

1 straight into cross-examination. And if
2 we're not completed, we'll go after lunch and
3 continue cross-examination and redirect. But
4 let's take our break right here for about ten
5 minutes.

6 COURT CRIER: All rise as the jury
7 exits.

8 - - -

9 (Whereupon the jury exited the
10 courtroom at 11:57 a.m.)

11 - - -

12 THE COURT: All right. We're in
13 recess for ten minutes.

14 MR. KLINE: Thank you.

15 - - -

16 (Whereupon a recess was taken.)

17 - - -

18 THE COURT: Okay.

19 COURT CRIER: All rise as the jury
20 enters.

21 - - -

22 (Whereupon the jury entered the
23 courtroom at 12:15 p.m.)

24 - - -

25 THE COURT: All right. Please be

1 seated.

2 All right. When you're ready
3 cross-examination, Ms. Sullivan, when you're
4 ready.

5 MS. SULLIVAN: Thank you, Your Honor.

6 Good afternoon, jurors. How are you?

7 JURY PANEL: Good afternoon.

8 - - -

9 CROSS-EXAMINATION

10 - - -

11 BY MS. SULLIVAN:

12 Q. Mrs. Pledger, good afternoon.

13 A. Good afternoon.

14 Q. We met when the case just started in jury
15 selection, right?

16 A. Yes.

17 Q. For the first time?

18 A. Yes.

19 Q. And actually, that was the first time you met
20 your lawyer, Mr. Kline, right?

21 MR. KLINE: Your Honor, objection.

22 That is really, really --

23 THE COURT: Overruled. Overruled.

24 Overruled.

25 Go ahead.

1 BY MS. SULLIVAN:

2 Q. Ms. Pledger, it's true you met Mr. Kline the
3 same time you met me. The first time you met him
4 was when you walked in when the case started for
5 jury selection?

6 A. Yes.

7 Q. And, Mrs. Pledger, you showed the jurors some
8 pictures of your son and one when he was coming out
9 of the pool when he was younger?

10 A. They were shown to them, yes.

11 Q. Yeah. And your best recollection is the one
12 when he was coming out of the pool was when he was
13 on Risperdal; that's your best recollection?

14 A. Oh, he was.

15 Q. And the two others when he had gained more
16 weight and was bigger, those two were taken years
17 after he stopped taking Risperdal?

18 A. Yes, both of them.

19 Q. Yeah.

20 A. Yes.

21 Q. So the one in the pool, your best
22 recollection, he was on Risperdal?

23 A. He was.

24 Q. The two when he was much bigger were taken
25 years after he stopped taking Risperdal?

1 A. Yes. He was older and bigger.

2 Q. And, Mrs. Pledger, you talked about your son,
3 and you've done a terrific job trying to bring him
4 along and learn things.

5 A. Thank you.

6 Q. Et cetera, by all accounts.

7 But you're suing here on behalf of
8 him because he's been declared not competent to
9 bring the lawsuit, right?

10 A. Yes.

11 Q. You're suing on his behalf?

12 A. Yes.

13 Q. And you also -- he's also -- you made a claim
14 and he's been established disabled by the
15 government, right?

16 A. I -- I don't understand. I made a claim that
17 he was disabled by the government?

18 Q. Maybe it's --

19 A. As far as guardianship?

20 Q. In terms of disability benefits.

21 MR. KLINE: Oh, Your Honor, Your
22 Honor, objection.

23 THE COURT: Sustained.

24 MR. KLINE: Objection under
25 Pennsylvania law. And she knows better.

1 THE COURT: Sustained. Absolutely.

2 MS. SULLIVAN: Well, Your Honor,
3 this --

4 THE COURT: It's not relevant.

5 MS. SULLIVAN: I'm sorry?

6 THE COURT: It's not relevant here.

7 MS. SULLIVAN: Your Honor, I just
8 like to show, without talking about any
9 benefits, show the form that talks about the
10 level of his disability, which is relevant.

11 THE COURT: Overruled -- I mean
12 sustained. We're just not going to get
13 into the -- there's many other methods of
14 doing that without relying on any
15 government-type determinations.

16 MS. SULLIVAN: Okay.

17 BY MS. SULLIVAN:

18 Q. Ms. Pledger --

19 MR. KLINE: Your Honor, would you
20 instruct the jury that that was improper?

21 THE COURT: All right. Yeah.

22 Ladies and gentlemen, for the purpose
23 that Ms. Sullivan wants to discuss the mental
24 state or capacity of this witness, the
25 particular document she wants to use or

1 anything, a determination by the government
2 is not relevant. If there was an issue about
3 this issue, I would have heard about it and
4 made a separate ruling about it. But I have
5 not had that chance to do so. So, therefore,
6 this particular issue through the government
7 is ruled for you not to consider.

8 BY MS. SULLIVAN:

9 Q. Ms. Pledger, have you stated in -- in a form
10 that your son needs assistance with everything?

11 A. Uhhh, at this point in his life not
12 everything, but, yes, he needs assistance.

13 Q. And have you said that as early as last year?

14 A. Well, he has -- someone has to stay with him.
15 He --

16 Q. And have you said, Ms. Pledger, that you have
17 to assist him with bathing and dressing?

18 A. He started bathing himself, and he dresses
19 himself. He has done that for several years.

20 Q. Okay. But as of last year, you didn't -- you
21 didn't say that he needs assistance?

22 A. I don't know what paper -- I don't know what
23 information you've got.

24 Q. And, Your Honor --

25 A. But he dresses himself.

1 MS. SULLIVAN: May I show this
2 defense exhibit, which is Mrs. Pledger's
3 statement? I'm sorry.

4 THE COURT: Is there an objection?

5 MR. KLINE: Your Honor, I haven't
6 seen it.

7 THE COURT: So why don't we look at
8 it. Let's do it the old-fashioned way.

9 MR. KLINE: I haven't seen it.

10 MS. SULLIVAN: Ms. Brown. And, Your
11 Honor, I'm happy to cover up any
12 objectionable subject matter. I just wanted
13 her statement.

14 THE COURT: I just don't know if
15 there's any inconsistent statement, to be
16 honest, at this point on this.

17 MS. SULLIVAN: I'm not -- I'm just --

18 THE COURT: So then I don't know.
19 Show it to the counsel and see if there's an
20 objection.

21 MS. SULLIVAN: Sure.

22 THE COURT: I don't know what purpose
23 it's being used for.

24 (Showing counsel.)

25 MR. KLINE: It is not inconsistent,

1 Your Honor. But I don't have an objection so
2 long as she doesn't try to get into things
3 that she knows are prejudicial like she
4 usually does.

5 MS. SULLIVAN: Your Honor, I object
6 to that. I'm just trying to get the evidence
7 in here. I object to the constant --

8 MR. KLINE: She's trying to get
9 evidence in that Your Honor tells her that
10 she can't.

11 But I have no objection to this. Go
12 do it. Go do it.

13 THE COURT: Okay. There's no
14 objection. And we'll see the document, and
15 we'll go do it. I don't have a problem with
16 it.

17 MS. BROWN: D-29.

18 MS. SULLIVAN: And if we could put
19 up --

20 THE COURT: Well, no one's putting up
21 anything yet until I this see this document.

22 What number is this?

23 COURT CRIER: This is D-29.

24 MR. KLINE: Your Honor, there are
25 certain things. I don't have a problem with

1 the content...

2 THE COURT: I'll tell you what, why
3 don't you ask questions based on this
4 document.

5 Do you want the witness to read the
6 document?

7 I mean, I don't understand what the
8 nature of using this document is for. To
9 refresh her memory?

10 MS. SULLIVAN: No.

11 THE COURT: I mean, I'm old school
12 here.

13 MS. SULLIVAN: No, Your Honor.
14 Mr. Kline went into the level of
15 Mr. Pledger's understanding, and I wanted to
16 show some of Mrs. Pledger's statements on
17 that very issue.

18 THE COURT: Okay. One moment.

19 MR. KLINE: It's nearly two years
20 old, Your Honor, the document, and consistent
21 with what she said.

22 THE COURT: Well, either you're
23 objecting or you're not.

24 MR. KLINE: Yes. Now I'll object.
25 It's consistent with everything she said

1 here.

2 THE COURT: That's sustained.

3 BY MS. SULLIVAN:

4 Q. And, Ms. Pledger, have you said as early as
5 last year that your son does not understand simple
6 things like most people?

7 A. There are very simple things he doesn't
8 understand.

9 Q. And have you said that he'll never hold a job?

10 A. I don't believe he will.

11 Q. And he has trouble communicating?

12 A. He's autistic. That's what autism is.

13 Q. And that he mostly sits home during the day
14 and watches about ten hours of TV?

15 A. He watches a lot of TV, or plays on his tablet
16 or computer or listens to his music; but, yes, he
17 spends the majority of his days at home with me.

18 Q. And he can say a few words but can't carry on
19 a conversation?

20 A. Uhhh, not like you and I do. He does say a
21 lot of words. But he doesn't understand the
22 back-and-forth communication.

23 Q. And that he has -- you've said that he has a
24 five-year-old mindset?

25 A. Yes, at times he does. He's still a little

1 boy. He loves Barney.

2 Q. He still loves Barney?

3 A. Yeah.

4 Q. Ms. Pledger, I want to go back to when your
5 son first -- when you first took him to see
6 Dr. Mathisen, if I could.

7 A. Okay.

8 Q. And you have described some of the challenges
9 you and your family faced dealing with a child with
10 autism, right?

11 A. I think I've -- I don't know what description
12 I've given about Austin, but --

13 Q. But you and your husband have had to deal with
14 some of the behavioral issues that go with autism?

15 A. Oh, yes. Oh, yes.

16 Q. And I think you've talked about some of them,
17 the tantrums?

18 A. Yes.

19 Q. And you told our jurors that it's not like a
20 kid who doesn't have autism tantrums, it's something
21 completely different?

22 A. Oh, it's totally different, yes.

23 Q. And can you describe -- and so in the time
24 before you took your son to see Dr. Mathisen, can
25 you describe for us the kinds of things that drove

1 you to see a doctor for your son to try to address
2 these behavioral issues? What are the kinds of
3 things that you were facing in terms of the
4 behavioral issues?

5 A. Uhmm, he was, and was for many years before we
6 started Risperdal and during -- he's much different
7 now -- but he would hit himself. And the doctors
8 even told me it could be he has a headache. It
9 could be out of frustration, but he would hit
10 himself before Risperdal, but over the years it's
11 always been something. He -- he'll scream or be
12 frustrated or there were years where he bit himself.
13 It's just a lot of -- the world is a frustrating
14 place for an autistic person.

15 Q. And, Mrs. Pledger, you had described constant
16 screaming tantrums that could happen, as many as
17 eight times a day?

18 A. Oh, well --

19 Q. Before Risperdal?

20 A. -- not constant, but, yes. When I worked, I
21 worked until he was five, and then it just got to
22 the point where I couldn't. I had to be with him
23 for many reasons. But, yes, he can be very loud
24 when he gets upset. He screams and he will throw
25 himself on the ground and hit his head. And he's

1 just frustrated, and he didn't have the words to
2 tell me why. So that was his way of acting out.

3 Q. And, Mrs. Pledger, in addition to having
4 problems at home, it sounded like he was having
5 problems at school, and some of the teachers spoke
6 to you about some of the problems he was having in
7 school when he was 6 or 7 years old?

8 A. Oh, absolutely. We communicated every day by
9 at least letter; and once I quit working, I was at
10 the school a lot. But we wrote back and forth to
11 each other different things. And they didn't know
12 him as well as we did. And we were struggling, so
13 we knew they were struggling.

14 Q. And is it one of the teachers that in fact
15 recommended that you try to get some medicine for
16 your son?

17 A. Actually, it was his teacher's aide; and her
18 sister went to Dr. Mathisen, so she referred
19 Dr. Mathisen to me.

20 Q. Okay. So he was having these sort of severe
21 behavior problems at home and at school and one of
22 the teacher's aides said there's some medicine
23 and --

24 A. No. She said that there was a good doctor.

25 Q. Okay.

1 A. And that maybe he would have some ideas to
2 help us.

3 Q. Okay. So --

4 A. And we were -- before we took him, my husband
5 was pretty sure he didn't want to even try medicine,
6 but of course we discussed it.

7 Q. And then you went to see Dr. Mathisen?

8 A. Yes.

9 Q. And Dr. Mathisen talked to you about the fact
10 that he had treated other children with autism?

11 A. Yes.

12 Q. And talked to you about the fact that he had
13 prescribed Risperdal for kids with autism, and it
14 had helped them?

15 MR. KLINE: Objection. I object only
16 to the extent that this is all hearsay and
17 she had an opportunity to ask Dr. Mathisen
18 all of this.

19 MS. SULLIVAN: We did.

20 MR. KLINE: To the extent that this
21 mother says something, I have no objection.
22 I do have an objection to the hearsay.

