

Exhibit 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

ORTHOCISION, INC.,
Petitioner,
v.
PTL OPCO LLC,
Patent Owners.

_____ /

Patent No. 11,020,129
Title: Drill-Less Method of Fusing a Sacroiliac Joint

Inter Partes Review No. IRP2023-00625

DEPOSITION OF TROY D. DREWRY, MS, MEM
TAKEN BY REMOTE VIDEOCONFERENCE

DATE: Thursday, May 16, 2024
TIME: 10:05 a.m. to 1:43 p.m.
PURSUANT TO: Notice of Deposition of
Mr. Troy Drewry

REPORTED BY: Laura S. Eder, RMR, FPR
Notary Public
State of Florida at Large

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

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* * * ALL ATTENDEES APPEARED REMOTELY * * *

1 Deposition of: TROY D. DREWRY, MS, MEM

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3 Cross-Examination by Mr. Lytvyn 4

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5 Certificate of Oath of Witness. 98

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11 E X H I B I T S

12 (There were no exhibits marked at the deposition.)

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1 THEREUPON,

2 TROY D. DREWRY, MS, MEM,
3 was adduced as the witness herein, and being first duly
4 sworn on oath, was questioned and testified as follows:

5 THE WITNESS: Yes, ma'am, I do.

6 CROSS-EXAMINATION

7 BY MR. LYTVYN:

8 Q. Okay. Mr. Drewry, please state your name for
9 the record.

10 A. Troy D. Drewry.

11 Q. And please state your home address for the
12 record.

13 A. It is 4229 Waymar, W-A-Y-M-A-R, Drive,
14 Memphis, Tennessee 38117.

15 Q. And you understand that today you're being
16 deposed in the case Orthocision, Inc. v. PTL Opco, LLC,
17 IPR No. 2023-00625, challenging the validity of United
18 States Patent 11,020,129?

19 A. I got to be honest, guys. This is the first
20 time I've seen the -- I guess the name change of
21 PainTEQ. I think all of my other documentation has
22 shown that the patent owner was PainTEQ, Incorporated.

23 So if you guys tell me that PainTEQ, Inc., is
24 this -- this new entity, I'm fine with it. But my
25 declaration states Orthocision, Petitioner, v. PainTEQ,

1 Inc., Patent Owner.

2 Q. Yes. So, to clarify, PainTEQ is still
3 PainTEQ. And it's not PainTEQ, Inc. It's PainTEQ, LLC.
4 But this particular patent, the ownership was assigned
5 from PainTEQ to another party, which is PTL Opco, LLC.

6 So now because the patent is owned by PLT
7 Opco, LLC, the patent owner is that entity, rather than
8 PainTEQ. So it's just a formality --

9 A. Okay.

10 Q. -- but I just wanted to clarify it for you,
11 Mr. Drewry.

12 A. Okay. Thanks for the -- for the explanation.

13 Q. And is there any reason today why you wouldn't
14 be able to provide truthful and complete answers?

15 A. No, sir.

16 Q. And this deposition is not being videotaped,
17 so any gestures or nods are not going to come through on
18 the transcript, so please refrain from doing that and
19 provide verbal answers to the questions.

20 A. Yes, sir. I understand.

21 Q. And if I ask you a question and something
22 about the question is not clear, please ask me to
23 clarify, and I will do so. And if you answer the
24 question, then I will assume that you understood the
25 question. Is that understood?

1 A. Yes, sir. It's understood.

2 Q. And we're doing this deposition virtually, so
3 I'm not going to be able to hand you any of the exhibits
4 of papers that are of record, so, instead, I'm going to
5 share my screen. And if you need me to scroll up, down,
6 or if you want to reference a different document, please
7 let me know.

8 A. Yes, sir, I will.

9 Q. Okay. So let's dive right in.

10 At the beginning of your declaration, you
11 provide claim construction for the terms "open tip" and
12 "releasing means"; is that correct?

13 A. Yes, sir. That's correct.

14 Q. And what legal standard do you use in order to
15 arrive to your proposed construction for these terms?

16 A. Again, I interpret them as the plain and
17 ordinary meaning and then as a POSITA would see those
18 claim terms.

19 Q. Did you use any other legal framework outside
20 of the one you just articulated when coming up with
21 constructions for these claim terms?

22 A. I mean, I took into consideration claim
23 construction of both parties, and as well as the board.

24 Q. Okay. And did you apply the same legal
25 standard for construction of "open tip" and "releasing

1 means," or did you use different standards to construe
2 those two terms?

3 A. No, sir. I do the same for both.

4 Q. Good. Understood.

5 Okay. So let's dive right in. Let me share
6 my screen with you. Do you see what should say
7 "Exhibit 1022"?

8 A. Yes, sir, I do.

9 Q. Okay. So let's scroll down to -- and --

10 A. Do you mind bumping up the magnification a
11 couple of times, please?

12 Q. Absolutely. Better?

13 A. Yeah. That's perfect.

14 Q. Okay. And we just skipped over all of your
15 background on both occasions, since we already talked
16 about it last time. Anything changed since our last
17 deposition?

18 A. With regard to my qualifications and
19 background?

20 Q. Yes.

21 A. No, sir, they have not.

22 Q. Okay. So in Paragraph 24, which is in front
23 of you, you offer -- well, the Petitioner offers, so is
24 this -- is this your construction, or is it an
25 attorney's construction, or -- is it fair to say that

1 you provided this construction of the term "open tip"
2 that's shown in Paragraph 24?

3 A. Again, it's -- it's how I see the plain and
4 ordinary meaning of the term "open tip."

5 Q. Okay. Did you draft this declaration, or was
6 it drafted by Orthocision's counsel?

7 A. I guess it was a collaboration. We went
8 through an interview process, we discussed the topics, I
9 answered questions, gave my opinions, and we both -- it
10 was drafted on their side, but it was based on my
11 feedback and opinions on these matters.

12 Q. Okay. So is it fair to say that for -- most
13 of the declaration is written from a first-person
14 perspective; you used the pronoun "I" to articulate your
15 opinions. And here in Paragraph 24, it says "Petitioner
16 offers," which is used from a third-party, not from a
17 personal "I" pronoun.

18 So is it fair to attribute the Petitioner to
19 your personal opinion in this paragraph?

20 A. Yes. I believe the Petitioner was replying to
21 the PO's response, as stated in that paragraph.

22 Q. Okay. So I'm going to read into the record
23 the plain construction instruction for the open tip that
24 you propose, and then I will ask you some questions
25 about it, if that's okay.

1 A. Sure.

2 Q. So the construction is -- the term is an "open
3 tip," and the proposed construction is an open cutting
4 edge that allows the passage of bone tissue during the
5 advancement of the abrading head; is that correct?

6 A. Yes, sir, that's correct.

7 Q. Please explain what you mean by "the open
8 cutting edge."

9 A. It would be the -- the edge of the open tip
10 that does the cutting.

11 Q. What in particular does the term "open" mean?
12 My conundrum here is you're using the term -- so we're
13 defining the term "open tip," and the very first term in
14 the construction is the various terms that we're trying
15 to define, which is, again, "open."

16 So what does the term "open" mean to you in
17 this proposed construction?

18 A. Again, in the -- with regard to an open
19 cutting edge, it would be the tip of an instrument that
20 has an opening and has a cutting edge.

21 Q. I think during our previous deposition, you
22 stated there that there are open-tip instruments and
23 there are closed-tip instruments. Do you recall that?

24 A. Yes, sir, I do.

25 Q. And what would be the difference between an

1 open-tip instrument and a closed-tip instrument?

2 A. I think the example we gave was broaches,
3 which are kind of solid instruments that have abrading
4 surfaces or cutting surfaces on the outside or the
5 perimeter, and then an open cutting edged instrument
6 would be one that had a void or a space or something --
7 some -- some geometry or opening that still had a
8 cutting edge but wasn't solid like a broach.

9 Q. So would a closed-tip instrument still have a
10 cutting edge?

11 A. It could, yes.

12 Q. And would you categorize the cutting edge of a
13 closed-tip instrument as open?

14 A. No, sir, I would not.

15 Q. And why not?

16 A. As I mentioned, a closed cutting edge would be
17 solid. It would -- there would be no void. There would
18 be no gap, no space. It would be all material.

19 Q. And where would this void be located in the
20 open-tip instrument?

21 MR. NELSON: Objection; form.

22 A. I guess it depends on the design of the
23 instrument.

24 BY MR. LYTVYN:

25 Q. Give me some examples of open-tip instruments

1 with which you personally have experience.

2 A. I think one example would be Dr. Donner's
3 instrument in his patent, which has two cutting keels,
4 an open cutting edge, and material removed in the
5 instrument.

6 Q. And you mentioned Dr. Donner. Let me open it
7 so we can have it in front of us.

8 Do you see Donner on your screen?

9 A. Yes, sir, I do.

10 Q. Okay. So let's scroll down to the part of
11 Donner that we're talking about here. So I believe we
12 were talking about Figures 22A through 22D. Am I
13 correct?

14 A. Yes, sir, that's correct.

15 Q. So you just mentioned that Donner has an open
16 cutting edge. What do you -- which element of Donner do
17 you refer to when you use the term "open cutting edge"?

18 A. I would believe there are 216 on both sides of
19 the keel, as well as -- I believe it's 202 on the -- on
20 the body of the instrument.

21 Q. So your understanding is that the -- well, let
22 me try to rotate it. This is upside down.

23 Okay. Is this better?

24 A. Yes, sir, it is.

25 Q. So which figure are you -- were you

1 referencing just a second ago so we can be on the same
2 page?

3 A. Well, you can see there are multiple figures.
4 But probably -- you know, you see 216 in 22A on both
5 sides, and you see 202 there.

6 But if you look at the side view, you can see
7 that in Figure 22B, it's clear that the sides kind of
8 blend in to the, I guess, body of the instrument, for
9 lack of a better term. So you have vertical components
10 and you have a horizontal component.

11 Q. Okay. And looking at Figure 22B, it looks to
12 me that these cutting edges, 216, are not horizontal
13 but, rather, at an arcuate slope. Is that correct?

14 A. Yeah. I mean, they're -- you know. You're
15 blending in different surfaces, and just through the
16 manufacturing processes, that kind of shows up in an
17 engineering drawing that way.

18 Q. Okay. So the reason I'm asking, you just used
19 the term "horizontal," so I'm trying to figure out
20 which -- which part of this tip you're referring to as
21 horizontal.

22 A. I just was trying to pick some reference. I
23 don't know how better else to describe it. Just -- 202
24 is in one plane, and 216 and 216 kind of intersect the
25 plane that 202 is in, it appears to be at a right angle.

1 So I'm not sure how -- how better to describe it.

2 Q. And the open cutting edge would be which --
3 which elements of the cutting head?

4 A. Again, 216, 202, and 216.

5 Q. And why would you categorize these three edges
6 as open?

7 A. I'm not saying that those edges are open. I'm
8 saying that the tip of that instrument is open and that,
9 you know, the keels -- I'm not sure what their numbers
10 are. But you have two vertical keels, you have a
11 horizontal body, and there's space in between them.
12 That's where the opening is.

13 Q. So in the construction of the term "open tip"
14 that you provided, you're saying that an open tip has an
15 open cutting edge, so do you believe that the abrading
16 head of Donner depicted in these figures has an open
17 cutting edge?

18 A. Yes, sir, I do.

19 Q. And, again, what -- what would this cutting --
20 open cutting edge would be?

21 A. 216 --

22 MR. NELSON: Objection; asked and answered.

23 A. 216, 202, and 216.

24 MR. LYTVYN: Well, the reason I ask,

25 Mr. Nelson, is because a second ago Mr. Drewry

1 said he wouldn't categorize it as an open cutting
2 edge; he would just categorize it as an open tip.
3 So that's why I'm asking the question because I'm
4 trying to understand what exactly the term "open
5 cutting edge" means.

6 BY MR. LYTVYN:

7 Q. So just to make the record clear, 216, 202,
8 and 216 on the other side, cumulatively they comprise an
9 open cutting edge?

10 A. Yes, sir. That's correct.

11 Q. Thank you.

12 Okay. Let's go back to your declaration. So
13 we're looking at Paragraph 24. The other portion of the
14 construction of the term "open tip" is that the open
15 cutting edge allows the passage of bone tissue during
16 the advancement of the abrading head.

17 Could you explain to me what you mean by "the
18 passage of bone tissue during the advancement of the
19 abrading head"?

20 A. If you -- if you had a -- let's go back to our
21 closed and open example. If you had a closed broach or
22 a closed-cutting-edge instrument, there would be nowhere
23 for the bone or soft tissue or blood to go when it was
24 used. If you stuck it down a hole, you would push
25 everything down to the bottom of the hole.

1 If you have an open-cutting-edge instrument,
2 because there are these spaces, gaps, there's
3 opportunity and capacity for bone, soft tissue, blood,
4 whatever, is being cut with the instrument to pass
5 during the advancement of the instrument.

