

COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST

RICHARD L. VANDER HEYDEN, D.D.S.

RESPONDENT

Case No. LS 0312302 DEN

Video Deposition of RICHARD L. VANDER HEYDEN, D.D.S., a witness in the above-entitled action, taken at the instance of the State of Wisconsin Department of Regulation & Licensing, pursuant to notice and subpoena, on the 25th day of February, 2004, commencing at 9:35 a.m., at the Outagamie County Justice Center, Branch 7 Jury Room, 320 South Walnut Street, Appleton, Wisconsin; pursuant to the Wisconsin Administrative Code; before and reported by Patricia J. Seidel, Registered Professional Reporter and Notary Public, State of Wisconsin.

APPEARANCES: JAMES E. POLEWSKI, ATTORNEY AT LAW
State of Wisconsin Department of
Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

RICHARD L. VANDER HEYDEN, D.D.S.
appeared without counsel.

ALSO PRESENT: Tim Toepel, Videographer
Shawn Vander Heyden

PATRICIA J. SEIDEL
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I N D E X

Examination of RICHARD L. VANDER HEYDEN, D.D.S. by: Page:
Mr. Polewski 3

Exhibit Marked for Identification: (and attached)
1 - Notice of Respondent's Objections. 53

* * *

**NOTE: Original transcript filed with Attorney Polewski.

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TRANSCRIPT OF PROCEEDINGS

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RICHARD L. VANDER HEYDEN, D.D.S.,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

E X A M I N A T I O N

BY MR. POLEWSKI:

Q Doctor, you're Dr. Richard Vander Heyden?

A Correct.

Q And you're the respondent in this matter of disciplinary proceedings against Richard Vander Heyden, D.D.S. It's Case No. LS 0312302 DEN.

A Correct.

Q Thank you.

Did you have something you wanted to give me at this time?

A Yes. This is my objection to this oral subpoena.

Q Doctor, Paragraph 16 of this document says that you object based on the 1st, 4th, 5th and 14th Amendments to the United States Constitution and equivalent provisions of the Wisconsin Constitution concerning right of privacy, incrimination and being secure in your books and records.

Are you objecting to answering questions at this time on any of those bases?

1 A I am -- I will object when I feel that the question is
2 not, you know -- is worth objecting. I'm not opposed
3 to answering questions at this time.

4 Q Okay. Thank you.

5 Doctor, you were asked to bring with
6 you documents related to experimental medical-dental
7 research conducted by yourself. Did you bring those
8 with you?

9 A Yes.

10 Q May I have them, please.

11 A What document do you want?

12 Q I want all of the documents that are related to
13 experimental medical-dental research conducted by you.

14 A Okay. I am going to object to that. The charges
15 that -- complaint against me are based only on the
16 understanding and opinion of Cecelia (sic) Kobs, an
17 investigator with the Wisconsin Department of
18 Regulation and Licensing. The Dental Examining Board
19 has no powers or jurisdiction to conduct any
20 investigation or inquiry based only upon that which is
21 the agency's understanding and opinion. Nowhere in
22 the Complaint does the Dental Examining Board mention
23 that its investigation or inquiry of alleged
24 violations was triggered by any complaint filed with
25 the Dental Examining Board.

1 Second, there are no statutory or
2 regulatory provisions allowing the Dental Examining
3 Board to file any complaint based on the Dental
4 Examining Board's understanding and opinion of some
5 dental practice or procedure used by a licensed
6 dentist. Also, there are no statutory or regulatory
7 provisions which enable the Dental Examining Board to
8 exceed its powers and jurisdiction and to act as it
9 did in the present case. All or --
10 Q Doctor, if I can interrupt. Maybe -- maybe we can
11 shorten this up some. I take it you're planning to
12 read all the pages of your objections to oral
13 examination, subpoena duces tecum?
14 A Yes.
15 Q Do you have a specific objection to producing the
16 documents related to your experimental medical-dental
17 research?
18 A My objection is all of these objections to you.
19 Q May I have the names of all persons who have
20 consented to be subjects of your research on
21 and after January 1, 1999.
22 A I am in -- Okay. Proper good faith objection to that
23 as well. Shall I continue with my objection reading?
24 Q Shall we take them as read? If your objection is
25 something that is not in one of the three pages and

1 16 paragraphs of objections, please let me know. If
2 your objection is some part of the document which you
3 filed as your Answer and which you have filed again as
4 your notice of objections, why don't we just take it
5 as you're objecting to the entire procedure.

6 A I am not objecting to the entire procedure. I will
7 answer --

8 Q What part of the procedure will you not object to?

9 A The questions that I feel are violating my rights of
10 due process, which I have not fully read of the 16
11 that we have here.

12 Q Is there any part of your medical-dental research that
13 you believe is subject to review by the Dentistry
14 Examining Board with the State of Wisconsin?

15 A No, I do not believe there is.

16 Q Is it fair to say that any question related to
17 your medical-dental research would draw the same
18 objection?

19 A Yes, it would.

20 Q And your objection to any question related to your
21 medical-dental research would be contained in one or
22 more of the 16 paragraphs and three pages which you've
23 handed me?

24 A Yes.

25 Q What is your basis specifically for saying that the

1 State of Wisconsin and the Dentistry Examining Board
2 has no jurisdiction over your medical-dental research
3 conducted in the course of your practice of dentistry?
4 A It is contained within the 16 objections, which I
5 will gladly read.
6 Q Is there any part of the 16 paragraphs and three pages
7 which is relevant particularly to your objection that
8 the Board has -- the Board and the State has no
9 jurisdiction over your practice of research in the
10 course of your practice of dentistry?
11 A There are numerous ones that are in there, and,
12 again, I -- I would, as I say, gladly read them in
13 and highlight, if you want, which ones I think are
14 particularly important.
15 Q All right. Why don't you tell me which ones you think
16 are particularly important.
17 A Okay. The -- One of the main ones is 15, that I have
18 direct knowledge that most of the alleged members of
19 the Dental Examining Board have not taken and filed
20 their oath of office with the Office of the Secretary
21 of State in violation of the U.S. and Wisconsin
22 Constitutions and statutes. Thus, said alleged
23 Board members cannot take their office or have any
24 authority or jurisdiction to act, which includes
25 all delegates, including prosecuting attorneys and

1 investigators.

