

****DE-IDENTIFIED DEPOSITION OF A PLASTIC SURGEON IN A BOTCHED EYELID SURGERY CASE****

1 SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF

2 -----X

3 ,

4 Plaintiff,

5 - against -

6 , M.D., , M.D., P.C.,
and , P.C.,

7
Defendants.

8
-----X

9

10

11 April 21,
10:30 a.m.

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16 EXAMINATION BEFORE TRIAL of the

17 Defendant , M.D.

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13 & , P.C.

14 Attorneys for Defendants

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17 BY: , ESQ.

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2 S T I P U L A T I O N S

3 It is hereby stipulated and agreed by
4 and between counsel for the respective parties
5 hereto that all rights provided by the
6 C.P.L.R., including the rights to object to any
7 question, except as to form, or to move to
8 strike any testimony at this examination are
9 reserved, and in addition, the failure to
10 object to any question or to move to strike any
11 testimony at this examination shall not be a
12 bar or waiver to doing so at, and is reserved
13 for, the trial of this action;

14 It is further stipulated and agreed by
15 and between counsel for the respective parties
16 hereto that this examination may be sworn to be
17 the witness being examined before a Notary
18 Public other than the Notary Public before whom
19 this examination was begun, but the failure to

20 do so, or to return the original of this
21 examination to counsel, shall not be deemed a
22 waiver of the rights provided by Rules 3116 and
23 3117 of the C.P.L.R., and shall be controlled
24 thereby;
25 It is further stipulated and agreed by

1
2 and between counsel for the respective parties
3 hereto that this examination may be utilized
4 for all purposes as provided by the C.P.L.R.;
5 It is further stipulated and agreed by
6 and between counsel for the respective parties
7 hereto that the filing and certification of the
8 original of this examination shall be and the
9 same hereby are waived;

10 It further stipulated and agreed by and
11 between counsel for the respective parties
12 hereto that a copy of the within examination
13 shall be furnished to counsel representing the
14 witness testifying without charge.

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, M. D., having been
first duly sworn by a Notary Public
of the State of New York, was examined
and testified as follows:

EXAMINATION BY MR. OGINKSI:

Q Would you state your name and
address for the record.

A , M.D.; ,
, New York .

MR. OGINSKI: Please mark as
Plaintiff's 1 the original office
record.

(Original office records were
marked Plaintiff's Exhibit 1 for
identification, as of this date.)

Q Doctor, are you board certified?

A No.

Q Have you ever been board

21 certified?

22 A No.

23 Q Have you ever testified before?

24 A Yes.

25 Q Have you ever testified as an

6

1 , M.D.

2 expert either for the plaintiff or for the

3 defense?

4 A Does that include written

5 testimony or written reports?

6 Q Have you ever been asked to

7 testify in court as an expert?

8 A I have been asked to, yes.

9 Q Have you ever testified? Other

10 than being asked, have you ever testified?

11 A No.

12 Q Have you ever testified as a
13 defendant at various times in the course of
14 your career?

15 A No.

16 Q Have you ever given deposition
17 testimony other than today?

18 MR. : Have you ever been
19 deposed before?

20 A Yes, I have been deposed before.

21 Q Where do you currently work?

22 A I have an office in and

23 .

24 Q And what's the name of your office
25 in ?

1 , M.D.

2 A It's ,

3 P.C.

4 Q What's the address?

5 A ,

6 , , New York .

7 Q What is your affiliation with the

8 office there?

9 A (No verbal response was given.)

10 Q Are you president or some other

11 name that you have there, stockholder

12 shareholder, officer? What was is your

13 affiliation?

14 MR. : If any.

15 A I'm the sole owner.

16 Q The office that you have in

17 , what's the address?

18 A , New York .

19 Q What's the name of that office?

20 A Same name.

21 , P.C?

22 Q Do you consider yourself the

23 director of the ,

24 P.C.

25 MR. : Objection. Does he

8

1 , M.D.

2 consider himself?

3 Q I'm going to show you a copy of a

4 business card that has your name on it with

5 on it. Have you

6 ever seen this before?

7 A Yes.

8 Q On this business card, which is a

9 copy of it, it says director and chief; do you

10 see that?

11 A Yes.

12 Q What does that mean?

13 A This was a card in the beginning
14 of my practice at an address I never had.
15 Well, I was there very briefly. And basically
16 I'm the sole person in the practice, I'm in
17 charge of the practice.

18 Q Have you ever advertised yourself
19 in your practice as the director of
20 ?

21 A I believe I have, yes.

22 Q Have you ever advertised yourself
23 as the chief of ?

24 A I believe so.

25 Q Can you tell me what you mean by

1 , M.D.

2 being chief of that office?

3 MR. : Asked and answered.

4 Q As chief what are your duties?

5 A (No verbal response was given.)

6 Q Well, let me ask you this:

7 Doctor, in the year and where was

8 your office in located?

9 A .

10 Q What was the name of your office

11 there?

12 A , P.C.

13 Q In your advertisements did you

14 hold yourself out as being the director and

15 chief of that particular office?

16 MR. : At that time?

17 MR. OGINSKI: Yes.

18 A I don't recall.

19 Q Do you have a website, Doctor?

20 A Yes.

21 Q In the website did you describe

22 yourself as the director of

23 ?

24 A I'm not sure.

25 Q Let me show you a copy of your

10

1 , M.D.

2 website, the highlighted area (handing.)

3 A Yes.

4 Q Okay.

5 Does that refresh your

6 recollection as to whether you consider

7 yourself to be the director of

8 ?

9 MR. : Whether he considers

10 himself to be or does he hold himself

11 out to be, there's a difference?

12 Q All right.

13 Based upon the information you

14 have on the website, Doctor, it says you're the

15 director of _____, what

16 does that mean?

17 MR. : Asked and answered.

18 He indicated he is the sole proprietor.

19 That's what he was refers to when he

20 refers to director and chief.

21 Q Is that correct? I mean --

22 A That's a yes.

23 Q Are you licensed to practice

24 medicine in the State of New York?

25 A Yes.

1 _____, M.D.

2 Q Are you currently licensed in any

3 other states?

4 A No.

5 Q Has your license to practice in

6 New York ever been suspended?

7 A No.

8 Q Has your license to practice

9 medicine ever been revoked?

10 A No.

11 Q Where did you go to medical

12 school?

13 A

14 .

15 Q When did you graduate.

16 A .

17 Q Did you go into a residency

18 directly from there?

19 A Yes.

20 Q Where did you go?

21 A

22 .

23 Q What area of medicine did you go

24 into?

25 A General surgery.

1 , M.D.

2 Q How many year program was that?

3 A I was there for two years, then I

4 went to Medical Center in

5 for one year. Then I went back to

6 University for another year of general surgery

7 to complete my general surgery training.

8 Q When you went to it

9 was also in the field of general surgery?

10 A Yes.

11 Q When you returned back to for

12 that one year that was also general surgery?

13 A Yes.

14 Q The total time you spent in your

15 residency in general surgery was how many

16 years?

17 A Four years.

18 Q Did you complete the general

19 surgery program?

20 A Which general surgery program?

21 Q In order to become -- I'll

22 rephrase the question.

23 When you initially went into

24 general surgery right out of medical school,

25 how many year program did you expect it to be?

13

1 , M.D.

2 MR. : Did he expect it to

3 be?

4 Q How many years is it to do your

5 general surgery residency?

6 MR. : If there is a set
7 year. It depends on a number of
8 variables.

9 Q Was there a particular time that
10 you knew about?

11 A No, well --

12 MR. : In general.

13 A In order to be a plastic surgery a
14 minimum of three years is required.

15 MR. : Of general surgery.

16 THE WITNESS: Of general surgery.

17 Q Was that your intention, to go
18 into plastic surgery?

19 A When?

20 MR. : When?

21 Q Was there any particular reason
22 why you went from to ?

23 A I was always looking for a strong
24 program to get a great education and training.

25 Q Other than that was there any

1 , M.D.

2 other particular reason you went from to

3 ?

4 A No.

5 Q Was there any particular reason

6 you went from to ?

7 A Again, I was always seeking the

8 best training opportunity at the time.

9 Q Can you define for me the term

10 lagothalmus, L-A-G-O-T-H-A-L-M-U-S?

11 A Lagothalmus.

12 Q Can you describe that for me?

13 MR. : Well, what is this in

14 reference to?

15 MR. OGINSKI: His treatment of

16 this patient.

17 MR. : Where does the word

18 appear in the record?

19 THE WITNESS: It's not in my

20 record.

21 MR. : Well, you're asking

22 for an expert opinion on what this word

23 is?

24 MR. OGINSKI: I'm asking for his

25 definition.

15

1 , M.D.

2 MR. : You have an expert you

3 can hire.

4 MR. OGINSKI: He's a defendant,

5 I'm entitled to probe his expertise in

6 this field of knowledge. There is no

7 issue here. I can ask him 100

8 definition questions related to --

9 MR. : I'll allow the

10 question.

11 A I believe it refers to droopiness

12 of the eyelids.

13 Q What is ectropion,

14 E-C-T-R-O-P-I-O-N?

15 MR. : Again, these are words

16 found in his record?

17 MR. OGINSKI: They're throughout

18 the patient's record. It relates to the

19 patient's treatment.

20 MR. : To the treatment

21 rendered by my client?

22 MR. OGINSKI: Yes.

23 MR. : But it doesn't appear

24 in his record.

25 MR. OGINSKI: Whether it does or

1 , M.D.

2 doesn't is irrelevant.

3 MR. : I believe it is

4 relevant. If you insist that it appears

5 in his treatment record, but if it

6 doesn't appear in his office records you

7 have a hard argument.

8 MR. OGINSKI: No, I can ask him

9 things related to the field of plastic

10 surgery.

11 MR. : How many definitions

12 do you plan on asking him about?

13 MR. OGINSKI: Not too many.

14 THE WITNESS: I'd like to speak to

15 you for a moment.

16 (The witness and Mr. left

17 the room and subsequently returned.)

18 A Ectropion refers to retraction of

19 the lower eyelids. It could involve rounding
20 of the lower eyelid, there could be laxity of
21 the lower eyelid. It could involve sclera
22 show. Patients may not be able to close their
23 eyelids completely. There could be excessive
24 tearing, there could be dry eyes. There could
25 be light sensitivity. There could be a

17

1 , M.D.

2 photophobia.

3 Q Okay.

4 After your last year at in

5 general surgery where did you go to continue

6 your education?

7 A I was then at the

8

9 as a research fellow in plastic

10 surgery.

11 Q How long did that last?

12 A One year.

13 Q What did you do after that?

14 A After that I went to

15 as a plastic surgery

16 resident.

17 Q That's in ?

18 A Yes.

19 Q How long did you expect that

20 program to last?

21 A It's a two-year program,

22 typically.

23 Q Did you complete the program?

24 A No.

25 Q Where you terminated from that

1 , M.D.

2 program?

3 A I was placed on administrative
4 leave from the program and then terminated,
5 yes.

6 Q Did you continue your training
7 elsewhere?

8 A (No verbal response was given.)

9 Q How long had you been at
10 before being terminated?

11 A I was terminated after a year,
12 approximately a year.

13 Q At some point after that did you
14 continue your medical education or your
15 training?

16 A Yes, immediately.

17 Q Where was that?

18 A At Hospital
19 Center at .

20 Q That was in ?

21 A Yes.

22 Q When you say at you're

23 referring to their affiliation with ?

24 A Yes.

25 Q What department were you training

19

1 , M.D.

2 in?

3 A Plastic surgery.

4 Q How long did you train there?

5 A Two years.

6 Q When to when?

7 A From to .

8 Q Did you complete that program?

9 A I completed one year of fellowship

10 and one year of residency there.

11 Q After finishing up at -- after

12 finishing the two years at ,

13 did you do any training?

14 A Yes.

15 Q Where was that?

16 A At the University of

17 .

18 Q Where was that, in ?

19 A .

20 Q What field or department were you

21 training in?

22 A Plastic surgery.

23 Q How long were you there for?

24 A For one year.

25 Q That was from ' to ?

1 , M.D.

2 A Yes.

3 Q Was that to finish up the second
4 year of fellowship or something else?

5 A I was chief resident of plastic
6 surgery there, so I completed the required
7 training in order to become board eligible in
8 plastic surgery.

9 Q Is there any particular reason as
10 to why you didn't complete the two-year?

11 MR. OGINSKI: I'll rephrase it.

12 Q The fellowship, is that a two-year
13 program?

14 MR. : Which one?

15 MR. OGINSKI: At .

16 A It was a fellowship for one year
17 and a residency for one year.

18 Q Which did you do first?

19 A The fellowship.

20 Q After the University of
21 did you do any additional training?

22 A Continuing medical education,

23 things like that.

24 Q No, I mean in terms of residencies

25 or fellowships?

21

1 , M.D.

2 A No, I did not.

3 Q As a result of completing your

4 training did you then become board eligible?