6 Q. Okay. And then let's go to Paragraph 23. I'm
7 going to scroll up just a little bit. So here you're
8 providing an example. Second sentence: "To illustrate,
9 an abrading head may alternatively have a wedge
10 structure behind the 'cutting edge disposed at a leading
11 edge of the open tip' that diverts bone tissue from the
12 cutting edge as the abrading device is advanced in the
13 sacroiliac joint, allowing the abrading head to advance
14 without obstruction from bone tissue removed from the
15 sacrum or ilium."

16 Could you explain to me what you mean by this
17 wedge structure?

18 A. Sure. If you -- again, if we go back to
19 Donner, that may be the easiest way to look at it.

20 Q. Okay. So just for the record, we have
21 Figures 22A through 22D of Donner in front of us.

22 A. Yes. So in this instrument, you see that
23 there are abrading surfaces on the back side, or the
24 top -- I believe it's 198 -- and you also have them on
25 the inside -- I'm trying to -- I'm trying to see what

1 the -- that number is. Maybe 196, I guess are the
2 numbers. And the cutting edge, I think, in the -- in
3 the patent they describe a double chamfer leading edge,
4 and you can kind of see it in Figure 22B, how 202 kind
5 of tapers down.

6 And so if you take this instrument and you
7 insert it into the bone in the sacroiliac joint and you
8 drive into the bone, there's bone material that can
9 slide over the top of the instrument, so on the 198
10 side, and there's also tissue and bone that could ride
11 on the inside of the instrument, along surface 196.

12 Q. So let's say that we don't have these side
13 cutting keels 208. Would the surfaces 198 and 196 still
14 remove tissue during the operating process?

15 A. I apologize. What numbers did you reference
16 again?

17 Q. So a second ago you mentioned that, as this
18 tool is being used to abrade bone tissue, some of the
19 tissue is going to be removed using the surfaces 198 and
20 196; is that correct?

21 A. Yes, sir. That's correct.

22 Q. So, hypothetically, if this abrading head did
23 not have the cutting keels, reference 208 in Figure 22C,
24 and we just had the surfaces 198 and 196, would that
25 abrading head still remove tissue during the operation

1 process?

2 A. I think it would -- it would -- depending on
3 the design, but, yeah, I mean, it would function similar
4 to the way I just described, yes.

5 Q. And would that be an open-tip instrument?

6 A. Without 208 and 208?

7 Q. Yes.

8 A. Without the keels?

9 Q. Yes.

10 A. No. I think it would be more of a -- a
11 chisel-type instrument with a closed tip that has
12 abrading surfaces on the top and bottom.

13 Q. So if the keels 208 were removed, would this
14 abrading head still have an open cutting edge?

15 A. If the keels were removed?

16 Q. Yes.

17 A. No.

18 Q. Would it have a cutting edge at all?

19 A. Yes.

20 Q. And what would be the cutting edge?

21 A. In the -- in that example, if you left
22 everything else the same and removed the keels, I -- it
23 would probably be 202.

24 Q. And what -- what would this cutting edge 202
25 cut?

1 A. It depends where you put it.

2 Q. In the sacroiliac joint.

3 A. It could cut soft tissue; it could cut bone.
4 Again, it depends on where you put it in the surgical
5 procedure.

6 Q. So if -- sticking to the hypothetical, the
7 cutting edge -- the keels 208 are removed, we are
8 inserting this tool into the SI joint, the surfaces 198
9 and 196 are going to abrade the bone, as you explained
10 earlier, where would the 202 be positioned with respect
11 to the ilium and sacrum as the surfaces 198 and 196 are
12 abrading the bone?

13 MR. NELSON: Objection; form.

14 A. Yeah. I'm sorry. I didn't really follow.

15 BY MR. LYTVYN:

16 Q. I'm trying to figure out what the element 202
17 is going to cut in the SI joint. If we are inserting
18 this cutting head and surfaces 196 and 198 are scraping
19 the ilium and sacrum, then what would the edge 202 cut?

20 A. I mean, it could cut a lot of things. It
21 depends upon what the surgeon's using it for. If it's
22 his initial pass, he may just be cutting the ligaments,
23 the capsule of the joint. He may just be opening it up.
24 Then he may move it to one side or the other of the
25 joint and remove cartilage or other materials, or he may

1 move it even further in the joint and start removing
2 bone.

3 So, I mean, it just depends. He could cut a
4 lot of things or she could cut a lot of things with it.

5 Q. So your understanding is the element 202 is
6 sharp?

7 A. Yes, sir.

8 MR. NELSON: Object to form.

9 BY MR. LYTUVYN:

10 Q. And based on what are you making that
11 conclusion?

12 A. On the specification and understanding how
13 these Donner instruments work.

14 Q. And where in the specification -- could you
15 point me specifically where in the specification you're
16 finding support that the element 202, which Donner
17 identifies as the tip, is sharp?

18 A. Let's go to the specification for Figure 22 to
19 start. I'm not sure exactly where it was. But, again,
20 I understand the surgical procedure. I know Dr. Donner.
21 I've been in surgery with him. And I know his son,
22 Chris. So I know what they were trying to accomplish
23 with this instrument.

24 But -- can you bump it up a couple -- yeah.
25 Thank you.

1 Q. I'll magnify it while I'm trying to find the
2 right page where we have discussion of the figures. So
3 here in Paragraph 190 they start with 22A through 22D.
4 And I will help you find where the --

5 A. You passed it up. It was there.

6 Q. Oh, sorry. Okay.

7 A. All right. So stop there. You see this? It
8 says -- reading from Line -- no. Well, this one doesn't
9 have the lines.

10 I guess Paragraph 190, you go down to about
11 the fourth line, it talks about the tooling head that
12 includes a pair of perpendicular extending cutting
13 elements; the embodiment includes similar features to
14 the tooling head described as other references. So,
15 again, that's the start of the perpendicular extending
16 cuttings elements.

17 And then 202 would be the continuation of
18 that, that are perpendicular to those. So all of that
19 edge would be cutting.

20 Q. Okay. So you're reaching that -- I'm just
21 trying to identify the specific place in Donner on which
22 you're basing that conclusion. So that portion of
23 Paragraph 190 that you just read, is that -- does that
24 provide a sufficient basis to conclude that the 202 is a
25 cutting edge?

1 A. Again, I know how this instrument functions.
2 I think in other paragraphs where they're talking about
3 these instruments in general, they talk about this edge
4 as being cutting, and this 202 is consistent with the
5 other embodiments as well. So --

6 Q. So I just want to identify -- you just said
7 that there are other paragraphs where it explains that
8 202 is a cutting edge. I just want to pinpoint
9 specifically which paragraph --

10 A. All right. Let's do it this way, then. Let's
11 go to the cover page. Search the patent for "cutting,"
12 and let's go through all the -- all the locations of
13 "cutting."

14 Q. I'm not sure whether this document is
15 searchable.

16 A. All right. I changed my mind. Let's do this,
17 hopefully to save us a little time. Let's search 202
18 first, and we'll see how that goes. Maybe that will
19 eliminate some of the --

20 Q. All right. Let's start with this. Hold on.
21 Hold on.

22 It looks like Paragraph -- I'll zoom in for
23 you. It looks like we're on Paragraph 188.

24 A. Yes. If you look -- so if you look here, it
25 describes this as, you know, a planer rasping head

1 includes a double-chamfered tip. So, basically, this
2 means that both edges are tapered down to a point or an
3 edge. I think they call it a "tip."

4 And it says that "distally in line with the
5 chamfered tip of the cutting element." So tip 202 is a
6 cutting element.

7 Q. I'm trying to find those -- oh -- "may extend
8 a distance distally beyond the distal most portion of
9 the chamfered tip of the cutting element 216." Is this
10 the section that you were reading?

11 A. Yeah. I think I started a little higher than
12 that, but, yeah, that's the general area.

13 Q. Okay. Let's -- let's move on.

14 So back to the original question, the wedge
15 example that you provided in Paragraph 23 of your
16 declaration, I believe that we were looking at
17 Figures 22A through 22D of Donner. Is this wedge shown
18 in any of these figures or -- I'm just trying to
19 understand what you mean --

20 A. Yes.

21 Q. -- by "the wedge structure."

22 A. So that -- that example in the paragraph that
23 we just read is exactly what I was talking about.

24 They're calling it a double-chamfered edge, so that
25 means the top of the instrument has a chamfer and a

1 wedge, and the bottom of the instrument has a chamfer
2 and a wedge.

3 And so as that drives in the bone or the soft
4 tissue, whatever the surgeon chooses to use the
5 instrument on, there is some material that rides up the
6 edge on the top, and there's some material that rides on
7 the wedge in the bottom.

8 Q. And would that material get extracted from the
9 joint?

10 A. Yes, sir, it would.

11 Q. And how would that material exit the joint?

12 A. Just as I mentioned. It would -- it would be
13 cut by one side of the chamfer and removed upward, and
14 then it would be cut on the other side and removed
15 inwardly.

16 Q. But -- so if -- if the surface is 196 and 198,
17 with both contacting the opposing bones in the
18 sacroiliac joint, the sacrum and the ilium, how does the
19 tissue that's been cut away or the debris that's been
20 produced, how does that exit the SI joint?

21 A. It would be, I guess, just -- it would kind of
22 be pulled -- peeled away from the surface. As it rides
23 up the ramps, that material is removed from contacting
24 the rest of the bone or the joint, and that material
25 would be removed out of the joint.

1 Q. Okay. Let's go -- continue our discussion.
2 So in Paragraph 23, we're at the bottom of Page 11, top
3 of Page 12: "Because the '129 Patent contemplates other
4 embodiments of the abrading device and the function of
5 the abrading device as recited in the claims can be
6 accomplished without an interior void, the construction
7 of the term 'open tip' does not require an interior
8 void."

9 So my question to you is: How can the
10 function of removing debris from the joint be
11 accomplished without an interior void?

12 A. I just explained it.

13 Q. So that -- going back to Donner Figures 22A to
14 22D, so is there an interior void in this cutting head?

15 A. Yes, sir, there is.

16 Q. But you just explained how this cutting head
17 can be used to removed debris in a way that doesn't
18 require an interior void.

19 A. Yes, sir, I did.

20 Q. So could you -- can you explain how that's --
21 sorry. Let me rephrase.

22 So in Figures 22A through 22D, it is your
23 conclusion that there is an interior void?

24 A. Yes, sir.

25 Q. And if this interior void were eliminated,

1 will this abrading head still be capable of
2 accomplishing the function of removing the debris from
3 the SI joint?

4 A. Yes, sir.

5 Q. And if the keels 208 were eliminated, would
6 this abrading head still remove debris from the SI
7 joint?

8 A. Yes, sir, it would.

9 Q. Thank you. Let's go back to the sentence that
10 we just read into the record. "Because the '129 Patent
11 contemplates other embodiments of the abrading device
12 and the function of the abrading device as recited in
13 the claims can be accomplished without an interior void,
14 the construction of the term 'open tip' does not require
15 an interior void," my question to you is: Does the '129
16 Patent disclose any embodiments that do not have an
17 interior void?

18 A. I think the way that this is designated in
19 quotes as an interior void is -- is defined as an
20 enclosed interior void. And I think that's why it's --
21 why it's in quotations.

22 So, again, I don't -- I don't know that
23 this -- "interior void" requires it to be closed, unlike
24 the open-tipped cutting edge of Donner.

25 Q. I'm going to open the '129 Patent. So my

1 question is this, and it's a simple question: Does the
2 '129 Patent disclose an embodiment of the abrading head
3 that does not have an interior void? And we have the
4 '129 Patent in front of us. If you would like me to
5 scroll to any particular portion, I'll be happy to do
6 so.

7 A. We can go to Claim 1.

8 Q. Okay. Can you see that?

9 A. Yes, sir.

10 Q. Okay.

11 A. All righty. Scroll down a little bit more.

12 So the second paragraph of Column 13, "an open tip
13 comprising a cutting edge disposed at a leading edge of
14 an open tip, the cutting edge configured to cut bone
15 tissue in the sacroiliac joint."

16 Q. So is that a disclosure of an embodiment
17 without an interior void?

18 A. I think it -- I didn't say "without an
19 interior void." I'm saying it doesn't require that the
20 interior void be enclosed.

21 Q. So my question to you is not about the claims.
22 It's about the specification. The claims draw their
23 support from the specification.

24 So in the specification of the '129 Patent,
25 are there any embodiments of the abrading head that do

1 not include an interior void?

2 A. Again, I think they discuss other embodiments.
3 They show a version or an embodiment of an open-edge --
4 I mean, an open-tip instrument.

5 Q. But my question is still the same: Does the
6 '129 Patent -- let's go to -- I will help you out.

7 Let's look at one of the drawings that -- so
8 Figure 15 shows the -- and 14. They're on the same
9 page. So they both show the abrading head with the open
10 tip. Do these figures have an interior void?