2 Q What is your direct knowledge of this alleged
3 violation?

4 A I have information which was obtained from the State
5 itself.

6 Q And what is that information?

7 A That most of the alleged members of the Dental
8 Examining Board have not taken and filed their oath
9 of office with the Office of the Secretary of State in
10 violation of the U.S. and Wisconsin Constitutions and
11 statutes. Thus, said alleged Board members cannot
12 take their office or have any authority or
13 jurisdiction to act, which includes all delegates,
14 including prosecuting attorneys and investigators.

15 Q Which members of the Dentistry Examining Board do you
16 allege are serving without legal basis?

17 A I will provide that information with my motion to
18 dismiss the case.

19 Q I'm asking you now which members you believe are
20 serving without legal basis.

21 A I, again, am going to refuse to answer that question
22 on the basis that this meeting is null and void
23 because of this, and I will -- I have filed this and
24 am mailing it according -- which you have -- to Judge
25 Jefferson-Moore and also to the docket just to have it

1 in the State files.

2 Q As long as you're going to be filing it and you've
3 said you've mailed it to the judge and the docket
4 clerk, why don't you tell me the names of the
5 individuals you believe are serving without legal
6 authority.

7 A Because at this particular point in time I have the
8 list of people that I believe are a problem, and I
9 want to do some further research to absolutely verify
10 that I would not make an incorrect statement to you.
11 I have sworn to tell the entire truth.

12 Q All right. Well, since you're not sure of the basis
13 of your objection that they're not legally authorized
14 to perform any authority or do any work, why don't
15 you answer the question and give me the names of all
16 people that have consented to be subjects of
17 medical-dental research in your office in the practice
18 of dentistry on and after January 1st, 1999.

19 A I am sure that there are names here that are a
20 problem, but I --

21 Q What are the names?

22 A I'm not going to answer that until I have the chance
23 to do further review of this.

24 Q On what basis do you believe that the State of
25 Wisconsin has no authority over your practice of

1 dentistry?

2 A I believe that the State has a board that is not a
3 valid board at this point in time.

4 Q This is going to get us back to your refusing to tell
5 me why you believe this to be true?

6 A I believe this to be true because I have information
7 and dates from the State.

8 Q And -- and this secret information was obtained how?

9 A It was obtained by asking the Office of the Secretary
10 of the State of Wisconsin.

11 Q Who in the office of -- the Secretary of State's
12 office did you talk to?

13 A I did not directly talk to them.

14 Q Who talked to the Office of the Secretary of State on
15 your behalf?

16 A An adviser that I am working with.

17 Q What is the name of your adviser?

18 A I am not going to reveal that information.

19 Q Why not?

20 A Because I do not think you have the right to ask it.

21 Q You understand that by making this person a witness
22 you are exposing this person to identification?

23 A I was not aware of that.

24 Q Well, since you've identified that you had a person on
25 whom you are relying do your work, what is the name of

1 that individual?

2 A I do not believe I have to give you that information.

3 Q Why do you believe you are entitled to maintain secret

4 lists of witnesses?

5 A I -- I'm going to give a witness list.

6 Q I'm asking for the name of the person on whose

7 testimony you were relying for your statement the

8 Board has no authority.

9 A I am doing that on my own basis but I'm doing it

10 because of information that I had received from

11 somebody that had asked the information and requested

12 it from the Board.

13 Q May I have the complete written thesis and protocol

14 for each of the research projects you have done in

15 the course of your practice of dentistry?

16 A I am going to have the same proper good faith

17 objections to providing that information.

18 Q On what basis are you saying they are proper

19 objections?

20 A On the basis of the 16 points that I have already

21 given you.

22 Q Who helped you write the 16 paragraphs of objection?

23 A The same adviser.

24 Q If this adviser is practicing law in the state of

25 Wisconsin, what is this adviser's name?

1 A This person is not practicing law in the state of
2 Wisconsin.

3 Q Do you consider your 16 objections to be a legal
4 document of any sort?

5 A Please define a legal document.

6 Q A document having legal force and effect.

7 A Yes.

8 Q Then who was it that assisted you in drafting the
9 legal document which you have just handed me?

10 A This adviser.

11 Q And you are keeping your adviser's name secret?

12 A Yes.

13 Q May I have the complete operation manual and all
14 documents related to your training in the use of the
15 electro-dermal screening device that is known as
16 Interro and Dermatron.

17 A I'm going to make the same proper good faith
18 objections to providing that information.

19 A And the objections are that the Board has no authority
20 over your practice?

21 A The 16 objections that are in here, and that is one
22 part of it.

23 Q Is there any portion of the subpoena duces tecum that
24 you are intending to comply with?

25 A I have complied with the fact that I needed to appear

1 at this meeting. I have brought documentation with
2 me. And that is what I'm complying with.

3 Q Fine. Let me see the documentation that you have
4 brought with you in response to the subpoena duces
5 tecum.

6 A I am refusing on good faith objections to allow you to
7 look at that documentation for the 16 reasons that I
8 have previously stated.

9 Q Would it be fair to say that your compliance with the
10 subpoena duces tecum is limited to your appearance
11 here this morning?

12 A And I will answer any questions about -- that do not
13 pertain that I do not believe that the Board has
14 authority over.

15 Q Is there any portion of your practice of dentistry
16 that you believe the Board has authority over?

17 A Yes.

18 Q What is that portion of your practice?

19 A It is the -- the practice of dentistry.

20 Q What portion of your practice of dentistry do you
21 believe the Dentistry Board has authority over?

22 A A valid board has authority over the practice of
23 dentistry. That is too vague to be specific.

24 Q Is it your position here today and in this proceeding
25 that the current examining board has no authority

1 to inquire about any facet of your practice of
2 dentistry?

3 A Yes.

4 Q Is it your testimony and position here today that
5 the State of Wisconsin has no authority to inquire
6 over any facet of your practice of dentistry?

7 A No.

8 Q What authority -- What portion of the practice of
9 dentistry that you conduct does the State of Wisconsin
10 have authority over that you recognize today?

11 A I recognize it has the authority. I am still using my
12 right to have objections to the questions.

13 Q Doctor, will you please provide me with the complete
14 research data collected from the participation of
15 Kathy Parsons and Brian Daementor in the medical-
16 dental research that you conducted during the course
17 of your practice of dentistry.

18 A I am going to again give good faith objections of the
19 16 points that I was not allowed to read into the
20 record at this point but have given you.

