

Exhibit A**part 1 of 2**Katz, Adrian I.
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMGEN, INC.)	
)	
Plaintiff,)	
)	
vs.)	No. 05-12237 WGY
)	
F. HOFFMANN-LA ROCHE LTD., a)	
Swiss Company, ROCHE)	
DIAGNOSTICS GmbH, a German)	
Company, and HOFFMANN-LA)	
ROCHE INC., a New Jersey)	
Corporation,)	
)	
Defendants.)	

The confidential videotaped deposition of DR. ADRIAN I. KATZ called by the Defendants for examination, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before Marianne Nee, a Certified Shorthand Reporter of the State of Illinois, CSR License No. 84-2341, taken at 5801 South Ellis Avenue, Chicago, Illinois, on the 30th day of March, 2007, at 2:39 p.m.

(This transcript contains testimony designated confidential as per Section 5(c) of the Amended Protective Order. Please treat the entire transcript in accordance with the protective order.)

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1 of chronic kidney disease?

2 MR. McFARLANE: Objection; calls for
3 expert testimony.

4 BY MR. FLOWERS:

5 Q So do you recall prior to the
6 approval of recombinant human erythropoietin in
7 the United States for treating the anemia of
8 chronic kidney disease what therapies were
9 available, what therapies --

10 A I remember, I remember --

11 MR. McFARLANE: I object. I object.
12 It calls for expert testimony.

13 BY MR. FLOWERS:

14 Q You can answer.

15 A I can continue?

16 Q Yes.

17 A I remember one or two which are
18 somewhat similar and they work in a similar way.
19 One is -- was discussed from male hormone and
20 the other was an anabolic steroid, Durabolin,
21 Decadurabulin. It was a deposit.

22 THE COURT REPORTER: I'm going to
23 need you to repeat that for you.

24

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1 BY THE WITNESS:

2 A Durabolin is D-u-r-a-b-o-l-i-n. This
3 is the brand name. I'm trying to remember what
4 was the chemical name. I know it was an
5 anabolic steroid. Actually it was used much
6 more than the male hormone because it has
7 qualities of the male hormone.

8 BY MR. FLOWERS:

9 Q Do you recall observing any side
10 effects that patients may have experienced after
11 the administration of decadurabulin?

12 MR. McFARLANE: Objection; it calls
13 for expert testimony.

14 BY THE WITNESS:

15 A I don't recall very well. It's 30
16 years from now then. If I were to say yes, I
17 would tell you what recently I know from **Redacted**
18 **Redacted** and other people who are using them, but I
19 don't recall now what happened in 1980 or '70, I
20 mean in terms of side effect.

21 BY MR. FLOWERS:

22 Q Do you recall, do you recall that
23 there were any adverse side effects associated
24 with the treatment of or treatment with

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1 increase in hemoglobin of half a gram percent or
2 some such, maybe one gram occasionally, but this
3 is hazy memories, you know. Over 20 years I
4 cannot vouch for them.

5 MR. McFARLANE: And I move to strike
6 that whole answer as being nonresponsive and
7 also calling for expert testimony.

8 BY MR. FLOWERS:

9 Q Dr. Katz, prior to the introduction
10 of recombinant human erythropoietin in the
11 United States, was there an effective treatment
12 for the anemia of chronic kidney disease?

13 MR. McFARLANE: Objection; expert.

14 BY THE WITNESS:

15 A No.

16 BY MR. FLOWERS:

17 Q And what do you base that answer on?

18 MR. McFARLANE: Objection; expert
19 testimony.

20 BY THE WITNESS:

21 A On the experience that I've just
22 described and also people didn't live that long.
23 The dialysis was also in its infancy and anemia
24 was not corrected.

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1 other reasons but also principally because of
2 this anemia.

3 MR. McFARLANE: Move to strike.

4 BY MR. FLOWERS:

5 Q Based on your observation during your
6 career of chronic kidney-diseased patients who
7 suffered from anemia, did you feel that there
8 was a long-felt need for an effective therapy
9 for that anemia?

10 MR. McFARLANE: Objection; expert
11 testimony. Objection to form.

12 BY THE WITNESS:

13 A Well, yes, of course. I mean, sure,
14 any symptom or any manifestations that we
15 couldn't repair better.

16 BY MR. FLOWERS:

17 Q Did you ever find a drug that
18 satisfied that need for an effective therapy?

19 A No.

20 MR. McFARLANE: Objection; expert
21 testimony.

22 BY THE WITNESS:

23 A No.

24

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1 BY MR. FLOWERS:

2 Q Okay Was recombinant -- was or is
3 recombinant human EPO an effective therapy for
4 the anemia of chronic kidney disease in your
5 experience as a clinician?

