

CUYAHOGA COUNTY, OHIO

CASE NO. 226838

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APPEARANCES:

Frank Giaimo, Esq.  
Scott Levey, Esq.  
Mondello & Levey  
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Cleveland, Ohio 44113  
(216) 241-3333,

On behalf of the Plaintiff;

Anna Moore Carulas, Esq.  
Mr. Joe Hebert  
Jacobson, Maynard, Tuschman & Kalur  
1001 Lakeside Avenue, Suite 1600  
Cleveland, Ohio 44114-1192  
(216) 736-8600,

On behalf of the Defendant.

ALSO PRESENT:

Mr. Robert Tanner

1                    EDWIN H. EIGNER, M.D., of lawful age,  
2                    called by the Plaintiffs for the purpose of  
3                    cross-examination, as provided by the Rules of  
4                    Civil Procedure, being by me first duly sworn,  
5                    as hereinafter certified, deposed and said as  
6                    follows:

7                    CROSS-EXAMINATION OF EDWIN H. EIGNER, M.D.

8                    BY MR. GIAIMO:

9                    Q. Doctor, again my name is Frank Giaimo from  
10                    Mondello & Levey and I represent Bob Tanner in  
11                    this matter. We're here today to take your  
12                    discovery deposition and I'll just say briefly  
13                    that I have a number of questions to ask you  
14                    about the matter, I will try to make those as  
15                    simple and understandable as I can. If you find  
16                    that I ask you one you don't understand, please  
17                    by all means tell me so, and I'll try to do  
18                    better.

19                    Otherwise, if you would, keep your answers  
20                    verbal, as the reporter can't transcribe  
21                    gestures, and uh-huh and nuh-uh and things like  
22                    that, and if you do us the favor of speaking up  
23                    so we can hear you way back here in the peanut  
24                    gallery.

25                    Fair enough?

1 A. Fair enough.

2 Q. Okay, good. Doctor, would you say your full  
3 name for the record, please?

4 A. Edwin Harvey Eigner.

5 Q. E-I-G-N-E-R?

6 A. That's correct.

7 Q. And we're here at your office address on South  
8 Green?

9 A. That's correct.

10 Q. 1611 South Green in South Euclid?

11 A. That's correct.

12 Q. Doctor, what is your home address, please?

13 A. 274 Landon, in Shaker Heights.

14 Q. And what's the zip there, please?

15 A. 44122.

16 Q. And with whom do you live there?

17 A. With my wife.

18 Q. And any children residing there with you?

19 A. Currently one.

20 Q. And who is that?

21 A. Nancy.

22 Q. And how old is she?

23 A. Nancy is 27, and we have a little dog.

24 Q. Doctor, do you have any other children other  
25 than your daughter Nancy?

1 A. I do.

2 Q. And how many other children do you have?

3 A. I have two other children.

4 Q. What are their names and ages, please?

5 A. Jane is 31 and James is 30.

6 Q. Doctor, how long have you lived at that address?

7 A. For 21 years, I believe.

8 Q. So roughly about 1971?

9 A. Roughly.

10 Q. And how long have you been living and practicing  
11 in Cleveland?

12 A. Well, I have been living in Cleveland since I  
13 went to medical school, in fact the year before  
14 that, which would be 1949, and then the next  
15 question, counselor, was what?

16 Q. And you have been practicing then in Cleveland  
17 since --

18 A. Since 1958.

19 Q. Doctor, your birthday is what, please?

20 A. September 2nd, 1927.

21 Q. I'm very slow on the math. Does that mean 67  
22 this year -- 65, isn't it?

23 A. 65 is correct.

24 Q. And what is your Social Security number?

25 A. I will have to look, counselor, believe it or

1 not.

2 Q. I don't need it. That's all right.

3 A. I would be happy to look.

4 Q. If you have it close at hand.

5 A. I do. 292-24-5160.

6 Q. Doctor, at the present date how is your health?

7 A. My health is excellent, thank you.

8 Q. Within the past five years have you been  
9 hospitalized for any reason?

10 A. I have not.

11 MS. CARULAS: Objection.

12 Q. And are you presently treating with any medical  
13 professional for any reason?

14 MS. CARULAS: Objection.

15 A. I am not.

16 Q. And have you within the last five years treated  
17 with a medical professional for any reason?

18 MS. CARULAS: Objection.

19 A. I'm sure I have. I'm trying to think of what,  
20 because it was not serious, but I'm sure I have  
21 seen a physician.

22 Q. Have you seen a physician for anything other  
23 than colds, flu, and garden variety sorts of  
24 things in the last five years?

25 A. I have not.

1 Q. Please wait until I finish the question, mostly  
2 because the poor reporter is trying very hard to  
3 get down what we both say.

4 A. Of course. I understand.

5 Q. Thank you. Doctor, you are an ophthalmologist?

6 A. That's true.

7 Q. And a surgeon as well?

8 A. That's true.

9 Q. You practice here at 1611 South Green?

10 A. That's true.

11 Q. And do you practice at any other address, sir?

12 A. I do not.

13 Q. Would you please tell me where you took your  
14 medical education?

15 A. Certainly. I went to medical school at Case  
16 Western Reserve University, which was at that  
17 time called Western Reserve University, medical  
18 school.

19 Q. And when did you graduate, doctor?

20 A. And I graduated in 1954, I had a year of  
21 internship at Mt. Sinai Hospital, I then had a  
22 National Institute of Health grant from the  
23 Bureau of Diseases and Blindness and spent three  
24 months at the Lancaster course for, in  
25 ophthalmology at Colby College, Maine, and the

1 rest of the year at Harvard Medical School and  
2 the Massachusetts Eye and Ear Infirmary.

3 I then came back to University Hospitals --

4 Q. Let me stop you a moment. The internship you  
5 mentioned, again, you said Mt. Sinai?

6 A. That's correct.

7 Q. And was that an internship in any field of  
8 medicine?

9 A. That was a rotating internship. I didn't  
10 finish.

11 Q. I'm sorry.

12 A. I then spent, finished my residency at -- took  
13 my residency at University Hospitals of  
14 Cleveland and finished in 1958.

15 Q. The residency then followed on the NIH grant?

16 A. That is correct.

17 Q. And the residency, doctor, did that concentrate  
18 in any particular field of medicine?

19 A. Yes, the residency was in ophthalmology.

20 Q. And after that, then, doctor, what, did you  
21 enter the private practice of ophthalmology?

22 A. I entered private practice, but continued on the  
23 teaching staff at University Hospitals and Mt.  
24 Sinai Hospital.

25 Q. Doctor, rather than belabor some of those

1 things, your attorney has been kind enough to  
2 furnish me with a copy of your C.V.

3 MR. GIAIMO: Judy, would you mark  
4 that as Plaintiff's 1.

5 - - - -

6 (Thereupon, Plaintiff's Exhibit 1,  
7 curriculum vitae, was mark'd for purposes of  
8 identification.)

9 - - - -

10 Q. There is a four page, eight and a half by eleven  
11 exhibit, which I hand you by way of your counsel  
12 and again I marked that Plaintiff's 1.

13 Would you look at that and let me know if  
14 that is an accurate copy of the latest C.V. that  
15 you have prepared?

16 A. It is except that the latest appointment is,  
17 instead of assistant clinical professor it  
18 should say associate clinical professor. Aside  
19 from that I think that's essentially the latest.

20 Q. And the correction you are making is as to the  
21 first page?

22 A. That's correct.

23 Q. And that's to a teaching position at Case  
24 Western?

25 A. That's correct.

1 Q. Doctor, if you don't mind, let me refer to the  
2 third and fourth pages and if you need to see  
3 this again, let me know.

4 There is a section that's headed  
5 publications and presentations. In looking that  
6 over myself, I could not determine whether any  
7 of the items under that heading were  
8 publications as opposed to presentations. Maybe  
9 I could hand that to you and you could let me  
10 know which of the items represent publications.

11 A. Laser photocoagulation was a publication, that's  
12 on the second sheet --

13 Q. I'm sorry, does it indicate there where the item  
14 was published?

15 A. No, but that would be at the American College of  
16 Surgeons, in 1968.

17 Self-induced Solar Retinitis in the  
18 American Journal of Ophthalmology is a  
19 publication.

20 I believe those are the publications.

21 Q. Okay. Do you have copies of either of those?

22 A. These are old publications. I probably do at  
23 home somewhere. I don't have them here.

24 Q. And as to the other items, the presentations on  
25 the list, doctor, would those be in the nature

1 of papers that were presented at the gatherings  
2 that are noted here on the C.V.?

3 A. There are two kinds. Some were presentations  
4 and some are where I chaired seminars on, in  
5 various teaching programs, locally or  
6 nationally.

7 Q. As to those items which involved presentation of  
8 papers, would you have copies of those that  
9 would be available anywhere?

10 A. Perhaps I do. I'm not positive. Perhaps I do.

11 Q. If I asked your attorney to check and show  
12 whether you have those, would you do that for  
13 me?

14 A. I would be pleased to.

15 Q. Thank you. Doctor, at the present time what is  
16 the composition of your practice, and by that I  
17 mean what kinds of patients do you see, what  
18 kinds of problems do you treat?

19 A. I'm a general ophthalmologist.

20 Q. Is there any particular kind of ophthalmological  
21 problem that you see more of to the exclusion of  
22 others?

23 A. I see pretty much the gamut of ophthalmological  
24 problems.

25 Q. And can you tell me what in the main, all the

1 kinds of problems that you see then?

2 A. I see people who need glass prescriptions, I see  
3 people who have external infections, I see  
4 people who have problems involving the cornea,  
5 lens, I see people having problems with retina,  
6 so we cover the general field of ophthalmology.

7 Q. Doctor, if you can, tell me what part of your  
8 practice involves the kind of complaint that Mr.  
9 Tanner came to you with, or a cataract  
10 complaint.

11 A. I don't understand the question.

12 Q. Okay. You do see patients who come to you with  
13 problems that you diagnose as being cataracts?

14 A. I do.

15 Q. Can you tell me what part of your practice  
16 involves seeing those kinds of patients?

17 A. What part of it? Those people who come in with  
18 cataracts are the people that I see, and the  
19 question is --

20 Q. You have told me that you see patients who come  
21 to you with problems that you diagnose as being  
22 caused by cataracts.

23 A. That's correct.

24 Q. Can you tell me at this time what part of your  
25 practice involves seeing that type of patient?

1 A. I don't understand what you are asking.

2 Q. Okay. I guess what I am asking is is treating  
3 patients with cataracts half of your practice or  
4 a small part of your practice or --

5 A. Oh, you are asking do I see a lot of patients  
6 who have cataracts?

7 Q. Sure.

8 A. Yes, I said a lot of patients who have  
9 cataracts.

10 Q. Can you tell me how much of your practice is  
11 devoted to that practice?

12 A. In numbers?

13 Q. Percentage, or whatever you feel comfortable  
14 with.

15 A. It's a hard statement to give accurately,  
16 counselor, and I want as best I can to be  
17 accurate. But everybody who is over 60 has some  
18 degree of cataracts and I see a lot of people  
19 over 60, so 30, 40, 50 percent of the people,  
20 perhaps, have some degree of cataracts.

21 Q. All right. Not to make too fine a point, but  
22 would that mean 30, 40, 50 percent of the  
23 practice in that broad area involving seeing  
24 people who have cataract complaints?

25 A. They may have cataracts and not have complaints.

1 Q. Okay. Doctor, can you tell me, let's see the  
2 last calendar year, 1991, how often did you  
3 perform the procedure that you performed on Mr.  
4 Tanner, that is to say, implantation of an  
5 artificial lens in a cataract patient?

6 A. Is the question how many cataract patients I  
7 operated on in one year?

8 Q. Yes.

9 A. Roughly 300.

10 Q. Would that have been through 1991?

11 A. It would.

12 Q. Okay. Was 1991 at all an exceptional year? Was  
13 it more than normal, less than normal?

14 A. It was not.

15 Q. So you would be seeing, or performing that  
16 procedure at about the same rate in 1992?

17 A. Probably, yes.

18 Q. And how long has it been the case that you have  
19 been doing that number of procedures in a year?

20 A. I would say seven, eight, nine, ten years.

21 Q. Okay. Doctor, you are licensed to practice  
22 medicine here in Ohio?

23 A. That's correct.

24 Q. And how long have you been so licensed?

25 A. Since 1954.

1 Q. Are you licensed in any states other than Ohio?

2 A. I am not.

3 Q. Doctor, have you ever had your license suspended  
4 or revoked?

5 A. I have not.

6 Q. Have you ever been the subject of a disciplinary  
7 proceeding of any sort?

8 A. I have not.

9 Q. Are you Board certified, doctor, in  
10 ophthalmology?

11 A. I am.

12 Q. When did you become Board certified?

13 MS. CARULAS: It is probably on the  
14 C.V.

15 MR. GIAIMO: Maybe on the wall as  
16 well.

17 THE WITNESS: May I look at the  
18 wall?

19 MR. GIAIMO: Sure. I see the  
20 certificate, does it say 1960?

21 A. October 7th of 1960 yes.

22 Q. And was that the first time that you became  
23 Board certified in your specialty?

24 A. That's correct.

25 Q. Does that certification have a particular term

1 or length?

2 A. It does not.

3 Q. In other words, it does not expire?

4 A. That's correct.

5 Q. Have you ever been retested or reexamined in the  
6 intervening 30-some years?

7 A. I have not.

8 Q. Has that certification ever been suspended or  
9 revoked?

10 A. It has not.

11 Q. Doctor, in medical school, were you ever on  
12 academic probation or discipline for any reason?

13 A. I was not.

14 Q. And --

15 MS. CARULAS: Ever sent out in the  
16 hall in grade school?

17 THE WITNESS: I should have.

18 MS. CARULAS: Go ahead.

19 MR. GIAIMO: I think they probably  
20 should have put me out there, too.

21 Q. Doctor, have you ever been convicted or pled  
22 guilty of a felony or misdemeanor involving  
23 dishonesty?

24 A. I have not.

25 Q. Doctor, have you ever been the Defendant in a

1 medical malpractice suit before?

