SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

VEDA MARIE GARCIA, et al.,

Plaintiffs,

vs. No. BC 310867

ALLIED DIAGNOSTIC IMAGING RESOURCES, INC., et al.,

Defendants.

AND RELATED CROSS-ACTIONS.

DEPOSITION OF

DAVID GARABRANT, M.D.

LONG BEACH, CALIFORNIA

SEPTEMBER 25, 2007

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DEPOSITION of DAVID GARABRANT, M.D., taken on behalf of the PLAINTIFFS, at 401 East Ocean Boulevard, Suite 800, Long Beach, California, commencing at 9:05 a.m., on TUESDAY, SEPTEMBER 25, 2007, before Sheri A. Ply, CSR

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WITNESS: DAVID H. GARABRANT, M.D.

INFORMATION REQUESTED:
(NONE)

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:
(NONE)

E X H I B I T S:

		Epidemiology and	
21		Prevention," pg. 898-911	15
22	5	Multipage list of articles	47
23	6	Three-page "Summary of Present Materials,9-23-07	50

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E X H I B I T S:

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LONG BEACH, CALIFORNIA, TUESDAY, SEPTEMBER 25, 2007

9:05 A.M.

* * *

DAVID H. GARABRANT, M.D.,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. METZGER:

Q Good morning, Dr. Garabrant.

How are you today?

A Very well, thank you, Mr. Metzger.

How are you?

Q I am fine, thanks.

A Good.

Q Have you written a list of your opinions for this case?

A Yes.

Q Could I have that, please.

All right. We will mark this list of opinions

as Exhibit 1.

(Deposition Exhibit 1 was marked for identification.)

MS. O'DONNELL: Deborah, do you have extra copies?

MS. PROSSER: Sorry, I don't.

MS. O'DONNELL: No problem.

Q BY MR. METZGER: All right. Dr. Garabrant, I believe that you were requested to bring a list of depositions on trials in which you have testified.

Do you have that?

A I do.

Q Okay. We will mark that as Exhibit 2.

(Deposition Exhibit 2 was marked for identification.)

Q BY MR. METZGER: Let's see. This appears to run up through May 2006.

Have you given any depositions or trial testimony in any cases involving benzene since that date?

A I don't believe so.

Q Have you given any depositions or trial testimony in any case regarding non-Hodgkin's lymphoma since that date?

A I don't believe so.

Q Have you in the past testified by deposition or trial testimony in a case in which it was claimed that a workers's non-Hodgkin's lymphoma was caused by exposure to organic solvents or benzene?

A I don't believe I have. I don't recall having

done so.

Q Okay. Do you recall a case by the name of Rembolt?

A I do.

Q And in that case you were retained by Ms. Prosser to testify as an expert; correct?

A I was retained by Ms. Prosser.

Q And --

A I don't recall whether I was retained to testify our not, but I was retained.

Q Okay. I will represent to you that you were designated as an expert in that case.

A Okay.

Q And you have a recollection that that was a non-Hodgkin's lymphoma case?

A I believe it was.

Q And you have a recollection that the claim in that case was that exposure to organic solvents caused Mr. Rembolt's non-Hodgkin's lymphoma?

A To be honest, I don't recall the details of the

case. I believe it was roughly like that.

Q Okay. And in that case did you review the literature to form opinions in that case?

A I believe I did.

Q Okay. And at that time is it true that you

reviewed the literature regarding benzene and non-Hodgkin's lymphoma?

A I believe I did.

Q And did you review the literature regarding the epidemiologic literature recording solvent exposure and non-Hodgkin's lymphoma?

A I don't recall whether I did or did not broaden my review to be honest.

Q Okay. What do you mean broaden your review?

A In other words, I don't know whether I limited my review to benzene or whether I broadened it to include all solvents.

Q I see.

Well, over the course of your career have you reviewed the literature, the epidemiologic literature involving organic solvents and non-Hodgkin's lymphoma?

A I have certainly read the literature on that topic on many occasions, yes.

Q Okay. And you consider yourself to be familiar with that literature?

A Yes.

Q All right. And did you review that literature for this case?

A Yes.

Q All right. Now, let's take a look at your

opinions. The first opinion that you have written is, "Mr. Robert Garcia suffered from an idiopathic diffuse large B-cell lymphoma."

Do any of the medical records that you have reviewed render a diagnosis of idiopathic diffuse B-cell lymphoma?

A No. The medical records render a diagnosis of diffuse large B-cell lymphoma. The attribution of causation is a separate and distinct issue from the determination of a diagnosis.

Q Okay. Do you agree with the pathological and clinical diagnosis of diffuse large B-cell lymphoma?

A Yes.

Q You write that "He was a resident of Los Angeles County and was a Hispanic white male." I will go on. "He belonged to a demographic group that is known to be at high risk of NHL compared to other races and ethnic groups in Los Angeles and compared to other populations around the world."

Let me ask you, is it your opinion in this case

that Mr. Garcia's race caused his non-Hodgkin's lymphoma?

A It is my opinion that he was in a -- he was a member of an ethnic group and race and resided in an area that is recognized to have relatively high

incidence rates of non-Hodgkin's lymphoma.

Q I understand that, but I don't think you answered my question.

Are you going to be telling the jury in this case that Mr. Garcia's race caused his non-Hodgkin's lymphoma?

A If asked I will tell the jury that there was nothing unusual about non-Hodgkin's lymphoma occurring in a Hispanic white male in Los Angeles County in his early 50's.

Q I understand what you just told me. Again, I don't think you have answered my question.

Is it your opinion that his race or ethnicity caused his non-Hodgkin's lymphoma?

MS. PROSSER: Objection. Asked and answered twice before.

THE WITNESS: Well, I am not sure what you mean by cause. He belonged to a group that has relatively high rates. We do not understand why that group has relatively high rates, but it is widely recognized that

it does.

And so some people would say that is a causal factor. Other people would say that is a risk factor.

Q BY MR. METZGER: Okay. And what do you say? Do you say that is a causal factor, his race or

ethnicity?

A I would say it is a risk factor.

Q Why would you say it is a risk factor rather than a causal factor?

A Because it puts him at higher risk than other racial and ethnic groups.

Q I understand.

But why do you categorize it as a risk factor rather than as a causal factor?

A It is a subtle distinction.

Q What is the distinction?

A I think when we use the term "causal" it gives an inference that we understand why a risk factor puts people at increased risk.

When we use the term "risk factor," typically I think it connotes that we may not understand why, but we recognize that it puts people at increased risk.

Q Okay. You next write, "He was diagnosed with the most common type of NHL-diffuse large B-cell lymphoma."

What is the basis for your opinion that that is the most common type of NHL?

A Diffuse large B-cell lymphoma has the highest incidence rate among all of the different types of non-Hodgkin's lymphoma.

Q What is your source for that opinion?

And while you are at it, if you are looking for materials I would also like you to find the articles or the data which supports your opinion that he was at an increased risk of lymphoma because of his race or ethnicity.

