

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. L-4951-93

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FELICIA EPSTEIN and NEIL *
EPSTEIN, her husband, *
 *
 * Plaintiffs, *
 *
 - vs - *
 *
 STEVEN J. RESNICK, D.D.S., *
 RESNICK & PRAGGER, MOMORT *
 PHARMACY, et al., *
 *
 * Defendants. *
-----x

CIVIL ACTION
Deposition of:
ALVIN H.
ARZT, D.D.S.

T R A N S C R I P T of the stenographic
notes of the proceedings in the above-entitled
matter, as taken by and before ANTHONY HOFMANN, a
Certified Shorthand Reporter and Notary Public of
the State of New Jersey, held at the offices of
BLEJWAS, KNAPP & SCHACHTELE, ESQS., 33 Wood Avenue
South, Iselin, New Jersey on Thursday, October 19,
1995, commencing at approximately 1:00 in the
afternoon, pursuant to notice.

SCHULMAN, CICCARELLI & WIEGMANN
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I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

ALVIN H. ARZT, D.D.S.

By: Mr. Konray 4

E X H I B I T S

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(The time is now 1:15.)

A L V I N H . A R Z T , D.D.S. , located at 2
Learning Lane, Levittown, Pennsylvania,
is duly sworn by a Notary Public of the
State of New Jersey and testifies under
oath as follows:

DIRECT EXAMINATION BY MR. KONRAY:

Q Good afternoon, Dr. Arzt, my
name is Roy Konray. I am an attorney and I
represent the plaintiffs in this matter.

We are here today to take your
deposition. I assume you have been deposed on
numerous occasions in the past, is that correct?

A Yes.

Q About how many times would you
say you have been deposed in your life?

A Eight to ten times.

Incidentally, I had some periodontal
surgery. If you can't understand what I am
saying, please feel free to ask me again because I
might be a little muffled.

Q Dr. Arzt, are you still in
private practice?

A Yes.

1 Q Approximately how many hours a
2 week do you practice dentistry where you actually
3 have patients that you are treating?

4 A Up about 20 to 30 hours a week.

5 Q For about how long has it been
6 that you have been treating patients for roughly
7 20 to 30 hours a week?

8 A Only for the last two years. Prior to
9 that I was probably about 40 hours a week.

10 Q What happened in the last two
11 years?

12 A The last two years I have been cutting
13 down on my private practice and my practice has
14 been sold. So I am now an employee working for
15 someone else.

16 Q Who do you work for?

17 A I work for a Dr. Nallin, N-a-l-l-i-n;
18 Patel, P-a-t-e-l.

19 Q What type of work do you do for
20 him?

21 A I do general practice of dentistry.

22 Q Do you currently or have you
23 ever held yourself out as an endodontist?

24 A No.

25 Q Do you still do endodontic

1 treatment to teeth?

2 A Yes.

3 Q Do you still use in your
4 practice paraformaldehyde containing pastes?

5 A Yes, I do, but it is becoming more
6 popular. So it is now even in conventional
7 materials.

8 Q What conventional materials are
9 you referring to that you now can find
10 paraformaldehyde containing materials?

11 A AH26 Foromo-cresol, that is one form.
12 Foromo-cresol and others might have it, I am not
13 sure right now.

14 Q What is AH26?

15 A It's a root canal cement or seal that is
16 imported from Switzerland.

17 Q Can you buy that in an ordinary
18 dental supply house?

19 A Yes.

20 Q Would that be a dental supply
21 house in the United States?

22 A Yes.

23 Q That is an endodontic sealer?

24 A Yes.

25 It's now under another name, by the way.

1 They came out with Thermoseal. It's the same
2 material so now they're producing it under two
3 names, Thermoseal.

4 Q What company is producing that?

5 A Thermoseal comes out of the Tulsa Dental
6 Company. I am not sure whether it is incorporated
7 or whatever.

8 And AH26 is coming from -- I am not sure
9 who imports it, but it is sold and distributed by
10 dental supply companies.

11 Q What is the difference between
12 what is traditionally called Sargenti Paste and
13 AH26?

14 A They are two different materials. AH26
15 is a resin material that produces paraformaldehyde
16 and the Sargenti Cement -- by the way, it is not a
17 paste or sealer. It has 6.5 percent
18 paraformaldehyde put in.

19 Q How is that different than the
20 AH26?

21 A I am not sure of the percentage that it
22 produces. It may be a lower amount to much more.

23 I don't think it has ever been analyzed
24 of what percentage of paraformaldehyde it
25 produces.

1 Q Do you know the FDA's position
2 on AH26?

3 A Yes.

4 Q What is their position?

5 A It is not approved and it is being
6 permitted in the United States.

7 But the FDA has said that they would be
8 investigating it because there was a complaint
9 against it being imported without an NDA, new drug
10 application.

11 Q What is the FDA's position on
12 Thermoseal?

13 A That I don't know. I would assume it
14 would be the same since they're both the same
15 materials under two different names. But I am
16 only assuming.

17 I don't know, I am not part of the FDA.

18 Q Do you know of any dental
19 school in the United States that now or at any
20 time in history has ever recommended the use of
21 AH26?

22 A USC now includes it as part of their
23 curricular.

24 I would say and I haven't -- this is only
25 hearsay, but I would say most dental schools are

1 now including it as part of a traditional
2 material.

3 Q AH26?

4 A Yes. That is what you asked me about,
5 isn't it?

6 Q Yes.

7 Do you know of any -- first of all, are
8 you affiliated with any dental school at the
9 present time?

10 A In what capacity?

11 I'm past president of the Temple
12 University Dental Alumni Association.

13 Q Other than that, are you
14 affiliated with any dental school at the present
15 time?

16 A No.

17 Q Do you know if Temple
18 University Dental School recommends or teaches the
19 use of AH26 as an endodontic sealer?

20 A I am not familiar with their teaching at
21 this present time.

22 Q So the only school you know of
23 at the present time that has AH26 in its
24 curriculum would be USC and I assume that stands
25 for University of Southern California, correct?

1 A Correct.

2 Q Do you know where their dental
3 school is located?

4 I believe they have several campuses.

5 A No, I don't. It may be -- I don't -- I
6 think there is only one dental school.

7 Is there more than one dental school?

8 Q That I don't know.

9 Do you know of any dental school that
10 teaches the use of Thermoseal other than possibly
11 USC?

12 A I have not kept up with the curricular of
13 the endodontic departments.

14 Q Do you know of any peer-review
15 literature -- do you know what peer-review
16 literature is?

17 A Yes.

18 Q Do you know of any peer-review
19 literature that recommends the use of Thermoseal
20 or AH26?

21 A I brought an article along showing some
22 of the complications from AH26, but I don't know
23 who is teaching it.

24 I'm sure there is a lot being taught
25 because it is all over the dental conventions.

1 They now have AH26 on the counters being sold so
2 obviously it wouldn't be up for sale unless it was
3 becoming a popular material.

4 Q When you say, "the dental
5 conventions," are you talking conventions
6 sponsored by the American Dental Association?

7 A That's one of them. The New York Dental
8 Association, New Jersey Dental Association and
9 meetings that they have.

10 Q Do you know the position of the
11 American Dental Association regarding the use of
12 paraformaldehyde containing cements?

13 A Yes.

14 Q What is their position?

15 A Their position as far as paraformaldehyde
16 is waiting for it to have further testing by the
17 Food and Drug before they come to any conclusion.

18 Getting back to the question, what is the
19 ADA's position on the use of the paraformaldehyde
20 cements, am I correct?

21 Q Yes.

22 A The ADA previously came out with their
23 council on dental therapeutics and said since it
24 is being used so readily in the United States,
25 that they are not basing any opinion on whether it

1 should be used or not be used.

2 Recently they changed their opinion and
3 said more testing and they are leaving it up to
4 the dentist to make the decision.

5 Q Did they issue a position paper
6 on that?

7 A Yes, I believe they did.

8 Q Do you have it with you?

9 A I don't have the ADA's position paper,
10 no.

11 Q Do you know the position of the
12 New Jersey Dental Association on the use of the
13 paraformaldehyde containing cements?

14 A I don't believe they have a position.

15 Q You mention that you brought
16 some articles with you and we will take a look at
17 those in due course.

18 My question to you though is this: Do
19 you know of any peer-review publications that
20 recommend the use or approves the use of
21 paraformaldehyde containing cements?

22 A Would you define peer-review
23 publications? Will you define what peer-review --

24 Q Tell me what your understanding
25 of peer-review publication is?

1 A I'm not sure. Peer-review means that the
2 publications have been reviewed by some dentists
3 and then -- who are on their publication board and
4 then will publish whatever the article would be,
5 is that correct?

6 Q Yes.

7 They have a formal panel that it has to
8 go before to make sure the scientific testing is
9 done in a right and proper way.

10 A I don't think there is any publication
11 that does that in the United States.

12 From my investigation there isn't any
13 dental publication that reviews an article to make
14 sure that the article has been, as you say, done
15 right or the testing has been done right.

16 There is only one organization that
17 oversees any kind of research to make sure it is
18 done right and that is the United States Food and
19 Drug Administration.

20 Q The United States Food and Drug
21 Administration prohibits the sale of
22 paraformaldehyde containing cements in interstate
23 commerce, correct?

24 A Wrong. Only above five grams, then it
25 would be considered sale under five grams. It can

1 be used and made by pharmacists for interstate by
2 prescription.

3 Q Interstate?

4 A Interstate.

5 Q Between states?

6 A Between states.

7 Q Have you ever seen any written
8 materials from the FDA saying that it is
9 permissible to sell paraformaldehyde containing
10 cements in interstate commerce if it is less than
11 five grams?