2 MS. CARULAS: Objection. You can  
3 go ahead and answer.

4 A. I have.

5 Q. And how many times have you been sued before,  
6 not including this matter?

7 MS. CARULAS: Objection.

8 A. Twice.

9 Q. And if we can take the most recent in time, do  
10 you remember what the allegation was in that  
11 matter?

12 MS. CARULAS: I object to all these  
13 questions.

14 MR. GIAIMO: Understood.

15 A. The allegation was that the resulting vision was  
16 not as good as the suer thought it should be,  
17 period.

18 Q. And when was that suit pending roughly, doctor?

19 A. Must have been 10 or 15 years ago.

20 Q. And where did that suit, where was it brought?

21 A. In Cleveland.

22 Q. And what was the result?

23 A. Arbitration said zero.

24 Q. Verdict for yourself?

25 A. That's correct.

1 Q. Do you remember the name of the plaintiff in  
2 that case?

3 A. No, I don't.

4 Q. You were sued another time before that, you  
5 said?

6 A. Correct.

7 Q. And roughly when was that?

8 A. 15, 18 years ago.

9 Q. And what was the allegation in that case?

10 A. Same as I mentioned.

11 Q. As to the first one that you mentioned for me,  
12 doctor, you said the plaintiff was of the  
13 opinion that his or her vision was not as good  
14 as they thought it ought to be, did you perform  
15 a surgical procedure in that case?

16 A. I did.

17 Q. And what was the procedure that was performed,  
18 doctor?

19 A. Cataract extraction with intraocular lens  
20 implantation.

21 Q. Same procedure as we are talking about in this  
22 case?

23 A. No, because it was different that many years  
24 ago.

25 Q. There was some difference in the technique at

1           that time?

2       A.   That's correct.

3       Q.   If you can tell me in a very broad way, how was  
4           the procedure or technique different then?

5       A.   In that case, an anterior chamber lens was used.

6       Q.   As opposed to a posterior chamber lens as in  
7           this case?

8       A.   That's correct.

9       Q.   Was there any other difference?

10      A.   Essentially not.

11      Q.   And do you recall what the alleged result was  
12           this that first matter?

13      A.   Alleged?

14      Q.   Yes. Well, in other words, you said to me the  
15           plaintiff claimed that his or her vision was not  
16           as good as they expected that it should be.  
17           What did they claim was the bad result?

18                   MS. CARULAS: I don't quite  
19           understand the question.

20      A.   Please ask the question in a way that I can  
21           understand it. I don't understand it.

22      Q.   Maybe to put it a little different way, I assume  
23           that they alleged that in some manner you  
24           performed negligently.

25      A.   I don't recall that statement.

1 Q. So you couldn't tell me what the allegation, if  
2 any, of negligence was in that matter?

3 A. That's correct.

4 Q. Or to put it another way, can you recall for me  
5 what the plaintiff thought you did wrong in that  
6 matter?

7 A. The plaintiff thought the vision should have  
8 been better than the vision ended up.

9 Q. Okay. Nothing you recall about what they say  
10 you should have done or should not have done?

11 A. The patient wouldn't tell me what I should have  
12 done or shouldn't have done.

13 Q. I'm sorry, the patient didn't tell you?

14 A. No.

15 Q. Okay. In the second matter that you mentioned  
16 for me, doctor, what kind of treatment or  
17 procedure did you render in that?

18 A. Cataract extraction with intraocular lens  
19 implantation.

20 Q. Again, similar to the procedure under discussion  
21 in this case except again was that an anterior  
22 chamber lens implantation?

23 A. It was.

24 Q. Otherwise similar procedure?

25 A. Correct.

1 Q. Okay. Do you remember what the allegation was  
2 in that matter, doctor?

3 A. No, but it was similar.

4 Q. In that one you can't tell me what it was the  
5 plaintiff thought that you should have done, or  
6 what you did wrong?

7 A. It's essentially the exact statement that I made  
8 before relative to the first suit.

9 Q. Do you remember what the result was?

10 A. I do in both.

11 Q. In the second case?

12 A. I remember the result in both. The vision was  
13 20/30 in both.

14 Q. That's interesting. And the result of the  
15 second suit?

16 A. Arbitration, zero.

17 Q. Award, again, for you, the Defendant?

18 A. That's correct.

19 Q. Doctor, do you remember any others other than  
20 the two that you mentioned?

21 A. There were no others to my best knowledge.

22 Q. Doctor, in the first matter that you mentioned,  
23 who was your counsel?

24 MS. CARULAS: If you remember.

25 A. I'm trying -- I believe it was the attorney who

1 is now your, the counsel with your  
2 organization.

3 MS. CARULAS: Bob Maynard?

4 A. Bob Maynard. I think it was Bob Maynard.

5 Q. And that was the first one?

6 A. I think he may have been counsel for both.  
7 That's my best recollection, and that may not be  
8 accurate but I think it is.

9 Q. Doctor, is either of those matters that you have  
10 referred to -- in looking at the index here in  
11 the county I have come up with the name of  
12 Sidoti versus Eigner in '85, apparently at least  
13 so far as I could determine from the file, an  
14 allegation of an eye hemorrhage from an  
15 implant. Does that sound familiar?

16 A. The name sounds familiar and it is very possible  
17 that this is what you are referring to.

18 Q. Is that matter, can you tell me, is that the  
19 same matter as either of the two that you have  
20 described for me?

21 A. I really can't tell you because I don't know. I  
22 don't remember.

23 Q. And again, sometimes it is difficult to tell  
24 from these -- go ahead.

25 A. It doesn't strike a bell.

1 Q. That one had the entry "settled with prejudice  
2 at Plaintiff's costs." Do you remember settling  
3 a malpractice matter?

4 A. I know the arbitration was zero. If there was a  
5 settlement -- there may have been, but certainly  
6 the arbitration I remember was zero.

7 Q. And doctor, is either of the matters that you  
8 have mentioned to me, do you recall a Bruder  
9 versus Eigner?

10 A. I remember Bruder, yes, that is correct.

11 Q. Is that either of the two matters that you  
12 described to me?

13 A. Yes, it was. That is one of the two I  
14 remembered.

15 Q. That is the more recent one, or older case?

16 A. I can't tell you that.

17 Q. And again looking at kind of an incomplete  
18 record, it appears there was an allegation of  
19 nerve damage, poor vision, resuturing of the  
20 left eye.

21 Does that refresh your recollection at all  
22 about what that matter was about?

23 A. I have a strong recollection of the arbitration,  
24 but the rest of it I don't.

25 Q. And then I had a Fred Herman versus Eigner.

1 About 1982. Does that ring a bell?

2 A. My best recollection is that was the second case  
3 and that Sidoti was not.

4 Q. So the second one you have described to me  
5 today.

6 A. That's correct.

7 Q. Now, again, I had seen a notation there, as you  
8 had mentioned, to arbitration, award for the  
9 Defendant. But then I noticed an entry saying  
10 settled and dismissed at Defendant's costs; was  
11 there a settlement of that, doctor? Were there  
12 dollars paid out on that matter?

13 A. There may have been. There may have been.

14 Q. Do you have a recollection of how that was  
15 settled?

16 A. I do not.

17 Q. And I showed that as a rupture of the surgical  
18 site in a lens implant. Does that sound  
19 familiar to you?

20 A. As I mentioned before, I don't remember that. I  
21 don't remember the exact specific incident. It  
22 is too many years.

23 Q. Doctor, you are insured at this time by PIE?

24 MS. CARULAS: Objection.

25 A. That's correct.

1 Q. And who was your carrier at the time of the two  
2 lawsuits that you and I discussed earlier?

3 A. God help me.

4 MS. CARULAS: Objection, if you  
5 recall.

6 A. He hasn't and I don't.

7 Q. And Jim Malone, doctor, does that ring a bell in  
8 terms of your counsel for any of those prior  
9 matters?

10 A. Jim Malone is my next-door neighbor, but I don't  
11 recall if he defended me or not.

12 Q. Doctor, do you remember who the experts were for  
13 you, the Defendant, in either of those matters?

14 A. I do not.

15 Q. Doctor, have you ever served as an expert  
16 witness in an opthalmological malpractice  
17 matter?

18 A. I have.

19 Q. And how often have you served as an expert?

20 A. Maybe once a year in the last ten or fifteen  
21 years, perhaps. Or maybe less than that. That  
22 is a little more. Probably less than that.

23 Q. Less than ten or less than fifteen?

24 A. Let's say I have served as an expert probably  
25 less than 10 or 15 times. Somewhere in that

1 range.

2 Q. And in that range of 10 or 15 times, are those  
3 matters in which you have not only reviewed a  
4 file but written a report and given some  
5 testimony?

6 A. That's correct.

7 Q. And how many of those matters have you actually  
8 testified?

9 A. Testified means appeared in Court?

10 Q. Well, yes. Thank you, I would have broken that  
11 down. Either by giving deposition testimony or  
12 appearing at trial.

13 A. Certainly I have given, more often I have been  
14 asked to give depositions and perhaps I have  
15 appeared in Court, oh, five, six times or less,  
16 something in that range.

17 Q. And how many times have you been deposed as an  
18 expert in medical, rather opthalmological  
19 malpractice matters?

20 A. Probably once or twice a year, as I mentioned  
21 before.

22 Q. Do you keep any records of those, doctor?

23 A. Somewhere I keep a record of those. Of the  
24 depositions? Check that statement. That's not  
25 correct. Do I keep a record of my having been

1           deposed?

2       Q.   Let's say do you have a record of you having  
3           functioned as an expert in an ophthalmological  
4           malpractice case.

5       A.   I'm sure somewhere in our records there would be  
6           some record of it.

7       Q.   And when you have functioned as an expert,  
8           doctor, have you functioned for any particular  
9           insurance carrier or any particular law firm  
10          that you can recall?

11      A.   Yes, I have functioned for any number of  
12          different law firms.

13      Q.   Can you recall the names of any of them?

14      A.   If you would give me some help I could say yes  
15          or no.

16      Q.   You mean names of some law firms?

17      A.   Yes.

18      Q.   Well, if you can't remember, that's fine,  
19          doctor.

20               Can you remember any of the Defendant  
21           ophthalmologists on whose behalf you have  
22           testified?

23      A.   The reason for my hesitation, it's been some  
24          time since I have. I believe Dr. Jim Rambasek.

25      Q.   Can you tell me how to spell his name?

1 A. R-A-M-B-A--S-E-K.

2 Q. Do you recall, doctor, in what place that  
3 lawsuit was pending?

4 A. It would be in Cleveland, and offhand I can't  
5 give you any other tips.

6 Q. And have you appeared in an ophthalmological  
7 malpractice suit as an expert for the plaintiff?

8 A. I have not.

9 Q. And have you ever been asked to review a matter  
10 for a plaintiff?

11 A. I have.

12 Q. Does that -- I'm sorry.

13 A. Your question was -- would you repeat the  
14 question so I can give you an accurate answer?

15 Q. Hopefully what I was asking was whether you had  
16 ever been asked to review an ophthalmological  
17 malpractice matter for a plaintiff.

18 A. I have not been asked to do that.

19 Q. Have you ever been involved in an  
20 ophthalmological malpractice matter involving  
21 Dr. Howard Siegel?

22 A. Have I ever been in an ophthalmological  
23 malpractice situation involving him? I have.

24 Q. And how many times has that occurred?

25 A. It has occurred many times when I have been

1 asked to be an expert when Dr. Siegel wrote a  
2 report relative to the case.

3 Q. Can you give me any indication as to how often  
4 you have been involved in matters where  
5 Dr. Siegel has also been an expert in the case?

6 A. Most of the depositions I have given, let's say  
7 a number of the depositions I have given and a  
8 number that I gave you involved Dr. Howard  
9 Siegel's opinions.

10 Q. Doctor, can you in any way put a number on the  
11 number of those occasions?

12 A. I think "most" is the best I can do. Most of  
13 those cases that involved, at least involved  
14 malpractice, involved Howard Siegel.

15 Q. And is there anything you can tell me that would  
16 identify any of those particular matters, by  
17 name of doctor or plaintiff or any such thing?

18 A. I don't think I can do better than I have done.

19 Q. Okay. Other than any involvement you might have  
20 through those kinds of matters, doctor, are you  
21 acquainted with Dr. Siegel?

22 A. I am.

23 Q. And how long have you been acquainted with  
24 Dr. Siegel?

25 A. I would guess for about 25 years or so.

1 Q. Doctor, how long have you been insured by PIE?

2 MS. CARULAS: Objection. If you  
3 know.

4 A. I don't really know but I would guess it is  
5 pretty much since their inception. Close to  
6 it. However long that's been.

7 Q. Do you recall who your carrier was before that?

8 A. You asked me that before and I don't.

9 Q. I'm sorry. And can you tell me what the reason  
10 was that you changed carriers?

11 MS. CARULAS: Objection.

12 A. I think they do a very fine job and I am  
13 impressed with them and the counsel they  
14 provide.

15 Q. Doctor, when did you first see the plaintiff in  
16 this matter, Bob Tanner?

17 A. I am going to refer to my records. May I do  
18 that?

19 Q. Absolutely. Doctor, forgive me if I might  
20 backtrack for a moment.

21 Have you ever been involved in an  
22 ophthalmological malpractice matter where  
23 Dr. Howard Siegel was the Defendant?

24 A. I have not. That I recall.

25 Q. You told me that you were acquainted with

1 Dr. Siegel and told me how long you had been  
2 acquainted with him. Do you have a social  
3 relationship with him?

4 A. I don't.

5 Q. Do you have any ongoing professional  
6 relationship with him?

7 A. I don't.

8 Q. I'm sorry. You were going to tell me when you  
9 had first seen Mr. Tanner when I interrupted  
10 you.

11 A. I first saw Mr. Tanner, according to my record  
12 which I have in my hand, on September 21st of  
13 1990.

14 Q. And do you know how it was that he had came to  
15 you at that time?

16 A. He came in for an examination.

17 Q. And what if any were his complaints at that  
18 time, doctor?

19 A. He said his vision, and I am interpolating from  
20 my records, I don't have the statement, he  
21 wondered if his vision was okay, and I checked  
22 him.

23 Q. I am going to get my copy of your chart out.  
24 What kind of examination did you perform on him  
25 on that day, doctor?

1 A. I did the routine examination I do for pretty  
2 much anybody that I see.

3 Q. And what does that routine examination include?

4 A. It includes checking the neurologic function,  
5 checking the extraocular muscles, checking the  
6 anterior and posterior segment, doing an  
7 intraocular pressure test, and doing a  
8 refraction.

