

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

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TELADOC HEALTH, INC.,

Case No.:

Petitioner,

IPR 2024/00616

U.S. Patent No.

11,144,554

vs.

IPR2024-00617

U.S. Patent No.

DATA HEALTH PARTNERS, INC.,

11,151,152

Patent Owner.  
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March 11, 2025

8:56 a.m. CST

Remote video-teleconference deposition of  
HOSSEIN ARDEHALI, M.D., an Expert Witness, taken by  
Petitioner, held at Chicago, Illinois, pursuant to  
notice, before Elizabeth F. Tobin, a Registered  
Professional Reporter and Notary Public of the State  
of New York.

JOB NO. 7230119

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

(Present via video-teleconference)

On behalf of the Petitioner:

NORTON ROSE FULBRIGHT US LLP

1301 Avenue of the Americas

New York, New York 10019-6022

212.318.3000

BY: MICHAEL V. SOLOMITA, ESQ.

michael.solomita@nortonrosefulbright.com

STEPHEN GUZZI, ESQ.

stephen.guzzi@nortonrosefulbright.com

On behalf of the Patent Owner:

SKIERMONT DERBY, LLP

1601 Elm Street, Suite 4400

Dallas, Texas 75201

214.978.6600

BY: SARAH E. SPIRES, ESQ.

sspires@skiermontderby.com

1 H. Ardehali

2 COURT REPORTER: Ms. Spires, will you be  
3 ordering a copy of the transcript.

4 MS. SPIRES: Yes, we will.

5 COURT REPORTER: Good morning. My name  
6 is Elizabeth Tobin. I am a registered  
7 professional reporter. Today's date is  
8 March 11, 2025 and the time is approximately  
9 8:56 a.m. CST This is the deposition of  
10 Hossein Ardehali, M.D. in the matter of Teladoc  
11 versus Data Health Partners. This case is  
12 venued in the United States Patent and  
13 Trademark Office. The case number is  
14 IPR2024-00617.

15 At this time I will ask counsel to  
16 identify yourself, state whom you represent and  
17 agree on the record that there is no objection  
18 to this stenographic reporter administering a  
19 binding oath to the witness remotely via  
20 video-teleconference.

21 MR. SOLOMITA: I'm Michael Solomita from  
22 Norton Rose Fulbright on behalf of petitioner  
23 Teladoc and I have no objection.

24 I do want to make one clarification, Liz.  
25 This proceeding is for two IPRs, IPR

1 H. Ardehali

2 2024-00617, which you mentioned, but it's also  
3 for IPR 2024-00616.

4 COURT REPORTER: I'll include that in the  
5 title.

6 MS. SPIRES: Sarah Spires from Skiermont  
7 Derby on behalf of Data Health Partners, Inc.

8 H O S S E I N A R D E H A L I ,  
9 of lawful age, called by the Petitioner for  
10 examination, having been first duly sworn remotely  
11 upon agreement of all counsel, as hereinafter  
12 certified, was examined and testified as follows:

13 EXAMINATION OF HOSSEIN ARDEHALI, M.D.

14 BY MR. SOLOMITA:

15 Q. Good morning, Dr. Ardehali. My name is  
16 Michael Solomita of Norton Rose Fulbright on behalf  
17 of the petitioner Teladoc. I just want to thank you  
18 for taking the time today to be with us.

19 Do you understand that you're testifying  
20 under oath today?

21 A. Yes.

22 Q. And you're required to give truthful  
23 answers; correct?

24 A. Yes.

25 Q. Before we get into any of the substance

1 H. Ardehali

2 for today's deposition, I just want to go over some  
3 of the ground rules. First, I'll be asking you the  
4 questions.

5 Can you agree that you will wait until I  
6 finish a question before you try to answer?

7 A. Yes.

8 Q. And I'll do my best not to ask any  
9 questions before you're finished answering, but  
10 oftentimes we end up talking over each other. So  
11 we'll try to do our best to avoid that.

12 Agreed?

13 A. Yes.

14 Q. And please answer the questions using  
15 verbal responses rather than shaking your head or  
16 nodding.

17 Do you understand?

18 A. Yes.

19 Q. And your counsel may object to some of my  
20 questions, but you must still answer my questions  
21 unless she instructs you not to answer.

22 Do you understand?

23 A. Yes.

24 Q. And if you don't understand a question  
25 that I ask, just let me know. The only thing I ask

1 H. Ardehali

2 is that I'm going to assume that you understood the  
3 question unless you tell me that you don't.

4 Is that fair?

5 A. Yes.

6 Q. And we'll take a break every hour or so.  
7 But if you want a break sooner, just let me know. I  
8 just ask if there's a question pending, that we  
9 finish that question before we take a break.

10 Is that acceptable?

11 A. Yes.

12 Q. Is there any reason that you can think  
13 of, such as some medications or otherwise that would  
14 prevent you from giving truthful, accurate and  
15 complete testimony today?

16 A. No.

17 Q. So you're testifying remotely somewhere  
18 in Chicago; is that correct?

19 A. Yes.

20 Q. Is anyone else in the room with you?

21 A. No.

22 Q. Will you agree to let me know if anyone  
23 enters the room?

24 A. Yes.

25 Q. Do you agree to not to look at any

1 H. Ardehali

2 messages, emails, chats or other communications  
3 while we're on the record?

4 A. Yes.

5 Q. And you'll let me know if anyone tries to  
6 communicate with you by any means while we're on the  
7 record?

8 A. Yes.

9 Q. Are you looking at any documents,  
10 electronic or physical right now?

11 A. No. I have my declarations open, but I  
12 can close them.

13 Q. It's up to you. I'm going to give you  
14 the documents to look at. So it's up to you whether  
15 you would like to look at your own versions of the  
16 documents or what I give you in the chat.

17 I assume the documents you have are  
18 unannotated, they're just blank original copies; is  
19 that right?

20 A. Yes.

21 Q. And you understand that you're not to  
22 discuss the testimony with your counsel while the  
23 deposition is proceeding until it's concluded?

24 A. Yes.

25 Q. And you'll let me know if we have any

1 H. Ardehali

2 technical difficulties along the way. If you can't  
3 hear me, can't see me or problems with the  
4 documents, I'll be happy to help.

5 A. Okay.

6 Q. Have you ever served as an expert witness  
7 in any other cases?

8 A. Yes.

9 Q. Can you please list those cases for me  
10 and just give me a general idea of what those cases  
11 are about?

12 A. Well, I can't give you the names of those  
13 cases right now off the top of my head. But I have  
14 served as an expert witness on, probably, I would  
15 say, maybe 40 -- you know, I've had maybe 40  
16 depositions, 40 to 50 depositions. And the majority  
17 of them have been malpractice cases. I have served  
18 on maybe five or six patent cases, served as an  
19 expert on those cases. There was a big MDL case  
20 related to testosterone in -- I'm sorry,  
21 testosterone treatment and its potential side  
22 effects on the cardiovascular system.

23 Q. Was that a patent case, the MDL case?

24 A. No. This was the cardiovascular side  
25 effects of testosterone treatment.

1 H. Ardehali

2 Q. I think you said about 40, 50 depositions. Do  
3 you have a sense of how many cases that would  
4 involve? Is it about 40 or 50 cases, one deposition per  
5 case, or we're talking about multiple depositions in a  
6 given case? I'm just trying to get a sense of how  
7 many cases you've been involved with?

8 A. So for the MDL, there were probably eight  
9 or nine depositions for that case. But every other  
10 deposition was mostly for one case each.

11 Q. One deposition per case in the others; is that  
12 correct?

13 A. Correct.

14 Q. Has your expert opinions ever been  
15 challenged in a litigation?

16 A. Not that I know of. I know in the MDL  
17 case there were -- the lawyers came back and told me  
18 the judge has decided these are the areas you can  
19 testify to. But that's the extent of what I can  
20 tell you.

21 Q. Have you ever given live testimony in a  
22 courtroom?

23 A. Yes.

24 Q. Can you explain that to me further,  
25 please?

1 H. Ardehali

2 A. The live testimony I've given in the  
3 courtroom. So I've done it for the MDL case. And I  
4 have also done it for a couple of malpractice cases.

5 I also want to mention, there were two  
6 cases where Northwestern, the hospital I work at,  
7 they were -- that Northwestern was sued and I was  
8 named as one of the defendants. One of the cases,  
9 the case was dropped. It was dismissed. The second  
10 case, I was not -- I was removed as a defendant  
11 before it went to trial. But I was asked to serve  
12 as a -- you know, to serve as -- on the trial,  
13 basically. I gave trial testimony.

14 Q. How many times would you say you gave  
15 trial testimony?

16 A. How many times?

17 Q. Yes.

18 A. Maybe 14 or 15.

19 Q. You don't recall your opinions sort of  
20 being excluded by a judge in those proceedings?

21 A. Not beyond what I have told you in that  
22 MDL case.

23 Q. So Dr. Ardehali, how did you prepare for  
24 today's deposition?

25 A. I was -- so over the past few months, I

1 H. Ardehali

2 have read the documents that were sent to me. With  
3 the help of counsel I wrote the declaration. And  
4 over the past week, I met with Ms. Spires and  
5 Hargrave on a couple of occasions.

6 Q. So you met with two of Data Health  
7 attorneys you said?

8 A. Yes.

9 Q. Sarah Spires and you said there was  
10 someone else, Hargrave; is that right?

11 A. Yes.

12 Q. Do you know how long your meetings  
13 lasted?

14 A. Anywhere between one to two hours.  
15 Between 30 minutes and two hours.

16 Q. And how many of those meetings were  
17 there?

18 A. Probably five; four, five.

19 Q. Did you do anything else to prepare for  
20 today's deposition?

21 A. I reviewed my declaration and the  
22 documents again.

23 Q. Anything else?

24 A. No, not that I can think of. No.

25 Q. Just circling back to your patent cases

1 H. Ardehali

2 that you've testified in. I think you said there's  
3 about five or six of those; is that correct?

4 A. Probably, yeah.

5 Q. Were any of those cases involving similar  
6 technology to what's at issue here? Let's call it  
7 telemedicine services.

8 A. No.

9 Q. What were those five or six cases about?  
10 Can you give me a rough summary?

11 A. One of them was related to  
12 anti-inflammatory effects of statin drugs. Another  
13 one was related to a drug called Fasudil which is  
14 Rho kinase, that's Rho kinase inhibitor. And it's  
15 used for pulmonary hypertension. Another one was  
16 for a drug that is used for atrial fibrillation. I  
17 can't remember which drug it was. The question was  
18 whether or not the drug can be generic. Another one  
19 was with colchicine and whether or not the drug --  
20 or the patent for the drug in cardiovascular disease  
21 is valid or not.

22 So those are the ones that come to my  
23 mind at this point.

24 Q. Is it fair to say that they were all drug  
25 cases, drug patent cases?

1 H. Ardehali

2 A. Pretty much, yes.

3 Q. I am going to turn to the exhibits now.  
4 So I'm going to start with your declaration. Just  
5 bear with me. I'm going to drop it into the chat  
6 and see if that works.

7 A. Did you say I can open up my own copy?

8 Q. You should be able to once I drop this in  
9 the chat.

10 A. I'm asking from my own computer.

11 Q. You could if you like.

12 (Court reporter spoke off the record.)

13 MR. SOLOMITA: We don't have to mark  
14 them. They're already marked in the IPR  
15 proceedings. So we will use the same  
16 nomenclature that's in the IPR proceedings. I  
17 just thought it would be easier to drop them  
18 into the chat. But of course, that's not  
19 working right now.

20 (Discussion held off the record.)

21 MR. SOLOMITA: I could share my screen or  
22 we could just have Dr. Ardehali use his.

23 Sarah, any objection either way?

24 MS. SPIRES: It might be easiest if he  
25 uses his exhibit since we can only share one

1 H. Ardehali

2 screen or one page at a time. If you have a  
3 strong preference, either way, I know I can  
4 pull everything up on my computer. It doesn't  
5 matter to me if it's in the chat unless you're  
6 using exhibits that's not in the record.

7 MR. SOLOMITA: No. Everything is in the  
8 record. There's not that many of them anyway.

9 Q. Can you turn to Exhibit 2005 of the IPR  
10 ending in 0616 which is the '554 patent. Do you  
11 have that handy?

12 A. Yes.

13 Q. Do you recognize this document,  
14 Dr. Ardehali?

15 A. Yes.

16 Q. This is your declaration in the IPR  
17 proceeding number 2024-00616; correct?

18 A. Yes.

19 Q. And it's for U.S. Patent Number  
20 11,144,554; correct?

21 A. Correct.

22 Q. So this document sets forth your opinions  
23 in this IPR; is that correct?

24 A. Yes.

25 Q. And it's in support of Data Health's

1 H. Ardehali

2 response in this IPR; correct?

3 A. That's correct.

4 Q. So does Exhibit 2005 accurately reflect  
5 all of your opinions in relation to this IPR  
6 proceeding?

7 A. As I sit here today, yes.

8 Q. In other words, is there anything that  
9 you saw in your review of this declaration that you  
10 thought I need to correct or that everything looked  
11 accurate to you?

12 A. Not I can think of. No.

13 Q. Now that we have that document, can we  
14 turn to another document which is your CV. And it's  
15 Exhibit 2008 again in the 616 IPR proceeding.

16 Do you have that?

17 A. I have my CV but I don't have the one  
18 that I sent to counsel.

19 Q. I'll pull that up and share my screen.

20 A. Sure.

21 Q. I apologize that we're having issues with  
22 the documents.

23 A. No problem.

24 Q. Are you seeing your CV on the screen?

25 A. I'm not.

1 H. Ardehali

2 Q. How about now?

3 A. Yes.

4 Q. What I'm sharing you with you, if you  
5 look at the bottom right, is Exhibit 2008.

6 Do you see that?

7 A. Yes.

8 Q. And it is your CV; correct?

9 A. Yes.

10 Q. So you list your education in the middle  
11 of this first page.

12 Do you see that?

13 A. Yes.

14 Q. Do you have a degree in the health care  
15 field?

16 A. Yes.

17 Q. Which degree would you say is in the  
18 health care field?

19 A. Well, I have an M.D.

20 Q. That's your last entry there at  
21 Vanderbilt; is that correct?

22 A. Yes.

23 Q. I'm going to scroll down --

24 A. I'm sorry. I just want to mention, I  
25 also have a Ph.D. My Ph.D. is in molecular

1 H. Ardehali

2 physiology, molecular biology. It's also related to  
3 health care.

4 Q. What's your concept of the health care  
5 field?

6 A. It's providing help to patients who need  
7 help with their health.

8 Q. So I understand why you would say your MD  
9 degree would cover that.

10 Why would your Ph.D. degree in molecular  
11 physiology and biophysics be a health care degree?

12 A. Well, my Ph.D. was focused on the role of  
13 hexokinases in insulin resistance. So indirectly  
14 that was related to health care. But studying  
15 disease at the molecular level.

16 Q. How was that providing health care for a  
17 patient in need?

18 A. Well, the idea here was to understand how  
19 the disease operates, how the disease works. And  
20 understanding whether or not there is a way to come  
21 up with a treatment that can potentially be used in  
22 these patients.

23 Q. Okay. I'm going to scroll down to a  
24 paragraph in your CV again. Bear with me. You've  
25 got a lot of stuff here.

1 H. Ardehali

2 So in your CV I didn't see any listing of  
3 your litigations; is that correct?

4 A. That's correct.

5 Q. Do you have a listing of all the  
6 litigations you've been involved with?

7 A. I have a listing of the depositions I've  
8 served in over the past four years.

9 (Simultaneous speakers.)

10 Q. I'm sorry. Go ahead.

11 A. I don't know if I have all of the  
12 depositions in one document. I probably have to  
13 combine them. I have to look back. But I -- at  
14 this point, I don't have them all in one document.

15 MR. SOLOMITA: So, Sarah, can I make a  
16 request that we get some listing of his  
17 litigation history, if possible.

18 MS. SPIRES: What's the basis? I know  
19 it's a requirement in District Court. But I've  
20 never seen that requirement in PTO.

21 MR. SOLOMITA: Yeah, I just want to see  
22 if his opinions have been challenged elsewhere.

23 MS. SPIRES: Okay.

24 MR. SOLOMITA: We can talk offline.

25 MS. SPIRES: Sure.

1 H. Ardehali

2 Q. By the way, Dr. Ardehali, have you given  
3 any testimony in any other IPRs?

4 A. I don't think so.

5 Q. Let me go back to your declaration and  
6 I'll share my screen.

7 Are you seeing your declaration?

8 A. Yes.

9 Q. This is Exhibit 2005; correct?

10 A. Yes.

11 Q. Let me go to paragraph 9 where you talk  
12 about your undergraduate studies.

13 Do you see that paragraph?

14 A. Yes.

15 Q. Can you give me a sense in paragraph 9 of  
16 how long those activities took place which you're  
17 describing in paragraph 9?

18 A. Well, my undergraduate degree took four  
19 years. One year I was in San Francisco. I was at  
20 the San Francisco State University. And then for  
21 three years I was at the University of Utah. And I  
22 took computer courses both at the San Francisco  
23 State University and the University of Utah.

24 Q. Would you say that any of your experience  
25 in your undergraduate studies would relate to health

1 H. Ardehali

2 information and technology?

3 A. Well --

4 (Simultaneous speakers.)

5 MS. SPIRES: Objection.

6 A. I'm sorry. Go ahead.

7 Q. I wasn't speaking. Go ahead.

8 A. It was related to computer science and  
9 how a computer science technology can be used in  
10 different -- for different applications. So this  
11 was related to technology. My undergraduate degree  
12 was related to technology and, specifically,  
13 computer technology.

14 Q. Did any of that computer technology in  
15 your undergrad studies relate to health care or  
16 health care information?

17 A. I know there were some courses that parts  
18 of the course were related to health care. There  
19 were probably some projects we did related to health  
20 care. But if you're asking me if the whole degree  
21 was related to health care, no. But there were some  
22 applications to health care throughout my education  
23 as an undergrad.

24 Q. Any sense of how long that would be that  
25 you were exposed to or worked on health care or

1 H. Ardehali

2 health care information technology during your  
3 undergraduate studies?

4 A. I can't give you an exact number. Again,  
5 as I said, there were some sections of my training  
6 that were related to the application of computer  
7 science in different fields, including health care.

8 Q. So let's move on to paragraph 11 where  
9 you talk about your Ph.D.

10 Do you see that?

11 A. Yeah. But before getting there, I also  
12 want to mention during my undergraduate degree I  
13 spent a lot of time in the medical school campus and  
14 talking to investigators on how computer science can  
15 be applied to health care and their research related  
16 to genetics. I can't remember all of the details.  
17 But I remember with other faculty we went up there  
18 and we attended many conferences and had discussion  
19 with the faculty in the medical school.

20 Q. Okay.

21 So I have a similar question for your  
22 Ph.D. studies. How long did that span and did any  
23 portion relate to health information technology?

24 A. My Ph.D. was four years. It was actually  
25 three-and-a-half years, but I stayed for six months

1 H. Ardehali

2 after that as a postdoc. And during that time I --  
3 again, most of my work was related to basic science  
4 and part of my Ph.D. was related to using computer  
5 programming and computer technology to study how  
6 proteins interact with each other. And that's part  
7 of the degree that was related to computer  
8 technology.

9 Q. And then one final paragraph in your  
10 declaration's background, paragraph 18, where you  
11 talk about your fellowship --

12 A. Yes.

13 Q. -- while you were a junior faculty at  
14 Northwestern.

15 Do you see that?

16 A. Yes.

17 Q. Same question. How long did that last  
18 and did any of that experience relate to health  
19 information technology?

20 A. So my fellowship was three years.  
21 Cardiology fellowship at the time was four years at  
22 Hopkins, but I finished it in three years. And I  
23 was junior faculty at Northwestern, for -- it  
24 depends on how you define junior faculty, but I was  
25 an assistant professor, I believe, for maybe four

1 H. Ardehali

2 years, and then I was promoted to associate  
3 professor. Either three or four years.

4 So during my fellowship, I would say in  
5 the last two years of my fellowship and the first  
6 two years of my junior faculty position, I was  
7 involved in studying database of samples from  
8 patients with dilated cardiomyopathy. So the idea  
9 was to look at these databases, analyze them and see  
10 how this database can be used for the diagnosis of  
11 dilated cardiomyopathy. And we published a number  
12 of papers related to this database.

13 Q. So in your background experience, can you  
14 explain to me whether you have any specific  
15 experience with computer-based systems for  
16 recording, tracking and analyzing patient health  
17 information?

18 A. Well, we use computer technology in our  
19 practice for all of the things you mentioned. But  
20 whether or not I was involved in designing these  
21 computer programs that I can think of, not directly.  
22 But it was mostly related to -- to either basic  
23 science or studying databases or learning how to  
24 deal with, you know, big health care questions. But  
25 to answer your question, I would say not directly I

1                   H. Ardehali  
2       was involved in the programming of applications  
3       for -- specifically for health care or --  
4                   (Court reporter requested clarification.)

5           A.       -- the delivery of health care.

6           Q.       So my question is a little broader than  
7       did you write any code or design any software.  It's  
8       whether you have any specific experience you can  
9       think of with computer-based systems for recording,  
10      tracking and analyzing patient health information  
11      beginning punctuation.

12          A.       Well, I don't know how I can answer the  
13      question beyond what I just told you.  Again, I  
14      didn't write the code.  I didn't write the program.  
15      But we use it on a daily basis for our practice.  We  
16      use computers and we were among the early users of  
17      computer programming for health care delivery.

18          Q.       Okay.  When you say health care delivery,  
19      would you say that covers systems for recording,  
20      tracking and analyzing patient health information?

21          A.       Yes.

22          Q.       How long would you say that set span of  
23      experience would cover, approximately?

24          A.       Well, since I was a medical student, we  
25      were using computers for health care for our

1 H. Ardehali

2 patients. There have been different programs we  
3 have used. Now we basically use Epic here at  
4 Northwestern but that's basically what we've been  
5 using -- what I've been using over the past 20 -- at  
6 least 26, 27 years.

7 Q. That's very helpful. Thank you.

8 A. Sure.

9 Q. Okay. I'd like to change exhibits.  
10 We'll go with the share screen approach for now.  
11 But if you have your own copy of the documents we're  
12 covering, feel free to use those since I don't want  
13 to control what you see. Just bear with me. I'm  
14 going to put another exhibit up.

15 Can you see my screen?

16 A. Yes.

17 Q. I'm sharing with you Exhibit 1001 of the  
18 616 IPR which is U.S. Patent Number 11,144,554.

19 Do you see that?

20 A. Yes.

21 Q. Do you have a copy of this particular  
22 document that you can scroll through, if necessary?

23 A. Yes.

24 Q. Have you read this patent? And I'm going  
25 to call it for shorthand '554 Patent, if that's okay

1 H. Ardehali

2 with you.

3 A. Yes.

4 Q. Have you read the '554 Patent?

5 A. Yes.

6 Q. What's your understanding of the  
7 invention that's disclosed in this patent?

8 MS. SPIRES: Object to form.

9 A. Well, I can read you the claims. But I  
10 think the best way to answer your question is the  
11 abstract. So let me read you the abstract. It  
12 says, The system method server and computer readable  
13 medium for tracking goal progression. Input  
14 establishing -- input establishing accounts for  
15 providers serving a client is received. The client  
16 is an individual receiving treatment or assistance.  
17 The accounts are stored in a server available  
18 through one or more networks. The client is  
19 assigned to one or more of the providers in response  
20 to selections from an administrator. Goals and a  
21 plan of action are established for the client in  
22 response to treatments and assistance required.  
23 Data associated with the client received from the  
24 providers is compiled. A determination is made  
25 whether a threshold associated with the goals are

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2 being met based on the compiled data.

3 Q. So as you read the '554 Patent directed  
4 to a system method server and computer readable  
5 medium for tracking goal progression; is that  
6 correct?

7 A. That's the first sentence, yes.

8 Q. Would you say that's a fair description  
9 of the focus of the '554 Patent?

10 MS. SPIRES: Objection.

11 (Simultaneous speakers.)