A Okay. The source for the information on race, ethnicity and geographic region comes from an article by Alexander entitled, "The Non-Hodgkin's Lymphomas-A Review of the Epidemiologic Literature" published in the "International Journal of Cancer" in 2007.

Q Okay. Thank you. We will mark that as Exhibit 3.

(Deposition Exhibit 3 was marked for identification.)

MS. PROSSER: Can we get that copied before -- he wants his original articles back.

MR. METZGER: We will do that at the end of the deposition.

MS. PROSSER: Okay.

Q BY MR. METZGER: Okay. And have you found the reference that diffuse large B-cell lymphoma is the most common lymphoma?

A The information that it has the highest incidence rate of all of the various type of

non-Hodgkin's lymphomas and that is from a book chapter entitled, "Non-Hodgkin Lymphoma." The author is Hartge. The book is "Cancer Epidemiology Prevention, Third Edition" by David Schottenfeld published in 2006.

Q We will mark that Exhibit 4.

(Deposition Exhibit 4 was marked for identification.)

Q BY MR. METZGER: Are there any other references that you are relying on for that proposition?

A There are many others that would support it. I did not bring any today.

Q Can you identify any others today?

A Yes. For the rates of non-Hodgkin's lymphoma by race, sex, age and region, the IARC book on "Cancer Incidence and Mortality." I don't know the exact title of it. I want to say "Cancer Rates Around the World," currently the 8th edition. And the 7th and the 6th and the 5th edition, they would all support that.

It is a compendium of cancer rates and mortality in virtually every register, every cancer

registry around the world.

Q Okay.

MR. HALL: Doctor, could you keep your voice up a little bit?

THE WITNESS: I am sorry, yes.

Q BY MR. METZGER: What is your understanding as to where Mr. Garcia lived?

A Let's see. I think he lived out in the middle to eastern end of the San Gabriel Valley for much of his life. I don't remember the names of all the towns.

Q Is that the eastern end of Los Angeles County or some other county?

A Well, it could have been the western end of San Bernardino County. It could have been the eastern end of Los Angeles County. I am not sure.

Q Is the county of residence important to your analysis here?

A No. The analysis where I have said Los Angeles County is based on data from the Los Angeles County Cancer Surveillance Program.

And I believe that cancer rates in Los Angeles County are representative of cancer rates in the Los Angeles basin more broadly.

So the distinction of whether he actually resided in San Bernardino versus Los Angeles County

wouldn't change my opinion. He was a resident of the Los Angeles basin.

Q Okay. Now, what source are you specifically relying on for the incidence data for large B-cell diffuse non-Hodgkin's lymphoma for Los Angeles County?

A I don't believe I made a statement about that.
Q Is there any such source that your aware of?
A I believe that there is such data maintained by the State of California Tumor Registry.
Q Do you have that data?
A I do not have that data with me, no.
Q Have you reviewed it for this case?
A No, I have not.
Q Okay. Are you aware of any book that sets forth cancer incidence for different cancers specifically for Los Angeles County?
A I am not aware of any book as I sit here. I know that the Los Angeles County Tumor Registry routinely compiles that data and it exists. I am not aware of any book that has published that.
Q Okay. The data that you just referred to, is that the data just a moment ago that you said you have not reviewed for this case?
A I am not sure I understand which data you are talking about.

Q You just referred to data on Los Angeles for the Los Angeles County Tumor Registry.

Have you reviewed any of that data for this case?

A No.

Q Okay. All right. You write that "There was nothing unusual about Mr. Garcia's diffuse large B-cell lymphoma that suggests that he had any risk factor that was any different than the general population of his gender, ethnicity, age and geographic residence."

Are you aware of any studies that suggest that large cell B-cell lymphoma is a secondary cancer?

A I don't understand your question. I am sorry.

Q Are you familiar with the terminology "secondary cancer"?

A Not in this context, no.

Q Well, have you ever heard of the term or phrase "secondary cancer"?

MS. PROSSER: I would just object as lacking foundation.

THE WITNESS: I have in some instances, yes.

Q BY MR. METZGER: What is your understanding of what a secondary cancer is?

A People who have had a cancer of one type who then develop a second cancer of a different type, that

is sometimes referred to as a secondary cancer.

Q And is there a body of epidemiologic literature which evaluates chemotherapeutic drugs as risk factors for secondary cancers?

A There is a body of epidemiologic literature

that has examined the risks of cancer in people who have been treated with chemotherapeutic agents.

Q Are you familiar with that literature?

A I didn't prepare for this deposition by looking at that literature.

Q Are you familiar with it?

A I have read some of that in the past.

Q Okay. And have you read that body of literature which relates to secondary lymphomas?

A I do not have any expert knowledge of that as I sit here today. I have not read that carefully in the recent past.

Q Okay. So I take it then that you don't know what form of lymphoma is the type of lymphoma that has most frequently been reported as a secondary cancer from administration of chemotherapy drugs; is that right?

A Your question presupposes there is a single type of lymphoma that has been reported secondary to chemotherapeutic agents. I am not sure that is correct.

Q My question was, is it true that you don't know

what type of lymphoma is the type of lymphoma that has most frequently been reported as a secondary cancer from administration of chemotherapy drugs, not exclusively?

A There have been reports of non-Hodgkin's lymphoma among people who have been treated with

chemotherapy agents.

Q And do you know what type of non-Hodgkin's lymphoma is the type of non-Hodgkin's lymphoma that has most frequently been reported as a secondary malignancy from administration of chemotherapy drugs?

A I don't know from memory as I sit here. I didn't prepare on that topic for today.

Q Okay. Let's talk about some of these factors here that you have at the end of your first opinion.

Gender, Mr. Garcia was male; correct?

A Yes.

Q Are there any differences that you are aware of in gender, specific rates of lymphoma?

A Yes.

Q What are those?

A Well, for non-Hodgkin's lymphoma, males typically have about a one and a half to twofold higher incidence rate than females.

Q Do you have any explanation for that?

A No.

Q Okay. Ethnicity we have spoken about.

At what age was Mr. Garcia diagnosed with lymphoma?

A I believe he was -- he was born in 1948. He was diagnosed in 2002. He was either -- 48 to 2002, he

was either 52 or 53. I don't recall.

Q Okay. And have you examined the age specific incidence rates for large diffuse B-cell lymphoma?

MS. PROSSER: I am going to object as vague and ambiguous.

THE WITNESS: I have not examined those in preparation for this deposition. I have seen them in the past.

Q BY MR. METZGER: Okay. Have you examined the age specific rates for non-Hodgkin's lymphoma generally for this case?

A Yes.

Q And what is the incidence for males in the age group to which Mr. Garcia belongs?

A I would have to look. I didn't memorize it.

Q And where would you look to find that?

A In the materials that you just marked as exhibits.

Q Specifically which, Exhibit 3 or Exhibit 4 or both of those?

