
17 legislature. I found out what you attorneys know,
18 which is that it's a lot of work and a stressful
19 lifestyle.

20 And I have been teaching at San Francisco
21 State University since then and just began my practice,
22 almost a year ago, and at this point I've been
23 practicing one day a week and I'm beginning to add a
24 second day to my practice at this point, so it has been
25 a part-time practice.

Page 14

1 Q. And since, as you know, one of the focuses of
 2 this litigation is cancer --
 3 A. Right.
 4 Q. -- so my questions are going to focus on that,
 5 so you mentioned that from time to time you've had some
 6 cancer patients; is that correct?
 7 A. Yes. Right.
 8 Q. Can you quantify that, and do you currently have
 9 some?
 10 A. Yes. Yes.
 11 When I work with cancer patients, I am
 12 comanaging their care. If I ever have made that
 13 diagnosis -- and I have on occasion, you know, found an
 14 abnormal pap smear with carcinoma inside you -- then I
 15 would refer that patient to a gynecologist for a
 16 comprehensive workup and recommend that my patients
 17 follow the advice of their oncologist.
 18 And then I provide the complementary care, which
 19 is focused on keeping their immune system strong and
 20 allowing them to go through the rigors of chemotherapy
 21 and radiation with a greater strength and hopefully fare
 22 better than they would without it. And I have certainly
 23 seen that to be the case.
 24 Q. Can you describe why it is that you refer these
 25 patients to a cancer specialist?

Page 15

1 A. Well, that's what is -- in my understanding, as
 2 I understand it, that's a requirement by -- for all
 3 physicians and doctors of every stripe, that, you know,
 4 cancer must be treated with conventional therapies. And
 5 I have seen that be helpful in sometimes resolving the
 6 condition. Other times I've seen it take a patient down
 7 the road towards death.
 8 So it goes both ways, but I believe that that's
 9 an important part of cancer care for many individuals.
 10 Q. I think you stated that it's your understanding
 11 that it's a requirement that you do this.
 12 If it weren't a requirement, in an ideal world,
 13 would you still always make a referral to a cancer
 14 specialist?
 15 A. I think that I would because I think that that
 16 is -- it is a -- it's an important part of the
 17 treatment of cancer at this point. I think that we
 18 will develop natural therapies that will be less toxic
 19 and dangerous than the current ones, but at this point
 20 that's the way I've been taught to practice medicine
 21 both as an acupuncturist and a naturopathic doctor, and
 22 that's the way I do it.
 23 Q. Now, you mentioned that you led a successful
 24 campaign in the state of California to get N.D.s --
 25 that's an abbreviation for --

Page 16

1 A. Correct. Naturopathic doctors.
 2 Q. -- licensed.
 3 A. Yes.
 4 Q. Can you briefly describe what the requirements
 5 are in the state of California to get that license?
 6 A. Right.
 7 One must have passed a -- well, first of all,
 8 one must have gone through a four-year naturopathic
 9 medical school. And our training is in schools that
 10 have been accredited regionally by the
 11 Department of Education and as well as programmatically
 12 accredited through the American Association of
 13 Naturopathic Medical Colleges. And it's a four-year
 14 graduate-level program, and when we complete that, we
 15 take national board exams.
 16 So one must have been through that training,
 17 passed the board exams and then is a candidate for
 18 licensure in that state.
 19 Naturopathic doctors have been licensed in all
 20 the states around California, Oregon, Washington and
 21 Arizona, since the 1920s and '30s. But California
 22 sunsetted their drug list practitioners sometime in the
 23 '50s, and it was time for us to be licensed as primary
 24 care providers in California, and so I put my practice
 25 aside and worked with Senator John Burton, who was the

Page 17

1 president of California's senate who authored our bill,
 2 and we were successful in passing that in 2003.
 3 Q. And at the present time do you know whether a
 4 majority of the states either do or do not offer the
 5 N.D. licenses?
 6 A. At this point 14 states license N.D.s, and
 7 that's up from I think about half a dozen when I got out
 8 of school in the 1980s.
 9 Many more states had licensed N.D.s, but they
 10 were sunsetted through the heyday of pharmacological
 11 agents, and you know, with the advent of antibiotics it
 12 looked like drugs were the answer to all of our
 13 healthcare problems, and in the '60s, '70s and '80s
 14 there's been a resurgence and interest in natural
 15 therapies and with it an increasing number of states who
 16 have licensed N.D.s.
 17 Q. And focusing on California, once an individual
 18 gets the license, what does that entitle she or he to
 19 do?
 20 A. Well, to practice medicine as a naturopathic
 21 doctor, and our responsibilities are to diagnose and to
 22 treat disease and to promote health, which is honestly
 23 the focus of our practice, to really strengthen our
 24 body's ability to heal itself.
 25 And of course we're responsible for the normal

Page 18

1 reporting of infectious diseases and deaths and births
 2 and, you know, the usual responsibilities of a doctor.
 3 Q. All right. Let's go back and close out your
 4 employment history.
 5 So you've testified that in the past year or so
 6 you've resumed your private practice; correct?
 7 A. Right.
 8 Q. And what else, if anything, do you do
 9 presently?
 10 Do you still teach?
 11 A. You probably are aware of California's terrible
 12 budget problems. That has caused the Cal State
 13 University system of which San Francisco State
 14 University is a part to put all of their lecturers on a
 15 temporary hold, so this is the first year in five years
 16 that I haven't been able to teach.
 17 They're down to tenured professors only.
 18 They've shrunk -- they've limited the number of students
 19 enrolling and have put government employees on furlough.
 20 It's pretty bad there.
 21 So I'm not teaching this spring, and it's a
 22 disappointment, and my students are very upset because I
 23 have one of the most popular classes within the
 24 Department of Health Ed at San Francisco State. But I
 25 expect that to be resumed in the fall. That's the plan

Page 19

1 at this point.
 2 Q. And are you doing consultancies right now or
 3 anything else in the nature of employment?
 4 A. No. I'm working on writing a book and --
 5 Q. Could you describe that.
 6 What's the topic of the book?
 7 A. The working title of the book is The Roadmap to
 8 Health. And the focus of the book is to help people
 9 identify the different variables that influence their
 10 health, the genetic and environmental and lifestyle
 11 factors that we know influence our health but that most
 12 people simply are not tuned into, and so my book is to
 13 help them to identify those factors and to do everything
 14 that they can to -- in naturopathic medicine we would
 15 say remove the obstacles to cure, to look at the way
 16 that they are living and to get those variables under
 17 control and optimized.
 18 So the goal is health promotion and disease
 19 prevention and using a host of different therapies to
 20 get them to that end.
 21 Q. What sort of therapies in your own practice do
 22 you provide or prescribe?
 23 A. Well, the naturopathic doctors work with really
 24 an array of natural therapies. It's a very eclectic
 25 practice.

Page 20

1 Working with diet and nutrition, nutritional
 2 supplements, is a core part of my practice. And I work
 3 with a number of botanical medicines both from eastern
 4 and western traditions and some ayurvedic because there
 5 are crossovers in the plant world between, you know, all
 6 of those plants across the world.
 7 So I use botanical medicine. I work with
 8 mind-body therapies and, you know, regularly suggest
 9 meditation, qigong, yoga, and other biofeedback-type
 10 therapies that would strengthen the person's connection
 11 between their mind and body and their immune system as a
 12 result.
 13 And obviously acupuncture, so traditional
 14 Chinese medicine has always been a part of my practice.
 15 I do acupuncture on most patients. It is an integrated
 16 part of my practice as an N.D. acupuncturist.
 17 Q. And for somebody who is a nonspecialist, can you
 18 describe the difference between nutritional supplements
 19 and botanical medicines, botanic medicines, if there is
 20 a difference?
 21 A. Sure.
 22 Nutritional supplements basically come from
 23 food. They are an extension of food.
 24 And botanical medicine comes from the plant
 25 world, and so there are phytochemicals in plants and

Page 21

1 then there's the whole plant. I tend to work with the
 2 whole plant as well as sometimes the extracts of the
 3 plant as in the curcumins from turmeric, for example,
 4 which we'll talk about later.
 5 So one more comes from food and one comes from
 6 plants, and food and plants are very intimately related
 7 since so much food is from the plant kingdom.
 8 Q. And while we're talking about terminology, how
 9 would you describe a drug?
 10 Can you define what a drug is in
 11 contradistinction to nutritional supplements and
 12 botanic medicines, if there is a difference?
 13 MR. J. TURNER: And I want to just put on the
 14 record just an objection that I want to make sure that
 15 this is not calling for a legal conclusion but a
 16 description from her professional knowledge.
 17 BY MR. ZANG:
 18 Q. And that's fine. Go ahead, and if you can
 19 answer the question, please do.
 20 A. Well, I see there being a spectrum of
 21 interventions that we can all use and one being medicine
 22 as food and from the plant kingdom, and then at the
 23 other end of the spectrum are the synthetic
 24 pharmacological agents that tend to lock down our
 25 physiology and control it as opposed to the natural

Page 22

1 therapies from the plant kingdom and food that actually
 2 support normal physiological function.
 3 And then on -- bridging the gap from the plant
 4 kingdom to the synthetic pharmaceuticals there are
 5 secondary metabolites, if you will, compounds, the
 6 biologically active compounds that can be extracted and
 7 then synthesized and ultimately turned into a drug that,
 8 you know, bridges that gap on into a synthetic
 9 pharmaceutical agent.
 10 So there's a spectrum there, and I work within
 11 that whole spectrum.
 12 Q. Would it ever be fair, in your opinion, to call
 13 a nutritional supplement a drug?
 14 A. I don't see nutritional supplements as drugs,
 15 though they can be used as pharmacological agents. In
 16 my mind, a drug is a synthetic compound that has a very
 17 specific point of action, and nutritional supplements
 18 and herbal medicines tend to target multiple receptors,
 19 if you will, within the cell and within the body, and so
 20 I see conventional pharmaceutical agents as in a sense
 21 silver bullets that target one specific point and
 22 natural therapies as having multiple molecular targets.
 23 Q. Now, are you familiar with the company
 24 Daniel Chapter One?
 25 A. Only since the end of December when I was first

Page 23

1 contacted by Jim Turner and company to discuss and
 2 assist on this case.
 3 Q. So that was December of 2008.
 4 A. Right.
 5 Q. Prior to that time, Dr. LaMont, you testified
 6 that you did have patients come to you who you diagnosed
 7 as having cancer; is that right, or who did have cancer
 8 if you didn't do the diagnosis?
 9 A. You know, almost always they've come with that
 10 diagnosis and they're looking for supportive care.
 11 Q. So what would be your typical care -- and maybe
 12 there isn't a typical care that you would provide to
 13 those types of patients, but if there was a typical
 14 care, what would it be?
 15 A. Well, the first thing I would do is work with
 16 them to, as I described before, remove the obstacles to
 17 their cure, if you will, or in this case I don't know
 18 that we're going to necessarily expect to cure cancer --
 19 it's a very complex disease -- but to strengthen their
 20 body's ability to fight it off.
 21 And so I would primarily -- I would begin by
 22 working with their diet. You know, so many people eat
 23 diets that are truly atrocious and filled with
 24 synthetic chemicals and laced with pesticides and
 25 hormones and antibiotics, and my job is to get them off

Page 24

1 of a highly refined and processed diet and into a whole
 2 foods diet, so that's where I start.
 3 And then I look at what nutritional supplements
 4 they may be on and help to identify a regimen that's
 5 going to be compatible with their chemotherapeutic
 6 agents if they're undergoing that and to do the same
 7 with botanical medicines and to help them basically get
 8 their lifestyle in order so that they can survive
 9 conventional treatment and thrive in the process and
 10 afterwards.
 11 And if you know anyone who's been through
 12 chemotherapy, you know how tough that can be. It's a
 13 very important part of integrative medicine in general
 14 to strengthen the body's innate healing capacities.
 15 Q. So is there a typical regimen of nutritional
 16 supplements and botanical ones that you would use?
 17 A. I tend to use antioxidants in general and I
 18 tend to work with turmeric and the curcuminoids,
 19 essential fatty acids such as EPA, eicosapentaenoic
 20 acid, the fish oils, if you will. In general, that
 21 group of compounds tend to reduce inflammation, and
 22 inflammation is at the core of tripping the trigger on
 23 cancer.
 24 Q. Why is that?
 25 A. That's the way the body works. Inflammation

Page 25

1 promotes an abnormal cell cycle and it tends to reduce
 2 what's called apoptosis, A-P-O-P-T-O-S-I-S, which is
 3 programmed cell death.
 4 And we live in a manner that promotes
 5 inflammation. The way we eat, drink and live a
 6 high-stress lifestyle really sets us up for
 7 inflammation, and that's -- the amazing thing about it
 8 is it underlies cardiovascular disease and diabetes and
 9 cancer and osteoporosis and most of the chronic
 10 degenerative diseases that are facing our culture
 11 today.
 12 So working naturally with agents to reduce
 13 inflammation is an important part of the way I work.
 14 Q. And you mentioned three different groups of
 15 agents I'll call them, but that may not be the correct
 16 term -- and correct me if I'm wrong -- antioxidants,
 17 turmeric and the essential fatty acids.
 18 A. Yeah.
 19 Q. My question is: Are there any others that you
 20 use, first of all?
 21 A. Yeah. I mean, there really are so many.
 22 Let's see. Let me think of where I would go
 23 from here.
 24 I work with substances that tend to support the
 25 body's detoxification capacities. And examples of that

1 might be the herb silymarin or milk thistle, is one
 2 that we commonly use, calcium d-glucarate which helps
 3 to support phase II liver detoxification and the
 4 breakdown of estrogen, which is a hormone that
 5 certainly can trip the trigger on cancer in women and
 6 to some degree men with prostate cancer, so...

7 Q. All right. And let's go into a little more
 8 detail with respect to each group of substances.

9 So the antioxidants, how do those work and why
 10 do you recommend those for cancer patients?

11 A. Well, antioxidants quench what are called free
 12 radicals, which are highly reactive oxygen species that
 13 can damage DNA, and so antioxidants stop DNA damage, and
 14 that's obviously very important when it comes to
 15 reducing our likelihood of developing cancer.

16 Q. And then the same question with respect to
 17 curcumin or turmeric?

18 Am I saying that correctly?

19 A. I pronounce -- I know -- I understand it's
 20 pronounced differently by different people. I pronounce
 21 it "turmeric."

22 And that's the spice, the yellow-pigmented herb
 23 that's used throughout Asia in curries, for example,
 24 and its derivative -- and actually not even a
 25 derivative. It just is a compound intrinsic in

1 Q. And how do you settle on that 300 milligrams per
 2 day?

3 A. That is, in my understanding, the dose that has
 4 been commonly found to be effective at reducing
 5 inflammation.

6 Q. And what's the basis for that understanding of
 7 yours?

8 A. Reviewing the literature, the scientific
 9 literature, some of which is included in the report that
 10 I gave you.

11 Q. Okay. Sticking to this whole issue of how much
 12 you prescribe, is it your opinion that the amount of
 13 dosage is important to the individual taking it and
 14 their health regimen?

15 A. Oh, yeah, I do think that it's important.

16 Q. And talk a little bit, please, about why your
 17 first focus is on an individual's diet and then
 18 secondarily you also recommend a supplement in the case
 19 of turmeric.

20 A. Well, there's something -- there's a
 21 philosophical construct that guides our practice as
 22 naturopathic physicians called the therapeutic order,
 23 and that suggests that we should use the least harmful,
 24 least toxic medicines first and move towards the most
 25 toxic, most invasive last and as needed.

1 turmeric -- curcumin is a natural antiinflammatory
 2 substance.

3 And again, I mentioned that one of my goals in
 4 using nutrition and herbal medicines in general is to
 5 inhibit inflammation, and curcumin does this. It
 6 inhibits inflammation. It is a COX-2 inhibitor. And it
 7 helps to reduce angiogenesis -- and many of these agents
 8 do -- which is the production of the new blood supply to
 9 a tumor, and to inhibit metastasis, and that's what many
 10 of the agents we'll be discussing today do.

11 Q. When you recommend turmeric, for example, do you
 12 recommend a particular dosage for an individual?

13 A. I recommend that they eat it in their diet and I
 14 show them the raw herb and tell them how to prepare it.
 15 It's a relative of the ginger family and as such it
 16 exists as a little root, and I show them -- tell them
 17 how to prepare it and instruct them to begin to
 18 introduce curry and ginger along with turmeric. It's
 19 another -- it's a part of that same family with some of
 20 the same properties.

21 So I have them use it in their diet and I have
 22 them supplement it usually in a dose of around
 23 300 milligrams a day, but that dose can go up or down.
 24 But I'm looking at it as a food primarily and then as a
 25 concentrate beyond that.

1 And so working within that framework, the first
 2 thing I need to do is to make sure that they are eating
 3 in a manner that promotes their health. And when --
 4 once that has been accomplished, then I can move on to
 5 begin to provide treatment of their specific health
 6 complaints.

7 In the absence of doing that, I am not
 8 ultimately serving them because we can throw drugs and
 9 vitamins at a person all day long, and if they are
 10 still living in a manner that compromises their health,
 11 it's going to up an uphill battle, so I begin there.

12 And I've always taught nutrition classes to my
 13 patients, and at San Francisco State University my goal
 14 is to help people prevent disease, to take
 15 responsibility for their personal health, and they can
 16 begin to do that most effectively by dealing with their
 17 diet, so that's where I begin.

18 And once that has -- that first dictum has been
 19 satisfied, to remove the obstacles to cure, then I can
 20 begin to approach any therapies that I provide from the
 21 perspective of strengthening their immune system and
 22 supporting normal physiological function.

23 Our bodies have an array of thousands if not
 24 hundreds of thousands or millions of chemicals, our
 25 internal pharmacy that is constantly at work striving

Page 30

1 to maintain homeostasis, and so in working with diet I
 2 know that I am providing the food that we as a species
 3 evolved to utilize to balance our body's function. And
 4 then I can move into utilizing a range of natural
 5 therapies that nature, if you will, has provided us.
 6 Q. But would simply eating foods that contain
 7 turmeric be enough or would you require your patient to
 8 also take the supplement?
 9 A. It really depends how much they eat.
 10 I mean, I can tell people to eat turmeric, and
 11 unless they're fond of curries, they may not be getting
 12 that. And it is very simple to take a capsule or a
 13 tablet. I took one this morning. I take turmeric on a
 14 daily basis. I have a family history of heart disease
 15 and cancer and I don't want to go there, so I do
 16 recommend that people utilize that.
 17 Q. How much do you take personally?
 18 A. I take about 300-400 milligrams of turmeric a
 19 day, sometimes more.
 20 It's an anti-inflammatory. If I have a
 21 headache, I may take a little bit more that day to help
 22 reduce the inflammation and pain.
 23 Q. Are there any negative side effects that you're
 24 aware of of turmeric?
 25 A. You know, in really high doses I think it can

Page 31

1 inhibit clot formation, and so if someone were on
 2 warfarin, which is an anticoagulant, I would be limiting
 3 their dose of that and perhaps wouldn't in fact use
 4 that.
 5 And if someone's in the throes of chemotherapy,
 6 the week that they are on chemotherapy I would probably
 7 advise them to not use many of their nutritional
 8 supplements. But otherwise I would have them resume it
 9 and take it before and after.
 10 Q. And what's the basis for advising them not to
 11 take it during chemo?
 12 A. Because I'd want to make sure that -- because we
 13 don't fully understand yet all of the different ways in
 14 which this and other natural therapies may interact with
 15 chemotherapy, I to be on the safe side would probably
 16 recommend that they discontinue those therapies just
 17 during that week focus, which is the conventional
 18 approach to not using any number of agents, including
 19 other drugs, during the actual week that one is being
 20 dosed.
 21 Q. Are there any possibilities of the turmeric
 22 containing lead because of the source that it comes
 23 from?
 24 A. I don't -- no. That's not one that I've ever
 25 heard carries lead or any other heavy metals. I mean,

Page 32

1 it's a root.
 2 And I'm very cautious about some of the products
 3 imported from China because you don't know what's in
 4 many of them and appreciate the job that the FDA is
 5 trying to do to keep the toxic metals and other drugs
 6 that may be in some of those imported products, but I'm
 7 not concerned about the turmeric being a source of
 8 toxicity in and of itself.
 9 Q. Let's go back to Daniel Chapter One.
 10 And you testified a little bit earlier that the
 11 first time you learned of them was in December of '08;
 12 right?
 13 A. Uh-huh.
 14 Q. And describe that -- I guess it was a phone call
 15 that you had with Mr. Turner then?
 16 Why don't you just describe what he said to you
 17 and your response.
 18 A. Okay. Well, as I recall, Mr. Turner stated
 19 that there was a supplement company that had been cited
 20 by the FTC for suggesting that some of their supplements
 21 could be helpful in cancer, and he asked that if I would
 22 be interested in serving as an expert witness to and I
 23 agreed to write a report that would provide -- it
 24 certainly couldn't be a complete, but a summary of some
 25 of the evidence that a variety of the constituents of

Page 33

1 their products actually does demonstrate some antitumor
 2 activity and help in various ways to treat or prevent
 3 cancer.
 4 Q. And Dr. LaMont, do you have an understanding as
 5 you sit here now as to what the FTC's complaint is
 6 regarding Daniel Chapter One or what our concerns are as
 7 expressed in our legal complaint?
 8 A. You know, I scanned that original citation.
 9 Because it wasn't the charge of -- it wasn't the scope
 10 of my work, I really didn't get into what they said,
 11 what you said they said and all of those details.
 12 Q. And you mentioned the charge of your work.
 13 Can you describe what has been the charge of
 14 your work for Daniel Chapter One in this matter?
 15 A. Right. I will try to restate that and may
 16 actually if I could just refer to how I stated it here,
 17 which was to provide opinions on the use of nutritional
 18 supplements and botanical medicines in the prevention
 19 and treatment of illness, including but not limited to
 20 cancer, and to review the evidence that exists regarding
 21 the mechanisms of action of the major constituents of
 22 Daniel Chapter One's products.
 23 Q. And do you have an understanding about the
 24 specific products that the Federal Trade Commission has
 25 issued a complaint about?

1 A. I know what those four products were.
 2 Q. And just state them for the record, please.
 3 A. Okay.
 4 GDU, 7 Herb Formula, BioMixx and Bio*Shark.
 5 Q. And prior to your work on this case, had you
 6 ever come across any of these four products?
 7 A. No.
 8 Q. Since December, have you actually reviewed these
 9 specific products, these four products?
 10 A. I have.
 11 Q. And can you describe how or to what extent
 12 you've reviewed those four products?
 13 A. Well, I looked at their labels and made a little
 14 chart and did a literature search on the main
 15 constituents of each of those products (indicating).
 16 And in some cases they had dozens and dozens and I took
 17 the main ones and reviewed the scientific evidence
 18 that's available on their mechanism of action.
 19 Q. Let's just talk generally for a moment about the
 20 four products and the main constituents of them.
 21 A. All right.
 22 Q. Can you generalize about the scientific evidence
 23 available with respect to those main ingredients?
 24 And I can certainly be more specific.
 25 For example, I'm wondering if there have been

1 we come to a big challenge, especially when it comes to
 2 cancer, and that's specifically what we're talking about
 3 today.
 4 People are not enrolled in clinical studies of
 5 any of these agents for cancer unless and until they've
 6 failed conventional therapies, so these people have
 7 been through multiple rounds of chemotherapy, multiple
 8 rounds sometimes of radiation, and each successive one
 9 is more and more damaging. Usually you only want to
 10 see one.
 11 But by the time they've been through multiple
 12 rounds of chemo and multiple rounds of radiation,
 13 they've had all the surgery they can have, their bodies
 14 are obviously extraordinarily compromised. Their
 15 immune function is at the lowest point that a human can
 16 have, and that's when they're given a clinical trial.
 17 And unfortunately, that is going to limit the
 18 usefulness of the findings.
 19 I mean, if we had the opportunity to allow a
 20 person to be studied in a stronger and more healthy
 21 state before they and perhaps even while they are going
 22 through chemotherapy, again, not perhaps the week that
 23 they're taking it but through the course of their
 24 chemotherapy, I personally think we would find and have
 25 seen in my practice much greater ability to withstand

1 any clinical trials with respect to any of those
 2 constituents.
 3 A. There have been a few clinical trials, not many.
 4 And as we'll -- so there have been a few clinical
 5 trials.
 6 By and large, the evidence that I found was more
 7 specifically about the mechanisms of action of the
 8 constituents of those herbs. For the last thirty
 9 years -- and Jim Duke, who I understand has been another
 10 expert witness, has been one of the leading
 11 ethnobotanists working on this, and there have been
 12 researchers along with him and around the world that
 13 have been -- that have begun the really laborious
 14 process of sorting out just what is in all these
 15 different herbs and how they interact with living --
 16 with our physiology, let's say.
 17 So that's what I have -- that's what I examined
 18 and looked at the mechanism of action of the
 19 constituents of many of these products.
 20 Q. And in the course of doing that, did you examine
 21 any clinical studies?
 22 A. If they existed, I did.
 23 Q. And with respect to which constituents of those
 24 herbs were there clinical studies?
 25 A. There were a few, not many. And this is where

1 chemotherapy and emerge stronger and with a body that's
 2 able to fight the cancer more effectively, but that's
 3 just not the way research is conducted today.
 4 Q. And why is it that research is not conducted
 5 that way today?
 6 A. Conventional medicine believes that chemotherapy
 7 and radiation must be done first because those are the
 8 only effective forms of treatment and they don't --
 9 they've set up those rules.
 10 Q. And do you believe that those rules are wrong?
 11 A. I would like to see human clinical trials
 12 allowed natural therapies to be utilized in the course
 13 of conventional care.
 14 And as we go through some of these constituents,
 15 there are many examples where a specific botanical agent
 16 actually appears to enhance the effectiveness of -- and
 17 nutritional supplements. It's not exclusive to the
 18 herbs, but nutrients, the phytonutrients in food and the
 19 phytochemicals in plants appear to augment the
 20 effectiveness of some chemotherapies in animal cultures
 21 or in cell cultures, in animal studies and cell
 22 cultures. That's exciting.
 23 And I know many cancer patients -- and my first
 24 husband would have been one of them -- to love to be a
 25 part of a study like that.

Page 38

1 So I think that's where we're headed, but we're
 2 not there yet.
 3 Q. And you've testified that there are a handful of
 4 clinical studies with respect to the constituents of the
 5 herbs in the four products we're focusing on.
 6 A. Uh-huh.
 7 Q. Can you, without referring to your notes,
 8 briefly describe each of those clinical studies, or do
 9 you need to refer to your notes in order to do that?
 10 A. Well, one I can mention, but to get the actual
 11 citation and the details of the study I'd like to look
 12 at my notes.
 13 But one just came out within this last month,
 14 and that is with the use of turmeric or curcumin in
 15 patients with pancreatic cancer.
 16 Now, that was a human clinical trial of, as I
 17 recall, 25 cancer patients. And these were pancreatic
 18 cancer patients, and as you'll know I'm sure, that's
 19 one of the most lethal of all cancers. It's the fourth
 20 leading cause of death by cancer in the U.S.
 21 And these people had failed chemotherapy,
 22 failed radiation and failed surgery and then were given
 23 the opportunity to use a curcuminoid. I believe it
 24 was -- and if I can just open this up and look at it,
 25 this was a study done in Clinical Cancer Research 2008,

Page 39

1 and so it was just published. They were using up to
 2 eight grams a day and they were doing this orally, as I
 3 recall.
 4 And the upshot here was that some of the
 5 patients showed a partial response, some none, and two
 6 showed a really significant response and were
 7 improving, and they were very intrigued what is unique
 8 about that person's genetics and biochemistry that
 9 allowed this compound at that late stage in their
 10 disease progression to positively influence their
 11 metabolism.
 12 So that is one human clinical trial. I think
 13 there may be others with bromelain and -- or with -- and
 14 there are actually -- I just looked down at my chart
 15 here on bromelain. There may be one or two with
 16 bromelain.
 17 And then there is one or two that had been done
 18 with shark cartilage or its extracts. And again, these
 19 were on end-stage cancer patients. And in one of the
 20 two of the shark cartilage studies, one done by
 21 Dr. Lane in '80s or '90s, there were again in a small
 22 group of roughly the same number of people a few
 23 individuals who had a really significant response, you
 24 know, clinically valid response, and others who didn't
 25 respond or had difficulty, you know, utilizing that

Page 40

1 compound, so...
 2 Q. Okay. And we'll come back to each of those
 3 studies.
 4 Let's go back to the first one, the 2008 one
 5 with respect to the curcuminoids.
 6 A. "Curcuminoids."
 7 Q. "Curcuminoids."
 8 A. Yes. And that's the general name for the family
 9 of the different curcumins, because there are several
 10 different types of curcumins.
 11 Q. Is there a Daniel Chapter One product that
 12 contains curcumins?
 13 A. Yes.
 14 Q. And which product is that?
 15 A. It's in their product GDU.
 16 Q. And are you familiar with what the concentration
 17 is in GDU?
 18 A. I believe it's 300 milligrams of turmeric.
 19 Q. Okay.
 20 A. Yes. I'm looking at the label. It's
 21 300 milligrams.
 22 Q. And you just testified that the study that you
 23 were referring to gave patients up to eight grams a day;
 24 correct?
 25 A. Right.

Page 41

1 Q. Do you know whether 300 milligrams were also
 2 studied in the context of that study?
 3 A. I don't know.
 4 Q. Okay.
 5 A. I don't know.
 6 But you know, in the case of these products as
 7 well as many others, they're meant to be taken on a
 8 daily basis as a means of strengthening our immune
 9 function and normalizing cell function and not
 10 necessarily being used as they were here as a single
 11 agent in a clinical trial, where this is the only thing
 12 that they were giving these people.
 13 So here they were using it in a much higher dose
 14 as a therapeutic trial.
 15 Q. So are you familiar with any clinical studies
 16 of -- I'm having problem with this terminology.
 17 A. Curcumin.
 18 Q. Curcumin.
 19 A. Let's just call it curcumin.
 20 Q. Okay -- with curcumin at 300 milligrams per
 21 day?
 22 A. If I could look at -- not off the top of my
 23 head, is the answer.
 24 Q. Okay.
 25 A. Because, as I said in the beginning, there are

1 very limited human clinical trials.
2 And I want to just glance here and see if I had
3 highlighted any.

4 Here's one, but this was human prostate cancer
5 cells where curcumin worked to sensitize
6 androgen-sensitive human prostate cancer cells.

7 Q. Let's pause on that study.

8 A. Yes.

9 So yeah, I would say that the answer is -- oh,
10 here is another where -- and this was done in 2003,
11 published in Anticancer Research -- curcumin can
12 suppress tumor initiation, promotion and metastasis,
13 found to be safe with no toxicity in human clinical
14 trials at a dose of up to ten grams a day, so obviously
15 there's a wide therapeutic range there.

16 Q. But to your knowledge, has there been any
17 clinical study of curcumin at 300 milligrams per day?

18 A. No.

19 Q. Okay.

20 A. Not to my knowledge.

21 Q. And --

22 A. And that's not to say that it hasn't been done,
23 but I don't know of it.

24 Q. Okay. And have there been any clinical studies
25 of GDU, to your knowledge?

1 A. Yes.

2 Q. Is there any competent and reliable scientific
3 evidence that GDU is effective in the prevention or cure
4 of cancer?

5 A. There is reliable and -- I would say these
6 international researchers are competent scientists and
7 have done studies that show multiple mechanisms of
8 action of these herbs on the progression and --
9 initiation and progression of tumor, of cancer, so I
10 can -- I can see why this particular product could be
11 useful.

12 But I know of no clinical trials with almost any
13 of these natural products because, as you know, a
14 clinical trial of a product can run into the billions,
15 and when it comes to natural agents, these components
16 aren't -- they can't be synthesized and they can't be --
17 well, let's say they can't be patented because they are
18 naturally occurring compounds and from food, and so
19 there simply isn't the billions of dollars in funding
20 available to conduct those trials that would be, you
21 know, needed to recuperate the costs of research and
22 development.

23 So across the board those studies need to be
24 done, but the funding isn't there unless that compound
25 ultimately can be patented, and as I've stated, these

1 A. Not to my knowledge.

2 Q. Given that information, that there have been no
3 studies to your knowledge of GDU and no studies to your
4 knowledge of 300 milligrams of curcumin per day, do you
5 have an opinion as to the effectiveness of curcumin --
6 I'm sorry -- the effectiveness of GDU on preventing or
7 curing cancer?

8 A. My sense is that GDU could be effective in
9 preventing. I don't know about curing cancer, but
10 certainly that could be effective in preventing it and
11 working in multiple ways to reduce its progression.

12 And the reason I believe that is because it
13 contains bromelain, curcumin, feverfew, which is
14 Tanacetum parthenium -- we'll look at that one --
15 quercetin, an ingredient in or a component of multiple
16 foods, onions and grapes and apples and such, as well
17 as, you know, it's a proprietary blend of a number of
18 different nutrients. But those main compounds have had
19 quite a bit of research done on them that shows multiple
20 ways in which they do interfere with the progression of
21 cancer, so I can see that this could potentially be
22 useful.

23 Q. But the way you've stated that -- and I respect
24 very much that you've apparently given some thought to
25 this -- is that they could be useful.

1 natural products can't.

2 Q. And why do those studies need to be done, in
3 your opinion?

4 A. Well, it would be wonderful to be able to
5 describe the degree to which a particular product is
6 effective. That is just a financial limit to the
7 research.

8 And a part of the problem -- or I shouldn't say
9 a problem, but a part of the challenge -- and it is a
10 challenge that faces us with natural therapies in
11 general -- is that they're comprised of dozens,
12 hundreds, potentially even thousands of biologically
13 active constituents, so if we began to tease out each
14 one of those, it would be, you know, almost impossible
15 to research all of them.

16 So we're using the agents in their naturally
17 occurring form and relying on the evidence to date
18 which suggests multiple mechanisms of action of those
19 constituents that could be effective in treating
20 cancer.

21 Q. But based upon what you testified, would it be
22 fair to say that it's impossible today to state the
23 degree to which GDU is effective in the treatment or
24 cure of cancer?

25 Is that a fair statement?

Page 46

1 A. Yes. I think that, yes, we would not be able to
 2 say the degree to which it is effective, other than to
 3 say that it contains five -- four main compounds, the
 4 bromelain, the proteolytic enzymes, turmeric, quercetin
 5 and feverfew, which have lots of studies, lots of cell
 6 line and animal studies that show ways in which the
 7 constituents of these herbs do work to prevent and treat
 8 cancer.

9 Q. I note that in your expert report that you
 10 submitted to the FTC you wrote: "Traditional use
 11 evidence does not replace human clinical trials. There
 12 are real limits to our current understanding of
 13 plant-based medicines that rests mostly on cultured cell
 14 lines and animal models."

15 That's on page 7 of your expert report.
 16 Can you elaborate on that?

17 A. Well, I think I have. That's what I have been
 18 trying to communicate here.

19 We have seen turmeric and many of these plants
 20 used by healers in Asia and China and India, being part
 21 of Asia, and throughout the west actually. Traditional
 22 healers have used plant medicines for millennia
 23 generally with positive results.

24 I mean, we humans evolved using plant medicines.
 25 That's all we had. And that knowledge has been retained

Page 47

1 within the community of practitioners that use herbal
 2 medicine.

3 Would it be nice to have human clinical trials?
 4 Yes.

5 Would I like to see the FDA start to authorize
 6 human clinical trials of some of these nutrients and
 7 botanicals? Yes. To date, they don't exist or they are
 8 very limited.

9 Q. And so again, because of that fact that they
 10 don't exist or they're very limited, those clinical
 11 trials, would it be fair to say that with respect to
 12 each of the four Daniel Chapter One products that we're
 13 examining that the degree to which they're effective in
 14 the prevention, cure or treatment of cancer is unknown?

15 A. I would say it -- the degree to which they are
 16 effective would be -- our understanding of it would be
 17 based on the scientific evidence that's available to
 18 date, which is limited to a few clinical trials and the
 19 animal and cell cultures that have been done.

20 Q. And would it be --
 21 A. And those indicate some efficacy.
 22 Q. Some efficacy with respect to the prevention,
 23 cure or treatment of cancer?
 24 A. Uh-huh. Yes.
 25 Q. But would it be fair to say that with respect to

Page 48

1 GDU, BioMixx, Bio*Shark and the fourth product,
 2 7 Herb Formula, that the degree to which those four
 3 products are effective in the prevention, treatment or
 4 cure of cancer is unknown today?

5 A. I would say that it would be based on -- we
 6 would be -- their effectiveness would be -- we would
 7 speculate that they would be effective as adjunctive
 8 treatments and potentially useful in the prevention of
 9 cancer. But as far as these particular products, they
 10 have not been tested, so we don't know of their
 11 effectiveness.

12 We do know that their constituents have some
 13 effectiveness in the reduction of cancer cell growth
 14 and tumor initiation and progression and inducing
 15 apoptosis, the programmed cell death. There's a
 16 variety of different ways, and we know these herbs
 17 work, and from that we can suggest that it is
 18 reasonable to claim that they could be effective as an
 19 adjunct to cancer therapy and potentially fight tumor
 20 formation.

21 Q. But again, there have been no clinical studies
 22 of those four products; right?
 23 A. No.
 24 Q. Now, do you know whether or not
 25 Daniel Chapter One recommends that people who use its

Page 49

1 products continue with traditional cancer therapy?
 2 A. I have -- I don't know the -- "Feijos" I think
 3 is the way -- it looks like it ought to be "Feijo," but
 4 Feijos -- I don't know them personally, so I don't
 5 know.

6 But my understanding from talking with
 7 Jim Turner is that they have recommended that people
 8 continue to work with their conventional provider.
 9 It's not my understanding that they were recommending
 10 that people use these products to the exclusion of
 11 other therapies but more in the prevention and as
 12 adjunctive care.

13 Q. If at any point the Feijos did recommend that
 14 individuals who use their products need not continue
 15 with traditional cancer therapy, would that concern
 16 you?
 17 A. I don't know that they have said that, so --
 18 Q. I understand that.
 19 But if in fact they have said that from time to
 20 time, would that concern you?
 21 A. I think it is best that people follow the
 22 recommendations of their oncologist and utilize the
 23 protocols that are proven to be most effective for their
 24 cancer and that they should be well-informed of the
 25 potential value of the array of other therapies, and I

Page 50

1 believe that that's what the Feijos have been telling
 2 their patients. I don't have any reason to believe that
 3 they have said anything other than that from my
 4 conversations with Mr. Turner.
 5 Q. And I'm not questioning that at all.
 6 But I'm just asking you, if in fact on their
 7 radio show or in their literature or anywhere else they
 8 from time to time were not encouraging their users to
 9 continue with traditional cancer therapy, would that
 10 concern you?
 11 A. I don't know that I can say a yes or no to that.
 12 I feel that -- I honestly believe people have the right
 13 do whatever they want to do, and I think that the Feijos
 14 have encouraged people to do that.
 15 Q. And if they hadn't at any point in time --
 16 A. Would that be a concern?
 17 Not particularly, but I wouldn't think that
 18 would be in the best judgment -- in their best
 19 judgment.
 20 Q. So if it weren't in their best judgment, why
 21 would it not particularly concern you?
 22 A. Well, again, I think it is up to each
 23 individual to determine what they want to do, and I
 24 think my sense is that the Feijos are doing their best
 25 to educate people about the ways that they can best

Page 51

1 promote and maintain their health through a variety of
 2 different conditions and that they have been
 3 instructing people to do what their oncologists have
 4 told them and in addition to that use these therapies.
 5 Q. And that sense of yours is based solely on your
 6 conversations with Jim Turner?
 7 A. Yes.
 8 Q. So if that information that Mr. Turner gave you
 9 was not completely accurate -- and I'm not suggesting
 10 it is -- but assuming that it isn't completely
 11 accurate, would that concern you about what the Feijos
 12 were doing?
 13 A. You know, to some degree, yes, in that I think
 14 that at this point the -- it is best to utilize
 15 whatever treatments you can to kill cancer, and it is a
 16 terrible disease and arresting it is very difficult and
 17 that we should pursue all available means.
 18 And there are some times when chemotherapy and
 19 radiation don't provide much hope and instead take
 20 people down that slippery slope towards immune
 21 dysfunction and death faster, and I think people have
 22 the right to choose what therapies to do.
 23 So you know, I can't say that a hundred percent
 24 of the time I would insist -- I mean, as a doctor, if
 25 I'm working with a patient, I'm going to insist that

Page 52

1 they work with their oncologist and follow their advice
 2 and I'm going to comanage their care.
 3 But in terms of the Feijos, they're not
 4 doctors, and my understanding is that they've done
 5 their best to suggest -- and I believe that they were
 6 working with some cancer clinics and were in fact
 7 interreferring and comanaging care, so I have no reason
 8 to believe that they had done anything other than
 9 suggest that people use both therapies, both
 10 approaches.
 11 Q. And in fact the sentiment that you just
 12 expressed, Doctor, I think you also expressed at page 6
 13 of your report where you wrote, "The awareness of the
 14 powerful chemoprotective effects of plant foods and
 15 medicines should not influence patients with cancer and
 16 other serious diseases to abandon using the most
 17 effective methods that modern medicine has to offer."
 18 A. Right.
 19 Q. Is that right?
 20 A. That -- I do believe that.
 21 Q. Uh-huh.
 22 A. And I also believe that most patients are
 23 currently unaware of the value that many of these
 24 compounds present. They are completely oblivious to
 25 the role that diet plays in their health and especially

Page 53

1 when it comes to the creation of cancer. And I think
 2 people need to be well-informed about the benefit of the
 3 best possible anticancer diet.
 4 Q. If the Feijos were making disease-cure claims
 5 with respect to these four products, would that concern
 6 you?
 7 A. I don't think that they are.
 8 Q. I understand that.
 9 A. Yeah.
 10 Q. But if they were, would that concern you?
 11 A. When you say "disease-cure claims," what do you
 12 mean?
 13 Q. I mean that any of the four products we're
 14 talking about either prevent, cure or treat cancer.
 15 A. I think that there is evidence to suggest that
 16 the components of their products can prevent cancer and
 17 can interfere with its progression. I wouldn't be
 18 comfortable with them saying that these products are
 19 going to cure their cancer.
 20 Q. Or treat their cancer or prevent it?
 21 A. I think that they can be used to adjunctively
 22 treat their cancer. I wouldn't believe that on their
 23 own that across the board these products are going to
 24 effectively treat cancer.
 25 You know, if someone was in the very early

Page 54

1 stages of certain types of cancer, I can't say that it
 2 isn't possible that some of these components couldn't
 3 get in there and begin to turn that process around. But
 4 as far as a very far progressed cancer, I wouldn't
 5 effect that these products would be effective in
 6 independently treating it.
 7 Q. And I think you answered this question, but I
 8 just want to make sure.
 9 Is it the case that you've never been qualified
 10 as an expert witness in a legal case?
 11 A. I've never been asked to be an expert witness
 12 before. No.
 13 Q. Okay.
 14 A. I've never had any cause to. I've always had a
 15 clean record of practice and so I've never had any
 16 opportunities like this come along.
 17 Q. And why did you decide to accept this
 18 assignment to attempt to be qualified as an expert in
 19 this case?
 20 A. I did because I feel very strongly that there
 21 is much to be gained by the public being fully informed
 22 of the value and regularly informed of the value of
 23 nutrition and plant medicine in the prevention and
 24 treatment of a variety of illnesses, and I was happy to
 25 provide a body of evidence in this report to communicate

Page 55

1 that to you and the public.
 2 I personally have seen the value of a variety of
 3 these nutrients in a variety of different health
 4 conditions, so that's why I stepped up to do this.
 5 Q. Approximately how much time to date have you
 6 devoted to this assignment?
 7 A. Well, from when -- the number of hours that I
 8 put in from the very beginning when I had conversations
 9 with Jim Turner and his staff, I submitted 79 hours
 10 worth of time reviewing the information that
 11 Daniel Chapter One provided through Jim Turner and
 12 associates and then doing searches on PubMed and MedLine
 13 and Google and the Internet to identify additional
 14 research that has built upon the body of information
 15 that they provided.
 16 Q. And the information that was provided through
 17 Jim Turner by Daniel Chapter One, what was that
 18 information aside from the product labels that you've
 19 described earlier?
 20 A. Well, I think it's the same thing that was
 21 provided to you. One of the documents -- you know,
 22 they provided this -- I'm going to dig it out here --
 23 which is I think a draft from your
 24 complaint (indicating).
 25 I went through and read all of these abstracts

Page 56

1 and studies where I could get them and detailed out
 2 their function, their mechanisms of action. And they
 3 often led to other studies, which I've cited, and their
 4 information comes all the way up here to 2008.
 5 And you know, since then, for example, the
 6 human clinical trial that I mentioned on curcumin, that
 7 just came out a couple of weeks ago, so I did include it
 8 because I had the opportunity to do that in the eleventh
 9 hour as I prepared this report.
 10 Q. And the list of articles that you were
 11 describing, actually it wasn't part of our complaint,
 12 but it -- let's just read it into the record.
 13 It's Daniel Chapter One's medical sources for
 14 allegedly deceptive practices; is that right?
 15 A. Deceptive statements. Yes.
 16 Q. And I think I have a copy that we can put into
 17 the record just so that it's clear what you're referring
 18 to.
 19 A. Well, and it was stated in my scope of materials
 20 as the summary of medical evidence.
 21 MR. ZANG: Okay. Why don't we have the
 22 court reporter mark as FTC Exhibit -- what are we up
 23 to?
 24 (Discussion off the record.)
 25 MR. ZANG: So we'll do this as LaMont 1.

Page 57

1 (LaMont Deposition Exhibit Number 1,
 2 6-2-08 letter to T. Zang and R. Waldman from J. Turner
 3 w/enclosures, was marked for identification.)
 4 BY MR. ZANG:
 5 Q. Dr. LaMont, let me ask you just to take a look
 6 at what has been marked as LaMont Exhibit 1 for
 7 identification.
 8 And there's a letter, and attached to the letter
 9 I believe is the same document that you were just
 10 describing.
 11 Can you just make sure that that's the case?
 12 And again, this is just to identify for the
 13 record what you've been referring to.
 14 A. Uh-huh.
 15 (Pause in the proceedings.)
 16 This looks like it's exactly the same thing,
 17 yes, a six-page document. Yes.
 18 Q. And that's an attachment to I think it's a
 19 letter from Jim Turner, a June 2 letter?
 20 A. Yes.
 21 Q. And so other than the product labels and this
 22 list of articles, anything else that Jim Turner gave to
 23 you from Daniel Chapter One to review?
 24 A. They provided some documents, which I understand
 25 they provided to you as well, which were additional

Page 58

1 abstracts that I -- that were sent to me via electronic
 2 files, which they were these abstracts and others that I
 3 used as well as a lot of time spent on the computer
 4 going through MedLine and PubMed, so at this point it's
 5 difficult to tell what else.
 6 Q. And let me show you a document. I won't mark it
 7 yet.
 8 But is this the list of references you're
 9 referring to?
 10 A. Yes. Yes, that's some of those. But these were
 11 more articles I would say, review articles. And I did
 12 review those articles, but I didn't base my report on
 13 those articles. I based my report on the scientific
 14 studies that were done that may have been referenced in
 15 those.
 16 Q. And these were the studies that you found doing
 17 your own research?
 18 A. Well, in many cases, the information in this
 19 medical sources document, the summary of evidence, are
 20 referenced from there, so it builds on -- these built on
 21 that (indicating).
 22 Q. And so that your testimony is clear, let's mark
 23 now as Exhibit 2 for identification this document, which
 24 is respondents's responses to complaint counsel's first
 25 set of interrogatories.