11 A. Do those have an interior void?

12 Q. Yes.

13 A. Yes, sir, they do.

14 Q. So does '129 Patent disclose any alternative
15 embodiments that do not have an interior void?

16 A. Again, they list this as an embodiment. And
17 if you go to the claim language, there's no requirement
18 that -- that it's closed. So, I mean, there's other --
19 there's other configurations. There's other options
20 based on the claim language.

21 Q. And are those other configurations disclosed
22 in the '129 Patent?

23 A. I think it's disclosed in the claims.

24 Q. So when you interpret the term "open tip,"
25 what did you -- what information did you look at in

1 order to arrive at your construction of the term "open
2 tip"?

3 A. I discussed earlier -- and, again, the -- the
4 easiest way is the example of Donner. It's an
5 instrument that has some space, gap, or void at the tip
6 of the instrument.

7 Q. So in interpreting the term "open tip" of the
8 '129 Patent, you looked at Donner's cutting head?

9 MR. NELSON: Objection; form.

10 A. No. Again, I've been designing these surgical
11 instruments for 30 years. I know what an open
12 instrument is and I know what a closed instrument is.
13 So I don't know how better to explain that.

14 BY MR. LYTVYN:

15 Q. So when you -- I'm just trying to get a sense
16 of what exactly did you -- what information did you
17 consult outside of your personal knowledge when you
18 determined that the term "open tip" does not require an
19 interior void?

20 A. I didn't say it didn't require an interior
21 void. I said it -- this interior void does not require
22 that it's enclosed as shown in Figure 14 and 15.

23 Q. So can an open tip have an interior void -- so
24 does an open tip need to have an interior void, whether
25 enclosed or not enclosed?

1 A. Yes.

2 Q. Thank you.

3 MR. LYTVYN: I think we've been going for
4 about an hour now. Let's take a quick break.
5 Even though it's virtual --

6 MR. NELSON: Mr. Lytvyn, can we do ten? I
7 need to use the restroom.

8 MR. LYTVYN: Sure. That works. And just so
9 we are all on the same page, no conferring with
10 counsel during the breaks.

11 THE WITNESS: You were muted. I can't hear.

12 MR. LYTVYN: I am muted? Can you hear me,
13 Troy?

14 THE WITNESS: All right. I'm here now.

15 MR. LYTVYN: Okay. I just wanted to make it
16 clear that even though it's a virtual deposition,
17 the same rules apply. Please do not confer with
18 counsel during these breaks.

19 THE WITNESS: Okay.

20 MR. LYTVYN: All right.

21 THE WITNESS: Ten minutes?

22 MR. LYTVYN: Ten minutes.

23 THE WITNESS: All right.

24 (Recess from 10:58 a.m. to 11:10 a.m.)

25 - o -

1 BY MR. LYTVYN:

2 Q. I'm going to share my screen again. Can
3 everybody see my screen?

4 A. Yes, sir, I can.

5 Q. Okay. So we're on Figure 16 and 17 of the
6 '129 Patent. And, Mr. Drewry, can you explain to me
7 what is your understanding of what's depicted in
8 Figure 16.

9 A. It would be kind of an exploded view of one of
10 the instruments in the set.

11 Q. And which instrument would that be?

12 A. It appears to be an abrading tip and the
13 components of the slap hammer.

14 Q. And what are the components of the slap
15 hammer?

16 A. All three of the components shown in
17 Figure 16.

18 Q. Could you identify them with element numerals
19 and give them some kind of a name so we have a
20 reference? You can use the terminology of the '129
21 Patent, but if you don't know it off the top of your
22 head, you can use your own terminology. That's fine.

23 A. I think 31 is the handle, 44 would be the
24 shaft, and 30 would be the abrasive tool head. I mean,
25 that's how I would reference it. We can go to the

1 specification if we want the exact names. But --

2 Q. I think that's fine. 31 is the sleeve; 44 is
3 the shaft; 51 is the base; 46 is the stop end. I think
4 that -- that's a good foundational description.

5 So could you explain to me how this device
6 operates?

7 A. You would slide the sleeve 31 over the end --
8 or the tip of 44, near the threaded portion, and then
9 the -- I believe you said it was the shaft.

10 Q. Yes.

11 A. 45 would be screwed into, I guess, 30 -- and I
12 apologize -- whatever you said that -- the abrading tool
13 tip instrument would be.

14 Q. Okay. And how would you operate this in a
15 surgery room?

16 A. It depends. What would you like to do with
17 it?

18 Q. Use it for the intended functions. You have
19 with these -- do you have experience with these types of
20 surgical tools?

21 A. Absolutely.

22 Q. So in your experience, how would you use this
23 surgical tool?

24 A. Well, again, it depends on how you want to use
25 it. You could use it locked, where the sleeve is fixed,

1 and you could impact on the instrument with a mallet on
2 the surface 46, if you wanted to do it as a fixed
3 instrument; and you may do it that way so that you could
4 drive the abrading head 32 into the anatomy. So that's
5 one way you could use it.

6 Then you could come back and release the
7 sleeve 31 and use it against the bottom surface of 46
8 and actually slap that head with the sleeve 31 and
9 remove the abrading head 32 from the anatomy.

10 Q. And how would you transition the slap hammer
11 from the locked configuration, where you're impacting
12 the stop end 46 to the unlocked configuration, which
13 you're using the sleeve 31 to impact the other side of
14 the stop end 46?

15 A. In this particular embodiment and
16 configuration, you would unscrew it.

17 Q. Unscrew what from what?

18 A. The sleeve from the abrading tip portion of
19 the instrument.

20 Q. Could you be more specific there? Which
21 element would unscrew the sleeve 31 from -- in
22 Figure 16, what element would you unscrew?

23 A. I'd unscrew it from 43, the threads in 43.

24 Q. And do you recall whether Patent '129
25 discloses any other types of connection to transition

1 this device from locked to unlocked configurations?

2 A. Yes, sir, they did.

3 Q. All right. Do you recall those?

4 A. I recall a few of them. I don't know that I
5 memorized all of them right at the top of my head, no.

6 Q. So just give me some that you recall.

7 A. I have them in my declaration if we need the
8 exact list. But I think there were ball detents; there
9 were a clasp; there were clamps -- or clasp: multiple
10 types of connection mechanisms where you could connect
11 the sleeve or the slap hammer portion to the instrument.

12 Q. So how would a clasp work in --

13 A. -- Patent '129?

14 Q. Yes. So in Figure 16, how would a clasp work?

15 A. Well, in all of these, I kind of think that
16 the -- you know, the releasing means would be the --
17 some form of connection. You know, we have multiple
18 versions. They were listed in the specification.

19 And I like to think that, you know, there's
20 kind of a male component and a female component, and so
21 you need complementary or matching geometries based on
22 the connection on one end and the other on the other.

23 Q. So how would a -- specifically, how would a
24 clasp work to transition the sleeve from locked to
25 unlocked configuration?

1 A. You would replace the threads 41 with the
2 female portion of the clasp or the male portion of the
3 clasp and you'd have the complimentary connecting
4 mechanism of claps inside the sleeve 31.

5 Q. Okay. Let's take a look at your declaration.
6 So in Paragraph 29 you identify these various
7 connections structures. We have mating thread
8 connection we talked about; we have a clasp; we have a
9 latch, a clip, a clamp, and a clip disconnect
10 attachment. Let's go back to the '129 Patent.

11 So how would a depressible tab work in this
12 device?

13 A. A depressible tab I interpret as kind of a
14 ball detent, where you have a plunger and a geometry
15 that goes into, again, a corresponding or mating
16 geometry. You could replace the threads 43 with a
17 groove, and you could have the depression tab and ball
18 detent in the sleeve that would lock it to the abrading
19 tip, and when you push the tab, it would release the
20 sleeve.

21 Q. And then going back to Paragraph 29, it says,
22 "These various forms of connecting devices are operable
23 to attach various structures in slap hammer assembly."

24 What do you mean by the term "various
25 structures"?

1 A. Again, you know, you could be attaching to the
2 shaft; you could -- you could be attaching to the tip,
3 or the abrading portion, like I showed earlier. So you
4 could have various structures that you're attaching to.
5 And then you -- there's various connection mechanisms
6 and their associated structures.

7 Q. Does '129 Patent disclose any -- any of these
8 various -- disclose that any of these structures listed
9 in the preceding sentence, "threaded connection,
10 disconnect attachment, depressible tab, a latch, clasp,
11 or clamp could be attached to any other structures,"
12 Besides those that we just discussed in Figure 16?

13 A. Yes, I believe it does.

14 Q. Could you show me where, please? Let's go
15 back to the '129 Patent.

16 A. Again, I think if you stay in my declaration,
17 if you scroll down a little further, I think I have it
18 included in here.

19 Scroll down a little further. A little
20 further. A little further. Scroll down some more.

21 I'm not sure -- all right. Let's go -- go to
22 the '129 Patent, and -- well, let's go back to my -- it
23 will help us out. Let's go back to my declaration,
24 please, and scroll back to the various connection
25 mechanisms.

1 Right there. Right there. So that will put
2 us -- let's go Column 7. I guess it's Paragraph 2 -- or
3 Paragraph 11, 9 through --

4 Q. Lines 9 through 11. I got you. But we can
5 navigate there.

6 So Column 7, can you see that?

7 A. Yes, sir.

8 Q. So this would be Lines 9 through 11.

9 A. Yes.

10 Q. The releasing means could be a mating threaded
11 connection, a quick disconnect attachment, a depressible
12 tab, a latch, a clasp, a clip, clamp or other equivalent
13 connection structure?

14 A. Yes. Okay. And your question --

15 Q. So let me repeat my question. In your
16 declaration you have a sentence that says, "These
17 various forms of connecting devices are operable to
18 attach to various structures in slap hammer assembly."

19 So the question was: What various structures
20 does '129 Patent disclose with respect to attaching
21 using these connecting devices?

22 A. Again, as I mentioned earlier, just -- you
23 have two components of the connection mechanism, a male
24 and a female. The male -- or the -- one of them has to
25 be on the sleeve, and one of them has to be on the

1 instrument. And those things meet and lock the sleeve
2 to the shaft, or it's released and it releases the
3 sleeve from the shaft.

4 Q. And the next sentence it says -- you say, "For
5 example, a latch or clip may connect to a 'base'
6 positioned at either the proximal or distal end of a
7 slide hammer shaft."

8 Do you see this sentence?

9 A. Yes.

10 Q. My question with respect to this sentence is
11 this: Does the '129 Patent disclose that a base may be
12 positioned at the proximal end of the slide hammer
13 shaft?

14 A. Can you repeat that, please?

15 Q. So in this sentence you're providing an
16 example saying that the base can be positioned at either
17 the proximal or distal end of the slide hammer shaft.

18 So my question to you, if we go back to
19 Figure 16 of the '129 Patent -- and I can go to any
20 other figure if you would like me to. So in your
21 declaration, when you're referring to the slide hammer
22 shaft, are you referring to the element 44 in Figure 16?

23 A. Can you go back to my declaration again?

24 Q. Of course.

25 A. Okay. And your question again was?

1 Q. So there, the term "slide hammer shaft," just
2 to make sure that we are on the same page, when you
3 refer to "slide hammer shaft," are you referring to
4 Element 44 in Figure 16?

5 A. Yes, I believe so.

6 Q. And going back to that very same sentence, it
7 states that a base would be positioned at either the
8 proximal or the distal end of a slide hammer shaft.

9 A. Yes. I think that's -- that's an example.

10 MR. NELSON: Objection; form.

11 MR. LYTVYN: Could you explain your
12 objection, please, Mr. Nelson? What's the
13 objection to the form?

14 MR. NELSON: It's not a question.

15 MR. LYTVYN: I believe that it was a
16 question. But sure. I'll rephrase.

17 BY MR. LYTVYN:

18 Q. So let's go back to that sentence one more
19 time.

20 So a base can be positioned at either the
21 proximal or distal end of a slide hammer shaft, so in
22 Figure 16 where is the base positioned with respect to
23 the slide hammer shaft?

24 A. It depends where you're referencing it from,
25 but I think it would be, in Figure 51, at the threaded

1 interface 43.

2 Q. So with respect -- and you can look there at
3 Figure 17. It shows the hammer assembly and the tool
4 and the assembled configuration. So with respect to the
5 slide hammer shaft, element 44, where is the base
6 disclosed in this figure?

7 A. I believe they refer to it as 51.

8 Q. And in relation to the slide hammer shaft, how
9 would you describe that?

10 A. Again, I -- the slide hammer shaft is screwed
11 into that --

12 Q. So I'm looking for a relative -- so here,
13 going back to your example -- and, again, I'm not being
14 tricky here. So here the sentence that says, "For
15 example, a latch or a clip may connect to a base
16 positioned at either the proximal or distal end of a
17 slide hammer shaft," so there are two options -- it's
18 either proximal or distal end -- based on this sentence.

