Exhibit 27

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES OF THE :
LELAND STANFORD JUNIOR :
UNIVERSITY :
Plaintiff :
v. : Case No.
ROCHE MOLECULAR SYSTEMS, et al: C 05 04158 MHP
Defendants :
* * * * * * * * * * *
ROCHE MOLECULAR SYSTEMS, et al:
Counterclaimants :
v. :
THE BOARD OF TRUSTEES OF THE :
LELAND STANFORD JUNIOR :
UNIVERSITY; THOMAS MERIGAN; :
AND MARK HOLODNIY :
Counterclaim Defendants :

Deposition of JOHN G. BARTLETT, M.D.

Baltimore, Maryland

Wednesday, September 5, 2007

3:19 p.m.

Job No.: 399424

Pages: 1 - 59

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A Okay.
Q Also, if any of my questions are not clear, please let me know and I'll try and rephrase, or if the question is lost, I have access here and I will restate it pretty quickly as well if that's needed.
A Fine.
Q Also if you need to take a break at any time, just let me know and we'll get that done as well. I may need breaks myself on a fairly regular basis.
MR. CANNON: Just let us know if you need a break.
THE WITNESS: Yes, I will.
Q Any questions?
A No.
Q Where are you currently employed?
A Johns Hopkins University.
Q And what is your position?
A I'm Professor of Medicine in the Department of Medicine in the Division of Infectious Disease.
Q How long have you been at Johns Hopkins?
A 1980 to the present.
Q Where were you before that?
A Tufts University School of Medicine.
MR. DAMSTEDT: I'd like to mark as the next

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in order the Declaration that was filed. It's titled the Declaration of John G. Bartlett, M.D. in support of Roche's Responsive Claim Construction Brief.
(Exhibit No. 700 was marked for identification and was attached to the transcript.)
MR. CANNON: I note for the record that this Exhibit does not contain the attachments that were filed along with it.
A (Reviewing.)
BY MR. DAMSTEDT:
Q Have you had a chance to review the document?
A Yes, I have.
Q Is it the Declaration that was filed on your behalf?
A Yes, it is.
Q If you could turn to Paragraphs 7 to 11, do those paragraphs recite your qualifications?
A (Reviewing.)
Yes, I think they do. If I was going to make any additions to what is here, it would be that I founded the AIDS service at Johns Hopkins in 1983, and am the Director of the AIDS Service at Johns Hopkins, and I am not sure that that information is here.
Q Great. Appreciate it. In Paragraph 11 it

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says -- I'm going to just read a sentence here. It's the last sentence, Paragraph 11. It says, I have received a number of honors and awards in connection with my medical career, as well as my research and treatment of HIV patients, including the 1992 Medical Writers Association Award for Best Medical Book (Guide to Living with HIV Infection, Johns Hopkins University Press), the 1993 HERO Award for AIDS Patient Care for 1983 to 1993, and the 2005 Alexander Fleming Award for Lifetime Achievement by the Infectious Diseases Society of America.
Did I read that correctly?
A Yes.
Q Do you have any other awards?
A Yeah. I have the Max Finland Award for Lifetime Achievement from the Infectious -- the National Foundation for Infectious Disease. I think that's it.
Q Great. So this is not a comprehensive list of the awards you have. It's just a sampling --
A No --
Q -- right?
A -- but it's hard to know when to draw the line.
Q Great. Have you had your deposition taken

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before?
A Yes, I have.
Q How many times?
A In the last 15 years, perhaps twice.
Q Okay. What types of cases were those?
A Clostridium difficile-associated colitis, and I think both cases involved that complication.
Q Were you testifying in those cases as an expert or a fact witness?
A An expert.
Q Have you ever been involved in a patent case?
A No.
Q Is there any reason today that you cannot give true and accurate, complete and truthful testimony?
A No.
Q Are you taking any medications that would impair your ability to give complete and truthful testimony?
A I'm taking medications; none that would impair me. I'm on things like Lipitor.
Q I understand you've been engaged by Roche to serve as an expert; is that correct?
A Yes.

