

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

DEXCOM, INC.	)	
Petitioner,	)	
	)	Case No.:
vs.	)	IPR 2023-01409
	)	
ABBOTT DIABETES CARE INC.,	)	
Patent owner.	)	
_____	)	

DEPOSITION OF GARY D. FLETCHER, Ph.D.
Portland, Oregon
Wednesday, December 4, 2024; 9:12 a.m.

TAKEN IN BEHALF OF THE PATENT OWNER

REPORTED BY:
Victoria A. Guerrero, CSR, RDR, RMR, CRR
Job No. 21129
Pages 1 through 129

Page 2 1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE PATENT TRIAL AND APPEAL BOARD 3 4 DEXCOM, INC.) 5 Petitioner,) 6 vs.) Case No.: 7 ABBOTT DIABETES CARE INC.,) IPR 2023-01409 8 Patent owner.) 9 10 11 12 13 14 15 16 17 BE IT REMEMBERED that, pursuant to notice, the 18 deposition of GARY D. FLETCHER, Ph.D. was taken 19 before Victoria A. Guerrero, Oregon Certified 20 Shorthand Reporter, Registered Diplomate Reporter, 21 Registered Merit Reporter, and Certified Realtime 22 Reporter, on Wednesday, December 4, 2024, commencing 23 at the hour of 9:12 a.m., in the conference room of 24 the law firm of Klarquist Sparkman LLP, in the City 25 of Portland, County of Multnomah, State of Oregon.	Page 4 1 INDEX TO EXAMINATION 2 WITNESS: GARY D. FLETCHER, Ph.D. 3 4 EXAMINATION: PAGE LINE 5 By Mr. Hansen 7 10 6 7 * * * 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 3 1 A P P E A R A N C E S: 2 3 FOR THE PATENT OWNER: 4 5 McANDREWS HELD & MALLOY LTD 6 LELAND HANSEN 7 JAMES HAFERTEPE 8 500 West Madison Street, 34th Floor 9 Chicago, Illinois 60661 10 T 312.775.8000 11 lhansen@mcandrews-ip.com 12 jhafertepe@mcandrews-ip.com 13 14 FOR THE PETITIONER: 15 16 KLARQUIST SPARKMAN, LLP 17 SCOTT DAVIS 18 ALEXA JOHNSTON 19 ANDREW M. MASON 20 121 SW Salmon Street, Suite 1600 21 Portland, Oregon 97204 22 T 503.595.5300 F 503.473.0933 23 scott.davis@klarquist.com 24 alexa.johnston@klarquist.com 25 andrew.mason@klarquist.com 26 27 * * *	Page 5 1 INDEX TO EXHIBITS 2 GARY D. FLETCHER, Ph.D. 3 DexCom vs Abbott 4 Wednesday, December 4, 2024 5 Victoria A. Guerrero, CSR, RPR, RMR, CRR 6 7 MARKED DESCRIPTION PAGE LINE 8 Exhibit 2050 Cote Figure 68, annotated 72 13 9 Exhibit 2051 Cote Figure 70, annotated 75 7 10 Exhibit 2052 Cote Figure 67, annotated 76 5 11 Exhibit 2053 Cote Figure 80A 77 9 12 Exhibit 2054 Cote Figure 80A, annotated 78 11 13 Exhibit 2055 Cote Figure 81A, annotated 83 20 14 Exhibit 2056 Cote Figure 81C 88 23 15 Exhibit 2057 Cote Sheet 19 depicting 90 6 16 Figures 71, 72 and 73 17 18 Exhibit 2058 Cote Figure 81C, annotated 98 11 19 Exhibit 2059 Cote Figure 82A 99 22 20 Exhibit 2060 Cote Figure 77, annotated 104 2 21 22 23 24 25 (EXHIBITS CONTINUE NEXT PAGE.)

Page 6					Page 8				
1	INDEX TO EXHIBITS (cont'd)				1	as an expert witness on behalf of Dexcom?			
2	GARY D. FLETCHER, Ph.D.				2	A No.			
3	DexCom vs Abbott				3	Q How many of the prior depositions were in			
4	Wednesday, December 4, 2024				4	connection with your work for Dexcom?			
5	Victoria A. Guerrero, CSR, RPR, RMR, CRR				5	A I believe it would be four.			
6					6	Q The other expert witness work that you've			
7	MARKED	DESCRIPTION	PAGE	LINE	7	done, did it relate in any way to CGM devices?			
8	Exhibit 2061	Cote Figure 78, annotated	106	16	8	A I don't believe it did, no.			
9	Exhibit 2062	Figure depicted on Page 39 of	109	14	9	Q Did it relate in any way to inserters such			
10		Dr. Fletcher's second			10	as an inserter for an infusion set?			
11		declaration, annotated			11	A No, I don't believe it did.			
12	Exhibit 2063	Cote Figure 81C, partial,	114	9	12	Q Have you ever testified at trial?			
13		annotated			13	A No, I have not.			
14		* * *			14	Q What did you do to prepare for your			
15					15	deposition today?			
16					16	A I believe we had -- in November we had			
17					17	three Zoom calls of approximately an hour and a half			
18					18	with attorneys and I was also here yesterday to			
19					19	prepare.			
20					20	Q And the Zoom calls that you mentioned, who			
21					21	were the attorneys that participated in those calls			
22					22	with you?			
23					23	A Would have been the attorneys in this room			
24					24	with the exception -- I don't believe Andy was on			
25					25	any of the Zoom calls, but also in addition to Scott			

Page 7					Page 9				
1	Wednesday, December 4, 2024; 9:12 a.m.				1	and Alexa would have been Derrick Toddy from this			
2	Portland, Oregon				2	firm. And also for short periods of time, Beth -- I			
3					3	think her name is Beth Egan from Kecker.			
4	ooOoo				4	Q You said you met with some attorneys			
5	Whereupon, GARY D. FLETCHER, Ph.D., having				5	yesterday to prepare for your deposition.			
6	first been sworn by the Oregon Certified				6	A Yes.			
7	Shorthand Reporter, testified under oath as				7	Q Which attorneys did you meet with			
8	follows:				8	yesterday?			
9					9	A Scott Davis, Alexa Johnston, Derrick Toddy,			
10	EXAMINATION				10	and for about 45 minutes at the end of the day via			
11					11	Zoom with Beth Egan from Kecker.			
12	BY MR. HANSEN:				12	Q And yesterday when you were meeting with			
13	Q Good morning, Dr. Fletcher.				13	these attorneys, approximately how long did you meet			
14	A Morning.				14	with them?			
15	Q We met previously at another deposition in				15	A Approximately five hours.			
16	another matter. Do you recall that?				16	Q In addition to the time that you spent			
17	A I do.				17	yesterday with the attorneys and the time that you			
18	Q How many times have you been deposed in				18	spent on Zoom calls with the attorneys, did you do			
19	your lifetime?				19	anything else to prepare for your deposition today?			
20	A It's either five or six times, I'm not				20	A I reviewed my second declaration and also			
21	sure.				21	my first declaration, predominantly.			
22	Q And those prior depositions, were they all				22	Q I see that you brought a binder with some			
23	in connection with your work as an expert witness?				23	documents with you. What documents do you have in			
24	A Yes, they were.				24	your binder?			
25	Q Were they all in connection with your work				25	A It would be Exhibit 1003, which is my first			

Page 10 1 declaration; Exhibit 1045, which is my second 2 declaration; Exhibit 1001, which is the Yee '591 3 patent; Exhibit 1004, which is the Stafford patent 4 application; Exhibit 1005, which is the Cote patent 5 application; and Exhibit 1008, which is the Say '752 6 patent. 7 Q Let's talk about your second declaration, 8 Exhibit 1045. Who was involved in preparing that 9 declaration? 10 A I was involved in preparing the declaration 11 and with support from attorneys from Klarquist. 12 Q Which Klarquist attorneys were involved in 13 preparing your second declaration, Exhibit 1045? 14 A That would have been -- I believe it would 15 have been Scott Davis and Alexa Johnston. And 16 probably support from Derrick Toddy. 17 Q Can you turn, please, to page 5 of 18 Exhibit 1045, your second declaration? 19 A Okay. I'm there. 20 Q Do you see the heading, Materials 21 considered and information relied upon regarding 22 '591 patent? 23 A I do. 24 Q And under that heading there are four 25 tables beginning on page 5 -- excuse me. There are	Page 12 1 would describe. I saw -- I just played with it. 2 Did no engineering testing on it whatsoever. 3 Q Did you disassemble it? 4 A No, I did not. 5 Q Did you examine it in any way to determine 6 the components that are inside the device? 7 MR. DAVIS: Objection. Form. 8 THE WITNESS: I played with the spring to 9 see -- just to get a feeling for the device. 10 And at some point I may have inadvertently 11 fired the device into the air. And so after 12 that, it was no longer -- you could no longer 13 do anything with it. The needle had been fired 14 and retracted. And that was just sitting on my 15 desk playing with it. 16 BY MR. HANSEN: 17 Q In your first and second declaration you 18 refer to an inserter from the Cote reference from 19 Exhibit 1005 that is described in Cote or identified 20 in Cote with the call-out number 1100; do you know 21 what I'm referring to? 22 A Yes, I believe I do. 23 Q If I, during the course of the day, refer 24 to that particular device as Cote 1100, will you 25 know what I'm referring to?
Page 11 1 three tables beginning on page 5 and continuing on 2 to page 9; is that correct? 3 A That appears to be correct, yes. 4 Q Are the materials in those tables the 5 materials that you considered and relied upon? 6 A Yes, they are. 7 Q Is there anything else that you considered 8 in connection with your opinions whether or not you 9 relied upon it? 10 MR. DAVIS: Objection. Form. Foundation. 11 THE WITNESS: I don't believe so. 12 BY MR. HANSEN: 13 Q Did you conduct any testing that's not 14 described in your declaration? 15 A No, not any rigorous testing. 16 Q Did you conduct any testing at all that's 17 not described in your first or second declaration? 18 A I don't believe so. I had a -- I have had 19 and observed a Cleo 90 insertion device, but did no 20 testing on it. 21 Q Do I understand correctly that you have 22 seen a Cleo 90 device? 23 A That is correct. 24 Q But you've never tested one? 25 A I played with it, would be the -- what I	Page 13 1 A I believe I would, yes. 2 Q Did you do any analysis to compare the 3 components of the Cleo 90 to Cote 1100? 4 MR. DAVIS: Objection. Form. 5 THE WITNESS: No. I did not do any 6 analysis. 7 BY MR. HANSEN: 8 Q Did you compare the patent claims -- did 9 you compare any patent claims to the Cleo 90? 10 A I'm not sure I understand what you mean by 11 compare patent claims. What do you mean by that 12 question? 13 Q Well, in your second declaration you 14 reference a Cote '691 patent; are you familiar with 15 that? 16 A Which exhibit? 17 Q Exhibit 1058. 18 A Yes, I am. 19 Q With reference to the Cote '691 patent, did 20 you do any analysis of the Cleo 90 that's not laid 21 out in your second declaration? 22 MR. DAVIS: Objection. Foundation. Form. 23 THE WITNESS: If I understand your 24 question correctly, the answer would be no, I 25 don't believe I did any analysis that's not

Page 14 1 laid out in the declarations. 2 BY MR. HANSEN: 3 Q Did you do any analysis of the Cleo 90 4 comparing the Cleo 90 on an element-by-element basis 5 to any of the patent claims in the Cote '691 patent? 6 A No, I don't believe I did. 7 Q With respect to the Cote '691 patent, did 8 you do any analysis comparing the claim elements to 9 the Cote 1100 device? 10 A I'm not sure exactly what you're asking 11 here. I'm not clear on the question. 12 Q Have you ever done an analysis of a 13 product, whether an actual product or a paper 14 product, to determine whether the product is covered 15 by the claims of a patent by comparing the 16 components of the product to the claim of the patent 17 on an element-by-element basis? 18 MR. DAVIS: Objection. Form. 19 THE WITNESS: If I understand your 20 question correctly, I don't believe I have. My 21 understanding of the Cleo 90 device and how it 22 relates to the patents that we're talking about 23 would be in this declaration. 24 BY MR. HANSEN: 25 Q Is that also true with respect to Cote	Page 16 1 A Uh-huh. 2 Q So that type of analysis, where you compare 3 the claims of a patent to a product, whether the 4 product is an actual product or a paper product, did 5 you ever do that analysis on an element-by-element 6 basis comparing any claims of Cote '691 to the Cleo 7 90? 8 A To answer your question, I don't believe I 9 have. Whatever analysis I've done has been 10 described in the second declaration. 11 Q And did you ever do that type of analysis, 12 comparing the claims of Cote '691 patent to the Cote 13 1100 embodiment from Exhibit 1005? 14 A Whatever analysis I've done has been 15 described in either the first declaration or the 16 second declaration. 17 Q So if it's not described in any of your 18 declarations, then you didn't do it, correct? 19 A That would be my understanding. 20 Q Are you familiar with the term "CAD"? 21 A I'm familiar with a term of CAD meaning 22 computer aided design, if that's what you're 23 referring to. 24 Q Yes. Computer aided design is a tool that 25 an engineer could use to analyze a product
Page 15 1 1100? 2 MR. DAVIS: Objection. Form. 3 THE WITNESS: Is what also true? I'm 4 sorry. 5 BY MR. HANSEN: 6 Q So let's take a step back. 7 A Yeah. 8 Q Set aside Cleo 90, set aside Cote 1100. 9 Have you at any time during your life ever analyzed 10 whether a patent claim covers a product by comparing 11 the elements of the claim to the components of the 12 product on an element-by-element basis? 13 Have you ever done that? 14 A It's hard for me to recall, but I suspect I 15 did in the distant past, but I don't remember the 16 circumstances. 17 Q Did you ever do that type of analysis, 18 comparing the claims of Exhibit 1058, the Cote '691 19 patent, to the Cleo 90? 20 A Can you repeat the question? I'm sorry. 21 Q So we just talked about how one might 22 compare the claims of a patent to a product by 23 comparing the elements of the claim to the 24 components of the product on an element-by-element 25 basis, correct?	Page 17 1 virtually, correct? 2 MR. DAVIS: Objection to form. 3 Foundation. 4 THE WITNESS: I am not a CAD engineering 5 expert, but I suspect one could do that. I 6 don't know for certain. 7 BY MR. HANSEN: 8 Q Have you ever analyzed Cote 1100 from 9 Exhibit 1005 using CAD software or any other 10 mechanism for virtual modeling of a design? 11 A I don't believe I have, no. 12 Q Have you ever analyzed Cleo 90 using CAD 13 software or some other tool for virtual modeling or 14 analysis of a design? 15 A No. 16 Q Let's go back to your list of materials 17 considered in your second declaration. Do you see 18 on page 5 where you reference Exhibits 1047 and 19 1048? 20 A I do. 21 Q Let's talk a little bit about those 22 exhibits. First, how did you locate these articles? 23 Did you do a Google search? 24 A I believe that's what I did. I don't 25 really recall how I found them. It must have been