Page 59

1 (LaMont Deposition Exhibit Number 2,
 2 Respondents's Responses to Complaint Counsel's First Set
 3 of Interrogatories, was marked for identification.)
 4 THE WITNESS: Can I look at this again?
 5 BY MR. ZANG:
 6 Q. Yeah. So why don't you take a look.
 7 And I think you were just referring, Dr. LaMont,
 8 to Exhibit 7 of this document, which is the very last
 9 three pages of it. Is that right?
 10 A. Right. This is the first information that they
 11 sent me.
 12 Q. All right. And then the second information
 13 would be what's contained in Exhibit 1?
 14 A. Right.
 15 Q. Okay.
 16 A. Right.
 17 Q. And anything else, just to reflect in the record
 18 the full scope of what you were given by Mr. Turner from
 19 Daniel Chapter One?
 20 A. I was sent some electronic files that contained
 21 a hundred abstracts, and some of them are
 22 here (indicating). There may have been some that
 23 aren't. And sometimes they had references to other
 24 journal articles within them.
 25 So I utilized everything that they sent me.

Page 60

1 Q. And is there somewhere where you indicated the
 2 full scope of those articles, in other words, where you
 3 actually listed all those articles that you were given?
 4 A. I listed the articles that I used in my report.
 5 Otherwise, if it wasn't something that they sent me that
 6 I felt most pertinent, I just didn't include that
 7 because I had limited time to produce this report, you
 8 know. There's a lot of evidence out there, and you
 9 know, I used a portion of it.
 10 Q. Okay. So everything that you cite to in your
 11 report would represent what you used; is that right?
 12 A. Yes.
 13 And these are all straight from the scientific
 14 literature, you know, peer-reviewed, conventional
 15 scientific journals.
 16 Q. Now, do you know, are all of the citations in
 17 your report peer-reviewed citations?
 18 A. I believe so.
 19 I mean, some of them come through journals such
 20 as Molecular Nutrition and Food Research. I would
 21 think that that is a peer-reviewed scientific journal.
 22 It sounds that way to me. Carcinogenesis. Oncogene.
 23 Clinical Cancer -- I'm trying to look for that
 24 particular -- as I began to say Clinical Cancer,
 25 Research is I think the name of that journal. I

Page 61

1 believe these are all peer-reviewed scientific
 2 journals.
 3 Q. Would it be fair to say, though, that you didn't
 4 check each individually to make sure of that?
 5 A. I -- these are all -- these all came through
 6 PubMed and MedLine, and my understanding is that if
 7 they're cited through there, they're peer-reviewed
 8 scientific journals.
 9 Q. Okay.
 10 A. Anticancer Research, Oncogene, Carcinogenesis,
 11 Cancer Research, I believe these all are, including
 12 Alternative Medicine Review is a peer-reviewed journal
 13 on MedLine, so yes.
 14 Q. Now, in the interest of moving this along, I
 15 haven't stopped to take a break, and we could continue
 16 to go on if you'd like or we can -- and let's go off the
 17 record for a second.
 18 (Discussion off the record.)
 19 (Recess)
 20 BY MR. ZANG:
 21 Q. Let me remind you, Doctor, that you remain under
 22 oath.
 23 A. Yes.
 24 Q. Before the break we were discussing GDU, and you
 25 mentioned I believe that it contains bromelain. Is that

Page 62

1 right?
 2 A. Right.
 3 Q. How much bromelain is contained in a capsule of
 4 GDU?
 5 A. Well, looking at the label, 2,000 GDUs. And
 6 "GDU" stands for gelatin digestive units. It's one of
 7 the units of measure of the proteolytic action of
 8 bromelain.
 9 Q. And I believe you stated that -- well, I'm not
 10 sure you stated this.
 11 Does it also contain quercetin?
 12 A. It does contain quercetin.
 13 Q. And do you know how much quercetin it contains?
 14 A. The label states that it contains
 15 100 milligrams.
 16 Q. How about feverfew?
 17 A. 100 milligrams.
 18 Q. And with respect to quercetin, do you know what
 19 effect, if any, 100 milligrams has on the prevention,
 20 cure or treatment of cancer?
 21 A. Well, quercetin in general, it's a flavonoid.
 22 It is present in our -- in fruits and vegetables. In
 23 fact it's what you would call ubiquitous. It's in all
 24 plants. It's a flavonoid that's available in all
 25 plants. And as such, over the course of the day one

Page 63

1 could easily get a hundred milligrams, and that's the
 2 dose that's present in here, so I would consider that a
 3 dose that would have a physiological effect.
 4 And the -- consulting my notes, the
 5 physiological effects of quercetin specifically on
 6 cancer are that it is -- it's an antioxidant. It is
 7 anti-inflammatory. And it influences cell cycle
 8 regulation, the process of replication and
 9 differentiation.
 10 And according to a review article in
 11 Alternative Medicine Review, they state that preliminary
 12 human data indicate quercetin inhibits tumor growth, so
 13 this is one where there appears to have been a clinical
 14 trial.
 15 And let me see if I --
 16 Q. May I just ask you on that, do you know for a
 17 fact that there was a clinical trial based on that
 18 article?
 19 A. Well, I know the people who write this -- who
 20 own this magazine, and I am sure they wouldn't have
 21 stated that there was some preliminary human data
 22 indicating that it inhibited tumor growth without it.
 23 And what I have here is a review of the research
 24 from that article, and let me just see.
 25 Here is a human study where quercetin was used

Page 64

1 with radiation, and it showed a significant but mild
 2 enhancement of the cytotoxic effect of radiation. Now,
 3 this is on rat hepatoma cells.
 4 A human study showed topical and oral
 5 administration of quercetin to reduce skin damage during
 6 radiation therapy in patients with head and neck
 7 cancers. As you know, it can be very damaging,
 8 producing what looks like a sunburn to the skin,
 9 radiation, and quercetin appears to reduce that damage.
 10 Q. And do you know what dosage of quercetin was
 11 used in those two studies?
 12 A. I don't.
 13 Q. Would that make a difference in determining
 14 whether the dosage presented in GDU is effective or not
 15 with respect to cancer?
 16 A. You know, I don't know. But given the
 17 ubiquitous nature of quercetin and the fact that it's in
 18 so many plants, I would think that our body would
 19 respond rapidly to the positive impact of this compound
 20 on our metabolism and -- but I have no way of knowing
 21 how many milligrams would produce a certain therapeutic
 22 response.
 23 Q. It would be fair to say that the concentration
 24 or dosage of quercetin would make a difference?
 25 A. It depends whether you're looking at quercetin

Page 65

1 as a plant medicine and a food constituent or a drug
 2 and if -- you know, as I recall -- and I do have
 3 some -- I do have another piece of evidence that I'd
 4 like to bring in because I am remembering that
 5 quercetin has been used here in this clinical trial.
 6 They worked with it more as a single therapeutic agent
 7 at a very high dose, so give me a moment, and I'll help
 8 bring that dose.
 9 Quercetin. Here they say typical doses range
 10 from 200 to 1200 milligrams daily and quercetin
 11 increased the treatment effect of cisplatin in ovarian
 12 cancer cells.
 13 In another laboratory study, when quercetin and
 14 genistein -- that's G-E-N-I-S-T-E-I-N -- which is an
 15 isoflavone from soy, were combined, their anticancer
 16 effect was greater than either of the antioxidants
 17 alone.
 18 Q. And for the record, what study are you reading
 19 from?
 20 A. I am reading from -- okay. Here's the names of
 21 the researchers -- Scambia, S-C-A-M-B-I-A, Ranelletti --
 22 this looks like an Italian study -- R-A-N-E-L-L-E-T-T-I,
 23 et al., 1990.
 24 And the latter study when quercetin and
 25 genistein were combined and their anticancer effect was

1 found to be more potent than either alone, that was from
2 Shen, S-H-E-N, and Weber, 1997.

3 Q. Do you know whether that was a double-blinded
4 study?

5 A. Well, the first -- they appear both to be cancer
6 cell lines, not human studies.

7 But if you'll give me a moment, I know that I
8 read in -- at least I believe in this journal there was
9 a place where they used quercetin -- here it is -- in
10 a -- here is a phase I human clinical trial of
11 quercetin that they gave it IV infusions at escalating
12 doses at three-week intervals starting at -- these are
13 really high doses -- 60 milligrams per meter squared
14 and increasing up to 1700 milligrams per meter squared.

15 And this is from Ferry, Smith, et al., 1996.
16 And they found that quercetin can safely be administered
17 by intravenous bolus and they saw inhibition of
18 lymphocyte tyrosine kinase -- and that's
19 T-Y-R-O-S-I-N-E -- tyrosine kinase activity and evidence
20 of antitumor activity.

21 So obviously there's a wide spectrum of the dose
22 from what can be found in eating apples and onions and
23 grapes and capers and the rest of the foods in our plant
24 kingdom up to very high intravenous doses.

25 The dose that is present in the

1 provided in this particular product, it is a dose that
2 would support the body in, for example, in one study
3 reviewed here, downregulating the expression of mutant
4 p53 protein.

5 This particular genetically coded protein, p53,
6 is what turns on and makes functional our body's
7 ability to have programmed cell death. Normal cells go
8 through a cycle of death called apoptosis, and
9 p53 genes control that, and quercetin has been found to
10 downregulate the expression of that and keep it from
11 becoming mutant and thereby not allowing programmed
12 cell death. To me, the dose in here is the kind of
13 dose that would support normal physiological functions
14 like that.

15 Q. And just help me to understand what you mean by
16 "support normal physiological functions" with respect to
17 cancer patients.

18 A. If we are eating a diet that is replete with
19 compounds that can positively regulate gene expression,
20 then we are less likely to have the type of mutations
21 that would result in the initiation and post-initiation
22 and progression of cancer cells.

23 Q. Okay.

24 A. And thereby we would be reducing our
25 likelihood, which translates to me into preventing

1 Daniel Chapter One products appears to be the dose that
2 one would get if one were eating a diet that had a good
3 supply of fruits and vegetables in it and further, you
4 know, evidence to me that they're attempting to work
5 with the body's natural healing capacities by providing
6 food doses of these nutrients to strengthen the body's
7 natural anticancer functions.

8 Q. And it would be fair to say that the dosage
9 found in Daniel Chapter One's product is significantly
10 lower than the dosages that were studied in I think
11 three studies now that you've studied; is that right?

12 A. Well, those were -- that latter was actually a
13 human clinical trial where they found it nontoxic at
14 extremely high doses.

15 So it is on the lower end of the therapeutic
16 spectrum.

17 Q. Okay. And based on your review of three
18 studies, only one of which was a phase I study, what,
19 if anything, do you include about the dosage in GDU
20 with respect to its ability to treat, cure or prevent
21 cancer?

22 And it's fine if you don't conclude anything,
23 but I'm just curious what, if anything, you do
24 conclude.

25 A. Well, my perspective is that at the dose it is

1 cancer.

2 So I would look at this as a dose that would be
3 perfectly capable of, especially when consumed, you
4 know, on a regular basis, likely to reduce the incidence
5 of cancer.

6 Q. And that dosage that you're referring to in your
7 mind is how much?

8 A. That was the 100 milligrams present here.

9 Q. And by "here" you mean in GDU.

10 A. In GDU, yes.

11 Q. Okay. Now, what other -- let's focus on GDU
12 still.

13 What other active ingredients do you find in GDU
14 that are potentially effective in the treatment or cure
15 of cancer?

16 A. Well, one that we haven't discussed so far is
17 the first one on the list, and we really didn't discuss
18 it much. We mentioned bromelain, and bromelain is
19 something I first learned about in naturopathic medical
20 school. I actually learned all of these substances in
21 naturopathic medical school in roughly 1980 in my last
22 two years of clinical study there.

23 And bromelain is actually extracted from the
24 core of the pineapple, the core and the stem of the
25 pineapple. It's present to some degree in the pulp in

Page 70

1 the fruit that we eat, but I always make sure I eat the
 2 tough core because there is some bromelain there.
 3 And that's a proteolytic enzyme. It tends to
 4 break down fibrin clots and other cellular protein
 5 by-products that are waste products. It inhibits
 6 platelet aggregation, so it tends to reduce clot
 7 formation. It has an anticoagulant function and an
 8 anti-inflammatory function.
 9 And as I began to research the medical
 10 literature, I became more aware of its effect as an
 11 anticancer agent. I knew that it had been used along
 12 with other proteolytic enzymes in Europe in the
 13 treatment of cancer, but as I got into these studies, I
 14 discovered that on its own it -- one study from
 15 Cancer Chemotherapy and Pharmacology suggests that it
 16 inhibits tumor cell growth and two novel constituents
 17 which are proteases -- "proteolytic" means to break down
 18 protein, and anything that ends in A-S-E, "-ase," is an
 19 enzyme. That means it breaks down -- or actually
 20 catalyzes a chemical reaction is really what an enzyme
 21 does.
 22 And in this case these are enzymes that
 23 particularly break down protease -- or protein. These
 24 proteases that are present in bromelain actually have
 25 been shown to bind and reduce the growth of a broad

Page 71

1 range of tumor cells, including breast, colon, lung,
 2 ovarian and melanoma. That's exciting to think that in
 3 cell cultures this compound can get in there and inhibit
 4 the growth of tumors.
 5 Q. While exciting, that doesn't indicate anything
 6 about its effect in humans, does it, because it's not a
 7 human or clinical study; correct?
 8 A. That hasn't -- there have been, if any, very
 9 limited studies done on humans for the same reasons that
 10 we've cited before.
 11 But I personally have seen bromelain act as an
 12 anti-inflammatory multiple times.
 13 If you ever sprain your ankle and, you know,
 14 get a big, swollen, stiff joint and you need to move
 15 faster than the week or ten days that it might take for
 16 that swelling to go down, taking bromelain -- and you
 17 would take it at a higher therapeutic dose if you were
 18 trying to reduce the swelling secondary to a sprain --
 19 it can reduce the swelling in a period of 48 hours and
 20 take a lot of the bruising away and allow greater
 21 mobility, and so it's a -- I've seen it work in that
 22 capacity.
 23 Q. Again, though, there's a big difference, isn't
 24 there, between seeing it work in the capacity of a
 25 swollen ankle and having it work in the context of

Page 72

1 cancer?
 2 A. There is. But I have presented evidence that
 3 demonstrates multiple ways in which it appears to affect
 4 cancer cells, one study where they used systemic enzyme
 5 therapy, including bromelain. That was reported by
 6 Keith Block, an oncologist who publishes
 7 Integrative Cancer Therapies, just last year, December
 8 of last year. This is a really new study. And that's
 9 on I believe page 9.
 10 They showed that systemic enzyme therapy, which
 11 included bromelain, significantly decreased
 12 tumor-induced and therapy-induced side effects and
 13 complaints such as nausea, gastrointestinal complaints,
 14 fatigue, weight loss, restlessness, and improved quality
 15 of life.
 16 And he's an oncologist using it in cancer
 17 patients and didn't comment on its effect on the
 18 cancer, certainly in coping with some of the side
 19 effects, which is what I believe that the
 20 Daniel Chapter One folks are suggesting that their
 21 products would be helpful with.
 22 Q. Are any of the bromelain studies that you cite
 23 clinical studies, clinical human studies?
 24 A. That one was, from Integrative Cancer Therapies
 25 2008.

Page 73

1 Q. Okay. Any others?
 2 A. Not that I can see.
 3 Q. Okay.
 4 A. But there are a multiple other studies that
 5 have shown the way in which bromelain can inhibit
 6 metastasis.
 7 This one was of interest to me because I have a
 8 close friend just diagnosed with glioma, glioblastoma,
 9 lethal brain cancer. I think it's the same kind
 10 Ted Kennedy was diagnosed with.
 11 Bromelain reversibly inhibits invasive effects
 12 on glioma cells, this study from Neoplasia 2001,
 13 indicate that bromelain exerts its anti-invasive effects
 14 by proteolysis, altering cell signaling cascades, and
 15 translational attenuation, meaning it helps the cell
 16 recognize when it needs to stop replicating and would
 17 induce normal cell death rather than allowing it to
 18 proliferate out of control.
 19 And in glioma cells that's important because
 20 they are like roots that spread deep into the brain and
 21 make it a very difficult compound -- or cancer to
 22 remove surgically and difficult to treat, so if we
 23 could introduce bromelain and see its tendrils
 24 regress, that is something that I know my friend is
 25 using.

Page 74

1 My friend is a naturopathic doctor who was just
 2 diagnosed last month, and he is pursuing with full
 3 vigor both chemotherapy and radiation. He's on it
 4 right now, but he is using a host of natural therapies,
 5 including high-dose bromelain, quercetin and a number
 6 of other compounds, turmeric, that are in here.
 7 Q. And again, he's using a dose that is much
 8 higher than that contained in GDU; isn't that right?
 9 A. You know, I don't know what dose he's using,
 10 honestly. I don't. I would imagine, given that he's
 11 trying to save his life, he's going to use a pretty high
 12 dose.
 13 As far as Daniel Chapter One products go, my
 14 understanding is they're attempting to use these more
 15 as a dietary supplement to support what food might
 16 provide and support normal physiological function and to
 17 the degree possible with that dose inhibit cancer
 18 growth.
 19 Q. If Daniel Chapter One were making the claim with
 20 respect to GDU that it eliminates tumors, would that
 21 concern you?
 22 A. No. Because I think that bromelain has the --
 23 has some demonstrated evidence that it can do that. I
 24 think -- so you said "eliminates tumors"?
 25 Q. Yes.

Page 75

1 A. I think it could help to eliminate tumors.
 2 Would it on its own at this dose eliminate
 3 tumors? I don't know. I just really don't know.
 4 Q. So wouldn't that concern you then that they are
 5 making a claim that you're not sure of yourself if in
 6 fact it's true or not?
 7 A. I don't know that they're making that claim.
 8 Q. Understood. But the question simply is if
 9 they're making that claim, and I'm not holding you to
 10 knowing whether or not they're making it.
 11 But if they're making the claim that it
 12 eliminates tumors, would that be of concern to you?
 13 A. You know, in the context -- in the way that
 14 they -- I understand that they're promoting their
 15 products, they believe that these compounds in GDU are
 16 foods that are working to support the body's fight
 17 against cancer, and I believe that there's evidence that
 18 it does that.
 19 So it does not particularly bother me that
 20 they're suggesting that it could eliminate tumors. I
 21 don't think that they are saying that it does but that
 22 if they're saying that it could, then I believe that
 23 it's possible that it could.
 24 Q. And again, understanding that you're not certain
 25 what they're saying with respect to GDU and cancer, but

Page 76

1 if they're saying that GDU eliminates tumors, would that
 2 be --
 3 A. That would be stretching it in my mind.
 4 Q. Okay. And if they're saying that GDU is
 5 effective in the treatment of cancer, would that be
 6 stretching it?
 7 A. Well, given the evidence of bromelain and
 8 quercetin and turmeric and feverfew that are in here, to
 9 me there's multiple routes by which this product could
 10 effectively influence the course of cancer in a positive
 11 manner, so I think that it is reasonable that it could
 12 do that.
 13 And when I look at the label, because I was as
 14 interested as you in what they were saying, and this
 15 label says "a natural anti-inflammatory and pain
 16 reliever," so that's -- there's ample evidence that the
 17 constituents of this act as COX-2 inhibitors and reduce
 18 the generation of cancer cells in a variety of
 19 different means and certainly relieve pain and
 20 inflammation, so...
 21 Q. Dr. LaMont, let me ask you, are you aware that
 22 the Feijos have a radio show?
 23 A. I am aware of that. I have not heard it. I
 24 haven't seen any transcripts. I know that -- I've heard
 25 that they have one.

Page 77

1 Q. And in order to better educate yourself about
 2 this case, why is it that you chose not to listen to the
 3 radio show or to read transcripts?
 4 A. Honestly, I did not have time. I received the
 5 information that we were -- you presented and we agreed
 6 was what they sent me roughly around the 20th, and I
 7 began at that point to put in my time and I didn't have
 8 the opportunity to listen to their show.
 9 I didn't really have the interest in listening
 10 to their show either. There's dozens and dozens of
 11 radio shows, probably hundreds of radio shows around the
 12 country like this, and I just did not get to that.
 13 Q. Given your stature in the community,
 14 naturopathic community, wouldn't the claims that they
 15 are making about their products be important for you to
 16 know?
 17 A. Well, to me, from what I can tell here, their
 18 claim is that it is a natural anti-inflammatory and pain
 19 reliever. That's what I saw, and that seemed consistent
 20 with the evidence that I pulled from the scientific
 21 literature.
 22 Q. But you're looking just at the label; right?
 23 A. Right.
 24 Q. And they could be making claims either on their
 25 radio show or on their Web site or in other product

Page 78

1 literature, couldn't they?
 2 A. They could.
 3 Q. And --
 4 A. They could. I didn't see any product literature
 5 that suggested that they were making claims other than
 6 this.
 7 Q. Before putting your name as an expert behind
 8 their products, wouldn't it be important for you to have
 9 an awareness of the claims that they're making with
 10 respect to their products?
 11 A. Well, I honestly didn't feel like I was putting
 12 my name behind their products. I was hired to organize
 13 the body of evidence that related to the constituents of
 14 their products, and that's what I agreed to do, and I
 15 feel very -- I feel good about that.
 16 I didn't come in and say I would defend their
 17 products because I have limited knowledge of their
 18 products, I have never used them and, as I said, never
 19 really heard of them before this. And there are
 20 thousands of product lines out there with thousands of
 21 products and constituents, so I was comfortable doing
 22 what I was commissioned to do. And I feel that that
 23 goes across multiple products and product lines.
 24 Q. In order to make sure that the record reads
 25 clearly, why don't we finish up at least for the moment

Page 79

1 our discussion of GDU.
 2 A. Okay.
 3 Q. Are there any other constituent elements that
 4 you studied with respect to GDU?
 5 A. No. No. Just turmeric, quercetin, bromelain
 6 and feverfew.
 7 MR. ZANG: All right.
 8 And let me just have that answer read back just
 9 to be sure.
 10 (The record was read as follows:)
 11 "ANSWER: No. No. Just turmeric, quercetin,
 12 bromelain and feverfew."
 13 BY MR. ZANG:
 14 Q. Okay. And with respect to feverfew, what
 15 studies did you examine?
 16 A. I guess we didn't do that one, did we?
 17 Q. No.
 18 A. Feverfew, let me bring that one up.
 19 Yeah, feverfew is an interesting herb. It's a
 20 relative of the chrysanthemum family and it's been used
 21 for really probably hundreds if not thousands of years
 22 to relieve pain and inflammation.
 23 I first learned about it as a treatment for
 24 migraine headaches, and it can be very effective in
 25 reducing the frequency of migraine headaches.

Page 80

1 It has antioxidant activity. It contains the
 2 compound parthenolide much in the way that curcumin is a
 3 constituent of turmeric, and it's been studied for its
 4 anti-inflammatory action. That compound has
 5 demonstrated effectiveness against cancer by inhibiting
 6 something called NF-kappaB, which is a protein
 7 transcription factor that plays a role in regulating
 8 immune response in infection and cancer and
 9 inflammation.
 10 And here, in one study, in Molecular Cancer
 11 Therapies in April of 2005, they combined it with a
 12 nonsteroidal anti-inflammatory in the treatment of
 13 pancreatic cancers and demonstrated that it worked with
 14 NF-kappaB and provided preclinical support for a
 15 combined chemotherapy approach with NF-kappaB inhibitors
 16 and NSAIDS, the nonsteroidal anti-inflammatory drugs, in
 17 the treatment of pancreatic cancer, another example of a
 18 plant being utilized in conjunction here with a drug in
 19 the treatment of one of the most difficult of all
 20 cancers.
 21 Q. And do you know what dosage of feverfew was
 22 contained or used in this study?
 23 A. I do not, no.
 24 Q. And I take it that that study looked at feverfew
 25 in conjunction with sulindac, the drug --

Page 81

1 A. Right.
 2 Q. -- but not individually.
 3 A. Right. But they know that it influences
 4 NF-kappaB and as such plays a role in regulating immune
 5 response in cancer.
 6 In the next study, from the British Journal of
 7 Pharmacology in 2002, they gave it along with
 8 vitamin D, which is known to regulate gene expression
 9 in a number of cancers, and found that it potentiated
 10 vitamin D-induced human lymphocytes -- human leukemia
 11 cells again by inhibiting NF-kappaB.
 12 Q. And again, with respect to that study, are you
 13 aware of what dosage was used?
 14 A. No. No.
 15 Q. And you're looking at page 15 of your expert
 16 report; is that right?
 17 A. Right.
 18 MR. ZANG: Let's just mark it as an exhibit so
 19 that the record will be clear.
 20 So we'll mark it as Exhibit 3 for
 21 identification.
 22 (LaMont Deposition Exhibit Number 3,
 23 1-27-09 letter to L. Gordon, et al., from J. Turner
 24 w/attachments, was marked for identification.)
 25 THE WITNESS: And on page 16, that same

Page 82

1 compound was found to increase the effectiveness of
 2 paclitaxel, another chemotherapeutic agent, in inducing
 3 apoptosis of breast cancer cells, so parthenolide
 4 actually worked adjunctively with the chemotherapy to
 5 increase the sensitivity of cancer cells to the
 6 chemotherapeutic agent and induce cancer cell death.
 7 BY MR. ZANG:
 8 Q. Now, that parthenolide, that's a different form
 9 of feverfew?
 10 A. It's one of feverfew's constituents.
 11 Q. I see.
 12 A. So when you take feverfew as an herb, you're
 13 getting that along with dozens of other biochemically
 14 active compounds. And that's actually one of the
 15 intriguing things about using the whole herb as opposed
 16 to isolating parthenolide and then synthesizing it and
 17 using it as a single agent, because single agents affect
 18 single targets and we prefer an approach that would
 19 provide the body with as many means as possible to
 20 influence cancer.
 21 Q. All right. And any other studies with respect
 22 to feverfew? It looks like you examined a few others.
 23 A. Right. There are a couple of others here.
 24 Again, parthenolide was used here, three
 25 different types of cancer cell lines, and an

Page 83

1 antiproliferative effect was confirmed, and that's from
 2 Pharmacological Reports in 2007.
 3 And actually that -- the paclitaxel activity was
 4 reported in two different studies two different ways,
 5 one in the Chemico-Biological Interactions, the other in
 6 Oncogene, both in 2004 and 2000, respectively.
 7 Q. And in your reporting of these studies on
 8 page 16 I don't see any reporting of the dosages.
 9 Is that because you're not aware of it?
 10 A. No. Right.
 11 Q. Okay.
 12 A. And these -- some of these studies were done in
 13 cancer cell lines, so the dose that they were using in a
 14 cancer cell line would be -- you know, how that
 15 translates to a dose in human has just not been
 16 established yet.
 17 But you know, to me this feels like a good time
 18 to bring in something from a book that I hope that you
 19 will read. I think we all should. It's a brand-new
 20 book. It just came out this last year. And I actually
 21 was given a copy of it the week I was writing my report
 22 and I was delighted to learn of it.
 23 It's a book called Anticancer: A New Way of
 24 Life, and I cited it in my perspective piece. And it's
 25 written by an oncologist, Dr. David Servan -- I don't

Page 84

1 know if it's "Schreiber" or "Schreiber," how he
 2 pronounces it.
 3 But he's an oncologist, an M.D. oncologist and a
 4 Ph.D., a French fellow who moved to the U.S. And he
 5 developed a brain tumor and took conventional
 6 chemotherapy and radiation and was free of cancer for I
 7 believe seven years and then it reoccurred -- and he
 8 tells the whole story of his experience here -- and
 9 after the first time asked his doctor, Now, is there
 10 anything else special I should do for my -- in my
 11 lifestyle and in my diet to prevent cancer?
 12 And he said: No, nothing special. Just go
 13 about your way, do what you do. We don't have any
 14 evidence that anything you can do can make a
 15 difference.
 16 And he accepted that at that point even though
 17 in the back of his mind he thought there might be
 18 something. When he had a reoccurrence, he realized he
 19 needed to look at what is referred to in functional
 20 medicine and actually in naturopathic philosophy and
 21 medical theory for several decades we've considered the
 22 concept of the terrain, the host environment in which
 23 cancer grows, and he decided he needed to take a look at
 24 that and find out what else he could do.
 25 And in his book Anticancer, he illustrates

Page 85

1 beautifully, in full-color charts and graphs and
 2 everything, a host of compounds that influence
 3 inflammation and thereby cancer and speaks specifically
 4 of a whole foods-based diet much like the
 5 Daniel Chapter One folks are recommending, speaks of
 6 the common chemicals we're all exposed to that we need
 7 to pay very close attention to and get out of our diet,
 8 and goes on to discuss food constituents, including
 9 turmeric and green tea and the brassica family of
 10 vegetables which are included in some of their
 11 products.
 12 And I wanted to quote one particular piece that
 13 I thought was interesting because he was a cancer
 14 researcher. And this is regarding angiogenesis, which
 15 we haven't really talked about yet, as one of the means
 16 by which these compounds help to prevent and reduce the
 17 growth of cancer, and that is to inhibit the growth of
 18 new blood vessels into those cancer cells because
 19 that's how they thrive. They're not going to grow and
 20 divide at the rate that they need to become, you know,
 21 tumors that can threaten life without an extra blood
 22 supply.
 23 So he says: The fact remains that the control
 24 of angiogenesis is a central concern in the treatment of
 25 cancer. As an alternative to waiting for the miracle

Page 86

1 drug, there are natural approaches that have a powerful
 2 effect on angiogenesis without side effects and that can
 3 be combined perfectly with conventional treatments.
 4 One, specific dietary practices (many natural
 5 antiangiogenesis foods) have been discovered recently,
 6 including common edible mushrooms, certain green teas,
 7 spices and herbs.
 8 And he goes on to delineate curcumin as one of
 9 those spices, ginger as another.
 10 So I think that it is exciting and revealing to
 11 see an oncologist that has had to revisit cancer again
 12 personally suggesting that we begin now to incorporate
 13 these changes into our diet and lifestyle and not wait
 14 until we've extracted the active ingredient from this
 15 plant that -- whatever one of these plants we're
 16 talking about and turn them into that silver bullet
 17 that could someday be used to treat cancer, let's use
 18 it as -- in the foods we eat and in the supplements
 19 that he, too, recommends that we take to fight cancer.
 20 Q. Even though at this point in time we're not
 21 certain whether or not those substances will in fact
 22 cure cancer; correct?
 23 A. Well, I think that's -- no. I don't think that
 24 that's true.
 25 I think we know that there are multiple

Page 87

1 mechanisms of action whereby they do influence the
 2 growth of cancer cells. And what he's saying is let's
 3 not wait until we've done all the research necessary.
 4 In fact, he tells a story in here of a big-time
 5 cancer researcher speaking to a group of women -- and I
 6 could try to find the piece if you wanted to -- where
 7 she is being pressed by a group of women to, you know,
 8 say when the research will be available. And they say,
 9 We don't want to wait until all the research is done,
 10 because if we do, we'll be dead. We want to know now
 11 what can we do. And that led that other woman cancer
 12 researcher to begin to take a very strong look at the
 13 use of what we do know about the effectiveness of these
 14 agents that are present in our food and plants and --
 15 MR. ZANG: Take a time-out.
 16 (Discussion off the record.)
 17 THE WITNESS: I think just to conclude, these
 18 agents have shown some effectiveness to date in multiple
 19 ways in influencing the growth and development of cancer
 20 cells and that it would be wise to begin to include them
 21 now and let the research proceed but not wait until
 22 we've isolated that drug that we could someday from
 23 these plants and will.
 24 BY MR. ZANG:
 25 Q. But the oncologist that you're citing has not

Page 88

1 studied the DCO, the Daniel Chapter One, products;
 2 right?
 3 A. No.
 4 Q. And nor have you. Specifically --
 5 A. No. But he has studied turmeric and green tea
 6 and other constituents of these products.
 7 Q. Understood.
 8 A. Yes.
 9 Q. But maybe not -- but definitely not in the
 10 identical dosages that Daniel Chapter One uses.
 11 A. And he's recommending them in food and vitamin
 12 doses, as are they.
 13 Q. Now, you've said that once or twice already,
 14 that they've been recommending a whole foods diet, but
 15 how do you know that? Because you have also testified
 16 that you haven't looked at their literature or listened
 17 to their radio show.
 18 A. Well, I have heard that that's what they
 19 recommend. In fact that's -- I did look at what
 20 Daniel chapter 1 had to say, and that's actually what it
 21 does say, is we should make our -- it reflects the
 22 teachings of Hippocrates to let your food be your
 23 medicine and your medicine be your food.
 24 Did Hippocrates come before or after
 25 Daniel chapter 1? I'm not sure. Right around the same

Page 89

1 time perhaps.
 2 But that has been --
 3 Q. I think a little before.
 4 But regardless, you're referring to the biblical
 5 chapter, Daniel chapter 1?
 6 A. Yes. Right.
 7 So that's knowledge that's been handed down
 8 through the ages, that if we eat fruits and vegetables
 9 and the fish and grains of the world and the nuts and
 10 seeds as opposed to hamburgers and hot dogs and bacon
 11 and steaks and all the refined and processed junk foods
 12 that Americans have made their chemical feast, to quote
 13 Jim Turner's book, for the last several decades, then we
 14 would see a change.
 15 In fact, when you look at epidemiological
 16 studies around the world, those cultures that maintain
 17 a simpler diet, a more whole foods diet, have much
 18 lower incidence of cancer than we see here in the west.
 19 Q. But to repeat your own words, Doctor,
 20 traditional use evidence does not replace human clinical
 21 trials.
 22 A. No. We'd love to see those human clinical
 23 trials and look forward to seeing them. But right
 24 now -- and you know, we've talked about this -- the
 25 challenges that those clinical trials are limited to

1 people who failed conventional therapies. That puts a
 2 real cap on the amount of progress that we're going to
 3 see if we're only using patients with dysfunctional
 4 immune systems, crippled by our own therapies.
 5 Q. Now, you've testified that you went and you read
 6 Daniel chapter 1 out of the bible, but you did not in
 7 fact glean from Daniel Chapter One, the company's own
 8 literature, whether or not they recommend a whole foods
 9 diet; is that correct?
 10 A. Well, no. I understood that they talked about
 11 diet and that they recommended a healthy diet as part of
 12 their basic work.
 13 Q. And how did you -- what's the basis of that
 14 understanding?
 15 A. From speaking with Jim, that it isn't -- their
 16 ministry, I believe you called it, is not just about the
 17 products that they sell but helping people to eat well
 18 and take care of themselves in multiple ways. That's
 19 all I know.
 20 Q. Let's move to Bio*Shark, the product Bio*Shark.
 21 A. Okay.
 22 Would you mind if I just ran back to the
 23 bathroom?
 24 MR. ZANG: Not at all.
 25 Let's go off the record.

1 As to whether or not Bio*Shark inhibits tumor
 2 growth, we do not know.
 3 Q. All right. And I have a similar question again
 4 with respect to Bio*Shark, which is: Does, in your
 5 opinion, Bio*Shark -- let me rephrase that.
 6 Is Bio*Shark effective in the treatment of
 7 cancer, in your opinion, the product Bio*Shark?
 8 A. I don't know.
 9 Q. Okay. And let me ask you similar questions
 10 about GDU.
 11 In your professional opinion, does the product
 12 GDU eliminate tumors? Do you have any opinion about
 13 that?
 14 A. I honestly don't know whether it does. I can
 15 say with confidence that the constituents of GDU have a
 16 significant body of scientific evidence demonstrating
 17 multiple ways in which they intervene in the cancer
 18 process. Whether that particular product inhibits
 19 cancer I don't know.
 20 Q. Okay. And does that particular product have
 21 effectiveness in the treatment of cancer, in your
 22 opinion? Do you know or do you not know?
 23 A. I do not know.
 24 Q. Okay. Let's go back to shark cartilage.
 25 A. Uh-huh.

1 (Recess)
 2 BY MR. ZANG:
 3 Q. So, Dr. LaMont, let's turn to Bio*Shark, and I'd
 4 like to ask you whether in your professional opinion
 5 Bio*Shark inhibits tumor growth.
 6 A. Well, as I reviewed the literature on shark
 7 cartilage, I see evidence that there's something in
 8 shark cartilage that inhibits angiogenesis, and there's
 9 quite a lot of research that suggests that that's the
 10 case. And it's true of bovine cartilage and chicken
 11 cartilage in general but way more concentrated in shark
 12 cartilage, which is why it's probably been used as a
 13 therapeutic agent in this way.
 14 Q. But my question really is a little different.
 15 It is: Does Bio*Shark, in your professional
 16 opinion, inhibit tumor growth, the product Bio*Shark?
 17 A. Oh, the product Bio*Shark?
 18 Q. Yes.
 19 A. I don't know.
 20 Q. Okay.
 21 A. I do not know. I think that -- and here's what
 22 I can say about that, which is pretty much what I've
 23 said in my report here, is that the shark cartilage and
 24 its constituents appear to inhibit angiogenesis and are
 25 a promising area of cancer research.

1 Q. What, if any, human studies have you examined,
 2 that is, clinical studies?
 3 A. Well, the study that I looked at was
 4 Dr. Miller's study, and I read a review of it. And
 5 that was a phase II human clinical controlled trial and
 6 done through Cancer Treatment Centers of America. And
 7 here it was used as a single agent, an extract I
 8 believe of shark cartilage, in 60 patients, and these
 9 were people with advanced-stage cancer again. And as I
 10 recall, a number of people dropped out of the study.
 11 And in the end, those that did complete it, they didn't
 12 see any particular benefit to their cancer at all.
 13 And as I state in my report here, the challenge
 14 with this and other human clinical trials in cancer
 15 patients is that they waited to do it on people who
 16 failed all other therapies, and this obviously does
 17 eliminate those with functional immune systems and a
 18 body that is capable of mounting a significant immune
 19 response and potentially working with a natural agent.
 20 So I -- I hate to say it, but you know, we
 21 can't -- I don't think we can glean much from this.
 22 I'm glad that they began that process. I would like to
 23 see it done on people -- I would like to see it used
 24 with people who have cancer that are undergoing other
 25 therapies and see what effect it may have as an

Page 94

1 antiangiogenesis factor. I think it is an area that
 2 should be further pursued, and in fact it was.
 3 In 2008 -- this was the most recent report, and
 4 that's why I included it. Then there have been
 5 literally dozens of others in the intervening decade
 6 here -- researchers isolated two partially purified
 7 antiangiogenesis proteins from shark cartilage and
 8 demonstrated its ability to block microvessel sprouting
 9 in the collagen of the rat aortic valve ring in its
 10 heart in vitro and inhibited capillary sprouting in --
 11 and I'm not sure what the CAM assay is -- in vivo.
 12 And "in vivo" means in living tissue as opposed
 13 to in vitro in a test tube or a petri dish.
 14 Q. And that would be --
 15 A. From Bioscience Reports in 2008.
 16 Q. And that would be the living tissue with respect
 17 to rats, to your knowledge?
 18 A. I would assume that that would be aortic cells
 19 that were still alive and capable of sprouting new
 20 vessels, and it inhibited that.
 21 Q. And that would be the aortic cells of rats?
 22 A. The aortic ring. Yeah. Right. Right. Not a
 23 human clinical trial. Right.
 24 Q. And we don't know the dosage for that study, do
 25 we?

Page 95

1 A. No. No.
 2 But I think that it is compelling to see that
 3 there is something in shark cartilage that could
 4 provide that benefit. Cartilage in general is used
 5 therapeutically in osteoarthritis and in a number of
 6 other arthritic conditions to help to rebuild normal
 7 cartilage, and it is interesting that it is absorbed
 8 and migrates to the joints to help to rebuild
 9 cartilage.
 10 I'd like to see more studies done.
 11 Q. You did conclude in your report with respect to
 12 shark cartilage that the particularly high doses used --
 13 this is on page 39 --
 14 A. Right.
 15 Q. -- distinct fishy flavor and difficulty with
 16 routes of administration present unique challenges with
 17 this therapy --
 18 A. Right.
 19 Q. -- in humans?
 20 A. Here they used a purified derivative of it, and
 21 apparently it isn't terribly well-absorbed orally, and
 22 they were putting it in rectally in an enema, and so I
 23 think that and its fishy odor make it difficult for the
 24 derivative that they were using in Dr. Miller's study to
 25 be palatable.

Page 96

1 Here, I would assume because it doesn't say any
 2 different on the label, it just says shark cartilage, so
 3 I don't know what form they were using it in.
 4 Q. On the label of the Bio*Shark product?
 5 A. Correct.
 6 Q. Okay. And since you've cited Dr. Miller's
 7 report, I just want to ask you if you know Dr. Miller
 8 personally.
 9 A. No, I don't. I have not met him and had no
 10 knowledge of him prior to starting this process.
 11 Q. And are you familiar with Dr. Joseph Fins,
 12 F-I-N-S, and Dr. Low Dog, D-O-G?
 13 A. I know who Tieraona or -- she says her name
 14 many different ways -- "Tieraona," I think is how she
 15 says it, Low Dog? Is that who you're talking about?
 16 Q. Yes.
 17 A. Yes. I have met her.
 18 Q. Do you have an opinion about her
 19 professionally?
 20 A. She is a medical doctor who began her course as
 21 a massage therapist, her course of study, and went on to
 22 medical school and has become a spokesperson for
 23 botanical medicine, for specifically herbal medicine.
 24 I do respect her. I don't always agree with
 25 her, but I do respect and enjoy her.

Page 97

1 Q. And do you have any familiarity with the
 2 White House Commission on Complementary and Alternative
 3 Medicine --
 4 A. I testified at the White House commission. Yes.
 5 If you go back into my qualifications, that is one of
 6 the things that I did in 2000. I testified at the
 7 White House CAM commission when they came through
 8 San Francisco.
 9 MR. ZANG: So let me just mark for
 10 identification as Exhibit 4 a letter from Drs. Fins and
 11 Low Dog. It's a letter dated March 10, 2002.
 12 (LaMont Deposition Exhibit Number 4,
 13 3-10-02 Letter from Joseph Fins, M.D. and
 14 Tieraona Low Dog, M.D., was marked for identification.)
 15 BY MR. ZANG:
 16 Q. So let me focus your attention on page 230.
 17 A. Okay. Can I just take a second to see what the
 18 whole document is?
 19 Q. Absolutely. Take a look at the whole document
 20 if you'd like.
 21 A. So this is the conclusion of the White House
 22 commission or their particular -- yes. I recall they
 23 had a dissenting opinion compared to the rest of the
 24 group.
 25 (Pause in the proceedings.)

Page 98

1 And I was supposed to look at 230?
 2 Q. What I wanted to focus your attention on was a
 3 statement they made on pages 229 and 230 that --
 4 A. Okay. I see. Uh-huh.
 5 Q. -- alternative diets, coffee enemas, ozone
 6 therapy, and shark cartilage offer little for cancer
 7 patients, and then they go on to say that acupuncture,
 8 aromatherapy, and meditation may be useful for
 9 nausea/vomiting, mild relaxation, and pain/anxiety,
 10 respectively.
 11 I'm just curious if you know what the basis was
 12 for their statement that shark cartilage offers little
 13 for cancer patients.
 14 A. I don't know what the basis of their report was.
 15 I wasn't aware that they looked at shark cartilage in
 16 that, in the White House commission.
 17 Q. And that was actually going to be my next
 18 question.
 19 So you're not aware one way or the other whether
 20 or not the commission focused on that issue?
 21 A. Yeah. I did not know that it did.
 22 Q. Okay.
 23 A. You know what. I think it's questionable. Like
 24 what's an alternative diet, you know. That could mean a
 25 lot of different things.

Page 99

1 But specifically, you know, to date, we don't
 2 know what benefit shark cartilage does offer cancer
 3 patients, but there's some evidence that shows its
 4 antiangiogenic effect.
 5 And I personally think it would be wise to, in
 6 the interest of exploring all available means to kill
 7 cancer, take a look at that, especially since one of the
 8 earlier studies that did that was done by Dr. Lane,
 9 who's the Ph.D. that got very interested in shark
 10 cartilage, discussed its effectiveness in a patient that
 11 had glioma, again, brain tumor, that had a really
 12 impressive response to that.
 13 And again, I would wonder what is it about that
 14 individual's genetic predisposition and particular
 15 biochemistry that when they received shark cartilage in
 16 whatever form Lane was using produced a rapid regression
 17 of their tumor. That is, like pancreatic cancer, a very
 18 difficult tumor to get rid of.
 19 So to me, though that study was very limited
 20 and it was only one of the patients that had an
 21 impressive response, I would love to see researchers
 22 examine what is it about that person that allowed them
 23 to reap a response that was especially beneficial.
 24 Q. Isn't it the case that shark cartilage was more
 25 in favor several years ago and viewed as more promising

Page 100

1 then than it is today generally (indicating)?
 2 A. Well, because probably Miller's study came out
 3 and suggested that it was useless, at least in his group
 4 of patients, and that's the kind -- that's the way
 5 research goes. The story gets picked up by the media,
 6 it's spread over the airwaves that it's useless, and
 7 things fall out of favor.
 8 I suspect that that's what's happened here with
 9 shark cartilage but was intrigued to see that there have
 10 continued to be researchers pursuing the mechanism of
 11 action in hopes that they still may find a way to use
 12 this compound, which is not a plant, but it is part of
 13 the animal kingdom.
 14 I mean, we eat animals, and certainly in
 15 traditional Chinese medicine they've always regarded
 16 shark fins -- and believe me, I'm not advocating we go
 17 out and kill all the sharks of the world and reap their
 18 fins, but they have always regarded it to have a
 19 therapeutic benefit, and the same is true for a number
 20 of other animal parts.
 21 So I suspect there is some therapeutic value to
 22 be gained by that, and at this point we have not done
 23 the studies that would clarify the degree to which it's
 24 helpful.
 25 MR. ZANG: I'm just going to close the blind.

Page 101

1 (Discussion off the record.)
 2 BY MR. ZANG:
 3 Q. I just want to ask you for the record,
 4 Dr. LaMont, it's the case, isn't it, that there are no
 5 well-controlled studies demonstrating that Bio*Shark is
 6 antiangiogenic, the product Bio*Shark?
 7 A. Right.
 8 Q. And also there are no well-controlled studies
 9 demonstrating that the product Bio*Shark is effective in
 10 the treatment of cancer, the product itself.
 11 A. I thought -- I was waiting for -- I thought you
 12 said it is --
 13 Q. It's the case --
 14 A. I was waiting for the last half of a sentence.
 15 Q. I'll say it again.
 16 A. Thank you. I'm sorry.
 17 Q. It's the case, isn't it, that there are no --
 18 A. Oh, is it the case that there are no.
 19 It is the case that there are no studies on
 20 Bio*Shark that are controlled clinical trials --
 21 Q. Okay.
 22 A. -- demonstrating its effectiveness. True.
 23 Q. Would it be important, in your opinion, to study
 24 the bioavailability of Bio*Shark in order to assess its
 25 effectiveness with respect to cancer?