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Q Do you have an opinion as to what level of skill is ordinary in that field?
A Well, it's not really officially defined by anyone, and it's not a field in which I would claim expertise, and perhaps that means that I'm not the right person to make the definition. I can -- I can try if you want me to.
Q Sorry, I have --
A My -- I mean you have to be able to do it. You have to have experience with it.
Q So in your Declaration, in Paragraph 30 you state, with respect to the development and use of PCR techniques, I agree with Roche's statement that a person of ordinary skill in the art would have a medical or graduate degree in biochemistry or a related field and at least two years of relevant laboratory bench experience conducting PCR assays.
Did I read that correctly?
A I was just going to say the same thing, yeah.
Q What is the basis for that opinion?
A Well, it -- it makes sense. It's a highly technical field, and it -- it would seem that if you're going to try to define it, that would be reasonable.

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Q Have you ever conducted laboratory bench experiments using PCR?
A No.
Q Have you ever supervised anyone --
A No.
Q -- conduct -- sorry. Let me finish my question.
A I'm sorry.
Q Have you ever supervised anyone conducting laboratory bench experiments using PCR?
A No.
Q Going back just a second to the patient care --
A Yes.
Q -- field of art. Is the definition you gave me the definition that would apply today, or the definition that would apply in 1992?
A Today it's official.
Q Do you have a definition of the level of skill in the art for a person of ordinary skill in 1992?
A There were definitions at that time, but none that were agreed on. That would be hard for me to do it.
Q So sitting here today, you do not have an opinion as to the level of ordinary skill of a person in the field of art of patient care in 1992; is that correct?
MR. CANNON: Objection. Lacks foundation. Misstates testimony.
A Well, you changed the phraseology a little bit.
Q Okay.
A You said -- I thought the first question was to define it, and the second was do I have an opinion about it. And I can have an opinion, but what I gave you the first time was, was an officially-reviewed consensus statement, and we don't have that for 1992.
Q Okay. Well, what is your opinion?
A For 1992 it would probably be a physician who had experience in primary care infectious disease or infectious disease as a background and experience with HIV-infected patients, but that's not official.
Q And is that description or opinion as to the level of skill of a person of ordinary skill in the art stated anywhere in your Declaration?
A No.
Q Continuing on with your Declaration, Paragraph 39.
A Yes.

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Q Okay. The first sentence reads, antiretroviral agents are drugs that are effective in reducing or stopping replication of retroviruses.
Did I read that correctly?
A Yes.
Q Is that your understanding as to what the words antiretroviral agent meant to a person of ordinary skill in 1992?
MR. CANNON: Objection. Lacks foundation.
A Yes.
Q And you used that term in 1992, correct?
A I don't know.
Q Was that a term with which you were familiar in 1992?
A Yes.
Q Persons of ordinary skill in the art still use antiretroviral agent, that term in the same way today; is that correct?
MR. CANNON: Objection. Lacks foundation.
A I think the concept is the same. The field is so much different.
Q So is it your opinion that the words antiretroviral agent mean the same thing today that they did in 1992, but that there are new antiretroviral agents and new ways of using

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antiretroviral agents today?
MR. CANNON: Objection. Misstates testimony. Object to the form of the question.
A I think the fundamentals are the same. The nuances are probably different.
Q In your view, do -- in your opinion, excuse me, do the patents and prosecution history use the term antiretroviral agent consistent with the meaning of antiretroviral agent that we have just been talking about?
MR. CANNON: Object to the form of the question.
A I'm not sure that I can answer questions about the patent part of this.
Q I'm sorry, I missed the last part.
A I'm --
Q You are not sure --
A I can answer questions about the patent part of this. I don't know enough about patents.
Q Have you read through the patents?
A Yes, I did.
Q Did you read through portions of the prosecution history?
A Yes, I did.
Q Was there anything in the patents or the

