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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
THE BOARD OF TRUSTEES OF THE LELAND
STANFORD JUNIOR UNIVERSITY,
Plaintiff,
vs. Case No.: C 05 04158 MHP
ROCHE MOLECULAR SYSTEMS, ET AL.,
Defendants.
ROCHE MOLECULAR SYSTEMS, ET AL.,
Counterclaimants.
vs.
THE BOARD OF TRUSTEES OF THE LELAND
STANFORD JUNIOR UNIVERSITY; AND THOMAS
MERIGAN,
Counterclaim Defendants.

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(THIS MATERIAL IS CONFIDENTIAL PURSUANT
TO COURT ORDER)

DEPOSITION OF ERIC GROVES
San Diego, California
Friday, August 11, 2006

Reported by:
BROOKE SILVAS, RPR
CSR No. 10988
Job No. 51122

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5 Junior University and Counterclaim Defendants
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1 UNITED STATES DISTRICT COURT
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3 THE BOARD OF TRUSTEES OF THE LELAND
4 STANFORD JUNIOR UNIVERSITY,
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13 STANFORD JUNIOR UNIVERSITY; AND THOMAS
14 MERIGAN,
15 Counterclaim Defendants.

16 Deposition of ERIC GROVES, taken on behalf
17 of Plaintiff and Counterclaim Defendant, at
18 4445 Eastgate Mall, Suite 200, San Diego,
19 California, beginning at 9:02 a.m., Friday,
20 August 11, 2006, before BROOKE SILVAS,
21 CSR No. 10988, RPR.
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<p>1 came to work in the laboratory. She reported to 2 Mike Conrad, who then reported to me. 09:19 3 Q So she was indirectly a supervisee of you? 09:19 4 A Yes. 09:19 5 Q What do you recall about Ms. Kim's work? 09:19 6 MR. BOOZELL: Objection. Calls for a narrative. 7 Vague. 09:19 8 THE WITNESS: What sort of information would you 9 like? 09:20 10 BY MR. RODRIGUEZ: 09:20 11 Q What was the work -- did she have 12 particular job duties? 09:20 13 A She came to work as a technician. She was 14 relatively inexperienced, and she gained experience 15 on the job and performed various technician 16 activities in the laboratory supporting its 17 function. 09:20 18 Q Do you recall which technician activities? 09:20 19 A She worked in several areas, but then 20 worked on some of the PCR efforts in the laboratory. 09:20 21 Q Do you remember which PCR efforts? 09:20 22 A She worked in support of the analysis of 23 the effects of -- of -- of sample collection 24 techniques for PCR samples as to whether a sample 25 was collected in the right media, whether that would</p> <p style="text-align: right;">Page 21</p>	<p>09:22 1 A We were interested in assaying for 2 circulating HIV, viral RNA and DNA in the blood 3 samples obtained from the Stanford draw. 09:22 4 Q How was it that she became assigned to the 5 task of doing some of the assaying in connection 6 with Dr. Holodniy? 09:22 7 A She was interested in gaining the 8 experience. And we needed some help. So she took 9 the task on. 09:22 10 Q Is this assaying actually the 11 quantification? 09:22 12 A It was an attempt to quantify. But I think 13 by present standards, it would be viewed as -- as 14 qualitative at best. 09:22 15 Q Why is that? 09:22 16 A It's not easy to do that well. And we were 17 trying to learn how to do it. 09:23 18 Q Did you have discussions with Ms. Kim on a 19 regular basis? 09:23 20 MR. BOOZELL: Objection. Vague. 09:23 21 THE WITNESS: Episodic also. She was under the 22 supervision of Dr. Conrad. And so I would -- I 23 organized -- the laboratory was organized with he -- 24 with Dr. Conrad in charge of the day-to-day affairs. 25 My responsibilities were strategic and directive and</p> <p style="text-align: right;">Page 23</p>
<p>1 lead to stability of a sample, joining -- before it 2 was actually analyzed. 09:20 3 Q Do you know what kind of media she was 4 testing? 09:21 5 A These were standard tubes that come -- onto 6 which blood is drawn at clinical sites that come in 7 a variety of different forms. They're sites -- 8 tubes designed for plasmas, for -- tubes with 9 different anticoagulants in them, tubes that are 10 designed to collect serum. It is standard to see 11 that your sample would be preserved by establishing 12 proper collection techniques. And she worked at 13 least in part to confirm that the choice that we 14 recommended for sites to collect the samples was an 15 appropriate one. 09:21 16 Q Do you recall any other PCR work that she 17 did? 09:21 18 A She worked in support of some of the work 19 that Mark Holodniy was doing in collaboration with 20 the laboratory. 09:21 21 Q What was the work that she did in 22 connection with Dr. Holodniy? 09:21 23 A She did -- she did some of the day-to-day 24 assays. 09:22 25 Q To determine what?</p> <p style="text-align: right;">Page 22</p>	<p>1 budgetary and supervisory in the sense of -- of 2 worrying about whether people were there or not, 3 employee problems. But as part of the leadership 4 strategy role, I was responsible for refining the 5 direction of -- in which the laboratory was 6 evolving. So her day-to-day responsibilities would 7 have been reporting through Mike Conrad to me. But 8 the laboratory was a small place, and so I was 9 interested in this particular project. So people 10 talked and I talked. But I don't remember any of 11 the explicit circumstances under which we talked. 12 But we talked about progress. 09:24 13 Q Did -- in terms of her doing some of this 14 assaying work in connection with Dr. Holodniy, is 15 that something that she had to clear with you or did 16 she clear that with Mr. Conrad? How did that end up 17 on her plate? 09:24 18 MR. BOOZELL: Objection. Vague. Compound. 09:24 19 THE WITNESS: Dr. Conrad and I discussed the 20 allocation of technician resources within the 21 laboratory. And she was, therefore, under -- in the 22 course of that class of supervisor/supervisee 23 discussion, we decided she was an appropriate person 24 to support this work. 25</p> <p style="text-align: right;">Page 24</p>

