

**DE-IDENTIFIED DEPOSITION OF AN ORAL SURGEON PERFORMING DENTAL IMPLANTS**

1  
2 SUPREME COURT OF THE STATE OF NEW YORK  
3 COUNTY OF

4 \_\_\_\_\_  
5 and  
6 Plaintiffs,  
7 -against- , D.D.S., and  
8 D.D.S., P.C.,  
9 Defendants.

10 \_\_\_\_\_  
11 February 27, 2008  
12 11:20 a.m.  
13 89-00 Sutphin Boulevard  
14 Jamaica, New York

15 EXAMINATION BEFORE TRIAL  
16 of \_\_\_\_\_, the Defendant herein, held  
17 at the above-noted time and place before  
18 Josephine Winter, Certified Shorthand  
19 Reporter and a Notary Public of the State  
20 of New York, pursuant to Court Order, the  
21 Provisions of the C.P.L.R. pertaining  
22 thereto and stipulations between counsel.

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3 \* \* \*  
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5 A P P E A R A N C E S:  
6  
7 LAW OFFICES OF GERALD M. OGINSKI,  
8 L.L.C.  
9 Attorneys for Plaintiffs  
10 25 Great Neck Road  
11 Great Neck, New York 11021  
12 BY: GERALD M. OGINSKI, ESQ.  
13 \_\_\_\_\_, P.C.  
14 Attorneys for Defendants  
15 New York, New York 10005  
16 BY: \_\_\_\_\_, ESQ.

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2           IT IS HEREBY STIPULATED AND  
3 AGREED by and between counsel for the  
4 respective parties hereto that all rights  
5 provided by the C.P.L.R., and Part 221 of  
6 the Uniform Rules for the Conduct of  
7 Depositions, including the right to object  
8 to any question, except as to the form, or  
9 to move to strike any testimony at this  
10 examination, are reserved; and, in  
11 addition, the failure to object to any  
12 question or to move to strike any  
13 testimony at this examination shall not be  
14 a bar or waiver to make such motion at,  
15 and is reserved for, the trial of this  
16 action.

17           IT IS FURTHER STIPULATED AND  
18 AGREED that this examination may be signed  
19 and sworn to by the witness being examined  
20 before a Notary Public other than the  
21 Notary Public before whom the examination  
22 was begun, but the failure to do so, or to  
23 return the original of this examination to  
24 counsel, shall not be deemed a waiver of  
25 the rights provided by Rule 3116 of the

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2 C.P.L.R. and shall be controlled thereby.

3           IT IS FURTHER STIPULATED AND  
4 AGREED that the filing of the original of  
5 this deposition shall be waived.

6                           \*           \*           \*  
7   , having been first  
8 duly sworn by a Notary Public of the State  
9 of New York, upon being examined,  
10 testified as follows:

11 EXAMINATION BY  
12 BY MR. OGINSKI:

13 Q       What is your name?

14 A   .

15 Q       What is your address?

16 A   New York, .

17  
18 MR. OGINSKI: Mark the doctor's  
19 chart as Plaintiff's 1.  
20 (Whereupon, the above-mentioned

21 document was marked Plaintiff's  
22 Exhibit 1 for identification.)

23 Q Good morning, doctor.

24 A Good morning.

25 Q What are implants?

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2 A Sorry?

3 Q What are implants?

4 A Metal screws acting as  
5 replacement to roots of the teeth.

6 Q And what is the purpose of an  
7 implant?

8 A To replace -- to replace the  
9 void in the mouth where teeth are missing,  
10 one or more.

11 Q What is a healing cover?

12 A That's a cover on top of the  
13 implant which is wider. There are several  
14 of them, several sizes going from one to  
15 four, and they are thicker than the  
16 original cover of the implant.

17 Q What are indications for using  
18 an implant in general?

19 A Replacement of natural teeth.

20 Q What is a bone graft?

21 MR. : Just so I'm clear,

22 this is general and not specific to  
23 this case?

24 MR. OGINSKI: Correct.

25 A It is just addition to the bone

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2 where some bone is missin

3 Q Are you familiar with a term  
4 known as guide holes?

5 A Yes.

6 Q What does that mean to you?

7 A It's a way to get the implants  
8 into certain spaces.

9 Q How do you do that? Is it a  
10 template? Is it something else?

11 A It could be template. It could  
12 be a guiding instrument to check the angle  
13 and the space between the teeth.

14 Q In the year did you have  
15 any type of instruments that would assist  
16 you in making these guide holes?

17 A Yes.

18 Q Did that instrument have a  
19 particular name?

20 A Yes. I didn't use the name for  
21 a long time, but -- just -- I just can't  
22 get it.

23 Q Doctor, all of my questions are  
24 going to relate to the time period of  
25 to unless I indicate otherwise.

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2 A O .

3 Q Are you familiar with the term  
4 known as pilot holes?

5 A Yes.

6 Q What does that mean?

7 A Well, that's the initial hole,  
8 the initial hole into the bone that would  
9 be the place where the implant's  
10 supposedly going to be inserted.

11 Q Whether it's guide holes or  
12 pilot holes, these are the initial holes  
13 that are made where you put the implants?

14 A Yes.

15 Q Are you familiar with something  
16 known as study models?

17 A Yes.

18 Q What are those?

19 A Impressions taken and being  
20 poured by a stone and getting the  
21 impression is the negative of the existing  
22 condition, and after pouring the stone, it  
23 gives you the positive, the exact replica  
24 of the teeth or jaw present in the mouth.

25 Q In did you have in your

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2 office the ability to perform and make  
3 study models?

4 A Yes.

5 Q What is a mold?

6 A I'm sorry?

7 Q A mold, is that similar to an  
8 impression?

9 A Yes.

10 Q What is a CT scan?

11 A That's a type of picture or  
12 x-ray that gives you the situation in the  
13 mouth.

14 Q What is the purpose of a CAT  
15 scan as it relates to the type of work  
16 that you did as far as using it for  
17 implants?

18 MR. : Objection. That

19 assumes he uses it for implants.

20 MR. OGINSKI: Sure.

21 Q Doctor, are you familiar with  
22 CAT scans being used as a tool to assist  
23 dentists such as yourself in planning  
24 implants?

25 A Yes.

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2 Q What is the purpose of using a  
3 tool such as that?

4 A Well, it's an additional tool.

5 There are many tools that assist a dentist  
6 for doing many surgeries in the mouth  
7 including dental implants.

8 Q How does a CAT scan assist a  
9 dentist in planning a patient's implants?

10 A Well, it gives you some  
11 information as to the amount of bone  
12 existing for placing the implants. It's  
13 one of the tools.

14 Q Have you ever used CAT scans --

15 A Yes.

16 Q In your practice, doctor, again,  
17 from \_\_\_\_\_ and before that time, you have  
18 used CAT scans to aid you in planning for  
19 implants?

20 A Sometimes.

21 Q What is a panorex?

22 A Panorex is an x-ray that gives  
23 you a picture of the entire mouth  
24 including the condyle joints and sinuses.

25 Q Are you familiar with the term

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2 bite wing films?

3 A Yes.

4 Q What are bite wings?

5 A Well, this is small x-rays that  
6 give you the picture of teeth on the top  
7 and on the bottom on the same -- of a  
8 small particular area of the teeth.

9 Q Are those also known as  
10 periapicals?

11 A No.

12 Q What is the difference between  
13 periapicals and bite wings?

14 A Bite wings are basically to give  
15 you a picture of the crowns of the teeth,  
16 on the top and on the bottom. They  
17 usually practically never show you the  
18 apex of the teeth.

19 Q The periapicals do show you the  
20 apex?

21 A Should.

22 Q Is there any other distinction  
23 between the bite wings and the periapical  
24 films?

25 A No. Both of them -- both of

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2 them use the same x-ray except that for  
3 the bite wing you place a kind of holder  
4 that allows you to place it in the mouth  
5 and when you bite on it, it shows -- it  
6 extends somewhat to the top crowns and the  
7 lower crowns of the teeth.

8 Q What is the difference between a  
9 bite wing film and a panorex?

10 A A bite wing is just for a small  
11 area for the width of two to three teeth  
12 as opposed to panorex which is the entire  
13 dentition. Bite wing is also only for  
14 teeth, really, not for edentulous areas.

15 Q Can you evaluate bone loss from  
16 a bite wing film?

17 A I wouldn't.

18 Q Can you evaluate bone loss from  
19 a periapical film?

20 A Not bone loss but the existing  
21 bone.

22 Q Tell me why you wouldn't use a  
23 bite wing to evaluate bone loss.

24 A Because the distortion would  
25 be -- in my situation, you know, the

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2 distortion would be more than with a  
3 periapical x-ray.

4 Q When you say distortion, you are  
5 talking about the normal distortion that  
6 occurs from a particular type of x-ray;  
7 correct?

8 A Yes.

9 Q How much of a distortion would  
10 you expect to see in a bite wing film?

11 A More than I would expect. More  
12 than I would want to.

13 Q Can you quantify for me in any  
14 fashion the amount of distortion that you  
15 see using a bite wing film?

16 A No. It could be different times  
17 different positions. It would be  
18 different.

19 Q And the distortion that you  
20 mentioned, in fact that magnifies what it  
21 is you're looking at; is that correct?

22 A It depends on the position of  
23 the x-rays. It can shorten it or lengthen  
24 it.

25 Q Is there also distortion

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2 associated with periapical films?

3 A Yes.

4 Q In comparison to the bite wing  
5 films, is it more, less or the same type  
6 of distortion?

7 A Less.

8 Q Is there also associated  
9 distortion with a panorex film?

10 A Yes.

11 Q How would you describe the  
12 difference between the distortion on the  
13 panorex film compared to a bite wing film?

14 A In my situation, the periapical

15 would give me a better idea than the  
16 panorex to any specific area.

17 Q When you say in your situation,  
18 tell me what you mean by that.

19 A I get better estimates with  
20 periapical than with panorex.

21 Q Is there a greater distortion in  
22 a panorex film than in a bite wing film?

23 A Could be. It all depends.  
24 Everything -- it all depends on the  
25 operator, you know. Even with panorex you

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2 could get a lot of distortion, less of a  
3 distortion and the same thing with  
4 periapicals.

5 Q What is the difference between a  
6 panorex film and the CAT scan for purposes  
7 of the type of work that you did in terms  
8 of putting in implants and using it as  
9 tools to help you?

10 A Panorex is two-dimensional.  
11 Whereas CAT scan can be used also as a  
12 three-dimensional.

13 Q How does that assist you, if it  
14 does, in evaluating the structures of what  
15 you're looking at?

16 A Depends on the condition.  
17 Depends on each case. Sometimes I would  
18 need to be assisted by it and sometimes  
19 not. In my experience of 30 years of  
20 doing implants in certain cases I don't  
21 need the help of a CAT scan.

22 Q How do you decide whether to  
23 obtain a CAT scan?

24 A If it's -- if in my estimate, in  
25 my -- in my particular case if I would

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2 feel that it's very -- it's -- how should  
3 I say it? Borderline case, a very  
4 difficult case, then I would need or I  
5 would seek the assistance of a CAT scan.

6 Q What information would a CAT  
7 scan provide that a panorex could not  
8 provide?

9 A The panorex would not show you  
10 the width.

11 Q Can you be more specific as to  
12 what you mean by that?

13 A Well, the width of the bone that  
14 would give me -- should I need the  
15 assistance of a CAT scan.

16 Q Are there any other benefits to  
17 using a CAT scan over a panorex other than  
18 obtaining the width of the bone?

19 A Not really. Not in my

20 situation.

21 Q In the past when you have used  
22 CAT scans to assist you in determining  
23 placement of implants, do you rely on a  
24 radiologist to read and interpret the CAT  
25 scan film or do you read it yourself?

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2 A I read it myself.

3 Q Tell me about the type of  
4 training you have had in order to enable  
5 you to read CAT scans.

6 A Well, I've attended courses in  
7 oral surgery and implantology throughout  
8 my 30 years of experience and sometimes we  
9 aided our decisions by taking either a  
10 panorex or a CAT scan.

11 Q Am I correct that in  
12 did not have a CAT scan facility within  
13 any one of your offices?

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14 A No.

15 Q You would have to have the  
16 patient go to an outside facility?

17 A Yes.

18 Q The courses that you just  
19 mentioned, would they be courses that  
20 you'd go to for a day or part of a  
21 training program or something else? What  
22 would they be?

23 A Training programs and courses  
24 for a day. I attended many many courses.

25 Q These training courses you've

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2 mentioned, would they be focused solely on  
3 the reading and interpretation of CAT  
4 scans or would they be part of other  
5 courses taught about the topics you are  
6 involved in?

7 A Mostly part of other courses  
8 that I took.

9 Q Out of the courses that you  
10 trained in to learn about how to interpret  
11 CAT scans, can you give me the longest  
12 length of time any one of these courses  
13 lasted, whether it be a few hours, a day  
14 or more or some other time?

15 A No, I can't recollect. No  
16 recollections.

17 Q When was the last training  
18 course that you took before regarding  
19 the interpretation of CAT scans?

20 A I don't remember. I can't  
21 recall. I can't say it specifically.

22 Q Would it be more than ten years  
23 before ?

24 A No. Less than ten years.

25 Q More than five years?

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2 A I would say less than -- to my  
3 recollection, less than five years.

4 Q Do you recall where it was that  
5 you obtained or went for these courses?

6 A The courses given by --

7 Q Was it in New York? Was it  
8 out-of-state? Was it out of the country?

9 A One was in Florida in -- the  
10 name of the place just -- Disneyland,  
11 where is it?

12 MR. : Orlando?

13 A In Orlando, right.

14 Q Disney World?

15 A Disney World. O

16 About two years -- two, three  
17 years ago I attended by the American  
18 Dental Society of Implantology. I don't  
19 know if the name is exact, you know, but  
20 that was the last.

21 Q Were you familiar with any  
22 standard of care back in that  
23 recommended the use of CAT scans when  
24 deciding whether to put in two to four  
25 implants?

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2 A Nobody ever told me in any  
3 courses that I would have to take CAT  
4 scans for every case I do.

5 Q Were you familiar with any type  
6 of standard of care -- I am talking about  
7 a written standard of care -- concerning  
8 the recommendation to use a CAT scan when  
9 deciding to put in more than ten implants  
10 in a patient's mouth?

11 A You mean ten implants in one jaw  
12 or both jaws or what?

13 Q In any one jaw.

14 A I never placed more than ten  
15 implants in one jaw.

16 Q I'm sorry. My question wasn't  
17 clear.

18 Were you familiar with any  
19 standard of care that required the use of  
20 obtaining a CAT scan for the purposes of  
21 aiding you in planning for implants when  
22 you were intending to put in ten implants  
23 or more throughout the patient's mouth?

24 A I'm not familiar with any  
25 standard of care for every case of placing

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2 an implant, no.

3 Q Were you aware of any literature

4 that addressed the use of CAT scans to  
5 assist dentists such as yourself when  
6 planning to place implants?

7 A Yes. In some of the articles  
8 that I read, you know, in some of them  
9 they talked about CAT scans and some of  
10 them they didn't talk about CAT scans. It  
11 was not -- to my knowledge it was not 100  
12 percent a must of taking a CAT scan. No.

13 Q How do you determine, doctor, if  
14 a patient is a candidate for implants?

15 A Besides the theoretical, you  
16 know, like attitudes of the patient, his  
17 oral health, his smoking, smoking habits,  
18 his, you know -- other than that, I would  
19 examine the amount and size of bone  
20 present to enable me to place an implant.

21 Q How do you examine the amount  
22 and size of bone that's present?

23 A I take intra-oral measurements.  
24 I take the periapical and the panorex and  
25 I -- even though I know that there are

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2 some distortions, I look not for the exact  
3 height of bone or the exact width of a  
4 bone. I just have to know that I have --  
5 since there are a lot of diameters, a lot  
6 of different diameters of implants, a lot  
7 of different lengths of the implants, the  
8 amount and size of bone varies in  
9 different situations. I can have less  
10 than -- there is no specific size of bone.  
11 As long as it's within the size of the  
12 smallest diameter and smallest length of  
13 the implant.

14 Q Now, you just told me, doctor,  
15 that you don't look for the exact number,  
16 the exact dimension of a particular area  
17 of bone. Am I correct to understand that  
18 you really are, based on your experience  
19 and eyeballing it, looking to see if there  
20 is sufficient bone there that would hold  
21 the implant?

22 A Well, yes, in my experience at  
23 the time that I did Mr. --

24 Q I am not talking about Mr.  
25 yet. I'm just talking in general.

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2 A Well, I've been doing implants  
3 for over 25 years. I need less -- I have  
4 more experience and I would measure the  
5 amount of bone to give me sufficient bone  
6 in the width of the crest of the ridge,  
7 the width of the bone to be sufficient to  
8 place a -- any specific diameter of an

9 implant. It can go anywhere, in my  
10 experience, the smallest diameter to be  
11 2.9 millimeters and it can go to 6.0  
12 millimeters in diameter and the same thing  
13 about lengths. It can be anywhere between  
14 eight millimeters long or 16 millimeters  
15 long.

16 Q You mentioned that the crest of  
17 the ridge of the bone is something that  
18 you need to evaluate. Tell me why.

19 A I would have to know if at least  
20 I have enough width of bone to support the  
21 narrowest diameter of implant that exists.

22 Q What happens if there is  
23 insufficient bone to accommodate an  
24 implant? What do you do then?

25 A I tell the patient tough luck.

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2 Q The intra-oral measurements you  
3 measured, what exactly are you measuring?

4 A The width of the bone.

5 Q How do you do that?

6 A I had an instrument that -- I  
7 forgot the name, but it looks like a  
8 pyramid-like and it has a gauge in between  
9 and you place one side of the instrument  
10 on the palatal side or the lingual side  
11 and the other end, the other side, if you  
12 will, if you want to call it a fork to the  
13 labial or to the buccal side and on the  
14 gauge it tells me the width.

15 Q Why do you take the intra-oral  
16 measurements if you don't rely on them to  
17 make a determination if there is  
18 sufficient bone since you said you don't  
19 look for the exact number?

20 A I don't follow your question.

21 Q You told me a few moments ago  
22 that you are not looking to see the exact  
23 measurement to see whether or not there is  
24 sufficient bone but rather you base it  
25 upon your experience and visually whether

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2 there is sufficient bone, so my question  
3 is why then do you take the intra-oral  
4 measurements?

5 A I have to know the minimum  
6 necessary width to determine if I have  
7 sufficient width of bone to place the  
8 least diameter of an implant.

9 Q Are you able to determine the  
10 width of bone from the panorex?

11 A No.

12 Q Are you able to determine the  
13 width of the patient's bone from a bite

14 wing?  
15 A No.  
16 Q Or from a periapical film?  
17 A No.  
18 Q Are you able to determine the  
19 width of a patient's bone from a CAT scan?  
20 A Yes.  
21 Q Now, the width you measure using  
22 this instrument as part of your  
23 examination, what do you do with those  
24 measurements? Do you record them so you  
25 don't forget them, so you know what they

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2 are in each particular area?  
3 A No, I don't really record them.  
4 I just know. I know I have enough -- if I  
5 schedule the patient to do an implant or  
6 two or three, whatever the amount, I know  
7 whether it's a go or no go. Then I tell  
8 the patient. I'm sorry. You don't have  
9 sufficient bone and at that time, you  
10 know, I don't do it.

11 Q You told me a moment ago,  
12 doctor, that different parts of the bone,  
13 of the jaw has different sizes; correct?  
14 There might be different widths along the  
15 way?

16 A I didn't say that.

17 Q I'm sorry.  
18 In a patient, does a patient  
19 usually have the same width of bone  
20 throughout their entire mouth?

21 A Oh, no.

22 Q When you measure and you take  
23 these intra-oral measurements, am I  
24 correct that sometimes you get different  
25 measurements for different parts of the

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2 bone along their jaw?

3 A Yes.

4 Q How do you determine and how do  
5 you remember what size implant to use for  
6 a particular width of bone if you don't  
7 record those measurements down when you do  
8 your exam?

9 A Well, at the present -- within  
10 the last few years as my experience got  
11 better and better, my proficiency got  
12 better and better in general. I know from  
13 these measurements that I have enough bone  
14 to place the number of implants that I  
15 want to place, so --

16 Q I'm not asking about the number  
17 of implants. I'm talking about the size  
18 of the implants that you discussed with me

19 a moment ago.  
20 A Yes.  
21 Q Is it possible that when you put  
22 in implants, that different implants could  
23 have different sizes? In other words, you  
24 could put in one particular size of  
25 implant in one part of the jaw and a

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2 different size in another part of the jaw?

3 A Oh, very much so.  
4 Q So my question is when you take  
5 these intra-oral measurements, you told me  
6 that it has a purpose; so that you know  
7 how much width is there to accommodate the  
8 implant.

9 A That's correct.

10 Q So my question is if you don't  
11 record that information and now the  
12 patient comes back to you at a later time  
13 to do the procedure, how do you know what  
14 size implants to put in if you haven't  
15 recorded what width bone there is for a  
16 particular part of the jaw?

17 A I don't really have to record  
18 and to rely on the exact measurements that  
19 I took a week or two weeks or a month  
20 before because there are no changes in the  
21 width of the bone from a week, two weeks  
22 or a month earlier, so I know on the day  
23 of the surgery I know that there is  
24 sufficient bone and I can see just looking  
25 at the arch, the jaw, I can see where I

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2 can place these implants.

3 Q But how do you know the size of  
4 the implant to put in if you don't record  
5 those measurements in each particular  
6 area?

7 A O . I know that there is  
8 sufficient bone for the smallest diameter,  
9 at least for the smallest diameter and  
10 then intraoperatively I place the smallest  
11 diameter of the implant and then I examine  
12 and I go to the next diameter if I can.  
13 If I can't, I just stop there and at that  
14 time I know the diameter, the minimum of  
15 the diameter that I would need. As long  
16 as it is within the smallest diameter, I'm  
17 satisfied because I know that at least I  
18 can place this diameter.

19 Q What is the purpose of taking  
20 the periapical films to determine if a  
21 patient is a candidate for implants? How  
22 does that help you?

23 A The periapical x-ray is more

24 specific. It gives you more detail of the  
25 area and that's basically it.

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2 Q How does the panorex assist you  
3 in evaluating whether or not a patient is  
4 a candidate for implants?