19 So looking at Figure 16 and 17, is the base
20 positioned at the proximal end or the distal end of the
21 slide hammer shaft?

22 A. Well, again, it depends on what you're calling
23 it from. If you're calling it from the tip of the
24 abrading instrument versus the back of the instrument --
25 let's just say it's at -- in this -- in Figure 16, it's

1 at the threaded tip of the slap hammer shaft, the
2 threads 45; and if you were choosing it on the other
3 end, it could be near 46, the impaction cap, or whatever
4 they call it, at the other end of the shaft.

5 Q. Okay. And looking at Figures 16 and 17,
6 where -- where is that? Is it on the proximal or the
7 distal? And to give you a frame of reference, let's use
8 what a person skilled in the art would use.

9 My understanding is that the abrading head
10 that goes into the patient is generally referred to as
11 the distal, and the end that is closer to the surgeon is
12 proximal, so let's just stick with that terminology.

13 In Figure 16 and 17, is the base disclosed at
14 the proximal end of the slide hammer shaft or the distal
15 end?

16 A. With that frame of reference, I would call
17 that the proximal end.

18 Q. So the proximal end is the end that's closer
19 to the surgeon when the device is in use. So looking at
20 Figure 17, 32, the abrading head, let's refer to it as
21 the distal end, and then anything that's more proximal
22 will be proximal.

23 So same question: In --

24 A. Whoa, whoa. Wait. Repeat -- repeat that
25 reference again.

1 Q. And if I'm not using the correct reference
2 that a person of skill in the art would use, please
3 correct me.

4 But my understanding is the abrading head that
5 goes into the patient would -- that end would be
6 referred to as the distal, while the slide handle would
7 be referred to as the proximal end. Is that how
8 personal skill and knowledge would describe the
9 orientation, or am I off base here?

10 A. Yeah. That's fair enough.

11 Q. So in Figure 16 and 17, where is the base
12 positioned with respect to the slide hammer shaft?

13 A. In that -- again, in that orientation, in that
14 reference, that would be proximal to the tip of the
15 instrument. But it would be distal to the surgeon. So,
16 again, it just depends on -- on the reference.

17 Q. So let's -- let's use the reference that you
18 used when you made this sentence. So I'm not making up
19 the words "proximal" and "distal" there. I'm reading
20 them directly from your declaration.

21 So "A latch or a clip may connect to a base
22 positioned at either the proximal or distal end of the
23 slide hammer shaft." So to unpack that, looking at
24 '129, I'm trying to figure out what do you refer to as
25 the proximal ends of the slide hammer shaft and what do

1 you refer to as the distal end of the slide hammer
2 shaft?

3 A. Again, if we're referencing -- so we start
4 from the tip of the abrading tip 32.

5 Q. I'm sorry. I don't mean to interrupt you, but
6 it's -- this shouldn't be a difficult question. So this
7 is the sentence that you use: You use --

8 A. Well, it's not that it's a different --
9 difficult question. It can be on either side, one or
10 the other. So depending on how you choose to reference,
11 one could be proximal, one could be distal.

12 The bottom line, what I'm describing in my
13 paragraph is that it can connect to either end. You
14 call it "proximal" or "distal" or whatever, but it can
15 connect both sides.

16 Q. In Figure 16 and 17, does it connect to both
17 sides or only one?

18 A. Only one in this particular illustration.

19 Q. And is that the proximal or the distal?

20 A. Again, it depends on your frame of reference.

21 Q. The frame of reference that you used in your
22 declaration.

23 A. I would call that the proximal end as it
24 relates to the abrading tip 32.

25 Q. Okay. And does the '129 Patent then disclose

1 locating the base at the opposite end of the slide
2 hammer shaft?

3 A. I don't think it's required in the claims, nor
4 is it required in the specification.

5 Q. And, again, that is not the question. The
6 question is: Does the '129 Patent disclose the base
7 being located at the opposite end of the slide hammer
8 shaft with respect to what's shown in Figure 16 and 17?

9 A. Again, in that one particular embodiment, it
10 shows one, but it's not --

11 Q. Sir, and is there another --

12 A. It's not limited to Figure 16 or 17.

13 Q. Again, that's not the question. It's a
14 yes-or-no question, and it should be a simple one.

15 Looking at Figure 16 and 17, you just
16 identified that the base is located at the proximal end
17 of the abrading device tool. My question to you: Does
18 the '129 Patent disclose that the base -- the base being
19 located at the opposite end of the slide hammer shaft?

20 A. Yes.

21 Q. Could you point me to where that's disclosed?

22 A. Again, it doesn't require that as one or the
23 other, so a person of ordinary skill in the art would
24 understand that it could be any location that the
25 connection mechanism is located.

1 Q. Back to the declaration. And, again, I don't
2 want to beat a dead horse into the ground, but it's just
3 I need a straight answer.

4 So it says that a latch or a clip may connect
5 to a base positioned at either proximal or distal end of
6 a slide hammer shaft. We just identified that Figure 16
7 and 17 disclose one location of this base. My question
8 is: Does the '129 Patent actually disclose the base
9 being located at the opposite end of the slide hammer
10 shaft?

11 MR. NELSON: Objection; asked and answered.

12 A. Again, it's not limited to this one
13 configuration, 16 or 17, so a person of ordinary skill
14 in the art would understand that wherever the releasing
15 means is located would be where it's oriented on the
16 instrument.

17 BY MR. LYTVYN:

18 Q. But is that disclosed in the '129 Patent?

19 A. Yes.

20 MR. NELSON: Same objection.

21 BY MR. LYTVYN:

22 Q. Where?

23 A. I just explained it.

24 Q. You said that it's -- it's not negated.

25 A. What does that mean?

1 Q. Well, you said that the '129 Patent does not
2 require that it be disclosed in any particular location.
3 So my question is: Not requiring something and
4 disclosing something are two different things. So does
5 the '129 Patent disclose the base being located at the
6 opposite end of the slide hammer assembly 44 as opposed
7 to what's shown in Figure 16 and 17?

8 A. Again, I think Figure 16 and 17 shows one
9 embodiment. It's not limited to only one location, and,
10 therefore, a person of ordinary skill in the art who
11 would design this instrument would understand that the
12 releasing means and the structure to do so would be
13 determined on where it was placed on the instrument.

14 Q. Okay. And let's go to the next sentence in
15 your declaration: "To illustrate, a clip or a latch may
16 provide a fixed connection between the hammer sleeve and
17 the shaft itself."

18 Same question: Does the '129 Patent disclose
19 a clip or a latch providing a fixed connection between
20 the hammer sleeve and the shaft?

21 A. Yes.

22 Q. Could you please point me where?

23 A. Again, if you go right above in the -- go back
24 to my declaration, please. Third line from the top: "a
25 mating threaded connection, a quick connect attachment,

1 a depressible tab, a latch, a clasp, a clip, or a
2 clamp."

3 Q. Yes. So we figured out that that -- those
4 structures are disclosed in Column 7, Lines 9 through
5 12. Now we go to two sentences below, and it says, "A
6 clip or a latch may provide a fixed connection between
7 hammer sleeve and the shaft itself."

8 My question is: Is this disclosed in the '129
9 Patent?

10 A. Yes, sir, it is.

11 Q. Please point me to where.

12 A. Same answer as I've just given you, the same
13 application: A person of ordinary skill in the art who
14 was going to use a clip or a latch to provide a
15 releasing means on a slap hammer would have the
16 associated structure of the clip or a latch on the
17 instrument and the hammer sleeve.

18 Q. And is that disclosed in the '129 Patent, and,
19 if so, please give me a pin cite so we can go to the
20 exact paragraph or the line. So, for example, for the
21 structures, a clip, a clasp, a depressible tab
22 disconnect, you provided the exact place in the '129
23 Patent where these connecting mechanisms are disclosed.

24 Can you provide the portion of the
25 specification of the '129 Patent that discloses the

1 hammer sleeve and the shaft being connected with a clip
2 or a latch?

3 A. Again, a person of ordinary skill in the
4 art --

5 MR. NELSON: Objection; asked and answered.

6 A. A person of ordinary skill in the art who was
7 designing a slap hammer instrument with a sleeve and a
8 shaft and was choosing a clip or a latch as a releasing
9 means would understand that those structures would be
10 placed on the instrument so that they perform that
11 function.

12 BY MR. LYTVYN:

13 Q. Are those your own examples, or is this an
14 example that you're drawing from the '129 Patent?

15 A. That's where it came from.

16 Q. Could you identify the exact portion of the
17 '129 Patent where it came from?

18 A. Go back to my declaration. I'll be happy to
19 read --

20 Q. I'm looking at the '129 Patent. So you
21 said --

22 A. That's one embodiment with a threaded
23 connection.

24 Q. Yes. And can you identify the portion -- you
25 just said the '129 Patent disclosed an example in which

1 a clip or a latch provides a fixed connection between
2 the hammer sleeve and the shaft itself.

3 I don't see a citation in your declaration to
4 any portion of the '129 Patent, so my question is this:
5 Is this disclosed in the '129 Patent, and if yes, I just
6 want you to provide the exact pin cite where this is
7 disclosed. If this is not disclosed in the '129 Patent
8 and this is your own example, please state so for the
9 record.

10 MR. NELSON: Objection; form. Misstates
11 testimony.

12 MR. LYTVYN: How did I misstate the
13 testimony, Mr. Nelson? Please explain.

14 MR. NELSON: The declaration says that the
15 latch or clip may be connected to a base
16 positioned at either the proximal or distal end
17 of the slide hammer shaft.

18 MR. LYTVYN: That's not what -- there's no
19 term "based" in there. I'm reading the direct
20 quote. You just misquoted the declaration while
21 accusing me of doing that.

22 "A clip or a latch may provide a fixed
23 connection between the hammer sleeve and the
24 shaft" --

25 MR. NELSON: Right. I read the sentence

1 right above that.

2 MR. LYTVYN: -- period.

3 MR. NELSON: Right. But you're saying --
4 you're saying that he said that there's an
5 express disclosure in the '129 Patent. The
6 declaration doesn't say that.

7 MR. LYTVYN: Exactly. That's -- that's what
8 I'm trying to get to.

9 BY MR. LYTVYN:

10 Q. So, again, the same -- here's the portion of
11 the sentence that we were talking about, for the record,
12 so that this is clear: "A fixed connection between the
13 hammer sleeve and the shaft itself," period. There is
14 no citation in the declaration to the '129 Patent.

15 My question is this: Is this fixed connection
16 between the hammer sleeve and the shaft disclosed in the
17 '129 Patent, and if yes, please provide a citation. And
18 if it's not, then let me know that this is your own
19 example, that's not in the '129 Patent.

20 A. It is not my example. It is taken from the
21 '129 Patent. Again, from the specification above,
22 you --

23 Q. Okay. So we're in the '129 Patent. Please
24 identify the figure or a column and line where this
25 example is disclosed.

1 A. I just read it to you. It's in my
2 declaration. That came --

3 Q. Your declaration is not a part of the '129
4 Patent. So looking at the '129 Patent -- so looking at
5 the '129 Patent, is this example in the '129 Patent, or
6 is it only in your declaration?

7 A. Please go back to my declaration.

8 All right. Third line from the top, for
9 the -- I don't know how many times it's been so far.
10 But if you look at the third line, the quotation
11 starting with "a mating threaded connection, a quick
12 disconnect attachment, a depressible tab, a latch, a
13 clasp, a clip, or a clamp."

14 And I believe Exhibit 101 is the '129 Patent.

15 Q. Yes. But I don't see --

16 A. That is coming from the '129 Patent.

17 Q. Okay. So I don't see in that quotation the
18 words "a fixed connection between the hammer sleeve and
19 the shaft itself."

20 A. Well, again, a person of ordinary skill in the
21 art who is designing a slap hammer instrument and was
22 going to use a -- what are we talking about now? -- a
23 clip or a latch would understand that one portion of the
24 clip or latch would be attached to the sleeve handle,
25 and the other portion of the clip or the latch would be

1 attached to the instrument, and those two mating
2 structures would form the releasing means structures.
3 I've just explained it.

4 Q. So you just -- you just said that a person of
5 skill in the art would understand that. My question is
6 not what would a person of skill in the art would
7 understand. My question is: Does the '129 Patent state
8 that, or does this come from your own understanding as a
9 person of skill in the art?

10 A. No. It says that.

11 Q. The '129 Patent says "a fixed connection
12 between the hammer sleeve and the shaft itself"?

13 A. It doesn't say those words specifically, but
14 that -- again --

15 Q. So you're taking a word "a latch," and you're
16 unpacking it into "a fixed connection between the hammer
17 sleeve and the shaft itself."

18 My question is: Is there anything in the '129
19 Patent besides the word "a latch" that leads to this
20 fixed connection between the hammer sleeve and the
21 shaft, or is this your understanding as a person of
22 skill in the art?