12 (Court reporter requested clarification.)

13 A. That's part of it.

14 Q. What other part would you say there is?

15 A. Well, there are other sentences in the  
16 abstract including assignment of a physician by an  
17 administrator. There are statements related to the  
18 goals and also related to how, you know, goals are  
19 achieved and there are statements related to the  
20 server and how the server also is integrated into  
21 the -- into this plan.

22 Q. I was trying to come to a point with you  
23 where we could agree on sort of a higher level focus  
24 of the '554 Patent. I was trying to use the first  
25 sentence we read there, A system method server and

1 H. Ardehali

2 computer readable medium for tracking goal  
3 progression.

4 Would you agree that that's the sort of  
5 overall focus of the '554 Patent?

6 MS. SPIRES: Objection. Asked and  
7 answered.

8 A. I would say, again, that's part of the  
9 overall goal. But that's a statement that basically  
10 summarizes a major aspect of this patent.

11 Q. Do you see in the upper left where  
12 there's a parenthetical for number 72, there's a  
13 listing of the inventors?

14 A. Yes.

15 Q. Do you know any of those inventors?

16 A. No.

17 Q. Have you heard of Parallax Behavioral  
18 Health, Inc. before?

19 A. No.

20 Q. And what about Data Health, the patent  
21 holder, the current patent owner of '554 Patent?  
22 Have you ever heard of them prior to these IPR  
23 proceedings or worked with them in any shape or  
24 form?

25 A. No.

1 H. Ardehali

2 Q. Okay. I'm going to switch exhibits on  
3 you again.

4 Okay. I'm sharing my screen and showing  
5 Exhibit 1002.

6 Do you see that?

7 A. Yeah. If you can make it bigger, that  
8 would be great. I'm sorry. I can't read the text.

9 Q. That I can do.

10 Do you see it better now on the bottom  
11 right, Exhibit 1002?

12 A. Yes.

13 Q. I'll represent to you this is  
14 Exhibit 1002 in the 616 IPR proceeding. And this is  
15 a PCT International Application and the inventor in  
16 item 75, the first named inventor is Douglas.

17 Do you see that?

18 A. Yes.

19 Q. Can we refer to this document as the  
20 Douglas reference or just Douglas?

21 A. Yes.

22 Q. And you've seen this exhibit before;  
23 correct?

24 A. Yes.

25 Q. And you've read Douglas, I assume?

1 H. Ardehali

2 A. Yes.

3 Q. In a fair amount of detail, would you  
4 say?

5 A. In some detail, yes.

6 Q. Do you understand how the Douglas system  
7 that's disclosed in this document generally works?

8 A. I have a general sense of it, yes.

9 Q. What's your general sense?

10 MS. SPIRES: Object to form.

11 A. The field of invention is defined as the  
12 present invention relates generally to a computer  
13 implemented system for promoting wellness and  
14 including fit health and, more particularly, to a  
15 therapeutic behavior modification program compliance  
16 monitoring and feedback system.

17 Q. Are you reading from a portion of  
18 Douglas?

19 A. Yeah. So that's basically page 3 under  
20 field of the invention.

21 Q. You said page 3?

22 A. Yes. I'm sorry page 3 of the PDF.

23 Q. My apologies. So that's Douglas' page 1  
24 field of invention that you read from?

25 A. Correct. There is an abstract that I can

1 H. Ardehali

2 read to you to if you want me to do.

3 Q. Just tell me where the abstract is.

4 Is that on the first page?

5 A. Yes.

6 Q. Let's just go there so we're literally on  
7 the same page. So you don't have to read that  
8 entire section. But, in your view, the abstract is  
9 a general summary of what Douglas is about; is that  
10 correct?

11 A. Correct.

12 Q. So I'd like now to step through Douglas  
13 so we have an understanding or I want to get your  
14 understanding of how Douglas works in a bit more  
15 detail.

16 Is that okay with you?

17 A. Yes.

18 Q. I want to start with the figures. So  
19 let's start with figure 60 of Douglas.

20 Do you see that on the screen?

21 A. Yeah. Let me get there. Okay.

22 Q. So figure 60 discloses a flow chart for  
23 the Douglas system; correct?

24 A. Yes.

25 Q. And you see there's a start bubble at the

1 H. Ardehali

2 top?

3 A. Yes.

4 Q. After the system starts there's a  
5 determination as to whether the physician is online  
6 or not at 1000.

7 Do you see that?

8 A. Yes.

9 Q. If the physician is online, then the  
10 physician enters patient intake info online; is that  
11 correct, in box 1002?

12 A. Yeah. It's hard to read the handwriting.  
13 But I think that's what it says.

14 Q. I agree with you on that. It's hard to  
15 read the handwriting.

16 If the physician is offline on the right  
17 branch, then a prescription form is filled out; is  
18 that correct?

19 A. Yes.

20 Q. And then the form is faxed to the case  
21 administrator in box 1006; correct?

22 A. That's what it says, yes.

23 Q. And then the case administrator enters  
24 patient health information online; is that correct?

25 A. That's what it says, yes.

1 H. Ardehali

2 Q. Is that your understanding how Douglas  
3 works from the start towards those couple of steps  
4 or is there something here that you have a different  
5 understanding of?

6 A. Well, that's my understanding of this  
7 flow chart.

8 Q. And as you said, this flow chart is  
9 representative of how the Douglas system works;  
10 correct?

11 MS. SPIRES: Object to form.

12 A. It says figure 60 is a flow diagram  
13 illustrating certain aspects of the therapeutic  
14 behavior modification program's compliance  
15 monitoring and feedback system. To facilitate  
16 description of the present invention, reference is  
17 made in numerous instances to the flow diagram of  
18 figure 60. It says, For convenience the box in the  
19 flow diagram are numbered beginning at 1000.

20 Q. And you're reading from Douglas?

21 A. Yes.

22 Q. And what does the passage you just read  
23 mean to you?

24 A. Where is it?

25 Q. The passage you just read from.

1 H. Ardehali

2 A. Yes. So that's on page PDF page 7.

3 Q. Okay. And what does that passage mean to  
4 you?

5 MS. SPIRES: Objection.

6 A. It means what I just read to you. It  
7 says, Figure 60 is a flow diagram illustrating  
8 certain aspects of the therapeutic behavior  
9 modification program's compliance monitoring and  
10 feedback system.

11 Q. All right. Let's move to figure 2 of  
12 Douglas.

13 Let me know when you have that handy.  
14 And I'm showing it on my screen.

15 A. Okay. I'm there.

16 Q. So figure 2 depicts the prescription form  
17 of Douglas; correct?

18 A. It says figure 2 is an exemplary  
19 prescription form for inputting a patient's baseline  
20 vital factors.

21 Q. So figure 2 is the prescription form that  
22 we covered in figure 60 that's entered by the case  
23 administrator; correct?

24 A. All I can tell you is an example of a  
25 prescription form. That's all I can tell you.

1 H. Ardehali

2 Q. That's fine. Let's agree that figure 2  
3 is an example of a prescription form in Douglas.

4 Can we agree on that?

5 A. Yes.

6 Q. And the physician would fill out this  
7 form in figure 2; correct?

8 A. Could you tell me where you got the idea  
9 that the physician fills this form. I can tell you  
10 it's an example of a prescription form. And I can  
11 also tell you in figure 60 it -- basically the flow  
12 chart -- let me get there. The flow chart basically  
13 says if the physician is not online, fill out  
14 prescription form.

15 Q. Okay. So figure 60 says, the physician  
16 is offline, fill out prescription form 1004.

17 We see that in figure 60; correct?

18 A. Correct.

19 Q. Let me take you to a part of Douglas  
20 which I think will address your question. We can  
21 read that together. So let's start with page 3 of  
22 Douglas and I'll give you a line number in a second.  
23 So page 3 of Douglas, line 30, describes figure 2 as  
24 an exemplary prescription form for inputting a  
25 patient's baseline vital factors.

1 H. Ardehali

2 Do you see that?

3 A. I'm sorry. Page 5 of the PDF?

4 Q. I'm talking about the actual -- I see  
5 your confusion. So Exhibit 1002 page 5 of 95 which  
6 is actually physically page 3 of Douglas which I'm  
7 showing on the screen.

8 A. Yeah, I'm there.

9 Q. And there's a description of figure 2 as  
10 an exemplary prescription form for inputting a  
11 patient's baseline vital factors.

12 Do you see that?

13 A. Yes.

14 Q. Now I'm going to -- I'm going to refer to  
15 Douglas's actual pages. So page 6 of Douglas which  
16 is page 8 of 95 in Exhibit 1002, do you see that?

17 A. Yes.

18 Q. And if we look at line 36, Douglas states  
19 referring to figure 2, An exemplary prescription  
20 form 22 contains identification information 23 such  
21 as the patient's name and identification using the  
22 form the physician selects diagnostic category 24  
23 and prescribes a recovery program level 26.

24 Do you see that?

25 A. I see that, yes.

1 H. Ardehali

2 Q. So my question from earlier is that the  
3 physician fills out the prescription form in figure  
4 fig 2; is that correct?

5 A. So my understanding of this statement is  
6 that this is an example of a prescription form and  
7 it says that the physician selects a diagnostic  
8 category and describes a recovery program level. So  
9 those are the information that the physician enters  
10 into this form.

11 Q. Okay. I'll back up to line 33 of the  
12 same page where Douglas says, Alternatively, the  
13 physician may fill out a prescription form and send  
14 the information to the case adviser who then sets  
15 the patient up on the system and those are those  
16 blocks 1004, 1006 and 1008 in figure 60 that we  
17 covered; correct?

18 A. That's what it says, yes.

19 Q. So Douglas is stating here that the  
20 physician may fill out a prescription form; is that  
21 correct?

22 A. That's what it says here, yes.

23 Q. Let's move on to figure 4 of Douglas.  
24 Let me know when you get there.

25 A. I'm there.

1 H. Ardehali

2 Q. I'm not. Okay. Let me just rotate the  
3 video for us. So figure 4 -- scratch that.

4 Based on the prescription form that we  
5 looked at in figure 2, the Douglas system generates  
6 figure 4.

7 Is that your understanding?

8 A. On page 3 it says figure 4 is a graphical  
9 representation of an exemplary patient while taken  
10 from an among those represented in figure 3.

11 Q. What's your understanding of what figure  
12 4 of Douglas shows?

13 A. Basically what I just read you. It's a  
14 graphical representation of an exemplary patient  
15 file, patient from among those represented in figure  
16 3.

17 Q. Let's go to page 7 of Douglas which is  
18 page 9 of 95 of Exhibit 1002.

19 Do you see that?

20 A. Yes.

21 Q. Let's start with line 17 of Douglas which  
22 states, Once the physician or case administrator  
23 enters the patient into the system, either the  
24 system or case adviser recommends a default set of  
25 goals based on the patient's needs and existing

1                                   H. Ardehali  
2       medical protocols that may be modified by the  
3       physician (blocks 1010 and 1012, figure 60). Figure  
4       4 illustrates an exemplary patient record after  
5       selection of the desired patient file 42 in figure  
6       3.

7                                   Do you see that?

8           A.       Yes.

9           Q.       So after the physician fills out the  
10       prescription form and the desired patient file 42 in  
11       figure 3 is selected, then figure 4 illustrates an  
12       exemplary patient record; is that correct?

13          A.       So yes. After selection of the desired  
14       patient file 43 in figure 3, figure 4 which is an  
15       exemplary patient record is generated, yes.

16          Q.       And in the case of figure 4, it's for a  
17       patient named Fred Smith; is that correct? I'll  
18       scroll to figure 4 for you so we're on the same  
19       page.

20          A.       Yeah. Yes. It's the name Fred Smith.  
21       Yes.

22          Q.       As indicated in the bottom of figure 4,  
23       the physician can either edit the screen or click on  
24       a design at element 50.

25                                   Is that correct?

1 H. Ardehali

2 A. Well, all I can tell you is there is a  
3 button that says edit and a button that says design.

4 Q. Do you know what those buttons do as  
5 discussed in Douglas?

6 A. I have to go back and read you what those  
7 actually mean. There are just edit and design  
8 buttons and how they actually do editing. What  
9 happens behind the scene is not really explained in  
10 this document. So that's what I can tell you. Just  
11 that there is a design and edit button provided in  
12 the figure.

13 (Simultaneous speakers.)

14 Q. I'm sorry for talking over you.

15 A. No problem.

16 Q. Are you finished with your answer? My  
17 apologies.

18 A. Yes.

19 Q. But generally speaking, do you know what  
20 the edit features and design features are designed  
21 to do?

22 MS. SPIRES: Object to form.

23 A. I can give you a general answer what an  
24 edit and what a design button would do. But here,  
25 how it is done and how they function in this

1 H. Ardehali

2 program, I have to basically look for in the  
3 document to see if it is -- if it is described. And  
4 I really don't know if that has been explained how  
5 the edit function works in this document.

6 But usually edit in general terms or  
7 general sense, edit means that you can edit some of  
8 the information and the design is how you design  
9 your plan and your programs.

10 Q. That's fair enough. Thank you.

11 Let's move on to figure 5. Again, we're  
12 trying to step through Douglas's disclosure based on  
13 your understanding of Douglas.

14 For figure 5, this is the screen where  
15 the physician can design a new program for Fred  
16 Smith.

17 Is that your understanding?

18 A. It says figure 5 is a graphical  
19 representation corresponding to the program design  
20 option of figure 4.

21 Q. And figure 4 we talked about the design  
22 button and your general understanding, correct me if  
23 I'm wrong, is that a physician can use that button  
24 to design a program for a patient; is that correct?

25 MS. SPIRES: Object to form.

1 H. Ardehali

2 A. I can't tell you exactly how this design  
3 button would work. But that would be the  
4 presumption this is how it works. Again, I don't  
5 know exactly how or whether or not that's how it  
6 functions.

7 Q. And figure 5 would be a screen that the  
8 physician would use to design the program for Fred  
9 Smith after selecting the design button in figure 4;  
10 is that a your understanding?

11 A. That's what the description of figure 5  
12 says. It says a graphical representation  
13 corresponding to the program design option of figure  
14 4.

15 Q. And in box 51 of figure 5, the physician  
16 can design intensity levels; is that correct?

17 A. So box 51 has intensity on top and it  
18 goes from high to low and there are different  
19 categories; one, two, three, four, five. And then  
20 there are other categories in the first column  
21 including diet, exercise, stress management, group  
22 support, drugs and compliance.

23 (Court reporter requested clarification.)

24 Q. So is it your understanding that in  
25 figure 5 box 51 a physician can check a box to

1 H. Ardehali

2 assign an intensity level for Fred Smith for  
3 different categories of diet, exercise, stress  
4 management, group support, drugs and compliance?

5 A. Well, to be accurate, all I can tell you  
6 is that figure 5 is a graphical representation  
7 corresponding to the program design option of figure  
8 4. And if you look at figure 5, those options are  
9 included in this example. That's the essence of  
10 what I can tell you.

11 Q. As someone who's serving as an expert in  
12 this IPR and reviewing Douglas, what's your  
13 understanding of the box 51 in figure 5?

14 MS. SPIRES: Objection. Asked and  
15 answered.

16 A. You know, beyond what I told you, I don't  
17 know how much more I can tell you. Again, it  
18 basically tells me that there is a -- there is an  
19 initial scale that is on top of that figure, a  
20 figure that is referred to as 51. And then  
21 underneath that it has intensity going from low to  
22 high.

23 Q. And a physician can select an intensity  
24 level from one to five for each of those categories  
25 we covered; is that correct?

1 H. Ardehali

2 MS. SPIRES: Objection. Asked and  
3 answered.

4 A. I think the options are there and the  
5 physician may be able to do that. But the options  
6 in terms of intensity are provided.

7 Q. I'm sorry. I didn't follow your last  
8 answer. Can you say that again, please.

9 A. Sure. So there are different options in  
10 terms of the intensity going from low to high for  
11 different categories including diet, exercise,  
12 stress management, group support, drugs and  
13 compliance. That is provided in this figure.

14 Q. Okay. Great. And the physician can  
15 select one of those intensity levels for those  
16 categories; is that correct?

17 MS. SPIRES: Objection. Asked and  
18 answered.

19 A. I think the physician or anyone who is  
20 managing this program can do it.

21 Q. Okay. Great.

22 So moving down to the bottom half of  
23 figure 5, there's a statement, Based on your input,  
24 Heartland suggests the following program and goals  
25 for Fred Smith.

1 H. Ardehali

2 Do you see that?

3 A. I see that, yeah.

4 Q. So based on the input that we just  
5 covered in box 51, the Douglas system suggests a  
6 program for Fred Smith at the bottom of figure 5; is  
7 that correct?

8 A. Well, again, it says, Based on your  
9 input, Heartland suggests the following programs and  
10 goals for Fred Smith. Yes. That's what it says.

11 Q. Let's move on to figure 6.

12 So figure 6 states under -- do you see  
13 screen 3 of 3? Do you see that part of figure 6?

14 A. Yes.

15 Q. So there's a statement in figure 6, Based  
16 on your input, here is Heartland's recommended  
17 program for Fred Smith.

18 Do you see that?

19 A. I see that, yes.

20 Q. So figure 6 is disclosing a recommended  
21 program for Fred Smith; is that correct?

22 A. Well, the title says, Based on your  
23 input, here is the Heartland's recommended program  
24 for Fred Smith.

25 Q. I just want to go back to figure 2 before

1 H. Ardehali

2 we'll take a break. So earlier we discussed figure  
3 2 of Douglas; correct?

4 A. Yes.

5 Q. So looking at section 2 of figure 2, the  
6 physician can circle a diagnostic category in box  
7 24.

8 Do you see that?

9 A. Well, I see section 2, it says, Circle a  
10 diagnostic category. Yes, I see that.

11 Q. And as we discussed earlier, a physician  
12 would fill out this prescription form; is that  
13 correct?

14 MS. SPIRES: Objection. Asked and  
15 answered.

16 A. Well, again, figure 2 says it's an  
17 exemplary prescription form for inputting the  
18 patient's baseline vital factors.

19 Q. And that's done by a physician; correct?

20 MS. SPIRES: Objection. Asked and  
21 answered.

22 A. Again, the link to a physician here that  
23 a physician would do this is not made very clear in  
24 this document. All I can tell you that someone who  
25 is filling out this form can enter those information

1 H. Ardehali

2 into this form.

3 Q. Do you recall our discussion earlier of  
4 figure 2 where we read the part of Douglas which  
5 said that a physician could fill out figure 2?

6 A. Can you refer me to that section again.

7 Q. Sure. Let me just get my notes.

8 Let's go to page 6 of Douglas which I'll  
9 put on the screen for you. Page 6 of Douglas which  
10 is page 8 of 95 in Exhibit 1002.

11 Do you have that page?

12 A. Yes.

13 Q. Starting on line 33, Douglas says,  
14 Alternatively the physician may fill out a  
15 prescription form and send the information to a case  
16 adviser.

17 Do you see that?

18 A. Yes.

19 Q. So Douglas talks about the physician  
20 filling out a prescription form; correct?

21 A. Yes.

22 Q. So going back to figure 2, we established  
23 that a physician could fill out this figure 2  
24 prescription form; correct?

25 A. Yeah. Basically we know that a physician

1 H. Ardehali

2 can fill out a prescription form, yes.

3 Q. And figure 2 is an example of a  
4 prescription form; correct?

5 A. Correct.

6 Q. So in section 24 if a physician were  
7 filling out this example of the prescription form in  
8 figure 2, the physician would select a diagnostic  
9 category; correct?

10 A. If a physician is filling out this form,  
11 yes. They can choose a diagnostic category.

12 Q. And so there's various categories, one of  
13 which is health and wellness; correct?

14 A. Correct.

15 Q. And then in section 3 there's  
16 instructions to please circle as appropriate.

17 Do you see that?

18 A. Yes.

19 Q. And the first line after that says, Does  
20 patient need smoking cessation, yes or no.

21 Do you see that?

22 A. Yes.

23 Q. And the last or the third line says, Does  
24 the patient need weight reduction, yes or no.

25 Do you see that?

1 H. Ardehali

2 A. Yes.

3 Q. So a physician could select the patient  
4 needing smoking cessation if he or she circles  
5 "yes"; is that correct?

6 MS. SPIRES: Object to form.

7 A. I'm sorry. Can you repeat the question.

8 Q. I apologize. It wasn't well stated.

9 So if a physician circles yes for the  
10 line does the patient need smoking cessation, that  
11 would be a selection of smoking cessation for the  
12 patient; is that correct?

13 A. Well, if a physician says a patient  
14 should stop smoking, yes, that's what they do.

15 Q. So if a physician fills out this form and  
16 selects the diagnostic category health and wellness  
17 and the smoking cessation circles yes, then Douglas  
18 would create a program for smoking cessation; is  
19 that correct?

20 A. Well, for that you need to refer me to  
21 where -- how this link -- where you got this link  
22 that Douglas would provide a program for the patient  
23 to stop smoking.

24 Q. Well, remember we went through the steps  
25 from figures 2 to 4 to 5 to 6 of how the program is

1 H. Ardehali

2 created in figure 6? Do you recall that discussion?

3 A. Yes.

4 Q. So we start with prescription form and  
5 then there's the figure 4 which can be designed or  
6 edited which states as to figure 5 and ultimately  
7 figure 6 which is the program.

8 Do you recall that discussion?

9 A. Yes.

10 Q. So if we start with the figure 2 and a  
11 physician circles health and wellness in box 24 and  
12 then smoking cessation box 30, then Douglas, it's  
13 your understanding, would create a program for  
14 smoking cessation; is that correct?

15 A. Well, all I can tell you is that I didn't  
16 opine on that in my declaration. I see these  
17 statements in this document and whether or not  
18 smoking cessation would be -- there would be a  
19 program on how a patient would stop smoking, we  
20 don't see an example of that here. So I cannot give  
21 you any additional -- additional opinions on that  
22 because I didn't opine on that.

23 All I can tell you is that there is an  
24 option here in figure 2 in terms of does the patient  
25 need smoking cessation. And all I can tell you is

1 H. Ardehali

2 that there are examples of how, you know, examples  
3 for figure 4, 5, and 6 and figure 4 is defined as a  
4 graphical representation of an exemplary patient  
5 file taken from among those represented in figure 2.  
6 And figure 5 is a graphical representation  
7 corresponding to program design option of figure 5.  
8 And figure 6 is a graphical representation  
9 corresponding to the program detail of figure 5. So  
10 that's the extent of what I can tell you.

11 Q. Similar question for the line, Does the  
12 patient need weight reduction, yes or no. What does  
13 that mean to you in light of your reading of  
14 Douglas?

15 MS. SPIRES: Objection. Outside the  
16 scope.

17 A. Well, to me it means that there is an  
18 option here in figure 2 whether or not the patient  
19 needs weight reduction. And the options are yes or  
20 no. And it's an EPS target weight.

21 Q. What does that mean to you?

22 MS. SPIRES: Objection. Asked and  
23 answered.

24 A. I don't know how else I can describe it  
25 beyond what I just told you. That's basically an

1 H. Ardehali

2 option of whether or not the patient needs weight  
3 reduction or not. Yes or no. And if he asks,  
4 what's the target weight.

5 Q. If the patient needs weight reduction,  
6 then Douglas would design a program for that weight  
7 reduction; correct?

8 MS. SPIRES: Object to form.

9 A. Well, again, that's -- all I can tell you  
10 is there is this option and we went over how an  
11 exemplary form in figure 4 is generated and then  
12 figure 4 is a graphical representation of an  
13 exemplary patient file taken from among those  
14 represented in figure 3.

15 MR. SOLOMITA: Do you want to take a  
16 break now, Dr. Ardehali, or do you want to keep  
17 going? It's up to you or Sarah.

