

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

----- x
: DANIEL COHEN, ET AL., : Docket Number: 2018 CAM 006284
: :
: Plaintiffs, :
: :
: vs. :
: :
: MEDSTAR WASHINGTON HOSPITAL :
: CENTER, :
: :
: Defendant. :
: :
: Friday, December 20, 2019
----- x Washington, D.C.

The above-entitled action came on for a hearing
before the Honorable FLORENCE PAN, Associate Judge, in
Courtroom Number 415.

APPEARANCES:

On Behalf of the Plaintiffs:

PATRICK MALONE, Esquire
AL CLARKE, Esquire
LIBYA O'CONNOR, Esquire
Washington, D.C.

On Behalf of the Defendant:

CRYSTAL DEESE, Esquire
PAMELA DIEDRICH, Esquire
Washington, D.C.

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P R O C E E D I N G S

1
2 THE DEPUTY CLERK: Your Honor, calling Number 11
3 on your calendar. Calling the matter of Daniel Cohen et
4 al versus Medstar Washington Hospital Center, Case Number
5 2018 CA 6284.

6 Parties, please step forward and state your
7 names for the record.

8 MR. MALONE: Good morning. Your Honor, my name
9 is Patrick Malone. I'm here with my associate Al Clarke
10 and our new associate Libya O'Connor.

11 THE COURT: Good morning.

12 MS. O'CONNOR: Good morning.

13 MR. MALONE: Do you want me to start talking
14 or --

15 THE COURT: No. They haven't identified
16 themselves for the record.

17 MR. MALONE: Okay, sorry.

18 MS. DEESE: Good morning, Your Honor, Crystal
19 Deese on behalf of Medstar Washington Hospital Center.

20 THE COURT: Good morning.

21 MS. DIEDRICH: Good morning, Your Honor, Pamela
22 Diedrich on behalf Medstar Washington Hospital.

23 THE COURT: Good morning. All right. So this
24 case is before the Court on an opposed motion for
25 sanctions. There was a motion to amend the complaint,

1 which I understand has been resolved and that motion's
2 withdrawn, correct?

3 MR. MALONE: Yes, Your Honor.

4 THE COURT: There's also a motion to file a
5 surreply that was filed. I'll just say that I read the
6 filings in this case and I guess I'm a little displeased
7 that we have to be here for something like this. And I'll
8 just put that on the record now.

9 I think that I've discussed with the parties at
10 a previous hearing that I don't think things should be
11 brought before me unless they really need to be, and I've
12 now read a 44-page motion for sanctions. And then I've
13 received this week on the eve of the hearing a motion to
14 file a surreply that was not a surreply, which would
15 require me to read additional pages and I'll say that I'm
16 going to deny the motion to file the surreply and I don't
17 think it was procedurally proper and I saw no reason why
18 substantive arguments that respondent to the motion for
19 sanctions to be included in a surreply. And so the motion
20 to file a surreply is denied and I have not looked at that
21 filing.

22 So let's proceed with the motion for sanctions.
23 It's your motion, Mr. Malone, and I would say I've read
24 your 44-page motion and if there's anything you want to
25 call my attention to, that's fine. Are you going to

1 handle this, Ms. O'Connor?

2 MS. O'CONNOR: No, that's fine. Forgive me, I
3 was starting off the --

4 THE COURT: Yes.

5 MR. MALONE: I want to show you --

6 THE COURT: You can be seated.

7 MR. MALONE: I want to show you a few things
8 on --

9 THE COURT: Right.

10 MR. MALONE: -- video that will take less than
11 ten minutes.

12 THE COURT: Okay. I will say that you submitted
13 a videotape. We were not able to watch any of it. It
14 didn't work with the Court's computers. My law clerks
15 tried.

16 MR. MALONE: Okay. Well, I think then it's
17 important to actually show you just a little bit of
18 this --

19 THE COURT: Okay.

20 MR. MALONE: -- because the transcript itself
21 doesn't convey totally the tenor and the what we were up
22 against.

23 If I could just backtrack for a second. I feel
24 like you do. I really don't want to be here right now. I
25 have never done this in my life. Thirty-four years I have

1 been a trial lawyer. I have never had to do anything
2 remotely like this. You offered to consider sanctions for
3 the protective order last time I was here in August. I
4 said no, let's wait. Let's, you know, hopefully I think I
5 said let's get a good faith deposition and then, you know,
6 maybe we can let it go. I want to deal with substance.

7 But here we are, on December the 20th, talking
8 about a deposition that we noticed for the first time in
9 March of this year. And then we had this deposition on
10 October 3rd and I don't want to belabor the point, but I
11 just feel that I had no choice but to file this motion.

12 The thing this week with the server play was
13 just in keeping with the same approach of, you know, rules
14 don't apply to us, they apply to other people.

15 So if I can just show you a few quick excerpts
16 that will convey the aggressive, inappropriate
17 aggressiveness of what went on here.

18 THE COURT: So for the record, this is a
19 videotaped deposition?

20 MR. MALONE: Yes. This is deposition of the 386
21 witness, October 3rd, of the name of the witness is
22 Jelinek, J-E-L-I-N-E-K. He's the chair of radiology at
23 Washington Hospital Center. This first clip is --

24 THE COURT: And this is, on the record, I think
25 Exhibit 4 to your motion?

1 MR. MALONE: Exhibit 1.

2 THE COURT: Oh, Exhibit 1 to your motion.

3 MR. MALONE: Exhibit 1 is the annotated --

4 THE COURT: Oh. The actual videotape was
5 actually --

6 MR. MALONE: The videotape was Exhibit 2.

7 THE COURT: Exhibit 2, okay.

8 MR. MALONE: And I'm sorry it didn't work.

9 MS. DEESE: I know that this is just a motions
10 hearing, but if I could just make an objection for the
11 record. Since your chambers was not able to view the
12 entirety of the video, I don't think it's appropriate to
13 let --

14 THE COURT: Okay.

15 MS. DEESE: -- Mr. Malone just put out excerpts
16 for Your Honor to consider for Your Honor's consideration.
17 The whole thing has to be --

18 THE COURT: Okay. Your objection is noted.

19 MS. DEESE: Thank you.

20 THE COURT: But the disk is in the record. I
21 wasn't able to watch the whole thing, but the transcript
22 is in the record and I have reviewed the transcript, so
23 this is really just to show, I guess, tone. Because I
24 have read the transcript.

25 MR. MALONE: Exactly.

1 THE COURT: Go ahead.

2 MR. MALONE: Okay. So Page 12, Line 11 to Page
3 14, Line 18. Hang on. Oh, we don't have the audio
4 plugged in.

5 MS. O'CONNOR: The tech guy was working earlier.

6 MR. MALONE: Okay. Let's see if it works now.

7 (Thereupon, the audio/visual recording played
8 for the Court was reported, but is not transcribed
9 herein.)

10 MR. MALONE: No, hang on. I'm going to go
11 backwards here.

12 (Thereupon, the audio/visual recording played
13 for the Court was reported, but is not transcribed
14 herein.)

15 MR. MALONE: Oh, I know. Forgive me. We've got
16 a backup.

17 (Pause.)

18 (Thereupon, the audio/visual recording played
19 for the Court was reported, but is not transcribed
20 herein.)

21 MR. MALONE: So this happened early in the
22 deposition and you can see the tone that's being set here.

23 I'm trying to find out ultimately so how many
24 radiologists did you have a couple of years ago, and you
25 know, the normal thing to do is to say well, how many do

1 you have now, and was it the same a couple of years ago?
2 And there's all of this interference and instructions not
3 to answer, which are not allowed under our rules.

4 Let's see here. Let me put the next one up. I
5 have two that go together here. Page 66, Line 11 to Page
6 73, Line 5. Let's just see if I can get that one to go.

7 (Thereupon, the audio/visual recording played
8 for the Court was reported, but is not transcribed
9 herein.)

10 MR. MALONE: So there are a number of false
11 statements here by defense counsel here in Realtime.

12 First of all, I'd like to just show you the
13 screen that we were looking at.

14 THE COURT: I saw it on the videotape. It
15 appeared to me that you had a list of files, which might
16 have put other people's names.

17 MR. MALONE: It was a database, yes.

18 THE COURT: And then you clicked Mr. Cohen's.

19 MR. MALONE: Right.

20 THE COURT: Pulled up his image and there's an
21 objection that I guess the list of other folks was still
22 there, but then you removed the list but kept the image.

23 MR. MALONE: Right.

24 THE COURT: But then there's an objection to the
25 image.

1 MR. MALONE: Right.

2 THE COURT: And I wanted to just show you the
3 image that he was looking at which was image one of
4 thirty. You can see it on the screen, but if you look at
5 it closely, you can, any layperson can see, Your Honor,
6 right there, this is an axial cut through the body like
7 this --

8 THE COURT: Are you just trying to tell me that
9 this is not a female pelvis?

10 MR. MALONE: Yes, ma'am.

11 THE COURT: Okay. Got it.

12 MR. MALONE: Testicles, penis.

13 THE COURT: Yes. I got it.

14 MR. MALONE: So just to make really sure of
15 this, we asked the defense expert, his name is Donald
16 Mitchell, if he had looked at the same sequence and if he
17 could tell that, you know, that this is Mr. Cohen's. We
18 showed him the exact same sequence. He testified he had
19 no problem figuring out that it was Mr. Cohen's. That it
20 was a male pelvis. That it was not a female pelvis. And
21 we asked him to explain well, how does a female pelvis
22 come up there and he explained well, it's the name of the
23 protocol that the radiologists use to set up the technical
24 parameters of the study.