12 A First of all, the article -- the
13 statement which I have seen does not say, "sale."

14 It is for prescribing paraformaldehyde
15 containing cements with five grams or less for
16 interstate as being tolerated by the FDA or being
17 permitted.

18 Q Do you have such a document
19 with you?

20 A No, I don't, but I saw it recently.

21 Q Would you be able to locate it
22 for us?

23 A I believe you can obtain a copy from the
24 American Dental Association. That is the copy
25 that I saw.

1 It was a letter from the American Dental
2 Association confirming this article.

3 Q Are you sure that the FDA said
4 that it was legal to sell that amount in
5 interstate commerce or did it say that you could
6 sell less than five grams in intrastate?

7 A Are you questioning my answer?

8 Q Yes, I am questioning the
9 certitude with which you hold your position.

10 A Yes, it says interstate, but I can write
11 a prescription as a Pennsylvania dentist in New
12 Jersey and the pharmacy in New Jersey could send
13 it to a patient of mine in Pennsylvania even
14 though that patient is using a New Jersey
15 pharmacy.

16 So interstate means from one state to
17 another. By law dentists are licensed to practice
18 and write prescriptions and it does not define
19 intrastate as part of the licensing.

20 Q Your license to practice
21 dentistry is granted by state rather than
22 nationally, correct?

23 A There are national boards now that --
24 regional boards that many states will recognize
25 other states, a neighboring state's licensing.

1 In other words, New Jersey, Pennsylvania,
2 New York and I believe Ohio and I am not sure of
3 the full limit of states, but we are all included
4 in that boundary.

5 Q Doctor, you are licensed to
6 practice dentistry, correct?

7 A Yes.

8 Q Where?

9 A Pennsylvania.

10 Q Anywhere else?

11 A I have not obtained another license, but
12 my license -- my credentials are recognized in
13 some of the states that I have just outlined.

14 Q So it would be easier for you
15 to apply to become a dentist in New Jersey, for
16 example, than someone just graduating from dental
17 school?

18 Is that what you are telling me, is that
19 correct?

20 A I don't know about being easier, but I
21 could probably obtain a license by credentials
22 without having to take new state boards.

23 Q Does the FDA require that
24 prescriptions for paraformaldehyde containing
25 cements be patient specific?

1 In other words, you can't send in a
2 prescription, one prsscription and then use it for
3 five different patients?

4 That it's supposed to be one prescription
5 for each patient, would you agree with that?

6 A Yes.

7 Q That is an FDA requirement,
8 correct?

9 A I don't know the FDA requirements.

10 Q Does the standard of care for
11 performing root canal therapy require that a
12 patient have irreversible pulpitis?

13 A Could you repeat that?

14 Q Does the standard of care for
15 performing root canal therapy require that before
16 you are to perform it, you make a finding that the
17 patient has irreversible pulpitis?

18 A No.

19 Q What is the standard of care as
20 to when it is appropriate to perform root canal
21 therapy?

22 A There is many, many criteria on when you
23 would be doing a root canal on a tooth.

24 Q Tell me what they are?

25 A One would be if you're going to perform a

1 crown on a tooth that has a large restoration and
2 there is a possibility of future pulpitis
3 developing. Even if at that present time the pulp
4 may be normal, it is good procedure to do the
5 crown after you have done a root canal. There is
6 no pulpitis involved at that time.

7 Q If you have a tooth that does
8 not have pulpitis, it's a vital tooth, correct?

9 Are you talking about a vital tooth that
10 does not have pulpitis?

11 A You are doing the questioning, you
12 brought up pulpitis.

13 Which way are you relating pulpitis?
14 You're saying -- pulpitis is not necessarily
15 irreversible, by the way. Pulpitis can be
16 reversible.

17 Q There is both types, there is
18 irreversible pulpitis and reversible pulpitis,
19 correct?

20 A Correct.

21 Q Other than when a patient has
22 irreversible pulpitis, what are other situations
23 where it is appropriate to perform a root canal
24 treatment?

25 A Pulpitis is only a symptom, but there may

1 be an area that has developed at the apical region
2 or through X-ray review it looks like there is
3 some deterioration, thickening of the lamina dura
4 which is the lining around the tooth.

5 If a crown is going to be made or that
6 tooth is to be used for construction of a bridge,
7 then a root canal might be in order.

8 Q Can you think of another
9 situation where it would be in order?

10 A Trauma. If a tooth has been evulsed,
11 knocked out of the mouth, it's been reimplanted
12 and there is no pulpal, visual pulpal changes, but
13 a root canal would probably be in order for that
14 tooth.

15 Q So you have told us three
16 different situations.

17 One where the tooth has been evulsed; one
18 where there is irreversible pulpitis and one where
19 you are performing a crown and -- did I leave one
20 out?

21 One where there was a thickening of the
22 lamina dura. Other than those situations, are
23 there any other indications?

24 A There probably are more that I can't
25 recall at this time.

1 Q But you can't recall any right
2 now?

3 A No.

4 Q What problem was Felicia
5 Epstein having that required root canal treatment?

6 A I'd have to go back to the records.

7 Q Please take your time, whatever
8 you want to refer to, do it?

9 A You would have to -- also with the
10 records, you would have to correlate them with the
11 X-rays which I don't have here now.

12 Q Have you reviewed the X-rays in
13 this case?

14 A Yes, I have. I believe Mr. Blejwas has
15 all the X-rays by now.

16 The root canal was performed on Ms.
17 Epstein on 10/19/89. One, I don't see it here on
18 the symptoms at that time. I don't see it on the
19 records. It may have been in a deposition of Dr.
20 Resnick when he explained what the reason was for
21 his performing the root canal.

22 Q So sitting here today you don't
23 know why he did a root canal?

24 A No, I would not say that. If you want to
25 take the time so I can look through that, I could

1 do that for you. I do not have them right here at
2 this deposition.

3 From what I can see if I can remember,
4 the root canal was done because it was the
5 treatment of choice.

6 Q What does that mean, "the
7 treatment of choice"?

8 A Well, either that or extraction.

9 Q So does that mean the tooth had
10 irreversible pulpitis?

11 A Well, in your definition of irreversible
12 pulpitis I would say, yes. But it could have been
13 even beyond that.

14 A pulpitis is an inflammation of pulp.
15 It could also be in a state of gangrenous pulp
16 which is beyond the state of pulpitis, it becomes
17 non-vital. There are other stages besides
18 pulpitis.

19 Q Do you know if she had
20 gangrenous pulpitis?

21 A Right now I don't know unless I was to go
22 through all these records.

23 Q Doctor, today is the day.

24 MR. BLEJWAS: If I may, Mr.
25 Konray. I wasn't aware that there was an

1 allegation here that there was a
2 misdiagnosis or that the root canal
3 therapy itself was in issue.

4 You submitted a report
5 indicating the use of Sargenti Paste was
6 the issue. You are now exploring an
7 entirely different line of questioning
8 which this expert has not been asked to
9 address.

10 Unless you wrap it up soon, I
11 will object to any questioning in that
12 regard.

13 BY MR. KONRAY:

14 A I would say here, this is Felicia
15 Epstein, "I originally called Dr. Resnick's office
16 because I was experiencing tooth pain. Told me
17 the tooth was" -- he just explains after the root
18 canal, but she was calling because she was in
19 pain.

20 I don't know if that is associated with
21 the pre or the post at this time. I don't know
22 what her answers are as far as that goes, what
23 date it relates to.

24 There doesn't seem to be anything in the
25 records here that I have before me now that

1 indicate what symptoms were that necessitated the
2 root canal.

3 Q There's one instruction I
4 didn't give you at the beginning, but when I use
5 terms, don't guess at what I mean. I want you to
6 assume I mean the ordinary meaning to a dentist.

7 So when I asked you a question about
8 irreversible pulpitis, you said something along
9 the lines of irreversible pulpitis as you mean it.

10 I don't want it as I mean it. I want it
11 as it is commonly understood by dentists. If I
12 misuse terminology, if dentists don't have the
13 term irreversible pulpitis or any other term I use
14 or I mispronounce a term so badly that you are not
15 sure what I mean, please tell me that you don't
16 understand the term. Tell me if I am using
17 terminology that is not a term that dentists use.

18 Can we have that understanding for the
19 rest of the questions?

20 A All I asked you was to clarify what the
21 question was.

22 Q I just want to make it clear if
23 I misuse terminology or you are not sure of what
24 is meant by it, tell me, okay?

25 A Okay.

1 MR. BLEJWAS: I would disagree
2 with you to the extent that you tell him
3 he has to answer it if he doesn't
4 understand your use of the term.

5 If you're using a term that he
6 is not sure if he understands your
7 question --

8 MR. KONRAY: Then I want him to
9 tell me.

10 MR. BLEJWAS: That is what he
11 did. I think your instruction to him
12 suggests that is not what he was doing.

13 That is very clear what he was
14 doing is making sure he understood the
15 question which was asked by you.

16 My instruction is for him to
17 understand before he answers any
18 question.

19 BY MR. KONRAY:

20 Q Was any pulpal testing done, to
21 your knowledge, according to the records prior to
22 the performance of the root canal?

23 A I don't have the records of Dr. Resnick,
24 what he did for his diagnosis. There is nothing
25 indicated on the records because --

1 Q That was my question, do the
2 records indicate that?

3 A No.

4 Q Do the records indicate any
5 thermal testing for hot or cold be done --

6 A No.

7 Q -- or was done?

8 Do the records or deposition testimony of
9 Dr. Resnick indicate that any percussion testing
10 was done on the suspected tooth?

11 A The records don't indicate it, but the
12 patient was indicating she was experiencing pain.

13 So if Dr. Resnick was following all the
14 procedures as we do for a root canal, then these
15 were probably done.

16 But many dentists do not record them
17 unless they have one of the new charts that we
18 have just formed to help them get through these
19 procedures.