18 MS. SPIRES: It's a good time for a  
19 break.

20 MR. SOLOMITA: Ten-minute break, Sarah,  
21 would work.

22 MS. SPIRES: That's fine.

23 MR. SOLOMITA: Why don't we come back on  
24 the record -- we'll call it 13 minutes, 10:20  
25 central time.

1 H. Ardehali

2 THE WITNESS: Sounds good.

3 MR. SOLOMITA: Thank you.

4 (A recess was taken from 10:07 a.m. CST  
5 to 10:18 a.m. CST)

6 Q. Dr. Ardehali, I'd like to go through some  
7 passages of Douglas. Let's start with page 6 of  
8 Douglas which is, again, page 8 of 95 in  
9 Exhibit 1002.

10 Are you on that page?

11 A. Yes.

12 Q. Starting at line 18, there's a sentence  
13 from Douglas that says, For example, an individual  
14 may want to have a case adviser system in losing  
15 weight by helping the individual change his or her  
16 nutrition, exercise and stress management habits.

17 Do you see that?

18 A. Yes.

19 Q. Douglas discloses that individual using  
20 the Douglas system would like assistance with losing  
21 weight; is that correct?

22 MS. SPIRES: Object to form.

23 A. Well, it's saying that an individual may  
24 want to have a case adviser to assist them in losing  
25 weight and this is within the context of this patent

1 H. Ardehali

2 by Douglas.

3 Q. Okay.

4 And that weight loss is through  
5 nutrition, exercise and stress management habits;  
6 correct?

7 A. Right. So an adviser would assist them  
8 in losing weight by helping the individual change  
9 his or her nutrition, exercise and stress management  
10 habits; that's correct.

11 Q. Let's move on to line 24 on the same  
12 page. At the end Douglas states, The physician may  
13 then recommend a health care maintenance or recovery  
14 program which requires the patient to: Take certain  
15 medication; participate in a support group; and  
16 control risk factors by altering his or her diet,  
17 following an exercise program, and managing stress  
18 levels.

19 Do you see that?

20 A. Yes.

21 Q. So Douglas discloses that a physician may  
22 recommend a program for a patient; correct?

23 A. Well, in this patent it says the  
24 physician may then recommend a health care  
25 maintenance or recovery program; that's correct.

1 H. Ardehali

2 Q. For the patient; correct?

3 A. That's correct, yes.

4 Q. And that program would include weight  
5 loss; correct?

6 MS. SPIRES: Object to form.

7 A. Well, it says the physician may then  
8 recommend a health care maintenance or recovery  
9 program which requires the patient to: Take certain  
10 medications, participate in support group and  
11 control risk factors by altering his or her diet  
12 following an exercise program and managing stress  
13 levels. That's what this sentence says.

14 Q. And altering his or her diet and  
15 following an exercise program, that's a weight loss  
16 program; correct?

17 A. Well, in general, this is what we  
18 recommend our patients to follow, you know, healthy  
19 diet and also an exercise program. Not just for  
20 weight loss. That's a program we recommend to our  
21 patients for cardiovascular health, for protection  
22 against cancer, for protection against neurological  
23 disorders. So this program they're offering here is  
24 overall for good health.

25 Q. Good health including weight loss and the

1 H. Ardehali  
2 items that you just mentioned; correct?

3 A. Well, if somebody follows a healthy diet  
4 and exercises on a regular basis, that can lead to  
5 weight loss. Not in everybody, but in most people.

6 Q. Let's move on to page 7 of Douglas which  
7 is page 9 of 95 of Exhibit 1002. And let's look at  
8 line 5 in which Douglas states, Depending on the  
9 diagnosis, the physician may recommend that the  
10 patient cease smoking or that he or she lose a  
11 target amount of weight within a certain period by  
12 circling the appropriate response in field 30.

13 Do you see that?

14 A. Yes.

15 Q. Field 30 was that field in figure 2 that  
16 we covered; correct?

17 A. Sorry. I have to go back to that. Give  
18 me one second.

19 Q. Sure. Please do.

20 A. There is a field 30 there, yes.

21 Q. And there's a line for -- let me get the  
22 terminology right. Okay. So there's a line in 30,  
23 figure 2, that says, Does the patient need weight  
24 reduction.

25 Is that correct?

1 H. Ardehali

2 A. There is a line that says, Does the  
3 patient need weight reduction, yes.

4 Q. So getting back to page 7 of Douglas that  
5 we just read, that sentence beginning on line 5, The  
6 physician may recommend the patient cease smoking or  
7 that he or she lose a target amount of weight within  
8 a certain period.

9 Is that correct?

10 A. Yeah, that's what it says. Depending on  
11 the diagnosis, the physician may recommend that the  
12 patient cease smoking or that he or she lose a  
13 targeted amount of weight within a certain period by  
14 circling the appropriate response in field 30.

15 Q. So the physician in that instance would  
16 recommend a program to stop smoking or to lose  
17 weight; is that correct?

18 A. Well, again, I can't comment on the  
19 program. The sentence tells me that the physician  
20 may recommend that the patient cease smoking or that  
21 he or she lose a target amount of weight within a  
22 certain period by circling the appropriate response  
23 in field 30.

24 Q. Okay. Let's move on to page 8 which is  
25 page 10 of 95 in Exhibit 1002. And we'll start the

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2 the top, line 1. Douglas states, Based on the input  
3 information, the system, case adviser or physician  
4 generates a set of goals, 52, of milestones for the  
5 patient.

6 Do you see that so far?

7 A. Yes.

8 Q. This is done by correlating patient  
9 information such as age, sex, weight and information  
10 relating to the health, life situation and  
11 diagnostic category of the patient to establish  
12 medical protocols for that type of patient.

13 Do you see that sentence?

14 A. Yes.

15 Q. Other pertinent information that may be  
16 taken into account includes the patient's  
17 medication, other health conditions.

18 Do you see that sentence?

19 A. Yes.

20 Q. And then Douglas goes on to state, based  
21 on the correlation, the system suggests a  
22 therapeutic program including goals relating to  
23 intake of calories from fat, exercise level, stress  
24 management counseling and group support and  
25 compliance management frequency.

1 H. Ardehali

2 Do you see that?

3 A. Yes.

4 Q. So Douglas's program includes managing  
5 calories from fat, we just read in that sentence.

6 Is that correct?

7 MS. SPIRES: Object to form.

8 A. Well, it says, Based on the correlation,  
9 the system suggests a therapeutic program including  
10 goals relating to intake of calories from fat,  
11 exercise level, stress management counseling and  
12 group support and compliance management frequency.

13 Q. As part of the program in Douglas, the  
14 therapeutic program, there is an intake of calories  
15 from fat and exercise level that are suggested; is  
16 that correct?

17 A. The system, yes, can make those  
18 suggestions as a therapeutic program. Yes.

19 Q. Let's go back to figure 6 of Douglas.  
20 Are you there?

21 A. Yes.

22 Q. So figure 6, as we talked about earlier,  
23 shows an example of a suggested program for Fred  
24 Smith; is that correct? I'll say recommended  
25 program. That's the words that are in figure 6;

1 H. Ardehali

2 correct?

3 A. Yes.

4 Q. So weight is listed in one of the rows in  
5 figure 6; correct, in the first column?

6 A. It is listed, yes.

7 Q. And then there are listings of current  
8 weight, a one-month goal, just labeled 61, and final  
9 goal 62.

10 Is that correct?

11 MS. SPIRES: Object to form.

12 A. Well, I see a column that says now  
13 2/10/98. Column 61 says one-month goal and then  
14 column 62 says goal.

15 Q. So focusing on the row for weight, the  
16 column that says now, that's 2/10/98, is it your  
17 understanding that that's the patient Fred Smith's  
18 current weight as of that date? As of that date.  
19 I'm sorry.

20 A. That sounds like it, yes.

21 Q. And then the one-month goal is the  
22 one-month goal for weight for Fred Smith according  
23 to this recommended program; is that correct?

24 A. It says one-month goal. So that's the  
25 one-month goal in that column.

1 H. Ardehali

2 Q. And again, for the row of weight, that  
3 would be the one-month goal of weight of 175 for  
4 Fred Smith according to this recommended program; is  
5 that correct?

6 A. That's what it appears to be, yes.

7 Q. That's your understanding of Douglas?

8 A. Yes.

9 Q. And then for goal 62, again sticking with  
10 weight, we have 170 for the recommended program for  
11 Fred Smith; correct?

12 MS. SPIRES: Object to form.

13 A. It says goals in that column and it says  
14 170.

15 Q. Okay. So we see here as part of the  
16 recommended program weight loss for Fred Smith; is  
17 that correct?

18 A. It's the recommended program for Fred  
19 Smith and it has multiple different categories  
20 including weight.

21 Q. And Fred Smith is currently 182 and after  
22 a month the goal is 175 and then 170; correct?

23 A. Well, there is a column that says goal  
24 and it says 170.

25 Q. And that's for the row weight for Fred

1 H. Ardehali

2 Smith; correct?

3 A. That's what? I'm sorry.

4 Q. That's for a weight for Fred Smith?

5 A. That's in a row that is labeled as  
6 weight; that's correct.

7 Q. So as part of the recommended program for  
8 Fred Smith, there was weight loss; is that correct?

9 MS. SPIRES: Objection. Asked and  
10 answered.

11 A. It has recommendations, recommendation  
12 program for the weight after one month and then  
13 there is a goals that doesn't have a specific date  
14 and it says 170.

15 Q. As part of this recommended program, Fred  
16 Smith's weight, if he follows it should be reduced;  
17 is that correct?

18 A. Based on the goals, I can tell you 170 is  
19 a smaller number than 182.

20 Q. So if Fred Smith followed the recommended  
21 program, he would lose weight; is that correct?

22 MS. SPIRES: Objection. Asked and  
23 answered.

24 A. Yeah. If he goes from 182 to 170, yeah,  
25 he would lose weight.

1 H. Ardehali

2 Q. Let's go back to your declaration which  
3 is Exhibit 2005. And I'll share the screen on that.

4 I assume you have a copy of 2005; is that  
5 correct?

6 A. Yes.

7 Q. Let's go to paragraph 52. Let me know  
8 when you're there.

9 A. I'm there.

10 Q. So paragraph 52, the heading above is,  
11 Goals, a plan of action and thresholds.

12 Do you see that?

13 A. Yes.

14 Q. In those three items, goals, a plan of  
15 actions, thresholds are claim limitations in the  
16 '554 patent; correct?

17 A. Yes.

18 Q. In paragraph 52 you state that, All  
19 challenged claims recite determining/determined by  
20 one or more providers treatment and assistance for  
21 the client which is used for establishing/to  
22 establish goals, a plan of action and thresholds for  
23 the client wherein the thresholds represent at  
24 certain points progress towards the goals.

25 Do you see that?

1 H. Ardehali

2 A. Yes.

3 Q. So your quotation there is to claim  
4 language of the '554 Patent; correct?

5 A. Yes.

6 Q. If we start with the term "a plan of  
7 action," can you think of an example or have you  
8 seen an example in the '554 Patent of a plan of  
9 action?

10 MS. SPIRES: Objection. Outside the  
11 scope.

12 A. Well, to answer your question, I have to  
13 read the patent more carefully again. But all I can  
14 tell you is that I did not provide a specific plan  
15 of action example in my declaration from '554.

16 Q. You have reviewed the terms -- the claim  
17 terms goals, plan of action, thresholds in light of  
18 the '554 Patent specification; is that correct?

19 A. I'm sorry. Can you repeat that.

20 MR. SOLOMITA: Sure. Can you read back  
21 the question, please, Liz.

22 (Record read.)

23 A. I never viewed those terms. I don't  
24 understand the question.

25 Q. Let me start again. So goals, plan of

1 H. Ardehali

2 action and thresholds are claim terms in the '554  
3 Patent; correct?

4 A. Yes. There are claim terms, yes.

5 Q. Did you read the '554 Patent  
6 specification to understand what those terms mean?

7 A. Yes.

8 Q. So what I was asking earlier is whether  
9 you have an understanding of what the term "a plan  
10 of action" means in the '554 Patent including an  
11 example.

12 A. Okay.

13 MS. SPIRES: Objection. Outside the  
14 scope.

15 A. So what's the question?

16 MR. SOLOMITA: Liz, can you read it back,  
17 please.

18 (Record read.)

19 A. Right. So again, I have an understanding  
20 of what the -- what plan of action means. If you're  
21 asking me for a specific example in the patent, I  
22 have to go back and look at it. But I don't know at  
23 the present time if an example was provided.

24 Q. Okay.

25 A. Plan of action.

1 H. Ardehali

2 Q. That's fair. So I'll take your  
3 understanding then of the term a plan of action in  
4 light of the '554 Patent.

5 What is that?

6 A. What's the plan of action?

7 Q. Yes. Your understanding of that term in  
8 light of the '554 Patent.

9 MS. SPIRES: Object to form.

10 A. Okay. So in paragraph 55, I said, Upon  
11 reviewing the '554 Patent the specification, it's my  
12 opinion that the presumption or the presumption that  
13 the claim plan of action must be distinct from the  
14 separately claimed goals and thresholds is  
15 consistent with the '554 Patent specification.

16 And then it says, See, e.g., example 1001  
17 abstract or EX 1001 abstract. Goals and plan of  
18 action are established in response to treatments and  
19 assistance required. Data associated with the  
20 client received from the providers is compiled. A  
21 determination is made whether threshold associated  
22 with the goals are being met based on the compiled  
23 data. And it says, 1, column 49 to 54, in  
24 parenthesis, same.

25 Q. So my understanding -- sorry. Scratch

1 H. Ardehali

2 that.

3 My question is, what's your understanding  
4 of a plan of action in light of the '554 Patent?

5 MS. SPIRES: Objection. Outside the  
6 scope.

7 A. So in addition to what I read you in  
8 paragraph 61, I also say, For all grounds petitioner  
9 relies solely on Douglas for the alleged disclosure  
10 of a plan of action as recited by each of the  
11 challenged claims. With respect to challenged claim  
12 one which petitioner relies on for the plan of  
13 action, element in all challenged claims, it's my  
14 opinion that physician does not allege that Douglas  
15 discloses determining by one or more providers  
16 treatment and assistance for the client which is  
17 used for establishing each of, one, goals and, two,  
18 plan of action and thresholds. Each challenged  
19 claims recite as distinct element.

20 So that's basically what I have in my  
21 declaration. And my point in my declaration is that  
22 goals, plan of action and threshold are, you know,  
23 they are distinct. They are distinct elements. And  
24 basically in argument A, I'm basically providing my  
25 opinion that the petitioner does not allege that

1 H. Ardehali

2 Douglas discloses a plan of action separate from the  
3 goals and thresholds recited separately in each of  
4 the challenged claims as the law requires. That's  
5 the extent of what I can tell you.

6 Q. Okay. I understand. Your first point is  
7 that you believe those three claim elements should  
8 be separate and distinct and that's goals, plan of  
9 action and threshold; correct?

10 A. Correct.

11 Q. So my question is, if they have to be  
12 distinct, shouldn't you understand what they mean,  
13 those three elements, in light of the '554 Patent  
14 and, if so, what is your understanding? And I'm  
15 starting with the plan of action.

16 MS. SPIRES: Objection. Calls for a  
17 legal conclusion outside the scope.

18 A. Sure. So I basically provided my  
19 response to your question what they mean. Now,  
20 there may be some, you know, legal description or  
21 legal explanation for these terms which is not --  
22 I'm not a lawyer, I cannot give you a legal  
23 description. As a physician and as an expert in the  
24 field, I have provided my opinions on these three  
25 terms and I have explained why these three terms are

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2 not made distinct in Douglas. So that's the extent  
3 of what I can tell you as an expert.

4 Q. Okay. It's fine if you don't have an  
5 opinion currently of what plan of action means in  
6 light of the '554 Patent, that's fine. Just let me  
7 know.

8 A. Well, all I can tell you is that my --  
9 you know, my opinions regarding plan of action are  
10 described in my declaration and that's the extent of  
11 what I can tell you as a witness and someone who is  
12 not a lawyer.

13 Q. Right. And I was wondering if there's  
14 anything in your declaration that would say the plan  
15 of action in Douglas, for example, is and then you  
16 describe that. Do you recall setting forth that  
17 opinion?

18 MS. SPIRES: Objection. Asked and  
19 answered.

20 A. I don't think there is a statement beyond  
21 what I told you already.

22 Q. What about the meaning of goals and  
23 thresholds in light of the '554 Patent, do you  
24 recall giving an opinion of what those two elements  
25 mean in light of the '554 Patent?

1 H. Ardehali

2 A. So on page 15 of my declaration, I have a  
3 section, it says section A, goals, plan of action  
4 and threshold. And I have five paragraphs  
5 underneath that. That basically explains or details  
6 what my views are and what my understanding -- what  
7 my opinions are on these three terms and why they  
8 have to be distinct based on my understanding of the  
9 '554 Patent.

10 Q. Okay. And looking in that section you  
11 just pointed to, do you see any opinion of yours as  
12 to what the terms plan of action, goals and  
13 thresholds mean in the '554 Patent?

14 A. I can read you a what paragraphs 52 to 56  
15 are saying. But basically in those paragraphs I try  
16 to explain why they should be distinct. So in  
17 paragraph 52 I basically say, All challenged claims  
18 recite determining or determine by the one or more  
19 providers, treatment and assistance for the client  
20 which is used for establishing or to establish  
21 goals, a plan of action and a threshold for the  
22 client, wherein the threshold represents certain  
23 points of progress towards the goals. So that's  
24 basically the explanation or the description of  
25 threshold.

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2 And then the goals, I have it in my  
3 document that is in paragraph 55. I'm sorry. It  
4 says, Upon reviewing '554 Patent specifications,  
5 it's my opinion that the presumption that the  
6 claimed plan of action is distinct from the  
7 separately claimed goals and threshold consistent  
8 with the '554 Patent specification.

9 And then I have in the abstract, it says,  
10 Goals and plan of action are established in response  
11 to treatment and assistance required. Data  
12 associated with the client received from the  
13 providers is compiled. A determination is made  
14 whether thresholds associated with the goals are  
15 being met based on the compiled data.

16 So that's the description I have for  
17 these three terms in my declaration.

18 Q. I understand. What I was trying to get  
19 at is whether you provide any example in the '554  
20 Patent of what a plan of action is. I'm trying to  
21 understand that.

22 A. As I said earlier, I don't think I  
23 provide a example in my declaration.

24 Q. And it's the same question for goals and  
25 thresholds.

1 H. Ardehali

2 Do you recall providing examples in your  
3 declaration of those claim terms?

4 A. Well, I provided -- in paragraph 64 I  
5 say, For example, petitioner identifies where  
6 Douglas teaches a plan of action, e.g., weight loss,  
7 with specific intermediate and final goal therein,  
8 e.g., physical activity, eating habits, calories, et  
9 cetera. I disagree.

10 Q. Right. You're talking about Douglas.

11 A. Yes.

12 Q. I'm talking about the '554 Patent itself.  
13 Do you provide any examples of goals and  
14 thresholds in the '554 Patent, putting aside  
15 Douglas?

16 A. I don't think I provide any examples.

17 Q. Okay.

18 So let's go back to paragraph 56 of your  
19 declaration which I believe you mentioned earlier.  
20 And that's where you say that those claim elements  
21 of goals, plan of action, thresholds are separate  
22 and distinct component.

23 Do you see that, in paragraph 56?

24 A. Yes. It says on this page that, It is,  
25 therefore, my opinion that the board should construe

1 H. Ardehali

2 the challenged claims recitation of establishing or  
3 to establish goals, a plan of action and threshold  
4 as requiring that the established goals, plan of  
5 action and thresholds are separate and distinct.

6 Q. Thank you.

7 And you cite to Exhibit 1001 at columns  
8 40, 42 and 48; correct?

9 A. Yes.

10 Q. Exhibit 1001 is the '554 Patent; correct?

11 A. Right.

12 Q. And columns 40 or, at least, your  
13 citations in columns 40, 42 and 48 are to the claim  
14 language themselves; correct?

15 A. Correct.

16 Q. What does the term separate mean to you  
17 as part of your opinion here in paragraph 56?

18 MS. SPIRES: Objection. Calls for a  
19 legal conclusion.

20 A. Separate elements, I have it in Section  
21 E. It says, Counsel has informed me and I  
22 understand that where a claim lists elements  
23 separately there is a presumption that those  
24 components are distinct. I have applied the  
25 following principles in formulating the opinions

1 H. Ardehali

2 contained herein.

3 Q. So what's your understanding basically in  
4 discussions with counsel what the term separate  
5 means?

6 MS. SPIRES: I'm going to stop here. If  
7 you can answer that without disclosing  
8 discussions with counsel, that's fine. But  
9 I'll instruct you not to answer based on your  
10 discussions with counsel as the question  
11 requested.

12 A. Yeah. So, again, this is a legal term  
13 and I have been informed and I understand that where  
14 a claim lists elements separately, there is a  
15 presumption that those components are distinct. And  
16 then I say I have applied the following principles  
17 in formulating. Preponderance contained herein.  
18 That is the extent of what I can tell you.

19 Q. You just recited based on your  
20 understanding of the law; is that correct?

21 A. I'm sorry. I didn't catch the first part  
22 of your question.

23 Q. So we were covering the term separate and  
24 I was asking for your understanding of that term.  
25 And you had referred back to a prior section where

1 H. Ardehali

2 you describe being instructed by counsel of the  
3 presumption.

4 Do you recall that?

5 A. Yes.

6 Q. And so I was going to cover the term  
7 distinct by itself and then separate and distinct  
8 together and ask for your understanding of those  
9 terms. But I presume you would just refer back to  
10 the same section that you referred to with respect  
11 to separate and your understanding of that term; is  
12 that correct?

13 A. Yes.

14 Q. So you have an opinion that Douglas  
15 doesn't disclose separate terms for goals, plan of  
16 action and threshold; is that correct?

17 MS. SPIRES: Object to form.

18 A. Well, yeah. Basically in paragraph 61,  
19 62 and 63 of my -- of my declaration, I go over  
20 that. And I explain why I believe that Douglas  
21 doesn't separate these terms. And those testimonies  
22 are not separated in Douglas.

23 Q. Okay.

24 So getting back to your statement in  
25 paragraph 56 that the challenged claims require that

1 H. Ardehali

2 the established goals, plan of action, threshold are  
3 separate and distinct.

4 Do you recall that?

5 A. Correct, yes.

6 Q. Prior in paragraph 55, you say, Upon  
7 reviewing the '554 Patent specifications, my opinion  
8 that the presumption that the claimed plan of action  
9 must be distinct from the separately-claimed goals  
10 and thresholds is consistent with the '554 Patent  
11 specification.

12 Do you see that?

13 A. Yes.

14 Q. And then you cite to the abstract of the  
15 '554 Patent; is that correct?

16 A. Yes.

17 Q. So in that citation where is there a  
18 statement that the goals, plan of action and  
19 thresholds must be separate?

20 MS. SPIRES: Object to form.

21 A. You mean the abstract?

22 Q. Yes.

23 A. Well, the abstract specifically says,  
24 Goals and plan of action are established in response  
25 to the treatments and assistance required. Data

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2 associated with the client received from the  
3 providers is compiled. A determination is made  
4 whether a threshold associated with the goals are  
5 being met based on the compiled data.

6 But in addition to that, in the '554  
7 Patent under the claims it says, Determining by the  
8 one or more providers, treatment and assistance for  
9 the client which is used for establishing goals, the  
10 plan of action and threshold for the client wherein  
11 the threshold represents certain points of progress  
12 towards the goals.

13 Then it says, Periodically receiving  
14 updated data from one or more providers about the  
15 status or well-being of the client.

16 So the fact -- and there are other  
17 statements including, Determining whether the  
18 threshold associated with the goals are being met  
19 based on the compiled data.

20 So the reason I basically say that there  
21 are separate, distinct components is based on the  
22 overall review of '554 Patent and that -- which also  
23 includes the abstract. But there are other, you  
24 know, statements in this patent that supports that  
25 these elements should be separate and distinct.

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2 Q. Let's just stick with the quote from the  
3 abstract that you have in paragraph 55 of your  
4 declaration.