6 A Yes.

7 MR. McFARLANE: Objection; asked and
8 answered. Objection for expert testimony and to
9 form, compound.

10 BY MR. FLOWERS:

11 Q Let's go back to Dr. Goldwasser. We
12 were discussing Dr. Goldwasser before.

13 Did you ever interact with
14 Dr. Goldwasser regarding EPO?

15 A Yes. We worked on a paper in -- was
16 it rats or mice? I don't remember. In animals,
17 some rodent -- in which we tried to explain why
18 it's not found in the urine in bigger quantities
19 than it is.

20 If normal animals or normal people
21 produce normal amounts of EPO, then a good part
22 of it should appear in the urine if it behaves
23 like other hormones and we didn't quite
24 understand. I don't think we understood after

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1 BY MR. FLOWERS:

2 Q Was that important in order to allow
3 you to understand the results that you obtained
4 from the experiment?

5 A No.

6 MR. McFARLANE: Objection; calls for
7 expert testimony and leading.

8 BY THE WITNESS:

9 A Not only it wasn't important in my
10 opinion, but this is a premiere peer-reviewed
11 journal and it wasn't important in their
12 opinion, at least it wasn't important enough not
13 to publish it.

14 BY MR. FLOWERS:

15 Q Generally in the research that you
16 conducted throughout your career -- and I don't
17 know whether you can generalize, but I'll ask
18 the question that way. Generally did you find
19 that it was important in the experiments you
20 conducted to have controls?

21 A Yes.

22 MR. McFARLANE: Objection; leading.

23 BY MR. FLOWERS:

24 Q Why?

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1 MR. McFARLANE: Objection; expert
2 testimony.

3 BY THE WITNESS:

4 A Every experiment, to the extent
5 possible, should have the relevant control. At
6 the same time that we were doing this study, we
7 did studies of other hormones, some of them not
8 that dissimilar from EPO and by the same method,
9 so we probably thought that that's sufficient.

10 I don't recall without rereading the
11 whole thing what exactly we did and why, but if
12 you did radioiodinated EPO to a rat, there are
13 many controls that you can do. You can do by
14 giving radioiodinated something else, but there
15 are problems there because the iodine may not
16 stick to the molecule and so on. Just that the
17 two molecules are similar in size doesn't make a
18 good control, so that's probably why.

19 MR. McFARLANE: Move to strike.

20 BY MR. FLOWERS:

21 Q Where controls were feasible in your
22 research, did you generally try to use controls?

23 A Sure.

24 MR. McFARLANE: Objection; expert

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1 testimony and leading.

2 BY MR. FLOWERS:

3 Q If I could direct you on the same
4 second page, it's Page 169 of the article, on
5 the right-hand column on Page 169, the second
6 full paragraph, it's just above Materials and
7 Analytical Methods, there is a sentence, the
8 last sentence in that paragraph says, "All
9 experiments were carried out in duplicate, and
10 the percentage of labeled hormone degraded was
11 expressed as the change in the TCA-soluble
12 radioactivity compared with that in control
13 tubes incubated without renal tissue."

14 Do you see that?

15 A Yes.

16 Q If you can recall, why did you carry
17 out all of the experiments in duplicate?

18 MR. McFARLANE: Objection; expert
19 testimony.

20 BY THE WITNESS:

21 A That's basic Biology 101. Everything
22 -- if you can carry it in quintuplicate, it's
23 better, but one can be a fluke, so at least if
24 you have the possibility -- not always

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1 possible -- you should do it in duplicate so
2 that one is the control of the other. If
3 they're too dissimilar, then there is something
4 wrong with one of them, and you don't know with
5 which one, so you do a third one.

6 MR. McFARLANE: Move to strike.

7 BY MR. FLOWERS:

8 Q So was it your experience as a
9 researcher that when conducting experiments and
10 generating data it was important or was it
11 important, was it relevant at all -- let me
12 start over.

13 In your research over your career
14 what significance was there to carrying out
15 experiments in duplicate?

16 MR. McFARLANE: Objection; calls for
17 expert testimony.

18 BY THE WITNESS:

19 A It's routine. It's done. You can do
20 one experiment but generally nobody will be
21 impressed with it because there is always show
22 it to me one more time. Maybe it happened by
23 chance. So if you're doing duplicate and the
24 results are similar in particular, that's very

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1 good.