25 THE COURT: So how do you know that's Mr.

1 Cohen's image if it doesn't have his name on it?

2 MR. MALONE: Because it's in the metadata behind
3 this image.

4 THE COURT: I see.

5 MR. MALONE: I printed out the list that goes
6 with it. Defense counsel admitted that it was the correct
7 date and time of February 10, 2017.

8 THE COURT: But in any event, isn't the point
9 really that even if there was a question about that --

10 MR. MALONE: You take the testimony --

11 THE COURT: -- it's not proper, correct. It's
12 not proper to instruct a witness not to answer. You just
13 have to take the testimony --

14 MR. MALONE: Exactly.

15 THE COURT: And that can be objected to later.

16 MR. MALONE: Yes.

17 THE COURT: And then in the event that objection
18 is sustained --

19 MR. MALONE: Sure.

20 THE COURT: -- that part of the videotape is
21 just excised.

22 MR. MALONE: Exactly.

23 THE COURT: All right.

24 MR. MALONE: The point, and if I may just hand
25 up this excerpt for the transcript of Dr. Mitchell? It's

1 Pages 81 to 87 of his deposition.

2 MS. DEESE: And I'd just like to my objection
3 for the record. If my surreply can't be considered --

4 THE COURT: Yes. I don't think we need this.

5 MR. MALONE: Okay. That's fine.

6 THE COURT: Objection's sustained.

7 MR. MALONE: I actually mentioned to him, I
8 mentioned this in my reply brief, but I didn't have the
9 transcript right then.

10 THE COURT: The objection's sustained.

11 MR. MALONE: Okay, that's fine.

12 So the other things that were said in here about
13 this HIPAA violation supposedly and making the witness
14 turn away, this is just false, inflammatory, accusatory
15 statements that had no basis in reality. Defense counsel
16 is just making it up as she goes along, allegedly saying
17 oh, these are radiological malpractice patients. They
18 might be Dr. Jelinek's patients. She had no basis for
19 saying that. And --

20 THE COURT: But to be clear, the only thing that
21 was on the screen at that point was just the list of --

22 MR. MALONE: The list of names.

23 THE COURT: The list of names that were in the
24 file, but no medical information was revealed about any of
25 those people?

1 MR. MALONE: Correct. It was --

2 THE COURT: I saw it on the videotape, but it
3 just looked like a list of names and you had highlighted
4 Mr. Cohen, I guess to pull up his images from the list.

5 MR. MALONE: Yes.

6 MS. DEESE: If I may just ask you --

7 THE COURT: You're going to have a chance, Ms.
8 Deese.

9 MR. MALONE: There was one right before it, a
10 fellow named Cherry Holmes and one right after it, a
11 client named Raquel Gambino.

12 THE COURT: It's just names basically.

13 MR. MALONE: Those are just names. We didn't
14 put anything out there about them. I didn't even mention
15 the names --

16 THE COURT: Okay, that's fine.

17 MR. MALONE: -- to the witness, so --

18 THE COURT: That's sufficient for record
19 purposes. Anything else?

20 MR. MALONE: All right. So --

21 THE COURT: So I think this kind of covers your
22 concern at the deposition.

23 MR. MALONE: Well, there's one more that I need
24 to show you, because you have to see the video to see
25 what's going on. And I'll skip one here, but I'll see

1 here. But at Page 108, Line 14 to 109, Line 11 --

2 (Thereupon, the audio/visual recording played
3 for the Court was reported, but is not transcribed
4 herein.)

5 MR. MALONE: Wait. That's the wrong one.

6 (Thereupon, the audio/visual recording played
7 for the Court was reported, but is not transcribed
8 herein.)

9 MR. MALONE: So I just need to show one more
10 that goes with that to prove the falsity of what she was
11 saying right there about no factual predicate. Not that
12 any of this was proper anyway. I'm entitled to ask
13 hypothetical questions, but here's the next piece which is
14 just skip one page; 111, Line 20 to 113, Line 6.

15 (Thereupon, the audio/visual recording played
16 for the Court was reported, but is not transcribed
17 herein.)

18 MR. MALONE: What I was trying to show there is
19 Ms. Deese is sitting on the witness's left. She was
20 shoving in front of him this transcript from Dr. Huang's
21 deposition where she was trying to change my question or
22 change the, redirect the witness to a different, to her
23 theory of what actually was said. And she actually falsely
24 said there that this was Dr. Huang's testimony where he
25 said what was asked, quote, unquote. And she didn't even

1 make it clear to the witness that Dr. Huang was speaking
2 about his custom and not about this case, which if you
3 look at the whole transcript it's very clear.

4 But again, we're so way outside the realm of
5 normal deposition behavior that the mind reels at this. I
6 wound up counting up 38 speaking objections and coaching
7 incidents, 25 instructions not to answer; each and every
8 one of them was improper.

9 In our proposed order we lay out some of the
10 relief we would like and we talk also about why we need to
11 re-depose Dr. Huang briefly because at the time, right
12 before this 386 deposition, we got a key document from
13 them that we've been asking about for a long time, and it
14 reveals what happened to that, to our client's study, and
15 it should have been produced before Dr. Huang's
16 deposition.

17 So we discussed that in the brief and I'll need
18 to go into more details on it, but --

19 THE COURT: So I guess one aspect of your brief
20 was kind of what you covered here, which is just sort of
21 obstructive behavior during the deposition.

22 There's another argument about recently
23 preparing to answer key deposition topics? But I guess
24 that was what steps the hospital took to determine who
25 this radiologist is?

1 MR. MALONE: Right.

2 THE COURT: Is that still on the table?

3 MR. MALONE: Oh yeah, definitely.

4 THE COURT: Do you want to move on to that?

5 MR. MALONE: Well, I think I put what I wanted
6 to tell you in the brief. I didn't see much response in
7 their opposition brief to it.

8 What we proved through this witness was that we
9 first asked the question when we filed the lawsuit, who
10 was the radiologist? We asked that August 2018, a year
11 and some months ago. This witness didn't even find out
12 about the lawsuit. He's the chair of radiology. Didn't
13 find out about the lawsuit until August 2019. And then
14 when we asked him what did you do to help figure out who
15 it was, he basically testified that he didn't do anything,
16 because he assumed that nobody would remember it. From
17 our perspective, there are obvious things that you could
18 do. He had there in the deposition room, over on his
19 left, you can't see it, although we showed it on another
20 point on the video, these great big screens that they use
21 for official reviews of the radiology studies. They are
22 high quality screens. They are much better quality than a
23 laptop.

24 And I asked him, well, you could call this, Mr.
25 Cohen's study up right now on this screen. And he said

1 yes, I could. And of course, that's another blockage
2 where she refused to allow him to do that, falsely
3 claiming that we hadn't asked him to bring the study, but
4 the point currently is for in terms of what they could
5 have done is they could have just put up Mr. Cohen's study
6 on their screen there in their central office in the
7 conference room, send around an e-mail to the staff, and
8 say when you get a chance, come by and take a quick look
9 at this and see if it refreshes your recollection about
10 whether or not you might have reviewed this study, because
11 this is a very unusual finding, this mass in the thing.

12 So, you know, I'm not there to tell them how to
13 do it, but it just seemed like such an obvious thing you
14 would do.

15 You would also maybe ask the guy who did look at
16 the study, although after the fact, why did you look at
17 the study about a month after the surgery? Why not look
18 at the work schedules to see who was there that day? I
19 mean, they did nothing.

20 And there's beaucoup case law on Rule 30(b)(6)
21 that you have to make a reasonable inquiry.

22 THE COURT: Okay.

23 MR. MALONE: Now I'm done here.

24 THE COURT: Okay. Ms. Deese?

25 MS. DEESE: Yes, Your Honor, thank you.

1 I, too, am troubled to be here. I will say I
2 have learned so much about how to improve my pre-30 B 6
3 motions from this experience.

4 When I filed that first motion, I should have
5 asked for a specific ruling from Your Honor to limit the
6 topics to the, to limit the testimony to the topics in the
7 notice. I thought that was implicit in the fact that I
8 filed the motion seeking to preclude the entire
9 deposition, and I was surprised that Mr. Malone went
10 beyond the confines of the notice.

11 So I've learned that next time this happens, I
12 will ask the Court to please be sure to, let's get a
13 ruling on whether the plaintiff can ask questions beyond
14 the scope of the notice.

15 The other thing that I've learned is we should
16 have requested a mediator for this deposition. Mr. Malone
17 noted two more corporate designee depositions; one of
18 Medstar Washington Hospital Center and one of Medstar
19 Medical Group for Wednesday of this week. We were able to
20 work it out when we worked out the amenity complaint
21 issue, and those depositions came off, but before we got a
22 resolution on that, I wrote to him and I said I really
23 think we've got to get some sort of, I know Judge Hooker
24 has done that in the past for people. We need somebody in
25 there to rule on this.

1 The part of the video that Mr. Malone tried to
2 skip across was the beginning of the deposition. It's on
3 Page 14 where this did start off terribly and it was Mr.
4 Malone that started off terribly. I'm sorry to stand up
5 here and talk about him, but I've never had somebody file
6 a 44-page motion attacking me as baselessly and personally
7 as this motion did.