5 Do you see that?

6 A. Yes.

7 Q. Where in that quote does it say that  
8 goals, plan of action and thresholds must be  
9 separate and distinct?

10 A. Well, it says, Goals and plan of action  
11 are established in response to treatments and  
12 assistance required. Data associated with the  
13 client received from the providers is compiled. A  
14 determination is made whether a threshold associated  
15 with the goals are being met based on the compiled  
16 data.

17 So based on that, I concluded that these  
18 have to be separate and distinct components.

19 Q. The last sentence, The thresholds are  
20 associated with goals; right?

21 A. It says, Whether thresholds associated  
22 with the goals are being met.

23 Q. If thresholds are associated with goals,  
24 how can it be separate and distinct?

25 A. Well, thresholds are not goals. They're

1 H. Ardehali

2 different things.

3 Q. How so?

4 A. Well, if you are going from one point  
5 to -- if you're going to point A to point B, there  
6 may be intermediate steps in the middle. And if  
7 your goal is to get to point B, you may have  
8 thresholds on your way to point B.

9 Q. Okay.

10 What about a plan of action in relation  
11 to threshold and goals?

12 A. Right. So plan of action is established  
13 in response to treatments and assistance required.  
14 That's basically the plan of action to get to the  
15 goal that you're trying to achieve.

16 Q. Okay.

17 Let's move on to paragraph 78 of your  
18 declaration.

19 A. Okay.

20 Q. So just for your reference, let me go to  
21 the beginning of your section, and this is on page  
22 24 of your declaration. You have a heading B.

23 Do you see that?

24 A. Yes.

25 Q. And that's for all grounds of the

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2 petition where you state, Petitioner -- at least in  
3 your heading -- fails to provide evidence that any  
4 reference discloses or suggests, quote, assign/ing  
5 the client to one or more providers in response to  
6 selections from the administrator wherein the one or  
7 more providers include at least individuals  
8 available to treat or assist clients, close quote.

9 Do you see that?

10 A. Yes.

11 Q. And the quotation you have there is as to  
12 the claim language of the '554 Patent; is that  
13 correct?

14 A. Yes.

15 Q. So I just want to orient ourselves to the  
16 section that we're now going to discuss,  
17 particularly paragraph 78. Looking at paragraph 78,  
18 you state, The plain and ordinary meaning of the  
19 term selections, and selections is in quotes,  
20 envisions a deliberate and active choice by an  
21 administrator which is confirmed by the  
22 specifications discussion of administrators as  
23 playing an active role in the assignment process  
24 generally.

25 Do you see that?

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2 A. Yes.

3 Q. So you're saying -- it's your opinion  
4 that the plain ordinary meaning of the term  
5 selections envisions a deliberate and active choice  
6 by an administrator; correct?

7 A. Based on what I read in '554 and based on  
8 the plain and ordinary meaning of the term  
9 selection, yes.

10 Q. And then you're citing to the '554 Patent  
11 in that paragraph which is Exhibit 1001 at column 11  
12 lines 54 to 60; correct?

13 A. Correct.

14 Q. What does the term deliberate and active  
15 choice by a administrator mean to you?

16 A. It means that the administrator is  
17 actively selecting in this case the assignment --  
18 (Court reporter requested clarification.)

19 A. -- assignment process.

20 Q. Assignment process?

21 A. Right.

22 Q. Assignment process of what?

23 A. So in the next sentence I say -- and this  
24 is from Exhibit 1001 at 11:54 to 60. I say,  
25 Provider administrators, 214, may manage their team

1 H. Ardehali  
2 of service providers, 216, who work directly with  
3 client, 224, to administer information and data such  
4 as goals and objectives, 236. The provider  
5 administrators, 214, may have complete access to the  
6 service providers, 216, and the clients, 224, to  
7 assign the clients, 224, to individual service  
8 providers, 216, through the user interface, 210.

9 So that answers your question.

10 Q. My question is, what assignment process  
11 are you referring to?

12 A. That's basically what the last sentence  
13 says. The provider and administrators, 214, may  
14 have complete access to the service providers, 216,  
15 and the clients, 224, to assign the clients, 224, to  
16 individual service providers, 216, through the user  
17 interface, 210.

18 Q. So that quotation is from the '554  
19 Patent; correct?

20 A. Correct.

21 Q. Does it use the term "selections"?

22 A. It doesn't say "selection." It has the  
23 term assigned.

24 Q. And in that quote -- strike that.  
25 What in that quote indicates to you a

1 H. Ardehali

2 deliberate and active choice?

3 (Stephen Guzzi entered the  
4 video-teleconference.)

5 Q. Dr. Ardehali, do you want me to read back  
6 the question?

7 A. Yes. If you don't mind. Sorry about  
8 that.

9 Q. My question is, in the quotation you just  
10 read from the '554 Patent, what indicates to you a  
11 deliberate and active choice?

12 A. Well, in those statements I think the  
13 last sentence, The provider administrators, 214, may  
14 have complete access to the service providers, 216,  
15 and the clients, 224, to assign the clients, 224, to  
16 individual service providers, 216, through the user  
17 interface, 210. To me that basically is the  
18 assignment process and this is an active process by  
19 the administrator to assign the client to a  
20 physician.

21 Q. My question is, what in there is a  
22 deliberate -- indicates to you a deliberate and  
23 active choice?

24 MS. SPIRES: Objection. Asked and  
25 answered.

1 H. Ardehali

2 A. Well, that's not the only statement I  
3 took into consideration. There were other  
4 statements within the patent that I took into  
5 consideration to come up with that conclusion.  
6 There are other statements including, it says, All  
7 challenged claims require assignment of the client  
8 to -- I'm sorry, this is paragraph 72.

9 It says, All challenged claims require  
10 assignment of the client to one or more of the  
11 providers in response to selection from the  
12 administrator, wherein the one or more providers  
13 include at least individuals available to treat or  
14 assist the client. The claim expressly required  
15 that the assignment of the physician to the client  
16 be done in response to selection from the  
17 administrator.

18 So I took the whole thing into  
19 consideration to come up with that conclusion that  
20 it has to be an active role or deliberate and active  
21 role by the administrator.

22 Q. So you took the claim language as you  
23 recite in paragraph 72 and the quotation that we  
24 covered in paragraph 78 to come to your conclusion  
25 that selections envisions a deliberate act of choice

1 H. Ardehali

2 by the administrator; is that correct?

3 A. Well, again, it wasn't just those two. I  
4 looked at the whole -- the whole patent. And that  
5 was based on my reading of the whole patent.

6 Q. Can you think of any other portions of  
7 the '554 Patent which would support your opinion  
8 that selections envisions a deliberate and active  
9 choice by an administrator?

10 A. No. Again, as I said in paragraph 78,  
11 The plain and ordinary meaning of the term selection  
12 envisions a deliberate and active choice by an  
13 administrator which is confirmed by the  
14 specifications discussion of administrators as  
15 playing an active role in the assignment process  
16 generally.

17 Q. Maybe it will be helpful if we go to the  
18 '554 Patent and just look at a few sections I'll ask  
19 you questions on.

20 Let's start with column 11 of '554. I'll  
21 put it on the screen. I'll make it bigger for you.

22 So column 11 of '554 Patent, start with  
23 line 20. Do you see that section of '554 that I'm  
24 displaying?

25 A. Line 20. Where are the line numbers?

1 H. Ardehali

2 Q. In the middle of the page?

3 A. Yes. Yes.

4 Q. So I'll read it for you. In one  
5 embodiment the user interface may display any number  
6 of icons, images, drop-down menus, videos,  
7 hyperlinks, internal links, scroll wheels, tabs,  
8 windows or other selection or display components.

9 Do you see that.

10 A. Yes.

11 Q. So this section of '554 uses the term  
12 selection; correct?

13 A. You said it does or -- oh, yes, it does  
14 use selection, yes.

15 Q. There's the term selection or other --  
16 selection or display components.

17 Do you see that?

18 A. Yes.

19 Q. So selection here in '554 means one of  
20 those items selected by a user; correct?

21 MS. SPIRES: Object to form. Outside the  
22 scope.

23 A. In that context, that's what it means.

24 (Simultaneous speakers.)

25 A. Especially in that sentence. That's what

1 H. Ardehali

2 it means.

3 Q. So the user can select icons, images,  
4 drop-down menus, videos, hyperlinks, internal links,  
5 scroll wheels, tabs, windows or other select  
6 components; correct?

7 MS. SPIRES: Object to form.

8 THE WITNESS: Sorry. Sarah, I hear  
9 something in the background. Sarah, I think  
10 you're speaking but I can't hear you. I don't  
11 want to interfere with what you say.

12 MS. SPIRES: I'm sorry. I just said  
13 object to form.

14 THE WITNESS: Okay. Sorry.

15 A. Right. It says -- that's what it says  
16 here.

17 Q. So would those selections be a deliberate  
18 and active choice by the user?

19 MS. SPIRES: Objection. Calls for legal  
20 conclusion.

21 (Court reporter requested clarification.)

22 Q. My question, Dr. Ardehali, is whether  
23 those selections by user we just covered would be a  
24 deliberate and active choice, in your opinion?

25 A. Well, this is a sentence and is using a

1 H. Ardehali

2 selection for a number of items on the display. And  
3 whether or not this selection would apply to the  
4 selection in the context of what you are discussing,  
5 I'm not sure if this is the same term, the same  
6 usage for that term. But in what we were  
7 discovering was a selection of a provider for a  
8 client by the administrator which is different from  
9 the context that is used here. But this is -- you  
10 know, what section means in this context, in this  
11 statement, is not something that I have an opinion  
12 on in my declaration regarding this selection. The  
13 selection term that I use in my declaration refers  
14 to a different process.

15 Q. Let me go to one more section of the '554  
16 Patent. We're on to column 12 line 61 which begins  
17 with the word "each."

18 Do you see that?

19 A. Yes.

20 Q. So I'll read that for the record. Each  
21 of the authorized users may be able to view  
22 additional details by making further selections,  
23 double tapping a portion of the client data, 226,  
24 presented on a touch screen.

25 Do you see that?

1 H. Ardehali

2 A. Yes.

3 Q. So here the '554 Patent also uses the  
4 word selections; is that correct?

5 A. In that sentence, yes.

6 Q. And selections here means double tapping  
7 a portion of the client data, 226, presented on a  
8 touch screen; correct?

9 MS. SPIRES: Object to form.

10 A. They're saying, For selections such as  
11 double tapping a portion of the client data, 226,  
12 presented on a touch screen.

13 Q. That's the selection that the patent is  
14 talking about here; correct?

15 A. It's giving that example, yes.

16 Q. So would you say that the selection is a  
17 deliberate and active choice?

18 MS. SPIRES: Objection. Calls for a  
19 legal conclusion.

20 A. So deliberate and active choice that I  
21 was referring to was in the context of selecting a  
22 provider for a client by an administrator. How  
23 selection is defined in this context in column 20 --  
24 I'm sorry, column 12 of '554 Patent is -- may not be  
25 consistent with the term selection that I used in a

1 H. Ardehali  
2 different context. So I think this is referring to  
3 a completely different process than what I was  
4 talking about in my declaration.

5 MR. SOLOMITA: Do you want to take a  
6 break now or do you want to keep going, either  
7 Sarah or Dr. Ardehali?

8 THE WITNESS: I'm okay. If you want to  
9 take a short break, you can.

10 MR. SOLOMITA: Ten minutes. Let's call  
11 it 11:25 or so.

12 THE WITNESS: Okay.

13 (A recess was taken from 11:16 a.m. CST  
14 to 11:25 a.m. CST.)

15 Q. Dr. Ardehali, let me continue on in your  
16 declaration and share that with you. So we're on to  
17 paragraphs 90 through 92 of your declaration which  
18 I'm showing on the screen.

19 Do you see that?

20 A. Yes.

21 Q. So here we're dealing with claims 13 to  
22 16; is that correct?

23 A. Yes.

24 Q. And specifically the requirement of a  
25 database in communication with a server as you

1 H. Ardehali

2 highlight, for example, in paragraph 90; correct?

3 A. Yes.

4 Q. So in paragraph 92 you say, It is my  
5 opinion as a person of ordinary skill in the art  
6 that Douglas does not disclose or render obvious a  
7 database in communication with the server and figure  
8 to store the data, goals, plan of action compiled  
9 data and thresholds with the account associated with  
10 the client and the one or more providers.

11 Correct?

12 A. Yes.

13 Q. So let's take a look at Douglas and I'd  
14 like to go to figure 59 which I'll put on the screen  
15 for you.

16 Are you seeing figure 59?

17 A. Yes. Let me get there for a second.

18 Q. Sure.

19 A. Yes.

20 Q. Do you recall reviewing this figure as  
21 part of your review of Douglas?

22 A. Yeah. I did look at it, yes.

23 Q. Do you recall element 508 being the  
24 server in Douglas?

25 A. Yes.

1 H. Ardehali

2 Q. And then the server has a number of inner  
3 elements including the servers 510, 512, 514 and  
4 516; correct?

5 A. Yes.

6 Q. And so those servers, 510 to 516, they  
7 have access to relational database 522; is that  
8 correct?

9 A. So in my declaration in paragraph 91 I  
10 say, For this claim, petitioner states that network  
11 server 508 includes one or more relational databases  
12 522 but never alleges that network server 508's  
13 inclusion of relational database 522 requires that  
14 database 522 is in communication with server 508 as  
15 claim 13 recites.

16 Q. So I'm asking you in figure 59 in Douglas  
17 does database 522 communicate with the inner servers  
18 510 to 516?

19 A. Did you ask me does it communicate?

20 Q. Yes.

21 A. Well, all I can tell you is that server  
22 508 and server 508 has all these other servers,  
23 servers that you describe, 510 to 516. In my  
24 declaration, this is what I included. I said  
25 petitioner -- For this claim, petitioner states that

1 H. Ardehali

2 network server 508 includes one or more relational  
3 databases 522 but never alleges that network server  
4 508's inclusion of relational database 522 requires  
5 that database 522 is in communication with server  
6 508 as claim 13 recites. So that's my opinion.

7 Q. I understand that. I'm asking you about  
8 what Douglas discloses.

9 So my question based on figure 59 is  
10 whether Douglas discloses the inner servers 510 to  
11 516 in communication with database 522?

12 MS. SPIRES: Objection. Outside the  
13 scope.

14 THE WITNESS: I'm sorry. Did somebody  
15 say something?

16 MS. SPIRES: I said objection, outside  
17 the scope. I may have gotten quiet again.

18 COURT REPORTER: You did.

19 A. Well, that's the extent of what I can  
20 tell you. This is in my declaration and this is  
21 what I know, that this 522, the network server 508  
22 includes one or more relational database 522 which  
23 is what the petitioner states.

24 But never alleges that network server  
25 508's inclusion of relational database of 522

1 H. Ardehali

2 requires the database 522 is in communication with  
3 server 508 as claim 13 recites.

4 Q. So it sounds like you're taking issue  
5 with what the petition states and not necessarily  
6 what Douglas is disclosing; is that correct?

7 A. Well, in my report I focus on that  
8 specific statement in the petition, yes. But that's  
9 what I have in my declaration.

10 Q. Just give me one second. So let me show  
11 you paper number 1 of the 616 IPR which is the  
12 petition.

13 Do you have the petition handy?

14 A. Yes. Give me one second, please.

15 Q. I'm showing you on the screen but feel  
16 free to look at your copy.

17 A. I'm sorry. What page?

18 Q. We're on page 39.

19 A. Okay.

20 Q. So this is under the section for claim 13  
21 limitation 13(a), A server communicates with  
22 communication devices through a transceiver  
23 utilizing one of our networks. The server includes  
24 a processor that executes high-management program.

25 Do you see that section?

1 H. Ardehali

2 A. Yes.

3 Q. And so here there's the figure 59 we just  
4 covered; correct?

5 A. Yes.

6 Q. And so in that figure 59 which is in the  
7 petition, figure 59 of Douglas, the inner servers  
8 510 to 516 communicate with database 512; is that  
9 correct?

10 MS. SPIRES: Objection. Outside the  
11 scope.

12 A. 512?

13 Q. So inner servers 510, 512, 514, 516  
14 communicate with database 522 in figure 59; correct?

15 A. I didn't comment on servers 510 through  
16 516. I talk about server 508.

17 (Simultaneous speakers.)

18 Q. I'm sorry. Go ahead.

19 A. In my declaration I only talked about  
20 server 508 and also I talk about database 522.

21 Q. Okay. But you'll admit that inner  
22 servers 510 to 516 are part of server 508; correct?

23 MS. SPIRES: Objection. Outside the  
24 scope.

25 A. There are different labels for these

1 H. Ardehali

2 servers. Again, it's hard to read the handwriting.  
3 But I think it says transaction server. There is a  
4 meeting server which is 512. There is a 514 inner  
5 circle server. 516 which is other circle server. I  
6 don't know what they are. And I didn't opine on  
7 those servers. I just talked about the server 508  
8 and whether or not it communicates with database 522  
9 and I provided that opinion. What those servers  
10 are, that wasn't included in my declaration.

11 Q. Okay. In the petition below figure 59  
12 there's a sentence, These PCs are communication  
13 devices as they communicate with the server and  
14 there's a citation to Douglas.

15 Do you see that?

16 A. I see that, yes.

17 Q. And the citation includes page 24 of  
18 Douglas, 22 to 27 and 27 to 34; correct?

19 A. Right. That's what it says, yes.

20 Q. Let's go to that section of Douglas.  
21 I'll show that to you. Let's go to page 24 of  
22 Douglas which is page 26 of 95, Exhibit 1002. And  
23 let's look at line 28.

24 A. Okay.

25 Q. Douglas says the network server 508 may

1 H. Ardehali

2 be located at the health plan pair facility with an  
3 independent third party that acts as an internet  
4 servicer provider or elsewhere. The servers 510 to  
5 516 have access to one or more relational databases,  
6 522 (such as SQL) that contain all the health plan  
7 data including information input to the journal and  
8 schedule book information.

9 Do you see that?

10 A. Yes.

11 Q. So this section of Douglas which is cited  
12 in a petition states that the servers 510 to 516  
13 have access to one or more relational databases 522;  
14 correct?

15 A. That's what it says.

16 Q. And those inner service 510 to 516 are  
17 part of the network server 508; correct?

18 MS. SPIRES: Objection. Outside the  
19 scope.

20 A. I don't know if I can answer that. I  
21 just -- I don't think based on the information I can  
22 answer that.

23 Q. What about figure 59, does that answer  
24 the question that inner servers 510 to 516 are part  
25 of server 508?

1 H. Ardehali

2 MS. SPIRES: Objection. Outside the  
3 scope.

4 A. Based on figure 59, all I can tell you is  
5 that there is a rectangle that is labeled as 508 and  
6 there are other rectangles and shapes within 508 and  
7 510 to 516 are within 508. That's all I can tell  
8 you. But I didn't opine on servers 510 through 516.

9 Q. So let's just close the loop. If we look  
10 up at line 13 on page 24, Douglas says contained in  
11 each server --

12 A. I have to get there. Page 24.

13 Q. Same page we're on.

14 A. Page 24; right.

15 Q. Yes.

16 A. What line?

17 Q. Line 13.

18 A. Okay.

19 Q. Contained in each server 508 is a  
20 transaction server 510, meeting server 512, inner  
21 circle server 514, and outer circle server 516.

22 Do you see that?

23 A. I see that, yes.

24 Q. So Douglas is stating here that servers  
25 510, 512, 514 and 516 are part of server 508;

1 H. Ardehali

2 correct?

3 MS. SPIRES: Objection. Outside the  
4 scope.

5 A. Well, the sentence -- I can read you the  
6 sentence what it says. It's basically saying  
7 contained in each server 508 is a transaction server  
8 510, meeting server 512, inner circle server 514 and  
9 other circle servers 516. All I can tell you is  
10 that to me, for my opinions, I looked at server 508  
11 and database 522. I didn't take these other servers  
12 into consideration. And whether or not transaction  
13 server, meeting server or inner circle server or  
14 other circle server, what they mean and what they  
15 do, those things were not taken into consideration  
16 when I wrote my declaration.

17 Q. Okay. Let's move on in your declaration  
18 to paragraphs 93 to 96.

19 A. 93 to 96. Okay.

20 Q. This is your subsection D.

21 Do you see that subsection D? Do you see  
22 that?

23 A. Yes.

24 Q. We're talking about claims 17 to 20 here;  
25 correct?

1 H. Ardehali

2 A. Yes.

3 Q. And in these paragraphs of your  
4 declaration you're dealing with claim 17 and the  
5 requirement of a processor for executing a set of  
6 instructions; correct?

7 A. Yes.

8 Q. So let's look at paragraph 94. You  
9 state, For this claim petitioner and its expert rely  
10 solely on Douglas and state that Douglas discloses  
11 or renders obvious a processor within network server  
12 508 for executing a set of instructions for  
13 implementing Douglas's system. And you cite to the  
14 petition, paper number 1, at 48, which in turn cites  
15 to Section 8(a), 9(b), which is for limitation  
16 13(a).

17 Is that correct?

18 A. Yes.

19 Q. So let's look at limitation 13(a) in the  
20 petition which is where we just were. And so do you  
21 remember just talking about this section?

22 A. Yes.

23 Q. 13(a)?

24 A. Yes.

25 Q. So you didn't challenge in your

1 H. Ardehali

2 declaration that Douglas discloses the limitation of  
3 13(a); is that correct?

4 A. I'm not sure what you mean. But I do say  
5 that Douglas states that -- in depositions Douglas  
6 discloses or renders obvious a processor within  
7 network server 508 for executing a set of  
8 instructions for implementing Douglas's system.

9 I mentioned that this was included in the  
10 petitioner -- in the petition, sorry.

11 Q. But do you have an opinion that Douglas  
12 does not disclose element 13(a) of the '554 Patent?

13 MS. SPIRES: Object to form.

14 A. I'm assuming that came from Douglas. Can  
15 you show it to me in Douglas so I can tell you  
16 whether or not this is mentioned or not?

17 Q. Sorry. I'm not following your request.

18 A. I'm just trying to answer your question  
19 and I want to see whether or not that limitation was  
20 mentioned in Douglas. So --

21 Q. My question is whether your  
22 declaration -- in your declaration you've set forth  
23 an opinion that Douglas does not meet limitation  
24 13(a).

25 Do you recall that?

1 H. Ardehali

2 A. I'm sorry. I'm not following the  
3 question. I apologize.

4 Q. Let's go back to your declaration. Maybe  
5 that will be easier.

6 So we were talking about claim 17. Do  
7 you recall?

8 A. Yes.

9 Q. That claim recites a process for  
10 executing a set of instructions.

11 Do you remember that?

12 A. Yes.

13 Q. And you say, Petitioner and its expert  
14 rely solely on Douglas and you have a quotation of  
15 what was stated in the petition. And that petition  
16 then in turn cites to limitation 13(a).

17 Do you see that?

18 A. Yes.

19 Q. And then you say in paragraph 95, While  
20 petitioner does refer back to its analysis of  
21 limitation 13(a), neither claim 13 nor petitioner's  
22 analysis of claim 13 discusses or even contains the  
23 word "instructions."

24 Do you see that?

25 A. Yes.

1 H. Ardehali

2 Q. So claim 13(a), if we go back to the  
3 petition, states a server communicates with  
4 communication devices through a transceiver.  
5 Utilizing one more networks the server includes a  
6 processor that executes a client-management program.

7 Do you see that?

8 A. Yes.

9 Q. So my question was whether you challenge  
10 whether Douglas disclosed the server includes a  
11 processor that executes a client-management program?

12 A. I guess my opinions are just whatever is  
13 in paragraphs 93 to 96. So that's all I have. I'm  
14 sorry. I'm still not really clear on the question.  
15 So I apologize. My opinions are in paragraphs 93 to  
16 96.

17 Q. What I'm trying to ask you is, limitation  
18 13(a) relates to a server, in part, at least.  
19 Server includes a processor that executes a  
20 client-management program. And then in your  
21 declaration you're basically saying that claim 17  
22 recites a process for executing a set of  
23 instructions.

