

1 UNITED STATES INTERNATIONAL TRADE COMMISSION
2 WASHINGTON, D. C.
3 Before the Honorable Bryan F. Moore
4 Administrative Law Judge

5
6 In the Matter of:)
7 CERTAIN PHOTODYNAMIC)
8 THERAPY SYSTEMS,)
9 COMPONENTS THEREOF,) Inv. No.
10 AND PHARMACEUTICAL) 337-TA-1411
11 PRODUCTS USED IN)
12 COMBINATION WITH THE)
13 SAME)

14 [REDACTED]
15 [REDACTED]

16
17
18 DEPOSITION OF HERMANN LUEBBERT, PH. D.
19 Friday, December 13, 2024
20 Boston, Massachusetts

21
22 Reporter: MaryJo O'Connor, RDR, RMR

Exhibit #

2088

09/11/25 - JT

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Friday, December 13, 2024

9:39 a.m. EST

DEPOSITION of HERMANN LUEBBERT,
PH.D., held at One International Place, 100
Oliver Street, Suite 3900, Boston,
Massachusetts, pursuant to notice, before
MaryJo O'Connor, Registered Diplomat
Reporter, Registered Merit Reporter and
Notary Public in and for the Commonwealth of
Massachusetts.

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2

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1 I N D E X

2	Deposition of:	Page
3	HERMANN LUEBBERT, ESQ.	
4	By Mr. Ganguly	10, 212
5	By Mr. Larivee	210

6

7 * * * * *

8

9 I N S T R U C T I O N S

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10	19	2
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12	59	18

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14 * * * * *

15 E X H I B I T S

16	No.	Page
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17	Exhibit 1	█
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1	E X H I B I T S		
2	(Continued):		
2	No.		Page
3	Exhibit 2	Document entitled	16
4		"Complainant Sun	
5		Pharmaceutical Industries,	
6		Inc. 's Notice of Deposition	
7		to Hermann Luebbert"	
8	Exhibit 3	[REDACTED]	
9		[REDACTED]	
10		[REDACTED]	
11		[REDACTED]	
12	Exhibit 4	[REDACTED]	
13		[REDACTED]	
14		[REDACTED]	
15		[REDACTED]	
16	Exhibit 5	[REDACTED]	
17		[REDACTED]	
18		[REDACTED]	
19		[REDACTED]	
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1	E X H I B I T S		
2	(Continued):		
3	No.		Page
3	Exhibit 6	[REDACTED]	[REDACTED]
4		[REDACTED]	
5		[REDACTED]	
6		[REDACTED]	
7		[REDACTED]	
8	Exhibit 7	[REDACTED]	[REDACTED]
9		[REDACTED]	
10		[REDACTED]	
11		[REDACTED]	
12		[REDACTED]	
13	Exhibit 8	[REDACTED]	[REDACTED]
14		[REDACTED]	
15		[REDACTED]	
16		[REDACTED]	
17	Exhibit 9	[REDACTED]	[REDACTED]
18		[REDACTED]	
19		[REDACTED]	
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1	E X H I B I T S		
2	(Continued):		
2	No.		Page
3	Exhibit 10	[REDACTED]	[REDACTED]
4		[REDACTED]	
5		[REDACTED]	
6		[REDACTED]	
7		[REDACTED]	
8	Exhibit 11	[REDACTED]	[REDACTED]
9		[REDACTED]	
10		[REDACTED]	
11		[REDACTED]	
12		[REDACTED]	
13	Exhibit 12	United States Patent No.	142
14		11,235,169 B1	
15	Exhibit 13	[REDACTED]	[REDACTED]
16		[REDACTED]	
17		[REDACTED]	
18		[REDACTED]	
19	Exhibit 14	[REDACTED]	[REDACTED]
20		[REDACTED]	
21		[REDACTED]	
22		[REDACTED]	

1	E X H I B I T S		
2	(Continued):		
2	No.		Page
3	Exhibit 15	Photograph, Bates	177
4		SUN_ITC_0163161	
5	Exhibit 16	[REDACTED]	[REDACTED]
6		[REDACTED]	
7	Exhibit 17	[REDACTED]	[REDACTED]
8		[REDACTED]	
9		[REDACTED]	
10	Exhibit 18	[REDACTED]	[REDACTED]
11		[REDACTED]	
12		[REDACTED]	
13	Exhibit 19	Photograph, Bates	186
14		SUN_ITC_0163151	