A I would have to look.

Q Okay. And lastly, last two words are "geographic residence."

And by that do you mean Los Angeles County or San Bernardino County or the Los Angeles basin or what?

A I mean that whites in the United States have among the highest rates in the world.

Q So, for example --

A So compared to many areas of the world, non-Hodgkin's lymphoma in the United States is dramatically more common.

Q So for the statement here that there was nothing about his lymphoma that suggested any risk factor that was different from the general population of his gender, ethnicity, age and geographic residence, for geographic residence you mean the United States?

A No, I mean for Los Angeles County.

Q Los Angeles County?

A Or let's say the Los Angeles basin.

Q Okay. How are you defining the Los Angeles basin?

A The Los Angeles basin typically includes Los Angeles County, San Bernardino County out to the end of the San Gabriel Valley and then stretching south to include Orange County. I am not sure how far down,

whether it goes past San Clemente.

So it is basically the highly populated region in Southern California.

Q Do you have any non-Hodgkin's lymphoma incidence data for that region as you have just defined

it?

A I do not have any that I have reviewed in preparation for this deposition.

Q Okay. Your second opinion, "Benzene is not known to cause HL in humans" --

MR. CORLESS: Could you speak up, Rafe, please. I couldn't hear you.

MR. METZGER: Sure.

Q When you say, "Benzene is not known to cause HL in humans," do you mean it is not known to you to cause HL in humans or do you mean it is not known by other people to cause NHL in humans?

A I mean as a matter of science, it is not known to cause NHL. It is not an accepted conclusion in the scientific community.

Q So is it true that you hold the opinion that benzene does not cause NHL in humans?

A I hold the opinion that benzene is not known to cause NHL in humans. And the majority of scientists who have written on this don't hold that -- do not hold the

opinion that benzene is known to cause NHL.

Q Are you relying on the opinions of this unspecified majority that you just -- strike that.

Are you relying for your opinion that benzene is not known to cause NHL in humans on the opinions of

other people than yourself?

A I am relying on the published scientific literature.

Q As opposed to opinions of people other than yourself?

MS. PROSSER: Objection. Vague and ambiguous.

THE WITNESS: I am not sure I understand the question.

Q BY MR. METZGER: Well, let me explain.

An expert is allowed to render his own opinions in court but not the opinions of other people, okay.

So what I want to know is for your opinion that benzene is not known to cause NHL in humans, are you relying on your own opinion or the opinions of other people?

MS. PROSSER: I am going to object for the record that you just misstated the law on the admissibility of expert opinions.

Don't assume that that is a correct statement of the law.

MR. CORLESS: Also vague and argumentative.

MS. PROSSER: It is flatly incorrect actually.

THE WITNESS: It is my opinion that benzene is not known to cause NHL in humans. And my opinion is based on my expert review of the scientific evidence

relevant to that issue.

Q BY MR. METZGER: Okay. As opposed to polling experts as to whether they believe that benzene causes NHL; is that correct?

MS. PROSSER: I am going to object to the word "polling" as vague and ambiguous.

THE WITNESS: I am not sure I understand what your question is about when you say "as opposed to polling." I have not polled experts.

I have read what scientists have written on this topic. And my opinions are based on the scientific evidence that has been published in the open literature.

Q BY MR. METZGER: Okay. Is it correct that you have not done a survey of epidemiologists to determine whether a significant number of epidemiologists hold the opinion that benzene does not cause non-Hodgkin's lymphomas in humans?

You have not done that; correct?

MR. CORLESS: Objection. Vague as to "survey."

MS. PROSSER: Join.

THE WITNESS: I am not sure I understand your question. What do you mean by a significant number of epidemiologists?

Q BY MR. METZGER: I mean a number that is within the 95 percent confidence -- two standard deviations

from the mean or I will even take a 75 percent.

A The mean of what?

Q All right. Have you conducted a survey of any epidemiologists to identify epidemiologists who hold the opinion that benzene does not cause non-Hodgkin's lymphoma?

MS. PROSSER: Objection to the word "survey" as vague and ambiguous.

MR. CORLESS: Join.

THE WITNESS: I think I have answered your question about the basis for my expert opinion. I will try to answer your question about surveys.

I am not sure what you mean by a survey, but I don't think I have done any surveys on that issue.

Q BY MR. METZGER: Okay. When you say in the next sentence, "It is not generally accepted in the scientific community that benzene is a cause of NHL or of diffuse large B-cell lymphoma specifically in humans," are you basing that opinion on your review of the literature or your discussions with other experts?

A It is based on the scientific literature.

Q And not discussions with other experts;

correct?

A That is correct.

Q Okay. Are you aware of any experts who do

believe that benzene causes non-Hodgkin's lymphoma in humans?

A I have not seen any writings of scientific experts that have reached that conclusion, with the possible exception of Myron Mehlman, and I am not sure exactly what he said, but I am not sure he has the correct expertise to reach that conclusion.

Q Are there any other experts who you believe hold the opinion that benzene causes non-Hodgkin's lymphoma?

MS. PROSSER: Are you excluding from this case retained experts in this case?

MR. METZGER: Well, we know what they believe so --

MS. PROSSER: So excluding retained experts by the plaintiff.

THE WITNESS: I don't recall any experts who have written that in the peer-reviewed literature.

Q BY MR. METZGER: Okay. Your opinion No. 3, "There is no exposure level to benzene that is known to

place people at increased risk of NHL or of diffuse large B-cell lymphoma specifically," are there not published epidemiologic studies which find or report a dose response relationship for benzene and non-Hodgkin's lymphoma?

A There are studies that report increased risk at some doses and not others. There are studies that contradict that finding.

Q Okay.

A And so it is not known to be true.

Q Known by you to be true; correct?

A Well, I think when the scientific literature does not replicate a finding, it is a reasonable conclusion that the non replicated finding is not known to be true.

Q Are you saying that the finding that in some studies -- strike that.

Has the finding of a dose response relationship for benzene exposure and non-Hodgkin's lymphoma been replicated in any study?

A I am sorry, I don't understand your question.

Q I will restate it. I will repeat it.

Has the finding of a dose response relationship for benzene and non-Hodgkin's lymphoma been replicated in any study?

A I am not sure to which finding you are referring in your question.

Q I think we have already established that there is at least one study which reports a dose response relationship between benzene exposure and non-Hodgkin's

lymphoma.

You agree with that, do you not?

A Yes.

Q Has that finding been replicated in any study?

A I am not aware that that finding has been replicated in any study.

Q Okay. And what is the study that you have in mind that that finding was reported?

A The studied done by the Chinese Academy of Science's National Cancer Institute which has been published under various names over the past 10 years or so.

Q Okay. And as you sit here today is that the only study that you are aware of that reports a dose response relationship for benzene and non-Hodgkin's lymphoma?

A I would have to look, to be honest.