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1 we were just starting out. So the goal was to
 2 achieve some better measure of circulating viral
 3 content than was available at the time. As we got
 4 more and more experienced, we became more and more
 5 refined in our approach to doing that.

09:52 6 Q And I guess what I'm trying to get at is
 7 the actual -- and whether or not there was actual --
 8 any actual support that was provided to the clinical
 9 trial by Cetus that specifically dealt with the
 10 quantitation of HIV/RNA.

09:53 11 And let me just give you some context so
 12 you understand where I'm going. So you had
 13 mentioned these four areas that Cetus was generally
 14 involved with in connection with the IL-2/AZT study.
 15 The supply of IL-2 and advice on how to use the
 16 IL-2. The lab support with this viral titer and PK,
 17 pharmacokinetics. And so what I'm wondering is
 18 whether the quantitation work relating to HIV RNA
 19 was done just internally to try and figure out if
 20 that's something that would help the study or
 21 whether that was a formal part of the study and
 22 something that -- that Cetus was routinely providing
 23 to Stanford.

09:54 24 So with that kind of just background, my
 25 question is, did Cetus provide actual quantitation

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1 all in obtaining the blood samples for use in the
 2 AZT IL-2 study?

09:55 3 MR. BOOZELL: Objection. Vague and ambiguous.
 09:55 4 THE WITNESS: No Cetus employee was a direct
 5 participant in the day-to-day conduct of the trial.
 6 That was all Stanford people. Stanford
 7 phlebotomists, Stanford researchers are responsible
 8 for the day-to-day conduct of the trial. So the
 9 samples obtained were then transported to Cetus
 10 where the assays were done.

09:56 11 Q Was there a particular reason why no Cetus
 12 people were involved? Was it some regulation --

09:56 13 A Yeah.
 09:56 14 Q -- or protocol?
 09:56 15 A Yeah. It's -- there's some practical
 16 reasons. The patients come into the clinic. Cetus
 17 employees work full-time. The clinic visits are
 18 only sometimes. But the most important this is the
 19 conduct of the trial is the responsibility of
 20 Stanford personnel. When you bring in outsiders,
 21 then you -- Stanford would have to take full
 22 responsibility for their conduct and everything
 23 about them. And so the custom has evolved in the
 24 conduct of clinical trials that pharmaceutical
 25 personnel rarely would participate directly in the

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1 of HIV RNA to Stanford in connection with the
 2 IL-2/AZT study?

09:54 3 A Yes.
 09:54 4 MR. BOOZELL: Objection. Vague and ambiguous.
 09:54 5 THE WITNESS: We --
 09:54 6 BY MR. RODRIGUEZ:
 09:54 7 Q Can --
 09:54 8 A So -- so it was an explicit -- and I don't
 9 remember how the language in the protocol would have
 10 been written. There's a protocol that describes the
 11 study. There was a contract between Stanford and
 12 Cetus as to how this relationship ran. I don't have
 13 a copy of that nor do I remember the details. So as
 14 part of that protocol, samples were likely stated in
 15 the protocol that they would be collected for
 16 laboratory study purposes. And we explicitly worked
 17 with Stanford to provide our best effort to
 18 quantitate what we saw in those samples with regard
 19 to HIV. And we -- they would send us samples. We
 20 would send them results. They may have sent us
 21 false samples. They may have sent us duplicates.
 22 So the effort was to provide them with this
 23 information.

