

# EXHIBIT A

May 18, 2012

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IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION  
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IN RE: RISPERDAL LITIGATION : MARCH TERM, 2010  
  
: NO. 296  
-----  
Friday, May 18, 2012  
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Videotape Deposition of ALEX GORSKY, held at the law offices of DRINKER, BIDDLE & REATH, LLP, 105 College Road East, Princeton, New Jersey, beginning at approximately 10:00 a.m., on the above date, before LANCE A. BRUSILOW, Registered Professional Reporter, Certified Shorthand Reporter of the State of New Jersey, License No. 30XI00173800, and Notary Public, there being present.  
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ALSO PRESENT:  
Lisbeth a. Warren, Esquire  
Jaime Scilla, Videographer  
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1 THE VIDEOGRAPHER: Good morning. We are  
2 going on the record at 9:53 a.m. on Friday, May  
3 18th, 2012. This begins volume one, tape one in  
4 the videotape deposition of Alex Gorsky, taken by  
5 the plaintiff In Re Risperdal litigation.  
6 This case is filed in the Philadelphia  
7 County Court of Common Pleas. This deposition is  
8 taking place at the law office of Drinker, Biddle  
9 & Reath at 105 College Road East in Princeton, New  
10 Jersey.  
11 My name is Jaime Scilla, videographer  
12 representing brusilow+associates. The court  
13 reporter is Lance Brusilow, also of  
14 brusilow+associates.  
15 Counsel, please identify yourselves and  
16 state whom you represent, and will the court  
17 reporter please swear in the witness.  
18 MR. McCORMICK: Good morning. Brian  
19 McCormick, from the Sheller firm, for the  
20 plaintiffs.  
21 MR. GOMEZ: Christopher Gomez, from the  
22 Sheller firm, for the plaintiffs.  
23 MR. SHELLER: Stephen Sheller, from the  
24 Sheller firm, for the plaintiffs.

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1 MR. HARMAN: Matt Harman, plaintiffs.  
 2 MR. MERVIS: Michael Mervis, Proskauer  
 3 Rose, for Elsevier, Inc. and Excerpta Medica, Inc.  
 4 MR. CAMPION: Tom Campion,  
 5 Drinker-Biddle, for the defense.  
 6 MS. WARREN: Lisbeth Warren, from  
 7 Johnson & Johnson, for the Johnson & Johnson  
 8 defendants.  
 9 MR. POWERS: John Powers, Drinker,  
 10 Biddle & Reath, for defendants.  
 11 MR. MURPHY: Ken Murphy,  
 12 Drinker-Biddle, for the defendants and the  
 13 witness.  
 14 ALEX GORSKY, having been first duly  
 15 sworn, was examined and testified as follows:  
 16 (EXAMINATION)  
 17 BY MR. McCORMICK:  
 18 Q. Good morning, Mr. Gorsky.  
 19 A. Good morning.  
 20 Q. I introduced myself earlier. My name is Brian  
 21 McCormick. I represent a number of young men and boys  
 22 who have been injured by the drug Risperdal and have  
 23 brought lawsuits in the Philadelphia Court of Common  
 24 Pleas.

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1 You're here for a deposition in this matter.  
 2 Do you understand that?  
 3 A. Yes, I do.  
 4 Q. Mr. Gorsky, what is your current position with  
 5 Johnson & Johnson?  
 6 A. My current position is, I'm the chief  
 7 executive officer of Johnson & Johnson.  
 8 Q. And how long have you had that position?  
 9 A. Since April 27th of this year.  
 10 Q. Mr. Gorsky, have you had your deposition taken  
 11 in a Risperdal-related matter in the past?  
 12 A. Yes, I have.  
 13 Q. Was that in the Texas Attorney General's case  
 14 that was brought several years ago and then settled a  
 15 couple months ago?  
 16 A. Yes, it was.  
 17 Q. And since that time have you had your  
 18 deposition taken in any other matter?  
 19 A. Yes, I believe I've had one deposition since  
 20 that time.  
 21 Q. What was that related to?  
 22 A. I believe it was in regard to an average  
 23 wholesale price issue with several different companies.  
 24 Q. Okay. In preparation for your deposition

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1 today, Mr. Gorsky, did you review your deposition from  
 2 2009 in the Texas case?  
 3 A. I received -- I reviewed portion of it, yes.  
 4 Q. Was there anything in that deposition that you  
 5 would change now that you reread it again?  
 6 A. Not in the portions that I re-read, no.  
 7 Q. Mr. Gorsky, at one time were you the president  
 8 of Janssen US?  
 9 A. Yes, I was.  
 10 Q. What was that time frame?  
 11 A. I left that position -- I'm sorry, I'm just  
 12 chronologically going backwards. I believe I left that  
 13 position in approximately February of 2003, and I  
 14 believe I assumed that position late in 2001.  
 15 Q. Before that, were you the vice-president for  
 16 sales and marketing for Janssen?  
 17 A. Yes, I was.  
 18 Q. And one of your responsibilities was for the  
 19 CNS Division, correct?  
 20 A. Yes, it was.  
 21 Q. And part of that responsibility was the drug  
 22 Risperdal. Is that right?  
 23 A. Yes, it was.  
 24 Q. And before that you were the vice-president of

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1 marketing for Janssen. Is that right?  
 2 A. That's correct.  
 3 Q. And in your responsibilities there you also  
 4 had responsibilities for Janssen, right?  
 5 MR. MURPHY: Objection to the form.  
 6 MR. McCORMICK: I'll just rephrase it.  
 7 BY MR. McCORMICK:  
 8 Q. Mr. Gorsky, as the vice-president of marketing  
 9 for Janssen, did you have responsibilities having to do  
 10 with Risperdal?  
 11 A. Those were part of my responsibilities, yes.  
 12 Q. And before that you were the vice-president of  
 13 the CNS Division for Risperdal. Is that correct?  
 14 A. That's correct.  
 15 Q. And during that time frame you also had  
 16 responsibility for Risperdal. Is that right?  
 17 A. Yes. Risperdal was part of my responsibility.  
 18 Q. And as part of your responsibility did you  
 19 expand Risperdal sales from \$500 million to \$800  
 20 million in the United States?  
 21 MR. MURPHY: Objection to the form. You  
 22 may answer.  
 23 THE WITNESS: The sales of Risperdal  
 24 expanded during that time frame from \$500 million

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1 to \$800 million.  
 2 MR. McCORMICK: Okay.  
 3 BY MR. McCORMICK:  
 4 Q. And before you were the vice-president for the  
 5 CNS Division, were you a group director in the  
 6 psychiatry, neurology, allergy, analgesia and oncology  
 7 franchises?  
 8 A. Yes, I was.  
 9 Q. And when you were in that position did you  
 10 have any responsibility for Risperdal?  
 11 A. Risperdal was one of multiple responsibilities  
 12 I had at the time.  
 13 Q. So, Mr. Gorsky, from March of 1995, when you  
 14 became the group director in those franchises, until  
 15 you left Janssen in February of 2003, did you have  
 16 responsibilities related to Risperdal during that time  
 17 frame?  
 18 A. Yes, I did. Risperdal was one of the many  
 19 responsibilities I had during that time frame.  
 20 Q. And during that time frame was Risperdal  
 21 Janssen's largest product, sales product?  
 22 MR. MURPHY: Objection to form. You  
 23 may answer.  
 24 THE WITNESS: I don't recall

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1 explicitly, but not during that entire period of  
 2 time. I think at some point it was, but not  
 3 during that entire period.  
 4 (Exhibit Gorsky-01 was marked for  
 5 identification)  
 6 BY MR. McCORMICK:  
 7 Q. Mr. Gorsky, I'm going to mark as Exhibit 1 a  
 8 copy of --  
 9 MR. McCORMICK: Ken, can you pass a copy  
 10 down to Mr. Mervis, please?  
 11 MR. MURPHY: Sure.  
 12 BY MR. McCORMICK:  
 13 Q. (Continuing) -- Mr. Gorsky, I've marked as  
 14 Exhibit 1 a copy of the Johnson & Johnson Credo. Do  
 15 you see that?  
 16 A. Yes, I do.  
 17 Q. And are you familiar with the Johnson &  
 18 Johnson Credo?  
 19 A. Yes, I am.  
 20 Q. And would you say that it's the overarching  
 21 philosophy that guides your business?  
 22 A. Yes, I would.  
 23 Q. And do you believe that your first  
 24 responsibility is to doctors, nurses, patients,

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1 mothers, fathers, and all others who use Johnson &  
 2 Johnson's products?  
 3 A. Yes. As outlined in the first sentence, we  
 4 believe our first responsibility is to doctors, nurses,  
 5 patients, to mothers and fathers, and all others who  
 6 use our products and services.  
 7 Q. And as part of the credo, Mr. Gorsky, do you  
 8 believe that Johnson & Johnson's management must be  
 9 competent?  
 10 A. Yes, I do believe Johnson & Johnson's  
 11 management should be competent.  
 12 Q. And Johnson & Johnson's management's actions  
 13 must be just and ethical. Is that right?  
 14 MR. MURPHY: Does he believe that?  
 15 Q. Do you believe that, Mr. Gorsky?  
 16 A. Yes, I do believe that.  
 17 Q. Let me ask it a cleaner way: Mr. Gorsky, do  
 18 you believe that the actions of Johnson & Johnson's  
 19 management must be just and ethical?  
 20 A. Yes, I do believe that.  
 21 Q. Mr. Gorsky, did you believe that the Johnson &  
 22 Johnson Credo applied to Janssen Pharmaceutica during  
 23 the time frame of March of 1995 through February of  
 24 2003 when you worked at Johnson & Johnson -- at

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1 Janssen?  
 2 A. Yes, I did.  
 3 Q. And do all the Janssen employees realize that  
 4 the Johnson & Johnson Credo applies to them when  
 5 they're employed at Janssen?  
 6 MR. MURPHY: Objection, lack of  
 7 foundation. You may answer.  
 8 MR. McCORMICK: Let me ask it a  
 9 different way.  
 10 BY MR. McCORMICK:  
 11 Q. Mr. Gorsky, is the credo for Johnson & Johnson  
 12 distributed to the Janssen employees?  
 13 A. Yes, we distribute the credo to the Janssen --  
 14 to the Johnson & Johnson employees and the Janssen  
 15 employees.  
 16 Q. Okay. And to the best of your knowledge, did  
 17 Janssen employees understand, as you do, that the credo  
 18 applies to the way they should conduct business?  
 19 A. To the best of my knowledge. And we give our  
 20 best efforts for all our employees to be knowledgeable  
 21 of the credo -- we hold several different sessions  
 22 through the year; we call them credo sessions -- where  
 23 we'll take an opportunity to review the credo, have  
 24 open discussions with our employees. They also take

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1 credo surveys, at least bi-annually, sometimes  
 2 annually. So, I think our best efforts are made.  
 3 And while I can never absolutely guarantee  
 4 that all of our employees fully understand each and  
 5 every aspect, it's a very important document as well as  
 6 philosophy that we try our best to follow.  
 7 Q. Okay. And when you say "we try our best to  
 8 follow," I just want to make sure that that goes down  
 9 not just to the Johnson & Johnson employees, but  
 10 Janssen employees. Is that correct?  
 11 A. Yes, that was the case when I was responsible  
 12 for Janssen.  
 13 Q. Okay.  
 14 (Exhibit Gorsky-02 was marked for  
 15 identification)  
 16 BY MR. McCORMICK:  
 17 Q. Mr. Gorsky, I've marked as Exhibit 2 a copy of  
 18 a memorandum in Support of United States' Motion to  
 19 Compel Johnson & Johnson Depositions in a civil action  
 20 currently pending in the United States District Court  
 21 for the District of Massachusetts.  
 22 Have you had a chance to review Exhibit 2?  
 23 A. No. I can take some time to do it. . .  
 24 Q. Please take the time and let me know when

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1 you're finished.  
 2 A. Would you like me to read the entire document?  
 3 Q. You can glance at it and then I can direct you  
 4 to certain areas, or you can read -- I'm going to ask  
 5 you questions about pages six through eight, if you  
 6 would like to read those pages.  
 7 A. Okay.  
 8 Q. Mr. Gorsky, before we look at this document,  
 9 did you meet with your counsel before the deposition to  
 10 prepare?  
 11 A. Yes, I did.  
 12 Q. And who did you meet with?  
 13 A. I met with the gentlemen and the woman seat  
 14 here to my right.  
 15 Q. Mr. Powers or Mr. Murphy?  
 16 A. Both.  
 17 Q. And Ms. Warren?  
 18 A. Yes.  
 19 Q. And how many times did you meet with them?  
 20 A. I think we met on three separate occasions.  
 21 Q. And did you review documents during those  
 22 sessions?  
 23 A. Yes, I did review some documents.  
 24 Q. In total, Mr. Gorsky, how many hours do you

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1 think you met with Mr. Murphy, Mr. Powers and/or Ms.  
 2 Warren?  
 3 A. Ten hours, plus or minus.  
 4 Q. Mr. Gorsky, in relation to Exhibit 2, did you  
 5 know that the US government had filed a motion to  
 6 compel your deposition in this federal whistleblower  
 7 case in the United States District Court for the  
 8 District of Massachusetts?  
 9 A. Yes, I was.  
 10 Q. And did you know that your lawyers have  
 11 refused to allow you to appear for a deposition in that  
 12 case?  
 13 A. Yes, I'm aware that they did not feel it was  
 14 necessary.  
 15 Q. And do you agree with that decision?  
 16 MR. MURPHY: Objection, wholly  
 17 irrelevant. What's the basis for that, Brian?  
 18 MR. McCORMICK: He can answer.  
 19 MR. MURPHY: No. What is the basis for  
 20 that? Because it has nothing to do with this  
 21 litigation.  
 22 MR. McCORMICK: It certainly does. It's  
 23 Omnicare to Risperdal-related cases. There's  
 24 Risperdal kickbacks and the entire case is

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1 relevant.  
 2 MR. MURPHY: Omnicare?  
 3 MR. McCORMICK: Yes.  
 4 MR. MURPHY: Relative to this case?  
 5 MR. McCORMICK: Yes.  
 6 MR. MURPHY: How is it -- can we go off  
 7 the record?  
 8 THE VIDEOGRAPHER: Going off the record  
 9 at 10:09 a.m.  
 10 (There was a discussion held off the  
 11 record)  
 12 THE VIDEOGRAPHER: Stand by, please.  
 13 Back on the record at 10:15 a.m.  
 14 BY MR. McCORMICK:  
 15 Q. Mr. Gorsky, can you turn to page six of  
 16 Exhibit 2?  
 17 A. Yes, I'm at page six.  
 18 Q. Okay. Do you see the heading at the bottom in  
 19 bold with the letter B next to it?  
 20 A. Yes, I do.  
 21 Q. And it says "The United States' Request to  
 22 Depose Alex Gorsky"?  
 23 A. Yes, I do.  
 24 Q. And can you turn to the next page, please,

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1 page seven? Look at the first full paragraph that  
 2 starts with the words "From October 1998." Do you see  
 3 that?  
 4 A. Yes, I do.  
 5 Q. "From October 1998 to October 2001, Mr. Gorsky  
 6 was Janssen's Vice-President of Marketing, and from  
 7 October 2001 to early 2003 he was President of  
 8 Janssen."  
 9 Did you agree with the government's allegation  
 10 there?  
 11 A. Yes, I do.  
 12 Q. And then on the same page, Mr. Gorsky, do you  
 13 agree --  
 14 A. Excuse me, just one slight correction.  
 15 Q. Sure.  
 16 A. It says "Mr. Gorsky was Janssen's  
 17 Vice-President of Marketing." I was actually  
 18 vice-president of marketing. But then for some interim  
 19 period, I believe as you reviewed during the earlier  
 20 resume, a description, I was actually vice-president of  
 21 sales and marketing for Janssen before being president.  
 22 Q. Thank you for that clarification. Mr. Gorsky,  
 23 the government next says that "During all of that time  
 24 he was," meaning you, Mr. Gorsky, "responsible for

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1 selling Risperdal, a drug whose biggest customer was  
 2 Omnicare."  
 3 Do you agree with that statement, Mr. Gorsky?  
 4 A. I can't recollect that those facts are, in  
 5 fact, completely true. I was responsible for aspects  
 6 of Risperdal, not directly for the selling during  
 7 different periods. And also, I don't remember if in  
 8 fact Omnicare was the largest customer for Risperdal  
 9 during that period.  
 10 Q. During that time frame did you track who or  
 11 what were Janssen's customers who bought Risperdal?  
 12 MR. MURPHY: He personally?  
 13 MR. McCORMICK: Did Janssen track what  
 14 customers were buying Risperdal.  
 15 THE WITNESS: I know we tracked who  
 16 purchased Risperdal, but it's a very complicated  
 17 system by which drugs are distributed. So, it's  
 18 just a very complex system because you have  
 19 multiple layers involved, wholesalers all the way  
 20 down to the pharmacy and beyond that.  
 21 So, we received reports, but it wasn't  
 22 necessarily indicative of who actually used the  
 23 product.  
 24

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1 BY MR. McCORMICK:  
 2 Q. Do you recall dealing with Omnicare during  
 3 this time frame, October of 1998 through early 2003?  
 4 A. I remember conversations around Omnicare and  
 5 at least one meeting.  
 6 Q. Do you recall them as being a customer who  
 7 purchased Risperdal?  
 8 A. It's difficult for me to say if they actually  
 9 purchased Risperdal, again because of the reimbursement  
 10 structure. The reason I'm saying that is because a  
 11 wholesaler may actually pay us for the medication and  
 12 then Omnicare may then actually purchase the drug from  
 13 a wholesaler.  
 14 I don't remember the exact network through  
 15 which they purchased it other than they were obviously  
 16 involved.  
 17 Q. Okay. Mr. Gorsky, if we look at the next  
 18 sentence in the motion, it says, "According to Mr.  
 19 Gorsky's resume, he instituted Janssen's Health Care  
 20 Compliance Program for regulatory and legal issues."  
 21 Do you see that?  
 22 A. Yes, I do.  
 23 Q. Do you agree with that?  
 24 A. Yes, I do. Throughout the period we had

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1 guidelines in place for what we called healthcare  
 2 compliance for sales and marketing of the products, but  
 3 I know that in 2001 or early -- somewhere in that  
 4 period -- I don't remember the exact dates because it  
 5 was quite some time ago -- we did a very broad  
 6 initiative around updating, ensuring that we were  
 7 consistent with all the trade organization guidelines  
 8 at the time, the latest legal and regulatory  
 9 guidelines, which we took the entire company through an  
 10 extensive training program.  
 11 Q. And you did that with Dave Mallegol? Is that  
 12 right? Is that the right pronunciation of his name?  
 13 A. Dave Mallegol was one of the many people  
 14 involved in that at the time. He was responsible -- I  
 15 forget the exact position that he had, but it involved  
 16 textbook training; it involved discussions, lectures,  
 17 and actually written tests and validations afterwards.  
 18 Q. And was that something that Janssen didn't  
 19 have before this time frame in 2001?  
 20 A. No, we had programs from the time that I  
 21 started with Janssen back in 1988 that were revised  
 22 through the process, but in that same time frame there  
 23 were some pretty significant industry-wide initiatives  
 24 that were launched.

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1 And really, as part of an effort to help set  
 2 the standard for the industry, we put together a very  
 3 comprehensive program, and Dave Mallegol was involved  
 4 in that.  
 5 Q. Mr. Gorsky, turning back to Exhibit 2, do you  
 6 see that two sentences down there is a sentence that  
 7 says "He," meaning you, "met repeatedly with senior  
 8 Omnicare executives" to discuss efforts to promote  
 9 Risperdal?  
 10 Do you see that?  
 11 A. Where. . .  
 12 Q. Well, I tried to cut it short. Let's start  
 13 again.  
 14 Mr. Gorsky, do you see there is a sentence  
 15 after the sentence we just looked at that says Mr.  
 16 Gorsky "regularly received Monthly Reports on J&J's  
 17 Long Term Care Group, including reports which commented  
 18 on Omnicare's efforts to promote prescribing of  
 19 Risperdal and other J&J products?"  
 20 Do you see this?  
 21 A. Yes I do see that.  
 22 Q. Do you agree with that sentence?  
 23 A. I received monthly reports from all of our  
 24 different groups. I don't recall the specific reports,

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1 but I'm sure that I received monthly reports regarding  
 2 all of our different products.  
 3 Q. Okay. And in those monthly reports do you  
 4 think there was a report talking about Omnicare and its  
 5 efforts to promote the prescription of Risperdal?  
 6 A. I don't recall.  
 7 Q. Okay. And then do you see, Mr. Gorsky, the  
 8 government's next allegation, where the federal  
 9 government says that you met repeatedly with senior  
 10 Omnicare executives to discuss those efforts?  
 11 Do you agree with that statement?  
 12 MR. MURPHY: Objection to the form. You  
 13 may answer.  
 14 THE WITNESS: I don't recall the number  
 15 of times that I met with the Omnicare officials  
 16 during that time frame.  
 17 BY MR. McCORMICK:  
 18 Q. Do you think it was more than once?  
 19 A. I believe it was, but it's been some time ago,  
 20 so I don't remember.  
 21 Q. Mr. Gorsky, let's skip a sentence and go down  
 22 to the last sentence of this page that continues on to  
 23 the next page and says the federal government alleges  
 24 that "As Vice President of Marketing, and having

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1 previously worked closely with J&J's Medical  
 2 Development group (which was responsible for developing  
 3 clinical trial data for Risperdal), he was," meaning  
 4 you, "in a position to know why J&J chose not to inform  
 5 Omnicare (or members of Janssen's own sales staff) that  
 6 in January 1999, the Food and Drug Administration had  
 7 warned J&J that marketing Risperdal as safe and  
 8 effective in the elderly would be false and misleading  
 9 because the drug had not been adequately studied in  
 10 that population."  
 11 Did I read that correctly, Mr. Gorsky?  
 12 A. Yes, you did.  
 13 Q. And do you agree with that statement, Mr.  
 14 Gorsky?  
 15 A. No, I would not.  
 16 Q. What's wrong with that statement, Mr. Gorsky?  
 17 A. I think throughout that time we felt that we  
 18 were promoting Risperdal in an appropriate manner based  
 19 upon its labeling at that time.  
 20 Q. And why did Johnson & Johnson choose not to  
 21 inform its own sales staff about this 1999 FDA warning?  
 22 MR. MURPHY: Objection to the form of  
 23 the question, lack of foundation. You may answer.  
 24 THE WITNESS: I don't recall the

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1 details of that letter.  
 2 BY MR. McCORMICK:  
 3 Q. Mr. Gorsky, did you know that J&J chose not to  
 4 inform Omnicare of the same details of the January 1999  
 5 FDA letter?  
 6 MR. MURPHY: Same objection. You may  
 7 answer.  
 8 THE WITNESS: No, I was not aware.  
 9 BY MR. McCORMICK:  
 10 Q. Mr. Gorsky, let's look at the top of page  
 11 eight. The second paragraph there reads the federal  
 12 government says that you were "also involved in  
 13 approving payments to Omnicare under the 2000  
 14 Consulting and Services Agreement."  
 15 Do you see that?  
 16 A. Yes, I do.  
 17 Q. And is that true, that you would have been  
 18 involved in approving payments to Omnicare?  
 19 A. I don't recall specifically approving  
 20 payments, but in my role I likely would have been  
 21 involved.  
 22 Q. And in this case isn't it the government's  
 23 allegations that these payments to Omnicare were  
 24 actually kickbacks?

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<p>1 MR. MURPHY: Objection to the form of</p> <p>2 the question, lack of foundation. You may answer.</p> <p>3 THE WITNESS: I'm not familiar with all</p> <p>4 of the details that are made in the court</p> <p>5 document, but I do know that during that time</p> <p>6 frame our contractual obligations to Omnicare were</p> <p>7 reviewed by our legal counsel and were also quite</p> <p>8 similar to contracts that we have with the</p> <p>9 government in other areas regarding rebates, and</p> <p>10 we felt that they were consistent and compliant</p> <p>11 with all the appropriate guidelines and</p> <p>12 regulations at that time.</p> <p>13 BY MR. McCORMICK:</p> <p>14 Q. Has anyone told you, other than your legal</p> <p>15 counsel, that the government's allegations here are</p> <p>16 that those payments that you made under the 2000</p> <p>17 consulting agreement to Omnicare were kickbacks?</p> <p>18 A. No, not that I'm aware of.</p> <p>19 Q. Mr. Gorsky, did you know that Omnicare settled</p> <p>20 its portion of this case years ago for approximately</p> <p>21 \$100 million?</p> <p>22 MR. MURPHY: Objection to the form of</p> <p>23 the question. You may answer.</p> <p>24 THE WITNESS: I believe I did read</p>	<p>1 MR. MURPHY: Does he see the words?</p> <p>2 BY MR. McCORMICK:</p> <p>3 Q. Do you see where it says "OmniCare engaged in</p> <p>4 'active intervention programs' to promote utilization</p> <p>5 of Risperdal and other J&amp;J drugs in order to qualify</p> <p>6 for rebates and other payments from J&amp;J"?</p> <p>7 Do you see that, Mr. Gorsky?</p> <p>8 A. Yes, I do.</p> <p>9 Q. What is an active intervention program?</p> <p>10 A. I'm not certain what exactly they're referring</p> <p>11 to.</p> <p>12 Q. Do you recall ever approving payments for</p> <p>13 active intervention programs having to do with</p> <p>14 OmniCare?</p> <p>15 A. No, I do not.</p> <p>16 MR. MURPHY: Are you done with the</p> <p>17 document?</p> <p>18 MR. McCORMICK: We are.</p> <p>19 MR. MURPHY: For the record, I object</p> <p>20 to the entire line of questioning regarding</p> <p>21 Exhibit 2.</p> <p>22 BY MR. McCORMICK:</p> <p>23 Q. Mr. Gorsky, the OmniCare lawsuit in</p> <p>24 Massachusetts involves allegations that Johnson &amp;</p>
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<p>1 somewhere that Omnicare had come to a settlement</p> <p>2 with the government.</p> <p>3 BY MR. McCORMICK:</p> <p>4 Q. Mr. Gorsky, getting back to the question I</p> <p>5 just asked -- and you can just answer it yes or no --</p> <p>6 did the US government allege that you approved payments</p> <p>7 that were kickbacks to Omnicare?</p> <p>8 A. I have not read the entire document, so I'm</p> <p>9 uncertain.</p> <p>10 Q. During the next break -- why don't we take a</p> <p>11 minute? -- we'll read through it and then see if you</p> <p>12 can answer that question.</p> <p>13 Let's turn to page twelve of the document,</p> <p>14 please. Do you see the heading on this page that says</p> <p>15 "Mr. Gorsky Should Possess Knowledge Of Relevant</p> <p>16 Facts"?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Let's turn to the top of page thirteen,</p> <p>19 please. Do you see in the top paragraph, Mr. Gorsky,</p> <p>20 the government talks about active intervention</p> <p>21 programs?</p> <p>22 MR. MURPHY: Where is that, counselor?</p> <p>23 MR. McCORMICK: The top of page</p> <p>24 thirteen.</p>	<p>1 Johnson illegally promoted and marketed the drug</p> <p>2 Risperdal to Omnicare chain of nursing homes. Is that</p> <p>3 correct?</p> <p>4 A. Again, I'm not familiar with the entire</p> <p>5 extent. I believe that's one of the issues that's</p> <p>6 discussed.</p> <p>7 Q. And another part of the case is that Johnson &amp;</p> <p>8 Johnson paid kickbacks to Omnicare to have its</p> <p>9 physicians prescribe Risperdal in greater amounts than</p> <p>10 they normally would. Is that correct? Do you</p> <p>11 understand that to be part of the --</p> <p>12 A. I believe, from reviewing the document here</p> <p>13 and some previous discussions, that's also part or one</p> <p>14 of the allegations.</p> <p>15 (Exhibit Gorsky-03 was marked for</p> <p>16 identification)</p> <p>17 BY MR. McCORMICK:</p> <p>18 Q. Mr. Gorsky, I've handed you what I've marked</p> <p>19 as Exhibit 3, which is a three-page document, an email</p> <p>20 and an attachment. Will you take a minute to review</p> <p>21 that document and let me know when you're finished?</p> <p>22 A. Okay.</p> <p>23 Q. Mr. Gorsky, have you had a chance to review</p> <p>24 Exhibit 3?</p>

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<p style="text-align: right;">Page 29</p> <p>1 A. Yes, I have.</p> <p>2 Q. And do you see that the cover email is to the</p> <p>3 sales communications department on June 27th of 2001?</p> <p>4 A. Yes, I do.</p> <p>5 Q. And attached to it is a memo from you dated</p> <p>6 June 20th of 2001, correct?</p> <p>7 A. That's correct.</p> <p>8 Q. And the subject line is "Policy on Promotion</p> <p>9 of Products and Health Care Compliance," right?</p> <p>10 A. That's correct.</p> <p>11 Q. And at the bottom of the first paragraph there</p> <p>12 is a sentence that reads, "Inappropriate promotion of</p> <p>13 our products through homemade information or off-label</p> <p>14 claims is not only illegal, but compromises the</p> <p>15 reputation of Janssen, and of Johnson &amp; Johnson, in</p> <p>16 providing quality health care products and information</p> <p>17 to providers and patients." Is that correct?</p> <p>18 A. Yes, that is.</p> <p>19 Q. And is this the policy that you discussed with</p> <p>20 me earlier that was put in place in 2001 with Dave</p> <p>21 Mallegol?</p> <p>22 A. This is part of the policy that we put into</p> <p>23 place. As I mentioned earlier, the entire policy</p> <p>24 itself was very comprehensive in nature.</p> <p style="text-align: right;">Page 30</p> <p>1 It included the policy itself, but also</p> <p>2 training programs, testing/verification programs, as</p> <p>3 well as ongoing surveillance and disciplinary programs</p> <p>4 when there were things that were found that were</p> <p>5 inconsistent with the policy.</p> <p>6 So, this was one component of something that</p> <p>7 was actually much more comprehensive.</p> <p>8 Q. And this one went out to the sales force</p> <p>9 because it talks about off-label marketing, right?</p> <p>10 MR. MURPHY: Objection to the form. You</p> <p>11 may answer.</p> <p>12 THE WITNESS: I think what this talks</p> <p>13 about is this off-label promotion, and it did go</p> <p>14 out to -- it went to both the internal marketing</p> <p>15 and sales departments, which were very different</p> <p>16 departments.</p> <p>17 MR. McCORMICK: Okay.</p> <p>18 BY MR. McCORMICK:</p> <p>19 Q. Turn to page two. It talks about various</p> <p>20 violations and offenses. Is that right?</p> <p>21 A. That is addressed in the second paragraph,</p> <p>22 yes.</p> <p>23 Q. And one of the Class 1 violations is</p> <p>24 "Promoting products or indications that are not</p>	<p style="text-align: right;">Page 31</p> <p>1 approved." Is that correct? It's the third bullet</p> <p>2 point?</p> <p>3 A. That's correct.</p> <p>4 Q. And one of the other bullet points is</p> <p>5 "Promoting products outside the Healthcare Compliance</p> <p>6 Guidelines." That's a Class 1 violation, right?</p> <p>7 A. That's correct.</p> <p>8 Q. And then below that it says "Class 1 offense</p> <p>9 might be sufficiently serious to warrant immediate</p> <p>10 suspension without pay." Is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And you signed off on this policy on promotion</p> <p>13 of products and healthcare compliance in June of 2001,</p> <p>14 correct?</p> <p>15 A. Yes, I did.</p> <p>16 Q. You can put that document aside, Mr. Gorsky.</p> <p>17 (Exhibit Gorsky-04 was marked for</p> <p>18 identification)</p> <p>19 BY MR. McCORMICK:</p> <p>20 Q. Mr. Gorsky, I've handed you what's been marked</p> <p>21 as Exhibit 4, which is a two-page document. Can you</p> <p>22 take a minute to review that and let me know when</p> <p>23 you're finished?</p> <p>24 A. Okay.</p> <p style="text-align: right;">Page 32</p> <p>1 Q. Mr. Gorsky, have you had a chance to review</p> <p>2 Exhibit 4?</p> <p>3 A. Yes, I have.</p> <p>4 Q. And is that your initials up in the next --</p> <p>5 next to your name in the front line of the memo?</p> <p>6 A. Yes, they are.</p> <p>7 Q. This memo was sent out on February 8th, 2002?</p> <p>8 A. Yes, that's the date of the memo.</p> <p>9 Q. And it went out to a number of different</p> <p>10 divisions or groups within Janssen, including the field</p> <p>11 sales force and internal marketing and sales. Is that</p> <p>12 right?</p> <p>13 A. That's correct.</p> <p>14 Q. And the subject line, similar to what we</p> <p>15 looked at in Exhibit 3, is "Policy on Promotion of</p> <p>16 Products and Health Care Compliance." Is that right?</p> <p>17 A. That's correct.</p> <p>18 Q. Right below there, the first paragraph of this</p> <p>19 memo that you wrote, you refer to Janssen as a member</p> <p>20 of the Johnson &amp; Johnson Family of Companies. Is that</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Then if we go down to the third paragraph on</p> <p>24 this page, you talk about the -- strike that.</p>
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1 If we can down to the third paragraph of this  
 2 page, Mr. Gorsky, it says this policy -- or "It is a  
 3 policy that is built upon not only statutes and  
 4 guidelines, but our core value system, the Johnson &  
 5 Johnson Credo." Is that correct?  
 6 A. Yes.  
 7 Q. And that's the credo we talked about earlier?  
 8 A. Yes, it is.  
 9 Q. And this is an example of the questions I was  
 10 asking you earlier, where you believe that the Johnson  
 11 & Johnson Credo applied to the Janssen employees. Is  
 12 that right?  
 13 A. Yes.  
 14 Q. We skip a sentence there. There is another  
 15 sentence, that "Promotion within the approved labeling  
 16 has long been an integral part of that policy." Is  
 17 that right? Is that correct?  
 18 A. That's right.  
 19 MR. MURPHY: Is that what it says?  
 20 Q. Is that what it says, Mr. Gorsky?  
 21 A. Yes, that's what it says.  
 22 Q. At that time, in February of 2002, you were  
 23 telling the sales and marketing department that  
 24 off-label marketing was improper. Is that correct?