23 THE COURT: Well, that's overruled.

24 MR. KLINE: Especially since --

25 THE COURT: That's overruled.

1 MR. KLINE: Especially since the
2 doctor was here.

3 THE COURT: That's overruled. Go
4 ahead.

5 THE WITNESS: Please say that again.

6 MS. SULLIVAN: Sure.

7 BY MS. SULLIVAN:

8 Q. Mrs. Pledger, Dr. Mathisen told you that he
9 had treated other kids with autism and had some
10 success using Risperdal; that it helped some other
11 children?

12 A. On my second visit, he did say that.

13 Q. Yes.

14 A. I knew he had -- he saw autistic children on
15 our first visit, too.

16 Q. And on the second visit, he said he had
17 prescribed Risperdal for other children with autism
18 and it helped on these bad behavioral issues?

19 MR. KLINE: Same objection. It has
20 to do with other children and hearsay.

21 THE COURT: All right. That's
22 sustained.

23 You can ask without leading on
24 something like this as to what she understood
25 from Dr. Mathisen.

1 BY MS. SULLIVAN:

2 Q. And, Mrs. Pledger, it sounded like you thought
3 long and hard about whether or not to put your son
4 on a medicine?

5 A. It was a hard decision.

6 Q. And a decision that no parent really wants to
7 face in terms of a serious medicine?

8 MR. KLINE: Objection as to any
9 parent. She would have no idea.

10 THE COURT: Yeah. Please limit it to
11 what her experience was. This is a single
12 case here.

13 BY MS. SULLIVAN:

14 Q. Mrs. Pledger, you made the decision to start
15 your son on Risperdal because you felt like he
16 needed a medicine?

17 A. I didn't start him on Risperdal because I felt
18 like he needed a medicine. It was something we
19 could try, the doctor suggested; and my husband and
20 I discussed it.

21 Q. And you discussed it and decided that he
22 needed help?

23 A. We discussed it and decided we were hoping it
24 would help.

25 Q. And it did?

1 A. It did.

2 Q. And the jury has seen some of the medical
3 records, and you were pretty candid in your
4 deposition on the serious behavioral issues,
5 including his behavior at school. Risperdal really
6 helped Austin?

7 A. It did help him.

8 Q. And in fact you kept him on Risperdal for
9 about five years?

10 A. Yes.

11 Q. And when Dr. Mathisen first prescribed
12 Risperdal to you, did he tell you that the medicine
13 was not FDA approved for children?

14 A. I believe his words were that it was not
15 approved yet and that it had helped children,
16 autistic children, through his experience.

17 Q. And I'm going to show you, Mrs. Pledger -- I'm
18 going to show the witness -- and if we could have
19 Alli give it to Mrs. Pledger and to counsel.

20 Mrs. Pledger, I'm going to show you
21 Page 39. You gave a deposition in this case?

22 A. Yes.

23 Q. And I'm going to show you some of that
24 testimony.

25 A. Okay.

1 MR. KLINE: Wait.

2 THE COURT: One second. Is this
3 marked? One second, please.

4 Please do not put anything up yet.

5 And it is not the Court's practice to
6 put deposition transcripts on the screen.

7 COURT CRIER: D-30.

8 - - -

9 (Whereupon Exhibit D-30 was marked
10 for identification.)

11 - - -

12 THE COURT: Because if we did that,
13 we'd have to read the whole deposition to put
14 everything in play.

15 MS. SULLIVAN: I can read the
16 question and answer, Your Honor.

17 MR. KLINE: Your Honor, I object.
18 There's no inconsistency.

19 THE COURT: All right. Right now
20 we're at D-30. This is a transcript of a
21 deposition taken on Friday, November 8, 2013.
22 And what page are we looking at?

23 MS. SULLIVAN: Page 39, Your Honor,
24 Line 19 to 21.

25 THE COURT: Well, that --

1 MR. KLINE: It's totally consistent.

2 THE COURT: Well, is there anything
3 inconsistent with what's been said so far?
4 What's the purpose?

5 MS. SULLIVAN: It's inconsistent with
6 the last question and answer.

7 THE COURT: Number 21?

8 MR. KLINE: It says the exact same
9 thing. Object.

10 THE COURT: Well, I think you
11 asked that. We can take a break right here
12 and go to lunch.

13 MS. SULLIVAN: Sure, Your Honor.

14 THE COURT: All right. We're going
15 to go to lunch then right here.

16 Ladies and gentlemen, can we come
17 back at 1:30? And it looks like we may have
18 the afternoon in session today. It's okay,
19 you know. We're paid for a living here.

20 So 1:30, come back here. Have a good
21 lunch. Again, the same rules now, very
22 important. The yellow badges for the reasons
23 we already know. To keep an open mind in
24 this case. Definitely have ways to go. To
25 not discuss this matter with each other or

1 anybody else, and obviously not to read
2 anything or listen to anything or watch
3 anything about this particular case, okay?

4 All right. Thank you very much
5 everybody.

6 COURT CRIER: All rise as the jury
7 exits.

8 - - -

9 (Whereupon the jury exited the
10 courtroom at 12:33 p.m.)

11 - - -

12 (The following transpired in open
13 court outside the presence of the jury:)

14 - - -

15 THE COURT: All right. As soon as
16 you are -- we're going to go over the
17 evidentiary issues for this particular
18 document and probably for some others, so you
19 may step outside for a few minutes.

20 THE WITNESS: Okay.

21 - - -

22 (Witness exited the courtroom.)

23 - - -

24 THE COURT: All right. Everyone be
25 seated. I'd like to ask our court reporter,

1 John, to read to me now what were
2 Ms. Sullivan's questions to this witness
3 concerning the FDA label as far as what she
4 was told by Dr. Mathisen and what her answers
5 were.

6 COURT REPORTER: Yes, Your Honor.

7 THE COURT: In fact, why don't you
8 flash that on the screen. It will be helpful
9 for me. We'll flash the realtime -- or right
10 now what we're talking about -- not from the
11 deposition. I'm talking about the -- if we
12 can flash this realtime transcript up there.
13 Can we do that?

14 MR. KLINE: Yes. If not, I have it
15 on my iPad.

16 MR. MURPHY: It's at 12:30.

17 MS. SULLIVAN: And, Your Honor, the
18 inconsistency -- and, Your Honor, I can read
19 it -- is that Ms. Pledger testified here that
20 Dr. Mathisen did tell her it wasn't FDA
21 approved. She testified to the opposite at
22 her deposition.

23 MR. KLINE: That's not --

24 THE COURT: I didn't hear that,
25 Counsel. I didn't see that myself.

1 MR. KLINE: That's not correct. I
2 have it right here.

3 MR. MURPHY: It's at 12:30.

4 MR. KLINE: I have it right here. I
5 can hand you my iPad.

6 THE COURT: Well, I need to place on
7 the record is what we're going to do. Place
8 on the record what the questions were. I
9 certainly did not hear that she heard it was
10 FDA approved.

11 MS. SULLIVAN: That was a different
12 question.

13 THE COURT: I am not going to make
14 any rulings without knowing exactly what was
15 asked before.

16 (The Court Reporter handed the Judge
17 an iPad with Mrs. Pledger's testimony in
18 realtime for readback.)

19 - - -

20 (Pause.)

21 - - -

22 THE COURT: Okay. So here's the
23 actual question and answer, and we'll go over
24 this and then we're going to set some ground
25 rules here.

1 The question, I think, that
2 Ms. Sullivan is suggesting is inconsistent is
3 at 12:30:22: "When Dr. Mathisen first
4 prescribed Risperdal to you, did he tell you
5 that the medicine was not FDA approved for
6 children?"

7 And the answer is: "I believe his
8 words were that it was not approved yet and
9 that it had helped children, autistic
10 children, through his experience."

11 Okay. And that's what we're talking
12 about.

13 MS. SULLIVAN: Yes, Your Honor. And
14 the impeachment is at Page 39, Line 19 of her
15 deposition where she's asked "Question: Did
16 he tell you that that was a use that was not
17 approved by the FDA at that time?

18 "Answer: No."

19 And I submit that's --

20 MR. KLINE: Read the next --

21 MS. SULLIVAN: -- dramatically
22 inconsistent.

23 MR. KLINE: Read the next question
24 and answer.

25 THE COURT: And then the next

1 question and answer at that deposition was,
2 "Did you have an understanding that it was
3 approved for use at that time?"

4 The answer being "no."

5 MS. SULLIVAN: No understanding, but
6 the question --

7 MR. KLINE: No; that's her
8 interpretation.

9 THE COURT: So I'm going to rule that
10 there is no inconsistency there that is
11 worthy of impeachment, unless you want to go
12 back to the word "yet." That's the only
13 thing that I've heard so far that is a little
14 different from the -- from the thing.

15 And so, you know, you can go back on
16 the "yet" if that's important enough to you
17 as a distinction.

18 But, Ms. Sullivan, I am going to
19 advise you that having sat through a
20 cross-examination of yours before, we're
21 going to be watching this very, very
22 carefully, because I do not want to go back
23 and forth, back and forth on matters that are
24 not inconsistent or consistent.

25 MS. SULLIVAN: Your Honor, that's

1 dramatically --

2 THE COURT: Excuse me. We had a lot
3 of questions that you asked in previous
4 cross-examinations that were in fact
5 consistent statements and then not really
6 ones that were properly admissible because
7 they were not based on fabrications.

8 So all I know is that I'm going to be
9 watching this very carefully. I'm going to
10 admonish you in front of the jury if
11 necessary.

12 Please, please, be mindful of the
13 fact that all deposition testimony is not
14 going to be broadcast on the screen; and that
15 if you have an inconsistency, you show it to
16 counsel first, and that the witness then
17 reads it ahead of time, just like you know
18 how to do, and then ask the question. That's
19 how we're going to do it in this courtroom.

20 We are adjourned till 1:30.

21 - - -

22 (Whereupon a luncheon recess was
23 taken from 12:41 to 1:32 p.m.)

24 - - -

25 (Whereupon the Afternoon Session was

1 reported and transcribed by Judy Romano, CRR,
2 Official Court Reporter.)

3 - - -

4 (Morning session concluded.)

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1 straight into cross-examination. And if
2 we're not completed, we'll go after lunch and
3 continue cross-examination and redirect. But
4 let's take our break right here for about ten
5 minutes.

6 COURT CRIER: All rise as the jury
7 exits.

8 - - -

9 (Whereupon the jury exited the
10 courtroom at 11:57 a.m.)

11 - - -

12 THE COURT: All right. We're in
13 recess for ten minutes.

14 MR. KLINE: Thank you.

15 - - -

16 (Whereupon a recess was taken.)

17 - - -

18 THE COURT: Okay.

19 COURT CRIER: All rise as the jury
20 enters.

21 - - -

22 (Whereupon the jury entered the
23 courtroom at 12:15 p.m.)

24 - - -

25 THE COURT: All right. Please be

1 seated.

2 All right. When you're ready
3 cross-examination, Ms. Sullivan, when you're
4 ready.

5 MS. SULLIVAN: Thank you, Your Honor.

6 Good afternoon, jurors. How are you?

7 JURY PANEL: Good afternoon.

8 - - -

9 CROSS-EXAMINATION

10 - - -

11 BY MS. SULLIVAN:

12 Q. Mrs. Pledger, good afternoon.

13 A. Good afternoon.

14 Q. We met when the case just started in jury
15 selection, right?

16 A. Yes.

17 Q. For the first time?

18 A. Yes.

19 Q. And actually, that was the first time you met
20 your lawyer, Mr. Kline, right?

21 MR. KLINE: Your Honor, objection.

22 That is really, really --

23 THE COURT: Overruled. Overruled.

24 Overruled.

25 Go ahead.

1 BY MS. SULLIVAN:

2 Q. Ms. Pledger, it's true you met Mr. Kline the
3 same time you met me. The first time you met him
4 was when you walked in when the case started for
5 jury selection?

6 A. Yes.

7 Q. And, Mrs. Pledger, you showed the jurors some
8 pictures of your son and one when he was coming out
9 of the pool when he was younger?

10 A. They were shown to them, yes.

11 Q. Yeah. And your best recollection is the one
12 when he was coming out of the pool was when he was
13 on Risperdal; that's your best recollection?

14 A. Oh, he was.

15 Q. And the two others when he had gained more
16 weight and was bigger, those two were taken years
17 after he stopped taking Risperdal?

18 A. Yes, both of them.

19 Q. Yeah.

20 A. Yes.

21 Q. So the one in the pool, your best
22 recollection, he was on Risperdal?

23 A. He was.

24 Q. The two when he was much bigger were taken
25 years after he stopped taking Risperdal?

1 A. Yes. He was older and bigger.

2 Q. And, Mrs. Pledger, you talked about your son,
3 and you've done a terrific job trying to bring him
4 along and learn things.

