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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CASE NO. 03-4837 (DMC)

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UNITED STATES OF AMERICA EX REL.
DR. HELENE Z. HILL,

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Plaintiffs,

7

8

-v-

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UNIVERSITY OF MEDICINE &
DENTISTRY OF NEW JERSEY, DR.
ROGER W. HOWELL and DR. AUPAM
BISHAYEE,
Defendant.

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DEPOSITION UPON
ORAL EXAMINATION

16

OF:

Dr. ROGER W. HOWELL
VOLUME TWO OF TWO

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120 Washington Street
Morristown, New Jersey 07960
(973) 285-0411
csr@taylorfriedberg.com

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TRANSCRIPT of the Continuation of the
Deposition of DR. ROGER W. HOWELL, called for Oral
Examination in the above-entitled matter, said
deposition being taken by and before JILL D.
FRIEDBERG, a Certified Court Reporter and Notary
Public of the State of New Jersey, License No.
XI01082, at the Offices of McELROY, DEUTSCH &
MULVANEY, ESQS., 1300 Mt. Kemble Avenue, Morristown,
New Jersey 07962 on Thursday, December 18, 2008, said
continuation commencing 4:45 in the the afternoon.

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A P P E A R A N C E S:

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3 BUCERRI & PINCUS, ESQS.
1200 Route 46
4 Clifton, New Jersey 07013
BY: SHELDON H. PINCUS, ESQ.
5 Attorney for Plaintiff
6 McELROY, DEUTSCH & MULVANEY, ESQS.
1300 Mt. Kemble Avenue
7 Morristown, New Jersey 07962
BY: JOHN P. LEONARD, ESQ.
8 Attorney for Defendant
9

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0004

I N D E X

2 WITNESS DIRECT CROSS REDIRECT RECROSS

3 DR. ROGER W. HOWELL

4
5 By Mr. Pincus 5

E X H I B I T S

9 NUMBER	DESCRIPTION	PAGE
10		
11 HOWELL-32	Experiment Chart.	5
12 HOWELL-33	Experiment Document.	6
13 HOWELL-34	Letter.	9
14 HOWELL-35	Experiment Document.	15
15 HOWELL-36	Confidential Document.	17
16 HOWELL-37	Memorandum dated July 30,	20
17	2001.	
18 HOWELL-38	Photocopy of Slides.	50

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0005

1 R O G E R W. H O W E L L

2 CONTINUATION OF DIRECT EXAMINATION BY MR. PINCUS:

3 (Exhibit HOWELL-32, Experiment Chart, is
4 received and marked for identification by the
5 reporter.)6 Q. Dr. Howell, I want to show you
7 Howell-32. Appears to be documentation associated
8 with an experiment which the investigator was Dr.
9 Bishayee September 7, 1998. Do you recognize this
10 document?11 A. I believe that I have seen this
12 document.13 Q. You do recognize this document. Do you
14 recall him performing this experiment?15 A. 9/7/98, I believe an expert was
16 started around that time. So yes, experiments were
17 done at the time.

18 Q. And this is a chart?

19 A. This is 1998, not '99.

20 Q. I have identified it correctly; did I
21 not?

22 A. Yes.

23 Q. Okay.

24 A. So I may or may not have seen this
25 one. Somehow I was thinking this was '99.

0006

1 Q. Do you wish to correct your answer?

2 A. Yes. I don't know if I have seen this
3 document specifically, but I think that I have.4 (Exhibit HOWELL-33, Experiment Document, is
5 received and marked for identification by the
6 reporter.)7 Q. After the time that Dr. Lenarczyk and
8 Dr. Bishayee left your lab you have another post doc
9 by Paxad. Is that correct?

10 A. That's his first name.

11 Q. What is his last name?

12 A. Neti.

13 Q. I want to show you what we have marked
14 as HOWELL-33. Do you recognize this document?

15 There's a front and a back so you know.

16 A. You know, did I see this document,
17 specifically, I'm not sure. It appears to be a
18 seizure response, seizure gamma ray experiment. And
19 okay, so he is comparing in this second page of the
20 document which is Bates 9275. He appears to be
21 comparing data on chronic versus acute. Although I
22 don't know, let's see, on the graph I don't see
23 chronic, I just see experiment one, two, three. I

24 can't tell what this represents.

25 Q. That's all I needed to know.

0007

1 A. Yes, what type of radiation.

2 Q. I will take those back, please.

3 A. Where is the rest of this? I would
4 like to go back on the record if I could. Where is
5 the rest of this? I see here a graph and I see here
6 a, some tables, but I don't see anything regarding
7 how the experiment was conducted. Why don't we have
8 that?

9 Q. I don't know. Do you have protocols
10 for these experiments that still exist; do you know?

11 A. I do not know. Because I don't know
12 where this is exactly coming from. I would imagine
13 that normally that we have a protocol that goes along
14 with it.

15 Q. In fact you are required to maintain
16 the protocols associated with experiments, aren't
17 you?

18 A. Am I required to maintain a protocol,
19 I'm required to maintain data sheets, yes.

20 Q. Based on that, is it reasonable to
21 believe that the protocol that goes along with this
22 document there in your hand exists?

23 A. That's what I'm asking you. I don't
24 know.

25 Q. Where would it be located if it
0008 exists?

1 A. Presumably in the lab book, in the lab
2 notebook.

3 Q. I don't know if, I will follow up if
4 you could produce the protocols for this particular
5 exhibit.

6 A. Neither do I. Where are we going with
7 it? There's a date on here that says hundred percent
8 '03. You know, I could perhaps hunt it down. What I
9 don't see on it is the protocol.

10 Q. There would be other documents that
11 would assist you in identifying what this document
12 is, is that what you are telling me?

13 A. What you have presented to me doesn't,
14 oh, it does say cluster. This does say cluster. I was
15 going to say it doesn't even say cluster on it. It
16 says cluster and it says it is a seizium of radiation
17 and it appears to be as I said, a response for, again
18 it doesn't say.

19 Q. Well, based on the additional
20 identifying information that you just found is it
21 possible for you to check to see whether the protocol
22 associated with this document exists?

23 A. I could, I could check. I presume,
24 yes. We probably, you know, probably in the stack

0009

1 somewhere of the data that you've got. I don't know.