20 Q When you said there is a
21 standard procedure that is done --

22 A Yes.

23 Q -- what is that standard
24 procedure?

25 A Standard procedure would be to listen to

1 the patient's complaints such as up all night,
2 pain, hot or cold, can't chew on the tooth, mostly
3 objective type of results.

4 Then there would be what the dentist
5 would do such as thermal testing, percussion,
6 tapping of the tooth, X-rays of course. Then
7 putting all these together, you can come to the
8 conclusion of how large a restoration was in there
9 prior to this treatment.

10 A large restoration is if the anatomy
11 changes after the X-rays whereby there is
12 thickening of the areas around the apex of the
13 tooth, is there any visual signs of a cracked
14 tooth or cracked root. Then putting these
15 altogether most dentists will then come to their
16 diagnosis.

17 Many of them do not record this because
18 they accept it as part of the standard of what
19 they would do before doing a root canal.

20 Q Are there electrical
21 instruments that can test for pulpal vitality?

22 A Yes, there is pulp tests which are not
23 used in a great percentage of cases today. They
24 are used as sort of an -- if there is question on
25 whether a tooth is vital or non-vital, a pulp test

1 might be brought in.

2 Q Have you ever discussed this
3 case with Dr. Resnick?

4 A No.

5 Q Have you ever met Dr. Resnick?

6 A I don't remember him. He may have been
7 present when I gave the seminar on this thing and
8 he might have been introduced to me, but
9 individually I do not know who he is.

10 Q Is it your understanding that
11 Dr. Resnick used a paraformaldehyde containing
12 cement on Felicia Epstein's tooth number 18?

13 A Yes.

14 Q Can periodontal problems cause
15 pulpitis?

16 A Yes.

17 Q Does the standard of care
18 require a dentist to probe for possible
19 periodontal origin of pulpitis?

20 A This standard of care is mainly popular
21 in the last two years. Before that it was a
22 matter of choice of the practicing dentist.

23 Q Is gingivitis a periodontal
24 problem?

25 A Yes.

1 Are you classifying the periodontal
2 problem as the main source?

3 You say, "gingivitis." Gingivitis as an
4 irritation may not develop into a periodontal
5 problem.

6 Q What is the difference?

7 You said, "gingivitis may not develop
8 into a periodontal problem"?

9 A A full periodontal -- periodontal is
10 defined as the tissue surrounding the tooth.
11 Gingivitis is an inflammation of the gums.

12 The inflammation of the gums may be due
13 to scratching by a toothbrush or scratching with a
14 tooth pick. If you scratch with a tooth pick and
15 you develop a gingivitis, it may have no
16 relationship to a periodontal problem. Then
17 again, it may be the early signs of a periodontal
18 problem.

19 Q Did the X-rays of Felicia
20 Epstein's tooth number 18 show any evidence of
21 endodontic disease?

22 A As far as I can remember on the preop
23 X-rays -- I was thinking of the anatomy of the
24 tooth, but as far as the disease, I do not believe
25 there was any actual apical, periapical breakdown.

1 Q So there was nothing on the
2 X-ray that showed endodontic disease, correct?

3 A Endodontic disease does not always show
4 up on an X-ray.

5 Q I understand that. I'm just
6 trying to find out if in this particular case the
7 X-ray of tooth number 18 showed any evidence of
8 endodontic disease.

9 A The only time you might see endodontic,
10 as you define endodontic, disease or pulpal
11 disease that has reached the periapical region is
12 when the tooth has been undergoing irreversible
13 changes for a period of time, either chronic or
14 acute, and the periapical region is now beginning
15 to break down or show signs of inflammation or
16 abscess.

17 Q What I am trying to find out in
18 this case is whether or not the X-rays showed any
19 evidence of endodontic disease.

20 MR. BLEJWAS: I just object to
21 the foundation. I am not so sure it's
22 been established that he has actually
23 seen Dr. Resnick's pre-root canal
24 treatment X-rays in this case.

25 Q Did you see Dr. Resnick's

1 pre-root canal X-rays?

2 A If you're talking about pre-root canal
3 X-rays on the day of the treatment, no.

4 I have seen the X-rays from previous. I
5 believe it was a year or two prior. I did not see
6 the immediate preop.

7 Q Do you know if he took
8 immediate preop X-rays?

9 A You will have to check his records.

10 Q Do you have them in front of
11 you?

12 A No.

13 Q Could you get them?
14 I think you'd be better at checking them
15 than I would.

16 A As far as this record, there is no
17 indication of X-rays at any time being taken. It
18 would have to be coming from the X-ray file to
19 see.

20 I don't think there is any X-ray -- there
21 is nothing indicating any X-rays on any of the
22 files from any of the doctors that I reviewed
23 showing that they have taken X-rays.

24 The only thing is if we went to the X-ray
25 file, I could tell you which would be the preop

1 X-ray. It should be dated probably about 10 --

2 Q Here's one dated 10/11/91. It
3 looks like number 18.

4 MR. BLEJWAS: Just for the
5 record, you have the originals of Dr.
6 Resnick's X-rays, is that correct?

7 MR. KONRAY: Yes, they
8 certainly appear to be originals.

9 THE WITNESS: This is a copy
10 also.

11 BY MR. KONRAY:

12 Q That is a copy?

13 A Yes.

14 Q I take it back then, I don't
15 have the originals. I can't tell by looking
16 whether it's a copy or the original.

17 A That is a copy. Those are copies there.
18 What I see on looking at this X-ray of tooth
19 number 18 of 10/11/91, it reveals that tooth
20 number 18 has a large restoration in there that is
21 obliterating part of the pulpal chamber.

22 If the patient continued to have pain,
23 discomfort, sensitivity, percussion sensitivity to
24 hot or cold with this large a restoration, it
25 would be indicative that a need for a root canal

1 was necessary.

2 That goes back almost a week prior to the
3 root canal treatment.

4 Q So does the X-ray from 10/11/91
5 show evidence of endodontic disease?

6 A No.

7 Q Is there such a thing as
8 reversible pulpitis?

9 A Yes.

10 Q What are some of the causes of
11 reversible pulpitis?

12 A First of all, pulpitis is very much like
13 a shock. A person who gets into a state of shock,
14 they're in an accident and their body is shocked
15 and then within hours or days they recover.

16 Pulp that is undergoing some kind of
17 shock due to large decay, large restoration, a
18 blow to the tooth or anything that is going to
19 cause some kind of blood flow inside that tooth is
20 now in a state of pulpitis.

21 If a few days later he recovers, it is
22 now reversible. It has got over the shock period.

23 Q Are you familiar with a
24 material called RC2W?

25 A Yes.

1 Q What is that?

2 A RC2W is a generic form of a root canal
3 sealer that is used throughout Europe and Canada
4 and most of the other countries around the United
5 States known as N2.

6 Q Does that contain
7 paraformaldehyde?

8 A Yes, it does, a limited amount of
9 paraformaldehyde.

10 Q About 6 percent or so?

11 A 6.5 percent exactly.

12 Q Would that also generically be
13 called Sargenti Cement or Sargenti Paste?

14 A The cement or sealer was developed by Dr.
15 Sargenti of Locarno, Switzerland. He has
16 developed a technique, N2 technique or Sargenti
17 technique material. N2 is a Sargenti material
18 that is coordinated with the technique.

19 RC2W is a generic form of the material
20 and it could be called Sargenti root canal
21 material.

22 Q Is Dr. Sargenti still alive?

23 A Yes.

24 Q Does he still practice?

25 A No.

1 Q Did he write any books on the
2 use of N2 or RC2W?

3 A Yes, numerous books.

4 Q Are they considered to be
5 standard reference works and authorities for
6 practitioners who use paraformaldehyde containing
7 root canal materials?

8 A Yes. These books have been submitted to
9 practically every dental library in the United
10 States.

11 Q Now, I understand you're the
12 founder and president of the American or past
13 president of the American Endodontic Society,
14 correct?

15 A Yes.

16 Q What are the requirements for
17 membership in the American Endodontic Society?

18 A An ethical dentist who has interests in
19 root canal therapy and a submission of an
20 application and dues.

21 Q What does the application ask
22 about the person submitting it?

23 A It asks their name, address, phone
24 number, background, school, year of graduation,
25 are they a member of the American Dental

1 Association and are they licensed to practice
2 dentistry.

3 Q If they are not licensed to
4 practice dentistry, can they be a member of the
5 AES?

6 A Then they would possibly become an
7 associate member or we have honorary members who
8 have also received degrees who are not dentists.

9 Q Is there any background check
10 on the applications?

11 A Pretty much the same as all
12 organizations, none.

13 Q What is the cost of joining the
14 American Endodontic Society?

15 A A hundred and twenty-five dollars per
16 year.

17 Q How many members are there
18 currently?

19 A Currently about close to 10,000.

20 Q Ballpark, how many dentists are
21 there in the United States?

22 A General practitioners I believe is about
23 120,000.

24 Q How about overall?

25 A Maybe 145 including -- maybe 145,000

1 total. Maybe 100,000 general practitioners.

2 Q Who submits the tax returns for
3 the American Endodontic Society?

4 A The office in Felton, California. We
5 have an executive secretary.

6 Q Do you see their tax returns
7 every year?

8 A I see the accountant's reports, but I
9 don't see the tax returns. I do not sign them.

10 Q Are you still the treasurer?

11 A Yes.

12 Q Are you still the secretary of
13 the American Endodontic Society?

14 A Yes.

15 Q Other than secretary/treasurer,
16 do you hold any other positions currently in the
17 American Endodontic Society?

18 A No.

19 Q Are you on the Board of
20 Directors?

21 A As the secretary/treasurer or -- I am an
22 officer which includes the Board of Directors and
23 officers.

24 Q How many people are on the
25 Board of Directors?

1 A There are ten board members and three
2 officers and also on the board are two past
3 presidents, I'm sorry, three past presidents.