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1 A. We're stating just as it is here, "Promotion  
 2 within the approved labeling has long been an integral  
 3 part of that policy," and I think it's further outlined  
 4 on the next page exactly what that means.  
 5 Q. And on the next page is that paragraph at the  
 6 bottom of the page, "Our policy on out-of-label  
 7 promotion or violations." Is that correct? Is that  
 8 what you're talking about?  
 9 A. Well, what I was talking about is, actually  
 10 almost the entire content on this page further  
 11 clarified the comment that I referred to on the  
 12 previous page.  
 13 Q. Meaning that promoting a product for an  
 14 indication that's not approved would be a Class 1  
 15 violation, as we talked about in Exhibit 3, right?  
 16 A. Yes. And it goes into further detail about  
 17 copying or altering company-approved materials; or  
 18 promoting products for indications that are not  
 19 approved; or promoting products outside the healthcare  
 20 compliance guidelines.  
 21 Q. You can put that document aside, Mr. Gorsky.  
 22 A. Okay.  
 23 (Exhibit Gorsky-05 was marked for  
 24 identification)

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1 BY MR. McCORMICK:  
 2 Q. Mr. Gorsky, I've marked as Exhibit 5 a large  
 3 document that was previously marked during the  
 4 deposition of David Mallegol in the Texas litigation.  
 5 I'm not going to ask you to review every page,  
 6 but if you could glance through the document and let me  
 7 know when you're finished.  
 8 A. Okay.  
 9 Q. Mr. Gorsky, I know you haven't had a chance to  
 10 review every word of this document, but have you had a  
 11 chance to glance through Exhibit 5?  
 12 A. Yes, I have, just very topline.  
 13 Q. Exactly. Mr. Gorsky, are you familiar with  
 14 this document?  
 15 A. I don't remember it explicitly, but it looks  
 16 as though it was the full set of guidelines that were  
 17 prepared as part of our healthcare compliance policy.  
 18 And again, I don't know if this was something  
 19 that was considered a manual or used for one particular  
 20 event. I don't understand the entire context.  
 21 But it looks like it's a comprehensive  
 22 collection of our policies, examples of approved  
 23 processes, required paperwork and other examples, along  
 24 with Q&As, from my very brief preview.

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1 Q. Mr. Gorsky, I want to ask you about some  
 2 examples that are provided in here. Can you turn to  
 3 the Bates label, the number in the bottom right-hand  
 4 corner that starts with JJPRD -- the last three digits  
 5 would be 971? So, it would be 8971.  
 6 A. Yes. Okay.  
 7 Q. Mr. Gorsky, I'm actually going to -- I  
 8 apologize. Can you turn to page 959? It's about ten  
 9 pages before this.  
 10 A. Okay.  
 11 Q. And the title of this section is "Guidance  
 12 Documents: Support of Continuing Medical Education  
 13 Activities." Is that correct?  
 14 A. That's correct.  
 15 Q. And then if we -- the fifth paragraph talks  
 16 about the FDA and its regulation of advertising and  
 17 promotion of drugs and biologics. Is that correct?  
 18 A. That's the first sentence.  
 19 Q. And part of that control would be over CMEs,  
 20 or continuing medical education, activities or  
 21 programs. Is that right?  
 22 MR. MURPHY: Objection to the form of  
 23 the question, lack of foundation, but you may  
 24 answer.

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1 THE WITNESS: I'm not sure I understand  
 2 your question.  
 3 BY MR. McCORMICK:  
 4 Q. Okay. Did the FDA regulate what promotional  
 5 activities could take place with or related to a CME?  
 6 A. Well, as I remember, there were not  
 7 promotional activities associated with certified  
 8 medical education programs and --  
 9 Q. Go ahead, I'm sorry.  
 10 A. -- and I do not believe, although I can't be  
 11 certain on this, that they were directly regulated by  
 12 the FDA. I'm sure the FDA was involved, but I don't  
 13 know how explicit that was.  
 14 Q. Turn back to page 971, please.  
 15 A. So, the numbers on the bottom, 97 --  
 16 Q. The bottom right-hand corner.  
 17 A. I'm sorry, it's a lot of documents. Okay.  
 18 Q. Do you see at the top of this page it says  
 19 questions and answers, right?  
 20 A. Yes.  
 21 Q. And these look like -- well, tell me what this  
 22 page is.  
 23 A. May I take a moment to review the previous  
 24 page just so I understand the context?

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1 Q. Sure.  
 2 A. It appears as though this section were the  
 3 policies and guidelines that went through the policies,  
 4 the procedures and considerations that would be  
 5 assessed around CME programs, and this was a further  
 6 initiative to help create deeper understanding of those  
 7 by having a Q&A.  
 8 Q. And look at question four, Mr. Gorsky. The  
 9 question reads, "Is it okay for a speaker to discuss  
 10 off label uses of product at CME activities?"  
 11 Do you see that?  
 12 A. Yes.  
 13 Q. The answer is, "Yes, provided the CME activity  
 14 is conducted in accordance with FDA guidelines, the CME  
 15 activity would not be bound by promotional regulations.  
 16 This type of independent activity is different from a  
 17 promotional speaker program where speakers are  
 18 contractually bound NOT to discuss off-label uses."  
 19 Do you see that?  
 20 A. Yes, I do.  
 21 Q. And is that the way you understand the use of  
 22 off-label promotion at a CME activity?  
 23 MR. MURPHY: Objection to the form of  
 24 the question. You may answer if you understand

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1 it.  
 2 THE WITNESS: Your statement was not  
 3 consistent with my understanding. What I said  
 4 earlier is that promotional activities and CME  
 5 programs were different types of programs.  
 6 As outlined in this paragraph, this  
 7 talks about -- as I mentioned earlier, I know that  
 8 the FDA had some involvement in the CME  
 9 guidelines, but that was considered separate and  
 10 distinct from promotion versus other directly  
 11 promotional programs.  
 12 MR. McCORMICK: Okay.  
 13 BY MR. McCORMICK:  
 14 Q. Do you agree with the answer -- strike that.  
 15 Do you agree that the answer provided to question four  
 16 here is correct?  
 17 A. I think in general terms, as I sit here today,  
 18 it would be consistent. It's been some years since I  
 19 reviewed all the specific outlines of the CME programs,  
 20 but I would also assume that this document was  
 21 rigorously reviewed by our regulatory and our legal  
 22 team prior to its publication, who had extensive  
 23 experience in that area.  
 24 So I would assume, since they were the experts

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1 in that area, that it would be correct.  
 2 Q. That would have been my next question: Based  
 3 on the amount of review and analysis that would have  
 4 gone into preparing a healthcare compliance manual, you  
 5 would assume that this answer is correct. Is that  
 6 right?  
 7 A. Yes. I mean, I relied on my regulatory and  
 8 legal experts, who, to the best of my knowledge, were  
 9 well regarded and frequently sought in the industry, to  
 10 help develop and refine these policies and procedures.  
 11 Q. Let's look at question seven: "Are Janssen  
 12 employees permitted to review the CME program materials  
 13 prior to the conduct of the first presentation  
 14 session?"  
 15 Do you see that?  
 16 A. Yes, I do.  
 17 Q. And the answer that is provided by your  
 18 regulatory and legal and healthcare compliance --  
 19 strike that.  
 20 The answer that is provided by Janssen's  
 21 regulatory, legal and healthcare compliance employees  
 22 is, "No. Company employees should not be involved in  
 23 reviewing or otherwise influencing the content of CME  
 24 programs. After the commencement of the CME activity,

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<p>1 all materials are reviewed pursuant to the SOP for</p> <p>2 Medical Review."</p> <p>3 Did I read that correctly?</p> <p>4 A. Yes, you did.</p> <p>5 Q. And my same question: Based on the fact that</p> <p>6 this was probably, as I think you said, rigorously</p> <p>7 reviewed and analyzed by your healthcare compliance,</p> <p>8 regulatory and legal and whoever else, would you agree</p> <p>9 that that answer is probably correct at the time it was</p> <p>10 written?</p> <p>11 A. Yes, I would.</p> <p>12 Q. Okay.</p> <p>13 THE VIDEOGRAPHER: Excuse me, counsel,</p> <p>14 five minutes.</p> <p>15 MR. McCORMICK: Thanks, Jaime.</p> <p>16 BY MR. McCORMICK:</p> <p>17 Q. Mr. Gorsky, can you turn to the next page?</p> <p>18 A. 972?</p> <p>19 Q. 972, yes.</p> <p>20 A. Yes.</p> <p>21 Q. Mr. Gorsky, at the top of page 972 there is a</p> <p>22 question eight: "A CME Provider has requested support</p> <p>23 for a CME activity in an area of interest to Janssen.</p> <p>24 This CME Provider also has a division that is working</p>	<p>1 A. Yes, I do.</p> <p>2 Q. Mr. Gorsky, can you turn to page 9009, please?</p> <p>3 A. Yes.</p> <p>4 Q. Mr. Gorsky, do you see that the heading of</p> <p>5 this section is "Guidance Document: Entertainment,</p> <p>6 Gifts and Promotion"?</p> <p>7 A. Yes, it is.</p> <p>8 MR. McCORMICK: Hang on for one second.</p> <p>9 Why don't we go off the record here, take a break?</p> <p>10 And then we'll come back. I don't want to get</p> <p>11 started in the middle of something.</p> <p>12 We'll take a break, Mr. Gorsky, and let</p> <p>13 Jaime change the tape, get a walk around and then</p> <p>14 we'll come back to the table. Okay?</p> <p>15 THE WITNESS: Okay.</p> <p>16 MR. McCORMICK: Thank you.</p> <p>17 THE VIDEOGRAPHER: Off the record at</p> <p>18 10:59 a.m. This is the end of tape one.</p> <p>19 (A brief recess was taken)</p> <p>20 THE VIDEOGRAPHER: Stand by, please.</p> <p>21 Back on the record at 11:06 a.m. This is tape two.</p> <p>22 BY MR. McCORMICK:</p> <p>23 Q. Mr. Gorsky, we're back from our first break.</p> <p>24 Do you understand you're still under oath?</p>
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<p>1 with the Janssen brand supporting speaker programs.</p> <p>2 Can we interact with the CME Provider's speaker program</p> <p>3 support team on this CME activity since we have a good</p> <p>4 working relationship?"</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes, you did.</p> <p>7 Q. And the answer to number eight, which was</p> <p>8 again probably put together by your regulatory and</p> <p>9 compliance and legal team, says, "No. There must be a</p> <p>10 clear firewall established between the two groups. It</p> <p>11 is inappropriate for a promotional support group to</p> <p>12 discuss or be involved with any CME activity. All CME</p> <p>13 activities must be free from commercial bias. Clearly,</p> <p>14 using promotional staff compromises this standard. It</p> <p>15 is the responsibility of the CME Provider to ensure</p> <p>16 clear separation of promotional and CME staff groups."</p> <p>17 Did I read that correctly, Mr. Gorsky?</p> <p>18 A. Yes, you did.</p> <p>19 Q. And based on the fact that this answer was</p> <p>20 probably rigorously reviewed and analyzed by your</p> <p>21 regulatory, legal and compliance and any other</p> <p>22 department involved before it was put into a compliance</p> <p>23 manual, do you assume that this answer was correct at</p> <p>24 the time it was written?</p>	<p>1 A. Yes, I do.</p> <p>2 Q. We were looking at the healthcare compliance</p> <p>3 guidelines, and I think we were on page 9009 of the</p> <p>4 document.</p> <p>5 The title of this section of the guidelines is</p> <p>6 "Guidance Document: Entertainment, Gifts and</p> <p>7 Promotions." Do you see that, Mr. Gorsky?</p> <p>8 A. Yes, I do.</p> <p>9 Q. The first sentence of the overview for this</p> <p>10 section says that Janssen abides by two different sets</p> <p>11 of guidelines. What are those guidelines?</p> <p>12 A. It states that "Janssen abides by the American</p> <p>13 Medical Association's [AMA] and Pharmaceutical and</p> <p>14 Research Manufacturers of America's [PhRMA] Guidelines</p> <p>15 on Gifts to Physician's from Industry."</p> <p>16 I don't remember the specifics of each one of</p> <p>17 those, but I know that both organizations established</p> <p>18 guidelines and recommendations for promotional</p> <p>19 practices on entertainment, gifts and promotions as</p> <p>20 outlined here on several different occasions through</p> <p>21 the 1990s and 2000s, and we wanted to ensure that ours</p> <p>22 were consistent with those guidelines, as far as I can</p> <p>23 remember.</p> <p>24 Q. And the next sentence states that "Although</p>

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1 these guidelines apply only to physicians, Janssen  
 2 applies the same principles in their dealings with  
 3 other health care professionals." Is that correct?  
 4 A. That's correct, that's what it says.  
 5 Q. Would that include nurses in a doctor's  
 6 office?  
 7 A. I'm assuming it would include all healthcare  
 8 professionals.  
 9 Q. Can you turn to page 9012, please? Again,  
 10 we're looking at the questions and answers that are  
 11 pertinent to this section: Entertainment, gifts and  
 12 promotions. Is that correct?  
 13 A. That's correct. It's consistent, I believe,  
 14 with what we did before, where there were policies and  
 15 procedures, and then this is a Q&A attempting to  
 16 further clarify.  
 17 Q. So, these would be sample questions you would  
 18 get from a sales representative into the compliance  
 19 department, right?  
 20 MR. MURPHY: Objection to the form of  
 21 the question. You may answer.  
 22 MR. McCORMICK: Let me see if I can  
 23 rephrase.  
 24

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1 BY MR. McCORMICK:  
 2 Q. The question-and-answer section, Mr. Gorsky,  
 3 would be representative questions or samples of  
 4 questions that may come from a Janssen sales  
 5 representative into the compliance department. Is that  
 6 correct?  
 7 A. I'm speculating some, but -- as I haven't  
 8 reviewed the entire document, but from here it would  
 9 appear as though this could be used by a number of  
 10 different people, anyone involved directly or  
 11 indirectly with the promotion of our products.  
 12 Q. Let's look at question four, Mr. Gorsky. The  
 13 question reads, "Can Janssen pay for a physician or  
 14 hospital's Holiday party?"  
 15 The answer states, "No. This is a gift and  
 16 gifts may not be provided to physicians or groups  
 17 unless they primarily entail a patient benefit and are  
 18 of modest value."  
 19 Did I read that correctly?  
 20 A. Yes, did you read it correctly.  
 21 Q. Similar to the other questions and answers we  
 22 discussed, based on your assumption that this  
 23 compliance manual would have gone through a rigorous  
 24 review by Janssen's regulatory, legal and compliance

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1 departments, you would assume that this answer is  
 2 correct as of the time it was written. Is that  
 3 correct?  
 4 A. That's correct.  
 5 Q. Let's look at question number six, Mr. Gorsky.  
 6 The question reads, "Can a sales representative conduct  
 7 a 'Dash'N Dine' pizza program or a Dash program that  
 8 offers items other than meals, such as clothing, shoes,  
 9 gift certificates, wine, etcetera?" The answer reads,  
 10 "No. All Dash programs are prohibited."  
 11 Did I read that correctly?  
 12 A. Yes, you read it correctly.  
 13 Q. Mr. Gorsky, based on our previous review of  
 14 these documents and your assumption that these  
 15 questions and answers have gone through a rigorous  
 16 review by your regulatory, legal and compliance  
 17 departments, do you assume that the answer to the  
 18 question provided there was correct as of the time it  
 19 was written?  
 20 A. Yes.  
 21 Q. You can put that document aside, Mr. Gorsky.  
 22 (Exhibit Gorsky-06 was marked for  
 23 identification)  
 24

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1 BY MR. McCORMICK:  
 2 Q. Mr. Gorsky, I'm going to hand you what I've  
 3 marked as Exhibit 6, which is a chain of emails from  
 4 November of 2001. The first Bates label it's JJRE  
 5 03856494.  
 6 Can you take a minute to review that document  
 7 and let me know when you're finished?  
 8 A. Yes. Okay.  
 9 Q. Mr. Gorsky, have you had a chance to review  
 10 Exhibit 6?  
 11 A. Yes, I have.  
 12 Q. And do you see that you sent an email, on page  
 13 two of this document, on or around November 2nd of  
 14 2001?  
 15 A. Yes, I did.  
 16 Q. And the signature line shows that you were the  
 17 president of Janssen at that time. Is that correct?  
 18 A. That's correct.  
 19 Q. And you're checking on meeting dates for Joe  
 20 Scodari. Is that right?  
 21 A. That's correct.  
 22 Q. Who is Joe Scodari?  
 23 A. At that time Joe Scodari was the company group  
 24 chairman, I believe, for North America Pharmaceutical

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1 Group.  
 2 Q. And Mr. Gorsky, in your email to a number of  
 3 individuals at Janssen, you were asking for ideas on  
 4 growth opportunities. Is that correct?  
 5 A. That's correct.  
 6 Q. And these growth opportunities should be what  
 7 you call investment opportunities that generate topline  
 8 growth in the 2002 and 2003 time frame, right?  
 9 A. Yes.  
 10 Q. And would selling Risperdal or having --  
 11 strike that. Would increasing the sales of Risperdal be  
 12 a growth opportunity in 2001?  
 13 MR. MURPHY: Objection to the form of  
 14 the question. You may answer.  
 15 THE WITNESS: I'm not sure exactly what  
 16 you're meaning by the question.  
 17 MR. McCORMICK: Okay.  
 18 BY MR. McCORMICK:  
 19 Q. Mr. Gorsky, let's look at page one and the  
 20 email that Ms. Vergis forwarded. She forwarded your  
 21 email to a number of other individuals. Is that right?  
 22 A. Based upon the tracking of the email, yes.  
 23 Q. And at that time do you recall that Ms. Vergis  
 24 was the vice-president of the CNS franchise for

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1 Janssen?  
 2 A. I don't remember her exact title, but I think  
 3 that is consistent with what I remember.  
 4 Q. Okay. And then the email that Ms. Vergis  
 5 forwards, which is your forward, if you track along  
 6 here, was forwarded then by Ramy Mahmoud to a number of  
 7 other individuals. Is that correct?  
 8 A. Yes.  
 9 Q. And Mr. Mahmoud talks about "money on the  
 10 table." Do you see that?  
 11 A. The opening sentence says "Remember 'money on  
 12 the table?'" I'm not sure what. . .  
 13 Q. Do you recall before November of 2001 taking  
 14 part in activities or exercises that were referred to  
 15 as "money on the table" when you were at Janssen?  
 16 A. I vaguely remember from time to time during  
 17 the course of the year their management may provide the  
 18 opportunity for additional investment in different  
 19 areas of the business that was called a "money on the  
 20 table" exercise, but I don't remember the specific  
 21 exercise.  
 22 Q. Would that be similar to the email or the  
 23 exercise that you're talking about here that you  
 24 forwarded to individuals and then were forwarded on

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1 called growth opportunities?  
 2 MR. MURPHY: Objection to the form of  
 3 the question. You may answer.  
 4 THE WITNESS: You know, I don't  
 5 remember specifically other than as reflected on  
 6 this email.  
 7 MR. McCORMICK: Okay.  
 8 BY MR. McCORMICK:  
 9 Q. Then do you see in the very latest of the  
 10 emails in the email chain Gahan Pandina forwards the  
 11 email chain, including your original email about growth  
 12 opportunities, to Georges Gharabawi and his email  
 13 reads, "Would this be an appropriate forum to discuss  
 14 the J&J center idea with Dr. Biederman?"  
 15 Did I read that correctly?  
 16 A. Yes, you did. That's what the email states.  
 17 Q. Okay. Did you know who Dr. Biederman was in  
 18 November of 2001?  
 19 A. I don't know if I knew who Dr. Biederman was  
 20 in 2001. I know of Dr. Biederman. I just don't  
 21 remember the exact time when I came to know him.  
 22 (Exhibit Gorsky-07 was marked for  
 23 identification)  
 24

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1 BY MR. McCORMICK:  
 2 Q. Mr. Gorsky, I'm handing you what's been marked  
 3 as Exhibit 7. It's a one-page document, a letter dated  
 4 December 7, 2001 from Joseph Biederman to Kent Bockes  
 5 Please take a minute to review it and let me know when  
 6 you're finished.  
 7 A. Okay.  
 8 Q. Mr. Gorsky, in December of 2001 do you recall  
 9 that Kent Bockes was a product director in the CNS  
 10 franchise?  
 11 A. I mean, I recall Kent Bockes, but I don't  
 12 recall what exactly his role was at that time.  
 13 Q. Did Mr. Bockes ever discuss this letter with  
 14 you, which is a request for an educational grant in the  
 15 amount of \$500,000 from Dr. Joseph Biederman of  
 16 Massachusetts General Hospital?  
 17 A. I don't recall.  
 18 Q. Do you recall in or around the time frame  
 19 November/December 2001 discussions surrounding an  
 20 educational grant for the creation of a center for  
 21 child and adolescent psychiatry research at  
 22 Massachusetts General Hospital in partnership with Dr.  
 23 Biederman?  
 24 A. I don't recall a specific conversation around

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1 a grant. I recall discussions regarding Dr. Biederman,  
 2 who was considered to be one of the top researchers --  
 3 I believe he was out of Harvard and Massachusetts  
 4 General Hospital -- particularly in child and  
 5 adolescent psychiatry and that there were ongoing  
 6 discussions with him, but I don't remember the  
 7 specifics.  
 8 Q. You can put that aside, Mr. Gorsky.  
 9 MR. McCORMICK: I'm marking as Exhibit 8  
 10 a document with the Bates label JJRIS 00302772.  
 11 It's a PME Request Form. Take a minute to review  
 12 it and let me know when you're finished.  
 13 (Exhibit Gorsky-08 was marked for  
 14 identification)  
 15 THE WITNESS: Okay.  
 16 BY MR. McCORMICK:  
 17 Q. Mr. Gorsky, have you had a chance to review  
 18 Exhibit 8?  
 19 A. Yes.  
 20 Q. And you see that it's a PME Request Form. Is  
 21 that correct?  
 22 A. Yes, that's what it says at the top of the  
 23 form.  
 24 Q. What does PME stand for, if you recall?

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1 A. I don't remember exactly. It went through a  
 2 number of iterations over the years. If it was product  
 3 management expenses -- I don't remember.  
 4 Q. Okay. Toward the bottom do you see your name  
 5 typed?  
 6 A. Yes, I too.  
 7 Q. And then is that your signature next to your  
 8 name?  
 9 A. Yes, it is.  
 10 Q. And it's got a date there, 12/16/01?  
 11 A. Yes, it does.  
 12 Q. You were approving a \$500,000 expenditure for  
 13 a child and adolescent research center, Massachusetts  
 14 General Hospital. Is that correct?  
 15 A. The grant, as I read it, was for \$500,000.  
 16 However, it also says that "OMP and McNeil will each be  
 17 contributing \$150,000 to this project (Thus, our total  
 18 expenditure will be \$200,000 with 300K coming back to  
 19 us)."  
 20 Q. Meaning that Janssen would put out the first  
 21 \$500,000, but OMP and McNeil would pay \$300,000 back to  
 22 Janssen. Is that right?  
 23 A. I'm assuming that was the case, yes.  
 24 Q. And what's OMP?

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1 A. That would have been Ortho-McNeil  
 2 Pharmaceutical Company, another subsidiary of Johnson &  
 3 Johnson.  
 4 Q. And before you approved this \$500,000  
 5 expenditure of which Janssen was responsible for  
 6 \$200,000, did you discuss the plan for the child and  
 7 adolescent research center with anyone before approving  
 8 it?  
 9 A. I don't recall if I had a specific discussion  
 10 on this particular program. This would have been one  
 11 among many programs that would have come across my  
 12 desk.  
 13 (Exhibit Gorsky-09 was marked for  
 14 identification)  
 15 BY MR. McCORMICK:  
 16 Q. Mr. Gorsky, I've marked as Exhibit 9 a  
 17 three-page document entitled "Educational Grant Letter  
 18 of Agreement." Take a minute to review that and let me  
 19 know when you're finished.  
 20 A. Okay.  
 21 Q. Mr. Gorsky, have you had a chance to review  
 22 Exhibit 9?  
 23 A. Yes, I have.  
 24 Q. And do you see on page three there is a

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1 signature block there with your name printed?  
 2 A. Yes.  
 3 Q. Is that your printing or handwriting?  
 4 A. I don't believe it is.  
 5 Q. Do you recall ever signing this Educational  
 6 Grant Letter of Agreement for \$500,000 for the MGH  
 7 Center for Pediatric Mania?  
 8 A. No, I do not.  
 9 Q. But you had previously, in Exhibit 8, approved  
 10 the \$500,000. Is that correct?  
 11 MR. MURPHY: Objection to form of the  
 12 question. You may answer if you understand it.  
 13 THE WITNESS: I think what I had  
 14 approved in the previous document was the request,  
 15 a grant total of \$500,000, with Janssen being  
 16 responsible for \$200,000. And also I'll just note  
 17 on it there was not yet a signed contract in  
 18 place.  
 19 BY MR. McCORMICK:  
 20 Q. Is Exhibit 9 the contract that would have been  
 21 signed?  
 22 MR. MURPHY: Objection to the form of  
 23 the question. You may answer.  
 24 THE WITNESS: I don't know.

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1 BY MR. McCORMICK:  
 2 Q. So, are you saying the bribe to Massachusetts  
 3 General Hospital was only 200,000, not 500,000?  
 4 MR. MURPHY: Did you say "bribe"?  
 5 MR. McCORMICK: (No response)  
 6 MR. MURPHY: Did you say "bribe"?  
 7 MR. McCORMICK: Yes.  
 8 MR. MURPHY: Objection to the form of  
 9 the question, argumentative. You may answer.  
 10 THE WITNESS: I would disagree with  
 11 that statement.  
 12 MR. McCORMICK: All right, you can put  
 13 that exhibit aside.  
 14 (Exhibit Gorsky-10 was marked for  
 15 identification)  
 16 BY MR. McCORMICK:  
 17 Q. Mr. Gorsky, I've marked as Exhibit 10 an email  
 18 chain from March of 2002. Can you take a minute to  
 19 review it and let me know when you're finished?  
 20 A. Okay.  
 21 Q. Mr. Gorsky, have you had a chance to review  
 22 Exhibit 10?  
 23 A. Yes, I have.  
 24 Q. And do you see that you are the recipient and

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1 then the sender of two of the emails in this email  
 2 chain?  
 3 A. Yes, I do.  
 4 Q. And do you see the email from Gahan Pandina,  
 5 who was the assistant director of CNS clinical  
 6 development, on March 22, 2002 and the subject line  
 7 reads "Feedback regarding MGH pediatric seminar"?  
 8 Have you had a chance to review that email?  
 9 A. Yes, I have.  
 10 Q. And then you receive an email -- or that email  
 11 is forwarded to you by Ramy Mahmoud later on that day.  
 12 Is that correct?  
 13 A. That's correct.  
 14 Q. Okay. Was it your custom and practice in  
 15 March of 2002 that if you received an email and it  
 16 forwarded another email, you would have reviewed both  
 17 those emails?  
 18 A. I can only speculate because I would literally  
 19 receive hundreds of emails, so I may or may not have  
 20 been able to read the entire content of the email.  
 21 Q. Well, you can't specify every example, of  
 22 course, but would it have been your practice that, if  
 23 you had received an email that was forwarded to you,  
 24 you would have tried to review the earlier email? Is

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1 that right?  
 2 A. I can't speculate on that because of the heavy  
 3 volume that I get, and it would depend on the exact  
 4 nature and content of the forward on the other email.  
 5 Q. Well, looking at the email now, do you see  
 6 that Mr. Pandina -- Dr. Pandina is talking about a  
 7 meeting, a pediatric -- strike that.  
 8 Looking at the email now, Mr. Gorsky, do you  
 9 see that Gahan Pandina is talking about a meeting that  
 10 they had with Dr. Biederman and then a pediatric  
 11 seminar that Dr. Biederman gave after that meeting?  
 12 A. Yes, that's what it appears to be referring  
 13 to.  
 14 Q. And it says that Dr. Biederman gave or  
 15 attended and participated in a three-day educational  
 16 seminar in child psychopharmacology and pediatric  
 17 bipolar disorder the day immediately after he met with  
 18 Janssen at Janssen's offices, right?  
 19 A. This sentence, as I read it, says "This  
 20 meeting began the day immediately after our meeting  
 21 with him here at Janssen last week."  
 22 Q. Later on in the email Gahan Pandina notes that  
 23 Dr. Biederman was not perceived to be aligned with any  
 24 company in particular.

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1 Do you see that?  
 2 MR. MURPHY: What line are you at,  
 3 counsel?  
 4 MR. McCORMICK: Sixth line.  
 5 THE WITNESS: As I read that statement,  
 6 it says, "He was very balanced in his approaches  
 7 to treatment, and not perceived to be aligned with  
 8 any company in particular."  
 9 MR. McCORMICK: Okay.  
 10 BY MR. McCORMICK:  
 11 Q. And do you see the last sentence or last  
 12 paragraph in Mr. Pandina's email? It says, "I think  
 13 this is a clear example of the utility of partnering  
 14 with a group such as MGH, who has the potential of  
 15 reaching and having a significant impact upon the field  
 16 of child and adolescent psychiatry with these types of  
 17 professional activities in non-sponsored venues?"  
 18 Do you see that?  
 19 A. Yes, I do.  
 20 Q. By that, does -- strike that. By that Mr.  
 21 Pandina means that Massachusetts General Hospital and  
 22 Dr. Biederman will give Johnson & Johnson good cover  
 23 when they speak about Risperdal for pediatric use. Is  
 24 that correct?



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1 MR. MURPHY: Objection to the form of  
 2 the question, lack of foundation and calls for  
 3 speculation, but you may answer.  
 4 THE WITNESS: No, I would not draw that  
 5 conclusion. As I read the paragraph now, again it  
 6 talks about there being a three-day educational  
 7 seminar, that it was a very balanced review; and  
 8 it actually talks not about judging the validity  
 9 of the diagnosis of pediatric mania, given the  
 10 lack of data in this area at the time.  
 11 So, I couldn't draw the conclusion that  
 12 you made in your statement.  
 13 BY MR. McCORMICK:  
 14 Q. Well, based on the documents we just reviewed  
 15 before, it looked like there had been some thought  
 16 towards a research center being run by Dr. Biederman at  
 17 Massachusetts General Hospital. Is that correct? In  
 18 this time frame?  
 19 A. In the earlier documents it did talk about an  
 20 educational grant in support of a -- it was called  
 21 Child and Adolescent Research Center, but in the same  
 22 documents it talks about the clear direction around  
 23 where those funds could be used and should not be used  
 24 and their context based upon Exhibit 9.

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1 Q. Well, we'll look at where the funds were used  
 2 later, but that research center was eventually formed  
 3 and operated. Is that correct?  
 4 A. I don't know.  
 5 Q. Okay. You don't recall attending any meetings  
 6 regarding the Massachusetts General Hospital center  
 7 that Dr. Biederman was running with funds from Johnson  
 8 & Johnson or Janssen?  
 9 A. I recall meeting Dr. Biederman, but I can't  
 10 recall the exact context of that meeting.  
 11 Q. And then Ramy Mahmoud forwards that email to  
 12 you with a note that says, "A great way to get the word  
 13 out to a big part of the child and adolescent  
 14 prescribing community...very more that we do this kind  
 15 of thing and do it right...and it would appear that we  
 16 are definitely off on the right track on this  
 17 one...Ramy."  
 18 Do you see that?  
 19 A. Yes, I do.  
 20 Q. And then your response is -- well, strike  
 21 that.  
 22 In March of 2002 was Risperdal approved for  
 23 any pediatric use, Mr. Gorsky?  
 24 A. I don't recall. And when I say I don't

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1 recall, I don't recall our exact labeling at that time.  
 2 It was over ten years ago. And how it was worded, I  
 3 just don't have recall of that right now.  
 4 Q. And in reviewing documents in preparation for  
 5 this deposition or preparing for the Texas deposition  
 6 and having your deposition taken there, you did not  
 7 realize or come to know that Risperdal did not become  
 8 approved for any pediatric use until October of 2006?  
 9 A. I was aware as we prepared for this in 2006.  
 10 What I can't say with certainty sitting here today is  
 11 exactly what the label articulated prior to that 2006.  
 12 And there was considerable and ongoing discussion with  
 13 the FDA around various aspects of our label at that  
 14 time.  
 15 Q. Mr. Gorsky, I think you just agreed with me  
 16 that Risperdal was approved or indicated by the FDA for  
 17 a pediatric use in October 2006. Is that right? The  
 18 first time.  
 19 A. I don't remember the -- I don't have recall.  
 20 I wasn't at Janssen in 2006, nor in the preparation for  
 21 this did I read the specific labeling received in 2006.  
 22 What I've testified is that I don't recall  
 23 what was specifically in our label at this time  
 24 regarding the use in child and adolescents.