8 I don't have a choice but to point out to Your
9 Honor but on Page 14 Mr. Malone asked a question about
10 2017. At that point, or 2019, I'm sorry. At that point,
11 Your Honor, I'm thinking I've got a motion for a
12 protective order that I filed. I had to produce this
13 witness over my objection and I read that transcript over
14 and over and I talked to Ms. Diedrich who was at that
15 hearing and our understanding was that our expert could
16 testify that our expert witness's opinions, or that our
17 positioning on the imaging interpretation is what our
18 expert witnesses would testify to. So I thought I had a
19 limit.

20 THE COURT: I don't think that's what I ruled.
21 But even if you thought that, I guess there's more of a
22 procedural question about how you would approach it.

23 MS. DEESE: I will and with Your Honor's
24 permission, I will get to that. But my point for here,
25 for Page 14 is, I said but one word, which was today. I'm

1 sorry, I said it on Page 12.

2 Mr. Malone said how many radiologists are on
3 staff here, on Page 12 at Line 11. And all I said was
4 today. And then on Line 19 on Page 12, Mr. Malone set the
5 tone for the deposition, not me. I think he said, please.
6 It doesn't matter today, yesterday. Just give me a
7 ballpark of the number of employees. Mr. Malone talks to
8 me like this all the time, Your Honor. He sends me e-
9 mails that say no, Crystal, you're wrong. After we had a
10 hearing where he asked for you to set the trial date. I
11 think he held his hands up and begged for a trial date and
12 you told him you wouldn't do it unless the parties jointly
13 consented. He sent me an e-mail purporting to me direct
14 that I agreed to set a trial date. I just, I don't think
15 he gets to treat me that way, Your Honor. And then come
16 in here and say I did something wrong.

17 So I agree that the tone of this deposition was
18 poor. I do not agree that it was my fault and I cite Page
19 12 of the deposition for that proposition. So my first
20 point is next time I'll change how I move for a protective
21 order and I'll try and get a mediator and offer to split
22 the cost with opposing counsel, so we won't have to be
23 here in front of Your Honor for this.

24 The second thing is I do want to address the
25 surreply. I understand that Your Honor has ruled. I

1 would just like to make my record, which is that under the
2 case of Akers v. Beal Bank, 760 F. Supp. 2d 1 (D.D.C.
3 2011). It's a discretionary decision to allow the
4 surreply. And the factors that bear on it are is the
5 pleading helpful and is the plaintiff prejudice. And in
6 this case, I would argue that it's very helpful. The
7 HIPAA objection that he says is so meritless is completely
8 set out in the footnote with reference to the CFR's. And
9 if plaintiff wanted more time for more briefing, we don't
10 have a trial date. He could have asked for more time for
11 this hearing. I tried to get it set in January and he
12 wanted an earlier date and pushed for an earlier date.
13 Granted that was before I filed my surreply, but I
14 certainly would have consented to give him more time to
15 file more papers.

16 Lastly, on that point, Your Honor, his reply on
17 Page 1 directly criticizes my opposition for not
18 containing case law. The surreply is in direct response
19 to that.

20 So I understand Your Honor for ruling, but I did
21 want to make the record.

22 THE COURT: So I'll just note, Ms. Deese, that
23 there's a reason why we have briefing schedules. And
24 you're talking about prejudice. I'll tell you it's
25 prejudicial to the Court, because I don't want to read

1 five pleadings. I want to read the three that are
2 provided for in the rule. And you filed your motion to
3 file your surreply four weeks after he filed his reply
4 brief. And it wasn't a surreply. It was a do-over of
5 your opposition.

6 And I mean, I don't know that you all appreciate
7 what goes into managing a case load of 400 cases, but
8 extraordinary briefing like that throws off the way we
9 manage our case load, because we want there to be the
10 three briefings that we know about. And I allocate my
11 time accordingly. And a last minute filing right before a
12 hearing, where there's really no reason for it, like why
13 wasn't this in your opposition? I can't grant that,
14 because I have too many cases to allow this kind of
15 piecemeal, disorganized briefing. It should have all been
16 in your opposition, and it's prejudicial to the Court in
17 its administration of its 400 cases for people to do what
18 you did.

19 So your motion's denied. I know it's at my
20 discretion to grant it, but it's denied for those reasons.
21 Go ahead.

22 MS. DEESE: I appreciate that, Your Honor, but
23 if I may, just for the record, note that even with my
24 surreply I am giving you four less to consider on this
25 than that plaintiff did.

1 THE COURT: They filed a motion to request
2 filing an overlong briefing with reasons why and I gave
3 them permission. You didn't file a motion for more time
4 to file your opposition.

5 You, instead, filed your opposition. They filed
6 a reply. You waited four weeks and three days before the
7 hearing you filed what you purport to call a surreply that
8 wasn't a surreply at all that would have required a lot
9 more work for me to dig through. And it's prejudicial not
10 just to the plaintiff, who did not have a chance to
11 respond in writing, but also the Court in its preparation
12 time, so your motion is denied.

13 MS. DEESE: I understand, Your Honor, fully.
14 The next point I would like to discuss is the direction
15 not to answer and the appropriateness of that.

16 Plaintiff said in the clip you played said the
17 only time it's appropriate to direct a person not to
18 answer is to protect a privilege. But that's not the only
19 time. There are two other times. You can direct your
20 witness not to answer to enforce a judicial limit on the
21 evidence, which that is what I thought we had. I thought
22 we had said at the hearing our expert is going to testify
23 about our position on the imaging by saying, our designee
24 is going to say the answer is what our expert said and our
25 designee said that more than seven times. And still Mr.

1 Malone pushed and pushed and pushed so I felt like I had a
2 judicial limit that said we can consult with our experts
3 about what our position is on this imagining and our
4 designee can say our position is what the experts say.

5 THE COURT: You're taking this farther than what
6 I ruled, Ms. Deese, which is that I thought it was
7 perfectly reasonable for you not to have to answer what
8 your position on that question was until after you had
9 consulted with your experts. That's what I said.

10 And so that's fine and you could have prepared
11 your witness to answer, you know, I'm not prepared to
12 respond to this question yet because we've not yet
13 consulted with our experts. That would have been fine.

14 I think the objection is more to the procedure
15 in which you asserted this.

16 And I will say there are a number of thing where
17 I can see why you would be concerned that an image says
18 female pelvis. I can see if you have a different
19 understanding of what my ruling was for Mr. Malone, that
20 you would want to assert your understanding of my ruling.
21 I think those are all perfectly appropriate concerns for
22 you to have during this deposition.

23 But I think the motion is about the manner in
24 which you asserted those concerns, which do not comport
25 with Rule 30.

1 MS. DEESE: Meaning the direction not to answer,
2 Your Honor?

3 THE COURT: Yes, as well as the speaking
4 objections. Because there are many times where you don't
5 even allow the witness to answer. You start answering.
6 And I don't think that's what the rule contemplates.

7 So it's not really so much the substance. In my
8 view it's not so much the substance of what you were
9 trying to accomplish. It's more of the procedure and the
10 manner in which you did so, which frankly doesn't seem to
11 comport with the rule.

12 MS. DEESE: I do think, Your Honor, under the
13 case of Millennium Inorganic Chemicals Limited v. National
14 Union 2012 Less Law 273717, it's a District of Maryland
15 case from 2012, the direction not to answer in the 30 B 6
16 is described as appropriate to protect the privilege,
17 enforce the judicial limit on the evidence, which is what
18 I thought I had, and/or anticipation of a motion for a
19 protective order.

20 THE COURT: Okay.

21 MS. DEESE: We had a motion --

22 THE COURT: What's the judicial order that
23 support with respect to this female pelvis image?

24 MS. DEESE: That, Your Honor, the female pelvis
25 issue was well beyond what Dr. Jelinek's ability to

1 testify was. He had already said it would take hours to
2 study these images and to give you opinions on the
3 detailed nuances on the radiological images.

4 THE COURT: But you instructed him not to
5 answer.

6 MS. DEESE: And if I may finish? You had
7 already said I would have had to have spent about 17 hours
8 to finish, because that's what your experts did and I
9 didn't spend that. We had already established that the
10 expert reports we had didn't address the specific nuance
11 on the imaging that Mr. Malone was asking about and the
12 witness had already said if that wasn't seven times by
13 then it was already five.

14 Mr. Malone when you're asking me these questions
15 about my interpretation about the imaging, I can only tell
16 you what my answer is that it's based on our experts and
17 what they think.

18 And so my basis for the female pelvis is it was
19 more nuance questioning about a topic that the witness had
20 already said our answer is what our experts would say.
21 And so I thought I was enforcing a judicial limit on the
22 evidence by limiting the questions to the notice and by
23 our ability, which is sanctioned under the law to have our
24 witness rely on and cite other witness's testimony, which
25 is what Dr. Jelinek did.

1 THE COURT: So there was a specific part of this
2 transcript, Ms. Deese, in which --

3 MS. DEESE: Yes, Your Honor.

4 THE COURT: -- I think the first clip that was
5 played. And this was about the 2019 question.

6 MS. DEESE: Yes.

7 THE COURT: Which I thought was kind of an
8 innocuous question. How many radiologists are employed
9 here today?

10 MS. DEESE: Yes.

11 THE COURT: And you said objection, I'm going to
12 direct you not to answer that. And Mr. Malone says you're
13 allowed to instruct a witness not to answer only if it's a
14 matter of privilege.

15 And you said I don't agree. This is a corporate
16 designee deposition notice. He's supposed to address
17 these topics in that. If you can tell me where in this
18 notice he's supposed to testify about 2019 data, I'm happy
19 to reconsider.

20 So isn't that a misunderstanding of what Rule 30
21 says? Because Rule 30 doesn't say that you can instruct a
22 witness not to answer because it's beyond the scope of the
23 deposition notice.

