

Nevyas, M.D.

1 BY MR. KAFRISSEN:  
2 Q. We were just talking about different types of  
3 lenses. Let me just go back one second to the 3/20  
4 procedure where we had talked about the decentration.  
5 Would you agree with me that if the lens is not over the  
6 center of the cornea, that you can create the visual  
7 problems that Cheryl Fiorelli ultimately suffered from?

MS. NEWMAN: Objection.

MS. POST: No. Objection. I'll  
instruct him not to answer.

MR. KAFRISSEN: Why?

MS. POST: He wasn't involved in it. He  
didn't do it and you're asking him to  
speculate on causation. You're also asking  
him to speculate to the problems that she had  
so --MS. NEWMAN: That's my objection.  
There's been no testimony regarding what her  
current condition is, and I don't think his  
office is even aware of what her current  
condition is or what her injuries were;  
therefore, he can't talk about what could or  
couldn't cause --MR. KAFRISSEN: Well, the doctor knows  
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1 from his records and from the treatment  
2 thereafter what the visual problems Cheryl  
3 experienced after this surgery were, after the  
4 Lasik, because they treated her for the next  
5 year and a half for these different problems,  
6 the starbursts and halos, so he is familiar.  
7 I didn't put in her current problems as --  
8 meaning her current condition today into the  
9 question. And the doctor testified that he  
10 assisted in the Lasik surgery and that, as an  
11 assistant, he actually might have been the one  
12 who did center the procedure.

MS. POST: That's -- you're talking  
about two different eyes.MR. KAFRISSEN: No, no. I'm talking  
about the March 20 Lasik.MS. POST: No. You're misconstruing his  
testimony as to what his involvement with  
centration of the lasers as opposed to the  
actual surgery and centering of the laser, so  
I -- and, again, he did assist but his  
assisting during the procedure itself was  
merely as an observer and to be on-hand to  
help if needed so...

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MR. KAFRISSEN: That's not what he  
testified to.MS. POST: That's exactly what he  
testified to.MR. KAFRISSEN: What he testified to is  
that he couldn't recall exactly what he did  
during this surgery but here are the things  
that the doctor normally does as an assistant.THE WITNESS: I must take exception.  
These are things I might have done as an  
assistant. Other people might have done them  
too.MR. KAFRISSEN: And one of the things  
the doctor testified that he might have done  
as an assistant -- in fact, one of the first  
things that he testified to is to help with  
centering the procedure, look through the  
microscope, set it to a six millimeter wide  
ablation, et cetera.MS. POST: And his testimony -- no,  
you're misconstruing his testimony.

THE WITNESS: That's not what I said.

MS. NEWMAN: I still object regarding  
the broadness of what Cheryl Fiorelli  
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1 suffered. I don't think there's been any  
2 foundation as to how long he was involved in  
3 the care, and I think that your symptoms are  
4 still overly broad. If you want to ask him if  
5 not centering it could result in starbursts,  
6 okay, but I would still object otherwise.

MR. KAFRISSEN: Okay.

BY MR. KAFRISSEN:

9 Q. You had said, Doctor, that you had -- my  
10 characterization of what you said about the role of the  
11 assistant in the 3/20 Lasik might have been with regard  
12 to centration was incorrect. Can you tell me how?

A. Because you said centering the procedure. I  
had nothing to do with centering the procedure. I might  
have lined up the reticle in the eyepiece with the point  
where the laser beam strikes. That would center the  
laser. That has nothing to do with centering the  
procedure itself except to say that there would be no  
decentration because of the laser itself.

Q. If the laser was properly centered?

A. Yes. If I had properly centered the ablation  
with the reticle, and I could do that or Doctor Sterling,  
who works as a technician with us who's an optometrist,  
could do it and Doctor Anita Wallace could have done it.  
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1 It's a simple procedure. I could train any technician to  
2 do it in about three minutes, but that is the centration  
3 of the beam. That's like saying that one would true in a  
4 rifle site and therefore blame missing the target on the  
5 fact that the rifle had not been trued. That's possible,  
6 but with the truest rifle you can miss if you're not a  
7 good shot or if that target happens to be a moving  
8 target, so I think that analogy is more accurate.

Q. Okay. So with regard to what I had asked,  
would you agree then that if the laser -- if you, as  
assistant, had centered the laser and it was not over the  
center of the cornea when you centered it, could you  
create the visual problems experienced by Cheryl of the  
starbursts and the halos and the double vision?MS. POST: I will object and instruct  
him not to answer because he didn't say that  
he centered the laser over the cornea. That's  
not his testimony. He wasn't -- first of all,  
you're assuming that he did and he has no  
recollection; second, you're mixing the apples  
and oranges. His testimony was not that he  
centered the laser over the cornea. In fact,  
that's the exact opposite of what he just said  
-- of what he just explained.

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1 THE WITNESS: That's true. I centered  
2 it over a piece of fax paper on which I had  
3 made a mark with the laser and then seen that  
4 when the laser makes its mark, that that mark  
5 is centered within the reticle of the eyepiece  
6 with no patient on the table or in the room.

BY MR. KAFRISSEN:

Q. Okay. There I misunderstood you.

Is it then the surgeon who then centers  
the laser with regard to when the patient is on the  
table?A. Yes. And the patient centers the laser with  
regard to her own visual axis.Q. Okay. If the laser is not centered on the  
cornea, can that result in the visual problems that  
Cheryl Fiorelli suffered after the surgery?MS. POST: Objection and instruct him  
not to answer the question.

MS. NEWMAN: Objection.

MS. POST: Don't answer the question.

MR. KAFRISSEN: Okay.

BY MR. KAFRISSEN:

23 Q. The next time that you saw Cheryl in the office  
24 was May 16. According to the records from the Surgery  
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