5 A Yes.

6 Q Have you taken or sat for any

7 board examinations?

8 A Yes.

9 Q Which ones?

10 A The written examination.

11 Q In what field?

12 A Plastic surgery.

13 Q Did you complete that?

14 A Yes, I passed that.

15 Q When was that?

16 A Excuse me?

17 Q When was that?

18 A Sometime in the fall of .

19 Q In order to become eligible to

20 take the oral examination what is necessary?

21 A To pass the written exam.

22 Q Did you have to accumulate a

23 certain case list or number of cases over the

24 next couple of years in order to become

25 eligible to take the oral exam?

2 A There were certain requirements

3 with regard to cases, yes.

4 Q Have you presented yourself or

5 been accepted for the oral examination for the

6 boards?

7 MR. : Objection.

8 MR. OGINSKI: I'll rephrase it.

9 Q Have you taken the oral boards in

10 plastic surgery?

11 A No.

12 Q Have you applied for it?

13 A I haven't registered to take the

14 exam as of yet.

15 Q Are there any other criteria you

16 must meet at the present time prior to applying

17 for the oral part of the examination?

18 A Besides passing the written exam?

19 Q Other than that is there anything

20 else you now must do in order to apply for the

21 boards?

22 A Not that I know of.

23 Q Do you have an independent memory
24 of ; who she is, what she looked
25 like?

23

1 , M.D.

2 A Yes.

3 Q Have you brought with you your
4 entire office record for ?

5 A Yes.

6 Q In addition to your own notes do
7 you have copies of notes by other physicians
8 that you received during the course of your
9 treatment of ?

10 A I do have a note by Dr. as
11 part of my record.

12 Q Other than the notes you have

13 contained in front of you, Doctor, do you have
14 any other notes or records relating to
15 that you have not brought with you?

16 A I don't believe so.

17 Q Okay.

18 In preparation for today's
19 deposition did you review any medical
20 literature or any texts books?

21 THE WITNESS: May I speak with
22 you outside?

23 MR. : Sure.

24 (The witness and Mr. left
25 the room and subsequently returned.)

24

1 , M.D.

2 MR. OGINSKI: Can you read back my

3 last question.

4 (The previous question was read by

5 the reporter.)

6 A No.

7 Q I notice you brought with you

8 certain things in addition to the patient's

9 chart. Do any of those things relate to this

10 case or this patient?

11 MR. : He had surgery this

12 morning.

13 MR. OGINSKI: I understand, I'm

14 just asking.

15 A They're all related to this case,

16 communication between my attorney and myself.

17 Q Anything else?

18 A I had surgery this morning so I

19 have a lot of things with me.

20 MR. : Nothing else related

21 to the case.

22 Q Do you have pictures that you took

23 of ?

24 A Yes, I do.

25 Q Can I see those, please?

25

1 , M.D.

2 A These were preop pictures, these
3 are postop pictures.

4 Q Can I see the preop pictures
5 please?

6 A (Handing.)

7 MR. : They have all been
8 exchanged, right?

9 MR. OGINSKI: I believe so.

10 MR. : Exchanged and marked
11 at the last deposition.

12 Q Doctor, if I can, is that the
13 chart that you keep 's file in?

14 MR. : I'm sorry, what was

15 the question?

16 Q The chart, the folder that you

17 brought with you today.

18 A That I keep her folder in?

19 Q That you keep her records in.

20 A Usually I use a manila envelope.

21 Q Are there things contained within

22 that folder you brought with you that do not

23 relate to ?

24 MR. : You've already asked

25 that. You asked him that and he said

26

1 , M.D.

2 correspondence between the attorney.

3 MR. OGINSKI: That I'm not

4 interested in.

5 MR. : That's what that is.

6 A Correspondence. I have a copy of
7 this chart and I have attorney-client privilege
8 material.

9 Q Do you have billing records
10 contained in that folder?

11 A No.

12 Q Where do you keep the billing
13 records?

14 A The custom and practice now is
15 that they are kept as part of the patient's
16 chart.

17 Q Back in , ?

18 A At this time I was just in
19 practice for about a week and at the time --

20 MR. : Were the billing
21 records kept in the file?

22 A They should have been. I'm not
23 sure. They should have been part of the chart.

24 MR. : Do you have them with
25 you today?

1 , M.D.

2 THE WITNESS: No.

3 Q I also notice just by looking
4 across from you there appears to be some type
5 of literature or articles in the folder.

6 A Sure, I did surgery this morning.

7 Q You said that -- when was it that
8 you first opened your office for the practice
9 of medicine in ?

10 A Sometime in July of .

11 Q You said you were just opened a
12 week when you first saw ?

13 A Yes. I opened sometime -- I don't
14 know the exact date, but approximately --

15 Q Did you tell that you had

16 just opened your office at the time you first

17 saw her?

18 A Sure. She was referred by my

19 father, my father was her family physician.

20 She knew I was just in practice.

21 Q Why did she come to you for the

22 first time, what was the reason she came?

23 A What was she evaluated for?

24 MR. : I object to the form.

25 He cannot talk to her mental state.

28

1 , M.D.

2 I'll allow you to answer as best

3 you can.

4 MR. OGINSKI: Of course.

5 A To my best recollection, she had

6 wanted I believe some rejuvenation in her
7 lid-cheek juncture and rejuvenation of the
8 lower lid-cheek region. In addition, she
9 wanted to be treated with Botox for wrinkles in
10 her forehead that was exacerbated.

11 Q Did she come with anyone on the
12 first visit?

13 MR. : Would that be
14 reflected in your notes?

15 A My standard custom and practice
16 now is to reflect --

17 Q Do you know?

18 A I don't recall. Her mother may
19 have been with her.

20 Q Other than your review of the
21 patient's chart, did you review anything else
22 in preparation for coming here today?

23 A No.

24 Q Did you review 's deposition
25 testimony?

1 , M.D.

2 A No.

3 Q Do you speak

4 A Yes.

5 Q Does speak

6 A I don't know.

7 Q Did you perform --

8 A I think I heard her mother speak

9 I don't know if does.

10 Q Did you perform surgery on ?

11 A Uh-huh, yes.

12 Q That was on September 19th?

13 Just for the record, you're

14 reviewing your chart now, correct?

15 A I'm looking at my chart, correct.

16 Yes, it was September 19th.

17 Q What year?

18 A .

19 Q What year is noted on your note

20 for the surgery, Doctor?

21 MR. : Which note for the

22 surgery?

23 MR. OGINSKI: His handwritten

24 surgery note.

25 MR. : Is there more than one

30

1 , M.D.

2 handwritten surgery note? You're

3 talking post surgery?

4 MR. OGINSKI: His own note.

5 A There's a brief operative note

6 which lists the date as 9/19/ . A brief

7 operative note lists the procedure done --

8 MR. : You answered it.

9 Q Is there a complete operative note
10 that you handwrote?

11 A There's an operative note that
12 says 9/19/ .

13 Q Looking through this patient's
14 chart can you tell whether the surgery occurred
15 in or ?

16 MR. : Asked and answered.

17 MR. OGINSKI: Well, we now have
18 two different dates.

19 MR. : You asked when the
20 surgery was performed and he told you
21 that already.

22 Q Can you tell me why the operative
23 note appears to have a different year listed?

24 A I don't know, I don't know.

25 Sometimes -- this is not my handwriting, the

1 , M.D.

2 name and sheet number. And I don't know why

3 the date is like that. This is my handwriting,

4 I wrote the text of the operative note.

5 Q Based upon the patient's record

6 can you tell me whether the surgery was

7 performed in or ?

8 MR. : Asked and answered.

9 You asked him that. He said , he

10 gave you the date before.

11 Q Can you turn please to your first

12 note for the patient on July 16, .

13 THE WITNESS: Can I speak to you?

14 MR. : Yes, of course.

15 (The witness and Mr. left

16 the room and subsequently returned.)

17 MR. OGINSKI: Can you read back

18 where I left off?

19 (The previous question was read by

20 the reporter.)

21 MR. : That's the one you're

22 looking at there?

23 MR. OGINSKI: Yes.

24 A Okay, I have it in front of me.

25 Q Can you read your note, Doctor,

32

1 , M.D.

2 into the record?

3 A 25-year-old female with complaints

4 of hollow under eyes bilaterally. No history

5 of tobacco use. Requesting improvement.

6 Physical exam shows bilateral malar fat ptosis.

7 Q What is that?

8 A Droopiness.

9 Q In which part?

10 A In the cheek fat.

11 Q Go ahead.

12 A Visual acuity okay. Good snap

13 back test.

14 Q What is that, Doctor?

15 A A snap back test is when the lower

16 eyelid is retracted and let go, released, in

17 order to test the lower lid tone.

18 Q Did you do that in both eyes?

19 A Yes.

20 Q Go ahead.

21 A That's my standard custom and

22 practice for the surgery to do it bilaterally.

23 Q Go ahead.

24 A Narrow nasal bridge secondary to

25 surgery performed one year ago. Plan:

1 , M.D.

2 Autologous versus alloderm. (C-Y-M-O-T-R-A
3 augmentation of bilateral malar region and
4 nasal sidewalls.) And my signature.

5 Q If you can in layman's terms, can
6 you tell me what your plan was?

7 A Well, this was the standard
8 practice during the consultation to discuss
9 procedures, alternatives, and risks regarding
10 the procedure. So we discussed different
11 procedures that could address some of these
12 issue.

13 Q What was it that you suggested or
14 recommended to her?

15 A At this point we discussed
16 augmenting the bilateral lash region, as
17 discussed. She was complaining of hollow,
18 sunken eyes and we had discussed that part,
19 that the hollowness was due to some -- she
20 might have excess skin of the lower lid region.

21 It also could be due to, as my note indicated,
22 malar fat ptosis.

23 Q Was a blepharoplasty discussed?

24 A A blepharoplasty refers to plastic
25 surgery of the eyelids.

34

1 , M.D.

2 Q Was there any discussion of that
3 type of procedure on the first visit?

4 A While I don't recall, my practice
5 with this type of presentation is to discuss
6 the option.

7 Q Maybe I didn't make myself clear.
8 Is there anything in your note of July 16th to
9 inform you or indicate that you had discussed
10 with her blepharoplasty on that date?

11 A The whole tone of the note brings,
12 you know, some vague recollection. It's custom
13 and practice with this type of clinical
14 presentation, which is common, that we discuss
15 blepharoplasty as an appropriate option.

16 Q If, in fact, that was discussed
17 would you expect to make a note of that in the
18 patient's chart?

19 MR. : Would he have
20 expected?

21 Q Would you have made a note in the
22 patient's chart?

23 A Now I dictate my notes.

24 Q Doctor, I'm not asking anything
25 about now, I'm only referring to July of .

1 , M.D.

2 A Please repeat the question.

3 Q If you had discussed with the
4 patient one of the options to treat her was a
5 blepharoplasty would you have written that into
6 your note?

7 A Not necessarily. We discuss
8 procedures, alternatives, and risks sometimes
9 without listing them.

10 Q Were there any other options that
11 you discussed with her that are not listed
12 within your July 16th note?

13 A I don't recall, but generally for
14 this problem I may recommend some type of laser
15 or chemical peel treatment of the lower lid; in
16 addition to other options which include
17 collagen injections.

18 Q Did indicate to you which
19 procedure or option she was going to have done?

20 MR. : At what time?

21 MR. OGINKSI: On July 16th.

22 A Well, at this time we didn't
23 schedule any surgery. It was her first visit
24 and we discussed again the procedure,
25 alternatives, and risks regarding what she

36

1 , M.D.
2 could do. So at this time we did not make any
3 definitive plan. She did not schedule surgery
4 at this time.

5 Q What were some of the risks
6 associated with the options you presented to
7 her?

8 A Which options?

9 Q The options you have listed in
10 your note.

11 A The risk of fat injection include,

12 but are not limited to, prolonged edema,
13 palpability of the fat. Continues asymmetry
14 irregularities of the areas being treated.
15 Need for revisional procedures. Asymmetry
16 irregularities from where the fat is harvested.
17 Seroma, hematoma. Need for revisional
18 procedures, further augmentation and --

19 THE WITNESS: Can I speak to you
20 for a moment, please?

21 MR. : Sure.

22 (The witness and Mr. left
23 the room and subsequently returned.)

24 MR. : He wanted to know
25 whether or not to get into all the

2 complications. You wanted to know I

3 think any other complications?

4 Q Doctor, in July of --

5 MR. : He didn't finish.

6 A I'd like to complete my answer.

7 Q Go ahead.

8 A Other complications specifically

9 with regard to fat injections include scarring,

10 eyelid deformity, ectropion.

11 Q You're referring, Doctor, to the

12 bottom of the page of the July 31st note?

13 A No, I'm referring to the question

14 that I'm answering. Didn't you ask me about

15 complications?