5 A. Thank you.

6 Q. Et cetera, by all accounts.

7 But you're suing here on behalf of
8 him because he's been declared not competent to
9 bring the lawsuit, right?

10 A. Yes.

11 Q. You're suing on his behalf?

12 A. Yes.

13 Q. And you also -- he's also -- you made a claim
14 and he's been established disabled by the
15 government, right?

16 A. I -- I don't understand. I made a claim that
17 he was disabled by the government?

18 Q. Maybe it's --

19 A. As far as guardianship?

20 Q. In terms of disability benefits.

21 MR. KLINE: Oh, Your Honor, Your
22 Honor, objection.

23 THE COURT: Sustained.

24 MR. KLINE: Objection under
25 Pennsylvania law. And she knows better.

1 THE COURT: Sustained. Absolutely.

2 MS. SULLIVAN: Well, Your Honor,
3 this --

4 THE COURT: It's not relevant.

5 MS. SULLIVAN: I'm sorry?

6 THE COURT: It's not relevant here.

7 MS. SULLIVAN: Your Honor, I just
8 like to show, without talking about any
9 benefits, show the form that talks about the
10 level of his disability, which is relevant.

11 THE COURT: Overruled -- I mean
12 sustained. We're just not going to get
13 into the -- there's many other methods of
14 doing that without relying on any
15 government-type determinations.

16 MS. SULLIVAN: Okay.

17 BY MS. SULLIVAN:

18 Q. Ms. Pledger --

19 MR. KLINE: Your Honor, would you
20 instruct the jury that that was improper?

21 THE COURT: All right. Yeah.

22 Ladies and gentlemen, for the purpose
23 that Ms. Sullivan wants to discuss the mental
24 state or capacity of this witness, the
25 particular document she wants to use or

1 anything, a determination by the government
2 is not relevant. If there was an issue about
3 this issue, I would have heard about it and
4 made a separate ruling about it. But I have
5 not had that chance to do so. So, therefore,
6 this particular issue through the government
7 is ruled for you not to consider.

8 BY MS. SULLIVAN:

9 Q. Ms. Pledger, have you stated in -- in a form
10 that your son needs assistance with everything?

11 A. Uhmm, at this point in his life not
12 everything, but, yes, he needs assistance.

13 Q. And have you said that as early as last year?

14 A. Well, he has -- someone has to stay with him.
15 He --

16 Q. And have you said, Ms. Pledger, that you have
17 to assist him with bathing and dressing?

18 A. He started bathing himself, and he dresses
19 himself. He has done that for several years.

20 Q. Okay. But as of last year, you didn't -- you
21 didn't say that he needs assistance?

22 A. I don't know what paper -- I don't know what
23 information you've got.

24 Q. And, Your Honor --

25 A. But he dresses himself.

1 MS. SULLIVAN: May I show this
2 defense exhibit, which is Mrs. Pledger's
3 statement? I'm sorry.

4 THE COURT: Is there an objection?

5 MR. KLINE: Your Honor, I haven't
6 seen it.

7 THE COURT: So why don't we look at
8 it. Let's do it the old-fashioned way.

9 MR. KLINE: I haven't seen it.

10 MS. SULLIVAN: Ms. Brown. And, Your
11 Honor, I'm happy to cover up any
12 objectionable subject matter. I just wanted
13 her statement.

14 THE COURT: I just don't know if
15 there's any inconsistent statement, to be
16 honest, at this point on this.

17 MS. SULLIVAN: I'm not -- I'm just --

18 THE COURT: So then I don't know.
19 Show it to the counsel and see if there's an
20 objection.

21 MS. SULLIVAN: Sure.

22 THE COURT: I don't know what purpose
23 it's being used for.

24 (Showing counsel.)

25 MR. KLINE: It is not inconsistent,

1 Your Honor. But I don't have an objection so
2 long as she doesn't try to get into things
3 that she knows are prejudicial like she
4 usually does.

5 MS. SULLIVAN: Your Honor, I object
6 to that. I'm just trying to get the evidence
7 in here. I object to the constant --

8 MR. KLINE: She's trying to get
9 evidence in that Your Honor tells her that
10 she can't.

11 But I have no objection to this. Go
12 do it. Go do it.

13 THE COURT: Okay. There's no
14 objection. And we'll see the document, and
15 we'll go do it. I don't have a problem with
16 it.

17 MS. BROWN: D-29.

18 MS. SULLIVAN: And if we could put
19 up --

20 THE COURT: Well, no one's putting up
21 anything yet until I this see this document.

22 What number is this?

23 COURT CRIER: This is D-29.

24 MR. KLINE: Your Honor, there are
25 certain things. I don't have a problem with

1 the content...

2 THE COURT: I'll tell you what, why
3 don't you ask questions based on this
4 document.

5 Do you want the witness to read the
6 document?

7 I mean, I don't understand what the
8 nature of using this document is for. To
9 refresh her memory?

10 MS. SULLIVAN: No.

11 THE COURT: I mean, I'm old school
12 here.

13 MS. SULLIVAN: No, Your Honor.
14 Mr. Kline went into the level of
15 Mr. Pledger's understanding, and I wanted to
16 show some of Mrs. Pledger's statements on
17 that very issue.

18 THE COURT: Okay. One moment.

19 MR. KLINE: It's nearly two years
20 old, Your Honor, the document, and consistent
21 with what she said.

22 THE COURT: Well, either you're
23 objecting or you're not.

24 MR. KLINE: Yes. Now I'll object.
25 It's consistent with everything she said

1 here.

2 THE COURT: That's sustained.

3 BY MS. SULLIVAN:

4 Q. And, Ms. Pledger, have you said as early as
5 last year that your son does not understand simple
6 things like most people?

7 A. There are very simple things he doesn't
8 understand.

9 Q. And have you said that he'll never hold a job?

10 A. I don't believe he will.

11 Q. And he has trouble communicating?

12 A. He's autistic. That's what autism is.

13 Q. And that he mostly sits home during the day
14 and watches about ten hours of TV?

15 A. He watches a lot of TV, or plays on his tablet
16 or computer or listens to his music; but, yes, he
17 spends the majority of his days at home with me.

18 Q. And he can say a few words but can't carry on
19 a conversation?

20 A. Uhhh, not like you and I do. He does say a
21 lot of words. But he doesn't understand the
22 back-and-forth communication.

23 Q. And that he has -- you've said that he has a
24 five-year-old mindset?

25 A. Yes, at times he does. He's still a little

1 boy. He loves Barney.

2 Q. He still loves Barney?

3 A. Yeah.

4 Q. Ms. Pledger, I want to go back to when your
5 son first -- when you first took him to see
6 Dr. Mathisen, if I could.

7 A. Okay.

8 Q. And you have described some of the challenges
9 you and your family faced dealing with a child with
10 autism, right?

11 A. I think I've -- I don't know what description
12 I've given about Austin, but --

13 Q. But you and your husband have had to deal with
14 some of the behavioral issues that go with autism?

15 A. Oh, yes. Oh, yes.

16 Q. And I think you've talked about some of them,
17 the tantrums?

18 A. Yes.

19 Q. And you told our jurors that it's not like a
20 kid who doesn't have autism tantrums, it's something
21 completely different?

22 A. Oh, it's totally different, yes.

23 Q. And can you describe -- and so in the time
24 before you took your son to see Dr. Mathisen, can
25 you describe for us the kinds of things that drove

1 you to see a doctor for your son to try to address
2 these behavioral issues? What are the kinds of
3 things that you were facing in terms of the
4 behavioral issues?

5 A. Uhmm, he was, and was for many years before we
6 started Risperdal and during -- he's much different
7 now -- but he would hit himself. And the doctors
8 even told me it could be he has a headache. It
9 could be out of frustration, but he would hit
10 himself before Risperdal, but over the years it's
11 always been something. He -- he'll scream or be
12 frustrated or there were years where he bit himself.
13 It's just a lot of -- the world is a frustrating
14 place for an autistic person.

15 Q. And, Mrs. Pledger, you had described constant
16 screaming tantrums that could happen, as many as
17 eight times a day?

18 A. Oh, well --

19 Q. Before Risperdal?

20 A. -- not constant, but, yes. When I worked, I
21 worked until he was five, and then it just got to
22 the point where I couldn't. I had to be with him
23 for many reasons. But, yes, he can be very loud
24 when he gets upset. He screams and he will throw
25 himself on the ground and hit his head. And he's

1 just frustrated, and he didn't have the words to
2 tell me why. So that was his way of acting out.

3 Q. And, Mrs. Pledger, in addition to having
4 problems at home, it sounded like he was having
5 problems at school, and some of the teachers spoke
6 to you about some of the problems he was having in
7 school when he was 6 or 7 years old?

8 A. Oh, absolutely. We communicated every day by
9 at least letter; and once I quit working, I was at
10 the school a lot. But we wrote back and forth to
11 each other different things. And they didn't know
12 him as well as we did. And we were struggling, so
13 we knew they were struggling.

14 Q. And is it one of the teachers that in fact
15 recommended that you try to get some medicine for
16 your son?

17 A. Actually, it was his teacher's aide; and her
18 sister went to Dr. Mathisen, so she referred
19 Dr. Mathisen to me.

20 Q. Okay. So he was having these sort of severe
21 behavior problems at home and at school and one of
22 the teacher's aides said there's some medicine
23 and --

24 A. No. She said that there was a good doctor.

25 Q. Okay.

1 A. And that maybe he would have some ideas to
2 help us.

3 Q. Okay. So --

4 A. And we were -- before we took him, my husband
5 was pretty sure he didn't want to even try medicine,
6 but of course we discussed it.

7 Q. And then you went to see Dr. Mathisen?

8 A. Yes.

9 Q. And Dr. Mathisen talked to you about the fact
10 that he had treated other children with autism?

11 A. Yes.

12 Q. And talked to you about the fact that he had
13 prescribed Risperdal for kids with autism, and it
14 had helped them?

15 MR. KLINE: Objection. I object only
16 to the extent that this is all hearsay and
17 she had an opportunity to ask Dr. Mathisen
18 all of this.

19 MS. SULLIVAN: We did.

20 MR. KLINE: To the extent that this
21 mother says something, I have no objection.
22 I do have an objection to the hearsay.

23 THE COURT: Well, that's overruled.

24 MR. KLINE: Especially since --

25 THE COURT: That's overruled.

1 MR. KLINE: Especially since the
2 doctor was here.

3 THE COURT: That's overruled. Go
4 ahead.

5 THE WITNESS: Please say that again.

6 MS. SULLIVAN: Sure.

7 BY MS. SULLIVAN:

8 Q. Mrs. Pledger, Dr. Mathisen told you that he
9 had treated other kids with autism and had some
10 success using Risperdal; that it helped some other
11 children?

12 A. On my second visit, he did say that.

13 Q. Yes.

14 A. I knew he had -- he saw autistic children on
15 our first visit, too.

16 Q. And on the second visit, he said he had
17 prescribed Risperdal for other children with autism
18 and it helped on these bad behavioral issues?

19 MR. KLINE: Same objection. It has
20 to do with other children and hearsay.

21 THE COURT: All right. That's
22 sustained.

23 You can ask without leading on
24 something like this as to what she understood
25 from Dr. Mathisen.

1 BY MS. SULLIVAN:

2 Q. And, Mrs. Pledger, it sounded like you thought
3 long and hard about whether or not to put your son
4 on a medicine?

5 A. It was a hard decision.

6 Q. And a decision that no parent really wants to
7 face in terms of a serious medicine?

8 MR. KLINE: Objection as to any
9 parent. She would have no idea.

10 THE COURT: Yeah. Please limit it to
11 what her experience was. This is a single
12 case here.

13 BY MS. SULLIVAN:

14 Q. Mrs. Pledger, you made the decision to start
15 your son on Risperdal because you felt like he
16 needed a medicine?

17 A. I didn't start him on Risperdal because I felt
18 like he needed a medicine. It was something we
19 could try, the doctor suggested; and my husband and
20 I discussed it.

21 Q. And you discussed it and decided that he
22 needed help?

23 A. We discussed it and decided we were hoping it
24 would help.

25 Q. And it did?

1 A. It did.

2 Q. And the jury has seen some of the medical
3 records, and you were pretty candid in your
4 deposition on the serious behavioral issues,
5 including his behavior at school. Risperdal really
6 helped Austin?

7 A. It did help him.

8 Q. And in fact you kept him on Risperdal for
9 about five years?

10 A. Yes.

11 Q. And when Dr. Mathisen first prescribed
12 Risperdal to you, did he tell you that the medicine
13 was not FDA approved for children?

14 A. I believe his words were that it was not
15 approved yet and that it had helped children,
16 autistic children, through his experience.

17 Q. And I'm going to show you, Mrs. Pledger -- I'm
18 going to show the witness -- and if we could have
19 Alli give it to Mrs. Pledger and to counsel.