2 Q. You have answered as best you can.

3 MR. PINCUS: John, I will follow up
4 with you. All right?
5 MR. LEONARD: Okay.
6 (Exhibit HOWELL-34, Letter, is received
7 and marked for identification by the reporter.)
8 Q. I will show you what we have marked as
9 exhibit HOWELL-34, please.
10 A. Yes.
11 Q. Do you recognize this document?
12 A. This document I recognize.
13 Q. You authored this?
14 A. I have initialed it and therefore,
15 appear to have authored it.
16 Q. Is the data accurate insofar as when
17 it was prepared?
18 A. I don't know. I assume that it is, but
19 I don't know.
20 Q. Why did you prepare this if you
21 remember?
22 A. Why did I prepare this? I don't
23 recall. I was indicating to Dr. Baker some sense of
24 what was happening I presume. Let's see, let me read
25 through.

0010

1 Q. Take your time. You will let me know
2 when you are done.
3 A. Yes, this document I prepared after,
4 after, let's see, this was prepared, after I learned
5 that Dr. Hill was poking around in the laboratory.
6 Q. Poking around?
7 A. Yes, poking around.
8 Q. Okay. At that point in time though she
9 had not filed a formal complaint to your knowledge?
10 A. Not at the time.
11 Q. You indicate approximately a third of
12 the way down of that first paragraph that, "as I told
13 you this morning I have requested that my post
14 doctoral fellow Marck Lenarczyk, Ph.D. repeat some of
15 Dr. Bishayee's experiments as they check on the
16 validity of the experiment."
17 Do you see where I am referring to?
18 A. Yes.
19 Q. Did you tell Dr. Baker at the time
20 that Dr. Lenarczyk in fact had already done some of
21 the experiments?
22 A. I don't recall and I don't think that
23 that was known to me if he had or hadn't at the time
24 but I don't recall.
25 Q. So we are clear -- --

0011

1 A. What experiment are you talking about?
2 Q. I will go over them with you right
3 now. Did you tell him at the time that you prepared
4 this memo that you were aware Dr. Lenarczyk had
5 conducted an experiment which we have identified as
6 HOWELL-5?
7 A. I believe this document is October,

8 2000. I believe I had told you I wasn't sure that I
9 had even seen it before. So how would I tell him?

10 Q. So the answer would be --

11 A. So I don't -- not that I recall.

12 Q. Fine. That's what I need to know.

13 A. Because I don't recall seeing

14 HOWELL-5.

15 Q. Did you share with Dr. Baker the fact
16 that Dr. Lenarczyk may have performed an experiment
17 on or about December 14, 2000, that we have
18 identified as HOWELL-6?

19 A. I shared with Dr. Baker what's in this
20 letter.

21 Q. Is your answer to my question no, I
22 don't recall? You tell me. I don't want to put words
23 in your mouth.

24 A. This is December, 2000?

25 Q. Yes.

0012

1 A. I don't recall discussing this with
2 Dr. Baker.

3 Q. May I take that back?

4 A. Hold on. No, I don't believe I was
5 discussing that with Dr. Lenarczyk.

6 Q. Did you share with Dr. Baker at the
7 time you prepared your memorandum that Dr. Lenarczyk
8 may have prepared or may have conducted an experiment
9 on or about, in or about November, 2000, which we
10 have identified as HOWELL-12?

11 A. I can tell you that I did not sit down
12 with Dr. Baker with a series of any experimental data
13 like so. So let's proceed.

14 Q. So in so far as, are you telling me if
15 I show you any of the documents which purportedly
16 represent experiments which Dr. Lenarczyk may have
17 conducted prior to the time you prepared your memo,
18 HOWELL-34 --

19 A. Experiments that he, yes, prior to the
20 performance of this memo.

21 Q. You did not share with Dr. Baker the
22 fact --

23 A. Did I ever give him any notebooks, no.

24 Q. Did you share with him that you had
25 conducted experiments?

0013

1 A. Prior to that?

2 Q. Yes.

3 A. Not that I can recall.

4 Q. You have answered my question. Thank
5 you. But you did know at the time that he had not
6 been able to replicate Dr. Bishayee's hundred percent
7 experiments. Correct?

8 A. As I told you time and again my focus
9 on the hundred percent experiment was looking for
10 mutation. I was not looking for anything but that. IT
11 would not occur to me to say anything regarding the
12 hundred percent experiments.

13 Q. Did you share with him, him being Dr.
14 Baker, any of the 50 percent experiments that Dr.
15 Lenarczyk had done prior to the time that you say you
16 were going to request him to repeat --

17 MR. LEONARD: Objection to form.

18 Q. Do you understand what I'm saying?

19 A. No, I don't.

20 Q. You say in your memo you were having
21 Lenarczyk repeat Bishayee's experiments?

22 A. Yes.

23 Q. Is it reasonable to infer from that
24 statement that you were going to have Dr. Lenarczyk
25 conduct experiments?

0014

1 MR. LEONARD: Objection to form.

2 A. From which statement, here?

3 Q. Yes.

4 A. I was -- is it reasonable to discern
5 that I was going to ask Lenarczyk to conduct
6 experiments?

7 Q. Yes.

8 A. That's what it says and in the eighth
9 sentence, I have requested my post doc Lenarczyk to
10 repeat some of Dr. Bishayee's experiments.

11 Q. That was in fact your plan, wasn't it?

12 A. That was what I had planned to do
13 according to this memo.

14 Q. To the extent that Dr. Lenarczyk had
15 in fact conducted 50 percent experiments preceding
16 the time you prepared this memo you did not share
17 that fact with Dr. Baker at this time. Correct?

18 A. Can you explain to me what the purpose
19 of the experiments were prior to this time?

20 Q. I'm asking you whether you shared the
21 fact that Dr. Lenarczyk had performed 50 percent
22 experiments with Dr. Baker.

23 MR. LEONARD: Objection to form.

24 A. 50 percent experiments with what?

25 Q. With choal cells, with V79 cells.

0015

1 A. I didn't sit and discuss with Dr.
2 Baker what experiments have been done and haven't
3 done.

4 Q. You are telling me then that you did
5 not discuss with him what experiments Dr. Lenarczyk
6 had done prior to your giving him his memo. Is that
7 correct?

8 A. That's correct.

9 Q. Thank you. It also says, "I will also
10 personally sign all of Dr. Bishayee's data sheets and
11 coulter dishes to insure that they are not tampered
12 with."