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prosecution history as you were reading through it that used the term antiretroviral agent in a way that was inconsistent with the definition you gave just a moment ago?
A I don't remember.
Q Turning back to that sentence in Paragraph 39 --
A Yes.
Q -- the first sentence, you say antiretroviral agents are drugs. What do you mean by the word drugs there?
A Well, I guess drugs are synonymous with medications.
Q Are you restricting antiretroviral agents to only FDA-approved medications in that sentence?
A No. No.
Q Would it be fair to say that antiretroviral agents are substances that are effective in reducing or stopping replication of retroviruses?
MR. CANNON: Object to the form of the question.
A I think there needs to be a distinction between the word substance and drugs.
Q Okay. What is that distinction?
A Well, drugs are medications that can be

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given to patients. A substance could be acid.
Q So by drug or medication, you're referring to something that could be given to a person?
A I think so, yes.
Q In Paragraph 39 you also use the phrase reducing or stopping replication of retroviruses?
A Yes.
Q Is this statement limited to any specific step in the replication cycle or does it include all the steps, such as fusion, reverse transcription, integration, et cetera?
A It can apply to any step in the process.
Q Persons of ordinary skill in the art in 1992 knew of the different steps in the replication cycle of HIV; is that correct?
A I think they knew most of them, yes.
Q Okay. Which steps were not known by persons of ordinary skill in the art in 1992?
A I don't know.
Q Persons of ordinary skill in the art in 1992 also understood that stopping or inhibiting any of the steps in the replication cycle could reduce or stop replication of HIV; is that correct?
A Yes.
MR. DAMSTEDT: Handing to the Court Reporter

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an article titled Antiretroviral Therapy of Human Immunodeficiency Virus Infection: Current Strategies and Challenges for the Future.
(Exhibit No. 703 was marked for identification and was attached to the transcript.)
BY MR. DAMSTEDT:
Q Please take a moment to look through the document, and I'm going to point you to Table 1 eventually.
MR. CANNON: Take your time and read what you need to read, but then he'll ask you follow-up questions.
A (Reviewing).
Q Okay. Have you had a chance to review the document?
A Well, I've looked at Table 1.
Q Are you familiar with any of the authors of this article?
A Sam Broder -- well, I'm sorry. The answer is that I know the names of three.
Q Okay. Who are those?
A I don't know them.
Q Who are those three?
A Robert Yarchoan, Sam Broder, and Mitsuya.
Q Now, turning to Table 1.

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A I'll say what I said before. Some would, and many would not. Clinical research is different.
Q Was it understood by people of ordinary skill in the art in 1992 that inhibiting protease could reduce or stop replication of HIV?
MR. CANNON: Object to the form of the question.
A Person of ordinary skill?
Q Yes.
A No.
Q And why not?
A Because protease is in a long list here. I've already said that the person that -- of ordinary skill in taking care of AIDS patients does not know this list -- need to know this list.
Q And that's because they're involved solely in patient care; is that your opinion?
MR. CANNON: Object to the form of the question.
A I didn't say they were involved solely in patient care.
Q Then why is it that a person of ordinary skill would not need to know the list of these steps of the HIV replication cycle?
A Because the person taking care of patients

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does not need to know the basic science of every disease they take care of.
Q Let's go to Paragraph 5 -- or excuse me, Paragraph 6 of your Declaration.
A (Complying), yes.
Q All right. Paragraph 6, the third sentence, I believe it says --
A Wait. I'm sorry, Paragraph 5 or 6?
Q 6. Excuse me.
MR. CANNON: 6.
A (Complying), okay.
Q The third sentence says, in May 1992 there were only a limited number of antiretroviral agents known to AIDS doctors and researchers, and an even smaller number that were both known and available. Did I read that correctly?
A Yes.
Q What is the difference between an antiretroviral agent being known and it being available?
A Known means that it has been in some part of the development of a drug, and available means that it's in drugstores.
Q Could you describe more precisely what you mean by it having been in some part of the development