NOTE: Exhibit 17 retained by Attorney
Larivee

* * * * *

1 PROCEEDINGS

2

09:39:41 3 MR. GANGULY: This is Tuhin
09:39:42 4 Ganguly from the law firm Desmarais LLP
09:39:45 5 on behalf of complainant Sun
09:39:48 6 Pharmaceuticals in ITC Investigation
09:39:50 7 No. 1411.

09:39:55 8 MR. LARIVEE: Brian Larivee on
09:39:57 9 behalf of the witness, Hermann Luebbert,
09:40:03 10 Biofrontera, Inc., Biofrontera AG,
09:40:03 11 Biofrontera Bioscience GmbH, and
09:40:03 12 Biofrontera Pharma GmbH. And with me is
09:40:09 13 Kendall Gurule.

14

15 HERMANN LUEBBERT, PH.D.,
16 having been satisfactorily identified by a
17 German drivers license and duly sworn by the
18 Notary Public, was examined and testified as
19 follows:

20 EXAMINATION

09:40:11 21 BY MR. GANGULY:

09:40:11 22 Q. Could you please introduce

09:40:13 1 yourself for the record?

09:40:14 2 A. My name is Hermann Luebbert.

09:40:18 3 Q. And -- Dr. Luebbert, where do you
09:40:21 4 currently work?

09:40:22 5 A. I work at Biofrontera, Inc.

09:40:32 6 Q. Where do you currently live?

09:40:34 7 A. I live in Germany.

09:40:37 8 Q. Dr. Luebbert, have you ever been
09:40:39 9 deposed before?

09:40:40 10 A. Yes.

09:40:40 11 Q. When was the last time you were
09:40:43 12 deposed?

09:40:45 13 A. It was -- um. Well, by your law
09:40:45 14 firm, so.

09:40:45 15 (Court reporter clarification)

09:41:00 16 A. It was by the same law firm, the
09:41:03 17 same company suing us. Maybe three years ago.
09:41:06 18 I don't know.

09:41:06 19 Q. So the last time you were deposed
09:41:09 20 was in a case between Sun Pharma and
09:41:14 21 Biofrontera, right?

09:41:15 22 A. Correct.

10:47:12 1 [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
10:47:31 5 Dr. Luebbert, during the
10:47:34 6 development of the RhodoLED XL product, did you
10:47:41 7 become aware of any of Sun Pharma's patents
10:47:46 8 that relate to its five-panel LED lamps? And
10:47:50 9 you can answer that "yes" or "no."

10:47:52 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

10:48:21 18 A. Yes.

10:48:29 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11:35:19

1

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

11:35:34

7

Q. And does the distance between the

11:35:37

8

two panels have an effect on the homogeneity of

11:35:42

9

light in the treatment area?

11:35:45

10

A. It can have an effect on

11:35:52

11

homogeneity.

11:36:05

12

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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11:39:00 1 [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

11:39:37 10 Q. And so you mentioned that the
11:39:48 11 cables for the panels have to go somewhere,
11:39:51 12 right?

11:39:52 13 A. (Nods.)

11:39:54 14 Q. The fifth sentence here says:
11:39:55 15 "One risk that should be
11:39:57 16 considered is that the area for cables
11:40:02 17 which lead from panel to panel is too
11:40:05 18 small which could result in a very
11:40:08 19 burdensome assembly of the device."

11:40:11 20 Do you see that?

11:40:12 21 A. (Nods.)

11:40:14 22 Q. Do you have an understanding of

11:40:15 1 what that statement is conveying?

11:40:16 2 A. Well, my understanding of this is
11:40:22 3 that if the distance between two panels is so
11:40:30 4 small that the cables actually can be damaged
11:40:38 5 by the panels.

11:40:40 6 Q. Okay. And so --

11:40:42 7 A. So you don't want to be too close
11:40:44 8 with those panels.