Page 18 1 through a Google or some other search engine. 2 Q Did any of DexCom's attorneys assist you in 3 locating these articles? 4 A I believe they did in identifying the Sacks 5 article, yes. 1048. Sorry. 6 Q Did they assist you in identifying the 7 Clancy article, Exhibit 1047? 8 A I don't recall. 9 Q Let's talk about the Clancy article, 10 Exhibit 1047. 11 A Do you have that exhibit? Because I don't 12 have it in front of me if you're going to ask a 13 question about it. 14 Q All right. I do have copies. So I'm now 15 handing you the Clancy article, which is 16 Exhibit 1047. And I'm also handing you the Sacks 17 article, which is Exhibit 1048. 18 Let's talk about the Clancy article, 19 Exhibit 1047. This article describes various ways 20 to measure the mechanical properties of skin, 21 correct? 22 A That's my understanding, yes. 23 Q It describes technique and instrumentation 24 developed by the authors to measure mechanical 25 properties of skin?	Page 20 1 Dickinson on mechanical properties of skin, but I 2 couldn't tell you what the instrumentation was. 3 Q Did you ever use any of the technology 4 described in the Clancy article, Exhibit 1047, to 5 evaluate skin deformation associated with the Cleo 6 90? 7 MR. DAVIS: Objection. Form. 8 THE WITNESS: No. 9 BY MR. HANSEN: 10 Q Did you ever use any of the technology 11 described in the Clancy article, Exhibit 1047, to 12 evaluate skin deformation associated with the Cote 13 1100 device? 14 A Let me get -- what do you mean by 15 "associated with"? 16 Q Did you ever use any of the technology 17 described in the Clancy article, Exhibit 1047, to 18 evaluate whether and to what extent the Cote 1100 19 device causes skin deformation? 20 A No. I've never used any of those 21 technologies to make -- I'm sorry -- to make 22 measurements. 23 Q If you turn to page 211 of the Clancy 24 article, Exhibit 1047, do you see the heading 25 "Theory" on that page?
Page 19 1 A That's my understanding, yes. 2 Q And it also describes other technology used 3 to measure the mechanical properties of skin, 4 correct? 5 MR. DAVIS: Objection to form. 6 THE WITNESS: It certainly lists other 7 instrumentation to measure the mechanical 8 properties of skin. I don't know how much it 9 describes each of those. 10 BY MR. HANSEN: 11 Q Have you ever used any of the 12 instrumentation described in this article, the 13 Clancy article, Exhibit 1047? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: I would say I have used the 16 technology, for example, ultrasound, not 17 necessarily to measure mechanical properties of 18 skin. 19 BY MR. HANSEN: 20 Q Okay. So you've used ultrasound 21 technology, but not to measure the mechanical 22 properties of skin? 23 A No. And the reason I'm pausing is I'm 24 trying to remember -- yeah, I can't recall. There 25 may have been studies done while I was at Becton	Page 21 1 A I do. 2 Q And do you see in the second paragraph 3 under that heading it references a mathematical 4 model describing the reaction of skin when it is 5 indented and allowed to recover? 6 A Uh-huh. 7 Q Did you ever use any type of a mathematical 8 model to evaluate whether and to what extent skin 9 deforms in connection with Cote's 100 device? 10 A I was not asked to do any mathematical 11 modeling. So no, I did not do any mathematical 12 modeling. 13 Q Did you do any mathematical modeling to 14 assess whether and to what extent skin deforms in 15 connection with the Cleo 90 device? 16 A I was not asked to do any mathematical 17 modeling in relation to the skin deformation. 18 Q Were you asked to do any type of testing in 19 connection with skin deformation? 20 MR. DAVIS: Objection. Form. Foundation. 21 THE WITNESS: I don't believe I was -- I 22 don't recall that I was asked to do any formal 23 testing. I performed informal testing on 24 myself. 25 ///

Page 22 1 BY MR. HANSEN: 2 Q Using a Cote 1100 device? 3 MR. DAVIS: Objection. Form. 4 THE WITNESS: As I said previously, I 5 played with the Cote device. I never used it 6 to insert a cannula onto my skin. 7 BY MR. HANSEN: 8 Q Let's be clear. I think you said 9 previously that you had played with a Cleo 90 10 device. I'm asking you about a Cote 1100 device. 11 A Oh, sorry. 12 Q Okay? 13 A Okay. Repeat the question, then. 14 Q The question was, were you asked to do any 15 type of testing in connection with skin deformation 16 associated with a Cote 1100 device? 17 MR. DAVIS: Objection. Form. 18 THE WITNESS: I'm not sure I understand 19 the question since I physically never had a 20 Cote 1100 device with which to perform any 21 testing. So help me understand the question 22 you're asking. 23 BY MR. HANSEN: 24 Q Okay. So you've never had a physical Cote 25 1100 device to test, correct?	Page 24 1 that's the indentation time they began with. 2 If you want me to review the whole paper, I 3 could do that. 4 BY MR. HANSEN: 5 Q Well, let me ask you this: You've 6 indicated in your declaration that you relied on 7 this article in connection with the opinion set 8 forth in your second declaration. As you were 9 relying on this article, did you consider the 10 indentation times associated with the data reported 11 in the article? 12 A Can you refer me to my dec where I referred 13 to the 1047 exhibit? 14 Q Maybe if you turn to page 35, probably 15 beginning with paragraph 49. 16 A Okay. I'm there. Could you ask the 17 question again? 18 Q In your second declaration you state that 19 you relied on the Clancy article, Exhibit 1047, and 20 the Sacks article, Exhibit 1048. Did you, when you 21 relied upon these articles, consider the indentation 22 times associated with the data reported in either 23 article? 24 A I was aware of the indentation times 25 reported. I don't know that I specifically called
Page 23 1 MR. DAVIS: Objection. Form. 2 THE WITNESS: Not to my knowledge. 3 BY MR. HANSEN: 4 Q And you never did any virtual modeling or 5 testing or assessment of a Cote 1100 device using, 6 for example, CAD software? 7 A I was not asked to do any mathematical 8 modeling or testing, and I don't believe I offered 9 an opinion on that, no. 10 Q So going back to Exhibit 1047, the Clancy 11 article. If you turn to page 214, you see the 12 heading "Instrumentation Developing"? 13 A Yes, I do. 14 Q And do you see in the second paragraph of 15 that heading that it states, An indentation time of 16 20 seconds was chosen? 17 A I do. 18 Q Do you understand, then, that for the test 19 results that are reported in this article, that that 20 is the indentation time that was used? 21 MR. DAVIS: Objection. Form. 22 THE WITNESS: I'd have to review the paper 23 carefully to see whether there were any other 24 indentation times used or reported. So I can't 25 say for certain. They clearly state that	Page 25 1 that out or -- yeah, I don't believe I did. No. 2 Q Could you turn, please, to the Sacks 3 article, Exhibit 1048. And specifically, could you 4 turn to page 5 of that article where 5 figure 7 appears? 6 A Yes. 7 Q Do you see in the caption for that figure 8 it states that skin displacements were measured over 9 proximal femur in four male subjects? 10 A Yes. 11 Q For the Cleo 90, is over the proximal femur 12 a preferred location for placing the device? 13 MR. DAVIS: Objection. Form. 14 THE WITNESS: I'm looking for a place in 15 my dec because I don't remember the actual 16 language in the Cleo 90 device as to where the 17 preferred locations are. So I'm not finding 18 that. 19 BY MR. HANSEN: 20 Q Maybe I can help you. So just let me ask. 21 Without referring to your declaration that DexCom's 22 attorneys assisted you with, you don't remember 23 yourself where the Cleo 90 should be applied on the 24 body? 25 MR. DAVIS: Objection. Form.

Page 26 1 THE WITNESS: I believe there were 2 preferred locations in the abdomen or the back 3 of the upper arm, but specific locations, I'm 4 just recalling from memory and that may not be 5 correct. 6 Well, so I see here, continuing in 7 paragraph 50 of the second dec, when you only 8 lightly press a finger against skin on one's 9 back, parenthesis, one insertion site disclosed 10 in Cote 1100, or abdomen or back of arm -- 11 (Reporter requests clarification.) 12 BY MR. HANSEN: 13 Q Let me direct your attention to 14 paragraph 50 on page 42 of your second 15 declaration -- paragraph 60 on page 42 of your 16 second declaration. 17 A Okay. 18 Q Do you see at the bottom of 19 paragraph 60 there's a statement about common 20 insertion sites other than the abdomen? 21 A You mean the last full sentence? 22 Q Yes. Do you see that? 23 A Yes. 24 Q So based on your second declaration, one 25 common insertion site would be the abdomen, correct?	Page 28 1 BY MR. HANSEN: 2 Q Did you ever do any testing or other 3 analysis to determine the amount of pressure applied 4 in pounds per square inch when a Cleo 90 device is 5 used to place an infusion site? 6 MR. DAVIS: Same objection. 7 THE WITNESS: Again, I refer to 8 paragraph 50 where I state one may only lightly 9 press a finger against skin on one's back or 10 abdomen or back of arm to see that pressing a 11 Cote 1100 inserter against the skin would 12 deform the skin around its distal end. 13 BY MR. HANSEN: 14 Q Is that the extent of the testing that you 15 did, pressing your finger against the back? 16 MR. DAVIS: Objection. Foundation. 17 THE WITNESS: I was not asked to do 18 extensive testing. I was asked to compare the 19 results from these two documents with my 20 experience and current personal, as I describe 21 here, personal testing -- personal -- wouldn't 22 call it testing -- results of my own finger 23 pressing against my skin. 24 BY MR. HANSEN: 25 Q Does finger pressing against the skin
Page 27 1 A Yes. 2 Q Another would be the back, correct? 3 A Yes. 4 Q Another would be back of arm, correct? 5 A Those appear to be the common insertion 6 sites as I indicated here. 7 Q And none of those would be described as 8 over femur sites, correct? 9 A No. 10 Q No, they would not be described as over 11 femur sites, correct? 12 MR. DAVIS: Objection. Form. 13 BY MR. HANSEN: 14 Q Let me ask the question in a different way. 15 Would any of those common insertion sites be 16 described as over proximal femur sites? 17 A No, not the common insertion sites I've 18 listed here. 19 Q Did you ever do any testing or other 20 evaluation to determine the amount of pressure 21 applied in pounds per square inch when a Cleo 90 22 device is used to place an infusion site? 23 MR. DAVIS: Objection. Foundation. 24 THE WITNESS: Could you repeat the 25 question?	Page 29 1 require any of your special expertise? 2 MR. DAVIS: Objection. Form. 3 THE WITNESS: I suspect not. 4 BY MR. HANSEN: 5 Q In terms of the finger pressing that you 6 did, could Mr. Davis have done the same thing? 7 MR. DAVIS: Objection. Form. 8 THE WITNESS: I'm not sure, but I suspect 9 he could. 10 BY MR. HANSEN: 11 Q Could Ms. Johnston have done the same 12 thing? 13 MR. DAVIS: Same objection. 14 THE WITNESS: I'm uncertain whether she 15 could have, but I assume she could. 16 BY MR. HANSEN: 17 Q Have you ever conducted any of the tests 18 described in the Sacks article, Exhibit 1048? 19 MR. DAVIS: Objection. Form. 20 THE WITNESS: I don't believe I've 21 personally conducted these types of tests. 22 BY MR. HANSEN: 23 Q Have you ever done any testing or other 24 scientific engineering analysis of the extent of 25 tissue deformation associated with a Cote 1100

Page 30 1 device? 2 MR. DAVIS: Objection. Form. 3 THE WITNESS: I don't believe I have, no. 4 BY MR. HANSEN: 5 Q Have you ever done any testing or other 6 scientific analysis associated with tissue 7 deformation in connection with the Cleo 90 device? 8 MR. DAVIS: Objection. Form. Foundation. 9 THE WITNESS: I believe the best way to 10 answer that is my scientific -- so I have not 11 done any testing other than described here and 12 I've not done any scientific analysis other 13 than to review and interpret these two 14 exhibits. 15 BY MR. HANSEN: 16 Q And when you say "as described here," 17 you're referring to -- 18 A My second dec. 19 Q -- your second declaration, Exhibit 1045? 20 A Yes. 21 Q I'll direct your attention to page 22 of 22 your second declaration, Exhibit 1045. 23 A Okay. I'm there. 24 Q Do you see your paragraph A on that page? 25 A I do.	Page 32 1 BY MR. HANSEN: 2 Q Okay. The paragraph, which begins on -- 3 paragraph 26, beginning on page 1 -- 4 A 21. 5 Q -- addresses what a POSITA would have 6 considered in terms of the successful implementation 7 of the Stafford-plus-Cote combination, correct? 8 MR. DAVIS: Objection. Form. Foundation. 9 THE WITNESS: So let's just be clear. 10 I'll read the paragraph to you. 11 A POSITA would have successfully 12 implemented the Stafford-plus-Cote combination 13 in a way that avoided every potential issue or 14 problem that Mr. Leinsing identified. 15 It also is important to note that 16 none of the alleged challenges Mr. Leinsing 17 identified in making this Stafford-plus-Cote 18 combination with a reasonable expectation of 19 success is tied to anything required by the 20 challenged claims in the '591 patent. 21 No claim requires, and then any of 22 the one, two, three, four, five, six, seven -- 23 yes, seven subparagraphs. 24 BY MR. HANSEN: 25 Q I want to make sure I understand here. So
Page 31 1 Q And that paragraph addressed inserting a 2 fragile glucose sensor? 3 A Yes. 4 Q And your conclusion is that fragility is of 5 little or no relevance? 6 A Again, what I state there is that -- 7 Q Let me take a step back. 8 A Yeah. 9 Q This paragraph A is a subparagraph in 10 paragraph 26 that begins on page 21, correct? 11 A That's correct. 12 Q And if we go back to the start of that, 13 what you're addressing here is what you describe as 14 the Stafford-plus-Cote combination, correct? 15 A That's correct. 16 Q And then these subparagraphs on page 22, 17 paragraphs A, B, C, D, E, F, and G, address 18 different factors that a POSITA would or would not 19 find relevant to implementing your 20 Stafford-plus-Cote combination, correct? 21 MR. DAVIS: Objection. Form. Foundation. 22 THE WITNESS: As stated here, no claim in 23 the '591 patent requires these particular 24 subparagraphs A through G as listed there. 25 ///	Page 33 1 you're saying that because the claim does not 2 require certain features, that those features would 3 not be relevant when a POSITA would evaluate the 4 expectation of successfully implementing the 5 Stafford-plus-Cote combination? 6 MR. DAVIS: Objection. Form. Foundation. 7 THE WITNESS: My answer would be repeating 8 what I just read from paragraph 26. 9 BY MR. HANSEN: 10 Q And on that basis you conclude that sensor 11 fragility is of little or no relevance, correct? 12 A I would not characterize what I'm stating 13 here in that fashion. All I'm stating is that the 14 challenged -- 15 Q Let's look at what you actually state. 16 Let's look at subparagraph A. We'll walk through 17 each of these subparagraphs one by one. Let's start 18 with A, first in the list. 19 So I think you just explained -- you read 20 to us from your declaration the first part of 21 paragraph 26 that leads into these subparagraphs. 22 A Uh-huh. 23 Q And you're stating that on that basis that 24 you just read from your own declaration, that on 25 that basis that's the basis for these subparagraphs

Page 34 1 that follow; is that correct? 2 MR. DAVIS: Objection. Foundation. 3 THE WITNESS: Counselor, I can only read 4 it again to you and then read each one of these 5 subparagraphs, if you'd like me to. 6 BY MR. HANSEN: 7 Q So I understand that you have a declaration 8 that DexCom's attorneys helped you write. Are you 9 unable to answer my questions without reading from 10 the declaration? You can't state it in your own 11 words? 12 A These are my own words. So . . . 13 Q The only way you can answer my question is 14 to read from the declaration? 15 A That would be my preferred response, yes. 16 Q Okay. And beyond reading from the 17 declaration, you're unable to explain what you mean 18 here? 19 MR. DAVIS: Objection. Form. 20 THE WITNESS: What I believe I said was I 21 wouldn't characterize what I said the way you 22 characterized it in your question. But I 23 don't -- you need to ask me the question again. 24 BY MR. HANSEN: 25 Q Okay. I'm going to ask you a series of	Page 36 1 correct? 2 A That's what that statement says, yes. 3 Q Do you believe that that's the extent of 4 your obligation when it comes to cross-examination, 5 just to appear, just to show up? 6 MR. DAVIS: Objection. Form. Foundation. 7 THE WITNESS: To my understanding, that is 8 what is required. If there's something else -- 9 yes. 10 BY MR. HANSEN: 11 Q And so do you understand that this 12 deposition today is that cross-examination? 13 A I do. 14 Q And your understanding is that your only 15 obligation with respect to cross-examination is to 16 appear, to show up? 17 MR. DAVIS: Objection. Foundation. 18 THE WITNESS: I think I've answered the 19 question. It is as I state here. 20 BY MR. HANSEN: 21 Q So let's try this. Let's see if we can 22 test your understanding of your obligation under 23 cross-examination. Let's go back to paragraph 26A. 24 This appears on page 22 of your second declaration. 25 Can you go back to that?
Page 35 1 questions about this paragraph 26 and the 2 subparagraphs A through J. 3 Are you going to be able to answer my 4 questions without reading verbatim from your 5 declaration? 6 MR. DAVIS: Objection. Form. 7 THE WITNESS: The best way to answer your 8 question is, I would prefer to answer the 9 questions based on the written document I have 10 in front of me that was carefully thought out. 11 BY MR. HANSEN: 12 Q Let's turn to page 98 of your declaration, 13 your second declaration, Exhibit 1045. 14 Do you see the heading "Availability for 15 Cross-Examination"? 16 A Yes. 17 Q And do you see in paragraph 147 it states 18 that if cross-examination is required of me, I will 19 cooperate to the best of my ability to appear for 20 cross-examination by video or in person during the 21 time allotted for cross-examination? 22 A I see that statement, yes. 23 Q So you recognize that you've stated here 24 under oath that you will cooperate to the best of 25 your ability to appear for cross-examination,	Page 37 1 A I'm there. 2 Q Do you see at the end of paragraph 26A it 3 states, "Fragility is of little or no relevance"; 4 what do you mean by that? 5 A Again, as stated there, no claim requires 6 inserting a glucose sensor with any particular 7 success or failure rate, so alleged fragility is of 8 little or no relevance. 9 Q Relevance to what? 10 A To whether a POSITA would have been able to 11 successfully implement the Stafford-plus-Cote 12 combination to meet the challenged claims. 13 Q In paragraph B you discuss placement of the 14 glucose sensor. Is it also your opinion that the 15 placement of the glucose sensor would be of little 16 or no relevance to a POSITA? 17 MR. DAVIS: Objection. Foundation. Form. 18 THE WITNESS: Again, Counselor, I wouldn't 19 characterize it that way. 20 BY MR. HANSEN: 21 Q Okay. Well, what do you mean by that when 22 you say -- what's the purpose of subparagraph B here 23 on page 22 of Exhibit 1045? What are you trying to 24 convey? 25 A So the purpose of this paragraph is as