09:55 24 Q Now, with respect to actually obtaining the
 25 samples in the first place, was Cetus involved at

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1 obtaining of anything from a patient. Even talking
 2 to patients.

09:57 3 Q Did Cetus employees provide any input in
 4 analyzing results of the IL-2/AZT clinical trial to
 5 determine whether there was enhancement of
 6 immunologic function?

09:57 7 MR. BOOZELL: Objection. Vague. Ambiguous.
 8 Calls for speculation.
 09:57 9 THE WITNESS: So they sent us results that they
 10 had obtained to compare with the results that we had
 11 obtained after we supplied them with the results.
 12 So there was a sharing of -- the agreement was that
 13 we would share the information obtained from the
 14 clinical trial. So the appropriate way to do that
 15 is not to affect the assay results by the assayers
 16 by sending them the results -- other results in
 17 advance. Because there's always a question about
 18 whether somebody can somehow -- okay. So we would
 19 do the results. We would send them there. They
 20 would send us the results on the same patients. We
 21 would do comparisons. We would have some
 22 discussions about whether this was all working as we
 23 had hoped and talk about whether it could be
 24 improved. But the nature of these things is you
 25 have to get enough samples before you can draw any

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12:38 1 Q If I could -- start that one again. I have
2 handed you what has previously been marked as
3 Exhibit 46.
12:38 4 Would you please take look at Exhibit 46
5 and tell me if you recognize it?
12:38 6 A I do. I reviewed it with counsel
7 yesterday. But --
12:38 8 Q Do you --
12:38 9 A -- only in that sense.
12:38 10 Q Do you recall seeing Exhibit 46 prior to
11 your review yesterday?
12:38 12 A No. Excuse me. I review not having seen
13 it before yesterday.
12:38 14 Q And so let me just see if I'm clear then.
15 It's not that you recall one way or the other. You
16 don't believe that you saw it before yesterday?
12:39 17 A That's correct.
12:39 18 Q Are there any other documents that you
19 reviewed in connection with counsel that refreshed
20 your recollection that you can remember?
12:39 21 A I think we basically covered them.
12:39 22 Q Are there any others that you can remember?
12:39 23 A No.
12:39 24 MR. RODRIGUEZ: Subject to continuing document
25 issues, I have no further questions. Thank you for

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9 I, ERIC GROVES, do hereby declare under
10 penalty of perjury that I have read the foregoing
11 transcript; that I have made any corrections as appear
12 noted, in ink, initialed by me, or attached hereto; that
13 my testimony as contained herein, as corrected, is true
14 and correct.
15 EXECUTED this _____ day of _____,
16 20____, at _____, _____
(City) (State)
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ERIC GROVES

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1 your time.
12:39 2 MR. BOOZELL: Okay. And given the documents
3 that have been entered into the record in the
4 deposition and Dr. Groves's testimony, Roche would
5 like to designate the transcript as attorney's eyes
6 only, restricted -- highly restricted. And
7 Dr. Groves requests the opportunity to review his
8 transcript and make any changes before it becomes
9 final.
12:39 10 MR. RODRIGUEZ: Thank you for your time.
12:39 11 MR. BOOZELL: Thank you.
12:39 12 THE VIDEOGRAPHER: This concludes today's
13 deposition of Eric Groves. The number of media used
14 was two. We're going off the record. The time is
15 12:40 p.m.
12:40 16 (Deposition session concluded at 12:40
17 p.m.)
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1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF RIVERSIDE)
3
4 I, Brooke Silvas, Certified Shorthand Reporter,
5 Certificate No. 10988, for the State of California, hereby
6 certify:
7 I am the deposition officer that stenographically
8 recorded the testimony in the foregoing deposition;
9 Prior to being examined the deponent was first
10 duly sworn by me;
11 The foregoing transcript is a true record of the
12 testimony given;
13 Before completion of the deposition, review of the
14 transcript {X} was { } was not requested. If requested, any
15 changes made by the deponent (and provided to the reporter)
16 during the period allowed are appended hereto.
17
18 Dated _____,
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