13 Do you see where I am referring?

14 A. Where are you?

15 Q. I'm approximately two sentences after
16 the phrase that I just shared with you.

17 A. Oh, I see it, yes.

18 Q. Did you in fact undertake to do that
19 to your knowledge and recollection?

20 A. I don't recall.

21 (Exhibit HOWELL-35, Experiment Document,

22 received and marked for identification by the
23 reporter.)

24 Q. I will show you what we have marked as
25 exhibit HOWELL-35 regarding an experiment apparently

0016
1 performed by Dr. Bishayee on June 17, 2001. Do you
2 recognize this document?

3 A. I mean I don't recall the document.

4 Q. Do you see your initials anywhere on
5 this document?

6 A. No, I do not see any initials on the
7 document.

8 Q. You say -- I'm sorry, are you done?

9 A. Interesting that some of this is from
10 February. What's going with that?

11 Q. I'm looking at the documentation. I
12 don't know. I don't have an answer. I was referring
13 to you everything referring to the June data. When
14 you say "I'll take all," on the second page, "I'll
15 take all necessary steps to prove that the data is
16 valid beginning with those that I've outlined in the
17 first paragraph," can you tell me what steps you
18 took?

19 A. We did a series of experiments which
20 you have put forth previously in order to try to see
21 the data as it was previously.

22 Q. You are saying that you did that
23 voluntarily as opposed to being directed to do that?

24 A. I don't remember being directed to do
25 it.

0017
1 Q. And the series of experiments that you
2 are referring to are those experiments that took
3 place subsequent to April of 2001 which I believe
4 then ran up to approximately September, 2001,
5 thereabouts?

6 A. I don't know the September of it but
7 April, yes, that appears to be the case.

8 Q. I will take that back, please.

9 A. Which, both of them?

10 Q. Both of them. Thank you.

11 (Exhibit HOWELL-36, Confidential Document,
12 is received and marked for identification by the
13 reporter.)

14 Q. Dr. Howell, I will show you what's
15 been marked as HOWELL-36, which are minutes of the
16 Newark Initial Inquiry Committee from its meeting of
17 April 27, 2001.

18 A. I will again roll back, can I roll
19 back to the questions regarding discussions with
20 Baker?

21 MR. LEONARD: I don't know.

22 A. Do you want to roll back or not
23 necessary?

24 MR. LEONARD: Sure.

25 A. I just wanted to listen to that

0018

1 wording again. I think the wording was did I show Dr.
2 Baker these data pages and so on. I think that's what
3 your question was, right?

4 Q. Whether you showed him any of the
5 documents associated with the experiments.

6 A. So my answer, stands, no, I didn't
7 show him those documents.

8 Q. Have you had occasion to review the
9 minutes that you have before you which was marked as
10 HOWELL-36; do you recall?

11 A. I believe I was given these about a
12 year ago, maybe a little more.

13 Q. Page --

14 A. That is Bates stamp 041, page 13 of
15 the minutes, okay.

16 Q. You indicate that, you indicated to
17 this committee that Dr. Lenarczyk had been non
18 productive in his nine months of one of your post
19 docs. Do you recall making that statement?

20 A. I don't recall specifically but what
21 what I can tell specifically is he had been working
22 on the asobel. The plan was to look at bystander
23 effect of the asobel and they had not observed any
24 and they were having various other problems with the
25 coultering and that was not a portion of the grant.

0019

1 We had embarked on that because of his excellent idea
2 of using the hydrolyson and neolyson resistance cell
3 and we had poured a considerable sum of money to
4 those experiments to no avail.

5 Q. Was there anything else that you based
6 that statement on?

7 A. That was his task was to do the asobel
8 experiments. That's what it is based on.

9 Q. Did you base the statement on the
10 facts that his results did not agree with Dr.
11 Bishayee?

12 A. No, I didn't base it on that. I just
13 said they just weren't getting to the point that they
14 had data which we considered to be publishable.

15 Q. Are you telling me that you were
16 dissatisfied with his performance in your lab?

17 A. All I can tell you is that, you know,
18 that we didn't arise, no publications arose from his
19 work and the productivity is publications.

20 Q. I will take that, please. Do you
21 recall when it was Dr. Bishayee resigned?

22 A. This is, give me the dates of the
23 experiments again subsequent to the letter? The
24 letter was April, '01?

25 Q. Let me do it this way.

0020

1 (Exhibit HOWELL-37, Memorandum dated July
2 30, 2001, is received and marked for identification
3 by the reporter.)

4 Q. Do you recognize this document?

5 A. I believe so.

6 Q. Did you prepare this?

7 A. Yes, I did.

8 Q. You did prepare this document?

9 A. Yes.

10 Q. Do you recall giving this to Dr.
11 Bishayee with an instruction for him to sign it?

12 A. I gave the document to him after
13 having for months been encouraging him to consider
14 other options with his life.

15 Q. Explain to me the sequence of these
16 discussions. When did they commence?

17 A. As we proceeded, during the summer, I
18 discussed with him the fact that I believe that Dr.
19 Hill would never leave him alone.

20 Q. The summer of when?

21 A. In the months prior to this. And even
22 before that obviously, but --

23 Q. No, tell me right now.

24 A. In the summer prior to, say, June,
25 July and August --

0021

1 Q. That's what I want to know,

2 A. -- we concluded, I shouldn't say we
3 concluded, I concluded she would never leave him
4 alone no matter what because she had been after him
5 the moment he walked through the door.

6 Q. What activity led you to conclude that
7 Dr. Hill was looking to get him since the day he
8 walked in the door; which was when by the way, if you
9 know?

10 A. When she walked in the door. I don't
11 know. He walked in well before she did.

12 Q. You are saying that from the first
13 day.

14 A. I don't know about the first day.
15 Forgive me.

16 Q. When did you first observe something
17 that led you to believe Dr. Hill was for lack of a
18 better phrase out to get Dr. Bishayee?

19 A. She did make statements at some point,
20 I don't remember where they were, in what period,
21 that she had a distrust of Indians and they would do
22 anything to please their boss, that statement she had
23 made. What other documents? She was also angered with
24 him after he used his computer to look at
25 pornographic material. And two weeks after that is

0022

1 when she raised her first claim if I'm not mistaken
2 that he was doing things incorrectly. And the timing
3 of that is rather unusual.