Q Okay. Your fourth opinion, "Mr. Robert Garcia's alleged exposure to benzene did not place him at increased risk of, cause, lead to or in any way

contribute to the causation of his diffuse large B-cell lymphoma," let's break that down.

The first phrase is "Mr. Robbert Garcia's alleged exposure."

What does the word "alleged" mean to you?

A It means that there is a claim that he was exposed to benzene at some level under some circumstances in the course of his work as a printer.

Q Okay.

A And I am not sure exactly what it is that is being alleged in terms of the dose of benzene to which he was exposed.

Q I understand.

However, is it your opinion that Mr. Garcia was exposed to benzene or is that not your opinion?

A I believe that Mr. Garcia worked with materials that may have contained trace levels of benzene in their liquid composition and that he may have had some inhalation exposure to benzene as a consequence of working with those materials.

Q Okay. You have just given me a "may" opinion, which is a possibility and possibilities don't cut it in the law.

So what I want to know is to a reasonable degree of medical probability, was Mr. Garcia

occupationally exposed to benzene in your opinion?

MR. CORLESS: Objection. Misstates the law. Argumentative.

THE WITNESS: Well, we are all exposed to benzene, Mr. Metzger. The background levels in Los

Angeles are in the single digits of parts per billion. We breathe them everyday while we are here.

Mr. Garcia breathed the air in the Los Angeles basin while he was at work and he had exposure to benzene as a consequence of that.

In addition, he worked with various products in the printing process that may have contained low concentrations of benzene in the liquid form.

I am not aware that there are any measurements of his exposure to benzene in any of the places that he worked.

And so estimates of his exposure to benzene are based on assumptions about what was done in the various facilities where he worked between 1970 and 2003.

I think it is fair to characterize that as he may have been exposed and to take up with the industrial hygienists exactly what the probability was that he was exposed to benzene in the course of those jobs.

Q BY MR. METZGER: Okay. So I take it as you sit here today, you do not have an opinion as to whether he

was in fact exposed to benzene from the solvents.

Is that true?

MS. PROSSER: Objection. Asked and answered.

THE WITNESS: Well, Mr. Metzger, it requires expertise as an industrial hygienist to make reasonable

assumptions about the amount of solvent used, the circumstances of use, the evaporation rates, the ventilation rates, the size of the buildings and other areas.

I think it is safe to say he may have been exposed and to defer to an expert industrial hygienist who actually estimates whether that exposure was meaningfully above the background levels in the ambient air of the Los Angeles basin.

Q BY MR. METZGER: Okay. There is a difference between exposure and dose; correct?

A In my language as a scientist, yes. I am not sure what you are referring to, but in my language there is, yes.

Q I'd like to just focus for a moment not on estimating his dose of exposure but rather just on the issue of exposure.

Do you have an opinion as to whether he was exposed to benzene from the solvents that he used at work?

A Again, I think he may well have been. There have been exposure studies in the printing industry that have shown that there are benzene exposures in the printing industry.

I do not know how applicable those studies are

to the circumstances of Mr. Garcia's work. And so I think it is a reasonable conclusion to say he may have been exposed. He used products that may have had trace contamination or trace quantities of benzene in them.

Q If the product that he used contained benzene, would it be your opinion that he was exposed to benzene from those products?

MS. PROSSER: I am going to object as vague and ambiguous as to the amount of benzene under your hypothetical.

THE WITNESS: It would depend on how much benzene was in those products and how he used them and it would depend on many factors in the work setting, not limited to ventilation, enclosures, the exact tasks he performed, how close he was to the products that contained benzene.

So an answer to that would require consideration of many factors.

Q BY MR. METZGER: Have you received reports from any industrial hygienist for you to rely on in this

case?

A I have read Mr. Wabeke's deposition testimony and I have spoken with the industrial hygienist who is working for the defendants.

Q Who is that?

A I am not sure I recall his name. I think it is Ron Hall.

Q Has Mr. Hall expressed to you an opinion as to whether Mr. Garcia was exposed to benzene from the solvents?

A He has made an estimate of what he thinks Mr. Garcia's cumulative exposure may have been.

Q Okay. So is it your understanding that Mr. Hall is of the opinion that Mr. Garcia was exposed to some benzene from the solvents?

A I think you have to ask Mr. Hall what his opinion is. I believe that he made an estimate of the exposure that Mr. Garcia may have had --

Q Okay.

A -- based on a number of assumptions; not based on any measurements in Mr. Garcia's workplace.

Q Has he provided you anything in writing?

A No. I spoke with him over the phone.

Q How long did you speak with him?

A For perhaps 10 minutes.

Q Okay. Are you relying on anything that he told you for your opinions in this case?

A Yes.

Q What are you relying on what he told you?

A His estimate of Mr. Garcia's possible

cumulative benzene exposure.

Q What was that estimate?

A About 9.2 PPM years.

Q I see. Okay.

And do you have an opinion as to whether that cumulative dose of benzene has been associated with increased risks of hematopoietic malignancy?

MS. PROSSER: I am going to object that the question is way, way overbroad.

THE WITNESS: To my knowledge that level of exposure is not known to be associated with increased risk of non-Hodgkin's lymphoma, which is the malignancy at issue in this case.

Q BY MR. METZGER: But I asked you a more broad question. Has that cumulative dose of benzene exposure been associated with an increased risk of hematopoietic malignancy?

MS. PROSSER: Objection. Overbroad.

THE WITNESS: I know of no evidence that would say that hematopoietic malignancies as a group are

associated with that level of benzene exposure or that cumulative benzene exposure.

Q BY MR. METZGER: Okay. Has that cumulative dose of benzene been associated with acute myelogenous leukemia?

A I am not aware that it has.

Q Have you researched that?

A I have looked at that issue, yes.

Q Has that cumulative dose of benzene exposure been associated with myelodysplastic syndrome?

A I am not aware that it has been.

Q Have you researched that?

A Not in the past few years. And when you say associated, I am interpreting that to mean that there is reliable evidence.

Q What are your criteria for that?

A That it is based on scientific studies; not case reports. It is actually based on research studies that are published in the peer-reviewed literature and that those findings have been replicated.

Q Okay. And you would want to see there was an increased odds ratio with 95 percent statistical confidence?

A Could you clarify what it is you mean by 95 percent statistical confidence.

Q Well, with a 95 percent confidence interval.

A That I would want a 95 percent confidence interval, is that your question?

Q For the increased risk.

A Well, it is routine in epidemiology to

calculate 95 percent confidence intervals. We usually expect to see them.

Is there some level of confidence that is part of your question? I am not understanding.

Q That is fine. All right.

What other experts have you spoken with who have been retained by the defense for this case?

MR. CORLESS: Regarding this case?

THE WITNESS: I don't know what other experts have been retained by the defendants. I have not spoken with anybody other than Mr. Hall regarding this case.

Q BY MR. METZGER: You have spoken with lawyers regarding this case?

A Yes.