24 MS. DEESE: I don't think that Rule 30 says
25 that, Your Honor, but I do think that there is case law

1 out there that talks about there being a distinction in
2 how Rule 30 is interpreted. There's really a body of case
3 law that talks about Rule 30 allowing the examiner to go
4 beyond the scope of the notice, but there's another set of
5 cases, albeit a minority of cases, but they exist, they
6 are cited in Mr. Malone's paper. It's the Properdel
7 (phonetic sp.) case that says that there's a split among
8 circuits.

9 THE COURT: But you still can't instruct the
10 witness not to answer.

11 MS. DEESE: We had a motion for a protective
12 order. Mr. Malone had already said we're coming back
13 here. We were going to be before Your Honor on the
14 appropriateness of that question.

15 THE COURT: So, Ms. Deese, I think I had already
16 said this, but for the most part your response to this is
17 justifying why you had concerns, but I think the concern
18 is in the procedure that you followed in instructing the
19 witness not to answer.

20 So, for example, in this part of the transcript
21 that we are now discussing, the question was how many
22 radiologists work here? Your concern is this is beyond
23 the scope of the deposition notice, because this is today
24 and not during the time in question, okay?

25 But the rule says you object, the witness

1 answers. And later on we can work out if your objection
2 was sustained or not, but it's not proper to instruct the
3 witness not to answer.

4 MS. DEESE: Again, Your Honor, I would point you
5 back to Page 12 where Mr. Malone said, "Please, it doesn't
6 matter today, yesterday. Just give me your ballpark of
7 the current number of employees."

8 THE COURT: And why does that respond to what
9 I'm asking you? I don't understand why that justifies
10 or --

11 MS. DEESE: To me I felt like Mr. Malone was
12 baiting me at that point and being unnecessarily nasty and
13 I responded by directing the witness not to answer. In
14 hindsight, I should have allowed the witness to answer the
15 question, Your Honor. I should have allowed the question
16 about how many employees we had in 2019 to be answered.

17 But Your Honor, the case law says in the
18 plaintiff didn't get some irrelevant evidence, that's
19 their basis for sanctions. Whether we have the same
20 amount of employees in radiology in 2019 as we have in
21 2017, is completely irrelevant to this case. It has
22 nothing to do with the issues in the case.

23 THE COURT: So we haven't gotten to sanctions
24 yet. I was just trying to get your position on the
25 allegation of the violations of the rule and the claim

1 that you, I guess, were obstructive during this
2 deposition. And I haven't asked Mr. Malone yet about the
3 sanctions. I was going to ask him and then give you a
4 chance to respond.

5 MS. DEESE: All right. So on the direction not
6 to answer, I just want to say my position is that there
7 are three basis for which you can direct a witness not to
8 answer. Number 1 is to direct a privilege. I think that
9 covers the HIPAA thing. There's a question about quality
10 of review later. I think that covers that. So there
11 definitely were some privileged objections not to answer
12 in the transcript.

13 THE COURT: HIPAA is not a privilege, is it?

14 MS. DEESE: I'm sorry?

15 THE COURT: Is HIPAA a privilege?

16 MS. DEESE: It's a privacy right.

17 THE COURT: I don't think it's a privilege.

18 MS. DEESE: I don't think there's any real
19 dispute that it was not appropriate for Mr. Malone to show
20 the witness a listing of all of the radiologic malpractice
21 cases in his office.

22 I did think that this frame showed more than the
23 patient name. I think it had the study type beside it,
24 which is a piece of protective health information under
25 HIPAA, so I think once a health care provider like Dr.

1 Jelinek saw that, I do think that was a HIPAA violation
2 and I do think it was proper to tell the witness to turn
3 away and not to continue participating in that. I do
4 think that's a HIPAA violation.

5 THE COURT: Can an attorney that's not a
6 hospital commit a HIPAA violation?

7 MS. DEESE: I think it was Dr. Jelinek that was
8 committing the HIPAA violation because he is a medical
9 provider who is subject to HIPAA.

10 THE COURT: So he can't look at people's medical
11 information?

12 MS. DEESE: I think --

13 THE COURT: That's a medical violation?

14 MS. DEESE: I do think he has to have patient
15 consent to know that they've had a radiologic study of a
16 certain kind because it tells you that you're looking for
17 something. That's a piece of protective health
18 information.

19 And now we also know their name. I don't
20 remember what other data, but there were several fields
21 there. I don't think it was as benign as just the name.

22 THE COURT: So for the record, the HIPAA
23 violation was what?

24 MS. DEESE: Was that Dr. Jelinek, the health
25 care provider, looked at protected health information that

1 contained names and types of studies that were performed
2 on the patients in violation of 42 CFR 164.402 and
3 160.103.

4 THE COURT: Okay. To finish my argument about
5 not to answer, Your Honor, I think there's three basis;
6 Number 1, protective privilege. Number 2, enforced the
7 judicial limit on evidence. And Number 3, in anticipation
8 of a motion for a protective order. We already had a
9 motion for a protective order. Mr. Malone said on Page 12
10 or 13 of the deposition, we're going to be back in front
11 of Your Honor. We knew we were going to be back here. We
12 knew we were going to ask your rule on these objections.

13 So there were directions not to answer. I do
14 believe they are justifiable as enforcing a judicial limit
15 on the evidence and in anticipation of a hearing on the
16 specific questions.

17 THE COURT: And what about your speaking
18 objections and the alleged coaching?

19 MS. DEESE: I, I, if Your Honor has a specific,
20 I don't, I try, if you look through this deposition, Your
21 Honor --

22 THE COURT: Well, what about the putting Dr.
23 Huang's deposition testimony in front of the Rule 30(b)(6)
24 witness in the midst of questioning by Mr. Malone
25 and interrupting to say what it said in Dr. Huang's

1 testimony?

2 MS. DEESE: I think if we had, you know, the
3 testimony at deposition is supposed to go as it would at
4 trial. If we were at trial and Mr. Malone had asked that
5 question as he did repeatedly, he kept asking the same
6 question. I think that one got asked five or six times. I
7 would have objected and said Your Honor, may we approach?
8 We would have approached. I would have showed you the
9 deposition. I would have said there's no factual
10 predicate for this question. He's asking the witness is
11 Dr. Huang ask the radiologist X. What do you think the
12 radiologist would say? Number 1, Dr. Jelinek has already
13 said I have no idea what the radiologist would have said.
14 I wasn't there.

15 THE COURT: I don't think that was the question.

16 MS. DEESE: I'm sorry?

17 THE COURT: I don't think that was the question.
18 The question was something would the radiologist need an
19 appropriate amount of time to answer that question, which
20 is within the scope of the deposition notice, because that
21 was about procedures and processes at the hospital, and I
22 think they're allowed to inquire, to ask type of medicals,
23 are they not?

24 MS. DEESE: Yes, but I think the question about
25 how long would it take came after a dispute about the

1 hypothetical which is what did Dr. Huang ask the
2 radiologist? I think plaintiff suggested that Dr. Huang
3 would have asked the radiologist do you think this is a
4 seminal vesical mask? When you look at Dr. Huang's
5 testimony, Dr. Huang testified --

6 THE COURT: So Ms. Deese, there was an e-mail
7 that Mr. Malone just showed me that Dr. Huang just sent to
8 Mr. Cohen that said I've consulted with radiology and
9 isn't this question relevant to what would be the
10 procedure, if you consult with radiology, like don't they
11 have to spend a certain amount of time on that? And I
12 guess it's related to this curbside, this supposed
13 curbside consultation, because if that was it, I think the
14 question is was that enough time?

15 So I don't see how this is not relevant. I
16 think that discovery is supposed to be broad. It's
17 supposed to lead to admissible evidence.

18 MS. DEESE: My objection was not that it was
19 irrelevant, Your Honor. It's a two-part question. The
20 first part is what did Dr. Huang say to the radiologist
21 and how much time did the radiologist been working on it
22 is the second part.

23 On the first part, and there's a specific
24 question where I say it's a two-part question, please
25 answer the first part, but don't, for the second part,

1 because the first part, where Mr. Malone says to the
2 witness, assume Dr. Huang asked the radiologist to say it
3 was a seminal vesical mask, Dr. Huang testified yes, this
4 is my habit and custom.

5 THE COURT: But he said assume. He said assume.
6 Why can't he ask that question?

7 MS. DEESE: Because Dr. Huang didn't ask that at
8 all.

9 THE COURT: That's why it's an assumption. He
10 never asserted that Dr. Huang said that.

11 MS. DEESE: In trial --

12 THE COURT: He said assume this. Wait what's
13 the proper procedure. The question's really about the
14 procedure.

15 MS. DEESE: In trial I would object and say Your
16 Honor there's no factual predicate for that question.

17 THE COURT: And I would overrule that objection.

18
19 MS. DEESE: I would have thought you would have
20 sustained the objection because Dr. Huang testified.

21 THE COURT: But the point is you're not allowed
22 to do that because that's why the procedure is, you let
23 the questioning continue, and then later on, you get a
24 ruling, and you don't have to go back and do another
25 deposition. You don't get to decide what the Court's

1 going to rule. You're supposed to make your objection in
2 a non-leading way. The witness is supposed to answer.
3 You can litigate it later.

4 MS. DEESE: I understand that Your Honor,
5 but --

6 THE COURT: But the procedure is not to pull out
7 a transcript and put it in front of the witness. I mean I
8 just don't see how that is proper at all.