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1 Q. Respectfully, Mr. Gorsky, are you really going  
 2 to expect the jury to believe that you don't know that  
 3 prior to October of 2006 there was no pediatric  
 4 approval or indication by the FDA for Risperdal?  
 5 MR. MURPHY: Objection to the form of  
 6 the question, argumentative, but you may answer  
 7 the question, sir.  
 8 THE WITNESS: No, that's not what I  
 9 said. I said that I didn't know the exact  
 10 language. And I was clearly made aware and as I  
 11 prepared for here because I had left the company  
 12 four years or approximately three years prior to  
 13 the labeling, the exact labeling being received.  
 14 I don't know what was included and I  
 15 don't have -- the label itself is a document that  
 16 is multiple pages; has, you know, several  
 17 different sections. I don't remember exactly what  
 18 it said about use in children and adolescents.  
 19 BY MR. McCORMICK:  
 20 Q. I'm not --  
 21 A. That's. . .  
 22 Q. And I'm not trying to trick you; I really am  
 23 not. And I'm not trying to -- it's just going to make  
 24 this day a lot longer if we can't come -- I'm not

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<p>1 asking you about the entire label, Mr. Gorsky, and I'm  2 not trying to argue with you. I know Mr. Murphy is  3 about to object and say I'm arguing with you.  4 I'm just trying to ask you that in this time  5 frame of March of 2002, whether Risperdal was approved  6 for any pediatric use. Not anything else, just  7 pediatric use, child and adolescents.  8 A. And what I'm saying is, I don't recall. There  9 are several ways that that language can be in the  10 label: Something not being recommended, has not been  11 studied. There's a whole number of factors that can be  12 in there, and I just don't recall that specific  13 language.  14 Q. Well, the language I'm talking about is  15 whether Risperdal was approved by the FDA for the use  16 in child and adolescents in 2002.  17 A. It did not have the specific indication,  18 obviously, that was achieved in 2006 in 2002.  19 Q. Okay. So here, then, where Ramy Mahmoud is  20 talking about a great way to get out word to our child  21 and adolescent prescribing community, he's actually  22 celebrating a way for Janssen to promote Risperdal  23 off-label to the children and adolescent community. Is  24 that right?</p>	<p>1 a front to prescribe or promote Risperdal off-label to  2 the child and adolescent market"?  3 MR. MURPHY: Does he recall doing that?  4 MR. McCORMICK: Right.  5 THE WITNESS: I don't recall having  6 that conversation, but I would assume that Ramy  7 and the other people included on this were very  8 well-versed with our promotional policy and  9 guidelines, and as physicians within that group  10 would have been particularly sensitive to those.  11 MR. McCORMICK: Okay.  12 BY MR. McCORMICK:  13 Q. Did you ever say to Ramy Mahmoud or Pandina --  14 strike that.  15 Do you recall ever saying to Ramy Mahmoud or  16 Pandina, "We need to stop and think about this. If Dr.  17 Biederman's talking about Risperdal and we're giving  18 him \$500,000 as an educational grant, he has a conflict  19 of interest"?  20 A. I don't recall having that specific  21 conversation, but I've had multiple conversations with  22 all our employees about ensuring that all of our  23 activities, promotional and non-promotional, were  24 consistent with our guidelines and regulations.</p>
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<p>1 MR. MURPHY: Objection to the form of  2 the question, mischaracterizes the evidence. You  3 may answer.  4 THE WITNESS: No, I disagree with that  5 statement. I think in the note from Gahan  6 Pandina, again it talks about the validity of the  7 diagnosis of pediatric mania and the condition.  8 In Ramy's note, specifically which I  9 would assume I would have reviewed since I passed  10 it on, it says, "A great way to get the word out  11 to a big part of the child and adolescent  12 prescribing community...very important that we do  13 this thing and do it right," which I would take to  14 be reinforcing, ensuring that we're doing it in  15 the right way. So no, I would not draw the same  16 conclusion.  17 BY MR. McCORMICK:  18 Q. And then you just stated that you responded to  19 the email and said "Great to see that our partnering  20 with institutions and KOLs," right?  21 A. Yes, that is the way I responded.  22 Q. And do you recall at that time stopping Ramy  23 Mahmoud or Gahan Pandina and saying, "We can't use  24 Massachusetts General Hospital and/or Dr. Biederman as</p>	<p>1 And in fact, I think in the earlier document  2 the request that was clearly outlined, that there  3 should be no collusion on those matters in the same  4 way, where there was a specific grant request.  5 Q. Mr. Gorsky, I want to make sure I understand.  6 We looked at Ramy Mahmoud's email where he forwards  7 Gahan Pandina's email. And sitting here today you  8 don't have any problem with the way Ramy Mahmoud  9 phrased this email or the way he's approaching this  10 relationship between J&amp;J and Dr. Biederman or  11 Massachusetts General Hospital. Is that right?  12 MR. MURPHY: Objection to the form of  13 the question. Phraseology is one thing, but what  14 do you mean by "approaching"?  15 MR. McCORMICK: The language of the  16 email.  17 BY MR. McCORMICK:  18 Q. Do you stand by the language of the email, Mr.  19 Gorsky?  20 MR. MURPHY: Does he stand by it?  21 MR. McCORMICK: Yes.  22 MR. MURPHY: You may answer if you can.  23 THE WITNESS: I don't know what you  24 mean by "stand by it."</p>

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1 BY MR. McCORMICK:  
 2 Q. Did you ever write back to Ramy Mahmoud or  
 3 Gahan Pandina and say, "I think your email has some  
 4 off-label promotional problems if we're using Dr.  
 5 Biederman and Massachusetts General Hospital for an  
 6 improper purpose"?  
 7 A. I don't recall. However, if I refer back to  
 8 the previous document where there was a request for a  
 9 grant, there were multiple statements talking about the  
 10 importance of "No promotional activities will be  
 11 permitted in the same room or obligate path as the  
 12 Program"; requiring objectivity and balance; requiring  
 13 limitations on data; and actually discussion of  
 14 unapproved uses saying institutions will require that  
 15 presenters disclose when a product is not approved.  
 16 And assuming that as a background, while I  
 17 can't account for every conversation that may have been  
 18 had by the different employees, following that to this  
 19 document where Ramy made the statement "It's very  
 20 important that we do this thing and do it right," I  
 21 would have felt that he was following our recommended  
 22 guidelines and procedures.  
 23 Q. And I can understand you want to concentrate  
 24 on that second clause. The first clause, though -- "A

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1 great way to get the word out to a big part of the  
 2 child and adolescent prescribing community" -- is what  
 3 concerns me, because at the time Risperdal was not  
 4 indicated and approved for any pediatric or child and  
 5 adolescent use, and Mahmoud and Pandina both appear to  
 6 be presenting this relationship with Dr. Biederman and  
 7 Massachusetts General Hospital as the opportunity to  
 8 get the word on Risperdal out to this community.  
 9 MR. MURPHY: That's a statement.  
 10 Q. Is that correct?  
 11 MR. MURPHY: You just gave him your  
 12 interpretation.  
 13 BY MR. McCORMICK:  
 14 Q. Did you agree with my interpretation?  
 15 A. No, I do not agree with your interpretation.  
 16 Q. And in fact, you -- I'm sorry.  
 17 A. Can I continue my statement?  
 18 Q. Of course.  
 19 A. There is a range of items they're talking  
 20 about, and this is a category where this represented a  
 21 significant area of unmet medical need for the  
 22 appropriate treatment of children and diagnosis of  
 23 these children, with prescribing completely being a  
 24 separate issue.

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1 And I think they even talk in here about the  
 2 importance of having the right kind of scales to ensure  
 3 the appropriate diagnosis and treatment of these  
 4 children. And I believe that was the overall intent of  
 5 Dr. Mahmoud's email.  
 6 Q. I mean, in fact you actually said "great."  
 7 You seem pleased with the way that this relationship is  
 8 going -- is that right? -- if you look at your email?  
 9 A. I can just conclude, from having read Ramy's  
 10 portion, that yes, supporting a cause to better  
 11 understand this very difficult condition and treatment  
 12 in children did represent good partnering.  
 13 (Exhibit Gorsky-11 was marked for  
 14 identification)  
 15 BY MR. McCORMICK:  
 16 Q. Mr. Gorsky, I've handed you what we've marked  
 17 as Exhibit 11, which is an email and an attachment.  
 18 The first Bates label on the page is JJRE 02310614.  
 19 Will you take a minute to review that document  
 20 and let me know when you're finished.  
 21 A. Okay.  
 22 Q. Mr. Gorsky, have you had a chance to review  
 23 Exhibit 11?  
 24 A. Yes, I have.

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1 Q. This is an email from Gahan Pandina in April  
 2 of 2000 -- strike that.  
 3 Mr. Gorsky, Exhibit 11 is an email from Gahan  
 4 Pandina to you and a number of other individuals on  
 5 April 2nd of 2002 and then an attachment. Is that  
 6 correct?  
 7 A. That's correct.  
 8 Q. And at the time in April of 2002 you were the  
 9 president of Janssen Pharmaceutica. Is that right?  
 10 A. That's correct.  
 11 Q. The re line discusses a J&J-Massachusetts  
 12 General Hospital meeting executive summary for a  
 13 meeting that occurred at Janssen on March 14th of 2002.  
 14 Is that right?  
 15 A. That's correct.  
 16 Q. Okay. And do you see on page three of this  
 17 document, or page 616 Bates label, you attended this  
 18 meeting on behalf of Janssen?  
 19 A. As I said earlier, I think I remember meeting  
 20 Dr. Biederman at this and attending part of this  
 21 session, but I don't remember exactly which portions I  
 22 attended or would have been present for.  
 23 Q. Well, this is a meeting summary, so we're  
 24 assuming that what is in here is correct. Is that

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1 right?  
 2 A. Yes. What I'm saying, though, is: Whether I  
 3 was just there for the introduction/welcome or some of  
 4 the other areas, I don't recall.  
 5 Q. Okay, and we'll get there. I'm just asking if  
 6 your name is listed as an attendee and then you  
 7 presented as the introduction and welcome at 8:30. Is  
 8 that right?  
 9 A. Yes, that's what the document states.  
 10 Q. All right. It looks like Dr. Biederman as  
 11 well as two other individuals from Massachusetts  
 12 General Hospital attended the meeting.  
 13 A. Yes, that's what it states in here.  
 14 Q. Would you assume that Johnson & Johnson paid  
 15 for their travel costs to come to this meeting?  
 16 A. I don't know.  
 17 Q. If we turn to the next page, page 617? Do you  
 18 see the overview heading about halfway through the  
 19 page?  
 20 A. Yes, I do.  
 21 Q. The third sentence says, "Three  
 22 representatives from MGH were present, along with a  
 23 number of representatives from J&J sister companies."  
 24 Do you see that?

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1 A. Yes, I do.  
 2 Q. And the sister companies would have been  
 3 Ortho-McNeil Pharmaceutical and McNeil Consumer that we  
 4 talked about earlier?  
 5 A. If I look forward, there were people from  
 6 Johnson & Johnson Pharmaceutical Research and  
 7 Development as well as McNeil Consumer as well as  
 8 Ortho-McNeil. I'm not familiar with those individuals.  
 9 Q. Down at the bottom of that page there is a  
 10 heading "Initial Center Activities." Do you see that?  
 11 A. I do.  
 12 Q. And it says "With support of Janssen, an  
 13 international meeting was held at MGH on Saturday March  
 14 9, 2002 focused on diagnosis and treatment of pediatric  
 15 bipolar disorder."  
 16 Did I read that right?  
 17 A. Yes, you did.  
 18 Q. And a meeting that would have discussed or  
 19 focused on the diagnosis and treatment of pediatric  
 20 bipolar disorder would have been beneficial to Janssen  
 21 at the time, because if more children are diagnosed and  
 22 treated for pediatric bipolar disorder, then I would  
 23 assume the amount of Risperdal being sold would also go  
 24 up. Is that correct?

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1 MR. MURPHY: Objection to the form of  
 2 the question. You may answer if you understand  
 3 it.  
 4 THE WITNESS: I can't speculate on  
 5 that.  
 6 BY MR. McCORMICK:  
 7 Q. Do you know if Risperdal was being prescribed  
 8 by doctors around the country for pediatric bipolar  
 9 disorder in March of 2002?  
 10 A. I would assume that there was use of Risperdal  
 11 in that patient population in 2002.  
 12 Q. So, if more children are diagnosed and then  
 13 treated for pediatric bipolar disorder, then where  
 14 before, as a result of this meeting at MGH, with  
 15 support from Janssen, in March of 2002, you would  
 16 assume that, then, more prescriptions for Risperdal  
 17 would be written after that meeting. Is that correct?  
 18 MR. MURPHY: Would he assume that?  
 19 MR. McCORMICK: Yes.  
 20 THE WITNESS: I can't speculate on  
 21 that.  
 22 BY MR. McCORMICK:  
 23 Q. Can you turn to the top of page 618, please?  
 24 It says "Planned re-analysis" -- is that correct? -- on

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1 the top?  
 2 A. Yes, it does.  
 3 Q. Talking about the re-analysis of certain data  
 4 in a JPI database. Is that right?  
 5 A. That's what it states in the memo, yes.  
 6 Q. What's JPI?  
 7 A. Janssen Pharmaceutica, Incorporated.  
 8 Q. And if you read that section, it looks like  
 9 Massachusetts General Hospital is working with JPI to  
 10 review data and publish the numbers of various disease  
 11 states. Is that correct?  
 12 A. Can you give me a moment to review?  
 13 Q. Of course.  
 14 A. It does talk about doing a review of a  
 15 database, talking about relating to validating the  
 16 DSM-4 conduct disorder as a sub type, and then also the  
 17 second analysis related to aggression.  
 18 I'm not certain of the exact content of the  
 19 database, if this was a general database, what the  
 20 database may have been involved with.  
 21 And at that time there was very little  
 22 information around these conditions in children and  
 23 adolescents during a time when there was an increasing  
 24 recognition of a need to -- that this was increasing in

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1 its occurrence in physician offices.  
 2 So, again, I'm not sure if this was -- what I  
 3 do remember is trying to better understand exactly what  
 4 the nature of the disease in adolescents and children  
 5 was versus adults and in better understanding the  
 6 overall condition.  
 7 Q. And better understanding the overall condition  
 8 would lead to more diagnoses of pediatric bipolar  
 9 disorder, which would then, in turn, lead to more  
 10 prescriptions for antipsychotic drugs including  
 11 Risperdal. Is that right?  
 12 MR. MURPHY: Objection to form, lack of  
 13 foundation. You may answer it.  
 14 THE WITNESS: I can't speculate. I  
 15 think at this time those recognition -- that many  
 16 of these children were suffering debilitating  
 17 illness and there was little in the way of  
 18 literature on the appropriate diagnosis, I believe  
 19 as this was referred to, and on the appropriate  
 20 treatment based on the physicians' understanding  
 21 of the patient and the different options that were  
 22 available to them as well as the patient.  
 23 BY MR. McCORMICK:  
 24 Q. Do you see down below the two bullet points

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1 there it talks about safety data?  
 2 A. Could you show me where. . .  
 3 Q. It's a JPI database. There are two bullet  
 4 points and the paragraph says, "Safety data was also  
 5 highlighted as a key area of importance for  
 6 publication."  
 7 A. Yes, I do see that.  
 8 Q. And then one of the safety areas that's  
 9 discussed there is prolactin. Is that right?  
 10 A. It says, "Safety areas include prolactin (in  
 11 publication), cardiovascular" and a number of other  
 12 items.  
 13 MR. McCORMICK: Before we start a new  
 14 section, why don't we take a break and go off to  
 15 change a tape?  
 16 THE VIDEOGRAPHER: Going off the record  
 17 at 12:03 p.m. This is the end of tape two.  
 18 (A brief recess was taken)  
 19 THE VIDEOGRAPHER: Stand by, please.  
 20 Back on the record the at 12:10 p.m. This is tape  
 21 three.  
 22 BY MR. McCORMICK:  
 23 Q. Mr. Gorsky, we're back from a break. We're  
 24 still looking at Exhibit 11. You understand you're

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1 still under oath?  
 2 A. Yes, I do.  
 3 Q. Let's turn to page 619, please. Do you see  
 4 there is a heading about two-thirds of the way down  
 5 which says "Consultation regarding studies for FDA  
 6 labeling in child BPD"? Do you see that?  
 7 A. Give me just a moment, please.  
 8 Q. Sure.  
 9 A. Which paragraph?  
 10 Q. About halfway down the page, "Consultation --  
 11 A. I do. I'm sorry.  
 12 Q. That's okay. And the first paragraph of this  
 13 section says, "In relationship to acquiring FDA  
 14 labeling in child BPD, two key factors were  
 15 identified." Is that correct?  
 16 A. Yes, that is what it states.  
 17 Q. And BPD would be bipolar disorder?  
 18 A. I believe so, yes.  
 19 Q. And "The first step was to establish evidence  
 20 in support of the diagnosis of BPD in children, that  
 21 BPD is a distinguishable and reliably identifiable  
 22 disorder with a poor prognosis that can be moderated by  
 23 treatment." Is that right?  
 24 MR. MURPHY: Is that what it states?

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1 Q. That what it states.  
 2 A. That's what it states, yes.  
 3 Q. That step, then, would be to gain recognition  
 4 of bipolar disorder in children as an identifiable  
 5 mental disorder. Is that right?  
 6 MR. MURPHY: Objection to the form,  
 7 lack of foundation. You may answer.  
 8 THE WITNESS: I'm not sure what you  
 9 mean by that question.  
 10 BY MR. McCORMICK:  
 11 Q. What do you think the first step here under  
 12 the first factor means? What's that sentence mean to  
 13 you?  
 14 A. As it's read, that the first factor was to  
 15 "establish evidence in support of the diagnosis of  
 16 BPD," bipolar disorder, "in children, that bipolar  
 17 disease is a distinguishable and reliably identifiable  
 18 disorder with a poor prognosis that can be moderated by  
 19 treatment."  
 20 It then goes on to say that "The second would  
 21 be to have the FDA acknowledge that this would be a  
 22 treatable diagnostic entity that could result in filing  
 23 more [sic] clear cost-benefit related to treatment to  
 24 be established."

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1 Q. Okay. And I'm going to try to interpret that  
 2 in English so I understand it. I believe the first  
 3 step would be that BPD in children has to be identified  
 4 as a disorder that actually exists. Is that right?  
 5 A. The way that I would -- that it is  
 6 distinguishable and a disorder that they can require --  
 7 identifying these disorders as indicated in DSM-4, they  
 8 have very specific criteria to ensure ultimately that  
 9 the right diagnosis is achieved as well as the right  
 10 treatment plan.  
 11 So, the way that I would read that is, yes, it  
 12 was to provide consistent and clear guidelines to  
 13 physicians who might be treating these children.  
 14 Q. Okay. The second step, if I'm trying to  
 15 interpret again in plain English, would be that to get  
 16 labeling for the FDA for this type of disorder, the FDA  
 17 has to acknowledge that the disease itself is treatable  
 18 in some fashion. Is that right?  
 19 A. That's what this statement says, yes, that it  
 20 would be treatable -- that it would be a treatable  
 21 diagnostic entity.  
 22 Q. And then there were discussions between J&J  
 23 and the Massachusetts General Hospital about the need  
 24 for a trial in the treatment of bipolar disorder in

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1 children -- for children between the ages of six and  
 2 twelve years. Is that right?  
 3 MR. MURPHY: Where are you reading,  
 4 sir?  
 5 MR. McCORMICK: The next paragraph.  
 6 THE WITNESS: That's what the sentence  
 7 says in the paragraph, yes.  
 8 BY MR. McCORMICK:  
 9 Q. Then it says Johnson & Johnson and  
 10 Massachusetts General Hospital and various J&J  
 11 companies, including Ortho-McNeil and Janssen,  
 12 discussed various designs of what that trial would look  
 13 like, correct?  
 14 A. As it goes on to say, "Various designs were  
 15 discussed, including a comparison with psychosocial  
 16 intervention...and a crossover design with a stimulant  
 17 medication," and it's for children with ADHD.  
 18 Q. So, sometime during that meeting the  
 19 individuals at the meeting -- and you may or may not  
 20 have been there at that time, but the individuals from  
 21 Massachusetts General Hospital, from Janssen, from  
 22 Johnson & Johnson PRD, from McNeil Consumer, from  
 23 Ortho-McNeil -- all discussed how this particular  
 24 trial, the treatment of BPD in children, would look.

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1 Is that right?  
 2 A. Again, I don't remember if I was present for  
 3 that part of the discussion, because if it was a  
 4 day-long meeting and getting into this level of detail,  
 5 I'm just not certain.  
 6 But it appears that they talked about, to your  
 7 earlier point, what were the defining characteristics  
 8 of the disease that could be used for diagnosis, then  
 9 they also talked about what were the various designs  
 10 that should be taken to treat these children who may  
 11 also be on other medications that could be prescribed,  
 12 and also it goes on to note that apparently they had  
 13 conducted a trial with another medication in this same  
 14 population.  
 15 Q. And then the next sentence actually says, "It"  
 16 was agreed" between all those parties that we  
 17 previously identified "that the trial would need to be  
 18 a randomized, double blind, multicenter trial. . ."  
 19 Is that correct?  
 20 A. Yes, it does. It says, "In order to  
 21 provide -- I'm not sure why it's read that way. It's a  
 22 bit confusing.  
 23 Q. Okay. Turn to page 623, please, Mr. Gorsky.  
 24 The last heading on this page is "Plan for Center

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1 Activities." Do you see that?  
 2 A. Yes, I do.  
 3 Q. And the paragraph reads, "The tables on the  
 4 following two pages outline the specific initiatives  
 5 and timelines corresponding to the key areas and  
 6 initiatives mentioned below. The first table is a list  
 7 of specific activities of interest to J&J and  
 8 timeliness related to these activities. The second  
 9 table --  
 10 A. Excuse me, it says "timelines."  
 11 Q. "Timelines," excuse me, "and timelines related  
 12 to the activities. The second table is a list of  
 13 potential research activities provided by MGH as part  
 14 of the original MGH proposal."  
 15 Did I read that correctly, except for my  
 16 "timeliness" and "timelines"?  
 17 A. Yes.  
 18 Q. So, if we turn the page to the first table,  
 19 which is page 624, as it described in this executive  
 20 summary, this is a list of specific activities of  
 21 interest to J&J. Is that right?  
 22 A. It looked as though they were of interest to  
 23 both organizations, yes.  
 24 Q. Doesn't this sentence actually say the first

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<p>1 table is a list of specific activities of interest to 2 J&amp;J? 3 A. Yes, but I'm assuming you didn't have both 4 these parties together, so that they were talking about 5 how they would collaborate on these various activities. 6 Q. Okay. Well, it's curious you can interpret 7 this sentence that way, but on other -- that's fine, 8 we'll go forward. 9 Table 1 then lists a number of center 10 objectives, doesn't it? 11 A. Yes, it does. 12 Q. To the left column? It says epidemiology and 13 diagnosis. Is that right? 14 A. Yes, it does. 15 Q. So, one of the specific activities of interest 16 to J&amp;J was the description of symptom course of 17 pediatric bipolar disorder, correct? 18 A. I'm confused on the tables. Let me just refer 19 back, because it appears as though there are two 20 different tables: One that's the MGH center goals and 21 objectives, which would be Table 1; and the second is 22 the proposed Johnson &amp; Johnson Child and Adolescent 23 Pediatric Research Institute. 24 In the paragraph it states, "The first table</p>	<p>1 Q. Then down at the bottom, let's look at numbers 2 twenty-nine and thirty. It talks about -- number 3 twenty-nine is "Development of Bipolar Disorder CME 4 Program." Is that right? 5 A. Yes. 6 Q. Number thirty is the implementation of a 7 bipolar disorder CME program, right? 8 A. Yes, that's what's stated. 9 Q. You can put Exhibit 11 aside, Mr. Gorsky. But 10 looking at Exhibit 11 and the previous emails, was the 11 goal of Janssen or Johnson &amp; Johnson providing this 12 money to Massachusetts General Hospital for Johnson &amp; 13 Johnson to get back a deliverable or something for 14 their investment? 15 A. I think -- obviously there were mutual goals 16 of both organizations in this case. And I think that 17 the goal, as outlined on two charts, of understanding 18 this disease and in supporting and gaining information 19 and knowledge about how to appropriately study these 20 medications, again in an area where there was, as I 21 remember, little to no data on the use of drugs that 22 were being used in this category, that that was an 23 intended objective and something that would be 24 requested in return.</p>
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<p>1 is a list of specific areas of interest to Johnson &amp; 2 Johnson," so I'm just -- that relates to my comment. 3 Do you understand my confusion? 4 Q. Yes, I see what you're saying. They're 5 reversed. 6 A. Right. 7 Q. Table 1 is Table 2. 8 A. That's fine. 9 Q. I'm glad you pointed that out. Let's turn to 10 625, he then, and look at the tables for the J&amp;J 11 interests. 12 A. Okay. 13 Q. Okay? And one of the -- looking at the list of 14 specific activities of interest to J&amp;J, the first one 15 is "Efficacy of Risperidone for Pediatric's Bipolar 16 Disorder." 17 Do you see that? 18 A. Yes, I do. 19 Q. And another particular specific activity that 20 the center's going to carry out for J&amp;J's interest is a 21 "Pediatric Bipolar Risperidone PK Study," right? 22 A. Yes. 23 Q. Number two? 24 A. Yes.</p>	<p>1 Q. Was using Massachusetts General Hospital and 2 Dr. Biederman a back-door way for Johnson &amp; Johnson to 3 disseminate information supporting the use of 4 antipsychotics, and particularly Risperdal, in the 5 treatment of mental disorders in the child and 6 adolescent population? 7 MR. MURPHY: Objection to the form of 8 the question. You may answer. 9 THE WITNESS: No, I don't think so. I 10 think that the use of Dr. Biederman and 11 Massachusetts General Hospital and Harvard, I 12 think two of probably the more esteemed academic 13 centers in this therapeutic category, let alone 14 the world, was an attempt -- and Dr. Biederman is 15 a key opinion leader -- was an attempt to get the 16 very best minds and the very best clinical 17 information developed so that we could meet better 18 criteria around diagnosis and treatment of this 19 particular population. 20 BY MR. McCORMICK: 21 Q. Let me ask it this way, Mr. Gorsky. I mean, 22 at the very least, Johnson &amp; Johnson expected or hoped 23 that investing in Dr. Biederman and Massachusetts 24 General Hospital and this center would lead to wider</p>

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1 diagnosis and treatment of child and adolescent mental  
 2 disorders. Is that right?  
 3 MR. MURPHY: Objection to the form of  
 4 the question. You may answer.  
 5 THE WITNESS: As outlined, I believe,  
 6 in these documents, I think our goal was to, yes,  
 7 have better diagnostic criteria for children who  
 8 are in need of treatment and to have better  
 9 therapeutic options for children who are in need  
 10 of treatment, and have them go through the  
 11 appropriate clinical development and testing and  
 12 methodology relevant to other types of therapy  
 13 that are available. I think those were shared  
 14 goals.  
 15 BY MR. McCORMICK:  
 16 Q. Was one of those shared goals a hope or  
 17 expectation by Janssen/Johnson & Johnson that Dr.  
 18 Biederman or Massachusetts General Hospital would be  
 19 able to come up with objective medical proof of mental  
 20 disorder in children and adolescents?  
 21 A. I think, as reflected in these documents, it  
 22 was to try to improve the criteria that were used for  
 23 diagnosis -- that was clearly outlined, if I remember  
 24 correctly, in that -- which again was something that

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1 appeared to be needed in the field at the time versus  
 2 what the standard of practice was.  
 3 Q. All right.  
 4 (Exhibit Gorsky-12 was marked for  
 5 identification)  
 6 BY MR. McCORMICK:  
 7 Q. Mr. Gorsky, we've marked as Exhibit 12 a  
 8 multipage document that contains Bates labels  
 9 J-TXPandina 01859. It was previously marked as a  
 10 deposition exhibit in the deposition of Gahan Pandina  
 11 in the Texas litigation.  
 12 It's a multipage document, so I would ask that  
 13 you glance through it until you feel comfortable and  
 14 let me know you're finished, then I will direct you to  
 15 certain areas that we're going to talk about.  
 16 MR. MURPHY: Do you want to tell him  
 17 where it is you're going to talk about so he can  
 18 go there?  
 19 MR. McCORMICK: Probably just the first  
 20 four or five pages.  
 21 MR. MURPHY: Okay.  
 22 THE WITNESS: Give me a moment,  
 23 please?  
 24 MR. McCORMICK: Excuse me?

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1 THE WITNESS: Just give me a moment?  
 2 MR. McCORMICK: Yes, of course. Take  
 3 your time. You're in charge.  
 4 THE WITNESS: Okay, I've gone through  
 5 about the first four or five pages.  
 6 MR. McCORMICK: All right.  
 7 BY MR. McCORMICK:  
 8 Q. Mr. Gorsky, can you turn to page 861, which is  
 9 the -- well, strike that. Let's stay on the first  
 10 page.  
 11 You see this document is called "Annual Report  
 12 2002: The Johnson & Johnson Center for Pediatric  
 13 Psychopathology at the Massachusetts General Hospital"?  
 14 A. Yes, it does.  
 15 Q. And the director is Joseph Biederman, M.D.,  
 16 whom we've spoken about a couple times today, right?  
 17 A. Yes.  
 18 Q. Let's turn to page 861, please, Mr. Gorsky,  
 19 which is it is executive summary of the annual report.  
 20 The first sentence of the overview says that  
 21 "The mission of the Center is...a strategic  
 22 collaboration between Johnson & Johnson and the  
 23 Pediatric Psychopharmacology Research Program at the  
 24 Massachusetts General Hospital." Is that correct?

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1 A. Yes, that's what it says.  
 2 Q. It doesn't say Janssen or McNeil or  
 3 Ortho-McNeil. It says collaboration between Johnson &  
 4 Johnson and MGH, right?  
 5 A. That's correct.  
 6 Q. Okay, then let's move down to the next  
 7 paragraph.  
 8 A. Can I make one statement to clarify that  
 9 comment?  
 10 Q. Usually not, but sure, go ahead.  
 11 A. The only reason I'm clarifying is because I  
 12 believe there were some people out of Johnson &  
 13 Johnson's Research Foundation that may have been  
 14 coordinating some of these trials as well, so there are  
 15 different entities that are involved here, hence the  
 16 name Johnson & Johnson.  
 17 Q. Okay. Let's turn to the next paragraph, Mr.  
 18 Gorsky. It says, "An essential feature of the Center  
 19 is its ability to conduct research salifying three  
 20 criteria. . ."   
 21 Did I read that right?  
 22 A. Yes.  
 23 Q. And if we look at the third criteria, it says  
 24 "it will move forward the commercial goals of J&J." Is



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1 that correct?  
 2 A. Well, there are several other criteria  
 3 mentioned before that.  
 4 Q. Right, and your counsel can ask you about that  
 5 later. I'm just asking you, is one of the three  
 6 criteria the fact that "it will move forward the  
 7 commercial goals of J&J"?  
 8 A. Yes.  
 9 Q. So, this annual report from the Johnson &  
 10 Johnson Center For Pediatric Psychopathology from 2002  
 11 admits that information and research from this  
 12 supposedly unbiased research center is to benefit the  
 13 business of sales for Johnson & Johnson. Is that  
 14 correct?  
 15 MR. MURPHY: Objection to the form of  
 16 the question. You may answer.  
 17 THE WITNESS: It states that one of the  
 18 criteria among several others is to move forward  
 19 the commercial goals of J&J.  
 20 BY MR. McCORMICK:  
 21 Q. And commercial goals would include sales of  
 22 pharmaceuticals. Is that right?  
 23 A. Yes, it would.  
 24 Q. Okay. And then if we look at the next

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1 sentence from the annual report, it says "We strongly  
 2 believe that the Center's systematic scientific inquiry  
 3 will enhance the clinical and research foundation of  
 4 child psychiatry and lead to the safer, more  
 5 appropriate and more widespread use of medications in  
 6 children."  
 7 Did I read that correctly?  
 8 A. Yes, you did.  
 9 Q. So, one of the hopes or one of the -- strike  
 10 that. One of the goals of this center's inquiry is to  
 11 lead to the more widespread use of medications in  
 12 children. Is that right?  
 13 A. In addition to the areas that you mentioned  
 14 before, such as the safer, more appropriate and more  
 15 widespread use of medication in children, yes.  
 16 Q. Okay. And if there is a more widespread use  
 17 of medication in children for mental disorders, I think  
 18 it would be a safe assumption, wouldn't it, that  
 19 antipsychotics would be prescribed to treat some of  
 20 those mental disorders? Is that right?  
 21 MR. MURPHY: Objection to the form of  
 22 the question. You may answer.  
 23 THE WITNESS: I can't speculate, not  
 24 knowing exactly what the conditions were and what

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1 they might prescribe.  
 2 BY MR. McCORMICK:  
 3 Q. The next says, "Considering that nearly all  
 4 psychiatric -- strike all that. I apologize.  
 5 Mr. Gorsky, let's look at the next sentence,  
 6 where it says "Considering that nearly all psychiatric  
 7 medication use in children is off label. . ."  
 8 Do you see that?  
 9 A. Yes, I do.  
 10 Q. And that would include Risperdal because in  
 11 2002, I think we've already agreed, Risperdal was not  
 12 approved for use in children and adolescents. Is that  
 13 right?  
 14 A. Based upon our earlier conversation, it did  
 15 not have the specific indication at that time, that's  
 16 correct.  
 17 I would think it's important to highlight,  
 18 however, that physicians do have the option of treating  
 19 patients with the medication that they feel is best  
 20 suited for a particular condition.  
 21 Q. I understand that, but just because a doctor  
 22 can prescribe a drug off-label doesn't mean that  
 23 Janssen or Johnson & Johnson can promote it off-label,  
 24 correct?