Page 38 1 stated, as I've read already in paragraph 26, a 2 POSITA would successfully implement the 3 Stafford-plus-Cote combination in a way that avoided 4 every potential issue or problem that Mr. Leinsing 5 identified. 6 I believe these are a list of problems that 7 Mr. Leinsing in his declaration identified as 8 reasons a POSITA would not have been able to 9 successfully implement the Stafford-plus-Cote, and 10 I'm responding to that. 11 Q And immediately prior to these 12 subparagraphs, in bold text you state, No claim 13 requires; do you see that? 14 A I do. 15 Q Why is that relevant? 16 What is that relevant to? 17 Why is that the lead-in to these 18 subparagraphs? 19 A Again, I go back to paragraph 8. What I'm 20 trying to establish is the obviousness of the 21 Stafford-plus-Cote combination and meeting each of 22 the challenged claims. 23 Q So that's the overall purpose of your 24 declaration is to try to establish that the '056 25 claims are obvious in view of the Stafford-Cote	Page 40 1 obvious in view of the Stafford-plus-Cote 2 combination. 3 MR. DAVIS: We've been going over an hour. 4 Is it a good time for a break for us? 5 MR. HANSEN: Sure. We can take a break. 6 (Off record from 10:20 a.m. to 10:47 a.m.) 7 BY MR. HANSEN: 8 Q Dr. Fletcher, over the break did you have 9 any conversations with DexCom's attorneys? 10 A Yes, we certainly had conversations. 11 Q Did you discuss the subject matter of your 12 declarations in this case? 13 A No. 14 Q Did you discuss your testimony today? 15 A No. 16 Q Did you discuss anticipated testimony 17 today? 18 A No. 19 Q Did DexCom's attorneys have conversations 20 amongst themselves over the break in your presence? 21 A Yes. 22 Q In your presence did they discuss the 23 subject matter of your declarations? 24 A No. 25 Q In your presence did they discuss your
Page 39 1 combination? 2 MR. DAVIS: Objection. Form. Foundation. 3 MR. HANSEN: I'm sorry. I misspoke. 4 THE WITNESS: Yes. The '056, I don't know 5 what that is. 6 BY MR. HANSEN: 7 Q That's another patent in another proceeding 8 I'm involved in. 9 So do I understand correctly that the 10 overall purpose of your declaration is to try to 11 establish that the '591 claims are obvious in view 12 of the Stafford-Cote combination? 13 MR. DAVIS: Objection. Form. Foundation. 14 THE WITNESS: I believe I've stated that 15 somewhere. Could you repeat the question? I'm 16 sorry. I'm looking for the specific items I've 17 used in the past so I don't misspeak. 18 BY MR. HANSEN: 19 Q Do I understand correctly that the overall 20 purpose of your declaration is to try to establish 21 that the '591 claims are obvious in view of the 22 Stafford-Cote combination? 23 MR. DAVIS: Objection. Form. Foundation. 24 THE WITNESS: So I believe there is -- a 25 subset of the claims that I've shown are	Page 41 1 deposition testimony today? 2 A No. 3 Q In your presence did they discuss 4 anticipated deposition testimony today? 5 A No. 6 Q When you and I met at a prior deposition, I 7 believe you told me that you had no personal 8 experience designing and developing CGM products; is 9 that correct? 10 A I can't recall what I said. 11 Q Let me just ask the question. 12 Do you have any personal experience 13 designing or developing CGM products? 14 A I have experience designing and developing 15 what I would describe as an episodic or intermittent 16 glucose testing product. I don't have experience 17 with a continuous glucose monitoring product. 18 Q Do you have any experience designing or 19 developing an inserter for use with a CGM product? 20 A I don't believe I have specific experience 21 with an inserter for a CGM product. 22 Q Do you have any experience designing or 23 developing an inserter for use with an infusion set? 24 A I don't believe the inserter that I worked 25 on would have been used for an infusion set. It

Page 42 1 might have been, but the design was intended for 2 fluid collection rather than fluid delivery. 3 Q Let's go back to your second declaration, 4 Exhibit 1045. And let's go back to your 5 paragraph 26 that begins on page 21 with 6 subparagraphs carrying over to page 22. 7 A Uh-huh. 8 Q Paragraph 26 continues onto page 23 after 9 the subparagraphs, correct? 10 A Yes. 11 Q Now, for the Yee '591 claims, it's your 12 opinion that no claim requires inserting a fragile 13 glucose sensor? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: Sorry. Repeat the question. 16 BY MR. HANSEN: 17 Q With respect to the claims of the Yee '591 18 patent, is it your opinion that no claim requires 19 inserting a fragile glucose sensor? 20 MR. DAVIS: Objection. Form. 21 THE WITNESS: Within the context of 22 paragraph 26, that's what I state, yes. 23 BY MR. HANSEN: 24 Q And your basis for agreeing with my 25 question is because you can read that from your	Page 44 1 could successfully implement the 2 Stafford-plus-Cote combination, no claim 3 requires inserting a fragile glucose sensor. 4 BY MR. HANSEN: 5 Q And for that reason you believe that the 6 fragility of the sensor would not be relevant to a 7 POSITA in considering implementation of the 8 Stafford-Cote combination? 9 MR. DAVIS: Objection. Foundation. 10 THE WITNESS: Again, as I've stated here, 11 it is my opinion that no claim requires 12 inserting a fragile glucose sensor. 13 BY MR. HANSEN: 14 Q And is the same true with respect to 15 subparagraph B regarding placement of the glucose 16 sensor? 17 A Yes. 18 Q And is the same true with respect to 19 subparagraph C, preventing or minimizing tissue 20 trauma? 21 A As I've stated here, yes. 22 Q And is the same true referring to 23 subparagraph D with respect to stabilizing the 24 distal end of the inserter on the skin before and 25 during insertion?
Page 43 1 declaration? 2 A That's certainly one basis. 3 Q Do you have any other basis for concluding 4 that other than the fact that it's stated in this 5 declaration that you wrote with DexCom's attorneys, 6 other than that fact, do you have any basis for 7 concluding that no claim of the Yee '591 patent 8 requires inserting a fragile glucose sensor? 9 MR. DAVIS: Objection. Form. Foundation. 10 THE WITNESS: I would have to review the 11 Yee claims and description, but I don't recall 12 any discussion of a fragile glucose sensor 13 within the patent claims or description. 14 BY MR. HANSEN: 15 Q And for that reason, it's your opinion that 16 a POSITA would not consider relevant to a 17 reasonable -- let me restart the question. 18 And for that reason, it's your opinion that 19 a POSITA considering an expectation of successfully 20 implementing your Stafford-Cote combination would 21 not consider a fragile glucose sensor to be 22 relevant? 23 MR. DAVIS: Objection. Form. Foundation. 24 THE WITNESS: Again, as I described in 25 this paragraph 26, regarding whether a POSITA	Page 45 1 A That's what I've stated here, yes. 2 Q And is the same true with respect to the 3 accuracy of glucose readings or even that glucose 4 levels are measured? 5 A Again, the same being no claim requires the 6 level of accuracy of glucose readings or even if 7 glucose levels are actually measured. 8 Q Okay. I'm not just asking about what the 9 claim requires. I'm asking you about what a POSITA 10 would consider in evaluating whether or not they 11 could successfully implement your Stafford-Cote 12 combination. 13 A And I believe I've answered that since no 14 claim requires these things, a POSITA would 15 understand that the Stafford-Cote combination could 16 be successfully implemented. 17 Q Now, do the claims of the Yee '591 patent 18 require minimizing pain? 19 A I'd have to look. Can you refer to any 20 claim element? I'd have to refer to the claim 21 specifically to answer that question. 22 Q Well, I believe you have a copy of the Yee 23 '591 patent that's Exhibit 1001. Can you tell me -- 24 I want you to look for the following things in the 25 claim: Minimizing pain, minimizing discomfort,

Page 46 1 avoiding needle sticks, and avoiding needle anxiety. 2 Are any of those mentioned or required by 3 the claims of the Yee '591 patent? 4 A Okay. Can you repeat the question so I 5 fully understand it? 6 Q Do any of the Yee '591 claims mention or 7 require avoiding pain? 8 A No, I don't believe so. 9 Q Do any of the claims of the Yee '591 patent 10 mention or require avoiding discomfort? 11 A I don't believe so, no. 12 Q Do any of the claims of the Yee '591 patent 13 mention or require minimizing pain or discomfort? 14 A I don't believe so, no. 15 Q Do any of the claims of the Yee '591 patent 16 mention or require avoiding needle sticks? 17 MR. DAVIS: Objection. Form. 18 THE WITNESS: To my understanding, they 19 don't mention it. What they claim could 20 effectively avoid needle sticks. But they 21 don't mention those words in the claim. 22 BY MR. HANSEN: 23 Q So the claims don't require avoiding needle 24 sticks? 25 MR. DAVIS: Objection. Form.	Page 48 1 which teaches an insertion device that further 2 reduces the risk of accidental needle sticks and 3 provides quick, accurate insertion, and positioning 4 of the sensor and associated on-body unit while 5 minimizing pain and anxiety of the patient. 6 Q So to answer my question, you just read 7 from your first declaration, correct? 8 A That's correct. 9 Q Can you identify the paragraph you just 10 read? 11 A I'm sorry. That was paragraph 44 of my 12 first declaration. 13 Q Okay. So let's take minimizing needle 14 sticks or avoiding needle sticks. 15 You've just testified that avoiding needle 16 sticks is not required by the '591 claims, correct? 17 MR. DAVIS: Objection. Form. 18 THE WITNESS: I believe that's what I 19 testified to, yes. 20 BY MR. HANSEN: 21 Q And in paragraph 26A of your second 22 declaration, you state that inserting a fragile 23 glucose sensor is not required by the '591 claims, 24 correct? 25 A Yes. That's what I've stated.
Page 47 1 THE WITNESS: No, they don't. 2 BY MR. HANSEN: 3 Q And do the claims of the Yee '591 patent 4 mention or require minimizing or avoiding needle 5 anxiety? 6 A I don't believe they do, no. 7 Q So on the basis that none of the Yee '591 8 claims mention or require minimizing needle anxiety, 9 is needle anxiety then a factor that a POSITA would 10 not deem relevant in evaluating your Stafford-Cote 11 combination? 12 A Again, as I state in my first declaration, 13 paragraph 44, a POSITA would have been motivated 14 with a reasonable expectation of success to combine 15 the teaching of Stafford and Cote in implementing an 16 inserter device like that taught by Cote to insert 17 and position an analyte sensor and associated 18 on-body unit like that taught by Stafford. 19 Stafford expressly describes the desire to 20 avoid unwanted needle sticks and to provide simple 21 and accurate sensor deployment to the desired 22 subcutaneous position on a patient. 23 A POSITA implementing Stafford would seek 24 out other complementary teachings that further these 25 goals and readily appreciate the benefits of Cote,	Page 49 1 Q On that basis you concluded that the 2 fragility of the sensor would be irrelevant to a 3 POSITA in evaluating the Stafford-Cote combination, 4 correct? 5 MR. DAVIS: Objection. Form. Foundation. 6 THE WITNESS: I believe you've 7 mischaracterized my statement. My statement is 8 only that the claims do not require inserting a 9 fragile glucose sensor. 10 BY MR. HANSEN: 11 Q Dr. Fletcher, I know you're trying to read 12 from your declaration. Can you read what paragraph 13 A says? 14 It says, Alleged fragility is of little or 15 no relevance. And you told me before by what you're 16 referring to there is a POSITA evaluating your 17 Stafford-Cote combination. 18 So you do say in your declaration that, For 19 a POSITA evaluating your Stafford-Cote combination, 20 alleged fragility is of little or no relevance 21 because it's not required by the claims, correct? 22 MR. DAVIS: Objection. Foundation. Form. 23 THE WITNESS: Again, what I state is, no 24 claim requires inserting a fragile glucose 25 sensor at, i.e., no claim requires inserting a

Page 50 1 glucose sensor with any particular success or 2 failure rate. So alleged fragility is of 3 little or no relevance in that setting. 4 BY MR. HANSEN: 5 Q And by "that setting" you mean evaluating 6 your Stafford and Cote combination, correct? 7 MR. DAVIS: Objection. Foundation. Form. 8 THE WITNESS: What is stated there is no 9 claim -- no Yee claim requires inserting a 10 fragile glucose sensor with any particular 11 success or failure rate, so alleged fragility 12 is of little or no relevance. 13 BY MR. HANSEN: 14 Q Okay. Dr. Fletcher, I understand that you 15 want to read from your declaration. I don't know 16 what DexCom's attorneys have told you. But your 17 obligation to appear for cross-examination includes 18 more than just reading from your declaration. 19 Cross-examination is to explore your declaration, 20 not to read it into the record. 21 If this is going to persist, then this will 22 become grounds to exclude your testimony in your 23 declaration because you have not made yourself 24 available for a proper cross-examination. So I'm 25 going to ask you the question again. And I want you	Page 52 1 the -- to a POSITA's understanding of 2 successfully implementing the proposed 3 combination. They might still be relevant, but 4 there's no claim element that requires that 5 configuration. 6 BY MR. HANSEN: 7 Q So inserting a fragile glucose sensor could 8 be relevant to a POSITA in evaluating your 9 Stafford-Cote combination? 10 A That's not what I state here. I state that 11 no claim requires it. What I state is alleged 12 fragility is of little or no relevance. 13 Q Okay. So the claims don't address 14 fragility. So according to you, it has little or no 15 relevance. The claims don't address needle sticks. 16 Is it also true that needle sticks, 17 therefore, have little or no relevance to a POSITA 18 in evaluating your Stafford-Cote combination? 19 MR. DAVIS: Objection. Form. 20 THE WITNESS: I believe, as indicated in 21 my two declarations, I've stated that avoiding 22 needle sticks would have been a preferred 23 outcome of any combination, whether Yee or 24 Stafford plus Cote. 25 ///
Page 51 1 to answer the question. The question is -- I'll 2 just ask a different question. 3 According to you, the claims don't require 4 avoiding needle sticks and they also don't require 5 inserting a fragile sensor. Are those two things 6 that the claim don't require relevant or not 7 relevant to a POSITA's evaluation of the 8 Stafford-Cote combination? 9 MR. DAVIS: Objection. Form. 10 THE WITNESS: Can you repeat the question? 11 Because it was several -- several parts to it. 12 One question, but several phrases. 13 BY MR. HANSEN: 14 Q You have testified that the '591 claims do 15 not require inserting a fragile sensor. You've also 16 testified that they do not require avoiding needle 17 sticks. 18 Are those two factors then, in your 19 opinion, relevant or not relevant to a POSITA in 20 evaluating your Stafford-Cote combination? 21 MR. DAVIS: Objection. Form. 22 THE WITNESS: To the best of my 23 understanding -- so I'm not sure I agree when I 24 say no claim requires, whether that's 25 equivalent to saying they're not relevant to	Page 53 1 BY MR. HANSEN: 2 Q Can you explain -- well, let me ask you, 3 then. 4 Is successfully implanting the glucose 5 sensor, the fragile glucose sensor, so that it 6 provides accurate readings, would that be important 7 to a POSITA in evaluating your Stafford-Cote 8 combination? 9 MR. DAVIS: Objection. Form. Foundation. 10 THE WITNESS: Can you repeat your 11 question? I'm sorry. 12 BY MR. HANSEN: 13 Q Is successfully implanting the fragile 14 glucose sensor so that it provides accurate 15 readings, would that be important to a POSITA in 16 evaluating your Stafford-Cote combination? 17 A I believe, as I've answered that, in the 18 sense that a POSITA could have successfully 19 implemented the Stafford-plus-Cote whether or not a 20 fragile glucose sensor was what was being inserted. 21 Because it's never -- the Yee claims never require a 22 fragile glucose sensor to be inserted. At least 23 from my reading of the claims. 24 Q For a CGM device, do you understand the 25 relationship between the performance of the sensor