9 MS. DEESE: I understand Your Honor is willing,
10 or Your Honor's point. I would just add that Mr. Malone
11 had already said we're going to have to come back here and
12 have a hearing on all of these objections so we knew we
13 were going to have another hearing where I was going to
14 get a ruling on this.

15 THE COURT: Yes. But the point is now you're
16 going to have to have another deposition. And if all of
17 the questioning had come out, you could have gotten your
18 rulings without having another deposition. I think that's
19 the reasoning behind the rule in Rule 30, that you're
20 supposed to instruct people not to answer.

21 You can get your ruling in that part of
22 transcript can be excised from that part of the jury if it
23 ever comes to that, but you're not supposed to tell
24 somebody not to answer. And you're certainly not supposed
25 to, in the middle of their testimony, bring in extraneous

1 evidence like somebody else's testimony. That's witness
2 coaching.

3 MS. DEESE: I think these questions were
4 answered, Your Honor. Dr. Jelinek testified for Mr.
5 Malone about a curbside counsel and he can't know how long
6 it would take. I mean, Mr. Malone got to the answer.

7 THE COURT: Is there anything else that you want
8 to say about either the instructions not to answer or the
9 speaking instructions and coaching?

10 MS. DEESE: There is, Your Honor.

11 THE COURT: I think the substance of the
12 concerns.

13 MS. DEESE: What Mr. Malone sought and what was
14 objected to was Dr. Jelinek's personal opinion. It was
15 not a topic of the deposition. The topic of the
16 deposition is what was Medstar Washington Hospital's
17 position on what the imaging showed? That's really what
18 the bulk of the dispute related to, is that topic 6.

19 Dr. Jelinek testified he does not read pelvic
20 MRI. He testified he did not spend a number of hours
21 studying this, so it would be necessary to give his
22 personal opinion. Plaintiff relied heavily on the Abbey
23 case. (phonetic sp.). The Abbey case talks about people
24 involved in the patient's care at the time. Dr.
25 Jelinek had no involvement in Mr. Cohen's care and he

1 testified, I can't tell you what the radiologist's
2 interpretation is. So I don't think that Dr. Jelinek's
3 personal opinion has any basis before the Court.

4 THE COURT: Do you want to address the
5 reasonable inquiry about --

6 MS. DEESE: Very much.

7 THE COURT: -- the pressure for the radiologist
8 is?

9 MS. DEESE: Plaintiff says in one of his
10 filings, I have done nothing prior to, and he says some
11 date to investigate that, and there's just no basis for
12 that. I had investigated that. It's attorney/client
13 privilege and work products, so I don't want to stand up
14 here and say what it is, but for plaintiff to claim I have
15 done nothing, when there's no way he can know what I did
16 or didn't do --

17 THE COURT: Well, he's based it on the response
18 that you stated, like Dr. Huang doesn't remember. And I
19 guess the question is there are other ways to get at what
20 radiologists were there that day.

21 MS. DEESE: There are. Usually what you do is
22 you have an audit trail, right? So once you have imaging
23 in the pack system, every time somebody looks at the
24 imaging, there's an audit trail and it shows you who
25 looked at it on what date and how many minutes.

1 Generally when attorneys ask who looked at what,
2 we run the audit trail and we can answer the question that
3 way. In this case, Dr. Huang testified that he had a CD
4 of imaging from Mr. Cohen. The CD of imaging is what he
5 looked at with the radiologist; therefore, it was pre-
6 upload to the pack system.

7 THE COURT: I understand that.

8 MS. DEESE: Pre-audit trail.

9 THE COURT: Let me ask you that. How many
10 radiologists are on duty at any given time?

11 MS. DEESE: Medstar Washington Hospital Center
12 has over 100 radiologists with privileges. They have an
13 average of 20 to 25 on-site on a given day.

14 THE COURT: Okay. So that's not that many, 20
15 to 25.

16 MS. DEESE: Your Honor, this is a hospital
17 that's burdened with a lot of volume, especially increased
18 volume, since Providence Hospital went under. Dr. Jelinek
19 spent a lot of time preparing for this as it is.

20 I've gone and talked to the three people that
21 Dr. Huang named, all of them. None of them remember. I
22 just don't think it's reasonable and we showed them the
23 imaging and said, do you remember? And they said no. I
24 don't think it's reasonable to compel the chairman of the
25 radiology department at this already overburdened hospital

1 to go interview 25 people and show them this imagining.

2 THE COURT: So I guess the question is how hard
3 is it, I mean, I think this is an important issue that I
4 think that all along there's been a disconnect between the
5 level of importance that's attributed to this issue by the
6 plaintiff versus the defendant. And your response
7 throughout has been one of sort of resistance to this
8 issue. And you might have your reasons for that and it's
9 not my business why, but it seems to me that what the
10 plaintiffs were asking objectively from where I sit was
11 not unreasonable. That it can't be that hard to figure
12 out and it seems that they've narrowed their request to
13 one day, May 1st, to the next day. And even if you didn't
14 want your chairman to interview each of them, you could
15 have revealed who was there that day. I mean, I just
16 don't understand why this is such a big deal. I think
17 I've asked this question before.

18 Why is this such a big deal to the hospital? I
19 mean it's, 20 people to me is not a lot of people. And
20 also you don't have to have your chairman interview them.
21 And it just doesn't seem that it should be that hard to
22 figure out who was there that day. Isn't there like a
23 credential system where people like beep in? From where I
24 sit I just don't understand it. I just don't understand
25 why a hospital is not more forthcoming about this

1 information. It just can't --

2 THE COURT: It seems --

3 MS. DEESE: I mean maybe I'm wrong.

4 MS. DEESE: It seems to me it just shouldn't be
5 that hard.

6 MS. DIEDRICH: It seems from my perspective the
7 sole basis, it's disproportionate to the case's needs.
8 Mr. Cohen has no wage loss claim. Mr. Cohen has no future
9 care needs. Mr. Cohen has maybe \$40 or \$50,000 in past
10 medical bills.

11 THE COURT: But this doesn't go to damages.
12 This goes to liability, does it not?

13 MS. DIEDRICH: But it goes to case value and how
14 much it's going to take to interview 20 or 25 people. It's
15 not 20 people. It's 24 or 25. And the day the
16 one day the 20 --

17 THE COURT: But if they don't remember, isn't
18 that a pretty short interview?

19 MS. DEESE: Not according to Mr. Malone's theory
20 that I should show them the imaging and see if it
21 refreshes their recollection. So I've got to get this
22 imaging to 20 or 25 people. I don't know if they're all
23 still here. Many of them work remotely. I mean it is a
24 lot.

25 And the one day that he is selected is not the

1 one day that this could have happened.

2 THE COURT: But that's what he asked for, so why
3 can't you just give him what he asked for?

4 MS. DEESE: It's not what he asked for. Your
5 Honor, he said that in the deposition, but if I had done
6 that for one day, I can assure you we would be here with
7 him saying I should have done it for all of these other
8 days, because Mr. Cohen saw Dr. Huang on April the 20
9 something, and he doesn't do the surgery until May
10 something. And so, you know, I'm anticipating he would
11 say I need you to interview all of these people on all of
12 these dates to make sure it couldn't have been any of
13 them. If that's what he wanted he should have --

14 THE COURT: So look, I'm don't, I'm not in the
15 weeds of this case like you all are, but it would seem to
16 me that were some critical time periods. One, being when
17 the image was finally uploaded. And another being when
18 Dr. Huang communicates to Mr. Cohen that I've consulted
19 with radiology.

20 And I think that really narrows the range here.
21 When you tell me 20 to 25 people, I have to believe that
22 on the different days, there's going to be some overlap.
23 It's not like a brand-new 25 people all the time. It just
24 doesn't seem like that many people to me. And the
25 question is simply do you remember consulting with Dr.

1 Huang about a seminal vesical tumor, whatever it was. I
2 just, it's just hard for me to fathom why this is so
3 burdensome. I'm just having a lot of trouble with that.

4 MS. DEESE: It's a lot of people. Plaintiff
5 said Dr. Jelinek did nothing. That's not true. He read
6 Dr. Huang's deposition. He looked at the audit trail
7 data. He didn't think he thought about, you know, should
8 I go interview all of these people and you know, he did
9 not think they would remember. I think doing that is
10 really going to be an exercise in futility. The three
11 people I already interviewed have looked at the imaging
12 and have no recall.

13 This is a curbside consult where there is no
14 written report from 2017. It, to interview 50 people, to
15 have them all say I don't know, even if it's only 30
16 people, to have them all say I don't know, as we sit here
17 today, Your Honor, there was never a request for plaintiff
18 to say will you please interview these people on this
19 date. Those are the questions Mr. Malone put to the
20 witness in the corporate designee, but he never said to
21 me, Crystal, this is what I'm looking for. Will you just
22 sit for these 25 people on this one day? Or will you just
23 check for these 25 people on this one day? Conceivably I
24 would have done that, but that's not the question that I
25 was faced with.

1 What I was faced with was can you identify the
2 witness who was, can you identify the radiologist that Dr.
3 Huang spoke with?

4 So we did the things that I thought constituted
5 a reasonable investigation. I made Dr. Jelinek read Dr.
6 Huang's testimony about having the recall who it was. I
7 made Dr. Jelinek look at the audit trail data to see. I
8 mean, Dr. Jelinek said, I didn't say, Dr. Jelinek said I
9 don't think it makes sense to go interview all of these
10 people because I don't think they're going to recall. And
11 having interviewed three people that has proven true.