16 Q Go ahead.

17 A Those are I believe not

18 exhaustive. That doesn't limited the

19 complications, but those are the most common

20 complications from fat injections and from the

21 alloderm injections. Complications can include

22 concurring irregularities, need for revisional

23 procedures. Asymmetry, ectropion, lower eyelid

24 retraction.

25 Q Did you describe to all the

38

1 , M.D.

2 risks that you just described to me?

3 MR. : At the time?

4 MR. OGINSKI: At the time. I'm

5 only talking about at the time.

6 A While I don't remember whether I

7 discussed every one of those, but it's my

8 custom and practice to review the risks.

9 Q I'm sorry, Doctor, I'm only asking

10 specifically, I'll ask you generally at a later

11 time, specifically did you discuss with her

12 each of the risks that you described to me?

13 MR. : The question is does

14 he have an independent recollection of
15 whether or not he discussed all the
16 risks that he described back on July 16,
17 ?

18 MR. OGINSKI: Yes.

19 A I don't recall.

20 Q Who else was working in the office
21 with you in July of ?

22 MR. : If anyone.

23 A Part of my staff?

24 Q Yes.

25 A was on my staff.

1 , M.D.

2 Q What was his or her function?

3 A Her function was kind of like an

4 office manager.

5 Q Who else?

6 A At that time that was my only

7 staff member.

8 Q Did work in the office?

9 A That is , yes.

10 Q Did you have any type of assistant
11 when you would perform procedures or surgery
12 that would assist you?

13 A Assist me?

14 Q Like a surgical assistant. Anyone
15 to assist you during the time you would perform
16 surgical procedures.

17 A I had nurses or a nurse
18 technician, as needed.

19 Q For 's surgery on September
20 19, did anyone assist you?

21 A I don't believe so.

22 Q Were you affiliated with any
23 hospitals back in July of ?

24 A No.

25 Q Are you currently affiliated with

40

1 , M.D.

2 any hospitals?

3 A Yes.

4 Q Which ones?

5 A .

6 Q Any others?

7 A No.

8 Q What is your affiliation there?

9 A Attending physician.

10 Q In what department?

11 A Plastic surgery.

12 Q When did you begin that

13 affiliation, if you can recall?

14 A I'm not sure.

15 Q Was it at some point after the

16 year ?

17 A I believe it was in , I'm not

18 sure.

19 Q Before opening your office for the

20 practice of medicine in had you had

21 any other private office before that time?

22 A No.

23 Q Did you perform blepharoplasty at

24 any time before July of ?

25 A Yes.

41

1 , M.D.

2 Q Would that be in the course of

3 your residency, fellowship, and training?

4 A Correct.

5 Q Can you tell me approximately how

6 many blepharoplasties you had performed before

7 July of ?

8 A At least 100.

9 Q And these would usually be under
10 the supervision of the attending physician in
11 the hospital you were working?

12 MR. : Objection to form.

13 Q Well, during the time that you
14 were a resident and a fellow and you would be
15 performing blepharoplasties would it generally
16 be under the supervision of an attending
17 physician?

18 A Not necessarily.

19 Q Under what circumstances would it
20 not be under the supervision of an attending?

21 A I've performed many with an
22 attending and I've performed many without an
23 attending.

24 Q Can you read your July 18th note.

25 A Phone conversation with patient.

1 , M.D.

2 Says PAR, it stands for procedures,

3 alternatives, and risks discussed. All

4 questions answered. Reviewed regarding

5 autologous fat to malar lash and nasal side

6 walls. Price, \$4,500. Will schedule for

7 Monday, 7/24. My signature.

8 Q Do you recall that conversation?

9 A No.

10 Q Do you have any memory of what

11 said to you and what you said to her

12 during the conversation?

13 A No.

14 Q Can you tell from your note who

15 initiated the call?

16 A No.

17 Q Is there anything about your July

18 18th note to indicate that the patient was

19 going to have a blepharoplasty?

20 A No. Well, it does say that the
21 procedures, alternatives, and risks were
22 reviewed so one of the alternatives was
23 blepharoplasty.

24 Q And had any discussion been made
25 by that you have written in your notes

43

1 , M.D.

2 to indicate which procedure she was going to
3 have?

4 MR. : Anywhere in the note?

5 MR. OGINSKI: On the July 18th
6 note.

7 Q Was there anything, can you tell
8 from that note what procedure she told you she
9 wanted to have?

10 A No.

11 Q There's also a note -- I'm sorry,
12 underneath that it says will schedule Monday,

13 July 24th?

14 A Yes.

15 Q That date was changed to July

16 31st, correct?

17 A I don't know if that date was

18 changed. I have my next note on this page is

19 July 31st.

20 Q What assumptions can you make as a

21 result of that?

22 A None.

23 Q Do you see anything in your note

24 with any reference to July 24th, the patient

25 having come in on that date?

1 , M.D.

2 A No.

3 Q On July 31st did the patient

4 appear in your office?

5 A I'm not sure. It appears that I

6 have written a note, prescriptions were given.

7 Most likely she was. I don't have a

8 recollection.

9 Q That was for Percocet and Valium,

10 preoperatively?

11 A Yes.

12 Q And Percocet postoperatively?

13 A Yes.

14 Q What was written under the line,

15 mother or father will take home?

16 A Photographs.

17 Q And what does that tell you? Does

18 that tell you you took photographs or she was

19 to have photographs taken; what does that mean?

20 A I'm not sure. I don't remember.

21 Q Regardless, at some point before

22 the surgery photographs were taken in your

23 office before the surgery, right?

24 A Yes.

25 Q Who took the pictures?

45

1 , M.D.

2 A I believe I did.

3 Q What was the purpose of taking
4 pictures preoperatively?

5 A Standard practice.

6 Q What was the purpose of that
7 standard practice?

8 A Documentation.

9 Q To show what she looked like
10 before in comparison to later pictures or
11 results?

12 A My practice is I may take
13 photographs to study before a surgery to
14 compare the results for documentation reasons.

15 Q As of July 31, what procedure

16 did you intend on performing on ?

17 A I don't recall.

18 Q Is there anything in your notes up

19 until this point that would indicate to you

20 what procedure you were going to be performing?

21 A No.

22 Q Did you provide with any

23 written documentation about the procedures that

24 you discussed with her on the first visit?

25 A The

1 , M.D.

2 Surgeons has brochures regarding injectionable

3 materials. I don't recall if she got that. My

4 practice is to give the patient that. For

5 example, there are brochures regarding fat
6 injections. These are given to the patients
7 during their initial consultation.

8 Q As you sit here now you don't have
9 a recollection whether you did or not?

10 A Correct.

11 Q Did you show her during the
12 consultation of July 16th any photographs of
13 patients you had treated with similar
14 conditions to what she was complaining of?

15 A I don't recall. My practice --

16 Q I'm not asking your custom and
17 practice yet.

18 A All right.

19 Q Did you at any time before
20 performing surgery on September 19th provide
21 or show her photographs of patients of
22 yours who you had treated with similar
23 conditions?

24 A I don't recall.

25 MR. : I don't know if you're

1 , M.D.

2 aware, but he performed the same surgery

3 on her mother a few weeks before he

4 performed it on the Plaintiff. Were you

5 aware of that?

6 MR. OGINSKI: Yes

7 Q Did you see in your office

8 at any time between July 16th and September

9 19th?

10 A I'm sorry, can you rephrase it?

11 Q After July 31st do you have any

12 other notes for the patient before the surgery

13 that was done September 19th?

14 A I don't believe so.

15 Q Before the surgery did come

16 in to pay you your fee? I think it was \$4,000

17 or \$4,500?

18 A I don't recall when she made

19 payment. I'm not the one that collects

20 payment. But it's custom and practice that

21 it's done before the surgery.

22 Q Is there anything in the records

23 that you brought with you to indicate when it

24 was that she made the payment?

25 A No.

48

1 , M.D.

2 Q Now, you mentioned to me you also

3 have a brief operative note, correct?

4 A Yes.

5 Q Can you turn to that please?

6 A Yes.

7 Q May I see it?

8 A (Indicating.)

9 Q Doctor, looking at your brief

10 operative note dated September 19, , it

11 indicates you performed a blepharoplasty at

12 this time, correct?

13 A Yes.

14 Q Did you know prior to that date

15 that was going to have the

16 blepharoplasty?

17 A I knew prior to the date.

18 Q When?

19 A I don't know when.

20 Q Do you know what you discussed

21 with about the blepharoplasty prior to

22 September 19th?

23 MR. : Beyond what he's

24 already told you?

25 MR. OGINSKI: Yes.

1 , M.D.

2 Q Anything specific?

3 A Prior to that date?

4 Q Yes.

5 A I don't recall, but custom and

6 practice --

7 Q I'm not -- I'm sorry, Doctor I'm

8 not asking that yet.

9 MR. : So prior to the

10 surgery date is the question?

11 MR. OGINSKI: Yes.

12 Q Did you have any specific

13 conversation with about blepharoplasty?

14 A I'm sure I did.

15 Q Anything that you recall as you

16 sit here now?

17 A No.

18 Q Now, your attorney has mentioned
19 you performed surgery on her mom a few weeks
20 earlier; is that right?

21 A Yes.

22 Q Where was that done?

23 A In the same place.

24 Q Same office?

25 A Yes.

50

1 , M.D.

2 Q Was present for any
3 conversation or consultation that you had with
4 her mom in preparation for the surgery?

5 A I believe so. Every consultation
6 she was there.

7 Q I'm sorry?

8 A Her mother. Every time I believe
9 she came in her daughter was present with her.

10 Q You're referring to being
11 present?

12 A Yes.

13 Q Did you perform blepharoplasty to
14 her mom?

15 THE WITNESS: That's confidential
16 information. Is it okay to --

17 MR. : It's confidential
18 information. The fact -- I mean, to the
19 extent that --

20 MR. OGINSKI: It only relates, and
21 since you raised the issue, I'm only
22 concerned about --

23 MR. : I didn't raise it as
24 an issue. I have no -- I'm not her
25 attorney, I have no obligation to

1 , M.D.

2 conceal any facts that she may have. I

3 told you as a matter of course, not to

4 raise an issue.

5 MR. OGINSKI: Fine.

6 Q Was it your custom and practice

7 before you performed any type of surgery that

8 you have a discussion with the patient about

9 the risks and benefits of the procedure?

10 A Yes.

11 Q What are the risks of a

12 blepharoplasty as they existed in September of

13 ?

14 A Bleeding.

15 Q I'm sorry, Doctor, you're

16 referring now to a written document that you

17 have in your note?

18 MR. : It's part of the

19 record that we marked?

20 MR. OGINSKI: Yes.

21 Q You're referring to this; is that

22 correct?

23 A Yes.

24 Q That's the form, it says informed

25 consent?

52

1 , M.D.

2 A Of the

3 regarding blepharoplasty surgery.

4 Q Do you ask patients to read that

5 prior to having that procedure perform?

6 A Not only do they read it, but the

7 custom and practice is to review this point by

8 point, word by word, and in order to ensure she

9 understands word by word and there are no
10 issues I have them initial every single page so
11 there isn't one iota of any doubt or question
12 or anything. And we review it three times,
13 five times. I've reviewed it 10 times with
14 patients in order to make sure that all the
15 questions are answered, that they understand
16 the introductions -- that they understand the
17 instructions as to what the informed consent
18 document is. They understand there are
19 alternative forms of management for
20 blepharoplasty. Then we discuss the risks
21 which include, but are not limited to,
22 bleeding, blindness, infection, scarring,
23 damage to deeper structures.

24 Q Again, Doctor, you're reading from
25 a form.

1 , M.D.

2 A Yes, I am, from a form of the

3 .

4 Q You don't have to read it, I'm

5 going to ask you specifically --

6 A I didn't complete the

7 complications you asked for.

8 Q Go ahead.

9 A For the record, it also mentions

10 dry eye problems, asymmetry, chronic pain, skin

11 disorders, ectropion, corneal exposure

12 problems, unsatisfactory results, allergic

13 reaction, eyelash hair loss, delayed healing,

14 long term effects, complications and injury,

15 and death from anesthesia.

16 In addition, it discusses that

17 there are additional surgery that may be

18 necessary. And that should complications

19 occur, additional surgery or other treatment

20 may be necessary in the practice of medicine

21 and surgery.

22 Q Doctor, you don't have to read it,

23 it's okay.

24 A Okay.

25 But those are the risks. And

54

1 , M.D.

2 financial responsibility.

3 Q Separate and apart from the

4 document you have in front you that you've been

5 reading from, do you have a separate discussion

6 with the patient in layman's terms as to what

7 the risks are?

8 A Of course. Before we discuss this

9 we discuss procedures, alternatives, and risks.

10 Q Did you do that with in

11 this case as far as the blepharoplasty you were
12 going to be performing?