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of the drug?
A There is a process for developing drugs that begins with the chemistry and then some -- I don't know if you want me to go through the whole process. It begins with the discovery of a chemical that usually, or often works in a test tube, and then is tested for safety in animals, and then is tested for pharmacology in people, and then is given to patients with a disease process, and then is put through a large therapeutic trial starting with Phase 1, Phase 2, and Phase 3, and then presented to an Advisory Board to the FDA, and then approved or disapproved by the FDA, and then becomes part of the pharmacopeia.
Q Great. So those are all parts of the development process?
A Yes.
Q So in Paragraph 41 of your Declaration you say, protease inhibitors and HAART therapy were neither known or available for therapy until well after May 1992.
Did I read that correctly?
A Yes.
Q What is the basis for your opinion that protease inhibitors were neither known or available for therapy until well after May 1992?

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A Well, the phrase known -- I guess you'd have to say that protease, or the potential to inhibit protease was at least on a long list of drugs before that, but my statement of neither known is, really means what, what did we know about or hear in 1992 and when did those drugs become available.
My view is that protease inhibitors became known to my field about 1994 or 1995, and they became available in December of 1995 and early 1996.
Q Are you aware of any publicly available documents that describe protease inhibitors before May of 1992?
A Oh, there were publications that go back to the 1980s.
Q Okay. And what are those publications?
A I don't have them, but I can get them. You can get them in PubMed. Just type in protease inhibitor and it will give you a thousand citations and go back to the first. I think it's 1980.
Q Okay. And those would apply to HIV or those --
A Protease inhibitors in other -- no, it's before HIV.
Q So were there, to your knowledge, publications relating to protease inhibitors of HIV

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protease prior to 1992?
A Yes.
Q What is HAART therapy?
A The letters mean highly active antiretroviral therapy.
Q Other than defining or spelling out what the acronym means, can you describe HAART therapy more generally?
A It refers to therapy using drugs that are effective against HIV infection.
Q Okay. Are dietyoxy nucleicides (phonetic) used in HAART therapy?
A Yes.
MR. DAMSTEDT: Is this a good time for a break?
MR. CANNON: Sure.
THE WITNESS: Yes.
(Break taken.)
BY MR. DAMSTEDT:
Q I'd like to put before you the '730 patent which was marked previously in the earlier deposition as, I believe Exhibit 695.
Have you seen this document before?
A I've seen something like it.
Q What do you mean by that?

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A Well, I've seen these charts and graphs. I don't know if it's this exact document.
Q Can you confirm that you have read the U.S. Patent No. 5,968,730 before your deposition?
A Yes.
Q And is this a copy of what I'll call the '730 patent?
MR. CANNON: Objection. The document is what it is.
A Yes.
Q You reviewed this document before your deposition, correct?
A Yes.
Q In reviewing this document, did you come to an opinion as to what the field of art that is described in this patent is?
MR. CANNON: Objection. Asked and answered.
A You're going to have to break it down. The art of what? The art of? You're using that term art again, and I am upset about that because it's not a phrase I use.
Q Did you come to an opinion about the field of art that is described in the patent?
MR. CANNON: Objection. Lacks foundation.
A The art of PCR? Of patient care? Of --

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Q Well, that's the question for you. Did you come to an opinion as to what field of art was described in the patent?
A No.
Q So your opinions in your Declaration were not based on any understanding or opinion as to what the field of art in the patent was; is that correct?
MR. CANNON: Objection to -- object to the form of the question. Lacks foundation.
A I'm not sure exactly how to answer your, your question. You're asking about art, and that's where I'm having trouble. What do you mean by art?
Q The area of science, and that's what I would mean. What do you mean by art? Do you have a definition that you would use for field of art?
MR. CANNON: Objection. Lacks foundation.
A No. I -- not, not for art. It might be a field of -- for -- of science.
Q So in your Declaration, you offer a number of opinions, correct?
A Uh-huh.
Q But you did not, or at least I think you said that you did not come to an opinion as to what field of art was described in the patent; is that correct?