4 Q. Yes.

5 A. Okay.

6 Q. Anything else by way of statements?
7 A. You know, off the top of my head I
8 would have to sit and think.
9 Q. Right now you have identified three.
10 Let me ask you some questions about them.
11 A. Oh, and she requested also that I fire
12 him. She made a specific request that he be fired
13 surrounding that event of the pornography, and I
14 refused. And I fully documented that event with human
15 resources.
16 Q. Anything else?
17 A. What else? You know, offhand you know,
18 I, I would imagine that there's more but right now I
19 can't think of any.
20 Q. If my questions bring forth
21 statements, if the statements come to mind as a
22 result of my questions, let me know and we'll review
23 them. When did she make the statement she distrusted,
24 people of Indian descent I take it, and that they
25 would do anything to please their boss?

0023

1 A. I don't recall the date. I assume that
2 it must have been on or about the time that she first
3 made her allegations, but I don't recall
4 specifically.
5 Q. What allegations?
6 A. That he had done something in the
7 September experiment, but it might have been prior to
8 that.
9 Q. September of what year?
10 A. '98 is it? '99, '99 I think that is.
11 Can we please get the date straight on that.
12 Q. I'm asking you for the best of your
13 recollection.
14 A. Okay. I don't remember.
15 Q. Sitting here it was '98 or '99 to the
16 best of your recollection. Is that fair?
17 A. Yes.
18 Q. Was anyone else present at the time
19 she made this statement to you?
20 A. I don't know. But I also know that
21 other people have told me that she has made similar
22 statements or demonstrated similar, similar
23 representations.
24 Q. Well, you don't recall whether there
25 was anyone present at the time she made the statement

0024

1 to you?
2 A. No, I do not recall.
3 Q. Where were you at the time she made
4 the statement?
5 A. I don't recall.
6 Q. Do you remember --
7 A. I mean we were in the building near in
8 the vicinity of the labs. I don't remember if we were
9 in my office or the hallway or laboratory.

10 Q. Do you remember what time of the year
11 she made the statement to you?

12 A. I just told you I didn't remember the
13 date that she made the statement.

14 Q. I ask you were there leaves on the
15 trees, on the ground, hot, cold; does that in any
16 manner refresh your recollection?

17 A. Have you been to our laboratory?

18 Q. No, I have not.

19 A. If you are in the area of the offices
20 or in the hallway you may as well be in the basement.
21 If you are in the laboratory, yes, you can see out
22 the windows. Yes, I don't recall.

23 Q. Did you document as you said you did
24 the issue relating to pornography any of the comments
25 that Dr. Hill made to you about distrust of

0025

1 individuals of Indian descent because they will do
2 anything to please their boss?

3 A. I'm not exactly in the habit of
4 memorializing events.

5 Q. The answer is no?

6 A. The answer is I did not document. Oh,
7 I didn't --

8 Q. You have answered the question.

9 A. Documented at the time, at the time of
10 that you mean?

11 Q. Yes.

12 A. No, I didn't.

13 Q. Did you report it?

14 A. Did I report it to anyone, no.

15 Q. You didn't report it to any
16 affirmative action officer in terms of it being an
17 ethnically offensive comment?

18 A. No, I didn't.

19 Q. Did you find that to be an ethnically
20 offensive comment or comment offensive to one's
21 national origin?

22 A. I found it surprising, yes.

23 Q. But did you report it to anyone?

24 A. No, I did not.

25 Q. You have no documents that would

0026

1 refresh your recollection of the circumstances of
2 this document?

3 A. Other than the accusations that he did
4 something wrong. As I said I think it may have been
5 around that time but I don't recall.

6 Q. You say others have reported to you
7 that she has made similar comments. Who?

8 A. I have heard some statements
9 indicating --

10 Q. I asked you who, not what.

11 A. Dr. Rameshwar.

12 Q. Who else?

13 A. Dr. Azzam.

14 Q. Who else?

15 A. Those are the two I can I think of at
16 the present moment.

17 Q. When was it that Dr. Rameshwar
18 commented to you about such statements?

19 A. Sometime well after all of this
20 occurred. Apparently --

21 Q. What's this?

22 A. All of this -- sometime after 2001.

23 Q. After 2001?

24 A. Yes, sometime after 2001.

25 Q. You are saying, is it fair to say when

0027

1 you say 2001 was it after the time that Dr. Hill
2 initiated a complaint to the committee?

3 A. Yes.

4 Q. On the scientific integrity?

5 A. Yes, after that time.

6 Q. Where did that conversation take
7 place?

8 A. I believe in the vicinity of Dr.
9 Rameshwar's laboratory.

10 Q. Was there anyone else present?

11 A. I don't recall.

12 Q. Was there anyone else besides the two
13 of you?

14 A. No, I wouldn't have such conversations
15 I don't believe in front of other individuals.

16 Q. Tell me what he said to the best of
17 your recollection.

18 A. It is a she.

19 Q. She. Tell she what she said.

20 A. She had, I don't recall the, I don't
21 recall the words. I just recall the implication.

22 Q. The implication that you recall was
23 where, was what?

24 A. That Dr. Hill has reservations
25 regarding Indian, people of Indian citizenship in

0028

1 research.

2 Q. Did she share with you any documents
3 or events --

4 A. No --

5 Q. -- that led her to make the statement?

6 A. No.

7 Q. Is she still employed at the
8 university?

9 A. Yes.

10 Q. And Dr. Azzam, when did you have a
11 conversation with him in regards to mistrust of
12 individuals of Indian descent?

13 A. No. In his case it was not Indian
14 descent. In his case it was other descent.

15 Q. Which is?

16 A. Which is anything other than, anything
17 other than that, Caucasian, but I don't know in that
18 respect.

19 Q. When did this conversation take place?

20 A. I don't recall.
21 Q. Was it after the complaint was
22 initiated in 2001 to your recollection?
23 A. Yes.
24 Q. Does that refresh your recollection in
25 so far as 2001, two, three, four?
0029
1 A. I don't recall.
2 Q. Did you make any note of your
3 conversation?
4 A. No.
5 Q. What did he say to you as best you
6 recall?
7 A. The manner which the, the manner i
8 which what was said to him which I don't recall what
9 those things were even if he relayed them to me made
10 him feel she felt less of him because of his ethic
11 background.
12 Q. You didn't personally observe that,
13 did you?
14 A. I did not personally observe that.
15 Q. Nor did you personally observe the
16 conduct Dr. Rameshwar had reported to you. Is that
17 correct?
18 A. No, I did not.
19 Q. Was there anything else that you
20 recall discussing with Dr. Azzam in regard to this
21 subject?
22 A. Not offhand, no.
23 Q. In light of what you said she said to
24 you and in light of what Dr. Rameshwar and Dr. Azzam
25 related to you did you cause it to be reported to the
0030
1 affirmative action officer?
2 A. No, it never would have occurred to me
3 to do so.
4 Q. At that point you were head of the
5 department, were you not?
6 A. No, I've never been head of the
7 department.
8 Q. Were you her supervisor at that point
9 in time?
10 A. Whose supervisor?
11 Q. Dr. Hill's.
12 A. No, she did not report to me from a --
13 only in terms of the research data that she was doing
14 on the grant.
15 Q. Notwithstanding what you said, based
16 on what others told you, you did not report this to
17 the university, did you?
18 A. No.
19 Q. Now, you say that Dr. Hill was angered
20 by the fact that Dr. Bishayee had access to
21 pornography on the university computer. Is that
22 correct?
23 A. Repeat that?