Q Anyone other than Mr. Hall and lawyers that you have spoken with regarding this case?

A No.

Q Have you received any written reports from anyone that you are relying on for this case?

MS. PROSSER: You don't mean in the medical

records? You are talking about from experts?

MR. METZGER: Yes.

Q I am not talking about the medical records.

A Not to my knowledge, no.

Q Have you received any oral reports other than

from Mr. Hall?

A No.

Q Have you received any E-mails from any experts for this case?

A No.

Q All right. I'd like to turn to your 6th opinion. You say that "There is no scientific basis for Mr. Harrison's opinion that aliphatic hydrocarbons, aromatic hydrocarbons or mixed organic solvents led to the development of Mr. Robert Garcia's NHL or that they were substantial contributing factors in causing his death."

Are there any epidemiologic studies which report significantly increased rates of non-Hodgkin's lymphoma in relation to exposure to aliphatic hydrocarbons?

A I don't know if there are any. I know that there is no body of scientific literature that would reasonably support a conclusion that aliphatic hydrocarbons cause non-Hodgkin's lymphoma or contribute

to it or were contributing factors in the causation that were progression of NHL.

Q Are there any epidemiologic studies which report increased rates for non-Hodgkin's lymphoma in relation to exposure to aromatic hydrocarbons?

A Well, we have already discussed the Chinese study that shows an association with benzene. And benzene is an aromatic hydrocarbon.

However, I am not aware that there is any body of literature that would reasonably support a conclusion that aromatic hydrocarbons as a class of chemicals cause or contribute to non-Hodgkin's lymphoma.

Q Are you aware of any epidemiologic studies which report increased rates of non-Hodgkin's lymphoma in relation to exposure to mixed organic solvents?

A I would give the same answer. We have discussed benzene. I am not aware that there is any body of literature that would reasonably support a conclusion that mixed organic solvents are a risk factor for non-Hodgkin's lymphoma.

There are studies that show increased risks related to chlorinated aliphatic hydrocarbon solvents, but there is also many studies that fail to show that association.

Q Your 8th opinion says, "Regarding

Dr. Harrison's summary opinion 5, he has not adequately considered the descriptive epidemiology of NHL."

What are you referring to here as his opinion No. 5?

A Dr. Harrison's opinion that there are no other

likely explanations for Mr. Garcia's NHL and that he has considered non occupational and other personal risk factors in this case and that he has excluded them as causal or substantial factors in Mr. Garcia's NHL.

Q All right. Have you -- first of all, have you identified an alternative cause what you believe caused Mr. Garcia's non-Hodgkin's lymphoma?

A The overwhelming majority of non-Hodgkin's lymphoma has no known cause. Mr. Garcia's lymphoma is not unusual in any way and Mr. Garcia fairly -- is a quite typical person to come down with non-Hodgkin's lymphoma.

Q You have told me all that before, but that doesn't answer my question at all.

What I asked you is have you identified a cause other than exposure to benzene in the solvents that in your opinion caused his non-Hodgkin's lymphoma?

MR. CORLESS: Objection. Misstates his testimony.

MS. PROSSER: Completely misstates his opinions

and you are becoming quite argumentative, counsel.

THE WITNESS: I think I have answered your question. Mr. Garcia is in a high risk group because he lives in Southern California and he is a white male in his early 50's. He is not unusual in any way.

Q BY MR. METZGER: Okay.
A Now, beyond that there is no known cause of his non-Hodgkin's lymphoma as there is no known cause for the vast majority of non-Hodgkin's lymphomas in Hispanic white males in the United States and in the Los Angeles basin.
Q Okay. So you haven't found an alternative cause of his lymphoma which you believe in medical probability caused his lymphoma; is that correct?
A I have answered your question.
Q You have not, doctor.
Have you identified an alternative cause which you believe in medical probability caused his lymphoma?
MS. PROSSER: I am going to object to the term "alternative cause" as vague and ambiguous.
THE WITNESS: I have answered your question. Mr. Garcia is quite representative of the overwhelming majority of middle aged adult males in the United States who contract non-Hodgkin's lymphoma. There is nothing unusual.

We do not know why the vast majority of these people get non-Hodgkin's lymphoma. There is a tremendous amount of research seeking to understand that disease.

It is a disease that has become dramatically

more common over the past 20 years. We are frankly facing an epidemic of non-Hodgkin's lymphoma for reasons that remain unexplained.

Concurrent with that increase in non-Hodgkin's lymphoma, the use of benzene and the use of solvent and exposures to solvents have been dramatically reduced over the past 20 to 30 years.

And so we have an increasing incidence of this disease in the face of decreasing exposure to benzene and solvents.

We do not know why it is increasing. And in the vast majority of those cases we do not know why any individual gets the disease.

Mr. Garcia falls exactly into that picture.

Q BY MR. METZGER: Okay. What is the current usage of solvent in the United States?

A Well, solvents are widely used --

Q I am sorry, I was not clear.

Will you quantify for me the volume of solvents that were manufactured or sold or used in the United

States in the year 2006?

A I don't know that number.

Q Can you quantify that for me for 10 years ago?

A No.

Q For 20 years ago?

A I don't know those numbers.

Q For 30 years ago?

A No.

Q Do you have any data that solvent usage has actually decreased in the United States in the last 30 years?

A Solvent exposure levels have decreased substantially throughout industry over the past 30 years since the passage of the OSHA Act.

Q I see.

And what data are you relying on for that proposition?

A I do not have that set of studies with me, but I am relying on my reading of the industrial hygiene literature routinely throughout my career that exposure levels to solvents have decreased broadly throughout the United States and my personal experience in industry.

Q Can you identify any study that reports that?

A There is a series of studies done in the automobile manufacturing industry. The authors are

Ellen Eisen, Susan Waskey, Richard Munson, Tom Smith that have looked at the use of machining fluids and other materials which have shown fairly substantial declines in those materials over time.

Q Anything else?

A I am sorry?

Q Can you identify any other studies other than something regarding machining fluids?

A I can't cite the authors. I know there have been a number of studies of exposure levels to chlorinated aliphatic hydrocarbons in various industries.

Those levels have come down dramatically and the use of those solvents has been curtailed in many industries, particularly in Southern California because of the SCAQMD regulations reduced their usage.

And they have been largely phased out of many applications that used to depend on chlorinated solvents.

Q Let's talk about organic solvents.

Can you cite for me any literature that reports that organic solvent exposure in industry has decreased over the last 10, 20 or 30 years?

A I just did.

Q Well, okay. Let's exclude for a moment

chlorinated solvents and focus on non chlorinated solvents, aromatics and aliphatics, Naphthalenic solvents.

Can you cite for me any study that has reported a decrease in exposure to those solvents in either the

last 10, 20 or 30 years in the United States?

A I just did.

Q What study is that?

A The studies in the auto industry.

Q You are talking about machining fluids?

A Yes.

Q Those are different solvents, are they not?

A No.