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1 A. That's correct; and the converse of that is  
 2 true, as well, in that physicians would frequently use  
 3 these medications, without promotion associated, based  
 4 upon what they felt was best for patients.  
 5 Q. But they know a lot more about the drugs if  
 6 people like Dr. Biederman are out there touting the  
 7 successes and efficacy of antipsychotics. Isn't that  
 8 right?  
 9 A. No. I think that this is a condition where  
 10 there's children in need of treatment and where you  
 11 have parents and physicians looking for ways to try to  
 12 help resolve a very serious condition.  
 13 And again, as I remember, at this time there  
 14 was little information regarding the use of drugs that  
 15 were commonly being used, where parents were at the end  
 16 of their rope, so there was a real need to better  
 17 understand how to diagnose and how to treat these  
 18 patients.  
 19 Q. I want to make sure, though, that I understand  
 20 your agreement or disagreement, though.  
 21 If Dr. Biederman is out there touting or  
 22 supporting the use of antipsychotics for the treatment  
 23 of mental disorders in children and adolescents, don't  
 24 you think that would more likely affect a physician or

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1 a psychiatrist who is thinking about using an  
 2 antipsychotic rather than not?  
 3 MR. MURPHY: Object to the form of the  
 4 question, lack of foundation and does call for  
 5 speculation. You may answer.  
 6 THE WITNESS: I'm not sure I understand  
 7 the question.  
 8 MR. McCORMICK: Sure.  
 9 BY MR. McCORMICK:  
 10 Q. My question was, if Dr. Biederman comes out --  
 11 and we don't have to say Risperdal. If Dr. Biederman  
 12 shows up at a meeting and says "I think you should use  
 13 antipsychotics for the treatment of bipolar disorder in  
 14 pediatrics or child and adolescents," don't you think  
 15 that is likely to affect those physicians and  
 16 psychiatrists that are at that conference to more  
 17 likely prescribe an antipsychotic medication?  
 18 A. I think it requires some speculation, but I  
 19 would assume at this time physicians who are trying to  
 20 treat patients who had severe illness were looking for  
 21 additional data, were looking for additional  
 22 information on trying to treat them appropriately.  
 23 Q. Dr. Biederman is a key opinion leader, right?  
 24 A. (No response)

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1 Q. Or was a key opinion leader at this time.  
 2 A. Yes, Dr. Biederman would have been considered  
 3 a key opinion leader in this field.  
 4 Q. So, I believe the basis for calling him a key  
 5 opinion leader is that he has some superior knowledge  
 6 to others that others tend to listen to regarding that  
 7 particular treatment or diagnosis or illness. Is that  
 8 right?  
 9 MR. MURPHY: Objection to the form.  
 10 Are you asking him whether that's his definition  
 11 of a key opinion leader?  
 12 BY MR. McCORMICK:  
 13 Q. Is that your definition of a key opinion  
 14 leader -- what's your definition of a key opinion  
 15 leader, Mr. Gorsky?  
 16 A. My definition of a key opinion leader is  
 17 someone who has got strong academic and clinical  
 18 credentials and is very well studied in a particular  
 19 area and thought highly of by his or her peers.  
 20 Q. And would you -- strike that. Mr. Gorsky,  
 21 let's turn to the next paragraph in paragraph 861.  
 22 A. Okay.  
 23 Q. The second sentence of this paragraph reads,  
 24 "Because parents, patients and clinicians are exposed

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1 to a media that frequently questions the validity of  
 2 childhood disorders, genetic and brain imaging studies  
 3 are needed to show the validity of these disorders as  
 4 and brain disorders that respond to medication."  
 5 Did I read that right?  
 6 A. Yes, you did.  
 7 Q. I presume that one of these medications would  
 8 be Risperdal. Is that correct?  
 9 MR. MURPHY: Is your presumption  
 10 correct?  
 11 BY MR. McCORMICK:  
 12 Q. Mr. Gorsky, is one of these medications that  
 13 would be used to treat these childhood disorders  
 14 Risperdal?  
 15 A. I think it could have been, along with others.  
 16 Q. Okay. And then two sentences down the annual  
 17 report states that "Without such data, many clinicians  
 18 question the wisdom of aggressively treating children  
 19 with medications, especially those like neuroleptics,  
 20 which expose children to potentially serious adverse  
 21 events."  
 22 Is that right, or did I read that correctly?  
 23 A. Yes, you read that correctly from the  
 24 paragraph.

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1 Q. And would one of those neuroleptics that we're  
 2 talking about there, one of those medications, be  
 3 Risperdal?  
 4 A. I don't know, because Risperdal was usually  
 5 referred to as an atypical antipsychotic.  
 6 Q. You never heard atypical antipsychotics  
 7 referred to as neuroleptics?  
 8 A. I'm saying I have, but usually they were  
 9 distinct. I wouldn't have seen it in this case very  
 10 frequently at all.  
 11 Q. Well, would Risperdal be considered an  
 12 aggressive treatment for children and adolescents?  
 13 MR. MURPHY: By whom?  
 14 MR. McCORMICK: By Mr. Gorsky.  
 15 THE WITNESS: I really can't answer  
 16 that question.  
 17 MR. McCORMICK: Okay.  
 18 BY MR. McCORMICK:  
 19 Q. This paragraph appears to be setting forth one  
 20 of the goals is for Johnson & Johnson, through this  
 21 center, to be able to prove objectively with a test  
 22 that a child has some sort of brain disorder or mental  
 23 illness. Is that correct?  
 24 MR. MURPHY: The paragraph that begins

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1 "Equally important"?

2 MR. McCORMICK: Yes.

3 THE WITNESS: My understanding of this

4 paragraph, in reading it, is that it was very

5 important to, number one, better understand the

6 underlying disease.

7 And while there are a lot of different

8 takes on it, I think that the published data would

9 reflect that there was an increasing recognition

10 of incidence of these diseases during this period,

11 and that it was therefore necessary to better

12 understand not only the disease itself and the

13 underlying pathology and the etiology, but also

14 what treatments should and could be used and how

15 they should be tested for the appropriate use in

16 those patients.

17 BY MR. McCORMICK:

18 Q. I think besides the treatment, one of the

19 things that -- one of the goals here was to find some

20 sort of objective diagnostic test to diagnose these

21 mental disorders, right?

22 A. Yes, I think it was referred to here several

23 times about the importance of improving the diagnostic

24 criteria to differentiate these diagnoses and, you

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1 know, ultimately to ensure that physicians understood

2 what they were treating.

3 Q. Right. But besides the actual recognition of

4 the disorder, I think what we're looking for, what they

5 were looking for here was to see if there was just one

6 objective test, one way to figure out whether this

7 mental disorder or this illness existed. Is that

8 right?

9 MR. MURPHY: Is that his understanding

10 of a goal?

11 MR. McCORMICK: Yes.

12 MR. MURPHY: Do you understand the

13 question?

14 THE WITNESS: That's not my

15 understanding. I think usually these diseases are

16 very difficult and lie along a continuum. I'm not

17 a full expert in the area, but from my exposure it

18 was actually a constellation of diseases that had

19 a lot of different inter-patient variability.

20 MR. McCORMICK: Let's turn to the next

21 page, page 862, Mr. Gorsky.

22 BY MR. McCORMICK:

23 Q. Do you see the heading there halfway down the

24 page "Resolving Complex and Controversial Diagnostic

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1 Issues"?

2 A. Yes, I do.

3 Q. The second bullet point underneath the first

4 paragraph reads, "Developing and assessing the validity

5 of screening tests for complex disorders such as

6 comorbid ADHD, psychosis and pediatric bipolar

7 disorder," right?

8 A. That's correct.

9 Q. So, that was one of the specific goals of this

10 area regarding diagnostic testing, right?

11 A. As outlined in this, yes.

12 Q. The second bullet point says, "Implementing

13 training programs --

14 MR. MURPHY: It's the third.

15 MR. McCORMICK: I'm sorry.

16 By MR. McCORMICK:

17 Q. Mr. Gorsky, let's look at the third bullet:

18 point: "Implementing training programs for screening

19 tools in continuing medical education programs

20 targeting pediatricians and general psychiatrists."

21 Do you see that?

22 A. I do see that.

23 Q. Okay. And then do you see the next bullet

24 point? It says, "Analyzing baseline data from Janssen

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1 funded studies to validate affective disorder sub-type

2 in the conduct disorder subpopulation."

3 Do you see that?

4 A. Yes, I do.

5 Q. And it continues on to say, "Further

6 validation of this group will alert physicians to the

7 existence of a large group of children who might

8 benefit from treatment with RISPERDAL." Is that right?

9 A. That's what it says, yes.

10 Q. So, one of the specific goals of the Center

11 For Pediatric Psychopathology at the Massachusetts

12 General Hospital was validation of the fact that these

13 disorders existed and these children might benefit from

14 the treatment of Risperdal, right?

15 A. As I interpret this paragraph, yes, I think

16 what they were trying to do was to develop better

17 diagnostic criteria for patients who are suffering from

18 a serious illness so that they could better be treated

19 as the physician felt most appropriate.

20 Q. Well, it specifically says here they may

21 benefit from treatment of Risperdal. Is that correct?

22 A. It says "who might benefit from treatment with

23 RISPERDAL," yes.

24 Q. And it doesn't say anything about Zyprexa or

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<p style="text-align: right;">Page 105</p> <p>1 Seroquel there, does it? It just says Risperdal. Is 2 that right? 3 A. Not in this particular one paragraph of a 4 multipage document, but it refers to the use of 5 multiple treatments throughout the document. 6 Q. Well, do you think if this was called the Eli 7 Lilly Center for Pediatric Psychopathology, it would 8 say Zyprexa and not Risperdal? 9 A. I can't speculate on that, but I know that, 10 based upon the comment, there is one other thing: That 11 they had actually tested olanzapine in the disorder. 12 It was in an earlier paragraph. 13 Q. All right. Let's look at the -- well, strike 14 that. They may have tested Olanzapine and Zyprexa, but 15 they still only list Risperdal here as one of the 16 possible treatments, right? 17 A. In this one particular paragraph of this 18 document, that's correct. 19 Q. Well, let's look up at the two bullet points 20 above that. We talked about the validity of screening 21 tests, and it says it "will alert physicians about 22 disorders that exist which Risperdal -- 23 A. Excuse me, but where are you? 24 Q. I'm sorry, the second bullet point, where it</p>	<p style="text-align: right;">Page 107</p> <p>1 document, about another five minutes. Is that 2 okay with you, Mr. Gorsky? 3 THE WITNESS: That's okay. 4 MR. McCORMICK: All right. 5 BY MR. McCORMICK: 6 Q. The last bullet point says, "Analyzing 7 databases at MGH to clarify the continuity between 8 childhood and adult disorders." 9 Do you see that? 10 A. Yes, I do. 11 Q. And it says -- and this is interesting -- 12 "Showing how pediatric mania evolves into what some 13 have called mixed or atypical mania in adulthood will 14 provide further support for the chronic use of 15 RISPERDAL from childhood through adulthood." 16 Do you see that? 17 A. Yes, I do. 18 Q. So, one the specific goals of the center is to 19 show that pediatric mania will evolve into mania in 20 adulthood, which will then require the chronic use of 21 Risperdal from childhood to adulthood. Is that right? 22 MR. MURPHY: Objection to form of the 23 question, mischaracterizes the document, but you 24 may answer.</p>
<p style="text-align: right;">Page 106</p> <p>1 says -- 2 A. Where it says "Developing. . . 3 Q. Yes. And then if you look at the second 4 sentence it says, "Once appropriately validated" -- 5 there is that word, "validated"; I think that's 6 important -- "the use of these screening tests will 7 alert physicians about disorders that exist which 8 RISPERDAL and CONCERTA might treat." 9 Do you see that? 10 A. Yes. 11 Q. And Risperdal is a Janssen drug, right? 12 A. That is correct. 13 Q. And Concerta is manufactured by who? 14 A. Concerta was at that time sold by McNeil. 15 Q. And McNeil is a Johnson &amp; Johnson company, 16 right? 17 A. Yes, it was; yes, it is. 18 Q. All right. Let's go down to the last bullet 19 point on page 862 which starts "Analyzing databases." 20 MR. MURPHY: Before you go forward, I 21 don't know how much more you have, but it's 12:50. 22 MR. McCORMICK: Okay. 23 MR. MURPHY: We agreed to 12:45. 24 MR. McCORMICK: Let me finish up this</p>	<p style="text-align: right;">Page 108</p> <p>1 THE WITNESS: Again, I'm speculating on 2 the conclusion, but I think that the attempt here 3 was to understand the course of the disease; that 4 there were many in the field who believed that if 5 this disease was left untreated during a child and 6 adolescent stage, it could evolve into a much more 7 serious disease; therefore, better understanding 8 treatments earlier on could have a profound 9 positive effect on them. 10 So, I think if that was the goal as 11 outlined, that was a reasonable research 12 objective. 13 BY MR. McCORMICK: 14 Q. And that may have been the research objective 15 of MGH, but this collaboration also required J&amp;J to 16 have some goals. 17 And I would assume J&amp;J's goal would be that, 18 once you get somebody on Risperdal or being treated 19 with Risperdal in childhood, they would continue that 20 through adulthood. Wouldn't that be a goal of Johnson 21 &amp; Johnson? 22 MR. MURPHY: Objection to the form of 23 the question. You may answer. 24 THE WITNESS: Our goal at Johnson &amp;</p>

27 (Pages 105 to 108)

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1 Johnson is to try to help patients live better,  
 2 longer and healthier lives. And if they could be  
 3 treated and their symptoms resolved earlier,  
 4 that's our absolute goal.  
 5 And of course, you know, we're a  
 6 company that also makes money, but our first goal  
 7 is outlined in the credo that we talked about  
 8 earlier, was to help patients.  
 9 BY MR. McCORMICK:  
 10 Q. And the continuation of Risperdal from  
 11 childhood to adulthood would be one of those --  
 12 remember back in the beginning of this document we saw  
 13 the word there were commercial goals of Johnson &  
 14 Johnson, right?  
 15 A. Yes, I did see that.  
 16 Q. All right. And the continuation of a  
 17 Risperdal prescription from a young man or young boy  
 18 through adulthood would be a commercial goal of  
 19 Risperdal, right? Or of Johnson & Johnson, I'm sorry.  
 20 A. Successful treatment of patients, if they were  
 21 responsive on the medication, for them to stay  
 22 compliant on the medication would be one of our goals,  
 23 but only if the drug was working and the patient was  
 24 living better.

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1 Q. So, the way I interpret this is that Johnson &  
 2 Johnson and Massachusetts General Hospital and Dr.  
 3 Biederman are collaborating to validate a lifetime use  
 4 and treatment with Risperdal. Is that correct?  
 5 MR. MURPHY: Does he agree with your  
 6 interpretation?  
 7 BY MR. McCORMICK:  
 8 Q. Do you agree with my interpretation?  
 9 A. No, I do not agree with your interpretation.  
 10 Q. Okay. And one of the ways that Johnson &  
 11 Johnson was accomplishing that goal was to validate  
 12 some sort of objective criteria to conform or confirm  
 13 if an individual had a mental illness. Is that correct?  
 14 MR. MURPHY: Again, your  
 15 interpretation?  
 16 MR. McCORMICK: I'm asking --  
 17 BY MR. McCORMICK:  
 18 Q. How about your interpretation, Mr. Gorsky? Is  
 19 that what you believed?  
 20 A. My interpretation is that we were working with  
 21 Massachusetts General, experts in the field, to  
 22 validate a diagnosis that was already being done  
 23 routinely without validated scales, potentially leading  
 24 to misdiagnosis; to improving those criteria to get

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1 clearer end points, clearer diagnostic facts, so that  
 2 then they could hopefully be treated appropriately and  
 3 it could interrupt the course of the disease.  
 4 Q. Johnson & Johnson would not have invested this  
 5 \$500,000 per year in this center unless they were going  
 6 to get some kind of deliverable or benefit from it,  
 7 would they have?  
 8 A. I think we would expect to get a deliverable  
 9 in terms of getting better diagnostic criteria, data  
 10 that could confirm or show that it did not work in a  
 11 particular population. So that yes, ultimately then we  
 12 could achieve an indication and realize commercial  
 13 success.  
 14 I mean, that's what we do as a pharmaceutical  
 15 company, to ensure that we can continue to invest in  
 16 research and development, as we are today for things  
 17 such as Alzheimer's and cancer and other diseases.  
 18 It was only to ensure that we could go through  
 19 and collect the appropriate information so that we  
 20 could promote it accordingly.  
 21 Q. But the commercial goals of Johnson & Johnson  
 22 are way down on the credo, right? The final  
 23 responsibility is to the stockholders. The first  
 24 responsibility is to the patients, the "mothers and

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1 fathers and all others who use our products and  
 2 services," right?  
 3 A. Absolutely. And I think it's very consistent  
 4 with the criteria that we outlined here, was to try to  
 5 better the disease.  
 6 Again, these are children where the data, it's  
 7 my understanding, is fairly represented the increasing  
 8 need for treatment, and they're seeing an increased  
 9 number of diagnoses during this period with little to  
 10 no information available.  
 11 So, I think that was quite consistent with our  
 12 credo, to be working with an expert from Massachusetts  
 13 General Hospital and Harvard, one of the premier  
 14 institutions in the world, to define the best criteria  
 15 to help diagnose these patients so that they would end  
 16 up getting the very best treatment.  
 17 Q. The goal of the fact that by providing Dr.  
 18 Biederman with this amount of money he may be able to  
 19 convince others that bipolar disorder in children, for  
 20 example, is a real and treatable disease wouldn't have  
 21 benefited Johnson & Johnson financially because more  
 22 prescriptions for Risperdal would have been written  
 23 never came into the -- a factor into paying this \$500,  
 24 000?

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1 MR. MURPHY: Objection to the form of  
 2 the question. If you understand it, you may  
 3 answer it.  
 4 THE WITNESS: I can't respond to the  
 5 question the way that you phrased it.  
 6 MR. McCORMICK: Why don't we take a  
 7 break? I'll see if I can rephrase it and I'll ask  
 8 it when we come back.  
 9 THE VIDEOGRAPHER: Going off the record  
 10 at 12:57 p.m.  
 11 (At 12:57 p.m. there was a luncheon  
 12 recess taken)  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24

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1 (AFTERNOON SESSION)  
 2  
 3 -----  
 4  
 5 THE VIDEOGRAPHER: Stand by, please.  
 6 Back on the record at 1:44 p.m. This is tape four.  
 7 BY MR. McCORMICK:  
 8 Q. Mr. Gorsky, we're back from a lunch break. Do  
 9 you understand you're still under oath?  
 10 A. Yes, I do.  
 11 Q. And you still have Exhibit 12 in front of you.  
 12 Is that right?  
 13 A. Yes, I do.  
 14 Q. Can you turn to page 863 of Exhibit 12,  
 15 please?  
 16 A. Yes.  
 17 Q. In the middle of the page there is a heading  
 18 that says "Assessing The Severity And Chronicity Of  
 19 Child Psychopathology."  
 20 Do you see that?  
 21 A. Yes, I do.  
 22 Q. The first sentence in the 2002 annual report  
 23 says that "We will study the natural course of  
 24 pediatric psychopathology, the long-term incidence of

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1 the various dysfunctions and the long-term effects of  
 2 pharmacologic and other interventions."  
 3 Did I read that correctly?  
 4 A. Yes, you did.  
 5 Q. Okay. And then two sentences down from that  
 6 it says, "It shows clinicians that aggressive treatment  
 7 is warranted because these disorders lead to  
 8 substantial disability." That's right? Is that right?  
 9 A. That's what it says, yes.  
 10 Q. Toward the end of that paragraph the very last  
 11 sentence says, "Specific goals of this area of work  
 12 include" and then there are a number of bullet points  
 13 underneath that. Do you see them?  
 14 A. Yes, I do.  
 15 Q. The second bullet point says, "Characterizing  
 16 the chronic, debilitating course of bipolar disorder to  
 17 help people understand need for aggressive treatment  
 18 such as RISPERDAL."  
 19 Did I read that one correctly?  
 20 A. Yes, you did.  
 21 Q. So, that bullet point for the center is  
 22 specifically advocating for the use of Risperdal for  
 23 the treatment of bipolar disorder. Is that right?  
 24 A. The way I read it, it says "such as

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1 RISPERDAL."  
 2 Q. Okay. It doesn't mention Zyprexa or Seroquel,  
 3 though, does it?  
 4 A. No, it did not, but it does say "for  
 5 aggressive treatment such as RISPERDAL."  
 6 Q. Mr. Gorsky, one of the things that may help us  
 7 go a little faster this afternoon is, if I ask you a  
 8 yes or no question, if you could respond yes or no.  
 9 If you have a disclaimer, Mr. Murphy or Mr.  
 10 Powers can ask you questions at the end, but that  
 11 question was a simple -- was a yes or no.  
 12 MR. MURPHY: Well, to be fair to the  
 13 witness, if he needs to expand, then he will  
 14 expand to respond to your question.  
 15 MR. McCORMICK: Well --  
 16 MR. MURPHY: But fair point.  
 17 MR. McCORMICK: I think so.  
 18 BY MR. McCORMICK:  
 19 Q. Let's move to the end of this page. Do you  
 20 see the heading at the bottom, "Clarifying The  
 21 Biological Basis Of Childhood Psychopathology," that  
 22 heading?  
 23 A. Yes, I do.  
 24 Q. And then underneath there is a paragraph that

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1 describes "One of the main obstacles to the medical  
 2 treatment of childhood disorders is the myth that they  
 3 simply reflect problems of family and culture rather  
 4 than dysfunctions of the brain." Is that right?  
 5 A. Yes, that's correct.  
 6 Q. And we talked about that theory a little bit  
 7 this morning. That's one of the things that Johnson &  
 8 Johnson and Dr. Biederman wanted to debunk, that myth.  
 9 Is that right?  
 10 A. I don't agree that it's just Johnson & Johnson  
 11 and Dr. Biederman. I believe that there are a number  
 12 of people in the field who had similar opinions.  
 13 Q. But for purposes of this Johnson & Johnson  
 14 Center For Pediatric Psychopathology Annual Report,  
 15 we're talking about Johnson & Johnson and Dr.  
 16 Biederman, right?  
 17 A. I'm assuming Dr. Biederman and his physicians  
 18 who may or may not be affiliated with him at the  
 19 institution.  
 20 Q. The next sentence says "We will help dispel  
 21 these myths using genetic and neuroimaging studies,"  
 22 right? That's what the statement says, right?  
 23 A. Yes, it does.  
 24 Q. And we're back to the point of trying to find

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1 some sort of objective study or test that will show  
 2 mental disorder. Is that correct?  
 3 MR. MURPHY: Objection to the form of  
 4 the question. You may answer.  
 5 THE WITNESS: I'm not sure what  
 6 conclusion I can draw just from those couple of  
 7 sentences.  
 8 BY MR. McCORMICK:  
 9 Q. "These studies further validate childhood  
 10 disorders as medical conditions and thereby give  
 11 physicians more confidence in the use of medical  
 12 treatments."  
 13 Did I read that correctly?  
 14 A. Yes, I did.  
 15 Q. And Risperdal would be one of these medical  
 16 treatments. Is that right?  
 17 A. It's not mentioned here specifically. I'm  
 18 assuming that may be one of them, yes.  
 19 Q. You can put that document aside.  
 20 (Exhibit Gorsky-13 was marked for  
 21 identification)  
 22 BY MR. McCORMICK:  
 23 Q. Mr. Gorsky, I've handed you what's been marked  
 24 Exhibit 13. It is a multipage document Bates-labeled

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1 JJRE 00054013.  
 2 I'm only going to have one quick question on  
 3 this document, so please take a quick glance at it,  
 4 then I'll direct you to that particular page.  
 5 MR. MURPHY: What page is that?  
 6 MR. McCORMICK: Page 4014 and 4015.  
 7 THE WITNESS: Okay.  
 8 BY MR. McCORMICK:  
 9 Q. For the record, Mr. Gorsky, this appears to be  
 10 an annual update of the J&J-MGH Center For Pediatric  
 11 Psychopathology Research. Do you see that?  
 12 A. Yes.  
 13 Q. And it looks like it was the executive summary  
 14 of a meeting that was held at Janssen in Titusville on  
 15 January 10th, 2003. Is that correct?  
 16 A. That's correct.  
 17 Q. And if we look at page 4014, again we see that  
 18 there were representatives from Mass General Hospital,  
 19 Janssen, McNeil Consumer and J&J PRD. Do you see all  
 20 of those?  
 21 A. Yes, I do.  
 22 Q. And that you gave the opening welcome at the  
 23 meeting, although we don't know how long you were  
 24 there. You did come and at least welcome everyone to

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1 the meeting, correct?  
 2 A. Yes. I don't recall it, but it's reflected in  
 3 the notes here. I'm assuming that's the case.  
 4 Q. Let's turn to page two, 4015. Do you see  
 5 there is a heading there that says "Other Areas of Key  
 6 Interest"?  
 7 A. Yes, I do.  
 8 Q. And then underneath there is in bold the name  
 9 Janssen with five bullet points that were the key  
 10 interests for Janssen. Is that right?  
 11 A. Yes.  
 12 Q. And then underneath that do you see "McNeil"  
 13 and there are several more bullet points that stretch  
 14 over onto the top of the next page?  
 15 A. Yes, I do.  
 16 Q. And would we -- strike that. Would you  
 17 characterize these bullet points under areas of key  
 18 interest as the deliverables or objectives of this  
 19 collaboration that we discussed earlier in the  
 20 deposition?  
 21 A. You know, I don't remember. Just from looking  
 22 at this document, it's hard for me to draw a  
 23 conclusion.  
 24 Q. Okay. You can put that document aside, Mr.

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1 Gorsky.  
 2 (Exhibit Gorsky-14 was marked for  
 3 identification)  
 4 BY MR. McCORMICK:  
 5 Q. I'm handing you what I've marked as Exhibit  
 6 14. Exhibit 14 is a March 20th, 2009 letter and  
 7 attachment from Charles Grassley, the ranking member of  
 8 the Committee on Finance in the US Senate, to Dr. Drew  
 9 Faust at Harvard and Dr. Peter Slavin at Mass General.  
 10 Again, I'm going to have very few questions,  
 11 but I'd ask that you just glance through the document,  
 12 then I'll direct you to where we need to go.  
 13 MR. MURPHY: Brian, again, do you want  
 14 to tell him what page you're going to talk to and  
 15 then he can focus on that?  
 16 MR. McCORMICK: When we get there, he  
 17 can take a look at those few pages.  
 18 THE WITNESS: Okay.  
 19 BY MR. McCORMICK:  
 20 Q. Mr. Gorsky, have you had a chance to review or  
 21 glance at Exhibit 14?  
 22 A. I just did a quick review of the introductory  
 23 letter.  
 24 Q. Okay.

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1 A. If you would like me to take more time to go  
 2 through the rest of the document?  
 3 Q. No, I'll direct you to the attachments. The  
 4 introductory letter from Senator Grassley discusses  
 5 various conflicts of interest and related issues that  
 6 he is investigating into Massachusetts General Hospital  
 7 and Dr. Joseph Biederman and Harvard University. Is  
 8 that correct?  
 9 A. That's what I was able to take away from the  
 10 letter that I just read, yes.  
 11 Q. And if we look at the third paragraph of the  
 12 first page it says, "Recently, I was provided a number  
 13 of documents, including slides that became available  
 14 during ongoing litigation."  
 15 Do you see that?  
 16 A. Yes, I do.  
 17 Q. Okay. And that refers to the litigation in New  
 18 Jersey regarding certain diabetes cases, or plaintiffs  
 19 who are alleged to have been injured by suffering from  
 20 diabetes as a result of taking Risperdal. Do you know  
 21 that?  
 22 A. No.  
 23 Q. Do you know anything about that litigation?  
 24 A. No, I do not.

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1 Q. It talks about the documents that were  
 2 reviewed by his staff, and it talks about pertaining to  
 3 matters of Dr. Biederman, Massachusetts General  
 4 Hospital and then the Johnson & Johnson Center For  
 5 Pediatric Psychopathology Research that we were just  
 6 talking about, right?  
 7 A. Yes.  
 8 Q. Okay. And then if we turn to the top of the  
 9 next page, which is page two of Senator Grassley's  
 10 letter, the first paragraph says, the first full  
 11 paragraph, "The slides raise potential concerns about,  
 12 among other matters, Dr. Biederman and the Center. My  
 13 main concern is whether or not the attached slides  
 14 suggest a predisposition to specific findings and  
 15 conclusions prior to the studies being commenced."  
 16 Do you see that I read that right or  
 17 correctly?  
 18 A. Yes, you did read that correctly.  
 19 Q. The next sentence says, "My other concern is  
 20 whether or not NIH," the National Institutes of Health,  
 21 "was aware that Dr. Biederman was performing research  
 22 sponsored by J&J on psychiatric disorders when it  
 23 awarded him a grant to collaborate with other doctors  
 24 to study those same psychiatric disorders."

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1 Did you see that concern of Senator  
 2 Grassley's?  
 3 A. That's what it says in the paragraph, yes.  
 4 Q. Do you recall any discussions around the time  
 5 of your first deposition in the Texas litigation, which  
 6 was January of 2009, on this letter that came out a  
 7 month or two afterwards from Senator Grassley regarding  
 8 Dr. Biederman and a potential conflict of interest in  
 9 his services being rendered to the Johnson & Johnson  
 10 center at Mass General Hospital?  
 11 A. No, I do not. Based upon my review of a  
 12 number of these things, a good portion of these were  
 13 done in the period after I had departed.  
 14 Q. Can we turn to page five of the letter? Do you  
 15 see where it talks about Attachments G and H?  
 16 A. Yes, I do.  
 17 Q. And it talks about a J&J slide entitled "2003  
 18 Business Plan." It's right in the middle of that  
 19 paragraph. It talks about "In one slide J&J notes that  
 20 it will leverage the MGH Center to raise awareness of  
 21 bipolar disorder in kids because 'use of psychotropic  
 22 medications in children and adolescents remains  
 23 controversial.'"  
 24 Did I read that correctly?



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1 A. You did.  
 2 Q. And the slide that they're discussing, which  
 3 we can look at later, which is in the back of the  
 4 attachments, appears to be similar to what I've been  
 5 asking you about, which is J&J's efforts to use Dr.  
 6 Biederman's research to increase awareness and thus  
 7 prescriptions for Risperdal. Is that the way you read  
 8 that?  
 9 MR. MURPHY: Objection to the form of  
 10 the question. You have not shown him the slide,  
 11 but you're asking him --  
 12 MR. McCORMICK: I'm asking him about  
 13 this sentence.  
 14 MR. MURPHY: But you asked him about  
 15 the slide.  
 16 BY MR. McCORMICK:  
 17 Q. Can you answer that question from looking at  
 18 that sentence?  
 19 A. No, I cannot.  
 20 Q. Okay, let's turn back to the slide, then. In  
 21 the back you've got to find Attachment G, like Gorsky.  
 22 A. Okay.  
 23 Q. Mr. Gorsky, we're looking at Attachment G to  
 24 Senator Grassley's letter and it says "Child and

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1 Adolescent & Other New Business, 2003 Business Plan,  
 2 July 29, 2002."  
 3 Do you see that?  
 4 A. I do see that.  
 5 Q. On July 29, 2002 were you still a Janssen  
 6 employee?  
 7 A. Yes, I was.  
 8 Q. And you were the president of Janssen at that  
 9 time, right?  
 10 A. Yes, I was.  
 11 Q. And would a Child and Adolescent & Other New  
 12 Business 2003 Business Plan have been presented at some  
 13 point to you and/or the board of Janssen?  
 14 A. What I can say is that at some point we would  
 15 have had a discussion about the 2003 business plan.  
 16 Whether that was this document or not, I can't confirm.  
 17 Q. If Mr. DeLoria said during the course of his  
 18 deposition that he believes that this business plan was  
 19 presented to the board at one point, would you have  
 20 reason to doubt his recollection since he would have  
 21 been one of the people presenting this?  
 22 A. No. If he remembered it that way, then of  
 23 course -- there can be multiple copies of these  
 24 different documents.