5 A Well, it gives me a general  
6 picture of the jaw that would assist me.  
7 No periapical x-ray or panoramic x-ray --  
8 each one of them is a tool in determining  
9 the availability of the height of the  
10 existing bone, of the given bone.

11 Q Is that different than the width  
12 of bone you just told me about a little  
13 bit earlier?

14 A No.

15 Q How many periapical x-rays do  
16 you take when evaluating to see whether or  
17 not a patient is a candidate for implants?

18 A It depends on how many implants  
19 I'm going to place.

20 Q How do you make that  
21 determination?

22 A How many teeth are missin

23 Q If a patient has no natural  
24 teeth, how many periapicals would you  
25 expect to take?

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2 A Anywhere between six -- between  
3 four to six.

4 Q Are you familiar with the term  
5 known as a full mouth series?

6 A Yes.

7 Q What does that mean?

8 A Full mouth series, it includes  
9 bite wings and it's for me full mouth  
10 x-rays would be necessary more for  
11 existing teeth that may need or may not  
12 need fillings or root canals or things  
13 like this.

14 Q If a patient has no natural  
15 teeth, would a full mouth series be of use  
16 to you in evaluating a patient as to  
17 whether or not they are a candidate for  
18 implants?

19 A Not really.

20 Q Are there times when a full  
21 mouth series would be useful to you to  
22 evaluate a patient's condition as to  
23 whether or not they are a candidate for  
24 implants?

25 A When the patient is edentulous,

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2 I don't think you need full mouth series,

3 not in my -- not in my experience.

4 Q In your opinion, doctor, is a  
5 panorex film a better tool to evaluate the  
6 extent of a patient's existing bone than a  
7 bite wing film?

8 A Not really.

9 Q What is the best tool in your  
10 opinion that you can use to evaluate the  
11 patient's current existing bone?

12 A It could be periapical or  
13 periapical and panorex. If I'm satisfied  
14 with periapicals, I'll just use  
15 periapicals. Like I said before, they  
16 give you more specific knowledge of the  
17 existing situation. The panorex is more  
18 generalized.

19 Q And the CAT scan you mentioned  
20 has a benefit because it's a  
21 three-dimensional view as opposed to a  
22 two-dimensional panorex or PA film?

23 A Yes, but in many situations  
24 clinical observation is as good as a CAT  
25 scan.

0032

1  
2 Q The patients who typically came  
3 to you, do they have dental insurance?

4 A Yes. Many of them do.

5 Q In deciding whether or not to  
6 recommend a CAT scan to evaluate whether  
7 they are a candidate for implants, was the  
8 cost factor ever at issue for the purposes  
9 of deciding whether or not to recommend a  
10 CAT scan?

11 A Never.

12 MR. : You mean an issue  
13 for the doctor?

14 MR. OGINSKI: Yes.

15 A Never. Never. Cost was never a  
16 determining factor in telling the patient  
17 you should or if the patient said he  
18 doesn't have enough money and I deemed it  
19 extremely necessary to do it, I will tell  
20 him, well, I can't do it.

21 Q Are there different types of  
22 implants?

23 A What do you mean by that?

24 Q Is there only one implant that's  
25 made?

0033

1  
2 MR. : You're talking about  
3 manufacturer or style? It's a complex  
4 area.

5 Q You've told me what an implant  
6 is.

7 A Yes.

8 Q Does more than one company make  
9 implants?

10 A Yes.

11 Q Are there different types,  
12 styles, models of implants?

13 A Yes.

14 Q Tell me about the different  
15 types of implants that were available in  
16

17 A I've used only two types of  
18 implants, so I do not concentrate on other  
19 types, so I did not go too far into  
20 looking for them. I was satisfied with  
21 what I've used.

22 Q I'll ask you first, since you  
23 bring that up, tell me what are the two  
24 implants that you use?

25 A I used the screw vent -- I used  
0034

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2 a company by the name of Zimmer, Z I M M E  
3 R, and another company, its name is MIS.

4 Q That's the name? MIS?

5 A Yes.

6 Q And you mentioned screw vent.  
7 Was there another one you told me?

8 A Both companies have screw vents.  
9 To me a screw vent is a -- it's a screw  
10 vent tapered implant. I used only screw  
11 vent tapered implants.

12 Q What is a tapered implant?

13 A It's tapered. The top of the  
14 implant is slightly --

15 Q Wider?

16 A -- wider. The diameter is  
17 wider.

18 Q What other type of implants were  
19 you aware of that were on the market in  
20 ?

21 A Like I said, there are many  
22 types of implants and I used only two  
23 types, two different.

24 Q You mentioned a screw vent.  
25 What was the other one?

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2 A I used only screw vents.

3 MR.

: Off the record.

4 (Discussion held off the  
5 record.)

6 Q Doctor, what is a core vent, C O  
7 R E, V E N T, implant?

8 A Well, to me core vent signifies  
9 it's a titanium implant that has grooves  
10 and it has spaces -- I mean holes at the  
11 apex of the implant.

12 Q What is the purpose of that?

13 A The purpose of that is to have  
14 cartilage and bone over the years build  
15 into it and, you know, by that even one  
16 hole is sufficient. It helps the  
17 stability of the implant.

18 Q Now, in your practice did you  
19 use core vent implants?

20 A Yes.

21 Q Is that the same as screw vent?

22 A It's basically the same.

23 Q Any particular difference that  
24 you are aware of?

25 A Not really.

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2 Q Made by both Zimmer and MIS?

3 A Mostly by Zimmer. The name, at  
4 least. But the name doesn't signify to me  
5 much of a difference.

6 Q The screw vent implants that you  
7 used, were those coated or noncoated?

8 A The screw vent HA tapered came  
9 from Zimmer company that I used for the  
10 top teeth.

11 Q Was it coated or noncoated?

12 A It was coated with HA.

13 Q That's hydroxyappetite?

14 A Yes, sir.

15 Q And the core vent implants that  
16 you used, was that coated or noncoated?

17 A No. The other one was an MIS  
18 implant which is a -- which is the same as  
19 the -- the same tapered and the same --  
20 basically a copy of the screw vent from  
21 Zimmer that was manufactured by MIS.

22 Q But was it coated --

23 A No, this one was not coated.

24 Q The core vent was not coated?

25 A No. The MIS was not coated.

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2 The Zimmer was coated.

3 Q Hang on.

4 The MIS that makes core vent  
5 you're saying was not coated?

6 A I don't call it coated. I call  
7 it a tapered implant, but that was not  
8 coated.

9 Q What is the difference between a  
10 coated implant and a noncoated implant?

11 A There isn't much difference  
12 except the coated implant is coated by  
13 hydroxyappetite.

14 Q Why? What's the purpose or  
15 benefit of having one coated and one not  
16 coated?

17 A Well, in the literature some

18 clinicians see the benefit of having  
19 coated implant and some swear by it and  
20 some don't swear by it.

21 Q What is the reported benefit of  
22 having a coated implant?

23 A Well, those that hold that this  
24 implant is better because it's better --  
25 better -- better contact, I should say.

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2 Q What do you mean?

3 A The bone, the natural bone and  
4 the coated HA would -- would -- I forgot  
5 the term. Would merge, would bond. The  
6 bond between the coated HA and the bone  
7 would be better than the noncoated one.

8 Q To which school of thought did  
9 you belong? The use of coated or  
10 noncoated implants?

11 A In my experience, it went either  
12 way.

13 Q In other words, it didn't matter  
14 to you whether you were using coated or  
15 noncoated?

16 A That's correct. I would likely  
17 use coated on the maxilla and, you know --

18 Q Why was that your practice, to  
19 use the coated implants on the maxilla?

20 A Well, I didn't have much -- I  
21 didn't really see that much of a  
22 difference between, but nevertheless I  
23 used it. I thought it cannot hurt.

24 Q And is there a reason why you  
25 didn't use the coated implants on the

0039

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2 mandible?

3 A No, there is no reason. It's  
4 just a different company.

5 Q Was there any benefit to using  
6 the coated implants for the mandible?

7 A Not really.

8 Q Just so we're clear, doctor, the  
9 mandible is the bottom jaw?

10 A Yes.

11 Q The maxilla is the upper jaw?

12 A Yes.

13 MR. : Let's take a quick  
14 break.

15 (Short recess.)

16 Q Doctor, the screw vent that you  
17 told me about made by Zimmer and also MIS,  
18 what did that cost?

19 MR. : You are talking  
20 about per --

21 MR. OGINSKI: Per implant, yes.

22 Q The cost for you to purchase the

23 implant?

24 A Well, I think the cost, to my  
25 best recollection, would be around the

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2 high 200, but in my case since I was, I  
3 think -- I think, the best purchaser of  
4 either companies in the United States, for  
5 that matter in the world -- I purchased a  
6 lot of implants -- they gave it to me in  
7 the -- for high discount.

8 Q Do you mean because of the  
9 volume of discounts you purchased they  
10 were able to work something out with you  
11 so you paid less per implant?

12 A Yes.

13 Q Would the same be true for the  
14 core vent implant we talked about?

15 A Yes.

16 Q So approximately somewhere in  
17 the \$200 range?

18 A That I paid?

19 Q Yes.

20 A I would say even less.

21 Q Can you give me an idea?

22 A An implant that cost about 200  
23 by MIS I got for about, I would say, a  
24 hundred or so. The one that's 280 or so,  
25 the core vent I got for about 150, 160.

0041

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2 Q How do you determine if there's  
3 been bone loss when a patient comes in to  
4 be evaluated?

5 A Well, there's always an existing  
6 bone loss where there is a missing tooth  
7 or missing teeth. It all depends on the  
8 amount of time elapsed since the  
9 extraction of the teeth. Also, it all  
10 depends whether the teeth that were  
11 missing or still existing had periodontal  
12 disease, so all these are factors in loss  
13 of bone.

14 Q If you feel on an exam that a  
15 patient has insufficient bone in one part  
16 of their mouth but sufficient bone in  
17 another part, have you in the past been  
18 able to put in implants where there was  
19 sufficient bone and left the other area  
20 alone?

21 A Like I said before, I would not  
22 place an implant when there is to my -- I  
23 should say to my desire, to my expectation  
24 is insufficient.

25 Q I'm sorry. I wasn't clear.

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2 I'll rephrase it.

3 If you find that a patient has  
4 sufficient bone in one part of their mouth  
5 but insufficient bone in another part,  
6 could you still put in the implant in the  
7 part that has good bone and leave the  
8 other part alone?

9 A Upon consultation with the  
10 patient. You know, if he desires to have  
11 only implants on one side, at least  
12 complement that side with teeth or a  
13 denture, then the answer is yes.

14 Q Over the course of your career,  
15 doctor, have you published any articles in  
16 any peer review journals in the field of  
17 implants?

18 A I was a clinician. I didn't  
19 look for --

20 Q I'll ask you that in a minute.

21 A No.

22 Q Thank you.

23 Did you personally perform any  
24 clinical studies throughout the course of  
25 your dental career that you have

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1  
2 published?

3 A No.

4 Q Did you perform any studies for  
5 which you accumulated data but have not  
6 published?

7 A No.

8 Q Over the course of your career  
9 did you teach dental students?

10 MR. : You are talking  
11 about ever?

12 Q From the time you went into  
13 private practice up until the time you  
14 finished?

15 A No.

16 Q Again, during the length of your  
17 career, doctor, have you taught other  
18 dentists?

19 A I taught other dentists about  
20 dental implants, not for the sake of them  
21 doing implantology.

22 Q For what purpose?

23 A But for general information, you  
24 know, for them to -- I had at different  
25 times four to five dentists working for

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1  
2 me.

3 Q I'll get to that, but tell me  
4 under what circumstance you would teach  
5 other dentists. And, again, I am not  
6 talking about the people that might have

7 been working for you.

8 A I didn't teach other dentists  
9 other than those that worked for me.

10 Q Did you teach any courses or  
11 seminars or classes to other dentists?

12 A No.

13 Q Did you give any lectures to any  
14 other dentists as part of any national  
15 organization of dentists?

16 A No.

17 Q Or any State organization of  
18 dentists?

19 A No.

20 Q In order to maintain your  
21 license up until the year , were you  
22 required to take ongoing educational  
23 classes?

24 A Oh, yes.

25 Q To keep up-to-date?

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1

2 A Yes.

3 Q Were you required to take a  
4 certain number of classes or courses each  
5 year or every two years or something else?

6 A Yes.

7 Q How many classes would you  
8 typically take in any given year?

9 A Enough. I don't recall, but at  
10 least I fulfilled the requirements for  
11 licensure.

12 Q Do you know what those  
13 requirements were as far as continuing  
14 dental education?

15 A No. About 50 credits or -- I  
16 can't recall.

17 Q Is that per year?

18 A I don't recall. You can check  
19 into the requirements and then I'll tell  
20 you I did more than that.

21 Q Out of all the classes or  
22 seminars that you took, did you get any  
23 type of certificate to confirm that you  
24 were present and you were there and you  
25 got these credits for being there?

0046

1

2 A Yes.

3 Q Do you have copies of those?

4 A I may. I may not. You know,  
5 I'm sure you know I sustained a disaster  
6 in my office and have lost quite a bit of  
7 things.

8 Q I'll ask you this, doctor:

9 Those certificates that you  
10 would get from completing various seminars  
11 on continuing dental education, what did

12 you then do with those certificates?  
13 Where did you keep them?

14 A I kept them in a room near my  
15 office, but --

16 Q In which office?

17 A -- but in order to obtain the  
18 credits for licensure, I had to provide  
19 the society with the diplomas or  
20 certificates, whatever you want to call  
21 them, so I must have had. Otherwise, I  
22 would not be -- not because I'm a liar,  
23 but they wouldn't trust me if I didn't  
24 supply it to them.

25 Q I'm only asking, doctor, which

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1  
2 office did you keep those records in?

3 A Most everything was kept in the  
4 office.

5 Q And that was the one that  
6 sustained the fire?

7 A Yes.

8 Q Now, the fire, am I correct, was  
9 in the basement?

10 A It started there, I think.

11 Q Did the fire go to the first  
12 floor where you had the office you've just  
13 described?

14 A Yes.

15 Q Were any records salvaged from  
16 that office?

17 A Yes.

18 Q Where are those records  
19 currently?

20 A In my home.

21 Q I would just ask that a search  
22 be made and if you find any of those  
23 records concerning the continuing dental  
24 education that you provide that to your  
25 attorney.

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1  
2 MR. : Can you give me a  
3 time frame you're requesting?

4 MR. OGINSKI: Sure. Within five  
5 years before .

6 A I have conducted a search for  
7 charts, x-rays.

8 Q I'm not asking about that.

9 MR. : Based upon this  
10 transcript, doctor, I'll remind you,  
11 but you will know. There may be some  
12 other things, but if you have any of  
13 those records.

14 THE WITNESS: O .

15 A Not to my -- I don't know.

16 Q Are you familiar with something

17 known as failure rate when using implants?

18 A Yes.

19 Q What is failure rate?

20 A Well, everybody -- everybody has  
21 a different failure rate, you know.

22 Q What is it?

23 A The percentage of failure of  
24 implants.

25 Q What is the overall failure rate

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2 in general?

3

MR. : You are talking  
4 about all professionals?

5

MR. OGINSKI: Correct.

6

MR. : That he knows and if  
7 he knows.

8

A It varies. It varies from 98  
9 percent to -- I don't know. It could be  
10 even 50 percent.

11

MR. : Failure rate?

12

Q Failure rate or success rate?

13

A 50 percent would be failure  
14 or -- I would say -- I would say the  
15 percentage as I described it --

16

Q I'll ask you about yours in a  
17 moment, but in general what is the overall  
18 reported failure rate in the literature  
19 for implants?

20

A Maybe in the 90's.

21

Q Meaning that 90 percent of the  
22 implants fail or 90 percent are  
23 successful?

24

A Successful.

25

Q So there would be approximately

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1

2 a ten percent failure rate?

3

A Approximately.

4

Q Specifically as to the rate you  
5 experienced in your practice, what would  
6 you say your failure rate was with the use  
7 of implants?

8

A Well, generally failure rate is  
9 slightly higher when you place implants on  
10 the same day that you extracted the tooth.

11

Q Why?

12

A I would say it's more prone to  
13 infection than a nonextracted site on the  
14 same day.

15

Q Why would infection increase the  
16 failure rate?

17

A Well, it depends. There are  
18 many, many reasons. One is an existing  
19 infection either in the soft tissue or in  
20 the bone. Some infections are not  
21 detected by clinical observation, you

22 know, but since bacteria is microscopic,  
23 you know, sometimes it's impossible to  
24 determine whether there is an infection or  
25 not.

0051

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2 Q But why would an infection cause  
3 an implant to fail?

4 A I'm sorry?

5 Q What is the mechanics by which a  
6 patient who has an infection, that the  
7 implant would fail?

8 A It would create less of an  
9 opportunity, I should say, you know, for  
10 bonding between the implant and the bone.

11 Q Why?

12 A Probably one of the reasons  
13 would be a softening of the bone over a  
14 certain time. It could be a week. It  
15 could be a month.

16 Q Doctor, would it be fair to say  
17 that if you observed evidence of a  
18 clinical infection in a particular area  
19 where you intended to place an implant  
20 that it would not be good practice to put  
21 an implant in when you see evidence of an  
22 infection there?

23 A That's correct. I should say  
24 acute infection.

25 Q O .

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2 And would it be appropriate to  
3 ask the patient before attempting to put  
4 in any implants whether they experienced  
5 any evidence of any type of infection  
6 within a limited time before coming for  
7 the procedure?

8 A Well, generally I don't go --  
9 most of the time I don't go by what the  
10 patient tells me because I don't think  
11 they are professionals enough, you know,  
12 to -- some patients will think they know  
13 everything and they say just he did it  
14 like this, he did it like that, so it  
15 doesn't go for me, so I conduct my  
16 procedures on my experiences and my  
17 observation, not an observation of a  
18 patient.

19 Q In your practice, doctor, would  
20 it be good practice to ask the patient if  
21 they have had any type of infection in the  
22 weeks leading up to the time that they're  
23 coming in to have implants put in?

24 A I would ask them, you know, but  
25 that would be -- that would not be my --

0053

1  
2 it would not be my way of deciding whether  
3 to do it or not.

4 Q Sure.

5 But at least it's good practice  
6 to ask them whether or not they have had a  
7 problem in their mouth?

8 A Everything helps.

9 Q An implant that fails, is it in  
10 any way usually related to anything the  
11 patient does or does not do? In other  
12 words, is there something active that they  
13 might do that will cause an implant to  
14 fail?

15 A Absolutely.

16 Q How? What is it?

17 A Some people poking into implants  
18 with -- I've seen people do it with tooth  
19 picks. Some people tell me that they used  
20 the fork, one of the tongs of the fork,  
21 you know, to get -- some people think they  
22 can do everything and they don't report it  
23 even to the dentist, you know. They did  
24 it. You know, some patients you can't  
25 trust.

0054

1  
2 Q When you put the implant in,  
3 does the gum heal over it?

4 A Not all the time. Not  
5 necessarily.

6 Q If the patient has manipulated  
7 the implant after it's been put in, are  
8 you able to visually see if they've played  
9 around with it or done something to it?

10 A Not really.

11 Q Other than actively and  
12 intentionally trying to pick at the  
13 implant that's put in, is there anything  
14 else that a patient could do that would  
15 cause an implant to fail?

16 A Yes.

17 Q What?

18 A Biting habits. I've seen  
19 patients who had a denture on and they  
20 cleaned up the area where they thought  
21 they had an irritation and they did it by  
22 themselves, you know. Some of them would  
23 deny they did it. Some of them would  
24 agree, you know, tell me yes, they did.  
25 Sometimes there is an area of an implant,

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1  
2 you know, where either the same day to  
3 several weeks later they had some  
4 irritations and they poked their fingers  
5 into and played around. You know, maybe

6 there are other things, but I'm just not  
7 aware of it because --  
8 Q Does the patient's oral hygiene  
9 affect whether or not an implant can fail?  
10 A Yes.  
11 Q How?  
12 A If they don't rinse the mouth,  
13 they don't remove some remnants of food  
14 that gets stuck between the tissue and the  
15 implants and that is a cause of a  
16 beginning of an infection. Irritation,  
17 unnecessary irritation can cause to an  
18 infection, cause to loosening of  
19 approximation of tissues or things like  
20 that that may lead to infection.  
21 Q When you perform implants do you  
22 explain to patients how important their  
23 oral hygiene is following the procedure?  
24 A Absolutely.  
25 Q Do you tell them what could

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1  
2 occur if they don't follow your  
3 instructions on oral hygiene?  
4 A Yes.  
5 Q Do you also provide written  
6 documents to them so that they could read  
7 about what happens if they don't follow  
8 your instructions with regard to the oral  
9 hygiene?  
10 A Sometimes I do. Sometimes I  
11 don't, but I verbalize it to a point where  
12 there should be no misunderstanding.  
13 Q What type of documents did you  
14 have available that you could provide to a  
15 patient to address the oral hygiene issue?  
16 A You know, oral hygiene, rinsing.  
17 Q No. I'm asking the documents.  
18 What paperwork did you have in  
19 your office that you could simply hand to  
20 them to reinforce what you were telling  
21 them?  
22 A Well, that's what I'm saying,  
23 you know. Proper oral hygiene, reducing  
24 smokin  
25 Q These are pamphlets or papers

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1  
2 that you printed? What were they?  
3 A These were papers that were  
4 given to me by the -- I think they were  
5 given by the implantology --  
6 implantology -- no. Things that I saw in  
7 conventions, pamphlets, you know, for home  
8 care instructions that I picked up quite a  
9 bit of, quite a few of them. These are  
10 things.

11 Q Let's go back, doctor, to I  
12 asked you about your failure rate in your  
13 experience with implants. How would you  
14 quantify your failure rate?

15 A I would go in a nonextraction  
16 site, you know, edentulous, I would  
17 quantify it in the mid 90's.

18 Q Meaning successful?

19 A Success. Correct.

20 Q In an area where you needed to  
21 extract teeth, what was your percentage?  
22 What was the failure rate?

23 A Maybe two, three percent less,  
24 lower.

25 Q So in the low 90's?

0058

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2 A In the low 90's. Anywhere  
3 between the low 90's to the mid-90's.

4 Q Was the failure rate for an  
5 extracted tooth consistent with the  
6 reported failure rate for literature  
7 overall in using implants? Was it more,  
8 less or the same?