20 Mrs. Pledger, I'm going to show you
21 Page 39. You gave a deposition in this case?

22 A. Yes.

23 Q. And I'm going to show you some of that
24 testimony.

25 A. Okay.

1 MR. KLINE: Wait.

2 THE COURT: One second. Is this
3 marked? One second, please.

4 Please do not put anything up yet.

5 And it is not the Court's practice to
6 put deposition transcripts on the screen.

7 COURT CRIER: D-30.

8 - - -

9 (Whereupon Exhibit D-30 was marked
10 for identification.)

11 - - -

12 THE COURT: Because if we did that,
13 we'd have to read the whole deposition to put
14 everything in play.

15 MS. SULLIVAN: I can read the
16 question and answer, Your Honor.

17 MR. KLINE: Your Honor, I object.
18 There's no inconsistency.

19 THE COURT: All right. Right now
20 we're at D-30. This is a transcript of a
21 deposition taken on Friday, November 8, 2013.
22 And what page are we looking at?

23 MS. SULLIVAN: Page 39, Your Honor,
24 Line 19 to 21.

25 THE COURT: Well, that --

1 MR. KLINE: It's totally consistent.

2 THE COURT: Well, is there anything
3 inconsistent with what's been said so far?
4 What's the purpose?

5 MS. SULLIVAN: It's inconsistent with
6 the last question and answer.

7 THE COURT: Number 21?

8 MR. KLINE: It says the exact same
9 thing. Object.

10 THE COURT: Well, I think you
11 asked that. We can take a break right here
12 and go to lunch.

13 MS. SULLIVAN: Sure, Your Honor.

14 THE COURT: All right. We're going
15 to go to lunch then right here.

16 Ladies and gentlemen, can we come
17 back at 1:30? And it looks like we may have
18 the afternoon in session today. It's okay,
19 you know. We're paid for a living here.

20 So 1:30, come back here. Have a good
21 lunch. Again, the same rules now, very
22 important. The yellow badges for the reasons
23 we already know. To keep an open mind in
24 this case. Definitely have ways to go. To
25 not discuss this matter with each other or

1 anybody else, and obviously not to read
2 anything or listen to anything or watch
3 anything about this particular case, okay?

4 All right. Thank you very much
5 everybody.

6 COURT CRIER: All rise as the jury
7 exits.

8 - - -

9 (Whereupon the jury exited the
10 courtroom at 12:33 p.m.)

11 - - -

12 (The following transpired in open
13 court outside the presence of the jury:)

14 - - -

15 THE COURT: All right. As soon as
16 you are -- we're going to go over the
17 evidentiary issues for this particular
18 document and probably for some others, so you
19 may step outside for a few minutes.

20 THE WITNESS: Okay.

21 - - -

22 (Witness exited the courtroom.)

23 - - -

24 THE COURT: All right. Everyone be
25 seated. I'd like to ask our court reporter,

1 John, to read to me now what were
2 Ms. Sullivan's questions to this witness
3 concerning the FDA label as far as what she
4 was told by Dr. Mathisen and what her answers
5 were.

6 COURT REPORTER: Yes, Your Honor.

7 THE COURT: In fact, why don't you
8 flash that on the screen. It will be helpful
9 for me. We'll flash the realtime -- or right
10 now what we're talking about -- not from the
11 deposition. I'm talking about the -- if we
12 can flash this realtime transcript up there.
13 Can we do that?

14 MR. KLINE: Yes. If not, I have it
15 on my iPad.

16 MR. MURPHY: It's at 12:30.

17 MS. SULLIVAN: And, Your Honor, the
18 inconsistency -- and, Your Honor, I can read
19 it -- is that Ms. Pledger testified here that
20 Dr. Mathisen did tell her it wasn't FDA
21 approved. She testified to the opposite at
22 her deposition.

23 MR. KLINE: That's not --

24 THE COURT: I didn't hear that,
25 Counsel. I didn't see that myself.

1 MR. KLINE: That's not correct. I
2 have it right here.

3 MR. MURPHY: It's at 12:30.

4 MR. KLINE: I have it right here. I
5 can hand you my iPad.

6 THE COURT: Well, I need to place on
7 the record is what we're going to do. Place
8 on the record what the questions were. I
9 certainly did not hear that she heard it was
10 FDA approved.

11 MS. SULLIVAN: That was a different
12 question.

13 THE COURT: I am not going to make
14 any rulings without knowing exactly what was
15 asked before.

16 (The Court Reporter handed the Judge
17 an iPad with Mrs. Pledger's testimony in
18 realtime for readback.)

19 - - -

20 (Pause.)

21 - - -

22 THE COURT: Okay. So here's the
23 actual question and answer, and we'll go over
24 this and then we're going to set some ground
25 rules here.

1 The question, I think, that
2 Ms. Sullivan is suggesting is inconsistent is
3 at 12:30:22: "When Dr. Mathisen first
4 prescribed Risperdal to you, did he tell you
5 that the medicine was not FDA approved for
6 children?"

7 And the answer is: "I believe his
8 words were that it was not approved yet and
9 that it had helped children, autistic
10 children, through his experience."

11 Okay. And that's what we're talking
12 about.

13 MS. SULLIVAN: Yes, Your Honor. And
14 the impeachment is at Page 39, Line 19 of her
15 deposition where she's asked "Question: Did
16 he tell you that that was a use that was not
17 approved by the FDA at that time?

18 "Answer: No."

19 And I submit that's --

20 MR. KLINE: Read the next --

21 MS. SULLIVAN: -- dramatically
22 inconsistent.

23 MR. KLINE: Read the next question
24 and answer.

25 THE COURT: And then the next

1 question and answer at that deposition was,
2 "Did you have an understanding that it was
3 approved for use at that time?"

4 The answer being "no."

5 MS. SULLIVAN: No understanding, but
6 the question --

7 MR. KLINE: No; that's her
8 interpretation.

9 THE COURT: So I'm going to rule that
10 there is no inconsistency there that is
11 worthy of impeachment, unless you want to go
12 back to the word "yet." That's the only
13 thing that I've heard so far that is a little
14 different from the -- from the thing.

15 And so, you know, you can go back on
16 the "yet" if that's important enough to you
17 as a distinction.

18 But, Ms. Sullivan, I am going to
19 advise you that having sat through a
20 cross-examination of yours before, we're
21 going to be watching this very, very
22 carefully, because I do not want to go back
23 and forth, back and forth on matters that are
24 not inconsistent or consistent.

25 MS. SULLIVAN: Your Honor, that's

1 dramatically --

2 THE COURT: Excuse me. We had a lot
3 of questions that you asked in previous
4 cross-examinations that were in fact
5 consistent statements and then not really
6 ones that were properly admissible because
7 they were not based on fabrications.

8 So all I know is that I'm going to be
9 watching this very carefully. I'm going to
10 admonish you in front of the jury if
11 necessary.

12 Please, please, be mindful of the
13 fact that all deposition testimony is not
14 going to be broadcast on the screen; and that
15 if you have an inconsistency, you show it to
16 counsel first, and that the witness then
17 reads it ahead of time, just like you know
18 how to do, and then ask the question. That's
19 how we're going to do it in this courtroom.

20 We are adjourned till 1:30.

21 - - -

22 (Whereupon a luncheon recess was
23 taken from 12:41 to 1:32 p.m.)

24 - - -

25 (Whereupon the Afternoon Session was

1 (B.Pledger - Cross)

2 (Hearing is reconvened at 1:40 p.m. and
3 the following transpired in open court out of
4 the hearing of the jury:)

5 THE COURT: Before we proceed with the
6 cross examination of Ms. Pledger, let me make
7 sure on the record I have formally denied our
8 mistrial motion that was announced when the
9 decision was made as to the testimony of
10 Dr. Solomon.

11 So the mistrial motion, that was
12 denied, and I just want to make sure the
13 record is clear as to that.

14 MS. SULLIVAN: Thank you, Your Honor.

15 THE COURT: Let's go.

16 (BENITA C. PLEDGER, having been
17 previously sworn, resumes the witness stand.)

18 (The jury enters the courtroom at
19 1:47 p.m.)

20 THE COURT: All right, Ms. Sullivan,
21 when you are ready you may proceed.

22 - - -

23 CROSS-EXAMINATION (Continuing)

24 - - -

25

1 (B.Pledger - Cross)

2 BY MS. SULLIVAN:

3 Q Hi, Mrs. Pledger.

4 A Hello.

5 Q I hope you had a good lunch, good afternoon.

6 A Good afternoon.

7 Q Hi, everyone, thanks for coming back, good
8 afternoon.

9 Mrs. Pledger, we were speaking about
10 your interactions with Dr. Mathisen and I want to
11 get back to that, but first I want to get back to
12 your call to Janssen that you spoke to Mr. Kline
13 about this morning. Actually, I have marked the
14 exhibit as a new Defense Exhibit 31, because the
15 plaintiff's exhibit was missing a page.

16 MS. SULLIVAN: Any objection?

17 THE COURT: Proceed.

18 Q Ms. Pledger, this was your call in June of
19 2002, a record of your call to Janssen; do you see
20 that?

21 A Yes.

22 MR. KLINE: Your Honor --

23 THE COURT: Excuse me?

24 MR. KLINE: No objection.

25 THE COURT: Go ahead.

1 (B.Pledger - Cross)

2 MR. KLINE: With the caveat that this
3 isn't her document nor a document that she was
4 familiar with, I don't have an objection.

5 THE COURT: Do you want this document
6 in front of you or are you good enough?

7 THE WITNESS: I see it there. I have
8 never seen it before, though.

9 Q I will be happy to give you a copy. Mr. Kline
10 and you were talking about this this morning?

11 A Yeah, I saw it this morning.

12 MS. SULLIVAN: It's Defense 31.

13 (D-31 is marked for identification.)

14 Q And do you see in response to your call where
15 the document, the Janssen document notes that they
16 attempted to call you back?

17 A Yes, I see that.

18 Q And they said there was no answer and no
19 answering machine. Do you see that?

20 A Yes.

21 Q And that the preferred method of response is
22 U.S. Mail and that they were sending a letter asking
23 for you to call them. Do you see that?

24 MR. KLINE: No, it says generic letter.

25 A I don't recall them saying to call us back,

1 (B.Pledger - Cross)

2 but. That wasn't my preferred method.

3 Q Ms. Pledger, I think you mentioned this
4 morning that you recall some letter from Janssen?

5 A Oh, yes.

6 Q Let me see if I can refresh your recollection.
7 Turning to page three of the document, this is one
8 of the standard letters that Janssen, and it says,
9 "We would like to provide you with a response to
10 your inquiry, but your correspondence did not
11 contain your telephone number. Please contact us at
12 Janssen One to One Customer Action Center," and they
13 give the number?

14 MR. KLINE: Objection, unless the date
15 of the letter and the letter is authenticated
16 and shown.

17 THE COURT: Sustained.

18 Q Ms. Pledger, do you remember getting a letter
19 like this from Janssen?

20 MR. KLINE: Your Honor, may we see the
21 date of the letter? It's not authenticated.

22 THE COURT: My procedure -- is this
23 entire document, the whole document admitted?

24 MS. SULLIVAN: Yes.

25 THE COURT: Okay, go ahead.

1 (B.Pledger - Cross)

2 Q And, Mrs. Pledger, as you can see, this is a
3 generic form response letter?

4 MR. KLINE: Your Honor, the prior
5 document that was displayed was not --

6 THE COURT: Mr. Kline, if there is a an
7 objection --

8 MR. KLINE: Objection. It's a simple
9 objection. The date of the letter was not
10 authenticated, and that is an important fact.

11 THE COURT: Well, I mean, again, I
12 don't know whether we had that for any of
13 these. So you may ask the question based on
14 this document, and if there is something to
15 clear up there will be a redirect.

16 Q And the date of this particular form is
17 October of 2012; do you see that?

18 A Yes.

19 Q And do you remember you got this letter in
20 this format back in 2002 when you called Janssen?

21 A Do I remember getting a letter, yes.

22 Q From Janssen, in response to your call?

23 A Yes.

24 Q And did you call them back after they sent
25 you the letter saying please call us so we can talk

1 (B.Pledger - Cross)

2 to you?

3 A I don't remember them saying please call me,
4 but this says they didn't have my phone number, but
5 they did, they said.

6 Q And did you then call Janssen back in
7 response --

8 A I don't remember it saying to call them back.

9 Q And, Ms. Pledger, if we can look at the next
10 page of the document, this is another interaction
11 with you and Janssen that you and Mr. Kline talked
12 to our jurors about this morning. Do you see that?

13 A Yes.

14 Q And this one was a few days later, on June 25,
15 2002?

16 A Yes.

17 Q And looks like you actually spoke to Janssen,
18 right?

19 A Yes.

20 Q And you asked them a question about the Zyrtec
21 that your son was also taking with the Risperdal,
22 right?

23 A He had just been prescribed, yes.

24 Q And the response from Janssen is they
25 responded per the package insert, right? "Per the

1 (B.Pledger - Cross)

2 PI"? Do you see that?

3 A Yes.

4 Q And they also referred you back to your
5 doctor, right?

6 A Yes.

7 Q Did you talk to your doctor then about
8 Risperdal and the risks?

9 A I don't think I talked to my doctor. I think
10 I called my pharmacy and just asked them was it okay
11 for the medicines to be given at the same time.