21 Q What is your good faith objection? Let me rephrase
22 that. How -- how do we know that your objection is
23 good faith and not merely obstruction?

24 A Because I believe these to be true, factual and that
25 they will follow and stand up in court.

1 Q On what basis do you believe them to be true?

2 A I believe them to be true in the fact that they
3 are based on the statutes and laws of the U.S.
4 Constitution and the State of Wisconsin.

5 Q On what basis do you believe these are based on the
6 statutes and laws and constitution of the State of
7 Wisconsin?

8 A Because I believe they are.

9 Q What is your basis for believing that to be true?

10 A The work I have looked at at looking at some of the
11 statutes and the advice that I have gotten.

12 Q What work have you done in looking at the statutes and
13 Constitution of the State of Wisconsin with regard to
14 this case?

15 A I have looked at the statutes that were brought to my
16 attention.

17 Q Which statutes did you look at?

18 A I had looked at -- This was many months ago. I cannot
19 tell you exactly which specific ones. I would not be
20 able to do that and know that I was absolutely telling
21 you the truth as to which ones.

22 Q Did you consult with this secret adviser of yours in
23 coming to your belief that you have a good faith basis
24 for saying that these objections are legal?

25 A Yes.

1 Q When did you consult with this secret adviser of
2 yours?
3 A Over the last couple months.
4 Q When was the last time you consulted with the secret
5 adviser?
6 A Yesterday.
7 Q When was the first time you consulted with the secret
8 adviser on this case?
9 A I do not know the exact date.
10 Q Approximately what time of year did you consult with
11 the secret adviser?
12 A It was within the last couple months.
13 Q How did you consult with your secret adviser?
14 A I did it through correspondence and telephone.
15 Q Do you maintain a copy of your correspondence with
16 your secret adviser?
17 A I do have some copies, yes.
18 Q Have you consulted with your secret adviser in
19 person?
20 A No.
21 Q Have you consulted with any other person other than
22 this secret adviser?
23 A At what point in time?
24 Q From the time that -- Well, let's start in July of
25 2003. Have you consulted with any person other than

1 the secret adviser on this case?

2 A What do you mean by consulting?

3 Q Have you talked with, sought advice, sought opinions,
4 any form of communication, correspondence with some
5 person other than the secret adviser?

6 A I have talked to numerous other people about this
7 case.

8 Q Identify those people for me, please, names.

9 A I don't see the relevance of who I have personal
10 conversations with.

11 Q The relevance is that apparently you're basing your
12 objections on consultations with other people. I am
13 entitled to know the basis of your profession that
14 these are good faith and valid objections. You've
15 made them witnesses. I'd like to know their names.

16 A Okay. The only person that I have used for the legal
17 advice part of this in formulating this is the one
18 person.

19 Q What is this secret adviser's legal training?

20 A He does not have legal training.

21 Q What is the secret adviser's profession or
22 occupation?

23 A I am not sure of what his actual profession is.

24 Q How did you come to know that the secret adviser could
25 give you advice on this case?

1 A I had come across that information from just research
2 that I've done on people that are out to protect
3 people's rights to a due and fair process.
4 Q Where is this secret adviser located?
5 A He is out of state.
6 Q What state is your secret adviser located in?
7 A Texas.
8 Q What is your secret adviser's address?
9 A I am not going to give that information out at this
10 point.
11 Q How long has your secret adviser been located in
12 Texas?
13 A I do not know.
14 Q When you write to your secret adviser, what address do
15 you write to him at?
16 A I don't know right now. I've done it through e-mail
17 and others and I don't have that with me.
18 Q What is your secret adviser's e-mail address?
19 A I do not have that with me.
20 Q Do you recall what that secret adviser's address is?
21 A No, I do not.
22 Q You have no memory of where you write to your secret
23 adviser?
24 A Not at this point.
25 Q Do you have any recollection of what telephone number

1 you dial to reach your secret adviser?

2 A I do not believe that I have to give you that
3 information.

4 Q You are sure that your secret adviser is located in
5 Texas?

6 A Yes.

7 Q And has he been located in Texas for the duration of
8 the time that you have been using his services?

9 A I do not know that.

10 Q On what basis do you believe that your secret adviser
11 is competent to give you legal advice?

12 A I believe that he is.

13 Q What is your basis for that belief?

14 A My basis for that belief is that I trust the
15 information he's given me is accurate.

16 Q Why do you trust that?

17 A Because I do.

18 Q Doctor, you've said that you have a good faith basis
19 for your belief that these objections are valid. What
20 I'm trying to accomplish here is to obtain information
21 that would support your belief that you have a good
22 faith basis. What I am finding is that you don't know
23 why you believe that you have a good faith basis. Is
24 this accurate?

25 A I don't understand the question.

1 Q You have no particular reason to believe that these
2 objections are based on good faith, competent legal
3 advice; correct?
4 A I believe that question was leading. I do not -- I
5 don't understand what you exactly mean here.
6 Q The person that you are relying on for advice in this
7 matter is unidentified; correct?
8 A Correct.
9 Q You are not going to identify this person?
10 A I will do that -- If a judge tells me that I do need
11 to do this, I will do that.
12 Q Until such time as you are ordered by a judge, an
13 administrative law judge -- Will you accept an order
14 of the administrative law judge?
15 A Yes.
16 Q You understand that the administrative law judge is
17 delegated to hear this matter by the Dentistry
18 Examining Board?
19 A Yes.
20 Q And you will accept the delegation of the Dentistry
21 Examining Board of its authority to the administrative
22 law judge?
23 A Not at this time.
24 Q At this time is it fair to say that you do not accept
25 the authority of the administrative law judge who is

1 presiding in this matter?

2 A Correct.

3 Q And the basis for your objection to the judge's
4 authority is set forth in these three pages and 16
5 paragraphs?

6 A Correct.

7 Q And you will not accept an order from that
8 administrative law judge to divulge the information
9 that you have so far refused to provide; correct?

10 A If I have a written notice I will look at the written
11 notice and make that decision.

12 Q On what basis would you change your mind that the
13 Dentistry Examining Board has authority to delegate
14 its authority to the sitting administrative law judge?

15 A If it could be confirmed that that authority is intact
16 and valid.

17 Q I'd like to return to your good faith basis for
18 believing that your secret adviser has competent legal
19 bases for the objections that you are proposing here.
20 What research, if any, did you do to confirm the
21 advice provided by your secret legal adviser?