24 Q. You indicated that Dr. Hill indicated
25 she was angered by Dr. Bishayee having access to

0031
1 pornography?

2 A. She was extremely angry, yes.

3 MR. LEONARD: Objection to form.

4 Q. Is there anything wrong with her being
5 angry?

6 A. Yes, if one would anticipate that
7 somebody won't be happy that somebody accessed
8 pornography on their computer.

9 Q. To your knowledge did it violate
10 university policy?

11 A. To my knowledge, I haven't read the
12 policy but I would imagine it does.

13 Q. You have said you documented all of
14 this?

15 A. That's correct.

16 Q. Do you have any recollection as to
17 whether Dr. Bishayee admitted it?

18 A. I believe that he did and I believe
19 that he apologized for having done so.

20 Q. Did he suffer any other sanction as a
21 result of that to your knowledge?

22 A. Other than that went into his human
23 resources record?

24 Q. Yes.

25 A. Yes, I think he was restricted from

0032
1 the the computer in some way for some period of time.
2 I don't remember. I think there was some computer
3 sanction.

4 Q. In light of his admission in being
5 sanctioned on what basis did you conclude that Dr.
6 Hill being angered by Dr. Bishayee's conduct
7 signified she was out to get him?

8 A. If somebody makes a statement or
9 claims against an individual two weeks after this
10 event, it is not too hard to put it together. It
11 seems pretty apparent.

12 Q. The statement was the distrust
13 statement you and I have identified or some other
14 statement?

15 A. You are just talking about the
16 pornography.

17 Q. The statement about two weeks after
18 the event, what statement are you referring to?

19 A. She made claims regarding the veracity
20 of his data two weeks after I believe this event.

21 Q. Now I understand what you are talking
22 about.

23 A. The pornography event.

24 Q. Are there any other acts or statements
25 that you can recall that led you to believe or to

0033
1 conclude that Dr. Hill was out to get Dr. Bishayee?

2 A. At what point in time?

3 Q. At any time.
4 A. At any time?
5 Q. Yes, at any time. Prior, prior to her
6 filing the complaints with the committee.
7 A. Yes.
8 Q. What else?
9 A. When I was told that she was in the
10 laboratory poking around. So I had no idea why she
11 was doing that.
12 Q. When was that?
13 A. Right, it is probably around April,
14 '01.
15 Q. When, are you referring to what has
16 been documented in these proceedings and she and Dr.
17 Lenarczyk observing what Dr. Bishayee was doing or
18 shadowing?
19 A. I didn't know they were shadowing her
20 until after the committee pulled them in.
21 Q. Is that the event, what you were
22 referring to --
23 A. Yes.
24 MR. LEONARD: Where did we come up with
25 the phrase shadowing?

0034

1 A. That was incorrect. It wasn't after
2 the committee, it was when I was informed that she
3 was doing that, or doing something or -- I don't know
4 what she was doing.
5 Q. Let's get back to this, what you have,
6 HOWELL-37, the letter of resignation. You said you
7 prepared this document?
8 A. Yes.
9 Q. And you were describing for me a
10 discussion or discussions that you said had taken
11 place and commencing in some prior, earlier in the
12 summer that perhaps he should move on. I don't want
13 to put words in your mouth but the substance of what
14 I understood you to say was that. Is that correct?
15 Yes?
16 A. Yes, that's correct.
17 Q. Is that what you said or did you say
18 something different?
19 A. I said we had discussions where I
20 encouraged him to move on because she was not going
21 to leave him alone.
22 Q. You prepared this document and did you
23 instruct him to sign it?
24 A. I suggested that he move along.
25 Q. And he signed it? Obviously you

0035

1 recognize that as his signature.
2 A. He signed. I did not demand the
3 signature.
4 Q. Did you tell him that his signature on
5 this document or whether he did not sign it would
6 influence whether you gave him a recommendation or
7 not?

8 A. I don't recall.
9 Q. When you say you don't recall I want
10 to be sure about something. Are you denying saying
11 that to him or is it that you just have no
12 recollection of discussing it?
13 A. I have no recollection of the specific
14 discussion.
15 Q. At the time he signed this document

16 did you instruct him not to come on campus any
17 longer?

18 A. Did I -- excuse me.
19 Q. Did you instruct him not to come on
20 the campus any longer?
21 A. Not that I recall.
22 Q. Do you recall taking away his keys and
23 ID from him after he signed this letter?
24 A. I'm sure that I took the keys, because
25 if you are resigning, although I don't know if I took

0036

1 them then or on th August 17th, that I don't know.
2 I'm sure I took the keys because a person who is in
3 the lab, or isn't employed or not permitted in the
4 lab shouldn't have a key.
5 Q. What about ID, do you have a
6 recollection of taking that?
7 A. I don't remember.
8 Q. Did you tell him not to apply for
9 research positions on the UMDNJ campus?
10 A. I suggested him to go elsewhere, again
11 for purposes getting away from Dr. Hill, as far away

12 from her as possible.
13 Q. Did you tell him not to apply for
14 positions with radiation biology research positions
15 anywhere?

16 A. Not that I recall.
17 Q. So I'm clear in terms of I don't
18 recall, you are not denying making such a statement?

19 A. Yes. I don't recall.
20 Q. Up until this point in time that he
21 signed a letter of resignation you had a
22 responsibility for evaluating Dr. Bishayee. Is that
23 correct?

24 A. Yes.
25 Q. Is it your recollection that up until

0037

1 this point in time his evaluations had been good?
2 A. I believe so. I don't remember what
3 frequency that I filled out evaluations. I don't
4 recall.