9 Q. And did you do any other examination or testing  
10 of Mr. Tanner on that day?

11 A. I don't think so.

12 Q. What were your findings on examination, doctor?

13 A. I found that Mr. Tanner had less than ideal  
14 vision in his left eye, and I found that the  
15 vision in the right eye was fairly good. This  
16 is with best correction.

17 Q. And can you quantify those findings for me?

18 A. Vision in the right eye with best correction was  
19 20/20 minus, and vision in the left eye with  
20 best correction was 20/30 plus.

21 Q. Did you make any other findings as a result of  
22 your exam on that day?

23 A. Yes, I found that there were cortical spokes in  
24 the lens of the left eye. On the lens of both  
25 eyes.

1 Q. And what do you mean by cortical spokes?

2 A. Imperfection of the lens inside the eye.

3 Q. How do those relate, if they do, to the  
4 diagnosis of cataracts?

5 A. They are cataracts.

6 Q. Forgive me, you said you made that diagnosis  
7 with regard to only one of his eyes?

8 A. No, both.

9 Q. Both of his eyes. All right. Did you form an  
10 opinion at that time as to which eye had the  
11 more advanced condition?

12 A. I did.

13 Q. And which eye was that?

14 A. The left.

15 Q. Did you make any other findings on examination?

16 A. Did I make any other findings?

17 Q. Yes.

18 A. Well, I did the rest of the examination and I  
19 found whatever I looked at as I examined.

20 Q. Okay. I guess what I am really asking is are  
21 there any other positive findings or any other  
22 findings that would indicate the need for  
23 ophthalmological treatment?

24 A. There were not.

25 Q. Doctor, you mentioned that you found cortical

1 spokes in both eyes and you said for me that the  
2 left eye was in a more advanced state than the  
3 right eye. Do you have any means of quantifying  
4 the condition of either or both of those eyes?

5 A. Yes.

6 Q. And how would you have done that at that time?

7 A. The vision in the right eye was 20/20 minus, and  
8 the vision in the left 20/30 plus.

9 MR. GIAIMO: Would you mark this as  
10 Plaintiff's 2?

11 - - - -  
12 (Thereupon, Plaintiff's Exhibit 2, office  
13 records was mark'd for purposes of  
14 identification.)

15 - - - -  
16 Q. I have marked a multi-page exhibit as  
17 Plaintiff's 2 and I believe that to be a copy of  
18 your chart on Bob Tanner, doctor.

19 Would you when your counsel is finished  
20 looking at that look at that, and let me know if  
21 that's the case?

22 MS. CARULAS: This is something  
23 that we provided you.

24 MR. LEVEY: We just want to make  
25 sure it is the whole thing.

(Thereupon, a discussion was had off  
the record.)

Q. Doctor, you and your counsel had a chance to  
look through Plaintiff's 2 and I think the  
result is that that's an accurate copy of your  
chart on Mr. Tanner?

A. I believe so.

Q. Now, forgive me, but you have in addition to  
what you compared my exhibit to, you have a  
folder in your lab?

A. I do.

Q. Does that contain items other than what we have  
looked at here and marked as Plaintiff's 2?

A. It does.

Q. May I see that, please?

A. (Witness complied.)

Q. Thank you. What I would like to do if you don't  
mind is take a look at that later, and not while  
you are sitting here. I don't want to take up  
your time looking through that. But generally,  
what appears there are your computations as to  
the power of the artificial lens implanted in  
March of '91?

1 A. That's correct.

2 Q. And then of course correspondence from my  
3 office.

4 A. That's correct.

5 Q. Returning then to our discussion of September of  
6 '90, and to your notes, there is a notation  
7 there in approximately the center of your chart  
8 on that date that the "cortical spokes only"?

9 A. That's correct.

10 Q. What does that mean, doctor?

11 A. That means that there is some blur in the lens  
12 inside the eye.

13 Q. And then the notation "EE wait"?

14 A. That means I suggested to Mr. Tanner that  
15 nothing -- that surgery is not indicated at this  
16 time.

17 Q. And do you remember back to that point, doctor,  
18 if you can remember back to that point, can you  
19 tell me why you had advised Mr. Tanner that  
20 surgery was not indicated at that time?

21 A. I can't remember back to that date but I know  
22 with vision, vision that good, we would not  
23 recommend cataract surgery.

24 Q. And by vision that good, you are talking about  
25 the measurements that you described to me

1 previously?

2 A. That's correct.

3 Q. Apparently there was a -- strike that. There is  
4 a notation, then, to the, roughly the right of  
5 center, meds, colon, and I can't read the rest  
6 of the writing. Can you interpret that for me?

7 A. There is a statement that says "medications, ten  
8 days of Prednisone." Apparently Mr. Tanner had  
9 been taking it.

10 Q. That was not a medication that you prescribed?

11 A. That's correct.

12 Q. And in other words, that was in the manner of  
13 history that he gave to you?

14 A. That's correct.

15 Q. Doctor, on the right hand side of that note,  
16 under the notation "glass R.X.," there are some  
17 numerical notations. Did you prescribe lenses  
18 for Mr. Tanner on that day?

19 A. I did.

20 Q. And is that a prescription for spectacles or  
21 contact lenses?

22 A. You have to tell me what you are referring to.

23 Q. I am looking at the numerical notations on the  
24 box.

25 A. No. That is a glass prescription that

1 Mr. Tanner came in with.

2 Q. So that was not a prescription that you made --

3 A. That's correct.

4 Q. -- but rather describes the spectacles that he  
5 was using at that time?

6 A. That's correct.

7 Q. And then your notation, OD disc zero, OS disc  
8 zero?

9 A. Yes.

10 Q. What do those notations mean?

11 A. That the nerve is normal.

12 Q. And the notation with a check, "all okay," and I  
13 can't read the next item.

14 A. One year is the next notation.

15 Q. And what does that mean, doctor?

16 A. That unless there is some unusual problem,  
17 Mr. Tanner should be seen probably in a year.

18 Q. Did you make that recommendation to him, then?

19 A. I did.

20 Q. And the last notation with regard to Dr. Suppes  
21 and Dr. K?

22 A. That a letter was sent explaining my findings to  
23 the doctors that take care of Dr. Tanner.

24 Q. Forgive me, I didn't notice, is that letter part  
25 of your chart?

1 A. Probably not.

2 Q. Would you ordinarily keep that kind of item?

3 A. Probably not.

4 Q. Doctor, when is the next time that you saw Mr.  
5 Tanner?

6 A. On February 26th of 1991 I saw Mr. Tanner.

7 Q. And at that time, did he make known to you why  
8 he had come to see you?

9 A. I made a note that this is a cataract check.

10 Q. Did he come in with cataract-like complaints?

11 A. He did.

12 Q. And what complaint did he make to you?

13 A. He had difficulty reading and he had difficulty  
14 seeing with his glasses.

15 Q. Did you perform an examination then on that  
16 date?

17 A. I did.

18 Q. And what kind of examination did you perform?

19 A. Essentially the same kind that I did, with some  
20 additions.

21 Q. And what were the additional examinations?

22 A. I used something called a light that would be  
23 similar to what the sun would be like if the  
24 patient were outside, it is called BAT, a bat.

25 Q. And any other additional testing not performed

1 in September of '90?

2 A. Yes.

3 Q. And what else did you perform --

4 A. I did something called a potential acuity meter  
5 reading.

6 Q. A potential acuity?

7 A. A potential acuity meter reading.

8 Q. And did you do any other testing that was  
9 different on this date, doctor?

10 A. I did.

11 Q. And what else?

12 A. Better yet, my technicians did, and they  
13 measured the curve of the eye, and the size of  
14 the eye.

15 Q. Now, are you differentiating that examination  
16 from the examination that you performed?

17 A. I am.

18 Q. So all of the things that you have told me up  
19 until that point were examinations that you  
20 performed?

21 A. No, the BAT test was done by a technician.

22 Q. And was any other besides the BAT and the two  
23 measurements that you described to me?

24 A. Yes, the original vision probably was taken by a  
25 technician.

1 Q. Do you know who the technician was, doctor?

2 A. I don't.

3 Q. Your record does not include that information?

4 A. No, it does not.

5 Q. At that time, doctor, how many technicians did  
6 you have here in your office? Just roughly?

7 A. Nine.

8 Q. And what kinds of skills or certifications if  
9 any do those technicians have?

10 A. They were all certified ophthalmic technicians.

11 Q. And is that sort of technician licensed by the  
12 State of Ohio?

13 A. No.

14 Q. Did they come to you with any specific academic  
15 credentials?

16 A. Yes.

17 Q. And what is that?

18 A. They pass an examination prescribed by the  
19 American Academy of Ophthalmology and they have  
20 their own organizations for certification.

21 Q. And what are they permitted to do?

22 A. Do the technical testing for the  
23 ophthalmologist.

24 MR. GIAIMO: Off the record for a  
25 second.

(Thereupon, a discussion was had off  
the record.)

Q. Doctor, these technicians that you described to me are employed by your group?

Q. And they work for you alone?

Q. I'm sorry, editorial "you" as the employer, they work for your group, and the name of your group is what?

Q. So the technicians you described to me work for that entity?

Q. They work for that entity alone?

Q. And they do whatever types of examination or measurement sorts of tasks the doctors in the group assign to them?

Q. It is the doctors in the group that oversee the manner in which they do their work?

1 Q. I take it, doctor, that you rely on the data  
2 that these technicians provide to you?

3 A. That's true.

4 Q. If you can remember back that far, doctor, have  
5 you described to me all of the examinations  
6 performed on Mr. Tanner on February the 26th of  
7 '91?

8 A. I certainly can't recollect, but I will refer to  
9 my report.

10 Q. So you don't have an independent recollection of  
11 the examination performed on that date?

12 A. I would not have an independent recollection of  
13 all the examinations performed.

14 Q. Have you recounted for me all the examinations  
15 that the records indicate were performed on that  
16 date?

17 A. Let me review them to make sure that I have  
18 everything here.

19 Q. Let me stop you. If you are going to review  
20 those orally, would you indicate to me whether  
21 you performed the examination or your  
22 technician?

23 A. Yes.

24 Q. Please do that.

25 A. Vision was taken, after refraction by me, a

1 split lamp examination was done by me, BAT test  
2 was done by the technician, the PAM test was  
3 done by the technician, the K readings were done  
4 and the echo readings were done by the  
5 technician. I think that covers it.

6 Q. Okay. Doctor, was there any difference in the  
7 visual acuity in either of Mr. Tanner's eyes as  
8 you measured that day from the examination in  
9 September of '90?

10 A. There was.

11 Q. And what was the difference?

12 A. The right eye now had 20/50 vision while the  
13 left eye had 20/30 vision.

14 Q. And in laymen's terms, what kind of difference  
15 is that?

16 A. A two-line or so difference of vision one eye to  
17 the other.

18 Q. Doctor, on the exams that you described to me,  
19 were there any findings that you can relate to  
20 me?

21 A. There are always findings when we do an  
22 examination, yes. There were findings.

23 Q. And again I am referring to positive findings,  
24 or findings that would indicate a need for  
25 treatment?

1 A. Yes.

2 Q. And what were those?

3 A. That the cortical opacity in the right eye had  
4 increased more, and that it explained the visual  
5 decrease.

6 Q. Any other findings indicative of treatment?

7 A. Any other findings indicative of treatment? I  
8 don't know what that means.

9 Q. Let me try it a little differently. You  
10 described the BAT test to me as having been  
11 performed. What findings if any resulted from  
12 that test?

13 A. That when the right eye was tested with the BAT  
14 test, that with the brighter light, vision  
15 decreased to 20/200.

16 Q. And what does that finding indicate?

17 A. That vision in sunlight is very problemed.

18 Q. And you indicated the split lamp test was done?

19 A. Yes.

20 Q. Any findings on that exam?

21 A. Yes. Cortical opacity was found.

22 Q. Doctor, does your chart for that date indicate  
23 what measurements were taken by the technician?

24 A. It does.

25 Q. And what measurements were taken by the

1 technician?

2 A. Keratometer readings were made, and an  
3 ultrasonic measurement was made.

4 Q. The ultrasonic measurement, that's a measurement  
5 of the axial length of the eye?

6 A. That's correct.

7 Q. And is that shown as echo, OD, 25.73?

8 A. It is.

9 Q. Does that tell me that the axial length measured  
10 at that time of the right eye was 25.73  
11 millimeters?

12 A. That's correct.

13 Q. Doctor, what sort of instrument or machine is  
14 used to make that measurement?

15 A. A machine that's an ultrasonic device is used to  
16 measure the eye, and translated into  
17 millimeters.

18 Q. How many of those devices did you have here in  
19 the office at that time, February of '91?

20 A. The same number we have now. One.

21 Q. Was that in good working order in February of  
22 '91?

23 A. It was and still is.

24 Q. How often do you have that item serviced?

25 MS. CARULAS: If you know.

1 A. I really don't know. It is a job done by people  
2 other than myself.

3 Q. Doctor, do you know how long that particular  
4 instrument has been here in this office?

5 A. I don't.

6 Q. And I'm sorry, did you tell me what the name of  
7 the instrument is?

8 A. I didn't.

9 Q. And what is that?

10 A. I don't know.

11 Q. And again, I'm not looking for the brand name,  
12 but what the instrument is called. A generic  
13 name for me.

14 A. Let me just think, counselor. It is an  
15 ultrasonogram. That's as good a name as I can  
16 give you. There may be a better one.

17 Q. Do you know whether the instrument is calibrated  
18 from time to time?

19 A. It is when it's made, period.

20 Q. Do you know whether the instrument needs to be  
21 recalibrated at any time after it is  
22 manufactured, doctor?

23 A. I do not believe it does.

24 Q. So would I be correct that the instrument here  
25 in your office to your knowledge has not been

1 calibrated or recalibrated, let's say in the  
2 last --

3 A. I really don't know that answer.

4 Q. Is there a particular person in the office who  
5 has charge of that machine?

6 A. I don't know.

7 Q. And is there a particular person in the office  
8 who operates that machine?

9 A. All technicians operate it.

10 Q. The exam you described to me, doctor, as having,  
11 first of all, your --

12 A. I have to add to that.

13 Q. Certainly.

14 A. That machine has been used over the years and  
15 continues to be, and has been used with great  
16 efficiency.

17 Q. Doctor, do you remember the -- strike that.  
18 Other than what you have been able to tell me by  
19 referring to your chart, doctor, do you have  
20 independent recollection of the exam that you  
21 administered to Mr. Tanner on February 26th of  
22 '91?