9 A I came across extraction sites,  
10 you know, the failure is slightly higher.

11 MR. : You are talking  
12 about in the literature?

13 THE WITNESS: Yes. Sure.

14 MR. OGINSKI: Off the record.

15 (Discussion held off the  
16 record.)

17 Q Let me clarify, doctor.

18 In cases where you put in an  
19 implant where there is no tooth there, in  
20 an edentulous situation, was your failure  
21 rate consistent with the overall reported  
22 failure rate in the literature?

23 A I don't want to brag about it,  
24 but in my experience I've done more than  
25 15,000 implants, so overall I would say

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2 that I had quite a success. In many cases  
3 I did place more implants in than the  
4 patient paid me for with his consent or  
5 her consent.

6 Q Why?

7 A I always wanted to have  
8 successful results and expecting that  
9 there are failures to me as to many  
10 others, so since I got implants at  
11 relatively very low cost, it would not --  
12 and the time-consuming of placing an  
13 implant was not that much of a problem, so  
14 I didn't mind placing two, even in  
15 situations four more implants than the

16 patient paid me.

17 Q Did you do that knowing that  
18 there was a good chance that one or more  
19 implants would fail?

20 A Not that there is good chance.  
21 There's always a chance. I always told  
22 the patients there is always a chance of  
23 failure no matter what; extracted sites,  
24 nonextracted sites.

25 Q When you purchased these

0060

1  
2 implants from the companies in this large  
3 volume that you told me about, would the  
4 representatives of the companies come to  
5 your office on a periodic basis?

6 A Yes.

7 Q To either introduce you to new  
8 products they were selling or to literally  
9 bring their product to you?

10 A I wouldn't say new products. I  
11 was extremely satisfied with my implants.  
12 They did not have any minuses to them as  
13 compared to other companies, so I  
14 basically used this type of an implant  
15 throughout many -- I mean, implantology --  
16 implantology has been changed almost on a  
17 daily basis, the type of implants,  
18 duration of implants before applying  
19 restorations on them. You know,  
20 everything is being changed, you know.

21 In my first days of doing  
22 implants, you must have had at least  
23 minimum of at least six months of a wait  
24 between restoring, you know, for restoring  
25 the implants. Now they are talking about

0061

1  
2 it's not necessary to wait any time, any  
3 length of time. So things change.  
4 Nothing is fixed.

5 Q Doctor, the company that you  
6 purchased these implants from, did they  
7 ever provide you with trips for any  
8 reason? Provide either educational trips  
9 or vacation trips, things like that?

10 MR. : Note my objection.

11 You may answer, doctor. You are  
12 talking about any time frame?

13 MR. OGINSKI: Yes.

14 A Well, I brag about it. Yes.  
15 Absolutely. More than any other dentist  
16 in the world.

17 Q Tell me about that.

18 A Well, MIS took me -- they had --  
19 it's an company. They had a  
20 convention where there were their

21 representatives throughout the world.  
22 They invited all their representatives  
23 come to to see the factory and then  
24 give them some good time, things like  
25 that. That was about five years ago.

0062

1  
2 I purchased from them tons and  
3 tons of implants, so they took me first  
4 class in Airline to .  
5 Q With your family or your wife?  
6 A With my wife, yes.  
7 So we were -- I was the only  
8 dentist from anyplace, you know, that was  
9 invited.

10 And then Zimmer, they had a  
11 mini-convention, also, within the company,  
12 no dentists, in a resort area north of  
13 , 50 miles north of .  
14 It was five days or six days, so they give  
15 me an extra week in .

16 So these are the two.

17 Q How long ago was that?

18 A Everything within the last five  
19 or six years.

20 Q In addition to that, did they  
21 also provide you with any educational  
22 materials like textbooks or journals or  
23 reading material for your own benefit?

24 A Yes. Everything that's related  
25 to their implants.

0063

1  
2 Q Did they also take you out to  
3 dinners here in New York or provide you  
4 the opportunity to take your friends out  
5 to dinner at their cost?

6 MR. : Same objection to  
7 the line, but you may answer, doctor.

8 A They invited me, but I didn't  
9 have time. I did a lot of implants.

10 Q Did they provide any gifts to  
11 you over the course of five years or so  
12 before other than what you've told me  
13 about with the travel?

14 A Yes.

15 Q Tell me.

16 A They came up with -- well, MIS  
17 came to me with one of the instruments to  
18 measure parallelism between implants.  
19 There was a dentist in that is  
20 their advisor and he -- it carries his  
21 name and I forgot his name now. Getting  
22 old.

23 So they gave me about five, six  
24 years since -- even more than that. They  
25 give me a parallelism instrument that I've

0064

1

2 used quite a bit, and they gave me also  
3 posts for free, and the same thing with  
4 Zimmer company. They supplied me with  
5 things that I didn't have to pay.

6 Q And this was to thank you for  
7 being such a good customer?

8

A Yes.

9

Q Now, as part of these gifts and  
10 the trips, did they provide you with any  
11 documentation for tax purposes so you  
12 could then indicate that you received a  
13 particular gift?

14

MR.

: Note my objection.

15

Doctor, you may answer if you care to.

16

I don't know that it has anything to  
17 do with the case, but it's up to you,  
18 about tax information.

19

A It was never given to me as a  
20 gift, per se. It was given to me as a  
21 way, you know, like a symbolic way of  
22 giving it to me for using -- for using  
23 their -- it was to their benefit more than  
24 to -- well, equal benefit to them and to  
25 me.

0065

1

Q It was a thank you in some form;  
3 right?

4

A In a way you can call it a thank  
5 you, you know.

6

Q Regardless of what they provided  
7 to you, the companies that did provide you  
8 with the trips and with this instrument  
9 and the posts, did either of those two  
10 companies provide with you any written  
11 documentation indicating the value of  
12 those gifts at any point so that you could  
13 then use that documentation and submit it  
14 with your taxes?

15

MR.

: Objection to the

16

form. Again, you're assuming that  
17 there's a tax implication. I don't  
18 know that to be so. That's why I'm  
19 objecting

I'm just stating that for

20

the record. I don't know that they  
21 had to do that and he had to report  
22 something to the I.R.S. That's why  
23 I'm raising the objection.

24

Q Did Zimmer ever provide you with  
25 written documentation about the value of

0066

1

2 the trip to ?

3

A No.

4

Q Did MIS ever provide you with --

5 I'm sorry. It was MIS that took you to  
6 ?

7 A Yes.

8 Q Did Zimmer ever provide you with  
9 any written documentation about the value  
10 of the trip that they paid for for you to  
11 go to ?

12 A No. I never knew the value --  
13 monetary value?

14 Q Yes.

15 A No, I never know about it.

16 Q Did either of the two companies  
17 ever provide you at any time any written  
18 documentation about the cost of the  
19 materials they gave you as freebies,  
20 whether it be the posts, instruments or  
21 anything else they gave to you?

22 A Well, most of these -- most of  
23 these -- like you said, freebies. I don't  
24 call it freebies, but they gave me posts  
25 when I purchased implants, so they

0067

1  
2 included it in the same price. Because I  
3 didn't buy ten implants or 20 implants at  
4 a time. I bought hundreds of implants at  
5 a time.

6 So they gave me the posts also  
7 at the same time including, you know, the  
8 cost of the implants -- the cost of the  
9 implant included the cost of the post,  
10 which they didn't do to other dentists.  
11 Maybe they've done. I don't know. I  
12 never asked questions.

13 Q On either of the trips -- by the  
14 way, MIS took you to just one time?

15 A Yes.

16 Q Did they take you on any other  
17 trips?

18 A No.

19 Q How about Zimmer? Did they take  
20 you anywhere else besides ?

21 A No.

22 Q Any other companies you may have  
23 worked with that gave you trips to  
24 different locations?

25 A No.

0068

1  
2 Q At any time after you went on  
3 those particular trips did you ever  
4 indicate in any of your tax reporting  
5 requirements that you received these gifts  
6 or these trips from these particular  
7 companies?

8 MR. : Objection to the  
9 form. Again, you may answer if you

10 want to.  
11 A Well, I wouldn't -- you can -- I  
12 wouldn't know in what terminology -- what  
13 terminology to use, but the purpose of  
14 these trips was educational.

15 Q I'm sorry. I'll rephrase the  
16 question, doctor.

17 At any time after going either  
18 on a trip to or the trip to  
19 did you ever report to the  
20 I.R.S. that you went on these trips and  
21 these trips were provided by these two  
22 companies?

23 MR. : Objection to the  
24 form. You may answer if you want to.

25 A No, because I considered it part  
0069

1  
2 of the education that was included in my  
3 purchase of the supplies, so if I  
4 purchased from them five or 7,000  
5 implants, you know, I would consider this  
6 trip as part of the payment that I gave  
7 them for the purchased implants.

8 Q When did you start your career?  
9 When did you first go into private  
10 practice?

11 A I completed my oral surgery  
12 residency in 19 .

13 Q And you started practice in  
14 19 ?

15 A Yes.

16 Q You're originally from ?

17 A Yes.

18 Q When did you come to the United  
19 States?

20 A I started college here in 19 .

21 Q So you left in 19 ?

22 A After military service, yes.

23 Q Let's go back to the implants.

24 How do you know where to place  
25 the implants?

0070

1  
2 MR. : Again, in general?

3 MR. OGINSKI: In general.

4 A I know where I want to put them.

5 Q How do you know that?

6 A I know what type of restorations  
7 I'm going to use, so I know whether to  
8 place one or eight, maybe sometimes ten.  
9 Not very often. But how do I know? They  
10 have to be consistent with my ability to  
11 restore them.

12 Q But my question is a little more  
13 focused.

14 Within a particular jaw or bone

15 how do you know where exactly to place  
16 them?

17 A I decide one location where a  
18 tooth should be, o , and from then I  
19 calibrate it with -- I'm sorry. I can't  
20 remember the name. With the paralleling  
21 It has grooves for one tooth, two teeth,  
22 et cetera. Spacing

23 Q Is that like a template?

24 A No, it's not a template.

25 Q Now, you say you put it where

0071

1  
2 you want it to be. Tell me what you mean  
3 by that.

4 A I know what type of restorations  
5 is going to be used because these  
6 restorations were done in my office, so I  
7 knew where I want it to be. How do I  
8 know? I know because I knew that these  
9 where tooth number so and so going to be  
10 and I knew where tooth number so and so is  
11 the next one, et cetera.

12 Q In your practice, doctor, do you  
13 use pilot holes?

14 A All the time.

15 Q Do you use guide holes?

16 A Guide holes? Well, these are  
17 still pilot holes, you know, spaced in a  
18 certain number of -- whether it's a tooth  
19 next to it or two teeth next to it. That  
20 would be another pilot hole. Pilot holes  
21 are holes to determine the position of the  
22 implant to be placed.

23 Q In other words, they are  
24 pre-drilled holes and that's where the  
25 implant is going to go into?

0072

1  
2 A That's correct.

3 Q Do you use any type of marking  
4 device to identify the place where you're  
5 going to drill the holes?

6 A Yes, on study models, and  
7 frequently I make a template which I  
8 indicate, but, you know, that's not the  
9 rule. It's definite in certain  
10 situations -- in certain situations it's  
11 an aide to placing the implants. The  
12 paralleling device is also a tool to place  
13 the implants. All these are tools in  
14 edentulous placing

15 Q Tell me again, if you can -- I  
16 don't mean to go over it again, but this  
17 device, this paralleling device, what is  
18 the purpose of that device?

19 A It's a device to measure the

20 next placement of the implant and also  
21 implantology is based on parallelism,  
22 o . Sometimes you can accomplish it.  
23 Sometimes you cannot accomplish it.  
24 Q Tell me what you mean by  
25 parallelism.

0073

1  
2 A Each implant is going to be  
3 angulated on the same -- to the same  
4 space, o , so that you can, you know --  
5 like if you're going to have an implant in  
6 at 90 degrees to any surface, you want the  
7 next implant, if it's at all possible --  
8 many times it's not possible, but there  
9 are ways to deal with it and that's with  
10 the posts.

11 Q But this device, this  
12 parallelism measuring device will allow  
13 you to hopefully get it at the same angle  
14 that you put in one implant?

15 A That's correct.

16 Q So whether you want to have the  
17 next implant one tooth over or two teeth,  
18 it will then provide some sort of guide as  
19 to how to put in the second implant;  
20 correct?

21 A Yes, to the best I can.

22 Q Did you have that device in your  
23 office in ?

24 A Oh, sure.

25 Q Did you use that on a regular

0074

1  
2 basis when putting in implants?

3 A Oh, yes.

4 Q Was there ever a time where you  
5 put in implants and you did not use that  
6 particular device?

7 A Some situations, yes. Where I  
8 did extractions, sometimes the extraction  
9 site indicated the angulation of the  
10 teeth. In cases that they were really out  
11 of line completely, then you had to go in  
12 a situation that doesn't follow the  
13 position of the root of the tooth that was  
14 extracted.

15 Q In that measuring device that  
16 you just told me about which name you  
17 don't recall, if you were to put one  
18 implant next to or adjacent to the other  
19 one, does that indicate how much space is  
20 necessary to separate those two implants?

21 A A space should not be less than  
22 about three to four millimeters.

23 Q And what happens if it is?

24 A It would create some difficulty

25 to some restorative dentists.

0075

1

2 Q Why?

3 A That's the fabrication of the  
4 bridge, you know. It may affect. It may  
5 not affect, but if it's not, there are  
6 still ways to correct it and --

7 Q That's in the post production?

8 A That's correct.

9 Q But specifically talking about  
10 the actual implants and the spacing of  
11 them, do you use that device to give you a  
12 guideline as to how much space should  
13 separate each particular implant?

14 A In a nonextraction site, yes.

15 Q You mentioned that in some  
16 instances you would extract a tooth and  
17 put an implant in on the same day;  
18 correct?

19 A Many times.

20 Q And other times there would be  
21 no tooth there and you would be able to  
22 put an implant in at that time; correct?

23 A Many times.

24 Q What is the benefit to either  
25 you or the patient to extracting a tooth

0076

1

2 and putting an implant in in the same day?

3 A A good one is time. There are  
4 now more than ever -- and, as I speak,  
5 more than ever --

6 Q Again, I'm only focusing on from  
7 to

, that time period.

Tell me

8 what was the benefit.

9 A The benefit is time that it  
10 takes to complete the job, the  
11 restoration.

12 Q And as far as is there any  
13 difference in cost between doing it the  
14 same day or having a patient return at a  
15 later date to come back and do it?

16 A I'm sure many many dentists  
17 have --

18 Q I'm sorry to interrupt you,  
19 doctor. I'm only asking about you.

20 A There is a fee for extraction.  
21 There's fee for the implant.

22 Q And is there less of a fee if  
23 it's done together at the same day?

24 A Not really. It depends. I  
25 didn't have set rules, if you want, you

0077

1

2 know. I didn't have a set of rules. I

3 was a guy that did things ad lib, you  
4 know. Sometimes I did and sometimes I  
5 didn't.

6 Q Now, the marker that you  
7 mentioned that you would mark on study  
8 models on those molds or impressions we  
9 talked about, was there anything available  
10 to you that you would use markers to  
11 actually mark a place on the jaw itself as  
12 to where you would place the implant?

13 A Not really. I would -- I  
14 would -- what I would do is I would place  
15 a template or -- a template and just make  
16 an indentation into the tissue or into the  
17 bone.

18 Q A pre-hole?

19 A Correct. Very, very shallow.

20 Q Would you ever make marks on the  
21 patient's panorex film as to where you  
22 intended to place the implants?

23 A Yes.

24 Q And would you tend to do that in  
25 a marker, in a pen or some other marking

0078

1  
2 device?

3 A With a pen.

4 Q Typically did you talk to the  
5 patient about where within their mouth you  
6 would be putting the implants in?

7 A Generally speaking, yes. Not  
8 specific site, but generally speaking,  
9 yes.

10 Q And what was the purpose of  
11 doing that?

12 A He paid me money. He should  
13 know as much as possible.

14 MR.

: Let's take a break

15 now.

16 (Lunch recess.)

17 Q How do you know how far to screw  
18 in the implant?

19 A Intraoperatively I took x-rays  
20 and I would say usually I take one or two  
21 x-rays intraoperatively just to make sure.

22 Q And so how do you know how far  
23 to screw it in?

24 A I can tell by the x-ray how far  
25 I am and I can tell how far I still have

0079

1  
2 to go.

3 Q Do you need to drill into the  
4 bone a specific distance so that the top  
5 of the implant is flush with the bone or  
6 something else?

7 A Well, the top of the implant has

8 to be flush with the bone but there are  
9 different sizes, you know, so yes, every  
10 implant has to be flush with the bone but  
11 the apex of the implant has to go as far  
12 as it can not to damage sinus or to damage  
13 a nerve, you know. These are two things,  
14 topographic things we have to watch out  
15 for.

16 Q When you say the apex, tell me  
17 what you mean.

18 A The apex is the end of the  
19 implant, the part that goes into the bone.

20 Q The narrowest part?

21 A The narrowest part.

22 Q What do you call the top part,  
23 the widest part? Does it have a name?

24 A No. Just the top of the  
25 implant.

0080

1

2 Q How do you know if the implant  
3 is in the bone too far?

4 A Where it -- where it went  
5 into -- over the -- over the place where I  
6 wanted it to go.

7 Q Are you able to visually  
8 determine whether or not an implant is in  
9 too far or do you need x-rays to determine  
10 that?

11 A I need an x-ray and to place --  
12 when the implant is being placed in, you  
13 know, the amount, so to speak, of the  
14 resistance that I have. The more  
15 resistance that I have, than I expect --  
16 then I know I went too far.

17 Q Is it ever appropriate to screw  
18 the implant to the point where the top of  
19 the implant is below the bone line, the  
20 flush that we just talked about, that it's  
21 below that point?

22 A Yes, but crazy is the one -- the  
23 inexperienced one --

24 Q I'm sorry. Doctor, I'll  
25 rephrase it.

0081

1

2 If you are putting in an  
3 implant, is it ever appropriate to put it  
4 in below the bone line within it so that  
5 there's some type of depression or some  
6 area where it's not flush with the bone?

7 A Maybe a fraction of a  
8 millimeter, not more.

9 Q What happens if it is put in too  
10 much further than that?

11 A I don't know. I never did it.

12 Q When you put it in, do you screw

13 it in?  
14 A You ratchet it in. Yes. You  
15 tap it in. That's the nomenclature, to  
16 tap it in. You screw it in like a screw.  
17 Q And it has these grooves like a  
18 screw?  
19 A Grooves. Yes.  
20 Q And if you feel somehow that the  
21 implant is in too far into the bone, are  
22 you then able to reverse it and screw it  
23 up so it lifts back up or is it a one-way  
24 uni-directional?  
25 A No. It's bi-directional. You

0082

1  
2 can always -- I never did it, so I  
3 don't -- I don't -- I don't think it's  
4 beneficial to go over. Never experienced  
5 it, you know, so, to my recollection.  
6 Q Is it good practice to take  
7 preoperative x-rays before putting in  
8 implants?  
9 A Yes.  
10 Q And that would consist of both  
11 the periapicals as well as the panorex?  
12 A Either both of them or one of  
13 them.  
14 Q Is it good practice to take  
15 intraoperative x-rays as well?  
16 A Yes. I always did it.  
17 Q Why?  
18 A Just to make sure where I am.  
19 Q So --  
20 A Like I said before, there was  
21 some -- what's the terminology? Some --  
22 the angle -- the measurement on the x-ray  
23 is not the exact one. There is some  
24 deviation or some, you know -- because of  
25 the angulation it's not perfect. The

0083

1  
2 measurement of the length of the bone is  
3 not a perfect length.  
4 Q Now, do you take intraoperative  
5 x-rays after each implant or do you wait  
6 until you've put in all the implants that  
7 you plan on putting in that day and then  
8 take intraoperative x-rays?  
9 A No. The intraoperative x-rays  
10 are taken when I use the drills to make  
11 sure not to go too far with the drill, not  
12 the implant.  
13 Q So this is before the actual  
14 implant is placed in?  
15 A Before the implant is placed in,  
16 yes.  
17 Q And you are looking to see the

18 depth?  
19 A Yes.  
20 Q And what will an intraoperative  
21 x-ray show you in relation to the depth  
22 that you're looking for?  
23 A Whether I went too far.  
24 Q Does it show you if you are  
25 close to or nearby a nerve?

0084

1  
2 A Yes.  
3 Q Does it show you any other vital  
4 structures that you want to be aware of  
5 and stay away from?  
6 A The sinus.  
7 Q Are you able to visualize or  
8 obtain that information using the  
9 periapical films?  
10 A Yes.  
11 Q Are you able to visualize that  
12 information using the bite wings?  
13 A All depends on the amount of  
14 bone. You know, if there is a lot of  
15 bone, then I don't think you can get the  
16 apex of the bone.  
17 Q In order to evaluate the depth,  
18 as to whether you've gotten the right  
19 depth with these intraoperative x-rays,  
20 what x-rays do you use to check the depth?  
21 A Periapicals.  
22 Q Do you ever take another panorex  
23 film intraoperatively?  
24 A No.  
25 Q Why?

0085

1  
2 A Because the periapicals are  
3 sufficient for me. For anybody else, for  
4 that matter. Once you take a periapical,  
5 it gives you the whole -- the entire  
6 picture.  
7 Q Are there times where you will  
8 take a film and for whatever reason, maybe  
9 artifact, maybe the patient moved, maybe  
10 the machine is not good, that you don't  
11 get a good quality film?  
12 A Well, sometimes because the  
13 patient moved, because the improper  
14 placement of the x-ray, because of  
15 different reasons, you know, sometimes you  
16 have elongation or shortening of the  
17 picture, you know. Then you take another  
18 one.  
19 Q Customarily, doctor, in your  
20 practice did you take postoperative  
21 x-rays?  
22 A Yes.