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1 Q. I understand.  
 2 A. Because they could be prepared for a sub team  
 3 and then another team later on, so I'm just not sure  
 4 which version I would actually see.  
 5 Q. All right. Let's turn to the next page, which  
 6 is strategic initiatives. If we look down the left  
 7 side, there is a column there that says "Use of  
 8 psychotropic medications in child and adolescents  
 9 remains controversial."  
 10 Do you see that heading?  
 11 A. Yes, I do.  
 12 Q. Then down at the bottom it says, "Leverage  
 13 J&J-MGH Pediatric Psychopathology Center to drive  
 14 awareness."  
 15 Do you see that?  
 16 A. Yes, I do.  
 17 Q. That strategic initiative appears to support  
 18 some of the things we saw in the 2002 annual report,  
 19 that J&J was intending to use the research from the  
 20 Pediatric Psychopathology Center to increase awareness  
 21 of mental disorders or illnesses in children in order  
 22 to drive up Risperdal prescriptions. Is that correct?  
 23 MR. MURPHY: You're asked him whether  
 24 he agrees with what you just said?

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1 MR. McCORMICK: I'm asking him if that  
 2 supports what we saw in the annual report.  
 3 THE WITNESS: No, I don't think it  
 4 supports what it says in the annual report. I  
 5 think, as we talked about earlier, it was  
 6 discussing an area of significant need and an  
 7 awareness that there needed to be an increase in  
 8 the knowledge and awareness of the condition.  
 9 BY MR. McCORMICK:  
 10 Q. Well, that word "leverage" has certain  
 11 meaning, sorts of like "validate" we looked at in the  
 12 annual report.  
 13 You don't think the word "leverage" there  
 14 means J&J is going to use the center for its own  
 15 purposes to drive awareness of psychotropic medicines  
 16 in child and adolescents?  
 17 A. I don't know what the intended use of the word  
 18 "leverage" was in this particular case. But certainly  
 19 driving awareness of the disease and the condition that  
 20 was affecting children at the time seems consistent.  
 21 Q. And if we go back -- if you could keep your  
 22 finger on that page but go back to the original page in  
 23 Senator Grassley's letter, right above that the example  
 24 we just looked at Senator Grassley says, "It seems,

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1 based upon a review of the J&J internal communications,  
 2 that the collaboration between the Center and J&J was  
 3 driven more by business and marketing as opposed to  
 4 pure science and research."  
 5 Did I read that correctly?  
 6 A. Just a minute. I'm trying to find that  
 7 sentence.  
 8 Q. I'm sorry.  
 9 A. It's the second sentence.  
 10 Q. Yes, it is.  
 11 A. That's what this sentence says.  
 12 Q. And do you agree with Senator Grassley?  
 13 A. No, I do not.  
 14 Q. You can put that document aside. Thank you,  
 15 Mr. Gorsky.  
 16 (Exhibit Gorsky-15 was marked for  
 17 identification)  
 18 BY MR. McCORMICK:  
 19 Q. Mr. Gorsky, I've handed you what's been marked  
 20 as Exhibit 15, which is a printout from the website of  
 21 the -- I believe the Harvard Crimson is the Harvard  
 22 University newspaper. It a copy of a letter from Dr.  
 23 Biederman and Dr. Spencer and Wilens July 1st of last  
 24 year.

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1 Can you take a minute to review that letter  
 2 and let me know when you're finished?  
 3 A. Okay.  
 4 Q. Mr. Gorsky, when I earlier characterized the  
 5 \$500,000 pavement to Mass General Hospital or the  
 6 \$200,000 that Janssen paid as a bribe, you disagreed  
 7 with me and your attorneys got a little upset.  
 8 Am I right about that interpretation?  
 9 MR. MURPHY: Which interpretation, a  
 10 bribe or the reactions to it?  
 11 MR. McCORMICK: The reactions to it.  
 12 THE WITNESS: I can't comment on the  
 13 reactions, but I disagree with the statement  
 14 regarding the bribe.  
 15 BY MR. McCORMICK:  
 16 Q. Have you had a chance to review Exhibit 15,  
 17 which is what is referred to here as the Doctor's  
 18 Apology Letter from Dr. Biederman?  
 19 A. Yes, briefly.  
 20 Q. After taking J&J's money and managing the  
 21 Johnson & Johnson Center For Pediatric Psychopathology  
 22 at Mass General Hospital, Dr. Biederman and some of his  
 23 other colleagues issued an apology for that conduct.  
 24 Is that correct?

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1 A. That's what it appears to be the case from  
 2 this letter.  
 3 Q. So, after taking Johnson & Johnson's money to  
 4 open an institute that was supposed to be unbiased, Dr.  
 5 Biederman and his colleagues admitted that they made  
 6 mistakes and that they were in violation of a Harvard's  
 7 conflict-of-interest policies.  
 8 Do you see that in the letter?  
 9 A. Well, there are a number of things that they  
 10 state in that letter; that's one of them.  
 11 Q. And they say "We accept responsibility for our  
 12 actions. . ." Do you see that in the fourth  
 13 paragraph?  
 14 A. Yes, I do.  
 15 Q. And do you see in the last line or the last  
 16 paragraph of their letter Dr. Biederman says, and his  
 17 colleagues, "We've learned a great deal from this  
 18 painful experience, and we profoundly hope that our  
 19 mistakes will benefit our colleagues by bringing  
 20 clarity and attention to these important issues"?  
 21 Do you see that?  
 22 A. Yes, I do.  
 23 Q. After reading this letter, Mr. Gorsky, do you  
 24 still believe that Johnson & Johnson's annual

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1 contribution to the Center For Pediatric  
 2 Psychopathology at Mass General Hospital was not  
 3 improper?  
 4 A. Based upon my review of the documents that we  
 5 just went through and my knowledge of it, yes, I do --  
 6 I believe it was proper.  
 7 And what I don't know, even in this letter, in  
 8 the apology, was Dr. Biederman's statement that "We  
 9 always believed that we were complying in good faith  
 10 with the institutional policies and that our mistakes  
 11 were honest ones. We now recognize that we should have  
 12 devoted more time and attention to the detailed  
 13 requirements of these policies and to their underlying  
 14 objectives."  
 15 So, I'm not sure specifically what the exact  
 16 nature may have been, but I think, you know, based upon  
 17 even documents that we reviewed earlier, that we  
 18 certainly tried to follow in good faith clear  
 19 guidelines regarding the grants to ensure that they  
 20 were done appropriately.  
 21 Q. But Senator Grassley and then Dr. Biederman  
 22 both felt they were not done properly. Is that  
 23 correct?  
 24 A. I cannot draw that conclusion. I'm not sure

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1 whatever happened with the rest of the findings and I'm  
 2 not -- and again, in this particular letter Dr.  
 3 Biederman made a number of different statements.  
 4 Q. Does Johnson & Johnson continue to contribute  
 5 to the Johnson & Johnson Center For Pediatric  
 6 Psychopathology at Mass General Hospital?  
 7 A. I do not know.  
 8 Q. During the time frame of 2002 to 2003, we've  
 9 established that you attended at least two meetings,  
 10 including both annual updates of the J&J-MGH Center For  
 11 Pediatric Psychopathology Research. Is that correct?  
 12 A. Yes. Based upon the notes that we saw, I  
 13 attended some portion thereof of those two different  
 14 meetings.  
 15 Q. And you approved the original invoice for  
 16 \$200,000 or \$500,000, whatever we want to argue it was,  
 17 for the first year of this annual contribution. Is  
 18 that correct?  
 19 MR. MURPHY: Objection to the form of  
 20 the question, mischaracterizes the evidence, but  
 21 you may answer.  
 22 THE WITNESS: I signed off on the  
 23 original request that noted it as being \$200,000  
 24 for the Janssen portion for that time period.

1 vice-president of marketing to the vice-president --  
 2 from the vice-president in CNS. Does that sound about  
 3 right?  
 4 A. Somewhere in that range, yes.  
 5 Q. So, it wouldn't have been unusual for you to  
 6 be at a Risperdal brand strategic planning meeting in  
 7 October of 1998, would it have been?  
 8 A. No, it would not have been.  
 9 Q. Let's look down at the sixth bullet point.  
 10 See that? It starts "Prolactin levels."  
 11 A. Yes.  
 12 Q. It says "Prolactin levels: need to examine the  
 13 effect of hyperprolactinemia on sexual dysfunction,  
 14 menstrual disturbances, and long term effects (e.g.,  
 15 osteoporosis, cardiovascular effects, fertility).  
 16 Lilly has 3 trials investigating the effects of  
 17 increased prolactin."  
 18 Did I read that correctly?  
 19 A. Yes, you did.  
 20 Q. So, does that mean to you that this would have  
 21 been one of the issues that would have been discussed  
 22 at this meeting on October 19, 1998?  
 23 A. Based upon the way this is pulled together, it  
 24 is one of, it looks like, about twelve or thirteen

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1 (Exhibit Gorsky-16 was marked for  
 2 identification)  
 3 BY MR. McCORMICK:  
 4 Q. Mr. Gorsky, I've handed you what's been marked  
 5 as Exhibit 16. If you would take a minute to review it  
 6 and let me know when you're finished.  
 7 A. Yes. Okay.  
 8 Q. Mr. Gorsky, have you had a chance to review  
 9 Exhibit 16?  
 10 A. I have.  
 11 Q. And Exhibit 16 states that it's "Minutes from  
 12 Outcomes/Risperdal Brand Strategic Planning meeting" or  
 13 October 19, 1998. Is that correct?  
 14 A. That's correct.  
 15 Q. And you were present at this meeting?  
 16 A. Yes, that's what it notes.  
 17 Q. And --  
 18 A. I don't recall this meeting, but it notes that  
 19 I was present, yes.  
 20 Q. Do you have any reason to doubt you were  
 21 present?  
 22 A. No.  
 23 Q. And in October of 1998, that looked like from  
 24 your CV it would have been your transition between the

1 other issues that would have been discussed.  
 2 Q. Okay. Do you recall prolactin and the effect  
 3 of prolactin on a person due to their ingestion of  
 4 Risperdal being an issue in October of 1998?  
 5 A. I remember it being an issue related to  
 6 Risperdal, nothing specific to the October 1998 time  
 7 frame.  
 8 Q. Okay.  
 9 A. It was actually an issue with a number of the  
 10 different drugs that were used in this category.  
 11 Q. And what it says here is that it needs to  
 12 examine the effect of hyperprolactinemia, right? On  
 13 sexual dysfunction and three or four other things. Do  
 14 you see that?  
 15 A. Yes, I do.  
 16 Q. Do you know if that was ever done?  
 17 A. I'm not familiar with the details of all the  
 18 research that was done in that area.  
 19 Q. But as of at least October of 1998 you, along  
 20 with several other individuals, including Ramy Mahmoud  
 21 and Janet Vergis, attended a meeting where prolactin  
 22 and its effect were discussed relating to Risperdal.  
 23 Is that right?  
 24 MR. MURPHY: Objection to the form of

34 (Pages 133 to 136)

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1 the question. You may answer.  
 2 THE WITNESS: Yes. Again, it was  
 3 discussed in the context of a number of issues  
 4 that day, according to these minutes.  
 5 BY MR. McCORMICK:  
 6 Q. Well, I guess let's ask it this way: As of  
 7 October 1998, according to these minutes, at a meeting  
 8 you attended, Janssen knew that it needed to examine  
 9 the long-term effects of Risperdal on  
 10 hyperprolactinemia. Is that correct?  
 11 A. No, I don't conclude that from these remarks.  
 12 I think what I can conclude is, it says here, among  
 13 many recommendations, that prolactin levels is an area  
 14 that needed to be examined and the different effects as  
 15 you just read in the sentence. But again, it is one  
 16 among many different issues that were talked about and  
 17 discussed that day.  
 18 Q. Right, and one of the issues was that -- let  
 19 me see if maybe we spoke past each other: That as of  
 20 October 1998 Janssen knew -- or at least the  
 21 individuals at this meeting knew -- that as to the  
 22 issue of prolactin levels, it needed to be examined to  
 23 effect the -- examine the effect of hyperprolactinemia  
 24 on sexual dysfunction, menstrual disturbances, and

1 (Exhibit Gorsky-17 was marked for  
 2 identification)  
 3 BY MR. McCORMICK:  
 4 Q. Mr. Gorsky, I've marked as Exhibit 17 a  
 5 two-page email. If you could take a minute to review  
 6 it and let me know when you're finished?  
 7 A. Okay.  
 8 Q. Mr. Gorsky, have you had a chance to review  
 9 Exhibit 17?  
 10 A. Yes, I have.  
 11 Q. Do you see the first email in the email chain  
 12 is from Sally Berry, who was the associate director of  
 13 CNS medical affairs in December of 2000, to a number of  
 14 individuals, including yourself?  
 15 Do you see your name in the "to" list?  
 16 A. Yes, I do.  
 17 Q. And then the top email is from Sam Keith at  
 18 Janssen responding to Dr. Berry's email later that day,  
 19 and again you're included on the response. Do you see  
 20 your name in that list?  
 21 A. Yes, I do.  
 22 Q. In 2000, December of 2000, would you still  
 23 have been the vice-president of sales and marketing for  
 24 Janssen US?

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1 other long-term effects. Is that correct?  
 2 A. I think what this would have reflected, the  
 3 way these documents were usually used, is that you  
 4 would be taking notes; and then coming out of the  
 5 meeting you would, you know, then develop the specific  
 6 plan that you would have to address each one of these  
 7 issues.  
 8 So, I'm not -- this appears to me again --  
 9 they're minutes, they're observations, they're  
 10 comments, and that's one that's noted. I'm not sure  
 11 exactly how they were acted on following that.  
 12 Q. Well, I'm not asking you about whether you  
 13 actually did the studies or not -- I've talked to other  
 14 people about that -- and whether you knew or didn't  
 15 know, maybe we'll talk about later.  
 16 But all I'm asking you is, according to these  
 17 minutes from an October 1998 meeting, it says  
 18 "Prolactin levels: need to examine the effect of  
 19 hyperprolactinemia on sexual dysfunction, menstrual  
 20 disturbances, and long term effects," right?  
 21 A. And I agreed with you on that. I just didn't  
 22 know what context they were then taken or what was done  
 23 with them, but that's the comment that appear on here,  
 24 yes.

1 A. I believe so. I don't have my specific CV in  
 2 front of me, but I think I would have been.  
 3 Q. Okay. Dr. Berry's email, if we turn to the  
 4 second page of the document, is about her attendance at  
 5 a Lilly CME the night before. Do you see that?  
 6 A. Yes, I do.  
 7 Q. And then the very last line of the email, of  
 8 her email, says, "Emphasized in summary to think of  
 9 efficacy, prolactin and QTc when choosing an  
 10 antipsychotic."  
 11 Did I read that correctly?  
 12 A. Yes, you did.  
 13 Q. And then we turn back this email from Sam  
 14 Keith in response, and Sam says, "Sally, very nice  
 15 report on the Lilly party line. I do think that we  
 16 need to do more with our own data on prolactin. Ramy  
 17 has done a nice job here and there is enough material  
 18 from the endocrine world to help us here."  
 19 Do you see that?  
 20 A. Yes, I do.  
 21 Q. So, in October of 1998 there is a note that  
 22 Janssen needs to examine prolactin levels, and here we  
 23 are, almost a year and a half later, and Sam Keith is  
 24 saying that "we still need to do more with our own data

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1 on prolactin." Do you see that?  
 2 MR. MURPHY: Objection to the form of  
 3 the question. It mischaracterizes the document.  
 4 You may answer.  
 5 THE WITNESS: I'm not sure exactly what  
 6 Dr. Keith meant in his statement "I do not think  
 7 we need to do more -- or "I do think that we need  
 8 to do more of our own work [sic] on prolactin,"  
 9 because immediately after that he states that  
 10 "Ramy has done a nice job here and there is enough  
 11 material from the endocrine world to help us here.  
 12 Also has there been any progress on the Harvard  
 13 Study that we heard last summer on its  
 14 publication."  
 15 So, it seems contradictory. I'm not  
 16 sure what that means.  
 17 BY MR. McCORMICK:  
 18 Q. But I think we can agree that Dr. Keith  
 19 definitely says "we need to do more with our own data  
 20 on prolactin." Is that right?  
 21 A. He makes that statement in the sentence,  
 22 certainly, but the other sentences confuse me somewhat  
 23 as to exactly what he meant. Are we done --  
 24 Q. Yes, we're done with that one.

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1 (Exhibit Gorsky-18 was marked for  
 2 identification)  
 3 BY MR. McCORMICK:  
 4 Q. Mr. Gorsky, I've handed you what's been marked  
 5 as Exhibit 18. It's an email chain from January of  
 6 2001. Take a minute to review it, let me know when  
 7 you're finished.  
 8 A. Okay.  
 9 Q. Mr. Gorsky, have you had a chance to review  
 10 Exhibit 18?  
 11 A. Yes, I have.  
 12 Q. Do you see that on January 20th, 2001 you sent  
 13 an email to a number of individuals at Janssen US and  
 14 Janssen Belgium, including Ivo Caers, Janet Vergis,  
 15 Ludwig Hantson and Ramy Mahmoud?  
 16 A. Yes, I did.  
 17 Q. And the subject line is "Competitive  
 18 Activity"?  
 19 A. Yes, it is.  
 20 Q. And does this email concern Risperdal and  
 21 competition from other antipsychotics?  
 22 A. Yes, it covers my thoughts around our clinical  
 23 developments programs.  
 24 Q. If we turn to page two of the document, which

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1 is a continuation of your email, looking at the third  
 2 bullet point where you say "While we cannot respond to  
 3 each and every competitive job...we should expect that  
 4 we will be challenged on a number of fronts due to our  
 5 market position...therefore we need to be proactive in  
 6 expanding on our strengths (efficacy long and short  
 7 term, agitation, weight gain, etc) and defending our  
 8 weak spots (prolactin, QTc, EPS)" and then an  
 9 elliptical or ellipsis.  
 10 Do you see -- did I read that correctly?  
 11 A. Yes, you did read that correctly.  
 12 Q. And in here you identify prolactin as one of  
 13 Risperdal's weak spots, correct?  
 14 A. Identified it as one of our weak spots  
 15 relative to our competitors and our positioning in the  
 16 marketplace at the time.  
 17 Q. In January of 2001, Mr. Gorsky, you would have  
 18 still been vice-president of sales and marketing for  
 19 Janssen US. Is that correct?  
 20 A. Yes, that's correct.  
 21 Q. And even then you knew that prolactin was a  
 22 weak spot for Risperdal. Is that correct?  
 23 A. I believe what I was referring to at that  
 24 time, there was a major promotional battle taking place

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1 between the various antipsychotics and their relative  
 2 positioning, and this was the way that the -- the  
 3 result of what our competitors were saying and  
 4 information in the marketplace.  
 5 So yes, that was generally, I think, an  
 6 accepted point of view, as I put in the paragraph.  
 7 Q. And what was a generally accepted point of  
 8 view?  
 9 A. Regarding the relative strengths and  
 10 weaknesses. I don't think it was necessarily based --  
 11 it was based on perceptions that had been developed  
 12 over the previous years.  
 13 Q. Well, Risperdal caused prolactin to be more  
 14 elevated than other antipsychotics, right?  
 15 MR. MURPHY: Objection to the form.  
 16 You may answer.  
 17 THE WITNESS: While I was working on  
 18 the brand, I don't remember that ever being  
 19 concluded with statistically significant data.  
 20 MR. McCORMICK: Okay. Let me see if you  
 21 can answer -- can you go back, Lance, to the  
 22 question I asked before the last answer?  
 23 (The record was read by the court  
 24 reporter as requested)

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<p style="text-align: right;">Page 145</p> <p>1 BY MR. McCORMICK:  2 Q. Can you answer that with a yes or no, Mr.  3 Gorsky?  4 A. No.  5 Q. But you called it a weak spot. Is that  6 correct?  7 A. I called it a weak spot in the context of  8 competitive positioning, not based upon concrete,  9 significant data at the time.  10 Q. Do you know if in this time frame, 2000/2001,  11 Janssen was working toward -- strike that.  12 (Exhibit Gorsky-19 was marked for  13 identification)  14 BY MR. McCORMICK:  15 Q. Mr. Gorsky, I'm handing you what's been marked  16 as Exhibit 19. It contains Bates labels JPHD  17 00008768.  18 If you could take a minute to glance through  19 the document, particularly at the pages with Bates  20 labels 8778 and 8779 and the second page and first page  21 of the document, we'll direct you to some questions.  22 A. 778 and 779?  23 Q. Yes, and the second page of the document.  24 A. Just a moment, please.</p>	<p style="text-align: right;">Page 147</p> <p>1 you can find that for me?  2 A. It was noted as 47.8 percent.  3 Q. And what was it for haloperidol?  4 A. 57.8 percent.  5 Q. And then next under that they say there was a  6 statistically significant difference between the  7 treatment groups and the number of patients with  8 prolactin-related adverse events, too. Is that  9 correct?  10 A. That's correct.  11 Q. And what was the percentage of  12 prolactin-related adverse events for Risperdal?  13 A. It says five percent.  14 Q. And what was it for haloperidol?  15 A. 0.4 percent.  16 Q. So, let's turn back to page 8779, please. Do  17 you see in the middle there 3.1.3, it has  18 "Prolactin-related adverse events"?  19 A. Yes, I do.  20 Q. And then it has the same percentages down  21 there in the third or fourth row, the total number of  22 patients with prolactin-related AEs? It has five  23 percent for risperidone and 0.4 for Haloperidol?  24 A. Yes, it does.</p>
<p style="text-align: right;">Page 146</p> <p>1 Q. Sure.  2 A. So, the first two pages and then did you say  3 8778 and 8779?  4 Q. Exactly.  5 A. Okay.  6 Q. Mr. Gorsky, have you had a chance to review  7 Exhibit 19?  8 A. The first two pages and the two pages that you  9 outlined, yes.  10 Q. And you see that these are the topline results  11 for the Risperdal trial RIS-INT-35?  12 A. Yes.  13 Q. And the title of that is "Double-blind  14 evaluation of Risperidone versus haloperidol on the  15 long-term morbidity of early psychotic patients."  16 Do you see that.  17 A. Yes.  18 Q. The date is May 17th, 2002 in the top  19 left-hand corner?  20 A. Yes.  21 Q. If we turn to page two at the topline results  22 summary, it has two numbers there I want to talk about.  23 The first one in the second paragraph: What was the  24 rate of EPS-related adverse events and risperidone, if</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. And that's fourteen patients out of 278 had  2 prolactin-related adverse events in this clinical  3 trial. Is that right?  4 A. That's correct.  5 (Exhibit Gorsky-20 was marked for  6 identification)  7 BY MR. MURPHY:  8 Q. Mr. Gorsky, I've handed you what we've marked  9 as Exhibit 20, which is an email chain from May of  10 2002. In fact, I think all the emails are from May 1st  11 of 2002.  12 Can you take a minute to review that and let  13 me know when you're finished?  14 A. Okay.  15 Q. Mr. Gorsky, have you had a chance to review  16 Exhibit 20?  17 A. Yes, I have.  18 Q. You see there is a May 21st email from  19 somebody at PRD in Belgium forwarding the topline  20 results for RIS-INT-35 to a number of individuals. Is  21 that correct?  22 A. That's correct.  23 Q. And that email, then, is forwarded on to a  24 number of other people, and it's then forwarded on to</p>

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1 you from Joe Scodari. Is that right?  
 2 A. That's correct.  
 3 Q. And Joe Scodari has a JJCUS email address.  
 4 What did that mean at the time?  
 5 A. He was located at corporate -- I think it's  
 6 Johnson & Johnson corporate US.  
 7 Q. And Mr. Scodari says "FYI. Doesn't look  
 8 promising," does it? That's what his email to you  
 9 says, doesn't it?  
 10 A. It says "FYI. Doesn't look promising."  
 11 Q. And that's the topline results we just looked  
 12 at in Exhibit 19, correct?  
 13 A. That's correct.  
 14 Q. And then you forward it on to Janet Vergis and  
 15 say "Please do not pass along yet...FYI," correct?  
 16 A. That's correct.  
 17 Q. So, you've told Ms. Vergis not to forward on  
 18 the topline results that contain a clinical trial  
 19 showing that there was a statistically significant  
 20 difference between the number of prolactin-related  
 21 adverse events in Risperdal versus haloperidol. Is  
 22 that correct?  
 23 A. I did so consistent with the guidance in the  
 24 original email that says "Please -- just one second.

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1 It says, "May we ask you not to distribute these  
 2 topline results on a large scale at this moment. This  
 3 study has been performed under the guidance of an  
 4 advisory board of external experts. Moreover, there is  
 5 a massive amount of additional data in the database.  
 6 We therefore would like to review the present data and  
 7 plan for additional analysis with this advisors before  
 8 we bring the data in the public domain. We plan this  
 9 review tentatively end of June."  
 10 Q. And then right above that Ms. Van Hove wrote  
 11 that "The results contained in this document have been  
 12 verified by the statisticians and programmers of  
 13 Biometrics. Nevertheless, these results may differ  
 14 slightly from what will appear in the final Clinical  
 15 Study Report," right?  
 16 A. That's what it says, yes.  
 17 Q. Okay.  
 18 MR. McCORMICK: Why don't we take a  
 19 break?  
 20 THE VIDEOGRAPHER: Going off the record  
 21 at 2:45 p.m. This is the end of tape four.  
 22 (A brief recess was taken)  
 23 THE VIDEOGRAPHER: Stand by, please.  
 24 Back on the record at 2:55 p.m. This is tape five.

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1 BY MR. McCORMICK:  
 2 Q. Mr. Gorsky, we're back from a break. You  
 3 understand you're still under oath?  
 4 A. Yes, I do.  
 5 Q. We're looking at Exhibits 19 and 20, which  
 6 have to do with the clinical trial RIS-INT-35. We were  
 7 talking about a drug called haloperidol. The common  
 8 name for that is Haldol. Is that correct?  
 9 A. Yes, it is.  
 10 Q. That was a Janssen product or a -- it was a  
 11 J&J product before Risperdal?  
 12 A. It was originally discovered by Dr. Paul  
 13 Janssen and originally promoted by, I believe, McNeil  
 14 Pharmaceutical.  
 15 Q. And the study that we looked at, if you could  
 16 turn to page -- I'm not trying to pull a fast one on  
 17 you. I know I told you not to look at this page, but  
 18 turn to page 8770.  
 19 MR. MERVIS: What exhibit are you on?  
 20 MR. McCORMICK: Nineteen.  
 21 MR. MERVIS: And the page, please?  
 22 MR. McCORMICK: 8770, page three.  
 23 MR. MERVIS: Thank you.  
 24 MR. McCORMICK: You're welcome.

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1 BY MR. McCORMICK:  
 2 Q. Down at the bottom it has the demographic and  
 3 baseline characteristics of the study. Do you see  
 4 that.  
 5 A. Yes.  
 6 Q. And the age in years is one of the  
 7 demographics. Is that right?  
 8 A. That's correct.  
 9 Q. And the median age or mean age for this study  
 10 was what?  
 11 A. The mean age for the total group was 25.4  
 12 years and the median age was 24.  
 13 Q. Are you familiar with the fact that the label  
 14 for Risperdal now states that Risperdal may affect  
 15 children more seriously in the elevation of prolactin  
 16 than it affects adults?  
 17 MR. MURPHY: Objection to the form of  
 18 the question. You may answer.  
 19 THE WITNESS: I'm not sure I understand  
 20 your question.  
 21 MR. McCORMICK: Sure.  
 22 BY MR. McCORMICK:  
 23 Q. Risperdal elevates prolactin. I think we can  
 24 all agree on that, right?

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1 A. I was confused around where it appears in the  
 2 package insert or when.  
 3 Q. This study, which says that five percent of  
 4 the clinical trial participants had prolactin-related  
 5 adverse events, correct? That's what this trial says?  
 6 A. And that's what this trial concluded based on  
 7 the tables we reviewed, yes.  
 8 Q. And this clinical trial involved primarily  
 9 adults. The ages are -- median age is 25.4, right?  
 10 A. That's correct.  
 11 Q. Okay. Do you know that Risperdal affects  
 12 children more seriously in the elevation of prolactin  
 13 than it affects adults?  
 14 A. I wasn't aware of the statistical data or even  
 15 the trending data, and I don't remember what our label  
 16 said.  
 17 I remember there being language around  
 18 prolactin clearly in our label when I was working on  
 19 it, and I also remember there being language, some  
 20 language -- I don't remember the specific language --  
 21 around use in children. I don't know if there was a  
 22 specific call-out in the children area about the side  
 23 effects.  
 24 Q. I want to ask you one more question about

1 A. Okay. I haven't had a chance to review the  
 2 entire document the. I can certainly take -- if we're  
 3 going through it in detail, I can. . .  
 4 Q. No, I'll direct you to certain pages. Mr.  
 5 Gorsky, can you turn to page 260, which is the  
 6 executive summary of the base business plan for 2001?  
 7 A. Yes.  
 8 Q. And this business plan is Risperdal only.  
 9 It's not any other drug in the CNS franchise, right?  
 10 A. I haven't had a chance to look at it entirely.  
 11 But I'm assuming, based upon the title, that that's the  
 12 case.  
 13 Q. In the first paragraph, about the sixth line,  
 14 it says -- the fifth line: "Overall growth in the  
 15 schizophrenia segment in the market is flat." Is that  
 16 correct?  
 17 A. That's correct.  
 18 Q. And that would have been a problem for  
 19 Risperdal in 2001?  
 20 A. I don't know what you mean by your conclusion  
 21 that it's a problem.  
 22 Q. Well, the overall growth in the schizophrenia  
 23 segment of the market is flat: That means that  
 24 Risperdal is not going to be selling more prescriptions

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1 Exhibit 20, Mr. Gorsky.  
 2 A. That's the email?  
 3 Q. That's the email, I'm sorry, yes.  
 4 A. Okay.  
 5 Q. Let me start over. Mr. Gorsky, can you turn  
 6 to Exhibit 20, which is the email that we were looking  
 7 at earlier?  
 8 A. Yes.  
 9 Q. Mr. Scodari's email to you says "Doesn't look  
 10 promising." Is that right?  
 11 A. That's what it says, yes.  
 12 Q. Do you recall any discussion with Mr. Scodari  
 13 about why he thought the results didn't look promising?  
 14 A. No, I don't recall.  
 15 Q. You can put that document aside. Thank you,  
 16 sir.  
 17 (Exhibit Gorsky-21 was marked for  
 18 identification)  
 19 BY MR. McCORMICK:  
 20 Q. Mr. Gorsky, I've handed you a document that's  
 21 been marked as Exhibit 21. It is a 2001 Risperdal Base  
 22 Business Plan. Can you take a minute to glance through  
 23 it? Then I'll direct you to certain pages to ask you  
 24 questions.