23 A. I don't have an independent recollection, no.

24 Q. As to that part of the exam which you performed,  
25 can you tell me ordinarily how long you spend in

1           that kind of exam?

2       A.   I would guess 15, 20 minutes.

3       Q.   And that part of the exam that was performed by  
4           the technician, how long does that usually take?

5       A.   I would guess 10, 15 minutes.

6       Q.   And do you have a recollection as to how busy  
7           you were on that particular day, what your  
8           calendar looked like?

9       A.   I certainly don't.

10      Q.   Would you have a calendar here in the office,  
11          doctor, that would describe the, your  
12          professional activities for that date?

13      A.   I'm looking back now at the date, which is '91.

14      Q.   Right.  2/26 of '91.

15      A.   I don't know if I have that calendar or not.  I  
16          may.  I just don't know.

17      Q.   Again, if I ask your counsel to check that,  
18          would you do that for me?

19      A.   Certainly.

20      Q.   Now, again, the echo reading here is OD, which  
21          is oculus dexter, Latin, right eye --

22      A.   That's correct.

23      Q.   Thank God not all my high school Latin is gone.  
24          And again, that indicates 25.73 millimeters?

25      A.   That's correct.

1 Q. Doctor, was an echo measurement done of the  
2 axial length of the other eye, of the left eye?

3 A. It was.

4 Q. And is that contained here in the chart?

5 A. It is.

6 Q. And that's a couple of lines below, echo OS?

7 A. That's correct.

8 Q. 26.06?

9 A. Yes.

10 Q. As a result of the exams that you have described  
11 that day, doctor, did you recommend or enter  
12 into any course of treatment with Mr. Tanner?

13 A. I did.

14 Q. And what was that, please?

15 A. I suggested that the cataract be operated in the  
16 right eye.

17 Q. And why did you make that suggestion as to the  
18 right eye, let's say, as opposed to the left  
19 eye?

20 A. It was the poorer sighted eye and the one that  
21 had the more advanced cataract.

22 Q. And can you compare the degree of advancement in  
23 the right eye versus the left eye at that time?

24 A. As I stated before, vision in the right eye was  
25 20/50, while vision in the left was 20/30 plus.

1 Q. Was there any indication, doctor, based on your  
2 exam as to how soon treatment ought to begin?

3 A. The question is?

4 Q. Let me try it a little differently, if that's  
5 not clear. You made a recommendation to  
6 Mr. Tanner as a result of your exam.

7 A. That's correct.

8 Q. And the recommendation was that he have surgical  
9 treatment of the right eye?

10 A. That's correct.

11 Q. And the treatment would be replacement of the  
12 natural lens with an artificially implanted  
13 posterior chamber lens?

14 A. That's correct.

15 Q. And --

16 A. No, no. It would be replacement of the lens,  
17 parentheses, cataract, with an intraocular  
18 lens. I cannot say posterior or anterior. I  
19 don't know at that time.

20 Q. And why is it that you don't know at that time,  
21 doctor?

22 A. Because you use the lens which is the most  
23 efficacious for the eye at the time of the  
24 operation.

25 Q. And at that time when you made your

1 recommendation you had not performed a  
2 calculation yet?

3 A. I don't understand the question.

4 Q. I may be presuming that I understand you and  
5 maybe I don't. In order to make the  
6 determination about the most efficacious lens --

7 A. Please go ahead.

8 Q. Okay. You need to perform some calculations, do  
9 you not?

10 A. No, that's not true.

11 Q. What do you need to do in order to determine  
12 what the most efficacious lens will be?

13 A. That's determined at the surgery.

14 Q. Do you go into that surgery with a  
15 recommendation or an idea of what you are going  
16 to use?

17 A. I do.

18 Q. And how do you arrive at that preliminary  
19 recommendation?

20 A. We use a posterior chamber lens if possible.

21 Q. And why is that?

22 A. It results in better vision, in general.

23 Q. And how do you determine the characteristics of  
24 the posterior chamber lens that you are going to  
25 use?

1 A. From the calculation.

2 Q. And what kind of calculation did you perform to  
3 determine the lens that will be used?

4 A. The ultrasonogram and the keratometer readings.

5 Q. Am I correct, doctor, that the two keratometer  
6 readings used in conjunction with the axial  
7 length measurement are plugged into a formula,  
8 and that tells you what kind of lens you are  
9 going to use?

10 A. It gives the power.

11 Q. Gives you the power of the lens.

12 MR. LEVEY: I have to make a phone  
13 call.

14 MR. GIAIMO: We'll keep going.

15 Q. Doctor, getting back, then, to the measurements  
16 that are made by the technician, do you ever  
17 check the measurements that are made by the  
18 technician, and here I am thinking of the  
19 keratometer measurements and the echo or axial  
20 length measurement.

21 A. These are not checked by the physician, they are  
22 repeated numerous times by the technician.

23 Q. Do you have a policy in this office as to how  
24 many times the technician should repeat those  
25 measurements?

1 A. We do.

2 Q. And how often?

3 A. Ten.

4 Q. Are those all done on the same visit?

5 A. They are.

6 Q. So that presumably the technician that made  
7 those measurements on Mr. Tanner would have  
8 performed the measurement ten times on February  
9 the 26th of '91?

10 A. That's correct.

11 Q. Is there any way that that can be verified by  
12 the chart?

13 A. No, because it is averaged. The average of the  
14 ten is used.

15 Q. Do those ten measurements, doctor, perform any  
16 raw, rather generate any raw data in written  
17 form that's used to calculate this average?

18 A. You have to help me on that question.

19 Q. Okay. Not having seen the machine that makes  
20 the axial length measurement, I don't know  
21 whether it prints something in written form with  
22 regard to the measurement it makes.

23 A. It does.

24 Q. And --

25 A. I believe it does, yes.

1 Q. And does that raw data still exist for  
2 Mr. Tanner's exam of 2/26 of '91?

3 A. It does not.

4 Q. Do you customarily keep that sort of data?

5 A. I do not.

6 Q. Do you make a practice of checking the raw data  
7 to determine whether the calculation is  
8 appropriate?

9 A. I do not check her raw data. After the ten  
10 measurements are made.

11 Q. So you don't see the raw data that she uses?

12 A. That's correct.

13 Q. You just see the average axial length figure  
14 that's calculated?

15 A. That's correct.

16 Q. Doctor, was there anything about this echo  
17 measurement of 25.73 millimeters for the right  
18 eye which seemed inaccurate or inappropriate to  
19 you when you first saw it?

20 A. There was not.

21 Q. Other than performing the echo test yourself, is  
22 there anything else that you can do in order to  
23 test that number?

24 A. There is not.

25 Q. Are there any other things that you can

1       determine by way of physical exam that would  
2       determine the correctness of that number?

3       A.   There is not.

4       Q.   And by the way, the numbers that we have talked  
5       about that are generated by the keratometer --

6       A.   No.

7       Q.   What is the correct name of that instrument?

8       A.   That's the ultrasound device that measures the  
9       axial length.

10      Q.   That gives the axial length.  You mentioned a  
11      device called the keratometer?

12      A.   That's correct.

13      Q.   And that gives you two numbers?

14      A.   That's correct.

15      Q.   K1 and K2?

16      A.   Correct.

17      Q.   And those are measurements of the, some part of  
18      the cornea?

19      A.   That's correct.

20      Q.   And does that measure the angle of the cornea?

21      A.   Yes.

22      Q.   What does it measure, then?

23      A.   It measures the curve of the cornea.

24      Q.   And K1 is which part of that curve?

25      A.   Doesn't matter.

1 Q. How does K2 differ from K1?

2 A. It is at right angles to it.

3 Q. Does either number, K1 or K2, tell you anything  
4 about the accuracy of the axial length  
5 measurement that's taken?

6 A. Does not.

7 Q. What about the measurement of the patient's  
8 visual acuity? Can that tell you anything with  
9 regard to the axial length measurement?

10 A. It does not.

11 Q. Why is the axial length measurement taken ten  
12 times, doctor?

13 A. Because there is inherent error in any  
14 biological measurement.

15 Q. And is the axial length measurement any more  
16 prone to error, let's say, than the curvature of  
17 the cornea, the K1 and K2 numbers?

18 A. I can't answer that accurately.

19 Q. In your practice, do you do anything other than  
20 take the axial length measurement repeatedly in  
21 order to attempt to eliminate the possibility of  
22 error in the axial length measurement?

23 A. There is nothing that can be done that I know  
24 of.

25 Q. Other than the axial length measurement taken on

1 February the 26th of '91, do you know whether,  
2 while Mr. Tanner was under your care, the axial  
3 length of his right eye was ever measured  
4 again? Again, other than on 2/26 of '91.

5 A. Please ask that again.

6 Q. Yes. You and I have talked about an axial  
7 length measurement taken on February the 26th of  
8 '91?

9 A. Yes.

10 Q. We presume by your technician?

11 A. Yes.

12 Q. Can you tell me whether during the remaining  
13 time that you cared for Mr. Tanner, through his  
14 surgery and the month of follow-up care, whether  
15 the axial length measurement was ever taken  
16 again?

17 A. I would doubt it, but I'll look.

18 No, it was not taken again.

19 Q. I presume that in part you are telling me,  
20 doctor, that if it were taken again it would be  
21 recorded in your chart?

22 A. That's correct.

23 Q. Doctor, are you aware that Mr. Tanner subsequent  
24 to being in your care has seen an  
25 ophthalmologist at the Cleveland Clinic?

1 A. I am.

2 Q. And are you aware that an axial length  
3 measurement was done on his right eye at that  
4 institution?

5 A. I am.

6 Q. And that that measurement was 26.9 millimeters  
7 for the right eye?

8 A. 26.9 millimeters?

9 Q. Yes. Let me double check that.

10 A. I don't recollect the number.

11 Q. You do, however, understand that it is a  
12 measurement that was different from the  
13 measurement that was obtained here on February  
14 26th of '91.

15 A. I'm not surprised at all.

16 Q. Tell me, why are you not surprised?

17 A. Because of the biological variation in a  
18 biological measurement.

19 THE WITNESS: Can we go off the  
20 record a minute?

21 - - - - -

22 (Thereupon, a discussion was had off  
23 the record.)

24 - - - - -

25 Q. Doctor, again, when we left off you suggested

- 1       that you were not surprised by the difference in  
2       measurement obtained of the right eye's axial  
3       length at the Cleveland Clinic subsequent to  
4       your care of Mr. Tanner and you -- I'm sorry,  
5       would you recapitulate your answer for me? You  
6       said you were not surprised for what reason?
- 7       A. Please ask the question again and I will try to  
8       recapitulate.
- 9       Q. You said you were not surprised at a different  
10      measurement taken at some point by the Cleveland  
11      Clinic. Why is that?
- 12     A. I would be surprised if it was exactly and  
13      precisely the same as the one by my technician.
- 14     Q. Is the difference between 25.73 millimeters and  
15      26.9 millimeters a substantial difference in  
16      your opinion?
- 17     A. It is a fair difference.
- 18     Q. By fair what do you mean?
- 19     A. A significant difference.
- 20     Q. What happens if the axial length measurement  
21      that you take at the time that you examine --
- 22     A. Had we used the Cleveland Clinic measurement the  
23      error -- the eye would have been more corrected,  
24      with a larger myopic correction than done by my  
25      technician.

1 Q. Meaning that with, if we crank that axial length  
2 number into the calculation, presumably it would  
3 have yielded a lens power which would have  
4 resulted in less myopia, or less  
5 nearsightedness?

6 A. No, it would have resulted in more.

7 Q. More nearsightedness?

8 A. That's correct.

9 Q. In plain English, then, you are telling me that  
10 it would have yielded a worse result than the  
11 result that was had?

12 A. That's correct.

13 Q. More broadly, doctor, again referring back to  
14 2/26 of '91, what is the consequence of the  
15 axial length measurement that's taken in an exam  
16 preparatory for cataract surgery that is not a  
17 correct axial length measurement?

18 A. If the axial lens measurement is not a correct  
19 one, the intraocular lens that's placed in will  
20 have a power at variance with the power that we  
21 would like it to have.

22 Q. Okay. After having examined Mr. Tanner in  
23 February of '91, what was your goal for the  
24 surgical procedure?

25 A. To have him see well using both eyes.

1 Q. Now, with regard to your surgical -- well,  
2 strike that.

3 At the time that saw him on February 26th  
4 of '91, Dr. Eigner, you recommended surgical  
5 treatment of the right eye?

6 A. Correct.

7 Q. There was no recommendation about surgical  
8 treatment of the left eye?

9 A. That's correct.

10 Q. All right. Did you have an opinion at that time  
11 as to whether surgical treatment for the  
12 cataract would be necessary for the left eye at  
13 any point in the future?

14 A. I had an opinion that it would not be necessary  
15 for a fairly significant period of time.

16 Q. And can you quantify for me what period of time  
17 that would have been, then?

18 A. I cannot.

19 Q. Would it have been more than a year, in any  
20 event?

21 A. In my best judgment, yes.

22 Q. When you take the measurements that you have  
23 described for me, doctor, again you use a  
24 formula in order to compute the power of the  
25 lens that you are going to use?

1 A. That's correct.

2 Q. And is there a single given or accepted formula  
3 that is used for this procedure?

4 A. There is not.

5 Q. In fact there are a number of formulas, are  
6 there not?

7 A. That's correct.

8 Q. And can you tell me, are there then a number of  
9 accepted formulas?

10 A. That's correct.

11 Q. And how many are there?

12 A. At least four or five.

13 Q. And what is the difference between these  
14 formulas?

15 A. Everyone strives for excellence, and we  
16 unfortunately can't achieve it, so there are  
17 differences of opinion on how to arrive at it,  
18 the result of which there are different  
19 formulae.

20 Q. And in your practice, then, when you are  
21 calculating the power of the lens to be used,  
22 you try all of the formulas?

23 A. It doesn't quite work that way. We use the  
24 formula that works best for us and our surgical  
25 technique.

1 Q. In other words, based on your experience you may  
2 find that one or more of those formulas produces  
3 a better result for you?