23 Q Why?  
24 A Just for me to see where the  
25 implants are.

0086

1  
2 Q What type of x-rays did you use  
3 when you would take the postop x-rays?  
4 A Periapicals.  
5 Q Can an implant get into the  
6 sinus when you are putting the implant in?  
7 A It could. Never happened to me.  
8 Q We are talking about the sinuses  
9 in the top part of the face; correct?  
10 A Yes.  
11 Q Or above the --  
12 A Posterior teeth.  
13 Q Thank you.  
14 What sinuses are present?  
15 A Maxillary sinuses.  
16 Q And there are two sinuses in  
17 that area?  
18 A One on each side.  
19 Q From the periapicals that you  
20 take intraoperatively, are you able to see  
21 the distance between the bone and where  
22 the sinus begins?  
23 A Yes.  
24 Q Would the same be true of the  
25 panorex? You're able to visualize where

0087

1  
2 the bone ends and the sinus starts?  
3 A I think periapical to me is more  
4 beneficial than a panorex.  
5 Q Do bite wings assist you at all  
6 in identifying where the bone ends and the  
7 maxillary sinus begins?  
8 A Like I said before, depends on  
9 how much bone it is. The more bone there  
10 is, the less beneficial is the bite win  
11 Q Have there been any instances in  
12 your career where you have put in an  
13 implant in the upper jaw and have learned  
14 either intraoperatively or immediately  
15 postoperatively that part of the implant  
16 is sticking into the maxillary sinus?

17 MR. : Objection. You may  
18 answer if you have a recollection.

19 A To my recollection, no.  
20 Q Have you read or heard about  
21 people who do implants that have for  
22 whatever reason placed the implant where  
23 part of it is sticking into the maxillary  
24 sinus?

25 A I don't know of any because I

0088

1

2 didn't speak to many oral surgeons and I  
3 don't think -- I read it, you know, in the  
4 literature that it can happen, but nothing  
5 as a firsthand experience.

6 Q Are there any other sinuses that  
7 are present in a person's face that would  
8 be in close proximity to where an implant  
9 is being placed in the upper jaw?

10 A No.

11 Q If you observed an implant that  
12 was somehow going through or into the  
13 patient's sinus, is that something that  
14 would only be visible on an x-ray?

15 MR. : Objection to the  
16 form. You may answer it, though, if  
17 you understand it.

18 A Can you repeat it?

19 Q Sure.

20 How would you know whether or  
21 not the implant was in the sinus or not?

22 A I would know about it by taking  
23 an x-ray.

24 Q And that would be postoperative  
25 x-rays; correct? Because once the implant

0089

1 is in, you would take an x-ray; correct?

2 A I would know also by the  
3 intraoperative x-rays, you know, how close  
4 am I to the floor of the sinus.

5 Q In your experience, doctor,  
6 during the course of your career, have you  
7 ever had to repair a hole into the sinus  
8 as a result of putting in an implant or in  
9 preparation for an implant?

10 MR. : Objection to the  
11 form. You may answer it, though.

12 A I did so many implants, as I  
13 described to you before, that I don't  
14 really have any recollection of getting  
15 too dramatic into damages to the sinus, if  
16 you ask me.

17 Q My question was have you ever  
18 performed a repair to the sinus as a  
19 result of any implant or drilling that may  
20 have gone into the sinus?

21 MR. : Objection to the  
22 form. You may answer if you recall.

23 A I don't think about implants.  
24 You know, when I did extractions, some

0090

1 extractions, some teeth had infection at  
2 the apex of the roots and they destroyed  
3 the floor of the sinus and then I had to  
4 go and place synthetic bone graft and  
5 suture it, but I can't recall about  
6

7 implants.  
8 Q Are you familiar with a  
9 procedure called Caldwell-Luc?  
10 A Caldwell-Luc, yes.  
11 Q What is that procedure?  
12 A It's a procedure whereby you get  
13 into the sinus and you get an infection  
14 out or you get foreign object out.  
15 Q Have you ever performed that  
16 procedure in the course of your career?  
17 A Yes.  
18 Q When you put an implant in, you  
19 mentioned that one of the possibilities,  
20 one of the risks that can occur is that  
21 you can hit a nerve; correct?  
22 A Sorry. Can you repeat again?  
23 Q Sure.  
24 One of the risks of putting an  
25 implant in is that you may hit a nerve;

0091

1  
2 correct?  
3 A Yes.  
4 Q How do you take steps or what  
5 steps do you take in order to prevent  
6 hitting a nerve when placing an implant?  
7 A Taking an intraoperative x-ray.  
8 Q How will that assist you in  
9 preventing hitting a nerve?  
10 A Telling me how far to go, when  
11 to stop.  
12 Q Now, you told me earlier that an  
13 x-ray is a two-dimensional view; correct?  
14 A Yes.  
15 Q How do you know beyond that two  
16 dimensions where that nerve lays or where  
17 it runs?  
18 A Usually the three-dimensional is  
19 not going to make that much of a  
20 difference to the two-dimensional because  
21 it is a very small narrow space that just  
22 because on the buccal side, if you will,  
23 the facial side is going to be  
24 dramatically different than the lingual  
25 side, the side of the tongue, or the side

0092

1  
2 of the palate, so it would have to be  
3 really a big incline to make that much of  
4 a difference between the two-dimensional  
5 and the three-dimensional.

6 Q Does a three-dimensional image  
7 give you a clearer picture of where the  
8 nerve runs and which way it goes so you  
9 can take steps to prevent going near it?

10 MR. : Objection to the  
11 form. You may answer in that form if

12 you understand it.  
13 A It would give you a better  
14 picture as far as the buccolingual, not so  
15 much or almost not at all as far as the  
16 length.  
17 Q Can you tell me, doctor, what  
18 nerves run along the lower jaw?  
19 A Mandibular nerve.  
20 Q Any others?  
21 A Yes. Submandibular nerve.  
22 What's the name of it? Well,  
23 submandibular, mandibular nerve.  
24 Q What nerves run in the upper  
25 jaw?

0093

1  
2 A The buccal nerve. In the upper  
3 you don't have really -- you have many  
4 nerves, you know, that are very, very  
5 small and insignificant.  
6 Q In the lower jaw, the mandibular  
7 nerve, where is the insertion point?  
8 Where does it start?  
9 A It starts in the head.  
10 Q Does it split at some point to  
11 go to the left and right?  
12 A Yes.  
13 Q And do those have specific names  
14 or are they just identified --  
15 A Yes. Lingual nerve and the  
16 buccal nerve.  
17 Q And that's for the lower jaw?  
18 A Yes.  
19 Q When you are looking at an x-ray  
20 and looking at nerves, what does a nerve  
21 look like on an x-ray?  
22 MR. : Objection to the  
23 form, but you may answer.  
24 A It is a radiolucent area.  
25 Q It shows up as white?

0094

1  
2 A Dark.  
3 Q If a patient has had root canal  
4 in a particular tooth and the tooth is no  
5 longer present, are you able to determine  
6 from looking at x-rays whether or not that  
7 patient has had root canal to a particular  
8 nerve or part of the nerve?  
9 MR. : Objection to the  
10 form. If you understand it, you may  
11 answer it.  
12 A You're incorrect by your  
13 statement.  
14 MR. : Could you rephrase  
15 it?  
16 MR. OGINSKI: Sure. I'll

17 rephrase it.  
18 Q If a patient has had root canal  
19 and at some point after they have lost  
20 that particular tooth and you now take an  
21 x-ray of that edentulous area, are you  
22 able to tell from looking at the x-ray  
23 whether there is any nerve root remaining  
24 in that particular area?

25 A If the tooth is missing?

0095

1

2 Q Yes.

3 A No.

4 Q What happens, doctor, if an  
5 implant is placed into or onto a nerve?

6 A It varies.

7 Q Tell me. What is the variation?

8 A Some people have very wide nerve  
9 and if you came close by or even if you  
10 touch it, you may have an insignificant,  
11 temporary, never a permanent, damage to  
12 the nerve. I know many cases. You may be  
13 familiar that a patient had a very wide  
14 nerve.

15 Q Are there other instances where  
16 a patient can sustain long-term permanent  
17 damage?

18 A Well, it does happen when you --  
19 when a dentist takes a wisdom tooth --

20 Q No. I'm talking about placing  
21 implants and hitting the nerve.

22 A You can -- not as far as I'm  
23 concerned. If I ever had any, to my best  
24 recollection, it was a temporary partial,  
25 not a complete. Temporary. It was an

0096

1

2 improvement as time goes by.

3 Q Hang on, doctor. I'm not asking  
4 specifically about your experience.

5 A I'll tell you in general.

6 Q Your knowledge in general.

7 A Yes.

8 Q If an implant hits the nerve,  
9 can the patient suffer permanent nerve  
10 damage as a result of that as one of the  
11 possibilities?

12 A If it just touches the nerve and  
13 the nerve is wide or close to being wide,  
14 you know, there is no -- there is no  
15 damage to the nerve as far as cutting it.  
16 There may be slight pressure, but in those  
17 cases it is a temporary and partial.

18 Q Fair enough.

19 What about those cases where the  
20 implant is put in more than what you've  
21 just mentioned or deeper or it cuts the

22 nerve? In those instances would you  
23 expect to see some type of longer term or  
24 permanent damage to the nerve?

25 A If it went through the entire

0097

1

2 canal where the nerve is, yes. Not to my  
3 knowledge. Although, you know, in the  
4 literature I can recall damages, complete  
5 damages to nerves, but in my experiences,  
6 not that there are many, very few, all of  
7 them, to my recollection, all of them  
8 ended up by temporary and partial.

9 Q If a patient has a nerve injury  
10 following the insertion of an implant, can  
11 you then conclude that there was some  
12 damage to the nerve?

13 A Not at the time of the  
14 insertion.

15 Q No. I'll ask it a different  
16 way.

17 If a patient has an implant put  
18 in and experiences some type of nerve  
19 injury that is evident after a period of  
20 time after the implant is put in and  
21 continues, can you say solely by virtue of  
22 the fact that they have some nerve deficit  
23 now after, let's say, a year or two years  
24 after the procedure, can you say that the  
25 injury is a result of the implant?

0098

1

2 MR. : Objection to the

3 form. You may answer it if you  
4 understand it, doctor.

5 A In my experience, there was a  
6 partial and/or temporary damage to nerves,  
7 which most of the times, if not all of the  
8 times, there was a progression of  
9 improvement stated by the patient or  
10 determined by me to be improving and there  
11 are ways to -- there are ways to check it  
12 and some patients maybe, maybe not, not to  
13 my knowledge, can fake.

14 Q And there are certain tests that  
15 you have that would determine whether or  
16 not a person might be malingering or  
17 faking a particular injury; correct?

18 A Well, the tests that can be  
19 done, you know, to assure that the patient  
20 doesn't fake it or not is that you don't  
21 tell the patient anything and you just  
22 accidentally pinch the area that he is  
23 claiming and --

24 Q And if they feel it, you know  
25 that they're not telling you the truth?

0099

1

2 A Yes. Absolutely.

3 Q But my question was, doctor, if  
4 a patient exhibits an injury following an  
5 implant, can you safely conclude that that  
6 injury, assuming they had no other dental  
7 treatment, was a result of the implant?

8 MR. : Objection to the  
9 form. You may answer it.

10 A Well, I can tell you one thin

11 O ? Anybody who doesn't have a nerve  
12 damage but sees an opportunity to gain one  
13 way or another can always fake a damage,  
14 can always tell me I have damage. Listen,  
15 I went to doctor X and he did an implant  
16 or he took a wisdom tooth, so I have  
17 numbness.

18 And many people know about this  
19 because they know from friends or this and  
20 they know, so when the doctor comes and  
21 says well, let's check it, you know, they  
22 can fake it. Ouch.

23 Q Let's put that aside for a  
24 minute. I just want to focus on what I  
25 think is a simple question.

0100

1

2 Assuming the patient has nerve  
3 injury following the insertion of an  
4 implant and it goes on for a period of  
5 years --

6 A Any patient, you mean?

7 Q Any patient in general.

8 And the patient has had no other  
9 dental treatment at all, can you conclude  
10 that the nerve injury is a direct result  
11 of the implant?

12 MR. : Objection to the  
13 form. Try to answer that if you can,  
14 doctor, yes or no.

15 A If there is no other procedure  
16 done and implant is placed and you take an  
17 x-ray and you see that the implant is  
18 about one millimeter or more or maybe half  
19 a millimeter or more from the nerve, there  
20 is no chance that, you know -- you know  
21 there's always a chance, but it's  
22 miniscule that there is going to be a  
23 damage to the nerve.

24 If the x-ray shows that the  
25 implant is just touching the roof of the

0101

1

2 nerve -- the reason I'm saying roof is  
3 because the nerve's located inside a  
4 tunnel in the bone and the tunnel has a  
5 floor and a roof, so the roof is on the

6 top. So the implant can touch the nerve  
7 slightly. In those cases, you don't have  
8 paresthesia or you may have partial and  
9 temporary.

10 Just by touching the nerve or  
11 going slightly into it, that case would be  
12 definitely in my experience temporary and  
13 partial. Now, what do you call temporary  
14 can be anywhere from a month to a year.  
15 Different patients.

16 Q What would you call beyond a  
17 year with that type of paresthesia?

18 A It can be a year and a half.

19 Q What if it's more? Two, three  
20 years, would that be considered permanent?

21 A If it's over -- well, never  
22 happened to me. I don't know. I can't  
23 tell you.

24 Q I'm just asking you --

25 A If you tell me after ten years

0102

1  
2 he's still numb, well, I say it's  
3 permanent. Anything below that I don't  
4 know. I can't testify to that.

5 Q How many teeth does a healthy  
6 adult have, assuming they have all their  
7 teeth?

8 A 32.

9 Q What is the maximum number of  
10 implants that you can place into a  
11 person's mouth? And I'm going to ask you  
12 to separate between the mandible and the  
13 maxilla.

14 A Well, if there is no problem of  
15 sufficient bone, you can place up to, I  
16 guess, you have enough room for -- there's  
17 another thing and that is the longer the  
18 patient is missing teeth, the longer the  
19 jaw is edentulous, the bone mass is being  
20 lost. The more -- the longer the time the  
21 jaw has been edentulous the less, you  
22 know -- it looks like as if the jaw sort  
23 of shrinks because you have less mass of  
24 bone so then you put more.

25 Q In the best circumstances what

0103

1  
2 is the maximum number of implants you can  
3 put into the lower jaw?

4 A Theoretically 16.

5 Q And what about the upper jaw?

6 A Theoretically also 16.

7 Q What does it mean if someone is  
8 a restorative dentist?

9 A He is replacing the supra, the  
10 upper part from the gum up, whether it's a

11 denture, removable denture or a fixed  
12 denture which is permanent denture,  
13 permanent teeth, permanent bridge.

14 Q Do you consider yourself to be a  
15 restorative dentist?

16 A I did it.

17 Q But when you held yourself out  
18 to the public and to people who would come  
19 to you, did you consider yourself to be a  
20 restorative dentist?

21 A I'm an oral surgeon, but I'm not  
22 limited to just oral surgery. I  
23 throughout my years did some restorative  
24 dentistry also.

25 Q Would you agree, doctor, that

0104

1

2 implant treatment is a specialized area of  
3 dentistry?

4 A Not really.

5 Q General dentists can do  
6 implants?

7 A I know in every general  
8 dentist does it.

9 Q Let's talk about New York.

10 A Even in New York you have  
11 general dentists that do it.

12 Q Do you need any specialized  
13 training to do implants?

14 A Well, depends on the person.  
15 You know, there are some good guys and --  
16 some good dentists and some bad dentists.  
17 You can have a dentist who is a general  
18 dentist and he can place implants better  
19 than a specialist, a periodontist or oral  
20 surgeon.

21 Q After a doctor finishes their  
22 dental school and any postgraduate  
23 training, is there -- I'll rephrase it.

24 What is periodontology?

25 A Gum dentist.

0105

1

2 Q Are you a periodontist?

3 A No.

4 Q What is prostodontistry?

5 A A restorative dentist.

6 Q And that's what we just talked  
7 about; correct?

8 A Yes.

9 Q You didn't hold yourself out as  
10 a prostodontist?

11 A No. I hold myself out as an  
12 oral surgeon.

13 Q What is an endodontist?

14 A Root canal man.

15 Q And you didn't hold yourself out

16 as an endodontist; correct?

17 A No.

18 Q When you say you're an oral  
19 surgeon, that means you have specialized  
20 training above and beyond what a general  
21 dentist has?

22 A Absolutely.

23 Q When a patient came to you for  
24 an evaluation of implants, am I correct  
25 that you would be the one to choose the

0106

1  
2 type of implant that you would insert?

3 A Yes.

4 Q The patient doesn't have the  
5 knowledge and the expertise like you do to  
6 dictate what implants they're going to  
7 have?

8 A Some think, but --

9 Q But you wouldn't allow that?

10 A No.

11 Some people think they know  
12 better than the dentist. I know somebody  
13 that you may know.

14 Q Can you tell me, doctor, the  
15 difference -- I'm looking now to the  
16 qualitative difference between the type of  
17 implants that you used, the two that you  
18 mentioned, and any others that were  
19 available on the market.

20 In other words, you talked about  
21 the screw vent and the core vent. How do  
22 those compare in quality to any others  
23 that you are aware of on the market at the  
24 time?

25 A O . In short, an implant is a

0107

1  
2 titanium screw. As far as I'm concerned,  
3 any titanium screw is as good as the  
4 other. The rest depends on the  
5 professional.

6 Q Were there some companies that  
7 you are aware of that were considered to  
8 be the top or the best made implant around  
9 and others that might have been considered  
10 of lesser quality?

11 A I don't think the  
12 representatives of any dental implant  
13 would consider themselves lower than  
14 another company.

15 Q No. I'm asking you.

16 A I don't know. I just did two  
17 companies and that's it. Both of them are  
18 equal to me.

19 Q How did you learn that those two  
20 companies that made those two products

21 were better than any other implant that  
22 might have been available on the market?

23 A The length of time I used them.

24 Q How did you get to start to use  
25 them instead of using other types of

0108

1

2 implants?

3 A I had a representative of the  
4 dental implant, Zimmer. It went through a  
5 lot of different names since the inception  
6 of this company. They were bought by  
7 another company and that company was  
8 bought out by another company. I started  
9 with them many many years ago and there  
10 was no reason why I should change them.

11 And then accidentally I was  
12 introduced to an MIS representative and I  
13 observed the implants and they didn't look  
14 to me any different than the Zimmer  
15 implant, so I started to use them also.

16 Q At any of the meetings you may  
17 have attended as part of any dental  
18 association, did you ever learn about  
19 other types of implants that were  
20 considered to be of greater quality than  
21 the ones that you were using?

22 A Some -- maybe some speakers had  
23 claimed that they are using this implant  
24 because they think it's better. If I was  
25 a speaker, I would probably say the same

0109

1

2 thing about Zimmer or MIS. I think they  
3 are better. If I didn't think Zimmer or  
4 MIS were as good as the other one, I  
5 wouldn't have used them.

6 Q Over time would you get  
7 literature or magazines or journals with  
8 advertisements from different  
9 manufacturers about different types of  
10 implants that were made?

11 A Yes. I had salesmen coming from  
12 other companies.

13 Q But just in your general dental  
14 literature, magazines, were there  
15 advertisements by companies to show their  
16 product and the different types of  
17 implants and the great qualities that they  
18 offered?

19 A I don't think I came across any  
20 literature, anything in the literature  
21 that would be written by or -- an  
22 advertisement of a company claiming to be  
23 better than another company. I don't  
24 think it's professional on their part,  
25 but.

0110

1

2 Q I talked to you earlier about  
3 the cost of your implants. My question  
4 is -- and if you can tell me generally  
5 that would be great -- what did you  
6 usually charge patients for the actual  
7 implants?

8 A Well, there are a lot of  
9 implants that I have used. These were  
10 much much narrower, but they were  
11 specifically for dentures.

12 I'm sorry. Could you repeat?

13 Q What did you typically charge  
14 patients for the implants?

15 A Well, I basically charged as a  
16 fixed price for the entire thing and the  
17 reason for that is that my office did  
18 everything It did the implants by me. I  
19 had the laboratory inside my office  
20 staffed by four laboratory technicians.  
21 They did dentures and fixed bridges, and I  
22 had -- some were general dentists. Some  
23 were prostodontists. Prostodontists are  
24 those that claim they are the specialists  
25 of restorative.

0111

1

2 And all these were performed by  
3 my office and I had no reason whatsoever  
4 to ever refer a patient, whether it's for  
5 oral surgery or dental implant or  
6 restorations of the implants by dentures  
7 or a different laboratory, because I had  
8 them all.

9 Q My question asked only what the  
10 cost was for the implants that you charged  
11 the patient.

12 A All right. It varied. You  
13 know, sometimes it was for the whole tooth  
14 about 1,400 to twenty-three, 2,500.

15 Q When you say for the whole  
16 tooth, do you mean --

17 A The implant and the crown.

18 Q The implant and the crown.

19 A Then there was another type of  
20 restoration which would have been  
21 removable denture, but it would be -- it  
22 would be -- it's fixed to either a  
23 substructure or to male/female-type of  
24 fixation, so the denture would be much  
25 stronger and enable the patient to bite on

0112

1

2 apples, corns, steaks as opposed to  
3 dentures that would not have been  
4 supported by implants.

5 Q In your opinion, doctor, the two  
6 types of implants that you used, were they  
7 in your opinion the best quality implants  
8 you could get for the money?

9 A In my eyes, yes.

10 Q Were you aware of any other  
11 implants that might be considered to be a  
12 better quality than the ones you were  
13 using?

14 A I told you before if there was  
15 better quality and better success, I would  
16 have used it.

17 Q How would your prices for the  
18 implants compare to other dentists'  
19 prices?

20 A Very low.

21 Q Tell me how you were able to  
22 generate a profit if they were so low.

23 MR. : Objection to the  
24 form.

25 A Everything is done in my office.

0113

1  
2 I was quite efficient. I received parts  
3 at a much lower cost than anybody else.  
4 Everything was transferred into the  
5 patient and I was not as greedy.

6 Q The coating of the implant that  
7 you talked about with the hydroxyapatite,  
8 does that create a roughened surface on  
9 the outside, outer surface?

10 A Yes, it would be slightly.

11 Q Is that what creates a better  
12 bond with the bone?

13 A I don't think so. It's the  
14 material itself.

15 Q If you felt the patient did not  
16 have enough bone in a particular location,  
17 were you able to use a shorter implant or  
18 to cut the implant to size?

19 A You don't cut the implants to  
20 size. You put what you get. You don't  
21 modify it.

22 Q And are you able to obtain or  
23 use a shorter implant?

24 A Oh, absolutely.

25 Q So it comes in different sizes?

0114

1  
2 A Absolutely, but you don't modify  
3 them. They come as they are.