Page 54 1 after implantation and tissue trauma that occurs 2 during sensor implantation? 3 MR. DAVIS: Objection. Form. 4 THE WITNESS: It is my understanding, if 5 you believe by relationship, that the more 6 tissue trauma one has during insertion, the 7 more likely the sensor will perform poorly over 8 time. 9 BY MR. HANSEN: 10 Q So given that understanding, do you agree 11 that preventing or minimizing tissue trauma would be 12 important to a POSITA in evaluating your 13 Stafford-Cote combination? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: I believe I discuss tissue 16 trauma somewhere in both decs. I'm just trying 17 to confirm what I actually say about that, 18 about minimizing trauma. 19 I'm sorry. Could you repeat the 20 question again? 21 BY MR. HANSEN: 22 Q Do you agree that preventing or minimizing 23 tissue trauma would be important to a POSITA in 24 evaluating your Stafford-Cote combination? 25 A I'm sorry. Can you repeat your question	Page 56 1 BY MR. HANSEN: 2 Q What do you understand "fragility of the 3 sensor" refers to? Let me ask you this. 4 A Yeah. I'm not sure I know how to answer 5 that question. 6 Q How does the fragility of a CGM sensor 7 compare to the fragility of an infusion cannula? 8 MR. DAVIS: Objection. Form. 9 THE WITNESS: I wasn't asked to offer an 10 opinion on that, so I can't offer an opinion on 11 that question. 12 BY MR. HANSEN: 13 Q Okay. In terms of the effect of tissue 14 trauma, how does a CGM sensor compare to an infusion 15 cannula? 16 MR. DAVIS: Objection. Form. 17 THE WITNESS: Again, I wasn't asked to 18 offer an opinion or study that. I don't have 19 an opinion. 20 It is my understanding that -- it is 21 my understanding, as a POSITA, that tissue 22 trauma could impact both devices. 23 BY MR. HANSEN: 24 Q Would that tissue trauma affect both 25 devices equally?
Page 55 1 the third time? I'm sorry. This will be the last. 2 Q Do you agree that preventing or minimizing 3 tissue trauma would be important to a POSITA in 4 evaluating your Stafford-Cote combination? 5 MR. DAVIS: Objection. Form. 6 THE WITNESS: I would agree that that 7 would be one factor that a POSITA would 8 consider. 9 BY MR. HANSEN: 10 Q So you would agree that in evaluating your 11 Stafford-Cote combination, a POSITA would consider 12 factors that are not required by the claims? 13 MR. DAVIS: Objection. Form. 14 THE WITNESS: It's my understanding that a 15 POSITA might consider such factors, yes. 16 BY MR. HANSEN: 17 Q And those factors that a POSITA would 18 consider in evaluating the Stafford-Cote combination 19 would include the fragility of the sensor, correct? 20 MR. DAVIS: Objection. Form. Foundation. 21 THE WITNESS: As I've probably stated in 22 my declaration, what is meant by the fragility 23 of the sensor. I'm not sure if a POSITA would 24 necessarily know what that terminology means. 25 ///	Page 57 1 MR. DAVIS: Objection. Form. 2 THE WITNESS: I can't answer that 3 question. I don't know. 4 BY MR. HANSEN: 5 Q Do you know why tissue trauma affects CGM 6 sensor performance? 7 A I believe from the literature that I've 8 read I have some idea, yes. 9 Q And what is your understanding of why 10 tissue trauma affects CGM sensor performance? 11 A I didn't offer -- I don't believe I offered 12 an opinion in the document. My understanding is 13 that tissue trauma impacts the performance of a CGM 14 by contaminating the active sensor elements. 15 Q Are there any active sensor elements on an 16 infusion cannula? 17 A I can't answer that question a 18 hundred percent, but usually, no. 19 Q So how would tissue trauma affect the 20 performance of an infusion cannula? 21 A It's my understanding based on what I've 22 understood -- understand as a POSITA that tissue 23 trauma could impact the fluid delivery by clogging 24 up or impacting the flow of infusion fluids through 25 a cannula.

Page 58 1 Q Is that discussed anywhere in your 2 declarations? 3 A I'd have to review my declaration to be 4 sure, but I don't believe I mention that in my 5 declarations. 6 Q Do you cite in your declarations any 7 evidence that tissue trauma would affect the 8 performance of an infusion cannula? 9 MR. DAVIS: Objection. Form. 10 THE WITNESS: Again, I'd have to review my 11 declarations, but I don't believe I cited any 12 documents. 13 BY MR. HANSEN: 14 Q In connection with the opinions set forth 15 in your declaration, did you consider any evidence 16 relating to the relationship between tissue trauma 17 and the performance of an infusion cannula? 18 MR. DAVIS: Objection. Form. 19 THE WITNESS: Again, I can't be certain 20 without reviewing both declarations end to end, 21 but I don't believe I did. 22 BY MR. HANSEN: 23 Q What is your understanding of the 24 importance of precise positioning in terms of depth 25 and angle when inserting a CGM sensor?	Page 60 1 inserting a sensor the same way time after time 2 and getting the same placement within some 3 uncertainty as a result of those various 4 placements. So I'm not sure how to answer your 5 question. 6 I don't know that I've seen any data 7 about the precision of placement of glucose 8 sensors. 9 BY MR. HANSEN: 10 Q Let's take the word "precise" out of the 11 question. 12 A Okay. 13 Q In terms of inserting or implanting a CGM 14 sensor, do you have any understanding of the 15 importance of the depth and angle at which the 16 sensor is positioned under the skin? 17 MR. DAVIS: Objection. Form. 18 THE WITNESS: It is my understanding that 19 for any particular CGM, it may be important to 20 insert or implant the sensor at a particular 21 depth or angle. It is also my understanding 22 that different continuous glucose monitors can 23 be inserted to different depths and/or 24 different angles. 25 ///
Page 59 1 MR. DAVIS: Objection. Form. 2 THE WITNESS: I believe I stated it in a 3 number of places in both declarations. My 4 understanding would be, as the literature 5 cites, there can be a number of different 6 depths and/or a number of different angles with 7 which CGM sensors can be inserted. 8 BY MR. HANSEN: 9 Q What is your understanding of the 10 importance of that? The importance of precisely 11 positioning the CGM sensor in terms of depth and 12 angle. 13 MR. DAVIS: Objection. Form. 14 THE WITNESS: Counselor, I don't believe I 15 understand the question. So could you repeat 16 it or rephrase it? 17 BY MR. HANSEN: 18 Q With respect to implanting a CGM sensor, do 19 you have any understanding of whether or not the 20 precision of the placement is important in terms of 21 both depth and angle that the sensor is positioned 22 under the skin? 23 MR. DAVIS: Objection. Form. 24 THE WITNESS: So, Counselor, my 25 understanding of precision would be repeatedly	Page 61 1 BY MR. HANSEN: 2 Q So for a particular sensor, there would be 3 a particular depth and angle that would be important 4 when implanting the sensor, correct? 5 MR. DAVIS: Objection. Form. 6 THE WITNESS: Not sure what you mean by 7 "important." I would better -- I would 8 characterize it as a preferred depth and angle. 9 Don't know how to characterize importance in 10 your question. 11 BY MR. HANSEN: 12 Q So you don't have an opinion on how 13 important that would be? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: I don't know how to 16 characterize the phrase, how important it is. 17 I'm sure it's one of the factors that impact 18 the performance. I don't know how to 19 characterize how important that factor is. 20 BY MR. HANSEN: 21 Q Do you agree that that factor would be 22 considered by a POSITA in evaluating the 23 Stafford-Cote combination? 24 A That factor being? 25 Q Positioning a CGM sensor at a particular

Page 62 1 depth and angle. 2 A It is my understanding that a POSITA would 3 consider that one of the factors. 4 Q In your opinion, is accuracy an important 5 consideration for CGM products? 6 MR. DAVIS: Objection. Form. 7 THE WITNESS: In my understanding, 8 accuracy of any diagnostic measurement tool 9 would be one factor of importance, including in 10 CGM measurement or monitors. 11 BY MR. HANSEN: 12 Q Is that a factor that a POSITA would 13 consider in evaluating the Stafford-Cote 14 combination? 15 MR. DAVIS: Objection. Form. 16 THE WITNESS: I believe it is my 17 understanding that a POSITA would not 18 necessarily have to consider accuracy in order 19 to meet the claim requirements of the '591 20 patent. As I probably state in paragraph 26 or 21 one of the sub -- 22 BY MR. HANSEN: 23 Q Okay. So I understand that it's your 24 opinion that the claims don't require accuracy. The 25 question I'm asking you is, would a POSITA consider	Page 64 1 forth in my declarations are as are stated in 2 my declaration, based on what is given in the 3 declarations. 4 BY MR. HANSEN: 5 Q Well, you're under cross-examination now, 6 Dr. Fletcher. I'm entitled to explore what you, 7 with the assistance of DexCom's attorneys, have said 8 in these declarations. And I'm going to ask the 9 question again. 10 You testified that it's your understanding 11 that the performance of the Stafford-Cote 12 combination would not necessarily be considered by a 13 POSITA in evaluating whether they could successfully 14 implement the combination; is that correct? 15 A I believe that's what I stated. I 16 better -- let me recharacterize. What I meant to 17 say is the performance -- I'm sorry. 18 The performance of the sensor is not a 19 requirement -- it's my understanding that the 20 performance of the sensor is not a requirement for a 21 POSITA to successfully implement the 22 Cote-plus-Stafford combination to show obviousness 23 over the Yee claims. 24 Q So you keep mixing in this idea of what's 25 required or not required by the claims.
Page 63 1 accuracy of the sensor to be important in evaluating 2 your Stafford-Cote combination? 3 MR. DAVIS: Objection. Form. 4 THE WITNESS: I guess it's my 5 understanding that the performance of the 6 combination would not necessarily be considered 7 in understanding how a POSITA might 8 successfully implement the combination. 9 BY MR. HANSEN: 10 Q And is that understanding a basis of your 11 opinions set forth in your declarations? 12 MR. DAVIS: Objection. Form. 13 THE WITNESS: That understanding being 14 what understanding? 15 BY MR. HANSEN: 16 Q You said, "It's my understanding that the 17 performance of the combination would not necessarily 18 be considered in understanding how a POSITA might 19 successfully implement the combination." That's 20 what you said your understanding is. 21 Is that understanding that you just 22 testified about, is that understanding a basis of 23 the opinions set forth in your declarations? 24 MR. DAVIS: Objection. Form. 25 THE WITNESS: Again, the opinions set	Page 65 1 I'm simply asking you in evaluating the 2 Stafford-Cote combination, would the performance of 3 the sensor after implantation be an important factor 4 to be considered by a POSITA? 5 MR. DAVIS: Objection. Form. 6 THE WITNESS: My answer is, to my 7 understanding, a POSITA would be able to 8 successfully implement the Stafford-plus-Cote 9 combination whether or not the sensor performed 10 well or not and meet the claims. 11 Did I answer your question? 12 BY MR. HANSEN: 13 Q I'll try one more time. 14 In evaluating the Stafford-Cote 15 combination, would a POSITA consider the performance 16 of the sensor after implantation? 17 MR. DAVIS: Objection. Form. 18 THE WITNESS: Again, it is my 19 understanding that a POSITA would not need to 20 consider the performance of the sensor in the 21 Stafford-plus-Cote combination to meet the 22 claim requirements of the Yee. 23 BY MR. HANSEN: 24 Q In evaluating your Stafford-Cote 25 combination, would a POSITA consider the prevention

Page 66 1 of contaminate or moisture ingress into the OBU? 2 MR. DAVIS: Objection. Form. 3 THE WITNESS: It is my understanding that 4 a POSITA might have considered that, but it's 5 not a requirement of the combination in order 6 to meet the claims -- it's not required of the 7 combination to show obviousness over the Yee 8 claims. 9 BY MR. HANSEN: 10 Q In evaluating the combination, whether it's 11 required or not, would a POSITA have considered 12 preventing ingress into the OBU by contaminants 13 or moisture? 14 MR. DAVIS: Objection. Form. Foundation. 15 THE WITNESS: It would be my understanding 16 that a POSITA would or might have considered 17 whether or not a design prevented or caused an 18 ingress of contamination or moisture. 19 BY MR. HANSEN: 20 Q In evaluating the Stafford-Cote 21 combination, would a POSITA have considered factors 22 relating to manufacturing the devices? 23 MR. DAVIS: Objection. Form. Foundation. 24 THE WITNESS: Again, it's my understanding 25 that a POSITA would always consider	Page 68 1 it non-obvious. As laid out in my previous 2 declaration, use of a Cote-like inserter would 3 have been obvious as it complements and 4 improves upon Stafford's teachings by 5 addressing many of the problems explicitly 6 identified by Stafford. 7 Further, the Stafford-plus-Cote 8 combination delivers the OBU to the user within 9 the inserter in a self-contained sterile 10 environment as taught by Cote which directly 11 addresses Stafford's goals by minimizing the 12 need for packaging surrounding the devices, 13 increasing ease of use of the devices. 14 And continuing on in paragraph 13, 15 Features of Stafford on which Mr. Leinsing 16 relies are primarily purported advantages to 17 the manufacturer of the device rather than to 18 the user of the device, e.g., reducing 19 manufacturing components and cost. 20 As I have explained, the 21 Stafford-plus-Cote combination provides 22 numerous benefits for a user supporting a 23 motivation for a POSITA to make such a system 24 to satisfy user preferences despite any 25 additional manufacturing complexity or cost.
Page 67 1 manufacturing, but it's not a requirement of 2 obviousness of the combination to meet the 3 claims of the '591 patent. 4 BY MR. HANSEN: 5 Q So setting aside whether or not it's 6 required by the claims, it is a factor that a POSITA 7 would consider in evaluating the Stafford-Cote 8 combination, correct? 9 MR. DAVIS: Objection. Form. 10 THE WITNESS: Yeah, I'm not sure whether 11 or not a POSITA would have considered 12 manufacturing in considering whether the 13 Stafford-plus-Cote combination would meet the 14 obviousness of the '591 claims. 15 BY MR. HANSEN: 16 Q In terms of successful implementation of 17 the Stafford-Cote combination, would a POSITA have 18 considered manufacturing costs and complexity? 19 MR. DAVIS: Objection. Form. 20 THE WITNESS: Again, as I state in my 21 second declaration, page 12, paragraphs 12 and 22 13, halfway down, Mr. Leinsing argues that the 23 alleged additional complexity and cost of the 24 Cote-like inserter would outweigh any benefits 25 provided by the proposed combination rendering	Page 69 1 BY MR. HANSEN: 2 Q Okay. You just read from your declaration? 3 A My second declaration, paragraphs 12 and 4 13. 5 Q Okay. So I need an answer to my question. 6 In evaluating the Stafford-Cote 7 combination, would a POSITA consider factors such as 8 manufacturing cost and complexity? 9 MR. DAVIS: Objection. Form. 10 THE WITNESS: And I believe, as I have 11 stated in paragraph 13, the Stafford-plus-Cote 12 combination provides numerous benefits for a 13 user supporting a motivation for a POSITA to 14 make such a system to satisfy user preferences 15 despite any additional manufacturing complexity 16 or cost. 17 Implicit in that statement is that 18 manufacturing complexity and costs would have 19 been considered by POSITA. 20 BY MR. HANSEN: 21 Q Okay. 22 A Is this a good time to take a break? I 23 don't know how long it's been. 24 Q Let me just finish this line of questioning 25 and then we can take a break.