Q Okay. Other than these studies that you are referring to regarding machining fluids, can you cite to me any study that has reported a decrease in exposure to aromatic, aliphatic or Naphthenic solvents in industry in the United States in either the last 10, 20 or 30 years?

A Let me see if I understand your question.

So I just gave you a series of studies that referred to petroleum distillate solvents and a bunch of studies that referred to chlorinated aliphatics.

You want to set those aside and ask me for more?

Q Yes.

A I don't know offhand, but I could easily go back to my office and compile a list for you.

Q Is there a difference between machining fluids and the type of solvents that Mr. Garcia was exposed to?

A Some of the solvents that were present in the materials that he handled are similar to or the same as materials that are present in machining fluids.

Q I think I asked you whether there was a difference.

Is there a difference?

A Well, some of them are not the same, but some are the same.

Q Are you familiar generally with the constituents of machining fluids?

A I have some familiarity with that.

Q What are they made of?

A Depends which type of machining fluid you are talking about.

Q What type are you talking about?

A I am talking about straight cutting oils.

Q What are they made of?

A They typically contain metal distillates, often severely hydrotreated aliphatic and aromatic petroleum distillates. They often contain sulphonate,

alkylbenzene sulphonate products.

They contain extreme hardness agents, typically sulfur compounds, sometimes phosphates.

They contain biocides and antifungal agents.

They often contain glycol ethers as misability agents.

The list goes on. I could --

Q That is fine. Thank you.

A Okay.

Q Okay. Do you have a list of literature of epidemiologic studies that you are relying on for your opinions in this case?

A Yes.

Q May I have that, please.

We will mark that as Exhibit 5.

(Deposition Exhibit 5 was marked for identification.)

MS. O'DONNELL: What was 4?

MR. METZGER: 4 was Schottenfeld. Exhibit 5 will be this literature list.

Q Let me just ask you, how did you compile this?

A These are materials that are the basis for my opinions regarding whether benzene and various solvents are known to cause non-Hodgkin's lymphoma.

Q I understand.

From what sources did you compile Exhibit 5?

A From my past 30 years of reading the scientific literature and keeping a reference file of this literature as well as doing a literature search as well as looking at the references cited in the studies that I read.

Q Okay.
A And then pulling those references and reading them and pulling the references that they cited.
Q Okay. You have read the deposition of Dr. Harrison; is that correct?
A Yes.
Q All of the volumes?
MS. PROSSER: I will just state for the record we don't have Volume 5 yet and he is going to be asked to read Volume 5.
Q BY MR. METZGER: Have you -- so you have read Volumes 1 through 4?
A Yes.
Q And have you reviewed -- strike that.
Have you read all of the studies which Dr. Harrison mentioned?
A I believe I have.
Q And did some of those studies that you read, were you reading them for the first time?
A I think so, yes.

Q About how many?

A Maybe two.

Q Okay. Did you include all of the studies that Dr. Harrison mentioned in Exhibit 5?

MR. CORLESS: Are you talking about everything

that was in his exhibits that he was supplied by you or are you talking about articles he specifically mentioned?

MS. PROSSER: Yeah, that is a good point because there were those CD's and many of them weren't actually discussed at the deposition.

MR. METZGER: Let me ask him.

Q Have you reviewed all of the literature that are on the CD's that Dr. Harrison reviewed?

A No. I have reviewed the articles that were discussed at his deposition.

Q Okay. Have you received the CD's that he reviewed?

A I don't believe so.

Q Did you ask counsel to provide you the CD's that he had reviewed so that you could read all of the articles that he had?

A No.

Q And your best recollection is that you haven't been provided those CD's; is that correct?

A My best recollection is that I have not seen those CD's.

Q Did counsel tell that you they were not going to provide them to you?

A No.

Q Okay. Could I see what other materials you have in front of you, please.

Okay. This is the opinions, which we have. These are Dr. Harrison's opinions. All right.

We will mark this next document as Exhibit 6.

(Deposition Exhibit 6 was marked for identification.)

THE WITNESS: Actually I made copies for you.

Q BY MR. METZGER: Thank you.

This is a summary of present materials.

Are these the materials that you reviewed for this case?

A That is my summary of materials that I have reviewed.

Q Okay. That will be Exhibit 6.

And now you have here a document entitled, "Lymphoma Studies: NHL and Benzene Exposure."

Is this something that you have prepared?

A Yes.

Q Okay. We will mark that as Exhibit 7.

(Deposition Exhibit 7 was marked for identification.)

Q BY MR. METZGER: And this is -- these are multiple copies. I will give you these back.

What else do you have?

A Well, I just gave you everything. I was trying to give you the set that I had made for you.

Q Oh, I am sorry.

A But so now we have got both sets mixed up.

Here, you are welcome to have that set too.

Q So this is your billings, okay.

You are charging $125 an hour for record review?

A No.

Q Oh, I see that is a research an assistant.

Well, let's mark this as Exhibit 8.

(Deposition Exhibit 8 was marked for identification.)

Q BY MR. METZGER: What is Exhibit 8?

A That is an invoice for my services in this case.

Q Okay. Well, there is two documents.

Are they both invoices?

A Yes.

Q All right. And the first invoice is for

research assistant review and summarize records.

That is work that was done by a research assistant of yours; is that correct?

A Yes.

Q Who is that?

A Lynn Swigga.
Q Who is she?
A She is a research assistant who works for me.
Q What is her training?
A She has an undergraduate degree in chemical engineering and a masters degree in industrial hygiene.
Q Okay. And then the second page is an invoice for 7.8 hours.
And this is work that you did; correct?
A Yes.
Q All right. Total is 7.8 hours.
Have you done any work for this case other than the work that is reflected in Exhibit 8?
A Yes.
Q What work is that?
A I have reviewed records and summarized records and I have read scientific literature. I have formed opinions. I have written my opinions down and I have prepared some summaries of the scientific literature.
Q How many hours have you spent total on this

case?

A Say 35 or 40.

Q Okay. You mentioned some summaries, summaries of records.

Are there any summaries that you prepared that

you have not yet shown me?

A No.

Q So the summaries that you were referring to is the summary of the literature and of materials that you reviewed; is that correct?

A Yes.

Q Okay. And any other summaries that you have prepared?

A No.

Q Have you brought any other materials here with you today?

A Yes.

Q And let me just see them.

Are those boxes -- are they literature or what?

A They are various things. They are all here on the floor.

Q Okay. And are they all listed on the literature list that you have provided me and the summary of materials that you have reviewed?

A No.

Q Okay. Well, what do you have that is not listed here and on the documents which have been marked as exhibits?

A Well, we'd have to go through it.

Q Let me just ask you, what do you have that are

not literature, published literature?

A Well, we'd have to go through it.

Q Well, let me start, do you have any notes, handwritten notes?

A No. Well, yeah, I have one handwritten note. Yes, I do.

Q Okay. May I see that, please.

We will mark these as Exhibit 9, three pages of notes.