4 Q In Mr. 's case --

5 A Do I know him?

6 MR. : Let him ask the  
7 question.

8 Q In Mr. 's case, did you  
9 shorten any of the implants?

10 A Absolutely not.

11 Q You talked about the distortion  
12 that is present on a panorex film. Have  
13 you ever heard anybody suggest that the  
14 distortion from a quantifiable measure is  
15 about 25 percent?

16 A I don't know percentage.

17 Q Do you know the percentage,  
18 quantifiable number of the distortion that  
19 is present in a periapical film? Whether  
20 it's three percent, five percent or some  
21 other number?

22 A Well, to repeat what I have said  
23 before maybe once or a couple of times, I  
24 used intraoperative x-rays. They were  
25 more important to me than the pre-op

0115

1  
2 x-rays, the dimensions. They are --  
3 every -- the pilot drill and the  
4 subsequent drills for different diameters  
5 of the x-rays have also markings for  
6 length of -- correspond to the length of  
7 the different sizes of implant, so if you  
8 think that you don't have much room to  
9 play with, you go to the first marking,  
10 which is six millimeters or so, which is  
11 still shorter than the length of the  
12 implant and you take an x-ray  
13 intraoperatively and then you see should I  
14 go longer or not? Do I have enough room  
15 for another marking? Which would be from  
16 eight millimeters to ten millimeters. And  
17 if I go to ten millimeters, then I decide  
18 whether I do have room for 13 -- 11  
19 millimeters. They came in different  
20 lengths. Each one has marking and each  
21 one correspond to the length of the  
22 implants.

23 So just because there is some  
24 distortion -- that's the word I was  
25 looking for before. If there is some

0116

1  
2 distortion, unless it's 50 percent or 40  
3 percent, you know, as long as it's, you  
4 know, within normal limits, as I call it,  
5 o , the intraoperative x-rays are the  
6 kings.

7 Q In your practice did you ever  
8 use any type of computer software to help  
9 you identify the precise location of where  
10 the implant should be placed?

11 A No. This is a very most recent  
12 thin Like I said before, implantology  
13 is not fixed. It is developed. Everyday  
14 there is a new thin

15 Q And when planning to decide on  
16 the number of implants that you are going  
17 to put in, using your experience and your  
18 clinical examination of the patient, did  
19 you make a notation in the patient's chart  
20 as to how many implants you intended to  
21 place?

22 A Well, I made the notations  
23 for -- sometimes I made the notations for  
24 what I have charged the patient and  
25 sometimes I didn't make any notations. I

0117

1  
2 just wrote it down later after I  
3 completed, you know, that I did place one  
4 or two or three extra implants in certain  
5 locations, so I may have -- I may have  
6 planned with the patients to do two or  
7 four or six implants. I may have -- I  
8 wouldn't say many many occasions, but on  
9 occasions I would have decided to give an  
10 extra one or two.

11 Q When Mr. first came in to  
12 see you in of , how many  
13 implants did he ask you for?

14 A He wanted -- he wanted ten  
15 teeth, I think.

16 Q Total?

17 A Yes.

18 Q How was it that you decided that  
19 instead of the ten teeth that he had asked  
20 for he would receive ten implants in the  
21 lower and ten implants in the upper?

22 MR. : Objection to the  
23 form. You may answer.

24 A I don't think I gave him ten on  
25 the top and ten on the bottom. Let me

0118

1  
2 just consult my --

3 Q Sure.  
4 And you are now looking, doctor,  
5 at the original chart you have for Mr.  
6 ?

7 A Yes.  
8 O . On the top I put eight  
9 implants.

10 Q I'm just asking about what he  
11 asked for and what you decided to put in  
12 before actually doing any work.

13 A He didn't ask me for. O ? I  
14 told him what can be done. O ? And  
15 what does a patient know about I want just  
16 six teeth or I know I want only eight  
17 teeth or four teeth? He doesn't know what  
18 it is going to be the outcome as far as  
19 his ability to perform the things that he

20 want to perform like either smiling or  
21 chewing, chewing soft food, chewing hard  
22 food, corn-on-the-cob.  
23 Q And the note that you were  
24 referring to, which date are you referring  
25 to that you just commented on? Was that

0119

1  
2 from the date or the  
3 date?

4 A The date.

5 Q And just for completeness, what  
6 is the date of that note, doctor?

7 A .

8 Q And you said you put in eight  
9 implants?

10 A Yes.

11 Q Upper or lower?

12 A I'm sorry. I placed ten  
13 implants.

14 Q And that's upper or lower?

15 A Upper.

16 THE WITNESS: It's ten. Implant  
17 three and 13. It was correct before.

18 MR. : Yes. We looked.

19 Q Am I correct that you put the  
20 upper implants in first?

21 A Yes.

22 Q And then shortly after you put  
23 in the lower implants?

24 A Yes.

25 Q Did Mr. explain to you

0120

1  
2 why he was only looking to have ten teeth  
3 put in?

4 A Mr. was very, very  
5 unhappy man.

6 Q I'm only asking if he told you  
7 why he only wanted ten teeth. I'll get  
8 into the other stuff later on.

9 A No, I don't know. Maybe  
10 somebody told him that you just need ten  
11 teeth.

12 Q Did your wife work in your  
13 office with you?

14 MR. : At what time frame?

15 MR. OGINSKI: Between and

16  
17 A Not as an assistant. Maybe just  
18 checking around the girls. That's all.

19 Q And your wife's name is ?

20 A Yes.

21 Q ?

22 A A.

23 Q When you would examine a patient  
24 and evaluate them for implants, would you

25 have an assistant in the room with you?

0121

1

2 A Yes.

3 Q What would be the purpose of  
4 having an assistant in the room?

5 A If they were females, I don't  
6 like to be in with a female by myself in  
7 the room.

8 Q Let's talk about males.

9 A Males? Most of the time the  
10 girl was with me, you know, just to help  
11 me out with instruments and x-rays, to  
12 bring the head of the x-ray to the  
13 position, you know, things like that.

14 Q At the time that you're  
15 conducting your dental examination, your  
16 intra-oral examination, would you have  
17 your assistant make notes in the patient's  
18 chart about things that you observed?

19 A No.

20 Q When would you make notes in the  
21 patient's chart about your observations  
22 during your exam? Would it be  
23 intermittently while you are in the middle  
24 of the exam or would it be after you  
25 completed your exam?

0122

1

2 A Different times. No fixed  
3 situation, you know. I could have done it  
4 during I could have done it after the  
5 patient was explained. I could have done  
6 it in a different room where I had my desk  
7 and a viewbox, you know. Different times.

8 Q Were there any times when you  
9 would actually dictate into a machine and  
10 record any notes or observations that you  
11 made?

12 A No.

13 Q You always used handwritten  
14 notes?

15 A Yes.

16 Q And the notes that appear that  
17 you've brought with you today, those are  
18 your own handwriting?

19 A Yes. Except one.

20 Q Sure.

21 MR. : Most of them are,  
22 but some are not.

23 A Just this one. Seven --

24 Q We'll get to them, doctor.

25 Just for completeness, the

0123

1

2 documents where you have your notes, these  
3 are some type of orange or yellowish

4 paper?

5 A Yes.

6 Q And this is typical dental  
7 recording note paper where you can chart  
8 things?

9 A Well, they are not used by the  
10 general dentist. They are used by oral  
11 surgeons, I would estimate.

12 Q And, in addition, you have other  
13 documents as part of his chart as well;  
14 correct?

15 A Yes.

16 Q And we will go through that in a  
17 little while.

18 A Are we getting married?

19 Q Out of the ten implants that you  
20 were intending on putting into Mr.

21 's upper jaw, were any of those  
22 extra implants than what you would have  
23 originally told him you would put in?

24 A Yes.

25 Q How many were you going to tell

0124

1

2 him you were going to place in his upper  
3 jaw?

4 A I told him it varies. The  
5 minimum I put is six and there is a  
6 possibility of more and I consulted with  
7 him before I put them in, if it's o  
8 with him, and he said yes.

9 Q When you initially went to put  
10 in the implants, what was your intention  
11 on putting in before you added whatever  
12 extras you did? Did you intend on putting  
13 in just six or eight or some other number?

14 A Well, as I mentioned before, I  
15 occasionally gave extra amount of  
16 implants, be it one, two, four.

17 Q How many extras did you give in  
18 this case?

19 A Four on the top.

20 Q Which numbers of the implants  
21 did you consider to be extras?

22 A Three, four, 12, 13.

23 Q Did you intend on placing a  
24 bridge, some type of fixed bridge on top  
25 of the implants?

0125

1

2 A Yes.

3 Q How many teeth could that fixed  
4 bridge accommodate?

5 A If all these implants were  
6 successful, it would have been about 12  
7 teeth. 12 to 14.

8 Q So there was still some room yet

9 within his mouth that the bridge would be  
10 able to fit?

11 A Yes.

12 Q Would you agree, doctor, that  
13 before starting any implant work it's  
14 important to create some type of treatment  
15 plan?

16 A I have done it for 30 years, you  
17 know. I did it -- I did write down what's  
18 good for me. O ? Because I didn't

19 expect anybody to look at my chart. All  
20 right? I didn't plan, if you will, of  
21 being sued or something like that. O ?  
22 I've done it for 30 years and I really did  
23 not have any problems, so --

24 Q My question is is it good  
25 practice to create a treatment plan prior

0126

1  
2 to actually starting any work?

3 A In my case, just general thin

4 Q What does your treatment plan  
5 consist of? In other words, how do you  
6 determine what treatment you're going to  
7 create as part of a plan?

8 A Well, marking the areas where I  
9 was going to place implants before I  
10 decided to give additional implants and  
11 places where I need to do extractions and  
12 how many implants I have decided to place  
13 and before deciding to give additional  
14 implants, if to give them any additional  
15 implants.

16 Q Now, you mentioned, doctor, that  
17 you generally know what's good for you and  
18 what you've done in the course of your  
19 career. How many patients did you  
20 typically see in any given day on a day  
21 you were in the office?

22 A It could come up to 30 patients.

23 Q How many patients would you see  
24 in any given week?

25 A A difference of --

0127

1  
2 Q Just generally an estimate. I'm  
3 not asking for an exact number.

4 A On the days I did more than two,  
5 three -- it depends how many surgeries I  
6 would do. The more surgeries I do, the  
7 less postoperative and less other things  
8 to be done, and if I didn't have time  
9 because I had surgery, occasionally I  
10 would have a dentist that works for me.

11 Q I'm only talking about you.

12 A It varies. It could be ten  
13 patients if I had seven patients to do

14 surgeries on or it could be 30 patients if  
15 I had only two or three patients to do  
16 surgeries and the rest of them 27 to do  
17 postoperative or consultations. There was  
18 no set number.

19 Q Now, you mentioned you had a  
20 number of dentists working in your office  
21 at various times; correct?

22 A Yes.

23 Q Now, if you do not make a  
24 written notation about either a treatment  
25 plan or something that you have done for

0128

1  
2 the patient, how then is the next dentist  
3 in your office who comes to see a  
4 particular patient going to know what  
5 treatment the patient had before they now  
6 see them?

7 MR. : Objection to the  
8 form. You may answer it.

9 A If I was there, I would just  
10 tell them orally.

11 Q Let's say you're not there for  
12 whatever reason and this dentist in your  
13 office now comes in to see a patient and  
14 they know that the patient was there  
15 before but they don't necessarily know  
16 exactly what was done because certain  
17 information is not in the record. How  
18 would they know what was done or how could  
19 they find out?

20 MR. : Objection to the  
21 form of that, but if the doctor  
22 understands it, he can answer it.

23 A Unless I told the doctor what I  
24 want him to do, in case I wasn't there,  
25 o , he basically would know to remove

0129

1  
2 stitches because he saw stitches. He  
3 would know it's seven or 14 or 21 days  
4 postoperatively. He would know the time  
5 come to -- according to his observation  
6 also. The time comes to remove the  
7 stitches. If the patient comes and says  
8 he has irritation and some pain, sometimes  
9 he may do something

Sometimes he may not

10 do anything

11 Do something it could be even a  
12 healing collar. Healing collars. Healing  
13 collars are not placed by rule three  
14 months later or -- in my office I placed  
15 healing collars a week later or five  
16 months later.

17 Q Now, you had different  
18 offices; correct?

19 A Yes.  
20 Q You had an office in --  
21 A In , and in  
22  
23 Q And also in ?  
24 A . It's  
25 a main office.

0130

1  
2 Q How many days would you spend in  
3 the office?  
4 A Three days and one day each in  
5 and .  
6 Q And on the days where you were  
7 in the or office,  
8 did you have dentists working in the  
9 office seeing patients?  
10 A Yes, but not so much.  
11 Q And the same question if you  
12 were working in the office, did  
13 you have other dentists that would work in  
14 the and office?

15 A Not in .  
16 never when I'm not there except maybe I  
17 called sick maybe the same day, which  
18 didn't happen quite often. When I worked  
19 in , I could have had a dentist  
20 working in .

21 Q Going back to the treatment  
22 plan, regardless of whether you documented  
23 it or not, would you agree that it's  
24 important for you to formulate a treatment  
25 plan to know what to do for the patient?

0131

1  
2 A The formulation of the treatment  
3 plan would be primarily for placement of  
4 the implants and then I would know  
5 according to the number of the implants  
6 whether I'm going to place ten teeth or 12  
7 teeth or 14 teeth or for that matter 16.  
8 Although 16 is a very rare situation.

9 Q In Mr. 's case where you  
10 told me you intended on putting a fixed  
11 bridge, would there be any need to put on  
12 crowns on top of the implants?

13 A Well, all depends on -- all  
14 depends on the number of -- I initially --  
15 let's put it this way:

16 I initially planned on giving  
17 him a denture that would be semi-fixed, so  
18 to speak. Have a male and a female  
19 appliances or like a tick-tock, if you  
20 know what I mean. That would retain  
21 denture, would be much more supportive,  
22 would make the denture much much firmer  
23 than not having the implants.

24 Q In order to accomplish that, did  
25 you need to put crowns on the implants?

0132

1

2 A No.

3 MR. : Let's take a break.

4 (Short recess.)

5 Q Doctor, what is the purpose of  
6 making entries in a patient's chart?

7 A It's a record.

8 Q For what purpose? Why do you do  
9 it?

10 A Well, basically how many  
11 implants, what type of implants, what  
12 sizes of implants, if I used bone graft.

13 Q You're telling me what you put  
14 in. I'm asking you why do you document  
15 it? Why do you make notations?

16 A These are major things, you  
17 know, that I would want to have. These  
18 are not like placing two implants or four  
19 implants. That's not customary way. In  
20 different patient it's different, but, you  
21 know, things that are customary way of  
22 doing business which I've done for on  
23 implants 25 years out of my 30 years of  
24 doing implants, things that I don't do  
25 frequently -- I mean things that I do

0133

1

2 frequently, common way of doing things, I  
3 usually don't see the necessity of  
4 recording it so much.

5 Q But my question is why do you  
6 make a record of those things that you  
7 feel necessary to do as to the type of  
8 implant, the number of implants and other  
9 things you just told me about?

10 A Well, I have to know what length  
11 of an implant I placed in a certain  
12 location.

13 Q Why?

14 A Just for my record, you know,  
15 when the patient comes in, you know, just  
16 to know what implant and what size I  
17 placed in, you know. I'm not going to  
18 memorize everything because one patient I  
19 use a ten-millimeter implant and another  
20 patient I use 16-millimeter implant. In  
21 the same patient one location ten, another  
22 location 16.

23 These things I want recorded,  
24 but things I do basically the same every  
25 time for these procedures, you know, I

0134

1

2 don't see -- I don't see it necessary.



8 A Just disposed of them.  
9 Q Why?  
10 A Because they were not necessary  
11 in this situation.  
12 Q What situation?  
13 A In his case.  
14 Q What would have been the harm to  
15 putting it into his file along with his  
16 preoperative x-rays?  
17 A No harm.  
18 MR. : Objection to the  
19 form. You may answer.  
20 A No harm.  
21 Q What would have been so  
22 difficult to placing the intraoperative  
23 x-rays into his folder along with his  
24 preoperative x-rays?  
25 MR. : Objection to the  
0137

1  
2 form. You may answer, doctor.  
3 A It's not a matter of being  
4 difficult or not difficult. The same as  
5 writing down big paragraphs as to the  
6 treatment plan. These things are  
7 customary way of doing my surgeries, so  
8 this I don't have to elaborate to myself  
9 too much.  
10 Q Did you make a note anywhere in  
11 any record in this patient's entire chart  
12 that you took intraoperative x-rays?  
13 A No, because I don't -- I didn't  
14 deem it necessary. I knew that I took or  
15 I take on every patient.  
16 Q If a doctor in your office were  
17 to look through your chart, how would they  
18 know that you took intraoperative x-rays?  
19 A They don't have to know.  
20 Q Why not?  
21 A This is the x-rays, the postop  
22 x-rays (indicating). That's enough for  
23 them.  
24 Q For the purposes of evaluating  
25 the treatment that was rendered and  
0138

1  
2 determining what was done, is there any  
3 way for a doctor in your office to know  
4 whether intraoperative x-rays were taken  
5 by looking at Mr. 's entire chart?  
6 MR. : Objection to the  
7 form.  
8 A It was not necessary for any  
9 doctor --  
10 Q That wasn't my question, doctor.  
11 I'm sorry. I wasn't clear.  
12 If a doctor in your office

13 looked through this entire chart, is there  
14 anything in here which would suggest to  
15 them that intraoperative x-rays were  
16 taken?

17 A They are not surgeons, so it's  
18 not necessary.

19 Q I'm only asking if there's  
20 anything in there which would tell them  
21 that intraoperative x-rays were taken.

22 A No.

23 Q Is there anything in Mr.  
24 's records which would suggest to  
25 another doctor what your observations were

0139

1  
2 intraoperatively.

3 A It's not necessary for them to  
4 know.

5 Q I'm only asking whether there's  
6 anything in the records in front of you  
7 that would tell another dentist looking at  
8 your record what your intraoperative  
9 opinions or findings were after looking at  
10 those intraoperative x-rays.

11 A For their purposes?

12 Q For any purpose.

13 A For their purposes, they don't  
14 have to know the intraoperative x-rays  
15 except the final x-rays.

16 Q I understand. You've told me  
17 that twice now.

18 A I'll say it three times.

19 Q No. No. I'm going to ask it a  
20 different way.

21 I only want to know -- I'll ask  
22 it a different way.

23 When you looked at the  
24 intraoperative x-rays, did you record your  
25 opinion as to what you saw anywhere in any

0140

1  
2 chart for Mr. ?

3 A No.

4 Q Now, if a doctor, a dentist,  
5 whether in your office or outside, was to  
6 look at your chart and to look at all the  
7 notes in your chart, is there anything in  
8 here which would suggest to them what your  
9 thoughts were after looking at the  
10 intraoperative films?

11 A Yes.

12 Q Other than the fact that you  
13 went forward with the implants, is there  
14 anything in the chart to say what it was  
15 you thought about your opinion of the  
16 intraoperative films?

17 A Yes. The final size of the

18 x-ray which means the final size of the  
19 implant.

20 Q That's the postoperative x-rays.  
21 I'm asking is there any recording or  
22 notation about your opinion or observation  
23 of an interpretation of the intraoperative  
24 films.

25 A It's not important for any

0141

1  
2 restorative dentist that is associated  
3 with me to know about my intraoperative  
4 x-rays.

5 Q Regardless -- hold on, doctor.  
6 I understand what you're sayin

7 A We can dance around a long time  
8 and it's not --

9 Q Regardless of the importance, is  
10 there anything here that would give  
11 anybody an indication as to what you were  
12 thinking and what your interpretation of  
13 those intraoperative films were?

14 A What they would think is I used  
15 intraoperative x-rays to determine the  
16 final size of the implants. That's all  
17 they have to know.

18 Q How would they know that  
19 intraoperative films were even taken if  
20 there's no notation anywhere?

21 A They don't have to know. What  
22 do they have to know for? To continue the  
23 case? They don't need to continue the  
24 case. They have to know the final  
25 situation. Just like it indicates I put

0142

1  
2 bone graft, that I used PRP. They have to  
3 know that, but they don't have to know  
4 anything about intraoperative. What is  
5 important to them is the final position of  
6 the x-rays.

7 Q Do you charge the patients for  
8 intraoperative x-rays?

9 A No.

10 Q Do you bill the patient if they  
11 have dental insurance for intraoperative  
12 x-rays?

13 A No, I don't think so. No.

14 Q Why not? Why wouldn't you bill  
15 the patient for that?

16 A I'm not going to get paid for it  
17 anyway and it's not -- insurances don't  
18 pay for intraoperative x-rays. They pay  
19 for prior x-rays -- I mean postop x-rays  
20 and pre-op x-rays.

21 Q Is it standard practice to take  
22 intraoperative x-rays after you drilled

23 the holes but before putting the implants  
24 in?

25 A Always.

0143

1

2 Q And I'm not talking about just  
3 for you. I'm talking about for doctors  
4 who do what you do.

5 A Yes.

6 Q And in your opinion that's  
7 standard practice?

8 A They should.

9 Q The treatment plan that you  
10 envision or create when a patient first  
11 comes to you, tell me what you said -- and  
12 I'm sorry I didn't catch all of it, but  
13 the most significant points of things that  
14 you would feel are important enough to  
15 record in a note.

16 A The number of implants, the size  
17 of the implants, the number of  
18 extractions, the number of teeth present,  
19 the anesthesia that's being used, the  
20 medication that I used, the synthetic bone  
21 graft or in this case -- the synthetic  
22 bone graft. That's all I used. I didn't  
23 use another type of bone graft.

24 And also PRP, which is certain  
25 medications to -- that helps promote

0144

1

2 healin I used -- also, if I did a  
3 procedure that would come very very close  
4 to the sinus, which is a modified sinus  
5 lift, it's written down.

6 Q Hang on, doctor. I'm not  
7 talking about the actual procedure. I'm  
8 just talking about the treatment plan.

9 A Well, yes. The treatment plan?  
10 You have to ask me again. I'm sorry.

11 Q Sure.

12 A I'm getting carried away.

13 Q What are the significant things  
14 that you would normally record as part of  
15 the patient's treatment plan?

16 A Yes. That's exactly what I was  
17 saying, you know. The medications, the  
18 type of bone if I used a graft, the number  
19 of implants, the size of the implants,  
20 whether it's by Zimmer or MIS, the  
21 medication that I gave, the anesthesia  
22 that I used, sutures, whether I used them  
23 or not. These type of things.