11:40:45 9 Q. Right. Because in a multi-panel
11:40:49 10 system, you have to route cables from panel to
11:40:51 11 panel, correct?

11:40:52 12 A. Yes.

11:40:52 13 Q. Okay. And then one of the
11:40:58 14 concerns there is that the cables that pass
11:41:01 15 from one panel to the other could be damaged in
11:41:06 16 the typical use of the product, correct?

11:41:11 17 A. That certainly has to be
11:41:12 18 considered, yes.

11:41:12 19 Q. Now, the RhodoLED XL has five
11:42:07 20 panels connected by hinges that can be arranged
11:42:13 21 into, I guess, like a C-shape, right? Into a
11:42:20 22 curve shape, correct?

11:42:21 1 A. Correct.

11:42:21 2 Q. Now, if instead of using five

11:42:26 3 hinged panels, you use the single curved panel,

11:42:29 4 then you wouldn't really have this issue with

11:42:33 5 routing wires from one panel to the other to

11:42:37 6 deal with, right?

11:42:39 7 A. Yes.

11:42:41 8 Q. That's correct, right?

11:42:43 9 A. That's correct.

11:42:57 10 [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

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[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[illegible]

1. **Identify the main components of the system.**

Figure 1

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02:02:37 | 16 Q. Okay. And if we look down near

02:02:40 | 17 the bottom, there is a heading 4.3, "Cable

02:02:47	18	routing LED panel housing. "
----------	----	------------------------------

02:02:49	19	Do you see that?
----------	----	------------------

02:02:50	20	A.	Yes.
----------	----	----	------

02:02:51 | 21 Q. And so under here, the sentence

02:02:53	22	reads:
----------	----	--------

02:02:53 1 "Problems with the cable routing
02:02:54 2 are lack of space, no accessibility for
02:02:57 3 the user and the high bending radius due
02:03:00 4 to the foldable panel."

02:03:01 5 Do you see that?

02:03:02 6 A. Yes.

02:03:02 7 Q. So earlier today, we talked about
02:03:07 8 how in the five-panel system you have to route
02:03:11 9 wires from one panel to the other.

02:03:13 10 Do you recall that?

02:03:14 11 A. I do.

02:03:14 12 Q. And so is this discussing some of
02:03:16 13 the challenges that come with having to route
02:03:22 14 wires from one panel to another in a five-panel
02:03:25 15 system?

02:03:25 16 A. Yes.

02:03:50 17

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

02:19:02

1

[REDACTED]

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[REDACTED]

02:21:43

19

Q. Right. Got it. So the total

02:21:45

20

quantity of lamps that you're selling is

02:21:47

21

increasing, I guess, year-over-year, or

02:21:50

22

whatever period you're thinking about. But

02:21:53	1	currently, it seems like you're actually
02:21:56	2	selling more of the XL as compared to the older
02:21:59	3	lamp, right?