4 Q Is the American Endodontic
5 Society a nonprofit organization?

6 A Yes.

7 Q Under what state law is it
8 organized?

9 A California.

10 Q In the past five years, have
11 you received any salary or benefits of any type
12 from the American Endodontic Society?

13 A No salary or benefits other than my
14 expenses paid when I travel. If I present a
15 seminar, I will be paid a usual fee.

16 Q What is your usual fee for a
17 seminar?

18 A For the day -- it's been amounted to \$800
19 to \$1000 for the day.

20 Q Do you have anything to do with
21 their publication, the newsletter that they
22 publish?

23 A I contribute to it in articles.

24 Q Other than being a contributor,
25 do you play any other role with the newsletter?

1 A I am not on the publication board, but I
2 do get a chance to read it prior, to review some
3 of the articles prior to going to press.

4 Q Do you act as one of the
5 editors then of the newsletter?

6 A No.

7 Q Is there an editor?

8 A The editor is Julian J. Jackson out of
9 Chicago and I believe the president or the
10 chairman of the editorial board's name is Michael
11 Bowman.

12 Q Where is he?

13 A In Arkansas or -- not in this area.

14 Q Who are the other officers of
15 the American Endodontic Society?

16 A Dr. Mark Piacine, P-i-a-c-i-n-e,
17 Pottstown, Pennsylvania.

18 Q Who else?

19 A Vice president is Mike Bowman,
20 B-o-w-m-a-n.

21 Q You have told us that the
22 American Endodontic Society has about 10,000
23 members.

24 Are you including only current members or
25 are you including anyone who has ever been in the

1 American Endodontic Society?

2 A I am including current and only ones who
3 have not paid dues for the last year or so.

4 If we were to include anyone, then we
5 would be up to 40,000.

6 Q If a dentist enrolls in one of
7 the seminars given by the American Endodontic
8 Society on the use of N2, are they automatically
9 enrolled in the American Endodontic Society?

10 A Only if they desire to be a member. If
11 they enroll in a seminar and they wish to be a
12 member, we will have a membership for one year.
13 After that they have to pay their dues.

14 Q So the first year would be
15 included as part of the course in taking the
16 seminar, correct?

17 A Yes, if they want to. If they do not
18 wish to be on it, it is no problem to delete their
19 name.

20 Q Does the American Endodontic
21 Society still sponsor seminars?

22 A Yes.

23 Q Where was the last one?

24 A Friday a week ago, October 6th, Las Vegas
25 during the American Dental Association meeting.

1 Q What was the seminar or
2 presentation that was done?

3 A Sargenti Endodontics, basic and advanced.

4 Q Who taught it?

5 A I taught it, Dr. Ramon Werts, W-e-r-t-s
6 and Dr. Jim Garry, G-a-r-r-y.

7 Q Describe the course, how many
8 hours was it?

9 A It was seven hours. It started off with
10 the basics of root canal which is the same that is
11 taught in every dental school. The basics of
12 canal cleansing, preparation, enlarging, drying
13 and filling of the canals.

14 Q Now, I think you said this was
15 at a seminar sponsored by the American Dental
16 Association?

17 A No, it was sponsored by the American
18 Endodontic Society. That is the question you
19 asked.

20 Q Where was it?

21 A At the time of the American Dental
22 Association annual session in Las Vegas.

23 Q That was the source of my
24 confusion. Maybe you could clear that up for me.

25 ADA has a convention in Las Vegas?

1 A They had one this year in Las Vegas, yes.

2 Q Was your seminar on the
3 official program of the ADA?

4 A The seminar was sponsored by the American
5 Endodontic Society, but I was on the program of
6 the American Dental Association and I presented a
7 clinic there during the official meeting of the
8 ADA.

9 Q What is a clinic, describe that
10 for me?

11 A A clinic is where you make a
12 presentation -- a table clinic where you make a
13 presentation. This was on the discussion subject
14 of Sargenti root canal. My title was, "Sargenti
15 Endodontic Update 1995."

16 Q How many people would typically
17 be at a clinic like that?

18 A Around the table at a time there would be
19 10 to 12 and it would change off.

20 So possibly during the 11 to 2 o'clock
21 that it was given, the three hours, I probably
22 presented it to maybe 100 to 150 dentists. There
23 were also three other clinics on Sargenti given at
24 the same time.

25 Q Those other clinics were also

1 sponsored by the American Endodontic Society?

2 A Yes.

3 Q What is it that is communicated
4 during those clinics?

5 Are you teaching the use of it or are you
6 addressing the question of whether or not it
7 should be used at all?

8 A That is not a question whether or not it
9 should be used. There is no question about that.

10 The question is on teaching techniques,
11 on updating questions or problems that some
12 dentists may run into, how to handle them and just
13 the technique itself.

14 We weren't there to defend it because
15 there is no need to defend it.

16 Q How do you go about setting up
17 a clinic through the ADA convention?

18 A The ADA sends out applications and calls
19 each year for clinicians to be at their meetings.

20 You fill out an application and submit it
21 and if you're accepted, then you will be on the
22 program.

23 Q Have you ever had any financial
24 or ownership interest in any company that promotes
25 the use of paraformaldehyde containing materials

1 or that seeks to be able to sell paraformaldehyde
2 containing materials?

3 A Yes, I am involved with the N2 Products
4 Company which is going through an FDA -- I am on
5 the Board of Directors.

6 Q The N2 Products Corporation,
7 who is the president?

8 A President was Dr. Sargenti, I am on the
9 Board.

10 Q Is that a for profit
11 corporation?

12 A Right now we have a deficit of almost one
13 and a half million dollars in the production and
14 seeking for application. Eventually it may be a
15 for profit.

16 Q Maybe as a lawyer I have a
17 different view of what is for profit.

18 I don't mean whether you made a profit.
19 In other words, corporations are divided into
20 nonprofit corporations where if any money is made,
21 it can't be distributed.

22 A It is not a nonprofit organization.

23 Q It's a regular corporation like
24 if you went out and started --

25 A Like your law firm is.

1 Q Yes, exactly.

2 A I hope you're making a profit.

3 Q Are you a shareholder of N2
4 Products Corporation?

5 A Yes.

6 Q What percentage of stock do you
7 own?

8 A Probably about ten percent now.

9 Q Do you hold any office in N2
10 Products Corp.?

11 A Eventually I will probably be president
12 since Dr. Sargenti is retiring from it.

13 Q When was N2 Products Corp.
14 founded?

15 A We have had an application I would say
16 approximately 13 years ago.

17 Q How much money have you
18 personally invested in N2 Products Corporation?

19 A I put in probably about 45 to \$50,000 of
20 my own funds.

21 Q How much money have you taken
22 out of N2 Products Corporation, if any?

23 A None.

24 Q Has N2 Products Corporation
25 tried to get FDA approval for paraformaldehyde

1 containing endodontic sealants?

2 A Yes.

3 Q When did you first submit an
4 application?

5 A It is now 13 years.

6 Q Has the FDA held hearings on
7 your application?

8 A Yes.

9 Q I assume the FDA has withheld
10 approval of your paraformaldehyde containing
11 endodontic sealants, correct?

12 A In February 1993 the medical dental
13 division of the United States Food and Drug
14 approved N2 Universal Cement.

15 Q When?

16 A In February 1993.

17 Before final approval could be given by
18 the agency, it was turned over to a dental
19 advisory panel to review the clinical studies and
20 all the research that was sent in.

21 The panel which was made up of
22 specialists in root canal at that time felt that
23 there wasn't sufficient clinical studies done and
24 so at that time, no final approval was given.

25 Q Isn't it true that they, in

1 fact, questioned the reliability of the data that
2 had been submitted and the accuracy of the data
3 that had been submitted?

4 A They questioned it, but the protocol had
5 been set up by the Food and Drug itself. All the
6 requirements of the Food and Drug were fulfilled.
7 They felt that the protocol as set up by the Food
8 and Drug itself was not adequate for 1993.

9 The protocol had been set up by the Food
10 and Drug approximately six years prior to that.

11 Q You mentioned that there was
12 some type of approval preliminarily granted in
13 February of 1993.

14 Tell me again what kind of approval that
15 was.

16 A It was a written report from the division
17 of the dental reviewers who had reviewed all the
18 clinical studies, all the scientific studies and
19 all the data had been submitted. The dentists
20 signed it off as approved. It was sent to a
21 consultant.

22 Q Before we go into who it was
23 sent to, tell me who issued this report?

24 A Dr. Clarence Gilkess, G-1-1-k-e-s-s.

25 Q Who does he work for?

1 A The United States Food and Drug. He was
2 the dentist on staff of the Food and Drug
3 Administration.

4 Q Dr. Gilkess gave it a
5 preliminary approval?

6 A It wasn't a preliminary approval, it was
7 a full approval of all the data that had been
8 submitted.

9 Q What does that mean, an
10 approval of the data?

11 A Well, that is the one who review all the
12 scientific materials that are submitted. Then it
13 is up to the division heads to review that and
14 make this decision.

15 Q Did the division heads reject
16 it?

17 A No, they said that they need to turn it
18 over to a dental advisory panel, which in 1993 had
19 just come into affect of the FDA having medical
20 and dental panels to review all their clinical
21 studies.

22 So it was for a report of the panel that
23 was to make the decision of recommendation to the
24 division. The panel does not make a decision for
25 the Food and Drug, they only make a

1 recommendation.

2 Q The N2 Products Corporation,
3 has it ever sold any paraformaldehyde containing
4 cements or pastes?

5 A No, it is not legal to sell material in
6 the United States until its approved on a
7 commercial basis.

8 Q If you get an approval for the
9 N2 Products Corporation, do you intend to use the
10 mailing list of the American Endodontic Society in
11 order to market your product?