23 MR. NELSON: Objection; form.

24 A. Again, I think it states it in the
25 specification above.

1 BY MR. LYTVYN:

2 Q. So the specification states the word -- and
3 let's go back to the specification.

4 It states the word "latch" or "a clasp."

5 A. Yes.

6 Q. It says "a latch and a clasp." I don't see
7 where it says "a fixed connection between a latch and a
8 clasp and the shaft of the hammer sleeve." Where does
9 it -- does it state that in the '129 Patent, or it does
10 not?

11 A. Again, I don't know that it specifically
12 states that, but, again, if you're -- I don't know how
13 better else to explain this.

14 If you're attaching the sleeve to the
15 instrument, it's got to be a complementary connection
16 mechanism. And it's not limited to any location on the
17 instrument. It's wherever the hammer sleeve would be
18 located, where the mating releasing means structure
19 would be located on the instrument.

20 Q. Okay. I think we've spent enough time on
21 this.

22 Let's go back to your declaration. We're
23 still in Paragraph 29. Here's a sentence that states:
24 "The shaft may have a recess through all or a portion of
25 its diameter through which the latch or clip passes,

1 thereby mechanically arresting the position of the
2 hammer sleeve."

3 Looking at Figure 14 of the '129 Patent -- let
4 me scroll back down. So Figure 16, does the shaft have
5 a recess?

6 A. Again, this is an embodiment that shows a
7 threaded connection. The specification --

8 Q. So it's a yes-or-no question. Does Figure 16
9 show the shaft with a recess?

10 A. Not -- not as described in my declaration for
11 that particular embodiment.

12 Q. Does the '129 Patent disclose any embodiment
13 in which there is a recess in the shaft?

14 A. Yes. They could be based on the releasing
15 means structures listed above.

16 Q. Okay. So, again, "recess in the shaft," does
17 the '129 Patent specifically disclose the recess in the
18 shaft; yes or no?

19 A. Again, the recess in the shaft --

20 Q. I'm sorry. I'm going to call the board if you
21 don't respond to my questions. It's a yes-or-no
22 question. That's -- the only response I'm looking for
23 is a "yes" or "no."

24 We just -- and correct me if I'm wrong. We
25 just agreed that in Figure 16 the shaft does not have a

1 recess. Is that correct?

2 A. Yes, sir, that's correct.

3 Q. Does the '129 Patent identify any embodiment
4 in which there is a recess in the shaft of the slide
5 hammer assembly?

6 A. Yes, sir, it does.

7 Q. Thank you.

8 Let's look at the next sentence: "Another
9 possible arrangement is that the slide hammer shaft has
10 one or more longitudinal plates that nest in the
11 corresponding keyways in the hammer sleeve."

12 Same question: Does the '129 Patent disclose
13 longitudinal plates?

14 A. Yes, sir, it does.

15 Q. Going to Paragraph 30, it says, "The term
16 'base' is broad enough to encompass various structures
17 and shapes, including the structures discussed above,
18 and should not be limited to circumferential structure
19 positioned at the point between the slide hammer shaft
20 and the abrading tool assembly."

21 Could you explain to me what shapes and
22 structures could "base" be?

23 A. Again, it would be the corresponding releasing
24 means structure for all of the different connection
25 mechanisms described above.

1 Q. So the ones that involve the shaft with a
2 recess, the longitudinal plates, are those included in
3 these shapes and structures referenced in the
4 Paragraph 30?

5 A. Sure. They could be part of a latch; they
6 could be part of a clasp; they could be part of a --
7 some of the other descriptions given above. All of
8 these geometries and all of these structures could be --
9 would fall under that description.

10 Q. Understood.

11 So now that we're in the subject of the slap
12 hammer, let's move away from the '129 Patent and look at
13 Donner. So we're in -- let's -- Figure 8 of Donner, can
14 you see it on your screen, please?

15 A. Yeah. Can you bump it up a couple times?

16 Q. Yes. I just don't want it to fall off the
17 screen.

18 So could you explain to me how -- first, do
19 you have any personal experience with a slide hammer
20 such as the one depicted in Figure 8 of Donner?

21 A. Absolutely.

22 Q. Could you explain to me how it works?

23 A. It's similar to what we've just described, but
24 it doesn't have a locking means, so it's just basically
25 loose on the shaft. I believe that would be No. 80.

1 And you could either slide it down towards 84
2 if you wanted to impact something into it, and then you
3 could slide it up towards 82 and slap it on that end if
4 you wanted to remove something.

5 Q. Would you use a mallet with this particular
6 slap hammer?

7 A. Yes.

8 Q. And where would you strike with a mallet?

9 A. I believe it would be -- again, I think --
10 around No. 82.

11 Q. And any advantages to using the slap hammer
12 sleeve 58 versus a mallet to make that impaction?

13 A. Are there advantages?

14 Q. It appears in the example you're in a surgery
15 room and you're using the device. You just said that
16 you can use the sleeve 58 to strike proximal to distal.
17 This surgical tool, you can also use a mallet to strike
18 the plate 82.

19 My question is: Is there any advantage to one
20 method over the other?

21 A. From a functional standpoint of impaction, the
22 nice thing of a slap hammer is it keeps the -- keeps the
23 force kind of coaxial to the instrument. With a mallet,
24 you have the potential of hitting it off angle.

25 And, again, the slap hammer is included on the

1 instrument so it's just more efficient; it's all there.
2 So I think that's probably the biggest advantage.

3 Q. And would you say that this slap hammer in
4 Donner has a base?

5 A. No, it doesn't have a locking mechanism.

6 Q. How would you describe element 84 of -- of
7 this figure? And let me scroll up. Actually, it's not
8 84. If we go to Figure 7, it shows an exploded view.

9 A. Can you bump up a little -- a little higher,
10 please?

11 Q. Sure. I just don't want to fall off the
12 screen. So if we look -- let me try to center it the
13 best that I can.

14 So if we look at the screen, there's
15 element 70. Well, how would you describe that element?

16 A. I mean, I'd have to go back into the
17 specification and look at it. I don't know specifically
18 what that is.

19 Q. Just your own terms, what would you call it?

20 A. I don't know. Can you go back to the
21 assembled view?

22 Q. I'm not sure you can see that.

23 A. Blow it up. Blow that up. Blow that up at
24 84.

25 Okay. So what -- so where would -- and you're

1 asking me about 72?

2 Q. Yes. And that's -- you don't really see it in
3 the Figure 8. They don't have it numbered. But if you
4 look at Figure 7, there's this component Figure 70. So
5 just -- I don't know. What would you call it, and what
6 function does it serve?

7 MR. NELSON: Objection; form.

8 A. Again, for -- just to cut to the chase, let's
9 go see in the specification what they call No. 70.

10 BY MR. LYTVYN:

11 Q. Sure. It did all the OCR-ing before, so we
12 might as well go to particular views. It's called a
13 connector. I'll pull it up.

14 A. All right. So, again, your question is?

15 Q. What function does it serve?

16 A. Connects.

17 Q. What to what?

18 A. Whatever's screwed into the bottom of it and
19 whatever's screwed into the top of it.

20 Q. Which is what in Figure 7?

21 A. Let's go back to -- let's start searching for
22 "60."

23 Q. Shaft. So 60 is the shaft.

24 A. All right. So we have the shaft screwing in
25 on one end.

1 Q. Then let's just call it a --

2 A. Go to 68.

3 Q. Yeah. So let's -- 58 is the hammer -- let's
4 just call it the hammer sleeve. That's what we called
5 it a second ago.

6 A. I don't know that that's the sleeve.

7 Q. 58?

8 A. Yeah, but that's not connected to 70. You
9 asked me what two parts were connected to 70.

10 Q. Yes.

11 A. All right. So scroll down. It would be 68.

12 Q. Okay. Does -- let's go back to the '129
13 Patent for a second.

14 So looking at Figure 16 and 17, would you say
15 that there is a functional equivalent to Donner's
16 connector 70 in those figures?

17 A. Not really.

18 Q. Let me rephrase it.

19 Is there an element -- which element in
20 Figure 16, if there is one, that connects the shaft of
21 the hammer sleeve to the abrading surgical tool?

22 A. I mean, you can thread in 45 of the slap
23 hammer shaft into the internal threads 42, I believe.

24 MR. LYTVYN: And we've been going on for an
25 hour now. Can we take a quick five minute-break,

1 or anybody need a longer break?

2 THE WITNESS: Give me ten. Let's do 11:15.

3 MR. LYTVYN: 11:15. You mean 12 -- okay.
4 11:15 your time, 12:15 ours. Sounds good.

5 THE WITNESS: All right.

6 (Recess from 12 :04 p.m. to 12:16 p.m.)

7 BY MR. LYTVYN:

8 Q. Okay. I'm going to share my screen again. We
9 have Figure 16 and 17 of the '129 Patent that we've been
10 discussing. In the previous section of the deposition,
11 Mr. Drewry, do you see element 51 in Figure 16 and 17?

12 A. Yes, sir, I do.

13 Q. How would you describe the function of this
14 element?

15 A. The function of that element?

16 Q. Yes.

17 A. I think it has a threaded portion, 43, for
18 attachment to the handle sleeve, and a male thread; and
19 then it has a female thread, 42, inside of 51, I guess,
20 that allows for the threading of the -- I believe we
21 called it the slap hammer shaft, 44.

22 Q. Okay. So let's go to your declaration.
23 Paragraph 37, starting with the second sentence: "Thus,
24 a base to which the releasing means engages can be
25 functionally positioned at the distal end of the slide

1 of a slide hammer shaft, the proximal end of the slide
2 hammer shaft, or other positions. It is not limited to
3 the position of base 51 shown in the figures of 51 of
4 the '129 Patent."

5 Do you see that portion of the declaration?

6 A. Yes, sir, I do.

7 Q. So looking at Figures 16 and 17, what -- in
8 what other location could base 51 be located?

9 A. Again, it depends on the releasing means that
10 you chose to use as described in the specification. It
11 could be on the proximal end; it could be on the distal
12 end; it could be on the shaft.

13 Q. Okay. So when you said "on the proximal end,"
14 just so we're clear, what do you refer to as the
15 "proximal end" in Figure 16?

16 A. Again, I think we agreed that 51 would be the
17 proximal end to the abrading head in this configuration.

18 Q. So if you're relocating base 51 to another
19 location, where would that location be in reference to
20 the components that you see in Figure 16?

21 A. Again, it could be along the shaft, 44; it
22 could be in the -- 48, the -- I mean 46, I believe, if
23 we wanted to do it on that end of the instrument. It
24 could be anywhere in between there.

25 Q. Okay. So let's say, hypothetically, we moved

1 base 51 to the end, 46. In that location what functions
2 would base 51 perform?

3 A. Again, it depends -- it would depend on the
4 design of the instrument and how you were assembling it
5 and -- I would need more information for that
6 hypothetical to give you an answer.

7 Q. But if we look at the declaration, you said
8 that the base -- "it does not limit the position of base
9 51 shown in the figures of the '129 Patent."

10 So what information did you use in order to
11 make that conclusion?

12 MR. NELSON: Objection; form, misstates
13 testimony.

14 MR. LYTVYN: I quoted a statement into the
15 record --

16 MR. NELSON: You --

17 MR. LYTVYN: -- from the declaration, and
18 then I asked what information was used to come up
19 with that conclusion.

20 MR. NELSON: You said "base" -- you said
21 "base 51." It doesn't say "base 51."

22 MR. LYTVYN: Let's -- Mr. Nelson, I'm on
23 Paragraph 37, last sentence: "It is not limited
24 to the position of base 51 shown in the figures
25 of the '129 Patent."

1 MR. NELSON: Okay.

2 MR. LYTVYN: Do you see the numeral "51"

3 now?

4 MR. NELSON: I do, but --

5 MR. LYTVYN: Thank you.

6 MR. NELSON: Yeah.

7 BY MR. LYTVYN:

8 Q. So do you agree with that conclusion still,
9 Mr. Drewry, that it is not limited to the position of
10 base 51 shown in the figures of the '129 Patent?

11 A. Yes, sir, I do.

12 Q. So what information did you rely upon in order
13 to reach that conclusion?

14 A. Again, if you were designing a slap hammer
15 instrument and using the releasing means structures as
16 described in the specification, one would understand
17 that it could be at any location on the instrument --
18 the proximal end, the shaft, the distal end -- based on
19 the structural requirements of the releasing means
20 structure.

21 Q. Okay. So if we look, you previously stated
22 that base 51 could be located at the proximal end, which
23 is referenced as 46 of the slide hammer shaft; is that
24 correct?

25 A. I don't know that I -- I don't know that I

1 stated 51 could be there. I think I stated that a
2 releasing means structure could be there.