2 BY MR. FLOWERS:

3 Q So if you don't do the experiment in
4 duplicate or at least in duplicate, does it cast
5 doubt on the validity of the findings?

6 MR. McFARLANE: Objection; expert
7 testimony and leading.

8 BY THE WITNESS:

9 A It depends on the nature of the
10 experiment. If you have a very complicated
11 series of experiments like you have here and you
12 do not have a good -- I'm sorry. I thought
13 we're talking about controls. You're talking
14 about duplicates.

15 Duplicate is better than single
16 experiment and triplicate is better than
17 duplicate and 20 animals is better than any of
18 these and it depends on the nature of the
19 experiment and on the statistics you're going to
20 do, how many animals or people you're going to
21 study.

22 MR. McFARLANE: Move to strike.

23 BY MR. FLOWERS:

24 Q And when you say statistics, what do

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1 you mean by that?

2 MR. McFARLANE: Objection; expert
3 testimony.

4 BY THE WITNESS:

5 A Results that -- any results of any
6 scientific paper except case reports or
7 something like this uses statistics to measure
8 the significance of the difference or the lack
9 of difference measured between the two groups,
10 the controls and the study group or multiple
11 groups, so statistics today is vital for
12 practically every publication and every branch
13 of science.

14 BY MR. FLOWERS:

15 Q In this paper that we've been looking
16 at, Katz Exhibit 1, did you and your colleagues
17 conduct any statistics on the results?

18 MR. McFARLANE: Objection; the
19 document speaks for itself, no firsthand
20 knowledge.

21 BY THE WITNESS:

22 A I don't recall.

23 BY MR. FLOWERS:

24 Q Could you look back on the first page

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1 that just in the abstract?

2 A Sure. The plasma half life was 3.5
3 plus or minus 0.2 hours in normal rats and was
4 prolonged to 4.4 plus/minus 0.3 hours in animals
5 with whatever we did, and this was statistically
6 significant at the level given of 0.05.

7 Q So are you referring to P less than
8 0.05 in that sentence?

9 A Right, right.

10 Q What does that refer to?

11 A That's the degree of probability.
12 It's an agreed upon number by the scientific
13 community, and it may not be 0.05 but in 99.9
14 percent of studies it's 0.05. Some studies
15 demand higher accuracy of 0.01.

16 That means that this result by chance
17 could not have appeared, arisen in more than
18 five out of 100 experiments. Some people want
19 no more than one. Some people want ten, less
20 than ten is sufficient, so -- and there are
21 tables that tell you how much.

22 Q In this research was it possible to
23 tell whether a result you obtained in the
24 experimental animal was actually different from

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1 the result you obtained in the control without
2 doing statistical analysis?

3 MR. McFARLANE: Objection; calls for
4 speculation and expert testimony.

5 BY THE WITNESS:

6 A Depends -- I mean, the question has
7 to be finessed down to what kind of experiment,
8 but by and large if you don't have statistical
9 analysis, there is a question about the result.

10 If the experiment lends itself to
11 using more, more animals, there are studies that
12 have a yes or a no answer. So you cannot have
13 -- you have only -- even then you have a
14 statistical difference between zero and what you
15 found. It's called a null hypothesis. It's
16 impossible to go over that much of a subject in
17 the time that we have. We can talk a week about
18 statistics. Null hypothesis, n-u-l-l.

19 THE COURT REPORTER: Thank you.

20 BY MR. FLOWERS:

21 Q I understand. Earlier in response to
22 one of my questions you mentioned that
23 statistics -- I'm paraphrasing. I think you
24 said statistics were important or statistical

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1 analysis was important except in case reports.

2 The record will reflect what you
3 actually said, but I think you said something to
4 that effect. Do you recall that?

5 A Yes.

6 Q What did you mean when you said case
7 reports?

8 A Case reports mean when a physician or
9 group of physicians describe a patient who has a
10 series -- a condition or a complex of conditions
11 that hasn't been seen before or it's very rare
12 and has no numbers really. It's just a
13 description of symptoms and signs.

14 That is a case report, and a case
15 report can have -- most of the time it has one
16 case, but it can have more than one. It's a
17 descriptive as opposed to a quantitative
18 endeavor.

19 Q And not to mix metaphors, but what is
20 the significance of statistical analysis to
21 quantitative endeavors, as you put it, as
22 opposed to case reports?