Page 102

1 A. That would be -- it would be ideal to study the
 2 bioavailability of all of these chemicals. Yes.
 3 Q. And also the absorption, would that be important
 4 to study?
 5 A. Yes.
 6 Q. And it would be important to study the
 7 distribution --
 8 A. It would be ideal to look at all those kinds of
 9 variables. If one had the multimillion dollars in
 10 funding, if not more, to do that kind of research on
 11 this and all the other products that are out there,
 12 yeah.
 13 Q. All right. Well, we've spent some time looking
 14 at GDU and now Bio*Shark. Why don't we move on to
 15 7 Herb Formula.
 16 A. Okay.
 17 Q. And so I want to ask you to talk about your
 18 research, but before I do, let me ask you some general
 19 questions.
 20 A. All right.
 21 Q. Do you have a professional opinion about
 22 whether the product 7 Herb Formula inhibits tumor
 23 formation?
 24 A. Well, as I -- actually my impression of this
 25 formula increased as I read the research on it.

Page 103

1 I was aware of Rene Caisse's formula essiac
 2 before and knew that it was a formula that had been
 3 handed down from the -- I'm going to try to say it --
 4 Ojibwa Indians to her and that she used it in her cancer
 5 clinic and found some benefit from it.
 6 I'm looking for my report here, and I don't
 7 know where it went, because I want to be able to refer
 8 to it.
 9 Q. I think this is --
 10 A. Is it in here (indicating)? It's got a clip on
 11 it. Hang on a second. It probably got folded -- here
 12 it is. It's in the Bio*Shark. Thank you. I've got it.
 13 Thanks. I'm sorry to interrupt there.
 14 So the more I researched the constituents of
 15 that particular formula, the more interested I became in
 16 it as a compound with some potential anticancer benefit,
 17 and so --
 18 Q. And we'll get into that, but let me just focus
 19 you on the question I asked first --
 20 A. All right.
 21 Q. -- which is: Do you have a professional opinion
 22 as to whether the product 7 Herb Formula itself inhibits
 23 tumor formation?
 24 Do you have enough knowledge to have an
 25 opinion?

Page 104

1 A. I have enough knowledge to tell you that as I
 2 reviewed its constituents, I saw multiple mechanisms of
 3 action whereby its constituents influence the growth of
 4 cancer, so --
 5 Q. The constituents in the same dosage as that
 6 contained in 7 Herb Formula?
 7 A. I don't know about the doses in this formula.
 8 Q. Okay. So we'll go to the individual
 9 constituents as we have with the other products.
 10 A. Right.
 11 Q. And I want you to testify about what you
 12 learned, but before we do that, I want to get your
 13 opinion about the product 7 Herb Formula.
 14 So again the question is: Do you have an
 15 opinion as to whether the product 7 Herb Formula
 16 inhibits tumor growth?
 17 A. My sense is that this formula has the potential
 18 to influence tumor growth. Yes. I think that it could
 19 well do that.
 20 Q. And "this formula" meaning 7 Herb Formula
 21 itself?
 22 A. The herbs that I see here in this formula, yes,
 23 the constituents of this formula. The ingredients
 24 expanded upon the original Caisse four-herb formula.
 25 It seems to me that their intention was to make

Page 105

1 it better. That's what I understand from Jim, that
 2 they worked with a research scientist to add to its
 3 effectiveness and chose to include three other herbs,
 4 two of which I didn't find much, if any, research in
 5 terms of cancer, but the latter ingredient, watercress,
 6 actually has quite a bit of influence on cancer, a
 7 positive influence in controlling it and reducing it.
 8 Q. Do you know, since you mention it, which
 9 research scientist the Feijos allegedly worked with?
 10 A. I don't know any of them. I believe it was
 11 Jim Dews was the name of the research scientist, but I
 12 could be wrong about that. I have heard several names
 13 as I've been discussing this case with them. I don't
 14 know which one it is.
 15 Q. Okay.
 16 A. I'm sorry. Because I don't know him.
 17 Q. Uh-huh.
 18 A. The only person on this team that I did know of
 19 was Jim Duke.
 20 Q. Okay. And before we get to the constituent
 21 ingredients and your research with respect to them, I
 22 want to ask you if in your professional opinion
 23 7 Herb Formula is effective in the treatment or cure of
 24 cancer.
 25 A. I don't know.

Page 106

1 Q. Okay.

2 A. I don't. I have no way of knowing whether this

3 particular formula is as such because there are no

4 clinical studies on this particular formula.

5 Q. Okay.

6 A. I would be extrapolating from its constituents.

7 Q. So wouldn't you have a similar conclusion with

8 respect to whether 7 Herb Formula, the product, inhibits

9 tumor formation, that since there are no clinical

10 studies you just don't have an opinion?

11 A. Well, when you look at the clinical studies of

12 burdock and the constituents of turkey rhubarb, for

13 example, or Rheum as it is called in the botanical name,

14 and Uncaria or cat's claw, there's actually quite a bit

15 of research that describes multiple ways in which those

16 constituents influence the growth of tumor cells and

17 Siberian ginseng as an immune stimulant and also some

18 ability to influence tumor growth. That would lead me

19 to believe that if this was taken on a regular basis, it

20 could be effective in preventing or influencing the

21 progression of cancer.

22 Q. You mentioned essiac a little while ago.

23 A. Yeah.

24 Q. Do you know whether essiac has ever been

25 evaluated in clinical trials to determine if it has any

Page 107

1 anticancer activity?

2 A. I don't know if it has. I did find an article

3 from the Journal of Ethnopharmacology, which is a

4 well-respected journal, that essiac tea, when they got

5 in and looked at its constituents, they found that it

6 possessed potent antioxidant and DNA-protective

7 activity, properties that are common to natural

8 anticancer agents.

9 Q. May I ask, are you on a particular page of your

10 report?

11 A. Yes. I'm on page 14, right under section B of

12 7 Herb Formula. Our numbering might be off.

13 Q. You know what? I think we have different

14 versions, so let me ask you to refer to the --

15 A. Yes. I'd be happy to.

16 Q. -- exhibit copy, which is Exhibit Number 2.

17 A. That's it?

18 Q. Yeah. I think so. Hold on one second.

19 A. No, this is not it.

20 Q. No. Correction. Exhibit Number 3.

21 Why don't you just find the page there.

22 A. Yeah.

23 (Pause in the proceedings.)

24 I think when I printed mine out it might have

25 been a different font and it came out slightly with

Page 108

1 different paging.

2 So page 19 is 7 Herb Formula, and I'm quoting

3 from the paragraph under Arctium lappa, which is the

4 scientific or Latin name for burdock. And it's the end

5 of that paragraph when it says, "According to the

6 Journal of Ethnopharmacology, essiac tea possesses

7 potent antioxidant and DNA-protective activity,

8 properties that are common to natural anticancer

9 agents."

10 The first constituent here, burdock, which is

11 actually a food, it is used in Asia, oh, much in the

12 same way we might use a carrot. It's a root. I've

13 cooked with it myself. And it has an interesting

14 flavor, and you can tell it's a medicinal agent because

15 it's got a bitter quality to it, but it's actually

16 delicious if it's prepared appropriately.

17 But it contains a compound called arctigenin,

18 which showed potent antiproliferative activity against

19 B-cell hybridoma cells and again inducing apoptosis or

20 programmed cell death.

21 It also contains a compound chlorogenic acid --

22 and that's like chlorine, C-H-L-O-R-O genic acid --

23 which has anticancer properties by inhibiting one of the

24 liver detox enzymes, in glioma cells.

25 It also contains inulin, which is a plant fiber

Page 109

1 that's present in onions and many other foods, that in

2 this study reduced carcinogenesis in rats. But I know

3 from my clinical practice that inulin is used to -- it's

4 considered a prebiotic.

5 If you provide inulin to people who have had --

6 taken antibiotics and had their gut flora, the bacteria

7 that reside in their colon, wiped out from the

8 antibiotic, the addition of probiotics, more of

9 Lactobacillus acidophilus and other microorganisms, will

10 take root and grow more effectively when inulin is

11 present, and so we administer -- we coadminister

12 prebiotics and probiotics together. And it's

13 interesting that I didn't know that that was in burdock,

14 but it would make sense that it is since it's a plant

15 fiber.

16 So those are just some of the -- well, Jim Duke

17 cited in his phytochemical database 119 secondary

18 metabolites that possess -- and this is according to

19 Chemoprevention of Cancer 1995 -- Arctium lappa

20 contains numerous compounds that possess antipyretic --

21 and that means to lower fever -- antimicrobial,

22 antimutagenic -- and that means stopping mutations,

23 genetic mutations -- antioxidant, antitumor --

24 "choleagogue" means to improve the flow of bile -- and

25 desmutagenic activities.

Page 110

1 And there were no herb-drug interactions
 2 discovered in my research, though it looks like --
 3 Q. Although adverse effects for pregnant women --
 4 A. It looks like it may lower blood sugar a bit,
 5 which is probably a good thing in our culture. And it
 6 looks like it should be avoided by pregnant and
 7 lactating women because it may have been responsible for
 8 some cases of uterine stimulation.
 9 Q. Now, earlier you mentioned that a copy of the
 10 report that you brought with you, your report, has a
 11 different pagination.
 12 A. Right.
 13 Q. I just want to be sure if --
 14 A. It's the same.
 15 Q. -- that it's the same.
 16 A. It's the same.
 17 Q. Okay.
 18 A. I figured out what happened. When I printed my
 19 report out before I came, I printed out a -- the next
 20 to the last version that we submitted, which when we
 21 were compiling the report didn't include the feverfew
 22 and quercetin. And when they inserted that, it threw
 23 the pages off a bit, and so I reprinted those missing
 24 pages. But apparently, when all is said and done,
 25 we're off a page -- we're really off a half a page, but

Page 111

1 it threw everything off as -- the further you go through
 2 the report. Otherwise, it's identical.
 3 And I'd be happy to work from this if you'd
 4 prefer (indicating).
 5 Q. Let's stick with the exhibit copy just so that
 6 we have a point of reference.
 7 A. Okay. Yeah, yeah, yeah. That will make it more
 8 fluent.
 9 Q. But feel free to look at yours if you have notes
 10 on it.
 11 A. Very few.
 12 Q. And another question about the report itself,
 13 did you actually write it or did --
 14 A. I wrote it.
 15 Q. And did Mr. Turner or his colleagues help at all
 16 in writing it?
 17 A. No. Not at all.
 18 When it came down to the final morning of
 19 compiling the report, I had been sending pieces to them
 20 as I got them done, and we looked at it and we were
 21 reviewing it and realized that somehow in the
 22 cut-and-paste process that feverfew and quercetin had
 23 not been included with the GDU that I sent them, and so
 24 his associate, Michael McCormack, inserted that.
 25 And I unfortunately made the mistake of

Page 112

1 printing out the -- we discovered that right at the end
 2 as we were getting ready to send it in and as we were
 3 reviewing it, so that's how this happened. And I
 4 apologize for not having printed out the correct report
 5 before I left.
 6 Q. Now, based on the research that you've
 7 conducted with respect to shark cartilage, isn't it the
 8 case that there's no good or reliable data on the
 9 amount of antiangiogenic activity per gram of shark
 10 cartilage?
 11 A. That's true. I don't know of any.
 12 Q. And also the same question with respect to the
 13 shelf life of that activity. We don't --
 14 A. No knowledge.
 15 Q. -- have any data of that; correct?
 16 A. No.
 17 Q. Let's move on to the fourth product now.
 18 A. Oh, don't we get to talk about the good things
 19 in --
 20 Q. Oh, would you like --
 21 A. I mean, for the record, I'd be happy to run
 22 through some of the other constituents of this formula,
 23 particularly if I could just do one, because --
 24 Q. Go right ahead.
 25 A. -- I learned more about what in Chinese medicine

Page 113

1 was called da huang and in Chinese medicine Rheum,
 2 R-H-E-U-M. Rheum palmatum is the scientific or
 3 botanical name of this particular product.
 4 I'd always thought of this as a laxative, as
 5 something that promoted peristalsis of the colon and
 6 produced a bowel movement. But as I studied this, I
 7 realized now why it would have been in a product that
 8 was used by the Indians, though they had no knowledge of
 9 the fact that it contained anthraquinones, which are a
 10 flavonoid, a derivative that actually plays a role in
 11 inhibiting angiogenesis. And across the board
 12 anthraquinones appear to have a number of different
 13 anticancer activities.
 14 Q. And Doctor, what is the basis of that statement
 15 that --
 16 (Discussion off the record initiated by the
 17 court reporter.)
 18 BY MR. ZANG:
 19 Q. That's another rule that we have to be careful
 20 of.
 21 So my question is: What evidence is there that
 22 you've discovered that anthraquinone derivatives play a
 23 role in inhibiting angiogenesis?
 24 A. Yes. Thank you.
 25 2009, just last month, January 21, 2009 edition

Page 114

1 of the Journal of Ethnopharmacology, which is where this
 2 research is currently most active, demonstrated that
 3 anthraquinone derivatives are the major active
 4 constituent of Rheum palmatum and its derivatives of
 5 these compounds play a substantial role in inhibiting
 6 angiogenesis.
 7 Q. And what, if anything, do you know about that
 8 study reported there?
 9 A. I read the abstract of that study.
 10 So again, this was cell culture work because
 11 that's --
 12 Q. Not human work.
 13 A. Not human work, no.
 14 Q. And dosage, do you know what that was?
 15 A. Don't know because it wouldn't translate
 16 necessarily from what's used in a cell culture. They
 17 use a dose that inhibits angiogenesis. They found a
 18 dose that did, and how that would transfer to humans at
 19 this point is -- I don't know what that would be.
 20 There's a couple of specific anthraquinones that
 21 are of interest, and one is aloe, A-L-O-E, emodin that
 22 has been shown in 2007 from Medical Research Review to
 23 possess some antitumor properties.
 24 Another anthraquinone emodin is the most
 25 abundant, and it worked in several ways to inhibit

Page 115

1 cellular proliferation, induce apoptosis, prevent
 2 metastasis by inducing protein kinases, and then there
 3 are several of those, and altering signaling, cell
 4 signaling cascades, and including working with that
 5 p53 gene that I spoke of earlier, that if you can
 6 prevent the p53 gene from mutating, then you can keep
 7 cells able to die, and if that gets mutated, then they
 8 may continue to replicate out of control as in cancer.
 9 Q. And again, that was a -- what type of study was
 10 that?
 11 A. These are all cell culture studies, to my
 12 knowledge, that one from Medical Research Review.
 13 There is another article from -- actually it's
 14 the same article -- no -- the same magazine, different
 15 page numbers, so there must have been a second article
 16 that discussed what we talked about earlier, how this
 17 particular compound acts on multiple molecular targets.
 18 We're not talking silver bullet here but a wide spread
 19 of therapeutic effect throughout the -- here they are
 20 working with animal cells. It says it inhibits
 21 mammalian cell cycle modulation in specific oncogene
 22 over expressed cells.
 23 And when used in combination with chemotherapy,
 24 it helped to reduce toxicity and enhance efficacy. I
 25 didn't -- in the review I read, it didn't -- I didn't

Page 116

1 see a listing of which particular chemotherapeutic
 2 agents that was.
 3 Q. Let me ask you a question a little more
 4 generally.
 5 A. Uh-huh.
 6 Q. So you've noted these various studies.
 7 Isn't it the case that somebody like yourself,
 8 a doctor recommending, for example, taking
 9 7 Herb Formula to your patient, is different than a
 10 company making product claims generally about its
 11 products?
 12 MR. J. TURNER: I object to that again with
 13 regard to as far as it's a legal conclusion.
 14 BY MR. ZANG:
 15 Q. And I'd like to ask you to answer that
 16 question --
 17 A. Uh-huh.
 18 Q. -- just based on your own professional
 19 experience.
 20 A. Well, I was comfortable with the 7 Herb Formula
 21 being recommended to fight tumor formation and
 22 pathogenic bacteria, and that's what I stated in my
 23 conclusion, because I think that there's evidence that
 24 its constituents are capable of being antimicrobial and
 25 intervening in the growth of tumors in several different

Page 117

1 ways.
 2 Again, I don't know what you say
 3 Daniel Chapter One is saying about this particular
 4 formula. I was comfortable from my research suggesting
 5 that it did these activities.
 6 Q. But you are not comfortable with
 7 Daniel Chapter One saying, if it is saying, that
 8 7 Herb Formula is effective in the treatment or cure of
 9 cancer.
 10 A. I think it could be helpful in the treatment of
 11 cancer, especially since we just looked at a study that
 12 suggested that one of its constituents, the emodin,
 13 tended to augment the effectiveness of at least one of
 14 the chemotherapeutic agents studied.
 15 It would be a stretch to suggest that this agent
 16 is on its own going to be effective in treating cancer,
 17 but that's not my understanding that that's what they
 18 were doing. I was told that they were recommending it
 19 as adjunctive care.
 20 Q. I'm going to represent to you that in one piece
 21 of Daniel Chapter One's product literature there's a
 22 statement that 7 Herb Formula battles cancer and
 23 underneath that statement there's a story about a
 24 particular individual named Tracey who took
 25 7 Herb Formula and who states that it helped her to

Page 118

1 battle her cancer, but there's a statement in the
 2 literature saying "7 Herb Formula battles cancer."
 3 If that's the case, if my representation is
 4 accurate, do you have a concern about that statement?
 5 A. I think it's reasonable to suggest that
 6 7 Herb Formula fights cancer, battles cancer. Whether
 7 it's going to do that all by itself we don't know.
 8 Q. Do you think it's reasonable to lead consumers
 9 to believe that 7 Herb Formula battles cancer?
 10 A. I don't know. I don't know that I have an
 11 opinion on it.
 12 "Battles cancer" is kind of an archaic term.
 13 If they said and I thought that they had said
 14 "fought tumor formation," I can see ways in which that
 15 statement is true.
 16 "Battles cancer" is rather vague to me, so it's
 17 hard -- it doesn't -- it doesn't seem very conclusive or
 18 clear.
 19 Q. What's vague about that statement?
 20 A. I don't know. Battling cancer, you know, to me
 21 that's not that different than fighting tumor formation,
 22 and I think there's evidence to suggest that it fights
 23 tumor formation. I would be concerned about patients
 24 taking it on its own and expecting their cancer to go
 25 away.

Page 119

1 Q. And would you be concerned about patients who
 2 thought that 7 Herb Formula battles their cancer, could
 3 battle their cancer?
 4 A. If they were doing it in the context of
 5 their -- if they were under the care of a team that was
 6 using the appropriate other agents and they were taking
 7 good care of themselves, I could see how this product
 8 could be an appropriate adjunctive therapy.
 9 Q. Well, that's fair.
 10 And if they're under a team of professionals as
 11 you just described it, that's different than if they're
 12 not under the care of a team of professionals; right?
 13 A. Right.
 14 Q. And so let's assume that a consumer is not under
 15 the care of a team of professionals.
 16 Then would you have concerns about that
 17 statement?
 18 A. Do I believe that this would be effective all by
 19 itself in curing their cancer? I would be, if that's
 20 what you're asking. But in conjunction with the rest of
 21 the care that I understood that the Feijos were
 22 recommending, I think it could be a good adjunctive
 23 treatment.
 24 Q. And if the Feijos aren't necessarily
 25 recommending that an individual who has cancer consult

Page 120

1 with a professional like yourself and a medical doctor,
 2 then would you be concerned if they're putting in their
 3 literature "7 Herb Formula battles cancer"?
 4 A. I think there's a big difference between
 5 "battles cancer" and "cures cancer," and I don't think
 6 that they're suggesting that it cures cancer. I think
 7 that they're suggesting that it can help in the fight
 8 against cancer, and from that perspective I'm okay with
 9 them suggesting it can help in the fight against
 10 cancer.
 11 Q. Again, I'm going to represent to you that
 12 Daniel Chapter One's product literature states
 13 "Daniel Chapter One's cancer solutions" and as a cancer
 14 solution they include 7 Herb Formula.
 15 Do you have a -- if what -- my representation is
 16 true, do you have a problem with 7 Herb Formula being
 17 presented as a cancer solution?
 18 A. It would be a stretch for me that it is a
 19 solution to cancer. It is -- I'm -- I can see that it
 20 could be an adjunct and that there are multiple ways in
 21 which it could fight cancer.
 22 Does that mean it will solve cancer on its own?
 23 I just don't know. I would be surprised if it by itself
 24 is the solution to cancer.
 25 Q. And therefore, isn't it problematic, in your

Page 121

1 opinion, that if they're advertising that 7 Herb Formula
 2 is a cancer solution?
 3 A. I'm not sure that that's what they're saying,
 4 though.
 5 Q. I understand. But if they're saying that, and
 6 that's my question then, would you have a concern?
 7 A. Yeah.
 8 Q. And if they're saying that BioMixx is a cancer
 9 solution, would you have a concern?
 10 A. Well, I did not get that from reading BioMixx at
 11 all. I look at BioMixx and it looks to me like it's a
 12 whey protein product designed to fight the wasting that
 13 occurs with cancer and chemotherapy and radiation, and
 14 as such I think that there's value in using a
 15 good-quality whey protein, and from what I can tell,
 16 this is.
 17 Q. Doctor, let me ask the reporter to mark as our
 18 Exhibit Number 5 now a bunch of pages which the FTC
 19 attached to its complaint in this case and which I'll
 20 represent to you are various pages from
 21 Daniel Chapter One's literature or Web site.
 22 So again, this will be Exhibit 5.
 23 (LaMont Deposition Exhibit Number 5, Exhibits A
 24 through D of the FTC's complaint, was marked for
 25 identification.)

1 BY MR. ZANG:
 2 Q. What I would like to focus your attention on is
 3 actually the fourth page of this exhibit.
 4 A. Okay.
 5 MR. J. TURNER: The which?
 6 MR. ZANG: The fourth page of this exhibit.
 7 MR. J. TURNER: Let me see what it is.
 8 Do you have a copy of that for me?
 9 MR. ZANG: Let's see if I do.
 10 MR. J. TURNER: We can look over here.
 11 THE WITNESS: So one is the cover, Exhibit A?
 12 BY MR. ZANG:
 13 Q. That's right.
 14 A. Two, three is B, four is 7 Herb Formula.
 15 Q. Correct.
 16 And there's a picture towards the bottom of the
 17 page of BioMixx, 7 Herb Formula, Bio*Shark and GDU and
 18 text next to it saying "Daniel Chapter One's cancer
 19 solutions."
 20 Do you see that text?
 21 A. Uh-huh. Uh-huh.
 22 Q. Is that a yes?
 23 A. I do see that, yes.
 24 Q. All right. So the question I have is: Do you
 25 have a concern about that statement in the context of

1 our conversation?
 2 A. Well, when I see these products as a whole, I
 3 can see where they're coming from. They are describing
 4 four different ways in which they believe their products
 5 are helping to solve the challenges faced by cancer
 6 patients.
 7 Q. Well, remember that what I really want is your
 8 professional opinion.
 9 And you stated you're not a spokesperson for
 10 Daniel Chapter One; correct?
 11 A. No.
 12 Q. And you did testify just a little earlier that
 13 you would be concerned if they were presenting
 14 7 Herb Formula as a cancer solution; correct?
 15 A. By itself, yeah.
 16 When, you know, they're -- they're trying to
 17 show here that there's something that would inhibit
 18 angiogenesis, tumor promotion, initiation, progression
 19 with -- and resolve inflammation and prevent the wasting
 20 of cancer, I can see how from their perspective they're
 21 presenting what they see to be a comprehensive set of
 22 products that would assist a cancer patient in getting
 23 through this disease.
 24 And my understanding is they were doing it with
 25 the recognition that they were recommending they work

1 with oncologists.
 2 Q. Well, do you see on this particular page of
 3 their Web site that we're looking at now any admonition
 4 to work with these other professionals that you're
 5 referencing?
 6 MR. J. TURNER: Do you have a copy of that that
 7 I can use?
 8 MR. ZANG: Yeah.
 9 MR. J. TURNER: Thank you.
 10 THE WITNESS: Page 5 at this point, 4 to 5.
 11 BY MR. ZANG:
 12 Q. And what does it state here?
 13 A. Well, I was referring for Jim where they are.
 14 Okay. So that's further down Jim has pointed
 15 out -- I hadn't gotten that far yet, and I have not had
 16 the opportunity to read all this -- that when you
 17 get --
 18 MR. J. TURNER: Right here (indicating).
 19 THE WITNESS: Yes. I'm just going to try to
 20 find it and read it for myself.
 21 It states very clearly that the information on
 22 this Web site is intended to provide information,
 23 record and testimony about God and his creation. It is
 24 not intended to diagnose a disease. The information
 25 provided on this site is designed to support, not

1 replace, the relationship that exists between a
 2 patient/site visitor and his or her healthcare
 3 provider. And they do go on to caution the reader that
 4 some herbs or supplements should not be mixed with
 5 certain medications.
 6 So it does appear that they attempted to inform
 7 their readers that these products shouldn't be used
 8 without the assistance and the relationship with a
 9 healthcare provider.
 10 BY MR. ZANG:
 11 Q. Although what you're reading from is on page 10
 12 of 10 of this Cancer News, is it not?
 13 A. Yes, it is.
 14 Q. At the end.
 15 A. It is.
 16 Q. And again I want to go back to that picture of
 17 the four products that are the subject of this case.
 18 A. Yeah.
 19 MR. J. TURNER: I didn't hear the question.
 20 BY MR. ZANG:
 21 Q. Okay. I want to go back to the picture of the
 22 four products that are at issue in this case, Doctor,
 23 and just ask you, isn't it the case that a consumer
 24 looking at those four products who has cancer and sees
 25 the words "cancer solutions" is going to think that this

Page 126

1 is the panacea of her problems when in fact it may not
2 be?

3 A. Well, that would be --

4 MR. J. TURNER: I'm going to just object.
5 She's not been qualified as an expert to talk
6 about the psychology of consumers reading information
7 that's presented on a -- in an ad or a Web site or a
8 statement.

9 THE WITNESS: And I fully believe that people
10 reading the Internet know that everything written on
11 the Internet is not true and that they ought to use
12 their own good judgment when they make a choice about
13 something as serious as cancer. I think most people
14 would consider these products to be adjunctive rather
15 than a primary cancer -- stand-alone cancer treatment.

16 BY MR. ZANG:

17 Q. And rather than cancer solutions?
18 A. Or a cancer solution.

19 I mean, I would think that it would be a fairly
20 naive reader that would look at this and believe that
21 this would solve the problem of their cancer on its
22 own. This is one company simply saying that this is
23 their cancer solution, but on its own and given the fact
24 that they do recommend further on that an individual
25 has -- should be consulting with their doctor, it

Page 127

1 doesn't seem to me that this -- an informed consumer
2 would believe that.

3 Q. Because these four products are not silver
4 bullets?

5 A. These four products are not silver bullets, no.
6 And I don't think that they're portraying them
7 as that. Because, if anything, they worked with a
8 research scientist in formulating these products who I
9 understand has meticulously guided and worked with Jim,
10 who I understand is very interested in biochemistry on
11 his own, Feijo, and that they put together a suite of
12 products to support people going through cancer
13 treatment, not to cure cancer on its own. That's my
14 understanding.

15 Q. Well, being the professional that you are, can
16 you see why the Federal Trade Commission would have
17 concerns about this statement that Daniel Chapter One's
18 cancer solutions is being represented as these four
19 products here?

20 A. I can. I can, but I have to agree that it --
21 you know, there is that disclaimer at the back that one
22 should not do this without the aid of their -- or should
23 use these without the consent and cooperation,
24 assistance of their healthcare provider.
25 I do understand why we're having this

Page 128

1 conversation today. Yes.
2 Q. And you would not have written the text that
3 way, would you have?
4 A. I wouldn't have.
5 Q. All right. Before we break for lunch, why
6 don't we just finish off our discussion of
7 7 Herb Formula, and then I think it would be a good
8 time to break for lunch.
9 A. All right.
10 Q. So are there any other studies that you've
11 referenced that you have not yet testified about with
12 respect to 7 Herb?
13 A. 7 Herb.
14 Well, we haven't discussed the effects of two or
15 three of the other constituents, and let me find my
16 copy. I think this is it. Yeah.
17 Yeah. There are a few other components that I
18 think make it an interesting product.
19 Another constituent that there's some
20 interesting research on is Uncaria, and I think that --
21 I want to go to that one, and it is I believe the last
22 one. Nope.
23 Oh, Uncaria is at the bottom of page 23, or
24 cat's claw, which is a traditional medicine out of
25 South America with some of the Peruvian Indians.

Page 129

1 As I got into studying this, I was interested
2 that it contained a number of alkaloids that appear to
3 have an effect in inducing apoptosis by working with
4 tumor necrosis factor and particularly oleanolic,
5 O-L-E-A-N-O-L-I-C, oleanolic acid and ursolic acid,
6 which are triterpenoids that are naturally occurring in
7 cat's claw, that induce apoptosis and chemotherapeutic
8 agents through downregulation of NF-kappaB, again that
9 transcription factor.

10 That was some research out of Clinical Cancer
11 Research in March of 2006, again, not clinical human
12 studies but more cell cultures and potentially some
13 animal studies that show cat's claw to be an
14 anti-inflammatory agent, an immunomodulator, and has a
15 suppressive effect on tumor cell growth. And there are,
16 you know, a half a dozen studies cited here to
17 substantiate those points.

18 Q. And interesting as these studies are, it's hard
19 to extrapolate from them, isn't it, whether the amount
20 of cat's claw in 7 Herb Formula is going to be
21 effective?
22 A. Yeah. We don't know.
23 However, I want to put it in the frame that my
24 understanding is that they're recommending this as a tea
25 that you drink on a daily basis so you're getting a

Page 130

1 small therapeutic dose or a small food-based dose on a
 2 regular basis and that that's designed then to prevent
 3 and keep any cancer cells that are present from
 4 continuing to grow or actually potentially even inducing
 5 their own death as a result of ingesting this tea on a
 6 regular basis, so --
 7 Q. But we don't know whether that is in fact the
 8 effect of drinking the tea based --
 9 A. No.
 10 Q. -- on these studies.
 11 A. No.
 12 Q. So that's cat's claw.
 13 Any other --
 14 A. That's cat's claw.
 15 Yeah.
 16 Eleutherococcus senticosus we should discuss
 17 because it's Siberian ginseng. It's an herb that has
 18 millennia of use throughout Asia.
 19 And the original research that was done in the
 20 '60s -- '50s and '60s by the Russian scientist Brekhman
 21 who coined the term "adaptogen" stated that this
 22 compound must be an adaptogen in general, must be
 23 innocuous, not causing other conditions or problems,
 24 work nonspecifically to increase the resistance to
 25 adverse conditions by a wide range of physiological,

Page 131

1 physical, chemical and biochemical stressors, and have a
 2 normalizing action irrespective of the pathological
 3 state.
 4 So that's probably the original research that
 5 suggested that this be used. Since then, some studies
 6 have -- it's listed in Dr. Duke's phytochemical and
 7 ethnobotanical database as having at least 51 active
 8 constituents, and I believe that his research has
 9 continued to find more.
 10 Eleutherococcus senticosus has demonstrated
 11 immunomodulatory properties.
 12 Q. And just for the record, you're actually looking
 13 at page 26 of your report?
 14 A. I am. I'm reading from the Polish Journal of
 15 Veterinary Science 2003 when they stated that it had an
 16 enhanced effect on the mouse's immune system and
 17 stimulated the humoral or the antibody response, so an
 18 immune stimulating activity.
 19 It also -- in the next journal from
 20 Phytotherapy Research 2006, it -- now, this was a
 21 clinical study where it was part of a formula called
 22 AdMax, which was evaluated for its effect on ovarian
 23 cancer patients. And they found that some T-cell
 24 subclasses were more active and their activity was
 25 increased, and that boosted the suppressed immunity in

Page 132

1 ovarian cancer patients.
 2 In another study from the American Journal of
 3 Chinese Medicine, an extract was applied to cells in
 4 culture resulting in a slight radioprotective effect,
 5 and that was probably one of the several studies that
 6 had been done earlier that had shown that people who had
 7 taken Siberian ginseng were -- suffered less effect when
 8 exposed to radiation.
 9 Another study from the Journal of
 10 Pharmacological Science showed that it had an
 11 antiproliferative effect against leukemia cells in
 12 mice.
 13 And an aqueous extract reduced fatigue,
 14 increased recovery of natural killer cell activity and
 15 inhibited the stress response induced by swimming where
 16 they made these little mice swim until they almost
 17 dropped dead.
 18 So Eleutherococcus has been considered an
 19 immune-stimulating plant with anti-inflammatory and some
 20 potential anticancer benefits based on studies like
 21 this, and I can see why they wanted to include it. It
 22 could be considered an upgrade in the original essiac
 23 formula.
 24 Q. Although your --
 25 MR. J. TURNER: Excuse me for one second.

Page 133

1 MR. ZANG: Yeah.
 2 MR. J. TURNER: I need to go to the men's room,
 3 so either we need to stop now or take a break and come
 4 back.
 5 MR. ZANG: Let's stop.
 6 THE WITNESS: Okay. We'll come back and talk
 7 about the last major constituent. That would be on
 8 page 27.
 9 MR. ZANG: Let's go off the record.
 10 (Whereupon, at 1:07 p.m., a lunch recess was
 11 taken.)
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Page 134

1 AFTERNOON SESSION
 2 (2:10 p.m.)
 3 BY MR. ZANG:
 4 Q. So, Dr. LaMont, when we broke, we were finishing
 5 up our discussion of 7 Herb Formula.
 6 A. Right.
 7 Q. And you were describing some of the studies with
 8 respect to Eleutherococcus senticosus; right?
 9 A. Yes. We had really kind of concluded
 10 Eleutherococcus. I had run through its studies, and you
 11 know, there's basically no adverse effects, very
 12 well-tolerated in humans. At very high doses you can
 13 get a little irritability and insomnia because it is
 14 stimulating in a sense, but that's the only secondary
 15 effects or adverse effects that I noted.
 16 But another herb with specific effects --
 17 Q. May I ask you just before you go to another
 18 herb, let me ask you a follow-up about this component.
 19 A. Okay.
 20 Q. So you have a clinical summary in here, and I
 21 wonder if you could just state it for the record.
 22 A. Right. Right.
 23 This is a clinical summary from again the
 24 Journal of Ethnopharmacology 2004:
 25 Although initial reports from the Soviet Union

Page 135

1 and reviews of that literature by Farnsworth suggest
 2 therapeutic action -- or value of
 3 Eleutherococcus senticosus as an adaptogen, very little
 4 current research has been done to substantiate or
 5 follow up on those findings. It is now being
 6 recommended that the term "adaptogen" be discontinued
 7 and further research done on this plant to confirm
 8 potential therapeutic value in these other areas:
 9 antioxidant, anticancer, immunostimulatory,
 10 anti-inflammatory, hypocholesterolemic, choleric,
 11 antipyretic and antibacterial actions.
 12 Q. So that clinical summary is suggesting that to
 13 date there needs to be more research to determine
 14 therapeutic value?
 15 A. Well, I think what it's -- there's just been a
 16 more recent debate about the term "adaptogen."
 17 You know, there's an old term in herbal medicine
 18 called an alterative, and it suggests that you give this
 19 compound and it will act in the body to support
 20 homeostasis, which whatever needs to -- it will support
 21 whatever needs to be done in the body to maintain
 22 balance or restore optimal function.
 23 The term "adaptogen" was what this Dr. Brekhman
 24 from the Soviet Union used, and I think that they're
 25 just questioning that term and suggesting that it has

Page 136

1 these other potential mechanisms of action that need to
 2 be followed up on and that the term "adaptogen," you
 3 know, may or may not be a term that we ought to
 4 continue to use in botanical medicine. That's my
 5 sense.
 6 Q. And again, the value is potential, it's not
 7 proven yet, with respect to these other areas.
 8 A. Yeah. Proven in human clinical trials, but
 9 there's certainly a number of different studies in cell
 10 lines and animals that suggest benefit in these other
 11 areas. Yes.
 12 Q. Suggest benefit --
 13 A. Right.
 14 Q. But not proven yet.
 15 A. Not proven that it has that effect on humans.
 16 Yeah.
 17 Q. Okay.
 18 A. Although there were a couple of -- just to be
 19 clear, there were a couple of areas where I believe
 20 there were a couple of trials in humans where there were
 21 some benefits shown, but to make the statement --
 22 Q. Can you just point those out for the record
 23 since that's an important point?
 24 A. Right.
 25 The ovarian cancer patients who used an

Page 137

1 Eleutherococcus senticosus formula.
 2 Q. And in your report, that study is found on
 3 page 26?
 4 A. Correct. AdMax. Phytotherapy Research 2006.
 5 AdMax was the name of the product.
 6 And I believe that regular ginseng was the other
 7 agent in combination with Eleutherococcus senticosus,
 8 but I was commenting on this particular botanical since
 9 it's in this formula.
 10 Q. So is it possible just focusing now on that
 11 study to extrapolate from that -- I presume it's not --
 12 in terms of the benefits --
 13 A. To the use of it alone. Right. We don't know.
 14 Q. Okay. And therefore, we don't know whether
 15 7 Herb Formula would have any beneficial effects in
 16 respect to ovarian cancer patients.
 17 A. True, at this point. We know that in
 18 combination it showed some help, but as an independent
 19 agent, that hasn't been studied.
 20 And I believe that was the only human study.
 21 The others were mice studies. Yeah.
 22 Q. All right.
 23 A. So --
 24 Q. Let's move on.
 25 A. -- the last one I wanted to mention because I

1 think that this is important is --
 2 Q. The last --
 3 A. Well, there are --
 4 Q. -- herb --
 5 (Discussion off the record initiated by the
 6 court reporter.)
 7 BY MR. ZANG:
 8 Q. Why don't you finish what you were saying.
 9 A. The next herb that I wanted to address that's in
 10 7 Herb Formula is Nasturtium officinale, whose common
 11 name is watercress. And like sheep sorrel, another
 12 constituent that we'll mention in a moment, watercress
 13 is a salad green. It's not a grass but a wild green
 14 that's typically been used as a spring tonic for humans
 15 in time immemorial.
 16 Dr. Duke had isolated at least 47 biologically
 17 active compounds. And watercress is part of the
 18 brassica, B-R-A-S-S-I-C-A, family of vegetables, and
 19 that's the same family that contains or that includes
 20 broccoli, cauliflower, brussels sprouts.
 21 And these have anticancer potential because of a
 22 class of sulfur-containing compounds that are the
 23 isothiocyanates, C-Y-A-N-A-T-E. And they're using the
 24 abbreviation "PEITC" for that compound. And this --
 25 watercress is full of PEITC, these isothiocyanates, that

1 lot of vegetables, they have a lower incidence of
 2 particularly breast cancer or prostate cancer. I know
 3 it works on those cell lines particularly.
 4 Q. But there's a difference between anticancer
 5 potential and anticancer effect, isn't there?
 6 A. When you -- what the potential is based on is
 7 the demonstration in the clinical studies of the way it
 8 works in the body to inhibit cancer.
 9 So we are saying there is -- we're making a
 10 conjecture that based on the known mechanism of action
 11 and the fact that we see in studies of populations who
 12 consume high amounts of the brassica family of
 13 vegetables, we see a lower incidence of cancer, then
 14 yes, it is -- it is -- that's -- that's where the
 15 potential is coming from.
 16 Q. Although this Carcinogenesis study we believe
 17 was a cell line study and not a study of human
 18 populations.
 19 A. Correct. But they are making that conjecture
 20 or that statement that it's consistent with the results
 21 of epidemiological studies. Basically they're going
 22 back and saying this is the way we think that the
 23 cruciferous vegetables are reducing cancer, by these
 24 mechanisms.
 25 And then there were --

1 have anticancer activity in a number of ways.
 2 They act -- and this is from the journal
 3 Carcinogenesis in the year 2000. These compounds act at
 4 three stages of carcinogenesis in that they inhibit
 5 carcinogen activation, they induce phase II enzymes
 6 which are present in every cell that enhance excretion
 7 of potential carcinogens, and finally they induce
 8 apoptosis, the programmed cell death, by activating the
 9 protein kinase pathway.
 10 Q. And this study in Carcinogenesis, what type of
 11 study was that, Dr. LaMont?
 12 A. Do not know. I would tend to think that it was
 13 a cell line.
 14 But then they go on to conclude that this
 15 putative anticarcinogenic activity of PEITC is
 16 consistent with the results of epidemiological studies,
 17 which have suggested a reduction in cancer risk through
 18 the consumption of cruciferous vegetables.
 19 These are their words, not mine.
 20 Q. So again, you're introducing this study or
 21 relying upon it to indicate that watercress has
 22 anticancer potential; correct?
 23 A. Correct. As the rest of the brassica family of
 24 vegetables have been shown to demonstrate in
 25 epidemiological studies. In groups of people who eat a

1 Q. Let me just ask a follow-up, and then you can
 2 certainly go on.
 3 A. Uh-huh.
 4 Q. So there's no competent and reliable scientific
 5 evidence showing that watercress prevents or cures
 6 cancer.
 7 A. I would not agree with that. I think that there
 8 is scientific evidence. It's really what you consider
 9 scientific evidence.
 10 If your only measure of scientific evidence is a
 11 human clinical trial, then that is one way of looking at
 12 it. I perceive things differently and see that
 13 epidemiological studies demonstrating lower incidence of
 14 cancer in people who consume large amounts of these
 15 vegetables to be competent and reliable scientific
 16 evidence, especially when it's coupled with research
 17 that shows the way in which it would accomplish those
 18 results.
 19 So there are different paradigms here.
 20 If we go back to that food with its phyto --
 21 that spectrum of intervention starting with food at one
 22 end that is rich in phytonutrients and recognizing that
 23 those phytonutrients have multiple mechanisms of action,
 24 act on multiple targets and that the next step in the
 25 continuum is the plant kingdom with botanical medicines

Page 142

1 with phytochemicals that again act with multiple -- that
 2 contain multiple compounds acting on multiple molecular
 3 targets, and then at the far end of that, at the other
 4 end of the spectrum, is when we've isolated those
 5 compounds, potentiated, synthesized and then created a
 6 silver bullet that becomes the clinical -- the agent
 7 used in the clinical trial, in a sense we've limited it
 8 because we have now reduced it to a single agent acting
 9 on a single target.

10 And it's easy to say yes, this works or no, it
 11 doesn't, but in stating that no, it doesn't we have to
 12 recognize that we have not included the full spectrum of
 13 nutrients in the way that nature packaged that plant and
 14 actually that humans have used for a long time,
 15 hundreds, thousands, tens of thousands of years, as
 16 their food and as their medicine.

17 Q. So it really -- it does come down to one's
 18 definition of "competent and reliable scientific
 19 evidence."

20 A. Right. Right. Right.

21 Q. And if one's definition of that, of competent
 22 and scientific reliable evidence, is clinical human
 23 studies, then there is no evidence that watercress or
 24 any of these other components of the Daniel Chapter One
 25 products prevent or cure cancer.

Page 143

1 A. If that is the only way that you consider
 2 evidence, then that in my mind is a very limited way of
 3 looking at the potential value of, you know, not only
 4 these products but the range of foods that we consume.
 5 And this is actually a good time for me to --

6 Q. Can I just ask you to answer the question,
 7 though --

8 A. Oh, did I not?

9 Q. -- and then please introduce your book if you'd
 10 like, but --

11 MR. J. TURNER: Well, I want to object to the
 12 question in form because it's a tautology.

13 I mean, if you want to ask if there's anything
 14 other than clinical trials, that's one thing, but to say
 15 I posit that clinical trials are the only evidence, is
 16 there anything other than real evidence, is kind of like
 17 there's -- it's just a self -- a self-defining
 18 statement.

19 I mean, basically if you reform it as is there
 20 anything but clinical trials, that would be one thing.

21 BY MR. ZANG:

22 Q. Well, let me ask you --

23 MR. J. TURNER: Or you could ask do you think
 24 that clinical trials are the only kind of scientific
 25 evidence. But to say, if clinical trials are the only

Page 144

1 kind of evidence and there are no clinical trials, is it
 2 true that there's no scientific evidence, it's kind of a
 3 tautological kind of question.

4 BY MR. ZANG:

5 Q. Well, I want to stick to my question and ask
 6 you, Doctor, if one's definition of "competent and
 7 reliable scientific evidence" is clinical trials, then
 8 isn't it the case that Daniel Chapter One's products
 9 have not been proven effective for the treatment or cure
 10 of cancer?

11 A. If that is the only kind of evidence that you
 12 would consider valuable, then they lack those clinical
 13 trials, and so do virtually every other nutrient and
 14 herb on the planet because almost none have been tested
 15 in a human clinical trial.

16 Q. Well, let me ask you -- and I understand from
 17 your background that you do sometimes recommend dietary
 18 supplements to your patients.

19 A. I do, right.

20 Q. But are you aware of any competing products,
 21 competing with Daniel Chapter One, that make cancer cure
 22 or cancer treatment claims?

23 Is that a common occurrence in this industry?

24 A. No. No. No. I think that most companies are
 25 very judicious, as I thought these guys were trying to

Page 145

1 be, in complying with the FDA's stated ways you can
 2 communicate the effects of your products.

3 So I don't know of other companies that make
 4 claims that their products treat or cure -- certainly
 5 not cure cancer.

6 They may suggest that -- a structure/function
 7 claim, that our compound contains isothiocyanates and
 8 therefore inhibits cell replication or something like
 9 that. And then the doctor can go, do I believe that
 10 this would be of value to my patient, and decide to use
 11 it after they've conferred with the patient. And if
 12 both determine yes, then they're willing to -- you know,
 13 both parties are agreeing to do a clinical trial of one
 14 on oneself.

15 And that's done every day in medical practice,
 16 be it drugs or be it herbs or nutrients, because you
 17 know many drugs are used off label anyway and people
 18 want to get results. And especially when it comes to
 19 cancer, people want to use nutrients and phytonutrients,
 20 phytochemicals that they see an evidence that there's a
 21 known mechanism of action that might be of benefit to
 22 them and --

23 Q. That's understood. And thank you for that
 24 clarification.

25 But even the statement we were looking at before

1 the lunch break that -- regarding battling cancer that
 2 we were looking at in Exhibit 3?
 3 A. Right.
 4 Q. That's also a claim that you I presume have not
 5 seen with respect to the products that you're familiar
 6 with, the dietary supplement products.
 7 A. I don't know if I've seen them say things like
 8 battling cancer.
 9 Q. That's a stretch --
 10 A. They could inhibit tumor formation. I, you
 11 know, couldn't tell you a product, but I would -- you
 12 know, I've seen things like that, not maybe in product
 13 literature but certainly when it comes to something like
 14 curcumin and cancer.
 15 I mean, even in this book Anticancer he suggests
 16 such a thing.
 17 Q. But battling cancer would be a stretch, would it
 18 not?
 19 A. If you are saying that that particular product
 20 all by itself is going to cure cancer, that's a big
 21 unknown. Could it help fight cancer, yes. Could it all
 22 by itself battle cancer, that's a stretch for me.
 23 Q. And even if you take several of these products
 24 together like 7 Herb Formula and BioMixx, that's still a
 25 stretch.