3 Q. Okay. So you're -- let's go back to your
4 statement that says, "The position of base 51 is not
5 limited to what's shown in the Figures of the '129
6 Patent." Do you see that sentence in the --

7 A. Yes.

8 Q. -- Paragraph 37?

9 A. Yes.

10 Q. Do you agree with that sentence?

11 A. Yes. If we -- yes, if it's referring to --

12 Q. So you're referencing specifically base 51 in
13 that sentence. So now looking at Figure 16, where --
14 what other location could you relocate base 51 to?

15 MR. NELSON: Objection; form.

16 MR. LYTVYN: Again, what's -- what's the
17 objection? You keep interrupting the --
18 Mr. Nelson, you keep interrupting the deposition
19 with these objections that are misplaced. What's
20 the objection? Any time you don't like a
21 question, you raise an objection. That's --

22 MR. NELSON: That's not the case. The --
23 you're stating -- you're quoting him where it
24 says, "The base is not limited to the position of
25 base 51 shown in the figures," and then you're

1 asking him, "Where would you relocate base 51?"

2 He's not saying in the declaration that he's
3 relocating base 51. He's interpreting the term
4 "claim" -- the term "base."

5 MR. LYTVYN: Okay. That's -- again, that's
6 not the question. That's not the --

7 MR. NELSON: That's how it was phrased.

8 MR. LYTVYN: Mr. Nelson, I would ask you to
9 stop talking on the record. So --

10 MR. NELSON: You asked for an explanation.
11 I'm just giving it.

12 BY MR. LYTVYN:

13 Q. All right. So looking at 37, it says, "Base
14 51 shown" -- "It is not limited to the position of base
15 51 shown in Figures of the '129 Patent."

16 Mr. Drewry, you just testified that you agree
17 with the sentence that the position of the base 51 is
18 not limited to locations shown in figures of the '129
19 Patent. Now we're looking at Figure 16 of the '129
20 Patent, and I'm asking you, if base 51 is not limited to
21 the location shown in Figure 16, where else could it be
22 located?

23 A. Again, I believe in one embodiment it could be
24 on the distal end of the instrument and have a threaded
25 connection with the hammer as well. Or the sleeve

1 hammer. Sleeve.

2 Q. "Distal end of the instrument," what exactly
3 are you referring to?

4 A. I mean, one thing you could do is put it near
5 46 on the back side of the instrument.

6 Q. Okay. And would it still perform its intended
7 functions?

8 A. In that orientation and in that embodiment,
9 yes.

10 Q. So what would the female thread 42 -- what
11 function would female thread 42 perform if base 51 were
12 relocated to the proximal end of the shaft at the stop
13 end 46?

14 A. You would have a threaded end on shaft 45, on
15 the distal end, and that would thread into 42.

16 Q. But if 51 is located on the opposite end of
17 where the thread 45 is on the shaft, how could the
18 thread 45 thread into thread 42 if they're located on
19 the opposite ends of the shaft 44?

20 A. Look, if you're going to -- if you're going to
21 move 51, the base, you're going to have to modify the
22 other components of the instrument as well. I mean, you
23 can't just take a single feature of the instrument,
24 change it, and expect it to work functionally.

25 A person of ordinary skill in the art, who

1 designs these instruments, who was choosing to move 51
2 to the distal end of the instrument would understand
3 that there would be complementary changes in the
4 geometry of the other components for it to function
5 based on that embodiment.

6 Q. And does the '129 Patent disclose any such
7 changes to geometry and other things?

8 A. Yes, sir, it does.

9 Q. Where?

10 A. Again, if you're using a clasp or all these
11 other releasing functions that are specified in the
12 specification, it's understood that the geometry has to
13 be matching to be able to have those releasing means
14 structures.

15 Q. Would you use those structural connecting
16 components without relocating base 51?

17 A. You could.

18 Q. Let's take a look at our next prior art
19 reference here, which is Sharma. Do you see it on your
20 screen?

21 A. Yes, sir, I do.

22 Q. Let's go -- what's a good figure? How about
23 Figure 4? Do you see Figure 4 on your screen?

24 A. Yeah. Can you bump it up a little?

25 Q. Is that good?

1 A. Yes, sir, it is.

2 Q. So looking at Figure 4, when this device is in
3 the locked configuration -- first of all, what's --
4 what's the purpose of having a locked and unlocked
5 configurations in this device?

6 A. To have an instrument that acts like
7 fixed-handled instrument when it's locked and then an
8 instrument that functions like a slap hammer when it's
9 unlocked.

10 Q. If you look at Paragraph 52 of your
11 declaration, the first sentence of Paragraph 52 states,
12 "With regard to Sharma, a person of skill in the art
13 would recognize that Sharma discloses a device that is
14 essentially the same in function as the joint
15 preparation tool of Donner, with the additional feature
16 of a locking mechanism for resting the slide hammer to
17 allow it to function as an impacter. The petition
18 points out that it would be obvious to incorporate the
19 additional functionality provided by the teachings of
20 Sharma to the combination of Compton and Sharma." I
21 think it's supposed to say "Donner" rather than
22 "Sharma."

23 So my question is this: If you go back to
24 Donner, and you see Figure 8 in front of you, it shows
25 the cross-sectional view of Donner's slap hammer?

1 A. Yes, sir, I do.

2 Q. So if we were to implement -- and I don't want
3 to misquote your declaration. "It would be obvious to
4 incorporate the additional functionality provided by the
5 teachings of Sharma to the combination of Compton and
6 Sharma," first of all, is my understanding correct that
7 this as typo in your declaration, that it should be
8 "Donner" rather than "Sharma," or is this correct and it
9 should be "Sharma"?

10 A. I believe it should be "Donner." We're
11 discussing the combination of all of these.

12 Q. Okay. So how would you incorporate the
13 functionality of Sharma to Donner? And we have Figure 8
14 of Donner in front of you. Please walk me through how
15 you would incorporate the additional functionality that
16 you referenced in that sentence that we just read off
17 Sharma into the slap hammer of Donner.

18 A. I would pick a releasing means structure
19 similar to Sharma, and I would incorporate it into the
20 handle of Donner.

21 Q. Just so we're clear, here's Figure 4. When
22 you're referencing the -- which structure in Figure 4 of
23 Sharma would you incorporate into the sleeve of Donner?

24 A. I guess it's -- I don't know what it's called
25 in there. The -- you could use the plunger 42 in the

1 back cap of Sharma and the sleeve handle attachment and
2 incorporate that into Donner.

3 Q. Understood. So going back to Donner, now we
4 have the hammer sleeve 58, which incorporates a push
5 button. How would that push-button lock the hammer
6 sleeve in place?

7 A. You would have a -- again, as we mentioned, a
8 corresponding releasing means structure on the shaft
9 that provides the other component of the releasing means
10 structure so that the sleeve handle would be able to be
11 locked.

12 Q. So going to Donner, which structure are you
13 referencing? You can use the reference numerals in
14 Figure 4 to describe which structure you're referencing.

15 A. Again, you could take the -- just the whole
16 back end of Sharma and attach it to Donner.

17 Q. We're going back to Donner. Attach it where
18 specifically?

19 A. To 80, the -- the shaft, and then you'd have
20 the sleeve handle 58 and 82 incorporated into the
21 design.

22 Q. How would you incorporate 82 into the design?

23 A. It would be the part that has the push-button
24 releasing means structure as seen in Sharma.

25 Q. But in Donner, does sleeve 58 slide over the

1 stop end 82?

2 A. Does it slide over?

3 Q. Yes.

4 A. No.

5 Q. Is the end 82 received into the sleeve 58 in
6 Donner?

7 A. No.

8 Q. Then if you incorporate this bulleted tip 22,
9 as you refer in your declaration -- and we're on Figure
10 4 of Sharma. So if you were to incorporate that entire
11 bulleted tip into Donner, like you just said, into the
12 stop end 82, if the sleeve 58 in Donner doesn't slide
13 over that tip, then how would the locking mechanism
14 operate?

15 A. Just like it does in Sharma.

16 Q. But in Sharma, if we go to Figure 4, it looks
17 like the bulleted tip 22 is received entirely in the
18 hammer sleeve. Would you agree with that?

19 A. Yeah, that's fair.

20 Q. In Donner, stop end 82 is not received within
21 the hammer sleeve 58; would you agree?

22 A. Yeah. They're two different structures.

23 Q. So if you were to replace the -- or so explain
24 it to me. I must not be understanding something.

25 A. 82 -- go back to Donner. 82 and 58 would be

1 incorporated together like they are in Sharma. The
2 shaft 80 would be modified, exactly like it is in
3 Sharma, to have the bulleted tip, and 58 and 82
4 combination, that would now be the equivalent of Sharma,
5 would slide over 80 in the bullet tip.

6 Q. And what would be the purpose of doing all of
7 these modifications?

8 A. To have a locking mechanism in Donner.

9 Q. And what would be the practical advantage to a
10 surgeon of having that? Is there one?

11 A. Yeah. You have an instrument that now has a
12 fixed handle and also has an instrument that has the
13 functionality of a slap hammer.

14 Q. And previously you said that end 82 of Donner
15 could be impacted with a mallet. Do you recall that?

16 A. Yes, sir, I do.

17 Q. So in this combination of Donner and Sharma,
18 what would be impacted with a mallet?

19 A. The metal back cap, similar to Sharma.

20 Q. Metal back cap of what?

21 A. Go back to Sharma. In a locked configuration,
22 you could use a mallet on 49 when the instrument is
23 locked and impacted upon.

24 Q. All right. Let's keep moving.

25 Here's our next prior art reference, Martz.

1 Do you see it on your screen?

2 A. Yes, sir, I do.

3 Q. If we go to Paragraph 62 of your declaration,
4 the last sentence in Paragraph 62 states: "A person of
5 skill in the art as defined by the Board would have
6 sufficient knowledge and skill to adapt the box chisel
7 of Martz to the sacroiliac procedure like that of
8 Schifano, Compton, or Black such that leading edge would
9 be sufficiently sharp and appropriately spaced to cut
10 the sacrum and ilium while the abrading surfaces 372 and
11 374 decorticate the bone tissue."

12 Do you see that sentence?

13 A. Yes, sir, I do.

14 Q. So let's go to the Figure 76a through "c" of
15 Martz, which are referenced in that paragraph. Here it
16 is.

17 Do you see Figures 76a through 76c on your
18 screen?

19 A. Yes, sir, I do.

20 Q. So could you explain to me what you mean by
21 adapting the -- I don't want to misquote you -- by
22 adapting the box chisel of Martz to sacroiliac
23 procedure?

24 A. You would modify the geometry of the
25 instrument so that it created a void that matched the

1 geometry of the implant.

2 Q. And is that important to match so that the
3 shape of the void matches the geometry of the implant?

4 A. Yes, sir. It does.

5 Q. Okay. And -- so which modification would you
6 make -- could you please be more specific -- to match
7 the shape of the implant?

8 A. You'd probably have to change the width and
9 the height. I would -- again, based on the void that
10 would be required for the implant to fit in the SI joint
11 space.

12 Q. When you're referring to "height," the height
13 between which elements? Could you please --

14 A. It is the --

15 Q. -- use the element numerals to explain which
16 height you're referring to.

17 A. So in Figure 76a, I would change the height
18 there. It could be either smaller or taller.

19 Q. So the height -- the height -- just so we're
20 on the same page, you're referring to the distance --
21 which distance are you referring to when you're saying
22 "height"?

23 A. Maybe -- kind of the lines pointing to 366.
24 Is that a "6"? -- 366 and the 76a. That would be what I
25 would call the height dimension. And if you look down

1 below at 76b, I would change the width of 373, I guess,
2 to make it wider.

3 So that's what I would call the width and the
4 height.

5 Q. And why would you make these changes?

6 A. Pardon me?

7 Q. Why would you make these changes?

8 A. To create a void that was complementary to the
9 implant.

10 Q. I'm looking at Paragraph 64 of your
11 declaration, still talking about Martz.

12 A. Mm-hmm.

13 Q. On page 42 it says, "Martz itself discloses
14 that rasp surfaces 372 and 374 may be positioned at
15 different locations on the cutting head. This would
16 suggest to a person of skill in the art that the rasp
17 surface can be positioned on a bone cutting surface of a
18 box chisel."

19 Do you see those sentences?

20 A. Yes.

21 Q. So going back to Figure 76a, where would you
22 position those rasping surfaces 372 and 374?

23 A. I'm sorry. Repeat the question.

24 Q. The -- looking at your declaration, it says,
25 "Martz itself discloses the rasp surfaces 372 and 374

1 may be positioned at different locations on the cutting
2 head. This would suggest to a person of skill in the
3 art that the rasp surface can be positioned on a bone
4 cutting surface of a box chisel."

5 Do you see that?

6 A. Yes.

7 Q. So what is the bone cutting surface? You used
8 the term "bone cutting surface," and this -- is this
9 correct: that you would position the rasp surfaces 372
10 and 374 on this bone cutting surface?