02:21:59	4	A.	I believe so.
----------	---	----	---------------

02:22:00	5			
----------	---	--	--	--

_____ | _____ | _____ | _____

1. NAME: _____ 2. DATE: _____ 3. TIME: _____ 4. LOCATION: _____ 5. REASON: _____ 6. REMARKS: _____ 7. SIGNATURE: _____ 8. DATE: _____ 9. TIME: _____ 10. LOCATION: _____ 11. REASON: _____ 12. REMARKS: _____ 13. SIGNATURE: _____ 14. DATE: _____ 15. TIME: _____ 16. LOCATION: _____ 17. REASON: _____ 18. REMARKS: _____ 19. SIGNATURE: _____ 20. DATE: _____ 21. TIME: _____ 22. LOCATION: _____ 23. REASON: _____ 24. REMARKS: _____ 25. SIGNATURE: _____ 26. DATE: _____ 27. TIME: _____ 28. LOCATION: _____ 29. REASON: _____ 30. REMARKS: _____ 31. SIGNATURE: _____ 32. DATE: _____ 33. TIME: _____ 34. LOCATION: _____ 35. REASON: _____ 36. REMARKS: _____ 37. SIGNATURE: _____ 38. DATE: _____ 39. TIME: _____ 40. LOCATION: _____ 41. REASON: _____ 42. REMARKS: _____ 43. SIGNATURE: _____ 44. DATE: _____ 45. TIME: _____ 46. LOCATION: _____ 47. REASON: _____ 48. REMARKS: _____ 49. SIGNATURE: _____ 50. DATE: _____ 51. TIME: _____ 52. LOCATION: _____ 53. REASON: _____ 54. REMARKS: _____ 55. SIGNATURE: _____ 56. DATE: _____ 57. TIME: _____ 58. LOCATION: _____ 59. REASON: _____ 60. REMARKS: _____ 61. SIGNATURE: _____ 62. DATE: _____ 63. TIME: _____ 64. LOCATION: _____ 65. REASON: _____ 66. REMARKS: _____ 67. SIGNATURE: _____ 68. DATE: _____ 69. TIME: _____ 70. LOCATION: _____ 71. REASON: _____ 72. REMARKS: _____ 73. SIGNATURE: _____ 74. DATE: _____ 75. TIME: _____ 76. LOCATION: _____ 77. REASON: _____ 78. REMARKS: _____ 79. SIGNATURE: _____ 80. DATE: _____ 81. TIME: _____ 82. LOCATION: _____ 83. REASON: _____ 84. REMARKS: _____ 85. SIGNATURE: _____ 86. DATE: _____ 87. TIME: _____ 88. LOCATION: _____ 89. REASON: _____ 90. REMARKS: _____ 91. SIGNATURE: _____ 92. DATE: _____ 93. TIME: _____ 94. LOCATION: _____ 95. REASON: _____ 96. REMARKS: _____ 97. SIGNATURE: _____ 98. DATE: _____ 99. TIME: _____ 100. LOCATION: _____ 101. REASON: _____ 102. REMARKS: _____ 103. SIGNATURE: _____ 104. DATE: _____ 105. TIME: _____ 106. LOCATION: _____ 107. REASON: _____ 108. REMARKS: _____ 109. SIGNATURE: _____ 110. DATE: _____ 111. TIME: _____ 112. LOCATION: _____ 113. REASON: _____ 114. REMARKS: _____ 115. SIGNATURE: _____ 116. DATE: _____ 117. TIME: _____ 118. LOCATION: _____ 119. REASON: _____ 120. REMARKS: _____ 121. SIGNATURE: _____ 122. DATE: _____ 123. TIME: _____ 124. LOCATION: _____ 125. REASON: _____ 126. REMARKS: _____ 127. SIGNATURE: _____ 128. DATE: _____ 129. TIME: _____ 130. LOCATION: _____ 131. REASON: _____ 132. REMARKS: _____ 133. SIGNATURE: _____ 134. DATE: _____ 135. TIME: _____ 136. LOCATION: _____ 137. REASON: _____ 138. REMARKS: _____ 139. SIGNATURE: _____ 140. DATE: _____ 141. TIME: _____ 142. LOCATION: _____ 143. REASON: _____ 144. REMARKS: _____ 145. SIGNATURE: _____ 146. DATE: _____ 147. TIME: _____ 148. LOCATION: _____ 149. REASON: _____ 150. REMARKS: _____ 151. SIGNATURE: _____ 152. DATE: _____ 153. TIME: _____ 154. LOCATION: _____ 155. REASON: _____ 156. REMARKS: _____ 157. SIGNATURE: _____ 158. DATE: _____ 159. TIME: _____ 160. LOCATION: _____ 161. REASON: _____ 162. REMARKS: _____ 163. SIGNATURE: _____ 164. DATE: _____ 165. TIME: _____ 166. LOCATION: _____ 167. REASON: _____ 168. REMARKS: _____ 169. SIGNATURE: _____ 170. DATE: _____ 171. TIME: _____ 172. LOCATION: _____ 173. REASON: _____ 174. REMARKS: _____ 175. SIGNATURE: _____ 176. DATE: _____ 177. TIME: _____ 178. LOCATION: _____ 179. REASON: _____ 180. REMARKS: _____ 181. SIGNATURE: _____ 182. DATE: _____ 183. TIME: _____ 184. LOCATION: _____ 185. REASON: _____ 186. REMARKS: _____ 187. SIGNATURE: _____ 188. DATE: _____ 189. TIME: _____ 190. LOCATION: _____ 191. REASON: _____ 192. REMARKS: _____ 193. SIGNATURE: _____ 194. DATE: _____ 195. TIME: _____ 196. LOCATION: _____ 197. REASON: _____ 198. REMARKS: _____ 199. SIGNATURE: _____ 200. DATE: _____ 201. TIME: _____ 202. LOCATION: _____ 203. REASON: _____
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03:13:32