(Deposition Exhibit 9 was marked for identification.)

Q BY MR. METZGER: Could you just tell me what these are --

A Yes.

Q -- generally.

A This first page is my notes from my conversation with Ron Hill. And then the second and third pages are a list of some of the chemicals that were present in various material safety data sheets I reviewed.

Q Okay. Thank you.

Other than material safety data sheets and published epidemiologic studies, are there any other materials that you have here?

A Yes.

Q Could you pull out those materials setting aside the MSDS's and the epidemiologic literature.

A I have a few of the medical records on Mr. Garcia. I have three CD's of documents. I have Mr. Garcia's Social Security printout.

I have various correspondence from lawyers, more medical records. I have the World Health Organization classification of tumors of hematopoietic and lymphatic tissues. I have the ICD 9 classification of lymphomas. I have -- these are all MSDS's.

And I have deposition testimony from about 15 people.

Q Okay. Here is what we will do: First, would you identify for me the depositions that you have reviewed and indicate to me in doing so whether you have read it in its entirety or scanned it or not read it.

A Okay. The deposition of Robert Garcia, December 12, 2003.

Q Have you read that?

A Yes.

Q Okay.

A The deposition of Anthony Garcia, November 3, 2005.

Q Did you read that?

A Yes.

Q Okay.

A The deposition of Robert Joseph Garcia, Jr., November 1, 2005.

Q Did you read that?

A Yes.

Q Okay.

A The deposition of Joseph Charles Garcia, May 18, 2005, October 20, 2005, and December 20, 2005.

Q Did you read those?

A Yes.

Q Okay.

A The deposition of John Schrek, May 10, 2005.

Q Did you read that?

A Yes.

The deposition of James Oring, July 18, 2006.

Q Did you read that?

A This one I read, but I would say in fairness I skimmed parts of it.

Q Okay.

A The deposition of Scott Springer dated

September 12, 2006, and that one I skimmed.

Q Okay.

A The deposition of Frank Taylor dated May 11, 2005. That one I read. The deposition of Alex Kloby dated September 25, 2006. That one I read parts of and

skimmed other parts.

Q Okay.

A The deposition of Michael Brunner dated September 11, 2006, and that one I read in part and skimmed in part.

The deposition of Charles Stay dated May 12, 2005, and that one I skimmed -- actually I read part of that, too.

And the deposition of Tony Prieto, June 22nd, 2006. I read that one.

Q Okay. Are there any other depositions that you read for this case?

A Not to my recollection, no.

Oh, of course Dr. Harrison and Dr. Wabeke's deposition. I forgot about that.

Q All right. Any others?

A No, I don't think so.

Q All right. We will mark as Exhibit 10 the WHO "Classification of Human Hematopoietic Malignancies" which you identified a moment ago, and as Exhibit 11,

the ICD 9 Codes.

(Deposition Exhibits 10 and 11 were marked for identification.)

Q BY MR. METZGER: And there is a letter here from David Kim enclosing materials for you to review,

which we will mark as Exhibit 12.

(Deposition Exhibit 12 was marked for identification.)

Q BY MR. METZGER: We don't need to mark the Social Security record. You could have that back.

Now, there is two CD's here -- three CD's. I don't see any point in attaching them to the transcript, but I would like copies of these. Perhaps I could make copies and give these back now before you leave.

MS. O'DONNELL: What are they?

MS. PROSSER: I don't know.

MS. O'DONNELL: It may be something that was produced by you.

MR. METZGER: I don't know. I think it is easier if we copy them. I will identify them.

One says, "Various scanned documents from HSLJAAGRC&SPD."

MS. PROSSER: Those are like MSDS's and stuff.

MR. METZGER: All right. And the other says, "INX MSDS's." And another one says, "APG 179 through 48

Invoices" -- anyway, whatever these are, I will just copy these and then give you these back.

MS. O'DONNELL: Right now?

MR. METZGER: Well, in a moment.

MS. O'DONNELL: But I mean today; you are not

going to take them and --

MR. METZGER: No. It shouldn't take long to copy them, I don't imagine.

MS. PROSSER: That is fine.

Q BY MR. METZGER: I have your curriculum vitae in front of me.

Have you published anything on organic solvents and non-Hodgkin's lymphoma?

A I would have to look back through my publications.

Q Well, I have deposed you in the past, doctor. In the last two years have you published anything regarding organic solvents and non-Hodgkin's lymphoma that you're aware of?

A I would have to look at my CV.

Q Are you aware of anything that you have published regarding benzene in the last two years?

A I would have to look at my CV. Do you want me to do that?

Q If you don't recall, no. I can look at your CV

and see if there is something there.

As you sit here today, can you identify for me any epidemiologic study that you have published or written regarding either benzene or non-Hodgkin's lymphoma or organic solvents?

MS. PROSSER: You are not asking that separately; right?

Q BY MR. METZGER: Let me stop you. I don't want you to go through your whole CV. I can read it.

Is there anything that is not on your CV that you have published regarding benzene or non-Hodgkin's lymphoma?

A No.

Q All right. We will mark your CV -- actually I will just keep your CV dated June 2007.

That is the date of the CV that you have here; is that correct?

A Yes.

Q All right. Have you told me all your opinions in this case?

A Yes, on all of the issues that I have been asked to address to date.

Q Okay. Have you formed any opinions for this case on issues that you haven't been asked to address?

A No.

Q Have you competed your work in this case?

A I have completed the work I have been asked to do. I assume there will be additional work if the case goes forward.

Q What additional work do you assume there will

be for you to do?

A There may be additional deposition testimony. I am not sure what will happen. I may have to prepare opinions on additional matters that arise as the case develops. I don't know.

Q Okay. Has anyone told you that you will be asked to do any additional work in this case?

A No.

Q Now, have you reviewed -- strike that.

Have you read the article in "Cancer Epidemiology Biomarkers & Prevention" by -- I think the lead author is Barton Smith regarding benzene and non-Hodgkin's lymphoma?

A Yes.

Q Have you formed any opinions or criticisms of that article?

A Yes.

Q What are they?

A I'd have to get the article out.

Q Well, do you have it there?

A I do.

I think that this article does not represent a balanced review of the published literature on the issue of non-Hodgkin's lymphoma and benzene.

Q Why is it not a balanced review, in your

opinion?

A Because it represents that a predominance of the studies on that issue show an elevation of NHL risk and my own review of the studies does not agree with that opinion.

Secondly, I find that the argument that Dr. Smith makes for adjusting for the healthy worker effect is not a well-reasoned argument.

Q Why is it not a well-reasoned argument?

A The concept of adjusting for the healthy worker effect has been around for the entire 30 years that I have been in public health and it has been hotly debated.

It is sometimes appropriate to do that for diseases such as heart disease and cardiovascular disease. It is typically not done in the instance of cancer risks simply because or I should say -- and the first reason being much of the healthy worker effect arises from or used to arise from the selection of healthy workers into the workplace.