4 A. That's correct.

5 Q. Can you name or otherwise describe for me the  
6 formulas that you have used in your practice?

7 A. The SRK2, the SRK1 are a number of the formulas  
8 we used.

9 Q. I'm sorry?

10 A. I say are a number of the formulas we used.

11 Q. In Mr. Tanner's case, did you perform your  
12 computations using SRK1 and 2?

13 A. SRK2, I believe.

14 Q. Did you use any other formula?

15 A. I do not believe so.

16 Q. And why did you choose SRK2?

17 A. Because I have had the most success using it  
18 over the years that I have been doing my  
19 surgeries and implantation.

20 Q. Other than your own good results with that  
21 formula, doctor, was there anything indicated by  
22 Mr. Tanner's condition that would have indicated  
23 SRK2 to you?

24 A. No.

25

(Thereupon, Plaintiff's Exhibit 3, calculations, was mark'd for purposes of identification.)

Q. Doctor, let me hand you and your counsel what I have marked as Deposition Exhibit 3. Those two rather long pages are the calculations you performed to determine the power of the lens that you would use on Mr. Tanner?

A. That's correct.

Q. Do you have any other written record of the calculations you performed, other than those?

A. To my knowledge, no.

Q. You have a set in front of you to refer to, doctor?

A. I do.

Q. Are all of the calculations on these two pages done with the SRK2 formula?

A. As far as I know they are, to my best knowledge.

Q. And some are labeled PC and some are labeled AMO, AC; AC I take it is anterior chamber?

A. That's correct.

Q. PC, posterior chamber?

A. Yes.

Q. And how about the notation AMO?

1 A. That's the name of American Medical Optics. The  
2 manufacturer of the lens.

3 Q. And the notation MT4, what does that notation  
4 refer to?

5 A. That refers to a different kind of lens that was  
6 not used.

7 Q. Different maker?

8 A. Correct.

9 Q. And CR3 is yet again another maker?

10 A. Correct.

11 Q. And PHARM, what does that refer to?

12 A. That is Pharmacy, another intraocular lens  
13 maker.

14 Q. I take it you are telling me, doctor, first of  
15 all, that a posterior chamber lens was chosen?

16 A. That's correct.

17 Q. And why did you use the posterior chamber lens?

18 A. Because the surgical procedure was done enabling  
19 me what I wanted to do, which was use the  
20 posterior chamber lens.

21 Q. By the way, who performed the calculations that  
22 appear in this Exhibit 3, doctor?

23 A. I probably don't have her name recorded.  
24 Ordinarily we don't. I can't answer.

25 Q. Is it a technician here in your office?

1 A. It's a technician that either was here or is  
2 here.

3 Q. It would have been a technician in your employ?

4 A. That's correct.

5 Q. And what you are telling me is you can't tell me  
6 today which technician that was?

7 A. That's correct.

8 Q. Is it your practice, doctor, to check the  
9 calculations that are then made by the  
10 technician?

11 A. You asked me that previously.

12 Q. All right. But just to tie it up tightly, I  
13 think I asked as to other calculations and I  
14 wasn't positive if I asked it as to these in  
15 Plaintiff's 3, but your answer would be the  
16 same?

17 A. My answer would be the same as my previous  
18 answer.

19 Q. Your answer would be that you would rely on the  
20 calculation as performed by the technician?

21 A. That's correct. The calculation is made by the  
22 technician and done on a computer.

23 Q. So the numbers that we see on the two sheets  
24 that are labeled Plaintiff's 3 are supplied to  
25 you, then, doctor?

1 A. That's correct.

2 Q. And you don't perform the actual calculation  
3 yourself, or review the computer calculation?

4 A. Well, I review the sheet that the computer  
5 produces.

6 Q. Do you review the sheets in order to make the  
7 choice?

8 A. I sure do.

9 Q. Now, in reviewing those two, what choice did you  
10 come to?

11 A. I came to the choice of the lens that I used.

12 Q. And can you point out for me where the  
13 calculation is set out that led you to that  
14 lens?

15 A. I'll try. I believe it is the upper left-hand  
16 corner, which says "PC AMO," and says SRK, EM,  
17 Ametropia. Says VEL 1550 M/S, AL ENT, K1, K2,  
18 has A, B, C, and has a refraction of minus six,  
19 and an IOL AM of 21.22.

20 Q. That appears in a little different place on my  
21 exhibit, I have it in the upper right-hand  
22 corner.

23 A. You are welcome to look at mine if you like,  
24 doctor.

25 Q. Just to be sure we are looking at the same item,

1 it is in a little different order, but now we  
2 know what we are referring to.

3 Doctor, your testimony then is that that is  
4 the calculation that led you to the lens that  
5 you did use?

6 A. That is correct.

7 Q. And the lens that you did use was an AMO lens?

8 A. That's correct.

9 Q. Posterior chamber lens?

10 A. Say it again.

11 Q. Posterior chamber lens?

12 A. That's correct.

13 Q. And the lens that you used was one that measured  
14 20.5 diopters?

15 A. That's correct.

16 Q. Now, that is a little different from what's  
17 indicated in this calculation, is it not?

18 A. That's correct.

19 Q. And why did you vary from the result of this  
20 calculation?

21 A. I wanted less, if I could get it, even than what  
22 the formula said, so I gave less, which was in  
23 this case the right thing to do.

24 Q. And when you say less, you mean less what?

25 A. Less power.

1 Q. Why did you choose this particular calculation  
2 over any of the others that are set out here?

3 A. I wanted the patient to be roughly minus six  
4 diopters myopic at the completion of the  
5 procedure.

6 Q. Now, at the last time that you had measured his  
7 visual acuity in the right eye before surgery,  
8 what was his visual acuity?

9 A. 20/50.

10 Q. And what kind of correction -- strike that.

11 What was the degree of his nearsightedness  
12 or myopia at that time?

13 A. At the last examination, the vision, the  
14 correction in that right eye was minus -- the  
15 correction in the right eye was minus 875, plus  
16 175 at axis 180.

17 Q. Your goal, doctor, was to produce minus six  
18 refraction?

19 A. That's correct.

20 Q. And that is a degree of myopia or  
21 nearsightedness?

22 A. That's correct.

23 Q. And can you, if you can, indicate to me, is that  
24 a, if it is meaningful to you, a slight myopia,  
25 a myopia to a very great degree?

1 A. It is a moderate to moderately high myopia.  
2 Moderate. It is not high, not low. It is  
3 moderate but it is significant.

4 Q. And forgive me because I think you may have said  
5 it but I didn't catch it, how would that degree  
6 of myopia have compared with the degree of  
7 myopia in Mr. Tanner's right eye before  
8 surgery?

9 A. The myopia in the right eye was minus 875 plus  
10 175 at axis 180.

11 Q. So your goal was to reduce it by a modest  
12 amount?

13 A. That's correct.

14 Q. How did you reach that, the determination of  
15 that goal?

16 A. The eyes had to be matched so that both eyes  
17 could be used together, if at all possible.

18 Q. And how did that result of negative six  
19 refraction contribute to that goal?

20 A. It would be less than the myopia in the other  
21 eye, but still the two eyes could be used  
22 together.

23 Q. Is there a point beyond which the eyes cannot be  
24 used efficiently together, in other words, had  
25 you reduced the myopia further, are you telling

1 me you would have gotten an otherwise  
2 disagreeable result?

3 A. That's correct.

4 Q. And where is the line, if you can describe it to  
5 me, doctor?

6 A. I would say about three diopters of difference,  
7 although some people can tolerate a lot more.

8 Q. And you are talking to me about a difference  
9 that can be tolerated with or without  
10 correction?

11 A. I'm talking about with correction.

12 Q. Doctor, was that goal discussed with Mr. Tanner?

13 A. Yes.

14 Q. And when was that discussed with Mr. Tanner?

15 A. At the time of the last examination.

16 Q. And again, are we speaking of February the 26th  
17 of '91, or of a later date?

18 A. We are speaking of the examination on February  
19 26th, 1991.

20 Q. Doctor, before I ask you about the surgery,  
21 there is a note with regard to the chart for  
22 2/26 of '91, if you would look at the bottom  
23 there. There is a notation, "called  
24 Dr. Markowitz' office."

25 A. That's correct.

1 Q. What was the purpose of the call to  
2 Dr. Markowitz' office?

3 A. Let me read my note because I frankly don't  
4 remember.

5 Q. Sure.

6 A. Oh. That was in case we were going to have to  
7 use another one of the lenses, which ordinarily  
8 we don't use, and I had to get the constant on  
9 that lens, so it was figured in our formulae  
10 here, but never used.

11 Q. Doctor, you told me that the discussion you had  
12 with Mr. Tanner with the goal of the surgery was  
13 on February the 26th of '91. Do you have a  
14 recollection of the discussion with Mr. Tanner?

15 A. I have a fair recollection of it.

16 Q. And what do you recall about that discussion?

17 A. That we discussed the fact that the vision in  
18 the left eye was sufficiently good that it would  
19 not require cataract surgery for an unknown  
20 period of time, but significant period of time,  
21 and therefore, we would want to make the left  
22 eye, or allow the right eye to be used with the  
23 left. Among other things we discussed.

24 Q. Do you remember any other things that you  
25 discussed with Mr. Tanner on that date?

1 A. We discussed cataracts, what I do, how I do it,  
2 what he can expect. The fact that there is no  
3 feeling with the surgery, the fact that he will  
4 be asleep for two or three minutes, and we  
5 discussed a little bit about the fact that he  
6 would go home, he would have to have somebody to  
7 drive him, we discussed what he should do  
8 pre-operatively as far as eating, not eating, et  
9 cetera.

10 Q. And in telling me those things, you are relying  
11 on your recollection, doctor?

12 A. I'm relying on what I -- no. That's what I tell  
13 everybody that I operate. Certain aspects, I  
14 will specifically remember, in a situation of  
15 this kind.

16 Q. And of those things that you mentioned, those  
17 kinds of things that you would typically discuss  
18 with a patient, how many of those things if any  
19 can you recall specifically talking to  
20 Mr. Tanner about?

21 A. I specifically remember discussing the fact that  
22 we would require that I could not bring the eye  
23 down to zero even if it were ideal to do so,  
24 that is, if we could do it, because of the fact  
25 that the other eye does not have an advanced

1 cataract.

2 Q. And by zero, you mean 20/20 vision, or a lack of  
3 myopia?

4 A. I mean a lack of myopia.

5 Q. Do you recall anything else specifically that  
6 you did discuss with Mr. Tanner?

7 A. You might tease my memory, but offhand, no.

8 Q. Was there anyone else present for this  
9 conversation, doctor?

10 A. During the informed consent, yes, there always  
11 is.

12 Q. And who else was present?

13 A. Probably no one.

14 Q. I'm sorry, I am confused. You indicated there  
15 is always someone present?

16 A. When we discuss with the patient the various  
17 risks to surgery, there is always someone  
18 present, the technician is always present, and I  
19 don't remember specifically, but I -- that's our  
20 routine.

21 Q. So you can't tell me whether a technician was  
22 present during the discussions?

23 A. I can tell you a technician is always present.

24 Q. Again, you are telling me what your practice is?

25 A. That's correct.

1 Q. Do you have a specific recollection as to  
2 whether a technician was present when you talked  
3 with Mr. Tanner?

4 A. Only in that there is always somebody present  
5 for that.

6 Q. Would you make a note somewhere of who would be  
7 present for that type of discussion?

8 A. I do not.

9 Q. Have you made any investigation in the office to  
10 determine who was present at that time?

11 A. I have not.

12 Q. So you cannot tell me who if anyone was  
13 present?

14 A. That's correct.

15 Q. Other than someone from your staff, was there  
16 anyone else present during the discussion?

17 A. I don't recollect.

18 Q. Is it possible that Mrs. Tanner was present for  
19 any part of this discussion?

20 A. It's possible.

21 Q. You don't recall, so you can't tell me one way  
22 or the other if she was or not?

23 A. That's correct.

24 Q. Doctor, you mentioned the phrase informed  
25 consent and risks. Do you have a recollection

1 with regard to what you told Mr. Tanner about  
2 the risks of the procedure?

3 A. I have a recollection of what I tell every  
4 patient.

5 Q. And what is that?

6 A. That there are risks involved in the procedure,  
7 that I want them to read the informed consent,  
8 that the risks of surgery involve the  
9 possibility of infection, retinal problems,  
10 variation in glass prescription needed, visual  
11 result, but in general, the outcome is quite  
12 good, and at the conclusion of which they read  
13 this, the informed consent, and I ask them to  
14 ask me any questions they have in regard to it.

15 Q. Two things. Many things. That is your normal  
16 procedure.

17 A. That's correct.

18 Q. Do you have a specific recollection with regard  
19 to what you said to Mr. Tanner about risks?

20 A. Aside from what I just got through saying, yes,  
21 the fact that we would not bring him to zero  
22 because he had a moderately highly myopic other  
23 eye, and I have a recollection of that  
24 specifically, because this is something that's  
25 important for everyone to know prior to our

1 doing a myopic patient.

2 Q. And doctor, with regard to the rest of what you  
3 told me is your normal practice in terms of  
4 discussing risks, do you have a specific  
5 recollection about having said any of those  
6 things to Mr. Tanner?

7 A. Ask it again, please.

8 Q. You mentioned that you do recall saying to him  
9 that you could not bring that eye in to zero?

10 A. I do.

11 Q. You mentioned several other things that you say  
12 are your normal practice in terms of discussing  
13 risks with a patient.

14 A. Yes.

15 Q. Can you recall specifically whether you talked  
16 about any of those things to Mr. Tanner?

17 A. Did I ask questions, did I give information  
18 other than what --

19 Q. Other than the information that you could not  
20 bring that eye to zero.

21 A. Well, again, I go through a routine informed  
22 consent in which I ask the patient to read, I  
23 sit with him as he does it, we discuss it  
24 afterwards, and in this case we went through the  
25 specific thing. I hope that answers the

1 question.

2 Q. Well, not quite. Just one more point if I  
3 could. What I am asking, and maybe if I could  
4 ask it a little different way, as you sit here  
5 now, do you recall whether you specifically said  
6 any of those other things verbally?

7 A. What other things? That's the question I don't  
8 understand.

9 Q. You said that in your normal discussion with a  
10 patient about risks you talk, for instance,  
11 about the possibility of lenses needed. I'm  
12 trying to remember back to what you said and I  
13 am having a difficult time. Lenses needed I  
14 think was one, and the other one was?

15 MR. LEVEY: Infection.

16 MR. GIAIMO: Infection, and I'm  
17 sorry, there was one more relevant one I am  
18 trying to recall again. I'm sorry, doctor,  
19 can you particular the items off for me  
20 again.