12 THE COURT: But you don't know. What if
13 somebody does recall?

14 MS. DEESE: I just think that the likelihood
15 that anybody's going to recall from a curbside consult
16 that lasted probably minutes with no report and no medical
17 record --

18 THE COURT: That's a substantial issue above and
19 beyond this. It lasted minutes and then you're telling me
20 it takes hours to read one of these things? That's a real
21 problem, isn't it?

22 MS. DEESE: I don't think there's a need for, in
23 this case, interviewing between 20 and 50 radiologists for
24 the three that were specifically identified by Dr. Huang
25 as being the most likely candidates already said they

1 don't know.

2 THE COURT: Okay. Thank you.

3 Anything else that you want to say with respect
4 to just the violations, not the sanctions?

5 MR. MALONE: Yes. The one and only one
6 justification we've heard substantively for the
7 instructions not to answer was allegedly saying that
8 interpreting the hearing from August to say that they
9 thought they had obtained a limitation from you on my
10 deposition. There are several things I need to say about
11 that.

12 Number 1, there are many, many instructions not
13 to answer during the deposition, until finally on Page 78
14 of the transcript, Dr. Jelinek, Ms. Deese started to
15 mention something that had happened in the hearing and she
16 quoted something that you said on Page 25 of the
17 transcript. This is in Jelinek's deposition.

18 When we looked at that you were simply trying to
19 restate to Ms. Diedrich what her position was. You then
20 went on to make it very clear that there were no
21 substantive restrictions on the deposition, and in fact,
22 the last question that Ms. Diedrich asked, asked you on
23 Page 34 of the transcript, was, "And I just ask for
24 clarification on topic number seven. Is the Court ruling
25 that that is deferred until after our designation as we

1 discussed?"

2 And the Court said correct. This is just a
3 timing issue. There is no preclusion of asking these
4 questions. Ms. Deese also told you today that she thought
5 they had told all of us at the hearing in August that
6 their designee's position was going to be whatever our
7 experts say that's what we say.

8 There was nothing like that in the transcript.
9 If there had been, I would have said well in that case,
10 you need to bring the expert in as your deponent, as your
11 designee, because my right as a cross examiner in taking a
12 deposition is to get answers to my questions from the
13 person in front of me.

14 Ms. Deese in the middle of the deposition of Dr.
15 Jelinek says well, here's how we're going to do it, Mr.
16 Malone. You tell me what questions you need asked right
17 now today and then we'll go and Dr. Jelinek will talk to
18 the expert and Dr. Jelinek will come back at a later time
19 and answer the question. This is not a process that one
20 can do under Rule 30 C 1, which says the, you know, we
21 take depositions as we would at a trial. I'm entitled to
22 cross-examine this witness.

23 And if he felt that he didn't have enough time
24 to look at the imaging, well, he should have taken more
25 time, or he should have produced a different designee.

1 So --

2 THE COURT: I think underlying this too is maybe
3 the witness wasn't prepared as the witness could have been
4 consistent with the Court's ruling, because I think it
5 would have been acceptable under the Court's ruling,
6 because I think it would have been acceptable under the
7 Court's ruling for the witness to say I don't have an
8 opinion on behalf of the hospital about what this image
9 means until we've had a chance to confer and consult with
10 our experts. And that would have been an appropriate
11 answer that would have been consistent with my ruling --

12 MR. MALONE: Certainly true.

13 THE COURT: But I think it's still a procedural
14 issue of counsel breaking in to answer on behalf of the
15 witness in the matter that she believed was consistent
16 with my ruling. So I think it's still a procedural
17 problem.

18 MR. MALONE: And then, but then that was just
19 kind of a glancing objection --

20 THE COURT: But I'd like to move on, Mr. Malone,
21 because I think that we've explored really thoroughly
22 the --

23 MR. MALONE: Okay, that's fine.

24 THE COURT: -- issues. What I will say is I
25 think there have been violations of the rule as alleged in

1 the motion for sanctions having now reviewed in some
2 detail the transcripts of the deposition of Dr. Jelinek
3 who is the Rule 30(b)(6) witness. I think that there were
4 clear violations of Rule 30, which very clearly states
5 that if there's an objection that can be noted on the
6 record that the examination still proceeds, the testimony
7 is taken subject to any objection.

8 So it is not proper to instruct a witness not to
9 answer, except under very specific circumstances, that's
10 only when necessary to preserve a privilege to enforce a
11 limitation ordered by the Court or to present a motion
12 under Rule 30 D 3.

13 And I think that, you know, we've gone through
14 this transcript in some detail and there were many
15 instances of counsel for the hospital instructing the
16 witness not to answer. There's also, the rule also
17 requires that the questions and answers are to be
18 conducted as a trial. That's Rule 30 C. And the rule
19 bars coaching the witness and adding other comments and
20 questions. Rule 30(c)(2) says an objection must be stated
21 precisely in a non-argumentative and a non-suggestive
22 manner.

23 And so I think that there were several
24 violations of the rule in the deposition at issue of Dr.
25 Jelinek, the Rule 36, witness, there were instructions not

1 to answer. There were also speaking objections and there
2 was also coaching in the most egregious example, which is
3 putting the testimony, the deposition transcript of Dr.
4 Huang in front of the witness in the midst of the
5 examination by Mr. Malone.

6 So I just think there are, the record and the
7 deposition are replete with violations of the rule. Ms.
8 Deese has argued that she was merely trying to enforce the
9 Court's order and I think that that is simply not
10 consistent with the record and what the Court ruled.

11 And as I mentioned, I think that the issue of
12 this radiologist, radiologist, the radiologist's identity,
13 as well as what is the hospital's position with respect to
14 what the image of Mr. Cohen shows. These are issues in
15 hot dispute in this case and the Court had ruled that it's
16 reasonable for the hospital to defer stating what its
17 official position is on the meaning of the image at issue
18 until after their big consultation with the experts. But
19 the Court had never said that the hospital was therefore
20 free to stonewall during a deposition, appropriate
21 questions asked if it's Rule 30(b)(6) witness. I think
22 that this is a question in part of inadequate witness
23 preparation, because the witness could have been prepared
24 to state that I don't have a position on behalf of the
25 hospital as to what this image means. At this time I'm

1 still waiting to consult with experts, and that would have
2 been consistent with the Court's ruling. It would have
3 been procedurally proper, because it would not have been
4 the lawyer jumping into answer on behalf of the witness,
5 so I think part of it is also perhaps a misunderstanding
6 of the scope of the Court's order but also a failure to
7 adequately prepare the witness for questions along this
8 line.

9 And with respect to the inquiry, there's a
10 separate allegation that there's been a violation of the
11 rule to make a reasonable inquiry before answering
12 questions as a Rule 30(b)(6) witness. And I do think that
13 the inquiry here was inadequate. I don't think it's,
14 especially given the full context of the discussions we've
15 had about this issue. I don't think it's adequate simply
16 to say we've looked at the audit trail and we've talked to
17 a couple of people and we don't think, if we had talked to
18 more people we're going to get any additional information.

19 There's a broad assumption that the hospital is
20 making that nobody's going to remember this, but I don't
21 think they can make that assumption without doing some
22 legwork to figure out at least who was there that day.
23 And if they don't want to do these interviews, which I
24 think would be very short, given that there is a strong
25 likelihood that a lot of people are not going to remember

1 or not going to know, or might even know for sure that
2 they weren't the person. But I think these are short
3 interviews, and it doesn't seem like a large number of
4 people to ask.

5 So I don't think this inquiry was reasonable and
6 it strikes me that a lot of what the hospital is trying to
7 pass off as reasonable is the opinion of people at the
8 hospital that asking further would not be productive. I
9 just don't think that that's an appropriate assumption to
10 make under the circumstances.

11 With respect to the proportional needs of the
12 case, I think this is something that is very significant.
13 And so I think there's always been a disconnect or a
14 disagreement on behalf of the hospital about how important
15 this information is, but I think it is potentially
16 important. I think I've said so on the record in the past
17 in ruling a prior motion and I think it's proportional to
18 the needs of the case to find out at least who was there
19 that day and provide that list of people to the plaintiff
20 so maybe they can do the interviews if you don't want to.

21 So I just think that that was inadequate preparation of
22 the witness and a reasonable inquiry was not made.

23 So given those findings, well, before I move on
24 for sanctions, do you want anything else for the record,
25 Ms. Deese? And then I'm going to ask the plaintiffs what

1 they want in terms of sanctions.

2 MS. DEESE: I do, Your Honor. The last thing
3 you said was proportionality issue to find out who was
4 there that day. I would just say we don't know what day
5 to look for.

6 THE COURT: May 1st.

7 MS. DEESE: Okay. That's not the day that the
8 images were uploaded. And that's not the day of the
9 patient's --

10 THE COURT: That's what they were asking for,
11 May 1st.

12 MR. MALONE: Yes, they were.

13 THE COURT: And I don't even think it would be
14 unreasonable for them to ask for other days besides May
15 1st, around that time period. There's really not that
16 many people. And if you don't want to look, you can give
17 them the names, if you don't want to interview the people,
18 give them the names of the people and let them interview
19 the people. Okay? All right.

20 What are you asking for, Mr. Malone?

21 MR. MALONE: I submitted a proposed order that
22 details five items.

23 THE COURT: Is that attached to your motion for
24 sanctions?

25 MR. MALONE: Yes.

1 THE COURT: I see. Have you looked at this, Ms.
2 Deese?

3 MS. DEESE: Well --

4 THE COURT: The proposed order is on Page 87.
5 Let me just read it for a moment. I'd like for Ms. Deese
6 to read it as well.

7 MR. MALONE: Sure.

8 (Pause.)