1 address the multiple challenges facing cancer patients,
 2 and that's how I look at this.
 3 Q. Now that you're familiar with their products,
 4 would you recommend these products over competing
 5 products to your patients?
 6 And I understand that you're not their paid
 7 spokesperson.
 8 A. Yeah.
 9 I tend to work with a different set of products.
 10 I work -- within the natural products industry there are
 11 multiple companies that sell to doctors. They don't
 12 sell their products at the health food store. And they
 13 sometimes are coming out with products that are cutting
 14 edge, the first ones to bring turmeric into the market
 15 or any of these other compounds.
 16 I tend to work with those because they do have
 17 the newest and potentially, you know, most sophisticated
 18 products on the market. These were that way probably
 19 just a few years ago, so I wouldn't necessarily not
 20 recommend them, but there's others that I'd think of
 21 first (indicating).
 22 Q. And I noticed that I think on your Web site or
 23 some link that I obtained in connection with your
 24 practice you indicate that you sell supplements in your
 25 office. Is that right?

1 A. Well, when you consider how they work
 2 differently, though -- I mean, BioMixx in my
 3 understanding, as I understand it, is designed to boost
 4 immunity, boost lean -- strengthen lean body mass, you
 5 know, and build muscle mass in a patient who is wasting
 6 away from chemo and radiation and no appetite.
 7 Here -- we'll get to this one, but there's whey
 8 protein, which has been shown to provide very
 9 bioavailable amino acids to increase lean muscle mass.
 10 And it contains whey which has components that increase
 11 glutathione levels, a natural antioxidant in the body.
 12 It does that very effectively.
 13 So I see that it's working in yet another way.
 14 To me, these are products that have been -- you know,
 15 they've thought out their approach and they have
 16 attempted to inhibit angiogenesis, support lean body
 17 mass and strengthen the immune system and come in with
 18 the GDU and the 7 Herb Formula which have multiple ways
 19 in which they interfere with the growth of cancer.
 20 I feel confident that these -- that the owners
 21 of this company were certainly doing the best they could
 22 and in their mind had created a suite of products that
 23 would be effective in battling cancer. Until we have
 24 the clinical studies, we don't know. We know that they
 25 attempted to formulate a group of products that would

1 A. We do. Almost all integrative medicine doctors
 2 have a little pharmacy.
 3 Q. Uh-huh.
 4 And I believe on your Web site you stated --
 5 but put it now in your own words -- that these are the
 6 formulations that you trust to provide the potency
 7 necessary to achieve the desired therapeutic outcome --
 8 A. Uh-huh.
 9 Q. -- isn't that right?
 10 A. Uh-huh.
 11 Q. Is that a yes?
 12 A. That's a yes.
 13 Q. Okay.
 14 A. Yes. Sorry.
 15 Q. And can you just elaborate, please, on what you
 16 mean by "the potency necessary to achieve the desired
 17 therapeutic outcome."
 18 Why is potency important?
 19 A. Well, I'm using these products in my practice
 20 often as pharmacological agents. There is that concept
 21 of nutritional pharmacology where nutrients, we know how
 22 they act to influence metabolism, and we're doing what's
 23 called precursor loading where we're putting in the
 24 nutrients that fuel a particular biochemical reaction
 25 and drive it to completion.

Page 150

1 So the doctor's lines of products have been
 2 designed in a sense as medicine, whereas my perspective
 3 is these are meant to be used more as food and taken
 4 perhaps on a daily basis for longer periods of time. I
 5 may have a person on a supplement in my practice for
 6 several months and then have them off of that because
 7 we've achieved a therapeutic outcome.
 8 Q. So in contradistinction to Daniel Chapter One's
 9 products, the ones you tend to use have higher potency?
 10 A. They may. But not always. Not always. Some of
 11 these doses are more consistent with the ones that I
 12 have.
 13 Q. Of the four products we've been discussing
 14 today -- we haven't fully discussed BioMixx, but
 15 including BioMixx and the three others we've discussed
 16 at length, which ones have the potency that you like to
 17 see, if any of them?
 18 A. Well, the GDU is a product that looks to me
 19 like it has some good, strong therapeutic benefit, and
 20 that's -- you know, I happen to use other ones that are
 21 comparable, but that's within this line one that strikes
 22 me as potentially quite effective.
 23 And not that the others don't. I have
 24 personally in my practice never used any of the essiac
 25 tea formulas. I might think about it now after this and

Page 151

1 especially, you know, looking at the chemistry behind
 2 the constituents.
 3 Q. Would you use --
 4 A. I can see that it has some therapeutic value I
 5 may have underestimated before.
 6 Q. And how about Bio*Shark or a product like it?
 7 Would you use that in your practice now?
 8 A. I probably would not. I think that there's
 9 other ways to inhibit angiogenesis that are more
 10 certain, green tea, for example, and it's one that's
 11 present in the BioMixx coming up.
 12 I believe that's where it is. I get some of
 13 these products confused. Green tea is in one of these.
 14 Q. All right. Well, why don't we turn to BioMixx,
 15 and as part of that you can --
 16 A. Can I -- before I forget here, I wanted to
 17 submit this, this other paragraph, from Anticancer:
 18 A New Way of Life. This is page 109 where he's talking
 19 about the synergistic effect of foods, and it supports
 20 that point I was making about the spectrum from food to
 21 the drug that we referred to earlier. Remember when he
 22 said that as an alternative to waiting for the miracle
 23 drug there are natural approaches that have a powerful
 24 effect on angiogenesis. Curcumin and green teas were
 25 what he cited.

Page 152

1 Here he says: Medications usually act on a
 2 single factor. The latest generation of anticancer
 3 medications prides itself on offering, quote, targeted
 4 treatments. This means these drugs intervene at a
 5 specific molecular stage, limiting (it is hoped) their
 6 side effects. Anticancer foods, to the contrary, act on
 7 several mechanisms at the same time, and they do it
 8 gently, without provoking any side effects. As for the
 9 combinations of foods we consume at meals, they enable
 10 us to act on an even larger number of mechanisms
 11 involved in cancer. That's what makes their examination
 12 in the laboratory so complicated. The number of
 13 possible combinations to test is astronomical. But this
 14 plethora of combinations is also the reason why they are
 15 so promising.
 16 And I just thought that that was very
 17 interesting coming from an oncologist who himself has
 18 chosen to pursue vigorously the use of a host of some of
 19 these same compounds we're talking about.
 20 And one other piece that I thought would be
 21 interesting to share is from Medicinal Plants of the
 22 World, which is one of the books that I cite in the
 23 perspective piece that I wrote. And the reason that
 24 it's interesting -- I mean, it's got a lot of
 25 interesting things in it. It speaks to these same

Page 153

1 issues around synergy.
 2 But I just thought you might find it interesting
 3 to see these scientists' breakdown of this being the
 4 cell and an overview of the main molecular targets that
 5 are modulated -- reading upside down isn't easy -- by
 6 plant medicines (indicating). And it lists a number of
 7 these different mechanisms that we've been speaking of
 8 and how these compounds act to interfere, mitigate
 9 cancer. And up in this top diagram they talk about the
 10 different compounds in plants and the properties that
 11 they have.
 12 Q. And why don't you just state for the record just
 13 again, if you haven't, who the authors are.
 14 A. Medicinal Plants of the World by Ben-Erik -- and
 15 that's hyphenated, Ben and then E-R-I-K -- Van Wyk,
 16 W-Y-K, and Michael Wink, W-I-N-K.
 17 I was actually gifted this book when I was a
 18 keynote speaker at University of California Irvine's
 19 integrative medicine conference. They gave all of the
 20 speakers this book on botanical medicine. One of the
 21 subjects that I was speaking on were phytonutrients and
 22 phytochemicals in plants, and I had just scribbled notes
 23 on the bottom of it, so I took that off.
 24 Q. We won't mark it. Timber Press 2004 is --
 25 A. Timber Press 2004, right.

Page 154

1 MR. J. TURNER: Do you want to mark the chart
 2 that she cited?
 3 MR. ZANG: Well, then if we can keep this --
 4 THE WITNESS: You can keep that, yeah.
 5 MR. ZANG: -- if you don't mind, then we'll just
 6 mark this for identification as Exhibit 6.
 7 And before I forget, let me just mark from your
 8 Web site, Doctor -- and why don't you just take a look
 9 and confirm it's from your Web site -- as Exhibit 7 the
 10 page I was reading from earlier so that record is clear,
 11 too.
 12 (Pause in the proceedings.)
 13 (LaMont Deposition Exhibit Number 6, Medicinal
 14 Plants of the World excerpt, was marked for
 15 identification.)
 16 (LaMont Deposition Exhibit Number 7, Web site
 17 page, was marked for identification.)
 18 BY MR. ZANG:
 19 Q. So --
 20 A. So yes, that was from my practice, from my
 21 Web site.
 22 Q. Exhibit 7.
 23 And we've now put in Exhibit 6, which is the
 24 book that you were referring to, Medicinal Plants of the
 25 World.

Page 155

1 And at this point let's move on now to discuss a
 2 little more at length BioMixx.
 3 A. Uh-huh.
 4 Q. And why don't you begin by answering the
 5 question that you were posing earlier, which is whether
 6 or not it contains green tea as one of its compounds or
 7 elements.
 8 A. Yes, it does.
 9 Q. And why don't you begin there and talk about
 10 what studies you looked at.
 11 A. With green tea?
 12 Q. With respect to green tea.
 13 A. Okay. And this is one of those botanicals where
 14 there are so many, many studies on green tea.
 15 But on page 34, Camellia sinensis is the name of
 16 the -- the botanical name of the plant. As you know,
 17 have been used for millennia throughout the east. It's
 18 actually the same plant that becomes black tea, but here
 19 it is young and fresh. It hasn't been oxidized. And
 20 when it hasn't been oxidized, it has higher levels of
 21 these polyphenolic flavonoids.
 22 The big one -- they even have commercials on TV
 23 with a kid spitting out ECGC (sic), epigallocatechin
 24 gallate, and no wonder they abbreviate it to EGCG. But
 25 that is only one of several active constituents that are

Page 156

1 all part of the flavonoid family, the polyphenols, if
 2 you will.
 3 And from Cancer Research in 2008, their abstract
 4 states, "EGCG is a well-known chemoprevention factor
 5 that triggers apoptosis in cells going through the
 6 p53-dependent pathway."
 7 In other words, it's helping to keep that gene
 8 functioning properly so that programmed cell death
 9 occurs as it should.
 10 Q. And this Cancer Research study, do you know the
 11 parameters of it?
 12 A. No. I would imagine -- unless I state that it's
 13 a human clinical trial, it is not.
 14 Q. Okay.
 15 A. Yeah.
 16 And then in the next one in 2003 from
 17 Chemical Research in Toxicology, EGCG and EGC, its
 18 cousin, are capable of altering another transcription
 19 factor that -- let's see. Let me see, read this
 20 through -- responsible for most, if not all, of the
 21 AhR -- and I must admit I don't know what that AhR
 22 transcription factor is.
 23 But in this particular study it was proposing a
 24 mechanism of action of how it prevents tobacco-related
 25 carcinogenesis. Given the number of people that smoke.

Page 157

1 cigarettes and are at high risk of cancer, I thought it
 2 was interesting that a study had been done proposing a
 3 mechanism of action whereby EGCG and EGC could tend to
 4 inhibit carcinogenesis from exposure to tobacco.
 5 Q. This is just a good pausing point for me to ask
 6 a question that's been on mind, which is that you've
 7 spoken about various studies that relate to certain
 8 types of cancers; right?
 9 A. Uh-huh.
 10 Q. And I'm sorry, but is that a yes?
 11 A. Yes.
 12 Q. Okay. And so do any of the studies that we've
 13 been looking at today address cancer in all its forms?
 14 I presume not, but correct me if I'm wrong.
 15 A. I don't think anything addresses cancer in all
 16 of its forms because there are so many different ways
 17 that it can manifest and differences in cell lines.
 18 There's groups of cancers that seem to have
 19 shared underlying mechanisms, breast, colon, prostate,
 20 for example, and then others, gliomas, that are very
 21 different. It's a different kind of cell and it acts
 22 very differently when stimulated into the process of the
 23 growth of cancer.
 24 Q. So that was my understanding of all of the
 25 studies that we have been looking at today, so isn't

Page 158

1 that another -- doesn't that present therefore another
 2 danger of referring to the four products we've been
 3 talking about as battling cancer without describing
 4 which types of cancer they might battle?
 5 A. Not in my mind. Because if we, you know, kind
 6 of move back out of the looking for a single agent to
 7 fix a single kind of cancer to the multiple constituents
 8 and multiple molecular targets, then actually the food
 9 and plant-based approach to preventing cancer and, if
 10 not, acting on it to kill it in various ways has a
 11 greater chance of being successful because you're not
 12 honing it to a single bullet that has to hit a single
 13 target.
 14 Q. But you are talking now about cancer prevention
 15 as opposed to treatment or cure; right?
 16 A. There's a -- that's a very much of a
 17 progression, though. And many of these studies state
 18 that it is chemopreventive or that it inhibits the
 19 initiation, post-initiation, continuation, progression
 20 phases.
 21 So I believe it was turmeric was effective in
 22 one of the studies in affecting late-stage cancer
 23 development and so that it actually functioned to be
 24 what they call to be effective in secondary prevention.
 25 Even after cancer had begun, it was effective in turning

Page 159

1 it around, so --
 2 Q. Could you just identify that study for the
 3 record.
 4 A. Yeah. Let me go back and -- here, yeah, it was
 5 turmeric.
 6 Q. What page?
 7 A. Let me translate here. I glanced -- I used mine
 8 because I knew where it was on the page.
 9 It's actually on the same page, 11.
 10 The bottom of page 11, Cancer Research 1999:
 11 Turmeric has demonstrated anticarcinogenic effect in
 12 cultured cell lines and animal models at all phases of
 13 cancer growth, including initiation, post-initiation,
 14 promotion and progression, allowing it to be useful in
 15 secondary prevention.
 16 Q. And you probably can guess my follow-up
 17 question, which is: And yet of course that is not a
 18 human study, not a clinical study; correct?
 19 A. Right. But it was cell lines in animals, so
 20 we're getting -- we're out of the cell line. We're into
 21 some -- some animals.
 22 But -- yeah. Then again, so much of our
 23 physiology is comparable, certainly not identical, but
 24 when we understand how it affects cancer in one model,
 25 we can look at how they are similar. And for a

Page 160

1 particular kind of cancer especially I'm sure
 2 oncologists would be able to look at it and say yes,
 3 that's the same mechanism we see occurring in human
 4 breast cancer cells or whatever.
 5 Q. But in your practice with patients, you focus on
 6 each individual patient and --
 7 A. Right.
 8 Q. -- the cancer or type of cancer that they might
 9 be likely to get.
 10 A. Right.
 11 Q. And that's a different approach than the
 12 Daniel Chapter One approach where in their written
 13 materials, to the extent that you've seen those, they
 14 talk about cancer generally; correct?
 15 A. They do.
 16 Q. And that's a different approach than yours.
 17 A. It is, but it's why I'm going to feel a little
 18 more comfortable with them, you know, making those
 19 general statements, because they're treating these as an
 20 extension of food and an extension of foods, not
 21 attempting to get more specific than that. To me,
 22 that's -- they have a broader scatter of where all those
 23 little single BBs would potentially be effective at
 24 stopping cancer.
 25 They're not trying to say this will cure your

Page 161

1 colon cancer or this will cure your lung cancer but
 2 rather that turmeric and bromelain and parthenolides and
 3 chrysanthemum affect multiple aspects of carcinogenesis
 4 and therefore are recommending that you use a food-based
 5 dose of these compounds over time.
 6 Q. Let me ask you this.
 7 If on their radio show a caller called in and
 8 said, I have colon cancer, what should I do, and they
 9 said, Well, take one of our products, take this product,
 10 would you have a problem with that approach?
 11 A. Well, I don't know.
 12 Q. For the first time in a while you're showing
 13 some hesitancy. Explain your hesitancy.
 14 A. I wouldn't want to have anybody say, Take this,
 15 it's going to cure your colon cancer.
 16 I didn't think that that's what these folks were
 17 doing. I'm under the assumption that they're
 18 recommending that these nutrients are going to support
 19 their immune function and help to alter the progression
 20 of cancer in its many forms.
 21 The flip side of them not saying -- not
 22 educating the public about the benefits of turmeric and
 23 green tea and these different agents is that the public
 24 goes unaware that there's anything else that they can do
 25 to shore up their defenses when they're faced with

1 cancer, and to me that's very -- that's problematic.
2 It's part of the reason we're in this predicament
3 where --

4 Q. But there are good people like you around to do
5 that education, aren't there?

6 A. There are, but -- and there need to be a whole
7 lot more because the predominance at this point of the
8 conventional oncologists haven't got a clue that there
9 is a body of evidence that suggests that anything other
10 than pharmacological chemotherapy and radiation is
11 effective in preventing or treating cancer.

12 And it took Dr. Servan-Schreiber the diagnosis
13 of cancer twice to stop and really investigate that and
14 to determine, at the encouragement of his brother and
15 friends and publicists, that you've got to get this
16 information out.

17 So I think that there is real value to saying
18 use these products and others, that we understand some
19 mechanism of action whereby they could help to deter the
20 progression of cancer, not that that's going to cure
21 your cancer but that it may help you to survive the
22 process of being treated for it.

23 Q. And my line of questioning now is really just
24 going to isn't there a good way of educating the public
25 and a way that may not be so good or well-advised.

1 know that they are. I think I would have to see that in
2 the context of their overall -- like I don't know an
3 example that they're saying you have colon cancer, you
4 should take GDU. I didn't -- I don't know that they're
5 doing that.

6 So I don't think I can answer that question
7 without having the context that it would fit into,
8 without fully understanding that context.

9 BY MR. ZANG:

10 Q. If they're approaching the topic in terms of
11 disease and talking about cancer and what to take for
12 cancer generally, are you comfortable with that
13 approach?

14 A. I'm certainly more comfortable with that than
15 specifically relating that it -- this is going to cure
16 your X cancer. That would fall into the
17 that's-a-big-stretch category. The fact that these
18 herbs, their formulas have a number of different
19 constituents that we have established have known
20 mechanisms of action where they can help to potentially
21 prevent and stop the progression of cancer, I'm more
22 comfortable with that.

23 Q. But you're most comfortable with what, with the
24 structure/function --

25 A. Yeah.

1 And to the extent that Daniel Chapter One is
2 giving advice with respect to specific cancers, isn't
3 that one of the less well-advised ways to go about this
4 process of education?

5 A. Can you rephrase that, please.

6 Q. Let me ask Josett to reread it, and then if you
7 don't understand it, absolutely.

8 A. Yeah. It's sometimes hard to track these long
9 questions.

10 Q. It's getting late.

11 A. Yeah.

12 (The record was read as follows:)

13 "QUESTION: And my line of questioning now is
14 really just going to isn't there a good way of educating
15 the public and a way that may not be so good or
16 well-advised.

17 "And to the extent that Daniel Chapter One is
18 giving advice with respect to specific cancers, isn't
19 that one of the less well-advised ways to go about this
20 process of education?"

21 MR. J. TURNER: Do you still want him to
22 rephrase the question?

23 THE WITNESS: Well, I'm just thinking about it.
24 I'm trying to decide if -- if they are in fact giving
25 specific advice regarding specific cancers. And I don't

1 Q. -- approach?

2 A. I'm most comfortable with patients being
3 educated, with -- not patients, the public, all of us.
4 Unfortunately, every time a study is done -- like you
5 never see any of these studies in the newspaper. And
6 whenever there's a study that's done even suggesting
7 that a supplement would be useful, immediately there's
8 another one that says that it isn't.

9 One that's bothering me right now is the one
10 that came out last week proposing that the
11 Women's Health Initiative study concluded that women
12 who take a multivitamin and mineral have no reduced --
13 there's no reduction in the incidence of heart disease
14 or cancer. I don't buy that.

15 If you go back and look at the way that is done,
16 that was a questionnaire that those thousands of women
17 who participated checked did you take a multiple vitamin
18 and mineral. We don't know whether they were taking --
19 I don't want to name one, but let's just say a drugstore
20 variety low dose or whether it was one that actually had
21 a highly absorbable form at a potency that actually
22 might have been expected to promote health in a way that
23 another wouldn't.

24 I might have rambled there a bit, but it's a --

25 Q. That's all right.

Page 166

1 One thing that sticks out in my memory is a
 2 radio show transcript of the Feijos' radio show where
 3 one of the Feijos referred to doctors or certain doctors
 4 as Dr. Dumb-Dumb. I guess they were advocating use of
 5 their own products and skepticism about some of the
 6 doctors out there.
 7 What do you think about that approach of
 8 referring to some doctors as Dr. Dumb-Dumb? Do you
 9 think that that's well-advised?
 10 A. Disrespectful. No. Disrespectful.
 11 I mean, I may not agree with all doctors, but I
 12 certainly respect their extensive training and the
 13 paradigm that they're functioning in.
 14 I actually have many close friends who are
 15 medical doctors, was married to one, have -- am in a --
 16 function in a group of integrative doctors, hundreds if
 17 not thousands of us who believe very much in the way I
 18 have been speaking today, and I'm never inclined to
 19 insult a doctor.
 20 Q. Is there a danger if consumers don't continue
 21 with traditional cancer therapy?
 22 A. Yeah.
 23 Q. Can you elaborate on what that is, what that
 24 danger is?
 25 A. Well, cancer is a very difficult process to

Page 167

1 stop once it's started, and depending on -- I think
 2 that they need to consult and become highly educated
 3 in -- whenever a person -- whenever a person is
 4 diagnosed with cancer, they need to make their life
 5 mission to understand everything that they can about
 6 their cancer, how it started, every factor that could
 7 have created it, caused it, tripped the trigger on
 8 carcinogenesis, and they need to thoroughly take
 9 responsibility for their health, seek multiple
 10 opinions.
 11 I personally wouldn't take the advice of any
 12 one doctor. I would talk to two or three. And I would
 13 do Internet searches and I would -- this is what I
 14 suggest my patients do. And I think that the more
 15 well-informed people are, the better choice that they
 16 can make about the direction that they want to go.
 17 Occasionally there will be a person who, for
 18 maybe religious purposes or they just live in a
 19 different mindset, that there is no way they're going to
 20 subject themselves to the traumas and poisoning effect
 21 of chemotherapy and radiation. And let's face it. It
 22 is poisoning.
 23 I mean, these are cytotoxic agents and not in
 24 the sense of, you know, curcumin could kill a cancer
 25 cell, but these go in and kill all rapidly reproducing

Page 168

1 cells in the body. And you lose muscle mass and you
 2 lose multiple organ function, and it drives many people
 3 to the brink of death just from the therapy. And if
 4 they're lucky, they recuperate and can live with that
 5 five-year survival rate and be proclaimed a success.
 6 Lots don't. And I think -- what are we up to --
 7 65 percent now of people can live five years past
 8 their -- concluding their treatment.
 9 So there's a long ways to go there. Some people
 10 are just not going to succumb to that. But that's a
 11 choice they need to make.
 12 That's what I have to say about that.
 13 Q. All right. Let's continue on BioMixx.
 14 We've spoken about green tea.
 15 Let's go to the next --
 16 A. And astragalus and Eleutherococcus -- did we
 17 talk about astragalus before?
 18 Q. I don't believe so.
 19 A. Well, that's a very famous Chinese herb that
 20 really needs to go on the record here for its long use
 21 in Chinese medicine. Astragalus is -- its common name
 22 is astragalus, too.
 23 Q. What page are you on?
 24 A. We're on page 31.
 25 In traditional Chinese medicine it's been known

Page 169

1 as a wei qi tonic, and that's the immune system. They
 2 knew centuries if not thousands of years ago that there
 3 was something in astragalus that strengthened our
 4 defense against infection and other immune system
 5 diseases, if you will.
 6 And I know when I was in acupuncture school in
 7 '84 one of the first studies came out demonstrating the
 8 anticancer effect of astragalus.
 9 And this is a root, a dried -- it kind of looks
 10 like a tongue depressor. It's a shaved root and it's
 11 bright yellow, not as yellow as turmeric but probably
 12 contains some pigments with a similar nature.
 13 Q. Can I just ask you since you mention it, that
 14 study that you --
 15 A. Yeah. 1984.
 16 Q. -- just mentioned, is that mentioned here as
 17 well?
 18 A. Let me see. You know, I thought as I went
 19 through this that I may have seen that one, although I
 20 see that I've only included three studies here, 2006,
 21 '88 -- it could have been a reflection of that study in
 22 the 1988 Journal of Clinical Laboratory Immunology,
 23 where a partially purified fraction of astragalus was
 24 found to possess a potent immunorestorative activity
 25 in vitro -- this was in rats -- possessed a strong

1 immune-potentiating activity in vivo.
 2 These preclinical data also provide the rational
 3 basis for the use of extracts of astragalus in phase I
 4 clinical trials among patients suffering from iatrogenic
 5 or inherent immune deficiency states. And you know
 6 iatrogenic diseases are those caused by medical
 7 treatment.
 8 Then in the 2007 volume 28, number 6 of
 9 Carcinogenesis, astragalus they say is being used as an
 10 immunomodulating agent in treating immunodeficiency
 11 diseases and to alleviate the adverse effects of
 12 chemotherapeutic drugs.
 13 In here they studied the anticarcinogenic
 14 effects of astragalus on human colon cancer cells and
 15 found that it inhibited cell proliferation by altering
 16 the cell cycle of replication and division, that it
 17 promoted apoptosis, programmed cell death. It
 18 demonstrated antitumorigenic effects in vivo, reduced
 19 the side effects.
 20 So here now we're -- this -- now we're looking
 21 at a -- it must be a human trial because they're talking
 22 about 5-FU, 5-fluorouracil, the chemotherapy, with
 23 oxaliplatin, oxaliplatin another of the platin
 24 derivatives. It reduced the side effects, the weight
 25 loss and mortality associated with that drug combo, and

1 Q. Okay.
 2 A. If your proof is only double-blind
 3 placebo-controlled human clinical trials, then it's not
 4 proof, but it is certainly a suggestion that there's
 5 therapeutic -- the potential for therapeutic benefit
 6 here.
 7 Q. Well, and in here, though, even if your proof is
 8 something less than what you've just described, this
 9 study simply concluded that AST could be effective, not
 10 that it is.
 11 A. Right.
 12 Q. Okay.
 13 A. Right.
 14 Q. And so on the basis of all these studies,
 15 Doctor, would it be fair to say that there's no proof
 16 that BioMixx is effective in the treatment of cancer?
 17 BioMixx, the product.
 18 A. BioMixx, the product. It certainly has not gone
 19 through those kind of clinical trials that would prove
 20 that it's going to cure cancer.
 21 Q. Okay.
 22 Okay. So let's continue with BioMixx.
 23 What else did you study --
 24 A. I wanted to speak to why because I think that
 25 that's probably the big -- it's the reason that they

1 suggests -- well, they say "indicate" -- "These results
 2 indicate that astragalus could be an effective
 3 chemotherapeutic agent in colon cancer treatment. It
 4 might also be used as an adjuvant in combination with
 5 other orthodox chemotherapeutic drugs to reduce the side
 6 effects of the latter."
 7 Q. Do you know what that means, that the results
 8 indicate that AST could be an effective chemotherapeutic
 9 agent in colon cancer treatment?
 10 A. Well, I think what they're saying is because
 11 they see that it reduces cell proliferation, promotes
 12 apoptosis, and then when they -- actually they say the
 13 combination of chemo was in mice, that when they
 14 combined it with 5-FU that they see that it -- to me
 15 it's straightforward -- it could be a valuable
 16 chemotherapeutic agent in colon cancer treatment.
 17 Q. But we're in the land of anticancer potential
 18 right now rather than --
 19 A. We are. We're in the land of demonstrating
 20 mechanisms of action and proposing that this could be
 21 studied, should be studied further to see what effect
 22 it has and in hopes that it would reduce some of the
 23 negative effects that we see with these chemotherapies.
 24 Q. So again potential but not proven.
 25 A. Right.

1 formulated this product, is they -- it appears to me
 2 that they wanted something in their formulary -- in
 3 their line of formulas that would strengthen a person to
 4 be able to withstand the rigors of chemotherapy and
 5 radiation.
 6 And they chose a whey protein source over soy or
 7 other sources, and I think that that was a wise choice
 8 because whey has been shown to raise levels of
 9 glutathione in the blood and in humans and in doing
 10 so -- well, glutathione -- glutathione fits into
 11 glutathione peroxidase. It is the base of the most --
 12 one of the two or three most potent antioxidants that
 13 the body makes. And whey proteins are -- as they say
 14 here in Critical Food Rev, Review, in the Science of
 15 Nutrition, I would say is what that is, at the top of
 16 page 30 --
 17 Q. Actually I think it's 29 in our copy, in the
 18 official copy.
 19 A. Huh?
 20 Q. I believe it's page 29 at the bottom now.
 21 A. Oh, you know, there's two, and it's the same
 22 thing as before where they're citing different -- nope.
 23 Same pages.
 24 I guess I just went on to cite one as where
 25 they're talking about how the branched-chain amino acids

Page 174

1 are important factors in tissue growth and repair.
 2 And then in mechanism of action I state that
 3 whey has a potent antioxidant activity, likely by
 4 contributing cysteine-rich proteins that aid in the
 5 synthesis of glutathione, a potent intracellular
 6 antioxidant.
 7 Q. Let me ask, why would you recommend that one
 8 take -- well, strike that.
 9 Isn't it the case that one could obtain whey
 10 from cow's milk or cheese as opposed to from a dietary
 11 supplement?
 12 A. Whey protein is -- it's more potent than just
 13 eating the -- like to get whey, you have to take
 14 cottage cheese and let it separate, and it's that
 15 milky or the liquid portion.
 16 Here they've just taken the amino acids out of
 17 that and turned it into a protein powder so you can get
 18 far greater quantities of those branched-chain amino
 19 acids and the rest of the spectrum of amino acids, which
 20 are the building blocks of protein, which your body then
 21 uses to build muscle mass and in this case to provide
 22 some of the amino acids that create glutathione in the
 23 bloodstream.
 24 Q. And how much is one getting from BioMixx of
 25 whey?

Page 175

1 A. Well, let's see. I would need a label, and I
 2 had one in here.
 3 So I don't know that I can -- I can't tell you
 4 that because I don't know -- well, here's my label, but
 5 I know something spilled on this label.
 6 So somewhere along the line I lost my ability to
 7 tell you how many milligrams of whey are in here.
 8 That's the bulk of what this is. It's a whey-based
 9 protein powder, just like you would go to the health
 10 food store and buy a whey-based protein powder, so I
 11 can't tell you.
 12 I can tell you that the label says it helps to
 13 detoxify the body, boosts energy and immunity and -- and
 14 I -- from my -- as I understand it, it has ingredients
 15 that would do that between the whey, the astragalus, the
 16 Siberian ginseng and the green tea.
 17 And I think -- yeah.
 18 Do you have a clean one? It looks like you got
 19 water on some of yours, too. No. I guess that's just a
 20 fuzzy stamp at the bottom (indicating).
 21 Pardon me.
 22 Q. Do you believe it's fair to say that BioMixx
 23 fights cancer?
 24 Or is that a stretch?
 25 A. Well, BioMixx contains astragalus, green tea

Page 176

1 and Siberian ginseng, Eleutherococcus senticosus, that
 2 we've reviewed the multiple ways in which those
 3 constituents have known mechanisms of action that
 4 appear to fight cancer. And the fact that they put
 5 whey protein in there to strengthen our immune response
 6 and to build muscle mass, I can see that it would be a
 7 complement to a program where if you're -- if you're
 8 using it to fight cancer, I'd rather see somebody take
 9 that than not because otherwise they may well be
 10 wasting away without good absorption of protein and
 11 certainly those immune-stimulating nutrients that are
 12 in there.
 13 Q. So as a complement to traditional cancer
 14 therapy?
 15 A. Yeah. Certainly as a --
 16 Q. As a stand-alone product?
 17 A. As a stand-alone? I honestly don't think as a
 18 stand-alone BioMixx is going to cure their cancer or
 19 probably even effectively treat it, but it will
 20 certainly strengthen their immune response and assist
 21 them in weathering the effects of conventional treatment
 22 of cancer.
 23 It would be a good idea for people going through
 24 chemo to be on a product like this. And radiation for
 25 that matter.

Page 177

1 Q. All right. So we've now covered whey --
 2 A. Right.
 3 Q. -- as well as green tea and yellow root.
 4 Any other BioMixx products --
 5 A. Well, there is -- you know, there's --
 6 Q. -- that you want to focus on?
 7 A. -- another fifty or sixty nutrients in there,
 8 and I simply didn't have the time to begin to go through
 9 all of those nutrients, but suffice it to say that it
 10 is -- it's almost a multiple vitamin and mineral in
 11 their proprietary blend, at probably fairly low dose,
 12 but it's -- and we don't know the doses when we get into
 13 the rest of their proprietary blend.
 14 There are a number of other products in there
 15 that they do have stated doses of. There's even I think
 16 it was 900-some milligrams of shark cartilage in this
 17 product, so you know, there's some potential therapeutic
 18 benefit from the doses of those -- the higher doses of
 19 those compounds beyond the proprietary blend, which is
 20 the multiple.
 21 So I really can't speak to the individual
 22 constituents except to say that, as a combination, our
 23 body needs those nutrients to function properly. And
 24 cancer patients are notoriously -- what's the word I'm
 25 looking for? They have poor nutrition. Their appetite

1 is poor. They don't eat much and they consequently are
2 undernourished. This has the potential to shore up that
3 undernutrition.

4 Q. I imagine, though, in preparing your report you
5 tried to focus on the most important components of
6 BioMixx?

7 A. I did and I tried to focus on the ones that I
8 knew had like to begin with a body of research behind
9 them. That's why I picked out green tea, astragalus,
10 Eleutherococcus.

11 But no doubt there's research behind -- well,
12 for example, the colostrum IGF, that's an immunoglobulin,
13 an antibody provided by colostrum, which is the first --
14 before a cow -- before the milk comes in in any animal
15 actually after birth there is secretion of a watery
16 substance, colostrum, that's full of immunoglobins, the
17 antibodies that the mother provides, that passive
18 immunity to the infant. And they have -- I believe
19 that's 1,221 milligrams of that in there.

20 There's actually quite a lot of research about
21 the benefits of colostrum to stimulate the immune
22 response. It makes sense because it's full of
23 immunoglobins. But I just did not have the time to
24 capture all of that before last Wednesday, the 4th,
25 when the report was due. That was two Wednesdays ago.

1 I'm just noticing some research that I had that
2 I didn't actually add, and I believe this is the product
3 that has soy in it, too.

4 Q. Do you want to confirm that on the label?

5 A. Honestly, my label got wet, and so I guess I
6 shouldn't speak to that, but I'm almost positive it was.
7 I have notes here that soy was in there.

8 So never mind. Strike that.

9 Q. Okay.

10 A. I wanted to at least comment on it, but I think
11 I've probably provided the basic information that's
12 necessary to recognize its value.

13 Q. I just want to read something that one of my
14 colleagues handed. It's a transcript of one of the
15 radio broadcasts of Daniel Chapter One.

16 A. Okay. Uh-huh.

17 Q. And I'll just read into the record a portion of
18 it, understanding that you're only looking at -- hearing
19 a portion of it.

20 MR. J. TURNER: Do you have copies for us?

21 MR. ZANG: I'm going to read it into the
22 record --

23 MR. J. TURNER: All right.

24 THE WITNESS: Okay.

25 MR. ZANG: -- Jim.

1 BY MR. ZANG:

2 Q. This is Jim Feijo, and he's saying, on page 47
3 of the transcript: It happens to be colorectal cancer
4 is the number two cancer killer in the United States
5 after lung cancer, so what are you going to do about
6 it?

7 Now, it continues on page 48: Are you going to
8 run out and have a bunch of colonoscopies? Well, you
9 can do that if you want. I mean, go see Katie Couric.

10 And it goes on, and then Trish Feijo says:
11 They'll cut it right out, and that's not a good idea.
12 It's actually a suppressive practice and it doesn't
13 make much sense. It makes sense to them because all
14 they know is to cut away disease. But if you do have a
15 polyp, then it's not unlike a little skin tag or a wart.
16 It's not in itself a threatening thing. But you can
17 certainly use products like 7 Herb, GDU.

18 I'm going to stop there, and understanding that
19 you haven't looked at the whole transcript and I'm
20 reading this out of context.

21 But do you have a comment on what I just read
22 with respect to the suggestion that cutting out the
23 polyp is not a good idea, it's actually a suppressive
24 practice?

25 A. Can I take the thing apart because I made a

1 couple notes?

2 Q. Yes. Of course.

3 A. First of all, colonoscopy is a screening test
4 for early detection, and it's important to have them,
5 especially anybody over fifty, and I think that they
6 should be done. Luckily, for all of us over fifty --
7 you know, most of us are there -- there are new,
8 noninvasive imaging studies that are going to be done so
9 we don't have to succumb to the colonoscopy.

10 And I can understand their desire to, you know,
11 limit repeated colonoscopies. They're problematic, and
12 there's even some deaths that are associated with them.
13 There's occasional punctures and such.

14 And it isn't a hundred percent effective. It's
15 effective if the doctor doing the colonoscopy is very
16 skilled and slowly withdraws the tube and looks as he
17 does so. And I just read a report where they miss so
18 many because doctors don't do them very thoroughly.

19 So colonoscopy is a screening test, I think it
20 should be done, and I look forward to more effective and
21 less invasive means of assessing for polyps.

22 It is true that polyps are a kind of
23 precancerous tag, if you will. However, I do think that
24 those ought to be removed and because, if they're not,
25 they can grow on to become a colon cancer.

Page 182

1 And do -- so the final question is do I think
 2 7 Herb Formula and GDU should be used? Is that what
 3 you're asking me?
 4 What's the final portion of your question to
 5 me?
 6 Q. Well, first of all --
 7 A. You wanted me to comment on it.
 8 Q. Let me ask you, first of all, do you think that
 9 the Feijos should be giving what appears to be medical
 10 advice on their radio show?
 11 A. Well, they're reflecting the position of a lot
 12 of people out there who think colonoscopies are done too
 13 frequently and are relied upon as though they're a
 14 hundred percent effective in screening.
 15 I personally don't think that they should be
 16 saying -- should be suggesting that people shouldn't get
 17 that done, however. I can understand why they are
 18 speaking a bit negatively about it, but I would want to
 19 see them come back and say that that is not to say that
 20 we should not have a colonoscopy performed periodically
 21 and especially if you're a high-risk person with a
 22 family history of colon cancer.
 23 Q. And how about the advice of taking 7 Herb or GDU
 24 instead of having the polyp cut out?
 25 A. I think that that is not a good idea. I think

Page 183

1 that they should say that they could -- you should do
 2 both. You know, if you want to say take 7 Herb and take
 3 GDU, I don't think that that should be recommended in
 4 lieu of excision of that tag.
 5 It is removing a precancerous lesion, and it's
 6 not in an area where you can observe that precancerous
 7 lesion like you can a mole on your body or an actinic
 8 keratosis or a basal cell, a less virulent form of skin
 9 cancer.
 10 So I would prefer that they not make those kind
 11 of comments.
 12 Q. I mean, isn't there a danger that people will
 13 take the Daniel Chapter One products and not go and see
 14 their physicians?
 15 A. Well, there's always that danger. I suppose
 16 that anybody is going to do whatever they want to do.
 17 I think that they should be recommending that
 18 they have colonoscopies and when a suspicious lesion is
 19 found that it's removed.
 20 Q. Simply to protect the individuals at issue
 21 here.
 22 A. Right.
 23 Q. Okay. Let's move on. We're making good
 24 progress, so let's go off the record for one minute.
 25 (Discussion off the record.)

Page 184

1 (Recess)
 2 BY MR. ZANG:
 3 Q. All right. Dr. LaMont, we're in the final
 4 stretch here.
 5 A. Okay.
 6 Q. So the nature of these final stretches is that
 7 sometimes the questions are just going to be random,
 8 not necessarily flow, but they're kind of cleanup
 9 questions, so I'm just going to start to go through
 10 some of those.
 11 A. Okay.
 12 Q. Firstly, have you ever conducted a scientific
 13 controlled study of yourself of any sort?
 14 A. No, I have not.
 15 Q. And have you ever spoken to anyone who has
 16 personally taken any Daniel Chapter One products?
 17 A. No.
 18 Q. And have you ever --
 19 A. Well, I take that back. Chris has been taking
 20 them, and I did talk to him.
 21 Q. And by "Chris" you're referring to --
 22 A. Chris Turner. And that was just -- I met him
 23 yesterday, so not when I did this, no. I've never known
 24 anyone who knew of this product line.
 25 Q. And you yourself do not take any

Page 185

1 Daniel Chapter One products?
 2 A. No.
 3 Q. Have you ever reviewed the medical records of
 4 anyone who has taken Daniel Chapter One products?
 5 A. No.
 6 Q. You mentioned earlier that you spoke to
 7 Jim Turner and obtained some information about
 8 Daniel Chapter One.
 9 Have you ever spoken to either of the Feijos?
 10 A. I was on one conference call with them one
 11 morning when they were driving somewhere, and I was
 12 trying to understand what medical literature they had to
 13 support the product formulations. And all at that point
 14 that I had been given was the stack of articles, not
 15 citations, and I was requesting more and trying to
 16 understand the system of numbering that they had that
 17 you probably saw with the letters and arrows and
 18 numbers, and I didn't know what that all referred to and
 19 I wanted to see what else they had.
 20 And later that day, which was a Wednesday --
 21 somehow I think it was the 20th of January that we had
 22 that phone conversation -- it was that day that they
 23 sent me all the rest of their -- the summary of
 24 evidence and the abstracts that I then used to begin the
 25 process.

1 That's the only time I've ever spoken with
2 them, and it was specifically only to request the rest
3 of their evidence so that I could peruse it and study it
4 to prepare the report.

5 Q. What prompted you to ask them for more?

6 A. Because I hadn't gotten anything other than the
7 articles starting with the one on Nieper, and you had
8 that pile. That's all I had gotten prior to that, and
9 later that day everything else came via e-mail.

10 Q. And that first group of articles was not
11 sufficient, in your opinion?

12 I'm just trying to understand why you needed
13 more.

14 A. Right. The first group of articles really were
15 overviews of -- they were articles from the popular
16 medical literature describing the benefits of some of
17 the constituents of the products.

18 Q. And so that the record is clear, I just want you
19 to identify the first list and the second list.

20 A. Uh-huh.

21 Q. So let's take a look at the exhibits that have
22 been marked. I think they're probably already in this
23 set (indicating)?

24 There is a group of articles --

25 A. That's it.

1 Q. -- attached to Exhibit -- LaMont Exhibit 2, so
2 is this the first set or --

3 A. Right. That's what I had received prior to my
4 conversation with them.

5 Q. All right.

6 A. And then after that, they sent --

7 Q. A second list, and that I believe is attached to
8 Exhibit 1. Is that right?

9 A. Right. Right. That was -- it was that and the
10 other citations that they had in addition to those, and
11 that's what I used.

12 Q. And in that phone conversation with the Feijos,
13 did they describe how they would be putting together the
14 second set of articles that we now see attached to
15 Exhibit 1?

16 A. Well, you know what I had seen was this
17 document, but I said show me the studies, and so they
18 sent me the abstracts and in some cases the
19 studies (indicating).

20 In other words, this document I had gotten, but
21 I hadn't gotten the -- they actually had all of these
22 abstracts and more, and that's what they sent
23 me (indicating).

24 I said, Do I need to go look up all of these
25 myself? And they said, No, we have these. And then

1 they sent me, you know, in zipped folders hundreds of
2 documents that backed up those.

3 Q. So just so that the record is clear --

4 A. Yes.

5 Q. -- so I think now what you're testifying to is
6 that before you had the call with the Feijos, you had
7 received the list of articles attached to Exhibit 1. Is
8 that right?

9 A. That's right.

10 Q. But not the articles themselves.

11 A. Right.

12 Q. And had you also received the list --

13 A. I had received that.

14 Q. Let me finish just so that the record is
15 clear -- the list attached to Exhibit 2?

16 A. Yes.

17 Q. Okay. And you indicated in an earlier answer
18 that what you had received was not sufficient so --
19 because they were general overviews I believe you've
20 testified to.

21 A. Correct.

22 Q. Is it your testimony that it wasn't sufficient
23 because you didn't have the actual underlying article?

24 A. Correct. I wanted to read the abstracts for

25 myself to verify known mechanisms of action. I wasn't

1 going to base a report on, you know, another author
2 saying curcumin fights cancer.

3 I wanted to see what evidence they had in their
4 possession when they formulated these products and
5 verify and thoroughly understand the mechanism of action
6 of at least the science to date, and then I did in some
7 cases go on and add, you know, if there was -- some of
8 these go right up to 2008, and so I added another, you
9 know, 2009 article if it was available, and it was on a
10 couple of occasions, to kind of --

11 Q. Now, in going through your expert report, it
12 appears -- and I think you testified to this as well --
13 you didn't cite every article that is listed in
14 Exhibits 1 and 2; right, you've selected certain
15 articles to cite in your own report?

16 A. Right. Simply because there were so many.

17 Q. And also because some were more valid than
18 others or more --

19 A. Maybe more relevant than others. Yeah. Not
20 that they were invalid or -- they just struck me as
21 maybe more focused on cancer, which was what I was
22 particularly interested in building the evidence base
23 around.

24 Q. And did you have an understanding when you spoke
25 to the Feijos as to when they had obtained these various

Page 190

1 articles?
 2 A. My understanding was they had them when they put
 3 these formulas together.
 4 But I didn't get that from the conversation with
 5 them because my conversation with them was really not
 6 long enough, and Jim was on the phone then, too. It
 7 was the only time I spoke to them and it was
 8 specifically about providing me what they had, and so
 9 I -- I don't know where in the spectrum of formulating
 10 the articles that they had -- or formulating the
 11 products that they had these articles.
 12 Q. Because in fact, just looking at the dates on
 13 many of these articles, it would appear as if many of
 14 the dates of these articles were in the late 1990s or
 15 thereabouts, and that probably was after the products
 16 were formulated, was it not?
 17 A. I have no idea.
 18 Q. Okay.
 19 A. I have no idea when these products were
 20 formulated.
 21 Q. All right. I see some 2004 dates, for example.
 22 But you have no idea when the products were
 23 formulated?
 24 A. I really have no idea.
 25 One thing I will comment on is that there is

Page 191

1 redundancy. You know, when you look at one author, you
 2 may see a study three years later by that same author
 3 that builds on the first study, so there's some --
 4 not maybe even redundancy but a progression of their
 5 pursuit of attempting to understand the mechanism of
 6 action.
 7 Q. What I'd like to do is to give you the list
 8 attached to Exhibit 1, and I want to go through it
 9 quickly and ask you if you can identify for the record
 10 the articles that support the propositions that they're
 11 cited for.
 12 A. Well, that's going to be challenging.
 13 Q. Hold on one second. Let me just get my copy
 14 out.
 15 A. Okay. I'm glad I brought the little notebook
 16 where I took notes off of these, but I didn't do that
 17 for every product (indicating).
 18 Q. All right. So why don't you begin with the
 19 first page of the citations where it states, "Bio*Shark
 20 inhibits tumor growth."
 21 I want to be sure you're on the same page that
 22 I'm on.
 23 And then you see the evidence in support A
 24 through N?
 25 A. Right.