5 Q. What about Dr. Lenarczyk, did you
6 evaluate him?
7 A. I don't know if I filled out an
8 evaluation. Usually the evaluations are annual. He
9 was with us, how long I don't recall. I don't recall
10 if I filled one out or not. I mean if I did, I

11 imagine it is in the file.

12 Q. I will take that, please. Thank you.

13 Did Dr. Bishayee indicate to you that
14 he had a discussion with Dr. Hill on or about
15 August 1st regarding his resignation?

16 A. I don't recall him mentioning any such
17 thing.

18 Q. Were you aware that Dr. Bishayee
19 rented apartment space from Dr. Hill?

20 A. I believe, yes. I am now and I believe
21 I was at the time.

22 Q. Were you aware at the time that Dr.
23 Azzam had lived at Dr. Hill's home for a period of
24 time?

25 A. Yes.

0038

1 Q. Were you aware that Dr. Hill had a
2 social relationship with both Dr. Azzam and his
3 spouse, Dr. deToledo?

4 A. What's a social relationship?

5 Q. Did she socialize, did they go out and
6 do anything outside of work; are you aware of that?

7 A. I'm not, I have no idea. Dr. deToledo
8 was in Boston at the time as I recall. Which time are
9 you referring to?

10 Q. At any time are you aware that they
11 had a social relationship?

12 A. I mean obviously when he was living in
13 their house he must have had one then, yes.

14 Q. When Dr. deToledo came to New Jersey
15 were you aware he and his wife purchased a home and
16 resided at this time in Livingston?

17 A. Yes.

18 Q. Are you aware that once they began
19 residing in that house that they had a social
20 relationship with Dr. Hill?

21 A. Again I don't know what you are

22 defining as a social relationship.

23 Q. That they were going out for dinner or
24 for a walk, anything outside of the workplace?

25 A. I don't recall Dr. Azzam telling me

0039

1 they went out for dinner. I don't know.

2 Q. You didn't observe them outside of the
3 the workplace. Is that fair?

4 A. Did I observe them outside the
5 workplace together? No, I can't recall.

6 Q. You don't recall any interactions
7 outside of the workplace between Dr. Hill and Dr.
8 Azzam?

9 A. Maybe at department parties and so on
10 I imagine there must have been interaction but I
11 don't recall there was, whether there was or wasn't.

12 Q. Sitting here today you can't picture
13 them?

14 A. I can't picture an event where I

15 remember them.

16 Q. Same question with Dr. Hill and Dr.
17 deToledo.

18 A. Not that I remember, except there must
19 have been instances on a professional level we were
20 together, I imagine at the Jack Little symposium. I
21 don't remember the dinner but we must have been
22 together.

23 Q. Did you observe any hostility between
24 them on those occasions?

25 A. Between who?

0040

1 Q. Dr. Hill and Dr. Azzam.

2 A. Not that I recall with the occasion of
3 the Jack Little, but that was prior to this event.

4 Q. Prior to her complaining, is that what
5 you are saying?

6 A. No, I don't remember whether it was or
7 wasn't.

8 Q. At the symposium was Dr. deToledo
9 present?

10 A. I don't know if she was there or
11 stayed back. I don't remember. Dr. Lenarczyk was
12 there.

13 Q. What about Dr. Bishayee?

14 A. I think he was there.

15 Q. Did you observe any hostility between
16 Dr. Hill and Dr. Bishayee at the time?

17 A. Not that I recall at the time. I mean
18 it is interesting though that I would raise the point
19 here. May I ask a question?

20 Q. No. You just respond to my questions,
21 please.

22 A. Sure. I mean it depends what you
23 consider hostility.

24 Q. Did you assist, were you aware that
25 Dr. Bishayee received unemployment compensation after

0041

1 his resignation from UMDNJ?

2 A. I would like to roll back and complete
3 that last comment.

4 Q. Which comment?

5 A. When I said I didn't observe any
6 hostility.

7 Q. Anything come to mind?

8 A. Clearly that's incorrect. I would say
9 putting in a complaint against someone is hostility.
10 No doubt there is hostility.

11 Q. The fact that Dr. Hill exercised the
12 right afforded to her by university policy to report
13 what she believed to be improper conduct is an act of
14 hostility or maybe shadowing.

15 MR. LEONARD: Objection to form.

16 A. All of these events could easily be
17 viewed as hostility. It would be pretty bizzare if
18 they weren't.

19 Q. I hear what you are saying. My

20 question to you was were you aware subsequent to his
21 resignation from UMDNJ that Dr. Bishayee collected
22 unemployment compensation?

23 A. I was not aware of that, no.

24 Q. Were you asked in any manner to
25 respond to the New Jersey Department of Labor

0042

1 regarding his receiving or not receiving unemployment
2 compensation?

3 A. I do not believe I was. No
4 recollection of anything like that.

5 Q. Did you have any conversation at the
6 time you suggested to Dr. Bishayee that he resign and
7 gave him the letter that we showed a couple minutes
8 ago that if he did, the university wouldn't contest
9 his collecting unemployment?

10 A. I just told him I didn't know he
11 collected unemployment. I'm learning this now.

12 Q. Whether you knew whether or not he
13 collected or not, I'm asking you at the time he
14 discussed the resignation did you make any statements
15 to him about his ability or inability to collect
16 unemployment?

17 A. Absolutely not.

18 Q. Did you make any promises to him in so
19 far as his ability to collect unemployment were he to
20 resign?

21 A. I don't remember having any discussion
22 about unemployment whatsoever, unemployment insurance
23 or whatever that is.

24 Can we roll back again?

25 Q. If John wishes to question you when

0043

1 I'm done by all means.

2 MR. LEONARD: Is this your complete
3 answer?

4 A. I just wanted to roll back when he was
5 asking whether I knew he lived in her apartment,
6 whether Bishayee lived in her apartment.

7 Q. Go ahead, what do you want to say?

8 A. I would like to hear her read it back.

9 Q. I don't want to have it read back.

10 A. I would like to --

11 Q. If it is something you want to add it
12 is fine.

13 MR. LEONARD: Don't worry about it.

14 Q. Do you recall meeting with Dr. Carol
15 Putterman on or about April 2, 2002 in your offices?

16 A. April 2nd --

17 Q. April 16, 2002.

18 A. In my office, I met one time I believe
19 Dr. Putterman in my office. The date, I don't recall
20 the specific date.