12 Q But when you called Janssen and you spoke to
13 them, they discussed the FDA-approved label and said
14 go back and talk to your doctor?

15 A I don't remember that. The paper says that it
16 said for me to talk to my doctor, but I was just
17 trying to find out if it was okay to give the two
18 medicines, and I thought Janssen would know more
19 about Risperdal possibly than a pharmacy. So I just
20 asked my pharmacist, I am sure. That's what I
21 started doing after that.

22 Q But Janssen had said you should talk to your
23 doctor about it?

24 A I guess. I don't remember them saying that.

25 Q And, Ms. Pledger, I want to go back to your

1 (B.Pledger - Cross)

2 interaction with Dr. Mathisen when he first
3 described Risperdal for your son?

4 A Okay.

5 Q Dr. Mathisen did not tell you that Risperdal
6 was not approved by the FDA for kids, did he?

7 MR. KLINE: Objection. This is exactly
8 what we went over before.

9 THE COURT: Sustained.

10 MS. SULLIVAN: Your Honor, the
11 impeachment I wanted to show is on page 39,
12 line --

13 THE COURT: Why don't you again read
14 the statement that you are attempting to
15 impeach and then go that way. Because this
16 has already been answered affirmatively,
17 consistently with her prior deposition, your
18 question just now.

19 Q Ms. Pledger, did Dr. Mathisen tell you that it
20 was a use that was not approved by the FDA at that
21 time?

22 MR. KLINE: Objection. Asked, answered
23 and ruled upon a bunch of times.

24 MS. SULLIVAN: I am reading from her
25 prior testimony, Your Honor.

1 (B.Pledger - Cross)

2 MR. KLINE: She hasn't said anything
3 inconsistent yet.

4 THE COURT: Answer the question so we
5 can move.

6 A I answered it earlier.

7 THE COURT: Do you want to repeat your
8 answer.

9 A Yes, I said that he said it had not been
10 approved yet and he used it. It helped many
11 autistic children.

12 MS. SULLIVAN: May I now, Your Honor,
13 read the inconsistent statement?

14 THE COURT: Sure.

15 Q Ms. Pledger, you gave a deposition in this
16 case?

17 A Yes.

18 Q And do you have it --

19 THE COURT: What's the line? Because I
20 think -- you know what, I will permit you to
21 do this so the jury will understand what you
22 are trying to do so we can move right along.

23 MS. SULLIVAN: Thank you, Your Honor.

24 Q On page 39, Ms. Pledger, if you have it?

25 A I don't have it.

1 (B.Pledger - Cross)

2 THE COURT CRIER: D-30 is being given
3 to the witness.

4 THE COURT: Just read the two lines
5 that you are interested in.

6 A Where is it at?

7 Q It's on page 39 of your testimony.

8 MS. SULLIVAN: And, Your Honor, I want
9 to read the two lines above it to put it in
10 context?

11 THE COURT: No, just read the lines you
12 are intending to impeach.

13 Q Ms. Pledger, do you see on line 19 you were
14 asked the question, "Did he tell you that it was a
15 use that was not approved by the FDA at that time?"
16 And your answer was, No?

17 A Did you did he tell you that it was approved,
18 is what it says.

19 Q "Did he tell you it was a use that --

20 A I am sorry, I don't know what line you are on.
21 I was looking above it.

22 Q I am on line 19?

23 A Okay.

24 Q And the question you were asked is, "Did he
25 tell you that that was a use that was not approved

1 (B.Pledger - Cross)

2 by the FDA at that time?" And your answer was, No.
3 Did I read that correctly?

4 A Yes, you did.

5 THE COURT: All right, Pennsylvania
6 Rules of Evidence now call for a completion of
7 the answer in context. So why don't you go
8 ahead and read the next two lines or where
9 ever the next questions were.

10 MS. SULLIVAN: Sure. Do you want me
11 to, Your Honor? Sure.

12 THE COURT: I don't know, ask her,
13 because it's only fair when the context of the
14 entire --

15 MS. SULLIVAN: I am happy to read as
16 much as she would like to.

17 THE COURT: Go ahead.

18 Q And then you were asked, "Do you have an
19 understanding that it was approved for use at that
20 time?" And your answer was, No?

21 A No. I didn't understand that it was approved.
22 And that's what I said a minute ago.

23 THE COURT: Thank you. Now you are in
24 accordance with the Pennsylvania Rules of
25 Evidence.

1 (B.Pledger - Cross)

2 Q So, Ms. Pledger, Dr. Mathisen did not tell you
3 that it was not FDA approved for children, he didn't
4 tell you that?

5 MR. KLINE: Objection, double negative.

6 THE COURT: That is a double negative
7 and that's sustained. Too confusing.

8 Q Ms. Pledger, Dr. Mathisen did not tell you
9 that the medicine was approved for children?

10 MR. KLINE: Same thing.

11 THE COURT: Objection, sustained, asked
12 and answered. Please move on. Please move
13 on, counsel.

14 Q Let me show you -- I am going to show you
15 Plaintiff's Exhibit 8, Ms. Pledger, and put it up on
16 the screen --

17 THE COURT: Nothing is going up on the
18 screen until I see it.

19 MS. SULLIVAN: This has been admitted,
20 Your Honor.

21 THE COURT: It doesn't matter. I have
22 to see what it's used for.

23 MR. KLINE: Objection.

24 THE COURT: Why are you objecting?

25 MR. KLINE: Because she is not the

1 (B.Pledger - Cross)

2 learned intermediary, she is --

3 THE COURT: I haven't heard the
4 question yet. What is the question?

5 MS. SULLIVAN: I am going to ask
6 Ms. Pledger about some of the risk information
7 in the label and ask her if Dr. Mathisen told
8 her about it, which is a core issue in the
9 case.

10 MR. KLINE: Objection.

11 THE COURT: Sustained. You can ask her
12 whether she read it and what she understood
13 about it, but not what Dr. Mathisen might have
14 told her. She is going to tell you what she
15 remembers from what he told her, not to make
16 up evidence for you.

17 Q Ms. Pledger, did you ever read the Risperdal
18 label that came with the medicine?

19 A I attempted to.

20 Q Okay, fair enough.

21 MS. SULLIVAN: May now I put it up,
22 Your Honor?

23 THE COURT: No. Ask her a question as
24 to what you want to ask her.

25 Q Ms. Pledger, did Dr. Mathisen tell you that

1 (B.Pledger - Cross)

2 there was a risk for neurologic malignant syndrome
3 with Risperdal?

4 MR. KLINE: Your Honor, objection.

5 THE COURT: Sustained.

6 MS. SULLIVAN: Your Honor, this goes to
7 the core issues in the case.

8 THE COURT: In other words, she has
9 testified as to what she was told. You can
10 ask her if anything else was told, you may do
11 so.

12 MS. SULLIVAN: That's what I am trying
13 to do.

14 THE COURT: I am not going to permit
15 that, counsel. You are trying to have the
16 label read into the record. Do that through
17 your own witness, not through this witness.

18 MS. SULLIVAN: But, Your Honor, this is
19 the witness --

20 THE COURT: Sustained.

21 BY MS. SULLIVAN:

22 Q Ms. Pledger, you testified --

23 THE COURT: We can take all day to read
24 the label through your own witness, not this
25 witness.

1 (B.Pledger - Cross)

2 MS. SULLIVAN: But this is the
3 witness --

4 THE COURT: She said she could not
5 understand the label.

6 MS. SULLIVAN: I am not asking about
7 the label, I am asking about what Dr. Mathisen
8 told her.

9 THE COURT: That is sustained. She
10 told you. Do you want to repeat what he told
11 you? Go ahead, repeat it.

12 A He told me that there was an increased risk of
13 weight gain.

14 Q And did he tell you, Mrs. Pledger --

15 THE COURT: Did he tell you anything
16 else, Mrs. Pledger?

17 THE WITNESS: No.

18 THE COURT: Move on, please, counsel.

19 Q So doctor --

20 THE COURT: Counsel, you cannot read a
21 label to this lay witness.

22 Q Dr. Mathisen did not tell you any of the other
23 risks of the medicine?

24 MR. KLINE: Objection. She wouldn't
25 know.

1 (B.Pledger - Cross)

2 THE COURT: I will permit that answer,
3 absolutely.

4 A He told me about the weight gain and that was
5 all.

6 Q And you were here when Dr. Mathisen testified?

7 A Yes.

8 Q Did you hear him tell the jury that this
9 medicine had risks of neuromuscular disorders?

10 MR. KLINE: Objection.

11 THE COURT: Sustained. The record will
12 speak for itself and so will the jury. It's
13 not a matter of what she heard, it's what the
14 jury remembers, and that's what the evidence
15 is.

16 Q Did Dr. Mathisen tell you any other risks
17 about Risperdal other than weight gain?

18 MR. KLINE: Objection, asked and
19 answered.

20 THE COURT: Sustained. We already
21 heard Dr. Mathisen's testimony on this issue
22 from him directly.

23 MS. SULLIVAN: Your Honor, the core
24 issue --

25 THE COURT: The core issue is what did

1 (B.Pledger - Cross)

2 Dr. Mathisen tell this witness, and she has
3 told you, counsel. Please move on.

4 Q And so, Mrs. Pledger, just so we are clear,
5 the only risk that Dr. Mathisen disclosed to you was
6 weight gain?

7 MR. KLINE: Objection.

8 THE COURT: Sustained. We understand
9 that to be the answer.

10 Q And did Dr. Mathisen tell you that the
11 medicine had no safety data for children?

12 MR. KLINE: Objection, Your Honor.

13 THE COURT: Again, sustained, unless
14 there is something else that you are not
15 telling us. Did he tell you anything else?

16 THE WITNESS: No.

17 THE COURT: Sustained. That's the
18 point.

19 Q And your son did gain some weight when he was
20 on Risperdal?

21 A Yes.

22 Q And you and Dr. Mathisen talked about that?

23 A Yes.

24 Q And you decided that notwithstanding the fact
25 that he was gaining some weight on Risperdal, you

1 (B.Pledger - Cross)

2 still wanted to keep him on the medicine?

3 A Yes.

4 Q You were willing to take that risk because it
5 was helping him?

6 A I knew of the weight gain risk from day one,
7 so.

8 Q And even though he was gaining weight you told
9 Dr. Mathisen, Keep him on the Risperdal, it's
10 working for him?

11 A We decided together. We discussed it every
12 time I went. We discussed his weight and how it was
13 working.

14 Q And can you tell us what ways that Risperdal
15 was helping him that made you continue to keep him
16 on it?

17 A I think more than anything it helped with some
18 of his meltdowns. We could tell that it did help
19 him, or I wouldn't have kept him on it that long,
20 obviously.

21 Q So fewer tantrums? Fewer screaming episodes?

22 A Yes.

23 Q Fewer hitting and pinching and that kind of
24 thing?

25 A Oh, yes.

1 (B.Pledger - Cross)

2 Q And he was doing better in school on
3 Risperdal?

4 A Yes, he was doing better.

5 Q And I think you told us this morning that he
6 started gaining weight on Risperdal almost
7 immediately?

8 A From the first time I -- my next doctor's
9 visit is when I knew.

10 Q And he also lost some weight, to your credit,
11 on Risperdal, you tried to change his diet and did
12 some exercise, so he gained weight on Risperdal, he
13 lost weight on Risperdal?

14 A Yes.

15 Q And another doctor, Dr. Paoletti took him off
16 of Risperdal in the Spring of 2007, or around there?

17 A Dr. Paoletti took him off of Risperdal, yes.

18 Q And after he stopped taking Risperdal he took
19 a medicine called Abilify. Right, Mrs. Pledger?

20 A Yes.

21 Q And this was a board that the jury saw when
22 Dr. Mathisen was here. And Abilify didn't work for
23 him, did it?

24 A It worked as good as Risperdal. He wanted to
25 change him because of the less weight gain

1 (B.Pledger - Cross)

2 potential.

3 Q He took him off of Risperdal because it didn't
4 work, and there were tremors?

5 A Off of Risperdal?

6 Q I am sorry. Dr. Paoletti took your son off of
7 Abilify because of tremors and effectiveness issues?

8 A We don't know that there were tremors. He
9 took him off Abilify and wanted to put him on Geodon
10 because, again, he said that was another medicine
11 that had less potential for weight gain. That was
12 always our issue. And one of the teachers aids did
13 think she saw his hand do a tremor, so we had tests
14 run to make sure he was okay.