Page 192

1 Q. So as you sit here now, do any of those articles
 2 positively provide support for that statement, to your
 3 knowledge?
 4 A. For which statement?
 5 Q. That Bio*Shark inhibits tumor growth?
 6 A. Well, the very first article is the one that I
 7 cited after mentioning Dr. Miller's report, and that
 8 was the one that did show antiangiogenesis in the rat
 9 aortic ring I believe it was, and so that's a
 10 2008 Bioscience Report.
 11 These others I scanned, but this was -- I did
 12 Bio*Shark last. It was the one I knew the least about
 13 in general and felt more of a natural interest in
 14 preexisting knowledge in some of the other botanicals,
 15 so I did them first.
 16 So that is to say, I scanned some of these --
 17 some of these articles I actually looked up; others I
 18 didn't.
 19 And at this point the first one is the one that
 20 I included. The others you can tell by reading their
 21 titles, however, that they speak to the antiangiogenic
 22 properties of shark cartilage. And others like K by
 23 Conelly and Hunt are it looks like more of a review
 24 from the American Journal of Health Systems
 25 Pharmacology.

Page 193

1 I don't remember looking -- I didn't look at the
 2 general ones. I tried to look at the ones that I saw a
 3 clear mechanism of action. But this is the one I -- the
 4 whole Bio*Shark is the product that I investigated the
 5 least.
 6 Q. Okay. Well, let's move on now to
 7 7 Herb Formula, and the statement on page 2 is that
 8 7 Herb Formula is effective in treating and curing
 9 cancer, and then there's a list of citations that runs
 10 from A through F for that statement.
 11 Which of those citations did you review?
 12 A. Okay. Let me see if I can pull that out.
 13 I believe I used B, and I'd have to -- and
 14 pardon me while I go back and double-check my report to
 15 try to verify.
 16 (Pause in the proceedings.)
 17 7 Herb.
 18 (Pause in the proceedings.)
 19 Okay.
 20 (Pause in the proceedings.)
 21 I believe I used the Planta Medica journal
 22 article, and I'm in the process of looking for that.
 23 That was Arctium lappa.
 24 Q. Actually I think I see that on page 19 of your
 25 report maybe? Why don't you confirm that, though.

1 A. Where?
 2 Oh, there it is. Yeah. I thought I had used
 3 it. There it is. You're right. It's the first
 4 citation under Arctigenin, so yes, I did use the
 5 *Planta Medica* article.
 6 Q. Dr. LaMont, other than that article, any others
 7 that you used?
 8 A. I think so.
 9 See, part of the problem with the way this is
 10 recorded, not every one of these lists the article that
 11 it was in or that the journal that it was in. Some do
 12 and some don't.
 13 So no, it doesn't look like I used others there.
 14 I think I used some of the cat's claw ones.
 15 Q. Before we go to -- cat's claw being part of
 16 7 Herb?
 17 A. Correct.
 18 Q. And so which ones are those?
 19 A. Do you see the page for cat's claw?
 20 Oh, here, it's at the bottom. I didn't leave a
 21 big space there, so I was missing it.
 22 We're on page 23.
 23 Q. Page 23 of your expert report.
 24 And now, you're looking at the references in
 25 Exhibit 1 under the statement "7 Herb Formula inhibits

1 that group of six citations.
 2 Why did you not use the other five citations?
 3 A. My answer would be that I found other ones that
 4 were either more recent or were not redundant. If I
 5 saw one that described one mechanism of action and I
 6 wanted to bring in another, I chose another piece of
 7 evidence.
 8 Q. And then the same question, with respect to
 9 "7 Herb Formula inhibits tumor formation," you used A
 10 and B but not C and D, and what's your reasoning for
 11 that?
 12 A. The same thing.
 13 Q. That either the articles were redundant or you
 14 found better support or other support?
 15 A. Right. Or other support, yeah. A different
 16 mechanism of action. Something newer.
 17 Q. All right. And let's move to the statement "GDU
 18 eliminates tumors," and for that there are citations
 19 running from A through M.
 20 Which ones of those did you use?
 21 A. I wish I'd known you were going to ask me this.
 22 I would have highlighted them all and saved us time here
 23 at the last minute.
 24 Okay. I used more of these because I thought
 25 they had assembled a pretty good review.

1 tumor formation"?
 2 A. Uh-huh.
 3 Q. Right?
 4 Please say yes or no.
 5 A. Yes.
 6 It looks like I used *Anticancer Research*, B, by
 7 Amiri, *Anticancer Research* 19' -- nope. That's '89 --
 8 yes, *Anticancer Research* 1998.
 9 And I believe I used the *Journal of*
 10 *Ethnopharmacology*. That's a 1999.
 11 Oh, and I did use the A, *Ailment Pharmacology*
 12 1998.
 13 Q. And where is that in your report?
 14 A. That's A, and it is -- one, two, three -- the
 15 fourth citation, an aqueous extract of cat's claw
 16 induced apoptosis.
 17 Q. Okay.
 18 A. And -- I guess that's it.
 19 Q. So let me ask you with respect to the citations
 20 first, that first group of 7 Herb Formula citations that
 21 runs from A through F to support the statement --
 22 A. Right.
 23 Q. Let me just finish -- to support the statement
 24 "7 Herb Formula is effective in treating and curing
 25 cancer," your testimony is that you just used B from

1 Maybe it would help me if I just marked these
 2 things off (indicating).
 3 So these are almost all on curcumin, and that's
 4 part of the reason that -- I think I used a number of
 5 these for curcumin, yeah, because they didn't have any
 6 on bromelain in that set, so let's just move from
 7 bromelain to curcumin.
 8 (Pause in the proceedings.)
 9 See, in some of these they just list the PubMed
 10 ID number and not the citation, and so it's going to be
 11 difficult to go back and tell because I had to get the
 12 PubMed ID number and locate the journal itself, and
 13 those weren't always listed, so --
 14 Q. And an example of the PubMed number would be on
 15 page 3, PMID and then it gives a number under B?
 16 A. Right.
 17 For example, G by Moragoda, it lists the PubMed
 18 ID number, the title of the article and the name of the
 19 author, but it doesn't say what journal it was in,
 20 so --
 21 Q. May I ask, why -- and I know you're not in their
 22 minds, but if they had the article, wouldn't they also
 23 have the full citation? Why do they, in your opinion,
 24 just use the PubMed number?
 25 A. I don't know. I don't know. I wondered that

1 myself because I spent a lot of time chasing down
 2 articles because there were -- in some of the other
 3 things they sent they had, you know, really nice
 4 abstracts that explained it but just had a PubMed ID
 5 number, and perhaps when they were just harvesting the
 6 research they just didn't take note of that article.
 7 So I want to stay on task here.
 8 So Molecular Cancer Therapies, C -- I saw it
 9 here somewhere. Here, the second curcumin statement,
 10 curcumin has a chemo -- on page 12, the second bullet up
 11 from the bottom was Molecular Cancer Therapies, D.
 12 2003? Yes.
 13 Q. Got it.
 14 A. And I know I used other ones.
 15 (Pause in the proceedings.)
 16 Now I wished it I'd used the name of the authors
 17 because it might have been easier to have double-tracked
 18 it that way.
 19 Here's Prostate Cancer and Prostatic Diseases
 20 2000. I thought I just saw that.
 21 (Pause in the proceedings.)
 22 Oh, yeah, D -- B. GDU eliminates tumors, B, by
 23 Dorai, that was the -- do you see that one?
 24 Q. Yes.
 25 A. Thank you.

1 A. You get the drift here.
 2 Q. I get the gist that you've used several of
 3 their citations with respect to GDU eliminates tumors.
 4 Right?
 5 A. Right.
 6 Q. But you didn't use very many of their citations
 7 with respect to the statement --
 8 A. With respect to?
 9 Q. -- that Bio*Shark inhibits tumor growth or with
 10 respect to the statement that 7 Herb Formula is
 11 effective in treating and curing cancer; right?
 12 A. Right. Because it was pretty limited. They
 13 just did -- for 7 Herb they did mostly Uncaria, and that
 14 was only one of the seven herbs, and I needed to put
 15 together -- they did Arctium lappa, burdock and Uncaria,
 16 but there were five others that I searched.
 17 Q. So if you were just to look at this list of
 18 citations, would it be fair to say that with respect to
 19 Bio*Shark the support that they provided was lacking?
 20 A. Well, not really because in other ways they
 21 provided evidence that I didn't use. I think that they
 22 used repeated articles to drive home that same point,
 23 and by the time -- that same mechanism of action. By
 24 the time I got to Bio*Shark, it seemed to me that there
 25 was evidence, ample evidence that they'd provided that I

1 Q. Got it.
 2 That's also on page 12, the first bullet point?
 3 A. Yeah.
 4 I may have pulled that Molecular Cancer Food and
 5 Research...
 6 It looks like I used some other ones here.
 7 Anticancer Research, D, was Aggarwal,
 8 Anticancer Research 2003. There's two other
 9 Anticancer Researches.
 10 Here, the last curcumin, curcumin suppresses
 11 tumor initiation, promotion and metastasis, that one was
 12 D.
 13 Q. Got it.
 14 A. Carcinogenesis 2000 is K, and it's the next to
 15 the last one on 13 -- no. Wait -- third from last.
 16 Q. Third from last?
 17 A. Third from the last, yeah.
 18 And there's a couple of Cancer Researches here.
 19 (Pause in the proceedings.)
 20 I've got Cancer Research 1995, '99 and '94.
 21 Here's a '94, I, by Huang. Yeah, that's the
 22 same citation. It is bullet number 3 down from the top
 23 of 13?
 24 Q. Yes. I see it.
 25 Well, let me ask you --

1 knew you had, and I wanted to bring in two or three
 2 pieces that suggested antiangiogenic activity, and then
 3 I cut to Dr. Miller's clinical trial and made my
 4 conclusion.
 5 So I think that they attempted to show
 6 whatever -- however many letters in the alphabet we take
 7 to get to N, probably a good ten, twelve, fourteen
 8 pieces of evidence that there were antiangiogenesis
 9 properties in Bio*Shark. I just didn't use all of
 10 theirs.
 11 Q. And how about 7 Herb Formula and their citations
 12 for that?
 13 A. Well, you know, regarding 7 Herb Formula, I
 14 think that in the downloads that they sent me there were
 15 additional pieces of evidence that were from this same
 16 time period. It wasn't like they, you know, threw in a
 17 bunch of 2008 articles here at the very end.
 18 I just -- it does -- I don't believe that all of
 19 their evidence for 7 Herb Formula is reflected here. I
 20 don't believe that all of the evidence that they sent me
 21 is reflected on this sheet.
 22 Q. If it were reflected on this sheet, would you
 23 deem it lacking?
 24 Understanding that it may not be all reflected
 25 here.

1 A. No.
 2 I mean, it isn't all reflected here, and I do
 3 recall going through -- I mean, honestly, I had a lot of
 4 information sent to me that day and it took days to get
 5 through it all. And then I added to it where I don't
 6 see the rest of it listed here, so I'm not sure where
 7 you're going or what you want me to --
 8 Q. Well, my question is, just looking at the list
 9 here for the 7 Herb Formula citations, is that
 10 sufficient evidence backing up the statement that
 11 7 Herb Formula is effective in treating and curing
 12 cancer?
 13 A. They offered me some additional information I
 14 believe that is not reflected here.
 15 Q. And I understand that.
 16 A. Yeah.
 17 Q. And I'm not questioning that --
 18 A. Okay.
 19 Q. -- at this point.
 20 But what I am asking you is just to comment on
 21 whether the articles on pages 2 and 3 provides --
 22 A. It provides some evidence.
 23 Sorry. I didn't mean to cut you off there.
 24 Q. And I was going to use the term that we have
 25 used before in this deposition of "reliable and

1 competent scientific evidence."
 2 And you and I may have different understandings
 3 of what that term means, but using your understanding,
 4 do these citations provide competent, reliable
 5 scientific evidence to support the statement that
 6 7 Herb Formula is effective in treating and curing
 7 cancer?
 8 A. I -- I believe that they offered me additional
 9 evidence that made me comfortable in drawing my
 10 conclusion, which was that 7 Herb Formula fights tumor
 11 formation and pathogenic bacteria. I was not commenting
 12 on those other statements.
 13 Q. But the articles provided on pages 2 and 3
 14 points A through F of Exhibit 1 were not sufficient for
 15 you to form your conclusion; is that right?
 16 A. Because they didn't include some of the other
 17 herbs and some of the other mechanisms of action.
 18 And I want to state again that I believe that
 19 some of that information was in the e-mail documents
 20 that they sent me and it is not reflected here.
 21 Q. And is it reflected -- are the citations
 22 reflected on Exhibit 2?
 23 Why don't you take a look at 2, at the list of
 24 citations there (indicating).
 25 A. No. Because those are the articles.

1 Q. Okay. So neither on Exhibit 2 nor on
 2 Exhibit 1 --
 3 A. Are all of the articles that they sent me on --
 4 Q. Okay.
 5 A. -- 7 Herb Formula.
 6 Q. Okay. And again, I need the record to be clear,
 7 so that's why I keep asking my question.
 8 And that is that looking at all of the
 9 citations in Exhibit 1 and Exhibit 2, would it be fair
 10 to say that there is not support for your position
 11 regarding 7 Herb Formula as expressed in your expert
 12 report?
 13 A. I needed to more thoroughly investigate some of
 14 the other constituents in order to draw my conclusions
 15 about 7 Herb Formula.
 16 Q. So you needed more citations than what is in
 17 Exhibits 1 and 2 to support your conclusions.
 18 A. Correct.
 19 Q. And it's also the case it's your testimony, is
 20 it not, that the citations in Exhibits 1 and 2 here in
 21 your opinion do not support the statement that
 22 7 Herb Formula is effective in treating and curing
 23 cancer?
 24 A. Well, my understanding is that's the FTC's take
 25 on what they -- this is what you think that they're

1 saying, and I was not operating -- I was not trying
 2 to -- I don't think that 7 Herb Formula is going to
 3 cure cancer, and so I wasn't -- I think that it may
 4 inhibit tumor formation, and that's the second portion
 5 of the program, and that's what I based my conclusions
 6 on.
 7 Q. Okay. So I think I understand.
 8 So your testimony is that, in your opinion,
 9 there's no evidence at this point in time supporting the
 10 statement that 7 Herb Formula is effective in treating
 11 and curing cancer.
 12 A. I -- right. I believe that 7 Herb Formula is
 13 effective in -- and I have to go back and look at
 14 exactly the way I stated it -- fighting tumor formation
 15 and in fighting pathogenic bacteria and having an
 16 anti -- they -- you know, I believe that this is some
 17 of the terminology that they have used. I would
 18 probably say it's antimicrobial. The Arctium lappa has
 19 shown antimicrobial and the Uncaria as well. Yeah.
 20 Q. And let's quickly move on to BioMixx, and on
 21 page 5 of Exhibit 2 -- I'm sorry -- Exhibit 1, LaMont
 22 Exhibit 1 -- and if I've been saying LaMont Exhibit 2 to
 23 refer to the list that's titled Daniel Chapter One
 24 Medical Sources for Allegedly Deceptive Statements, I
 25 really meant to say Exhibit 1.

1 A. Right.
 2 Q. Looking at the statement that BioMixx is
 3 effective in the treatment of cancer, there are a list
 4 of citations running from A through I that
 5 Daniel Chapter One provided; correct?
 6 A. Uh-huh.
 7 Q. Is that a yes?
 8 A. Oh. State the question again, please.
 9 Q. Okay. For the statement that BioMixx is
 10 effective in the treatment of cancer, Daniel Chapter One
 11 provided citations going from A through I on Exhibit 1;
 12 right?
 13 A. Uh-huh.
 14 Q. Is that a yes?
 15 A. Well, they provided that.
 16 Q. Right.
 17 A. It is true that they provided that --
 18 Q. That's my only question --
 19 A. -- in their defense.
 20 Q. -- at the moment.
 21 A. That's my understanding, that they gave us A
 22 through I as their evidence that BioMixx was effective
 23 in treating cancer.
 24 Q. In your professional opinion, Dr. LaMont, do any
 25 of those citations support that statement?

1 may well be on astragalus and Eleutherococcus.
 2 Q. Did you cite any of them in your report?
 3 A. Any of these (indicating)?
 4 Q. Yes.
 5 A. That's what I'm checking.
 6 Q. Uh-huh.
 7 (Pause in the proceedings.)
 8 A. I didn't -- it doesn't look like I used -- I
 9 used -- I didn't include parthenolide again in BioMixx,
 10 although, according to their evidence, parthenolide is
 11 in BioMixx. I cited astragalus and Camellia sinensis.
 12 I know they sent me some other information that's not
 13 reflected here.
 14 So what is reflected here appears to be
 15 parthenolide related, and I drew that -- I used that
 16 research in GDU where feverfew also exists.
 17 Q. And Doctor, why did you not include the
 18 parthenolide articles in your --
 19 A. In BioMixx?
 20 Q. -- comment on BioMixx?
 21 A. You know, if I had another few hours, I probably
 22 would have taken that section on parthenolide from GDU
 23 and spliced it in and repeated it in BioMixx because
 24 it's still the same evidence. I just did not get that
 25 part of the report completed apparently.

1 A. Okay. Let me go through them and see which ones
 2 I think do and which ones I used, if any.
 3 Q. And it may be your testimony that in your
 4 professional opinion BioMixx is not effective in the
 5 treatment of cancer; right?
 6 MR. J. TURNER: Objection.
 7 That's a restatement that wasn't the question.
 8 The question was do the documents support the
 9 statement.
 10 THE WITNESS: And I think this was another
 11 situation where I sought to, for example, add to this
 12 information because this, if you look at it, many of
 13 these are -- these are the parthenolide. These are the
 14 feverfew citations, and there are all -- in fact, it
 15 appears that those are all parthenolide, although it's
 16 hard to tell those last two with beta-sitosterol and
 17 phytosterols.
 18 So it looks like A through G are all on
 19 parthenolide. I went ahead and added to the
 20 information that they provided to build the evidence
 21 base for why because I didn't see any come in from
 22 them, and then I had -- they did provide me some
 23 information on astragalus which I do not see reflected
 24 here, although moving on down the line I do see "heals
 25 the destructive effects of radiation." Some of these

1 Do you see what I'm saying?
 2 It's -- I used the evidence -- I used some of
 3 this evidence back in the GDU report but actually
 4 apparently did not pick up that parthenolide was a
 5 constituent of BioMixx, and I don't have it listed
 6 here. I did astragalus, Camellia sinensis, green tea
 7 and Eleutherococcus. I didn't include parthenolide
 8 again.
 9 Q. And with due respect, wasn't that a significant
 10 omission in your report?
 11 A. It was. In retrospect it would have been good.
 12 But you know, for the record I would like to suggest
 13 that we excerpt the materials on pages -- bear with me.
 14 (Pause in the proceedings.)
 15 Actually it is in GDU -- pages 14 through 17 and
 16 to add them to -- you know, consider that they could be
 17 repeated and applied to BioMixx
 18 Q. Well, I will point out that the deadline for the
 19 finalization of the report has passed, so you're welcome
 20 to put that into the record, but whether or not it
 21 actually can be considered part of the report is a
 22 question for a later day.
 23 A. Okay.
 24 Q. Going back to the statement that BioMixx is
 25 effective in the treatment of cancer, I want the record

1 to be clear as to whether or not you believe that
 2 BioMixx is effective in the treatment of cancer.
 3 A. I've stated that there's a reasonable basis to
 4 claim that the ingredients of BioMixx boost the immune
 5 system, build lean body mass, support healing and that
 6 these ingredients may assist the body in fighting
 7 cancer, cachexia, which is the wasting of cancer, and in
 8 healing the destructive effects of radiation and
 9 chemotherapy treatments.
 10 Q. All right. And that's on page 40 of your
 11 report; correct?
 12 A. The conclusion page. Yes.
 13 Q. But you did not write that BioMixx is effective
 14 in the treatment of cancer; correct?
 15 A. No.
 16 Q. And that's not one of your conclusions?
 17 A. I said it is a -- its ingredients assist the
 18 body in fighting cancer. There's a fine line between
 19 treating and fighting, as we've discussed throughout the
 20 day.
 21 Q. And so again, you're not concluding that
 22 BioMixx is effective in the treatment of cancer;
 23 correct?
 24 A. Not independently, but as an adjunct I believe
 25 that it is effective in, as I've stated, mitigating

1 If your counsel does, then I turn it over to
 2 you, Jim.
 3 MR. J. TURNER: No. I have no questions --
 4 well, let me just check.
 5 (Pause in the proceedings.)
 6 THE WITNESS: I survived my first deposition,
 7 off the record.
 8 MR. ZANG: Congratulations.
 9 THE WITNESS: Oh, thank you. You were a nice
 10 partner to have in it.
 11 MR. ZANG: Off the record.
 12 (Discussion off the record.)
 13 MR. J. TURNER: All right. We have no
 14 questions.
 15 MR. ZANG: So let's go off the record.
 16 (Whereupon, the foregoing deposition was
 17 concluded at 4:17 p.m.)
 18
 19
 20
 21
 22
 23
 24
 25

1 some of the negative effects of chemotherapy and --
 2 yes.
 3 Q. So again, I'm just trying to get a clear
 4 record.
 5 A. Yeah.
 6 Q. And I understand it's your testimony that
 7 there's a fine line, but again, you're not concluding
 8 that BioMixx is effective in the treatment of cancer?
 9 A. In treating cancer, no.
 10 Q. Okay. And are you concluding that BioMixx
 11 heals the destructive effects of radiation and
 12 chemotherapy?
 13 A. No. I am saying that there's evidence to
 14 suggest that astragalus and Eleutherococcus may mitigate
 15 some of the effects of radiation and chemotherapy, but
 16 I'm not -- how did you put it? Heal?
 17 Q. Concluding that BioMixx heals the destructive
 18 effects?
 19 A. Heals, yeah. It may help to heal but not
 20 necessarily completely heals.
 21 MR. ZANG: Okay.
 22 All right. Well, this has been a long day, and
 23 I really thank you for coming here today and
 24 testifying.
 25 I have no further questions.

1 CERTIFICATION OF REPORTER
 2
 3 DOCKET/FILE NUMBER: 9329
 4 CASE TITLE: Daniel Chapter One and James Feijo
 5 HEARING DATE: February 17, 2009
 6
 7 I HEREBY CERTIFY that the transcript contained
 8 herein is a full and accurate transcript of the notes
 9 taken by me at the hearing on the above cause before the
 10 FEDERAL TRADE COMMISSION to the best of my knowledge and
 11 belief.
 12
 13 DATED: FEBRUARY 18, 2009
 14
 15 JOSETT F. WHALEN, RMR
 16
 17
 18
 19 CERTIFICATION OF PROOFREADER
 20
 21 I HEREBY CERTIFY that I proofread the transcript
 22 for accuracy in spelling, hyphenation, punctuation and
 23 format.
 24
 25 DIANE QUADE

CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

SALLY BLAKE LaMONT, N.D.

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this day of , 2009, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

WITNESS: SALLY BLAKE LaMONT, N.D.

DATE: February 17, 2009

CASE: In the Matter of Daniel Chapter One and James Feijo

Please note any errors and the corrections thereof on this errata sheet. The rules require a reason for any change or correction. It may be general, such as "to correct stenographic error" or "to clarify the record" or "to conform with the facts."

PAGE LINE CORRECTION REASON FOR CHANGE

A				
abandon 52:16	acid 24:20 108:21 108:22 129:5,5	acts 115:17 157:21	advanced-stage 93:9	agreed 32:23 77:5 78:14
abbreviate 155:24	acidophilus 109:9	actual 31:19 38:10 188:23	advent 17:11	agreeing 145:13
abbreviation 15:25 138:24	acids 24:19 25:17 147:9 173:25 174:16,19,19,22	acupuncture 7:22 20:13,15 98:7 169:6	adverse 110:3 130:25 134:11,15 170:11	ahead 7:3 21:18 112:24 207:19
ability 17:24 23:20 36:25 67:20 68:7 94:8 106:18 175:6	act 71:11 76:17 135:19 139:2,3 141:24 142:1 149:22 152:1,6,10 153:8	acupuncturist 8:22 9:11 15:21 20:16	advertising 121:1	AhR 156:21,21
able 6:15 18:16 37:2 45:4 46:1 103:7 115:7 160:2 173:4	acting 142:2,8 158:10	ad 126:7	advice 14:17 52:1 163:2,18,25 167:11 182:10,23	aid 127:22 174:4
abnormal 10:18 14:14 25:1	actinic 183:7	adaptogen 130:21 130:22 135:3,6,16 135:23 136:2	advise 31:7	Ailment 195:11
above-entitled 2:17	action 4:12 22:17 33:21 34:18 35:7 35:18 44:8 45:18 56:2 62:7 80:4 87:1 100:11 104:3 131:2 135:2 136:1 140:10 141:23 145:21 156:24 157:3 162:19 164:20 171:20 174:2 176:3 188:25 189:5 191:6 193:3 196:5 196:16 200:23 203:17	add 13:23 105:2 179:2 189:7 207:11 209:16	advising 31:10	airwaves 100:6
above-named 214:12	actions 135:11	added 189:8 202:5 207:19	advocating 100:16 166:4	al 1:13 65:23 66:15 81:23
absence 29:7	activating 139:8	addition 51:4 109:8 187:10	affect 72:3 82:17 161:3	alive 94:19
absolutely 10:5,20 11:22 97:19 163:7	activation 139:5	additional 11:23 12:8 13:1 55:13 57:25 201:15 202:13 203:8	afternoon 5:2	alkaloids 129:2
absorbable 165:21	active 22:6 45:13 69:13 82:14 86:14 114:2,3 131:7,24 138:17 155:25	addresses 214:5	agent 22:9 37:15 41:11 65:6 70:11 82:2,6,17 91:13 93:7,19 108:14 117:15 129:14 137:7,19 142:6,8 158:6 170:10 171:3,9,16	allegedly 56:14 105:9 205:24
absorbed 95:7	activities 109:25 113:13 117:5	address 7:8,9,13 138:9 148:1 157:13	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	alleviate 170:11
absorption 102:3 176:10	activity 33:2 66:19 66:20 80:1 83:3 107:1,7 108:7,18 112:9,13 131:18 131:24 132:14 139:1,15 169:24 170:1 174:3 201:2	additions 214:5	afternoon 5:2	allow 36:19 71:20
abstract 114:9 156:3		addresses 7:8,9,13 138:9 148:1 157:13	agent 22:9 37:15 41:11 65:6 70:11 82:2,6,17 91:13 93:7,19 108:14 117:15 129:14 137:7,19 142:6,8 158:6 170:10 171:3,9,16	allowed 37:12 39:9 99:22
abstracts 55:25 58:1,2 59:21 185:24 187:18,22 188:24 198:4		adjunct 48:19 120:20 210:24	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	allowing 14:20 68:11 73:17 159:14
accept 54:17		adjunctive 48:7 49:12 117:19 119:8,22 126:14	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	aloe 114:21
accepted 84:16		adjunctively 53:21 82:4	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	alphabet 201:6
accomplish 141:17		adjuvant 171:4	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	alter 161:19
accomplished 29:4		AdMax 131:22 137:4,5	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	alterative 135:18
accredited 16:10 16:12		administer 109:11	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	altering 73:14 115:3 156:18 170:15
accuracy 213:22		administered 66:16	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	alternative 61:12 63:11 85:25 97:2 98:5,24 151:22
accurate 6:20 51:9 51:11 118:4 213:8 214:4		administration 64:5 95:16	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	Alto 7:14
accurately 6:12,15		admit 156:21	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	amazing 25:7
achieve 149:7,16		admonition 124:3	agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	America 2:1 93:6 128:25
achieved 150:7			agents 11:11 17:11 21:24 22:15,20 24:6 25:12,15 27:7,10 31:18 36:5 44:15 45:16 82:17 87:14,18 107:8 108:9 116:2 117:14 119:6 129:8 149:20 161:23 167:23	American 16:12 132:2 192:24

amounts 140:12 141:14	antibody 131:17 178:13	30:20 63:7 70:8 71:12 76:15 77:18	approaches 52:10 86:1 151:23	196:13 198:2 200:22 201:17
ample 76:16 200:25	anticancer 42:11 53:3 61:10 65:15	80:4,12,16 129:14 132:19 135:10	approaching 164:10	202:21 203:13,25 204:3 208:18
anatomy 10:25	65:25 67:7 70:11 83:23 84:25	anti-invasive 73:13	appropriate 11:16 119:6,8	articulate 5:25 ase 70:18
androgen-sensitive 42:6	103:16 107:1,8 108:8,23 113:13	anybody 161:14 181:5 183:16	appropriately 108:16	Asia 26:23 46:20 46:21 108:11
Angeles 8:21	132:20 135:9 138:21 139:1,22	anyway 145:17	Approximately 55:5	130:18 aside 16:25 55:18
angiogenesis 27:7 85:14,24 86:2	140:4,5 146:15 151:17 152:2,6	aortic 94:9,18,21 94:22 192:9	April 80:11	asked 32:21 54:11 84:9 103:19
91:8,24 113:11,23 114:6,17 123:18	169:8 171:17 195:6,7,8 199:7,8	apart 180:25	aqueous 132:13 195:15	asking 50:6 119:20 182:3 202:20
147:16 151:9,24	anticarcinogenic 139:15 159:11	apologize 112:4	archaic 118:12	204:7 aspects 12:6 161:3
animal 37:20,21 46:6,14 47:19	170:13	apoptosis 25:2 48:15 68:8 82:3	arctigenin 108:17 194:4	assay 94:11 assembled 196:25
100:13,20 115:20 129:13 159:12	anticoagulant 31:2 70:7	108:19 115:1 129:3,7 139:8	Arctium 108:3 109:19 193:23	assess 101:24 assessing 181:21
178:14	antiinflammatory 27:1	156:5 170:17 171:12 195:16	area 8:21 11:21 91:25 94:1 183:6	assignment 54:18 55:6
animals 100:14 136:10 159:19,21	antimicrobial 109:21 116:24	apparently 43:24 95:21 110:24	areas 135:8 136:7 136:11,19	assist 11:17 23:2 123:22 176:20
ankle 71:13,25	205:18,19	208:25 209:4 appear 37:19 66:5	Arizona 16:21	210:6,17 assistance 125:8
answer 5:25 6:17 6:18 17:12 21:19	antimutagenic 109:22	91:24 113:12 125:6 129:2 176:4	aromatherapy 98:8	127:24 associate 111:24
41:23 42:9 79:8 79:11 116:15	antioxidant 63:6 80:1 107:6 108:7	190:13 APPEARANCES 3:1	array 9:17 19:24 29:23 49:25	123:22 176:20 210:6,17 assistance 125:8
143:6 164:6 188:17 196:3	109:23 135:9 147:11 174:3,6	appeared 214:13 appears 37:16	29:23 49:25 arresting 51:16	127:24 associate 111:24
answered 54:7	147:11 174:3,6	63:13 64:9 67:1 72:3 173:1 182:9	arrows 185:17	associated 170:25 181:12
answering 155:4	antioxidants 24:17 25:16 26:9,11,13	189:12 207:15 208:14	arthritic 95:6	181:12 associates 55:12
anthraquinone 113:22 114:3,24	65:16 173:12	appetite 147:6 177:25	article 63:10,18,24 107:2 115:13,14	Association 16:12 assume 94:18 96:1
anthraquinones 113:9,12 114:20	antiproliferative 83:1 108:18	apples 43:16 66:22 applied 132:3	115:15 188:23 189:9,13 192:6	94:18 96:1 119:14 assuming 51:10
anti 205:16	132:11	209:17 appreciate 32:4	193:22 194:5,6,10 197:18,22 198:6	119:14 assumption 161:17
antiangiogenesis 86:5 94:1,7 192:8	antipyretic 109:20 135:11	approach 29:20 31:18 80:15 82:18	articles 56:10 57:22 58:11,11,12,13	161:17 AST 171:8 172:9
201:8	antitumor 33:1 66:20 109:23	147:15 158:9 160:11,12,16	59:24 60:2,3,4 185:14 186:7,10	172:9 astragalus 168:16
antiangiogenic 99:4 101:6 112:9	114:23	161:10 164:13 165:1 166:7	186:14,15,24 187:14 188:7,10	168:17,21,22 169:3,8,23 170:3
192:21 201:2	antitumorigenic 170:18		189:15 190:1,10 190:11,13,14	170:9,14 171:2 175:15,25 178:9
antibacterial 135:11	anti-inflammatory		191:10 192:1,17	207:23 208:1,11 209:6 211:14
antibiotic 109:8				astronomical
antibiotics 17:11 23:25 109:6				
antibodies 178:17				

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152:13	B	106:19 113:14	178:18 179:2	bioavailability
atrocious 23:23	B 1:5 3:14 107:11	129:25 130:2,6	187:7 188:19	101:24 102:2
attach 214:6	122:14 193:13	150:4 170:3	192:9 193:13,21	bioavailable 147:9
attached 57:8	195:6,25 196:10	172:14 210:3	195:9 201:18,20	biochemical 131:1
121:19 187:1,7,14	197:15 198:22,22	bathroom 90:23	202:14 203:8,18	149:24
188:7,15 191:8	back 12:18,19 13:8	battle 29:11 118:1	205:12,16 210:1	biochemically
attachment 57:18	18:3 32:9 40:2,4	119:3 146:22	210:24	82:13
attempt 54:18	79:8 84:17 90:22	158:4	believes 37:6	biochemistry 39:8
attempted 125:6	92:24 97:5 125:16	battles 117:22	Ben 153:15	99:15 127:10
147:16,25 201:5	125:21 127:21	118:2,6,9,12,16	beneficial 99:23	biofeedback-type
attempting 67:4	133:4,6 140:22	119:2 120:3,5	137:15	20:9
74:14 160:21	141:20 158:6	battling 118:20	benefit 53:2 93:12	biologically 22:6
191:5	159:4 165:15	146:1,8,17 147:23	95:4 99:2 100:19	45:12 138:16
attention 85:7	182:19 184:19	158:3	103:5,16 136:10	biology 8:11
97:16 98:2 122:2	193:14 197:11	BBs 160:23	136:12 145:21	biomedical 10:24
attenuation 73:15	205:13 209:3,24	bear 209:13	150:19 172:5	BioMixx 34:4 48:1
attorney 4:11	backed 188:2	beautifully 85:1	177:18	121:8,10,11
attorneys 13:17	background 8:9	becoming 68:11	benefits 132:20	122:17 146:24
augment 37:19	9:1 144:17	began 13:21 45:13	136:21 137:12	147:2 150:14,15
117:13	backing 202:10	60:24 70:9 77:7	161:22 178:21	151:11,14 155:2
author 189:1 191:1	bacon 89:10	93:22 96:20	186:16	168:13 172:16,17
191:2 197:19	bacteria 109:6	beginning 13:23	Ben-Erik 153:14	172:18,22 174:24
authored 17:1	116:22 203:11	41:25 55:8	best 6:4 49:21	175:22,25 176:18
authorize 47:5	205:15	begun 35:13 158:25	50:18,18,20,24,25	177:4 178:6
authors 153:13	bad 18:20	BEHALF 3:3,12	51:14 52:5 53:3	205:20 206:2,9,22
198:16	balance 30:3	belief 213:11	147:21 213:10	207:4 208:9,11,19
available 34:18,23	135:22	believe 15:8 37:10	beta-sitosterol	208:20,23 209:5
44:20 47:17 51:17	basal 183:8	38:23 40:18 43:12	207:16	209:17,24 210:2,4
62:24 87:8 99:6	base 58:12 173:11	50:1,2,12 52:5,8	Betsy 3:15 5:1	210:13,22 211:8
189:9	189:1,22 207:21	52:20,22 53:22	better 14:22 77:1	211:10,17
avoided 110:6	based 45:21 47:17	57:9 60:18 61:1	105:1 167:15	Bioscience 94:15
aware 18:11 30:24	48:5 51:5 58:13	61:11,25 62:9	196:14	192:10
70:10 76:21,23	63:17 67:17 112:6	66:8 72:9,19	beyond 27:25	Bio*Shark 34:4
81:13 83:9 98:15	116:18 130:8	75:15,17,22 84:7	177:19	48:1 90:20,20
98:19 103:1	132:20 140:6,10	90:16 93:8 100:16	bible 90:6	91:3,5,15,16,17
144:20	205:5	105:10 106:19	biblical 89:4	92:1,4,5,6,7 96:4
awareness 52:13	basic 10:24 11:2	118:9 119:18	big 36:1 71:14,23	101:5,6,9,20,24
78:9	90:12 179:11	123:4 126:9,20	120:4 146:20	102:14 103:12
ayurvedic 20:4	basically 20:22	127:2 128:21	155:22 172:25	122:17 151:6
A-L-O-E 114:21	24:7 134:11	131:8 136:19	194:21	191:19 192:5,12
A-P-O-P-T-O-S-...	140:21 143:19	137:6,20 140:16	big-time 87:4	193:4 200:9,19,24
25:2	basis 28:6 30:14	145:9 149:4	bile 109:24	201:9
A-S-E 70:18	31:10 41:8 69:4	151:12 158:21	bill 13:14 17:1	birth 178:15
a.m 2:18	90:13 98:11,14	166:17 168:18	billions 44:14,19	births 18:1
		173:20 175:22	bind 70:25	bit 5:18 10:6 28:16

30:21 32:10 43:19 105:6 106:14 110:4,23 165:24 182:18 bitter 108:15 black 155:18 Blake 4:4 7:7 214:9 215:1 blend 43:17 177:11 177:13,19 blind 100:25 block 72:6 94:8 blocks 174:20 blood 27:8 85:18 85:21 110:4 173:9 bloodstream 174:23 board 8:17 16:15 16:17 44:23 53:23 113:11 bodies 29:23 36:13 body 20:11 22:19 24:25 37:1 54:25 55:14 64:18 68:2 78:13 82:19 92:16 93:18 135:19,21 140:8 147:4,11,16 162:9 168:1 173:13 174:20 175:13 177:23 178:8 183:7 210:5 210:6,18 body's 9:18 17:24 23:20 24:14 25:25 30:3 67:5,6 68:6 75:16 bolus 66:17 book 19:4,6,7,8,12 83:18,20,23 84:25 89:13 143:9 146:15 153:17,20 154:24 books 152:22 boost 147:3,4 210:4 boosted 131:25	boosts 175:13 botanic 20:19 21:12 botanical 7:24 20:3 20:7,19,24 24:7 24:16 33:18 37:15 96:23 106:13 113:3 136:4 137:8 141:25 153:20 155:16 botanicals 47:7 155:13 192:14 bother 75:19 bothering 165:9 bottom 122:16 128:23 153:23 159:10 173:20 175:20 194:20 198:11 bovine 91:10 bowel 113:6 Bowling 2:14 3:7 brain 73:9,20 84:5 99:11 branched-chain 173:25 174:18 brand-new 83:19 brassica 85:9 138:18 139:23 140:12 break 6:7 61:15,24 70:4,17,23 128:5 128:8 133:3 146:1 breakdown 26:4 153:3 breaks 70:19 breast 71:1 82:3 140:2 157:19 160:4 breathe 12:22 Brekman 130:20 135:23 bridges 22:8 bridging 22:3 briefly 8:8,25 9:7	16:4 38:8 bright 169:11 bring 65:4,8 79:18 83:18 148:14 196:6 201:1 brink 168:3 British 81:6 broad 70:25 broadcasts 179:15 broader 160:22 broccoli 138:20 broke 134:4 bromelain 39:13,15 39:16 43:13 46:4 61:25 62:3,8 69:18,18,23 70:2 70:24 71:11,16 72:5,11,22 73:5 73:11,13,23 74:5 74:22 76:7 79:5 79:12 161:2 197:6 197:7 brother 162:14 brought 110:10 191:15 bruising 71:20 brussels 138:20 budget 18:12 build 147:5 174:21 176:6 207:20 210:5 building 174:20 189:22 builds 58:20 191:3 built 55:14 58:20 bulk 175:8 bullet 86:16 115:18 142:6 158:12 198:10 199:2,22 bullets 22:21 127:4 127:5 bunch 121:18 180:8 201:17 burdock 106:12 108:4,10 109:13	200:15 Burton 16:25 business 7:8 buy 165:14 175:10 by-products 70:5 B-cell 108:19 B-R-A-S-S-I-C-A 138:18 <hr/> C C 4:1 196:10 198:8 213:1,1,19,19 cachexia 210:7 cadaver 11:1 Caisse 104:24 Caisse's 103:1 Cal 18:12 calcium 26:2 California 7:15 8:21 13:13 15:24 16:5,20,21,24 17:17 153:18 California's 17:1 18:11 call 10:4 11:5 22:12 25:15 32:14 41:19 62:23 158:24 185:10 188:6 called 4:5 25:2 26:11 28:22 68:8 80:6 83:23 90:16 106:13 108:17 113:1 131:21 135:18 149:23 161:7 caller 161:7 calling 21:15 CAM 94:11 97:7 Camellia 155:15 208:11 209:6 Camino 7:14 campaign 13:12 15:24 cancer 10:19 11:25 12:12,18,20 14:2	14:6,11,25 15:4,9 15:13,17 23:7,7 23:18 24:23 25:9 26:5,6,10,15 30:15 32:21 33:3 33:20 36:2,5 37:2 37:23 38:15,17,18 38:20,25 39:19 42:4,6 43:7,9,21 44:4,9 45:20,24 46:8 47:14,23 48:4,9,13,19 49:1 49:15,24 50:9 51:15 52:6,15 53:1,14,16,19,20 53:22,24 54:1,4 60:23,24 61:11 62:20 63:6 64:15 65:12 66:5 67:21 68:17,22 69:1,5 69:15 70:13,15 72:1,4,7,16,18,24 73:9,21 74:17 75:17,25 76:5,10 76:18 80:5,8,10 80:17 81:5 82:3,5 82:6,20,25 83:13 83:14 84:6,11,23 85:3,13,17,18,25 86:11,17,19,22 87:2,5,11,19 89:18 91:25 92:7 92:17,19,21 93:6 93:9,12,14,24 98:6,13 99:2,7,17 101:10,25 103:4 104:4 105:5,6,24 106:21 109:19 115:8 117:9,11,16 117:22 118:1,2,6 118:6,9,12,16,20 118:24 119:2,3,19 119:25 120:3,5,5 120:6,8,10,13,13 120:17,19,21,22
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120:24 121:2,8,13 122:18 123:5,14 123:20,22 125:12 125:24,25 126:13 126:15,15,17,18 126:21,23 127:12 127:13,18 129:10 130:3 131:23 132:1 136:25 137:16 139:17 140:2,2,8,13,23 141:6,14 142:25 144:10,21,22 145:5,19 146:1,8 146:14,17,20,21 146:22 147:19,23 148:1 152:11 153:9 156:3,10 157:1,13,15,23 158:3,4,7,9,14,22 158:25 159:10,13 159:24 160:1,4,8 160:8,14,24 161:1 161:1,8,15,20 162:1,11,13,20,21 164:3,11,12,16,21 165:14 166:21,25 167:4,6,24 170:14 171:3,9,16 172:16 172:20 175:23 176:4,8,13,18,22 177:24 180:3,4,5 181:25 182:22 183:9 189:2,21 193:9 195:25 198:8,11,19 199:4 199:18,20 200:11 202:12 203:7 204:23 205:3,11 206:3,10,23 207:5 209:25 210:2,7,7 210:14,18,22 211:8,9 cancers 38:19 64:7 80:13,20 81:9	157:8,18 163:2,18 163:25 candidate 16:17 cap 90:2 capable 69:3 93:18 94:19 116:24 156:18 capacities 9:18 24:14 25:25 67:5 capacity 9:4 71:22 71:24 capers 66:23 capillary 94:10 capsule 30:12 62:3 capture 178:24 carcinogen 139:5 carcinogenesis 60:22 61:10 109:2 139:3,4,10 140:16 156:25 157:4 161:3 167:8 170:9 199:14 carcinogens 139:7 carcinoma 14:14 cardiac 10:18 cardiology 11:6 cardiovascular 25:8 care 9:20 10:15,21 11:3 14:12,18 15:9 16:24 23:10 23:11,12,14 37:13 49:12 52:2,7 90:18 117:19 119:5,7,12,15,21 careful 113:19 carries 31:25 carrot 108:12 cartilage 39:18,20 91:7,8,10,11,12 91:23 92:24 93:8 94:7 95:3,4,7,9,12 96:2 98:6,12,15 99:2,10,15,24 100:9 112:7,10	177:16 192:22 cascades 73:14 115:4 case 4:15 13:13 14:23 23:2,17 28:18 34:5 41:6 54:9,10,19 57:11 70:22 77:2 91:10 99:24 101:4,13,17 101:18,19 105:13 112:8 116:7 118:3 121:19 125:17,22 125:23 144:8 174:9,21 204:19 213:4 215:3 cases 34:16 58:18 110:8 187:18 189:7 catalyzes 70:20 category 164:17 cat's 106:14 128:24 129:7,13,20 130:12,14 194:14 194:15,19 195:15 cauliflower 138:20 cause 38:20 54:14 213:9 caused 18:12 167:7 170:6 causing 130:23 caution 125:3 cautious 32:2 cell 22:19 25:1,3 37:21,21 41:9 46:5,13 47:19 48:13,15 63:7 66:6 68:7,12 70:16 71:3 73:14 73:15,17 82:6,25 83:13,14 108:20 114:10,16 115:3 115:11,21 129:12 129:15 132:14 136:9 139:6,8,13 140:3,17 145:8	153:4 156:8 157:17,21 159:12 159:19,20 167:25 170:15,16,17 171:11 183:8 cells 42:5,6 64:3 65:12 68:7,22 71:1 72:4 73:12 73:19 76:18 81:11 82:3,5 85:18 87:2 87:20 94:18,21 106:16 108:19,24 115:7,20,22 130:3 132:3,11 156:5 160:4 168:1 170:14 cellular 70:4 115:1 Centers 93:6 central 85:24 centuries 169:2 certain 54:1 64:21 75:24 86:6,21 125:5 151:10 157:7 166:3 189:14 certainly 14:22 26:5 32:24 34:24 43:10 72:18 76:19 100:14 136:9 141:2 145:4 146:13 147:21 159:23 164:14 166:12 172:4,18 176:11,15,20 180:17 certificate 214:1,15 certifies 11:24 certify 213:7,21 214:2,11 challenge 36:1 45:9 45:10 93:13 challenged 8:2 challenges 13:16 89:25 95:16 123:5 148:1	challenging 191:12 chance 158:11 change 6:18 89:14 215:7,10 changes 86:13 chapter 2:5,8 4:13 22:24 32:9 33:6 33:14,22 40:11 47:12 48:25 55:11 55:17 56:13 57:23 59:19 67:1,9 72:20 74:13,19 85:5 88:1,10,20 88:25 89:5,5 90:6 90:7 117:3,7,21 120:12,13 121:21 122:18 123:10 127:17 142:24 144:8,21 150:8 160:12 163:1,17 179:15 183:13 184:16 185:1,4,8 205:23 206:5,10 213:4 215:3 charge 33:9,12,13 chart 34:14 39:14 154:1 charts 85:1 chasing 198:1 check 61:4 212:4 checked 165:17 checking 208:5 cheese 174:10,14 chemical 70:20 89:12 131:1 156:17 chemicals 23:24 29:24 85:6 102:2 Chemico-Biologi... 83:5 chemistry 151:1 chemo 31:11 36:12 147:6 171:13 176:24 198:10 chemoprevention
--	--	--	---	---