24 Q Before doing any type of implant  
25 work, would you agree it's important to

0145

1

2 discuss with the patient and to give them  
3 full informed consent about the procedure?

4 A Oh, yes. They got more informed  
5 consent than they can get by god.

6 Q Tell me why that's important.

7 A It's extremely important for the  
8 patient to know what's going on and what's  
9 going to happen and what is the  
10 indication, contraindication, advantages,  
11 disadvantages. All these things are like  
12 a Bible.

13 Q What happens if a patient is not  
14 given full information about the treatment  
15 that is proposed and the possible risks  
16 that can occur with a particular treatment  
17 plan?

18 A I don't know. It never happened  
19 to me.

20 Q If a patient is not given full  
21 informed consent, would you agree that  
22 then any decision that's made about  
23 treatment would be based on something that  
24 would be less, that they wouldn't be fully  
25 informed before making a decision?

0146

1  
2 MR. : Objection to the  
3 form. If you understand it, doctor,  
4 you can answer it.

5 A I don't know. I gave informed  
6 consent and I have proof of that, you  
7 know.

8 Q Do you also talk to the patient  
9 when considering implants about the  
10 possibility that an implant can fail?

11 A Oh, that's one of the most  
12 underlined statements.

13 Q Why do you talk to them about  
14 that?

15 A Because that's the reality of  
16 things.

17 Q Now, as part of your practice,  
18 doctor, in addition to talking to a  
19 patient about the risks and the benefits  
20 and the alternatives to the procedure, the  
21 implant procedure, do you also give them  
22 written documents to read about informed  
23 consent?

24 A Absolutely.

25 Q And why do you do that?

0147

1  
2 A It's got to be in black and  
3 white. There's no -- there is no telling  
4 me later I never knew.

5 Q And typically, doctor, how long  
6 do you spend talking to a patient about

7 the informed consent portion?  
8 A Well, consultation about all  
9 this, minimum of half an hour the first  
10 visit.

11 Q I'm sorry, doctor. I wasn't  
12 clear. I'm not asking about the entire  
13 consultation. I'm only talking about the  
14 part where you're talking about the  
15 information they need to make a decision  
16 about the informed consent. How long do  
17 you spend with them on that?

18 A Half an hour, at least. This is  
19 the most important things, and that's in  
20 paragraph five, if anybody wants to read  
21 it, what I discussed with the patient.

22 Q Now, in addition to talking to  
23 them and giving them this document which  
24 you've shown to me, which is titled  
25 Statement of Consent for Core, C O R E,

0148

1

2 Vent Osteointerated Implants.

3

A It's osteointegration.

4

Q Is that what it says at the top?

5

I'm just reading it.

6

A Osteointerated, osteointegrated.

7

The same thin

8

Q I just want to get it right.

9

A Fine. You have it written down.

10

Q Do you make them read this

11

document in front of you?

12

A Oh, yes.

13

Q And you ask them to initial each

14

of the paragraphs; correct?

15

A After discussion with the

16

patient, yes. Absolutely.

17

Q And you make them sign on the

18

back of the page; correct?

19

A No. First before we do that,

20

they have to sign -- I mean to initial

21

every paragraph so there won't be any

22

misunderstanding, and then after they

23

agreed they understand, then sign the

24

consent form.

25

Q And they date it; right?

0149

1

2

A Yes.

3

Q Now, do you typically have a

4

witness in the room that observes and

5

witnesses the patient's signature?

6

A Sometimes yes. Sometimes no.

7

Most of the time yes because I have the

8

secretary with me all the time.

9

Q And in this particular case on

10

either or ,

11

, did you have any witness present to

12 observe Mr. sign the consent form?

13 A I can't recall.

14 Q Did Mr. read this

15 document in your presence at the time that  
16 he initialed it?

17 A He initialed the consent form in  
18 my presence.

19 Q And did he sign the consent form  
20 in your presence?

21 A Yes, he did.

22 Q And this was done on the day  
23 that the implant procedure was going to be  
24 performed; correct? It was not done on  
25 the day of the first consultation?

0150

1

2 A On the day of first consultation  
3 he was given the same information that's  
4 on the consent form.

5 Q Verbally or in writing?

6 A Verbally.

7 Q But he was not asked to sign it  
8 on the first consultation visit; correct?

9 A No. You sign it on the day of  
10 surgery.

11 Q Was Mr. with anyone? Did  
12 he come to the office with anyone on  
13 5?

14 A I don't -- he never came with  
15 anybody that I know of, that I could  
16 recollect, no.

17 Q Was anybody in the room with you  
18 at the time that he signed the consent  
19 form?

20 A It's a customary way for me to  
21 have the secretary with me, like I said  
22 before.

23 Q You talked about customary. I'm  
24 asking specifically do you remember if  
25 anyone was in the room with you?

0151

1

2 A A hundred percent I don't  
3 remember.

4 Q At the time that you first spoke  
5 to Mr. on -- what was the date?

6 --

7 A 14.

8 Q -- 14, , was  
9 anyone else in the room with you during  
10 your verbal conversation about the  
11 informed consent?

12 A A customary -- I don't recall  
13 one hundred percent, but customary way or  
14 customary -- customary way, yes, there  
15 would be a girl, an assistant with me.

16 Q And how many different

17 assistants did you have at that time?

18 A Quite a few. It was a big  
19 office.

20 Q How many?

21 A Total of ten girls, I think.

22 Q And if any one of them was  
23 present in the room during this  
24 conversation, would you make a note  
25 anywhere in any part of your chart

0152

1

2 indicating that a particular person was  
3 present?

4 A No.

5 Q How do you know if an implant  
6 has failed?

7 A Mobility, edema, you know,  
8 swelling, pus formation.

9 Q From infection?

10 A Pus formation, that's an  
11 infection.

12 Q Any other ways?

13 A Practically all failures are due  
14 to infection.

15 Q Are there any instances that you  
16 are aware of where you can have an implant  
17 failure without infection?

18 A Not really.

19 Q Do you give prophylactic  
20 antibiotics after performing implant  
21 procedures?

22 A Oh, sure.

23 Q Why do you do that?

24 A It's a prophylactic measure.

25 Q What is the purpose of that?

0153

1

2 A In the best situation, to avoid  
3 infection.

4 Q Do you do that in every case?

5 A Practically all cases, yes.

6 Q Are there certain reasons why  
7 you would not give a patient prophylactic  
8 antibiotic?

9 A No.

10 Q Are there instances where you  
11 will need to premedicate a patient before  
12 doing a procedure?

13 A Yes. When they have a valve  
14 problem in the heart, history of hip  
15 replacement or knee replacement or things  
16 like that.

17 Q Would you agree, doctor, that  
18 when a new patient comes into your office,  
19 it's important when they first sit down to  
20 talk to you to obtain a thorough history?

21 A Yes.

22 Q And why is that important?  
23 A You have to know the previous  
24 medical history, you know. There are some  
25 situations where it's contraindicated, you

0154

1  
2 know, more, you know -- basically some  
3 situations, you know, that it's  
4 contraindicated.

5 Q As part of the history, do you  
6 ask the patient questions about not only  
7 their medical history but also their  
8 dental history?

9 A Yes.

10 Q When you obtain a history from  
11 the patient, would you agree that it's  
12 important to record things that you  
13 consider to be significant in the  
14 patient's chart?

15 A O . In certain situations I  
16 go into more depth than in other  
17 situations.

18 When a patient presents to me  
19 with terrible teeth or missing teeth, I  
20 don't see it necessary -- I see, you know,  
21 decayed teeth, I don't deem it necessary  
22 to ask them about past medical history as  
23 far as dentistry is concerned because I  
24 see it in front of my eyes. If the  
25 patient is missing teeth, you know, if it

0155

1  
2 was five years ago or ten years ago, it  
3 doesn't matter. He's missing teeth. If  
4 he has broken teeth, when they were fixed,  
5 it's not important.

6 I can tell by the x-ray and by  
7 looking -- like in Mr. , for  
8 example. I mean, he should have had these  
9 teeth removed ten years before he came to  
10 me. He had a terrible mouth and --

11 Q Hang on. I'm going to get to  
12 him shortly. I promise.

13 A You don't have to promise me.

14 Q Would you agree that if a  
15 patient has a certain medical history that  
16 you feel to be significant that it would  
17 be important to note that in the chart?

18 A Yes.

19 Q And why is it important for you  
20 to note that in the chart?

21 A Well, because I told you there  
22 are some illnesses, diseases or illnesses  
23 that are contraindicated if they are not  
24 under control, you know. That's basically  
25 it.

0156

1  
2 Q What is an unloaded implant?  
3 A An implant that you don't have a  
4 post or you don't have a temporary crown  
5 on top of it, no restoration is on top of  
6 it.  
7 Q In other words, it's  
8 uncompleted? It's unfinished?  
9 A You don't load a pressure or --  
10 yes. You don't have anything on it.  
11 Q And a loaded implant is one  
12 that's a completed restoration; correct?  
13 A Whether it's a permanent or  
14 temporary, yes.  
15 Q Were any of the implants that  
16 you put into Mr. functional as of  
17 the last date that you saw him?  
18 MR. : Objection to the  
19 form. Doctor, if you understand what  
20 functional means, then I'll accept it.  
21 I don't know.  
22 MR. OGINSKI: I'll rephrase it.  
23 Q Doctor, when you put in an  
24 implant, am I correct that it's not a  
25 functional implant until you've fully

0157

1  
2 restored it by putting a post and a crown  
3 on?  
4 A Sure.  
5 Q When I ask if an implant is  
6 functional, I'm asking whether it's ready  
7 to accept whatever it is that you're  
8 planning on putting on top of it; correct?  
9 It's a loaded implant?  
10 A So in this case it was not  
11 loaded, so it's nonfunctional.  
12 Q As of the last time you saw Mr.  
13 , were any of the implants that you  
14 put in loaded?  
15 A No.  
16 Q Were any of the implants  
17 functional at that point that you last saw  
18 him?  
19 A Functional means that they are  
20 being used for any purpose? No, they were  
21 not -- passive.  
22 Q Let's talk about the drills that  
23 you used to drill into the bone for the  
24 purposes of the implants.

25  
0158

1  
2 make holes for all the implants? I'm  
3 going to rephrase it.  
4 If you intend on putting in ten  
5 implants in a jaw, do you use the same

6 drill for all ten implants?  
7 A Most of the time, yes. Depends  
8 on -- there are some situations,  
9 especially on the lower jaw, that the bone  
10 is extremely, extremely dense and then if  
11 I feel that the cutting is not fast enough  
12 for this, I replace it, you know. It has  
13 to be sharp. Let's put it this way.

14 Q How often do you tend to replace  
15 the drills that you use to drill into the  
16 bone?

17 MR. : Can I clarify?  
18 Drill versus drill bit? Is there a  
19 distinction?

20 THE WITNESS: It's the same.  
21 Drill bits and drills are the same.

22 MR. : As long as you're  
23 using the same terminology. I don't  
24 know if there's different types of  
25 drills.

0159

1  
2 Q How often would you tend to  
3 replace the drills?

4 A I would say every ten -- every  
5 ten times drilling the same implants, the  
6 same hole.

7 Q Did you sterilize those drills?

8 A Sure.

9 Q Did you have equipment in the  
10 office where you would be able to  
11 sterilize them?

12 A Oh, yes.

13 Q Is that called an autoclave?

14 A It's a sterilizer. Autoclave  
15 can mean also just steam autoclaving  
16 Sterilizing Pressure and heat.

17 Q How often did you sterilize the  
18 drills?

19 A After each patient.

20 Q Did you ever use disposable  
21 drills?

22 A No.

23 Q Are you aware of any implant  
24 manufacturer guidelines recommending when  
25 drills should be replaced?

0160

1  
2 A You know, just by talking to the  
3 reps, yes.

4 Q What is your understanding of  
5 what information they provided to you?

6 A Just like what I do. You know,  
7 just don't use it too much. You know, if  
8 I did -- if I did ten implants in one  
9 sitting on one patient, I would be damn  
10 sure 99 percent that this drill is going

11 to be disposed of, if it's about ten or  
12 eight, or if it was done on the bottom,  
13 you know, there is more -- more frequency  
14 of changing than on the top because the  
15 bone on the bottom is much denser than the  
16 bone on the top.

17 Q Now, if you plan on putting in  
18 ten implants in one sitting, the drill  
19 that you use, is it typically a new drill  
20 or is it a drill that has been used  
21 previously but sterilized?

22 A If it's for ten implants, I most  
23 likely would not use it again, so I don't  
24 have to see whether it was sterilized or  
25 not.

0161

1

2 Q No.

3 A patient comes into you and you  
4 plan on doing ten implants.

5 A I use new drills.

6 Q That's my question.

7 A Yes. If I know it's ten  
8 implants, it's a new drill.

9 Q New drill for each implant?

10 A No. New drill for the patient.

11 Q O .

12 And if you only plan on doing a  
13 few implants, are there instances where  
14 you'll take a drill you've used before but  
15 have sterilized?

16 A Basically I will use it twice,  
17 most three times, you know.

18 Q Other than getting information  
19 from the manufacturer's representative,  
20 are you aware of any written guidelines by  
21 the manufacturers as to how often drills  
22 should be replaced?

23 A No, I am not aware. Maybe just  
24 didn't sink in. I don't remember.

25 Q Are you aware of any Dental

0162

1

2 Association guidelines, whether it be the  
3 American Dental Association or some  
4 implant organization, that recommends how  
5 often drills should be changed when  
6 performing implant treatments?

7 A Well, I consider myself with my  
8 experience, the last seven years or ten  
9 years, I have done more implants than  
10 anybody else, so this guidelines may be --  
11 I can make the guidelines more than  
12 somebody else give me the guidelines.

13 Q Are you aware, though, of any  
14 guidelines written and in use in

15

that described how often drills

and

16 should be replaced?

17 A It may -- it may have come to my  
18 attention, you know, but I just don't have  
19 any recollection. Like I said before, I  
20 have so much experience in this that I  
21 know better than -- I hope I do. I think  
22 I do. Better than anybody. I'm an oral  
23 surgeon that did --

24 Q Hang on, doctor.

25 A O .

0163

1

2 Q How many times can you use a  
3 drill before you need to replace it?

4 A I don't know. You know, the  
5 more frequent -- the less time you use it  
6 the better.

7 Q Can you give me any range?

8 A I just told you. About eight to  
9 ten times.

10 Q Now, you said if the bone is  
11 dense like in the bottom jaw it becomes  
12 difficult and harder. Does that mean that  
13 the drill gets dull?

14 A Yes.

15 Q And what happens if you use a  
16 dull drill to make the holes?

17 A You don't use a dull drill.

18 Q What happens if you do? What  
19 effect will it have on the bone or the  
20 hole that you're making?

21 A It creates more heat. It forms  
22 more heat and heat can damage the bone.

23 Q Do you know the mechanism, how  
24 or why the heat can damage the bone?

25 A Any heat on hard tissue or soft

0164

1

2 tissue in the body is contraindicated.  
3 When it's excessive. We are not talking  
4 about lukewarm. We are talking about  
5 heat.

6 Q I know you told me that if you  
7 planned on doing ten implants you would  
8 use a new drill. How many times do you  
9 purchase the drills for the different  
10 implants?

11 A I bought them by the hundreds.  
12 Different sizes.

13 Q Let's talk now about the risks  
14 of implants.

15 A Sure.

16 Q And I know you touched briefly  
17 on it earlier. What is the greatest risk  
18 of putting in an implant in the upper jaw?

19 A The greatest risk? Other than  
20 infection? In the upper jaw, in the

21 posterior, it's getting into, you know --  
22 the worst case situation is getting into  
23 the sinus.

24 Q And what is the biggest risk in  
25 the lower jaw putting in an implant?

0165

1

2 A Damaging the nerve.

3 Q Now, in Mr. \_\_\_\_\_ 's case, when  
4 he first came to see you on \_\_\_\_\_ 14,

5 \_\_\_\_\_, did you obtain any study models?

6 MR. \_\_\_\_\_ : Obtain --

7 Q Did you do any study models?

8 MR. \_\_\_\_\_ : Do any?

9 Q Did you do any?

10 Just for the record, doctor, you  
11 were actually reviewing your notes for the  
12 patient.

13 A I have no recollection, but it  
14 is customary way when we have an  
15 edentulous area or old teeth on a jaw to  
16 be extracted we do take study models,  
17 impressions for study models.

18 Q Show me where in your notes you  
19 indicate that study models were done.

20 A No, it's not indicated.

21 Q Does that mean that study models  
22 were not done?

23 A No.

24 Q Show me where in your billing  
25 records you indicate that study models

0166

1

2 were done and billed for?

3 A I wouldn't charge for it anyway,  
4 so there's no reason for me to have it in  
5 the billing

6 Q If you were submitting bills to  
7 the patient's dental insurance company,  
8 would you expect to bill for study models?

9 A Not really because the payments  
10 that most insurance companies pay is  
11 miniscule, so inserting certain services  
12 are not necessary because we know that --  
13 like in Mr. \_\_\_\_\_ 's case, the maximum  
14 they would pay is a thousand dollars and  
15 you put two implants in there and you get  
16 to above the max already, so I don't think  
17 it was necessary.

18 Q Are you aware of the phrase,  
19 doctor, that if it wasn't written down it  
20 generally wasn't done?

21 A No.

22 MR. \_\_\_\_\_ : Objection to the  
23 form.

24 A Absolutely not.

25 Q Is there anything, any notation

0167

1

2 anywhere in Mr. 's records to  
3 indicate to you that study models were  
4 done?

5

A No, but it's a customary way of  
6 doing it.

7

Q I understand it. I'm not asking  
8 about customary. I'm asking about  
9 anything recorded.

10

Were any molds made?

11

MR.

: Because we used that

12

interchangeably with study model

13

before.

14

A The molds are done by the  
15 impressions, you know, so it's one -- if  
16 you don't take the impression, then you  
17 don't have the mold.

18

Q Were molds done --

19

A Yes.

20

Q -- in this case?

21

A Yes.

22

Q How do you know?

23

A He had -- he had upper and lower  
24 dentures done for him.

25

Q The mold is for what -- I'm

0168

1

2 talking about in preparation for the  
3 implants.

4

A Yes.

5

Q Are molds used for any reason  
6 other than for creating dentures?

7

A Oh, sure.

8

Q Can you show me whatever  
9 documentation you have indicating that  
10 molds were done in this particular case?

11

A No. I don't have any indication  
12 that it was done.

13

Q Do you have any bills or  
14 statements indicating that molds were  
15 done?

16

A No, but I know he had upper and  
17 lower dentures made by my office on the  
18 first or second visit, so I know for sure  
19 that he had it.

20

Q Would the molds be done before  
21 you started the implant treatment?

22

A Yes.

23

Q Where are those molds today?

24

A Must have been destroyed.

25

Q You say that it must have been.

0169

1

2 Do you know for sure one way or the other?

3

A I don't know. I don't know.

4

Q Where are the study models that

5 you say are customarily made?  
6 A They are probably in the  
7 basement.  
8 Q Which basement?  
9 A In .  
10 Q Have you made a search to see  
11 whether there are any study models  
12 relating to Mr. ?  
13 A Nothing survived in this  
14 basement.  
15 Q If study models were made, where  
16 would they be kept?  
17 A Probably in the basement. Most  
18 likely.  
19 Q Would they ever be kept  
20 somewhere with the patient's record?  
21 A No.  
22 Q If a mold was made, would it be  
23 kept ever with the patient's records?  
24 A No.  
25 Q Now, we talked about the models.

0170

1  
2 Is that the same as the impressions?  
3 A You create the models by taking  
4 the impressions.  
5 Q Is there anything in your note  
6 to indicate that impressions were done?  
7 A No.  
8 Q Did you do a CAT scan --  
9 A No.  
10 Q -- before doing any implant work  
11 on Mr. ?  
12 A No.  
13 Q You did a dental examination on  
14 , ; correct?  
15 A Yes.  
16 Q And that was an intra-oral  
17 examination?  
18 A Yes.  
19 Q The purpose of doing an  
20 intra-oral exam was to evaluate his  
21 condition at that time; correct?  
22 A Yes.  
23 Q Did you do any periodontal  
24 charting as a result of your examination  
25 on ?

0171

1  
2 A No. He had very few teeth and  
3 completely destroyed, so there was no  
4 necessity to do any charting. He had only  
5 six or seven teeth left in his mouth.  
6 Q Is that information contained in  
7 your note?  
8 A Yes.  
9 Q What does that say about the

10 remaining teeth that he has in his mouth?  
11 A They have to be extracted.  
12 Q Did you indicate why?  
13 MR. : I'm sorry. In the  
14 written note?  
15 MR. OGINSKI: Yes.  
16 A I have an x-ray to show --  
17 Q Hang on. We'll get to it.  
18 Is there anything in your note  
19 to indicate why those teeth need to be  
20 extracted?  
21 A No. They have to be extracted.  
22 Q Why?  
23 A They are nonfunctional.  
24 Q I'm only asking if it is in your  
25 note.

0172

1  
2 A If I put down they have to be  
3 extracted, then they have to be extracted.  
4 Q I'm only asking why they have to  
5 be extracted.  
6 A Because I look at the x-ray and  
7 they are completely broken down.  
8 Q How many teeth did you indicate  
9 in your note?  
10 A Seven.  
11 Q Which teeth were they? In your  
12 note. And which page are you looking at  
13 and the date of that, please?  
14 A  
15 Q What is the date of that note  
16 you're looking at?  
17 A The date is .  
18 Q Let's go back, please, to the  
19 14, , note. On that visit  
20 did you indicate which specific teeth  
21 needed to be extracted?  
22 A No.  
23 Q What was the condition of those  
24 seven teeth as of ?  
25 A The patient came in initially

0173

1  
2 for an upper denture -- I'm sorry. For  
3 upper implants. He said that he has had  
4 it for a lot of time and it made him  
5 miserable.  
6 Q This is your memory or is this  
7 your note that you're reading?  
8 A No. He came for -- that's what  
9 I indicated in the chart. He came for an  
10 upper --  
11 Q Wait, doctor. I'm going to ask  
12 you to read your note in a moment. I just  
13 want to distinguish between what you're  
14 reading in your note and what you

15 specifically remember about Mr.  
16 So my question is when you told  
17 me that he came in for upper implants, is  
18 that based upon your review of the note or  
19 something that you remember?