1 for schizophrenia, right?  
 2 MR. MURPHY: Objection to the form of  
 3 the question. You may answer.  
 4 THE WITNESS: No, I believe what it was  
 5 referring to is that the schizophrenia portion of  
 6 the market tended to be a fairly well-defined  
 7 segment; therefore, it was not growing as fast as  
 8 others, but there still would be shifts in share  
 9 among the various agents that would be used in  
 10 that category.  
 11 BY MR. McCORMICK:  
 12 Q. The next sentence says, "Although the  
 13 RISPERDAL Base business is rooted in the Schizophrenia  
 14 marketplace, another fast-growing portion of this  
 15 market is in children and adolescents. The  
 16 child/adolescent antipsychotic segment (19 years and  
 17 under) is growing at a rate of 17% and is currently  
 18 valued at approximately \$340 million. Use of RISPERDAL  
 19 in this segment has grown 50% in the past two years,  
 20 and prescriptions in this category account for 20% of  
 21 overall RISPERDAL use."  
 22 Did I read that right?  
 23 A. Yes, you did.  
 24 Q. And because of the growth of the child and

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1 adolescent antipsychotic market, did Risperdal begin  
 2 to -- did Johnson & Johnson begin to approach this  
 3 market in a different way in or around 2001?  
 4 MR. MURPHY: Objection to the form of  
 5 the question, lack of foundation. You may answer.  
 6 THE WITNESS: Not that I'm aware, other  
 7 than we were continuing to pursue the clinical  
 8 development program of the product in that area.  
 9 MR. McCORMICK: Okay.  
 10 BY MR. McCORMICK:  
 11 Q. Turn to the top of the next page, please, page  
 12 261. See where it says "RISPERDAL use in the  
 13 child/adolescent population is exploding"? Is that  
 14 correct?  
 15 A. That's what it says, yes.  
 16 Q. Then down below it says, "Key Base Business  
 17 Goals -- well, strike that. I'm sorry.  
 18 "RISPERDAL use in the child/adolescent  
 19 population is exploding," but in this time frame,  
 20 2001/2002, Risperdal is not indicated by the FDA for  
 21 any pediatric use, is it?  
 22 A. Again, we did not have the specific  
 23 indication, as we discussed earlier, until 2006. I  
 24 don't remember exactly what the labeling said regarding

1 activities regarding the development as well as the  
 2 promotion of Risperdal.  
 3 That being said, all of our actual promotion  
 4 to the physicians would follow what was outlined in our  
 5 package insert and all of our materials went through a  
 6 significant review process, and that's the way our  
 7 representatives were trained. And in an area such as  
 8 this, this is a marketer versus a sales representative,  
 9 their language.  
 10 And when in fact physicians took it upon  
 11 themselves and their patients to prescribe the product,  
 12 their statement would in fact be correct: To ensure  
 13 that when a physician made that choice, that it was in  
 14 fact Risperdal.  
 15 Q. You were the vice-president of sales and  
 16 marketing at this time frame, 2000/2001, correct?  
 17 A. It depends when this was actually previewed.  
 18 I don't know if there's a date on here or not, but I  
 19 think that's the case, yes.  
 20 Q. You became the vice-president of sales and  
 21 marketing in December of 1999, correct?  
 22 A. My statement related to -- I believe I became  
 23 president of Janssen in late 2001.  
 24 Q. Okay. Even if a doctor can prescribe

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1 use in children, but as I discussed earlier, there was  
 2 a significant -- there appeared to be a significant  
 3 increase in the recognition of this condition in  
 4 children and adolescents during this time, which was  
 5 substantiated by data and its occurrence.  
 6 And physicians have an opportunity to use a  
 7 treatment that they perceive to be appropriate and  
 8 effective in a particular patient population, and  
 9 that's clearly what we were seeing happening in this  
 10 area.  
 11 Q. Look down at the heading that says "Key Base  
 12 Business Goals and Objectives." Do you see that?  
 13 A. Yes.  
 14 Q. And the fifth of the Key Base Business Goals  
 15 says "Grow and protect share in child/adolescents." Is  
 16 that right?  
 17 A. Yes, that's correct.  
 18 Q. My question is, how can Johnson & Johnson grow  
 19 a share in a child and adolescent market when the drug  
 20 isn't even indicated for use in the child and  
 21 adolescent market?  
 22 A. Well, my interpretation of that is, this is in  
 23 fact a marketing plan, not a selling plan. As a  
 24 marketing plan, its intent is to cover a wide range of

1 Risperdal for an off-label use and create a market  
 2 share, you still cannot or Janssen still cannot market  
 3 the drug to that doctor, a pediatric doctor, for use,  
 4 can you?  
 5 A. To the best of my knowledge, we did not  
 6 promote the use of Risperdal in that patient vis-a-vis  
 7 direct promotional programs.  
 8 Q. Okay. Even though it says grow the share in  
 9 child and adolescents on this bullet point as a key  
 10 base business goal, right?  
 11 A. Yes -- again, this was a marketing document,  
 12 not a sales-direction guideline.  
 13 Q. Well, it's a marketing document, but it's  
 14 still an internal Janssen document. You don't think  
 15 the people in marketing knew that Janssen didn't have  
 16 -- or Risperdal didn't have an indication for a  
 17 pediatric use?  
 18 MR. MURPHY: Objection to the form of  
 19 the question, argumentative. You may answer  
 20 again.  
 21 THE WITNESS: I'm certain they realized  
 22 that. And they realize, also, that all of the  
 23 promotional materials would go through a review  
 24 process to ensure that they were consistent with

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1 our labeling.  
 2 This, the marketing plan, would include  
 3 programs now, but also for the future, associated  
 4 with ongoing development of the compound.  
 5 BY MR. McCORMICK:  
 6 Q. Let's look down at the key base business core  
 7 strategies right underneath there. And here in the  
 8 2001 Risperdal base business plan, it says, number two,  
 9 "Protect and Expand Reach/Partnership with Key Customer  
 10 Base," right?  
 11 A. Why.  
 12 Q. Listed underneath there, what's the third  
 13 bullet point listed underneath there?  
 14 A. It says child and adolescents.  
 15 Q. So, this is another place where Janssen is  
 16 attempting to protect what it already has, but also  
 17 expand its reach into this key customer base, right?  
 18 A. That's what the document says.  
 19 Q. Okay. Was the indirect marketing through Dr.  
 20 Biederman and Massachusetts General Hospital part of  
 21 this business strategy or business goal?  
 22 MR. MURPHY: Objection to the form and  
 23 lack of foundation. You may answer.  
 24 THE WITNESS: I think the activities

1 treat a very difficult condition among children and  
 2 adolescents; where, to the best of my knowledge, none  
 3 of the antipsychotics were approved and yet there were  
 4 little to no other options for physicians to use in a  
 5 particular population; hence, they were making a  
 6 decision, based upon their knowledge and understanding  
 7 of the different data, to treat these patients in what  
 8 they considered to be the best possible way, which is  
 9 different than promoting the product in a particular  
 10 area under an indication.  
 11 Our marketing plans frequently covered a  
 12 significant period of time. It would be updated  
 13 annually. But many of the ongoing activities in here,  
 14 particularly as it related to clinical development  
 15 programs, could span a two- or three-year period, hence  
 16 some of the language and some of the other activities  
 17 that are mentioned in here.  
 18 Q. So, you're saying that because it says "Grow  
 19 and protect share in child/adolescents," what this  
 20 marketing plan is doing is looking down the road  
 21 several years? It's not talking about right then in  
 22 2001/2002?  
 23 A. I don't know because I don't remember the  
 24 specifics, but it would not be unusual for it to be

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1 with Dr. Biederman were done vis-a-vis a grant and  
 2 a CME program. They were not in direct marketing.  
 3 BY MR. McCORMICK:  
 4 Q. Can you turn to the top of page 262? It's the  
 5 next page, please. The bottom paragraph, the fourth  
 6 line there talks about the child and adolescent  
 7 antipsychotic market, which is nineteen years and  
 8 under, and it says Risperdal currently has over a 54%  
 9 share of that market.  
 10 Do you see that?  
 11 A. Yes, I do.  
 12 Q. And even when the drug is not -- strike that.  
 13 Even though Risperdal doesn't have an indication by the  
 14 FDA for child and adolescent at this time frame, when  
 15 Risperdal has fifty-four percent of the market, does  
 16 the credo still apply? Does the protection for  
 17 Janssen's patients and mothers and fathers still apply?  
 18 A. Absolutely our credo still applies. I think  
 19 in this case there are a couple of important facts that  
 20 are relevant to that statement.  
 21 I mean, first of all, there is the issue of  
 22 how that particular market is defined, and I believe  
 23 they're defining it as on that particular portion of  
 24 the market, again, where physicians are attempting to

1 construed in that way.  
 2 Q. Turn to page 267, please. Do you see the  
 3 heading in the middle of the page that says "2000  
 4 Lessons Learned for 2001"?  
 5 A. Yes, I do.  
 6 Q. And the second-to-last bullet point there  
 7 says, "Short-term opportunities in pediatrics and the  
 8 acute setting exist." Is that right?  
 9 A. Yes, I do see that.  
 10 Q. So, the short-term opportunities in pediatrics  
 11 doesn't sound like a long-term goal of getting an  
 12 approval or an indication for a child and adolescent  
 13 use, does it?  
 14 MR. MURPHY: Objection to the form of  
 15 the question. Your question is does he agree with  
 16 your statement?  
 17 MR. McCORMICK: I'm asking him if he can  
 18 interpret it that way.  
 19 MR. MURPHY: That's something  
 20 different. It's your question.  
 21 THE WITNESS: I don't know how to  
 22 interpret that. If he was referring to the  
 23 business; if he was referring to educating  
 24 physicians, providing them different diagnostic

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1 guidelines, I'm not sure.  
 2 BY MR. McCORMICK:  
 3 Q. When you say "he," who do you think wrote this  
 4 in 2000/2001?  
 5 A. I meant that in a non-gender-specific manner.  
 6 I'm not sure who would have written it.  
 7 Q. You didn't write this, did you?  
 8 A. No.  
 9 Q. Would you have reviewed it?  
 10 A. I don't recall.  
 11 Q. I didn't ask you if you remembered reviewing  
 12 it. Would you have reviewed it in your position?  
 13 A. I don't know. There were numerous documents.  
 14 At this time I believe, again, I was head of marketing  
 15 for all of our brands, and so I'm not sure if this was  
 16 the specific final version, if I would have reviewed  
 17 it. I can't sit here today and say that conclusively.  
 18 Q. Okay. You were in marketing for a long time,  
 19 Mr. Gorsky. When you see the word "short-term," does  
 20 that mean to you a goal within a year or does that mean  
 21 a longer-term goal of a couple years?  
 22 A. I don't know what they intended when they said  
 23 "short-term" in the construct that they have in  
 24 opportunities.

1 that's the way you're interpreting it, right?  
 2 A. That's the best that I can interpret it  
 3 sitting here today.  
 4 Q. Okay -- well, how else are you going to get  
 5 from fifty-four to seventy percent if you're not out  
 6 there promoting the drug?  
 7 MR. MURPHY: Objection to the form of  
 8 the question. It's argumentative. You may  
 9 answer.  
 10 THE WITNESS: Again, as I said earlier,  
 11 I think that this is a marketing plan separate  
 12 from a sales-direction plan. And I know that  
 13 based upon the guideline reviews that we did  
 14 earlier, that our direction going to our sales  
 15 force was very consistent with our labeling.  
 16 At the same time we were generating  
 17 data -- and appropriately so, I believe -- because  
 18 of the need for additional data in this patient  
 19 population. And frankly, we felt that we had the  
 20 very best alternative for those patients and I  
 21 know that we had the most data at that time in  
 22 that particular population.  
 23 So, as physicians became aware of that  
 24 data and made their own decision to treat patients

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1 Q. Turn to page 269, please. At the bottom there  
 2 is a heading there that says "One-year Marketing  
 3 Objectives." Do you see that?  
 4 A. I do see that.  
 5 Q. And then do you see the fourth bullet point  
 6 says, "Grow and protect share in child/adolescents via  
 7 medical education initiatives and effective  
 8 rep-targeting with a year-end exit share of 70%"?  
 9 Do you see that?  
 10 A. I do see that.  
 11 Q. So, the one-year goal here is to grow the  
 12 child and adolescent market from fifty-three percent or  
 13 fifty-four percent up to seventy percent. Is that  
 14 right?  
 15 A. I would not interpret it that way.  
 16 Q. Okay.  
 17 A. I think what it says is grow and protect share  
 18 in the market, which again to me could mean the  
 19 existing market, as physicians have deemed to prescribe  
 20 it within that market, not necessarily growing the  
 21 market.  
 22 Q. I'm not talking about growing the market. I'm  
 23 even talking about, if you have a fifty-four percent  
 24 share and they want to get to a seventy percent share,

1 within that category, I'm sure that we felt that  
 2 we had the best option.  
 3 It wasn't a matter of promoting. These  
 4 were decisions that physicians were making in the  
 5 best interests of their patients.  
 6 So, this marketing plan is very  
 7 different from a sales direction. All of our sales  
 8 direction would have to go through, again,  
 9 significant review, and I'm not sure when and how  
 10 this would have made its way to that audience.  
 11 BY MR. McCORMICK:  
 12 Q. Mr. Gorsky, even if this is a marketing plan  
 13 instead of a sales plan, I can't get by the fact that  
 14 it says here one-year marketing objectives: Grow the  
 15 share in children and adolescents via medical  
 16 initiatives and effective rep-targeting with a year-end  
 17 exit share of seventy percent.  
 18 This is for a time -- strike that. Strike all  
 19 that. Let's go through this again.  
 20 Once again, Mr. Gorsky, was Risperdal approved  
 21 in 2001 for any pediatric or child and adolescent use?  
 22 MR. MURPHY: Objection, asked and  
 23 answered a number of times. Don't answer it  
 24 again.

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1 BY MR. McCORMICK:  
 2 Q. Mr. Gorsky, would you agree with me that  
 3 Risperdal was not indicated for a child and adolescent  
 4 use in 2001?  
 5 A. I would agree, based upon our discussions  
 6 earlier today and the knowledge of the insert changes  
 7 even after I left, that the specific indication for  
 8 child and adolescent was provided, I believe, in 2006,  
 9 as per your earlier comment.  
 10 What I don't remember are the specific  
 11 guidelines around its use prior to that point in time  
 12 in the child and adolescent population.  
 13 Q. Okay.  
 14 A. As you know, package inserts have a number of  
 15 different areas that may characterize use in different  
 16 areas without specifically recommending or  
 17 contraindicating the use of a drug in a particular  
 18 patient population. That's really the choice of the  
 19 physician based upon the patients as they present.  
 20 MR. McCORMICK: Lance, would you repeat  
 21 the question and see if we can get a yes or no?  
 22 (The record was read by the court  
 23 reporter as requested)  
 24 MR. McCORMICK: You can answer, Mr.

1 MR. McCORMICK: It's answered with a  
 2 three-paragraph qualifier. I just want a yes or a  
 3 no.  
 4 THE WITNESS: I tried to answer the  
 5 best of my ability to make sure that my full  
 6 intent was communicated.  
 7 MR. McCORMICK: Okay.  
 8 BY MR. McCORMICK:  
 9 Q. Mr. Gorsky, who would have prepared this base  
 10 business plan, if not you, in that market -- in that  
 11 division, if you recall?  
 12 A. At this time I believe we agreed earlier that  
 13 I was the head of sales and marketing for Janssen,  
 14 which meant I was likely responsible for ten different  
 15 brands, so it certainly would not have been me.  
 16 And it would have been several of the  
 17 different product managers and/or directors on the  
 18 Risperdal brand team that would likely have worked  
 19 together to produce this document.  
 20 Q. Looking at this one-year marketing objective  
 21 that we just looked at and went over a couple of  
 22 times --  
 23 A. What page are you referring to?  
 24 Q. Page 269. I believe you're still there?

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1 Gorsky.  
 2 THE WITNESS: I answered that in the  
 3 first part of my last question.  
 4 BY MR. McCORMICK:  
 5 Q. The answer was it was not indicated, right?  
 6 A. It did not have the specific indication as  
 7 awarded in 2006. However, I don't know the specific  
 8 language that it had regarding recommendations for use  
 9 in a younger population prior to 2006.  
 10 Again, a package insert has a number of  
 11 different areas and comments around various patient  
 12 populations that physicians will use as one source of  
 13 information when prescribing.  
 14 Q. And I understand that's a great explanation of  
 15 what a package insert says. I'm just asking the simple  
 16 question whether the FDA had approved Risperdal for a  
 17 child and adolescent or pediatric use, whatever you  
 18 want to do, in 2001.  
 19 It has nothing to do with whatever other  
 20 safety standards or language is in the package insert.  
 21 I'm just asking that simple question.  
 22 MR. MURPHY: And I'm going to object to  
 23 the question, if that's the question that's on the  
 24 table, as asked and answered.

1 A. Yes.  
 2 Q. It was the fourth bullet point underneath  
 3 "One-Year Marketing Objectives" on page 269.  
 4 Would you agree with me that a goal to  
 5 increase market share in a population with no  
 6 indication is off-label marketing?  
 7 A. I can't answer that question the way you've  
 8 phrased it.  
 9 Q. Why not?  
 10 A. Because in this context, again, I don't know  
 11 what time frame we're talking about, nor do I  
 12 understand the full intent of the statement in a  
 13 marketing-plan context different from being a selling  
 14 context.  
 15 Q. Let me just ask you generally, then: Would  
 16 you agree with me that a goal to increase market share  
 17 in a population with no indication, having nothing to  
 18 do with Risperdal, is off-label marketing?  
 19 A. If that was the sales direction to our sales  
 20 representative, then that would be inconsistent with  
 21 our policy.  
 22 Q. Inconsistent with your policy because it would  
 23 be off-label marketing, correct?  
 24 A. It would be off-label promotion.

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1 Q. Off-label promotion, okay. You can put that  
 2 aside.  
 3 Mr. Gorsky, do you have any contact with Dave  
 4 Mallegol any more?  
 5 A. I may get a holiday email from him once a year  
 6 wishing me a happy holiday season. That's about it.  
 7 Q. Does he still work for Janssen or Johnson &  
 8 Johnson, or is he retired?  
 9 A. He's retired from Johnson & Johnson.  
 10 Q. Do you know that Mr. Mallegol had his  
 11 deposition taken in the Texas litigation, the same case  
 12 where you had your deposition taken?  
 13 A. No, I was not aware of that.  
 14 Q. And did you know that Mr. Mallegol, during a  
 15 break in one of the depositions, was talking to a US  
 16 Attorney who was present at the deposition, during a  
 17 break like we take during these depositions, and said  
 18 to that US Attorney or Assistant US Attorney that he  
 19 had a very challenging job when he took over healthcare  
 20 compliance at Janssen?  
 21 Did anyone ever tell you that?  
 22 A. No, I was never told about that comment,  
 23 although that comment -- it was a significant endeavor  
 24 across the industry at that time because of the number

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1 of changes that were instituted, and we did try to set  
 2 a very high standard in adapting the American Medical  
 3 Association, the trade organization PhRMA guidelines at  
 4 the time.  
 5 And Dave was not only at Janssen, took the  
 6 leadership role, but also became involved in the  
 7 industry in helping to develop, establish, set up and  
 8 enforce those standards.  
 9 Q. And did you know that Mr. Mallegol, after  
 10 saying it was a very challenging job, said it was a  
 11 challenge, in part, because there had to be a change in  
 12 the culture at Janssen?  
 13 MR. MURPHY: Does he know that he said  
 14 that?  
 15 MR. McCORMICK: That Mr. Mallegol told  
 16 that to an Assistant US Attorney.  
 17 MR. MURPHY: Objection to the form of  
 18 the question and lack of foundation, but you may  
 19 answer.  
 20 THE WITNESS: No, I'm unaware of that.  
 21 BY MR. McCORMICK:  
 22 Q. Would it surprise you that Mr. Mallegol said  
 23 that his job was changing because of the change in the  
 24 culture that was required at Janssen at that time?

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1 MR. MURPHY: Same objection. You may  
 2 answer the question.  
 3 THE WITNESS: I can't speculate on the  
 4 full context of his discussion.  
 5 MR. McCORMICK: Well --  
 6 THE WITNESS: I think it was a challenge  
 7 across the industry, given some of the changes  
 8 that were put into play. So, without additional  
 9 perspective on his comment, I really can't -- it  
 10 appears to be a sidebar conversation.  
 11 BY MR. McCORMICK:  
 12 Q. It was a sidebar conversation. The reason I  
 13 was curious is because you sort of explained his first  
 14 comment about it being challenging as to the whole  
 15 industry, but then Mr. Mallegol did follow it up with a  
 16 comment that he had to change the culture at Janssen.  
 17 And I wanted to know what you thought about  
 18 that, whether you thought at the time that you put him  
 19 into that position whether you thought a change in the  
 20 culture would have made that type of job challenging.  
 21 A. Again, I don't understand the full context of  
 22 Dave's sidebar conversation. I just know we worked  
 23 together very collaboratively and he made a lot of  
 24 contributions during his time.

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1 (Exhibit Gorsky-22 was marked for  
 2 identification)  
 3 BY MR. McCORMICK:  
 4 Q. Mr. Gorsky, let me hand you another document.  
 5 It's been marked as Exhibit 22.  
 6 A. I can't quite read all of the slides, just  
 7 because of the way they're printed, with my glasses.  
 8 Q. We'll work with that. Mr. Gorsky, can you  
 9 turn back to -- do you see the slide on the first  
 10 page -- the tab "2001 Tactical Plan (Risperdal)"?  
 11 A. Yes.  
 12 Q. Is that your handwriting?  
 13 A. No, that's not.  
 14 Q. Okay. Let's turn to page 9385. Do you see  
 15 that third slide at the bottom, "Child & Adolescent  
 16 Market Summary"?  
 17 A. Yes, I do.  
 18 Q. Mr. Gorsky, I'm going to have to go back.  
 19 Let's go back to page 9383, which is the front slide.  
 20 Do you see the cover slide of this presentation,  
 21 "Risperdal Base 2001 Tactical Plan"?  
 22 A. Yes.  
 23 Q. RBD meeting of January 2001?  
 24 A. Yes, I do.

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1 Q. What does RBD stand for?

2 A. I believe that would have meant our regional

3 business directors. So that in the field you have

4 representatives, a group of representatives that report

5 to a district manager, then a district manager would

6 report to -- so, it would be basically your second-line

7 managers, your senior-most sales managers.

8 Q. Would this have been the type of meeting that

9 you would have participated in in this time frame?

10 A. Not usually, no.

11 Q. Okay, let's turn to page 9385. If we look at

12 the third slide, "Child & Adolescent Market Summary,"

13 right?

14 A. Yes.

15 Q. Customers are prescribing Risperdal in the

16 child and adolescent market, correct?

17 A. Correct.

18 Q. So, at the time Janssen -- Johnson &

19 Johnson -- knew that customers were prescribing

20 Risperdal in this market, even though it didn't have an

21 FDA indication for a child and adolescent use, correct?

22 A. Yes. There is a significant amount of other

23 information, but I'll hold my response.

24 Q. Let's turn to page 9386, please, "2001 Base

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1 Business Goals," the middle slide?

2 A. Yes?

3 Q. It says "Grow awareness of RISPERDAL use in

4 child/adolescent market via medical education."

5 Do you see that?

6 A. Yes, I do.

7 Q. That's a little bit different than the way we

8 saw it phrased in the 2001 base business plan, right?

9 This one says "Grow awareness of RISPERDAL use," right?

10 A. That's what it says. I don't recall what it

11 said in the previous one, but . . .

12 Q. Now let's turn to page 9387. Go to the top

13 slide. The top slide lists some base business key

14 strategies.

15 The second large bullet point says "Protect

16 and expand partnerships with key customers," and then

17 underneath there it says "Child and Adolescents" is the

18 second bullet point. Can you read that one?

19 A. Yes, I can.

20 Q. And that's similar to what we saw in the 2001

21 base business plan, which was expanding partnerships

22 with a different number of groups of markets, right?

23 MR. MURPHY: Object to the form of the

24 question. You may answer.

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1 BY MR. McCORMICK:

2 Q. Well, let me ask you this question, Mr.

3 Gorsky: I think you already told us that this is a

4 presentation that would be made to the regional

5 business directors, right?

6 A. That's what was outlined on the front page,

7 yes.

8 Q. And somebody, whoever presented this on behalf

9 of Janssen to the regional business directors, is

10 telling them to protect and expand partnerships with

11 key customers, including child and adolescent market,

12 right?

13 A. I would need to go back and read what they're

14 explaining to them because it's being very selective in

15 what you're specifying versus what's actually in these

16 slides.

17 Q. Well, this is the -- if you turn to the

18 previous page, this is the start of a . . .

19 A. To answer your question completely, I would

20 need to go to page 385, on the bottom slide, where it

21 talks about child and adolescent market summary, and it

22 states "Customers Rxing RISPERDAL in child/adolescent

23 market. Presentation should increase field awareness,"

24 this presentation.

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1 "Take-away is NOT to begin discussing

2 children/adolescents with customers.... Instead..

3 Implement CME with customers expressing interest in

4 this area...And..Understand customers needs when Rxing

5 antipsychotics in this area."

6 Q. So, the idea is, get the customers in, the

7 doctors, into a CME and present them with information

8 about Risperdal so that they go out and prescribe

9 Risperdal, right?

10 MR. MURPHY: Objection to the form of

11 the question. You may answer.

12 THE WITNESS: No, that's not my

13 understanding.

14 BY MR. McCORMICK:

15 Q. Well, that's what it says, "Implement CMEs

16 with customers expressing interest in this area."

17 MR. MURPHY: That wasn't your question.

18 MR. McCORMICK: Okay.

19 BY MR. McCORMICK:

20 Q. Let's turn to page 392. Do you see that

21 second bullet point, "Metrics and Milestones Analysis

22 of CME Programs"?

23 MR. MURPHY: Second slide.

24 MR. McCORMICK: Second slide.

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1 THE WITNESS: Yes, but I can't  
 2 read. . .  
 3 BY MR. McCORMICK:  
 4 Q. I can't read the bottom, either. I'm just  
 5 going to ask you a broad question: Did Janssen track  
 6 metrics and milestones that would have resulted from  
 7 CME programs?  
 8 MR. MURPHY: Objection to the form of  
 9 the question, lack of foundation. You may answer.  
 10 THE WITNESS: Not that I'm aware of.  
 11 BY MR. McCORMICK:  
 12 Q. Can you turn to the next page, 393? Do you see  
 13 it has "Base Business Key Strategy #2" for Risperdal?  
 14 A. Yes, I see that.  
 15 Q. And then it has that same heading we looked at  
 16 before, "Protect and expand reach/partnerships with key  
 17 customers" and this time it lists pediatrics underneath  
 18 there. Do you see that?  
 19 A. Yes, under "expand reach/partnerships with key  
 20 customers."  
 21 Q. Right. And at this time Risperdal doesn't  
 22 have an indication for any pediatric use, does it?  
 23 MR. MURPHY: What time would that be,  
 24 counsel?

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1 MR. McCORMICK: Excuse me?  
 2 MR. MURPHY: What time would that be?  
 3 MR. McCORMICK: 2001 tactical plan.  
 4 THE WITNESS: No, it does not.  
 5 MR. McCORMICK: Okay.  
 6 BY MR. McCORMICK:  
 7 Q. Let's turn to page 394. See the top slide  
 8 says "Protect & Expand Reach Key/Partnerships Key  
 9 Customer Base"?  
 10 A. Yes, I do.  
 11 Q. Then it has underneath there "Home Office  
 12 Advisory Forum." That would be one of the ways that  
 13 Janssen would protect and expand the partnerships with  
 14 the key customer base, correct?  
 15 A. I'm not -- are you referring to HOV?  
 16 Q. Top slide, I'm sorry.  
 17 A. Okay.  
 18 Q. 394, page 394.  
 19 A. I see. Yes, okay.  
 20 Q. And then in the bottom -- it's tough to read;  
 21 I'm hoping you can get it. It says description -- has  
 22 a description of the different programs, eighteen  
 23 programs, three per region, "streamline and targeted at  
 24 specific disease states. Will include each of the

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1 following topics per Region: schizophrenia, affective,  
 2 and child & adolescent." Is that correct?  
 3 A. That's correct.  
 4 Q. Okay. Then we're looking at the bottom slide,  
 5 the child and adolescent plan slide on this page. The  
 6 objective is to reach psychiatrists who treat child and  
 7 adolescent mental disorders with CME education,  
 8 correct?  
 9 A. Correct.  
 10 Q. And the field involvement is for the sales  
 11 reps. That's what they're supposed to do, correct?  
 12 A. I can't tell from this particular slide if --  
 13 usually the representatives would not be directly  
 14 involved with the CME education programs.  
 15 I don't remember the specific parameters on  
 16 what exactly they could and could not do, but they were  
 17 part of our overall healthcare compliance training.  
 18 Q. It says "identify these customers in your  
 19 database; invite to attend programs!" Who else would  
 20 have identified customers?  
 21 A. It could have been members of the marketing  
 22 team or medical affairs team that worked with, you  
 23 know, physicians that actually work with them in the  
 24 field.

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1 Q. But somebody would have identified customers  
 2 or potential customers, put them into the Janssen  
 3 database to make sure they got invited to these CME  
 4 programs. Is that correct?  
 5 MR. MURPHY: Objection to the form of  
 6 the question. You may answer.  
 7 THE WITNESS: As I recall, there are a  
 8 number of the different ways that those lists  
 9 could be developed: Based upon people who had  
 10 signed up for them at previous medical-education  
 11 events, knowledge of people treating in the field.  
 12 I don't remember the exact construction of those  
 13 lists.  
 14 BY MR. McCORMICK:  
 15 Q. This plan that was developed and presented to  
 16 the regional business directors in January of 2001, a  
 17 large portion of it, or at least a portion of it that  
 18 you and I just reviewed and went over, was directed at  
 19 the child and adolescent market. Is that correct?  
 20 A. I would not agree with your characterization.  
 21 There were a few slides out of this entire program.  
 22 I'm not sure if it was -- I forget the exact words that  
 23 you used.  
 24 Q. I withdrew the "large." I just said a portion

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<p style="text-align: right;">Page 185</p> <p>1 of it.</p> <p>2 A. Oh, a portion of it, okay.</p> <p>3 Q. And education programs, home office visits,</p> <p>4 other scientific presentations did not just come forth</p> <p>5 from and by scientists presenting the informational</p> <p>6 data for education, did it?</p> <p>7 MR. MURPHY: Objection to the form of</p> <p>8 the question, lack of foundation, but you may</p> <p>9 answer.</p> <p>10 THE WITNESS: I can't speculate on that</p> <p>11 question.</p> <p>12 BY MR. McCORMICK:</p> <p>13 Q. I think what we saw here instead was really</p> <p>14 Johnson &amp; Johnson using education, in context with</p> <p>15 prescribing physicians specifically, to expand their</p> <p>16 market of Risperdal to children and adolescents. Is</p> <p>17 that correct?</p> <p>18 A. No, I disagree. I think in this case -- I</p> <p>19 mean, based upon my review, it was an attempt,</p> <p>20 consistent with the guidelines that were discussed</p> <p>21 earlier, it was to better understand the disease</p> <p>22 category in an area of significant unmet need, to look</p> <p>23 at the different treatment options that were already</p> <p>24 being used, and it was done in the appropriate CME</p>	<p style="text-align: right;">Page 187</p> <p>1 A. As I had mentioned earlier, and I think some</p> <p>2 of the language in here is clearly -- these are sales</p> <p>3 and marketers, so there's going to be some of that</p> <p>4 language in here. But I think on other slides it</p> <p>5 clearly says this is not to be used in a selling</p> <p>6 situation, such as back on page 385, where that was</p> <p>7 clearly discussed.</p> <p>8 It was also highlighted, as you can see on</p> <p>9 slides such as 388, where it says field involvement or</p> <p>10 no rep involvement; on page 389, no rep involvement;</p> <p>11 then it actually has the sales representative message</p> <p>12 where it clarifies what would be part of the sales</p> <p>13 message, as well as on page 390 and on 391.</p> <p>14 So these were -- they were, I believe, in</p> <p>15 their best-faith effort trying to provide them both an</p> <p>16 overall view of the marketing plan as well as what the</p> <p>17 selling plan was and what should and should not be used</p> <p>18 in the field.</p> <p>19 Q. And for example, page 388, that diabetes</p> <p>20 reprint, it says "No rep involvement." What does that</p> <p>21 mean?</p> <p>22 A. It says that that's not sales-promotional</p> <p>23 material that should be used. That was allowed, I</p> <p>24 believe, at that time under CME to perhaps be mailed or</p>
<p style="text-align: right;">Page 186</p> <p>1 context.</p> <p>2 In this particular document, these were our</p> <p>3 senior-most sales leaders who may also have some input</p> <p>4 into the marketing plan, and this particular discussion</p> <p>5 is not translated into sales direction, as noted on</p> <p>6 several of these different slides that we went through</p> <p>7 that I mentioned that you had passed over about what</p> <p>8 should and should not be used in the promotion, but</p> <p>9 rather provided for them to have a broader</p> <p>10 understanding of the field and what to expect over the</p> <p>11 next several years.</p> <p>12 Q. Let's turn to page 387. Do you see the bottom</p> <p>13 slide there, "Differentiate RISPERDAL From the</p> <p>14 Competition"?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And it says this is a "Ziprasidone Destruction</p> <p>17 Plan," right?</p> <p>18 A. Yes.</p> <p>19 Q. Ziprasidone is Geodon, right?</p> <p>20 A. I believe so.</p> <p>21 Q. Okay. Is this part of a medical education</p> <p>22 presentation to be made to better educate your regional</p> <p>23 business directors, a destruction plan of how to get</p> <p>24 rid of Geodon?</p>	<p style="text-align: right;">Page 188</p> <p>1 distributed to a physician vis-a-vis another means</p> <p>2 within all the appropriate regulatory and legal</p> <p>3 guidelines, but did not have direct representative</p> <p>4 involvement.</p> <p>5 So, my point in this is that this was a</p> <p>6 discussion among our senior-most sales leaders. Some</p> <p>7 of it's strategic and marketing in nature and some of</p> <p>8 it more specific selling and directional in nature, and</p> <p>9 that's why we're using different material.</p> <p>10 But I would also assume that any of the</p> <p>11 materials that was used coming out of this that would</p> <p>12 be provided to our representatives would go through the</p> <p>13 our own rigorous legal, regulatory and compliance</p> <p>14 review process that ultimately were all submitted to</p> <p>15 the FDA.</p> <p>16 Q. And do you really believe that, if sales reps</p> <p>17 were given handouts or reprints or whatever and told</p> <p>18 not to distribute them to doctors, that that actually</p> <p>19 never happened?</p> <p>20 A. Based upon the guidelines at that time -- and</p> <p>21 I would have to refresh my memory of the specifics -- I</p> <p>22 believe that they were allowed, under FDAMA, which was</p> <p>23 tested in court and was approved under the guidelines,</p> <p>24 to distribute reprints that were enclosed in a</p>



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1 container, not to discuss them.  
 2 And yes, as we also saw earlier, there were  
 3 clear guidelines with the representatives that if they  
 4 did use those such materials, it could be considered, I  
 5 believe, a Class 1 offense that could lead to them  
 6 being terminated from the job.  
 7 Q. And at that time do you recall any sales  
 8 representatives being terminated for that type of  
 9 off-label marketing?  
 10 MR. MURPHY: At any point during his  
 11 tenure or at a year in particular?  
 12 MR. McCORMICK: During his tenure.  
 13 THE WITNESS: Yes, I do remember sales  
 14 representatives being terminated for violation of  
 15 our policies. I don't remember the specific names  
 16 or each instance, but I do remember that there  
 17 were sales representatives terminated.  
 18 BY MR. McCORMICK:  
 19 Q. Have you seen news reports about a possible  
 20 settlement of a federal Qui Tam action regarding the  
 21 off-label promotion and marketing of Risperdal?  
 22 A. Yes, I have through the years seen different  
 23 news reports.  
 24 Q. And I'm sure you've seen more than news

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1 reports in your position, but that settlement appears  
 2 to be aimed at exactly what you're saying never  
 3 happened but must have happened at some point, correct?  
 4 MR. MURPHY: Objection to the form of  
 5 the question, lack of foundation and wholly  
 6 irrelevant. You may answer.  
 7 MR. McCORMICK: You can answer.  
 8 THE WITNESS: I can't answer that  
 9 question.  
 10 BY MR. McCORMICK:  
 11 Q. You're saying that -- well, you. . .  
 12 A. You're asking me to speculate on a  
 13 supposition, and I can't do that.  
 14 Q. That's all right, I don't want to argue with  
 15 you, Mr. Gorsky. Suffice it to say that the 2001  
 16 tactical plan at the regional business directors  
 17 meeting included certain slides that discussed the  
 18 child and adolescent market. Is that correct?  
 19 MR. MURPHY: Objection, asked and  
 20 answered. You may answer it again.  
 21 THE WITNESS: Yes, it did, with, I  
 22 believe, the appropriate notation about how they  
 23 should be utilized.  
 24 MR. McCORMICK: Let's take a five-minute

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1 break.  
 2 THE VIDEOGRAPHER: Going off the record  
 3 at 3:55 p.m. This is the end of tape five.  
 4 (A brief recess was taken)  
 5 THE VIDEOGRAPHER: Stand by, please.  
 6 Back on the record at 4:08 p.m. This is tape six.  
 7 MR. McCORMICK: Mr. Gorsky, we're back  
 8 from a break, you understand you're still under  
 9 oath?  
 10 THE WITNESS: Yes, I do.  
 11 (Exhibit Gorsky-23 was marked for  
 12 identification)  
 13 BY MR. McCORMICK:  
 14 Q. Mr. Gorsky, I'm going to hand you what's been  
 15 marked as Exhibit 23. In the interests of time, Mr.  
 16 Gorsky, I ask that you review the cover email, glance  
 17 at the attachment, and then I'll direct you to certain  
 18 pages and give you time when we get there.  
 19 A. Okay.  
 20 Q. Mr. Gorsky, have you had a chance to review  
 21 Exhibit 23?  
 22 A. Just the introductory slides.  
 23 Q. Okay. Do you see that you are copied on the  
 24 cover email from John Jacoppi on June 21st, 2001?