23 MR. McFARLANE: Objection; expert
24 testimony.

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1 BY THE WITNESS:

2 A You cannot have statistics for a case
3 report. What are you comparing? There is a
4 person who has a rash on the face and an ingrown
5 toenail. There is no comparison to make.
6 That's why it's a case report.

7 Now, if you have -- all other
8 research that starts with a hypothesis has to
9 have some control, and your hypothesis is that
10 this is bigger than that or this is longer than
11 that or this is different. That type of
12 research has to have some statistics. Sometimes
13 it's more solid, sometimes it's more feeble, but
14 some statistics.

15 MR. FLOWERS: Can we go off the
16 record?

17 THE VIDEOGRAPHER: Going off the
18 record at 3:30 p.m.

19 (Brief interruption.)

20 THE VIDEOGRAPHER: Going back on the
21 record at 3:31 p.m. Please proceed.

22 BY MR. FLOWERS:

23 Q Dr. Katz, this publication that we've
24 marked as Katz Exhibit 1, was this work

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1 your career I take it obviously that you
2 reviewed scientific journals and the articles
3 published in them?

4 A Yes.

5 MR. McFARLANE: Objection; leading.

6 BY MR. FLOWERS:

7 Q Let me ask it again. During your
8 career did you review articles published in
9 scientific journals?

10 A Yes.

11 Q Did that include articles published
12 in peer reviewed journals?

13 A Of course.

14 Q Did that include articles published
15 in non-peer reviewed journals?

16 A I don't recall. As I said, there are
17 very few of these, and if there are, they don't
18 advertise it very much. They have an editorial
19 board but practically one person did it or makes
20 the decision. These are journals that have a
21 lower circulation and they are cutting corners
22 so that they can publish, come up with an issue
23 on time.

24 Q Do you recall during your career as a

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1 researcher whether you considered scientific
2 results reported in peer reviewed journals to be
3 more or less reliable than experimental results
4 published in non-peer reviewed works?

5 MR. McFARLANE: Objection; leading.

6 BY THE WITNESS:

7 A Of course, yes.

8 BY MR. FLOWERS:

9 Q Yes what?

10 A Yes, I considered that they are more
11 credible in peer reviewed journals than in
12 non-peer reviewed journals if that was the
13 question.

14 Q Yes. And it may be a dumb question,
15 but why?

16 MR. McFARLANE: Objection; calls for
17 expert testimony.

18 BY THE WITNESS:

19 A I just said two questions ago that
20 there is an assurance of quality when -- your
21 peers are not your friends. Your peers are
22 there to make your life miserable, and if other
23 people look at this and they say great work,
24 it's different than when nobody looks at it or

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1 only one person who has an interest in
2 publishing.

3 But as I said, I think there are very
4 few, if any -- today any journals other than the
5 New York Times science page which is, with all
6 due respect, but it has a science editor that
7 doesn't, he doesn't review the articles -- any
8 professional journals that are not peer
9 reviewed, I don't believe there are.

10 BY MR. FLOWERS:

11 Q Other than the work with
12 erythropoietin reported in this article which
13 we've marked as Katz Exhibit No. 1, did you
14 participate in any way in any other studies
15 related to erythropoietin with Dr. Goldwasser?

16 A Well, there was one abortive -- one
17 study that I was more peripherally involved in
18 which some patients were involved with receiving
19 this erythropoietin.

20 Q And when was that?

21 A Sometime at the end of the '70s.

22 Q And when you say this erythropoietin,
23 what were you referring to?

24 MR. McFARLANE: Objection; lack of

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1 firsthand knowledge.

2 BY THE WITNESS:

3 A The erythropoietin that
4 Dr. Goldwasser had by the sweat of his brow
5 purified from human urine.

6 BY MR. FLOWERS:

7 Q Okay. So can I refer to that as
8 human urinary EPO?

9 A Well, it's something very close to
10 EPO. It's not -- if it's not recombinant, it's
11 harder to say that -- it has certain impurities.
12 It wasn't -- the term that biochemists use is
13 purified to -- cleaned to total purity or half
14 purity or something like that. And not every
15 substance used that is not made, you know, by a
16 genetic mechanism and you know what genes you
17 put in and you know what you get out. They are
18 different degrees of purity. According to
19 Dr. Goldwasser, he was very proud of his, but he
20 never claimed that his preparation was pure.

21 MR. McFARLANE: Move to strike for
22 nonresponsive expert testimony and also hearsay.

23 BY MR. FLOWERS:

24 Q So are you aware of an experiment in

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1 which Dr. Goldwasser's human urinary EPO was
2 administered to human subjects?