24 So it seems like you're not challenging  
25 that Douglas discloses limitation 13(a) which is the

1 H. Ardehali

2 server includes a processor that executes a  
3 client-management program. Rather, for claim 17,  
4 you're stating that the processor doesn't execute a  
5 set of instructions.

6 Is that correct?

7 A. Yes, that's correct.

8 Q. Okay. So you're taking issue with the  
9 processor executing a set of instructions, not that  
10 there's a program there -- I think, correct me if  
11 I'm wrong, you're saying that the program that's on  
12 the process server doesn't execute a set of  
13 instructions, is that correct?

14 MS. SPIRES: Objection.

15 A. Whatever is in my declaration. Basically  
16 what I'm saying is in claim 17, and claims 18 to 20  
17 which are dependent from claim 17 recites a  
18 processor for executing a set of instructions. And  
19 then in paragraph 94 I say, For this claim,  
20 petitioner and its expert relies solely on Douglas.  
21 And state that Douglas discloses or renders  
22 obvious -- renders obvious a processor with network  
23 server 508 for executing a set of instructions for  
24 implementing Douglas's system. And while petitioner  
25 does refer back to its analysis of 13(a), neither

1 H. Ardehali

2 claim 13 nor petitioner's analysis of claim 13  
3 discusses or even contains the word instructions.  
4 So based on that, it is my opinion that Douglas does  
5 not disclose or render obvious a processor for  
6 executing a set of instructions. So --

7 Q. Understood. And so as you talked about,  
8 the petition for claim 17 refers back to claim  
9 13(a); correct?

10 A. Limitation 13(a), yes. Yes.

11 Q. Yes. Okay.

12 And limitation 13(a) we just talked about  
13 contains the requirement that the server includes a  
14 processor that executes a client-management program;  
15 correct?

16 A. Right.

17 Q. So Douglas has a client-management  
18 program; correct?

19 MS. SPIRES: Outside the scope.

20 A. Again, I didn't opine on that.  
21 Limitation 13(a) says the server communicates with  
22 communications devices. Through a transceiver  
23 utilizing one or more networks, the server includes  
24 a processor that executes --

25 (Court reporter requested clarification.)

1 H. Ardehali

2 A. The limitation 13(a) says a server  
3 communicates with communications devices. Through a  
4 transceiver utilizing one or more networks, the  
5 server includes a processor that executes a  
6 client-management program. I didn't talk about the  
7 client-management program in that -- you know, in  
8 that opinion. It was my -- my focus was on the  
9 instructions.

10 Q. Okay.

11 So sitting here today, do you have an  
12 opinion whether Douglas discloses a processor that  
13 executes a client-management program?

14 A. Sitting here today, my opinions are in my  
15 declaration. So I didn't opine on that.

16 Q. Do you have a general understanding of  
17 whether a computer program would execute a set of  
18 instructions?

19 A. A processor would actually execute a set  
20 of instructions.

21 Q. Okay. So it's your opinion generally  
22 speaking that a processor would execute a set of  
23 instructions; is that correct?

24 A. Well, in the context of my opinions,  
25 that's what I used for my opinion.

1 H. Ardehali

2 Q. Would a computer program also execute a  
3 set of instructions in conjunction with the  
4 processor?

5 A. I don't have an opinion on that in my  
6 declaration.

7 Q. Let me ask you differently. To execute a  
8 program, the processor executes instructions;  
9 correct?

10 A. All I can tell you is that the processor  
11 in claim 17 -- claim 17 recites a processor for  
12 executing a set of instructions.

13 Q. Again, I'm asking you, as a person of  
14 ordinary skill in the art, to execute a program, a  
15 processor will execute a set of instructions; is  
16 that correct? Is that your understanding?

17 MS. SPIRES: Asked and answered.

18 A. The processor executes a set of  
19 instructions, is that what you're asking?

20 Q. In order to execute a program, a  
21 processor would execute instructions; is that  
22 correct?

23 MS. SPIRES: Objection. Outside the  
24 scope.

25 A. Well, again, my opinions in my

1 H. Ardehali

2 declaration is that claim 17 recites a processor for  
3 executing a set of instructions. That's what I used  
4 for my opinions in section D.

5 Q. And I was asking you, as a person of  
6 ordinary skill in the art, is it your understanding  
7 that in order to execute a program the processor  
8 executes a set of instructions?

9 MS. SPIRES: Asked and answered.

10 A. I didn't opine on that. My opinion is  
11 based on claim 17 that recites a processor for  
12 executing a set of instructions.

13 Q. Let's move on to your declaration  
14 paragraph 102. And this is under subsection F where  
15 you -- the heading states, Grounds 2 and 8, a POSITA  
16 would not have been motivated to combine Douglas  
17 with Wager on all claims.

18 Do you see that?

19 A. Yes.

20 Q. In section F and particularly in  
21 paragraph 102, you set forth figure 57 of Douglas.

22 Do you see that?

23 A. Yes.

24 Q. And this figure shows different  
25 physicians in the same specialty that have different

1 H. Ardehali

2 case loads; is that correct?

3 A. In cardiology and primary care, yes.

4 Q. So the two cardiologists have different  
5 case loads and the two practitioners -- primary  
6 practitioners have different case loads; correct?

7 MS. SPIRES: Objection. Misstates  
8 testimony.

9 A. Which column are you referring to for  
10 caseload?

11 Q. I'm just saying the presentation of  
12 figure 57, there's that column that says YTD CAD  
13 cases.

14 Do you see that?

15 A. Yes.

16 Q. What's your understanding of that term  
17 YTD CAD?

18 A. That means year-to-date coronary artery  
19 disease cases.

20 Q. So the two cardiologists that are listed  
21 there, looks like Moeller and King, they have  
22 different case loads, correct, according to figure  
23 57?

24 MS. SPIRES: Objection. Misstates.

25 A. They have different coronary artery

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2 disease cases. One of them is 30. The other one I  
3 think is 36 or 38.

4 Q. Yes.

5 Let me have you turn to Exhibit 1003  
6 which is the Wager reference. And I'll put it up on  
7 the screen in the meantime.

8 Do you have a copy of Wager?

9 A. Yeah.

10 Q. Have you reviewed Wager?

11 A. Yes.

12 Q. Let's turn to paragraph 6. I'll try to  
13 blow that up for you.

14 Do you see paragraph 6, it's on page 6 of  
15 10 of Exhibit 1003? Under summary of invention.

16 A. Yes.

17 Q. This paragraph in Wager states, Invention  
18 overcoming these and other problems in the art  
19 relates in one regard to a system and method for a  
20 clinical workforce management interface in which a  
21 staff manager may be presented with a suite of  
22 provider assignment options and alternatives to  
23 automatically organize and drive assignment ratios  
24 and other assignment parameters and options with  
25 compliance, capacity, best practice and other

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2 criteria taken into account.

3 Do you see that?

4 A. Yes.

5 Q. So here under the summary in the  
6 invention Wager is talking about the need to  
7 properly balance case loads; correct?

8 MS. SPIRES: Object to form.

9 A. It says basically staff manager may be  
10 presented with a suite of provider assignment  
11 options and alternatives to automatically organize  
12 and drive assignment ratios and other assignment  
13 parameters and options with compliance capacity,  
14 best practices and other criteria taken into  
15 account. So that's basically what will happen.  
16 This is mostly for an inpatient setting, not  
17 outpatient setting.

18 Q. What's your understanding of this section  
19 of Wager? Is it to balance case assignments?

20 A. To automatically organize and derive  
21 assignment ratios and other assignment parameters  
22 and options with compliance capacity and practice  
23 and other criteria taken into account.

24 Q. So what does that mean to you?

25 A. Well, that's what it means. It's

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2 basically organizing and deriving assignment ratios.

3 Q. Assignment ratios of the clinical  
4 workforce; is that correct?

5 A. Yeah. That's what it sounds like.  
6 Mostly in an inpatient setting.

7 Q. So let's go back to your declaration.  
8 And I'd like to cover paragraph 104. Let me know  
9 when you're there.

10 A. Yes, I'm there.

11 Q. Okay. So in paragraph 104 you're stating  
12 that patients in Douglas will be harmed rather than  
13 benefited by the utilization of Wager's system; is  
14 that correct?

15 A. Basically I say, POSITA would further  
16 understand that because in Douglas patients are  
17 subscribed to the system only after they have  
18 selected and seen their own physician, the patients  
19 in Douglas will be harmed rather than benefitted by  
20 utilization of Wager's system.

21 Q. And you talk about the importance of  
22 continuity of care; is that right?

23 A. In the next sentence I specifically say,  
24 Specifically a POSITA would recognize the importance  
25 of continuity of care to accomplishing the very

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2 goals of Douglas, in quotation marks, adherence to  
3 their physician's medical recommendation.

4 Q. So when you say continuity of care, I  
5 believe you're saying that it would be harmful if  
6 you switch the patient's choice of a physician; is  
7 that correct?

8 A. In some cases, yes, it can be.

9 Q. So there are some cases where it would be  
10 beneficial to switch a provider; is that right?

11 MS. SPIRES: Objection. Incomplete  
12 hypothetical.

13 A. If you are asking me if it has helped  
14 patients in the past when they went from one  
15 physician to another, I'm sure that has happened.  
16 So that can happen, of course.

17 Q. And when that switch happens in some  
18 cases, it could be beneficial to the patient; is  
19 that right?

20 MS. SPIRES: Object to form.

21 A. Well, in some context, yes. It may  
22 help -- may help the patient. You know, if the  
23 physician is not taking care of the patient  
24 adequately, and they go to another physician, I have  
25 seen that in my practice.

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2 Q. Okay. So that's one example where --  
3 that you gave where a physician is not taking care  
4 of a patient.

5 What about if a physician retires, would  
6 you agree that that's a situation where it would be  
7 beneficial to switch a patient to another physician?

8 A. Well, they don't have a choice. The  
9 physician is not there, so they need to see another  
10 physician.

11 Q. What about if a health condition changes,  
12 would it be helpful to switch a patient to another  
13 physician?

14 MS. SPIRES: Objection. Outside the  
15 scope.

16 A. Again, if you are asking me if my  
17 practice, yes. There are patients who come to me,  
18 and if they have, let's say, new liver disease, I  
19 refer them to a hepatologist. But referrals happen  
20 on a regular basis in our practice.

21 Q. Would you say conversely it would be  
22 harmful to force the patient to stay in a  
23 relationship with a provider that he or she is  
24 uncomfortable with?

25 A. Well, in our medical practice, we don't

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2 force patients to do anything. Patients can make  
3 their own decision. We just make recommendations  
4 and we give them what we think is best for them.

5 Q. Let's move on to paragraphs 108 and 109  
6 of your declaration.

7 A. Okay.

8 Q. So here you're stating that -- I think  
9 you mentioned this earlier, Wager's in a clinical  
10 setting such as hospitals. And Douglas is in an  
11 in-person setting. So this would cut against  
12 combining Wager and Douglas; is that correct?

13 A. So in paragraph 108 I say, a POSITA would  
14 recognize that the reason the combined Douglas-Wager  
15 system would harm rather than benefiting patients is  
16 because Wager envisions invention being used to  
17 coordinate staffing in a clinical setting such as a  
18 hospital where each patient does need a medical  
19 professional inside the facility to be assigned /TPO  
20 them.

21 Then I have in parenthesis, Wager at 0004  
22 invention directed to clinical workforce management  
23 and the task of promulgating shift-by-shift patient  
24 assignment.

25 And then in another parenthesis,

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2 Invention to assist charge nurses or other unit or  
3 other managers who thus must frequently rely on  
4 manual notes, memory and institution [sic] to  
5 assemble a staff schedule.

6 Staff managers may, moreover, have little  
7 time to generate such a floor schedule for the next  
8 shift. Other problems in clinical workforce  
9 management exists, close parenthesis.

10 I mean, I can read this. But that's  
11 basically what Wager is, mostly inpatient setting  
12 like a hospital.

13 Q. So I get that part.

14 You're saying that Wager is in a hospital  
15 setting. And now Douglas, I believe, you go on to  
16 say is more of a remote setting; is that correct?  
17 And, therefore, you wouldn't combine Douglas and  
18 Wager?

19 MS. SPIRES: Object to form.

20 A. In paragraph 109 I said, By contrast, a  
21 POSITA would recognize that Douglas teaches against  
22 accomplishing its goals in an in-person setting like  
23 the one to which Wager is directed. It says,  
24 Douglas at 1:29 to 35, Participation in an ongoing  
25 support program is often effective for patients who

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2 have undergone surgery and must make subsequent  
3 lifestyle changes. But currently available  
4 in-person programs involve costly medical staff and  
5 facility. It can also be inconvenient for the  
6 patient to travel to such programs on a regular  
7 basis. Because of their cost and the potential for  
8 inconvenience, many support programs last for only a  
9 limited time, which is often insufficient for the  
10 patient to modify behavior truly and effectively.

11 And I continue talking about Douglas.

12 Q. It says a lot of words here. So I'm just  
13 trying to get to a summary of your positions.

14 So we covered Wager and you say that's a  
15 clinical setting with in-person interaction between  
16 the physician and patient. I believe you're saying  
17 Douglas now is more of a remote interaction and  
18 therefore you wouldn't combine Wager and Douglas's  
19 teachings?

20 Is that accurate?

21 MS. SPIRES: Objection. Misstates  
22 testimony.

23 A. Well, I guess paragraph 110 summarizes my  
24 opinion. It says, While Douglas teaches that a  
25 system also accepts additional patient data obtained

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2 during office visits, a POSITA would recognize that  
3 for the reasons I have described above it would be  
4 in the patient's best interest to maintain the  
5 patient's continuity of care by allowing the patient  
6 to have office visits with the original physician  
7 who subscribed them to Douglas's system instead of  
8 utilizing the proposed Douglas-Wager system to  
9 reassign the patient to a new physician.

10 Q. Okay.

11 So you're acknowledging -- and I don't  
12 want to put words in your mouth -- but Douglas does  
13 teach office visits; is that correct?

14 A. Well, it says, yeah, while Douglas  
15 teaches that a system also accepts additional  
16 patient data obtained during office visits. That's  
17 what it says.

18 Q. So Douglas discloses in-person visits,  
19 but you're just saying on balance it's your opinion  
20 that you wouldn't combine the Douglas-Wager system  
21 to reassign a patient to a new physician; is that  
22 correct?

23 MS. SPIRES: Objection. Misstates  
24 testimony.

25 A. All I'm saying is that Douglas teaches

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2 that its system also accepts additional patient data  
3 obtained during office visits. And my opinion is  
4 that POSITA would not have been motivated to combine  
5 Douglas and Wager in the manner that the petition  
6 alleges.

7 Q. Let's move on a bit further.

8 I'm assuming you want to take a lunch  
9 break, Sarah, probably at the bottom half of  
10 the hour.

11 MS. SPIRES: That sounds good.

12 MR. SOLOMITA: Let's go a little longer  
13 if you're okay, Doctor.

14 THE WITNESS: Yes.

15 Q. Let's move on to paragraph 114. This is  
16 under the section G.

17 Do you see that?

18 A. Yes.

19 Q. So in paragraph 114 you state, The  
20 alarm -- and alarm is in quotes -- identified by  
21 petitioner is expressly referred to by Douglas as an  
22 option and there's a citation to Douglas.

23 Do you see that?

24 A. Yes.

25 Q. So you say, Specifically, Douglas states

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2 that, quote, as part of the feedback process the  
3 system provides an alarm option of block 1040,  
4 figure 60.

5 And then you say, The claim requires that  
6 there be an automatic communication of an alert, a  
7 response to the compiled data, provided to the  
8 threshold to become significant?

9 Do you see that so far?

10 A. Yes.

11 Q. Then you say, If the alarm must be  
12 enabled, enacted or configured by a user before it  
13 can be utilized, it cannot be reasonably -- it  
14 cannot reasonably be found to be automatic -- and  
15 automatic is in quotes -- and, therefore, it does  
16 not satisfy the claims.

17 Do you see that?

18 A. Yes.

19 Q. So the current limitation, which I  
20 believe you call it in the heading, is automatically  
21 communicating alerts and response to the compiled  
22 data varying from one or more of the thresholds to  
23 become significant for the client; is that correct?

24 A. Right.

25 Q. But once an alarm is set up, it can be

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2 automatic; is that correct?

3 MS. SPIRES: Object to form.

4 A. I don't understand the question.

5 Q. So once you set up an alarm, it can run  
6 automatically or be an automatic alarm; is that  
7 correct?

8 MS. SPIRES: Object to form.

9 A. I don't think I understand the question.  
10 An alarm can be an option or automatic. But an  
11 option doesn't mean it's automatic. That's all I'm  
12 saying in my declaration.

13 Q. Okay. So I was reading that sentence  
14 towards the end of 114 where you say, If the alarm  
15 must be enabled, activated or configured by a user  
16 before it can be utilized, it cannot reasonably be  
17 found to be automatic and therefore it does not  
18 satisfy the claims.

19 Do you see that sentence?

20 A. Yes.

21 Q. Correct me if I'm wrong, but I thought  
22 it's your opinion that if an alarm must be enabled,  
23 activated or configured by a user before it can be  
24 utilized, it's not an automatic alarm; is that  
25 correct?

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2 A. Right. That's what this sentence says.

3 Q. My question is, if you enable, activate  
4 or configure an alarm to be automatic, in other  
5 words, automatically tripped alarm, would that  
6 satisfy the claim limitation?

7 MS. SPIRES: Object to form.

8 A. Well, I don't know what that means. All  
9 I can tell you is that if an alarm is not automatic,  
10 if it needs to be activated manually, that's not  
11 automatic. So that would not be an automatic alarm.

12 Q. I think I'm having confusion over that  
13 sentence where you say the alarm -- if the alarm  
14 must be enabled, activated or configured by a user  
15 before it can be utilized, it cannot reasonably be  
16 found to be automatic. So I'm trying to focus on  
17 the enable, activated or configured. It seems like  
18 you're saying that means it has to be manually  
19 triggered as an alarm; is that correct?

20 A. Right. So if it is -- if it has to be  
21 done by a user, that means if it's done manually.

22 Q. My confusion is, I thought you were  
23 saying that if you set up an alarm before it gets  
24 triggered, that's not automatic even though it's an  
25 automatic alarm, if you follow what I'm saying.

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2 MS. SPIRES: Object to form.

3 A. Well, if an alarm is automatic, it's  
4 automatic. If it's activated by a user, it's  
5 manually activated.

6 Q. I understand the activated part. But in  
7 that sentence you talk about "or configured by a  
8 user."

9 So what do you mean by an alarm if it  
10 must be configured by a user, it's not automatic?

11 A. Well, that means it has to be -- I guess  
12 it would be part of the enabled and activated  
13 function. If it has to be activated by a user, then  
14 it is not automatic, it's manual.

15 Q. Okay. So if an alarm is configured  
16 beforehand but automatically triggers, you would say  
17 that's an automatic alarm; is that right?

18 MS. SPIRES: Objection. Incomplete  
19 hypothetical.

20 A. If an alarm is automatic, it's automatic.  
21 If it has to be activated manually, it's not  
22 automatic.

23 Q. Let me just go over to the '554 Patent so  
24 we're clear on this line of questioning.

25 Can you go to the '554 Patent column 13?

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2 A. Okay.

3 Q. And let me know when you get there.

4 A. I'm there.

5 Q. So column 13 of '554, let's look at lines  
6 25 and 26.

7 A. Yes.

8 Q. Where the '554 Patent states, In one  
9 embodiment, the alerts and notifications, 228, can  
10 be configured to communicate information.

11 Do you see that?

12 A. Yes.

13 Q. So here the '554 Patent is talking about  
14 configuring the alarm; correct?

15 A. Configuring the alert and notifications,  
16 yes.

17 Q. And then if we keep going to line 61 to  
18 63, the same column, Certain activities once  
19 configured automatically trigger the alerts and  
20 notifications, 228, to send out information and  
21 request a response.

22 Do you see that?

23 A. Yes.

24 Q. So the '554 Patent here is talking about  
25 configuring an alarm -- or an alert to be

1 H. Ardehali  
2 automatically triggered; is that correct?

3 A. Well, it says, Certain activities once  
4 configured automatically the alerts and  
5 notifications, 228, to send out information and  
6 request a response.

7 Q. So going back to your declaration, you  
8 state that the alarm must be enabled, activated or  
9 configured. Let's go with the configured. If the  
10 alarm must be configured by a user, it cannot  
11 reasonably be found automatic. That seems to  
12 contradict what we just read by the '554 Patent.

13 MS. SPIRES: Object to form.

14 THE WITNESS: I'm sorry. Did somebody  
15 say something?

16 MS. SPIRES: I said object to form.

17 A. Well, what I'm seeing here is it says, If  
18 the alarm must be enabled, activated or configured  
19 by a user before it can be used, it cannot be  
20 automatic. That's all I'm saying. If it has to be  
21 configured by a user every time it is being used,  
22 it's not automatic, it's manual.

23 MR. SOLOMITA: Liz, can you read back  
24 that answer.

25 (Record read.)

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2 Q. So when you say configured, I believe you  
3 just said -- sorry. Strike that.

4 When you say configured in paragraph 114,  
5 I believe you just testified configured means every  
6 time the user has to configure the alarm it's not  
7 automatic; is that correct?

8 A. Well, that's what I'm saying. If it can  
9 be configured by a user before it can be used, it's  
10 not automatic.

11 Q. Then in the 114, the lines we just read  
12 talks about configuring an alarm or an alert to be  
13 automatic; is that right?

14 A. Well, if an alarm becomes automatic, then  
15 it is automatic. But if every time it has to be  
16 used -- every time it has to be enabled or activated  
17 or configured to -- by a user, then it is not  
18 automatic.

19 Q. I'm not sure I'm following you on that.  
20 But let me go back to Douglas.

21 You say the alarm in Douglas is an  
22 option; correct?

23 A. Yes.

24 Q. So what about Douglas in your opinion  
25 would preclude that alarm from being automatic?

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2 A. I'm sorry. Can you repeat that.

3 MR. SOLOMITA: Let me withdraw that  
4 question.

5 Q. So in Douglas you say the alarm is an  
6 option; correct?

7 A. Correct.

8 Q. And you say if the alarm must be enabled,  
9 activated or configured before its utilized, it  
10 can't reasonably be automatic; right?

11 A. Yes.

12 Q. So why is the alarm in Douglas not  
13 automatic, in your opinion?

14 A. Because it's an option.

15 Q. Can you explain that further? I'm not  
16 following it.

17 A. So in my declaration, paragraph 113, I  
18 say, For this claim limitation, petitioner  
19 identifies Douglas's alarm option -- in parenthesis  
20 block 1040, figure 60 -- which compares patient data  
21 with assistance goals and notifies the physician or  
22 case adviser via email, fax or pager if a health  
23 risk is present or otherwise notifies the physician  
24 or case adviser if goals are not being met. In  
25 parenthesis, Petition at 30 citing Douglas at 11:11

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2 to 15. The alarm identified by petitioner is  
3 expressly referred to by Douglas as an option. In  
4 parenthesis Douglas at 11:11 to 17.

5 Specifically Douglas states that as part  
6 of the feedback process, the system provides an  
7 alarm option, block 1040, figure 60. The claim  
8 requires that there be an automatic communication of  
9 an alert in response to the compiled data varying  
10 from a threshold to become significant.

11 Exhibit 1001 at claim 2. If the alarm  
12 must be enabled, activated or configured by a user  
13 before it can be utilized, it cannot reasonably be  
14 found to be automatic and therefore does not satisfy  
15 the claims. It is my opinion as a person of  
16 ordinary skill in the art that Douglas does not  
17 disclose or render obvious automatic communication  
18 alerts in response to the compiled data varying from  
19 one or more of the thresholds to become significant  
20 for the client.

21 Q. So you're just reading from your  
22 declaration; correct?

23 A. Yes.

24 Q. Now, in Douglas you say the alarm is an  
25 option; correct?

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2 A. Yes.