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1 A. Yes, I do.  
 2 Q. And you received a copy of the Risperdal  
 3 Tracking Study Presentation, correct?  
 4 A. It was attached to this email.  
 5 Q. And this annual tracking study, for the use of  
 6 perception of atypical antipsychotics, was performed  
 7 in-house by the marketing research team. Is that  
 8 correct?  
 9 A. I can't ascertain from this, but it was not  
 10 uncommon at that time that our marketing research  
 11 department might outsource this to another market  
 12 research organization to actually conduct the trial or  
 13 the information gathering.  
 14 Q. Turn to page 712, please.  
 15 A. 7. . .  
 16 Q. 12.  
 17 A. I see. Sorry.  
 18 Q. This describes the methodology, correct?  
 19 A. Yes, it does.  
 20 Q. And this data was not bought from a vendor.  
 21 It was either Janssen or a third-party vendor, as you  
 22 say, going out and doing these in-office interviews,  
 23 correct?  
 24 A. Again, I don't know. There are a multitude of

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<p style="text-align: right;">Page 193</p> <p>1 different ways this information could be collected.  2 Sometimes it's part of a broad study. Sometimes it's  3 specifically designed. So, I couldn't tell from the  4 cursory review what the specific methodology was.  5 Q. Okay. Turn to page 714, please. The heading  6 on this page is "Current Antipsychotic Prescribing  7 Practices KEY FINDINGS," correct?  8 A. That's correct.  9 Q. And the first bullet point talks about "Top  10 symptoms treated with antipsychotics," correct?  11 A. That's correct.  12 Q. And then the bullet point underneath there  13 talks about "Top symptoms addressed with antipsychotics  14 in children/adolescents." Is that right?  15 A. Yes, it does.  16 Q. So, that would have been one of the questions  17 that would have been asked by either Janssen or, more  18 likely, a third-party vendor they would have been  19 asking about children and adolescent research. Is that  20 correct?  21 MR. MURPHY: Objection to form of the  22 question. You may answer.  23 THE WITNESS: I don't know how it was  24 collected. It looks like they were collecting</p>	<p style="text-align: right;">Page 195</p> <p>1 the way it's broken out, are child psychiatrists. It's  2 the second from the right. Do you see that?  3 A. Yes, I do.  4 Q. So, part of the survey was to speak with child  5 psychiatrists about Risperdal usage, correct?  6 A. Correct.  7 Q. Okay. Page 721 is "Top Children and  8 Adolescent Symptoms Addressed with Antipsychotics." Is  9 that the heading of this slide?  10 A. Yes, it is.  11 Q. And according to this slide, "Hallucinations  12 and Aggressions are the leading symptoms treated in  13 child and adolescent patients." Do you see that?  14 A. Yes, I do.  15 Q. Turn to page 728, please. The title of this  16 slide is "Attribute importance for Antipsychotic  17 Prescribing." Is that correct?  18 A. Just a minute. I'm getting there.  19 Q. Sure.  20 A. Was it "Attribute Importance For Antipsychotic  21 Prescribing"?  22 Q. Right.  23 A. On 28?  24 Q. 728, exactly.</p>
<p style="text-align: right;">Page 194</p> <p>1 information across a broad range of different  2 patient types.  3 BY MR. McCORMICK:  4 Q. But one of the patient types was children and  5 adolescents, right?  6 A. Based upon the comments here, they did collect  7 information on the use in that population, yes.  8 Q. And in the next point it talks about children  9 and adolescents again, right? The other -- the bigger  10 bullet point, "Risperdal is the most often prescribed"?  11 A. Yes, it does.  12 Q. Let's turn to page 717, please. The title of  13 that page is "Top Three Diagnoses for Antipsychotic  14 Prescribing in Children and Adolescent Disorders,"  15 correct?  16 A. Yes.  17 Q. So, they're asking about child and adolescent  18 use again during this survey or research, correct?  19 A. Correct.  20 Q. Turn to page 720, please. You see  21 "Distribution of Patients on Antipsychotics By  22 Diagnosis," correct? That's the heading of the slide?  23 A. Yes.  24 Q. And then one of the groups of psychiatrists,</p>	<p style="text-align: right;">Page 196</p> <p>1 A. Okay.  2 Q. And then one of the columns there is child and  3 adolescent disorders. Do you see that?  4 A. Yes, I do.  5 Q. It also talks about adult schizophrenia and  6 adult bipolar disorders, right?  7 A. Yes.  8 Q. You can put that document aside.  9 (Exhibit Gorsky-24 was marked for  10 identification)  11 BY MR. McCORMICK:  12 Q. Mr. Gorsky, I'm handing you what's been marked  13 Exhibit 24. It's a one-page email. Take a minute to  14 review it and let me know when you're finished.  15 A. Okay.  16 Q. Mr. Gorsky, have you had a chance to review  17 Exhibit 24?  18 A. Yes, I have.  19 Q. And do you recognize the name Sally Berry and  20 Ramy Mahmoud?  21 A. I recognize Ramy's name. I'm not as familiar  22 with Sally Berry.  23 Q. And Ramy Mahmoud was a group director in  24 medical affairs and had some responsibility for</p>

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1 Risperdal, correct?  
 2 A. I'm not sure what his position was at that  
 3 time. Along the way Ramy had various roles on the  
 4 team; I just don't know what it was at the time.  
 5 Q. But he had responsibility for Risperdal either  
 6 way. Is that correct?  
 7 A. In some ways, yes; for actually several, I  
 8 think, of our neuroscience or central nervous system  
 9 compounds.  
 10 Q. I want you to look at Dr. Berry's email to  
 11 Ramy, the third line, the sentence that starts out "I  
 12 attempted to include only positive data so that the  
 13 data cannot be used against us. My hope is to  
 14 communicate that PRL is not correlated with side  
 15 effects and that the 'special properties' of Risperdal  
 16 that cause high prolactin probably also render  
 17 risperdal superior to olanzapine in other domains."  
 18 Do you see that sentence?  
 19 A. Yes, I do.  
 20 Q. And do you see the title of the subject line  
 21 of the email is "PRL Poster"?  
 22 A. Yes, I do.  
 23 Q. Would you say that attempting to include only  
 24 positive data in a poster presentation is meeting

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1 Janssen's responsibilities to doctors and nurses?  
 2 MR. MURPHY: Objection to the form of  
 3 the question, lack of foundation, but you may  
 4 answer.  
 5 THE WITNESS: I can't tell that from  
 6 this email. We would want to reflect all the data  
 7 in a balanced and appropriate manner in the  
 8 posters that we were generating. I'm not sure  
 9 what was meant by this email. I've never seen it  
 10 before, that I can recall.  
 11 BY MR. McCORMICK:  
 12 Q. Do you think people that use -- do you think  
 13 people are competent managers that would attempt to  
 14 include only positive data in a poster that's being  
 15 presented to doctors?  
 16 A. What I don't know from this is if the poster  
 17 was intended to be presented to doctors, if it was an  
 18 internal poster, an external poster, and what exactly  
 19 "bad data" was in this.  
 20 Did "bad data" mean that it was erroneous in  
 21 the way that it was collected -- by that I mean it  
 22 wasn't the correct sampling -- or was it bad based upon  
 23 a negative perception of the product? I can't tell from  
 24 this single email.

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1 Q. Okay. Mr. Gorsky, do you think a scientific  
 2 presentation that would include only positive data and  
 3 not data from bad patients is of high quality?  
 4 MR. MURPHY: Objection to the form of  
 5 the question. It lacks a foundation. You've got  
 6 terms in there that you haven't defined.  
 7 BY MR. McCORMICK:  
 8 Q. Can you answer the question?  
 9 A. Not the way that you framed it.  
 10 Q. Okay.  
 11 A. Again, what I would say is, I don't know what  
 12 they mean when they say "bad data." I mean, is that  
 13 bad data because it was not sourced properly or because  
 14 it had a negative outcome? I don't know the way that  
 15 it's phrased.  
 16 Q. Well, do you see Dr. Berry's sentence that  
 17 says, "My hope is to communicate that PRL," meaning  
 18 prolactin, "is not correlated with side effects. . ."?  
 19 It appears to me that she's trying to hide  
 20 data or include only positive data that would say the  
 21 opposite. Is that the way you read it?  
 22 A. No, I can't draw that same conclusion. And  
 23 while I don't know Dr. Berry as well, I've worked with  
 24 Ramy for many years and I've always found him to be

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1 very experienced and truthful in my dealings with him.  
 2 (Exhibit Gorsky-25 was marked for  
 3 identification)  
 4 BY MR. McCORMICK:  
 5 Q. Mr. Gorsky, I marked as Exhibit 25 an email  
 6 chain, including two emails from you and then a  
 7 response. Can you take a minute to review that and let  
 8 me know when you're finished?  
 9 A. Certainly. Okay.  
 10 Q. Mr. Gorsky, have you had a chance to review  
 11 Exhibit 25?  
 12 A. Yes.  
 13 Q. And do you see that it's an email from you to  
 14 a number of individuals on January 21st, 2001 and then  
 15 a response from you later on the next day?  
 16 A. Yes.  
 17 Q. And the email you've sent out to Janet Vergis,  
 18 Ludwig Hantson, Ramy --  
 19 A. Excuse me, I respond on Monday.  
 20 Q. I'm sorry, what did I say?  
 21 MR. MURPHY: So, it's the 20th and then  
 22 the 22nd.  
 23 MR. McCORMICK: Okay.  
 24

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1 BY MR. McCORMICK:  
 2 Q. Mr. Gorsky, do you see that you sent two  
 3 emails in this email chain and that somewhere in  
 4 between Ramy Mahmoud sent you an email?  
 5 A. Yes, I do.  
 6 Q. And do you see that your email goes to Janet  
 7 Vergis, Ludwig Hantson and a couple of other  
 8 individuals, including Ramy Mahmoud?  
 9 A. Yes.  
 10 Q. And Ramy Mahmoud responds to your email and  
 11 says, "We have 'spread the word' on the DKA death on  
 12 olanzapine in the Abbott trial in a number of  
 13 one-to-one OL contacts, and I have discussed with Alex  
 14 Danyluk how to handle in Med Services."  
 15 Do you see that?  
 16 A. Yes.  
 17 Q. And when you received the email from Ramy  
 18 Mahmoud saying "We have to 'spread the word' on the DKA  
 19 death on olanzapine in the Abbott trial," did you ask  
 20 him what he meant by that?  
 21 A. I don't know what contact we had in between  
 22 the two.  
 23 Q. Do you know now what he meant by that,  
 24 "'spread the word' on the DKA death"?

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1 A. No, I don't.  
 2 Q. Do you know what he's referring to there, the  
 3 "DKA death on olanzapine in the Abbott trial"?  
 4 A. I don't recall.  
 5 Q. And then you see your response --  
 6 A. You know, just seeing "DKA death," I believe  
 7 it was a diabetic ketoacidosis death that occurred on  
 8 an olanzapine patient, but I just remember that from  
 9 the DKA.  
 10 Q. So, your assumption is -- and I think you're  
 11 right -- is that during a trial involving olanzapine or  
 12 Zyprexa, one of the clinical trial patients died from  
 13 diabetic ketoacidosis, correct?  
 14 A. Right. I'm just not sure how Ramy was  
 15 bringing it up in the context of my message, but -- so,  
 16 I'm not any more familiar with it.  
 17 Q. And that's what I'm going to ask you. I mean,  
 18 is it typical or ethical of a Janssen employee to go  
 19 out there and spread the word on something as important  
 20 as a death in a clinical trial, even though it is a  
 21 competing drug?  
 22 MR. MURPHY: Objection to the form of  
 23 the question, lack of foundation. You may answer.  
 24 THE WITNESS: I don't know what Ramy

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1 meant by "spread the word," but it appears here he  
 2 may have spoken to a couple other opinion leaders  
 3 and then he said he was going to talk to our  
 4 medical affairs department to make sure it was  
 5 going to be handled in the right way.  
 6 BY MR. McCORMICK:  
 7 Q. Well, he doesn't say "how to handle in the  
 8 right way." It just says "how to handle," right?  
 9 A. "How to handle."  
 10 Q. And then your response is "Good...it sounds  
 11 like we have taken the right steps." Is that right?  
 12 A. Well, I'm assuming that he would take it  
 13 through the appropriate steps of our medical services  
 14 group and follow all the appropriate guidelines.  
 15 Q. Is that something that Dr. Mahmoud should be  
 16 proud of under the credo, that he's out spreading the  
 17 word on the death of a patient in the trial, even  
 18 though they're taking Zyprexa?  
 19 MR. MURPHY: Objection to the form of  
 20 the question, lack of foundation. Once again, you  
 21 may answer the question.  
 22 THE WITNESS: I can't speculate on Dr.  
 23 Mahmoud. I've known Dr. Mahmoud for quite some  
 24 time. He served in our armed services I believe

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1 for over twelve years and at one time led the  
 2 epidemiology group for the United States Armed  
 3 Services before joining Janssen and has enjoyed a  
 4 strong reputation, and I have full faith and  
 5 confidence that he would follow all the right  
 6 guidelines.  
 7 How that was manifested in a single  
 8 email, I can't make a conclusion from that.  
 9 BY MR. McCORMICK:  
 10 Q. "Spread the word" is in quotation marks,  
 11 right?  
 12 A. Yes; that's what I mean: I'm not sure what he  
 13 was meaning by that single comment.  
 14 Q. Okay.  
 15 A. But Ramy's somebody who has been involved  
 16 throughout our creation and dissemination and  
 17 development and testing of all of our compliance  
 18 materials.  
 19 Q. Is that good or bad?  
 20 A. I think Ramy is a professional. Again, I  
 21 can't take this one particular comment and expand  
 22 beyond that given his track record.  
 23 Q. And do you think that it's within your credo  
 24 that Ramy would take this type of information and

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1 spread it out to your Janssen advisors, about the death  
 2 of a patient in a clinical trial?  
 3 MR. MURPHY: Objection. Again, lack of  
 4 foundation. You may answer the question.  
 5 THE WITNESS: I think it states in here  
 6 that he spoke with a couple of opinion leader  
 7 contacts and that he was going to handle it with  
 8 medical services, which I would assume, coming  
 9 from somebody of Ramy's background, to be done in  
 10 the appropriate and regulatory and legally correct  
 11 manner.  
 12 MR. McCORMICK: Mr. Gorsky, you can put  
 13 that aside. Let me hand you what I'll mark as  
 14 Exhibit 26.  
 15 (Exhibit Gorsky-26 was marked for  
 16 identification)  
 17 THE WITNESS: Okay.  
 18 BY MR. McCORMICK:  
 19 Q. Mr. Gorsky, have you had a chance to review  
 20 Exhibit 26?  
 21 A. Yes, I have.  
 22 Q. And do you see that you were the recipient of  
 23 an email and then the sender of an email in January of  
 24 2002?

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1 A. Yes, I am.  
 2 Q. And let's turn to Ramy Mahmoud's email to you  
 3 and a number of other individuals on January 16th, with  
 4 the subject line "Another big win on the horizon..."  
 5 Do you see that?  
 6 A. Yes.  
 7 Q. He says, "Just wanted to give you a  
 8 confidential heads up that it looks very likely that  
 9 we'll be seeing a second Risperdal New England Journal  
 10 of Medicine paper in 2002. We have seen review and  
 11 editorial comments (with the usual sworn secrecy) on  
 12 the RUPP trial, and the comments were extremely benign.  
 13 This is great news and is probably something that  
 14 deserves some preparation...  
 15 "We promised to share only with 'senior  
 16 management', and we could truly jeopardize the paper  
 17 (not to mention really anger the authors...) if we  
 18 'leaked' and made the news about the NEJM public. . ."  
 19 Do you see that?  
 20 A. Yes.  
 21 Q. Okay. Do you recall receiving this email from  
 22 Ramy Mahmoud in January 2002?  
 23 A. No, I do not.  
 24 Q. Do you see he mentions a confidential heads-up

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1 in his email.  
 2 A. Yes, he does mention that.  
 3 Q. And then he talks about the usual sworn  
 4 secrecy. Do you see that?  
 5 A. Yes, I do.  
 6 Q. And do you think he got a copy of this RUPP  
 7 article before he was supposed to?  
 8 A. No, that wouldn't be my memory. If I remember  
 9 correctly at that time, it was not usual for a  
 10 publication to share a publication to ensure that all  
 11 the facts, the data sets and other things, were correct  
 12 at times prior to publication without releasing the  
 13 data.  
 14 So, I don't think it was an uncommon practice  
 15 by a journal such as the New England Journal of  
 16 Medicine, American Journal, all the major published  
 17 datas, not to make any changes in the conclusions that  
 18 were drawn, but to ensure that some of the data sets  
 19 and actual points were correct.  
 20 Q. And that may be correct if it was a Janssen  
 21 study, but this is a RUPP study that was being done by  
 22 the National Institute of Mental Health.  
 23 So, what would Janssen be checking in what was  
 24 supposed to be an unbiased study?

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1 A. I don't know what involvement they may have  
 2 had along the way or, if any, participation.  
 3 Q. So somehow, some way, Ramy Mahmoud is involved  
 4 in obtaining a copy of the NIMH RUPP study and the  
 5 editorial comments before it was even published in the  
 6 Journal in 2002. Is that how you read this?  
 7 A. All I can read is what he put in this email.  
 8 Q. Well, you got the email in January 2002.  
 9 A. Exactly, and that's why I said all I can do is  
 10 understand it as he wrote it.  
 11 Q. And did you call him and say, "Man, how did we  
 12 get this?" or "Was this leaked to you somehow?" I mean,  
 13 he uses the word "leaked," right?  
 14 A. As I said earlier, I'm assuming Ramy was going  
 15 to follow all the appropriate guidelines when  
 16 interacting with that kind of an agency.  
 17 Q. Then we see there is an email -- the next  
 18 email in the chain is from Gahan Pandina and then one  
 19 from Christine -- Dr. Christine Cote. Do you see those  
 20 two emails?  
 21 A. Yes.  
 22 Q. And they are suggesting and discussing the  
 23 possibility of replicating the RUPP study in Europe and  
 24 using that to get a pediatric approval in Europe. Is

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1 that right?

2 MR. MURPHY: You mean each of them,

3 each of the two emails you're talking about?

4 MR. McCORMICK: Right -- well, try to

5 group them together, but we can separate them out.

6 BY MR. McCORMICK:

7 Q. Do you see Pandina's email on Friday, January

8 18th? It's the top of page two.

9 A. I do -- I don't remember the specifics of this

10 discussion.

11 Q. Okay.

12 A. What I just don't know is, if it's a he or a

13 she had recommended in Europe and then Christine -- I'm

14 not sure if she was recommending that to be done in the

15 Europe or the United States. I just can't tell.

16 Q. What she says is "...the replicate trial needs

17 to be run very carefully so we really do end up with a

18 second positive [sic] result...therefore I recommend

19 that our team are involved in reviewing the design of

20 the study and the data handling must be done to REG

21 standards."

22 Do you see that?

23 A. Yes, it do.

24 Q. Didn't we look at, when we looked at the

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1 guidelines earlier, that involvement in the design of a

2 study was improper?

3 A. No, I take this in a completely different way.

4 I believe the nature and the intent of Christina --

5 Christine at that time, Christina Cote, was responsible

6 for the medical affairs team in the United States that

7 usually conducted trials after a product was launched,

8 but would also be involved at times with the conduct of

9 trials for submission to the FDA for additional

10 indications.

11 And my understanding of her letter is that

12 there is -- and again, I'm not sure what our

13 involvement may have been with the RUPP trial because I

14 believe the underlying assumption here was that the

15 RUPP trial, combined with another trial -- you need two

16 double-blind, placebo-controlled trials, and that's why

17 I would have to check with the rep. There may have

18 been some involvement with our team.

19 You would then need to have a second,

20 confirmatory trial. And to conduct that trial, as

21 recommended in the first email, in Europe, the

22 regulatory standards in Europe can be different than

23 the regulatory standards in the United States at times

24 regarding the clinical end points, the expectations for

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1 the clinical trial sites and some of the standards,

2 particularly back in 2001.

3 What we were attempting to do was to ensure

4 that we could coordinate and align our global clinical

5 development plan so that, with this other trial, it

6 would have to have the highest science done, all the

7 correct US and European standards, in an attempt to

8 have a second, confirmatory trial to help achieve an

9 indication in this area. That would be my take on the

10 letter.

11 Q. Well, I mean, my take is a little bit simpler

12 just from her sentence: It just says, "...the replica

13 trial needs to be run very carefully so we really do

14 end up with a second positive [sic] result."

15 It looks to me like she's going to design the

16 study to make sure that you got a good result, but you

17 don't understand it that way.

18 A. Not at all. This is a very difficult patient

19 population with different end points, and again

20 ensuring that it's to the standard that the FDA would

21 accept was, I believe, Christine and Dr. Cote's

22 intention.

23 Q. And then you respond to the email and it says,

24 "I think it would be very helpful to have a discussion

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1 at the BDUM on our strategy with RISP and children,"

2 and I assume RISP means Risperdal?

3 A. Yes.

4 Q. And what's BDUM?

5 A. I forget all the acronyms. It's something

6 Business Development Update Meeting. I don't remember

7 exactly.

8 Q. And your strategy with Risperdal in children

9 at this time, in January 2002, I think we've

10 established that Risperdal isn't approved by the FDA

11 for any use in children, is it?

12 A. Again, predicated upon our earlier discussion,

13 I don't believe we had the specific indication.

14 However, I also don't know what the precise language in

15 our label said at the time. I don't believe it was

16 contraindicated. I think there was some language about

17 use in children in the label.

18 We were clearly doing our best, I feel, to be

19 the first antipsychotic that I'm aware of at that time

20 to generate substantial data for use in this

21 difficult-to-treat population and to work with the FDA

22 toward an official indication.

23 Q. You've talked in the last couple minutes about

24 a difficult-to-treat population or a difficult

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1 population for this drug.  
 2 Do you think that this difficult-to-treat  
 3 population or population with mental illness required  
 4 more protection because of their condition than a  
 5 normal patient or customer?  
 6 MR. MURPHY: Objection to the form of  
 7 the question. You may answer.  
 8 THE WITNESS: I think all, both adult  
 9 and children and others, all of them required very  
 10 careful treatment, and that's why we were so  
 11 committed to working with opinion leaders and  
 12 regulators in this condition to treat -- to  
 13 conduct the trials in the right way, to gather all  
 14 their appropriate information so they could be  
 15 treated accordingly.  
 16 Again, these were, as I think you  
 17 probably saw from the last chart that we went  
 18 through, suffering from hallucination, aggressive  
 19 symptoms, and with little to no treatment options  
 20 and little to no clinical data done in a  
 21 controlled setting.  
 22 And back to Dr. Cote's email, it was  
 23 important to try to generate that data.  
 24

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1 BY MR. McCORMICK:  
 2 Q. Do you think, though, that treating a  
 3 hallucination or -- what did you say? I think the other  
 4 one was...  
 5 A. Aggression.  
 6 Q. (Continuing) -- aggression with Risperdal or  
 7 an atypical antipsychotic is the right treatment?  
 8 I mean, these are pretty serious drugs.  
 9 They're only indicated for very specific reasons:  
 10 Schizophrenia, bipolar disorder, you know, serious  
 11 mental illnesses, not your day-to-day  
 12 hallucination/aggression/depression. I mean, that's  
 13 why, right?  
 14 MR. MURPHY: What is your question?  
 15 MR. McCORMICK: Whether he thinks that,  
 16 really, hallucinations and aggression are the  
 17 types of -- I mean, strike all that.  
 18 BY MR. McCORMICK:  
 19 Q. Risperdal still isn't indicated for  
 20 hallucinations or aggression, is it?  
 21 A. I don't know the specific language. I believe  
 22 it's received a broader indication for use in children  
 23 and adolescents, so I'm not familiar with the language  
 24 because I haven't been associated with the drug for a

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1 while.  
 2 What I can tell you is, at that time it was  
 3 very important to try to gather information. And  
 4 frankly, that's where I had to rely on the  
 5 psychiatrists and the clinicians who were using the  
 6 DSM-4 to fully understand and characterize its use the  
 7 right way. That really wasn't my decision.  
 8 Q. What I'm asking you is that Risperdal and most  
 9 of the atypical antipsychotics are indicated for very  
 10 serious mental disorders. I think you would agree with  
 11 that, right?  
 12 A. I don't know what the specific independent  
 13 indication is at this point in time. I haven't been  
 14 directly associated with the drugs for many years.  
 15 Q. Even back then -- well, let's say 2002, then.  
 16 It was indicated for schizophrenia. I don't know if it  
 17 had gotten the indication for bipolar disorder, but --  
 18 A. If I can, at that time the indication was for  
 19 the manifestation of psychotic disorders, and there was  
 20 an ongoing debate at that point in time, but at that  
 21 time it still had the label for the manifestations of  
 22 psychotic disorders.  
 23 Q. I think we're just going to keep going back  
 24 and forth, so let's just move on.

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1 A. Want me to read this document?  
 2 Q. No.  
 3 (Exhibit Gorsky-27 was marked for  
 4 identification)  
 5 BY MR. McCORMICK:  
 6 Q. I've marked as Exhibit 27 a multipage  
 7 document. I'm going to direct you just to one page in  
 8 particular, but I'm going to ask you about the top. It  
 9 says it's a Risperdal Regional Advisory Forum up in the  
 10 top left?  
 11 A. Yes, I do.  
 12 Q. April 13th, 2003 down the bottom left. Do you  
 13 see that?  
 14 A. Yes.  
 15 Q. Do you recognize any of the names on the top  
 16 of the page: Andrew Greenspan or Mark Lehman or Kurt  
 17 Barry?  
 18 A. Kurt Barry I recognize, but this was after --  
 19 I believe I was actually in Europe at this time.  
 20 Q. Let's turn to page eight. It's Bates-labeled  
 21 575.  
 22 A. Okay.  
 23 Q. And at this time I think you said you don't  
 24 recognize the name Andrew Greenspan, correct?

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1 A. No, I do not.  
 2 Q. At the time he was an assistant director of  
 3 clinical development and worked in the medical affairs  
 4 department. And April 2003 would have been after you  
 5 installed Dave Mallegol into that compliance position  
 6 sometime earlier than that, correct?  
 7 A. I don't remember the exact date, but I think  
 8 it was, yes, several years earlier.  
 9 Q. On page eight of the document, if you go down  
 10 six headings, do you see the word "Randy"?  
 11 A. Yes.  
 12 Q. It says, "I do a fair amount of CME programs,  
 13 and I signed this letter that says I can only talk  
 14 about indications. However, I always plant a shill  
 15 because if I get asked a question from the audience, I  
 16 can then speak off label. So you never like go to a  
 17 CME meeting without knowing ahead of time that somebody  
 18 is going to ask you what about dementia. And that way  
 19 you haven't broken your contract."  
 20 Did I read that correctly?  
 21 A. Yes, you did.  
 22 Q. And then you see that Dr. Greenspan, a Janssen  
 23 employee, actually assistant director of medical  
 24 affairs, says "That's good practical advice." Do you

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1 see that?  
 2 A. Yes.  
 3 Q. Do you think that this was good advice, as Dr.  
 4 Greenspan agrees, advocating for Janssen advisors to  
 5 bring up off-label marketing during CMEs by planting a  
 6 shill out in the audience?  
 7 MR. MURPHY: Objection to the form of  
 8 the question, lack of foundation, but you may  
 9 answer.  
 10 THE WITNESS: I don't know Randy. I  
 11 don't know Dr. Greenspan. I can't comment on  
 12 that, what they meant by that.  
 13 MR. McCORMICK: Okay.  
 14 BY MR. McCORMICK:  
 15 Q. Well, do you think planting a shill -- that's  
 16 a pretty simple concept. Do you think that's a concept  
 17 that fits within the credo of Johnson & Johnson?  
 18 A. That would not be consistent with what we do.  
 19 Q. Okay.  
 20 (Exhibit Gorsky-28 was marked for  
 21 identification)  
 22 BY MR. McCORMICK:  
 23 Q. Mr. Gorsky, I've handed you what's been marked  
 24 as Exhibit 28.

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1 A. Yes.  
 2 Q. This is a Risperdal Reimbursement PME Request  
 3 Form. Do you see that?  
 4 A. Yes, I do.  
 5 Q. Is that your name at the bottom and your  
 6 initials next to it approving it?  
 7 A. Yes, it is.  
 8 Q. Up in the top right, is that a note from you?  
 9 A. Yes, that's my handwriting.  
 10 Q. What is this approval for?  
 11 A. I don't remember specifically. But based upon  
 12 this, it says "Public Sector Meetings." I don't have  
 13 the rest of the attachment. Usually these would have  
 14 some other, further explanation.  
 15 Q. Who is the vendor?  
 16 A. Excerpta Medica.  
 17 Q. Do you know, before you would get or approve a  
 18 reimbursement for \$450,000, would you have asked what  
 19 was the money going to or what was the amount for?  
 20 A. Yes. Usually attached to this there would be  
 21 a full description of the event. I believe we actually  
 22 had a form that they had to fill out that would itemize  
 23 the objective, everything else. And as you had can see  
 24 in the upper right-hand corner I asked if legal had

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1 reviewed this to make sure that it was consistent with  
 2 our policies and guidelines.  
 3 Q. And then do you see down below at the very  
 4 bottom, underneath your signature, it says "Alex,  
 5 please sign contract also"?  
 6 A. Yes, that would have been my intention. I  
 7 think that contract would have been attached to it with  
 8 the broader description.  
 9 And I'd asked the question of Sid -- a person  
 10 by the name of Sid Frank was responsible for this  
 11 particular department, and I'm just assuming, based  
 12 upon the dates, that I probably asked for that on July  
 13 31st and he responded, and that's when I signed.  
 14 MR. McCORMICK: Mr. Gorsky, I hate to  
 15 do this, but I've got to take a personal break.  
 16 Let's go off the record for five minutes.  
 17 THE VIDEOGRAPHER: Going off the record  
 18 at 4:53 p.m.  
 19 (A brief recess was taken)  
 20 THE VIDEOGRAPHER: Stand by, please.  
 21 Back on the record at 5:01 p.m. This is tape  
 22 seven.  
 23 MR. McCORMICK: Mr. Gorsky. Ken.  
 24 MR. MURPHY: You've got an extra.