<p>109:19 156:4 chemopreventive 158:18 chemoprotective 52:14 chemotherapeutic 24:5 82:2,6 116:1 117:14 129:7 170:12 171:3,5,8 171:16 chemotherapies 37:20 171:23 chemotherapy 14:20 24:12 31:5 31:6,15 36:7,22 36:24 37:1,6 38:21 51:18 70:15 74:3 80:15 82:4 84:6 115:23 121:13 162:10 167:21 170:22 173:4 210:9 211:1 211:12,15 chicken 91:10 China 32:3 46:20 Chinese 20:14 100:15 112:25 113:1 132:3 168:19,21,25 chlorine 108:22 chlorogenic 108:21 choice 126:12 167:15 168:11 173:7 cholegogue 109:24 choleric 135:10 choose 51:22 chose 12:18 77:2 105:3 173:6 196:6 chosen 152:18 Chris 184:19,21,22 Christopher 3:14 4:25 chronic 9:23 25:9 chrysanthemum</p>	<p>79:20 161:3 cigarettes 157:1 cisplatin 65:11 citation 33:8 38:11 194:4 195:15 197:10,23 199:22 citations 60:16,17 185:15 187:10 191:19 193:9,11 195:19,20 196:1,2 196:18 200:3,6,18 201:11 202:9 203:4,21,24 204:9 204:16,20 206:4 206:11,25 207:14 cite 60:10 72:22 152:22 173:24 189:13,15 208:2 cited 32:19 56:3 61:7 71:10 83:24 96:6 109:17 129:16 151:25 154:2 191:11 192:7 208:11 citing 87:25 173:22 claim 5:10 48:18 74:19 75:5,7,9,11 77:18 145:7 146:4 210:4 claims 53:4,11 77:14,24 78:5,9 116:10 144:22 145:4 clarification 145:24 clarify 100:23 215:8 class 138:22 classes 18:23 29:12 claw 106:14 128:24 129:7,13,20 130:12,14 194:14 194:15,19 195:15 clean 54:15 175:18 cleanup 184:8</p>	<p>clear 56:17 58:22 81:19 118:18 136:19 154:10 186:18 188:3,15 193:3 204:6 210:1 211:3 clearly 78:25 124:21 clinic 103:5 clinical 35:1,3,4,21 35:24 36:4,16 37:11 38:4,8,16 38:25 39:12 41:11 41:15 42:1,13,17 42:24 44:12,14 46:11 47:3,6,10 47:18 48:21 56:6 60:23,24 63:13,17 65:5 66:10 67:13 69:22 71:7 72:23 72:23 89:20,22,25 93:2,5,14 94:23 101:20 106:4,9,11 106:25 109:3 129:10,11 131:21 134:20,23 135:12 136:8 140:7 141:11 142:6,7,22 143:14,15,20,24 143:25 144:1,7,12 144:15 145:13 147:24 156:13 159:18 169:22 170:4 172:3,19 201:3 clinically 39:24 clinics 52:6 clip 103:10 close 18:3 73:8 85:7 100:25 166:14 closely 11:18 clot 31:1 70:6 clots 70:4 clue 162:8 coadminister</p>	<p>109:11 coded 68:5 coffee 98:5 coined 130:21 collagen 94:9 colleagues 5:4 111:15 179:14 College 8:14,19,23 Colleges 16:13 colon 71:1 109:7 113:5 157:19 161:1,8,15 164:3 170:14 171:3,9,16 181:25 182:22 colonoscopies 180:8 181:11 182:12 183:18 colonoscopy 181:3 181:9,15,19 182:20 colorectal 180:3 colostrum 178:12 178:13,16,21 comanage 10:15,21 52:2 comanaging 14:12 52:7 combination 115:23 137:7,18 171:4,13 177:22 combinations 152:9,13,14 combined 65:15,25 80:11,15 86:3 171:14 combo 170:25 come 10:12 12:20 20:22 23:6,9 34:6 36:1 40:2 54:16 60:19 78:16 88:24 133:3,6 142:17 147:17 182:19 207:21 comes 20:24 21:5,5 26:14 31:22 36:1</p>	<p>44:15 53:1 56:4 145:18 146:13 178:14 comfortable 53:18 78:21 116:20 117:4,6 160:18 164:12,14,22,23 165:2 203:9 coming 5:4 13:8 123:3 140:15 148:13 151:11 152:17 211:23 comment 72:17 179:10 180:21 182:7 190:25 202:20 208:20 commenting 137:8 203:11 comments 183:11 commercials 155:22 commission 1:1 2:2 2:13 3:3,5 4:11,13 33:24 97:2,4,7,22 98:16,20 127:16 213:10 214:20 commissioned 78:22 common 85:6 86:6 107:7 108:8 138:10 144:23 168:21 commonly 26:2 28:4 communicate 46:18 54:25 145:2 community 47:1 77:13,14 companies 144:24 145:3 148:11 company 22:23 23:1 32:19 116:10 126:22 147:21 company's 90:7 comparable 150:21</p>
---	--	---	--	---

compared 97:23	24:21 43:18 44:18	203:10,15 210:12	constituent 65:1	213:7
compatible 24:5	46:3 52:24 68:19	conclusions 204:14	79:3 80:3 105:20	containing 31:22
compelling 95:2	74:6 75:15 82:14	204:17 205:5	108:10 114:4	contains 40:12
competent 44:2,6	85:2,16 109:20	210:16	128:19 133:7	43:13 46:3 61:25
141:4,15 142:18	114:5 138:17,22	conclusive 118:17	138:12 209:5	62:13,14 80:1
142:21 144:6	139:3 142:2,5	condition 15:6	constituents 32:25	108:17,21,25
203:1,4	148:15 152:19	conditions 51:2	33:21 34:15,20	109:20 138:19
competing 144:20	153:8,10 155:6	55:4 95:6 130:23	35:2,8,19,23	145:7 147:10
144:21 148:4	161:5 177:19	130:25	37:14 38:4 45:13	155:6 169:12
compiling 110:21	comprehensive	conduct 44:20	45:19 46:7 48:12	175:25
111:19	14:16 123:21	conducted 37:3,4	70:16 76:17 78:13	contemplating
complaint 1:11,17	comprised 45:11	112:7 184:12	78:21 82:10 85:8	12:10
33:5,7,25 55:24	compromised	Conelly 192:23	88:6 91:24 92:15	context 41:2 71:25
56:11 58:24 59:2	36:14	conference 153:19	103:14 104:2,3,5	75:13 119:4
121:19,24	compromises 29:10	185:10	104:9,23 106:6,12	122:25 164:2,7,8
complaints 29:6	computer 58:3	conferred 145:11	106:16 107:5	180:20
72:13,13	concentrate 27:25	confidence 92:15	112:22 116:24	continuation
complement 176:7	concentrated 91:11	confident 147:20	117:12 128:15	158:19
176:13	concentration	confirm 135:7	131:8 151:2	continue 49:1,8,14
complementary	40:16 64:23	154:9 179:4	155:25 158:7	50:9 61:15 115:8
14:18 97:2	concept 84:22	193:25	164:19 176:3	136:4 166:20
complete 16:14	149:20	confirmed 83:1	177:22 186:17	168:13 172:22
32:24 93:11	concern 49:15,20	conform 215:9	204:14	continued 100:10
completed 208:25	50:10,16,21 51:11	confused 151:13	construct 28:21	131:9
completely 51:9,10	53:5,10 74:21	Congratulations	consult 119:25	continues 180:7
52:24 211:20	75:4,12 85:24	212:8	167:2	continuing 130:4
completion 149:25	118:4 121:6,9	conjecture 140:10	consultancies 19:2	continuum 141:25
complex 23:19	122:25	140:19	consulting 63:4	contradistinction
complicated 152:12	concerned 32:7	conjunction 10:3	126:25	21:11 150:8
complying 145:1	118:23 119:1	80:18,25 119:20	consume 140:12	contrary 152:6
component 43:15	120:2 123:13	connection 20:10	141:14 143:4	contribute 9:23
134:18	concerns 33:6	148:23	152:9	contributing 174:4
components 44:15	119:16 127:17	consent 127:23	consumed 69:3	control 19:17 21:25
53:16 54:2 128:17	conclude 67:22,24	consequently 178:1	consumer 119:14	68:9 73:18 85:23
142:24 147:10	87:17 95:11	consider 63:2	125:23 127:1	115:8
178:5	139:14	126:14 141:8	consumers 118:8	controlled 93:5
compound 22:16	concluded 134:9	143:1 144:12	126:6 166:20	101:20 184:13
26:25 39:9 40:1	165:11 172:9	147:1 209:16	consumption	controlling 105:7
44:24 64:19 71:3	212:17	considered 84:21	139:18	conventional 10:14
73:21 80:2,4 82:1	concluding 168:8	109:4 132:18,22	contacted 23:1	11:13,19 15:4
100:12 103:16	210:21 211:7,10	209:21	contain 30:6 62:11	22:20 24:9 31:17
108:17,21 115:17	211:17	consistent 77:19	62:12 142:2	36:6 37:6,13 49:8
130:22 135:19	conclusion 21:15	139:16 140:20	contained 59:13,20	60:14 84:5 86:3
138:24 145:7	97:21 106:7	150:11	62:3 74:8 80:22	90:1 162:8 176:21
compounds 22:5,6	116:13,23 201:4	constantly 29:25	104:6 113:9 129:2	conversation 6:1

123:1 128:1 185:22 187:4,12 190:4,5 conversations 50:4 51:6 55:8 cooked 108:13 cooperation 127:23 copies 179:20 coping 72:18 copy 56:16 83:21 107:16 110:9 111:5 122:8 124:6 128:16 173:17,18 191:13 core 20:2 24:22 69:24,24 70:2 corporation 2:5 correct 4:19 14:6 16:1 18:6 25:15 25:16 40:24 71:7 86:22 90:9 96:5 112:4,15 122:15 123:10,14 137:4 139:22,23 140:19 157:14 159:18 160:14 188:21,24 194:17 204:18 206:5 210:11,14 210:23 215:8 correction 107:20 215:7,10 corrections 214:5 215:5 correctly 26:18 costs 44:21 cottage 174:14 counsel 4:19 212:1 counsel's 1:11 58:24 59:2 country 77:12 couple 4:16 56:7 82:23 114:20 136:18,19,20 181:1 189:10 199:18	coupled 141:16 Couric 180:9 course 10:12,16 13:1 17:25 35:20 36:23 37:12 62:25 76:10 96:20,21 159:17 181:2 court 5:23 56:22 113:17 138:6 cousin 156:18 cover 122:11 covered 177:1 cow 178:14 cow's 174:10 COX-2 27:6 76:17 create 174:22 created 142:5 147:22 167:7 creation 53:1 124:23 crippled 90:4 Critical 173:14 crossovers 20:5 cruciferous 139:18 140:23 culture 25:10 110:5 114:10,16 115:11 132:4 cultured 46:13 159:12 cultures 37:20,21 37:22 47:19 71:3 89:16 129:12 curcumin 26:17 27:1,5 38:14 41:17,18,19,20 42:5,11,17 43:4,5 43:13 56:6 80:2 86:8 146:14 151:24 167:24 189:2 197:3,5,7 198:9,10 199:10 199:10 curcuminoid 38:23 curcuminoids	24:18 40:5,6,7 curcumins 21:3 40:9,10,12 cure 19:15 23:17 23:18 29:19 44:3 45:24 47:14,23 48:4 53:14,19 62:20 67:20 69:14 86:22 105:23 117:8 127:13 142:25 144:9,21 145:4,5 146:20 158:15 160:25 161:1,15 162:20 164:15 172:20 176:18 205:3 cures 120:5,6 141:5 curing 43:7,9 119:19 193:8 195:24 200:11 202:11 203:6 204:22 205:11 curious 67:23 98:11 current 13:4 15:19 46:12 135:4 currently 14:8 52:23 114:2 curries 26:23 30:11 curry 27:18 cut 180:11,14 182:24 201:3 202:23 cutting 148:13 180:22 cut-and-paste 111:22 cycle 25:1 63:7 68:8 115:21 170:16 cysteine-rich 174:4 cytotoxic 64:2 167:23 C-H-L-O-R-O 108:22	C-Y-A-N-A-T-E 138:23 <hr/> D <hr/> D 1:2,16 4:1 81:8 121:24 196:10 198:11,22 199:7 199:12 213:19 da 113:1 daily 13:7 30:14 41:8 65:10 129:25 150:4 damage 26:13,13 64:5,9 damaging 36:9 64:7 danger 158:2 166:20,24 183:12 183:15 dangerous 15:19 Daniel 2:5,8 4:13 22:24 32:9 33:6 33:14,22 40:11 47:12 48:25 55:11 55:17 56:13 57:23 59:19 67:1,9 72:20 74:13,19 85:5 88:1,10,20 88:25 89:5 90:6,7 117:3,7,21 120:12 120:13 121:21 122:18 123:10 127:17 142:24 144:8,21 150:8 160:12 163:1,17 179:15 183:13 184:16 185:1,4,8 205:23 206:5,10 213:4 215:3 data 63:12,21 112:8,15 170:2 database 109:17 131:7 date 45:17 47:7,18 55:5 87:18 99:1	135:13 189:6 213:5 215:2 dated 97:11 213:13 dates 190:12,14,21 daughter 13:11 David 5:5 83:25 day 13:23,24 27:23 28:2 29:9 30:19 30:21 39:2 40:23 41:21 42:14,17 43:4 62:25 145:15 185:20,22 186:9 202:4 209:22 210:20 211:22 214:14 days 71:15 202:4 DCO 88:1 dead 87:10 132:17 deadline 209:18 dealing 12:17 29:16 death 12:17 15:7 25:3 38:20 48:15 51:21 68:7,8,12 73:17 82:6 108:20 130:5 139:8 156:8 168:3 170:17 deaths 18:1 181:12 debate 135:16 decade 94:5 decades 84:21 89:13 December 22:25 23:3 32:11 34:8 72:7 deceptive 56:14,15 205:24 decide 54:17 145:10 163:24 decided 84:23 decreased 72:11 deem 201:23 deep 73:20 defend 78:16 defense 169:4 206:19
--	---	--	---	--

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defenses 161:25	describe 8:8 9:7,10	diagnose 10:9	164:18 167:19	123:23 124:24
deficiency 170:5	10:6 13:4 14:24	17:21 124:24	173:22 196:15	164:11 165:13
define 8:18 21:10	16:4 19:5 20:18	diagnosed 23:6	203:2	180:14
definitely 88:9	21:9 32:14,16	73:8,10 74:2	differentiation	diseases 18:1 25:10
definition 142:18	33:13 34:11 38:8	167:4	63:9	52:16 169:5 170:6
142:21 144:6	45:5 187:13	diagnosis 10:18	differently 26:20	170:11 198:19
degenerative 25:10	described 23:16	14:13 23:8,10	141:12 147:2	disease-cure 53:4
degree 8:10,21 26:6	55:19 119:11	162:12	157:22	53:11
45:5,23 46:2	172:8 196:5	diagram 153:9	difficult 51:16 58:5	dish 94:13
47:13,15 48:2	describes 106:15	DIANE 213:25	73:21,22 80:19	Disrespectful
51:13 69:25 74:17	describing 56:11	dictum 29:18	95:23 99:18	166:10,10
100:23	57:10 123:3 134:7	die 115:7	166:25 197:11	dissection 11:1
delicious 108:16	158:3 186:16	diet 20:1 23:22	difficulty 39:25	dissenting 97:23
delighted 83:22	description 1:8	24:1,2 27:13,21	95:15	distinct 95:15
delineate 86:8	21:16	28:17 29:17 30:1	dig 55:22	distribution 102:7
delving 12:10	designed 121:12	52:25 53:3 67:2	digestive 62:6	divide 85:20
demonstrate 33:1	124:25 130:2	68:18 84:11 85:4	direction 167:16	division 170:16
139:24	147:3 150:2	85:7 86:13 88:14	disappointment	DNA 26:13,13
demonstrated	desire 181:10	89:17,17 90:9,11	18:22	DNA-protective
74:23 80:5,13	desired 149:7,16	90:11 98:24	disclaimer 127:21	107:6 108:7
94:8 114:2 131:10	desmutagenic	dietary 74:15 86:4	discontinue 31:16	Docket 2:6
159:11 170:18	109:25	144:17 146:6	discontinued 135:6	DOCKET/FILE
demonstrates 72:3	destructive 207:25	174:10	discovered 70:14	213:3
demonstrating	210:8 211:11,17	diets 23:23 98:5	86:5 110:2 112:1	doctor 8:22 10:13
92:16 101:5,9,22	detail 26:8	difference 20:18,20	113:22	10:14 12:14 15:21
141:13 169:7	detailed 56:1	21:12 64:13,24	discuss 11:3 23:1	17:21 18:2 51:24
171:19	details 33:11 38:11	71:23 84:15 120:4	69:17 85:8 130:16	52:12 61:21 74:1
demonstration	detection 181:4	140:4	155:1	84:9 89:19 96:20
140:7	deter 162:19	differences 157:17	discussed 69:16	113:14 116:8
Department 16:11	determine 50:23	different 19:9,19	99:10 115:16	120:1 121:17
18:24	106:25 135:13	25:14 26:20 31:13	128:14 150:14,15	125:22 126:25
depending 167:1	145:12 162:14	35:15 40:9,10	210:19	144:6 145:9 154:8
depends 30:9 64:25	determining 64:13	43:18 48:16 51:2	discussing 27:10	166:19 167:12
DEPONENT 214:1	detox 108:24	55:3 76:19 82:8	61:24 105:13	172:15 181:15
deposition 2:18	detoxification	82:25 83:4,4	150:13	208:17
4:12,14,17 5:15	25:25 26:3	91:14 96:2,14	discussion 56:24	doctors 9:19 10:23
5:21 57:1 59:1	detoxify 175:13	98:25 107:13,25	61:18 79:1 87:16	11:20 13:13 15:3
81:22 97:12	develop 15:18	108:1 110:11	101:1 113:16	16:1,19 19:23
121:23 154:13,16	developed 84:5	113:12 115:14	128:6 134:5 138:5	52:4 148:11 149:1
202:25 212:6,16	developing 26:15	116:9,25 118:21	183:25 212:12	166:3,3,6,8,11,15
depressor 169:10	development 44:22	119:11 123:4	disease 9:16,16,23	166:16 181:18
derivative 26:24,25	87:19 158:23	136:9 141:19	10:10 11:12,21	doctor's 150:1
95:20,24 113:10	devoted 55:6	148:9 153:7,10	17:22 19:18 23:19	document 57:9,17
derivatives 113:22	Dews 105:11	157:16,21,21	25:8 29:14 30:14	58:6,19,23 59:8
114:3,4 170:24	diabetes 25:8	160:11,16 161:23	39:10 51:16	97:18,19 187:17

187:20 documents 55:21 57:24 188:2 203:19 207:8 Dog 1:15 96:12,15 97:11,14 dogs 89:10 doing 10:16 12:10 19:2 29:7 35:20 39:2 50:24 51:12 55:12 58:16 78:21 117:18 119:4 123:24 147:21 149:22 161:17 164:5 173:9 181:15 dollars 44:19 102:9 Dorai 198:23 dosage 27:12 28:13 64:10,14,24 67:8 67:19 69:6 80:21 81:13 94:24 104:5 114:14 dosages 67:10 83:8 88:10 dose 27:22,23 28:3 31:3 41:13 42:14 63:2,3 65:7,8 66:21,25 67:1,25 68:1,12,13 69:2 71:17 74:7,9,12 74:17 75:2 83:13 83:15 114:17,18 130:1,1 161:5 165:20 177:11 dosed 31:20 doses 30:25 65:9 66:12,13,24 67:6 67:14 88:12 95:12 104:7 134:12 150:11 177:12,15 177:18,18 double-blind 172:2 double-blinded 66:3	double-check 193:14 double-tracked 198:17 doubt 178:11 downloads 201:14 downregulate 68:10 downregulating 68:3 downregulation 129:8 dozen 17:7 129:16 dozens 34:16,16 45:11 77:10,10 82:13 94:5 Dr 4:9 5:15 7:17 8:5 23:5 33:4 39:21 57:5 59:7 76:21 83:25 91:3 93:4 95:24 96:6,7 96:11,12 99:8 101:4 131:6 134:4 135:23 138:16 139:11 162:12 166:4,8 184:3 192:7 194:6 201:3 206:24 draft 55:23 draw 204:14 drawing 203:9 drew 208:15 dried 169:9 drift 200:1 drink 25:5 129:25 drinking 130:8 drive 149:25 200:22 drives 168:2 driving 185:11 dropped 93:10 132:17 Drs 97:10 drug 11:16 16:22 21:9,10 22:7,13	22:16 65:1 80:18 80:25 86:1 87:22 151:21,23 170:25 drugs 11:17 17:12 22:14 29:8 31:19 32:5 80:16 145:16 145:17 152:4 170:12 171:5 drugstore 165:19 due 178:25 209:9 Duke 35:9 105:19 109:16 138:16 Duke's 131:6 Dulabon 5:5 duly 4:6 Dumb-Dumb 166:4 166:8 duration 13:1 dysfunction 51:21 dysfunctional 90:3 d-glucarate 26:2 D-induced 81:10 D-O-G 96:12 D.C 3:18 <hr/> E E 1:2 3:15 4:1,1 134:1,1 213:1,1,1 213:19,19,19 earlier 32:10 55:19 99:8 110:9 115:5 115:16 123:12 132:6 151:21 154:10 155:5 185:6 188:17 early 53:25 181:4 earned 8:21 easier 198:17 easily 63:1 east 155:17 eastern 20:3 easy 142:10 153:5 eat 23:22 25:5 27:13 30:9,10 70:1,1 86:18 89:8	90:17 100:14 139:25 178:1 eating 29:2 30:6 66:22 67:2 68:18 174:13 ECGC 155:23 eclectic 19:24 Ed 18:24 edge 148:14 edible 86:6 edition 113:25 educate 50:25 77:1 educated 165:3 167:2 educating 161:22 162:24 163:14 education 16:11 162:5 163:4,20 educational 8:8 effect 54:5 62:19 63:3 64:2 65:11 65:16,25 70:10 71:6 72:17 83:1 86:2 93:25 99:4 115:19 129:3,15 130:8 131:16,22 132:4,7,11 136:15 140:5 151:19,24 159:11 167:20 169:8 171:21 effective 28:4 37:8 43:8,10 44:3 45:6 45:19,23 46:2 47:13,16 48:3,7 48:18 49:23 52:17 54:5 64:14 69:14 76:5 79:24 92:6 101:9 105:23 106:20 117:8,16 119:18 129:21 144:9 147:23 150:22 158:21,24 158:25 160:23 162:11 171:2,8 172:9,16 181:14	181:15,20 182:14 193:8 195:24 200:11 202:11 203:6 204:22 205:10,13 206:3 206:10,22 207:4 209:25 210:2,13 210:22,25 211:8 effectively 29:16 37:2 53:24 76:10 109:10 147:12 176:19 effectiveness 37:16 37:20 43:5,6 48:6 48:11,13 80:5 82:1 87:13,18 92:21 99:10 101:22,25 105:3 117:13 effects 30:23 52:14 63:5 72:12,19 73:11,13 86:2 110:3 128:14 134:11,15,15,16 137:15 145:2 152:6,8 170:11,14 170:18,19,24 171:6,23 176:21 207:25 210:8 211:1,11,15,18 efficacy 47:21,22 115:24 EGC 156:17 157:3 EGCG 155:24 156:4,17 157:3 eicosapentaenoic 24:19 eight 13:10 39:2 40:23 either 17:4 53:14 65:16 66:1 77:10 77:24 133:3 185:9 196:4,13 elaborate 46:16 149:15 166:23
--	---	--	--	---

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<p>electronic 58:1 59:20 elements 79:3 155:7 Eleutherococcus 130:16 131:10 132:18 134:8,10 135:3 137:1,7 168:16 176:1 178:10 208:1 209:7 211:14 eleventh 56:8 eliminate 75:1,2,20 92:12 93:17 eliminates 74:20,24 75:12 76:1 196:18 198:22 200:3 embryology 11:1 emerge 37:1 emergency 10:20 emodin 114:21,24 117:12 Emperor's 8:19 emphasis 8:11 employed 9:3 employees 18:19 employment 9:1 18:4 19:3 enable 152:9 encompass 7:21 encouraged 50:14 encouragement 162:14 encouraging 50:8 ends 70:18 end-stage 39:19 enema 95:22 enemas 98:5 energy 175:13 engaging 10:2 enhance 37:16 115:24 139:6 enhanced 131:16 enhancement 64:2 enjoy 96:25</p>	<p>enrolled 36:4 enrolling 18:19 entitle 17:18 environment 84:22 environmental 9:22 19:10 enzyme 70:3,19,20 72:4,10 enzymes 46:4 70:12 70:22 108:24 139:5 EPA 24:19 epidemiological 89:15 139:16,25 140:21 141:13 epigallocatechin 155:23 errata 215:6 error 215:8 errors 215:5 escalating 66:11 especially 11:15 36:1 52:25 69:3 99:7,23 117:11 141:16 145:18 151:1 160:1 181:5 182:21 ESQ 3:4,13,14,15 essential 24:19 25:17 essiac 103:1 106:22 106:24 107:4 108:6 132:22 150:24 established 83:16 164:19 estrogen 26:4 et 1:13 65:23 66:15 81:23 ethnobotanical 131:7 ethnobotanists 35:11 Ethnopharmacol... 107:3 108:6 114:1</p>	<p>134:24 195:10 Europe 70:12 evaluated 106:25 131:22 eventual 12:17 everybody 5:24 evidence 7:25 32:25 33:20 34:17 34:22 35:6 44:3 45:17 46:11 47:17 53:15 54:25 56:20 58:19 60:8 65:3 66:19 67:4 72:2 74:23 75:17 76:7 76:16 77:20 78:13 84:14 89:20 91:7 92:16 99:3 113:21 116:23 118:22 141:5,8,9,10,16 142:19,22,23 143:2,15,16,25 144:1,2,7,11 145:20 162:9 185:24 186:3 189:3,22 191:23 196:7 200:21,25 200:25 201:8,15 201:19,20 202:10 202:22 203:1,5,9 205:9 206:22 207:20 208:10,24 209:2,3 211:13 evolved 30:3 46:24 exactly 12:23 57:16 205:14 exam 11:24 examination 1:4 4:5,7 152:11 examine 35:20 79:15 99:22 examined 4:6 35:17 82:22 93:1 214:2 examining 47:13 example 21:3 26:23 27:11 34:25 56:5</p>	<p>68:2 80:17 106:13 116:8 151:10 157:20 164:3 178:12 190:21 197:14,17 207:11 examples 25:25 37:15 exams 8:17 10:11 16:15,17 excerpt 1:18 154:14 209:13 excision 183:4 exciting 37:22 71:2 71:5 86:10 exclusion 49:10 exclusive 37:17 exclusively 11:24 11:25 excretion 139:6 Excuse 132:25 executed 214:15 exerts 73:13 exhibit 1:8 56:22 57:1,6 58:23 59:1 59:8,13 81:18,20 81:22 97:10,12 107:16,16,20 111:5 121:18,22 121:23 122:3,6,11 146:2 154:6,9,13 154:16,22,23 187:1,1,8,15 188:7,15 191:8 194:25 203:14,22 204:1,2,9,9 205:21,21,22,22 205:25 206:11 exhibits 1:16 121:23 186:21 189:14 204:17,20 exist 47:7,10 existed 35:22 exists 27:16 33:20 125:1 208:16 expanded 104:24</p>	<p>expect 18:25 23:18 expected 165:22 expecting 118:24 experience 5:20 84:8 116:19 expert 7:18,20,23 7:25 32:22 35:10 46:9,15 54:10,11 54:18 78:7 81:15 126:5 189:11 194:23 204:11 EXPIRES 214:20 Explain 161:13 explained 198:4 exploring 99:6 exposed 85:6 132:8 exposure 157:4 expressed 33:7 52:12,12 115:22 204:11 expression 68:3,10 68:19 81:8 extension 20:23 160:20,20 extensive 166:12 extent 34:11 160:13 163:1,17 extra 85:21 extract 93:7 132:3 132:13 195:15 extracted 22:6 69:23 86:14 extracts 21:2 39:18 170:3 extraordinarily 36:14 extrapolate 129:19 137:11 extrapolating 106:6 extremely 67:14 e-mail 186:9 203:19 E-R-I-K 153:15</p>
---	--	--	---	--

F	30:14 40:8 79:20	46:5 62:16 76:8	97:10,13 100:16	98:20 189:21
F7:14 134:1	85:9 138:18,19	79:6,12,14,18,19	100:18	focuses 9:15 11:4
193:10 195:21	139:23 140:12	80:21,24 82:9,12	first 1:11 4:5 8:23	14:1
203:14 213:1,1,16	156:1 182:22	82:22 110:21	10:24 12:14 16:7	focusing 17:17 38:5
213:19,19,19	famous 168:19	111:22 207:14	18:15 22:25 23:15	137:10
face 167:21	far 48:9 54:4,4	208:16	25:20 28:17,24	folded 103:11
faced 123:5 161:25	69:16 74:13	feverfew's 82:10	29:1,18 32:11	folders 188:1
faces 45:10	116:13 124:15	fiber 108:25 109:15	37:7,23 40:4	folks 72:20 85:5
facing 25:10 148:1	142:3 174:18	fibrin 70:4	58:24 59:2,10	161:16
fact 11:22 12:3	fare 14:21	fifty 177:7 181:5,6	66:5 69:17,19	follow 14:17 49:21
31:3 47:9 49:19	Farnsworth 135:1	fight 23:20 37:2	79:23 84:9 103:19	52:1 135:5
50:6 52:6,11	faster 51:21 71:15	48:19 75:16 86:19	108:10 148:14,21	followed 136:2
62:23 63:17 64:17	fatigue 72:14	116:21 120:7,9,21	161:12 169:7	following 5:9
75:6 85:23 86:21	132:13	121:12 146:21	178:13 181:3	follows 4:6 79:10
87:4 88:19 89:15	fatty 24:19 25:17	176:4,8	182:6,8 186:10,14	163:12
90:7 94:2 113:9	favor 99:25 100:7	fighting 118:21	186:19 187:2	follow-up 134:18
126:1,23 130:7	FDA 32:4 47:5	205:14,15 210:6	191:3,19 192:6,15	141:1 159:16
140:11 163:24	FDA's 145:1	210:18,19	192:19 194:3	fond 30:11
164:17 176:4	feast 89:12	fight s 118:6,22	195:20,20 199:2	font 107:25
190:12 207:14	February 2:10	175:23 189:2	212:6	food 20:23,23 21:5
factor 80:7 94:1	213:5,13 215:2	203:10	Firstly 184:12	21:6,7,22 22:1
129:4,9 152:2	Federal 1:1 2:2,13	figured 110:18	fish 24:20 89:9	27:24 30:2 37:18
156:4,19,22 167:6	3:3,5 4:11,13	files 58:2 59:20	fishy 95:15,23	44:18 60:20 65:1
factors 9:22 19:11	33:24 127:16	filled 23:23	fit 164:7	67:6 74:15 85:8
19:13 174:1	213:10	final 111:18 182:1	fits 173:10	87:14 88:11,22,23
facts 215:9	feel 50:12 54:20	182:4 184:3,6	five 18:15 46:3	108:11 141:20,21
failed 36:6 38:21	78:11,15,15,22	finalization 209:19	168:7 196:2	142:16 148:12
38:22,22 90:1	111:9 147:20	finally 139:7	200:16	150:3 151:20
93:16	160:17 214:5	financial 45:6	five-year 168:5	158:8 160:20
fair 12:25 22:12	feels 83:17	find 10:17 36:24	fix 158:7	173:14 175:10
45:22,25 47:11,25	Feijo 2:7 4:14 49:3	69:13 84:24 87:6	flavonoid 62:21,24	199:4
61:3 64:23 67:8	127:11 180:2,10	100:11 105:4	113:10 156:1	foods 24:2 30:6
119:9 172:15	213:4 215:4	107:2,21 124:20	flavonoids 155:21	43:16 52:14 66:23
175:22 200:18	Feijos 49:2,4,13	128:15 131:9	flavor 95:15 108:14	75:16 86:5,18
204:9	50:1,13,24 51:11	153:2	flip 161:21	88:14 89:11,17
fairly 126:19	52:3 53:4 76:22	findings 36:18	flora 109:6	90:8 109:1 143:4
177:11	105:9 119:21,24	135:5	flow 109:24 184:8	151:19 152:6,9
fall 18:25 100:7	166:2,3 182:9	fine 7:10,13 21:18	fluent 111:8	160:20
164:16	185:9 187:12	67:22 210:18	focus 11:24 12:5	foods-based 85:4
familiar 22:23	188:6 189:25	211:7	14:4 17:23 19:8	food-based 130:1
40:16 41:15 96:11	fellow 84:4	finish 78:25 128:6	28:17 31:17 69:11	161:4
146:5 148:3	felt 60:6 192:13	138:8 188:14	97:16 98:2 103:18	foregoing 212:16
familiarity 97:1	Ferry 66:15	195:23	122:2 160:5 177:6	214:3
family 27:15,19	fever 109:21	finishing 134:4	178:5,7	forget 151:16 154:7
	feverfew 43:13	fin s 1:15 96:11	focused 14:19	form 5:10 45:17

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82:8 96:3 99:16 143:12 165:21 183:8 203:15 format 213:23 formation 31:1 48:20 70:7 102:23 103:23 106:9 116:21 118:14,21 118:23 146:10 195:1 196:9 203:11 205:4,14 forms 37:8 157:13 157:16 161:20 formula 34:4 48:2 102:15,22,25 103:1,2,15,22 104:6,7,13,15,17 104:20,20,22,23 104:24 105:23 106:3,4,8 107:12 108:2 112:22 116:9,20 117:4,8 117:22,25 118:2,6 118:9 119:2 120:3 120:14,16 121:1 122:14,17 123:14 128:7 129:20 131:21 132:23 134:5 137:1,9,15 138:10 146:24 147:18 182:2 193:7,8 194:25 195:20,24 196:9 200:10 201:11,13 201:19 202:9,11 203:6,10 204:5,11 204:15,22 205:2 205:10,12 formulary 173:2 formulas 150:25 164:18 173:3 190:3 formulate 147:25 formulated 173:1 189:4 190:16,20	190:23 formulating 127:8 190:9,10 formulations 149:6 185:13 forward 89:23 181:20 fought 118:14 found 13:17 14:13 28:4 35:6 42:13 58:16 66:1,16,22 67:9,13 68:9 81:9 82:1 103:5 107:5 114:17 131:23 137:2 169:24 170:15 183:19 196:3,14 four 8:1 34:1,6,9,12 34:20 38:5 46:3 47:12 48:2,22 53:5,13 122:14 123:4 125:17,22 125:24 127:3,5,18 150:13 158:2 fourteen 201:7 fourth 38:19 48:1 112:17 122:3,6 195:15 four-herb 104:24 four-year 8:16 16:8 16:13 fraction 169:23 frame 129:23 framework 29:1 Francisco 13:20 18:13,24 29:13 97:8 free 26:11 84:6 111:9 French 84:4 frequency 79:25 frequently 13:5 182:13 fresh 155:19 friend 73:8,24 74:1	friends 162:15 166:14 fruit 70:1 fruits 62:22 67:3 89:8 FTC 32:20 46:10 56:22 121:18 FTC's 1:17 33:5 121:24 204:24 fuel 149:24 full 6:20 7:5 59:18 60:2 74:2 138:25 142:12 178:16,22 197:23 213:8 fully 31:13 54:21 126:9 150:14 164:8 full-color 85:1 function 22:2 29:22 30:3 36:15 41:9,9 56:2 70:7,8 74:16 135:22 161:19 166:16 168:2 177:23 functional 7:21 8:1 9:21 68:6 84:19 93:17 functioned 158:23 functioning 156:8 166:13 functions 67:7 68:13,16 funding 44:19,24 102:10 furlough 18:19 further 67:3 94:2 111:1 124:14 126:24 135:7 171:21 211:25 fuzzy 175:20 F-I-N-S 96:12	gained 54:21 100:22 gallate 155:24 gap 22:3,8 gastroenterology 11:6 gastrointestinal 72:13 GDU 34:4 40:15,17 42:25 43:3,6,8 44:3 45:23 48:1 61:24 62:4,6 64:14 67:19 69:9 69:10,11,13 74:8 74:20 75:15,25 76:1,4 79:1,4 92:10,12,15 102:14 111:23 122:17 147:18 150:18 164:4 180:17 182:2,23 183:3 196:17 198:22 200:3 208:16,22 209:3 209:15 GDUs 62:5 gelatin 62:6 gene 68:19 81:8 115:5,6 156:7 general 12:2 24:13 24:17,20 27:4 40:8 45:11 62:21 91:11 95:4 102:18 130:22 160:19 188:19 192:13 193:2 215:7 generalize 34:22 generally 34:19 46:23 100:1 116:4 116:10 160:14 164:12 generation 76:18 152:2 genes 68:9 genetic 9:22 19:10	99:14 109:23 genetically 68:5 genetics 39:8 genic 108:22 genistein 65:14,25 gently 152:8 getting 30:11 82:13 112:2 123:22 129:25 159:20 163:10 174:24 gifted 153:17 ginger 27:15,18 86:9 ginseng 106:17 130:17 132:7 137:6 175:16 176:1 gist 200:2 give 6:17 65:7 66:7 135:18 191:7 given 36:16 38:22 43:2,24 59:18 60:3 64:16 74:10 76:7 77:13 83:21 126:23 156:25 185:14 214:4 gives 197:15 giving 41:12 163:2 163:18,24 182:9 glad 93:22 191:15 glance 42:2 glanced 159:7 glean 90:7 93:21 glioblastoma 73:8 glioma 73:8,12,19 99:11 108:24 gliomas 157:20 glutathione 147:11 173:9,10,10,11 174:5,22 go 4:16 7:3 14:20 18:3 21:18 25:22 26:7 27:23 30:15 32:9 37:14 40:4 61:16,16 68:7
		G		
		G 4:1 197:17 207:18		

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71:16 74:13 84:12 90:25 92:24 97:5 98:7 100:16 104:8 111:1 112:24 118:24 125:3,16 125:21 128:21 133:2,9 134:17 139:14 141:2,20 145:9 159:4 163:3 163:19 165:15 167:16,25 168:9 168:15,20 175:9 177:8 180:9 183:13,24 184:9 187:24 189:7,8 191:8 193:14 194:15 197:11 205:13 207:1 212:15 goal 19:18 29:13 goals 27:3 God 124:23 goes 15:8 78:23 85:8 86:8 100:5 161:24 180:10 going 12:19 14:4 23:18 24:5 29:11 36:17,21 51:25 52:2 53:19,23 55:22 58:4 74:11 85:19 90:2 98:17 100:25 103:3 117:16,20 118:7 120:11 124:19 125:25 126:4 127:12 129:20 140:21 146:20 156:5 160:17 161:15,18 162:20 162:24 163:14 164:15 167:19 168:10 172:20 176:18,23 179:21 180:5,7,18 181:8 183:16 184:7,9	189:1,11 191:12 196:21 197:10 202:3,7,24 205:2 206:11 209:24 good 4:9 12:13 67:2 78:15 83:17 110:5 112:8,18 119:7,22 126:12 128:7 143:5 150:19 157:5 162:4,24,25 163:14,15 176:10 176:23 180:11,23 182:25 183:23 196:25 201:7 209:11 good-quality 121:15 Google 55:13 Gordon 1:13 81:23 gotten 124:15 186:6,8 187:20,21 government 18:19 graduate-level 8:16 16:14 grains 89:9 gram 112:9 grams 39:2 40:23 42:14 grapes 43:16 66:23 graphs 85:1 grass 138:13 greater 14:21 36:25 65:16 71:20 158:11 174:18 green 2:14 3:7 85:9 86:6 88:5 138:13 138:13 151:10,13 151:24 155:6,11 155:12,14 161:23 168:14 175:16,25 177:3 178:9 209:6 grew 8:13 ground 5:18 group 24:21 26:8 39:22 87:5,7	97:24 100:3 147:25 166:16 186:10,14,24 195:20 196:1 groups 25:14 139:25 157:18 grow 85:19 109:10 130:4 181:25 grows 84:23 growth 48:13 63:12 63:22 70:16,25 71:4 74:18 85:17 85:17 87:2,19 91:5,16 92:2 104:3,16,18 106:16,18 116:25 129:15 147:19 157:23 159:13 174:1 191:20 192:5 200:9 guess 10:3 12:13 32:14 79:16 159:16 166:4 173:24 175:19 179:5 195:18 guided 127:9 guides 28:21 gut 109:6 guys 144:25 gynecologist 14:15 gynecology 11:6 G-E-N-I-S-T-E-I... 65:14	happens 180:3 happy 54:24 107:15 111:3 112:21 hard 118:17 129:18 163:8 207:16 harmful 28:23 harvesting 198:5 hate 93:20 head 5:25 41:23 64:6 headache 30:21 headaches 79:24,25 headed 38:1 heal 17:24 211:16 211:19 healers 46:20,22 healing 9:18 24:14 67:5 210:5,8 heals 207:24 211:11,17,19,20 health 9:15,24 17:22 18:24 19:8 19:10,11,18 28:14 29:3,5,10,15 51:1 52:25 55:3 148:12 165:11,22 167:9 175:9 192:24 healthcare 9:15 12:5 17:13 125:2 125:9 127:24 healthy 36:20 90:11 hear 125:19 heard 31:25 76:23 76:24 78:19 88:18 105:12 hearing 179:18 213:5,9 heart 30:14 94:10 165:13 heavy 31:25 help 19:8,13 24:4,7 29:14 30:21 33:2 65:7 68:15 75:1	85:16 95:6,8 111:15 120:7,9 137:18 146:21 161:19 162:19,21 164:20 197:1 211:19 helped 115:24 117:25 helpful 9:9,12 15:5 32:21 72:21 100:24 117:10 helping 11:14 90:17 123:5 156:7 helps 26:2 27:7 73:15 175:12 hepatoma 64:3 herb 26:1,22 27:14 34:4 48:2 79:19 82:12,15 102:15 102:22 103:22 104:6,13,15,20 105:23 106:8 107:12 108:2 116:9,20 117:8,22 117:25 118:2,6,9 119:2 120:3,14,16 121:1 122:14,17 123:14 128:7,12 128:13 129:20 130:17 134:5,16 134:18 137:15 138:4,9,10 144:14 146:24 147:18 168:19 180:17 182:2,23 183:2 193:7,8,17 194:16 194:25 195:20,24 196:9 200:10,13 201:11,13,19 202:9,11 203:6,10 204:5,11,15,22 205:2,10,12 herbal 7:20 22:18 27:4 47:1 96:23 135:17
--	--	--	---	---

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herbs 35:8,15,24 37:18 38:5 44:8 46:7 48:16 86:7 104:22 105:3 125:4 145:16 164:18 200:14 203:17	honing 158:12 hope 51:19 83:18 hoped 152:5 hopefully 14:21 hopes 100:11 171:22 hormone 26:4 hormones 23:25 host 19:19 74:4 84:22 85:2 152:18 hot 89:10 hour 56:9 hours 55:7,9 71:19 208:21 House 97:2,4,7,21 98:16 huang 113:1 199:21 Huh 173:19 human 8:11 36:15 37:11 38:16 39:12 42:1,4,6,13 46:11 47:3,6 56:6 63:12 63:21,25 64:4 66:6,10 67:13 71:7 72:23 81:10 81:10 83:15 89:20 89:22 93:1,5,14 94:23 114:12,13 129:11 136:8 137:20 140:17 141:11 142:22 144:15 156:13 159:18 160:3 170:14,21 172:3 humans 46:24 71:6 71:9 95:19 114:18 134:12 136:15,20 138:14 142:14 173:9 humoral 131:17 hundred 51:23 59:21 63:1 181:14 182:14 hundreds 29:24	45:12 77:11 79:21 142:15 166:16 188:1 Hunt 192:23 husband 12:14 37:24 hybridoma 108:19 hyphenated 153:15 hyphenation 213:22 hypcholesterole... 135:10	20:11 29:21 36:15 41:8 51:20 80:8 81:4 90:4 93:17 93:18 106:17 131:16,18 147:17 161:19 169:1,4 170:5 176:5,20 178:21 210:4 immune-potentia... 170:1 immune-stimulat... 132:19 176:11 immunity 131:25 147:4 175:13 178:18 immunodeficiency 170:10 immunoglobulin 178:12 immunoglobulins 178:16,23 Immunology 169:22 immunomodulat... 170:10 immunomodulator 129:14 immunomodulat... 131:11 immunorestorati... 169:24 immunostimulat... 135:9 impact 64:19 important 5:24 6:20 11:14 15:9 15:16 24:13 25:13 26:14 28:13,15 73:19 77:15 78:8 101:23 102:3,6 136:23 138:1 149:18 174:1 178:5 181:4 imported 32:3,6 impossible 45:14	45:22 impression 102:24 impressive 99:12 99:21 improve 109:24 improved 72:14 improving 39:7 incidence 69:4 89:18 140:1,13 141:13 165:13 inclined 166:18 include 56:7 60:6 67:19 87:20 105:3 110:21 120:14 132:21 203:16 208:9,17 209:7 included 28:9 72:11 85:10 94:4 111:23 142:12 169:20 192:20 includes 138:19 including 31:18 33:19 61:11 71:1 72:5 74:5 85:8 86:6 115:4 150:15 159:13 incorporate 86:12 increase 82:1,5 130:24 147:9,10 increased 65:11 102:25 131:25 132:14 increasing 17:15 66:14 independent 137:18 independently 10:9 54:6 210:24 India 46:20 Indians 103:4 113:8 128:25 indicate 47:21 63:12 71:5 73:13 139:21 148:24 171:1,2,8
I				
iatrogenic 170:4,6 ID 1:8 197:10,12,18 198:4 idea 176:23 180:11 180:23 182:25 190:17,19,22,24 ideal 15:12 102:1,8 identical 88:10 111:2 159:23 identification 57:3 57:7 58:23 59:3 81:21,24 97:10,14 121:25 154:6,15 154:17 identify 19:9,13 24:4 55:13 57:12 159:2 186:19 191:9 IGF 178:12 II 26:3 93:5 139:5 illness 7:25 33:19 illnesses 54:24 illustrates 84:25 imagine 74:10 156:12 178:4 imaging 181:8 immediately 165:7 immemorial 138:15 immersed 12:17 immune 14:19				