Page 70 1 So just to summarize, the fragility of the 2 sensor, the placement of the sensor in terms of 3 depth and angle, preventing or minimizing tissue 4 trauma, the accuracy and performance of the sensor 5 after implantation, preventing the ingress of 6 moisture or contaminates into the OBU, and 7 manufacturing costs and complexity are all factors 8 that a POSITA would consider in evaluating the 9 Stafford-Cote combination, correct? 10 MR. DAVIS: Objection. Form. Foundation. 11 THE WITNESS: I'm uncertain as to whether 12 that's a correct summary of my testimony today. 13 BY MR. HANSEN: 14 Q Well, it's a question. 15 A So again, my understanding is that the 16 performance of the -- in order to render the claims 17 of the '591 patent obvious, a POSITA would have 18 understood that a Stafford-plus-Cote combination 19 would meet the claim requirements. 20 Q Okay. That's not an answer to my question. 21 The answer to my question is -- 22 A Well, you can't answer my question. 23 Q I'm sorry. My question is -- my question 24 is. I misspoke. 25 My question is, in evaluating the	Page 72 1 BY MR. HANSEN: 2 Q And is your understanding based on what is 3 your understanding of obviousness and that 4 obviousness analysis that you're referring to based 5 on what DexCom's attorneys have told you? 6 A So I am not a patent attorney. So my 7 understanding of obviousness, as I stated in the 8 first declaration, would have been what the patent 9 attorneys stated was obviousness. 10 MR. HANSEN: Okay. We can take a break. 11 MR. MASON: Okay. Go off the record. 12 (Off record from 11:52 a.m. to 12:40 p.m.) 13 (Exhibit 2050, Cote Figure 68, annotated, 14 was marked.) 15 BY MR. HANSEN: 16 Q Dr. Fletcher, I hope you enjoyed some 17 lunch. 18 A Yes. 19 Q I'm handing you a document marked as 20 Exhibit 2050. Do you recognize this as figure 68 21 from Cote with some highlighting and annotations? 22 A Yes, I do. 23 Q And figure 68 depicts the sleeve from the 24 Cote inserter 1100, correct? 25 A One view of the sleeve, yes.
Page 71 1 Stafford-Cote combination, would a POSITA consider 2 factors such as the fragility of the glucose sensor, 3 the placement of the sensor in terms of depth and 4 angle, minimizing or preventing tissue trauma, the 5 accuracy of the sensor, the performance of the 6 sensor, preventing contamination or moisture 7 ingress, and manufacturing costs and complexity? 8 A So my answer to that question is, any and 9 all of those factors might have been considered by a 10 POSITA, but they are not required to achieve 11 obviousness of the combination over the Yee claims. 12 Q And why in your opinion are those factors 13 not required to show obviousness? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: It is my understanding that 16 those factors are not explicitly listed as 17 claim elements in the '591 patent. 18 BY MR. HANSEN: 19 Q And you believe that for that reason 20 they're not relevant to a POSITA's evaluation of the 21 combination? 22 MR. DAVIS: Objection. Form. 23 THE WITNESS: It is my understanding that 24 a POSITA would have understood how the 25 combination would meet the claim elements.	Page 73 1 Q And in that view, one of the sleeve 2 components is identified with the call-out number 3 1442? 4 A I see that. 5 Q And in the Cote specification, that's 6 identified as the second end of the sleeve, correct? 7 A I'd like to confirm that. Okay. Yes. 8 Paragraph 0186 of Cote, there is a sentence. The 9 sleeve 1140 is preferably cylindrical in shape and 10 includes first and second ends, 1441 and 1442, and 11 interior passage 1443. 12 Q So Cote describes element 1442 as the 13 second end of the sleeve, correct? 14 A That's my understanding, yes. 15 Q And 1442 is what you contend corresponds to 16 the distal end of the inserter in the claims of the 17 Yee '591 patent? 18 Let me ask you this question, Dr. Fletcher. 19 A I'm just seeing whether we called out 1442 20 in my declaration, but I don't see it in any of the 21 figures. 22 Q Well, let me ask you. 23 A Yeah. 24 Q According to you, what in Cote 1100 25 corresponds to the distal end of claim 1 in the Yee

Page 74 1 '591 patent? 2 A As stated in paragraph 82 of my first dec 3 in discussing claim 1, sub -- the part of claim 1 4 saying a proximal end and a distal end and an 5 interior. 6 We have annotated figure 80A on page 55 of 7 my first dec. And the distal end is that end of 8 1140 -- excuse me -- yes, of 1140, the sleeve, 9 indicated in that figure 68. Although, it's not 10 called out as 1442, it's just pointed to as the end 11 of 1140 in that figure. 12 Q Okay. So now that you've consulted with 13 your declaration, can you confirm that the second 14 end of sleeve 14 -- I'm sorry. 15 Can you confirm that the second end 1442 of 16 sleeve 1140 in Cote 1100 is what you contend 17 corresponds to the distal end of claim 1 in the Yee 18 '591 patent? 19 A I believe that's correct, yes. 20 Q And if you're looking at Exhibit 2050, does 21 the orange highlighting there correctly identify the 22 second end 1442? 23 A (Inaudible.) 24 Q I'm sorry. Did you say yes? 25 A No, I did not say yes.	Page 76 1 surface 1449 of the second end 1442 of sleeve 1140? 2 A That appears to be what Cote is indicating 3 in that figure. 4 Q I'm going to hand you now Exhibit 2052. 5 (Exhibit 2052, Cote Figure 67, annotated, 6 was marked.) 7 BY MR. HANSEN: 8 Q Do you recognize this as an annotated 9 version of figure 67 from the Cote reference? 10 A Yes, I do. 11 Q And in Exhibit 2052, does the purple 12 highlighting correctly identify the surface 1449 of 13 the second end 1442 of the sleeve 1140? 14 A It's my understanding that that's what Cote 15 is indicating in this figure, yes. 16 Q And in Exhibit 2052, does the orange 17 highlighting correctly identify the second end 1442 18 of sleeve 1140? 19 A Again, in this figure it's hard to know 20 exactly what Cote is intending to include in the 21 second end because it's, again, pointing -- well, 22 not pointing -- has a line to a part that includes 23 at least the purple surface. It's hard to know 24 whether it's including the orange or not. 25 But yeah, I would stop there. It's hard to
Page 75 1 I'm not sure whether Cote intends the 2 second end 1442 to be that surface he's pointing to 3 or the entire -- what I would call a flange, so to 4 speak, that you've highlighted in orange. 5 Q Here. Let me hand you another exhibit, 6 Exhibit 2051. 7 (Exhibit 2051, Cote Figure 70, annotated, 8 was marked.) 9 BY MR. HANSEN: 10 Q Do you recognize Exhibit 2051 as an 11 annotated version of figure 70 from the Cote 12 reference? 13 A Yes, I do. 14 Q And referring to Cote, does Cote identify 15 the surface of the second end with the call-out 16 number 1449 as indicated in Exhibit 2051? 17 A Right. In paragraph 0190 of Cote, 18 referring now to figures 71 through 73, an adhesive 19 portion 1160 is positioned on the surface 1449 at 20 the second end 1442 of sleeve 1140. 21 Q So do you understand in figure 70 that 22 element 1449 is the surface of the second end 1442? 23 A That's my understanding, yes. 24 Q And if you're looking at Exhibit 2051, does 25 the purple highlighting correctly identify that	Page 77 1 know whether it's including what you've highlighted 2 as the flange portion of the second end. But that 3 may be what Cote is indicating. 4 Q Do you understand that surface 1449 is a 5 surface of second end 1442? 6 A That's what Cote says, yes. It's my 7 understanding, yes. 8 Q I'm now handing you Exhibit 2053. 9 (Exhibit 2053, Cote Figure 80A, was 10 marked.) 11 BY MR. HANSEN: 12 Q Do you recognize this as figure 80A from 13 the Cote reference? 14 A Yes, I do. 15 Q And figure 80A depicts inserter 1100 with 16 infusion site 1800; is that correct? 17 A That's correct. 18 Q As part of this assembly, figure 80A 19 depicts an adhesive portion 1160, correct? 20 A That is my understanding, yes. 21 Q And it also depicts the sleeve 1140, 22 correct? 23 A Yes, it does. 24 Q And a needle hub 1130? 25 A Yes.

Page 78 1 Q And the needle hub includes barbs 1335, 2 correct? 3 A Yes, that's correct. 4 Q Now, according to the specification, the 5 sleeve 1140 has projections 1444, correct? 6 A I'm sorry. Repeat the question. 7 Q According to the Cote specification, the 8 sleeve 1140 has projections 1444, correct? 9 A That's correct. 10 Q I'm now going to hand you Exhibit 2054. 11 (Exhibit 2054, Cote Figure 80A, annotated, 12 was marked.) 13 BY MR. HANSEN: 14 Q Do you recognize this as an annotated 15 version of figure 80A from the Cote reference? 16 A Yes, I do. 17 Q Do you see the orange highlighting? 18 A Yes. 19 Q Does that correctly identify the second end 20 1442 of sleeve 1140? 21 A I believe it does. 22 Q Do you see the green highlighting? 23 A I do. 24 Q Does that correctly identify the adhesive 25 portion 1160?	Page 80 1 THE WITNESS: What does Cote actually say? 2 Yes, Cote describes it in a delivery state. 3 BY MR. HANSEN: 4 Q So in the delivery state, the housing 1110, 5 for example, would be in a delivery position? 6 A I don't believe anyone ever uses the 7 terminology "delivery position." 8 Q Okay. So that's not a term that is used 9 in -- 10 A I don't think the -- 11 Q -- in the Cote specification? 12 A I'd have to review the whole specification, 13 but I see the terminology "delivery state." I'd 14 have to look and see if the terminology "delivery 15 position" is used. 16 So I am uncomfortable saying that it's 17 called a delivery position without confirming that 18 Cote uses that terminology. 19 Q And let's just assume for purposes of 20 discussion right now that Cote doesn't use the word 21 "delivery position" in the specification. 22 A Okay. 23 Q Assuming that's true, and it doesn't use 24 the word at all, would you, in your opinion, say 25 that the components in figure 80A are in a delivery
Page 79 1 A That would be my understanding, yes. 2 Q Do you see the red highlighting? 3 A Yes. 4 Q Does that correctly identify the barbs 1335 5 on the needle hub 1130? 6 A I believe it does, yes. 7 Q In Exhibit 2054, does the blue highlighting 8 correctly identify the projections 1444 on the 9 sleeve 1140? 10 A I believe it does, yes. 11 Q And according to the Cote specification, 12 does figure 80A depict the assembly in a delivery 13 state? 14 A Yes. As indicated in paragraph 92 of my 15 first declaration. As shown and taught by Cote in 16 its preinsertion delivery state, the on-body unit is 17 in the first position and the sharp extends 18 longitudinally through the openings in both top and 19 bottom surfaces. 20 Q So in figure 80A, which depicts a delivery 21 state, are the components in a delivery position? 22 You used the term "first position." 23 Are these components in a delivery 24 position? 25 MR. DAVIS: Objection. Form.	Page 81 1 position? 2 MR. DAVIS: Objection. Form. 3 THE WITNESS: As I stated in my 4 declarations, I'm more comfortable at Cote 5 calling that a delivery state. And the on-body 6 unit -- and I have said in that delivery state 7 the on-body unit, which is site 1800 in 8 figure 80A, is in a first position. 9 BY MR. HANSEN: 10 Q But you don't have any opinion as to 11 whether that would be considered -- that first 12 position would be considered a delivery position? 13 A I don't believe I used that terminology, so 14 I am uncomfortable introducing it now. 15 Q Are you aware that the Cote specification 16 uses the term "retracted state"? 17 A I believe Cote uses the terminology 18 "retracted state" in referring to figures 83A and B. 19 Q So when the assembly of inserter 1100 and 20 infusion site 1800, when they are in the retracted 21 state, are the individual components in a retracted 22 position? 23 MR. DAVIS: Objection. Form. 24 THE WITNESS: I'm sorry. Could you repeat 25 your question?

Page 82 1 BY MR. HANSEN: 2 Q In Cote when the assembly of inserter 1100 3 and infusion site 1800 are in the retracted state, 4 are the individual components in a retracted 5 position? 6 MR. DAVIS: Objection. Form. 7 THE WITNESS: It's my understanding that 8 some of the -- again, I don't believe Cote uses 9 the terminology "retracted position." My 10 understanding is in the retracted state the 11 needle, whichever number it is, needle hub and 12 cylinder hub components, as Cote says -- let me 13 make sure I'm using the right terminology. 14 So in what he refers to in 15 paragraph 212 of Cote as the fully retracted 16 state shown in figures 83A and B, once the 17 patient removes pressure from the upper end 18 1111 of the housing 1110, the spring 1150 19 causes the housing 1110 and cylinder hub 1120 20 to move in a direction B as shown in figures 21 83A and B to a fully retracted state. 22 BY MR. HANSEN: 23 Q So again, my question is, when the assembly 24 is in a retracted state, are the individual 25 components in a retracted position?	Page 84 1 A I do. 2 Q Does figure 81A depict the assembly in a 3 trigger state? 4 A That is my understanding of Cote's 5 terminology. 6 Q In the trigger state, are any of the 7 components in an extended position? 8 MR. DAVIS: Objection. Form. 9 THE WITNESS: I don't believe Cote nor I 10 use the terminology "extended position," so I 11 wouldn't agree with that terminology. Cote in 12 paragraph 0208 or 208 describes, Once the 13 needle 1336 and cannula 1806 of the site 1800 14 have been fully inserted into the skin 1900, 15 the device 1100 is in a trigger state as 16 illustrated in figure 78, 81A, 81B, and 81C. 17 BY MR. HANSEN: 18 Q So again, in the trigger state, are any of 19 the components in an extended position? Let me 20 state the question a different way. 21 Do you have an opinion one way or another 22 when the assembly is in the trigger state, are any 23 of the components in an extended position? 24 MR. DAVIS: Objection. Form. 25 THE WITNESS: That's not -- so to answer
Page 83 1 MR. DAVIS: Objection. Form. 2 THE WITNESS: Again, Counselor, I'm not 3 using, and I don't believe I used -- offered an 4 opinion about a retracted position. What I'm 5 stating is, the components of 1100 such as 6 1110, 1120, and 1130, appear to be -- including 7 the needle, needle hub, and cylinder hub, have 8 moved away from the skin's surface. The sleeve 9 1140 and the site 1800, which are components of 10 the inserter, have remained on the skin. 11 BY MR. HANSEN: 12 Q Did you just say that the site 1800, the 13 infusion site is part of the inserter 1100? 14 A It is part of the integrated system that 15 includes 1100 and 1800, yes. I believe the 16 terminology in Cote is to indicate that the inserter 17 is separate from the site, but they come packaged -- 18 they come to the user as an integrated unit. 19 Q I'm going to hand you Exhibit 2055. 20 (Exhibit 2055, Cote Figure 81A, annotated, 21 was marked.) 22 BY MR. HANSEN: 23 Q Do you recognize Exhibit 2055 as an 24 annotated version of figure 81A from the Cote 25 reference?	Page 85 1 your question, that's -- so no, I don't have an 2 opinion. That's a terminology that I'm 3 uncomfortable agreeing to. 4 BY MR. HANSEN: 5 Q Now, with reference to Exhibit 2055 -- 6 well, let me go back. 7 So the terminology that you're 8 uncomfortable with is "extended position." That's 9 the terminology that you're uncomfortable with? 10 A Yes. I'm not sure I've ever seen that or 11 used that terminology in discussing Cote or in my 12 declarations. 13 Q Do you understand based on your analysis of 14 Cote what the term "extended position" might mean? 15 MR. DAVIS: Objection. Form. 16 THE WITNESS: No. 17 BY MR. HANSEN: 18 Q Do you have an understanding or an opinion 19 based on your analysis of Cote what the term 20 "retracted" position might mean? 21 MR. DAVIS: Objection. Form. 22 THE WITNESS: Again, no. I'm 23 uncomfortable with that terminology. I've 24 never used it, I don't believe. I could be 25 mistaken, but I don't believe I've used that