3 Q. If the option is implemented in Douglas  
4 and the alarm is used on a regular basis, wouldn't  
5 that be automatic?

6 A. If it has to be activated, enabled or  
7 configured by a user, no, it is not automatic.

8 Q. Taking you back to the '554 Patent, we  
9 read the sentence where that alarm is configured to  
10 be automatic.

11 Do you recall that?

12 A. If that alarm is configured to be  
13 automatic, then it is automatic.

14 Q. If the alarm option in Douglas is  
15 configured to be automatic, wouldn't it be  
16 automatic?

17 A. Well, if an alarm is configured or  
18 designed or is made to be automatic, it's automatic.  
19 But if every time you have to use it and a user has  
20 to either enable it or activate or configure it,  
21 then it is not automatic.

22 Q. So what indicates to you that the user  
23 every time has to configure to use that alarm?

24 A. Where in Douglas does it do that?

25 Q. Yeah. Does it say that?

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2 A. Well, to me the fact it is an option,  
3 that means it is not automatic. It doesn't always  
4 come up.

5 Q. What's the basis for that opinion?

6 A. It's just the person of ordinary skill  
7 who is reading this option doesn't mean it's  
8 automatic.

9 Q. So if an alarm is configured by a user to  
10 be automatic, I believe you said before it would be  
11 an automatic alarm in context of these claims; is  
12 that correct?

13 A. Well, what I said is that if an alarm is  
14 made or designed or if it is configured to be  
15 automatic, when it comes on automatically when it is  
16 not an option, then it is automatic. But when it is  
17 an option and somebody has to turn it on, it's not  
18 automatic.

19 Q. That's what I want to focus on, the last  
20 part, you say when somebody has to turn it on, it's  
21 not an option -- I'm sorry, it's not automatic, it's  
22 an option.

23 Is that correct?

24 MS. SPIRES: Objection. Asked and  
25 answered.

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2 A. No. What I said was that option doesn't  
3 mean something is automatic. By definition, option  
4 means that it doesn't come on automatically. So  
5 when an alarm is an option, it is not an automatic  
6 alarm. An automatic alarm means that it's always in  
7 response to something it would always come and  
8 wouldn't need a user to either enable it or activate  
9 it or configure it. It would be automatic.

10 Q. So my question in Douglas, what indicates  
11 to you that a user has to enable the alarm?

12 A. Because it's an option. It's not  
13 automatic.

14 Q. As you know, options are features that  
15 can be turned on or off, generally speaking;  
16 correct?

17 A. By a user.

18 MS. SPIRES: Outside the scope.

19 Q. If an option is selected and the option  
20 entails something that's automatic, wouldn't that be  
21 an automatic implementation of that option?

22 MS. SPIRES: Objection. Incomplete  
23 hypothetical.

24 A. Well, again, as I said earlier, if an  
25 alarm is designed or made or configured to be

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2 automatic, after that it would be automatic. But  
3 when it is an option, it is not automatic.  
4 Something that is an option doesn't mean it would  
5 automatically come on.

6 Q. What I'm trying to probe with you is the  
7 concept of an option. I'll use the analogy of a  
8 car. If you order a car with different options,  
9 once that option is selected, it will always be  
10 present in that car; isn't that correct?

11 MS. SPIRES: Objection. Outside the  
12 scope.

13 A. Well, it really depends on the context.  
14 If you're asking me if I go to a car dealership and  
15 get an option and the option would be good on the  
16 car, then if I ask for, for example, for a GPS, the  
17 GPS would be on the car. But that's in a different  
18 context. We are talking about here is an alarm and  
19 how that option would function either automatically  
20 or not automatically.

21 MR. SOLOMITA: Okay. Why don't we take a  
22 lunch break at this point.

23 (A recess was taken from 12:26 p.m. CST  
24 to 12:58 p.m. CST)

25 Q. Dr. Ardehali, let's continue on with your

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2 declaration Exhibit 2005. And I'm going to turn to  
3 paragraph 117 and share my screen.

4 Do you see paragraph 117 of your  
5 declaration?

6 A. Yes.

7 Q. So you state, The petition does not  
8 address the claims requirement that there would be a  
9 determination of whether, quote, the data required  
10 is received from each of the providers, close-quote,  
11 or attempt to establish that Douglas or any other  
12 reference teaches it and Douglas does not teach such  
13 a determination.

14 Do you see that?

15 A. Yes.

16 Q. So let's take a look at the petition.  
17 Let's start at page 38. This is paper 1.

18 A. Okay.

19 Q. So we're talking about claim 10 on page  
20 38.

21 Do you see that of paper 1?

22 A. Yes.

23 Q. So the petition for this claim 10 refers  
24 back to limitation 1(d).

25 Do you see that?

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2 A. Yes.

3 Q. And there's a sentence before it that  
4 says, Doing so would have encouraged the provider to  
5 enter the missing data and there's a "see to" a  
6 section and limitation 1(d).

7 Correct?

8 A. Yes.

9 Q. So let's go to page 26 which covers  
10 limitation 1(d)?

11 A. Of the petition?

12 Q. Yes. Staying with the petition.

13 A. Page 26?

14 Q. Page 26 is for a limitation 1(d);  
15 correct?

16 A. Yes.

17 Q. And under the subsection E the petition  
18 states, Douglas discloses receiving updated data  
19 from one or more providers as, quote, the system  
20 accepts updated patient data through data entered by  
21 the physician during office visits, close-quote, and  
22 there's a cite to Douglas.

23 Correct?

24 A. Yes.

25 Q. So the petition does refer to receiving

1 H. Ardehali

2 updated data from one or more providers; correct?

3 A. That's what that quotation says, that  
4 Douglas is receiving updated data from one or more  
5 providers.

6 Q. And there's a quotation to Douglas 11 --  
7 page 11, lines 1 to 5 figure 60 and there's a see  
8 also to claim 14 and figure 41; is that correct?

9 A. Yes.

10 Q. So let's go back to your declaration and  
11 go to paragraph 119.

12 A. Okay.

13 Q. At the end of paragraph 119 you state,  
14 However, Douglas teaches that updated patient data,  
15 quote, may, close-quote, be input by the physician  
16 or directly from the patient.

17 Do you see that?

18 A. Yes.

19 Q. And you say, It is not required.

20 A. Yes.

21 Q. Okay.

22 And then later on in paragraph 121 you  
23 state, This stands in contrast to disclosure of the  
24 '554 Patent; correct?

25 A. Yes.

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2 Q. Okay.

3 So let's go to Douglas which is  
4 Exhibit 1002 and look at page 11 lines 1 to 5. Let  
5 me know when you're there.

6 A. Yes.

7 Q. So here Douglas states, The system also  
8 accepts additional patient data obtained during  
9 office visits or directly from the patient via email  
10 or other electronic -- or other means of  
11 communication. The physician may also input  
12 additional data such as that derived from laboratory  
13 tests into the system.

14 Do you see that?

15 A. Yes.

16 Q. And then paragraph 19 of your  
17 declaration, you're citing to this part of Douglas;  
18 is that correct?

19 A. Yes.

20 Q. And in particular, in Douglas, line 2,  
21 the first sentence states, The physician may also  
22 input additional data; correct?

23 A. Yes.

24 Q. And so you're focused on that term "may"  
25 in that second sentence of Douglas as part of your

1 H. Ardehali

2 opinion; correct?

3 A. Well, that's one word that is highlighted  
4 in paragraph 119 of my declaration.

5 Q. And you say that it may be input which  
6 means it doesn't necessarily have to be input; is  
7 that correct?

8 A. Yes. I'm saying it's not required based  
9 on this statement.

10 Q. Let's look at the prior sentence in  
11 Douglas. It says, The system also accepts  
12 additional patient data during office visits.

13 Do you see that?

14 A. Yes.

15 Q. That would be from a physician; correct?

16 A. Could be from a physician.

17 Q. There's no "may" language in that  
18 sentence; right?

19 A. No.

20 Q. Let move on to your declaration.

21 A. Sorry. If I may add one thing to that.  
22 So that could be from the physician or it could be  
23 from anyone in the office visit. But it  
24 specifically says that the physician may also input  
25 additional data. So that's the word I really

1 H. Ardehali

2 emphasized in my report -- in my declaration.

3 Q. I'm sorry. I got you. So the physician  
4 may also input additional data in addition to the  
5 data from the sentence one about data; is that  
6 correct?

7 A. It doesn't say in addition to that. But  
8 it says the physician may also input additional  
9 data.

10 Q. So what's your understanding of the data  
11 that's in the second sentence versus the first  
12 sentence?

13 MS. SPIRES: Object to form.

14 A. Well, the first sentence is about during  
15 office visit or directly from the patient via email  
16 or other means of communication. So that means  
17 there are different paths for entering patient data  
18 into the system. And then the second sentence is  
19 specifically about how a physician may do it. And  
20 it says, The physician may also input additional  
21 data such as derived from laboratory tests into the  
22 system. So the second sentence is specifically  
23 about how a physician may enter additional data.

24 Q. And the first sentence that we talked  
25 about, the additional patient data is obtained

1 H. Ardehali

2 during office visit; correct?

3 A. Right.

4 Q. And that could come from a physician;  
5 correct?

6 A. It's during office visit. It could be  
7 from different settings. It could be some of the --  
8 you know, some of the information that is obtained  
9 from the physician.

10 Q. Okay.

11 Let's move on to paragraph 126 of your  
12 declaration. It's already into -- we're talking  
13 about subsection I, grounds 4, 6 and 8.

14 Do you see that?

15 A. No. 126?

16 Q. Yes. 126 of your declaration.

17 A. Yes.

18 Q. Is under subsection I which relates to  
19 grounds 4, 6 and 8 as I'm showing on the screen.

20 A. Yes.

21 Q. Do you see that?

22 A. Yes.

23 Q. So in paragraph 126 in the second  
24 sentence you state, It is unclear how petitioner  
25 contends Wager's visual interface would have been

1 H. Ardehali

2 incorporated into a combination of Douglas with  
3 Chitiveli.

4 A. I'm sorry. I'm not following. Where are  
5 you reading?

6 Q. So paragraph 126?

7 A. Yes.

8 Q. I'm sorry. I think I was off by a  
9 sentence. The third sentence. Which starts  
10 "specifically."

11 A. Yes. Yes.

12 Q. So after specifically you state, It is  
13 unclear how petitioner contends Wager's visual  
14 interface would have been incorporated into a  
15 combination of Douglas with Chitiveli, particularly  
16 given that Chitiveli itself teaches upload of data,  
17 quote, using the analytics client or the web  
18 browser, close-quote.

19 Do you see that?

20 A. Yes.

21 Q. So this discussion here relates to the  
22 Douglas-Wager-Chitiveli combination of ground 4;  
23 correct?

24 A. Ground 4, 6 and 8, yes.

25 Q. Ground 4 is Douglas plus Wager plus

1 H. Ardehali

2 Chitiveli; correct?

3 A. Yes.

4 Q. Ground 3 is just the combination of  
5 Douglas and Chitiveli; correct?

6 A. Ground 3?

7 Q. Yes.

8 A. Where do you see that?

9 Q. Based on my knowledge. I can take you to  
10 the petition. I'll show you the petition has a  
11 table on the beginning on page 4 with the grounds.

12 A. Yes.

13 Q. Showing on the screen. So ground 3 is  
14 Douglas and Chitiveli for claim 6. Do you see that?

15 A. Yes.

16 Q. And ground 4 is Douglas and Wager with  
17 Chitiveli; correct?

18 A. Yes.

19 Q. So is it your understanding that  
20 Chitiveli is being added to Douglas in ground 3 for  
21 implementation using a cloud and client architect?

22 MS. SPIRES: Object to form.

23 A. I'm sorry. You have to show me where.

24 Q. Sure. Let's go to page 60 of the paper,  
25 paper 1.

1 H. Ardehali

2 A. 60 of what?

3 Q. Paper 1, the same document we were just  
4 looking at.

5 A. Okay.

6 Q. So there is a sentence after the bullet  
7 points at the top which begins, It would have been  
8 obvious.

9 Do you see that?

10 A. Yeah.

11 Q. It would have been obvious to implement  
12 Douglas's system using a SAAS, S-A-A-S, provider  
13 like Chitiveli discloses for its content analytics  
14 tool with Douglas's network server 508 implemented  
15 on a cloud network and Douglas's P.C.s 500 executing  
16 client applications to upload patient data to that  
17 server for analysis using Douglas's system.

18 Do you see that?

19 A. I see that. Yes.

20 Q. And then the next sentence states, The  
21 resulting system is referred to as the  
22 Douglas-Chitiveli system.

23 Do you see that?

24 A. Yes.

25 Q. So Chitiveli in ground 3 is being added

1 H. Ardehali

2 to Douglas for this cloud and client architecture  
3 that we see in the sentence that we just discussed;  
4 correct?

5 MS. SPIRES: Object to form.

6 A. Well, it doesn't say specifically that  
7 the cloud network is coming from Chitiveli. It's  
8 basically saying would have been obvious to  
9 implement Douglas's system using an SAAS provider  
10 like Chitiveli is -- not Chitiveli, discloses for  
11 his content analytics tool with Douglas's network  
12 server 508 implemented on a cloud network. And it  
13 refers to Chitiveli figure 1.

14 And Douglas's P.C. 500 implicating client  
15 applications to upload patient data with that server  
16 for analysis using Douglas's system. And it says,  
17 The resulting system is referred to as  
18 Douglas-Chitiveli system.

19 Q. So this combination in ground 3 is to  
20 take the Douglas system and implement it on a cloud  
21 network of Chitiveli, as you just read from that  
22 sentence; correct?

23 A. Well, again, this is what the petition is  
24 saying and that's what it is saying. It's referring  
25 to Chitiveli and then saying that with Douglas's

1 H. Ardehali

2 network server 508 implemented on a cloud network  
3 and then it's referring to Chitiveli figure 1.

4 Q. Right. Okay. So I just wanted to get  
5 that overview of what the petition is arguing for  
6 ground 3, that you take Douglas and implement it on  
7 Chitiveli's cloud network.

8 Can we agree on that? Not that you agree  
9 with it necessarily, just that's what the  
10 petitioners argue?

11 A. Yes. Show me figure 1 of Chitiveli. I  
12 just want to make sure we are on the same page.

13 Q. Let me pull up Chitiveli for you which is  
14 Exhibit 1004. And you'd like to see figure 1?

15 A. Yes.

16 Q. Here you are. It's on the screen.

17 A. Yes. Okay.

18 Q. Satisfied so far?

19 A. Well, I'm saying figure 1. Yes.

20 Q. Is it your understanding that ground 4  
21 now in the petition takes the Douglas-Wager system  
22 and adds the cloud network of Chitiveli in the same  
23 way as ground 3?

24 A. I'm sorry. What page of the petition are  
25 you referring to?

1 H. Ardehali

2 Q. We can go back to the table, perhaps.  
3 Which has the grounds.

4 A. Yes.

5 Q. This is on page 4. We just talked about  
6 ground 3 which was Douglas and Chitiveli.

7 Do you recall that?

8 A. Yes.

9 Q. And we were discussing taking the Douglas  
10 platform in ground 3 and adding the cloud network of  
11 Chitiveli in ground 3.

12 Do you recall that?

13 A. Yes.

14 Q. Ground 4 is Douglas-Wager and Chitiveli  
15 combination, do you see that?

16 A. Yes.

17 Q. And ground 2 is Douglas and Wager;  
18 correct?

19 A. Yes.

20 Q. So my question is, ground 4 is taking the  
21 Douglas-Wager -- I'm sorry. Yes -- the  
22 Douglas-Wager of ground 2 and adding in Chitiveli  
23 for its cloud network in the same way that Chitiveli  
24 is being added to Douglas in ground 3; is that  
25 correct?

1 H. Ardehali

2 A. Well, I can't tell you because -- not  
3 quite the same way. All I can tell you is in ground  
4 4 the petition is combining Douglas, Wager and  
5 Chitiveli.

6 Q. Let's move on to your declaration again,  
7 paragraph 134. Let me know when you get there.

8 A. I'm there.

9 Q. Okay. And this is under subsection J for  
10 grounds 7 and 8 where the heading in your  
11 declaration states, A POSITA would not have been  
12 motivated to combine Douglas and Koh claims 8, 14  
13 and 20.

14 Do you see that?

15 A. Yes.

16 Q. You're arguing in your subsection J of  
17 this declaration that a POSITA would not have been  
18 motivated to combine Douglas and Koh; correct?

19 A. Yes.

20 Q. Paragraph 134 you state that Douglas and  
21 Koh have distinct objectives; is that right?

22 A. They have what?

23 Q. Distinct objectives.

24 A. State objectives. Where do you see that?

25 Q. Distinct objectives. Different

1 H. Ardehali

2 objectives. And they address different problems.

3 A. Oh, distinct objectives. I'm sorry.

4 Q. You see the second to last sentence?

5 A. Yes.

6 Q. Talking about these distinct objectives  
7 between Douglas and Koh?

8 A. Yes.

9 Q. And for those reasons in 134 you state,  
10 There's no logical nexus between the two systems to  
11 suggest that a POSITA would combine their teachings.

12 Do you see that?

13 A. Yes.

14 Q. Let's go back to Douglas, Exhibit 1002  
15 and let's look at figure 50, 5-0.

16 Let me know when you get there.

17 A. Okay.

18 Q. Do you recall reviewing this figure 50 as  
19 part of your work in this IPR?

20 A. Yes, I've seen this figure.

21 Q. So the column 366 lists participating  
22 agents; correct?

23 A. It says "participating" and it has two  
24 columns, number eligible and percentage eligible.

25 Q. Is it your understanding that when

1 H. Ardehali

2 Douglas says number eligible, that's the number of  
3 patients eligible for participating in the system?

4 A. I guess that column refers to the number  
5 of eligible patients who are participating in this  
6 program or whatever it is.

7 Q. And the total number at the bottom is  
8 12,987; correct?

9 A. That's correct. For that column, yes.

10 Q. Would you say that in the Douglas system  
11 when you have that many participating patients, it  
12 would generate a copious amount of patient health  
13 data?

14 MS. SPIRES: Object to form.

15 A. I don't know what you mean by copious  
16 patient data. I would say it would be a big  
17 database.

18 Q. Let's now turn over to Koh which is  
19 Exhibit 1009. Let me know when you have Koh  
20 available. I'm showing it on the screen.

21 A. I have it.

22 Q. So let's move to page 65 of Koh. Sorry.  
23 So this is the actual bottom left number, 65.

24 A. Okay.

25 Q. Which it looks like -- sorry, it's bottom

1 H. Ardehali

2 right. Which looks like page 6 of 13 of the  
3 exhibit.

4 Do you see that?

5 A. Yes.

6 Q. Do you see the title "data mining" in the  
7 right column at the top?

8 A. Yes.

9 Q. So Koh says, Data mining can be  
10 considered a relatively recently developed  
11 methodology and technology coming into prominence  
12 only in 1994. It aims to identify valid novel  
13 potentially useful and understandable correlations  
14 and patterns in data by combing through copious data  
15 sets to sniff out patterns that are suitable or  
16 complex for humans to redetect.

17 Do you see that?

18 A. Yes. It says too suitable.

19 Q. Thank you.

20 A. Too subtle. Sorry.

21 Q. That's right. I think I'm getting tired  
22 as well.

23 Koh is teaching data mining when you have  
24 copious data sets and his or her words to sniff out  
25 patterns that are too subtle or complex for humans

1 H. Ardehali

2 to detect; correct?

3 A. Yes. By combing through copious data  
4 sets to sniff out patterns that are too subtle or  
5 complex for humans to detect. Yes.

6 Q. Let's go back to your declaration. And  
7 turn to paragraph '142. Let me know when you're  
8 there.

9 A. I'm there.

10 Q. Second sentence you state, Petitioner  
11 does not allege that it does -- let me read the  
12 first sentence for you.

13 Combining these references does not  
14 bridge this gap as neither inherently teaches or  
15 suggest this claim element. Petitioner does not  
16 allege that it does. For example, the claim  
17 requires, quote, recommending the best practices to  
18 the one or more providers in response to the best  
19 practices being associated with the client assigned  
20 to whop or more providers, close-quote.

21 Do you see that?

22 A. Yes.

23 Q. So you're basically stating that  
24 petitioner does not allege the claim element of  
25 recommending the best practices to the one or more

1 H. Ardehali

2 providers in response to the best practices being  
3 associated with a client assigned to one or more  
4 providers; correct?

5 A. I'm sorry. I'm a little confused here  
6 because we jumped into this paragraph. Let me just  
7 look at the --

8 Q. Sure.

9 A. This is under section J or is this --  
10 yeah, section J. And it's grounds 7 and 8. A  
11 POSITA would not have been motivated to combine  
12 Douglas and Koh. And then in section 1,  
13 petitioner's Douglas and Koh system does not render  
14 claims 8, 14 and 20 obvious.

15 Q. Correct.

16 A. You're looking at paragraph 142. It  
17 says, Combining these references does not bridge  
18 this gap.

19 Let's see what gap I was referring to.  
20 In paragraph 140 it says, Douglas lacks any  
21 disclosure of data mining techniques. This  
22 functionality is limited to compliance monitoring  
23 and milestone tracking for individual users.

24 In paragraph 141, I say, Koh, while  
25 discussing data mining, is focused on organizational

1 H. Ardehali  
2 level analysis rather than deriving actionable  
3 insights specific to individual clients as required  
4 by the claim.

5 And then in Exhibit 1009, comma, 7, it  
6 says, To aid health care management, data mining  
7 applications can be developed to better identify and  
8 track chronic disease states and high-risk patients,  
9 design appropriate interventions and reduce the  
10 number of hospital admissions and claims.

11 In paragraph 142 that's what you were  
12 referring to. It says, Combining these references  
13 does not bridge this gap, as neither inherently  
14 teaches or suggests this claim element. Petitioner  
15 does not allege that it does. For example, the  
16 claim requires recommending the best practices to  
17 the one or more providers in response to the best  
18 practices being associated with the client assigned  
19 to one or more providers.

20 So what's the question again?

21 Q. There's a lot there.

22 So it's your position that the  
23 combination of Douglas and Koh doesn't disclose the  
24 claim element you will cite in paragraph 142 with an  
25 emphasis on the language in response to the best

1 H. Ardehali

2 practices being associated with the client assigned  
3 to the one or more providers; is that correct?

4 A. Yes.

5 MS. SPIRES: Object to form.

6 Q. Sorry. Was that a yes?

7 A. Yes. That's basically what I'm saying  
8 is, combining those two references doesn't bridge  
9 the gap that is included in this claim.

10 Q. Which is recommending the best practices  
11 to the one or more providers in response to the best  
12 practices being associated with the client assigned  
13 to the one or more providers.

14 That's the claim language; correct?

15 A. Yes.

16 Q. So let's look at the petition which is  
17 paper 1 and let's go to page 70.

18 A. Okay.

19 Q. So if you scroll up on page 68, this  
20 section is labeled subsection E, grounds 7 and 8.

21 Do you see that?

22 A. Yes.

23 Q. The petition gives a Koh overview under  
24 sub 1, modification of Douglas under sub 2. And  
25 then there's a motivation to combine on page 71.

1 H. Ardehali

2 Do you see that?

3 A. Yes.

4 Q. Bear with me one second. I'm looking  
5 for -- excuse me one minute. So on page 70, the  
6 sentence which begins with the sub 1 and states "in  
7 the Douglas-Koh system"; do you see that?

8 A. Yes.

9 Q. In the Douglas-Koh system data mining  
10 would be used to identify, sub 1, a therapeutic plan  
11 for a patient based on therapeutic plans for  
12 similarly situated patients that are correlated with  
13 improvement in compiled data or other positive  
14 outcomes such as compliance with the program or lack  
15 of rehospitalization, heart attack or surgery.

16 Do you see that?

17 A. I see that. Yes.

18 Q. So the plan, the therapeutic plan which  
19 is associated with the patient because it says  
20 therapeutic plan for a patient; correct?