So there was a selection bias, which was operative for cardiovascular risk factors and sometimes for physical disabilities but really was not operative for cancer risks. So adjusting for the healthy worker effect for cancer risks really doesn't have a firm

foundation. And so I take issue with Dr. Smith's thoughts on doing that.

The third criticism that I have is his discussion of the pliofilm cohort studies in which he purports to identify that the failure of the pliofilm cohort studies to identify an association between benzene exposure and NHL mortality doesn't exclude the possibility of that association.

And he has the opinion that the low mortality and long latency of NHL limited the power of that study to detect an association.

And if he were sincere about that opinion, that same issue would, of course, be present in all mortality studies. And therefore he should exclude from his consideration all similarly constructed studies, which he has not done.

Q Any other criticisms?

A Those are the major ones.

Q Okay. Have you read the Delzell study or the Unocal -- it is the nested case control study that

Delzell did of the Unocal cohort?

A You would have to show it to me. I do not recall what study that is.

Q It is not published.

Have you read any epidemiologic studies for

your work in this case which are not published?

A Yes.

Q Okay. And was one of those the Delzell study?

A I don't recall it.

Do you have a copy of it? Could you --

Q I could get one. I will do that in a moment.

What other non published epidemiologic studies have you reviewed for this case?

A We'd have to go through the pile.

Q Are they all on that literature list?

A Well, I am not sure. Some of the things that I have reviewed are not on list so I am not sure that they are all on there.

Q Well, are you able to identify for me what literature you have reviewed, epidemiologic literature for this case that you have reviewed that is not on the literature list that you prepared?

A Well, we'd have to go through it. I think, for example, the Schottenfeld book chapter is not on the list.

Q Excuse me, my question was about epidemiologic studies.

Are there any epidemiologic studies that you have reviewed for this case that are not on the literature list that you prepared?

A The Schottenfeld chapter is an epidemiology chapter.

Q But it is not an epidemiologic study, is it; it's a review?

A Right.

Q Are there any epidemiologic studies that you have reviewed for this case that are not on the literature list which has been marked Exhibit 5?

A I would have to look.

Q Offhand can you think of any?

A Well, there was one by Steven Lamm that I reviewed that hasn't been published and I don't think it is on that list.

Q Could I see that.

MS. PROSSER: We're going to go off the record for just a minute.

MR. METZGER: We will go off the record while he is finding things.

(Brief recess.)

MR. METZGER: Back on the record.

Q Just for the record, the Lamm document that you referred to is entitled, "Benzene and Non-Hodgkin's Lymphoma-An Analysis of the Literature," which is Steve Lamm's litigation review of this in 1999 unpublished; is that correct?

A Well, I don't know if it is his litigation review.

Q I know that. You don't have to verify that.

A Well, it has a date of March 3, 1999 on it.

Q All right. Okay. And were there any other studies that you found that you have reviewed, epidemiologic studies that are not on your literature list?

A I didn't look. I didn't realize that I was supposed to do that.

Q Before you do that, let me just show you this document which is entitled, "A Case Control Study of Leukemia, Non-Hodgkin's Lymphoma and Multiple Myeloma Among Employees of Union Oil Company of California" by Delzell, et al., dated September 8, 1992.

Have you ever seen that before?

A I don't recall it. I don't know.

Q All right.

MS. PROSSER: How are you spelling Delzell?

MR. METZGER: It is D-e-l-z-e-l-l.

Okay. We are done.

THE WITNESS: Thank you.

MR. METZGER: I will get a check. Let's see, it is a hour and 45 minutes at 525.

Off the record.

(A discussion was held off the record.)

MR. METZGER: Back on the record.

I will propose that the court reporter may forward the original transcript to --

MS. PROSSER: To Deborah Prosser.

MR. METZGER: -- to Deborah Prosser, who will make it available to Dr. Garabrant; that he may sign it under penalty of perjury under the laws of the State of California and of the United States so that he need not round up a notary.

Dr. Garabrant, will you be kind enough to make any changes or corrections on the pages of the transcript where the testimony occurs and on the correction sheet at the end so we may know where they are?

THE WITNESS: You want them in both places?

MR. METZGER: If you would.

THE WITNESS: Sure.

MR. METZGER: I find it helps to have it on the pages so there is no question at trial as to what the

testimony was.

MS. PROSSER: That is fine.

THE WITNESS: Yeah. Rather than duplicating it, could I just --

MR. METZGER: Copy the pages.

THE WITNESS: -- just list the page numbers, so page 9, page 20, page 23 --

MR. METZGER: That is fine.

THE WITNESS: -- so you could see it.

MR. METZGER: That's fine, sure. Just put those on the correction sheet.

And then you will return the transcript to Ms. Prosser, who then forward it on to me; that I will preserve it and make it available for trial and hearing on reasonable request; if for any reason the original is not signed or returned or it is lost, a certified copy may be used with full force and effect.

We don't have trial for a long time in this case.

MS. O'DONNELL: January 7th.

MR. METZGER: Is 30 days enough for you to review this upon receipt, 45?

THE WITNESS: Yeah, 45 because I have a busy month.

MR. METZGER: So 45 days from the transmission

to Deborah Prosser you will have to do that. And you will notify us of the changes shortly upon your receipt of them?

MS. PROSSER: So stipulated.

ALL DEFENSE COUNSEL: So stipulated.

MR. GRANNIS: This is John Grannis on the phone. I'd like a copy.

(A discussion was held off the record.)

MR. METZGER: Back on the record.

THE WITNESS: In response to an earlier question if I had spoken with any other experts in this case, my memory was jogged.

Yes, I had a telephone conversation with Ms. Prosser and I think Dr. Whysner in approximately -- let's say last spring.

Q BY MR. METZGER: And was there any information that Dr. Whysner provided you?

A I don't recall any.

Q There is nothing that he said that you are relying on for your opinions in this case?

A That is correct.

Q Fine. I will get your check now.

THE REPORTER: Would everyone like a copy?

MR. HALL: I would.

MS. CHANG: Yes.

MR. LEDGER: Yes.

MR. CORLESS: Yes.

MS. O'DONNELL: Yes.

MS. WILLIAMS: Yes.

(ENDING TIME: 10:50 A.M.)

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, the undersigned, declare under penalty of perjury that I have read the foregoing transcript, and I have made any corrections, additions or deletions that was desirous of making; that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this _____ day of _____,

20___, at _____, _____
(City) (State)

_____
DAVID H. GARABRANT, M.D.

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REPORTER'S CERTIFICATION

I, SHERI A. PLY, CSR No. 6507, a Certified Shorthand Reporter in and for the State of California do hereby certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was placed under oath by me;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing transcript is a true and correct record of the testimony so taken.

I further certify that I am not a relative or employee of any attorney or of any of the parties, nor financially interested in the action.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 2007.

_____

SHERI A. PLY, CSR No. 6507