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED] [REDACTED]

03:14:30

21

Q. And so that means that if a panel

03:14:33

22

is less than 4.3 inches from the treatment

03:14:37 1 surface, for example, if it is at 4 inches, the
03:14:42 2 user can still start a treatment and the panel
03:14:45 3 will turn on, right?

03:14:46 4 A. Yes.

03:14:49 5 Q. Why is that?

03:14:53 6 A. Because during the treatment, the
03:15:01 7 patient -- you cannot keep the patient so
03:15:06 8 stable that the patient is always exactly in
03:15:09 9 the same position. And you don't want to have
03:15:14 10 the treatment interrupted every time the
03:15:17 11 patient does this (gestures).

03:15:21 12 However, treating at 4 inches is
03:15:23 13 not approved by the FDA. It's not tested, and
03:15:27 14 it shouldn't be done. But this is -- this
03:15:32 15 relates to the entire treatment being done at
03:15:38 16 4 inches, so if the patient does this
03:15:41 17 (gestures), then the treatment isn't
03:15:46 18 interrupted.

03:15:47 19 Q. Right. So because patients move
03:15:56 20 around during treatments, the distance between
03:15:59 21 the panel and the treatment surface isn't going
03:16:01 22 to stay constant during the entire

03:16:04 1 13-and-a-half-minute treatment, right?

03:16:06 2 A. Right.

03:16:06 3 Q. Sometimes it may be a little
03:16:09 4 further away; sometimes it may be closer,
03:16:12 5 correct?

03:16:12 6 A. Correct.

03:16:16 7 Q. And so the reason that the panels
03:16:21 8 don't automatically turn off if you're less
03:16:24 9 than 4.3 or greater than 5.4 is because the
03:16:31 10 treatment would constantly be interrupted
03:16:33 11 because the patient is not always in the exact
03:16:35 12 same position, right?

03:16:37 13 A. Right.

03:16:45 14 [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

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Q. Okay. So we've talked about some

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of the advantages of the RhodoLED XL as

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compared to the old BLU-U light. You said

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there were some disadvantages. What were you

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talking about?

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A. The disadvantages are that the old

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BLU-U doesn't have to be adjusted. So it was

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the same; the patient comes in, puts their hand

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in, and there we go -- or head in, and there we

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go. A bend structure doesn't pose some of the

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issues that a panel structure with several

04:29:30 1 panels.

04:29:31 2 Q. And you'll have to -- you'll have
04:29:34 3 to explain that to me. What are the issues
04:29:39 4 that you were thinking of?

04:29:41 5 A. To get homogeneity in the corners
04:29:49 6 or in an arrangement that has automatically a
04:29:57 7 different distance at the edge. So if you're a
04:30:05 8 round structure, you won't have these issues.

04:30:08 9 Q. So if you have a single curved
04:30:11 10 structure, you don't have the issues that are
04:30:12 11 caused by, I'll call them, the gaps between
04:30:16 12 individual connected panels. That's what
04:30:19 13 you're referring to?

04:30:20 14 A. Yes.

04:30:20 15 [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

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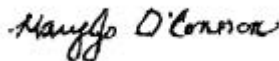
COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

I, MaryJo O'Connor, a Notary Public
in and for the Commonwealth of
Massachusetts, do hereby certify:

That HERMANN LUEBBERT, PH.D., the
witness whose testimony is hereinbefore set
forth, was duly sworn by me and that such
testimony is a true and accurate record of
my stenotype notes taken in the foregoing
matter to the best of my knowledge, skill
and ability.

IN WITNESS WHEREOF, I have hereunto
set my hand and Notarial Seal this 19th day
of December 2024.



MARYJO O'CONNOR, RDR/RMR
Notary Public

My Commission expires:
September 12, 2025