21 A. It says therapeutic plan for a patient.  
22 Yes, that's what it says.

23 Q. And so that would be recommended to a  
24 provider in Douglas as discussed here; is that  
25 correct?

1 H. Ardehali

2 A. I guess the paragraph says, It would have  
3 been obvious to modify Douglas with Koh such that  
4 Douglas's compiled data was data mind to identify  
5 best practices for patients with specifically the  
6 therapeutic program including goals that Douglas's  
7 system represents for those patients.

8 In the Douglas-Koh system, data mining  
9 would be used to identify a, number 1, a therapeutic  
10 plan for patients based on therapeutic plans for  
11 similarly situated patients that would correlate  
12 with improvement in compiled data or other positive  
13 outcomes such as compliance with the program or a  
14 lack of rehospitalization, heart attack or surgery.

15 That's what the petition is saying.

16 Q. Right. So the petition is saying there's  
17 a therapeutic plan for a patient that's recommended  
18 based on the Douglas-Koh system; is that correct?

19 A. The petition is saying in the Douglas-Koh  
20 system the data mining would be used to identify a  
21 therapeutic plan.

22 Q. And it's a therapeutic plan for a  
23 patient; correct?

24 A. That's what the petition is saying, yes,  
25 for a patient.

1 H. Ardehali

2 Q. Now I'd like to transition over to the  
3 other IPR petition which ends in 617 for the '142  
4 Patent. Is that okay with you?

5 A. Yes.

6 Q. While we do that, is it your  
7 understanding that the same terms are used in some  
8 instances in the claims of the '554 Patent and the  
9 '142 Patent?

10 A. There are some terms, yes, that are used,  
11 yes, in both patents.

12 Q. I'd like to avoid going through the same  
13 claim terms in the '142 Patent that we already  
14 discussed in the '554 Patent. In order to do so,  
15 will you represent that your testimony on the same  
16 claim terms in '554 would apply to the '142 Patent  
17 IPR?

18 A. Yeah, I think that's fair.

19 Q. I'm going to share with you now the '142  
20 Patent. So on my screen I'm showing you  
21 Exhibit 1001 from the 617 IPR which is U.S. Patent  
22 number 11,151,142.

23 Do you see that?

24 A. Yes.

25 Q. Have you read the '142 Patent?

1 H. Ardehali

2 A. Yes.

3 Q. What is your general understanding of  
4 what's disclosed in the '142 Patent?

5 A. Let me read you the abstract.  
6 Unfortunately, my computer is not functioning. Give  
7 me one -- there we go.

8 So the abstract for the '142 Patent says,  
9 The system method server and computer readable  
10 medium for tracking goal progression input  
11 establishing accounts for providers serving client  
12 is received. Each of the clients is assigned to one  
13 or more of the providers in response to selections  
14 from an administrator. Goals are established for  
15 each of the clients in response to treatments and  
16 assistance required. Data associated with each of  
17 the clients received from the provider is compiled.  
18 A determination is made whether the goals are being  
19 met in response to rules based on the compiled data.  
20 Alerts are automatically communicated in response to  
21 the compiled data bearing from a threshold to become  
22 significant from one or more of the clients.

23 Q. We did a similar exercise for the '554  
24 Patent; correct?

25 A. Yes.

1 H. Ardehali

2 Q. And we focused on that first sentence of  
3 the abstract as a high-level summary of the focus of  
4 the '554 Patent; correct?

5 A. Yeah, I guess that's fair. You know,  
6 that's one aspect of the summary of the patent, yes.

7 Q. And here the first sentence of the  
8 abstract states a system method server and computer  
9 readable medium for tracking goal progression;  
10 correct?

11 A. Yes.

12 Q. And that's similar to the first sentence  
13 in the '554 Patent; correct?

14 A. Yes. Hold on. Let me just check. One  
15 second.

16 Q. Sure.

17 A. Yes.

18 Q. And, again, the inventors on the upper  
19 left side are identified as Lisa A. Marshall and  
20 James Gaynor.

21 Do you see that?

22 A. Yes.

23 Q. Do you know any of these individuals?

24 A. No.

25 Q. So let me introduce your declaration for

1 H. Ardehali

2 the 617 proceeding and we'll go through that.

3 So it has the same exhibit number as I'm  
4 showing on the screen, Exhibit 2005 --

5 A. Right.

6 Q. -- under this now for IPR2024-00617.

7 Do you see that?

8 A. Yes.

9 Q. Yes?

10 A. Yes.

11 Q. So let's start with paragraph 53 of your  
12 declaration.

13 A. Okay.

14 Q. Paragraph 53 you state, The petition  
15 presumes a construction of the term, quote, wizard  
16 application, close-quote, which petitioner argues  
17 means, quote, an interactive health utility within  
18 an application that guides the user through each  
19 step of a particular task, close-quote. Data Health  
20 disagrees that this proposed construction is  
21 supported by or consistent with the specification  
22 and petition has not attempted to establish that it  
23 is.

24 Do you see that so far?

25 A. Yes.

1 H. Ardehali

2 Q. Then you go on to state in paragraph 54,  
3 Petitioner's proposed construction also does not  
4 reflect a plain or ordinarily meaning of the term as  
5 noted infra a, quote, wizard application,  
6 close-quote, cannot be an interactive health  
7 utility, quote, within an application close-quote;  
8 it must be the application.

9 Do you see that?

10 A. Yes.

11 Q. So it's your position that the term  
12 wizard application cannot be an interactive health  
13 utility within an application, it must be the  
14 application; is that right?

15 A. Yes.

16 Q. Can you explain that position further?

17 A. In paragraph 82 and 83 I -- so page 27, I  
18 say, For this claim petitioner contends that Douglas  
19 discloses establishing desired outcomes for the  
20 client associated with the treatment or assistance  
21 utilizing a wizard application. To satisfy this  
22 claim limitation, petitioner states that Douglas's  
23 system establishes desired outcomes for the client  
24 utilizing a wizard application. In doing so,  
25 petitioner relies on a provost claim construction

1 H. Ardehali  
2 for the term wizard application.

3 Specifically, petitioner states that the  
4 wizard application is an interactive help utility  
5 within an application that guides the user through  
6 each step of a particular task. In paragraph 83 I  
7 say, I disagree that petitioner's proposed  
8 construction reflects the plain and ordinary meaning  
9 of wizard application. Critically, petitioner's  
10 proposed definition strips out the meaning of the  
11 word application: Petitioner proposes that the  
12 wizard application is the utility within an  
13 application. But the purported wizard functionality  
14 cannot be within an application to satisfy the  
15 claim. It must -- it must be the application.  
16 Therefore, petitioner does not -- has not alleged or  
17 established that the discrete steps it points to as  
18 disclosure of this claim limitation constitutes any  
19 application at all. Nor do they constitute an  
20 application under a plain and ordinary meaning of  
21 the word.

22 And then I go on and I explain what  
23 exactly the wizard application discloses and I give  
24 an example of -- or I describe the wizard  
25 functionality from the '142 Patent and then I also

1 H. Ardehali

2 describe how Douglas fails to provide the wizard  
3 application the way it is described in Douglas.

4 Q. What I want to focus on with you,  
5 Dr. Ardehali, is when you state that -- so at the  
6 bottom of 27, the top of 28 you say, But the  
7 purported wizard functionality cannot be within an  
8 application to satisfy the claim, it must be the  
9 application.

10 When you say it must be the application,  
11 are you saying that the wizard application has to be  
12 a stand-alone application?

13 A. I'm saying it has to be the application.

14 Q. What does that phrase mean, it must be  
15 the application?

16 A. Well, I have a section devoted to that  
17 which is section 7(c) and I describe how the wizard  
18 application has to be the application and I try to  
19 explain that here.

20 Q. Sorry. Which section? So I'm on the  
21 same page with you.

22 A. 7(c). So it's page 27.

23 Q. Okay. I see it. You seem to be giving  
24 your position that a wizard application must be the  
25 application. That's your words.

1 H. Ardehali

2 So are you saying that the wizard  
3 application has to be a stand-alone application when  
4 you say must be the application?

5 A. So in paragraph 55 I actually have a code  
6 for '142 Patent that describes embodiment of the  
7 basic functionality. Let me read that to you.

8 In one embodiment by choosing a heading  
9 the service provider, 216, may be presented with  
10 information for specific goals and objectives, 226.  
11 For example, in a behavioral health field, the goals  
12 and objectives, 226, may include areas such as  
13 coping skills, fine motor skills and physical  
14 aggression. The user may utilize a goal wizard or  
15 management function to be able to enter headings as  
16 well as detailed description or narrative associated  
17 with each heading in a hierarchical format. For  
18 example, each of the goals and objectives, 236, may  
19 include a main heading, a start date, a projected  
20 closure date, a goal description and goal narrative  
21 and lead service provider, a data collection method,  
22 email notification, e.g. for individual users  
23 associated with the specific client or information  
24 for the client function and options. Goals may be  
25 opened and closed out at any time and may be viewed

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2 in separate files. Such as active and archived.

3 Then in paragraph 56 I say, The reason  
4 the application disclosed in the '142 Patent is  
5 consistent with the plain and ordinary meaning of  
6 the term wizard and would require active  
7 facilitation of input throughout the sequential and  
8 hierarchical prompts.

9 So this is a sequential entering.  
10 Basically the wizard application takes you through  
11 the process based on the information you provided,  
12 it takes you to the next step. And that's why it's  
13 the application itself. It cannot be, you know,  
14 part of the application.

15 Q. Why can't it be part of the application?  
16 That's the part I'm trying to understand.

17 A. Well, then it wouldn't be the system that  
18 takes you through different steps. You know,  
19 basically what the wizard application is defined in  
20 '142 is a system that takes you from one step to the  
21 next based on your answers. It's in a systemic  
22 hierarchical sequence. So that's not like random  
23 data entry. It is based on, you know a sequence of  
24 information you provide and it takes you to the next  
25 step.

1 H. Ardehali

2 Q. So the quotation you have in paragraph 55  
3 is from the '142 Patent; correct?

4 A. Yes.

5 Q. That quotation does not use the term  
6 wizard application; correct?

7 A. Well, it describes the wizard  
8 functionality. In the quotation I don't -- well,  
9 there is a -- a user may utilize the goal wizard or  
10 management function to be able to enter a heading.

11 So if you're asking me if there is the  
12 term wizard application in this paragraph, I don't  
13 see that, no.

14 Q. And this paragraph is talking about the  
15 functionality of the wizard; correct?

16 A. Yeah. That is basically in the  
17 sequential format, in the hierarchical format.

18 Q. So what in this section '142 in your  
19 opinion would require that the wizard application be  
20 the application, in your words?

21 A. Well, I don't know what else to tell you  
22 besides what I have here. I think I explained it  
23 well in my declaration that it has to be the program  
24 that takes you in a sequential way as you enter the  
25 data. It cannot just be data entry. It is a

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2 hierarchical sequential entry of the data and the  
3 wizard application takes you through that. It's not  
4 just data entry, which is basically the focus of  
5 Douglas or the focus of what is in the petition.

6 Q. So what, in your opinion, is the  
7 difference between a wizard and a wizard  
8 application?

9 A. What's the difference between them?

10 Q. Yes.

11 A. I didn't provide a difference between the  
12 wizard and wizard application in my declaration.  
13 What I'm trying to say is that the wizard  
14 application has to be the application itself.

15 Q. And I'm trying to understand why that is.  
16 Do you have anything else to add beyond  
17 what you've testified so far?

18 A. No. I think my declaration describes it  
19 well that, you know, the wizard application is the  
20 application that takes you through the sequential  
21 data entry based on the information that you give to  
22 the system. It's the application that, you know,  
23 basically tells you or provides you with the next  
24 entry and it's not a random entry data system that  
25 will not require wizard application.

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2 MR. SOLOMITA: Just give me one second.

3 A. Let me just also read you to answer your  
4 question, paragraph 85. The wizard application  
5 disclosed in the '142 Patent is consistent with the  
6 plain and ordinary meaning of the term wizard. And  
7 that would require active facilitation of input  
8 through sequential and hierarchical prompts.

9 (Court reporter requested clarification.)

10 Q. So I understand your testimony regarding  
11 the functionality of the wizard.

12 What I'm trying to understand is, why  
13 couldn't that functionality be part of a general  
14 application, just sort of a section of the code of a  
15 greater application? If you understand my question.

16 MS. SPIRES: Objection. Asked and  
17 answered.

18 A. I don't think I can give you any more  
19 information on that. I think my answer and my  
20 declaration describes that. You know, basically,  
21 paragraphs 81 -- in section C, paragraphs 81 through  
22 89 are my opinions in terms of the wizard  
23 application and why it has to be the application.  
24 And also I describe that in paragraphs 51 through  
25 56.

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2 Q. So in paragraph 84 and a prior paragraph  
3 we talked about the excerpt you provided from the  
4 '142 Patent; correct?

5 A. Yes.

6 Q. And that excerpt does not use the term  
7 wizard application; correct?

8 MS. SPIRES: Objection. Asked and  
9 answered.

10 A. It uses the word or the term, it says,  
11 The user may utilize a goal wizard or management  
12 function. But it doesn't use wizard application in  
13 that paragraph.

14 Q. So aside from the claims of the '142  
15 Patent, are you aware of any instances in the  
16 specification of the '142 that uses the term wizard  
17 application?

18 A. No. But I also want to emphasize in  
19 paragraph 85, I specifically state that the wizard  
20 application disclosed in the '142 Patent is  
21 consistent with the plain and ordinary meaning of  
22 the term wizard. That would require active  
23 facilitation of input through sequential and  
24 hierarchical prompts.

25 Q. So what I'm focusing on is your

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2 statement, The wizard application disclosed in the  
3 '142 Patent.

4 Putting the claim language aside, where  
5 is that term as you have in quotes, the wizard  
6 application disclosed in the '142 Patent?

7 MS. SPIRES: Objection. Asked and  
8 answered.

9 A. I'm using that to explain what the  
10 wizard -- the term wizard means. I'm saying wizard  
11 application which is basically the -- what you have  
12 been talking about, it's just referring to the  
13 ordinary and plain meaning of the term wizard.

14 Q. Again, let me ask you this question, just  
15 so we're clear on the record. The term wizard  
16 application, does it appear in the '142 Patent aside  
17 from the claim language, according to your  
18 understanding?

19 MS. SPIRES: Objection. Asked and  
20 answered.

21 A. Well, for that I have to go through the  
22 whole patent. But in that paragraph I don't see the  
23 word or the term wizard application mentioned.

24 Q. Okay. So moving on to what you say the  
25 petition is arguing for the term wizard application.

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2 Let's go back to paragraph -- bear with me a moment  
3 53, is it?

4 Paragraph 53 you say, The petition  
5 presumes instruction of the term, quote, wizard  
6 application, close-quote, which petitioner argues  
7 means, quote, interactive health utility within an  
8 application that guides the user through each step  
9 of a particular task, close-quote.

10 Do you see that?

11 A. Yes.

12 Q. So why, in your opinion, is a wizard  
13 application not what the petitioner argues it to  
14 mean?

15 A. Well, what I'm saying is that the  
16 petition presumes a construction of the term wizard  
17 application which petitioner argues means that an  
18 interactive health utility within an application  
19 that guides the user through each step of a  
20 particular task.

21 And then I say, Data Health disagrees  
22 with this proposed construction -- I'm sorry, Data  
23 Health disagrees that this proposed construction is  
24 supported by or consistent with a specification and  
25 petitioner has not attempted to establish that it

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2 is. That's what I'm saying in that paragraph.

3 Q. Okay. And I'm trying to understand  
4 what's wrong with the petitioner's position in your  
5 opinion.

6 A. Well, again, that this proposed  
7 construction is -- I disagree that this proposed  
8 construction is supported by or consistent with the  
9 specification and the petitioner has not  
10 established -- has not attempted to establish that  
11 it is.

12 Q. So is your issue with this quoted  
13 language from the petitioner the phrase, Within an  
14 application, is that the issue you're taking with  
15 the petitioner's position?

16 A. Yes.

17 Q. So you believe that a wizard application  
18 cannot be within an application; is that correct?

19 A. That's what I'm saying. A wizard  
20 application cannot be an interactive health utility  
21 within an application. It must be the application.

22 Q. So if we took out the phrase within an  
23 application, you would be okay with the petitioner's  
24 position; is that correct?

25 MS. SPIRES: Objection. Outside the

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2 scope.

3 A. I haven't opined on that. So I'm not  
4 going to make -- you know, that's not what I'm  
5 saying. I'm basically defining how wizard  
6 application is defined and what it means to me. But  
7 the term -- and I'm saying the way that the petition  
8 defines it is not something I agree with.

9 Q. And your issue, again, is with the phrase  
10 within an application; is that correct?

11 A. Correct.

12 Q. Let's move on in your declaration to  
13 paragraph 92. I think you like to orient yourself  
14 in your declaration according to the headings;  
15 correct?

16 A. Yes.

17 Q. On page 30 of your declaration there's a  
18 subsection D.

19 Do you see that?

20 A. Yes.

21 Q. And this relates to grounds 1 and 2 and  
22 the heading states, Petitioner fails to provide  
23 evidence that any reference discloses or suggests,  
24 quote, wherein the wizard application receives at  
25 least a main heading, a start date, a projected

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2 closure date, and a desired outcome description,  
3 close-quote, claims 4 and 14; correct?

4 A. Yes.

5 Q. And in paragraph 92 you state that  
6 Douglas lacks disclosure of receipt of any wizard  
7 application, close-quote, of at least a, quote,  
8 projected closure date, close-quote.

9 Do you see that?

10 A. Yes.

11 Q. You go on to state, The petitioner does  
12 not propose a construction for this term but the  
13 word closure, in quotes, necessarily requires some  
14 kind of end or finality.

15 Do you see that?

16 A. Yes.

17 Q. And then later on -- I'm just going to  
18 keep going, reading, The '142 Patent confirms the  
19 plain and ordinary meaning of the word applies  
20 describing that, quote, a projected closure date is  
21 the date in which the goal would end, close-quote.  
22 And you cite to the '142 Patent.

23 And then you state, The projected closure  
24 is, quote, utilized to keep users and clients  
25 focused on reaching a designated goal in a

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2 reasonable time period. For example, depending upon  
3 procedural and regulatory parameters, a projected  
4 closure date may be predetermined (e.g. one year) or  
5 may be set by a user or agent specification of time,  
6 paren, e.g., organizational key performance  
7 indicators may be set annually, close paren, close  
8 quotes.

9 Do you see that?

10 A. Yes.

11 Q. So you take issue with the petitioner not  
12 proposing a construction for the word closure  
13 because you say "necessarily requires some kind of  
14 end or finality"; right?

15 A. Yeah. Basically I'm saying that Douglas  
16 lacks disclosure of receipt by any wizard  
17 application of at least the projected closure date.

18 Q. Because there should be some end or  
19 finality to the term closure; correct?

20 A. That's correct.

21 Q. And as an example of the projected  
22 closure date, you cite one year from the '142  
23 Patent; correct?

24 MS. SPIRES: Object to form.

25 A. I say, for example, depending upon

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2 procedural and regulatory parameters, a projected  
3 closure date may be predetermined, e.g., one year or  
4 may be set by user or agent specification of  
5 timeline.

6 Q. So where is there a requirement in the  
7 claims that closure must be some end or finality?  
8 What's the support for your position?

9 MS. SPIRES: Object to form.

10 A. Well, in paragraph 90 I say, Claim 4  
11 depends on claim 3 and requires that the wizard  
12 application receives at least a main heading, a  
13 start date, a projected closure date and a desired  
14 outcome description.

15 Q. All right. In paragraph 92 you're saying  
16 closure requires some kind of end or finality. And  
17 I'm asking for, what's the basis for that position?

18 MS. SPIRES: Objection. Asked and  
19 answered.

20 A. Again, you know, claim 4 talks about a  
21 projected closure date. And closure date means when  
22 something ends. So that's basically what the  
23 projected closure date means.

24 Q. Closure just means some kind of  
25 predetermined date like one year, as you say towards

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2 the end of paragraph 92; correct?

3 A. So what I say at the end of paragraph 92  
4 is, For example, depending upon procedural and  
5 regulatory parameters, the projected closure date  
6 may be predetermined, e.g., one year or may be set  
7 by user or agent specification of timeline. E.g.,  
8 organizational key performance indicators may be set  
9 annually.

10 Q. So projected closure date may be  
11 predetermined, for example, one year; correct?

12 A. That's what I say here, yes.

13 Q. So moving on to paragraph 93, you say,  
14 For this limitation petitioner identifies the word,  
15 quote, one month, close-quote, in the heading of  
16 Douglas's one-month goal, 61, figure 6.

17 Do you see that?

18 A. I see it.

19 Q. And you say, I disagree that Douglas's  
20 one-month goals, 61, constitute a, quote, projected  
21 closure date, close-quote.

22 Do you see that?

23 A. Yes.

24 Q. So the one-month goal 61 in Douglas is a  
25 predetermined date just like the one-year date that

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2 we covered in your prior paragraph; correct?

3 MS. SPIRES: Objection. Argumentive.

4 A. Well, all I'm saying is that one month in  
5 the heading of Douglas's one-month goal 61 in figure  
6 6 and I disagree that this one-month goal  
7 constitutes a projected closure date.

8 Q. But a one-month period is a predetermined  
9 date; correct?

10 MS. SPIRES: Objection. Asked and  
11 answered.

12 A. Well, one month is what's used in that  
13 figure 6 and it's basically a one-month heading,  
14 introducing the heading.

15 Q. A heading for what?

16 A. For one-month goal, 61, in figure 6.

17 Q. So that goal is a one month predetermined  
18 period; correct?

19 A. That's the one-month goal. That's the  
20 extent of what I can tell you.

21 MR. SOLOMITA: Want to take a 10-minute  
22 break.

23 THE WITNESS: Okay.

24 MR. SOLOMITA: We'll get on at 2:15 or  
25 so.

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2 THE WITNESS: Okay.

3 (A recess was taken from 2:06 p.m. CST to  
4 2:14 p.m. CST)

5 Q. Dr. Ardehali, we're almost done. So bear  
6 with me.

7 Let's go to the petition for the '142  
8 Patent which I don't believe we have covered yet.  
9 So I'll put that on the screen. This is paper  
10 number 1 of the 617 IPR proceeding.

11 Do you have that?

12 A. Yes.

13 Q. I'm sorry.

14 A. I said yes.

15 Q. Okay. So let's go to page 34 of paper  
16 number 1 for the '142 IPR number 617.

17 So page 34 discusses claim 6; correct?

18 A. Yes.

19 Q. And in the middle of that paragraph the  
20 petition states, Such intervention plans further  
21 include negative intervention such as, quote,  
22 notifying the physician that goals are not being  
23 met, close-quote, which, quote, must be addressed by  
24 the physician, close-quote.

25 Do you see that?

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2 A. I see that. Yes.

3 Q. So let's go to your declaration for the  
4 617 proceeding, again, 2005. Please turn to  
5 paragraph 100.

6 A. Okay.

7 Q. So in the middle of that paragraph --  
8 feel free to read the rest -- you state, There is no  
9 indication in Douglas that any of those aspects of  
10 Douglas's system, assuming they could be fairly  
11 interpreted as, quote, intervention plans,  
12 close-quote, are received from providers utilizing  
13 computing/communication devices. Petitioner  
14 acknowledges claim 1's requirements for, quote, the  
15 data, close-quote, arguing that such information is,  
16 quote, compiled.

17 Do you see that?

18 A. Yes, I see that.

19 Q. So claim 6 depends from claim 1; is that  
20 correct?

21 A. Yes.

22 Q. So let's take a look at claim 1. I'll  
23 pull up the '142 Patent. And let's go to claim 1.

24 Do you see claim 1 of the '142 Patent?

25 A. Yes.

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2 Q. So there is a compiling step in claim 1.  
3 Do you see that?

4 A. Compiling data associated with at least  
5 performance of the desired outcomes. Is that where  
6 you are?

7 Q. Yeah. So the language is, Compiling data  
8 associated with at least performance of the desired  
9 outcomes by each of the clients received from the  
10 providers utilizing computing or communication  
11 devices in communication with the server.