13 A Yes.

14 Q Do you have a recollection of
15 that?

16 A No.

17 Q Did ask you any questions
18 in response to anything you were telling her
19 about the risks of the blepharoplasty?

20 A I don't recall.

21 Q Was anyone in the room with you at
22 the time you had a conversation with her about
23 the blepharoplasty?

24 A My practice --

25 Q No, no, I'm not asking that.

1 , M.D.

2 Specifically in this case, do you have any
3 recollection of who, if anyone, was with her?

4 A I don't recall.

5 Q Were you the one who gave
6 that particular form to sign or initial?

7 A Absolutely. Again, as I said, I
8 review this point by point, word by word, with
9 the patient after they have had a chance to
10 read it and they are given as much time as they
11 need to read it. It could be 15 minute or 5
12 hours. If the patient needs to take it home
13 with them to review it, they can take it home.

14 Q Did give these papers to
15 to sign?

16 A I don't recall.

17 MR. : Objection to form.

18 Q Was there a time in the beginning
19 part of your practice when would give
20 the informed consent and other papers necessary
21 to perform procedures to sign?

22 MR. : Objection to form.

23 You can answer.

24 A Maybe she would give patients that

25 to sign, yes.

56

1 , M.D.

2 Q Did ever render or give

3 any medical advice to any patients in July,

4 August, or September of ?

5 A Not to my knowledge.

6 Q Do you recall any conversation

7 with on September 19th prior to actually

8 performing the procedure?

9 A No.

10 Q Do you have any memory of who

11 accompanied on September 19th to your

12 office?

13 A I believe it was her mom.

14 Q Did you have any conversation with

15 her mom before the procedure?

16 A I don't recall. I know that her

17 mom was ecstatic with the surgery results.

18 That's kind of what we talked about. She was

19 excited for her daughter. I don't have a

20 specific recollection.

21 Q Did you ever learn from on

22 the first visit, July 16th, that one of the

23 reasons she came to you was because she saw one

24 of your advertisements for fat injections?

25 A I don't recall that now.

2 Q Were you at that time running ads
3 in the New York Post and other places for fat
4 injections.

5 A Not to my knowledge, no.

6 Q Were you running any ad for fat
7 injections?

8 A Not to my knowledge for fat
9 injections.

10 Q Do you have any ad on the Internet
11 or any other place that describes fat
12 injections as a treatment for certain type of
13 conditions?

14 A I don't know if it was part of
15 website at that time, but I don't know of any
16 specific advertisement at that time that I can
17 recall regarding fat injections.

18 Q The postop instructions that you
19 give to patients after a procedure, do you give
20 them written instructions?

21 A Yes.

22 Q As well as oral, verbal
23 instructions?

24 MR. : What's the question?

25 MR. OGINSKI: I'll rephrase it,

58

1 , M.D.

2 Q In 's case, did you give her
3 any written postoperative instructions?

4 A I don't recall. My custom and
5 practice --

6 Q Not the standard practice.

7 A I don't know.

8 Q Is there anything in your notes to
9 indicate what documents you gave to her, if
10 any, following the procedure?

11 A No.

12 Q Who is Dr. ?

13 A He's an ophthalmologist and

14 surgeon.

15 Q Did there come a time that you

16 referred to Dr. ?

17 A Yes.

18 Q Why did you refer to Dr.

19 ?

20 A I wanted her to receive a second

21 opinion evaluation.

22 Q For what reason?

23 A She had sclera show and I wanted

24 her to be evaluated by another doctor.

25 Q What is sclera show?

1 , M.D.

2 A Exposure of the sclera.

3 Q And before sending her to Dr.

4 for a second opinion had you formed any
5 opinion as to the reason why she had sclera
6 show?

7 A No, I didn't know why she had it.

8 Q Before performing the surgery on
9 September 19th did have any sclera show?

10 A (No verbal response was given.)

11 MR. OGINSKI: I'll rephrase the
12 question, Doctor.

13 Q Is there anything in your notes in
14 the course of your examination and discussions
15 with to indicate that in your
16 preoperative evaluation there was any evidence
17 of sclera show?

18 A No.

19 MR. : That's including
20 pictures?

21 MR. OGINSKI: Pictures,
22 examination, or anything.

23 Q By the way, Doctor, the
24 preoperative photographs you're looking at what

25 date were they taken?

60

1 , M.D.

2 A The day of her surgery.

3 Q September 19th?

4 A Yes.

5 Q Is there anything on the

6 photographs that would confirm that fact?

7 A No. The date is not on the

8 photographs.

9 Q Is that something you have a

10 distinct memory of being taken on the day of

11 the procedure?

12 A I believe so, yes. I'm pretty

13 sure.

14 Q Is there anything on the

15 photographs themselves that would indicate the
16 date the pictures were taken?

17 A No.

18 Q Based upon your review of the
19 patient's preoperative photographs that you're
20 looking at now, is there anything to confirm or
21 suggest to you that she had sclera show prior
22 to the procedure?

23 THE WITNESS: Can I speak to you
24 for a second?

25 MR. : Sure.

1 , M.D.

2 (The witness and Mr. left

3 the room and subsequently returned.)

4 (The previous question was read by

5 the reporter.)

6 A No.

7 Q Do you know a Dr. ?

8 A Yes.

9 Q Who is he?

10 A He's a plastic surgeon.

11 Q Did there come a point in time

12 that you referred to Dr. ?

13 A Yes.

14 Q For what reason did you refer

15 to Dr. ?

16 A I was very concerned about her and

17 she expressed that she didn't want to go see

18 Dr. again, so I recommended that she

19 see Dr. .

20 Q When you say you were very

21 concerned about her, concerned about what?

22 A I wanted her to be seen by another

23 doctor regarding her sclera show.

24 Q That was why you referred her to

25 Dr. ?

1 , M.D.

2 A Yes. I was concerned about her, I
3 wanted her to have another opinion by another
4 doctor and --

5 MR. : You answered it.

6 Q Have you ever trained with either
7 Dr. or Dr. ?

8 A I trained with Dr. .

9 Q Where did you train with Dr.
10 ?

11 A At Hospital.

12 Q Based upon your review of the
13 chart, do you see notes in your record from
14 both Dr. and Dr. about their
15 evaluation?

16 A No. I have a record from Dr.

17 .

18 Q Did you have any discussion with

19 Dr. , either in person or on the

20 telephone, about his evaluation of ?

21 A Yes.

22 Q Is that contained within your

23 office record?

24 A The note dated 1/3/ says that

25 she has seen Dr. on my referral and he

63

1 , M.D.

2 suggested that she wait a full six months to

3 allow for resolution before intervention

4 surgically.

5 Q Now, Doctor, would it be accurate

6 to say the date 1/3/ would be inaccurate

7 since she had the procedure on September 19,

8 ?

9 A Yes, that would be inaccurate,

10 correct.

11 Q Did you have any conversation

12 personally with Dr. about ?

13 A Yes.

14 Q Do you have a note that reflects

15 your conversation?

16 A No.

17 Q When did you have a conversation

18 with Dr. ?

19 A I don't recall. After his

20 consultation with her. I believe the same day

21 or the next day he called me.

22 Q Do you have a memory of what he

23 said to you and what you said to him about

24 ?

25 A Not exactly, but he discussed that

1 , M.D.

2 she had what is very a common complication
3 after blepharoplasty. He would be happy to
4 follow her up and that it was too early to do
5 any intervention surgically because Dr. ,
6 in his words, said that a majority of these
7 resolve on their own.

8 Q Referring to what?

9 A The sclera show.

10 Q Was that the only reason that she
11 had been sent to him was for an evaluation?

12 A She was sent to him for a medical
13 evaluation and recommendation.

14 Q Other than the sclera show that
15 you told me about, was there any reason
16 medically that you were sending her to him?

17 A Not that I recall.

18 Q Was there any other reason that
19 you had sent to Dr. other than
20 you wanted him to evaluate the sclera show?

21 A Not that I recall.

22 Q Have you ever given any lectures
23 in the course of your career to any national
24 bodies of plastic surgeons?

25 A Yes.

65

1 , M.D.

2 Q How many?

3 A About five.

4 Q Do any of those lectures involve
5 blepharoplasty?

6 A No.

7 Q Have you published anything in the

8 field of medicine?

9 A Yes.

10 Q How many?

11 A I don't recall.

12 Q Approximately how many?

13 A I think about two publications.

14 Q How long ago did you publish these

15 articles or whatever they were?

16 A Within the past six to eight

17 years, I believe.

18 Q Do either of those publications

19 involve blepharoplasty?

20 A No.

21 Q Do you have a curriculum vitae

22 with you, Doctor?

23 A No.

24 Q How long did your surgery on

25 September 19th take with ?

1 , M.D.

2 A I don't recall exactly.

3 Q Both eyes were done?

4 A Yes.

5 Q Can you estimate for me the length

6 of time it would have taken you to perform

7 these procedures?

8 MR. : Would have?

9 Q Did you encounter any

10 complications during the procedure?

11 A No.

12 Q Absent any complications, how long

13 would it ordinarily take you to perform the

14 procedure?

15 A Within one hour.

16 Q Was awake for the

17 procedure?

18 A Yes.

19 Q Did you administrator -- what type

20 of anesthesia did you administer to ?

21 A Local anesthesia.

22 Q Was she given any intravenous

23 sedation?

24 A No.

25 Q Did she make any complaints to you

67

1 , M.D.

2 during the course of the procedure?

3 A Not that I recall.

4 Q If she had complained of anything

5 in particular would you have written it in your

6 note?

7 A That would be custom and practice.

8 Q Did you remove any fat pads during

9 the course of the procedure?

10 A No.

11 Q Typically, when performing a
12 blepharoplasty do you as the plastic surgeon
13 remove fat pads?

14 A Typically?

15 Q Yes.

16 A There's nothing done typically,
17 every patient is an individual.

18 Q With regard to the blepharoplasty
19 what was the purpose, if any, in removing fat
20 pads?

21 MR. : Objection to form. It
22 assumes he removed fat pads.

23 MR. OGINSKI: Right. I said if
24 any.

25 MR. : Objection to form.

1 , M.D.

2 Q Are there instances when you
3 perform blepharoplasty and remove fat pads?

4 A There are instances when that is
5 done, yes.

6 Q Are there instances, likewise,
7 where you don't need to or don't remove the fat
8 pads?

9 A Correct.

10 Q Is there any particular reason you
11 did not remove any fat pads from during
12 this procedure?

13 A I didn't feel that she had a lot
14 of fat herniation and I didn't want to
15 skeletonize the eyes which can happen from fat
16 removal.

17 Q Can you turn to your brief note
18 for September 19th and read that.

19 MR. OGINSKI: Off the record?

20 (Discussion off the record.)

- 21 A Previous BON procedure.
- 22 Blepharoplasty and Botox to forehead and
- 23 glabella.
- 24 Q Where is the glabella?
- 25 A This region between the eyebrows

69

- 1 , M.D.
- 2 (indicating). Surgeon, . Anesthesia,
- 3 local. 1 percent lidocain with epinephrine. 1
- 4 to 100,000. No complications. Tolerated well.
- 5 Suture repair six-prolene and 6-0 fast
- 6 absorbing gut. No fat excision. See full
- 7 operative note, and my signature.
- 8 Q What is Botox?
- 9 A Botulism toxin.
- 10 Q What is the purpose of

11 administering Botox?

12 A One of the purposes is to decrease

13 muscle movement so wrinkles don't occur on

14 animation.

15 Q Were you the one that represented

16 that she have Botox?

17 A Yes.

18 Q Did in the course of your

19 consultation sign or indicate her consent for

20 Botox?

21 A Yes.

22 Q Is there anything in your July

23 note that appears on one page entitled on the

24 top right sheet number 8 anything about a

25 discussion with her involving Botox?

1 , M.D.

2 A No.

3 MR. : Other than what

4 already has been stated?

5 MR. OGINSKI: Of course.

6 Q When did you refer to Dr.

7 ?

8 A I don't know the exact date.

9 Q All right.

10 Doctor, the blepharoplasty is

11 commonly a procedure used to remove fat,

12 correct?

13 A It can be. It can involve fat

14 removal.

15 Q Did you ever tell how you

16 were going to perform the blepharoplasty?

17 A Of course. When we review the

18 consent form, as I mentioned, we have a

19 discussion of the procedure, alternatives, and

20 risks, questions are answered, and then the

21 informed consent documents are discussed point

22 by point, as mentioned.

23 Q Do you go into detail as to how
24 you intend to perform the procedure?

25 A What do you mean by detail?

71

1 , M.D.

2 Q Well, how detailed do you get when
3 you discuss the performing of blepharoplasty?

4 A My practice is to discuss where
5 the skin incision is made, what is removed,
6 whether it's skin or fat or both. Where they
7 can expect the scar. Suture material that's
8 used. Those are some of the things I discuss.

9 Q Do you have a memory specifically
10 of anything you said to and anything she
11 said to you about how you were going to be
12 performing this procedure?