21 MS. CARULAS: He said possibility  
22 of infection, retinal problems, variation  
23 in glass prescription needed and various  
24 visual problems.

25 Q. It is the last two, variation in glass

1 prescription needed and various visual  
2 problems. Do you recall specifically discussing  
3 those two risks with Mr. Tanner?

4 A. I discussed the fact that -- well, with every  
5 patient, I discuss the fact that at the end of  
6 the surgery, glasses are almost invariably  
7 needed for getting the best distance as well as  
8 reading vision, and I certainly discussed that  
9 with Mr. Tanner.

10 Now, again, asking --

11 Q. Let me just stop you. You have a present  
12 recollection of talking to Mr. Tanner about that  
13 point?

14 A. No, no. I do that with every single patient  
15 that I see in this office.

16 Q. I understand, and again, doctor, not to drive  
17 you crazy, but the difference I am trying to get  
18 to is not whether that is the practice that you  
19 automatically follow, but do you have a specific  
20 recollection of discussing that item?

21 A. I have a specific recollection of telling  
22 Mr. Tanner we could not get him to zero because  
23 he was myopic in the other eye.

24 Q. Is that the only specific risk that you remember  
25 discussing with him now?

1 A. I discussed all those other things that I  
2 described to you before, as I do with every  
3 single patient.

4 Q. And do you have a specific recollection of  
5 having discussed those other things with him?

6 A. I have a specific recollection of talking to  
7 every -- I would give you the -- I would have to  
8 answer it the same way you are asking me, that  
9 is, with every single patient pre-operatively I  
10 go through the same routine. Now, that doesn't  
11 answer the question?

12 Q. No, I guess, maybe to put too fine a point on  
13 it, can you remember the words that you used  
14 when you talked to Mr. Tanner?

15 A. I certainly can't. I certainly can't remember  
16 the words, no.

17 Q. And can you remember that you did in fact cover  
18 all of those topics that you just mentioned?

19 A. I can in fact tell you that every patient,  
20 pre-operatively, I go through the same rote and  
21 through the same routine.

22 Q. Doctor, what do you mean, by the way, when you  
23 talk about a variability in terms of a glass  
24 prescription needed? What does that encompass?

25 A. In the healing process, after cataract surgery,

1 the final glass prescription that's going to be  
2 indicated depends upon the healing. And the  
3 final prescription requirement is determined by  
4 the biological process.

5 Q. And can you tell me, doctor, in the 300 or so of  
6 those procedures that you do yearly, in how many  
7 of those, if you can tell me, are some sort of  
8 prescription for spectacles or contact lenses  
9 necessary?

10 A. All of them.

11 Q. Absolutely every single one?

12 A. I don't like the word absolutely, but all of  
13 them. I say that without being facetious.

14 Q. I understand.

15 A. There is an occasional person who requires zero  
16 for distance, but in general, most everybody --  
17 everybody certainly requires a glass  
18 prescription.

19 Q. And typically, for what kinds of correction is  
20 that required?

21 A. For distance correction and for reading  
22 correction.

23 Q. Doctor, this procedure, then, was performed in  
24 March of '91 at Hillcrest Hospital?

25 A. Let me refer to my record, counselor.

1 Q. Sure.

2 A. It was performed March 4th of 1991, yes.

3 Q. And again, the lens used was the 20 and a half  
4 diopter lens?

5 A. That's correct.

6 Q. And when was your next examination after that  
7 procedure?

8 A. On the date following, March 5th of 1991.

9 Q. Let me see if I can find that. By the way, did  
10 you encounter any problems, difficulties in  
11 performing the procedure?

12 A. I did not.

13 Q. And you indicated your next exam was March the  
14 5th of '91?

15 A. That's correct.

16 Q. Did you make any determination on that date as  
17 to the result that was had with the surgery?

18 A. I checked the eye. Is that the question? I did  
19 a postoperative examination, yes.

20 Q. All right. What did you determine at that  
21 point, doctor?

22 A. That the eye was healing, that the intraocular  
23 pressure was 26, that the vision in the eye at  
24 that time was finger counting and pinhole to  
25 20/200.

1 Q. And what does that indicate?

2 A. That there is a routine postoperative course.

3 Q. Your next exam was March 8th?

4 A. That's not quite true. Routine except that the  
5 pressure was elevated, so we gave medication to  
6 counter that.

7 Q. Did that problem with the pressure persist,  
8 doctor?

9 A. It did not.

10 Q. I think, you know, rather than -- strike that.  
11 You saw him again March 8th, doctor, of '91?

12 A. That's correct.

13 Q. And you examined Mr. Tanner at that time?

14 A. That's correct.

15 Q. Was that back here in your office?

16 A. That's correct.

17 Q. And what did you determine about the result of  
18 the surgery on that date, if anything?

19 A. That vision was 20/200, pinhole, that the  
20 pressure was normal, and that the cornea had one  
21 plus striate, and that with a minus nine, the  
22 vision was 20/200.

23 Q. Doctor, how long did you continue to see  
24 Mr. Tanner postoperatively?

25 A. I saw him 3-15-91, 3-22-91, 4-12-91. I saw him

1 on 4-16-91, and 4-30-91, on 5-28-91 -- check me  
2 on that, I did not see him 5-28-91. He was  
3 seen, but not by me.

4 I saw him on June 18th -- check me on that,  
5 I did not see him on June 18th, '91.

6 I saw him on August 7th of '91, September  
7 3rd of '91, and I believe that was the last  
8 time.

9 Q. Doctor, during those visits with Mr. Tanner, was  
10 there ever any difference in the vision achieved  
11 in the right eye?

12 A. There was.

13 Q. And what was the best measurement that you made?

14 A. The vision continued to improve, so that by the  
15 last examination by me, or by -- let's see. The  
16 last examination -- let's go back. On 4-12-91  
17 the vision in that right eye was 20/20 with  
18 proper correction.

19 Q. And what amount of correction was required to  
20 reach that result?

21 A. Minus 13.25, plus four at axis 180.

22 Q. And is that the best acuity achieved in that eye  
23 postsurgery, doctor, or at least while in your  
24 care?

25 A. Yes, 20/20 of course is essentially perfect

1 vision.

2 Q. And that required a greater degree of correction  
3 than Mr. Tanner required before the surgery?

4 A. That's correct. A greater degree of correction,  
5 that is true. Greater degree of glass  
6 prescription, yes.

7 Q. Would it be fair to say -- well, strike that.

8 Was the pre-operative goal that you had set  
9 for this procedure reached?

10 A. Pre-operative goal for vision?

11 Q. Yes.

12 A. Yes.

13 Q. Well, let me ask this. I had understood your  
14 goal to be to bring that right eye to the point  
15 where it would require about a negative six  
16 correction.

17 A. Yes.

18 Q. And was that goal reached?

19 A. No.

20 Q. Do you know why that goal wasn't reached?

21 A. Yes.

22 Q. And why was that goal not reached?

23 A. Because the correction necessary to achieve the  
24 best vision was higher than the goal that I --  
25 than the lens that I -- than the glass

1 prescription I would like him to have required.

2 Q. I'm sorry, I didn't quite follow that. Would  
3 you repeat that?

4 A. The prescription necessary to achieve 20/20  
5 vision was higher than the prescription  
6 necessary -- than the prescription that we would  
7 like to have had him require.

8 Q. Okay. Would it be fair to say, doctor, that as  
9 a result of the procedure, Mr. Tanner's myopia  
10 or nearsightedness was increased in the right  
11 eye?

12 A. It is correct.

13 Q. And is it fair to say that it needed  
14 approximately twice the correction after the  
15 surgery?

16 A. That's not true.

17 Q. It is not a linear scale, I take it?

18 A. That's just not true. I mean, 13 and a quarter  
19 with a plus four is not nearly twice that.

20 Q. Can you quantify that for me?

21 A. Yes. It is equivalent to approximately three  
22 diopters, or less than three diopters more than  
23 it was previous. That's using something called  
24 a spherical equivalent.

25 Q. Doctor, after the surgery, Mr. Tanner was fitted

1 with contact lenses?

2 A. That's correct.

3 Q. I take it that given what you have told me  
4 before, that in your opinion was not an  
5 unexpected result?

6 A. I didn't say that.

7 Q. Okay. Maybe I should back up. Was that an  
8 expected result?

9 A. There was an option and that was one of them.

10 Q. When you say that was an option, what do you  
11 mean by that?

12 A. That Mr. Tanner had the option of wearing a  
13 contact lens if he chose to do so, in order to  
14 allow him to use both eyes easily together. Or  
15 he had an option of having the intraocular lens  
16 changed.

17 Q. All right. So you are saying that there was an  
18 option that Mr. Tanner have another surgical  
19 procedure and implant a different lens?

20 A. That's correct.

21 Q. If you were to do that procedure, doctor, do you  
22 have an opinion as to what lens you would now  
23 use?

24 A. I would have to recalculate from what we now  
25 know.

1 Q. Do you have a fair estimate based on what's in  
2 front of you?

3 A. I do not.

4 Q. Is it possible to do that procedure again, to  
5 implant a new intraocular lens?

6 A. It wouldn't be again. It would be a different  
7 procedure, and it would be a reasonably small  
8 procedure compared to the first one.

9 Q. Is there a name, by the way, for that second  
10 procedure?

11 A. It is called replacement of intraocular lens.

12 Q. And how does that procedure differ from the  
13 implantation?

14 A. The cataract is already out, so you simply take  
15 the lens that's in and replace it with another  
16 powered lens.

17 Q. Have you performed that procedure before?

18 A. I have.

19 Q. And how often have you performed that procedure?

20 A. Probably twice in my career.

21 Q. Now, forgive me, because I don't know how long  
22 that kind of lens implantation has been done, so  
23 are you telling me twice since 1958, or twice  
24 since some other date when these procedures  
25 became fairly common?

1 A. Let's say I have personally done it twice since  
2 about 1981, when this particular procedure was  
3 being done the way it is being done.

4 Q. Is there anybody else in the Cleveland area who  
5 is doing that procedure other than yourself?

6 A. Certainly, everybody who does intraocular lens  
7 implantation.

8 Q. Would you be able to tell me whether the other  
9 ophthalmologists, the other surgeons in town are  
10 performing it at that same rate of frequency?

11 A. I wouldn't be able to tell you but I would  
12 estimate the answer is yes, it is the most  
13 frequent reason for exchanging an intraocular  
14 lens.

15 Q. Other than those two cases in which you have  
16 done a second procedure, doctor, have you had  
17 other -- well, strike that.

18 Is there any increased risk in this second  
19 procedure that you have described to me over the  
20 original procedure?

21 A. I think the risk is significantly less than the  
22 original procedure.

23 Q. And how so is it less, doctor?

24 A. Because the procedure is a much smaller one.

25 Q. You said that word before. What do you mean by

1 smaller?

2 A. The cataract is already removed and you are  
3 replacing the lens, you are not removing the  
4 cataract.

5 Q. So what you are telling me in effect is you are  
6 only doing half of the procedure that was  
7 previously done?

8 A. No, what I am telling you is, excuse me for  
9 saying it this way, it is not a half or fourth,  
10 it is simply less operative work, and so the  
11 procedure is a safer one by comparison.

12 Q. Are the risks in any way different? In other  
13 words, are there different or newer risks  
14 associated with the second procedure that are  
15 not associated with the first?

16 A. Well, the procedure is somewhat different.

17 Q. And how does it differ from the original  
18 procedure?

19 A. The lens is taken out instead of being put in,  
20 and the second lens is replacing it.

21 Q. Does the amount of time that elapses between the  
22 original implantation and the second procedure  
23 have an influence? Is that a factor on the  
24 success rate of the second procedure?

25 A. I'm trying to give again an accurate answer and

1           it is hard to answer yes or no. I'm not sure  
2           whether it is early or late. I'm not sure that  
3           I can answer that accurately.

4       Q.   There may not be an answer, doctor. Is there  
5           any difference in the size of the incision  
6           that's made to remove the implanted lens?

7       A.   Yes, it is a smaller incision to replace it. To  
8           exchange it is what we are describing here, and  
9           to exchange it, the incision is smaller.

10      Q.   Doctor, at some point in your follow-up care of  
11           Mr. Tanner you prescribed lenses.

12      A.   That's correct.

13      Q.   And in his case he received hard contact  
14           lenses?

15      A.   That's correct.

16      Q.   And gas permeable lenses?

17      A.   Yes.

18      Q.   Did he have any other option with regard to  
19           correction post surgically?

20      A.   Yes, he could have worn glasses.

21      Q.   Is there any difference in the results that  
22           could be achieved with glasses as opposed to  
23           contacts?

24      A.   I think he would do better in his case with  
25           contact lenses.

1 Q. So in his case he chose the option that provides  
2 the better correction?

3 A. I have not seen Mr. Tanner since 19 -- whatever  
4 the last date was, so I can't answer that.

5 Q. Did you recommended contacts as opposed to  
6 spectacles, doctor?

7 A. I did.

8 Q. Am I right, doctor, that Mr. Tanner was not  
9 charged for those lenses?

10 A. I honestly don't know. I would hope I didn't.  
11 That would be very nice of me.

12 Q. I'm sorry. You would hope you didn't?

13 A. I would say I would hope I didn't. It would be  
14 very nice if we didn't.

15 Q. Normally, who furnishes the lenses that you  
16 might prescribe post-surgically?

17 A. This office does.

18 Q. Is there a particular person here who has the  
19 responsibility?

20 A. For fitting the contact lenses? Is that the  
21 question?

22 Q. Who is that?

23 A. His name is Rick, and I can't --

24 Q. Is that Mr. Smith?

25 A. Mr. Schmidt.

1 Q. And can you spell it?

2 A. S-C-H-M-I-D-T, I believe.

3 Q. Is he an employee of the group, doctor?

4 A. He is a part-time employee of our group.

5 Q. Your office, however, would make the billing or  
6 make the charge for the lens?

7 A. That's correct.

8 Q. Would you be able to look at your records and  
9 determine for me whether in fact Mr. Tanner was  
10 charged for those lenses?