12 Do you see that?

13 A. Yes.

14 Q. So compiling data, the data is associated  
15 with at least performance of the desired outcomes by  
16 each of the clients.

17 Do you see that?

18 A. Yes.

19 Q. So the data is at least performance of  
20 the desired outcomes; correct?

21 A. The data associated with at least  
22 performance of the desired outcomes, that's correct.

23 Q. So at least means that at least the  
24 performance data is received from the providers;  
25 correct?

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2 A. Well, it just means that if the method of  
3 protracting goal progression and the method is  
4 comprising of compiling data which are associated  
5 with at least performance of the desired outcomes by  
6 each of the claims received from the providers  
7 utilizing completing all communications devices in  
8 communication with the server.

9 Q. So what's received from the providers is  
10 the data associated with at least performance of the  
11 desired outcomes by each of the clients; correct?

12 A. I'm sorry. Can you repeat that question.

13 Q. Right. Do you see how this term has the  
14 language received from the providers?

15 A. Yes.

16 Q. And received from the providers relates  
17 to the data that's associated with at least  
18 performance of the desired outcomes by each of the  
19 clients; correct?

20 A. Correct.

21 MR. SOLOMITA: I'm sorry. I realized I'm  
22 not sharing my screen, am I.

23 A. That's okay.

24 MR. SOLOMITA: I know you're reading  
25 along. Just for everyone else, I want to be

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2 clear.

3 Q. So in this compiling step, there's data  
4 that's received from the providers.

5 Do you see that?

6 A. Yes.

7 Q. And the data is associated with at least  
8 performance of the desired outcomes by each of the  
9 clients; correct?

10 A. Yes.

11 Q. So the at least language means that at  
12 least performance data is received from the  
13 providers; correct?

14 A. I guess the way it's written, it means  
15 compiling data associated at least performance of  
16 the desired outcomes by each of the clients received  
17 from the providers. So at least performance of the  
18 desired outcomes.

19 Q. So the data in claim 1 is the data  
20 associated with at least performance of the desired  
21 outcomes by each of the clients; correct?

22 A. Yes.

23 Q. And that data which is at least  
24 performance of the desired outcome by each of the  
25 clients is received from the providers; correct?

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2 A. Correct.

3 Q. So let's move on to another topic. Let's  
4 stay with the '142 Patent. And I'd like to go to  
5 column 1 on line 17. I'm going to get there. So  
6 column 1, line 17. Let me know when you're there.

7 A. I'm there.

8 Q. So the '142 Patent, this section is the  
9 background; correct?

10 A. Yes.

11 Q. And the background of the '142 Patent,  
12 there's a sentence that says, For example,  
13 organizations and institutions that help individuals  
14 with disabilities and significant emotional or  
15 behavioral challenges have improved their processes  
16 in recent years.

17 Do you see that so far?

18 A. Yes.

19 Q. And it continues on in the '142 Patent  
20 stating, In particular, more individuals with  
21 physical disabilities, autism, chemical imbalances,  
22 mental disorders, behavioral problems, drug  
23 addictions and other conditions are being served  
24 each year.

25 Do you see that?

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2 A. Yes.

3 Q. So the background of the '142 Patent  
4 calls out various treatments including for  
5 individuals with autism; correct?

6 A. Autism is in that sentence, yes. In the  
7 background. Yes.

8 Q. It's individuals with autism; correct?

9 A. Right. So the word autism is in that  
10 sentence you just read.

11 Q. And that sentence talks about individuals  
12 with certain issues including autism; correct?

13 A. Yes, including autism. That's in that  
14 paragraph. Yes.

15 Q. Earlier when we talked about the '142  
16 Patent being directed to tracking goal progression;  
17 correct?

18 A. Right. So in the abstract it talks about  
19 a system method server and computer readable medium  
20 for tracking goal progression, yes.

21 Q. So that system is directed to helping an  
22 individual with these issues that we just discussed;  
23 correct?

24 A. No. That's the background.

25 Q. So what individuals in the '142 Patent

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2 are being assisted with the tracking of goal  
3 progression, what types of individuals?

4 MS. SPIRES: Outside the scope.

5 A. Well, this is not, you know, specific to  
6 a specific group of patients. It's just any  
7 patients -- let me read the abstract again. So it's  
8 basically saying, A system method server computer  
9 readable medium for tracking goal progression.  
10 Input establishing accounts for providers serving  
11 clients is received. Each of the clients is  
12 assigned to one or more of the providers in response  
13 to selection from an administrator. Goals are  
14 established for each of the clients in response to  
15 treatment and assistance required. Data associated  
16 with each of the clients received from the providers  
17 is compiled. A determination is made whether the  
18 goals are being met in response to rules based on  
19 the compiled data. Alerts are automatically  
20 communicated in response to the compiled data  
21 bearing from a threshold to become significant for  
22 one or more of the clients.

23 So that's basically what this patent is  
24 about. And it doesn't talk specifically about any  
25 specific patient.

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2 Q. So the patents in the '142 talks about a  
3 system method server or a computer readable media  
4 for tracking goal progression; correct?

5 A. Right.

6 Q. And the background talks about assisting  
7 individuals with various issues; correct?

8 A. So the background starts by talking about  
9 the ability of organizations, hospitals, schools,  
10 businesses, individuals and others to meet goals is  
11 and always will be a significant challenge. In  
12 particular, it's important to recognize and treat  
13 problems and issues that prevent goals and other  
14 objectives from being achieved.

15 For example, organizations and  
16 institutions that help individuals with disabilities  
17 and significant emotional or behavioral challenges  
18 have improved their processes in recent years. In  
19 particular, more individuals with physical  
20 disabilities, autism, chemical imbalances, mental  
21 disorders, behavioral problems, drug addictions and  
22 other conditions are being served each year.

23 So this is the background. It's  
24 basically just giving us information about what has  
25 been going on, whether the problems in the field and

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2 what other -- you know, what other people or what  
3 other organizations have been doing. As an example  
4 they're talking about patients with autism, patients  
5 with other disabilities, chemical imbalances, mental  
6 disorders. They are giving an example in the  
7 background of the patent.

8 Q. So shortcomings of what's been done  
9 before; is that correct?

10 A. Well, part of it talks --

11 MS. SPIRES: Objection.

12 (Simultaneous speakers.)

13 A. I'm sorry. Go ahead.

14 MS. SPIRES: Go ahead.

15 A. Part of it does. I mean, the background  
16 provides what has been done and what the gaps are.

17 Q. Let's read the second paragraph of the  
18 background.

19 A. Okay.

20 Q. '142 states, However, electronic systems,  
21 equipment, software and processes for tracking,  
22 treating and recording results such as individuals  
23 with special needs have not improved as  
24 significantly. For example, some organizations  
25 still use paper documents and charts to track

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2 individuals' information or a single computing  
3 system available from only one location to enter and  
4 review data. As a result, viewing, updating,  
5 managing and sharing relevant information may be  
6 more difficult than it should be.

7 Do you see that?

8 A. Yes.

9 Q. And the '142 Patent goes about solving  
10 that shortcoming; correct?

11 A. Yeah. They're using examples here. And  
12 they're saying these are some examples of what this  
13 application or what this system will fix.

14 Q. And it will fix as shown on line 29 a  
15 systems for individuals with special needs; correct?

16 A. Well, in that sentence, it's saying that  
17 this is an area that can be improved because they  
18 are saying these patients or the health care for  
19 this group of patients has not improved as  
20 significantly.

21 Q. To be clear, that group is individuals  
22 with special needs; correct?

23 A. It says, Such as for individuals with  
24 special needs, yes.

25 Q. And in the prior paragraph some of those

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2 individuals are listed with various disabilities and  
3 significant emotional or behavioral challenges  
4 including autism; correct?

5 MS. SPIRES: Objection.

6 A. No. That's a completely different  
7 sentence. That paragraph in that sentence says, For  
8 example, organizations and institutions that help  
9 individuals with disabilities and significant  
10 emotional and behavioral challenges have improved  
11 their processes in recent years.

12 These are completely different sentences.

13 Q. But the second paragraph says "however";  
14 correct?

15 A. It starts by saying "however."

16 Q. And it says, However, electronic systems,  
17 equipment, software and processes for tracking,  
18 treating and recording results such as for  
19 individuals with special needs have not improved as  
20 significantly; correct?

21 A. That's what it says, yes.

22 Q. And the prior paragraph, the last  
23 sentence says, Improved assessment, medications,  
24 training, treatment processes and education have  
25 provided solutions for addressing the concerns of

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2 individuals with special needs; correct?

3 A. Sorry. I got lost. It basically says  
4 improved assessment, medications, training,  
5 treatment processes and education have provided  
6 solutions for addressing the concerns of individuals  
7 with special needs.

8 Q. And the individuals with special needs in  
9 that same paragraph you're reading from includes  
10 individuals with autism; correct?

11 MS. SPIRES: Objection. Asked and  
12 answered.

13 A. Okay. So that sentence you're referring  
14 to, it says, In particular, more individuals with  
15 physical disabilities, autism, chemical imbalances,  
16 mental disorders, behavioral problems, drug  
17 addictions and other conditions are being served  
18 each year.

19 So I guess what I don't understand,  
20 you're taking sentences from different sections of  
21 this background and you're trying to connect them to  
22 each other, but they are saying different things.  
23 They were talking about different things. So I  
24 don't know how you're making them link between  
25 special needs and autism in the previous paragraph

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2 when that sentence is talking about, you know,  
3 talking about the different statement.

4 It's just talking about what these  
5 individuals with physical disabilities, autism,  
6 chemical imbalances, mental disorders, behavioral  
7 problems, drug addictions and other conditions are  
8 being served each year. That's what this sentence  
9 is saying. I don't know how you're making that  
10 link.

11 Q. What link do you think I'm trying to  
12 make?

13 A. I don't know. You're taking sentences  
14 from one section and you're trying to link it to  
15 another sentence. But this is a full argument in  
16 the background what is known in the field, what the  
17 gaps are and the sentences are independent.

18 Q. Okay. Your reading of these two  
19 paragraphs in the background, what is the gap or  
20 gaps that the '142 Patent is trying to address?

21 A. Well, that's the background section. So  
22 background tells us what has been done in the past,  
23 what's -- what the difficulties are. And then the  
24 abstract provides you and then the rest of the  
25 patent tells you what gaps this patent fills. But

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2 the background basically tells you what has been  
3 done in the field and how, you know, how some of the  
4 problems that people have faced have been difficult  
5 or challenging to fix.

6 Q. In your own words, what are those  
7 problems that you see in reading the background of  
8 the '142 Patent that this patent is trying to  
9 address?

10 MS. SPIRES: Objection. Outside the  
11 scope.

12 A. Well, I can read you what it says. It  
13 says our, Electronic systems, equipment, software  
14 and processes for tracking, treating and reading  
15 results such as for individuals with special needs  
16 have not improved that significantly. So that's one  
17 area it's telling you has not improved  
18 significantly.

19 Q. Let me stop you there.

20 What's your understanding of individuals  
21 with special needs? What is that group of  
22 individuals?

23 MS. SPIRES: Objection. Outside the  
24 scope.

25 A. Individuals with special needs?

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2 Q. Yes.

3 A. It's individuals with special needs.  
4 That's what it means to me.

5 Q. Would individuals with autism in your  
6 view qualify as individuals with special needs?

7 A. Patients with autism, many of them need  
8 special needs. That's correct.

9 Q. Let's move on to -- let's stay in the  
10 '142 Patent. Let's go to column 4, lines -- line  
11 26. Let me know when you're there.

12 A. I'm there.

13 Q. Okay. So line 26 in column 4 states, The  
14 illustrative embodiment may be applied to distinct  
15 outcome processes and content that involve the same  
16 or similar steps as described herein, such as client  
17 behavior management, educational instruction, school  
18 improvement activities, program evaluation,  
19 organizational key performance indicators, financial  
20 management, weight management, tracking insurance  
21 claims and so forth as used herein the term or is  
22 not mutually exclusive.

23 Do you see that?

24 A. Yes.

25 Q. This section of the '142 Patent talks

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2 about illustrative embodiments that are described  
3 herein and there are some examples such as client  
4 behavior management, educational instruction, school  
5 improvement activities, program evaluation,  
6 organizational key performance indicators, financial  
7 management, weight management, tracking insurance  
8 claims and so forth; correct?

9 A. Yes.

10 MS. SPIRES: Object to form.

11 Q. So same column, let's go to line 65. The  
12 '142 Patent states, in one example the described  
13 embodiments may be utilized to assist and serve  
14 children and adults with disabilities or significant  
15 or emotional or behavioral challenges.

16 Do you see that?

17 A. Yes.

18 Q. And that's actually describing the  
19 embodiments in the '142 Patent that may be used to  
20 assist and serve children, adults with disabilities  
21 or significant emotional or behavioral challenges;  
22 correct?

23 MS. SPIRES: Object to form.

24 A. Well, it's just -- again, it says, In one  
25 example, the described embodiments may be utilized

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2 to assist and serve children and adults with  
3 disabilities or significant emotional or behavioral  
4 challenges.

5 Q. And then that paragraph goes on to say,  
6 The embodiments may be utilized in a patient  
7 centered model to provide continuous or -- I'm  
8 sorry, and coordinated services from early  
9 intervention, short-term stabilization and  
10 residential services to substance abuse treatment,  
11 outpatient services, educational and career and  
12 technical training. The illustrative embodiments  
13 may also be utilized for program for organizational  
14 evaluation; correct?

15 A. Or organizational evaluation. Yes.

16 Q. Okay.

17 Let's turn to your declaration for the  
18 '142 Patent, paragraph 157. Let me know when you  
19 get there.

20 A. Yes, I'm there.

21 Q. You're much faster than I am. So  
22 paragraph 157 is under the subheading M, grounds 7  
23 and 8, Virginia is not analogous art, all claims;  
24 correct?

25 A. Yes.

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2 Q. So in that paragraph 157 you're quoting  
3 the Virginia reference which, for the record,  
4 Virginia is Exhibit 1022; is that correct?

5 A. Yes.

6 Q. You start this paragraph saying, Virginia  
7 is entitled, "Autism Spectrum Disorders and the  
8 Transition to Adulthood," close-quote; correct?

9 A. Yes.

10 Q. And then you say, "And describes that,"  
11 you give a quote from Virginia as follows. Quote,  
12 in this guide we discuss the issues, challenges and  
13 strategies that are involved in helping young people  
14 like Dan fully participate in society. Our focus in  
15 this guide is about what young people with autism  
16 can do and how to design the supports to expand  
17 opportunity and potential. The chapters in this  
18 guide will describe how to help persons with autism  
19 move from adolescence to adulthood and overcome the  
20 barriers that their disability presents,  
21 close-quote.

22 Is that correct?

23 A. Yes.

24 Q. And you're citing from page 6 of  
25 Exhibit 122 which is Virginia; correct?

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2 A. Yes.

3 Q. So let's go to the petition which is  
4 paper number 1. And if you could get to page 67,  
5 please.

6 A. Okay.

7 Q. Page 67, there's a subsection E which  
8 relates to grounds 7 and 8 for Douglas and Virginia,  
9 it's ground 7, Douglas-Wager and Virginia ground 8  
10 and whether those combinations render claim 9  
11 obvious; correct?

12 A. Yes.

13 Q. Sorry?

14 A. Yes, I said.

15 Q. So the first subsection, Virginia  
16 overview, the petition states, Virginia, quote,  
17 describes how to help persons with autism,  
18 close-quote, end-quote, acquiring skills that will  
19 increase their success in adulthood, close-quote.  
20 And there's a citation to Virginia.

21 Do you see that?

22 A. Yes.

23 Q. The next sentence states, Specifically  
24 Virginia utilizes a minimum growth line, quote, MGL,  
25 close-quote, based approach.

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2 Do you see that?

3 A. Yes.

4 Q. And that cites to Virginia at 27.

5 Do you see that?

6 A. Yes.

7 Q. So would you say that Virginia is  
8 directed to goal mastery with a minimum growth line  
9 for autistic individuals?

10 MS. SPIRES: Object to form.

11 A. Well, again, I can read you what the  
12 petition says. I can read you what Virginia says  
13 based on my declaration. But, you know, in my  
14 declaration I say, Virginia is entitled "Autism  
15 Spectrum Disorders and the Transition to Adulthood"  
16 and describes that in this guide we discuss the  
17 issues, challenges and strategies that are involved  
18 in helping young people like Dan fully participate  
19 in society. Our focus in this guide is about what  
20 young people with autism can do and how to design  
21 the supports to expand opportunity and potential.  
22 The chapters in this guide will describe how to help  
23 persons with autism move from adolescence to  
24 adulthood and overcome the barriers and their --  
25 that their disability presents.

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2 Q. So Virginia is directed to helping  
3 individuals with autism; correct?

4 A. That's basically the title. Autism  
5 spectrum disorders and the transition to adulthood.

6 Q. And there's a minimum growth line  
7 approach that's in Virginia; is that correct?

8 A. I remember seeing that.

9 Q. Let me pull up Virginia. I think it will  
10 be easier for us that way. Let me show you  
11 Exhibit 1022 from 617 IPR which is Virginia.

12 Do you recall seeing this exhibit;  
13 Dr. Ardehali?

14 A. Yes.

15 Q. So as you say, the title is "Autism  
16 Spectrum Disorders and the Transition to Adulthood";  
17 correct?

18 A. Yes.

19 Q. So let's go to page 23 of Virginia which  
20 is page 24 out of 72?

21 A. Okay.

22 Q. Do you see that page?

23 A. Yes.

24 Q. There's a title in the upper left for a  
25 section called measurable goals?

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2 A. Yes.

3 Q. And there are goals that are listed on  
4 the left side, numbers 1 through 5, in that first  
5 paragraph under the title measurable goals; is that  
6 correct?

7 A. Yes. It says a measure goal has five  
8 components and they are and there's a list of five  
9 components.

10 Q. So under that title, Measurable goals,  
11 Virginia states, once the team has identified the  
12 general curriculum, components needed for a  
13 transition aged student with ASD to move closer to  
14 their future vision, the next task is to convert  
15 those general ideas into measurable annual goals;  
16 correct?

17 A. That's what it says, yes.

18 Q. What's your understanding of the term  
19 ASD?

20 A. That's consistent with autism.

21 Q. Do you know what the full term stands  
22 for?

23 A. I believe it's autistic spectrum disease.  
24 Let me find it. I'm not a psychiatrist. So I  
25 apologize. I have to go back to my -- ASD is autism

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2 spectrum disorder.

3 Q. So this section we read from in Virginia  
4 teaches goals for individuals with autism; correct?

5 A. It talks about measurable goals for these  
6 patients, yes.

7 Q. And the idea is to have those individuals  
8 with autism satisfy those measurable annual goals;  
9 correct?

10 MS. SPIRES: Object to form.

11 A. It's basically once the team has  
12 identified the general curriculum components needed  
13 for a transition age student with ASD to move closer  
14 to their future vision, the next path is to convert  
15 those general ideas into measurable annual goals.  
16 Because of the learning profiles of students with  
17 ASD, student teams need to collect data to verify  
18 acquisition of skills. Thus, the design of the goal  
19 is very important. A measurable goal has five  
20 components and they list as five components of the  
21 measurable goal.

22 Q. So my question was, Virginia's teaching  
23 goals to be satisfied by autism -- autistic  
24 individuals in order to, quote, move closer to their  
25 future vision, close-quote; is that correct?

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2 MS. SPIRES: Object to form.

3 A. Yeah. Basically it talks about  
4 converting general ideas into measurable annual  
5 goals to move them closer to their future vision.

6 Q. And the next paragraph which begins  
7 below, do you see that?

8 A. Yes.

9 Q. It says, Virginia says below is an  
10 example of a measurable goal that meets all of these  
11 requirements for a student who is in a functional  
12 skills curriculum and it lists five items.

13 Do you see that?

14 A. Yes.

15 Q. So that's consistent with Virginia  
16 setting up goals for a student who is in a  
17 functional skills curriculum; correct?

18 A. Yes.

19 Q. So let's move on in Virginia to page 27  
20 which is page 28 of 74 in the Exhibit 1022.

21 Do you see that?

22 A. Yes.

23 Q. Figure 4 in Virginia presents a minimum  
24 growth line; is that correct?

25 A. One of the lines is the minimal growth

1 H. Ardehali

2 line.

3 Q. Right.

4 The solid -- I'm not great with colors --  
5 but the solid green line, is that correct, would be  
6 the minimum growth line?

7 A. Yes.

8 Q. What's your understanding of what that  
9 minimum growth line represents in Virginia?

10 A. So it says first, A solid line that  
11 extends across the entire graph. This is called the  
12 minimum growth line. It does not represent actual  
13 data collected. Instead, it is a line by which a  
14 teacher can track whether or not a student's  
15 learning rate is sufficient to master the given  
16 goal. In this case the goal stipulates mastery  
17 criterion of 90 percent corrected by the end of the  
18 teaching period.

19 And then it continues. I don't know if  
20 you want me to read the rest of it.

21 Q. No. That's very helpful.

22 So Virginia is teaching this minimum  
23 growth line to track whether or not a student's  
24 learning rate is sufficient to master a given goal;  
25 is that correct?

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2 A. That's correct.

3 Q. And students here are principally  
4 students with autism; correct?

5 MS. SPIRES: Object to form.

6 A. Virginia's title is "Autism Spectrum  
7 Disorders and the Transition to Adulthood." So I  
8 didn't read the whole document carefully today. But  
9 I'm assuming this is also referring to patients with  
10 ASD.

11 Q. Okay.

12 But in any event, this minimum growth  
13 line in Virginia, it's for a teacher to track  
14 whether or not a student's learning rate is  
15 sufficient to master the given goal; correct?

16 MS. SPIRES: Objection.

17 A. That's what it says.

18 MR. SOLOMITA: Just give me one more  
19 minute to see if I have anything else for you.

20 I don't have any other questions. Sarah,  
21 up to you.

22 MS. SPIRES: Can I just have five minutes  
23 to check and see if I have any.

24 MR. SOLOMITA: Sure.

25 THE WITNESS: Come back at 2:55.

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2 MS. SPIRES: That should be fine.

3 (A recess was taken from 2:51 p.m. CST to  
4 2:54 p.m. CST)

5 MS. SPIRES: I don't have any further  
6 questions.

7 MR. SOLOMITA: Thank you, Dr. Ardehali.  
8 This will conclude the deposition for today.  
9 Appreciate all of your time.

10 (Whereupon, the proceedings were  
11 adjourned at 3:54 p.m. )  
12

13 J U R A T  
14

15  
16 I do hereby certify that I have read  
17 the foregoing transcript of my deposition.  
18

19 \_\_\_\_\_  
20 HOSSEIN ARDEHALI, M.D.  
21

22 Sworn and subscribed

23 before me this \_\_\_\_\_ day of

24 \_\_\_\_\_, 2025.

25 A Notary Public of the State of \_\_\_\_\_

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CERTIFICATE

STATE OF NEW YORK )

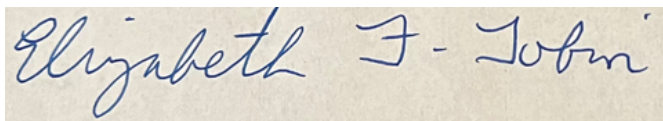
) ss.

COUNTY OF SUFFOLK)

I, Elizabeth F. Tobin, a Registered Professional Reporter and Notary Public within and for the State of New York, do hereby certify:

That Hossein Ardehali, M.D., the witness whose deposition is hereinbefore set forth, was duly sworn by me remotely and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.



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ELIZABETH F. TOBIN, RPR

## ERRATA

| PAGE/LINE | CHANGE/REASON           |
|-----------|-------------------------|
| 1/1       | Initial Review          |
| 2/1       | Minor edits for clarity |
| 3/1       | Added references        |
| 4/1       | Formatting changes      |
| 5/1       | Final proofread         |

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