22 A Could you restate the question, please.

23 Q What research, if any, did you do to confirm the legal
24 advice given to you by your secret legal adviser?

25 A By research do you mean researching the law books,

1 researching --

2 Q Tell me whatever research you did to confirm the
3 advice given to you by your legal adviser.

4 A I cannot cite any specific research that I did.

5 Q Is it fair to say that you accepted the advice given
6 to you by your secret adviser without making any
7 attempt to confirm or rebut that advice?

8 A At this time I would have to say yes to that
9 question.

10 Q Is it also fair to say that your good faith belief
11 in the validity and basis of the three pages and 16
12 paragraphs is based entirely on your personal trust in
13 the secret adviser?

14 A Correct.

15 Q You've previously stated that to your knowledge your
16 secret adviser has no legal training; correct?

17 A Correct.

18 Q And you do not know what your secret adviser's
19 profession or occupation is?

20 A Correct.

21 Q You do not know what your secret adviser does for a
22 living?

23 A I cannot -- I cannot say that I know entirely what he
24 does for a living.

25 Q What do -- What portion of what he does for a living

1 do you know about?

2 A I know that he does give advice -- Boy, I can't even
3 know how to state that advice, but that he does --
4 I'm not sure advice is the word -- share information
5 in relationship to doctors that are under the scrutiny
6 of state boards. I believe he also gives some advice
7 on setting up corporations, although I'm not positive
8 of that. That's about all I really know.

9 Q How much are you paying your adviser?

10 A I think that is personal information again.

11 Q You are paying your adviser?

12 A Again, depending on the -- referring to paying, with
13 our arrangement at this point I cannot answer that
14 exactly, whether I am paying him as an adviser.

15 Q Is your adviser working on a contingency fee basis?

16 A No.

17 Q Will your adviser's compensation depend on the outcome
18 of this case?

19 A No. And I'm not even sure that the word
20 "compensation" for this -- it's inferring that I
21 am paying him directly for his advice.

22 Q So the compensation to him will be indirect?

23 A I'm not sure I can answer it in that term either.

24 Q Well, let's back up a bit. The reason we -- Excuse
25 me. When we started on this line of questioning I was

1 asking you what you knew of your secret adviser's
2 profession, occupation, training, education, etc., and
3 you tell me that as far as you know he gets his living
4 from providing advice to persons substantially in your
5 situation and setting up corporations.

6 A And I'm not positive that is a hundred percent
7 correct.

8 Q In what way would that not be correct?

9 A With the arrangement I am not sure of how the legal
10 situation is set up as to the word "advice," the word
11 "compensation." It's not like an attorney situation
12 where I'm paying an attorney.

13 Q What is your arrangement with your adviser?

14 A Again, that is my personal information at this point.

15 Q You understand that you have made your relation with
16 your adviser an issue in this case by saying that you
17 trust him implicitly for the good faith basis of your
18 objections?

19 A I am not aware of that fact. You're stating that
20 fact. I am not going to argue that fact.

21 Q You understand that whether or not you have a good
22 faith basis for these objections will be an issue in
23 the proceeding?

24 A Correct.

25 Q And you understand that your good faith basis depends

1 on whether you have a reasonable basis to rely on the
2 secret adviser?
3 A No, I'm not aware of that.
4 Q Do you believe it would be reasonable for you to rely
5 on legal advice given to you by an auto mechanic in
6 Texas?
7 A Depends on his knowledge base.
8 Q Tell me about the knowledge base of your adviser.
9 A I don't know his knowledge base entirely.
10 Q On what basis do you believe that his knowledge base
11 is sufficient to provide you a good faith basis for
12 these 16 objections?
13 A I have hearsay from other people that know of this
14 man.
15 Q From whom do you have hearsay?
16 A From Tim Bolen.
17 Q And from whom else?
18 A He was the person I based it on.
19 Q How do you know Tim Bolen?
20 A I have talked to him on the phone a couple times.
21 Q Why have you spoken to Tim Bolen?
22 A I'm going to object to that question as well.
23 Q On what basis?
24 A On the basis that you are again asking questions
25 here that pertain to my personal information and that

1 I do not believe you have the authority to ask that.

2 Q Other than hearsay from Mr. Bolen you have no
3 knowledge of your adviser's education, training,
4 experience, profession, occupation or competence to
5 provide legal advice; correct?

6 A Can we break that question down into sections? I'm
7 not sure I want to answer that in its entirety.

8 Q Other than conversations with Mr. Tim Bolen you have
9 no basis to believe that your secret adviser is
10 competent by education, training, experience, skills,
11 profession, occupation to provide you competent legal
12 advice; correct?

13 A No. I do believe on my own working with -- having
14 done depositions before and been with other patients
15 that I believe the information that he has given me
16 appears to be valid, true information.

17 Q Tell me about the other depositions that you have been
18 involved with.

19 A They were -- I've been involved with a number of
20 depositions. One of them, obviously, would be in
21 relation to Kathy Parsons. I had another deposition
22 in relationship to -- I -- I've -- For patient
23 confidentiality I will just say at this point that
24 they were accident cases that I was an expert witness
25 for.

1 Q What were the names of the cases that you were an
2 expert witness for?

3 A I am going to again object to giving that information
4 because I do not know the right of privacy of that
5 information, but it is court law, and, again, I
6 would -- if I know that I -- I have a privacy release,
7 something from those people, I will gladly give that
8 information.

9 Q Your -- When you say expert witness, this means that
10 you were paid to provide expert testimony for a
11 particular lawsuit; correct?

12 A Correct.

13 Q A lawsuit was filed in court?

14 A Correct.

15 Q Therefore, it's public information?

16 A Correct.

17 Q What were the names of the cases that you were
18 involved as -- involved with as an expert witness?

19 A Okay. If that is public information, Debra Kopitzke.
20 (phonetic)

21 Q Spell Kopitzke, please.

22 A I believe it is K-o-p -- I'm not sure of the spelling.
23 I believe it's K-o-p-i -- pit -- maybe z-k-e. I'm not
24 sure of that. The other person was Marcia Bray.