13 A No.

14 Q Were you the one to recommend the

15 blepharoplasty to or did she ask for it,

16 this particular procedure?

17 A Well, I don't remember a specific

18 conversation. Typically --

19 Q Not typically, Doctor, I'm asking

20 specifics.

21 MR. : Only if you remember.

22 A I know she asked for

23 blepharoplasty. I don't know when, I don't

24 know what the exact conversation was, but she

25 had -- as I mentioned, this was one of the

1 , M.D.

2 alternatives discussed and this was one of her

3 options that were discussed in the past and she
4 chose this option.

5 Q On her visit with you on July
6 16th, you examined on that date?

7 A Correct.

8 Q And you took a history?

9 A That's typically what I do, yes.

10 Q Can you show me where in the July
11 16th note you have recorded a history?

12 A What type of history?

13 Q Any history.

14 A Well, on July 16th the patients
15 fill out a medical sheet so we have a history
16 of medical, allergies, history of medication
17 she's on, history of previous procedures. And
18 she denied any bruising or bleeding problems,
19 asthma.

20 Q Okay.

21 You don't have to read through the
22 form. Other than the form do you, yourself,
23 take any type of history?

24 A My practice is to review this with
25 the patient and I'll review their history in

73

1 , M.D.

2 more detail and ask other questions regarding
3 specifics depending on what area I'm treating.

4 Q May I see this?

5 A (Handing.)

6 Q In the form that she filled out
7 you learned she had prior nasal surgery?

8 A Yes.

9 Q Did you ask her any questions
10 about that?

11 A I don't recall.

12 Q Were there any contraindications
13 based upon your discussion with or

14 evaluation of her history to performing the

15 blepharoplasty that you ultimately did?

16 A No.

17 Q Can you turn please to Dr.

18 's note?

19 A Okay.

20 Q This is a typewritten note dated

21 October 31, ?

22 A Correct.

23 Q In addition to the typed note do

24 you also have a handwritten note that refers to

25 an evaluation on the same day?

1 , M.D.

2 A I do not.

3 Q To your knowledge, Doctor, did

4 see Dr. on more than one

5 occasion?

6 A I only have one note from him. I

7 don't believe she saw him again. I'm not sure.

8 Q If you can please turn back to Dr.

9 's typed report.

10 A Yes.

11 Q Okay.

12 How do you know Dr. ?

13 A He's an ophthalmologist and he

14 specializes in eyelid surgery. I knew of him.

15 Q Did he also have an office for the

16 practice of medicine in the building or floor

17 you were on?

18 A Yes.

19 Q Did you share space with him?

20 A No.

21 Q You weren't in the same suite?

22 A We were in the same suite but not

23 -- I had my own space.

24 Q Okay.

25 In his report it's noted,

1 , M.D.

2 prominent lower lid retraction, do you see

3 that, right greater than left?

4 A Yes.

5 Q What does that mean?

6 A It means prominence in lower lid

7 retraction.

8 Q The retraction would be what?

9 A I don't know, you have to ask him.

10 Q In your observation of this

11 patient after surgery, between September 19th

12 and October 31st, did you see evidence of lower

13 lid retraction?

14 A Yes.

15 Q Can you characterize that -- by

16 the way, was it both eyes, both eyelids, or
17 one, or something else?

18 A Repeat the question, please.

19 (The previous question was read by
20 the reporter.)

21 MR. OGINSKI: I'll rephrase the
22 question.

23 Q When you observed the lower lid
24 retraction was it on one eye or both eyes
25 postoperatively?

76

1 , M.D.

2 THE WITNESS: Can I speak to you
3 for a moment?

4 MR. : Sure.

5 (The witness and Mr. left

6 the room and subsequently returned.)

7 MR. OGINSKI: Do you need the

8 question again, Doctor?

9 THE WITNESS: Yes.

10 (The previous question was read by

11 the reporter.)

12 A On what date?

13 Q At any time after September 19th

14 up until October 31st.

15 A On September 22nd my note

16 indicates that the patient had left lower lid

17 ectropion and that would indicate some

18 retraction. My next note is from October 2,

19 which indicates that the left lower lid

20 was resolving sclera show. And my next note I

21 believe is November 5, was after she saw

22 Dr. . And that note of November 5th, my

23 note indicates left lower eyelid, no sclera

24 show, right lower lid with minimal sclera show.

25 Q Okay.

1 , M.D.

2 If you can please turn back to Dr.

3 's note of October 31st.

4 A Certainly. Yes.

5 Q By the way, retraction, again your

6 understanding of the term is that the eyelid is

7 moved away from --

8 MR. : Why don't you ask him

9 what it means.

10 Q What is that, Doctor?

11 A Retraction is a general term.

12 While it's not in my note, it means something

13 is pulled away from something else.

14 Q What would it be pulled away from?

15 A In this case it may refer to --

16 while I would have to ask him specifically what

17 he was referring to in Dr. 's note, most
18 likely it may refer to retraction of the lower
19 eyelid away from the globe.

20 Q Globe of the eye?

21 A Yes. Or inferior retraction, a
22 downward retraction of the lower eyelid.

23 Q Is ectropion the same as
24 retraction?

25 A I don't know if that's what he is

1 , M.D.

2 using to refer to it.

3 Q Can you define ectropion as you
4 used it in your 9/22 note?

5 MR. : Didn't we already go

6 through this? Didn't you ask him to

7 define it already?

8 MR. OGINSKI: Yes, I did.

9 Q You describe retraction of the
10 lower eyelid as rounding of the lower eyelid?

11 A If you read it back I believe I
12 said it may involve retraction or rounding of
13 lower lid, dry eyes, ectropion, it's a
14 constellation of symptoms I described.

15 Q What causes ectropion?

16 A It's multifactoral.

17 Q Does excision or removal of skin
18 from the eyelid, does that cause ectropion?

19 A I believe it can.

20 Q Are there any other reasons that
21 would cause ectropion?

22 A I believe some things that can
23 cause ectropion are scarring, burns, trauma,
24 certain eyelid deformities, surgical procedures
25 of the eyelids, injections around the eyelids,

1 , M.D.

2 tumors. These are some of the things.

3 Q Had ever had any surgery to

4 her eyelids before September 19th?

5 A Not that I know of.

6 Q And the upper lid ptosis that Dr.

7 describes, is that something you

8 observed as well?

9 A Yes.

10 Q What was the cause, if any, for

11 the ptosis?

12 A I don't know. After Botox it's a

13 known sequela that is temporary and it could

14 happen from Botox injection.

15 Q Is ptosis a drooping of the

16 eyelid?

17 A Ptosis refers to drooping, in this

18 case, drooping of the eyelid.

19 Q Did that improve over time, that
20 ptosis?

21 A I believe that resolved
22 completely, yes.

23 Q Dr. improves that a
24 cicatricial retraction in both lower lids, what
25 does that mean to you, Doctor?

80

1 , M.D.

2 A Cicatricial usually refers to,
3 it's a general term I believe for scarring.

4 Q He had recommended massage with
5 ointment, correct?

6 A That's what's indicated in his
7 note, yes.

8 Q Do you know Dr. ?

9 A What's his first name?

10 Q .

11 A I know Dr. , yes.

12 Q How do you know him?

13 MR. : Know him or know of

14 him?

15 A I know of him.

16 Q Do you know him personally?

17 A No.

18 Q Do you know him professionally?

19 A I know he's a plastic surgeon,

20 yes.

21 Q Have you ever had any contact with

22 Dr. regarding ?

23 THE WITNESS: Can I speak to you

24 for a second?

25 MR. : Sure.

1 , M.D.

2 (The witness and Mr. left

3 the room and subsequently returned.)

4 (The previous question was read by

5 the reporter.)

6 A I don't recall.

7 Q Did you ever learn from

8 that she was being treated by Dr. in

9 after she left your care?

10 A I don't recall.

11 Q Do you have any notes in your

12 office records or office chart to indicate any

13 treatment or any records from Dr. ?

14 A No, I don't believe so.

15 Q Do you know a Dr. ?

16 A I know of a Dr. .

17 Q What is your knowledge of that

18 individual's specialty?

19 A He's a plastic surgeon.

20 Q Did you learn that
21 consulted with Dr. in April of ?

22 A I don't know when she told me she
23 saw Dr. .

24 Q Did she tell you why she went to
25 Dr. ?

82

1 , M.D.

2 A She wanted another opinion and she
3 told me Dr. said he's had this
4 complication many times and he encouraged her
5 that it may resolve. He didn't recommend
6 surgery at the time he saw her.

7 Q Is that something you have a
8 memory of or something recorded in your office
9 record?

10 A I have a memory of that.

11 Q Did you ever speak to Dr.

12 directly about ?

13 A No.

14 Q Do you know Dr. , also a

15 plastic surgeon in ?

16 A No.

17 Q Did you learn prior to the start

18 of this lawsuit that underwent surgery

19 with Dr. in ?

20 MR. : Prior to the start of

21 the lawsuit the question is?

22 MR. OGINSKI: Yes.

23 A No, I didn't know she had surgery.

24 Q Can I see your chart, please?

25 A (Handing.)

1 , M.D.

2 Q Thank you.

3 Can you read the last page. It

4 appears here, Doctor, it has a date that says

5 May 17th.

6 A Yes.

7 Q Does it say what year it is?

8 A No.

9 Q Can you tell from your record what

10 year that is?

11 A It would be .

12 Q Can you read your entire note?

13 A Sure. Patient presents for follow

14 up. She says she has consulted several doctors

15 so far. She has no complaint of dry eyes or

16 visual defect or double vision. Physical

17 examination, ocular closure is normal.

18 Physical examination is without significant

19 change from prior visit. She has bilateral

20 lower lid descent.

21 Q What is that, Doctor?

22 A What?

23 Q Lower lid descent.

24 A Descent is just downward migration

25 of the lower lid. And it also says there is no

84

1 , M.D.

2 hypertrophic scar.

3 Q The lower lid descent, did you

4 form any opinion as of that date as to what the

5 cause of that condition was?

6 A No, I didn't know why that

7 happened.

8 Q Had you seen that type of

9 condition as a result of blepharoplasty in your

10 experience as of that time?

11 A Throughout my training as a

12 surgeon?

13 Q At any time in your medical career

14 in your training up until May 17th.

15 A Yes.

16 Q Had you seen this condition as a

17 result of the blepharoplasty?

18 A Yes, I have.

19 Q Go ahead, please.

20 A It says, I again discussed with

21 the patient and mother that I encouraged a

22 consultation with an expert in ophthalmic

23 plastic surgery. As per my request she was

24 seen Dr. and Dr. . We again

25 reviewed the procedures, alternatives, and

2 risks and answered all questions regarding
3 lower lid reconstructive surgery. All
4 questions answered. Patient and mother appears
5 to understand. I reviewed options as per Dr.
6 's article again --

7 Q What do you mean by that?

8 A I believe there was an article
9 that we -- Dr. is a plastic surgeon that
10 he wrote articles in some journal. We reviewed
11 some pictures. Dr. mentions, to my
12 recollection, he has written about
13 blepharoplasty and says ectropion is a common
14 complication and discusses that.

15 Q Did you have a copy of the article
16 with you or did bring one with her
17 regarding this doctor at the time you met with
18 her on May 17th?

19 A I don't recall.

20 Q Was there a discussion about a
21 further surgical procedure that you intended to
22 perform as of May 17th?

23 A I didn't intend to perform a
24 procedure at this time.

25 Q What was it that you discussed

86

1 , M.D.

2 that required discussed the risks and
3 procedures in the bottom part of your note?

4 A Well, at this point I felt that in
5 the future she may require some type of lower
6 lid reconstructive surgery and when I discussed
7 options regarding reconstructive surgery we had
8 a discussion regarding that.

9 Q Did she tell you anything
10 specifically as to what her intentions were as
11 far as whether she wanted to have any
12 reconstructive surgery done at that time?

13 A I don't recall.

14 Q Did you speak to after May

15 17, ?

16 A Not that I recall.

17 Q Did you ever learn either from her

18 mom or her dad or anyone else who was familiar

19 with about what treatment she received

20 after leaving your care after May 17, ?

21 MR. : Is that privileged

22 information?

23 MR. OGINSKI: No, I'm just asking

24 as a general question is there anyone

25 who gave him information about her

1 , M.D.

2 ongoing condition.

3 MR. : No, you're asking in
4 general did any of her other physicians
5 speak about any other conditions she may
6 have been undergoing.

7 MR. OGINSKI: I'll rephrase the
8 question.

9 Q Did anyone ever tell you or
10 describe to you what treatment received
11 after May 17, ?

12 MR. : With regard to this
13 lawsuit?

14 MR. OGINSKI: Yes, with regard to
15 the treatment she had already received.

16 MR. : Off the record.

17 (Discussion off the record.)