20 A Review of the notes.

21 Q O

22 In preparation for today, am I  
23 correct you reviewed the records for this  
24 patient?

25 A Yes.

0174

1

2 Q Did you review any literature  
3 regarding implants in preparation for  
4 today?

5 A No.

6 Q Did you review any deposition  
7 testimony that Mr. has given in  
8 this case?

9 A Yes.

10 Q Did you review any deposition  
11 testimony that his wife has given in the  
12 case?

13 A No.

14 Q Did you review any other  
15 documents in preparation for coming here  
16 today?

17 A No.

18 Q If you observed periodontal  
19 disease during the course of your  
20 intra-oral examination, would you have  
21 expected to make a note of that in the  
22 chart?

23 A Not in this case.

24 Q No. I'm asking in general if  
25 you see evidence of perio disease, would

0175

1

2 you make a note of that in the chart?

3 A I will place the note in the  
4 chart only if these teeth were not  
5 indicated for extraction.

6 Q Did Mr. have evidence of  
7 periodontal disease?

8 A I'll have to review the x-rays,  
9 but according to what I know by reviewing  
10 the chart before I came here, I looked at  
11 the x-rays just to refresh my memory and I  
12 saw how horrendous they are, you know,  
13 really, really, really bad, so that would  
14 indicate, you know, that for whatever  
15 reason the most important reason that  
16 these teeth had to come out is because  
17 they are all chopped and broken down to  
18 the core, really bad.

19 Q My question is did he have

20 evidence of periodontal disease.

21 A He may have -- he had a little  
22 bone loss, yes.

23 Q And in your opinion, doctor, is  
24 the use of the term periodontal disease  
25 consistent or equated with the word bone

0176

1  
2 loss?

3 A Not really, no. You can have  
4 bone loss just because of time, age, not  
5 necessarily because of an infection.

6 Q I'll go back to my question that  
7 I asked you a moment ago.

8 Did Mr. have evidence of  
9 periodontal disease?

10 A Just bone loss.

11 Q And is the bone loss something  
12 that you would consider to be part of  
13 periodontal disease?

14 MR. : It's been asked and  
15 answered.

16 A Not necessarily.

17 MR. : He just answered  
18 that.

19 Q Did Mr. have perio  
20 pockets on the existing teeth that were  
21 still there?

22 A He had really not so much  
23 pockets, no.

24 Q Were they inflamed?

25 A He didn't have severe case of

0177

1  
2 periodontal disease, but he had an  
3 average, normal -- I'll put it this way:  
4 If the teeth were not indicated  
5 for extraction, o , I would not  
6 recommend to take these teeth out because  
7 of periodontal disease.

8 Q Did you make an evaluation on  
9 14 as to whether he had  
10 sufficient bone throughout his mouth for  
11 implants?

12 A Yes.

13 Q Did you make any notation in  
14 your record indicating that there was  
15 sufficient bone?

16 MR. : That specific phrase  
17 or words?

18 MR. OGINSKI: Yes.

19 A No. I just -- I knew that there  
20 is sufficient bone, if that's what you're  
21 talking.

22 Q On the first visit you took a  
23 panorex film; correct?

24 A Whether it was the first or --

25 where was it? There was a panorex taken  
0178

1  
2 on , but I don't think he came on  
3 that visit. I think the date here was  
4 confused. The x-rays were taken on 9-14.

5 Q Why do you say that the x-rays  
6 were confused with the date?

7 A Because there is no -- there was  
8 no visit on .

9 Q Is it possible that the patient  
10 came to your office solely to have the  
11 panorex done?

12 A Yes. Probably. Probably, yes.  
13 And it was not taken by me. It was  
14 probably taken by somebody else that  
15 didn't put -- didn't insert it in the  
16 chart.

17 Q When you say didn't insert it,  
18 what do you mean?

19 A Didn't write it down into the  
20 chart.

21 Q When you say that the x-ray  
22 wasn't taken by you, you mean it was done  
23 in your office?

24 A Yes. Yes.

25 Q But you were not the one that  
0179

1  
2 actually physically did it?

3 A No. I don't take panorex  
4 x-rays.

5 Q Can you pull out the original  
6 panorex film, please?

7 A I don't have it with me.

8 Q Where is it?

9 A Probably got destroyed. I have  
10 no record of it.

11 Q Wouldn't the patient's panorex  
12 film be contained within the patient's  
13 chart?

14 A No.

15 Q Where would it be kept?

16 A In another place where all  
17 panorex x-rays are saved. There was no  
18 room here in the folder or in the drawers.

19 MR. : Off the record.

20 (Discussion held off the  
21 record.)

22 MR. OGINSKI: Mark this as  
23 Plaintiff's Exhibit 2.

24 (Whereupon, the above-mentioned  
25 x-ray film was marked Plaintiff's

0180

1  
2 Exhibit 2 for identification.)

3 Q Doctor, am I correct that you

4 are unable to locate the actual panorex  
5 film that was taken according to your note  
6 on ?

7 A Well, apparently I did locate  
8 them, but I had no memory of it, but --

9 Q But as we sit here now, it's not  
10 contained within your chart?

11 A It is.

12 Q You have the --

13 A This is part of the record.  
14 Where is it?

15 Q I'm only asking about the  
16 panorex.

17 A Yes. Yes. Here it says. This  
18 is part of the record. It say it was  
19 taken on .

20 Q Do you have the film, the  
21 original film?

22 A The original?

23 Q Yes.

24 A I'd have to look for it.

25 Q As you sit here now, you don't

0181

1  
2 have the original?

3 A As of today, no.

4 Q I'm going to show you a film  
5 that you mailed to my office and it's a  
6 panorex film and it has a red sticker on  
7 it. It says and it has a  
8 date and underneath that is the  
9 word copy which we marked as Plaintiff's  
10 Exhibit 2 and I'd like you to look at  
11 that, please.

12 A O .

13 Q That came in an envelope  
14 addressed with a return address from you  
15 to my office. Do you see that?

16 A Yes.

17 Q Tell me what it is that you are  
18 looking at right now, that panorex film.  
19 What is it?

20 A It's a panorex x-ray of Mr.

21 .  
22 Q Is that a preoperative x-ray?

23 A It's a preoperative x-ray.

24 Q Can you describe for me the  
25 quality of that film?

0182

1  
2 A For all purposes in my situation  
3 it is -- it's o . Let's put it this  
4 way.

5 Q It's o to use for your  
6 purposes; correct?

7 A For my information, it's o .

8 Q Can you visualize the seven

9 teeth on the bottom of the jaw on that  
10 film?

11 A I see between five -- between  
12 five or six or seven. No, I can't  
13 visualize it perfectly, but in conjunction  
14 with the periapicals, I can make sure -- I  
15 can tell you for sure it's seven teeth.

16 Q Can you tell me whether there is  
17 bone loss visible on the lower jaw based  
18 on that film?

19 MR. : You just want to  
20 confine him to this film?

21 MR. OGINSKI: Yes. Correct.

22 MR. : Again, it assumes --  
23 if you can't tell, tell us.

24 A Wait. I can't a hundred percent  
25 tell by this x-ray, but in conjunction

0183

1  
2 with the periapical I can tell you.

3 Q I'm only asking right now based  
4 on this panorex film. Is there evidence  
5 of bone loss on the lower jaw in that  
6 film?

7 A Insignificant.

8 Q Is there evidence of bone loss  
9 on the upper jaw?

10 A Yes.

11 Q Where?

12 A All over.

13 Q How would you characterize that  
14 amount of bone loss?

15 A It's consistent with absence of  
16 teeth for a long time.

17 Q Would you say that Mr.  
18 had significant bone loss on the upper  
19 jaw?

20 A Not significant.

21 Q How would you describe it?

22 A An average.

23 Q Are you able to determine the  
24 width of the available bone in the upper  
25 jaw from that panorex?

0184

1  
2 A No.

3 Q Are you able to determine the  
4 width of the available bone in the lower  
5 jaw from the panorex?

6 A No.

7 Q Can you determine from that  
8 panorex whether any of those seven teeth  
9 on the bottom jaw had prior root canal?

10 A Not from the panorex itself, no.

11 Q Can you tell whether any of the  
12 seven existing teeth had any type of  
13 restorative treatment such as crowns or

14 caps placed on them?  
15 A Yes.  
16 Q What do you observe?  
17 A I observe crowns in each of the  
18 teeth that are presented on the x-ray, on  
19 the panorex.  
20 Q Is there evidence of decay  
21 underneath the crowns in those seven  
22 existing teeth?  
23 A Like I said before, panorex is  
24 not a precise or very diagnostic to  
25 determine decay on teeth. That's where  
0185

1  
2 the periapicals come into play.  
3 Q And I'm going to get to that,  
4 but looking at the panorex are you able to  
5 visualize any evidence of any decay on any  
6 of those seven teeth?  
7 A Yes. On two or three of them,  
8 yes.  
9 Q Can you identify those teeth,  
10 please?  
11 A I can tell you on the x-ray.  
12 Q Yes. Give me the tooth number.  
13 A Let's see. That's the left  
14 side.

15 I don't have here an indication  
16 whether -- where is the right or left  
17 side? It probably got lost in the process  
18 of taking the x-rays, but -- I cannot tell  
19 on this x-ray whether it's the right side  
20 or the left side.  
21 Q Can you tell me or identify the  
22 teeth that you do observe decay in some  
23 other fashion? From the right side, the  
24 left side, the middle or any other way you  
25 can describe it for me?

0186  
1  
2 A I would say all of the teeth are  
3 involved with decay.  
4 Q Can you determine or tell me the  
5 extent of that decay just from this film?  
6 A On two or three of them  
7 substantial.  
8 Q Which of those two or three  
9 teeth do you observe --  
10 A I can't tell you whether it's  
11 the right side or the left side.  
12 Q You're looking at -- here we go,  
13 doctor. At the top of this film in a  
14 diamond shape there is an L at the top  
15 left and there's an R up at the top right.  
16 Do you see that?  
17 A You got better eyes than I do.  
18 Yes, now I see it.

19 Q Based upon --  
20 A I have to go to my optician.  
21 Q Based upon --  
22 A These glasses are three-dollar  
23 glasses. What do you expect from them?  
24 Q Now that you've identified those  
25 landmarks, can you tell me and identify

0187

1  
2 the teeth that you observed the decay in?  
3 A O . That's on the left side,  
4 so it's 22, 23 and 24.

5 Q And is that decay evident  
6 underneath the crown --

7 A Yes.  
8 Q -- or in some other place?  
9 A It's under the crown inside the  
10 crowns.

11 Q Is there evidence of nerve root  
12 structures for each of those seven teeth?

13 A No.  
14 Q None that you can observe or  
15 there are none?

16 A On this x-ray I don't see any  
17 structure of a nerve inside the teeth.

18 Q Did you learn from Mr.  
19 whether he had had root canal on any of  
20 those seven existing teeth?

21 A I didn't have to learn it from  
22 Mr. . I saw it on the periapical  
23 x-rays.

24 Q Only if you asked him if he had  
25 work done.

0188

1  
2 A I have no recollection of asking  
3 him or not. He probably wouldn't even  
4 know.

5 Q Is there anything in your note  
6 to indicate that you either asked or got  
7 some response as to whether he had prior  
8 work done on those seven teeth?

9 A No. It was visual to me. I  
10 didn't have to ask him or to look under  
11 the microscope to see. It's quite  
12 evident.

13 Q Did Mr. make any  
14 complaints to you about his existing seven  
15 teeth?

16 A Not initially.

17 Q Did he have any type of  
18 appliance at the time he first came into  
19 your office?

20 A An upper denture.

21 Q And is that something you  
22 remember him having?

23 A I knew that he had it for at

24 least ten years, he said. I recollect.  
25 Q Other than you recalling it, did

0189

1  
2 you make any notation of that fact in any  
3 of your notes?

4 A The length of time he had a  
5 denture?

6 Q Yes.

7 A No. It was insignificant to me.

8 Q Did that upper denture fit?

9 A He was cursing it.

10 Q Did he tell you that it fell out  
11 often?

12 A That's why he came.

13

14 Q What type of work --

15 A He's younger than

16 me.

17 Q What type of work did Mr.

18 do?

19 A What did he do for a living?

20 Q Yes.

21 MR. : In other words, what

22 he told you back then.

23 A Back then he told me he's

24 working for the in some

25 capacity, which is not what I saw in his

0190

1  
2 deposition. I thought he was a big shot  
3 over there.

4 Q Did he tell you that?

5 A Yes. He didn't tell me that he

6 was a or or

7 and

8 things like that. No. I thought --

9 Q Did you ask him what he did at

10 the ?

11 A No. He told me he was a

12 or something like that. That's

13 my impression that he gave me.

14 Q Let's take a look, please, at  
15 the periapicals that you have. Doctor,  
16 I'm opening up a packet containing eight  
17 originals in there.

18 A Yes.

19 Q How do you know that those

20 particular periapicals are Mr. 's

21 and not someone else's?

22 A You must be kidding me.

23 Q Based upon the fire you told me

24 about and certain things being destroyed

25 and not having your original panorex with

0191

1

2 you, I'm only asking how do you know that

3 those periapicals are this patient's and  
4 not someone else's?  
5 A Because these seven teeth were  
6 indicated for extractions and in  
7 conjunction with the panorex and it was in  
8 his folder and it was in the packets or  
9 envelopes, in small envelopes that I put  
10 x-rays and that's basically that.

11 Q In did you use digital  
12 x-rays?

13 A No.

14 Q In did you use digital  
15 x-rays?

16 A No.

17 Q When you would take these  
18 periapicals, did you or someone in your  
19 office put them into some frame where you  
20 can insert and remove the periapicals or  
21 did they just go in a little packet that  
22 you have here?

23 A They go into packets.

24 Q Looking at those periapical  
25 films, doctor, tell me what the condition  
0192

1  
2 of those seven existing teeth show.

3 A Horrible. Beyond description.

4 Q In what way?

5 A All of them had previous root  
6 canals. All of them had posts and crowns.  
7 Hanging onto the roots of the teeth by a  
8 hairline. I don't even know how they  
9 stayed in. Taking one as the worst and a  
10 hundred as the best, I would say they are  
11 number one.

12 Q What did you tell Mr. as  
13 a result of your observation of those  
14 teeth?

15 A I tell him that he has very bad  
16 teeth and he should get rid of them  
17 A.S.A.P.

18 Q What would happen to him if he  
19 kept those teeth in?

20 A They would break down on him any  
21 minute, any time. Just looking at this.  
22 I mean, you show it to first-year dentist  
23 and he would tell you these teeth are  
24 smashed. I don't know how you say.

25 Q What did you tell Mr. you  
0193

1  
2 could do for him in order to treat those  
3 seven teeth?

4 A Well, you can place implants in  
5 there.

6 Q What would be the benefit of  
7 putting implants in place of those

8 existing teeth?  
9 A Well, the implants would restore  
10 his lower -- would replace most of his  
11 missing teeth and the ones that have to be  
12 extracted because these ones can be  
13 breaking any second or any minute.  
14 Q Did Mr. tell you that he  
15 had a history of teeth breaking down and  
16 falling apart?  
17 A He said all his life he had  
18 teeth falling apart.  
19 Q What did you learn from Mr.  
20 about his hygiene and specifically  
21 his oral hygiene on the first visit?  
22 A Well, it was -- I couldn't  
23 determine the oral hygiene where missing  
24 teeth were.  
25 Q I'm not asking your observation  
0194  
1  
2 during your exam. I'm asking what  
3 information did you obtain from him about  
4 what he did for oral hygiene.  
5 A He didn't really say anything  
6 except that he has number of bad teeth on  
7 the bottom.  
8 Q Did you ask him what his oral  
9 hygiene was like and how he goes about  
10 keeping his mouth healthy and clean?  
11 A No. I knew exactly what the  
12 situation of his mouth and oral hygiene  
13 was.  
14 Q Did you ask him how often he  
15 brushed?  
16 A It wasn't necessary.  
17 Q Why?  
18 A Because these teeth don't show  
19 any person who takes care of his teeth.  
20 Q Can you still get the type of  
21 dental condition that you observed on  
22 even in a person that takes  
23 care of his teeth?  
24 A Absolutely.  
25 Q So before jumping to any  
0195  
1  
2 conclusion, to be fair, how did you know  
3 that the condition of his teeth related to  
4 his failure to take care of his teeth?  
5 MR. : Objection to the  
6 form. You may answer if you  
7 understand it.  
8 A If he took care of his teeth, he  
9 would not have had this situation in his  
10 mouth.  
11 Q Well, he did have root canal;  
12 correct?

13 A Yes, but that's a long, long  
14 time ago.  
15 Q And he did have the restoration  
16 for the posts and the crown?  
17 A A long time ago.  
18 Q So that's some form of taking  
19 care of teeth that may have been  
20 deteriorating; correct?  
21 A Maybe.  
22 Q So my question to you is what  
23 other -- withdrawn.  
24 Dental hygiene includes  
25 brushing; correct?

0196

1  
2 A Brushing his teeth -- brushing  
3 his teeth -- on his teeth would not make  
4 the difference.  
5 Q But part of dental hygiene  
6 includes primarily brushing his teeth?  
7 A I don't know what you're  
8 referring to dental hygiene. To me dental  
9 hygiene means existing teeth, taking care  
10 of, being proper and attended to within a  
11 normal period of time. Not in this case  
12 because this indicates that there is  
13 neglect for minimum of ten years, I would  
14 estimate.  
15 Q If the patient had no  
16 complaints, what is it that he should be  
17 taking care of that you described he needs  
18 to do?  
19 A Take care of his teeth, existing  
20 teeth.  
21 Q How?  
22 A You go to dentists.  
23 Q Would you agree that it is  
24 important as a treating dentist to try and  
25 preserve a patient's natural teeth as much

0197

1  
2 as possible?  
3 A For any dentist?  
4 Q For any dentist.  
5 A Yes. Absolutely. That's what  
6 you go there for.  
7 Q And the reason why you try to  
8 preserve a patient's teeth is because  
9 there's nothing better than the patient's  
10 own original teeth; correct?  
11 A Absolutely.  
12 Q So short of extracting a  
13 person's teeth who has already undergone  
14 root canal and restoration, what else is  
15 available to make the patient take care of  
16 their teeth short of extracting it at that  
17 point?

18 A Detecting beginning of decay so  
19 that this situation would not occur.  
20 Q And is it your opinion, doctor,  
21 that if the decay had been detected  
22 earlier that a simple clean-out and  
23 further restoration of the tooth would  
24 have saved and prevented the continued  
25 deterioration?

0198

1  
2 A Absolutely.  
3 Q Did you ask Mr. who was  
4 the dentist he had last been to?  
5 A It was irrelevant and immaterial  
6 to me.  
7 Q Did you ask him when he had last  
8 been to a general dentist to get his mouth  
9 checked?  
10 A I don't remember specifically,  
11 but he told me a long long time ago.  
12 Q Did you ask him whether he had  
13 been to any implant specialist before  
14 coming to you?  
15 A I think he told me.  
16 Q And what did he say to you?  
17 A He said he can't afford those  
18 prices.  
19 Q And what type of prices did he  
20 tell you about?  
21 A He didn't specify. I didn't --  
22 I knew what the average cost is there.  
23 Q And what was that?  
24 A I don't know. In his case, 50,  
25 60,000.

0199

1  
2 Q And you gave him a price of  
3 \$22,500; correct?

4 A That's correct.  
5 Q Do you know why these other  
6 implant doctors were quoting him that  
7 price of 50 or 60,000?

8 MR. : Objection to the  
9 form.

10 Q Did you ever see any estimate  
11 from Mr. of any of these other  
12 doctors or specialists he consulted before  
13 coming to you?

14 A Nothing that I can recall.

15 Q When did you perform the  
16 extractions of the lower teeth?

17 A .

18 Q On the same day that you  
19 performed the extraction of those seven  
20 teeth, you placed implants in their place?

21 A Yes.

22 Q Going back to the implants that

23 you put in in the upper jaw first on  
24 , in the course of deciding where  
25 to place those implants, did you use any  
0200

1  
2 guide holes?

3 A Yes.

4 Q How did you do that?

5 A How did I do the guide holes?

6 Q Yes. How did you measure and  
7 determine where those implants were to go?

8 A I usually go by the customary  
9 way of doing it, is I go by the denture  
10 that has teeth on it and then I indicate  
11 where the implant should be for any number  
12 of teeth.

13 Q And the denture that you talked  
14 about, is that a general denture for  
15 anybody or one made just for him?

16 A One made just for him.

17 Q I'd like you to read, please,  
18 your note for , and if  
19 there is an abbreviation, tell me what  
20 that represents.

21 A December or ?

22 Q , .

23 A Consultation, maxillary and  
24 mandibular fixed bridges, all options,  
25 which means all options of restorative --

0201

1  
2 Q Just read it and then I'm going  
3 to ask you questions about it.

4 A Sinus lift, modified sinus lift,  
5 bone grafting, et cetera.

6 Q Now, the sinus lift and the  
7 mock --

8 A Modified.

9 Q -- modified sinus lift and the  
10 bone grafting, those are all options that  
11 you're saying you discussed with him;  
12 correct?

13 A That's correct.

14 Q At the time you saw him for  
15 consultation you did not know which of  
16 these procedures you were going to  
17 perform; correct?

18 A I basically knew.

19 Q Which ones were you going to  
20 perform?

21 A He was going to have a modified  
22 sinus lift.

23 Q And what is a modified sinus  
24 lift?

25 A It's the ability to add a few

0202

1

2 more millimeters to the length of the  
3 implant.

4 Q How do you do that?

5 A You take an osteotome and first  
6 you drill with a drill. You drill all the  
7 way to the floor of the sinus and you take  
8 an osteotome rounded at the edge, and  
9 using a mallet tapping on it to break the  
10 thin bone of the floor of the sinus. By  
11 that extending this Sniderian membrane by  
12 extending it up. Usually it goes up by  
13 about a good three to four millimeters.

14 Q What was the purpose of  
15 accomplishing this?

16 A Elongating the area for placing  
17 a longer implant had it not been for the  
18 modified sinus lift.

19 Q And why did you feel it was  
20 necessary to perform this?

21 A In order to place the size of  
22 the implants that I wanted to place,  
23 although it wasn't as much as I wished we  
24 could, but it was sufficient to place  
25 implants, you know, to place implants.

0203

1  
2 Q Is that because he did not have  
3 sufficient bone on the top jaw to accept  
4 the implants?