25 Q Spell Bray, please.

1 A B-r-a-y, I believe. I may be off on the spellings.
2 Q Other than the Kopitzke case and the Bray case have
3 you been involved as an expert witness in any other
4 proceeding?
5 A Oh, yes, Dennis Bennin.
6 Q Spell Bennin.
7 A That is B -- B-e-n-n-i-n.
8 Q Other than Kopitzke, Bray and Bennin have you
9 been involved as an expert witness in any other
10 proceeding?
11 A No, not that I'm aware of at this point. I believe
12 those are the three.
13 Q What counties were those proceedings in?
14 A Two, Kopitzke and Bray, were in Brown County.
15 Bennin, I believe, was this county.
16 Q Outagamie?
17 A I think it's Outagamie. I -- I don't remember
18 exactly. That was over -- I think around 20 years
19 ago.
20 Q What lawyer were you hired by in those cases?
21 A I don't have that record with me at this point.
22 Q The subpoena duces tecum also requested you to bring
23 with you the originals of your records for Kathy
24 Parsons and Brian Daementor. Did you bring those
25 with you?

1 A I have all the records with me. And I'm again going
2 to -- At this particular point in time I was not able
3 to locate Kathy Parsons' original records.

4 Q May I see the records that you brought with you,
5 please?

6 A No. I'm going to object on good faith objection again
7 of the 16 points that I have previously stated -- or
8 wanted to state.

9 Q Well, Doctor, you do agree that your 16 paragraphs of
10 objections taking up three pages of single-spaced type
11 would take a long time to read and you do agree that
12 you've handed them to me?

13 A Yes, as long as we have on record that you have them
14 in your possession.

15 Q So you're not going to -- Are you objecting that you
16 weren't allowed to read them into the record?

17 A I did want to read them into the record.

18 Q Why?

19 A So that I have the record of them. I'm not an
20 attorney. I know -- I was assuming that that would be
21 a very good thing for me to do. But as long as we
22 have the fact that you have them and that I will be,
23 you know -- Today they will be mailed to the other
24 people involved, so I'm okay with that.

25 Q All right. Thank you.

1 Doctor, did you bring with you all of
2 the diplomas, certificates and credentials relating to
3 your training in the use of homeopathy?
4 A Yes.
5 Q May I see those, please?
6 A No. I am going to make a good faith objection to you
7 seeing those as the 16 points previously -- or not in
8 the record. We'll leave it at that.
9 Q Did you bring with you all of the diplomas,
10 certificates and credentials relating to your
11 training in the use of cranial-sacral therapy?
12 A Yes, I did, but I'm going to object again on a good
13 faith objection of the 16 points on the record.
14 Q Did you bring with you the name, address and telephone
15 number of each individual or entity from whom or
16 which you obtained possession of any electro-dermal
17 screening device, any electro-acupuncture according to
18 Voll device, any device for the preparation of any
19 homeopathic remedy and the instruction, operation and
20 maintenance manuals for each such device?
21 A Everything that I could find, yes, but I'm going to
22 object again on the 16 points already in the record.
23 Q Where did you get your homeopathy training?
24 A I am going to object to that on the basis of the 16
25 points that I have in the record already.

1 Q On what basis do you believe that it is inappropriate
2 for me to ask you where you got your homeopathy
3 training?
4 A Because I do not believe you have the authority to be
5 asking these questions.
6 Q Is there any question that I do have the authority to
7 ask?
8 A At this point in time I do not believe there is.
9 Q And what is your basis for your belief that I have no
10 authority in this matter?
11 A The 16 points previously listed.
12 Q And how do those 16 points relate to me specifically?
13 A You are under the authority of the dental board to
14 be doing this and I believe the dental board to be
15 invalid.
16 Q What were you treating Kathy Parsons for?
17 A I'm going to refuse to answer that question under the
18 good faith objections of the 16 points previously
19 listed.
20 Q What were you treating Brian Daementor for?
21 A I am going to object to that on the previous 16 points
22 listed.
23 Q Why do you use chiropractic structural evaluation on
24 your dental patients?
25 A Again -- I again am going to object to that question

1 on the 16-point basis.

2 Q What is the reason that a dentist would do a cranial
3 osteopathic evaluation on a dentistry patient?

4 A I'm again going to object to that question on the
5 basis of the 16 previous --

6 Q I'm simply asking you what a dentist would be doing a
7 cranial osteopathic evaluation of a dentistry patient
8 for. Why is that an objectionable question?

9 A Because I don't believe you have the authority to ask
10 the question. But it is important to know the
11 osteopathic structure of the TMJ jaw area and that's
12 why a dentist would want to know that.

13 Q Why would a dentist do a cranial-sacral adjustment on
14 a dentistry patient?

15 A I am going to object to that question on the 16-point
16 basis before.

17 Q Why?

18 A Because I do not believe you have the authority to ask
19 me that question.

20 Q Why not?

21 A Because it has to do with dentistry and your authority
22 is coming from the Dental Examining Board and I do not
23 believe that that is a valid board and the other 16
24 things listed.

25 Q Other than Mr. Bolen and your secret adviser have you

1 spoken to any person about the basis of the Board's
2 authority?

3 A Do you mean as an advisement or me just telling
4 somebody in a personal conversation that I didn't
5 think the Board was valid?

6 Q The latter.

7 A You mean just the people I've talked to?

8 Q Correct.

9 A Okay. Let's clarify this question a bit. If I state
10 a personal opinion, I am saying on this one I'm going
11 to object on the basis of the 1st, 4th, 5th and 14th
12 Amendments of the Constitution.

13 Q I'm sorry. First, 4th, 5th and 14th?

14 A Yes.

15 Q In what way does telling me names of people that you
16 have spoken with about your personal belief about the
17 Board's authority violate the 4th Amendment to the
18 United States Constitution?