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

indicated 60:1 188:17	19:11 39:10 52:15 76:10 82:20 85:2	inhibitor 27:6	99:6 114:21	invasive 28:25
indicating 34:15 55:24 58:21 59:22 63:22 100:1 103:10 111:4 124:18 148:21 153:6 175:20 186:23 187:19,23 191:17 197:2 203:24 208:3	87:1 104:3,18 105:6,7 106:16,18 149:22	inhibitors 76:17 80:15	192:13	73:11 181:21
individual 17:17 27:12 28:13 50:23 104:8 117:24 119:25 126:24 160:6 177:21 214:11,13	influences 63:7 81:3	inhibits 27:6 63:12 70:5,16 73:11 91:5,8 92:1,18 102:22 103:22 104:16 106:8 114:17 115:20 145:8 158:18 191:20 192:5 194:25 196:9 200:9	interested 32:22 76:14 99:9 103:15 127:10 129:1 189:22	investigate 162:13 204:13
individually 2:7 61:4 81:2	influencing 87:19 106:20	initial 134:25	interesting 79:19 85:13 95:7 108:13 109:13 128:18,20 129:18 152:17,21 152:24,25 153:2 157:2	investigated 193:4
individuals 15:9 39:23 49:14 183:20	inform 125:6	initiated 113:16 138:5	interfere 43:20 53:17 147:19 153:8	involved 152:11
individual's 28:17 99:14	information 12:11 43:2 51:8 55:10 55:14,16,18 56:4 58:18 59:10,12 77:5 124:21,22,24 126:6 162:16 179:11 185:7 202:4,13 203:19 207:12,20,23 208:12	initiation 42:12 44:9 48:14 68:21 123:18 158:19 159:13 199:11	internal 29:25	irrespective 131:2
induce 73:17 82:6 115:1 129:7 139:5 139:7	informed 54:21,22 127:1	innate 9:18 24:14	international 44:6	irritability 134:13
induced 132:15 195:16	infusions 66:11	innocuous 130:23	Internet 55:13 126:10,11 167:13	Irvine's 153:18
inducing 48:14 82:2 108:19 115:2 129:3 130:4	ingesting 130:5	inserted 110:22 111:24	interreferring 52:7	isolated 87:22 94:6 138:16 142:4
industry 144:23 148:10	ingredient 43:15 86:14 105:5	inside 14:14	interrogatories 1:12 58:25 59:3	isolating 82:16
infant 178:18	ingredients 34:23 69:13 104:23 105:21 175:14 210:4,6,17	insist 51:24,25	interrupt 103:13	isothiocyanates 138:23,25 145:7
infection 80:8 169:4	inherent 170:5	insomnia 134:13	intervals 66:12	issue 28:11 98:20 125:22 183:20
infectious 18:1	inhibit 27:5,9 31:1 71:3 73:5 74:17 85:17 91:16,24 114:25 123:17 139:4 140:8 146:10 147:16 151:9 157:4 205:4	instruct 27:17	intervene 92:17 152:4	issued 33:25
inflammation 24:21,22,25 25:5 25:7,13 27:5,6 28:5 30:22 76:20 79:22 80:9 85:3 123:19	instructing 51:3	instruct 27:17	intervening 94:5 116:25	issues 153:1
influence 9:23 19:9	insult 166:19	intake 10:11	intervention 141:21	Italian 65:22
	intakes 10:11	integrated 20:15	interventions 21:21	IV 66:11
	integrated 20:15	integrative 24:13 72:7,24 149:1 153:19 166:16	intimately 21:6	
	inhibited 63:22 94:10,20 132:15 170:15	intelligently 11:3	intracellular 174:5	J
	inhibiting 80:5 81:11 108:23 113:11,23 114:5	intended 124:22,24	intravenous 66:17 66:24	J 1:9,13 4:23 5:12 7:19 21:13 57:2 81:23 116:12 122:5,7,10 124:6 124:9,18 125:19 126:4 132:25 133:2 143:11,23 154:1 163:21 179:20,23 207:6 212:3,13
	inhibition 66:17	intention 104:25	intrigued 39:7 100:9	James 2:7 3:13 4:14 213:4 215:4
		interact 31:14 35:15	intriguing 82:15	January 113:25 185:21
		interactions 83:5 110:1	intrinsic 26:25	Jim 4:21,24 5:7 23:1 35:9 49:7 51:6 55:9,11,17 57:19,22 89:13 90:15 105:1,11,19 109:16 124:13,14 127:9 179:25 180:2 185:7 190:6
		interest 17:14 61:14 73:7 77:9	introduce 4:21 27:18 73:23 143:9	
			introducing 139:20	
			inulin 108:25 109:3 109:5,10	
			invalid 189:20	

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212:2 jim@swankin-tu... 3:20 job 23:25 32:4 John 16:25 joining 5:1 joint 71:14 joints 95:8 Joseph 1:15 96:11 97:13 Josett 163:6 213:16 journal 59:24 60:21,25 61:12 66:8 81:6 107:3,4 108:6 114:1 131:14,19 132:2,9 134:24 139:2 169:22 192:24 193:21 194:11 195:9 197:12,19 journals 60:15,19 61:2,8 JR 3:4 judgment 50:18,19 50:20 126:12 judicious 144:25 June 57:19 junk 89:11	167:24,25 killer 132:14 180:4 kinase 66:18,19 139:9 kinases 115:2 kind 10:19 12:18 68:12 73:9 100:4 102:10 118:12 134:9 143:16,24 144:1,2,3,11 157:21 158:5,7 160:1 169:9 172:19 181:22 183:10 184:8 189:10 kinds 102:8 kingdom 21:7,22 22:1,4 66:24 100:13 141:25 knew 70:11 103:2 159:8 169:2 178:8 184:24 192:12 201:1 know 6:4,8,19 9:23 10:23 11:2 12:5,9 12:9,21,21 13:3 13:17 14:1,13 15:3 17:3,11 18:2 19:11 20:5,8 22:8 23:9,17,22 24:11 24:12 26:19 30:2 30:25 32:3 33:8 34:1 37:23 38:18 39:24,25 41:1,3,5 41:6 42:23 43:9 43:17 44:12,13,21 45:14 48:10,12,16 48:24 49:2,4,5,17 50:11 51:13,23 53:25 55:21 56:5 60:8,9,14,16 62:13,18 63:16,19 64:7,10,16,16 65:2 66:3,7 67:4 69:4 71:13 73:24	74:9,9 75:3,3,7,13 76:24 77:16 80:21 81:3 83:14,17 84:1 85:20 86:25 87:7,10,13 88:15 89:24 90:19 91:19 91:21 92:2,8,14 92:19,22,22,23 93:20 94:24 96:3 96:7,13 98:11,14 98:21,23,24 99:1 99:2 103:7 104:7 105:8,10,14,16,18 105:25 106:24 107:2,13 109:2,13 112:11 114:7,14 114:15,19 117:2 118:7,10,10,20,20 120:23 123:16 126:10 127:21 129:16,22 130:7 134:11 135:17 136:3 137:13,14 137:17 139:12 140:2 143:3 145:3 145:12,17 146:7 146:11,12 147:5 147:14,24,24 148:17 149:21 150:20 151:1 155:16 156:10,21 158:5 160:18 161:11 164:1,2,4 165:18 167:24 169:6,18 170:5 171:7 173:21 175:3,4,5 177:5 177:12,17 180:14 181:7,10 183:2 185:18 187:16 188:1 189:1,7,9 190:9 191:1 197:21,25,25 198:3,14 201:13 201:16 205:16	208:12,21 209:12 209:16 knowing 64:20 75:10 106:2 knowledge 21:16 42:16,20,25 43:1 43:3,4 46:25 78:17 89:7 94:17 96:10 103:24 104:1 112:14 113:8 115:12 192:3,14 213:10 known 81:8 140:10 145:21 164:19 168:25 176:3 184:23 188:25 196:21	139:11 154:13,16 184:3 187:1 194:6 205:21,22 206:24 214:9 215:1 land 171:17,19 Lane 39:21 99:8,16 lappa 108:3 109:19 193:23 200:15 205:18 large 35:6 141:14 larger 152:10 late 39:9 163:10 190:14 latest 152:2 late-stage 158:22 Latin 108:4 lawsuit 8:6 laxative 113:4 lead 13:12 31:22,25 106:18 118:8 leading 35:10 38:20 lean 147:4,4,9,16 210:5 learn 83:22 learned 32:11 69:19,20 79:23 104:12 112:25 leave 12:24 194:20 lecturers 18:14 led 15:23 56:3 87:11 left 112:5 legal 21:15 33:7 54:10 116:13 legislature 13:17 Lehrfeld 3:15 5:1 length 150:16 155:2 lesion 183:5,7,18 lethal 38:19 73:9 letter 1:9,13,15 57:2,8,8,19,19 81:23 97:10,11,13 letters 185:17 201:6
K K 192:22 199:14 Kansas 8:12 Katie 180:9 keep 32:5 68:10 115:6 130:3 154:3 154:4 156:7 204:7 keeping 14:19 Keith 72:6 Kennedy 73:10 kept 12:1 keratosis 183:8 keynote 153:18 kid 155:23 kill 51:15 99:6 100:17 158:10			L L 1:13 81:23 lab 10:10 label 40:20 62:5,14 76:13,15 77:22 96:2,4 145:17 175:1,4,5,12 179:4,5 labels 34:13 55:18 57:21 laboratory 65:13 152:12 169:22 laborious 35:13 laced 23:24 lack 144:12 lacking 200:19 201:23 lactating 110:7 Lactobacillus 109:9 LaMONT 1:5 4:4,9 5:15 7:7,17 8:5 23:5 33:4 56:25 57:1,5,6 59:1,7 76:21 81:22 91:3 97:12 101:4 121:23 134:4	

<p>let's 7:3 9:1 13:5 18:3 25:22 26:7 32:9 34:19 35:16 40:4 41:19 42:7 44:17 56:12 58:22 61:16 69:11 81:18 86:17 87:2 90:20 90:25 91:3 92:24 111:5 112:17 119:14 122:9 133:5,9 137:24 155:1 156:19 165:19 167:21 168:13,15 172:22 175:1 183:23,24 186:21 193:6 196:17 197:6 205:20 212:15 leukemia 81:10 132:11 levels 147:11 155:20 173:8 license 13:12,14 16:5 17:6,18 licensed 10:9 16:2 16:19,23 17:9,16 licenses 17:5 licensure 16:18 lieu 183:4 life 72:15 74:11 83:24 85:21 112:13 151:18 167:4 lifestyle 9:22 12:22 13:19 19:10 24:8 25:6 84:11 86:13 life-threatening 10:17 likelihood 26:15 68:25 limit 36:17 45:6 181:11 limited 18:18 33:19 42:1 47:8,10,18 60:7 71:9 78:17</p>	<p>89:25 99:19 142:7 143:2 200:12 limiting 31:2 152:5 limits 46:12 line 46:6 83:14 139:13 140:17 150:21 159:20 162:23 163:13 173:3 175:6 184:24 207:24 210:18 211:7 215:10 lines 46:14 66:6 78:20,23 82:25 83:13 136:10 140:3 150:1 157:17 159:12,19 link 148:23 liquid 174:15 list 16:22 56:10 57:22 58:8 69:17 186:19,19 187:7 188:7,12,15 191:7 193:9 197:9 200:17 202:8 203:23 205:23 206:3 listed 60:3,4 131:6 189:13 197:13 202:6 209:5 listen 77:2,8 listened 88:16 listening 77:9 listing 116:1 lists 153:6 194:10 197:17 literally 94:5 literature 28:8,9 34:14 50:7 60:14 70:10 77:21 78:1 78:4 88:16 90:8 91:6 117:21 118:2 120:3,12 121:21 135:1 146:13 185:12 186:16</p>	<p>litigation 14:2 little 5:18 10:6 26:7 27:16 28:16 30:21 32:10 34:13 89:3 91:14 98:6,12 106:22 116:3 123:12 132:16 134:13 135:3 149:2 155:2 160:17,23 180:15 191:15 live 12:22 25:4,5 167:18 168:4,7 liver 26:3 108:24 living 19:16 29:10 35:15 94:12,16 loading 149:23 locate 197:12 lock 21:24 long 29:9 142:14 163:8 168:9,20 190:6 211:22 longer 150:4 look 19:15 24:3 38:11,24 41:22 43:14 57:5 59:4,6 60:23 69:2 76:13 84:19,23 87:12 88:19 89:15,23 97:19 98:1 99:7 102:8 106:11 111:9 121:11 122:10 126:20 148:2 154:8 159:25 160:2 165:15 181:20 186:21 187:24 191:1 193:1,2 194:13 200:17 203:23 205:13 207:12 208:8 looked 17:12 34:13 35:18 39:14 80:24 88:16 93:3 98:15 107:5 111:20</p>	<p>117:11 155:10 180:19 192:17 looking 10:14 23:10 27:24 40:20 62:5 64:25 77:22 81:15 102:13 103:6 124:3 125:24 131:12 141:11 143:3 145:25 146:2 151:1 157:13,25 158:6 170:20 177:25 179:18 190:12 193:1,22 194:24 202:8 204:8 206:2 looks 10:19 49:3 57:16 64:8 65:22 82:22 110:2,4,6 121:11 150:18 169:9 175:18 181:16 192:23 195:6 199:6 207:18 Los 8:21 lose 168:1,2 loss 72:14 170:25 lost 175:6 lot 13:18 58:3 60:8 71:20 91:9 98:25 140:1 152:24 162:7 178:20 182:11 198:1 202:3 lots 46:5,5 168:6 love 37:24 89:22 99:21 low 1:15 96:12,15 97:11,14 165:20 177:11 lower 67:10,15 89:18 109:21 110:4 140:1,13 141:13 lowest 36:15</p>	<p>Luckily 181:6 lucky 168:4 lunch 128:5,8 133:10 146:1 lung 71:1 161:1 180:5 lymphocyte 66:18 lymphocytes 81:10 lymphoma 12:15</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>M 196:19 magazine 63:20 115:14 main 34:14,17,20 34:23 43:18 46:3 153:4 maintain 30:1 51:1 89:16 135:21 major 33:21 114:3 133:7 majority 17:4 making 53:4 74:19 75:5,7,9,10,11 77:15,24 78:5,9 116:10 140:9,19 151:20 160:18 183:23 mammalian 115:21 manage 11:15 manifest 157:17 manner 25:4 29:3 29:10 76:11 March 97:11 129:11 mark 56:22 58:6,22 81:18,20 97:9 121:17 153:24 154:1,6,7 marked 57:3,6 59:3 81:24 97:14 121:24 154:14,17 186:22 197:1 market 148:14,18 marriage 12:16</p>
---	--	---	--	--

13:11	mechanisms 33:21	medicines 7:24	microvessel 94:8	211:14
married 166:15	35:7 44:7 45:18	11:15 20:3,19,19	migraine 79:24,25	mitigating 210:25
mass 147:4,5,9,17	56:2 87:1 104:2	21:12 22:18 24:7	migrates 95:8	mixed 125:4
168:1 174:21	136:1 140:24	27:4 28:24 33:18	mild 64:1 98:9	mobility 71:21
176:6 210:5	141:23 152:7,10	46:13,22,24 52:15	milk 26:1 174:10	model 159:24
massage 96:21	153:7 157:19	141:25 153:6	178:14	models 46:14
materials 56:19	164:20 171:20	meditation 20:9	milky 174:15	159:12
160:13 209:13	176:3 188:25	98:8	Mill 7:14 9:5	modern 52:17
matter 2:4,17 33:14	203:17	MedLine 55:12	millennia 46:22	modulated 153:5
176:25 215:3	media 100:5	58:4 61:6,13	130:18 155:17	modulation 115:21
McCormack	Medica 193:21	melanoma 71:2	Miller 96:7	mole 183:7
111:24	194:5	memory 166:1	Miller's 93:4 95:24	molecular 22:22
meals 152:9	medical 8:16 11:2,2	men 26:6	96:6 100:2 192:7	60:20 80:10
mean 25:21 30:10	12:14 16:9,13	mention 38:10	201:3	115:17 142:2
31:25 36:19 46:24	56:13,20 58:19	105:8 137:25	milligrams 27:23	152:5 153:4 158:8
51:24 53:12,13	69:19,21 70:9	138:12 169:13	28:1 30:18 40:18	198:8,11 199:4
60:19 68:15 69:9	84:21 96:20,22	mentioned 14:5	40:21 41:1,20	moment 34:19 65:7
98:24 100:14	114:22 115:12	15:23 25:14 27:3	42:17 43:4 62:15	66:7 78:25 138:12
112:21 120:22	120:1 145:15	33:12 56:6 61:25	62:17,19 63:1	206:20
126:19 143:13,19	166:15 170:6	69:18 106:22	64:21 65:10 66:13	Monica 8:20
146:15 147:2	182:9 185:3,12	110:9 169:16,16	66:14 69:8 175:7	month 38:13 74:2
149:16 152:24	186:16 205:24	185:6	177:16 178:19	113:25
166:11 167:23	medication 6:11	mentioning 192:7	millions 29:24	months 150:6
180:9 183:12	medications 125:5	men's 133:2	mind 20:11 22:16	Moragoda 197:17
202:2,3,23	152:1,3	met 12:15 96:9,17	69:7 76:3 84:17	morning 4:9 30:13
meaning 73:15	medicinal 1:18	184:22	90:22 143:2	111:18 185:11
104:20	108:14 152:21	metabolism 39:11	147:22 154:5	mortality 170:25
means 41:8 51:17	153:14 154:13,24	64:20 149:22	157:6 158:5 179:8	mother 178:17
70:17,19 76:19	medicine 7:20,21	metabolites 22:5	minds 197:22	mounting 93:18
82:19 85:15 94:12	7:21 8:15,20,24	109:18	mindset 167:19	mouse's 131:16
99:6 109:21,22,24	9:10,14,21 10:3	metals 31:25 32:5	mind-body 20:8	move 28:24 29:4
152:4 171:7	11:8,9 12:6 15:20	metastasis 27:9	mine 107:24 139:19	30:4 71:14 90:20
181:21 203:3	17:20 19:14 20:7	42:12 73:6 115:2	159:7	102:14 112:17
meant 41:7 150:3	20:14,24 21:21	199:11	mineral 165:12,18	137:24 155:1
205:25	24:13 37:6 47:2	meter 66:13,14	177:10	158:6 183:23
measure 62:7	52:17 54:23 61:12	methods 52:17	ministry 90:16	193:6 196:17
141:10	63:11 65:1 84:20	meticulously 127:9	minute 183:24	197:6 205:20
mechanism 34:18	88:23,23 96:23,23	mice 132:12,16	196:23	moved 84:4
35:18 100:10	97:3 100:15	137:21 171:13	miracle 85:25	movement 113:6
140:10 145:21	112:25 113:1	Michael 111:24	151:22	moving 61:14
156:24 157:3	128:24 132:3	153:16	missing 110:23	207:24
160:3 162:19	135:17 136:4	microbiology 8:11	194:21	multimillion 102:9
174:2 189:5 191:5	142:16 149:1	11:1	mission 167:5	multiple 11:16
193:3 196:5,16	150:2 153:19,20	microorganisms	mistake 111:25	22:18,22 36:7,7
200:23	168:21,25	109:9	mitigate 153:8	36:11,12 43:11,15

43:19 44:7 45:18 71:12 72:3 73:4 76:9 78:23 86:25 87:18 90:18 92:17 104:2 106:15 115:17 120:20 141:23,24 142:1,2 142:2 147:18 148:1,11 158:7,8 161:3 165:17 167:9 168:2 176:2 177:10,20 multivitamin 165:12 muscle 147:5,9 168:1 174:21 176:6 mushrooms 86:6 mutant 68:3,11 mutated 115:7 mutating 115:6 mutations 68:20 109:22,23 M.D 1:15,15 84:3 97:13,14	natural 9:17 15:18 17:14 19:24 21:25 22:22 27:1 30:4 31:14 37:12 44:13 44:15 45:1,10 67:5,7 74:4 76:15 77:18 86:1,4 93:19 107:7 108:8 132:14 147:11 148:10 151:23 192:13 naturally 25:12 44:18 45:16 129:6 nature 9:7 19:3 30:5 64:17 142:13 169:12 184:6 naturopathic 7:20 8:15,16,22,23 9:10,14,19 10:2 10:23 11:20,22 12:7 13:12 15:21 16:1,8,13,19 17:20 19:14,23 28:22 69:19,21 74:1 77:14 84:20 nausea 72:13 nausea/vomiting 98:9 necessarily 23:18 41:10 114:16 119:24 148:19 184:8 211:20 necessary 87:3 149:7,16 179:12 214:6 neck 64:6 necrosis 129:4 need 6:7,10 7:15 29:2 38:9 44:23 45:2 49:14 53:2 71:14 85:6,20 133:2,3 136:1 162:6 167:2,4,8 168:11 175:1 187:24 204:6	needed 12:21 28:25 44:21 84:19,23 186:12 200:14 204:13,16 needs 73:16 135:13 135:20,21 168:20 177:23 negative 30:23 171:23 211:1 negatively 182:18 neither 204:1 Neoplasia 73:12 never 5:21 54:9,11 54:14,15 78:18,18 150:24 165:5 166:18 179:8 184:23 new 2:15,15 3:8,8 12:3 27:8 72:8 83:23 85:18 94:19 151:18 181:7 newer 196:16 newest 148:17 News 125:12 newspaper 165:5 NF-kappaB 80:6 80:14,15 81:4,11 129:8 nice 47:3 198:3 212:9 Nieper 186:7 noninvasive 181:8 nonspecialist 20:17 nonspecifically 130:24 nonsteroidal 80:12 80:16 nontoxic 67:13 non-Hodgkin's 12:15 nope 128:22 173:22 195:7 normal 17:25 22:2 29:22 68:7,13,16 73:17 74:16 95:6	normalizing 41:9 131:2 Northeast 3:6 NOTARY 214:18 note 46:9 198:6 215:5 notebook 191:15 noted 116:6 134:15 notes 38:7,9,12 63:4 111:9 153:22 179:7 181:1 191:16 213:8 notice 2:18 noticed 148:22 noticing 179:1 notoriously 177:24 novel 70:16 NSAIDS 80:16 number 1:9,11,13 1:15,16,18,19 11:17 12:20 17:15 18:18 20:3 31:18 39:22 43:17 55:7 57:1 59:1 74:5 81:9,22 93:10 95:5 97:12 100:19 107:16,20 113:12 121:18,23 129:2 136:9 139:1 152:10,12 153:6 154:13,16 156:25 164:18 170:8 177:14 180:4 197:4,10,12,14,15 197:18,24 198:5 199:22 213:3 numbering 107:12 185:16 numbers 115:15 185:18 numerous 109:20 nutrient 144:13 nutrients 11:11 37:18 43:18 47:6 55:3 67:6 142:13	145:16,19 149:21 149:24 161:18 176:11 177:7,9,23 nutrition 20:1 27:4 29:12 54:23 60:20 173:15 177:25 nutritional 7:23 11:8,9,10 20:1,18 20:22 21:11 22:13 22:14,17 24:3,15 31:7 33:17 37:17 149:21 nuts 89:9 N.D 1:5 4:4 9:10 17:5 20:16 214:9 215:1 N.D.s 12:4 13:14 15:24 17:6,9,16 N.W 3:17
N				O
N 1:2 4:1 134:1,1,1 191:24 201:7 213:1,19 naive 126:20 name 4:10 7:5 40:8 60:25 78:7,12 96:13 105:11 106:13 108:4 113:3 137:5 138:11 155:15,16 165:19 168:21 197:18 198:16 named 117:24 names 65:20 105:12 Nasturtium 138:10 national 8:14,23 16:15				O 4:1 134:1,1,1 213:1,1,1,19,19 213:19,19 oath 61:22 object 116:12 126:4 143:11 objection 21:14 207:6 objections 5:9 oblivious 52:24 observe 183:6 obstacles 19:15 23:16 29:19 obtain 174:9 obtained 148:23 185:7 189:25 obviously 20:13 26:14 36:14 42:14 66:21 93:16 occasion 14:13 occasional 181:13 Occasionally 167:17 occasions 189:10

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occur 6:23	133:6 134:19	onions 43:16 66:22	ought 49:3 126:11	121:20 173:23
occurrence 144:23	136:17 137:14	109:1	136:3 181:24	202:21 203:13
occurring 44:18	149:13 155:13	open 38:24	outcome 149:7,17	209:13,15
45:17 129:6 160:3	156:14 157:12	operating 205:1	150:7	pagination 110:11
occurs 121:13	172:1,12,21,22	opinion 22:12	ovarian 65:11 71:2	paging 108:1
156:9	179:9,16,24	28:12 43:5 45:3	131:22 132:1	paid 148:6
odd 5:20	183:23 184:5,11	91:4,16 92:5,7,11	136:25 137:16	pain 30:22 76:15
odor 95:23	188:17 190:18	92:12,22 96:18	overall 164:2	76:19 77:18 79:22
offer 17:4 52:17	191:15 193:6,12	97:23 101:23	overview 153:4	pain/anxiety 98:9
98:6 99:2	193:19 195:17	102:21 103:21,25	overviews 186:15	palatable 95:25
offered 7:18 202:13	196:24 202:18	104:13,15 105:22	188:19	palmatum 113:2
203:8	204:1,4,6 205:7	106:10 118:11	owners 147:20	114:4
offering 7:23 152:3	206:9 207:1	121:1 123:8	oxaliplatin 170:23	panacea 126:1
offers 98:12	209:23 211:10,21	186:11 197:23	170:23	pancreatic 38:15
office 148:25	old 135:17	204:21 205:8	oxidized 155:19,20	38:17 80:13,17
officer 2:8	oleanolic 129:4,5	206:24 207:4	oxygen 26:12	99:17
official 173:18	ologies 11:7	opinions 33:17	ozone 98:5	pap 14:14
officinale 138:10	omission 209:10	167:10	O-L-E-A-N-O-L-...	paper 214:6
oh 28:15 42:9 91:17	once 17:17 29:4,18	opportunities	129:5	paradigm 166:13
101:18 108:11	88:13 167:1	54:16	P	paradigms 141:19
112:18,20 128:23	oncogene 60:22	opportunity 36:19	P 4:1 213:1,19	paragraph 108:3,5
143:8 173:21	61:10 83:6 115:21	38:23 56:8 77:8	packaged 142:13	151:17
194:2,20 195:11	oncologist 14:17	124:16	paclitaxel 82:2 83:3	parameters 156:11
198:22 206:8	49:22 52:1 72:6	opposed 21:25	page 1:4,19 46:15	pardon 175:21
212:9	72:16 83:25 84:3	82:15 89:10 94:12	52:12 72:9 81:15	193:14
oils 24:20	84:3 86:11 87:25	158:15 174:10	81:25 83:8 95:13	part 11:14 15:9,16
Ojibwa 103:4	152:17	optimal 135:22	97:16 107:9,11,21	18:14 20:2,14,16
okay 5:3,6,13 6:3,6	oncologists 11:23	optimized 19:17	108:2 110:25,25	24:13 25:13 27:19
6:9,17,24 7:14	12:7 51:3 124:1	oral 64:4	115:15 122:3,6,17	37:25 45:8,9
28:11 32:18 34:3	160:2 162:8	orally 39:2 95:21	124:2,10 125:11	46:20 56:11 90:11
40:2,19 41:4,20	ones 15:19 24:16	order 24:8 28:22	128:23 131:13	100:12 131:21
41:24 42:19,24	34:17 148:14	38:9 77:1 78:24	133:8 137:3	138:17 151:15
54:13 56:21 59:15	150:9,11,16,20	101:24 204:14	151:18 154:10,17	156:1 162:2 194:9
60:10 61:9 65:20	178:7 193:2,2	Oregon 8:15 16:20	155:15 159:6,8,9	194:15 197:4
67:17 68:23 69:11	194:14,18 196:3	organ 11:5 168:2	159:10 168:23,24	208:25 209:21
73:1,3 76:4 79:2	196:20 198:14	organization 12:4	173:16,20 180:2,7	parthenium 43:14
79:14 83:11 90:21	199:6 207:1,2	organize 78:12	191:19,21 193:7	parthenolide 80:2
91:20 92:9,20,24	oneself 145:14	Oriental 8:20	193:24 194:19,22	82:3,8,16,24
96:6 97:17 98:4	one's 33:22 56:13	original 33:8	194:23 197:15	207:13,15,19
98:22 101:21	67:9 117:21	104:24 130:19	198:10 199:2	208:9,10,15,18,22
102:16 104:8	120:12,13 121:21	131:4 132:22	205:21 210:10,12	209:4,7
105:15,20 106:1,5	122:18 127:17	214:7	215:10	parthenolides
110:17 111:7	142:17,21 144:6,8	orthodox 171:5	pages 59:9 98:3	161:2
120:8 122:4	150:8	osteoarthritis 95:5	110:23,24 121:18	partial 39:5
124:14 125:21	one-year 13:2	osteoporosis 25:9		partially 94:6

169:23 participated 165:17 particular 11:21 27:12 44:10 45:5 48:9 60:24 68:1,5 85:12 92:18,20 93:12 97:22 99:14 103:15 106:3,4 107:9 113:3 115:17 116:1 117:3,24 124:2 137:8 146:19 149:24 156:23 160:1 particularly 50:17 50:21 70:23 75:19 95:12 112:23 129:4 140:2,3 189:22 parties 145:13 partner 212:10 parts 100:20 party 8:5 part-time 7:11 13:25 passed 16:7,17 209:19 passing 13:14 17:2 passive 178:17 patented 44:17,25 pathogenic 116:22 203:11 205:15 pathological 131:2 pathology 10:25 pathway 139:9 156:6 patient 10:17,21 11:3 14:15 15:6 30:7 51:25 99:10 116:9 123:22 145:10,11 147:5 160:6 patients 10:12 12:12,18,20 14:6	14:11,16,25 20:15 23:6,13 26:10 29:13 37:23 38:15 38:17,18 39:5,19 40:23 50:2 52:15 52:22 64:6 68:17 72:17 90:3 93:8 93:15 98:7,13 99:3,20 100:4 118:23 119:1 123:6 131:23 132:1 136:25 137:16 144:18 148:1,5 160:5 165:2,3 167:14 170:4 177:24 patient-centered 9:20 patient/site 125:2 pause 42:7 57:15 97:25 107:23 154:12 193:16,18 193:20 197:8 198:15,21 199:19 208:7 209:14 212:5 pausing 157:5 pay 85:7 peer-reviewed 60:14,17,21 61:1 61:7,12 PEITC 138:24,25 139:15 people 11:14 19:8 19:12 23:22 26:20 29:14 30:10,16 36:4,6 38:21 39:22 41:12 48:25 49:7,10,21 50:12 50:14,25 51:3,20 51:21 52:9 53:2 63:19 90:1,17 93:9,10,15,23,24 109:5 126:9,13 127:12 132:6	139:25 141:14 145:17,19 156:25 162:4 167:15 168:2,7,9 176:23 182:12,16 183:12 perceive 141:12 percent 51:23 168:7 181:14 182:14 perfectly 69:3 86:3 performed 182:20 period 71:19 201:16 periodically 182:20 periods 150:4 peristalsis 113:5 peroxidase 173:11 person 29:9 36:20 99:22 105:18 150:5 167:3,3,17 173:3 182:21 personal 29:15 personally 30:17 36:24 49:4 55:2 71:11 86:12 96:8 99:5 150:24 167:11 182:15 184:16 person's 20:10 39:8 perspective 29:21 67:25 83:24 120:8 123:20 150:2 152:23 pertinent 60:6 peruse 186:3 Peruvian 128:25 pesticides 23:24 petri 94:13 pharmaceutical 22:9,20 pharmaceuticals 22:4 pharmacological 11:11 17:10 21:24 22:15 83:2 132:10	149:20 162:10 pharmacology 11:10,13 70:15 81:7 149:21 192:25 195:11 pharmacy 29:25 149:2 phase 26:3 66:10 67:18 93:5 139:5 170:3 phases 158:20 159:12 philosophical 28:21 philosophy 84:20 phone 32:14 185:22 187:12 190:6 physical 10:11 131:1 physician 10:4 12:15 physicians 15:3 28:22 183:14 physiological 22:2 29:22 63:3,5 68:13,16 74:16 130:25 physiology 10:25 21:25 35:16 159:23 phyto 141:20 phytochemical 109:17 131:6 phytochemicals 20:25 37:19 142:1 145:20 153:22 phytonutrients 37:18 141:22,23 145:19 153:21 phytosterols 207:17 Phytotherapy 131:20 137:4 Ph.D 84:4 99:9 pick 209:4	picked 100:5 178:9 picture 122:16 125:16,21 piece 65:3 83:24 85:12 87:6 117:20 152:20,23 196:6 pieces 111:19 201:2 201:8,15 pigments 169:12 pile 186:8 pineapple 69:24,25 place 66:9 placebo-controlled 172:3 plan 18:25 planet 144:14 plant 20:5,24 21:1 21:2,3,7,22 22:1,3 46:22,24 52:14 54:23 65:1 66:23 80:18 86:15 100:12 108:25 109:14 132:19 135:7 141:25 142:13 153:6 155:16,18 Planta 193:21 194:5 plants 1:18 20:6,25 21:6,6 37:19 46:19 62:24,25 64:18 86:15 87:14 87:23 152:21 153:10,14,22 154:14,24 plant-based 46:13 158:9 platelet 70:6 platin 170:23 play 113:22 114:5 plays 52:25 80:7 81:4 113:10 please 6:4,7,19 7:6 7:9,17 8:9 21:19 28:16 34:2 143:9
--	--	--	---	---

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149:15 163:5 195:4 206:8 215:5 plethora 152:14 PMID 197:15 point 6:7,17,20 13:10,22,24 15:17 15:19 17:6 19:1 22:17,21 36:15 49:13 50:15 51:14 58:4 77:7 84:16 86:20 100:22 111:6 114:19 124:10 136:22,23 137:17 151:20 155:1 157:5 162:7 185:13 192:19 199:2 200:22 202:19 205:9 209:18 pointed 124:14 points 129:17 203:14 poisoning 167:20 167:22 Polish 131:14 polyp 180:15,23 182:24 polyphenolic 155:21 polyphenols 156:1 polyps 181:21,22 182:24 polyphenolic 155:21 polyphenols 156:1 polyps 181:21,22 poor 177:25 178:1 popular 18:23 186:15 populations 140:11 140:18 portion 60:9 174:15 179:17,19 182:4 205:4 Portland 8:15 portraying 127:6 posing 155:5 posit 143:15 position 182:11 204:10	positive 46:23 64:19 76:10 105:7 179:6 positively 39:10 68:19 192:2 possess 109:18,20 114:23 169:24 possessed 107:6 169:25 possesses 108:6 possession 189:4 possibilities 31:21 possible 53:3 54:2 74:17 75:23 82:19 137:10 152:13 post-initiation 68:21 158:19 159:13 potency 149:6,16 149:18 150:9,16 165:21 potent 66:1 107:6 108:7,18 169:24 173:12 174:3,5,12 potential 49:25 103:16 104:17 132:20 135:8 136:1,6 138:21 139:7,22 140:5,6 140:15 143:3 171:17,24 172:5 177:17 178:2 potentially 10:17 43:21 45:12 48:8 48:19 69:14 93:19 129:12 130:4 148:17 150:22 160:23 164:20 potentiated 81:9 142:5 powder 174:17 175:9,10 powerful 52:14 86:1 151:23 practice 7:11,11,13	9:5,8,15,20 11:14 12:2,20 13:5,6,8 13:10,21,24,25 15:20 16:24 17:20 17:23 18:6 19:21 19:25 20:2,14,16 28:21 36:25 54:15 109:3 145:15 148:24 149:19 150:5,24 151:7 154:20 160:5 180:12,24 practiced 13:9 practices 56:14 86:4 practicing 13:9,23 practitioners 16:22 47:1 prebiotic 109:4 prebiotics 109:12 precancerous 181:23 183:5,6 preclinical 80:14 170:2 precursor 149:23 predicament 162:2 predisposition 99:14 predominance 162:7 preexisting 192:14 prefer 7:12 82:18 111:4 183:10 pregnant 110:3,6 preliminary 63:11 63:21 prepare 27:14,17 186:4 prepared 56:9 108:16 preparing 178:4 prescribe 19:22 28:12 presence 214:15 present 9:2 17:3	52:24 62:22 63:2 66:25 69:8,25 70:24 87:14 95:16 109:1,11 130:3 139:6 151:11 158:1 presented 64:14 72:2 77:5 120:17 126:7 presenting 123:13 123:21 presently 9:3 18:9 president 17:1 Press 153:24,25 pressed 87:7 presume 137:11 146:4 157:14 pretty 18:20 74:11 91:22 196:25 200:12 prevent 6:11 11:11 29:14 33:2 46:7 53:14,16,20 67:20 84:11 85:16 115:1 115:6 123:19 130:2 142:25 164:21 preventing 43:6,9 43:10 68:25 106:20 158:9 162:11 prevention 7:24 9:16 19:19 33:18 44:3 47:14,22 48:3,8 49:11 54:23 62:19 158:14,24 159:15 prevents 141:5 156:24 prides 152:3 primarily 23:21 27:24 primary 9:14 16:23 126:15 printed 107:24	110:18,19 112:4 printing 112:1 prior 13:14 23:5 34:5 96:10 186:8 187:3 private 9:5,8 18:6 privilege 5:10 probably 18:11 31:6,15 77:11 79:21 91:12 100:2 103:11 110:5 131:4 132:5 148:18 151:8 159:16 169:11 172:25 176:19 177:11 179:11 185:17 186:22 190:15 201:7 205:18 208:21 probiotics 109:8,12 problem 10:18 41:16 45:8,9 120:16 126:21 161:10 194:9 problematic 120:25 162:1 181:11 problems 17:13 18:12 126:1 130:23 procedural 4:16 5:8 procedurally 5:7 proceed 87:21 proceedings 57:15 97:25 107:23 154:12 193:16,18 193:20 197:8 198:15,21 199:19 208:7 209:14 212:5 process 10:7 24:9 35:14 54:3 63:8 92:18 93:22 96:10 111:22 157:22 162:22 163:4,20
--	---	---	---	--

166:25 185:25 193:22 processed 24:1 89:11 proclaimed 168:5 produce 60:7 64:21 produced 99:16 113:6 producing 64:8 product 40:11,14 40:15 44:10,14 45:5 48:1 55:18 57:21 67:9 68:1 76:9 77:25 78:4 78:20,23 90:20 91:16,17 92:7,11 92:18,20 96:4 101:6,9,10 102:22 103:22 104:13,15 106:8 112:17 113:3,7 116:10 117:21 119:7 120:12 121:12 128:18 137:5 146:11,12,19 150:18 151:6 161:9 172:17,18 173:1 176:16,24 177:17 179:2 184:24 185:13 191:17 193:4 production 27:8 products 8:1,2 32:2 32:6 33:1,22,24 34:1,6,9,9,12,15 34:20 35:19 38:5 41:6 44:13 45:1 47:12 48:3,9,22 49:1,10,14 53:5 53:13,16,18,23 54:5 67:1 70:5 72:21 74:13 75:15 77:15 78:8,10,12 78:14,17,18,21,23 85:11 88:1,6	90:17 102:11 104:9 116:11 123:2,4,22 125:7 125:17,22,24 126:14 127:3,5,8 127:12,19 142:25 143:4 144:8,20 145:2,4 146:5,6 146:23 147:14,22 147:25 148:3,4,5 148:9,10,12,13,18 149:19 150:1,9,13 151:13 158:2 161:9 162:18 166:5 177:4,14 180:17 183:13 184:16 185:1,4 186:17 189:4 190:11,15,19,22 profession 12:4 professional 21:16 91:4,15 92:11 102:21 103:21 105:22 116:18 120:1 123:8 127:15 206:24 207:4 professionally 96:19 professionals 119:10,12,15 124:4 professors 18:17 program 16:14 176:7 205:5 programmatically 16:11 programmed 25:3 48:15 68:7,11 108:20 139:8 156:8 170:17 progress 90:2 183:24 progressed 54:4 progression 39:10	43:11,20 44:8,9 48:14 53:17 68:22 106:21 123:18 158:17,19 159:14 161:19 162:20 164:21 191:4 proliferate 73:18 proliferation 115:1 170:15 171:11 promising 91:25 99:25 152:15 promote 17:22 51:1 165:22 promoted 113:5 170:17 promotes 25:1,4 29:3 171:11 promoting 75:14 promotion 9:15 19:18 42:12 123:18 159:14 199:11 prompted 186:5 pronounce 26:19 26:20 pronounced 26:20 pronounces 84:2 proof 172:2,4,7,15 proofread 213:21 properly 156:8 177:23 properties 27:20 107:7 108:8,23 114:23 131:11 153:10 192:22 201:9 proposing 156:23 157:2 165:10 171:20 propositions 191:10 proprietary 43:17 177:11,13,19 prostate 26:6 42:4 42:6 140:2 157:19	198:19 Prostatic 198:19 protease 70:23 proteases 70:17,24 protect 183:20 protein 68:4,5 70:4 70:18,23 80:6 115:2 121:12,15 139:9 147:8 173:6 174:12,17,20 175:9,10 176:5,10 proteins 94:7 173:13 174:4 proteolysis 73:14 proteolytic 46:4 62:7 70:3,12,17 protocols 49:23 prove 172:19 proven 49:23 136:7 136:8,14,15 144:9 171:24 provide 7:8 9:19 14:18 19:22 23:12 29:5,20 32:23 33:17 51:19 54:25 74:16 82:19 95:4 109:5 124:22 147:8 149:6 170:2 174:21 192:2 203:4 207:22 provided 30:5 55:11,15,16,21,22 57:24,25 68:1 80:14 124:25 178:13 179:11 200:19,21,25 203:13 206:5,11 206:15,17 207:20 provider 11:19 49:8 125:3,9 127:24 providers 16:24 provides 178:17 202:21,22 providing 30:2	67:5 190:8 provoking 152:8 psychiatric 10:20 psychology 126:6 public 54:21 55:1 161:22,23 162:24 163:15 165:3 214:18 publicists 162:15 published 39:1 42:11 publishes 72:6 PubMed 55:12 58:4 61:6 197:9 197:12,14,17,24 198:4 pull 193:12 pulled 77:20 199:4 pulp 69:25 punctuation 213:22 punctures 181:13 purified 94:6 95:20 169:23 purposes 4:15 167:18 pursuant 2:18 pursue 51:17 152:18 pursued 94:2 pursuing 74:2 100:10 pursuit 191:5 put 8:25 16:24 18:14,19 21:13 55:8 56:16 77:7 127:11 129:23 149:5 154:23 176:4 190:2 200:14 209:20 211:16 putative 139:15 puts 90:1 putting 78:7,11 95:22 120:2
--	--	---	---	---

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<p>149:23 187:13 p.m 3:15 133:10 134:2 212:17 p53 68:4,5,9 115:5 115:6 p53-dependent 156:6</p> <hr/> <p style="text-align: center;">Q</p> <p>qi 169:1 qigong 20:9 QUADE 213:25 qualifications 97:5 qualified 54:9,18 126:5 quality 72:14 108:15 quantify 14:8 quantities 174:18 quench 26:11 quercetin 43:15 46:4 62:11,12,13 62:18,21 63:5,12 63:25 64:5,9,10 64:17,24,25 65:5 65:9,10,13,24 66:9,11,16 68:9 74:5 76:8 79:5,11 110:22 111:22 question 5:10 6:3 6:10 9:25 21:19 25:19 26:16 54:7 75:8 91:14 92:3 98:18 103:19 104:14 111:12 112:12 113:21 116:3,16 121:6 122:24 125:19 143:6,12 144:3,5 155:5 157:6 159:17 163:13,22 164:6 182:1,4 196:8 202:8 204:7 206:8,18 207:7,8 209:22</p>	<p>questionable 98:23 questioning 50:5 135:25 162:23 163:13 202:17 questionnaire 165:16 questions 7:1 14:4 92:9 102:19 163:9 184:7,9 211:25 212:3,14 quickly 191:9 205:20 quite 43:19 91:9 105:6 106:14 150:22 178:20 quote 85:12 89:12 152:3 quoting 108:2</p> <hr/> <p style="text-align: center;">R</p> <p>R 1:9 4:1 57:2 134:1 213:1,1,1,1 213:19,19,19,19 radiation 14:21 36:8,12 37:7 38:22 51:19 64:1 64:2,6,9 74:3 84:6 121:13 132:8 147:6 162:10 167:21 173:5 176:24 207:25 210:8 211:11,15 radicals 26:12 radio 50:7 76:22 77:3,11,11,25 88:17 161:7 166:2 166:2 179:15 182:10 radioprotective 132:4 raise 13:11 173:8 rambled 165:24 ran 90:22 random 184:7 Ranelletti 65:21</p>	<p>range 30:4 42:15 65:9 71:1 130:25 143:4 rapid 99:16 rapidly 64:19 167:25 rat 64:3 94:9 192:8 rate 85:20 168:5 rational 170:2 rats 94:17,21 109:2 169:25 raw 27:14 reaction 70:20 149:24 reactive 26:12 read 55:25 56:12 66:8 77:3 79:8,10 83:19 90:5 93:4 102:25 114:9 115:25 124:16,20 156:19 163:12 179:13,17,21 180:21 181:17 188:24 214:2 reader 125:3 126:20 readers 125:7 reading 65:18,20 121:10 125:11 126:6,10 131:14 153:5 154:10 180:20 192:20 reads 78:24 ready 112:2 real 46:12 90:2 143:16 162:17 realize 6:18 realized 84:18 111:21 113:7 really 12:17 13:3 17:23 19:23 25:6 25:21 30:9,25 33:10 35:13 39:6 39:23 66:13 69:17 70:20 72:8 75:3</p>	<p>77:9 78:19 79:21 85:15 91:14 99:11 110:25 123:7 134:9 141:8 142:17 162:13,23 163:14 168:20 177:21 186:14 190:5,24 198:3 200:20 205:25 211:23 reap 99:23 100:17 reason 6:14 43:12 50:2 52:7 152:14 152:23 162:2 172:25 197:4 215:6,10 reasonable 48:18 76:11 118:5,8 210:3 reasoning 196:10 reasons 71:9 rebuild 95:6,8 recall 32:18 38:17 39:3 65:2 93:10 97:22 202:3 received 77:4 99:15 187:3 188:7,12,13 188:18 receptors 22:18 recess 61:19 91:1 133:10 184:1 recognition 123:25 recognize 73:16 142:12 179:12 recognizing 141:22 recommend 14:16 26:10 27:11,12,13 28:18 30:16 31:16 49:13 88:19 90:8 126:24 144:17 148:4,20 174:7 recommendations 49:22 recommended 49:7 90:11 116:21</p>	<p>135:6 183:3 recommending 49:9 85:5 88:11 88:14 116:8 117:18 119:22,25 123:25 129:24 161:4,18 183:17 recommends 48:25 86:19 record 4:18 6:20 7:5 9:1 21:14 34:2 54:15 56:12 56:17,24 57:13 59:17 61:17,18 65:18 78:24 79:10 81:19 87:16 90:25 101:1,3 112:21 113:16 124:23 131:12 133:9 134:21 136:22 138:5 153:12 154:10 159:3 163:12 168:20 179:17,22 183:24 183:25 186:18 188:3,14 191:9 204:6 209:12,20 209:25 211:4 212:7,11,12,15 214:4 215:8 recorded 194:10 records 185:3 recovery 132:14 rectally 95:22 recuperate 13:16 44:21 168:4 reduce 24:21 25:1 25:12 27:7 30:22 43:11 64:5,9 69:4 70:6,25 71:18,19 76:17 85:16 115:24 171:5,22 reduced 109:2 132:13 142:8 165:12 170:18,24</p>
--	---	---	--	---

reduces 171:11	regarding 33:6,20	151:21 193:1	reporter 5:23 56:22	195:6,7,8 198:6
reducing 11:17	85:14 146:1	remembering 65:4	113:17 121:17	199:5,7,8,20
26:15 28:4 68:24	163:25 201:13	remind 5:22 61:21	138:6	208:16
79:25 105:7	204:11	remove 19:15	reporting 18:1 83:7	researched 103:14
140:23	regardless 89:4	23:16 29:19 73:22	83:8	researcher 85:14
reduction 48:13	regimen 24:4,15	removed 181:24	reports 83:2 94:15	87:5,12
139:17 165:13	28:14	183:19	134:25	researchers 35:12
redundancy 191:1	regimens 11:16	removing 183:5	represent 60:11	44:6 65:21 94:6
191:4	Region 3:6	Rene 103:1	117:20 120:11	99:21 100:10
redundant 196:4	regionally 16:10	reoccurred 84:7	121:20	Researches 199:9
196:13	regress 73:24	reoccurrence 84:18	representation	199:18
refer 10:20,21	regression 99:16	repair 174:1	118:3 120:15	reserved 5:11
14:15,24 33:16	regular 69:4	repeat 89:19	represented 4:19	reside 109:7
38:9 103:7 107:14	106:19 130:2,6	repeated 181:11	127:18	resistance 130:24
205:23	137:6	200:22 208:23	representing 4:11	resolve 123:19
reference 111:6	regularly 20:8	209:17	214:12	resolving 15:5
referenced 58:14	54:22	rephrase 92:5	reprinted 110:23	respect 26:8,16
58:20 128:11	regulate 68:19 81:8	163:5,22	reproducing	34:23 35:1,23
references 58:8	regulating 80:7	replace 46:11 89:20	167:25	38:4 40:5 43:23
59:23 194:24	81:4	125:1	request 186:2	47:11,22,25 53:5
referencing 124:5	regulation 63:8	replete 68:18	requesting 185:15	62:18 64:15 67:20
referral 15:13	relate 157:7	replicate 115:8	require 30:7 215:6	68:16 74:20 75:25
referred 84:19	related 21:6 78:13	replicating 73:16	requirement 15:2	78:10 79:4,14
151:21 166:3	208:15	replication 63:8	15:11,12	81:12 82:21 92:4
185:18	relating 164:15	145:8 170:16	requirements 16:4	94:16 95:11 96:24
referring 38:7	relationship 125:1	report 28:9 32:23	reread 163:6	96:25 101:25
40:23 56:17 57:13	125:8	46:9,15 52:13	research 37:3,4	105:21 106:8
58:9 59:7 69:6	relative 27:15	54:25 56:9 58:12	38:25 42:11 43:19	112:7,12 128:12
89:4 124:13	79:20	58:13 60:4,7,11	44:21 45:7,15	134:8 136:7
154:24 158:2	relaxation 98:9	60:17 81:16 83:21	55:14 58:17 60:20	137:16 146:5
166:8 184:21	relevant 189:19	91:23 93:13 94:3	60:25 61:10,11	155:12 163:2,18
refined 24:1 89:11	reliable 44:2,5	95:11 96:7 98:14	63:23 70:9 87:3,8	166:12 180:22
reflect 4:18 59:17	112:8 141:4,15	103:6 107:10	87:9,21 91:9,25	195:19 196:8
reflected 201:19,21	142:18,22 144:7	110:10,10,19,21	100:5 102:10,18	200:3,7,8,10,18
201:22,24 202:2	202:25 203:4	111:2,12,19 112:4	102:25 105:2,4,9	209:9
*202:14 203:20,21	relied 182:13	131:13 137:2	105:11,21 106:15	respectively 83:6
203:22 207:23	relieve 76:19 79:22	178:4,25 181:17	110:2 112:6 114:2	98:10
208:13,14	reliever 76:16	186:4 189:1,11,15	114:22 115:12	respond 39:25
reflecting 182:11	77:19	192:7,10 193:14	117:4 127:8	64:19
reflection 169:21	religious 167:18	193:25 194:23	128:20 129:10,11	RESPONDENTS
reflects 88:21	relying 45:17	195:13 204:12	130:19 131:4,8,20	3:12
reform 143:19	139:21	208:2,25 209:3,10	135:4,7,13 137:4	respondents's 1:11
regard 10:15	remain 61:21	209:19,21 210:11	141:16 156:3,10	58:24 59:2
116:13	remains 85:23	reported 72:5 83:4	156:17 159:10	response 32:17
regarded 100:15,18	remember 123:7	114:8	178:8,11,20 179:1	39:5,6,23,24

For The Record, Inc.