12 A We have not made any decision on that.
13 There is only one purpose now, to get it approved.

14 Q I'd like to go back to the
15 preop X-rays of tooth number 18.

16 Did the preoperative X-rays of tooth
17 number 18 reveal that the mandibular canal lay in
18 close proximity to the root tips of number 18?

19 Feel free to consult the X-rays on that.

20 A These X-ray copies are very, very dark,
21 but I do remember seeing a panarex X-ray that
22 showed there was probably about two to three
23 millimeters -- about 3 millimeters difference
24 between the apex of the tooth and the mandibular
25 canal.

1 Q So the preoperative X-ray that
2 you saw did show that the mandibular canal lay in
3 close proximity to the apex of number 18?

4 A Within two to three millimeters.

5 Q Is that close proximity?

6 A X-rays are only two dimensional. When it
7 looks like it is two millimeters or three
8 millimeters, you're talking about two dimensions.

9 In other words, the apex is here and this
10 is the mandibular canal. You can be five
11 millimeters on one side of it and you wouldn't be
12 able to see that on the X-ray.

13 The inferior alveoli nerve is usually
14 located along the lingual aspects of the mandible
15 and since the X-rays don't show that distance, it
16 is difficult to determine how close it is.

17 Q If, in fact, the apex of tooth
18 number 18 was two millimeters from the mandibular
19 canal, would you agree that is in close proximity?

20 A Yes.

21 Q Would vertical plane X-rays
22 have helped to localize the position of the
23 underlying mandibular canal?

24 A You are probably talking about an
25 occlusal view, but that is not routinely performed

1 in dentistry to determine where that canal is.

2 Two to three millimeters on a two
3 dimensional X-ray is usually sufficient to tell
4 you you are all right to do the root canal with a
5 little bit of leeway from the mandibular canal.

6 Q Do you know if an adverse
7 affects report was given to the FDA in connection
8 with this case by Dr. Resnick?

9 A No, I don't know.

10 Q Do you know if an adverse
11 affect report was given to the FDA by Dr.
12 Greenwald or any other treating dentist to the
13 FDA?

14 A Anything submitted to the FDA is usually
15 confidential.

16 Q But do you have any information
17 indicating that, in fact, an adverse affect report
18 ever was submitted in this case?

19 A I can't answer that.

20 Q Would you agree that less than
21 5 percent of adverse affects ever result in an
22 adverse affect report to the FDA?

23 A I have no idea of the statistics.

24 Q Have you ever submitted an
25 adverse affect report to the FDA?

1 A No.

2 Q Have you ever had adverse
3 affects?

4 A Yes, from Gutta-percha, G-u-t-t-a,
5 p-e-r-c-h-a, material, not by mine.

6 Q Would you agree if you use a
7 paraformaldehyde containing cement, you don't have
8 to debride the root canal as well as if you use a
9 conventional endodontic sealant such as
10 Gutta-percha?

11 A No, I don't agree.

12 Q Would you agree that you can
13 perform root canals in less time using
14 paraformaldehyde containing cements as opposed to
15 Gutta-percha?

16 A I was the first one to introduce
17 one-visit root canals into the United States and
18 that is through Sargenti's principles.

19 Today it is accepted by all endodontic
20 techniques so, therefore, when you say can do it
21 faster, everyone is doing it faster no matter what
22 technique is being used.

23 Q Let's go back to 1991.

24 In 1991, did the type of root canal
25 filler that was used have an affect on how long it

1 took to perform a root canal generally speaking?

2 A What are you talking about, conventional
3 root canal, Sargenti material?

4 Q What I am trying to find out is
5 if in 1991 there was an appreciable difference in
6 the amount of time it took to perform a root canal
7 based on whether you were using a Sargenti type of
8 material or a Gutta-percha type of material?

9 A That question has to do with the type of
10 operator or dentist that is doing the procedure.

11 I can extract a tooth in maybe 12 seconds
12 and somebody else my take 45 seconds to three
13 minutes. So it has to do with the ability, the
14 skill and dexterity of the operator.

15 So I don't think you could say one is
16 faster than the other. It has to depend on who is
17 doing it.

18 Q But does the type of material
19 being used play a role?

20 A The type of material being used plays a
21 role in the success rate. Sargenti root canal
22 because of its use of 6.5 percent paraformaldehyde
23 has a non-specific bacteria viricidal material
24 that destroys bacteria and viruses.

25 Therefore, by destroying the majority of

1 the bacteria through the canal by the use of N2,
2 your success rate will be higher, 90 percent, than
3 the endodontists get by using the other
4 conventional materials.

5 Q Are you saying then as of 1991
6 in the hands of the average practitioner whether
7 they were using Sargenti type materials or
8 Gutta-percha type materials didn't have a
9 significant affect on how long it took to perform
10 the root canal treatment?

11 A The significant factor in the differences
12 is whether you are doing it with hand
13 instrumentation.

14 In other words, debriding and shaping the
15 canal to get all the debris out is a premise of
16 all techniques. I introduced into the United
17 States in 1972 the use of engine instrumentation.

18 Q What type?

19 A Engine, like a choo-choo train,
20 e-n-g-i-n-e. A hand piece that will pneumatically
21 clean out the canal as compared to the manual or
22 hand instruments.

23 So if you are going to be using something
24 that is pneumatic, it is like drilling a hole in
25 the ground with either a pneumatic drill or a pick

1 and shovel. They may accomplish the same thing,
2 but one takes less time than the other.

3 So we introduced mechanical preparation
4 into the use of cleaning out the canal. That
5 certainly sped up the time needed for doing a root
6 canal. Today it is accepted in all root canal
7 techniques.

8 Q What caused the overfill of
9 tooth number 18?

10 A Well, I wasn't there, but I can only say
11 that the overfill of the material could be due to
12 a little bit of instrumentation beyond the apex.

13 The instruments that were doing the
14 cleaning and shaping of the canal might have gone
15 a millimeter or two beyond the apex.

16 It could also be from the anatomy, which
17 was not able to be seen on the X-ray, but the
18 anatomy of the bone surrounding an infected tooth
19 even though it is not visible on an X-ray, there
20 may be a little bit of a breakdown or space that
21 has developed there. Because you have purulent
22 pus material that is working its way through the
23 canals into the area.

24 It liquefies so the bone starts to
25 disintegrate and it may be very small. In the

1 sealing of the canal; some of the sealer went into
2 this little void and actually filled it.

3 Personally it's a very ideal way of doing
4 root canal. In the University, Boston University,
5 Dr. Schilder, S-c-h-i-l-d-e-r recommends that all
6 root canals have a slight puff, p-u-f-f, of
7 overfill to be sure you are getting into this
8 area.

9 Basically this is an overfill. So it is
10 being taught in many dental schools that you want
11 to intentionally go beyond the tip of the tooth by
12 a millimeter or two.

13 Q Do you know of any dental
14 school now or at any time in history that has ever
15 taught that you should perform an overfill during
16 root canal therapy when you are using a
17 paraformaldehyde containing sealant?

18 A I can't say what they're doing right now
19 because I haven't taken any courses in dental
20 schools.

21 I have taken a lot of postgraduate
22 endodontic courses by dentists who are like Dr.
23 Schilder who give postgraduate courses and, yes,
24 they're teaching a slight overfill would be
25 recommended if they use AH26 which contains

1 paraformaldehyde.

2 Q What dental school -- be
3 specific, what dental school do you know of that
4 recommends over filling teeth with
5 paraformaldehyde containing endodontic sealants?

6 A I can't say. I am not able to review all
7 dental schools' curricular. I cannot say that.

8 Q I am asking if you know of any
9 dental school anywhere at any time?

10 A Well, in Europe it is taught. Europe
11 teaches N2 techniques in Europe.

12 Q Do they teach overfill with N2
13 in Europe?

14 A Every technique -- it is not a matter of
15 teaching an overfill, it's a matter of teaching to
16 fill the tooth. Everyone no matter what technique
17 he uses will have a certain percentage of over
18 fills.

19 Q But you told us earlier that
20 there is a doctor at Boston University that
21 teaches that when you do a root canal you should
22 intentionally overfill.

23 A Get a puff.

24 Q Correct?

25 A Get a puff, yes.

1 Q Do you know if that dentist,
2 Dr. Schilder, recommends that when you are doing
3 the overfill you use a paraformaldehyde containing
4 material?

5 A I would say that he does not teach
6 paraformaldehyde materials.

7 Q Do you know of anyone who does
8 teach that you should overfill root canals with
9 paraformaldehyde containing materials?

10 A Yes.

11 Q In the United States?

12 A Yes.

13 Q Who?

14 A Me.

15 Q Anybody else?

16 A Dr. Werts. Everybody else who teaches
17 the technique I would say.

18 Q Let me rephrase the question.

19 A We state though that you have to be
20 careful that you aren't near any kind of a
21 strategic landmark such as the mandibular canal,
22 dental foramen, maxillary sinus.

23 Q Why would you want to be
24 careful and not overfill if you were near the
25 mandibular canal?

1 A Because with the mandibular canal, you
2 try to avoid that space. But in this case that we
3 are talking about, it looks like there was two or
4 three millimeters distance in between, according
5 to the preop panarex X-ray.

6 Q Can we agree that you do not
7 know the name of a single dental school in the
8 United States that teaches that you should
9 overfill teeth when you are doing a root canal
10 using paraformaldehyde containing materials?

11 A Probably none of them teach it as far as
12 that goes, but they're only teaching basics. They
13 don't teach advanced root canals to the general
14 practitioners.