19 A Okay. I will retract that. I will -- I am doing it
20 just on my right of freedom of speech. We'll go with
21 just the --

22 Q In what way does me asking you to whom you have given
23 this opinion violate your right to free speech?

24 A I have the free speech to say to whoever I want to
25 talk to.

1 Q Exactly. And I'm asking you who it was that you spoke
2 with about the Board's authority.

3 A I do not remember.

4 Q In what way does the question violate the 14th
5 Amendment to the United States Constitution?

6 A I'm not sure on the 14th. I was doing all of them as
7 a group together.

8 Q Why?

9 A Because I did not think clearly on what my answer
10 should have been to that and I was trying to
11 cooperate.

12 Q Cooperate with whom?

13 A With you.

14 Q Who provided you the information with which you wrote
15 your 16 objections?

16 A The same adviser.

17 Q You started to say these same. How many advisers do
18 you have?

19 A One.

20 Q Did your adviser tell you the basis for the 5th
21 Amendment objection to this proceeding?

22 A Not specifically.

23 Q Did you inquire of your adviser what the basis was for
24 the 5th Amendment objection to this proceeding?

25 A No, I did not.

1 Q Do you know what the basis of the 5th Amendment
2 objection to this proceeding is?

3 A No.

4 Q Do you know what the basis for the 14th Amendment
5 objection to this proceeding is?

6 A Okay. I'm going to object to the whole line of
7 questioning now because it's still in relationship
8 to my objections.

9 Q Your objection, sir, is that the Board has no
10 authority, and part of the reason that you said the
11 Board has no authority is because of constitutional
12 amendments that you state protect you from providing
13 this information. I'm asking you to tell me the basis
14 for the constitutional argument that you have raised
15 in this matter with regard to the 14th Amendment. Do
16 you know what the basis of your objection relating to
17 the 14th Amendment of the United States Constitution
18 to this proceeding is?

19 A No.

20 Q Why did you place the 14th Amendment objection to this
21 proceeding in your objections?

22 A I believed my adviser.

23 Q Do you know the basis of the objection on the 5th
24 Amendment to the United States Constitution to this
25 proceeding?

1 A I've had knowledge of what that was. I do not recall
2 the specifics at this point.

3 Q At what time did you have knowledge of what the basis
4 of your objection was?

5 A That was a recalling of what that amendment was from
6 years ago.

7 Q When did you have that recollection?

8 A Years ago.

9 Q This proceeding was filed in the last several months.
10 On what basis did you interpose an objection to this
11 proceeding on the basis of the 5th Amendment to the
12 United States Constitution?

13 A On the advisement.

14 Q On the advisement?

15 A Of the person that I have gotten some information
16 from.

17 Q Do you have any knowledge of your own as to the basis
18 for your 5th Amendment objection to this proceeding?

19 A I have limited knowledge.

20 Q What is that limited knowledge?

21 A That our Constitution has the right to protect us for
22 due process, and I believe this whole proceedings here
23 is violating my due process.

24 Q Are you telling me that your 5th Amendment objection
25 is a due process objection?

1 A No. I'm saying the whole thing is and that is just
2 one of the parts of it.

3 Q Perhaps it was my question. What is your basis for
4 objecting to this proceeding on the grounds of the
5 5th Amendment?

6 A Under advisement of my -- He had informed me that this
7 is one of the things that have been violated by this
8 process.

9 Q What information did your secret adviser give you to
10 tell you that your 5th Amendment rights had been
11 violated?

12 A He told me that these 16 points were valid good faith
13 objections.

14 Q Do you know on what basis your adviser was telling you
15 that these were valid good faith objections?

16 A No.

17 Q Did you inquire of your adviser of his basis?

18 A I had asked him that these were valid good faith
19 objections and he assured me that they were based and
20 supported by the U.S. Supreme Court and the State of
21 Wisconsin Constitutions.

22 Q What specific question did you ask him about the
23 constitutional basis for your objection to these
24 proceedings on the 5th Amendment?

25 A I did not ask him anything specifically on that.

1 Q Did you ask him anything specific to the objection
2 that you've interposed on the 14th Amendment?
3 A No.
4 Q On the 4th Amendment?
5 A No. Unfortunately I didn't have a lot of time to get
6 this prepared.
7 Q I note, Doctor, that the objections are almost a
8 carbon copy of your Answer in this proceeding.
9 Correct?
10 A Correct.
11 Q And you had 20 days from the time that the Complaint
12 was filed to file the Answer; correct?
13 A Correct.
14 Q And you've had a further month or so to come up with
15 these objections; correct?
16 A I'm not sure of the exact timing but in basis I will
17 agree with that, yes.
18 Q During the period of time between your receipt of the
19 Complaint and today's date when you handed me these
20 objections what independent research did you do to
21 confirm the basis of these objections?
22 A I had a copy of the State Constitution and I looked
23 through it. Not being an attorney, I can't say I
24 understood everything.
25 Q Is there any portion of the Wisconsin Constitution

1 that you rely on for a -- an objection to this
2 proceeding?

3 A They are listed there as to -- There are some statutes
4 right listed in there.

5 Q Paragraph 3 of your objections states -- cites
6 Sections 227.20(1) through (3) of the State Statutes.
7 What is your understanding of how that relates to the
8 objection that you've interposed?

9 A I do not recall those exact statutes at this point.

10 Q What is the basis of your objection in Paragraph 3
11 for -- that you reference Section 227.21(1) of the
12 statutes?

13 A Again, my adviser had said that those were the
14 statutes that pertain to that particular objection.

15 Q Did you discuss with your adviser the application of
16 those statutes to your objections?

17 A Yes, I did.

18 Q When you discussed this with your adviser did you ask
19 him how they related to -- how those statutes related
20 to your objection?

21 A Yes, I did:

22 Q What did he tell you?

23 A I don't remember.

24 Q When did you have this conversation with your
25 adviser?

1 A I don't remember the specific date of that either.

2 Q Approximately when did you have this conversation with
3 your adviser?

4 A Within the last month.

5 Q You had this discussion with your adviser after the
6 time you filed your Answer to this matter?

7 A I don't really recall exactly the date.

8 Q What is the basis for your objection in Paragraph 9
9 that the Dentistry Examining Board cannot allege that
10 you have violated 21 CFR Part 800 et. seq. -- 21 CFR
11 Part 800?

12 A My understanding is that that is a federal regulation
13 and can only be considered and enforced by a federal
14 agency or court. To force me to defend myself against
15 a federal regulation where the Dental Examining Board
16 has no jurisdiction or authority is another violation
17 of my due process, again, under the 5th and 14th
18 Amendments to the U.S. Constitution and equivalent
19 provisions of the United States (sic) Constitution.
20 In addition, this is overcharging in the Complaint and
21 causes the entire Complaint to be fatally defective or
22 void.

23 Q You understand -- Are you aware that violation of
24 a related law to the practice of dentistry is a
25 violation of the Wisconsin Statutes related to the

1 practice of dentistry?