18 Q Did you speak to anyone for any
19 reason about after May 17, before
20 this lawsuit was ever started?

21 THE WITNESS: Can I speak to you
22 outside for one second?

23 MR. : Sure.

24 (The witness and Mr. left

25 the room and subsequently returned.)

88

1 , M.D.

2 (The prior question was read by

3 the reporter.)

4 Q Did you speak to anyone about

5 after May 17, ?

6 A No.

7 Q The postoperative photographs that

8 you have in your chart when were those taken?

9 A I'm not sure.

10 Q Is there anything on the

11 photographs that would tell you when they were

12 taken?

13 A No.

14 Q Is there anything in your office

15 records that would indicate when they were
16 taken?

17 A I'm pretty sure it was the last
18 visit.

19 MR. : Including the billing?

20 MR. OGINSKI: Yes.

21 A On the photograph on the back it
22 says --

23 MR. : The date on the back
24 of the photograph could reflect the date
25 of development, not necessarily the date

1 , M.D.

2 they were taken.

3 A I believe I have postoperative

4 photographs from two dates but they're not

5 dated. Some of the photographs have a date of
6 -- there's one set of postop photographs with
7 a development date of June 19, , and that's
8 these. I'm not sure which date these are from.
9 I believe these are from -- I'm not sure when
10 those are from (indicating).

11 MR. : Off the record.

12 (Discussion off the record.)

13 Q Can you estimate based upon
14 looking at 's condition in those two
15 postoperative set of photographs as to when
16 approximately they were taken?

17 A No.

18 Q Doctor, how do you know how much
19 skin to remove during blepharoplasty?

20 A Some blepharoplasty no skin is
21 removed.

22 Q In 's case was skin removed?

23 A Yes.

24 Q So how do you know how much to
25 remove?

1 , M.D.

2 MR. : How did he know?

3 MR. OGINSKI: Yes.

4 A The patient is reevaluated
5 preoperatively regarding how much skin they
6 have and the desired surgical result. And
7 typically during the surgery, as indicated in
8 the note, the operative note, you want to make
9 sure there's no tension on the lower lid after
10 skin excision. Typical intraoperatively it's
11 custom and practice and that's one of the
12 advantages to performing the surgery under
13 local anesthesia that before the skin is
14 removed typically we ask the patient to open
15 their mouths wide and to elevate their brow

16 simultaneously.

17 Q What does that accomplish?

18 A That accomplishes a stretching of
19 the muscles. Even if we take out the amount of
20 skin that we plan, a minimal amount that I did
21 take out on her, that there would be absolutely
22 no tension on the lower eyelid.

23 Q Did you do that in this case?

24 A Of course.

25 Q Did make any response to

1 , M.D.

2 you? Did you give her certain commands to do
3 during the procedure?

4 A Yes.

5 Q As a result of those commands did

6 you make any determination as to how much skin

7 you were going to remove?

8 A Well, it's all part of the

9 decision making again in the preoperative

10 physical examination, intraoperative

11 dissection. Intraoperatively having them do

12 that motion. The skin, you know, is general

13 draped as indicated in the operative note. The

14 skin muscle flap was gently draped over the

15 superior wound edge without any traction

16 whatsoever. So that's done before any extra

17 skin is taken out.

18 Q What happens if your intent is to

19 remove skin and you leave excess amounts of

20 skin, you don't take enough for what is

21 practical, what is the result of that, if

22 anything.

23 A You may need to -- the patient may

24 need to have another procedure.

25 Q If too much skin is removed, even

1 , M.D.

2 after undergoing that description that you
3 described about asking them to open their mouth
4 wide, what happens then typically if too much
5 skin is removed?

6 A During the surgery?

7 Q Yes.

8 A As Dr. described, he had
9 such a complication. He told her about what I
10 believe what the recommended treatment is if
11 that happens. The skin is saved, the skin is
12 not thrown out until the completion of the
13 procedure, and if you notice a deficiency it is
14 put back as a skin graft.

15 Q As a general matter, if too much
16 skin is removed during the course of the
17 procedure can you get the ectropion?

18 A If excess skin is removed can you

19 get ectropion?

20 Q Yes.

21 A I believe I answered that

22 question, if extra skin is removed it can cause

23 ectropion.

24 Q In 's case -- I'm sorry, did

25 you save the skin in the manner you just

93

1 , M.D.

2 described that Dr. had referred to?

3 A Yes, that's standard practice.

4 Q And what do you do with that skin?

5 A It's placed in a gauze and in ice.

6 Q Where does it go from there?

7 A At the end of the procedure it's

8 thrown out.

9 Q After asking to open her

10 mouth, as you described, and you said there was

11 no tension on the lower eyelid -- both eyes?

12 A I want to correct that. The lower

13 lid is usually saved in saline at room

14 temperature and it could maybe have ice in it

15 so it doesn't get warm.

16 Q When you said there was no tension

17 in the lower eyelid, that's both eyes?

18 A Of course.

19 Q If there was tension present after

20 the command that you tell the patient to open

21 their mouth what do you do?

22 A If that were to happen?

23 Q Yes.

24 A If there was extra tension?

25 Q Yes.

1 , M.D.

2 A You wouldn't -- you would take
3 less skin. The skin is not taken out until you
4 estimate that.

5 Q Okay.

6 A So that's not done after, it's
7 done before so if there's extra tension you
8 take out less or no skin.

9 Q Would you agree as a surgeon
10 performing the procedure you need to be
11 conservative?

12 MR. : Objection to form.

13 Conservative in what way?

14 Q In the amount of skin you remove.

15 MR. : Objection to the form.

16 Q Would you agree that the standard
17 of care that existed in September of was
18 that you leave enough skin to allow the lid to

19 close?

20 A Yes.

21 Q Is there anything in your note for

22 September 19th, either in your brief operative

23 note or your full handwritten operative report,

24 to confirm the test or the procedure that you

25 described about commanding , telling

95

1 , M.D.

2 to open her mouth to test the tension?

3 A I don't see it but that's my

4 standard custom and practice. I don't see that

5 exact maneuver that I described.

6 Q In addition to asking the patient

7 to open their mouth is there anything else to

8 tell them to evaluate this?

9 A Simultaneously they open their

10 mouth wide and elevate their brow.

11 Q Do you have an opinion as you sit

12 here now within a reasonable degree of medical

13 probability whether removing too much skin

14 taken during blepharoplasty is a departure from

15 good practice?

16 A Please repeat that.

17 Q Sure.

18 Do you have an opinion within a

19 reasonable degree of medical probability

20 whether removing too much skin during the

21 blepharoplasty is a departure from good

22 practice?

23 MR. : I'll object and tell

24 him not to answer the question.

25 MR. OGINSKI: I'm sorry?

1 , M.D.

2 MR. : I object to the form

3 of the question and I'm directing him

4 not to answer.

5 Q If too much skin is removed during

6 blepharoplasty such that it caused ectropion is

7 that in and of itself a departure from good and

8 accepted medical practice?

9 A Can you repeat it?

10 MR. OGINSKI: Read it back.

11 (The previous question was read by

12 the reporter.)

13 MR. : I object and I'll

14 allow you to answer if you understand

15 the question.

16 THE WITNESS: Can you read it back

17 one more time?

18 (The previous question was read by

19 the reporter.)

20 MR. : Same objection

21 regarding too much. What is meant by
22 too much? I don't know what that means.
23 If you can answer the question, go
24 ahead. If not, maybe he can rephrase
25 it.

97

1 , M.D.
2 A Removing excess skin can cause
3 ectropion which is not desired. It's possible.
4 Yes, it's possible if you remove extra skin it
5 would not be good medical practice.
6 Q Going back to the fat pockets --
7 I'm sorry to the blepharoplasty, itself, and
8 the removal of fat pockets. Do you recall in
9 any of these things you've advertised or
10 published about indicating that blepharoplasty

11 is a procedure to remove fat?

12 MR. : I'm sorry?

13 A Can you rephrase it?

14 Q In any of your advertisements or

15 material that you put out for the public do you

16 indicate or do you recall indicating that

17 blepharoplasty is a procedure to remove fat?

18 A It can be, sure. For example, the

19 brochure from the American Society of Plastic

20 Surgeons regarding blepharoplasty may indicate

21 that's one of the things done during

22 blepharoplasty.

23 Q I'm going to show you a page from

24 your website, Doctor.

25 A Fantastic. This is from the exact

1 , M.D.

2 brochure I'm talking about.

3 Q In it it describes your

4 considering eyelid surgery blepharoplasty is a

5 procedure to remove fat usually along with

6 excess skin and muscle from the upper and lower

7 eyelids, correct?

8 A Yes, it says that.

9 Q Thank you.

10 A But, this is you know a basic

11 thing. Obviously there's no cookie cutter

12 procedure for patients. A lot of patients we

13 don't remove fat. It's not a standard

14 procedure. Removing fat can cause

15 skeletization of the eyelid.

16 Q Did you speak to Dr.

17 personally about at any time while you

18 were caring for her?

19 A Yes.

20 Q During any of those discussions

21 did Dr. indicate that fat was

22 removed -- in his opinion, fat was removed

23 during this procedure?

24 A Not that I recall, no.

25 Q Did Dr. indicate that he

99

1 , M.D.

2 believed fat was removed during your procedure

3 or something to that effect?

4 A I don't believe so, no.

5 Q In your opinion, prior to the

6 surgery was physically healthy?

7 A Yes.

8 Q Was she psychologically stable?

9 A Yes.

10 Q Based upon your conversation with

11 her did she have, in your opinion, realistic

12 expectations for this procedure?

13 A Yes.

14 Q Based upon your evaluation of

15 after September 19, did you form

16 any opinion as to whether the amount of skin

17 that you removed during her procedure was

18 excessive?

19 A Please repeat the question.

20 Q Sure.

21 MR. OGINSKI: Can you read it

22 back?

23 (The previous question was read by

24 the reporter.)

25 A No. I performed the surgery, I

2 removed a very, very small amount of skin with
3 absolutely no tension.

4 Q Can you read your operative note,
5 please.

6 A The incisional marking along the
7 lower lid began at the medial extent of the
8 ciliary margin and was carried laterally. In
9 the first small natural crease below the lash
10 margin. (About two millimeters below the
11 margin.) Sterile prep and drape of the face
12 and eyelids. Incisional sites infiltrated. 1
13 percent lidocaine and epinephrine, total 3 ml
14 per lower eyelid, left lower lid and right
15 lower. Lid technique, skin muscle flap was
16 elevated by first making a small incision in
17 the lateral aspect of the incisional line with
18 a number 15 blade and then completing the
19 incision medially with a small sharp iris
20 scissors. The incision was carried through
21 both skin and muzzle.

22 Q Doctor, I'm sorry to interrupt
23 you. Halfway into the note you write no fat

24 was removed, correct?

25 A Correct.

101

1 , M.D.

2 Q You also wrote the orbital septum

3 was not opened?

4 A Correct.

5 Q I'm sorry. Let me continue. No

6 fat was removed from the compartment of the

7 lower lid?

8 A Correct.

9 Q If you had removed fat from

10 anywhere would you have noted that in your

11 record?

12 A If I removed fat?

13 Q Yes.

14 A If I had removed fat from the

15 lower lid I would have noted it, yes.

16 Q Towards the bottom part of the

17 note you write full lid closure bilaterally, no

18 evidence of ectropion, correct?

19 A Yes.

20 Q How then could you explain to the

21 patient your observation of the ectropion

22 following the procedure?

23 A I don't know why she had that

24 following the procedure.

25 Q What are the possible causes for

1 , M.D.

2 the ectropion that you observed

3 postoperatively?

4 MR. : Well, he had already
5 indicated he sent the patient to Dr.
6 Bosniak because he wasn't sure of the
7 causes. He wanted Dr. to give
8 an opinion.

9 Q Did you formulate a differential
10 diagnosis prior to sending the patient to Dr.
11 as to the reasons why she had the
12 ectropion?

13 A I believe at that time, I felt she
14 had excessive scarring at that time.

15 Q And what would the scarring be
16 from?

17 A From surgery, excessive scarring
18 from surgery.

19 Q How would excessive scarring cause
20 ectropion?

21 A By retracting the tissue, pulling
22 the lower eyelid downward.

23 Q Did you have any further
24 evaluation or discussion with any of the

25 doctors you referred her to to confirm or rule

103

1 , M.D.

2 out your initial thought or differential

3 diagnosis that the excessive scarring was a

4 cause or the cause for her ectropion?

5 A Dr. notes in his note to

6 me dated October 31st that it was cicatricial

7 retraction. Cicatricial refers to scarring.

8 And I don't have Dr. 's

9 note, but in communications I believe he felt

10 she just may have been due to swelling and

11 scarring after surgery.

12 Q How do you correct ectropion? How

13 do you treat it?

14 MR. : Which is the question?

15 Q How do you treat ectropion?

16 A It depends on what stage. In

17 early stages when I saw her it's treated either

18 with conservative treatment, such as massage

19 and ointment, possibly taping, where you tape

20 up the lower eyelid.