9 THE COURT: This seems reasonable to me. Do you
10 have any objections to these requests, Ms. Deese?

11 MS. DEESE: I do, Your Honor. I think that with
12 regard to four and five there's no basis for re-deposing
13 Dr. Huang and there's no basis to provide the full and
14 unredacted audit trail. If the goal is really to stop
15 this fight, then neither one of these things is going to
16 advance that ball at all.

17 If anybody else has to be re-deposed, I'm going
18 to ask Your Honor to have the parties split the cost of
19 some sort of referee coach. Mr. Malone asked the same
20 questions repeatedly. Dr. Huang has already testified
21 about what he remembers about how the images were looked
22 at and uploaded. The request to import form --

23 THE COURT: So I guess there are two documents
24 that are not provided for his first deposition.

25 MS. DEESE: The request to import images form

1 and the audit trail data.

2 THE COURT: Yes.

3 MS. DEESE: Plaintiff contends that those were
4 requested. I contend they were not requested prior to Dr.
5 Huang's deposition. The request to import images form is
6 not a part of the medical record. It is not maintained in
7 the ordinary course with the medical records.

8 THE COURT: So this has to be an unrelated issue
9 to what we've been discussing here today, is that correct?

10 MS. DEESE: This seems far afield of what we
11 were talking here today. This should be the subject of a
12 separate function in my view.

13 THE COURT: And the same of a full and
14 unredacted audit trail report?

15 MS. DEESE: Yes.

16 THE COURT: Okay. So let me just ask Mr.
17 Malone, four and five do not, are sanctions that don't
18 seem tailored to the violations that we've litigated here
19 today. Are they related?

20 MR. MALONE: Well, they're related in that the
21 lightbulb went off in our heads about depositing Dr.
22 Huang, the need to re-depose Dr. Huang when a few days
23 before this October 3rd deposition they finally produce
24 this audit trail document that showed exactly when the
25 thing had been uploaded and then we could compare that to

1 this form that he filled out called request to import
2 images. And suddenly there's a whole new line of
3 questions that we hadn't known before.

4 THE COURT: Because the dates don't line up?
5 The dates don't line up?

6 MR. MALONE: No, they don't. They just suggest
7 a lot of problems with his assumptions about what he
8 thinks happened, and I'll leave it at that. But they're,
9 I put all of this in my motion. It was something that
10 they withheld until the 30(b)(6) and then it became clear
11 why we needed to talk to him about it.

12 THE COURT: And --

13 MR. MALONE: And then the unredacted audit trail
14 report I also, that goes to the same document which we
15 only got, I think three days before this October 3rd
16 deposition and it has all of these big black boxes on it
17 redacting information. You never said they could redact
18 it.

19 THE COURT: So it seems to me, Mr. Malone, that
20 number four and five are here because they relate to
21 information that you received just prior to the 30(b)(6)
22 deposition that's at issue here.

23 MR. MALONE: And we're part of the topic of the
24 deposition, but yes.

25 THE COURT: But not from Dr. Huang?

1 MR. MALONE: Yes.

2 THE COURT: Although the full and unredacted
3 audit trail report could be relevant to the re-deposition?

4 MR. MALONE: Yes.

5 THE COURT: So I think five is sort of within
6 the scope of what has happened here.

7 And then with four, I think this is something
8 that you should probably be allowed to do. I don't know
9 if it's appropriately a sanction in this particular case,
10 but do you object to allowing, to reopening the testimony
11 of Dr. Huang?

12 MS. DEESE: I do, Your Honor. Plaintiffs said
13 that we didn't give them the audit trail until a few days
14 before the corporate designee deposition notice. It
15 wasn't requested in his request for production. The only
16 time he requested it specifically was in his deposition
17 notice, and that called for production of the audit trail
18 at the corporate designee deposition, which --

19 THE COURT: But --

20 MS. DEESE: he noted after Huang's deposition.

21 THE COURT: -- even if they didn't ask for it in
22 advance, it seems for me it's not uncommon for people to
23 want to reach opposed people on things that happened and
24 -- lawyers get along better than you all do. They often
25 reach agreements on things like this.

1 MS. DEESE: I've never had a, I actually have
2 moved to re-depose someone and had the Court tell me I've
3 had my one shot. You don't get to take two shots at it.
4 If you felt that you needed something in advance of the
5 deposition, you should have moved to compel it. There was
6 never a motion to compel that.

7 THE COURT: Okay.

8 MS. DEESE: My direct read of the request for
9 production is that it didn't ask for that. My read of the
10 deposition notice is that it called for the audit trail to
11 be produced at the deposition and as a professional
12 courtesy to Mr. Malone I sent it to him early and still he
13 complains.

14 In terms of the redactions on the audit trail,
15 it asked for, I think, May to June; therefore, I gave him
16 May to June. Now he's asking for the entire audit trail,
17 which I'm going to have to come back and ask Your Honor to
18 reconsider whatever you rule on today, because I'm going
19 to have to make a privilege log showing the risk
20 management accesses.

21 THE COURT: Why would you need more than May to
22 June on the audit trail report, Mr. Malone?

23 MR. MALONE: Because it turned out that there
24 was one witness, one radiologist who looked at the study
25 towards the end of June barely a month after this event

1 and there's a whole lot of blank lines or blacked out
2 lines right above that and we think there's a good chance
3 somebody's hiding something here. We just want to see
4 what's in that next time frame.

5 THE COURT: Well, I don't think you need a full
6 audit trail report. What dates are you specifically
7 interested in?

8 MR. MALONE: Well, let's go to July then. So
9 and in truth --

10 THE COURT: So May through July is what you're
11 saying?

12 MR. MALONE: Yes.

13 THE COURT: I think that's reasonable. So look.
14 I'm inclined to sign this proposed order. I think that
15 the requests here are reasonable. Two of them are a
16 little beyond the scope of what we discussed here today,
17 but I think it's all within my discretion and I think
18 those requests are reasonable, if not as tightly connected
19 to the issues that were raised in this hearing. And, you
20 know, these are sanctions. So to the extent that maybe I
21 wouldn't have ruled this way under different
22 circumstances, this is all in the context of behavior that
23 I think really was inappropriate on the part of the
24 hospital. So I'm going to sign the proposed order and
25 grant the proposed order that has been requested.

1 MS. DEESE: May I be heard on the sanctions
2 issue, Your Honor? Besides the note, I mean, you did ask
3 me what I thought about the order, but I do have legal
4 argument about the inappropriateness of sanctions that I
5 would like to make for the record.

6 THE COURT: All right. Go ahead.

7 MS. DEESE: Thank you.

8 A motion to compel is not a basis for sanction
9 when it is substantially justified. Substantially
10 justified, it exists when there's a genuine dispute and
11 reasonable people could differ. You find that under Rule
12 37(a) (5) (c) and also the case of Buie v. --

13 THE COURT: I think these are sanctions for the
14 Rule 30(b) (6) deposition, that you obstructed that. So
15 the sanctions are Rule 30. I mean there were also an
16 issue of sanctions for the motion to compel. I don't see
17 Mr. Malone asking for that, because that would have been,
18 that would have been a choice fees and costs related to
19 filing the last motion to compel, which I don't see that.

20 So let's move on to Rule 30, because that's not
21 the basis of my ruling is what you're saying.

22 MS. DEESE: I just want to make sure that I'm
23 understanding Your Honor clearly, because there is no, I'm
24 not being sanctioned for filing the motion for a
25 protective order in the first instance?

1 THE COURT: Correct.

2 MS. DEESE: Okay.

3 THE COURT: I don't think Mr. Malone's asking
4 for that. Is that correct, Mr. Malone? Because I had
5 reserved on that. But what you're asking for here doesn't
6 seem to be related to a protective order, am I correct?

7 MR. MALONE: Well, it's a minor amount of time,
8 so I'll let --

9 THE COURT: Oh, actually you did -- motion for a
10 protective order. Go ahead and answer, Ms. Deese. I
11 misunderstood. Go ahead.

12 MS. DEESE: Thank you. If a motion for a
13 protective order is substantially justified, then
14 sanctions are not appropriate. Substantial justification
15 exists when there's a genuine dispute and reasonable
16 people can differ. You'll find that in Rule 37(a)(5)(c)
17 and also Buie case, B-U-I-E, at 327 F.R.D. 1.

18 In this case the motion for a protective order
19 was substantially justified as made clear by the fact that
20 plaintiff amended the notice two, maybe three times,
21 before the deposition, before the motion, before the
22 deposition occurred, at least once or twice before the
23 motion was filed. In the Buie case the Court noted that
24 plaintiff's amendment of the deposition notice made the
25 motion for a protective order substantially justified.

1 For these reasons there was a genuine dispute
2 and at the very least reasonable people could differ about
3 the appropriateness of the notices, at least as initially
4 drafted by the plaintiff.

5 THE COURT: Okay.

6 MS. DEESE: So for these reasons, the defense
7 does not believe that there should be any award for
8 sanctions for filing it's initial motion for a protective
9 order.

10 THE COURT: Again, I'll just say I'll rest on
11 the record of that last hearing, because I believe at the
12 end I made a finding that sanctions would be appropriate
13 if plaintiff requested it. And I'll just note that your
14 original motion objected to having any kind of Rule
15 30(b)(6) deposition. And I think that was addressed in
16 the prior transcript, so I don't think that that was a
17 reasonable position to take.