15 Q And that was while he was on Abilify?

16 A Possibly. I am not sure. I am not sure. We
17 would have to look at his medical records.

18 Q And after he stopped taking Risperdal, he
19 actually -- the school asked him to stop attending
20 school because of behavior issues?

21 A Oh, no. That was long after.

22 Q After Risperdal?

23 A Oh, many years. He continued school on
24 Abilify and Geodon. For many years.

25 Q And at some point after Risperdal, after

1 (B.Pledger - Cross)

2 Abilify and while he was on Geodon, I think the
3 school asked that he be schooled at home because of
4 safety concerns?

5 A Once he hit the high school. They weren't
6 equipped for him.

7 Q And I want to show you -- Mrs. Pledger, you
8 were involved in his education programs and got
9 reports from the school and were involved in his
10 individual program plans?

11 A Yes.

12 Q IEPs?

13 A Yes.

14 Q And I want to show you some of those, if I
15 could.

16 MS. SULLIVAN: We will mark this D-32.
17 3.538, after counsel looks at it.

18 THE COURT: Any objection?

19 MR. KLINE: Just looking.

20 (D-32 is marked for identification.)

21 MR. KLINE: Yes. Objection. It has
22 nothing to do with when he was on Risperdal.
23 It was 2007-2008.

24 MS. SULLIVAN: Your Honor, two issues.
25 This refers to right after he comes off

1 (B.Pledger - Cross)

2 Risperdal and the behavior issues, and it goes
3 to the risk/benefit calculation that was --

4 THE COURT: Which part of this are we
5 looking at? This is kind of private stuff.
6 What are you looking at here?

7 MS. SULLIVAN: The behavior issues
8 addressed in the first paragraph, Your Honor.

9 THE COURT: Which one? Speech/language
10 therapy, general information.

11 MS. SULLIVAN: "After returning from
12 spring break his behavior had regressed. It
13 was reported that his medication had changed."

14 THE COURT: Sure, you are permitted
15 that. Ask the mother what she remembers of
16 that period. Shortly after this particular
17 drug was discontinued. Correct?

18 MS. SULLIVAN: Your Honor, I can put it
19 up?

20 THE COURT: No. No. The section that
21 you were asking about, you know, read it to
22 her and do it that way. There is a lot of
23 private information here that is not relevant
24 to this case.

25 MS. SULLIVAN: Well, Your Honor, his

1 (B.Pledger - Cross)

2 behavior issues are directly relevant to this
3 case.

4 THE COURT: If you have this redacted
5 ahead of time and you ask me ahead of time,
6 fine. But there is a lot of private stuff in
7 here. I don't think every kid who is a
8 plaintiff in any of these cases should have
9 their whole life up there on the screen.

10 MS. SULLIVAN: That's not my intent,
11 Your Honor. It's goes to the issue of his
12 behavior before and after the medicine.

13 THE COURT: Well, where is it? In the
14 first, speech/language therapy?

15 MS. SULLIVAN: Yes.

16 THE COURT: All right.

17 MS. SULLIVAN: Can I show that first
18 paragraph?

19 THE COURT: You want that first
20 paragraph?

21 MS. SULLIVAN: Yes, Your Honor.

22 THE COURT: Okay.

23 MS. SULLIVAN: Thank you. Just the
24 first paragraph, please. Yes, Your Honor.

25 THE COURT: There you go.

1 (B.Pledger - Cross)

2 Q Do you see that, Ms. Pledger?

3 A Yes.

4 Q Can our jurors see it? And, Ms. Pledger, this
5 is from the 2007-2008 time period, right?

6 A Yes.

7 Q And he came off Risperdal in late April 2007,
8 correct?

9 A Yes.

10 Q And then this educational record, the school
11 is reporting, "In April, Austin was reported to be
12 initiating interaction and being more verbal,
13 however, after returning from Spring break his
14 behavior had regressed. It was reported that his
15 medications had changed and this could explain the
16 difference in his behavior."

17 Do you see that?

18 A I do.

19 Q So he was on Risperdal before the Spring
20 break, you take him off, they put him on Abilify and
21 his behavior regresses, according to the school?

22 MR. KLINE: Objection. That's exactly
23 not what it says. Objection.

24 THE COURT: You will have your chance.
25 Why don't we have the mom answer what was

1 (B.Pledger - Cross)

2 going on at that time.

3 MR. KLINE: And, Your Honor, is she
4 familiar with the document?

5 THE COURT: Pardon me?

6 MR. KLINE: Don't we have to
7 authenticate the document, that she knows what
8 the document is?

9 MS. SULLIVAN: I am happy to do it.

10 Q Ms. Pledger, you had seen his IEP program
11 plans, you signed many of them?

12 A Yes, I saw many of them, yes. I was at all
13 the meetings.

14 Q And you are familiar with this kind of
15 document?

16 A Yes.

17 MR. KLINE: The question was whether --

18 A I don't remember this exact one.

19 THE COURT: Mr. Kline, I want to get
20 through it, because otherwise what could
21 happen in this case with the opening of the
22 door here is a complete history of this
23 child's behavior records through high school,
24 which I will do that, we can spend all day
25 doing that on Monday. Go ahead.

(B.Pledger - Cross)

Q And so, Mrs. Pledger, after he stopped taking Risperdal in April, the school reports that his behavior had regressed, right?

A Yes. We talked about it at our meetings, and every time he had a Spring break or Christmas break, or any time out of school, it was a transition back into school. And they used possibly the medicine change was a result. But there was always a change. And any time anything happened, medicine change or any kind of trip or away from time from school, there was problems.

Q And then going to his next --

MS. SULLIVAN: If we could mark this as the next exhibit, and Your Honor, again I want to show one paragraph. It's another IEP program document. This is 3.429.

MS. BROWN: It's Defendant's 33.

(D-33 is marked for identification.)

MS. SULLIVAN: Any objection, counsel?

THE COURT: Any objection? Let me see counsel here at sidebar.

(The following transpired at sidebar out of the hearing of the jury:)

THE COURT: I just want to know what to

1 (B.Pledger - Cross)

2 expect, because clearly, if we go down this
3 route I will permit IEPs from before or after
4 this period to go into the record.

5 MS. SULLIVAN: That's fine, Your Honor.

6 THE COURT: So I just want to know
7 whether you want to do that or not. Because
8 as far as I'm concerned, we can do that. I
9 just need to gauge the time involved here for
10 this case.

11 MS. SULLIVAN: I am not going to do
12 much more, but I am fine with them showing
13 whatever they want.

14 MR. KLINE: I will have some
15 redirect -- for now, I will have some redirect
16 on the documents that she uses on the
17 documents. I may have some additional
18 documents because there is some things to
19 follow up. I don't know because I am just
20 watching this develop. I know that when she
21 suggests to the jury that he got bad, I just
22 highlighted the other ones.

23 THE COURT: Here is what I am saying.
24 I am saying we may have to take the doctor out
25 of turn to complete this line of testimony.

1 (B.Pledger - Cross)

2 MR. KLINE: I don't think so.

3 THE COURT: The doctor will have to
4 come in on Monday. The completion of this
5 redirect will have to take place afterwards.

6 MR. KLINE: Oh, you mean if she is not
7 finished?

8 MS. SULLIVAN: I will be finished.

9 THE COURT: That's why I am calling the
10 sidebar, because from my perspective, you
11 know, if we go into all the records of this
12 child before and after in order to, you know,
13 address the point that you are making, we
14 could be here for awhile. I am sure there are
15 plenty of IEPs. I am just letting the
16 Plaintiff know that you are permitted to do
17 that, but those of some of the issues I am
18 thinking about.

19 MS. SULLIVAN: Thank you, Your Honor.

20 (The following transpired in open
21 court:)

22 THE COURT: All right, we are now at
23 D-33.

24 THE COURT CRIER: D-33 is being shown
25 to the witness.

(B.Pledger - Cross)

BY MS. SULLIVAN:

Q Ms. Pledger, this is an education program plan for your son from school year August 2008 to May 2009, right?

A Yes.

Q And you actually signed this on the fourth page in?

A I am sure I did.

Q And so if we could put it up and highlight it. Ms. Pledger, looking at page one, and this is a full year after -- 2008 would be the year after he stopped taking Risperdal.

A Okay.

Q And it talks about his medication has changed, right?

A Yes.

Q And then it goes on in the report and says, "Austin at times will bite himself on his hands, he has tried to bite one of his paraprofessionals. With the advice from his mom, he has worn gloves to protect himself. He hits himself in the head and has hit others. He has hit his chest rather hard with his fist. He has kicked and punched his paraprofessionals in their legs, arms and chest and

(B.Pledger - Cross)

stomach, fallen out in the floor, threw desk, pencils and broken pencils. He will scream out loud causing other students to become fearful at times. He claps his hands loudly and yells out. He has often pulled at his face with his hands and his shirt. He pulls at his eyelashes often when he gets upset. Austin has also thrown other objects like his book, paper pencil, chair or whatever is in reach. He will headbutt the floor or pavement or grass and tried to headbutt his paraprofessionals. He has slammed door at times. He has pinched his classmates and paraprofessionals. Austin has even run from us when he is frustrated. He has pulled his shirt off occasionally. Austin will stare at his classmates as targets when he is upset.

"The staff that work with Austin first try to divert his attention and talk calmly," and it goes on, it talks about they couldn't put him on the bus "due to his behavior out of concerns for him and the other children." It talks having hit two different children, one of which he was sent home for hitting her in the back.

And this year reports behavior issues he was having the year after he stopped taking

(B.Pledger - Cross)

Risperdal?

A All his IEPs were similar. Whether he was or was not on Risperdal. Every year I was always open and honest and I wanted them to know. They told me things and I told them. I never tried to candy-coat it. It's hard. He had a hard time.

Q And -- actually, Mrs. Pledger, if we look at some of the IEPs when he was on Risperdal, things were going better than that, right?

A Well, I was called one time when he was having a seizure they thought. That's how bad the fit was. He had problems on the Risperdal, just like any medicine. All the medicines helped but it didn't make it stop.

THE COURT: Didn't make what stop?

THE WITNESS: His outbursts, his meltdowns, his behaviors, he still had all those. Those are common for him since he was little. He can still do it, but he is better to communicate now so it's better for him.

Q Ms. Pledger, if we can go back to when he was on Risperdal. If we can look at a defense exhibit Ms. Brown has, D-3.761.

MS. BROWN: D-34.

1 (B.Pledger - Cross)

2 (D-34 is marked for identification.)

3 MR. KLINE: Subject to the Court's
4 concern, no objection.

5 THE COURT: There is no objection?

6 MR. KLINE: Subject to the Court's
7 direction, I have no objection. I don't know
8 what she is trying to read.

9 THE COURT: I don't know, but at this
10 point all of these documents since they are
11 admitted, they are eligible for publication at
12 any time. So we will just go that route.

13 Q And so, Mrs. Pledger, I am going to show you a
14 school record from the Summer of 2002?

15 A Okay.

16 Q And that's right after Austin started to take
17 Risperdal, right?

18 A Okay.

19 Q And if you could take a look -- I will use the
20 elmo. This is Defense Exhibit 34, and you see,
21 Mrs. Pledger, talking about the Summer of 2002?

22 A Yes.

23 Q And it says Progress Report from school?

24 A Yes.

25 Q And if you turn to the second page, it's a

1 (B.Pledger - Cross)

2 pretty good report, right?

3 A That was his summer school --

4 MR. KLINE: Your Honor, just suggesting
5 to the lay witness "it's a pretty good
6 report," I object. She hasn't even read the
7 report. She has been shown a sentence.

8 THE COURT: That's what I mean. When I
9 say it's subject to publication, I think the
10 only fair way to deal with this kind of
11 approach is to read the entire document. If
12 the entire document is read, I will read it or
13 we will give it to the individuals. This kind
14 of piecemeal of these reports when a child was
15 six years old is really not subject to a
16 proper way of doing it through this witness.
17 Unless you are asking her a specific question,
18 do you agree with this statement, do you not
19 agree with that statement.

20 MS. SULLIVAN: I will do it that way,
21 Your Honor.

22 Q And it said in the record that in the Summer
23 of 2002, "Austin has either maintained or surpassed
24 the levels of accuracy in his reading and math
25 skills during this summer session." Right?

1 (B.Pledger - Cross)

2 A Yes.

3 Q And you agree that was true?

4 A That he did good reading and math skills?

5 Yes.

6 Q Yes. And it also says, "He has also approved
7 his attention and behaviors....."It is felt a that
8 this summer program, in addition to his new
9 medication, have been very beneficial for Austin."
10 Right?

11 A Yes.

12 Q And his new medication was Risperdal at the
13 time?

14 A Yes.

15 Q So the school is reporting that he is doing
16 well on the medicine. That's what it says, right?

17 A Yes.

18 Q Similarly, Mrs. Pledger, if we could put up
19 D-35, and this is D-3.619.

20 (D-35 is marked for identification.)?