2 A I am not aware of that.

3 Q Have you discussed with your secret adviser the
4 application of other laws that dentists are
5 required to comply with to the Wisconsin rules and
6 regulations?

7 A Not specifically.

8 Q Why not?

9 A I just didn't.

10 Q Did your secret adviser inform you that your conduct
11 as a licensee of the Dentistry Examining Board also
12 requires you to obey laws related to the practice that
13 aren't in the dentistry code?

14 A No.

15 Q Knowing that your adviser didn't tell you that you
16 are required to obey laws outside of the Dentistry
17 Examining Board, do you still believe that your secret
18 adviser is competent to provide you legal advice?

19 A Yes.

20 Q Why?

21 A It is my belief.

22 Q What is the basis of that belief?

23 A It is based on my experience.

24 Q What experience do you have that supports that
25 belief?

1 A Having done depositions in the past.

2 Q At the time you did the depositions -- Are we talking
3 about Kopitzke, Bray and Bennin?

4 A Correct.

5 Q At the time you did those depositions were you
6 represented by legal counsel?

7 A Was I represented by legal counsel?

8 Q Were you represented by legal counsel?

9 A No.

10 Q Were the parties that you were testifying for
11 represented by legal counsel?

12 A Yes.

13 Q Did you have discussions with legal counsel about the
14 law?

15 A These were 15, 20 years ago. I can't recall specifics
16 on that.

17 Q Other than experience of 15, 20 years ago that you
18 don't recall do you have any basis for your belief
19 that these are appropriate, valid, legal?

20 A My general life experiences.

21 Q What general life experiences have you had that lead
22 you to believe that these are good faith valid
23 objections?

24 A I believe this man is telling me the truth.

25 Q Why do you believe that this secret adviser is telling

1 you the truth?

2 A Because I believe that.

3 Q You don't know what he does for a living?

4 A I do not know entirely what he does for a living.

5 Q You don't know what his training is?

6 A No.

7 Q You don't know what his occupation is?

8 A Not entirely, no.

9 Q You don't know where he is?

10 A Yes, I do. I just don't have that information with me.

11 Q What city is he located in?

12 A It is outside of Dallas, a little suburb outside of

13 Dallas.

14 Q Name the suburb, please.

15 A I don't remember right now.

16 Q Do you contend that your refusal to provide any of the

17 documents and information requested in the subpoena

18 duces tecum is cooperation with the Board?

19 A Yes, I do.

20 Q On what basis do you contend that refusal to provide

21 the information which you were subpoenaed to provide

22 is cooperation?

23 A The Supreme Court cases Mass -- Maness versus Meyers

24 and Kastigar versus U.S. states that in these

25 proceedings I have to do one of two things, answer

1 the questions or give proper good faith objections.

2 Q What are those cases, please?

3 A I'm sorry?

4 Q Cases, please, the names?

5 A Maness.

6 Q Spell it.

7 A M-a-n-e-s-s versus Meyers, M-e-y-e-r-s.

8 Q And what's the citation for that?

9 A I don't know.

10 Q Did you read the case?

11 A No.

12 Q On what basis do you believe that the case applies?

13 A Because this is what -- the information that I had

14 gotten from this adviser.

15 Q What was the other case?

16 A Kastigar --

17 Q Spell that, please.

18 A K-a-s-t-i-g-a-r versus U.S.

19 Q And what's the citation on that?

20 A Again, I don't have that.

21 Q What's the date for either one?

22 A I don't have that information either.

23 Q What court were they in?

24 A I don't have that information.

25 Q Do you know that the -- there were cases by these

1 names?

2 A I believe that to be true.

3 Q Did you check to see if your adviser was making this
4 up?

5 A No, I did not check to see if he was making this up.

6 Q Why not?

7 A Because I only got these cases from him because I
8 expected you might ask this question, and I received
9 them just recently and I didn't feel that it was a
10 need to do that because I trust him.

11 Q You have no idea what court these were from?

12 A No, I do not.

13 Q And you have no idea how old they are?

14 A No, I do not.

15 Q You have no idea what area of law they relate to?

16 A No, I do not.

17 Q So you're not going to answer any questions about how
18 you practice dentistry?

19 A Not at this point.

20 Q And you're not going to answer any questions about
21 what you did for Brian Daementor or Kathy Parsons?

22 A I am going to give my good faith objections to those
23 types of questions.

24 Q And your good faith objections are the ones that we've
25 discussed?

1 A Correct.

2 Q You don't know the basis for them but you believe them
3 to be true?

4 A I understand the basis for them being -- having to
5 do with the due process of my rights. That is my
6 understanding of them.

7 Q But other than that you have no knowledge of how they
8 relate to this proceeding?

9 A The word includes -- I would say I have very -- that I
10 have knowledge, but I can't say that I have complete
11 knowledge by any means.

12 Q You're not going to tell me anything about your
13 training as a dentist?

14 A I am going to give proper good faith objections to
15 those questions.

16 Q Where did you graduate from dentistry school?

17 A Marquette University.

18 Q When?

19 A 1978.

20 Q In your training as a dentist at Marquette University
21 did you have any training in homeopathy?

22 A No.

23 Q In your training at Marquette in dentistry did you
24 have any training in the use of an electro-acupuncture
25 machine?

1 A No.

2 Q In your training at Marquette did you have any
3 training in cranial manipulations?

4 A We had the science basis of cranial bones but not in
5 the cranium manipulation procedure itself.

6 Q And the training that you had at Marquette indicated
7 that by the time a person had reached adolescence the
8 cranial bones had fused; correct?

9 A Yes.

10 Q Did you have any training at Marquette in
11 sacral-occipital adjustment?

12 A No.

13 Q Did you have any training at Marquette in balancing
14 organs?

15 A No.

16 Q Did you have any training at any other time about
17 balancing organs?

18 A Define balancing organs.

19 Q Did you have any training at any time in acupuncture?

20 A At any time?

21 Q At any time.

22 A Again, define what you mean by acupuncture.

23 Q Are you familiar with the term "acupuncture"?

24 A I'm familiar with the term "acupuncture."

25 Q Have you had any training in any procedure which you

1 understand to fit under the term "acupuncture"?

2 A Yes.

3 Q When did you have that training?

4 A I don't recall the specific dates on that.

5 Q Where did you have the training?

6 A I don't recall where that was either.

7 Q Did you receive any diploma or certificate or

8 credential as a result of that training?