3 MR. McFARLANE: Objection; leading.

4 BY THE WITNESS:

5 A Yes. Yes, I became aware.

6 BY MR. FLOWERS:

7 Q Okay. How did you become aware?

8 A When I got the subpoena saying that
9 you participated in a clinical study and I don't
10 know what clinical study is, I called my friend
11 Dr. Goldwasser, and he says, Yeah, yeah, you
12 remember. We gave this to a handful of
13 patients. So I wasn't sure if I should continue
14 with him, but I said, Oh, well. I get it out of
15 all the recesses of my brain and I -- he juggled
16 my memory. I wouldn't have remembered.

17 Q How else did he juggle your memory?

18 A He didn't say anything other than
19 that. He says, You remember the stuff we did
20 with Dimitri 25 years ago, whenever. And then I
21 remembered that we used his purified --
22 partially purified, quote, unquote, EPO in very
23 few patients.

24 Again, I wasn't -- this was a project

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1 Dr. Baron. You will allow me that 30 years is
2 good enough time not to remember things that
3 were not a landmark in your career.

4 Q I understand.

5 A So I'm doing my best to answer your
6 questions. This one I don't even understand
7 what -- would you repeat that question, the last
8 question?

9 Q Well, if you turn back to the first
10 page of the document. I'm getting ahead of
11 myself.

12 A I see it's a letter from Dr. Baron to
13 somebody that I don't know.

14 Okay. It says on the first page,
15 Dear Dr. Baron -- "Dear Dr. Temple: I am
16 submitting the enclosed materials for a
17 Physician-Sponsored IND for Human Erythropoietin
18 (H-EPO)." And this letter appears to be from
19 Dr. Baron to Dr. Temple at the Bureau of Drugs
20 and it bears the date March 2, 1979. So let's
21 start here.

22 Do you recall whether a
23 physician-sponsored IND for human erythropoietin
24 was submitted --

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1 A No.

2 Q -- in or about March 1979?

3 A No. Actually I'm surprised. I don't
4 recall that it has.

5 Q If you turn to the second page of the
6 document at the top it says "Clinical Study of
7 Purified Human Erythropoietin, Physician
8 Sponsored IND, Investigator Joseph M. Baron."

9 Do you see that?

10 A Yes.

11 Q Do you recall Dr. Baron having
12 submitted any papers to the government?

13 A No.

14 MR. McFARLANE: Objection; lacks
15 firsthand knowledge.

16 BY MR. FLOWERS:

17 Q Your answer was no?

18 A My answer is no.

19 Q Do you recall whether in regard to a
20 study using urinary EPO in human subjects at the
21 University of Chicago, whether your name or
22 whether you were identified to anyone as an
23 investigator in such a study?

24 MR. McFARLANE: Objection; lacks

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1 firsthand knowledge.

2 BY THE WITNESS:

3 A I don't recall but I see it here, so
4 I suppose it was on the last page.

5 BY MR. FLOWERS:

6 Q Okay. But do you recall anyone
7 submitting any papers to the government, for
8 example, about that study?

9 MR. McFARLANE: Same objection.

10 BY THE WITNESS:

11 A I don't.

12 BY MR. FLOWERS:

13 Q Do you recall in that study how many
14 human subjects were involved?

15 MR. McFARLANE: Objection; lacks
16 firsthand knowledge.

17 BY THE WITNESS:

18 A I believe that there were two that
19 were studied more or less well and one that was
20 just incipient and withdrew or died or
21 something. It was a total of three, but not all
22 three were studied. As a matter of fact, I
23 don't know about the first two details.

24

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1 Q So were you familiar with
2 Dr. Emmanouel's research experience up to and
3 including 1979?

4 A Yes.

5 Q And how would you characterize his
6 research experience up to 1979?

7 MR. McFARLANE: Objection; asks for
8 expert testimony and hearsay.

9 BY THE WITNESS:

10 A Most of the work actually it was
11 together with me. That does not include this
12 little protocol, I mean, despite what it says
13 because I didn't think it amounted to anything
14 in the first place. But -- so we did a number
15 of studies in which we looked systematically at
16 other hormones and what the kidney is doing, and
17 we also looked at some models of kidney failure
18 in rats, specifically one model of kidney
19 failure in which the kidneys are attacked. So
20 this is one other.

21 MR. McFARLANE: Move to strike.

22 BY MR. FLOWERS:

23 Q Prior to 1979 had you participated in
24 any clinical studies with Dr. Emmanouel?

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1 MR. McFARLANE: Objection; asked and
2 answered.