Page 86 1 terminology. 2 BY MR. HANSEN: 3 Q Now, referring back to Exhibit 2055, does 4 the green highlighting correctly identify the 5 adhesive portion 1160? 6 MR. DAVIS: Objection. Form. 7 THE WITNESS: I believe it does, but 8 that's an annotated part on your part that 9 wasn't added -- that wasn't listed in the 10 original Cote figure. 11 BY MR. HANSEN: 12 Q Based on your understanding of -- 13 A That would be my understanding. That would 14 be the -- that would be my understanding, yes. 15 Q And in Exhibit 2055, does the orange 16 highlighting correctly identify the second end 1442 17 of sleeve 1140 or at least that portion of the 18 second end that is visible in the figure? 19 A That would be my understanding. 20 Q And in Exhibit 2055, does the red 21 highlighting correctly identify the barbs 1335 on 22 the needle hub? 23 A That would be my understanding, yes. 24 Q And in Exhibit 2055, does the blue 25 highlighting correctly identify the projections 1444	Page 88 1 of the projections 1444 on the needle hub 1140? 2 A 1140's not the needle hub, so no. 3 Q I misspoke. 4 In Exhibit 2055, does the blue highlighting 5 correctly identify at least a portion of the 6 projections 1444 of needle hub 1130? 7 MR. DAVIS: Objection. Form. 8 MR. HANSEN: I'm sorry. I misspoke. 9 THE WITNESS: You're still incorrect. 10 BY MR. HANSEN: 11 Q I'm going to do the question one more time 12 just so we have a clean question because I did 13 misspeak again. 14 With respect to Exhibit 2055, does the blue 15 highlighting correctly identify at least a portion 16 of the projections 1444 on sleeve 1140? 17 A That would be my understanding. 18 Q I'm now going to hand you Exhibit 2056. 19 Oh, in Exhibit 2055, that shows the assembly in a 20 trigger state, correct? 21 A That is my understanding, yes. 22 Q Okay. Now I'm handing you Exhibit 2056. 23 (Exhibit 2056, Cote Figure 81C, was 24 marked.) 25 ///
Page 87 1 on the sleeve 1140? Or at least that portion of the 2 projections that are visible in the figure. 3 A Yes. It appears that there's some 4 overlap -- there may be some overlap between what's 5 illustrated as a barb and what's illustrated as the 6 projections 1444. 7 Q Okay. With respect to what's visible of 8 the projection 1444, does the blue highlighting in 9 Exhibit 2055 correctly identify the visible portions 10 of projections 1444? 11 A Counselor, with respect to figure 81A, I'm 12 not sure in this figure -- let's see. Cote appears 13 to show both 1444 and 1335 with an overlapped 14 region. So I'm not sure which is visible in this 15 view. 16 So I can't answer your question yes or no 17 because I'm not sure which in this view was intended 18 to be -- in this view both are visible in this 19 drawing. I'm not sure whether one is on top of the 20 other and would obstruct the view of one or the 21 other. 22 Q Okay. Let me ask my question in a slightly 23 different way. With respect to the blue 24 highlighting in Exhibit 2055, does that blue 25 highlighting correctly identify at least a portion	Page 89 1 BY MR. HANSEN: 2 Q Do you recognize this as an annotated 3 version of figure 81C from the Cote reference? 4 A I do. 5 Q Does figure 81C depict the assembly during 6 the trigger state? 7 A That is my understanding, yes. 8 Q In Exhibit 2056, does the orange 9 highlighting correctly identify the visible portions 10 of the second end 1442 of the sleeve 1140? 11 A I believe it does, yes. 12 Q In Exhibit 2056, does the green 13 highlighting correctly identify the adhesive 1160, 14 the adhesive portion 1160? 15 MR. DAVIS: Objection. Form. 16 THE WITNESS: What Cote indicates is the 17 adhesive 1160, he's pointing to the -- you have 18 two things highlighted in green in figure [sic] 19 2056. 20 Cote is only indicating that the 21 upper curved portion, in making contact with 22 the second end, with the surface 1449 of the 23 second end 1442, that's what he's pointing to 24 as the adhesive portion. 25 So I'm not sure I agree that the --

Page 90 1 there's a second bottom surface indicated 2 that's not indicated to be the adhesive 3 portion. 4 MR. HANSEN: So let me hand you 5 Exhibit 2057. 6 (Exhibit 2057, Cote Sheet 19 depicting 7 Figures 71, 72, and 73, was marked.) 8 BY MR. HANSEN: 9 Q Do you recognize Exhibit 2057 as sheet 19 10 from the Cote reference with figures 71, 72, and 73? 11 A I do. 12 Q These figures, figures 71, 72, and 73, 13 depict the adhesive portion 1160, correct? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: Figure 71, 72, and 73 are 16 different views of the adhesive portion 1160. 17 BY MR. HANSEN: 18 Q As depicted in these figures and as 19 described in the Cote specification, adhesive 20 portion 1160 has multiple layers, correct? 21 A That's what -- yes, as indicated by Cote in 22 paragraph 0190. 23 Q And those multiple layers are depicted, for 24 example, in figures 72 and 73? 25 A That's my understanding.	Page 92 1 regions 2, okay? 2 In the two regions that I've identified as 3 region 2, does the green highlighting identify 4 portions of adhesive portion 1160 as the layers 5 separate? 6 MR. DAVIS: Objection. Form. 7 THE WITNESS: I don't believe I can answer 8 your question. 9 BY MR. HANSEN: 10 Q Do you have any other explanation for 11 what's shown in figure 81C with regard to the green 12 highlighting in the regions that I've identified as 13 regions 2? 14 A I'm sorry. Repeat the question. 15 Q With respect to the regions that I've 16 identified as regions 2, do you have any other 17 explanation for the elements highlighted in green in 18 Exhibit 2056? 19 MR. DAVIS: Objection. Form. 20 THE WITNESS: I understand the upper 21 component in region 2 being the adhesive or 22 components of the adhesive 1160. I'm not sure 23 I understand what Cote is trying to illustrate 24 in the lower segment of region 2 that you've 25 colored as green also.
Page 91 1 Q Let's go back to Exhibit 2056. If you 2 would, please, hand me Exhibit 2056. 3 A You're going to change it now? 4 Q I'm going to add a little bit so that 5 hopefully the record will be clear when we're done. 6 Do you see in Exhibit 2055 that I've -- for 7 the green highlighting I've divided it into regions. 8 There's a region 1; do you see that? 9 A Yes. 10 Q And there's regions 2 -- two of them. 11 There's two regions 2. 12 A I see that that's what you've indicated on 13 the figure, yes. 14 Q So let me ask you with respect to the green 15 highlighting in figure 1. I'm sorry, the green 16 highlighting in region 1. 17 Do you agree that that green highlighting 18 correctly identifies a portion of the adhesive 19 portion 1160? 20 MR. DAVIS: Objection. Form. 21 THE WITNESS: If I understand your figure 22 correctly, I believe that would be my 23 understanding. 24 BY MR. HANSEN: 25 Q Now let's talk about region 2 or the two	Page 93 1 BY MR. HANSEN: 2 Q So you do not have an opinion on what Cote 3 is disclosing, describing, or depicting by the lower 4 elements highlighted in green in region 2; is that 5 correct? 6 A At this point, I don't believe I have an 7 explanation for that -- the region you've 8 identified. The second lower surface in region 2. 9 Q As described and depicted in Cote, 10 figure 81C shows what Cote describes as overtravel, 11 correct? 12 A Again, in Cote paragraph 209, Cote says it 13 is preferable that the needle hub 1130 is positioned 14 so that a lower portion of the site 1800 travels 15 slightly beyond this second end 1442 of the sleeve 16 1140 as shown in figure 81C. 17 And this, quote/unquote, overtravel assures 18 that the adhesive portion 1160 is properly sheared 19 away from the surface 1449 of the sleeve 1140 and 20 allows for the coupling of the site 1800 to the 21 adhesive portion 1160. 22 Q And according to what you just read, that 23 is what's depicted in figure 81C, correct? 24 A That's as Cote indicated in that paragraph. 25 Q And in explaining overtravel, Cote states

Page 94 1 that the needle hub 1130 is positioned so that a 2 lower portion of the site 1800 travels slightly 3 beyond the second end of sleeve 1140. 4 And then it says, as shown in figure 81C, 5 correct? 6 A Beyond the second end 1442 of the sleeve 7 1140 as shown in figure 81C. 8 Q So what figure 81C depicts is the site 1800 9 traveling slightly beyond the second end 1442 of the 10 sleeve 1140, correct? 11 A As Cote states, the lower portion of the 12 site 1800 travels slightly beyond the second end 13 1442 of the sleeve 1140. 14 Q The aspect of the design -- let me state it 15 a different way. 16 That overtravel feature is based on the 17 positioning of the needle hub 1130, correct? It 18 says needle hub 1130 is positioned so that a lower 19 portion of the site 1800 travels slightly beyond the 20 second and 1442 of sleeve 1140; do you see that? 21 A I do. 22 Q What about the position -- well, let me ask 23 you this: Do you have an opinion or an explanation 24 with respect to figure 81C as to the position of the 25 needle hub 1130 in figure 81C that results in the	Page 96 1 specification and depicted in figure 81C? 2 A So my answer to your question would include 3 reading paragraphs 51 through 54 of my second dec. 4 Do you want me to read those paragraphs 5 into the record? I'll go ahead and read those 6 paragraphs. 7 Q All right. So I've just read the 8 paragraphs. I don't see an answer to my question in 9 those paragraphs. 10 So as you read from your declaration that 11 you wrote with DexCom's attorneys, would you please 12 identify where in these paragraphs you specifically 13 discuss positioning of -- the positioning of the hub 14 1130? 15 MR. DAVIS: Objection. Form. Foundation. 16 THE WITNESS: As illustrated in figure 81B 17 below, which shows Cote's device in the trigger 18 state with the needle fully inserted and the 19 needle hub needle not yet retracted, a POSITA 20 would have understood that the user continues 21 to push on housing 1110 to close the gap 22 between housing 1110 and sleeve 1140 on the 23 skin. As I've indicated in my figure -- 24 annotated figure 81B on page 37 of my second 25 declaration.
Page 95 1 lower portion of the site 1800 traveling beyond the 2 second end 1442 of sleeve 1140? 3 MR. DAVIS: Objection. Form. 4 THE WITNESS: That was a long question. 5 So could you repeat it? 6 BY MR. HANSEN: 7 Q Do you have an opinion or an explanation as 8 to the positioning of needle hub 1130 that results 9 in a lower portion of the site 1800 traveling beyond 10 the second end 1442 of the sleeve 1140? 11 In other words, what is it about the 12 position of needle hub 1130 that results in 13 overtravel, if you have an opinion? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: I'm looking because I feel 16 that I did state an opinion about that in my 17 second declaration, so I'm just searching for 18 it. So repeat your question because I think I 19 found where I state the opinion -- state my 20 answer to that question, but I need to hear the 21 question again to know. 22 BY MR. HANSEN: 23 Q Do you have an opinion or an explanation 24 with respect to the position of needle hub 1130 that 25 results in overtravel as described in the Cote	Page 97 1 During this trigger state, Cote 2 describes that housing 1110, cylinder hub 1120, 3 and needle hub 1130 are displaced further in 4 the direction A, i.e., towards the skin. 5 In advance of these components 6 compressed spring 1150, which is positioned 7 between the needle hub 1130 and sleeve 1140, as 8 shown below, also provides a downward pushing 9 force on sleeve 1140, helping to maintain 10 contact of sleeve 1140 with the skin's surface. 11 So I believe my paragraph 51 answers 12 your question to the best of the ability I 13 could answer it. 14 MR. DAVIS: When we get to a stopping 15 place, can we take a break? 16 BY MR. HANSEN: 17 Q So let me put it this way: Other than what 18 you've just read from your second declaration, you 19 have no other or better explanation of the 20 positioning of needle hub 1130 that results in 21 overtravel? 22 MR. DAVIS: Objection. Form. 23 THE WITNESS: It would be my understanding 24 that that's my best and complete description of 25 an answer to your question.

Page 98 1 Because the user continues to push on 2 housing 1110, which is connected to cylinder 3 hub 1120 and connected to the needle hub 1130, 4 to close the gap 1110 between housing 1110 and 5 sleeve 1140 on the skin, as I've indicated. 6 And hence, are further displaced in the 7 direction A. 8 That's my answer to your question. 9 MR. HANSEN: I'm going to hand you 10 Exhibit 2058. 11 (Exhibit 2058, Cote Figure 81C, annotated, 12 was marked.) 13 BY MR. HANSEN: 14 Q This is the same as Exhibit 2057 with one 15 small difference. 16 Do you see the double-sided blue arrow in 17 figure 2058? It's just to the left of the call-out 18 number 1160; do you see that? 19 A I see that blue annotated arrow, yes. 20 Q Yes. So in describing overtravel, Cote 21 refers to the lower portion of site 1800 traveling 22 beyond the second end of sleeve 1442. 23 In your opinion, does that double-sided 24 arrow correspond to the amount of overtravel 25 depicted in figure 81C?	Page 100 1 Dr. Fletcher, can you confirm that Exhibit 2059 is 2 an annotated version of figure 82A from the Cote 3 reference? 4 A So I don't believe the figure is correct in 5 titling figure 82A as -- annotating it as "retracted 6 state." 7 Cote reserves that or uses that terminology 8 for figure 83A and B -- yes. Figure 83A is a 9 cross-section of you taking along the line of 83A 10 and -- 83A-83A of the figure 77 in a retracted 11 state. 12 And figure 83B is a cross-section of you 13 taking along the line 83B to 83B of the device 14 figure 77 in the retracted state. 15 He labels 82A and B -- figure 82A is 16 labeled as, is a cross-sectional view of the device 17 of figure 81A with the needle hub retracted. But he 18 does not use the terminology "retracted state" until 19 83A and B. 20 So I would just take -- I'm uncomfortable 21 with that annotation as the title to that figure. 22 Q All right. Well, let me direct your 23 attention to something you might have missed. Let 24 me direct your attention to paragraph 203 in the 25 Cote references.
Page 99 1 In other words, does it correspond to the 2 distance between the lower portion of section end 3 1442 and the lower portion of site 1800? 4 MR. DAVIS: Objection. Form. 5 THE WITNESS: If I understand your 6 annotated figure correctly, I believe that's 7 what -- that would be the overtravel referred 8 to in Cote in paragraph 209. Which, from my 9 understanding, is equivalent to the distance I 10 indicated in my second dec, annotated 11 figure 81B, showing a gap between where the end 12 of the housing 1110 is in that figure and the 13 top of the second end of sleeve 1140, which I 14 indicate is a gap indicating remaining downward 15 movement. 16 That's equivalent to the overtravel 17 distance you've indicated here, in my opinion. 18 MR. HANSEN: Okay. Your counsel asked for 19 a break, so we can do that now. 20 THE WITNESS: Okay. 21 (Off record from 1:59 p.m. to 2:22 p.m.) 22 (Exhibit 2059, Cote Figure 82A, was 23 marked.) 24 BY MR. HANSEN: 25 Q Dr. Fletcher, I'm handing you Exhibit 2059.	Page 101 1 A Okay. 2 Q Do you see that paragraph 203 states, 3 quote, referring now to figures 54 and 67 through 4 83, The device 1100 is illustrated in various states 5 of use? 6 A Okay. 7 Q And then he continues, quote, As shown in 8 figures 54, 79A, and 79B, the device is in a ship 9 state prior to use. As shown in figure 77, 88A -- 10 I'm sorry -- 80A and 80B, the device 1100 is in a 11 delivery state ready to deliver the cannula of an 12 infusion device into the skin of the patient. 13 Then it continues. As shown in figure 78, 14 81A, 81B, and 81C, the device 1100 is in a trigger 15 state for the state at which the needle 1336 and the 16 cannula of the site 1800 have been fully inserted 17 into the subcutaneous layer of the skin of the 18 patient, and the needle hub 1130 and associated 19 needle 1336 are about to be retracted. 20 Continuing it says, quote, As shown in 21 figures 82A and B, the device is in a retracted 22 state with the needle hub 1130 and associated needle 23 1336 having been retracted into the device 1100. 24 As shown in figures 83A and B, the device 25 1100 is in a fully retracted state with the housing