21 Q. During that meeting do you recall if
22 anyone else was present besides the two of you?

23 A. No one else was present.

24 Q. Do you recall indicating to her that

25 prior to Dr. Bishayee's resignation that you had

0044

1 discussed with him ill will in the lab and
2 uncomfortable working conditions due to the dispute
3 between Dr. Hill and Dr. Bishayee?

4 A. I don't remember if I discussed that
5 specifically with her, so I don't recall the specific
6 discussions.

7 Q. Do you recall telling her that you
8 felt that Dr. Hill would not leave Dr. Bishayee
9 alone, therefore it was best for him to leave the
10 lab?

11 A. That's what I just told you that I had
12 discussed with Dr. Bishayee. Did I discuss that
13 specifically with Putterman or not, I don't recall
14 specifically what I discussed with Dr. Putterman.

15 Q. Let me see if I can refresh your
16 recollection. Do you recall telling her that you had
17 encouraged Dr. Bishayee to find a position outside
18 the university entirely?

19 A. I may have said that to her. I don't,
20 I can't tell you specifically if that's actually what
21 I said.

22 Q. Do you recall telling her because of
23 your encouraging him to find a position outside of
24 the university entirely you did not give him any
25 letter of recommendation for any internal position?

0045

1 A. I don't believe that I gave him a
2 letter of recommendation for an internal position.

3 Q. But do you remember telling Dr.
4 Putterman that was the reason why you didn't give him
5 one?

6 A. I don't recall.

7 Q. Do you recall telling Dr. Putterman
8 that you would recommend him for positions outside
9 the university?

10 A. Again I don't recall the specific
11 conversation with Dr. Putterman.

12 Q. Were you aware of any e-mail exchanges
13 that went on between Dr. Bishayee and Dr. Hill
14 regarding the payments for the apartment that he was
15 living at?

16 A. I have -- no.

17 Q. Dr. Bishayee never discussed that with
18 you at all?

19 A. The only thing, no, the only thing
20 that I have seen regarding payments for the apartment
21 was in the docs that were provided to me a year ago
22 indicating she had put them in some trust fund for
23 her granddaughter, that's the only thing I can recall
24 seeing.

25 Q. You learned about that you are saying
0046
1 to me after these complaints arose?

2 A. Way after. 2000 -- one year ago
3 approximately.

4 Q. Do you recall telling Dr. Putterman
5 that no one else in your lab has repeated the
6 bystander experiment?

7 A. I don't recall specifically what I
8 said to Dr. Putterman.

9 Q. Do you recall having any discussion
10 with her regarding the bystander experiment?

11 A. Again I know that there was a
12 discussion about bystander. I don't exactly remember
13 the line of discussion.

14 Q. Is there anything on the basis of the
15 questions that I have asked you that comes to your
16 recollection about what may have been discussed
17 between you and Dr. Putterman between the April, 2002
18 meeting that you have already identified?

19 A. Try me again.

20 Q. As a result of my question is there
21 anything else that you can recall that occurred
22 during the course of the April, 2002 meeting with Dr.
23 Putterman that you have not already identified?

24 A. I recall there was some discussion
25 regarding the spread and values from one measurement

0047

1 to the next in the coulter. That I recall. She did
2 mention something that Dr. Hill felt the standard
3 deviation was not anticipated. I do remember that.

4 Q. What did she say to you as best you
5 can recall?

6 A. She said the standard deviations were
7 too small I believe that I recall.

8 Q. Did she share any documents with you
9 during the course of this meeting?

10 A. No.

11 Q. You have no recollection of her
12 sharing any documents?

13 A. No, she did not.

14 Q. What about when she was discussing
15 this coulter count issue, did she describe any
16 documents regarding the coulter count?

17 A. No. Only I believe, I believe I pulled
18 out Dr. Azzam's coulter counts.

19 Q. Anything else that you can recall that
20 was not identified discussed between the two of you?

21 A. That's the main one I can recall.

22 Q. Nothing else?

23 A. Not that I can recall.

24 Q. Did there ever come a time where you
25 advised Dr. Putterman that you would fax to her any

0048

1 kind of figures or data?

2 A. That I faxed to her?

3 MR. LEONARD: Objection to form.

4 Q. Subsequent to your discussion with
5 her, in any discussion with her in April, did you
6 have any further discussions with her whether in
7 person or by telephone or other means?

8 MR. LEONARD: Objection to form. About

9 these issues by the way so we are clear.

10 A. After when?

11 Q. After the meeting in April, 2002.

12 A. I don't recall -- I know I saw her one
13 or another time after that.

14 Q. I'm not talking about passing her in
15 the hallway. I'm talking about specifically the
16 issues we are here discussing today. Did she ever
17 request of you or did you ever indicate to her that
18 you were going to supply her any kind of facts or
19 figures?

20 A. I didn't -- only at the time when the
21 attorneys requested that thing she may or may not
22 have been in on that, the summary.

23 Q. You are talking about the summary?

24 A. The summary, yes. But other than that,
25 I don't remember her requesting docs -- how did you
0049

1 word that?

2 Q. Facts or figures.

3 A. Yes, I don't recall sending her facts
4 or figures.

5 Q. Did you ever tell Dr. Putterman that
6 you had tried to reproduce Dr. Bishayee's coulter
7 results?

8 A. Not in those particular terms. I
9 recall relating to her that we were having difficulty
10 reproducing the experimental conditions of the
11 experiment.

12 Q. When did that discussion take place,
13 please, Dr. Howell?

14 A. That I couldn't put my finger exactly
15 on when it was.

16 Q. What about in reference to your
17 meeting with her in April of 2002?

18 A. 2002, I don't recall. I don't recall
19 the timing of when that was.

20 Q. You are aware that the 1999 article
21 HOWELL-10 and 2001, article 2000, I'm sorry --
22 HOWELL-11 have continued to be cited in the
23 literature. Is that correct?

24 A. By whom?

25 Q. You are familiar with something we
0050

1 call the Web of Knowledge?

2 A. Never heard of it.

3 Q. Never heard of that?

4 A. No.

5 Q. Have you yourself cited it in any
6 articles that you have prepared subsequent to that
7 time?

8 A. I'm sure that some of the articles
9 that have gone out of the lab have cited it.

10 Q. And you also recall making reference
11 to the graphs within those two documents that we
12 discussed earlier today in a slide show that you gave
13 at Harvard Medical School in or about 2003?