3 BY THE WITNESS:

4 A No.

5 BY MR. FLOWERS:

6 Q Prior to 1979 had you participated in
7 any clinical studies with Dr. Baron?

8 MR. McFARLANE: Objection; asked and
9 answered.

10 BY THE WITNESS:

11 A I never participated with Dr. Baron
12 since or before.

13 BY MR. FLOWERS:

14 Q Okay. In an earlier answer you said
15 that you didn't think that the -- I'll call it
16 the three-subject urinary EPO experiment, so
17 that's how I'm going to refer to that study in
18 1979 and 1980 with the three subjects. You said
19 earlier that that three-subject urinary EPO
20 experiment, you didn't think it amounted to
21 anything in the first place. Why do you say
22 that?

23 MR. McFARLANE: Objection;
24 mischaracterizes earlier testimony and lacks

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1 firsthand knowledge.

2 BY THE WITNESS:

3 A The results were inconclusive and,
4 therefore, not publishable and they weren't --
5 and I don't remember if we didn't continue
6 because of this fact or because Dr. Goldwasser
7 has a very limited supply of the human -- urine
8 EPO, human EPO, and he didn't have enough to
9 continue to try other patients.

10 As I said, at the time when I got the
11 first subpoena I didn't remember anything about
12 this whole thing, but now I know this. And then
13 I -- juggling my memory I remembered what I just
14 said, that it was inconclusive.

15 BY MR. FLOWERS:

16 Q Did you believe it was inconclusive
17 as a result of looking at the data that was
18 generated in this experiment?

19 A Yes.

20 MR. McFARLANE: Objection; leading.

21 BY THE WITNESS:

22 A Yes.

23 BY MR. FLOWERS:

24 Q Why did you determine it was

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1 inconclusive?

2 A Well, first of all, I could have
3 guessed it will be inconclusive because it had
4 only three patients, and again I'm not sure
5 there are three, I think there were two and a
6 half. But -- so I didn't think it's going to
7 end so fast. That's No. 1.

8 And No. 2, the results were -- I
9 remembered that one patient seemed to respond
10 moderately and one patient went in the opposite
11 direction and one patient didn't change and,
12 therefore, my conclusion then was inconclusive.

13 MR. McFARLANE: Move to strike.

14 BY MR. FLOWERS:

15 Q Did the -- did you understand that
16 there were only three subjects in the study?

17 MR. McFARLANE: Objection.

18 MR. FLOWERS: Are you done?

19 THE COURT REPORTER: I'm not getting
20 what you're saying.

21 MS. BEN-AMI: I know.

22 MR. FLOWERS: I can't tell you
23 whether you're objecting before I start my
24 question or not, Leora.

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1 MS. BEN-AMI: I'm sorry. I was
2 talking to my colleague.

3 BY MR. FLOWERS:

4 Q Was it your understanding that only
5 three subjects were administered the human
6 urinary EPO in this study?

7 MR. McFARLANE: Objection.

8 BY THE WITNESS:

9 A With the correction now.

10 MS. BEN-AMI: You have to let him
11 object please, and you can put your objection on
12 the record.

13 MR. McFARLANE: Objection; leading,
14 no firsthand knowledge.

15 BY MR. FLOWERS:

16 Q What relevance, if any, did the fact
17 that there were only three subjects in the study
18 have to your conclusions about the study?

19 MR. McFARLANE: Objection; calls for
20 expert testimony, calls for speculation,
21 leading, no firsthand knowledge.

22 BY THE WITNESS:

23 A Three patients is not enough in any
24 study. Even as a pilot today, even a pilot

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1 study you need to use 10, 15 patients, so as I
2 said, I was peripherally involved in that, just
3 as Dimitri Emmanouel's boss, but I won't deny I
4 have an interest in it, but I didn't do anything
5 with the patients; to select them, to inject
6 them. I don't recall.

7 I'm sorry. I lost my train of
8 thought, why three would be. But I didn't know
9 how many they were going to have, and when they
10 told -- I think the conclusion was reached by
11 Dr. Goldwasser or Emmanouel or both that this is
12 inconclusive and they cannot go on. I don't
13 remember the cause, that they didn't have
14 material or they thought that the results were
15 disappointing.

16 MR. McFARLANE: Move to strike for
17 lack of firsthand knowledge.

18 BY MR. FLOWERS:

19 Q Do you recall Dr. Emmanouel telling
20 you anything about his conclusions regarding the
21 experiment?

22 MR. McFARLANE: Objection for
23 hearsay.

24