Page 102 1 1110 and sleeve 1140 returned to an uncompressed 2 position relative to one another. 3 Do you see all of that? 4 A I do. 5 Q And do you see that in that paragraph Cote 6 is describing figures 82A and 82B as depicting the 7 device in a retracted state? 8 A I do. 9 Q And do you see that it uses the term "fully 10 retracted state" as opposed to simply "retracted 11 state" with reference to figures 83A and B? 12 A Yes, I do. 13 Q And so is it correct that figure 82A in 14 Cote -- the Cote reference depicts the device in 15 what Cote describes as the retracted state? Not the 16 fully retracted state, but the retracted state? 17 A Yes, it appears to be so. 18 Q So the annotation, then, in Exhibit 2059 19 that states "retracted state" would be accurate and 20 correct? 21 A That's my understanding, yes. Thanks. 22 Q Now, if you could, please, can you confirm 23 that the orange highlighting in Exhibit 2059 24 corresponds to the second end 1442 of sleeve 1140? 25 MR. DAVIS: Objection. Form.	Page 104 1 A It would appear to correspond to that, yes. 2 (Exhibit 2060, Cote Figure 77, annotated, 3 was marked.) 4 BY MR. HANSEN: 5 Q I'm now handing you Exhibit 2060. 6 Dr. Fletcher, can you confirm that 7 Exhibit 2060 is an annotated version of figure 77 8 from the Cote reference? 9 A That would be my understanding. Looks 10 correct. Sorry. I was looking at two documents at 11 once. Yes. 12 Q Do you see the yellow highlighting in 13 Exhibit 2060? 14 A Yes. 15 Q For example, at the top of Exhibit 2060, 16 the numbers 82B and 83B are highlighted in yellow; 17 do you see that? 18 MR. DAVIS: Objection. Form. 19 THE WITNESS: I'm sorry. Not -- you said 20 82? 21 BY MR. HANSEN: 22 Q I may have misspoken. Towards the top of 23 Exhibit 2060, do you see that the numbers 80B and 24 83B are highlighted? 25 A I do.
Page 103 1 THE WITNESS: It is my understanding that 2 that would be correct. 3 BY MR. HANSEN: 4 Q And can you confirm in Exhibit 2059 that 5 the green highlighting correctly identifies the 6 adhesive portion 1160? 7 MR. DAVIS: Objection. Form. 8 THE WITNESS: That would appear to be 9 correct, although Cote doesn't indicate such. 10 It doesn't annotate it as 1160. 11 BY MR. HANSEN: 12 Q But based on your understanding of the Cote 13 reference and the description of the assembly 14 depicted here in the Cote reference, you would 15 understand that the green highlighting corresponds 16 to the adhesive portion 1160, correct? 17 A I believe that would be my understanding. 18 Q Do you see the double-sided blue arrow 19 there -- 20 A I do. 21 Q -- in Exhibit 2059? 22 A Yes. Annotated blue double arrow, yes. 23 Q And does that blue arrow correspond to the 24 overtravel that we discussed previously in 25 connection with figure 81C?	Page 105 1 Q Do you understand that to be a reference to 2 figures 80B and 83B in the Cote reference? 3 A That's my understanding, yes. 4 Q And the numbers 80A and 83A are also 5 highlighted. Do you understand that to be a 6 reference to figures 80A and 83A in the Cote 7 reference? 8 A That's my understanding. 9 Q And the figures 80B and 83B are also 10 highlighted. Do you understand that to be a 11 reference to figures 80B and 83B in the Cote 12 reference? 13 A Yes, I do. 14 Q So if I'm to understand the relationship 15 between, for example, figure 77 and figure 80B -- or 16 let's just use 80A. Okay? 17 What is your understanding of the 18 relationship between figure 77 and figure 80A? 19 A Making sure I use whatever Cote's 20 terminology is in answering your question. 21 As Cote states in paragraph 97, figure 80A 22 is a cross-sectional view taken along the 23 line 80A-80A of the device of figure 77 in a 24 delivery state. 25 Q Can you hand me Exhibit 2060?

Page 106 1 A The most recent one? 2 Q Yes. The one we've been looking at. 3 Dr. Fletcher, I just added some pink highlighting to 4 Exhibit 2060. Do you see that pink highlighting? 5 A I do. 6 Q Does that pink highlighting correctly 7 indicate line 80A-80A? 8 A That would be my understanding, yes. 9 Q So is it your understanding that 10 figure 80A, for example, is a cross-sectional view 11 of figure 77 taken along that line that I 12 highlighted in pink? 13 A That's my understanding of what I 14 respond -- what paragraph 97 is stating, yes, of 15 Cote. 16 (Exhibit 2061, Cote Figure 78, annotated, 17 was marked.) 18 BY MR. HANSEN: 19 Q I'm now handing you Exhibit 2061. 20 Do you recognize Exhibit 2061 as an 21 annotated version of figure 78 from the Cote 22 reference? 23 A I do. 24 Q If I could have back Exhibit 2061. I'm 25 going to add another annotation here. Can you	Page 108 1 A Both? 2 Q Both of them. I'm going to add one more 3 annotation to both of them. In Exhibits 2061 and 4 2060, which are figures 77 and 78 from Cote, the 5 skin is specifically identified with call-out number 6 1900, correct? 7 A That's my understanding, yes. 8 Q Can you hand me those two exhibits again? 9 So with regard to Exhibit 2060 and 10 Exhibit 2061, does the orange highlighting that I 11 just added correspond to the skin 1900? 12 A That would be my understanding. 13 Q In Cote figure 77 and 78, and in Exhibits 14 2060 and 2061, the skin 1900 is flat, correct? 15 MR. DAVIS: Objection. Form. 16 THE WITNESS: As illustrated, that appears 17 to be the case. 18 BY MR. HANSEN: 19 Q In figure 78, which depicts the trigger 20 state, the user would be pressing the device against 21 the skin, correct? 22 A That would be my understanding as indicated 23 by the arrows -- the arrow A. 24 Q And as depicted in figure 78 of Cote in 25 Exhibit 2061, as the user presses the device against
Page 107 1 confirm that figure 78 in Cote depicts the assembly 2 in the trigger state? 3 A Yes. Cote states in paragraph 94, 4 figure 78 is a side view of the device of figure 77 5 in a trigger state. 6 Q And do you see the highlighted numbers in 7 Exhibit 2061? 8 A Highlighted in yellow? 9 Q Yes. 10 A Yes. 11 Q And do you understand that the number 81A 12 refers to figure 81A in Cote? 13 A That's my understanding. 14 Q And in figure 78, the number 81B refers to 15 figure 81B in Cote? 16 A Yes. They are cross-sectional views of 17 this device in those two cross-sections, 81A and 18 81B. 19 Q And to take a specific example, figure 81A 20 in Cote is a cross-sectional view along the line 21 that I've highlighted in pink with regard to 22 figure 78 in Cote, correct? 23 A In the Exhibit 2061, yes. 24 Q In both figure 77 and figure 78, could you 25 hand those figures to me again? I'm sorry.	Page 109 1 the skin in the trigger state, the skin 1900 is 2 flat, correct? 3 MR. DAVIS: Objection. Form. Foundation. 4 THE WITNESS: As Cote illustrated in these 5 two figures, yes. 6 BY MR. HANSEN: 7 Q Now, I want to ask you about a figure from 8 your second declaration. This is found on page 79. 9 A No. There's no figure on page 79. 10 Q I misspoke. I meant to say 39. On page 39 11 of your declaration, do you see a figure there after 12 paragraph 54? 13 A I do. 14 (Exhibit 2062, Figure depicted on Page 39 15 of Dr. Fletcher's second declaration, 16 annotated, was marked.) 17 BY MR. HANSEN: 18 Q I'm handing you Exhibit 2062. Can you 19 please confirm that Exhibit 2062 corresponds to the 20 figure on page 39 of your second declaration? 21 MR. DAVIS: Objection. Form. 22 THE WITNESS: It doesn't include the full 23 figure caption from my figure on page 39. 24 BY MR. HANSEN: 25 Q Oh. Here. Here is a pen.

Page 110 1 A I have a pen. 2 Q Okay. If you want to use your pen, why 3 don't you just write in the portion of the caption 4 that was omitted. 5 MR. DAVIS: Objection. The record would 6 be clearer if we just referred to the figure 7 that's actually in the declaration. 8 MR. HANSEN: Well, we're going to annotate 9 this one, so we need to have a separate exhibit 10 number. 11 BY MR. HANSEN: 12 Q So you added the text, "Red dashed line 13 annotation illustrates a portion of skin surface," 14 is that correct? 15 A Yes. Removed the parenthesis from the end 16 of the first line as you had it, put a semicolon, 17 and I added parenthesis at the end of the second 18 line. Sorry. 19 Q Right. With those corrections, can you 20 confirm that Exhibit 2062 corresponds to the figure 21 on page 39 of your second declaration, Dr. Fletcher? 22 A Yes. It appears to be a copy of that 23 figure from page 39. 24 Q Now, as you noted, the caption to this 25 drawing states that the red dashed line annotation	Page 112 1 you can? 2 You said that you can indicate where the 3 skin would be if it's underneath the site. But in 4 those regions that I previously identified as 2, 5 you're not sure what would be going on. 6 So can you draw it in where you believe you 7 understand what would happen. And then in the 8 regions that you don't understand where it would 9 happen, just circle those regions with the blue pen 10 so that we have a clear record of your opinions in 11 this matter. 12 MR. DAVIS: Objection. Form. Object to 13 requesting the witness to create an exhibit 14 during the deposition without adequate 15 opportunity to consider. 16 BY MR. HANSEN: 17 Q Dr. Fletcher, your counsel seems to think 18 that you haven't considered how the skin -- what 19 condition the skin would take in between the two -- 20 the left portion and the right portion that you have 21 in your declaration. 22 Is that true? Have you not considered 23 that? 24 A I believe I have considered it. I don't 25 believe I offered an opinion on it in this
Page 111 1 illustrates a portion of skin surface; is that 2 correct? 3 A That's what I indicated in the caption, 4 yes. 5 Q So there's a red dashed line to the left 6 and a red dashed line to the right, correct? 7 A Yes. 8 Q I'm going to give you a red pen. Using 9 that red pen, can you connect those two portions as 10 you understand would be the case for Cote 1100? 11 MR. DAVIS: Objection. Form. Foundation. 12 THE WITNESS: No, I cannot. 13 BY MR. HANSEN: 14 Q And why not? 15 A Because I'm not sure -- so I'm not sure 16 where the skin is supposed to be indicated in the -- 17 if you remember, the region 2 of the adhesive. 18 Q Yes. 19 A I know where the skin is under the site 20 1800, because that's where the skin is located at 21 that region. It's not clear from Cote where the 22 skin would be in that region 2. 23 Q Okay. Well, do this for me. So I handed 24 you a red pen. Now I'm handing you a blue pen. Can 25 you, using the red pen, fill in the skin as much as	Page 113 1 declaration. 2 Q Okay. So in trying to understand the 3 opinions that you have offered, you previously 4 testified that you could complete a portion of the 5 gap between your two red lines. 6 Using that red pen, would you please 7 complete as much as you can, fill in as much as you 8 can of the gap between your two red lines? 9 MR. DAVIS: Okay. So I'm going to object 10 to the extent counsel's asking the witness to 11 create a new exhibit. The declaration speaks 12 for itself. And counsel is more than entitled 13 to ask questions about the declaration and why 14 things were shown and why they were not shown 15 there. 16 And we object to the creation of an 17 exhibit on the fly; that counsel is no doubt 18 trying to use this as an opportunity to 19 supplement the record with evidence that he is 20 not entitled to put in with a surreply that is 21 coming. 22 MR. HANSEN: Okay. Your long-winded 23 improper objections are noted. 24 BY MR. HANSEN: 25 Q Could you please, Dr. Fletcher, fill in as

Page 114 1 much of the gap as you can between the two red lines 2 in your figure? 3 A I didn't offer an opinion about where the 4 skin is between those two lines. I don't have an 5 opinion at this point as to where the skin is 6 between those two lines. 7 Q Okay. Dr. Fletcher, I'm handing you 8 Exhibit 2063. 9 (Exhibit 2063, Cote Figure 81C, partial, 10 annotated, was marked.) 11 BY MR. HANSEN: 12 Q Do you see the red dashed line in 13 Exhibit 2063 that's labeled "skin"? 14 A I do. 15 MR. DAVIS: Object to the form. 16 BY MR. HANSEN: 17 Q Do you have an opinion as to whether the 18 skin could deform in that fashion during use of the 19 Cote 1100 device? 20 A As I've stated in paragraph 54 and 21 illustrated in my -- in my figure 81C, which we've 22 included as Exhibit 2062, that's not my 23 understanding of the position of the skin. 24 MR. DAVIS: I'd note, just to make the 25 record clear, to the extent there's a reference	Page 116 1 the user's skin throughout the trigger state 2 including during overtravel. 3 BY MR. HANSEN: 4 Q Where were you reading from? 5 A I'm sorry. The last part of paragraph 52 6 on the top of page 38. 7 Q Did you conduct any test to determine 8 whether and to what extent tissue would deform 9 during overtravel with Cote 1100? 10 MR. DAVIS: Objection. Form. 11 THE WITNESS: Again, I believe I answered 12 earlier that I did not conduct any specific 13 test with the Cote 1100 device, either 14 virtually or actually. 15 Again, further -- in further answer 16 to your question, paragraph 54 above the 17 annotated figure 81C, As illustrated in the 18 annotation portion of figure 81C below, a 19 POSITA would have understood that the force 20 applied by Cote's site 1800 as it overtravels 21 and the manual force applied by the user to the 22 sleeve 1140 via the housing 1110 would deform 23 the skin around the distal end of the inserter. 24 BY MR. HANSEN: 25 Q During use of the Cote 1100 device, does
Page 115 1 to a red dashed line, there appear to be errant 2 red markings on sleeve 1140 in what's been 3 marked as Exhibit 2063, so the record's clear. 4 BY MR. HANSEN: 5 Q Could you please hand me Exhibit 2063? 6 Because I want us to have a clear record. Do you 7 see the orange highlighting that I've added to 8 Exhibit 2063? 9 A I do. 10 Q And do you have an opinion as to whether 11 the skin could deform as shown and indicated by the 12 orange highlighting in Exhibit 2063? 13 MR. DAVIS: Objection. Form. Foundation. 14 THE WITNESS: So no, I don't believe 15 that's a correct illustration of the position 16 of the skin during Cote -- with regard to what 17 Cote is trying to illustrate in figure 81C. As 18 I've stated in my second declaration. In 19 particular, paragraphs 52, picking up in the 20 middle at the top of page 38. 21 Therefore, the below illustration is 22 not intended to show the precise deformation of 23 the skin for any particular user, but rather to 24 illustrate that a POSITA would understand that 25 a Cote sleeve would indeed be in contact with	Page 117 1 the amount of force applied by the user vary? 2 MR. DAVIS: Objection. Form. Foundation. 3 THE WITNESS: I didn't offer an opinion 4 and I don't believe I have an opinion. I 5 didn't study that in that detail. 6 BY MR. HANSEN: 7 Q So, for example, do you have an opinion as 8 to whether the force applied by the user in 9 figure 81A is any different than the force applied 10 by the user in figure 81C? 11 MR. DAVIS: Objection. Form. 12 THE WITNESS: I didn't offer an opinion 13 and I don't have an opinion. I don't believe. 14 Did I -- 15 BY MR. HANSEN: 16 Q No. I believe you're right, but I just 17 want to make sure. 18 A In paragraph 51 all I state, A POSITA would 19 have understood that the user continues to push on 20 housing 1110 to close the gap between housing 1110 21 and sleeve 1140 on the skin. 22 Certainly, I implied that there's at least 23 continued force by the user. Whether it's -- I 24 didn't offer an opinion as to whether it changes, 25 which I think was your question.

Page 118 1 Q Yes. 2 Dr. Fletcher, there's no description in 3 Cote of skin deformation or tissue deformation, 4 correct? 5 A I don't believe there is. I don't believe 6 I offered an opinion as to Cote specifically talking 7 about skin deformation. 8 Q And there's no figure in Cote that depicts 9 deformed tissue or deformed skin, correct? 10 A I don't believe so. 11 Q In fact, in the figures in Cote that depict 12 the skin, including a figure that corresponds to the 13 trigger state, the skin is shown as flat, correct? 14 A Yes. And the sleeve 1140 is in contact 15 with that skin surface. 16 Q Could you look at page 41 of your second 17 declaration? 18 A Okay. I'm there. 19 Q Do you see the figure there that is 20 identified as an excerpt from Cleo 90 instructions? 21 A I do. 22 Q There's no skin deformation shown in that 23 figure, correct? 24 A It's not clear in this figure whether 25 there's skin deformation or not.	Page 120 1 A No, I do not know. 2 Q Do you claim to know more than the 3 inventors about the Cote 1100 device described in 4 the Cote reference? 5 MR. DAVIS: Objection. Form. 6 THE WITNESS: To the best of my knowledge, 7 I would not say that I know more than the 8 inventors do about what they invented. 9 BY MR. HANSEN: 10 Q Is it fair to say that they would know more 11 than you do about what they invented? 12 MR. DAVIS: Objection. Form. 13 THE WITNESS: I can't say what they would 14 say they know or not know compared to me. 15 BY MR. HANSEN: 16 Q Do you understand that the needle or sharp 17 in Cote 1100 is fully retracted from the user's skin 18 during the retraction stage depicted, for example, 19 in figures 82A and 82B? 20 A Is there a particular place in one of my 21 declarations where you're referring to? 22 Q I'm asking about your understanding. If 23 you don't have an understanding other than what the 24 attorneys helped you write in your declaration, you 25 can tell me that and we can move on.
Page 119 1 Q And there's also a figure there that you 2 apparently excerpted from literature relating to 3 Abbott's Libre products? 4 A I believe that's correct, yes. 5 Q And those figures do not depict any skin 6 deformation associated with applying the device to 7 the skin, do they? 8 A It's not clear. They could or they might 9 not. It's not clear from this figure whether 10 they're showing deformation or not. 11 Q Do you have the Cote reference, 12 Exhibit 1005? 13 A Yes. 14 Q Do you see on the first page where it 15 identifies three inventors? 16 A I see that, yes. 17 Q Do you know any of those inventors? 18 A Personally, no, I do not know. I don't 19 believe I know any of them. 20 Q Have you ever communicated in any way with 21 any of those inventors? 22 A Not that I'm aware of, no. Not that I can 23 recollect sitting here today. 24 Q Do you know if DexCom has been in contact 25 with any of those inventors?	Page 121 1 MR. DAVIS: Objection. Form. Foundation. 2 THE WITNESS: Can you ask the question 3 again? 4 BY MR. HANSEN: 5 Q Is it your understanding that in the 6 retraction stage of Cote as depicted in figures 82A 7 and 82B, the needle or sharp has been fully removed 8 from the patient's tissue and is now entirely within 9 the housing of device 1100? 10 MR. DAVIS: Objection. Form. Foundation. 11 THE WITNESS: My understanding of Cote is, 12 as they describe in paragraph 211, the spring 13 1150 which has been compressed through the 14 movement of the housing 1110 in the direction A 15 propels the needle hub 1130 and associated 16 needle 1336 in the direction B up through the 17 cylinder hub 1120 into the upper end 1111 of 18 the housing 1110 while the site 1800 and 19 associated cannula 1806 are held on the skin 20 1900 of the patient as shown in figures 82A and 21 82B. 22 BY MR. HANSEN: 23 Q Is it your understanding that the end of 24 the retraction phase, the needle has been fully 25 removed from the patient's tissue?