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MR. CANNON: Objection. Misstates prior testimony. Lacks foundation. Asked and answered.
A I'm -- I think I have defined art as best I can for laboratory performance of PCR and for patient care.
Q I'm just going to go on.
It is your opinion that the treating physician is the person who evaluates the effectiveness of the antiretroviral agent, correct?
MR. CANNON: Object to the form of the question.
Go ahead and answer if you can.
A Yes. To a large extent, yes.
Q Okay. What do you mean by to a large extent?
A Well, I think the patient probably has to have an opinion about whether the drug they take is good for them.
Q Anybody else?
A Well, I guess anybody can have an opinion, but I think it's the physician that is the one that is ultimately responsible for this judgment.
Q Okay. What factors were considered in evaluating effectiveness of antiretroviral agents in 1992?

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A We wanted to know if the Cd4 count increased. We wanted to know if there was a new AIDS-defining event or death. We wanted to know if the patient tolerated the medicine. And we wanted to know if the regimen was demanding to the point that patients struggled with adherence.
Q Are there any other factors that were considered in evaluating effectiveness of antiretroviral agents in 1992?
A Well, I'm trying to think of when they started doing the viral load testing, and I think that came a bit later.
Q So today you would also include viral load testing --
A Yes, I would.
Q -- in that?
All right. Were there any other factors that were considered in 1992?
A I think I've covered the major ones.
Q Are there any others that you're aware of at this point?
A I can't think of any right now.
Q Are --
A Oh, cost would be another.
Q Cost?

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A Cost would be an issue.
Q Are these factors objective?
MR. CANNON: Object to the form of the question.
A Most of them are objective.
Q Which ones are not objective?
A Tolerance.
Q And --
A Pill burden.
Q I'm sorry?
A Pill burden.
Q And how are those not objective?
A It's hard for us to know when a patient says that a drug makes them tired, makes them sleepy, makes them nauseated. We don't have metrics. Gives them a headache.
Q So those factors are not objective, but they don't depend on the physician's subjective state of mind, do they?
A They require the patient's report to the physician.
Q In evaluating effectiveness, is the physician's subjective intent as to whether the treatment was going to be effective or not an important factor?

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MR. CANNON: Object to the form of the question.
A I missed the first part of it. Physician's what?
Q Subjective intent.
Let me restate the question.
A Yeah.
Q In evaluating effectiveness of antiretroviral therapy, is the physician's subjective intent as to whether or not the therapy was going to be effective important?
MR. CANNON: Objection. Lacks foundation.
A I think you're asking me if the physician is going to prescribe something they think works, and I would say that was important.
Q In evaluating whether the antiretroviral agent was effective, does it matter whether the physician thought it was going to be very effective, thought it was only going to be kind of effective, or is the decision based on the objective and the tolerance, pill burden factors that we discussed before?
MR. CANNON: Objection. Compound question. Lacks foundation.
A I think physicians always -- almost always

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prescribe drugs with some notion about whether they're likely to work, possibly going to work, or not likely to work.
Q In looking backward and evaluating whether or not they were effective, is the physician's prediction as to whether or not they were effective important, or is the fact as to whether or not it was effective important?
A For objective results, the results are probably the most important.
Q So I'm going to ask you just a couple of hypotheticals, and if you don't understand them, please let me know, or if you think there's something missing, please let me know as well.
Suppose that an antiretroviral agent was effective in reducing replication of HIV but was not quite as effective as the treating physician initially hoped and intended. In that situation would the treatment be effective, or ineffective under the patents?
MR. CANNON: Object. Incomplete hypothetical. Lacks foundation.
A I can't answer a question about the patent statement.
Q Why is that?