11 A. Yes.

12 Q. So looking at Figure 76a, what are these bone
13 cutting surfaces that you reference in your declaration?

14 A. It would be 372 and, I guess, 374.

15 Q. Those are rasp-- those are rasp surfaces?

16 A. Yeah.

17 Q. Again, so that's what you're -- so you're
18 saying a person with skill in the art would relocate the
19 rasp surfaces 372 and 374 such that they position on a
20 bone cutting surface of a box chisel? Do you see that?

21 A. Yes.

22 Q. So now looking at Figure 76A, you see the rasp
23 surfaces 372 and 374, and my question is: Where are
24 these bone cutting surfaces that you're referencing in
25 your declaration?

1 A. So bone cutting would be -- it could be at the
2 tips, 369 and 369 prime, or it could also be 370 and 370
3 prime. And if you chose to have an additional abrading
4 surface, you could place them on 366 or, kind of, 373,
5 depending on what's pointed on --

6 Q. And why would you --

7 A. -- on the surfaces that you wanted to rasp
8 with the bone.

9 Q. And why would you duplicate these rasping
10 surfaces 372 and 374?

11 A. It would depend on the anatomy; it would
12 depend on the tissue that you were cutting and how the
13 surgeon wanted to prepare the joint space.

14 Q. Does Martz contemplate putting those rasping
15 surfaces on the cutting surfaces?

16 A. Yeah. I think we just read it in my
17 paragraph.

18 Q. So that was your paragraph. That was not the
19 actual disclosure of Martz. And your paragraph
20 references Paragraph 306 of Martz.

21 If you go to Paragraph 306, it says, "In the
22 embodiment shown in Figure 76a through Figure 76c, the
23 top surface of the guide member 368 includes a rasp 372,
24 and in an alternative embodiment may also include a
25 broach. Further, the rasp may be positioned at

1 different locations on the cutting head as an
2 alternative to the preferred positioning on the top
3 surface of the guide member."

4 Is that the disclosure that you're referring
5 to?

6 A. Yes.

7 Q. Let's go back to the figures. So Martz refers
8 to elements 368 and 368 prime as guide members. What
9 function do these guide members perform?

10 A. Which -- which members are you talking about
11 now?

12 Q. 368 and 368 prime.

13 A. Okay.

14 Q. So Martz -- so what function do they perform
15 as you're using this tool?

16 A. Let's go back to the specification.

17 Q. Any specific place, or where we were a second
18 ago?

19 A. Where we were. I guess we can start there.

20 Q. Sure. I believe that was 306. There you go.

21 And the last sentence, for example: "The rasp
22 surface 372 preferably thus is on top and bottom
23 opposite surfaces of both of the guide members 368 and
24 368 prime and may be used to scrape disc material and
25 bone from adjacent vertebrae."

1 So what is the function of the guide members
2 368 and 368 prime beyond just being the surfaces in
3 which these rasping surfaces are positioned?

4 A. Again, as mentioned earlier, they kind of set
5 the -- the void with the cut that's made into the SI
6 joint.

7 Q. So the distance between the guide members 368
8 and 368 prime defines the width of the implant -- of the
9 implant void that's going to be created in the SI joint?

10 A. Again, that's what it's used for. I mean,
11 we're cutting the joint based on the geometry of the
12 instrument.

13 Q. I understand. So when we look at Figure 76a,
14 what happens with the cutting edges 370 and 374? In
15 Figure 76a, we don't see 370. It's only 370 prime. But
16 370 is located directly opposite, on the top.

17 So when -- if the distance between the guide
18 members 369 defines the width of the implant void, the
19 different distance between the 370 prime and 370, how
20 does that affect the width of the void that you're
21 creating?

22 A. I think we're getting confused on width and
23 height, so repeat your question, please.

24 Q. Sure. What is the purpose of the guide
25 members 369 and 369 prime?

1 A. Yes. That's -- again, if we choose -- if we
2 choose -- looking down on the implant as in 76c, I
3 believe, that would -- 369 and 369 prime would define
4 the width of the cut and the width of the void that
5 would be created in the SI joint.

6 Q. Is the distance between cutting edges 370 and
7 370 prime larger than the distance between 369 and 369
8 prime?

9 A. In which orientation?

10 Q. Looking at Figure 76a. So they're running
11 parallel, so there's only one orientation. So if you're
12 looking at 76a, there's a distance between 369 and 369
13 prime that, you just said, sets the width of the void
14 that we're going to create.

15 So I'm asking you: Is the distance between
16 cutting edges 370 prime and 370 larger, or is it
17 different than the distance between guide members 369
18 and 369 prime?

19 A. In this embodiment, yes.

20 Q. So which distance -- when you finish using
21 this tool to create a void, so which distance is going
22 to define the width of the void that you created, the
23 distance between the guide members 369 and 369 prime or
24 the cutting edges 370 and 370 prime?

25 A. Now, again, you're saying -- you say "width."

1 That --

2 Q. Isn't that the term you used? So which --
3 which dimension of the void you just said is being
4 defined by the distance between guide members 369 and
5 369 prime?

6 A. Well, if you look at it in Figure 76a, the
7 distance between 369 and 369 prime would drive the
8 height of the implant.

9 Q. Okay.

10 A. If you look at the guides 369 and 369 prime in
11 Figure 76b, that dimension would be driving the width of
12 the void or implant that corresponds to it.

13 Q. Sure. So the -- when you finish using this
14 tool to make a void in the SI joint, what is going to be
15 the -- looking at Figure 76a, you said "height," so
16 what's going to be the height of that void? Which --
17 which distance, between which two members?

18 A. Again, 369 and 369 prime would go in first,
19 and it would cut the soft tissue and the cartilage from
20 the bone, and there's an abrading surface there; and
21 then 370 and 370 prime would come in behind it and would
22 cut the bone and would create the final height of the
23 void.

24 Q. Okay. So we have one final segment. And I
25 know I told Mr. Nelson that I'm not going to hold you up

1 for more than four hours. It's around 1:00 now. I
2 think we have about an hour, maybe even less, left to
3 wrap this up.

4 Do you want to push this through, or do you
5 want to take a break? It's up to you.

6 A. I could use one.

7 MR. NELSON: I could use a restroom break,
8 so let's take a quick one.

9 THE WITNESS: All right. Well, let's go
10 ahead and do that, then, and then we'll finish up
11 in one session.

12 MR. LYTVYN: Sounds good. So it's 1:00.
13 Let's reconvene at 1:05. Would that work?

14 THE WITNESS: It works for me.

15 MR. LYTVYN: Perfect. All right, gentlemen.
16 See you soon.

17 (Recess from 12:59 p.m. to 1:05 p.m.)

18 BY MR. LYTVYN:

19 Q. The final stretch. Let me share my screen.
20 All right. Can everybody see my screen?

21 A. Yes, sir.

22 Q. So we spent some time talking about Figures
23 22A through 22D off Donner earlier today. Do you see
24 those figures on the screen?

25 A. Yes, sir, I do.

1 Q. What shape void would this abrading device
2 create in the SI joint?

3 A. I'm not sure. In -- as used as described in
4 the patent?

5 Q. How else would you use it?

6 A. Well, I guess what I'm asking is, you know,
7 you -- the way this instrument works is it's a
8 symmetrical instrument, if you will, so you make one
9 pass on one side of the joint, and then you rotate it
10 180 degrees and you make the same pass on the other side
11 of the joint.

12 So the void that you create is kind of
13 rectangular, with two keel cuts above and two keel cuts
14 below. So it -- it's a bit of a complex geometry.

15 Q. Okay. And let's take a look at Compton. We
16 have not discussed Compton yet today. Do you see
17 Compton in front of you?

18 A. Yes, sir, I do.

19 Q. And if we scroll down to Figures 10 and 11,
20 what -- how would you describe what you see on your
21 screen? What's your understanding of Figures 10 and 11?

22 A. I believe these are the implants, if I'm not
23 mistaken.

24 Q. You're not mistaken. These are the -- the
25 implants. And what -- what shape do they have?

1 A. I mean, that particular embodiment looks like
2 it may be a square cross-sectional area, in some given
3 length, with a tapered nose.

4 Q. And if we look to Figure 15 of Compton, what
5 is your understanding of this figure?

6 A. It's my understanding that they show kind of
7 the steps of forming the void in the bone that matches
8 the implant.

9 Q. And what shape is this void?

10 A. Again, I think in this particular embodiment,
11 it's a square. I don't recall the specification, if
12 it's limited to that geometry, but this appears to be
13 square.

14 Q. And would you be able to produce this shape
15 void using the abrading head of Donner that we just
16 looked at in Figures 22A through 22D?

17 A. If I was trying to put an implant that had the
18 profile of those cutters into that void, yes.

19 Q. But that wasn't the question. The question
20 was: If we look at Figure 15, it shows schematically
21 how a void is being created in the SI joint according to
22 the method of Compton. Just so I don't misquote you,
23 how did you characterize this -- the shape of this void?

24 A. Somewhat square.

25 Q. So would you be able to produce this somewhat

1 square shape using the abrading device of Donner
2 depicted in Figures 22A through 22D?

3 A. It could be, yes.

4 Q. Please explain how.

5 A. Again, as I mentioned, you would -- you would
6 take the instrument, and you would impact it in one
7 orientation and cut two keels and the cut-out void.
8 You'd flip it 180 degrees and do it again. And you
9 would be left with some voids where the keels are.
10 There would be some voids in the bone.

11 But based on the geometry of the distance
12 between the keels and the depth of the opening in the
13 tip, you could create a square.

14 Q. So explain to me the final shape. You
15 previously described it -- again, I don't want to
16 misquote you, but you said a complex geometrical shape
17 that would be created using this abrading head.

18 Is that an accurate description of your
19 earlier testimony?

20 A. Yeah. If -- if you had an implant that had
21 keels on it, this instrument would fit the void based on
22 the geometry of the cutter. If I was to take that same
23 instrument, I could make a square in the bone to where
24 Compton's implant would fit if I modified the interior
25 void, which is governed by the distance between 216s

1 and -- which would be 206, I guess, and the depth of
2 that void -- which I don't see that is -- and you could
3 make a square, but you would also have keel cuts on both
4 ends.

5 Q. So just so I understand correctly, the
6 ultimate shape that you would end up with for the void,
7 it would be a square shape in the middle, with
8 additional keels -- channels cut in the bone due to
9 these keels on the side. Is that understanding correct?

10 A. Yes.

11 Q. And would those additional channels that are
12 cut in the bone with these keels, would they serve any
13 particular purpose?

14 A. You asked me if I could make that geometry
15 with this instrument, and I said yes, you could.

16 Q. Would you select this instrument out of the
17 instruments that you are aware of to create the void
18 that's depicted in Figure 15 of Compton?

19 A. I would modify the instrument to match the
20 implant. I mean, that's the whole purpose of this
21 procedure, is that the bone preparation instruments
22 create a void in the bone that matches the implant.

23 Q. But going back to Donner, how would you
24 specifically modify this head in order to achieve that
25 void of that shape?

1 A. You know, I mean, you could -- you could do it
2 either width -- now that I'm looking at this instrument,
3 you could do it either width, leaving keels, and create
4 a square with keels, or you could rotate it 180 degrees
5 and cut it to where you create a box or a square like
6 you see in Compton.

7 Q. How would you do that?

8 A. You would turn the keels inside, and we know,
9 as we described earlier, that because this is a
10 dual-chamfered instrument, that it cuts both on the
11 inside and the outside, so you could design the exterior
12 geometry of this implant -- I mean, instrument to where
13 it matches the square of the implant, drive it into the
14 bone one way, rotate it 180 degrees, and do it the other
15 way.

16 Q. Would that void still have keels in it?

17 A. No. That particular configuration would not.

18 Q. Just so I understand correctly, are you
19 reducing the distance 206 between the -- and I'm looking
20 at Figure 22C. There's distance 206. So I'm just
21 trying to figure out exactly what modification you're
22 making. You're reducing the distance 206. Are you
23 changing some other dimension?

24 A. Well, here's the deal: We're going to pass
25 through there twice, so the -- the height of the implant

1 would behalf the square, and the width of the implant
2 from one edge of 20- -- I can't see -- one edge of 208
3 to the other edge of 208 could be the width, and you
4 could pass it twice in the joint and create a square.

5 Q. Okay. Let's continue our discussion. So
6 we're now in Paragraph 51 of your declaration. Do you
7 see that in front of you?

8 A. Yes, sir, I do.

9 Q. This one talks about a prior reference
10 referred to as Otte -- I'm not sure how to pronounce
11 it -- O-T-T-E. And -- okay. So the first sentence
12 says, "My first declaration also states that the
13 increases in efficiency by combining the joint
14 preparation tool of Donner with the posterior approach
15 of would [sic] be predictable, particularly when
16 combined with the teachings of Otte."