Page 122 1 MR. DAVIS: Objection. Form. 2 THE WITNESS: I believe we previously 3 identified figures 82A as being -- as Cote 4 identified the retracted state. What I just 5 read indicates that during that retracted 6 state, the needle hub 1130 and associated 7 needle 1336 has been propelled -- I'm 8 paraphrasing -- in the direction B up through 9 the cylinder hub 1120 into the upper end 1111 10 of the housing 1110. 11 So that would be my understanding of 12 what Cote describes there. 13 BY MR. HANSEN: 14 Q And then it says, The site 1800 and 15 associated cannula 1806 are held on the skin of the 16 patient -- the skin 1900 of the patient, correct? 17 A That's what is stated there, yes. 18 Q It doesn't say that the sleeve 1140 is held 19 on the skin of the patient, correct? 20 A That is stated in paragraph 213. Finally 21 the sleeve 1140 is removed from contact with the 22 skin 1900. 23 Q I'm asking you about the retraction stage. 24 The description of the retraction stage that you're 25 referring to in paragraph 2011, in the description	Page 124 1 BY MR. HANSEN: 2 Q And, in fact, in paragraph 211 it told us 3 that in the retracted state, before the fully 4 retracted state, the needle has been fully removed 5 from the patient's tissue, correct? 6 A It doesn't use the words "fully removed 7 from the patient." The terminology, the needle and 8 associated needle hub moved in the direction B, 9 which is away from the skin, through the cylinder 10 hub 1120 into the upper end 1111 of the housing 11 1110. 12 Q Do you understand from that description 13 that by the end of the retraction state, not the 14 fully retracted state, but the retracted state, by 15 the end of the retracted state, the needle has been 16 fully removed from the tissue of the patient? 17 A That would be my understanding of what 18 Cote's describing in those two paragraphs. 19 Q Let me refer you to paragraph 203. 20 A Okay. Yes. As shown in figures 82A and 21 82B, the device 1100 is in a retracted state with 22 the needle hub 1130 and associated needle 1336 23 having been retracted into the device 1100. 24 Q So does that confirm your understanding 25 retraction of the needle from the patient has been
Page 123 1 of the retraction stage where it says that the site 2 and cannula are held on the skin. 3 It does not say in the description of that 4 stage that the sleeve 1140 is held on the skin, 5 correct? 6 MR. DAVIS: Objection. Form. 7 THE WITNESS: It does not specifically 8 state that in paragraph 211. 9 BY MR. HANSEN: 10 Q Now, let's talk about paragraph 212. 11 Paragraph 212 relates to not the retracted state, 12 but the fully retracted state associated with 13 figures 83A and B, correct? 14 A That's what -- yes. That's what is 15 indicated in paragraph 212. 16 Q And during the fully retracted state, the 17 housing and the cylinder hub are moving in direction 18 B, correct? 19 A That's what is stated in that paragraph. 20 Q It doesn't state that the needle hub or the 21 associated needle are moving in the fully retracted 22 state, correct? 23 MR. DAVIS: Objection. Form. 24 THE WITNESS: In paragraph 212, it does 25 not state that.	Page 125 1 completed during the retraction stage or state 2 before the fully retracted state? 3 A The retracted state. 4 Q Yes. 5 A Yes. 6 Q There's the retracted state and the fully 7 retracted state, correct? 8 A Right. 9 Q Do you understand that retraction of the 10 needle from the patient is completed during the 11 retraction state which precedes the fully retracted 12 state? 13 A I understand that from this, Cote's 14 describing that the needle hub and needle is 15 retracted during the retracted state. You said 16 retraction. Yeah. 17 Q Okay. Yes. So I guess I'll state the 18 question again just so it's clear. 19 Do you understand that for Cote 1100 the 20 needle is fully retracted or removed from the 21 patient in the retracted state which precedes the 22 fully retracted state? 23 A I'm sorry. I was reading something else. 24 I'm sorry. You're going to have to say it again. 25 Q Oh, I thought I got my question just right.

Page 126 1 Let me see if I can repeat it. 2 Do you understand that for Cote 1100 the 3 needle is fully retracted or removed from the 4 patient in the retracted state which precedes the 5 fully retracted state? 6 A I believe, as you stated the question, that 7 would be my understanding. 8 Q Okay. 9 A As I read those Cote paragraphs that we've 10 been referring to. 11 MR. HANSEN: Let's take a short break. 12 (Off record from 3:21 p.m. to 3:34 p.m.) 13 MR. HANSEN: Not wanting to debate it now, 14 but we don't believe that we've had the 15 opportunity that we're entitled to to 16 cross-examine the witness on his testimony. We 17 reserve the right to take that up with the 18 Board. But at this time, I have no further 19 questions. 20 MR. DAVIS: Just to make the record 21 complete, without debating it, we disagree. 22 And this is the opportunity to depose the 23 witness. And the deposition will conclude if 24 we go off the record. 25 MR. HANSEN: Well, let me ask.	Page 128 1 MR. HANSEN: All right. 2 (Off record from 3:36 p.m. to 3:46 p.m.) 3 MR. DAVIS: I'm not going to have any 4 questions for redirect so we can go ahead and 5 go off the record and, in our view, conclude 6 this deposition. 7 MR. HANSEN: Okay. That's fine. 8 MADAM COURT REPORTER: Are you reserving 9 signature? 10 MR. DAVIS: Yes, he'll read and sign. 11 MADAM COURT REPORTER: Would you like a 12 copy of the transcript? 13 MR. DAVIS: Yes, we'd like a copy. 14 MADAM COURT REPORTER: Okay. Off the 15 record. 16 (Proceedings ended at 3:46 p.m.) 17 (Signature reserved.) 18 19 20 21 22 23 24 25
Page 127 1 BY MR. HANSEN: 2 Q On any of the breaks today, Dr. Fletcher, 3 have you had any conversations with DexCom attorneys 4 about your testimony today? 5 A No. I assume we're still on the record? 6 Q Yeah, we're on the record. 7 A Okay. 8 Q Have they had any conversations in your 9 presence about your deposition testimony today? 10 A No. 11 Q Is there any reason that you will be more 12 responsive if I continue to question you now than 13 you have been to this point? 14 MR. DAVIS: Objection. Form. 15 THE WITNESS: I'm not sure how to answer 16 the question. I will be as responsive as I 17 have been. 18 MR. HANSEN: Okay. Then I have nothing 19 further at this time. 20 MR. DAVIS: Okay. Before we conclude the 21 deposition, can you give us a few minutes? I 22 thought you were going to have some more 23 questions, but give me time to think about 24 redirect. I hate to take another break, but 25 five minutes.	Page 129 1 REPORTER'S CERTIFICATE 2 I, VICTORIA A. GUERRERO, Certified Shorthand Reporter, 3 Registered Merit Reporter, Registered Professional Reporter, 4 Certified Realtime Reporter, in and for the State of Oregon 5 do hereby certify that, pursuant to notice, GARY D. 6 FLETCHER, Ph.D. personally appeared before me at the time 7 and place mentioned in the caption herein; that the witness 8 was by me first duly sworn/affirmed under oath and examined 9 upon oral interrogatories propounded by counsel; that said 10 examination, together with the testimony of said witness, 11 was taken down by me in stenotype and transcribed through 12 computer-aided transcription; and that the foregoing 13 transcript, pages 1 through 128, review requested by the 14 witness or a party, constitutes a true record of said 15 examination of and testimony given by said witness, and of 16 all other oral proceedings had during the taking of said 17 deposition, and of the whole thereof. 18 IN WITNESS WHEREOF, I have hereunto set my hand 19 at Portland, Oregon, this Thursday, December 4, 20 2024. 21  22 23 Victoria A. Guerrero, CSR, RDR, RMR, CRR 24 Oregon CSR No. 14-0428 (exp. 9-30-2027) 25 Washington CCR No. 3293 (exp. 3-15-2025) California CSR No. 8370 (exp. 3-15-2025) Hawaii CSR No. 490 (exp. 12-31-2024)

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1 CASE NAME : DEXCOM V. ABBOTT
 2 DEPOSITION OF: GARY FLETCHER
 3 DATE TAKEN: DECEMBER 4, 2024
 4

5 This is to certify that I have read the
 6 transcript of my Deposition taken in the above-entitled
 7 cause and that the foregoing transcript accurately
 8 states the questions asked and the answers given by me
 9 as they now appear.

10 Please check one:

11 _____ I made no corrections

12 _____ Number of corrections made

13 _____
 14 GARY FLETCHER

15 SUBSCRIBED AND SWORN TO

16 Before me this _____ day

17 of _____ A.D., 2023.

18

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 Notary Public

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1 CORRECTION PAGE

2 CASE NAME : DEXCOM V. ABBOTT

3 DEPOSITION OF: GARY FLETCHER

4 DATE TAKEN: DECEMBER 4, 2024

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24 SIGNATURE: _____

Exhibits Exhibit 2050 5:7 72:13,20 74:20 Exhibit 2051 5:9 75:6, 7,10,16,24 Exhibit 2052 5:10 76:4,5,11,16 Exhibit 2053 5:12 77:8,9 Exhibit 2054 5:13 78:10,11 79:7 Exhibit 2055 5:15 83:19,20,23 85:5 86:3,15,20,24 87:9,24 88:4,14,19 91:6 Exhibit 2056 5:16 88:18,22,23 89:8,12 91:1,2 92:18 Exhibit 2057 5:18 90:5,6,9 98:14 Exhibit 2058 5:20 98:10,11 Exhibit 2059 5:21 99:22,25 100:1 102:18,23 103:4,21 Exhibit 2060 5:23 104:2,5,7,13,15,23 105:25 106:4 108:9 Exhibit 2061 6:7 106:16,19,20,24 107:7,23 108:10,25 Exhibit 2062 6:9 109:14,18,19 110:20 114:22 Exhibit 2063 6:11 114:8,9,13 115:3,5,8, 12 0 0186 73:8 0190 75:17 90:22 0208 84:12 056 38:24 39:4 1 1 32:3 73:25 74:3,17 91:8,15,16	100 21:9 1001 10:2 45:23 1003 9:25 1004 10:3 1005 10:4 12:19 16:13 17:9 119:12 1008 10:5 1045 10:1,8,13,18 30:19,22 35:13 37:23 42:4 1047 17:18 18:7,10,16, 19 19:13 20:4,11,17, 24 23:10 24:13,19 1048 17:19 18:5,17 24:20 25:3 29:18 1058 13:17 15:18 10:20 40:6 10:47 40:6 1100 12:20,24 13:3 14:9 15:1,8 16:13 17:8 20:13,18 22:2, 10,16,20,25 23:5 26:10 28:11 29:25 72:24 73:24 74:16 77:15 81:19 82:2 83:5,13,15 84:15 101:4,10,14,23,25 111:10 114:19 116:9, 13,25 120:3,17 121:9 124:21,23 125:19 126:2 1110 80:4 82:18,19 83:6 96:21,22 97:2 98:2,4 99:12 102:1 116:22 117:20 121:14,18 122:10 124:11 1111 82:18 121:17 122:9 124:10 1120 82:19 83:6 97:2 98:3 121:17 122:9 124:10 1130 77:24 79:5 83:6 88:6 93:13 94:1,17, 18,25 95:8,12,24 96:14 97:3,7,20 98:3 101:18,22 121:15 122:6 124:22 1140 73:9 74:8,11,16 75:20 76:1,13,18 77:21 78:5,8,20 79:9	83:9 86:17 87:1 88:1, 16 89:10 93:16,19 94:3,7,10,13,20 95:2, 10 96:22 97:7,9,10 98:5 99:13 102:1,24 115:2 116:22 117:21 118:14 122:18,21 123:4 1140's 88:2 1150 82:18 97:6 121:13 1160 75:19 77:19 78:25 86:5 89:13,14, 17 90:13,16,20 91:19 92:4,22 93:18,21 98:18 103:6,10,16 11:52 72:12 12 67:21 69:3 12:40 72:12 13 67:22 68:14 69:4,11 87:13 1335 78:1 79:4 86:21 87:13 1336 84:13 101:15,19, 23 121:16 122:7 124:22 14 74:14 1441 73:10 1442 73:3,10,12,15,19 74:10,15,22 75:2,20, 22 76:1,13,17 77:5 78:20 86:16 89:10,23 93:15 94:6,9,13,20 95:2,10 98:22 99:3 102:24 1443 73:11 1444 78:5,8 79:8 86:25 87:6,8,10,13 88:1,6, 16 1449 75:16,19,22 76:1, 12 77:4 89:22 93:19 147 35:17 1800 77:16 81:7,20 82:3 83:9,12,15 84:13 93:14,20 94:2,8,12,19 95:1,9 98:21 99:3 101:16 111:20 116:20 121:18 122:14 1806 84:13 121:19 122:15 19 90:6,9	1900 84:14 108:6,11, 14 109:1 121:20 122:16,22 1:59 99:21 2 2 91:10,11,25 92:1,3, 13,16,21,24 93:4,8 111:17,22 112:4 20 23:16 2011 122:25 2024 7:1 203 100:24 101:2 124:19 2050 72:13,20 74:20 2051 75:6,7,10,16,24 2052 76:4,5,11,16 2053 77:8,9 2054 78:10,11 79:7 2055 83:19,20,23 85:5 86:3,15,20,24 87:9,24 88:4,14,19 91:6 2056 88:18,22,23 89:8, 12,19 91:1,2 92:18 2057 90:5,6,9 98:14 2058 98:10,11,17 2059 99:22,25 100:1 102:18,23 103:4,21 2060 104:2,5,7,13,15, 23 105:25 106:4 108:4,9,14 2061 106:16,19,20,24 107:7,23 108:3,10,14, 25 2062 109:14,18,19 110:20 114:22 2063 114:8,9,13 115:3, 5,8,12 208 84:12 209 93:12 99:8 21 31:10 32:4 42:5 211 20:23 121:12 123:8 124:2 212 82:15 123:10,11, 15,24 213 122:20 214 23:11 22 30:21 31:16 36:24	37:23 42:6 23 42:8 26 31:10 32:3 33:8,21 35:1 38:1 42:5,8,22 43:25 62:20 26A 36:23 37:2 48:21 2:22 99:21 3 35 24:14 37 96:24 38 115:20 116:6 39 109:10,14,20,23 110:21,23 3:21 126:12 3:34 126:12 3:36 128:2 3:46 128:2,16 4 4 7:1 41 118:16 42 26:14,15 44 47:13 48:11 45 9:10 49 24:15 5 5 10:17,25 11:1 17:18 25:4 50 26:7,14 28:8 51 96:3 97:11 117:18 52 115:19 116:5 54 96:3 101:3,8 109:12 114:20 116:16 55 74:6 591 10:2,22 31:23 32:20 39:11,21 42:11, 17 43:7 45:17,23 46:3,6,9,12,15 47:3,7 48:16,23 51:14 62:19 67:3,14 70:17 71:17 73:17 74:1,18
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