15 Q How do you become an
16 endodontist?

17 A To become an endodontist you must
18 graduate from a dental school and then you usually
19 go back and take a residency for a period of
20 perhaps three years. At that time you receive
21 your master's usually limiting it to endodontics.
22 You perform at least about a hundred root canals
23 in that period of time.

24 Q So when you say they don't
25 teach advanced techniques, there is a three year

1 residency program at a number of dental schools in
2 which the entire focus of the residency is root
3 canal treatment, correct?

4 A In talking to general practitioners who
5 graduate from dental school, unless they go back
6 for residency, the use of these programs are very
7 limited in their number of applicants.

8 Q I'm going to try not to belabor
9 this. I think I covered it in some ways, but I
10 just want to make sure I covered it completely.

11 Other than USC do you know of any other
12 dental schools that at any time in the 1990s or at
13 any time in the 1980s taught in the United States
14 the use of paraformaldehyde containing endodontic
15 sealants?

16 A You seem to have skipped foromo-cresol
17 which is a very popular material still used in
18 dental schools, mostly in children's teeth.

19 It is used in doing root canal or pulp
20 treatment on baby teeth, deciduous teeth.

21 Foromo-cresol contains 19 percent paraformaldehyde
22 and 30 percent cresol.

23 That is still taught in practically every
24 dental school in the United States, but that is
25 for children's teeth. But there are many dentists

1 who use it for adult teeth as well.

2 Q Do you know of any dental
3 schools in the 1980s or 1990s that taught the use
4 or recommended the use of paraformaldehyde
5 containing materials for the treatment of root
6 canals in adults?

7 A We have records from Case Western that
8 one of the endodontic instructors went through all
9 the techniques that were available and taught a
10 little bit about every technique including
11 Sargenti root canal.

12 So he obviously did teach the use of a
13 paraformaldehyde material.

14 Q When was that?

15 A I can't remember the date. It is
16 probably about 1980, in that vicinity.

17 Q Other than Case Western around
18 1980, do you know of any dental schools in the
19 United States that has ever taught the use or
20 recommended the use of Sargenti Cement?

21 A Yes, Yeshiva University in New York. I
22 think it is on my curriculum vitae because I
23 taught it there.

24 Q When was that?

25 A University -- I taught at the University

1 of Detroit School of Dentistry in 1973; Case
2 Western in 1974 I taught it there. But this other
3 doctor taught it in the '80s at the Yeshiva Dental
4 School, New York. I don't have a date there, but
5 it was 1974.

6 Most postgraduate courses for general
7 practitioners are no longer taught in dental
8 schools. They're taught by organizations such as
9 the Academy of General Dentistry or Pennsylvania
10 Dental Association or New Jersey Dental
11 Association.

12 Most of the state organizations are the
13 ones who teach postgraduate education to most
14 general practitioners.

15 Q Who does most of the root
16 canals in the United States, general practitioners
17 or endodontists?

18 A General practitioners.

19 Q Do you know of any studies that
20 tried to correlate the number done by general
21 practitioners?

22 A Yes, the studies by the American
23 Association of Endodontists. I am not sure of the
24 figures, but they say 92 percent is done by
25 general practitioners. The balance is done by

1 specialists.

2 There are only 1500 specialist in the
3 whole United States in endodontics.

4 Q Do you have any idea of what
5 percentage of the dentists in the United States
6 use Sargenti Paste?

7 A At least 20 percent.

8 Q Do you have an estimate of how
9 many dentists in 1991 in the United States
10 percentage-wise used Sargenti Paste or Sargenti
11 Cement when performing root canals?

12 A At least 20 percent.

13 Q What is that based on?

14 A Based on research done and a report in
15 the ADA Journal, American Dental Association
16 Journal. A report or survey done by the American
17 Endodontic Society which goes back a few years
18 before that, an independent survey.

19 Recently, I'm sorry, a Dr. Gordon
20 Christensen, C-h-r-i-s-t-e-n-s-e-n, did a survey
21 and he is probably the number one dentist in the
22 United States on surveys, up-to-date on materials
23 and so forth. His survey within the last two
24 years showed 20 percent.

25 Q Where would he publish that

1 survey?

2 A In his newsletter, Clinical Studies, from
3 Provo, Utah.

4 Q His name is Christensen? Is he
5 well-known in the field?

6 A He is well-known all over the world.

7 Q Well respected?

8 A Yes.

9 Q Based on the numbers that you
10 just told me, can you give me an estimate of the
11 percentage of root canals in the last ten years
12 that were done with Sargenti Cement as opposed to
13 conventional endodontic treatment?

14 A Yes. A very accurate survey was done
15 that the members of the American Endodontic
16 Society performed 70 million root canals in the
17 last ten years by general dentists out of probably
18 about 2, 300,000 root canals that were being done
19 in the last ten years.

20 Q So is that roughly half?

21 A Probably less than half. I would say at
22 least a third.

23 Q About a third of the root
24 canals in the last ten years have been done using
25 Sargenti materials?

1 A If we go according to the survey, I will
2 be conservative and say 20 percent.

3 Q I am trying to look for a
4 ballpark figure.

5 A We have performed 70 million in the last
6 ten years, this was Sargenti.

7 Q That would be 7 million a year?

8 A So.

9 Q I thought you just said that it
10 was 200,000 a year or 300,000 a year?

11 A I'm sorry, add another zero to it.
12 Seventy million in the last ten years of all the
13 root canals being done. There were probably about
14 3, 400,000 -- 300 million, I'm sorry.

15 Q That is more than we have
16 people, 300 million?

17 A Many people get two, three a year. I do
18 quite a few on individuals who need two or three
19 root canals. We are talking about ten years by
20 the way.

21 Q Overall if you were to estimate
22 the number of Sargenti root canals versus
23 conventional root canals in the last ten years,
24 you'd put the Sargenti at about 20 percent,
25 correct?

1 A Yes.

2 Q Is that based in part on Dr.
3 Christensen's study?

4 A Yes.

5 Q In the dental literature, are
6 there reports of irreversible paresthesia
7 occurring as a result of over fills with
8 paraformaldehyde containing materials?

9 A There are some, yes.

10 Q Do you know of any reported
11 cases in the dental literature regarding
12 irreversible paresthesia caused by over filling
13 with Gutta-percha?

14 A Yes.

15 Q In what publication?

16 A Publication of the Pennsylvania Dental
17 Association; publication of the American Dental
18 Association; publication of the International
19 Endodontic journal. I believe even in a journal
20 from the American Association of Endodontists. In
21 fact, I brought one or two along.

22 Q Let me see what you brought
23 with you.

24 A That is just a couple.

25 Q Do you have these filed

1 someplace? Do you have a file that you keep these
2 in?

3 A Yes, some of them. There are more, I
4 didn't bring more. You can go in the worldwide
5 web and find more. That is where I get my
6 material now.

7 Q You have given me four
8 articles.

9 Do you have anymore with you?

10 A Well, one on cytotoxicity of calcium
11 hydroxide, a very popular root canal material.

12 The cytotoxicity of Gutta-percha is
13 considered one of the worst materials available
14 according to that report. That is all I brought
15 as far as those materials.

16 Q Now, you have obviously
17 assembled certain articles or dental literature
18 that you feel is relative to this case, correct?

19 A Yes.

20 Q Everything that you have
21 assembled have you brought with you today?

22 A Yes, everything I assembled, but there is
23 more that I didn't assemble.

24 Q Have you handed them all to me,
25 all the ones that you assembled for this case?

1 A No, there is a couple -- you have my C.V.
2 I have an answer to the open letter of the
3 American Association of Endodontists. I believe
4 this is from the American Endodontic Society.

5 Q Any other literature that you
6 brought with you today?

7 A I didn't bring everything. Here's a
8 letter from the American Dental Association
9 showing they do not establish standards of care
10 nor do they consider any organization establishing
11 standards of care.

12 Q Okay, anything else?

13 A And the last one -- I am surprised you
14 didn't bring it up -- there was 141 articles
15 submitted by the American Association of
16 Endodontists to the Food and Drug Administration
17 claiming benefits of N2 and so forth and so forth.
18 I am not sure if you are familiar with that.

19 The articles were submitted to C. David
20 Kessler, commissioner of the United States Food
21 and Drug and he sent the articles to me and asked
22 me to reply to all these articles.

23 We were able to show that out of 141
24 articles, 50 percent of them didn't even relate to
25 N2.

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1 That the American Association of
2 Endodontists had changed the summaries of all
3 these articles and substituted their own summaries
4 and submitted them back to the Food and Drug which
5 basically was an untruth or fraudulent act.

6 So we have brought along some of the
7 articles and you may have those. Those are some
8 of the answers and that is about it.

9 MR. KONRAY: I will have these
10 marked now.

11 (An article is received and
12 marked as Plaintiff's Exhibit P-1 for
13 identification.)

14 (An article is received and
15 marked as Plaintiff's Exhibit P-2 for
16 identification.)

17 (An article is received and
18 marked as Plaintiff's Exhibit P-3 for
19 identification.)

20 (An article is received and
21 marked as Plaintiff's Exhibit P-4 for
22 identification.)

23 (An article is received and
24 marked as Plaintiff's Exhibit P-5 for
25 identification.)

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1 (An article is received and
 2 marked as Plaintiff's Exhibit P-6 for
 3 Identification.)
 4 (An article is received and
 5 marked as Plaintiff's Exhibit P-7 for
 6 Identification.)
 7 (An article is received and
 8 marked as Plaintiff's Exhibit P-8 for
 9 Identification.)
 10 (An article is received and
 11 marked as Plaintiff's Exhibit P-9 for
 12 Identification.)
 13 BY MR. KONRAY:
 14 Doctor, I am going to show you
 15 what has been marked P-1 through P-9 and ask you
 16 if we can agree P-1 through P-9 comprises all of
 17 the materials you handed me regarding the
 18 literature that you brought with you?
 19 A Yes.
 20 MR. KONRAY: Off the record.
 21 (Discussion off the record.)
 22 Q Do you know of any articles
 23 that compare the cytotoxic affects of Gutta-percha
 24 to the cytotoxic affects of paraformaldehyde
 25 containing cements?