17 So I will pull up the Otte in just a second.
18 But which teachings of Otte are you referring to?

19 A. Let's pull it up, and I'll --

20 Q. Yes. I think you reference -- let me see.
21 There's a reference to a particular figure.

22 So you reference Paragraphs 56 through 59 of
23 Donner -- I mean, of Otte, and I believe we should go to
24 those. I'm on 56 through 59. So if you look here --
25 and I'm not going to read all this into the record, but

1 I'll scroll down, so if you need to read more, which
2 particular teachings of Otte are you referencing in your
3 declaration that would increase efficiency by combining
4 the joint preparation tool of Donner?

5 A. Again, I believe it's including the
6 instruments discussed previously with Donner and then
7 taking the -- the cutting abrading surface instrument as
8 shown in Otte.

9 Q. And which efficiency would you increase by
10 doing that? We're looking at Figures 11 and 12 off
11 Otte. If you want me to scroll to a different figure,
12 let me know, but just so you have a visual reference.

13 So how would combining Otte with Donner
14 increase the efficiency of Donner?

15 A. I don't think it's increasing the efficiency
16 of Donner. I think combining Donner, Compton, Sharma,
17 and Otte, which was my combination, would increase the
18 efficiency of the surgery because it's all included in
19 one instrument.

20 Q. So what would that combination look like?

21 A. It would be a single instrument with a tip
22 similar to Otte's; it would have a slap hammer similarly
23 configured to Sharma on the, kind of, slap hammer
24 portion of Donner; it would have an instrument like
25 Compton that would match the implant geometry and would

1 have an open tip like Otte, if I got all those right.

2 Q. So which tool in Compton are you referencing?

3 Let me pull up Compton.

4 A. Well, Compton shows that we have an abrading
5 instrument that creates a void. So if we're going to --
6 but it's closed, as we mentioned earlier.

7 So if we wanted to create a void that matched
8 the implant and allowed for the tissue to be removed
9 when you cut this -- this void for the implant, I would
10 provide you a more efficient option for cutting that
11 void, and the other features from each one of the other
12 ones would add additional efficiency.

13 Q. Well, let's say you're a surgeon and you're
14 about to perform a surgery using this combination that
15 you just described. Walk me through what that's going
16 to look like in terms of the tools that you are going to
17 pick up to perform that surgery.

18 A. Well, again, let me give you this reference:
19 When I first designed my first SI instrument set about
20 25-ish years ago, it had, like, three trays of
21 instruments: all these different combinations, sizes,
22 connections, handles, sleeves, all this other stuff.

23 And back then we did these procedures in
24 hospitals, and you could get through that, and the
25 surgeons were willing to put up with all of those

1 instruments and all that kind of stuff because it was
2 early in the evolution of this surgical procedure.

3 But as we moved to surgery centers and as we
4 moved to shorter OR times and surgery times, they don't
5 have -- they don't have the tolerance for all these
6 instruments and all these configurations and the time
7 that it takes to go through that.

8 So this instrument would -- again, it would be
9 a Donner-type instrument, that on the -- on the tip of
10 the instrument would have an Otte type of configuration
11 that allows you to cut the void to match the implant; it
12 would have a slap hammer that was lockable, like Sharma,
13 so that the surgeon would have an impactor and an
14 extractor, with no need for a mallet, so we are able to
15 eliminate that instrument. It's all manufactured
16 together so that it's not -- there's not quick connects;
17 there's not all these different pieces of the instrument
18 lying around.

19 So the scrub tech would hand this one combined
20 instrument to the doctor, and he was able to create the
21 void with one instrument.

22 Q. So would that instrument -- this has been a
23 big part of our discussion. You spent a substantial
24 portion of your declaration talking about Donner's
25 cutting head, and you were just saying that with the

1 combination of Compton, Donner, Otte, and Sharma, you
2 would use the Otte head. So which -- which one would
3 you use?

4 A. Again, I believe it would be a Donner type of
5 instrument with a similar open-tip cutting edge of Otte.

6 Q. So it wouldn't -- so would you replace
7 Donner's head with Otte's cutting head?

8 A. You could, yes.

9 Q. Is that the combination that you're making in
10 your declaration --

11 A. Yes, sir.

12 Q. -- or are you using Donner's head?

13 Because your declaration talks about -- it has
14 a substantial number of pages talking about Donner's
15 head and its features, and just now you said that you
16 would replace Donner's head with Otte's cutting head.

17 So which one -- which one is it?

18 A. Well, I think we -- the way I was describing
19 Donner is that the cutting head was attached to the
20 instrument, so it's the fact that it's all one
21 instrument. You have a cutting head, you have a shaft,
22 you have a handle, that's all one.

23 So, again, I think you would add an
24 open-tipped instrument, like Otte, to provide that
25 function, but, again, it would be attached to the

1 instrument of Donner.

2 Q. So going back to Figures 22A through 22D of
3 Donner, is that cutting head still present in the
4 combination that you just described?

5 A. I mean, it could be. I mean, this is clearly
6 an open-tip abrading head as well, or it could be the
7 Otte geometry if it was cutting a void that needed to
8 match that implant.

9 Q. So which one do you contemplate in your
10 declaration when you're talking about the combination
11 of -- you just said that you would use a combined tool
12 that has all of these features of all these different
13 references, so I'm trying to visualize this tool.

14 So which cutting head does it have? Does it
15 have Donner's head, does it have Otte's head, or is it
16 some kind of a hybrid between the two?

17 A. I believe if the implant had keels, I would
18 use the Donner open-tip abrading surface, and if it was
19 square and didn't have keels, Otte provides another
20 option where, again, you're creating a void that matches
21 the implant.

22 MR. LYTUVYN: I think that's -- that's all I
23 have for today. So we're done with the
24 cross-examination portion of the deposition. If
25 Mr. Nelson would like to ask questions on

1 redirect, that's fine. I tender the witness.

2 MR. NELSON: Okay. Let me take five
3 minutes.

4 MR. LYTVYN: Okay. Let's reconvene at 1:35.

5 MR. NELSON: Okay.

6 (Recess from 1:30 p.m. to 1:36 p.m.)

7 REDIRECT EXAMINATION

8 BY MR. NELSON:

9 Q. You see what I was just showing, I take it?

10 A. Yep.

11 Q. Okay. So, Mr. Drewry, you recognize this
12 patent?

13 A. Yes, sir, I do.

14 Q. And it's Exhibit 1001, LaNeve to PainTEQ, LLC?

15 A. Yes, I do.

16 Q. Okay. So you were discussing certain parts of
17 this document with Mr. Lytvyn, including Column 7, the
18 end there.

19 A. I'm sorry. Could you -- could you bump it up
20 a couple of zooms?

21 Q. Sure. Let me zoom and enhance. So you were
22 discussing this particular section extensively with
23 Mr. Lytvyn, Column 7, Lines 9 through 11, discussing
24 what "releasing" means.

25 A. Yes, sir.

1 Q. Okay. And Mr. Lytvyn asked you about
2 particular statements in your declaration regarding
3 alternatives to Figures -- the releasing mechanism shown
4 in Figures 16 and 17.

5 A. Yes, sir.

6 Q. Let me see if I can rotate this for you. It's
7 changing pages on me. There we go.

8 Okay.

9 A. Okay.

10 Q. So you guys spent quite a bit of time on
11 Figures 16 and 17 --

12 A. Yes.

13 Q. -- and the alternatives to threading as listed
14 in Column 7, Lines 9 through 11, and in particular a
15 clasp. And he asked about whether this patent document,
16 Exhibit 1001, discloses a recess or a hole through the
17 shaft 44 -- correct? -- in connection with the clasp?

18 A. Yeah. I -- I seem to recall being asked
19 something similar to that.

20 Q. So do you understand this patent document to
21 disclose a hole in shaft 44 expressly in the
22 specification?

23 A. I apologize. A hole where?

24 Q. In shaft 44, so of the sliding -- sliding dual
25 assembly, right? The --

1 A. Yes.

2 Q. -- handle 31, shaft 44, and that connects to
3 the thread lead in 42, as shown in Figure 16?

4 A. Yes.

5 Q. I just wanted to follow up on Mr. Lytvyn's
6 questioning. Do you understand the patent document
7 Exhibit 1001 to expressly disclose a hole for a clasp in
8 the shaft 44?

9 A. I -- again, I don't specifically recall if it
10 calls out that or not. But it -- again, using a clasp,
11 it would -- you know, it would be required or could be
12 required based on the structures of the releasing means
13 structure in the clasp.

14 Q. Okay. What about plates? I think he asked
15 you about plates as an alternative to threading. Do you
16 recall Exhibit 1001 expressly disclosing some sort of
17 plate in the shaft 44 or the slide hammer assembly?

18 A. Again, as part of using one of these
19 alternative releasing means structures, it would be
20 included.

21 Q. Let me ask some more just directly, quickly
22 here. Is that expressly disclosed in the specification,
23 or are you interpreting structures based on the
24 disclosure of the different releasing means?

25 MR. LYTVYN: Objection; leading the witness.

1 A. Again, I think there was some discussion of
2 these alternative configurations, but I don't
3 specifically recall where in the specification.

4 MR. NELSON: No further questions.

5 THE COURT REPORTER: Read or waive,
6 Mr. Drewry?

7 THE WITNESS: I read, please.

8 THE COURT REPORTER: And, Mr. Lytvyn, I
9 assume you are ordering the transcript, the
10 original?

11 MR. LYTVYN: Yes. What is the quickest time
12 frame you could turn this around?

13 THE COURT REPORTER: I could get it to you
14 Monday.

15 MR. LYTVYN: Monday will be perfect.

16 THE COURT REPORTER: Okay.

17 Mr. Nelson, did you want your copy expedited
18 as well? Because Veritext does have an upcharge
19 even on the copies.

20 MR. NELSON: Yes.

21 THE COURT REPORTER: All right. Thank you,
22 gentlemen.

23 (The deposition concluded at 1:43 p.m.
24 Reading and signing were not waived.)

25 * * * * *

CERTIFICATE OF OATH OF WITNESS

STATE OF FLORIDA)

COUNTY OF SARASOTA)

I, LAURA S. EDER, Registered Merit Reporter, Notary Public in and for the State of Florida at Large, do hereby certify that the witness, TROY D. DREWRY, MS, MEM, remotely appeared before me on May 16, 2024, and was duly sworn by me.

WITNESS my hand and official seal this 20th day of May, 2024.



LAURA S. EDER, RMR

Notary Public

State of Florida at Large

Commission Number: HH 357195

Commission Expires: 4/26/2027

Personally known: No

Produced identification: Yes

Identification produced: Tennessee driver's license

REPORTER'S DEPOSITION CERTIFICATE

I, LAURA S. EDER, Registered Merit Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition of TROY D. DREWRY, MS, MEM, the witness herein on May 16, 2024; that a review of the transcript was requested; and that the foregoing transcript, pages 4 through 97, is a true and complete record of my stenographic notes.

I FURTHER certify that I am not a relative, employee, attorney, our counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 20th day of May, 2024.



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5
6 May 20, 2024
7

8 RE: : ORTHOCISION, INC. v. PTL OPCO, LLC
DEPO OF: TROY D. DREWRY, MS, MEM
9 TAKEN : May 16, 2024
10

11 The above-referenced transcript is available for
review.
12

The witness should read the testimony to verify its
13 accuracy. If there are any changes, the witness should
note those with the reason on the attached Errata Sheet.
14

The witness should, please, date and sign the
15 Errata Sheet and email to the deposing attorney as well
as to Veritext at Transcripts-fl@veritext.com, and
16 copies will be emailed to all ordering parties.

17 It is suggested that the completed errata be
returned 30 days from receipt of the testimony, as
18 considered reasonable under Federal rules*; however,
there is no Florida statute to this regard.
19

If the witness fails to do so, the transcript may
20 be used as if signed.

21
22 Yours,
23 Veritext Legal Solutions
24

*Federal Civil Procedure Rule 30(e)/Florida Civil
25 Procedure Rule 1.310(e).

1 RE: : ORTHOCISION, INC. v. PTL OPCO, LLC

DEPO OF: TROY D. DREWRY, MS, MEM

2 TAKEN : May 16, 2024

JOB NO.: 6679815

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18 REASON ____

19 PAGE ____ LINE ____ CHANGE ____

20
21 Under penalties of perjury, I declare that I have read
22 the foregoing document and that the facts stated in are
23 true.

24
25 TROY D. DREWRY, MS, MEM

DATE

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04 60:6	47:14,17,20,25	17 30:5 39:3,19	4:17
1	48:4,5,7 49:5,14	40:5,13,20	2024 1:20 98:8
1 26:7	49:17,19,21,23	41:11 42:16	98:11 99:5,14
1.310 100:25	50:3,4,5,5,14,16	43:8,12,15 44:7	100:6,9 101:2
10 83:19,21	51:7,11,18 52:9	44:13 45:7,8	206 86:1 87:19
100 3:7	53:3,12,17 54:3	59:14 60:9,11	87:20,22
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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