21 MS. SULLIVAN: Any objection?

22 MR. KLINE: I have to see it, hold on.
23 This year is fourth grade, 2006.

24 MS. SULLIVAN: This is the August 2005
25 to May 2006.

1 (B.Pledger - Cross)

2 MR. KLINE: Same thing, no objection
3 subject to the Court's direction.

4 Q Mrs. Pledger, looking at the school year
5 2005-2006, right?

6 A Okay, yes.

7 Q And he is on Risperdal during this time, the
8 2005-2006, even 2004 timeframe, right?

9 A Yes.

10 Q And the school is reporting that during the
11 timeframe he is on Risperdal he had a very good
12 year, right?

13 A Yes.

14 Q "His behavior was more consistent. He only
15 had four to five days that were difficult. By
16 difficult, teachers mean screaming, hitting, biting
17 and generally uncontrollable. These episodes ranged
18 in time from 45 minutes to two hours."

19 It goes on to say, "He has done well in
20 spelling, great memorization, and overall Austin had
21 a great year."

22 Right?

23 A Yeah.

24 Q And going back, if I could mark the next
25 exhibit, Ms. Brown, 3.651.

1 (B.Pledger - Cross)

2 (D-36 is marked for identification.)?

3 MS. SULLIVAN: Any objection, counsel?

4 THE COURT: Well, I don't know about
5 counsel, but it certainly would be helpful for
6 the jury to know what date this was and what
7 school it's from.

8 MS. SULLIVAN: Sure.

9 Q Ms. Pledger, this is from the Chilton County
10 schools?

11 A I don't see it, I don't have it, but he did go
12 to Chilton County schools.

13 THE COURT CRIER: I haven't shown it to
14 her yet.

15 THE COURT: Do you want her to answer
16 questions based on this document?

17 MS. SULLIVAN: Yes.

18 THE COURT: Why don't we show the
19 document to Ms. Pledger and give her enough
20 time to look at it.

21 THE WITNESS: I actually didn't have
22 enough time to read the other ones, but --

23 THE COURT: Well, the other ones, at
24 this point I am going to give them to you and
25 on redirect you can answer any questions you

1 (B.Pledger - Cross)

2 want.

3 THE WITNESS: Okay.

4 MR. KLINE: I have read them, I will
5 point things out to you.

6 Q And, Mrs. Pledger, do you see this is the
7 April 20, 2004 conference record from the Chilton
8 County schools, right?

9 A Yes.

10 Q And it looks like you and your husband were
11 there, right?

12 A Yes.

13 MS. SULLIVAN: And any objection,
14 counsel?

15 THE COURT: Have you read it yet?

16 THE WITNESS: No.

17 THE COURT: Why don't you look at it.

18 MS. SULLIVAN: Take your time,
19 Ms. Pledger.

20 MR. KLINE: I believe this is one of
21 many conference records.

22 THE COURT: I am sure it is. Members
23 of the jury, I am concerned about your time,
24 that's why I just talked to counsel at sidebar
25 about these issues. So we will see how we

1 (B.Pledger - Cross)

2 handle this.

3 MS. SULLIVAN: And I am going to move
4 on, Your Honor.

5 A I read it, yes.

6 Q And, Mrs. Pledger, this is a school report,
7 again April 2004, your son is on Risperdal at that
8 time?

9 A Yes.

10 Q And it reports that, "Social contact with his
11 peers has really improved this year, his teacher" --
12 I guess it's Ms. Sulles -- "shared some
13 communication improvements Austin has made. His
14 frustration behavior has improved greatly." Right?

15 A Yes, that's what it says.

16 Q And, Ms. Pledger, I think you mentioned this
17 morning that some years after stopping Risperdal,
18 your son, the school said he couldn't be in school
19 anymore because of safety issues to others?

20 A Once he hit a different school. The safety
21 issues weren't as bad as they had been, just a
22 different principal.

23 Q And the school required that you homeschool
24 him?

25 A We decided on that. They wanted to send him

1 (B.Pledger - Cross)

2 to an institution, basically, where autistic
3 children had to live. They knew I would never
4 accept that, so I had to settle for two days a week
5 a teacher coming.

6 Q And the school asked you to do that because he
7 had hit some teachers?

8 A Because when his teacher was not there, and I
9 had asked them when his male teacher, finally after
10 all those years I had gotten a man to be his
11 teacher, he wasn't there two days and a teacher's
12 aid that had worked with him years before, she said
13 it really wasn't a problem, but like I said, they
14 didn't want him there. They knew they were going to
15 push him up to the high school so they could get rid
16 of him. And that's just the sad truth.

17 Q Mrs. Pledger, I am going to show you one more
18 record from September 2009. Ms. Brown, it's D-3.34.

19 (D-37 is marked for identification.)

20 Q Do you have it, Mrs. Pledger?

21 MR. KLINE: I have no objection. Just
22 keep moving.

23 Q Ms. Pledger, do you see this is from the
24 Chilton County schools, September 11, 2009, right?

25 A Yes.

1 (B.Pledger - Cross)

2 Q And this is about two years after your son
3 stopped taking Risperdal, right?

4 A Yes.

5 MR. KLINE: Your Honor, I do have an
6 objection, actually. Behavior two years
7 later.

8 THE COURT: Sustained. Unless we are
9 going to go into all the years since then of
10 this particular child, through high school and
11 everything else, and look at all the records
12 and get a full picture of where he is today,
13 and I guess he is not on Risperdal today. If
14 you do that, yes, we can do whatever you want.

15 MR. KLINE: Your Honor, I withdraw the
16 objection on this document. She says she has
17 one more.

18 MS. SULLIVAN: It sounds like there is
19 no objection there, Your Honor.

20 THE COURT: I have no objection.

21 MR. KLINE: Based on her representation
22 that it's the last document.

23 Q And, Ms. Pledger, we can see the school is
24 talking about the fact that he is stronger to self
25 and others. He causes stress to others in his

1 (B.Pledger - Cross)

2 class. And they want him homebound with a certified
3 teacher?

4 A It kind of says what I just got through saying
5 about the residential place and -- just about what I
6 just got through saying.

7 Q And it goes on to say that, "Austin does not
8 hurt male teachers but would have hurt Ms. Kelly had
9 Mr. Nix had not stepped in. We will put him on a
10 homebound starting Monday until other options are
11 explored. From the standpoint that we could hurt
12 someone we must do this for everyone's safety."

13 A That's pretty much from kindergarten up.

14 Q He was able to stay in school while he was on
15 Risperdal?

16 A Yes, before, after, and during.

17 Q But two years after Risperdal they said he
18 wasn't welcome in school anymore?

19 MR. KLINE: Objection, argumentative.

20 A It wasn't two years.

21 THE COURT: That's overruled.

22 A It wasn't two years. He started Risperdal in
23 second grade. He took Risperdal third, fourth and
24 fifth. He stopped taking Risperdal in sixth. And
25 he went to the rest to the school year, that's when

1 (B.Pledger - Cross)

2 they started talking about the behavior or you
3 brought it up. Sixth, seventh, and eighth he went
4 to school.

5 Q Mrs. Pledger, we can look at the records with
6 others, but he was on Risperdal from 2002 to 2007,
7 right?

8 A Part of second grade into part of sixth.

9 Q And so he was on Risperdal in 2007, and he was
10 in school during that time, 2002 --

11 A Year round.

12 Q And in 2009, he is no longer welcome in
13 school?

14 THE COURT: Wait a minute, counsel.

15 Again, is there an objection or not? I don't
16 want to intervene here. Is there an objection
17 to the phrase?

18 MR. KLINE: I got tired objecting, Your
19 Honor, so I don't care.

20 THE COURT: Overruled then, go ahead.

21 MR. KLINE: She wants to get this out,
22 let her say what -- let her say all of this.
23 I will have a redirect.

24 A I ever never said that he was not a problem at
25 school. I have said the whole time he had problems.

1 (B.Pledger - Cross)

2 Risperdal did help. Abilify helped. Geodon helped.

3 But from kindergarten until the time they didn't

4 want him there anymore, he had a hard time. That is

5 what the problem is.

6 I told them everything, I told them

7 what to expect, we talked about how to handle it.

8 There was no fix. Risperdal didn't fix it, Abilify

9 doesn't fix it, and Geodon doesn't fix it. And as

10 he gets older, it's better. And his 22 days at the

11 high school, they gave him 22 days, after talking

12 the high school up for two years to that child, and

13 then they said he couldn't be there anymore.

14 Q And Mrs. --

15 A And he had not done anything compared to the

16 past. And when he was on Risperdal he busted his

17 head wide open. They didn't kick him out of school.

18 He had such a fit, a paramedic called me, a friend

19 of mine, and said I think he is having a seizure.

20 There is no fix. He just has to grow

21 up and he has to learn, and he is getting better all

22 the time.

23 Q And, Mrs. Pledger, I think everybody

24 understands that, unfortunately, there is no fix for

25 autism.

1 (B.Pledger - Cross)

2 MR. KLINE: Objection.

3 THE COURT: Sustained.

4 Q But while he was on Risperdal, Mrs. Pledger,
5 you reported to Dr. Mathisen that he was doing well?

6 MR. KLINE: Objection, asked and
7 answered.

8 THE COURT: Sustained. This has been
9 answered by her and by Dr. Mathisen, counsel.

10 Q And his school records during Risperdal
11 reflect that generally he was doing better?

12 MR. KLINE: Objection, also.

13 THE COURT: That's sustained. We have
14 just gone through it and it speaks for itself,
15 whatever you have shown them.

16 Q Mrs. Pledger, your son is not going to come so
17 the jury can see him during this case, even for a
18 few minutes?

19 A He is not here.

20 Q And you, like --

21 MR. KLINE: And, Your Honor, objection.
22 He could have been subpoenaed if they --

23 THE COURT: That's neither here nor
24 there. Okay? He is not here. Your comments
25 are also overruled. If that becomes an issue,

1 (B.Pledger - Cross)

2 then you have to present some evidence on the
3 issue.

4 Q And, Mrs. Pledger, you had a medical exam that
5 we will talk about, or your son did this week, and
6 you reported that he is not depressed?

7 A I reported he is not depressed?

8 Q Well, I will ask you, he is kind of a happy
9 kid generally?

10 A Oh, sure, yeah.

11 Q To your credit?

12 A He has never been diagnosed with depression,
13 no.

14 Q But to your credit, he is kind of a happy kid?

15 A He is. He is a sweet boy.

16 Q And you, like a lot of proud parents, post
17 pictures online of your son?

18 A Yeah, just recently, on Facebook. I started
19 getting into it.

20 Q And I wanted to show, since our jurors aren't
21 going to see Mr. Pledger, I wanted to show his
22 smiling self --

23 MR. KLINE: I wouldn't be so sure.

24 THE COURT: Excuse me? I didn't hear
25 anything.

1 (B.Pledger - Cross)

2 Q -- to the jurors.

3 THE COURT: Let me see what the
4 document is.

5 MS. SULLIVAN: Your Honor, I am going
6 to mark two more recent pictures of
7 Mr. Pledger so our jurors can see him and ask
8 Mrs. Pledger about it, if the Court permits.

9 MR. KLINE: May we see them before
10 being published?

11 (D-38 and D-39 is marked for
12 identification.)

13 MR. KLINE: Your Honor, we will need to
14 see you at sidebar for a moment, if we may,
15 please.

16 THE COURT: We will take a five-minute
17 recess.

18 (A brief recess is taken and the
19 following transpired in open court out of the
20 hearing of the jury:)

21 THE COURT: Why don't you step out,
22 Mrs. Pledger, thank you.

23 (The witness exits the courtroom, and
24 the following transpired in open court:)

25 THE COURT: So what's up?

1 (B.Pledger - Cross)

2 MR. KLINE: Your Honor, I have no
3 objection to the picture with the orange --

4 THE COURT: D-39.

5 MR. KLINE: Yes. And as to -- what's
6 the next exhibit number?

7 THE COURT CRIER: That's 38.

8 MR. KLINE: D-38 is a photo that I do
9 have an issue with, Your Honor. And it just
10 has to do with the three gentlemen here who
11 have nothing to do with the case at all.

12 MS. SULLIVAN: They are family.

13 THE COURT: Excuse me, I haven't heard
14 the statement completely.

15 MR. KLINE: It's hard, but I will try
16 to get it all out before the end of its one
17 sentence. But the man on the right is
18 Austin's dad and I don't have a problem with
19 that. That's Phil Pledger, on the very right,
20 and that's Austin with his hand around him.

21 I have an objection to these extraneous
22 folks, whoever they are, on this photo.

23 But I don't have a problem, since the
24 clear intention is to show the boy's condition
25 and whatever, if it's shown in the manner that

1 (B.Pledger - Cross)

2 has simply the youngster with the lollipop and
3 the loving dad with his hand around him. I
4 have no objection to that. These other men --

5 THE COURT: Do you have any difficulty
6 with that, to redact it for those two?

7 MS. SULLIVAN: Your Honor, I don't know
8 why there is an objection to a family photo
9 that's posted online. Why can't the jury see
10 the whole, you know, the whole family? She
11 has talked about the loving family and the
12 support around them.