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1 A Comparing the two?
 2 Q Yes.
 3 A No, I don't know of any studies.
 4 Q If Sargenti Cement gets on a
 5 nerve, will it cause a chemical burn of the nerve?
 6 A I don't believe that has ever been
 7 actually tested. I would say no.
 8 Its 6.5 percent is a very small
 9 percentage and according to Dr. Lou Grossman,
 10 within one week, seven days to ten days, the
 11 material becomes completely inactive.
 12 Q Doctor, have you read the books
 13 published by Dr. Sargenti?
 14 A Most of them, yes.
 15 Q What does Dr. Sargenti's books
 16 say should be done in the event of an overfill
 17 with paraformaldehyde containing materials?
 18 A I don't believe that is addressed, but he
 19 does address the fact you should keep all root
 20 canal cements within the canals.
 21 Q Does Gutta-percha cause
 22 chemical burns if it gets in contact with the
 23 nerves?
 24 A I believe you will find one of the
 25 materials I submitted that has been marked as

1 exhibits that addresses that issue.

2 Whereby Gutta-percha in itself is not
3 just Gutta-percha. There are materials or
4 cytotoxic materials that can cause problems
5 because it is 70 percent zinc oxide. It is only
6 30 percent Gutta-percha, maybe less than that.

7 Q Is there zinc oxide in Sargenti
8 Cement?

9 A Yes.

10 Q What percent?

11 A About 60 percent.

12 Q Do you know of any studies that
13 have ever tested the affects of Sargenti Cement on
14 nerve tissue?

15 A No. Let's put it this way: No
16 double-blind studies that would be considered
17 accurate and believable.

18 Q I am not limiting it to
19 double-blind studies that you consider accurate
20 and believable. I didn't have any such limitation
21 on it.

22 A In other words, tests that are not
23 authoritative. I still don't know of any.

24 Q Do you know of any ethical drug
25 manufacturers in the United States that sell

1 Sargenti Paste?

2 A You know that Sargenti Cement is not sold
3 in the United States by regulation of the Food and
4 Drug.

5 Q Could any ethical drug
6 manufacturers sell Gutta-percha?

7 A Drug manufacturers, not that I know of.

8 Q What is your understanding of
9 the dangers of an overfill into the mandibular
10 canal using Gutta-percha?

11 A The same as any material that would be
12 getting into the mandibular canal. The damage is
13 not done by the filling material as much as it is
14 done by the instrumentation that caused the
15 perforation permitting the material to get into
16 the mandibular canal.

17 The mandibular canal is basically a nerve
18 canal that is covered by a protected sheath. It
19 is like a wire, the insulation around the wire.

20 It takes instrumentation to perforate
21 this insulation or sheath and then that usually is
22 the thing that causes the most damage. It's
23 mechanical damage done.

24 Then if there is a sealer or Gutta-percha
25 or N2 or calcium hydroxide that is forced into

1 that area, it could cause further injury.

2 Q What is the standard of care
3 regarding what should be done if there is an
4 overfill into the mandibular canal using Sargenti
5 Cement?

6 A There is no standard of care. There
7 basically is what some surgeons or other
8 specialists in endodontia feel should be done such
9 as extraction, curetting and removal of whatever
10 material is in there.

11 From experience and review of the
12 literature, I find this is what causes permanent
13 paresthesia.

14 In a couple cases I have been involved in
15 with a dentist getting material into the
16 mandibular canal, my recommendation has been to
17 leave it alone.

18 Put the patient on corticosteroid and
19 preferably even give an injection of
20 corticosteroid, Decadron, D-e-c-a-d-r-o-n, into
21 the area, in the vicinity of the area. Don't hit
22 the mandibular canal, keep the patient on
23 something to keep pain under control and within
24 ten days or two weeks the pain disappears.

25 Within a couple weeks or even months the

1 cement sealer will disappear and usually return to
2 normal. This is my experience of the few cases I
3 have been involved with that I have been able to
4 initiate the treatment rather than someone going
5 in and extracting and curetting.

6 Q In your opinion, should an
7 overfill be treated the same regardless of whether
8 it is Sargenti Paste or Gutta-percha?

9 A Depends on the area.

10 Q An overfill into the mandibular
11 canal.

12 A Yes.

13 Q In both cases your
14 recommendation would be to do nothing?

15 A I didn't say that.

16 Q Okay.

17 A I gave you -- I just detailed a method of
18 what I feel treatment should be.

19 You want me to repeat it?

20 Q You are right. It is not a
21 fair restatement of your answer.

22 Is it your opinion that if there is an
23 overfill into the mandibular canal, regardless of
24 whether it is with Sargenti Paste or with
25 Gutta-percha, you should not attempt to remove the

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1 Sargenti or the Gutta-percha?

2 A Physically remove it, yes.

3 Q Is it your understanding that

4 an overfill with Sargenti Cement into the

5 mandibular canal will be absorbed by the body?

6 A Yes.

7 Q When you treat patients and

8 give them root canal therapy, do you advise them

9 that you are using Sargenti materials?

10 A No.

11 Q Do you advise patients that you

12 are giving them -- using materials that have not

13 been approved by the FDA?

14 A No, because most of the materials in my

15 office have never been approved by the FDA. That

16 includes practically every dental material that is

17 out there.

18 Q Who else has an ownership

19 interest in N2 Products Corporation?

20 A No one else that I know of.

21 Q You said you owned about 10

22 percent?

23 A Well, Dr. Sargenti.

24 Q Who are the officers of N2?

25 A Just Sargenti, myself, and my wife is on

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1 It as a secretary.

2 Q About how many cases do you

3 review a year that are in litigation?

4 A Four.

5 Q Of the four or so cases a year

6 that you review that are in litigation, are those

7 all malpractice cases or predominantly malpractice

8 cases?

9 A I should say five actually because I am

10 also reviewing one now on behalf of a plaintiff's

11 case.

12 I don't know, I would assume once they

13 get to the point of reviewing into depositions, I

14 would consider it malpractice. So I guess, yes,

15 they would all be malpractice.

16 Q Is that four or five a year

17 relatively constant?

18 A Yes.

19 Q Other than the one plaintiff's

20 case you just told us about, have you ever

21 reviewed any other malpractice cases on behalf of

22 the plaintiff?

23 A Yes.

24 Q How many times?

25 A Just about twice.

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1 Q How long have you been
2 reviewing cases in connection with malpractice
3 cases?

4 A Twenty years.

5 Q On the two occasions in the
6 last 20 years that you have reviewed cases for
7 plaintiffs to see if there was malpractice, in
8 either of those reviews, did you issue a report
9 indicating that there was, in fact, malpractice?

10 A Yes.

11 Q In one of the cases or both
12 cases?

13 A Both cases.

14 Q Who was the plaintiff's
15 attorney in each of those cases?

16 A I'm sorry, I don't remember.

17 Q How about in the current one
18 that you are reviewing?

19 A I have to check my records. He basically
20 is not far from me in Morrisville, Pennsylvania so
21 he is a local attorney.

22 Q What is the nature of the claim
23 in that case?

24 A The nature of the claim is a woman went
25 to this dentist who performed two root canals, not

1 Sargenti, conventional root canals.

2 The patient continued to have pain and
3 was referred to an oral surgeon to have apical
4 surgery done on these two teeth.

5 The surgeon considered the fact the teeth
6 were so non-restorable that he extracted them
7 rather than doing apical surgery resulting in the
8 patient becoming completely dentureless. So
9 instead of having the bridge that the first
10 dentist was promising he would make for her, she
11 ended up with a full denture.

12 Q How about the other malpractice
13 case?

14 A I don't remember what it was about. Just
15 like lawyers, you can't remember a case from three
16 years ago.

17 Q Do you still use
18 paraformaldehyde containing endodontic sealants in
19 your practice?

20 A Yes, I wouldn't use anything else.

21 Q Where do you get them from?

22 A I get some from Momort and also since I'm
23 part of an FDA study that has been going on, I get
24 some of the material that is going to be made as
25 N2 Universal. It came from Europe.

1 Q When you put an order in with
2 Momort, do they have -- do you know if Momort has
3 an 800 number?

4 A Yes.

5 Q Do you use the 800 number to
6 order materials from them?

7 A Yes.

8 Q How do you order materials when
9 you order it from Momort?

10 Do you order it for one patient at a time
11 or one prescription?

12 A I order it by prescription.

13 Q How many patients would you put
14 on a single prescription?

15 A The material coming through now is two
16 grams and probably you could only do about four
17 cases. It depends on how economic you are in
18 mixing it. You can make it up to one to four
19 patients.

20 Q With regard to the application
21 for N2 that you submitted to the FDA, were there
22 actual hearings held?

23 A When you say, "hearings," are you talking
24 about open hearings or closed hearings?

25 Q Either.

1 A There actually hasn't been any hearings.

2 A new drug application to the Food and Drug
3 Administration is a confidential application.

4 The hearings you are relating to is a
5 meeting with the Food and Drug Administration to
6 meet with their division to decide on the proper
7 protocol, how I want it handled once it's been
8 submitted.

9 They have rejected some things and want
10 changes made. So we go down and have
11 consultations with them. That is what you call
12 meetings, but not hearings.