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A Because I don't remember whether the, whether the patent specifically said the treating physician's impression versus an objective endpoint.
Q So sitting here today you do not have an opinion as to whether the patent term therapeutically effective refers to the physician's subjective intent or objective factors?
MR. CANNON: Objection.
Q Is that your opinion?
MR. CANNON: Objection. Misstates testimony.
A Well, you -- I thought you asked me a different question.
Q Okay.
A I thought you asked me about a physician's preconceived notions about whether a drug was going to work or not work, and what I said was I do not remember seeing that specifically stated in the patent. I did not see that the physician's preconceived notion about the drug determined whether it was therapeutically effective. The term therapeutically effective was there.
Q Is it true that the physician's intent is to improve the patient's clinical outcome?
A Yes.

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Q What are some ways in which antiretroviral therapy can improve a patient's clinical outcome?
MR. CANNON: Objection. Lacks foundation.
A For any disease, or for HIV?
Q For HIV.
A There are probably several parameters. One is the patient's subjective impression of how they feel. Second is objective observations, such as weight, fever. There are laboratory tests, such as the Cd4 count, the viral load, the large number of laboratory studies, that indicate drug toxicity. All of those would be factors.
Q Are there any others that you can think of?
A Well, cost I guess would be an additional factor. Inconvenience, pill burden, requirement to take food or not take food, the co-morbidities that interfere with the response, like hepatitis, the drug interactions, because of the enormous number of them that we encounter. That's a list I can come up with at this moment.
Q So are those all factors you consider in evaluating effectiveness, or are those ways in which antiretroviral therapy can improve a patient's clinical outcome?
A I think that those are synonymous.

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Q Okay. Do you have an opinion as to what the phrase medical decision meant to a person of skill in 1992?
A The term medical decision?
Q Yes.
A It's -- I guess it's a term that I would use and not necessarily try to define. Did you want me to define it?
Q Do you have an opinion as to what it means?
A I think it's when someone makes a decision that has -- in a medical context.
Q What does medical context mean to you?
A Well, it means in -- I think in, I think medical has a connotation in terms of medical care, so that it could be a medical decision to send a patient to a nursing home, medical decision to get a laboratory test.
Q For purposes of the patents-in-suit, is it your opinion that treatment may not be modified if viral load testing suggests that an antiretroviral agent is effective?
MR. CANNON: Object to the form of the question.
A No.
Q That is not your opinion?

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A That it should not be modified?
Q That --
A Could we put it in a positive? It is --
Q Okay, I'll restate.
A Okay. To change the therapy even though it is effective in stopping the virus?
Q All right -- well, let me rephrase that question.
A Okay.
Q Is it your opinion that it is okay to change the therapy even though it is effective in stopping the virus?
A Yes.
Q Why is that?
A Because -- or for a lot of reasons, many of which I've talked about. For example, if the drug causes a terrible side effect, we have to stop it. That would be one example.
Q Are there any others?
A Well, if there's drug interactions, if it's a regimen that's impossible. If it's a treatment that you can't afford. I mean there is -- there's a number of reasons.
Q Okay. On the flip side of that, is it your opinion that antiretroviral treatment must be modified

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if viral load testing suggests that it is ineffective?
MR. CANNON: Objection. Lacks foundation. Object to the form of the question.
A The answer is no.
Q And why is that?
A It's complicated, but therapy that does not work works.
Q Could you explain that a little more?
A Yes. Patients who have virologic failure and take antiretroviral drugs deteriorate when you stop the drugs that have failed. The Cd4 count goes down and the viral load goes up.
Q Is it also the case that a patient who fails to adhere to a treatment regimen could cause an otherwise effective antiretroviral treatment to register as ineffective according to a viral load test?
MR. CANNON: Objection. Lacks foundation.
A Hard to answer in a legal sense. Do we say a drug is ineffective if someone doesn't take it, that's what you're asking, and I'm not sure that that would satisfy my definition of a drug failure. I think every drug will fail if a patient doesn't take it.
Q So you could get a viral load test that

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suggests that the drug is failing but in fact the drug is not failing because the patient is just simply not taking the drug; is that correct?
A Yes.
Q When did you come up with the opinions that are in your Declaration?
MR. CANNON: Object to the form of the question. To the extent this is getting into discovery that we agreed would not be part of the mutual expert discovery, I object.
But please answer the question, if you can.
A I'm not good at recalling dates so I would say probably three or four months ago.
Q Do you recall looking at a Disclosure that was filed with the Court explaining what your testimony might include?
A Yes.
(Discussion off the record.)
(Handing Exhibit No. 699.)
BY MR. DAMSTEDT:
Q Have you had a chance to look at the document?
A Yes, I have.
Q Is this the Disclosure that we were talking about?