21 Q What does that do?

22 MR. : The taping?

23 A There's differences of opinion,

24 but some feel that it may help the ectropion to

25 resolve quicker, but supporting the lower lid.

1 , M.D.

2 Q Did do the taping of the

3 eyelid or eyelids?

4 MR. : At what point?

5 MR. OGINSKI: At any time point

6 postoperatively.

7 A Yes.

8 Q Did it help?

9 MR. : Did it help in the

10 healing or help her see, help what?

11 Q Did it help in any regard that

12 you're aware of?

13 A I'm not sure. I'm not sure how

14 compliant she was with it.

15 Q Did she complain about the taping?

16 A I don't recall.

17 Q Did she tell you it was difficult

18 for her to tape or uncomfortable?

19 A I don't remember that.

20 Q Did she make complaints about

21 feeling wind in her eyes postoperatively?

22 A Not that I remember.

23 Q Did she make complaints to you of

24 discomfort or pain in her eyes, not incisional

25 pain but pain from the ectropion?

1 , M.D.

2 A Not that I recall.

3 Q If she had made these complaints
4 to you would you have made notes in your record
5 about those specific complaints?

6 A Yes.

7 MR. : Objection to form.

8 A That's my custom and practice to
9 do that.

10 Q In addition to the time that she
11 came in your office up until May 17, were
12 there occasions that she would call you on the
13 telephone and tell you how she was doing or
14 maybe she had a complaint?

15 A I believe we went over one of the
16 telephone conversations.

17 Q Other than that, from time to time
18 would she call you on the telephone and ask you
19 questions or let you know how she was doing?

20 A Yes.

21 Q Did you have a custom and practice
22 back then in the year or --

23 A Yes.

24 Q -- (Continuing) that if a patient
25 called the office to talk to you about their

106

1 , M.D.

2 condition would you always make a note in the
3 patient's chart about that telephone
4 conversation?

5 A Yes, that's my custom and
6 practice.

7 Q Were there ever occasions that you
8 spoke to a patient about their condition or
9 complaint or problem and did not make a note
10 about the telephone conversation?

11 A Not that I know of.

12 Q If a patient called you after
13 hours when you were not in the office, and for
14 whatever reason wanted to talk about their
15 condition, what was your custom and practice as
16 far as making notes in their chart?

17 A I would have progress notes with
18 me or make a small handwritten note and append
19 it to regular office notes or dictate it.

20 Q Is there anything in your record
21 to indicate that you had any telephone
22 conversation with other than the one you
23 told me about back in July of ?

24 A I don't believe so.

25 Q In your opinion, did have

1 , M.D.

2 any functional abnormalities with her eyelids
3 following the procedure of blepharoplasty?

4 MR. : Beyond what he's
5 already explained?

6 MR. OGINSKI: Yes. I'll rephrase
7 the question.

8 Q Is ectropion a functional
9 abnormality?

10 A It can involve loss of lower lid
11 tone, that may be functional if the lid doesn't
12 close.

13 Q Did you observe any evidence of
14 that in ?

15 A Yes.

16 Q Did you form any opinion or any
17 differential diagnosis as to the reason for

18 that loss of tone?

19 A Again, I think it was because my
20 best differential I believed was most likely

21 due to scarring in the postop period.

22 Q Doctor, I want to go back to the
23 other treatment available for ectropion. You
24 discussed the conservative measures, what else
25 was available to you as a plastic surgeon back

108

1 , M.D.

2 in to treat ectropion?

3 A There are many procedures such as
4 canthoplexy or canthoplasty.

5 Q What is that?

6 A Lid support or lid shortening
7 procedures. Some patients may require a

8 suspension of the cheek fat. Some patients may
9 require skin grafting. Some patients may
10 require paltal graft for support of the lower
11 eyelid. Some patients may have some eyelid,
12 lower eyelid -- surgery to perform lower
13 rotational reconstructive plastic surgery
14 techniques.

15 Q In your private practice up until
16 September had you performed canthoplexy or
17 canthoplasty?

18 A No, I don't believe so.

19 Q If you determined that
20 required any of those treatments would you have
21 performed those procedures or would you have
22 referred her out somewhere?

23 MR. : Objection to form.

24 Q Were you qualified to perform any
25 of those procedures?

1 , M.D.

2 MR. : Objection to form.

3 Q Are those treatments, procedures
4 you mentioned, are those things that can be
5 performed in a private office?

6 A In the office I was at?

7 Q Yes.

8 A Sure. We had a surgical suite,
9 absolutely.

10 Q Had you perform canthoplexy or
11 canthoplasty in your training?

12 A Of course.

13 Q As well as suspension of cheek
14 fat?

15 A Absolutely.

16 Q Skin grafting?

17 A Absolutely.

18 Q And paltal graft?

19 A I don't recall performing that

20 procedure.

21 Q Was 's results,

22 postoperative results, medically acceptable to

23 you?

24 MR. : Objection to form.

25 MR. OGINSKI: Let me rephrase the

110

1 , M.D.

2 question.

3 Q Were the results cosmetically

4 acceptable in your opinion?

5 MR. : Objection to form.

6 Beauty is in the eye of the beholder.

7 Q Did you let know your

8 thoughts or opinions about your differential

9 diagnosis as to why she was having ectropion?

10 A Yes.

11 Q What, if anything, did she reply

12 to you?

13 A I don't recall.

14 Q Did you have any conversation with

15 's mom or dad about the ectropion?

16 MR. : Whose ectropion,

17 's or her mother's?

18 MR. OGINSKI: , only .

19 MR. : Objection.

20 A I don't recall any specific

21 conversation. Her mother was present I recall

22 vaguely during postop visits.

23 Q Can you have a lower lid

24 retraction without ectropion?

25 A I'm not sure.

1 , M.D.

2 Q I'm going to show you a document
3 that I believe is Dr. 's notes. Take a
4 look at it. It accompanies his typed report.

5 A Yes.

6 Q Indicating he saw in
7 November of ?

8 A Yes.

9 Q At the bottom of the page --

10 A Okay.

11 Q -- (Continuing) in the bottom part
12 of the note he indicates that the lower lid
13 malposition remains unchanged; do you see that?

14 A Yes.

15 Q Do you know what he's referring to
16 in that note?

17 A Lower lid malposition is
18 unchanged?

19 Q Malposition, do you know what that
20 refers to?

21 A You have to ask him.

22 Q Did you ever receive a copy of

23 those handwritten notes by Dr. ?

24 A No.

25 Q What is periorbital parasthesia?

112

1 , M.D.

2 A Numbness around the eyes.

3 Q Is that common following a

4 blepharoplasty?

5 A It can happen, sure.

6 Q What causes that? Is that from

7 the injection or from anesthesia or something

8 else?

9 A No, there's numbness obviously

10 around the time of the surgery a couple hours

11 afterwards. It can happen around the region of
12 surgery.

13 Q Do you recall having a
14 conversation with Dr. sometime after
15 November 8th about ? I specifically ask
16 that because in his November 8th note he writes
17 will speak to Dr. today.

18 A I don't remember a specific
19 conversation other than she failed to show up
20 for subsequent visits as recommended and failed
21 to comply with recommended follow-up treatment.

22 Q Did you ever ask why she
23 didn't return to Dr. ?

24 A I don't recall a specific
25 conversation, but I think she had told me she

1 , M.D.

2 didn't want to go back. I don't remember why.

3 Q At some point afterwards you

4 referred her to Dr. ?

5 A Sure. She failed to comply with

6 recommended follow ups, with examinations with

7 him as well. She had continued to fail to

8 comply with recommended medical treatment.

9 Q Did she tell you why?

10 A (No verbal response was given.)

11 Q Did you ever discuss that with her

12 in any of the visits you saw her afterwards?

13 A I'm sure we discussed it. I don't

14 remember a specific conversation.

15 Q Did you ever learn from Dr.

16 or Dr. that simply was not

17 emotionally ready to have any further

18 corrective surgery?

19 A No. It wasn't a matter of being

20 emotionally ready, it wasn't indicated at that

21 time. They didn't feel surgery was

22 recommended at the time.

23 Q I'm going to show you another note
24 from Dr. dated November 13, which
25 he writes discussed corrective lower lid

114

1 , M.D.

2 surgery. He writes patient not emotionally
3 ready; do you see that?

4 A Yes.

5 Q Did Dr. ever relate that
6 information to you that you recall?

7 A Not that I recall.

8 MR. OGINSKI: Off the record.

9 (Discussion off the record.)

10 Q At any time after the procedure on
11 September 19th did you evaluate 's snap
12 back of her lower lids?

13 MR. : After the surgery?

14 MR. OGINSKI: Yes.

15 A I don't recall.

16 Q Would it have been useful as her
17 treating physician to evaluate that
18 postoperatively?

19 MR. : Objection. He can
20 answer.

21 A Possibly. I don't recall.

22 Q What information would that give
23 you?

24 A It tells about lower lid tone, if
25 she had retracted, some laxity and scarring.

1 , M.D.

2 It may not give you much information.

3 Preoperatively it's a different story.

4 Q Can you turn please to your first

5 postop note.

6 A Yes.

7 Q What is the date of that, Doctor?

8 A 9/22.

9 Q Can you read your note into the

10 record, please.

11 A Patient without complaints.

12 Q I'm sorry. What are these

13 initials here?

14 A Postop Day 3. Patient without

15 complaints. Wound clean, dry, and intact.

16 Left lower lid ectropion. Recommendation is

17 continued massage and eyelid taping. Will

18 follow up 9/25.

19 Q Did she indicate to you she would

20 comply with the recommendation?

21 MR. : As per that report?

22 MR. OGINSKI: As per either the

23 note, his recollection.

24 A I don't recall. I don't remember

25 her refusing.

116

1 , M.D.

2 Q Okay.

3 What's the next time you saw her?

4 A My next note I believe is dated

5 10/2/ .

6 Q Is this a routine follow up?

7 A Yes. Patient without complaints.

8 Left upper lid lag.

9 Q What does that mean?

10 A Droopiness of the left upper

11 eyelid. Wound clean and dry. Left lower lid

12 resolving sclera show. Follow up one week.

13 Q Did you have a conversation with

14 at that time as to why she was

15 experiencing the sclera show?

16 A Sure. I evaluated her, I told her

17 what I thought. And most of the times those in

18 the early postop period it's due to swelling or

19 early scarring, and I conveyed that to her.

20 Q Did she indicate that she was

21 still doing the massage and the taping?

22 A I don't recall.

23 Q Would that be something you would

24 ask her customarily?

25 A Sure.

1 , M.D.

2 Q If she was not complying, she told

3 you she was not complying, would you have made

4 a note of that?

5 A Yes.

6 Q Go ahead. What's the next note?

7 A 11/5/00.

8 Q Read that note, please.

9 A Patient says left eye improving.

10 She met with Dr. last week. No visual

11 complaints. Able to completely close eyes at

12 night. Physical examination. Left upper

13 eyelid with decreased lag, left lower lid no

14 ectropion or sclera show. Right lower lid

15 minimal sclera show, right upper lid okay.

16 Improved left lower lid. Continue massage and

17 steroid ointment prescribed by Dr. .

18 Will following up one week with me and also to

19 follow up with Dr. .

20 Q Was it your impression that the

21 ectropion in the left lower lid had totally

22 resolved as of November 5th?

23 A My note indicates that the left

24 lower lid had no ectropion or sclera show on

25 November 5th as per my examination.

1 , M.D.

2 Q Did you make any observation in
3 that note about the lower lid retraction on the
4 right side?

5 A My note indicates the right lower
6 lid has minimal sclera show.

7 Q Does that refer to the retraction?

8 A I call it sclera show. Could that
9 be caused by retraction, yes, but she has
10 sclera show.

11 Q Can you go to your next note,
12 please.

13 A Okay. The note from 11/14. This
14 is another telephone conversation, I believe
15 you asked about before. This refers to another

16 telephone conversation.

17 Q Can you read that?

18 A I had a telephone conversation

19 with on November 14th at about 10:00

20 a.m. She said she has follow-up appointment

21 with Dr. . She expressed reluctance in

22 keeping the appointment as she does not want to

23 go through another procedure. I suggested she

24 follow through with the appointment, and also

25 she'll follow up with me later this week. She

1 , M.D.

2 said there was slight quote, unquote "pulling

3 down of left lower lid." She has continued the

4 steroid cream and massage. She said she had

5 redness and swelling of her cheek after using

6 mederma which resolved. I told her to
7 discontinue it. I'll continue to follow
8 closely.

9 Q Did pay for this
10 blepharoplasty procedure in cash or was it
11 through insurance?

12 A I don't know what payment she used
13 but it was not paid by insurance.

14 Q What is the next note you have?

15 A From 12/5/ .

16 Q Go ahead.

17 A Patient without new complaints.
18 Physical examination without significant change
19 from previous visit. Right sclera show greater
20 than left. No periorbital swelling or
21 inflammation visualized. Wounds clean and dry.
22 No evidence of infection. Patient continues
23 massage. Refused frost suture.