13 Q You are doing ongoing studies
14 to be submitted to the FDA regarding N2, correct?

15 A Yes.

16 Q You are using your current
17 patients to do that, correct?

18 A No, we're going to be using patients as
19 they come in the door. They may be new patients.

20 Q They're patients you see in the
21 ordinary care of your business, correct?

22 A Yes.

23 Q Do you tell your patients that
24 you are doing a study that is being submitted to
25 the FDA?

1 A Under an FDA clinical study you
2 have to tell the patient they're under the stu
3 you have to sign releases and everything has to be
4 documented and everything. They will be aware of
5 what the studies are going to be.

6 It is not only going to be studies on
7 Sargenti root canal, by the way, it is going to be
8 studies on conventional root canals. That has
9 never been done before.

10 So it is going to be a comparison of
11 Sargenti and traditional root canal on patients
12 using a system whereby when they come in, even the
13 doctor won't know what system he is going to use
14 until he is ready to start the root canal.

15 Q So you have a package that you
16 give to each patient?

17 A There will be a package, yes.

18 Q You haven't started it yet?

19 A No.

20 Q Was the overfill in this case
21 near the inferior alveoli nerve?

22 A Yes.

23 Q What does Sargenti's textbooks
24 recommend should be done when there is an overfill
25 of a paraformaldehyde containing material near the

1 inferior alveoli nerve?

2 A I don't believe any of the textbooks
3 address that question.

4 Q Do you have any literature in
5 your possession either today or at home that shows
6 that irreversible nerve injuries occur from
7 overfill with conventional endodontic sealants?

8 A I think I submitted a couple of them to
9 you.

10 Q That would be in P-1 through
11 P-9?

12 A Yes.

13 Q Is paraformaldehyde a known
14 carcinogenic material?

15 A Only in certain percentages.

16 Q What percentages?

17 A Twenty, thirty percent like fluoride.
18 Fluoride is a rat poison and when you're talking
19 about that, one part per million is put into your
20 water supply. Fluoride is found even in this
21 bottle of water I have here, but in a very small
22 percentage.

23 The 6.5 percent paraformaldehyde has
24 never shown to be carcinogenic in any literature
25 that I have reviewed or I think is even available.

1 Q Isn't it true it wouldn't be
2 the percentage in the cement, it would be a
3 question of the overall quantity of
4 paraformaldehyde that gets into the body?

5 A Whether it is two pounds put in the body
6 or one pound, it still has 6.5 percent. It is the
7 percentage that causes the reaction.

8 Q Do you know of any literature
9 that says that at 20 percent paraformaldehyde is
10 carcinogenic, but at 6.5 it is not carcinogenic?

11 A I am not even sure that 20 percent has
12 been found carcinogenic.

13 There is literature showing morticians
14 who deal with very high percentages of
15 paraformaldehyde and their rate of cancer or even
16 life-span is not any different than the average
17 person who doesn't deal with paraformaldehyde.

18 That is a report that has been published.

19 Q Which canal had the overfill in
20 this case?

21 A Appeared to be the distal canal.

22 Q In the last ten years, have you
23 published anything other than articles appearing
24 in the newsletter of the American Endodontic
25 Society?

1 A I believe my C.V. states that I have a
2 new textbook published, "Total Root Canal Problem
3 Solving."

4 Is that on your copy under,
5 "publications"?

6 Q Yes, here it is. That is
7 published by N2 Products Corporation?

8 A Yes.

9 Q Has N2 Products Corporation
10 ever published any textbooks other than the one
11 that you just wrote on problem solving with canal
12 engineering?

13 A No.

14 Q Did you submit the textbook on
15 problem solving with canal engineering to any
16 publishing houses before publishing it through N2
17 Products Corporation?

18 A No.

19 Q May I see the materials that
20 you reviewed in connection with this case?

21 Doctor, in the materials that you handed
22 me, there were no X-rays.

23 Do you know if you ever reviewed X-rays
24 in this case?

25 A Yes, I did. I had X-rays. I did not

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1 bring them or I may have sent them back, I can't

2 remember. But I did review X-rays, that is how I

3 got my original reports.

4 Q How much are you charging in

5 this case?

6 A For you?

7 Q For everybody, how do you bill?

8 A I am not charging, it's covering my time

9 out of the office and I think it is \$350 per hour

10 for depositions.

11 Q How about for everything else

12 that you do?

13 A If I review a file, it is usually \$250

14 per hour. If I appear in court, it is -- I don't

15 remember, 30, \$3100 for the day. It is the time

16 out of my office.

17 THE WITNESS: You will make

18 sure he gets a bill.

19 MR. KONRAY: Off the record.

20 (Discussion off the record.)

21 Q I have a couple more.

22 You are familiar with the position paper

23 issued by American Association of Endodontists,

24 correct?

25 A Yes.

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1 Q Do you have a belief as to why

2 they are opposed to the use of paraformaldehyde

3 containing sealants?

4 A Yes.

5 Q And what is that opinion?

6 A It is not based on the paraformaldehyde

7 because there is no literature available to show

8 6.5 percent is basically any worse than anything

9 they're using in their armamentarium.

10 At a meeting of the American Association

11 of Endodontists in New Orleans in the year -- late

12 1970's, they had a big discussion on Sargent1 N2.

13 The discussion was printed and also tapes

14 were made available for sale. It was all

15 documented and I obtained the tapes. The tapes

16 said that we have to stop those using Sargent1

17 root canal because they're hurting us in our

18 wallets. It is basically a monetary thing.

19 The majority of endodontists in the

20 United States have never used N2, don't know

21 anything about N2, but they have been told they

22 have to oppose it.

23 Because in my review of some of the

24 depositions of some of the endodontists, all

25 they're doing is repeating the exact same thing

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1 that has been said by another endodontist in
2 another part of the country.

3 If you ask him based on what literature,
4 they don't know. They just keep repeating
5 materials. So it is sort of an unwritten quest to
6 stop Sargenti root canal.

7 If they would only realize that the
8 combination of the Sargenti method and materials
9 in combination with what they do and combine them,
10 we'd have an ideal situation in the United States.
11 We'd save more teeth than are being saved now.

12 Q Do you think there is any need
13 for specialty in endodontics?

14 A The thing that set off this uproar
15 against Sargenti was four years ago, the specialty
16 of endodontics came up before the American Dental
17 Association for approval as a specialty.

18 I -- Dr. Sargenti and I went down to
19 Chicago and reviewed the application of the
20 endodontists and the requirements to remain a
21 specialty and found that they did not meet the
22 requirements of the specialty in dentistry.

23 The council sent them a letter saying
24 they were rejected, they would not be able to be
25 renewed. Then they submitted a second application

1 hoping to get the application over.

2 From the time that we did that, they had
3 an uproar and now there has been this very, very
4 hard push to try to get us eliminated.

5 But I think it is based on the fact we
6 were able to show they are really not a specialty
7 since 90 percent of the endodontics in the United
8 States is done by general practitioners.

9 Q If Sargenti Paste were to be
10 outlawed across the board or paraformaldehyde
11 containing materials, would the average dentist be
12 able to perform root canals?

13 A If this hypothetical situation were to
14 occur, I would say that we would see an increase
15 of extractions, bridges, implants in the United
16 States to replace teeth that have been pulled.

17 Q But that doesn't really answer
18 my question.

19 A Your question was a hypothetical question
20 as well.

21 Q I am trying to find out if you
22 eliminate paraformaldehyde containing sealants and
23 Sargenti Cement, would the average dentist be able
24 to perform root canals?

25 A Probably not. They're probably going to

1 refer out to the specialist for some of
2 canals or they're going to do more extra

3 Q Why would they not be able to
4 do root canals in the same manner as your average
5 endodontist?

6 A The United States Food and Drug
7 Administration in our clinical studies said that
8 only fellows and masters -- and we have a special
9 amount of cases that have to be submitted to
10 obtain fellowship.

11 In other words, there are qualifications
12 to become a fellow, you don't just send in money.
13 You have to submit cases that are reviewed and you
14 have to be very careful on the selections. It is
15 with a two year follow up.

16 The Food and Drug says in the clinical
17 studies that only fellows and masters of American
18 Endodontic Society will be allowed to do root
19 canals in the United States.

20 General dentists are not very good
21 practitioners for doing root canals. This is
22 according to the Food and Drug Administration.

23 Q But still that is not really my
24 question. I am trying --

25 A Why are they going to --

1 Q Let me rephrase it.

2 You have told me that 90 percent of the
3 root canals in this country are done by general
4 dentists?

5 A Right.

6 Q Why would that change if the
7 use of paraformaldehyde containing materials was
8 banned?

9 A Because they would not have as high a
10 percentage of success using conventional materials
11 as they would using Sargenti.

12 With a lower percentage of cases that
13 would be successful, especially when you are doing
14 bridgework and other things, it becomes more
15 unreliable.

16 Then I think they're going to be doing
17 more extractions. Their success rate will not be
18 as high with Sargenti as it will be with
19 traditional technique and materials.

20 Q What I am trying to find out is
21 can the average dentist use traditional materials
22 and techniques, is he trained to do it?

23 A He is trained to do it, but they are not
24 having a high success rate. Even endodontists who
25 are trained do not have higher than a 90 percent

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Arzt / Direct / Konray

success rate. Whereby general dentists who do
Sargenti who may not be as well trained as
endodontists have a 95 and 96 percent success
rate.

MR. KONRAY: Okay, that is it.
Thank you.


(Witness excused.)
(Deposition concluded.)
(The time is now 3:30.)

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C E R T I F I C A T E

I, ANTHONY HOPMANN, a Certified Shorthand
Reporter and Notary Public of the State of New
Jersey, certify that the foregoing is a true and
accurate transcript of the deposition of said
witness(es) who were first duly sworn by me, on
the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither
attorney, nor counsel for, nor related to or
employed by, any of the parties to the action in
which this deposition was taken, and further that
I am not a relative or employee of any attorney or
counsel employed in this action, nor am I
financially interested in this case.


ANTHONY HOPMANN, C.S.R.
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