13 THE COURT: I haven't heard that much
14 about that other than the husband.

15 MS. SULLIVAN: She talked about the
16 uncle.

17 THE COURT: I will permit this if it's
18 cropped to include the mother, the father, and
19 the son, the Plaintiff in this case. The
20 other three, I don't even know who they are,
21 they have never been mentioned at this trial,
22 and we are not going to permit that, to put
23 extra people in here for no reason.

24 MS. SULLIVAN: Your Honor, she did
25 testify that he sees his uncle everyday.

1 (B.Pledger - Cross)

2 THE COURT: But it has nothing to do
3 with this situation that I can tell.

4 MR. KLINE: What it has to do --

5 THE COURT: I know what it has to do
6 with from the point of view of prejudice.

7 MR. KLINE: Right. So do I.

8 THE COURT: So the ruling of the Court
9 is that the showing of three elderly gentlemen
10 with an Alabama hat on there and Aeropostale,
11 whatever it is, is prejudicial to the facts in
12 this case. It's not probative of anything.
13 In a measurement of prejudice versus probative
14 in this particular case it is not necessary.
15 It is for no particular purpose other than to
16 potentially prejudice a jury from out-of-state
17 people.

18 MR. KLINE: And now, Your Honor, what
19 she is doing is folding it over so it's clear
20 that somebody is going to see it.

21 THE COURT: This is a Philadelphia jury
22 and it involves people from out of state. I
23 don't think it's necessary to interject
24 cross-boundary issues in this case.

25 MS. SULLIVAN: Your Honor, I will crop

1 (B.Pledger - Cross)

2 it in this fashion.

3 THE COURT: Thank you. You may
4 proceed.

5 MR. KLINE: When you say it's cropped,
6 Your Honor, I assume it's not folded over.

7 THE COURT: You check it out and make
8 sure it's satisfactory, I don't have to get
9 into all these details. But I do think it's
10 prejudicial. It has Alabama hats on it, there
11 is no cross-state issue here. I don't want
12 that in as part of any finding in this case,
13 or any verdict in this case.

14 (A brief recess is taken.)

15 THE COURT: Do you have the document
16 redacted, so to speak?

17 MS. SULLIVAN: I folded it over.

18 MR. KLINE: That's exactly what I asked
19 not to be done. It's just unbelievable.

20 MS. SULLIVAN: What do you want me to
21 do with it?

22 THE COURT: It's not been shown to the
23 jury yet, Mr. Kline, so there is no prejudice
24 at all.

25 MS. SULLIVAN: What do you want me to

1 (B.Pledger - Cross)

2 do with it?

3 MR. KLINE: The same thing I did. You
4 simply get rid of the thing, so there is no
5 chance --

6 MS. SULLIVAN: Do you have a scissor?

7 MR. KLINE -- that somebody can get rid
8 of this racist stunt that you tried to pull.

9 MS. SULLIVAN: Give me a break.

10 MR. KLINE: That's what it is. I want
11 to make sure we have a record of it.

12 MS. SULLIVAN: You are calling your
13 client a racist? It was posted on the
14 Internet.

15 MR. KLINE: You know exactly what that
16 was showing. It's a disgrace.

17 MS. SULLIVAN: It's a happy family.

18 MR. KLINE: A happy family. You know
19 exactly what you are doing.

20 MS. SULLIVAN: It's posted publicly.

21 MR. KLINE: And the Judge told you in
22 code what it was.

23 MS. SULLIVAN: I folded it over. If
24 you have a scissor, I am happy to cut it.

25 THE COURT: Cut it then.

1 (B.Pledger - Cross)

2 MR. KLINE: The likes of which I have
3 never seen.

4 MS. SULLIVAN: Mr. Kline, okay?

5 MR. KLINE: No, actually, it's not.
6 Because you know it shows that there is
7 another person in there. All you need to do
8 is cut the photo so it shows the father and
9 the son.

10 MS. SULLIVAN: You are telling me
11 because someone wears an Alabama hat you are
12 going to say they are racist?

13 MR. KLINE: You know what you were
14 doing. Everyone in this room knows what you
15 were doing.

16 THE COURT: Counsel, is this on the
17 record or something?

18 MR. KLINE: It's on the record as far
19 as I am concerned. It shows exactly what they
20 are up to.

21 THE COURT: What we are going to do,
22 for the record, is we are going to have P-38
23 as proposed, that's marked, and now we have
24 D-39 as the redacted version. Everything is
25 above board. As I said, it's a prejudicial

(B.Pledger - Cross)

document which brings into question issues involving jurisdiction and out of state, unnecessary, irrelevant. What is relevant is that you have the father's picture, his picture has not been shown in this case, and it shows the boy, a full-length version view of the boy as he is -- when was this picture taken?

THE WITNESS: Christmas.

THE COURT: About two months ago.

(The jury enters the courtroom at 3:01 p.m.)

THE COURT: All right, be seated, please.

MS. SULLIVAN: May I proceed, Your Honor?

THE COURT: Just one second. All right, before we proceed may I see the new Exhibit D-40. It's going to be marked as D-40. I would like to see that ahead of time, please.

MS. SULLIVAN: Sure, Your Honor.

THE COURT: And we will have Marianne mark it.

1 (B.Pledger - Cross)

2 (P-40 is marked for identification.)

3 THE COURT: All right, we are ready to
4 proceed then.

5 MS. SULLIVAN: Thank you.

6 BY MS. SULLIVAN:

7 Q Mrs. Pledger, I want to go back. Actually,
8 before the break we were talking about your son and,
9 like any proud parent, you posted some pictures and
10 I was going to put them up so you can show and we
11 can talk about Austin as he looks now.

12 A Okay.

13 Q And I am going to put up first Defense Exhibit
14 40. And, Mrs. Pledger, the gentleman on the right
15 is your husband?

16 A Yes.

17 Q And that's Mr. Pledger, your son's father?

18 A Yes.

19 Q And that's Austin, your son?

20 A Yes.

21 Q And that was a couple of months ago?

22 A It was Christmas Eve.

23 Q Christmas Eve, two months ago. And in the
24 picture, consistent with what you said, he is
25 generally a happy kid?

(B.Pledger - Cross)

A Yes.

Q And there is another picture, you can tell our jurors when it was taken, Defense Exhibit 39? He looks happy with his present?

A Yeah. I surprised him.

Q And when was that taken, Mrs. Pledger?

A About a month ago.

Q And that's what Austin generally looks like now?

A Yeah, messy hair and all.

Q Okay, thank you. Mrs. Pledger, I want to go back to Risperdal and the liquid formulation that your son was taking. Did you previously testify, "he didn't swallow pills"?

A When he was prescribed Risperdal?

Q Yeah.

A He had never swallowed a pill. I didn't know that he could because he never had the choice or presented to him to. So that's why the doctor thought the liquid form would be good.

Q And I think Mr. Kline mentioned that Risperdal was an expensive medicine, but you never had to pay for it out of pocket, right, ma'am?

MR. KLINE: Objection, Your Honor.

1 (B.Pledger - Cross)

2 THE COURT: Sustained.

3 MR. KLINE: She knows better than that,
4 too.

5 MS. SULLIVAN: He is the one that --

6 MR. KLINE: Honestly, it's endless.
7 But I apologize.

8 MS. SULLIVAN: Your Honor, Mr. Kline is
9 the one who said it was expensive.

10 THE COURT: It is true that that
11 question is not permitted and we all know
12 that.

13 Q Mrs. Pledger, I think you told our jurors that
14 during the time that your taking Mr. Pledger to
15 doctors while he was on Risperdal, none of his
16 doctors ever diagnosed gynecomastia?

17 A I never heard of gynecomastia. And, no, they
18 did not.

19 Q And in fact, before seeing a lawyer's,
20 Plaintiff's lawyer's ad, you had never complained to
21 any treating doctor about your son's breast
22 enlargement?

23 A No. He told me he had breasts, he was
24 overweight, I wasn't proud of it.

25 Q Let me step back. At some point about two

1 (B.Pledger - Cross)

2 years ago, you saw a commercial on TV for a
3 Plaintiff's law firm about Risperdal and lawsuits
4 running?

5 A It was three years. October was three years
6 ago.

7 Q Fair enough. And it had a phone number 1-800,
8 call if you have taken Risperdal?

9 A It had a number.

10 Q And they would file lawsuits?

11 A That's what the commercial was about, yes.

12 Q And you called?

13 A Yes.

14 Q And they sued?

15 A No.

16 Q Well, a law firm sued for you?

17 A Well, the people I called didn't do anything.
18 They --

19 Q Referred the case to other lawyers?

20 A Yeah.

21 Q And, Mrs. Pledger, it's true that the first
22 person to tell you that Risperdal caused your son's
23 gynecomastia wasn't a doctor, it was a plaintiff's
24 law firm?

25 A True.

1 (B.Pledger - Cross)

2 Q And that's the first time anybody told you
3 that Risperdal caused your son's gynecomastia, it
4 wasn't a doctor, it was a plaintiff's law firm?

5 A They are the first ones that told me that
6 Risperdal could cause gynecomastia, not that my son
7 had it. They didn't diagnose him.

8 Q And they actually -- your lawyers filed this
9 lawsuit before any doctor diagnosed your son with
10 gynecomastia from Risperdal, right?

11 MR. KLINE: Objection.

12 THE COURT: That's sustained.

13 Q Well, Mrs. Pledger, the first time your son
14 was diagnosed with gynecomastia by a doctor was
15 after you filed the lawsuit?

16 A I have not -- a doctor has not told me,
17 because when he has been examined for this I have
18 not asked them. I know he has gynecomastia now.
19 But they are doing, according to Janssen, and my --
20 the plaintiff's side, that I -- his doctor -- none
21 of his doctors have ever seen him without his shirt
22 off.

23 Q My question, and Dr. Dy did some physical
24 exams over the years, and the jury will hear his
25 testimony.

(B.Pledger - Cross)

1
2 A No.

3 Q The fact is, no one diagnosed your son with
4 gynecomastia caused by Risperdal until after you
5 filed a lawsuit?

6 A I was never told about gynecomastia. No
7 doctor ever said that -- I have never heard of it.

8 Q And the first person to diagnose your son with
9 gynecomastia from Risperdal was an expert hired by
10 Plaintiff's lawyers?

11 A I honestly had not seen doctors' reports, from
12 any side, either side. I have no idea.

13 Q Fair enough. They haven't shown you their
14 expert reports. You have taken your son to some
15 medical exams at the Plaintiff's lawyers requests?

16 A Yes, both sides.

17 Q And you took him first to a Holiday Inn in
18 Alabama --

19 MR. KLINE: Objection, Your Honor.

20 THE COURT: That's sustained.

21 Q You just this week took your son at
22 Plaintiff's lawyers request to see a doctor here in
23 Philadelphia?

24 A Yes.

25 Q During this lawsuit?

1 (B.Pledger - Cross)

2 A Yes.

3 Q And it was a plastic surgeon?

4 A Yes.

5 Q And did he tell you what his diagnosis was?

6 A No.

7 Q So as you sit here you don't know -- let me
8 step back. None of his treating doctors or no
9 doctor before you filed this lawsuit told you that
10 he had gynecomastia from Risperdal?

11 A No.

12 Q And, Mrs. Pledger, you mentioned that your son
13 is on Geodon now?

14 A Yes.

15 Q And also on Prozac?

16 A Yes.

17 Q And Geodon, do you know, ma'am, is not
18 approved for children at all?

19 A No, I didn't know that.

20 Q And were you here when Dr. Mathisen testified
21 that Geodon has an increased risk of heart issues
22 and fatal skin disease issues?

23 A I remember hearing that. I thought you said
24 that. But I do remember hearing it, yes.

25 Q But that's what he is on now?

1 (B.Pledger - Redirect)

2 A Yes.

3 Q And he was on Geodon when the school said that
4 he couldn't attend anymore, right, because of his
5 behavior issues?

6 A I believe so, yes.

7 MS. SULLIVAN: I have nothing further,
8 thank you, Mrs. Pledger.

9 MR. KLINE: Proceed, Your Honor?

10 THE COURT: Yes, sir.

11 MR. KLINE: Thank you.

12 - - -

13 REDIRECT EXAMINATION

14 - - -

15 BY MR. KLINE:

16 Q Okay. First of all, let's work our way back.
17 Doctors who have diagnosed you with gynecomastia,
18 you went to see a number of doctors during the
19 course of this lawsuit, correct?

20 A Yes.

21 Q And that included a Dr. Vaughan, who the
22 defense had you see, a fellow in Alabama, if that
23 would trigger your recollection?

24 A Yes.

25 Q And you went there to the examination on the