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64:22 80:8 81:5 93:19 99:12,21,23 131:17 132:15 176:5,20 178:22 responses 1:11 58:24 59:2 responsibilities 17:21 18:2 responsibility 29:15 167:9 responsible 17:25 110:7 156:20 rest 11:7 66:23 97:23 119:20 139:23 174:19 177:13 185:23 186:2 202:6 restate 33:15 restatement 207:7 restlessness 72:14 restore 135:22 rests 46:13 result 20:12 68:21 130:5 resulting 132:4 results 46:23 139:16 140:20 141:18 145:18 171:1,7 resume 31:8 resumed 18:6,25 resurgence 17:14 retained 46:25 retrospect 209:11 Rev 173:14 revealing 86:10 reversibly 73:11 review 33:20 57:23 58:11,12 61:12 63:10,11,23 67:17 93:4 114:22 115:12,25 173:14 192:23 193:11 196:25 reviewed 34:8,12	34:17 68:3 91:6 104:2 176:2 185:3 reviewing 7:25 28:8 55:10 111:21 112:3 reviews 135:1 revisit 86:11 Rheum 106:13 113:1,2 114:4 rhubarb 106:12 rhythm 10:18 rich 141:22 rid 99:18 right 6:2,21,25 7:3 7:4 8:3,10 9:13 10:1,8,8 14:3,7 16:6 18:3,7 19:2 23:4,7 26:7 32:12 33:15 34:21 40:25 48:22 50:12 51:22 52:18,19 56:14 59:9,10,12,14,16 60:11 62:1,2 67:11 74:4,8 77:22,23 79:7 81:1,3,16,17 82:21,23 83:10 88:2,25 89:6,23 92:3 94:22,22,23 95:14,18 101:7 102:13,20 103:20 104:10 107:11 110:12 112:1,24 119:12,13 122:13 122:24 124:18 128:5,9 134:6,8 134:22,22 136:13 136:24 137:13,22 142:20,20,20 144:19 146:3 148:25 149:9 151:14 153:25 157:8 158:15 159:19 160:7,10 165:9,25 168:13	171:18,25 172:11 172:13 177:1,2 179:23 180:11 183:22 184:3 186:14 187:3,5,8 187:9,9 188:8,9 188:11 189:8,14 189:16 190:21 191:18,25 194:3 195:3,22 196:15 196:17 197:16 200:4,5,11,12 203:15 205:12 206:1,12,16 207:5 210:10 211:22 212:13 rigors 14:20 173:4 ring 94:9,22 192:9 risk 139:17 157:1 RMR 213:16 road 15:7 Roadmap 19:7 role 52:25 80:7 81:4 113:10,23 114:5 room 2:12 133:2 root 27:16 32:1 108:12 109:10 169:9,10 177:3 roots 73:20 roughly 39:22 69:21 77:6 rounds 36:7,8,12 36:12 routes 76:9 95:16 rule 113:19 rules 5:8,19 37:9,10 215:6 run 10:10 44:14 112:21 134:10 180:8 running 196:19 206:4 runs 193:9 195:21 Russian 130:20	R-A-N-E-L-L-E... 65:22 R-H-E-U-M 113:2 <hr/> S <hr/> S 3:13 4:1 134:1,1,1 safe 31:15 42:13 safely 66:16 salad 138:13 Sally 1:5 4:4 7:7 214:9 215:1 San 13:20 18:13,24 29:13 97:8 Santa 8:20 satisfied 29:19 save 74:11 saved 196:22 saw 66:17 77:19 104:2 185:17 193:2 196:5 198:8 198:20 saying 26:18 53:18 75:21,22,25 76:1 76:4,14 87:2 117:3,7,7 118:2 121:3,5,8 122:18 126:22 138:8 140:9,22 146:19 161:21 162:17 164:3 171:10 180:2 182:16 189:2 205:1,22 209:1 211:13 says 5:24 76:15 85:23 96:2,13,15 108:5 115:20 152:1 165:8 175:12 180:10 Scambia 65:21 scanned 33:8 192:11,16 scatter 160:22 school 8:17,23 16:9 17:8 69:20,21 96:22 169:6	schools 16:9 Schreiber 84:1,1 science 131:15 132:10 173:14 189:6 sciences 10:24 11:2 scientific 28:8 34:17,22 44:2 47:17 58:13 60:13 60:15,21 61:1,8 77:20 92:16 108:4 113:2 141:4,8,9 141:10,15 142:18 142:22 143:24 144:2,7 184:12 203:1,5 scientist 105:2,9,11 127:8 130:20 scientists 44:6 153:3 scope 33:9 56:19 59:18 60:2 screening 181:3,19 182:14 scribbled 153:22 search 34:14 searched 200:16 searches 55:12 167:13 second 13:11,24 59:12 61:17 97:17 103:11 107:18 115:15 132:25 186:19 187:7,14 191:13 198:9,10 205:4 secondarily 28:18 secondary 22:5 71:18 109:17 134:14 158:24 159:15 secretion 178:15 section 107:11 208:22 see 21:20 22:14,20
---	---	--	--	--

25:22 36:10 37:11	143:17	shake 5:25	side 30:23 31:15	slight 132:4
42:2 43:21 44:10	self-employed 9:6	share 12:14 152:21	72:12,18 86:2	slightly 107:25
47:5 63:15,24	sell 90:17 148:11	shared 157:19	152:6,8 161:21	slippery 51:20
73:2,23 78:4	148:12,24	shark 39:18,20	170:19,24 171:5	slope 51:20
82:11 83:8 86:11	senate 17:1	91:6,8,11,23	signaling 73:14	slowly 181:16
89:14,18,22 90:3	Senator 16:25	92:24 93:8 94:7	115:3,4	small 39:21 130:1,1
91:7 93:12,23,23	send 112:2	95:3,12 96:2 98:6	significant 39:6,23	smear 14:14
93:25 95:2,10	sending 111:19	98:12,15 99:2,9	64:1 92:16 93:18	Smith 66:15
97:17 98:4 99:21	sense 22:20 43:8	99:15,24 100:9,16	209:9	smoke 156:25
100:9 104:22	50:24 51:5 104:17	112:7,9 177:16	significantly 67:9	solely 51:5
116:1 118:14	109:14 134:14	192:22	72:11	solution 120:14,17
119:7 120:19	136:5 142:7 150:2	sharks 100:17	silver 22:21 86:16	120:19,24 121:2,9
122:7,9,20,23	167:24 178:22	shaved 169:10	115:18 127:3,5	123:14 126:18,23
123:2,3,20,21	180:13,13	sheep 138:11	142:6	solutions 120:13
124:2 127:16	sensitivity 82:5	sheet 201:21,22	silymarin 26:1	122:19 125:25
132:21 140:11,13	sensitize 42:5	214:6 215:6	similar 5:20 92:3,9	126:17 127:18
141:12 145:20	sent 58:1 59:11,20	shelf 112:13	106:7 159:25	solve 120:22 123:5
147:13 150:17	59:25 60:5 77:6	Shen 66:2	169:12	126:21
151:4 153:3	111:23 185:23	shore 161:25 178:2	simple 30:12	somebody 20:17
156:19,19 160:3	187:6,18,22 188:1	shortly 5:5	simpler 89:17	116:7 176:8
164:1 165:5	198:3 201:14,20	show 27:14,16 44:7	simply 19:12 30:6	someday 86:17
169:18,20 171:11	202:4 203:20	46:6 50:7 58:6	44:19 75:8 126:22	87:22
171:14,21,23	204:3 208:12	76:22 77:3,8,10	172:9 177:8	someone's 31:5
175:1 176:6,8	sentence 101:14	77:25 88:17	183:20 189:16	sophisticated
180:9 182:19	senticosus 130:16	123:17 129:13	sinensis 155:15	148:17
183:13 185:19	131:10 134:8	161:7 166:2,2	208:11 209:6	sorrel 138:11
187:14 189:3	135:3 137:1,7	182:10 187:17	single 41:10 65:6	sorry 43:6 101:16
190:21 191:2,23	176:1	192:8 201:5	82:17,17,18 93:7	103:13 105:16
193:12,24 194:9	sentiment 52:11	showed 39:5,6 64:1	142:8,9 152:2	149:14 157:10
194:19 197:9	separate 174:14	64:4 72:10 108:18	158:6,7,12,12	202:23 205:21
198:23 199:24	214:6	132:10 137:18	160:23	sort 19:21 184:13
202:6 207:1,21,23	serious 52:16	showing 141:5	sit 33:5 192:1	sorting 35:14
207:24 209:1	126:13	161:12	site 1:19 77:25	sought 207:11
seeds 89:10	Servan 83:25	shown 70:25 73:5	121:21 124:3,22	sounds 60:22
seeing 71:24 89:23	Servan-Schreiber	87:18 114:22	124:25 126:7	source 31:22 32:7
seek 167:9	162:12	132:6 136:21	148:22 149:4	173:6
seen 14:23 15:5,6	serving 29:8 32:22	139:24 147:8	154:8,9,16,21	sources 56:13
36:25 46:19 55:2	session 3:15	173:8 205:19	situation 207:11	58:19 173:7
71:11,21 76:24	set 1:11 37:9 58:25	shows 43:19 77:11	six 196:1	205:24
146:5,7,12 160:13	59:2 123:21 148:9	77:11 99:3 141:17	sixty 177:7	South 128:25
169:19 187:16	186:23 187:2,14	shrunk 18:18	six-page 57:17	Soviet 134:25
sees 125:24	197:6	Siberian 106:17	skepticism 166:5	135:24
selected 189:14	sets 25:6	130:17 132:7	skilled 181:16	soy 65:15 173:6
self 143:17	settle 28:1	175:16 176:1	skin 64:5,8 180:15	179:3,7
self-defining	seven 84:7 200:14	sic 155:23	183:8	space 194:21

For The Record, Inc.

(301) 870-8025 - www.ftrinc.net - (800) 921-5555

speak 172:24 177:21 179:6 192:21	189:24 190:7 spoken 157:7 168:14 184:15 185:9 186:1	131:15 145:1 149:4 177:15 205:14 210:3,25	stimulation 110:8 stop 6:8 26:13 73:16 133:3,5 162:13 164:21 167:1 180:18	studied 36:20 41:2 67:10,11 79:4 80:3 88:1,5 113:6 117:14 137:19 170:13 171:21,21
speaker 153:18 speakers 153:20 speaking 87:5 90:15 153:7,21 166:18 182:18	spokesperson 96:22 123:9 148:7 sprain 71:13,18 spread 73:20 100:6 115:18	statement 45:25 98:3,12 113:14 117:22,23 118:1,4 118:15,19 119:17 122:25 126:8 127:17 136:21 140:20 143:18 145:25 192:2,4 193:7,10 194:25 195:21,23 196:17 198:9 200:7,10 202:10 203:5 204:21 205:10 206:2,9,25 207:9 209:24	stopped 61:15 stopping 109:22 160:24 store 148:12 175:10 story 84:8 87:4 100:5 117:23 straight 60:13 straightforward 171:15 Street 3:17 strength 14:21 strengthen 9:17 17:23 20:10 23:19 24:14 67:6 147:4 147:17 173:3 176:5,20	studies 11:5 35:21 35:24 36:4 37:21 38:4,8 39:20 40:3 41:15 42:24 43:3 43:3 44:7,23 45:2 46:5,6 48:21 56:1 56:3 58:14,16 64:11 66:6 67:11 67:18 70:13 71:9 72:22,23,23 73:4 79:15 82:21 83:4 83:7,12 89:16 93:1,2 95:10 99:8 100:23 101:5,8,19 106:4,10,11 115:11 116:6 128:10 129:12,13 129:16,18 130:10 131:5 132:5,20 134:7,10 136:9 137:21 139:16,25 140:7,11,21 141:13 142:23 147:24 155:10,14 157:7,12,25 158:17,22 165:5 169:7,20 172:14 181:8 187:17,19
speaks 85:3,5 152:25 special 84:10,12 specialist 14:25 15:14 specialize 11:20 specialized 12:8 specially 11:25 specialty 12:3,23 species 26:12 30:2 specific 22:17,21 29:5 33:24 34:9 34:24 37:15 86:4 114:20 115:21 134:16 152:5 160:21 163:2,18 163:25,25 specifically 35:7 36:2 63:5 85:3 88:4 96:23 99:1 164:15 186:2 190:8 spectrum 21:20,23 22:10,11 66:21 67:16 141:21 142:4,12 151:20 174:19 190:9 speculate 48:7 spelling 213:22 spent 58:3 102:13 198:1 spice 26:22 spices 86:7,9 spilled 175:5 spitting 155:23 spliced 208:23 spoke 115:5 185:6	stands 62:6 stand-alone 126:15 176:16,17,18 start 13:5 24:2 47:5 184:9 started 13:9 167:1 167:6 starting 66:12 96:10 141:21 186:7 state 6:5 7:5,17 8:12 13:21 15:24 16:5,18 18:12,13 18:24 29:13 34:2 36:21 45:22 63:11 93:13 124:12 131:3 134:21 153:12 156:12 158:17 174:2 203:18 206:8 stated 15:10 32:18 33:16 43:23 44:25 56:19 62:9,10 63:21 116:22 123:9 130:21	states 2:1 16:20 17:4,6,9,15 62:14 117:25 120:12 124:21 156:4 170:5 180:4 191:19 stating 142:11 stature 77:13 stay 198:7 steaks 89:11 stem 69:24 stenographic 215:8 step 12:18 141:24 stepped 55:4 stick 111:5 144:5 Sticking 28:11 sticks 166:1 stiff 71:14 stimulant 106:17 stimulate 178:21 stimulated 131:17 157:22 stimulating 131:18 134:14	stretch 117:15 120:18 146:9,17 146:22,25 175:24 184:4 stretches 184:6 stretching 76:3,6 strike 174:8 179:8 strikes 150:21 stripe 15:3 striving 29:25 strong 14:19 87:12 150:19 169:25 stronger 36:20 37:1 strongly 54:20 struck 189:20 structure/function 145:6 164:24 students 18:18,22	study 11:8,10,13 13:1 37:25 38:11 38:25 40:22 41:2 42:7,17 63:25 64:4 65:13,18,22 65:24 66:4 67:18 68:2 69:22 70:14 71:7 72:4,8 73:12 80:10,22,24 81:6 81:12 93:3,4,10 94:24 95:24 96:21 99:19 100:2

101:23 102:1,4,6 109:2 114:8,9 115:9 117:11 131:21 132:2,9 137:2,11,20 139:10,11,20 140:16,17,17 156:10,23 157:2 159:2,18,18 165:4 165:6,11 169:14 169:21 172:9,23 184:13 186:3 191:2,3 studying 129:1 subclasses 131:24 subject 125:17 167:20 subjects 153:21 submit 151:17 submitted 46:10 55:9 110:20 substance 4:17 7:17 27:2 178:16 substances 25:24 26:8 69:20 86:21 substantial 114:5 substantiate 129:17 135:4 success 168:5 successful 15:23 17:2 158:11 successive 36:8 succumb 168:10 181:9 suffered 132:7 suffering 170:4 suffice 177:9 sufficient 186:11 188:18,22 202:10 203:14 sugar 110:4 suggest 20:8 48:17 52:5,9 53:15 117:15 118:5,22 135:1 136:10,12	145:6 167:14 209:12 211:14 suggested 78:5 100:3 117:12 131:5 139:17 201:2 suggesting 32:20 51:9 72:20 75:20 86:12 117:4 120:6 120:7,9 135:12,25 165:6 182:16 suggestion 172:4 180:22 suggests 28:23 45:18 70:15 91:9 135:18 146:15 162:9 171:1 suite 3:7,17 7:14 127:11 147:22 sulfur-containing 138:22 sulindac 80:25 summary 32:24 56:20 58:19 134:20,23 135:12 185:23 sunburn 64:8 sunsetted 16:22 17:10 supplement 6:19 22:13 27:22 28:18 30:8 32:19 74:15 146:6 150:5 165:7 174:11 supplements 7:23 20:2,18,22 21:11 22:14,17 24:3,16 31:8 32:20 33:18 37:17 86:18 125:4 144:18 148:24 supply 27:8 67:3 85:22 support 22:2 25:24 26:3 68:2,13,16 74:15,16 75:16	80:14 124:25 127:12 135:19,20 147:16 161:18 185:13 191:10,23 192:2 195:21,23 196:14,14,15 200:19 203:5 204:10,17,21 206:25 207:8 210:5 supporting 29:22 205:9 supportive 23:10 supports 8:1 151:19 suppose 183:15 supposed 98:1 suppress 42:12 suppressed 131:25 suppresses 199:10 suppressive 129:15 180:12,23 sure 5:19 9:12 20:21 21:14 29:2 31:12 38:18 54:8 57:11 61:4 62:10 63:20 70:1 75:5 78:24 79:9 88:25 94:11 110:13 121:3 160:1 191:21 202:6 surgery 36:13 38:22 surgically 73:22 surprised 120:23 survival 168:5 survive 24:8 162:21 survived 212:6 suspect 100:8,21 suspicious 183:18 Swankin 3:16 4:24 4:25 swelling 71:16,18 71:19 swim 132:16	swimming 132:15 swollen 71:14,25 sworn 4:6 synergistic 151:19 synergy 153:1 synthesis 174:5 synthesized 22:7 44:16 142:5 synthesizing 82:16 synthetic 21:23 22:4,8,16 23:24 system 11:5 14:19 18:13 20:11 29:21 131:16 147:17 169:1,4 185:16 210:5 systemic 72:4,10 systems 90:4 93:17 192:24 S-C-A-M-B-I-A 65:21 S-H-E-N 66:2	184:25 186:21 198:6 201:6 203:23 204:24 taken 4:14 5:16,21 41:7 106:19 109:6 132:7 133:11 150:3 174:16 184:16 185:4 208:22 213:9 talk 21:4 28:16 34:19 102:17 112:18 126:5 133:6 153:9 155:9 160:14 167:12 168:17 184:20 talked 85:15 89:24 90:10 115:16 talking 21:8 36:2 49:6 53:14 86:16 96:15 115:18 151:18 152:19 158:3,14 164:11 170:21 173:25 Tanacetum 43:14 target 22:18,21 142:9 158:13 targeted 152:3 targets 22:22 82:18 115:17 141:24 142:3 153:4 158:8 task 198:7 taught 15:20 29:12 tautological 144:3 tautology 143:12 tea 85:9 88:5 107:4 108:6 129:24 130:5,8 150:25 151:10,13 155:6 155:11,12,14,18 161:23 168:14 175:16,25 177:3 178:9 209:6 teach 18:10,16 teaching 13:20 18:21
T				
T 1:9 57:2 134:1 213:1,1,1,19,19 tablet 30:13 tag 180:15 181:23 183:4 take 6:7 12:8 15:6 16:15 29:14 30:8 30:12,13,17,18,21 31:9,11 51:19 57:5 59:6 61:15 71:15,17,20 80:24 82:12 84:23 86:19 87:12,15 90:18 97:17,19 99:7 109:10 133:3 146:23 154:8 161:9,9,14 164:4 164:11 165:12,17 167:8,11 174:8,13 176:8 180:25 183:2,2,13 184:19				

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teachings 88:22	23:5 32:10 38:3	49:11,25 51:4,22	103:9 104:18	198:20
team 105:18 119:5	40:22 45:21 88:15	52:9 72:7,24 74:4	107:13,18,24	thousands 29:23,24
119:10,12,15	90:5 97:4,6	80:11 90:1,4	116:23 117:10	45:12 78:20,20
teas 86:6 151:24	128:11 188:20	93:16,25 198:8,11	118:5,8,22 119:22	79:21 142:15,15
tease 45:13	189:12	therapist 96:21	120:4,5,6 121:14	165:16 166:17
Ted 73:10	testify 6:15 104:11	therapy 48:19 49:1	125:25 126:13,19	169:2
tell 5:18 12:23	123:12	49:15 50:9 64:6	127:6 128:7,16,18	threaten 85:21
27:14,16 30:10	testifying 6:12	72:5,10 95:17	128:20 135:15,24	threatening 180:16
58:5 77:17 104:1	188:5 211:24	98:6 119:8 166:21	138:1 139:12	three 25:14 59:9
108:14 121:15	testimony 58:22	168:3 176:14	140:22 141:7	67:11,17 82:24
146:11 175:3,7,11	124:23 188:22	therapy-induced	143:23 144:24	105:3 122:14
175:12 192:20	195:25 204:19	72:12	148:20,22 150:25	128:15 139:4
197:11 207:16	205:8 207:3 211:6	thereabouts 190:15	151:8 157:15	150:15 167:12
telling 50:1	214:4	thereof 215:5	161:16 162:17	169:20 173:12
tells 84:8 87:4	tests 10:10	they'd 200:25	164:1,6 166:7,9	191:2 195:14
temporary 18:15	text 122:18,20	thing 5:22 23:15	167:1,14 168:6	201:1
ten 12:16 42:14	128:2	25:7 29:2 41:11	171:10 172:24	three-week 66:12
71:15 201:7	thank 101:16	55:20 57:16 110:5	173:7,17 175:17	threw 110:22 111:1
tend 21:1,24 22:18	103:12 113:24	143:14,20 146:16	176:17 177:15	201:16
24:17,18,21 25:24	124:9 145:23	166:1 173:22	179:10 181:5,19	thrive 24:9 85:19
139:12 148:9,16	198:25 211:23	180:16,25 190:25	181:23 182:1,8,12	throes 31:5
150:9 157:3	212:9	196:12	182:15,25,25	throw 29:8
tended 117:13	Thanks 103:13	things 4:16 82:15	183:3,17 185:21	Tieraona 1:15
tendrils 73:23	that's-a-big-stret...	97:6 98:25 100:7	186:22 188:5	96:13,14 97:14
tends 25:1 70:3,6	164:17	112:18 141:12	189:12 193:24	Timber 153:24,25
tens 142:15	theirs 201:10	146:7,12 152:25	194:8,14 197:4	time 9:2 11:9 12:12
tenured 18:17	Theodore 3:4 4:10	197:2 198:3	200:21 201:5,14	12:13,21 13:7
term 25:16 118:12	theory 84:21	think 7:2 15:10,15	204:25 205:2,3,7	14:5,5 16:23 17:3
130:21 135:6,16	therapeutic 28:22	15:15,17 17:7	207:2,10	23:5 32:11 36:11
135:17,23,25	41:14 42:15 64:21	25:22 28:15 30:25	thinking 163:23	49:19,20 50:8,8
136:2,3 202:24	65:6 67:15 71:17	36:24 38:1 39:12	third 199:15,16,17	50:15 51:24 55:5
203:3	91:13 100:19,21	46:1,17 49:2,21	thirty 35:8	55:10 58:3 60:7
termed 9:20	115:19 130:1	50:13,17,22,24	thistle 26:1	77:4,7 83:17 84:9
terminology 11:2	135:2,8,14 149:7	51:13,21 52:12	thorough 10:11	86:20 89:1 102:13
21:8 41:16 205:17	149:17 150:7,19	53:1,7,15,21 54:7	thoroughly 167:8	128:8 138:15
terms 52:3 105:5	151:4 172:5,5	55:20,23 56:16	181:18 189:5	142:14 143:5
137:12 164:10	177:17	57:18 59:7 60:21	204:13	150:4 152:7 161:5
terrain 84:22	therapeutically	60:25 64:18 67:10	thought 43:24	161:12 165:4
terrible 18:11	95:5	71:2 73:9 74:22	84:17 85:13	177:8 178:23
51:16	therapies 9:17 15:4	74:24 75:1,21	101:11,11 113:4	186:1 190:7
terribly 95:21	15:18 17:15 19:19	76:11 83:19 86:10	118:13 119:2	196:22 198:1
test 94:13 152:13	19:21,24 20:8,10	86:23,23,25 87:17	144:25 147:15	200:23,24 201:16
181:3,19	22:1,22 29:20	89:3 91:21 93:21	152:16,20 153:2	205:9
tested 48:10 144:14	30:5 31:14,16	94:1 95:2,23	157:1 169:18	times 15:6 51:18
testified 4:6 18:5	36:6 37:12 45:10	96:14 98:23 99:5	194:2 196:24	71:12

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time-out 87:15	16:9,16 166:12	171:9,16 172:16	try 33:15 87:6	161:2,22 169:11
tissue 94:12,16	transcript 166:2	176:21 206:3,10	103:3 124:19	turn 54:3 86:16
174:1	179:14 180:3,19	207:5 209:25	193:15	91:3 151:14 212:1
title 19:7 197:18	213:7,8,21 214:3	210:2,14,22 211:8	trying 32:5 46:18	turned 22:7 174:17
213:4	214:7	treatments 48:8	60:23 71:18 74:11	Turner 1:9,13 3:13
titled 205:23	transcription 80:7	51:15 86:3 152:4	123:16 144:25	3:14,16 4:23,24
titles 192:21	129:9 156:18,22	210:9	160:25 163:24	4:24,25,25 5:12
tobacco 157:4	transcripts 76:24	trial 36:16 38:16	185:12,15 186:12	5:19 7:16,19
tobacco-related	77:3	39:12 41:11,14	205:1 211:3	21:13 23:1 32:15
156:24	transfer 114:18	44:14 56:6 63:14	tube 94:13 181:16	32:18 49:7 50:4
today 4:19 6:11	translate 114:15	63:17 65:5 66:10	Tuesday 2:10	51:6,8 55:9,11,17
25:11 27:10 36:3	159:7	67:13 93:5 94:23	tumor 27:9 42:12	57:2,19,22 59:18
37:3,5 45:22 48:4	translates 68:25	141:11 142:7	44:9 48:14,19	81:23 111:15
100:1 128:1	83:15	144:15 145:13	63:12,22 70:16	116:12 122:5,7,10
150:14 157:13,25	translational 73:15	156:13 170:21	71:1 84:5 91:5,16	124:6,9,18 125:19
166:18 211:23	traumas 167:20	201:3	92:1 99:11,17,18	126:4 132:25
told 51:4 117:18	treat 10:10 11:12	trials 35:1,3,5	102:22 103:23	133:2 143:11,23
tongue 169:10	17:22 33:2 46:7	37:11 42:1,14	104:16,18 106:9	154:1 163:21
tonic 138:14 169:1	53:14,20,22,24	44:12,20 46:11	106:16,18 116:21	179:20,23 184:22
top 41:22 153:9	67:20 73:22 86:17	47:3,6,11,18	118:14,21,23	185:7 207:6 212:3
173:15 199:22	145:4 176:19	89:21,23,25 93:14	123:18 129:4,15	212:13
topic 19:6 164:10	treated 15:4 162:22	101:20 106:25	146:10 191:20	Turner's 89:13
topical 64:4	treating 12:12	136:8,20 143:14	192:5 195:1 196:9	turning 158:25
tough 24:12 70:2	45:19 54:6 117:16	143:15,20,24,25	199:11 200:9	turns 68:6
toxic 15:18 28:24	160:19 162:11	144:1,7,13 170:4	203:10 205:4,14	TV 155:22
28:25 32:5	170:10 193:8	172:3,19	tumors 71:4 74:20	twelve 201:7
toxicity 32:8 42:13	195:24 200:11	tried 178:5,7 193:2	74:24 75:1,3,12	twice 88:13 162:13
115:24	202:11 203:6	trigger 24:22 26:5	75:20 76:1 85:21	two 10:24 11:4,9
Toxicology 156:17	204:22 205:10	167:7	92:12 116:25	39:5,15,17,20
Tracey 117:24	206:23 210:19	triggers 156:5	196:18 198:22	64:11 69:22 70:16
track 163:8	211:9	trip 26:5	200:3	83:4,4 94:6 105:4
Trade 1:1 2:2,13	treatment 7:24	tripped 167:7	tumor-induced	122:14 128:14
3:3,5 4:11,13	9:16 15:17 24:9	tripping 24:22	72:12	167:12 173:12,21
33:24 127:16	29:5 33:19 37:8	Trish 180:10	tuned 19:12	178:25 180:4
213:10	45:23 47:14,23	triterpenoids 129:6	turkey 106:12	195:14 199:8
traditional 8:20	48:3 54:24 62:20	true 75:6 86:24	turmeric 21:3	201:1 207:16
10:4 20:13 46:10	65:11 69:14 70:13	91:10 100:19	24:18 25:17 26:17	two-year 13:2
46:21 49:1,15	76:5 79:23 80:12	101:22 112:11	26:21 27:1,11,18	type 68:20 115:9
50:9 89:20 100:15	80:17,19 85:24	118:15 120:16	28:19 30:7,10,13	139:10 160:8
128:24 166:21	92:6,21 93:6	126:11 137:17	30:18,24 31:21	types 23:13 40:10
168:25 176:13	101:10 105:23	144:2 181:22	32:7 38:14 40:18	54:1 82:25 157:8
traditions 20:4	117:8,10 119:23	206:17 214:3	46:4,19 74:6 76:8	158:4
trained 10:21,23	126:15 127:13	truly 23:23	79:5,11 80:3 85:9	typical 23:11,12,13
training 10:25 11:4	144:9,22 158:15	trust 149:6	88:5 148:14	24:15 65:9
11:23 12:1,8,24	168:8 170:7 171:3	truthfully 6:12,15	158:21 159:5,11	typically 138:14

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<p>tyrosine 66:18,19 tzang@ftc.gov 3:10 T-cell 131:23 T-Y-R-O-S-I-N-E 66:19</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ubiquitous 62:23 64:17 Uh-huh 32:13 38:6 47:24 52:21 57:14 92:25 98:4 105:17 116:5,17 122:21 122:21 141:3 149:3,8,10 155:3 157:9 179:16 186:20 195:2 206:6,13 208:6 ultimately 22:7 29:8 44:25 unaware 52:23 161:24 Uncaria 106:14 128:20,23 200:13 200:15 205:19 underestimated 151:5 undergoing 24:6 93:24 undergraduate 8:10 underlies 25:8 underlying 157:19 188:23 underneath 117:23 undernourished 178:2 undernutrition 178:3 understand 6:3 15:2 26:19 31:13 35:9 49:18 53:8 57:24 68:15 75:14 105:1 121:5 127:9 127:10,25 144:16</p>	<p>147:3 148:6 159:24 162:18 163:7 167:5 175:14 181:10 182:17 185:12,16 186:12 189:5 191:5 202:15 205:7 211:6 understanding 15:1,10 28:3,6 33:4,23 46:12 47:16 49:6,9 52:4 61:6 74:14 75:24 90:14 117:17 123:24 127:14 129:24 147:3 157:24 164:8 179:18 180:18 189:24 190:2 201:24 203:3 204:24 206:21 understandings 203:2 understood 75:8 88:7 90:10 119:21 145:23 unfortunately 36:17 111:25 165:4 Union 134:25 135:24 unique 9:21 39:7 95:16 United 2:1 180:4 units 62:6,7 University 8:12 13:21 18:13,14 29:13 153:18 unknown 47:14 48:4 146:21 upgrade 132:22 uphill 29:11 upset 18:22 upshot 39:4 upside 153:5</p>	<p>ursolic 129:5 use 11:10 20:7 21:21 24:16,17 25:20 26:2 27:21 28:23 31:3,7 33:17 38:14,23 46:10 47:1 48:25 49:10,14 51:4 52:9 74:11,14 86:17 87:13 89:20 100:11 108:12 114:17 124:7 126:11 127:23 130:18 136:4 137:13 145:10,19 150:9,20 151:3,7 152:18 161:4 162:18 166:4 168:20 170:3 180:17 194:4 195:11 196:2,20 197:24 200:6,21 201:9 202:24 useful 43:22,25 44:11 48:8 98:8 159:14 165:7 usefulness 36:18 useless 100:3,6 users 50:8 uses 8:1 88:10 174:21 usual 18:2 usually 27:22 36:9 152:1 uterine 110:8 utilize 30:3,16 49:22 51:14 utilized 37:12 59:25 80:18 utilizing 30:4 39:25 U.S. 38:20 84:4</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vague 118:16,19 valid 39:24 189:17</p>	<p>Valley 7:14 9:5 valuable 144:12 171:15 value 49:25 52:23 54:22,22 55:2 100:21 121:14 135:2,8,14 136:6 143:3 145:10 151:4 162:17 179:12 valve 94:9 Van 153:15 variables 19:9,16 102:9 variety 32:25 48:16 51:1 54:24 55:2,3 76:18 165:20 various 12:5 33:2 116:6 121:20 157:7 158:10 189:25 vegetables 62:22 67:3 85:10 89:8 138:18 139:18,24 140:1,13,23 141:15 verify 188:25 189:5 193:15 version 110:20 versions 107:14 versus 4:13 vessels 85:18 94:20 Veterinary 131:15 viewed 99:25 vigor 74:3 vigorously 152:18 virtually 144:13 virulent 183:8 visitor 125:2 vitamin 81:8,10 88:11 165:17 177:10 vitamins 29:9 vitro 94:10,13 169:25</p>	<p>vivo 94:11,12 170:1 170:18 volume 170:8</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 86:13 87:3,9 87:21 199:15 waited 93:15 waiting 85:25 101:11,14 151:22 Waldman 1:9 57:2 want 4:18,21 5:22 6:18 8:25 21:13 21:14 30:15 31:12 36:9 42:2 50:13 50:23 54:8 87:9 87:10 96:7 101:3 102:17 103:7 104:11,12 105:22 110:13 123:7 125:16,21 128:21 129:23 143:11,13 144:5 145:18,19 154:1 161:14 163:21 165:19 167:16 177:6 179:4,13 180:9 182:18 183:2,16 186:18 191:8,21 198:7 202:7 203:18 209:25 wanted 85:12 87:6 98:2 132:21 137:25 138:9 151:16 172:24 173:2 179:10 182:7 185:19 188:24 189:3 196:6 201:1 warfarin 31:2 wart 180:15 Washington 3:18 16:20 wasn't 33:9,9 56:11 60:5 98:15 188:22</p>
--	--	---	--	---

<p>188:25 201:16 205:3 207:7 209:9 waste 70:5 wasting 121:12 123:19 147:5 176:10 210:7 water 175:19 watercress 105:5 138:11,12,17,25 139:21 141:5 142:23 watery 178:15 way 15:20,22 19:15 24:25 25:5,13 37:3,5 43:23 49:3 56:4 60:22 64:20 73:5 75:13 80:2 83:23 84:13 91:11 91:13 98:19 100:4 100:11 106:2 108:12 128:3 140:7,22 141:11 141:17 142:13 143:1,2 147:13 148:18 151:18 162:24,25 163:14 163:15 165:15,22 166:17 167:19 194:9 198:18 205:14 ways 15:8 31:13 33:2 43:11,20 46:6 48:16 50:25 72:3 83:4 87:19 90:18 92:17 96:14 106:15 114:25 117:1 118:14 120:20 123:4 139:1 145:1 147:18 151:9 157:16 158:10 163:3,19 168:9 176:2 200:20 weathering 176:21 Web 1:19 77:25</p>	<p>121:21 124:3,22 126:7 148:22 149:4 154:8,9,16 154:21 Weber 66:2 Wednesday 178:24 185:20 Wednesdays 178:25 week 13:23 31:6,17 31:19 36:22 71:15 83:21 165:10 weeks 56:7 wei 169:1 weight 72:14 170:24 welcome 209:19 well-absorbed 95:21 well-advised 162:25 163:3,16 163:19 166:9 well-controlled 101:5,8 well-informed 49:24 53:2 167:15 well-known 156:4 well-respected 107:4 well-tolerated 134:12 went 8:14,19 55:25 90:5 96:21 103:7 169:18 173:24 207:19 weren't 15:12 50:20 197:13 west 46:21 89:18 western 20:4 wet 179:5 we'll 21:4 27:10 35:4 40:2 43:14 56:25 81:20 87:10 103:18 104:8 133:6 138:12</p>	<p>147:7 154:5 we're 7:16,22 17:25 21:8 23:18 36:2 38:1,1,5 45:16 47:12 53:13 85:6 86:15,20 90:2,3 110:25,25 115:18 124:3 127:25 140:9 149:22,23 152:19 159:20,20 159:20 162:2 168:24 170:20,20 171:17,19 183:23 184:3 194:22 we've 5:8 71:10 84:21 86:14 87:3 87:22 89:24 102:13 142:4,7 150:7,13,15 153:7 154:23 157:12 158:2 168:14 176:2 177:1 210:19 WHALEN 213:16 whew 121:12,15 147:7,10 172:24 173:6,8,13 174:3 174:9,12,13,25 175:7,15 176:5 177:1 207:21 whew-based 175:8 175:10 White 97:2,4,7,21 98:16 Wichita 8:12,12 wide 42:15 66:21 115:18 130:25 wild 138:13 willing 145:12 Wink 153:16 wiped 109:7 wise 87:20 99:5 173:7 wish 196:21 wished 198:16</p>	<p>withdraws 181:16 withstand 36:25 173:4 witness 1:4 4:5 5:6 32:22 35:10 54:10 54:11 59:4 81:25 87:17 122:11 124:10,19 126:9 133:6 154:4 163:23 179:24 207:10 212:6,9 215:1 woman 87:11 women 26:5 87:5,7 110:3,7 165:11,16 women's 12:5 165:11 wonder 99:13 134:21 155:24 wondered 197:25 wonderful 45:4 wondering 34:25 word 177:24 words 60:2 89:19 125:25 139:19 149:5 156:7 187:20 work 9:10 10:3 11:18 13:18 14:11 19:23 20:2,7 21:1 22:10 23:15 24:18 25:13,24 26:9 29:25 33:10,12,14 34:5 46:7 48:17 49:8 52:1 67:4 71:21,24,25 90:12 111:3 114:10,12 114:13 123:25 124:4 130:24 147:1 148:9,10,16 worked 16:25 42:5 65:6 80:13 82:4 105:2,9 114:25 127:7,9 working 9:3 10:13</p>	<p>13:16 19:4,7 20:1 23:22 25:12 29:1 30:1 35:11 43:11 51:25 52:6 75:16 93:19 115:4,20 129:3 147:13 works 10:7 24:25 140:3,8 142:10 workup 10:16 14:16 world 1:18 15:12 20:5,6,25 35:12 89:9,16 100:17 152:22 153:14 154:14,25 worth 55:10 wouldn't 6:14 31:3 50:17 53:17,22 54:4 63:20 75:4 77:14 78:8 106:7 114:15 128:4 148:19 161:14 165:23 167:11 197:22 write 32:23 63:19 111:13 210:13 writing 19:4 83:21 111:16 written 83:25 126:10 128:2 160:12 wrong 25:16 37:10 105:12 157:14 wrote 46:10 52:13 111:14 152:23 Wyk 153:15 W-I-N-K 153:16 W-Y-K 153:16 w/attachments 1:14 81:24 w/enclosures 1:10 57:3</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 1:2 164:16</p>
---	--	---	---	--

Y	5:14 7:16 8:3,4 21:17 56:21,25 57:2,4 59:5 61:20 79:7,13 81:18 82:7 87:15,24 90:24 91:2 97:9 97:15 100:25 101:2 113:18 116:14 122:1,6,9 122:12 124:8,11 125:10,20 126:16 133:1,5,9 134:3 138:7 143:21 144:4 154:3,5,18 164:9 179:21,25 180:1 184:2 211:21 212:8,11 212:15 zipped 188:1	1200 65:10 121 1:16 13 199:15,23 131 7:14 14 17:6 107:11 209:15 1400 3:17 15 81:15 154 1:18,19 16 81:25 83:8 16th 3:17 17 2:10 209:15 213:5 215:2 1700 66:14 18 213:13 19 108:2 193:24 195:7 1920s 16:21 1980 69:21 1980s 17:8 1981 13:9 1984 169:15 1988 169:22 1990 65:23 1990s 190:14 1995 109:19 199:20 1996 66:15 1997 66:2 1998 195:8,12 1999 159:10 195:10	199:14 2001 73:12 2002 81:7 97:11 2003 13:14 17:2 42:10 131:15 156:16 198:12 199:8 20036 3:18 2004 83:6 134:24 153:24,25 190:21 2005 80:11 2006 129:11 131:20 137:4 169:20 2007 83:2 114:22 170:8 2008 23:3 38:25 40:4 56:4 72:25 94:3,15 156:3 189:8 192:10 201:17 2009 2:10 113:25 113:25 189:9 213:5,13 214:14 215:2 202 3:19 21 113:25 212 3:9 229 98:3 23 128:23 194:22 194:23 230 97:16 98:1,3 25 38:17 26 131:13 137:3 27 133:8 28 170:8 29 173:17,20	300 27:23 28:1 40:18,21 41:1,20 42:17 43:4 300-400 30:18 31 168:24 318 2:12 3:7 34 155:15 39 95:13
	0		4	
	08 32:11		41:5,15 97:10,12 124:10 4th 178:24 4:17 212:17 40 210:10 462-8800 3:19 47 138:16 180:2 48 71:19 180:7	
	1		5	
year 13:22 18:5,15 72:7,8 83:20 139:3 years 10:24 11:4,9 12:16,19 13:10,15 18:15 35:9 69:22 79:21 84:7 99:25 142:15 148:19 168:7 169:2 191:2 yellow 169:11,11 177:3 yellow-pigmented 26:22 yesterday 184:23 yoga 20:9 York 2:15,15 3:8,8 young 155:19	11:9 56:25 57:1,6 59:13 88:20,25 89:5 90:6 187:8 187:15 188:7 189:14 191:8 194:25 203:14 204:2,9,17,20 205:21,22,25 206:11 1,221 178:19 1-27-09 1:13 81:23 1:07 133:10 10 97:11 125:11,12 100 62:15,17,19 69:8 10004 2:15 3:8 101 3:17 109 151:18 11 159:9,10 119 109:17 12 198:10 199:2	209 98:3 23 128:23 194:22 194:23 230 97:16 98:1,3 25 38:17 26 131:13 137:3 27 133:8 28 170:8 29 173:17,20	5 1:16 121:18,22,23 124:10,10 205:21 5-fluorouracil 170:22 5-FU 170:22 171:14 50s 16:23 130:20 51 131:7 57 1:9 59 1:11	
		2	6	
		2 1:11 57:19 58:23 59:1 107:16 187:1 188:15 189:14 193:7 202:21 203:13,22,23 204:1,9,17,20 205:21,22 2,000 62:5 2:10 134:2 20th 77:6 185:21 200 65:10 2000 13:9 83:6 97:6 139:3 198:20	6 1:18 52:12 154:6 154:13,23 170:8 6-2-08 1:9 57:2 60 66:13 93:8 60s 17:13 130:20 130:20 607-2816 3:9 65 168:7	
			7	
Z			7 1:19 34:4 46:15 48:2 59:8 102:15 102:22 103:22	
Zang 1:5,9 3:4 4:8 4:10,21 5:3,7,13		3 1:13 81:20,22 107:20 146:2 197:15 199:22 202:21 203:13 3-10-02 1:15 97:13 30 173:16 30s 16:21		

104:6,13,15,20				
105:23 106:8				
107:12 108:2				
116:9,20 117:8,22				
117:25 118:2,6,9				
119:2 120:3,14,16				
121:1 122:14,17				
123:14 128:7,12				
128:13 129:20				
134:5 137:15				
138:10 146:24				
147:18 154:9,16				
154:22 180:17				
182:2,23 183:2				
193:7,8,17 194:16				
194:25 195:20,24				
196:9 200:10,13				
201:11,13,19				
202:9,11 203:6,10				
204:5,11,15,22				
205:2,10,12				
70s 17:13				
79 55:9				
<hr/> 8 <hr/>				
80s 17:13 39:21				
81 1:13				
84 169:7				
88 169:21				
89 195:7				
<hr/> 9 <hr/>				
9 72:9				
9:30 2:18				
90s 39:21				
900-some 177:16				
9329 2:6 213:3				
94 199:20,21				
94941 7:15				
97 1:15				
99 199:20				