9 A I am now going to object to that question.

10 Q Where might you have had training in acupuncture?

11 A That is a hypothetical. I do not remember.

12 Q Have you had training in acupuncture in any place

13 other than the state of Wisconsin?

14 A Yes.

15 Q What other places other than the state of Wisconsin

16 did you have training in acupuncture?

17 A I don't remember where that was.

18 Q Was it in the United States?

19 A Yes.

20 Q And was it in the last five years?

21 A I don't recall specific dates.

22 Q Was it before you started treating Kathy Parsons?

23 A I don't remember.

24 Q Was it during the time you were treating Kathy

25 Parsons?

1 A I don't remember.

2 Q Was it before you treated Brian Daementor?

3 A I don't remember.

4 MR. POLEWSKI: Daementor, by the way,
5 D-a-e-m-e-n-t-o-r.

6 Q (By Mr. Polewski) When did you receive your training
7 in massage therapy?

8 A I believe that was either in 1999 or 2000.

9 Q Where did you receive that training?

10 A Fox Valley School of Massage.

11 Q Did you receive any credentials as a result of that?

12 A Would you define credentials more specifically.

13 Q Certificate, diploma, piece of paper saying you -- you
14 done -- did it.

15 A It's on record that I did graduate from the course,
16 yes.

17 Q Where is that record?

18 A I am -- I'm actually not sure at this point.

19 Q Did you bring a copy of the credential with you?

20 A I thought I grabbed it, but I'm not sure.

21 Q Can I see it, please?

22 A No.

23 Q Why not?

24 A Because I'm going to object again that you don't have
25 the authority based on my 16 previous points to ask me

1 that.

2 Q Can you tell me what the autonomic system is?

3 A In reference to the body?

4 Q Yes.

5 A Are you referring to the autonomic nervous system?

6 Q Yes.

7 A Okay. It is part of the electrical nervous system of

8 the human body.

9 Q What does it do?

10 A Regulates functions in the body.

11 Q What functions does it regulate?

12 A It regulates so many functions of the body I don't

13 know how you could possibly expect me to list all of

14 them.

15 Q Does it regulate automatic functions of the body like

16 breathing and heartbeat or willful functions like

17 motion?

18 A The involuntary functions of the body.

19 Q What is soma?

20 A Without a medical dictionary here I couldn't give you

21 the exact definition.

22 Q Generally speaking what is it?

23 A I'm actually blanking on a good definition for you.

24 I'm --

25 Q Why did you prescribe it for Kathy Parsons?

1 A I'm going to object to that question on the basis of
2 the 16 previous objections.

3 Q Why did you give Kathy Parsons the use of your Interro
4 machine?

5 A I'm going to object to that question on the basis of
6 the 16 previously entered objections.

7 Q What homeopathics would you -- homeopathic remedies
8 would you prescribe for bone loss?

9 A Without the reference books I couldn't give you all
10 of them, and I don't routinely at this point prescribe
11 the homeopathics specifically for bone loss.

12 Q What are some of the homeopathics that you would
13 prescribe for bone loss?

14 A I'm going to object to this whole line of questioning
15 again on the basis that -- of the 16 previously
16 entered.

17 Q Where did you get your training in the use of
18 electro-acupuncture according to Voll?

19 A I again am going to object to this question on the
20 16 things previously stated.

21 Q When did you get your training in electro-acupuncture
22 according to Voll?

23 A It was over many years. I don't remember.

24 Q It was over many years? I didn't hear your -- your
25 answer.

1 A Yes. I've had training in many years -- or through
2 the years.

3 Q When was your most recent training in EAV?

4 A I don't remember.

5 Q When did you first get training in electro-acupuncture
6 according to Voll, V-o-l-l?

7 A I don't remember.

8 Q With whom have you trained?

9 A Again, I'm now going to object to this whole line
10 of questioning on the basis of the 16 previously
11 entered.

12 Q When you consulted with your secret adviser did this
13 adviser tell you that refusal to answer questions or
14 provide discovery could result in sanctions against
15 you in this proceeding?

16 A Please define sanctions against me.

17 Q Could result in finding that your failure to produce
18 discovery might result in the Complaint being accepted
19 as true and a default judgment being entered against
20 you.

21 A Yes.

22 Q He told you this?

23 A Yes.

24 Q That's a risk that you are willing to bear in refusing
25 to provide the information requested?

1 A Yes.

2 Q And the reason you are willing to bear that risk is
3 because your adviser told you to?

4 A No.

5 Q What is the reason you're willing to bear that risk?

6 A Because I believe that these are valid points.

7 Q And the basis for your belief that these are valid
8 points is that your adviser told you they were?

9 A Yes.

10 Q And you have no other basis for believing that?

11 A My personal experiences through life.

12 Q Is there any information that was requested in the
13 subpoena duces tecum which you are willing to provide
14 to me at this time?

15 A Now I will give good proper -- proper good faith
16 objections to it all. As you bring up each point
17 I'm -- I'm willing to look at each point, but --

18 MR. POLEWSKI: Thank you. We're done.

19 * * *

20 (Exhibit 1 marked for identification.)

21 * * *

22 (Which concluded the deposition of
23 RICHARD L. VANDER HEYDEN, D.D.S. at 10:55 a.m.)

24 * * *

25

1 STATE OF WISCONSIN)
2 OUTAGAMIE COUNTY) SS

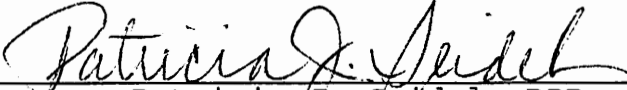
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I, Patricia J. Seidel, a Notary Public in and for the State of Wisconsin, do hereby certify that the deposition of RICHARD L. VANDER HEYDEN, D.D.S., was taken before me on the 25th day of February, 2004, at the Outagamie County Justice Center, Branch 7 Jury Room, 320 South Walnut Street, Appleton, Wisconsin.

That before said witness testified, he was first duly sworn to testify the truth, the whole truth, and nothing but the truth relative to said cause.

That the foregoing proceedings are true and correct as reflected by my original machine shorthand notes taken at said time and place.

Dated at Appleton, Wisconsin,
this 18th day of March, 2004.


Patricia J. Seidel, RPR
Notary Public, State of Wisconsin
My commission expires: 7/29/07