11 A. I assume, sure, we would be glad to do that.

12 Q. What's the ordinary procedure, doctor, in terms  
13 of charging for that kind of prescription?

14 A. Ordinary procedure?

15 Q. Does your office usually charge for those?

16 A. Yes, the office usually charges for contact  
17 lenses.

18 Q. Do you have a policy with regard to under what  
19 circumstances you don't charge for those?

20 A. We don't have a policy, no.

21 Q. You yourself, do you have a practice for when  
22 you do or don't charge for those?

23 A. I really don't have a policy.

24 Q. Doctor, do you have a recollection of using the  
25 phrase with Mr. Tanner "five diopter mystery"?

1 A. I don't have a recollection. I may have said  
2 that, but I have no recollection.

3 Q. Is that a phrase that you would commonly use in  
4 your practice?

5 A. It is not a phrase I would commonly use in my  
6 practice.

7 Q. So if Mr. Tanner reports that you called his  
8 result a five diopter mystery, would you be able  
9 to tell me what would have been meant by that?

10 A. I couldn't tell you what is meant by that.

11 Q. Fair enough. Doctor, at this point, looking  
12 back at the axial length measurement taken on  
13 February 26th of '91, do you maintain at this  
14 point that that was an accurate measurement  
15 taken on that day?

16 A. To my knowledge it was an accurate measurement.

17 Q. The result that Mr. Tanner has achieved does not  
18 shake your conviction on that?

19 A. It does not.

20 Q. Did you review Dr. Siegel's report in this  
21 case?

22 A. I did.

23 Q. And are there any -- probably a lot, but are  
24 there any particular points on which you  
25 disagree with him, conclusions he --

1 MS. CARULAS: I object to that. I  
2 don't think it is his role right now to  
3 critique Dr. Siegel's report.

4 MR. GIAIMO: Will you let him  
5 answer that?

6 MS. CARULAS: I don't think it is  
7 appropriate. I think you basically covered  
8 everything.

9 Q. Doctor, just to close this up, if at this point  
10 the ophthalmologists down at the Clinic are  
11 prescribing surgical treatment for a cataract in  
12 the other eye, the one you did not treat, do you  
13 have any basis for agreeing or disagreeing as to  
14 whether that's necessary at this time?

15 A. Without looking at it, I would have no opinion.

16 Q. And I take it then you would have no opinion as  
17 to whether a lens could be implanted now in the  
18 left eye that would produce minimal myopia?

19 A. I don't understand the question at all.

20 Q. I'm not real sure what else to do with that.  
21 Let's leave it where it is.

22 MR. GIAIMO: Well, I do believe  
23 that is it, doctor. Anna will explain  
24 signature to you, and you can make your  
25 choice on that issue.

1 THE WITNESS: Thank you, gentlemen,  
2 ladies.

3 MS. CARULAS: You do have the right  
4 to read it over to make sure it is  
5 necessary. Unless you feel it is --

6 THE WITNESS: I don't think it is  
7 necessary.

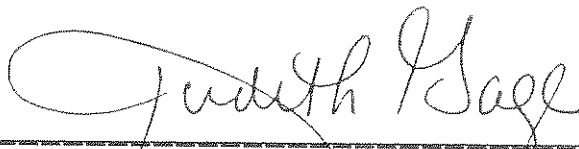
8 MS. MOORE: We'll waive it.  
9 (Signature waived.)

C E R T I F I C A T E

The State of Ohio, ) SS:  
County of Cuyahoga.)

I, Judith Gage, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named EDWIN H. EIGNER, M.D. was by me, before the giving of his deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness, and the reading and signing of the deposition was expressly waived by the witness and by stipulation of counsel; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulation of counsel; and that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney, or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this 22nd day of September A.D. 1992.



Judith Gage, Notary Public, State of Ohio  
1750 Midland Building, Cleveland, Ohio 44115  
My commission expires March 24, 1995

W I T N E S S I N D E XPAGE

CROSS-EXAMINATION  
EDWIN H. EIGNER, M.D.  
BY MR. GIAIMO

3

E X H I B I T I N D E XEXHIBITMARKED

Plaintiff's Exhibit 1,  
curriculum vitae

9

Plaintiff's Exhibit 2,  
office records

34

Plaintiff's Exhibit 3,  
calculations

65

CURRICULUM VITAE

EDWIN H. EIGNER, M.D.

DATE OF BIRTH: September 2, 1927

PLACE OF BIRTH: Youngstown, Ohio

MARITAL STATUS: Married, 1954 - Sibyl Sloan  
Children - Jane, James, and Nancy

EDUCATION:

Ohio State University, B.A., 1949

Case Western Reserve University School of Medicine, M.D., 1954

POST-GRADUATE EDUCATION:

Internship - Mt. Sinai Medical Center of Cleveland, 1954-1955

NIH Grant, Neurological Diseases and Blindness  
Course for Graduates in Ophthalmology - Colby College,  
Waterville, Maine, July-September, 1955

Basic Science Course in Ophthalmology, Harvard Medical School,  
September, 1955-June, 1956

Clinical Course in Ophthalmology - Massachusetts Eye & Ear  
Infirmary, Boston, Massachusetts, January-April, 1956

Residency - University Hospitals of Cleveland, Department of Oph-  
thalmology, April, 1956-April, 1958

Private Practice - University Suburban Health Center, (EENT  
Associates, Inc.), Present

APPOINTMENTS:

Assistant Clinical Professor (surgery) - Case Western Reserve  
University School of Medicine, 1974-Present

Ophthalmologist in Charge - Case Western Reserve University  
School of Medicine, Thursday Clinic, 1965-Present

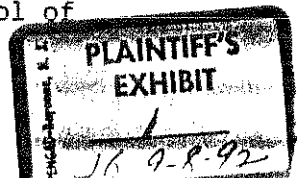
Ophthalmologist in Charge - Case Western Reserve University  
School of Medicine, Monday Clinic, 1962-1980

Senior Visiting Ophthalmologist - Mt. Sinai Medical Center, Chair-  
man, Resident Training, 1964-1966

Chief - Hillcrest Hospital, Department of Ophthalmology, 1974-1984

Senior Clinical Instructor (surgery) - Case Western Reserve  
University School of Medicine, July, 1962

Demonstrator (surgery) - Case Western Reserve University School of  
Medicine, 1958-1962



## TEACHING RESPONSIBILITIES:

University Hospitals, Department of Ophthalmology Eye Clinic, 1958-Present, ophthalmology residents, Case Western Reserve University medical students

University Suburban Health Center - Case Western Reserve University medical clerks and MAPS since program inception

Anterior Segment Service - Case Western Reserve University, Department of Ophthalmology, 1989-Present

Physical Diagnosis - Case Western Reserve University School of Medicine, Multiple Sessions

Retina - Basic Science Course in Ophthalmology, Case Western Reserve University, Department of Ophthalmology, 1968-1978

## SOCIETIES & CERTIFICATIONS:

American Board of Ophthalmology - 1960

American Academy of Ophthalmology - 1961

American Association of Ophthalmology - 1974

Fellow American College of Surgeons (Various Committees)

Cleveland Academy of Medicine -

Member of Board of Trustees, 1976-1982

Executive Committee, 1979-1982

Cost Containment Chairman

Ombudsman Academy/Insurance

Others

Ohio State Medical Association - Eye Committee, 1976-1980

American Medical Association

American Intraocular Lens Society - American Society of Cataract and Refractive Surgery

United Kingdom Ophthalmology Society

Royal Society of Medicine

Cleveland Ophthalmological Society - President, 1975-1976

## CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE ACTIVITIES:

Visiting Committee - 1989-Present

Sesquicentennial Challenge, School of Medicine Major Gifts Committee  
Chairman - Present

Dean's Club - Co-founder, Chairman, 1980

Benefactor's Club - Co-founder, Chairman, 1988

Alumni Fund Drive - Chairman, 1983

Dean's Clinical Advisory Council - 1987-Present

Alumni Fund Drive - Telethon Chairman (dates not available)

Alumni Association - Various Committees, 1975-1980

Alumni Association - President, 1978-1979

Alumni Association - Trustee Service Award, 1st Recipient, 1986

Dean Search Committee - 1990

CASE WESTERN RESERVE UNIVERSITY ACTIVITIES: ;

University Council, Executive Committee - 1987-Present  
Assignment Committee for Visiting Committee - 1987-1990,  
Chairman, 1990-Present  
Visiting Committee, School of Law - 1983-1988  
Board of Overseers Executive Committee - 1983-1987

COMMUNITY ACTIVITIES:

Jewish Welfare Federation - Chairman, Committee on Local Priorities,  
1970-1972

Jewish Family Service Board - 1964-1970

Jewish Welfare Federation - Young Leadership Course, 1964-1965

Jewish Welfare Campaign - Co-Chairman, Physician's Division, 1970-  
1972

Margaret Wagner House - Original Consultant for Vision Care

Cleveland Society for the Blind - Medical Advisory Committee  
(dates not available)

Cleveland Eye Bank - Medical Advisory Board, 1970-1974

PUBLICATIONS & PRESENTATIONS:

Phacoemulsification Transition, Wet-Lab, "The why, how, and how  
not," Symposium Chairman, Case Western Reserve University  
Department of Ophthalmology, 1/19/91

"The Superior Capsular Flap and the 9 mm. Disk Lens," European  
Intraocular Implant Lens Council, Trinity College, Dublin,  
Ireland, September, 1990

"Cataract Implant Update," Case Western Reserve University  
Department of Ophthalmology, Medical Conference, 1983, 1985,  
1989, 1990, 1991.

"Why Change to Endocapsular Extraction," American Society of  
Cataract and Refractive Surgery, Washington, D.C., April, 1989

Program Chairman, Endocapsular Cataract Extraction Seminar and  
Wet-Lab Workshop, University Suburban Health Center, 9/30/88-  
10/1/88 (Case Western Reserve University CME accredited).

Chairman Symposium, Cataract Extraction & Implants, "Advantages of  
Endocapsular Extraction," Cleveland Ophthalmological Society,  
1986.

Program Chairman, Live Audio Visual Cataract Symposium, "Posterior  
Chamber Implantation," Hillcrest Hospital, 1982

International Intraocular Lens Implant Society, "Live Audio Visual Implant Teaching," San Francisco, September, 1982.

Program Chairman, Learning Disabilities Symposium, "Responsibilities of the Various Disciplines," Case Western Reserve University, Kent State University, and John Carroll University, 1970.

"Laser Photocoagulation of Peripheral Tears," American College of Surgeons, Cleveland, 1968.

"Self-Induced Solar Retinitis," American Journal of Ophthalmology, Vol. 61, No. 6, June, 1966.

"Intraocular Lens Insertion and the Transition to Phacoemulsification," American Society of Cataract and Refractive Surgery, Boston, Massachusetts, April 7, 1991 (scheduled).

Hydrosonic Phacoemulsification Wet-Lab, "Transitional Cataract Surgery," Mt. Sinai Medical Center Department of Ophthalmology, Cleveland, Ohio, 4/19/91-4/20/91 (scheduled).

#### COMMUNITY PRESENTATIONS:

"The Eyes - Myths & Magic," Senior Circle, February 13, 1991

"Vision and the Technology Explosion," Case Western Reserve University Women's Faculty, March 14, 1991 (scheduled)

PM Magazine - "Cataract & Implants," 1984

Channel 5 Morning Exchange

- "Ambulatory Cataract Surgery," 1981
- "Cataracts & Laser Surgery," 1983, 1987

Various medical news appearances

Live on Five - multiple appearances, 1985-1986, 1989

Other presentations over the years

NAME

ADDRESS  
3899 Covington

Tanner, Robert

S. Euclid 414121

PHONE  
RESIDENCE BUSINESS

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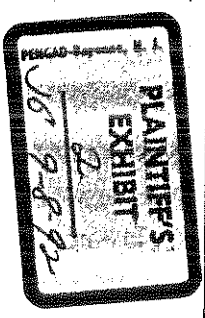
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James, Robert

3899 Cummings  
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PHONE

RESIDENCE BUSINESS

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OS 45.00/47.00 9.0 [-5.25/-7.25]

Bitonic

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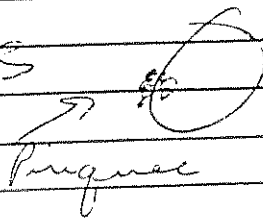
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OS



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Order OS Robert Tanner  
Return old cc  
for loose Ang

OS 44.50 9.4 -4.75  
Florex-700



|                                    |  |            |  |             |  |
|------------------------------------|--|------------|--|-------------|--|
| NAME                               |  | ADDRESS    |  | REFERRED BY |  |
| TANNER, ROBERT                     |  |            |  | AT # 32428  |  |
|                                    |  |            |  | bi U same   |  |
| RESIDENCE                          |  | PHONE      |  | AGE         |  |
| BUSINESS                           |  | EMPLOYMENT |  | BIRTH DATE  |  |
| 5-28-91 E                          |  | 1/20/2002  |  | 70-1        |  |
| u                                  |  | 40-2       |  |             |  |
| A ware of OS 70D - Blinds alot     |  |            |  |             |  |
| R Edged OS 70D CL                  |  |            |  |             |  |
| OS 42                              |  |            |  |             |  |
| Ne 6-10 WPS                        |  |            |  |             |  |
| 6-4-91 CL OD 70S mobile & irritate |  |            |  |             |  |
| all migrate a lot.                 |  |            |  |             |  |
| R under Exchange Nova Lens Blue    |  |            |  |             |  |
| R OD 44.75 / 47.75 9.4 - 8.50 Dot  |  |            |  |             |  |
| Lentils OS 45.00 9.8 - 5.25        |  |            |  |             |  |

Trade  $\bar{e}$  P+.  
V $\bar{e}$  RS 1-4 WKS.

Edged Current C's a bit.  
Florey-700

6/15/91 ~~to 1975~~ Blue ordered a  
Exch <sup>3rd</sup> OD 44.75/47.25 9.4-8.50  
and <sup>2nd</sup> exch OS 45.00 9.8-5.25  
Lenticular

6-18-91 Improved Conf - Slight  
irritation. & clears mild day.

Mid range  $\downarrow$  a bit.  
 $\bar{e}$  / 20/20+2 O/R +50 20/20+  
u / 30-1 0 30-1

Dye Pattern - Good OD -  
OS  
Edged.

Order OD Florey-700  
Blue

OD 44.75/47.75 94 -8.00  
Per Case Avg. Dot.