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A Yes.
Q On Page 3 --
A Yes -- oh, I'm sorry, 3.
I'm there now.
Q Great. Up at the top it says Doctor Bartlett may testify that protease inhibitors and HAART therapy (highly active antiretroviral therapy) were not available to those of skill in the art of treating HIV patients and evaluating the effectiveness of therapy until after May 1992.
Did I read that correctly?
A Yes.
Q In your Declaration, did you state that protease inhibitors and HAART therapy were neither known nor available to persons -- to those of skill in the art of treating HIV patients until well after May of 1992?
MR. CANNON: Objection. The Declaration is what it is.
A Yes.
Q Is that a new opinion?
A No.
MR. CANNON: Object to the form of the question.
A By new, do you mean new with this case, or

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new with this today, or --
Q New as in after the Disclosure, Exhibit 699, was filed.
MR. CANNON: Object to the form of the question. The documents speak for themselves.
A I'm not exactly sure what you're saying. I agree with this statement that protease inhibitors and HAART therapy were not available, neither one of them.
Q Okay. My question is, is your opinion in your Declaration that neither were -- neither were known or available new after the Disclosure? The Disclosure says available. Your Declaration says known or available. Is that additional opinion new?
MR. CANNON: Object to the form of the question.
A It says known in the art of treating HIV infection and the term is HAART. And my opinion now is neither one of those, the phrase was not used, and the effectiveness of protease inhibitors in treating patients with HIV infection was not known.
Q So -- my question is slightly different from that. It's -- I'm sorry if I've been vague about it.
MR. CANNON: It's a trick question. You're trying to trick him.
MR. DAMSTEDT: Come on, Brian.

MR. CANNON: Trying to trick him. I mean ask the question, but -- go ahead.

Q So in your Declaration you say that protease inhibitors and HAART therapy were neither known nor available; is that correct?

A Right.

Q And in the Disclosure it says that they were not available; is that correct?

A Yes.

Q Is the additional part that they were not known, is that a new opinion that was made after your Disclosure?

MR. CANNON: Object to the form of the question. Lacks foundation. It's argumentative.

A So we're breaking this down, and we're separating HAART and protease inhibitors?

Q No. It would be separating known versus available.

A They were not available for clinical care in 1992, and HAART was a term that was not used in 1992.

MR. DAMSTEDT: Okay. Do you mind if we take a break.

MR. CANNON: No. Sure.

(Break taken.)

MR. DAMSTEDT: I appreciate your time. I'm

done for now.

MR. CANNON: I don't have any questions for Doctor Bartlett, but we'd appreciate the opportunity to review the transcript consistent with the parties' agreement with the Federal Rules. Thank you.

(Signature having not been waived, the examination of John G. Bartlett, M.D., was concluded at 5:02 p.m.)

ACKNOWLEDGMENT OF DEPONENT

I, John G. Bartlett, M.D., do hereby acknowledge that I have read and examined the foregoing testimony, and the same is a true, correct and complete transcription of the testimony given by me, and any corrections appear on the attached Errata sheet signed by me.

_____ _____

(DATE) (SIGNATURE)

CERTIFICATE OF SHORTHAND REPORTER/NOTARY PUBLIC

I, Dawn M. Hart, Registered Professional Reporter, the officer before whom the foregoing proceedings were taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 5th day of September 2007.

My Commission Expires:
January 1, 2009

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NOTARY PUBLIC IN AND FOR THE STATE OF MARYLAND