18 Go on. You want to make a record with respect
19 to sanctions under Rule 30? 30 (d) (2)?

20 MS. DEESE: Yes. Sanctions for corporate
21 designee conduct relate to banding when witness denies
22 knowledge and a series of employees deny knowledge.
23 That's not what is being done here. So awarding sanctions
24 in this case does not do anything to relate to band game
25 (phonetic sp.), which is one of the purposes of those.

1 The case I would cite to Your Honor on that is Covad
2 Communications Company, 267 F.R.D. 14. It's a District of
3 Columbia Circuit Court case from 2010.

4 Again, such sanctions are inappropriate when the witness
5 has attempted to comply with the order.

6 Dr. Jelinek testified seven times that our
7 position is what our expert reports say. He answered
8 those questions.

9 THE COURT: I think the sanctions are against
10 you, not him.

11 MS. DEESE: I understand, Your Honor, but my
12 conduct was based on the fact that he had answered the
13 questions seven times and we had said repeatedly we are
14 adopting the testimony of our experts as the answer to
15 your questions. We said that seven times. The case of
16 Every Opinion Counts out of Florida allows us to adopt.
17 There's other cases I could cite, but we're allowed to
18 adopt the testimony of other witnesses to answer a
19 question and that's what we were trying to do. There's
20 case law that says that 30(b)(6) is limited to the topic
21 of the notice, that's EEOC v. Freeman. That's all I was
22 trying to do is limit the deposition to the topics of the
23 notice.

24 And then plaintiff made much ado a moment ago,
25 you know, I said tell me the questions and say it right

1 then. I didn't say it right then. I did say tell me the
2 questions. But I think that was an appropriate
3 instruction under the case of Newman versus Borders, which
4 says the plaintiffs must identify the questions
5 specifically.

6 The way I see this as having played out is Mr.
7 Malone asked Dr. Jelinek what is your position, what is
8 the hospital's position on this imaging you have and how
9 it is interpreted? And Dr. Jelinek said seven times our
10 position is what our experts say. And still Mr. Malone
11 wanted to cross-examine Dr. Jelinek on his personal --

12 THE COURT: Okay.

13 MS. DEESE: -- opinion.

14 THE COURT: So I don't want to cut you off on
15 making your record, but I just want to bring you back to
16 the Court's finding that it's not the substance of the
17 objections that was the problem. It was the manner in
18 which they were asserted, which included instructing the
19 witness to not answer in direct violation of Rule 30 and
20 also in making speaking objections and in coaching the
21 witness.

22 So the substance of the objections is not at
23 issue. It's the procedure in which the objections were
24 asserted.

25 So to the extent that cuts down your

1 presentation, I just wanted to be clear about that.

2 MS. DEESE: Thank you, Your Honor. I would ask
3 you to consider the case of International Union of
4 Electrical v. Westinghouse 91 F.R.D. 277. That case says
5 it's improper to always firmly enforce the rule that
6 30(b)(6) testimony must be taken to subject to objection.
7 I think this case cries out for not firm enforcement of
8 that ban.

9 I believe, I really believe it was okay for us
10 to present Dr. Jelinek and have him say our opinion on
11 what the imaging shows is what our experts have said in
12 all --

13 THE COURT: But that's not what happened. You
14 said that, not him.

15 MS. DEESE: He said it seven times.

16 THE COURT: You said it.

17 MS. DEESE: No, Your Honor --

18 THE COURT: But the problem is what you did, not
19 what he did. All right. Continue.

20 MS. DEESE: In the case of EEOC v. Freeman, the
21 Court noted that there's a balance required to discourage
22 the do not answer instruction against the need to prevent
23 repetitive, argumentative, and irrelevant questions. Most
24 of those do not answer instructions at issue, Your Honor,
25 came after Dr. Jelinek had said literally seven times,

1 this is our answer. And Mr. Malone persisted and
2 persisted and persisted in asking the same question over
3 and over.

4 When you have two parties that are not doing it
5 right, it's improper to sanction the one who gave the do
6 not instruction answer. Mr. Malone's conduct was no less
7 improper in asking the same question over and over and
8 over after the witness had given a full and responsive
9 answer. I don't know the nuances of that imaging. I
10 didn't spend the time. I'm not a public MRI.

11 THE COURT: Okay. Let's wrap this up, Ms.
12 Deese, yes.

13 MS. DEESE: That's all I have, Your Honor.

14 THE COURT: Thank you. All right. So the
15 record has been made. I'm going to. I understand that
16 this is within my discretion. I'll say that I have spent
17 a lot of time, which I have said from the beginning that I
18 did not want to spend reviewing this transcript, hearing
19 these arguments, reading these filings. I think that the
20 record is very plain and clear that there have been
21 violations committed by the hospital, specifically by Ms.
22 Deese, on Rule 30 and I'm going to sign the proposed order
23 that's been submitted by the plaintiffs.

24 Did you submit this to chambers in Word form?
25 Could you please do so?

1 MR. MALONE: I will.

2 THE COURT: Because we're going to want to make
3 just a few, we'll just take off the proposed and take off
4 the page number and put a date on it.

5 MR. MALONE: Sure.

6 THE COURT: But we're going to need to issue
7 that from chambers.

8 All right. Is there anything else that we need
9 to address today?

10 MR. MALONE: Hopefully. One thing I asked you
11 in August as defense in August. Please let's agree. Let's
12 try and set a trial date.

13 THE COURT: Have the parties agreed on one?

14 MR. MALONE: No, because they have soft-balled
15 ever since. I cannot get them to tell me when is your
16 first available firm day for the trial in this case.

17 THE COURT: Okay.

18 MR. MALONE: I have asked and asked and asked.

19 And --

20 THE COURT: I'm happy to set a trial date. I do
21 want to say I think the parties should try and settle this
22 case. I now know a whole lot more about this case than I
23 normally do at this stage of the proceedings and I think
24 that the parties should really try and settle this case.
25 Has there been private mediation?

1 MR. MALONE: No. And you know, we're always
2 open to talking a settlement. My guy, you know, you hear
3 all of this, my guy has a paralyzed foot. It is a
4 significant case.

5 THE COURT: I understand.

6 MR. MALONE: So in any event, I would like to
7 get a trial date, because actually a trial date can help
8 to facilitate settlement.

9 THE COURT: Let's put something on the calendar,
10 Ms. Deese. When is your next available trial date?

11 MS. DEESE: As I e-mailed Mr. Malone yesterday,
12 I think we can do this in March on my calendar.

13 THE COURT: March of 2020?

14 MS. DEESE: Yes, I offered --

15 THE COURT: You're still in discovery.

16 MS. DEESE: We do have an issue with regard to
17 ongoing discovery, Your Honor. He asked me for my first
18 availability of the year.

19 THE COURT: Well, what's a realistic time frame
20 to complete discovery? I'm sorry.

21 MS. DEESE: We have three treating depositions
22 and one expert left.

23 THE COURT: I don't need to know the details.
24 Just give me a time frame for setting a trial date. And
25 how long this trial is expected to be?

1 MS. DEESE: On the second question first, I
2 expect we're going to go into the third week.

3 THE COURT: Into three weeks?

4 MS. DEESE: Yes, ma'am.

5 THE COURT: Okay.

6 MS. DEESE: I thought the March date was going
7 to work, Your Honor. I must confess at this point after
8 this hearing I would like time to consult with Mr. Malone
9 and my calendar and my client and we can call chambers one
10 day next week, if that's okay, and make a joint proposal.
11 If you want to tell us some time frames that work for you,
12 I'm happy to try and make it happen then. I can tell you
13 my 2020 is very busy, Your Honor, which is why I'm trying
14 to offer March. I just got a March trial off.

15 THE COURT: March is not available for me. I
16 don't have three weeks in March to give you.

17 MS. DEESE: Okay. Even if we could confer with
18 our offices next week and get back to chambers, I'd
19 appreciate that.

20 THE COURT: All right. I'll have the parties
21 confer. And let me give you, you're going to submit a
22 praecipe with fees and costs?

23 MR. MALONE: Yes, sir. I mean, ma'am.

24 THE COURT: Okay. And that should include some
25 kind of an affidavit that shows the reasonableness of the

1 fees and costs?

2 MR. MALONE: Right.

3 THE COURT: Okay. All right. Anything else
4 that we need to address at this time?

5 MR. MALONE: No, I don't think so.

6 THE COURT: All right. Thank you. Parties may
7 be excused.

8 MS. DEESE: We do need discovery extended, Your
9 Honor. Today is the actual close of discovery and we have
10 several --

11 THE COURT: All right. Well, why don't the
12 parties discuss that and submit a proposed order with the
13 trial date and an extension of discovery?

14 (Thereupon, the proceedings were concluded.)

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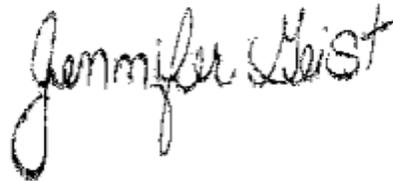
√ Digitally signed by Jennifer Geist

ELECTRONIC CERTIFICATE

I, Jennifer Geist, transcriber, do hereby certify that I have transcribed the proceedings had and the testimony adduced in the case of DANIEL COHEN et al V. MEDSTAR WASHINGTON HOSPITAL CENTER, Case No. 2018 CAM 006284 in said Court, on the 20th day of December 2019.

I further certify that the foregoing 68 pages constitute the official transcript of said proceedings as transcribed from audio recording to the best of my ability.

In witness whereof, I have hereto subscribed my name, this 6th day of January 2020.

A handwritten signature in cursive script that reads "Jennifer Geist".

Jennifer Geist

Transcriber