14 MR. LEONARD: Objection to form.
15 A. 2003, Harvard Medical, I don't recall.
16 Q. You don't recall that?
17 A. No. May have, but I don't recall.
18 Q. Fair enough.
19 (Exhibit HOWELL-38, Photocopy of Slides, is
20 received and marked for identification by the
21 reporter.)
22 Q. Do you recognize this document at all?
23 A. These would appear to be slides that
24 were in my collection.
25 Q. Do you recall presenting these?

0051

1 A. I don't recall, I don't specifically
2 recall but I'm sure if it was within my Power Point
3 presentation that was delivered to Harvard and it is
4 in there, yes, I presented it.
5 Q. I'm correct that this graph in the
6 upper right-hand corner comes from the literature
7 that we reviewed earlier today?
8 A. From the publication, yes, I imagine
9 so.
10 Q. I will take that, please.
11 (Exhibit HOWELL-39, Copy of Page 35, is
12 received and marked for identification by the
13 reporter.)
14 Q. Dr. Howell, I am going to show you a
15 copy of page 35, what I understand to be the Grant
16 Renewal Application that was submitted in or about
17 2005 concerning this grant.
18 A. Yes.
19 Q. I have the whole document here in the
20 event you want to check.
21 A. Okay. Yes.
22 Q. I would like to turn your attention to
23 the figure C-1. Am I correct that that comes from the
24 earlier literature?
25 A. I don't know just looking at it but it

0052

1 says, let's see, Published Experimental Data for
2 seizure so I assume, yes.
3 Q. You caused this grant to be submitted?
4 A. I submitted this grant, yes.
5 Q. I understand that on this grant Dr.
6 Azzam is now --
7 A. Wait a minute, wait a minute --
8 A co-investigator with you?
9 A. Roll back again. Go ahead on this that
10 -- this is which one of the two grants? This was
11 submitted when.
12 Q. 2005. Okay let's go back to the
13 figure, C-1 and -- I was referring you to the top
14 panel.
15 A. Published Experimental Data.
16 Q. You are in agreement with me.
17 Correct?
18 A. The, what caught me off guard,

19 Theororetical Modeling, but it follows with
20 Theororetical Modeling of the Published Data.
21 Q. Do you recall citing those two papers
22 in the course of this grant application?
23 A. Yes.
24 Q. Can I have that back, please.
25 A. Sure.

0053

1 Q. Thank you. I had also asked you that
2 in so far as this grant renewal, at that point in
3 time am I correct that Dr. Azzam became a
4 co-investigator on this grant with you?
5 A. Dr. Azzam was a co-investigator, was a
6 co-investigator on the renewal, yes.
7 Q. I understand that you serve as either
8 a principle investigator on another grant besides
9 this with him in which he is the co-investigator or
10 alternatively you are a co-investigator on grants for
11 which he is the primary investigator?
12 A. Make that less circuitous, I mean
13 simplify the question.
14 Q. Are you a co-investigator on any grants
15 on which he is the primary investigator, principle
16 investigator.
17 A. Before?
18 Q. Yes. Identify them, please.
19 A. NASA Grant.
20 Q. How much?
21 A. I don't know, NASA, must be somewhere
22 around million. Department of Energy Low Dose Energy
23 Grant I think I'm five percent on that. What else
24 does he have? There is a grant from the Cancer
25 Center on Bystander Studies on Animals. I'm a

0054

1 co-investigator. I forget how the layout of that is,
2 but I am participating on that. What else where he is
3 PI, I don't think, he's got a subcontract on a DOE
4 Grant held by Iowa. I don't believe I'm part of that
5 from my recollection. I think that's all of them.
6 Q. Let's flip it.
7 A. So he is a co-investigator on my
8 current Continuation Grant that we have been
9 discussing. And he is a co-investigator on a grant
10 that we have from NAIAD.
11 Q. NAIAD, what's that stand for?
12 A. National Institute of Allergy and
13 Infectious Diseases.
14 Q. Okay.
15 A. So he is co-investigator on that.
16 Q. Were you at Dr. Bishayee's wedding
17 reception?
18 A. Yes, I was.
19 Q. Did you observe Dr. Hill there?
20 A. I observed Dr. Hill walk in, give him
21 something and I believe walk out.
22 Q. Your recollection is she was there for
23 a matter of minutes?

24 A. Yes.
25 Q. Did you see her or Dr. Bishayee
0055
1 engaged in any conversation?
2 A. I don't recall if there was any. I
3 assume if she handed him something she must have said
4 something. I don't remember.
5 Q. Was it within your earshot, did you
6 hear it?
7 A. No.
8 Q. Was it at a restaurant in Montclair,
9 New Jersey to your knowledge?
10 A. I don't know if it was Montclair or
11 not but it was a restaurant in New Jersey.
12 Q. Did Dr. Bishayee discuss her presence
13 at all, not e-n-t-s but presence, e-n-c-e?
14 A. I don't recall.
15 Q. You have no recollection of that?
16 A. No.
17 Q. Did you discuss it with Dr. Azzam at
18 all?
19 A. We may have said on oh, Dr. Hill. I
20 don't remember anything beyond that. I do remember
21 noting that she showed up.
22 Q. Let's take five minutes. I think I'm
23 done. Off the record.

24 (A recess was taken.)
25 Q. Back on the record. I have no further
0056
1 questions of the witness. Do you have any questions?
2 MR. PINCUS: I do not.
3 Q. Dr. Howell, thank you for hanging in
4 here today. Off at record.
5 (Whereupon, the proceedings are
6 adjourned.)
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0057
1 C E R T I F I C A T E.
2 I, JILL D. FRIEDBERG, a Notary

3 Public and Certified Shorthand Reporter of the State
4 of New Jersey, LICENSE NO. XIO1082, do hereby certify
5 that prior to the commencement of the examination,
6 ROGER W. HOWELL, was duly sworn by me to testify the
7 truth, the whole truth and nothing but the truth?

8 I DO FURTHER CERTIFY that the
9 foregoing is a true and accurate transcript of the
10 testimony as taken stenographically by and before me
11 at the time, place and on the date hereinbefore set
12 forth, to the best of my ability.

13 I DO FURTHER CERTIFY that I am
14 neither a relative nor employee nor attorney nor
15 counsel of any of the parties to this action, and
16 that I am neither a relative nor employee of such
17 attorney or counsel, and that I am not financially
18 interested in the action.

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JILL D. FRIEDBERG
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