

1 A. Yes.

2 Q. As of that time, almost two years after the

3 LASIK surgery was performed, did you consider

4 Mr. Morgan to have had an adverse event during that

5 time?

6 A. No.

7 Q. How do you define an adverse event?

8 MS. NEWMAN: No. That's not a proper

9 question. You asked it in terms of the protocol,

10 and in terms of the protocol, she answered your

11 question.

12 Q. In terms of the protocol, Doctor, looking at

13 complications or adverse events, how do you define

14 what happened to Mr. Morgan?

15 MS. NEWMAN: I'm going to object to the

16 form, because you're assuming in the question that

17 what happened to Mr. Morgan is either an adverse

18 event or a complication, which she has already said

19 it's not.

20 Q. Doctor, let's look at that last visit of

21 3/27/2000. What was Mr. Morgan's visual acuity at

22 that time?

23 A. 20/80 minus.

24 Q. How many lines of vision drop is that from his

1 A. Not an event of the surgery.

2 Q. Not...

3 A. Not a consequence of the surgery.

4 Q. And how did you determine it was not a

5 consequence of the surgery?

6 A. By examining the patient.

7 Q. Doctor, let's make a category, adverse events

8 as a consequence of the surgery and adverse events

9 not related to the surgery. Was this an adverse

10 event not related to the surgery?

11 MR. LAPAT: I object to this question.

12 Adverse event is a defined term with a specific

13 meaning, and I think the problem here is you're

14 conflating Mr. Morgan not getting the result he

15 desired with an adverse event. Those are not

16 necessarily the same thing, and certainly your

17 question is improper and confusing and designed to

18 mislead the witness.

19 MS. NEWMAN: I'm going to object and

20 instruct her not to answer on the same reason. She

21 has already told you that it is not an adverse event

22 as a consequence of the surgery. Now you're taking

23 "adverse event" and you're using it in a totally

24 different matter, which is very confusing.

1 preoperative visual acuity?

2 A. Four.

3 Q. Are you saying that four lines is not

4 considered an adverse event?

5 MS. NEWMAN: For Mr. Morgan?

6 DR. FRIEDMAN: For Mr. Morgan.

7 MS. NEWMAN: I object to the form. You

8 can answer it as per Mr. Morgan.

9 A. I can't answer it as phrased.

10 Q. You can't answer it as what?

11 A. As phrased.

12 Q. What's your problem with the question?

13 A. Whether a drop in vision is necessarily

14 referable to the surgery.

15 Q. Well, for whatever reason, was Mr. Morgan's

16 vision worse in the two year period after surgery

17 than it was before surgery?

18 A. Yes.

19 Q. And your answer is yes?

20 A. Yes.

21 Q. For whatever reason, was this drop in visual

22 acuity considered by you as an adverse event?

23 MS. NEWMAN: Asked and answered.

24 Answer it again.

1 I don't think you're trying to ask her

2 is it not a good thing that his vision dropped four

3 lines. I think that anybody will say it's not a

4 good thing under any circumstances if a person's

5 vision has dropped four lines, but you can't use the

6 word "adverse event" after it has already been

7 defined in the protocol for the same meaning.

8 Q. Doctor, was the outcome of Mr. Morgan's

9 surgery reported to either the Institutional Review

10 Board or the Food and Drug Administration?

11 A. Yes.

12 Q. And how was it reported?

13 MS. NEWMAN: You asked a compound

14 question. If you want to start with which one it

15 was reported to?

16 DR. FRIEDMAN: Sure.

17 Q. Was the outcome of Mr. Morgan's surgery

18 reported to the Institutional Review Board?

19 A. I believe so.

20 Q. Was the outcome of Mr. Morgan's surgery

21 reported to the Food and Drug Administration?

22 A. Yes.

23 MS. NEWMAN: How come it's not

24 objectionable to ask her that question, but it was