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1 (Exhibit Gorsky-29 was marked for  
 2 identification)  
 3 BY MR. McCORMICK:  
 4 Q. Mr. Gorsky, I've handed you what's been marked  
 5 as Exhibit 29. Can you take a minute to review it, let  
 6 me know when you're finished?  
 7 A. Okay.  
 8 Q. Mr. Gorsky, have you had a chance to review  
 9 Exhibit 29?  
 10 A. Yes, I have.  
 11 Q. And do you see this email chain begins with an  
 12 email from Magali Reyes-Harde in May of 2003?  
 13 A. Yes.  
 14 Q. And you worked with Dr. Reyes-Harde, right?  
 15 A. Just for a short period of time. By the time  
 16 of this email I had left this role.  
 17 Q. And you were with Novartis in 2003?  
 18 A. I was in Europe at the time.  
 19 Q. But Dr. Reyes-Harde worked in CNS marketing as  
 20 a product director, correct?  
 21 A. As noted on this email. I forget what her  
 22 exact role is, but that's what it said, yes.  
 23 Q. And do you see she's providing the update on a  
 24 meeting with a Dr. Klibanski, who is the chairwoman of

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1 the Department of Endocrinology at Mass General  
 2 Hospital in Boston?  
 3 A. Yes.  
 4 Q. And that the purpose of the meeting was to  
 5 initiate a collaboration between her group and Janssen  
 6 to help address the many needs related to prolactin.  
 7 Do you see that?  
 8 A. Yes, I do.  
 9 Q. And one of the ideas that is being considered  
 10 is, number one, establishment of an MGH-run  
 11 neuropsychiatry clinical information service. Is that  
 12 correct?  
 13 A. These what the email says, yes.  
 14 Q. And then you see there is a response from  
 15 Ronald Kalmeijer, who was the director of marketing at  
 16 CNS at the time. Do you see that?  
 17 A. Yes.  
 18 Q. And did you work with Mr. Kalmeijer when you  
 19 were working in the CNS department, division?  
 20 A. I worked with him in a role that he played  
 21 both in the CNS division as well as our oncology and  
 22 pain area as well as in a business-development  
 23 position.  
 24 Q. And underneath Mr. Kalmeijer's email bullet

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1 point number one says, "Our standpoint is that  
 2 prolactin related side effects is a non-issue. Our  
 3 tactics should be supportive of that, I'm not sure if  
 4 an academic helpline is in line with this; let's  
 5 discuss tactics within the team."  
 6 Do you see that?  
 7 A. I do see that.  
 8 Q. And do you believe competent management, under  
 9 the Johnson & Johnson credo, would allow someone in  
 10 marketing to determine Johnson & Johnson's standpoint  
 11 on safety issues as to a pharmaceutical?  
 12 MR. MURPHY: Objection to the form of  
 13 the question, lack of foundation. You may answer.  
 14 THE WITNESS: I don't think anybody in  
 15 marketing would have the final say on how we  
 16 should or should not handle a side effect of a  
 17 drug.  
 18 It may have been his opining on this  
 19 particular email, but it wouldn't have been my  
 20 experience that he would have made any type of  
 21 final decision on something like that.  
 22 MR. McCORMICK: Okay.  
 23 BY MR. McCORMICK:  
 24 Q. Would it fit within your credo that somebody

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1 in the marketing department would even be able to  
 2 participate in a discussion on that and offer his  
 3 opinion?  
 4 A. I think it's entirely consistent with our  
 5 credo to encourage open debate and discussion among a  
 6 number of people from different backgrounds to  
 7 ultimately get to the best decision.  
 8 But in a case dealing directly with patient  
 9 safety, our physicians in any cases that I've been  
 10 involved with have always had the final say.  
 11 Q. Are you concerned, Mr. Gorsky, that even  
 12 though Mr. Kalmeijer is in the marketing department, he  
 13 would even suggest that the tactics for pharmaceutical  
 14 marketing should support a standpoint rather than the  
 15 science issue?  
 16 MR. MURPHY: Objection to the form of  
 17 the question. It mischaracterizes the document,  
 18 but you may answer.  
 19 THE WITNESS: I don't draw that full  
 20 conclusion. I think he's stating his opinion  
 21 here. I really can't comment on the context of  
 22 that. I'm saying that if our professionals felt  
 23 that that was in order, that they would move ahead  
 24 with it. Again, we would be relying on

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1 physicians. Dr. Kalmeijer was a physician  
 2 himself.  
 3 MR. McCORMICK: You can put that aside,  
 4 Mr. Gorsky. Let me hand you what's been marked  
 5 exhibit 30. It's an email chain from May of 2003.  
 6 Can you take a minute to review it?  
 7 (Exhibit Gorsky-30 was marked for  
 8 identification)  
 9 THE WITNESS: Okay.  
 10 BY MR. McCORMICK:  
 11 Q. Mr. Gorsky, have you had a chance to review  
 12 Exhibit 30?  
 13 A. Yes, I have.  
 14 Q. And do you see that the subject line of this  
 15 email chain is "prolactin"?  
 16 A. Yes.  
 17 Q. And do you see that Dr. Kalmeijer sent an  
 18 email on May 16th, 2003 to a number of individuals,  
 19 including John Jacoppi and Georges Gharabawi, saying  
 20 "My understanding is that when prolactin increases our  
 21 recommendation is bromocriptin [sic]."  
 22 Do you see that?  
 23 A. Yes.  
 24 Q. And then we turn to the next page and Georges

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1 Gharabawi responds to Ronald Kalmeijer, the same  
 2 individuals, which includes Ramy Mahmoud, and gives the  
 3 recommendation or explains the recommendation that he  
 4 had given before.  
 5 Do you see that?  
 6 A. Yes, I do.  
 7 Q. And then we see Ramy Mahmoud's email back to  
 8 everyone: It says, "Back up a minute" and then he  
 9 gives the steps. The last line of his email says, "Why  
 10 and how would we want to send guidance to the field  
 11 sales force on this"?  
 12 Do you see that?  
 13 A. Yes.  
 14 Q. He's talking about the recommendation about  
 15 what to do if there's elevated prolactin from  
 16 Risperdal. Is that correct?  
 17 A. That's correct.  
 18 Q. And then John Jacoppi responds and says,  
 19 "Agreed that we need to be careful here. As we moved  
 20 toward higher functioning schizophrenic patients and  
 21 eventually bipolar (when indication hits), we need to  
 22 be" very "careful to ensure physicians perceive  
 23 Risperdal to be 'easy' to use," with "easy" in quotes.  
 24 "I think field recommendations to clinicians

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1 could serve to create a sense that Ris is 'difficult,'"  
 2 and "difficult" is in quotation marks.  
 3 Do you see that?  
 4 A. Yes.  
 5 Q. The first email from Ronald Kalmeijer, he's  
 6 asking for guidance on what to tell sales  
 7 representatives regarding prolactin. Is that correct?  
 8 MR. MURPHY: Objections to the form.  
 9 You may answer.  
 10 THE WITNESS: I can't draw that  
 11 conclusion. He says "to the field." The field  
 12 could be our field medical affairs specialists.  
 13 I'm not sure what he means by that.  
 14 BY MR. McCORMICK:  
 15 Q. But he's asking for a recommendation to give  
 16 advice or direction to somebody in the Janssen company  
 17 about what to do when prolactin increases. Is that  
 18 right?  
 19 A. I have no other context for this email other  
 20 than a conversation taking place on an email between  
 21 some various product managers and directors.  
 22 Q. And then do you see Ramy Mahmoud says don't  
 23 give the advice about how to treat prolactin?  
 24 MR. MURPHY: Where is that, counsel?

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1 MR. McCORMICK: Where he says "Why and  
 2 how would we want to send guidance to the field  
 3 sales force on this?"  
 4 MR. MURPHY: So, your question is?  
 5 BY MR. McCORMICK:  
 6 Q. My question is: Do you agree -- well, strike  
 7 that. My question, Mr. Gorsky, is: Do you think it  
 8 fits within the credo that Ramy Mahmoud would tell  
 9 other individuals at Janssen not to give out practical  
 10 advice on questions that they have about how to treat  
 11 prolactin increases from Risperdal?  
 12 MR. MURPHY: Objection to the form of  
 13 the question. It wholly mischaracterizes the  
 14 document and there is no foundation that you've  
 15 laid for the question, but you may answer it  
 16 again.  
 17 THE WITNESS: I read Ramy's response in  
 18 a very different way. I think, given the previous  
 19 conversation that's taking place on email --  
 20 that's how people communicate -- Ramy's comment  
 21 about "Back up a minute. The first step in  
 22 treating a patient with elevated prolactin would  
 23 rarely or never be to simply add one of these  
 24 drugs. A proper evaluation would have to be first

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<p>1 (no clinical symptoms, perhaps no treatment).  2 Depending on the level, a proper work-up may be  3 necessary (not simply assuming it is the RIS).  4 Dose reduction may be a next step (since many  5 patients may have equal efficacy at a bit lower  6 doses)" and "It would be late in the process that  7 you would go to an agonist - in which case  8 cabergolide [sic] would be preferred by most  9 people I would think..."  10 I think Ramy was trying to basically  11 clarify the situation. When he said not to send  12 anything to the field, he was saying no other  13 guidance should go out on this because we need to  14 understand the issue, clarify the right guideline  15 before taking any action, and that was my  16 interpretation of this statement.  17 BY MR. McCORMICK:  18 Q. And then do you see -- but John Jacoppi has a  19 different interpretation. I mean, his interpretation  20 is that any field recommendation to clinicians is going  21 to create a sense that Risperdal is difficult rather  22 than being easy to use. Do you see that?  23 A. Well, just as a conversation would evolve  24 around a table, each of these people are representing</p>	<p>1 THE WITNESS: I'll leave it there.  2 (Exhibit Gorsky-31 was marked for  3 identification)  4 BY MR. McCORMICK:  5 Q. Mr. Gorsky, I've handed you a document which  6 has been marked as exhibit 31. Take a minute to review  7 it and let me know when you're finished.  8 A. Okay.  9 Q. Mr. Gorsky, have you had a chance to review  10 Exhibit 31?  11 A. Yes, I have.  12 Q. Okay. And do you see that the third or the  13 fourth page of this document, which is Bates-labeled  14 632, is a form letter going out from you dated February  15 25th, 1998?  16 A. Yes.  17 Q. And the letter talks about reaching --  18 Risperdal reaching -- it's a fourth anniversary,  19 correct?  20 A. Correct.  21 Q. It's the number one prescribed antipsychotic  22 in the United States?  23 A. Yes.  24 Q. More than Haldol, more than Zyprexa, more than</p>
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<p>1 different discussion points.  2 So, for example, the conversation from Ronald  3 is on the marketing team, Ramy's providing a medical  4 perspective, and John is providing a medical or a  5 marketing-research perspective.  6 But going back to the earlier comment, any  7 final guideline on a medical or clinical matter would  8 be subject to final review by the medical department.  9 Q. But doesn't it concern you that somebody in  10 sales, I guess, which is John Jacoppi, would put the --  11 A. John Jacoppi was not in sales.  12 Q. Well, doesn't it concern you that John  13 Jacoppi, as a senior product director in CNS, would put  14 the idea whether Risperdal was easy to use or difficult  15 to use for clinicians ahead of whether the safety was  16 important?  17 MR. MURPHY: Objection to the form the  18 question, lack of foundation. Also, the question  19 is improper, as there has been a ruling by the  20 discovery master that questions posed "doesn't it  21 concern you" are inappropriate.  22 MR. McCORMICK: You can answer the  23 questions.  24 MR. MURPHY: If you can.</p>	<p>1 Seroquel, correct?  2 A. Yes.  3 Q. And on the second page it talks about common  4 adverse events. Do you see that?  5 A. Yes.  6 Q. And do you see any mention of prolactin or  7 hyperprolactinemia in there?  8 A. Not on this page. I think it would have been  9 on the next page with the package insert.  10 Q. Which is in about three-point font.  11 A. I'm assuming the package insert would have  12 been attached to this and that this was a minimized  13 copy of the package insert. The ones that -- the  14 regular package insert is very legible.  15 Q. But getting back to my question: On page 633,  16 which is the common adverse events attached as an  17 outside-the-package insert listed right there, do you  18 see prolactin or hyperprolactinemia?  19 A. No, I do not.  20 Q. Okay.  21 A. This document would have been reviewed  22 significantly -- first of all, I'm not sure if this was  23 actually sent out since this was a sample version;  24 secondly, in 1998 the side effects that would be</p>

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1 required to be called out by our regulatory and our  
 2 legal department were usually the most common, and I'm  
 3 not sure where prolactin rated; and third, they would  
 4 certainly have reviewed this prior to distribution to  
 5 ensure we were compliant with the appropriate  
 6 guidelines at that time.  
 7 Q. Mr. Gorsky, I have a printout here that says  
 8 your salary as the chief executive officer is  
 9 \$6,836,860. Is that correct?  
 10 A. I believe that's my total compensation as  
 11 noted in our proxy last year, yes. Approximately. I  
 12 don't know the exact number.  
 13 Q. And do you own shares of stock in Johnson &  
 14 Johnson?  
 15 A. Yes, I do.  
 16 Q. Do you own stock options in Johnson & Johnson?  
 17 A. Yes, I do.  
 18 Q. Do you have a 401K with Johnson & Johnson?  
 19 A. Yes, I do.  
 20 Q. And does that 401K include Johnson & Johnson  
 21 stock?  
 22 A. I believe it does contain some Johnson &  
 23 Johnson -- a portion thereof. I'm not absolutely  
 24 certain of that.

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1 Q. And when you say that your salary of \$6.8  
 2 million includes all your compensation -- and you're  
 3 right, it says "total calculated compensation" -- what  
 4 does that include?  
 5 A. There are several difficult components: There  
 6 is an ongoing salary that I receive biweekly, there is  
 7 an annual bonus, and then there are certain long-term  
 8 compensation elements as well. I believe also in that  
 9 figure are any other benefits at all that I receive  
 10 from the company.  
 11 Q. Any other what? I'm sorry.  
 12 A. Any other benefits that I receive from the  
 13 company.  
 14 Q. Mr. Gorsky, I should have asked you in the  
 15 beginning: Do you still live in Doylestown?  
 16 A. Yes, I do.  
 17 Q. And I believe the most recent version of your  
 18 CV says that you live at 252 Barrett Drive. Is that  
 19 still your current address?  
 20 A. No, that is not.  
 21 Q. What is your correct address?  
 22 THE WITNESS: Does this need to be a  
 23 matter of public record?  
 24 MR. MURPHY: What's the issue, Brian?

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1 MR. McCORMICK: The issue is if we're  
 2 going to subpoena Mr. Gorsky to appear at trial, I  
 3 want to know --  
 4 MR. MURPHY: You can direct the  
 5 subpoena to me.  
 6 MR. McCORMICK: And you'll accept  
 7 service?  
 8 MR. MURPHY: You can send it to me and  
 9 I'll deal with it.  
 10 MR. McCORMICK: Well, say you're going  
 11 to accept service or not.  
 12 MR. MURPHY: Send it to me and I'll  
 13 deal with it.  
 14 BY MR. McCORMICK:  
 15 Q. Again, Mr. Gorsky, I'm going to ask you for  
 16 your home address. Are you still in Doylestown?  
 17 THE WITNESS: Am I required to provide  
 18 my home address?  
 19 MR. MURPHY: No. We can take that up  
 20 later.  
 21 MR. McCORMICK: Okay.  
 22 BY MR. McCORMICK:  
 23 Q. Mr. Gorsky, are you an endocrinologist --  
 24 A. I'm sure you can -- I'm sorry. The reason I'm

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1 saying that is mostly because of safety reasons and a  
 2 matter of public record.  
 3 Q. It would have been a lot simpler -- that's  
 4 fine.  
 5 A. If counsel deems it's necessary later, I will  
 6 absolutely comply with your request.  
 7 Q. No big deal.  
 8 A. Okay. I just want to make sure I go on record  
 9 such that I'm not being difficult.  
 10 Q. Your attorney's being difficult, but that's  
 11 fine. Thank you, Mr. Gorsky: It's unusual to have a  
 12 witness that's easier than the attorney, but I'll go  
 13 with it.  
 14 Are you an endocrinologist?  
 15 A. No, I'm not.  
 16 Q. Are you a doctor?  
 17 A. No, I'm not.  
 18 Q. Are you a lawyer?  
 19 A. No, I'm not.  
 20 Q. Okay. You know the difference between right  
 21 and wrong. Is that correct, Mr. Gorsky -- am I correct,  
 22 Mr. Gorsky?  
 23 A. It's a difficult question to answer because  
 24 I'm not sure in what context. But in my definition of

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1 right and wrong, yes, I do.  
 2 Q. And if it's shown that Johnson & Johnson  
 3 marketed Risperdal to the children and adolescent  
 4 market when Risperdal was not approved by the FDA for  
 5 any children and adolescent use, would that be right or  
 6 wrong?  
 7 MR. MURPHY: Objection to the form of  
 8 the question, lack of foundation, and indeed calls  
 9 for speculation, but you may answer.  
 10 THE WITNESS: I can't answer that  
 11 question without significant speculation.  
 12 BY MR. McCORMICK:  
 13 Q. Well, if Johnson & Johnson marketed Risperdal  
 14 to the children and adolescent market when Risperdal  
 15 was not approved for a pediatric use by the FDA, would  
 16 that be illegal?  
 17 MR. MURPHY: Same objection.  
 18 THE WITNESS: Based on my knowledge and  
 19 my review of the information, I don't believe that  
 20 we -- that is, Johnson & Johnson or Janssen --  
 21 marketed the product in an inappropriate manner,  
 22 or promoted.  
 23 BY MR. McCORMICK:  
 24 Q. If Johnson & Johnson promoted Risperdal to the

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1 children and adolescent market when it was not approved  
 2 for any pediatric use by the FDA, would you consider  
 3 that a breach of the Johnson & Johnson Credo?  
 4 A. I would consider inappropriate promotion of  
 5 our products not consistent with the Johnson & Johnson  
 6 Credo.  
 7 But I'm not aware, other than very unique or  
 8 specific situations that can occur in a large  
 9 organization, I'm not aware of any concerted effort on  
 10 the part of Janssen or Johnson & Johnson to promote the  
 11 drug inappropriately.  
 12 But again, from time to time, as I mentioned  
 13 earlier, when informed that somebody stepped outside of  
 14 those guidelines, we would try to take appropriate  
 15 action -- appropriate disciplinary action.  
 16 Q. Mr. Gorsky, did Janssen or Johnson & Johnson  
 17 market or promote Risperdal to the child and adolescent  
 18 market before Risperdal was approved or indicated by  
 19 the FDA for pediatric use?  
 20 MR. MURPHY: Objection, asked and  
 21 answered. You may answer it again.  
 22 THE WITNESS: Based upon my  
 23 recollection and the documents I've seen, we  
 24 promoted it in an appropriate manner.

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1 BY MR. McCORMICK:  
 2 Q. Mr. Gorsky, do you know that back in March of  
 3 2012 Johnson & Johnson/State of Texas settled a case  
 4 where Texas alleged that Johnson & Johnson fraudulently  
 5 marketed its Risperdal antipsychotic drug for \$158  
 6 million?  
 7 MR. MURPHY: Objection to the form of  
 8 the question, lack of relevance. You may answer  
 9 if you can.  
 10 THE WITNESS: Yes, I'm aware of that.  
 11 BY MR. McCORMICK:  
 12 Q. Did you have to sign off on that settlement,  
 13 Mr. Gorsky?  
 14 A. No.  
 15 Q. Were you at all involved in any decisions  
 16 having to do with that settlement?  
 17 A. I participated in some of the discussions, but  
 18 I don't believe the final decision, no.  
 19 Q. Mr. Gorsky, do you know that a judge in  
 20 Arkansas recently ordered Johnson & Johnson to pay more  
 21 than \$1.2 billion in fines a day after a jury found  
 22 that the company had minimized or concealed the dangers  
 23 associated with Risperdal?  
 24 MR. MURPHY: Is that your question?

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1 MR. McCORMICK: Yes, that's my question.  
 2 MR. MURPHY: Objection, lack of  
 3 foundation. You may answer.  
 4 THE WITNESS: Yes, I am, and I know  
 5 that we're asking for a retrial and appealing that  
 6 decision.  
 7 MR. McCORMICK: All right, Mr. Gorsky.  
 8 Why don't we take a two-minute break, let me look  
 9 and see if I've got everything done, and then I'll  
 10 turn you over to Mr. Murphy.  
 11 THE VIDEOGRAPHER: Going off the record  
 12 at 5:29 p.m.  
 13 (A brief recess was taken)  
 14 THE VIDEOGRAPHER: Stand by, please.  
 15 Back on the record at 5:32.  
 16 MR. McCORMICK: Mr. Gorsky, I appreciate  
 17 your time today. I have no further questions.  
 18 THE WITNESS: Thank you.  
 19 MR. McCORMICK: Thank you.  
 20 MR. MURPHY: Briefly.  
 21 (Exhibit Gorsky-32 was marked for  
 22 identification)  
 23  
 24

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1 (EXAMINATION)  
 2 BY MR. MURPHY:  
 3 Q. Mr. Gorsky, I've just handed you what's been  
 4 marked as Exhibit 32. Do you recognize this document?  
 5 A. Yes, I do.  
 6 Q. Am I correct that that is a copy of a CV that  
 7 was used during your deposition in the Texas  
 8 litigation?  
 9 A. I don't recall specifically if it was that,  
 10 but based upon the file I would assume that's correct.  
 11 Q. But this is a copy of a CV that you had in use  
 12 at one time. Is that correct?  
 13 A. Yes, it is.  
 14 Q. If you look at the CV to refresh your  
 15 recollection, can you tell us when you began your  
 16 professional career at Janssen?  
 17 A. I started at Janssen in 1988.  
 18 Q. And what was the job title that you had at  
 19 that time?  
 20 A. I was a sales representative.  
 21 Q. At some point during your tenure at Janssen  
 22 did you become group director for psychiatry,  
 23 neurology, allergy, analgesics and oncology?  
 24 A. Yes, I did.

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1 Q. And during that period of time was Risperdal  
 2 the only Janssen product for which you had some major  
 3 responsibility?  
 4 A. No, there were multiple drugs at that time  
 5 that I had a responsibility for, of which Risperdal was  
 6 one. There was a drug, Reminyl, for Alzheimer's  
 7 Disease that was eventually approved. We had a drug  
 8 called Lubeluzole for stroke that did not make it to  
 9 market.  
 10 There were several other drugs in the  
 11 analgesia category, other drugs in the allergy  
 12 category, and I believe at that time we had two  
 13 emerging drugs in our oncology portfolio.  
 14 Q. During the course of the deposition Mr.  
 15 McCormick has used "marketing" and "sales," those  
 16 terms, with you. Can you explain whether there is a  
 17 difference between marketing and sales?  
 18 A. There is a very distinct demarcation between  
 19 the two functions: Marketing would involve a number of  
 20 activities ranging from coordination and alignment with  
 21 our clinical development programs to ensure that the  
 22 products were being developed in the appropriate areas  
 23 with the right information to get regulatory approval.  
 24 Marketing might also coordinate with our

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1 operations group for forecasting, marketing research,  
 2 and a number of other activities, where the selling  
 3 group was really focused on directly, especially the  
 4 field sales force, which sells to the representatives,  
 5 were focused on the promotion of our products  
 6 specifically in the field, and they were two very  
 7 distinct functions.  
 8 So, for example, marketing plans, some of  
 9 which we reviewed today, might include aspirational  
 10 elements. They might include programs that could  
 11 stretch over a period of several years and were really  
 12 focused on aligning the resources internally to ensure  
 13 the longer-term development of the product, where in  
 14 the field there were very specific promotional  
 15 guidelines that had to be followed consistent with the  
 16 product labeling.  
 17 Q. During your tenure at Janssen -- and I'm  
 18 speaking from the time that you became a sales rep  
 19 through the time that you ultimately became  
 20 president -- did you ever become familiar with the term  
 21 or the concept of pharmacovigilance?  
 22 A. Yes, I did.  
 23 Q. Did you ever have any direct responsibility in  
 24 the area of pharmacovigilance?

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1 A. No, I did not.  
 2 Q. Did you ever become aware or familiar with the  
 3 term outcomes research?  
 4 A. Yes, I did.  
 5 Q. Did you ever have any direct responsibility  
 6 related to outcomes research?  
 7 A. No, not direct responsibility. One caveat I  
 8 should put on that: Ultimately when I was president,  
 9 all the different functions would report in to me, but  
 10 within our construct, even in that our medical affairs  
 11 group had a very strong functional tie-in to our  
 12 overall medical department versus a company alignment.  
 13 Q. It's almost 5:45. We started at ten. I've  
 14 shown you one document; Mr. McCormick has shown you a  
 15 total of thirty-one, I believe.  
 16 My question is this: In the documents that  
 17 Mr. McCormick showed you there were a number of  
 18 business plans. Do you recall that?  
 19 A. Yes.  
 20 Q. Were any of those business plans, to your  
 21 knowledge, ever shared or disseminated to any  
 22 physician?  
 23 A. Not that I'm aware.  
 24 Q. When sales representatives called upon or

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1 detailed doctors with regard to Risperdal, what did  
 2 they use?  
 3 A. They're instructed to utilize the sales  
 4 brochures that were provided to them after review of  
 5 our regulatory and legal and compliance teams and  
 6 submitted to the FDA.  
 7 Q. During the course of this deposition were you  
 8 confronted or shown any sales aids used by sales  
 9 representatives detailing Risperdal?  
 10 A. Not that I can remember.  
 11 Q. At some point in 2003 you left Janssen and  
 12 took on responsibilities at Johnson & Johnson in  
 13 Europe. Is that correct?  
 14 A. Yes.  
 15 Q. Thereafter, you left Johnson & Johnson and  
 16 became employed by Novartis. Is that correct?  
 17 A. That's correct.  
 18 Q. And how long did you work at Novartis?  
 19 A. For approximately four years.  
 20 Q. You left Novartis and you came back to Johnson  
 21 & Johnson. Is that correct?  
 22 A. Yes.  
 23 Q. Why?  
 24 MR. McCORMICK: Objection, relevance.

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1 You can answer.  
 2 THE WITNESS: Because it's a company  
 3 that I feel strongly about. I think what we do --  
 4 with our credo for patients; for our employees in  
 5 the career opportunities; and the livelihood that  
 6 we provide the communities as well as our  
 7 shareholders -- does the right thing.  
 8 MR. MURPHY: I thank you for your time  
 9 and I have no further questions.  
 10 MR. McCORMICK: I just have three quick  
 11 questions, Mr. Gorsky.  
 12 (EXAMINATION)  
 13 BY MR. McCORMICK:  
 14 Q. You're proud of Johnson & Johnson, correct?  
 15 A. Yes, I am very proud of Johnson & Johnson.  
 16 Q. Johnson & Johnson currently is the defendant  
 17 in several cases involving the marketing and promotion  
 18 of Risperdal across the country. Do you know that?  
 19 A. Yes, I'm aware that we're in court in a number  
 20 of cases, as are, I believe, most of the companies that  
 21 were involved in one way or another in this particular  
 22 category.  
 23 Q. And I think Johnson & Johnson is a defendant  
 24 in the Omnicare case that we looked at earlier in the

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1 District of Massachusetts, correct? It's a Qui Tam, a  
 2 whistleblower case?  
 3 A. Yes, we are.  
 4 Q. And we've seen reports in the newspaper about  
 5 a federal whistleblower case that Johnson & Johnson or  
 6 Janssen has some involvement in because of Risperdal.  
 7 Is that correct?  
 8 MR. MURPHY: Objection to form. You've  
 9 seen it, or are you asking whether he's seen it?  
 10 BY MR. McCORMICK:  
 11 Q. I'm asking have you seen it. I'm sure we've  
 12 all seen it.  
 13 A. I'm not familiar with it specifically.  
 14 Q. Have you seen the fact -- do you know --  
 15 strike that. Johnson & Johnson is a defendant in a  
 16 group of personal-injury cases involving the drug  
 17 Levaquin. Do you know that?  
 18 MR. MURPHY: Objection, lack of  
 19 relevance. You may answer.  
 20 THE WITNESS: I'm not aware of the  
 21 exact status of our involvement with Levaquin.  
 22 BY MR. McCORMICK:  
 23 Q. Do you know there are a number of  
 24 personal-injury cases out there regarding the DePuy

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1 hip-replacement medical devices? Do you know that?  
 2 MR. MURPHY: Same objection. You may  
 3 answer.  
 4 THE WITNESS: Yes, I'm aware.  
 5 BY MR. McCORMICK:  
 6 Q. Johnson & Johnson appears to be a defendant in  
 7 any number of lawsuits right now. I'm sure that's just  
 8 a small number. Is the credo working, is my question.  
 9 MR. MURPHY: Objection to the form,  
 10 argumentative. You may answer.  
 11 THE WITNESS: In my opinion, yes, the  
 12 credo is working, and I think all of those cases  
 13 have their own unique circumstances.  
 14 I really can't comment on the details  
 15 other than what I'm aware of is that we've tried  
 16 to do what's best for patients, for physicians, as  
 17 well as our other credo constituents. That's our  
 18 goal and that's our mission.  
 19 BY MR. McCORMICK:  
 20 Q. How about the problems with the plants in Fort  
 21 Washington, Pennsylvania?  
 22 MR. MURPHY: Objection -- I'm sorry.  
 23 Q. That another problem, right, for Johnson &  
 24 Johnson?

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<p>1 MR. MURPHY: Objection to the form,  2 lack of relevance. You may answer.  3 THE WITNESS: I don't know what  4 relevance that has to this.  5 BY MR. McCORMICK:  6 Q. Well, it has relevance because Mr. Murphy  7 asked you what a great company Johnson &amp; Johnson was,  8 and you got to give a little speech about how great it  9 is. And that's fine, that's your belief.  10 MR. MURPHY: That's not what I asked.  11 him.  12 BY MR. McCORMICK:  13 Q. I'm asking you if there are certain aspects of  14 Johnson &amp; Johnson that the jury should also know that  15 are not that great and that may color their opinion in  16 response to your remarks about Johnson &amp; Johnson.  17 So, not that I have to explain the relevance,  18 but have there been problems with the -- I think  19 they're McNeil plants in Fort Washington, aren't they,  20 regarding the manufacture of baby Tylenol and baby  21 Motrin and things like that? Is that right?  22 MR. MURPHY: Objection to the form the  23 question. You may answer if you can.  24 THE WITNESS: Yes, there is a plant in</p>	<p>1 plant in Puerto Rico fairly recently, too, weren't  2 there? They were involved in another federal  3 whistleblower lawsuit? Is that correct?  4 MR. MURPHY: Objection to the form of  5 the question. Which is your question, counsel?  6 BY MR. McCORMICK:  7 Q. My question is, was there a problem with a  8 manufacturing plant in Puerto Rico recently?  9 A. I'm not aware of the second part of your  10 question. One of the plants in Puerto Rico, in Las  11 Piedras, was cited in the consent decree, and we're  12 currently remediating that and working on it with the  13 FDA as we speak.  14 Q. My last question is: If you know, and you may  15 not recall at this point, in the 2001 to 2000 -- well,  16 let's say 2000 to 2002 time frame, before you left  17 Janssen to go to Johnson &amp; Johnson in Europe, do you  18 recall what percent of gross sales yearly Risperdal was  19 related to the other products at Janssen?  20 A. No, I do not.  21 MR. McCORMICK: Okay. Thank you, Mr.  22 Gorsky.  23 THE WITNESS: Thank you.  24 MR. MURPHY: I have no further</p>
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<p>1 Fort Washington that had gone through issues  2 regarding the manufacturing processes, and we're  3 currently making significant investments, working  4 closely with the FDA to ensure that we get product  5 back out to our customers as soon as we can in a  6 very effective and safe manner.  7 BY MR. McCORMICK:  8 Q. You had to recall a vast amount of baby  9 Tylenol and baby Motrin and whatever else, I think,  10 they were manufacturing at that plant. Is that  11 correct?  12 A. We proactively took action in working with the  13 FDA to pull those back. And I think if you look at our  14 overall track record throughout our history, we've  15 always tried to act in a very responsible and  16 credo-consistent manner.  17 Q. That plant remains closed, doesn't it, in Fort  18 Washington?  19 A. The plant is currently being significantly  20 upgraded and redesigned, and according to public  21 record, we anticipate working with the FDA through the  22 latter part of 2013 and 2014 to bring it back online at  23 that time.  24 Q. I think there were problems at a manufacturing</p>	<p>1 questions.  2 MR. MERVIS: Nothing from me.  3 THE VIDEOGRAPHER: Stand by, please.  4 We're going off the record at 5:46 p.m. This is  5 the end of tape seven and concludes the deposition  6 of Alex Gorsky.  7 (The deposition was concluded at 5:46  8 p.m.)  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24</p>



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SIGNATURE PAGE

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I hereby acknowledge that I have read the foregoing transcript, and the same is a true and correct transcription of the answers given by me to the questions propounded, except for the changes, if any, noted on the Errata Sheet.

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SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

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1 CERTIFICATION  
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 5 I hereby certify that the testimony and  
 6 the proceedings in the foregoing matter are contained  
 7 fully and accurately in the stenographic notes taken by  
 8 me and that the copy is a true and correct transcript  
 9 of the same.  
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