Will return 1st C for  
Per Case cancel ✓

T  
TAB  
A  
TAB

ADDRESS

ADDRESS

EMPLOYMENT

# YMENT

REFREED BY

04-32428

Bill Same

BIRTH DATE

**AGE**

## ALLERGIES

**GLASS RX**

4-16-91 Del. c. Slight awareness

20/20-1  
20/25-1

BWT - BWS

✓ 2 wks. Decent fit all.

4-30-91 GP - discussed

25 + 75

20130-01K

ODA Bt. done

Order. B's-45 Blue

|    |       |     |       |
|----|-------|-----|-------|
| OD | 46.50 | 9.0 | -9.75 |
|----|-------|-----|-------|

Per Case Exchange - Trade & 2 w/CS.

4-30-91 BIS-45 Ordered OD  
NC OD 46.50 9.0 -9.75 dot  
Stack Blue

5-16-91 Dist ↓ - Some doubling.  
= FB OD = U.

SLR - Sharp int cv: OD > OS

CLR - 1.000 best Bettes -

3/10/50 + Dist horizontal  
ce 50 1 2<sup>nd</sup> cat OS

ODU warped

Order OD 2<sup>nd</sup> Exchange  
OS 1<sup>st</sup> Exchange

Censil Blue

OD 45.00 9.4 -8.75 Dot  
OS 45.00 9.4 -5.25

horizontal

Trade = Rt. ✓ RS ASAP

5-16-91 Censil Ordered On

NC OD 45.00 9.4 -8.75 dot

OP 2<sup>nd</sup> OS 45.00 9.4 -5.25

next Blue



NAME

ADDRESS

3844 Livingston

T A

Tanner Robert

S. Euclid

PHONE

EMPLOYMENT

REFERRED BY

RESIDENCE

BUSINESS

Dr. S. J. J. J.

Cat ext  
Pc lens  
H.H. 3.491

Pt # 32428

W-1416

5764

De f. r. i. a. u. s.

Bill Same

3-15-91

Treat - 500 / Cat 3 ext 200 / P.O.

AGE

BIRTH DATE

N-18

Treat - 500 / Cat 3 ext 200 / P.O.

66

3-31-24

TAPP

+ - state

off the optic 614  
Diener 250

ALLERGIES

NONE

wound implant excellent 00 Tobradex 810

GLASS RX

R-10.00 / 509

all OK 100%

3-22-91 treat 500 / Cat 3'

300 P.O.

NIC eye ocul all a. P. 200

Tobradex 810 on

R-12.50 + 2.50 x 180 / 105-2

TAPP 20

D. 12.50 + 2.50 x 180 / 105-2

TAPP 20

OWK M.C.  
MUDS:

4-12-91 T 20/20

(du 00 8:20)  
Nee E myd

30

40: 400 Va

is not as good

as pt. would

like.

R -13.25 + 4.00 x 180/20

L -8.00 + 2.25 x 180/25

+

cat ext

PLC lens

\* Rick -

H.H. 3-4-91

pt ~~not~~ to be

L -8.00 + 2.25 x 180/30

charged for

+3.00

CL's

in gl 200 2/91

8HE explained (choices)

of CL's OR IOL Replacement

Return c Rick

4-12-91 - (-9.25 - 4.00 x 90)

ayb. (-5.75 - 2.25 x 90)

ST

48.75 | 44.87 @ 94 Trace Dist.

ST

46.75 | 45.00 @ 78 " "

ST

CL Ref 20/20

ST

Order BIS-45 Blue

ST

OD 46.00 9.0 -10.00 Dist.

ST

OS 45.50 9.0 -8.75

ST

RS on lona to Dispense

ST

Times Fed. Ext.

ST

PLC per 862

Ordered

(MT4)

De ~~P~~ AC 115.3 ~~119.24~~  
Mukawitz's PC 119.0 12.94  
Constant (CR3)

PC -5.00 22.25 AC -5.00 16.93  
PC -6.00 24.17 AC -6.00 18.47  
[ AC 18.00  
PC 23.00 ]



MODEL: PC57B S/N: 8910403489  
DIOPTER: 20.5 SIZE: 14.00 MM

3-4-91  
CAT EXTRACTION NH  
PC lens

3-5-91 Post-op 520 P=@5'  
E-800 / 200 ph/200+ C/O None  
Sms looking Tapp 26

Diamox 250mg Jrd Y2days  
Detoxic BID till Friday  
Jrd to Friday



3-8-91 Treat 520/F 1wk p.o.  
AC ph 520/200 (w) Betoptic BID  
Tapp 12 Tobradex oint Diamox 250mg  
+1 striae finished yesterday  
(1wk) Rlt -9.00/200 Tobradex Gills OD

|                          |   |  |
|--------------------------|---|--|
| NAME<br>TAPSCOTT, Robert | ADDRESS<br>874 Livingston<br>So. Euclid 44121 | REferred BY<br>Dr. # 32428<br>Bill: Same |
| PHONE<br>382-5708        | RESIDENCE BUSINESS<br>De Sures                | EMPLOYMENT<br>De Kious                   |
| W-Lula N. 5708           |   | BIRTH DATE<br>3-31-24                    |

**MEDICARE CRITERIA FOR CATARACT SURGERY**

**BEST CORRECTED VISUAL ACUITY**

Snellen BAT High OD 20/30 OS 20/30 PAM 20/25+2  
 OD 20/30 Med OD 20/30 OS 20/30  
 OS 20/30 Low OD 20/20 OS 20/20

REFRACTION MACULOPATHY / RETINOPATHY None

OD -8.75 +1.75 x180

OS -

PATIENT COMPLAINTS / LIMITATIONS Diff reading & dist. vis in blurry

INDICATIONS FOR INPATIENT PROCEDURE None 1604X3CE34

### (Amb.) 3/4/91 (3:30)

2-26-91 Check  $\tau$  20/50 pte 20/50 Age 66  
 $L = 8.75 + 1.75 \times 18$  50% Diff. Reading  
 $R = 8.00 + 2.25 \times 18$  30% 6 glasses  
 \* Best Correction 100% in  
 Cortical gap. ou 00705. September 2001  
 like / R  $-8.50 + 1.75 \times 18$   
 dist. visual  $-8.00 + 2.25 \times 18$   
 BAT L 20/50 +3.00  
 M 20/50 -  
 H 20/200 700 OD x1

PAM 20/25+2  
 CHE. REC. DUNG 100% OD  
 Eye Dwell 15 weeks 100%  
 Schedule Cortical  
 1) C IOK. 00705 H/H

KOD 47.25/45.50 echo OD 25.73 →

RAC E. 270B34 KOD 47.25/45.50  
 NPC Pham 9.94 echo OS 26.80  
 AND 17.24 Pham  
 DR S & K ✓ 117.10 116.00  
 -4 17.82 16.39  
 -5 19.52 17.94

→ -6 21.22 19.59  
 2-27-91 called Dr. Markowitz office a no one is in  
 Power less a Markowitz's constant. Call back.

|                                 |  |  |  |                            |  |
|---------------------------------|--|--|--|----------------------------|--|
| TANNER, ROBERT                  |  | ADDRESS<br>3899 Covington<br>S.E. 44121              |  | SS# 378-16-5516            |  |
| PHONE<br>RESIDENCE 382-<br>5768 |  | BUSINESS   |  | REFERRED BY<br>Pt. # 32428 |  |
| W-hula M.                       |  | (Sof. maintain materials)<br>Dr. Kious<br>DR. SOPPES |  | Bill: Same                 |  |
| 9-21-90 Cat CK                  |  | e-20/25<br>in OD                                     |  | AGE 66 BIRTH DATE 3-31-24  |  |
| BU                              |  | L -8.50 +1.75 x180/20                                |  | ALLERGIES NKA              |  |
| R -8.00 +2.25 x180/30           |  | + 3.0  |  | GLASS RX -8.50 +1.75 x180  |  |
|                                 |  |  |  | -8.50 +2.25 x180           |  |
|                                 |  |  |  | +2.50                      |  |
| Vertical Apres only             |  | App 24   |  |                            |  |
| LE "Wair"                       |  | Neo Myclx  |  |                            |  |
| 00 Disc. 0                      |  | / all ok for   |  |                            |  |
| 05 Disc. 0                      |  | Dr. Suppes Dr. K.V.                                  |  |                            |  |

## SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A *PC* 114.30  
B 2.50  
C 0.90  
REFR 0.00D  
IOL EM 8.24D

| IOL (D) | REFR (D) |
|---------|----------|
| 7.00    | 0.85     |
| 7.50    | 0.61     |
| 8.00    | 0.16     |
| 8.50    | -0.18    |
| 9.00    | -0.53    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: *R. Tanner*DATE: *2-91*

EYE: (L) (R)

PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A *PC* 116.00  
B 2.50  
C 0.90  
REFR 0.00D  
IOL EM 9.94D

| IOL (D) | REFR (D) |
|---------|----------|
| 9.00    | 0.59     |
| 9.50    | 0.27     |
| 10.00   | -0.04    |
| 10.50   | -0.35    |
| 11.00   | -0.66    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: *R. Tanner*

EYE: (L) (R)

## SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A *PC* 116.00  
B 2.50  
C 0.90  
REFR -4.00D  
IOL AM 16.34D

| IOL (D) | REFR (D) |
|---------|----------|
| 15.50   | -3.48    |
| 16.00   | -3.79    |
| 16.50   | -4.10    |
| 17.00   | -4.41    |
| 17.50   | -4.73    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: *R. Tanner*DATE: *2-91*

EYE: (L) (R)

PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A 116.00  
B 2.50  
C 0.90  
REFR -5.00D  
IOL AM 17.94D

| IOL (D) | REFR (D) |
|---------|----------|
| 17.00   | -4.41    |
| 17.50   | -4.73    |
| 18.00   | -5.04    |
| 18.50   | -5.35    |
| 19.00   | -5.66    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: *R. Tanner*DATE: *2-91*

EYE: (L) (R)

## SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A *PC* 117.10  
B 2.50  
C 0.90  
REFR -6.00D  
IOL AM 21.22D

| IOL (D) | REFR (D) |
|---------|----------|
| 20.00   | -5.28    |
| 20.50   | -5.58    |
| 21.00   | -5.87    |
| 21.50   | -6.17    |
| 22.00   | -6.46    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: *R. Tanner*DATE: *2-91*

EYE: (L) (R)

PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A *AMD* 117.10  
B 2.50  
C 0.90  
REFR -5.00D  
IOL AM 19.52D

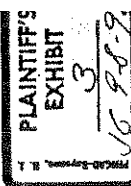
| IOL (D) | REFR (D) |
|---------|----------|
| 18.50   | -4.40    |
| 19.00   | -4.69    |
| 19.50   | -4.99    |
| 20.00   | -5.28    |
| 20.50   | -5.58    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: *R. Tanner*DATE: *2-91*

EYE: (L) (R)



PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A 117.10  
B 2.50  
C 0.90  
REFR 0.00D  
IOL EM 11.04D

PC  
AMO

| IOL (D) | REFR (D) |
|---------|----------|
| 10.00   | 0.61     |
| 10.50   | 0.32     |
| 11.00   | 0.02     |
| 11.50   | -0.27    |
| 12.00   | -0.57    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: R. TANNER

DATE: 2-9-1

EYE: (L) (R)

PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A 116.00  
B 2.50  
C 0.90  
REFR -6.00D  
IOL AM 18.54D

| IOL (D) | REFR (D) |
|---------|----------|
| 18.50   | -5.85    |
| 19.00   | -5.66    |
| 19.50   | -5.98    |
| 20.00   | -6.29    |
| 20.50   | -6.60    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: \_\_\_\_\_

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

EYE: (L) (R)

PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A 117.10  
B 2.50  
C 0.90  
REFR -4.00D  
IOL AM 17.82D

AMO

| IOL (D) | REFR (D) |
|---------|----------|
| 17.00   | -3.52    |
| 17.50   | -3.81    |
| 18.00   | -4.10    |
| 18.50   | -4.40    |
| 19.00   | -4.69    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: R. TANNER

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

EYE: (L) (R)

PROGRAM 4  
RK EM-AMETROPIA

EL 1550M/S  
- ENT 25.73MM  
1 47.25D  
2 45.50D  
MT4 115.30  
2.50  
0.90  
EFR -6.00D  
OL AM AC 18.47D

| IOL (D) | REFR (D) |
|---------|----------|
| 17.50   | -5.37    |
| 18.00   | -5.69    |
| 18.50   | -6.02    |
| 19.00   | -6.34    |
| 19.50   | -6.67    |

PHAKIC SPECTACLE  
POWER 5.48D

PHAKIC CONTACT LENS  
POWER 6.61D

NAME: R. Tanner  
DATE: \_\_\_\_\_  
EYE: (L) (R)

PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A PC 119.00  
B 2.50  
C 0.90  
REFR CP3 -6.00D  
IOL AM 24.11D

| IOL (D) | REFR (D) |
|---------|----------|
| 23.00   | -5.40    |
| 23.50   | -5.67    |
| 24.00   | -5.94    |
| 24.50   | -6.21    |
| 25.00   | -6.48    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: R. Tanner  
DATE: 2-91  
EYE: (L) (R)

PROGRAM 4  
RK EM-AMETROPIA

EL 1550M/S  
- ENT 25.73MM  
1 47.25D  
2 45.50D  
MT4 115.30  
2.50  
0.90  
EFR -5.00D  
OL AM AC 16.93D

| IOL (D) | REFR (D) |
|---------|----------|
| 16.00   | -4.39    |
| 16.50   | -4.72    |
| 17.00   | -5.04    |
| 17.50   | -5.37    |
| 18.00   | -5.69    |

PHAKIC SPECTACLE  
POWER 5.48D

PHAKIC CONTACT LENS  
POWER 6.61D

NAME: R. Tanner  
DATE: \_\_\_\_\_  
EYE: (L) (R)

PROGRAM 4  
SRK EM-AMETROPIA

VEL 1550M/S  
AL ENT 25.73MM  
K1 47.25D  
K2 45.50D  
A PC 119.00  
B 2.50  
C 0.90  
REFR 0.00D  
IOL EM 12.94D

| IOL (D) | REFR (D) |
|---------|----------|
| 12.00   | 0.50     |
| 12.50   | 0.23     |
| 13.00   | -0.03    |
| 13.50   | -0.30    |
| 14.00   | -0.57    |

APHAKIC SPECTACLE  
POWER 5.48D

APHAKIC CONTACT LENS  
POWER 6.61D

NAME: R. Tanner  
DATE: 2-91  
EYE: (L) (R)