24 Q What is that, Doctor?

25 A It's a suture that's done to kind

1 , M.D.

2 of elevate the lower eyelid and hold it in its
3 position. Procedures, alternatives, and risks
4 discussed. All questions answered with patient
5 regarding corrective surgery. She refuses any
6 procedure at this time or surgery by Dr.
7 . Patient to go see Dr. for
8 evaluation. I'll continue to see her and
9 follow her closely. Follow up in one week.

10 Q Was it who originally
11 requested that she be sent to a second opinion
12 shortly after her surgery?

13 A No.

14 Q Do you know how many times
15 saw Dr. ?

16 A I believe once, I'm not sure.

17 Q Did you ever learn from Dr.
18 that 's lid, her lower lid, did not
19 retract to her eye unless she pushed it back?

20 MR. : Which eye?

21 MR. OGINSKI: Either one.

22 MR. : I'm sorry, what's the
23 question?

24 Q Did you ever learn from Dr.
25 that 's lower eyelid, either one or both,

121

1 , M.D.

2 did not retract back to the eye unless pushed?

3 A I don't recall.

4 Q Did you learn from Dr. that

5 she had lid lag?

6 A I don't remember. I believe I

7 don't have a note from him in my record.

8 Q Did you learn from him in your

9 discussion with him that he had performed the

10 snap back test and felt she had a poor response

11 to it?

12 A I don't recall.

13 Q Can you turn to your next note,

14 please?

15 A Yes.

16 Q January 3rd.

17 A Yes.

18 Q That's the one incorrectly dated,

19 the year?

20 A Yes.

21 Q Can you read that?

22 A Sure. Patient without new

23 complaints. Patient says slight improvement in

24 her right lower lid. She continues to massage

25 daily several times. She has seen Dr.

1 , M.D.

2 on my referral and he suggested waiting a full

3 six months to allow resolution --

4 Q Let me stop you. Did ever

5 tell you she was having difficulty performing

6 her work at her job postoperatively?

7 A Not that I recall.

8 Q Did she ever tell you that she

9 lost her job because she was unable to continue

10 to do her work because of the amount of time

11 she was taking off because of complications

12 related to eyelid surgery?

13 A No.

14 Q Continue with your note.

15 A Patient is without significant

16 change at this visit. She has left lower lid

17 sclera show less than the right. No evidence

18 of scar contracture. No evidence of

19 cicatrixation.

20 Q Does that indicate to you that

21 your initial feeling that her sclera show was

22 from the scar tissue that you could see confirm

23 it, rule it out?

24 A Neither. Wounds healing well. No

25 evidence of infection or inflammation. Will

123

1 , M.D.

2 follow closely. Procedure, alternatives, and

3 risks and all questions answered again.

4 Discussed again, reviewed regarding possible

5 corrective procedures or canthoplexy. Follow

6 up one week.

7 Q Did she indicate to you why she

8 did not wish to have any of those procedures at

9 that point?

10 A It doesn't indicate that she

11 didn't want surgery in that note.

12 Q Go to your next note, please.

13 A Next note is 2/12/ . Patient

14 missed appointment. Patient said she'll be

15 away and reschedule appointment. Emphasized

16 close follow up is essential to her care.

17 Q The next note.

18 A 2/28/ . Patient is without

19 complaint of dry eyes, irritation, or tearing.

20 She says she noticed improvement. Physical

21 examination, bilateral lower lids with slight

22 improvement. She has bilateral sclera show,

23 left greater than right, with decreased tone of

24 bilateral lower lids. No evidence of

25 cicatricial or scar contraction. Wounds

1 , M.D.

2 healing well. No evidence of infection. Plan,
3 follow up two weeks. Procedures, alternatives
4 and risks. All questions answered again.
5 Reviewed regarding bilateral lid tightening
6 procedure. She does not wish to schedule at
7 this time but will decide in April. And
8 photographs were taken.

9 Q Can you turn to the next note.

10 A 4/20/ . Patient present for
11 follow up. She saw Dr. last week. He
12 suggested waiting a full one year. Physical
13 examination without significant change.
14 Bilateral sclera show. Patient is scheduled to
15 see another MD for opinion. Then in
16 parenthesis it says (I encouraged this.) I
17 also wished to follow her closely. To follow
18 up in one month.

19 Q Why were you encouraging her to

20 see another physician?

21 A She had scheduled on her own to

22 see another doctor. I was encouraging her, you

23 need to speak to somebody else to feel

24 comfortable. Be my guest, you know, it was not

25 a bad idea and I encouraged it. If she felt

125

1 , M.D.

2 she needed to speak to somebody else, it was

3 fine.

4 Q Did you ever receive any records

5 from ?

6 A No.

7 Q Did ever make any

8 complaints to you up until April 20th about her

9 inability to tear or she was having a great

10 deal of tearing?

11 A No. In fact, my notes, for

12 example, the note of 2/28/ noted no

13 complaints noted, no complaint of dry eyes,

14 irritation, or tearing as I read for you. She

15 noticed improvement during that visit.

16 Q Did you have any notes after May

17 17, regarding ?

18 A I don't believe so, no.

19 Q The postop photographs that were

20 taken, the last set.

21 A Yes.

22 Q How did appear to you in

23 those photographs?

24 MR. : How did she appear to

25 him in what regard?

1 , M.D.

2 Q Let me ask it this way: In the
3 last set of postop photographs that you have is
4 there evidence of sclera show?

5 MR. : In the last set of --
6 which ones, specifically?

7 MR. OGINSKI: He had two sets; one
8 was dated, one was not.

9 THE WITNESS: Right.

10 MR. : You have the same sets
11 marked as exhibits. Why don't we refer
12 to them.

13 Q These photographs are the same
14 ones that you have?

15 A Yes. These are these, yes.

16 MR. OGINSKI: Okay.

17 For the record, photographs marked
18 J-1 through 6 previously marked as
19 Defendant's exhibits, dated October 17,
20 .

21 Q There was some testimony by

22 that these photographs were taken sometime
23 between February and May of .

24 MR. : By Dr. ?

25 MR. OGINSKI: No, by Dr. .

127

1 , M.D.

2 Q In these photographs is there
3 evidence of sclera show?

4 A Photographs are two dimensional so
5 there's some limitation. I don't know if I
6 see -- I think there may be a little bit of
7 sclera show on the left side. There's lid
8 retraction.

9 Q Which photograph?

10 A (Indicating.) Frontal view.

11 MR. OGINSKI: Off the record.

12 (A recess was taken.)

13 Q Were you able to find similar

14 photographs?

15 A Yes.

16 Q Is there any evidence of sclera

17 show on these photographs?

18 A It's hard to tell. She may have

19 on both sides, on the edges a little bit.

20 Q Anything significant?

21 A (No verbal response was given.)

22 MR. : Objection.

23 Q On the day of surgery before the

24 procedure did you evaluate her visual acuity

25 again?

2 MR. : Her visual acuity?

3 A Let's see. I don't remember

4 specifically testing, but it's my custom and

5 practice to get basic -- to ask a patient do

6 they wear glasses, how they read, and perform

7 the snap back test.

8 Q On the day of the procedure?

9 MR. : What's the question?

10 A Before the procedure is performed?

11 Q Is there anything in your notes to

12 confirm whether that was done?

13 A Not that I see, but that is my

14 custom and practice. I don't see that.

15 Q The reason it's good to do that is

16 to get a baseline whether or not the patient --

17 you tell me the reason.

18 A It's the standard for somebody

19 like her to perform it mostly by history,

20 somebody who doesn't wear glasses, she's not

21 nearsighted or farsighted, she's able to read,

22 perform her duties as a legal secretary; it's

23 not an issue.

24 Q Did ever complain to you

25 that she was unable to close her eyes?

129

1 , M.D.

2 A I don't recall that. I'm not

3 sure.

4 Q At some point after the surgery

5 did she ever complain to you about dry eyes?

6 A Never.

7 Q Did she ever complain to you of

8 tearing?

9 A No.

10 Q Have you prepared your case list

11 in preparation for taking your oral board

12 examination in plastic surgery?

13 A Cases are just a list of patients.

14 Q Whatever. I'll rephrase it.

15 In order to complete the necessary

16 requirements to take the oral board

17 examinations --

18 A Yes.

19 Q -- (Continuing) are you required

20 to prepare a certain list of cases to show your

21 training and experience in dealing with certain

22 cases before you can actually go and take the

23 exam?

24 A Yes. It's required for the exam,

25 yes.

130

1 , M.D.

2 Q Have you done that?

3 A Every time I do a surgery we --
4 it's recommended by the board that you start
5 the paperwork in preparation for that.

6 Q Do you have any intention as you
7 sit here now to take your oral board
8 examinations?

9 A Yes.

10 Q Do you have any date in the future
11 currently?

12 A No, I don't have a specific date
13 for that.

14 Q On the occasions when 's
15 mother was present with her in your office, did
16 you speak to her mom in English or in Farsi?

17 A I don't remember. I think her
18 mother may have been able to speak Farsi in a
19 rudimentary way. I don't recall.

20 Q Did you have any conversation with
21 your dad about and her condition?

22 A I believe he knew she was having
23 surgery by me. And I don't recall any other
24 conversation.

25 Q Your dad is an internist?

131

1 , M.D.

2 A A family practitioner and a
3 pediatrician.

4 Q Did see you in any other
5 office other than the office?

6 A I don't believe so.

7 Q Did you ever have a corporate
8 entity known as M.D., P.C.?

9 A No.

10 Q When was
11 , P.C. formed?

12 A In .

13 Q Going back to your training,
14 Doctor. Your general surgery, the two-year

15 training at initially when you left to go

16 to , was that voluntarily?

17 A Yes.

18 Q Was it voluntary when you left

19 to go back to ?

20 A Absolutely.

21 Q When you did your one year as

22 chief resident in plastic surgery at the

23 University of , you said that was

24 to ?

25 A Yes.

1 , M.D.

2 Q Have you authored or written any

3 portions of medical textbooks?

4 A No.

5 Q Did you learn that had had

6 a second corrective surgery by Dr.

7 from anyone other than your attorney

8 A No.

9 Q Did Dr. indicate to you in

10 any fashion or opinion about whether the amount

11 of skin in the lower eyelid you removed was

12 excessive?

13 A I don't believe so.

14 Q Did Dr. indicate to you in

15 any regard his opinion about whether the amount

16 of skin that you removed upon was

17 excessive?

18 A No.

19 Q Are you a member of any plastic

20 surgery organizations?

21 A Yes.

22 Q Which ones.

23 A I'm a candidate member of the

24 American Society of Plastic Surgeons and the

25 American Society for Aesthetic Plastic Surgery.

1 , M.D.

2 Q You mentioned you're a candidate
3 member, what does that mean?

4 A Full membership status is granted
5 after your board certification.

6 Q Any others?

7 A I believe I'm a member of the
8 American Medical Society of the State of New
9 York.

10 Q On your website do you list your
11 credentials, where you did your training?

12 A I believe some I did.

13 Q Do you know which ones?

14 A No.

15 Q Did you indicate whether you're

16 board certified on your website?

17 A No.

18 Q "No," you don't or --

19 A No, I do not.

20 MR. OGINSKI: I have no further

21 questions. Thank you.

22 (Time noted: 2:30 p.m.)

23

24

25

134

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2 ACKNOWLEDGEMENT

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4 STATE OF NEW YORK)

5 : ss

6 COUNTY OF

7

8 I, _____, M.D., hereby certify

9 that I have read the transcript of my testimony

10 taken under oath in my deposition of April 21,

11 2004; that the transcript is a true, complete

12 and correct record of my testimony, and that

13 the answers on the record as given by me are

14 true and correct.

15

16 _____

17 _____, M.D.

18

19

20 Signed and subscribed to

21 before me, this _____ day

22 of _____, 2004

23

24 _____

25 Notary Public, State of New York

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2 INDEX TO TESTIMONY

3

4 WITNESS BY PAGE

5 , M.D. Mr. Oginski 5

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7

8

9 INDEX TO EXHIBITS

10 PLAINTIFF'S

11 EXHIBIT DESCRIPTION PAGE

12 1 Original office

13 records 5

14

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16

17

18

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148

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2 CERTIFICATION

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4 I, , a Notary

5 Public in and for the State of New York

6 do hereby certify:

7 THAT the witness whose testimony

8 is hereinbefore set forth, was duly

9 sworn by me; and

10 THAT the within transcript is a
11 true record of the testimony given by
12 said witness.

13 I further certify that I am not
14 related, either by blood or marriage, to
15 any of the parties to this action; and

16 THAT I am in no way interested in
17 the outcome of this matter.

18 IN WITNESS WHEREOF, I have
19 hereunto set my hand this 21st day of
20 May, 2004.

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