5 A No. He had sufficient bone to  
6 accept the implants, but I wanted to gain  
7 more space to place the implants.

8 Q And is this a procedure that you  
9 had done in the past?

10 A Many times.

11 Q And did you actually perform  
12 this particular procedure?

13 A Yes.

14 Q And did you talk to Mr.  
15 about doing this particular procedure?

16 A Yes.

17 Q And what other options were  
18 available to him other than -- well, what  
19 options were available to him?

20 A A sinus lift or bone graft or  
21 bone grafting with an autogenous bone, you  
22 know, oneself's bone, and then taking a  
23 bank bone and the cost of it was out of  
24 his -- I don't know how you say. Out of  
25 his hand. Out of his pocket. And the

0204

1  
2 answer was no.

3 So the only other alternative  
4 would have been to do a modified sinus  
5 lift, which we did, and that included also  
6 a bone graft which is a putty -- it's not

7 a bone -- with a membrane and PRP.  
8 The PRP is -- you create a --  
9 it's not a medication, but you create a  
10 situation where you use the patient's own  
11 blood and clotting it and squeezing out of  
12 it all the unnecessary blood constituents  
13 except the red blood cells and the red  
14 blood cells contain quite a few enzymes  
15 which --

16 Q That's what you called the  
17 platelet rich plasma?

18 A That's what PRP stands for, yes.  
19 So we did everything that  
20 anybody could have done for this  
21 gentleman.

22 Q Those seven teeth --

23 A That's on the bottom.

24 Q -- that were existing, were they  
25 vital?

0205

1

2 A No.

3 Q What did they look like  
4 physically to the eye?

5 A Disgusting

6 Q Did they look darker than what a  
7 normal healthy tooth looked like?

8 A Broken, chipped, porcelain, lots  
9 of spaces between the crown and the root.  
10 The teeth were sustained -- held only by a  
11 thread of the post that was placed in  
12 after the root canal that was performed on  
13 these teeth. All the teeth had root  
14 canals and posts and crowns.

15 Q In your opinion were any of  
16 those seven teeth restorable?

17 A Absolutely not.

18 Q Did you send Mr. out to  
19 get a second opinion before you ultimately  
20 extracted those seven teeth?

21 A Second opinion for what?

22 Q About the teeth, the seven  
23 remaining teeth.

24 A You must be kidding me.

25 MR. : Just if you can

0206

1

2 answer the question.

3 A No, I didn't.

4 Q Did you ever suggest to Mr.  
5 that he get a periodontal  
6 consultation before undergoing implant  
7 treatment?

8 A Oh, no. To restore what?

9 Q I'm just asking whether you did.

10 A No.

11 Q Did you ask him to go to a

12 prostodontist evaluation before starting  
13 treatment?

14 A No. I had them in my office.

15 Q Did anyone in your office see  
16 him for the purposes of possible  
17 prostodontist treatment?

18 A I can't recall.

19 Q Is there any note to indicate  
20 that you asked or that somebody in your  
21 office did come to see him for a  
22 prostodontic evaluation?

23 A Well, until 2002, I believe,  
24 that I started to employ dentists, on all  
25 my previous implants I did, the

0207

1

2 restorative -- for years I did the  
3 restoration myself.

4 Q I'm only talking from '05 to  
5 '06.

6 Is there anything in your note  
7 to indicate that any prostodontist in your  
8 office saw him?

9 A No.

10 Q Did you tell Mr. on the  
11 first visit how long he would go without  
12 having any actual teeth?

13 A Yes.

14 Q What did you tell him?

15 A I told him since he needed  
16 extractions and he had not enough bone to  
17 restore it with the longest implant, it  
18 would take anywhere between three to six  
19 months, probably even more.

20 Q That would get him to some  
21 functional level where he would have teeth  
22 and be able to use them?

23 A Well, he could have used the  
24 temporary dentures that we gave him, but  
25 if you are talking about a permanent

0208

1

2 situation, no.

3 Q What alternatives were available  
4 to Mr. rather than undergoing  
5 implant treatment?

6 A Nothing short of a denture that  
7 he has had for ten years or so and same  
8 thing on the bottom.

9 Q Was there any way to put a  
10 denture on the bottom without putting in  
11 implants?

12 A Yes.

13 Q How?

14 A Just put a denture on top, on  
15 top of the gums.

16 Q And in your opinion was that an

17 option?

18 A A bad option, but anybody that  
19 doesn't have money, it's an option for  
20 them.

21 Q Did Mr.  
22 order to go forward with your recommended  
23 treatment plan he would need to take out a  
24 loan or a home equity loan to pay for it?

25 A He may have. I don't remember,  
0209

1  
2 but it's not my, you know -- either he can  
3 or he cannot.

4 Q And if he told you --

5 A I was not going to loan him  
6 money, if that's what you mean.

7 Q If he told you he didn't have  
8 money, would you have recommended that he  
9 just have a denture placed on the bottom  
10 and fix the one he had on top?

11 A Absolutely.

12 Q Would you have performed the  
13 insertion of dentures if --

14 A Probably somebody in my office.

15 Q Did you discuss with him the  
16 possibility of just putting in dentures?

17 A Oh, yes.

18 Q As part of your discussion, did  
19 you make a note of that anywhere?

20 A Consultation, maxillary,  
21 mandibular, fixed bridge, all options,  
22 sinus lift, modified sinus lift, bone  
23 grafting, et cetera.

24 Usually I say more options than  
25 I did here, but this is basically --  
0210

1  
2 Q The fixed bridges that you just  
3 mentioned, tell me what you meant.

4 A Fixed bridge is a permanent  
5 bridge that you secure to the implants and  
6 you don't take it out.

7 Q And can you put in fixed bridges  
8 without implants?

9 A On existing teeth, if the teeth  
10 are good.

11 Q And in his case would it be fair  
12 to say that you would have to extract the  
13 teeth and then simply put a denture on the  
14 lower?

15 A Oh, no way I could do that.

16 Q You could not attach a bridge to  
17 those existing teeth?

18 A Absolutely not. They were  
19 history.

20 Q I want you to tell me as best  
21 you recall what Mr.

tell you that in

said to you on

22 the first visit.  
23 A I can't recall. I know what he  
24 came for.  
25 Q Did he tell you how he happened

0211

1  
2 to get your name?  
3 A Yes.  
4 Q How?  
5 A Found it in the newspaper.  
6 Q And you advertised at that time;  
7 correct?

8 A That's correct.  
9 Q In what different newspapers did  
10 you advertise?

11 A New York Post, Daily News,  
12 Pennysaver in some locations.

13 Q Did you advertise often?

14 A Oh, yes.

15 Q And the ads that you had, did  
16 you have one ad that you advertised  
17 continuously in different papers or did  
18 you have multiple ads?

19 A Basically they were all -- well,  
20 not the same, you know, but different  
21 prices at different times, but the message  
22 is that it's done by an oral surgeon; we  
23 have a dental laboratory, you know,  
24 everything done in one office.

25 Q Did you know that Mr.

0212

1  
2 traveled from to come see  
3 you?

4 A Oh, yes. That's why I was very  
5 kind to him and I gave him more implants  
6 than he should have for the money he gave  
7 me.

8 Q Did you also give him additional  
9 implants in the upper jaw?

10 A Yes.

11 Q How many did you originally  
12 attempt to place in his upper jaw before  
13 you decided to give him the extra ones?

14 A Well, I knew I was going to give  
15 him a minimum of six implants, but I told  
16 him, you know, if I'm going to have enough  
17 bone and a successful sinus lift, you  
18 know, I would add more.

19 Q So the six you knew you were  
20 going to put in and you gave him four  
21 more?

22 A Yes. The guy came from .  
23 I was kind to him.

24 Q Does Mr. have any family  
25 in New York, to your knowledge?

0213

1  
2 A I don't think so because he was  
3 coming and going on the same day.

4 Q Are you aware if there are any  
5 implant dentists in or New  
6 Jersey?

7 A It's not -- it's not a backwoods  
8 country. I'm sure there are.

9 Q As well as oral surgeons or  
10 restorative dentists in those two states?

11 A Absolutely.

12 Q Other than the advertisement, do  
13 you know why he bypassed the other  
14 available surgeons and restorative  
15 dentists in those two places, in  
16 and New Jersey, to come to  
17 you?

18 A Well, he wasn't Rockefeller or  
19 close to him, so. He didn't have money.

20 Q What is it that you advertise in  
21 your ad that would cause a man to drive  
22 more than 200 miles to come see you?

23 MR. : Objection to the  
24 form.

25 MR. OGINSKI: I'll rephrase it.

0214

1  
2 Q Did Mr. tell you what it  
3 was about your ad that caused him to want  
4 to come see you?

5 A I think the price.

6 Q What was it about the price that  
7 attracted him to your office?

8 A He couldn't get it anywhere  
9 else.

10 Q Meaning that you were offering a  
11 lower price than anyone else was  
12 providing?

13 A That's correct.

14 Q And the prices that you had in  
15 the ads, you said it differed from time to  
16 time?

17 A Yes. Not substantially.

18 Q The prices that you're talking  
19 about, did those prices include the cost  
20 of an implant?

21 A Yes.

22 Q And did it also include the cost  
23 of the crown to finish and load the  
24 implant?

25 A Whether it was a crown or a

0215

1  
2 denture, yes.

3 Q Do you recall what prices you  
4 had listed in those different  
5 advertisements?

6 MR. : He just said they  
7 varied. Do you want to be more  
8 specific?  
9 Q Of the ones you recall, you can  
10 tell me.  
11 A Well, most of the time, if not  
12 all of the time, it says up to -- no. I'm  
13 sorry. A certain number, whether it was  
14 400 or 700, you know. How can I phrase  
15 it? From a certain number and up.  
16 Q Meaning the minimum price?  
17 A The minimum price, yes.  
18 Q And anything else you wanted  
19 would be extra?  
20 A Yes. And different times the  
21 prices were different.  
22 Q What is an immediate load  
23 implant?  
24 A An implant that you restore at  
25 the same time when you place the implant.

0216

1  
2 Q I think you mentioned earlier  
3 today that that had a lower success rate  
4 than one that is done in an edentulous  
5 area.  
6 MR. : Objection. I don't  
7 believe he said that, but I'll let him  
8 answer if he understands.  
9 Q Is that correct?  
10 A No.  
11 Q When you extracted a tooth on  
12 day one and put an implant in on the same  
13 day, do those implants have a lower  
14 success rate than one where you simply  
15 placed the implant into the bone without  
16 having to do any extraction?  
17 A Yes. I said it before.  
18 Q That's what I wanted to  
19 check.

20 What is an oral and  
21 maxillofacial surgeon?  
22 A Well, it's -- the extent of our  
23 ability to restore facial bones like the  
24 malar bone, the condyle and the lower jaw  
25 fractures and things like this.

0217

1  
2 Q Did you hold yourself out as an  
3 oral and maxillofacial surgeon?  
4 A Oh, yes.  
5 Q Are you a medical doctor?  
6 A No.  
7 Q Did you go to medical school?  
8 A No.  
9 Q Did you perform any surgical  
10 residency?

11 A Yes.  
12 Q What surgical residency did you  
13 perform?  
14 A Oral and maxillofacial surgery.  
15 Q Where?  
16 A Hospital in  
17  
18 Q From when to when?  
19 A From to . Three years.  
20 Q Did you do a dental residency?  
21 A Yes.  
22 Q Where?  
23 A From to in  
24  
25 Q Did you complete that?  
0218  
1  
2 A Yes. One year.  
3 Q And that was general dentistry?  
4 A That's correct.  
5 Q And the oral and maxillofacial  
6 surgery, that was a separate residency?  
7 A Three years separate from the  
8 general, yes.  
9 Q Did you complete that program?  
10 A Yes.  
11 Q Were you given any type of  
12 certificates of completion or diploma for  
13 finishing that program?  
14 A Yes.  
15 Q After completing that training,  
16 did you go on to do any additional  
17 training?  
18 A What is there to do?  
19 Q I'm just asking if you did.  
20 A No.  
21 Q Where did you go to dental  
22 school?  
23 A ,  
24 College.  
25 Q Where?  
0219  
1  
2 A .  
3 Q From when to when?  
4 A to .  
5 Q When did you become licensed to  
6 practice dentistry in the State of New  
7 York?  
8 A .  
9 Q From 19 up until the year 20  
10 was your license to practice medicine ever  
11 suspended?  
12 A No.  
13 Q I'm sorry.  
14 From 19 up until the year 20  
15 was your license to practice dentistry

16 ever suspended?

17 A No.

18 Q Was your license to practice  
19 dentistry ever suspended at any time  
20 between 19 to 20?

21 A No.

22 Q Am I correct that you are no  
23 longer licensed to practice dentistry in  
24 the State of New York?

25 A Yes.

0220

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2 Q And you surrendered your license  
3 in of 20 ; correct?

4 A Yes.

5 Q

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10 MR. : Just note my  
11 objection. You may answer for  
12 purposes of the discovery, but there  
13 may be a privilege claim.

14 A I don't know. I had an  
15 attorney.

16 Q I'm not asking about that.

17 A All right. I don't know.

18 Q Did you voluntarily surrender  
19 your license?

20 A Yes.

21 Q At some point before  
22 surrendering your license

23

24

25 MR. : Objection to the  
form, but if you know, you may answer

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2 for purposes of discovery.

3 A Can you repeat it again, please?

4 MR. OGINSKI: Read it back.

5 (Whereupon, the record was  
6 read.)

7 A Not before.

8 Q Were you charged, doctor, with

9

10 ?

11 MR. : Objection to the  
12 form.

13 Again, doctor, just so it's  
14 clear from the record, I'm not the  
15 attorney handling this aspect of the  
16 case. I'm going to let the doctor  
17 tell me if he needs a conference on  
18 this or wants to exercise any  
19 privilege or answer the question or  
20 defer to his other counsel or send me

21 a discovery notice. I'll leave it up  
22 to the doctor.  
23 A I don't know. Like I said  
24 before, it was in the hand of an attorney.  
25 Q Doctor, I'm going to show you a

0222

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2 document which is from the State Education  
3 Department, the New York State Board of  
4 Regents, and in it under license  
5 surrenders it says, and I quote,  
6  
7  
8

9 I'm going to ask  
10 you to take a look at that.

11 My question is is that an  
12 accurate statement?

13 MR. : Again, note my  
14 objection and I'll let the doctor  
15 decide whether he can answer that or  
16 not.

17 I'll just note I'm objecting  
18 both on possible privilege -- it's  
19 obviously post-accident, the decision,  
20 and it doesn't specify what time  
21 frame, just looking at this for the  
22 first time, that if this is so, that  
23 he was allegedly doing that, but this  
24 is not a conviction of anything or an  
25 admission of anything It's a license

0223

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2 surrender notification.  
3 A The license was surrendered  
4 after, I think, you know -- maybe I  
5 shouldn't say to you.  
6  
7  
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25 Q Are you licensed in any other

0224

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2 state?

3 A I took -- well, not -- I took  
4 the Regional Boards and I had a  
5 license, but I didn't renew  
6 it for over many years.

7 Q When you say the  
8 Regional Boards, what do you mean?

9 A It's a group of many states that  
10 you take one exam and it's good for all of  
11 them.

12 Q And Regional Boards in what?

13 A Well,

14 .

15 Q What specialty or subspecialty?

16 A Dentistry. Every dentist has to  
17 take State tests. In the case of New  
18 York, you can take the Regional  
19 Boards, which if you take it, it's good  
20 for many states;

21 and others, I think.

22 Q What is a Doctor of Medical  
23 Dentistry?

24 A It's D.M.D. It's -- some  
25 schools give D.M.D. Many schools give

0225

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2 D.D.S.

3 Q And what degree did you receive?

4 A D.D.S.

5 It's the same as D.M.D. It's no  
6 difference.

7 Q Were you certified by any  
8 accredited medical board as an oral  
9 surgeon?

10 A No.

11 Q Were you certified by any  
12 accredited dental organization or dental  
13 board as an oral surgeon?

14 A No.

15 Q Is there any type of  
16 accreditation or crediting board for oral  
17 surgeons in the State of New York or in  
18 the country?

19 A In the country, yes.

20 Q What is that?

21 A It's American Board of -- I  
22 don't know the exact. American Board of  
23 Oral and Maxillofacial Surgeons.

24 Q Did you ever take the  
25 examinations to become certified by the

0226

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2 American Board of Oral and Maxillofacial  
3 Surgeons?

4 A No, but I took a test by the

5 American Society of Oral and Maxillofacial  
6 Surgery and I was admitted to a membership  
7 in the Oral and Maxillofacial Association.

8 Q Can you tell me is there any  
9 particular reason why you did not attempt  
10 to obtain Board certification from the  
11 Oral and Maxillofacial Surgeon Board?

12 MR. : Objection to the  
13 form. You may answer it, though,  
14 doctor.

15 A I didn't deem it necessary. You  
16 know, as time went by, you know, I found  
17 it to be less and less important. It  
18 wouldn't have made me a better oral  
19 surgeon.

20 Q Are you Board certified in any  
21 field?

22 A No.

23 Q Were you a member of the  
24 International College of Oral  
25 Implantologists?

0227

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2 A Yes.

3 Q And in order to become a member  
4 of that organization, what did you need to  
5 do?

6 A Well, I was a member. I didn't  
7 have to do anything

8 Q In other words, you fill out a  
9 form --

10 A An application.

11 Q -- and send in the fee and  
12 you're member?

13 A Well, there are general dentists  
14 that are accepted as members also, but  
15 oral surgeons did help.

16 Q Were you a member of the  
17 American Dental Society of Anesthesiology?

18 A Yes.

19 Q And in order to become a member  
20 of that organization, what did you need to  
21 do?

22 A I had to be an oral surgeon.

23 Q Did you have to take any  
24 examination to become a member of that  
25 organization?

0228

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2 A No. Just the fact that I was  
3 Board eligible in oral and maxillofacial  
4 surgery with the training that I had I was  
5 admitted to it without any tests.

6 Q Am I correct, doctor, you said  
7 you never took the examination to become  
8 Board certified for the American Board of  
9 Oral and Maxillofacial Surgeons?

10 A That's correct.  
11 Q And when you say you're Board  
12 eligible, you mean you graduated --  
13 A If I take the test, I can take  
14 it all the time.  
15 Q Board eligible means you have  
16 taken the required courses and residency  
17 necessary to sit for the exam?  
18 A That's correct.  
19 Q That examination to go become  
20 Board certified, that was both a written  
21 and oral examination?  
22 A I'm sorry?  
23 Q Was it a two-part exam; written  
24 and oral?  
25 A For what?

0229

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2 Q To become Board certified.  
3 A I think so, yes.  
4 Q And you never took the written;  
5 correct?  
6 A No.  
7 Q Now, this organization you  
8 mentioned, the American Society of Oral  
9 and Maxillofacial Surgeons, do you know  
10 where they are based out of or where they  
11 are located?  
12 A Maybe Chicago. I don't know.  
13 Q What type of test were you asked  
14 to take in order to join that  
15 organization?  
16 A I took an oral test in one of  
17 the conventions.  
18 Q Was that an all-day test or was  
19 that a couple of hours or something else?  
20 A Couple of hours. Oral  
21 examination.  
22 Q What was the purpose of that  
23 oral examination?  
24 A To become a member of the  
25 American Society of Oral and Maxillofacial

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2 Surgeons.  
3 Q In your advertisements did you  
4 hold yourself out as being a member of  
5 that particular organization?  
6 A No, I didn't say that.  
7 Q The American College of Oral and  
8 Maxillofacial Surgeons, is that the  
9 college that certifies doctors for Board  
10 certification?  
11 A There are two -- let me see  
12 this. There are two societies of oral and  
13 maxillofacial surgeons. International  
14 College of Oral -- that's --

15 Q Hang on, doctor. You are now  
16 looking at a copy of an advertisement that  
17 you had at one time in one paper, at least  
18 one paper; correct?

19 A Yes.

20 Q And what organizations are you  
21 referring to about the American College of  
22 Oral and Maxillofacial Surgeons?

23 A It's -- that's the Society of  
24 Oral and Maxillofacial Surgeons.

25 Q And is that organization --

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2 A Medical and dental.

3 Q Is that organization different  
4 than the American Board of Oral and  
5 Maxillofacial Surgeons?

6 A Yes.

7 MR. OGINSKI: We are going to  
8 break for now and we are going to  
9 reschedule and come back at a  
10 different time.

11 (TIME NOTED: 4:50 p.m.)

12

13 \_\_\_\_\_  
14 (Signature of witness)  
15 Subscribed and sworn to  
16 before me this \_\_\_\_\_  
17 day of \_\_\_\_\_,  
18 2008.  
19 \_\_\_\_\_

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E X H I B I T S

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PLAINTIFF'S FOR  
IDENTIFICATION

PAGE

11

1 Office chart

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2 Panorex film

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2 CERTIFICATION BY REPORTER  
3 I, Josephine Winter, a Notary Public  
4 of the State of New York, do hereby  
5 certify:

6 That the testimony in the within  
7 proceeding was held before me at the  
8 aforesaid time and place;

9 That said witness was duly sworn  
10 before the commencement of the testimony,  
11 and that the testimony was taken  
12 stenographically by me, then transcribed  
13 under my supervision, and that the within  
14 transcript is a true record of the  
15 testimony of said witness.

16 I further certify that I am not  
17 related to any of the parties to this  
18 action by blood or marriage, that I am not  
19 interested directly or indirectly in the  
20 matter in controversy, nor am I in the  
21 employ of any of the counsel.

22 IN WITNESS WHEREOF, I have hereunto  
23 set my hand this 29th day of February,  
24 2008.

25 \_\_\_\_\_  
0234

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2 ERRATA SHEET  
3 VERITEXT/NEW YORK REPORTING, INC.

4 200 Old Country Road 1350 Broadway  
5 Mineola, NY 11501 New York, New York  
6 10018

7 NAME OF CASE: vs  
8 DATE OF DEPOSITION: February 27, 2008  
9 NAME OF DEPONENT:

PAGE	LINE	CHANGE	REASON
8	____/____/	_____	/_____
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19 \_\_\_\_\_  
20 \_\_\_\_\_

21  
22 SUBSCRIBED AND SWORN TO BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 .

23  
24 \_\_\_\_\_ NOTARY PUBLIC                      \_\_\_\_\_ MY COMMISSION EXPIRES  
25